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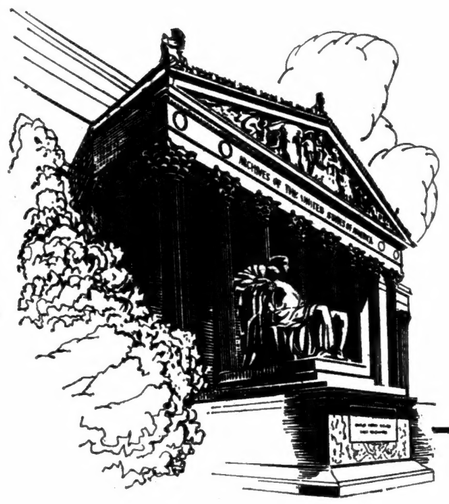

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THE FEDERAL REGISTER SUBJECT INDEX

The Subject Index to the daily *Federal Register* is published separately, covering the contents of the *Federal Register* as follows: Monthly for the months of January, February, April, May, July, August, October, November, and December; quarterly for the quarters ending in March, June, and September; and annually for the calendar year.

Entries in this Index are carried primarily under the names of the issuing agencies, with the most significant subjects additionally carried in appropriate alphabetical position.

This Subject Index should be distinguished from the numerical codification guide (List of CFR Sections Affected) which is also published separately. The numerical guide is designed for quick checking in the *Code of Federal Regulations* numbering system of provisions whose numbers are already known or have been learned through use of the Subject Index.

Page

Accidents:
AIRCRAFT:
Collisions, near midair, reports of; policy statement 16539
Investigations, etc. *See* Civil Aeronautics Board; National Transportation Safety Board.
MARINE. *See* Canal Zone.
MOTOR CARRIERS, recording and reporting of accidents, etc. *See* Federal Highway Administration.
MOTOR VEHICLES, recording and reporting. *See* Federal Highway Administration.
PIPELINE CARRIERS, reporting. *See* Federal Railroad Administration.

Accounts Bureau:
See Treasury Department.

Additives, Color and Food:
See Food and Drug Administration.

Administrative Committee of Federal Register:
See Federal Register.

Advisory Commission on Intergovernmental Relations:
CONDUCT STANDARDS 203

Agency for International Development:
ACADEMIC PUBLICATION, policy statement 9572
AUTHORITY DELEGATIONS:
By Administrator to certain officials:
Assistant Administrator, Administration, et al.:
Assistance to schools, libraries, etc 7502
Excess property, contracting functions, etc 3781
Assistant Administrator, Africa; foreign assistance program in Gambia and Mali 10454
Assistant Administrator, Far East; agreements with Defense Department agencies regarding A.I.D. Vietnam program 5956
Assistant Administrator, War on Hunger Office:
Agricultural and rural development, health services, etc 5475
Interregional and research projects 15550
Deputy U.S. Coordinator, Alliance for Progress; investment guaranties 3066
Mission Director, USAID/Laos; waiver of source/origin and barter requirement for procurement of rice and cement 11740
Principal U.S. diplomatic officers in certain countries; administration of A.I.D. programs:
Cyprus 2711
Guinea 10454
Indonesia; revoked 4285
By Assistant Administrator, Administration, to Director, Government Property Resources Division, Office of Material Resources; contracting functions, revoked 12969
By Assistant Administrator, Africa, to certain officials:
Director, Office of Private Enterprise; loan investments for housing projects 5375
Director, Regional USAID Africa; foreign assistance program in Cameroon, Gambia, Malagasy Republic, Mali, and Niger 10518
By Assistant Administrator, East Asia, to certain officials:
Deputy Assistant Administrator, East Asia; authority, etc., of Assistant Administrator 12924
Director, Technical Advisory Staff; project implementation orders, technical services 13598
By Assistant Administrator, Far East, to certain officials:
Chief, Contract Staff for Vietnam; contracts, letters of commitment, etc 3948
Deputy Assistant Administrators, Vietnam and East Asia; functions of Assistant Administrator, Far East 3948
By Assistant Administrator, Private Resources, to William G. Carter, et al.; finance surveys of investment opportunities, authorize guaranties, etc 10670

Agency for International Development—Con. Page
AUTHORITY DELEGATIONS—Continued
By Deputy Administrator to certain Assistant Administrators; loans, agricultural trade development, investment guarantees, etc.:
East Asia 8041
Vietnam 8041
COMMODITY TRANSACTIONS financed by A.I.D.; eligibility, required documents, etc 494, 495, 923, 6488, 7672, 11264, 13716, 15013, 15116
CONDUCT STANDARDS 11641, 17454
FOREIGN ASSISTANCE PROGRAMS:
Authority delegations regarding administration of programs. *See under* Authority delegations.
General Advisory Committee on Foreign Assistance Programs:
Appointment of additional members 14566
Resignation of certain members 2862
HOUSING GUARANTY PROGRAM, reopened 12012
INFORMATION, availability of 9652
ORGANIZATION AND FUNCTIONS 9845
PROCUREMENT REGULATIONS:
Advertising, formal, 8468.
Bonds and insurance, 8469.
Contracts:
Cost principles and procedures, 8469.
Financing, findings, determinations, and authorizations, 14846.
Foreign purchases; Buy American Act, etc., 8468.
Forms, 8469.
General, 8467, 14844.
Labor, 8469.
Negotiation, 8468.
Special and directed sources of supply, 8468.
Special types and methods, 8468, 14845.
SUPPLIERS OF COMMODITIES and commodity-related services ineligible for A.I.D. financing:
Criteria for determining affiliation 9068
Lists of suppliers 677, 6410, 13386
VOLUNTARY FOREIGN AID AGENCIES, certificates of registration:
Aid for International Medicine, Inc., 11172.
Andean Foundation, Inc., 11172.
Direct Relief Foundation, 11172.
Friends of Soochow, 11172.
International Institute of Rural Reconstruction, Inc., 6373.
Koinonia Foundation, 11172.
National Association of Partners of Alliance, Inc., 11172.
Pan American Development Foundation, Inc., 469.
Texas Partners of Alliance, Inc., 4028.
United Israel Appeal, Inc., 11172.
VITA (Volunteers for International Technical Assistance), Inc., 4028.

Aging, Administration on:
ORGANIZATION AND FUNCTIONS, supersedure 12068, 20811

Aging, President's Council on:
MEMBERSHIP (Executive Order 11376) 14545

Agricultural Exports from U.S.:
See also Agriculture Department.
ALGERIA (Presidential Finding of February 28, 1967) 4053
MOROCCO (Presidential Findings of February 27 and September 18, 1967) 4051, 14885

Agriculture Department:
AGREEMENT between Secretary and Mohair Council of America Inc.; advertising and sales promotion program for mohair and products 152, 4318
AGRICULTURAL STABILIZATION AND CONSERVATION county and community committees; selection and terms of office 7171
ALMONDS:
See also Nuts.
Marketing:
California, 2939, 11476, 12444, 12787, 13114.
ANIMALS AND PRODUCTS:
See also Livestock; Meat and products; Packers and Stockyards Administration.
Breeds and books of record, recognition; Canada 19158

Agriculture Department—Continued Page

ANIMALS AND PRODUCTS—Continued
Diseases:
African swine fever 6261, 7051
Brucellosis (Bang's) 4169, 5569, 6619, 8752, 9945, 10783, 13050, 13757, 15577, 18086
Foot-and-mouth disease 2427
General provisions:
Disinfectants 19157
Interstate movement of diseased animals 279, 7583
Hog cholera, swine 2643, 7844, 10719, 11376, 13856, 15240, 19157
Paratuberculosis 9945
Pleuropneumonia 2427
Rinderpest 2427
Scabies:
Cattle 7583
Sheep 654, 8519, 11637, 13401, 19157
Texas fever (splenetic) in cattle 711, 11518
Tuberculosis 9945
Dogs, cats, etc.:
Certified products for:
Definitions, composition of products, etc.; proposed rules 14697
Editorial changes 13115
Humane handling, standards 3273
Export credit sales (GSM–4), beef breeding cattle 18018
Humane slaughter of livestock, identification of carcasses 1059, 3715, 4582, 6585, 7983, 9849, 11343, 12630, 13780, 15125, 16170
Imports:
Aircraft, certain, and shipping containers brought into U.S.; inspection and requirements 15707
Cleaning and disinfecting requirements:
Animal casings 19158
Conveyances, etc 19157
Mexico, imports from 45
Laboratory animal welfare 3270, 6619
Definitions 3270
Humane handling of dogs, cats, rabbits, primates, etc.; standards 3273
Licensing, registration, records, etc 3270
Applicant's requirements, standards 6619
Licensed dealers under Laboratory Animal Welfare Act, list 9999, 12761, 20740
Overtime services, imports and exports:
Overtime work 13444, 17618, 20768
Travel time 2843, 6021, 12441, 13650
Veterinarians, accreditation and revocation; definitions, requirements, rules of practice 14225, 20839
Viruses, serums, toxins, etc. *See* Viruses, serums, toxins, etc., *below*.
ANISE, sweet; standards for grades 8857
APPEALS:
Defense food order, standby, proposed; procedure governing appeals 6826
Time limitations for filing requests for reconsideration or appeals 8676
APPLES, export restrictions 7289, 9297
APRICOTS:
Marketing:
Washington, 7582, 8518, 10579, 11333, 12155.
Standards for grades, dried apricots 7572
ARTICHOKES:
Entry into Guam from Japan and Korea 13319
Standards for grades, globe type 8859
ASPARAGUS, standards for grades:
Fresh, plumosus 8880
Frozen, proposed rule 5371, 8301
Green, for canning or freezing 8868
AUTHORITY DELEGATIONS:
See also Organization and functions.
By Agricultural Stabilization and Conservation Service officials:
Administrator to certain officials:
Deputy Administrators, et al.:
Claims collection 6003
State and County operations 624, 3109
Treasurer and Assistant Treasurer, Commodity Credit Corporation; claims collection 6003
Director, Procurement and Sales Division, to certain officials; wheat export, etc.:
Kansas City ASCS Commodity Office Director 15125
Wheat Subsidy and Market Branch Chief, et al 15125

Agriculture Department—Continued Page

AUTHORITY DELEGATIONS—Continued
By Assistant Secretary, Marketing and Consumer Services, to Deputy Assistant Secretary; certain functions of Secretary 10672
By Commodity Credit Corporation Executive Vice President to Vice President; indebtedness of farmers 624
By General Counsel to Assistant General Counsel, et al., claims of personnel 11484
By Secretary to various officials:
Assistant Secretary for Civil Rights:
Compliance with regulations by "other means authorized by law" 11895
Hearings, etc 690, 11711
General Counsel, et al., claims of personnel 10938
Heads of agencies, certain; proceedings and hearings 1003
Judicial Officer; rate proceedings under Packers and Stockyards Act, etc 7468
National Agricultural Library Director; grants for research 9243, 12866
Secretary, Health, Education, and Welfare Department; functions under Civil Rights Act 2823
From General Services Administrator; leasing of space in Greenwood, Miss 955
AVOCADOS:
Import restrictions 7245, 10052, 10641, 11756
Marketing:
Florida, 6206, 7171, 7213, 7715, 7858, 8039, 8761, 10156, 10641, 11731, 12832, 13180, 13181, 14310, 14548, 14560, 14665, 15669, 15871, 17431.
BARLEY:
See also Grains.
Cropland adjustment. *See* Land use adjustment programs.
Farm conserving base, 1966–69 11515
Loan and purchase programs:
1966 and subsequent crops, 9151.
1967 crop, 10052.
Price-support programs:
1964 and subsequent crops, 7843, 9301, 10718, 10910, 13376, 17899.
1966 crop, 6584.
1967 crop, 122, 235, 3339, 5462, 6342, 10431, 13713, 16528.
Reseal loan programs:
1965 and subsequent storage periods, 5767, 6021, 15632.
1967–68 storage period, 7698.
Warehouses, Federally licensed; storage loan, due date 6584
BEANS:
See also Grains.
Dry, edible:
Loan and purchase program:
1967 crop, 11928, 12176.
Price-support programs:
1964 and subsequent crops, 7843, 10718, 10910, 13376, 17899.
1966 crop, 6584.
1967 crop, 122, 235, 3339, 5462, 6342, 10431, 10910, 13713, 16528.
Reseal loan programs:
1965 and subsequent storage periods, 5767, 6021, 15632.
Warehouses, Federally licensed:
Standards for approval 3339
Storage in 4473, 4475
Storage loan, due date 6584
Fresh; standards for grades:
Lima beans 8859
Snap beans 8860
BEETS, for processing; standards for grades 8869
BERRIES:
See also Blackberries; Dewberries; Raspberries; Strawberries.
Standards for grades, frozen berries 7576
BLACKBERRIES, standards for grades 8875
BROCCOLI, bunched Italian sprouting; standards for grades 8858
BROOMCORN, storage in Federally licensed warehouses 4473
BUTTER, import quotas 20801
BUTTERFAT, price-support program:
April 1967–March 1968; 5767.
CABBAGE, for processing; standards for grades 8870
CARROTS for processing, standards for grades 8871
CASEIN, edible dry (acid); standards for grades, proposed rules 17893

Agriculture Department—Continued Page

CATS, DOGS, etc.:
Certified products for:
Definitions, composition of products, etc.; proposed rules 14697
Editorial changes 13115
Humane handling, standards 3273
CAULIFLOWER, standards for grades, proposed rules 15435
CELERY, marketing:
Florida, 76, 11037, 13253, 14063, 15003.
CHEESE, cheddar, and American-type, other than cheddar, etc.; import quotas 10833, 12437, 20801
CHERRIES:
Marketing; sweet cherries:
Washington, 7697, 8518, 10579, 11333, 12156.
Parity prices, sour cherries; determination 11031
Standards for grades:
Red sour cherries, for manufacture 8877
Sweet cherries:
Canning or freezing 8877
Export for sulphur brining 8878
CHICKENS. *See* Eggs and products; Poultry and products.
CLAIMS:
Authority delegations 10938, 11484
Collection standards 2805, 7835
Negligence, wrongful act, or omission claims based on 1021
COMMODITY CREDIT CORPORATION. *See main heading* Commodity Credit Corporation.
COMMODITY EXCHANGE AUTHORITY. *See main heading* Commodity Exchange Authority.
CONSERVATION PROGRAMS:
Agricultural:
National:
1965 5619
1968 and subsequent years 11117, 11261
Naval stores, gum, 1968 13695, 14548
Payments:
Assignment of 14921
Due persons who have died, disappeared, or been declared incompetent; applicability 13649
Appalachian 12938
Great Plains:
Counties within certain States:
Kansas, 8183, 14067, 18117.
Oklahoma, 4506, 10488.
Wyoming, 5644.
General provisions:
Authority citation changed 11515
Conservation materials or services 11515
Definitions, contracts, eligible conservation practices, and cost-share payments 10155, 10501
Information, availability of 9728
Soil bank program, conservation reserve:
Diverted acreage, grazing and harvesting hay 17603, 20889
1956 through 1959 6549
1960 6550
COOPERATIVE MARKETING ASSOCIATIONS, price-support program; eligibility requirements 3688, 7123, 7699, 8365
CORN:
See also Grains.
Cropland adjustment. *See* Land use adjustment programs.
Farm conserving base, 1966–69 11515
Loan and purchase programs:
1966 crop, 13046, 13444.
1967 and subsequent crops, 13046, 13444, 13805, 15706.
Price-support programs:
1964 and subsequent crops, 7843, 9301, 10718, 10910, 13376, 17899.
1966 crop, 6584.
1967 crop, 122, 235, 3339, 5462, 6342, 10431, 13713, 16528.
Reseal loan programs:
1965 and subsequent storage periods, 965, 5767, 6021, 15632.
1967–68 storage period, 7698.
Warehouses, Federally licensed; storage loans, due date 6584
COTTON:
Cropland adjustment. *See* Land use adjustment programs.
Diversion and certificate programs; upland cotton, 1966–69:
Farm conserving base 3335, 11515, 20629

Agriculture Department—Continued Page

COTTON—Continued
Diversion and certificate programs; upland cotton, 1966–69—Continued
Grazing and harvesting hay on diverted acreage 17603, 20889
Payments, division 19155
Export market acreage; upland cotton, 1967 crop 1079
Loan programs, extra long staple and upland cotton 6967, 9302, 14548, 19156
1966 crop, 5671, 7189.
1967 crop, 7386, 7699, 9213.
Marketing, research and promotion; Cotton Board assessments, practice rules, records, etc 17, 852, 1083, 2698, 5696, 7068
Marketing quotas, acreage allotments:
Extra long staple:
1966–68 crops, 76, 5416, 11475, 14305, 14306, 15987, 17887.
Upland:
1966–69 crops, 76, 2361, 2981, 3714, 3935, 5671, 6127, 6549, 7437, 7491, 7630, 7910, 8666, 8954, 9208, 9606, 11475, 14207, 14268, 14269, 16185, 16195, 17467, 17928, 20838.
Price-support program:
1967 crop, 122, 235, 3339, 3340, 5462, 6342, 10431, 13713, 13714, 16528.
Standards, classification 4157, 6035, 7011, 8760, 11276, 12831
Surplus supply, extra long staple, available for export:
1964–65 marketing year, 9672.
Warehouses, Federally licensed; storage in 4457, 4474
Wrapping cotton, jute bagging and bale ties; specifications 3231
COTTONSEED:
Standards, inspection; increase in fee for certificate 8576
Warehouses, Federally licensed; storage in 4474
COTTONSEED MEAL, purchase program:
1967 crop, 8884.
COTTONSEED OIL:
Purchase program:
1967 crop, 8884.
Warehouses, standards for approval 43, 14099
CRANBERRIES; marketing, certain States 12621, 13253
CROP INSURANCE. *See main heading* Federal Crop Insurance Corporation.
CROPLAND LAND USE ADJUSTMENT PROGRAMS. *See* Land use adjustment programs, *below*.
CUCUMBERS, standards for grades:
Greenhouse 8861
Pickling 8872
DAIRY PRODUCTS:
See also Milk and products.
Import quotas. *See under* Milk and products.
Inspection; dairy plants approved for inspection and grading service, specifications, equipment, personnel, cleanliness, etc 4204
Licensing of imports (Proclamation 3790) 9803
Price-support program, milk and butterfat:
April 1967–March 1968; 5767.
DATES, domestic; marketing:
California, 214, 4417, 8171, 11038, 11164, 11647, 11848, 12594, 12832, 14203, 19156.
DEFENSE FOOD ORDER, standby, proposed:
Food management 6826, 11239
Petitions and appeals, procedure governing 6826
DEPARTMENTAL PROCEEDINGS; representation before Department, applicability, etc 5458
DESSERTS, frozen; recommended standards for manufacture 2965, 5960, 8683
DEWBERRIES, standards for grades 8875
DISASTER AREAS:
Agricultural credit:
Alabama, 13200, 14788.
Arkansas, 11448, 17443.
California, 583, 3474, 6990, 7639, 9324.
Colorado, 7717, 7963, 8047, 8821, 10756, 10938.
Florida, 7469, 8821.
Georgia, 17603, 20889.
Idaho, 583, 1103, 6457, 9734.
Illinois, 7294.
Indiana, 882, 5476, 15840, 20742.
Iowa, 6990, 7406, 10756, 12567, 17603.
Kansas, 825, 8821, 10483, 11239, 11647, 12567.

Agriculture Department—Continued Page

DISASTER AREAS—Continued
Agricultural credit—Continued
Maine, 17608.
Maryland, 9734.
Massachusetts, 16171.
Michigan, 8390, 10938, 12962.
Minnesota, 58, 584, 7223, 10483.
Mississippi, 58, 583, 584, 2725, 5476, 17443, 17608.
Missouri, 10614, 10938, 11387.
Montana, 5476, 10314.
Nebraska, 8391, 8821, 9343, 10271, 10314, 10614, 10938, 11239, 11711, 14610.
Nevada, 58.
New Hampshire, 16171.
New Jersey, 7717, 9114, 9734.
New Mexico, 58, 12962, 13604.
New York, 8821.
North Carolina, 584, 9177, 10004, 10314, 11711, 13238, 14568, 14788, 16111, 16442, 20889.
North Dakota, 624, 11173, 12126, 12567, 12630, 13604, 14900, 15126.
Ohio, 20742.
Oklahoma, 6458, 9324, 10614, 11647.
Pennsylvania, 11387.
Puerto Rico, 17495.
Rhode Island, 16171.
South Carolina, 6458, 7874, 8821, 10314.
South Dakota, 3414, 11239, 15401.
Tennessee, 8427, 17603.
Texas, 5476, 6458, 9114, 11173, 11807, 12631, 13780, 14900, 15840, 20742.
Utah, 584, 8391.
Virginia, 9177, 10756.
Wisconsin, 6586, 17443.
Wyoming, 9324.
Indian livestockmen in New Mexico, donation of feed grains ---- 20889
Executive Order 11336 ---- 4489
DISASTERS, natural, or peacetime radiological; responsibilities ---- 10269
DOGS, CATS, etc.:
Certified products for:
Definitions, composition of products, etc.; proposed rules ---- 14697
Editorial changes ---- 13115
Humane handling, standards ---- 3273
EGGPLANT; entry into Guam from Japan and Korea ---- 13319
EGGS AND PRODUCTS:
See also Poultry and products.
Inspection; meat food products, eggs in, proposed rule ---- 11385
Standards, grades, and weight classes of shell eggs; facilities, hygiene, etc ---- 1092, 8229
EXPORTS:
Animals and products ---- 2843, 6021, 12441, 13444, 13650, 17618, 18018, 20768
Apples, restrictions ---- 7289, 9297
Cherries, sweet; sulphur brining, standards for grades ---- 8878
Cotton:
Extra long staple; surplus supply ---- 9572
Upland; export market acreage, 1967 crop ---- 1079
Credit sales program ---- 6496, 6836, 7437, 11416, 18018
Flaxseed, payment-in-kind ---- 7699
Linseed oil, payment-in-kind ---- 7699
Meats. *See under* Meat and products.
Pears, restrictions ---- 7289, 9297
Plants and products ---- 3383, 6019, 7697, 9945, 11981, 20765
Rice; payment-in-kind ---- 5462
Tobacco, cash payment ---- 4491
Wheat:
Authority delegation ---- 15125
Cash payment, flour ---- 3610, 6342
Exporters marketing certificate program, 1967 ---- 14727, 16251
Payment-in-kind ---- 6257, 6931, 14739, 16251
FARM STORAGE FACILITIES, and drying equipment loan program; administration, forms, etc ---- 9510, 17888, 20839
FARMERS HOME ADMINISTRATION. *See main heading* Farmers Home Administration.
FARMS, reconstitution; allotments, history, and soil bank base acreages ---- 14599

Agriculture Department—Continued Page

FEDERAL CROP INSURANCE CORPORATION. *See main heading* Federal Crop Insurance Corporation.
FEDERAL SEED ACT:
Germination of seeds, testing, etc.; proposed rules ---- 454, 2644
Sampling, exemptions, declarations, and labeling ---- 12155
FEDERALLY-DONATED COMMODITIES, financial assistance for distribution ---- 15948
FEED GRAINS:
See also Grains.
Cropland adjustment and conversion. *See* Land use adjustment programs.
Diversion and certificate programs; 1966–69:
Farm conserving base ---- 3335, 11515, 20629
Grazing and harvesting hay on diverted acreage ---- 17603, 20889
Payments, division ---- 19155
Emergency programs:
Indian tribes (Executive Order 11336) ---- 4489
Donation to Indian livestockmen in distress area of New Mexico ---- 20889
Livestock ---- 14372
Special programs; 1966–69 ---- 607, 2500, 3968, 6127, 8123, 7835, 13700
FIGS, dried, standards for grades; moisture allowances ---- 921
FILBERTS:
See also Nuts.
Marketing:
Oregon and Washington, 13870, 13933, 14685, 14739, 15669, 16527
FLAXSEED:
See also Grains.
Export payment-in-kind (PS–GR–4) ---- 7699
Loan and purchase programs:
1966 and subsequent crops, 2883, 8578.
1967 crop, 9007, 11848.
Price-support programs:
1964 and subsequent crops, 7843, 10718, 13376, 17899.
1966 crop, 6584.
1967 crop, 122, 235, 3339, 5462, 6342, 10431, 13713, 16528.
Purchase program, Texas flaxseed:
1967 crop 7246.
Reseal loan programs:
1965 and subsequent storage periods, 5767, 6021, 15632.
Warehouses, Federally licensed; storage loans, due date ---- 6584
FLOUR, wheat; export program, cash payment (GR–346) ---- 3610, 6342
FOOD STAMP PROGRAM, participation of banks ---- 8519
FOREST SERVICE. *See main heading* Forest Service.
FROZEN DESSERTS, recommended standards for manufacture ---- 2965, 5960, 8683
FRUITS:
See also specific fruits.
Cold treatment for certain fruit from countries infested with Queensland fruit fly ---- 12832, 13215
Fresh:
Damaged or repaired packages, classification ---- 9145
Inspection, certification, and standards ---- 12052, 12953, 13077, 15066
GARLIC, standards for grades ---- 8862
GRAIN SORGHUM:
See also Grains.
Cropland adjustment. *See* Land use adjustment programs.
Farm conserving base, 1966–69 ---- 11515
Loan and purchase programs:
1966 and subsequent crops, 8124, 9302 13962.
1967 crop, 9824, 11848, 13962.
Price-support programs:
1964 and subsequent crops, 7843, 9301, 10718, 10910, 13376, 17899.
1966 crop, 6584.
1967 crop, 122, 235, 3339, 5462, 6342, 10431, 13713, 16528.
Reseal loan programs:
1965 and subsequent storage periods, 5767, 6021, 15632.
1967–68 storage period, 7698.
Warehouses, Federally licensed; storage loans, due date ---- 6584
GRAINS:
See also specific grains.
Price-support programs:
1964 and subsequent crops, 7843, 9301, 10718, 10910, 13376.
1967 crop, 122, 235, 3339, 5462, 6342, 10431, 13713, 16528.
Reseal loan programs:
1965 and subsequent storage periods, 5767, 6021, 15632.

Agriculture Department—Continued Page

GRAINS—Continued
Standards; inspection:
Certificates, form; proposed rules ---- 8116
Points, established ---- 12755, 13648, 13939, 17677
Warehouses, Federally licensed:
Standards for approval ---- 3339
Storage in ---- 4461, 4474
GRAPEFRUIT:
Imports:
Fumigation ---- 12471
Restrictions ---- 8235, 8761, 12938, 17425
Marketing:
Arizona and California, 710, 7211, 14201, 15029, 15870, 17849.
Florida, 1033, 1034, 2445, 2606, 3047, 3384, 3730, 3969, 4278, 4528, 5462, 5730, 6020, 6980, 8234, 8705, 9081, 9508, 12907, 13179, 14271, 14645, 14646, 14924, 14925, 15116, 15395, 15430, 15436, 15632, 15806, 15870, 15987, 16097, 16098, 16145, 16535, 17925.
Texas, 709, 851, 3336, 4567, 11887, 12802, 12992, 13113, 14309, 15394, 15869.
Standards for grades, Florida grapefruit ---- 10084, 13487
Proposed rule ---- 20864
GRAPEFRUIT JUICE; standards for grades, proposed rules ---- 13720
GRAPES:
Imported Vinifera; cold treatments ---- 12832, 13215
Marketing:
Arizona and California, 5514, 6453.
California, Tokay grapes, 7089, 10604, 11601, 12709, 13045, 13331, 14150.
Standards for grades:
American (Eastern type) bunch grapes, for processing and freezing ---- 8878
Juice grapes (European or Vinifera type) ---- 8875
GREAT PLAINS CONSERVATION PROGRAM. *See under* Conservation programs.
GREENS, canned, leafy; standards for grades, proposed rules ---- 13289
GUAM:
Cattle, movement of; restrictions ---- 11518
Imports, quarantine notices:
Artichokes, eggplant, okra, peas, persimmons, rhubarb, squash, turnips, and turnip greens from Japan and Korea ---- 13319
Wheat products ---- 6496
HAY:
Grazing and harvesting on diverted acreage, in certain States ---- 17603, 20889
Inspection and certification; grading service, samples, etc., proposed rules ---- 5555
HONEY:
Price-support programs:
1964 and subsequent crops, 17899.
1966 and subsequent crops, 6967, 7844.
1967 crop, 122, 235, 3339, 5462, 6342, 10431, 13713, 16528.
Standards for grades, comb honey ---- 7565
HONEY DEW MELONS. *See* Melons.
HOPS, domestic; marketing, certain States ---- 387, 1125, 3023, 3399, 3763, 4398, 5838, 6501, 6551, 7331, 11736 13569, 14898, 14966, 15670, 15705
HORSERADISH ROOTS, standards for grades ---- 8862
HUMANE SLAUGHTER of livestock, identification of carcasses ---- 1059, 3715, 4582, 6585, 7983, 9849, 11343, 12630, 13780, 15125, 16170.
IMPORT QUOTAS; butter, dried milk and cream, certain cheeses, etc ---- 10833, 12437, 20801
IMPORTS:
Animals and products. *See under* Animals and products, *above.*
Cheese, quotas ---- 10833, 12437, 20801
Dairy products ---- 9803, 10833, 12437, 20801
Grapefruit:
Fumigation ---- 12471
Restrictions ---- 8235, 8761, 12938, 17425
Meats. *See* Meat and products.
Oranges:
Fumigation ---- 12471
Restrictions ---- 711, 1181, 2938, 3437, 5484, 12993, 14311
Plants and products. *See under* Plant quarantine.
Poultry and products. *See under* Poultry and products, *below.*
Restrictions:
Avocados, 7245, 10052, 10641, 11756.
Dairy products, certain; quotas, 10833, 12437, 20801.

Agriculture Department—Continued Page

IMPORTS—Continued
Restrictions—Continued
Grapefruit, 8235, 8761, 12938, 17425.
Limes, 5731, 8235.
Onions, 606, 11281, 12156.
Oranges, 711, 1181, 2938, 3437, 5284, 12993, 14311.
Potatoes, Irish, 8418, 9509.
Sugar and liquid sugar ---- 10345, 11996, 14363, 15683
Limitations on sugar-containing products or mixtures; proposed rule ---- 17669
INDIAN LIVESTOCKMEN in distress area of New Mexico; donation of feed grains to ---- 20889
Executive Order 11336 ---- 4489
INFORMATION, availability. *See* Records, *below.*
JAPAN; fruits and vegetables sent to Guam ---- 13319
KALE, standards for grades ---- 8863
KOREA; fruits and vegetables sent to Guam ---- 13319
LAND STABILIZATION and conservation program, Appalachian; noncompliance ---- 12938
LAND USE ADJUSTMENT PROGRAMS, cropland:
Diverted acreage; grazing and harvesting hay ---- 17603, 20889
1963 ---- 5417, 8577
1964–65 ---- 5417, 8512
1966–69 ---- 5417, 5767, 6431, 8512, 9148, 9821, 11031
LANDS, administrative jurisdiction transferred from Reclamation Bureau to Secretary for recreational and other purposes:
Colorado:
San Isabel National Forest ---- 8255
San Juan National Forest ---- 7027
White River National Forest ---- 8255
South Dakota; Black Hills National Forest ---- 7097
LEMONS, marketing:
Arizona and California, 43, 122, 407, 710, 1033, 2445, 2524, 2806, 2843, 3046, 3090, 3290, 3383, 3730, 3969, 4278, 4528, 5494, 5495, 5730, 5829, 6020, 6087, 6341, 6388, 6605, 6674, 6966, 7212, 7492, 7741, 8021, 8364, 8417, 8705, 8807, 9005, 9149, 9509, 10052, 10502, 10782, 11073, 11375, 11413, 11697, 11731, 11984, 12046, 12438, 12554, 12709, 12743, 12909, 12938, 13180, 13217, 13409, 13702, 13961, 14271, 14310, 14645, 14685, 14924, 15430, 15524, 15631, 15870, 16145, 16230, 16526, 17617, 17651, 18017, 18018, 18085, 20766, 20804, 21028.
LETTUCE, marketing:
Texas, 365, 12189, 12562, 13320.
LIMES:
Import restrictions ---- 5731, 8235
Marketing:
Florida, 5730, 6205, 6606, 7212, 7715, 7777, 7858, 8022, 8513, 9081, 9822, 14560, 17431.
LINSEED OIL:
Export payment-in-kind, terms and conditions ---- 7699
Warehouses, standards for approval ---- 43, 14099
LIVESTOCK:
See also Animals and products; Meat and products; Packers and Stockyards Administration.
Feed grain emergency program for livestock ---- 14372
Donation to Indian livestockmen in distress area of New Mexico ---- 20889
Grading services, fees and charges ---- 705, 8953
Handlers, requirements for ---- 21042
Humane slaughter of livestock, identification of carcasses ---- 1059, 3715, 4582, 6585, 7983, 9849, 11343, 12630, 13780, 15125, 16170
Inspection of livestock originating in Kansas, authorizations and termination of prior authorization ---- 6650, 7539
Pork carcasses, barrow and gilt, standards for grades; proposed rules ---- 13230
Purchase by packers on carcass grade and/or weight basis, proposed rule ---- 7858, 9101, 14106
MARGARINE, oleomargarine; definition and standard of identity, proposed rule ---- 11236
MARKETING QUOTAS, farm acreage allotments, etc.:
See also specific commodities.
Acreage and compliance determination ---- 3139, 5493, 9089, 9507, 11755, 17513
Reconstitution of farms, allotments, history, and soil bank base acreages ---- 14599
Referenda ---- 3139, 7385, 9946, 10293, 10549, 15705
Review; availability of records for public inspection ---- 15704

Agriculture Department—Continued Page

MEAT AND PRODUCTS:
See also Livestock; Packers and Stockyards Administration.
Definition and standard of identity; proposed rules:
Ham, chopped 12954
Hash, corned beef 12953
Oleomargarine or margarine 11236
Dogs, cats, etc., certified products for, inspection, certification, and identification; proposed rules 14697
Editorial changes, definitions, etc 13115
Export stamps and certificates; issuance, vessel clearance, etc 2769
Grading service, fees and charges 705, 3953
Handlers, requirements 21042
Humane slaughter of livestock, identification of carcasses 1059, 3715, 4582, 6585, 7989, 9849, 11343, 12630, 13780, 15125, 16170.
Import limitations 5427, 9177, 13825, 21043
Imported products, inspection, arrival; foreign canned products required to be sound, healthful, etc 6087
Inspection:
Ante-mortem inspection:
Carcasses of animals slaughtered without inspection; deletion of regulations 4306
Marking diseased, dead, or dying animals as "U.S. condemned" 5419
Applications for inspection by retail butchers and dealers, extension of time for submission of drawings and plot plans 4398
Post-mortem; contamination of head meat of animals stunned by bullets 11135
Labeling, false or deceptive; dry sausage treated with potassium sorbate or propylparaben, proposed rule 8421
Marking and labeling; proposed rules:
Contents, use, etc 12953
List of ingredients 12953
Meat food products in casings; addition of antioxidants during preparation of dry sausage 8421
Pork carcasses, barrow and gilt, standards for grades; proposed rules 13230
Reinspection and preparation; proposed rules:
Poultry, egg, and dry milk products used in meat food products, wholesomeness 11385
Substances for use; curing agents, synergists, etc., approval 8421
Special services, meat and other product; definition of "food article" 6021
Tanking and denaturing condemned carcasses and parts, disposition 5419
Transportation; denaturing of meat known to be unsound 2769

MELONS:
Marketing:
Texas, 16164.
Parity prices, honeydew 16385
Standards for grades; honey dew and honey ball type 3213

MEXICO:
Animals and products from 45
Plant quarantine, etc 5555, 8953

MILK AND PRODUCTS:
Butterfat; price-support program, April 1967–March 1968 5767
Dairy products; import quotas:
Butter 20801
Cheese, cheddar, etc 10833, 12437, 20801
Dried whole milk, etc 20801
Cooperative marketing associations, determining qualification 9821
Grading and inspection of dry milk used in meat food products; proposed rule 11385
Indemnity payment program 3608
Marketing in certain States, orders proposed or adopted:
Arizona, 140, 415, 5696, 6512, 6614, 14232, 14851, 15588.
Arkansas, 613, 1042, 2573, 3298, 5695, 6509, 6511, 6611, 6613, 7631, 8176, 8529, 9691, 10206, 10554, 10694, 11097, 12507, 14278, 15093.
Colorado, 56, 91, 328, 613, 2573, 2849, 3298, 3385, 3469, 4016, 4362, 5640, 5695, 5696, 6206, 6389, 6512, 6614, 6885, 8248, 8720, 8956, 11135, 14774, 15491.

Agriculture Department—Continued

MILK AND PRODUCTS—Continued
Marketing in certain States, orders proposed or adopted—Continued
Connecticut, 667, 1181, 2362, 2447, 2644, 2819, 4071, 4113, 5286, 5417, 5694, 6506, 6608, 8175, 8720, 9025, 9902, 10983, 13804, 14771, 15090.
Delaware, 415, 3813, 5694, 5876, 6506, 6608, 7056, 7596, 7976, 8063, 8175, 8176, 8720, 9006, 9025, 9836, 10592, 11039, 11204, 11334, 11414, 12444, 12787, 13804.
District of Columbia, 5694, 6506, 6608, 8175, 8720, 9025, 13804.
Florida, 3299, 4313, 5472, 6206, 6388, 6763, 6835, 7596, 7742, 8707, 9096, 9097, 9300, 9301, 10308, 10554, 10857, 11206, 11414, 12622.
Idaho, 1054, 5690, 5696, 6341, 6512, 6614, 8180, 8956, 10600, 11086, 12476, 11957, 12940.
Illinois, 613, 1042, 2573, 2611, 2644, 3298, 3776, 5250, 5695, 6035, 6453, 6507, 6508, 6509, 6608, 6610, 6611, 6692, 6987, 7460, 7499, 7843, 8022, 8023, 8176, 8179, 8529, 8973, 9150, 9612, 10203, 10597, 10811, 10834, 10909, 11207, 12005, 12404, 12597, 12940, 16479, 21054.
Indiana, 613, 1132, 2362, 2573, 2939, 3998, 4418, 5249, 5695, 6035, 6453, 6507, 6508, 6509, 6610, 6692, 8529, 13418, 15489, 16101, 16389, 21054.
Iowa, 613, 2573, 2644, 3776, 5250, 5629, 5638, 5639, 5695, 5696, 6388, 6509, 6510, 6611, 6612, 6692, 7460, 7499, 7843, 8023, 8179, 8529, 8973, 9150, 10597, 11888, 12439, 21054.
Kansas, 56, 328, 613, 722, 779, 1133, 2363, 2573, 4362, 5638, 5640, 5695, 5696, 6341, 6389, 6509, 6510, 6612, 6611, 6612, 6614, 8247, 9610, 11180, 11238, 11566, 12598, 14774, 15431, 15490, 16390, 16480.
Kentucky, 613, 2448, 2573, 2820, 5695, 6506, 6507, 6508, 6511, 6608, 6609, 6610, 6613, 6647, 6978, 7067, 8380, 9150, 10449, 11709, 11737, 12623, 13744.
Louisiana, 574, 1053, 1125, 5694, 6054, 6510, 6612, 6763, 13460, 13855, 16527.
Maryland, 5694, 6506, 6608, 8175, 8720, 9025, 13804.
Massachusetts, 446, 667, 1181, 2361, 2447, 2644, 2819, 4071, 5286, 5417, 5694, 6505, 6607, 8175, 8720, 9025, 9902, 10983, 13804, 14502, 14771, 15076, 17626.
Michigan, 613, 2573, 5695, 6035, 6453, 6507, 6508, 6609, 6610, 7182, 10808, 14227, 14665.
Minnesota, 458, 613, 2573, 5638, 5695, 5696, 6509, 6510, 6611, 6612, 6872, 7460, 8023, 10597, 10863, 11415, 11888, 12439, 12516, 13703.
Mississippi, 613, 2573, 5694, 5695, 6511, 6613, 7235, 8993, 10737, 11132, 13418, 13713, 16527.
Missouri, 613, 722, 779, 1042, 1133, 2363, 2448, 2573, 2820, 3298, 5695, 6509, 6511, 6611, 6647, 6987, 6978, 7067, 7631, 8022, 8176, 8380, 8529, 9150, 9691, 10203, 10834, 10909, 11709, 11887, 12597, 12623, 12744, 14278, 15093, 15490, 16390, 16479.
Nebraska, 5629, 5696, 6509, 6611.
Nevada, 1054, 5696, 6512, 6614, 8180, 8956.
New Hampshire, 9902, 10983, 14502, 15076, 17626.
New Jersey, 415, 807, 2362, 2447, 2807, 2819, 2896, 3360, 3384, 3813, 4071, 5286, 5417, 5694, 5876, 6401, 6407, 6505, 6508, 6608, 6989, 7056, 7596, 7842, 7976, 8063, 8175, 8176, 8720, 9006, 9025, 9836, 10592, 11039, 11204, 11334, 11414, 12444, 12896, 12787, 13804, 14771.
New Mexico, 91, 613, 2573, 2849, 3298, 3385, 5695, 6512, 6614, 11135.
New York, 807, 2362, 2447, 2807, 2819, 2896, 3360, 3384, 4071, 5286, 5417, 5694, 6401, 6407, 6505, 6989, 7842, 8175, 8720, 9025, 12596, 13804, 14771.
North Dakota, 5696, 6501, 6872, 7460, 8023, 12516, 13703.
Ohio, 2573, 3064, 3156, 3337, 5695, 6506, 6507, 6608, 6609, 8591, 10449, 11535, 11737, 11887, 12116, 12189, 12994, 15952, 17626.
Oklahoma, 613, 2573, 2574, 5251, 5695, 6511, 6512, 6613, 6614, 7090, 7843, 8247, 9694, 9823, 11134, 12598, 13595, 13855, 14774, 15389, 16480.
Pennsylvania, 415, 3156, 3813, 5694, 5695, 5876, 6506, 6507, 6608, 6609, 7056, 7596, 7976, 8063, 8175, 8176, 8720, 9006, 9025, 9836, 10592, 11039, 11204, 11334, 11414, 12444, 12787, 13804, 15952, 17626.
Rhode Island, 446, 667, 1181, 2361, 2447, 2644, 2819, 4071, 5286, 5417, 5694, 6505, 6607, 8175, 8720, 9025, 9902, 10983, 13804, 14502, 14771, 15076, 17626.
South Dakota, 5629, 5638, 5696, 6509, 6510, 6611, 6612, 10597, 11888, 12439, 13703.
Tennessee, 613, 985, 2573, 3337, 5695, 6506, 6510, 6511, 6608, 6612, 6613, 7183, 9977, 10808, 11130, 11131, 15437.
Texas, 91, 613, 724, 2362, 2573, 2574, 2849, 3298, 3385, 5251, 5371, 5695, 5696, 6206, 6511, 6512, 6613, 6614, 6885, 7090, 7843, 8247, 9694, 9697, 9823, 10206, 10783, 11134, 11135, 12598, 13595, 13855, 14771, 14774, 15388, 15389, 16480.
Utah, 1054, 5696, 6512, 6614, 8180, 8956.
Virginia, 5694, 5695, 6506, 6608, 8175, 8720, 9025, 13804.

Agriculture Department—Continued Page

MILK AND PRODUCTS—Continued
Marketing in various States, orders proposed or adopted—Continued
Washington, 3834, 5640, 5696, 5838, 6341, 6371, 6511, 6512, 6613, 6614, 7025, 7583, 10600, 10742, 10863, 11086, 11476, 11567, 11925, 11957, 12059, 12940, 15178, 15706.
Washington, D.C. *See* District of Columbia.
West Virginia, 3156, 5695, 6506, 6507, 6608, 6609, 10449, 12189, 12994, 15952, 17626.
Wisconsin, 458, 613, 2573, 5695, 5696, 6035, 6453, 6507, 6508, 6509 6609, 6610, 6611, 6692, 8529, 21054.
Wyoming, 1054, 5696, 6512, 6614, 8180, 8956.
Nonfat dry milk; price-support program, April 1967–March 1968 14647
Special program for children 12587
Definition of "needy schools" 4341
Maximum reimbursement rates, revision 6549

MOHAIR AND PRODUCTS:
Advertising and sales promotion program; agreement between Secretary and Mohair Council of America, Inc 152, 4318
Payment programs:
1966; 4568.
1968; 16391.

NATIONAL AGRICULTURAL LIBRARY:
Grants for research; authority delegation to Director 12868
Organization, functions, availability of information 9721

NAVAL STORES; gum:
Conservation program:
1968; 13695, 14548.
Price-support program:
1967 crop, 1084.

NECTARINES, marketing:
California, 7777, 7911, 7959, 7960, 8364, 8365, 8955, 9213, 9612.

NONDISCRIMINATION; Civil Rights Act of 1964, Federally-assisted programs 705, 3967

NUTS:
See also Almonds; Filberts; Peanuts; Pecans; Walnuts.
Standards for grades, mixed nuts, in shell; proposed rule 13196
Warehouses, Federally licensed; storage in 4474

OATS:
See also Grains.
Cropland adjustment. *See* Land use adjustment programs.
Farm conserving base, 1966–69 11515
Loan and purchase programs:
1966 and subsequent crops, 7961.
1967 crop, 6615, 7522, 8283.
Price-support programs:
1964 and subsequent crops, 7843, 9301, 10718, 10910, 13376, 17899.
1966 crop, 6584.
1967 crop, 122, 235, 3339, 5462, 6342, 10431, 13713, 16528.
Reseal loan programs:
1965 and subsequent storage periods, 5767, 6021, 15632.
1967–68 storage period, 7698.
Warehouses, Federally licensed; storage loans, due date 6584

OIL:
See also Cottonseed oil; Linseed oil; Tung oil.
Bulk oils, warehouses; standards for approval 43, 14099

OILSEEDS. *See* Flaxseed; Peanuts; Soybeans.

OKRA:
Entry into Guam from Japan and Korea 13319
Standards for grades 8864

OLEOMARGARINE. *See* Margarine.

OLIVES:
Marketing:
California, 3992, 5323, 12854, 13292, 13443, 14202.
Standards for grades, green olives 8719, 11467

ONIONS:
Import restrictions 608, 11281, 12156
Marketing:
Idaho and Oregon, 5629, 8168, 9635, 11203, 11261, 11475, 12743.
Texas, 6087, 15177, 15684, 20702.
Standards for grades:
Creole onions 8864
Onion sets 8865
Processing onions 8872

Agriculture Department—Continued Page

ORANGE JUICE:
Marketing, frozen concentrated juice:
Florida, 630, 4318, 4547, 5811.
Purchase program HMP 135a 882
Standards for grades, proposed rules:
Chilled; supersedure 13569
From concentrate 6284, 10497
Pasteurized 6286, 10499

ORANGES:
Imports:
Fumigation 12471
Restrictions 711, 1181, 2938, 3437, 5284, 12993, 14311
Marketing:
Arizona and California:
Navel oranges, 43, 121, 259, 407, 485, 709, 851, 1033, 1125, 2444, 2805, 3046, 3289, 3729, 3968, 4277, 4527, 5461, 5729, 6019, 6340, 7088, 7839, 13536, 15488, 15805, 16097, 16389, 16526, 17515, 17888, 20629, 20766, 20838, 21028.
Valencia oranges, 2896, 2999, 3046, 3290, 3688, 3729, 3968, 4277, 4527, 4528, 5461, 5619, 5628, 5729, 5829, 6019, 6128, 6257, 6340, 6605, 6930, 6966, 7089, 7211, 7491, 7741, 7840, 8021, 8123, 8363, 8513, 8705, 8807, 9005, 9508, 10051, 10428, 10781, 11073, 11203, 11375, 11467, 11697, 11756, 11984, 12438, 12709, 12908, 12909, 13179, 13408, 13702, 13961, 14270, 14645, 14923, 15384.
Florida, 4567, 8761, 9081, 10051, 12907, 13179, 13701, 14922, 15116, 16097, 16198, 17616.
Texas, 709, 3336, 4567, 11887, 12802, 12993, 13113, 14309, 14372, 15394, 15869.
Plant quarantine, foreign; Unshu oranges from Japan 1181, 5284, 5807, 7958, 15577
Standards for grades, Florida oranges 10090, 13492
Proposed rule 20864

ORGANIZATION AND FUNCTIONS:
See also Authority delegations.
Agricultural Research Service, 7469, 7875.
Agriculture Department, staff agencies, 11895.
Budget and Finance Office, 9722.
Consumer and Marketing Service, 11741, 12992.
Cooperative State Research Service, 9724.
Economic Research Service, 9730, 10613.
Farmer Cooperative Service, 9849.
Farmers Home Administration, 6650.
Federal Extension Service, 7469, 9724.
Foreign Agricultural Service, 10117.
General Counsel, Office of, 9725.
Information Office, 9722.
Inspector General Office, 8822, 9850.
International Agricultural Development Service, 9729.
Management Improvement Office, 10004.
Management Services Office, 9726.
National Agricultural Library, 9721.
Packers and Stockyards Administration, 5708, 7186, 9636.
Personnel Office, 9731.
Plant and Operations Office, 9731.
Rural Community Development Service, 11173.
Secretary, Office of, 10118.
Statistical Reporting Service, 9727.

OVERTIME SERVICES, imports and exports:
Animals and products:
Overtime work 13444, 17618, 20768
Travel time 2843, 6021, 12441, 13650
Plants and products:
Overtime work 13444, 17618, 20763
Travel time 969, 3383, 6019, 7697, 9945, 11981

PACKAGES, damaged or repaired, of fresh fruits and vegetables; classification 9145

PACKERS AND STOCKYARDS ADMINISTRATION:
Establishment; transfer of functions:
Consumer and Marketing Service 5708, 7186
Packers and Stockyards Division 7186
Inspection of livestock originating in Kansas, authorizations and termination of prior authorization 6650, 7539
Organization and functions, public information 9636
Posted stockyards, designation or removal 417, 583, 1002, 1003, 1060, 2903, 3367, 4148, 4476, 5297, 6003, 6585, 6853, 7027, 7139, 7539, 7922, 8183, 8539, 8927, 9850, 10614, 10871, 11092, 11388, 11447, 11484, 12763, 12808, 13015, 13088, 13238, 13334, 13388, 14244, 14285, 14900, 15126, 15717, 16171, 16442, 17443, 18066, 20819.
Rates and charges; petitions, complaints, etc 470, 1139, 5810, 6731, 6853, 12450, 13734

Agriculture Department—Continued Page

PACKERS AND STOCKYARDS ADMINISTRATION—Continued
Regulations:
Accounts and records, trade practices, etc. 13254
Custodial accounts for trust funds 9025, 20921
Editorial changes 7700, 12667
Insolvency, definition of current assets and liabilities 2575, 6901
Livestock, purchase by packers on carcass grade and/or weight basis; proposed rule 7858, 9101, 11334, 14106
Proof of service of documents or papers 4113
Registration procedures, accounts and records, trade practices, etc.; proposed rules 8621, 9171
Vacation of rate orders 8621, 12599
PACKERS AND STOCKYARDS DIVISION. *See* Packers and Stockyards Administration.
PARITY PRICES, determination:
Honeydew melons 16385
Plums, prunes, and sour cherries 11031
PARSLEY, standards for grades 8866
PARSNIPS, standards for grades 8866
PEACHES:
Marketing, fresh peaches:
California, 3384, 8247, 8706, 9006.
Colorado, 10428, 11535, 12398.
Georgia, 327, 7012, 7832.
Washington, 9082, 10579, 11333, 12063, 13161.
Standards for grades:
Canned clingstone and freestone peaches; proposed rules 10935
Dried peaches 7573
PEANUTS:
See also Nuts.
Cropland adjustment. *See* Land use adjustment programs.
Loan and purchase program:
1967 crop, 9950, 10910, 12744, 12745, 14151.
Marketing agreements; quality, indemnification, etc. 6149, 6732, 7502, 20991
Marketing quotas, acreage allotments, etc.:
1963–1968 crops, 1169, 9146, 11957, 12290, 13215, 13569, 15149, 17887.
Price-support programs:
1964 and subsequent crops, 17899.
1967 crop, 122, 235, 3339, 5462, 6342, 10431, 13713, 16528.
Supply available, Valencia type, 1967–68 marketing year 2896, 4566
Warehouses, Federally licensed:
Standards for approval 20767
Storage loan and sheller purchases, 1967 crop 9950, 10910, 13504
PEARS:
Export restrictions 7289, 9297
Marketing:
Bartlett, fresh:
California, 3384, 8247, 9006, 10296.
Oregon and Washington, 12362, 13319.
Beurre D'Anjou, Beurre Bosc, etc., California, 11698, 11957, 12743, 13161, 14151.
Standards for grades, dried pears 7575
PEAS:
Entry into Guam from Japan and Korea 13319
Fresh shelled, for canning or freezing; standards for grades 8873
PECANS:
See also Nuts.
In shell; standads for grades 12799, 15073, 17893
PEONIES, cut, in bud; standards for grades 8881
PERSIMMONS; entry into Guam from Japan and Korea 13319
PESTICIDES; enforcement of Federal Insecticide, Fungicide, and Rodenticide Act, sodium arsenite or arsenic trioxide products intended for use by homeowner, proposed interpretation 16164
PIMIENTOS, canned; standards for grades 13373
PLANT PEST REGULATIONS; emergency measures, procedures to prevent pest dissemination 2787, 6339, 7011
PLANT QUARANTINE:
Domestic:
Black stem rust, 7487, 8706, 18015, 18017.
Citrus canker, 5384, 5807, 7988.

Agriculture Department—Continued Page

PLANT QUARANTINE—Continued
Domestic—Continued
Formosan subterranean termite; proposed rule, 7631, 8973.
Gypsy and brown-tail moths, 336, 7466, 8729.
Pink bollworm, 2642, 16385, 16388, 20942.
Witchweed, 9496, 9499, 9507, 10781.
Foreign:
Artichokes, eggplant, okra, peas, persimmons, rhubarb, squash, turnips, and turnip greens; entry into Guam from Japan and Korea, 13319.
Cytisus and laburnum species; restricted importation removed, proposed rule, 13820.
Elm plants; prohibited importation, 6367.
Grapes, imported, and certain other fruits, Queensland fruit fly, cold treatments, 12832, 18215.
Nursery stock, plants, and seeds; malus, prunus, and pryus spp, 2443.
Oranges, grapefruit, and tangerines from various countries, Mediterranean fruit fly, 12471.
Oranges, Unahu, from Japan, 1181, 5284, 5807, 7956, 15577.
Wheat products, certain; entry into Guam and Hawaii, 6496.
Mexican border regulations; treatments, permits, and fees for fumigation 5555, 8953
Overtime services, imports and exports:
Overtime work 20765
Travel time 969, 3383, 6019, 7697, 9945, 11981
PLUMS:
Marketing, fresh plums:
California, 3384, 4026, 5543, 7741, 7940, 7941, 8063, 8247, 8513, 8514, 8515, 8516, 8517, 9006, 9822, 11516, 12432.
Parity prices, determination 11031
POTATOES, Irish:
Import restrictions 8418, 9509
Marketing:
California, 10429, 13755, 14560, 15705.
Colorado, 9084, 10430, 11032, 11803, 12503, 12939, 13804, 13820, 14889, 17671.
Idaho, 9298, 10516, 11698, 15577.
Maine, 17433.
North Carolina, 8089, 9417, 11037, 12555.
Oregon, 9298, 10429, 10516, 11698, 13755, 14560, 15577, 15705.
Virginia, 8039, 8417, 11037, 12555.
Washington, 9299, 14605, 16199, 16220, 20702.
Standards for grades, frozen french fried potatoes 779
POULTRY AND PRODUCTS:
See also Eggs and products.
Diseased:
Duck plague, etc 2428
Virus enteritis 7012, 8078
Interstate movement, restrictions 279, 7583
Imports; inspection and requirements for certain aircraft, etc., and shipping containers brought to U.S 15707
Improvement plans, national 780
Proposed rule 14224
Inspection; proposed rules:
Labeling, net weight; stuffed poultry products 11279
Meat food products, use in 11385
Soups, effective date 2442, 6673
PRICE-SUPPORT PROGRAMS. *See main heading* Commodity Credit Corporation.
PROCUREMENT REGULATIONS:
Advertising, formal; equal low bids, 10068.
Disputes and appeals policy and procedure, 1180.
Forms, 1180.
General, 1176.
Labor, 1179.
Negotiation, 1177.
Special types and methods, 1177.
Supply, sources of; special and directed, 1179.
PROGRAMS administered by ASCS:
Farm conserving base and designated diverted acreage 11515, 20629
Fractions, rule of; applicability, etc 11515
Incomplete performance based upon action or advice of authorized representative of Secretary 8955
Payments and certificates, division; applicability, etc. 19155
PRUNES:
Marketing:
Dried prunes:
California, 5556, 10579, 11233, 11313, 11476, 12472, 17494.

Agriculture Department—Continued Page

PRUNES—Continued
Marketing—Continued
Fresh prunes:
Idaho, 11413, 13292, 14202.
Oregon, 10782, 11413, 11475, 12472, 13292, 14202.
Washington, 10782, 11475, 12472.
Parity prices, determination 11031
Standards for grades, canned dried prunes 7570
QUARANTINE:
Animal diseases. *See* Animals and products.
Plants. *See* Plant quarantine.
QUETICO-SUPERIOR COMMITTEE, functions (Executive Order 11342) 5827
RAISINS, marketing:
California, 5690, 5921, 6578, 7841, 9084, 11236, 12157, 12555, 12710, 13292, 14271, 14396, 14896, 14897, 15003, 15488, 15871, 15915, 16199, 17467, 17625, 18066, 20732.
RASPBERRIES, standards for grades 8876
RECORDS, availability 9605
Agricultural Research Service, 9606, 10915.
Agricultural Stabilization and Conservation Service, 9606, 15704.
Budget and Finance Office, 9722.
Consumer and Marketing Service, 9610.
Cooperative State Research Service, 9724.
Economic Research Service, 9730.
Farmer Cooperative Service, 9849.
Farmers Home Administration, 9614.
Federal Extension Service, 9724.
Foreign Agricultural Service, 9827.
General Counsel, Office of, 9725.
Information Office, 9722.
Inspector General Office, 9850.
International Agricultural Development Service, 9615, 9730.
Management Improvement Office, 10004.
Management Services Office, 9726.
National Agricultural Library, 9721.
Packers and Stockyards Administration, 9636.
Personnel Office, 9731.
Plant and Operations Office, 9731, 9732.
Rural Community Development Service, 9723.
Soil Conservation Service, 9726.
Statistical Reporting Service, 9727.
REPRESENTATION before Department 5458
RHUBARB; entry into Guam from Japan and Korea 13319
RICE:
See also Grains.
Cropland adjustment. *See* Land use adjustment programs.
Export payment-in-kind program (GR–369) 5462
Farm conserving base, 1966–69 11515
Loans and purchase programs:
1966 crops, 6342, 10057.
1967 crops, 5829, 15872.
Marketing quotas, acreage allotments, etc.:
1964–1968 crops, 1169, 2997, 3881, 6196, 6965, 7054, 8666, 9148, 10718, 13376, 14331, 15076, 21023, 21042.
Price-support programs:
1964 and subsequent crops, 7843, 10718, 13376, 17899.
1966 crop, 6584.
1967 crop, 122, 235, 3339, 5462, 6342, 10431, 13713, 16528.
Reseal loan programs:
1965 and subsequent storage periods, 5767, 6021, 15632.
Standards, rough, brown, and milled rice 8004, 8093, 14632, 20837
Warehouses, Federally licensed:
Standards for approval 3339
Storage loans, due date 6584
RURAL ELECTRIFICATION ADMINISTRATION. *See main heading* Rural Electrification Administration.
RYE:
See also Grains.
Cropland adjustment. *See* Land use adjustment programs.
Farm conserving base, 1966–69 11515
Loan and purchase programs:
1966 and subsequent crops, 9151.
1967 crop, 10502, 11928.
Price-support programs:
1964 and subsequent crops, 7843, 9301, 10718, 10910, 13376, 17899.
1966 crop, 6584.
1967 crop, 122, 235, 3339, 5462, 6342, 10431, 13713, 16528.

Agriculture Department—Continued Page

RYE—Continued
Reseal loan programs:
1965 and subsequent storage periods, 5767, 6021, 15632.
Warehouses, Federally licensed; storage loans, due date 6584
SALES of agricultural commodities:
See also Surplus commodities.
Commercial sales, financing 921, 3935, 5977
SAUERKRAUT, bulk; standards for grades 7568
SCHOOL BREAKFAST and nonfood assistance programs 33, 485
Assistance funds, apportionment 7491, 9298, 11073, 13376
Definitions, requirements for school participation, reimbursement payments and procedures 13215
SCHOOL LUNCH PROGRAM:
Assistance funds, apportionment 2883, 6431
Donation of food commodities, etc.; obligations of distributing agencies 20837
Free and reduced price lunches, reporting 15888
Participation requirements 33
Reimbursement payment 12083
Special milk program for children; maximum reimbursement rates, revision 6549
SEEDS:
Federal Seed Act:
Germination, testing, etc.; proposed rules 454, 2644
Sampling, exemptions, declarations, and labeling 12155
Imports restricted 2443
Oilseeds. *See* Flaxseed; Peanuts; Soybeans.
Warehouses, Federally licensed; standards for approval 3339
SIRUP:
Standards for grades:
Maple, for reprocessing 7578
Refiners' 8575
Table 7579
Warehouse, Federally licensed; storage in 4473
SOIL BANK PROGRAM; conservation reserve. *See under* Conservation programs, *above*.
SOIL CONSERVATION SERVICE:
Great Plains. *See under* Conservation programs, *above*.
Information, availability of 9728
SOYBEANS:
See also Grains.
Farm conserving base, 1966–69 11515
Loan and purchase programs:
1966 and subsequent crops, 11376.
1967 crop, 12046, 12744, 14098.
Price-support programs:
1964 and subsequent crops, 7843, 9301, 10718, 10910, 13376, 17899.
1966 crop, 6584.
1967 crop, 122, 235, 3339, 5462, 6342, 10431, 13713, 16528.
Reseal loan programs:
1965 and subsequent storage periods, 5767, 6021, 15632.
1967–68 storage period, 7698.
Warehouses, Federally licensed; storage loans, due date 6584
SPINACH, canned; standards for grades 4397, 5979
Proposed rules 6848
SQUASH:
Entry into Guam from Japan and Korea 13319
Standards for grades:
Fall and winter squash 8867
Summer squash 8868
STOCKYARDS, rates, posting, etc. *See* Packers and Stockyards Administration.
STRAW, inspection and certification; grading service, samples, etc., proposed rules 5555
STRAWBERRIES, standards for grades:
Growers' stock, for manufacture 8879
Washed and sorted, for freezing 8879
SUCCOTASH, canned; standards for grades 7580
SUGAR:
Allotment of quotas:
Domestic beet area:
1967 crop, 1132, 13701.
Hawaii, local consumption; 1968 crop, 17669, 21024.
Mainland cane area:
1967 crop, 38, 2572, 3687, 6188, 8805, 10553, 20765.
1968 crop, 6411, 15635.

Agriculture Department—Continued Page

SUGAR—Continued
Allotment of quotas—Continued
Puerto Rico:
Direct consumption portion of mainland quota:
1967 crop, 40, 6550, 10601, 16526.
1968 crop, 14965, 21026.
Local consumption, 1968 crop, 17669, 21024.
Commercially recoverable sugar; 1967 crops:
Beet sugar area, 12552, 13640.
Mainland sugarcane, 13216.
Conditional payments provisions:
Domestic beet sugar area, 7837, 8283, 15393.
Mainland cane sugar area, 8413, 15393.
Sugarcane:
Hawaii, 8882.
Puerto Rico, 10638, 11467.
Continental requirements and area quotas:
1967 crop, 2609, 3085, 4015, 6367, 7011, 7521, 7581, 8577, 9149, 9949, 12592.
1968 crop, 16045, 16063.
Farms, determination; continental U.S.:
1967 and subsequent crops; proposed rule:
Sugar beets, 2708, 3946.
Sugarcane, 2708, 3946.
1968 and subsequent crops:
Sugar beets, 15393.
Sugarcane, 15393.
Importing of sugar or liquid sugar 10345, 11996, 14363, 15683
Limitations on sugar-containing products or mixtures, proposed rule 17669
Marketing of sugar and liquid sugar; exchange between two processors 280, 3045
Normal yields and eligibility for abandonment and crop deficiency payments:
Beet sugar area:
1965 crop, 1079.
1966 crop, 20701.
Sugarcane; 1966 crops:
Mainland, 8234.
Puerto Rico, 14017.
Virgin Islands, 8123.
Prices:
Sugar beets:
1966 crop, 312, 606.
1967 crop, 312, 606.
1968 crop, 15595.
Sugarcane:
Florida:
1966 crop, 6551.
1967 crop, 7922, 14737.
Hawaii, 1967 crop, 7243.
Louisiana; 1967 crop, 7922, 14306.
Puerto Rico; 1966–67 crops, 3066, 14669.
Proportionate shares:
Sugar beets:
Domestic area:
1966 crop, 251, 252, 253, 254, 256, 258, 439, 440, 441, 443, 444, 445, 1024, 1025, 1027, 1028, 1030, 1031, 1060, 1062, 1063, 2697, 2997.
1967 crop, 311.
1968 crop, 10220, 12553.
National acreage reserve, 1966 crop, 7385.
Prevented acreage credit, 1967 and subsequent crops, 6432.
Sugarcane:
Mainland, 1968 crop, 10715.
Puerto Rico:
1967–68 crop, 969.
1968–69 crop, 16442.
Sirup, standards for grades. *See* Sirup.
Wage rates; 1967 crops:
Sugar beets, 5458, 15595.
Sugarcane:
Florida, 7922, 14096.
Louisiana, 7922, 13801.

Agriculture Department—Continued Page

SURPLUS COMMODITIES:
Certain commodities acquired through price-support operations; sales list:
1966, December, 16.
1967:
January, 154.
February, 2455.
March, 3839.
April, 5588, 6457.
May, 6985, 7602.
June, 8043.
July, 10000.
August, 11339.
September, 12805.
October, 13988, 14164.
November, 15497.
December, 17491.
Foreign currencies; commercial sales, financing 3604
Prohibition of crop cultivation on lands leased from United States 9324
TANGELOS:
Marketing:
Florida, 121, 3335, 13179, 13702, 14922, 15116, 16097, 17615.
Standards for grades, Florida 10090, 13492, 20864
TANGERINES:
Imports; fumigation 12471
Marketing:
Florida, 922, 1032, 13179, 14923, 15116, 15869, 16097, 16199, 16525, 17615, 17616.
Standards for grades, Florida 10097, 10449, 13500, 20864
TOBACCO:
Exports, cash payment 4491
Inspections:
Price support services, application for new markets at Yadkinville, N.C.; hearing 7539
Standard grades, flue-cured tobacco 3226, 5979
Loan programs:
1966 crop; Puerto Rican, 9826.
1967 crops:
Burley, dark air-cured, flue-cured, Virginia fire-cured and sun-cured, 9613, 10249, 11416, 14203, 14272, 15633, 16145.
Connecticut Valley:
Broadleaf, 17849.
Havana seed, 17850.
Kentucky-Tennessee fire-cured, 15633.
New York and Pennsylvania Havana seed, 17850.
Ohio filler, 17849.
Wisconsin, northern, 17850.
Marketing, shade-grown cigar-leaf tobacco:
Florida and Georgia, 4314, 6128.
Marketing quotas, farm acreage allotments, etc.:
1963–71 marketing years 15, 651, 653, 680, 1002, 1022, 1124, 1139, 2603, 2609, 2936, 3045, 3139, 4055, 4305, 5323, 7287, 9817, 9849, 10293, 10427, 10549, 11203, 11225, 11413, 12905, 13113, 14269, 15546, 16043, 16478, 16479.
Referenda regulations, flue-cured tobacco, 9946, 10293, 10549.
Warehouses, Federally licensed; storage in 4473
TOMATOES:
Marketing:
Florida, 14609, 15884.
Standards for grades:
Canning tomatoes 8874
Strained products, manufacture of 8874
Tomato plants 8882
TUNG OIL:
Loan program:
1967 crop, 10783.
Price-support programs:
1964 and subsequent crops, 17899.
1967 crop, 122, 235, 3339, 5462, 6342, 10431, 13713, 16528.
Warehouses, standards for approval 43, 14099
TURKEYS. *See* Poultry and products.
TURNIPS AND GREENS; entry into Guam from Japan and Korea 13319
VEGETABLES:
See also specific vegetables.
Fresh:
Damaged or repaired packages, classification 9145
Inspection, certification, and standards 12052, 12953, 13077, 15066

Agriculture Department—Continued Page

VETERINARIANS. *See under* Animals and products.
VIRUSES, SERUMS, TOXINS, ETC.:
Anti-hog-cholera serum and hog-cholera virus, termination of marketing agreement and order and discharging Control Agency 13668, 15469
Biological products, licenses and permits 7178, 8529, 11801
General provisions, definitions; proposed rule 7177, 8529
Licensed establishments, requirements; proposed rule 7181, 8529
WALNUTS:
See also Nuts.
Marketing:
California, Oregon, and Washington, 14227, 14395, 14890, 15388.
WAREHOUSES, Federally licensed:
Standards for approval 43, 3339, 14099, 20767
Storage in 4473, 4475
Storage loans:
Due date 6584
Peanuts, 1967 crop 9950, 10910, 13504
Warehouses and warehousemen, licensed and bonded; list 4457
WHEAT:
See also Grains.
Cropland adjustment. *See* Land use adjustment program.
Diversion and certificate programs, 1966–69 5416, 8577, 11609, 11755, 13700
Farm conserving base 3335, 11515, 20629
Payments and certificates, division 19155
Export program:
Cash payment, wheat flour (GR–346) 6342
Payment-in-kind (GR–345) 6257, 6931, 14739, 16251
Loan and purchase programs:
1966 and subsequent crops, 7961, 9612.
1967 crop, 8283, 10719.
Marketing certificate programs:
Exporters, 1967 14727, 16251
Authority delegation 15125
Processors 279, 4123, 4305, 6127, 7337, 7836, 7976, 8380, 8675, 10552, 10834, 11533, 12551, 14332, 14363.
Marketing quotas, acreage allotments, etc.:
1966–69 crops, 6339, 9819, 11609, 13063.
Plant quarantine, foreign; entry of certain wheat products into Guam and Hawaii 6496
Price-support programs:
1964 and subsequent crops, 7843, 9301, 10718, 10910, 13376, 17899.
1966 crop, 6584.
1967 crop, 122, 235, 3339, 5462, 6342, 10431, 13713, 16528.
Reseal loan programs:
1965 and subsequent storage periods, 5767, 6021, 15632.
1967–68 storage period, 7698.
Warehouses, Federally licensed; storage loans, due date 6584
WOOL:
Payment program:
1966; 4568.
1968; 16391.
Standards, wool top; proposed rule 12485
Warehouses, Federally licensed; storage in 4473, 4475

Air Carriers:
See Aircraft and air carriers.

Air Force Department:
See also Defense Department.
ACADEMY, appointment to 14762, 15922
AIR WEATHER SERVICE to nonmilitary agencies and individuals 7021
Prior regulations revoked 9677
AIRCRAFT:
Arresting systems, purpose, policy, etc 570
Contractors' flight operations 16155
Emergency landings, other than Defense Department aircraft 15920
Fuel and oil 11782
Orientation flights, purpose, definitions, etc 6094
Procurement 8964
Weather service to nonmilitary agencies or individuals 7021
Prior regulations revoked 9677
BANDS, Air Force; authorized participation, etc 6093

Air Force Department—Continued Page

BURIAL, transportation of remains, eligibility, etc 6368
CLAIMS AND LITIGATION:
Administrative claims 14824
Foreign tribunals, counsel fees and other expenses in 13810
Official records, authentication for admission into evidence 569
Paternity claims 3010
Releasing information for litigation, and appearance of witnesses before civilian courts and other tribunals 7021
Taxation, legal and administrative actions, etc., deleted 15920
COMMISSARY STORE PRIVILEGES, individuals and organizations authorized 6032
CONDUCT STANDARDS; prohibition of contributions or presents to superiors, etc 13000
DECORATIONS AND AWARDS 11852, 13126, 13811, 14824, 15921
ENLISTMENT:
See also under Reserves.
Criteria, etc 4118, 13125
ENVIRONMENTAL SERVICES to nonmilitary agencies and individuals through Air Weather Service 7021
Prior regulations revoked 9677
FUEL AND OIL, aviation, selling for contract, charter, and civil aircraft 11782
INFORMATION. *See* Records and information.
LABOR UNION REPRESENTATIVES of contractor employees, admission to Air Force installations; purpose 569
LITIGATION. *See* Claims and litigation.
MILITARY TRAINING AND SCHOOLS:
Academy, appointment to 14762, 15922
Medical education of reserve officers; purpose, eligibility for training, etc 2367, 3011
Medical service early commissioning program 16159
Officer training school; purpose, definitions, etc 4356
MORTUARY AFFAIRS, scope, eligibility, etc 6368
MOTION PICTURE and sound track stockfootage, sale or release 7020
NON-GOVERNMENT ORGANIZATIONS, support 3009
OFFICERS:
See also Reserves.
Active duty service commitments 20648
Regular Air Force, appointment in 7441, 7962, 20720
Reserves, appointment in 7962, 20720
ORGANIZATION AND FUNCTIONS 12489
PATERNITY CLAIMS 3010
PERSONAL COMMERCIAL AFFAIRS, locator service 2367
PERSONAL PROPERTY, disposition; authority for shipping property of deceased and missing persons, etc 6032
PROCUREMENT:
Advertising, formal, 5782, 8143, 12476, 13717.
Aircraft and GFAE, 8964.
Construction and contracting for architect-engineer services, 13718, 16039.
Contracts:
Administration, 3018, 3978, 10979, 13718, 16428.
Clauses, 3012, 3978, 5787, 6451, 8144, 10978, 12479, 13718, 16039, 16427.
General, 3017, 5787.
Service; household goods, 16427.
Termination, 12479.
Foreign purchases:
Balance of payments program, 8964, 16036.
Buy American Act, 5787.
Canadian purchases, 16036.
Forms, 3978, 6451, 10979, 13718.
General provisions, 3011, 3976, 5781, 6450, 8142, 8963, 12474, 16036.
Government property, 3978, 8144, 13718.
Interdepartmental and coordinated, 12477, 13718.
Logistic support items, 5787.
Negotiation, 3976, 5782, 6450, 8143, 10978, 13717.
Patents, data, and copyrights, 3012.
Reports, financial management, 10979.
Special types and methods, 3012, 3977, 5786, 6450, 8964, 12476, 13717, 16427.
Taxes, State and local, 16427.
PROPERTY. *See* Personal property; Real property.
PUBLICATIONS AND FORMS, issuing to public, etc 12609
RATION, functions of Secretary (Executive Order 11339) 5321

Air Force Department—Continued

REAL PROPERTY, granting temporary use ... 11783
RECORDS AND INFORMATION:
- Availability of ... 9674, 12609, 13000
- Prior regulations revoked ... 9677
- Reference room service ... 9677

Classified information, safeguarding ... 4118, 10512
Litigation:
- Releasing information for ... 7021
- Official records, authentication for admission into evidence ... 569

Policies and procedures; contractors' releases, etc ... 6369
Sales and services, user charges ... 16035
Scientific and technical information ... 12609
Unclassified records, disclosure authority ... 14821
REFERENCE ROOM SERVICE to public ... 9677
RESERVES:
- *See also* Officers, *above*.
- Appointment in ... 7962, 20720
- Career reserve status ... 20648
- Enlistment ... 13065
- Medical education; purpose, eligibility for training, etc ... 2367, 3011
- ROTC:
  - AFROTC membership, character requirements, etc ... 9677
  - Cadets, deferment; heading corrected ... 570
  - Flight instruction program ... 9678
  - Graduates, delay in active duty ... 14821
  - Junior ROTC, credit for training, etc ... 13000
  - Subsistence allowance and commutation in lieu of uniforms ... 12611, 13811
- Ready Reserve Unit Programs, enlistment of nonprior service personnel; purpose, policy, etc ... 5778

SALES AND SERVICES, user charges ... 16035
SCIENTIFIC AND TECHNICAL INFORMATION PROGRAM ... 12609
SEAL ... 9673, 11782
SECURITY:
- Classified information; dissemination and disclosure authority, etc ... 4118, 10512
- Industrial ... 16264
- Protection of USAF resources ... 16154

TRAINING:
- *See also* Military training and schools.
- Air force contractor employees ... 10512

UNIDENTIFIED FLYING OBJECTS ... 9673
WEATHER SERVICE to nonmilitary agencies and individuals ... 7021
- Prior regulations revoked ... 9677

Air Force Ration:

REGULATIONS (Executive Order 11339) ... 5321

Air Pollution:

DEFENSE INSTALLATIONS, control of air pollution ... 9969
FACILITIES for pollution control, investment tax credit, etc. *See* Public Health Service.
GRANTS, air pollution control programs ... 7830
INTERNATIONAL JOINT COMMISSION—UNITED STATES AND CANADA, hearings ... 6995
INTERSTATE air pollution:
- National Capital Metropolitan Area; conference of air pollution control agencies ... 15597, 15648, 16288
- New York-New Jersey metropolitan area; conference ... 19197
- Selbyville, Del.-Bishop, Md. area; hearing ... 6413

INTRASTATE air pollution in Garrison area, Powell County, Mont.; conference ... 10315
MOTOR VEHICLES, new, control of air pollution from. *See* Customs Bureau; Health, Education, and Welfare Department.

Aircraft and Air Carriers:

ACCIDENTS, investigations, hearings. *See* Civil Aeronautics Board; National Transportation Safety Board.
AIR COMMERCE REGULATION. *See* Customs Bureau.
AIR FORCE REGULATIONS. *See* Air Force Department.
AIR TRAFFIC AND AIR NAVIGATION aids security control plan ... 15014
ALLOCATION regulations. *See* Transportation Department.
ARRESTING SYSTEMS, aircraft. *See* Air Force Department.

Aircraft and Air Carriers—Continued

COAST GUARD aircraft markings ... 6576
DISINFECTING REQUIREMENTS in transporting certain animals and poultry and products ... 15707, 19157
FUEL AND OIL at Air Force installation ... 11782
LOAN GUARANTEE PROGRAM, aircraft. *See* Transportation Department.
MAIL TRANSPORTATION by air. *See* Post Office Department.
MILITARY AIRCRAFT INDUSTRY, Board of Inquiry to investigate labor dispute (Executive Order 11344) ... 6173
MILITARY STAND-BY AUTHORIZATION for commercial air travel ... 12845
NATIONAL PARKS, RECREATION AREAS, etc., aircraft landing restrictions. *See under* National Park Service.
PORTS OF ENTRY for aliens arriving by aircraft ... 825
RADIO SERVICES. *See* Federal Communications Commission.
REGULATORY AGENCIES. *See* Civil Aeronautics Board; Federal Aviation Administration; National Transportation Safety Board.
RESTRICTED AREAS over military installations. *See* Federal Aviation Administration.
RHODESIAN TRADE, prohibition against shipment of certain commodities:
- Commerce Department regulations ... 1126
- Executive Order 11322 ... 119

RYUKYU ISLANDS, regulations (Executive Order 11326) ... 2841
SAFETY REGULATIONS, etc. *See* National Transportation Safety Board.
WEATHER SERVICE to nonmilitary agencies or individuals ... 7021, 9677

Airports:

AIR SERVICE CERTIFICATE, investigation; Airport Authority of City of Omaha and Omaha Chamber of Commerce ... 6104
CUSTOMS CHARGES, overtime, proration of ... 7337, 10845
ECONOMIC REGULATIONS. *See* Civil Aeronautics Board.
EXPLOSIVES stored at. *See* Defense Department.
FEDERAL AID, etc. *See* Federal Aviation Administration.
INTERNATIONAL AIRPORT, designation; air commerce regulation. *See* Customs Bureau.
NONDISCRIMINATION at Federally assisted airports ... 2984
REGIONAL AIRPORT, Washington-Baltimore, investigation. *See* Civil Aeronautics Board.
TRAFFIC PATTERNS, etc. *See* Federal Aviation Administration.

Alaska Power Administration:

ESTABLISHMENT as Bureau within Interior Department ... 8773

Alcoholic Beverages:

AIRCRAFT; proposed rules:
- Crewmembers, restrictions on consumption of beverages; withdrawn ... 675
- Passengers, charges for service of alcoholic beverages in interstate and overseas air transportation ... 8921, 10866

ANTI-SMUGGLING ACT, 1935; alcoholic liquors on vessels of not over 500 tons ... 12557, 12558
BOULDER CITY, NEV., revocation of certain Reclamation Bureau regulations respecting sales ... 2774
EXCISE TAXES etc. *See* Internal Revenue Service.
EXPORT, foreign landing system required; proposed rule ... 8916, 11803
INDIANS, legalizing sale to. *See* Interior Department.
INDUSTRY in Puerto Rico, minimum wages. *See* Wage and Hour Division.
LABELING AND ADVERTISING, distilled spirits. *See* Internal Revenue Service.
LAKE MEAD NATIONAL RECREATION AREA, use restricted ... 15751
YELLOWSTONE NATIONAL PARK, restrictions on sale ... 21038

Algeria:

AGRICULTURAL EXPORTS FROM U.S. (Presidential Finding of February 28, 1967) ... 4053

Alien Property Office:

RETURN OF VESTED PROPERTY:
- Feyerabend, Frieda, 11740.
- Hirschfeldt, Georg, 877.

Aliens:

AGRICULTURAL AND LOGGING INDUSTRY EMPLOYMENT, temporary. *See* Employment Security Bureau.
CHARTERS OF CERTAIN VESSELS to aliens, approval of except for carriage of cargoes to or from Southern Rhodesia ... 4122
IMMIGRATION REGULATIONS. *See* Immigration and Naturalization Service.
INCOME TAX. *See* Internal Revenue Service.
LABOR COMPETITION, regulations. *See* Labor Department.
VESTED PROPERTY, return of. *See* Alien Property Office.
VISAS. *See* State Department.

Almonds:

MARKETING. *See* Agriculture Department.

American Samoa:

WAGE RATES, etc. *See* Wage and Hour Division.
WATCHES AND MOVEMENTS, imports. *See* Commerce Department; Interior Department; Tariff Commission.

Anchorage Regulations:

See Coast Guard; Engineers Corps.

Animals and Products:

See also Livestock; Wildlife.
DISEASES, humane slaughter, etc. *See* Agriculture Department.
DOGS AND CATS:
- *See also under* Agriculture Department.
- Food industry guides, proposed ... 13461, 15715

HUMANE TREATMENT. *See* Agriculture Department.
MAMMALS, restoration. *See* Fish and Wildlife Service.
QUARANTINE in Canal Zone. *See* Canal Zone.
RAILWAY EXPRESS CHARGES, minimum, for live animals; hearings ... 3183, 15131

Anise, Sweet:

STANDARDS FOR GRADES. *See* Agriculture Department.

Antenna Structures:

AERONAUTICAL STUDIES. *See* Federal Aviation Administration.
AIRSPACE RESTRICTIONS. *See* Federal Aviation Administration.
CONSTRUCTION, etc. *See* Federal Communications Commission.

Antibiotic Drugs:

See Food and Drug Administration.

Antidumping Act of 1921:

DETERMINATIONS. *See* Customs Bureau; Treasury Department.
INVESTIGATIONS. *See* Tariff Commission.

Apples:

CROP INSURANCE. *See* Federal Crop Insurance Corporation.
EXPORT RESTRICTIONS. *See* Agriculture Department.

Applesauce:

IDENTITY STANDARDS. *See* Food and Drug Administration.

Apricots:

IDENTITY STANDARD, canned apricots. *See* Food and Drug Administration.
MARKETING, etc. *See* Agriculture Department.

Armed Services:

See also Defense Department *and specific services.*
EX-SERVICEMEN, exemplary rehabilitation certificates ... 7207
FOREIGN MILITARY PILOTS, certain, on duty with armed force of U.S., certification ... 5740, 6513, 13914
FREE MAIL PRIVILEGE extended to sound-recorded messages ... 2816
HOUSING MORTGAGE INSURANCE. *See* Federal Housing Administration.
MICHIGAN, use for restoration of law and order (Executive Order 11364) ... 10907
PETROLEUM PRODUCTS under certain military supply contracts ... 8772
READY RESERVE, active duty order, authority respecting (Executive Order 11327, 11966) ... 2995, 11411
SELECTIVE SERVICE REGULATIONS. *See* Selective Service System.

Arms:

EXPORT REGULATION, international mail ... 12276
FEDERAL FIREARMS ACT, grants of relief pursuant to. *See* Internal Revenue Service.
INTERNATIONAL TRAFFIC IN. *See* State Department.

Arms Control and Disarmament Agency, United States:

CONDUCT STANDARDS ... 12944

Army Department:

See also Defense Department.
CANAL ZONE regulations. *See main heading* Canal Zone.
CEMETERIES, national, interments ... 2886
CIVIL DEFENSE OFFICE, identification for Federal employees, reservists, and non-Federal support personnel; issuance authority, Transportation Department added ... 6932
CLAIMS:
- Against U.S.:
  - Foreign countries, claims arising in ... 16264
  - Government vehicles, etc, claims incident to use of ... 13658
  - Military and civilian personnel; noncombat activities, etc ... 6366, 9164, 10789, 11469, 11780
  - National Guard personnel, claims arising from activities of, while engaged in duty or training ... 15113
  - Relief for members and former members who lost interest on soldiers deposits ... 6193
- On behalf of U.S.:
  - Damage to or loss or destruction of Army property ... 20977
  - Medical care furnished by Army ... 17519
  - Pay allotments; deleted ... 8091

COMMUNIST AREAS, foreign purchases from. *See under* Procurement.
ENGINEERS CORPS regulations. *See main heading* Engineers Corps.
INFORMATION:
- Availability of ... 10355, 11265, 18089
- Maps, supply to general public ... 3771
- Safeguarding information, visitors ... 3391
- Unofficial research in Army files ... 4355

INVESTIGATIONS, conduct of, findings, etc ... 4114
MAPS, supply to general public ... 3771
MEDICAL CARE:
- Dependents'; eligibility, fiscal policies, etc ... 215, 336, 6623, 6931
- Furnished by Army, claims for ... 17519

NATIONAL GUARD:
- Claims arising from activities of, while engaged in duty or training ... 15113
- Satisfactory completion of service obligation ... 15038

ORGANIZATION AND FUNCTIONS:
- Central and field agencies ... 13016, 16279
- Interagency Civil Defense Committee ... 10671

Army Department—Continued Page

PROCUREMENT:
- Advertising, formal, 8898.
- Bonds, insurance, and indemnification, 2628.
- Contracts:
  - Clauses, 2622, 8901.
  - Service, 8903.
  - Termination, procedure for default, 8901.
- Foreign purchases, 2622.
  - Buy American Act, 8900.
  - Communist areas, 2622.
- Forms, 2623, 8902.
- General provisions, 2616, 8895.
- Government property, 8902.
- Interdepartmental and coordinated, 8900.
- Labor, 8902.
- Labor standards in construction contracts; revoked, 2623.
- Negotiation, 8898.
- Special types and methods, 8900.
- Taxes, State and local, 8901.

RATION, functions of Secretary (Executive Order 11339) 5321
RECORDS. *See* Information.
REPRESENTATIVE ACTIVITIES, former personnel; appearances before command, agency, etc. 13279
RESERVATIONS, military; inspection of steam boilers, revoked 15115
RESERVES, Ready Reserve; satisfactory completion of service obligation 15038
SECURITY, visitors 3391

Army Ration:

REGULATIONS (Executive Order 11339) 5321

Artichokes:

STANDARDS FOR GRADES, etc. *See* Agriculture Department.

Arts and Humanities, National Foundation on:

CONDUCT STANDARDS 17651, 17663

Asian Development Bank:

CUSTOMS BUREAU regulation 6391
DESIGNATION as privileged international organization and coordination of U.S. policies (Executive Order 11334) 3933

Asparagus:

CANNED, identity standard, optional ingredient. *See* Food and Drug Administration.
FROZEN, etc., standards for grades. *See* Agriculture Department.

Asphalt:

IMPORTS:
- Adjustment:
  - Interior Department notice 12493
  - Proclamation 3779 5919
- Allocation, proposed rule 12621
- Emergency Planning Office investigation 6155

Atomic Energy Commission:

AGREEMENTS:
- *See also* Regulatory authority of AEC, etc.
- Agreement States, reciprocity; recognition of State licenses 10432
- Lease agreement, proposed, new; combines "Agreement for Supply of Enriched Uranium for Conversion and Fabrication" and "Special Nuclear Material Lease Agreement" 20748

ARIZONA; agreement for assumption of certain AEC regulatory authority 2661, 2904, 3180, 3406, 6103
AUTHORITY DELEGATIONS:
- By Chairman to Secretary of Health, Education, and Welfare Department; assignment of certain responsibilities under Civil Rights Act 2906
- From General Services Administrator; purchase of gas and electric power 8779

BYPRODUCT MATERIAL. *See under* Nuclear material.

Atomic Energy Commission—Continued Page

CLAIMS, administrative, under Federal Tort Claims Act 3731
COLORADO; proposed agreement for assumption of certain AEC regulatory authority 14069, 14337, 14698, 15049, 17604, 17985, 20749, 21003
CONDUCT STANDARDS:
- Certification for work under certain contracts:
  - Hendrie, Dr. Joseph M., Brookhaven National Laboratory 7717
  - Stratton, Dr. William, Los Alamos Scientific Laboratory 7717
- Cost-type contractors, use of certain information in private activities, avoidance of organizational conflicts of interest 15922, 17542
- Employees 13650

CONTRACT APPEALS, procedure; exemptions from record disclosure 9235
EXPORTS. *See under* Nuclear material; Reactors and critical experiment facilities.
FEES for facilities and materials; proposed rule 3995, 6099
FINANCIAL PROTECTION, amounts 2562, 8124
FUELS, spent, reactor; chemical processing and conversion 8826, 13681
- Proposed notice 15128

GENERAL COUNSEL interpretation; computation of time 11379
INFORMATION AND RECORDS:
- *See also* Restricted data.
- Availability of 9214
- Inspection of, practice rules 9235
- Maintenance; proposed rules 8423, 11739

LANDS in Anderson County, Tenn., transferred to Tennessee Valley Authority 6104
LOUISIANA; agreement for assumption of certain AEC regulatory authority 2389, 2790, 3025, 3233, 6806
NUCLEAR MATERIAL:
- Byproduct material:
  - Export of material to certain Schedule A countries, Poland and Rumania 9233
  - Human uses, diagnostic 14265
  - Licensing; exemptions, etc.:
    - Combustion detectors, products; petition for rulemaking 15724
    - Promethium 147 or tritium contained in certain items 2575, 2649, 6433, 7247, 13920
    - Petitions for rule making, or proposed rules 785, 826, 1105, 2575, 4004, 13331, 13605
    - Resins containing scandium 46 and designed for sand-consolidation in oil wells 4241
    - Specific licenses, applications; fees, proposed rule 3995, 6099
  - Specific licenses to manufacture, distribute, or import exempted and generally licensed items:
    - Resins containing scandium 46 and designed for sand-consolidation in oil wells 4241
    - Spark gap tubes 2575, 6433
    - Proposed rules 13605
- Exports:
  - *See also* Byproduct material.
  - To certain foreign countries, etc.; general licenses for 15872
- Licenses issued:
  - Atomic Disposal Co., Inc., 9335.
  - California Nuclear, Inc., 6805, 7186, 10387, 11489.
  - Georgia Institute of Technology, 10617.
  - Long Island Nuclear Service Corp., 7029.
  - Nuclear Diagnostic Laboratories, Inc., 625.
  - Nuclear Engineering Co., Inc., 1061.
  - Radiological Service Co., Inc., 20821.
- Plutonium, enriched in U^{233}, and uranium; use charges increased 16289
- Source material, licensing:
  - Expiration of licenses 7172
  - Specific licenses, applications; fees, proposed rule 3995, 6099
- Thorium in certain aircraft engine parts containing nickel-thoria alloy:
  - Exemption 15872
  - General licenses to export to certain foreign countries or destinations 15872
- Uranium in fire detection units; exemption, petition for rule making 11581

Atomic Energy Commission—Continued Page

NUCLEAR MATERIAL—Continued
- Special nuclear material:
  - Applications:
    - Contents and requirements for approval 2364, 4055
    - Fees, filing; proposed rule 3995, 6099
  - Creditor regulations, etc 2562
  - Definition, "sealed source" 2364
  - Inventory and records requirements 2364
  - Licensee's responsibility for special nuclear material, deleted 4055
  - Licenses:
    - Calibration or reference sources 8124
    - Conditions 2364
    - Issuance and reduction and termination of allocations, etc 4055
    - Receipt, possession, storage, and processing; proposed rules withdrawn 11958
  - War or national emergency, suspension and operation in 4055
- Uranium:
  - *See also* Uranium, *below.*
  - Fire detection units; exemption, petition for rule making 11581

ORGANIZATION, authority delegations, etc 13377, 20942, 20944
PLUTONIUM, enriched in U^{233}, and uranium 18119, 16289
PRACTICE RULES:
- Computation of time 11379
- General applicability, policy statement, etc., proposed rules 16051
- Inspection of records 9235
- License applications 10432

PROCUREMENT REGULATIONS:
- Advertising, formal, 7175.
- Construction equipment, rental; special specifications and standards, etc., 11328.
- Contracts:
  - Actions, 8410.
  - Clauses, 3358, 6274, 7175, 7912, 8410, 14951.
  - Cost principles and procedures, 3358, 7175, 8410, 11328.
  - Termination, 11328.
- Foreign purchases, Buy American Act, 3358.
- Forms, 3981, 7278, 7912, 8410, 13131.
- General, 3146, 5737, 8410, 11328, 11433, 14055, 15922, 17542.
- Labor; cost-type contractors, employee participation, deletion, 15924.
- Negotiation, 3358, 8410.
- Patents and copyrights, 3358.
- Special types and methods, 3979, 7271, 13131, 14951.

PROPERTY MANAGEMENT REGULATIONS; introduction, regulation system 14765
RADIATION, standards for protection against:
- Exposure to concentrations of radioactive material in restricted areas; proposed rule 15432
- Records and reports:
  - Director, Compliance Division 10432
  - Radiation workers; surveys, personnel exposure, etc., proposed rule 15762

RADIOISOTOPES, cobalt-60 sources; AEC proposed withdrawal from production and distribution 20821
REACTORS AND CRITICAL EXPERIMENT FACILITIES:
- Construction and/or operation:
  - Licenses or permits to listed companies, etc.:
    - Aerojet-General Corp., 15447.
    - Akron University, 11359, 14569.
    - Allis-Chalmers Manufacturing Co., 10229, 16292.
    - Arkansas Power and Light Co., 18119.
    - Armed Forces Radiobiology Research Institute, 15724.
    - Boston Edison Co., 10616.
    - Brigham Young University, 11391, 12691, 13238.
    - California University, 14116.
    - Carolina Power and Light Co., 3235, 4235, 6236.
    - Carolinas Virginia Nuclear Power Associates, Inc., 8929, 16061.
    - Colorado State University, 5854.
    - Columbia University Trustees, 9243.
    - Commonwealth Edison Co., 3180, 10996, 12691.
    - Connecticut Yankee Atomic Power Co., 7187, 10120, 10758.
    - Consolidated Edison Co. of New York, Inc., 7298, 8102.
    - Consumers Power Co., 826, 4369.
    - Consumers Public Power District, 12130.
    - Dow Chemical Co., 8427, 10315.
    - Duke Power Co., 10996, 15684.

Atomic Energy Commission—Continued Page

REACTORS AND CRITICAL EXPERIMENT FACILITIES—Continued
- Construction and/or operation—Continued
  - Licenses or permits to listed companies, etc.—Con.
    - Florida Power Corp., 12634.
    - Florida Power and Light Co., 1003, 6857.
    - Florida University, 20620.
    - General Dynamics Corp., 236, 4176, 11049, 15403, 17632.
    - General Electric Co., 4176, 11812, 13735, 13945, 14910, 18119.
    - Georgia Institute of Technology, 11241, 11359, 12567.
    - Gulf General Atomic, Inc., 15553, 17444.
    - Idaho State University, 7186, 9754, 11295, 14570.
    - Illinois University, 8292, 13677, 14363.
    - Industrial Reactor Laboratories, Inc., 8102.
    - Isochem, Inc., 236, 1061, 6064.
    - Kansas University, 12809.
    - Lockheed-Georgia Co., 14337.
    - Los Angeles, Calif., Water and Power Department, 13996.
    - Lowell Technological Institute, 20671.
    - Maine Yankee Atomic Power Co., 14610.
    - Metropolitan Edison Co., 7718.
    - Michigan State University, 10871.
    - Michigan University, 13238.
    - Mississippi State University, 5381.
    - Missouri University, 394.
    - National Bureau of Standards, 12411, 15895.
    - New York State Atomic and Space Development Authority, 16508.
    - New York University, 5477, 6945.
    - Niagara Mohawk Power Corp., 12197, 15849.
    - North Carolina State University, 11489.
    - Northern States Power Co., 4031, 6304, 7984, 9114, 13605.
    - Nuclear Fuel Services, Inc., 16508.
    - Omaha Public Power District, 7098.
    - Oregon State University, 4085.
    - Pacific Gas and Electric Co., 1142, 3753.
    - Pennsylvania State University, et al., 15696, 15932.
    - Philadelphia Electric Co., 3844, 9335, 15403.
    - Power Reactor Development Co., 8928.
    - Public Service Electric and Gas Co., 394, 15684.
    - Reed Institute (Reed College), 7540, 13149, 14116.
    - Rice, William Marsh, University, 13835.
    - Rochester Gas and Electric Corp., 6064.
    - Sacramento Municipal Utility District, 17444.
    - Safe, Inc., 20889.
    - San Diego Gas and Electric Co., 13996.
    - Saxton Nuclear Experimental Corp., 3026.
    - Southern California Edison Co. et al., 96, 5478, 13996.
    - Southwest Atomic Energy Associates, 18119.
    - Tennessee Valley Authority, 4549, 5429, 7298, 11393.
    - Texas University, 12410.
    - United Nuclear Corp., 2390, 7541, 10617, 11813, 15130, 15770, 17632.
    - United States Geological Survey, 2792, 13424, 14405.
    - Vermont Yankee Nuclear Power Corp., 9334, 10820, 11449, 18066.
    - Veterans Administration Hospital, Omaha, Nebr., 20671.
    - Virginia Electric and Power Co., 5518.
    - Washington State University, 7225, 8428, 10672.
    - Westinghouse Electric International Co., 483.
    - Wisconsin Electric Power Co., 12568, 19197.
    - Wisconsin-Michigan Power Co., 7503, 10939, 19197.
    - Wisconsin Public Service Corp., 12810.
    - Wisconsin University, 8627, 16171.
    - Worcester Polytechnic Institute, 14979, 16171.
- Licensing:
  - Advisory Committee on Reactor Safeguards, hearings and reports; proposed rule 16053
  - Allocation of special nuclear material 4055
  - Applications; proposed rules:
    - Filing; oath or affirmation, fees 3995, 6099
    - General information, financial qualifications 4055, 8423, 10816, 11739
    - Technical information safety analysis report 2851, 10214
  - Attacks and destructive acts by enemies of U.S.; exclusion 2821, 5562, 13445
  - Boiling water reactor, La Crosse; provisional operating authorization 4285, 15684
  - Conditions of licenses and construction permits 2562, 4055
- Exemptions from licensing requirements:
  - Advisory Committee on Reactor Safeguards, hearings and reports; proposed rule 16053

Atomic Energy Commission—Continued

REACTORS AND CRITICAL EXPERIMENT FACILITIES—Continued
Construction and/or operation—Continued
Licensing—Continued
Exemptions from licensing requirements—Con.
Authorization; attacks and destructive acts by enemies of U.S. 2821, 5562, 13445
Conditions of authorization 2562
Driving of piles prior to issuance of permit; procedures for review, proposed rule 11278
General design criteria for nuclear power plant construction permits; proposed rules 10213
Guide to establish financial qualifications for licenses, proposed rule 8423
Withdrawn 10816
Records and reports, maintenance; proposed rule 8423, 11739
Transfer of licenses:
Applications for termination of licenses; elimination of statement of reasons for surrender of license 3090
Creditor regulations 2562
War or national emergency, suspension and operation in 4055
Dismantling order:
Consumers Public Power District, 15696.
Export license applications:
General Electric Technical Services., Inc.:
Bern, Switzerland, 13148, 14165.
Santander, Spain, 5817, 8825.
Tokyo, Japan, 6730, 9178, 9249, 12070.
Westinghouse Electric International Co.:
Baden, Switzerland, 2864.
Osaka, Japan, 9179, 13070.
Fuels, spent, reactor; chemical processing and conversion 8826, 13681
Proposed notice 15128
RECORDS. *See* Information and records.
REGULATORY AUTHORITY OF AEC, assumption of; agreements with certain States:
Arizona, 2661, 2804, 3180, 3405, 6168.
Colorado, proposed, 14668, 14827, 14892, 15669, 17804, 17985, 20749, 21003.
Louisiana, 2389, 2790, 3025, 3233, 6666.
RESTRICTED DATA:
Access, permits for; proposed rule 6702, 20873
Criteria for determining eligibility for access to data:
Derogatory information 13409
Narcotic or hallucinogenic drugs for nonmedical purposes 234, 6836
Private restricted data; dissemination and access, proposed rule 6707, 20870
Safeguarding, proposed rule 6710, 20876
SOURCE MATERIAL. *See under* Nuclear material.
TRESPASSING on Commission property, prohibition of unauthorized entry or introduction of weapons or other dangerous materials; various sites, centers, etc. 5382, 5383, 5389, 5428, 8826, 14165
URANIUM:
Enriched in U^{235}, and plutonium 18119, 16289
Enrichment services, criteria; correction 96
Fire detection units, exemption; petition for rule making 11581
Hexafluoride, base charges, specifications, etc. 16289
Lease agreement, proposed, new; combines "Agreement for Supply of Enriched Uranium for Conversion and Fabrication" and "Special Nuclear Material Lease Agreement" 20748
Supply policies, research and development; proposed statement 15598

Attorney General:

See Justice Department.

Authority Delegations by the President:

See Delegations of authority by the President.

Automatic Data Processing:

See General Services Administration.

Automobiles:

See Motor vehicles.

Automotive Agreement Adjustment Assistance Board:

DETERMINATIONS of Board with respect to petitions of certain workers:
American Motors Corp.:
Kenosha, Wis., 8983.
Milwaukee, Wis., 8982.
Borg-Warner Corp.:
Detroit, Mich., 15933.
Memphis, Tenn., 5813.
Chrysler Corp., Detroit, Mich., 8984.
Eaton Yale & Towne, Inc.:
Cleveland, Ohio, 13033.
Detroit, Mich., 6306, 6990.
Ford Motor Co., Pennsauken, N.J., 11581.
General Motors Corp.:
North Tarrytown, N.Y., 9574, 9575, 13089, 13090.
Wilmington, Del., 9573.
Rockwell-Standard Corp.:
Adrian, Mich., 4582.
Mishawaka, Ind., 15554.
INFORMATION, availability 17940
REPORTS from Tariff Commission:
American Motors Corp.:
Kenosha, Wis., 6593.
Milwaukee, Wis., 6594.
Borg-Warner Corp.:
Detroit, Mich., 13545, 21047.
Memphis, Tenn., 3070.
Chrysler Corp., Detroit, Mich., 6749.
Eaton Yale & Towne, Inc.:
Cleveland, Ohio, 11971.
Detroit, Mich., 5530.
Lackawanna, N.Y., 6458.
General Motors Corp.:
North Tarrytown, N.Y., 6467, 6789.
Wilmington, Del., 6896.
Rockwell-Standard Corp.:
Adrian, Mich., 3964.
Mishawaka, Ind., 14676.

Avocados:

MARKETING, etc. *See* Agriculture Department.

Awards:

See Decorations and awards.

B

Balloons:

See Federal Aviation Administration.

Banks:

BANK HOLDING COMPANIES, etc. *See* Federal Reserve System.
BANKING INDUSTRY in Puerto Rico, minimum wages. *See* Wage and Hour Division.
COMMERCIAL BANK LOANS, interest equalization tax (Executive Order 11328) 3137
COMMERCIAL BANKS, price-support programs. *See* Commodity Credit Corporation.
COOPERATIVES, banks for, etc. *See* Farm Credit Administration.
DEFENSE DEPARTMENT personnel served by banks on military installations 16426
DEPOSITARY BANKS, equal employment opportunity program compliance guidelines 15401
FEDERAL RESERVE BANKS. *See* Federal Reserve System.
HOME LOAN BANK BOARD regulations, etc. *See* Federal Home Loan Bank Board.
INSURED BANKS. *See* Federal Deposit Insurance Corporation.
MERGERS:
National banks, etc. *See* Federal Reserve System.
Regulations, Federal Savings and Loan Insurance Corporation and Federal Savings and Loan System. *See* Federal Home Loan Bank Board.

Banks—Continued

NATIONAL BANKS. *See* Comptroller of Currency; Federal Reserve System.

Barley:

CROP INSURANCE. *See* Federal Crop Insurance Corporation.
FARM CONSERVING BASE, etc. *See* Agriculture Department.
LOAN AND PURCHASE PROGRAM, etc. *See* Commodity Credit Corporation.

Beans, Dry, Edible:

CROP INSURANCE. *See* Federal Crop Insurance Corporation.
RESEAL LOAN PROGRAMS, etc. *See* Commodity Credit Corporation.
WAREHOUSES, storage in. *See* Agriculture Department.

Beans, Green:

CANNED, identity standard, optional ingredients. *See* Food and Drug Administration.

Beans, Lima and Snap:

FRESH, standards for grades. *See* Agriculture Department.

Beauty and Barber Equipment and Supplies Industry:

TRADE PRACTCE RULES. *See* Federal Trade Commission.

Beets:

STANDARDS FOR GRADES. *See* Agriculture Department.

Berries:

See also specific berries.
FROZEN, standards for grades. *See* Agriculture Department.

Beverages:

See Alcoholic beverages; Fruit juices; Soda water; Soft drinks.

Biological Products:

LICENSING, etc. *See* Public Health Service.
VIRUSES, SERUMS, TOXINS, etc. *See* Agriculture Department.

Birds:

See also Eagles.
MIGRATORY, etc. *See* Fish and Wildlife Service.
PSITTACINE, imports. *See* Public Health Service.
RAILWAY EXPRESS CHARGES, minimum, for live birds; hearings 3183, 15131

Blackberries:

STANDARDS FOR GRADES. *See* Agriculture Department.

Blind Persons:

COMMERCIAL RADIO OPERATORS, issuance of specially endorsed permits to blind persons 9232
VENDING STAND PROGRAM, Post Office Department 4411

Blood Program, National Emergency:

POLICY GUIDANCE. *See* Emergency Planning Office.

Boards:

See Committees, boards, etc.; Committees, boards, etc., Presidential.

Boats:

See Vessels.

Bonds:

REGULATIONS, etc., of various agencies. *See specific agencies.*
SURETY BONDS, companies acceptable. *See* Treasury Department.
UNITED STATES SAVINGS BONDS:
Income tax, accounting methods, obligations issued at discount 12182, 15820
Postal regulation. *See* Post Office Department.
Public Debt Bureau regulations. *See* Treasury Department.

Bonneville Power Administration:

AUTHORITY DELEGATIONS by Administrator to certain officials:
Acting Administrator, succession and authority 17602
Assistant to Chief Engineer (Programs Management); engineering and architectural services 6304
Deputy Administrator, et al.; succession, procurement, etc 7464
Disbursement Audit Section Head, et al.; claims 17602
Engineering Division Tort Claims Officer and Field Contact Officers; land activities 17602

Bread:

IDENTITY STANDARDS. *See* Food and Drug Administration.

Bridge Regulations:

See Coast Guard; Engineers Corps.

Broccoli:

STANDARDS FOR GRADES. *See* Agriculture Department.

Broomcorn:

WAREHOUSES, storage in. *See* Agriculture Department.

Brooms:

CONSUMPTION, reports on (Executive Order 11377) 14725

Budget Bureau:

ADVISORY COMMITTEES utilized during 1966 and 1967 13736
ASSISTANT DIRECTOR FOR EXECUTIVE MANAGEMENT, position placed in Level IV, Federal Executive Salary Schedule (Executive Order 11367) 12037
FISHING VESSELS, Federal ship mortgage insurance; loans not to exceed $20 million 3783
INFORMATION, availability of 9756, 17678
ORGANIZATION AND FUNCTIONS 9755, 17678
TENNESSEE VALLEY AUTHORITY, certain transfers:
Coal and coal rights in Kentucky from General Services Administration 10121
Lands in Anderson County, Tenn., from Atomic Energy Commission 6104
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY, transfer of functions from National Capital Transportation Agency, authority of Director (Executive Order 11373) 13371

Bureau of Labor Standards:

See Labor Standards Bureau.

Bureau of Standards:

See National Bureau of Standards.

Burial:

AIR FORCE regulation 6368
NATIONAL CEMETERIES, interments 2886
VETERANS. *See* Veterans Administration.

Business and Defense Services Administration:

COPPER AND COPPER-BASE ALLOYS:
Ammo strip set-aside 7208
Domestic refined copper set-aside 2886, 7208
Set-aside percentages, schedule A 7207, 15710
FOREIGN EXCESS PROPERTY, nonagricultural, importation into United States; used and unused personal property 7978, 9816

Business and Defense Services Administration—Continued Page

INFORMATION, availability of 11348
INSTRUMENTS AND APPARATUS for educational and scientific institutions. *See* Scientific articles.
MOTOR VEHICLE MANUFACTURERS, bona fide; determinations 9851
NICKEL AND FERRONICKEL, rated orders for delivery of; establishment of lead time for placement 11734
ORGANIZATION AND FUNCTIONS:
Educational, Scientific, and Cultural Materials Importation Act of 1966 2389
Field activities 11711, 13830
General functions 17548
Industrial Analysis, Office of Assistant Administrator; functions 17548
SCIENTIFIC ARTICLES, duty-free entry:
Applications, determinations:
Agricultural Research Service, 4847, 5817, 8069, 10878, 12831, 12861, 12862, 13582, 14945, 14949, 16228, 20666, 20744.
Alabama University, 12015, 14967, 15945.
Arizona State University, 7469.
Arizona University, 13943.
Arkansas University, 7470, 13944.
Auburn University, 16059.
Austin College, 6587.
Bartol Research Foundation, 20743.
Battelle Northwest-Pacific Northwest Labs., 12197, 14985.
Baylor University, 8824, 9245, 11175, 13940, 15941.
Boston University School of Medicine, 16228.
Bowling Green State University, 8739, 13940.
Boyce Thompson Institute for Plant Research, 8048, 12632, 14669.
Brandeis University, 16504.
Brookhaven National Laboratory, Associated Universities, Inc., 15845.
Buffalo General Hospital, 16227.
California Institute of Technology, 6150, 8315, 13941, 17496.
California State College, 13532, 20666.
California University, 4547, 6063, 7540, 8193, 8392, 8427, 8824, 8979, 9244, 10378, 10379, 10756, 11388, 11494, 12764, 12765, 13941, 14670, 14790, 14987, 15189, 15502, 15845, 16228, 16503, 16894, 17665.
Carney Hospital, 19194.
Case Institute of Technology, 12862.
Cedars Research Institute, 14343.
Chicago University, 9245, 15943, 16504.
Children's Cancer Research Foundation, 14345.
Children's Hospital Research Foundation, 10379, 15846.
City College Research Foundation, 20744.
City of Hope Medical Center, 16060.
Clark University, Trustees, 7028.
Colorado University, 14345, 14343, 14789, 15945, 16505, 19194.
Columbia University, 11174, 12861, 14789, 14966, 16060, 20667.
Connecticut University, 7779, 8047, 14344.
Cornell University, 9245, 13941, 15946, 16505.
Delaware University, 6587, 8315, 13582.
Drexel Institute of Technology, 6586, 12862.
Duke University Medical Center, 10378, 15941, 16227.
Einstein, Albert, College of Medicine, 15932.
Florida State University, 8427, 9852, 14789, 15945, 15689, 20667.
Forsyth Dental Center, 11174, 15889.
Fresno State College, 9852, 15841.
Georgetown University, 14345.
Georgia Institute of Technology, 15845.
Harvard University, 4004, 5961, 7469, 7875, 11388, 15501, 19194, 20744.
Hawaii Institute of Geophysics, 16228.
Hawaii University, 12015, 16506, 20744.
Health Research, Inc., 9245, 15889.
Holy Cross Hospital, 15844.
Houston University, 10756, 16059.
Idaho University, 11485.
IIT Research Institute, 14790.
Illinois State University, 13015, 12862, 13532.
Illinois University, 13941, 14343, 16227, 16506.
Indiana University, 13942.
Iowa State University, 17665, 20667.
Iowa State University of Science and Technology, 12015, 14790.
Iowa University, 11484, 12862, 16508, 17831.
Jefferson Medical College, 11174.
Johns Hopkins University School of Medicine, 9852, 10379, 14342, 14985.
Kaiser Foundation Hospitals, 16230.
Kansas State University, 13941, 20668.

Business and Defense Services Administration—Continued

SCIENTIFIC ARTICLES, duty-free entry—Continued
Applications, determinations—Continued
Kentucky University, 12015, 16229, 17631.
King's College, 6183, 14068.
Lehigh University, 7027.
Los Angeles County General Hospital, 16060, 19194.
Louisiana State University, 20742.
Louisville University, 6854, 7540, 10678, 10758, 12765, 16229.
Lovelace Foundation for Medical Education and Research, 16228.
Maryland University, 11485, 14790, 14989.
Massachusetts General Hospital, 16228.
Massachusetts Institute of Technology, 6586, 8047, 8391, 8781, 12451, 13533, 14670, 15844, 17865.
Massachusetts University, 8427, 15944, 15847.
Mayo Foundation, 11175, 16505.
Mellon Institute, 6587, 13942.
Miami University, 7027, 7028, 7875, 11175, 13147, 13676, 13941, 20668.
Michigan State University, 16059.
Michigan University, 10678, 13827.
Midwest Research Institute, 11174.
Midwestern University, 10379.
Minnesota University, 8060, 11485, 14686, 16504.
Mississippi University Medical Center, 14342, 15931.
Missouri University, 6375, 9244, 14406, 20743.
Montefiore Hospital and Medical Center, 11389, 15501.
National Aeronautics and Space Administration, 11388, 15842.
National Bureau of Standards, 8892, 12764, 13536, 14986.
National Institutes of Health, 7028, 14068.
New England Institute for Medical Research, 6586.
New Haven College, 20743.
New Mexico State University, 10378, 10379, 11389.
New Mexico University, 10378, 11389, 13828, 16060.
New York City Public Health Laboratories, 16229.
New York State University, 13015, 13197, 13533, 14345, 14406, 15402, 15842, 15843, 15931, 15989, 16229, 16230, 17630.
New York University, 4366, 8391, 8427, 8823, 8824, 9244, 9245, 14344.
North Carolina State University, 9245, 13829, 16060.
North Carolina University, 14245, 20745.
Northeast Louisiana State College, 6854, 12868.
Northern Illinois University, 8183, 14342.
Northwestern State College, 11389, 19194.
Ohio State University, 5741, 9245, 10119, 10757, 12842, 14670, 15846, 15890, 20744.
Oregon Regional Primate Research Center, 5741, 10119.
Oregon State Board of Health, 14406.
Oregon State University, 6063, 7470, 12765, 13943.
Oregon University, 7028, 9246, 16230.
Pennsylvania State University, 8150, 8315, 8427, 16506.
Pennsylvania University, 5961, 7029, 7540, 12633, 12862, 13829, 14406, 14790, 16059, 20743.
Pittsburgh University, 6587, 12766.
Presbyterian Hospital, 11174, 14986.
Public Health Service, 10757, 13941.
Purdue University, 11484, 12764, 15847, 17495.
Rensselaer Polytechnic Institute, 13198.
Research Triangle Institute, 16508.
Rochester University, 11389, 15503.
Roosevelt Hospital, 12862, 17620.
Rutgers State University, 11389, 12197, 15189, 16229, 17629.
Saint Louis University, 7469, 12766.
San Fernando Valley State College, 10378.
San Jose State College, 16060.
Sanger, Margaret, Research Bureau, 10757, 15842.
Santa Barbara Cancer Foundation, 13532, 20667.
Sloan-Kettering Institute for Cancer Research, 15894.
South Carolina University, 14670.
South Florida University, 7028, 11175.
South Shore Vocational Technical High School, 8184.
Southern California University, 4366, 8392.
Southern Research Institute, 7962, 12451.
Southwest Center for Advanced Studies, 6375, 6944, 8316.
Stanford University, 10756, 11485, 15862, 15896.
State University College at Geneseo, 10757.
Syracuse University, 8183, 12767.
Tennessee University, 8824.
Texas A & M University, 4145, 7294, 10678, 15127.
Texas University, 7779, 8391, 11485, 12451, 15844.
Tulane University, 7470, 11485, 13677, 16504, 19194.
Union University, 9245, 15188.
Utah State University, 16060.

Business and Defense Services Administration—Continued Page

SCIENTIFIC ARTICLES, duty-free entry—Continued
Applications, determinations—Continued
Vanderbilt University, 7962, 14246, 16230.
Veterans Administration Hospitals, 6150, 11174, 11389, 12633, 12861, 14988, 17631.
Virginia Polytechnic Institute, 8739, 14245.
Virginia University School of Medicine, 15845.
Washington University, 12633, 13941, 15944, 16230, 16507, 19194, 20742.
West Virginia University, 7029, 13944.
Wisconsin University, 8824, 11484, 12452, 13829, 15503, 16228.
Woods Hole Oceanographic Institution, 6854, 13677.
Wyoming University, 14789.
Yale University, 10757, 14670, 14930, 17666.
Yeshiva University, 16060.
Youngstown University, 8063, 8183, 12408, 15190.
Functions 2389
Regulations 2433, 2437, 9063

Business Economics Office:

INFORMATION, availability of 11347
ORGANIZATION AND FUNCTIONS 17548, 17549

Butter:

IMPORT QUOTAS. *See* Agriculture Department.

Butterfat:

PRICE-SUPPORT PROGRAM. *See* Commodity Credit Corporation.

Buy American Act:

PROCUREMENT REGULATIONS, foreign purchases. *See* Agency for International Development; Air Force Department; Army Department; Atomic Energy Commission; National Aeronautics and Space Administration; Veterans Administration.

C

Cabbage:

STANDARDS FOR GRADES. *See* Agriculture Department.

Canada:

ANIMAL BREEDS, etc. 19158
ANTIDUMPING ACT determinations. *See* Customs Bureau; Treasury Department.
BROADCAST STATIONS. *See* Federal Communications Commission.
CONCORD GRAPES from Canada:
Antidumping 14607
Appraisement withheld 14780
CRUDE OIL PIPELINES at U.S.-Canada international boundary line. *See* State Department.
FOREIGN ASSETS CONTROL importation regulation. *See* Treasury Department.
FREIGHT FORWARDER shipment charges, household goods. *See* Interstate Commerce Commission.
INTERNATIONAL JOINT COMMISSION regulations. *See* International Joint Commission—United States and Canada.
LIQUID HYDROCARBONS PIPELINE at U.S.-Canada international boundary line. *See* State Department.
NONIMMIGRANTS returning to United States, visa requirements 8707
PURCHASES from Air Force Department procurement regulations 16036
SHIPMENTS of nuclear weapon parts, etc., licensing controls 4241
TRADE AGREEMENTS, termination of certain concessions (Proclamation 3818) 15467

Canal Zone:

ACCIDENTS, marine. *See under* Shipping and navigation.
CONDUCT STANDARDS 15831

Canal Zone—Continued Page

EMPLOYMENT AND COMPENSATION:
Conduct standards 15831
Secretary of Army regulations; definitions, etc 4281, 5270, 8361
HEALTH, SANITATION, AND QUARANTINE:
Mentally ill, performance of surgical operations on legally incompetent patients 15841, 16428
Quarantine, maritime and aircraft:
Dogs and cats, charges for quarantine detention 3216
Yellow fever, periods of immunity following immunization 3216
MILITARY RESERVATIONS:
Albrook Air Force Base 13770
U.S. Naval Radio Station, Summit, C.Z. 13770
PANAMA CANAL COMPANY, organization, functions, and availability of information 14219
POSTAL SERVICE, foreign destinations, surface mails, etc 3026
SHIPPING AND NAVIGATION:
Accidents, marine; investigations, reports, etc 3830, 7022
Collision prevention; industrial and commercial diving operations, etc 3243
Licensing of officers; qualification requirements for pilots 4061
Radio communication; operator on board during transit, etc 3243

Canned Food:

See also specific foods.
DISTRIBUTORS STOCKS, survey 14610, 15931
STANDARDS FOR GRADES. *See* Agriculture Department.
STANDARDS OF IDENTITY. *See* Food and Drug Administration.

Carpets and Rugs:

IMPORTS, extension of increased duty (Proclamation 3815) 14195

Carrots:

IDENTITY STANDARD. *See* Food and Drug Administration.
STANDARDS FOR GRADES. *See* Agriculture Department.

Casein, Edible Dry (Acid):

STANDARDS FOR GRADES. *See* Agriculture Department.

Cats and Dogs:

FOOD INDUSTRY GUIDES, proposed 12461, 15715
HUMANE TREATMENT, etc. *See* Agriculture Department.
QUARANTINE in Canal Zone. *See* Canal Zone.

Cauliflower:

STANDARDS FOR GRADES. *See* Agriculture Department.

Celery:

MARKETING. *See* Agriculture Department.

Cemeteries:

See also Burial.
NATIONAL CEMETERIES, interments 2886

Census Bureau:

AUTHORITY DELEGATION from Secretary of Commerce; negotiation of contracts, prior delegation revoked 11810
BOUNDARY CHANGES for 1970 censuses, cutoff date for recognition; final date for inclusion of statistics 13077, 15154
FOREIGN TRADE STATISTICS; filing of shipper's export declarations by departing carriers, etc 20805, 20807
INFORMATION, availability of 10788, 11810, 12441
ORGANIZATION AND FUNCTIONS 13338

Census Bureau—Continued

SURVEYS:
- Canned foods, distributors' stocks of — 14610, 15631
- Manufacturing area — 13420, 15595
- Multiunit companies — 3716, 6150
- Retailers' inventories, sales, and number of establishments — 17603
- Truck inventory and use — 4319, 6587

Central Intelligence Agency:

RECORDS, availability of — 10759

Cheese:

CHEDDAR, etc., import quotas. *See* Agriculture Department.

CREAMED COTTAGE, etc.; identity standards, optional ingredients, etc. *See* Food and Drug Administration.

Cherries:

CANNED, identity standards, optional ingredients. *See* Food and Drug Administration.

MARKETING, etc. *See* Agriculture Department.

Cherry Pie:

IDENTITY STANDARD, optional ingredients. *See* Food and Drug Administration.

Chickens:

IMPROVEMENT PLANS, etc. *See* Agriculture Department.

Child Labor:

HAZARDOUS OCCUPATIONS. *See* Labor Standards Bureau.

Children's Bureau:

ORGANIZATIONAL CHANGE — 20811

China:

FOREIGN ASSETS CONTROL prohibitions, importation of and dealings in certain merchandise; publications, etc. from mainland China — 7829

PURCHASES FROM, Defense Department procurement regulation — 516

TRAVEL restricted for U.S. citizens — 4140

Chocolate:

MILK AND SWEET, identity standards. *See* Food and Drug Administration.

Cigarettes:

See also Tobacco and products.

ADVERTISING, applicability of fairness doctrine — 13162, 13737

EXCISE TAXES. *See* Internal Revenue Service

TESTING for tar and nicotine content — 11178

Citizens Advisory Board on Youth Opportunity:

ESTABLISHMENT (Executive Order 11330) — 3871

Citrus Fruits:

See also specific fruits.

COATINGS on fresh citrus fruit, food additives. *See* Food and Drug Administration.

CROP INSURANCE. *See* Federal Crop Insurance Corporation.

Civil Aeronautics Board:

ACCIDENTS:
- Delegations and review of action under delegation, probable cause of aircraft accidents; deletion of Part — 20805
- Incidents, overdue aircraft and safety investigations:
  - Immediate notification — 90
  - Transfer of regulations — 16491

Civil Aeronautics Board—Continued

ACCIDENTS—Continued
- Transfer of regulations to National Transportation Safety Board:
  - Accidents, incidents, overdue aircraft and safety investigations — 7139, 16491
  - Information, disclosure — 7139, 16491
  - Rules of practice in aircraft accident investigation hearings — 16491

AGREEMENTS. *See under* Economic regulations, *below.*

AIR SAFETY PROCEEDINGS; rules of practice, transferred to National Transportation Safety Board — 16491

AIR STAR ROUTES, certification required by Postmaster General — 9853

AIRPORTS:
- *See also* Economic regulations: certificates of public convenience and necessity.
- Agreement relating to U.S. charges at airports; International Air Transport Association — 8683
- Washington-Baltimore Airport; investigation — 9115, 9181

AUTHORITY DELEGATIONS:
- *See also* Organization, functions, and authority.
- From Secretary of Transportation; allocations and priorities for transportation during rail strike — 10521
- Revoked — 10938

CONDUCT STANDARDS — 13052

ECONOMIC PROCEEDINGS; rules of practice:
- Local service carriers:
  - Certificates of public convenience and necessity; nonstop operations, proposed rule — 14111
  - Servicing expense, new standardized method of estimating — 6714, 7635, 9237, 20958
- Petitions for rule making, scope, etc.; proposed rule — 4343

ECONOMIC REGULATIONS:
- Accounts:
  - Records and memoranda, preservation of:
    - Foreign air carriers — 8766, 13861
    - Route air carriers, certificated — 8766, 13861
    - Supplemental air carriers; deletion of post flight reports — 6487
  - Uniform system:
    - Accounting requirements; proposed rule terminated — 328
    - Capitalization of interest on equipment purchase deposits and certain funds used in developmental projects — 5367
    - Costing of services; refinements to facilitate — 2808
    - Editorial changes — 20770
    - Reporting requirements; route and supplemental air carriers:
      - Accounting and reporting classification, Group II — 7591
      - Charter and special service revenue aircraft miles flown — 15098
      - Civilian charter travel (schedule T–6) — 7343, 18023
      - Investment tax credits (schedule P–3); proposed rule — 17983
      - Nondepreciable overhaul values on schedule B–43, proposed identification — 20880

Agreements, filing:
- Air Freight Forwarder Association, cargo services — 7471, 11580, 11898
- Air Transport Association of America, et al.:
  - Air freight credit, billing, and collection practices — 9247, 17497
  - Cargo services — 236, 2828, 7471
  - Containerization — 14671
  - Entertainment, in-flight — 4086
- International Air Transport Association:
  - Cargo rates and matters — 935, 2828, 3949, 8429, 8826, 12015
  - Charges at U.S. airports — 8683
  - Charters — 337
  - Commodity rates — 690, 852, 2664, 3183, 3310, 3782, 3896, 4180, 4319, 5645, 8986 9039 9179 9240, 14344, 14409, 14704, 14864, 17604, 17900, 18119.
  - Containerisation — 14863
  - Entertainment, inflight — 7471
  - Fares — 18, 236, 2664, 3897, 4583, 6307, 7985, 13200, 14409, 16063, 16293, 17867.
  - Inaugural flights, delay — 7298
- Visit USA; foreign visitors, certain air carriers — 17899

Civil Aeronautics Board—Continued

ECONOMIC REGULATIONS—Continued
- Certificates of public convenience and necessity:
  - Foreign air transportation; airports:
    - Authorization; automatic revocation upon nonuse of airport, proposed rule — 15676
    - Change in service pattern and permission to use airport; airport notices, applications, etc., proposed rule — 15676
    - Service of airport notices upon Federal Aviation Administration — 11170, 13184
  - Interstate and overseas route air transportation:
    - Air freight credit, billing, and collection practices; air carrier discussions — 9247, 17497
    - Airports:
      - Authorization; automatic revocation upon nonuse of airport, proposed rule — 15676
      - Change in service pattern and permission to use airport, airport notices, applications, etc., proposed rule — 15676
      - Service of airport notices upon Federal Aviation Administration — 11170, 13183
- Charter operations:
  - Domestic carriers. *See* Supplemental air transportation.
  - Foreign carriers:
    - Blind sector operations, commingling; applicability, etc., proposed rule — 11480
    - Charter trips:
      - Contracts, written, and record retention — 8765, 13861
      - Rates and tariffs, proposed rule — 337, 2821
    - Reporting data pertaining to civil aircraft charters — 11337, 18020
    - Terms, conditions and limitations:
      - Chartering group, solicitation and formation — 8248, 11156
      - Contracts, written, with charterers — 8765, 13861
      - Definition of "charter flight", proposed rule — 16535
      - Rates and tariffs; proposed rule — 337, 2821
      - Reporting requirement, deletion — 18020
      - Study group charters — 6437
  - U.S. carriers:
    - Special services:
      - All-cargo and combination carriers; limitation on amount of charter trips, proposed rule — 16223, 20739
      - Contracts, written, and record retention — 8765, 13860
      - Definitions:
        - "Off-route" — 7090, 15096
        - "Transatlantic" and "transpacific" charter trips — 487
      - Rates and tariffs; proposed rule — 337, 2821
    - Supplemental carriers. *See* Supplemental air transportation.
- Classification and exemption of certain air carriers:
  - Air taxi operators:
    - Hawaii; removal of regularity limitations — 488
    - Insurance requirements, liability, and registration for exemption; proposed rule — 17598
    - Mail, carrying, in competitive markets — 10450, 14320
  - Household goods air forwarders:
    - Applicability, etc.; proposed rule — 992, 2955, 3752
    - Services for Defense Department, temporary relief — 5520, 14409
  - Military charters and substitute service, applicability, etc. — 4425, 5564, 7901
  - Commercial one-way charter rates lower than minimum rates, requested by Defense Department; proposed rule — 15926
  - Minimum rates and charges — 5385, 7499, 9757, 10929
- Defense Department:
  - Commercial one-way charter rates lower than minimum rates, requested; proposed rule — 15926
  - Household goods air forwarders:
    - Applicability, etc.; proposed rule — 992, 2955, 3752
    - Temporary relief — 5520, 14409
  - Military Airlift Command (MAC); report of charter services, applicability, etc. — 5562, 6941, 8380, 8529, 20711
- Flight equipment, reinvestment of gains derived from sale or disposition of; definition of "gain", proposed rule terminated — 328
- Flight schedules; applicability, reporting of arrival performance, withdrawal of exemption of intra-Hawaiian air transportation — 11883, 14598
- Foreign air transportation. *See* Certificates of public convenience and necessity, *above.*
- Interstate and overseas route air transportation. *See* Certificates of public convenience and necessity, *above.*
- Mail, transportation:
  - Air taxi operators, carrying mail in competitive markets — 10450, 14320
  - Free travel for postal employees, list — 6714, 9793
  - Military Airlift Command; reporting results of charter services, applicability, etc. — 5562, 6941, 8380, 8529, 20711
  - Military exemptions — 4425, 5385, 5564, 7499, 7901, 9757, 10929, 15926
  - Ryukyu Islands, regulation of civil air transportation (Executive Order 11326) — 2841
  - Safety purposes, free transportation for certain Federal Aviation Administration, National Transportation Safety Board, and Weather Bureau employees — 5546
  - Director, Weather Bureau; change of title — 7901
- Supplemental air transportation:
  - Domestic operations;
    - Charter costs — 6022
    - Chartering group, selection and formation — 8248, 11156
    - Contracts, written, with charterers — 8765, 13860
    - Liability insurance for bodily injury or death, increase of minimum limits — 3360, 3752
    - Military backhaul charters — 7900, 15097
    - Rates and tariffs, proposed rule — 337, 2821
    - Study group charters — 6436
  - Inclusive tours:
    - *See also under* Organization, functions, and authority, *below.*
    - Applicability; certain foreign air carriers — 6454, 9223
    - Authorization statement requirement, etc. — 6847, 7134, 11986
    - Definition "supplemental air carrier" — 6454, 9223
    - Surety bond arrangement, proposed rule — 13009, 14282
  - Transatlantic, applicability, etc — 16251
  - Chartering group, solicitation and formation — 8248, 11156
  - Contracts, written, with charterers and terms of service — 8767, 13862
  - Definition of "charter flight"; proposed rule — 16535
  - Post flight reports and verification of supporting statements — 5732
  - Rates and tariffs; proposed rule — 337, 2821
  - Study group charters — 6438
- Tariffs of air carriers:
  - Commodity description and numbering system; air carrier discussions — 7677, 17866
  - Denied boarding compensation tariffs and reports of unaccommodated passengers, priority rules; applicability, etc — 459, 2955, 11939
  - Free or reduced-rate transportation; travel agents on domestic group familiarization tours, proposed rule — 13141
  - Publication, filing, posting, etc.:
    - Alcoholic beverages, service of, passenger charges; proposed rules — 8921, 10866
    - Denied boarding compensation and reports of unaccommodated passengers — 459, 2955, 11938
    - Interstate or overseas air transportation; new or changed rates or fares — 990, 7452
    - Rates and tariffs; proposed rule — 337, 2821
    - Visual in-flight entertainment, passenger charges; proposed rules — 4076, 8921, 9841
    - Warsaw Convention; limited liability for death or injury of passengers:
      - Baggage limitations deleted — 12190, 18022
      - Higher limitations for air carriers — 8127
  - Transatlantic supplemental air transportation. *See under* Supplemental air transportation.

FEES AND CHARGES for special services — 6804
- Filing and license fees, certain; recodification, proposed rule — 9941, 10366, 11278

FOREIGN AIRCRAFT; navigation within United States, free transportation, proposed rule — 11482

Civil Aeronautics Board—Continued

Page

HEARINGS, investigations, etc. *See list at end of this agency.*
INCLUSIVE TOURS:
Authority delegation. *See under* Organization, functions, and authority, *below.*
Supplemental air transportation. *See under* Economic regulations, *above.*
INFORMATION, availability of 8793, 8797
MILITARY EXEMPTIONS 4425, 4428, 5385, 5564, 7499, 7821, 7901, 9757, 10929, 15926
ORGANIZATION, FUNCTIONS, AND AUTHORITY:
See also Authority delegations.
Accident and safety investigations; transfer of regulations to National Transportation Safety Board 7139, 16491
Delegations and review of action under delegation:
Accidents, aircraft; probable cause, deletion of Part 20805
Nonhearing matters 8799
Chief, Rates Division, Bureau of Economics; classification of stations 13272
Director, Bureau of Operating Rights:
Air taxi exemptions to use small jet aircraft, filing of pickup and delivery tariffs, and postponement of inauguration of service 13507
Denied boarding compensation, statements by air carriers 11944
Inclusive tours, authorization 11987
Rescission of prior document 9853
Emergency conditions, etc.; deletion of Director, Bureau of Safety, from order of succession 6128
General statement and availability of records and information 8797
POLICY STATEMENTS:
Alcoholic beverages, service of; passenger charges, proposed rule 8921, 10866
Operating authority:
Local service carriers, nonstop authority; proposed rule 3170, 5642
Military exemptions 4428, 5564, 7499, 7821, 9757
Rates and tariffs:
Blocked space service; combination carriers, proposed rule 16225, 20739
Capitalization of interest on equipment purchase deposits and certain funds used in developmental projects 5370
Visual in-flight entertainment, passenger charges 4076, 8921, 9841
Relationships, interlocking, between air carrier and person controlling another air carrier; approval by Board 3817
PROCEDURAL REGULATIONS:
See also Air safety proceedings; Economic proceedings.
Board opinions, orders, and records, inspection and copying; purpose, etc 8793
Transfer of certain regulations to National Transportation Safety Board:
Information, disclosure of aircraft accident investigation 7139, 16491
Rules of practice:
Air safety proceedings 7139, 16491
Aircraft accident investigation, hearings 7139, 16491
RAILWAY EXPRESS AGENCY, INC., petition for joint rates and through routes with air carriers 1159, 4086, 4103, 5441
RECORDS AND INFORMATION, availability of 8793, 8797
TRANSFER OF CERTAIN REGULATIONS to National Transportation Safety Board 7139, 16491
WARSAW CONVENTION; limited airline liability for death or injury of passengers 8127, 12190, 18022

HEARINGS, INVESTIGATIONS, ETC.:
ABC Airfreight Co., Inc. et al., 6568.
Aereo Fletes Internacionales, S.A. (AFISA), 8063, 10815.
Aero Spacelines, Inc., 9179, 12691.
Aerolineas Argentinas, 9247, 10989, 11393, 12139.
Aerolineas El Salvador S.A., 15445.
Aeroplane Rental Services, Ltd., 17899.
Aerovias Sud Americas, Inc., 2983, 7719, 15668.
Air Ambulance Service, 14062.
Air Express International Corp., 12634.
Air Freight Forwarders Association, 2826, 7471, 11560, 11898.
Air-India, 6307, 7719.
Air Korea, 4286, 6991.
Air New Zealand, Ltd., 7718.
Air Transport Association, et al., 236, 2826, 4086, 7471.
Air Transport Association of America, 14671, 17497.
Air Van Lines, Inc. et al., 14409.
Airborne Freight Corp., 339, 14165.
Airlift International, Inc. et al., 4230, 6065, 12767, 14248.
Airlift-Slick Route Transfer, 9179.
Airwest Airlines, Ltd., 13781.
Alaska Airlines, Inc. et al., 17899, 20672.
Alaska-Alaska coastal merger case, 6307, 9088.
Alaska-Cordova merger case, 5518, 6991, 7878, 17679.
Albuquerque, Greater, Chamber of Commerce, 7878.
Albuquerque, New Mexico, service to, 7878, 15727.
Alitalia-Linee Aeree Italiane, S.p.A., 14407, 20822, 21006.
Allegheny Airlines, Inc., 5645, 5864, 6151, 9343, 10316, 10759, 14868.
Allegheny-Lake Central merger case, 16231, 20672.
Alm Dutch Antillean Airlines, 8429, 8683, 10110, 10759, 11499, 12071, 15054.
American Airlines, Inc. et al., 17, 159, 10016, 11651, 12070, 12452, 15408, 15724, 16061, 16064, 20672.
Americana De Aviacion, S.A., 15849.
Anchorage-Fairbanks service case, 10457, 11176, 15771.
Antilles Air Boats, Inc., 11964.
Aspen Airways, Inc., 9038.
Aviation Services, Inc., 17679.
B.C. Air Lines, Ltd., 15548.
Baby poultry rates, 12767.
Bankers Dispatch Corp. et al., 3066.
Bermuda service investigation, 5709, 8392, 8547, 10939, 17633.
Bonanza Air Lines, Inc. et al., 13299, 13836, 15191, 17699.
Brake Airfreight, Inc. et al., 7409.
Braniff Airways, Inc., 11069.
British Commonwealth Pacific Airlines, Ltd. (BCPA), 8777.
British Eagle International Airlines, Ltd., 11965.
British Overseas Airways Corp., 3728, 9039.
British United Airways, Ltd., 16540, 20822.
Buker Airways, Inc., 10388, 12412, 13736.
Caledonian Airways (Prestwick) Ltd., 11295, 16112, 17986.
Capitol International Airways, Inc. et al., 5385, 14703.
Cassels In The Air, Inc., 15685.
Central Airlines, Inc., 690, 1142, 7098, 7189, 7508, 7924, 14980.
Chicago Helicopter Airways, Inc. et al., 13835.
Cleveland Air Forwarding, Inc. et al., 13940.
Combs-Pickens, 16063.
Compagnie Nationale Air France, 14248, 15445, 17633.
Compania Panamena De Aviacion, S.A. (COPA), 6806.
Condor Flugdienst G.m.b.H., 8629.
Continental Air Lines, Inc., 12566, 15555.
Dallas/Fort Worth-Phoenix nonstop case, 7718, 17550.
Delta Air Lines, Inc., 6530.
Denver, Colo. et al., 11090.
Denver-Calgary service case, 16112.
Denver-Grand Junction-Las Vegas service investigation, 4236, 7098, 9039.
Denver-Twin Cities service investigation, 13533, 17633.
Deugro International Transport, Inc., 10084, 11242.
Deutsche Lufthansa Aktiengesellschaft, 15849.
Domestic coterminal points-Europe all-cargo service investigation, 7226, 11745.
Douglas, Arizona, service to, 5854.
East Coast points-Europe service investigation, 16061.
Eastern Air Lines, Inc. et al., 394, 2409, 3783, 6414, 10759.
Eastern Aviation Services, Inc., 6414.
Emery Air Freight Corp., 10617.
Florida Air Taxi, Inc., 11561.
Flying Tiger Line, Inc. et al., 9247, 11295, 15508, 17866.
4A Air Freight Corp., 14165.
Frontier Airlines, Inc., 338, 7189, 7602, 7924, 10616, 10670.
Great Northern Airways, Ltd., 8547.
Guelph Air Services, Ltd., 6806.
Gulf States-Midwest points service investigation, 8297, 13946.
Han Jin Transportation Co., Ltd., 6991.
Household goods, indirect air carriers of, 14409.
Houston Aircraft Brokers, Inc., 14705.
International Air Transport Association, 18, 236, 337, 690, 862, 935, 2664, 2826, 3183, 3310, 3782, 3897, 3949, 4180, 4319, 4583, 5645, 6307, 7298, 7471, 7965, 8428, 8682, 8826, 8966, 9039, 9179, 9349, 13015, 13200, 14344, 14409, 14704, 14863, 14864, 16063, 16293, 17604, 17867, 17900, 18119.
Interstate Airmotive, Inc., 12131.
Jamestown Aviation Co., 15130.
Jet Air Freight, 11332.
KAR-AIR oy, 11748, 13868.
Kankakee, Ill., service to, 15054.
Lake Central Airlines, Inc., 338, 2660, 14868.
Lawrenceville, Ill., service to, 15054.
Lineas Aereas Nacional—Chile, 4230, 5461.
Lineas Aereas Costarricenses, S.A., 764.
Lineas Aereas De Nicaragua, S.A., 5962, 6992.
Ling-Temco-Vought, Inc., 12731, 13300.
Lloyd International Airways, Ltd., 4032, 11091.
Lufthansa German Airlines, 14344, 14671, 15849.
Mail:
Combs-Pickens, 16063.
Domestic service mail rate investigation, 2111, 12729, 13467, 15726, 16112.
Helicopter operators, service mail rates for, 7719, 7780.
Space-available mail, 11393.
Transatlantic and transpacific and military service mail rate case, 9758.
Martin's Air Charter Co., 3067, 3183.
Martin's Luchtvervoer Maatschappij N.V., 267, 3067, 3183, 8547.
Marty's Flying Service, 7098, 11393.
Medford, Oreg., service to, 6004.
Memphis/Huntsville/Birmingham-Los Angeles service investigation, 13533, 21044.
Millardair Ltd., 8757.
Mohawk Airlines, Inc., 6589.
Motor carrier-air freight forwarder investigation, 8048, 8256, 8629.
Multicharter cargo rates investigation, 5298.
National Airlines, Inc., 5385, 12453.
New York-Florida route renewal case, 7029.
Nordair Ltee—Nordair, Ltd., 7099.
North Central Airlines, Inc., 3368, 7099.
Northeast-Bahamas service case, 7718.
Northeast Corridor VTOL investigation, 13999.
Northern Consolidated Airlines, Inc. et al., 5385, 5519, 7349.
Northern Consolidated-Wien Alaska merger, 10016, 10684.
Northern New England-Great Lakes service investigation, 5518, 9040.
Northwest Airlines, Inc., 15548, 16540.
Omaha, service to, 14248.
Omaha Airport Authority, 6104, 13997.
Omaha Chamber of Commerce, et al., 6104, 13997.
Orillia Air Services, Ltd., 2665.
Owensboro Aviation, 18.
Ozark Air Lines, Inc., 1200, 6589, 11651, 15896, 20784.
Pacific Air Freight, Inc. et al., 59, 5429.
Pacific Air Lines, Inc., 690, 2728, 6004.
Pacific Islands local service investigation, 6992, 11449.
Pacific Northwest-Southwest service investigation, 6374, 9179, 12071.
Pacific Western Airlines, Ltd., 6661.
Palm Springs, Calif., city of, 15724.
Pan Aero International Corp., 5385.
Pan American-Grace Airways, Inc., 160.
Pan American World Airways, Inc., 160, 10016, 11651, 17604.
Puerto Rican Forwarding Co., Inc., 2480.
Purdue Aeronautics Corp., 13534.
Purdue University, 13534.
RKO General-Pacific Airmotive Control, 6655.
Railway Express Agency, Inc., 1159, 3183, 4086, 4103, 5449.
Railway Express charges, minimum, for live animals and birds, 3183, 15131.
Raleigh-Durham Aviation, Inc., 13781.
Reading Aviation Service, Inc., 15849.
Redbird Delivery Service, Inc. et al., 5478, 8048.
Saber Air Freight, Inc., 15557.
St. Louis limited supplemental air service investigation, 12691, 15685.
Salt Lake City-Las Vegas-Southern California service case, 3625, 9758.
San Francisco & Oakland Helicopter Airlines, Inc. et al., 11651.
San Jose, Calif., city of, 9248, 13090.
Scandinavian Airlines System enforcement proceeding, 14570, 15850.
Seaboard World Airlines, Inc., 9985.
Seagreen Air Transport, Ltd., 18067.
Sedalia, Marshall, Boonville Stage Line, Inc., 19166.
Shapiro, Morris, et al., 14344.
Shulman, Inc., 10670.
Skymaster, Inc. et al., 8628.
Slick Corp., 4230, 14248.
Sociedad Aeronautica De Medellin Consolidada, S. A. (SAM), 3368, 6374, 7099.
Southern Airways, Inc., 8184, 9040, 13289, 13661, 14114, 15445, 16540.
Southern tier competitive nonstop investigation, 4065, 13762.
Staron Flight Ltd., 15648.
Stephens Inc. et al., 13534, 14610.
Sudflug, Suddeutsche Fluggesellschaft mbH, 17632, 20839.
Supplemental air service proceeding, reopened, 585, 764.
Swissair, Swiss Air Transport Co., Ltd., 7099.
TACA International Airlines, S.A., 6004, 7879.
TU MVL GA USSR (Aeroflot), 5478.
Toronto Airways Ltd., 10760, 10939.
Trans Caribbean Airways, Inc., 16508.
Trans International Airlines Corp., 15507, 16063.
Trans-Texas Airways, Inc., 6151, 14705.
Trans World Airlines, Inc., 3782, 6415, 13386.
Transair, Ltd., 6530.
Transamerica Corp., 15507, 16063.
Transavia N.V., 6994, 9758.
Transglobe Airways, Ltd., 8985, 10684, 14345.
Transpacific route investigation, 585.
Trojan Airways, Inc., 19199.
Tucson, Ariz., service to, 3480, 6004.
Turks and Caicos Air Services, Ltd., 8394, 12768.
Twin Cities-California service investigation, 417, 6806.
Twin Cities-Milwaukee long-haul investigation, 14247.
U.S.-Caribbean-South America route investigation, 829, 16444.
United Air Lines, Inc., 3782, 7965, 13606.
United-Pacific transfer case, 4181, 6065, 11449.
Varanair-Siam Air Co., Ltd., 690, 2983, 3111.
Venezolana Internacional de Aviacion, S.A., 17497, 20822.
Vincennes, Ind., service to, 15054.
W.A.A.C (Nigeria) Ltd., 3844, 4287, 10317.
WTC Air Freight, et al., 5298.
Wardair Canada, Ltd., 12568, 13836.
Washington-Baltimore airport investigation, 9115, 9181.
Washington/Baltimore helicopter service investigation, 30, 12962.
Waycross, Ga., service to, 5518.
West Coast Airlines, Inc., 338, 10760, 11653, 12197, 16540.
Western Air Lines, Inc., 15649.
Western-Pacific northern merger, 3067.
Western Tennessee service investigation, 2983, 3410, 6855.
Western Truck Leasing Co. et al., 16292.
White Plains, N.Y., service to, 15556.
Wien Alaska Airlines, Inc., 5385.
Wings & Wheels Express, Inc., 12634.

Civil Defense Committee, Interagency:

ORGANIZATION AND FUNCTIONS 10671

Civil Defense Office; Army Department:

IDENTIFICATION for Federal employees, reservists, and non-Federal support personnel; issuance authority, Transportation Department added 6932

Civil Disorders:

DETROIT, MICH., restoration of law and order (Proclamation 3795; Executive Order 11364) 10905, 10907
NATIONAL ADVISORY COMMISSION:
Conferences, hearings, etc., rules for conduct of 12969
Establishment (Executive Order 11365) 11111

Civil Rights Commission:

CALIFORNIA, hearing respecting discrimination 5298
COMMUNICATIONS and confidential information 4066
CONDUCT STANDARDS 272, 2848, 4067, 14589
HEARINGS, rules on 4063
INFORMATION:
Availability of 9684, 11085
Confidential information 4066
ORGANIZATION AND FUNCTIONS 4062
STATE ADVISORY COMMITTEES, operations and functions 4065

Civil Rights Office:

See Health, Education, and Welfare Department.

Civil Service Commission:

ADVERSE ACTIONS:
By Agencies:
Appeal rights 3289, 16476
Employees covered 13754
Notice of decision and definition of appeal 10909
By Commission; scope and appeal rights 15805, 16476

Civil Service Commission—Continued Page

APPEALS:
- Administrative:
  - Employees covered 13754
  - Order of processing 3289, 13477
  - Time limit for filing 13477
  - Witnesses, arbitration requirements 10909
- Adverse action. *See* Adverse actions, above.
- Commission, appeals to:
  - Appellate review of actions against employees 13477
  - Career and career-conditional employment 13474
  - Military duty, restoration after 13475
  - Reinstatement rights 13475
- Equal opportunity 15631, 16476
- Performance evaluation; time limit on appeals 13475
- Reduction in force, initial appeals 13474
- Reemployment rights, appeal of losing agency and employee appeals 13474
- Retirement 13477
- Salary retention 13476
- Suitability; reemployment eligibility of certain former Federal employees 13476
- Transfer of Federal employees to international organizations; failure to reemploy and right of appeal 13474
- Within-grade increases 13476

CAREER AND CAREER-CONDITIONAL EMPLOYMENT; appeal rights to Commission 13474

CLAIMS, administrative, under Federal Tort Claims Act 7052

COMPETITIVE SERVICE AND STATUS, definitions 13752

CONDUCT STANDARDS:
- Commission employees 11113
- Proscribed actions, gifts, etc 8281

DEFENSE PRODUCTION ACT OF 1950, survey of appointments under (Executive Order 11355) 7803

DEFINITIONS 13474

EDUCATIONAL REQUIREMENTS for certain positions:
- Home economics series, 10389.
- Microbiology series, 7473.
- Operations research series, 10317.
- Social work program specialist, 13906.
- Zoology series, 9040.

EMPLOYEE DEVELOPMENT, no Sunday premium pay during periods of training 3085

EQUAL OPPORTUNITY without regard to race, color, religion, sex, or national origin:
- Appeals 15631
- Complaints 15631, 16476
- General policy, agency programs, etc 15631
- Investigation and agency systems 11847
- Women, equal employment opportunity for; regulations (Executive Order 11375) 14303

EXCEPTED SERVICE 20922

Agencies with positions added, amended, or revoked:
- Agency for International Development, 4375.
- Agriculture Department, 7, 73, 9061, 10636, 13477, 14201, 20627.
- Air Force Department, 9511, 10636, 20627.
- Army Department, 7321, 10636, 20627.
- Civil Aeronautics Board, 20628.
- Civil Disorders, Interagency Committee on, 15911.
- Civil Rights Commission, 11375, 20628.
- Commerce Department, 251, 765, 4915, 7896, 9297, 9907, 10636, 11961, 12828, 12961, 13907, 14827, 20628.
- Defense Department, 2289, 5411, 9511, 9963, 9806, 10249, 10556, 15703, 20627.
- District of Columbia Government, 5979, 20629.
- Economic Opportunity Office, 75, 2361, 5249, 12437, 12937, 14201, 20628.
- Emergency Planning Office, 6630, 11770.
- Entire executive civil service:
  - Inmates of District of Columbia correctional institutions, 12383.
  - National science contests, certain 1967 finalists, 9065, 15703.
  - President's Youth Opportunity Back-to-School Drive, 5411.
  - President's Youth Opportunity Campaign, 5411, 17615.
  - Scientific and professional research positions at GS-12 and above, 10635.
  - Severely handicapped persons, 10635.
  - White House Fellows, 8281.
- Equal Employment Opportunity Commission, 2363, 9297, 13754, 14827, 20628.
- Executive Office of the President, 10556, 10577, 20627.
- Export-Import Bank of Washington, 2229, 10293, 20628.
- Farm Credit Administration, 20628.

Civil Service Commission—Continued Page

EXCEPTED SERVICE—Continued

Agencies with positions added, amended, or revoked—Continued
- Federal Aviation Agency, 20628.
- Federal Communications Commission, 20628.
- Federal Deposit Insurance Corporation, 9729.
- Federal Home Loan Bank Board, 20628.
- Federal Maritime Commission, 20628.
- Federal Mediation and Conciliation Service, 20629.
- Federal Power Commission, 3609, 20628.
- Federal Trade Commission, 20630.
- General Services Administration, 7626, 8511, 10293, 20626.
- Health, Education, and Welfare Department, 75, 251, 2036, 8021, 8963, 10949, 10693, 11818, 12369, 12467, 13443, 13695, 13855, 15703, 20628.
- Health Manpower, National Advisory Commission on, 15703.
- Housing and Home Finance Agency, 407, 607, 2031, 4155, 8231, 9297, 9607, 10249, 12437, 12696, 14201, 20628.
- Housing and Urban Development Department, 365, 407, 760, 2931, 3335, 5071, 6357, 7521, 8231, 9297, 9807, 10249, 14201, 15869, 15911, 17849, 20628.
- Interior Department, 75, 1065, 2805, 5071, 6901, 10349, 10781, 12831, 13045, 13909, 20627.
- Interstate Commerce Commission, 14667, 16477, 20628.
- Justice Department, 4491, 5455, 5768, 15911, 20627.
- Labor Department, 2931, 4341, 8124, 8229, 9061, 20628.
- Mexican-American Affairs, Interagency Committee on, 12898.
- Mexican-American and Puerto Rican Communities, National Conference on Problems of, 9807, 12937.
- National Aeronautics and Space Administration, 9065, 16477.
- National Capital Transportation Agency, 15911.
- National Foundation of Arts and Humanities, 13401.
- National Labor Relations Board, 20628.
- Navy Department, 3383, 9483, 10635, 20627.
- Parcel Distribution Services, Advisory Commission on, 4341, 9657.
- Post Office Department, 4341, 8511, 13695, 20627.
- President's Commission on Budget Concepts, 8281.
- President's Commission on Postal Organization, 9297.
- President's Committee on Equal Opportunity in Housing, 20628.
- President's Committee on Urban Housing, 11847.
- President's Council on Youth Opportunity, 15011, 16097.
- President's Temporary Commission on Pennsylvania Avenue, 6431.
- Securities and Exchange Commission, 20628.
- Selective Service, National Advisory Commission on, 12937.
- Selective Service System, 8511.
- Small Business Administration, 251, 1085, 3763, 6087, 6620, 20628.
- Smithsonian Institution, 7172.
- State Department, 3289, 6431, 14685, 14887, 20627.
- Tax Court of United States, 20628.
- Transportation Department, 6389, 8021, 8124, 8511, 8657, 8751, 9297, 9607, 10556, 11313, 11515, 11609, 12937, 13819, 20629, 20701.
- Treasury Department, 5455, 6389, 6965, 7011, 10345, 11313, 11375, 13754, 20627, 20837.
- United States Arms Control and Disarmament Agency, 20628.
- United States Information Agency, 20628.
- Veterans Administration, 20628.
- Water Resources Council, 20628.

Definitions, etc 13752, 20922

Employment in; positions exempt from appointment procedures 13752

Removal of positions in GS 16, 17, and 18 from Schedule C 15805

EXECUTIVE ASSIGNMENT SYSTEM 13752
- Career assignments, limited; eligibility for within-grade increases 15805
- Noncareer assignments, authority to agencies to make assignments 15850

GOVERNMENT HOSPITALS, student trainees; maximum stipends. *See under* Pay regulations.

GRIEVANCES. *See* Adverse actions; Appeals.

HEALTH BENEFITS PROGRAMS:
- Federal employees; coverage, persons employed by contract, etc 9061, 12725, 14887
- Retired Federal employees:
  - Appeals 16477
  - Eligibility 12725, 14363

HOURS OF DUTY, standards; wage board employees 12551

INFORMATION:
- Official, availability of 9493
- Retirement, disclosure of 2427

Civil Service Commission—Continued Page

LEAVE:
- Shore; computation, forfeiture, etc 4565
- Sick, recredit of; break in service 12937

LIFE INSURANCE, exclusions; persons employed by contract 9061, 12937

MANPOWER SHORTAGES, appointees to certain positions; payment of travel and transportation expenses. *See* Travel and transportation expenses, *below.*

MILITARY DUTY, restoration after; initial appeals to Commission 16475

NONDISCRIMINATION. *See* Equal opportunity.

ORGANIZATION AND FUNCTIONS 10017

PAY REGULATIONS:
- Back pay, corrective action; employees restored within 1-year period following erroneous separation 5768
- Classification Act system:
  - Adjustments for supervisors, cost-of-living allowance or post differential 3141
  - Salary retention; appeals to Commission 16476
  - Superior qualifications appointments; general provisions 7246, 12472
  - Within-grade increases, work of acceptable level of competence 16475
- Compensation from more than one civilian office, exceptions; intermittent employment as test monitor 9807
- Exclusion from special pay rates; participants in Graduate Fellowship Program of Engineers Corps 10484
- Government hospital trainees, maximum stipends:
  - Dental student interns, Health, Education, and Welfare Department, 9605.
  - Medical residents, et al., 75.
  - Nurses, student, 14887.
  - Practical nurses, student, D.C. General Hospital, 5455.
  - Speech pathologists, student, Navy Department, 5455.
- Increases in minimum rates of pay, certain positions:
  - Accountants, auditors, and Internal Revenue agents, 5299.
  - Air traffic control specialist (tower), O'Hare International Airport, Chicago, Ill., 7189.
  - Architect, 12132.
  - Cartographers, St. Louis, Mo., and Washington, D.C., 8987.
  - Criminal investigators, Internal Revenue Service, 10761.
  - Engineers, 2391, 8987, 12132.
  - Estate tax examiners, 8777.
  - Medical technologists:
    - Baltimore, Md., area, 11451.
    - California and Milwaukee, Wis., 10684.
  - Nurses, various locations, 20, 267, 418, 1200, 2864, 3360, 3783, 4181, 6415, 6590, 7140, 7719, 9758, 10020, 10227, 10998, 12868, 13299, 13424, 13839, 14290, 14705, 17986.
  - Pharmacists, California, 5592.
  - Physical scientists and mathematicians, 2391, 8987.
  - Police cadets, Washington, D.C., 4081.
  - Psychologists, 10227.
  - Speech pathologists and audiologists, 10996.
- Irregular or intermittent duty involving physical hardship or hazard, pay differentials 7, 8751, 10556, 21023
- Premium pay:
  - Overtime, minimum and maximum annual rates, administratively uncontrollable 20942
  - Sunday premium pay not payable during periods of training 3085
- Severance pay:
  - Computation:
    - Appointments with definite time limitation 6674
    - Crediting of military service 3689
  - Coverage; employees in agency transferred to or merged with non-Federal organization 7743, 13648, 21023
- Definition, "basic compensation" 3763

PERFORMANCE EVALUATION:
- Appeals, time limit on 16475
- Definitions of days 16475

POLITICAL ACTIVITIES of Federal employees, privileged localities; addition:
- Crane, Ind 12937
- Prince William County, Va 4275

Civil Service Commission—Continued Page

POSITION CLASSIFICATION, Classification Act system:
- Exclusions:
  - Dental student interns, Health, Education, and Welfare Department, 9605.
  - Speech pathologists, student, Navy Department, 5455.
- Retroactive effective date 16475

PROMOTION, demotion, or reassignment, agency authority 13754

RECRUITMENT, selection, and placement:
- Employees' compensation beneficiaries, placement program; applications, entry on registers, etc 3967
- Time - after - competitive - appointment restriction; postmaster positions, etc 705

REDUCTION IN FORCE, initial appeals 16474

REEMPLOYMENT RIGHTS, appeals 16474

RELATIVES, employment of; restrictions 20801

RESTORATION AFTER MILITARY DUTY, initial appeals to Commission 16475

RETIREMENT:
- Appeals 16477
- Coverage; persons employed by contract 9061
- Disclosure of information 2427
- Health benefits 12725, 14363, 16477

SUITABILITY, reemployment eligibility of certain former Federal employees 16476

TRAINING OF FEDERAL EMPLOYEES, functions (Executive Order 11348) 6335

TRAVEL AND TRANSPORTATION EXPENSES, appointees to certain positions where there are manpower shortages 21, 764, 3413, 4031, 5299, 6226, 6307, 6590, 6946, 7227, 7473, 7719, 8256, 8317, 8547, 8987, 9331, 10019, 10227, 10272, 10317, 10940, 10999, 11588, 12017, 12869, 12969, 13546, 13877, 14244, 14290, 15054, 16509, 17680, 17986.

VOTING RIGHTS PROGRAM, certain States:
- Georgia, 5470.
- Louisiana, 5471, 5554, 12620.
- Mississippi, 5470, 6685, 8091, 8246, 8523, 8590, 10736, 11085, 11440, 12180, 13193.

WITHOUT-COMPENSATION EMPLOYEES, survey of appointments under Defense Production Act of 1950 (Executive Order 11355) 7803

WOMEN, equal employment opportunity (Executive Order 11375) 14303

Claims:

AUTHORITY DELEGATIONS, regulations, etc. *See specific agencies.*

Coal:

CLASSIFICATION of lands. *See* Geological Survey.

LEASES, etc. *See* Land Management Bureau.

MINES, safety. *See* Mines Bureau.

USE, POSSESSION, AND CONTROL of coal and coal rights in and under lands transferred from General Services Administration to Tennessee Valley Authority 10121

Coal Mine Safety Board of Review, Federal:

CONDUCT STANDARDS 13809

Coast and Geodetic Survey:

TRANSFER OF REGULATIONS 16257

Coast Guard:

AIRCRAFT, Coast Guard; markings 6576

ANCHORAGE REGULATIONS 17727, 17728
- Authority delegation 7139

AUTHORITY DELEGATIONS:
- By Vice Admiral to District Commanders; anchorage regulations 7139
- From Assistant Secretary of Treasury; architectural and engineering services 825
- From Secretary of Transportation:
  - Great Lakes pilotage, rates and charges for 14105
  - Vessel documents 7497
- Procurement authority and responsibility 13136

Coast Guard—Continued

BRIDGES:
Definitions, issuance of permits, etc. 17769
Drawbridge operation 17774
California:
Mare Island Strait, Napa River, 13562.
San Joaquin River, 13126.
Florida, Broward River, 13561.
Maryland:
Bear Creek, 13127.
Choptank River, 13127.
New Jersey, Intracoastal Waterway at Atlantic City, 13126.
North Carolina, Hendrick (Mackay) Creek, 13910.
Oregon:
Coos Bay, 13791.
North Portland Harbor, 13126.
Rhode Island, Providence Harbor, 13915.
South Carolina:
Atlantic Intracoastal Waterway, 17939.
Wappoo Creek, 13410.
Locations and clearances, administrative procedures 17771
Obstructive bridges, alteration of 17773
CARGO VESSELS:
Barges carrying dangerous cargoes 17621
Lifesaving equipment:
Great Lakes, proposed rules 15836
Water lights 384
Navigation and vessel inspection, proposed rules 795, 13514
COAST GUARD DISTRICTS:
Second 5269
Eighth 5269
COMMISSIONED OFFICERS, qualification requirements; appointments of licensed Merchant Marine officers 3397
CONTINUATION of regulations, procedures, etc. 5611
CONTRACT APPEALS BOARD:
Transportation Department Contract Appeals Board, effective date 9234
Treasury contract appeals, revoked 8676
DANGEROUS CARGOES:
See also Explosives.
Barges carrying 17621
Poisonous articles, restrictions against loading with foodstuffs 20816
Waterfront facilities, security of 795, 20774
DOCUMENTATION OF VESSELS:
See also Marine documents.
Qualification as U.S. citizen, Husky Oil Co. 7641
Recording of vessel mortgages and conveyances 4365
Registration of private signals, funnel marks, and house flags 4365
Funnel mark, U.S. Steel Corp. 19127
House flag; U.S. Steel Corp. Intercoastal and Great Lakes Fleet 12787
DRAWBRIDGE OPERATION. *See under* Bridges.
EDITORIAL CHANGE, file line of documents 17890
ELECTRICAL ENGINEERING 795, 13514, 15837, 19181, 19182, 20812, 20814, 20815
ENFORCEMENT REGULATIONS, former Customs Bureau function 4365
EQUIPMENT, INSTALLATIONS, OR MATERIALS; approvals and terminations of approval 2711, 8088, 8539, 9226, 12498, 13907
EXPLOSIVES or dangerous articles:
Ships' stores and supplies 795, 8149
Transportation or storage 795, 8148
Waterfront facilities, security 795, 20774
GREAT LAKES PILOTAGE RULES AND REGULATIONS:
Authority delegation respecting rates and charges 14105
Definitions 14220
Penalties, operations without registered pilots 14221
Pools, establishment by voluntary associations of registered U.S. pilots 14221, 14223
Certificates of authorization, amendment of; proposed rule 3907, 8425, 13868
District No. 2, approval of working rules for 8590
Rates, charges, and conditions for pilotage services 12756, 13079, 14105, 14221, 14695, 16231
Registration of pilots 14220, 14223
Applicant pilots, emergency waiver of certain requirements 871

Coast Guard—Continued

GREAT LAKES PILOTAGE RULES AND REGULATIONS—Continued
Review of system and rate structure 16231
Revocation or suspension of registration 14222
Uniform system of accounts 2709, 8425, 13868, 14223
HAZARDOUS MATERIALS. *See main heading* Hazardous Materials Regulations Board.
INFORMATION, records, etc.; fees and charges for copies 11210
INSPECTION OF VESSELS, proposed rules 13514
LIGHTS:
Navigation lights 20812
Open flame type water lights, prohibited on vessels attending offshore petroleum operations 384
LOAD LINES:
Foreign or coastwise voyages:
Hatch covers for exposed hatchways 3021
Special provisions applicable to certain ships 77
Seasonal, merchant vessels on Great Lakes 13508
MARINE DOCUMENTS:
Authority delegation 7497
Ports where issued 4365
Surrender of documents of vessels of United States subject to preferred mortgages, procedures 8980
MARINE ENGINEERING 795, 13514, 19180
MARKINGS for Coast Guard vessels and aircraft, ensign and commission pennant 6576
MEASUREMENT of vessels, former Customs Bureau function 4365
MERCHANT MARINE OFFICERS:
Appointments of licensed officers as commissioned officers 3397
Licensing:
Master and mate of freight and towing vessels 15754
Officers and motorboat operators 795, 7914
MERCHANT SEAMEN, certification as able seamen or qualified members of engine department 12793
NAUTICAL SCHOOL SHIPS, navigation and vessel inspection; proposed rules 795
NAVIGATION AIDS, marking of sunken obstruction 3056
NAVIGATION REQUIREMENTS:
Inland waters:
Boundary lines:
Gulf of Mexico from Cape St. George, Fla., to Mexico; proposed rules 8763
Withdrawn 14775
Pacific Coast, San Pedro Bay 722, 7127
Pilot rules, towing vessels and dredges 795, 20772
Western rivers; pilot rules, towing vessels and dredges 20773
NAVIGATION RESTRICTIONS, launching of certain vessels:
Delaware River, *Ponce De Leon* 15895
James River:
Charleston 16444
Hammerhead 5426
John F. Kennedy 7984
Sea Devil 13945
New London Harbor, *Narwhal* 12924
San Francisco Bay, *USS Garnard* 6739
OIL POLLUTION REGULATIONS 14390
ORGANIZATION AND FUNCTIONS:
Claims, certain functions relating to 3066
Coast Guard Districts:
Second 5269
Eighth 5269
Customs Bureau, certain functions transferred from 2463, 7408
PASSENGER VESSELS:
See also Small passenger vessels.
Fire protection 19179
Fuel oil, proposed rules 13514
Lifesaving equipment, water lights 384
Navigation and vessel inspection, proposed rules 795
Nuclear vessels, proposed rules 13514
Safety standards, disclosure 3153, 6396, 12479

Coast Guard—Continued

PROCUREMENT:
Advertising, formal; bids, 139, 13135.
Authority and responsibility, 13136.
Contracts:
Administrative matters, 13136.
Clauses, fixed-price contracts, 6976, 7206, 13135, 13564.
Dispute appeals, Transportation Department Contract Appeals Board, 9234.
Forms, 139, 7073, 13135, 13590.
General
Contract provisions, liquidated damages, 13135.
Contracting officer's decision under disputes clause, 9234.
Small business concerns, 137.
Unsolicited proposals, 13133.
Value engineering, 6974.
Insurance, loss of Government property, 13135.
Labor standards in construction contracts, 13135.
Negotiation, 1040, 4061, 8027, 11470, 11796, 13135.
Special and directed sources of supply; Federal Supply Schedule contracts, exceptions to mandatory use, 12443.
Special types:
Architect-engineering services deleted, 4061.
Mortuary services, 13135.
Unsolicited proposals, 13133.
Taxes, Federal, State and local, 139.
REGISTER of merchant vessels, former Customs Bureau function 4365
REGISTRATION of house flags, funnel marks, etc. *See under* Documentation of vessels.
SCHOOL SHIPS, NAUTICAL, navigation and vessel inspection; proposed rules 795
SECURITY:
Port security, former Customs Bureau function 4365
Vessel movement, advance notice of arrival, dangerous cargoes 795, 20773
Waterfront facilities, explosives or dangerous cargoes 795, 20774
SMALL PASSENGER VESSELS:
Lifesaving equipment, water lights 384
Navigation lights 20813
Navigation and vessel inspection, proposed rules 795, 13514
SPECIFICATIONS:
Engineering equipment, proposed rules 13514
Life preservers 795, 5499
TANK VESSELS:
Alarm systems 20814
Flammable liquids 17621
Lifesaving equipment, Great Lakes; proposed rules 15836
Navigation and vessel inspection; proposed rules 795, 13514
UNDOCUMENTED VESSELS, numbering system approved, Puerto Rico 4499
UNINSPECTED VESSELS:
Navigation lights and shapes 20812
Proposed rules 795, 13514

Coffee:

IMPORTS AND EXPORTS under International Coffee Agreement. *See* Customs Bureau.

Color Additives:

See Food and Drug Administration.

Commercial Bank Loans:

INTEREST EQUALIZATION TAX (Executive Order 11328) 3137

Commerce Department:

See Business and Defense Services Administration.
Census Bureau.
Economic Development Administration.
International Commerce Bureau.
Maritime Administration.
National Bureau of Standards.
National Shipping Authority.
Patent Office.
ACTING SECRETARY AND ACTING UNDER SECRETARY, designation (Letters of February 1, 1967) 2493, 2495
AIRCRAFT ALLOCATION, supersedure 20777
AIRCRAFT LOAN GUARANTEE PROGRAM, supersedure 13384

Commerce Department—Continued

APPEALS BOARD:
Contract appeals, decisions 10252
Organization and functions 10825
APPOINTMENTS and statements of financial interests under Defense Production Act of 1950 2864, 3717, 4286, 5297, 6304, 6528, 7189
AUTHORITY DELEGATIONS:
See also Organization and functions.
By Assistant Secretary for Administration to certain officials:
Certain employees, certification of documents 10005
Organization units; management consulting services 6063, 10825
By Assistant Secretary for Domestic and International Business to Deputy Assistant for Domestic Business Policy; allocation of watches and movements among producers in Virgin Islands, Guam, and American Samoa 1004
By Secretary to certain officials:
Assistant Secretary for Economic Development:
Contract negotiation, prior delegation revoked 11810
Regional Commissions 10386
Census Bureau, Director; negotiation of contracts, prior delegation revoked 11810
Environmental Science Services Administrator; negotiation of contracts, prior delegation revoked 11810
Health, Education, and Welfare Secretary; functions under Civil Rights Act 3109, 6004
Interior Secretary; functions regarding certain mineral facilities and materials 2462
Maritime Administrator:
Appointment of uniformed guards as special policemen 17549
Contract negotiation, prior delegation revoked 11810
National Bureau of Standards Director:
Appointment of uniformed guards as special policemen 17550
Automatic data processing service center, operation 11810
Contract negotiation, prior delegation revoked 11810
Organization units; procurement authority, advertising 6063, 10825
From General Services Administrator:
Automatic data processing service center, operation 10582
Special policemen, appointment of 11969
From Transportation Secretary, allocations and priorities for transportation during rail strike 10521
Revoked 10938
BUSINESS INVESTMENTS, American, in foreign countries; survey 11485
CLAIMS under Federal Tort Claims Act; procedures for handling and settlement 3769
COMMITTEES, INTERAGENCY, chaired by Department 13388
CONDUCT STANDARDS 15222
CONTRACT APPEALS; decisions 10252
EDITORIAL CHANGE, "Under Secretary for Transportation" changed to "Assistant Secretary for Domestic and International Business" 15831
EDUCATIONAL AND SCIENTIFIC INSTITUTIONS, free entry of instruments and apparatus for 280, 2433, 2437
FAIR PACKAGING AND LABELING 7532, 11074
FOREIGN COUNTRIES, survey of American business investments in 11485
INFORMATION, availability of 9643, 9734, 13334
Business and Defense Services Administration, 11348.
Business Economics Office, 11347.
Census Bureau, 10786, 11810, 12441.
Domestic and International Business, Office of Administration for, 11350.
Economic Development Administration, 10686, 13340.
Environmental Science Services Administration, 13184, 13680.
Export Control Office, 12128.
Field Services Office, 11348.
Foreign-Trade Zones Board, 14017.
International Commerce Bureau, 12126, 12128.
Maritime Administration, 12664.
National Bureau of Standards, 12127.
Patent Office, 13880.

Commerce Department—Continued Page

INFORMATION, availability of—Continued
President's Cabinet Textile Advisory Committee, 12880, 14468.
State Technical Services Office, 10730.
United States Travel Service, 11340.
LUMBER. *See* Softwood lumber.
MOTOR VEHICLE safety standards, Federal 2408
See also under main heading Federal Highway Administration.
Brakes, lamps, seat belt installations, etc. 3290
Control location and identification 5499
Petition for reconsideration of rule making 976
Rearview mirrors, doors and seat anchorage 5498, 5499
Windshield wiping and washing systems, tires, etc., proposed rules 2417, 2418
ORGANIZATION AND FUNCTIONS:
See also Authority delegations.
Acting Secretary and Acting Under Secretary, designation (Letters of February 1, 1967), 2402, 2405.
Acting Under Secretary for Transportation, designation, 1066.
Administrative Services Office, 10630.
Appeals Board, 10626.
Assistant Secretary for Administration, 12878.
Audits Office, 10628, 12878.
Budget and Finance Office, 10624.
Business and Defense Services Administration, 2399, 11711, 12880, 17548.
Business Economics Office, 17548, 17549.
Census Bureau, 12880.
Domestic and International Business, Assistant Secretary, 2110.
Economic Development Administration, 10626, 10628, 20746.
Emergency Readiness Office, 10622.
Environmental Science Services Administration, 2408, 10371, 12880, 16288.
Equal Opportunity, Special Assistant for, 10626.
Export Control Office, 13120.
Field Services Office, 11712.
International Commerce Bureau, field activities, 12728.
Investigations and Security Office, 10623.
Management and Organization Office, 10626.
Maritime Administration, 7207, 10627, 12880.
National Bureau of Standards, 6630, 11811.
Patent Office, 7247, 12940.
Personnel Office, 10624.
Publications Office, 10624.
Science and Technology, Assistant Secretary, 2110.
Secretary, Office of, 6727, 13422.
Acting Secretary and Acting Under Secretary, designation (Letters of February 1, 1967), 2402, 2405.
Organization chart, 20618.
Standards Review Office, establishment, 7276.
Telecommunications Office, 17552, 20620.
United States Travel Service, 6275.
PATENT POLICY, contracts and grants 15800
PERSONNEL, availability of information relating to 13334
SHIP MORTGAGES, transfer of functions to Transportation Department (Reorganization Plan No. 1 of 1967) 7049
SOFTWOOD LUMBER:
Hearing 7276
Inquiry 13088
Standards recommended 20992
SOUTHERN RHODESIA:
Economic sanctions, functions of Secretary (Executive Order 11322) 119
Transportation of certain commodities by U.S. vessels and aircraft, prohibition 1126
VOLUNTARY PRODUCT STANDARDS:
Procedures for development, proposed rules 12089, 13385
Softwood lumber:
Hearing 7276
Inquiry 13088
Standards recommended 20992
WAR RISK INSURANCE, supersedure 20843, 20853
WATCHES AND MOVEMENTS, producers located in Virgin Islands, Guam, and American Samoa:
American Samoa, reallocation of 1967 quota and allocation of 1968 quota 12960
Authority delegation by Assistant Secretary for Domestic and International Business to Deputy Assistant for Domestic Business Policy 1004
Limitation on imports, review procedures 15818
Quota allocations 472, 4178, 8316, 11294, 12960, 16538
Policy prohibiting transfers of duty-free quotas 11048

Commerce Department—Continued Page

WATCHES AND MOVEMENTS, producers located in Virgin Islands, Guam, and American Samoa—Con.
Virgin Islands and Guam:
Allocation of quotas for 1968 16538
Guam and Virgiline Watch Co., Inc., in Virgin Islands; allocation of adjusted quotas for 1967 11294
Shipment permits, authority of Governors 393

Commission on Political Activity of Government Personnel:

HATCH POLITICAL ACTIVITIES ACT, effects on Government employees; hearings 6591, 7227, 8185

Commissions:

See Committees, boards, etc.; Committees, boards, etc., Presidential.

Committees, Boards, etc.:

See also Committees, boards, etc., Presidential.
AEROSPACE SAFETY ADVISORY PANEL, organization, etc. 20714
ALL-CHANNEL BROADCASTING, Committee for Full Development of; reconstitution and extension of term 4088
ARMED SERVICES PROCUREMENT REGULATION COMMITTEE, organization and functions 10518
AUTOMOTIVE AGREEMENT ADJUSTMENT ASSISTANCE BOARD. *See* Automotive Agreement Adjustment Assistance Board.
BUDGET BUREAU advisory committees used during fiscal 1966 and 1967 13736
CITIZENS' STAMP ADVISORY COMMITTEE. *See* Post Office Department.
COMMUNICATION FACILITIES of American Petroleum Institute, Central Committee on; order 4550
CONGRESSIONAL COMMITTEES, inspection of tax returns. *See* Taxes.
DEFENSE DEPARTMENT FOOD PLANNING BOARD, establishment 17627
DELAWARE RIVER BASIN COMMISSION. *See* Delaware River Basin Commission.
DISTRICT OF COLUMBIA BOARD OF COMMISSIONERS, abolition (Reorganization Plan No. 3 of 1967) 11669
DISTRICT OF COLUMBIA COUNCIL, establishment (Reorganization Plan No. 3 of 1967) 11669
FEDERAL COAL MINE SAFETY BOARD OF REVIEW, conduct standards 13809
FEDERAL EMPLOYEE-MANAGEMENT RELATIONS, REVIEW COMMITTEE ON, hearing 13546
FEDERAL HOME LOAN BANK BOARD. *See* Federal Home Loan Bank Board.
FEDERAL OPEN MARKET COMMITTEE. *See* Federal Open Market Committee.
FOREIGN ASSISTANCE PROGRAMS, GENERAL ADVISORY COMMITTEE ON:
Additional members 14566
Resignations 2862
FOREIGN-TRADE ZONES BOARD. *See* Foreign-Trade Zones Board.
GENERAL SERVICES ADMINISTRATION, interagency committees chaired by 11657
GREAT LAKES BASIN COMMISSION, establishment (Executive Order 11345) 6329
HAZARDOUS MATERIALS REGULATIONS BOARD. *See* Hazardous Materials Regulations Board.
INDUSTRY REVIEW COMMITTEES, Puerto Rico and Virgin Islands. *See* Wage and Hour Division.
INTERAGENCY CIVIL DEFENSE COMMITTEE, organization and functions 10671
INTERGOVERNMENTAL RELATIONS, ADVISORY COMMISSION ON. *See* Advisory Commission on Intergovernmental Relations.
INTERNATIONAL JOINT COMMISSION—UNITED STATES AND CANADA. *See* International Joint Commission—United States and Canada.
MARITIME SUBSIDY BOARD. *See* Maritime Administration.
MISSILE SITES LABOR COMMISSION, termination (Executive Order 11374) 14199

Committees, Boards, etc.—Continued Page

MIXED CLAIMS COMMISSION, United States and Germany; payment of unclaimed interest on certain awards 6512, 7947
MOHAIR COUNCIL OF AMERICA, INC., agreement, referendum. *See* Agriculture Department.
MOTOR CARRIER SAFETY and Hazardous Materials Regulations, Advisory Committee for Promotion of Compliance with; creation 8777
NATIONAL ADVISORY COUNCIL ON ECONOMIC OPPORTUNITY, authority delegation from Director, Economic Opportunity Office, to General Services Administrator 8051
NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE, appointment of chairman 8256
NATIONAL POWER SURVEY REGIONAL ADVISORY COMMITTEES, continuation 21045
NATIONAL TRANSPORTATION SAFETY BOARD. *See* National Transportation Safety Board.
NEW ENGLAND RIVER BASINS COMMISSION, establishment (Executive Order 11371) 12903
PACIFIC NORTHWEST RIVER BASINS COMMISSION, establishment (Executive Order 11331) 3875
PEST CONTROL, FEDERAL COMMITTEE ON. *See* Federal Committee on Pest Control.
POLITICAL ACTIVITY OF GOVERNMENT PERSONNEL, COMMISSION ON. *See* Commission on Political Activity of Government Personnel.
POSTAL ORGANIZATION, President's Commission on. *See* President's Commission on Postal Organization.
PRESIDENT'S COMMITTEE ON CONSUMER INTERESTS, organization and functions 12813
RIVER BASIN COMMISSIONS:
Establishment. *See specific commissions.*
Federal participation. *See* Water Resources Council.
SOURIS-RED-RAINY RIVER BASINS COMMISSION, establishment (Executive Order 11359) 8851
TRADE INFORMATION COMMITTEE, public hearings:
Notice of April 22, 1967 6429
Supplemental notice, Office of Special Representative for Trade Negotiations 6534
Venezuelan tariff concessions, renegotiation 3323

Committees, Boards, etc., Presidential:

AGING, PRESIDENT'S COUNCIL ON; membership (Executive Order 11376) 14545
BOARDS OF INQUIRY. *See* Inquiry, boards of.
CIVIL DISORDERS, NATIONAL ADVISORY COMMISSION ON; establishment (Executive Order 11365) 11111
CONSUMER ADVISORY COUNCIL, membership and functions (Executive Order 11349) 6759
CONSUMER INTERESTS, PRESIDENT'S COMMITTEE ON; membership and functions (Executive Order 11349) 6759
COST REDUCTION, PRESIDENT'S ADVISORY COUNCIL ON; establishment (Executive Order 11353) 7623
EMERGENCY BOARDS to investigate labor disputes. *See* National Mediation Board.
PENNSYLVANIA AVENUE, TEMPORARY COMMISSION ON; membership (Executive Order 11347) 6333
POSTAL ORGANIZATION, PRESIDENT'S COMMISSION ON; establishment (Executive Order 11341) 5765
QUETICO-SUPERIOR COMMITTEE, reestablishment (Executive Order 11342) 5827
RECREATION AND NATURAL BEAUTY, PRESIDENT'S COUNCIL ON; membership (Executive Order 11359A) 10049
SCIENCE AND TECHNOLOGY, FEDERAL COUNCIL FOR; membership (Executive Order 11381) 15629
YOUTH OPPORTUNITY, CITIZENS ADVISORY BOARD; establishment (Executive Order 11330) 3871
YOUTH OPPORTUNITY, PRESIDENT'S COUNCIL ON; establishment (Executive Order 11330) 3871

Commodity Credit Corporation:

AUTHORITY DELEGATIONS:
By Agricultural Stabilization and Conservation Service Administrator to Treasurer and Assistant Treasurer; claims collection 6003
By Executive Vice President to Vice President; certain indebtedness of farmers 624

Commodity Credit Corporation—Continued Page

CASH PAYMENTS for exports:
Tobacco 4491
Wheat flour (GR–346) 3610, 6342
CONTRACT DISPUTES BOARD, rules; manner of filing appeals and hearings 7583
COOPERATIVE MARKETING ASSOCIATIONS, price-support programs; eligibility requirements 3688, 7123, 7699, 8365
EMERGENCY PROGRAM, feed grain for livestock 14372
Donation to Indian livestockmen in distress area of New Mexico 20889
EXPORTS:
Cash payment:
Tobacco 4491
Wheat flour (GR–346) 3610, 6342
Credit sales program 6496, 6836, 7437, 11416, 18018
Payment-in-kind:
Flaxseed (PS–GR–4), 7699.
Linseed oil (PS–GR–4), 7699.
Rice (GR–369), 5462.
Wheat (GR–345), 6237, 6281, 14739, 16351.
FARM STORAGE FACILITIES, farm storage and drying equipment loan program 9510, 17868, 20839
JUTE BAGGING AND BALE TIES used in wrapping cotton; specifications 3231
LOAN PROGRAMS:
Cotton 6967, 9302, 14548, 19156
1966 crop, 5671, 7139.
1967 crop, 7386, 7699, 9218.
Tobacco:
1966 crop; Puerto Rican, 9626.
1967 crops:
Burley, dark air-cured, flue-cured, Virginia fire-cured and sun-cured, 9613, 10249, 11416, 14203, 14273, 15633, 18145.
Connecticut Valley:
Broadleaf, 17849.
Havana seed, 17850.
Kentucky-Tennessee fire-cured, 15633.
New York and Pennsylvania Havana seed, 17850.
Ohio filler, 17849.
Wisconsin, northern, 17850.
Tung oil:
1967 crop, 10763.
LOAN AND PURCHASE PROGRAMS:
1966 and subsequent crops:
Barley, 9151.
Corn, 13046, 13444.
Flaxseed, 2883, 8578.
Grain sorghum, 8124, 9302, 13962.
Oats, 7961.
Rice, 6342, 10057.
Rye, 9151.
Soybeans, 11376.
Wheat, 7961, 9612.
1967 and subsequent crops:
Barley, 10052.
Beans, dry, edible, 11928, 12176.
Corn, 13046, 13444, 13805, 15706.
Flaxseed, 9007, 11848.
Grain sorghum, 9824, 11848, 13962.
Oats, 6615, 7522, 8283.
Peanuts, 9950, 10910, 12744, 12745, 14151.
Rice, 5829, 15672.
Rye, 10502, 11928.
Soybeans, 12046, 12744, 14096.
Wheat, 8283, 10719.
PAYMENT-IN-KIND. *See* Exports: payment-in-kind.
PAYMENT PROGRAMS:
Mohair, 4568, 16391.
Wool, 4568, 16691.
PRICE-SUPPORT PROGRAMS:
Nonfat dry milk 14647
Participation in pools of CCC price-support loans; interest rate:
Commercial banks, certain commodities 122, 3339, 5462, 6342, 10431, 13713, 16528
Financial institutions, cotton 122, 235, 3340, 5462, 6342, 10431, 13714, 16528

Commodity Credit Corporation—Continued

PRICE-SUPPORT PROGRAMS—Continued
Sales of certain commodities acquired through price-support operations; monthly sales list:
1966, December, 16.
1967:
January, 154.
February, 3455.
March, 3839.
April, 5568, 6457.
May, 6985, 7602.
June, 8043.
July, 10000.
August, 11339.
September, 12805.
October, 13968, 14164.
November, 15497.
December, 17491.
Various commodities:
Barley, 122, 235, 3339, 5462, 6342, 6584, 7843, 9301, 10431, 10718, 10910, 13376, 13713, 16528, 17899.
Beans, dry, edible, 122, 235, 3339, 5462, 6342, 6584, 7843, 10431, 10718, 10910, 13376, 13713, 16528, 17899.
Butterfat, 5767.
Corn, 122, 235, 3339, 5462, 6342, 6584, 7843, 9301, 10431, 10718, 10910, 13376, 13713, 16528, 17899.
Cotton, 122, 235, 3339, 3340, 5462, 6342, 10431, 13713, 13714, 16528.
Flaxseed, 122, 235, 3339, 5462, 6342, 6584, 7843, 10431, 10718, 13376, 13713, 16528, 17899.
Grain sorghum, 122, 235, 3339, 5462, 6342, 6584, 7843, 9301, 10431, 10718, 10910, 13376, 13713, 16528, 17899.
Grains, 122, 235, 3339, 5462, 6342, 7843, 9301, 10431, 10718, 10910, 13376, 13713, 16528.
Honey, 122, 235, 3339, 5462, 6342, 6967, 7844, 10431, 13713, 16528, 17899.
Milk, 5767.
Naval stores, gum, 1084.
Oats, 122, 235, 3339, 5462, 6342, 6584, 7843, 9301, 10431, 10718, 10910, 13376, 13713, 16528, 17899.
Peanuts, 122, 235, 3339, 5462, 6342, 10431, 13713, 16528, 17899.
Rice, 122, 235, 3339, 5462, 6342, 6584, 7843, 10431, 10718, 13376, 13713, 16528, 17899.
Rye, 122, 235, 3339, 5462, 6342, 6584, 7843, 9301, 10431, 10718, 10910, 13376, 13713, 16528, 17899.
Soybeans, 122, 235, 3339, 5462, 6342, 6584, 7843, 9301, 10431, 10718, 10910, 13376, 13713, 16528, 17899.
Tung oil, 122, 235, 3339, 5462, 6342, 10431, 13713, 16528, 17899.
Wheat, 122, 235, 3339, 5462, 6342, 6584, 7843, 9301, 10431, 10718, 10910, 13376, 13713, 16528, 17899.
PURCHASE PROGRAMS:
Cottonseed oil and meal:
1967 crop, 8884.
Texas flaxseed:
1967 crop, 7246.
RESEAL LOAN PROGRAMS:
1965 and subsequent storage periods:
Barley, 5767, 6021, 15632.
Beans, dry, edible, 5767, 6021, 15632.
Corn, 365, 5767, 6021, 15632.
Flaxseed, 5767, 6021, 15632.
Grain sorghum, 5767, 6021, 15632.
Grains, 5767, 6021, 15632.
Oats, 5767, 6021, 15632.
Rice, 5767, 6021, 15632.
Rye, 5767, 6021, 15632.
Soybeans, 5767, 6021, 15632.
Wheat, 5767, 6021, 15632.
1967–68 storage period:
Barley, 7698.
Corn, 7698.
Grain sorghum, 7698.
Oats, 7698.
Soybeans, 7698.
Wheat, 7698.
SALES of agricultural commodities. *See under* Price-support programs.
WAREHOUSES, Federally licensed:
Standards for approval:
Beans, dry, edible; grain, rice, and seeds 3339
Bulk oils (cottonseed, linseed, tung, etc.) 43, 14099
Peanuts 20767
Storage loans:
Due date 6584
Peanuts, 1967 crop 9950, 10910, 13504

Commodity Exchange Authority:

COMMODITY EXCHANGE ACT:
Definition of "floor trader" 1042, 4026, 7593
4026, 7592
Records of cash commodity and futures transactions 1042, 4026, 7593
ORGANIZATION AND FUNCTIONS 9648

Communications-Satellite Facilities:

See Federal Communications Commission.

Communist Areas:

PURCHASES FROM, procurement regulations. *See* Army Department; Defense Department; Veterans Administration.

Comptroller of Currency:

CAPITAL STRUCTURE, changes; exchange of shares 6022
CEASE AND DESIST ORDERS, proceedings relating to 6687, 11136
CORPORATE SAVINGS ACCOUNTS, interpretation; rescinded 11074
FEES, assessment, national and District of Columbia banks; daily rate for special examinations and investigations 276
FINANCIAL STATEMENTS, form and content 2640, 7070
INFORMATION:
Availability to public 9513
Proxy solicitation, information to be furnished stockholders 13962
INSURED BANKS, joint call for report of condition 290, 6810, 10228, 14243
INVESTMENT SECURITIES, eligibility of specific bond issues for purchase by national banks:
Alaska State Housing Authority state lease revenue bonds, 9800.
Bergen County Sewer Authority (New Jersey), 16391.
Campbell County Utilities and Service Authority, 13400.
Carlsbad Building Authority revenue bonds (California), 17574.
Cudahy Civic Center Authority revenue bonds, 12936.
Downey, city of, Community Hospital Authority, 12850.
Indiana school building corporations, 4342.
Los Angeles County-West Covina Civic Center Authority:
Citrus district courthouse revenue bonds, 11945.
West Covina administrative and police buildings revenue bonds, 10432.
Memphis TVA lease rental revenue bonds, 720.
New York State Housing Finance Agency, 3687.
Northwest Houston Water Supply Corp., water and sewer improvement bonds, Series 1967; 17926.
Ohio, State of, highway improvement bonds, 406.
Orange County Juvenile Hall Lease Corporation leasehold mortgage bonds, 2499.
Orange County-Westminster Civic Center Authority city building facilities revenue bonds, 3687.
Pennsylvania, Commonwealth of, General State Authority and State Highway and Bridge Authority, 721.
Pittsburgh Urban Redevelopment Authority residential land reserve fund bonds, 13805.
Redevelopment Agency of City of Vallejo Marina Vista Project area parking lease revenue bonds, 11944.
San Carlos Civic Center Authority lease revenue bonds, 11944.
Santa Clara County Building Authority 1967 revenue bonds, series A, 9061, 11370.
Tennessee State School Bond Authority higher educational facilities bonds, 9062.
Thomaston-Upson County office building revenue bonds, 11944.
Upland, city of, Parking Authority parking revenue bonds (California), 15918.
Upland Civic Center Building Authority revenue bonds (California), 15918.
Visalia Area Hospital Authority revenue bonds (California), 15544.
Wisconsin University Building Corporation and Wisconsin State Agencies Building Corporation, 20945.
NEW NATIONAL BANKS, use of registration statements and offering circulars; proposed rules 20657
ORGANIZATION AND FUNCTIONS 9513
Controller, order of succession 5215
PROXY SOLICITATION:
Information to be furnished stockholders 13962
Nominees for directors, removal of requirements regarding age 3090

Comptroller of Currency—Continued

REPORTS:
Annual, to stockholders 2642, 7070
Ownership, by certain persons, definition, beneficial ownership 12972, 17468

Conduct Standards:

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS, 203.
AGENCY FOR INTERNATIONAL DEVELOPMENT, 11641, 17454.
AIR FORCE DEPARTMENT, 13000.
ATOMIC ENERGY COMMISSION:
Consultants, 7717.
Contractors, 15922, 17542.
Employees, 13650.
CANAL ZONE, 15831.
CIVIL AERONAUTICS BOARD, 13052.
CIVIL RIGHTS COMMISSION, 272, 3642, 4067, 14569.
CIVIL SERVICE COMMISSION, 6381, 11113.
COMMERCE DEPARTMENT, 15222.
DEFENSE DEPARTMENT, 12179.
Contractor, 10268.
DISTRICT OF COLUMBIA REDEVELOPMENT LAND AGENCY, 17573.
ECONOMIC OPPORTUNITY OFFICE, 13965.
EMERGENCY PLANNING OFFICE, 20722, 20726.
EXPORT-IMPORT BANK OF WASHINGTON, 13758.
FARM CREDIT ADMINISTRATION, 13051, 17652.
FEDERAL COAL MINE SAFETY BOARD OF REVIEW, 13809.
FEDERAL COMMUNICATIONS COMMISSION, 13497.
FEDERAL DEPOSIT INSURANCE CORPORATION, 13963.
FEDERAL HOME LOAN BANK BOARD, 14817.
FEDERAL MARITIME COMMISSION, 13969.
FEDERAL POWER COMMISSION, 15230.
FEDERAL TRADE COMMISSION, 13272.
FOREIGN CLAIMS SETTLEMENT COMMISSION, 13507.
GENERAL SERVICES ADMINISTRATION, 15023.
HOUSING AND URBAN DEVELOPMENT DEPARTMENT, 18921.
INDIAN CLAIMS COMMISSION, 20856.
INTERIOR DEPARTMENT, 3701.
JUSTICE DEPARTMENT, 9066, 13217.
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, 9584, 14648.
NATIONAL CAPITAL HOUSING AUTHORITY, 14547.
NATIONAL FOUNDATION ON ARTS AND HUMANITIES, 17651, 17663.
NATIONAL GALLERY OF ART, 18222.
NATIONAL LABOR RELATIONS BOARD, 13580.
NATIONAL MEDIATION BOARD, 15627.
NAVY DEPARTMENT, 20719.
POST OFFICE DEPARTMENT, 11785, 12115, 17479, 17860.
RAILROAD RETIREMENT BOARD, 15471.
RENEGOTIATION BOARD, 13187.
SECURITIES AND EXCHANGE COMMISSION, 3761.
SELECTIVE SERVICE SYSTEM, 14947.
SMALL BUSINESS ADMINISTRATION, 14988.
STATE DEPARTMENT, 11641, 17454.
SUBVERSIVE ACTIVITIES CONTROL BOARD, 20609.
TARIFF COMMISSION, 16310.
TENNESSEE VALLEY AUTHORITY, 13177.
TREASURY DEPARTMENT, 13767.
UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY, 12944.
UNITED STATES INFORMATION AGENCY, 11641, 17454.
WITHOUT-COMPENSATION EMPLOYEES, statements of financial interests. *See* Civil Service Commission; Commerce Department; Interior Department; Interstate Commerce Commission.

Conflict of Interest:

See Conduct standards.

Congressional Committees:

INSPECTION OF TAX RETURNS. *See* Taxes.

Conscientious Objectors:

SELECTIVE SERVICE SYSTEM regulation (Executive Order 11350) 6961
UTILIZATION, and procedures for processing requests for discharge based on conscientious objection 6777

Conservation Programs:

See Agriculture Department.

Constitutional Amendment:

SUCCESSION to Presidency and Vice Presidency 3287

Construction Contracts:

See also Procurement
NONDISCRIMINATION in employment of women under contracts involving Federal aid (Executive Order 11375) 14303

Consumer Advisory Council:

MEMBERSHIP AND FUNCTIONS (Executive Order 11349) 6759

Consumer Interests, President's Committee on:

MEMBERSHIP AND FUNCTIONS (Executive Order 11349) 6759
ORGANIZATION AND FUNCTIONS 12813

Continental Shelf, Outer:

CONSERVATION JURISDICTION in undisputed areas. *See* Interior Department.
OIL AND GAS LEASING. *See* Land Management Bureau.
SALT LEASING. *See* Land Management Bureau.

Copper and Substitutes:

EXPORT CONTROL. *See* International Commerce Bureau.
RESTRICTION ON USE 11587
SET-ASIDE PERCENTAGES. *See* Business and Defense Services Administration.

Copyright Extension:

GERMANY (Proclamation 3792) 10341

Copyright Office:

RECORDS and information, inspection and copying 9314

Corn:

CANNED, identity standard, optional ingredients. *See* Food and Drug Administration.
CROP INSURANCE. *See* Federal Crop Insurance Corporation.
CROPLAND ADJUSTMENT, etc. *See* Agriculture Department.
RESEAL LOAN PROGRAMS, etc. *See* Commodity Credit Corporation.

Corn-Grain Silage:

CROP INSURANCE. *See* Federal Crop Insurance Corporation.

Cost Reduction, President's Advisory Council on:

ESTABLISHMENT (Executive Order 11353) 7623

Cotton:

CROP INSURANCE. *See* Federal Crop Insurance Corporation.
MARKETING QUOTAS, acreage allotments, etc. *See* Agriculture Department.
PRICE-SUPPORT PROGRAM, etc. *See* Commodity Credit Corporation.
SEASONAL INDUSTRY. *See* Wage and Hour Division.

Cotton Textiles:

IMPORT RESTRICTIONS. *See* Interagency Textile Administrative Committee.

Cottonseed:

INSPECTION standards, etc. *See* Agriculture Department.
PROCESSING INDUSTRY, seasonal nature 10601, 12675
SEASONAL INDUSTRY. *See* Wage and Hour Division.
WAREHOUSES, standards for approval. *See* Commodity Credit Corporation.

Cottonseed Oil and Meal:

PURCHASE PROGRAM, etc. *See* Commodity Credit Corporation.

Councils: Page

See Committees, boards, etc.; Committees, boards, etc., Presidential.

Cranberries:

MARKETING. *See* Agriculture Department.

Cranberry Juice Cocktail, etc.:

IDENTITY STANDARDS. *See* Food and Drug Administration.

Credit Unions:

See Federal Credit Unions Bureau.

Crop Insurance:

See Federal Crop Insurance Corporation.

Cropland Adjustment Program:

See Agriculture Department.

Cuba:

ASSETS CONTROL REGULATIONS. *See* Treasury Department.
PURCHASES FROM, Defense Department procurement regulation ---- 516
TRAVEL restricted to, in, or through Cuba for U.S. citizens ---- 4140
VESSELS, free world and Polish flag, arriving since January 1, 1963. *See* Maritime Administration.

Cucumbers, Greenhouse, etc.:

STANDARDS FOR GRADES. *See* Agriculture Department.

Cultural and Educational Exchanges With Foreign Countries:

FUNCTIONS (Executive Order 11380) ---- 15627

Customs Bureau:

AIR COMMERCE regulation, Houlton Municipal Airport, Houlton, Maine; designation as international airport ---- 3294
AIR POLLUTION control, new motor vehicles and engines, importation ---- 11946
ALCOHOLIC BEVERAGES:
Export, foreign landing certificate required; proposed rule ---- 8916, 11803
Imports on vessels of not over 500 tons; Anti-Smuggling Act, 1935 ---- 12557
ANTIDUMPING ACT, 1921:
Determinations, certain imports:
See also Treasury Department.
Beta-oxy-Naphthoic acid:
Japan, 17676.
West Germany, 17676.
Cod fillets; Canada, 12626.
Color television picture tubes; Netherlands, 20783.
Dartboards and dartgames; England, 737.
Electronic receiving tubes (except television picture tubes); Japan, 14067.
Grapes, Concord; Canada, 14607.
High speed steel twist drills; Japan, 10869.
Ice skate blades; Japan, 3579.
Pig iron:
Czechoslovakia, 2901, 3366.
East Germany, 955.
Romania, 3404, 3945.
U.S.S.R., 955.
Potassium chlorides; Canada, 13014.
Reproduction cloth; England, 3472.
Resistors, fixed, of carbon composition; Japan, 14780.
Soil pipe, cast iron; Poland, 15155.
Tetramethylthituram disulfide; Netherlands, 561.
Thiourea; West Germany, 3579, 9113.
Titanium sponge; U.S.S.R., 16170.
Proceedings, availability of information ---- 9533
Procedure under Act, etc., proposed rules ---- 14955
APPRAISEMENT:
Antidumping Act, 1921, procedures under; proposed deletion ---- 14955

Customs Bureau—Continued Page

APPRAISEMENT—Continued
Antidumping proceedings, availability of information ---- 9533
Concord grapes from Canada, appraisement withheld ---- 14780
Japan, merchandise exported from, information concerning values; proposed rule ---- 13514
Reappraisement, certain television camera components, final list status ---- 13237
ARTICLES CONDITIONALLY FREE, subject to reduced rate, etc.:
Automotive vehicles and articles for use as original equipment in manufacture of automotive vehicles ---- 4569
Educational and scientific institutions, instruments and apparatus ---- 277, 280, 2437
Repair components for scientific instruments and apparatus for nonprofit scientific and educational institutions previously entered duty free, proposed rule ---- 13870
Passengers' baggage:
Examination procedure, collection of duties and taxes; automated appropriation and revenue accounting system ---- 493
Exemptions for returning residents, entry of replacement articles ---- 866
Free entry of personal and household effects of persons in service of United States ---- 4309
Public international organizations entitled to free-entry privileges; certain additions to list ---- 400, 6391, 11733, 15424
Tobacco materials and products, miscellaneous stamp taxes ---- 11764
Visual or auditory materials of educational, scientific, or cultural character ---- 7917, 11640
Warehouses, articles entered or withdrawn from, for consumption on or after February 1, 1967; Educational, Scientific, and Cultural Materials Importation Act of 1966 ---- 6391
Withdrawal of supplies and equipment for vessels; bunker oil ---- 410
AUTHORITY DELEGATIONS:
See also Organization and functions.
By Commissioner to Regional Commissioners; settlement of claims ---- 6373, 6651
From Assistant Secretary of Treasury for Administration; publication of advertisements, etc ---- 10756
AUTOMATION of appropriation and revenue accounting system:
Regulations ---- 492
Suspension of effective date ---- 10200
Tabulated questions, answers, and comments ---- 581
BONDS, proposed rules:
Export, requirement of foreign landing certificate for certain alcoholic beverages ---- 8916, 11803
Invoices, nonproduction of documents ---- 12116
BRAND NAME, elimination of use by car, compartment, and package seals approved for official use ---- 17619
COFFEE:
Exports under International Coffee Agreement, bond for certificate of origin or reexport ---- 10867, 13716
Import quotas for nonmember countries of International Coffee Organization ---- 17428
CONTIGUOUS FOREIGN TERRITORY, customs relations with; supplies on international trains, inventory copies ---- 1176
CUSTOMHOUSE BROKERS, records of Commissioner; deleted ---- 9537
CUSTOMS REGIONS, DISTRICTS, PORTS, etc.:
See also Organization and functions.
Agency Service Regions ---- 8025
District:
Laredo and Houston, Tex.; changes in boundaries, 9320, 13571.
Ports of entry:
Boundary, Wash.; designation, 3294.
Champlain-Rouses Point, N.Y.; designation, 9, 3385, 5256.
Chicago, Ill.; extension of limits, 7262.
Frontier, Wash.; designation, 3294.
Kansas City, Mo.; extension of limits, 3006.
Milwaukee, Wis.; extension of limits, 492.
Northport, Wash.; revoked, 3294.
Pittsburgh, Pa.; extension of limits, 11967.
St. Augustine, Fla.; revoked, 7499, 12996.
St. Louis, Mo.; extension of limits, 3006.

Customs Bureau—Continued Page

DUTY-FREE IMPORTATIONS, personal and household effects of persons in service of U.S. ---- 4306, 4309
EDUCATIONAL AND SCIENTIFIC INSTITUTIONS, instruments and apparatus for ---- 277, 280, 2437
Repair components for scientific instruments and apparatus for nonprofit scientific and educational institutions previously entered duty free; proposed rule ---- 13870
ENFORCEMENT of customs and navigation laws:
Certain functions continued by Coast Guard ---- 4349, 4365
Narcotic addicts and violators, border crossings; registration upon departure from and entry into U.S ---- 8093, 11641
Remission or mitigation of certain fines, penalties, and forfeitures by collectors ---- 16528
ENTRY OF IMPORTED MERCHANDISE:
Automated appropriation and revenue accounting system ---- 492
Entry and withdrawal from warehouse for consumption ---- 3008
Informal entries ---- 448
Invoices; proposed rules ---- 12116
Lumber, spruce and pine; additional invoice requirements ---- 4308
Powers of attorney ---- 8719, 12177
Individual appointed as unpaid agent, proposed rule ---- 12481
Tobacco materials and products, miscellaneous stamp taxes ---- 11763
EVIDENCE, Customs agents' reports; court refusal to admit investigation reports made in U.S. ---- 16227
EXAMINATION, MEASUREMENT, TESTING:
Fruit juices, unconcentrated, natural, brix value; proposed rule ---- 7080
Withdrawn ---- 12690
Petroleum and products in bulk, importation ---- 6838
FINANCIAL AND ACCOUNTING PROCEDURES:
Automated accounting system ---- 493, 3741
Collection of customs duties, taxes, etc., Customs Bureau as payee on checks, etc. covering ---- 8025
Proration of overtime charges at airports ---- 7337, 10845
FISH, tariff rate quotas, 1967:
Cod, haddock, etc ---- 955
Tuna ---- 6291
FOREIGN CURRENCIES, rates of exchange:
Ceylon rupee, 20783, 21040.
Finnish markka, 16508, 20783, 21040.
Irish pound, 20783, 21040.
New Zealand dollar, 20783, 21040.
Spanish peseta, 20783, 21040.
United Kingdom pound, 20783, 21040.
INFORMATION, availability of ---- 9533
LIABILITY FOR DUTIES. *See* Entry of imported merchandise, *above*.
LIQUIDATION OF DUTIES:
Antidumping Act, 1921, procedures under; dumping duty, proposed deletions ---- 14955
Automation of appropriation and revenue accounting system ---- 493
Countervailing duties:
Bounty or grant paid or bestowed ---- 13276
Steel units for electrical transmission towers from Italy ---- 6274, 6622
Steel welded wire mesh from Italy ---- 13938
Sugar content of certain articles from Australia ---- 4019, 11033, 13445, 14204, 14205, 15390, 19159
Suspension; internal revenue taxes on cigars, cigarettes, etc ---- 11765
MAIL IMPORTATIONS, cigars, cigarettes, etc ---- 11764
MOTOR VEHICLES:
Air pollution control, new motor vehicles and engines, importation ---- 11946
Articles conditionally free, etc.; automotive vehicles and articles for use as original equipment in manufacture of automotive vehicles ---- 4569
Safety standards, motor vehicles and equipment imported; proposed rule ---- 16432
NARCOTIC ADDICTS AND VIOLATORS, border crossing, registration ---- 8093, 11641
ORGANIZATION AND FUNCTIONS ---- 10106
See also Authority delegations; Customs regions, districts, ports, etc.

Customs Bureau—Continued Page

ORGANIZATION AND FUNCTIONS—Continued
Coast Guard:
Continuation of certain functions by ---- 4349, 4365
Transfer of certain functions ---- 2463
U.S. Code citations ---- 7408
Commissioner, order of succession:
Absence or disability ---- 13873
Enemy attack ---- 6291, 13873
Customs Agency Service ---- 11945, 14100
Customs office in foreign country; St. John, New Brunswick, Canada, operations terminated ---- 14891
Field Audit Staff ---- 11945
Regional Commissioners and District Directors ---- 6062
PACKING, STAMPING, MARKING, etc.:
Country of origin, marking of imported articles or containers as to ---- 2819, 10845, 13863
Imported parts used in assembling fishing rods and reels ---- 11047
Tobacco materials and products, miscellaneous stamp taxes ---- 11764
POTATOES, white or Irish, other than certified seed; tariff rate quota ---- 13598
PROTESTS AND REAPPRAISEMENTS—Antidumping Act, 1921, procedure under; proposed deletions ---- 14955
Appeals and protests, American producers'; procedure ---- 9533
Power of attorney to file protests ---- 8719, 12177
Protest, form of; automated appropriation and revenue accounting system ---- 493
SOVIET ZONES of Germany or Berlin, products from; marking of country of origin ---- 5957
SPECIAL CLASSES OF MERCHANDISE:
Coffee:
Export stamps on certificates of origin, amount of bond and time limit for production of missing certificates ---- 10867, 13716
Import quotas on coffee produced in nonmember countries of International Coffee Organization ---- 17428
Motor vehicles:
Air pollution control ---- 11946
Safety standards, proposed rule ---- 16432
TARIFF CLASSIFICATIONS:
Toilet articles, combined; proposed, 17627.
Typeface projection devices, 4140, 7292.
Wheat flour, second clear, 8729, 15186.
Wool shorn from washed sheepskins, 7921.
TARIFF-RATE QUOTA, 1967:
Fish:
Cod, haddock, etc ---- 955
Tuna ---- 6291
Potatoes, white or Irish, other than certified seed ---- 13598
TRADE FAIRS, entry and disposition of articles under Trade Fair Act, 1959; proposed rules ---- 14768
TRADE NAMES:
Applications:
Harmal Corp., 17985.
United Air Lines, 15839.
Tentative recordation, Beaunit Corporation ---- 13986
TUNA FISH, tariff-rate quota, 1967 ---- 6291
VESSELS:
Documentation:
See also main heading Coast Guard.
Functions, certain, continued by Coast Guard ---- 4349, 4365
Pleasure vessels, optional simplified admeasurement ---- 3389
Qualification as U.S. citizen:
American Zinc Co., 3404.
Rimrock Tidelands, Inc., 1001.
Shell Oil Co., 3026.
In foreign and domestic trades:
Certificates of shipments of alcoholic beverages in vessels of not over 500 net tons ---- 12557, 12750
Coastwise procedure:
Passengers on foreign cruise vessels, shore leave at domestic ports; proposed rule ---- 55, 2819
Transportation of empty cargo vans and shipping tanks by listed vessels:
Finnish, 6339.
Irish, 13186.
Israeli, 7390.
Japanese, 3053.
Philippine, 136.

Customs Bureau—Continued — Page

VESSELS—Continued
In foreign and domestic trades—Continued
Coastwise procedure—Continued
Transportation of empty cargo vans and shipping tanks by listed vessels—Continued
Polish People's Republic, 12660.
South African, 5411.
Crew, passengers; clearances — 13186
Measurement:
Functions, certain, continued by Coast Guard — 4349, 4365
Pleasure vessels, optional simplified admeasurement — 3389
VIRGIN ISLANDS, reimbursable services of customs officers and employees; rates fixed under overtime laws — 10670
WAREHOUSES:
See also under Articles conditionally free.
Bonded, certain alcoholic beverages exported from; proposed rule — 8916, 11803
Smelting and refining, filing of manufacturers' statements — 8134
WARNING LABELS, use of on packages transported in bond and merchandise in transit; proposed rule — 14395

Cyprus:
FOREIGN ASSISTANCE PROGRAM — 2711

D

Dairy Products:
See also Milk and products.
IMPORT INVESTIGATION. *See* Tariff Commission.
IMPORTS, limitation on (Proclamation 3790) — 9803
INDUSTRY, seasonal nature — 674, 10649
MARKETING, etc. *See* Agriculture Department.
PRICE-SUPPORT PROGRAM. *See* Commodity Credit Corporation.

Danger and Restricted Areas:
AIRCRAFT restricted areas over military installations. *See* Federal Aviation Administration.
VESSELS, navigation danger zones. *See* Engineers Corps.

Dangerous Cargoes:
EXPLOSIVES, etc. *See* Coast Guard; Federal Aviation Administration; Interstate Commerce Commission; Saint Lawrence Seaway Development Corporation.

Data Processing:
See General Services Administration.

Dates:
MARKETING. *See* Agriculture Department.

Decorations and Awards:
See also Air Force Department; Defense Department; Maritime Administration; National Aeronautics and Space Administration; Navy Department.
LIFE SAVING MEDALS, regulations (Executive Order 11382) — 16247

Defense Department:
See Air Force Department.
Army Department.
Navy Department.
AIR TRAVEL, commercial; military stand-by authorization; purpose and procedures — 12845
AIR POLLUTION CONTROL — 9969
AIRFIELDS, HELIPORTS, AND SEADROMES, quantity-distance standards and policies for storage of ammunition, explosives, etc — 8089
AIRLIFT SERVICE, single manager assignment — 6291
ARMY AND AIR FORCE RATIONS, regulations, functions of Secretary (Executive Order 11329) — 5321
AUTHORITY DELEGATIONS:
By Deputy Secretary to Commanders of Field Command, Defense Atomic Support Agency, et al.; convene courts-martial — 5475
By Secretary to certain officials:
Assistant Secretary (Manpower); approve interservice transfers of regular officers — 584
Deputy Secretary; powers, etc. of Secretary — 10268

Defense Department—Continued — Page

AUTHORITY DELEGATIONS—Continued
From Fiscal Assistant Secretary of Treasury; issuance of substitute checks — 20717
From General Services Administrator:
Federal Catalog System — 7727
Representation of Federal government before certain commissions:
Interstate Commerce Commission, household goods — 13343
Kansas State Corporation Commission, gas rates — 13343
Montana Public Service Commission, telephone rates — 13350
BANKING INSTITUTIONS serving DoD personnel on military installations — 16426
CARGO UNITIZATION, use of methods — 10431
CLAIMS:
Paternity, against members and former members of armed forces — 52
Processing, single service assignment of responsibility — 11749
COMMERCIAL AIR TRAVEL, military stand-by authorization; purpose and procedures — 12845
COMMUNIST AREAS, foreign purchases from. *See under* Procurement regulations.
CONDUCT STANDARDS:
Certification for work under contract; Licklider, Dr. J. C. R., Massachusetts Institute of Technology — 10268
Gratuities, etc — 12179
CONSCIENTIOUS OBJECTORS, utilization of, and procedures for processing requests for discharge based on conscientious objection — 6771
DECORATIONS AND AWARDS, Service Flag and Lapel Button; description, display, etc — 18087
DEFENSE CONTRACTING:
Commercial or industrial activities, and operation of — 12607, 12675
Contract financing regulations; purpose, application, etc — 11949
Contract funds status reports — 2772
Editorial change — 11382
Engineering and technical services, management and control — 12718
DIRECTIVES, INSTRUCTIONS, AND INDEXES, sale to public — 11780
EAVESDROPPING AND TELEPHONE INTERCEPTION — 13380
EMPLOYEE ORGANIZATIONS, voluntary allotments for payment of dues — 14660
ENGINEERING DATA FILES, purpose, objectives, etc — 8588, 12608
EXPLOSIVES. *See* Airfields, etc.
HIGH SCHOOL recruiting and testing program — 8293
IDENTIFICATION CARDS:
Armed forces members, cards issued to — 9968
Dependents, etc., identification and privilege card issued to — 9968
INFORMATION, availability. *See* Records.
JUSTICE, status of forces policies and information — 5682
MEDICALLY REMEDIAL ENLISTMENT PROGRAM, criteria for selection of applicants and procedures — 7175, 7771
MICHIGAN, restoration of law and order, authority of Secretary (Executive Order 11364) — 10907
MILITARY DEPARTMENTS, responsibilities — 4506, 5569
MILITARY TRAFFIC, land transportation, and common-user ocean terminals; single manager assignment — 6295
OCEAN TRANSPORTATION, single manager assignment — 6300, 11387
ORGANIZATION AND FUNCTIONS:
Armed Services Procurement Regulation Committee — 10518
Defense Communication Agency — 12123, 14781
Defense Contract Audit Agency — 9713
Food Planning Board; establishment — 17627
PATERNITY CLAIMS against members and former members of armed forces — 52
POLLUTION:
Air pollution control — 9969
Water pollution control — 9971
POSTAL SERVICE, military, use of — 11160

Defense Department—Continued — Page

PROCUREMENT REGULATIONS:
Advertising, formal, 502, 4242, 5506, 10158, 12097, 16401.
Appendixes B, C, H, I, and K, 558, 4272, 10180, 16415.
Bonds, insurance, and indemnification, 537, 5509, 10172, 12099, 16406.
Construction contracts and contracting for architect-engineer services, 539, 4266, 5511, 10174, 12101, 16415.
Contracts:
Clauses, 516, 4258, 5508, 10167, 12098, 16405.
Cost principles and procedures, 4260, 5510.
Service, 549, 10174.
Termination, 16406.
Extraordinary contractual actions to facilitate national defense, 539, 4265.
Foreign purchases, 4252, 5508, 16404.
Agreement with Department of Defence Production (Canada), 5508.
Buy American Act, 4252, 10167.
Communist areas; China, North Korea, North Vietnam, or Cuba, 516.
Security, industrial, 5508.
Forms, 539, 4260, 10173, 12101.
General provisions, 499, 4242, 6136, 10157, 10671, 12084, 16398.
Government property, 4260, 10173, 16407.
Interdepartmental and coordinated, 504, 4251, 12096, 16403.
Labor, 538, 4260, 5509, 12099, 16407.
Negotiations, 503, 4242, 5506, 10159, 12097, 16402.
Patents, data, and copyrights, 522, 4260, 10172, 12099.
Quality assurance, 16408.
Security, industrial, 5505, 5508.
Special types and methods, 503, 4251, 10161, 12097, 16403.
Subcontracting policies and procedures, 4268.
Taxes, Federal, State, and local, 537, 12099.
RECORDS:
Availability of information:
Defense Atomic Support Agency — 14552
Defense Communications Agency — 9670
Defense Contract Audit Agency — 9671
Defense Department — 9666, 12102
Defense Supply Agency — 11324
Directives, instructions, and indexes, sale to public — 11780
Medical — 15111
Non-judicial punishment, use of records of; transfer of regulations — 9066
User charges — 6025
RESERVE:
Enlistment and assignment of individuals in reserve components — 7175
Facilities projects — 14760
Ready reserve, active:
Active duty order, authority respecting (Executive Order 11327, 11366) — 2995, 11411
Involuntary order to active duty — 3829, 15112
Retired pay for members of reserve components, notification of eligibility; purpose, applicability, etc — 6393
Subsistence allowance and commutation, uniform rates, in lieu of uniforms for enrolled members of senior ROTC; purpose, applicability, etc — 6488
Uniform training categories and pay groups — 14820
SCHOOL TRANSPORTATION of dependent children — 17619
SCIENTIFIC AND TECHNICAL INFORMATION PROGRAM, standards for documentation of technical reports under — 9066
SECURITY:
See also under Procurement regulations.
Air traffic and air navigation aids security control plan — 15014
Civilian applicant and employee program; authority, applicability, policy, etc — 4114, 5420, 10644
Industrial personnel security clearance program, Screening Board procedures and suspension actions in security violation cases — 14552
SERVICE OF PROCESS, acceptance — 7019
SOLE SURVIVING SONS, assignment and discharge — 17661
SUPPLY SYSTEM, introduction of new clothing and textile items — 11706
TELEPHONE INTERCEPTION AND EAVESDROPPING — 13380
TELEPHONE SERVICE, unofficial, at DoD activties, standard rates — 15019
TIME AND TIME INTERVAL STANDARDS and calibration facilities — 10436

Defense Department—Continued — Page

TIRES, tubes, etc., contracts regarding; required purchases of stockpile natural rubber — 10671
UNIFORMS:
Subsistence allowance and commutation, uniform rates, in lieu of uniforms for enrolled members of senior ROTC; purpose, applicability, etc — 6488
Wearing of by members of and persons honorably discharged from U.S. armed forces; purpose and policy — 6567
VIETNAM, assignments to duty in, policies governing — 6192
VOLUNTARY ALLOTMENTS for payment of dues to employee organizations — 14660
WATER POLLUTION CONTROL — 9971

Defense Electric Power Administration:
AUTHORITY DELEGATION from Secretary of Interior, functions in event of civil defense emergency or attack on United States — 8385

Defense Production Act of 1950:
APPOINTMENTS UNDER (Executive Order 11355) — 7803
WITHOUT-COMPENSATION EMPLOYEES. *See* Civil Service Commission; Commerce Department; Interior Department; Interstate Commerce Commission.

Delaware River Basin Commission:
COMPREHENSIVE PLAN, hearings — 287, 625, 4181, 6227, 7474, 8639, 10685, 11898, 13343, 17497
HYDROELECTRIC POWER POLICY, hearing — 11242
WATER QUALITY STANDARDS, hearing — 4369

Delegations of Authority by the President:
AGRICULTURE SECRETARY (Executive Order 11336) — 4489
BUDGET BUREAU, DIRECTOR (Executive Order 11373) — 13371
CIVIL SERVICE COMMISSION (Executive Order 11348) — 6335
DEFENSE SECRETARY (Executive Order 11327, 11339, 11366) — 2995, 5321, 11411
TREASURY SECRETARY (Executive Order 11368) — 12549

Desserts, Frozen:
IDENTITY STANDARDS, optional ingredients. *See* Food and Drug Administration.
QUALITY STANDARDS. *See* Agriculture Department.

Detroit, Mich.:
RESTORATION OF LAW AND ORDER:
Termination of violence ordered (Proclamation 3795) — 10905
Use of Armed Forces, authority of Secretary of Defense (Executive Order 11364) — 10907

Dewberries:
STANDARDS FOR GRADES. *See* Agriculture Department.

Dietary Foods:
VITAMIN AND MINERAL-FORTIFIED FOODS, identity standards. *See* Food and Drug Administration.

Disasters:
FEDERAL ASSISTANCE, etc. in disaster areas. *See* Agriculture Department; Emergency Planning Office; Land Management Bureau; Small Business Administration.
FISHERY FAILURE due to resource disaster, oyster industry in Texas — 20740
LIVESTOCK FEED:
Indian livestockmen, needy, in New Mexico, donation of feed to — 20889
Transportation to certain areas at reduced rates. *See* Interstate Commerce Commission.
PEACETIME RADIOLOGICAL DISASTER, responsibilities in Agriculture Department — 10269
POST OFFICE COOPERATION with Red Cross during national disasters — 20811

Discrimination: Page
See Nondiscrimination.

District of Columbia:
ACTING COMMISSIONER, order of succession (Executive Order 11379) 15625
AIRSPACE, prohibited areas 15096
GOVERNMENT, reorganization (Reorganization Plan No. 3 of 1967) 11669

District of Columbia Board of Commissioners:
ABOLITION (Reorganization Plan No. 3 of 1967) 11669

District of Columbia Council:
ESTABLISHMENT (Reorganization Plan No. 3 of 1967) 11669

District of Columbia Redevelopment Land Agency:
CONDUCT STANDARDS 17573

Dogs and Cats:
FOOD INDUSTRY, proposed guides 1946, 15715
HUMANE TREATMENT, etc. *See* Agriculture Department.
QUARANTINE in Canal Zone. *See* Canal Zone.

Dominican Republic:
BROADCAST STATIONS. *See* Federal Communications Commission.

Drawbridges:
OPERATION. *See* Coast Guard; Engineers Corps.

Dressings:
STANDARDS OF IDENTITY, optional ingredient. *See* Food and Drug Administration.

Drugs:
ADVERTISING, nonprescription systemic analgesic drugs; proposed rule 9843, 12954, 17601
ANTI-HOG-CHOLERA SERUM, etc. *See* Agriculture Department: viruses, serums, etc.
CERTIFICATION AND TESTS, etc. *See* Food and Drug Administration.
HALLUCINOGENIC, etc., use for nonmedical purposes; criteria respecting access to restricted atomic data 234, 6836
NARCOTICS. *See* Internal Revenue Service; Narcotics Bureau.

E

Eagles:
DEPREDATING GOLDEN, taking to protect livestock. *See* Fish and Wildlife Service.

Eavesdropping:
RESTRICTIONS, etc. by Defense Department personnel engaged in investigations 13380

Economic Development Administration:
DESIGNATION OF AREAS, annual OEDP progress reports 6707
ECONOMIC DEVELOPMENT DISTRICT PROGRAM, annual district OEDP progress report 6708
INFORMATION, availability of 10836, 13340
ORGANIZATION AND FUNCTIONS 10365, 10836, 20745
REGIONAL ACTION PLANNING COMMISSIONS 10365

Economic Opportunity Office:
ASSISTANCE, suspension and termination of 9687
AUTHORITY DELEGATIONS:
By Director to certain officials:
Community Action Program Director, certain functions 1006
General Services Administrator; powers regarding National Advisory Council on Economic Opportunity 6051

Economic Opportunity Office—Continued Page
AUTHORITY DELEGATIONS—Continued
By Director to certain officials—Continued
Health, Education, and Welfare Secretary:
Civil Rights Act, compliance functions under 3908
"Follow Through Program" 9582
Labor Secretary; certain functions under Economic Opportunity Act of 1964 4588
By Director, Community Action Program, to Regional Directors, et al.; grants under Economic Opportunity Act of 1964 1008, 7411
COMMUNITY ACTION PROGRAMS:
Authority delegations and redelegations 1008, 7411
Non-Federal share, increase in 10073
Reallotment of funds 1009
CONDUCT STANDARDS 13985
INFORMATION, availability of 9686

Education and Educational Facilities:
See also Education Office.
ACADEMIC ADMINISTRATIVE PERSONNEL or teacher, employee in bona fide capacity of. *See* Wage and Hour Division.
AIR FORCE OFFICERS, training and schools. *See* Air Force Department.
ARMED FORCES HIGH SCHOOL RECRUITING AND TESTING PROGRAM. *See* Defense Department.
CIVIL SERVICE, education requirements for certain positions. *See* Civil Service Commission.
CULTURAL AND EDUCATIONAL EXCHANGES WITH FOREIGN COUNTRIES, functions (Executive Order 11380) 15627
FM BROADCAST CHANNELS. *See* Federal Communications Commission.
FOREIGN SCHOOLS, libraries, etc., assistance to; authority delegation. *See* Agency for International Development.
INCOME TAXES, expenses for education. *See* Internal Revenue Service.
INSTRUMENTS AND APPARATUS for scientific and educational institutions. *See* Business and Defense Services Administration; Commerce Department; Customs Bureau; Treasury Department.
MERCHANT MARINE ACADEMY and State maritime academies and colleges. *See* Maritime Administration.
MILITARY TRAINING. *See* Air Force Department; Navy Department.
MILK PROGRAM, special, for children; definition of needy schools. *See* Agriculture Department.
NONDISCRIMINATION, assignment of certain functions under Civil Rights Act. *See* Health, Education, and Welfare Department.
PILOT SCHOOLS and other certificated agencies. *See* Federal Aviation Administration.
PUERTO RICO, employment in education industry; special industry committees, etc. *See* Wage and Hour Division.
RADIO BROADCAST SERVICES, etc. *See* Federal Communications Commission.
SCHOOL LUNCH, BREAKFAST, AND NONFOOD ASSISTANCE PROGRAMS. *See* Agriculture Department.
SCHOOL TRANSPORTATION of dependent children of Defense Department civilian and military personnel 17619
SCHOOLS:
Air Force schools. *See* Air Force Department.
Foreign schools. *See* Agency for International Development.
Merchant Marine Academy, etc. *See* Maritime Administration.
Naval Academy. *See* Navy Department.
Payment for recruiting new students, Federal Trade Commission ruling 15919
Pilot schools. *See* Federal Aviation Administration.
Public lands reserved for. *See* Land Management Bureau.
STUDENTS:
Employment at special minimum wages. *See* Wage and Hour Division.
Student pilots, logbook endorsements. *See* Federal Aviation Administration.

Education and Educational Facilities—Con. Page
SURPLUS PERSONAL PROPERTY, allocation and utilization for educational purposes. *See* Health, Education, and Welfare Department.
VETERANS EDUCATION AND VOCATIONAL REHABILITATION. *See* Veterans Administration.
VISUAL OR AUDITORY materials of educational, scientific, or cultural character. *See* Customs Bureau.

Education Office:
ADULT EDUCATION PROGRAMS, financial assistance 6276
AUTHORITY DELEGATION by Commissioner to Director, School Assistance in Federally-affected Areas, Division of 10457
EDUCATIONALLY DEPRIVED CHILDREN, financial assistance to meet special educational needs 2742
HANDICAPPED CHILDREN, education of; grants to States 11434
HIGHER EDUCATION AND EDUCATIONAL FACILITIES:
Allotment ratios for State grants and financial assistance 7541
Low-interest loans to students, adjusted family income 8146
LIBRARIES:
Bureau of Adult, Vocational, and Library Programs 6588
Construction, cooperation, etc., financial assistance 2946
School library resources, textbooks, etc.; financial assistance 2753
ORGANIZATION AND FUNCTIONS 4367, 10476
Bureau of Adult, Vocational, and Library Programs 6588
National Center for Educational Statistics 15597
Research Bureau 14790
SCHOOL CONSTRUCTION, areas affected by Federal activities; cutoff dates for applications 5549, 5813
SCIENCE, MATH, AND LANGUAGE INSTRUCTION:
Private nonprofit schools; financial assistance or loans, definition of industrial arts 4162
Public schools:
Financial assistance, definition of industrial arts 4162
Financial reports, Federal payments, etc 7498
SUPPLEMENTARY EDUCATIONAL CENTERS AND SERVICES 2758
TELEVISION BROADCAST FACILITIES, noncommercial, educational, applications for Federal financial assistance 1141, 3716, 6808, 6990, 8697, 8980, 9176, 10120, 11352, 12633, 12634.
VOCATIONAL EDUCATION ACT of 1963, allotment ratios 58, 15403
VOCATIONAL STUDENTS, low interest loans and direct Federal loans; adjust family income 8146

Eggplant:
FOREIGN QUARANTINE notice 13319

Eggs and Products:
EXPORT REGULATIONS, international mail 12277
IDENTITY STANDARDS, optional ingredient. *See* Food and Drug Administration.
IMPORTATIONS from Taiwan (Formosa), quail eggs, etc., Foreign Assets Control regulations. *See* Treasury Department.
SHELL, standards, etc. *See* Agriculture Department.
WILDLIFE eggs which may be injurious to human beings 10982, 13595, 20655

Emergency Boards:
INVESTIGATION OF LABOR DISPUTES. *See* National Mediation Board.

Emergency Planning Office:
ASPHALT IMPORTS, investigation of effect on national security 6155
BLOOD PROGRAM, NATIONAL EMERGENCY; policy guidance 6032
CIVIL RIGHTS ACT, authority delegation assigning certain responsibilities to Secretary of Health, Education, and Welfare 3029
CONDUCT STANDARDS 20722, 20726

Emergency Planning Office—Continued Page
DISASTER AREAS, Federal assistance:
Alaska, 12570.
California, 292.
Idaho, 13092.
Illinois, 6943.
Kansas, 10950, 11823.
Kentucky, 5530.
Nebraska, 10940, 12979.
New York, 15510.
Texas, 14006, 14351, 14416.
Trust Territory of Pacific Islands, 5530.
West Virginia, 4326, 5806.
DISASTER ASSISTANCE for projects under construction 7628, 12845
HIGH UNEMPLOYMENT AREAS, placement of procurement and facilities in 14388
NATIONAL EMERGENCY BLOOD PROGRAM, policy guidance 6032
PETROLEUM SUPPLY, foreign, voluntary agreement relating to; additions to membership 8780, 10396, 11296
RAILROAD STRIKE, transportation priorities and allocations (Executive Order 11362) 10495
RECORDS, public access to 8757
RUTILE PRODUCTION, domestic; expansion goal 830
SECURITY, NATIONAL, effect of certain imports on:
Asphalt 6155
Watch movements and parts 588
TELECOMMUNICATION RESOURCES during national emergency 790
Prior regulations revoked 788
VOLUNTARY AGREEMENT relating to foreign petroleum supply, additions to membership 8780, 10396, 11296
WATCH IMPORTS, movements and parts; effect on national security 588

Emergency Plans:
BLOOD PROGRAM, NATIONAL EMERGENCY, policy guidance. *See* Emergency Planning Office.
DEFENSE ELECTRIC POWER ADMINISTRATION 8385
PREPAREDNESS PLANNING. *See* General Services Administration.
RADIO COMMUNICATIONS. *See* Federal Communications Commission.
RAILROAD RETIREMENT BOARD, fiscal functions during emergency 3975
TELECOMMUNICATIONS RESOURCES for use during emergency. *See* Emergency Planning Office; Federal Communications Commission; Telecommunications Management, Director.

Employees' Compensation Appeals Board:
CLAIMS, decisions on appeals from determinations 12980

Employees' Compensation Bureau:
CLAIMS for compensation and administrative procedure 2699
COMPENSATION for disability and death, noncitizens outside United States; Australia 10567
FEDERAL EMPLOYEES' COMPENSATION ACT, procedures 6273
ORGANIZATION AND FUNCTIONS, Director 12979

Employment Security Bureau:
AUTHORITY DELEGATION from Assistant Secretary for Manpower; certain immigration functions 13791
EMPLOYMENT COUNSELING 12177
EX-SERVICEMEN, entitlement to unemployment compensation; deletion of certain provisions 3052
FOREIGN LABOR, temporary, for agricultural and logging industry employment; conditions, wage rates, etc 4569
TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION, 1961; revocation of Part 16212
TEMPORARY UNEMPLOYMENT COMPENSATION ACT of 1958, revocation of Part 16211
UNEMPLOYMENT COMPENSATION:
Ex-servicemen 3052, 20974
Federal civilian employees 20969
Revocation of certain regulations 3052, 16211, 16212

Employment Security Bureau—Continued

UNITED STATES EMPLOYMENT SERVICE, cooperation with States:
- Foreign labor, temporary, for agricultural and logging industry employment — 4569
- Interstate recruitment of agricultural workers; housing — 4123, 7701

VETERANS READJUSTMENT ASSISTANCE ACT of 1952, Title IV, revocation of regulations:
- All States — 16211
- Puerto Rico and Virgin Islands — 16211
- States with no agreement with Secretary of Labor — 16211

Employment Service, United States:

See United States Employment Service.

Engineers Corps:

ADMINISTRATIVE PROCEDURE — 17522
- Practice and procedure, etc. — 17522
  - Shipping safety fairways and anchorage areas; Gulf of Mexico — 14392
- Records, availability — 17542

ANCHORAGE REGULATIONS:
- *See also main heading* Coast Guard.
- Florida:
  - Key West Harbor, 4410.
- Virginia:
  - Hampton Roads, 3660.

BRIDGE REGULATIONS:
- *See also main heading* Coast Guard.
- California:
  - Napa River, 3779.
- Delaware:
  - Atlantic Ocean south of Delaware Bay (including Lewes and Rehoboth Canal), 928.
- Florida:
  - Indian Creek, 6137.
- Louisiana:
  - Gulf of Mexico (including coastal waterways and tributaries and Lower Atchafalaya River), 928.
- Maryland:
  - Wicomico River (South Prong), 319.
- Michigan:
  - Rouge River, 319.
  - Short Cut Canal, 319.
- New Jersey:
  - Passaic River, Erie Lackawanna Railroad bridge, 9066.
- Texas:
  - Brays Bayou, 319.
  - Cow Bayou, 5694.
  - Nueces Bay, 319.

DANGER ZONE REGULATIONS:
- California:
  - Pacific Ocean, 5694, 6138.
  - San Pablo Bay, 7594.
- Hawaii:
  - Pacific Ocean at Kauai Island, 271, 611.
- Maryland:
  - Chesapeake Bay, 13678.
  - Potomac River, 3663.
- New Jersey:
  - Atlantic Ocean, 4410.
- Virginia:
  - Potomac River, 3663.

FLOOD CONTROL REGULATION, Wyoming:
- Boysen Dam and Reservoir, Bighorn River, 5694.

LIGHTS for Great Lakes pilot vessels — 3057

NAVIGATION REGULATIONS:
- Arizona:
  - Colorado River, 5666.
- California:
  - Lake Tahoe, 13362.
- Delaware:
  - Delaware River, 4572.
- Louisiana:
  - Gulf of Mexico waterways from St. Marks, Fla., to Rio Grande, 3067.

Engineers Corps—Continued

NAVIGATION REGULATIONS—Continued
- Maryland:
  - Chesapeake Bay, 4572.
  - Magothy River, 6717.
  - Severn River, 10290.
  - South River, 6717.
- Massachusetts:
  - Mystic River, 6716.
- Michigan:
  - Crooked River, 9068.
  - St. Marys Falls Canal and Locks, 10462, 12479.
- Nevada:
  - Colorado River, 5665.
- Washington:
  - Hood Canal, 6717.
  - Puget Sound Area, 13382.

OIL POLLUTION REGULATIONS, transfer to Coast Guard — 14390

RESERVOIR AREAS, public use:
- Connecticut:
  - Colebrook; West Branch, Farmington River, 6933.
  - Hancock Branch; Hancock Brook, 6936.
  - Hop Brook, 6933.
  - Northfield Brook, 6933.
  - West Thompson; Quinebaug River, 6933.
- Idaho:
  - Albeni Falls, Pend Oreille River, 13260.
- Indiana:
  - Huntington; Wabash River, 3742.
  - Mississinewa; Mississinewa River, 3742.
  - Salamonie; Salamonie River, 3742.
- Kentucky:
  - Green River; Green River, 3742.
- Massachusetts:
  - Conant Brook, 6933.
- Oregon:
  - Dalles, Columbia River, 13260.
  - Fall Creek, 3742.
  - Foster, South Santiam River, 3742.
  - Green Peter, Middle Santiam River, 3742.
  - John Day, Columbia River, 13260.
  - McNary, Columbia River, 13260.
- Tennessee:
  - J. Percy Priest, Stones River, 15989.
- Washington:
  - Chief Joseph, Columbia River, 13260.
  - Dalles, Columbia River, 13260.
  - Ice Harbor, Snake River, 13260.
  - John Day, Columbia River, 13260.
  - McNary, Columbia River, 13260.

Engraving and Printing Bureau:

AUTHORITY DELEGATIONS from certain officials; appointment of uniformed guards as special policemen, etc.:
- Special Assistant to Secretary of Treasury (for Enforcement) — 14698
- Under Secretary of Treasury — 17490

DIRECTOR, designation by Secretary of Treasury — 14162
INFORMATION, availability — 17546
ORGANIZATION AND FUNCTIONS — 17546

Environmental Science Services Administration:

See Coast and Geodetic Survey.
Weather Bureau.

AUTHORITY DELEGATION from Secretary of Commerce; negotiation of contracts, prior delegation revoked — 11810

INFORMATION:
- Availability of — 13184, 13680
- Environmental — 16257

INTERNATIONAL AFFAIRS; training, foreign visitors — 16257

ORGANIZATION AND FUNCTIONS:
- Field organization — 13339
- General Staff offices — 3405
- Research laboratories — 16288
- Weather Bureau — 10271

TRANSFER OF REGULATIONS — 16257

Equal Employment Opportunity:

WOMEN (Executive Order 11376) — 14303

Equal Employment Opportunity Commission:

FLIGHT CABIN ATTENDANTS, sex as occupational qualification; hearing — 10228, 11050
ORGANIZATION AND FUNCTIONS — 16542
RECORDS AND REPORTS:
- Apprenticeship and labor organization reporting and recordkeeping requirements — 2852, 2364, 7635, 10650
- Apprenticeship schedule; proposed rule, hearing — 14404
- Employer reporting requirements, filing report; extension of deadline — 3100
- Availability of information — 16261, 16491

RELIGIOUS HOLIDAYS and observance of Sabbath, guidelines — 7092, 10298
SEX, guidelines on discrimination because of:
- Flight cabin attendants — 10228, 11050
- Job opportunities advertising, proposed rules — 5999, 6941

Equal Opportunity:

See Nondiscrimination.

Ethical Standards:

See Conduct standards.

European Space Research Organization:

PRIVILEGED INTERNATIONAL ORGANIZATION:
- Customs Bureau regulation — 409
- Designation, effective date (Executive Order 11351) — 7561

Executive Office of the President:

See Budget Bureau.
Economic Opportunity Office.
Emergency Planning Office.
National Aeronautics and Space Council.
Science and Technology Office.

Executive Orders:

See Presidential documents.

Explosives:

AIRFIELDS, storage at, standards. *See* Defense Department.
TRANSPORTATION, storage, etc. *See* Coast Guard; Federal Highway Administration; Hazardous Materials Regulations Board; Interstate Commerce Commission; Transportation Department.

Export Control:

See International Commerce Bureau.

Export-Import Bank of Washington:

CONDUCT STANDARDS — 13758

Exports:

See Imports and exports.

F

Fair Packaging and Labeling Act:

See Commerce Department; Federal Trade Commission; Food and Drug Administration; Internal Revenue Service.

Fallout Shelters:

ADVERTISING GUIDES, trade practice rules. *See* Federal Trade Commission.

Farm Credit Administration:

AUTHORITY DELEGATIONS by Governor to Deputy Director of Cooperative Bank Service, et al.; act as Deputy Governor and Director — 5592
BANKS FOR COOPERATIVES:
- Capital stock, surplus, reserves — 20842
- Loans:
  - Interest rates on — 20703
  - Policies — 20842

CONDUCT STANDARDS, personnel — 13051, 17652
FEDERAL INTERMEDIATE CREDIT BANKS; loans and discounts:
- Financing institutions — 5415, 5543
- Notes given to merchants not eligible, revocation — 12106

Farm Credit Administration—Continued

FEDERAL LAND BANKS:
- Associations; election of directors — 4157
- Credit life insurance and future payment funds — 4157
- Interest rates on loans — 20703

FEES AND CHARGES ON LOANS; associations and banks — 4158
INFORMATION AND RECORDS:
- Availability for public inspection — 12710
- Generally — 12710

PRODUCTION CREDIT ASSOCIATIONS; loans to members, stockholder endorsements — 3740

Farmers Home Administration:

ACCOUNT SERVICING, routine; loans and security — 8064
DEVELOPMENT WORK, planning and performing; design policies and construction contracts — 9828
FARM PURCHASE AND DEVELOPMENT LOANS to individuals:
- Farm ownership loans, redesignation — 7171
- Land conservation and development loans; eligibility, etc — 7171
- Soil and water loans, redesignation — 7171

GENERAL:
- Bonds and notes for insured association and organization loans — 9082
- Development work, planning and performing:
  - Associations, design policies, etc — 8235
  - Individuals, redesignation — 8235
- Insured loans; loan checks, notes, etc — 8366

INFORMATION, availability — 9614
ORGANIZATION AND FUNCTIONS — 6650
- FHA functions, and functions reserved by Secretary of Agriculture — 9152

PRODUCTION LOANS:
- Economic opportunity loans to individuals — 11929
- Operating:
  - Loan processing — 14373
  - Policies and authorities — 14373

REAL ESTATE LOANS AND GRANTS:
- Association loans and grants for community facilities, development, etc.:
  - Advances for planning — 9009
  - Comprehensive area plans for water and sewer systems, grants for preparation of — 9010
  - Economic opportunity cooperative loans — 9011
  - Loan and grant closing, insurance endorsements — 9304
  - Resource conservation and development loans — 11425
  - Rural renewal assistance — 11621
  - Soil and water facilities, waste disposal, etc — 8367
  - Timber development organization loans — 9016
  - Watershed loans, revised and transferred — 11417
- Rural housing loans and grants:
  - Cooperative housing — 12398
  - Rental housing — 11757

SECURITY SERVICING AND LIQUIDATIONS; real estate — 8066
- Acquired farm and nonfarm real estate, management and sale — 8290

SOIL AND WATER LOANS. *See* Real estate loans and grants.

Federal Aviation Administration:

ACCIDENTS:
- *See also main headings* Civil Aeronautics Board; National Transportation Safety Board.
- Cockpit voice recorders, automatic stop for retention of recorded information in event of accident — 13913
- Collisions, near midair, reports of; policy statement — 16539

ADVISORY CIRCULAR CHECKLIST, current circulars as of Sept. 15, 1967 — 16352
AGRICULTURAL AIRCRAFT OPERATIONS; proposed rules:
- Certification rules — 7184
- Definition, "agricultural aircraft operation" — 7184
- Fees — 6318
- Operating rules; economic poison dispensing, hazardous dispensing, etc — 7184

AIR CARRIERS and commercial operators of large aircraft:
- Aircraft requirements; proposed rules:
  - Alaska, C-82 operations — 13722
  - Proving tests — 14777

Federal Aviation Administration—Continued Page

AIR CARRIERS and commercial operators of large aircraft—Continued
- Altitude warning devices; proposed rule 2860
- Cockpit voice recorders 5770, 13913
- Dispatching and flight release rules:
  - Authority by pilot in command, operational plan; proposed rule 12405, 15676
  - Weather conditions, etc. 6941, 7219, 13912
  - IFR landings, pilot in command experience requirements, proposed rule 11169
- Fees 6318, 12050
- Flight maneuvers; proficiency and certain other flight checks and requirements 260, 5985, 7705, 14550, 16481
- Flight operations; minimum altitudes:
  - Automatic pilot, approaches for use of 13912
  - Controls, admission to flight deck; "Civil Aeronautics Board" replaced by "National Transportation Safety Board" 5769
  - Operational plan system, responsibility 12405, 15676
  - Special VFR weather minimums in control zones; fixed-wing aircraft, proposed rule 14334, 14565
- Instrument and equipment requirements:
  - Cockpit voice recorders 5770, 13913
  - Emergency flotation equipment 3223
  - Emergency passenger evacuation 13255, 14930
  - Flight recorders:
    - "Civil Aeronautics Board" replaced by "National Transportation Safety Board" 5769
    - Correlation tests 17889
    - Parameters, additional; proposed rule 3226
  - Mechanical reliability reports 5770
- Maintenance, preventive maintenance, etc. *See* Maintenance, etc. *below.*
- Records and reports; load manifest, flight release, flight and operational plans 12405, 15676
- Supplemental air carrier operating certificates, duration 6271
- Training, programmed hours; certain aircraft, proposed rule 11477
- Travel clubs, certification and operation; proposed rule 10311, 12922

AIR NAVIGATION:
- Altitude minimums for instrument flight. *See* Instrument flight rules.
- Approach procedures. *See* Instrument flight rules.
- Construction or alteration of structures. *See* Airspace.
- Control areas and zones on Federal airways, designation of. *See* Federal airways, etc.
- Jet routes. *See* Jet routes.
- Obstructions, construction of. *See* Airspace.
- Reporting points, on Federal airways. *See* Federal airways, etc.
- Restricted areas. *See* Restricted areas.

AIR TAXI and commercial operators, small aircraft:
- Airman's information manual 6563
- Category II operations; second in command required 6908
- Compensation or hire with small aircraft and certain large aircraft, proposed rule 4500
- Fees, proposed rule 6318
- IFR; takeoff, approach and landing minimums, establishing minimum descent altitudes and decision heights 6941, 7219, 13913
- Operable condition 8405
- Pilot checks, applicability of grace provision 6563

AIR TRAFFIC AND GENERAL OPERATING RULES:
- *See also* Instrument flight rules.
- Airport traffic patterns, special; terminal areas:
  - Portland, two-way radio communications:
    - Columbia River Seaplane Base, Vancouver, Washington 12747
    - Portland International Airport, Pearson Airpark 12747
  - Valparaiso, Fla., communication requirement on continuous basis, proposed rule 15589
- Balloons, free, unmanned; equipment and marking requirements 5254
- General operating and flight rules:
  - Air traffic, limitations:
    - *See also under* Airspace, *below.*
    - Apollo series 14312
    - Gemini series (SFAR–16), revocation 14312
    - *Queen Mary*, vicinity of 17654
    - St. Lawrence Seaway 9809

Federal Aviation Administration—Continued Page

AIR TRAFFIC AND GENERAL OPERATING RULES—Continued
- General operating and flight rules—Continued
  - "Civil Aeronautics Board" replaced by "National Transportation Safety Board" 5769
  - Flight rules:
    - Aircraft speed, operation in airport traffic area 12724, 13708
    - Airports with operating control towers, minimum altitudes, noise abatement runway system 5560, 15422
    - Flight plan, information required; IFR alternate airport weather minimums 6939, 7219, 13910
    - Positive control areas and route segments; controlled visual flight, proposed rule 7221, 10811
    - Withdrawn 16495
    - Priority handling reports; compliance with ATC clearances and instructions, proposed rule 11958
    - Space flight recovery operations; flight limitations:
      - Apollo series 14312
      - Gemini series (SFAR–16), revocation 14312
    - Special operating requirements under IFR, proposed rule 21039
    - Takeoff and landing under IFR, general; instrument approaches to civil airports, etc 6939, 7219, 13910
    - VFR weather minimums, basic and special:
      - Basic minimums; distance from clouds and flight visibility, proposed rule 13871
      - Ground visibility in control zone 2940
      - Special minimums in control zones; fixed-wing aircraft, proposed rule 14334, 14565
  - General:
    - Alcoholic beverages, restriction on consumption by crewmembers before operation of aircraft; proposed rule withdrawn 675
    - Altitude warning devices; turbojet powered civil airplanes, proposed rule 2860, 19190
    - Careless or reckless ground operation of aircraft 9640
    - Category II operations; requirements 6906, 8127
    - Civil aircraft certificate required; special flight permits for ferry flights, proposed rule 14775
    - Flight instruction and simulated instrument flight; partial dual control aircraft, proposed rule 10660
    - Flight maneuvers required for airline transport pilot certificate and certain other flight checks 260
    - Foreign civil aircraft in United States:
      - Operation without airworthiness certificate; proposed rule 9987
      - VFR flight operations 10310, 16392
    - Fuel requirements; lowest MEA, MOCA, or altitude prescribed for initial approach segment 13909
    - Glider towing operations, etc., requirements 3000
    - Oxygen, supplemental; proposed rule 10602
    - Powered civil aircraft with standard category U.S. airworthiness certificates; instrument and equipment requirements, operable condition 8405
    - Restricted category aircraft; C–82 operations in Alaska, proposed rule 13722
    - VOR equipment check outside United States for IFR operations 9840, 16483
    - Weights, increased maximum certificated; certain small airplanes in Alaska 8405
  - Maintenance, preventive maintenance, etc. *See* Maintenance, *below.*
  - St. Lawrence Seaway, prohibition of air traffic 9809
  - Small airplanes; spiral stability and stall deterrent devices, proposed rule 10863
  - Parachute jumping; breakaway device for static line parachute jumps, proposed rule 13595

AIRMEN, certification:
- *See also* Schools and other certificated agencies.
- Certification system, proposed rule 6320
- "Civil Aeronautics Board" replaced by "National Transportation Safety Board" 5769
- Fees 6320, 12050
- Flight crewmembers other than pilots; certificates, expired, reissuance 8094, 15918

Federal Aviation Administration—Continued Page

AIRMEN, certification—Continued
- Other than flight crewmembers:
  - Certificates, expired, reissuance 8094, 15918
- Mechanics:
  - Airframe and powerplant ratings; additional privileges 5770
  - Inspection authorization; deletion of "progressive" inspections, proposed rule 91
- Repairmen; maintenance, preventive maintenance, etc. *See* Maintenance, etc. *below.*
- Pilots and flight instructors:
  - Airline transport pilots:
    - Airplane rating, aeronautical knowledge 5770
    - Flight maneuvers required in proficiency and certain other flight checks 260, 1086, 5985
    - Rotorcraft rating 4492, 5985
  - Basic pilot certificate, new; proposed rules 329, 3749
  - Withdrawn 20985
  - Commercial pilots:
    - Airplane, glider, and rotorcraft ratings, aeronautical skill, etc 4492
    - Hot air balloons without airborne heater, operation; proposed rule 10103
    - Training and experience requirements and instrument ratings, proposed rule 329
    - Withdrawn 20985
  - Flight instruction or proficiency checks, periodic; proposed rule 20984
  - Flight instructors, limitations; student pilot logbook endorsements 3171, 13915
  - Flight manuevers; changes to engine out landing requirements, continuation 7705, 16481
  - General:
    - Category II pilot authorization; requirements 6905
    - Certificates, expired; airline transport and lighter-than-air, reissuance 8095, 15918
    - Flight instructions received from flight instructors not certificated by FAA 4492
    - Foreign military pilots, certain; on duty with armed force of U.S. 5740, 6513, 13914
    - Foreign pilot licenses and issuance of instrument and aircraft ratings, recognition 7249
    - Glider towing; experience and instruction requirements 3000
    - Instrument rating based on military competence 10643
    - Tests, flight and written 4492
    - Partial dual control aircraft, flight tests; proposed rule 10660
  - Private pilots:
    - Airplane, glider, and rotorcraft ratings, aeronautical skill, etc 4492
    - Hot air balloons without airborne heater, operation; proposed rule 10103
    - Solo cross-country experience; requirements on isolated islands, proposed rule 11573
    - Training and experience requirements, and instrument ratings, proposed rule 329
    - Withdrawn 20985
  - Student pilots:
    - Hot air balloons without airborne heater, operation; proposed rule 10103
    - Medical certificates, eligibility requirements 46
- Rotorcraft pilots, rating 4492, 5985

AIRPORTS:
- *See also* Organization and functions.
- Civil airports, instrument approaches to 6939, 7219, 13910
- Construction, alteration, reactivation and deactivation; revision of form concerning proposed landing areas 15818
- Control towers:
  - Operation at airports with towers 5560, 15422
  - Traffic control tower, Huntsville, Alabama; relocation 20819
- Federal aid 6925, 9220, 17471
- Federally assisted; nondiscrimination 2984
- Lighting systems developments, meeting 5754
- Lorain-Elyria, Ohio, airport; hearing regarding location 12691
- Public airports, acquisition of U.S. land for; exclusive rights 6925

Federal Aviation Administration—Continued Page

AIRPORTS—Continued
- Traffic patterns, special:
  - Portland terminal area, two-way radio communications:
    - Columbia River Seaplane Base, Vancouver, Washington 12747
    - Portland International Airport, Pearson Airpark 12747
  - Valparaiso, Fla., terminal area; communication requirement on continuous basis, proposed rule 15589

AIRSPACE:
- *See also* Federal airways, etc.; Jet routes.
- Construction proposed:
  - Television antennas and towers, 585, 1058, 2480, 2828, 3413, 5299, 6375, 7298, 11176, 12409.
- National airspace system; aviation lighting, meeting 5754
- Navigable airspace, objects affecting; construction:
  - Aeronautical studies 6970, 20658
  - Proposed rule 10374
  - Notice of construction or alteration; proposed rule 10373
- Standards 3887, 12997
  - Proposed rule 10374
- Restricted areas. *See* Restricted areas.
- Special use airspace; prohibited areas:
  - Applicability, etc 3739
  - District of Columbia 15096

AIRWORTHINESS DIRECTIVES:
- Aero Commander, 6099, 7976, 10785, 11980, 14061, 14311, 16201.
- Air and Space Manufacturing, Inc., 6875.
- Allison-Aero, 3937, 4529, 4577, 5931, 7051, 7194, 7460, 9219, 12110, 13268, 17927.
- Avions Marcel Dassault, 10870, 10871, 12085, 12909, 12910, 13669.
- Beech, 608, 3387, 6022, 8034, 8957, 9641, 14890.
- Beechcraft, 3971, 6914, 7205.
- Bell, 2438, 11074, 12387.
- Boeing, 5, 3437, 4426, 5463, 6185, 6674, 6675, 7442, 7749, 7817, 10785, 11680.
- Brantly, 4307, 8708.
- Bristol Siddeley de Havilland, 15490.
- British Aircraft Corp., 2450, 2576, 2577, 2897, 3387, 4307, 5366, 5939, 5984, 5985, 5996, 6091, 7391, 7396, 8257, 10061, 10871, 10641, 10642, 11186, 11314, 11335, 11862, 12066, 12068, 12711, 12910, 12911, 12920, 13115, 13182, 13269, 13857, 15421, 15491, 15835, 15878, 16891, 17426, 17515, 17652, 17672.
- Canadair, 3079.
- Cessna, 408, 16251.
- Champion, 486.
- Colonial, 5543, 11380.
- Continental, 7598, 9171, 12465, 15606.
- Dart, 2382, 5984, 10372, 13759.
- Dassault/Sud, 3291.
- De Havilland, 14647, 15490, 21029.
- Douglas, 9, 2439, 2440, 2775, 3387, 3437, 3691, 6343, 12746.
- Dowty-Rotol, 5366, 5454, 17516, 17673.
- Ercoupe, 2607.
- Fairchild, 2738, 2764, 3070, 5543, 5544, 5731, 6969, 6983, 7247, 7856, 11380, 11849, 12788, 14647, 14756, 14776, 15153, 15472, 16481.
- Found Brothers Aviation, Ltd., 14776.
- General Dynamics, 3291, 15588, 20945.
- General Electric, 12856.
- Graviner, 7443, 11154, 11704.
- Grumman, 354, 7248, 14756, 16201, 21030.
- Hartzell, 3091.
- Hawker Siddeley, 12921, 15635, 15878, 16481.
- Howard, 426, 555.
- Hughes, 260, 3386, 5676, 7817, 9155.
- Lockheed, 654, 655, 3049, 3063, 5545, 5830, 6968, 7704, 8295, 20818.
- Lycoming, 10642, 11380, 14777.
- Martin, 3579.
- Marvel-Schebler, 3982.
- McDonnell Douglas, 13452, 14151, 15579, 20946, 21030.
- Mooney, 2821, 5366, 7598, 7979, 10720, 11380.
- Pan Avion, 3997, 7816.
- Pilatus, 614, 5496, 10345, 17652.
- Piper, 5, 822, 931, 5496, 6184, 6845, 7205, 7948, 9219, 9703, 11165, 11209, 11336, 11849, 12668, 13183, 13821, 14755, 15523, 20642.
- Pratt and Whitney, 6, 294, 6676, 21030.
- Rajay, 3937.
- Ratier-Figeac, 3063, 5771, 8681, 12050.
- Rolls Royce, 56, 3690, 4314, 10660, 10828, 11154, 17695.
- Schuibe-Flugzeugbau Bergfalke, 3218.
- Senesmith, 7248.
- Sikorsky, 7248, 15094, 15154, 15890.
- Sud Aviation, 2451, 5985.

Federal Aviation Administration—Continued Page

AIRWORTHINESS DIRECTIVES—Continued
TECO, 4124, 7818.
Tost, 5808, 10643.
Vickers, 55, 4306, 8622, 13788, 13776, 13870, 14110, 17439, 17652.
Weston Garwin Carruth, 13188, 14927.
AIRWORTHINESS STANDARDS:
Airplane:
Normal, utility, and acrobatic aircraft:
Design and construction, fire protection, combustion heater, etc 6912
Normal category airplanes, nonacrobatic operation; performance of lazy eights and chandelles 5984
Oxygen equipment and supply; installation and operating requirements, proposed rule 10602
Small airplanes:
Capable of carrying more than ten occupants, proposed rule 5698, 9237, 10103
Spiral stability and stall deterrent devices, proposed rule 10863
Type certification standards 5791
Static pressure system 7586, 13505, 13714
Transport category:
Cockpit voice recorders 5770, 13913
Crashworthiness and emergency passenger evacuation 13255, 13635
Design and construction; combustion heater fire protection 6912
Flight manual, operating procedures 6913
Flight recorders; additional parameters, proposed rule 3226
Fuel system:
Jettisoning systems, proposed rule 17487
Lightning protection 11629
Hydraulic system 9152
Powerplant; controls, cooling, fire protection, etc 6912, 6913
Static pressure systems 7587
Engines:
General:
Design and construction 3736
Power and thrust terminology and ratings 3736
Ratings and operating limitations 3736
Reciprocating; block tests 3736
Turbine:
Block tests, endurance and engine-propeller systems 3737
Design and construction 3734
Propellers 2487, 3737
Rotorcraft:
Engines 3734, 3736
External load operations; fees, proposed rule 6318
Normal and transport categories:
Design and construction; fire protection, heating systems 6914
Fasteners; dual locking devices, proposed rules 15676
Fatigue evaluation of flight structure, proposed rule 14107
Flight manual, operating procedures 6914
Limitations placard, proposed rule 14108
Maintenance manual, proposed rule 14108
Powerplant 6914
ALCOHOLIC BEVERAGES, restriction on consumption by crewmembers before operation of aircraft; proposed rule withdrawn 675
ALTITUDES, instrument. *See* Instrument flight rules.
ANTENNAS, construction. *See* Airspace.
APPROACH PROCEDURES. *See* Instrument flight rules.
AUTHORITY DELEGATIONS:
By Administrator to Secretary of Health, Education, and Welfare; functions under Civil Rights Act respecting airports 2984
From Secretary of Transportation; civil administration of Wake Island 12919
BALLOONS:
Free, unmanned; equipment and marking requirements 5254
Hot air, without airborne heater; operation by commercial pilots, proposed rule 10108

Federal Aviation Administration—Continued Page

CERTIFICATION PROCEDURES for products and parts:
Airworthiness certificates:
Aircraft identification 187
Ferry flights, special permits; proposed rule 14775
Normal, utility, acrobatic, and transport category aircraft, certain; proposed rule 11042
Delegation option manufacturers, issuance of airworthiness certificates 15472
Export airworthiness approvals:
Airplanes and gliders, new small type, certificated 2999
Class I products, export certificates; continuous maintenance program, proposed rule 91
Type certificates:
Aircraft, engine or propeller; special conditions during type certification 6098, 17850
Availability; "Civil Aeronautics Board" replaced by "National Transportation Safety Board" 5769
Fees, proposed rule 6318, 6648
Import products, requirements; proposed rule 17485
Issuance; normal utility, acrobatic, and transport category, engines, propellers 3735
Requirements 13255
Restricted category, import, or surplus military aircraft; applicable regulations, proposed rule 17485
Rotorcraft maintenance manual, airworthiness limitations; proposed rule 14109
Standard, conformity to type design data before FAA tests 14925
Tests; engines, power and thrust terminology 3735
COLLISIONS:
See also Accidents.
Near midair, reports of; policy statement 16539
DANGEROUS ARTICLES and magnetized materials, transportation of. *See* Hazardous materials transportation.
DEFINITIONS AND ABBREVIATIONS:
"Administrator" and "FAA" 5769
"ALS", "HIRL", etc 6939, 13910
"CAT II", "DH", and "RVR" 6905
"Category II operations" and "decision height" 6905
"Controlled visual flight"; proposed rule 7221, 10811
Withdrawn 16495
"Minimum descent altitude", "precision approach procedure" and "nonprecision approach procedure"; proposed rules 6939, 7219
"Operate" 9640, 10250
"Rated takeoff power", "rated takeoff thrust", "rated maximum continuous power" etc 3735
FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS 2002
Colored Federal airways 2006
Alterations 10309, 12997, 13272, 14590
Continental control area, restricted areas included 2061
Alterations 5412, 7014, 7599, 8024, 8422, 9642, 14154, 14207, 14891, 16050, 16221.
Control areas and control area extensions 2062
Additional control areas 2063
Alterations 655, 3738, 6261, 7463, 9027, 10644, 11804, 12668, 13079, 13460, 14061, 14158, 14757, 16221, 16482, 17518, 20737, 20738, 20780.
Control areas associated with jet routes 2062
Alterations 2442, 12113
Extension of control areas 2068
Alterations 487, 2615, 2775, 3401, 3938, 6288, 7290, 7462, 9027, 9155, 9642, 9643, 10516, 10838, 11156, 12668, 14891, 16482.
Control zones 2071
Alterations 80, 267, 487, 608, 615, 616, 617, 786, 787, 1035, 1086, 2368, 2370, 2383, 2440, 2441, 2649, 2650, 2808, 2884, 2897, 3048, 3049, 3227, 3345, 3364, 3365, 3438, 3764, 3765, 3766, 3779, 4307, 4315, 4405, 4431, 4542, 5251, 5292, 5367, 5465, 5473, 5497, 5677, 5768, 5769, 5997, 5998, 6060, 6185, 6207, 6261, 6288, 6345, 6346, 6554, 6555, 6581, 6845, 6846, 7124, 7125, 7250, 7290, 7391, 7392, 7397, 7443, 7461, 7492, 7493, 7522, 7589, 7634, 7705, 7706, 7818, 7819, 7856, 7948, 8181, 8295, 8301, 8302, 8405, 8580, 8657, 8708, 8709, 8722, 8818,

Federal Aviation Administration—Continued Page

FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS—Continued
Control zones—Continued
Alterations—Continued
8819, 8975, 9019, 9155, 9157, 9171, 9172, 9571, 9642, 9704, 9705, 9706, 9808, 9956, 9986, 10061, 10103, 10192, 10193, 10210, 10211, 10309, 10346, 10372, 10432, 10450, 10662, 10838, 10839, 10865, 10928, 11167, 11168, 11314, 11381, 11519, 11574, 11575, 11576, 11630, 11631, 11632, 11643, 11772, 11773, 11805, 11849, 11850, 12110, 12111, 12119, 12556, 12712, 12724, 12789, 12912, 12913, 12922, 13006, 13116, 13117, 13118, 13140, 13218, 13219, 13269, 13293, 13453, 13460, 13506, 13526, 13635, 13636, 13670, 13806, 13857, 13915, 13916, 13936, 14152, 14153, 14207, 14266, 14267, 14333, 14549, 14550, 14648, 14665, 14666, 14757, 14852, 14891, 15094, 15095, 15117, 15118, 15523, 15546, 15547, 15579, 15809, 15810, 15837, 15838, 15926, 16102, 16146, 16169, 16202, 16392, 16482, 16493, 17426, 17427, 17488, 17516, 17575, 17596, 17597, 17598, 17653, 18020, 18060, 18061, 20704, 20705, 20738, 20780, 20986.
General 2004
Control zones, upper limit, base of continental control area; proposed rule 17488
Positive control areas 2274
Alterations 7219, 9643, 11849, 13270, 15491
Reporting points 2275
Alaska:
High altitude 2288
Alterations 13507, 13760, 14565
Low altitude 2287
Alterations 4056, 7253, 13760, 14565, 14590, 15874
Designation 2275
Domestic:
All altitudes 2285
Alterations 2442, 13118
High altitude 2282
Alterations 8405, 9708, 11155, 15636
Low altitude 2275
Alterations 1086, 2884, 3219, 3882, 7589, 8080, 10309, 13117, 15885, 17576, 17861.
Hawaii 2289
Transition areas 2148
Alterations 50, 80, 94, 266, 267, 284, 367, 486, 487, 608, 615, 616, 617, 786, 787, 872, 1034, 1035, 1056, 2368, 2369, 2370, 2383, 2441, 2442, 2452, 2453, 2578, 2649, 2650, 2709, 2775, 2787, 2808, 2860, 2884, 2898, 3048, 3049, 3050, 3091, 3100, 3101, 3102, 3345, 3364, 3365, 3765, 3766, 3767, 3768, 3779, 3780, 3946, 3947, 3971, 3972, 3997, 4026, 4307, 4428, 4429, 4430, 4431, 4432, 4542, 4543, 5251, 5252, 5253, 5292, 5293, 5367, 5465, 5472, 5473, 5497, 5677, 5706, 5768, 5769, 5997, 5998, 6022, 6060, 6061, 6145, 6208, 6261, 6268, 6289, 6345, 6346, 6390, 6408, 6434, 6555, 6556, 6579, 6580, 6581, 6676, 6837, 6846, 7124, 7125, 7253, 7254, 7290, 7291, 7391, 7392, 7397, 7462, 7463, 7493, 7587, 7588, 7589, 7590, 7599, 7625, 7634, 7706, 7749, 7819, 7820, 7856, 8079, 8080, 8127, 8181, 8182, 8295, 8302, 8303, 8422, 8580, 8709, 8722, 8723, 8724, 8818, 8819, 8975, 8976, 8977, 8978, 9155, 9156, 9157, 9171, 9172, 9173, 9571, 9641, 9643, 9705, 9706, 9707, 9708, 9808, 9956, 10061, 10103, 10192, 10193, 10210, 10211, 10212, 10213, 10309, 10346, 10347, 10450, 10508, 10556, 10644, 10661, 10662, 10838, 10839, 10840, 10865, 10928, 10937, 11024, 11155, 11167, 11168, 11385, 11429, 11477, 11519, 11520, 11521, 11575, 11576, 11630, 11631, 11632, 11643, 11772, 11773, 11804, 11805, 11850, 12050, 12111, 12112, 12113, 12119, 12120, 12121, 12442, 12449, 12556, 12668, 12690, 12712, 12724, 12789, 12790, 12912, 12922, 12995, 12996, 13006, 13007, 13008, 13116, 13117, 13118, 13140, 13141, 13197, 13218, 13219, 13220, 13269, 13270, 13293, 13453, 13454, 13460, 13506, 13526, 13636, 13806, 13820, 13821, 13857, 13916, 13917, 13933, 13934, 13935, 13936, 13965, 14152, 14153, 14207, 14266, 14267, 14333, 14549, 14550, 14590, 14648, 14666, 14667, 14668, 14891, 15094, 15095, 15117, 15118,

Federal Aviation Administration—Continued Page

FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS—Continued
Transition areas—Continued
Alterations—Continued
15120, 15121, 15154, 15492, 15493, 15523, 15524, 15547, 15548, 15579, 15712, 15809, 15810, 15837, 15838, 16049, 16050, 16098, 16102, 16146, 16202, 16251, 16392, 16437, 16482, 16483, 16495, 17426, 17427, 17517, 17575, 17576, 17596, 17597, 17598, 17653, 17673, 17674, 17675, 18751, 18060, 18061, 18062, 20630, 20631, 20658, 20704, 20705, 20738, 20769, 20780, 20781, 20843, 20947, 20986, 20987.
VOR Federal airways 2009
Alaska 2058
Alterations 10450, 13760, 14565, 15635
Designation 2009
Domestic 2009
Alterations 47, 50, 389, 655, 823, 1086, 1087, 2009, 2369, 2441, 2451, 2452, 2453, 2939, 3091, 3100, 3219, 3228, 3400, 3401, 3402, 3438, 3470, 3738, 3750, 4315, 5253, 5291, 5411, 5412, 5425, 5497, 5732, 5831, 5988, 6261, 6371, 6390, 6434, 6435, 6454, 6556, 7014, 7125, 7133, 7251, 7252, 7391, 7392, 7462, 7588, 7589, 7590, 7625, 7856, 7857, 7948, 8079, 8405, 8657, 8681, 8710, 8723, 8724, 9157, 9220, 9237, 9706, 10192, 10210, 10212, 10213, 10433, 10507, 10516, 10643, 10663, 10839, 10929, 11154, 11282, 11429, 11773, 11803, 11850, 11882, 12113, 12388, 12789, 12833, 12995, 13117, 13118, 13140, 13141, 13219, 13220, 13294, 13454, 13506, 13526, 13776, 14063, 14099, 14111, 14158, 14311, 14312, 14333, 14549, 14590, 15548, 15588, 15589, 15885, 17516, 17517, 17543, 17574, 17861, 17982, 20630, 20657, 20737.
Hawaii 2059
Alterations 2442, 5412
FEES for copying and certifying records 6318, 6320, 12050
HAZARDOUS MATERIALS TRANSPORTATION:
See also main heading Hazardous Materials Regulations Board.
Dangerous articles and magnetized materials;
Applicability, cargo and passenger-carrying aircraft, etc 5769, 7015
Poisonous liquids or solids, Class B; special requirements 20982
HELICOPTERS:
See also Rotorcraft.
Certification and operation:
Certificate, flight operations, controls, flight deck; "Civil Aeronautics Board" replaced by "National Transportation Safety Board" 5769
Fees 6318, 12050
Proving tests, requirements 14777
Records and reports:
Maintenance log, overhaul of airframe and engines, deletion; proposed rule 13417
Mechanical reliability 5770
Rotorcraft maintenance manual; airworthiness limitations 14110
IDENTIFICATION AND REGISTRATION MARKING, aircraft:
See also Registration, aircraft.
Antique and exhibition aircraft; marking requirements relaxed, proposed rule 5997
Engines and propellers 187
Numbers, temporary registration 12555
Rotorcraft maintenance manual, airworthiness limitations, critical components; proposed rule 14109
INFORMATION AND RECORDS, availability of:
Fees for copying and certifying records 6318, 6320, 12050
Legal proceedings, production of records 12050
National Transportation Safety Board 5770
INSTRUMENT FLIGHT RULES:
Altitudes, minimum en route IFR:
Changeover points, VOR Federal airways 3002, 4531, 6263, 7452, 8660, 10252, 11431, 12749, 14930, 16393.
Particular routes and intersections:
Colored Federal airways 855, 10250, 13858, 14928, 20947
Direct routes 855, 3001, 4530, 6262, 7448, 8658, 10250, 11429, 12747, 13858, 14928, 16393, 20947.

Federal Aviation Administration—Continued Page

INSTRUMENT FLIGHT RULES—Continued
Altitudes, minimum en route IFR—Continued
Particular routes and intersections—Continued
Jet routes ... 856, 6263, 7451, 8659, 10252, 11431, 12749, 13859, 14930, 20948.
VOR Federal airways ... 855, 3001, 4530, 6262, 7449, 8658, 10250, 11430, 12748, 13858, 14928, 16393, 20947.
Hawaii ... 3002, 4531, 6263, 16393
Approach procedures, standard:
Bearings, courses, headings, radials, and miles ... 6941, 7219, 13912
Symbols and terms used in procedures ... 6940, 7219, 13911
Take-off and landing, alterations:
Landing system ... 87, 375, 660, 974, 2373, 2783, 3004, 3222, 3697, 3942, 4167, 4497, 5415, 5680, 5983, 6269, 6561, 6923, 7266, 7447, 7711, 7953, 8299, 8963, 9313, 9961, 10351, 10725, 11029, 11319, 11635, 11732, 11937, 12396, 12673, 12838, 13123, 13845, 13764, 14212, 14317, 14596, 14759, 15010, 15476, 15582, 15816, 16208, 16489, 17580, 17932, 20709, 20957.
Radar ... 90, 379, 663, 975, 2375, 2785, 3007, 3223, 3699, 3944, 4169, 4498, 5681, 6271, 6563, 6925, 7261, 7448, 7712, 7954, 8300, 8962, 9963, 10727, 11030, 11320, 11636, 11938, 12674, 12838, 13123, 13647, 13765, 14320, 14597, 15011, 15477, 15583, 15817, 16209, 16490, 17582, 20711.
Radio ... 81, 368, 656, 970, 2371, 2776, 3003, 3220, 3692, 3938, 4163, 4494, 5413, 5678, 5980, 6264, 6557, 6915, 7254, 7444, 7707, 7949, 8296, 8958, 8959, 8960, 9305, 9307, 9312, 9957, 9958, 9961, 10348, 10349, 10351, 10721, 11025, 11315, 11633, 11935, 12389, 12669, 12834, 13120, 13378, 13637, 13761, 14208, 14313, 14591, 14758, 15005, 15423, 15473, 15580, 15811, 16203, 16484, 17577, 17928, 20706, 20949
TERPS procedures ... 6938, 13912
JET ROUTES, establishment ... 2340
General, applicability, etc ... 2340
Jet advisory areas ... 2355
En route ... 2355
Alteration ... 5831
Terminal ... 2356
Jet routes ... 2341
Alterations ... 390, 2442, 2453, 2454, 3092, 3228, 3740, 3882, 4307, 4531, 5253, 5425, 5473, 5831, 5988, 7126, 7443, 7590, 8095, 8725, 9708, 10212, 10516, 10785, 11336, 11774, 12113, 12388, 12913, 13460, 13507, 13670, 13760, 14154, 14333, 14565, 15636, 17518, 18062
MAINTENANCE, preventive maintenance, rebuilding, and alteration:
Altimeter system requirements ... 7587
Applicability, U.S. registered civil aircraft, etc.; proposed rule ... 91
Commercial operators, employment of repairmen to perform maintenance ... 3946, 13505
Continuous maintenance program for certain large and small turbine-powered airplanes; proposed rule ... 91
Fees, proposed rule ... 6318
Inspections, progressive; deletion, proposed rule ... 91
Rotorcraft maintenance manual; airworthiness limitations, proposed rule ... 14110
NAVIGATIONAL FACILITIES, NON-FEDERAL; alternative formats of reports ... 7331
OPERATING RULES. *See* Agricultural aircraft operations; Air traffic and general operating rules.
ORGANIZATION AND FUNCTIONS:
Civil airlift operations office established at Saigon, Vietnam, under contract to Defense Department ... 8184
Control towers:
Hollywood, Fla., commissioning ... 9754
Huntsville, Ala., relocation ... 20819
Middletown, Pa., establishment ... 9247
District offices:
Airport District Office, Charlotte, N.C.; closing ... 9754
Engineering and Manufacturing:
Lindenhurst, N.Y., Whitney Hangar, Zahn's Airport; relocation ... 8981

Federal Aviation Administration—Continued Page

ORGANIZATION AND FUNCTIONS—Continued
District offices—Continued
Engineering and Manufacturing—Continued
Muskegon, Mich., District Office 41; change of address ... 16231
Flight Standards, Washington, D.C.; changes in boundaries ... 12410
General Aviation:
Changes in boundaries:
Baltimore, Md ... 12410
Richmond, Va ... 12410
Establishment; Kanawha Airport, Charleston, W. Va ... 12409
Flight Service Station services, Huntsville, Ala., transferred to Muscle Shoals Flight Service Station, Sheffield, Ala ... 20819
PARACHUTE JUMPING. *See under* Air traffic and general operating rules.
PROCEDURAL RULES:
Enforcement procedures ... 7585
"Civil Aeronautics Board" replaced by "National Transportation Safety Board" ... 5769
General:
Authority of Directors of Aeronautical Center and National Aviation Facilities Experimental Center ... 6390
Civil Aeronautics Board; participation in proceedings that cannot be appealed to National Transportation Safety Board ... 5769
PROHIBITED AREAS, applicability, etc ... 3739
PROCUREMENT REGULATIONS, contract appeals ... 6974
RECORDING of aircraft, titles and security documents; address of "FAA Aircraft Registry" to include "Department of Transportation" ... 6553, 13505
RECORDS. *See under* Air carriers and commercial operators of large aircraft; Information and records.
REGISTRATION, aircraft:
See also Indentification and registration marking.
Address of "FAA Aircraft Registry" to include "Department of Transportation" ... 13505
Applications, requirements ... 6553
Certificate for export purpose, cancellation ... 6553
Numbers, identification and temporary registration ... 12555, 13505
RESTRICTED AREAS over military installations, etc ... 2291
Applicability, restrictions, reports, etc ... 2291
Editorial changes ... 3739
General ... 2291
Various States, and Puerto Rico ... 2292
Alterations:
Alaska, 3438, 6391, 7015.
Arizona, 16221.
Arkansas, 579, 4529.
California, 3402, 5412, 5497, 6346, 6582, 8422, 10194, 14154, 16222.
Delaware, 3766.
Florida, 655, 969, 7014, 7134, 7892, 11024, 11774, 12712, 12833, 13119, 13967.
Hawaii, 3104, 7135, 13119, 17655, 18067.
Idaho, 3751, 6346.
Illinois, 3103, 4577.
Indiana, 3103, 4577.
Kansas, 5373, 6582, 7393, 10297.
Kentucky, 11521.
Maine, 10347.
Maryland, 6556, 16060.
Massachusetts, 3739.
Michigan, 7096.
Mississippi, 14207.
Missouri, 3095, 6346.
Nebraska, 6186.
Nevada, 4408, 7399, 10507.
New Hampshire, 6346, 13556.
New Jersey, 2453, 5253, 11381.
New Mexico, 3103, 5546, 8024.
New York, 5373, 8710.
North Carolina, 4543, 6125, 11043.
Ohio, 4316, 10666, 10929, 14548, 14757, 16098.
Oklahoma, 4529.
Oregon, 5545.
Pennsylvania, 55, 2959, 3739.
Puerto Rico, 2775, 17488.
South Carolina, 1067.

Federal Aviation Administration—Continued Page

RESTRICTED AREAS over military installations, etc.—Continued
Various States, and Puerto Rico—Continued
Alterations—Continued
South Dakota, 6207, 7015, 8682.
Texas, 3691, 8127.
Utah, 3219, 17427.
Vermont, 3092.
Virginia, 3751, 7014, 11024, 11025, 14891.
Wisconsin, 389, 3740.
ROTORCRAFT. *See* Airmen; Airworthiness standards; Certification procedures for products and parts; Helicopters; Identification and registration marking; Maintenance.
SCHOOLS AND OTHER CERTIFICATED AGENCIES:
Fees, proposed rule ... 6318, 6320
Flying schools; chief flight instructor requirements and duties ... 9102, 15583
Ground instructors:
Certification system, proposed rule ... 6320
Display of certificate, "Civil Aeronautics Board" replaced by "National Transportation Safety Board" ... 5769
Mechanic schools; general curriculum requirements ... 5770
Pilot schools:
Commercial flying school; flight training ... 5770
Ground schools, advanced and basic; curriculum requirements ... 5770
Training courses ... 17851
Repair stations:
Domestic; certificates, deletion of "progressive inspection", proposed rule ... 91
General; changes in personnel allowed without certificate change ... 15670
SEAL, Federal Aviation Agency; rescission ... 5546
TECHNICAL STANDARD ORDERS, C Series; minimum performance standards:
Airborne ATC transponder equipment (C74a) ... 188
Aircraft seats and berths (C39) ... 13255
Airspeed indicator, maximum allowable (C46a); proposed rule ... 5788
Automatic pressure altitude digitizer equipment (C88) ... 123
Cargo and baggage compartment smoke detection instrument (C1b) ... 3141
Crewmember demand oxygen masks (C78) ... 125
Evacuation slides, emergency (C69) ... 13255
Fees, proposed rule ... 6318
Flight recorders; additional parameters, proposed rule ... 3226
Flotation devices, individual (C72a) ... 13255
High frequency radio communications:
Receiving equipment (C32c) ... 3171, 14685
Transmitting equipment (C31c) ... 3175, 14689
Safety belts (C22e) ... 13255
Turn-and-slip indicator (C3b) ... 12106
TERMINAL INSTRUMENT PROCEDURES (TERPS), U.S. standard ... 6938, 13909
TRANSFER OF REGULATIONS from Federal Aviation Agency ... 5611
Change of name ... 5769
WAKE ISLAND, civil administration; authority delegation ... 12919
WAR RISK INSURANCE, aircraft ... 20843

Federal Coal Mine Safety Board of Review:
CONDUCT STANDARDS ... 13809

Federal Committee on Pest Control:
ORGANIZATION AND FUNCTIONS ... 13202

Federal Communications Commission:

Federal Communications Commission—Con. Page

ALASKA, public fixed stations and maritime stations:
Interim ship station licensing, elimination; proposed rule ... 10663
Marine control, repeater and relay stations ... 335, 6933
Operator requirements ... 13667
Standard technical requirements, transmitter power; proposed rule ... 13295
AMATEUR RADIO SERVICES:
Application procedures for transmitting facilities on public lands ... 2891
AMATEUR RADIO SERVICES—Continued
Operator licenses:
Call signs, distinctive ... 12685, 13377
Eligibility, privileges, etc ... 12684, 16162
Examinations ... 6143, 12685
Extra class licenses, termination of proceeding ... 12692
Radio amateur civil emergency service, use of F4 and A4 facsimile; proposed rules ... 5293, 6942, 8303
Station identification ... 6409, 17429
Suspension and revocation of licenses and issuance of cease and desist orders; editorial deletions ... 12560
Technical standards, transmission of pictures in high frequency bands; proposed rules ... 13728
ANTENNAS:
Community antenna TV systems. *See* Community antenna television systems, *below*.
Structures, construction, marking and lighting:
Antenna farm areas, establishment ... 8813, 13591
Criteria, specifications, etc ... 11266
AVIATION SERVICES:
Application procedures for transmitting facilities on public lands ... 2891
Cooperative use of fixed radio facilities, petition denied ... 4550
Definition, aeronautical advisory station; proposed rule ... 16496
Frequency reassignment, proposed rule ... 2899
Operating requirements:
Information in logs ... 4069
Proposed rules ... 10665
Station identification, proposed rule ... 7345
Various services:
Aeronautical advisory stations ... 4069, 10666, 11276
Scope of service, proposed rule ... 16496
Aeronautical en route stations:
Caribbean area ... 11886, 16162
International high frequency service ... 11885, 16161
Offshore drilling operations, frequencies for; proposed rules ... 15712, 20782
Aeronautical multicom stations ... 11276
Airborne stations:
Frequencies, proposed or adopted ... 2899, 4069, 10300, 16496, 18115
Operator requirements, deleted ... 10666
Airdrome control stations, frequencies ... 10300
Civil Air Patrol stations; operator requirements, deleted ... 10666
Flight test stations; proposed rules:
Eligibility of licensee ... 16056, 20782
Frequencies ... 15716
Operational stations, cooperative use of; annual reports, proposed rule ... 14161, 16056
CANADIAN BROADCAST STATIONS ... 342, 473, 3754, 4372, 5300, 6742, 6951, 7879, 8256, 8257, 8827, 10272, 11177, 12133, 13241, 13683, 14168, 14984, 17987.
CIGARETTE ADVERTISING, fairness doctrine ... 13162, 13737
CITIZENS RADIO SERVICE:
Application procedures for transmitting facilities on public lands ... 2891
Class A and B stations, frequencies:
Proposed rules ... 13977
Use of band 460–461 Mc/s ... 2892
Class B and D stations, type acceptance of transmitters used by; proposed rules ... 3105
Technical regulation, modulation requirements; reduction in frequency deviation, deadline postponed ... 7531
COMMERCIAL RADIO OPERATORS:
Dual licenses, proposed rules ... 13822
Eligibility for new license ... 9232
Fees, proposed rules ... 13822
Procedure, application for restricted radio telephone operator permit ... 2627
Provisional certificate, proposed rule ... 13822
COMMITTEE FOR FULL DEVELOPMENT OF ALL-CHANNEL BROADCASTING, reconstitution and extension ... 4088
COMMUNICATIONS SATELLITE. *See* Satellite Communications.
COMMUNITY ANTENNA TELEVISION SYSTEMS:
Broadcast signals, distribution by; proposed rules ... 7537, 8725, 9103, 12121
Carriage and program exclusivity ... 5645, 13013, 15772

Federal Communications Commission—Con. Page

COMMUNITY ANTENNA TELEVISION SYSTEMS—Continued
- Cut-off procedure in top-100 market cases 5554
- Educational TV signals, carriage of; proposed rule 10664
- Foreign TV signals 10306
- Ownership patterns, inquiry 6221

COMPUTER SERVICES, interdependence with communications facilities; inquiry 3845, 12962
CONDUCT STANDARDS 13457
DISASTER COMMUNICATIONS SERVICE, application procedures for transmitting facilities on public lands 2891
DOMESTIC PUBLIC RADIO SERVICES:
- Application procedures for transmitting facilities on public lands 2890
- Applications and licenses, license period 464, 13281
- CATV systems, distribution of broadcast signals; proposed rules 9103, 12121
- Definition, radio reliability; proposed rule 13727
- Microwave radio relay communication systems, proposed rules 13723
- Station inspection, proposed rule 9173
- Technical standards, proposed rules 464, 3403, 13727
- Various services:
  - Land mobile radio service:
    - Base stations, geographical separation of co-channel stations, etc 12041
    - Frequencies, proposed rules 464, 3403, 12008, 13728
  - Point-to-point microwave service:
    - Relay of TV signals to CATV systems 914, 5645
    - Separation between assignable frequencies; proposed rules, extensions of time 464, 2383, 3403, 20882
  - Rural service, frequencies; proposed rules 464, 2383, 3403, 12008

DOMINICAN REPUBLIC BROADCASTING STATIONS 6620
EDUCATIONAL TELEVISION. *See under* Experimental broadcast services; Radio broadcast services.
EMERGENCY BROADCAST SYSTEM. *See under* Radio broadcast services.
EMERGENCY PLANS:
- Amateur service, proposed rules 5293, 6942, 8303
- Petroleum and gas industry 5299
- Telephone companies, priority services, leased intercity private lines 788

EXPERIMENTAL BROADCAST SERVICES:
- Application procedures for transmitting facilities on public lands 2891
- Community antenna relay stations 914
- Community antenna television systems 914, 1090
  - Cut-off procedure in top-100 market cases 5554
  - Educational television signals, carriage of; proposed rule 10664
  - Foreign television signals 10306
  - Proposed rules 7527, 8726, 9103, 12121
- FM translator stations, low power; inquiry 2830, 6106, 10818, 13425
- Instructional TV fixed services, equipment performance, out-of-band emissions 13512
- Remote pickup broadcast stations:
  - Frequency assignment 11992
  - Proposed rules 332, 12563
- TV auxiliary stations:
  - Posting of station licenses at unattended transmitters, proposed rule 13010
  - Station identification, correction 452

EXPERIMENTAL NONBROADCAST SERVICES, license period 1129
FOREIGN LANGUAGE PROGRAMS, broadcasters to exercise control 5523
FOREIGN TV SIGNALS, transmission by CATV systems 10306
FREQUENCY ALLOCATIONS:
- Definitions, proposed rules:
  - Aeronautical advisory station 16496
  - Person 16104
- Editorial changes 3832
- Equipment type approval, application 13795
- High frequency channels for flight test and offshore drilling operations, proposed rules 15712, 20782

Federal Communications Commission—Con. Page

FREQUENCY ALLOCATIONS—Continued
- Table, changes:
  - 90–110 kc/s, 2772.
  - 1800–1825 kc/s, 5294.
  - 1800–2000 kc/s, 2772.
  - 1975–2000 kc/s, 5294.
  - 3900–4000 kc/s, 5294.
  - 35–42 Mc/s, 3832.
  - 26.97–27.27 Mc/s, 6145.
  - 35–44 Mc/s, 12040.
  - 49.8–50.0 Mc/s, 6145.
  - 121.975–123.075 Mc/s, 4069.
  - 123–123 Mc/s, 2699, 10289.
  - 122.8 Mc/s, 16495.
  - 150.8–162 Mc/s, 3301, 11991, 12915, 13728.
  - 152–157 Mc/s, 3186.
  - 153–162 Mc/s, 12040.
  - 152.96–156.70 Mc/s, 12006.
  - 152.84–156.10 Mc/s, 12006.
  - 154.46–156.26 Mc/s, 13143, 15180.
  - 156–162 Mc/s, 4501, 6583.
  - 225–236.6 Mc/s, 924.
  - 420–460 Mc/s, 16115.
  - 450–460 Mc/s, 12040.
  - 450–470 Mc/s, 464, 3403, 7531, 8429, 13972.
  - 450.5–451 Mc/s, 332.
  - 455.5–456 Mc/s, 332.
  - 470–1000 Mc/s, 6933, 10654.
  - 942–952 Mc/s, 12562.
  - 952–960 Mc/s, 17440.
  - 1540–1660 Mc/s, 6583.
  - 1660–1960 Mc/s, 7537.
  - 6425–7250 Mc/s, 8147.
  - 2.9–10.5 Gc/s, 15660.
- Treaties and other international agreements relating to radio 273, 10181

Type acceptance of equipment, proposed rules 3105, 16104
HEARINGS, ORDERS, etc.:
See also list at end of this agency.
- Cases designated for; moratorium on filing of pleadings for two weeks 15727

HIGHWAY SAFETY, use of radio communications; inquiry, extension of time 6415
INDUSTRIAL RADIO SERVICES:
- Application procedures for transmitting facilities on public lands 2891
- CATV systems, distribution of broadcast signals; proposed rules 9103, 12121
- Cooperative use:
  - Fixed and mobile radio facilities, petition denied 4550
  - Fixed stations; annual reports, proposed rule 14167, 16056
- Petroleum and gas industry communications emergency plan, extension of time for filing requirements 5299
- Policy governing assignment of frequencies 6937
- Relay stations, mobile 8534
- Signaling devices, expanded use 3301, 12915
- Technical standards:
  - Emission limitations; reduction in frequency deviation, deadline postponed 7531
  - Frequencies 12917
  - Microwave, proposed rule 17441
- Various services:
  - Business service:
    - Closed circuit nonbroadcast educational TV, proposed rule withdrawn 7537
    - Frequencies 8534, 11994, 12918
    - Proposed rule 13145, 13977, 15180, 17441
    - Station limitations 8534
    - Transmission of material to CATV systems 916
    - Proposed rule 14852
  - Forest products service, frequencies 11993, 12918
  - Proposed rule 13144, 13977, 15180, 17441
  - Industrial radiolocation service, frequencies, SHORAN equipment use 924
  - Manufacturing service; frequencies, proposed rule 13145, 13977, 15180, 17441
  - Motion picture service; frequencies, proposed rule 17441
  - Petroleum service, frequencies 12917
  - Proposed rule 13144, 13977, 15180, 17441
  - Power service, frequencies 12917
  - Proposed rule 13144, 13977, 15180, 17441

Federal Communications Commission—Con. Page

INDUSTRIAL RADIO SERVICES—Continued
- Various services—Continued
  - Relay press service; frequencies, proposed rules 13977, 17441
  - Special industrial service, frequencies 11993, 12918
  - Proposed rule 13144, 13977, 17441
  - Telephone service; frequencies, proposed rule 13977, 17441

INDUSTRIAL, SCIENTIFIC, AND MEDICAL EQUIPMENT; RF welding equipment, proposed rule, extension of time 3888
INFORMATION, availability of 10568
- Records not routinely available 11213, 12180

INTERNATIONAL FIXED PUBLIC RADIOCOMMUNICATION SERVICES, application procedures for transmitting facilities on public lands 2890
INTERNATIONAL TELECOMMUNICATION UNION, World Administrative Conference; inquiries 3847, 7474, 12198
LAND MOBILE SERVICE, frequencies; inquiry 6307
LAND TRANSPORTATION RADIO SERVICES:
- Application procedures for transmitting facilities on public lands 2891
- Cooperative use of fixed stations:
  - Annual reports, proposed rule 14161, 16056
  - Fixed and mobile radio facilities, petition denied 4550
- Technical standards:
  - Emission limitations; reduction in frequency deviation, deadline postponed 7531
  - Radiolocation stations, type acceptance, etc 15681
- Various services; frequencies, proposed rules:
  - Auto emergency service 13145, 13977, 15180
  - Motor carriers service 13977
  - Railroad service 13977
  - Taxicab service 3185, 13145, 13977, 15180

MARITIME SERVICES:
- Land stations:
  - Application procedures for transmitting facilities on public lands 2891
  - General station requirements, transmitter power; proposed rules 13295
  - Marine control, repeater, and relay stations 382, 6933
  - Operator requirements 13663
  - Radiotelephony, VHF; proposed rules 4501, 6583
- Shipboard stations:
  - General station requirements, transmitter power; proposed rules 13295
  - Interim ship station licensing, elimination; proposed rule 10663
  - Operator requirements 13664
  - Radiotelephony, VHF; proposed rules 4501, 6583

MEXICAN BROADCAST STATIONS 10871, 10873, 10875, 15602

ORGANIZATION AND FUNCTIONS:
- Applications:
  - Commercial operator license, restricted radiotelephone operator permit 2626
  - Interim ship station licensing, elimination of; proposed rule 10663
- Broadcast Bureau, Chief 10363, 15472, 15675
- CATV Task Force, Chief 3831, 6263, 7835
- Chairman 10569
- Commission 10569
- Committees of Commissioners 10569
- Common Carrier Bureau, Chief 5272
- Editorial changes 12180, 20859
- General information 10570
- Information Office 13125
- Laboratory, Laurel, Md.; address 12795
- Records not routinely available for public inspection 11215, 12180
- Safety and Special Services Bureau, Chief 3831

PRACTICE AND PROCEDURE:
- Broadcast applications:
  - Call signs, new or modified, requests for; proposed rules 7918
  - Foreign stations, application for permit to deliver programs to 2771
- Editorial changes 20860
- Ex parte presentations, CATV Task Force 4358
- Fees for commercial radio operators; provisional certificate for radiotelephone third-class operator permit, proposed rule 13822

Federal Communications Commission—Con. Page

PRACTICE AND PROCEDURE—Continued
- General rules; applications:
  - Procedures for transmitting facilities on public lands 2890
  - Requiring special aeronautical study, antenna structures 8813
- Safety and special services applications and proceedings; elimination of interim ship station licensing, proposed rule 10663
- Television broadcast applications, translator stations 11214

PUBLIC SAFETY RADIO SERVICES:
- Application procedures for transmitting facilities on public lands 2891
- Cooperative use of fixed stations:
  - Annual reports, proposed rule 14161, 16056
  - Fixed and mobile radio facilities, petition denied 4550
- Signaling devices, expanded use 3301, 12915
- Technical standards:
  - Emission limitations; reduction in frequency deviation, deadline postponed 7531
  - Frequencies 12917
  - Radiolocation, type acceptance, etc., proposed rules 15680
- Various services:
  - Fire service; frequencies, proposed rule 13977
  - Highway safety; frequencies, proposed rule 13977
  - Local Government service:
    - Emergency call box service 12917
    - Frequencies, proposed rule 13144, 13977, 15180
  - Police service:
    - Frequencies, proposed rule 13977
    - Surveillance activities on available frequencies 926
  - Special emergency service; physicians and veterinarians, proposed rule 10375, 11968, 13145, 15180

RADIATION. *See under* Radio broadcast services; standard broadcast stations; Radio frequency devices.
RADIO BROADCAST SERVICES:
- Educational stations, noncommercial:
  - Application procedures for transmitting facilities on public lands 2891
- FM:
  - Allocations and technical standards; inquiry 1007, 1142, 4182, 7031
  - Modulation monitors, type-approval; effective date 7531
  - Remote control authorization 4359
- Personal attacks, political editorials 10306, 11532, 11708
- TV stations:
  - Georgia, 10875.
  - Guam, 3635, 7023.
  - South Dakota, 6147, 11879.
  - Virginia, 2899.
- Emergency action notification system and emergency broadcast system 10184
- FM stations:
  - *See also* Educational stations.
  - Additional assignments, requests for; policy statement 7349
  - Application procedures for transmitting facilities on public lands 2891
  - Channel assignments:
    - Alabama, 323, 926, 11283, 15162.
    - Arizona, 464, 926, 3023, 3471, 8324, 12612, 19187.
    - Arkansas, 926, 4078, 6099, 8913, 15680.
    - California, 464, 3023, 4078, 6099, 6142, 8913, 11283, 15162, 19187.
    - Colorado, 4078, 6099, 8913, 9178, 11876.
    - Connecticut, 8531, 12612.
    - Florida, 15679.
    - Georgia, 926, 4078, 6099, 8913, 19191.
    - Idaho, 15680.
    - Illinois, 323, 464, 3023, 6138, 8531, 11283, 12612, 15162, 19187.
    - Indiana, 323, 464, 926, 3023, 4078, 6099, 6138, 8531, 8913, 12612, 19187.
    - Iowa, 326.
    - Kansas, 8532, 12612.
    - Kentucky, 323, 926, 4078, 6099, 7897, 8531, 8913, 10300, 11283, 12612, 15162, 19187.
    - Louisiana, 464, 3023, 8542, 8524, 11283, 15162.
    - Maine, 4078, 6099, 8913.
    - Maryland, 926.
    - Minnesota, 464, 3023, 6138, 11283, 15162.
    - Mississippi, 11283, 15162.
    - Missouri, 323, 464, 3023, 6138.

Federal Communications Commission—Con. Page

RADIO BROADCAST SERVICES—Continued
FM stations—Continued
Channel assignments—Continued
Nebraska, 464, 926, 3023, 6138.
New Jersey, 8581.
New York, 464, 926, 3023, 4078, 4124, 6099, 8524, 8913, 11368, 15163, 15679.
North Carolina, 464, 3023, 8530, 11383, 11877, 15162, 15545, 15711.
Ohio, 338, 926, 7334, 19163.
Oklahoma, 323, 464, 3023, 6138, 8531, 12612.
Oregon, 464, 3023, 6138.
Pennsylvania, 323, 8531, 11383, 13612.
Puerto Rico, 15679.
Tennessee, 464, 3023, 3024, 4078, 4175, 6099, 7397, 8524, 8913, 10300, 19187.
Texas, 464, 3023, 4078, 6099, 6142, 8913, 19188.
Utah, 464, 3023.
Virginia, 323, 8150, 11383, 15162.
Washington, 464, 3023, 6138.
West Virginia, 8150.
Wisconsin, 323, 926.
Experimental operation ... 11886, 19187
Field strength contours ... 11471
Indicating instruments for logging purposes ... 5566, 7092, 13511
Interference, protection from; antenna farm areas ... 8813
Modulation monitors, type-approval ... 4532, 7531
Personal attacks, political editorials ... 10305, 11532, 11708
Power requirements, minimum, class C stations; proposed rule, extension of time ... 3888
Proceeding terminated ... 9108
Program log analysis, composite week dates ... 12133
Remote control authorization ... 4359
Sponsor identification, waiver for want ads ... 3836, 7915
Station identification ... 2385, 5740, 6408, 15161, 15191
International broadcast stations, application procedures for transmitting facilities on public lands ... 2891
Standard broadcast stations:
Applications:
Procedures for transmitting facilities on public lands ... 2890
Ready and available for processing ... 3243, 3900, 4032, 5710, 10389, 15132, 15558, 15686
Directional antenna systems, calculation of proposed radiation patterns; proposed rules, extension of time ... 872
Engineering charts ... 10794
Frequency monitors, certain restrictions deleted ... 10306
Indicating instruments for logging purposes ... 5566, 7092, 13511
Operating hours ... 4371
Personal attacks, political editorials ... 10305, 11532, 11708
Presunrise service authority ... 10447
Auxiliary transmitter ... 11796
Class II stations, 500 watt ceiling ... 10452, 12407, 14610
Proposed rules ... 13822, 14605, 16107, 20659
Pleadings, extension of time for ... 10794, 12402
Unlimited-time class II and III stations, temporary authority ... 16064
Waiver requests, guidelines for ... 15133
Program log analysis, composite week dates ... 12133
Radiation values, data required with applications for directional antenna systems; proposed rules, extensions of time ... 11086, 13232, 20739
Remote control:
Authorization ... 4359
Operation, telemetry signals; proposed rule ... 16055, 20882
Sponsor identification, waiver for want ads ... 3836, 7915
Station identification ... 2385, 5740, 6408, 15161, 15191
Television broadcast stations:
Application procedures for transmitting facilities on public lands ... 2891
Canadian VHF TV stations ... 5300, 8257
Channel assignments, VHF or UHF:
California, 3835, 7344, 9815, 11214, 11472.
Florida, 872, 1135, 4077, 6142, 12795.
Georgia, 10875.
Guam, 3835.
Hawaii, 4363, 12797.
Idaho, 823, 3677.
Kentucky, 1136, 3178, 6780, 7393.

Federal Communications Commission—Con. Page

RADIO BROADCAST SERVICES—Continued
Television broadcast stations—Continued
Channel assignments, VHF or UHF—Continued
Louisiana, 1130.
Maryland, 7955.
Michigan, 872, 925, 12564.
Minnesota, 1129, 13294.
Nebraska, 6779, 7918, 11471.
New York, 3832.
Pennsylvania, 7955.
South Dakota, 7023.
Tennessee, 873, 6399, 7393.
Texas, 873, 6142, 8533, 10664, 11336, 12954, 13776.
Virginia, 3899, 14160, 16053.
Washington, 7919, 12559.
Wisconsin, 874, 7394.
Channel utilization, protection from interference; antenna farm areas ... 8814
Indicating instruments for logging purposes ... 5566, 7092, 13511
Personal attacks, political editorials ... 10305, 11532, 11708
Program log analysis, composite week dates ... 12133
Remote control operation of VHF broadcast stations, proposed rule terminated ... 5566
Sponsor identification, waiver for want ads ... 3836, 7915
Station identification ... 2385, 5740, 6408, 15161, 15191
Stereophonic sound for TV broadcasting, termination of proceeding ... 10691
Subscription television service, proposed rules ... 10606, 11285
Technical standards, prediction of coverage; proposed rule ... 3835, 4284, 6409
RADIO EQUIPMENT LIST, type acceptance withdrawn for certain transmitters ... 8429
RADIO FREQUENCY DEVICES:
Low power communication devices; proposed rules ... 6145, 7636, 12563
Radiation interference limits:
Radio receivers, extension of expiration date ... 6933
TV receivers ... 10854
RECORDS:
Available ... 10568
Not routinely available for public inspection ... 11213, 12180
SATELLITE COMMUNICATIONS:
Authorized entities and users, procedures ... 2829
Developmental stations, authorizations to ... 320
Domestic noncommon carrier communications satellite facilities, establishment by nongovernmental entities ... 828, 12731
Leasing voice grade and TV channels to common carriers, investigation, etc ... 765, 828, 1006, 3068, 3789, 7880, 10876, 12965
TELEGRAPH CARRIERS:
Annual report for 1968, proposed rules ... 14158
Speed of service studies ... 2892
Uniform system of accounts; radiotelegraph, wire-telegraph, and ocean-cable carriers, property items ... 2635, 2637
Volume of domestic telegraph messages, list of cities ... 10855
TELEPHONE COMPANIES:
Accounts, uniform system, class A, B, and C companies ... 275, 2628, 2635
Annual report form M ... 275
Annual report for 1968, proposed rule ... 14158
Emergencies, procedures for handling priority services, leased intercity private lines ... 788
Recording devices, restrictions on use ... 2384, 11274
WALKIE-TALKIE RADIOS, use of caution in purchase ... 20675
WORLD ADMINISTRATIVE CONFERENCE, International Telecommunication Union; inquiry ... 3847, 7474, 12198
WORLD TRADE CENTER, investigation of television interference caused by construction ... 8257
HEARINGS, ORDERS ETC.:
Advanced Electronics, 1142, 3844, 6153.
Aiken Cablevision, Inc., 11899, 13389, 13681, 17986.
Akron Telerama, Inc. et al., 6004, 6308, 7350, 9249, 12963, 14117, 15649.
Albany Radio Corp., 8829, 8830, 10272, 14124.
Aljir Broadcasting Co., Inc., 7030, 7899, 10522, 15771.
Allen, John P., 7986, 7987.
American Broadcasting Companies, Inc., 4272, 4585, 5490.
American Home Stations, Inc. (WVCF), 160.

Federal Communications Commission—Con.

HEARINGS, ORDERS, ETC.—Continued
American Telephone and Telegraph Co. et al., 96, 98, 289, 4034, 4291, 4452, 7350, 7643, 7722, 8730, 8987, 12135, 13737, 15047, 17445, 18120, 20889.
American Television Co., Inc., 15771, 15934, 20749.
American Television Relay, Inc., 3236, 3287, 3901, 6590, 9181.
Americana Broadcasting Corp., 11356, 11489, 11899, 14117, 16113, 17988.
Arecibo Broadcasting Corp., Inc., 20752, 20894.
Asheboro Broadcasting Co., 3901, 6108, 7227, 9116.
Associated Bell System Companies, 1005.
Associated Telephone Answering Service, 4287, 4320, 7227, 8827.
Athens Broadcasting Co., Inc., 11713, 11899, 14706, 17986.
Atlantic Broadcasting Co. (WUST), et al., 1201, 10317, 10522, 11353.
Atlantic City Television Co., 14292, 14622, 20752.
Atsinger, Edward G., III, 3111.
Augusta Telecasters, Inc., 11354, 11489, 13837.
Azalea Corp. et al., 10685, 10676, 11354, 14981.
BBPS Broadcasting Corp., 418.
Baltimore Broadcasting Co., 13782, 13837, 15406.
Baptist Bible College, 11965, 12134.
Baron Broadcasting Corp., 11093, 11094.
Bay Broadcasting Co., 2392, 2864, 4551, 6740, 7228, 8547.
Bayou Broadcasting Co., 418, 474, 3845.
Bell Telephone Co. of Pennsylvania, 5523, 5648, 5814, 6531, 6946, 8430, 10522, 13239, 16231.
Bellevue Broadcasters (KFKF), 4188, 5814.
Berwick Broadcasting Corp., 20749, 20890.
Bethesda-Chevy Chase Broadcasters, Inc., 10317.
Bettervision Systems, Inc., 15804, 15934, 17987, 17991.
Big Basin Radio, 14117, 14167, 20890.
Bigham, Allen C., Jr., 339, 826.
Black Hawk Broadcasting Co. (KWWL-TV), 3476, 6306, 8186, 11354.
Blancett Broadcasting Co., 16231, 17987, 20890.
Bluefield Cable Corp., 8257, 9577, 10676, 12731, 13838, 14365, 17987, 17991.
Bluefield Television Cable, 8257, 9577, 10676, 12731, 13838, 14365, 17987, 17991.
Boca Broadcasters, Inc., 3901, 4551.
Booneville Broadcasting Corp., 14117, 14167, 20890.
Boston Heritage Broadcasting, Inc., 13782, 13889, 15132.
Bradley, Carol L., 17680, 20674.
Brandywine-Main Line Radio, Inc., 1103, 1143, 2865, 5524, 11491.
Braun Broadcasting Co., Inc. (KOAD), 7780, 7880, 8730, 12133, 14118.
Breckinridge Broadcasting Co., 16231, 17987, 20890.
Bresee, John L., 11817.
Brownsville, Texas, city of, 14118, 14290, 15192.
Buckeye Cablevision, Inc., 17685, 20674, 20749.
CATV Industry, 6221.
CATV of Rockford, Inc. et al., 4288, 4320, 4552, 6153, 8584, 12964, 14365, 16444.
Cable Vision, Inc. et al., 4089, 5740, 6741, 7720, 10522, 10940.
California Water and Telephone Co. et al., 1005, 1143, 2865, 2866, 3027, 3752, 4089, 5646, 5647, 5855, 6741, 6742, 7641, 9577, 14290, 14983.
Camden, New Jersey, city of, 4182, 6946, 12965, 15131.
Camp, Ronnie J., 11092, 13425.
Cape Fear Broadcasting Co. (WFNC), 11513, 12733, 13425, 15727.
Capitol Television Broadcasting Corp., 2831, 3478, 5303, 5747, 6309.
Carlisle, Roy E., 14984, 16171.
Carter, Thomas F. et al., 4453.
Carter Broadcasting Corp., 21, 764, 1006, 3112, 3903, 4182.
Carter Electronics Corp. et al., 4002.
Cathedral of Tomorrow, Inc., 12837, 12838, 14706.
Cavallaro, Augustine L., Jr., 3783, 6308, 7474, 8584.
Central Connecticut Broadcasting Co., 6948, 7031, 7881.
Central Du Page County Broadcasting Co., 3027, 5525, 6416, 11177.
Chamberlain, Charles H., 9842, 9843, 10020, 11355.
Chance, Albert I. and Virginia C., 765.
Chapman Radio and Television Co. et al., 160, 289, 1200, 2668, 3908, 4583, 5524, 8048, 8318, 8987, 12964.
Cherokee Broadcasting Co., 2794, 2907, 3789.
Circle L., Inc. et al., 4373, 6531.
Cirilli, Arthur A. et al., 2895, 3237, 7090.
Clearview TV Cable, Inc., 14118, 15406.
Collins Broadcasting Co., 16066, 17992.
Columbia Broadcasting System, Inc. (WCAU), 2237, 4321.
Communications Satellite Corp. et al., 765, 828, 1006, 2829, 3068, 3789, 7880, 10676, 12965.
Community Broadcasters, Inc., 8318, 8430, 9577, 11177.
Community Communicators of Ohio, Inc., 340.
Conestoga Telephone and Telegraph Co., 5523, 5648, 5814, 6531, 6946, 8430, 10522, 13239, 16231.
Corinth Broadcasting Co., Inc., 10682, 11050, 12870, 13380, 15192.
Cornbelt Broadcasting Corp., 6950, 7031, 7882, 9116.

Federal Communications Commission—Con.

HEARINGS, ORDERS, ETC.—Continued
Cosmos Broadcasting Corp. (WSFA-TV), 473, 4145, 7541, 13229.
Cosmos Cablevision Corp., 161, 289, 289, 473, 4290, 6947, 8049, 15047, 15131, 16066.
Courier Cable Co., Inc., 473, 2670, 4084, 7410.
Crest Broadcasting Co., 10880, 14119.
D & P Broadcasting Co., 1104.
D & T Broadcasting Co., 290, 2905.
Daily Express, Inc. et al., 289, 3477.
Daytona Broadcasting, Inc., 13782, 13837, 14984.
Delta Teleradio Corp., 7780, 7881, 9254, 12568, 15686.
Desert Broadcasting Co., Inc., 4453.
Desert Empire Television Corp., 6308, 6416, 7980, 10271.
Du Page County Broadcasting, Inc., 3027, 5525, 6416, 11177.
Durham-Raleigh Telecasters, Inc. et al., 12412, 12962, 13837, 15650, 17987, 19199.
East St. Louis Broadcasting Co., Inc., 4033, 4090, 6159, 9335, 10677.
Eastern Broadcasting Corp., 8837, 8838, 10271.
Eastern Microwave, Inc., 7186, 7288, 8050, 11900, 15132.
Eatherton, James W., 7720, 7880, 9116, 14291, 15509, 17446.
El Camino Broadcasting Corp., 12133, 12413, 15407, 16066.
Elim Bible Institute, Inc. et al., 10678, 11092, 11567, 14119, 16332.
Fairleigh Dickinson University, 7721, 7882, 8431, 9577, 9854, 14621, 15556.
Fairman, Clarence T., 7987.
Fannin County Broadcasting Co., 2794, 2907, 3789.
Farragut Television Corp., 21.
Faulkner Radio, Inc., 4032, 4090, 8360, 6809, 7987.
Fetzer Cable Vision, et al., 2288, 2477, 4321, 6809, 9336, 10043.
Fine Music, Inc. (WFMI), et al., 96, 100, 765, 3184, 4182, 4183, 5429, 7780, 8685, 8988, 10860.
First Capitol Radio, Inc., 15408.
Florida-Georgia Television Co., Inc. et al., 10943, 11092, 13240, 17681.
Fort Wayne Broadcasting Co., 11093, 13014, 15407.
Four Star Aviation, Inc., 16445.
1400 Corp. (KBMI), et al., 5300, 6742, 7541, 9576, 12340.
Friendly Broadcasting Co., 341.
Fulton Community Antenna Television System, Inc. et al., 2686.
Furr, J. W. (WMBC), 7720, 7880, 9116, 14291, 17446, 18120.
Gala Broadcasting Co., 7880.
Gamble, Joseph, Stations, Inc., 765.
Gamma Television Corp. et al., 4184, 4290, 4375, 5711, 6309.
Gardens Broadcasting Co., 13783, 13837, 14984.
Garrett, Bill, Broadcasting Corp., 4032, 4089, 5300, 6809, 7987.
General Electric Cablevision Corp. et al., 2687, 2411, 3754, 4146, 5301, 5490, 5648, 5830, 8528, 13425, 14001, 14992, 15504, 16172, 17680, 17988, 20890.
General Telephone Co. of the Northwest, Inc., 14119, 14410, 15131.
General Telephone System, 1006.
Georgia-Carolina Industries, Inc., 11354, 11489, 13837.
Georgia Radio, Inc. (WFLK), 9853, 10271, 12871, 14621.
Gordon County Broadcasting Co. (WOGA), 12965, 13240, 13839, 14322, 17988.
Gospel Broadcasting Co. of Fort Wayne, Inc., 11093, 11354, 13014, 15407.
Granik Broadcasting Co., Inc., 20822, 20823.
Graves, L. G., 7031, 8256.
Grayson Television Co., Inc., 14120, 14121, 15132, 18120.
Great River Broadcasting, Inc. et al., 13300, 20674.
Great Southern Broadcasting Co., 6309, 6416, 7923, 10945, 12732, 14121, 15773.
Gulf South Broadcasters, 418, 474, 3845.
Hahn, Philip T., Jr., 12300, 13426, 16113, 17992.
Harriman Broadcasting Co. (WKXL), 3904, 3905, 4290, 6310.
Hartford County Broadcasting Corp., 6948, 7031, 7881.
Hawaiian Paradise Park Corp., 341.
Heard Broadcasting, Inc., 13737, 14002, 17991.
Hemby, Frank Hovis, 7299, 7400, 7841, 11354, 11490.
Hemphill Flying Service, 14118, 14290, 15192.
Hennig, Norman W., 3113, 3184, 5814.
Hercules Broadcasting Co., 14120, 14121, 15132, 18120.
Hi-Point Broadcasting Co., 9342, 9343, 10020, 11355.
Home CATV Co., Inc., 11899, 13389, 13681, 17986.
Hutchens, James L., 290, 419.
Imes, Birney, Jr., 4032, 4089, 5646, 8230.
Industrial Communications Systems, Inc., 1142, 3844, 6153, 7642, 7721, 8730, 15504, 19199.
Inland Broadcasting Co., 7880.
International Electronic Development Corp., 420, 3115, 4146, 6949.
Inland Broadcasting System (WRIV), Inc., 2411, 3906, 4585.
Jimsair, Inc., 11966, 12138.
Jobbins, Charles W. et al., 7350.
Johnson, Aben E., Jr., 13837, 13838, 14706.
Jones, Arthur E., Jr., 8826, 8930, 9343, 9854, 10689.

Federal Communications Commission—Con.

HEARINGS, ORDERS, ETC.—Continued

Jones, Ward L., 1062, 1143, 9479, 6154, 7542, 8829.
Jupiter Associates, Inc. et al., 22.
KCIL, Inc., 20690.
K.C.O.D. Broadcasting Corp., 11966, 12134.
K H Radio Co., 7300, 7542, 8930.
KJRD, Inc., 419.
KLRA, Inc. et al., 161, 162, 1143, 3844, 4321, 6106.
KTOW–TV, Inc., 9254, 9255, 10689.
KXYZ Television, Inc., 10680.
Kansas State Network, Inc., 161.
Kayabier, Fred, 11712, 11899, 12413.
King Broadcasting Co., 10690, 11051, 14694.
King's Garden, Inc., 12134, 13425, 14964.
Kittel, David Joseph, 340.
Kittyhawk Broadcasting Corp. et al., 4322, 4325, 5527, 7299, 7881, 8319, 10080, 10690, 11355, 12671, 14121.
LAP Broadcasting Corp., 4163, 6946, 12965, 15133.
L&S Broadcasting Co. et al., 3907, 3909, 3112.
Lamar Life Insurance Co., 985, 2907, 3112, 3477, 4290.
Lamoreaux, Richard P., 706, 4001, 4325.
La-Tarr Broadcasting Corp., 20690.
Laurel Cablevision Co. et al., 11050, 11093, 11567, 12781, 14410, 15694.
Lawrence, Mass., city of, 16445.
Lawrence County Broadcasting Corp. et al., 3183, 3184, 3789, 5527, 6415, 7721, 9258, 9730, 9250, 12413, 15558.
Lebanon Broadcasting Co., 20751, 20891.
Lebanon Valley Radio, et al., 4291, 6222, 9665.
Lee Broadcasting Corp., 3068, 3112, 5563, 6106, 6310, 7542, 9252, 10818.
Lee Enterprises, Inc., 13606.
Liberty Communications, Inc., 4267, 4320, 7227, 8827.
Little Dixie Radio, Inc. et al., 20891.
Livesay, William R., 290.
Lockheed Aircraft Corp., 11966, 12135.
Logan Broadcasting Co., 5655, 5856, 6809, 11814.
Long Island Video, Inc., 20622.
Lorain Community Broadcasting Co. et al., 419.
Loyola University, 11358, 11489, 11899, 14117, 15113, 17968.
Madison County Broadcasting Co., Inc. (WRTH), 2395, 4146, 6809, 10528, 12813, 17968.
Mairite, Inc., 13300, 13426, 16113, 17992.
Manor, Joe, 18120, 20622.
Marandola, Joseph Julian, 6742, 7541, 9676, 13240.
Mars Hill Broadcasting Co., Inc., 1062, 1143, 3479, 6154, 7542, 8829.
Martorell, Luis Prado, 3783.
Maupin Broadcasting Co. (WEMK), 1104.
Maxwell Electronics Corp., 21, 1006.
Meadows Broadcasting Co., Inc., 13782, 13837, 15406.
Mel-Lin, Inc. (WOBS), 3320, 3431, 3829, 9577, 12643, 14292, 15935.
Meredith-Avco, Inc. et al., 13682, 13838, 14292, 15556.
Mesa Microwave, Inc., 10528, 10689, 11355.
Metro-East Broadcasting, Inc., 4082, 4090, 6183, 9335, 10677.
Metro Group Broadcasting, Inc., 21, 764, 1004, 3112, 3908, 4182.
Miami Broadcasting Corp. et al., 7099, 7229, 8829, 11814, 12966, 13426.
Microwave Communications, Inc. et al., 4291.
Mid America Broadcasting, Inc., 6106, 6310, 7542, 9252, 10818, 13606.
Midwest Radio-Television, Inc. (WCCO), 10940.
Midwest Television, Inc. (KFMB–TV), 4482, 8590, 9181.
Milton Broadcasting Co., 11355, 11490, 13838.
Minnesota-Iowa Television Co., 3068, 3112, 5563.
Minshall Broadcasting Co., Inc., 11356, 11490, 13240, 15407, 15935, 15937, 18121.
Miss Lou Broadcasting Corp., 9253, 10688.
Mobilfone Communications, Inc., 18120, 20622.
Montana Network, et al., 11966, 12135, 12966.
Moratto, Paul W., 765, 766.
Mt. Carmel Broadcasting Co., 7300, 7542, 8930.
Mount-Ed-Lynn, Inc., 419, 2669, 5303.
Multivision Northwest, Inc., 238, 290, 2395, 4586, 7542, 10688, 14965.
Muniz, Lucas Tomas, 20752, 20894.
Muscat, Victor, 9254, 9255, 10689.
Natchez Broadcasting Co. (WMIS), 11490, 14122, 15406, 20752.
National Enterprises, Inc., 10690, 10692, 13427.
New York Municipal Broadcasting System (WNYC), 10940, 11814.
New York University, 7721, 7822, 9431, 9577, 9854, 14621, 15558.
News-Sun Broadcasting Co. et al., 4090, 4091, 5302, 7923, 8549, 16445.
Noark Broadcasting, Inc., 13426, 13427, 13785, 14964.
Norfolk Broadcasting Corp., 13737, 14002, 17991.
Norristown Broadcasting Co., Inc. (WNAR), 3114, 3115, 5302, 7081, 11051.

Federal Communications Commission—Con.

HEARINGS, ORDERS, ETC.—Continued

North Shore Broadcasting Corp. (WESX), 10818, 10824, 10948, 13240.
Northwest Broadcasters, Inc. (KBVU), et al., 2665, 3027, 4186, 5814.
Northwest Broadcasting Co., Inc., 5712.
Northwest Tennessee Broadcasting Co., Inc., 22, 1064, 3477, 5526.
Oasis Broadcasting Corp., 6308, 6416, 7880, 10271.
Ohio Radio, Inc., 4559, 5649, 6810, 8731, 10273, 11713.
O'Quinn, Farnell, 13784, 13785, 15193; 15506.
Orange Nine, Inc. et al., 5856, 5859, 7031, 10819, 11051.
Oregon, State of, et al., 13889, 14570.
Oregon State Board of Higher Education, et al., 12967, 12968.
Ostertag, H. C., Cable TV Co., 5817.
Outer Banks Radio Co. et al., 20752, 20894.
Overmyer, D. H., Communications Co., 21, 1006.
P.A.L. Broadcasters, Inc., 20749, 20890.
Palmer-Dykes Broadcasting Co., 10945, 10946, 13607, 14002, 15192, 17446.
Paolucci, Rudolph G., 12732, 14122, 14410, 14706.
Parker, J. T., Jr., 290.
Patriot State Television, Inc., 13783, 13839, 15132.
Peak Air Conditioner Co., 10524, 10688, 13014.
Peoples Broadcasting Corp., 21.
Piedmont Broadcasting Corp., 11093, 11094.
Plains Broadcasting Co., Inc. (KGYN), 3237, 4321.
Potomac Valley Television Corp. et al., 12414, 12643, 13682.
Powers Ferry American, 12782, 14410, 14706.
Prairieland Broadcasters, 766, 4001, 4325.
Quest for Life, Inc. et al., 11094, 11095, 12966, 14123.
Radio Columbus, Inc., 4082, 4089, 5646, 8930.
Radio Corinth, 10688, 11050, 12870, 13389, 15192.
Radio San Juan, Inc. (WRSJ), 10688, 10689, 13389, 14163.
Radio Station KQXI (KQXI), 1062, 1143, 3305, 5302, 5711.
Radio Stations KNND and KRKT, 8829, 8830, 10273, 14124.
Rancho Bernardo Antenna System, 7643, 7923, 8258.
Red River Translator Association, 2830.
Reporter Broadcasting Co., 2392, 2864, 4551, 6740, 7228, 8547.
Rice, Michael S. et al., 7300, 7302, 8549, 9577, 15408.
Risner Broadcasting, Inc., 20751, 20891.
Roach, John C., 12966, 13240, 13839, 14622, 17968.
Robertson, Donald J., 15132.
Romac Baton Rouge Corp., 2831, 3478, 5308, 5747, 6809, 9253, 10020, 10688, 10689.
Romac Macon Corp., 5527, 5648, 6008, 6532, 10524, 10525, 11178.
Rovan Television, Inc., 5527, 5648, 6008, 6532, 10524, 10525, 11178.
SEC, Inc., 9578, 9854, 10272, 11357, 13014, 14570, 15650, 20623.
St. Anthony Television Corp. (KHMA–TV), 7780, 7881, 9254, 12568, 15686.
Salter Broadcasting Co. (WBEL), et al., 3305, 5859, 6107, 6532, 7359, 8321, 8989, 10689.
San Angelo Independent School District No. 266–608; 9578, 9854, 10272, 11357, 13014, 14570, 15650, 20623.
San Fernando Broadcasting Co. (KSFV), 3410, 3477, 4375, 5646, 7542, 7881.
Santa Fe Cablevision Co., 3236.
Santa Rosa Broadcasting Co., Inc., 2907, 6007, 6950.
Sarasota-Bradenton, Florida Television Co., Inc., 7302, 7308, 8432, 9116.
Schafer, Paul C., 419, 474, 1201.
Schafitz, Sanford, 10820, 10825, 10891.
Scott Broadcasting Co. of Pennsylvania, Inc., 418.
Service Communications, Inc., 290, 2395.
Shaffer, Russel, 420, 3115, 4146, 6949.
Shen-Heights TV Association, et al., 6809, 7987, 8552.
Shriner, T. J., 11816, 11967, 15132.
Shurtleff-Schorr Broadcasting Corp., 6950, 7081, 7683, 9116.
Sierra Blanca Broadcasting Co. (KRRR), 11712, 11899, 12413.
Simpson, Perry H., 15686.
Sinnett, Hugh Joseph, 11587.
Sioux Empire Broadcasting Co., 3115, 3117, 11817, 12569.
Smith, E. O. (KRDS), 11095, 11096, 13301.
South Coast Broadcasting Co., 12133, 12413, 15407, 16066.
South Jersey Radio, Inc., 14292, 14622, 20752.
South Kane-Kendall Broadcasting Corp., 7030, 7879, 10522, 15771.
Southington Broadcasters, 10525.
Sports Network, Inc., 4291, 6222.
Stamps Radio Broadcasting Co., 13426, 13427, 13785, 14964.
Steel City Broadcasting Co., 22, 1143.
Stokes County Broadcasting Co. (WKTB), 2669, 2831, 3906, 4325, 6590, 8050, 9854, 11357.
Sudbury, Jones T., 22, 1064, 3477, 5526, 5712.
Suffolk Broadcasters, 11491, 13785, 14706.
Sunset Broadcasting Corp. et al., 766, 3117, 4552, 9579, 9854.
Susquehanna Broadcasting Co. et al., 5815, 5817.

Federal Communications Commission—Con.

HEARINGS, ORDERS, ETC.—Continued

Symphony Network Association, Inc., 22, 1143.
Syracuse Television, Inc. et al., 9116, 10691.
T.V. Broadcasters, Inc., 421.
Taft Broadcasting Co. (WKYT), et al., 766, 1064, 6008, 9685.
Tamiami, T.V., Inc., 7302, 7308, 8432, 9116.
Taxicab Radio Service, 239, 2185.
Television Cable, 6810, 9117.
Tesco Communications, 100, 5523.
Thistle, Arch, 100, 5523.
3 J's Broadcasting Co., 11712, 11899, 14706, 17986.
Tinker, Inc., 3478, 4187.
Toomey, J. H. & Sons, Inc., 11967.
Top Vision Cable Co., 9655.
Topeka Television, Inc., 1201.
Tri-Cities Broadcasting Corp., 14002, 15192, 17446.
Tri-City Broadcasting Co., Inc., 421, 4003, 10945, 10946.
Tri-County Broadcasting Co., Inc., 10692, 13607, 14622, 14706.
Tri-State Broadcasting Co., Inc. (KUPD), 14124, 14294, 16446.
Tri-State Television Translators, Inc., 13014, 14570, 15727, 16232, 17681.
Triple C Broadcasting Corp., 16066, 17992.
Twin Cities Cable Co., Inc., 14002.
Twin County Trans-Video, Inc., 160.
Ultravision Broadcasting Co., 473, 2670, 4034, 7410.
Unicable Inc. et al., 3093, 3117, 3478.
United Transmission, Inc. et al., 3118, 5303, 6153, 12198, 13014, 14003, 17446, 17992.
United Utilities, Inc., 1006.
University City Television Cable Co., Inc., 11356, 11490, 13240, 15407, 15935, 15987, 18121.
Upper Broadcasting Co., 5855, 5856, 6809, 11814.
V.W.B., Inc., 10526, 10527, 11096, 15505.
Valley-Vision, Inc., 3243, 4034, 5593, 7832, 8685, 9579.
Vaughan, Stephen, & Associates, 238, 290, 2395, 4586, 7542.
Vestal Video, Inc., 7100, 7228, 8050, 11900, 15132.
Video, Brainerd, 15131.
Video Service Co., 3110, 15937.
Video Vision, Inc., 3411, 3479, 4553.
Virginia Broadcasters, et al., 11357, 11491, 13785, 14706.
Voice of The New South, Inc. (WNSL), 11967, 12135, 13839.
Vumore Co., 10523, 10689, 11355.
WBIZ, Inc., 6310, 6417, 7475, 8552.
WBLG–TV, Inc., 6107.
WECL, Inc., 6310, 6417, 7475, 8552.
WIKI Radio, Inc., 8827, 8828, 10271.
WLCY–TV, Inc. (WLCY–TV), 22, 828, 1201, 3479, 4291.
WMGS, Inc. (WMGS), 4553, 5649, 6810, 8731, 10273, 11713.
WRBN, Inc., 10692, 14622, 14706.
Warner, Arnold L., 7542.
Waterman Broadcasting Corp. of Texas, 10690, 10692, 13427.
Waymart Cable TV, 6810, 9117.
Welch Antenna Co., 17988.
Wellersburg TV, Inc., 13014, 14570, 15727, 16232, 17681.
West-State Broadcasting Co., 8318, 8430, 9577, 11177.
Western Broadcasting Co., 10690, 11051, 14694.
Western North Carolina Broadcasters, Inc., 162, 164, 1007, 8243, 6590, 9117, 9181.
Western Union Telegraph Co., 1144, 3029, 3480, 7643, 7722, 7928, 8730, 8987, 8990, 10321, 10691, 11588, 12135, 17445, 20689.
Wichrowski, Stephen A., Jr., 15650, 15727, 15772.
Willmar Video, Inc., 11096.
Winona TV Signal Co., 13389.
Wishner, James B., 8432, 8731.
World Trade Center, 10020.

Federal Contract Compliance Office:

SEGREGATED FACILITIES, elimination by Government contractors and subcontractors ---------- 7439

Federal Council for Science and Technology:

MEMBERSHIP (Executive Order 11381) ---------- 15629

Federal Credit Unions Bureau:

MERGERS of Federal credit unions, approval by members ---------- 8778, 7333
ORGANIZATION AND OPERATION, accounting services ---------- 387, 5271

Federal Crop Insurance Corporation:

AUTHORITY DELEGATION by Secretary to National Service Director, claims ---------- 15716
FEDERAL CROP INSURANCE:
Application and policy, 1969 and succeeding crop years ---------- 17425
1967 crops:
Apples, 1124.
Barley, 5427, 5644.
Beans, dry, 7347.
Citrus, 1124, 10635, 11745, 15501.
Combined crop, 5427.
Corn, 1123, 4565, 5708, 6804, 6854.
Cotton, 1123, 1169.
Flax, 5427, 5644.
Grain sorghum, 1123, 5708.
Grapes, 706, 1124, 4566, 6111.
Oats, 1169, 5427, 5644, 5707.
Oranges, 3512, 14165.
Peas, canning, 921, 1123, 5427, 5708.
Soybeans, 2931, 5708, 6804, 6854.
Sugarbeets, 706, 1123, 4148, 5427, 6219, 10501, 10694.
Tobacco, 1123, 2931, 4476, 5708.
Tomatoes, 705, 1123, 1169, 7186.
Wheat, 5427, 5644.
1968 crops:
Apples, 14150.
Barley, 4276, 8665, 10781, 11731, 14001.
Beans, dry, 14093.
Citrus, 14150.
Combined crop, 14091.
Corn, 14091, 17513.
Cotton, 12989, 14092, 14305.
Flax, 14091, 14093.
Grain sorghum, 12989, 13504, 14094, 17513.
Grapes, 12989, 13215.
Oats, 14091, 14094.
Oranges, 14150.
Peaches, 14150.
Peanuts, 14095.
Peas:
Canning and freezing, 14091, 14095, 15703.
Dry, 14095.
Potatoes, 14096, 16478.
Raisins, 14150.
Rice, 14147.
Rye, 14091.
Soybeans, 14091, 14147.
Sugar beets, 14148, 15703, 17513.
Sugarcane, 8665, 12806.
Tobacco, 14149.
Tomatoes, 14149, 17513.
Canning and processing, 15704.
Tung nuts, 11755.
Wheat, 4275, 5416, 8665, 10781, 12450, 12989, 13147, 13421, 14091, 14149.
1969 and succeeding crop years:
Barley, 15911.
Beans, dry, 15911.
Combined crop, 15911.
Corn, 15911.
Corn-grain silage, 15911.
Cotton, 15911.
Flax, 15911.
Grain sorghum, 15911.
Oats, 15911.
Peanuts, 15911.
Peas:
Canning and freezing, 15911.
Dry, 15911.
Potatoes, 15911.
Rice, 15911.
Rye, 15911.
Soybeans, 15911.
Sugar beets, 15911.
Sugarcane, 15911.
Tobacco, 15911.
Tomatoes, canning and processing, 15911.
Wheat, 15911.
INFORMATION, availability of ---------- 9616
ORGANIZATION, FUNCTIONS AND PROCEDURES ---------- 8774
National Service Office ---------- 15716

Federal Deposit Insurance Corporation:

ALASKA MUTUAL SAVINGS BANKS, maximum rate of interest on deposits ... 8578
CONDUCT STANDARDS ... 13963
INFORMATION, availability of ... 9638
INSURED BANKS:
- Annual report of income and dividends, nonmember State and mutual savings banks ... 291
- Joint calls for report of condition ... 290, 6810, 10228, 14243

ORGANIZATION AND FUNCTIONS ... 9759
POLICY STATEMENTS:
- Advertisement of membership ... 10189
- Assessments, payment by banks whose insured status has terminated ... 10561
- Bank service arrangements, special ... 9638
- Insurance coverage of deposit accounts, clarification and definition ... 996, 10408, 10410, 18121
- Examples ... 10410, 18121
- Scope of regulations, citation ... 10561
- Trust funds, insurance of; claim by fiduciary bank for insured deposits of trust estates ... 10561

PRACTICE AND PROCEDURE:
- Applications, requests, and submittals ... 9638, 10556
- Forms, instructions, and reports ... 10558
- Hearings, involuntary termination of insured status, cease-and-desist orders, etc ... 6716, 11147
- Payment of insured deposits ... 9638
- Receiverships, national banks ... 10561
- Scope ... 9638
- Voluntary termination of insured status ... 9638, 10561

SECURITIES EXCHANGE ACT of 1934, applications for exemption from certain requirements:
- American Bank & Trust Co., 2588.
- Arlington Trust Co., Lawrence, Mass., 5817.
- Peoples Bank, Starkville, Miss., 6154.
- Western Maryland Trust Co., 241.

SECURITIES OF INSURED STATE NONMEMBER BANKS:
- Definitions, beneficial ownership ... 13982, 17470
- Proxy soliciting material, minority stockholder proposals ... 13982, 17470

Federal Employee-Management Relations, Review Committee on:

HEARING ... 13546

Federal Employees:

See Government employees.

Federal Executive Salary Schedule:

POSITIONS PLACED IN:
- Level IV (Executive Order 11367, 11385) ... 12037, 18081
- Level V (Executive Order 11323, 11335, 11338, 11348, 11369, 11384) ... 777, 3965, 5247, 6331, 12585, 17423

Federal Highway Administration:

ADVISORY COMMITTEE for promotion compliance with motor carrier safety and hazardous materials regulations, creation ... 8777
AUTHORITY DELEGATIONS:
- By Administrator, designation of Acting First Assistant ... 13202
- From Secretary of Transportation:
  - Motor vehicle safety standards ... 6495, 14277
  - Passenger car tires and rims ... 11276, 15710
  - Regrooved tires, restriction on sale or delivery in interstate commerce ... 11489

CONTINUATION of rules, regulations, procedures, etc ... 5612
DEPUTY ADMINISTRATOR, position placed in Level IV, Federal Executive Salary Schedule (Executive Order 11385) ... 18081
EXPLOSIVES:
- *See also main headings* Interstate Commerce Commission; Transportation Department.
- Transportation by motor vehicle ... 17978

MOTOR CARRIER SAFETY REGULATIONS ... 17941
- *See also main heading* Interstate Commerce Commission.
- Accident and hours of service reports ... 7128
- Accident recording and reporting ... 7129, 17969
- Annual safety report, private carriers; proposed rule ... 18115, 20739

Federal Highway Administration—Continued

MOTOR CARRIER SAFETY REGULATIONS—Con.
- Buses, aisle seats prohibited ... 7129
- Definitions, general regulations ... 17941
- Driveaway-towaway service ... 7956, 8246
- Drivers:
  - Hours of service; daily log, monthly reports, etc ... 7130, 17971
  - Monthly reports, revocation ... 17892
  - Qualifications; minimum requirements and physical exam certificate, etc ... 7128, 17942
- Driving of motor vehicles ... 17945
- Hazardous materials, stopping at railroad grade crossings ... 10306
- Explosives, transportation by motor vehicle ... 17978
- Inspection and maintenance ... 7130, 17976
- Parts and accessories necessary for safe operation ... 17949
- Tires and tubes, advance notice of proposed rules ... 12190, 13821

MOTOR VEHICLE SAFETY STANDARDS:
- *See also main heading* Commerce Department.
- Advance notice of proposed rules ... 14278
- Authority delegation ... 6495, 14277
- Brake systems, hydraulic, emergency, and parking ... 10072
- Certification requirement ... 15444
- Glazing materials ... 10072
- Head restraints, theft protection, impact protection, exterior protrusions, etc.; proposed rules ... 20865
- Imports of motor vehicles and equipment, proposed Customs Bureau rule ... 16432
- Incomplete motor vehicles, labeling of; proposed rule ... 16534
- Initial safety standards, revoked ... 15818
- Instrument panels, protrusions, etc., hearing ... 7298
- Interior impact, passenger cars ... 6530, 11776
- Lamps, reflective devices, etc ... 8808, 18032, 18033
- Proposed rules ... 20865
- Rule-making procedures ... 5832, 15818
- Seat belt assembly anchorages ... 10072
- Steering control rearward displacement, passenger cars ... 8808
- Tires:
  - Pneumatic, new; labeling requirements ... 17938
  - Selection and rims, passenger cars ... 10612, 15792
  - Authority delegation ... 15710

ORGANIZATION AND FUNCTIONS, limitation on reservation of authority; motor vehicle safety standards ... 6495
PROCEDURAL RULES, address of communication ... 13000
STATES, COOPERATIVE AGREEMENTS WITH ... 13283
TIRES AND TUBES:
- Motor carrier safety regulations, advance notice of proposed rules ... 12190, 13821
- Passenger car tires and rims:
  - *See also under* Motor vehicle safety standards, *above*.
  - Authority delegation from Secretary of Transportation, proposed standards ... 11276, 15710
- Pneumatic tires, new, labeling ... 17938
- Regrooved tires, restrictions on sale or delivery in interstate commerce:
  - Authority delegation ... 11489
  - Notice and inquiry ... 11579, 12501, 13834

Federal Home Loan Bank Board:

CONDUCT STANDARDS ... 14817
FEDERAL HOME LOAN BANK SYSTEM:
- Advances:
  - Extension of credit ... 976
  - Policy statements:
    - Advances for purchase of loans and participation interests in loans ... 20841
    - General ... 2366, 21029
    - Interest rates on advances ... 366, 4400, 5830
    - Supplemental ... 2366, 20841
- Collateral held by members under trust receipt, verification; policy statement ... 3970
- Credit restrictions, elimination, policy statement; regulation rescinded ... 2395
- Maximum rate of return payable on regular and certificate accounts ... 8023

FEDERAL SAVINGS AND LOAN ASSOCIATION and branch office, applications for permission to organize and establish; statements of processing procedure ... 14345, 14346

Federal Home Loan Bank Board—Continued

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION:
- Application for insurance of accounts ... 5999, 8125
- State-chartered institutions, applications for insurance of accounts submitted by; statements of processing procedures:
  - New institution not yet open for business ... 14348
  - Operating institution ... 14349
- Cease-and-desist and suspension and removal orders ... 2658, 6773
- Definitions:
  - Insurance of accounts ... 998, 10415
  - Scheduled items ... 7026, 11033
  - Slow loans ... 13983, 17515
- Limitations on rate of return, maximum rate of return payable on regular and certificate accounts ... 8023
- Operations:
  - Federal insurance reserve, required amounts and maintenance of ... 998, 4114, 14265
  - Loans and investments, sale of participating interests otherwise than to insured institutions ... 12922, 15634
  - Maintenance of records; proposed rule ... 17544
  - Reports of change in control, etc.; proposed rule ... 11043
- Policy statements:
  - Attendance by applicants and their representatives at hearings on applications for insurance of accounts ... 16200
  - Mergers ... 4403, 15708
- Settlement of insurance ... 999, 1057, 10415
- Examples of insurance coverage afforded accounts ... 10417, 18122

FEDERAL SAVINGS AND LOAN SYSTEM:
- Appointment of conservators and receivers ... 2655, 6769
- Board rulings, savings accounts ... 997, 4114, 8238, 12397
- Bylaws, amendments; age limitations on directors and officers ... 11032
- Cease-and-desist and suspension and removal orders ... 2656, 6771
- Definition, Director ... 6769
- Hearings, compliance with law and regulations; regulations repealed ... 6769
- Operations:
  - Bonus plans ... 8814, 14283, 17926
  - Explanation statement concerning operation ... 17992
  - Examinations and audits, duplicate regulations repealed ... 12913
  - Loans, lending powers under sections 13 and 14 of Charter K ... 3999, 9955
- Offices:
  - Branch office ... 7636, 11848
  - Mobile facilities ... 6209, 8889
- Service corporations, proposed rule ... 15763
- Policy statements:
  - Agencies, establishment ... 20630
  - Attendance by applicants and their representatives at hearings on applications for permission to organize Federal associations ... 16200
  - Branch offices, establishment ... 20630
  - Mergers ... 4401, 15707
  - Service corporations ... 15747
- Powers of conservator and conduct of conservatorships ... 2656, 6770
- Powers of receiver and conduct of receivership ... 2656, 6770, 6773
- Service of process upon Board ... 2658, 6772

INFORMATION, availability of ... 9520
ORGANIZATION AND FUNCTIONS ... 9041
PRACTICE AND PROCEDURE ... 2650, 6764, 8889

Federal Housing Administration:

ARMED SERVICES HOUSING mortgage insurance, civilian employees, eligibility requirements; maximum mortgage amount, loan-to-value limitation ... 15640
AUTHORITY DELEGATIONS:
- *See also* Organization and functions.
- Particular position delegations ... 5681, 9539, 11468, 12475, 15425, 15586, 20808

CLAIMS, collection standards ... 788
CONDOMINIUM OWNERSHIP mortgage insurance, eligibility requirements ... 15787, 20809
ELDERLY PERSONS HOUSING mortgage insurance, eligibility requirements ... 11526

Federal Housing Administration—Continued

GROUP PRACTICE FACILITIES mortgage insurance:
- Contract rights and obligations ... 6571
- Eligibility requirements ... 6571, 11526

LOW-COST AND MODERATE-INCOME mortgage insurance:
- Low-cost homes:
  - Contract rights and obligations ... 4279
  - Eligibility requirements ... 4279, 12718
- Moderate-income projects; eligibility requirements ... 4280, 11526, 20809

MILITARY HOUSING mortgage insurance, contract rights and obligations ... 7770
MULTIFAMILY HOUSING mortgage insurance. *See* Condominium ownership; Rental housing.
MUTUAL MORTAGE INSURANCE and insured home improvement loans:
- Contract rights and obligations, debenture interest rates ... 20716
- Eligibility requirements, mortgagor's minimum investment ... 15640, 20809

NONDISCRIMINATION, equal opportunity in housing and group practice facilities, and equal employment opportunity ... 6570
ORGANIZATION AND FUNCTIONS ... 3092
- *See also* Authority delegation.
- Administrative staff ... 15586
- Regional Operations Commissioners ... 9539
- Scope and nature of programs, etc ... 15636

PROPERTY IMPROVEMENT LOANS, Classes 1 and 2; credits and collections and claims ... 11328
RECORDS, official; availability, etc., certain regulations revoked ... 15639
RENTAL HOUSING, multifamily housing mortgage insurance:
- Contract rights and obligations ... 449, 15640, 20716
- Eligibility requirements ... 11526, 12718

SERVICEMEN'S mortgage insurance, eligibility requirements; definition of "Secretary" ... 15640
URBAN RENEWAL mortgage insurance and insured improvement loans:
- Contract rights and obligations, projects, debenture interest rate ... 20717
- Eligibility requirements, homes and projects ... 15640

Federal Maritime Commission:

CONDUCT STANDARDS, interpretation and advisory service, etc ... 13382
FREIGHT FORWARDERS, independent, ocean:
- *See also* Maritime carriers, *below*.
- Agreements under section 15 of Act:
  - Bernard, J. E., & Co., Inc. et al., 101.
  - Fillette, Green & Co. of Tampa, et al., 6154.
  - Foreign Forwarding of Milwaukee, et al., 2670.
  - Hanson, T. J., Inc. et al., 4371.
  - Seaport Shipping Co. et al., 3412.
  - Wedemann & Godknecht, Inc. et al., 7229, 8051, 8433.
- Applications for licenses, etc.:
  - A & F Forwarding, Inc. et al., 9123.
  - Astron Forwarding Co., Inc. et al., 11968.
  - Container Forwarding Services, Inc., 8256.
  - Cuestas Moving & Express Corp., 5963.
  - Gignoux, Fred E., Inc., 1064, 7141.
  - Grieve & Mitchel Shipping, Inc. et al., 3789.
  - MacTavish & Son, et al., 7543.
  - Nevares Express Shipping, Inc. et al., 13241.
  - O'Neill, Anthony, 13738.
  - P & O Lines (North America), Inc. et al., 2671.
  - Port Everglades Terminal Co., Inc., 1064, 7141.
- Licenses suspended, revoked, or show cause orders, etc.:
  - Ace Freight Forwarders, Inc., 12731.
  - Acosta Shipping Corp., 100, 421.
  - Argo Shipping Co., Inc., 13467.
  - B D & D Corp., 17870.
  - Bacon, Edward R., Grain Co., 16293.
  - Bridgetts & Co., Inc., 10692, 11242.
  - Broad Street Forwarders, Inc., 101, 421.
  - Carlo International & Co., 10693, 11099.
  - Circle Forwarders, Inc., 11242.
  - De Mallo, Louis V., 16173.
  - Dias Wandembergh, 7543.
  - Dixie Traffic, 17870.

Federal Maritime Commission—Continued Page

FREIGHT FORWARDERS, independent; ocean—Con.
Licenses suspended, revoked, or show cause orders, etc.—Continued
Eagle Shipping Co., Inc., 13654.
Fairview Forwarders, Inc., 894.
Fast Delivery Service, 8103, 8433.
Forwarding Services, Inc. et al., 12786.
Hampton, J. W., Jr. & Co. of Philadelphia, 625.
Hausman, Wm. A., Co., Inc., 11746.
Hurley, Cornelius M., 10030.
Kimata, John E., 4688, 5750.
Lanson-Meave Corp., 11296.
Madison Shipping Co., Inc. et al., 62, 2671.
Miner, H. C., & Co. et al., 880, 2672, 5780.
Nolan Shipping Co., 14570.
Ocean Brokers, Inc. et al., 4567, 9068.
Pan American Export Shipping Co., 8106.
Pan-Inter, 421.
Patterson, Wylde & Co., 4144, 4511.
Redther, George, Shipping Corp., 8021.
Rodgers, John C., & Co., Inc., 13880.
Seaboard Forwarders, Inc., 395.
Sheriff-Guerringue, Inc., 15445.
Traeger Shipping Corp., 2904.
Trans Atlantic Shipping Co., Ltd., 9060, 9070.
Vasquez, Adelino J., 2630, 2990, 10394.
Vila, Henry, Inc., 1008.
Licensing:
Duties and obligations:
Compensations and certifications 5457
Licensees' duties and obligations 5457
Oceangoing common carriers and persons shipping for own account 3774, 5457, 6389
Amendment revoked 17480
Section 15 agreements 285, 6370
Revocation or suspension of licenses 4570, 8523, 9170
INFORMATION AND RECORDS:
Inspection of records:
Proposed rule 6513
Redesignation 8407, 9319
Public information; publication, fees, etc. 8407, 9319, 16515
Public requests for information and decisions 8433, 9329
MARITIME CARRIERS:
See also Freight forwarders, *above*.
Agreements filed between common carriers of freight by water in U.S. foreign commerce; proposed rules 15436, 16226
Audits and auditing procedures; purpose, access to records, etc. 5503
Free time and demurrage charges, New York, port of 17667
Interpretations, Shipping Act, 1916 9170, 9650
Overcharge claims, time limit on filing 3792, 10046
Rates, fares, tariffs, etc.:
See also Rates, etc. below.
Automobiles, contents of tariff measurement publication 7457
Filing of tariffs by common carriers by water in foreign commerce of U.S. and by conferences of such carriers, exemptions; proposed rule 7857
Filing of tariffs by terminal operators 7214, 7915
Free time and demurrage charges, New York, port of 17667
Transportation of U.S. government personnel and property, special permission 12753
Security for public protection:
Indemnification of passengers for nonperformance of transportation 3064, 3986, 5457
Applications for certificates of financial responsibility:
Aegean cruises, S.A. (Epirotiki Lines), 12017, 13150.
Alaska, State of, et al., 6810.
American Export Isbrandtsen Lines, Inc. et al., 6155.
Canadian Pacific Railway Co. et al., 7101, 9186.
Chicago, Duluth and Georgian Bay Transit Co. et al., 8156, 7603.
Citizens and Southern National Bank, 7923, 10619.
Commodore Cruise Line, Ltd., 7924, 14282.
Compania Transatlantica Espanola, S.A. et al., 5750, 7923.
Continental Cruise Lines; Inc./Jamaica Shipping Lines Ltd. et al., 8890, 9181.
Dominion Navigation Co., Ltd. et al., 7955.
Golfo Y. Caribe Steamship Lines, S.A., 12445, 17900.

Federal Maritime Commission—Continued Page

MARITIME CARRIERS—Continued
Security for public protection—Continued
Indemnification of passengers for nonperformance of transportation—Continued
Applications for certificates of financial responsibility—Continued
Hanseatic Schiffahrts-Gesellschaft m.b.H. & Co. et al., 7101, 7603.
Indo China Steam Navigation Co., Ltd., 9655.
Malaysia Overseas Lines, Ltd., 13534, 13878.
Mitsui O.S.K. Lines, Ltd. et al., 7923, 8552.
New Zealand Shipping Co., Ltd. et al., 6461.
North Carolina Savings & Loan League, Inc., 11900, 13150.
Oceanic Special Shipping Co., Ltd. et al., 7355.
Princess Cruises Corp., Inc., 8552, 10949.
Rederiaktiebolaget Clipper, et al., 6961.
Scheepvaart Maatschappij, N.V., "Trans-Ocean", 17900.
Sun Line Inc., 11586.
Trans-Ocean Steamship Co., 15600.
Liability insured for death or injury to passengers or other persons on voyages 7283
Applications for certificates:
Aegean Cruises, S.A. (Epirotiki Lines), 12017, 13150.
Alaska Cruise Lines, Ltd. et al., 10619.
Atlantic Far East Lines, Inc., 10619.
Canadian National Railway Co., 10949.
Canadian Pacific Railway Co., 9655.
Chesapeake & Ohio Railway Co., 9181.
Citizens & Southern National Bank, et al., 9181.
Companhia De Navegacao Lloyd Brasileiro, 9655.
Compania Genovese Di Armamenta, SPA (Cogedar Line), et al., 8830.
Golfo Y. Caribe Steamship Lines, S.A., 15445.
Indo-China Steam Navigation Co., Ltd. et al., 9655.
Kavin Shipping Co., Ltd. et al., 14282.
Klosters Rederi A/S, et al., 10949.
Malaysia Overseas Lines, Ltd. et al., 13535, 13877.
Norddeutscher Lloyd, et al., 8186.
North Carolina Savings & Loan League, Inc., 11900.
Peninsular and Oriental Steam Navigation Co. (P & O Lines), et al., 11562.
Princess Cruises Corp., Inc., 15445, 17900.
Scheepvaart Maatschappij, N.V., "Trans-Ocean", 17900.
Sun Line Inc., 11586.
Trans-Ocean Steamship Co., 15600.
Wisconsin & Michigan Steamship Co. (Clipper Line), et al., 8562.
Steamship conferences, effects on foreign commerce of U.S.; report of investigative officer 13534, 16232
Vessel operating common carriers in domestic offshore trades, reports of rate base and income accounts:
Prior proposed rule withdrawn 5516
Proposed rules 16497, 20818
ORGANIZATION AND FUNCTIONS:
District Managers, et al., responsibility and procedures for handling informal complaints 9580
Managing Director 9579
Public information 8433, 9329
PRACTICE AND PROCEDURE, rules of:
Appearance, notice of, etc.; proposed rules 6513
Fees, etc.; redesignation 8407
Small claims, adjudication 7454
PUBLIC INFORMATION. *See under* Information and records, *above*.
RATES, schedules, tariffs, etc.; investigations and hearings:
Alaska Steamship Co., 14792, 15937.
American Union Transport, Inc., 934.
Atlantic-Gulf/Puerto Rico Trade, 13190.
Flota Mercante Gran Centro-Americana, S.A. et al., 2566.
Kimbrell-Lawrence Transportation, Inc., 934.
North Atlantic Mediterranean Freight Conference, 9183.
Pacific Coast Terminals, 9655.
Pacific Northwest Tidewater Elevators Association, 9183.
Sea-Land Service, Inc., 2681, 6811, 7354, 7967, 10949, 11053, 13150.
South Atlantic & Caribbean Lines, Inc., 13150.
Trans-Pacific Freight Conference of Japan, 14955.
RECORDS. *See under* Information and records, *above*.
SECURITY for public protection. *See under* Maritime carriers.

Federal Maritime Commission—Continued

TRANSPORTATION AGREEMENTS, terminal agreements, etc.:
Exclusive patronage (dual rate) contracts under Public Law 87-346:
American Great Lakes-Mediterranean Eastbound Freight Conference, 15937.
American West African Freight Conference, 13551, 16446.
Atlantic and Gulf-Indonesia Conference, 7504.
Australia/U.S. Atlantic and Gulf Conference, 12892.
Italy South France/U.S. Gulf Conference, 620.
Latin America/Pacific Coast Steamship Conference, 4553.
Mediterranean/North Pacific Coast Freight Conference, 13739.
Mediterranean/U.S.A. Great Lakes Westbound Freight Conference, 15937.
Nedlloyd Lines, 2867, 3119.
Portugal/U.S. North Atlantic Westbound Freight Conference, 17869.
Red Sea and Gulf of Aden/U.S. Atlantic and Gulf Rate Agreement, 11900.
South and East Africa Rate Agreement, 14074, 14973.
Spain/U.S. North Atlantic Westbound Freight Conference, 17870.
United States Great Lakes/South and East Africa rate agreement, 839, 5063.
Section 15 agreements:
A/B Atlanttrafik, et al., 12135, 12695, 12769, 20804.
AB August Leffler & Son, et al., 15727.
A/B Svenska Atlant Linien, 16510.
A. P. Moller-Maersk Line, 12017, 13535.
Alaska Steamship Co., 7982.
Terminal agreement, 17869.
Albina Dock Co.; terminal agreement, 1105.
Allied Stevedoring and Marine Corp. et al., 10128.
Ambrose Marine Terminal Corp. et al., 691.
American & Australian Steamship Line, 12695.
American Hawaii Van Service, Inc. et al., 13991.
American Import Isbrandtsen Lines, Inc., 395, 3064, 9651, 9181.
American Great Lakes Mediterranean Eastbound Freight Conference, 8050, 15937.
American Mail Line, 6155.
American Mail Line, Ltd., 2867, 7475, 12795.
Terminal agreement, 6127.
American President Lines, 15446.
American President Lines, Ltd., 240, 3069, 8186, 8778, 9183, 10123, 13342, 14706, 14707, 15445, 15600, 16222.
American West African Freight Conference, 13018, 15850.
Anchorage, city of; terminal agreement, 2369.
Armament Deppe, S.A., 8620.
Arncam Shipping Co., Inc. et al., 7723, 8422.
Asia Selatan Enterprises, Ltd., 7982.
Astoria, port of; terminal agreement, 6310.
Atlantic Container Line, Ltd., 15772.
Atlantic and Gulf-Indonesia Conference, 9121.
Atlantic and Gulf/Orient Rate Agreement, 12810.
Atlantic & Gulf-Singapore, Malaya & Thailand Conference, 7504, 9121.
Atlantic & Gulf Stevedores, Inc.; terminal agreement, 11176.
Atlantic Passenger Steamship Conference, 1006, 5386.
Australia/U.S. Atlantic and Gulf Conference, 6107.
Australia West Pacific Line, 13736.
Bahama Islands Rate Agreement, 4084, 7908.
Baltimore and Ohio Railroad; terminal agreements, 8778, 10691.
Bloomfield Steamship Co. et al., 421.
Blue Funnel Line, 14411.
Blue Sea Line, 14411.
Booth Line, 7188.
Booth Steamship Co., Ltd., 12415.
Boston, port of, Marine Terminal Association, 17666.
Brazil-United States Atlantic Cocoa Bean Agreement, 12454, 18122.
Brazil-United States Atlantic Coffee Agreement, 12454, 18123.
Brazil-United States-Atlantic General Cargo Agreement, 18123.
Brazil-United States Gulf of Mexico Coffee Agreement, 12455.
Brodin Line, 8186.
Buffalo Overseas Terminals, Inc.; terminal agreement, 15851.
Calcutta, East Coast of India, and East Pakistan/U.S.A. Conference, 7754.
California Association of Port Authorities, 10946.
Calmar Steamship Corp.; terminal agreement, 13736.
Castle & Cooke, Inc., 13342.
Central America Line, 1144.
Central Gulf Steamship Corp., 3310, 5441.
China Navigation Co., 3949.
China Navigation Co., Ltd., 240, 8186.

Federal Maritime Commission—Continued

TRANSPORTATION AGREEMENTS, terminal agreements, etc.—Continued
Section 15 agreements—Continued
Cia de Navegacao Lloyd Brasileiro, 11654.
Cia de Navegacao Maritima Netumar, 11654.
Columbus Line, 8186.
Columbus Line/Pacific Australia Direct Line, 10946.
Compagnie Des Messageries Maritimes, 14707.
Compagnie Maritime Belge, S.A., 8620, 17446.
Compagnie Maritime Congolaise, S.C.R.L., 17446.
Compania Anonima Venezolana De Navigacion; terminal agreement, 6590.
Concordia Line A/S, 13535, 19200.
Concordia Line-Great Lakes Service, 12535, 13123.
Concordia Line joint service, 10304.
Container Marine Lines, 1064, 10823.
Containerships, Ltd., 1064, 10823, 16173.
Continental North Atlantic Westbound Freight Conference, 12018.
Corporacion Peruana de Vapores, et al., 11099.
Costa Line, 16543.
Cunard Steamship Co., Ltd.; terminal agreement, 7475.
Delta Steamship Lines, Inc., 7188.
Durban Lines (Pty.), Ltd., 17638.
Eagle, Inc.; terminal agreement, 10976.
East Coast Costa Rica Rate Agreement, 6127.
Encinal Terminals; terminal agreement, 2948.
Europe and U.S. East Coast Ports, 994.
Evans Products Co., 13091.
Terminal agreements, 3847, 10947.
Far East Conference, 4511.
Farrell Lines, Inc., 14126, 14411, 14707, 16173.
Fassio Line, 16543.
Finnlines, 19200.
First Atomic Ship Transport, Inc., 8864.
Fjell Line joint service, 13535.
Forwarders Intermodal Container Conference, 11653.
French North-Atlantic Westbound Freight Conference, 9255.
Gallen Line, 15600.
General Maritime Corp., 3310, 5441.
German Atlantic Line, 8051.
Grace Line, Inc., 3717.
Great Eastern Shipping Co., Ltd., 2967.
Great Lakes/Japan Memorandum, 8523.
Great Lakes Terminals Association; terminal agreements, 10527, 13878.
Great Lakes-United Kingdom Westbound Conference, 7936.
Greece/United States Atlantic Rate Agreement, 6365.
Gulf/Mediterranean Ports Conference, 12467.
Gulf-Puerto Rico Lines—U.S.A., Inc., 17869.
Gulf & South American Steamship Co., Inc., 3717.
Hamburg-Amerika Linie, et al., 3953, 10128, 13772.
Hamburg Amerika Linie/Nordeutscher Lloyd, 5389.
Hamburg-Sudamerikanische Dampfschiffahrts-Gesellschaft Eggart & Amsinck (Columbus Line), 10802.
Harborside Terminal Co., Inc.; terminal agreement, 995.
Hawaii/Europe Rate Agreement, 10124.
Holland America Line, 1145.
Terminal agreements, 15850, 16114.
Howard Terminal; terminal agreement, 10300.
Inter-American Freight Conference, 11395, 11396, 12769.
Inter-American Shipping Corp. et al., 1144.
International Container Conference Agreement, 11053.
Irish Shipping, Ltd., 10947.
Isthmian Lines, Inc. et al., 788, 5478.
Italy, South France/United States Gulf Conference, 62, 839, 4035, 5063, 8778, 10947, 15600.
Japan-Atlantic & Gulf Freight Conference, 2949, 17668.
Japan/Great Lakes Memorandum, 8523.
Japan, Korea & Okinawa/U.S. Ports Agreement, 9044.
Japan-Puerto Rico & Virgin Islands Freight Conference, 20795.
Java/New York Rate Agreement, 12018, 15446, 20795.
Kawasaki Kisen Kaisha, Ltd., 12017, 13535.
Keat Navigation Co., Ltd., 10124.
Kimbrell-Lawrence Transportation, Inc., 7982.
Terminal agreement, 10948.
Knutsen Line, 16067, 16233.
Koppel Bulk Terminal; terminal agreement, 17446.
Korea Marine Transport Co., Ltd., 14706.
Lamport & Holt Line, Ltd., 12415.
Lee Linie G.m.b.H., 830.
Long Beach, Calif., city of; terminal agreements, 3847, 17446.
Los Angeles, Calif., city of, et al.; terminal agreement, 17666.
Luckenbach Steamship Co., Inc., 10123.

Federal Maritime Commission—Continued

TRANSPORTATION AGREEMENTS, terminal agreements, etc.—Continued
Section 15 agreements—Continued
Lykes Bros. Steamship Co., Inc., 4291, 10124, 12869, 14125, 15446, 16173, 16510, 17633.
Manchester Liners, Ltd., 10947.
Marina Mercante Nicaraguense, S.A., 13785, 14411.
Marine Terminals Corp.; terminal agreements, 13091, 16172.
Marseilles North Atlantic U.S.A. Freight Conference, 626, 3846, 7303, 9117, 10693.
Marseilles North Atlantic U.S.A. Freight Pool, 3369.
Maryland Port Authority; terminal agreements, 10691, 10692, 14125.
Matson Navigation Co., 2589, 5594.
Terminal agreements, 3589, 3846, 4035.
Mediterranean/Canada & Great Lakes Agreement, 18124.
Mediterranean/Canada & Great Lakes Service, 10323.
Mediterranean-North Pacific Coast Freight Conference, 11396.
Mediterranean-USA Great Lakes Westbound Freight Conference, 2672, 7188, 7843, 10628, 15133.
Mexican Line "Transportacion Maritima Mexicana, S.A.", 17869.
Meyer Line, 19300.
Meyer Line, Inc., 6651.
Micronesian Line, 3369, 9181, 9182, 13736.
Mitsui O.S.K. Lines, Ltd., 16066.
Moore McCormack Lines, 395, 472.
Moore-McCormack Lines, Inc., 1105, 15446, 16773.
Terminal agreements, 690, 10692.
Nacirema Operating Co., Inc.; terminal agreement, 935.
Navegacao Mercantil, S.A., 11654.
Nedlloyd & Hoegh Lines, 9630.
New York City, 1105.
Terminal agreements, 168, 690, 5649, 7475.
New York Freight Bureau of Hong Kong, 7186.
New York Terminal Conference, 585.
Niagara Frontier Port Authority; terminal agreement, 15851.
Niagara Line, 13535, 18123.
Niagara Line Joint Service, 13536.
Nippon Yusen Kaisha, 3119, 5594, 10822.
Norddeutscher Lloyd, 15772.
North Atlantic Baltic Freight Conference, 13596.
North Atlantic Continental Freight Conference, 10693.
North Atlantic French Atlantic Freight Conference, 14008.
North Atlantic United Kingdom Freight Conference, 13946.
North Atlantic Westbound Freight Association, 343, 11900.
North German Lloyd, 9061.
North Pacific Coast—Europe Passenger Conference, 10322.
Northwest Marine Terminal Association, Inc., 9931.
Norwegian-America Line; terminal agreement, 15850.
Nouvelle Compagnie Havraise Peninsulaire de Navigation, et al., 8187.
Oakland, Calif., city of; terminal agreements, 8322, 13091, 14866, 15037, 16172, 19200.
Olsen, Fred, & Co., 13535, 19200.
Olympic Steamship Co.; terminal agreement, 4371.
Orient Overseas Line, 7822, 9630, 10124.
Pacific Coast-Australasian Tariff Bureau, 240, 14966.
Pacific Coast European Conference, 9121.
Pacific Far East Line, Inc., 829, 3369, 6071, 15596, 16066.
Pacific Northwest Tidewater Elevators Association; terminal agreement, 9182.
Pacific Steam Navigation Co., 1145.
Pacific Westbound Conference, 240, 4511, 11396.
Parr-Richmond Terminal Co.; terminal agreement, 13736.
Persian Gulf Outward Freight Conference, 2868.
Pier 40 Corp.; terminal agreement, 16114.
Portland, Oreg., city of; terminal agreement, 1105.
Portland Public Docks, 2589.
Terminal agreement, 2589.
Portugal/U.S. North Atlantic Westbound Freight Conference, 2868, 10124.
Pusan Shipping Co., Ltd., 10322.
Retla Steamship Co., 13091.
Terminal agreement, 10947.
Rodriquez Co., 15728.
Royal Interocean Lines, 3069, 15445.
SACAL, V. I., Inc., 12507, 14623, 15851.
Saipan Shipping Co., 829, 6071.
Salonika (Yugoslav)/U.S. Atlantic Rate Agreement, 14707.
San Francisco, port of, Grain Terminal, Inc.; terminal agreements, 9329, 13878.
San Francisco Port Authority; terminal agreement, 9329, 13878.
Scandanavia Baltic/U.S. North Atlantic Westbound Freight Conference, 12969.

Federal Maritime Commission—Continued

Page

TRANSPORTATION AGREEMENTS, terminal agreements, etc.—Continued
Section 15 agreements—Continued
Sea-Land of California, Inc.; terminal agreements, 8322, 14866, 15037.
Sea-Land Service, Inc., 13785, 14411, 15446, 20894.
Terminal agreements, 168, 3369.
Seatrain Lines, Inc. et al., 1145, 10692, 12135, 12635, 13536, 14623, 20894.
Seattle, port of; terminal agreements, 168, 4035, 4371, 8187, 10948, 17869.
Seaway Lines, Inc., 20694.
Shin Han Shipping Co., Ltd., 14707.
Shun Cheong Steam Navigation Co., Ltd., 4291, 12869.
South African Marine Corp., Ltd., 10124.
South Atlantic & Caribbean Line, Inc., 12507, 15201, 15851.
Terminal agreement, 10276.
South Atlantic Steamship Conference, 2672.
South Chicago Dock Leasing Co.; terminal agreement, 17634.
Southern Line, Ltd., 14411.
Spain/U.S. North Atlantic Westbound Freight Conference, 2868, 10125.
Sploana Piovba, et al., 2396.
States Marine Lines, Inc. et al., 3849, 10618, 12018.
States Steamship Co., 13738, 15067.
Stockard Shipping & Terminal Corp.; terminal agreements, 11178, 14125.
Straits Steamship Co., Ltd., 7475.
Sunlane Hydrofoils, Inc., 15728.
Swiss/North Atlantic Freight Conference, 9110.
TMT Trailer Ferry, Inc., 15201.
Thai Mercantile Marine, Ltd. et al., 11396.
Tica Line, 15600.
Trans-Atlantic Passenger Steamship Conference, 3310.
Trans Pacific Freight Conference, et al., 240, 4035.
Trans-Pacific Freight Conference (Hong Kong), 14125.
Trans-Pacific Freight Conference of Japan, 6227, 6461, 8187, 20785.
Trans-Pacific Passenger Conference, 13092.
Trans-Pacific Postal Water Carriers, 13342.
Transoceanic Terminal Corp.; terminal agreement, 17634.
Turkey/United States Atlantic Rate Agreement, 6855.
U.S. Atlantic and Gulf/Australia-New Zealand Conference, et al., 3791, 8582.
U.S. Atlantic and Gulf-Singapore, Malaya, and Thailand Conference, 14901.
U.S. Ocean Carriers' Rate Agreement, 3412.
United Fruit Co.; terminal agreements, 6590, 8778.
United Kingdom/United States Pacific Freight Association, 4326.
United States Great Lakes/South and East Africa Rate Agreement, 4325.
United States Lines; terminal agreement, 168.
United States Lines Co., 395, 472.
United States Lines, Inc., 3119, 5593, 6155, 8778.
Van Nievelt, Goudriann & Co.'s Stroomvaart Maatschappij (Hamburg) G.m.b.H., 830.
Waterway Terminals Co.; terminal agreement, 6310.
Wedemann & Goodknecht, Inc. et al., 7229.
Welcome Shipping Co., 3630.
West Coast of Italy, Sicilian and Adriatic Ports North Atlantic Range Conference, 8553.
West Coast Lines, Inc.; terminal agreement, 5649.
Wilhelmsen, Wilh., 16510.

Federal Mediation and Conciliation Service:

ARBITRATION ---- 9813
FUNCTIONS AND DUTIES ---- 9813
INFORMATION, availability of ---- 9812
MISSILE AND SPACE SITES, labor disputes, functions (Executive Order 11374) ---- 14199
PROCEDURES ---- 9812

Federal National Mortgage Association:

DALLAS, TEXAS, office, change of address ---- 9662
INFORMATION, availability of ---- 9662

Federal Open Market Committee:

ECONOMIC POLICY, current ---- 11363, 12200, 13390, 14624, 15901, 18072
INFORMATION, availability of ---- 9518
ORGANIZATION AND FUNCTIONS ---- 9582
PROCEDURE, rules of ---- 9520
SYSTEM FOREIGN CURRENCY OPERATIONS, authorization for ---- 14623

Federal Personnel:

Page

See Government employees.

Federal Power Commission:

CONDUCT STANDARDS ---- 15239
FEDERAL POWER ACT regulations:
Accounts, uniform system; public utilities and licensees:
Class A and B:
Clearing, grading and damage costs related to construction on land and rights-of-way; proposed rule ---- 15927
Fish, recreation, and wildlife, expenditures relating to ---- 6678, 9657
Pumped storage projects ---- 7909, 15670
Class C and D, clearing, grading and damage costs related to construction on land and rights-of-way; proposed rule ---- 15927
Forms:
Clearing, grading and damage costs related to construction on land and rights-of-way; proposed rule ---- 15927
Minor project license applications, exhibit relating to fish and wildlife resources ---- 9650
Proposed rule ---- 14778
No. 1, annual report, class A and B electric utilities, licensees, etc.:
Donation expenditures ---- 20967
Fish, recreation, and wildlife, expenditures relating to ---- 6678
Pumped storage projects ---- 9709, 15670
Schedule for reporting charges for professional and other consultative services; proposed rule ---- 15434
Transmission line statistics ---- 2845
No. 1–M, annual report, municipal electric utilities ---- 4058
No. 80, licensed projects recreation report; correction ---- 664
Interconnection of facilities, emergencies, transmission to foreign country; multiple copies of applications required to be filed by public utilities ---- 6622
Licenses, permits, and determination of project costs, exhibit relating to protection and enhancement of fish and wildlife resources; proposed rule ---- 14778
Policy and interpretation, general:
Calculation of net investment in limited projects; proposed rule ---- 13596, 15714
Hydroelectric developments, conditions in preliminary permits and licenses, list of and citations to P and L forms ---- 8521
Simplification of wholesale electric rate schedule filings ---- 7494
Power site withdrawal and determination permitting restoration to entry; contents of application ---- 7495
Project licenses, certain, expiration; list ---- 11096
Recreational opportunities and development at licensed projects:
Discrimination prohibited ---- 6487, 11640
Use and development, information respecting; correction ---- 664
Reports:
See also under Forms.
Reporting net investment in licensed projects, reports required; proposed rule ---- 13596, 15714
HEARINGS, etc. *See list at end of this agency.*
INFORMATION:
Organization, etc ---- 10062
Practice and procedure ---- 10062
LANDS, withdrawals, etc., for listed projects:
No. 104, Wyoming; vacated, 10395.
No. 236, Utah; vacated, 5965.
No. 774, Arizona; vacated, 4554.
No. 945, Oregon; vacated, 11401.
No. 979, Colorado; vacated, 4376.
No. 980, Colorado; vacated, 6746.
No. 982, California; vacated, 12770.
No. 1128, Washington; vacated, 5965.
No. 1132, Washington; vacated, 5965.
No. 1196, Wyoming; vacated, 12771.
No. 1314, Wyoming; vacated, 10395.
No. 1419, Oregon; vacated, 11401.
No. 1861, Wyoming; vacated, 12771.
No. 1919, Colorado; vacated, 6747.
No. 1926, California; vacated, 7606.

Federal Power Commission—Continued

Page

LANDS, withdrawals, etc., for listed projects—Con.
No. 2146, Alabama, 2869.
No. 2216, Washington, 7788.
NATIONAL POWER SURVEY REGIONAL ADVISORY COMMITTEES, continuation ---- 21045
NATURAL GAS ACT regulations:
Accounts, uniform system, class A, B, C, and D natural gas companies; clearing, grading and damage costs related to construction on land and rights-of-way, proposed rules ---- 15927
Certificates of public convenience and necessity under section 7:
Abandonment of service ---- 5990
Necessary exhibits, contracts ---- 865
Forms:
Annual report of gas purchased by all natural gas companies, proposed rule ---- 6100, 7920
Class A companies, annual report, 5-year forecasts of peak day and annual gas requirements and pipeline construction plans; proposed rule ---- 5374, 14606
No. 2, annual report, class A and B companies:
Curtailment of service to industrial customers ---- 7051, 8522
Donation expenditures ---- 20967
Gas purchases; proposed rule ---- 6100, 7920
Schedule for reporting charges for professional and other consultative services; proposed rule ---- 15434
Uniform pressure base; correction ---- 664
No. 2–A, annual report, class C and D companies:
Gas purchases; proposed rule ---- 6100, 7920
Uniform pressure base; correction ---- 3292
Nos. 15 and 15–A, total gas supply ---- 7332
Nos. 301–A and 301–B, statements of sales and revenues of independent producers; proposed revocations ---- 6100, 7920
System flow diagrams ---- 7332
Policy and interpretations, general:
Area price levels for natural gas sales by independent producers, antirigging conditions in certificates of public convenience and necessity ---- 9955
Express refund conditions in certain temporary certificates of public convenience and necessity ---- 2845
Independent producers, transfer of producing acreage, procedure ---- 5990
Rate schedules and tariffs:
Applicability of certain sections ---- 865
Area rate proceedings ---- 426, 3792, 4553, 5853, 7142, 8553, 8685, 10021, 10955
Lateral line policy; proposed rule ---- 13077
Limitations on provisions in rate schedules relating to makeup period for taking prepaid-for gas ---- 865, 5258
Reporting gas purchases, proposed rule ---- 6100, 7920
Suspended changes in rate schedules, proposed rule ---- 675, 6100, 7920
Reports. *See under* Forms.
ORGANIZATION AND FUNCTIONS ---- 9065, 10062
PRACTICE AND PROCEDURE:
Official notice of facts ---- 5771
Public information ---- 10062
HEARINGS, ETC.:
Ackers, D. E. et al., 11654.
Adair, E. H., estate of, 3072.
Adair Oil Co., 3072.
Adel, Ga., city of, 6465.
Adkins, R. H. et al., 10763.
Alabama Electric Cooperative, Inc., 13542.
Alabama Power Co., 343, 2869, 6010, 16294, 21006.
Alabama-Tennessee Natural Gas Co., 2399, 2912, 4375, 11053.
Albany, Ga., city of, 5887.
Albany, Mo., city of, 7355.
Algonquin Gas Transmission Co., 242, 695, 4146, 5387, 6582, 7475, 12770, 13542, 14797, 16114, 16293.
Algood, Tenn., town of, 2589.
Amerada Petroleum Corp. et al., 2246, 3311, 13631, 13639, 13664, 16545.
American Gas Co. of Wisconsin, Inc., 11296.
American Petrofina Co. of Texas, et al., 7726, 17634.
Area rate proceeding, et al., 426, 3792, 4553, 5853, 7142, 8553, 8685, 10021, 10955.
Ares, A. L., 425.

Federal Power Commission—Continued

HEARINGS, ETC.—Continued

Arizona Public Service Co., 17447.
Arkansas Louisiana Gas Co., 586, 686, 3317, 7723, 8387, 8688, 11053, 11397, 12569, 14411, 14793 17902, 17903, 17996.
Arkansas-Missouri Power Co., 8195.
Arkansas Oklahoma Gas Corp., 6110.
Arkla Exploration Co., 13789.
Armer, Elva, et al., 15506, 16071.
Asland Oil & Refining Co. et al., 60, 693, 7042, 7141, 11713, 13537, 15651, 16173.
Associated Oil & Gas Co., 9122.
Atlantic Richfield Co. et al., 8632, 9045, 9332, 11451, 11582, 12638, 12734, 12811, 12970, 13786, 13883, 14908.
Atlantic Seaboard Corp., 7476, 8731.
Augusta, Ga., city of, 8686.
Austral Oil Co., Inc. et al., 3074, 4295.
Aztec Oil & Gas Co. et al., 395, 3187.
B H and D Co., 11054.
Bainbridge, Ind., town of, 17037.
Ballard, Norval, et al., 15448.
Barr, David, et al., 14252.
Baxter, Murphy H., 7476.
Beach, R. G. et al., 6951, 8554.
Belhaven, N.C., town of, et al., 7303.
Big Chief Drilling Co. et al., 3906, 6230.
Bisiker, Ruth Phillips, 12136.
Blue Dolphin Pipe Line Co., 4146.
Boggs, Harry C., 6533, 7787.
Bond, Roland S., 3240.
Border Pipe Line Co., 11658.
Boren, Sam, et al., 1145.
Bowersock Mills & Power Co., 8686.
Bowman, Fred, 15508.
Bravo Oil Co. et al., 13538, 15651.
Brisben, John, et al., 8683.
British-American Oil Producing Co., 168.
Bronco Oil Corp. et al., 8021.
Brooklyn, Iowa, town of, et al., 627, 11818, 13128.
Brooks Gas Corp., 4091.
Brown, Elizabeth M. et al., 3975, 5430, 6312.
Buckeye Power, Inc., 8053.
Burlington Bank & Trust Co. et al., 7726.
CRA, Inc. et al., 10626, 14127.
Cabot Corp. (SW) et al., 474, 14794.
California Department of Water Resources, 291, 1106, 7787, 20678.
California-Pacific Utilities Co., 15687.
Carnes, R. H. et al., 8633.
Cascade Natural Gas Corp., 11402, 13543, 14793.
Central Illinois Light Co., 830.
Central Illinois Public Service Co., 10483.
Champlin Petroleum Co. et al., 16114, 16115, 17901, 21004.
Chandeleur Pipe Line Co., 11397.
Cincinnati Gas & Electric Co., 2912, 3950, 6070.
Cities Service Gas Co., 626, 3399, 4187, 4476, 5817, 6110, 6533, 7477, 7725, 8386, 8732, 10237, 10693, 13878, 13881, 14412, 14414, 14797, 14907, 15602, 16544.
Cities Service Oil Co. et al., 15638.
Citizens Utilities Co., 14979.
Coaster States Gas Producing Co. et al., 3317, 13928, 14171.
Cologne Production Co. et al., 12810.
Colorado Interstate Gas Co., 586, 686, 1146, 3723, 3913, 3907, 5436, 6227, 7476, 7723, 8931, 10694 14412, 15900, 16294.
Colorado River Water Conservation District, 11655, 12977.
Columbia Gas Transmission Co., 13542.
Columbia Gulf Transmission Co., 3950, 5964, 14172.
Community Natural Gas Co., Inc., 7603.
Community Public Service Co., 3480.
Connally Oil Co., Inc. et al., 7725.
Consolidated Edison Co. of New York, Inc., 12455.
Consolidated Gas Supply Corp., 2724, 4976, 6993, 7506, 9043, 10951, 14622.
Constant, Charles H., 16544.
Consumers Power Co., 695, 7988, 8932, 9561, 20786.
Continental Oil Co. et al., 3071, 7505, 12697, 13539, 14351, 15509, 15601, 15688.
Cordova Public Utilities, 14674.
Cowlitz County, Wash., Public Utility District No. 1; 14415.
Crisp County Power Commission, 11055.
Culbertson, E. A. et al., 6228, 8052.
Cumberland and Allegheny Gas Co., 6008.
Dalport Oil Corp. et al., 5480.
Dan River Mills, Inc., 426.
Delta Gas, Inc., 4477.

Federal Power Commission—Continued

HEARINGS, ETC.—Continued

Denman, William Harvey, et al., 5751, 9761.
Depco, Inc. et al., 883, 3188.
Despot, George, et al., 16448.
Detroit Edison Co., 20786.
Diamond International Corp., 8555.
Donnell Drilling Co., 6008.
Duke Power Co., 12977.
Dunigan, James B., Trust, et al., 12456.
Duquesne Light Co., 2400.
Eason Oil Co., 16114.
East Tennessee Natural Gas Co., 427, 2589, 3071, 7101, 8732.
Eastern Shore Natural Gas Co., 6099, 13607, 14907, 17637, 20786.
El Paso Natural Gas Co., 586, 687, 2481, 2589, 2913, 3370, 4092, 5436, 5481, 6110, 6465, 6811, 7355, 8732, 8733, 9129, 9856, 10021, 10114, 10952, 11248, 12771, 13151, 13643, 13607, 13879, 13880, 14794, 14797, 14909, 15773, 16544, 21044.
Electric Plant Board of Paducah, Ky. et al., 16115, 17498.
Elkins, Davis M. et al., 694.
Elliott Production Co., 13301.
Equitable Gas Co., 6226.
Everett, Wash., city of, Public Utility District No. 1; 7724, 8055, 8326, 10115, 16294.
Featherstone, Martha, et al., 15559.
Ferguson Oil Co. et al., 475.
Finance & Service Co. et al., 3312.
Fleet, Howard W. et al., 15411, 18124.
Florida Gas Transmission Co., 291, 7477, 11456, 12019, 12977, 14076, 14412, 15412, 20677, 20786.
Fordyce, Martha, 7477.
Force Co. et al., 15412, 15509.
Forest Oil Corp. et al., 11402.
Forest Service, 3319.
Fountaintown Gas Co., Inc., 696.
Fox, James O., Jr. et al., 7142.
French, L. R., Jr. et al., 15688, 15855.
Frost, Vernon W. et al., 2400.
Gas Gathering Corp. et al., 11179, 13883, 14675.
Gas Marketing, Inc., 867.
Gas Service Co., 7477.
Georgia Power Co., 8686, 11055.
Goble, Claude, et al., 8187.
Grampian Co., Ltd., 12136.
Grand Valley Transmission Co., 12505.
Great Lakes Gas Transmission Co. et al., 3951.
Great Northern Paper Co., 3370, 3951, 4035.
Great River Gas Co., 4513.
Greeley Gas Co., 7477.
Green Mountain Power Corp., 14074.
Gruss, Joseph S. et al., 11055.
Guida, Arthur M. et al., 13947.
Gulf Oil Corp. et al., 3413, 5712, 6812, 7646, 10266, 11161, 11491, 11655, 14004, 14254, 14419, 15413.
Gulf Power Co., 17995.
Gulf States Utilities Co., 8325, 14126.
H.J.K. Gas Co., 8389.
Hamilton, Kans., city of, 626.
Hamilton Brothers, Ltd. et al., 15197, 16115.
Hamman, Blake, et al., 7648.
Hancock, Burton W., 14570.
Hardin, Ky., city of, 9856.
Harper Oil Co. et al., 14795.
Harris, Jay J. et al., 17605.
Harvest Queen Mill & Elevator Co. et al., 6010.
Hawkins, H. L. et al., 14976.
Hawley, J. M. et al., 9046.
Hawley, John B., Jr. et al., 8386, 10764.
Heath, Mary Horne, et al., 13880.
Highland Production Co., 14675.
Hodgen, Jack D. et al., 3717.
Home Gas Co., 3317.
Hubbard, R. E., Jr. et al., 15033.
Hudson, Edward R., Jr., and William A., II, 887.
Hugoton Production Co., 4147, 6010.
Humble Gas Transmission Co., 11056, 12506.
Humble Oil & Refining Co. et al., 429, 1065, 2908, 3075, 7924, 10229, 10695, 10820, 10950, 11056, 11656, 14172, 14256, 14257, 15196, 15116, 17638.
Hunt, Caroline, Trust Estate, 16235.
Hunt, H. L. et al., 697, 2483, 3718.
Hunt, Hassie, Trust, et al., 8924.
Hunt, Lamar, Trust Estate, 3316.
Hunt, William Herbert, Trust Estate, et al., 15081.

Federal Power Commission—Continued

HEARINGS, ETC.—Continued

Hunt Industries, et al., 12019.
Hunt Oil Co. et al., 8637, 11242, 12136, 12866, 16511.
Hydroco Gas Supply Corp., 11656.
Idaho Power Co., 10237, 13683, 15413, 15601.
Indiana & Michigan Electric Co., 13151.
Indiana Natural Gas Corp., 8733, 10483.
Interstate Power Co., 5387, 7507.
Investor Royalty Co., Inc. et al., 12456.
Investors Petroleum Corp. et al., 9762.
Iowa Electric Light and Power Co., 4036, 7478, 8733.
Iowa-Illinois Gas and Electric Co., 2401, 20786.
Iowa Power and Light Co., 11496, 16295.
Iowa Public Service Co., 4554.
Iowa Southern Utilities Co., 2401, 4187, 6933, 7304.
Iroquois Gas Corp., 8534, 6746, 17670.
Irwin, Wallace W., 8052.
Jack Properties, Inc., 3371.
Jenny Manufacturing Co., 9051.
Juarez Gas Transportation Co., Inc., 14909, 15856.
K. R. & T. Gas Co., 5817.
Kadiak Fisheries Co, 15509, 15856.
Kansas City Power & Light Co., 15601.
Kansas City Star Co., 11183.
Kansas-Nebraska Natural Gas Co., Inc., 3796, 14795, 15726, 15773, 15856.
Kentucky Gas Transmission Corp., 8733, 12771, 14075, 14413.
Kentucky-Tennessee Natural Gas Co., 5437.
Kentucky Utilities Co., 5304, 8326.
Kentucky West Virginia Gas Co., 887, 13607.
Keosauqua, Iowa, town of, 3318.
Kerr-McGee Corp., 171, 10233, 10234.
Kewanee Oil Co. et al., 5521.
King County, Wash., Water District No. 97; 4092.
Kingsford Co., 10114.
Knoxville Utilities Board, et al., 20787.
Kodiak Electric Association, Inc., 11619.
Laclede Gas Co., 13881.
Lake Superior District Power Co., 15688.
Land Management Bureau, Spokane, Wash., 3318.
Late Oil Co. et al., 6533.
Lawrenceburg Gas Transmission Corp., 2481.
Leitchfield, Ky., city of, 15601.
Lenox, Iowa, city of, 586.
Leah Co. et al., 101, 4292, 5713, 6747, 7683.
Lewis County, Wash., Public Utility District No. 1; 12199.
Liming, S. G. et al., 885.
Livingston Oil Co. et al., 4187.
Lone Star Gas Co., 3907, 10694, 11181, 12020, 12699, 15509, 15653, 15689.
Lone Star Gathering Co., 9048, 17902.
Los Angeles Department of Water and Power, 20678.
Louisiana Gas Service Co., 3798.
Louisiana Nevada Transit Co., 15561, 16450.
Lumar Gas Corp., 11656.
MWJ Producing Co., 15410.
Mabee, Joe, et al., 5482.
Mahaska Gas Co., Inc. et al., 4005.
Maine Public Service Co., 18125.
Manco Corp. et al., 20764.
Manufacturers Light and Heat Co. et al., 1065, 1146, 4186, 5437, 8686, 14173, 14286, 14676, 15654, 17550, 17903.
Marathon Oil Co. et al., 172, 4190, 7192, 15898, 16236, 17498, 17996, 18072.
May Petroleum, Inc., 15411.
McBride, W. C. Inc. et al., 6659.
McCarrick, Gouger & Mitchell, et al., 7478.
McMillan, Hugh, 17605.
Mercantile National Bank at Dallas, et al., 11496.
Mesa Petroleum Co. et al., 13881.
Michigan Consolidated Gas Co., 11820, 15133.
Michigan Gas and Electric Co., 60, 8195, 10953, 11897.
Michigan Gas Storage Co., 3371, 6876, 17447.
Michigan Wisconsin Pipe Line Co., 429, 696, 1106, 2589, 3313, 9480, 4147, 5438, 5750, 7355, 7478, 8195, 8196, 8731, 8733, 11296, 11401, 11656, 11819, 11820, 12867, 14907, 15133, 15510.
Micoe, Inc. et al., 429.
Mid States Gas Co., Inc., 11657, 16544.
Midhurst Oil Corp. et al., 7927.
Midwest Oil Corp. et al., 4092, 4477, 12020, 15413.
Midwestern Gas Transmission Co., 7102, 7507, 7603, 15601.
Miller, Forrest B. et al., 476.
Minnesota Power & Light Co., 343, 7479, 20677.
Mississippi Power & Light Co., 2482, 3480.
Mississippi River Transmission Corp., 427, 3371, 7191, 8389, 14796.
Missouri Natural Gas Co., 8389.
Mobil Oil Corp. et al., 695, 697, 2590, 2591, 2592, 2719, 5303, 5480, 6230, 6591, 6592, 7143, 7789, 8054, 8105, 8734, 13029, 13540, 14288, 14902, 15413, 15447, 15510, 17688.
Monsanto Co., 422, 767, 6745.
Montana-Dakota Utilities Co., 3952, 4036, 5438, 5966.
Montana Power Co., 427, 5304, 6311, 7304.
Montezuma, Iowa, town of, 9049.
Morgan, R., estate of, et al., 15416.
Morrisville, village of, Water and Light Department, 428.
Moss Point, Miss., city of, 426, 3071.
Mount Vernon Mills, Inc., 16294.
Mountain Fuel Supply Co., 626.
Mull Drilling Co., Inc. et al., 2910.
Mullan, Belva H. et al., 4512.
Munoco Co., 8554.
Murchison, Norine Randle, et al., 61.
Natural Gas Pipeline Co. of America, 243, 427, 586, 587, 2914, 3799, 4187, 5438, 5966, 6747, 7956, 8388, 8434, 8932, 9049, 9763, 10114, 10952, 12506, 12507, 14173, 14413, 17447, 17552.
Natural Gas Service, Inc., 10953.
Newdelva Corp. et al., 7543.
Niagara Mohawk Power Corp., 8196, 9256, 12199.
Northeast Oklahoma Gas Authority, et al., 6229.
Northern Natural Gas Co. et al., 627, 696, 2914, 3349, 3481, 4036, 4376, 4554, 5436, 6228, 6465, 6533, 6534, 6994, 7648, 7927, 8196, 8197, 8734, 9857, 10395, 10694, 10952, 10953, 10954, 11397, 11818, 11820, 12569, 12643, 12699, 13152, 13606, 14131, 14414, 14795, 15134, 15447, 15510, 15602, 15729, 16116, 18071.
Northern States Power Co., 2482, 3249, 4188, 6466, 11821, 12699, 12978, 15900, 20783.
Northwest Production Corp., 4189.
Northwestern Public Service Co., 11183.
Norwood Oil Co. et al., 14414.
O. F. & R. Oil Co. et al., 4189.
Ohio Fuel Gas Co., 3249, 4190, 11396, 11821, 14175, 15415, 15072.
Ohio Power Co., 8052, 13151.
Ohio River Pipeline Corp., 10954.
Oil Well Drilling Co. et al., 6108.
Oklahoma Natural Gas Co., 12020.
Okmar Oil Co. et al., 14973.
Olsen, Howard, et al., 3072.
O'Neill, Joseph I., Jr. et al., 16446.
Orange & Rockland Utilities, Inc., 6748.
Oroville-Wyandotte, Calif., Irrigation District, 696, 7787.
Osborn, W. B., Jr. et al., 6109, 8197, 17992.
Pacific Gas and Electric Co., 243, 16117, 16235.
Pacific Gas Transmission Co., 428, 11248, 12771.
Pacific Northwest Power Co., 11396, 11821.
Pacific Power & Light Co., 6111, 7724, 7927, 9434, 9561, 9562, 11497, 12021, 15415, 15448.
Pan American Petroleum Corp. et al., 4327, 5483, 6654, 7190, 7789.
Panhandle Eastern Pipe Line Co., 2724, 2795, 4513, 5439, 5817, 6071, 6813, 7477, 8734, 8785, 10396, 11057, 11657, 13882, 14175, 14415, 16117, 16451, 16544, 17637.
Panhandle Producing Co. et al., 18067.
Paris, Ky., city of, 5304.
Parker & Parsley, et al., 11453, 12813.
Payne, Clifford E. et al., 7649.
Payne Petroleum Corp., 3249.
Pecos Co., 4189.
Pennsylvania Gas Co, 10025.
Pennsylvania Gas and Water Co., 2914, 5594, 5818.
Penobscot Co., 8555.
Penrose Production Co. et al., 12867.
Petroleum, Inc. et al., 2396, 3719, 4295.
Petroleum Property Management, Inc. et al., 8054.
Philadelphia Electric Co., 767.
Phillips Petroleum Co. et al., 3853, 4190, 4295, 6461, 6855, 7033, 9857, 12503, 12772, 13203.
Piney Point Petroleums, et al., 4295.
Placid Oil Co. et al., 10530, 11714, 17635, 20677.
Plaquemines Oil and Gas Co., Inc., 4514.
Portland General Electric Co. et al., 587.
Powers, M. F., estate, et al., 2397.
Prenalta Corp. et al., 10531.
Preston Oil Co. et al., 7549.
Pubco Petroleum Corp. et al., 397, 13787, 16232.
Public Service Co. of Indiana, Inc., 16118.
Public Service Co. of New Hampshire, 7956.

Federal Power Commission—Continued

HEARINGS, ETC.—Continued
Puget Sound Power & Light Co., 3662.
Reclamation Bureau, Interior Department, 11401, 12978.
Red Snapper Pipe Line Co., 3654.
Redfern Oil Co., 11054.
Reeves Brothers, Inc., 14676.
Riley, W. J., 3795.
Riley, W. J., Petroleum Co., 3795.
Riley & Scott Gas Co., 9484.
Roberts & Murphy, Inc. et al., 6652, 7192, 8139.
Robinson Petroleum Corp. et al., 17994.
Rodman and Late, et al., 3906, 6660.
Rogersville, Mo., city of, et al., 10394.
Sabine Pipe Line Co., 13457.
St. Croix Paper Co., 15773.
St. Helens Petroleum Corp., 14796.
St. Joseph Light & Power Co., 5760.
Samedan Oil Corp. et al., 3075, 9123, 14671, 15184.
Sands, Caroline Hunt, et al., 14008.
Saturn Oil & Gas Co. et al., 5482.
Schrader, Alma M. et al., 11718, 12944, 14075.
Scott Paper Co., 344.
Seattle, Wash., city of, 5440, 13427.
Sells Petroleum, Inc. et al., 6065, 6748.
Service Pipe & Equipment, Inc. et al., 11206.
Shell Oil Co. et al, 887, 2461, 5853, 7193, 7796, 8736, 11716, 14673, 15856.
Shenandoah Gas Co., 3483, 3594, 5049, 8555.
Sidwell, E. C. et al., 17448.
Sidwell Oil and Gas, Inc. et al., 16547.
Sierra Pacific Power Co., 13862.
Signal Oil & Gas Co. et al., 10951.
Sims, Ill., village of, 3350.
Sinclair Oil & Gas Co. et al., 3118, 4291, 13030, 16118, 20675.
Snohomish County, Wash., Public Utility District No. 1; 7734, 8055, 8326, 10115, 16294.
South Carolina Electric & Gas Co., 2401.
South Georgia Natural Gas Co., 587, 4476, 5367, 6465, 7355, 8736.
South Seminole Natural Gas Authority, 14676.
South Texas Natural Gas Gathering Co., 4514, 5439, 7887, 8389, 8932, 15669.
Southeastern Power Administration, 8738, 10955.
Southern California Edison Co., 4087, 15969.
Southern Natural Gas Co., 178, 1106, 3073, 3481, 4147, 5750, 6311, 7228, 7479, 7649, 7734, 8736, 9139, 10825, 11053, 11498, 11497, 13606, 14415, 14794, 14796, 14910, 16118, 17633, 21005.
Southern New Mexico Oil Corp., 6748, 7726.
Southern Union Gas Co. et al., 5859, 13427.
Southwest Gas Corp., 7026.
Southwestern Power Administration, 5966.
Standard Oil Co. of Texas, 20753.
Stringer, Frank J., 20755.
Sun Oil Co. et al., 5850, 12312, 12674, 21005.
Sunset International Petroleum Corp., 1145, 2402.
Superior Oil Co. et al., 9047, 13735, 15560, 16119, 17637.
Tamarack Petroleum Co., Inc., 11183, 12021.
Tenneco Oil Co. et al., 9124, 13541, 13833, 15199, 16119, 17636.
Tennessee Gas Pipeline Co., 695, 2793, 4276, 4514, 5854, 6010, 6070, 6466, 6952, 7507, 8197, 8555, 8737, 9048, 9125, 10081, 11498, 13031, 13152, 13609 13748 14076, 14623, 14796, 15200, 16118, 16120, 17586.
Texaco, Inc. et al., 3186, 7603, 7949, 11494, 11952, 12126, 14171, 15699.
Texas Eastern Transmission Corp. et al., 2953, 6994, 7739, 8389, 10023, 10483, 10954, 11822, 12507, 12967, 14006, 15415, 17448.
Texas Gas Pipe Line Corp. et al., 8556.
Texas Gas Transmission Corp., 173, 887, 2482, 2912, 3950, 4478, 6070, 6995, 8055, 8199, 9856, 11055, 15001, 15654, 18120.
Tidewater Oil Co. et al., 2911, 2417, 4479.
Transcontinental Gas Pipe Line Corp., 174, 767, 1065, 2914, 3073, 3481, 3799, 3953, 5388, 5894, 6239, 6748, 7479, 8737, 9139, 9857, 11055, 12979, 13609, 14076, 14418, 15699, 16546, 17633.
Transwestern Pipeline Co., 3073, 4479, 5440, 6312, 7726, 8690, 8553, 10024, 10695, 11050, 13028, 13962 14076, 15097, 15699, 17906.
Trebol Drilling Co., 6748, 7726.
Trunkline Gas Co., 3250, 3799, 4514, 6071, 6229, 7887, 10483, 11403, 13153, 14288, 16296.
Tyrrell, W. C., Jr. et al., 8626, 11454.
U.S. Natural Gas Corp., 697.
Unadilla, Ga., city of, 7355.
Underwood, Rip C. et al., 4094.
Union Gas System, Inc., 7725, 10237.
Union Light, Heat and Power Co., 20756.

Federal Power Commission—Continued

HEARINGS, ETC.—Continued
Union Oil Co. of California, et al., 11398, 14977.
Union Pacific Railroad Co., 14796.
Union Texas Petroleum, et al., 11400.
United Fuel Gas Co., 1147, 2873, 4555, 5440, 6661, 7650, 8199, 8738, 10024, 12457, 14175, 14288, 15510, 20787.
United Gas Pipe Line Co., 426, 3071, 3953, 4002, 5595, 6229, 7144, 7856, 7479, 8390, 8657, 8737, 8938, 10695, 11059, 11657, 13153, 14975, 14796, 15124, 15448, 15774, 16295, 16545.
United Natural Gas Co., 2725, 6534, 10025, 17870.
Vaughn, G. E., Jr. et al., 10235.
Veeder Supply and Development Co. et al., 4294.
Vienna, Ga., city of, 4476.
Vina, Ala., Natural Gas Board of, 6010.
Virginia Electric & Power Co., 8657.
Walkup, Bruce, 7650.
Walsenburg, Colo., city of, 1145.
Washington Public Power Supply System, 11306, 11821.
West Jefferson, town of, Gas Board of, 14794.
West Ohio Gas Co., 4147.
Western Gas Interstate Co., 12200.
Western Gas Service Co., 6812.
Western Massachusetts Electric Co. et al., 14910, 15448.
Western Transmission Corp., 15602.
Weva Oil Corp. et al., 12693.
Whiting, Fred M. et al., 15667.
Wilcox County Gas District, 5750.
Wilhite, Marvin E. et al., 10110.
Wilshire Oil Co. of Texas, 8739.
Wilson, Alvin, et al., 241, 16451.
Wisconsin Electric Power Co., 3373.
Wisconsin Gas Co., 12607.
Wisconsin Michigan Power Co., 10114.
Wisconsin Power and Light Co., 11491.
Wisconsin Public Service Corp., 6952.
Woodford, Hasel, et al., 14908.
Woods Falls B. Hydro, Inc., 6010.
Youngblood, J. Lee, et al., 2398, 3188, 7084.
Yuba County Water Agency, 15201.
Yucca Petroleum Co., 11822.

Federal Radiation Council:

URANIUM MINING, underground, protection guidance for Federal agencies; memorandum for President 11183

Federal Railroad Administration:

CONTINUATION of functions, etc 5612
EXPLOSIVES. *See main headings* Interstate Commerce Commission; Transportation Department.
HAZARDOUS MATERIALS. *See main heading* Hazardous Materials Regulations Board.
ORGANIZATION AND FUNCTIONS, railroad and pipeline safety 5613
PIPELINE CARRIERS:
See also main heading Interstate Commerce Commission.
Accident reporting, etc 9228, 12851, 16040
SAFETY REGULATIONS:
See also main heading Interstate Commerce Commission.
Functions 5613
Inspection of locomotives other than steam 4360, 8092, 11994, 13512

Federal Register:

ACTS requiring publication in FEDERAL REGISTER 4015
CFR CHECKLIST 3383, 5455, 6673, 7900, 9493, 11113, 12667, 13751, 15065, 16473
INCORPORATION BY REFERENCE, standards and procedures 7899
PRESIDENTIAL PROCLAMATIONS, preparation (Executive Order 11354) 7695
RECORDS, non-Federal; retention requirements 3602

Federal Reserve System:

See Federal Open Market Committee.
AUTHORITY DELEGATIONS 8519, 8956
Director of Division of Examinations 19159

Federal Reserve System—Continued

BANK HOLDING COMPANIES:
Applications, requests for determinations, etc.:
Allied Bankshares Corp., 6466.
American Bancorporation, Inc., 13790.
Associated Bancorporation, 6967.
Atlantic Trust Co., 14166, 17554.
BT New York Corp., 7144.
Bancorporation of Montana, 16295.
Bancstock Corporation of America, 15729.
Barnett National Securities Corp., 10939, 15135, 15559.
Bremer, Otto, Co., 12570, 13242.
Bremer, Otto, Foundation, 13242.
Central Bancorp., 21006.
Central Banking System, 13468.
Central Wisconsin Bankshares, Inc., 397, 16452.
Charter New York Corp., 6749, 7480, 16067.
Colorado CNB Bankshares, Inc., 7480, 17554.
Commercial Associates, Inc., 11185.
Commercial Bancorp, Inc., 102, 4456, 7480.
Denver U.S. Bancorporation, 8324.
Dominion Bankshares Corp., 4396, 7480.
First Florida Bancorporation, 398.
First Holding Co., Inc., 7924, 13018.
First National Bank of Tampa, 5752, 12813.
First National Corp., 5388.
First at Orlando Corp., 1202, 6593.
First Virginia Corp., 396, 3119, 7305, 8934, 12200.
First Wisconsin Bankshares Corp., 2915, 6312, 7231, 11098, 18126.
Franklin County Trust Co., 16068.
General Bancshares Corp., 174.
Geneva Shareholders, Inc., 6749.
Hawkeye Bancorporation, 13154.
Huntington Bancshares, Inc., 3753, 7886.
Lincoln First Group, Inc., 3907.
Marine Corp., 16174.
Marine Midland Corp., 8258.
Marshall & Ilsley Bank Stock Corp., 63, 3373, 7651.
Mid-Wis Bankshares, Inc., 14166.
Moody Foundation, 18126.
Northwest Bancorporation, 13241, 16452.
Society Corp., 2402, 8558, 13390.
Southeast Bancorporation, Inc., 10693, 12772.
Union Security & Investment Co., 5752, 12813.
Valley Bancorporation, 5986.
Virginia Commonwealth Bankshares, Inc., 5967, 7189, 9857, 13427, 16452.
Whitney Holding Corp., 174.
Forms, annual, report and registration 3813
Interpretations, certain; regulations revoked 854
Mortgage companies, ownership of 15004
BANK SERVICE ARRANGEMENT; credit card service organization 15389
CHECKS, etc., collection of 6210, 10912
CREDIT BY BROKERS, DEALERS, and members of national securities exchanges, proposed rules:
Definitions, general and special accounts, etc 14855
Financing transactions in specialist's account 11237
DEALERS in securities, relations with, exceptions; proposed rule 5849
DISCOUNT RATES, changes in 6195, 17425
FOREIGN ACTIVITIES of national banks; authority, scope, etc 874, 4399
FOREIGN BANKING AND FINANCING, corporation engaged in 4398, 6195
HEARINGS, cease-and-desist orders, etc., practice rules 6723, 11140
INFORMATION, availability of 9516
INSURED BANKS, joint calls for report of condition 290, 6810, 10228, 14243
INTEREST ON DEPOSITS:
Interpretation, issuance of unsecured negotiable notes by member banks; regulation revoked 854
Time deposits, exemptions from interest rate limitations:
Bank of Taiwan 2428
Foreign Exchange Bank of Korea 2428
LOANS:
Banks, loans by, for purchasing or carrying registered stocks:
General rule, exceptions, etc.; proposed rules 14857
Margin requirements 8357

Federal Reserve System—Continued

LOANS—Continued
Executive officers of member banks, loans to:
Definitions:
Exemption of certain indebtedness 7584
Permissible loans; proposed rules 4124
Redefinitions, etc.; proposed rules 12758
Persons other than banks, brokers, or dealers, loans by; proposed rules 14853
MERGERS OF BANKS, consolidations, etc.; applications by listed banks, approvals, etc.:
Bank of Sussex County, 5411.
Bank of Virginia, 62.
Detroit Bank and Trust Co., 13948.
Exchange State Bank, 14901.
First Trust Co. of Albany, 9129.
Manufacturers & Traders Trust Co., 7102.
Quincy Trust Co., 17605.
Savings & Trust Co. of Indiana, 1202.
Seattle Trust and Savings Bank, 9764.
Security Bank and Trust Co., 627.
State Bank of Albany, 5818.
Traverse City State Bank, 14871.
Union County Trust Co., 6071.
Union and New Haven Trust Co., 14901.
Wachovia Bank and Trust Co., 4511.
NONCASH ITEMS, collection of; prior regulations revoked 6210, 10912
ORGANIZATION AND FUNCTIONS 12023
PRACTICE RULES; hearings, cease-and-desist orders, etc 6723, 11140
PROCEDURE RULES; applications, forms, etc 11984, 12473
RESERVES OF MEMBER BANKS:
Interpretation, issuance of unsecured negotiable notes by member banks; regulation revoked 854
Reserve percentages 3763
SECURITIES EXCHANGE ACT of 1934, applications for exemption from registration requirements:
Annapolis Banking & Trust Co., 7888, 9764.
Harvard Trust Co. et al., 10025, 12341.
Peoples Bank of Glen Rock, 293, 9764.
Southern Arizona Bank & Trust Co., 5859, 9764.
SECURITIES of member State banks:
Definitions, beneficial ownership 13984, 17469
Form No. F-10, registration of certain securities; proposed rule 4316
Proxies, proxy statements, etc., minority stockholder proposals 13984, 17469
Registration of additional class of securities of bank; statements, reports, and form 6552
STATE BANKS in Federal Reserve System:
Interpretation, investments by member banks in stocks of foreign banks; regulation revoked 854
Investments by member banks in bank premises 11208
Loan "production offices" as branches 11262

Federal Savings and Loan System, etc.:

See Federal Home Loan Bank Board.

Federal Seed Act:

GERMINATION OF SEEDS, etc. *See* Agriculture Department.

Federal Supply Service:

PROCUREMENT REGULATIONS 9402
Contract termination for default 13817
Federal supply schedule program 9462, 11384, 14844
Forms 9438
Form 1535 11348
General 9402, 11384, 12558
Negotiation 9425, 11384

Federal Trade Commission:

ADMINISTRATIVE RULINGS, etc.:
See also Guides and trade practice or regulation rules.
"America's most warranted * * *" 3818
Auto parts; holding company ownership of warehouse distributor and jobber 383
Back-haul allowances, granted to customers picking up own food products purchases 14694
Book publisher, allowances 12557

Federal Trade Commission—Continued Page

ADMINISTRATIVE RULINGS, etc.—Continued
- Books held on consignment, resale price maintenance 6362
- Clearance, premerger 2844
- Cooperative, agricultural; market of products through common sales agent 6929
- Corsage wearing apparel under Flammable Fabrics Act 15470
- Cosmetics:
  - Hand cream, misrepresentation 4308
  - Skin lotion, mink oil 12750
  - Spray deodorant, claims 12557
  - Toilet preparations, origin of 20960
- Credit transactions, retail; extension of time for written comments 3723
- Discounts:
  - Additional annual volume; nonapproval by Commission 17582, 18087
  - Functional discounts, unlawful whenever adverse effect on competition 1171
  - Selling organizations, retail discount 3387
  - Varying discount price schedule, distributor recruitment through grant of override 20960
- Embossing; description of raised printing 7702
- Food processing industry, proposed license agreement for process patent 13635
- Foreign origin:
  - Badminton sets, packaged, disclosure not required on outside 1171
  - Chemicals 135
- Free merchandise:
  - Acceptance by grocery retailer 9063
  - Giving to obtain new customers 9064
- Gold; "solid" and "karat" used together in describing 8406
- Industrial machine, patented; lease 10298
- Leather fibres, labeling of products composed of 382
- List prices, manufacturers'; use to denote value 787
- Lottery, disapproval of selling merchandise by 6929
- Milk marketing orders, complying with 20716
- Multi-unit organizations, aggregating purchases 14323
- "New" description, permissible period of time for new product 6023, 14693
- Oxygen administrator, portable 7701
- Price lists, marketing area; propriety of publishing 6362
- Product certification program 17856
- Promotional plans:
  - Allowances by fabric supplier 12941
  - Film projector 135
  - Rewards to customers 10566
- Schools, payment for recruiting new students 15019
- Shopping center space, selective leasing 10567
- Store hours, uniform; agreement among retailers 788, 7262
- Textile fiber products, labeling 12176, 12750
- Trade associations:
  - Agreement among members to comply with government ruling 10297
  - Ethics code, pricing and selling practices 3818, 5620, 7749
  - "National" and "Association", proposed use in name 8407
  - Price guarantees from suppliers, proposed discussion 12176
  - Prices suggested to be charged consumers 15919

CEASE AND DESIST ORDERS. *See* Prohibited trade practices *at end of this agency.*

CIGARETTES, testing for tar and nicotine content 11178

CONDUCT STANDARDS 13272

FAIR PACKAGING AND LABELING ACT, proposed rules:
- Consumer commodities; required statements 9109, 10937
- Net quantity of contents declaration, location 9571

FLAMMABLE FABRICS ACT:
- Application to particular types of products 2378
- Shipments of wearing apparel or textile fabric for flammability treatment 2378
- Veils or veilings, ornamental millinery; interpretation 492, 11850
- Wearing apparel:
  - Corsage 15470
  - Raised fiber surfaces 6991

Federal Trade Commission—Continued Page

FUR AND PRODUCTS:
- Artificial coloration and monetary value; proposed rule 17544
- Name guide, "Mink, China" and "Mink, Japanese" 6023

GUIDES AND TRADE PRACTICE OR REGULATION RULES:
- *See also* Administrative rulings.
- Adhesive compositions, deceptive labeling and advertising 15538
- Advertising allowances 15542
- Application of guides and trade practice rules in preventing unlawful competitive restraints 15540
- Bait advertising 15540
- Beauty and barber equipment and supplies industry, proposed rule 3711, 6514, 9109, 12759
- Debt collection deception 15539
- Deceptive pricing 15534
- Dog and cat food industry, proposed rules 13461, 15715
- Drugs, systemic analgesic, nonprescription; advertising, proposed rule 9843, 12954, 17601
- Fallout shelters, advertising 15529
- Fiber glass, curtains and draperies and fabrics of; failure to disclose that skin irritation may result 11023, 15424
- Greeting card industry, rescission 12999
- Guarantees, deceptive advertising of 15541
- Lumber, softwood, grading and grademarking 7726, 12136
- Mail order insurance industry 15536
- Men's and boys' tailored clothing industry, discriminatory practices in 15584
- Photographic film and film processing service, use of word "free" 15681
- Radiation monitoring instruments, advertising 15533
- Radio sets including transceivers or walkie-talkies; deception, proposed rule 10753
- Shell homes, advertising 15531
- Shoe content labeling and advertising 15532
- Textile industry, deceptive use of word "mill" 15538
- Tire advertising and labeling 15525

ORGANIZATION AND FUNCTIONS 8442, 8739
- Bureaus of Restraint of Trade, Deceptive Practices, Textiles and Furs, and Industry Guidance; closing of certain investigational files 16121

PACKAGING AND LABELING. *See* Fair Packaging and Labeling Act.

PRACTICE AND PROCEDURES:
- Adjudicative proceedings, rules of practice 8449, 8710, 9158
- Appearances, fees, records, etc 8456, 8711
- General procedures; industry guidance, economic surveys, investigations, etc 8444
- Nonadjudicative procedures 8446

SHRINKAGE OF PRESHRUNK FABRICS in automatic driers, inquiry 8690

SOFTWOOD LUMBER, grading and grade-marking 7726, 12136

TRADE PRACTICE OR REGULATION RULES. *See* Guides and trade practice or regulation rules.

WOOL PRODUCTS LABELING ACT OF 1939; imported wool products 9022, 14689, 20853
- Testing and compliance, proposed rule 15180

PROHIBITED TRADE PRACTICES, CEASE AND DESIST ORDERS:
- A & S Sales Corp., 6585.
- ATD Catalogs, Inc., 5990.
- Alaskan, 491.
- Alberts, Emanuel and Murray, 1170.
- Alcott, Fred, 3978.
- Allen, Larry, 6926.
- Allied Enterprises, Inc., 6927.
- Alston, W. J., Jr., 10562.
- American Cyanamid Co., 15105.
- American Home Products Corp., 879.
- Amy-Joy Novelty Co., 10644.
- Angora Corp., 10975.
- Angus Freezer Meats, Inc., 3973.
- Appliance Product Service, 17618.
- Atlas Aluminum Co., 8963.
- Atomic Sportswear Co., Inc., 18026.
- Avalon Manufacturing Corp., 10565.
- Barbre, James C., 6936.
- Bard, Merry A., Ronald S., and Sally G., 10941.
- Barhorst, Bernard, 2497.
- Baron, Louis, 8794.
- Baverman, Allen C, 3974.

Federal Trade Commission—Continued

PROHIBITED TRADE PRACTICES, CEASE AND DESIST ORDERS—Con.
- Beatrice Foods Co., 9646.
- Beco Industries Corp., 13766.
- Beco Stores of Delaware, Inc., 13766.
- Berger, Samuel, 381.
- Berger, Samuel, Furs, 381.
- Bessemer Limestone and Cement Co., 15011.
- Best & Co., Inc., 13766.
- Bianchini, Ferier, Inc., 8584.
- Birnbach, Nathaniel and Harry, 10646.
- Bitterman, Caroline, Leonard, and Howard, 10648.
- Bitterman, Sidney, Inc., 10648.
- Black Angus Freezer Meats, 3973.
- Black Angus Freezer Meats of Virginia, Inc., 3973.
- Blanton, Paul H., 6926.
- Blue Diamond Chinchillas, 3340.
- Blum, Jule M., 7626.
- Boarman, James B., 269.
- Bob's Florette, 8239.
- Bouckhout, Robert E., 3225.
- Bow Solder Products Co., Inc., 2497.
- Bowman Dairy Co., 8238.
- Brand Stores, 10645.
- Brant, Maxine and Milton, 1170.
- Brant Sewing Machine Co., Inc., 1170.
- Brant's Sewing and Appliance Center, 1170.
- Brice Wholesalers, Inc., 14818.
- Bristol Laboratories, Inc., 15105.
- Bristol-Myers Co., 9648, 15105.
- Broadway Hobby House, 7626.
- Brooklyn Uniform Center, 2685.
- Brookport Classics, Inc., 10646.
- Burch, Armand F., 17428.
- Burch, John E., Co., 17428.
- C.W.F. Corp., 5734.
- California Sportswear Co., 8584.
- Campbell Taggart Associated Bakeries, Inc., 6676.
- Capital City Quilting Inc., 7015.
- Capital City Woolen Mills, Inc., 7015.
- Capitano, Joseph A., 9158.
- Carlson, C. F., Co., 4017.
- Carolina Tobacco Warehouse, 10562.
- Carpet and Rug Mills, Inc., 269.
- Charlotte National Mattress Co., 10977.
- Charsky, Floyd H., 3973.
- Cincinnati National Mattress Co., 10977.
- Cohen, Herman, Marvin, and Barry, 3341.
- Cohen, Samuel Tyco, 8584.
- Colbert's, 134.
- Cole National Corp., 11422.
- Coles Adjustment Service, 5735.
- Columbia Broadcasting System, Inc., 12713.
- Columbia Record Club, Inc., 12713.
- Conn, Theodore B., Jr., 5324.
- Consolidated Sewing Machine Co., 6130.
- Consolidated Sewing Machine Co. of Washington, D.C., 6130.
- Consolidated Thermoplastics Co., 14066.
- Consumer Advertising and Research Service, 5735.
- Consumer Motivation, Inc., 7493.
- Consumers Products of America, Inc., 13455.
- Continental Oil Co., 17853.
- Continental Scarf Corp., Inc., 10058.
- Continental Scarf & Novelty Co., 10058.
- Coran, John and Charles, 11467.
- Coran Bros. Corp., 11467.
- Cornet, William, 9647.
- Cornet & Morganstern, Inc., 9647.
- Corrigan, Ralph T., 6677.
- Cox, Edward L., 6676.
- Crest Furs of Houston, Inc., 491.
- Crown Music Co., 6926.
- Crown Tuft, Inc., 6636.
- Crystal, David, Inc., 6637.
- Custom Carpet Shop of Virginia, 3973.
- Dan-Dee Sportswear, 10649.
- Davidson, Jules M., 491.
- Davis, H., Toy Corp., 10565.
- Davis, Ronald E., 10976.
- Dean Foods Co., 8238.
- Delco Carpet Mills, Inc., 446.
- Delco Carpets, Inc., 446.
- DePalma, Don, 5991.
- Derby of San Francisco, 15750.
- DeWitt, E. C., & Co., Inc., 380.
- Di Vinci, 9158.
- Diamond Alkali Co., 15011.
- Domestic Credit Co., 6677.
- Dosik, Samuel, 10644.
- Dubrowsky, Morris and Irving, 3225.
- Dubrowsky & Joseph, Inc., 3225.
- Duchess Mink, 7016.
- Duffield Clothes, 10565.
- Dykstra, William E., 12766.
- Dynamic Fashions, Inc., 6927.
- Dynamic Imports, Inc., 6927.
- Eastern Guild, Inc., 13455.
- Edison Sales, 5735.
- Edison Sewing Machine Co., 5735.
- Edison Sewing Machine and Vacuum Cleaner Co., 5735.
- Edwards, James F., 10977.
- El Paso Products Co., 14099.
- Ellington, F. H., John, and Gilbert F., 10562.
- Ellington Warehouse, 10562.
- Elmo Co., Inc., 609.
- Elysee Fashions, Inc., 2498.
- Empeco Corp., 3974.
- Empire Furniture and Appliance Co., 3974.
- Empire Home Equipment Co., 3974.
- Ewing, David W., 3973.
- Fabulous Products, Inc., 861.
- Fairmoor Coat & Suit Corp., 5255.
- Falk, David, 17855.
- Falkaw, Morton S., 448.
- Farmer's Warehouse, 10562.
- Farrell, Patricia A., 20631.
- Fashion Sewing Center, Inc., 1170.
- Federated Bureau of Installment Credit, Inc., 13766.
- Federated Nationwide Wholesalers Service, 10940.
- Federated Wholesalers Service, 10940.
- Fellers, Robert L., 14818, 14819.
- Ferry, Roger B., 20807.
- Firestone Tire & Rubber Co., 3050.
- First Federal Construction Co., Inc., 5324.
- Flemming, S. P. and R. E., 10562.
- Flomenhaft, Sam, 10975.
- Food Trends, Inc., 7493.
- Foremost Dairies, Inc., 2884.
- Fox, Samuel, 15107.
- Fox Valley Foods, Inc., 267.
- Framingham Fur Storage & Mfg. Corp., 4017.
- Freiman, L. J., Inc., 7206.
- Freiman, Louis J., Joseph, and Harold, 7206.
- Friedman, Max, 10643.
- Fujii, Tetsukichi, 14818.
- Galaxy Costume Corp., 5734.
- Garydean Corp., 10640.
- General Electric Co., 10975.
- Gerstel, Jack, 13455.
- Ghrist, Ernest C., 10977.
- Gladstone-Arouni, Inc., 15674.
- Glasser, Simon and Arthur, 8585.
- Globe, Inc., 15749.
- Gloveshire Coats, Inc., 10642.
- Glovin, Jerome, 10642.
- Glovinsky, Stuart, 10642.
- Gluckman, Wilbur J., 491.
- Goodfriend, Nathaniel, 3050.
- Goodfriends, Inc., 3050.
- Goodman, Stanley B. and Arthur N., 134.
- Goodman Bros. Jewelers, Inc., 134.
- Goodman Jewelers, Inc., 134.
- Gotteeman, David, 5255.
- Gotteeman, Milton S., 12713.
- Gotteeman Co., 5255.
- Gourdon, C. M., Inc., 3771.
- Gourdon, Charles M., 3771.
- Graber, Joseph V. and Marie, 7626.
- Graber Co., 7626.
- Graber Manufacturing Co., Inc., 7626.
- Grace, W. R., & Co., 5324.
- Gramercy Mills, Inc., 8585.
- Grand Caillou Packing Co., Inc., 8991.
- Green, C. Edward, 269.
- Greenhouse, A., Inc., 7493.
- Greenhouse, Saul and Eugene, 7493.

Federal Trade Commission—Continued

PROHIBITED TRADE PRACTICES, CEASE AND DESIST ORDERS—Con.

Griff's of America, Inc., 14818.
Groval Knitted Fabrics, Inc., 3975.
Grove Laboratories, Inc., 9848.
Gulf Coast Aluminum Supply Corp., 5991.
Gutter, Jack R., 7016.
Haar, Herbert, 5355.
Hassenfeld Bros., Inc., 10565.
Haugen, John Martin, 17855.
Havana Florida Cigar Co., 15749.
Hejna, Paul A., Jr., 2497.
Henderson Tobacco Market Board of Trade, Inc., 10562.
Hettrick Manufacturing Co., Inc., 609.
Hibel, William, 4017.
High Price Tobacco Warehouse, 10562.
Hight, M. L., 10562.
Hoffman, David, 10841.
Hoffman, Ida, Mabel, and Morton H., 15748.
Hoffman-Morton Co., 15748.
Hoffman-Morton Furriers, 15748.
Hoffman & Son, 10841.
Holiday Uniform Co., Inc., 2685.
Hollywood Novelty Co., Inc., 447.
Horikoshi New York, Inc., 14818.
Horowitz & Birnbach, Inc., 10646.
Hoyle, William H., 10562.
Humphreys Medicine Co., Inc., 381.
Huntington National Mattress Co., 10977.
Hyatt, Leonard, 7627.
Ideal Toy Corp., 10565.
Imco Container Co., 14099.
Imported Fabrics by Conell, Inc., 490.
Inter-State Builders, Inc., 12713.
Jachter, Nathan, 3439.
Jacobs, Joel, 10840.
Jacobs, Mitchell B. and Samuel B., 15749.
Jaq de Paris, 3439.
Jasper National Mattress Co., 10977.
Jeffcoat, C. E., 10562.
Joseph, Morris and Rubin, 3225.
Kahn, Paul, 448.
Kanebo U.S.A., Inc., 18025.
Kaplow, Irving, 3051.
Kennedy, Richard J., 10563.
Keystone Guild, Inc., 13455.
Kilpatrick, Robert A., 17855.
Kincaid, Elnora C., 7626.
King Distributing Co., 10563.
Kirchhoff, John L., 17428.
Kleiman, Bernard, Molly T., and Eugene B., 9063.
Kohner Bros., Inc., 10566.
Kutak, Robert, 8240.
La Salle Quilting Co., Inc., 15470.
Ladin, Jacob, 7015.
Lapeyre, Emile M., Fernand S., James M., Andre C., Felix H., and Emile M., Jr., 5991.
Lauman, Arthur B., 6836.
Lavine, Paul, 4018.
Lawrence, Allan, 6926.
Leader Garment Co., 7494.
Lenobel, Ray, 6928.
Lenobel, Raymond, 6928.
Leonard, Lester, 10844.
Lewis, Warren J., 2885.
Liberty Warehouse, 10562.
Libman, Alan, 10845.
Loesberg, Nat, 13455.
Lone Star Cement Corp., 2496.
Lowe, E. S., Co., Inc., 10565.
Maple Manufacturing Co., 17619.
Mar-Cal Sportswear of California, Inc., 9158.
Marion, William, 6927.
Mars Manufacturing Co., Inc., 10841.
Mastbrook, Francis E., 5735.
McConnell, James V., 490.
Meiman, Sheldon, 10647.
Meiman Mills, Inc., 10647.
Mentholatum Co., 382.
Mercury Life and Health Co., 7627.
Mercury United Advertising Corp., 7627.
Metaxas, Eldon, Jr., 6677.
Mickle, Ray, 14693.
Midwest Automation Training-Kansas City, Inc., 7626.

Federal Trade Commission—Continued

PROHIBITED TRADE PRACTICES, CEASE AND DESIST ORDERS—Con.

Midwestern Chinchilla Corp., 10976.
Millbrooke Fashions, Inc., 2498.
Miller, Elias and Seymour, 2498.
Miller, Herman, Inc., 10975.
Miller, Ida and Michael J., 13124.
Miyasaki, Shichiro, 18025.
Modern Juniors, Inc., 18025.
Mogilner, Emanuel, 10843.
Moniteau Mills, Inc., 8585.
Monsieur Fourrure, Inc., 17855.
Moore, A. H., 10562.
Moore's Big Banner Tobacco Warehouse, 10562.
Morgan, Donald E., 10976.
Morgan, Nat, 8586.
Morgenstern, William, 9647.
Mossman, Lester, 3051.
Muehe, Robert J., 8239.
National Chinchilla Guild, Inc., 3225.
National Dairy Products Corp., 11432.
National Mattress Co., 10977.
Nationwide-Federated Wholesalers Service, 10840.
Nationwide Wholesalers Service, 10840.
Newman, Eugene, 10844.
Norris, Jay, Corp., 10840.
Olin Mathieson Chemical Corp., 15105.
Olson, Charles A., 6130.
Pacific Gamble Robinson Co., 4057.
Pan American Cigar Co., 15749.
Panat Jewelry Co., Inc., 3439.
Pape, W. R., 5991.
Paramount Fibre Corp., Inc., 10842.
Parkson Advertising Agency, Inc., 20808.
Pat and Bobbie's, Inc., 20631.
Paul, William, 18025.
Pauley, Richard W., 10976.
Peck, Frank A., 8585.
Peelers Co., 5991.
Peter Pan Foundations, Inc., 4057.
Pfizer, Chas., & Co., Inc., 15105.
Pick, Harold R., 6928.
Pick Galleries, Inc., 6926.
Plumlee, Glenn H., 9158.
Portman, Sol, 447.
Pressman Toy Corp., 10565.
Procter & Gamble Co., 3771.
Putnam, Edward W., 3340.
Quilted Textiles Corp., Inc., 9158.
R & B Sewing Machine Co., 269.
R & B Sewing Machine & Vacuum Cleaner Co., 269.
Rankus, Samuel, 10649.
Ratner, Sol, 10978.
Rattner, Sol, 10978.
Rattner, Sol, Inc., 10978.
Reinis, Julius, 10844.
Remco Industries, Inc., 10565.
Republic Construction Co., Inc., 3051.
Rexall Drug and Chemical Co., 14099.
Rheuark, Jack, 14693.
Rheuark Brokerage, Inc., 14693.
Rice, Grant D., 10976.
Rich, Jack, 15106.
Rich, Jo, Originals, Inc., 15106.
Rifas, Arthur D., 15470.
Rigley Distribution Co., Inc., 14819.
Robertson, George T., 10562.
Robertson Sales Co., 5991.
Robertson & Southerland, 10562.
Rock River Woolen Mills, 10648.
Rodale, Jerome I., and Robert, 10564.
Rodale Books, Inc., 10564.
Rodale Press, Inc., 10564.
Rogers, Lee, 10564.
Rorer, William H., Inc., 12844.
Ross, Myles, 15875.
Rosen, Seymour, 15107.
Rosenblum, Sol, 10842.
Rosin-Starr, Inc., 4017.
Ross, William I., 15750.
Royal Construction Co., 8963.
Royster, J. S., Fred S., and W. G., 10562.
Royster-Hight Corp., 10562.
S. I. Research Co., 10564.

Federal Trade Commission—Continued

PROHIBITED TRADE PRACTICES, CEASE AND DESIST ORDERS—Con.

S & M Co., 5990.
S & S Pharmaceutical Co., Inc., 15107.
Sack, Jules C., Julius C., and Leon C., 17618.
Saginaw National Mattress Co., 10977.
Sani, Sham and Lal C., 10648.
Sani Distributors, Inc., 10648.
Savid, Mac, 10648.
Sawin, John F., 10976.
Scarsdale Quilting Mills, Inc., 8240.
Schlichting, Harry, 267.
Schlosser, Alfons, 447.
Schmidt, Lowell G., 10976.
Schneider, Aaron, 17855.
Schneider & Falk, Inc., 17855.
Schneiderman, Elliott, 18025.
Schweitzer, Jacques, 10846.
Sewing Machine Company of America, 6676.
Sewing Machine Exchange, 5738.
Sharpe, Stanley W., 6926.
Shell Oil Co., 3060.
Shirley, James, 14819.
Simon, Isadore E., Blair, and Jerrold A., 10648.
Simon and Mogilner, 10843.
Singer, Hyman and Richard, 6837.
Slough, S. Dean, 268.
Smart Modes of California, Inc., 10844.
Solomon Furriers, Inc., 610.
Somerstein, Herman, 10646.
Southerland, Samuel E., 10562.
Southern Yarns, Inc., 20807.
Spiewak, Gerald, Martin H., and Robert I., 14819.
Spiewak, I., & Sons, Inc., 14819.
Sportwelt Shoe Co., Inc., 1170.
Stahl, Leo and William, 18025.
Standard Toykraft, Inc., 10565.
State Credit Control Board, 268.
Stauffer Chemical Co., 17853.
Steakland Freezer Meats, Inc., 3973.
Steinberg, Lothar, 447.
Stern, Irving, 3440.
Strickfaden, Andrew H., 8585.
Stylecrest Fabrics, Ltd., 3440.
Sun Radio Discount Center, 5734.
Sun Radio Discount Warehouse, 5734.
Sunrise Fashions, Inc., 6837.
Super Textile Co., Inc., 269.
Surkin, Martin and Natalie, 17619.
Surprise Brassiere Co., Inc., 10844.
Tafler, Louis, 13455.
Tait, James B. and Robert J., 10648.
Tamny, Sol, 10565.
Tamny, Sol. Co., Inc., 10565.
Tanner, R. E., 10562.
Tarses, Irvin, 491.
Tarses-Gluckman, Inc., 491.
Thal, Adrian and Thelma, 9645.
Thal, Adrian, Inc., 9645.
Thomas, Susan, Inc., 5734.
Titus Pacific Corp., 447.
Toby Juniors, Ltd., 10642.
Tombari, Aldo L., 609.
Topol, Isaac M., 10058.
Town & Country Fashion Designers, Inc., 2886.
Tracer Reserve Fund, 13124.
Transamerican Spinning Mills, Inc., 10845.
Turkus, Samuel, Jr., 2497.
Turner, Charles Brooks, 10562.
Tyler National Mattress Co., 10977.
Union Bag-Camp Paper Corp., 7628.
Union Camp Corp., 7628.
United Sales, Inc., 14693.
Universal Uniforms, 2885.
Upjohn Co., 15105.
V. C. Sportswear Corp., 3241.
Variety Dresses, 10649.
Veltman, David, 15748.
Warsaw, William, Marcus, and Joseph M., 5734.
Wasserman, David, 4018.
Wasserman & Lavine, Inc., 4018.
Weber, Moe, 10649.
Weil, Sam, 5734.
Weinstein, Charles S., 10845.
Weinstock, Jack, 13455.
Wendy Coat Co., Inc., 15875.
Werts Novelty Co., Inc., 15876.
Whiting, H. L., Co., 6928.
Whiting, Lisbeth, Co., Inc., 10566.
Wild, Carter W., 10977.
Williams, J. B., Co., Inc., 20808.
Williams, Mortimer, 10840.
Wilner, O. Norman, 15875.
Wilson Shoe Co., Inc., 1170.
Wizner, Herman, 4017.
Wollschlager, Prod, 10976.
Young, B. W., 10562.
Youngstown Carpet Guild Distributors Co., 448.
Youngstown National Mattress Co., 10977.
Zamolski, Jos. M., Co., 2499.
Zoellner, Thomas C., 17428.

Federal Water Pollution Control Administration:

AUTHORITY DELEGATION from Secretary of Interior, general authority respecting water resources 469
CERTIFICATION OF FACILITIES 1131, 16151
GRANTS, water pollution control, construction of treatment works; proposed rules 11330
LEGAL SERVICES, transfer to Office of Solicitor, Interior Department 392
ORGANIZATION, regional offices, change of address ... 21042

Feed Grains:

See Agriculture Department; Commodity Credit Corporation.

Fees:

VARIOUS SERVICES performed by agencies, charges for. *See specific agencies.*

Figs:

CANNED, identity standards, optional ingredients. *See* Food and Drug Administration.
GRADE STANDARDS, dried figs. *See* Agriculture Department.

Filberts:

MARKETING. *See* Agriculture Department.

Firearms:

FEDERAL FIREARMS ACT, grants of relief pursuant to. *See* Internal Revenue Service.

Fiscal Service:

See Treasury Department.

Fish, Fishing:

See also Fish and Wildlife Service.
ANTIDUMPING ACT determination:
Cod fillets from eastern Canadian provinces 12626
Fishery products from U.S.S.R. 1101, 5375
ARCADIA NATIONAL FISH HATCHERY, transfer to State of Rhode Island 15037
DISASTER, fishery failure, oyster industry in Texas ... 20740
ENDANGERED SPECIES, list. *See* Interior Department.
HYDROELECTRIC LICENSEES, fish conservation. *See* Federal Power Commission.
INDIAN FISHING. *See* Indian Affairs Bureau.
NATIONAL PARKS, fishing in. *See* National Park Service.
POWER PROJECT LICENSE APPLICATIONS, exhibit relating to fish resources 9650
TARIFF RATE QUOTA, 1967, certain fish. *See* Customs Bureau.
TUNA FISH:
Standard of identity. *See* Food and Drug Administration.
Tariff-rate quota. *See* Customs Bureau.
Yellowfin tuna, commercial fisheries. *See* Fish and Wildlife Service.

Fish, Fishing—Continued

VESSELS:
- Construction loans or differential subsidies. *See* Fish and Wildlife Service.
- Federal ship mortgage insurance. *See* Budget Bureau.

Fish and Wildlife Service:

AUTHORITY DELEGATIONS, Commercial Fisheries Bureau:
- By Assistant Director, Resource Development, to Chief, Loans and Grants Branch; fishery loans, etc. 13466
- By Director to Assistant Directors:
  - Federal Aid Office, et al.; approve federal aid grants 5475
  - Resource Development; fishery loans, etc. 13465

BIRDS. *See* Hunting and possession of wildlife; Restoration of game birds.

COMMERCIAL FISHERIES:
- Authority delegations by certain officials. *See* Authority delegations, *above*.
- Eastern Pacific tuna fisheries, yellowfin tuna 7776, 8969
- Catch limit, seasons, etc. 8772, 9050
- Fishing vessel purchase or construction:
  - Differential subsidies, applications; hearings:
    - O. E. & Son Fisheries, Inc., 836.
    - Pioneer Shrimp Co., Inc., 7347.
  - Loan fund applications:
    - Ames, Levon S., Jr., and Bodin, 677.
    - Anelich, Antone A., 678.
    - Barnett, Walter B. and Ruth, 14114.
    - Blocker, Bernard J., 2888.
    - Bohannon, Frank B. and Helen F., 21040.
    - Chicalak, Sylvester J., 13013.
    - Cox, Erwin Russel, 266.
    - Cox, Robert Louis, 934.
    - Degner, Alan B. and Rhoda Alice, 21040.
    - Doumit, Milton H., 151.
    - Guilmet, James Arthur, Jr., 14242.
    - Harder, Ole G., 12450.
    - Harris, Harry R., 15124.
    - Hazard, Ralph Walter, 11963.
    - Hemnes, Olaf, 12194.
    - Hinde, Richard T., 12450.
    - Kelley, Eugene M., 21040.
    - Leach, Thomas Ned and Helen Edith, 21041.
    - Llanes, Moises, 14243.
    - Llanes, Moises, Co., 14900.
    - Loftes, Harold A., 12014.
    - Marshall, Roger Warren, 933.
    - McHenry, Carroll C., 11068.
    - Miller, Rodman A. and Lois Mae, 15124.
    - Moody, Russell E., 21041.
    - Murray, William Edward, 21041.
    - Osborne, Wallace R., 14669.
    - Peters, Patrick O., 1102.
    - Peterson, Bud S., 14669.
    - Potter, John S., 14567.
    - Pringle, Robert J. et al., 5381.
    - Rankin, David L. and Fame L., 13967.
    - Rasmussen, Tage Bendt and Marilyn Lee, 21041.
    - Raymond, William A. and Joan A., 15766.
    - Schones, Stanley J., 3405.
    - Stine, Elden G. and Neal Roy, 11740.
    - Tomlinson, William H., Jr., 21041.
    - Vinson, Jay J. and Janet J., 15769.
    - Wamser, Bernard H. and Frances I., 151.
    - Wang, Theodore R., 676.
    - Wodyga, Patrick A., 13012.
    - Wooldrige, Walter Willis, 10269.
  - Jellyfish; control, administration, etc. 8419, 16492
  - Master hull policy mortgage insurance, intent to request proposals 16058

COOTS, AMERICAN. *See under* Hunting and possession of wildlife.

EAGLES, GOLDEN. *See under* Hunting and possession of wildlife.

GAME BIRDS. *See* Restoration of game birds.

HUNTING AND POSSESSION OF WILDLIFE:
- *See also under* Research, wildlife; Wildlife refuges, national.
- Areas closed and open to hunting and sport fishing. *See under* Wildlife refuges, national.

Fish and Wildlife Service—Continued

HUNTING AND POSSESSION OF WILDLIFE—Con.
- Coots, American, depredating; killing to protect agricultural crops in certain California areas 1059
- Eagles, golden, depredating; taking to protect livestock in certain counties in various States 583, 2903, 5426, 13938
- Importation of wildlife or eggs thereof:
  - Definition, migratory birds 10856
  - Live or dead fish, birds, reptiles, etc., which may be injurious to human beings 10982, 13595, 20655
- Migratory birds:
  - Definitions, etc. 10855
  - Hunting methods and transportation 6196, 7713
  - Seasons, limits, etc. 5268, 5628, 7497, 7713, 8718, 10795, 11163, 11642, 12039, 12685, 12798, 13072, 13227, 15834.

MIGRATORY BIRDS. *See under* Hunting and possession of wildlife.

RESEARCH, wildlife, Patuxent Wildlife Research Center, Md.; hunting and sport fishing 5787

RESTORATION of game birds, fish, and mammals 12481, 16215

TUNA, yellowfin. *See* Commercial fisheries.

WILDERNESS STUDIES, hearings:
- Bearing Sea Unit, 2977.
- Bogoslof Unit, 2977.
- Cedar Keys Unit, 879.
- Chapadera Unit, 879.
- Charons Garden Unit, 2977.
- Copalis National Wildlife Refuge, 879.
- Edmunds Unit, 2823.
- Flattery Rocks National Wildlife Refuge, 879.
- Forrester Island National Wildlife Refuge, 1059.
- Harney Lake Wilderness area, 3367.
- Hart Mountain National Antelope Refuge, 1058.
- Hazy Islands National Wildlife Refuge, 1059.
- Huron Islands Unit, 4001.
- Indian Well Unit, 879.
- Island Bay Unit, 879.
- Malheur Lake Wilderness area, 3367.
- Michigan Islands Unit, 879.
- Okefenokee Unit, 2977, 3109.
- Oregon Islands National Wildlife Refuge, 880.
- Passage Key Unit, 880.
- Pelican Island Unit, 880.
- Quillayute Needles National Wildlife Refuge, 879.
- St. Lazaria National Wildlife Refuge, 1059.
- Salt Creek Unit, 1058.
- San Pascual Unit, 879.
- Seney Unit, 4001.
- Three Arch Rocks National Wildlife Refuge, 880.
- Tuxedni Unit, 2977.

WILDLIFE REFUGES, NATIONAL:
- *See also* Hunting and possession of wildlife; Wilderness studies.
- Boundaries, proposed modifications; Illinois, Iowa, and Wisconsin 5959
- Canceled 8256
- Hunting or sport fishing; rules proposed or adopted:
  - Areas closed to hunting:
    - Massachusetts, 12404.
    - North Carolina, 10982, 13384.
  - Areas open to hunting or sport fishing:
    - Alabama, 3097, 11441, 12560, 12615, 13003.
    - Alaska, 6495, 11528, 11799, 12951, 13819, 14157.
    - Arizona, 11276, 11528, 11529, 11934, 12680, 12851, 12953, 13073, 13932, 14063, 14103, 16100, 16277.
    - Arkansas, 3097, 3216, 3884, 12039, 12616, 12618, 12619, 12721, 12722, 13005, 13227, 20983.
    - California, 2376, 2639, 10798, 10857, 11276, 11528, 11529, 12721, 12852, 12919, 12953, 13073, 13720, 13817, 13867, 13868, 13932, 13970, 14103, 14767, 15567, 16277.
    - Colorado, 12180, 12953, 13329, 13930, 13932, 13933, 13971, 14766, 15586, 15587.
    - Delaware, 6096, 11801, 12951, 12952, 13002, 13004, 13193, 13194, 13329, 14664, 17668.
    - Florida, 611, 3097, 3216, 4415, 12618, 13004, 13867, 13868.
    - Georgia, 611, 2848, 3216, 11440, 11529, 13003, 13076, 20656.
    - Idaho, 5689, 13228.
    - Illinois, 327, 720, 2639, 11473, 11734, 11880, 12442, 12616, 12619, 13284, 13458, 17623, 17667.

Fish and Wildlife Service—Continued

WILDLIFE REFUGES, NATIONAL—Continued
- Hunting or sport fishing; rules proposed or adopted—Continued
  - Areas open to hunting or sport fishing—Continued
    - Iowa, 720, 2639, 5325, 11473, 11474, 11880, 12616, 13284, 13458, 15166.
    - Kansas, 11528, 11707, 12951, 12953, 13005, 13073, 13074, 13329, 13330, 13720, 13818, 13819, 13931, 13932, 14767, 16277, 16532.
    - Kentucky, 11798.
    - Louisiana, 3216, 12444, 13771, 14558.
    - Maine, 7054, 17481.
    - Maryland, 12619.
    - Massachusetts, 2893, 5738, 13513, 13771.
    - Michigan, 4415, 12444, 12958, 13227, 13513, 13771, 14060, 16532.
    - Minnesota, 720, 2952, 5626, 12161, 12616, 12952, 13228, 13284, 13285, 13458, 13819, 16278.
    - Mississippi, 79, 3097, 3216, 8765, 11163, 12560, 13003, 13004, 13592, 15924.
    - Missouri, 1132, 2639, 2700, 3884, 4414, 6685, 9690, 13285.
    - Montana, 3059, 3467, 12754.
    - Nebraska, 11530, 11531, 11735, 15012, 15166.
    - Nevada, 929, 7131, 11881, 13971.
    - New Jersey, 4578, 13194, 13512.
    - New Mexico, 5627, 9234, 12180, 13819, 13931, 14063, 14394, 14954, 15642, 20617.
    - New York, 6143, 12620, 12952, 13074, 13075, 20663.
    - North Carolina, 611, 3216, 13592, 20656.
    - North Dakota, 3884, 5835, 6034, 6096, 6400, 12955, 13075, 13228, 13229, 13285, 13592, 13593, 14061, 14847, 15756, 15924, 18049, 20885.
    - Oklahoma, 3216, 5325, 11528, 11707, 12039, 12617, 13073, 13194, 13286, 15675, 16278, 17542.
    - Oregon, 963, 2376, 2377, 2700, 3216, 11531, 12181, 12444, 12561, 12616, 12617, 13228, 13285, 13286, 13330, 13592, 13593, 13719, 13772, 13817, 13868, 14103, 14394, 15678, 16451.
    - Pennsylvania, 5739, 11797, 11800, 13513.
    - South Carolina, 414, 2848, 3216, 11801, 12619, 13329, 13592, 14559.
    - South Dakota, 11036, 11531, 11734, 11880, 12617, 13285, 15166, 17480, 20656.
    - Tennessee, 1180, 3097, 3216, 11224, 11798, 12722, 14848.
    - Texas, 12444, 12561, 13594, 13772, 14063, 14954, 17623, 20704.
    - Utah, 11065, 13075, 13076, 14696.
    - Vermont, 6097, 8246, 11801, 12851, 12852, 13329.
    - Virginia, 3216, 11441, 12444, 13772, 13932.
    - Washington, 2377, 3151, 12444, 13286, 13287, 13720, 13771, 13772, 13818, 13869, 13931, 14157, 14206, 14328, 14558, 14847, 14954.
    - Wisconsin, 720, 3884, 5627, 7394, 11881, 12040, 12616, 13195, 13458, 15711, 16278.
    - Wyoming, 7024, 11707, 13074, 13771, 13931.
  - Public access, use, and recreation:
    - Alaska, 14696.
    - Delaware, 929, 20862.
    - Illinois, 326, 17622.
    - Iowa, 4414.
    - Maine, 666.
    - Massachusetts, 2892, 6577.
    - Nebraska, 4414.
    - New Jersey, 929, 20862.
    - New York, 929, 20862.
    - Pennsylvania, 929.
    - Wisconsin, 12615.
  - Sanibel National Wildlife Refuge, Florida; name changed to J. N. "Ding" Darling National Wildlife Refuge 13333

Fishing:

See Fish, fishing.

Flax:

CROP INSURANCE. *See* Federal Crop Insurance Corporation.

Flaxseed:

PRICE-SUPPORT PROGRAMS, etc. *See* Commodity Credit Corporation.

Flood Control Regulation:

See Engineers Corps.

Flour:

EXPORT PROGRAM. *See* Commodity Credit Corporation.

TARIFF CLASSIFICATION, second clear wheat flour. *See* Customs Bureau.

Food and Drug Administration:

ADDITIVES. *See* Color additives; Food additives.

ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES. *See* Authority delegations; Fair Packaging and Labeling Act; Organization and functions.

ANIMAL FEED:
- *See also under* Antibiotic drugs; Food additives in animal feed, *below*.
- Salmonella micro-organisms, animal feeds contaminated with; policy statement 4058

ANTIBIOTIC DRUGS:
- *See also* Drugs, *below*.
- Animal feed:
  - Certifiable antibiotic drugs, animal feed containing; exemptions from labeling and certification requirements 6971
  - Poultry litter, policy statement 12714
- Definitions, master and working standards, etc.: 11523
  - Doxycycline 9810
  - Penicillin V changed to phenoxy-methyl penicillin
- Laboratory diagnosis of disease; antibiotic sensitivity discs, certification and tests and methods of assay 11523
- Procedural regulations; records and reports, duplicate copies 16531
- Specific antibiotics; rules proposed or adopted:
  - Amphotericin, 15988.
  - Ampicillin trihydrate for oral suspension; certification, 4060.
  - Bacitracin and bacitracin-containing drugs:
    - Certification, 1184, 10199.
    - Tests and methods of assay, 1184, 10199.
  - Chloramphenicol for aqueous injection; tests and methods of assay, 11851.
  - Chlortetracycline and chlortetracycline-containing drugs:
    - Certification, 2804, 6839, 10298, 12717, 15988.
    - Tests and methods of assay, 6839, 10298, 12717.
  - Doxycycline, 11523.
  - Erythromycinestolate oral suspension, 4355.
  - Gentamicin sulfate; correction, 18096.
  - Gramicidin, 15989.
  - Lincomycin, 12717.
  - Methacycline hydrochloride, 16153.
  - Neomycin sulfate, 1172, 12475, 16048, 16152.
  - Novobiocin, 12717.
  - Oxytetracycline, 11629, 11988, 13279, 16212.
  - Paromomycin, 12717, 15989.
  - Penicillin and penicillin-containing drugs:
    - Certification, 9810, 14101, 16491, 17657.
    - Tests and methods of assay, 9810, 10789, 11210, 12717, 14239.
  - Sodium cephalothin, 5774, 11081.
  - Sodium colistimethate for injection, 15425.
  - Streptomycin and streptomycin-containing drugs; certification, 13125.
  - Tyrothricin, 1173, 12717.
  - Vancomycin hydrochloride, 16153.
- Sterility test methods and procedures 10789, 11210
- Tests and methods of assay:
  - *See also under* specific antibiotics.
  - Hydroxylamine colorimetric assay as alternate method for assaying certain bulk forms of penicillin; proposed rule 14239
  - Laboratory diagnosis of disease, antibiotic sensitivity discs 11523
  - Paper chromatography identity test for tetracyclines 11522
  - Sterility test methods and procedures 10789, 11210

APPLESAUCE, canned. *See under* Fruits and fruit juices, canned, *below*.

APRICOTS, canned. *See under* Fruits and fruit juices, canned, *below*.

ASPARAGUS, canned. *See under* Vegetables, canned, *below*.

AUTHORITY DELEGATIONS by Commissioner to certain officials:
- Chief, Press Relations Staff; review of denials of requests for certain records 13187

Food and Drug Administration—Continued Page

AUTHORITY DELEGATIONS by Commissioner to certain officials—Continued
Director, Bureau of Veterinary Medicine, et al.; new-drug applications and supplements 712, 10846
Drug Abuse Control Bureau personnel; credentials 136
BEANS, green, canned. *See under* Vegetables, canned, *below.*
BEVERAGES. *See* Fruits and fruit juices; Soda water; Soft drinks.
BREAD, white, etc.; identity standards, optional ingredients:
α-Amylases 2710, 7917, 11733, 13807
Azodicarbonamide 4531, 7496
Fragilis yeast, inactive dried; proposed rule 14239
Tallowyl-β-lactic acid; proposed rule withdrawn 11576
CARROTS, canned. *See under* Vegetables, canned, *below.*
CHEESES, cheese foods, etc.:
Definition, "safe and suitable" ingredients 410
Identity standards:
Cheddar, safe and suitable milk-clotting enzymes as optional ingredients 410, 4350
Colby, safe and suitable milk-clotting enzymes as optional ingredients 410, 4350
Cold-pack cheese food; dioctyl sodium sulfosuccinate as optional ingredient 1128
Cottage, creamed; optional ingredients:
Dioctyl and other artificial flavors, cottage cheese whey, and sodium citrate 2646, 7263, 10788
Dioctyl sodium sulfosuccinate 1128, 6024
Cream, etc.; optional ingredients:
Carrageenan, effective date 51
Dioctyl sodium sulfosuccinate 1127, 1128, 6024
Curd, washed, soaked, and stirred, and granular; safe and suitable milk-clotting enzymes as optional ingredients 410, 4350
Gorgonzola, mold designation; proposed rule 12723
Mozzarella and scamorza, part-skim, low moisture, etc.:
Confirmation of effective date 2611
Sorbic acid, potassium sorbate, and sodium sorbate as optional ingredients 2647, 8356, 11521, 18096
Neufchatel, etc.; optional ingredients:
Dioctyl sodium sulfosuccinate 1127, 1128, 6024
Guar gum and carrageenan; effective date 51
Pasteurized process cheese spread, dioctyl sodium sulfosuccinate as optional ingredient 1128
Swiss, safe and suitable milk-clotting enzymes as optional ingredients 410, 4350
CHERRIES, canned. *See under* Fruits, and fruit juices, canned, *below.*
CHERRY PIE, identity standard, optional ingredients; proposed rules 15116
CHOCOLATE, identity standards:
Sweet and milk, sorbitan monostearate and polysorbate 60 as optional ingredients; proposed rules 9979
Sweet and milk, and vegetable fat (other than cacao fat) coating 4675, 8814, 11733
COBALT PREPARATIONS intended for human use; policy statement 449, 7945
COLOR ADDITIVES, rules proposed or adopted:
Alumina (dried aluminum hydroxide), drug use, exempt from certification, 2646, 6685, 8814.
Beets, dehydrated (beet powder), food use, exempt from certification, 2297, 6186, 8586.
Calcium carbonate, drug use, exempt from certification, 2645, 6685, 8814.
Caramel, food use, exempt from certification, 2298, 7173, 9048.
Carmine, food and drug use, exempt from certification, 6131, 10980.
Carrot oil, food use, exempt from certification, 8894, 10980, 12943, 13507.
Corn endosperm oil, food use, exempt from certification, 8525, 10199, 12668.
Diluents, food use, exempt from certification, 2643, 6686, 8753, 14868.
FD&C Blue No. 1, food and drug use, certification, 14862.
Ferrous gluconate, food use, exempt from certification, 2645, 6131, 8586.
Iron oxide, food use, exempt from certification, 7186.
Polyvinylpyrrolidone, food use, exempt from certification, 6568, 8753.

Food and Drug Administration—Continued Page

COLOR ADDITIVES, rules proposed or adopted—Con.
Provisional lists; postponement of certain closing dates, etc., 2646, 10930, 10981, 10983, 11733, 13715.
Riboflavin, food use, exempt from certification, 2701, 8853, 11783.
Talc, drug use, exempt from certification, 2645, 6685, 8814.
CORN, canned. *See under* Vegetables, canned, *below.*
CRANBERRY JUICE COCKTAIL, etc. *See under* Fruits and fruit juices, canned, *below.*
DIETARY FOODS, vitamin and mineral-fortified foods, identity standards, listing of additional classes 1055, 5736
DRESSINGS, french and salad; identity standards, dioctyl sodium sulfosuccinate as optional ingredient 1128, 6024
DRUGS:
See also Antibiotic drugs, *above.*
Aminopyrine or dipyrone preparations for human use, directions and warnings, policy statement 14101
Aspirin, labeling of drug preparations containing salicylates:
Policy statement 3440
Proposed rule 5560
Scientific data regarding maximum dose, submission invited 16060
Warning statements, over-the-counter sale 3441
Proposed rule 5560, 7026
Cobalt preparations intended for human use; policy statement 449, 7945
Drug Abuse Control Amendments of 1965, depressants and stimulants:
Combination drugs, certain exemptions 137, 4400
Label symbol 203, 4407
Listing of drugs subject to control:
Bufotenine and its salts, 10808, 13407, 15340.
DET and its salts, 10808, 13407, 15340.
DOM (STP), proposed rule, 16048.
Ibogaine and its salts, 10808, 13407, 15890.
Meprobamate, 5933, 17473.
Enforcement, proposed rules:
Drugs and devices, directions for use 7533, 9320
Prescription-drug advertisements 7533, 9320, 14898
Statement of ingredients 14898
Good manufacturing practice, packing and labeling; repacked tablets or capsules, proposed rule 3470
Habit-forming drugs, exemption from prescription dispensing requirements 203
Investigational new drugs, consent for use on humans, policy statement 3994, 4284, 8753
Mailing of important information; policy statement 7127
Medicated premixes, definition and manufacturing practice 15109
New drugs:
Applications:
Authority delegations by Commissioner to Director, Bureau of Veterinary Medicine, et al.; approved new-drug applications and supplements 712, 10846
Information, availability 13807
Refusals, etc.:
Betaprone (beta-propiolactone), 472.
Bithionol contained in drugs for human use, 10615, 10938, 15046.
Cutitone acne cream, etc. containing bithionol, 10615, 10938, 15046.
Dachtistic mastitis ointment, 3110.
3,5-Dinitrobenzamide, 13605.
Mastalone, 3844.
Master mix broiler concentrate "A" 337A-13C, 1060.
Nitrodan, 14696.
Pro-Forma, 286, 3716, 3950, 10616.
Promone, 15128.
"U" series drugs; hearings, 2725, 6586.
Definitions, etc. 8080
Investigational:
Consent for use on humans, policy statement 3994, 4284, 8753
Exempted for investigational use in human beings; proposed rule 17671
Records and reports, duplicate copies 16531
Timed-release dosage forms of drugs, new drug status; policy statement, proposed rule 12756
Official names 6187
Additions, etc. to list; proposed rule 16533, 17626

Food and Drug Administration—Continued Page

DRUGS—Continued
Oral drugs, policy statements:
Contraceptives, promotional labeling; proposed rule 13008
Prenatal drugs containing fluorides for human use 4350
Over-the-counter drugs, policy statements:
Minor sore throats, drugs for; suggested warning 1172
Nitroglycerin and amyl nitrite; proposed rule 12404
Systemic analgesics, proposed rule 5560, 7026
Salicylates, labeling of drug preparations containing:
Policy statement 3440
Proposed rule 5560
Scientific data regarding maximum dose, submission invited 16060
Warning statements, over-the-counter sale 3441
Proposed rule 5560, 7026
Timed-release dosage forms of drugs, new-drug status; policy statement, proposed rule 12756
EGGS, dried and yolks, identity standards; silicon dioxide as optional anticaking ingredient 6844, 12604, 14551
ENFORCEMENT REGULATIONS:
See also under Fair Packaging and Labeling Act.
Drugs, proposed rules:
Drugs and devices, directions for use 7533, 9320
Prescription-drug advertisements 7533, 9320, 14898
Statement of ingredients 14898
FAIR PACKAGING AND LABELING ACT:
Administrative functions, practices, and procedures 6838
Enforcement 4172, 4363, 10729, 10980, 13276
Drugs, devices and cosmetics, statements required on labels; proposed rules 12060
Soft drinks, exemption from certain requirements, proposed rule 18113
Stocks of packages and labels not complying with labeling requirements; policy statement 10734
FIGS, canned. *See under* Fruits and fruit juices, canned, *below.*
FISH:
Protein concentrate, whole; food additives 1174, 1175
Tuna, canned, identity standard, blackfin tuna listed separately; confirmation of effective date 2941, 8359
FOOD ADDITIVES in animal feed, food for human consumption, packaging materials, etc.:
Definition and interpretation; broiler, fryer, and roaster chickens 6775
Procedural regulations, proposed rules 11443, 14239
Safe substances; nordihydroguaiaretic acid added, proposed rule 16048
Specific additives; rules proposed or adopted:
Acrylamide-acrylic acid resin, 14791.
Acrylate ester copolymer coating, 4060.
Acrylic polymer modifiers in polyvinyl chloride plastics, 983, 10996, 12493.
Acrylonitrile-butadiene-styrene resins, 2983.
N-Acyl sarcosines, 8817, 15647.
Adhesives, 1005, 2612, 2983, 3310, 5675, 5774, 6187, 7524, 7947, 8360, 8385, 8523, 8817, 9160, 10761, 11521, 15105, 15155, 15721, 16529, 17656.
Petition withdrawn, 14246.
Adipic acid, 2983.
Aklomide, 59, 4366, 7458.
Alkyl (C_8-C_{18}) phenoxypolyethoxyethanol (4–10, 30–50 moles); petition withdrawn, 3475.
Alkyl (C_8-C_{18}) phenoxypolyethoxyethanol (11–15 moles); petition withdrawn, 3475.
n-Alkyl (C_{12},C_{14},C_{16},C_{18}) dimethyl (ethyl-benzyl) ammonium cyclo-hexylsulfamate, 7524.
N-Alkyl (C_{14}-C_{18})-1,3-propanediamine-*N*,*N*',*N*'-triacetic acid; petition withdrawn, 4548.
n-Alkylsulfonate, 3442.
Allyl alcohol; petition withdrawn, 4061.
Aluminum phosphide, 12943.
N-β-Aminoethyl-*gamma*-aminopropyl trimethoxy-silane, 8385.
Amprolium, 270, 4171, 4366, 6529, 6775, 6970, 7127, 9225, 14568, 15012, 15647, 17472, 20670.
Petitions withdrawn, 763, 6064.
Antioxidants and/or stabilizers, 412, 2983, 6512, 6569, 7174, 10457, 13423, 14791, 14945, 17857.
Petition withdrawn, 4548.
Antistatic and/or antifogging agents in food-packaging materials, 983, 8817.
Petition withdrawn, 6567.
Arabinogalactan, 11851.

Food and Drug Administration—Continued

FOOD ADDITIVES in animal feed, food for human consumption, packaging materials, etc.—Continued
Specific additives; rules proposed or adopted—Con.
Arsanilic acid, 4171, 4367, 6529, 9225, 15012.
Azelaic acid, 9160.
Azodicarbonamide, 4532.
Bacitracin combinations, 59, 270, 4171, 6970, 9178, 12961.
Petitions withdrawn, 6064, 12961.
Bleuret, 8926.
Binapacryl; petition withdrawn, 3474, 14407.
1,1-Bis(*p*-chlorophenyl)-2,2,2-trichloroethanol, 8359.
2,6-Bis(2-hydroxy-3-nonyl-5-methylbenzyl) *p*-cresol, 2983.
2,6-Bis(1-methylheptadecyl)-*p*-cresol, 14791.
N,*N*-Bis(2-hydroxyethyl) *n*-alkyl (C_{12}-C_{18}) amine, 6412.
N,*N*-Bis(2-hydroxyethyl) alkylamine, 982.
4,4'-Bis(2''-[*N*,*N*-di(2'''-hydroxyethyl) amino]-4''-amino-1'',3'',5''-triasinyl-6''-amino)-stilbene-2,2'-disulfonic acid, disodium salt, 7224.
4,4'-Bis(2''-[3''-sulfophenylamino]-4''-[*N*,*N*-di(2''''-hydroxyethyl)-amino]-1'',3'',5''-triasinyl-6''-amino)-stilbene-2,2'-disulfonic acid, tetrasodium salts, 7224.
4,4'-Bis[2''-(4'''-sulfophenylamino)-4''-(*N*,*N*-di(2''''-hydroxyethyl)-amino)-1'',3'',5''-triasonyl-6''-amino]-stilbene-2,2'-disulfonic acid, tetrasodium salt, 7224.
4,4'Bis[2''-(*N*,*N*-di(2''-hydroxyethyl)-amino)-4''-phenylamino-1'',3''-5''-triasinyl-6''-amino]-stilbene-2,2'-disulfonic acid, tetrasodium salt, 7224.
Boiler water additives, 5022, 14344, 14791, 17567.
Buquinolate, 8385, 11988, 15012.
Butadiene, 12493.
n-Butoxypolyoxyethelene polyoxypropylene glycol, 17856.
Butyl benzal phthalate, 3753.
Petition withdrawn, 10314.
1,3-Butylene glycol, 15155.
1,3,-Butylene glycol mono- and diesters of edible fatty acids; petition withdrawn, 11295.
Butylthiostannonic acid, 13423.
Calcium D-saccharate, 7470.
Petition withdrawn, 11351.
Calcium di(neodecanoate), 14791.
Calcium disodium EDTA, 3442, 6686.
Calcium myristate, 6412, 14945.
Calcium salt of partially dimerized rosin, 4353.
Calcium silicate, 6844, 12606.
Calcium stearate, feed-grade, 17654.
Carbomycin, 5812.
Carbon black, 13734.
Cellophane, 2942, 2943, 4060, 5774, 7224, 8816, 14792, 15647.
Petition withdrawn, 4061.
Cetyl, 6568, 11351.
Chemicals used in washing fruits and vegetables; petitions withdrawn, 3475.
Chewing gum base, 6588, 10508.
Chloramphenicol, 9177.
Petition withdrawn, 16539.
Chlorinated levulinic acids, 4061, 20652.
Chloromethyl butanethiolsulfonate, 13423, 20652.
Chlortetracycline combinations, 4171, 4366, 6529, 12751, 13834, 14155.
Petitions withdrawn, 6064, 16230.
Closures with sealing gaskets for food containers, 8825, 16529, 17656.
Petitions withdrawn, 1060, 6151.
Coatings on fresh citrus fruit, 4353.
Coumaphos, 15545.
Cyanoguanidine-formaldehyde resins, 6413.
Petition withdrawn, 16539.
2,4-D, 5773.
DDD, 4060, 11157.
DDE, 4060.
DDT, 4060, 8379.
Decyl, 6568, 11351.
Defoaming agents, 59, 2943, 4060, 7877, 12606, 14552, 17656, 17856.
Di(*n*-octyl) tin bis-maleate, 3475.
Di(*n*-octyl) tin *S*,*S*-bis-(isooctylmercaptoacetate), 3475, 7224.
Petition withdrawn, 15647.
3,5-Di-*tert*-butyl-4-hydroxyhydrocinnemate, 10457.
2,2'-Di-*tert*-butyl-4,4'isopropylidene-diphenol bis(*p*-nonylphenyl) phosphite; petition withdrawn, 4548.
Dialkyl ketones where alkyl groups are lauryl or stearyl, 2943.
Dibutyl phthalate, 6568.
Dichlorodifluoromethane, 12844.
2,2-Dichlorovinyl dimethyl phosphate, 7029.

Food and Drug Administration—Continued

FOOD ADDITIVES in animal feed, food for human consumption, packaging materials, etc.—Continued
Specific additives; rules proposed or adopted—Con.
Dienestrol diacetate, 50, 6776, 14569, 20670.
O,O-Diethyl *S*-[4-oxo-1,2,3-benzotriazin-3(4H)-ylmethyl] phosphorodithioate, 15849.
Diethyl pyrocarbonate, 3819, 12729.
Diethylaminoethanol, 14844.
Diethylstilbestrol, 5548, 11579, 11896.
Petition withdrawn, 20669.
1,2-Dihydro-2,2,4-trimethylquinoline, polymerized, 5675.
Diisobutyl phthalate, 14793.
Petition withdrawn, 1060.
Dimethyl-*s*-methylstyrene, 15108.
O,O-Dimethyl *S*-[4-oxo-1,2,3-benzotriazin-3(4H)-ylmethyl] phosphorodithioate, 11650, 16539.
2,2-Dimethyl-1,3-propanediol, 13423.
O,O-Dimethyl *S*-[2-(ethylsulfinyl)ethyl] phosphorothioate; petition withdrawn, 8038.
2,2-Dimethyl-1,3-propanediol, 6137.
Dimethylpolysiloxane, 50, 12606.
Dimetridazole, 8285.
Dimyristyl thiodipropionate, 12606.
3,5-Dinitrobenzamide, 13573, 13574.
Petition withdrawn, 12606.
Dioctyl sodium sulfosuccinate, 5879, 9177.
Dipentaerythritol pentastearate, 13731.
Disodium EDTA, 6359, 13764.
Disodium *N*-octadecylsulfosuccinamate, 13548.
Dodecanolethylene oxide, 6412.
Emulsifiers and/or surface-active agents, 4060, 14551, 15108, 17656.
Epichlorohydrin cross-linked with ammonia, 10735.
Erythromycin, 8758, 11896.
Erythromycin thiocyanate, 9225, 15012.
Ethion, 7524, 9066.
Ethopabate, 4366, 6359, 6970, 9225, 14569.
Petition withdrawn, 763.
Ethyl acrylate-methyl methacrylate-styrene-methacrylic acid copolymers, 6133.
Ethyl acrylate-styrene-methacrylic acid copolymers, 6133.
2-Ethyl-3-hydroxy-4H-pyran-4-one, 9773.
Ethyl maltol, 9773.
Ethylene-acrylic acid copolymers, 5675.
Ethylene dibromide, 7911.
Ethylene dichloride, 3942.
Ethylene-isobutyl acrylate copolymers, 7264.
Ethylene-methacrylic acid copolymers, ethylene-methacrylic acid-vinyl acetate copolymers, and their partial salts, 6360.
Fatty acids, 2908, 7777, 11432.
Ferrous fumarate, 3946.
Filters, resin-bonded, 270, 1021, 17656.
Fish protein concentrate, whole, 1174, 1176.
Flavoring substances:
Natural, 12751, 13124, 17655.
Synthetic, and adjuvants, 5773, 7947, 11896, 15553.
Food starch-modified, 6359, 11396.
Fumigants for processed grains, 7911.
Furaltadone, 10734.
Furanolidone; petition withdrawn, 16230.
Furosemide (4-chloro-*N*-furfuryl-5-sulfamoylanthranilic acid), 14990.
Gelatin, 11651.
Glucan polysaccharide; petition withdrawn, 9736.
Glutaraldehyde, 11651.
Glycerol and propylene glycol, lactylated, mixed, partial fatty acid esters, 14246.
Glycerol ester of wood rosin, 6688, 10508.
Petition withdrawn, 3474.
Glycerol-fatty acid-citric acid esters, partial, 12961.
Glyoxal, 6855, 16530.
Gum arabic, 11651.
Hexamicellulose extract, 5812, 14028.
1,4,5,6,7,7-Hexachlorobicyclo-(2.2.1)-5-heptene-2,3-dicarboxylic acid; petition withdrawn, 6412.
Hexane, 11351, 17656.
Hexyl, 6688, 11351.
Homopolymers and copolymers from methacrylic esters of 1-dodecanol, 1-tetradecanol, 1-hexadecanol, and/or 1-octadecanol; petition withdrawn, 7264.
Hydrolysate, condensed animal protein, 7268.
Hydrolyzed leather meal, 11734.
1-Hydroxy-2-butanone, 11895.
Petition withdrawn, 13568.
2-Hydroxy-4-*n*-octoxybenzophenone, 412, 18730.
4-Hydroxymethyl-2,6-di-*tert*-butylphenol, 3522.
Hygromycin B, 4171.
Inorganic bromides, 3942, 7911.
Ion-exchange resins, 7946, 7984, 10735, 13148.
Isopropyl oleate, 3943.
4,4'-Isopropylidenediphenol-epichlorohydrin, 15108.
4,4'-Isopropylidenediphenol-epichlorohydrin thermosetting epoxy resins, 13729.
Petition withdrawn, 8025.
Lauryl, 6688, 11351.
Lubricants, 3894, 3943, 7234, 11091, 11579, 11896, 13474.
Maneb, 4031, 7523.
Petition withdrawn, 20669.
Marine fats, oils, and fatty acids, and salts and methyl esters of fatty acids, 14552.
Melamine-formaldehyde resins, 270.
Metatartaric acid; petition withdrawn, 6230.
Methyl acrylate; petition withdrawn, 158.
Methyl alcohol residues, 9159.
Methyl bromide, 7911.
Methyl 18-epi-reserpate methyl ether hydrochloride, 4548.
Methyl glucoside-coconut oil ester, 6530.
2-Methyl hydroquinone; petition withdrawn, 6412.
Methyl methacrylate, 12406.
Methylene chloride, 12605.
2,2'-Methylenebis(4-methyl-6-nonylphenol), 2962.
2,2'-Methylenebis(4-methyl-6-*tert*-butylphenol), 59.
Methylenebisbutanethiolsulfonate, 13423, 20632.
Methylenebisthiocyanate, 5675.
4,4'-Methylenedianiline, 6568.
Methylhydrogenpolysiloxane, 7408.
α-Methylstyrene-vinyltoluene copolymer resins, 7265.
Milk-clotting enzyme, fermentation-derived, 411, 13606.
Milk-producing animals, additives for use in, 7895, 8758, 10734.
Mineral oils, 411, 764, 2701, 11091, 11579, 13423.
Mono-*n*-butyl ester of 5-norbornene-2,3-dicarboxylic acid, 11521.
Monochlorobenzene, 5413, 14224.
Monoglycerids citrate, 11351.
Monosodium orthophosphate, 8359.
Myristyl, 6688, 11351.
Neomycin; petition withdrawn, 3311.
Nickel sulfate, 15088.
Petition withdrawn, 14407.
Nihydrazone, 8825, 14403.
3-Nitro-4-hydroxyphenylarsonic acid, 6529, 6970, 8825, 13573, 15012.
Nitrodan, 14697.
Novobiocin, 2941.
Nylon resins, 8096, 12716, 14069.
α-cis-9-Octadecenyl-*omega*-hydroxypoly (oxyethylene), 16529.
Octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate, 17857.
Octyl, 6688, 11351.
N-Octylbicycloheptene dicarboximide, 7459.
Oleandomycin, 11579.
Petitions withdrawn, 5441, 20669.
Olefin polymers, 7234.
Oleyloxypolyoxyethylene glycol (20 moles), 8825.
Oxytetracycline, 5812, 8825, 12751, 15647.
Petitions withdrawn, 6064, 54441.
Packaging materials, 10567.
Paper and paperboard, 764, 3442, 3763, 5675, 5774, 5962, 6855, 7408, 8096, 10567, 11834, 11831, 11579, 11896, 12474, 14945, 15730, 15945, 16529, 16530, 17656.
Petitions withdrawn, 158, 14990, 17668.
Penicillin combinations, 270, 4171, 20670.
Petitions withdrawn, 763, 16230.
Pentaerythritol ester of maleic anhydride-modified wood rosin, 4353.
Pentaerythritol-linseed oil alcoholysis product, 15155.
Petrolatum, 16538.
Petroleum hydrocarbons:
Alicyclic resins, 3068, 16530.
Odorless, light, 7470, 10735.
Petroleum naphtha, 4353, 4354.
2-Phenyl indole, 14751.
Phorate, 3612.
Phosphate esters, certain; petition withdrawn, 6367.
Phosphoric acid esters, partial, of polyester resins, 15108.

Food and Drug Administration—Continued

FOOD ADDITIVES in animal feed, food for human consumption, packaging materials, etc.—Continued
Specific additives; rules proposed or adopted—Con.
Phthalic acid, 2963.
Piperonyl butoxide, 5454, 7448, 20668.
Plasticizers in polymeric substances, 3758, 6188, 15721.
Polonium 210; 594.
Poloxalene, 4019, 14385.
Poly (1,4-cyclohexylenedimethylene-3,3'-thiodipropionate), 14791.
Poly [2-(diethylamino) ethyl methacrylate], 11521.
Poly(4-methylpentene-1), 7234.
Poly(oxypropylene) block polymer with poly (oxyethylene), 14551.
Polyamide-epichlorohydrin resin, modified, 11579.
Polyamide-epichlorohydrin resins; petition withdrawn, 6588.
Polybutadiene resin, 2942.
Polycarbonate film, coated; petition withdrawn, 1199.
Polycarbonate resins, 6412, 7769, 14234.
Polyester resins, 1005.
Petition withdrawn, 6412.
Polyethylene, chlorinated, 5546.
Polyethylene, oxidized, 4353, 5774.
Polyethylene glycol 400; 4353, 14034.
Polyethylene glycol (400) monolaurate, 2943.
Polyethylene glycol (600) monolaurate, 2943.
Polyethylene glycol (400) monooleate, 2943.
Polyethylene glycol (600) monooleate, 2943.
Polyethylene glycol (400) monostearate, 2943.
Polyethylene glycol (600) monostearate, 2943.
Polyethylenimine, 15108.
Polyglycerol esters of fatty acids; petition withdrawn, 7471.
Polyisobutylene, 7234.
Polymer modifiers in semirigid and rigid polyvinyl chloride plastics, 14024.
Polymyxin B sulfate; petition withdrawn, 3311.
Polyoxyethylated (20 moles) oleyl alcohol; petition withdrawn, 6151.
Polyoxyethylene (20) sorbitan tristearate, 1060.
Petition withdrawn, 9620.
Polysorbate 60 (polyoxyethylene (20) sorbitan monostearate), 7948, 10005.
Polysorbate 80; 4020.
Polystyrene and rubber-modified polystyrene, 7264.
Polyurethane resins, 51, 6187, 8539, 8817, 15155.
Petition withdrawn, 3475.
Polyvinyl alcohol, 8523, 14946.
Petition withdrawn, 286.
Polyvinyl alcohol, olefin-modified, 3310.
Polyvinyl butyral; petition withdrawn, 5708.
Polyvinyl chloride, 3475.
Potassium bromate, 7911.
Propyl alcohol, normal, 20631.
Propylene glycol, 2963.
Pyrethrins, 5456, 7458, 20668.
Radiation, 140, 584, 1175, 3443, 7877, 8360, 10567, 11350, 14568.
Petitions withdrawn, 11745, 14990.
Resinous and polymeric coatings, 5675, 6133, 6568, 7224, 7264, 7265, 11448, 11521, 13423, 14946, 15108, 18096.
Petitions withdrawn, 4061, 13466, 15647.
Rosins and rosin derivatives, 412, 6588, 10508.
Petition withdrawn, 158.
Rubber articles intended for repeated use, 5675, 8776.
St. Johnswort leaves, flowers, etc., 13124.
Salicylic acid, 6568.
Sanitizing solutions, 7459, 17656.
Silicon dioxide, 6644, 11351, 12606.
Silver bisthiocyanate, 1060.
Petition withdrawn, 15403.
Slimicides, 1060, 4031, 5675, 13423, 20632.
Petition withdrawn, 15403.
Sodium arsanilate, 15012, 20669.
Sodium carbonate with sodium mono- and dimethyl naphthalene sulfonates, 713.
Sodium glucoheptonate, 5922.
Sodium hydrosulfite; petition withdrawn, 5709.
Sodium lauroyl sarcosinate, 2943.
Sodium lauryl sulfate, 7174.
Sodium 2-pyridinethiol-1-oxide; petition withdrawn, 14246.
Sodium stearoyl 2-lactylate, 6064, 14044.
Sodium stearyl fumarate, 2612, 8359.
Sodium sulfaphloropyrazine monohydrate, 2946.
Sodium sulfate, 4366, 6538.
Sodium tripolyphosphate; petition withdrawn, 15539.
Sorbitan monolaurate, 4060.
Sorbitan monooleate, 2894.
Sorbitan monostearate, 7945, 10005.
Spectinomycin dihydrochloride pentahydrate, 12469.
Stannous chloride, 12729.
Stannous oleate, 2943.
Starch-modified, industrial, 4060, 6065, 14791, 20632.
2-Stearamido-ethyl stearate, 7224, 8816.
Petition withdrawn, 4031.
Stearyl, 6588, 11351.
Stearyl stearate, 11896, 17857.
Streptomycin, 20670.
Styrene, 12493.
Styrene-butadiene-acrylonitrile-methacrylic acid copolymers, 8962.
Petition withdrawn, 14990.
Styrene oxide, 6568.
Succinylated gelatin, 11351.
Sulfachloropyridazine; petition withdrawn, 13894.
Sulfamethazine, 366, 11579, 17655.
Petition withdrawn, 16230.
Sulfamethazine bisulfate, 13894.
Sulfanitran, 59, 4366, 7458, 13574.
Surface lubricants, metallic article manufacture, 4060, 17857.
Tallowyl-beta-lactic acid; petition withdrawn, 2475.
Testosterone, 5548.
Tetraethylene glycol di cel (400) monolaurate, 14969.
Tetrahydrophthalic anhydride, 6151.
Petition withdrawn, 14568.
Tetrakis[methylene(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate)]methane, 7174.
Tetrasodium *N*-(1,2-dicarboxyethyl)-*N*-octadecylsulfosuccinamate, 11896, 14945.
Tetrasodium ethylenediaminetetraacetic acid; petition withdrawn, 16539.
Thiabendazole, 578, 4352, 8567, 11745, 14695, 20670.
4-Thujanol, 11896.
Petition withdrawn, 12961.
1,1,1-Trichloroethane, 11448.
Petition withdrawn, 12961.
Triethylenetetramine; petition withdrawn, 6568.
2,2,4-Trimethyl-1,3-pentanediol, 13423.
2,2,4-Trimethyl-1,3-pentanediol diisobutyrate, 6186, 14792.
1,3,5-Trimethyl-2,4,6-tris(3,5-di-*tert*-butyl-4-hydroxybenzyl) benzene, 11449.
Trimethylamine, 11896.
Petition withdrawn, 15553.
2,2,4-Trimethylpentane-1,3-diisobutyrate, 15721.
Tris(2-methyl-4-hydroxy-5-*tert*-butylphenyl) butane, 6569.
Trisnonyl phenyl phosphite/formaldehyde condensation product, 8776.
Tylosin, 7395.
Petition withdrawn, 763.
Verzite, 8962, 9160.
Vinyl acetate-dibutyl maleate copolymers, 1143.
Vinyl chloride-acetate copolymers, 3475.
Vinyl chloride-acrylonitrile copolymers, 3475.
Vinyl chloride-fumaric acid copolymers, 3475.
Vinyl chloride-maleic acid copolymers, 3475.
Vinyl chloride-propylene copolymers, 417, 2725, 3475, 6569.
Vinylidene chloride copolymer coatings for films, 12717, 14946, 15128.
Petition withdrawn, 13466.
Vinylidene chloride copolymer food-contact coatings, 6411.
Wood, preservatives for; petition withdrawn, 6825.
Zearalanol, 20669.
Zinc di(2-ethylhexoate), 14791.
Zinc ion and maneb coordination product, 7523.
Zinc palmitate, 6412, 14945.
Zinc-silicon dioxide matrix coatings, 1065.
Petition withdrawn, 5709.
Zinc sulfate, 11351.
Zoalene, 59, 6775, 9225, 15012.
Petition withdrawn, 6064.

FRENCH DRESSING. *See* Dressings.
FROZEN DESSERTS. *See* Ice cream, etc.
FRUIT COCKTAIL, canned. *See under* Fruits and fruit juices, canned, *below*.

Food and Drug Administration—Continued Page

FRUIT JELLIES, PRESERVES, etc.; identity standards, fumaric acid as optional ingredient 8975, 14205, 17654
FRUITS AND FRUIT JUICES, canned:
Applesauce, identity standards, fill of container; proposed rules 7342
Apricots, artificially sweetened, identity standard, cyclohexylsulfamic acid and edible organic acids and salts as optional ingredients 6144, 12603, 14943
Cherries, artificially sweetened, identity standard, cyclohexylsulfamic acid and edible organic acids and salts as optional ingredients 6144, 12603, 14943
Cranberry juice cocktail and artificially sweetened cranberry juice cocktail; definitions and identity standards 3469
Figs:
Artificially sweetened, identity standard, cyclohexylsulfamic acid and edible organic acids and salts as optional ingredients 6144, 12603, 14943
Preserved, precooked in syrup, definition 8134, 11263
Fruit cocktail, artificially sweetened, identity standard, cyclohexylsulfamic acid and edible organic salts as optional ingredients 6144, 12603, 14943
Grapefruit, identity standards, quality, and fill of container; proposed rules 14966
Lemonade, artificially sweetened, frozen concentrate; identity standard, calcium saccharin as optional ingredient 2953, 7769, 11023
Orange juice, pasteurized and from concentrate; definitions and identity standards, proposed rules 9320
Peaches:
Artificially sweetened, identity standard; cyclohexylsulfamic acid and edible organic acids and salts as optional ingredients 6144, 12603, 14943
Diced, temporary permits for market testing 13466, 15402
Pears, artificially sweetened, identity standard, cyclohexylsulfamic acid and edible organic acids and salts as optional ingredients 6144, 12603, 14943
Pineapple, temporary permit for market testing 12728
GOOD MANUFACTURING PRACTICE, proposed rules:
Drugs, repacked tablets or capsules 3470
Human foods, sanitation 17980
GRAPEFRUIT, canned. *See under* Fruits and fruit juices, canned, *above*.
HAZARDOUS SUBSTANCES:
Child Protection Act, 1966; banned hazardous substances, etc 11322
Definition, banned hazardous substances 5561, 11322
Exemptions:
Banned hazardous substances 5561, 11322, 12475, 14946
Full labeling requirements 5561, 11322
Small packages, minor hazards, and special circumstances 19176
Mineral oil containers for toy trains, 5456.
Toys, hollow plastic, containing mineral oil, 6839.
Viscous products containing methyl alcohol, 14025.
Visual novelty devices, 2612.
Labeling requirements:
Ethylene glycol-base radiator antifreeze 15875
Placement, conspicuousness, contrast 5561, 11322
Procedure for issuance, amendment, or repeal of regulations declaring particular substances to be hazardous 5561, 11322
Testing procedures, banned hazardous substances, listing 5562, 11322, 11323, 13408
HUMAN FOODS, current good manufacturing practice (sanitation) in manufacturing, processing, packing, or holding; proposed rules 17980
ICE CREAM, fruit sherbets, water ices; identity standards, optional ingredients:
Dioctyl sodium sulfosuccinate 1128, 6024
Microcrystalline cellulose, effective date 411
Neutral and mineral salts 6038, 12750, 14943
INFORMATION. *See* Records and information.
LEMONADE, artificially sweetened. *See under* Fruits and fruit juices, canned, *above*.
MARGARINE, oleomargarine; identity standard, optional ingredients, requirement for culturing milk 2893, 5922
MILK, evaporated; identity standard, dioctyl sodium sulfosuccinate as optional ingredient 1127, 6024
MUSHROOMS, canned. *See under* Vegetables, canned, *below*.

Food and Drug Administration—Continued Page

OLEOMARGARINE. *See* Margarine.
ORANGE JUICE, canned. *See under* Fruits and fruit juices, canned, *above*.
ORGANIZATION AND FUNCTIONS 10005
Administrative functions, practices, and procedures:
Fair Packaging and Labeling Act 6838
Washington headquarters, etc 12714, 13807
Bureau of Medicine 15721
State regulatory officials, commissioning; policies and procedures 2903
PEACHES, canned. *See under* Fruits and fruit juices, canned, *above*.
PEANUT BUTTER, definitions, identity standards; proposed rule 17482, 17671, 18114
PEARS, canned. *See under* Fruits and fruit juices, canned, *above*.
PEAS, canned. *See under* Vegetables, canned, *below*.
PESTICIDE CHEMICALS in or on raw agricultural commodities:
Definitions, interpretative and procedural regulations:
Fees 8815
Negligible residue 6059, 13571
Tolerances for related pesticides 2612, 7523, 7524, 7701, 8025, 10734, 11081, 11321, 12605, 12715, 13863, 14023.
Procedural regulation, tests on amount of residue remaining 13572
Specific tolerances:
General provisions 8815
Rules proposed or adopted:
Aldrin, 4351, 12990.
Aluminum phosphide, 12943.
Amiben, 8824.
4-Amino-3,5,6-trichloropicolinic acid, 16507.
2-Aminobutane; petition withdrawn, 7471.
Ammoniates, 2661, 10734.
Atrazine (2-chloro-4-ethylamino-6-isopropylamino-*s*-*triazine*), 11389, 12606.
Benzamidooxyacetic acid, 15647.
4-Benzothienyl *N*-methyl carbamate and 4-hydroxybenzothiophene residues, 12633.
1,1-Bis-(*p*-chlorophenyl)-2,2,2-trichloroethanol, 6854, 11263.
2,4-Bis(isopropylamino)-6-methylthio-*s*-triazine, 2963, 12716.
Bromacil, 4952.
N-(*p*-Bromophenyl)-*N'*-methyl-*N'*-methoxyurea, 14407.
Petition withdrawn, 5962.
Bromoxynil (3,5-dibromo-4-hydroxybenzonitrile); petition withdrawn, 17496.
2-*sec*-Butyl-4,6-dinitrophenol, 7224.
Petition withdrawn, 14069.
N-Butyl-*N*-ethyl-α, α, α-trifluoro-2,6-dinitro-*p*-toluidine, 3441, 6854, 8539, 13807, 17473.
2(*p*-*tert*-Butylphenoxy) cyclohexyl 2-propynyl sulfite, 9114.
Petition withdrawn, 12868.
Carbaryl) 1-naphthyl *N*-methylcarbamate) and product; petition withdrawn, 5962.
α-Chloro-*N*,*N*-diallylacetamide, 10615.
Petition withdrawn, 16539.
2-Chloro-2',6'-diethyl-*N*-(methoxymethyl) acetanilide, 11351.
2-Chloro-*N*-isopropylacetanilide, 6132, 8816, 13734, 14944.
2-6-Chloro-4-nitroaniline, 2725.
Petition withdrawn, 9178.
1-Chloro-2-nitropropane, 6150.
Petition withdrawn, 13423.
2-Chloro-6-(trichloromethyl) pyridine, 8776.
2-Chloroallyl diethyldithiocarbamate, 14345.
Chloroneb, 15649.
3-[p-(p-Chlorophenoxy) phenyl]-1,1-dimethylurea, 884, 10433, 11579, 14568.
p-Chlorophenyl-2,4,5-trichlorophenyl sulfide, 5709.
Chlortetracycline, 12751.
2,4-D, 5773, 12473.
DDD, 4059, 4060, 11187.
DDE, 4059, 4060.
DDT, 4059, 4060, 8379.
Demeton, 12868.
Dicamba (3,6-dichloro-*o*-anisic acid), 5502, 8539, 14328.
S-2,3-Dichlorallyl diisopropylthiocarbamate, 6625.
Petition withdrawn, 16539.
3,6-Dichloro-5-hydroxy-*o*-anisic acid, 5502.
2,2-Dichloro-vinyl dimethyl phosphate, 11449.
2,3-Dichlorobenzyl methylcarbamate, 12409.

Food and Drug Administration—Continued Page

PESTICIDE CHEMICALS in or on raw agricultural commodities—Continued
Specific tolerances—Continued
Rules proposed or adopted—Continued
3,4-Dichlorobenzyl methylcarbamate, 12409.
2,4-Dichlorophenyl *p*-nitrophenyl ether, 3066, 6220, 12715.
Dieldrin, 4351, 4572, 12990.
O,O-Diethyl *S*-2-(ethylthio)ethyl phosphorodithioate, 584, 11448, 13863.
O,O-Diethyl *O*-(2-isopropyl-4-mehyl-6-pyrimidinyl) phosphorothioate, 7506, 15424, 16529.
O,O-Diethyl *O*-[*p*-(methylsulfinyl)phenyl] phosphorothioate, 7923.
O,O-Diethyl *S*-[4-oxo-1,2,3-benzotriazin-3(4H)-ylmethyl] phosphorodithioate, 6412.
S-(*O,O*-Diisopropyl phosphorodithioate) of *N*-(2-mercaptoethyl) benzenesulfonamide, 6151.
O,O-Dimethyl *S*-[4-oxo-1,2,3-benzotriazin-3-(4H)-ylmethyl] phosphorodithioate, 15849.
Dimethoate (*O,O*-dimethyl *S*-(*N*-methylcarbamoylmethyl) phosphorodithioate), 6111, 20669.
N,N-Dimethyl-2,2-diphenylacetamide), 6220.
O,O-Dimethyl *S*-[2-(ethylsulfinyl) ethyl] phosphorothioate; petition withdrawn, 8928.
O,O-Dimethyl *S*-[2-methoxy-1,3,4-thiadiasol-5(4H)-onyl-(4)-methyl] dithiophosphate, 14701.
Dimethyl phosphate of 3-hydroxy-*N*-methyl-*cis*-crotonamide; petition withdrawn, 16506.
Dimethyl 2,3,5,6-tetrachloroterephthalate, 13423.
O,O-Dimethyl 2,2,2-trichloro-1-hydroxyethyl phosphonate, 13466.
1,1-Dimethyl-3-(α,α,α-trifluoro-*m*-tolyl) urea, 15578.
Dimethylamine salt of 2,4-dichlorophen-oxyacetic acid, 6738, 11551.
p-(Dimethylamino) benzenediazo sodium sulfonate, 8824.
Diquat (6,7-dihydrodipyrido(1,2-a: 2', 1'-c) pyrazidilinium), 14023.
Diquat (1,1'-theylene-2,2'-bipyridylium), 6738.
Diuron, 11448, 20669.
Dodecachloro-octahydro-1,3,4-metheno-2H-cyclobuta [cd]pentalene, 15649.
Dodine, 6411, 12715, 15647.
EPN (*O*-ethyl-*O*-*p*-nitrophenyl benzene thiophosphonate), 12543.
Endosulfan, 6439, 14679.
Endothall (7-oxabicyclo(2,2,1)heptane-2,3-dicarboxylic acid), 5706.
Ethion, 7524, 8394.
S-Ethyl cyclohexylethylthiocarbamate, 6992.
Ethyl 4,4'-dichlorobenzilate, 12668.
S-Ethyl diisobutylthiocarbamate, 11449.
S-Ethyl dipropylthiocarbamate, 14695.
S-Ethyl hexahydro-1*H*-azepine-1-carbothioate, 9178, 15107.
O-Ethyl *S*-phenyl ethylphosphonodithioate, 12666.
2-Ethylamino-4-isopropylamine-6-methylthio-*s*-triazine, 15424.
Gibberellic acid, 13913, 15647.
Inorganic bromides, 2647, 3769, 5647, 7173.
Isopropyl 4,4'-dichlorobenzilate, 11321.
N-Isopropylaniline, 3475.
Linuron, 14206.
Malathion, 12961.
Maneb, 4031.
Petition withdrawn, 20669.
N-(Mercaptomethyl)-phthalimide *S*-(*O,O*-dimethyl phosphorodithioate); petition withdrawn, 12068.
2-Methyl-2-(methylthio) propionaldehyde-*O*-(methylcarbamoyl) oxime, 5709, 13299.
Petition withdrawn, 14568.
4-(Methylsulfonyl-2,6-dinitro-*N*,*N*-dipropylaniline, 3475, 14247.
Naled, 11081.
Nickel sulfate; petition withdrawn, 14407.
Norea (3-(hexahydro-4,7-methanoindan-5-yl)-1,1-dimethylurea), 11448.
Oxytetracycline, 12751.
Paraquat, 2894, 7470, 7717, 12473.
o-Phenylphenol and its sodium salt, 9702, 9150.
Phorate, 584, 2612, 14023, 18095.
S-Propyl butylethylthiocarbamate, 11896.
S-Propyl dipropylthiocarbamate, 12961.
Pyrazon, 11895.
Petition withdrawn, 20669.
Simazine, 6393, 6412.
Succinic acid 2,2-dimethylhydrazide, 2661.
Petition withdrawn, 12962.

Food and Drug Administration—Continued Page

PESTICIDE CHEMICALS in or on raw agricultural commodities—Continued
Specific tolerances—Continued
Rules proposed or adopted—Continued
Terbacil, 4352, 7173.
cis-*N*-[1,1,2,2-(Tetrachloroethyl)thio]-4-cyclohexene-1,2-dicarboximide; petition withdrawn, 12067.
Tetrachloroisophthalonitrile, 7923.
Petition withdrawn, 16529.
Trichlorobenzyl chloride, 15721.
Trifluralin, 3092, 3474, 4081, 6539, 12716, 13134, 14944.
2,3,5-Triiodobenzoic acid and its dimethylamine salt, 2963, 12474.
Triphenyltin hydroxide, 2725.
Zinc ion and maneb coordination product, 7523, 8394, 8776, 11448.
Petition withdrawn, 15721.
Temporary tolerances:
Barban, 6943.
Benzamidooxyacetic acid, 6943.
2-sec-Butyl-4,6-dinitro-phenyl isopropyl carbonate, 10615.
N-Butyl-*N*-ethyl-α,α,α-trifluoro-2,6-dinitro-*p*-toluidine, 1199.
Cypromid, 7186.
2,6-Dichloro-4-nitroaniline, 9663.
2,3-Dichlorobenzyl methylcarbamate, 9738.
3,4-Dichlorobenzyl methylcarbamate, 9738.
Dimethoate and its oxygen analog, 10671.
Dimethyl phosphate of 3-hydoxy *N*,*N*-dimethyl-*cis*-crotonamide, 9839.
Dimethyl phosphate of 3-hydroxy-*N*-methyl-*cis*-crotonamide, 9836.
Dodine, 6412.
Neo-decanoic acid, 3110.
cis-2,3,5,5,5-Pentachloro-4-ketopentenoic acid, 13163.
O,O,O',O'-Tetramethyl *O,O'*-thiodi-*p*-phenylene phosphorothioate, 7508.
Trifluralin, 1061, 11091.
3,4,5-Trimethylphenyl methylcarbamate and 2,3,5-trimethylphenyl methylcarbamate mixture, 14609.
Tests for potentiation, revised requirements 13278
PINEAPPLE, canned. *See under* Fruits and fruit juices, canned, *above*.
RADIATION:
Alpha-particle, static electricity elimination in food packaging operations; proposed rule 584
Petition withdrawn 14990
Electron, high- and low-dose; labeling requirements 140, 3443
Gamma:
High- and low-dose; labeling requirements 140, 3443
Petition withdrawn 11745
Microwave, heat treatment of foods 1175, 14568
Packing materials 7877, 8360, 10567
Ultraviolet, for processing and treatment of food 11350
X-radiation, high dose; labeling requirements 140, 3443
RECORDS AND INFORMATION:
Antibiotics and drugs, procedural regulations, duplicate copies of records and reports 16631
Official records, disclosure 15709
SALAD DRESSING. *See* Dressings.
SANITATION, good manufacturing practice; manufacturing, processing, packing, or holding human foods, proposed rules 17980
SODA WATER, canned; identity standards, optional ingredients:
Dimethylpolysiloxane 2940, 5922
Dioctyl sodium sulfosuccinate 1128, 6024
Quillaia, proposed rule 16533
Stannous chloride 449, 4350
SOFT DRINKS, exemption from certain requirements, enforcement of Fair Packaging and Labeling Act; proposed rule 18113
SPINACH, canned. *See under* Vegetables, canned, *below*.
STANDARDS OF IDENTITY for certain commodities. *See specific commodities*.
STATE REGULATORY OFFICIALS, commissioning to perform specific functions 2903
TEA IMPORTATION, standards, 1967–68 4020
TOMATOES, canned, *See under* Vegetables, canned, *below*.

Food and Drug Administration—Continued Page

VEGETABLE PROTEIN PRODUCTS, identity standards; proposed rules ... 14237, 18114
VEGETABLES, canned; identity standards:
Asparagus, stannous chloride as optional ingredient; proposed rule ... 12723
Beans, green, butter and emulsifier or stabilizer as optional ingredients; effective date ... 982
Carrots, deviating from identity standard, temporary permit for market testing ... 13834
Corn, butter and emulsifier or stabilizer as optional ingredients; effective date ... 982
Mushrooms, temporary permits for market testing ... 6737, 15046
Other than those specifically regulated, butter and emulsifier or stabilizer as optional ingredients; effective date ... 982
Peas, butter and emulsifier or stabilizer as optional ingredients; effective date ... 982
Spinach:
Reconstituted lemon juice added; temporary permit for market testing ... 8256
Whole leaf and cut leaf or sliced as optional forms ... 137, 4059
Tomatoes, "solid pack" labeling provision; effective date ... 4350
Various vegetables; spices, flavorings, seasonings, and flavor enhancers as optional ingredients, proposed rules ... 990
VITAMIN AND MINERAL-FORTIFIED FOODS, dietary foods; identity standards, listing of additional classes ... 1055, 5736

Food Exports From U.S.:
See also Agriculture Department.
ALGERIA (Presidential Finding of February 28, 1967) ... 4053
MOROCCO (Presidential Findings of February 27 and September 18, 1967) ... 4051, 14885

Food Stamp Program:
See Agriculture Department.

Foreign Agents Registration Act of 1938:
ADMINISTRATION AND ENFORCEMENT ... 6362

Foreign Aid:
See Agency for International Development.

Foreign Assets Control:
See Treasury Department.

Foreign Banking:
See Federal Reserve System.

Foreign Claims Settlement Commission:
CONDUCT STANDARDS ... 13507
INFORMATION, availability of ... 9569
ORGANIZATION AND FUNCTIONS ... 9569
YUGOSLAV CLAIMS ... 412, 430, 15641

Foreign Currencies:
See Foreign exchange.

Foreign Excess Property:
See Business and Defense Services Administration.

Foreign Exchange:
RATES OF EXCHANGE. *See* Customs Bureau.
SYSTEM FOREIGN CURRENCY OPERATIONS ... 14623
TRANSACTIONS, forms ... 14055

Foreign Governments:
GIFTS AND DECORATIONS, acceptance from. *See* State Department.

Foreign Language Broadcasting:
See Federal Communications Commission.

Foreign Military Pilots: Page

CERTIFICATION of certain pilots on duty with armed force of U.S ... 5740, 6513, 13914

Foreign Nationals:
ARREST. *See* Justice Department.

Foreign Social Insurance:
See Social Security Administration.

Foreign Trade:
STATISTICS ... 20805

Foreign-Trade Zones Board:
GENERAL REGULATIONS, and procedures ... 13714
INFORMATION, availability of ... 13715, 14017
NEW ORLEANS, LA., subzone at Taft ... 4587
NEW YORK CITY, reduction and modification of boundary ... 7726
SEATTLE, WASH., zone No. 5; reduction and modification of boundary ... 587

Forest Service:
AUTHORITY DELEGATIONS by Chief to certain officials:
Associate Chief, et al.; claims collection ... 13780
Regional Foresters:
All Regions:
Easements, licenses, permits, and leases ... 5520
Forest development roads as special service roads, designation ... 13674
California Region; zoning standards for Whiskeytown - Shasta - Trinity National Recreation Area, Shasta and Clair Engle-Lewistown Units ... 13733
LAND USES:
Public campgrounds, revocation ... 12946
Recreation sites ... 12945
Whiskeytown-Shasta-Trinity National Recreation Area, zoning standards for Shasta and Clair Engle-Lewiston Units ... 6982, 13190
Authority delegation ... 13733
ORGANIZATION AND FUNCTIONS ... 9679
TIMBER uses restricted; trespass ... 6622
TRESPASS:
Public campgrounds, occupancy, revocation ... 12946
Settlement, etc., prohibited ... 12946
Timber uses restricted ... 6622
WHISKEYTOWN - SHASTA - TRINITY NATIONAL RECREATION AREA; Shasta and Clair Engle-Lewiston Units:
Authority delegation ... 13733
Land uses ... 6982, 13190
WILDERNESS AREAS, proposed establishment; hearings:
Arizona; Sycamore Canyon, 2828.
California:
Desolation Valley, 4506.
Ventana, 6990.

Forests, National:
See Land Management Bureau; National Park Service; Reclamation Bureau.

Freedman's Hospital:
REVOCATION OF REGULATIONS ... 11735

Freedom of Information Act:
COMPLIANCE by agencies. *See* Organization and information.

Frozen Desserts:
IDENTITY STANDARDS, optional ingredients. *See* Food and Drug Administration.
QUALITY STANDARDS. *See* Agriculture Department.

Fruit Cocktail:
IDENTITY STANDARD, optional ingredients. *See* Food and Drug Administration.

Fruit Jellies, Preserves, etc.: Page

IDENTITY STANDARDS, optional ingredient. *See* Food and Drug Administration.

Fruit Juices:
IDENTITY STANDARDS, optional ingredients. *See* Food and Drug Administration.
MARKETING, etc. *See* Agriculture Department.
NATURAL, unconcentrated, brix value; proposed rule ... 7080
Withdrawn ... 12690

Fruits:
See also specific fruits.
FRESH FRUITS:
Inspection, certification, and standards. *See* Agriculture Department.
Seasonal industry. *See* Wage and Hour Division.

G

Garlic:
STANDARDS FOR GRADES. *See* Agriculture Department.

Gas:
See Oil and gas.

Gas Companies:
RATES, CHARGES, etc. *See* Federal Power Commission.

General Accounting Office:
BID PROTESTS ... 11313

General Agreement on Tariffs and Trade:
GENEVA (1967) PROTOCOL (Proclamation 3822) ... 19002

General Services Administration:
See Federal Register.
Federal Supply Service.
Public Buildings Service.
AUTHORITY DELEGATIONS:
By Administrator to certain officials:
Agriculture Secretary, leasing of space in Greenwood, Miss ... 955
Atomic Energy Commission Chairman, purchase of gas and electric power ... 8779
Commerce Secretary:
Automatic data processing service center, operation ... 10532
Special policemen, appointment of ... 11969
Defense Secretary:
Federal Catalog System ... 7727
Representation of Federal government before certain commissions:
Interstate Commerce Commission, household goods ... 13343
Kansas State Corporation Commission, gas rates ... 13343
Montana Public Service Commission, telephone rates ... 11359
Health, Education, and Welfare Secretary; compliance functions under Civil Rights Act ... 4148, 4149
Interior Secretary; unclaimed property in Isle Royale National Park and waters of Lake Superior, Mich ... 13343
Postmaster General; operation of post office and customhouse, St. Paul, Minn ... 12570
Treasury Secretary, appointment of special policemen ... 11968
From Director, Economic Opportunity Office; powers regarding National Advisory Council on Economic Opportunity ... 8051
AUTOMATIC DATA PROCESSING:
Records management ... 3146
Service Center, delegation of authority to Commerce Secretary ... 10532
COMMITTEES, INTERAGENCY, chaired by GSA ... 11657
CONDUCT STANDARDS ... 15022

General Services Administration—Continued Page

CONSTITUTIONAL AMENDMENT, succession to Presidency and Vice Presidency ... 3287
CONTRACT APPEALS BOARD, Treasury contract appeals ... 8676
COPPER and copper substitutes, restriction on use ... 11587
EMERGENCY PREPAREDNESS PLANNING ... 4024
FEDERAL PROPERTY MANAGEMENT REGULATIONS:
Information, availability of ... 9564
Prior regulations deleted ... 10299
Motor vehicles:
Equipment management; definitions, tags, exemptions ... 8144
Pools, interagency, reimbursement rates ... 13635
Safety standards, deleted ... 13635
National Archives; applications, hours, etc ... 3146
Personal property:
Sale, abandonment, or destruction ... 8145
Utilization and disposal ... 570, 8145, 10255, 12402
Presidential libraries, Herbert Hoover Library; legal demands, deleted ... 3146
Procurement sources, Federal supply schedules ... 15754
Records management:
Automatic data processing, etc ... 3146
Standard and optional forms ... 8034
Sale, abandonment, or destruction of personal property, mistakes in bids ... 16270
Space utilization, discontinuance of Agency reports of expansion space needs ... 2432
Supply and procurement:
Automated data management services ... 5687
Emergency preparedness planning ... 4024
General policies, consumable or low cost items ... 4413
Inventory management ... 6493, 12401, 12721, 13456
Motor vehicle safety standards, deleted ... 13635
Procurement sources and programs ... 983, 3690, 11162, 12850, 17939
Replacement standards:
Materials handling equipment ... 12400
Office furniture and machines ... 10237
Storage and distribution, centralized self-service stores ... 4161
Use standards, office furniture ... 9683
Telecommunications, telephone station equipment ... 8758
Transportation and traffic management; reporting and adjusting discrepancies in Government shipments ... 8965
INFORMATION, availability of ... 9564
Prior regulations deleted ... 10299
MOTOR VEHICLES:
Equipment management ... 8144
Pools, interagency, reimbursement rates ... 13635
Safety standards, deleted ... 13635
ORGANIZATION AND FUNCTIONS ... 9585
PROCUREMENT REGULATIONS:
Federal:
Advertising, formal; bids, 2626, 18049.
Contract clauses, fixed-price construction contracts, 16268.
Contract termination, clauses for convenience of Government, 9683.
Convict labor clause, applicability, 10852.
Copper and copper substitutes, use of, 11587.
Equal opportunity in employment, compliance reports, 6529.
Foreign purchases, balance of payments program, 5622.
Forms:
Advertised supply contracts, 18049.
Construction contracts, 16268.
Performance bond, 9232.
General:
Procurement responsibility and authority, 16491.
Small business and labor surplus area concerns, 2624, 6567, 18045.
Labor:
Contract Work Hours Standards Act, 4312.
Fair Labor Standards Amendments of 1966, minimum wages, 3029, 11101.
Labor standards in construction contracts, 4312.
Walsh-Healey Act, 2626.
Negotiation, national emergency; balance of payments program, 5622.
Special and directed sources of supply, contractor use of GSA supply sources, 15674.
Federal Supply Service. *See main heading* Federal Supply Service.

General Services Administration—Continued Page

PROCUREMENT REGULATIONS—Continued
GSA:
Advertising, formal, bids, 16160.
Negotiation, use of standard contract forms, 6453.
Reports, 9165.
Public Buildings Service. *See main heading* Public Buildings Service.
PROPERTY MANAGEMENT AND DISPOSAL SERVICE, position of Commissioner placed in Level V of Federal Executive Salary Schedule (Executive Order 11335) 3965
TENNESSEE VALLEY AUTHORITY, transfer of coal and coal rights in Kentucky to 10121
WILDLIFE PURPOSES, transfer of certain lands for:
Arcadia National Fish Hatchery to State of Rhode Island 15037
John Martin Reservoir Area, Hasty, Bent County, to State of Colorado 16296

Geneva (1967) Protocol:
GENERAL AGREEMENT ON TARIFFS AND TRADE (Proclamation 3822) 19002

Geological Survey:
AUTHORITY DELEGATION by Director to executive officer, et al.; contracts for construction, supplies, or services 3713, 5810
COAL LAND CLASSIFICATIONS:
Arizona, 9721.
Colorado, 13087.
Montana, 8820.
North Dakota, 17577.
Wyoming, 9324, 13147.
MINERAL RESERVE EXPLORATION, Federal assistance; increase in Government participation 12941
OIL AND GAS FIELDS, known geologic structures; various States 7138, 13238

Germany:
COPYRIGHT EXTENSION (Proclamation 3792) 10341
MIXED CLAIMS COMMISSION, UNITED STATES AND GERMANY, payment of unclaimed interest on certain awards 6512, 7947
SOVIET ZONES, products from; marking of country of origin 5957

Gifts:
FOREIGN GOVERNMENTS, acceptance from. *See* State Department.
FOREIGN SERVICE BUILDINGS ACT, acceptance of gifts of property or services for purposes of 1001

Glass:
SHEET GLASS IMPORTS, increased duties:
Extension (Proclamation 3816) 14197
Reduction (Proclamation 3762) 361

Government Employees:
APPOINTMENTS UNDER DEFENSE PRODUCTION ACT OF 1950:
See also Civil Service Commission; Commerce Department; Interior Department; Interstate Commerce Commission.
Executive Order 11355 7803
CIVIL DEFENSE identification for Federal employees 6932
CIVIL SERVICE REGULATIONS. *See* Civil Service Commission.
CONDUCT STANDARDS. *See* Conduct standards.
EQUAL EMPLOYMENT OPPORTUNITY. *See* Nondiscrimination.
PAY AND ALLOWANCES:
Executives. *See* Federal Executive Salary Schedule.
Overseas duty, allowances (Executive Order 11380) 15627
POLITICAL ACTIVITY of Government Personnel, Commission on; hearings regarding effects of Hatch Political Activities Act 6591, 7227
RETIREMENT FOR AGE, COMPULSORY exemption of Daniel J. Quill (Executive Order 11378) 15237
TRAINING, regulations (Executive Order 11348) 6335

Government Employees—Continued Page

WITHOUT-COMPENSATION EMPLOYEES. *See* Civil Service Commission; Commerce Department; Interior Department; Interstate Commerce Commission.
WOMEN, equal opportunity (Executive Order 11375) 14303

Government Operations, House Committee on:
TAX RETURNS, inspection (Executive Order 11332) 3877

Government Operations, Senate Committee on:
TAX RETURNS, inspection (Executive Order 11337) 5245

Grain Sorghum:
CROP INSURANCE. *See* Federal Crop Insurance Corporation.
CROPLAND ADJUSTMENT, etc. *See* Agriculture Department.
RESEAL LOAN PROGRAMS, etc. *See* Commodity Credit Corporation.

Grains:
See also specific grains.
PRICE-SUPPORT PROGRAMS, etc. *See* Commodity Credit Corporation.
STANDARDS, etc. *See* Agriculture Department.

Grants:
AIR POLLUTION CONTROL PROGRAMS 7830
COAL MINES, safety and health 2944
COMMERCIAL FISHERIES, authority delegation approving Federal aid grants. *See* Fish and Wildlife Service.
HANDICAPPED CHILDREN, grants to States for education of 11434
HEALTH PLANNING, comprehensive, grants to States 8423, 10792
HIGHER EDUCATION, etc.; allotment ratios for States. *See* Education Office.
INVENTIONS resulting from grants under Law Enforcement Assistance Act of 1965; policy. *See* Justice Department.
MEDICAL CARE in Philippines, authority delegation 2815
MENTALLY RETARDED, specialized facilities. *See* Public Health Service.
NATIONAL AGRICULTURAL LIBRARY; grants for research, authority delegation 12868
NATIONAL ENDOWMENT FOR ARTS, labor standards on projects or productions assisted by grants. *See* Wage and Hour Division.
PUBLIC HEALTH SERVICES, training centers, equipment, etc. *See* Public Health Service.
REAL ESTATE GRANTS. *See* Farmers Home Administration.
RESEARCH GRANTS:
Authority delegation. *See* Agriculture Department.
Support of. *See* Mines Bureau.
SOLID WASTE DISPOSAL, limitations 8295
WATER POLLUTION CONTROL, grants for construction of treatment works; proposed rules 11330
WATER RESOURCES, State grants for comprehensive planning. *See* Water Resources Council.
WORKSHOPS and rehabilitation facilities. *See* Labor Department; Vocational Rehabilitation Administration.

Grapefruit:
MARKETING, etc. *See* Agriculture Department.
STANDARDS of identity, quality, and fill of container. *See* Food and Drug Administration.

Grapefruit Juice:
STANDARDS for grades. *See* Agriculture Department.

Grapes:
CROP INSURANCE. *See* Federal Crop Insurance Corporation.

Grapes—Continued Page

IMPORTED from Canada:
Antidumping 14607
Appraisement withheld 14780
MARKETING, etc. *See* Agriculture Department.

Great Lakes Basin Commission:
ESTABLISHMENT (Executive Order 11345) 6329

Great Lakes Pilotage Services:
See Coast Guard.

Great Plains Conservation Program:
See Agriculture Department.

Greens, Leafy:
CANNED, standards for grades. *See* Agriculture Department.

Greeting Card Industry:
TRADE PRACTICE RULES. *See* Federal Trade Commission.

Guam:
ANIMAL AND PLANT QUARANTINE. *See* Agriculture Department.
TELEVISION BROADCAST educational stations, noncommercial 7023
WATCHES AND MOVEMENTS, imports. *See* Commerce Department; Interior Department; Tariff Commission.
WHEAT products, entry into Guam; quarantine notice 6496

Gum Naval Stores:
CONSERVATION PROGRAM. *See* Agriculture Department.
PRICE-SUPPORT PROGRAM. *See* Commodity Credit Corporation.

H

Handicapped Persons:
CIVIL SERVICE positions 10635
GRANTS for education of handicapped children 11434
HOUSING PROGRAMS for, authority delegations. *See* Housing and Urban Development Department.
LABOR STANDARDS. *See* Labor Department.
MINIMUM WAGES. *See* Wage and Hour Division.

Hatch Political Activities Act:
See Commission on Political Activity of Government Personnel.

Hay:
DISASTER AREAS, transportation of hay at reduced rates. *See* Interstate Commerce Commission.
INSPECTION, etc. *See* Agriculture Department.

Hazardous Materials:
See also Dangerous cargoes; Explosives.
ECONOMIC POISON DISPENSING, etc.; agricultural aircraft operations. *See* Federal Aviation Administration.
GLASS FIBER FABRICS and fiber textile products, hazards of washing or handling 11023, 15424
LABELING REQUIREMENTS, etc. *See* Food and Drug Administration.
MOTOR CARRIER SAFETY and hazardous materials regulations. *See* Federal Highway Administration.

Hazardous Materials Regulations Board:
ESTABLISHMENT in Transportation Department 14569
EXPLOSIVES, definitions, shipping paper; postponement of effective date 16277
PIPELINE CARRIERS, accident reporting, etc. 16040
RULE-MAKING PROCEDURES, proposed rules 16437

Hazardous Occupations:
CHILD LABOR. *See* Labor Standards Bureau.

Health Benefits: Page
AGED, medical insurance. *See* Social Security Administration.
GOVERNMENT EMPLOYEES. *See* Civil Service Commission.

Health, Education, and Welfare Department:
See Aging, Administration on.
Children's Bureau.
Education Office.
Federal Credit Unions Bureau.
Food and Drug Administration.
Freedmen's Hospital.
Public Health Service.
Saint Elizabeths Hospital.
Social and Rehabilitation Service.
Social Security Administration.
Vocational Rehabilitation Administration.
Welfare Administration.
AGED, medical insurance for; premium rates 21044
AIR POLLUTION CONTROL:
Conferences, hearings, etc.:
National Capital Metropolitan Area 15597, 15648, 16288
New York-New Jersey Metropolitan Area 19197
Powell County, Mont. 10315
Selbyville, Del.-Bishop, Md. 6413
Motor vehicles and engines, new:
California State standards, hearing 17443, 19196
Crankcase emissions, exception for 1968 motorcycles and engines 12851
Fuel evaporative emissions, proposed rules 2448
Importation 11946, 11947
Public Health Service, functions 59
AUTHORITY DELEGATIONS:
By Assistant Secretary for Administration to General Counsel, et al.; certify copies of records, etc. 17866
By General Counsel to Deputy General Counsel, et al.; certify copies of documents 21044
By Secretary to certain officials:
Assistant Secretary for Administration:
Certify copies of records, etc 17550
Civil rights functions 15190
Director, Civil Rights Office; certain functions 15190
General Counsel:
Civil rights hearings, agreements respecting 337
Hospital and medical care, recovery of cost from tortiously liable third parties 5813
From certain agencies assigning functions respecting hospitals, schools, etc., pursuant to Civil Rights Act. *See* Civil Rights Act.
From Director, Economic Opportunity Office; "Follow Through Program" 9592
Procurement authority 15833
CIVIL RIGHTS ACT, Title VI:
Administration 15190
Assignments of compliance responsibilities from listed agencies:
Agriculture Department, 2823.
Atomic Energy Commission, 2906.
Commerce Department, 3109, 6004.
Economic Opportunity Office, 3908.
Emergency Planning Office, 3029.
Federal Aviation Agency, 2984.
General Services Administration, 4148, 4149.
Housing and Urban Development Department, 3283.
Interior Department, 6304.
National Aeronautics and Space Administration, 3883.
National Science Foundation, 3150, 4063, 4094.
Small Business Administration, 2872.
State Department, 4026.
Tennessee Valley Authority, 2833.
Veterans Administration, 2916.
Authority delegations 337, 15190
Hearings; practice and procedure 15156
CIVIL RIGHTS OFFICE:
Establishment of reviewing authority 15190
Operations Division, functions 17899
CLAIMS:
Collection 17891
Hospital and medical care, recovery of cost from tortiously liable third parties; authority delegation 5813
Tort claims against United States 14101

Health, Education, and Welfare Department—Continued Page

FEDERAL EXECUTIVE SALARY SCHEDULE, positions placed in Level V:
- Administrator, Social and Rehabilitation Service (Executive Order 11369) 12585
- Chief, Children's Bureau, Social and Rehabilitation Service (Executive Order 11369) 12585

HOSPITAL AND MEDICAL CARE, recovery of cost from tortiously liable third parties; authority delegation 5813
INFORMATION, availability of 9315, 14894
MEDICAL INSURANCE for aged, premium rates 21044
MOTOR VEHICLES and engines, new, control of air pollution from:
- California State standards, hearing 17443, 19196
- Crankcase emissions, exception for 1968 motorcycles and engines 12851
- Fuel evaporative emissions, proposed rules 2448
- Importation 11946, 11947

NONDISCRIMINATION:
- *See also* Civil Rights Act; Civil Rights Office.
- In Federally assisted programs 14555

ORGANIZATION AND FUNCTIONS:
- Aging, Administration on; superseded, 12068.
- Civil Rights Act and Executive Order 11246, administration of, 15190.
- Civil Rights Office, Operations Division, 17899.
- Education Office, 4367, 6588, 10476.
- National Center for Educational Statistics, 15597.
- Food and Drug Administration, Bureau of Medicine, 15721.
- General Counsel, Office of, 6739.
- Patent activities, 6738.
- Public Health Service, 59, 9739, 12068, 15443, 15597.
- Saint Elizabeths Hospital, 10472, 13681.
- Social and Rehabilitation Service, 15119, 12068, 20811.
- Social Security Administration, 4367, 7877, 10488, 13653.
- Surplus Property Utilization Office, 14285.
- Vocational Rehabilitation Administration, 10473.
- Superseded, 12068.
- Welfare Administration, 393, 10013.
- Superseded, 12068.

PERSONNEL INTERCHANGE with States 10852
PROCUREMENT REGULATIONS, authority delegations 15833
SERVICE OF PROCESS, actions under Title II of Social Security Act 6684
STATES, interchange of personnel with 10852
SURPLUS PROPERTY:
- Allocation and utilization for educational, public health, and civil defense purposes 4572
- State agencies, minimum standards of operation for 9167
- Temporary suspension 16100

Highway Administration:

See Federal Highway Administration.

Highway Safety Advisory Committee, National:

CHAIRMAN, appointment 8256

Highway Safety Bureau, National:

ADMINISTRATION of National Traffic and Motor Vehicle Safety Act (Executive Order 11357) 8225

Home Loan Bank Board:

See Federal Home Loan Bank Board.

Homesteads:

See Land Management Bureau.

Honey:

PRICE-SUPPORT PROGRAMS. *See* Commodity Credit Corporation.
STANDARDS for grades. *See* Agriculture Department.

Honey Dew Melons:

STANDARDS for grades. *See* Agriculture Department.

Hops:

MARKETING. *See* Agriculture Department.

Horseradish Roots: Page

STANDARDS FOR GRADES. *See* Agriculture Department.

Hospital and Medical Care:

AGED, health insurance for. *See* Health, Education, and Welfare Department; Social Security Administration.
CLAIMS for reasonable value of medical care furnished by Army. *See* Army Department.
DEPENDENTS' MEDICAL CARE. *See* Army Department.
MEDICAL AND DENTAL CARE at non-Navy facilities 11851
MENTALLY ILL PATIENT in Canal Zone hospital, performance of surgical operations on legally incompetent patients 15641, 16428
RECOVERY OF COST from tortiously liable third persons. *See* Health, Education, and Welfare Department; Justice Department.
VETERANS MEDICAL CARE. *See* Veterans Administration.

Hospitals:

GRANTS for hospital construction, etc. *See* Public Health Service.
HOSPITAL MANAGEMENT. *See* Public Health Service.
NONDISCRIMINATION, assignment of certain functions under Civil Rights Act. *See* Health, Education, and Welfare Department.
PUERTO RICO hospitals, employment in; special industry committee, etc. *See* Wage and Hour Division.
SMALL BUSINESS LOANS. *See* Small Business Administration.
STUDENT TRAINEES in Government hospitals, maximum stipends. *See* Civil Service Commission.

Housing Assistance Administration:

LOW-RENT HOUSING PROGRAM 13808
- Nondiscrimination, filing and acknowledgement of complaints 13808

NONDISCRIMINATION in low-rent public housing, filing and acknowledgement of complaints 13808
ORGANIZATION AND FUNCTIONS, designation of acting official to serve during present vacancy 13150, 13831
PROCEDURAL PROVISIONS:
- Final PHA action; revoked 13808
- HUD regional offices and jurisdictional areas, list 13808, 14695
- Nondiscrimination in low-rent public housing, filing and acknowledgement of complaints 13808
- Records and information, availability 13808

RECORDS AND INFORMATION, availability 13808
WAR HOUSING PROPERTY, Federally-owned; revoked 13809

Housing and Urban Development Department:

See Federal Housing Administration.
Federal National Mortgage Association.
Housing Assistance Administration.

AUTHORITY DELEGATIONS:
- By Assistant Secretary, Administration, to certain officials; designations:
  - Acting Assistant Regional Administrator, Administration:
    - Region I (New York) 1061
    - Region IV (Chicago) 764
  - Acting Assistant Regional Administrator, Metropolitan Development, Region III (Atlanta) 2389
  - Acting Assistant Regional Administrator, Program Coordination and Services:
    - Region III (Atlanta) 4285
    - Region VI (San Francisco) 3753
  - Acting Assistant Regional Administrator, Renewal Assistance, Region III (Atlanta) 3716
  - Acting Deputy Assistant Regional Administrator, Metropolitan Development, Region IV (Chicago) 10616
- By Assistant Secretary, Demonstrations and Intergovernmental Relations, to certain officials:
  - Acting Assistant Secretary; designation 13467
  - Director and Deputy, Model Cities Administration; model cities program, etc 17496

Housing and Urban Development Department—Continued Page

AUTHORITY DELEGATIONS—Continued
- By Assistant Secretary, Demonstrations and Intergovernmental Relations, to certain officials—Con.
  - Regional Administrators and Deputies, model cities program, etc 17496
- By Assistant Secretary, Renewal and Housing Assistance, to certain officials:
  - Acting Assistant Secretary, Renewal and Housing Assistance; designation 5523
  - Acting Deputy Assistant Secretaries, designations:
    - Housing Assistance 16444
    - Renewal Assistance 16444
  - Deputy Assistant Secretary, Renewal Assistance, et al.:
    - Loan fund allocations, etc 11390, 11579
    - Title changes, etc 625
  - Deputy, Housing Assistance, et al.; low-rent public housing 15723
  - Regional Administrators and Deputies:
    - College housing program 4145
    - Grants for provision of open-space land in built-up urban areas program, etc 11391
    - Rent supplements for disadvantaged persons in program of housing for elderly or handicapped 159
- By Deputy Assistant Secretary, Administration, to Acting Assistant Regional Administrators; designations:
  - Administration:
    - Region IV (Chicago) 3111
    - Region V (Fort Worth) 3111
  - Program Coordination and Services, Region I (New York) 1062
  - Renewal Assistance, Region IV (Chicago), et al 10893
- By Director, Contracts and Agreements Division, Office of General Sessions, to Deputy Director; designation as contracting officer 6943, 10276
- By Director, General Services Office, to Director, Contracts and Agreements Division, Office of General Services; designation as chief officer responsible for procurement and contracting officer 4548
- By Director, Urban Technology and Research Office, to listed officials:
  - Acting Director, Urban Renewal Demonstration Program; designation 9326
  - Director, Low-Income Housing Demonstration Program; functions 9326
  - Director, Urban Planning Research and Demonstration Program; functions 9326
  - Director, Urban Renewal Demonstration Program; functions 9325
- By Regional Administrators to listed officials:
  - Region I (New York):
    - Acting Assistant Regional Administrators, designations:
      - Administration 6414, 12924
      - Housing Assistance 10520
      - Metropolitan Development 4085
      - Renewal Assistance 3476
    - Acting Regional Administrator; designation 11359
    - Assistant Regional Administrator, Administration; execute legends on bonds, notes, or other obligations 5645
    - Assistant Regional Administrator, Housing Assistance, et al.:
      - College housing loan program 2826, 11897
      - Elderly or handicapped:
        - Loans, etc 2826
        - Rent supplements 2792
      - Low-rent public housing 13088
    - Assistant Regional Administrator, Metropolitan Development et al.; advances for public works planning program, etc 4081
    - Assistant Regional Administrator, Program Coordination and Services; urban planning assistance program 2824
    - Assistant Regional Administrator, Renewal Assistance, et al.; slum clearance and urban renewal program, etc 6224, 13341
    - Director, Planning Branch; urban planning assistance program 2824

Housing and Urban Development Department—Continued Page

AUTHORITY DELEGATIONS—Continued
- By Regional Administrators to listed officials—Con.
  - Region I (New York)—Continued
    - Regional Director, Community Facilities; revocations:
      - Advances for public works planning program, etc 4081
      - College and elderly or handicapped, housing loan programs for 2826
    - Regional Director, Urban Renewal, et al.; revocations:
      - Open-space land and urban beautification and improvement 4081
      - Rehabilitation loans 6224
      - Slum clearance and urban renewal program 6224
      - Urban planning program 2824
  - Region II (Philadelphia):
    - Acting Regional Administrator, designation 4145
    - Assistant Regional Administrator, Housing Assistance, et al.:
      - College housing loan program 2827, 11897
      - Elderly or handicapped:
        - Loans, etc 2827
        - Rent supplements 2792
      - Low-rent public housing 13089
    - Assistant Regional Administrator, Metropolitan Development, et al.; advances for public works planning program, etc 4082
    - Assistant Regional Administrator, Program Coordination and Services; urban planning assistance program 2824
    - Assistant Regional Administrator, Renewal Assistance, et al.; slum clearance and urban renewal program, etc 6224, 13341
    - Director, Planning Branch; urban planning assistance program 2824
    - Regional Director, Community Facilities; revocations:
      - Advances for public works planning program, etc 4081
      - College and elderly or handicapped, housing loan programs for 2827
    - Regional Director, Urban Renewal, et al.; revocations:
      - Open-space land and urban beautification and improvement 4082
      - Rehabilitation loans 6224
      - Slum clearance and urban renewal program 6224
      - Urban planning program 2824
  - Region III (Atlanta):
    - Acting Assistant Regional Administrators; designations:
      - Administration 8980
      - Metropolitan Development 4319
      - Program Coordination and Services 4368
      - Renewal Assistance 5477
    - Acting Regional Administrator; designation 11579
    - Acting Regional Counsel; designation 4368
    - Assistant Regional Administrator, Housing Assistance, et al.; certain programs:
      - College housing; loans, etc 2826, 11896
      - Elderly or handicapped:
        - Loans, etc 2826
        - Rent supplements 2792
    - Assistant Regional Administrator, Metropolitan Development, et al.; advances for public works planning program, etc 4082
    - Assistant Regional Administrator, Program Coordination and Services; urban planning assistance program 2824
    - Assistant Regional Administrator, Renewal Assistance, et al.; slum clearance and urban renewal program, etc 2793, 13341
    - Director, Planning Branch; urban planning assistance program 2824
    - Regional Director, Community Facilities; revocations:
      - Advances for public works planning program, etc 4082
      - College and elderly or handicapped, housing loan programs for 2826

Housing and Urban Development Department—Continued Page

AUTHORITY DELEGATIONS—Continued
By Regional Administrators to listed officials—Con.
Region III (Atlanta)—Continued
Regional Director, Urban Renewal, et al.; revocations:
Open-space land and urban beautification and improvement 4082
Urban planning program 2824
Urban renewal program, etc 2794
Region IV (Chicago):
Acting Assistant Regional Administrators; designations:
Administration 14972
Housing Assistance 8626
Metropolitan Development 8626
Renewal Assistance 10520
Acting Regional Administrator; designation 6004
Assistant Regional Administrator, Housing Assistance, et al.:
College housing loan program 2826, 11897
Elderly or handicapped:
Loans, etc 2826
Rent supplements 2792
Low-rent public housing 13089
Assistant Regional Administrator, Metropolitan Development, et al.; advances for public works planning programs, etc 4083
Assistant Regional Administrator, Program Coordination and Services; urban planning assistance program 2824
Assistant Regional Administrator, Renewal Assistance, et al.:
Renewal assistance programs 15124
Slum clearance and urban renewal program, etc 6224, 13341
Director, Planning Branch; urban planning assistance program 2824
Regional Director, Community Facilities; revocations:
Advances for public works planning programs, etc 4083
College and elderly or handicapped, housing loan programs for 2826
Regional Director, Urban Renewal, et al.; revocations:
Open-space land and urban beautification and improvement 4083
Rehabilitation loans 6224
Slum clearance and urban renewal program 6224
Urban planning program 2824
Region V (Fort Worth):
Acting Regional Administrator, et al.; designations 8626
Assistant Regional Administrator, Housing Assistance, et al.:
College housing loan program 2827, 11896
Elderly or handicapped:
Loans, etc 2827
Rent supplements 2793
Low-rent public housing 13089
Assistant Regional Administrator, Metropolitan Development, et al.; advances for public works planning programs, etc 4083
Assistant Regional Administrator, Program Coordination and Services; urban planning assistance program 2825
Prior redelegation revoked 2825
Assistant Regional Administrator, Renewal Assistance, et al.; slum clearance and urban renewal program, etc 6225, 13341
Director, Planning Branch; urban planning assistance program 2825
Regional Director, Community Facilities; revocations:
Advances for public works planning programs, etc 4083
College and elderly or handicapped, housing loan program for 2827
Regional Director, Urban Renewal, et al.; revocations:
Open-space land and urban beautification and improvement 4083

Housing and Urban Development Department—Continued Page

AUTHORITY DELEGATIONS—Continued
By Regional Administrators to listed officials—Con.
Region V (Fort Worth)—Continued
Regional Director, Urban Renewal, et al.; revocations—Continued
Rehabilitation loans 6225
Slum clearance and urban renewal program 6225
Region VI:
Acting Assistant Regional Administrators, designations:
Administration (San Francisco) 3406, 4084
Housing Assistance (San Francisco) 4319, 11718
Metropolitan Development (San Francisco) 3476
Program Coordination and Services (San Francisco) 13877
Renewal Assistance (San Francisco) 4319
Acting Director, Northwest Area Office (Seattle); designation 14569
Acting Regional Administrator (San Francisco); designation 3406
Assistant Regional Administrator, Administration (San Francisco); execute legends on bonds, notes, etc 7029
Assistant Regional Administrator, Housing Assistance, et al., Housing Assistance Office (San Francisco):
College housing loan program 3368, 11897
Elderly or handicapped:
Loans, etc 3368
Rent supplements 2793, 2904
Low-rent public housing 13089
Assistant Regional Administrator, Metropolitan Development, et al. (San Francisco); advances for public works planning programs, etc 4084
Assistant Regional Administrator, Program Coordination and Services (San Francisco); urban planning assistance program 2824
Assistant Regional Administrator, Renewal Assistance, et al. (San Francisco); slum clearance and urban renewal program, etc 6225, 13342
Director, Northwest Operations (Seattle):
College housing; loans, etc 2825, 11897
Elderly or handicapped:
Loans, etc 2825
Prior redelegation revoked 2825
Rent supplements 2793
Water and sewer facilities, grants 287
Director, Planning Branch (San Francisco); urban planning assistance program 2824
Director and Deputy, Northwest Area Office (Seattle):
Advance acquisition of land program, etc 20670
Open-space land program, etc 20671
Regional Director, Community Facilities (San Francisco); revocations:
Advances for public works planning programs, etc 4084
College and elderly or handicapped, housing loan programs for 3368
Regional Director, Urban Renewal, et al. (San Francisco); revocations:
Open-space land and urban beautification and improvement 4084
Rehabilitation loans 6225
Slum clearance and urban renewal program 6225
Urban planning program 2824
Region VII (San Juan, P.R.):
Assistant Regional Administrator, Housing Assistance, et al.; certain programs:
College housing; loans, etc 2827, 11897
Elderly or handicapped:
Loans, etc 2827
Rent supplements 2793
Assistant Regional Administrator, Metropolitan Development, et al.; advances for public works planning programs, etc 4084
Assistant Regional Administrator, Program Coordination and Services; urban planning assistance program 2825

Housing and Urban Development Department—Continued Page

AUTHORITY DELEGATIONS—Continued
By Regional Administrators to listed officials—Con.
Region VII (San Juan, P.R.)—Continued
Assistant Regional Administrator, Renewal Assistance, et al.; slum clearance and urban renewal program, etc 6226, 13342
Director, Planning Branch; urban planning assistance program 2825
Regional Director, Community Facilities; revocations:
Advances for public works planning programs, etc 4084
College and elderly or handicapped, housing loan programs for 2827
Rehabilitation loans 6226
Slum clearance and urban renewal program 6226
Urban planning program 2825
By Secretary to listed officials:
Administrator, Small Business Administration; rehabilitation loans, etc 4509
Assistant Secretary, Demonstrations and Intergovernmental Relations; designation of Acting Assistant Secretary, et al 13466
Assistant Secretary and Deputy, Demonstrations and Intergovernmental Relations:
Model cities program, etc 17496
Urban renewal demonstration program, etc., deleted 9325
Assistant Secretary and Deputy, Renewal and Housing Assistance:
Grants for provision of open-space land in built-up urban areas program, etc 11390
Low-rent public housing 15723
Rent supplements for disadvantaged persons in program for elderly or handicapped 158
Reservations or allocations of grant funds, etc.; authority excepted 624
Director, Office of General Services:
Chief officer responsible for procurement and contracting officer, designation 4548
Newspaper publication of advertisements, notices, or proposals 4549
Director, Urban Technology and Research Office; urban renewal demonstration program, etc 9325
Secretary of Health, Education, and Welfare; assignment of certain compliance functions under Title VI, Civil Rights Act 3233
CIVIL RIGHTS ACT of 1964, Title VI, assignment of certain compliance functions under; authority delegation to Secretary of Health, Education, and Welfare Department 3233
CONDUCT STANDARDS 13921
DEPUTY ASSISTANT SECRETARY FOR MORTGAGE CREDIT, position placed in Level V, Federal Executive Salary Schedule (Executive Order 11346) 6331
INFORMATION, availability of 9560
NEIGHBORHOOD FACILITIES, relocation payments 3052
NONDISCRIMINATION:
See also Civil Rights Act of 1964.
Equal employment opportunity, policy and procedures 11157
Federally assisted programs, discrimination prohibited 14819
ORGANIZATION AND FUNCTIONS:
Housing Assistance Administration, designation of acting officials to serve during present vacancies 13150, 13831
Regional offices and jurisdictional areas modified for urban planning assistance program; list 14287, 14671
PRACTICE AND PROCEDURE for hearings 21031
SEAL 366

Humane Slaughter:
LIVESTOCK, identification of carcasses. *See* Agriculture Department.

Humane Treatment:
LABORATORY ANIMALS. *See* Agriculture Department.

Hunting:
MIGRATORY BIRDS. *See* Fish and Wildlife Service.
WILDLIFE REFUGES. *See* Fish and Wildlife Service.

I

Ice Cream:
IDENTITY STANDARDS, optional ingredients. *See* Food and Drug Administration.
MANUFACTURE, quality standards. *See* Agriculture Department.

Immigrants:
IMMIGRATION REGULATIONS. *See* Immigration and Naturalization Service.
LABORERS, aliens entering United States as. *See* Labor Department.
VISA REGULATIONS. *See* State Department.

Immigration and Naturalization Service:
FREEDOM OF INFORMATION ACT, implementation 6781, 6978, 9616, 10433
IMMIGRATION REGULATIONS:
Admission, inspection of persons applying for; scope of examination 11628
Aliens:
Crewmen, landing and parole 4341, 12920, 13866
Deportability, proceedings to determine, etc.:
Ancillary matters, applications; proposed rule 17624
Apprehension, custody, and detention 3340, 5619, 6260
Proposed rule 17624
Evidence 271, 2883
Reopening or reconsideration, proposed rule 17624
Show cause order and notice of hearing 6260
Deportation:
Judicial recommendations against; notice, recommendation 10370, 11517
Stay of, proposed rule 17624
Suspension of and voluntary departure 3340
Proposed rules 17625
Petition to classify as immediate relative of U.S. citizen or preference immigrant:
Automatic revocation of approval 6260
Documents, etc 852, 11628
Preadoption requirements in orphan cases, proposed rule 6781
Withdrawn 11037
Arrival-departure manifests and lists for passengers 11517
Documentary requirements, waivers:
Immigrants, visas 406, 7075, 8378, 10370, 11516
Nonimmigrants:
Applications for exercise of discretion 271, 11628, 15469
Boy Scout World Jamboree and Conference participants 3970
Revoked 13755
Certification requirement 852, 10370, 11516
Grounds of excludability, certain 2500
Mexican nationals 7743
Nonresident alien border crossing cards 7743
Reentering U.S. from Canada prior to November 15, 1957 8707
Transits without visas 3731
Fines, imposition and collection; collector of customs changed to district director of customs, etc 17651
Forms:
Available from Superintendent of Documents 11518
Prescribed 6260, 13756, 17625
Printed by Public Printer for sale to public 11518
Reproduction by private parties 11518
Freedom of Information Act, implementation 6781, 6978, 9622, 10433
Nonimmigrants:
See also under Documentary requirements, waivers.
Classes:
Petitions for approval of schools 10370, 11517, 11629
Special requirements for admission, extension, and maintenance of status; transits without visas 3731, 9019
Officers, certain, powers and duties:
Field officers, disposition of cases of aliens arrested without warrant, etc 6260, 16200
Service officers, availability of service records, etc 271, 11628, 13755, 15469

Immigration and Naturalization Service—Continued

IMMIGRATION REGULATIONS—Continued
- Representation and appearances, service upon and action by attorney or representative of record — 10370, 11517
- Status, adjustment to that of person admitted for permanent residence; eligibility and application — 853, 2883, 4341
- Transportation lines, contracts with; aliens in immediate and continuous transit, etc. — 11628, 13755, 14274, 15469, 16200, 17651

NATIONALITY REGULATIONS:
- Administrative cancellation of certificates, documents, or records; conduct of examination, prior statements — 3340
- Certificates of naturalization or citizenship:
  - Examination of certificates of citizenship upon application and report and recommendation — 6260, 14889
  - Surrendered certificate of naturalization or citizenship; return or replacement — 14274
- Forms:
  - Official — 13756, 14274
  - Prescribed — 13756, 14274
- Freedom of Information Act, implementation — 6781, 9633
- Naturalization court, proceedings before; final hearing:
  - Execution of questionnaire — 7205
  - Preparation of lists and court orders for presentation — 13756
  - Waiver of 30-day period — 5620
- Oath of allegiance, alteration of form, etc. — 13756
- Residence, physical presence, and absence — 11628, 13756

ORGANIZATION AND FUNCTIONS — 9616
- Field service, ports of entry for aliens arriving by aircraft, vessel, or land transportation in listed districts:
  - Border patrol sectors:
    - No. 12, El Centro, Calif., 2661.
    - No. 13, Yuma, Ariz., 16200.
    - No. 22, Miami, Fla., 16200.
  - Suboffices:
    - No. 6, Miami, Fla., 825.
    - No. 7, Buffalo, N.Y., 825.
    - No. 8, Detroit, Mich., 825, 11626.
    - No. 10, St. Paul, Minn., 825.
    - No. 12, Seattle, Wash., 825.
    - No. 14, San Antonio, Tex., 825.
    - No. 16, Los Angeles, Calif., 826, 6215.
- Prior statement revoked — 9717

Imports and Exports:

AGRICULTURAL COMMODITIES:
- Exports:
  - *See also* Agriculture Department; Commodity Credit Corporation.
  - Algeria (Presidential Finding of February 28, 1967) — 4053
  - Morocco (Presidential Findings of February 27, and September 18, 1967) — 4051, 14885
- Import restrictions, quarantine, etc. *See* Agriculture Department.

AIRPLANES, small, export of. *See* Federal Aviation Administration.

ALCOHOLIC BEVERAGES:
- Export, foreign landing system required; proposed rule, extension of time — 11803
- Imports on vessels of not over 500 tons, Anti-Smuggling Act, 1935 — 12557, 12558, 12750

ANTIDUMPING ACT of 1921; determinations, etc. *See* Customs Bureau; Tariff Commission; Treasury Department.

ARTICLES to be considered for trade agreement concessions (Notice of April 22, 1967) — 6429

ASPHALT, imports:
- *See also* Emergency Planning Office; Interior Department.
- Adjustment (Proclamation 3779) — 5919

ATOMIC REACTORS, export licenses. *See* Atomic Energy Commission.

AUDIO-VISUAL MATERIALS, world-wide free flow (export-import) — 10352, 11157

Imports and Exports—Continued

BROOMS, reports on consumption (Executive Order 11377) — 14725

CARPETS AND RUGS, extension of increased duty on imports (Proclamation 3815) — 14196

COFFEE, imports and exports under International Coffee Agreement. *See* Customs Bureau.

COINS AND CURRENCY, export of — 14055

COTTON TEXTILES, import restrictions. *See* Interagency Textile Administrative Committee.

CUSTOMS regulations, etc. *See* Customs Bureau.

DAIRY PRODUCTS, limitation on imports (Proclamation 3790) — 9803

EXPORT CONTROL. *See* International Commerce Bureau.

FOREIGN ASSETS CONTROL, certain imports. *See* Treasury Department.

INVESTIGATION of imports. *See* Tariff Commission.

MOTOR VEHICLES, new, and engines, importation; air pollution control. *See* Customs Bureau; Health, Education, and Welfare Department.

NUCLEAR MATERIAL. *See* Atomic Energy Commission.

OIL IMPORTS, adjustment:
- *See also* Oil Import Administration; Interior Department.
- Proclamation 3794, 3820 — 10547, 15701

OVERTIME SERVICES. *See* Agriculture Department.

PETROLEUM AND PRODUCTS in bulk, importation — 6838

PSITTACINE BIRDS, importation, foreign quarantine — 8679, 14057

SCIENTIFIC INSTRUMENTS, duty-free entry. *See* Business and Defense Services Administration.

SHEET GLASS, duties on imports:
- Extension (Proclamation 3816) — 14197
- Reduction (Proclamation 3762) — 361

SILVER COINS, U.S., authorization of export — 17859

SOUTHERN RHODESIA:
- Economic sanctions (Executive Order 11322) — 119
- Prohibition of transportation of certain commodities. *See* Commerce Department.

WATCHES AND MOVEMENTS:
- Quotas, etc. *See* Commerce Department; Emergency Planning Office; Interior Department; Tariff Commission.
- Termination of increased duties on imports (Proclamation 3761) — 357

WILDLIFE and eggs thereof which may be injurious to human beings, importation of — 10982, 13595, 20655

WOOL AND PRODUCTS, imported. *See* Federal Trade Commission.

Income Tax Regulations:

See Internal Revenue Service.

Indian Affairs Bureau:

AUTHORITY DELEGATIONS:
- By Area Directors to various officials:
  - Albuquerque Area, Assistant Area Director, et al.; certain authority — 15764, 16283
  - Billings Area Office, Superintendents and Project Engineer; lands and minerals — 4176
  - Juneau Area Office, Area Field Representatives; lands and minerals, leases and permits — 95
  - Navajo Area, Assistant Area Director, et al.; certain authority — 15765
- By Commissioner to certain officials:
  - Area Directors, authority of Commissioner — 11963
  - Deputy and Associate Commissioner, et al.; authority of Commissioner — 12760
  - Director of Administration and Director of Engineering; authority of Commissioner — 11963
  - Director, Phoenix Area Office, forestry matters — 15645
  - Superintendents, et al.:
    - Anadarko Area Office; leases and permits — 17676
    - Billings Area Office; forestry matters — 619, 6584
- By Deputy Commissioner to certain officials, revocations:
  - Area Directors, health matters — 12450
  - Superintendents, et al.:
    - Cherokee Agency, health matters — 12450
    - Gallup Area Office, redelegation — 16283

Indian Affairs Bureau—Continued

AUTHORITY DELEGATIONS—Continued
- From Secretary of Interior:
  - Agua Caliente Indian Reservation; dedication of certain streets, alleys, etc. — 17443
  - Distribution of funds under certain awards — 10117
  - FEDERAL REGISTER documents — 13938
  - Health and welfare matters, termination of certain provisions — 11089

COLUMBIA RIVER Indian in-lieu fishing sites — 3944

CONSTITUTIONS AND BYLAWS:
- Elections to amend tribal constitutions, petitions requesting — 3062, 11779
- Registration for voting — 3061, 11777

ENROLLMENT:
- Brotherton Indians of Wisconsin — 15471
- Nooksack Tribe — 12790
- Quileute and Hoh Tribes — 5621
- Tlingit and Haida Tribes, Alaska — 10058
- Upper and Lower Chehalis Tribes — 16099

FISHING:
- In-lieu sites, Columbia River — 3944
- Off-reservation treaty rights — 10433

IRRIGATION PROJECTS; operation and maintenance charges:
- Flathead, Mont., 3360, 5631, 6371, 7771.
- Fort Peck, Mont.; proposed rule, 17543.
- Klamath, Oreg., proposed rule, 18417.
- San Carlos, Ariz.; proposed rule, 14395.
- Wapato, Wash., 663.
- Wind River, Wyo., 613, 2849, 3469, 4262.

LAND, Indian; rights-of-way, purpose, scope, etc., proposed rule — 5512, 7287

OIL AND GAS MINING; leasing of Osage Reservation lands — 8587

OSAGE TRIBE:
- Election of officers — 3748, 10253
- Reservation lands; leasing for oil and gas mining — 8587

PYRAMID LAKE RESERVATION; duration of leases — 663

RIGHTS-OF-WAY over Indian land; purpose, scope, etc., proposed rule — 5512, 7287

UTE TRIBE, UTAH; disposition of tribal assets by mixed-blood Indians, deletion of Part — 16213

Indian Claims Commission:

CONDUCT STANDARDS — 20855

Indians:

See also Indian Affairs Bureau; Indian Claims Commission.

ALCOHOLIC BEVERAGES, legalizing sale to Indians. *See* Interior Department.

FEDERAL SUPERVISION, termination. *See* Interior Department.

FORT PECK INDIAN AGENCY, Mont., redesignation of certain reserve lands — 17602

LANDS. *See* Land Management Bureau.

LIVESTOCK FEEDS:
- Distribution by Agriculture Department to needy tribes (Executive Order 11336) — 4489
- Donation of feed to livestockmen in New Mexico — 20889

PROJECT WORKS, certain, transfers, etc. *See* Interior Department.

Information:

AVAILABILITY, etc. *See* Organization and information.

Information Agency:

See United States Information Agency.

Inquiry, Boards of:

INVESTIGATION OF LABOR DISPUTES:
- Military aircraft and military aircraft engine industries (Executive Order 11344) — 6173
- Shipbuilding and repair industries (Executive Order 11329) — 3811

Insecticides, Pesticides, etc.:

ENFORCEMENT of Federal Insecticide, Fungicide, and Rodenticide Act. *See* Agriculture Department.

TOLERANCES for residues on various agricultural commodities. *See* Food and Drug Administration.

Insurance:

AGED, health insurance for. *See* Health, Education, and Welfare Department; Social Security Administration.

AIR TAXI OPERATORS, liability insurance requirements; proposed rule — 17598

BANK DEPOSITS. *See* Federal Deposit Insurance Corporation.

CROP INSURANCE. *See* Federal Crop Insurance Corporation.

FEDERAL OLD-AGE, survivors, and disability insurance. *See* Social Security Administration.

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION, etc. *See* Federal Home Loan Bank Board.

FOREIGN SOCIAL INSURANCE. *See* Social Security Administration.

HEALTH INSURANCE PROGRAMS:
- Aged. *See* Health, Education, and Welfare Department; Social Security Administration.
- Government employees. *See* Civil Service Commission.

HOUSING mortgage insurance. *See* Federal Housing Administration.

INDUSTRY in Puerto Rico, minimum wages. *See* Wage and Hour Division.

LIFE INSURANCE:
- Credit life insurance. *See* Farm Credit Administration.
- Federal employees. *See* Civil Service Commission.
- Income tax regulations. *See* Internal Revenue Service.
- Veterans. *See* Veterans Administration.

MAIL ORDER INSURANCE INDUSTRY guides, trade practice rules — 15536

MARINE PROTECTION AND INDEMNITY INSURANCE. *See* National Shipping Authority.

PROCUREMENT REGULATIONS. *See specific agencies.*

RAILROAD UNEMPLOYMENT INSURANCE, regulations. *See* Railroad Retirement Board.

SERVICEMEN'S LIFE INSURANCE. *See* Veterans Administration.

VESSEL PASSENGERS, indemnification for nonperformance of water transportation. *See* Federal Maritime Commission.

VESSELS:
- Commercial fisheries, master hull policy mortgage insurance. *See* Fish and Wildlife Service.
- Fishing, Federal ship mortgage insurance. *See* Budget Bureau.
- Marine protection and indemnity insurance. *See* National Shipping Authority.
- War risk insurance. *See* Maritime Administration.

WAR RISK INSURANCE:
- Aircraft. *See* Federal Aviation Administration.
- Vessels. *See* Maritime Administration.

Interagency Civil Defense Committee:

ORGANIZATION AND FUNCTIONS — 10671

Interagency Textile Administrative Committee:

COTTON TEXTILES, import restrictions:
- Brazil, 474, 3639, 12458, 12700, 15408.
- China, Republic of, 164, 5967, 12501.
- Greece, 10996, 12458.
- Hong Kong, 7146, 12458.
- India, 474, 7145.
- Israel, 474, 7145, 12458.
- Italy, 474.
- Jamaica, 474.
- Japan, 34.
- Korea, Republic of, 164, 474, 18126.
- Malaysia, 474, 5968, 6651, 7145, 7146, 7727, 10125, 10996, 12458, 12700, 16453.
- Malta, 9257, 12458.
- Mexico, 474, 7146, 8779, 12458.
- Pakistan, 474, 5304, 8328, 10582, 12458.
- Philippines, Republic of, 22, 14077.
- Poland, 474, 7145, 7410.
- Portugal, 165, 474, 5529, 7145, 17584.
- Romania, Republic of, 14876.
- Tunisia, 12458.
- Turkey, 12458.
- United Arab Republic, 474.
- Yugoslavia, 23, 474, 14350, 14796.

Interest Equalization Tax: Page

COMMERCIAL BANK LOANS (Executive Order 11338) 3137
EXCISE TAXES, exclusion of original or new Japanese issues 17858
RECOMMENDED AMENDMENTS, Interest Equalization Tax Extension Act of 1967. *See* Treasury Department.
STOCKS AND DEBT OBLIGATIONS, modification of rates on acquisition (Executive Order 11368) 12549

Intergovernmental Relations, Advisory Committee on:

CONDUCT STANDARDS 203

Interior Department:

See Bonneville Power Administration.
Federal Water Pollution Control Administration.
Fish and Wildlife Service.
Geological Survey.
Indian Affairs Bureau.
Land Management Bureau.
Mines Bureau.
National Park Service.
Oil Import Administration.
Reclamation Bureau.
Southwest Power Administration.
ADMINISTRATIVE CLAIMS under Federal Tort Claims Act 6683
ALASKA POWER ADMINISTRATION, establishment 8773
ALASKA RAILROAD, administration; transfer of regulations to Transportation Department 17490
APPOINTMENTS WITHOUT COMPENSATION and statements of business interests under Defense Production Act of 1950 880, 881, 883, 1062, 3367, 3405, 3472, 3473, 3474, 4030, 4566, 5427, 6063, 6364, 6374, 6731, 6965, 7139, 7407, 7465, 8427, 9050, 11293, 11294, 12195, 12196, 12493, 12861, 13199, 13296, 13333, 13419, 13429, 13779, 13877, 13938, 14567, 15037, 15125, 15188, 15401, 15594, 15839, 15840, 15903, 17896, 20888, 20889.
ASPHALT IMPORTS, adjustment (Proclamation 3779) 5919
AUTHORITY DELEGATIONS:
By Director, Management Operations, to Administrator, Lower Colorado River Land Use Office; contracts 15769
By Secretary to various officials:
Bureau Heads, et al.; claims collection 8533
Defense Electric Power Administrator; functions in event of civil defense emergency or attack on United States 8385
Federal Water Pollution Control Administrator, general authority respecting water resources 469
Health, Education, and Welfare Department, Secretary; compliance responsibilities under Civil Rights Act 6304
High Commissioner of Trust Territory of Pacific Islands; contracts for aircraft and surface vessels, etc 16058
Indian Affairs Commissioner:
Agua Caliente Indian Reservation, streets, alleys, etc 17443
Distribution of funds under certain awards 10117
FEDERAL REGISTER documents 13938
Health and welfare matters, termination of certain provisions 11089
Mines Bureau, Director:
Coal mine safety 882
Research contracts and grants 5297, 13531
National Park Service, Director:
Advisory Council on Historic Preservation 336
Transportation programs and projects affecting historic sites 16959
Outdoor Recreation Bureau, Director:
Surplus real property conveyed for park, recreation, and historic monument purposes 11387
Transportation programs 4690, 16059, 16066
Southwestern Power Administrator; designation as marketing agency for surplus power at certain projects 5476

Interior Department—Continued Page

AUTHORITY DELEGATIONS—Continued
By Solicitor to certain officials:
Associate Solicitor, et al.:
Compromise of claims by United States 9572
Tort claims 1102
Regional Solicitor, et al.; tort claims 1102
From General Services Administrator; unclaimed property in Isle Royale National Park and in waters of Lake Superior, Mich 13343
From Secretary of Commerce; functions regarding certain mineral facilities and materials 2462
CONDUCT STANDARDS, list of employees required to file statements 3701
CONTINENTAL SHELF, outer; conservation jurisdiction in undisputed areas 95
FISH AND WILDLIFE, NATIVE; endangered species 4001
FISHERY FAILURE, oyster industry disaster; Texas 20740
INDIANS:
Liquor sales legalized:
Fort Belknap Reservation, Mont 11089
Fort Yuma Reservation, Ariz. and Calif 2982
Kalispel Reservation, Wash 16170
Rincon Indian Reservation, Calif 11895
Swinomish Reservation, Wash 17628
Redesignation of certain reserve lands at Fort Peck Indian Agency, Mont 17602
Termination of Federal supervision:
Auburn Rancheria, Calif 11964
Chico Rancheria, Calif 7981
Quartz Valley Rancheria, Calif 679
Smith River Rancheria, Calif 11088
Transfer of certain project works and cancellation of charges:
Blackfeet Indian Reservation, Mont 2455
Lummi Diking Project, Whatcom County, Wash 17629
LOWER COLORADO RIVER land use program, administration of functions and programs 15645
MICRONESIA, TRUST TERRITORY OF PACIFIC ISLANDS; legislative authority of Congress, budget, elections, reading of bills 11339
MINED LAND RECLAMATION, proposed rules 10656, 12050, 13972
NEWLANDS RECLAMATION PROJECT, Nevada; operating criteria and procedures, Truckee and Carson Rivers 13732
OIL IMPORTS:
Adjustment (Proclamation 3794, 3820) 10547, 15701
Districts I–IV, and District V; hearing 6457
Military supply contracts, priority 8772
Puerto Rico, maximum level of imports 152, 5644, 12493, 13147
Puerto Rico and Virgin Islands, imports and exports; hearing 4508
ORGANIZATION AND FUNCTIONS 16674, 13298
Alaska Power Administration, establishment 8773
Federal Water Pollution Control Administration:
Regional offices, change of address 21042
Transfer of legal services to Office of Solicitor 392
QUETICO-SUPERIOR COMMITTEE, functions (Executive Order 11342) 5827
RECORDS AND TESTIMONY, availability of 9974
RECREATION:
Areas, occupancy of cabin sites on 8361, 10299
Fees 207, 6494
TRUST TERRITORY OF PACIFIC ISLANDS:
Contracts for aircraft and surface vessels, authority reserved to Secretary and to High Commissioner 16058
Micronesia, legislative authority of Congress, budget, elections, etc 11339
VIRGIN ISLANDS:
See also Watches and movements.
Government obligation and expenditure of matching funds 18065
Oil imports, hearing 4508
WAKE ISLAND, civil administration; agreement with Federal Aviation Administration respecting 12924
WATCHES AND MOVEMENTS, producers located in Virgin Islands, Guam, and American Samoa:
Authority of Governors of Virgin Islands and Guam to issue shipment permits 393
Quotas 471, 4178, 8316, 11048, 11294, 12900, 16538

Internal Revenue Service: Page

AUTHORITY DELEGATIONS by Commissioner to certain officials:
Assistant Commissioner (Administration), et al.; tort claims and claims by employee for damage to or loss of personal property 6062
Assistant Commissioner (Compliance), et al.; closing agreements concerning tax liability 4141
Assistant Regional Commissioners (Appellate), et al.:
Agreements as to liability for personal holding company tax 11646
Agreements treated as determinations 11646
Redetermination of aggregations by taxpayer in case of invalid basic aggregations or additions 11646
Chief, Contract and Procurement Section, National Office Facilities Branch, et al.; procurement 11647
Chiefs, Appellate Branch Offices, et al.; statutory notices of deficiency 11646
EMPLOYMENT TAXES:
Filing returns, place for 2565, 5260
Government depositaries, use of 2566, 5261, 15880, 18041
Paying tax 2566, 5261
EXCESS PROFITS TAX, relief because of inadequate excess profits credit; no allowances during fiscal year ended June 30, 1967 11387
EXCISE TAXES:
Alcohol, denatured, and rum:
Distribution and use; marks and brands, packaging and labeling 11210
Formulas; proposed rules 16433
Beer, payment of tax, etc.; return periods 13865
Cigars, cigarettes, etc., tax payment; return periods 13865
Facilities and services taxes:
Exemption for Interior Department for travel on nonscheduled airlines 5457
Filing returns, etc., time and place for 2570, 5266
Government depositaries, use of 1037, 2571, 5266, 15883, 18043
Fruit-flavor concentrates, volatile, production of; removal of concentrate 9314
Interest Equalization Tax Act, exclusion of original or new Japanese issues 17858
Manufacturers and retailers taxes:
Filing returns, time and place for, etc 2568, 5263
Government depositaries, use of 1037, 2570, 5263, 15882, 18043
Oil for nonlubricating use, sales of 9540
Taxes payable by return:
Government depositaries, use of 1037, 2568, 5263, 15881, 18042
Time and place for filing, etc 2566, 5262
Wine:
Payment of tax, etc.; return periods 13864
Unfit for beverage use 13416, 16260
FAIR PACKAGING AND LABELING ACT, labeling of denatured alcohol and rum 11210
FEDERAL FIREARMS ACT, relief pursuant to:
Bill's Hobby Shop, 14337.
Bromley, Robert D., 14337.
Jacox, Robert John, 7639.
Jorn, Floyd W., 7346.
INCOME TAXES:
Settlements, credits, refunds; income tax withheld 7083, 8093, 8714
Accounting methods:
Obligations issued at discount, United States savings bonds 12182, 15820
Prepaid dues income of certain membership organizations 10261, 16393, 17479
Sale of real property treated on installment method 5923
Taxable year of deduction, treatment of interest or dividends paid by certain savings institutions 6682
Aliens, nonresident, and foreign corporations:
Trade or business within United States, proposed rules 14848
Withholding tax 412, 7080, 8093, 8713
Payment, proposed rule 15879
Capital gains and losses:
Sale or exchange of United States obligations issued at discount 12188, 15827
Short sales, determination of date of sale 6691, 11468, 15421

International Commerce Bureau—Continued Page

INCOME TAXES—Continued
Collection of tax:
Government depositaries, use for tax withheld on nonresident aliens and foreign corporations 7082, 8093, 8713
Tax lien, refiling of notice of 14385
Consolidated returns, disallowance of surtax exemption and accumulated earnings credit 3214
Corporations:
See also Foreign corporations.
Distributions and adjustments, proposed rules:
Carryovers, constructive ownership of stock 15760
Constructive ownership of stock 15759
Stock redemption, dispositions of certain stock, etc 15758
Returns, information; foreign corporations, proposed rules 15761
Special deductions, dividends received; proposed rules 15167
Transfer of property to investment companies 13288, 20976
Used to avoid income tax on shareholders; accumulated taxable income, earnings credit, proposed rules 15175
Credits against tax, investment in certain depreciable property 14025
Deductions:
Education expenses, certain 6679
Not permitted:
Interest relating to tax-exempt income 13221
Personal, living, and family expenses; education expenses 6681
Sale of mortgaged or pledged property; certain reacquisitions of real property 5923
Election as to taxable status, unincorporated business enterprises electing to be taxed as domestic corporations; proposed rules 20727
Exempt organizations:
Denial of exemption, prohibited transactions, etc., proposed rules 11220
Scientific defined 17661
Supplemental unemployment benefit trusts, proposed rules 11217, 11533
Taxation of income from unrelated trade or business 5993, 7337, 11223, 17657, 17890, 17938
Foreign corporations:
Controlled; foreign base company services income, proposed rule and hearing 3155, 5278
Information returns, proposed rules 15761
Gross income:
Exclusions:
Indebtedness, discharge of; income from 13221
Real property, certain reacquisitions 5923
Group-term life insurance:
Definition of retirement age 7390
Purchased for employees, proposed rule 15029
Investment companies, regulated:
Dividends received from and paid by 8756
Foreign tax credit 8756
Taxation of companies and shareholders 8754
Life insurance companies:
Domestic, proposed rules:
Deductions 15176
Investment income 15176
Foreign; percentage to be used in computing income tax for 1966 and estimated tax for 1967 3446
Natural resources, mines, oil and gas wells, etc.:
Deduction for depletion 3886, 13773, 15393, 17518
Exploration expenditures, proposed rule 15176
Property disposition, gain or loss on:
Basis of property, identification of book-entry treasury securities 15671, 15876
Common nontaxable exchanges of certain United States obligations 12183, 15822
Losses from wash sales of stock 6691, 11468, 15421
Real property, certain reacquisitions of 5924, 6971
Residence, sale or exchange of 5924, 6971
Real estate investment trusts, definition:
Rents, proposed rules 15761
Trustee 13221

Internal Revenue Service—Continued

INCOME TAXES—Continued
Returns:
Information returns, proposed rules:
Exempt organizations, unrelated business tax returns ... 11224
Foreign corporations ... 15761
Forms W–3 and W–2 ... 1091
Interest on deposits evidenced by negotiable time certificates of deposit ... 11533
Time for filing ... 1092
Wages in form of group-term life insurance ... 1092
Place for filing returns ... 1082, 7082, 8093, 8713
Tax returns:
Corporation income tax returns, extension of time ... 278, 3819
Fiduciaries for trusts with unrelated business income, proposed rules ... 11224
Nonresident aliens and foreign corporations, tax withheld on ... 7082, 8093, 8713
Small business corporations, elections:
Passive investment income ... 3343
Tax payment:
Government depositaries, use of ... 15879, 18040
Time and place for ... 278, 3819, 7082, 8093, 8713
Taxable status, treatment of depreciable property of corporation ... 14040
Withholding tax:
Application of withholding provisions ... 812, 7080, 8093, 8711
Nonresident aliens, exemption, Virgin Islands inhabitants ... 7080, 8093, 8711
Quarterly payments ... 15879, 18039
INFORMATION, availability of ... 8240, 9541
INTOXICATING LIQUORS:
Distilled spirits:
Labeling and advertising; proposed rules, hearing ... 10208
Procedural rules, claims ... 8142
Imposition of taxes, etc., procedural rules ... 20648
LABELING:
Denatured alcohol and rum ... 11210
Intoxicating liquors; proposed rules, hearing ... 10208
NARCOTIC DRUGS, regulatory taxes; inventory and recordkeeping requirements, proposed rules ... 17861
ORGANIZATION AND FUNCTIONS ... 727
PROCEDURAL RULES ... 15990
Cigars, cigarettes, etc., claims ... 8142
Collection functions, appellate functions, bankruptcy, etc ... 8135, 20645
Conference and practice requirements ... 5276, 5836, 13059
Distilled spirits, etc., claims ... 8142
Employment and sales taxes ... 8142
Information, availability of ... 8240, 9541
Liquors, imposition of taxes, etc ... 20648
Rulings, closing agreements, compromise offers ... 8137, 13058
Tobacco taxes, forms ... 20648
PROCEDURE AND ADMINISTRATION ... 15241
Abatements, credits, and refunds, income tax withheld ... 7084, 8715
Additions to tax, failure to make deposit of taxes ... 7085, 8716
Collection, mode or time of ... 7084, 8715
Limitations on assessment and collection, credit or refund, etc ... 7084, 8715
Payments required to be deposited with Government depositaries ... 3820
Records or information, disclosure of ... 8240
SEALS, establishment; Directors of Internal Revenue Service Centers, office changes ... 15483

International Commerce Bureau:

EXPORT CONTROL:
Amendments or alterations of licenses ... 4349
Boycotts or foreign restrictive trade practices, reporting requirements ... 10079
Commodity control list:
Changes ... 978, 4161, 4349, 6348, 8130, 8562, 10082, 11767, 13449, 14214, 16147.
Commodity interpretations:
Steel, alloy ... 4349
Vehicles, military automotive ... 8584
Control by Commerce Department, scope:
Components, and materials in foreign-made end-products ... 10079

International Commerce Bureau—Continued

EXPORT CONTROL—Continued
Controls by Commerce Department, scope—Continued
Definitions ... 4344, 8581
Prohibited exports ... 11706
Copper ... 6130, 10077, 12114, 12942, 13446, 14213, 17472
Denial and probation orders:
See also Suspension of export privileges, *below*.
Suspension or denials, table of orders in effect, changes, etc ... 4150, 6347, 8133, 8581, 10083, 13449, 16146
Export clearance and destination control ... 976, 4150, 6130, 10079, 11767, 13448, 13449, 15988
General orders; license issuance, disclosure ... 8130
Licenses:
General:
GATS; aircraft on temporary sojourn ... 4344
GIT; intransit shipments ... 8129
GLV; shipments of limited value ... 4344, 10080
Individual:
Reexportation ... 4345, 10079, 11766
Validated license, how to file application ... 4345
Periodic requirements license; application requirements ... 4349
Project:
Applications, basis for consideration; volume of validated license shipments ... 4348
Commodities and technical data ... 4348
Time limits, commodities subject to ... 4349
Licensing policies:
Copper, copper-based alloy ingots, master alloys, and semifabricated copper products ... 6130
Destination provisions, Southern Rhodesia ... 13447
Electronic computers ... 6130
Individual commodity section provisions:
Aircraft and equipment, parts, accessories, and components ... 4348
Copper ... 10077, 12114, 12942, 13446, 14213, 17472
Electronic computers ... 982
Iron and steel ... 4348, 6130
Machinery equipment and parts ... 4348
Molybdenum commodities ... 14213
National stockpile; commodities supplied from ... 14214
Nickel, alloys, oxide, etc ... 10077, 13447, 14213
Nickel bearing scrap ... 11766, 13446
Nickel oxide and nickel sulfate ... 14214
Video tape, temporary exports ... 10081
Multiple commodity section provisions:
Agricultural commodities and manufactures ... 13446
Foreign-based subsidiary, affiliate, or branch; distribution of commodities ... 4346
Quota participation, restriction ... 981
Repair parts, aircraft or vessel; statement by foreign importer ... 4345
Nuclear test ban treaty, limited; adherence of countries ... 10079, 13448
Time schedules, submission of applications; certain commodities ... 978, 10079, 13448
Nickel and nickel alloys; etc ... 10077, 10297, 11766, 13446, 13447, 14213, 14214
Technical data:
General licenses ... 6130, 10081, 11767, 13449
Reexports and exports ... 10081
Validated license, export under ... 4160
INFORMATION, availability of ... 12126, 12128
INTERNATIONAL EXPOSITIONS held in United States, assistance to sponsors; screening of applications ... 8853
ORGANIZATION AND FUNCTIONS:
Export Control Office ... 12128
Field activities ... 12728
TRADE FAIRS in United States:
Application for designation, etc ... 8853
Assistance, requests by mobile trade fair operators ... 9809
SUSPENSION OF EXPORT PRIVILEGES:
Aebersold, Paul, temporary denial, 6736, 8927.
Ahmad, Mahmud, 13826.
Amacker, Robert W., conditionally restored, 393.
Amos, Lionel, termination, 18117.
Amos (Machinery) Ltd., termination, 18117.
Anstalt, Mamisco, 7228.
Atcroft Engineering Co., Ltd., 11807, 11808.
Bone, A. S. (Merchandising), Ltd., conditionally terminated, 14789.
Bone, Albert Sydney, conditionally terminated, 14789.

International Commerce Bureau—Continued

SUSPENSION OF EXPORT PRIVILEGES—Continued
Botes, Alexander, 15646.
Courtenay, Peter J., 15126.
Cressaty, Maurice, 12955.
Dukerswell Engineers, Ltd., 15646.
ERES, Etablissement De Recherches Scientifiques et Expertises, 15646.
Eggeling, Franz, 7228.
Expert Electronic Products, Ltd., 15646.
Farr, S. H., 11807.
Gordon, Erich, 6222.
Grace Enterprises, 1140.
Gunter, Kathleen P., 15646.
Haeusler, R., & Co., K. G., termination, 11807.
Haeusler, Richard, termination, 11807.
Hardt, Manfred, 11895.
Helm, Alice, 762.
Hughes, Patrick, 15646.
Huth, Claus, 6735.
Terminated 11048.
Instrument Maintenance Services, 15646.
Kady Trading & Engineering, 12955.
Kanematsu New York, Inc., 2459.
Kanner, L., conditionally terminated, 2388.
Kanner, L., & Sons Ltd., conditionally terminated, 2388.
Leung, Jimmy S. K. and Robert K., 1140.
Leung Brothers Impex Agencies, 1140.
Leung Shing Kit, 1140.
Marcuson, A. H., and Co. (Pty.) Ltd., 13675.
National Enterprises Ltd., 13826.
New World Ltd., 9246.
Oesterreichische Premaberg G.m.b.H., 6222.
Peak Products Co., conditionally terminated, 2388.
Petroservice International G.m.b.H., 11808.
Ring, Chris, Chris F., Christian, or Christopher, 12408, 15646, 16118.
Rockelmann, Johann M., (JOMRO), 19195.
Rombouts, Petrus J., 13827.
Rombouts Electrics, 13827.
Rombouts Electrics N.V., 13827.
Samprod G.m.b.H.; termination, 11807.
Sas, T. J. and T. R., 13763.
Sas, T. J., & Son, Ltd., 13763.
Savoy International, Ltd., 15646, 16118.
Schifter, Herbert E., 762.
Schifter & Co., 762.
Schweisstechnik G.m.b.H., 8811, 9035.
Shepherd, D. H., 11808.
Shepherd, Denis H., 11807, 11808.
Shepherd Export & Trading Co., Ltd., 11807, 11808.
Sinclair Industrial Agencies, Ltd., 11808.
South Shropshire Haulage Co., Ltd., termination, 16117.
Tansley, W. L., & Co. (PTY.), Ltd., 15126.
Vandervekens, Louis, 15717.
Voght, Alois, 15646.
Wolf Oil Corp., conditionally terminated, 2461.
Wolfs, Paul A. H., conditionally terminated, 2461.
Yasui, Ikuro, 2459.

International Development Agency:

See Agency for International Development.

International Expositions:

See International Commerce Bureau.

International Joint Commission—United States and Canada:

AIR POLLUTION in vicinity of Port Huron–Sarnia and Detroit–Windsor, hearings ... 6995
AMERICAN FALLS at Niagara, preservation of; hearing ... 13032, 13348
WATER POLLUTION; hearings:
Niagara River ... 15940
Red River ... 15561

International Organizations:

ASIAN DEVELOPMENT BANK:
Customs Bureau regulation ... 6391
Executive Order 11334 ... 3933
EUROPEAN SPACE RESEARCH ORGANIZATION:
Customs Bureau regulation ... 409
Executive Order 11351 ... 7561

International Organizations—Continued

INTERNATIONAL SECRETARIAT FOR VOLUNTEER SERVICE:
Customs Bureau regulation ... 11733
Executive Order 11363 ... 10779
Immigration and Naturalization Service regulation ... 11628
LAKE ONTARIO CLAIMS TRIBUNAL:
Customs Bureau regulation ... 15424
Executive Order 11372 ... 13251
Immigration and Naturalization Service regulation ... 13756

International Secretariat for Volunteer Service:

PRIVILEGED ORGANIZATION:
Customs Bureau regulation ... 11733
Designation (Executive Order 11363) ... 10779
Immigration and Naturalization Service regulation ... 11628

Interstate Commerce Commission:

ACCOUNTS, uniform system; republication ... 20123
AGREEMENT between ICC and Transportation Department; continuity, liaison, coordination, etc., of personnel and functions ... 5744
APPOINTMENTS without compensation and statements of financial interests under Defense Production Act, 1950 ... 245, 769, 2404, 4295, 10277, 10706, 11190, 13361, 13432
AUTHORITY DELEGATION from Secretary of Transportation; allocations and priorities for transportation during rail strike ... 10521
Revoked ... 10938
CLAIMS, enforcement, administrative collection ... 10794
CREDENTIALS required by special agents, accountants, and examiners ... 11214
DISASTER AREAS. *See under* Railroads, *below*.
EXPLOSIVES and other dangerous articles, packing and transportation:
See also main heading Transportation Department.
Commodity list ... 10, 675, 5274
Definition, shipping paper ... 5294, 13324
Motor carriers ... 10, 675, 2818, 3458, 3467, 4360, 5276, 5294, 13326
Nitromethane; proposed rule ... 14
Pipeline carriers; proposed rule ... 1098
Radioactive materials ... 10, 675, 5273
Rail carriers in baggage service, shipping papers, etc ... 5294, 13325
Rail express carriers ... 10, 675, 5276, 5294, 13325
Rail freight carriers ... 10, 675, 5275, 5294, 13325
Recodification ... 5606
Shippers ... 6, 10, 413, 675, 1180, 3453, 5274, 5294, 5624, 13324
Shipping container specifications ... 10, 675, 3459, 5277
FEES, licensing, etc ... 13414
FREIGHT FORWARDERS:
Accounts, uniform system ... 20395
Prior amendments ... 13233, 16428
Applications for certificates, permits, and licenses ... 1195, 3491, 3924, 4451, 5663, 6867, 7663, 10037, 11013, 11304, 13622.
General rules and regulations, republication ... 20161
Insurance and surety companies, financial resources ... 12853, 14557
Practice, special rules governing notice of filing of applications; drafting of recommended order and report by prevailing party ... 4070
Preference and priority for transportation of freight necessary to national defense, health, and safety ... 10538
Vacated ... 10896
Preparations paid to shippers in uncontested cases, informal procedure for determining; proposed rules ... 10517, 12853
Rates and charges:
Carrier agreements relating to rates, fares, etc.; contents of agreement, proposed rule ... 6452, 7128, 7134, 7185, 7600
Household goods, United States, Canada, and Mexico; shipment charges ... 3756
Transcontinental territory, general increase ... 641
Recodification ... 5606
Substituted service, trailer-on-flatcar, charges and practices:
Effective date ... 12689
Hearing ... 11508
GENERAL RULES AND REGULATIONS, republication ... 20004

Interstate Commerce Commission—Con. Page

HEARING ROOM scheduling policy, use of Federal buildings 1195
INFORMATION AND RECORDS:
Availability of information 8690, 10955
Policy statements 9020
Records:
Destruction 20409
Inspection of 9020, 9816, 20008
INTERMODAL transportation, general rules and regulations; republication 20064
LONG-AND-SHORT-HAUL CHARGES. *See under* Tariffs and schedules, *below*.
MOTOR CARRIERS:
See also main heading Federal Highway Administration.
Accounts, uniform system 20280
Class I passenger carriers, prior amendments 10603, 14601
Class I and II property carriers, prior amendments 8725, 13326
Classification, prior amendments; proposed rule 13823
Agreements under section 5a:
Contents of 6452, 7128, 7134, 7185, 7600, 15484
List of applications for approval:
Middle Atlantic Conference, 21047.
National Motor Equipment Interchange Agreement, 8784.
Niagara Frontier Tariff Bureau, Inc., 16517.
Rocky Mountain Motor Tariff Bureau, Inc., 13470.
San Francisco Movers Tariff Bureau, 5590, 20912.
Steel Carriers Tariff Association, Inc., 10899.
United Tariff Bureau, Inc., 2594.
Applications for certificates, permits, and licenses:
Brokers, lists of applicants:
Passenger carriers 641, 953, 1195, 2737, 3924, 4137, 4450, 5399, 5663, 5954, 6246, 6867, 7663, 7998, 9274, 10624, 10706, 10963, 11917, 12427, 12896, 14184, 14581, 15614, 16137, 16463, 17564.
Property carriers 641, 5399, 17914
Form OP-OR-9, supplemental instructions 19209
Operating authority; lists of applicants:
Intrastate carriers 63, 167, 299, 599, 901, 1157, 2916, 3202, 3862, 4097, 4389, 5602, 5861, 6163, 6475, 6820, 7114, 7365, 7606, 8216, 8566, 9275, 9362, 10281, 11251, 11507, 11837, 12137, 12576, 12823, 13039, 13307, 13553, 13843, 14803, 15569, 16077, 16302, 19201, 20899
Passenger carriers 110, 111, 298, 349, 638, 899, 950, 1157, 1194, 2736, 2923, 2960, 3262, 3264, 3429, 3490, 3923, 4137, 4449, 5398, 5663, 5954, 6245, 6247, 6524, 6867, 7111, 7156, 7157, 7663, 7997, 8276, 8647, 8943, 9273, 10037, 10333, 10706, 11013, 11304, 11599, 11917, 12147, 12427, 12651, 12894, 13104, 13360, 13622, 13623, 13899, 14184, 14580, 14875, 14876, 15216, 15614, 15785, 16137, 16464, 17914, 20690, 20911
Property carriers 66, 69, 103, 111, 294, 297, 299, 345, 350, 477, 594, 597, 598, 628, 641, 835, 889, 893, 901, 940, 1151, 1155, 1157, 1186, 1195, 2682, 2683, 2728, 2737, 2917, 2919, 2920, 2956, 3197, 3199, 3201, 3251, 3425, 3429, 3430, 3484, 3857, 3860, 3912, 3924, 4098, 4101, 4126, 4137, 4360, 4385, 4386, 4388, 4434, 4451, 5309, 5311, 5389, 5399, 5597, 5598, 5600, 5601, 5653, 5663, 5863, 5869, 5871, 5945, 5955, 6158, 6161, 6162, 6234, 6246, 6469, 6472, 6473, 6474, 6515, 6524, 6815, 6816, 6817, 6859, 7107, 7110, 7111, 7148, 7157, 7359, 7365, 7414, 7606, 7609, 7611, 7653, 7663, 7931, 7933, 7992, 7998, 8212, 8213, 8216, 8261, 8270, 8273, 8561, 8563, 8564, 8640, 8648, 8837, 8841, 8934, 9053, 9185, 9188, 9258, 9274, 9865, 9868, 10029, 10037, 10278, 10279, 10323, 10333, 10403, 10621, 10624, 10625, 10698, 10959, 10963, 11001, 11013, 11247, 11249, 11299, 11304, 11502, 11504, 11590, 11600, 11832, 11835, 11907, 11917, 12139, 12142, 12416, 12427, 12573, 12574, 12575, 12644, 12652, 12817, 12818, 12821, 12876, 12894, 13035, 13038, 13095, 13104, 13304, 13305, 13352, 13361, 13549, 13551, 13552, 13612, 13623, 13684, 13842, 13848, 13889, 13954, 14134, 14136, 14176, 14184, 14420, 14424, 14574, 14581, 14807, 14808, 14868, 14876, 15138, 15140,

Interstate Commerce Commission—Con. Page

MOTOR CARRIERS—Continued
Applications for certificates, permits, and licenses—Continued
Operating authority; lists of applicants—Continued
Property carriers—Continued
15204, 15216, 15564, 15606, 15614, 15732, 15735, 15777, 15785, 15861, 16071, 16074, 16124, 16138, 16298, 16300, 16455, 16464, 17502, 17505, 17557, 17565, 17873, 17876, 17905, 19205, 19207, 20680, 20691, 20895, 20898, 20904.
Temporary authority under section 210a(a) of Act; lists of applicants:
Passenger carriers 66, 644, 1012, 3123, 3492, 4297, 4334, 5486, 5533, 5753, 6165, 6478, 6525, 6597, 6823, 7002, 7040, 7159, 7235, 7429, 7666, 7793, 7891, 8836, 8995, 9052, 10707, 11190, 11365, 12075, 13308, 13311, 13393, 13845, 14139, 15691, 16177, 16178, 16239, 17696, 18131, 20693, 20903, 21048.
Property carriers 25, 64, 111, 166, 300, 350, 399, 430, 590, 642, 691, 769, 833, 902, 953, 1011, 1066, 1108, 1196, 2485, 2594, 2680, 2737, 2797, 2834, 2962, 3035, 3122, 3203, 3265, 3322, 3375, 3422, 3492, 3721, 3800, 3955, 4041, 4138, 4197, 4296, 4332, 4517, 4556, 5312, 5400, 5444, 5485, 5531, 5596, 5719, 5752, 5955, 6075, 6115, 6164, 6247, 6378, 6419, 6476, 6524, 6596, 6662, 6751, 6820, 6953, 7000, 7039, 7112, 7158, 7194, 7234, 7306, 7366, 7429, 7482, 7509, 7551, 7605, 7665, 7730, 7790, 7889, 7936, 7998, 8111, 8216, 8270, 8328, 8397, 8565, 8648, 8741, 8832, 8992, 9051, 9133, 9194, 9276, 9344, 9597, 9780, 9863, 10039, 10240, 10282, 10399, 10401, 10537, 10626, 10707, 10819, 10965, 11013, 11100, 11188, 11363, 11457, 11505, 11661, 11721, 11838, 11918, 12073, 12203, 12429, 12460, 12509, 12575, 12652, 12703, 12732, 12774, 12824, 12897, 12929, 12980, 13106, 13156, 13158, 13308, 13309, 13310, 13361, 13391, 13433, 13471, 13553, 13623, 13742, 13791, 13845, 13900, 13954, 14007, 14081, 14138, 14185, 14258, 14294, 14364, 14426, 14581, 14626, 14678, 14708, 14806, 14876, 14912, 14991, 15048, 15141, 15217, 15409, 15459, 15515, 15570, 15615, 15659, 15690, 15737, 15786, 15903, 15942, 16176, 16177, 16238, 15302, 16517, 16549, 17449, 17501, 17640, 17641, 17642, 17695, 17877, 18005, 18128, 19201, 19202, 20691, 20757, 20789, 20828, 20900, 21048.
Transfer proceedings 26, 63, 167, 302, 399, 430, 432, 599, 600, 692, 769, 835, 903, 1012, 1067, 1109, 1159, 1198, 2485, 2596, 2796, 2916, 3070, 3204, 3264, 3323, 3430, 3492, 3722, 3756, 3801, 3802, 3924, 4007, 4043, 4102, 4139, 4297, 4390, 4451, 4520, 4557, 5402, 5445, 5533, 5864, 5721, 5753, 5754, 5819, 6012, 6074, 6165, 6248, 6313, 6421, 6525, 6662, 6752, 6867, 6954, 7002, 7040, 7159, 7160, 7235, 7367, 7483, 7511, 7552, 7666, 7731, 7732, 7891, 8055, 8056, 8112, 8218, 8329, 8397, 8438, 8567, 8650, 8696, 8842, 8944, 8995, 9135, 9277, 9598, 9782, 9864, 10040, 10284, 10285, 10334, 10401, 10486, 10769, 10770, 10896, 10965, 11015, 11063, 11101, 11190, 11252, 11305, 11365, 11366, 11404, 11459, 11600, 11722, 11839, 11918, 11972, 12027, 12075, 12461, 12703, 12930, 12931, 13105, 13158, 13243, 13244, 13363, 13393, 13553, 13684, 13792, 13845, 13901, 14139, 14295, 14355, 14627, 14710, 15049, 15143, 15516, 15616, 15617, 15787, 15788, 15861, 16078, 16303, 16518, 17450, 17451, 17565, 17606, 17878, 17915, 18072, 19208, 20792, 20903, 21049.
Commercial zones:
Cincinnati, Ohio; redefintion of limits, proposed rule, 13628.
Kansas City, Mo.-Kansas City, Kans., redefinition of limits, 6182, 13930.
St. Louis, Mo.-East St. Louis, Ill.; redefinition of limits, 9231. Proposed rule, 20883.
Washington, D.C., 76, 3884.
Cooperative agreements with States 385, 13282, 13512
Acceptance of terms by various State authorities; list 6377, 13157
Explosives. *See* Explosives, *above*.
General rules and regulations, republication 20025

Interstate Commerce Commission—Con. Page

MOTOR CARRIERS—Continued
Household goods:
See also under Tariffs and schedules, *below*.
Transportation in interstate or foreign commerce; proposed rules:
Accessorial or terminal services, tariffs providing therefor, etc 11170, 12854, 13197, 20659
Pooling by carriers; withdrawn 390
Insurance and surety companies, authorized; financial resources 12853, 14557
Operating rights, property carriers; guide to restrictions and descriptions 16084
Petitions:
Arrow Carrier Corp.; declaratory order, 3855.
Carolina Meat Processors, Inc., 8632.
Great Coastal Express, Inc., 7366.
Henningsen Foods, Inc., 9864.
National Plant Food Institute; denied, 5665.
Railway Express Agency, Inc.; joint rates, declaratory order, 1159, 4103, 5443.
Rapid Transit Company, Cleveland-Hopkins Airport; exempt zone, investigation, 1158.
Wilkins-Rogers Milling Co., 6813.
Piggyback service, transportation of motor vehicles. *See* Substituted service, *below*.
Practice, special rules governing notice of filing of applications by passenger and property carriers and brokers; drafting of recommended order and report by prevailing party 4070
Rail strike:
Preference and priority for transportation of passengers and property necessary to national defense, health, and safety during 10538
Vacated 10896
Temporary passenger and property services 10538
Vacated 11099
Rates and charges, etc.:
Carrier agreements relating to rates, fares, etc.; contents of agreement 6452, 7128, 7134, 7185, 7600, 15484
Freight rates, increased, 1967, Atlantic-Gulf Coastwise Steamship Freight Bureau 8559
General rate increase proceedings, policy statement 7002
Household goods. *See* Tariffs and schedules.
Minimum charges, increased:
Central States, points in 7002, 11719
New England territory 11720
Trailer-on-flatcar, charges. *See* Substituted service.
Recodification 5606
Reparations paid to shippers in uncontested cases, informal procedure for determining; proposed rules 10517, 12853
Reports, proposed rules:
Class II property carriers, annual and quarterly reports 13823
Class III property carriers, annual reports 13823
Routes, alternate; deviation notices 293, 592, 899, 1150, 2681, 2960, 3195, 3424, 3856, 4096, 4379, 5307, 5595, 5861, 6156, 6467, 6814, 7105, 7358, 7605, 7929, 8211, 8566, 8836, 9192, 9859, 10277, 10619, 10957, 11246, 11500, 11830, 12137, 12571, 12816, 13034, 13303, 13547, 13841, 14133, 14418, 14804, 15136, 15562, 15731, 16070, 16297, 17580, 17871, 19202, 20912.
Safety regulations:
See also main heading Federal Highway Administration.
Applicability, postponement of effective date 3467
Driveaway-towaway operations 5625
Emergency equipment on all power units; warning devices, etc 3775, 5424
Qualifications of drivers, physical examinations and doctor's certificates 719
Signal systems, discontinuance or material modification; vacation 5624
States, cooperative agreements with 385, 13282, 13512
Acceptance of terms by various State authorities; list 6377, 13157
Substituted service, trailer-on-flatcar, charges and practices:
Effective date 12689
Hearing 11508

Interstate Commerce Commission—Con. Page

MOTOR CARRIERS—Continued
Tariffs and schedules:
See also Tariffs and schedules, *below*.
Emergency transportation of property:
Schedules 8894
Tariffs 8893
Household goods:
Credit to shippers, extension of; payment of rates and charges:
Penalty charges for violation by shippers, proposed rule 12407, 15589, 21039
Period of credit following delivery of freight 12403
Investigation of regulations 12428, 13684
Released rates 6843, 20654
Temporary authority:
See also under Applications, *above*.
Grant of temporary authority, transportation of property 5956
Terminated 8945
ORGANIZATION AND FUNCTIONS:
Central and field organization 8690, 10955
Chairman 14627
Divisions and boards and assignment of work 431, 7105, 8060, 8784, 10127
Transportation Department, certain functions transferred to 5744
PIPELINE COMPANIES:
Accounts, uniform system of 20241
Prior amendments 9028, 13927
Explosives. *See* Explosives, *above*.
Recodification 5606
POLICY STATEMENTS, availability of 9020
PRACTICE AND PROCEDURE 20066
Briefs, content and arrangement; prior amendment 5273
Definition, transcript; prior amendment 5273
Hearing, notice of, etc.; prior amendments 20778
Practitioners
Prehearing conferences and authority of officers, prior amendments 14696
Rehearings, reargruments, or reconsiderations; prior amendments 12753
Special rules of practice:
Applications, notice of filing by certain carriers, etc.; drafting of recommended order and report by prevailing party, prior amendment 4070
Procedure of Temporary Authorities, Transfer, Finance, Operations, Special Permission, Released Rates, and Operating Rights Boards 20654
RAILROAD STRIKE:
Authority delegation from Secretary of Transportation; allocations and priorities for transportation during strike 10521
Revoked 10938
Preference and priority for transportation of passengers and freight necessary to national defense, health, and safety 10538
Vacated 10896
Temporary authority to transport passengers and property by motor vehicle 10538
Vacated 11099
RAILROADS:
See also main heading Federal Railroad Administration.
Accounts, uniform system 20123
Prior amendments:
Electric railways 12008, 15484
Railroad companies 8381, 8725, 13136
Refrigerator car lines 11644, 14392
Car service:
Appointment of embargo agents 5931, 11948, 20817
Authorization to use certain trackage:
Atchison, Topeka and Sante Fe Railway Co., 9230, 11277.
Bessemer and Lake Erie Railroad Co., 6847.
Chicago, Burlington & Quincy Railroad Co., 9231, 20862.
Chicago, Rock Island, and Pacific Railroad Co., 9230, 20861.
Louisville and Nashville Railroad Co., 8038, 14953.
Northern Pacific Railway Co., 8678, 14601.
Southern Pacific Co., 14156, 14755.
Union Pacific Railroad Co., 793, 4499, 6780, 8037, 10515, 20862.
Boxcars, distribution directions; appointment of agents 8033
Boxcars and covered hopper cars, unloading at ports 8718, 8969

Interstate Commerce Commission—Con. Page

RAILROADS—Continued
Car service—Continued
Freight cars:
Demurrage and detention 8718
Movement, railroad operating regulations 8678, 9689
Incentive per diem charges, 1968; proposed rule 20987
Consolidation procedure, special rules governing prepared statements and exhibits; proposed rule withdrawn 14697
Disaster areas, transportation of hay at reduced rates to certain areas in listed States:
North Carolina, 768.
Texas, 15862.
Explosives. *See* Explosives, *above*.
General rules and regulations, republication 20023
Inspection, locomotives other than steam 4360, 8092
Rates and charges, etc.:
Car cleaning penalty charges, at destinations in U.S 1033
Carrier agreements relating to rates, fares, etc.; contents of agreement, proposed rule 6452, 7128, 7134, 7185, 7600
Hay, transportation at reduced rates to certain drouth areas:
North Carolina 768
Texas 15862
Incentive per diem charges, 1968; proposed rules 20987
Increased freight rates, 1967 7664, 8397, 8559, 8784, 10038
Trailer-on-flatcar, charges. *See* Substituted service.
Recodification 5606
Reports, class I line-haul companies; forms 20693
Routing of traffic:
Appointment of agents 5931, 11949, 20817
Authority to divert or reroute certain traffic:
Ann Arbor Railroad Co., 3305, 3492.
Baltimore and Ohio Railroad Co., 12900. Vacated, 13954.
Boston and Maine Corp., 3491, 3723.
Chicago, Burlington & Quincy Railroad Co., 9052, 9053, 9864, 11262, 12026, 15217, 20912.
Chicago, Rock Island and Pacific Railroad Co., 4451, 8945, 9136, 10536, 12025, 13685, 20629.
Frankfort & Cincinnati Railroad Co., 7233, 12026, 15217, 20792.
Lancaster and Chester Railway Co., 12815, 13393.
Lehigh Valley Railroad Co., 15048, 17879.
Missouri-Kansas-Texas Railroad Co., 4396, 9278, 10038.
Norfolk and Western Railway Co. et al., 8945, 9197, 10038.
Pennsylvania Railroad, et al., 12106, 13368.
St. Johnsbury & Lamoille County Railroad, 60, 6249.
St. Louis-San Francisco Railway Co., 13625, 14355.
Southern Industrial Railroad, Inc., 4396, 8944, 11366, 12026, 12733.
Southern Pacific Co., 14136.
Union Pacific Railroad Co., 9052.
Wisconsin, Illinois and Indiana, railroads operating in, 1196, 2797.
Incentive per diem charges, 1968; proposed rule 20987
Safety regulations.
See also main heading Federal Railroad Administration.
U.S. safety appliance standards; box and other house cars 2701, 3152
Sea-Land Service, Inc. et al.; transportation of canned or preserved foodstuffs from Florida to New York and New Jersey 13846
Signal systems, discontinuance or material modification 927, 3059
Substituted service, trailer-on-flatcar, charges and practices:
Effective date 12689
Hearing 11508
Tariffs and schedules. *See* Tariffs and schedules, *below*.
RECODIFICATION 5606
RECORDS. *See* Information and records.
REPUBLICATION 20003
SAFETY REGULATIONS. *See under* Motor carriers; Railroads.
STANDARD TIME ZONES. *See main heading* Transportation Department.

Interstate Commerce Commission—Con. Page

TARIFFS AND SCHEDULES, republication 20510
See also under Motor carriers, *above*.
Long-and-short haul charges; fourth section applications for relief 24, 111, 166, 245, 292, 399, 431, 477, 589, 833, 899, 953, 1107, 1150, 2404, 2594, 2680, 2798, 2833, 2922, 3035, 3071, 3322, 3375, 3421, 3491, 3720, 3754, 3799, 3855, 3955, 4007, 4040, 4137, 4196, 4197, 4295, 4331, 4379, 4451, 4516, 5307, 5443, 5484, 5595, 5664, 5719, 5819, 5872, 6012, 6156, 6247, 6313, 6377, 6467, 6526, 6661, 6662, 6750, 6955, 7038, 7104, 7157, 7234, 7357, 7482, 7509, 7551, 7665, 7729, 7888, 7929, 7998, 8111, 8211, 8327, 8397, 8438, 8559, 8648, 8696, 8740, 8832, 9050, 9133, 9197, 9275, 9343, 9597, 9859, 10126, 10241, 10277, 10398, 10706, 10769, 11063, 11187, 11248, 11363, 11456, 11600, 11661, 11917, 11972, 12025, 12137, 12428, 12571, 12652, 12702, 12732, 12816, 12928, 12980, 13034, 13105, 13302, 13361, 13391, 13432, 13546, 13547, 13623, 13741, 13900, 13954, 14133, 14185, 14427, 14581, 14626, 14708, 14876, 15217, 15408, 15514, 15615, 15785, 15786, 15861, 16138, 16464, 17449, 17565, 17808, 17839, 17914, 18004, 18127, 20757, 20783, 21096.

WATER CARRIERS:
Accounts, uniform system 20344
Prior amendments:
Inland and coastal waterway carriers 11959, 15025
Maritime carriers 10666, 14661
Agreement under section 5a, application for approval:
Northwest Towboat Tariff Bureau, Inc., 13471.
Applications for certificates, permits, and licenses:
Passenger carriers 4451, 5663, 12427
Property carriers 4451, 5399, 5663, 5954, 7997, 9274, 10037, 12427, 13622, 15216, 15614, 16137, 16463, 17564, 17914, 20691
General rules and regulations, republication 20060
Rail strike, preference and priority for transportation of property necessary to national defense, health, and safety during 10538
Vacated 10896
Rates, fares, etc.:
Carrier agreements relating to; contents of agreement, proposed rule 6452, 7128, 7134, 7185, 7600
Increased freight rates, 1967, Atlantic-Gulf Coastwise Steamship Freight Bureau 8559
Recodification 5606
Sea-Land Service, Inc. et al.; transportation of canned or preserved foodstuffs from Florida to New York and New Jersey 13846
Special rules of practice governing notice of filing of applications; drafting of recommended order and report by prevailing party 4070

J

Japan:
FRUITS AND VEGETABLES sent to Guam. *See* Agriculture Department.
ICE SKATE BLADES, importation. *See* Customs Bureau.
ORANGES from. *See* Agriculture Department.
STOCKS AND DEBT OBLIGATIONS, acquisition of original or new issues, tax exemption for U.S. citizens:
Executive Order 11368 12549
Internal Revenue regulation 17858
TRADE AGREEMENTS, termination of certain concessions (Proclamation 3818) 15467
VESSELS from; transportation of empty cargo vans and shipping tanks 3052

Jellies, etc.:
IDENTITY STANDARDS. *See* Food and Drug Administration.

Jellyfish:
AID TO FISHERIES 8419, 16493

Justice Department: Page

See Alien Property Office.
Immigration and Naturalization Service.
ARREST OF FOREIGN NATIONALS, notification of consular officers; policy statement 1040
AUTHORITY DELEGATIONS:
See also Organization.
By Assistant Attorney General to certain officials:
Chief of General Litigation Section, et al.; claims 11087
Second Assistant, et al.; criminal tax cases 11087
CLAIMS:
Civil claims, compromise and close:
Authority delegation to Tax Division 8144
By Assistant Attorneys General, increase in amount 6930
Tort claims, Federal 20772
CONDUCT STANDARDS 9066, 13217
FOREIGN AGENTS REGISTRATION ACT of 1938, administration and enforcement of 6362
HOSPITAL AND MEDICAL CARE, recovery of cost; settlement and waiver of claims 713
LAW ENFORCEMENT ASSISTANCE ACT of 1965, inventions resulting from grants under; policy 713
ORGANIZATION:
See also Authority delegations.
Administrative Division:
Federal tort claims, revoked 20772
Personnel and administrative matters, authority delegation to First Assistant, Administrative Division, and Director of Personnel 8523
Transfer of Executive Office for U.S. Marshals to 16531
Unclaimed property:
Authority delegation to Director, Prisons Bureau 6576
Vesting of unclaimed property 1087, 6576
Assistant Attorneys General, compromise and close of civil claims, increase in amount 6930
Civil Division, transfer of functions relating to gifts and bequests to, from Office of Legal Counsel 15425
Federal tort claims, authority 20772
Heads of organizational units, receiving requests for information 9663
Prisons Bureau:
Certification of obligations 11160
Unclaimed property 6576
Tax Division; authority to compromise and close civil claims, redelegation 8144
PAROLE:
Persons convicted of violation of Universal Military Training and Service Act, functions of Attorney General (Executive Order 11325) 1119
Prisoners, youth offenders, and juvenile delinquents; issuance of warrants and dispositional interviews 15013
RECORDS AND INFORMATION, availability of 9663
VOTING RIGHTS ACT of 1965, certifications by Attorney General respecting need for examiners in certain counties in listed States:
Georgia 4581
Louisiana 4581
Mississippi 4581, 4582, 6730, 8042, 11447

K

Kale:
STANDARDS FOR GRADES. *See* Agriculture Department.

Korea:
FOREIGN ASSETS CONTROL prohibitions, importation of and dealings in certain merchandise from North Korea; publications, etc 7629
FRUITS AND VEGETABLES sent to Guam. *See* Agriculture Department.
PURCHASES FROM North Korea, Defense Department procurement regulation 516
TRAVEL restricted to, in, or through North Korea for U.S. citizens 4140

L

Labor Commission, Missile Sites:
TERMINATION (Executive Order 11374) 14199

Labor Department: Page

See Employees' Compensation Bureau.
Employment Security Bureau.
Federal Contract Compliance Office.
Labor-Management and Welfare-Pension Reports Office.
Labor Standards Bureau.
Public Contracts Division.
Wage and Hour Division.
ADJUSTMENT ASSISTANCE for workers after certification, amounts allowable for relocation, weight limit for household goods 9024
ALIENS entering United States to perform labor:
Certification, validity of, etc 10932
Certification and noncertification schedules; correction of CFR 7594
Reconsideration or review by Secretary 867
Request for certification 867
Schedule A, nursing 10933
Schedule C 867
AUTHORITY DELEGATIONS:
By Assistant Secretary for Manpower to Administrator of Employment Security Bureau; certain immigration functions 13791
By Secretary to certain officials:
Administrator, Wage and Hour and Public Contracts Divisions; labor standards on Federally financed or assisted work contracts 14802
Assistant Secretaries:
Administration; compromise of claims and suspension or termination of collection action 3849
Labor-Management Relations; labor standards on Federally financed or assisted work contacts 14802
Manpower; contracts 20828
Solicitor; labor standards on Federally financed or assisted work contracts 14802
From Director, Economic Opportunity Office; certain functions under Economic Opportunity Act of 1964 4588
CHILD LABOR REGULATIONS. *See main heading* Labor Standards Bureau.
CLAIMS:
Compromise of, etc.; authority delegation to Assistant Secretary for Administration 3849
Federal Tort Claims Act 11035
DOCUMENTS, examination and copying of 11033
Disclosure, procedure for 20858
EMPLOYEE WELFARE AND PENSION BENEFIT PLANS, ADVISORY COUNCIL ON; appointment 6114
EMPLOYEES and former employees, representation before Department 11035
EXEMPLARY REHABILITATION CERTIFICATES for ex-servicemen 3710, 7206
FARM LABOR CONTRACTORS, insurance companies issuing policies to; application for certificate of registration 7025, 10649
FEDERAL EMPLOYEE-MANAGEMENT RELATIONS, REVIEW COMMITTEE ON; hearing 13546
HAZARDOUS OCCUPATIONS for minors. *See main heading* Labor Standards Bureau.
HIGH UNEMPLOYMENT AREAS, preference in Federal procurement 14387
INFORMATION, availability of 11033, 20858
Wage Appeals Board, proposed rule 15399
LABOR STANDARDS:
Federal service contracts:
Apprentices, student-learners and handicapped workers, wage requirement tolerance 3689
Contracts exceeding $2,500 10659, 21036
Exemption for certain post office contracts with common carriers 726, 5775
McNamara-O'Hara Service Contract Act, application of; proposed rules 10132, 10265
Rules of practice for enforcement 6133
Federally financed and assisted construction and nonconstruction contracts:
See also under Authority delegations.
Definitions, investigations, variations, etc., proposed rules 15396
Enforcement, rules of practice for administrative proceedings, proposed rules 15398
Exemptions, Eniwetok Atoll, Kwajalein Atoll, and Johnston Island 1087

Labor Department—Continued

Page

NEIGHBORHOOD YOUTH CORPS PROJECTS 6440
ORGANIZATION AND FUNCTIONS:
Employees' Compensation Appeals Board, claims 12980
Employees' Compensation Bureau, Director; functions 12979
Wage and Hour Division, Administrator, functions of Secretary 12980
RECORDS:
See also Information.
Available for inspection, reports filed pursuant to Labor-Management Reporting and Disclosure Act of 1959 3216
REPRESENTATION before Department, employees and former employees 11035
SAFETY STANDARDS applicable to workshops and rehabilitation facilities assisted by grants 3050
Codification change 4170
UNEMPLOYED PERSONS, occupational training; definitions, medical service, on-the-job training, etc 8907
UNEMPLOYMENT COMPENSATION, certification of States and State laws to Secretary of Treasury 102
WAGE APPEALS BOARD, practice before, proposed rules:
Information, availability 15399
Purpose and scope 15399
Review of debarment and liability proceedings 15399
WORK TRAINING AND EXPERIENCE PROGRAMS 6442

Labor Disputes:

BOARDS OF INQUIRY. *See* Inquiry, boards of.
EMERGENCY BOARDS to investigate labor disputes. *See* National Mediation Board.
MISSILE AND SPACE SITES (Executive Order 11374) 14199
RAILROAD STRIKES:
See also Interstate Commerce Commission; Maritime Administration; Post Office Department; Transportation Department.
Transportation priorities and allocations (Executive Order 11362) 10495

Labor-Management and Welfare-Pension Reports Office:

RECORDS available for inspection, reports filed pursuant to Labor-Management Reporting and Disclosure Act of 1959 3216
WELFARE-PENSION REPORTS:
Annual reports:
Form D-1A, time for filing description amendment 2708, 12178
Form D-2, part III, section C, proposed granting of variation to American Life Convention and Life Insurance Association of America 6460
Exemption of savings and loan associations from bonding requirements 3363, 6840
Publication requirements, variation from 11433
Reporting requirements, plans covering less than 100 participants 2709, 12607

Labor Relations Board:

See National Labor Relations Board.

Labor Standards Bureau:

CHILD LABOR REGULATIONS:
Hazardous occupations:
Agriculture, certain occupations in 6144, 15479
Brick, tile, etc., manufacture of; proposed rule 6102
General, specially authorized situations; proposed rule 6102
Minors between 14 and 16 in Economic Opportunity Program 8919, 15478
Motor-vehicle driver and outside helper 6102, 15478
Occupations chart applying to orders Nos. 4 and 5, discontinuance 6025
Power-driven hoisting apparatus, exception; proposed rule 6102
School bus drivers; proposed rule 931, 6057
Shake and shingle mill operations, exceptions 91, 6024
State certificates of age, extensions of designations 11988
MINING, radiation standards; forms for recording radiation exposure 17693

Labor Standards Bureau—Continued

Page

SAFETY AND HEALTH STANDARDS:
Federal service contracts 10658, 21036
Federal supply contracts, assignment of certain responsibilities to Labor Standards Bureau by Secretary of Labor 7702
Longshoring:
Certification of shore based material handling devices, proposed rules 6058
Variation granted to International Minerals and Chemical Corp 12815
Ship repairing, shipbuilding, and shipbreaking 7859, 14041, 14047, 14051
Workshops and rehabilitation facilities assisted by grants, codification change 4170

Lake Ontario Claims Tribunal:

PRIVILEGED ORGANIZATION:
Customs Bureau regulation 15424
Designation (Executive Order 11372) 13251
Immigration and Naturalization Service regulation 13758

Land Management Bureau:

ALASKA:
Aleutian Islands National Wildlife Refuge, Executive order of June 13, 1902, revoked in part (PLO 4143) 213
Authority delegations:
By Anchorage District Manager to Area Managers; fiscal affairs, range management, etc 6063
By Fairbanks District Manager to Area Managers; fiscal affairs, range management, etc 7400
By Fairbanks District and Land Office Manager to Chief, Land Office Division; records, bonds, etc 8042
By State Director to Chief, Administration Division, et al.; contracts and leases 5377
Classification of certain lands for multiple-use management 3838, 4453, 14971, 16057
Homesteads, lands opened to entry. *See* Homesteads, *below*.
Mental health purposes:
Fairbanks Area, 17480.
Portage, 211.
Seward Meridian, 6, 211, 3020, 3743, 4304, 6640, 6642.
Mineral lands opened. *See under* Mineral lands, *below*.
National forest lands. *See under* National forest lands, *below*.
Organization, Fairbanks District and Land Office:
Closed temporarily 12194
Reopened 12631
Powersites. *See* Power projects, etc. *below*.
School purposes. *See under* School purposes, *below*.
Survey plats:
Delta Junction 10268
Fairbanks 2717, 7135, 7873, 14162
Seward Meridian 11806
Withdrawals of lands for use of Federal agencies, etc. *See* Withdrawals, *below*.
AMERICAN FALLS RESERVOIR DISTRICT No. 2, release of lands from lien for irrigation charges (PLO 4304) 15427
APPLICATION PROCEDURES, simultaneous applications; proposed rule 13196
AUTHORITY DELEGATIONS:
By Associate Director to certain officials:
District Managers, oil and gas exploration 11386
Land Office Managers; range management, prior order revoked 4176
Manager, Eastern States Land Office, drainage entries, oil and gas exploration, etc 11386
Manager, New Orleans Office; classification, withdrawals, designation of acting officials, etc 11387
State Director, Montana; functions respecting lands in Minnesota 13013
State Directors, oil and gas exploration 11386
By Directors to certain officials:
Boise Interagency Fire Center, Chief, Base Operations Division; contracts and leases 4506
Denver Service Center, procurement agents; contracts and leases 6858, 17491

Land Management Bureau—Continued

Page

AUTHORITY DELEGATIONS—Continued
By Directors to certain officials—Continued
Fort Vannoy Job Corps Conservation Center, Grants Pass, Oreg., Administrative Officer and Assistant; contracts and leases 15594
Mountain Home Job Corps Conservation Center, Idaho, Administrative Officer; purchase orders 17897
Portland, Oreg. Service Center, Procurement Assistant, Administrative Services Branch; purchase orders 7980
By District and Land Office Manager, Fairbanks, Alaska, to Chief, Land Office Division; records, bonds, etc 8042
By District Managers to certain officials:
Alaska:
Anchorage, Area Managers; fiscal affairs, range management, etc 6063
Fairbanks, Area Managers; fiscal affairs, range management, etc 7400
Arizona, Safford, Area Managers, Gila and San Simon Resource Areas; lands and resources 8927
Idaho:
Area Managers; trespass, forest products, etc.:
Boise 2978
Burley 2979
Coeur D'Alene 2978
Idaho Falls 620
Salmon 2979
Shoshone 620
Chief, Administration Division, Boise; records, refunds, etc 469
Montana, Area Managers; fiscal affairs, forest management, etc.:
Dillon 878
Lewistown 877
Malta 877
Miles 878
Missoula 877
Nevada, Area Managers; trespass, range management, etc.:
Battle Mountain 2718
Carson City 3231
Elko 2718
Ely 2719
Las Vegas 2719
Winnemucca 1058
Utah, certain Area Managers, corrections:
Fillmore 623
Price 623
By State Directors to certain officials:
Alaska, Chief, Administration Division, et al., contracts and leases 5377
California:
District Managers, land-use permits, etc 11647, 12631
Division Chiefs, certain functions 11647
Idaho, Chief, Administration Division, et al.; contracts and leases 4454
Montana, Chief of Administration and District Managers; contracts and leases 6584
Utah, District Managers, et al.; purchasing 3896
Washington, District Manager, Spokane, et al.; fire protection, trespass, etc 6002
CLASSIFICATION OF LANDS; proposals, etc.:
Exchanges:
Arizona, 8096, 8768, 12193, 14980, 15081.
Colorado, 8317, 12492, 13297, 13731.
Montana, 932.
Nevada, 7981, 10377, 16227.
New Mexico, 622, 3891, 4143, 5959, 6730, 7637, 8096, 8820, 9241, 9959, 10313, 10994, 12194, 12803, 13065, 13876, 14405, 20688.
Oregon, 3231, 8426, 10483, 14787.
Utah, 9648, 13333, 13876, 14566.
Wyoming, 18117.
Indemnity selection:
Utah, 20665.
Multiple-use management:
Alaska, 3838, 4453, 14971, 16057.
Arizona, 336, 3892, 5957, 6456, 6826, 8536, 9176, 9176, 9998, 10986, 10988, 10990, 10990, 10992, 11447, 13081, 13332, 14065, 14162, 14710, 14712, 14713, 14714, 15591, 15592, 15766, 20660.

Land Management Bureau—Continued

Page

CLASSIFICATION OF LANDS; proposals, etc.—Con.
Multiple-use management—Continued
California, 5377, 6251, 9991, 10115, 12566, 13063, 13580, 13598, 13600, 13601, 13777, 13778, 13873, 13874, 14163, 14405, 14716, 14785, 14961, 15683, 15887, 17863, 17896, 20660, 20661, 20663, 20664, 20688.
Colorado, 6215, 7135, 7502, 8384, 9989, 9994, 9997, 10992, 10993, 12125, 12760, 13297, 13387, 13530, 13531, 13601, 13602, 13780, 13875, 13986, 13987, 14163, 14345, 14607, 14788, 15186, 15716, 16283, 16441, 17490, 17627, 17896, 18065, 20665, 20687, 20990, 20991.
Idaho, 9718, 9719, 11892, 13671, 15186, 15766, 15767.
Montana, 2980, 3304, 4455, 5379, 5958, 7980, 8096, 8097, 8252, 8253, 8254, 8623, 8625, 9239, 10993, 11577, 12856, 12857, 12858, 12859, 14566, 15593, 16537.
Nevada, 2386, 5876, 6148, 6217, 6852, 6853, 8425, 8536, 9239, 9240, 9995, 10313, 11292, 14163, 15768.
New Mexico, 2579, 3230, 3894, 3895, 5643, 7401, 7981, 8763, 8926, 13673.
Oregon, 1001, 7095, 7136, 8042, 10994, 12194, 15494, 15683, 15716, 16108, 16284, 16285, 16537, 17546.
Utah, 7638, 9241, 10995, 11894, 12804, 13876, 16057, 20988, 20989.
Wyoming, 6219, 7404, 7405, 7674, 15551, 15552, 16057.
Public sale:
Oregon, 8426, 13066, 13674.
Recreation and public purposes:
Arizona, 3229, 5707.
Nevada, 8254, 14861.
School purposes:
Oregon, 3891, 7637.
Utah, 14788.
Scrip claimants, disposal to:
Arizona, 13824.
Cancelled, 16116.
California, 392, 3066, 13825, 15550.
Nevada, 15, 1139, 13824, 16116.
Washington, terminated, 14863.
State selection:
Utah, 12124.
CONTINENTAL SHELF, outer:
Oil and gas lease sale:
California 20884
Louisiana 4545, 5381, 7097, 7138, 8063, 7539
Texas 11386
Salt lease offer, Louisiana 7713
DESERT LAND ACT GRANTS, final proof; ditches 3059
DISASTER RELIEF; definitions, authority, etc 10799
EXCHANGES of lands:
Classification for exchange. *See under* Classification of lands.
Definitions, applications, etc.; proposed rules 5689
Lands subject to exchange, reservation of minerals, easements, etc 7085, 8622, 11996
Oil shale lands, proposed rules
FORESTS. *See* National forest lands, *below*.
GRAZING:
Districts:
New Mexico, No. 3, lands excluded (PLO 4298) 14276
Utah, No. 6 and No. 9, modification of boundaries 4144
Wyoming, modification of boundaries:
No. 2 and No. 4 7873
No. 4 and No. 5 2587, 3839
Fees, 1967 3109
Lease rentals 3304
Leases, practices, enforcement, etc.; proposed rules 1192, 16164
HOMESTEADS; various States, lands opened to entry:
Alaska, 6, 211, 3020, 3743, 6640, 6642, 11806, 17479, 17480.
Arizona, 210, 452, 611, 2817, 6373, 11238, 11806, 12125, 13332, 15188, 16051.
California, 58, 3991, 6641, 8384, 9166, 13072.
Colorado, 13411, 15683, 16100, 20980.
Idaho, 5836, 6640, 9114, 10256, 10933, 14155, 14276, 14717, 15482, 20887.
Michigan, 10518.
Mississippi, 2385, 3455.
Montana, 210, 2980, 3230, 3366, 3744, 5379, 9167, 10255, 10513, 12194, 12861, 13413, 13466, 13603, 16283, 17897.
Nevada, 4029, 4142, 4282, 4365, 6642, 7400, 10257, 10437, 11292, 13412, 14863, 15462, 17479.

Land Management Bureau—Continued Page

HOMESTEADS; various States, lands opened to entry—Continued
New Mexico, 52, 211, 212, 3744, 6095, 6641, 8096, 13411, 14275, 20981.
Oregon, 53, 212, 922, 923, 2717, 3744, 5835, 6096, 6640, 9167, 11648, 12567, 12955, 13086 13411, 13412, 13416, 13419, 13604, 13836, 14060, 15427, 15831, 16213, 16214, 17479, 17548, 17806.
South Dakota, 213.
Utah, 1102, 2455, 2586, 2981, 4167, 7404, 8809, 9224, 11577, 12950, 13604, 14566, 15483, 17886.
Washington, 5379, 6639, 11238.
Wyoming, 212, 3744, 6096, 6641, 16531, 20981.

INDIAN LANDS:
Colorado, Southern Ute and Ute Mountain Reservations, coal land withdrawal No. 1 revoked in part (PLO 4131) 210
Indians, Cheyenne River Sioux Tribe, restoration to tribal ownership (PLO 4299) 14276
Minnesota, Chippewa Tribe, restoration to tribal ownership (PLO 4209) 6643
Oklahoma, Kiowa, Comanche, and Apache Tribes, restoration to tribal ownership (PLO 4150) 452

MINERAL LANDS AND MINERALS:
See also Oil and gas.
Coal land withdrawals:
Colorado No. 1; Executive order of July 7, 1910, revoked in part (PLO 4131) 210
Utah No. 1, Executive order of July 9, 1910, revoked in part (PLO 4159) 3021
Coal leases, permits and licenses:
Lease bond 3297
Qualification of applicants, etc. 10652
Mining Claims Occupancy Act, applications; filing date 17890
Oil shale lands, leasing; proposed rules 7086, 8622, 11996
Phosphate leases, prospecting permits, and use permits 3297, 10654
Phosphate reserve No. 24, Utah No. 3, Executive order of May 11, 1915, revoked in Part (PLO 4159, 4211) 3021, 6644
Potassium permits and leases, lease bond 3297
Public domain leasing under 1920 Act, qualifications for associations; proposed rules 15883
Salt lease offer, outer continental shelf off Louisiana 11386
Sodium permits and leases, lease bond 3297
Various States, lands opened to mineral entry:
Alaska, 6, 211, 3020, 6640, 6642.
Arizona, 483, 2817, 6873, 9719, 11806, 13083.
Colorado, 15683.
Idaho, 9114, 10256, 10683, 14276, 15482.
Montana, 3366.
Nevada, 10497, 15482.
New Mexico, 52, 211, 212, 3744, 6095, 6641, 8036, 13297, 13411, 14275.
Oregon, 53, 923, 5835, 5836, 10256, 14060.
South Dakota, 213.
Utah, 3744, 6411, 7404, 9625, 12950, 15483.
Washington, 5379, 6639, 11238.
Wyoming, 212, 3744, 6096, 6641, 16531, 20981.

NATIONAL FOREST LANDS; additions, etc.:
See also under Withdrawals, *below*.
Alaska:
Chugach National Forest:
Boathouse site, Executive Order 4294 revoked (PLO 4219) 6648
Homesites, lands excluded for (PLO 4126, 4184, 4261, 4303) 54, 5837, 11875, 15427
Tongass National Forests, lands excluded for homesites (PLO 4303) 15427
Arizona, Tonto National Forest, filing of plat of survey 20660
Arkansas, Ouachita National Forest, adjustment of boundaries (PLO 4228) 8808
California:
El Dorado National Forest, lands restored from waterpower project No. 878 8384
Sierra National Forest, power withdrawal vacated 13332
Tahoe National Forest, reclamation withdrawal revoked (PLO 4123) 53
Tolyabe National Forest, lands restored from powersite reserves (PLO 4267) 13072
Trinity National Forest; powersite cancellation (PLO 4201) 6641

Land Management Bureau—Continued Page

NATIONAL FOREST LANDS; additions, etc.—Con.
Colorado:
Arapaho National Forest:
Proposed addition 18116
Survey plat 4453
Gunnison National Forest, proposed addition 17897
San Juan National Forest, addition (PLO 4246, 4284) 10259, 13414
Uncompahgre National Forest, lands excluded (PLO 4246, 4284) 10259, 13414
White River National Forest, survey plat 4453
Idaho:
Boise National Forest, reclamation withdrawal revoked in part (PLO 4238) 10257
Clearwater National Forest, lands excluded; Executive Order 842 revoked in part (PLO 4128) 54
Coeur D'Alene National Forest, lands excluded; Proclamation of November 6, 1906, revoked in part (PLO 4128) 54
St. Joe National Forest, lands excluded; Proclamation of June 29, 1911, revoked in part (PLO 4128) 54
Sawtooth National Forest, reclamation withdrawal revoked in part (PLO 4238) 10257
Indiana, Hoosier National Forest, addition (PLO 4160) 3021
Revoked in part (PLO 4212) 6644
Michigan, Hiawatha National Forest, addition (PLO 4160) 3021
Montana, Lewis and Clark National Forest, reservoir site No. 34 revoked in part (PLO 4130) 210
Nevada:
Humboldt National Forest:
Powersite cancellation (PLO 4171) 3745
Proposed modification of boundaries 7346
Terminated 14114
Toiyabe National Forest, proposed additions 5375, 7401
New Mexico:
Cibola National Forest:
Additions (PLO 4125, 4147, 4243, 4286) 53, 214, 10258, 13414
Classification for exchange 622, 10313
Proposed additions 6852, 7403, 11292
Gila National Forest:
Addition (PLO 4345) 20980
Proposed classification for exchange 4143
Lincoln National Forest, addition (PLO 4187) 622, 5837
Santa Fe National Forest, addition (PLO 4147) 3747
Oklahoma, Ouachita National Forest, adjustment of boundaries (PLO 4228) 8808
Utah:
Fishlake National Forest, addition (PLO 4306) 7601, 15428
Manti-LaSal National Forest, addition (PLO 4328) 7601, 17429
Sawtooth National Forest, lands reconveyed to United States 1107
Wasatch National Forest, proposed addition 11578

OIL AND GAS:
Authority delegation to Manager, Eastern States Land Office 11386
Deposits, transfer of jurisdiction to Interior Department for protection from loss:
California, VA Center at Los Angeles (PLO 4270, 4312) 13192, 15429
Oklahoma, Vance Air Force Base (PLO 4264) 11876
Filings, simultaneous; advance rental payments 14325
Leases:
Continental shelf:
California 20884
Louisiana 4545, 5381, 7097, 7138
Texas 6063, 7539
Exploration operations 8968
Known geological structures of producing oil or gas fields 13323
Noncompetitive leases 13323
Proposed rules 13196, 15883
Oil shale lands, proposed rules 7086, 8622, 11996
Protraction diagrams:
California, 2977, 2978, 9991, 9992, 9993.
Idaho, 6804, 15108.
Nevada, 563.

Land Management Bureau—Continued Page

ORGANIZATION:
Alaska, Fairbanks, District and Land Office:
Closed temporarily 12194
Reopened 12631
California, Riverside District and Land Office, temporary closing 13730
Idaho, Boise Land Office, change of location 15550
Montana, Billings District Office, change of location 15683
Nevada, Elko, District Office; change of address 20888

POWER PROJECTS, power site reserves, etc.; restoration of lands:
Alaska:
Power project No. 207 (PLO 4163) 3743
Powersite classification No. 412 (PLO 4163) 3743
Arizona:
Powersite reserves, Executive orders revoked in part:
No. 183, order of June 16, 1911 (PLO 4129) 210
No. 759, order of November 22, 1924 (PLO 4151) 611
Waterpower designation No. 4, revoked in part (PLO 4151) 611
California:
Powersite classification No. 117 (PLO 4201) 6641
Powersite reserves, Executive orders revoked in part:
No. 58, order of July 2, 1910 (PLO 4267) 13072
No. 150, order of September 14, 1910 (PLO 4267) 13072
No. 324, order of December 11, 1912 (PLO 4175) 3991
No. 439, order of June 6, 1914 (PLO 4175) 3991
No. 555, order of September 21, 1916 (PLO 4267) 13072
No. 710, order of August 22, 1919 (PLO 4297) 6642
No. 746, order of June 17, 1920 (PLO 4175) 3991
Projects:
No. 878 8384
No. 1354 13332
Colorado, powersite reserve No. 253, Executive order of March 23, 1912, revoked in part (PLO 4329) 16100
Idaho, powersite reserve No. 168, Executive order of December 19, 1910, revoked in part (PLO 4162) 5836
Nevada:
Powersite classifications:
No. 181 (PLO 4171) 3745
No. 217 (PLO 4171) 3745
No. 270 (PLO 4171) 3745
No. 285 (PLO 4162) 3297
Powersite reserves; Executive orders revoked in part:
No. 354, order of April 21, 1913 (PLO 4178) 4282
No. 423, order of February 27, 1914 (PLO 4178) 4282
No. 501, order of August 17, 1915 (PLO 4178) 4282
No. 628, order of May 22, 1917 (PLO 4178) 4282
No. 716, order of May 4, 1919 (PLO 4178) 4282
Oregon:
Powersite classifications:
No. 51, Oregon No. 5 (PLO 4200) 6640
No. 378, prior order revoked in part (PLO 4139) 212
No. 421 (PLO 4321) 16213
No. 426, prior order revoked in part (PLO 4139) 212
Powersite reserves, Executive orders revoked in part:
No. 66, order of July 2, 1910 (PLO 4227) 8037
No. 344, orders of March 17, 1913, and May 19, 1913 (PLO 4200) 6640
No. 645, order of July 17, 1917 (PLO 4166) 3744
Waterpower designation No. 12, prior order revoked in part (PLO 4166) 3744
Utah, powersite reserve No. 34, Executive order of July 2, 1910 (PLO 4229) 8809

PROGRAM MANAGEMENT, designation of natural resource experiment and research areas; proposed rule 15546

RECREATION OR PUBLIC PURPOSES:
Classification of lands:
Arizona 3229, 5707
Nevada 8254, 14861
Sales, pricing for historic monuments 6194
RIGHTS-OF-WAY, timber sale roads 4414
SALE OF LANDS:
Arizona, Graham County, 10994.
Colorado, Cortez, 9718.
Nevada:
Lander County, sale of lots to, 8426.
Mount Diablo Meridian, 982, 3290, 7346, 7847, 7874, 10672, 14164, 17898, 20886.

Land Management Bureau—Continued Page

SALE OF LANDS—Continued
Oregon:
Morrow County, 13086.
Willamette Meridian, 14718, 15888, 17676.
Utah, Saint George, 10613.
Wyoming, Sweetwater County (PLO 4290), 8800.
SALES for recreation or public purposes:
Classification of lands:
Arizona 3229, 5707
Nevada 8254, 14861
Pricing for historic monuments 6194
SALT LEASE OFFER, outer continental shelf off Louisiana 11386

SCHOOL PURPOSES:
Alaska, 4142, 10312, 10482, 11806, 15716, 20980.
Arizona, 210, 611, 2817.
California, 6641.
Colorado, 16100, 20980.
Idaho, 7101.
Montana, 3744.
New Mexico, 53.
Oregon, 3891, 14060, 16213.
South Dakota, 213.
Utah, 8809, 9224, 12950, 14788, 15483.
Washington, 5379, 6639.
Wyoming, 212, 3744, 6096, 6641, 16531, 20981.

SCRIP CLAIMANTS. *See under* Classification of lands.

SMALL TRACTS, revocations:
Oregon:
No. 56–1 9177
No. 61–1 9177
No. 63–1 933
Wyoming No. 24 12861

SURVEY PLATS, various States:
Alaska, 2717, 7135, 7873; 10268, 11806, 14162.
Arizona, 6373, 7980, 16283, 20660.
Colorado, 4453.
Florida, 6103, 10938.
Michigan, 10518.
Mississippi, 2366, 2455.
Nevada, 4029, 4142, 4365, 7400, 11282.
Utah, 2586, 16287.
Washington, 11238.
Wisconsin, 4177.

TIMBER ACCESS ROADS 4414

WATER RESERVES, PUBLIC; Executive orders revoked in part:
No. 12, Wyoming No. 3; order of December 5, 1913 (PLO 4327) 16531
No. 18, Wyoming No. 4; order of March 21, 1914 (PLO 4327) 16531
No. 20, Wyoming No. 5; order of June 24, 1914 (PLO 4327) 16531
No. 21, New Mexico No. 1; order of June 24, 1914 (PLO 4127) 54
No. 44, Wyoming No. 10; order of December 20, 1916 (PLO 4191) 6096
No. 81, Utah, order of November 26, 1921 (PLO 4167) 3744
No. 107, New Mexico; order of April 17, 1926 (PLO 4203) 6641

WILDLIFE REFUGES, etc.:
Alaska, Aleutian Islands National Wildlife Refuge, Executive order of June 13, 1902, revoked in part (PLO 4142) 213
California; proposed withdrawals terminated:
Havasu Lake National Wildlife Refuge 2387
Termination canceled 3229
Jacumba National Cooperative Land and Wildlife Management Area 12194
Tule Lake and Lower Klamath National Wildlife Refuges 12728
Termination canceled 13530
Colorado, Sixth Principal Meridian; proposed withdrawal 6527
Idaho:
Grays Lake National Wildlife Refuge, headquarters site; proposed withdrawal 8926
Strike, C. J., Wildlife Management Area (PLO 4153, 4253) 2882, 4061, 8425, 10933
Montana, Freezeout Lake Waterfowl Management Area, PLO 2135 revoked in part (PLO 4162) 3744

Land Management Bureau—Continued Page

WILDLIFE REFUGES, etc.—Continued
New Mexico:
Grulla National Wildlife Refuge, proposed withdrawal 8255
San Simon Cienega Mexican Duck Habitat Development Project (PLO 4146) 214
Oregon:
John Day Wildlife Management Area (PLO 4210) 6643
Oregon Islands National Wildlife Refuge, proposed addition 2387
Utah, Desert Lake Waterfowl Management Area (PLO 4170) 3745
Washington:
Colockum Game Range, addition (PLO 4339) 20775
John Day Lock and Dam Project, proposed withdrawal 10673
John Day Wildlife Management Area (PLO 4210) 6643
San Juan Islands National Wildlife Refuge, addition of Buck Island (PLO 4148) 320
Willapa National Wildlife Refuge, addition; proposed withdrawal 6148, 10869
WITHDRAWALS of lands for specified uses of Federal agencies, etc.:
Alaska:
Adak Island, naval purposes, Executive order of June 13, 1902, revoked in part (PLO 4143) 213
Akhiok, school site, Indian Affairs Bureau; proposed withdrawal 10482
Alaska Highway, administrative site, General Services Administration (PLO 4234) 582, 9167
PLO 386 revoked in part (PLO 4234) 9167
Barrow, cemetery purposes, Indian Affairs Bureau; proposed withdrawal 8926
Chugach National Forest, boathouse site, Executive Order 4294 revoked (PLO 4219) 6646
Copper River Meridian, air navigation facility, Federal Aviation Administration (PLO 4349) 20981
Cordova, road right-of-way, PLO 334 revoked in part (PLO 4333) 17480
Crown Point, terminal, Alaska Railroad; proposed withdrawal 16108
Daniels Lake, administration or transfer, PLO 1552 revoked in part (PLO 4204) 6642
Eklutna Lake, hydroelectric project, Reclamation Bureau; proposed withdrawal 3838
Fairbanks Area, air navigation facility, Federal Aviation Administration (PLO 4332) 17479
Air navigation site No. 17 revoked (PLO 4332) 17479
Fairbanks Meridian:
Air navigation facility, Federal Aviation Administration (PLO 4254) 10933
Eielson Air Force Base, transfer of jurisdiction from Air Force to Army Department (PLO 4161) 3151
Geophysical observation program, Commerce Department; proposed withdrawal 12067, 15716
Recreation sites (PLO 4176) 4121
Fort Yukon, administrative site (PLO 4188) 5837
Kenai:
Air Force Department use (PLO 4341) 20980
Army Department, PLO 1035 revoked (PLO 4341) 20980
Kodiak Townsite, dormitory for Kodiak-Aleutian Vocational School, Indian Affairs Bureau; proposed withdrawal 10312
Terminated 11806
Noatak, school facility, Indian Affairs Bureau; proposed withdrawal 4142
Terminated 15716
Ouzinkie, Kodiak Island, school purposes; PLO 3623 revoked in part (PLO 4342) 20980
Portage, air navigation site No. 200, PLO 686 revoked in part (PLO 4133) 210
Seward Meridian:
Administration, PLO 4074 corrected (PLO 4134) 211
Military purposes:
PLO 5 revoked in part, PLO 4111 corrected (PLO 4120) 6
PLO 47 revoked in part (PLO 4199) 6640
Protection of public values, PLO 1684 revoked in part (PLO 4154) 3020
Tatalina Air Force Station, protection of water supply, Air Force Department; proposed withdrawal terminated 2718

Land Management Bureau—Continued Page

WITHDRAWALS of lands for specified uses of Federal agencies, etc.—Continued
Alaska—Continued
U.S. Survey 2263, Alaska Game Commission, Executive Order 5384 revoked (PLO 4168) 5837
All public land States, protection of geothermal steam resources, etc., Land Management Bureau; proposed withdrawal 2588, 4030
Terminated in part 4506, 4508
Arizona:
Apache National Forest, roadside zone, Forest Service; PLO 3263 revoked in part (PLO 4307) 15428
Coconino National Forest, recreation area, Agriculture Department (PLO 4144) 214
Gila and Salt River Meridian:
Administrative site, Air Force Department (PLO 4260) 10934
Charleston Dam and Reservoir, Reclamation Bureau; proposed withdrawal 7095
Dixie Project, Reclamation Bureau; proposed withdrawal 95
Kofa Game Range, recreation area (PLO 4216) 6645
Substation site, Reclamation Bureau; proposed withdrawal 10268
Graham County, prison campsite, Prisons Bureau, PLO 1767 revoked in part (PLO 4255) 10933
Maricopa County:
Air navigation site No. 118 revoked in part (PLO 4268) 13072
Central Arizona Project, Reclamation Bureau; proposed withdrawals 10518, 12565, 13012
Mohave County:
Air navigation site No. 2093 revoked (PLO 4149) 452
Central Arizona Project, Reclamation Bureau; proposed withdrawal 13012
Pima County:
Defense purposes, Engineers Corps; proposed withdrawal corrected 7779
Rifle range, Executive Order 2295 modified for right-of-way to city of Tucson (PLO 4313) 15429
Pinal County, Central Arizona Project, Reclamation Bureau; proposed withdrawals 10518, 13012
Sitgreaves National Forest, recreation areas:
Agriculture Department (PLO 4144) 214
Forest Service; proposed withdrawal 6456
Tonto National Forest:
Recreation area, Agriculture Department (PLO 4281) 417, 13413
Roadside zones, Agriculture Department (PLO 4172) 3746
Yavapai County, stock driveway No. 56, Arizona No. 2, modified (PLO 4258) 10934
Yuma County, reclamation withdrawals:
Proposed withdrawals 10518, 13012
Revoked (PLO 4152) 2817, 6780
Arkansas, Little River County, Millwood Dam and Reservoir Project, Engineers Corps; proposed withdrawal 15443
California:
Alpine County, addition to Washoe Indian Reservation, Indian Affairs Bureau; proposed withdrawal 12728
Angeles National Forest, recreation area, etc., Agriculture Department (PLO 4335) 17429
China Lake, naval ordnance test station, Navy Department (PLO 4300) 14276
Cleveland National Forest, roadside zone, Agriculture Department (PLO 4220) 6646
El Dorado County, Central Valley Project, Reclamation Bureau; proposed withdrawal 14788
Klamath National Forest:
Administrative site, Agriculture Department (PLO 4283) 13413
Campground, Agriculture Department (PLO 4343) 20980
Los Padres National Forest, administrative site, prior order revoked (PLO 4231) 9166
Mendocino County, campgrounds, etc., Land Management Bureau; proposed withdrawal terminated in part 11577
Modoc County, addition to XL Ranch, Indian Affairs Bureau; proposed withdrawal terminated in part 20665

Land Management Bureau—Continued Page

WITHDRAWALS of lands for specified uses of Federal agencies, etc.—Continued
California—Continued
Modoc National Forest, natural area and experimental forest, Forest Service (PLO 4308) 15428
Mount Diablo Meridian; proposed withdrawals:
Administrative site, Forest Service 4545
Central Valley Project, Reclamation Bureau 2902, 8250
Proposals terminated in part 2387, 2718, 8537, 11882, 14114
Geothermal areas, Land Management Bureau; proposed withdrawal 4506, 5850
Plumas National Forest, recreation areas, Forest Service; proposed withdrawals 11291, 13986
San Bernardino County, Mojave River Forks Reservoir Project, Engineers Corps; proposed withdrawal 18065
San Bernardino Meridian, proposed withdrawals:
Dike and flood control, All-American Canal System; terminated in part 20664
Geothermal resources, etc., protection of, Land Management Bureau 4506, 5850
Havasu Lake National Wildlife Refuge, Fish and Wildlife Service; terminated 2387
Termination canceled 3229
San Bernardino National Forest, administrative site and recreation area, Agriculture Department (PLO 4324) 619, 16214
San Diego County, Jacumba National Cooperative Land and Wildlife Management Area, Fish and Wildlife Service; proposed withdrawal terminated 12194
Shasta County, Central Valley Project (PLO 4326) 619, 16215
Sierra National Forest, roadside scenic areas, etc., Forest Service; proposed withdrawals terminated in part 4142, 4176
Six Rivers National Forest, campgrounds:
Agriculture Department (PLO 4256) 10934
Forest Service; proposed withdrawal terminated in part 11048
Stanislaus National Forest:
Administrative sites, Forest Service; proposed withdrawals 392, 12860
Prior orders terminated in part 4176, 11291
Recreation area, Agriculture Department (PLO 4329) 16532
Seed production area, Forest Service; proposed withdrawal 11483
Tahoe National Forest:
Recreation site, Forest Service; proposed withdrawals terminated in part 582, 7189
Truckee-Carson Project; prior orders revoked in part (PLO 4123) 53
Washoe Project (PLO 4282) 13413
Trinity National Forest, geological area, Forest Service; proposed withdrawal 11291
Tule Lake and Lower Klamath National Wildlife Refuges, shooting ground; proposed withdrawal terminated 12728
Termination canceled 13530
Colorado:
Arapaho National Forest, addition to, Forest Service; proposed withdrawal 18116
Gunnison National Forest:
Addition, Forest Service; proposed withdrawal 17897
Campgrounds, Forest Service; proposed withdrawal 3229
Colorado River Storage Project (PLO 4253) 10933
Fruitland Mesa Project, PLO 3945 revoked in part (PLO 4275) 13412
Moffat County, stock driveway withdrawals No. 5 and No. 41 revoked in part (PLO 4346) 20980
New Mexico Principal Meridian:
Administrative site, Forest Service; proposed withdrawal 13333
Coal land withdrawal No. 1; Executive order of July 7, 1910, revoked in part (PLO 4131) 210
Recreation areas, Land Management Bureau; proposed withdrawal 9114
Oil shale deposits, protection of multiple-use development, Land Management Bureau; proposed withdrawal 1058, 4030

Land Management Bureau—Continued Page

WITHDRAWALS of lands for specified uses of Federal agencies, etc.—Continued
Colorado—Continued
Pike National Forest, campgrounds, etc., Forest Service; proposed withdrawals 3229, 4081
Routt National Forest, recreation areas, Forest Service; proposed withdrawal 13084
Sixth Principal Meridian; proposed withdrawals:
Fryingpan-Arkansas Reclamation Project, Reclamation Bureau 4142
Recreation areas, Land Management Bureau 9113
Wildlife refuge, Fish and Wildlife Service 6527
Idaho:
Ada County, Snake River Project (PLO 4249) 10260
Boise County, Boise Project, prior orders revoked in part (PLO 4238) 10256
Boise Meridian:
Geothermal resources, protection of, Land Management Bureau; proposed withdrawal 4507
Grays Lake Reservoir Site, prior order revoked in part (PLO 4336) 17620
Strike, C. J., Wildlife Management Area (PLO 4153, 4252) 2888, 4061, 10933
Proposed withdrawal terminated in part 8425
Boise National Forest:
Boise Project, prior order revoked in part (PLO 4290) 14155
Recreation area, Agriculture Department (PLO 4257) 1101, 3405, 10934
Bonneville County, headquarters site for Grays Lake National Wildlife Refuge, Fish and Wildlife Service; proposed withdrawal 8926
Camas County, Boise Project, prior orders revoked in part (PLO 4238) 10256
Caribou National Forest, campgrounds, Agriculture Department (PLO 4214) 6644
Cassia County:
Research and grazing study area (PLO 4337) 17662
Water supply, Reclamation Bureau; proposed withdrawal 2979
Terminated in part 4317, 5378
Challis National Forest:
Administrative sites (PLO 4334) 10869, 11711, 17429
Campgrounds, Agriculture Department (PLO 4214, 4215, 4294) 6644, 6645, 14156
Clearwater National Forest, campgrounds, etc., Agriculture Department (PLO 4244, 4251) 2862, 10258, 10260
Coeur D'Alene National Forest, campgrounds, Agriculture Department (PLO 4221) 336, 7913
Custer County, recreation area, Land Management Bureau (PLO 4247) 620, 10259
Elmore County:
Boise Project, prior orders revoked in part (PLO 4238) 10256
Experimental range pasture research area, Land Management Bureau; proposed withdrawal 4456
Strike, C. J., Wildlife Management Area (PLO 4153, 4252) 2888, 4061, 10933
Kaniksu National Forest:
Recreation areas, etc., Agriculture Department; proposed withdrawal 4454
Scenic area, Agriculture Department (PLO 4189) 7913
Kootenai County, recreation site (PLO 4173) 3747
Kootenai National Forest, administrative site, Agriculture Department (PLO 4226) 1101, 8037
Nezperce National Forest, campgrounds, etc. Agriculture Department (PLO 4222, 4224, 4340) 3229, 7913, 8036, 20979
Owyhee County:
Military purposes, Air Force Department; PLO 2375 revoked in part (PLO 4296) 14276
Wildlife Management Area, C. J. Strike (PLO 4153, 4252) 2888, 4061, 10933
Payette National Forest:
Administrative site, Agriculture Department: (PLO 4214) 6644
Proposed withdrawals 4317, 7095
Administrative sites, PLO 1374 and 1564 revoked in part (PLO 4198) 6640
Ririe Dam and Reservoir, Engineers Corps; proposed withdrawal 19193

Land Management Bureau—Continued Page

WITHDRAWALS of lands for specified uses of Federal agencies, etc.—Continued
Idaho—Continued
St. Joe National Forest, recreation areas, etc., Agriculture Department; proposed withdrawal 6456
Salmon National Forest:
Administrative site and recreation area, PLO 1374 and 1564 revoked in part (PLO 4198) 6640
Recreation areas, etc., Agriculture Department; proposed withdrawal 4317
Sawtooth National Forest, administrative site (PLO 4334) 17429
Shoshone County, air navigation site, prior order revoked (PLO 4316) 15482
Twin Falls County, water supply, Reclamation Bureau; proposed withdrawal 2979
Terminated in part 4317, 5378
Minnesota, Sawyer Townsite; restoration of lands to Minnesota Chippewa Tribe (PLO 4209) 6643
Montana:
Beaverhead and Madison Counties, recreation sites (PLO 4155) 3020
Beaverhead National Forest, administrative site, prior orders and PLO 1716 revoked in part (PLO 4280) 13413
Bitterroot National Forest, administrative sites, prior orders revoked in part (PLO 4237) 10255
Deerlodge National Forest, administrative sites and recreation areas, Forest Service; proposed withdrawal 678
Flathead National Forest, recreation areas, Forest Service; proposed withdrawal 621
Helena National Forest:
Campground and recreation areas, Agriculture Department; proposed withdrawal terminated 13465
Campgrounds, Agriculture Department (PLO 4309) 15428
Judith Basin County, reservoir site No. 34, prior order revoked (PLO 4130) 210
Kaniksu National Forest, administrative site and campgrounds, Forest Service; proposed withdrawals 4029, 13237
Kootenai National Forest:
Administrative site, prior order revoked in part (PLO 4235) 9167
Campground and picnic area, Forest Service; proposed withdrawals 1198, 5643
Recreation area, Agriculture Department (PLO 4310) 15429
Lola National Forest:
Campgrounds, Agriculture Department (PLO 4237) 2789, 3404, 3892, 10255
Road, Forest Service (PLO 4318) 7601, 15483
Tree seed orchard, proposed withdrawal 582
Principal Meridian, proposed withdrawals:
Geothermal resources, protection of, Land Management Bureau 4507
Highway construction, Public Roads Bureau 6021, 7921
Malmstrom Air Force facilities, Engineers Corps; terminated 621
Teton County, Freeseout Lake Waterfowl Management Area, PLO 5135 revoked in part (PLO 4168) 3744
Yellowstone County, Huntley and Yellowstone Reclamation Projects, prior orders revoked in part 4262) 11875
Nebraska, Scotts Bluff County, reclamation purposes, prior order revoked in part (PLO 4344) 20980
Nevada:
Clark County:
Air navigation site No. 345 revoked (PLO 4205) 6642
Airmail beacon site, Executive Order 4702 revoked in part (PLO 4315) 15482
Elko County, air navigation sites:
No. 72, prior order revoked (PLO 4276) 13412
No. 152 revoked (PLO 4240) 10257
Humboldt County:
Air navigation facility (PLO 4239) 10437
Air navigation site No. 265, PLO 3466 revoked in part (PLO 4239) 10437
Humboldt National Forest, administrative sites:
Forest Service, proposed withdrawal 2789
PLO 1796 and 2764 revoked in part (PLO 4331) 17479

Land Management Bureau—Continued Page

WITHDRAWALS of lands for specified uses of Federal agencies, etc.—Continued
Nevada—Continued
Lander County, air navigation site No. 213 revoked (PLO 4314) 15482
Mount Diablo Meridian:
Air navigation facilities, Federal Aviation Administration; proposed withdrawal 9998
Terminated 12128
Geothermal resources, etc., protection of, Land Management Bureau; proposed withdrawal 4507
Nuclear testing area, Atomic Energy Commission; proposed withdrawal 10116
Pacific Northwest-Pacific Southwest Intertie Reclamation Project (PLO 4250) 10260
Recreation areas, Land Management Bureau; proposed withdrawal terminated 826
Seismic instrumentation station, Atomic Energy Commission; proposed withdrawal 11903
Nye County, experimental purposes, Atomic Energy Commission (PLO 4338) 17891
Toiyabe National Forest, addition, Forest Service; proposed withdrawals 5375, 7401
New Mexico:
Apache National Forest, roadside zone, PLO 1230 revoked in part (PLO 4348) 20981
Carson National Forest:
Administration, Forest Service; proposed withdrawal 16284
Project Gasbuggy, Atomic Energy Commission (PLO 9232) 6218, 9166
Catron County:
Stock driveway No. 9, New Mexico No. 3, revoked in part (PLO 4127) 54
Water reserve, public, No. 21, New Mexico No. 1; Executive order of June 24, 1914, revoked in part (PLO 4127) 54
Cibola National Forest:
Additions, Forest Service; proposed withdrawals 6852, 7403, 11292
Administration, Forest Service; proposed withdrawal 16284
Roadside zone, etc 7135, 7921
Dona Ana County, programs of New Mexico University (PLO 4263) 11876
Gila National Forest, administrative site; prior order revoked in part (PLO 4271) 13411
Grant County:
Exchange selections, Executive Orders 6143 and 6276 revoked in part (PLO 4136) 211
Water reserve No. 107, Executive order of April 17, 1926, revoked in part (PLO 4203) 6641
Hidalgo County:
Ecological plot, PLO 4038 revoked in part (PLO 4208) 6643
Exchange selections, orders revoked in part:
Executive Orders 6143 and 6276 (PLO 4136) 211
Executive Order 6583 (PLO 4223) 8036
San Simon Cienega Mexican Duck Habitat Development Project (PLO 4146) 214
Lincoln and Chaves Counties, military purposes, Air Force Department; PLO 2749 revoked in part (PLO 4137) 212
Lincoln National Forest, proposed withdrawals:
Addition, Forest Service 622
Recreation area, Forest Service 2981
Luna County, exchange selections; Executive Order 6583 revoked in part (PLO 4190, 4273) 6095, 13411
Principal Meridian:
Addition to national forest lands, Forest Service; proposed withdrawal 13237
Exchange selections; Executive Order 6143 and 6276 revoked in part (PLO 4165) 3744
Explosive test facility near Sandia Base, Engineers Corps; proposed withdrawal 14114
Geothermal resources, protection of, Land Management Bureau; proposed withdrawal 4507
Indian use, PLO 2198 revoked in part (PLO 4157, 4206) 3020, 6642
Project Gasbuggy, Atomic Energy Commission (PLO 9232) 6218, 9166
Research projects, New Mexico State University; proposed withdrawal terminated in part 12803

Land Management Bureau—Continued Page

WITHDRAWALS of lands for specified uses of Federal agencies, etc.—Continued
New Mexico—Continued
Principal Meridian—Continued
School purposes (PLO 4124) 53
Transfer of jurisdiction from Agriculture to Interior Department, Executive Order 7743 amended (PLO 4194) 6138
Walker Air Force Base, PLO 1259 revoked (PLO 4121) 52
Roosevelt County, Grulla National Wildlife Refuge, Fish and Wildlife Service; proposed withdrawal 8255
San Juan County:
Animas-La Plata Project (PLO 4293) 14156
Navajo Indian Irrigation Project, Reclamation Bureau (PLO 4325) 8538, 16214
Santa Fe and Rio Arriba Counties, stock driveway withdrawals Nos. 60, 61, and 81 revoked in part (PLO 4135) 211
Socorro County:
Landing strips, Army Department; PLO 1166 revoked (PLO 4295) 14275
Stock driveway No. 9, New Mexico No. 3, revoked in part (PLO 4127) 54
Water reserve, public, No. 21, New Mexico No. 1; Executive order of June 24, 1914, revoked in part (PLO 4127) 54
North Dakota, Fifth Principal Meridian, Oahe Dam and Reservoir Project:
Army Department, PLO 3036 amended (PLO 4259) 10934
Engineers Corps, proposed withdrawals 13085, 15887
Oregon:
Benton County, recreation site (PLO 4305) 15428
Deschutes National Forest:
Road, Forest Service; proposed withdrawal 8996
Stock driveway withdrawal revoked in part (PLO 4285) 13414
Douglas County:
Air navigation site No. 32, PLO 583 revoked in part (PLO 4274) 13412
Source of materials for highway construction (PLO 4248) 10259
Jackson County, air navigation site No. 31 revoked in part (PLO 4330) 17479
Josephine County:
Air navigation facilities, prior orders revoked (PLO 4183, 4287) 5836, 14060
Pine and fir seed orchard (PLO 4132) 210
Lake County, stock driveway, PLO 1967 revoked in part (PLO 4233) 9167
Malheur County; prior orders revoked in part:
Owyhee Project (PLO 4181) 5836
Vale Project (PLO 4179, 4180) 5835
Malheur National Forest, cedar grove area, Forest Service; proposed withdrawal 13333
Morrow County, John Day Wildlife Management Area (PLO 4210) 6643
Mount Hood National Forest, campsite, Agriculture Department (PLO 4302) 3180, 15427
PLO 3634 revoked in part (PLO 4302) 15427
Rogue River National Forest:
Administrative sites, Forest Service:
Prior order revoked (PLO 4322) 16214
Proposed withdrawal 11806
Applegate Reservoir Project (PLO 4169) 3745
Siskiyou National Forest:
Campgrounds, etc., Forest Service; proposed withdrawals 622, 3713, 6528
Recreation area, Agriculture Department (PLO 4156) 3020
Rogue River Basin Project (PLO 4289) 14101
Seed production area, Agriculture Department (PLO 4319) 15878
Umatilla County:
McNary Lock and Dam Project; PLO 1096 revoked in part (PLO 4141) 213
Umatilla Project; prior order revoked (PLO 4186) 5837
Umatilla National Forest:
Administrative areas, Agriculture Department (PLO 4158, 4311, 4319) 3021, 15429, 15878
Prior orders revoked (PLO 4241, 4272) 10257, 13411
Proposed withdrawals 4458, 10673

Land Management Bureau—Continued Page

WITHDRAWALS of lands for specified uses of Federal agencies, etc.—Continued
Oregon—Continued
Umatilla National Forest—Continued
Campgrounds, Agriculture Department (PLO 4278, 4292) 623, 13412, 14155
Umpqua National Forest, administrative sites, Forest Service; proposed withdrawals 8995, 10673
Wheeler County, John Day Project, prior order revoked in part (PLO 4122) 53
Whitman National Forest:
Recreation area, Agriculture Department (PLO 4145) 214
Reservoir sites, Reclamation Bureau; proposed withdrawal 14284, 15550
Prior proposed withdrawal terminated 14284
Willamette Meridian, proposed withdrawals:
Lost Creek Reservoir Project, Engineers Corps; terminated 1001
Oregon Islands National Wildlife Refuge, addition to, Fish and Wildlife Service 2387
Recreation site, Land Management Bureau 6528
Rogue River Basin Project, Reclamation Bureau; terminated 933
Umpqua River Project, Reclamation Bureau; termination, correction 583
Willamette National Forest:
Blue River Reservoir Project (PLO 4279) 4455, 13413
Recreation area, Agriculture Department (PLO 4185) 5837
Winema National Forest, stock driveway withdrawal revoked in part (PLO 4285) 13414
South Dakota, Black Hills Meridian:
Ellsworth Air Force Base facilities, Engineers Corps; proposed withdrawal terminated 623
Military purposes, Air Force Department (PLO 4140) 213
Roadside zones, Forest Service; proposed withdrawal 6852
Utah:
Ashley National Forest:
Central Utah Project (PLO 4192) 6096
Recreation areas, Agriculture Department (PLO 4291) 6804, 14155
Daggett County, Colorado River Storage Project (PLO 4288) 14060
Emery County, Desert Lake Waterfowl Management Area (PLO 4170) 3745
Fishlake National Forest, addition, Forest Service; proposed withdrawal 7601
Manti-LaSal National Forest, addition, Forest Service; proposed withdrawal 7601
Oil shale deposits, protection of multiple-use development, Land Management Bureau; proposed withdrawal 1058, 4030
Salt Lake Meridian:
Castle Valley Job Corps Center, protection of; proposed withdrawal 5379
Colorado River Storage Project, Reclamation Bureau; proposed withdrawal 2982
Dixie Project, Reclamation Bureau; proposed withdrawal 12803
Paria River Reservoir and Hogan Dam Site (PLO 4277) 5569, 13412
Seismometer sites in conjunction with Uinta Basin Observatory, Air Force Department; proposed withdrawal 20990
Wasatch Aqueduct, Reclamation Bureau; proposed withdrawal 4144
Toole County, aerial bombing and gunnery range, Air Force Department; Executive Order 8652 revoked in part (PLO 4236, 4266, 4317) 9224, 12950, 15482
Uintah County, public water reserve No. 81, Executive order of November 26, 1921, revoked in part (PLO 4167) 3744
Uintah Special Meridian, phosphate reserve No. 24, Utah No. 3, Executive order of May 11, 1915, revoked in part (PLO 4211) 6644
Wasatch National Forest:
Addition, Forest Service; proposed withdrawal 11578
Campgrounds, etc., Agriculture Department (PLO 4245) 933, 10259

Land Management Bureau—Continued Page

WITHDRAWALS of lands for specified uses of Federal agencies, etc.—Continued
Washington:
Benton County, John Day Wildlife Management Area (PLO 4219) 6643
Buck Island, San Juan Islands National Wildlife Refuge, addition (PLO 4148) 320
Colville National Forest, recreation areas and roadside zones, Forest Service; proposed withdrawal 9242
Gifford Pinchot National Forest, recreation area (PLO 4218) 6645
Grant County:
Aviation purposes, Air Force Department; PLO 1067 revoked (PLO 4213) 6644
Columbia Basin Project (PLO 4269) 13072
Kaniksu National Forest, campground, Agriculture Department (PLO 4319) 2949, 15878
Kittitas County, addition to Colockum Game Range (PLO 4239) 20775
Okanogan National Forest, campground, etc., Forest Service; proposed withdrawals 678, 3949
Olympic National Forest, Wynoochee Reservoir Project, Engineers Corps; proposed withdrawal 17864
Pacific County, addition to Willapa National Wildlife Refuge, Fish and Wildlife Service; proposed withdrawals 6148, 10869
San Juan County, lighthouse purposes, Executive Order 5630 revoked in part (PLO 4197) 6639
Snoqualmie National Forest, recreation area, Forest Service; proposed withdrawal 3892
Wenatchee National Forest:
Campground, etc., Agriculture Department (PLO 4193) 6194
Chief Joseph Dam Project (PLO 4142) 213
Yakima Project (PLO 4323) 2982, 16214
Willamette Meridian, proposed withdrawals:
Columbia Basin Project, Reclamation Bureau; terminated 933
John Day Lock and Dam Project, wildlife management area in connection with 10673
Wyoming:
Big Horn County, Missouri River Basin Project; prior orders revoked in part (PLO 4194) 3743
Black Hills National Forest, campgrounds, Agriculture Department (PLO 4265) 12752
Carbon County:
North Platte-Kendrick Projects; prior orders revoked in part (PLO 4138) 212
North Platte Project (PLO 4225) 8037
Converse County, public water reserves, Executive orders revoked in part (PLO 4327)
No. 12, Wyoming No. 3; order of December 5, 1913 16531
No. 18, Wyoming No. 4; order of March 21, 1914 16531
No. 20, Wyoming No. 5; order of June 24, 1914 16531
Lincoln County, recreation site (PLO 4297) 14276
Natrona County:
Air navigation facility (PLO 4177) 4122
Kendrick Project; prior orders revoked in part (PLO 4138, 4347) 212, 20981
North Platte Project (PLO 4217) 6645
Prior orders revoked in part (PLO 4138) 212
Oil shale deposits, protection of multiple-use development, Land Management Bureau; proposed withdrawal 1058, 4030
Park County, Shoshone Project (PLO 4301) 15098
Sheridan County, public water reserve No. 44, Wyoming No. 10; Executive order of December 20, 1916, revoked in part (PLO 4191) 6096
Sixth Principal Meridian:
Picnic site, Land Management Bureau; proposed withdrawal 2472
Seedskadee Project (PLO 4195, 4196) 6494, 6495
Sweetwater County:
Air navigation site No. 218 revoked (PLO 4263) 6641
Oil shale deposits, Executive Order 5327 revoked in part (PLO 4230) 8809
Targhee National Forest, recreation area, Agriculture Department (PLO 4242) 2717, 10258

Land Use Adjustment Programs: Page
See Agriculture Department.

Lemonade:
ARTIFICIALLY SWEETENED, frozen concentrate. *See* Food and Drug Administration.

Lemons:
MARKETING. *See* Agriculture Department.

Lettuce:
MARKETING. *See* Agriculture Department.

Libraries:
FINANCIAL ASSISTANCE. *See* Education Office.

Library of Congress:
See Copyright Office.
ORGANIZATION AND FUNCTIONS 976

Limes:
MARKETING, etc. *See* Agriculture Department.

Linseed Oil:
WAREHOUSES, standards, etc. *See* Commodity Credit Corporation.

Liquor:
See Alcoholic beverages.

Livestock:
DISEASE CONTROL, etc. *See* Agriculture Department.
FEED:
Additives in feed and drinking water, etc. *See* Food and Drug Administration.
Disaster areas, certain, transportation at reduced rates. *See* Interstate Commerce Commission.
Emergency program. *See* Agriculture Department.
PROTECTION, taking of golden depredating eagles. *See* Fish and Wildlife Service.

Loans:
AGRICULTURAL COMMODITIES, various loan programs. *See* Commodity Credit Corporation.
AIRCRAFT loan guarantee program. *See* Transportation Department.
COMMERCIAL BANK LOANS, interest equalization tax (Executive Order 11328) 3137
DISASTER AREAS, emergency loans. *See* Agriculture Department; Emergency Planning Office; Small Business Administration.
FARMERS, loans to. *See* Farmers Home Administration.
FEDERAL FARM LOAN SYSTEM, etc. *See* Farm Credit Administration.
FEDERAL HOME LOAN BANK SYSTEM, savings and loan system, etc. *See* Federal Home Loan Bank Board.
FEDERAL RESERVE member banks, loans to executive officers. *See* Federal Reserve System.
FEDERAL SAVINGS AND LOAN SYSTEM, etc. *See* Federal Home Loan Bank Board.
FISHING VESSELS, construction or purchase loan applications. *See* Fish and Wildlife Service.
HOUSING LOANS:
Authority delegations, college housing loan programs, etc. *See* Housing and Urban Development Department.
Property improvement loans, etc. *See* Federal Housing Administration.
REAL ESTATE. *See* Farmers Home Administration.
SCHOOLS, etc., loans to. *See* Education Office.
SMALL BUSINESS. *See* Small Business Administration.
STUDENTS, low-interest loans. *See* Education Office.
VETERANS, loans to. *See* Veterans Administration.

Lumber:
See also Timber.
HARDWOODS, export control and domestic consumption; hearing 12864

Lumber—Continued Page

INDUSTRY in Puerto Rico, minimum wages 5469, 6449
SOFTWOOD. *See* Commerce Department; Federal Trade Commission; National Bureau of Standards.

M

Manpower Administration:
AUTHORITY DELEGATION by Assistant Secretary for Manpower to Administrator of Employment Security Bureau; certain immigration functions 13791

Margarine:
IDENTITY STANDARDS. *See* Agriculture Department; Food and Drug Administration.

Marine Corps:
AUTHORITY CITATIONS 317
BRIGADIER GENERALS ON ACTIVE LIST, suspension of sec. 6374, Title 10, U.S. Code, relating to retirement (Executive Order 11333) 3879
FIRST LIEUTENANTS, promotion to next higher grade (Executive Order 11361) 10153
LIEUTENANT COLONELS, suspension of provision of sec. 5751(b), Title 10, U.S. Code, relating to service-in-grade requirement for promotions (Executive Order 11352) 7563
ORGANIZATION 8305
RESERVE, definitions and standard operating procedures 317, 2525

Maritime Administration:
See National Shipping Authority.
AUTHORITY DELEGATIONS from Secretary of Commerce:
Appointment of uniformed guards as special policemen 17549
Negotiation of contracts, prior delegation revoked 11810
CUBA, free world and Polish flag vessels arriving in, since January 1, 1963; list 3076, 5741, 7295, 9035, 11648, 12957, 15718
DECORATIONS, Seamen's Service Awards 9224
DOCUMENTATION, TRANSFER, OR CHARTER of vessels:
Applicant as trustee under Public Law 89-346; approval:
Harris Trust and Savings Bank, 16287.
Charters of certain vessels to aliens, except for carriage of cargoes to or from Southern Rhodesia 4122
Citizenship declarations by owners or mortgagees of vessels of U.S. 17595
Conditions of approval 4499
FEES, charges for statistical or economic data 12951
GOVERNMENT-SPONSORED COMMODITIES, voyage charter-rate guidelines 15769, 20819
GUARANTEE CLAUSE in new ship construction contracts, operators' responsibilities with respect to; revoked 7054
HOSPITAL SHIP "USS HAVEN":
Allocation 10387
Availability for conversion and restoration for commercial operation 7512
INFORMATION AND RECORDS, availability 12845, 12864
MARITIME SUBSIDY BOARD, actions by; review procedures by Secretary of Commerce 2705
MERCHANT MARINE:
Academy, training of cadets on subsidized vessels and allowances and expenses 3022
Seamen's Service Awards, changes as to distributors and cost of ribbons 9224
State maritime academies and colleges, regulations and minimum standards 4537
NORTH VIETNAM, free world and Polish flag vessels arriving in, since January 25, 1966; list 623, 2461, 5476, 6944, 8775, 11578, 13421, 16443
ORGANIZATION AND FUNCTIONS 7297, 10221, 10387, 13339
RAILROAD STRIKE, priority movement of materials and passengers necessary to promote national defense during 10568
Canceled 10791

Maritime Administration—Continued Page

REPORTS required to be filed, cargo and passenger; forms of vessel utilization and performance reports prescribed 7525
SEAMEN'S SERVICE AWARDS, changes as to distributors and cost of Merchant Marine ribbons 9224
SUBSIDIZED VESSELS AND OPERATORS:
See also Merchant Marine, *above.*
Forms, construction contract 7174
Operating-differential subsidies:
Accounts, uniform system 20775
Applications under Merchant Marine Act, 1936:
American Export Isbrandtsen Lines, Inc., 13148, 13298, 16171.
American Mail Line, Ltd., 10220, 11175.
American President Lines, Ltd., 4547, 13780.
Delta Steamship Lines, Inc., 14069.
Grace Line, Inc., 13298, 13465.
Lykes Bros. Steamship Co., Inc., 10614, 11176.
Moore-McCormack Lines, Inc., 6944.
Oceanic Steamship Co., 16537.
United States Lines, Inc., 11239.
Cruise applications pursuant to Public Law 87-45:
American Export Isbrandtsen Lines, Inc., 5961, 10231, 12863, 19196.
Moore-McCormack Lines, Inc., 2790, 5730, 11239, 14990.
United States Lines, Inc., 10520, 10615.
Guidelines for payment, subsidized operators; proposed rule 16436, 17980
Inventories; waiver of inventory requirements etc. 10855
Payments from capital reserve fund; application, etc 17595
TROOPSHIPS, C4:
Allocation 12809
Availability 7511, 15848, 21043
Reallocation 7640
WAR RISK INSURANCE:
Expiration dates 4537, 11527
Record retention requirements 17891
Values for 7525, 16272

Maritime Commission, Federal:
See Federal Maritime Commission.

Maritime Subsidy Board:
See Maritime Administration.

Meat and Products:
IMPORT LIMITATIONS, etc. *See* Agriculture Department.
SMALL BUSINESS MANUFACTURER, meat packing plants; definition 7440

Medals:
See Decorations and awards.

Medical Care:
See Hospital and medical care.

Melons:
MARKETING, etc. *See* Agriculture Department.

Mental Health:
ALASKA, certain public lands reserved for mental health purposes. *See* Land Management Bureau.
GRANTS. *See* Public Health Service.

Merchant Marine:
See Coast Guard; Maritime Administration.

Mexico:
BORDER CROSSING CARDS, nonresident alien Mexican 7743, 7770
BROADCAST STATIONS. *See* Federal Communications Commission.
COTTON TEXTILES, import restrictions. *See* Interagency Textile Administrative Committee.
FREIGHT FORWARDER shipment charges, household goods. *See* Interstate Commerce Commission.
MAIL from, undeliverable; treatment by Post Office 3058
PLANT QUARANTINE REGULATIONS at border, etc. *See* Agriculture Department.

Meteorological Service:
See Commerce Department; National Bureau of Standards.

Methyl Alcohol:
See Alcoholic beverages.

Metric System:
See Commerce Department; National Bureau of Standards.

Mexican Border Area:
See Mexico.

Mexico:
See also Mexican Border Area.
CITIZENS, nonresident alien border crossing cards 7743, 7770
COTTON TEXTILES, import restrictions. *See* Interagency Textile Administrative Committee.
FREIGHT FORWARDER shipment charges, household goods. *See* Interstate Commerce Commission.
MAIL from, undeliverable; treatment by Post Office 3058
PLANT QUARANTINE REGULATIONS at border, etc. *See* Agriculture Department.

Migratory Birds:
See Fish and Wildlife Service.

Milk:
See Agriculture Department; Food and Drug Administration.

Mines and Mining:
See Interior Department; Land Management Bureau; Mines Bureau.

Mines Bureau:
ORGANIZATION AND FUNCTIONS 7297, 10221, 10387, 13339

Minimum Wages:
See Labor Department; Wage and Hour Division.

Mining Claims:
See Land Management Bureau.

Missiles:
See Defense Department.

Missouri River Basin Project:
See Land Management Bureau.

Mobilization Plans:
See Defense Department.

Molasses:
IMPORT QUOTAS. *See* Agriculture Department.

Monetary Matters:
See Treasury Department.

Money Orders:
See Post Office Department.

Monuments:
See Interior Department; National Park Service.

Mortgages:
See Farmers Home Administration; Federal Housing Administration; Veterans Administration.

Motor Carriers:
See Interstate Commerce Commission.

Motor Vehicles:
See Commerce Department; Federal Highway Administration; Interstate Commerce Commission.

Mules:
See Agriculture Department.

Multiple-Use Management:
See Land Management Bureau.

Museums:
See Smithsonian Institution.

Mushrooms:
IMPORT LIMITATIONS, etc. *See* Agriculture Department.

N Page

National Aeronautics and Space Administration:
ORGANIZATION AND FUNCTIONS 7297, 10221, 10387, 13339

National Bureau of Standards:
ORGANIZATION AND FUNCTIONS 7297, 10221, 10387, 13339

National Capital Housing Authority:
ORGANIZATION AND FUNCTIONS 7297, 10221, 10387, 13339

National Capital Planning Commission:
ORGANIZATION AND FUNCTIONS 7297, 10221, 10387, 13339

National Capital Transportation Agency:
ORGANIZATION AND FUNCTIONS 7297, 10221, 10387, 13339

National Commission on Food Marketing:
ORGANIZATION AND FUNCTIONS 7297, 10221, 10387, 13339

National Foundation on the Arts and the Humanities:
ORGANIZATION AND FUNCTIONS 7297, 10221, 10387, 13339

National Park Service:
ORGANIZATION AND FUNCTIONS 7297, 10221, 10387, 13339

National Shipping Authority:
ORGANIZATION AND FUNCTIONS 7297, 10221, 10387, 13339

National Transportation Safety Board:
ORGANIZATION AND FUNCTIONS 7297, 10221, 10387, 13339

Navigation Aids:
See Coast Guard.

Navy Department:
ORGANIZATION AND FUNCTIONS 7297, 10221, 10387, 13339

Nectarines:
IMPORT LIMITATIONS, etc. *See* Agriculture Department.

Negroes:
See Civil Rights.

Nets:
See Fish and Wildlife Service.

Nevada:
See Land Management Bureau.

New Mexico:
See Land Management Bureau.

Newspapers:
See Publications.

Nitrogen:
See Agriculture Department.

Nonferrous Metals:
See Interior Department; Mines Bureau.

Nonprofit Organizations:
See Internal Revenue Service.

Nonwoven Fabrics:
See Textiles.

Nuclear Energy:
See Atomic Energy Commission.

Nuclear Ships:
See Atomic Energy Commission.

Nuclear Weapons:
See Defense Department.

Nuts:
See Agriculture Department.

O

Oats:
See Agriculture Department.

Occupational Safety and Health:
See Labor Department.

Oceanographic Research:
See Commerce Department; Coast and Geodetic Survey; Navy Department.

Oil Shale:
See Land Management Bureau.

Oils and Fats:
See Agriculture Department.

Oklahoma:
See Land Management Bureau.

Olives:
IMPORT LIMITATIONS, etc. *See* Agriculture Department.

Onions:
IMPORT LIMITATIONS, etc. *See* Agriculture Department.

Oranges:
IMPORT LIMITATIONS, etc. *See* Agriculture Department.

Oregon:
See Land Management Bureau.

Organization and Functions:
See Agriculture Department; Commerce Department; Defense Department; Health, Education, and Welfare Department; Interior Department; Labor Department; Post Office Department; Transportation Department; Treasury Department; Veterans Administration; White House Office.

Organization Delegations:
See Agriculture Department; Commerce Department; Defense Department; Health, Education, and Welfare Department; Interior Department; Labor Department; Post Office Department; Transportation Department; Treasury Department; Veterans Administration; White House Office.

Ozone:
See Air Pollution.

Micronesia, Trust Territory of Pacific Islands:
CONGRESS, legislative authority; budget, elections, reading of bills ... 11339

Migratory Birds:
HUNTING AND POSSESSION. *See* Fish and Wildlife Service.

Military Aircraft and Military Aircraft Engine Industries:
LABOR DISPUTE, Board of Inquiry to investigate (Executive Order 11344) ... 6173

Military Personnel:
See Armed services.

Milk and Products:
ADMINISTRATIVE RULING, Federal Trade Commission; complying with milk marketing orders ... 20716
IDENTITY STANDARD, optional ingredient. *See* Food and Drug Administration.
IMPORTS of dairy products, investigation and report to President. *See* Tariff Commission.
MARKETING, etc. *See* Agriculture Department.
PRICE ADJUSTMENTS in contracts for fluid milk, armed services procurement regulations ... 6136
PRICE-SUPPORT PROGRAM. *See* Commodity Credit Corporation.
SCHOOL LUNCH PROGRAM, special. *See* Agriculture Department.

Mineral Lands and Minerals:
See also Oil and gas.
AUTHORITY DELEGATIONS, Indian lands and minerals. *See* Indian Affairs Bureau.
FACILITIES AND MATERIALS, authority delegation. *See* Interior Department.
PUBLIC LANDS, mineral entry, etc. *See* Land Management Bureau.

Mines Bureau:
AUTHORITY DELEGATIONS:
- By Assistant Director, Minerals Research, to certain officials:
  - Purchases ... 11986
  - Research contracts ... 2902, 8255
- By Director to certain officials; contracts:
  - Assistant Director, Administration, et al ... 7874
  - Deputy Director, et al ... 14900
- From Secretary of Interior:
  - Coal mine safety ... 882
  - Research contracts and grants ... 5297, 13531

COAL MINES:
- Authority delegation ... 882
- Grants for advancement of health and safety in mines ... 2944

ELECTRIC MOTOR-DRIVEN MINE EQUIPMENT and accessories, proposed rules ... 13098
FIREFIGHTING EQUIPMENT, classification of fires and extinguishers, etc ... 7016
GRANTS for scientific research and development projects ... 6637
SELF-CONTAINED BREATHING APPARATUS, procedures for investigation, tests, etc.; proposed rules ... 8162
SUPPLIED-AIR RESPIRATORS, procedures for investigation, tests, etc.; proposed rules ... 20730

Mint Bureau:
AUTHORITY DELEGATIONS from Treasury Department officials:
- Secretary; procurement for minting of clad coins ... 5643
- Under Secretary; appointment of uniformed guards as special policemen, etc ... 17490

ORGANIZATION AND FUNCTIONS ... 10689
- Director, order of succession ... 4318

PROCEDURES, deposit of silver for return in bar form ... 14589
RECORDS, availability of, and appeal ... 9664
TABLE OF CHARGES at U.S. Mint and Assay Offices; silver bullion ... 14589

Missile Sites Labor Commission:
TERMINATION (Executive Order 11374) ... 14139

Mohair and Products:
AGREEMENT with Mohair Council of America, Inc. *See* Agriculture Department.
PAYMENT PROGRAMS. *See* Commodity Credit Corporation.

Monetary Offices:
See Treasury Department.

Monuments, National:
See National forests, parks, etc.

Motor Carriers:
EXPLOSIVES, shipments by motor carriers. *See* Federal Highway Administration; Interstate Commerce Commission; Transportation Department.
OPERATING AUTHORITY, routes, etc. *See* Interstate Commerce Commission.
SAFETY REGULATIONS. *See* Federal Highway Administration; Interstate Commerce Commission.

Motor Vehicles:
AIR POLLUTION, control of, from new motor vehicles and engines. *See* Customs Bureau; Health, Education, and Welfare Department.
CHILD LABOR REGULATIONS, hazardous occupations; motor vehicle driver and outside helper ... 15478
CUSTOMS DUTY REGULATION, automotive vehicles and articles for use as original equipment in manufacture of automotive vehicles ... 4569
EXPORT COMMODITY CONTROL, military automotive vehicles ... 8584
GOVERNMENT VEHICLES:
- Army Department regulations respecting claims incident to use ... 13654
- Interagency pools, etc. *See* General Services Administration.
- Veterans Administration employees, suits against, because of motor vehicle operation ... 2429

HAZARDOUS OCCUPATIONS, child labor regulations; motor vehicle driver and outside helper ... 15478
MANUFACTURERS, bona fide, of motor vehicles; determination ... 9851
NATIONAL PARKS, etc., operation of motor vehicles in. *See* National Park Service.
SAFETY STANDARDS. *See* Commerce Department; Customs Bureau; Federal Highway Administration; General Services Administration.
SHIPPING RATES, automobiles, uniform rates and measurements ... 7457
TRANSPORTATION by piggyback trailer-on-flatcar service. *See* Interstate Commerce Commission.
TRUCKS, inventory and use survey ... 4319, 6587

Morocco:
AGRICULTURAL EXPORTS FROM U.S. (Presidential Findings of February 27, and September 18, 1967) ... 4051, 14885

Mushrooms:
CANNED:
- Importation from Republic of Korea, Foreign Assets Control regulation. *See* Treasury Department.
- Temporary permit for market testing. *See* Food and Drug Administration.

Mutual Educational and Cultural Exchange Act of 1961:
ADMINISTRATION (Executive Order 11380) ... 15627

N

Narcotic Addicts:
REGISTRATION on leaving or returning to U.S. *See* Customs Bureau.

Narcotics Bureau:
AUTHORITY DELEGATION by Commissioner to Deputy Commissioner, et al.; certain functions ... 449
DRUGS, regulatory taxes; inventory and recordkeeping requirements, proposed rule ... 17861
INFORMATION, public access ... 10070
INTERPOL, functions respecting, transferred from Treasury Department ... 5810
ORGANIZATION AND FUNCTIONS ... 10108

National Advisory Commission on Civil Disorders:
CONFERENCES, HEARINGS, etc., rules for conduct of ... 12969
ESTABLISHMENT (Executive Order 11365) ... 11111

National Advisory Commission on Rural Poverty:
RURAL ECONOMIC CONDITIONS, hearings ... 344

National Aeronautics and Space Administration:
AEROSPACE SAFETY ADVISORY PANEL, authority and functions ... 20714
AUTHORITY DELEGATION by Administrator to Secretary of Health, Education, and Welfare; certain functions under Civil Rights Act ... 3883
CLAIMS:
- Against NASA or employees accruing after January 18, 1967 ... 13321
- Arising out of activities of NASA, collection of ... 6564
- Tort claims accruing prior to January 18, 1967 ... 13321

CONDUCT STANDARDS ... 9584, 14648
CONFLICT OF INTEREST, certification of Leonard R. Sayles to act on behalf of National Academy of Sciences ... 9584
DECORATIONS AND AWARDS for technical and scientific contributions ... 6272, 11262
INVENTIONS AND CONTRIBUTIONS:
- Awards for technical and scientific contributions ... 6272, 11262
- Board; functions, membership, etc ... 11209

ORGANIZATION AND FUNCTIONS ... 9524
- Aerospace Safety Advisory Panel ... 20714
- Inventions and Contributions Board ... 11209

PROCUREMENT REGULATIONS ... 17002
- Administrative policies and procedures, 17394.
- Advertising, 17067.
- Bonds and insurance, 17273.
- Contracts:
  - Appeal procedure, 17414.
  - Clauses, 17163.
  - Cost principles and procedures, 17349.
  - Management procedures, 17396.
  - Termination, 17223.
- Extraordinary contractual adjustments procedure, 17390.
- Foreign purchases; Buy American Act, purchases from Soviet-controlled areas, etc., 17154.
- Forms, 17376.
- General provisions, 17002.
- Government property, 17319.
- Inspection and acceptance, 17345.
- Interdepartmental, 17143.
- Labor, 17294.
- Negotiation, 17084.
- Patents, data, and copyrights, 17263.
- Priorities and allocations, 17406.
- Special types and methods, 17151.
- Taxes, Federal, State, and local, 17236.

RECORDS AND INFORMATION, availability of ... 9538
SEAL, INSIGNIA, AND FLAGS ... 12997
SPACE SCIENCE FLIGHT EXPERIMENTS ... 132

National Aeronautics and Space Council:
BASIC COMPENSATION, aerospace assistant ... 2799, 8106

National Agricultural Library:
See Agriculture Department.

National Bureau of Standards:
AUTHORITY DELEGATIONS from Secretary of Commerce:
- Appointment of uniformed guards as special policemen ... 17550
- Automatic data processing service center, operation of ... 11811
- Contract negotiation, prior delegation revoked ... 11810

ELECTROMAGNETIC MEASUREMENTS AND STANDARDS, course at University of Colorado ... 4508
INFORMATION, availability of ... 12127
LUMBER STANDARD, softwood lumber; proposed withdrawal postponed ... 6737
MEASUREMENT SERVICES:
- *See also* Test fee schedules.
- Policies, services, procedures, and fees ... 21012

ORGANIZATION AND FUNCTIONS ... 6529, 11811
RADIO STATIONS:
- Coding change GEOALERTS broadcast ... 16507
- Standard frequency and time broadcasts ... 1141, 3782, 5381, 6944, 7921, 9573, 11240, 12452, 13734, 15128, 16443, 20991.
- Voice announcements; changes ... 5645

RESEARCH ASSOCIATE PROGRAM ... 10252
STANDARD REFERENCE MATERIALS ... 21017
- Certified chemical composition:
  - Bio-medical chemicals ... 15636
  - Chemicals ... 6129
  - Copper-base alloys (solid form) ... 2844
  - Gases, analyzed ... 11765
  - Isotopic reference standards ... 4057, 13057
  - Metallo-organic compounds ... 11765
  - Nuclear materials, special ... 7132
  - Steel making alloys ... 13766
- Certified properties and purity:
  - Calorimetric standards ... 11765
  - Carbon-14 sugars, interior ... 3741
  - Coating thickness ... 2844, 10645
  - Density and refractive index standards ... 11766
  - Microcopy resolution test chart ... 13766, 15636
  - Papers, light-sensitive ... 8957
  - Plastic chips, light-sensitive ... 2844, 8957
  - Radioactivity standards ... 3741, 4057, 7132, 11765, 12441, 15105
  - Rubbers, standard ... 7593
  - Turbidimetric and fineness standard ... 13058
  - Viscometer calibrating liquids; discontinuance ... 2388, 10930
- Fees, services, etc ... 21017
- Purchase procedure ... 21017

TEST FEE SCHEDULES ... 21012
- Analytical chemistry, measurement of physical properties of primary reference fuels for octane number determination ... 10645
- Building research ... 13765
- Fire resistance tests; deletion ... 13765
- Electricity ... 840, 5547, 7131, 7312, 8027, 10644
- Heat ... 7744
- Mechanics ... 7746
- Metallurgy, superseded ... 10645
- Metrology ... 2814, 7372
- Radiation physics:
  - Dosimetry in high-energy electron beams ... 3817
  - Neutron physics ... 15104
  - Radioactivity ... 15391
  - Thermal conductivity ... 13765
- Statutory functions, measurement research, critically evaluated data, etc ... 10194, 21012

TRANSCRIPT SERVICES, motion pictures ... 10198

National Capital Housing Authority:
CONDUCT STANDARDS ... 14547

National Capital Transportation Agency:
FUNDS, REPORTS, RECORDS, ETC., transfer to Washington Metropolitan Area Transit Authority (Executive Order 11373) ... 13371

National Forests, Parks, etc.:

REGULATIONS, etc. *See* Forest Service; Land Management Bureau; National Park Service; Reclamation Bureau.
WITHDRAWALS for specific use of Federal agencies, etc. *See* Land Management Bureau.

National Foundation on Arts and Humanities:

CONDUCT STANDARDS 17651, 17663
INFORMATION, availability of 10514, 11215
ORGANIZATION AND FUNCTIONS 10513

National Gallery of Art:

CONDUCT STANDARDS 13222

National Guard:

MICHIGAN, restoration of law and order in Detroit (Executive Order 11364) 10907

National Highway Safety Advisory Committee:

CHAIRMAN, appointment 8256

National Highway Safety Bureau:

ADMINISTRATION of National Traffic and Motor Vehicle Safety Act (Executive Order 11357) 8225

National Labor Relations Board:

CONDUCT STANDARDS 13560
EX PARTE COMMUNICATIONS; definition, penalties and enforcement, etc 8406
ORGANIZATION AND FUNCTIONS 9588
PROCEDURE STATEMENTS:
- Representation cases 9548
- Unfair labor practice cases 9547, 9550, 10059

RECORDS AND INFORMATION 9551
RULES AND REGULATIONS:
- Prevention of unfair labor practices 9548
- Records and information 9551
- Representation of employees, etc 9549
- Unfair labor practice and representation cases, procedure 9550

UNFAIR LABOR PRACTICE CASES:
- Formal hearings 13348
- Procedure 9547, 9550, 10059

National Mediation Board:

APPLICATIONS FOR SERVICE, investigation of representation disputes 15831
CONDUCT STANDARDS 15827
EMERGENCY BOARDS to investigate labor disputes:
- Long Island Rail Road (Executive Order 11343) 6085
- National Railway Labor Conference, representing carriers (Executive Order 11324, 11356) 1075, 8019

INFORMATION, availability of 15831
Prior regulation deleted 15831

National Park Service:

AUTHORITY DELEGATIONS:
- By Assistant Director, Design and Construction, to Chief, Contract Administration and Construction Division, Washington Planning and Service Center; contracts 13419
- By Assistant Director, Stephen T. Mather and Horace M. Albright Training Centers, to Supervisors; contracts and purchase orders 5960
- By certain Chiefs:
  - Design and Construction Offices, to Chiefs, Contract Administration and Construction Division; contracts:
    - Philadelphia Planning and Service Center 13674
    - San Francisco Planning and Service Center 13988
  - Lands and Water Rights Division, to land liaison officers in Midwest, Southeast, Southwest, and Western regions; contracts, deeds, and lands 11172
- By Director to various officials:
  - Certain Chiefs:
    - Archeology and Historic Preservation Office; authority of Director 10762

National Park Service—Continued

AUTHORITY DELEGATIONS—Continued
- By Director to various officials—Continued
  - Certain Chiefs—Continued
    - Design and Construction Offices; contracts 12067
    - Lands and Water Rights Division; contracts 12067
    - Property Management and General Services Division; contracts 12567
  - Deputy Associate Director, et al.; serve as members of District of Columbia Zoning Commission and National Capital Planning Commission 12014, 12015
  - Procurement Assistant, Eastern Museum Laboratory, Springfield, Va.; contracts 14788
  - Regional Directors; authority vested in Director 13199
  - Supervisory Archeologist, Southeast Archeological Center, Macon, Ga., contracts and purchase orders 12067
- By Regional Directors:
  - Northeast Region, Procurement Agent; contracts and purchase orders 15
  - Southwest Region, Forestry Technician, Western Tree Reservation Crew; contracts 10520
- By Superintendents of certain parks, etc., to various officials; contracts or purchase orders:
  - Assateague Island National Seashore, Administrative Assistant 15
  - Badlands National Monument, Foreman IV (Maintenance) and Administrative Officer 17985
  - Blue Ridge Parkway, Administrative Officer, et al 10314, 13013
  - Castillo de San Marcos National Monument, Administrative Officer, et al 10520
  - Coulee Dam National Recreation Area, Administrative Assistant, et al 13732
  - Curecanti Recreation Area, Administrative Officer and Procurement Assistant 17985
  - Delaware Gap National Recreation Area, Administrative Officer 4177
  - East National Capital Parks, Administrative Assistant 6149
  - Fort Larned National Historic Site, Administrative Assistant 10520
  - George Washington Memorial Parkway and Prince William Forest Park, Administrative and Management Assistants 4366
  - Great Smoky Mountains National Park, Assistant Superintendent, et al 15443
  - Independence National Historical Park, Administrative Officer and Procurement Agent 13988
  - Mammoth Cave National Park, Administrative Assistant 9243
  - Morristown National Historical Park, Administrative Assistant 15
  - Natchez Trace Parkway, Assistant Superintendent, et al 880, 13732
  - Navajo National Monument, Administrative Assistant 5960
  - Prince William Forest Park and George Washington Memorial Parkway, Administrative and Management Assistants 4366
  - Shenandoah National Park, Assistant Superintendent, et al 13732
- From Secretary of Interior:
  - Historic preservation functions 336
  - Transportation programs, etc., affecting historic sites 16059

GENERAL REGULATIONS:
- Boating 8294
- Commercial and private operations 8294
- General provisions 8294
- Public use and recreation 8294

NATIONAL PARKS, etc.:
- *See also* Special regulations; Wilderness areas.
- Acadia National Park; special regulations, deletion 21037
- Blue Ridge Parkway; concession permits 469, 15497
- Canyon de Chelly National Monument:
  - Special regulations 21038
  - Visitor use 13129
- Cape Cod National Seashore, concession permit 6584
- Cape Hatteras National Seashore, aircraft, boating, camping, fishing, etc.; proposed rules 9235
- Catoctin Mountain Park; firearms, traps and other weapons, wildlife, and picnicking 5771
- Colonial National Historical Park; boating 16213

National Park Service—Continued

NATIONAL PARKS, etc.—Continued
- Crater Lake National Park, concession contract 10377
- Fire Island National Seashore:
  - Special regulations 21038
  - Vehicular use 10803, 11988, 15391
- Fort Caroline National Memorial, restricted area; editorial change 16213
- Fort Jefferson National Monument; fishing and aircraft landing areas, proposed rule 15762
- Fort Sumter National Monument, concession contract 13298, 13674
- Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park; special regulations, deletion 21037
- George Washington Memorial Parkway, concession permit 6729
- Glacier Bay National Monument, special regulations; aircraft landing areas 21038
- Glacier National Park, concession contract 16537
- Glen Canyon National Recreation Area; designation of airstrips 5424
- Grand Teton National Park:
  - Airstrip 7771
  - Concession contract and permits 826, 13677, 17628, 17985
- Great Smoky Mountains National Park:
  - Concession permits 2455, 15497
  - Special regulations, load and vehicle limitations; deletion 21037
- Guilford Courthouse National Military Park; special regulations, deletion 16213, 21037
- Harpers Ferry National Historical Park; climbing Maryland Heights and exploring John Brown cave area, proposed rule 8039
- Hot Springs National Park:
  - Concession contracts 6374, 8943, 13604, 14243, 17628
  - Motor vehicle speed, editorial change 15710
- Isle Royale National Park:
  - Aircraft landing areas 13812
  - Concession permit 1199
- Kings Canyon National Park:
  - Concession permit 20666
  - Lands added to park, certain; jurisdiction 6149
- Lake Mead National Recreation Area:
  - Aircraft airstrips, alcoholic beverage use, parking vehicle-boat trailer combinations, etc 15751
  - Concession permit 3781
- Lassen Volcanic National Park:
  - Boating, fishing, etc 13071
  - Concession contract 10313
- Little Mountain Park Center, Natchez Trace Parkway; concession contract 6374
- Mesa Verde National Park, concession contract 19193
- Mount McKinley National Park; concession contract 7779
- Mount Rainier National Park; fishing, weight limits on vehicles, mountain climbing, etc., proposed rule 12723
- Mount Rushmore National Memorial:
  - Climbing prohibition 9236, 13071
  - Special regulations 21038
- National Capital Region:
  - Concession contract 15683
  - Parades and public gatherings 13582
- Olympic National Park; concession permit 8538
- Petrified Forest National Park:
  - Concession contract 14067
  - Wilderness establishment, proposed; hearing 4456
- Pictured Rocks National Lakeshore, filing of map 2388, 2862
- Platt National Park; special regulations, deletion 21038, 13129
- Point Reyes National Seashore, concession permit 95
- Prince William Forest Park, concession permit 8729
- Rock Creek Park, Carter Barron Amphitheatre, concession contract 5960
- Rocky Mountain National Park, concession permit 6149, 10269
- Shadow Mountain National Recreation Area, concession permit 6149, 10269
- Shenandoah National Park:
  - Camping, fishing licenses, etc.; revocation 17661
  - Concession permit 2864
- Shiloh National Military Park; special regulations, deletion 21038

National Park Service—Continued

NATIONAL PARKS, etc.—Continued
- Statue of Liberty National Monument, concession contract 11173, 11387
- Vanderbilt Mansion National Historic Site; special regulations, deletion 21038
- Whiskeytown-Shasta-Trinity National Recreation Area; zoning standards for Whiskeytown Unit 6982, 13189
- Wright Brothers National Memorial; airstrip 2564
- Yellowstone National Park:
  - Alcoholic liquor, sale 21038
  - Fishing 7594
- Yosemite National Park:
  - Concession contract 11238
  - Fees 6399

SPECIAL REGULATIONS:
- *See also* National parks, etc.
- Alphabetical listing of national parks, etc 6932, 7333
- Revocation of certain duplicated regulations 6932

WILDERNESS AREAS:
- *See also* National parks, etc.
- Establishment proposed; hearings:
  - Arches National Monument, 14066.
  - Bryce Canyon National Park, 14066.
  - Capitol Reef National Monument, 14066.
  - Cedar Breaks National Monument, 14066.
  - Cumberland Gap National Historical Park, 6707.
  - Petrified Forest National Park, 4456.
  - Shenandoah National Park, 6002.

National Science Foundation:

AUTHORITY DELEGATION by Director to Secretary of Health, Education, and Welfare; certain functions under Civil Rights Act respecting hospitals and schools 3150, 4062, 4094
INFORMATION, availability of 10025

National Shipping Authority:

MARINE PROTECTION AND INDEMNITY INSURANCE INSTRUCTIONS under general agency and berth agency agreements 5422, 5621
MASTER LUMP SUM REPAIR CONTRACT, proposed revision 10102, 12625

National Traffic and Motor Vehicle Safety Act:

ADMINISTRATION through National Highway Safety Bureau and its Director (Executive Order 11357) 8225

National Transportation Safety Board:

AIR SAFETY PROCEEDINGS:
- Practice rules 9221
- Transfer of regulations and editorial changes 16491

AIRCRAFT ACCIDENTS:
- *See also* Safety investigations.
- Investigations:
  - Blossburg, Pa 15932
  - Blue Grass Field, Lexington, Ky 7641
  - Greater Cincinnati Airport, Erlanger, Ky 16112
  - Hendersonville, N.C 13089
  - Kenner, La 8102
  - Marseilles, Ohio 10227
  - Urbana, Ohio 7504
- Procedures 7139
  - Rescission of request to Federal Aviation Administrator 12869
  - Transfer of regulations and editorial changes 16491

INFORMATION, availability 9963
ORGANIZATION AND FUNCTIONS 7139, 12839
SAFETY INVESTIGATIONS:
- *See also* Aircraft accidents.
- Definitions 20771
- Immediate notification 20771
- Reports and statements 20771
- Transfer of regulations and editorial changes 16491

Natural Beauty and Recreation, President's Council on:

MEMBERSHIP (Executive Order 11359A) 10049

Naval Stores:

CONSERVATION PROGRAM. *See* Agriculture Department.
PRICE-SUPPORT PROGRAM. *See* Commodity Credit Corporation.

Navigation Regulations:

AIRWAYS. *See* Federal Aviation Administration.
WATERWAYS. *See* Canal Zone; Coast Guard; Engineers Corps; Saint Lawrence Seaway Development Corporation.

Navy Department:

See also Defense Department.
ACADEMY, appointment as midshipman at:
Honor schools, etc., nondiscrimination ... 12790, 15115
Nominations, examinations, etc ... 20717
ADMINISTRATIVE DISCHARGES, SEPARATIONS:
Authority citations ... 318
Discharge for convenience of Government ... 11265
Separations from service for various reasons ... 10509
AUTHORITY CITATIONS ... 317
CLAIMS:
Foreign; specified foreign countries, etc ... 318, 3397
General:
Administrative ... 3395
Federal tort claims ... 3393
Investigation and procedure ... 3395, 16154
Personnel ... 318, 319, 16154
CONDUCT STANDARDS ... 20719
COURTS:
Civil, proceedings in; interviewing preliminary to litigation in certain matters, etc ... 317, 319
Naval courts and certain fact-finding bodies:
Administrative fact-finding bodies ... 16154
Post-trial matters ... 16153
Trial matters ... 16153
DECORATIONS AND AWARDS, Vietnam Campaign Medal with device; policy guidance, eligibility criteria, etc ... 221, 318
MARINE CORPS:
Brigadier Generals on active list, suspension of sec. 6374, Title 10, U.S. Code, relating to retirement (Executive Order 11333) ... 3879
First Lieutenants, promotion to next higher grade (Executive Order 11361) ... 10153
Lieutenant Colonels, suspension of provisions of sec. 5751(b), Title 10, U.S. Code, relating to service-in-grade requirement for promotions (Executive Order 11352) ... 7563
Organization ... 8305
Reserve; definitions and standard operating procedures, etc ... 317, 2525
MEDICAL AND DENTAL CARE at non-Navy facilities; payment, records, etc ... 318, 11851
MENTALLY INCOMPETENT MEMBERS, payment of amounts due; technical improvements, etc ... 318, 2846
NONDISCRIMINATION in admission and treatment of students in naval honor schools ... 12790, 15115
NONJUDICIAL PUNISHMENT. *See* Courts.
ORGANIZATION AND FUNCTIONS ... 8305, 9113, 9713, 9848, 12492, 12626, 13419
RECORDS, availability ... 17588
RESERVES:
Authority citation ... 317
Marine Corps; definitions and standard operating procedures ... 317, 2425
Naval; reports, enlistments, etc ... 6028, 10509
SUBMARINES, display of distinctive lights by ... 8589
VESSELS:
Navigational light waivers ... 2624, 8808, 14388
Submarine lights ... 8589
VIETNAM CAMPAIGN MEDAL with device, policy guidance, eligibility criteria, etc ... 221, 318

Nectarines:

MARKETING. *See* Agriculture Department.

New England River Basins Commission:

ESTABLISHMENT (Executive Order 11371) ... 12903

Nondiscrimination:

See also Civil Rights Commission.
CIVIL RIGHTS ACT of 1964, assignment of certain functions to Secretary of Health, Education, and Welfare. *See* Health, Education, and Welfare Department.
CIVIL SERVICE equal opportunity regulations. *See* Civil Service Commission.
DEPOSITARY BANKS and issuing and paying agents, guidelines for compliance with equal employment opportunity program ... 15401
EQUAL EMPLOYMENT OPPORTUNITY. *See* Equal Employment Opportunity Commission; General Services Administration; Housing and Urban Development Department; Post Office Department.
EQUAL PAY FOR EQUAL WORK. *See* Wage and Hour Division.
FEDERALLY-ASSISTED PROGRAMS. *See* Agriculture Department; Federal Aviation Administration; Health, Education, and Welfare Department; Housing and Urban Development Department.
FINANCIAL ASSISTANCE PROGRAMS. *See* Small Business Administration.
HOUSING. *See* Federal Housing Administration; Housing Assistance Administration.
NAVAL HONOR SCHOOLS, nondiscrimination in admission and treatment of students ... 12790, 15115
RECREATIONAL OPPORTUNITIES AND DEVELOPMENT at licensed hydroelectric projects ... 6487, 11640
RELIGION, etc., discrimination because of, guidelines, etc. *See* Equal Employment Opportunity Commission.
SEGREGATED FACILITIES, elimination of, by Government contractors and subcontractors ... 7439
VOTING RIGHTS ACT of 1965. *See* Civil Service Commission; Justice Department.
WOMEN, equal employment opportunity (Executive Order 11375) ... 14303

North Korea:

FOREIGN ASSETS CONTROL prohibitions, importation of and dealings in certain merchandise; publications, etc. from ... 7829
PURCHASES FROM, Defense Department procurement regulation ... 516
TRAVEL restricted to, in, or through, for U.S. citizens ... 4140

North Vietnam:

FOREIGN ASSETS CONTROL prohibitions, importation of and dealings in certain merchandise; publications, etc. from ... 7829
PURCHASES FROM, Defense Department procurement regulation ... 516
TRAVEL restricted to, in, or through, for U.S. citizens ... 4140
VESSELS, free world and Polish flag, arriving since January 25, 1966. *See* Maritime Administration.

Nuts:

MARKETING AGREEMENTS, etc. *See* Agriculture Department.
PRICE SUPPORT PROGRAMS, etc. *See* Commodity Credit Corporation.

O

Oats:

CROP INSURANCE. *See* Federal Crop Insurance Corporation.
CROPLAND ADJUSTMENT, etc. *See* Agriculture Department.
RESEAL LOAN PROGRAMS, etc. *See* Commodity Credit Corporation.

Office of Economic Opportunity:

See Economic Opportunity Office.

Office of Emergency Planning:

See Emergency Planning Office.

Oil:

PURCHASE PROGRAMS, price support, etc. *See* Commodity Credit Corporation.

Oil and Gas:

AVIATION fuel and oil, sales to contract, charter, and civil aircraft by Air Force Department ... 11782
BUNKER OIL for vessels, customs withdrawal ... 410
CRUDE OIL PIPELINE at international boundary line, U.S. and Canada. *See* State Department.
EXCISE TAXES, sales of oil for nonlubricating use, etc ... 9540
FIELDS, known geologic structures. *See* Geological Survey.
IMPORTS:
See also Emergency Planning Office; Interior Department; Oil Import Administration.
Adjustment (Proclamation 3794, 3820) ... 10547, 15701
LEASES, etc. *See* Indian Affairs Bureau; Land Management Bureau.
OIL POLLUTION REGULATIONS, transfer from Engineers Corps to Coast Guard ... 14390
PETROLEUM AND GAS INDUSTRY communications emergency plan. *See* Federal Communications Commission.
PETROLEUM INSTITUTE, AMERICAN, Central Committee on Communication Facilities of; memorandum opinion and order ... 4550
PETROLEUM AND PRODUCTS:
Asphalt, adjustment of imports (Proclamation 3779) ... 5919
Bulk, importation ... 6838
Definition of small business concern for Government procurement. *See* Small Business Administration.
Foreign petroleum supply, voluntary agreement ... 8780, 10396, 11296
Imports, adjustment (Proclamation 3820) ... 15701
Industry in Puerto Rico, minimum wages. *See* Wage and Hour Division.
Military supply contracts, petroleum products under ... 8772
PUBLIC LANDS, leases, etc. *See* Land Management Bureau.
PURCHASE OF GAS, authority delegation. *See* Atomic Energy Commission.

Oil Import Administration:

DEFINITION ... 11382
IMPORTS, allocations:
Asphalt, District I, proposed rule ... 12621
Low sulphur residual fuel oil ... 11225, 11736, 13856
Residual fuel oil to be used as fuel, District I ... 1175, 11382
SUSPENSION OR REVOCATION OF ALLOCATIONS AND LICENSES, rules for proceedings ... 15876

Oilseeds:

See Cottonseed; Flaxseed; Peanuts; Soybeans.

Oils, Bulk:

WAREHOUSES, standards for approval. *See* Commodity Credit Corporation.

Okra:

STANDARDS FOR GRADES, etc. *See* Agriculture Department.

Older Persons:

HEALTH INSURANCE for aged. *See* Health, Education, and Welfare Department; Social Security Administration.
OLD-AGE INSURANCE. *See* Social Security Administration.
PRESIDENT'S COUNCIL ON AGING, membership (Executive Order 11376) ... 14545

Oleomargarine:

IDENTITY STANDARDS. *See* Agriculture Department; Food and Drug Administration.

Olives:

MARKETING, etc. *See* Agriculture Department.

Onions:

IMPORT RESTRICTIONS, etc. *See* Agriculture Department.

Orange Juice:

IDENTITY STANDARDS. *See* Food and Drug Administration.
MARKETING, etc. *See* Agriculture Department.

Oranges:

CROP INSURANCE. *See* Federal Crop Insurance Corporation.
MARKETING, etc. *See* Agriculture Department.

Organization and Information:

COMPLIANCE with Freedom of Information Act by listed agencies:
Agency for International Development, 9852, 9845.
Aging, Administration on, 12068, 20811.
Agriculture Department, 8822, 9805, 10118, 11895.
Agricultural Research Service, 7469, 7875, 9606, 10915.
Agricultural Stabilization and Conservation Service, 9606, 15704.
Budget and Finance Office, 9722.
Consumer and Marketing Service, 9610, 11741, 12092.
Cooperative State Research Service, 9724.
Economic Research Service, 9730, 10613.
Farmer Cooperative Service, 9849.
Federal Extension Service, 7469, 9724.
Foreign Agricultural Service, 9827, 10117.
General Counsel's Office, 9725.
Information Office, 9723.
Inspector General Office, 8822, 9850.
International Agricultural Development Service, 9615, 9729.
Management Improvement Office, 10004.
Management Services Office, 9726.
National Agricultural Library, 9721.
Packers and Stockyards Administration, 8708, 7186, 9636.
Personnel Office, 9731.
Plant and Operations Office, 9731, 9732.
Rural Community Development Service, 9728, 11173.
Soil Conservation Service, 9728.
Statistical Reporting Service, 9727.
Air Force Department, 9674, 9677, 12469, 13000, 14831.
Army Department, 10355, 11265, 12016, 16279, 18089.
Interagency Civil Defense Committee, 10671.
Atomic Energy Commission, 9214, 13377, 20942, 20944.
Automotive Agreement Adjustment Assistance Board, 17940.
Bonneville Power Administration, 17602.
Budget Bureau, 9755, 17678.
Business and Defense Services Administration, 11348, 11711, 13830, 17549.
Census Bureau, 10786, 11810, 12441, 13388.
Central Intelligence Agency, 10759.
Civil Aeronautics Board, 8793, 8797, 8799, 8804, 9653, 11944, 11987, 12272, 13507, 16491, 20805.
Civil Rights Commission, 9684, 11065.
Civil Service Commission, 9493, 10017.
Coast Guard, 11210.
Commerce Department, 9643, 9734, 10380, 10826, 13334, 13422, 13678, 13679, 14017, 20819.
Business Economics Office, 11347, 17548, 17549.
Domestic and International Business, Office of Administration for, 13350.
Export Control Office, 12128.
Field Services Office, 11348, 11712.
State Technical Services Office, 10720.
Telecommunications Office, 17632, 20820.
Commodity Exchange Authority, 9648.
Comptroller of Currency, 9513.
Copyright Office, 9314.
Customs Bureau, 9533, 10108, 11945, 13873, 14100, 14891.
Defense Department, 9666, 12102.
Armed Services Procurement Regulation Committee, 10518.
Defense Atomic Support Agency, 14562.
Defense Communications Agency, 9670, 12132, 14781.
Defense Contract Audit Agency, 9671, 9712.
Defense Supply Agency, 11334.
Food Planning Board, 17637.
Economic Development Administration, 10365, 10385, 10686, 13940, 20745.
Economic Opportunity Office, 9685.
Education Office, 10476, 14790, 15597.
Emergency Planning Office, 8757.

Organization and Information—Continued

COMPLIANCE with Freedom of Information Act by listed agencies—Continued
Employees' Compensation Appeals Board, 12979.
Employees' Compensation Bureau, 12979.
Engraving and Printing Bureau, 17546.
Environmental Science Services Administration, 10271, 13184, 13339, 13690, 16288.
Equal Employment Opportunity Commission, 16261, 16491, 16542.
Farm Credit Administration, 12710.
Farmers Home Administration, 9650, 9153, 9614.
Federal Aviation Administration, 12050.
Federal Communications Commission, 10363, 10568, 10569, 10570, 10663, 11213, 13180, 12795, 13125, 15472, 15675, 20859.
Federal Crop Insurance Corporation, 8774, 9816, 15716.
Federal Deposit Insurance Corporation, 9638, 9759.
Federal Home Loan Bank Board, 9041, 9570.
Federal Housing Administration, 9539, 15586, 15936, 15639.
Federal Maritime Commission, 6513, 6407, 9423, 9319, 9329, 9579, 9580, 10515.
Federal Mediation and Conciliation Service, 9811.
Federal National Mortgage Association, 9662.
Federal Open Market Committee, 9516, 9562.
Federal Power Commission, 9065, 10062.
Federal Reserve System, 9516, 12029.
Federal Trade Commission, 6442, 8456, 8739, 16121.
Federal Water Pollution Control Administration, 21042.
Food and Drug Administration, 10005, 12714, 13807, 15709, 15721.
Foreign Claims Settlement Commission, 9569.
Foreign-Trade Zones Board, 13715, 14017.
Forest Service, 9679.
General Services Administration, 9564, 9585, 10299.
Health, Education, and Welfare Department, 9315, 14285, 14894, 15190, 15443, 15507, 15721, 17899, 18119, 20811.
Housing Assistance Administration, 13808, 13831.
Housing and Urban Development Department, 9660, 13150, 13831, 14267, 14671.
Immigration and Naturalization Service, 6781, 6978, 9616, 9717, 10433, 11628, 16200.
Interior Department, 9974, 10674, 13296, 20142.
Internal Revenue Service, 8340, 9541.
International Commerce Bureau, 12126, 12128, 12728.
Interstate Commerce Commission, 8744, 7105, 8000, 8690, 8784, 9020, 9816, 10127, 10955, 14627, 20008.
Justice Department, 9663, 11160, 15425, 16531, 20772.
Labor Department, 11083, 20858.
Wage Appeals Board, proposed rule, 15309.
Library of Congress, 9765.
Maritime Administration, 10321, 10887, 12845, 12934, 13339.
Mint Bureau, 9664, 10609.
Narcotics Bureau, 10070, 10106.
National Aeronautics and Space Administration, 9524, 9528.
Aerospace Safety Advisory Panel, 20714.
National Bureau of Standards, 11511, 12127.
National Foundation on Arts and Humanities, 10513, 11215.
National Labor Relations Board, 9568.
National Mediation Board, 15631.
National Science Foundation, 10026.
National Transportation Safety Board, 9963, 12839.
Navy Department, 8305, 9113, 9713, 9948, 12492, 12826, 13419, 17588.
Panama Canal Co., 14219.
Patent Office, 7347, 12340, 13830.
Peace Corps, 9654.
Post Office Department, 9550, 10457, 11394, 12400, 13129, 13130, 13869, 15099, 15480, 15481.
President's Cabinet Textile Advisory Committee, 13839, 14017.
President's Committee on Consumer Interests, 12813.
Public Health Service, 9739, 12068, 15449, 15597.
Public Land Law Review Commission, 11905.
Railroad Retirement Board, 9651.
Renegotiation Board, 8104, 9236, 16227.
Rural Electrification Administration, 9613, 10617.
St. Elizabeths Hospital, 10472, 10601, 13681.
Science and Technology Office, 11060.
Secret Service, 10219, 21040.
Securities and Exchange Commission, 9636, 10196.
Selective Service System, 14826.
Small Business Administration, 9632.
Smithsonian Institution, 9683, 10484.
Social and Rehabilitation Service, 18119, 12068, 20811.
Social Security Administration, 10456, 12683, 18080.
State Department, 8923, 8925, 9160, 16256.
Subversive Activities Control Board, 9163.
Tennessee Valley Authority, 8133.
Transportation Department, 9284.

Organization and Information—Continued

COMPLIANCE with Freedom of Information Act by listed agencies—Continued
Treasury Department, 9031, 9562, 9686, 10059, 17519, 20884.
Domestic Gold and Silver Operations, Office of, 10435.
Fiscal Service, 9665, 9710, 9967.
Foreign Assets Control, 10846, 10847.
United States Arms Control and Disarmament Agency, 9202.
United States Information Agency, 9657.
United States Travel Service, 11340.
Veterans Administration, 9767, 10848.
Vocational Rehabilitation Administration, 10473, 12068.
Wage and Hour Division, 12980.
Welfare Administration, 10013, 12068.

Outdoor Recreation Bureau:

AUTHORITY DELEGATIONS from Secretary of Interior:
Surplus real property conveyed for park, recreation, and historic monument purposes, limitation 11387
Transportation programs 4030, 16059, 18066

Outer Continental Shelf:

See Continental shelf, outer.

P

Pacific Islands, Trust Territory of:

AIRCRAFT AND SURFACE VESSELS, contracts for; authority of Secretary of Interior and of High Commissioner 16058
MICRONESIA, legislative authority; budget, elections, reading of bills 11339

Pacific Northwest River Basins Commission:

ESTABLISHMENT (Executive Order 11331) 3875

Packers and Stockyards Administration:

See Agriculture Department.

Panama Canal:

See Canal Zone.

Parks, National:

See National forests, parks, etc.

Parsley:

STANDARDS FOR GRADES. *See* Agriculture Department.

Parsnips:

STANDARDS FOR GRADES. *See* Agriculture Department.

Passports:

See State Department.

Patent Office:

INFORMATION, availability of 13830
ORGANIZATION AND FUNCTIONS 7347, 13340
PATENT APPLICATIONS, amendment of claims 9026, 13582
PATENT CASES, practice rules; requests for identifiable records 13812
UNITED STATES-GERMAN SEARCH EXCHANGE, method of operation 13781

Patents:

PROCUREMENT REGULATIONS. *See specific agencies.*

Pay, Compensation, etc.:

AIR FORCE ROTC, subsistence allowance and rates of commutation in lieu of uniforms 12611
BASIC COMPENSATION, increases:
National Aeronautics and Space Council, aerospace assistant 2790, 8106
United States Arms Control and Disarmament Agency, Public Affairs Adviser 20895

Pay, Compensation, etc.—Continued

FEDERAL EMPLOYEES:
See also Civil Service Commission.
Executives. *See* Federal executive salary schedule.
Overseas duty (Executive Order 11260) 15627
MARITIME CARRIERS, subsidized operators:
Guidelines for payment; proposed rule 16436, 17980
Payments from capital reserve fund; applications, etc 17595
MINIMUM WAGES, etc. *See* Public Contracts Division; Wage and Hour Division.
NAVY DEPARTMENT, amounts due mentally incompetent members. *See* Navy Department.
NONCITIZENS outside U.S., disability and death compensation for; Australia 10567
OVERTIME SERVICES, imports and exports. *See* Agriculture Department.
POSTAL DATA CENTERS, uniform allowance payments by, directly to vendors; proposed rules 15643
RAILROAD RETIREMENT BOARD, recovery of erroneous payments. *See* Railroad Retirement Board.
RETIRED PAY for members of reserve components, notification of eligibility 6393
UNEMPLOYMENT COMPENSATION, ex-servicemen, entitlement. *See* Employment Security Bureau.
VESSELS, subsidized operators, guidelines; proposed rule 16436, 17980
VETERANS' PENSIONS, etc. *See* Veterans Administration.
WITHOUT-COMPENSATION EMPLOYEES. *See* Civil Service Commission; Commerce Department; Interior Department; Interstate Commerce Commission.

Peace Corps:

ORGANIZATION AND FUNCTIONS 9654
RECORDS, availability of 9655

Peaches:

CROP INSURANCE. *See* Federal Crop Insurance Corporation.
IDENTITY STANDARD, optional ingredients, etc. *See* Food and Drug Administration.
MARKETING, etc. *See* Agriculture Department.

Peanut Butter:

DEFINITIONS and identity standards. *See* Food and Drug Administration.

Peanuts:

CROP INSURANCE. *See* Federal Crop Insurance Corporation.
MARKETING QUOTAS, acreage allotments, etc. *See* Agriculture Department.
PRICE-SUPPORT PROGRAMS, etc. *See* Commodity Credit Corporation.

Pears:

IDENTITY STANDARD, optional ingredients. *See* Food and Drug Administration.
MARKETING, etc. *See* Agriculture Department.

Peas:

CROP INSURANCE. *See* Federal Crop Insurance Corporation.
IDENTITY STANDARD, optional ingredients. *See* Food and Drug Administration.
IMPORTATION of frozen pea pods from Taiwan (Formosa); available certification 6456
STANDARDS FOR GRADES, etc. *See* Agriculture Department.

Pecans:

STANDARDS for grades. *See* Agriculture Department.

Pennsylvania Avenue, Temporary Commission on:

MEMBERSHIP (Executive Order 11347) 6333

Peonies:

STANDARDS FOR GRADES. *See* Agriculture Department.

Persimmons:

FOREIGN QUARANTINE notice 13319

Pest Control, Federal Committee on:

ORGANIZATION AND FUNCTIONS 13202

Pesticides:

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT, enforcement, interpretation. *See* Agriculture Department.
TOLERANCES for residues. *See* Food and Drug Administration.

Petroleum and Products:

See under Oil and gas.

Philippines:

GRANTS for medical care to Manila; Veterans Administration authority delegation 2815
INSURANCE, National Service life; Philippine veterans 923
VESSELS from; transportation of empty cargo vans and shipping tanks 3052

Physically Handicapped Persons:

CIVIL SERVICE positions 10635
EDUCATION GRANTS for handicapped children 11434

Pimientos:

CANNED, standards for grades. *See* Agriculture Department.

Pineapple:

CANNED, temporary permit for market testing. *See* Food and Drug Administration.

Pipeline Carriers:

See Federal Railroad Administration; Hazardous Materials Regulations Board; Interstate Commerce Commission.

Plant Quarantine:

See also Agriculture Department.
POSTAL REGULATIONS 12281, 13659

Plums:

MARKETING, etc. *See* Agriculture Department.

Political Activity of Government Personnel, Commission on:

HATCH POLITICAL ACTIVITIES ACT, effects on Government employees; hearings 6591, 7227, 8185

Pollution:

See also Air pollution; Water pollution.
OIL POLLUTION REGULATIONS, transfer from Engineers Corps to Coast Guard 14390

Post Office Department:

APARTMENT BUILDINGS, delivery and collection service; policy statement 20783
AUTHORITY DELEGATIONS:
See also Organization and functions.
By Postmaster General to General Counsel; signing and filing notices of intent to use air taxi mail service 17490
From General Services Administrator; operation of post office and customhouse, St. Paul, Minn 12570
CITIZENS' STAMP ADVISORY COMMITTEE; appointment of members, compensation and travel allowances, etc 3838

Post Office Department—Continued Page

CONDUCT STANDARDS 11765, 12115, 17479, 17860
DEBARMENT AND SUSPENSION; exclusion or disqualification from Government contracting and subcontracting, treatment, etc 3143, 3296
DIRECTORY OF INTERNATIONAL MAIL. *See* International mail.
DOMESTIC SERVICES:
See also Transportation of mail.
Classification and rates:
First class:
Business reply mail, form of imprint address 2702
Members of U.S. Armed Forces in Vietnam, free mail privilege extended to sound-recorded messages 2816
Postal and post cards 15020, 15587
Fourth class; rates, weight and size limits, etc 383, 450, 12794, 20810
Official mail, executive and judicial officers; methods of preparing mail, postage, penalty, etc 2704, 2894
Second class:
Application for privileges; additional entries authorized in county of original entry 2704
Ownership, management, and circulation statement 3019
Qualifications for privileges:
Foreign newspapers and periodicals 3019
Preparation; publications prepared in imitation of typewriting 4027, 6701, 10436
Third class; single-piece mailings, marking, etc 383
Collection and delivery:
City delivery:
Apartment house receptacles, list of manufacturers and distributors of mail boxes 2624, 3356
Mail receptacles; door slot specifications, illustrations 2432, 6490
Conditions of delivery:
Delivery to mail receiving agency 11037, 14894
Military organizations and naval vessels 7629
Service in post offices, boxes; rental rates, cubic-inch capacity 7629
Confidence, mail treated in; redesignation 9559
Information and records 9559, 12400
Information on postal matters:
Administrative manuals and instructions to staff 20810
Publications; price, publication date, etc 3018, 20810
Redesignation 20811
Subpoenaed records, presentation in court by postal officials 3345
Issuances 20811
Nonmail services:
Money orders, domestic and international; issuance, cashing, etc 6491, 16537, 20633, 20642
Nonpostal stamps and bonds:
U.S. savings bonds; availability, payroll savings plan, etc 3096
U.S. savings stamps; albums, cancellation of redeemed stamps 3096
Postal savings system, discontinuance; interest on accounts, records, etc 3294
Postage:
Citizen's Stamp Advisory Committee; appointment of members, compensation and travel allowances, etc 3838
Deficiencies, developed by audit of post office records 5686
Matter deposited in mail boxes without prepayment; penalty, collection, etc 5686
Metered stamps; manufacture of meter, preparation, etc 2895, 4027, 4420, 5686, 7772, 7955, 10308, 13455
Permit imprints:
Content, form, etc 2704, 7438, 13662
Preparation during pendency of postage rate bill 15839
Precanceled stamps; sale and use and mailer's postmark 11328
Stamps, envelopes, and postal cards:
Adhesive stamps, availability; proposed rule 8379
Imitations of postage stamps, etc 2432
Red Cross, cooperation with during natural disasters 20811

Post Office Department—Continued Page

DOMESTIC SERVICES—Continued
Special mail services:
Official mailings, payment for losses; postal insurance coverage up to $100 13662
Registry; restricted delivery, sealing, etc 7629
Wrapping and mailing:
Addresses 13659, 17479
Envelopes, window, not for use for business reply mail 5686
Military post offices overseas, mail addressed to; airlift mail, post office numbers, etc 3057, 5737, 12400, 13662
Perishable matter, live animals and insects 13659
Plant quarantine 13659
Second-class bulk mailings:
Newspaper treatment, rates, etc 3345
Statement and copy filed with mailings 3019
EQUAL EMPLOYMENT OPPORTUNITY 12947
Prior regulations superseded 12947
INFORMATION AND RECORDS 9559, 12400
INTERNATIONAL MAIL 12252
Categories 12252
Directory, individual country regulations 2624, 3781, 4453, 4547, 12284, 13808
Importations:
Customs 12278, 20643
Plant quarantine inspection 12281
Sealed letters believed to contain prohibited matter 12281
Inquiries, indemnities, and refunds:
Indemnity claims and payments 12283
Indemnity payments on registered Postal Union articles exchanged with certain countries, increase 4453
Inquiries and complaints 12282
Processing; rifling, damage, delays, etc 3058
Postage refunds 12284
Nonpostal export regulations:
Agriculture Department, dried whole eggs and tobacco seed and plants 12277
Commerce Department, commodities and technical data 12275
Drawback arrangement 12278
Invoices, consular and commercial 12278
Shipper's export declaration 12274
State Department, arms and technical data 12276
Treasury Department, gold and certificates 12277
Official correspondence 12252
Parcel post:
Air and surface mail; establishment to certain countries 2901, 4453
Incoming 12267, 14851, 18045, 20643
Outgoing 12263
Postal Union mail:
Articles mailed abroad by or on behalf of U.S. senders 12263
Conditions applicable to all classes 12252
Incoming mail, treatment 12262, 18045
Charges, customs clearance and delivery fees, proposed rule 14851
Undeliverable Mexican mail 3058
Outgoing mail, treatment 12260
Rates and conditions for specific classes 12256
Registered articles exchanged with certain countries, increase in indemnity payments 4453
Postal Unions 12252
Rates and fees for parcel post, airmail, etc.; increases 415, 3397, 12252
Special services:
Air service 12269
Certificates of mailing 12274
Insurance 12271
Recall and change of address 12273
Registration 12270
Special delivery (Express) 12272
Special handling 12273
ORGANIZATION AND FUNCTIONS:
See also Authority delegations, *above*.
Authority delegations 5326, 7265
Bureaus and offices 5332, 7265
Facilities Bureau 11384
General Counsel's Office 13139, 13869
Operations Bureau 15480
Transportation Bureau 15481

Post Office Department—Continued Page

ORGANIZATION AND FUNCTIONS—Continued
Equal Employment Opportunity Division, Contract Compliance Division, etc., transfer of functions 10457
Postmaster General and Deputy Postmaster General, Office of 5329
International Postal Affairs, Office of 15480
Regional Administration Office 13129
Regional Director, Office of 15099
Relationships and channels of communication 5328
Responsibility distribution 5326
PAYMENTS, uniform allowance, by Postal Data Centers directly to vendors; proposed rules 15643
PERSONNEL:
Editorial note 4572
Employee services; assignment of vending machine profits to blind persons 4413
POSTAL ORGANIZATION, PRESIDENT'S COMMISSION ON; establishment (Executive Order 11341) 5765, 12458
POSTAL SAVINGS:
Discontinuance; interest on accounts, records, etc 3294
Transfer of uncollected accounts to Treasury 7858, 9665
RAILROAD STRIKES, nationwide, standby instructions; domestic and international mail 11483
RECORDS. *See* Information and records.
RETIREMENT, Quill, Daniel J.; exemption from compulsory retirement for age (Executive Order 11378) 15237
TRANSPORTATION OF MAIL:
Air, domestic:
Carriers 10916
First-class mail 10924
Forms and procedures for dispatching airmail 10919
Schedule changes, irregular flights 3778, 6973
Star route service 10918
Beyond U.S. borders, transportation and protection between post offices and ships; vehicles and carriers 11527
UNIFORM QUALITY CONTROL PROGRAM:
Fabric and construction specifications for uniforms of letter carriers, elevator operators, etc 2366, 5375, 7094
Female letter carriers' and special delivery messengers' new surcoats and culottes 15839
VENDING STANDS AND MACHINES; authorizations, installation, etc 4411, 4413

Postal Organization, President's Commission on:
ESTABLISHMENT (Executive Order 11341) 5765
INQUIRY 12458

Postal Savings:
DISCONTINUANCE; interest on accounts, records, etc 3294
TREASURY DEPARTMENT, transfer of uncollected accounts to, by Post Office Department 7858, 9665

Potatoes:
CROP INSURANCE. *See* Federal Crop Insurance Corporation.
MARKETING, etc. *See* Agriculture Department.
TARIFF-RATE QUOTA 13593

Poultry and Products:
See also Eggs and products.
IMPROVEMENT PLANS, etc. *See* Agriculture Department.
RATES, increased, for air transport; prehearing conference 12767

Power Commission:
See Federal Power Commission.

Power Projects, etc.:
LANDS WITHDRAWN. *See* Federal Power Commission.
PUBLIC LANDS. *See* Land Management Bureau.

President, The:
CRUDE OIL PIPELINES at international boundary line between U.S. and Canada; applications for Presidential permit to construct, operate and maintain 7502, 11096, 13598, 14972

President, The—Continued Page

DELEGATIONS OF AUTHORITY. *See* Delegations of authority by the President.
EXECUTIVE ORDERS, proclamations, etc. *See* Presidential documents.
"FOLLOW THROUGH PROGRAM," education of disadvantaged children; delegation of authority by Director of Economic Opportunity Office to Secretary of Health, Education, and Welfare, approval 9592
LIQUID HYDROCARBONS PIPELINE at international boundary line between U.S. and Canada; application for Presidential permit for connection 11359
NATIONAL ADVISORY COUNCIL ON ECONOMIC OPPORTUNITY, authority delegation to General Services Administrator approved by President 8051
REPORTS TO:
Civil Disorders, National Advisory Commission on (Executive Order 11365) 11111
Cost Reduction, President's Advisory Council on (Executive Order 11353) 7623
Great Lakes Basin Commission (Executive Order 11345) 6329
New England River Basins Commission (Executive Order 11371) 12903
Pacific Northwest River Basins Commission (Executive Order 11331) 3875
Postal Organization, President's Commission on (Executive Order 11341) 5765
Souris-Red-Rainy River Basins Commission (Executive Order 11359) 8851
Tariff Commission. *See main heading* Tariff Commission.
United States Information Agency, Director (Executive Order 11380) 15627
TRADE AGREEMENT NEGOTIATIONS, supplemental list of articles for possible consideration 8638
UNDERGROUND URANIUM MINING, protection guidance for Federal agencies, memorandum from Federal Radiation Council 11183

Presidential Documents:
EXECUTIVE ORDERS:
Aging, President's Council on; membership (EO 11376) 14545
Agriculture Department:
Livestock feed for needy Indian tribes, functions (EO 11336) 4489
Quetico-Superior Committee, functions (EO 11342) 5827
Air Force ration, regulations (EO 11339) 5321
Air transportation in Ryukyu Islands, regulations (EO 11326) 2841
Aircraft:
Military aircraft industry, Board of Inquiry to investigate labor dispute (EO 11344) 6173
Rhodesian trade, prohibition against shipment of certain commodities (EO 11322) 119
Armed Forces:
Michigan, use for restoration of law and order (EO 11364) 10907
Ready Reserve, active duty order, authority (EO 11327, 11366) 2995, 11411
Selective Service regulations. *See* Selective Service System.
Army ration, regulations (EO 11339) 5321
Asian Development Bank, designation as privileged international organization and coordination of U.S. policies (EO 11334) 3933
Attorney General; parole of persons convicted of violation of Universal Military Training and Service Act (EO 11325) 1119
Authority, delegations of. *See* Delegations of authority by the President.
Awards, life saving medals, regulations (EO 11332) 16247
Bank loans, commercial; interest equalization tax (EO 11328) 3137
Boards. *See* Committees, boards, etc.
Brooms, reports on consumption (EO 11377) 14725
Budget Bureau:
Assistant Director for Executive Management, position placed in Level IV, Federal Executive Salary Schedule (EO 11367) 12037

Presidential Documents—Continued Page

EXECUTIVE ORDERS—Continued
Budget Bureau—Continued
Washington Metropolitan Area Transit Authority, transfer of functions from National Capital Transportation Agency, authority of Director (EO 11373) 13371
Citizens Advisory Board on Youth Opportunity, establishment (EO 11330) 3871
Civil Aeronautics Board; regulation of air transportation in Ryukyu Islands (EO 11326) 2841
Civil disorders:
Detroit, Mich., restoration of law and order (EO 11364) 10907
National Advisory Commission, establishment (EO 11365) 11111
Civil service:
Appointments under Defense Production Act of 1950 (EO 11355) 7803
Equal employment opportunity for women (EO 11375) 14303
Pay and allowances:
Executives. *See* Federal Executive Salary Schedule.
Overseas duty (EO 11380) 15627
Retirement for age, compulsory; exemption of Daniel J. Quill (EO 11378) 15237
Training of Federal employees, regulations (EO 11348) 6335
Civil Service Commission:
Defense Production Act of 1950, survey of appointments under (EO 11355) 7803
Equal employment opportunity for women, regulations (EO 11375) 14303
Training of Federal employees, functions (EO 11348) 6335
Commerce Department; economic sanctions against trade with Southern Rhodesia (EO 11322) 119
Commercial bank loans, interest equalization tax (EO 11328) 3137
Commissions. *See* Committees, boards, etc.
Committees, boards, etc.:
Aging, President's Council on; membership (EO 11376) 14545
Congressional committees, inspection of tax returns. *See* Taxes.
Consumer Advisory Council, membership and functions (EO 11349) 6759
Consumer Interests, President's Committee on; membership and functions (EO 11349) 6759
Establishment:
Civil Disorders, National Advisory Commission on (EO 11365) 11111
Cost Reduction, President's Advisory Council on (EO 11353) 7623
Emergency boards to investigate labor disputes. *See* National Mediation Board.
Great Lakes Basin Commission (EO 11345) 6329
Inquiry, boards of. *See* Inquiry, boards of.
New England River Basins Commission (EO 11371) 12903
Pacific Northwest River Basins Commission (EO 11331) 3875
Postal Organization, President's Commission on (EO 11341) 5765
Quetico-Superior Committee, reestablishment (EO 11342) 5827
Souris-Red-Rainy River Basins Commission (EO 11359) 8851
Youth Opportunity, Citizens Advisory Board (EO 11330) 3871
Youth Opportunity, President's Council on (EO 11330) 3871
Missile Sites Labor Commission, termination (EO 11374) 14199
Pennsylvania Avenue, Temporary Commission on; membership (EO 11347) 6333
Recreation and Natural Beauty, President's Council on; membership (EO 11359A) 10049
Science and Technology, Federal Council for; membership (EO 11381) 15629

Presidential Documents—Continued Page

EXECUTIVE ORDERS—Continued
Congressional committees, inspection of tax returns. *See* Taxes.
Construction contracts involving Federal aid, nondiscrimination in employment of women (EO 11375) 14303
Consumer Advisory Council, membership and functions (EO 11349) 6759
Consumer Interests, President's Committee on; membership and functions (EO 11349) 6759
Contracts, Government; nondiscrimination in employment of women (EO 11375) 14303
Cost Reduction, President's Advisory Council on; establishment (EO 11353) 7623
Councils. *See* Committees, boards, etc.
Cultural and educational exchanges with foreign countries, functions (EO 11380) 15627
Decorations and awards; life savings medals, regulations (EO 11382) 16247
Defense Department:
See also Armed Forces; Marine Corps.
Army and Air Force rations, regulations (EO 11339) 5321
Michigan, restoration of law and order, authority of Secretary (EO 11364) 10907
Ready Reserve, active duty order, authority (EO 11327, 11366) 2995, 11411
Defense Production Act of 1950, appointments under (EO 11355) 7803
Delegations of authority by the President:
Budget Bureau, Director (EO 11373) 13371
Civil Service Commission (EO 11348) 6335
Secretary of Agriculture (EO 11336) 4489
Secretary of Defense (EO 11327, 11339, 11366) 2995, 5321, 11411
Secretary of the Treasury (EO 11368) 12549
Detroit, Mich., restoration of law and order, use of Armed Forces (EO 11364) 10907
District of Columbia; Acting Commissioner, order of succession (EO 11379) 15625
Educational exchanges with foreign countries (EO 11380) 15627
Emergency boards to investigate labor disputes. *See* National Mediation Board.
Emergency Planning Office; railroad strike, transportation priorities and allocations (EO 11362) 10495
Employment; equal opportunity for women (EO 11375) 14303
European Space Research Organization, designation as privileged international organization, effective date (EO 11351) 7561
Federal Council for Science and Technology membership (EO 11381) 15629
Federal employees. *See* Civil service; Civil Service Commission.
Federal Executive Salary Schedule, positions placed in:
Level IV (EO 11367, 11385) 12037, 18081
Level V (EO 11323, 11335, 11338, 11346, 11369, 11384) 777, 3965, 5247, 6331, 12585, 17423
Federal Highway Administration, position of Deputy Administrator placed in Level IV, Federal Executive Salary Schedule (EO 11385) 18081
Federal Mediation and Conciliation Service; labor disputes at missile and space sites, functions (EO 11374) 14199
General Services Administration; position of Commissioner, Property Management and Disposal Service placed in Level V of Federal Executive Salary Schedule (EO 11335) 3965
Government employees. *See* Civil service; Civil Service Commission.
Government Operations, House Committee on; inspection of tax returns (EO 11332) 3877
Government Operations, Senate Committee on; inspection of tax returns (EO 11337) 5245
Great Lakes Basin Commission, establishment (EO 11345) 6329

Presidential Documents—Continued Page

EXECUTIVE ORDERS—Continued
Health, Education, and Welfare Department; Federal Executive Salary Schedule, positions placed in Level V:
Administrator, Social and Rehabilitation Service (EO 11369) 12585
Chief, Children's Bureau, Social and Rehabilitation Service (EO 11369) 12585
Deputy Commissioner of Social Security (EO 11323) 777
Highway Safety Bureau, National; administration of National Traffic and Motor Vehicle Safety Act (EO 11357) 8225
Housing and Urban Development Department; position of Deputy Assistant Secretary for Mortgage Credit placed in Level V, Federal Executive Salary Schedule (EO 11346) 6331
Imports:
Brooms, reports on consumption (EO 11377) 14725
Southern Rhodesia, economic sanctions (EO 11322) 119
Indian tribes, distribution of emergency livestock feed (EO 11336) 4489
Inquiry, boards of; investigation of labor disputes:
Military aircraft and military aircraft engine industries (EO 11344) 6173
Shipbuilding and repair industries (EO 11329) 3811
Interest equalization tax:
Commercial bank loans (EO 11328) 3137
Modification of rates on acquisition of stocks and debt obligations (EO 11368) 12549
Interior Department; Quetico-Superior Committee, functions (EO 11342) 5827
International organizations, privileged:
Asian Development Bank (EO 11334) 3933
European Space Research Organization, designation, effective date (EO 11351) 7561
International Secretariat for Volunteer Service (EO 11363) 10779
Lake Ontario Claims Tribunal (EO 11372) 13251
International Secretariat for Volunteer Service, designation as public international organization entitled to certain privileges (EO 11363) 10779
Japan; acquisition of original or new issues of stocks and debt obligations, tax exemption for U.S. citizens (EO 11368) 12549
Justice Department; parole of persons convicted of violation of Universal Military Training and Service Act (EO 11325) 1119
Labor Commission, Missile Sites; termination (EO 11374) 14199
Labor disputes:
Boards of inquiry. *See* Inquiry, boards of.
Emergency boards. *See* National Mediation Board.
Missile and space sites (EO 11374) 14199
Railroad strike, transportation priorities and allocations (EO 11362) 10495
Lake Ontario Claims Tribunal, designation as public international organization entitled to certain privileges (EO 11372) 13251
Life saving medals, regulations (EO 11382) 16247
Livestock feed for needy Indian tribes, functions of Secretary of Agriculture (EO 11336) 4489
Marine Corps:
Brigadier generals on active list, retirement (EO 11339) 3879
First lieutenants, promotion to next higher grade (EO 11361) 10153
Lieutenant colonels, service-in-grade requirement for promotions (EO 11352) 7563
Medals, life saving, regulations (EO 11382) 16247
Michigan, restoration of law and order, use of Armed Forces (EO 11364) 10907
Military aircraft and military aircraft engine industries, Board of Inquiry to investigate labor dispute (EO 11344) 6173
Missile Sites Labor Commission, termination (EO 11374) 14199
Mutual Educational and Cultural Exchange Act of 1961, administration (EO 11380) 15627
National Advisory Commission on Civil Disorders, establishment (EO 11365) 11111
National Capital Transportation Agency, transfer of funds, reports, records, etc., to Washington Metropolitan Area Transit Authority (EO 11373) 13371

Presidential Documents—Continued Page

EXECUTIVE ORDERS—Continued
National Guard of Michigan, restoration of law and order in Detroit (EO 11364) 10907
National Highway Safety Bureau, administration of National Traffic and Motor Vehicle Safety Act (EO 11357) 8225
National Mediation Board; emergency boards to investigate labor disputes:
Long Island Rail Road (EO 11343) 6085
National Railway Labor Conference, representing carriers (EO 11324, 11356) 1075, 8019
National Traffic and Motor Vehicle Safety Act, administration through National Highway Safety Bureau and its Director (EO 11357) 8225
Natural Beauty and Recreation, President's Council; membership (EO 11359A) 10049
New England River Basins Commission, establishment (EO 11371) 12903
Nondiscrimination; equal employment opportunity for women (EO 11375) 14303
Older persons; President's Council on Aging, membership (EO 11376) 14545
Organizations, international. *See* International organizations, privileged.
Pacific Northwest River Basins Commission, establishment (EO 11331) 3875
Parole for service in Armed Forces of persons convicted of violation of Universal Military Training and Service Act (EO 11325) 1119
Pay and allowances, Federal employees:
Executives. *See* Federal Executive Salary Schedule.
Overseas duty (EO 11380) 15627
Pennsylvania Avenue, Temporary Commission on; membership (EO 11347) 6333
Post Office Department; exemption of Daniel J. Quill from compulsory retirement for age (EO 11378) 15237
Postal Organization, President's Commission on; establishment (EO 11341) 5765
President of the United States:
Delegations of authority. *See* Delegations of authority by the President.
Reports to. *See* Reports to the President.
President's Advisory Council on Cost Reduction, establishment (EO 11353) 7623
President's Commission on Postal Organization, establishment (EO 11341) 5765
President's Committee on Consumer Interests, membership and functions (EO 11349) 6759
President's Council on Aging, membership (EO 11376) 14545
President's Council on Recreation and Natural Beauty, membership (EO 11359A) 10049
President's Council on Youth Opportunity, establishment (EO 11330) 3871
Privileged international organizations. *See* International organizations, privileged.
Proclamations, preparation of (EO 11354) 7695
Public international organizations. *See* International organizations, privileged.
Public Works, House Committee on; inspection of tax returns (EO 11370) 12665
Quetico-Superior Committee, reestablishment (EO 11342) 5827
Quill, Daniel J., exemption from compulsory retirement for age (EO 11378) 15237
Railroads:
Emergency boards to investigate labor disputes. *See* National Mediation Board.
Railroad strike, transportation priorities and allocations (EO 11362) 10495
Ready Reserve, active duty order, authority (EO 11327, 11366) 2995, 11411
Recreation and Natural Beauty, President's Council on; membership (EO 11359A) 10049
Reports to the President:
Civil Disorders, National Advisory Commission on (EO 11365) 11111
Cost Reduction, President's Advisory Council on (EO 11353) 7623
Great Lakes Basin Commission (EO 11345) 6329
New England River Basins Commission (EO 11371) 12903
Pacific Northwest River Basins Commission (EO 11331) 3875

Presidential Documents—Continued Page

EXECUTIVE ORDERS—Continued
Reports to the President—Continued
Postal Organization, President's Commission on (EO 11341) 5765
Souris-Red-Rainy River Basins Commission (EO 11359) 8851
Tariff Commission (EO 11377) 14725
United States Information Agency, Director (EO 11380) 15627
Reserve, Ready; active duty order, authority (EO 11327, 11366) 2995, 11411
Retirement:
Marine Corps brigadier generals on active list (EO 11333) 3879
Quill, Daniel J., exemption from compulsory retirement for age (EO 11378) 15237
Rhodesia, Southern; economic sanctions against (EO 11322) 119
Ryukyu Islands, regulation of air transportation (EO 11326) 2841
Safety; National Traffic and Motor Vehicle Safety Act, administration (EO 11357) 8225
Science and Technology, Federal Council for; membership (EO 11381) 15629
Secret Service; position of Director placed in Level V, Federal Executive Salary Schedule (EO 11384) 17423
Secretariat for Volunteer Service, International; designation as public international organization entitled to certain privileges (EO 11363) 10779
Selective Service regulations (EO 11325, 11350, 11360) 1119, 6961, 9787
Ships. *See* Vessels.
Social Security Administration; Deputy Commissioner, position placed in Level V, Federal Executive Salary Schedule (EO 11323) 777
Souris-Red-Rainy River Basins Commission, establishment (EO 11359) 8851
Southern Rhodesia, economic sanctions against (EO 11322) 119
Space Research Organization, European; designation as privileged international organization, effective date (EO 11351) 7561
Standards and Conduct, Senate Select Committee on; inspection of tax returns (EO 11383) 17421
State Department; economic sanctions against Southern Rhodesia (EO 11322) 119
Tariff Commission; reports on consumption of brooms (EO 11377) 14725
Tariff Schedules of the United States; reports on consumption of brooms (EO 11377) 14725
Taxes:
Inspection of tax returns:
House Committee on Government Operations (EO 11332) 3877
House Committee on Public Works (EO 11370) 12665
House Committee on Un-American Activities (EO 11358) 8227
Senate Committee on Government Operations (EO 11337) 5245
Senate Select Committee on Standards and Conduct (EO 11383) 17421
Interest equalization tax:
Commercial bank loans (EO 11328) 3137
Modification of rates on acquisition of stocks and debt obligations (EO 11368) 12549
Temporary Commission on Pennsylvania Avenue, membership (EO 11347) 6333
Trade with Southern Rhodesia, economic sanctions (EO 11322) 119
Traffic and Motor Vehicle Safety Act, National; administration through National Highway Safety Bureau and its Director (EO 11357) 8225
Training of Federal employees, regulations (EO 11348) 6335
Transportation Department:
Act establishing, effective date (EO 11340) 5453
Deputy Administrator, Federal Highway Administration, position placed in Level IV, Federal Executive Salary Schedule (EO 11385) 18081
Deputy Under Secretary, position placed in Level V, Federal Executive Salary Schedule (EO 11338) 5247
Functions (EO 11382) 16247
President's Council on Recreation and Natural Beauty, membership of Secretary (EO 11359A) 10049

Presidential Documents—Continued Page

EXECUTIVE ORDERS—Continued
Transportation Department—Continued
Railroad strike, transportation priorities and allocations (EO 11362) 10495
Travel and transportation expenses:
Citizens Advisory Board on Youth Opportunity (EO 11330) 3871
President's Commission on Postal Organization (EO 11341) 5765
Treasury Department:
Asian Development Bank, functions (EO 11334) 3933
Interest equalization tax:
Commercial bank loans, regulations (EO (11328) 3137
Modification of rates on acquisition of stocks and debt obligations (EO 11368) 12549
Rhodesian trade, economic sanctions (EO 11322) 119
Un-American Activities, House Committee on; inspection of tax returns (EO 11358) 8227
United States Information Agency; Mutual Educational and Cultural Exchange Act of 1961, functions (EO 11380) 15627
Vessels:
Rhodesian trade, prohibition against shipment of commodities (EO 11322) 119
Shipbuilding and repair industries, Board of Inquiry to investigate labor dispute (EO 11329) 3811
Volunteer Service, International Secretariat for; designation as public international organization entitled to certain privileges (EO 11363) 10779
Washington Metropolitan Area Transit Authority, transfer of funds, reports, records, etc., from National Capital Transportation Agency (EO 11373) 13371
Women, equal employment opportunity (EO 11375) 14303
Youth Opportunity, Citizens Advisory Board; establishment (EO 11330) 3871
Youth Opportunity, President's Council on; establishment (EO 11330) 3871
Youth opportunity programs, coordination (EO 11330) 3871
LETTERS; designation of Acting Secretary and Acting Under Secretary of Commerce (Letters of February 1, 1967) 2493, 2495
NOTICE; articles to be considered for trade agreement concessions (Notice of April 22, 1967) 6429
PRESIDENTIAL FINDINGS; agricultural exports to Algeria and Morocco (Presidential Findings of February 27 and September 18, 1967) 4051, 14885
PROCLAMATIONS:
Agriculture Department; dairy products, licensing of imports (Proc. 3790) 9803
Asphalt imports, adjustment (Proc. 3779) 5919
Bonneville Project Act, 30th anniversary (Proc. 3800) 12035
Canada; trade agreements, termination of certain concessions (Proc. 3818) 15467
Carpets and rugs, extension of increased duty on imports (Proc. 3815) 14195
Civil disorders:
Detroit, Mich., restoration of law and order (Proc. 3795) 10905
National Day of Prayer for Reconciliation (Proc. 3796) 11071
Copyright Extension, Germany (Proc. 3792) 10341
Dairy Products, limitation on imports (Proc. 3790) 9803
Detroit, Mich., restoration of law and order (Proc. 3795) 10905
Education:
See also Schools.
American Education Week, 1967 (Proc. 3799) 11729
Youth Temperance Education Week (Proc. 3772) 5243
General Agreement on Tariffs and Trade, Geneva (1967) Protocol (Proc. 3822) 19002
Geneva (1967) Protocol to General Agreement on Tariffs and Trade (Proc. 3822) 19002
Germany, copyright extension (Proc. 3792) 10341
Glass, sheet; increased duties on imports:
Extension (Proc. 3816) 14197
Reduction (Proc. 3762) 361
Imports:
Asphalt, adjustment (Proc. 3779) 5919
Carpets and rugs, extension of increased duty (Proc. 3815) 14191
Dairy products, limitation (Proc. 3790) 9803

Presidential Documents—Continued Page

PROCLAMATIONS—Continued
Imports—Continued
Oil, adjustment (Proc. 3794, 3820) 10547, 15701
Sheet glass, increased duties:
Extension (Proc. 3816) 14197
Reduction (Proc. 3762) 361
Watch movements, termination of increased duties (Proc. 3761) 357
Interior Department:
Asphalt imports, adjustment (Proc. 3779) 5919
Oil imports, adjustment (Proc. 3794, 3820) 10547, 15701
Japan; trade agreements, termination of certain concessions (Proc. 3818) 15467
Langley Research Center, 50th anniversary (Proc. 3811) 13853
Michigan, termination of civil disorders (Proc. 3795) 10905
Oil imports, adjustment (Proc. 3794, 3820) 10547, 15701
Petroleum and petroleum products:
Asphalt imports (Proc. 3779) 5919
Oil imports (Proc. 3794, 3820) 10457, 15701
Rugs and carpets, extension of increased duty on imports (Proc. 3815) 14195
Rush-Bagot Agreement Days (Proc. 3781) 6757
Schools:
See also Education.
National School Lunch Week, 1967 (Proc. 3803) 12663
"Stay in School" campaign (Proc. 3801) 12469
Sheet glass, increased duties:
Extension (Proc. 3816) 14197
Reduction (Proc. 3762) 361
Special observances:
Asthma Week, National CARIH (Proc. 3777) 5915
Bonneville Project Act, 30th anniversary (Proc. 3800) 12035
Cancer Control Month, 1967 (Proc. 3776) 5763
Captive Nations Week, 1967 (Proc. 3793) 10343
Child Health Day, 1967 (Proc. 3805) 13483
Citizenship Day and Constitution Week, 1967 (Proc. 3786) 7801
Coal Week, National (Proc. 3789) 8749
Columbus Day, 1967 (Proc. 3813) 14089
Defense Transportation Day, National, 1967 (Proc. 3766) 3131
Discover America Planning Week (Proc. 3780) 6125
Education Week, American, 1967 (Proc. 3799) 11729
Employ the Physically Handicapped Week, National, 1967 (Proc. 3802) 12547
Erikson, Leif, Day, 1967 (Proc. 3808) 13633
Farm-City Week, National, 1967 (Proc. 3809) 13693
Farm Safety Week, National, 1967 (Proc. 3768) 3135
Fire Prevention Week, 1967 (Proc. 3798) 11373
Flag Day and National Flag Week, 1967 (Proc. 3788) 8465
Forest Products Week, National, 1967 (Proc. 3819) 13799
Heart Month, American, 1967 (Proc. 3763) 965
Highway Week, National, 1967 (Proc. 3804) 13441
History Month, American (Proc. 3760) 309
Human Rights Week and Human Rights Year (Proc. 3814) 14193
Langley Research Center, 50th anniversary (Proc. 3811) 13853
Law Day, U.S.A., 1967 (Proc. 3770) 4111
Law Day, World, 1967 (Proc. 3791) 10047
Loyalty Day, 1967 (Proc. 3775) 5761
Maritime Day, National, 1967 (Proc. 3782) 7167
Memorial Day, 1967, prayer for peace (Proc. 3785) 7621
Mother's Day, 1967 (Proc. 3784) 7203
Pan American Day and Pan American Week, 1967 (Proc. 3774) 5539
Poison Prevention Week, National, 1967 (Proc. 3767) 3133
Prayer, National Day of, 1967 (Proc. 3812) 14015
Prayer for Peace, Memorial Day, 1967 (Proc. 3785) 7621
Pulaski's, General, Memorial Day, 1967 (Proc. 3807) 13485
Red Cross Month, 1967 (Proc. 3765) 1167
Rush-Bagot Agreement Days (Proc. 3781) 6757
Safe Boating Week, National, 1967 (Proc. 3764) 967
Save Your Vision Week, 1967 (Proc. 3769) 3809
School Lunch Week, National, 1967 (Proc. 3803) 12663
Senior Citizens Month, 1967 (Proc. 3773) 5491
Small Business Week, 1967 (Proc. 3783) 7169

Presidential Documents—Continued Page

PROCLAMATIONS—Continued
Special observances—Continued
Steelmark Month (Proc. 3778) 5917
Thanksgiving Day, 1967 (Proc. 3819) 15667
Trade Week, World, 1967 (Proc. 3771) 5241
Transportation Day, National Defense, 1967 (Proc. 3766) 3131
Transportation Week, National, 1967 (Proc. 3766) 3131
UNICEF Day, National (Proc. 3817) 15001
United Nations Day, 1967 (Proc. 3797) 11259
Veterans Day, 1967 (Proc. 3805) 13481
White Cane Safety Day, 1967 (Proc. 3787) 8017
Wright Brothers Day, 1967 (Proc. 3821) 17571
Youth for Natural Beauty and Conservation Year (Proc. 3759) 31
Youth Temperance Education Week (Proc. 3772) 5243
"Stay in School" Campaign (Proc. 3801) 12469
Tariff Schedules of the United States:
Carpets and rugs, extension of increased duty (Proc. 3815) 14196
Dairy products, limitation on imports (Proc. 3790) 9803
Modification by proclamation carrying out Geneva (1967) Protocol to General Agreement on Tariffs and Trade (Proc. 3822) 19002
Sheet glass, increased duties:
Extension (Proc. 3816) 14197
Reduction (Proc. 3762) 361
Trade agreements with Canada, Japan, United Kingdom; termination of certain concessions (Proc. 3818) 15467
Watch movements, correction of error and termination of increased duties (Proc. 3761) 357
Tariffs and Trade, General Agreement on; Geneva (1967) Protocol (Proc. 3822) 19002
Trade Agreements:
Canada, Japan, United Kingdom; termination of certain concessions (Proc. 3818) 15467
General Agreement on Tariffs and Trade, Geneva (1967) Protocol (Proc. 3822) 19002
United Kingdom; trade agreements, termination of certain concessions (Proc. 3818) 15467
Virgin Islands, development of petrochemical facilities (Proc. 3820) 15701
Watch movements, termination of increased duties on imports (Proc. 3761) 357
REORGANIZATION PLANS OF 1967:
No. 1, ship mortgages, transfer of functions from Secretary of Commerce to Secretary of Transportation 7049
No. 3, District of Columbia government, reorganization 11669

President's Advisory Council on Cost Reduction:
ESTABLISHMENT (Executive Order 11353) 7623

President's Cabinet Textile Advisory Committee:
INFORMATION, availability of 13839, 14017

President's Commission on Postal Organization:
ESTABLISHMENT (Executive Order 11341) 5765
INQUIRY 12456

President's Committee on Consumer Interests:
ESTABLISHMENT, MEMBERSHIP, etc. (Executive Order 11349) 6759
ORGANIZATION AND FUNCTIONS 12813

President's Council on Aging:
MEMBERSHIP (Executive Order 11376) 14545

President's Council on Recreation and Natural Beauty:
MEMBERSHIP (Executive Order 11359A) 10049

President's Council on Youth Opportunity:
ESTABLISHMENT (Executive Order 11330) 3871

Price Support: Page
AGRICULTURAL COMMODITIES. *See* Commodity Credit Corporation.

Prisons Bureau:
AUTHORITY DELEGATION from Assistant Attorney General for Administration, disposition of unclaimed property ... 6576

Proclamations:
See Presidential documents.

Procurement:
ARMED SERVICES. *See* Air Force Department; Army Department; Defense Department.
FEDERAL PROCUREMENT REGULATIONS. *See* General Services Administration.
REGULATIONS of various agencies. *See specific agencies.*

Prunes:
MARKETING, etc. *See* Agriculture Department.

Public Buildings Service:
PROCUREMENT:
Advertising, formal; bids ... 5360, 12720, 13719
Contracts:
Administration ... 13719
Clauses, construction contracts ... 5361
Forms ... 5361, 12721
Negotiation policies ... 5361

Public Contracts Division:
AUTHORITY DELEGATION from Secretary of Labor; labor standards on Federally financed or assisted work contracts ... 14802
SAFETY AND HEALTH STANDARDS, Federal supply contracts:
Assignment of certain functions to Labor Standards Bureau; exception and exemption requests, etc. ... 7702
Enforcement by State officers and employees; inspections, instructions, etc. ... 7704
Radiation:
AEC-agreement State licensees or registrants, application in certain States:
Alabama and New Hampshire ... 5835
Nebraska and Washington, proposed rules ... 5848
Incidents, reports, etc. ... 7704
Mining standards ... 7022, 8412, 12449, 15641
WAGE DETERMINATIONS:
Minimum, adjustments to wage increases under Fair Labor Standards Act:
Final determination of $1.60 per hour, proposed rule ... 16220
Scientific, industrial, and laboratory instruments industry, etc. ... 2431
Star route contracts with Post Office Department; long and short haul ... 6376
WALSH HEALEY PUBLIC CONTRACTS ACT, practice rules ... 7702

Public Debt Bureau:
See Treasury Department.

Public Health Service:
See Saint Elizabeths Hospital.
AIR POLLUTION CONTROL, etc.:
Facilities for:
Investment tax credit purposes, certification for ... 3169, 11990
Organization and functions ... 59
Grants ... 7830
Performance standards and techniques of measurement; Ringelmann Scale, sulfur oxides emission limits and control measures ... 4415
Public hearings under Clean Air Act; proposed rules ... 5514
BIOLOGICAL PRODUCTS:
Additional standards; proposed rules:
Blood, whole (human) ... 13775
Mumps virus vaccine, live ... 15178
Mycoplasma species, poliomyelitis vaccine, and poliovirus vaccine, live, oral ... 9696

Public Health Service—Continued Page
BIOLOGICAL PRODUCTS—Continued
Additional standards; proposed rules—Continued
Pertussis vaccine ... 13773
Dating periods for specific products; proposed rule ... 8181
Definitions, licenses, etc.; proposed rules ... 7215
Licensed products, manufacturers, and license numbers; list ... 2463, 11240
GRANTS:
Air pollution control programs ... 7830
Construction grant payments, installment payment schedules deleted ... 11875
Equipment, competitive bidding:
Facilities for mentally retarded:
Construction of facilities ... 5676
Construction of university affiliated facilities ... 5676
Medical and professional responsibilities in centers ... 8145
Hospitals and medical facilities, construction and modernization of; standards ... 8334, 17662
Regional medical programs; applicability, definitions, etc ... 571
Solid waste disposal projects, grant limitations ... 8295
States, comprehensive health planning and public health services ... 8243, 10792
Training centers for allied health professions, improvement of quality ... 204, 10202
HOSPITAL AND STATION MANAGEMENT, fees and charges for copying, certification, search of records, etc. ... 578, 6842
ORGANIZATION AND FUNCTIONS ... 9738, 12068, 15443, 15597
Air pollution control ... 59
QUARANTINE, foreign; importation of psittacine birds ... 8679, 14057

Public Land Law Review Commission:
ORGANIZATION AND FUNCTIONS ... 11905
RECORDS AND INFORMATION, availability ... 11905

Public Works, House Committee on:
INSPECTION OF TAX RETURNS (Executive Order 11370) ... 12665

Puerto Rico:
ASPHALT IMPORT. *See* Interior Department.
COAST GUARD, boat numbering system approved ... 4499
DISASTER AREA, Federal aid ... 17495
HUNTING, migratory birds. *See* Fish and Wildlife Service.
OIL AND GAS imports and exports. *See* Interior Department.
RADIO BROADCAST SERVICES, FM stations. *See* Federal Communications Commission.
RESTRICTED AREAS over military installations. *See* Federal Aviation Administration.
SUGAR, production, wages, etc. *See* Agriculture Department; Wage and Hour Division.
TIME ZONE BOUNDARIES, standard ... 11480, 16162
TOBACCO, loan program. *See* Commodity Credit Corporation.
VETERANS READJUSTMENT ASSISTANCE ACT of 1952. *See* Employment Security Bureau.
WAGE RATES, various industries, etc. *See* Wage and Hour Division.

Q

Quarantine Regulations:
ANIMAL DISEASES, control of. *See* Agriculture Department.
BIRDS, psittacine. *See* Public Health Service.
CANAL ZONE. *See* Canal Zone.
PLANT QUARANTINE. *See* Agriculture Department.

Quetico-Superior Committee:
REESTABLISHMENT (Executive Order 11342) ... 5827

Quill, Daniel J.:
COMPULSORY RETIREMENT FOR AGE, exemption (Executive Order 11378) ... 15237

R

Radiation: Page
See also Federal Radiation Council.
EXPERIMENTAL RADIO SERVICES, radio interference limits. *See* Federal Communications Commission.
FOOD PRESERVATION, etc. *See* Food and Drug Administration.
MINING standards. *See* Labor Standards Bureau.
MONITORING INSTRUMENTS, advertising guides ... 15533
NUCLEAR MATERIAL, reactors, etc. *See* Atomic Energy Commission.
PEACETIME RADIOLOGICAL DISASTER, responsibilities in Agriculture Department ... 10269
SAFETY AND HEALTH STANDARDS, Federal supply contracts. *See* Public Contracts Division.
STANDARD REFERENCE MATERIALS, and test fee schedules radioactivity standards. *See* National Bureau of Standards.
TRANSPORTATION of certain dangerous radioactive materials. *See* Interstate Commerce Commission.

Radio Communications:
See Federal Communications Commission; National Bureau of Standards.

Railroad Retirement Board:
CONDUCT STANDARDS ... 15471
EMERGENCY REGULATIONS:
Order of succession of Board ... 9065
Plan of operation; designation of certifying officers, cashiers, etc ... 3075
INFORMATION, availability of ... 9651
RAILROAD RETIREMENT ACT regulations:
Erroneous payments, recovery of ... 3224
Procedures and forms, current compensation and service records of Board ... 9064
Reports:
Employees compensation ... 9064
Registration of employees ... 9065
RAILROAD UNEMPLOYMENT INSURANCE ACCOUNT, notice of deficit ... 15729
RAILROAD UNEMPLOYMENT INSURANCE ACT:
Record retention period ... 9065
Recovery of benefits ... 3341
Registration and claims for benefits ... 13862

Railroads:
See also Federal Railroad Administration; Interstate Commerce Commission; Railroad Retirement Board.
ALASKA RAILROADS, regulations transferred to Transportation Department ... 17480
EMERGENCY BOARDS to investigate labor disputes. *See* National Mediation Board.
EXPLOSIVES, shipment by rail freight, etc. ... 13325
INTERNATIONAL TRAIN SUPPLIES, customs regulations ... 1176
STRIKES:
See also Interstate Commerce Commission; Maritime Administration; Post Office Department; Transportation Department.
Transportation priorities and allocations (Executive Order 11362) ... 10495

Raisins:
CROP INSURANCE. *See* Federal Crop Insurance Corporation.
MARKETING. *See* Agriculture Department.

Raspberries:
STANDARDS FOR GRADES. *See* Agriculture Department.

Ready Reserve:
See Reserves.

Reclamation Bureau:
BOULDER CITY, NEV., and Coulee Dam and city of Grand Coulee, Wash., leases of reserved lands, sale of alcoholic beverages, etc.; certain regulations revoked ... 2774

Reclamation Bureau—Continued Page
GILA IRRIGATION PROJECT, Arizona, Yuma-Mesa Division, South Gila Valley Unit:
Annual water rental charges during development period ... 151
Water service and charges prior to designation of irrigation block and start of development period ... 14567
NEVADA AND CALIFORNIA, certain reclamation and irrigation projects, etc. ... 3098
TRANSFER OF JURISDICTION of certain lands to Agriculture Secretary for recreational and other purposes:
Colorado:
San Isabel National Forest, 8255.
San Juan National Forest, 7037.
White River National Forest, 8255.
South Dakota; Black Hills National Forest, 7097.
Utah and Wyoming; Wasatch National Forest, 14284.

Records:
See also specific agencies.
AVAILABILITY. *See* Organization and information.
NON-FEDERAL RECORDS, guide to record retention requirements ... 3602

Recreation:
See also Outdoor Recreation Bureau.
CABINS, occupancy of, on recreation areas. *See* Interior Department.
FEES applicable to designated areas. *See* Interior Department.
HYDROELECTRIC LICENSEES, etc., under Federal Power Act. *See* Federal Power Commission.
NATIONAL RECREATION AREAS:
Concession contracts, etc. *See* National Park Service.
Zoning standards. *See* Forest Service.
PARKS, NATIONAL. *See* National Park Service.
PUBLIC LANDS, withdrawals for recreation areas, etc. *See* Land Management Bureau.
TRANSFER OF JURISDICTION of certain lands for recreation purposes. *See* Reclamation Bureau.
WILDLIFE REFUGES, public recreation. *See* Fish and Wildlife Service.

Recreation Bureau:
See Outdoor Recreation Bureau.

Recreation and Natural Beauty, President's Council on:
MEMBERSHIP (Executive Order 11359A) ... 10049

Renegotiation Board:
CONDUCT OF RENEGOTIATION, filing of information and requests by contractor; place for filing ... 16213
CONDUCT STANDARDS ... 13187
CONSOLIDATED RENEGOTIATION of affiliated and related groups; renegotiation losses of consolidated contractors ... 6972
EXEMPTIONS FROM RENEGOTIATION:
Mandatory:
Common carriers by water ... 6096, 12400
Contracts not directly connected with national defense; synthetic rubber ... 5457
Standard commercial articles or services, "like" articles or services ... 8091
Permissive; certain subcontracts, "stock item" exemption ... 10299
FISCAL YEAR BASIS for renegotiation and exceptions; carry forward of renegotiation losses ... 6971
FORMS, agreements and orders; letter not to proceed (Regional Board), renegotiable and no renegotiable sales ... 5457
INFORMATION AND RECORDS:
Availability of ... 8104, 9226
Contractors, information required of; forms and instructions for filing reports ... 9226
ORGANIZATION AND FUNCTIONS ... 8104
Eastern Regional Renegotiation Board; change of address ... 16237
RECORDS. *See* Information and records.

Reorganization Plans of 1967: Page
NO. 1, ship mortgages, transfer of functions from Secretary of Commerce to Secretary of Transportation 7049
NO. 3, District of Columbia government, reorganization 11669

Reserves:
See also Air Force Department; Army Department; Civil Defense Office; Defense Department; Marine Corps; Navy Department; Selective Service System.
READY RESERVE, active duty order, authority (Executive Order 11327, 11366) 2995, 11411

Reservoir Areas:
PUBLIC USE for recreation, etc. *See* Engineers Corps.
WILDLIFE PURPOSES, transfer of area for. *See* General Services Administration.

Restricted Areas:
AIRCRAFT restricted areas over military installations. *See* Federal Aviation Administration.
TRAVEL by U.S. citizens. *See* State Department.
VESSELS, navigation danger areas. *See* Engineers Corps.

Retirement:
FEDERAL EMPLOYEES. *See* Civil Service Commission.
MARINE CORPS BRIGADIER GENERALS on active list (Executive Order 11333) 3879
QUILL, DANIEL J., exemption from compulsory retirement for age (Executive Order 11378) 15237

Rhodesia:
ECONOMIC SANCTIONS against Southern Rhodesia (Executive Order 11322) 119
EXPORTS to Southern Rhodesia; international traffic in arms, penalties for violations. *See* State Department.
TRANSACTION REGULATIONS. *See* Treasury Department.
TRANSPORTATION of certain commodities from and to Southern Rhodesia by U.S. vessels and aircraft prohibited 1126
VESSELS, approval of charter to aliens except for shipment of cargoes to or from Southern Rhodesia 4122

Rhubarb:
FOREIGN QUARANTINE notice 13319

Rice:
CROP INSURANCE. *See* Federal Crop Insurance Corporation.
MARKETING QUOTAS, etc. *See* Agriculture Department.
RESEAL LOAN PROGRAMS, etc. *See* Commodity Credit Corporation.

Rights-of-Way:
See Indian Affairs Bureau; Land Management Bureau.

River Basin Commissions:
See also Delaware River Basin Commission; Great Lakes Basin Commission; New England River Basins Commission; Pacific Northwest River Basins Commission; Souris-Red-Rainy River Basins Commission.
FEDERAL PARTICIPATION. *See* Water Resources Council.

Rugs and Carpets:
IMPORTS, extension of increased duty (Proclamation 3815) 14195

Rural Community Development Service:
ORGANIZATION AND FUNCTIONS 11173

Rural Electrification Administration:
INFORMATION, availability of 9613
ORGANIZATION AND FUNCTIONS 10617

Rural Poverty, National Advisory Commission on: Page
RURAL ECONOMIC CONDITIONS, hearings 344

Rye:
CROP INSURANCE. *See* Federal Crop Insurance Corporation.
CROPLAND ADJUSTMENT, etc. *See* Agriculture Department.
PRICE-SUPPORT PROGRAMS, etc. *See* Commodity Credit Corporation.

Ryukyu Islands:
AIR TRANSPORTATION, regulations (Executive Order 11326) 2841

S

Safety:
AEROSPACE SAFETY ADVISORY PANEL, organization, etc 20714
AIRCRAFT:
Access to, for safety purposes, etc. *See* Civil Aeronautics Board.
Accidents, etc. *See* Civil Aeronautics Board; National Transportation Safety Board.
COAL MINE safety. *See* Mines Bureau.
FEDERAL CONTRACTS, standards. *See* Labor Standards Bureau; Public Contracts Division.
HIGHWAY SAFETY; radio communications. *See* Federal Communications Commission.
LONGSHORING REGULATIONS. *See* Labor Standards Bureau.
MOTOR CARRIERS, safety regulations. *See* Federal Highway Administration; Interstate Commerce Commission.
MOTOR VEHICLE standards. *See* Commerce Department; Customs Bureau; Federal Highway Administration; General Services Administration.
NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT, administration (Executive Order 11357) 6225
PRESIDENTIAL PROCLAMATIONS. *See under* Presidential documents.
RADIATION, safety and health standards. *See* Public Contracts Division.
RADIO SERVICES, public safety. *See* Federal Communications Commission.
RAILROADS AND PIPELINES. *See* Federal Railroad Administration; Interstate Commerce Commission.
SHIP REPAIRING, shipbuilding, and shipbreaking, safety standards. *See* Labor Standards Bureau.
VESSELS. *See* Coast Guard; Federal Maritime Commission.
WORKSHOPS and rehabilitation facilities assisted by grants. *See* Labor Department.

Saint Elizabeths Hospital:
ORGANIZATION AND FUNCTIONS 10472, 13681
RECORDS, fees and charges for copying, certification, etc.; proposed rules 10601

Saint Lawrence Seaway Development Corporation:
SEAWAY RULES:
Condition of vessels 3888, 6394
Dangerous cargo 3889, 6395, 6973
Radio communications 3889, 6395
Transit instruction 3889, 6395
TOLLS, schedule 6490

Samoa, American:
WAGE RATES, etc 8242
WATCHES AND MOVEMENTS, imports. *See* Commerce Department; Interior Department; Tariff Commission.

Satellite Communications:
See Federal Communications Commission.

Sauerkraut: Page
BULK, standards for grades. *See* Agriculture Department.

School Breakfast and Lunch Programs:
See Agriculture Department.

Schools:
See Education and educational facilities; Education Office.

Science and Technology, Federal Council for:
MEMBERSHIP (Executive Order 11381) 15629

Science and Technology Office:
ORGANIZATION AND INFORMATION 11060

Seals:
AIR FORCE DEPARTMENT 9673, 11782
FEDERAL AVIATION AGENCY, rescinded 5546
HOUSING AND URBAN DEVELOPMENT DEPARTMENT 366
INTERNAL REVENUE SERVICE 15483
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION 12997
TRANSPORTATION DEPARTMENT 4180, 11472, 14846
TREASURY DEPARTMENT 6215

Seat Belts:
AIRPLANES 13255
MOTOR VEHICLES, safety standards. *See* Commerce Department; Federal Highway Administration.

Secret Service:
AUTHORITY DELEGATIONS from certain Treasury Department officials; appointment of uniformed guards as special policemen, etc.:
Special Assistant to Secretary (for Enforcement) 14698
Under Secretary 17490
DIRECTOR, position placed in Level V, Federal Executive Salary Schedule (Executive Order 11384) 17423
ORGANIZATION AND FUNCTIONS 10219
Realignment of headquarters functions and responsibilities 21040

Secretariat for Volunteer Service, International:
PRIVILEGED ORGANIZATION:
Customs Bureau regulation 11733
Designation (Executive Order 11363) 10779

Securities and Exchange Commission:
ACCOUNTING MATTERS, interpretative release; interpretation and guide to net capital computation for brokers and dealers 856
CONDUCT STANDARDS, outside or private employment 3741
HEARINGS, etc. *See list at end of this agency.*
INFORMATION AND REQUESTS 9828, 10198
INVESTMENT ADVISERS ACT, 1940:
Amendments to applications; proposed rule 10984
Forms:
ADV, application; proposed rule 10984
ADV-W, withdrawal from registration as investment adviser 11288, 16151
Withdrawal from registration as investment adviser 11288, 16151
INVESTMENT COMPANY ACT, 1940:
Definitions:
Class or series of securities issued by same company 7399, 10728
Exchange 7398, 10728
Exemption for finance subsidiaries; proposed rule 17861
Form N-1Q, quarterly report of registered management investment company 11286, 17584
Participation of investment companies with affiliated persons, applications for transactions; proposed rule 14968

Securities and Exchange Commission—Con. Page
INVESTMENT COMPANY ACT, 1940—Continued
Reports:
Quarterly, and form for; registered investment companies and subsidiaries 11286, 17584
Stockholders of management companies, reports to 17584
ORGANIZATION AND FUNCTIONS, authority delegation to Director, Division of Corporate Regulation; correction 15470
PUBLIC UTILITY HOLDING COMPANY ACT, 1935, companies deemed not to be electric or gas utility companies 11044, 13487
SECURITIES ACT, 1933:
Contents of prospectus used after nine months 15920
Delivery of prospectus by dealers, exemptions 17934
Form S-7, registration of securities of certain issuers to be offered for cash 17934
Interpretative release, real estate syndications 11705
SECURITIES EXCHANGE ACT, 1934:
Applications for review of disciplinary action by registered securities association, required number of copies 8357
Definitions, "foreign government," "foreign issuer," and "foreign private issuer" 7845
Distribution of certain information 1035, 20967
Exemption of certain transactions:
Insider trading 14322
Receipt and sale of subscription rights; proposed rule 17983
Exemptions for American depositary receipts and certain foreign securities 7845
Floor trading plan, New York Stock Exchange 16549
Forms:
20, registration of foreign securities 7853
6-K, periodic report of foreign issuer 7853
20-K, annual reports of foreign private issuers 7851
BD, application for registration as broker and dealer; proposed rule 10983
SECO-4-67, 1967 assessment and information form for registered brokers and dealers not members of registered national securities association 5809, 7849
X-17A-5, information required of certain members, brokers, and dealers 14018
X-17A-9(2) and X-17A-9(3); reports of certain transactions 5257
Interpretative release; net capital computation for brokers and dealers 856
Records and reports of certain stabilizing activities, preservation 864, 5257, 14018
Registration of brokers and dealers:
Amendments to applications; proposed rule 10983
Conduct, supervision, and records of brokers and dealers not members of national securities association 11637
Fees for fiscal 1967, brokers and dealers not members of national securities association 5808, 7849
Reports:
See also under Forms; Records and reports.
Directors, officers, and principal stockholders, reports of; proposed rules:
Ownership of more than 10 percent of class of equity securities 18063
Ownership of securities held in trust 9238
Other reports, foreign securities 7845
Quarterly reports of investment companies 17584.
Solicitation of proxies 1035, 20772, 20960

HEARINGS, ETC.:
AMK Corp., 3755, 4479.
AMP, Inc. et al., 6585, 17605.
Aereon Corp., 5304.
Aetna Insurance Co., 16122.
Aetna Life and Casualty Co. et al., 16121.
Alabama Power Co., 10026, 12570.
Allegheny Power System, Inc., 1149.
Alloys Unlimited, Inc. et al., 3909.
Amax Holdings, Inc., 7230.
American Electric Power Co., Inc., 3069, 5479, 9688, 10999, 13740, 14910, 16515.
American Equities Fund, Inc., 6006.
American and Foreign Power Co., Inc., 1148, 10238.

Securities and Exchange Commission—Con.

HEARINGS, ETC.—Continued

American Gas Co., 7305, 9130, 10633, 13789.
American Gas Company of Wisconsin, Inc., 9130, 10633, 13789.
American General Insurance Co., 20756.
American Hydrocarbon Corp., 10894, 15449.
American Mining & Dredging Co., 3827.
American Mutual Fund, Inc., 13428.
American Natural Gas Co., 4378, 5818, 8830, 14624, 15941.
American Optical Co. et al., 398.
American Photocopy Equipment Co. et al., 13900.
American Plan Corp., 5056, 8259, 8739.
American Republic Assurance Co., 16068.
  Separate Account B, 16068.
American Research and Development Corp., 628, 2726.
American Steel & Pump Corp., 6459, 6857, 7302, 7652, 8056, 13468.
American Sugar Co., 6857.
American Variable Annuity Fund, 15511.
American Variable Annuity Life Assurance Co., 15511.
Amoco International Finance Corp., 17996.
Ampal-American Israel Corp., 1009.
Anchor Hocking Glass Corp. et al., 7580.
Anderson New England Capital Corp., 4977.
Appalachian Power Co., 12032.
Arizona City Development Corp., 15774.
Arkansas Power & Light Co., 3727, 15689.
Atlantic Richfield International Finance Corp., 6230.
Autroponics, Inc., 1066, 3852, 10533.
Avon Products, Inc. et al., 3319.
Axe-Houghton Fund A, Inc. et al., 8259, 14416.
Axe-Houghton Stock Fund, Inc., 13543.
Axe-Science Corp., 13543.
Bache & Co., Inc., 3481, 8207.
Bankers and Shippers Insurance Co. of New York, 4191, 8558, 8630.
Basfin Corp., 9244.
Basic Metals, Inc., 568.
Baxter Laboratories, Inc. et al., 4480.
Becton, Dickinson & Co. et al., 4480.
Berkshire Industries, Inc., 15201.
Blackstone Valley Electric Co., 7108.
Blair Fund, Inc., 3419.
Broad Street Investing Corp., 6231, 6857.
Bunker-Ramo Corp., 19300.
Burlington International, Inc., 17689.
Buttonwood Capital Corp., 12736.
Cal-Western Separate Account A, 11185.
California Pacific Trading Corp., 10894.
California-Western States Life Insurance Co., 11185.
Cambridge Growth Fund, Inc., 6459.
Camp Chemical Co., Inc., 6953.
Canadian Javelin, Ltd. et al., 7509.
Canal Assets, Inc., 13242.
Celanese International Finance Co., 8394.
Cemetery Care Investment Co., Inc., 7785.
Center, Inc., 936.
Central Indiana Gas Co., Inc., 10634, 15941.
Central Power and Light Co., 3120, 15857.
Central and South West Corp. et al., 888, 11826, 11970.
Channing Securities, Inc.—Personal Investment Plan (Common Stock Fund Shares), 3030.
Chemalloy Minerals, Ltd., 9183, 9502.
Chevron Overseas Finance Co., 10397.
Christiana Securities Co., 3755.
Chromalloy American Corp. et al., 10239.
Civil & Military Investors Mutual Fund, Inc., 13943.
Coditron Corp., 11969, 12501, 12872, 13203, 13699, 13949, 14417, 14867, 15512, 15775, 16237, 17555, 17999, 21007.
Cohu Electronics, Inc., 5068.
Collins Radio Co. et al., 15690.
Colonial Equities, 5714.
Columbia Fund, Inc., 10126.
Columbia Gas of Kentucky, Inc., 2869.
Columbia Gas System, Inc. et al., 2869, 4515, 6812, 8056, 11658, 12459, 16175.
Cone Mills Corp. et al., 4481.
Connecticut Gas Co., 12701.
Connecticut General Insurance Corp., 16122.
Connecticut Light & Power Co., 3953, 4378, 5869, 7411, 11656, 12701, 17607.
Connecticut Yankee Atomic Power Co. et al., 14168.
Consolidated American Life Insurance Co., 8074.
Consolidated Gas Supply Corp., 13866.
Consolidated Natural Gas Co. et al., 7481, 8107, 12701.
Continental Assurance Co. Separate Account (B), 9420.

Securities and Exchange Commission—Con.

HEARINGS, ETC.—Continued

Continental Vending Machine Corp., 175, 586, 937, 2593, 2984, 3373, 3909, 4190, 5305, 5649, 6111, 6535, 6996, 7413, 7727, 8207, 8630, 9130, 10027, 10486, 11000, 11361, 11623, 12201, 12772, 13092, 13428, 13886, 14251, 14799, 15202, 15730, 16122, 16548, 17903, 20788.
Contrafund, Inc., 4589.
Corporate Leaders of America, Inc., 13203.
Crescent Corp., 292.
Delmarva Power & Light Co., 7194, 11969, 17903.
Delmarva Power & Light Company of Maryland, 7194.
Delta Air Lines, Inc. (Delaware), et al., 15555, 15901.
Development Corporation of America, 8395.
Diamond Alkali Co. et al., 11659.
Du Pont de Nemours, E. I., & Co., 6813.
Du Pont, Francis I., & Co., 8207.
Duval Corp., 2870.
Dyna Ray Corp., 12132, 12636, 12925, 13349, 13683, 14126.
EPNG Corp., 13032.
Eastern Utilities Associates, et al., 13469, 16237.
Eastman Dillon, Union Securities & Co., 8207.
Eaton & Howard Stock Fund, 14005.
Economy Fund, 11659.
El Paso Natural Gas Co., 13032.
Electric Bond and Share Co., 1148.
Electro-Nucleonic, Inc., 4555, 5529, 5969, 6313.
Electro-Science Investors, Inc., 11450.
Emery Industries, Inc., 7550.
Evans Petroleum Corp., 7104.
Exchange Growth/Income Fund, Inc., 6072.
Fastline, Inc., 15775, 16176, 16548, 17904, 20788.
Federal Resources Corp. et al., 13300.
Federated-Dual Exchange Fund, Inc., 6072, 6417.
Fidelity Capital Fund, Inc., 14867.
Fifth Avenue Coach Line, Inc. et al., 13886.
Fifty States Mutual Fund, Inc., 17999.
First Atlantic Fund, Inc., 4329.
First Investors Income Fund, Inc., 17904.
Foremost-McKesson, Inc., 17606.
Frazier, Fred M., 8260.
Fundamental Investors, Inc., 17639.
Fundamerican Trusteed Certificates, 13790.
General Cable Corp. et al., 3220.
General Electric Co., 6107.
General Instrument Corp. (Delaware), 21045.
General Public Utilities Corp., 3954, 4191.
Georgia Pacific Corp. et al., 3220.
Georgia Power Co., 6742, 7412, 10894.
Gillette International Capital Corp., 15450.
Glen Alden Corp. (Delaware), 13470, 16060, 17871.
Glen Alden-Delaware, Inc., 4329.
Goldfield Corp., 9183, 9502.
Great American Insurance Co., 7604.
Great Lakes Gas Transmission Co., 8230, 14624.
Greater Washington Industrial Investments, Inc., 13302.
Growth Capital, Inc., 20679.
Gulf Power Co., 6535, 6742.
Gulf & Western Industries, Inc., 3909, 4481, 10239, 15188, 15512, 16122.
Hamilton Management Corp., 11969.
Hanna Diversified Investments, Inc., 3910.
Hartford Electric Light Co., 3373, 4149, 9130, 20826.
Hartford Steam Boiler Inspection and Insurance Co., 13790.
Hayden, Stone, Inc., 3482.
Hecla Mining Co. et al., 3910.
Hemisphere Fund, Inc., 8208.
High Street Investment Fund, Inc., 9031.
Hoagland, Henry W., 2736.
Hornblower & Weeks-Hemphill, Noyes, 3420.
Hubbard, M. M., Associates, Inc., 7146, 15513.
Hutton, E. F. & Co., Inc., 3483.
IBEC International, Inc., 13609.
Income Fund of Boston, Inc. et al., 11568.
Indiana & Michigan Electric Co., 13022.
Industrial Kinetics, Inc., 768, 3852, 5860.
Industries Exchange Fund, Inc., 7146.
Institutional Exchange Fund, Inc., 3915, 12727.
Insurance Securities Trust Fund, 11244.
Interamerican Industries, Inc., 18413.
Interamerican Industries, Ltd., 7604, 7988, 8485, 8668, 9502, 10623, 10762, 11245, 11589, 12077, 12636, 12925, 13349, 13683, 14126, 14571, 15135, 15604, 15901, 17606, 19201, 21045.
International Utilities Investment Corp., 8435.
International Utilities of U.S., Inc., 8435.
Investors Diversified Service, Inc. et al., 8108, 8109, 9766, 10594.

Securities and Exchange Commission—Con.

HEARINGS, ETC.—Continued

Investors Syndicate of America, Inc., 4555.
Investors Syndicate Credit Corp., 4555.
Ivest Fund, Inc., 15202.
Jade Oil & Gas Co., 3689, 9033, 9767, 10323, 10695, 11297, 11450.
Jersey Central Power & Light Co., 4515, 11297, 15901.
Jodmar Industries, Inc., 13154, 13470, 13888, 14289, 14867, 15451, 15775, 15902.
Jonathan Logan, Inc. et al., 10240.
Kaneb Pipe Line Co., 21007.
Kennametal, Inc., 4481.
Kentucky Power Co., 5479, 11660, 14910, 17607.
Keystone Co. of Boston, 11061.
Keystone Custodian Funds, Inc., 11061.
Kjobenhavns Telefon Aktieselskab, 16453.
Krueger Mutual Fund, Inc., 13349.
Lakeside Holding Co, et al., 16000.
Lazard Fund, Inc., 14126.
Lear Siegler, Inc., 10239.
Leeds Shoes, Inc., 18072, 21008.
Leverage Fund of Boston, Inc., 2984.
Lexington Corporate Leaders Fund, Inc., 13203.
Lexington Research Investing Corp., 17498.
Liberty Investors, Inc., 12201.
Life Insurance Investors, Inc., 6074.
Life Stock Exchange Fund, Inc., 13154.
Lincoln National Life Insurance Co., 2831, 11823, 11824.
Lincoln National Variable Annuity Funds:
  Fund A, 2831, 11824.
  Fund B, 11823.
Lincoln Printing Co., 175, 586, 937, 2593, 2987, 3374, 3910, 4191, 5305, 5649, 6111, 6536, 6996, 7413, 7727, 8209, 8630, 9131, 10027.
Link-Belt Co. et al., 7550.
Litton Industries, Inc., 10240.
Londontown Manufacturing Co. et al., 8057.
Loomis-Sayles Capital Development Fund, Inc., 5650.
Loomis-Sayles Mutual Fund, Inc., 2483, 14571.
Louisiana Power & Light Co., 175, 6418, 11197, 15655.
Maine Yankee Atomic Power Co. et al., 2871.
Massachusetts Electric Co. et al., 12872, 14624.
Massachusetts Investors Growth Stock Fund, Inc., 2985, 11450, 17600.
Massachusetts Investors Trust, 7102, 15730.
Massachusetts Variable Annuity Insurance Co., 9131.
  Separate Account A, 9131.
Mayflower Investors, Inc., 8780.
McLouth Steel Corp., 13349.
Merrill Lynch, Pierce, Fenner and Smith, Inc., 6536.
Metropolitan Edison Co., 5715, 7728, 12773.
Michigan Consolidated Gas Co., 5818, 11906.
Michigan Gas and Electric Co., 13740.
Michigan Wisconsin Pipe Line Co., 4378, 8260.
Mid-American Pipelines Co., 17606.
Middle South Utilities, Inc., 2727, 4095, 14351, 15655.
Midland-Ross Corp., 16238.
Miller, Theodore T., 5715.
Millstone Point Co., 3220.
Minuteman Motels, Inc., 11325.
Mississippi Power Co., 6537, 7928, 14169, 21045.
Mississippi Power & Light Co., 15451.
Missouri-Kansas-Texas Railroad Co. et al., 15775.
Monongahela Power Co., 7928, 10535.
Mortgage Trust Corp., 13740.
Mortgage Trust Systematic Investment Plan to Acquire Shares of Mortgage Trust Corp., 13741.
Municipal Investment Trust Fund:
  Series H, 8436.
  Series I, 13949.
Murphy Oil International Finance Co., 15513.
Mutual Investors Co., 4589.
NCR International Finance Corp., 5650.
Nabisco International Finance Co., 13349.
National Aviation Corp., 4087, 4590, 7231, 10763, 11061, 12673.
National Can Overseas Corp., 14573.
National Dollar Stores, Ltd., 12071.
National Exhibition Co., 13611, 14350, 15562.
National Fuel Gas Co. et al., 10027.
National Lead Overseas Capital Corp., 6231.
Nautec Corp., 2728.
New England Electric System, et al., 831, 8209, 11245, 17499, 20627.
New England Power Co., 8209, 13154, 20627.
New Jersey Power & Light Co., 4150.
New Orleans Public Service, Inc., 4095, 8110, 14351.

Securities and Exchange Commission—Con.

HEARINGS, ETC.—Continued

New York Air Brake Co., 11491.
New York City Commercial Development Corp., 9184.
Newberry, J. J., Co., 7888.
North American Planning Corp., 13204.
North American Research & Development Corp., 11000, 11297, 11713, 12201, 12702, 13092, 13351, 13791, 14169, 14708, 15203, 15656, 16070, 16454, 17691, 20680.
Northeast Investors Trust, 17691.
Northeast Utilities, et al., 3220, 6537, 13950.
Northern Enterprises, Inc., 10697.
Northern Instrument Corp., 6538, 6952, 7356, 7652, 8111, 8689, 9050, 10028, 10396, 11000, 11298, 11746.
Northern Railroad, 6584.
Nucleonic Corporation of America, 8261, 8631, 9133.
Nuveen Tax-Exempt Bond Fund:
  Series 14; 5442.
  Series 15; 9330.
  Series 16; 15136.
Nylo-Thane Plastics Corp., 6813, 7147, 7550, 17905.
Ohio Capital Fund, Inc., 8781.
Ohio Edison Co., 2402, 7036.
Ohio Power Co., 3719, 8688, 10999, 13092.
Owens-Illinois Overseas Capital Corp., 176.
Pacific Industries, Inc. et al., 17555.
Pacific Insurance Company of New York, 4191, 8558, 8630.
Paine, Webber, Jackson & Curtis, 3483.
Pakco Companies, Inc., 102, 344, 589, 937, 2593, 2986, 3374, 3910, 4192, 5306, 5651, 6112, 6537, 6996, 7413, 7728, 8210, 8631, 9133, 10028, 10484, 11000, 11361, 11826, 12201, 12773, 13093, 13428, 13886, 14251, 14799, 15203, 15730, 16123, 16548, 17905, 20788, 20827.
Pallas Corp., 7728.
Pan American Sulphur Co., 14169.
Pasadena Hydraulics, Inc., 10536.
Paul Revere Corp., 3069, 14006.
Pennsylvania Electric Co., 1106, 6459, 13243, 14911.
Pennsylvania Power Co., 7036.
Pennzoil Co. et al., 10536, 16454.
Penrose Corp., 11293.
Penrose Industries Corp., 11589, 12073, 12636, 12925, 13351, 13683, 14126, 14573, 15136, 15604, 15902, 16455, 17606, 19201, 20627.
Peoples Gas Light and Coke Co. et al., 12814.
Pinal County Development Association, 177, 589, 937, 2593, 2986, 3374, 3910, 4192, 5306, 5651, 6112, 6538, 6996, 7413, 7729.
Pinestock Associates, 832.
Pinestock Associates, Inc., 832.
Pittsburgh Coke & Chemical Co., 3185, 4096, 14251.
Pittsburgh Railways Co., 15857.
Planned Investment Fund, Inc., 13204.
Potomac Edison Co., 1149, 7036, 12073, 14625.
Potomac Edison Company of Pennsylvania, et al., 5660.
Power Oil Co., 13612, 13888, 14351, 14867, 15136.
Procter & Gamble International Co., 13205.
Protective Security Co., 13206.
Public Service Co. of Oklahoma, 3120, 11062.
Puritan Fund, Inc., 6856, 10698, 14799.
Putnam, George, Fund of Boston, 16292.
Putnam Duofund, Inc., 8310.
Radio Corporation of America, 12873, 21045.
Rand Development Corp., 937, 1200, 3872, 3246, 3756, 4150, 4516, 5652, 5969, 6418, 6859, 7231, 7652.
Reading Electric Light and Power Co., 7728.
Research-Cottrell, Inc. et al., 17606.
Rio Algom Mines, Ltd. et al., 11660.
Ripley, Drexel Harriman, Inc., 3481.
Roto American Corp., 11826, 12201, 12737, 13093, 13391, 13940, 14170, 14707, 15203, 15670, 16123, 16516, 17871, 20680.
Rover Shoe Co., 19201, 21046.
SCM Corp., 15452.
S & P National Corp., 7413, 7652, 8111, 8631, 9050, 10028, 10396, 11000, 11296, 11746, 12202, 12737, 12873.
St. Louis Capital, Inc., 4330.
Samantha Pollard Industries, Inc., 6232.
Science & Technology Exchange Fund, Inc., 13206.
Scripps-Howard Investment Co., 15604.
Scudder Duo-Vest Exchange Fund, Inc., 6112, 6782.
Second Fiduciary Exchange Fund, Inc., 6715.
Second Ohio Capital Fund, Inc., 8781.
Securities Fund, Inc., 13207, 17556.
Selective Growth Fund, Inc., 13951.
Seventh Empire Fund, Inc., 767.
Silver Shield Corp., 16516, 17692, 20680.
Sixth Empire Fund, Inc., 344.

Securities and Exchange Commission—Con.

HEARINGS, ETC.—Continued
Sixth Presidential Fund, Inc., 937.
Small Business Investment Company of New York, Inc., 13093.
Southern Co. et al., 476, 14169.
Southwestern Electric Power Co., 3121, 11836, 14707.
Southwestern Research and General Investment Co., 6233.
Special Investments and Securities, Inc., 3911.
Sports Arenas, Inc., 177, 589, 938, 2593, 2966, 3376, 3911, 4192, 5306, 5652, 6113, 6538, 6996, 7413, 7729, 8211, 8631, 8789.
Standard Shares, Inc., 15657.
State Street Investment Corp., 12636, 13001.
Stauffer Overseas Capital Corp., 12637.
Steel Crest Homes, Inc., 7357, 7652; 8111, 8631, 9060, 10028, 10397, 11001, 11296, 11746, 12202, 12737, 13094, 13391, 13841.
Stein Roe & Farnham Balanced Fund, Inc., 8639.
Subscription Television, Inc., 7988, 8261, 8789, 9257, 10126, 10697, 11062, 11491, 11906, 12501, 12873, 13207, 13619, 13950, 14417, 14868.
Super-Corporations of America Trust Shares-Series AA, 7785.
Swift and Co., 14078.
Tax Exempt Bond Fund, Inc., 13741.
Tax Exempt Income Fund, Series 3, 7087.
Tel-A-Sign, Inc., 11187, 11590, 11970, 12571, 12874, 13302, 13391.
Templeton, Liddell & Schroeder Fund, Inc., 4560.
Texas and Pacific Railway Co., 6859.
Third Presidential Fund, Inc., 3720.
Trans International Airlines Corp., 15452.
Travelers Fund For Variable Annuities, 17092.
Travelers Insurance Co., 17092.
Tri-Continental Financial Corp., 6744.
Trust Fund Sponsored By Scholarship Club, Inc., 14800.
UGC Instruments, Inc., 5716, 8783.
U.S. Plywood-Champion Papers, Inc., 6418.
Underwater Storage, Inc., 177, 589, 938, 2593, 2966, 3376, 3911, 4192, 5306, 5652, 6113, 6538, 6997, 7413, 7729, 8211, 8631, 9133, 10029, 10494, 11001, 11361, 11451.
Union Carbide International Capital Corp. 9230.
Union Oil International Finance Corp., 1010.
United Gas Corp. et al., 5716, 11361.
United Security Life Insurance Co., 177, 589, 938, 2593, 2966, 3376, 3911, 4192, 5306, 5652, 6113.
United Variable Annuities Fund, Inc., 4591.
United Variable Annuities Trust, 4591.
Utah Power & Light Co., 242.
Vermont Yankee Nuclear Power Corp. et al., 9673, 12502.
Virginia Capital Corp., 7652.
Virginia Mutual Fund, Inc., 5717.
Warner Bros.-Seven Arts, Ltd., 15902, 17606.
Welch Scientific Co., 6535.
West Penn Power Co., 10697, 10895, 13951.
West Texas Utilities Co., 3081, 11970.
Westec Corp., 117, 589, 938, 2593, 2966, 3376, 3911, 4192, 5306, 5652, 6113, 6538, 6997, 7413, 7729, 8211, 8631, 9133, 10029, 10494, 11001, 11362, 11836, 12202, 12773, 13094, 13429, 13838, 14252, 14802, 15203, 15730, 16123, 16549, 17906, 20786.
Western Massachusetts Electric Co., 2186, 3221.
Wheelabrator Corp. et al., 16123.
White Cross Stores, Inc., 11491.
Wisconsin Gas Co., 14417.
Witter, Dean & Co., 3483.
Wolverine Aluminum Corp., 16297.
Wyle Capital Corp., 3406.
Wyoming Industrial Development Corp., 13155.

Security:

AIR TRAFFIC AND AIR NAVIGATION AIDS, security control plan 15014
AIRCRAFT SECURITY DOCUMENTS, recording of 6553, 13505
CLASSIFIED INFORMATION:
Air Force, safeguarding 4117, 10512
Restricted data, access to. *See* Atomic Energy Commission.
EMPLOYEE SECURITY PROGRAM, Defense Department 4114, 5420, 10644
IMPORTS, certain. *See* Emergency Planning Office.
INDUSTRIAL. *See* Air Force Department; Defense Department.
NUCLEAR DATA, restricted, access and dissemination. *See* Atomic Energy Commission.
RESOURCES, Air Force, protection of; warning signs 16154
SOCIAL SECURITY RECORDS, disclosure of 9236, 15544

Security—Continued

VESSELS. *See* Coast Guard; Federal Maritime Commission.
VISITORS, Army Department regulation 3391
WATERFRONT FACILITIES, explosives or dangerous cargoes 795, 20774

Seeds:

FEDERAL SEED ACT regulations, etc. *See* Agriculture Department.
OILSEEDS. *See* Cottonseed; Flaxseed; Peanuts; Soybeans.

Selective Service System:

APPEALS to certain officials, etc.:
Appeal Board:
Conscientious objectors, reconsideration, etc 6961
Rescinded 9792
Reservists of armed forces, availability for order to active duty; extension of time for taking appeal 7073
Review, rescissions 9792
Director, Selective Service; armed forces reservists, availability for order to active duty, extension of time for taking appeal 7073
Presidential appeal; extension of time for filing request 6962
APPEARANCE before local board; opportunity to appear in person, extension of time for filing request 6961
ARMED FORCES STANDBY RESERVE members, availability for order to active duty; extension of time for taking appeal 7073
CLASSIFICATION:
Appeals from; extension of time from 10 to 30 days 6961
Apprentice training programs, standards and requirements 9973
Deferments because of study or agricultural occupation, sole surviving sons, conscientious objectors, etc 9788
Registrants in Class II–S, criteria concerning placement; rescission 9973
Volunteers 9793
CONDUCT STANDARDS 14947
CONSCIENTIOUS OBJECTORS:
Appeals to Appeal board 6961
Rescinded 9792
Classification 9788
DELINQUENTS; classification, induction, appeal, etc. 9794
DELIVERY AND INDUCTION; transfer, disposition of records, etc 6964, 9794
DOCTORS OF OSTEOPATHY included in "allied specialist category" 2367
EXPENDITURES other than for personal services; procurement, requisitions, etc 9973
FINANCE ADMINISTRATION; authorization of expenditures, report of obligations, etc 9973
INFORMATION, availability 14328
MAIL addressed to registrant, forwarding 13811
PAROLE for service in Armed Forces of persons convicted of violation of Universal Military Training and Service Act 1119
PHYSICAL EXAMINATION; transfer of registrants, disposition of records 6963
PROPERTY ACCOUNTABILITY, Government property 9973
QUOTAS AND CALLS, action by board, induction without calls, etc 9793
REGISTRATION DUTY AND RESPONSIBILITY; persons not required to register, persons entering U.S. 9788
SELECTIVE SERVICE OFFICERS; composition and appointment of local and appeal boards, duties 9787
VOLUNTEERS, classification 9793

Sheet Glass:

IMPORTS, increased duties:
Extension (Proclamation 3816) 14197
Reduction (Proclamation 3762) 361

Shipping Authority:

See National Shipping Authority.

Ships:

See Vessels.

Silver Regulations:

See also Treasury Department.
COINS containing silver, export restriction 8581

Sirup:

GRADE STANDARDS, etc. *See* Agriculture Department.

Small Business Administration:

ADMINISTRATION, list of public-use SBA forms 10059, 15806, 15873
AUTHORITY DELEGATIONS:
By Administrator to certain officials:
Area Administrators 179, 8113
Assistant Administrator for Administration 177, 179
Associate Administrator for Financial Assistance 178
Associate Administrator for Procurement and Management Assistance 178, 2405, 18002
Deputy Administrator 177
Secretary of Health, Education, and Welfare; compliance responsibilities under Civil Rights Act 2872
By Area Administrators to certain officials:
Area Coordinators, et al.:
Middle Atlantic Area 2677
Midwestern Area 3192, 11827
New York Area 3032
Northeastern Area 3189
Pacific Coastal Area 1203, 13243
Rocky Mountain Area 2873, 14289
Southeastern Area 4193, 15453
Southwestern Area 2674, 9593
Branch Managers:
Agana, Guam 15453
Brownsville, Tex 14132
Corpus Christi, Tex 14132
Harlingen, Tex 14353
Weslaco, Tex 14289
Chiefs, Accounting, Clerical, and Training Division:
Midwestern Area 18002
Rocky Mountain Area 14289
Southwestern Area 13841
Loan Officers, Economic Development:
Middle Atlantic Area 5530
Midwestern Area 4038
New York Area 4331
Pacific Coastal Area 3188
Rocky Mountain Area 4037
Southwestern Area 3195
Regional Directors, New York Area 15452
By Assistant Administrator for Administration to Deputy Assistant Administrator, et al 1107
By Assistant Regional Director, New Orleans Disaster Field Office, to Chief, Loan Administration Section; rescinded 180
By Associate Administrator for Financial Assistance to certain officials:
Deputy Associate Administrator for Financial Assistance 938
Washington Office Claims Review Committee 939
By Deputy Associate Administrator for Financial Assistance to Director, Office of Business Loans, et al 2484
By Regional Directors to certain Managers, Disaster Branch Offices:
Alaska, Fairbanks 13612
Illinois, Chicago 7038
Michigan, Detroit 12202
New York, Syracuse 14582
From Secretary, Housing and Urban Development Department; rehabilitation loans, etc 4509
CLAIMS, administrative, under Federal Tort Claims Act 10190
CONDUCT STANDARDS 14383
DISASTER AREAS requiring Federal assistance:
Alabama, 4151, 20627.
Alaska, 12203.
California, 2484, 3322, 15605, 17499.
Florida, 15605, 18127.
Georgia, 8783.
Hawaii, 21006.
Illinois, 6561, 9934.
Indiana, 14132.

Small Business Administration—Continued

DISASTER AREAS requiring Federal assistance—Con.
Iowa, 8832.
Kansas, 8327, 9767.
Kentucky, 4381, 4591, 8639, 10818, 11298, 13470.
Louisiana, 6276.
Maine, 8199.
Massachusetts, 8199.
Michigan, 661, 7140, 11063, 11403.
Minnesota, 7038, 10323.
Mississippi, 15514.
Missouri, 1202, 6951.
Montana, 8697.
Nebraska, 8987.
New Jersey, 11404.
New York, 14077.
Oregon, 17871.
Pennsylvania, 3322, 4196, 9184, 11713.
Rhode Island, 8199.
South Dakota, 9858.
Tennessee, 10818.
Texas, 13546.
West Virginia, 4196, 4591.
Wisconsin, 5861.
Wyoming, 10818.
DISASTER LOANS 3813, 13401
Displaced business assistance 14266
FORMS, SBA, public use of; list 10059, 15806, 15873
INFORMATION, availability of 9522
LEASE GUARANTEE 5672, 14759, 15065
NONDISCRIMINATION in financial assistance programs, definitions 409
ORGANIZATION AND FUNCTIONS 7805
Administrator 2377
Associate Administrator, change in designation 2377
Size Appeals Board 5495
SMALL BUSINESS ACT regulations:
Business loans 11699
Maturities 15635
Economic opportunity loans 5988, 12788
Loan policy 11770
Maturities 15634
Size standards 6175
Appeals, organization of Size Appeals Board 5495
Definitions of small business for various purposes:
Appeals; who may appeal 7522
Government procurement:
Construction contracts, proposed rule and hearing 7092, 15184
Manufacturers in certain industries and classes of products, proposed rules 9980
Petroleum refining, extension of time and hearing 11046, 13295
Meatpacking plants 4433, 7440
Mining industries, proposed rules 10754
Service industries; engineering, janitorial, laundries, truck rental, etc., proposed rules 10753
Transportation, note deleted 4079, 5620
Trucking, warehousing, packing, etc.; proposed rules 10754
SBA loans:
Aircraft preventive maintenance, proposed rule 10754
Construction contractors; proposed rule, hearing 15184
Engineering services 5516, 10364
Grocery, retail 2564
Hospital 2710, 5495
Manufacturers in certain industries and classes of products, proposed rules 9982
Mining industries, proposed rules 10754
Retailing 9322, 11208
Men's and boy's clothing 11732
Service industries; engineering, janitorial, laundries, truck rental, etc., proposed rules 10753
Trucking, warehousing, packing, etc.; proposed rules 10754
Wholesaling 9323, 11208
Interpretations:
Affiliates 9218, 13571
Oxygen converters 9219
Sawmills 9219

Small Business Administration—Continued

SMALL BUSINESS INVESTMENT ACT regulations:
- Adjudicative proceedings — 6088
- Investigations, scope of rules — 6090
- Loans to State and local development companies — 15149
  - Administrative authority — 12387
  - Definition, development company — 4405
  - Section 502 loans, participation by development company — 4405
- Small business investment companies:
  - Borrowing by SBIC, operating loans — 2771, 6621
  - Capital:
    - Definition, venture capital — 15399, 16371
    - Requirements, subordinated debentures — 2770, 6621
    - Voluntary decreases — 6621
  - Disbursement of SBA funds, deletion — 2771
  - Dissolution in connection with surrender of license, deleted — 6622
  - Enforcement actions, proposed rules — 6101
  - Examinations, audits by independent public accountants — 11045, 12843
  - License:
    - Application, prerequisites — 2770
    - Surrender — 6621
  - Proposal:
    - Filing and processing — 2770, 6621
    - Postlicensing operations beyond State of incorporation — 2770
  - Reports to stockholders, forms, etc — 11045, 12843
  - Revision, proposed rules — 16368
  - Scope of part, proposed rule — 6101

Smithsonian Institution:

CONDUCT STANDARDS, National Gallery of Art — 13222
ORGANIZATION AND FUNCTIONS — 10484
SCIENCE INFORMATION EXCHANGE, public access to records — 9682

Social and Rehabilitation Service:

FEDERAL EXECUTIVE SCHEDULE; positions placed in Level V (Executive Order 11369):
- Administrator — 12585
- Children's Bureau Chief — 12585

ORGANIZATION AND FUNCTIONS — 12068, 18119, 20811

Social Security Administration:

See Federal Credit Unions Bureau.

DEPUTY COMMISSIONER, position placed in Level V, Federal Executive Salary Schedule (Executive Order 11323) — 777
GUYANA, foreign social insurance or pension system — 5592
HEALTH INSURANCE FOR AGED:
- Agreements with and functions of providers, intermediaries, carriers, and State agencies; proposed rules — 18050
- Certification and recertification by physicians — 668, 9537
- Exclusions, etc., types of expenses not covered, exception for eyeglasses in certain cases — 1172
- Extended care facilities — 14930
- Hospital insurance benefits, correction — 136
- Hospital participation, correction — 136
- Premium rate, effective period — 21044
- Providers of services and independent laboratories, determinations and appeals procedures; proposed rules — 18054
- Recovery of overpayments, etc — 18027
- Reimbursable costs, optional allowance for depreciation based on percentage of operating costs — 18027
- Reimbursements:
  - Hospital interns, residents, and supervising physicians; reasonable charges — 2688, 12599
  - Provider costs — 5258, 7126
- Review and hearing under supplementary medical insurance program — 8916, 18027

INFORMATION, disclosure:
- Absent parent, whereabouts of — 14892
- National security, protection of — 9236, 15544

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE:
- Deductions, reductions, nonpayments, increases — 19159
- Employment, wages, self-employment, etc — 7752, 8281, 11076

Social Security Administration—Con.

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE—Continued
- Family relationships, definitions — 7332
- Fees — 7750
- Overpayments, underpayments, etc — 18026
- Procedures, payment of benefits, etc., correction — 75
- Representation of parties — 75, 7750

ORGANIZATION AND FUNCTIONS — 4367, 7877, 10458, 13653, 18030
PROCEDURES, applications and related forms — 18030

Soda Water:

STANDARDS OF IDENTITY, optional ingredients. *See* Food and Drug Administration.

Soft Drinks:

See Food and Drug Administration.

Soil Bank Program:

See Agriculture Department.

Soil Conservation Service:

GREAT PLAINS:
- Counties within certain States:
  - Kansas, 8183, 14067, 18117.
  - Oklahoma, 4508, 10488.
  - Wyoming, 5644.
- General provisions:
  - Authority citation changed — 11515
  - Conservation materials or services — 11515
  - Definitions, contracts, eligible conservation practices, and cost-share payments — 10155, 10501

INFORMATION, availability — 9728

Souris-Red-Rainy River Basins Commission:

ESTABLISHMENT (Executive Order 11350) — 8851

Southern Rhodesia:

See Rhodesia.

Southwestern Power Administration:

AUTHORITY DELEGATIONS:
- By Administrator to Chief, Administrative Services Division, et al.; procurement, construction, and power contracts — 7466
- From Secretary of Interior, designation as marketing agency for surplus power at certain projects — 5476

Soybeans:

CROP INSURANCE. *See* Federal Crop Insurance Corporation.
FARM CONSERVING BASE. *See* Agriculture Department.
LOAN AND PURCHASE PROGRAMS, etc. *See* Commodity Credit Corporation.

Space Research Organization, European:

PRIVILEGED INTERNATIONAL ORGANIZATON:
- Customs Bureau regulation — 409
- Designation, effective date (Executive Order 11351) — 7561

Spinach:

CANNED, standards:
- Grades. *See* Agriculture Department.
- Identity. *See* Food and Drug Administration.

Squash:

STANDARDS FOR GRADES, etc. *See* Agriculture Department.

Standards:

AGRICULTURAL COMMODITIES. *See* Agriculture Department.
CONDUCT STANDARDS. *See* Conduct standards.
FOODS, canned, processed, etc. *See* Food and Drug Administration.

Standards—Continued

LABOR STANDARDS. *See* Wage and Hour Division.
SAFETY:
- Federal contracts. *See* Labor Department; Labor Standards Bureau; Public Contracts Division.
- Motor vehicles. *See* Commerce Department; Customs Bureau; Federal Highway Administration; General Services Administration.
- Vessels. *See* Coast Guard; Federal Maritime Administration.

TECHNICAL STANDARDS for equipment, materials, etc. *See specific agencies.*

Standards Bureau:

See National Bureau of Standards.

Standards and Conduct, Senate Select Committee on:

INSPECTION OF TAX RETURNS (Executive Order 11383) — 17421

Standards of Conduct:

See Conduct standards.

State Department:

See Agency for International Development.
Peace Corps.
United States Information Agency.

ANTI-SMUGGLING ACT, 1935; alcoholic liquors on vessels of not over 500 tons — 12557, 12558, 12750
ARMS, international traffic in:
- Licensing controls, Canadian shipments — 4241
- Violations and penalties, exports to Southern Rhodesia — 5456

AUTHORITY DELEGATIONS:
- By Deputy Under Secretary, Administration, to certain officials; procurement:
  - Chief, Supply and Transportation Services Division, et al — 15427
  - Chiefs of Missions, et al — 12115
  - Librarian, et al — 3937
- By Secretary to certain officials:
  - Assistant Secretary for Educational and Cultural Affairs; cultural objects imported for temporary display — 58
  - Deputy Under Secretary for Administration; acceptance of gifts, damage payments, etc — 1001
  - Secretary of Health, Education, and Welfare; compliance functions under Title VI of Civil Rights Act of 1964 — 4028

CANADA, pipelines at international boundary line; applications for Presidential permits:
- Crude oil; construction, operation, and maintenance — 7502, 11096, 13598, 14972
- Liquid hydrocarbons; connection — 11359

CLAIMS, tort and certain property damage claims; administrative settlement — 4020
CONDUCT STANDARDS — 11641, 17454
CRUDE OIL PIPELINES at international boundary line between U.S. and Canada; applications for Presidential permits for construction, operation, and maintenance — 7502, 11096, 13598, 14972
FEES for service in U.S., schedule — 16212
FIELD OFFICES. *See* Organization and functions.
FOREIGN SERVICE OFFICERS, appointment; eligibility, examinations, certification, etc — 3443, 3444
GIFTS AND DECORATIONS from foreign governments, acceptance by U.S. Government officers and employees — 6569
LIQUID HYDROCARBONS PIPELINE at international boundary line between U.S. and Canada; application for Presidential permit for connection — 11359
NATIONALITY, board of review on loss of; appeal by nationality claimant, etc — 16259
NOTARIAL and related services, depositions — 11775
ORGANIZATION AND FUNCTIONS — 9160
- Board of Appellate Review — 16258
- Central organization — 8923
- Field offices:
  - Domestic — 8925
  - Foreign — 8712

State Department—Continued

PASSPORTS:
- Foreign; 6-month validity extension, agreement with Iran — 5475
- United States; limitation on issuance, renewal, or extension:
  - Invalid for travel to restricted areas — 4122
    - Algeria, 8250, 9175.
      - Prior restriction revoked, 9175.
      - Restriction removed, 11647.
    - China, Mainland, 4140.
    - Cuba, 4140.
    - Iraq, 8250, 9175.
      - Prior restriction revoked, 9175.
      - Restriction removed, 13386.
    - Israel, 8250.
      - Revoked, 9175.
    - Jordan, 8250, 9175.
      - Prior restriction revoked, 9175.
      - Restriction removed, 13386.
    - Kuwait, 8250.
      - Revoked, 9175.
    - Lebanon, 8250, 9175.
      - Prior restriction revoked, 9175.
      - Restriction removed, 10670.
    - Libya, 8250, 9175.
      - Prior restriction revoked, 9175.
      - Restriction removed, 11647.
    - Morocco, 8250.
      - Revoked, 9175.
    - North Korea, 4140.
    - North Vietnam, 4140.
    - Saudi Arabia, 8250.
      - Revoked, 9175.
    - Sudan, 8250, 9175.
      - Prior restriction revoked, 9175.
      - Restriction removed, 11647.
    - Syrian Arab Republic, 8250, 9175.
    - Tunisia, 8250.
      - Revoked, 9175.
    - United Arab Republic, 8250, 9175.
      - Prior restriction revoked, 9175.
      - Restriction removed, 16537.
    - Yemen, 8250, 9175.
      - Prior restriction revoked, 9175.
      - Restriction removed, 13386.
  - Review of adverse action, procedures for; appearance at hearing, etc — 16259
  - Violation of geographical limitations — 4024

PHILIPPINES, U.S. team for discussion on economic relations with; hearing — 13015
PROCUREMENT:
- Authority delegations:
  - Chief, Supply and Transportation Services Division, et al — 15427
  - Chiefs of Missions, et al., diplomatic and consular posts outside U.S. — 12115
  - Librarian, et al — 3937
- Contract appeal regulations — 15751
- Foreign purchases, balance of payments program — 14695
- General, service contracts — 12115
- Negotiations; technical equipment requiring standardization and interchangeability of parts — 3936

RECORDS, availability of; policy statements, etc — 9160, 9161
RHODESIAN TRADE, economic sanctions, functions of Secretary (Executive Order 11322) — 119
TRAVEL CONTROL of U.S. citizens, restrictions on travel to, in, or through certain countries. *See under* Passports.
VISAS, documentation under Immigration and Nationality Act:
- Immigrants:
  - Aliens ineligible to receive visas; labor certification for spouse of immigrant student — 8409
  - Allocation of numbers during transition period, immigration pool for fiscal 1968 — 12607
- Nonimmigrants:
  - Applications, signature — 16098
  - Issuance procedure; stamp, fee, signature — 8511
  - Nonresident alien Mexican border crossing cards, eligibility — 7770

State Department—Continued Page

VISAS, documentation under Immigration and Nationality Act—Continued
Nonimmigrants—Continued
Not required to present passports, visas, or border crossing cards:
Boy Scouts World Jamboree and Conference participants 3969
Eastern European nationals 3742
Mexican nationals 7770
Reentering U.S. after brief visit to Canada 8711
Visas valid indefinitely, issuance by consular officers on reciprocity basis 5620
List of eligible countries 5643, 5957, 6373, 7027, 7539, 13081, 14337, 17676

State Technical Services Office:
RECORDS AND INFORMATION, availability of 10720

Stockyards:
See Agriculture Department.

Straw:
INSPECTION, etc. *See* Agriculture Department.

Strawberries:
STANDARDS FOR GRADES. *See* Agriculture Department.

Students:
See also Education and educational facilities; Education Office.
MINIMUM WAGES for certain employed students. *See* Wage and Hour Division.

Subversive Activities Control Board:
CONDUCT STANDARDS 20809
INFORMATION, availability of 9163

Succotash:
CANNED, standards for grades. *See* Agriculture Department.

Sugar:
COUNTERVAILING DUTIES, Australia 4019, 11033, 13445, 14204, 14205, 15390, 19159
CROP INSURANCE. *See* Federal Crop Insurance Corporation.
INDUSTRY:
Manufacturing, in Puerto Rico. *See* Wage and Hour Division.
Seasonal nature. *See* Wage and Hour Division.
PRODUCTION, marketing, etc. *See* Agriculture Department.

Surplus Property and Commodities:
AGRICULTURAL COMMODITIES. *See* Agriculture Department; Commodity Credit Corporation.
FOREIGN EXCESS PROPERTY, importation. *See* Business and Defense Services Administration.
REAL AND PERSONAL PROPERTY, allocation and utilization for educational, public health, and civil defense purposes. *See* Health, Education, and Welfare Department.

T

Tangelos:
STANDARDS FOR GRADES, etc. *See* Agriculture Department.

Tangerines:
STANDARDS FOR GRADES, etc. *See* Agriculture Department.

Tariff Classifications:
See Customs Bureau.

Tariff Commission: Page

ADJUSTMENT ASSISTANCE:
American Motors Corp., workers' petitions:
Kenosha, Wis., 4096, 6882.
Milwaukee, Wis., 4003, 6594.
Borg-Warner Corp.:
Report to Automotive Agreement Adjustment Assistance Board:
Detroit, Mich., 13545, 21047.
Memphis, Tenn., 3070.
Workers' petitions, Detroit, Mich., 8740, 11306, 11718, 18781.
Chrysler Corp., Detroit, Mich.:
Report to Automotive Agreement Adjustment Assistance Board, 6749.
Workers' petition, 4038.
Eaton Yale & Towne, Inc.:
Report to Automotive Agreement Adjustment Assistance Board:
Cleveland, Ohio, 11971.
Detroit, Mich., 5530.
Lackawanna, N.Y., 6458.
Workers' petitions:
Cleveland, Ohio, 9596.
Detroit, Mich., 2915.
Lackawanna, N.Y., 3853.
General Motors:
Report to Automotive Agreement Adjustment Assistance Board:
Tarrytown, N.Y., 5437, 8739.
Wilmington, Del., 8396.
Workers' petitions:
Tarrytown, N.Y., 6459, 6595.
Wilmington, Del., 6378.
Koken Companies, Inc., workers' petition, 17500.
Mosaic Tile Co., workers' petition, 18127.
Paldar, Emil J., Co., workers' petition, 17500.
Pittsburgh Plate Glass Co., workers' petitions:
Creighton, Pa., 15942.
Ford City, Pa., 15942.
Rockwell-Standard Corp.:
Report to Automotive Agreement Adjustment Assistance Board, Mishawaka, Ind., 14676.
Workers' petitions:
Adrian, Mich., 833, 3954.
Mishawaka, Ind., 12702.
CONDUCT STANDARDS 16210
IMPORTS, INVESTIGATION OF:
Broom corn, 14334, 16297.
Brooms, report to President (Executive Order 11377), 16726.
Carpets and rugs, Wilton and velvet; report to President, 12874.
Ceramic floor and wall tile, 888.
Chairs, barbers', 11099, 12979.
Dairy products, 7357.
Report to President, 6011.
Eyeglass frames and mountings, 6114.
Report to President, 14167.
Flatware, stainless-steel, table, 2676.
Report to President, 13684.
Floor coverings, certain, 833.
Furskins, mink, 12778.
Glass:
Flat; drawn or blown, 6114.
Sheet; report to President, 13095.
Pipe, cast iron soil, from Poland, 2306, 9596, 12925.
Textile and apparel industries, 14167.
Typewriter ribbon cloth, 832, 2933, 3967.
Report to President, 7357.
TRADE AGREEMENT NEGOTIATIONS; President's supplemental list of articles for consideration, investigation and hearings 6538
WATCHES AND MOVEMENTS from American Samoa, Guam, and Virgin Islands, determination regarding quotas 4591

Tariff-Rate Quota:
TUNA FISH, 1967 6291

Tariff Schedules of the United States:
BROOMS, reports on consumption (Executive Order 11377) 14725
CARPETS AND RUGS, extension of increased duty (Proclamation 3815) 14195
DAIRY PRODUCTS, limitation on imports (Proclamation 3790) 9003

Tariff Schedules of the United States—Con. Page

MODIFICATION by proclamation carrying out Geneva (1967) Protocol to General Agreement on Tariffs and Trade (Proclamation 3822) 19002
SHEET GLASS, increased duties:
Extension (Proclamation 3816) 14197
Reduction (Proclamation 3762) 361
TRADE AGREEMENTS with Canada, Japan, United Kingdom; termination of certain concessions (Proclamation 3818) 15467
WATCH MOVEMENTS, correction of error and termination of increased duties (Proclamation 3761) 357

Tariffs and Trade, General Agreement on:
GENEVA (1967) PROTOCOL (Proclamation 3822) 19002

Tax Court of United States:
PRACTICE RULES:
Computation of time, exclusions 17890, 20772
Form of petition 450

Taxes:
CRIMINAL TAX CASES, authority delegation. *See* Justice Department.
DEPOSITARIES for Federal taxes 3820, 18040, 18044
EXCISE, INCOME, etc. *See* Internal Revenue Service.
INSPECTION OF TAX RETURNS:
House Committee on Government Operations (Executive Order 11332) 3877
House Committee on Public Works (Executive Order 11370) 12665
House Committee on Un-American Activities (Executive Order 11358) 6227
Senate Committee on Government Operations (Executive Order 11337) 5245
Senate Select Committee on Standards and Conduct (Executive Order 11383) 17421
INTEREST EQUALIZATION TAX:
Commercial bank loans (Executive Order 11328) 3137
Excise taxes, exclusion of original or new Japanese issues 17858
Modification of rates on acquisition of stocks and debt obligations (Executive Order 11368) 12549
Recommended amendments, Interest Equalization Tax Extension Act of 1967. *See* Treasury Department.
PROCUREMENT REGULATIONS. *See specific agencies.*
TOBACCO MATERIALS AND PRODUCTS, stamp taxes 11763

Tea:
IMPORT STANDARDS, 1967–68 4020

Telecommunications:
FEDERAL PROPERTY MANAGEMENT REGULATIONS. *See* General Services Administration.

Telecommunications Management, Director:
CHAPTER, establishment of 790
PRIORITY SYSTEM for use and restoration of leased intercity private line services during emergency 791

Telecommunications Office:
ORGANIZATION 17632, 20819

Telephone and Telegraph Companies:
See Federal Communications Commission.

Television:
BROADCAST FACILITIES, regulations. *See* Federal Communications Commission.
EDUCATIONAL NONCOMMERCIAL FACILITIES, Federal financial assistance. *See* Education Office.

Temporary Commission on Pennsylvania Avenue:
MEMBERSHIP (Executive Order 11347) 6333

86-000—68——9

Tennessee Valley Authority: Page

AUTHORITY DELEGATION by Chairman to Secretary of Health, Education, and Welfare; functions pursuant to Civil Rights Act 2833
COAL AND COAL RIGHTS in Kentucky, transferred from General Services Administration 10121
CONDUCT STANDARDS, indebtedness 12177
LANDS in Anderson County, Tenn., transferred from Atomic Energy Commission 6104
PROCEDURES:
Drawings, plans, etc., deleted 8134
Records available 8133

Timber:
See also Lumber.
ACCESS ROADS. *See* Land Management Bureau.
DEVELOPMENT LOANS, certain counties of Appalachian Region 9016
IMPORTS, additional invoice requirements 4308
NATIONAL FOREST LANDS, restrictions on trespass 6622

Tires and Tubes, etc.:
ADVERTISING AND LABELING GUIDES, trade practice rules. *See* Federal Trade Commission.
DEFENSE CONTRACTS, required purchases of stockpile natural rubber 10671
SAFETY. *See* Federal Highway Administration; Transportation Department.

Tobacco and Products:
See also Cigarettes.
CROP INSURANCE. *See* Federal Crop Insurance Corporation.
EXPORT REGULATIONS, international mail, tobacco seed and plants 12277
INDUSTRY in Puerto Rico, minimum wages. *See* Wage and Hour Division.
INSPECTION, etc. *See* Agriculture Department.
LOAN PROGRAMS. *See* Commodity Credit Corporation.
TAXES:
Forms 20648
Stamp, tobacco materials and products 11763

Tomatoes:
CANNED, identity standards. *See* Food and Drug Administration.
CROP INSURANCE. *See* Federal Crop Insurance Corporation.
MARKETING, etc. *See* Agriculture Department.

Trade Agreements:
ALGERIA (Presidential Finding of February 28, 1967) 4053
ARTICLES to be considered for concessions:
Notice of April 22, 1967 6429
President's supplemental list 6538
Trade Information Committee's supplemental notice 6534
CANADA, JAPAN, UNITED KINGDOM; termination of certain concessions (Proclamation 3818) 15467
GENERAL AGREEMENT ON TARIFFS AND TRADE, Geneva (1967) Protocol (Proclamation 3822) 19002
MOROCCO (Presidential Findings of February 27 and September 18, 1967) 4051, 14885

Trade Commission:
See Federal Trade Commission.

Trade Fairs:
See Customs Bureau; International Commerce Bureau.

Trade Information Committee:
POLAND, negotiations for accession to General Agreement on Tariffs and Trade 5441
PUBLIC HEARINGS (Notice of April 22, 1967) 6429
TRADE AGREEMENT CONCESSIONS, articles to be considered; hearing 6534
UNITED STATES FOREIGN TRADE POLICY, future of; hearing 17987
VENEZUELAN TARIFF CONCESSIONS, renegotiation; hearing 3323

Trade Name: Page
RECORDING. *See* Customs Bureau.

Trade Negotiations, Office of Special Representative:
See Trade Information Committee.

Trade Practices:
See Federal Trade Commission.

Traffic and Motor Vehicle Safety Act, National:
ADMINISTRATION through National Highway Safety Bureau and its Director (Executive Order 11357) 8225

Trains:
See Railroads.

Transportation Department:
See Coast Guard.
Federal Aviation Administration.
Federal Highway Administration.
Federal Railroad Administration.
Hazardous Materials Regulations Board.
National Transportation Safety Board.
Saint Lawrence Seaway Development Corporation.
ACT ESTABLISHING, effective date (Executive Order 11340) 5453
AGREEMENT with Interstate Commerce Commission; continuity, liaison, coordination, etc., of personnel and functions 5744
AIRCRAFT ALLOCATION 20777
AIRCRAFT LOAN GUARANTEES:
Authority delegation 9247
Program, deviations from terms of agreements 13384
ALASKA RAILROADS, administration; transfer of regulations from Interior Department 17490
AUTHORITY DELEGATIONS by Secretary to certain officials:
Assistant Secretary for policy development; guaranteed loans for aircraft 9247
Civil Aeronautics Board Chairman, allocations and priorities for transportation during rail strike 10521
Revoked 10938
Coast Guard Commandant:
Great Lakes pilotage rates and charges 14105
Vessel documents 7497
Commerce Department Secretary, allocations and priorities for transportation during rail strike 10521
Revoked 10938
Federal Aviation Administrator, civil administration of Wake Island 12919
Federal Highway Administrator:
Motor vehicle safety standards 14277
Passenger car tires and rim standards 11276, 15710
Regrooved tires, restriction on sale or delivery in interstate commerce 11489
Interstate Commerce Commission Chairman, allocations and priorities for transportation during rail strike 10521
Revoked 10938
CONTRACT APPEALS 7772
DEPUTY UNDER SECRETARY, position placed in Level V, Federal Executive Salary Schedule (Executive Order 11338) 5247
EXPLOSIVES:
See also main heading Interstate Commerce Commission.
Definitions, shipping paper 13324
Postponement of effective date 16277
Motor carriers, shipments by 13326
Rail freight and express carriers, and carriers in baggage service 13325
Shippers 13324
HAZARDOUS MATERIALS REGULATIONS:
Poisonous liquids or solids, loading and transporting with foodstuffs 20962
Safety accident report, annual, private motor carriers 14569
HAZARDOUS MATERIALS REGULATIONS BOARD, establishment 14569
INFORMATION, availability of 9284

Transportation Department—Continued Page
NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE, appointment of chairman 8256
NUMBERING of codified regulations 5606
ORGANIZATION AND FUNCTIONS 5606, 5609
Agreement with Interstate Commerce Commission; transfer of personnel and functions, liaison, coordination, etc 5744
Federal Highway Administrator, limitation on reservation of authority; motor vehicle safety standards 8496
Functions (Executive Order 11382) 16247
Hazardous Materials Regulations Board, establishment 14569
PIPELINE CARRIERS:
See also main heading Interstate Commerce Commission.
Accident reporting, etc 16040
PROCEDURES for rule-making 10363, 11473
PROCUREMENT REGULATIONS, contract appeals; copy to other party 13411
RAILROAD STRIKE:
Delegations of authority regarding priorities, etc. *See under* Authority delegations.
Transportation priorities and allocations (Executive Order 11362) 10495
RECREATION AND NATURAL BEAUTY, PRESIDENT'S COUNCIL ON; membership of Secretary (Executive Order 11359A) 10049
RULE-MAKING PROCEDURES 10363, 11473
SEAL 4180, 11472
Limitations on use 14848
SHIP MORTGAGES:
Authority delegation 7497
Transfer of functions from Commerce Department (Reorganization Plan No. 1 of 1967) 7049
STANDARD TIME ZONE BOUNDARIES:
Alaska (Yukon), proposed establishment, 11479, 16429.
Atlantic zone (Puerto Rico and Virgin Islands), establishment, 11480, 16162.
Hawaii, proposed establishment, 11479.
Indiana, proposed relocation, 11478.
Kansas, proposed relocation, 11479, 16063.
Nebraska, boundary line between central and mountain zones, 11477, 16215.
North Dakota, proposed relocation, 11478.
Puerto Rico, establishment, 11480, 16162.
Virgin Islands, establishment, 11480, 16162.
TESTIMONY of employees of Office of Secretary 10076
WAKE ISLAND, civil administration:
Agreement with Interior Department respecting 12924
Authority delegation 12919

Travel Service, United States:
ORGANIZATION AND FUNCTIONS 6375

Travel and Transportation Expenses:
APPOINTEES to certain positions where there are manpower shortages. *See* Civil Service Commission.
CITIZENS ADVISORY BOARD ON YOUTH OPPORTUNITY (Executive Order 11330) 3871
PRESIDENT'S COMMISSION ON POSTAL ORGANIZATION (Executive Order 11341) 5765

Treasury Department:
See Comptroller of Currency.
Customs Bureau.
Engraving and Printing Bureau.
Internal Revenue Service.
Narcotics Bureau.
Secret Service.
ACCOUNTS BUREAU:
Cash, withdrawal from Treasury for advances under Federal programs 10201
Depositaries for Federal taxes 3820, 18044
Depositaries and financial agents of Government and special depositaries of public money 14215, 14216
Judgments and Private Relief Acts, payments under 9562
Postal Savings Systems, payment on account of deposits 7858, 9665
Records, availability of 9665

Treasury Department—Continued Page
ACCOUNTS BUREAU—Continued
Surety companies acceptable on Federal bonds:
Certificates of authority issued to listed companies:
Allied Insurance Co., 9113.
Allstate Insurance Co., 955.
Beneficial Fire and Casualty Insurance Co.; terminated, 7717.
Citizens Casualty Company of New York; terminated, 6653.
Farmers Elevator Mutual Insurance Co., 417, 5297.
Forum Insurance Co.; terminated, 7393.
International Insurance Co., 13939.
Maryland National Insurance Co.; terminated, 6103.
Millers Casualty Insurance Company of Texas, 14264.
Protective Insurance Co., 12636.
Prudence Mutual Casualty Co., 7964.
Terminal, 9710.
Rochdale Insurance Co., 15.
State Fire and Casualty Co.; terminated, 10268.
List of companies holding certificates of authority 8200, 8425
Reinsurance arrangements, use of Form A reimbursement arrangement 12626
Unclaimed interest on certain awards of Mixed Claims Commission, United States and Germany, payment of 6512, 7947
AIR POLLUTION control, new motor vehicles and engines, importation 11946
ANTIDUMPING ACT, 1921:
See also main heading Customs Bureau.
Determinations, certain imports:
Aluminum sheathed coaxial cable; Canada, 6780, 8923.
Cast iron soil pipe and fittings; Poland, 2901, 8250.
Dartboards and dartgames; England, 11047.
Disc brake pads; Canada, 8923, 13192.
Fishery products; U.S.S.R., 1101, 5375.
Fur felt hat bodies; Czechoslovakia, 4004.
Ice skate blades; Japan, 2579, 8096.
Plastic containers; Canada, 5860, 8923.
Refrigeration compressors; Denmark, 12565, 15595.
Reproduction cloth; England, 13081, 17602.
Shoes; Romania, 4029.
TMTD and ZDC; Netherlands, 14943.
Thiourea:
Japan, 9239, 12760.
West Germany, 10312, 13081.
Tubeless tire valves:
Italy, 7293.
West Germany, 7293, 11047, 12192, 14780.
Wall tile, ceramic glazed; Japan, 10312, 16108.
ANTI-SMUGGLING ACT, 1935; alcoholic liquors on vessels of not over 500 tons 12557, 12558, 12750
ASIAN DEVELOPMENT BANK, functions (Executive Order 11334) 3933
AUTHORITY DELEGATIONS:
See also Organization and functions.
By Assistant Secretary to Coast Guard Commandant; architectural and engineering services 825
By Assistant Secretary (Administration), to certain officials:
Administrative Services, Director, et al.; affix seal 6215
Customs Commissioner, et al.; publication of advertisements, etc 10756
By Fiscal Assistant Secretary to Secretary of Defense; issuance of substitute checks 20717
By Secretary to certain officials:
Engraving and Printing Bureau Director; designation 14162
Mint Bureau, Director; procurement for minting of clad coins 5643
Under Secretary; functions of Special Assistant to Secretary (Enforcement) 3304
By Special Assistant to Secretary (Enforcement) to certain officials; appointment of uniformed guards as special policemen, etc.:
Engraving and Printing Bureau, Director 14698
Secret Service, Director 14698
By Treasurer to Administrative Assistant, Currency Redemption Division; signing of official papers 3109
By Under Secretary to certain officials:
Engraving and Printing Bureau, Director; appointment of uniformed guards as special policemen, etc 17490

Treasury Department—Continued Page
AUTHORITY DELEGATIONS—Continued
By Under Secretary to certain officials—Continued
Executive Assistant to Special Assistant (Enforcement); designation as Acting Director, Office of Law Enforcement Coordination 5810, 13671
Mint Bureau, Director; appointment of uniformed guards as special policemen, etc 17490
Secret Service, Director; appointment of uniformed guards as special policemen, etc 17490
By Under Secretary (Monetary Affairs), to Director, Office of Domestic Gold and Silver Operations; signature and issuance of certain documents 956, 15122
From General Services Administrator, appointment of special policemen 11968
BONDS:
Surety companies acceptable on Federal bonds. *See under* Accounts Bureau, *above.*
United States savings bonds. *See under* Public Debt Bureau, *below.*
CLAIMS:
Collection 452
Federal tort claims 3056
Functions of various officials relating to claims 3066
Mixed Claims Commission, United States and Germany, payment of unclaimed interest on certain awards 6512, 7947
CONDUCT STANDARDS, criminal code provisions summary, etc 13767
CONTRACT DISPUTE APPEALS, procedures for settling 8676
CUBAN ASSETS CONTROL REGULATIONS. *See under* Foreign Assets Control.
DEPOSITARIES for Federal taxes, etc. *See under* Accounts Bureau, *above.*
DOMESTIC GOLD AND SILVER OPERATIONS, Office of; availability of information 10435
EDUCATIONAL AND SCIENTIFIC INSTITUTIONS, instruments and apparatus for; duty-free entry 277, 280, 2437
EQUAL EMPLOYMENT OPPORTUNITY PROGRAM, compliance guidelines, depositary banks and issuing and paying agents 15401
FISCAL SERVICE.
See also Accounts Bureau; Public Debt Bureau; Treasurer of United States, Office of.
Organization and functions 9710
FOREIGN ASSETS CONTROL:
Cuban assets control regulations; availability of information, etc 10846
Customs procedures, certain merchandise 3829
Importations, certain commodities:
Aniseed, cassia, and cinnamon oils; United Kingdom, 619.
Cashmere, washed (scoured); United Kingdom, 2386.
Cut jade stones:
Canada, 4141.
Korea, Republic of, 4141.
Duck egg yolks, canned salted; Taiwan (Formosa), 11647.
Duck feathers; Singapore, 8768.
Hair of certain animals, cotton and silk waste, and carpet wool; countries not in authorized trade territories, 825, 13465.
Hair, human:
Processed (wigs, etc.).
Singapore, 8768.
Spain, 8250.
Raw; Taiwan (Formosa), 7464.
Jade stones, cut, jewelry, carvings, etc.; Hong Kong, 10377.
Jelly fungus, canned white, Taiwan (Formosa), 12760.
Loquats:
Canned; Taiwan (Formosa), 12760.
Dried, canned; Japan, 20769.
Mushrooms, canned; Korea, Republic of, 4506.
Pea pods, frozen; Taiwan (Formosa), 9456.
Quail eggs; Taiwan (Formosa):
Canned, 11647.
Preserved, 7135.
Silk piece goods, tussah; Germany, 4141.
Soya bean sauce; Singapore, 955.
Tannic acid; Belgium, 2386.
Information, availability, etc 10846, 10847
Organization and functions 3472

Treasury Department—Continued

FOREIGN ASSETS CONTROL—Continued
Prohibitions, importation of and dealings in certain merchandise ... 3822, 5833
Chrysoberyl cat's-eye stones and manufactures, 10608.
Human hair items from Spain; requirement for license or certificate of origin, 3066.
Publications, etc., from China, North Korea, and North Vietnam, 7830.
Rhodesian transactions ... 3448, 4024, 10874
INFORMATION, availability of ... 9031, 9562, 9664, 9665, 9666, 9967, 10059, 10435, 10846, 10847
INTEREST EQUALIZATION TAX:
Commercial bank loans, regulations (Executive Order 11328) ... 3137
Due date, exemption for prior American ownership; recommended amendments to proposed Interest Equalization Tax Extension Act of 1967 ... 10454, 10610
Modification of rates on acquisition of stocks and debt obligations (Executive Order 11368) ... 12549
INTEREST EQUALIZATION TAX EXTENSION ACT of 1967, proposed; change of rates and notice of proposed effective date ... 956
MINT BUREAU:
See also under Authority delegations.
Organization and functions ... 10609
Director, order of succession ... 4318
Procedures, deposit of silver for return in bar form ... 14599
Records, availability of, and appeals ... 9664
Table of charges at U.S. Mints and Assay Offices, silver bullion ... 14599
MONETARY OFFICES:
See also Mint Bureau.
Foreign exchange transactions, credit transfers, and coin and currency export; forms, alternative methods of reporting ... 14055
Mutilated coin, exchange of ... 14274
Silver matters:
Authorization of export of certain U.S. silver coins ... 17859
Coin regulations ... 7496
Conditions upon which silver will be sold ... 13380
Forms:
Applications to purchase silver, etc. ... 7496
Prior regulations deleted ... 196, 13380
Prescribed for deposits of silver ... 196
Newly-mined domestic silver:
1939 regulations; deleted ... 195
1965 regulations; added ... 195
Sale of silver; conditions upon which silver will be sold and price ... 7496, 13380
MOTOR VEHICLES, new, and engines, importation; air pollution control ... 11946
ORGANIZATION AND FUNCTIONS:
See also Authority delegations.
Availability of information, etc. ... 9031, 9989
Bureau heads, delegation of certain functions relating to claims ... 3066
Coast Guard Commandant, delegation of certain functions relating to claims ... 3066
Customs Bureau, transfer of certain functions to Coast Guard ... 2463
Recordation and endorsement of vessel documents ... 5426
Executive Assignment Board, establishment ... 20884
Fiscal Service ... 9710
Foreign Assets Control Office, certain functions ... 3472
Mint Bureau ... 10609
Director, order of succession ... 4318
Narcotics Bureau, transfer of functions respecting Interpol ... 5810
Public Debt Bureau, Commissioner; order of succession ... 4028
Secret Service, realignment of headquarters functions and responsibilities ... 21040
POSTAL SAVINGS, transfer of uncollected accounts from Post Office Department ... 7858, 9665
PUBLIC DEBT BUREAU:
Bills, Treasury, acceptance for various purposes ... 3821
Bonds, U.S. savings:
Agencies, issue and sale, regulations governing, Series E bonds and U.S. savings notes ... 3447, 12914
Offering, Series E ... 3760, 10655

Treasury Department—Continued

PUBLIC DEBT BUREAU—Continued
Bonds, U.S. savings—Continued
Payments by banks, etc. in connection with redemption of U.S. savings bonds; procedure for qualifying as paying agent ... 12914
Regulations governing; applicability, definitions, etc ... 3447
Federal savings and loan associations and Federal credit unions as U.S. fiscal agents; indemnity bonds, etc. ... 3446
Notes, savings; definitions, description, etc ... 3356
Notes, Treasury, offering:
Series A-1969, 5¼ percent, 15122.
Series A-1972, 4¼ percent, 1187.
Series A-1974, 5¼ percent, 15123.
Series B-1968, 4¾ percent, 1188.
Series B-1972, 4¾ percent, 6803.
Series C-1968, 4½ percent, 6802.
Series C-1971, 5¾ percent, 12193.
Series D-1969, 5¼ percent, 11290.
Organization, Commissioner; order of succession ... 4028
Records, disclosure of ... 9967
Securities, U.S.:
Applicability of regulations ... 3446
Book-entry procedure ... 11216, 15673, 15920
RECORDS, availability of ... 9562, 9664, 9665, 9666, 9967, 10059, 10435, 10846, 10847, 17519
RHODESIA:
Trade, economic sanctions, functions of Secretary (Executive Order 11322) ... 119
Transaction regulations ... 3448, 4024, 10874
SECURITIES EXCHANGE ACT of 1934, designation for exemption from certain requirements, Export-Import Bank ... 2789
SEAL, authority to affix ... 6215
SEEDS, Federal Seed Act; germination, testing, etc. ... 454, 2844, 12155
SILVER. *See* Mint Bureau; Monetary Offices.
TREASURER OF UNITED STATES, Office of:
Authority delegation to Secretary of Defense to issue substitute checks ... 20717
Checks drawn on, indorsement and payment ... 14217
Records, availability ... 9666

Trucks:

See Motor vehicles.

Trust Territory of Pacific Islands:

AIRCRAFT AND SURFACE VESSELS, contracts for; authority of Secretary of Interior and of High Commissioner ... 16058
MICRONESIA, congress; legislative authority, budget, elections, etc. ... 11339

Tuna Fish:

See Fish.

Tung Nuts:

CROP INSURANCE. *See* Federal Crop Insurance Corporation.

Tung Oil:

LOAN PROGRAM, etc. *See* Commodity Credit Corporation.

Turkeys:

IMPROVEMENT PLANS. *See* Agriculture Department.

Turnips and Greens:

FOREIGN QUARANTINE notice ... 13319

U

Un-American Activities, House Committee on:

INSPECTION OF TAX RETURNS (Executive Order 11358) ... 8227

Unemployment Compensation:

EX-SERVICEMEN, entitlement. *See* Employment Security Bureau.

Unidentified Flying Objects:

See Air Force Department.

United Kingdom:

TRADE AGREEMENTS, termination of certain concessions (Proclamation 3818) ... 15467

United States Arms Control and Disarmament Agency:

BASIC COMPENSATION, Public Affairs Adviser ... 20895
CONDUCT STANDARDS ... 12944
ORGANIZATION AND FUNCTIONS ... 9204
RECORDS, availability of ... 9202

United States Employment Service:

AGRICULTURAL WORKERS:
Foreign labor, temporary, for agricultural and logging industry employment; conditions, wage rates, etc. ... 4569
Interstate recruitment, housing ... 4123, 7701
EMPLOYMENT COUNSELING ... 12177

United States Information Agency:

AUDIO-VISUAL MATERIALS, world-wide free flow (export-import) of ... 10352
Coordination with Customs Bureau ... 11157
CONDUCT STANDARDS ... 11641, 17454
MUTUAL EDUCATIONAL AND CULTURAL EXCHANGE ACT OF 1961, functions (Executive Order 11380) ... 15627
ORGANIZATION AND FUNCTIONS ... 9657
RECORDS, availability of ... 9659
Prior regulations withdrawn ... 9657

United States Travel Service:

INFORMATION, availability of ... 11349
ORGANIZATION AND FUNCTIONS ... 6375

Uranium:

MINING, radiation standards for:
Protection guidance. *See* Federal Radiation Council.
Safety and health standards, Federal supply contracts ... 7022
SUPPLY POLICIES, research and development, etc. *See* Atomic Energy Commission.

Urban Renewal:

AUTHORITY DELEGATIONS concerning programs. *See* Housing and Urban Development Department.
HOUSING INSURANCE. *See* Federal Housing Administration.

V

Vegetable Protein Products:

IDENTITY STANDARDS. *See* Food and Drug Administration.

Vegetables:

See also specific vegetables.
IDENTITY STANDARDS. *See* Food and Drug Administration.
INSPECTION, etc. *See* Agriculture Department.
SEASONAL INDUSTRY. *See* Wage and Hour Division.

Vehicles:

See Motor vehicles.

Vessels:

ALIENS, charter of vessels to, except for shipments to or from Southern Rhodesia ... 4122
ANCHORAGE REGULATIONS. *See* Coast Guard; Engineers Corps.
ANTI-SMUGGLING ACT, 1935; alcoholic liquors on vessels of not over 500 tons ... 12557, 12558, 12750

Vessels—Continued

CANAL ZONE. *See* Canal Zone.
COAST GUARD regulations. *See* Coast Guard.
CUBA, list of free world and Polish flag vessels arriving in, since January 1, 1963. *See* Maritime Administration.
CUSTOMS regulations. *See* Customs Bureau.
DANGER ZONE regulations. *See* Engineers Corps.
FISHING VESSELS:
Federal ship mortgage insurance, functions transferred. *See* Budget Bureau.
Purchase or construction; differential subsidies, loans, etc. *See* Fish and Wildlife Service.
INSURANCE, protection and indemnity. *See* National Shipping Authority.
LIGHTS:
Coast Guard vessels ... 384, 20812
Great Lakes pilot vessels ... 3057
Submarines, distinctive lights ... 8589
Waivers, certain vessels. *See* Navy Department.
MARITIME CARRIERS, regulations, etc., affecting. *See* Federal Maritime Commission; Maritime Administration.
NAVIGATION REGULATIONS. *See* Coast Guard; Engineers Corps.
NORTH VIETNAM, list of free world and Polish flag vessels arriving in, since January 25, 1966. *See* Maritime Administration.
QUEEN MARY, prohibition of air traffic over and in vicinity of ... 17654
SAINT LAWRENCE SEAWAY. *See* Saint Lawrence Seaway Development Corporation.
SHIP MORTGAGES:
Authority delegation ... 7497
Transfer of functions from Commerce Department to Transportation Department (Reorganization Plan No. 1 of 1967) ... 7049
SHIPBUILDING AND REPAIR INDUSTRIES:
Board of Inquiry to investigate labor dispute (Executive Order 11329) ... 3811
Safety and health regulations. *See* Labor Standards Bureau.
SUBMARINES, distinctive lights ... 8589
TRUST TERRITORY OF PACIFIC ISLANDS, contracts for vessels; authority of Secretary of Interior and of High Commissioner ... 16058
WAR RISK INSURANCE. *See* Maritime Administration.

Veterans Administration:

ADJUDICATION. *See* Burial; Pension, compensation.
APPEALS BOARD, Veterans; rules of practice, appeals, etc. ... 4410
AUTHORITY DELEGATIONS:
By Administrator to certain officials:
Controller, various functions ... 2815
General Counsel, et al.; civil claims, tort claims, etc. ... 2815
Medicine and Surgery Department; grants to Philippines for medical care in Manila ... 2815
Secretary of Health, Education, and Welfare; compliance responsibilities under Civil Rights Act ... 2916
Veterans Benefits Department:
Canal Zone representative; entitlement of claimants to benefits, hospitalization, etc. ... 2815
Chief Benefits Director; functions ... 2815
Europe, VA Office for, Manager, Rome, Italy; represent Administrator with European governments, hospitalization, etc. ... 2815
Philippines, Manila, Manager of Regional Office; functions ... 2815
By Deputy Administrator to various officials:
Certain employees to issue subpenas, etc. ... 7127
Chief Medical Director, etc.; advertising for community placement homes ... 7127
Director, Compensation, Pension and Education Service, etc.; gratuitous benefits ... 4533
Heads of each department, etc.; advertising for use in recruitment ... 7127
Procurement authority ... 7271

Veterans Administration—Continued

Page

BURIAL:
Claims and evidence, reimbursement or direct payment; Vietnam era 13227
Death while traveling under prior authorization or while hospitalized by VA 3743
Payment of burial expenses 3742
CHIEF ATTORNEYS, veterans' benefits; waivers and compromises 4534, 10436, 13771
CLAIMS:
Authority delegation to General Counsel, et al 2815
Collection effort standards, and referral of civil claims for money or property 2613
Medical care 13817
Tort claims 2429
INFORMATION; release from claimant records 10848
INSURANCE:
National Service life 923, 13927, 14274
Servicemen's group life 8144, 9165
United States Government 13927, 14274
LEGAL SERVICES, GENERAL COUNSEL:
Claims and collection action, disposition 11162
Motor vehicle operation or medical care and treatment; suits against VA employees 2429
Tort claims; scope and authority, etc 2429
LOAN GUARANTY:
See also Chief attorneys.
Direct loans 3096, 13583
Guaranty or insurance of loans to veterans:
Computation of guaranties or insurance credits 13583
Waivers and compromises, revocation 4537
MEDICAL CARE:
Appointments; charges for medical services, etc 6841, 11382
Collections and Compromises Board; establishment, etc 11383
Definitions:
"Period of war", etc 13813
"Research center", "specialized medical resources" 6841
Dental services; examinations, outpatient treatment 13817
Emergency hospitalization; psychosis 13813
Hospital and domiciliary care 6841, 11382, 13813
Medical facilities, equipment, and information; sharing 6841
Outpatient treatment and examination 6841, 13815
Philippines, hospital care and medical services in 13813
Prosthetic and similar appliances; repairs, invalid lifts, etc 13816
Reimbursement of expenses or payment for unauthorized medical services; claims 13817
Transportation of claimants and beneficiaries; preparatory and posthospital care 13816
ORGANIZATION AND FUNCTIONS 9767
Central Office Board on Waivers and Compromises, field station committees 4534
PENSION, COMPENSATION:
Adjustments and resumptions, school attendance 12114
Administrative, authority delegation, gratuitous benefits 4533
Apportionments 13226
Concurrent benefits and elections; World War I 13226
Dates, effective; widows 13226
Dependency, income and estate 13224
General:
Definition "Secretary concerned" 6840
Discharge to change status; World War II, Korean conflict or Vietnam era 13224
Pension, disability and death; World War I and later wars 13223
Persons included; Coast Guard, Department of Transportation 6840
Periods of war; Vietnam era, future dates 13223
Hospitalization adjustments; reduction, etc 13226
Ratings and evaluations, service connection; basic pension determinations, etc 13224
Ratings for special purposes 13225, 15878
Reductions and discontinuances, widows 13226
Relationship; marriages 13224
Special benefits 6840, 13227
PROCUREMENT:
Advertising, formal, 8772, 7267.
Authority delegations, 7271.
Bonds and insurance, 7269.
Contract administration, 7271.

Veterans Administration—Continued

Page

PROCUREMENT—Continued
Contract clauses, 3773, 7268.
Foreign purchases:
Buy American Act, 7268, 12792.
Communist areas, 7912.
General, 3772, 5549, 7267, 7912.
Inspection and acceptance, 6605.
Labor, 7269.
Negotiation, 3773, 8974, 9027.
VOCATIONAL REHABILITATION AND EDUCATION:
Educational assistance 5271, 5549, 13401
Educational benefits, administration 3452, 3979, 4411, 4533, 5271, 13401
Eligibility, dates of; Korean conflict, other service, etc 16099
Employment:
Disabled veterans, counseling 16099
Service-connected disability; need for vocational rehabilitation 16099
War orphans' educational assistance 3979, 13401

Veterinarians:

STANDARDS. *See* Agriculture Department.

Vietnam:

ASSIGNMENTS of military personnel to duty in Vietnam, Defense Department policies governing 6192
CAMPAIGN MEDAL with device. *See* Navy Department.
CIVIL AIRLIFT OPERATIONS OFFICE, establishment 8184
FOREIGN ASSETS CONTROL, dealings in certain merchandise; publications, etc. from North Vietnam 7829
FREE MAIL PRIVILEGES extended to sound-recorded messages for armed forces in 2816
LOANS, agricultural trade development, etc.; authority delegation. *See* Agency for International Development.
PROGRAMS financed for Vietnam, authority delegation. *See* Agency for International Development.
PURCHASES from North Vietnam, Defense Department procurement regulations 516
TRAVEL restricted to, in, or through North Vietnam for U.S. citizens 4140
VESSELS, free world and Polish flag, arriving in North Vietnam since January 25, 1966. *See* Maritime Administration.

Virgin Islands:

HUNTING, migratory birds. *See* Fish and Wildlife Service.
INCOME TAXES, withholding tax, nonresident aliens, exemption, Virgin Islands inhabitants 7080, 8093, 8711
MATCHING FUNDS, criteria for approval of obligation and expenditure of 18065
OIL AND GAS imports and exports. *See* Interior Department.
PETROCHEMICAL FACILITIES, development (Proclamation 3820) 15701
REIMBURSABLE SERVICES of customs officers and employees; rates fixed under overtime laws 10670
SUGARCANE PRODUCTION. *See* Agriculture Department.
TIME ZONE BOUNDARIES, standard 11486, 16162
WAGE RATES, minimum, etc. *See* Wage and Hour Division.
WATCHES AND MOVEMENTS, imports. *See* Commerce Department; Interior Department; Tariff Commission.

Visas:

See Immigration and Naturalization Service; State Department.

Vitamin and Mineral-Fortified Foods:

IDENTITY STANDARDS. *See* Food and Drug Administration.

Vocational Education:

FEDERAL ALLOTMENTS to States. *See* Education Office.

Vocational Rehabilitation:

Page

VETERANS. *See* Veterans Administration.

Vocational Rehabilitation Administration:

ORGANIZATION AND FUNCTIONS 10473
Supersedure 12068
WORKSHOPS and rehabilitation facilities, grants for projects for training services 3148

Voluntary Agencies:

FOREIGN AID. *See* Agency for International Development.

Voluntary Plans:

AID AGENCIES. *See* Agency for International Development.
FOREIGN PETROLEUM SUPPLY, membership in voluntary agreement relating to. *See* Emergency Planning Office.

Volunteer Service, International Secretariat for:

PUBLIC INTERNATIONAL ORGANIZATION entitled to certain privileges:
Customs Bureau regulation 11733
Designation (Executive Order 11363) 10779

Voting Rights:

See Civil Service Commission; Justice Department.

W

Wage and Hour Division:

ACADEMIC ADMINISTRATIVE PERSONNEL OR TEACHER, employee in bona fide capacity of, defining and delimiting terms 228, 7823
AMERICAN SAMOA, industries in:
Appointment and suspension of special industry committee; hearing 4579
Wage rates 8242
AUTHORITY DELEGATION from Secretary of Labor; labor standards on Federally financed or assisted work contracts 14802
EQUAL PAY for equal work; interpretations, definitions, etc 2378, 5737
FAIR LABOR STANDARDS ACT, 1938:
Board and lodging, reasonable cost; determinations, etc 22, 13575
Exemptions, certain occupations; enforcement policies 15426
HANDICAPPED WORKERS, special minimum wages:
Commercial employment; proposed rules 14334
Competitive employment 714
Sheltered workshops 715
LEARNERS, employment, wage rates:
Below minimum wage; special certificates to various industries 244, 3849, 5482, 5969, 7232, 7789, 8990, 9858, 11498, 11746, 14079, 15457, 15858, 17694
Increased minimum wage, specified industries 664
NATIONAL ENDOWMENT FOR ARTS, labor standards on projects or productions assisted by grants from; purpose, scope, etc 4310
ORGANIZATION AND FUNCTIONS, Administrator 12980
OVERTIME PAY, computing, authorization of established basic rates; interpretations 3293
PUERTO RICO:
See also under Seasonal industries.
Homeworkers in various industries, minimum piece rates:
Children's dress and related products, 12383.
Fabric and leather glove, 12383.
Hand-braiding leather buttons, 12178.
Hand-lacing of leather wallets, leather wallet covers, and plastic wallets, 12178.
Handkerchief, scarf, and art linen, 12383.
Needlework and fabricated textile products, 12383.
Sweater and knit swimwear, 12383.
Women's and children's underwear and women's blouse, 12383.

Wage and Hour Division—Continued

Page

PUERTO RICO—Continued
Minimum wage orders:
Appointment of various industry committees; hearings:
Agriculture, 2953, 3100.
Construction, 2953, 3100.
Education, 2953.
Handkerchief, scarf, and art linen, 2648.
Hospital and related institutions, 2953.
Hotel and motel, 2953, 3100.
Laundry and cleaning, 2953.
Newly covered activities, other, 2953, 3100.
Restaurant and food service, 2953, 3100.
Retail trade, 2953.
Sugar manufacturing, 2648.
Transit, local, 2953.
Various industries:
Agriculture, 5831.
Alcoholic beverage and industrial alcohol, 5467, 6448.
Artificial flower, decoration, and party favor, 5470, 6449.
Banking, insurance and finance, 5468, 6448.
Button, jewelry, and lapidary work, 5467, 6447.
Chemical, petroleum, and related products, 5468, 6448.
Children's dress and related products, 5466, 6446.
Communications, utilities, and transportation, 5468, 6448.
Construction, 5505.
Construction, business service, motion picture, and miscellaneous, 5468, 6448.
Corsets, brassieres, and allied garments, 5467, 6447.
Education, 5269.
Electrical, instrument, and related products, 5466, 5979, 6446.
Fabric and leather glove, 5466, 6445.
Fabricated plastic products, 5470, 6450.
Food and related products, 5468, 5979, 6449.
Handkerchief, scarf, and art linen, 4407, 5415, 6446.
Hosiery, 5469, 6449.
Hospital and related institutions, 5268.
Hotel and motel, 6092.
Laundry and cleaning, 4409.
Leather, leather goods, and related products, 5465, 6445.
Lumber and wood products, 5469, 6449.
Men's and boys' clothing and related products, 5467, 6447.
Metal, machinery, transportation equipment, and allied products, 5466, 6446.
Needlework and fabricated textile products, 5467, 5979, 6447.
Paper, paper products, printing, and publishing, 5469, 6449.
Restaurant and food service, 6093.
Retail trade, 4408.
Retailing, wholesaling, and warehousing, 5469, 6449.
Rubber products, 5470, 6450.
Shoe and related products, 5465, 6445.
Stone, clay, glass, cement, and related products, 5469, 6449.
Straw, hair, and related products, 5467, 6447.
Sugar manufacturing, 4408, 5415, 6449.
Sweater and knit swimwear, 5466, 6446.
Textile and textile products, 5470, 6450.
Tobacco, 5467, 6448.
Transit, local, 4409.
Women's and children's underwear and women's blouse, 5466, 6446.
Review committees 12117, 14324, 14552
RECORDS to be kept by employers 140, 9551
RETAILERS OF GOODS OR SERVICES; establishments lacking "retail concept"; truck stops, ambulance service companies, and establishments servicing common and contract carriers 14327
SAMOA. *See* American Samoa.
SEASONAL INDUSTRIES; scope, policies, listing, etc 671, 5775
Annually recurring seasonal peaks of operations, industries characterized by 15426
Cotton storing and compressing 11043, 14326
Cottonseed processing 10601, 12675, 14157
Dairy products 674, 10649
Fresh fruit and vegetable 674, 9811
Perishable agricultural or horticultural commodities, seasonal industries engaged in certain operations on 15426
Nursery stock storing and packing industry, proposed rule 15712
Sugar cane processing and milling in Florida 5788, 7390
Sugar in Puerto Rico 9027, 13767

Wage and Hour Division—Continued Page

STAR ROUTE CONTRACTS with Post Office Department; wage determinations 6376
STUDENT-LEARNERS, special certificates for employment 2485
STUDENTS, full-time, employment at special minimum wages:
Certificates authorizing ..... 939, 4038, 5717, 6997, 7989, 10872, 11508, 12874, 13429, 13951, 15656, 18902.
Definitions, procedure, etc. 143, 1068, 11082
VIRGIN ISLANDS:
Minimum-wage rates:
Appointment of special industry committee for newly covered employments; hearing 2820
Various industries 4408, 5415
Review committees 12117, 14324, 14552

Wages:

See Pay, compensation, etc.

Wake Island:

CIVIL ADMINISTRATION:
Agreement renewed between Interior Department and Transportation Department 12924
Authority delegation 12919

Walnuts:

MARKETING. *See* Agriculture Department.

Warehouses:

AGRICULTURAL COMMODITIES. *See* Agriculture Department; Commodity Credit Corporation.
SMELTING AND REFINING, etc. *See* Customs Bureau.

Warsaw Convention:

DEATH OR INJURY OF PASSENGERS, limitation of airline liability 6127, 12190, 18022

Washington Metropolitan Area Transit Authority:

FUNDS, REPORTS, RECORDS, etc., transfer from National Capital Transportation Agency (Executive Order 11373) 13371

Waste Disposal:

GRANTS for solid waste disposal. *See* Public Health Service.

Watches and Movements:

IMPORTS:
Quotas, etc. *See* Commerce Department; Emergency Planning Office; Interior Department; Tariff Commission.
Termination of increased duties (Proclamation 3761) 357

Water Carriers:

See also Federal Maritime Commission; Interstate Commerce Commission; Maritime Administration.
RENEGOTIATION, mandatory exemptions from 12400

Water Pollution:

See also Defense Department; Federal Water Pollution Control Administration.
INTERNATIONAL BOUNDARY LINE between U.S. and Canada, pollution of waters crossing; hearings 15561, 15940

Water Resources Council:

GRANTS to States, Federal coordination 712
ORGANIZATION, headquarters 712
RIVER BASIN COMMISSION, criteria and procedures for Federal participation; proposed rules 5939

Weather Bureau: Page

See also Environmental Science Services Administration.
PUBLIC, rules for guidance of 16258
TRANSFER OF REGULATIONS 16258

Welfare Administration:

ORGANIZATION AND FUNCTIONS 393, 10019
Supersedure 12068

Wheat:

CROP INSURANCE. *See* Federal Crop Insurance Corporation.
DIVERSION PROGRAMS, etc. *See* Agriculture Department.
RESEAL LOAN PROGRAMS, etc. *See* Commodity Credit Corporation.
TARIFF CLASSIFICATION, second clear wheat flour. *See* Customs Bureau.

Wilderness Areas:

See Fish and Wildlife Service; Forest Service; National Park Service.

Wildlife:

CONSERVATION PURPOSES, transfer of certain lands to States for. *See* General Services Administration.
ENDANGERED SPECIES, list. *See* Interior Department.
HYDROELECTRIC LICENSEES, wildlife conservation. *See* Federal Power Commission.
IMPORTATION of wildlife and eggs thereof which may be injurious to human beings 10982, 13595, 20655
REFUGES:
Hunting and sport fishing. *See* Fish and Wildlife Service.
Public lands withdrawn. *See* Land Management Bureau.

Wine and Products:

EXCISE TAXES. *See* Internal Revenue Service.

Without-Compensation Employees:

APPOINTMENTS and statements of financial interests. *See* Civil Service Commission; Commerce Department; Interior Department; Interstate Commerce Commission.

Women:

EQUAL EMPLOYMENT OPPORTUNITY (Executive Order 11375) 14303
LETTER CARRIERS and special delivery messengers, new culottes and surcoats; uniform quality control program 15838

Wood:

See Lumber; Timber.

Wool and Products:

IMPORTED WOOL PRODUCTS. *See* Federal Trade Commission.
PAYMENT PROGRAM. *See* Commodity Credit Corporation.
STANDARDS, etc. *See* Agriculture Department.
TARIFF CLASSIFICATION; wool shorn from washed sheepskins. *See* Customs Bureau.

Y

Youth Opportunity, Citizens Advisory Board:

ESTABLISHMENT (Executive Order 11330) 3871

Youth Opportunity, President's Council on:

ESTABLISHMENT (Executive Order 11330) 3871

Youth Opportunity Programs:

COORDINATION (Executive Order 11330) 3871

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List of CFR Sections Affected

(Codification Guide)

Annual
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Includes U.S.C.-CFR
Table of Authorities (see last page)

86-000—67——1

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LIST OF CFR SECTIONS AFFECTED

(Cumulative Codification Guide)

	Page
1 CFR	
Chapter I	
Appendix A revised	3602
Appendix B amended	4015
7.1	
(g) added	7695
7.3	
(a) revised	7695
20	
Added	7899
3 CFR	
Proclamations	
Nov. 6, 1906	
Revoked in part by PLO 4128	54
June 29, 1911	
Revoked in part by PLO 4128	54
2761A	
See Proc. 3822	19002
3062	
Terminated by Proc. 3761	358
3279	
Modified by Proc. 3779	5919
Modified by Proc. 3794	10547
Modified by Proc. 3820	15701
3290	
See Proc. 3779	5919
See Proc. 3794	10547
See Proc. 3820	15701
3328	
See Proc. 3779	5919
See Proc. 3794	10547
See Proc. 3820	15701
3386	
See Proc. 3779	5919
See Proc. 3794	10547
See Proc. 3820	15701
3389	
See Proc. 3779	5919
See Proc. 3794	10547
See Proc. 3820	15701
3455	
Terminated by Proc. 3762	362
3458	
Terminated in part by Proc. 3762	362
3509	
See Proc. 3779	5919
See Proc. 3794	10547
See Proc. 3820	15701
3531	
See Proc. 3779	5919
See Proc. 3794	10547
See Proc. 3820	15701
3541	
See Proc. 3779	5919
See Proc. 3794	10547
See Proc. 3820	15701
3548	
See Proc. 3822	19002
3693	
See Proc. 3779	5919
See Proc. 3794	10547
See Proc. 3820	15701
3694	
Terminated in part by Proc. 3818	15468
3712	
Terminated in part by Proc. 3818	15468
3744	
Terminated in part by Proc. 3818	15468
3759	31
3760	309
3761	357
3762	361
3763	965
3764	967
3765	1167
3766	3131
3767	3133
3768	3135
3769	3809
3770	4111
3771	5241
3772	5243
3773	5491
3774	5539
3775	5761
3776	5763
3777	5915
3778	5917
3779	5919
See Proc. 3794	10547
See Proc. 3820	15701
3780	6125
3781	6757
3782	7167
3783	7169
3784	7203
3785	7621
3786	7801
3787	8017
3788	8465
3789	8749
3790	9803
3791	10047
3792	10341
3793	10343
3794	10547
See Proc. 3820	15701
3795	10905
3796	11071
3797	11259
3798	11373
3799	11729
3800	12035
3801	12469
3802	12547
3803	12663
3804	13441
3805	13481
3806	13483
3807	13485
3808	13633
3809	13693
3810	13799
3811	13853
3812	14015
3813	14089
3814	14193
3815	14195
3816	14197
3817	15001
3818	15467
3819	15667
3820	15701
3821	17571
3822	19002
Executive Orders	
June 13, 1902	
Revoked in part by PLO 4143	213
July 2, 1910	
Modified by PLO 4227	8037
Revoked in part by PLO 4267	13072
July 7, 1910	
Revoked in part by PLO 4131	210
July 9, 1910	
Revoked in part by PLO 4159	3021
Sept. 14, 1910	
Revoked in part by PLO 4267	13072
Dec. 19, 1910	
Revoked in part by PLO 4182	5836
June 16, 1911	
Revoked in part by PLO 4129	210
March 23, 1912	
Revoked in part by PLO 4320	16100
Dec. 11, 1912	
Revoked in part by PLO 4175	3991
Mar. 17, 1913	
Revoked in part by PLO 4200	8640
Apr. 21, 1913	
Revoked in part by PLO 4178	4282
May 19, 1913	
Revoked in part by PLO 4200	8640
Dec. 5, 1913	
Revoked in part by PLO 4327	16531
Feb. 27, 1914	
Revoked in part by PLO 4178	4282
Mar. 21, 1914	
Revoked in part by PLO 4327	16531
June 6, 1914	
Revoked in part by PLO 4175	3991
June 24, 1914	
Revoked in part by PLO 4127	54
Revoked in part by PLO 4327	16531
May 11, 1915	
Revoked in part by PLO 4211	8644
Aug. 17, 1915	
Revoked in part by PLO 4178	4282
Sept. 21, 1916	
Revoked in part by PLO 4267	13072
Dec. 20, 1916	
Revoked in part by PLO 4191	8096
May 22, 1917	
Revoked in part by PLO 4178	4282
July 17, 1917	
Revoked in part by PLO 4166	3744
May 4, 1919	
Revoked in part by PLO 4178	4282
Aug. 22, 1919	
Revoked in part by PLO 4207	6642
June 17, 1920	
Revoked in part by PLO 4175	3991
Nov. 26, 1921	
Revoked in part by PLO 4167	3744
Nov. 22, 1924	
Revoked in part by PLO 4151	611
Apr. 17, 1926	
Revoked in part by PLO 4203	6641
842	
Revoked in part by PLO 4128	54
2295	
Modified by PLO 4313	15429
3577	
Amended by EO 11354	7695
4294	
Revoked by PLO 4219	6646
4702	
Revoked in part by PLO 4315	15482
5327	
Revoked in part by PLO 4230	8809
5384	
Revoked by PLO 4188	5837
5630	
Revoked in part by PLO 4197	6639
5952	
Revoked by EO 11339	5321
6143	
Revoked in part by PLO 4136	211
Revoked in part by PLO 4165	3744

3 CFR—Continued

Executive Orders—Continued

6276
Revoked in part by PLO 4136 211
Revoked in part by PLO 4165 3744
6583
Revoked in part by PLO 4190 6095
Revoked in part by PLO 4223 8036
Revoked in part by PLO 4273 13411
6783
Superseded by EO 11342 5828
7500
Revoked by EO 11339 5321
7743
Amended by PLO 4194 6138
7921
Superseded by EO 11342 5828
8333
Revoked by EO 11339 5321
8652
Revoked in part by PLO 4236 9224
Revoked in part by PLO 4266 12950
Revoked in part by PLO 4317 15482
9213
Superseded by EO 11342 5828
9741
Superseded by EO 11342 5828
9890
Superseded by EO 11342 5828
9979
See EO 11360 9787
9988
See EO 11350 6961
See EO 11360 9787
10001
See EO 11350 6961
See EO 11360 9787
10008
See EO 11350 6961
See EO 11360 9787
10116
See EO 11350 6961
10134
Superseded by EO 11342 5828
10202
See EO 11350 6961
See EO 11360 9787
10292
See EO 11350 6961
See EO 11360 9787
10347
Amended by EO 11354 7695
10363
See EO 11350 6961
See EO 11360 9787
10366
See EO 11360 9787
10448
Amended by EO 11382 16250
10469
See EO 11360 9787
10501
Amended by EO 11382 16247
10530
See EO 11378 15237
10534
Revoked by EO 11382 16250
10536
Amended by EO 11382 16247
10541
Superseded by EO 11342 5828
10545
Revoked by EO 11339 5321
10562
See EO 11360 9787
10589
Superseded by EO 11342 5828
10631
Amended by EO 11382 16250
10647
Amended by EO 11355 7803
10659
See EO 11350 6961
See EO 11360 9787
10682
See EO 11378 15237
10714
See EO 11350 6961
See EO 11360 9787
10735
See EO 11360 9787
10765
Amended by EO 11382 16248
10767
Superseded by EO 11342 5828
10771
Revoked by EO 11382 16250
10789
Amended by EO 11382 16248
10800
Revoked by EO 11348 6337
10807
Amended by EO 11381 15629
10809
See EO 11360 9787
10840
Amended by EO 11382 16248
10854
Amended by EO 11382 16248
See EO 11326 2841
10858
Revoked by EO 11382 16250
10865
Amended by EO 11382 16247
10883
See EO 11382 16248
10898
Amended by EO 11382 16249
10903
Amended by EO 11380 15628
10946
Revoked by EO 11374 14199
10968
Revoked by EO 11382 16250
10977
Amended by EO 11382 16250
10984
See EO 11350 6961
See EO 11360 9787
11016
Amended by EO 11382 16250
11022
Amended by EO 11376 14545
11030
Amended by EO 11354 7695
11031
Superseded by EO 11342 5828
11032
Revoked by EO 11339 5321
11034
Amended by EO 11380 15627
11046
Amended by EO 11382 16250
11075
See Proc. 3822 19002
11079
Amended by EO 11382 16250
11098
See EO 11360 9787
11136
Amended by EO 11349 6759
11137
Amended by EO 11382 16249
11149
Amended by EO 11382 16249
11157
Amended by EO 11382 16250
11161
Amended by EO 11382 16249
11182
Amended by EO 11382 16250
11188
See EO 11350 6961
See EO 11360 9787
11190
Amended by EO 11382 16250
11198
Modified by EO 11328 3137
11210
Amended by EO 11347 6333
11211
Amended by EO 11368 12549
11231
Amended by EO 11382 16250
11239
Amended by EO 11382 16250
11241
See EO 11360 9787
11246
Amended by EO 11375 14303
11248
Amended by EO 11323 777
Amended by EO 11335 3965
Amended by EO 11338 5247
Amended by EO 11346 6331
Amended by EO 11367 12037
Amended by EO 11369 12585
Amended by EO 11384 17423
Amended by EO 11385 18081
11266
See EO 11360 9787
11269
Amended by EO 11334 3933
11318
Amended by EO 11351 7561
11322 119
11323 777
11324 1075
11325 1119
11326 2841
Amended by EO 11382 16248
11327 2995
Superseded in part by EO 11366 11412
11328 3137
11329 3811
11330 3871
11331 3875
11332 3877
11333 3879
11334 3933
11335 3965
11336 4489
11337 5245
11338 5247
11339 5321
11340 5453
11341 5765
11342 5827
11343 6085
11344 6173
11345 6329
11346 6331
11347 6333
11348 6335
11349 6759
11350 6961
See EO 11360 9787
11351 7561
11352 7563
11353 7623
11354 7695
11355 7803
11356 8019
11357 8225
11358 8227
11359 8851
11359A 11049
11360 9787
11361 10153

11362 10495
11363 10779
11364 10907
11365 11111
11366 11411
11367 12037
11368 12549
11369 12585
11370 12665
11371 12903
11372 13251
11373 13371
11374 14199
11375 14303
11376 14545
11377 14725
11378 15237
11379 15625
11380 15627
11381 15629
11382 16247
11383 17421
11384 17423
11385 18081

Presidential documents other than Proclamations and Executive orders

Presidential Memorandum of Aug. 11, 1960
Amended by EO 11382 16248
Presidential Letter of June 22, 1963
Amended by EO 11382 16248
Notice of Oct. 21, 1963
Supplemented by Notice of April 22, 1967 6429
Letter of Feb. 1, 1967, designating Acting Secretary of Commerce 2493
Letter of Feb. 1, 1967, designating Acting Under Secretary of Commerce 2495
Finding of Feb. 27, 1967 4051
Finding of Feb. 28, 1967 4053
Notice of April 22, 1967 6429
Reorganization Plan No. 1 of 1967 7049
Reorganization Plan No. 2 of 1967 11669
Finding of Sept. 18, 1967 14885

4 CFR

Chapter I

20
Added 11313

5 CFR

Chapter I

177
Added 7052
210.102
Revised 16474
212.101
(a) revised 13752
212.301
Revised 13752
213
Revised 20922
213.101
(a) revised 13752
213.3102
(y) added 3085
(v) added; (w) revised 5411
(z) added 8281
(u) revised 10635
(aa) added 10635
(x) revised 12383
(y) revoked 15703
(w) revised 17615
213.3104
(a)(1) revised 14887
213.3105
(f) added 10345
213.3106
(b)(6) revoked 15703
213.3107
(i) revoked 10635
213.3108
(a)(12) added 3383
(a)(6) revised 9493
(e) and (g) revoked 10635
213.3109
(e) revoked 10635
213.3111
(a)(11) revised 13695
213.3112
(h)(1) revoked 75
(a)(5) revised 10249
213.3113
(g)(3) revoked 10635
213.3114
(i)(3) added 4015
(e) and (j)(3) revoked 10635
(d)(1) revised 11981
(h)(3) revoked 14887
213.3116
(c)(2) added 8021
(h) revoked 10635
(c)(2) revoked 15703
213.3123
Added 12598
213.3132
(f) added 251
213.3144
(a)(2) revoked 9807
(b) revoked 10249
(a)(3) and (4) revoked 12598
213.3146
(c) revised 8511
213.3153
Added 5979
213.3160
Added 11847
213.3163
Added, incorrectly designated as 213.3194 4341
Designated correctly 8657
213.3175
Added 9297
213.3182
(a)(4) revoked; (a)(9) added 13401
213.3184
Added 9807
(b) added 10249
213.3188
Revoked 15703
213.3189
Revoked 12937
213.3192
Revised 9807
Revoked 12937
213.3194
Added 8751
213.3195
Added 6431
213.3196
Added 8281
213.3197
Added 15911
213.3206
(a)(2) revised 10556
213.3212
(b) revoked 75
213.3213
(a) revoked 75
213.3214
(a) added 9807
213.3215
(a) revised 8229
213.3216
(b) revoked 75
213.3237
Added 8511
213.3242
Added 10293
213.3256
(a) revised 11375
213.3273
(a) revoked 75
(g) added 2361
(b), (c), and (d) revoked; (h) added 5249
(g) revoked 12937
213.3301a
Added 15805
213.3303
(e) added 10556
(e) revoked 14017
(c)(5) added 16477
(a)(5) and (c)(3) revoked 20627
213.3304
(l)(1) revised 3289
Heading of (j) and (j)(3) revised 6431
(a)(5) revised 14685
(a)(5) revised; (c)(1) and (8), (d)(6), and (l)(4) revoked; (l)(1) revised; (m)(1) revoked; (n)(3) revised; (n)(7) revoked 20627
213.3305
(a)(28) added 5455
(a)(29) added 6389
(e) revoked 6965
(a)(30) added 7011
(d)(2) added 11313
(a)(31) added 11375
(a)(32) added 13754
(a)(1) revised; (a)(3), (4), (5), (6), (11), (12), (14), (22), (23), and (24) and (d)(1) revoked 20627, 20837
213.3306
(c)(2) revised 3289
(a)(45) and (48) revised 5411
(a)(9) revised 8511
(c)(3) revised 8953
(a)(53) added 9605
(a)(54) added 10249
(a)(4), (8), (9), (17), (19), (20), and (27) revoked; (a)(28) revised; (a)(31), (34), (37), (40), (42), (45), (47), (53), and (54) revoked 20627
213.3307
(a)(18) added 7521
(a)(5), (7), (10), (14), (15), (16), (17), and (18) revoked 20627
213.3308
(a)(1) revised; (a)(6) and (10) revoked 20627
213.3309
(a)(2) revised 8511
(a)(1) revised; (a)(4) and (5) revoked 20627
213.3310
(r)(2) revoked; (r)(3) and (5) revised; (r)(6) and (7) revoked; (r)(10) revised; (r)(11) revoked; (r)(13) and (14) added 4491
(m)(3) revoked; (m)(5) and (6) added 5455
(l) revoked 5768
(e)(14) added 15911
Amended 20627
213.3311
(a)(4) revised 4341
(h)(7) added 8511

5 CFR—Continued

Chapter I—Continued

213.3311—Continued
(a) (1) revoked; (a) (2) revised; (a) (11), (14), (15), and (20), (b) (3), (5), and (9), (c) (5), (f) (2) and (4), and (h) (1) and (5) revoked 20627
213.3312
(a) (31) added 1085
(a) (7) revoked 3805
(d) (3) revoked; (d) (8) added 5671
(h) (4) revised 6901
(b) (4) revised 10781
(o) added 12831
(a) (3) revised 13045
(a) (33) added 13909
Amended 20627
213.3313
(a) (19) revised; (a) (23) added 7
(a) (24) added 9061
(a) (24) revoked 12437
(m) (4) added 14201
Amended 20627
213.3314
(a) (23), (25), and (27) revoked 251
(a) (41) added 780
(q) (1), (2), (3), and (4) revoked; (q) (9) revised; (q) (13) and (14) revoked; (q) (17) revised; (q) (22) revoked; (q) (26) added 7805
(a) (24) revoked 9297
(q) (21) revised 12383
(q) (32) added 12831
(n) (5) added 12937
Amended 20628
213.3315
(a) (1) revised 2931
(a) (22) revised; (a) (26) added 4341
(a) (24) revised 8124
(a) (23) revised 8229
(a) (19) revised 9061
(a) (1) revised; (a) (8), (19), (22), (24), and (26), (e) (1), (g) (1), (h) (1), (i), (j), and (l) revoked 20628
213.3316
(l) (2) revised 251
(h) (5) revoked; (j) (9) added 3085
(e) (1) revised 3953
(h) (7) added 10249
(f) (1) revised; (f) (3) and (5) revoked 11313
(n) (5) added 12383
(o) added 12383
(h) (8) added 12437
(j) (10) added 13443
(o) (4) added 13443
(a) (5), (d) (1), (4), and (8), and (j) (3) and (4) revoked 13695
(o) (5) added 12855
Amended 20628
213.3322
(a) revised 14887
(d) added 16477
(b) and (c) revoked 20628
213.3325
(a) revised 20628
213.3326
(g) revoked; (o) added 9620
(d) (2) added 11770
213.3327
(a) (1), (8), and (7) and (e) (1) revoked 20628
213.3328
(b) revoked 20628
213.3329
(j) added 3689
(c), (d), (g), (h), and (j) revoked 20628
213.3330
(a), (b), and (e) revoked 20628
213.3332
(jj) added 1085
(kk) added 3763
(ll) added 6087
(f) revoked 6620
(c), (d), (v), (gg), and (ll) revoked 20628
213.3333
(l) added 3729
213.3334
Revoked 20628
213.3337
(l) added 7625
(a) (3) revised 10293
(a) (7) and (8) and (f) revoked 20628
213.3338
Revoked 20628
213.3340
(b), (c), (f), (l), and (k) revoked 20628
213.3341
(b), (c), (e), and (f) revoked; (g) revised 20628
213.3342
(f) revised 8229
(a), (d), (f), (g), and (j) revoked 20628
213.3343
(b) and (c) revoked; (d) revised 20628
213.3344
(b) (13) revoked 407
(b) (7) revoked 607
(b) (3), (9), (12), (14), and (18) through (21) revoked 2931
(a) (15) revoked; (c) (3), (5), and (7) revoked 4158
(b) (1) revoked 8281
(a) (17) revoked 9297
(a) (1), (2), (3), (5), (6), (7), (10), (12), (13), (16), (22), (24), (26), (28), (30), (32), (33), (34), (37), (42) through (45), and (47) and (c) (2) and (5) revoked 12437
(a) (20), (27), (29), (38), (39), and (46), and (b) (2), (4), (5), (6), (8), (10), (11), (15), and (16) revoked 14201
(c) (4) revoked 20628
213.3347
Revoked 20628
213.3348
(o) and (p) added 9005
(e), (f), and (h) revoked 16477
(q) added 16477
213.3354
(b), (c), (g), (j), (k), and (o) revoked 20628
213.3356
(b) and (f) revoked 20628
213.3357
(b) revoked 20628
213.3359
Revoked 15911
213.3364
(e) and (f) revoked 20628
213.3367
(b) and (c) revoked 20628
213.3368
(b) (4) added 4275
213.3369
Revoked 20628
213.3371
(d) added 14017
213.3373
(a) (3), (5), (7), (8), and (b) (1) revised; (b) (2) and (3) revoked; (b) (4) revised; (b) (5) revoked; (b) (6), (c) (1), and (d) (1) revised 5249
(c) (5) revised; (c) (6) and (7) revoked 12437
(a) (8) revoked 14201
(a) (2), (3), (4), (5), (6), and (13), (b) (4) and (6), (c) (1) and (5), and (d) (1), (4), and (5) revoked 20628
213.3374
Added 7172
213.3377
(g) and (h) added 3383
(i) added 9297
(a) revised 13754
(l) revoked 14887
(b), (c), (g), and (h) revoked 20628
213.3380
Revoked 20628
213.3384
(a) (19) added 365
(a) (4) revised; (c) (6) added 407
(a) (20) and (21), incorrectly designated as (a) (19) and (20), added 407
(a) (20) and (21) designated correctly 780
(b) (3) through (8) added 2931
(e) (5) added 3335
(a) (22) added 5671
(e) (2) revoked; (a) (6) added 6257
(e) (7) added 7521
(b) (9) added 8281
(c) (7) added 9297
(a) (23) added 9807
Heading of (b) corrected 10249
(a) (24), (b) (10) through (18), and (c) (8) through (12) added 14201
(a) (25) added 15869
(a) (13) revised 15911
(a) (15) revised 17849
Amended 20628
213.3385
Added; incorrectly designated as 213.3375 15011
Correctly designated as 213.3385 16097
213.3387
Revoked 20629
213.3394
Added 6389
(b) added 8021
(a) (3) added 8124
(a) (4) added 8511
(a) (5) added 8657
(a) (6) added 9297
(a) (7) added 9807
(a) (8) added 10556
(a) (9) added 11313, 11515
(a) (10) and (c) added 11609
(c) (2) added 12937
(a) (7) revised 13319
(d) added 20701
(a) (1), (3), (9), and (10), and (c) revoked 20629
294
Added 9493
302.101
(d) (7) and (8) revised; (d) (9) added 13752

305
Added 13752
305.509
(e) added 15805
310
Added 20801
315.806
(d) revised 16474
330
Subpart G added 3967
330.303
Revised 3967
330.501
Revised 705
330.503
Added 705
330.701—330.703
Subpart G added 3967
332.311
(b) revised 3967
332.322
(c) revised 3967
335.102
Introductory text and (a) revised 13754
351.901
(a) revised 16474
352.205
Revised 16474
352.209
Revised 16474
352.312
(a) revised 16474
352.508
(a), (b), and (d) revised 16475
353.701
Revised 16475
353.704
Revised 16475
410.602
Revised 3085
430.102
(a) (3) added 16475
430.401
(c) revised 16475
511.201
(b) amended 5455
(b) amended 9605
511.703
(a) revised 16475
531.203
(b) (2) revised 7247
(b) (2) revised 12472
531.305
(a) revised 3141
531.407
(d) (1) and (e) (1) revised 16475
531.516
(c) revised 16476
534.202
(a) revised; (b) amended 75
(b) amended 5455
(b) amended 9605
(b) amended 14887
550
Subpart I added 7
Subpart I Appendix A amended; Appendix A–1 added 8751
Subpart I Appendix A–1 revised 10556
Subpart I Appendix A amended 21023
550.151
Revised 20942
550.153
(b) (1) revised 20942
550.154
Revised 20942
550.505
(k) added 9607
550.701
(b) (4) added 7743
(b) (1) revised; (b) (5) added 13648
(b) (6) added 21023
550.703
(b) revised 3763
550.704
(b) (1) revised 3689
(b) (4) (iii) added 6674
550.804
(f) added 5768
550.901—550.907
Subpart I added 7
Subpart I Appendix A amended; Appendix A–1 added 8751
Subpart I Appendix A amended 21023
610.305
(d) added 12551
630
Subpart G added 4565
630.502
(b) revised 12937
630.701—630.704
Subpart G added 4565
713
Authority citation revised 15631
Subpart B heading revised 15631
Subpart D heading revised 15631
713.201—713.232
Subpart B heading revised 15631
713.201
(a) revised 15631
713.202
Revised 15631
713.203
(a), (b), (c), and (g) revised 15631
713.211
Revised 15631
713.212
Revised 15631
713.213
(a) revised 16476
713.214
Revised 11847
713.217
Revised 15631
713.223
(a) revised 16476
713.225
Revised 15631
713.302
Revised 11847
713.401
Subpart D heading revised 15631
713.402
Revoked 15631
731.401
(c) revised 16476
733.301
(b) amended 4275
(b) amended 12937
735.201a
Redesignated from 735.202(c); revised 8281
735.202
(a) revised; (c) redesignated as 735.201a and revised; (d) and (e) revised; (f) redesignated from 735.203(e) (1) and revised 8282
735.203
Heading revised; (e) (1) redesignated as 735.202(f) and revised 8282
735.210
(a), (d), (g), (h), (j), and (p) revised; (q) added 8282
735.401
Revised 8282
735.403
Revised 8282
735.403a
Added 8282
735.404
Revised 8282
735.404a
Added 8282
735.406
Revised 8282
735.410
Revised 8283
735.412
(b) (2) revised 8283
752.102
Revised 10909
752.201
(a) (1) revised 13754
752.202
(f) revised 10909
752.203
(b) (3) revised 3289
(b) revised 16476
752.301
(a) (1) revised 13754
752.304
(c) revised 16476
754.101
Revised 15805
Revised 16476
754.105
(b) revised 16476
771.204
(a) (1) revised 13754
771.211
(a) revised 16477
771.216
Revised 10909
771.219
Revised 3289
(c) revised 16477
771.228
Revised 10909
772.307
(a) revised 16477
831.106
(a) revised 2427
831.107
(a) revised 16477
831.201
(a) (5) revised 9061
870.202
(a) (6) revised 9061
Revised 12937
890
Authority citation revised 14887
890.101
(a) (1) and (8) revised 14887
890.102
(c) (6) revised 9061
890.201
(a) (1), (4), and (6) and (b) revised 14888
890.202
Introductory text revised 14888
890.301
(m–1) added 14888
890.303
(c) and (e) revised 14888
890.306
(c) revoked 14888
890.503
(c) (2) and (3) revised; (c) (4) added 14888

5 CFR—Continued

Page

Chapter I—Continued

891.103
(c) and (e) revised ... 14363
891.105
(a) revised ... 16477
1001
Revised ... 11113

Chapter VII

1760
Corrected ... 203

Chapter X

2000
Revised ... 14547

Chapter XII

2200.735–102
(e) revised ... 17573
2200.735–201
Redesignated as 2200.735–201a; (c) deleted; (d) and (e) redesignated as (c) and (d), respectively, and revised; new (d) added ... 17573
2200.735–201
Added ... 17573
2200.735–201a
Redesignated from 2200.735–201; (c) deleted; (d) and (e) redesignated as (c) and (d), respectively, and revised; new (e) added ... 17573
2200.735–202
Heading revised; (e)(1) deleted; (e)(2) and (3) redesignated as (e)(1) and (2), respectively ... 17573
2200.735–209
(d), (g), and (p) revised; (q) added ... 17573
2200.735–304
(b) revised ... 17573
2200.735–401
Revised ... 17573
2200.735–402
Revised ... 17573
2200.735–402a
Added ... 17573
2200.735–402b
Added ... 17574
2200.735–404
Revised ... 17574
2200.735–408
Revised ... 17574
2200.735–410
(a)(2) revised ... 17574

Chapter XIII

2300
Redesignated as 45 CFR Part 1105; revised ... 17663

Proposed Rules:

800 ... 12726
891 ... 12727

7 CFR

Subtitle A

1
Subpart A revised ... 9605
1.1—1.6
Subpart A revised ... 9605
1.26
Revised ... 5458
1.51
Revised ... 1021
1.52
Added ... 2806
(c) revised ... 7835
5.2
Amended ... 11031
Amended ... 16385

Page

5.4
Amended ... 11031
Amended ... 16385
6.20—6.31
Subpart revised ... 20861
6.32
Added ... 10633
(c)(1)(i) revised ... 12438
7.8
Revised ... 7171
7.18
Revised ... 7171
15
Appendix amended ... 706
15.4
(d) and (e) added ... 3967
17
Appendix A corrected ... 921
Appendix B corrected ... 3935
Appendix A amended ... 5978
17.1
(c)(3) corrected ... 3935
17.2
(b)(7) corrected ... 3935
(b)(7) and (c)(2) revised ... 5977
17.7
(c) revised ... 5977
17.8
(c)(1) and (2) revised; (c)(6) added ... 5977
17.9
(o)(1) corrected ... 921
(k)(7) corrected ... 3935
(j)(5) and (m) revised ... 5977
17.10
(a)(1), (h)(1), (3), (5), and (6), (i), and (p) revised ... 5977
17.13
(c)(2) and (4) corrected ... 921
(d)(1), (3), (6)(i), and (7)(i) revised; (d)(8) deleted ... 5978
17.14
(a) revised ... 5978
17.15
(b)(5) corrected ... 3935
(a)(6), (b)(6)(ii), and (c)(2) revised ... 5978

Chapter I

26.29
(m)(2) revised; (m)(3) amended; (m)(4) and (5) revised; (m)(6) amended ... 13648
27.2
(c) revised ... 4157
27.38
(e) revised ... 7011
27.48
Deleted ... 4157
27.92
Revised ... 12831
27.94
Revised ... 4157
Revised ... 12831
28.40
(e) revised ... 7011
28.125
Center heading and section added ... 8760
29.1162
Amended ... 5979
29.1163
Amended ... 5979
29.1181
Amended ... 5979
33.10
(d)(1) revised ... 9298
44
Recodified as 52.6041—52.6048; revised ... 8575

51.1—51.61
Subpart recodified from 51.1—51.67; revised ... 15066
51.1—51.67
Subpart recodified as 51.1—51.61; revised ... 15066
51.750—51.783
Subpart revised ... 13488
51.1140—51.1178
Subpart recodified as 51.1140—51.1179; revised ... 13493
51.1140—51.1179
Subpart recodified from 51.1140—51.1178; revised ... 13493
51.1400—51.1416
Subpart recodified as 51.1400—51.1418; revised ... 15073
51.1400—51.1418
Subpart recodified from 51.1400—51.1416; revised ... 15073
51.1810—51.1834
Subpart revised ... 13500
51.3325—51.3333
Subpart added ... 8857
51.3555—51.3573
Subpart added ... 8858
51.3740—51.3749
Subpart added ... 3213
51.3785—51.3795
Subpart added ... 8859
51.3805—51.3818
Subpart added ... 8859
51.3830—51.3844
Subpart added ... 8860
51.3855—51.3872
Subpart added ... 8861
51.3880—51.3888
Subpart added ... 8862
51.3900—51.3918
Subpart added ... 8862
51.3930—51.3937
Subpart added ... 8863
51.3945—51.3948
Subpart added ... 8864
51.3955—51.3970
Subpart added ... 8864
51.3980—51.3989
Subpart added ... 8865
51.4000—51.4004
Subpart added ... 8866
51.4010—51.4022
Subpart added ... 8866
51.4030—51.4041
Subpart added ... 8867
51.4050—51.4062
Subpart added ... 8868
51.4075—51.4085
Subpart added ... 8868
51.4095—51.4109
Subpart added ... 8869
51.4120—51.4129
Subpart added ... 8870
51.4140—51.4157
Subpart added ... 9871
51.4170—51.4180
Subpart added ... 8872
51.4190—51.4204
Subpart added ... 8872
51.4210—51.4227
Subpart added ... 8873
51.4240—51.4250
Subpart added ... 8874
51.4260—51.4267
Subpart added ... 8874
51.4270—51.4277
Subpart added ... 8875
51.4290—51.4307
Subpart added ... 8875
51.4320—51.4328
Subpart added ... 8876

Page

51.4340—51.4348
Subpart added ... 8877
51.4360—51.4368
Subpart added ... 8877
51.4380—51.4387
Subpart added ... 8878
51.4400—51.4406
Subpart added ... 8878
51.4415—51.4426
Subpart added ... 8879
51.4435—51.4444
Subpart added ... 8879
51.4455—51.4466
Subpart added ... 8880
51.4475—51.4496
Subpart added ... 8881
51.4505—51.4525
Subpart added ... 8882
51.6000—51.6005
Subpart added ... 9145
52.1026
(b) deleted; Table I amended ... 921
52.1901a
Added ... 4397
(c) added ... 5979
52.1903
Revised ... 4397
52.1904
(b) revised; (c) added ... 4397
52.2392a
Added ... 779
52.2396
(b) revised ... 779
52.2400
Amended ... 779
52.2681—52.2694
Subpart recodified as 52.2681—52.2695; revised ... 13373
52.2681—52.2695
Subpart recodified from 52.2681—52.2694; revised ... 13373
52.2761—52.2773
Subpart deleted ... 13569
52.2861—52.2868
Subpart added ... 7565
52.3451—52.3462
Subpart added ... 7568
52.5452
(d) revised ... 11467
52.5601—52.5616
Subpart added ... 7570
52.5641—52.5652
Subpart added ... 10499
52.5681—52.5692
Subpart added ... 10497
52.5761—52.5773
Subpart added ... 7572
52.5801—52.5810
Subpart added ... 7573
52.5841—52.5849
Subpart added ... 7575
52.5881—52.5892
Subpart added ... 7576
52.5921—52.5926
Subpart added ... 7578
52.5961—52.5968
Subpart added ... 7579
52.6001—52.6009
Subpart added ... 7580
52.6041—52.6046
Recodified from Part 44; revised ... 8575
53.29
(d) amended ... 705
(b) revised ... 8963
56.1
Paragraph designations deleted; amended ... 8230
56.17
Added ... 8230
56.36
(a) and (b)(2), (3), and (4) revised ... 8230
56.37
Revised ... 8231
56.39
Center heading revised ... 8231
56.40
Revised ... 8231
56.41
Deleted ... 8231
56.42
(a)(4) and (b)(1), (2), (5), (6), (9), and (10) revised ... 8231
56.43
(d) revised; (e) added ... 8231
56.76
(a)(3) revised; (a)(4) and (5) added; (c)(1) revised; (c)(3) added; (d) and (e)(2), (3), and (4) revised; (e)(5) through (12) added; (f) revised; (g) added ... 8232
56.77
Added ... 8232
56.205
Revised ... 8232
56.206
Revised ... 8232
56.207
Deleted ... 8232
56.208
(b) revised ... 8232
56.212
(c) added ... 8232
56.215
(a) and (c) revised ... 8232
56.216
Revised ... 8233
56.217
Tables I and II revised ... 8233
56.218
(b) revised ... 8233
56.221
Revised ... 8233
56.222
Table I revised ... 8234
56.231—56.233
Center heading and sections deleted ... 8234
56.234
Introductory text of (a) revised; (d) deleted ... 8234
58
Subpart B recodified and revised ... 4204
58.101—58.201
Subpart B recodified as 58.101—58.941; revised ... 4204
58.101—58.941
Subpart B recodified from 58.101—58.201; revised ... 4204
61.45
Revised ... 8576
68
Subpart C recodified and revised ... 14633
Subpart D recodified and revised ... 14635
Subpart E recodified and revised ... 14637
68.201—68.225
Subpart C recodified from 68.201—68.233; revised ... 14633
68.201—68.233
Subpart C recodified as 68.201—68.225; revised ... 14633
68.251—68.253
Subpart D recodified as 68.251—68.285; revised ... 14635
68.251—68.285
Subpart D recodified from 68.251—68.253; revised ... 14635
68.301—68.303
Subpart E recodified as 68.301—68.333; revised ... 14637
68.301—68.333
Subpart E recodified from 68.301—68.303; revised ... 14637
68.328
Amended ... 20837
68.329
Amended ... 20837
68.330
Amended ... 20837
68.331
Amended ... 20837
81.134
Effective date of revision partly postponed ... 2442
Effective date of revision ... 6673
81.208
Effective date of revision partly postponed ... 2442
Effective date of revision ... 6673
201.2
(h) and (i) amended; (l) revised; (x) added ... 12778
201.4
(b) amended ... 12778
201.7a
Added ... 12778
201.10
Existing text designated as (b); (a) added ... 12778
201.11a
Added ... 12779
201.12a
Added ... 12779
201.14
(c) amended ... 12779
201.17
Revised ... 12779
201.18
Amended ... 12779
201.20
Amended ... 12779
201.22
Amended ... 12779
201.24a
Added ... 12779
201.26
Heading and text amended ... 12779
201.29
Revised ... 12779
201.29a
Added ... 12779
201.30
Revised ... 12779
201.30a
Added ... 12779
201.31
Amended ... 12779
201.34
Heading amended; (a) and (c) revised; (e)(1), (3), (4), (6), and (8) amended ... 12779
201.36b
(c) revised; (e) added ... 12780
201.36c
Added ... 12780
201.46
(d) amended ... 12780
201.47
(e) revised ... 12780

7 CFR—Continued

Page

Chapter I—Continued

201.56–2
Introductory text of (a) and (a) (1) (iii) and (iv) amended; (a) (1) (v) added; (a) (2) (iv) and (v) amended; (a) (2) (vi) added 12780
201.56–6
Headings of (a) and (c) amended 12781
201.58
(a) (8) and (c) amended 12781
201.58a
Introductory text amended 12781
201.61
Revised 12781
201.62
Revised 12781
201.65
Amended 12782
201.66
Revised 12782
201.102
Existing text designated as (a) and amended; (b) added 12782
201.107
(b) amended 12782
201.208
(a) amended 12155
201.218
Amended 12155
201.221
(c) amended; (d) added 12155
201.221a
Amended 12155
201.222
Heading and (a) amended; (b) and (e) deleted; new (e) and (f) added 12155

Chapter II

210
Appendix added 2883
Appendix added 6431
210.8
(d) (13) (ii) and (iii) revised 33
210.10
Revised 12063
215
Revised 12587
215.2
(m) revised 4341
215.7
(b) revised 6549
220
Added 33
Appendices added 485
Appendix added 7491
Appendix amended 9298
Appendix amended 11073
Appendix amended 13376
220.2
(f) revised 13215
220.7
(e) (12) (iii) revised 13215
220.9
(b) and (c) revised 13215
220.11
(b) revised 13215
220.18
(a) revised 13215
250.6
(e) (1) (i) revised 20837
251
Added 15948

Chapter III

301.38—301.38–9
Subpart recodified as 301.38—301.38–10; revised 18015–18017
301.38—301.38–10
Subpart recodified from 301.38—301.38–9; revised 18015–18017
301.38–2c
Revised 7437
301.52—301.52–10
Subpart recodified and revised 16385–16389
301.80
Revised 9496
301.80a
Superseded by 301.80–2b 9507
301.80–1
Revised 9496
301.80–2
Revised 9496
301.80–2a
Revised 9499
Corrected 10781
301.80–2b
Added 9507
301.80–3—301.80–10
Revised 9496
301.83
Added 7958
319.28
Revised 7959
(h) added 15577
319.37
(b) amended 2443
319.37–19
(c) amended 2444
319.37–24c
Revised 6387
319.37–28
Added 2444
319.56a
(a) (4) revised 13319
319.56–2d
(a) (2) amended; (a) (2) (iv) added; (c) amended 12832
(a) (2) (iv) corrected 13215
319.56–2p
Revised 12471
319.59a
Revised 6496
320.8
Revised 8953
320.9
Revised 8954
320.10
(c) revised 8954
330.106
(a) revised 6339
354.1
Revised 20765
354.2
Amended 969
Amended 3383
Amended 6019
Amended 7697
Amended 9945
Revised 11981
370
Added 9606

Chapter IV

401.1
Appendix amended ..... 1123 (7 docs.), 1169 (3 docs.), 2931 (2 docs.), 4275, 4276, 4565, 5416, 8665 (3 docs.) 10781 (2 docs.), 10834, 11731, 14091–14096 12 docs.), 14147–14149 (3 docs.), 14305, 16478, 17513 (4 docs.)
401.2
(a) amended ..... 705, 706, 921, 10501, 12989 (2 docs.), 15703–15704 (3 docs.)
401.21
Amended 12989
401.23
Amended 12989
401.32
Amended 12989
401.38
Heading and introductory text revised 921
401.40
Amended 705, 15704
401.43
Amended 706, 10501, 15703
401.46
Added 921
Heading revised; text amended 15703
401.101—401.111
Subpart added 15911
401.103
(a) corrected 17425
401.111
Corrected 17425
402.1
Appendix amended 14150
403.40
Appendix amended 14150
404.20
Appendix added 1124
Appendix amended 14150
406.1
Appendix amended 14150
406.6
Amended 8512
407.1
Appendix amended 11755
408.1
Appendix amended 14150
409.1—409.6
Superseded by 409.20—409.25 10635
409.20—409.25
Added, superseding 409.1—409.6 10635
409.20
Appendix added 14150
410.20
Appendix added 1124
Appendix amended 14150
411
Added 706
411.1
Appendix added 1124
Appendix amended 4566, 13215
411.2
(a) revised 12989
411.3
Revised 12990
411.6
Amended 12990
412
Added 9816

Chapter VI

601
Authority citation revised 11515
601.1
(aa) and (bb) revised; (cc) and (dd) added 10155
601.8
(a) revised; (d) and (e) added 10155
601.11
(a) (25) revised; (a) (26) deleted; (b) and (c) revised; (d), (e), (f), and (g) added 10155
(b) (1) corrected 10501
601.12
(a) revised; (c) and (d) deleted 10156
601.13
(b) and (c) deleted 11515

Page

Chapter VII

701.1—701.97
Subpart recodified as 701.1—701.99; revised 11117
701.1—701.99
Subpart recodified from 701.1—701.97; revised 11117
701.2
(c) added 11261
701.46
Amended 5619
706
Subpart G recodified and revised 13695
706.501—706.533
Subpart G recodified as 706.601—706.633; revised 13695
706.601—706.633
Subpart G recodified from 706.501—706.583; revised 13695
706.618
Amended 14548
706.622
Revised 14548
706.623
Revised 14548
706.624
Revised 14548
707.1
Revised 13649
709
Revised 14921
711.4
Amended 15705
711.26
Closing paragraph deleted 15705
717.4
(c) added 9248
(c) corrected 10298
(c) amended 10549
717.5
Amended 9949
717.7
(d) amended 7385
717.9
Revised 15705
717.17
(b) amended 3139
(c) (4) added 7385
718
Revised 9069
718.5
(f) (2) corrected 9507
718.8b
(c) (2) (i), (d), and (j) (3) revised 3139
718.10
Revised 17513
718.11
Revised 17514
718.12
Revised 17514
718.16
(b) amended 3493
718.17
(b) revised 3140
718.27
(b) corrected 9507
(b) amended 11755
719.2
(m) revised; (z) added 14600
719.3
(b) (3) revised; (d) (6) added 14600
719.7
(b) (3) revised; (b) (5) added; (c) revised 14600
719.8
(h) revised 14600
719.9
Revised 14600
719.11
(e) revised 14600
719.15
Added 14600
722.100
(b) added 9298
722.404
(b) (2) (ii) revised; (b) (3) amended 3235
722.405
Amended 3236
722.408
Amended 3236
722.411
(a) (7) revised; (h) added 9608
722.413
(b) (4) (iii) added 9608
722.414
(a) (5) added; (b) (2) revised 3236
(a) (1) and (b) (1) amended 9608
722.430
(f) added 3549
(i) amended 7437
(i) amended 7491
(i) amended 7630
(i) amended 7910
722.436
(b) (2) added 3936
(a) (2) amended; (b) (3) revised 20838
722.437
(b) (3) added; (d) amended; (f) and (g) revised 20838
722.438
(d) amended 3936
(m) added 20838
722.451
(c) (3) revised 1079
722.452
Added 20838
722.470
(f) amended 2361
722.473
Added 75
722.474
Added 5671
722.475
Added 8954
722.476—722.479
Added 14267
722.480, 722.481
Added 14269
722.482
Added 14269
722.483
Added 16185
(c) corrected 17467
722.484
Added 16185
(c) corrected 17467
722.485
Added 17923
722.505
Amended 5416
722.506
(b) amended 5416
722.514
(a) (4) added 5416
722.557
Added 75
722.558—722.560
Added 14305
722.561
Added 14306
722.562
Added 15987
722.563
Added 17887
722.801—722.824
Subpart revised 2931
732.802
(j) and (m) revised 9666
722.804
(b) (5) amended 9666
722.809
(c) revised 9666
722.815
(e) amended 9666
722.817
(c) added 8127
724.35p
Revoked 2603
724.35q
Revoked 2603
724.36—724.36d
Subpart added 851
724.36e, 724.36f
Subpart added 1124
724.36g—724.36l
Subpart added 853
724.36j—724.36m
Subpart added 1022
724.36m
(g) and (h) added 3809
724.36n
Added 2603
Amended 3045
724.36o, 724.36p
Subpart added 4055
724.36q
Added 4305
724.36r
Added 5323
724.51
(d), (j), and (l) revised; (dd) added 10549
(d) corrected 11203
724.55
Revised 16550
724.56
Revised 16478
724.56a
Added 16550
724.57
Revised 10551
Revised 16478
724.59
(d) added 10551
(b) revised 16478
724.60
(b) revised 12905
724.62
(a) (3) and (c) (3) revised 2936
(b) (11) added 12905
(b) (7) and (c) revised 16479
724.67
(d) deleted 10551
(a) and (g) revised 12905
724.71
Added 2936
724.72
Added 12906
724.87
(a) (1) amended 10551
724.90
(j) added 10551
724.92
(l) and (m) added 10551
724.94
(h) and (i) added 10551
724.95
(c) added 10551
724.98
(c) revised; (m) added 10551
724.99
(h) (12) and (13) and (i) added 10552

7 CFR—Continued Page

Chapter VII—Continued

724.102
Revised ... 10552
725.3
Added ... 9818
725.4
Added ... 11413
725.56
(a) revised ... 10293
725.58
Revised ... 10293
725.60
(b) revised ... 10294
725.66
(a) and (b) amended ... 10294
725.68
(d) amended ... 10294
725.69
(b) (7) revised ... 16479
725.70
(e) revised ... 10427
725.72
(d) revised ... 13113
725.73
(a), (b), and (c) revised ... 10294
725.75
Added ... 10294
725.87
(a) amended; (f) revised ... 10295
(a) revised ... 10427
(g) added ... 13113
Heading of (f) revised; (f) (4) added ... 14270
725.88
(a) (1) amended ... 10295
725.91
(a) revised ... 10295
725.92
(d) and (e) added ... 10295
725.95
(c) added ... 10427
725.98
(k) and (l) added ... 10295
725.99
(a) (3) amended; (g) (11) and (h) added ... 10295
(c) (4) added ... 14270
725.100
(b) revised ... 14270
725.104a
Added ... 10295
725.109
(j) added ... 10295
728.309
(b) (3) amended ... 11755
728.315
(b) (2) and (3) amended; (c) added ... 5416
728.316
Existing text designated as (a); (b) added ... 8577
728.317
(b) (6) revised ... 8577
728.323
Amended ... 8577
728.325
(a) and (b) amended ... 5417
(b) revised ... 11755
728.341—728.345
Subpart revised ... 9819
Subpart heading revised; subpart recodified as 728.351—728.355 ... 13700
728.346
Added ... 11609
Redesignated as 728.356 ... 13700

728.347 Page
Revised ... 11609
Corrected ... 12083
Redesignated as 728.357 ... 13700
728.351—728.355
Subpart heading revised; subpart recodified from 728.341—728.345 ... 13700
728.356
Redesignated from 728.346 ... 13700
728.357
Redesignated from 728.347 ... 13700
728.416a
(e) amended ... 5417
728.502
(a) (2) amended ... 8577
728.505
(e) amended ... 8577
728.507
(d) added ... 6339
729.1424
Revised ... 9146
729.1425
(c) amended; (d) revised; (f) deleted ... 9147
729.1432
(b) (8) added ... 1169
Revised ... 17887
729.1435
(a) revised ... 9147
729.1441a
Added ... 9147
729.1446
(b) and (d) revised ... 9147
(d) revised ... 13569
729.1450
Amended ... 9148
729.1454
(a) revised ... 9148
729.1457
(f) added ... 13569
729.1468a
Added ... 9148
729.1804
Subpart added ... 4566
729.1807
Subpart added ... 12991
Subpart corrected ... 13215
729.1810—729.1813
Subpart added ... 15149
730.1—730.49
Subpart added ... 8666
730.22
Amended ... 9148
730.1501—730.1504
Subpart added ... 21023
730.1511
(h) revised ... 6965
730.1517
(e) added ... 3881
730.1518
(g) added ... 3881
(h) added ... 15076
730.1521
(g) added ... 2997
(h) added ... 6965
730.1525
(a) (2) amended ... 3881
730.1527
(b) (3) (iii) revised; (b) (3) (iv) added ... 6965
730.1528
(f) added ... 3882
(g) added ... 6965
730.1529
(i) added ... 3882
(j) added ... 15076
730.1803
Amended ... 3882

730.1808 Page
Added ... 7056
730.1809
Added ... 1170
750.156
(d) (4) added ... 6549
750.157
(b) (1) amended ... 6549
750.187
Revised ... 6549
750.511
(c) added ... 6550
750.513
(b) (1) amended ... 6550
750.541
Revised ... 6550
751.19
Amended ... 5417
751.50
Added ... 8577
751.61
Amended ... 5417
751.92
Added ... 8512
751.101
(g) revised ... 5417
751.103
(b) and (c) amended ... 5417
751.108
(d) added ... 8512
751.115
(f) added ... 5767
(b) amended ... 8513
751.118
(b) (1) (iv) revised; (d) amended ... 5417
751.123
(e) added ... 6431
751.129
(i) added ... 6431
751.142
(a) revised ... 9148
(c) (2) revised ... 9821
751.150—751.152
Revised ... 11031
755.10
(b) revised ... 12938
775.401
(d) amended ... 607
775.402
(c) (2) (x) and (v) added ... 607
(c) (2) (xi) added ... 7836
(d) (3) amended ... 8123
(c) (2) (vii) revised; (c) (2) (xii) added; (d) (2) (vi) revised; (d) (2) (ix) added; (o) revised ... 13700
775.404
(c) (2) amended ... 607
775.409
(e) (2) (vi) and (4) revised ... 8123
775.410
(g) (2) revised ... 607
775.411
Amended ... 607
Amended ... 8123
775.412
(b) amended ... 607
775.417
(i) revised ... 7836
(i) amended ... 13700
775.419
(c) added ... 6127
Introductory text of (a) revised ... 7836
775.427
Text designated as (a); (b) added ... 2500
(b) corrected ... 3968

775.430 Page
Added ... 607
(c) (1) amended; (e) revised ... 7836
(a) amended; (f) revised ... 13700
777
Interpretation of Appendix II ... 4305
Appendix II amended ... 10884
Appendixes II and III amended; Appendix VI added ... 12552
Appendix VI corrected ... 14363
777.3
(g) (6) added ... 8676
(c) (4) revised ... 10884
(y) added ... 12551
777.4
(b) (7) revised ... 7836
(a) amended ... 8676
777.10
(b) revised; (d) amended ... 12551
777.12
(a) revised; (c) amended; (g) revised ... 12551
777.13
Interpretation ... 4305
777.14
(c) amended ... 8676
(c) amended ... 10552
777.15
Amended ... 12552
777.18
Interpretation of (b) ... 6127
777.19
(e) revised ... 8676
777.25
Added ... 7836
778
Revised ... 14727
778.10
(b) corrected ... 16251
780.6
(d) added ... 8676
790.2
Revised ... 8955
790.3
Revised ... 8955
792.2
(c) (2) revised; (c) (6) added ... 3335
(b) (4) revised; (c) (7) added ... 11515
792.3
(a) (4) and (b) (2) amended; (b) (7) revised; (c) and (d) amended ... 3335
(a) (5), (6), and (7) and (b) (13) added ... 11515
Introductory text of (a) and (a) (5) revised; (b) (13) deleted; (d) revised ... 20629
793
Added ... 11515
794
Added ... 19155
798
Added ... 9608

Chapter VIII

811.50
Revised ... 2610
Revised ... 4015
Revised ... 8577
Revised ... 9149
Revised ... 9949
811.51
(a) revised ... 2610
(a) revised ... 4015
Text of (a) redesignated as (a) (1); (a) (2) added ... 7581
(a) (1) revised ... 8577
(a) (1) revised ... 9149
(a) (1) revised ... 9949

811.52 Page
Added ... 7581
(c) added ... 12592
811.53
(b) and (c) revised ... 2610
(d) (1), (2) (ii), and (4) (i) and (iii) revised; (d) (4) (v) added ... 3085
(b), (c), and (d) (1), (2) (ii), and (4) (i) revised; (d) (4) (vi) added ... 4016
(d) (1), (2) (ii), and (4) (i) revised; (d) (4) (vii) added ... 6387
(d) rescinded ... 7011
(c) revised ... 7521
(c) revised ... 7581
(c) revised ... 8578
(c) revised ... 9149
(c) revised ... 9949
(c) revised ... 12592
811.60—811.65
Added ... 18083
812
Revised ... 21025
813
Determination ... 13701
814.5
Added ... 39
(a) revised ... 3687
Revised ... 6192
(a) revised ... 8807
(a) revised ... 10554
(a) revised ... 20765
815.8
Added ... 42
(a) revised ... 6550
(a) revised ... 10501
(a) revised ... 16525
815.9
Added ... 21027
816.4
(a) revised; (f) added ... 3045
817
Revised ... 14364
817.10
(d) amended ... 10345
831.14
Added ... 12552
(a) and (c) amended ... 13649
833.14
Added ... 13216
842.11
Added ... 1079
842.12
Added ... 20701
845.8
Added ... 8234
847.15
Added ... 14017
848.7
Added ... 8123
849.2
Revised ... 6432
850.188
Added ... 1024
850.189
Added ... 251
850.190
Added ... 252
850.191
Added ... 1025
850.192
Added ... 439
850.193
Added ... 253
850.194
Added ... 1027

850.195 Page
Added ... 1060
850.196
Added ... 254
850.197
Added ... 256
850.198
Added ... 2997
850.199
Added ... 1028
850.200
Added ... 1030
850.201
Added ... 2697
850.202
Added ... 440
850.203
Added ... 258
850.204
Added ... 1031
850.205
Added ... 441
850.206
Added ... 1082
850.207
Added ... 443
850.208
Added ... 444
850.209
Added ... 445
850.210
Added ... 1083
850.211
Added ... 311
850.212
Added ... 12553
851.1
(c) (2) (ii) revised ... 7385
855.37—855.46
Added ... 10715
857.16
Added ... 969
862.7
Added ... 5458
863.19
Added ... 14096
864.14
Added ... 13801
871.19
Added ... 312
873.19
(a) (1) amended ... 6551
873.20
Added ... 14737
874.20
Added ... 14306
876.19
Added ... 7243
877.19
Added ... 3086
891
Revised ... 7837
891.1
(k) corrected ... 8283
892
Revised ... 8413
893
Revised ... 10638
893.11
Corrected ... 11467
894
Added ... 8882

Chapter IX

900.350—900.357
Subpart added ... 9821
900.500—900.516
Subpart added ... 9610
900.500
Amended ... 12992

7 CFR—Continued

Page

Chapter IX—Continued

900.510
(a) amended ... 12992
905.206
Added ... 16097
906.137
Introductory text of (a) and (a)(1) revised ... 14372
906.207
Added ... 15869
906.311
(a) revised ... 13114
907.100
(f) added ... 15805
907.110
(d) and (e)(1) amended ... 7839
907.111
(c) deleted; (d) revised ... 15805
907.112
(a) revised ... 15806
907.113
(b) amended ... 15806
907.120
(a) amended ... 15806
907.140
Amended ... 15806
907.142
Added ... 7840
Existing text designated as (a); (b) added ... 15806
907.205
Added ... 259
908.110
(d) and (e)(1) amended ... 7840
908.111
(c) deleted ... 12909
908.113
(a) revised ... 3688
908.142
Added ... 7840
908.206
Added; incorrectly designated as 907.206 ... 6257
909.206
Added ... 15870
910.206
Added ... 18018
911.207
Added ... 8513
912.207
Added ... 15988
913.203
Added ... 16098
915.207
Added ... 8761
915.305
(a)(1)(i) revised ... 7171
(a)(1)(viii) revised ... 13180
(a)(1)(i) revised ... 14548
(a)(1)(x) added ... 15669
(a)(1)(x) revised ... 15871
916.206
Added ... 8955
917.116
Added ... 5543
917.205
(a) revised ... 3384
917.206
Added ... 9006
918.206
Added ... 7522
919.206
Added ... 12398
921.207
Added ... 12083
922.207
Added ... 12156
923.207
Added ... 12156
924.207
Added ... 12472
925.207
Added ... 14202
926.17
Amended ... 13045
926.46
Amended ... 13045
926.47
Revised ... 13046
926.49
Revised ... 13046
926.50
Revised ... 13046
926.51
Revised ... 13046
926.207
Added ... 14151
927.122
(a) revised ... 13181
927.207
Added ... 12743
927.306
Added ... 11698
(a)(1)(i) and (ii) deleted ... 14151
929.105
(b) revised ... 13253
929.204
(b) revised ... 13253
929.208
Added ... 13253
931.202
Added ... 13319
932.150
Introductory text revised; (e) added ... 13443
932.160
Added ... 5323
932.204
Added ... 14202
944.7
Added ... 7245
Introductory text of (a) and (a)(1) and (2) revised ... 10052
Introductory text of (a), (a)(1), (2), and (5) revised ... 10641
Introductory text of (a) and (a)(1) and (4) revised ... 11756
944.104
(a)(2) revised ... 8235
(a)(2) revised ... 8761
Terminated by 944.105 ... 12939
944.105
Added ... 12938
Introductory text of (a) and (a)(2) revised; (a)(3) added ... 17425
944.202
Introductory text of (a) and (a)(2) revised ... 5731
Introductory text of (a) and (a)(1), (2), and (3) revised ... 8235
944.306
(a) revised ... 711
(a) revised ... 2938
(a) revised ... 3437
Terminated by 944.307 ... 12994
944.307
Added ... 12993
(a) revised ... 14311
946.220
Added ... 11699
946.219
Added ... 16199
Revised ... 20702
947.220
Added ... 15705
948.251
(a) revised ... 11032
948.254
Added ... 11032
948.255
Added ... 12939
948.256
Added ... 14889
953.204
Added ... 12558
958.44
Revised ... 11261
958.45
Added ... 11262
958.47
Revised ... 11262
958.52
(a)(3) revised ... 11262
958.211
Added ... 12743
967.202
Added ... 76
967.203
Added ... 15003
971.207
Added ... 365
971.208
Added ... 13320
980.1
(a)(1)(i) and (2) (ii) and (iii) and (b)(1) and (2) amended ... 8418
(a)(1)(iii) and (2) (i) and (ii) revised; (a)(2)(iii) deleted; (a)(2)(iv) redesignated as (a)(2)(iii); (b)(1) and (2) revised; (b)(3) redesignated as (b)(4); new (b)(3) added ... 9509
980.105
Introductory text and (a) revised; (b) republished; (h) revised; (i) added ... 608
980.106
Added ... 12156
981.217
Added ... 12787
981.316
Added ... 2939
981.317
Added ... 13114
982.217
Added ... 14739
Revised ... 15669
Revised ... 16527
982.312
Added ... 14685
984.215
Added ... 15388
984.319
Added ... 14890
987.3
Revised ... 12595
987.8a
Added ... 12595
987.21
Revised ... 12595
987.22
Revised ... 12595
987.24
Revised ... 12595
987.33
Center heading and section revised ... 12595
987.39
Revised ... 12596
987.51
Revised ... 12596
987.53
Added ... 12596
987.155
(a)(1)(ii) revised ... 215
(a)(1)(i) revised ... 14293
987.215
Added ... 11847
Revised ... 19156
987.312
Added ... 11848
987.501
Revised ... 215
Revised ... 12833
989.12a
Added ... 12158
989.13
Revised ... 12158
989.14
Revised ... 12158
989.24
(b) revised ... 12158
989.26
Revised ... 12158
989.27
Revised ... 12159
989.28
Revised ... 12159
989.29
(a) and (b) (1) and (2) revised ... 12159
989.30
Revised ... 12159
989.35
Revised ... 12159
989.36
Revised ... 12159
989.39
Revised ... 12159
989.39b
Revised ... 12160
989.40
Revised ... 12160
989.42
Revised ... 12160
989.43
Revised ... 12160
989.54
Revised ... 12160
989.55
Revised ... 12161
989.56
Deleted ... 12161
989.57
Deleted ... 12161
989.58
(d)(1) revised; (d)(3) added ... 12161
989.59
(c) and (f) revised ... 12161
989.63
Deleted ... 12161
989.64
Deleted ... 12161
989.66
Revised ... 12161
(b)(1) corrected ... 12710
989.67
Revised ... 12162
Finding ... 15003
(j) corrected ... 18086
989.68
Deleted ... 12164
989.69
Revised ... 12164
989.71
Revised ... 12164
989.73
(b) revised ... 12164
(b)(4) corrected ... 18086
989.79
Revised ... 12165
989.80
(a) and (b) revised ... 12165
989.82
Revised ... 12165
989.84
Revised ... 12165
989.96
(b) through (g) revised; (h) added ... 12165
(g) corrected ... 18086
989.126
Added ... 7841
989.139
Added ... 7842
989.158
(c)(4)(i) amended ... 15915
(e)(3) revised; (f) added ... 17467
989.166
Revised ... 15916
989.167
Revised ... 15916
989.168
Deleted ... 15917
989.173
(a)(2) and (b)(2)(i) and (ii) revised ... 15917
989.221
Added ... 14272
989.222
Added ... 14272
989.224
Revised ... 5921
989.225
Added ... 14272
Revised ... 16199
989.318
Added ... 15871
989.401
(a), (b), and (d) revised ... 15917
(c) revised ... 17468
991.132
Added ... 3763
991.138
Added ... 1125
991.138a—991.160
Subpart added ... 6551
991.138a
Revised ... 15706
991.138b
Added ... 13570
991.138d
Added ... 7331
991.203
Added ... 4398
991.204
Added ... 13570
991.205
Added ... 15706
991.231
Added ... 13570
991.302
Added ... 15670
991.601
Added ... 13571
993.203
Added ... 11314
993.218
Added ... 12472

Chapter X

1001
Revised ... 15076
1001.32
(k) added ... 5418
1001.60
(b) amended; (c) revised ... 2362
(b)(2) revised; (d) revoked; introductory text of (c) revised ... 5418
Introductory text of (c) revised ... 6607
1001.61
(b) suspended in part ... 13804
1001.62
(b) amended; (c) revised ... 2362
1001.64
(b-1) and (b-2) added ... 5418
1001.70
(b) suspended in part ... 446
1001.72
Introductory text suspended in part ... 446
1001.80
Revised ... 5418
1001.81
(a)(2) suspended ... 446
1002.23
(k) added ... 5418
1002.40
(a)(11) suspended in part ... 2362
(a)(3) revised ... 3385
(a)(11) revoked ... 5418
Introductory text of (a) and (a)(1) revised ... 7842
Introductory text of (a) suspended in part; (a)(3) through (10) suspended ... 12596
(e)(2) suspended in part ... 13804
1002.42
(b) terminated in part ... 2807
1002.47
(b)(7) terminated ... 2807
(a)(7) revised ... 5418
1002.65
(c) terminated in part ... 2807
1002.66
(c-1) and (c-2) added ... 5418
1002.71
(b) terminated ... 2807
1002.75
Revised ... 5419
1003.50
(a) revised ... 6608
(b)(2) suspended in part ... 13804
1004
Determination ... 3813
Revised ... 7056
1004.8
(b) suspended in part ... 9006
(b) suspended in part ... 11414
(b) revised ... 12788
1004.15
Introductory text and (d) suspended in part ... 8063
Introductory text and (d) revised ... 12788
1004.16
(c)(2) amended; (d) and (e) added ... 11204
1004.22
(j)(2) revised; (o) added ... 11204
1004.50
(a)(2) revised; (a)(3) amended ... 6608
(b)(2) suspended in part ... 13804
1004.63
Added ... 11205
1004.64
Added ... 11205
1004.71
Introductory text and (f) revised ... 11205
1004.72
Added ... 11205
1004.80
(a) and (d)(2) revised ... 11206
1004.82
Revised ... 11206
1004.84
(b) revised ... 11206
1005.50
Amended ... 6608
1005.51
(a)(1) revised ... 6608

7 CFR—Continued

Chapter X—Continued
1006.16
Introductory text of (b) suspended in part; (b)(2), (3), and (4) suspended 6763
Introductory text of (b) suspended in part; (b) (2), (3), and (4) suspended 8707
1006.19
Suspended 12994
1006.20
Suspended 12994
1006.27
(k)(2) suspended in part 12994
1006.31
(b)(1) suspended; (b)(2)(ii) suspended in part 12994
1006.50
Amended 6608
1006.51
Introductory text of (a) revised 6608
1006.71
Introductory text and (f) suspended in part 12994
1006.72
Suspended 12994
1006.74
(a) suspended in part 12994
1006.75
(b) suspended; (c) suspended in part 12994
1006.80
(a)(2) suspended in part; (d)(2)(ii) suspended 12994
1006.82
(b)(1) suspended in part 12994
1006.90—1006.92
Center heading and sections suspended 12994
1009.50
Amended 6608
1009.51
Introductory text of (a) revised 6608
1011.50
Amended 6608
1011.51
(a) revised 6608
1012.16
(b)(2), (3), and (4) suspended 6835
(b)(2), (3), and (4) suspended in part 10554
1012.41
(c)(5) revised 11207
1012.50
Amended 11207
1012.51
(a) suspended in part 9309
(a) revised 11207
1013.41
(c)(5) revised 11415
1013.44
(c)(1) and (3)(iv) revised 7742
1013.50
Amended 11415
1013.51
(a) suspended in part 9301
(a) revised 11415
1015.9
(c)(4) revoked; (d) revised 15090
1015.10
Introductory text and (a) revised 15090
1015.16
(b)(1) revised 15090
1015.26
(c) revoked 15091
1015.32
(k) added 5419
(g)(5) added 15091
1015.35
Center heading and section added 15091
1015.41
(c) and (e)(1) revised 15091
1015.50
Revised 15091
1015.52
(g)(2) and (3) revised; (j) redesignated as (j) and revised; new (i) added 15091
1015.55
Introductory text, (b)(3), (c), and (e) revised 15091
1015.60
(b)(2) revised; (d) revoked; introductory text of (e) revised 5419
Introductory text of (a) revised 6608
Revised 15092
1015.61
(b) suspended in part 13804
1015.62
(b) amended; (e) revised 2363
(d) revised 15093
1015.63
Introductory text and (c) revised 15093
1015.64
(c) and d) revised 5419
(a) revised 15093
1015.70
(a)(2) suspended in part 4113
1015.72
(a) and (b) suspended in part 4113
1015.73
(b) revised 15093
1015.74
Revised 15093
1015.80
Revised 5419
Revised 15093
1015.81
Suspended in part 4113
1015.82
Suspended in part 4113
1015.87
(b) revised 15093
1016.50
(a) revised 6608
(b)(2) suspended in part 13804
1031.50
Amended 6609
1031.51
(a) amended 6609
1032.12
(a)(2) suspended in part 2611
1032.14
(b)(2) suspended in part 9612
1032.71
(h) and (i) revised 10835
1033.50
Amended 6609
1031.50
Introductory text of (a) revised 6609
1034
Revised 12166
1034.50
Amended 6609
1034.51
Introductory text of (a) revised 6609
1034.55
Added 3337
1035.50
Amended 6609
1035.51
Introductory text of (a) revised 6609
1036.50
Amended 6609
1036.51
Introductory text of (a) revised 6609
1038.50
Amended 6609
1038.51
(a) amended 6609
1039.50
Amended 6609
1039.51
(a) amended 6609
1040.50
Amended 6609
1040.51
(a) revised 6609
1041.50
Amended 6609
1041.51
Introductory text of (a) and (a)(1) revised 6609
1043.22
(i)(1) revised 6610
1043.50
Amended 6610
1043.51
(a) revised 6610
1044.50
Amended 6610
1044.51
Introductory text of (a) revised 6610
1045.50
Amended 6610
1045.51
Introductory text of (a) revised 6610
1046.50
Amended 6610
1046.51
Introductory text of (a) revised 6610
1047.50
Amended 6610
1047.51
Introductory text of (a) revised 6610
1047.62
(b)(1)(i)(b) amended; (b)(2) revised 5250
1047.71
(h) revised 5250
1049.44
(c) and (d) suspended in part 2939
1049.50
Amended 6610
1049.51
Introductory text of (a) revised 6610
1049.53
(a) revised 16390
1050.14
(b)(2) suspended in part 11207
(b)(2) suspended in part 12940
1050.50
Amended 6610
1050.51
(a) amended 6610
1050.71
(h) and (i) revised 10835
1051.50
Amended 6610
1051.51
(a) amended 6610
1060
Added 13703

1062.14
(b)(3) suspended in part 6967
1062.50
Amended 6611
1062.51
Introductory text of (a) amended 6611
Introductory text of (a) suspended in part; (a)(1) suspended 8022
Introductory text of (a) suspended in part; (a)(1) suspended 10910
Introductory text of (a) suspended in part; (a)(1) suspended 12597
Introductory text of (a) suspended in part; (a)(1) suspended 16479
1062.71
(h) and (i) revised 10835
1063.10
(a) suspended in part 7842, 8023
(a) revised 9150
1063.15
Revised 9150
1063.50
(c) revised 5250
(a) revised; (b) amended 6611
1064.12
(b) suspended in part 779
Introductory text and (b) revised; (c) added 2364
1064.15
(a) and (b) revised 2364
1064.50
Amended 6611
1064.51
Introductory text of (a) revised 6611
Introductory text of (a) suspended in part; (a)(1), (2), and (3) suspended 16390
1065.50
Amended 6611
1065.51
(a) revised 6611
1066.50
Amended 6611
1066.51
(a) revised 6611
1067.11
(b) suspended in part 12597
(b) suspended in part 15094
1067.51
(a) revised 6611
1067.71
(h) and (i) revised 10835
1068.9
(b) suspended in part 11415
1068.51
Amended 6611
1068.53
Introductory text amended 6611
1069.50
Amended 6611
1069.51
(a) revised 6611
1070.50
(c) revised 5250
(a) revised; (b) amended 6611
1071.50
Amended 6611
1071.51
Introductory text of (a) revised 6612
1073.50
Amended 6612
1073.51
Introductory text of (a) revised 6612
(a) suspended in part 9510
Introductory text of (a) suspended in part; (a)(1), (2), and (3) suspended 11130
Introductory text of (a) suspended in part; (a)(1), (2), and (3) suspended 12598
Introductory text of (a) suspended in part; (a)(1), (2), and (3) suspended 16480
1073.71
(g) through (k) suspended in part 6341
1075.50
Amended 6612
1075.51
(a) revised 6612
1076.12
Introductory text amended; (c) added 12440
1076.14
(c) revised 12440
1076.19
Revoked 12440
1076.20
Revoked 12440
1076.27
(j)(2) revised; (j)(3) revoked 12440
1076.30
(a)(1)(i) revised 12440
1076.31
(b) revised 12440
1076.50
Amended 6612
1076.51
(a) revised 6612
1076.72
Heading and (b) revised; (c) through (g) added 12440
1076.73
Revoked 12440
1076.75
(a) revised 12440
1076.76
(b) revised 12440
1076.80
(a)(2) amended 12441
1076.90—1076.92
Center heading and sections revoked 12441
1078.50
(c) revised 5251
(a) revised; (b) amended 6612
1079.12
(c) suspended 6388
1079.50
(c) revised 5251
(a) revised; (b) amended 6612
1090.27
(k)(1) revised 11130
1094.50
Amended 6612
1090.51
Introductory text of (a) and (a)(1) revised 6612
Revised 11130
1090.52
(b) revised 11131
1094.50
Amended 6612
1094.51
Introductory text of (a) revised 6612
Introductory text of (a) suspended in part; (a)(6) suspended 13855
Introductory text of (a) suspended in part; (a)(6) suspended 16527
1096.18
Revoked 1126
1096.19
Revoked 1126
1096.27
(j)(2) amended; (i)(2) revoked 1126
1096.30
(a)(1)(i) revised 1126
(a)(1)(iv) revised 6763
1096.31
(c) revised 1126
1096.41
(a) and (b)(3) revised 6764
1096.44
(b) revised; (d)(3)(iii) and (iv) redesignated as (iv) and (v) respectively; new (d)(3)(iii) added; introductory text of (e) revised 6764
1096.46
(a)(2-a) added; (a)(3)(iii) and (5) revised 6764
1096.50
Amended 6612
1096.51
(a) revised 6613
(b) revised 6764
1096.60
Revised 6764
1096.65—1096.67
Center heading and sections revoked 1126
1096.70
(c) revised 6764
1096.72
(b) revised 1126
1096.73
Revoked 1126
1096.80
(b) revised; (c) revoked 1126
1097.50
Amended 6613
1097.51
Introductory text of (a) revised 6613
1098.50
Amended 6613
1098.51
Introductory text of (a) revised 6613
1099.13
(c)(2) and (3) suspended 9150
1099.51
(a) revised 12744
1099.71
(h) revised 7068
1099.86
(b) deleted 12744
1101.5
Revised 3338
1101.7
Revised 3338
1101.12
Revised 3338
1101.13
Revised 3338
1101.22
(j)(1) revised 11131
1101.50
Amended 6613
1101.51
(b) revised 3338
Introductory text of (a) and (a)(1) revised 6613
Revised 11131

7 CFR—Continued

Chapter X—Continued

1101.52
(a) revised 3339
(b) revised 11132
1101.60
Revised 3339
1101.85
(a) revised 3339
1102.50
Amended 6613
1102.51
Introductory text of (a) revised 6613
Introductory text revised 10555
1102.54
Added 10555
1102.60
Revised 10555
1102.71
Revised 10555
1102.72
(a) revised 10555
1102.80
(a) revised 10555
1102.86
Added 10555
1103.11
(a) revised 11132
1103.15
(b) through (e) revised 11132
1103.30
(a)(1)(iv) revised 11133
1103.41
(a) and (b)(4) revised 11133
1103.44
Introductory text of (c)(3) and (c)(3)(iv)(a) revised; (c)(4) added; introductory text of (d) and (d)(2) and (3) revised 11133
1103.46
(a)(2-a) added; (a)(5) revised 11133
1103.50
Amended 6613
1103.51
Introductory text of (a) revised 6613
Introductory text of (a) suspended in part; (a)(3) suspended 13713
Introductory text of (a) suspended in part; (a)(3) suspended 15528
1103.53
Revised 11133
1103.70
(c-1) added 11134
1104.61
(a) revised 9823
1106.50
Amended 6613
1106.51
Introductory text of (a) suspended in part; (a)(1), (2), and (3) suspended 5251
Introductory text of (a) revised 6613
Introductory text of (a) suspended in part; (a)(1), (2), and (3) suspended 6614
Introductory text of (a) suspended in part; (a)(1), (2), and (3) suspended 7843
Introductory text of (a) suspended in part; (a)(1), (2), and (3) suspended 11134

Introductory text of (a) suspended in part; (a)(1), (2), and (3) suspended 12598
Introductory text of (a) suspended in part; (a)(1), (2), and (3) suspended 16480
1108.50
Amended 6613
1108.51
Introductory text of (a) revised 6613
1120.14
(a)(2) suspended in part 15388
1125.8
Introductory text of (b)(2) suspended in part 15706
1125.17
Redesignated as 1125.110; revised 11925
1125.18
Redesignated as 1125.111; revised 11925
1125.22
(k)(2) revised 11925
1125.35
(a)(7) added 11925
1125.44
(c)(3) suspended in part 7583
1125.50
Amended 6613
1125.51
4(a) revised 6613
1125.60, 1125.61
Recodified as 1125.120—1125.124; revised 11926
1125.81
(a)(2) revised 11925
1125.110
Redesignated from 1125.17; revised 11925
1125.111
Redesignated from 1125.18; revised 11925
1125.120—1125.124
Recodified from 1125.60, 1125.61; revised 11926
1126.41
(b)(2)(i) suspended in part 15388
1126.50
Amended 6613
1126.51
Introductory text of (a) suspended in part; (a)(1), (2), (3), (4), (5), and (6) suspended 5251
Introductory text of (a) revised 6613
Introductory text of (a) suspended in part; (a)(1) through (6) suspended 6614
Introductory text of (a) suspended in part; (a)(1) through (6) suspended 7843
Introductory text of (a) suspended in part; (a)(1) through (6) suspended 11134
Introductory text of (a) suspended in part; (a)(1) through (6) suspended 12598
Introductory text of (a) suspended in part; (a)(1) through (6) suspended 16480
1127.11
Suspended in part 6835
Suspended in part 10783
1128.53
(a) revoked; (b), (c), and (d) redesignated as (a), (b), and (c), respectively 11135

1128.91
(a) revised 11135
1131.50
Amended 6614
1131.51
Introductory text of (a) revised 6614
1132.7
(b)(2) suspended in part 13855
(b)(2) suspended in part 15389
1132.10
(a) revised 9824
1132.50
Amended 6614
1132.51
(a) revised 6614
1132.61
(a) revised 9824
1133.12
(c)(1) and (2) suspended in part 6341
(c)(1) and (2) suspended in part 12940
1133.50
Amended 6614
1133.51
(a) revised 6614
1134.12
(b)(1) suspended in part 4016
(b)(1) suspended in part 6835
(b)(1) and (2) suspended in part 8956
1136.11
(a) suspended in part 8956
1136.50
Introductory text of (a) revised 6614
1136.51
Amended 6614
1137.15
Revised 6389
1137.50
Amended 6614
1137.51
Introductory text of (a) revised 6614
(a)(1) and (2) suspended 15431
1138.10
Introductory text revised; (e) added 3386
(a) suspended in part 11135
1138.50
Amended 6614
1138.51
(a) amended 3386
(a) revised 6614
1138.55
Introductory text revised 3386
1138.88
Amended 3386

Chapter XI

1201.300
Subpart revised 6126
1205
Heading corrected 852
1205.50—1205.52
Subpart added 2698
1205.401—1205.403
Subpart added 1684
1205.500—1205.540
Subpart added 7068

Chapter XIV

1400.5
(a) amended 7583
1400.8
(f)(2) deleted 7583
1421.55
(c) revised 8301

1421.58
(a) revised 8301
(a) corrected 10910
1421.67
(a) revised; (d) added 7843
(a) revised 13376
1421.70
Revised 9301
1421.72
(f) revised 7844
(m) added 9301
1421.79
Added 7844
1421.2164
(a)(1) revised 9612
1421.2167
Introductory text revised 9613
1421.2169
(c) revised 7961
1421.2172
(a)(3) and (5) revised 7691
(a)(4) revised 7961
1421.2181—1421.2185
Subpart added 8283
1421.2185
(b) corrected 10719
1421.2260
(c) revised 9151
1421.2281—1421.2284
Subpart added 10052
1421.2364
(c)(1) and (3) revised 13444
(c)(1) revised 15706
1421.2366
(a) revised 13444
1421.2367
(c) revised 13444
1421.2369
(c) revised 13444
1421.2386—1421.2391
Subpart added 13046
1421.2391
(b) corrected 13805
(d)(2) revised 15707
1421.2480—1421.2483
Subpart added 11928
Authority citation corrected 12176
1421.2569
(a) revised 9302
(c) deleted 8124
1421.2571
(a)(3) and (5) revised 8124
(b) revised 9302
(b) revised 13962
1421.2581—1421.2585
Subpart added 9824
1421.2585
(b) corrected 11848
(b) amended 13962
1421.2658
(c) revised 7961
1421.2666—1421.2670
Subpart added 6615
1421.2669
Revised 8283
1421.2670
(a) corrected 7522
1421.2763
Revised 10056
1421.2765
(a)(2) revised 10056
1421.2777
Revised 6342
1421.2780—1421.2783
Subpart added 5829
1421.2783
(a) amended 15672
1421.2847
(c) revised 9151

1421.2849
(a)(3) and (5) revised 9151
1421.2856—1421.2860
Subpart added 10502
1421.2859
(a) corrected 11928
1421.2958
(c) revised 11376
1421.2971—1421.2974
Subpart added 12046
1421.2974
(a) corrected 12744
(a) amended 14099
1421.3060
(a)(1)(iii) and (2) revised 8578
1421.3065
Revised 2883
1421.3067
Revised 2883
1421.3071—1421.3074
Subpart added 9007
1421.3074
(b) corrected 11848
1421.3106
Subpart added 7246
1421.3483
(c) and (d) revised 5767
(c) and (d) revised 15632
1421.3490
(c) added 365
1421.3518—1421.3525
Subpart added 7698
1421.3613—1421.3622
Subpart revised 12744
1421.3626—1421.3629
Subpart added 12745
1421.3627
(b) corrected 14151
1421.3695
Revised 10783
1421.3825
(a) revised 122
(a) revised 3339
(a) revised 5462
(a) revised 6342
(a) revised 10431
(a) revised 13714
(a) revised 16528
1421.5552
(d)(6) revised 3339
1421.6000—1421.6009
Subpart added 14272
1422
Added 20767
1424
Added 43
1424.2
(d)(6) revised 14099
1425.1—1425.21
Subpart supplemented 6365
1425.3
Revised 7123
1425.13
Revised 7699
1425.15
Revised 3689
1427.1356
(j) revised 6967
(d) and (l) revised 9302
1427.1359
(a) amended 6967
(b) revised 9303
1427.1360
(c) revised 9303
1427.1361
Revised 9303
1427.1368
(c) revised 5671
(b) and (c) revised 14549
Revised 19156

1427.1369
Revised 9303
Revised 19156
1427.1376
Revised 9303
1427.1378
(b) and (d) revised 9304
1427.1379
Revised 9304
1427.1510—1427.1514
Subpart added 7386
1427.1511
Corrected 7699
Corrected 9213
1427.2239
(a) revised 122
(a) revised 3340
(a) revised 5462
(a) revised 6342
(a) revised 10432
(a) revised 13714
(a) revised 16528
1430.281
Added 5767
(b)(1) amended 14647
1434.85
Amended 6967
1434.90
(c) revised 6967
1434.93
Introductory text deleted; (a) revised 6967
1434.93a
Added 6968
1434.96
(a) revised 6968
1434.98
(b) revised 6968
1434.99
(a) revised 7844
1434.105
Revised 6968
1434.106
Heading of (a) revised; (d) added 6968
1434.111
(a) revised 6968
(b) and (c) redesignated as (c) and (d), respectively; new (b) added 7844
1438.1636—1438.1645
Subpart added 1084
1443.2058—1443.2071
Subpart added 8884
1446.1—1446.27
Subpart added 9950
1446.40—1446.52
Subpart added 10910
1446.51
Introductory text and (a) revised 13504
1446.52
(a) revised; (d) added 13504
1464.1756
(d)(1)(iv) revised 10249
(d)(1)(iv) revised 11416
(d) revised 14203
1464.1758
(c) added 14204
1464.1759
Revised 14204
1464.1762
Revised 10250
1464.1763
Revised 14204
1464.1766—1464.1770
Revised 15693
1464.1767
Corrected 16145
1464.1769
Corrected 16145

7 CFR—Continued

Chapter XIV—Continued
1464.1771—1464.1775 Revised 17849
1464.1776 Added 9627
1464.1777 Added 9613
1468.255 (d) added 16391
1468.258 Text as designated as (a); (b) added 4568
1468.262 (a) amended 4568
1468.267 Text designated as (a); (b) added 4568
1472.1205 (d) added 16391
1472.1208 Text designated as (a); (b) added 4568
1472.1221 (c) added 4568
1472.1241 (a) amended 4569
1474.1—1474.16 Recodified from 1474.721—1474.769; revised 9510
1474.1 Revised 17888
1474.2 (e) revised 17888 (e) corrected 20639
1474.5 (a) revised 17889
1474.7 Revised 17889
1474.15 Revised 17889
1474.17 Added 17889
1474.721—1474.769 Recodified as 1474.1—1474.16; revised 9510
1475.206 (c) (1) revised 14372
1481.106 (a) amended 5463
1481.108 (a) (3) revised 5463
1481.109 (a) amended 5463
1483.101—1483.190 Subpart recodified from 1483.101—1483.199; revised 14739
1483.101—1483.199 Subpart recodified as 1483.101—1483.190; revised 14739
1483.104 Added 6257
1483.114 (d) added 6257
1483.115 (d) revised 6258
1483.121 (d) amended 6258
1483.125 (a) (5) amended; (b) (1a) revised; (b) (17) amended 6258
1483.126 (a) amended; (b) revised 6258
1483.127 (b) (12a) and (17) revised 6258
1483.136 (c) corrected 16251
1483.141 (a) amended; (b) and (c) revised 6258
1483.146 (c) revised 6259
1483.147 (a) amended 6259
1483.151 (c) (1) amended 6259
1483.155 Center heading revised; section amended 6259
1483.158 Revised 6259 (a) (3) corrected 6931
1483.161 (a) amended 6259
1483.163 (b) (1) and (2) revised 6260 (d) corrected 16251
1483.175 (b) corrected 16251
1483.189 Amended 6260
1483.221 (e) amended 6342
1483.225 (a) (5) and (b) (2) (ix) revised 6342
1483.226 (b) revised 6343
1483.227 (b) (2) (viii) revised 6343
1483.260 Center heading revised; section amended 6343
1483.263 Revised 6343
1486.120 Center heading and section heading revised; amended 7700
1486.123 Revised 7700
1488 Revised 6496 Supplement I added 18018
1488.1 (a) revised 7437 Center heading and (d) added 18018
1488.2 (x) corrected 6836
(h) revised; (k) amended; (n) and (u) revised 11416
1488.3 (c) (6) amended; (d) (4) revised; (e) amended; (g) redesignated as (h); new (g) added 11416
1488.4 (f) added 11416
1488.5 Corrected 6836 Revised 11417
1488.8 Amended 11417
1488.9 (a) (2) and (7) and (d) amended 11417
1488.10 (c) corrected 6836 (b) amended 11417
1488.11 Corrected 6836 Amended 11417
1488.12 Amended 11417
1490.2 (f) revised; (l) added 4491
Chapter XV
1510 Added 9627
Chapter XVI
1602.5 (a) and (b) revised 8619
Chapter XVII
1701 Added 9613
Chapter XVIII
1900 Subpart B revised 9152
1900.11, 1900.12 Subpart B revised 9152
1904 Existing sections designated as Subpart A; Subpart B added 8235
1904.1—1904.6 Designated as Subpart A 8235
1904.21—1904.31 Subpart B added 8235
1804.22 (b) (2) revised 9828
1804.26 (b) revised 9828
1811 Added 9082
1812 Added 8366
1813 Added 9614
1821.51—1821.61 Subpart B recodified from 1823.1—1823.10 7171
1821 Heading revised; existing text designated as Subpart A; Subpart B redesignated from Subpart A of Part 1823; Subpart C added 7171
1821.1—1821.24 Designated as Subpart A 7171
1821.81—1821.86 Subpart C added 7171
1822 Subpart D recodified and revised 11757 Subpart F added 12398
1822.81—1822.97 Subpart D recodified from 1822.81—1822.98 and revised 11757
1822.81—1822.98 Subpart D recodified as 1822.81—1822.97 and revised 11757
1822.231—1822.244 Subpart F added 12398
1823 Subpart A redesignated as Subpart B of Part 1821 7171 Heading revised; Subpart B redesignated as Subpart A and revised 8367 Subpart B added 9009 Subpart C added 9010 Subpart D added 9011 Subpart E added 9016 Subpart F added; recodified from Part 1891 11417 Subpart H added 11425 Subpart G added 11621
1823.1—1823.10 Subpart A recodified as 1821.51—1821.61 7171
1823.1—1823.25 Subpart A redesignated from Subpart B and recodified from 1823.21—1823.49; revised 8367
1823.21—1823.40 Subpart B redesignated as Subpart A and recodified as 1823.1—1823.25; revised 8367
1823.24 Introductory text of (c) revised 9304
1823.41—1823.50 Subpart B added 9009
1823.61—1823.70 Subpart C added 9010
1823.81—1823.98 Subpart D added 9011
1823.121—1823.138 Subpart E added 9016
1823.141—1823.161 Subpart F added; recodified from Part 1891 11417
1823.181—1823.201 Subpart G added 11621
1823.221—1823.239 Subpart H added 11425
1831 Revised 14373
1833 Added 11929
1861 Subpart C recodified and revised 8064
1861.41—1861.47 Subpart C recodified as 1861.41—1861.48; revised 8064
1861.41—1861.48 Subpart C recodified from 1861.41—1861.47; revised 8064
1872 Subpart A recodified and revised 8066 Subpart C added; recodified from Subparts E and F 8290
1872.1—1872.18 Subpart A recodified as 1872.1—1872.21; revised 8066
1872.1—1872.21 Subpart A recodified from 1872.1—1872.18; revised 8066
1872.61—1872.66 Subpart C added; recodified from Subparts E and F 8290
1872.81—1872.85 Subpart E vacated; recodified in new Subpart C 8290
1872.101—1872.109 Subpart F vacated; recodified in new Subpart C 8290
1891 Recodified as Subpart F of Part 1823; revised 11417
Chapter XXI
2101 Added 9615

Proposed Rules:

26 6116, 12755
27 6085, 11278
28 6085
29 3226
31 12485
33 7290
51 10084, 10090, 10097, 10449, 12092, 12709, 12988, 13077, 13196, 15485, 17893, 20864
52 5271, 6264, 6286, 6848, 8301, 8719, 10935, 13280, 13720.
53 13230
54 1092
58 17893
68 5555, 8004, 8090
81 11279
201 454, 2644
301 2642, 5284, 5807, 7931, 8273
319 1181, 5284, 5807, 13220
320 5555
330 2787
362 16169
722 11475
723 15546, 16942
724 11223, 16943
725 7287
729 2826, 11807
730 8196, 14231
777 278, 4123, 7837, 7976, 8380, 11533, 14232
811 16945
812 17869
813 1132
814 2572, 15835
815 14965
816 260
817 11906, 17869
822 2708, 3946, 15893
881 15393
882 15393
Ch. IX 16164
905 15116
906 11837, 12802, 15394
907 7088, 15488
908 2806, 5628, 7089, 15894
909 15029
910 16220
911 6205, 7715, 7777, 7858, 14560, 17431
912 15436
913 15895
915 6205, 7715, 7858, 8089, 14560, 14665, 17431
916 7777
917 4026, 8247
919 11535
921 10579, 11333
922 10579, 11333
923 10579, 11333
924 11475
925 13292
926 7089, 10804, 11801, 13331
927 11957
929 12621
931 12563
932 3992, 12854, 13292
945 10516
946 14605, 16229
947 14560
948 9084, 11803, 13820, 17671
950 17432
952 8089, 11037
956 5629, 8168, 9835, 11475
958 15177, 15884
966 15884
967 11037, 14063
971 12189, 12562
980 11281
981 11475, 12444
982 13870, 13932
984 14227, 14895
987 4417, 8171, 11098, 11164
989 5690, 6578, 8175, 8720, 9084, 11235, 13292, 14396, 14896, 14897, 15488, 17625, 20732
991 387, 3399, 5638, 6501, 11736, 14898, 14966
992 5814, 9453
998 5556, 10579, 11233, 11478, 17434
1001 667, 1181, 2447, 2644, 2819, 3025, 4071, 5286, 5694, 6501, 8175, 8720, 9025, 9902, 10983, 14502, 14771, 17626
1002 667, 2447, 2819, 2896, 3360, 4071, 5286, 5694, 6401, 6407, 6504, 8175, 8720, 9025, 14771.
1003 5694, 6501, 8175, 8720, 9025
1004 415, 5694, 5876, 6501, 7596, 7976, 8175, 8176, 8720, 9025, 9038, 10523, 11089, 11334, 12444.
1005 5696, 6501, 10449
1006 3399, 6288, 9096, 10308, 10557, 12822
1008 3156, 5695, 6501, 12189, 15952, 17626
1009 5696, 6501
1011 5695, 6501
1012 4313, 5472, 6206, 7596, 9097, 10557
1013 4313, 5472, 7596, 9097, 10557
1015 667, 1181, 2447, 2644, 2819, 4071, 5286, 5694, 6501, 8175, 8720, 9025, 9902, 10983, 14502, 14771.
1016 5694, 6501, 8175, 8720, 9025
1030 6035, 6453, 6502, 8529, 21054
1031 613, 2573, 5695, 6035, 6453, 6501, 6502, 8529, 21054
1032 613, 2573, 3298, 5695, 6501, 8176, 8529, 10203, 10507, 12005.
1033 5695, 6501, 11737
1034 2573, 2644, 5695, 6501, 8501, 11535, 11837
1035 5695, 6501
1036 2156, 5695, 6501, 15952, 17626
1038 613, 2573, 5695, 6035, 6453, 6501, 6502, 8529, 21054
1039 613, 2573, 5695, 6035, 6453, 6501, 6502, 8529, 21054
1040 5695, 6501, 7132, 14227, 14665
1041 5695, 6501
1043 5695, 6501, 10808
1044 613, 2573, 5695, 6035, 6453, 6501
1045 613, 2573, 5695, 6035, 6453, 6501, 6502, 21054
1046 5695, 6501
1047 1132, 3992, 4418, 5695, 6501
1048 3156, 5695, 6501, 15952, 17626
1049 2382, 5695, 6501, 12418, 15429, 16191
1050 613, 2573, 3298, 5695, 6501, 8176, 10203, 10611, 12404.
1051 613, 2573, 5695, 6035, 6453, 6501, 6502, 8529, 21054
1060 5695, 6501, 6872, 7489, 8696, 12516
1062 613, 1042, 2573, 3298, 5695, 6501, 8176, 8529, 10203.
1063 613, 2573, 2644, 3776, 5695, 6501, 6502, 7460, 7492, 8172, 8529, 8673, 21054
1064 613, 2573, 2644, 3776, 5695, 6501, 15429.
1065 5629, 5695, 6501
1066 5629, 5695, 6501
1067 613, 1042, 2573, 3298, 5695, 6501, 7631, 8176, 8529, 9092, 10955, 11887, 14278
1068 613, 2573, 5695, 6501, 10597, 18053
1069 458, 5695, 6501
1070 613, 2573, 2644, 3776, 5695, 6501, 8529
1071 613, 2573, 5695, 6501
1073 5638, 5696, 6501, 8247, 11233, 11866
1075 5696, 6501
1076 5638, 5696, 6501, 10597, 11866
1078 613, 2573, 2644, 3776, 5695, 6501, 8529.
1079 613, 2573, 2644, 3776, 5639, 5695, 6501, 8529.
1090 5695, 6501, 7133, 9977, 10808, 15437
1094 5694, 6501, 12460
1096 576, 1053, 5694, 6054, 6501
1097 613, 2573, 5695, 6501
1098 613, 2573, 5695, 6501
1099 613, 2443, 2573, 2820, 5695, 6501, 6647, 6978, 8260, 11769, 12822.
1101 995, 5695, 6501, 7133, 9977, 10808
1102 613, 1042, 2573, 5695, 6501, 7631, 9691.
1103 5694, 6501, 7338, 8093, 10737, 13418
1104 613, 2573, 5695, 6501, 8247, 9094
1106 613, 2573, 2574, 5695, 6501, 7690
1108 613, 2573, 5695, 6501
1120 613, 2573, 5695, 6501, 14778
1125 2824, 5695, 5839, 6971, 6501, 7035, 10742, 10863, 11476, 11567, 12059, 15178.
1126 613, 724, 2573, 2574, 6607, 6614, 7090, 7343, 14774.
1127 613, 2573, 5695, 6501, 9097
1128 613, 2382, 2573, 5371, 5695, 5696, 8206, 6501, 10266.
1129 613, 2573, 5696, 6501
1130 613, 2573, 5696, 6501
1131 140, 415, 5696, 6501, 14232, 14351, 15588.

7 CFR—Continued

Proposed Rules—Continued

1132 ..... 613, 2672, 5695, 6501, 7090, 8347, 9894, 13595, 14774.
1133 ..... 5660, 5696, 6501, 10000, 11066, 11478, 11857
1134 ..... 2468, 5696, 6308, 6501, 8348, 9720
1136 ..... 1054, 5696, 6501, 8180
1137 ..... 56, 228, 4363, 5660, 5696, 6501, 14774
1138 ..... 91, 613, 2672, 2940, 5308, 5695, 6501
1301 4814
1306 5696

8 CFR

Chapter I

100
Added 9616
100.4
(c) (2) amended 11628
(d) amended 16209
101.2
Added 9622
101.3
Added 9622
103
Heading and authority citation revised 9622
103.1
(c) revised; (g) amended 9622
(g) amended 11628
103.2
(a) and (b) (1) amended 9622
103.3
(a) amended 9622
103.4
Amended 15469
103.5
Amended 271
103.6
(c) (3) added; (e) revised 9622
103.7
Heading revised; (a) deleted; (b) and (c) redesignated as (a) and (b); (b) amended 9623
(b) corrected 10433
(b) amended 13755
103.8
Added 9623
103.9
Added 9623
103.10
Added 9623
(b) corrected 10433
(c) (1) revised 11628
204.1
(d) amended 852
204.2
(f) amended; (g) revised 852
(d) (8) added; (e) (1) revised; text of (f) redesignated as (f) (1); new (f) (2) added 9624
(d) (8) corrected 10433
(e) (1) amended 11628
204.6
Added 9624
205.1
Introductory text revised 6260
211.1
(b) (1) and (2) amended 406
(b) (1) amended 8378
(b) (1) amended 11516
211.5
Added 9625
212.1
(e) revised 3731
(g) added 3970
(c) revised 7743
(h) added 8707
(i) and (j) added 9625, 10433
(g) revoked 13755
212.2
Amended 9625
212.4
(c) amended 271
(c) amended 9625
(c) amended 11628
(a) and (c) amended 15469
212.5
(b) added 9625
212.8
(a) amended 7743
(b) amended; (d) revised 9625
212.7
(a) amended 2500
(c) amended 9625
212.8
(a) revised; (c) added 852
(c) (5) (i) amended; (c) (5) (ii) added 9625
(b) (5) revised 11516
213.1
Amended 9626
214.1
(a) amended 9626
214.2
(c) (1) revised 3731
(c) (1) amended 9019
(b), (f) (1), (2), and (3), and (j) (1) amended; (j) (2) added 9626
214.3
(b) amended 11517
(b), (c), and (e) amended 11628
215
Added 9626
221
Revised 9626
223.1
Amended 9626
231.1
(d) added 9626
(a) and (b) revised; (d) amended 11517
231.2
(c) added 9627
(a) and (b) revised 11517
231.3
Added 9627
234
Added 9627
235
Heading revised 9627
235.1
Revised 9627
(a) revised 11628
235.3
Revised 9628
235.8
(a) amended 9628
235.9
(c) amended 9628
235.10
Added 9628
236.2
(a) amended; (c) revised 9628
236.3
(d) added 9628
236.4
Revised 9628
238
Revised 9629
238.2
(b) (1) amended 13755
238.3
(b) amended 11628
(b) amended 13755
(b) amended 14274
(b) amended 16200
(b) amended 17651
238.4
Amended 11628
Amended 13755
Amended 15469
Amended 16200
239.2
(a) revised; (b) amended 9631
241
Revised 11517
242.1
(c) amended 6260
242.2
(e) added 3340
(e) revised 5619
(a) amended 6260
242.7
Amended 9631
242.8
(a) amended 9631
242.9
(b) revised 9631
242.14
(a) revised 271
(a) revised 2883
242.16
(a) and (b) amended 9632
243.8
Amended 9632
244.1
Amended 3340
245.1
(e) revised 853
(a) amended 4341
(f) amended 9632
245.2
(b) (1) and (2) revised 853
(a) amended 2883
245.3
Amended 9632
248.1
Revised 9632
248.2
Amended 9632
249.1
Revised 9632
251.1
(d) added 9632
251.5
Added 9632
252.1
(g) added 9633
252.4
Revised 13867
253.1
(a), (b), (c), (d), (e), and (f) redesignated as (b), (c), (d), (e), (f), and (g) respectively; new (a) added; (f) and (g), as redesignated, revised 4341
(a) amended 9633
253.2
Revised 4342
264.1
(c) amended; (g) added 9633
280.2
Amended 17651
280.3
Amended 17651
280.7
Amended 17651
280.11
Amended 17651
280.15
Revised 17651
280.21
Amended 17651
282
Revised 11518
287.3
Amended 6260

287.6
Amended 16200
292.4
(b) revised 9633
292.5
(a) amended 11517
292.6
Added 9633
299.1
Amended 6260
Amended 9633
Amended 13756
299.2
Amended 11518
299.3
Amended 11518
312
Added 9633
316a.2—316a.4
Added 9634
316a.2
Amended 13756
316a.4
Amended 11628
Amended 13756
319.3
Added 9635
332a.2
Amended 13756
Amended 14274
334.11
Revised 9635
334.16
(b) revised 9635
336.13
(a) revised; (b) amended 13756
336.16
Amended 5620
336.16a.
Revised 7205
337.1
(b) amended 13756
337.4
Added 9635
339.2
Amended 9635
341.2
(g) added 6260
(b) revised 14889
341.5
Amended 9635
Amended 14889
342.5
(d) added 3340
343.1
Amended 9635
343a.1
(c) revised 9635
343a.2
Added 9635
Amended 14274
343b.1
Revised 9636
343b.2—343b.5
Added 9636
343b.II
(a) revised 9636
349
Added 9636
499.1
Amended 9636
Amended 13756
Amended 14274

Proposed Rules:

100 6781
101 6781
168 6781
204 ..... 6781, 6978, 11037
221 ..... 6781, 7028, 10870
212 ..... 6781, 10370
213 6781
214 ..... 6781, 10370
215 6781
221 6781
223 6781
231 6781
234 6781
235 6781
236 6781
238 6781
239 6781
241 10370
242 ..... 6781, 17624
243 ..... 6781, 17624
244 17624
245 6781
248 6781
249 6781
251 6781
252 ..... 6781, 12920
253 6781
284 6781
292 ..... 6781, 10370
299 ..... 6781, 17624
312 6781
316a 6781
319 6781
324 6781
337 6781
339 6781
341 6781
343 6781
343a 6781
343b 6781
349 6781
499 6781

9 CFR

Chapter I
Subchapter A added 3270
Subchapter I added 20839
1
Added 3270
2
Added 3270
2.3
Revised 6619
3
Added 3273
51.1
(m) amended 8752
51.6
Revised 9945
53
Heading revised 2427
53.1
(f) revised 2427
53.2
(a) revised 2428
71.3
(e) redesignated as (f); new (e) added 7583
71.10
(a) (4) and (5) added 19157
72.2
Heading revised; text amended 11518
72.3
Revised 11518
72.5
(d) revised 713
73.1a
Revoked 7584
74.2
(a) (1) corrected 654
(a) revised 8519
Heading revised; introductory text of (a) redesignated as introductory text of section and revised; (a) (1) redesignated as (a) and amended; (a) (2) and (b) deleted 11637
Revised 13401
74.8
Revised 8519
Revised 11637
Revised 13401
76.1
(f) (3) revised; (f) (4) added 10719
(x) revised; (y) redesignated as (z); new (y) added 11376
76.2
(f) and (g) revised 7845
(f) revised 11376
76.5
Heading, introductory text, and introductory text of (a) revised 10719
76.6
(b) and (c) revised; (d) deleted 7845
76.7
(c) (3), (4), and (5) revised; (c) (6) added 11376
76.9
Introductory text of (b) revised 10719
Revised 11377
76.10
(a) (1) and (b) (2) revised 10719
Revised 11378
76.16
(c) added 10719
(d) added 10720
(d) amended 13858
(d) amended 15240
76.33
(a) revised 19157
78.1
(j) amended 8752
78.13
Revised 4169
Revised 6619
Revised 10783
Revised 13050
Revised 13757
Revised 15577
78.14
(a) revised 13086
79.5
Revised 19157
83
Added 7012
83.5
(a) and (c) revised 8078
83.7
Revised 8078
83.8
(c) revised 8079
92
Heading revised 15707
92.2a
Added 15707
92.31
(a) revised 45
92.34
(a) revised 45
92.40
Amended 45
94.8
Introductory text revised 6261
(a) revised 7051
95.26
Heading, introductory text, (b), and (c) revised 19157
96.9
(a) (1) revised 19158
97.1
Amended 13444
Amended 17618
Revised 20768

9 CFR—Continued

Chapter I—Continued
97.2
Amended ... 3843
Amended ... 6021
Amended ... 12441
Amended ... 13650
131.113
Terminated ... 15470
145.1
(t) and (u) added ... 780
145.10
(f) deleted; (g) redesignated as (f); new (g) added ... 780
145.14
(d) revised; (g) amended ... 781
145.26
(c) (10) and (19) revised ... 781
146.1
(i), (j), and (p) revised ... 781
146.3
(d) revised ... 781
146.5
(c) revised ... 781
146.8
(a) revised ... 781
146.10
(a) through (d) deleted; (e) redesignated as (a) and amended; (f) and (g) redesignated as (b) and (c), respectively, and revised; new (d) added ... 781
146.14
(a), (d), and (g) revised ... 782
146.15
Deleted ... 782
146.15
Added ... 782
146.16
Deleted ... 782
146.16
Redesignated from 146.29; (d) (1) revised ... 783
146.17
Deleted ... 782
146.17
Redesignated from 146.30; (i) (1) revised ... 783
146.18
Deleted ... 782
146.19
Deleted ... 782
146.20
Deleted ... 782
146.21
Deleted ... 782
146.22
Deleted ... 782
146.23
Deleted ... 782
146.24
Deleted ... 782
146.25
Deleted ... 782
146.26
Deleted ... 782
146.27
Deleted ... 782
146.28
Deleted ... 782
146.29
Redesignated as 146.16; (d) (1) revised ... 783
146.30
Redesignated as 146.17; (i) (1) revised ... 783
146.31
Deleted ... 783
147
Subpart E added ... 783
147.25
(c) amended ... 783
147.41—147.56
Subpart E added ... 783
151.9
(a) and (b) (1) amended ... 19158
160
Added ... 20839
161
Added ... 20839
162
Added ... 20839
166.1
Added ... 10915
Chapter II
Heading revised ... 7700
201
Amended ... 7700
201.2
(d), (e), (f), (g), and (h) deleted; new (d) and (e) added; (i) through (o) redesignated as (f) through (l) respectively; (f) amended ... 7700
201.8
Amended ... 12667
201.34
Amended ... 7700
201.42
Revised ... 20921
201.50
(b) revised ... 13254
201.52
Revised ... 13254
201.58
Revised ... 13255
201.71
Revised ... 13255
202
Amended ... 7700
202.2
(d), (e), and (r) deleted; new (d) and (e) added ... 7700
202.22
(b) revised ... 4113
203
Amended ... 7700
203.4
(c) amended ... 7701
203.7
(b) (2) (iii) amended ... 7701
203.10
Added ... 6901
203.11
Added ... 12599
204
Added ... 9636
Chapter III
301—329
Amended ... 13115
301.1
(f), (g), (h), (j), and (bb) revised ... 13115
304.3
(a) amended ... 4398
309.3
Heading and (b) revised ... 5420
309.16
Amended ... 5420
310.19
Existing text designated as (a); (b) added ... 11135
312
Deleted ... 4306
314.1
Heading revised; introductory text of (a) amended; (c) added ... 5420
314.4
(a) revised ... 5420
324.2
(e) revised ... 2769
324.3
Revised ... 2769
325.14
Heading revised, (a) amended ... 2769
327.8
Heading, (n), and (q) revised; (r) added ... 6088
340
Amended ... 13115
340.2
(i) revised ... 6021
(d) deleted ... 13115
355
Amended ... 13115
355.2
(r) added ... 13115
380.1
(b) revised ... 13115
381.1
(b) amended ... 13115
Proposed Rules:
71 ... 279
76 ... 2643
101 ... 7177, 8529
102 ... 7177, 8529, 11801
114 ... 7177, 8529
131 ... 13668
145 ... 14224
146 ... 14224
147 ... 14224
160 ... 14225
161 ... 14225
162 ... 14225
201 ... 7858, 8521, 9035, 9101, 9171, 11334, 14106
203 ... 2575, 8621
316 ... 8420, 12953
317 ... 8420, 12953
318 ... 8420, 11885
328 ... 11296, 12953
355 ... 14697

10 CFR

Chapter I
0
Annex B and Annex C revised ... 13653
0.735-24
(d) revised ... 13651
0.735-28
(a), (c), (d) (4) and (5), (f), and (h) revised; (i) added ... 13651
0.735-30
Revised ... 13652
0.735-40
(c) and (g) revised ... 13652
0.735-42
(d) redesignated as 0.735-49a and revised; new (d) and (e) added ... 13653
0.735-49a
Added ... 13653
1.7
Added ... 9214
1.8
Added ... 9215
1.16
(a) (17) revised ... 9215
1.30
Center heading revised ... 20942
1.35
Center heading added ... 20942
Revised ... 20944
1.43
(a) and (b) revised ... 20942
1.50
(c) revised ... 20942
(a) revised ... 20944

1.51
(c) revised ... 20943
1.52
(c) revised ... 20943
1.53
Revised ... 20944
1.60
(f) revised ... 20943
1.61
(d) added ... 20943
1.63
Amended ... 20944
1.66
Center heading and (c) added ... 20943
1.67
Center heading added; (b) revised ... 20943
1.69
(b) amended; (c) revised ... 20943
1.91
Center heading revised ... 20943
1.200
(e) revised ... 20943
1.201
(d) amended ... 20943
1.202
(e) revised ... 20943
1.203
(d) revoked ... 20943
1.204
Revised ... 20943
1.205
(d) revised ... 20943
1.206
(f) revised ... 20944
1.207
(d) revised ... 20944
1.208
(c) revised ... 20944
(a) revised ... 20945
1.210
(e) revised ... 20944
1.215
(c) revised ... 20944
1.225
(c) revised ... 20944
1.226
(c) revised ... 20944
1.242
Revised ... 13377
1.270
Introductory text added ... 20945
1.271
Introductory text of (a) revised ... 20945
2.103
(a) amended ... 10432
2.106
(a) amended ... 10432
2.710
Amended ... 11379
2.790
(a) and (b) revised ... 9215
3.10
(a) (3) amended ... 9215
8.3
Added ... 11379
9
Revised ... 9215
10.11
(a) (9) revised; (b) (11) amended; (b) (12) added ... 6836
(b) (12) amended; (b) (13) added ... 12469
14
Added ... 7731
20.405
(a) amended ... 10432
30.15
(a) (5) revised ... 785
(a) (8) added ... 6433
(a) (1) revised ... 13921
30.16
Added ... 4241
31.7
(a) revised ... 7247
32.15
(c) revised ... 6434
32.16
Revised ... 4241
32.17
Added ... 4241
32.53
(c) revised ... 7247
35.14
Added ... 14265
35.100
Added ... 14265
40.24
Added ... 9213
40.13
(c) (8) redesignated as (c) (9); new (c) (8) added ... 15873
40.23
(d) redesignated as (e); new (d) added ... 15873
40.42
Revised ... 7172
50.13
Added ... 13445
50.33
(f) amended ... 4055
50.54
(a) deleted ... 2562
50.55
(a) amended ... 4055
50.60
Revised ... 4055
50.81
(a) and (c) amended ... 2562
50.82
(a) revised ... 3090
50.103
(a) (2) amended ... 4056
70.1
(a) revised ... 2562
(a) revised ... 4056
70.3
Revised ... 2562
70.4
(q) added ... 2365
(p) added ... 2562
70.11
Amended ... 2562
70.19
Introductory text of (a), (b), introductory text of (c), and (c) (2) amended ... 8124
70.22
(b) and (c) redesignated as (c) and (d), respectively; new (b) added ... 2365
(a) amended; (c) and (d) redesignated as (d) and (e); new (c) added ... 2562
(a) (5) deleted; note amended ... 4056
70.23
(g) added ... 2365
Introductory text and (c) amended ... 2562
(c) revised; (d) deleted ... 4056
70.31
(c) and (d) revised; (e) added ... 2562
(b) deleted; (d) revised ... 4056
70.32
(c) added ... 2365
(a) (1) deleted; (b) amended ... 2562
70.38
(a) revised ... 4056
70.39
Heading revised; (a) and (b) amended ... 2562
70.41—70.43
Center heading amended ... 2562
70.41
(a) amended; (c) revised ... 2562
70.43
(a) and (b) amended ... 2562
Deleted ... 4056
70.44
Added ... 2562
70.51
Center heading and section revised ... 2365
(a) amended ... 2562
70.55
(h) amended ... 2562
70.62
(b) amended ... 4056
115.9
Added ... 13445
140.12
(a) and (b) (3) amended ... 8125
140.13
Amended ... 2562
115.42
(a) deleted ... 2562
150.20
(h) (1) revised ... 10432
Proposed Rules:
2 ... 18050
10 ... 224
20 ... 15492, 15762
25 ... 6702, 20668
26 ... 6706, 20668
30 ... 2575, 3096, 6099
31 ... 2649, 12981
32 ... 2892, 3089, 13331
40 ... 3096, 6099
50 ... 2621, 2851, 3095, 5562, 6099, 8423, 10213, 10816, 11228, 11739, 18050
70 ... 3096, 6099, 11958
95 ... 6710, 20668
115 ... 2621, 3089, 11958, 18050
170 ... 3095, 6099

12 CFR

Chapter I
1.87
Added ... 9061
Redesignated as 1.187 ... 11379
1.177
Added ... 468
1.178
Added ... 720
1.179
Added ... 721
1.180
Added ... 2499
1.181
Added ... 3687
1.182
Added ... 3687
1.183
Added ... 4342
1.184
Added ... 9062
1.185
Added ... 9062
1.186
Added ... 9062
1.187
Redesignated from 1.87 ... 11379
1.188
Added ... 9809
1.189
Added ... 10432
1.190
Added ... 11944

12 CFR—Continued

Page

Chapter I—Continued

1.191
Added ... 11944
1.192
Added ... 11944
1.193
Added ... 11945
1.194
Added ... 12850
1.195
Added ... 12938
1.196
Added ... 13400
1.197
Added ... 13805
1.198
Added ... 15544
1.199
Added ... 15918
1.200
Added ... 15918
1.201
Added ... 16391
1.202
Added ... 17574
1.203
Added ... 17926
1.204
Added ... 20945
4
Heading revised ... 9513
4.1
Revised ... 9513
4.1a, 4.1b
Added ... 9513
4.11
(b)(5) revised ... 9514
4.13
Revised ... 9514
4.14
Redesignated as 4.19 ... 9515
4.14—4.18
Added ... 9515
4.19
Redesignated from 4.14 ... 9515
7.8
Rescinded ... 11074
10
Revised ... 7070
11
Schedules A and C amended ... 3090
11.3
Revised ... 13962
12.2
(e) added ... 17469
14.2a
Revoked ... 6022
18
Added ... 7071
19
Added ... 11136

Chapter II

204.5
Revised ... 3763
204.110
Revoked ... 854
206.2
(ff) added ... 17469
206.4
(a) revised ... 6552
206.5
(d)(1), and (3) revised; (k) added ... 17469
206.46
Added ... 6652
207
Revoked ... 10912
208.112
Revoked ... 854
208.121
Added ... 11208
208.122
Added ... 11262
211
Revised ... 10912
211.8
(c)(2) revised ... 4398
211.9
(d) deleted; (g) revised; (e), (f), and (g) redesignated as (d), (e), and (f) respectively ... 4398
211.103
Added ... 6195
213
Revised ... 4399
215.1
(c) revised ... 7584
217.138
Revoked ... 854
217.142
Added ... 2428
217.143
Added ... 2428
219.104
Added ... 15389
221.116
Added ... 8357
222
Forms adopted ... 3813
222.105
Revoked ... 854
222.106
Revoked ... 854
222.108
Revoked ... 854
222.110
Revoked ... 854
222.116
Revoked ... 854
222.117
Revoked ... 854
222.119
Revoked ... 854
222.120
Revoked ... 854
222.122
Added ... 15004
224.2
Revised ... 6195
Revised ... 17425
224.3
Revised ... 6195
Revised ... 17425
224.4
Revised ... 6195
Revised ... 17425
261
Revised ... 9516
262
Revised ... 11984
262.6
Corrected ... 12473
263
Revised ... 11140
265
Added; incorrectly designated as Part 264 ... 8519
Correctly designated as Part 265 ... 8956
265.2
(f)(7)(ii) corrected ... 8956
(c)(10) added ... 19159
271
Revised ... 9515
272.1
Revised ... 9520
272.2
Revised ... 9520
272.5
Repealed ... 9520

Chapter III

301.1
Revised ... 9638
302
Revised ... 10556
303.10
Amended; (c), (d), and (e) added ... 9638
304
Revised ... 10558
305.1
Amended ... 9638
306.2
Amended ... 10561
307.1
Amended ... 10561
307.2
Amended ... 10561
307.3
Introductory text of (c) amended ... 9638
Amended ... 10561
308
Revised ... 11147
309
Revised ... 9638
325.0
Amended ... 10561
327.3
(c) amended ... 10561
328
Revised ... 10189
329.7
(e) revised ... 8579
330
Revised ... 10408
331.1
(d) revised ... 10561
334.4
Amended ... 9638
335.2
(ff) added ... 17470
335.5
(d)(1) and (3) revised; (k) added ... 17470
336
Appendix A added ... 13965
336.735–10
Added ... 13964
336.735–11
(a) revised; (c) redesignated as 336.735–10 and revised; (d) and (e) revised; (f) redesignated from 336.735–12(f)(1) and revised ... 13964
336.735–12
Heading revised; (f)(1) redesignated as 336.735–11(f) and revised ... 13964
336.735–13
(a)(1) revised ... 13964
336.735–19
(d), (g), (h), (j), and (p) revised; (r) added ... 13964
336.735–31
Revised ... 13964
336.735–31a
Added ... 13964
336.735–32
Revised ... 13964
336.735–34
Revised ... 13964
336.735–38
Revised ... 13964
336.735–40
(a)(2) revised ... 13964

Page

Chapter IV

400.735–5
(a)(4) revised; (b)(2)(v) added ... 13758
400.735–6
(b)(5(ii) revised ... 13758
400.735–17
(e), (h), (i), (k), (m), and (q) revised; (r) added ... 13758
400.735–21
Revised ... 13758
400.735–30
(a) revised; (c) added ... 13758
400.735–40
(d) revised ... 13758
400.735–42
(h) and (i)(7), (10), and (17) revised; (l) (18) added ... 13759
400.735–51
Revised ... 13759
400.735–53
Revised ... 13759

Chapter V

505
Revised ... 9520
509
Revised ... 6764
509.10
(a) corrected ... 8889
509.11
(a) corrected ... 8889
509.17
Corrected ... 8889
511.735–11
(b)(7) added ... 14817
511.735–12
Revised ... 14817
511.735–13
Revised ... 14817
511.735–14
Heading revised; (d)(1) revoked ... 14817
511.735–35
(d) added ... 14817
511.735–36
Revised ... 14817
511.735–36a
Added ... 14817
511.735–39
Revised ... 14817
511.735–44
(a)(2) revised ... 14817
511.735–55
(d), (g), (h), (j), and (p) revised; (q) added ... 14817
525.2
Revised ... 976
526.3
(b) and (c) revised ... 8023
526.4
(c) revised ... 8023
531.1
Added ... 2366
(a) revised ... 21029
531.2
Added ... 20841
531.3
Revised ... 2366
(a) revised ... 20841
531.4
Added ... 3970
531.9
(e) revised ... 366
(e) revised ... 4400
(e) revised ... 5830
541.18
Added ... 6769
542.3
Revoked ... 6769
544.6
(h) added ... 11032
(i) added ... 11032
545.2–1
(d) revised ... 17926
545.2–2
Added ... 17926
545.3
(b)(5) revised ... 8814
(a)(4) revised; (c) revoked ... 17927
545.6–1
(a)(4) revised ... 9955
545.14
(b)(3) and (c)(1) revised ... 11848
545.14–4
Revised ... 8889
545.24—545.26
Center heading and sections repealed ... 12913
547
Revised ... 6769
548.1
Introductory text, (b) and (c) revised ... 6770
548.2
Introductory text revised ... 6770
548.5
(b) and (c) revised ... 6770
549.1
Introductory text and (c) revised ... 6770
549.2
Revoked ... 6770
549.3
(a) revised ... 6770
549.4
(a) revised ... 6773
549.5
(a) revised ... 6773
549.6
Heading, (b) and (c) revised ... 6771
550
Added ... 6771
551.1
Revised ... 6772
555.8
(e) added ... 4114
(d) revised ... 8238
(d) revised ... 12387
556.2
Added ... 4401
(d)(2)(v) added; (f)(2) revised ... 15708
556.3
Added ... 15747
556.4
Added ... 16200
556.5
Added ... 20630
556.6
Added ... 20630
561.2
Revised ... 10415
561.3
Revoked ... 10415
561.3
Added ... 10415
561.4
Revoked ... 10415
561.4
Added ... 10415
561.5
Revoked ... 10415
561.5—561.5b
Added ... 10415
561.15
(c) revised ... 11033
561.16
Closing sentence revised ... 17515
562
Revised ... 8125
563.9–2
Revised ... 15634
563.13
(c) revised ... 4114
(b)(5) revised ... 14266
564
Revised ... 10415
566
Added ... 6773
569.3
(b) and (c) revised ... 8023
569.4
(c) revised ... 8024
571.5
Added ... 4403
(d)(2)(v) added; (f)(2) revised ... 15708
571.6
Added ... 16200

Chapter VI

604
Existing sections designated as Subpart A; Subpart B added ... 12710
604.1—604.10
Designated as Subpart A ... 12710
604.1
(a) amended ... 12710
604.5
(c) amended ... 12710
604.10
Revised ... 12710
604.11—604.14
Subpart B added ... 12710
605.174
(g) revised ... 17652
605.735–304
(d)(3) added ... 13052
605.735–305
(c)(3), (6), (7), (9), and (15) revised; (c)(16) added ... 13052
605.735–309
(b) revised ... 13052
605.735–319
(a) revised ... 13052
605.735–322
(a) revised ... 13052
605.735–324
Revised ... 13052
605.735–324–51
Revised ... 13052
605.735–324–55
Revised ... 13052
610.40
(c) added ... 4157
610.41
Revised ... 20703
610.42
Revised ... 20704
610.47
Revised ... 4157
611.1013–50
Added ... 4157
619
Revised ... 4158
640.226–2
(b) revised ... 5415
(b) corrected ... 5543
640.227
Revoked ... 12106
650.103
Revised ... 3740
670.22
Revised ... 20842
670.23
Revised ... 20842
670.25
Revised ... 20842
670.90
Revised ... 20704

12 CFR—Continued

Page

Chapter VI—Continued

670.92
Revised 20704
670.144
Revised 20842
670.161
Revised 20842
Proposed Rules:
10 2640
12 13972
16 20657
18 2640
19 9687
206 ..... 4316, 13964
207 ..... 6210, 14858
210 6210
213 874
215 ..... 4124, 12758
218 5649
220 ..... 11237, 14855
221 14857
263 6723
308 6716
330 996
335 13962
500 2650
545 ..... 3999, 6209, 7636, 14283, 15762
547 2654
548 2654
549 2654
550 2654
551 2654
555 997
561 ..... 998, 7026, 13963
563 5999
563a 998, 11043, 12922, 17544
564 ..... 999, 1057
566 2659

13 CFR

Chapter I

Amended 2377
101.1
(e)(1) revised 2377
Revised 7805
101.2—101.2-7
Recodified from 101.2—101.2-9 and revised 7806
101.2—101.2-9
Recodified as 101.2—101.2-7 and revised 7806
101.3
Recodified as 101.3, 101.3-1 and revised 7814
101.3, 101.3-1
Recodified from 101.3 and revised 7814
101.4
Added 10059
Revised 15806, 15873
102
Revised 9622
105.735-3-3
(i) revised; (j) amended; (k) added 14383
105.735-4-4
(a) amended 14384
105.735-4-6
(e)(3) deleted 14384
105.735-4-7
(a), (b), and (c) revised; (d) deleted 14384
105.735-4-10
Revised 14384
105.735-5-1
(a) amended 14384
105.735-5-2
(a) amended 14384
105.735-5-3
Amended 14384
105.735-11
(d), (g), (h), (j), and (p) amended 14384
106
Added 5672
106.3
(i) and (j) deleted 14759
106.4
Revised 14759
106.6
(c)(1) and (e) revised; (g)(2) deleted; (h) added 14759, 15065
107.11
(a) revised 7744
107.102
(d) (4), (9), and (10) revised; (d)(11) added 2770
(d)(4) deleted 6621
107.104
Revised 2770
107.201
(b)(3) revised 2770
107.205
Revised 6621
107.301
Revised 2770
(c) revised 6621
107.302
(a) revised; (c) added 2771
107.402
(a-1) added; (c) and (d) revised 2771
(a-1) deleted 6621
107.704
(a) and (b) revised 6621
107.709
Deleted 2771
107.801
(c) and (f) revised 12843
107.802
Heading, (b), introductory text of (c), (c)(1), (d), (e), (g), (i)(1), and (j) revised 12843
107.902
Revised 7744
107.904
Added 7744
107.1009
Deleted 6622
108
Revised 15149
108.2
(d)(2) revised 4405
108.4
Added 12347
108.502-1
(c) revised 4405
109.1
Revised 6089
109.3
Revised 6089
109.5
(b) revised 6089
109.6
Revised 6089
109.8
Revised 6089
109.9
Revised 6089
109.6
(d) revised; (e) added 6090
109.14
(b)(2) revised 6090
109.20
(a) revised 6090
109.22
(f) revised 6090
109.23
(c) added 6090
110.1
Revised 6091
113
Heading revised 409
113.2
Revised 409
114
Added 10190
119
Added 5988
119.41
(b) revised 12788
120
Revised 11770
120.3
(a) revised 15635
121
Revised 6175
Schedule B amended 7440
Schedule C added 11208
Schedule D added 11209
Schedule D amended 11732
121.3-6
(a) revised 5495
(b)(1) revised 7522
121.3-8
(f)(3) amended 5620
121.3-10
(c)(2) revised 2564
(d)(5) revised 5495
(d)(10) added 10365
(e)(1) and (g) revised 11208
121.3-14
(c) and (d) added 9218
(c)(3)(ii) revised 13571
122
Revised 11699
122.17
Revised 15635
123
Revised 3813
123.4
(a)(1) amended 13401
(c) revised 14266
123.6
(a) amended 13401

Chapter III

301
Authority citation revised 10365
Authority citation revised 10836
Subpart C authority citation deleted 10836
301.2
(u) revised 10365
301.30—301.44
Subpart C authority citation deleted 10836
301.32
Revised 10365
301.35
Amended 10365
301.63
Revised 10836
302.52
Revised 8707
303.6
Revised 8708
307
Revised 10365
Proposed Rules:
107 ..... 6101, 11045, 15899, 15368
121 ..... 2710, 4079, 4432, 5516, 7022, 9028, 9029, 9982, 10753, 10754, 11046, 12896, 15184.

14 CFR

Chapter I

Amended 5769
Subchapter N added 20843
1.1
Amended 3735, 5769, 6905, 9641, 10250, 13910

Page

1.2
Amended 5769
Amended 6905
Amended 13910
11.25
(b)(2) amended 6390
11.35
(a) and (b) amended 5769
11.37
(b) amended 6390
11.41
(a) amended 6390
11.55
(b), (c), (d) amended 5770
13
Subpart A heading revised; Subpart C redesignated as Subpart D; Subpart B redesignated as Subparts B and C 7585
13.1, 13.3
Subpart A heading revised 7585
13.11
Designated as new Subpart B and revised; Subpart B heading revised 7585
13.13
Deleted 7585
13.15—13.23
Designated as new Subpart C; heading added 7585
13.19
(d) amended 5769
(c) amended 7585
13.31—13.67
Subpart C redesignated as Subpart D 7585
13.59
(a) amended 5769
13.67
(c) amended 5769
(a) revised 7585
21.16
Added 17850
21.17
(a) revised 13262
(a) revised 17851
21.21
(b)(2) amended 3735
Introductory text of (b) amended 17851
21.33
(a) revised 14926
21.49
Amended 5769
21.53
Revised 14926
21.101
(a) revised 13262
(b) revised 17851
21.115
Revised 14927
21.128
(a)(1) and (2) amended 3735
21.130
Revised 14927
21.182
Added 188
21.183
Revised 14927
21.273
(a) amended 15472
21.325
(b)(1) revised 2999
23.3
(a) and (b) revised 5984
23.859
(b) revised 6912
23.1183
(b)(1) revised 6912
23.1325
(b)(2) and (3) revised 7586
(b)(2)(ii) corrected 13505, 13714
23.1585
(d) added 6912
25
Appendix F added 13266
25.2
Added 13262
(b) corrected 13635
25.721
(d) added 13262
25.783
(g) added 13262
25.785
(c) revised 13262
25.803
(b) revised; (c), (d), and (e) added 13262
25.807
(a) and (c) revised 13263
(d) revised 13264
25.809
(f) revised; (h) added 13264
25.811
Revised 13264
25.812
Added 13265
25.813
(a), (b), and (c) revised 13265
25.815
Revised 13265
25.817
Added 13265
25.853
Introductory text, (a), and (b) revised 13265
25.855
(a) revised 13266
25.859
(e)(1) revised 6912
25.933
(d) added 6912
25.939
Revised 6912
25.954
Added 11629
25.955
(b) revised 6912
25.961
Revised 6912
25.965
(b)(3)(i) revised 6913
25.969
Revised 6913
25.977
Revised 6913
25.979
Revised 6913
25.981
Added 6913
25.993
(f) added 13266
25.1041
Revised 6913
25.1141
(e) added 6913
25.1153
(b) revised 6913
25.1155
Revised 6913
25.1181
(c) deleted 6913
25.1182
Added 6913
25.1183
(b)(1) revised 6913
25.1305
(x) added 6913
25.1325
(c)(2) revised 7587
25.1359
(c) added 13266
25.1435
Revised 9154
25.1457
(d)(2) revised 13914
25.1585
(b) added 6913
27.859
(c)(2) revised 6914
27.939
Added 6914
27.955
(b) revised 6914
27.1183
(b)(1) revised 6914
27.1585
Revised 6914
29.859
(c)(1) revised 6914
29.939
Added 6914
29.955
(b) revised 6914
29.1183
(b)(1) revised 6914
29.1585
Revised 6914
33.7
Revised 3736
33.8
Added 3736
33.17
(b) amended 3736
33.23
Revised 3736
33.43
Amended 3736
33.49
Revised 3736
33.51
Amended 3737
33.73
Amended 3737
33.87
(b)(1), (2), (3), and (5), (c)(1), (2), (3), (5), and (7), and (d)(1) and (3) amended 3737
33.95
(b), (c), and (d) amended 3737
33.97
(b) amended 3737
35.23
Added 3737
35.35
Amended 3737
35.37
Revised 3737
35.39
(a)(2) and (3) and introductory text of (c) and (c)(1) amended 3737
37.111
Revised 3142
37.113
Revised 12109
37.158
Revised 14690
37.159
Revised 14686
37.175
(a)(1) amended 13266
37.180
Revised 191
37.184
Added 129
37.197
Added 124
37.198
Added 130

14 CFR—Continued

Page

Chapter I—Continued

39.13
Amended ..... 5-6 (2 docs.), 260, 409, 486 (2 docs.), 606, 654, 655, 654, 2439–2440 (3 docs.), 2775, 2807, 3048, 3091, 3218, 3291 (2 docs.), 3366–3367 (4 docs.), 3437 (2 docs.), 3690, 3691, 3758, 3764, 3862, 3957 (2 docs.), 3971 (2 docs.), 4306–4307 (3 docs.), 4491, 4529, 4577, 5366 (3 docs.), 5463, 5464, 5496, (3 docs.), 5543–5545 (5 docs.), 5676, 5731, 5732, 5771, 5830, 5922, 5984–5985 (4 docs.), 6022, 6091, 6185 (3 docs.), 6344, 6553, 6674–6675 (3 docs.), 6914, 6966, 6969, 7051, 7124 (2 docs.), 7205 (2 docs), 7247–7249 (4 docs.), 7391, 7443 (2 docs.), 7704, 7749, 7817–7818 (4 docs.), 7948, 8024, 8079, 8295, 8357, 8579, 8708, 8891, 8957, 9155, 9219 (2 docs.), 9641, 10061, 10345, 10642 (4 docs.), 10721, 10784 (2 docs.), 10928, 11074, 11154 (2 docs.), 11209, 11314, 11380–11381 (5 docs.), 11630, 11704, 11849 (2 docs.), 12050, 12110, 12387, 12666, 12711, 12746, 12788, 12789, 12909–12911 (5 docs.), 13115, 13163–13163 (3 docs.), 13269 (2 docs.), 13321, 13453, 13760, 13857 (2 docs.), 14061, 14151, 14311, 14647 (3 docs.), 14756–14757 (4 docs.), 14890, 14927, 15094, 15153, 15154, 15390, 15421 (2 docs.), 15472, 15523, 15579, 15635 (2 docs.), 15809, 15873, 15874, 16201 (3 docs.), 16251, 16391, 16481 (2 docs.), 17426, 17515, 17516, 17652–17653 (3 docs.), 17927, 20842, 20946 (2 docs.), 21029–21031 (5 docs.)

43
Appendix E amended 7587

45.1
(a) revised 188

45.11
Revised 188

45.13
Revised 188

45.21
(b) (1) amended 12556

47.13
(a), (d) (3) (i), and (e) (3) revised 6554

47.15
Introductory text of (a) amended 12556
Introductory text of (a) revised 13505

47.16
Added 12556

47.19
Revised 6554
Amended 13505

47.47
(b) revised; (c) added 6554

47.69
(b) revised 12556

49.11
Revised 6554
Amended 13505

61:
Appendix A added 263
Appendix A corrected 1086
Appendix A amended 5987
Appendix A amended 7705
Appendix A amended 16482

61.3
(a) amended 5769
(g) added 6905
(c) amended 7249

61.5
(e) and (f) redesignated as (f) and (g) respectively; new (e) added 6905

61.9
(d) revised 7249
(c) deleted 15919

61.9a
Added 15919

61.10
Added 6905

61.21
(a) (4) revised 4492

61.22
Added 4493

61.27
(d) amended 262
(b) amended; (d) revised 4493

61.31
(c) (3) added 10643
(a) (3) and (4) amended; (a) (5) added; (b) (1) and (2), (c), and (d) (2), (3), and (4) amended 13914

61.33
Revised 7250

61.36
Added 6905

61.37A
Added 6905

61.38
Added 3090

61.39
(f) amended 5769

61.41
(b) amended 5769

61.47
(h) added 6906

61.51
(b) revised; (c) deleted 46

61.53
(a) amended 5769

61.55
Introductory text of (a) revised; (a) (4) amended 4493

61.59
Introductory text of (a) revised 4493

61.63
Introductory text revised 4493

61.111
Amended 4493

61.113
(a) (1) amended 5769

61.115
(a) (3) revised; (a) (4) deleted; amended 4493

61.119
(a) (3) amended 4493

61.123
(b) amended 4493

61.143
(a) revised 5770

61.147
Revised 262
Introductory text of (c) amended 5987

61.155
(b) revised; (d) added 5987

61.157
(a) (2) and (c) (2) amended 4493

61.159
(c) redesignated as (f); new (e) added 13915

61.3
(a) amended 5769

61.15
(a) revised 15919

61.15a
Added 15919

65
Appendix A amended 5770

65.15
(a) amended; (b) deleted 15919

65.15a
Added 15919

65.45
(a) amended 5769

65.51
(b) amended 5769

65.85
Amended 5770

65.87
Amended 5770

65.89
Amended 5769

65.95
(b) amended 5769

65.101
(c) and (f) revised 12506

65.103
Revised 13506

65.105
Amended 5769

65.111
(c) amended 5769

71
Republished 2003

71.103
Amended 14590

71.105
Amended 7948, 13272

71.107
Amended 14590

71.109
Amended 12997, 14590

71.123
Amended ..... 47, 48, 50 (3 docs.), 655, 1086–1087 (4 docs.) 2369, 2441 (2 docs.), 2939, 3091 (2 docs.), 3219 (2 docs.), 3438 (2 docs.), 3738 (3 docs.), 5253, 5412 (2 docs.), 5497, 5732, 5831, 5988, 6262, 6390, 6434–6435 (5 docs.), 6556, 7014, 7125,7251–7252 (3 docs.), 7391, 7392, 7588–7589 (3 docs.), 7591, 7625 (13 docs.), 8079, 8405 (2 docs.), 8657, 8710 (2 docs.), 9157, 9220, 10192, 10433, 10507 (3 docs.), 10839, 10929 (2 docs.), 11155, 11429, 11773, 11850, 12113, 12386 (2 docs.), 12789, 12833, 12995 (3 docs.), 13118 (2 docs.), 13219–13220 (3 docs.), 13454, 13506, 14099, 14311, 14312, 14550, 14590 (2 docs.), 17517 (4 docs.), 17575, 20630

71.125
Amended 7589, 13760, 15636

71.127
Amended 2442
Revised 5412

71.131
Amended 7820

71.151
Amended ..... 5412, 6556, 7014, 8025, 9642, 10507, 14154, 14207, 14891.

71.161
Amended 2442, 12113

71.163
Amended ..... 665, 3739, 6261, 10644, 12688, 14062, 14757, 16482 (2 docs.), 17518

71.165
Amended 487, 2615, 2775, 3938, 9642, 10838, 11156, 12668, 14153, 16482

71.171
Amended ..... 90, 267, 487 (2 docs.), 609, 786, 787, 1035, 1086 (2 docs.), 2368 (3 docs.), 2370, 2440–2441 (3 docs.), 2808, 2884, 3048, 3049, 3345, 3438, 3764–3766 (5 docs.), 4307, 4405, 5251, 5367, 5465, 5497, 5677 (2 docs.), 5768, 5769, 6185, 6261, 6262, 6345, 6346, 6555, 6556, 7124–7125 (3 docs.), 7250–7251 (4 docs.), 7392 (2 docs.), 7443, 7492–7493 (3 docs.), 7522, 7589, 7706 (4 docs.), 7818–7819 (4 docs.), 7949, 8295 (2 docs.), 8405, 8580, 8657, 8708, 8709, 9019, 9155, 9157, 9642, 9808 (2 docs.), 9956 (2 docs.), 10061 (2 docs.), 10193 (2 docs.), 10194, 10346, 10432, 10838 (5 docs.), 10928 (2 docs.), 11314, 11381, 11519–11520 (4 docs.), 11630–11632 (6 docs.), 11772, 11773, 11850 (2 docs.), 12110–12111 (5 docs.), 12113, 12556, 12712, 12789, 12912–12913 (6 docs.), 13116–13118 (8 docs.), 13218–13219 (4 docs.), 13269, 13453–(3 docs.), 13506, 13636 (3 docs.), 13806, 13857, 13915–13916 (5 docs.), 14152–14153 (5 docs.), 14207, 14266, 14267, 14549–14550 (3 docs.), 14648, 14757, 14891 (2 docs.), 15094, 15095, 15523, 15809–15810 (3 docs.), 16146, 16202, 16392, 16482–16483 (4 docs.), 17426–17427 (3 docs.), 17516 (2 docs.), 17576, 17653, 18029, 20704

71.181
Amended ..... 50, 80 (2 docs.), 267 (2 docs.), 367–368 (3 docs.), 486–487 (3 docs.), 609, 786–787 (3 docs.), 1034, 1035, 2368, 2369 (3 docs.), 2370 (3 docs.), 2441 (2 docs.), 2442, 2775, 2808, 2884, 3048–3050 (5 docs.), 3091, 3345, 3765–3768 (15 docs.), 3971–3972 (3 docs.), 4307, 5251–5254 (10 docs.), 5496, 5497, 5677, 5768–5769 (3 docs.), 6022, 6261, 6262, 6345–6346 (4 docs.), 6390, 6435, 6555–6556 (5 docs.), 6676, 6838, 7126 (2 docs.), 7253–7254 (4 docs.), 7392 (2 docs.), 7493 (2 docs.), 7587–7590 (7 docs.), 7626, 7706, 7749, 7819–7820 (5 docs.), 8079–8080 (3 docs.), 8127, 8295, 8580 (4 docs.), 8709 (4 docs.), 8891 (2 docs.), 9156–9157 (7 docs.), 9641–9643 (4 docs.), 9808 (3 docs.), 9956, 10061, 10193 (4 docs.), 10346 (4 docs.), 10508, 10556, 10644, 10838 (6 docs.), 11024, 11155, 11429, 11519–11521 (8 docs.), 11631–11632 (7 docs.), 11773 (3 docs.), 11850 (2 docs.), 12050, 12111–12113 (7 docs.), 12442 (2 docs.), 12556, 12668 (2 docs.), 12712, 12789–12790 (4 docs.), 12912 (2 docs.), 12995–12996 (6 docs.), 13116–13119 (6 docs.), 13218–13221 (7 docs.), 13366, 13270, 13452–13454 (5 docs.), 13506, 13636 (2 docs.), 13806 (4 docs.), 13857, 13916–13917 (3 docs.), 13965, 14152–14154 (5 docs.), 14207, 14266–14267 (3 docs.), 14549–14550 (3 docs.), 14599 (2 docs.), 14648, 14891 (2 docs.), 15094–15095 (5 docs.), 15154, 15523–15524 (4 docs.), 15580, 15809, 15810, 16098, 16146 (2 docs.), 16202 (3 docs.), 16251, 16392, 16482–16483 (3 docs.), 17427 (2 docs.), 17517, 17575–17576 (5 docs.), 17654, 17851, 20631 (2 docs.), 20705 (5 docs.), 20769 (2 docs.), 20843, 20947

71.193
Amended 9643, 11849, 13271

71.203
Amended 1086, 2884, 3219, 3862, 7392, 7589, 8080, 13118, 17576

71.207
Amended 8405, 11155, 15636

71.209
Amended 2442, 13118

71.211
Amended ..... 4056, 7253, 13760, 14590, 15874.

71.213
Amended 13507, 13760

73
Republished 2290
Subpart C added 3739

73.1
Amended 3739

73.15
(a) amended 3739

73.21
Center heading deleted 3739

73.22
Amended 3439, 6391, 7015

73.24
Amended 4529

73.25
Amended 787, 5412, 5498, 6346, 10194, 14154

73.28
Amended 3768

73.29
Amended ..... 655, 969, 7014, 7392, 11024, 11774, 12712, 12833, 13119.

73.31
Amended 7126, 13119, 17653, 18087

73.32
Amended 6346

73.33
Amended 4577

73.34
Amended 4577

73.36
Amended 7393, 10297

73.37
Amended 11521

73.39
Amended 10347

73.40
Amended 6556

73.41
Amended 3739

73.44
Amended 14207

73.45
Amended 6346

73.47
Amended 6126

73.48
Amended 4406, 10507

73.49
Amended 6346, 12557

73.50
Amended 2370, 5254, 11382

73.51
Amended 5546, 8024, 8025, 11024

73.52
Amended 8710

73.53
Amended 6128

73.55
Amended 10929, 14648, 14757, 16098

73.56
Amended 4530

73.57
Amended 5545

73.58
Amended 2699, 3740

73.60
Amended 1087

73.61
Amended 7015

73.63
Amended 3691, 8127

73.64
Amended 3219, 17427

73.65
Amended 3092

73.66
Amended 7014, 7392, 11025, 14891

73.69
Amended 3740

73.71
Amended 2775

73.81—73.87
Subpart C added 3739

73.87
Amended 15096

75
Republished 2340

75.100
Amended ..... 2442, 3092, 3740, 3972, 4306, 5364, 5831, 5988, 7126, 7443, 7591, 7821, 10786, 11774, 12113, 12386, 12913, 13507, 13760 (3 docs.), 14154, 15636, 17518 (2 docs.)

75.200
Amended 5831

77.19
(c) (2) and (3) amended; (e) (4) and closing paragraph deleted 12997

77.33
(a) (1) amended 12997

77.37
(a) amended 6970

91
Appendix A added 6906
Appendix A corrected 8127
SFAR 17 9809
SFAR 16 revoked 14312
SFAR 18 17654

91.5
Added 6906

91.10
Added 9641

91.17
Revised 3000

91.18
Added 3001

91.21
Heading revised; (c) added 262

91.23
Closing paragraph amended 13910

91.25
(b) (1), (2), and (3) revised 16483

91.33
(a) amended; (f) added 6906
(a) revised 8406

14 CFR—Continued

Chapter I—Continued

91.34
Added ... 6906
91.36
Added ... 8893
91.38
Heading and text amended ... 8406
91.43
(b) revoked ... 16392
91.70
Added ... 15709
91.83
(b) amended; (c) revised ... 13910
91.85
(c) and closing paragraph revoked ... 15709
91.87
(d), (f)(2), and (g) revised ... 15422
91.102
Added ... 14312
91.105
(c) revised ... 2940
91.107
(d) revised ... 2940
91.116
Redesignated from 91.117; revised ... 13910
91.117
Redesignated as 91.116; revised ... 13910
91.117
Added ... 13911
91.165
Amended ... 7587
91.170
Revised ... 7587
91.173
(c)(3) amended ... 5769
93
Subpart H added ... 12747
93.101—93.107
Subpart H added ... 12747
95
Amended ... 855, 3001, 4530, 6262, 7448, 8658, 10250, 11429, 12747, 13858, 14928, 16393, 20947
97
Subpart C added ... 13912
97.3
Revised ... 13911
97.5
Revised ... 13912
97.11—97.19
Subpart B amended ... 81, 368, 656, 970, 2371, 2776, 3003, 3220, 3692, 3938, 4163, 4494, 5413, 5678, 5980, 6264, 6557, 6915, 7254, 7444, 7707, 7949, 8296, 8660, 8958, 9305, 9957, 10348, 10731, 11025, 11315, 11633, 11782, 11995, 12389, 12669, 12834, 13120, 13378, 13637, 13761, 13917, 14208, 14313, 14591, 14758, 15005, 15423, 15473, 15580, 15811, 16203, 16484, 17577, 17928, 20706, 20949
97.20—97.31
Subpart C added ... 13912
101.35
(a) revised ... 5254
103.1
Introductory text of (b) revised; (c)(3) amended ... 5769
(b) and (c)(3) amended ... 7015
103.3
(b) amended ... 5769
103.5
(a)(9) amended ... 5769
(a)(9) amended ... 7015
103.7
(a) through (f) amended ... 5770
Amended ... 7015
103.9
(a)(1) amended ... 5770
(a)(1) amended ... 7015
103.11
Amended ... 5770
Amended ... 7015
103.13
Amended ... 5770
Amended ... 7015
103.21
Amended ... 5770
Amended ... 7015
103.35
Added ... 20982
121
Appendix E amended ... 263
Appendix F added ... 265
Appendix F amended ... 5967
Appendix F amended ... 7705
Appendix D amended ... 13268
Appendix F amended ... 14551
Appendix F amended ... 16482
121.45
(a)(3) amended; (a)(4) added ... 6272
121.47
(a) revised ... 6272
121.53
(a) revised ... 6272
121.291
Revised ... 13266
121.309
(f) revised; (g) and (h) deleted ... 13267
121.310
(a) revised; introductory text of (b), (b)(2), and introductory text of (c) amended; (d) revised; introductory texts of (e) and (f) amended; (f)(3), (g), (h), and (i) revised; (j) added ... 13267
(j) amended ... 14930
121.311
(c) and (d) added ... 13267
121.312
Added ... 13267
121.319
Deleted ... 13268
121.340
(a) amended ... 3223
121.343
(c) amended ... 5769
(e) added ... 8893
(d) revised ... 17890
121.359
(e) revised ... 5770
(e) revised ... 13914
121.379
(a) revised ... 13506
121.391
(a) revised; (b) amended; (d) added ... 13268
121.418
Revised ... 262
121.419
Revised ... 262
(a)(3) amended ... 5967
121.420
Deleted ... 262
121.441
(b), (c), and (d) revised; (e) and (f) added ... 263
121.442
(a) amended; (b)(1) and (c) revised ... 263
121.449
Deleted ... 263
121.545
(b) amended ... 5769
121.547
(a)(2) and (c)(1) amended ... 5769
121.571
(b) amended ... 13268
121.579
(b) amended ... 13912
121.589
Added ... 13268
121.613
Amended ... 13912
121.615
(a) amended ... 13912
121.619
(a)(1) amended ... 13912
121.621
(a)(1) amended ... 13913
121.625
Amended ... 13912
121.637
(b) amended ... 13912
(a)(4) revised ... 13913
121.651
(a) through (e) amended ... 13913
121.653
Introductory text of (a), (b), (c), and (d) amended ... 13913
121.703
(f) revised ... 5770
127.19
Amended ... 5769
127.209
(b) amended ... 5769
127.211
(a)(2) and (c)(1) amended ... 5769
127.313
(f) revised ... 5770
135.39
(a) and (c) revised ... 6563
135.72
Added ... 6908
135.107
(b) amended ... 13913
135.111
(b), (c), and (d) (1) and (2) amended ... 13913
135.129
Introductory text of (a) amended; (b) redesignated as (c); new (b) added ... 6564
135.131
(a) revised; (b) through (f) redesignated as (c) through (g), respectively; new (b) added ... 6564
135.133
Amended ... 6564
135.143
(b) revised ... 8406
141
Appendix B amended ... 5770
Subpart D added ... 17852
141.1
Amended ... 17852
141.11
(a) revised ... 17852
141.27
Amended ... 17852
141.47
(a) revised ... 5770
141.49
(a) amended ... 5770
141.59
Revised ... 15583
141.60
Added ... 15584
141.71—141.79
Subpart D added ... 17852
143.21
Amended ... 5769

145.15
(a) revised ... 15670
147.21
(c)(1) and (d)(1) revised ... 5770
151.7
(a)(1) and (2) and introductory text of (a)(3) revised ... 9220
151.43
(c) revised ... 17471
151.71
Revised ... 9220
151.121
Amended ... 6926
153.13
(a)(3) and (4) revised; (c) deleted ... 6926
157.5
Amended ... 15818
171.73
Added ... 7331
181
Rescinded ... 5546
183
Amended ... 46
183.21
(c) amended; (d) redesignated as (e); new (d) added ... 46
185.1
Revised ... 12051
185.3
Introductory text amended ... 12051
185.9
Amended ... 12051
185.11
(a) amended ... 12051
185.15
Revised ... 12051
185.17
Amended ... 5770
187
Revised ... 12051
198
Redesignated from Part 1501 of Chapter XV; revised ... 20843

Special Federal Aviation Regulations:

16
Revoked ... 14312
17 ... 9809
18 ... 17654

Chapter II

202.3
(c)(4) added ... 13184
203.7
(d) revised ... 13184
207.1
Amended ... 488
Amended ... 15097
207.4a
Added ... 13860
207.9
Revised ... 13860
208
Subpart B1 added ... 15098
208.3
(r) added ... 6437
208.11
(a) and (b) revised ... 8752
208.31b
Added ... 13860
208.150
Subpart B1 added ... 15098
208.200a
Revised ... 11156
208.212
Revised ... 6437
208.213
(d) revised ... 6022
212
Heading revised ... 13861
212.3n
Added ... 13861
212.7
Revised ... 13861
214.2
(k) revised; (m) added ... 6438
214.5
Deleted ... 18020
214.11
Revised ... 11156
214.13a
Added ... 13861
214.31
Revised ... 6438
214.32
Revised ... 6438
214.35
(d) revised ... 6438
217
Added ... 18022
221.38
(a)(7) added ... 11938
221.165
Revised ... 7453
221.175
(b) revised ... 8129
(a) revised ... 18023
224
Revised ... 5546
224.3
(a) and (c) revised ... 7901
233.1
(c) through (f) revised ... 8793
234.2
Revised ... 14598
234.8
(a) and (b) revised ... 14598
241
Amended ... 2808
Amended ... 5367
Amended ... 7591
Amended ... 15098
Amended ... 18024
Amended ... 20770
249
Added ... 20713
249.8
Amended ... 6487
249.12
(c) added ... 13862
249.13
(f) amended ... 13862
256
Added ... 11942
288
Revised ... 7908
288.7
(a)(1) revised ... 10930
295
Amended ... 5733, 5734
Republished ... 16251
295.2
(k) revised; (m) added ... 6439
295.11
Revised ... 11156
295.12
Revised ... 5732
295.13a
Added ... 13862
295.14
Introductory text of (c) revised ... 13862
295.31
Revised ... 6439
295.32
Revised ... 6439
295.33
(d) revised ... 5732
295.34
Revised ... 5732
295.35
(d) revised ... 6439
298.13
Revised ... 14321
298.21
(e) revised ... 496
(f) revised ... 14321
298.24
Added ... 14321
301
Redesignated as Part 421 of Chapter III and amended ... 16491
301.1
Revised ... 9221
301.2
Revised ... 9221
301.4
(a) revised ... 9221
301.5
(d) revised ... 9221
301.10
(a) and (a–1) revised ... 9222
301.19
(b) revised ... 9222
301.27
(b) revised ... 9222
301.29
Revised ... 9222
301.40
Revised ... 9222
301.41
Revised ... 9222
301.45
Revised ... 9222
301.46
Revised ... 9222
301.47
Revised ... 9222
301.48
Revised ... 9222
301.50
(d) revised ... 9223
302.38
(a), (b), and (c) revised ... 4943
302.1105
Revised ... 20959
303
Redesignated as Part 431 of Chapter III and amended ... 16491
310
Added ... 8793
311
Redesignated as Part 435 of Chapter III and amended ... 16491
320
Redesignated as Part 430 of Chapter III and amended ... 16491
320.5
Amended ... 90
370
Revised ... 13052
378.1
Revised ... 9223
378.2
(f) revised ... 9223
378.10
Revised ... 11987
378.18
(a) revised ... 11987
384
Added ... 8797
385
Revised ... 8799
385.13
(u) added ... 11944
(v) added ... 11987
(n) revised; (w) and (x) added ... 13507
385.14
(c) revised ... 13272
386
Deleted ... 20805

14 CFR—Continued

Page

Chapter II—Continued
387.4
(c) and (d) revised ... 6129
389
Revised ... 8904
399
Subpart H heading revised ... 3818
399.16
(b) and (c) deleted; (d), introductory text of (c), and (e) (1) and (2) revised ... 7823
399.39
Added ... 5379
399.90—399.92
Subpart H heading revised ... 3818
399.92
Added ... 3818
Chapter III
Added ... 9963
400
Added ... 12839
401
Added ... 9964
421
Redesignated from Part 301 of Chapter II and amended ... 16491
430
Redesignated from Part 320 of Chapter II and amended ... 16491
430.2
Revised ... 20771
430.5
Revised ... 20771
430.15
(a) and (c) revised ... 20771
431
Redesignated from Part 303 of Chapter II and amended ... 16491
435
Redesignated from Part 311 of Chapter II and amended ... 16491
Chapter V
1200
Redesignated as Part 1207; revised ... 14648
1201
Added ... 9524
1204
Subpart 7 added ... 6564
Subpart 8 heading revised ... 13321
Subpart 9 added ... 13321
1204.300—1204.312
Subpart 8 heading revised ... 13321
1204.508
Added ... 3883
1204.700—1204.707
Subpart 7 added ... 6564
1204.900—1204.915
Subpart 9 added ... 13321
1205
Added ... 132
1206
Added ... 9528
1207
Redesignated from Part 1200; revised ... 14648
1209
Subpart 4 added ... 11209
Subpart 5 added ... 20714
1209.400—1209.405
Subpart 4 added ... 11209
1209.500—1209.505
Subpart 5 added ... 20714
1221
Revised ... 12997
1240
Revised ... 6272
Subpart 2 added ... 11262

1240.200—1240.201-3
Subpart 2 added ... Page 11262
Chapter XV
1501
Redesignated as Part 198 of Chapter I; revised ... 20843
1503
Redesignated as 49 CFR Part 93; revised ... 20778

Proposed Rules:

1 ... 6938, 7219, 7220, 10811, 16495
21 ... 91, 6066, 6318, 6648, 11042, 14106, 14775, 17485.
25 ... 5696, 5791, 9237, 10103, 10602, 10663
26 ... 3226, 17487
27 ... 14106, 15676
29 ... 14106, 15676
37 ... 3171, 3175, 3236, 5788, 6318, 6648
39 ... 9, 55, 56, 283, 284, 614, 822, 931, 2382, 2450–2451, 2976, 2977, 2221, 2297, 3063, 3997, 4124, 4314, 4428, 5806, 5939, 5996, 6099, 6578, 6645, 6983, 7396, 7460, 7598, 7856, 7978, 7979, 8022, 8031, 9171, 9703, 10570–10572, 10660, 11166, 11338, 11336, 11852, 12065, 12066, 12405, 12930, 13021, 13669, 13776, 13870, 14110, 14776, 14777, 15490, 15491, 15586, 17439, 17672, 17673, 17895, 20818.
43 ... 91, 6318, 6648, 14106
45 ... 5097, 14106
61 ... 329, 3171, 3749, 5740, 6320, 6513, 8094, 10108, 10660, 11573, 20984, 20985.
63 ... 6320, 8094
65 ... 91, 3946, 6320, 8094
67 ... 6320
71 ... 94, 284, 389, 615–618, 823, 873, 1056, 2383, 2451–2453, 3578, 3649, 3650, 3709, 3787, 3860, 3897, 3898, 3100–3102, 3227, 3228, 3364, 3365, 3400–3402, 3470, 3750, 3779, 3946, 3947, 3997, 4026, 4315, 4426–4432, 4542–4543, 5291–5292, 5425, 5472, 5473, 5706, 5997, 5998, 6060, 6061, 6145, 6207, 6208, 6286, 6287, 6371, 6406, 6454, 6579–6581, 6645–6647, 7132, 7219, 7290–7292, 7397, 7461–7463, 7599, 7694, 7856, 7857, 7979, 8181, 8182, 8301–8303, 8422, 8661, 8723–8724, 8818, 8819, 8919–8921, 8975–8978, 9027, 9171, 9173, 9237, 9571, 9704–9708, 9966, 10103, 10210–10212, 10309, 10372, 10450, 10516, 10661–10663, 10855, 10937, 11167, 11168, 11282, 11385, 11477, 11574–11576, 11643, 11803–11805, 11882, 12119–12121, 12449, 12600, 12724, 12922, 13006–13008, 13079, 13140, 13141, 13197, 13293, 13294, 13460, 13526, 13670, 13776, 13820, 13821, 13933–13936, 14063, 14111, 14155, 14383, 14564, 14565, 14665–14668, 14852, 15117–15121, 15401–15403, 15546–15548, 15588, 15589, 15712, 15837, 15896, 15985, 15926, 16049, 16050, 16102, 16169, 16221, 16437, 16496, 17488, 17543, 17596–17598, 17673–17675, 17861, 17962, 18060–18062, 20657, 20658, 20737, 20738, 20780, 20781, 20966, 20967.
73 ... 56, 389, 579, 2453, 3103, 3104, 3402, 3751, 3906, 4316, 4543, 5373, 6207, 6562, 7026, 7134, 7599, 8422, 8682, 10666, 11049, 13937, 16050, 16221, 16222, 17488.
75 ... 390, 2453, 2454, 3228, 3402, 3751, 3906, 4316, 4543, 5373, 5423, 5473, 8095, 8725, 9708, 10516, 11336, 13460, 13670, 14333, 14565, 18062.
77 ... 3887, 10673, 20658
91 ... 91, 675, 2950, 5559, 6638, 7219, 7220, 9646, 9967, 10810, 10602, 10660, 10811, 10663, 11958, 12724, 13722, 13871, 14106, 14334, 14565, 14775, 16496, 19190, 21039.
93 ... 15580
97 ... 6938, 7219
105 ... 13595
121 ... 2950, 3226, 3946, 6318, 6648, 6938, 7219, 10811, 11169, 11477, 12405, 12922, 13722, 14334, 14565, 14777, 15676.
127 ... 6318, 6648, 13417, 14106, 14777
133 ... 6318, 6648
135 ... 4500, 6318, 6648, 6938, 7219
137 ... 6138, 6648, 7183
141 ... 6318, 6648, 9103
143 ... 6320
145 ... 91, 6318, 6648
147 ... 6318, 6648
149 ... 6318, 6648
167 ... 6318, 6320, 6648
208 ... 11170, 15676
209 ... 11170, 15676
307 ... 387, 2821, 7091, 8765, 16223, 20739
308 ... 387, 2821, 8399, 7091, 8248, 8765
312 ... 387, 2821, 8765
314 ... 387, 2821, 8248, 8765, 16535
316 ... 11480
317 ... 11337
321 ... 387, 459, 990, 2821, 2955, 4076, 6921, 9841, 10666, 12190.
323 ... 13141
333 ... 6714
334 ... 11533
335 ... 328
341 ... 328, 7343, 17963, 20880
343 ... 5562, 6941, 8280, 8528
240 ... 8766
250 ... 459, 2955
288 ... 4421, 5564, 7499, 15926
295 ... 387, 2821, 8248, 8765, 16535
298a ... 992, 2955, 3753
298 ... 10450, 17598
309 ... 6714, 7635, 9327, 14111
375 ... 11480
378 ... 6454, 6947, 7134, 13009, 14283
389 ... 9841, 10268, 11378
399 ... 3170, 4076, 4421, 5564, 5642, 7499, 8921, 9841, 10666, 16225, 20739

15 CFR

Subtitle A
0
Revised ... 15222
2
Revised ... 3769
3.13
(b) revised ... 10252
4
Revised ... 9643
4.1
(a) revised ... 14017
7
Superseded by 49 CFR Part 91 ... 13384
11
Added ... 1126
12
Added ... 11074
13
Added ... 15818
Chapter I
30.4
(a) revised ... 20807
30.7
(l) (5) deleted ... 20805
30.22
Revised ... 20805
30.36
(b) (3) revised ... 20806
30.41
Added ... 20806

Page
30.53
(d) revised ... 20806
30.55
(f) revised; (i) added ... 20806
(h) revised ... 20807
30.70
(g) and (k) revised; (l) deleted ... 20806
30.92
Amended ... 20806
60
Added ... 10786
60.9
Corrected ... 13441
70
Added ... 15154
Chapter II
Subchapter E heading revised ... 10252
Subchapter A recodified and revised ... 21012
200—210
Subchapter A recodified as Part 200; revised ... 21012
200
Revised ... 10194
Subchapter A recodified from Parts 200—210; revised ... 21012
201
Revised ... 7312
201.306
Corrected ... 8027
201.701
Revised ... 849
201.800—201.860
Recodified as 201.800—201.861 and revised ... 849
201.800—201.861
Recodified from 201.800—201.860 and revised ... 849
201.822
(b) amended ... 10644
201.870
Added ... 7131
201.871
Added ... 7131
201.900—201.950
Recodified and revised ... 844
201.910
(g) amended ... 7131
201.912
Amended ... 5547
202
Revised ... 7372
202.620—202.628
Deleted ... 2814
202.630—202.633
Added ... 2814
203
Revised ... 7744
204.201—204.203
Revised ... 15391
204.503
Added ... 3817
204.701—204.703
Revised ... 15106
205
Revised ... 10645
206
Revised ... 7746
208
Deleted ... 10645
210
Revised ... 13765
230
Revised ... 21017
230.7–5
Amended ... 13766
230.7–7
(a) and (b) revised; table amended ... 2844
230.7–18
Amended ... 11765
230.7–20
Existing text designated as (a) and heading added; (b) added ... 6129
230.7–21
(b) amended ... 7132
230.7–22
Amended ... 4057
Amended ... 13057
230.7–23
Added ... 11785
230.7–24
Added ... 15636
230.8–4
Amended ... 11765
230.8–5
(b) (3) amended ... 7132
(b) amended ... 11765
(b) (1) (ii) and (5) amended ... 12441
(b) amended ... 11765
(b) (1) (ii) and (5) amended ... 12441
(b) (2) and (3) redesignated as (b) (2) and revised ... 15105
230.8–6
(a) amended ... 7593
230.8–8
Revoked ... 10930
230.8–15
Amended ... 8957
230.8–17
Amended ... 13766
Amended ... 15636
230.8–19
Amended ... 13058
230.8–21
Revised ... 2844
230.8–25
(b) revised ... 3741
230.8–26
Added ... 2844
Amended ... 8957
230.8–27
Added ... 11766
235.1
Revised ... 10198
256
Added ... 10252
Chapter III
Determination ... 10077
Determination ... 10297
364.2
Amended ... 8853
364.3
(b), (c), (e), and (f) amended ... 8853
364.5
Amended ... 8853
365.1
Amended ... 9809
367.2
(b) amended ... 8853
369.2
Amended ... 10079
370.1
(g) revised ... 4344
370.2
Revised ... 11766
370.5
(h) added ... 8581
370.11
Added ... 10079
371.9
(b) revised ... 8129
371.10
(a) revised ... 4344
Revised ... 10080
371.25
(b) revised ... 4344
372.5
(e) (1) revised ... 4345
372.12
(c) (2) and (3) revised ... 4345
(c) (2) (ii) (c) amended ... 10079
(e) added ... 11766
373
Supplement 1 amended ... 978
Supplements 1 and 4 amended ... 10079
Supplement 1 amended ... 12942
Supplement 1 revised; Supplement 4 amended ... 13448
373.3
(a) and (b) revised ... 4345
373.4
(a), (b), (c), and (f) revised ... 4346
373.5
(b)-(1) revised ... 13446
373.8
(b) revised ... 981
373.16
Revised ... 11766
Revised ... 13446
Revised ... 14213
373.19
Deleted ... 6130
373.20
(a) (2) (i), (ii), and (iii) redesignated as (a) (2) (i) (a), (b), and (c); new (a) (2) (ii) added ... 12114
Revised ... 13446
Amended ... 14213
(b) (2) revised ... 17472
373.21
Revised ... 14213
373.35
Revised ... 4348
373.38
Added ... 13447
Revised ... 14214
373.39
Added ... 14214
373.42
Revised ... 4348
Deleted ... 6130
373.42
Added ... 11767
Revised ... 13447
373.43
(b) (2) and (3) amended; (b) (4) added ... 6130
(b) (2) revised ... 12942
373.46
Revised ... 4348
Deleted ... 6130
373.47
Introductory text and (a) revised ... 4348
373.48
(a) revised ... 4348
373.50
Added ... 982
(b) (5) revised ... 6130
373.55
Deleted ... 6130
373.56
Revised ... 4348
373.57
Added ... 10081
373.63
Revised ... 4348
Deleted ... 6130
373.69
Revised ... 13447
374.2
Revised ... 4348
374.3
(a) (2) revised ... 4348
376.4
(a) (1) revised ... 4349

15 CFR—Continued

Chapter III—Continued
377.2
Revised ... 4349
379.1
(a) (3) revised ... 15988
379.2
(h) (2) (ii) redesignated as (iii) and revised; new (h) (2) (ii) added ... 11767
(h) revised ... 13448
379.3
(c) (3) (vi) added ... 11767
379.4
(k) deleted ... 4159
379.12
(c) revised ... 978
(c) amended ... 6130
(c) amended ... 10079
(c) amended ... 13449
380.2
(f) (3) and (4) revised ... 4349
382.51
(b) amended ... 4159
(b) amended ... 6347
(b) amended ... 8133
(b) amended ... 8581
(b) amended ... 10083
(b) amended ... 13449
(b) amended ... 16146
384.4
Revised ... 8130
385.2
(c) (4) (iii) (ee) revised ... 6130
(c) (2) revised; (c) (4) (iii) (gg) added ... 10081
(c) (4) (iv) and (5) (v) revised ... 11767
(c) (4) (iii) (hh) and (ii) added ... 13449
385.4
(a) revised ... 4160
385.6
Revised ... 10081
399.1
Amended ... 978
Amended ... 4160
Amended ... 4349
Revised ... 5003
Amended ... 6348
Amended ... 8130
Amended ... 8582
Amended ... 10082
Amended ... 11767
Amended ... 13449
Amended ... 14214
Amended ... 16147
399.2
Amended ... 4349
Amended ... 8584
Chapter IV
400
Amended ... 13714
400.104
Revised ... 13714
400.605
Revised ... 13714
400.608
Revised ... 13714
400.609
Added ... 13714
400.1301
Revised ... 13714
400.1303
Revised ... 13715
400.1308
Amended ... 13714
400.1400—400.1406
Center heading and sections added ... 13715
Chapter V
Consolidated with Chapter III of Title 33 in new Parts 906, 907, and 945 of Chapter IX ... 16257
Chapter VI
602
Added ... 2433
Appendix B revised ... 9063
Chapter VII
700.12
Revised ... 10720
Chapter IX
Added ... 13184
903
Added ... 13184
906
Added ... 16257
907
Added ... 16257
945
Added ... 16258
Proposed Rules:
10 ... 12069, 13386
12 ... 7532
70 ... 13077
602 ... 280

16 CFR

Chapter I
Subchapter B heading revised ... 15525
Revised ... 13272
Revised ... 8444
Revised ... 8446
Revised ... 8449
3.33
(f) (1) corrected ... 9158
3.36
(c) corrected ... 8710
3.43
(g) corrected ... 8711
Revised ... 8456
4.10
(a) (6) corrected ... 8711
13.5
C–1159 ... 2498
C–1161 ... 2884
C–1169o ... 3771
C–1182 ... 5324
7938o ... 6676
7946 ... 7628
8674 ... 8238
8653o ... 9646
8701 ... 11432
C–1252 ... 14099
8572o ... 15011
13.7
C–1270 ... 17853
13.15
C–1148 ... 267
8694 ... 269
8692 ... 446
C–1162 ... 2885
C–1164 ... 3051
C–1165 ... 3225
8710 ... 5735
8705 ... 6130
8693 ... 6677
C–1194 ... 6926
C–1203 ... 7626
C–1227 ... 10563
8649o ... 10640
8624o ... 12713
C–1261 ... 15749
C–1269 ... 17618
13.20
C–1145 ... 134
C–1149 ... 380
8692 ... 446
C–1152 ... 491
C–1155 ... 610
C–1170 ... 3439
C–1173 ... 3973
C–1176 ... 4017
C–1193 ... 6927
C–1197 ... 6928
C–1195 ... 6929
C–1196 ... 7016
C–1209 ... 8585
C–1215 ... 9645
C–1264 ... 15748
C–1267 ... 17427
C–1268 ... 17618
C–1272 ... 17855
13.50
C–1158 ... 2497
C–1227 ... 10563
13.60
C–1158 ... 2497
C–1165 ... 3225
C–1167 ... 3340
C–1203 ... 7626
C–1227 ... 10563
C–1246 ... 10976
13.70
C–1146 ... 134
C–1148 ... 267
8706 ... 268
8694 ... 269
8692 ... 446
C–1158 ... 2497
C–1162 ... 2885
C–1165 ... 3225
8710 ... 5735
8662 ... 5991
8705 ... 6130
8690 ... 8963
C–1246 ... 10976
8624o ... 12713
C–1261 ... 15749
C–1269 ... 17618
13.71
8693 ... 6677
13.73
C–1145 ... 134
C–1149 ... 380
8692 ... 446
C–1152 ... 491
C–1155 ... 610
C–1173 ... 3973
C–1174 ... 4017
C–1176 ... 4017
C–1175 ... 4018
C–1197 ... 6928
C–1195 ... 6929
C–1198 ... 7016
C–1209 ... 8585
C–1215 ... 9645
C–1234 ... 10645
C–1264 ... 15748
C–1267 ... 17427
C–1268 ... 17618
C–1272 ... 17855
13.75
C–1146 ... 134
8719 ... 448
C–1156 ... 1170
C–1162 ... 2885
8702 ... 3974
8690 ... 8963
C–1246 ... 10976
13.85
8720 ... 3973
13.90
5959o ... 609
13.105
C–1203 ... 7626
C–1227 ... 10563
8624o ... 12713
13.110
C–1249 ... 10977
13.115
C–1203 ... 7626
13.125
C–1146 ... 134
8694 ... 269
C–1156 ... 1170
8720 ... 3973
13.140
C–1164 ... 3051
8720 ... 3973
C–1184 ... 5734
13.155
C–1145 ... 134
C–1146 ... 134
C–1148 ... 267
8706 ... 268
8694 ... 269
8719 ... 448
C–1152 ... 491
C–1154 ... 609
C–1155 ... 610
C–1156 ... 1170
C–1162 ... 2885
C–1163 ... 3050
C–1164 ... 3051
8720 ... 3973
C–1173 ... 3973
8702 ... 3974
C–1174 ... 4017
C–1184 ... 5734
8710 ... 5735
8662 ... 5991
C–1186 ... 5991
8705 ... 6130
8693 ... 6677
C–1197 ... 6928
C–1198 ... 7016
8690 ... 8963
C–1215 ... 9645
C–1234 ... 10645
8649o ... 10640
8624o ... 12713
C–1261 ... 15749
13.157
8710 ... 5735
8705 ... 6130
13.170
8641o ... 379
8642o ... 380
8640o ... 381
8644o ... 382
5959o ... 609
8643o ... 9648
C–1129 ... 10564
8619o ... 10564
C–1249 ... 10977
8547 ... 20808
13.175
C–1165 ... 3225
C–1167 ... 3340
8720 ... 3973
8710 ... 5735
8662 ... 5991
C–1269 ... 17618
13.180
C–1184 ... 5734
13.185
C–1149 ... 380
C–1158 ... 2497
C–1162 ... 2885
13.190
C–1246 ... 10976
13.195
5959o ... 609
13.205
5959o ... 609
13.225
C–1246 ... 10976
13.235
C–1174 ... 4017
6412 ... 6837
C–1197 ... 6928
C–1195 ... 6929
C–1198 ... 7016
C–1261 ... 15749
13.240
8719 ... 448
8690 ... 8963
13.245
C–1249 ... 10977
13.255
8710 ... 5735
13.260
8702 ... 3974
8704 ... 7627
13.395
8684o ... 10562
8512o ... 12713
13.397
8512o ... 12713
13.425
C–1257 ... 14818
13.450
C–1251 ... 10975
C–1248 ... 10975
13.455
8512o ... 12713
13.470
6487 ... 3050
8684o ... 10562
13.525
C–1188 ... 6565
C–1187 ... 6565
C–1189 ... 6566
13.535
6487 ... 3050
C–1251 ... 10975
13.560
6487 ... 3050
8512o ... 12713
13.573
8684o ... 10562
13.617
8512o ... 12713
13.670
6487 ... 3050
C–1257 ... 14818
13.700
C–1248 ... 10975
13.730
9599 ... 12844
13.737
8548o ... 11432
13.785
8038 ... 7626
13.800
C–1201 ... 7493
C–1253 ... 14693
C–1254 ... 14693
C–1256 ... 14818
C–1255 ... 14819
13.824
C–1178 ... 4057
C–1185 ... 5734
8584o ... 10844
8664o ... 15874
13.825
C–1178 ... 4057
C–1185 ... 5734
8664o ... 15874
13.835
C–1178 ... 4057
13.870
7887 ... 5991
13.885
C–1248 ... 10975
13.892
C–1177 ... 4057
8100 ... 5990
8669 o ... 13766
C–1257 ... 14818
13.995
8706 ... 268
13.1053
C–1171 ... 3771
C–1206 ... 8240
C–1212 ... 9158
C–1213 ... 9158
C–1214 ... 9647
C–1233 ... 10647
C–1241 ... 10840
C–1239 ... 10842
C–1240 ... 10843
C–1250 ... 10975
C–1260 ... 15106
C–1263 ... 15750
C–1275 ... 18025
13.1055
8661o ... 268
C–1154 ... 609
C–1157 ... 1170
8711 ... 2499
C–1162 ... 2885
8660o ... 3439
C–1186 ... 5991
C–1190 ... 6676
C–1261 ... 15749
13.1057
C–1217—C–1226 ... 10565
13.1060
C–1147 ... 269
C–1153 ... 490
C–1171 ... 3771
C–1204 ... 7626
C–1205 ... 8239
C–1207 ... 8584
C–1216 ... 10058
C–1259 ... 14818
C–1260 ... 15106
C–1273 ... 18025
8735 ... 20631
13.1108
C–1145 ... 134
C–1149 ... 380
C–1151 ... 447
C–1150 ... 447
C–1152 ... 491
C–1155 ... 610
C–1160 ... 2498
C–1163 ... 3050
C–1170 ... 3439
C–1173 ... 3973
C–1174 ... 4017
C–1176 ... 4017
C–1175 ... 4018
C–1180 ... 5255
C–1179 ... 5255
C–1183 ... 5734
C–1188 ... 6565
C–1187 ... 6566
C–1189 ... 6566
C–1197 ... 6928
C–1200 ... 7206
C–1202 ... 7494
C–1209 ... 8585
C–1208 ... 8586
C–1214 ... 9647
C–1239 ... 10646
C–1233 ... 10647

16 CFR—Continued

Chapter I—Continued

13.1108—Continued

	Page
C–1238	10648
C–1242	10843
C–1247	10977
C–1260	15106
C–1262	15470
C–1264	15748
C–1267	17427
C–1271	17855
C–1276	20807
13.1140	
8512o	12713
13.1185	
C–1145	134
C–1149	380
8692	446
C–1150	447
C–1155	610
C–1160	2498
C–1163	3050
C–1166	3225
C–1168	3341
8660o	3439
C–1170	3439
C–1173	3973
C–1172	3975
C–1176	4017
C–1175	4018
C–1180	5255
C–1179	5255
C–1183	5734
C–1188	6565
C–1187	6566
C–1189	6566
C–1192	6836
C–1191	6837
C–1196	6927
C–1193	6927
C–1195	6929
C–1199	7015
C–1198	7016
C–1200	7206
C–1202	7494
C–1206	8240
C–1210	8584
C–1209	8585
C–1211	8585
C–1208	8586
C–1212	9158
C–1213	9158
C–1215	9645
C–1214	9647
C–1228	10565
C–1235	10646
C–1230	10646
C–1232	10646
C–1233	10647
C–1238	10648
C–1237	10648
C–1231	10648
C–1236	10649
C–1241	10841
C–1245	10841
C–1244	10842
C–1239	10842
C–1240	10843
C–1242	10843
C–1243	10844
C–1250	10975
C–1247	10977
C–1258	14819
C–1260	15106
C–1262	15470
C–1264	15748
C–1263	15750
C–1265	15874
C–1267	17427
C–1268	17619
C–1271	17855
C–1274	18025
C–1275	18025
C–1276	20807
13.1212	
C–1145	134
C–1149	380
8692	446
C–1151	447
C–1150	447
C–1153	490
C–1152	491
C–1155	610
C–1160	2498
C–1163	3050
C–1166	3225
C–1168	3341
C–1170	3440
C–1172	3975
C–1176	4017
C–1175	4018
C–1180	5255
C–1179	5255
C–1183	5734
C–1188	6565
C–1187	6566
C–1189	6566
C–1192	6836
C–1191	6837
C–1196	6927
C–1193	6927
C–1195	6929
C–1199	7015
C–1198	7016
C–1200	7206
C–1202	7494
C–1206	8240
C–1210	8585
C–1209	8585
C–1211	8585
C–1208	8586
C–1212	9158
C–1213	9158
C–1215	9645
C–1214	9647
C–1228	10565
C–1235	10646
C–1230	10646
C–1232	10646
C–1233	10647
C–1238	10648
C–1237	10648
C–1231	10648
C–1236	10649
C–1241	10840
C–1245	10841
C–1244	10842
C–1239	10842
C–1240	10843
C–1242	10843
C–1243	10844
C–1250	10975
C–1247	10977
C–1258	14819
C–1260	15106
C–1262	15470
C–1264	15748
C–1263	15750
C–1265	15874
C–1267	17427
C–1268	17619
C–1271	17855
C–1274	18025
C–1275	18025
C–1276	20807
13.1280	
C–1145	134
C–1152	491
C–1155	610
C–1163	3050
8660o	3439
C–1195	6929
13.1295	
8712	2497
13.1325	
8660o	3439
8412	6837
C–1214	9647
C–1233	10647
C–1247	10977
C–1260	15106
13.1355	
C–1198	7016
13.1390	
8705	6130
C–1190	6676
8679o	13455
13.1395	
C–1181	5324
C–1203	7626
13.1400	
C–1164	3051
8624o	12713
13.1417	
8693	6677
C–1203	7626
13.1425	
8661o	268
C–1190	6676
13.1460	
C–1165	3225
8700	13766
13.1475	
8724	13124
C–1261	15749
C–1269	17618
13.1490	
8710	5735
8693	6677
8724	13124
8700	13766
13.1505	
8679o	13455
13.1520	
C–1162	2885
13.1540	
C–1194	6926
13.1550	
8649o	10840
13.1553	
C–1194	6926
C–1269	17618
13.1555	
C–1203	7626
13.1590	
8660o	3439
8697o	11467
13.1608	
C–1158	2497
C–1227	10563
C–1246	10976
13.1615	
C–1158	2497
C–1165	3225
C–1167	3340
C–1203	7626
C–1227	10563
C–1246	10976
13.1625	
C–1156	1170
C–1162	2885
8702	3974
8690	8963
8679o	13455
13.1635	
C–1157	1170
13.1640	
8661o	268

	Page
13.1645	
C–1157	1170
8720	3973
13.1647	
C–1158	2497
C–1162	2885
C–1181	5324
8710	5735
8662	5991
8705	6130
8690	8963
C–1246	10976
8624o	12713
13.1650	
8722	6927
13.1663	
C–1203	7626
8624o	12713
13.1665	
C–1249	10977
C–1261	15749
13.1670	
C–1203	7626
13.1675	
8700	13766
13.1685	
8697o	11467
13.1695	
C–1184	5734
13.1698	
C–1217—C–1226	10565
13.1705	
8710	5735
8705	6130
13.1710	
8643o	9648
C–1249	10977
8547	20808
13.1715	
8712	2497
C–1165	3225
C–1167	3340
8720	3973
8710	5735
8662	5991
8705	6130
C–1245	10841
C–1246	10976
8697o	11467
C–1261	15749
C–1269	17618
13.1720	
C–1184	5734
13.1725	
C–1158	2497
C–1162	2885
13.1730	
C–1246	10976
13.1745	
8660o	3439
13.1747	
C–1156	1170
C–1173	3973
8722	6927
8690	8963
8679o	13455
13.1757	
8710	5735
13.1760	
8702	3974
8704	7627
13.1778	
C–1162	2885
8702	3974
13.1779	
C–1156	1170
8720	3973
C–1184	5734
8710	5735
8705	6130
8693	6677
8690	8963
C–1234	10645
8679o	13455
13.1800	
C–1164	3051
C–1161	5324
8662	5991
8690	8963
8624o	12713
13.1805	
C–1156	1170
8711	2499
C–1173	3973
8702	3974
C–1181	5324
8710	5735
8693	6677
13.1810	
8711	2499
13.1811	
8660o	3439
13.1813	
8710	5735
13.1817	
C–1164	3051
8722	6927
13.1820	
8649o	10840
13.1825	
C–1164	3051
C–1173	3973
8690	8963
C–1234	10645
C–1261	15749
13.1845	
C–1145	134
C–1149	380
8692	446
C–1152	491
C–1155	610
C–1163	3050
C–1166	3225
C–1173	3973
C–1174	4017
C–1176	4017
C–1175	4018
C–1180	5255
C–1179	5255
C–1183	5734
C–1188	6565
C–1187	6566
C–1189	6566
C–1192	6836
C–1191	6837
C–1197	6928
C–1195	6929
C–1199	7015
C–1198	7016
C–1200	7206
C–1208	8586
C–1215	9645
C–1214	9647
C–1230	10646
C–1233	10647
C–1238	10648
C–1245	10841
C–1239	10842
C–1247	10977
C–1258	14819
C–1264	15748
C–1263	15750
C–1265	15874
C–1267	17427
C–1271	17855
13.1852	
C–1145	134
C–1149	380
8692	446
C–1151	447
C–1153	490
C–1152	491
C–1155	610
C–1160	2498
C–1163	3050
C–1166	3225
C–1168	3341
C–1173	3973
C–1172	3975
C–1174	4017
C–1176	4017
C–1175	4018
C–1180	5255
C–1179	5255
C–1183	5734
C–1188	6565
C–1187	6566
C–1189	6566
C–1192	6836
C–1191	6837
C–1196	6927
C–1193	6927
C–1197	6928
C–1195	6929
C–1199	7015
C–1198	7016
C–1200	7206
C–1202	7494
C–1206	8240
C–1210	8585
C–1209	8585
C–1211	8585
C–1208	8586
C–1212	9158
C–1213	9158
C–1215	9645
C–1214	9647
C–1228	10565
C–1230	10646
C–1232	10646
C–1235	10646
C–1233	10646
C–1238	10648
C–1237	10648
C–1231	10649
C–1236	10841
C–1245	10842
C–1239	10843
C–1240	10843
C–1242	10843
C–1250	10975
C–1247	10978
C–1258	14819
C–1264	15748
C–1263	15750
C–1265	15874
C–1267	17427
C–1268	17619
C–1272	17855
C–1271	17855
C–1274	18025
C–1275	18025
C–1276	20807
13.1863	
8547	20808
13.1880	
8702	3974
13.1882	
8702	3974
13.1890	
5959o	609
13.1905	
8702	3974
8722	6927
8704	7627
13.2013	
8702	3974

16 CFR—Continued

Chapter I—Continued

	Page
13.2168	
8724	13134
13.2195	
8806e	15107
13.2280	
8660e	3439
C–1233	10647
C–1245	10661
13.2290	
8700	13706
13.2310	
8660e	3439
13.2330	
8705	6130
C–1261	15749
13.2345	
8660e	3439
C–1233	10647
C–1261	15749
13.2365	
8705	6130
8679e	13455
13.2375	
C–1261	15749
13.2380	
8661e	268
C–1199	9676
13.2396	
8700	13706
13.2410	
8679e	13455
13.2425	
8710	8735
8693	8677
13.2445	
8693	446
C–1209	10564
13.2475	
C–1266	15675
13.2485	
8512e	12713
7211e	15105
14.3	
Recodified as Part 228; revised	15525
14.5	
Recodified as Part 229; revised	15529
14.6	
Recodified as Part 230; revised	15531
14.8	
Recodified as Part 231; revised	15532
14.9	
Recodified as Part 232; revised	15533
14.10	
Recodified as Part 233; revised	15534
14.11	
Recodified as Part 234; revised	15536
14.13	
Recodified as Part 235; revised	15538
14.14	
Recodified as Part 236; revised	15538
14.15	
Recodified as Part 237; revised	15539
15.106	
Added	135
15.106	
Added	135
15.107	
Added	362
15.108	
Added	383
15.109	
Added	767
15.110	
Added	788
15.111	
Added	1171
15.112	
Added	1171
15.113	
Added	2344
15.114	
Added	2337
15.115	
Added	2818
15.116	
Added	2818
15.117	
Added	4308
15.118	
Added	4569
15.119	
Added	5620
15.120	
Added	6023
15.121	
Added	6362
15.122	
Added	6362
15.123	
Added	6929
15.124	
Added	6929
15.125	
Added	7262
15.126	
Added	7701
15.127	
Added	7702
15.128	
Added	7749
15.129	
Added	8406
15.130	
Added	8407
15.131	
Added	9063
15.132	
Added	9064
15.133	
Added	10297
15.134	
Added	10298
15.135	
Added	10566
15.136	
Added	10567
15.137	
Added	12176
15.138	
Added	12176
15.139	
Added	12557
15.140	
Added	12557
15.141	
Added	12750
15.142	
Added	12750
15.143	
Added	12941
15.144	
Added	13635
15.145	
Added	14323
15.146	
Added	14693
15.147	
Added	14694
15.148	
Added	15470
15.149	
Added	15919
15.150	
Added	15919
15.151	
Added	17582
15.152	
Added	17856
15.153	
Added	18067
15.154	
Added	20716
15.155	
Added	20960
15.156	
Added	20960
17.1	
Revised	15540
18	
Rescinded	12999
228	
Recodified from 14.3; revised	15525
229	
Recodified from 14.5; revised	15529
230	
Recodified from 14.6; revised	15531
231	
Recodified from 14.8; revised	15532
232	
Recodified from 14.9; revised	15533
233	
Recodified from 14.10; revised	15534
234	
Recodified from 14.11; revised	15536
235	
Recodified from 14.13; revised	15538
236	
Recodified from 14.14; revised	15538
237	
Recodified from 14.15; revised	15539
238	
Added	15540
239	
Added	15541
240	
Added	15542
300.36	
Added	9022
Effective date deferred	14660
Revised	20853
301.0	
Amended	6023
302	
Interpretation rescinded	492
Interpretation	11850
302.8	
(a) and (b) revised	2378
(c) added	6092
302.14	
(b) revised	2378
412	
Added	15584
413	
Added	11023
Effective date postponed	15424
Proposed Rules:	
138	8711, 8814, 9169, 12759
241	13461, 15715
242	15681
300	15180
301	17544
414	10753
415	9643, 12954, 17601
500	9109, 9671, 10937

17 CFR

Chapter I

	Page
1.3	
(x) added	7593
1.35	
Revised	7593
140	
Added	9648

Chapter II

	Page
200.30–2	
(b)(1)(xxiv) added	15470
200.80—200.80d	
Added	9828
200.80e	
Added	10198
200.735–4	
(f) revised	8741
201.25	
Rescinded	9828
201.25	
Redesignated from 201.26	9828
201.26	
Redesignated as 201.25	9828
201.26	
Redesignated from 201.27	9828
201.27	
Redesignated as 201.26	9828
211	
Interpretative release	856
230.174	
(a) revised	17934
230.427	
Revised	15920
231	
Interpretative release	11705
239.26	
Added	17934
240.3b–4	
Added	7848
240.12g3–2	
Added	7848
240.13a–11	
(b) revised	7849
240.13a–12	
Revised	17584
240.13a–16	
Added	7848
240.14a–3	
Revised	1036
Note added	20963
240.14a–4	
(b)(2), (c), and (d) revised	20963
240.14a–6	
(a) and (b) revised	1036
(a) revised; (c) amended; (e) revised	20963
240.14a–8	
(a) and (b) revised	20964
240.14a–11	
(b)(d) revised	20964
240.14a–101	
Amended	20772
Amended	20964
240.14a–102	
Amended	20966
240.14a–103	
Added	20967
240.14c–3	
Revised	1036
Note added	20967
240.14c–5	
(a) revised	1037
(a) revised; (b) amended; (c) revised	20967
240.14c–101	
Amended	20967
240.15Ag–1	
(b) revised	8358
240.15b9–1	
Added	7850
240.15b10–1—240.15b10–7	
Added	11639
240.15c3–1	
Interpretative release and guide	856
240.15d–11	
(b) revised	7849
240.15d–12	
Revised	17584
240.15d–16	
Added	7849
240.16b–7	
Revised	14322
240.17a–3	
(a)(11) revised	864
240.17a–4	
(b)(5) revised	864
240.17a–5	
(b)(3) revised	14018
240.17a–9	
Revised	5257
241	
Interpretative release	856
249.220	
Revised	7854
249.221	
Deleted	7854
249.306	
Added	7852
249.320	
Revised	7851
249.321	
Deleted	7851
249.504a	
Added	7851
249.617	
Revised	14018
249.917(2)	
Revised	5257
249.917(3)	
Revised	5257
250.7	
(c) added	13487
270.11a–1	
Added	10728
270.11b–1	
Added	10729
270.30b1–1	
Revised	17584
270.30b1–2	
Revised	17584
270.30d–1	
(c)(2) revised	17584
274.106	
Revised	17584
275.203–2	
Revised	16151
279.2	
Added	16151
Proposed Rules:	
1	1042, 4026
240	5808, 9238, 10983, 17988, 18068
249	5808, 10983
250	11044
270	7396, 7599, 14968, 17861
274	11386
275	10984, 11388
279	10984, 11388

18 CFR

Chapter I

	Page
1.1	
(g) revised	10062
1.2	
(c) revised	10062
1.26	
(d) revised	5772
1.36	
Revised	10062
2.8	
Added	7494
2.9	
Added	8521
2.56	
(d)(3) and (4) added	9955
2.63	
Added	2345
2.64	
Added	5990
3	
Heading of Subpart A revised	10064
Subpart B added	10064
3.1—3.7	
Heading of Subpart A revised	10064
3.1	
Revised	10064
3.4	
(e)(11) revised	9065
Introductory text of (e), (e)(7), (9), (10), and (12) revised	10064
3.6	
(a), introductory text of (b), and (c) revised	10064
3.100—3.186	
Subpart B added	10064
3.735–5	
(c)(2)(v) added; (c)(3) and (4) and (e)(4)(i) revised	15239
(b)(5)(iii) and (e)(4)(iii) amended	15240
3.735–7	
(c)(4) and (e) revised	15239
Introductory text of (a), (c)(5), and (d) amended	15240
3.735–8	
(a)(1)(ii)(f) added; (a)(2)(i)(c) revised	15239
(a)(1)(ii)(c) and (b) amended	15240
3.735–9	
(a), (b), (c), (d)(2) and (3)(i)(a) and (b), and (e)(1) amended	15240
3.735–10	
(c)(1) amended	15240
3.735–11	
(a)(6) and (d)(3) added; (e)(1) revised	15239
Introductory text, (b)(1), (c)(1), (d)(1), (h)(1), and (i)(1) amended	15240
3.735–21	
(b) amended	15240
3.735–23	
Amended	15240
3.735–25	
(b) amended	15240
3.735–26	
(e)(2)(v) added; (e)(3) revised; (e)(4) amended	15240
3.735–28	
Introductory text of (a) and (c) amended; (d) revised	15240
3.735–29	
(b) amended	15240
3.735–30	
(a), (c), (d)(2), and (e) amended	15240
3.735–31	
(c) amended	15240
3.735–32	
Revised	15240
8.2	
(a) revised	6488
(a) corrected	11640
8.3	
Added	6488
25.1	
Amended	7495
32.4	
Revised	6622
32.22	
Heading revised	6622
32.24	
Revoked	6622
32.37	
Revised	6622
32.50	
(a) revised	6622
101	
Amended	6678
Corrected	9657
Amended	15671

18 CFR—Continued

Chapter I—Continued
131.6
Amended — 9651
141
Form amended — 2345
Form amended — 4058
141.1
(d) amended — 6679
(d) amended — 15671
Form amended — 20969
141.7
Revised — 4058
154.103
Added — 865
Revised — 5258
154.110
Revised — 866
157.25
Amended — 866
157.30
Cross reference added — 5990
260.1
Amended — 7052
(c) amended — 8522
Amended — 20969
260.7
(a) and (b) revised — 3292
260.7a
Added — 3293
260.8
(b)(12) revised — 7332
Chapter II
300.735–16
Revised — 12177
301.1
Revised — 8133
301.3
Deleted — 8134
Chapter V
602
Added — 16151
Chapter VI
701.60
(c) added — 712
701.79
Introductory text revised; (d) added — 712
703.6
Added — 712

Proposed Rules:

2 — 13596, 15714
4 — 14778
14 — 15714
101 — 9709, 15927
104 — 15927
105 — 15927
131 — 14778
141 — 9709, 15434, 15927
154 — 675, 6100, 7920, 13077
201 — 15927
204 — 15927
205 — 15927
260 — 5374, 6100, 7920, 14606, 15434
601 — 11330
602 — 1131
702 — 5939

19 CFR

Chapter I
Suspension of effective dates of amendments — 10200
1.2
(c) amended — 492, 3008 (2 docs.), 3294, 3388
(c) corrected — 5258
(c) amended — 7263, 11988, 12999, 13571
1.4
Amended — 14891
1.4a
Amended — 11945
1.5
Amended — 8025
Amended — 11945
Amended — 14100
2
Authority citation revised — 3388
2.2
Revised — 3388
2.5
Introductory text of (b) revised; (d) added — 3388
2.6
(c) added — 3388
2.7
Text designated as (a) and amended; (b) added — 3389
2.8
Revised — 3389
2.11
(c) added — 3389
2.101—2.105
Center heading and sections added — 3389
3.9
Revised — 3389
3.15
Added — 3390
4.13
(a) and (b) revised — 12557
(a) corrected — 12750
4.68
(c) added; authority citation revised — 13186
4.93
(b) amended — 136
(b) amended — 3052
(b) amended — 5411
(b) amended — 6339
(b) amended — 7390
(b) amended — 13186
(b) amended — 15390
5.5
(b) amended — 17619
5.7
(c) revised — 1176
5.8
(b) amended — 17619
5.9
(a) and (d) amended — 17619
5.10
(f) amended — 17619
6.13
Amended — 3294
8.3
(d)(5) revised — 11763
8.6
(d) and (g) amended — 3008
8.8
(c) revised — 492
Effective date of revision of (c) postponed — 3741
(a) amended — 11763
8.13
(h) amended — 4308
8.19
(a) amended — 12177
8.37
Amended — 11764
8.38
(c) amended — 492
Effective date of amendment of (c) postponed — 3741
8.45
(a) amended — 11764
8.57
(a) amended — 11764
8.40
(b) and authority citation revised — 492
Effective date of revision of (b) and authority citation postponed — 3741
8.51
(a) amended — 443
(a) amended — 11764
9.8
Heading and (a) revised — 11764
10.9
Deleted — 6392
10.17
(l) revised — 866
10.21
(j) revised — 492
Effective date of revision of (j) postponed — 3741
(l) amended; (l) revised — 11764
10.26a
Added — 4308
10.30a
(a) amended — 409
(a) amended — 6391
(a) amended — 11733
(a) amended — 15424
10.43
(a) amended — 6392
10.45
Deleted — 6392
10.46
Amended — 6392
10.47
Added — 6392
10.48
Heading revised; (a) and (b) amended — 6392
10.53
(a) amended — 6392
10.62
Revised — 410
10.65
Heading and (a) amended; (c)(2) revised — 11764
10.84
(c) and (d) revised — 4569
10.114—10.118
Center heading and sections added — 2437
10.121
Center heading and section added — 11641
11.2
(a) revised — 11764
11.2a
Revised — 11765
11.3
Revised — 11765
11.4
Deleted — 11765
11.5
Amended — 11765
11.8
(a) amended — 10845
Effective date of amendment of (a) suspended — 13863
12.70
(b)(1) and (d) revised — 13716
12.71
(a) and (b) revised — 17428
12.73
Center heading and section added — 11946
13.10
Center heading and (a) revised; (b), (c), (d), and (e) amended — 6838
14.6a
Heading revised; amended — 9533

14.13
(b) amended — 15156
16.2
(c) revised — 493
Compliance — 10200
16.3
(d) amended — 11763
16.12
(a) revised — 493
Effective date of revision of (a) postponed — 3741
16.24
(f) amended — 4019
(f) amended — 6274, 6622
(f) amended — 11033
(d) revised; (e) amended — 13276
(f) amended — 13446
(f) amended (2 docs.) — 14205
(f) amended — 15390
(f) amended — 19159
17.1
(b) revised — 493
Effective date of revision of (b) postponed — 3741
17.2
(a) revised — 12177
17.11
(d) revised — 9533
19.19
Revised — 8134
19.29
Amended — 17619
23.9a
Revised — 11641
23.25
(a)(3) revised — 16529
24.1
(a)(4) and (b)(1) amended; (d) added — 8025
24.4
(d)(2), (e), (f), (g), and (h) revised — 493
Effective date of revision of (d)(2), (e), (f), (g), and (h) postponed — 3741
24.5
Added — 493
(c) revised; effectiveness of section — 3741
Compliance — 10200
24.11
Introductory text of (a) revised — 494
Effective date of revision of introductory text of (a) postponed — 3741
24.13
(a) revised; (b), (c), and (e) amended — 17619
24.16
(c)(2) amended — 494
Effective date of amendment of (c)(2) postponed — 3741
(j) revised — 10845
24.36
(a) revised — 494
Effective date of revision of (a) postponed — 3741
25.19
Revised — 494
Effective date of revision postponed — 3741
26
Revised — 9533
31.15
Deleted — 9537
54.2
Deleted — 4309

Chapter II

200.735–104a
Added — 16210
200.735–105
Revised — 16210
200.735–106
Revised — 16210
200.735–113
(d), (g), (h), and (j) amended; (p) revised; (q) added — 16210
200.735–114
Revised — 16210
200.735–114a
Added — 16211
200.735–115
Revised — 16211
200.735–117
Revised — 16211
200.735–121
Revised — 16211
200.735–122
(a)(2) revised — 16211

Proposed Rules:

1 — 9, 7499, 9320
4 — 55, 2819
8 — 8719, 12116, 13481
10 — 277, 7917, 13870
11 — 2819
12 — 10867, 16432
13 — 7080, 12690
14 — 13514, 14955
16 — 14955
17 — 8719, 14955
18 — 14895
23 — 8093
24 — 7337
25 — 8916, 11803, 13116
32 — 14768
59 — 14955

20 CFR

Chapter I
01
Subpart A recodified and revised — 6273
01.1—01.3
Subpart A recodified as 01.1—01.8; revised — 6273
01.1—01.8
Subpart A recodified from 01.1—01.3; revised — 6273
1.1
(e) revised — 2699
1.5
Revised — 2699
1.14
Revised — 2699
1.15
Revised — 2700
1.16
Revised — 2700
25.22
Revised — 10567

Chapter II
200.1
(c) revised — 9064
200.3
Added — 9651
250.3
(a) revised — 9064
250.4
(b) revised — 9065
255.1
(a) revised; (e) added — 3224
255.3
Revised — 3224
255.5
Revised — 3224
255.6
Revised — 3224
255.8
Revised — 3224
255.13
Added — 3224
255.14
Added — 3224
255.15
Added — 3224
262.16
(c) and (d) revised — 9652
325.12
(c)(2) revised — 13862
325.13
Revised — 13862
340
Added — 3341
345.24
(b) revised — 9065
395.5
(b)(2) amended — 9065
395.6
Introductory text of (b)(2) and introductory text of (b)(3) revised — 3975
396
Revised — 15471

Chapter III
401.1
Revised — 14892
401.3
(a), (b), (f), and (g)(1) and (3) revised; (g)(4) added; (i)(3), (j), (m), and (n) revised — 14892
(i)(4) revised — 15545
401.4
(a) revised; (h) added — 14894
401.5
Revised — 14894
401.6
(e) revised — 14894
404
Subpart E recodified and revised — 19159
404.365
Redesignated as 404.464 in revision of Subpart E — 19176
404.401—404.430
Subpart E recodified as 404.401—404.467; revised — 19159
404.401—404.467
Subpart E recodified from 404.401—404.430; revised — 19159
404.506
Revised — 18026
404.507
Revised — 18026
404.508
Revised — 18026
404.509
Amended — 18026
404.906
Introductory text revised; (f) added — 7750
404.954
(a) corrected — 75
404.971
Revised — 7750
404.972
Revised — 7750
404.973
Revised — 7751
404.974
Revised — 7751
404.975
Revised — 7751
404.976
Revised — 7751
404.977
Revised — 7751

20 CFR—Continued

Chapter III—Continued

404.977a
Revised ... 7752
404.978
(a), (b), and (c) revised ... 7752
404.979
Amended ... 7752
404.981
Amended ... 7752
404.1002—404.1025
Recodified as 404.1002—404.1025b; revised ... 7752
404.1002—404.1025b
Recodified from 404.1002—404.1025; revised ... 7752
404.1008
(c) corrected ... 8281
404.1016
(b)(1)(v) corrected ... 8281
404.1026
Revised ... 11076
404.1027
Revised ... 11077
404.1103
Revised ... 7332
404.1104
Revised ... 7332
404.1105
Revised ... 7332
404.1106
Revised ... 7333
404.1107
Revised ... 7333
405
Subpart P added ... 9537
Subpart E added ... 12599
Subpart K added ... 14931
Subpart H added ... 18028
405.116
(e) corrected ... 136
405.122
Heading corrected ... 136
405.145
Corrected ... 136
405.310
(b) revised ... 1172
405.354
Added ... 18027
405.355
Revised ... 18027
405.356
Added ... 18027
405.402
(d) revised ... 5258
405.416
(d)(1), (f), and (g) revised ... 5259
(a) revised ... 18027
405.420
(d) revised ... 5259
(d) corrected ... 7126
405.421
(e) amended ... 5260
405.452
(c)(3)(i) and (ii) amended ... 5260
405.454
Introductory text of (d)(1) revised ... 5260
405.501—405.525
Subpart E added ... 12599
405.801—405.872
Subpart H added ... 18028
405.1023
(p) corrected ... 136
405.1101—405.1137
Subpart K added ... 14931
405.1625—405.1634
Subpart P added ... 9537
422
Revised ... 13653
Subpart F added ... 18030
422.501—422.525
Subpart F added ... 18030

Chapter V

502.9
Introductory text and (d) revised ... 7701
502.10
Revised ... 4570
502.16a
Added ... 4570
502.10b
Added ... 4571
504.3
Revised ... 12178
506
Revoked ... 16211
507
Revoked ... 16211
508
Revoked ... 16211
509
Recodified from Parts 609—611; revised ... 20969
609—611
Consolidated and recodified in new Part 609; revised ... 20969
510.5
(a) revised ... 3052
511.5
(a)(1) revised ... 3052
513
Revoked ... 16211
514
Revised ... 20974
514.10
(e), (f), and (g) revoked ... 3052
515
Revoked ... 16212
Proposed Rules:
401 ... 9326
405 ... 688, 2688, 8916, 18060, 18064
502 ... 4123

21 CFR

Chapter I

1
Heading revised ... 10730
1.1
Revised ... 10730
1.1a
Added ... 10730
1.1b
Added ... 10730
(c) revised ... 13277
1.1c
Added ... 10731
(a)(2) and (4) revised ... 13278
1.2
Revised ... 10731
1.7
Redesignated as 1.15 ... 10731
1.7
Added ... 10731
(c) and closing paragraph revised ... 13278
1.8
Revised ... 10731
1.8a
Added ... 10731
(c) and (d) revised ... 13278
1.8b
Added ... 10732
(m)(1) corrected ... 10980
(b)(2)(i), (j)(3), and (o) revised ... 13278
1.8c
Added ... 10733
(a) amended ... 13278
1.10
(d) and (e) revised; (h) added ... 10733
(d) revised ... 13278
1.15
Redesignated from 1.7 ... 10731
2.48
Amended ... 6839
2.52
(i) amended ... 6839
2.65
(b) amended ... 6839
2.66
(a) amended ... 6839
2.68
(a) amended ... 6839
2.120
(a) amended ... 6839
2.121
(b)(4) and introductory text of (b)(5) revised ... 136
(j) and (k) revised ... 712
(b)(2)(i) revised ... 6839
(j) revised ... 10846
(l) added ... 13187
2.171
Amended ... 12714
Amended ... 13807
2.173
Revised ... 12714
2.174
Revised ... 12714
2.175
Added ... 12714
2.176
Added ... 12714
3.44
(d)(5) and (6) revised; (d)(7) revoked ... 14101
3.48
Revised ... 449
Revised ... 7945
3.53
Revised ... 4350
3.57
Added ... 10734
3.58
Added ... 4058
3.59
Added ... 12714
3.501
Added ... 7127
3.509
(a) and (c) revised ... 3440
3.510
Amended ... 1172
4.1
Revised ... 15709
8.300
(b)(3) added ... 6568
Effective date of (b)(3) ... 8753
8.303
(a)(2)(ii) amended ... 7173
Effective date of amendment of (a)(2)(ii) ... 9945
8.317
Added ... 6132
Effective date; (b) amended ... 10981
8.320
Added ... 6131
Effective date ... 8586
8.321
Added ... 6186
Effective date ... 8586
8.322
Added ... 5325
Effective date of addition; (b) amended ... 10199
Effective date of amendment of (b) ... 12603

8.323
Added ... 8853
Effective date ... 11733
8.324
Added ... 10980
Effective date ... 12943
8.501
(e) and (f) revised; (g) amended ... 51
(e) and (f) amended ... 6685
(e) amended ... 8586
(e) amended ... 8586
(f) amended ... 8814
Introductory text through (f) revised ... 10931
(e) amended ... 10981
(e) amended ... 11733
(a), (b), and (c) amended ... 12715
(e) amended ... 12943, 13507
8.510
(e) added ... 10932
8.6009
Added ... 6132
Effective date ... 10981
8.6011
Added ... 6686
Effective date ... 8814
8.6012
Added ... 6686
Effective date ... 8814
8.6013
Added ... 6686
Effective date ... 8814
14.11
(a) revised ... 8815
Effective date of revision of (a) ... 11733
14.13
Added ... 8815
Effective date ... 11733
17.1
(a)(12) revised ... 4531
Effective date of revision of (a)(12) ... 7496
(a)(6)(iii) added ... 11733
Effective date of (a)(6)(iii) ... 13807
18.520
(a)(1)(iii) added ... 1127
Effective date of (a)(1)(iii) ... 6024
19.499
Added ... 410
19.500
(b) amended ... 410
Effective date of amendment of (b) ... 4350
19.505
(b) amended ... 410
Effective date of amendment of (b) ... 4350
19.510
(b) amended ... 410
Effective date of amendment of (b) ... 4350
19.515
Effective date of revision of (b)(2) and (c) ... 51
(b)(2) redesignated as (b)(2)(i); (b)(2)(ii) added; (c) amended ... 1127
Effective date of redesignation of (b)(2) as (b)(2)(i), addition of (b)(2)(ii), and amendment of (c) ... 6024
19.520
Effective date of revision of (b)(2) and (c) ... 51
(b)(2) redesignated as (b)(2)(i); (b)(2)(ii) added ... 1127
(c) amended ... 1128
Effective date of redesignation of (b)(2) as (b)(2)(i), addition of (b)(2)(ii), and amendment of (c) ... 6024
19.530
(b)(6)(iii) added ... 1128
Effective date of (b)(6)(iii) ... 6024
(b)(4) revised; (b)(7) added; (d)(2) redesignated as (d)(3) and revised; new (d)(2) added ... 7263
Effective date of revision of (b)(4), addition of (b)(7), redesignation of (d)(2) as (d)(3) and revision, and addition of new (d)(2) ... 10788
19.535
(b) amended ... 410
Effective date of amendment of (b) ... 4350
19.540
(b) amended ... 410
Effective date of amendment of (b) ... 4350
19.600
Effectiveness ... 2611
19.601
Effectiveness ... 2611
19.605
Effectiveness ... 2611
Heading revised; (d) and (e) added ... 8358
Effective date of revision of heading and addition of (d) and (e) ... 11521
(b) amended ... 18096
19.606
Effectiveness ... 2611
Revised ... 8358
Effective date of revision ... 11521
19.775
(f)(1) redesignated as (f)(1)(i); (f)(1)(ii) added; (g) amended ... 1128
Effective date of redesignation of (f)(1) as (f)(1)(i), addition of (f)(1)(ii), and amendment of (g) ... 6024
19.782
(a)(1) redesignated as (a)(1)(i); (a)(1)(ii) added ... 1128
Effective date of redesignation of (a)(1) as (a)(1)(i) and addition of (a)(1)(ii) ... 6024
19.783
(b)(1) redesignated as (b)(1)(i); (b)(1)(ii) added; (d) amended ... 1128
Effective date of redesignation of (b)(1) as (b)(1)(i), addition of (b)(1)(ii), and amendment of (d) ... 6024
19.787
(e)(8) revised ... 1128
Effective date of revision of (e)(8) ... 6024
20.1
Effective date of amendment of (a), addition of (f)(6), and revision of (g)(3) ... 411
(f)(7) added ... 1128
Effective date of (f)(7) ... 6024
(f)(8) added ... 12750
Effective date of (f)(8) ... 14943
20.3
Effective date of revision of (e) ... 411
20.4
Effective date of amendment of (a) and addition of (e)(11) and (g)(4) ... 411
(e)(12) added ... 1128
Effective date of (e)(12) ... 6024
20.5
(d)(1) redesignated as (d)(1)(i); (d)(1)(ii) added ... 1128
Effective date of redesignation of (d)(1) as (d)(1)(i) and addition of (d)(1)(ii) ... 6024
25.2
(c)(3) added ... 1128
Effective date of c)(3) ... 6024
25.3
(d) redesignated as (d)(1); (d)(2) added ... 1128
Effective date of redesignation of (d) as (d)(1) and addition of (d)(2) ... 6024
27.1
(g) added ... 12603
Effective date of (g) ... 14943
27.6
(a) and (b)(2) amended ... 12603
Effective date of amendment of (a) and (b)(2) ... 14943
27.14
(a) and (b)(2) amended ... 12603
Effective date of amendment of (a) and (b)(2) ... 14943
27.24
(a) and (b)(2) amended ... 12603
Effective date of amendment of (a) and (b)(2) ... 14943
27.34
(a) and (b)(2) amended ... 12603
Effective date of amendment of (a) and (b)(2) ... 14943
27.43
(a) and (b)(2) amended ... 12603
Effective date of amendment of (a) and (b)(2) ... 14943
27.71
Added ... 8135
Effective date ... 11263
27.73
(a) and (b)(2) amended ... 12603
Effective date of amendment of (a) and (b)(2) ... 14943
27.103
(a) revised; (b) deleted ... 7769
Effective date of revision of (a) and deletion of (b) ... 11023
29.2
(a)(2) revised ... 14205
Effective date of revision of (a)(2) ... 17654
29.3
(a)(2) revised ... 14205
Effective date of revision of (a)(2) ... 17654
29.4
(a)(2) revised ... 14205
Effective date of revision of (a)(2) ... 17654
29.5
(a)(2) revised ... 14205
Effective date of revision of (a)(2) ... 17654
31.1
(b)(10) revised ... 449
(b)(6) redesignated as (b)(6)(i); (b)(6)(ii) added ... 1128
(b)(11) added; (c)(2) revised; (c)(3) added ... 2941
Effective date of revision of (b)(10) ... 4350

21 CFR—Continued

Chapter I—Continued

31.1—Continued
Effective date of addition of (b)(11), revision of (c)(2), and addition of (c)(3) 5922
Effective date of redesignation of (b)(6) as (b)(6)(i) and addition of (b)(6)(ii) 6024
37.1
Effective date of amendment of (b) 2941
(b) amended 8359
42.30
(a) and (d)(1) revised 12604
Effective date of revision of (a) and (d)(1) 14551
42.60
(a) and (d)(1) revised 12604
Effective date of revision of (a) and (d)(1) 14551
45.1
Introductory text of (a)(2) revised 2893
Effective date of revision of introductory text of (a)(2) 5922
51.1
Effective date of revision of heading, addition of (d)(6), and revision of (f)(5) 982
51.2
Effective date of revision of heading 982
51.3
Effective date of revision of heading 982
51.10
Effective date of revision of introductory text of (a) and addition of (b)(7) 982
51.20
Effective date of (a)(5) and (d)(4) 982
51.990
(b) amended; (e) revised 137
Effective date of (c)(13) and (f)(14) 982
Effective date of amendment of (b) and revision of (e) 4859
53.40
Effective date of amendment of (b) 4350
80.2
(b) and (c) revised 5736
120.1
(g) revised; (l) added 13571
120.3
(e)(5) amended 2612
(d)(5) added 7523
(e)(5) amended 7524
(e) redesignated as (e)(1); (e)(2) added 7701
(e)(2) corrected 8025
(e)(3) amended 10734
(e)(5) amended 11081
(e)(4) amended 11321
(e)(5) amended 12605
(e)(4) amended 12718
(e)(5) amended 13863
(e)(5) amended 14023
120.33
(i)(2) revised 8815
120.34
(f) added 13572
120.35
Revised 13279
120.101
(c) and (d) revoked; new (e) added 8815
120.117
Revoked 12751
120.123
Amended 7173
120.129
Amended 9159
120.135
Revised 4351
Amended 12999
120.137
Revised 4351
Corrected 4572
Amended 12999
120.142
Existing text designated as (a); (b) added 5773
(b)(2) revised 12473
120.147
Amended 11157
120.147a
(a) revised 4059
120.147b
(b) revised 4059
120.147c
Added 4060
120.148
Revoked 12751
120.153
Amended 15424
Amended 16529
120.163
Amended 11264
120.172
Amended 12715
120.173
Revised 7524
Corrected 8294
120.176
Revised 7523
Corrected 8294
120.182
Revised 6439
120.183
Revised 13863
120.184
Revised 14206
120.197
Amended 5547
120.205
Added 2694
Revised 12473
120.206
Added 2612
Revised 14023
Amended 18096
120.207
Added 3092
Revised 12716
Revised 13124
Revised 14944
120.208
Added 3441
Revised 13807
Revised 17472
120.209
Added 4352
Revised 7173
120.210
Added 4352
(e) amended 17472
120.211
Added 6132
Revised 8816
Amended 14944
120.212
Added 6392
120.213
Added 6393
120.215
Added 11081
120.216
Added 10433
120.217
Added 10734
120.218
Added 11321
120.219
Added 12474
120.220
Added 12605
120.221
Added 12605
120.222
Added 12716
120.223
Added 12715
120.224
Added 12913
120.225
Added 12943
120.226
Added 14023
120.227
Added 14323
120.228
Added 15107
120.229
Added 15578
121.200
(b)(5)(i) revised 6775
121.207
(c) amended 6775
(e) amended 9225
(e) amended 15012
121.208
(d) amended 4171
(d) amended 14155
121.210
(c) amended 270
(c) amended 4171
(c) amended 6775
(c) amended 6970
(c) amended 9225
(c) amended 15012
121.211
Revised 7524
121.212
(c) amended 2941
121.213
(d) amended 4171
121.217
(d) amended 7395
121.222
Revised 8962
(b) corrected 9160
121.232
(d) amended 4171
121.233
(d) amended 270
(d) amended 4171
121.241
(b) amended; (c)(3) revised; (c)(4) and (5) deleted 5548
121.242
Deleted 15988
121.249
(c) added 7395
(a)(8) added 8753
(a)(2)(ii) revised 10735
121.252
(d) amended 4171
121.253
(c) amended 4171
(c) amended 9225
(c) amended 15012
121.254
(c) amended 15012
121.256
(d) amended 4171

121.260
Introductory text of (c) revised 4352
(c) amended 8587
(c) amended 14695
121.262
(c) amended 6971
(c) corrected 7127
(c) amended 13573
(c) amended 15012
121.263
(d) and (e) added 13573
121.264
(c) amended 7458
(c) amended 13574
121.266
(c) amended 6776
121.269
(c) amended 7458
121.275
(b) and (c) revised; (d) deleted 14023
121.281
(a), (b), and (c) revised 12943
121.289
(b) revised 5456
121.290
(b) revised 5456
121.291
(a) amended 11988
(a) amended 15013
121.292
(d) amended 9225
(d) amended 15013
121.293
Added 866
121.294
Added 2846
121.295
Added 4019
Revised 14385
121.296
Added 2612
121.297
Added 2846
121.298
Added 2942
121.299
Added 5548
121.300
Added 5773
121.301
Added 11734
121.302
Added 7263
121.303
Added 7523
121.304
Added 15545
121.305
Added 17655
121.306
Added 17654
121.307
Added 20631
121.1009
(c)(12) added 4020
121.1012
(b)(3) added 7174
121.1014
(a) amended 12751
121.1017
(b)(1) amended 3442
(b)(1) amended 6686
121.1020
(b) amended 2942
(b) amended; (c) revised 7911
121.1029
(c)(1) revised 7945
121.1030
(c)(1) revised 7946
121.1031
(d) amended 8359
121.1039
(c) added 12605
121.1044
Revised 9159
121.1045
Revised 17856
121.1046
(a) amended 12751
121.1049
Revised 7395
121.1056
(b)(3) added 6393
121.1058
(b)(3) deleted 12606
121.1059
(a) amended 10508
121.1070
(b)(2)(ii) and (c)(3) revised 11432
121.1074
(a)(2) revised 5456
(b) and (c)(3) added; (d) revised 7458
121.1075
(a)(2) revised 5456
(b) and (c)(3) added; (d) revised 7458
121.1084
(a) revised 10508
121.1085
Revised 4532
121.1088
(c) amended 5922
(e) added 17587
121.1093
Amended 11157
121.1093a
Added 4060
121.1099
(a)(2) amended 12606
(a)(4) added 17856
121.1117
(b) revised; (c) deleted 3819
121.1122
Deleted 15988
121.1124
Amended 866
121.1126
Revised 7524
Revised 9066
121.1135
Revised 12606
121.1142
Added 4353
121.1143
Revised 8753
121.1146
(c) amended 411
(c) amended 2701
(c) amended 17857
121.1148
(a)(13) added; (b) revised 7946
(a)(14) added 10735
121.1152
(a) revised; (d) added 7911
121.1153
Revised 8587
121.1163
(b) amended 12751
(b) amended 13125
(b) amended 17655
121.1164
(b) amended 5773
(b) amended; (d) added 7947
121.1168
Revised 13574
121.1178
(a) and (c) revised 12943
121.1179
(b)(2) amended 4353
Introductory text of (b)(3) revised; (b)(4) added 4353
121.1182
(c) amended 10735
121.1183
(b) revised 2612
(b)(3) and (4) added 8359
121.1185
Revised 14024
121.1194
(a)(2) revised 7911
121.1198
Added 713
121.1199
Added 411
Revised 12606
121.1200
Added 2846
121.1201
Added 5548
121.1202
Added 1174
121.1203
Added 4354
121.1204
Added 5773
121.1205
Added 7459
121.1206
Added 7523
121.1207
Added 8359
121.1208
Added 8522
121.1209
Added 12844
121.1211
Added 14944
121.1212
Added 17655
121.2502
(b) amended 12716
121.2505
(c) amended 5675
(c) amended (2 docs.) 20632
121.2506
(b) amended 4060
(a) amended 20632
121.2507
(c) amended 2942
(c) amended 2943
(c) amended 4060
(c) amended 5774
(c) amended 8816
121.2508
Added 8522
121.2510
Added 7264
121.2511
(b) amended 6186
121.2514
(b)(3)(xviii) amended 5675
(b)(3)(xx) amended 6133
(b)(3)(viii)(b) amended 6568
(b)(3)(xviii) amended 7264
(b)(3)(xv) amended 11522
(b)(3)(xxxiii) amended 18096
121.2517
Added 5774
121.2519
(d)(3) amended 17656
121.2520
(c)(5) amended 2612, 5675, 6187, 7524, 7947, 8360, 8523, 8817, 9160, 11522, 15108, 15155
(c)(5) amended 16529
(c)(5) amended 17656

21 CFR—Continued

Chapter I—Continued

121.2531
Introductory text revised 6569
121.2522
Revised 52
(a)(2) amended 6187
(a)(2) amended 8817
(a)(2) amended 15155
121.2525
(b) amended 4060
121.2526
(b)(2) amended 3442
(a)(5) amended 5675
(a)(5) and (b)(2) amended 5774
(b)(2) amended 11522
(a)(5) amended 12474
(b)(2) amended 14945
(b)(2) amended (2 docs.) 16530
121.2527
(b) amended 982
(b) amended 8817
121.2531
(b)(2) amended 4060
(b)(2) amended 17857
121.2532
Added 5542
121.2536
(d) amended 270
(d) amended; (m) added 1021
(d)(2) amended 17656
121.2541
(c) amended 4060
(c) amended 14551
(c) amended 15108
(c) amended 17656
121.2543
(c)(2) added 8360
Heading, introductory text, (a), and introductory text of (b) revised; (b)(5) added 16667
121.2547
(b)(7) and (c)(5) added 7459
(b)(5) revised 17656
121.2550
(b)(5) amended 16529
(b)(5) amended 17656
121.2553
(a)(3) amended 2894
(a)(3) amended 2943
(a)(3) amended 12474
121.2557
(d)(3) amended 4060
(d)(3) amended 14552
121.2562
(c)(4)(iii) amended 5675
121.2564
Added 5675
121.2566
(b) amended 412
(b) amended 6569
(b) amended 7174
(b) amended 14945
(b) amended 17857
121.2569
(b)(3) amended 7265
(b)(3) amended 14946
(b)(3) amended 15108
121.2571
(b)(2) amended 5675
(b)(2) amended 5774
(b)(2) amended 11522
(b)(2) amended 16529
(b)(2) amended 17656
121.2574
(a) and introductory text of (b) revised 7769
(b) amended 14324
121.2577
(a)(5) added; (b)(1) revised 5774
121.2582
Heading, introductory text, (a), and (d) revised 8360
121.2592
Introductory text of (a)(4) revised 412
(a)(3)(i) amended 10508
121.2597
(b) revised 983
Revised 14024
121.2599
(b) revised 12717
121.2600
Added 14946
121.2601
Added 15109
121.3002
(d) revised 3443
121.3003
(c)(1) and (2) revised 3443
121.3004
(e) revised 3443
121.3005
(d) revised 3443
121.3007
(d)(1) and (2) revised 3443
121.3008
Added 1175
130.1
Introductory text added; (a) revised; (k) and (m) added 8080
130.3
(a)(2) amended 8081
130.4
Revised 8081
130.5
(a) and (b) revised 8085
130.9
(e) and (f) revised; (g) redesignated as (h) and revised; new (g), (i), (j), and (k) added 8085
130.13
(a) and (b) revised 8086
Introductory text of (b) revised 16531
130.13a
Added 8087
130.30
(b)(3) revised 8087
130.33
Revised 13807
130.35
(e) amended 8087
Introductory text of (a) amended 16531
130.37
Revised 9753
130.38
Added 8087
131.9
Revised 3441
131.10
Revised 3441
131.15
Amended 3441
133.1
(c) revised 15109
133.200—133.210
Center heading and sections added 15109
135
Added 6187
141.2
(c)(4) added 10789
(c)(4) corrected 11210
141.550
Added 11532
141a.9
(a)(1), (4) and (5), and (b) amended 9810
141a.10
Heading, (a) and (f) amended 9810
141a.26
(b) revised 10789
141a.29
(b) revised 10789
141a.39
(b) revised 10789
(b) corrected 11210
141a.46
(b) revised 10789
141a.51
(b) revised 10789
141a.52
(b) revised 10789
141a.81
Heading, (a) and (f) amended 9810
141a.82
Heading and (a) amended 9810
141a.83
Heading, (a) and (h) amended 9810
141a.84
Heading, (a)(2) and (3) amended 9810
141a.85
Heading and (a) amended 9810
141a.87
Heading and (a) amended 9810
141a.91
Heading, (a) and (g) amended 9810
141a.92
Heading and (a) amended 9810
141a.99
Heading and (a) amended 9810
141a.113
(c) amended 12717
141a.121
Heading and (a) amended 9810
141a.130
Added 9810
141c.232
(b)(2) revised 10298
141c.266
(a) amended 12717
141c.271
Added 6839
141d.307
(b)(2) revised 11851
141e.436
Added 10199
144.26
(b)(54) amended 6971
145.3
(a)(1)(iii) and (b)(1)(iii) amended 9810
(a)(36) and (b)(36) added 11523
145.4
(a)(1) amended 9810
(b)(38) added 11523
146.14
Introductory text of (b) amended 16531
146a.19
Heading, (a), (d)(1), (d)(2)(ii), and (d)(3)(ii) and (iv) amended 9810
146a.27
(a), (c)(1)(ii)(c) and (d), and (d)(2)(ii) and (3)(ii) amended 9810
146a.61
Heading and (a) amended 9810
146a.72
Heading, (a) and (d) amended 9810
146a.73
Heading, introduction, (a) and (c) amended 9810
146a.103
(a) amended 9810
Heading, (a) and (d) amended 9810

146a.104
Heading, (a), (c)(1)(ii) and (d)(2)(ii) amended 9810
146a.105
Heading, (a), and (d)(1) and (3) amended 9810
146a.106
Heading, (a), (b), and (c)(2) amended 9810
146a.107
Heading and text amended 9810
146a.109
Heading, introductory text, and (a), (b), and (c) amended 9810
146a.117
Heading, (a), (d)(1) and (2)(i) and (e) amended 9810
146a.118
(a) revised 4060
146a.119
(b) revised 16491
(b) corrected 17657
146a.121
(c) revised 14101
146a.126
Added 9810
146b.131
(c) revised 13125
146c.232
(a)(6) revised 10298
146c.236
(c) revised 15988
146c.263
(a) amended 12717
146c.265
(c)(1)(v) revised 2894
146c.271
Added 6839
146e.436
Added 10200
147.1
(c)(3) and (d) amended 11523
147.2
(a)(30) added 11523
148b.1
(b)(2)(i) and (ii) revised 15989
148b.5
(b) revised 15989
148c.5
(b)(3) revised 15425
148e.34
Added 4355
148f.1
(b)(6) amended 15989
148l.18
(b)(1)(i) and (ii) amended 12475
148l.36
Heading and (a)(1) and (2) revised 1172
148l.37
Heading and (a)(1) and (2) revised 1172
148l.38
Heading and (a)(1) and (2) revised 1172
148l.49
Added 16152
148j.2
(b)(4) amended 12717
148n.1
(a)(1)(vi) revised 13279
(a)(1)(viii) and (b)(1)(i)(c), (ii)(b), and (iii)(b) revised 16212
148n.2
(a)(1)(vi) amended 11988
(a)(1)(viii) revised 16212
148n.11
(b)(1) revised 16212
148n.13
(a)(1) amended 16212
148n.28
(a)(1) and (b)(2) amended 11629
148o.1
(b)(6) revised 15989
148o.2
(b)(1) revised 15989
148o.3
(b)(1) amended 12717
(a)(1) revised 15989
148q.1
(b)(9) amended 18096
148r.4
(b) amended 12717
148r.7
Revoked 1173
148r.8
Revoked 1173
148s.1
Introductory text of (a)(1), (a)(4)(i), and (a)(4)(ii)(a)(f) and (b)(f) amended; (b)(1)(iii) and (8) revised 16153
148w.1
(a)(2) revised 5774
(b)(1)(i)(d), (g), and (h) revised 11081
148x.1
(b)(1)(vii) amended 12717
148y.1
(b)(1)(ii) revised 16153
148z
Added 11523
165.5
(d) revised 203
166.3
(c)(3) amended 13408
Effective date of amendment of (c)(3) 15390
Effective date of (c)(1) 17479
166.8
Introductory text amended 137
Revised 197
Heading, introductory text, and introductory text of (a) revised 4406
(a) amended; introductory text of (b) revised; (b) amended 4407
166.18
(d)(1) revised 203
Introductory text of (a) revised 4407
191.1
(c) and (o) revised; (s) added 11322
191.8
Introductory text and (c) revised 11322
191.9
Added 11324
Effective date 13408
191.62
Revised 11322
191.63
(a)(31) added 2612
(a)(33) added 5456
(a)(32) added 6840
Introductory text of (a) revised 11323
(a)(34) added 14025
Republished 19176
191.65
Added 11323
(a)(5) added 12475
(a)(6) added 14946
191.101
(f) added 11323
191.106
Revised 11323
191.107
(a) revised 11323
191.112
Added 15875
191.201
Heading and (a) revised; (e) redesignated as (f); new (e) added 11323
191.212
(b)(1) and (2) amended 11323
281.19
(a) revised 4020

Chapter II

308
Added 10070

Proposed Rules:

1 4172, 4363, 7533, 9320, 12060, 14896, 18113
2 5560, 7026, 12404, 12756, 13008
8 2645, 2646, 2897, 6701, 8094, 10963
14 4075, 9979
15 14237, 18114
17 3710, 7917, 11577, 14239
19 2646, 2647, 12722
20 9938
27 2953, 3469, 6144, 7342, 8320, 14966
28 15116
29 8975
31 16533
42 6844
46 17482, 17671, 18114
51 990, 12722
80 1055
120 2647, 2709, 6059, 6702, 8379
121 140, 576, 1055, 6844, 7777, 8379, 11334, 11443, 14239, 14403, 14697, 16048.
128 17980
130 3994, 4284, 17671
131 5560, 7026
133 3470
136 16583, 17626
141 14239
141a 14239
141c 1184
146c 1184
148l 16048
166 5633, 10908, 16048
191 5561, 5562

22 CFR

Chapter I

3
Added 6569
5
Added 9160
6
Added 9161
7
Added 16258
10
Revised 17454
10.735-204
(d) revised 11641
11
Revised (2 docs.) 3443, 3444
21.1
Amended 16212
31
Revised 4020
41.6
(e)(1) revised 3742
(g) added 3970
(c) revised 7770
(h) added 8711
41.117
Revised 16098
41.122
(c) revised 5620
41.124
(b), (c)(1)(v), and (e) amended 5620
(c)(1)(vi) and (viii), (g), and (h) revised 8512
41.126
(a) amended; (b) revised 5620

22 CFR—Continued

Chapter I—Continued

41.128 (a) revised 7770
42.60 (b) revised 12607
42.91 (a) (14) (ii) (f) revised 8409
50 Subpart D heading revised 16259
50.60—50.72 Subpart D heading revised 16259
50.60 Revised 16259
50.61 Revised 16259
50.62 Revised 16259
51.72 Revised 4122
51.74 Revised 4024
51.84 Revised 16259
51.89 Revised 16259
51.90 Revised 16259
51.91 Revised 16259
51.92 Revised 16259
51.93 Deleted 16259
51.94 Revised 16259
51.101 Revised 16260
91.4 Added 12558
92.66 (a) revised 11775
92.67 Revised 11775
92.85 Revised 11776
92.86 Revised 11776
123.23 (c) (3) and (4) revised; (c) (5) added 4241
126 Authority citation revised 5456
126.10 Added 5456

Chapter II

201 Appendix C added 497; Republished 7672; Appendix E added 11264; Effective date of Appendix E 13716; Appendix E deleted 15013
201.01 (w) added 495; (x) added 11264; Effective date of (x) 13716; (x) deleted 15013
201.11 (j) added 11264; Effective date of (j) 13716; (j) (3) deleted 15013
201.13 (b) (1) (ii) amended 494; (b) (3) (i) (c) added 923
201.15 (d) added 495
201.27 Added 923
201.32 (d) added 923
201.34 Added 11264; Effective date 13716; Deleted 15013
201.47 Added 923
201.52 Introductory text of (a) amended; (a) (9) added; (c) amended 495; (a) (4) amended; text of (c) designated as (c) (1); (c) (2) added 6488; (a) (2) (i) (f) revised; (a) (10) added 11264; Effective date of revision of (a) (2) (i) (f) and addition of (a) (10) 13716; (a) (2) (i) (f) revised; (a) (10) deleted 15013
201.61 (n) through (y) added 495
201.65 Revised 496
201.71 (c) added 11264; Effective date of (c) 13716; (c) revised 15013
201.72 Introductory text of (b) and (c) amended 497; Introductory text of (b) and (c) amended 11264; Effective date of amendment of introductory text of (b) and (c) 13716; Introductory text of (b) and (c) amended 15013
201.73 (a) amended; (b) (1) revised 497; (a) and (b) (1) amended 11264; Effective date of amendment of (a) and (b) (1) 13716; (a) and (b) (1) amended 15013
208.11 (c) added 9068
212 Added 9652

Chapter III

302 Added 9655
303 Added 9655

Chapter V

501 Revoked 9657
502 Revised 10352
502.8 (c) revised 11157
503 Added 9657

Chapter VI

601.735–12 (c) (4), (6) (7), (8), and (10) revised; (c) (16) and (17) added 12944
601.735–13 Heading revised 12944
601.735–14 (b) and (c) revised; (d) added 12944
601.735–24 Revised 12944
601.735–52 Revised 12944
601.735–61 Revised 12944
601.735–62 Introductory text revised 12944
601.735–71 Revised 12944
601.735–72 (a) and (b) revised 12945
601.735–74 Revised 12945
601.735–75 Revised 12945
602 Added 9202
603 Added 9202

Proposed Rules:

201 15116

23 CFR

Chapter II

209.33 Revised 13000
209.45 (b) amended 13000
215 Deleted 15819
215.17 Revised 976
215.19 Added 5832
215.21 Added 5833
215.23 Added 5833
215.25 Added 5833
215.29 Added 5833
215.31 Added 5833
216 Added 15819
255 Added 2408; Appendix A added 3390; Appendix A amended 5499; Appendix A amended 8808
255.3 (b) amended 11776; (b) amended 18033
255.21 Amended 3390; Amended 5498; Amended (2 documents) 10072; Amended 10073; Amended 11777; Amended 15792; Amended 17938; Amended 18033; Amended 18035

Proposed Rules:

255 2417, 2418, 10812, 14278, 16534, 20865

24 CFR

Subtitle A

0 Revised 13921
1.4 Existing text of (b) (2) designated as (b) (2) (i); (b) (2) (ii) added 14819
2 Added 21031
6 Added 3052
7 Added 11157
11 Revised 366
15 Added 9660

Chapter II

Subchapter W added 6571

200 Subpart B added 788; Subpart I heading revised 6570; Subpart G revoked 15639
200.5 Revised 15637
200.7 Added 15637
200.10 (a) revised 15637
200.11 (a) revised 15637
200.12 (a) revised 15637
200.13 (a) revised 15637
200.14 Revised 15637
200.15 Revised 15637
200.16 Redesignated as 200.19; revised 15637
200.19 Redesignated from 200.16; revised 15637
200.20 (a) revised 15637
200.21 Revised 15637
200.22 Redesignated as 200.25; revised 15638
200.22 Added 15638
200.23 Redesignated as 200.24; (b) revised 15638
200.24 Redesignated as 200.29; revised 15638
200.24 Redesignated from 200.23; (b) revised 15638
200.25 Redesignated from 200.22; revised 15638
200.26 Added 15638
200.27 Added 15638
200.28 Added 15638
200.29 Redesignated from 200.24; revised 15638
200.30 (a) and (b) revised 15638
200.32 (a) and (b) revised 15639
200.33 Center heading added; section revised 15639
200.35 Redesignated as 200.38; revised 15639
200.35 Added 15639
200.38 Redesignated from 200.35; revised 15639
200.39 Added 15639
200.41 Revised 3093; Revised 15586
200.43 Revised 3093; Revised 9539
200.51 Revised 3093; Revised 15586
200.52 Revised 15586
200.52a Revised 3093; (c) revised 9539; (d) revoked 15586; (f) added 20808
200.52b Revoked 3093
200.52c Added 3093
200.54 Heading and introductory text revised 9539
200.56 Heading and introductory text revised; (g) added 3093
200.57 Heading, introductory text, (b), and (c) revised 3093; (b) and (c) revised 5681; (d) revised 9540; (g) added 15586; (g) revoked 20809
200.58 (b) revised 3093; Revised 5681
200.58a Added 5681; Revised 15586
200.58b Added 5681
200.58c Added 5682; Revised 15586
200.58d Added 5682
200.58e Added 5682; Revoked 15586
200.59 (b) revised 3093; Revised 5682; (c) revised 9540
200.59a Added 9540
200.59b Added 9540
200.60 (b) revised 3093; Revoked 5682
200.62 (b) revised 3093
200.63 Revised 3093
200.64 (a) and (b) revised 3094
200.68 (a) and (d) revised; (j) and (k) added 3094; (l) and (m) added 11468
200.69 (a) revised 3094
200.71 Revoked 3094
200.72 Heading and introductory text revised; (g) through (j) added 3094; Introductory text revised; (k) added 11468
200.73 Revised 3094; Heading and introductory text revised 5682
200.74 Revoked 3094
200.75 Revoked 3094
200.77 (n) revised 3094; (z) added 5682; (a) and (c) revised; (l) revoked 15425
200.81 Revoked 15425
200.82 (h) revised 3094
200.84c Revised 9540
200.84d Revoked 3095
200.84e (a) and (b) revised; (d) added 3095
200.84f Revoked 3095
200.85 (a) revised 3095
200.86 (a) revised 3095
200.88 (a) revised 3095
200.91 (a) revised 3095
200.97 Heading and introductory text revised 3095; Heading and introductory text revised 9540
200.102 Heading and introductory text revised 3095; Heading and introductory text revised 5682
200.103 Revised 3095; Revised 9540
200.106 Heading and (a) revised 3095; Heading and (a) revised 9540
200.109 Added 12475
200.185, 200.186 Subpart G revoked 15639
200.300 Revised 6570
200.305 Revised 6570
200.310 Introductory text revised 6571
200.320 Revised 6571
200.325 Revised 6571
200.405 Revised 6571
200.410 (a) revised 6571
200.900, 200.905 Subpart R added 788
201.5 (f) revised 11328
201.11 (c) (1) and (e) (4) (i) revised 11328
203.19 (b) revised 15640; (b) revised 20809
203.405 Revised 20716
203.479 Revised 20716
207.32 Introductory text of (a) revised; (b) redesignated as (c); new (b) added 11526; (b) revised 12718

24 CFR—Continued

Page

Chapter II—Continued

207.253
(d)(4) added 449
207.259
(e)(6) revised 20716
207.261
Introductory text of (e)(3) revised 15640
220.5
(b) revised 15640
220.10
Introductory text revised 15640
220.20
Revised 15640
220.502
(b) revised 15640
220.503
Introductory text revised 15640
220.830
Revised 20717
221.60
Center heading and section added 4279
(c)(3) revised 12718
221.251
(a) amended 4279
221.254
Added 4279
221.256
Added 4279
221.501
(b) revised 4280
(a) revised 20809
221.510
Heading of (a) revised; (a)(3) added 4280
Introductory texts of (a)(2) and (d)(2) revised 11526
221.514
(a)(1)(iii) added 4280
(a)(2)(i) and (3)(i) revised 11526
221.515
(b)(1) and (2) and (c)(1) and (2)(ii) revised 4280
(b)(1) and introductory text of (c)(1) revised 11527
221.519a
Added 4280
221.535
(a) revised 11527
221.535a
(a) revised 11527
221.538
(b) revised 4280
221.542
(c) added 12718
(c) added 20809
221.542a
Revised 4280
221.543
(b)(1) revised 4280
221.545
(a) and (b) revised 4280
221.546
(c) added 4281
221.546a
Added 4281
221.550a
(a) revised; (d) added 4281
(a) and (d) revised 11527
221.553
Revised 20809
222.2
(a) revised 15640
231.11a
(a) revised; (d) added 11527
234.26
(c)(1) revised 17587
234.501
(a) amended 20809
234.506
Added 20809
803a
Revised 7770
809.5
Revised 15640
1100
Added 6571
1100.65
Revised 11526

Chapter III

Heading revised 13808
1500.1
Revised 13808
1500.2
Revoked 13808
1500.7
(c)(1) and (3) and Appendix A revised 13808
Appendix A revised 14695
1520
Revised 13808
1530
Revoked 13809

Chapter IV

1000.0
Amended 9662
1000.3
Added 9662

25 CFR

Chapter I

41.3
(g)(3) and (h)(2) revised 5621
(b) revised 10058
(d)(2) revised 12790
(i) added 15471
(j) added 16099
52.5
Revised 11778
52.6
Revised 11778
52.8
(b) amended 11778
52.10a
Added 11778
52.11
Revised 11778
52.12
Amended 11778
52.13
Amended 11778
52.15
Revised 11778
52.17
Revised 11778
53
Added 11779
73.30
Added 10253
73.38
Revised 10253
73.40
Revised 10253
73.41
Revised 10254
73.42
Revised 10254
73.43
Revised 10254
73.44
Added 10254
73.47
Revised 10254
73.51
Deleted 10254
131.8
(a) revised 663
183.81
Revised 8587
183.82
Revoked; superseded by revision of 183.81 8588
183.83
Revoked; superseded by revision of 183.81 8588
183.84
Revoked; superseded by revision of 183.81 8588
183.91
(a)(10) revised 8588
221.16
Revised 5621
221.17
Revised 5621
221.24
Revised 7771
221.26
Revised 7771
221.28
Revised 7771
221.86
Revised 664
221.95
Revised 4282
243
Deleted 16213
255
Added 3945
256
Added 10434

Chapter III

500
Revised 20855

Proposed Rules:

52 3061
53 3062
73 3748
161 5512, 7287
221 613, 2849, 3360, 3469, 6371, 13417, 14395, 17543

26 CFR

Chapter I

1
Determination 3446
1.38–1
Added 14025
1.46–1
(a) revised 14026
1.46–2
(a)(1) revised 14026
1.46–3
(a)(2), (c)(3), (e)(3), and (f)(2)(i) revised; (f)(2)(iii) and (h) added 14026
1.47–1—1.47–6
Added 14027
1.48–3
(d) added 14040
1.48–5
(a)(3) revised 14040
1.48–6
(a)(3) revised; (a)(5) added 14040
1.48–7
(a)(2)(iv) revised 14040
1.79–2
(b)(3)(i)(a)(f) revised 7390
1.108(a)–2
Revised 13221
1.121–5
(h) added 5923
1.162–5
Revised 6679
1.166–6
(e) added 5923

Page

1.262–1
(b)(9) added 6681
1.265
Amended 13221
1.265–2
Revised 13221
1.351
Amended 20977
1.351–1
(c) added 20977
1.453–5
(b) revised 5923
1.453–6
(b) and (c) revised; (d) added 5923
1.454
Amended 15820
1.454–1
(a) and (c) revised 15820
1.456—1.456–7
Added, superseding Part 17 16394
1.456–2
(c) corrected 17479
1.456–6
(b) corrected 17479
1.461–1
(e) added 6682
1.501(c)(3)–1
(d)(5)(v) revised 17661
1.512(a)–1
Redesignated as 1.512(a)–2; heading revised; existing text designated as (a) and heading added; (b) added 17660
1.512(a)–1
Added 17660
(f) corrected 17890
(d)(2) and (e) corrected 17938
1.512(a)–2
Redesignated from 1.512(a)–1; heading revised; existing text designated as (a) and heading added; (b) added 17660
1.512(b)–1
(f)(4) revised 17661, 17890
1.513–1
Redesignated as 1.513–2; heading revised; (d) added 17657
1.513–1
Added 17657
(g) corrected 17890
(c)(2)(i) and (ii) and (d)(4)(ii) corrected 17938
1.513–2
Redesignated from 1.513–1; heading revised; (d) added 17657
1.611–2
(g)(1) revised; (g)(5) added 17518
1.852
Amended 8754
1.852–2
(b)(1) revised 8754
1.852–4
(c) revised 8755
1.852–9
(a)(1) and (2)(i), and (b) revised 8755
1.852–10
Added 8755
1.853
Amended 8756
1.853–3
Revised 8756
1.854
Amended 8756
1.854–1
(a) and (b) revised 8756
1.854–2
Revised 8757
1.855
Amended 8757
1.855–1
(e) revised 8757
1.856–1
(d)(1) revised 13221
1.1012–1
(c)(7) added 15671
(c)(7)(ii)(a)(2) corrected 15876
1.1031(a)–1
(d) revised 15822
1.1031(b)
Revised 15822
1.1031(b)–1
(a) and (b) revised 15822
1.1031(c)
Revised 15822
1.1031(c)–1
Revised 15822
1.1031(d)
Revised 15823
1.1031(d)–1
(a), introductory texts of (b) and (c), (d), and introductory text of (e) revised 15823
1.1034–1
(a) revised 5924
(a) corrected 6971
1.1037
Added 15823
1.1037–1
Added 15824
1.1038—1.1038–3
Added 5924
1.1038–1
(h) corrected 6971
1.1038–2
(h) corrected 6971
1.1091–1
(g) redesignated as (h); new (g) added 11468, 15421
1.1232–3
(a)(2) and (f) revised 15827
1.1233–1
(a)(5) added 11468, 15421
1.1372–6
Added 14040
1.1441–4
(d)(3) revised 8711
1.1461–2
Heading, (a), (b)(1), (c)(1) and (2)(i), and (e) revised 8711
1.1461–3
Deleted 8712
1.1461–3
Added 8712
(a)(1) revised 18039
1.1461–4
Added 8712
1.1464–1
Revised 8713
1.1465–1
(a) and (b)(3) revised; (d) added 8713
1.1551
Revised 3214
1.1551–1
Revised 3214
1.6011–1
(c) added 8713
1.6081–3
(a)(2) revised 3819
1.6091–1
(b)(15) added 8713
1.6091–3
(g) added 8713
1.6151–1
(d) added 3819
(d) revised 8713
1.6152–1
(a)(3) added 3819
1.6154–4
Added 3819
1.6302, 1.6302–1
Added 3820
1.6302–1
(a) revised 18040
1.6302–2
Added 8713
(a)(1) and (2), (b), (c), and (g) revised 18040
1.6414, 1.6414–1
Added 8714
14
Added 3343
17
Superseded by 1.456—1.456–7 16393
31.6091
Revised 5260
31.6091–1
(c) and (d) revised; (e), (f), and (g) added 5261
31.6151
Amended 5261
31.6151–1
(a) revised 5261
31.6302(c)–1
(a)(3) revised 5261
46.6011(a)–1
(a) and (b) revised 5262
46.6071(a)–1
(a) and (b) revised 5262
(a)(1) revised 18041
46.6091
Revised 5262
46.6091–1
(c) and (d) revised; (e) redesignated as (g) and revised; new (e) and (f) added 5263
46.6101–1
Revised 5263
46.6151
Amended 5263
46.6151–1
Revised 5263
46.6302(c)
Revised 5263
46.6302(c)–1
(a)(1) and (b) revised; (c) added 1037
(a)(1)(i) revised; (a)(1)(iii) added 5263
(a)(3) and (4) revised 18041
31.6302(c)–2
(b) and (c) revised 18041
46.6071(a)–1
(a) revised 18042
46.6302(c)–1
(a)(2) deleted; (c) revised; (d) added 18042
48.0–4
Revised 1038
Revised 5263
48.4091–4
(f) added 9541
48.4091–6
Added 9541
48.6011(a)—48.6011(a)–2
Added 5264
48.6071(a), 48.6071(a)–1
Added 5264
48.6071(a)–1
(a) revised 18043
48.6091, 48.6091–1
Added 5265
48.6151, 48.6151–1
Added 5265
48.6302(c)
Added 1038

26 CFR—Continued

Chapter I—Continued
48.6302(c)–1
Added 1038
(a)(1)(iii) added 5266
(a)(2) deleted; (c) revised; (d) added 16043
49
Exemption 5457
49.0–4
Revised 1039
Revised 5266
49.6011(a)—49.6011(a)–2
Added 5266
49.6071(a)
Added 1039
49.6071(a)–1
Added 1039
Heading revised; (b) redesignated as (c) and revised; new (b), (d), and (e) added 5266
49.6091, 49.6091–1
Added 5267
49.6151, 49.6151–1
Added 5268
49.6302(c)
Added 1039
49.6302(c)–1
Added 1039
(a)(1)(i) and (iii) revised; (a)(1)(iv) added; (d) revised 5268
(a)(2) deleted; (e) revised 16043
147.4–1
(d) (1) and (5) revised; (d)(7) and (8) added 17858
170
Subpart X deleted 13864
Subpart Y deleted 13864
Subpart Z added 16260
170.651—170.658
Subpart X deleted 13864
170.661—170.667
Subpart Y deleted 13864
170.681—170.691
Subpart Z added 16260
198.114
Revised 9314
198.114a
Added 9314
211.33
Center heading revised 11210
211.33a
Revised 11210
240.221
Revised 13864
240.222
Revised 13864
240.590a
Added 13864
240.591
Revised 13864
240.594
Revised 13865
245.46a
Deleted 13865
245.116a
Added 13865
245.117a
Revised 13865
245.117c
Revised 13865
270.142
Added 13866
270.161
Revised 13866
270.162
Revised 13866
270.163
Revised 13866
270.165
Revised 13866
296
Subpart E deleted 13866
296.101—296.107
Subpart E deleted 13866
301
Republished 15241
301.6302–1
Revised 8715
301.6312–1
(d) added 3820
301.6414–1
Revised 8715
301.6501(b)
Amended 8715
301.6501(b)–1
(a) and (b) revised 8715
301.6513
Amended 8715
301.6513–1
(a), (b), and (c) revised 8716
301.6656–1
(a) revised 8716
301.7514–1
(a)(5)(ii) revised 15483
301.9000–1
Added 8241
400
Added 14385
601
Subpart E recodified and revised 13059
Republished 15990
601.104
(c) (3) and (4) revised 8135
(c)(2) revised 20645
601.105
(b)(5)(iii) and (e)(6) revised 8136
(d)(1) revised 20645
601.106
(a)(1) and (2)(iii), (c), (f)(2), and (g)(1) revised 8136
(b), (d), (e), and (f) (1), (2), and (5) revised; (h) added 20646
601.109
(c)(2) revised 8137
601.201
(a)(6), (b) (1), (3), and (4), (c) (1), (4), and (7), (e) (2) and (5), (l) (1), (7), and (8), (m), (n), and (o)(1)(i) and (2)(i) revised; (o)(2)(ii)(f) added; (o)(2)(iii)(c), (iv)(c) (f), (vi), (vii)(d), and (3)(iii) revised; (o)(3)(ix) added; (o)(4)(vi) revised 8137
601.202
(c) revised 8141
(a)(2) revised 20647
601.203
Introductory text of (c)(1), (c)(2)(iv) and (4), and (d) revised 8141
601.301
(c)(2) revised 8141
Introductory text of (c) revised 20648
601.303
(c) revised 8142
601.315
(c) revised 8142
601.318
Revised 20648
601.328
(a) revised 13058
601.401
(a)(5)(i) revised 8142
601.402
(c)(3) revised 8142
601.501—601.511
Subpart E recodified as 601.501—601.527; revised 13059
601.501—601.527
Subpart E recodified from 601.501—601.511; revised 13059
601.601
(b) and (d) revised 9542
601.602
(c) revised 9542
601.701
Revised 9542
601.702
Revised 9543
Chapter II
701.7
(c)(4)(ii)(a) revised 450
701.61
Revised 17890
(a) corrected 20772
Proposed Rules:
1 278, 1091, 3155, 3886, 5278, 5993, 6691, 7660, 7857, 8093, 10261, 11217, 11533, 12182, 13288, 13773, 14848, 15039, 15167, 15393, 15758, 15870, 20727
31 2565, 15879
46 2565, 15879
48 2565, 15879
49 2565, 15879
151 17861
170 13416
212 16433
301 7080
601 8278, 8838

27 CFR

Proposed Rules:
5 19208

28 CFR

Chapter I
0
Subpart O appendices added (2 docs.) 6576
Subpart O appendix added 8523
0.17
Revoked 15531
0.25
(d) revoked 15425
0.45
(e) added 15425
0.75—0.84
Subpart O appendices added (2 documents) 6576
Subpart O appendix added 8523
0.75
(d) added 15531
0.78
Revoked 20772
0.80
Revised 1087
0.130
(e) added 9663
0.147
Amended 11160
0.160
Introductory text amended 6930
0.164
Introductory text and (a) amended 6930
0.165
Amended 6930
0.171
Revised 8144
0.179
Added 20772
2.37
Revised 15014
5
Revised 8362

16
Revised 9663
43.3
Revised 713
45.735–9
(a) amended; (e) added 9066
45.735–14
(c)(5), (d), and (e) revised 13217
45.735–19
(a) amended; authority citation deleted 13217
45.735–21
(b), (e), (f), and (h) amended; (n) added 13217
45.735–22
(a)(1)(iii), (c), (d), and (g) revised; (i) added 13217
45.735–23
(a) revised 13218
50.4
Added 713
50.5
Added 1040
Chapter II
200
Revised 20809
202
Added 9163

29 CFR

Subtitle A
2
Revised 11035
2.4
(a)(2)(ii) revised 3216
4.1
Revised 21036
4.6
(c)(9) revised 5775
(b) amended 21036
4.10
Added 3690
5.14
(b)(5) revised 1088
6
Added 8133
8
Heading revised 14387
8.1
Revised 14387
8.5
(c) added 14388
8.6
Revised 14388
8.7
Added 14388
8.8
Added 14388
10
Recodified as Part 1515 of Chapter XIII 4179
20
Subpart D heading revised 8909
20.1
Revised 8908
20.10
(a) revised 8908
20.12
Revised 8909
20.13
Added 8909
20.20
(c) revised 8909
20.30—20.41
Subpart D heading revised 8909
20.30
(a) and (d) revised; (f) added 8909
20.31
Revised 8909
20.32
Heading and (b) revised 8910
20.33
Revised 8910
20.34
Revised 8910
20.35
(a)(1)(iv) and (2), (b), (c), and (d) revised; (e) and (f) added 8910
20.36
Revised 8911
20.37
Revised 8911
20.39
Revised 8911
20.40
(a) revised 8911
20.41
(b)(1) and (2) and (d) revised 8911
20.42
Added 8911
20.50
(a) and (b) revised 8911
20.51
(a) through (e) and (f)(5) revised 8912
26
Added 7207
40.4
(d) revised 10649
50
Revised 6440
51
Added 6442
60
Schedule C added 867
Schedule A amended 10933
60.2
CFR corrected 7594
60.3
Revised 867
(b) revised 10932
60.4
Revised 867
60.5
Added 10932
60.6
Added 10932
70
Added 11033
70.4
(a) revised 20859
Chapter I
100
Revised 13560
101.6
Revised 9547
101.9
Revised 9547
(c)(2) corrected 10059
101.17
Revised 9548
101.18
(a) and (c) revised 9548
102.19
Revised 9548
102.33
Revised 9549
102.46
(e) revised 9549
102.69
(c), (d), (e), and (h) revised 9549
102.72
Revised 9550
102.81
Revised 9550
102.111
Revised 9551
102.117
Revised 9551
102.127
(a) revised 8406
102.128
Introductory text revised 8406
102.134
Revised 8406
Chapter IV
460.5
Revised 12178
462.27
Added 11433
462.28
Added 11434
463
Heading revised 12607
463.3
Revised 12607
465.21, 465.22
Center heading and sections added 6840
Chapter V
505
Added 4309
512
Revised 14324, 14552
516
Revised 9551
519
Revised 1088
Revised 11082
522.24
(a) through (d) revised 664
522.35
(a) revised 664
522.43
(a) (1) through (9) and (d) revised 665
522.50
Revised 665
522.65
(a) revised 665
522.85
(a) revised 665
522.92
Revised 665
522.93
Revised 665
522.102
Revised 665
522.103
Revised 665
522.104
Revised 666
522.105
Revised 666
524
Revised 714
525
Revised 715
526
Revised 5775
526.10
Amended 7390
Amended 14326
526.11
Amended 10649
Amended 12675, 14157
Revised 15426
526.12
Amended 7391
Amended 9811
Amended 13767
Revised 15426
531
Revised 13575
541
Heading revised 7823

29 CFR—Continued

Chapter V—Continued

541.0
Added ... 7823
541.1
Revised ... 7824
541.2
Revised ... 7824
541.3
Revised ... 7824
541.5b
Deleted ... 7824
541.99
Revised ... 7824
541.100
Revised ... 7825
541.112
Revised ... 7825
541.117
Revised ... 7825
541.118
(b) revised ... 7826
541.119
Revised ... 7826
541.200
Revised ... 7826
541.201
(c) added ... 7826
541.202
(e) added ... 7826
541.206
Revised ... 7827
541.209
Revised ... 7827
541.211
Revised ... 7827
541.214
Revised ... 7827
541.215
Added ... 7827
541.300
Revised ... 7827
541.302
(e) revised; (g) added ... 7828
541.303
(e)(1) revised ... 7828
541.304
Revised ... 7828
541.307
(c) added ... 7828
541.311
Revised ... 7828
541.313
(c) and (d) revised ... 7829
541.314
Revised ... 7829
541.315
Revised ... 7829
541.602
(b) revised ... 7829
545.13
Revised ... 12384
548.301
(b) amended; (c) revised ... 3293
548.303
(b) amended ... 3293
548.306
(c)(2) revised ... 3293
548.400
(b) revised ... 3294
601.2
Revised ... 5465
Revised ... 6445
602.2
Heading of (a), (a)(1)(i), (2)(i), (3)(i), (4)(i), and (5)(i), heading of (b), and (b)(1) revised ... 5465
Introductory text deleted; (c) added ... 6445
603.2
Heading of (a), (a)(1)(i), (3)(i), (3)(i), (4)(i), heading of (b), and (b)(1) revised ... 5466
Introductory text deleted; (c) added ... 6445
604.2
Heading of (a), (a)(1)(i), (2)(i), (3)(i), (4)(i), (5)(i), heading of (b), and (b)(1) revised ... 5466
Introductory text deleted; (c) added ... 6446
606.2
Heading of (a), (a)(1)(i), (2)(i), (4)(i), (5)(i), (6)(i), heading of (b), and (b)(1) revised ... 5466
(a)(6)(i) corrected ... 5979
Introductory text deleted; (c) added ... 6446
609.2
Revised ... 4407
Effective date of revision advanced ... 5416
Introductory text deleted; (c) added ... 6446
609.2
Heading of (a), (a)(1)(i) and (2)(i), heading of (b), and (b)(1) revised ... 5466
Introductory text deleted; (c) added ... 6446
610.2
Heading of (a), (a)(1)(i) and (2)(i), heading of (b), and (b)(1) revised ... 5466
Introductory text deleted; (c) added ... 6446
611.2
Revised ... 5466
Revised ... 6446
612.2
(a)(1), (b)(1), (c)(1), (d)(1), (e)(1), (f)(1), heading of (g) and (g)(1) revised ... 5467
(e)(1) corrected ... 5979
Introductory text deleted; (h) added ... 6447
613.2
Heading of (a), (a)(1)(i), (2)(i), (3)(i), heading of (b), and (b)(1) revised ... 5467
Introductory text deleted; (c) added ... 6447
614.2
(a)(1), heading of (b), and (b)(1) revised ... 5467
Revised ... 6447
615.2
Heading of (a), (a)(1)(i), (2)(i), (3)(i), heading of (b), and (b)(1) revised ... 5467
Introductory text deleted; (c) added ... 6447
616.2
Heading of (a), (a)(1)(i), (2)(i), (3)(i), (4)(i), (5)(i), (6)(i), (7)(i), (8)(i), heading of (b), and (b)(1) revised ... 5467
Introductory text deleted; (c) added ... 6447
619.2
Revised ... 5467
Revised ... 6448
627.2
Heading of (a), (a)(1)(i), (2)(i), (3)(i), (4)(i), (5)(i), heading of (b), and (b)(1) revised ... 5468
Introductory text deleted; (c) added ... 6448
661.2
Revised ... 5468
Revised ... 6448
670.2
Heading of (a), (a)(1)(i), (2)(i), (3)(i), (4)(i), (5)(i), (6)(i), heading of (b), (b)(1), heading of (c), and (c)(1) revised ... 5468
Introductory text deleted; (d) added ... 6448
671.2
Heading of (a), (a)(1)(i), (2)(i), heading of (b), (b)(1)(i), (2)(i), and (3)(i) revised ... 5468
Introductory text deleted; (c) added ... 6448
672.2
Revised ... 5468
Revised ... 6448
673.2
(a)(1), (b)(1), (c)(1), (d)(1), (e)(1), heading of (f) and (f)(1), heading of (g) and (g)(1), heading of (h) and (h)(1), heading of (i) and (i)(1), heading of (j) and (j)(1), heading of (k) and (k)(1), heading of (l) and (l)(1), (m)(1), heading of (n) and (n)(1), heading of (o) and (o)(1), and heading of (p) and (p)(1) revised ... 5468
(c)(1) and (d)(1) corrected ... 5979
Introductory text deleted; (q) added ... 6449
675.2
Heading of (a), (a)(1)(i), (2)(i), (3)(i), (4)(i), (5)(i), heading of (b) and (b)(i), heading of (c) and (c)(1), and heading of (d) and (d)(1) revised ... 5469
Introductory text deleted; (e) added ... 6449
677.2
Heading of (a), (a)(1), heading of (b), and (b)(1) revised ... 5469
Introductory text deleted; (c) added ... 6449
678.2
Heading of (a), (a)(1)(i), (2)(i), (3)(i), (4)(i), (5)(i), (6)(i), (7)(i), heading of (b) and (b)(1), and heading of (c) and (c)(1) revised ... 5469
Introductory text deleted; (d) added ... 6449
681.9
(b) and (c) revised ... 12178
683.2
Heading of (a) and (a)(1), heading of (b) and (b)(1), heading of (c), and (c)(1) revised ... 5469
Introductory text deleted; (d) added ... 6449
687.2
Heading of (a), (a)(1)(i), (2)(i), heading of (b), and (b)(1) revised ... 5469
Introductory text deleted; (c) added ... 6449
688.2
Heading of (a), (a)(1), heading of (b), and (b)(1) revised ... 5470
Introductory text deleted; (c) added ... 6449

689.1
Revised ... 4408
Effective date of revision advanced ... 5416
689.2
Revised ... 4408
Effective date of revision advanced ... 5416
Revised ... 6449
690.2
Heading of (a), (a)(1)(i), (2)(i), (3)(i), (4)(i), heading of (b), and (b)(1) revised ... 5470
Introductory text deleted; (c) added ... 6450
694.2
Revised ... 4408
Effective date of revision advanced ... 5416
697
Revised ... 8242
699.2
Heading of (a), (a)(1)(i), (2)(i), (3)(i), (4)(i), (5)(i), (6)(i), (7)(i), heading of (b), (b)(1)(i), (2)(i), and (3)(i) revised ... 5470
Introductory text deleted; (c) added ... 6450
720.2
Heading of (a), (a)(1)(i), (2)(i), (3)(i), (4)(i), heading of (b), and (b)(1) revised ... 5470
Introductory text deleted; (c) added ... 6450
721
Added ... 4408
722
Added ... 4409
723
Added ... 4409
724
Added ... 5268
725
Added ... 5269
726
Added ... 5505
727
Added ... 5831
728
Added ... 6092
729
Added ... 6093
779.317
Revised ... 14327
779.397
(b)(6) added ... 14328
785.50
Revised ... 15426
786.100
Revised ... 15426
786.200
Revised ... 15426
786.250
Revised ... 15426
800.10
Revised ... 2378
800.12
Revised ... 2379
800.104
Revised ... 2379
800.107
Revised ... 2379
800.108
Revised ... 2379
800.110
Revised ... 2379
800.112
Revised ... 2380
800.113
Revised ... 2380
800.114
Revised ... 2380
(a) amended ... 5737
800.166
(b) revised ... 2381

Chapter X

1209
Revised ... 15827
1202.15
Deleted ... 15831
1203.2
Amended ... 15831
1208
Added ... 15831

Chapter XII

1401
Revised ... 9812
1402
Revised ... 9812
1403
Revised ... 9813
1404
Revised ... 9813

Chapter XIII

1500
Subpart E–1 added ... 15479
1500.21
Continued effectiveness ... 11988
1500.35
Revised ... 15478
1500.41
Revised ... 6136
1500.42
Revised ... 6136
1500.44
Revised ... 6136
1500.52
Heading, (a), and (b)(3) revised ... 15478
1500.54
(a)(2)(vii), (viii), (ix), and (x) added ... 6024
1500.56
Deleted ... 6025
1500.58
(c) added ... 15479
1500.70, 1500.71
Subpart E–1 added ... 15479
1501
Subpart B heading revised ... 14042
1501.5
Revised ... 14041
1501.10—1501.15
Subpart B heading revised ... 14042
1501.10
(a), (b)(1), (2), and (5), and (c)(1) and (3) revised ... 14042
1501.11
Revised ... 14042
1501.12
Introductory text of (a), (b), and (d) revised; (e), (f), and (g) added ... 14042
1501.13
(b) and (c) revised ... 14043
1501.14
(c) and (d) revised ... 14043
1501.21
Revised ... 14043
1501.23
(c)(1)(iv) added ... 14043
1501.24
(a)(4) and (b)(5), (13), and (14) revised ... 14043
1501.31
(a)(1)(vi) revised ... 14043
1501.32
(e) revised; (h) and (i) added ... 14043
1501.35
(a)(9), (e), and heading of (g) revised; existing text of (g) designated as (g)(1); (g)(2) and (g)(3) added ... 14044
1501.36
(a)(2) revised ... 14044
1501.41
(a)(6) and (i)(2) and (3) revised ... 14044
1501.42
(a)(4) and (6) revised ... 14044
1501.43
Heading revised; (c), (d), (e), and (f) added ... 14044
1501.45
Heading revised; (g) added ... 14044
1501.47
Revised ... 14044
1501.51
(a) revised ... 14044
1501.52
(b)(2) revised ... 14045
1501.53
(c) added ... 14045
1501.57
Revised ... 14045
1501.58
(d) revised ... 14045
1501.64
(d) added ... 14045
1501.65
Revised ... 14045
1501.66
(m) revised; (n) and (o) redesignated as (o) and (p), respectively, and revised; new (n) added ... 14045
1501.68
Amended ... 14045
1501.71
(a) revised; (f), (g), and (h) added ... 14046
1501.72
(a) revised ... 14046
1501.74
Introductory text of (c) revised ... 14046
1501.76
Added ... 14046
1501.91
(c)(1) revised ... 14046
1501.93
(b) revised ... 14046
1501.94
(a), (b), and (c)(4) revised ... 14046
1501.91
Introductory text of (a) and (a)(1) and (2) revised ... 14046
1501.92
Revised ... 14046
1501.111
Revised ... 14047
1502
Subpart B heading revised ... 14047
1502.5
Revised ... 14047
1502.10
Subpart B heading revised; (a), (b)(1), (3), and (5), and (c)(1) revised ... 14047
1502.21
Revised ... 14047
1502.23
(c)(1)(iv) added ... 14047
1502.24
(a)(4) and (b)(5), (13), and (14) revised ... 14048

29 CFR—Continued

Chapter XIII—Continued

1502.31 (a)(1)(vi) revised ... 14048
1502.32 (e) revised; (h) and (i) added ... 14048
1502.35 (a)(9), (e), and heading of (g) revised; existing text of (g) designated as (g)(1); (g)(2) and (3) added ... 14048
1502.36 (a)(2) revised ... 14048
1502.41 (a)(6) and (i)(2) and (3) revised ... 14048
1502.42 (a)(4) and (6) revised ... 14048
1502.43 Heading revised; (c) through (f) added ... 14048
1502.45 Heading revised; (g) added ... 14049
1502.47 Revised ... 14049
1502.51 (a) revised ... 14049
1502.52 (b)(2) revised ... 14049
1502.53 (c) added ... 14049
1502.57 Revised ... 14049
1502.58 (d) revised ... 14049
1502.64 (d) added ... 14049
1502.65 Revised ... 14049
1502.66 (m) revised; (n) and (o) redesignated as (o) and (p), respectively, and revised; new (n) added ... 14050
1502.68 Amended ... 14050
1502.71 (a) revised; (f), (g), and (h) added ... 14050
1502.72 (a) revised ... 14050
1502.74 Introductory text of (c) revised ... 14050
1502.76 Added ... 14050
1502.81 (c)(1) revised ... 14050
1502.83 (b) revised ... 14050
1502.84 (a), (b), and (c)(4) revised ... 14050
1502.91 Introductory text of (a) and (a)(1) and (2) revised ... 14051
1502.92 Revised ... 14051
1502.111 Revised ... 14051
1503 Subpart B heading revised ... 14051
1503.5 Revised ... 14051
1503.10—1503.14 Subpart B heading revised ... 14051
1503.10 (a), (b)(1), (3), and (5), and (c)(1) and (3) revised ... 14051
1503.11 Revised ... 14052
1503.12 Introductory text of (a), (b), and (d) revised; (e), (f), and (g) added ... 14052
1503.13 (b)(3) and (4) revised ... 14052
1503.14 (b) revised ... 14053
1503.31 (a)(1)(vi) revised ... 14053
1503.32 (b) revised ... 14053
1503.35 (a)(9), (e), and heading of (g) revised; existing text of (g) designated as (g)(1); (g)(2) and (3) added ... 14053
1503.36 (a)(2) revised ... 14053
1503.41 (a)(6) and (e)(2) and (3) revised ... 14053
1503.42 (a)(4) and (6) revised ... 14053
1503.45 Heading revised; (g) added ... 14053
1503.47 Added ... 14053
1503.52 (b)(2) revised ... 14053
1503.57 Revised ... 14053
1503.58 (d) revised ... 14054
1503.64 (d) added ... 14054
1503.65 Revised ... 14054
1503.66 (m) revised; (n) added ... 14054
1503.68 Amended ... 14054
1503.71 (a) revised; (f), (g), and (h) added ... 14054
1503.72 (a) revised ... 14054
1503.74 Introductory text of (c) revised ... 14054
1503.76 Added ... 14055
1503.81 (c)(1) revised ... 14055
1503.83 (b) revised ... 14055
1503.84 (a), (b), and (c)(4) revised ... 14055
1515 Recodified from Part 10 of Subtitle A ... 4170
1516 Added ... 21036

Chapter XIV

1602 Subparts D and E added ... 10650; Subparts F and G added ... 10651; Subpart H added ... 10652
1602.15—1602.19 Subpart D added ... 10650
1602.20, 1602.21 Subpart E added ... 10650
1602.22—1602.26 Subpart F added ... 10651
1602.27, 1602.28 Subpart G added ... 10651
1602.29 Subpart H added ... 10652
1605.1 Revised ... 10298
1610 Added ... 16261
1610.23 (a) corrected ... 16491

Proposed Rules:

4 ... 736, 10182, 10265, 10658
5 ... 15396
6 ... 15396
7 ... 15396
12 ... 20730
18 ... 18096
26 ... 3710
34 ... 18096
40 ... 7026
460 ... 2708
463 ... 2709
485 ... 3363
Ch. V ... 2953, 3100
512 ... 12117
516 ... 140
519 ... 148
524 ... 14334
526 ... 671, 674, 5788, 9027, 10601, 11043, 15712
531 ... 222
541 ... 228
608 ... 2648
609 ... 2648
694 ... 2820
697 ... 4579
1500 ... 91, 931, 6057, 6102, 6144, 8919
1501 ... 7859
1502 ... 7859
1503 ... 7859
1504 ... 6058
1516 ... 10658
1602 ... 2852, 3100, 3364, 7688, 14404
1604 ... 5099, 6941
1605 ... 7092

30 CFR

Chapter I

45.46—45.46-3 Revised ... 7017
52 Added ... 6637
53 Added ... 2944

Chapter II

229.3 Revised ... 12941
229.9 Revised ... 12941

Chapter IV

400.735–101 Revised ... 13809
400.735–102 Revised ... 13809
400.735–108 Revised ... 13810

Proposed Rules:

11 ... 8162

31 CFR

Subtitle A

0 Appendix A revised ... 13769
0.735–21 (f) amended ... 13767
0.735–30 Redesignated as 0.735–30a; amended ... 13767
0.735–30 Added ... 13767
0.735–30a Redesignated from 0.735–30; amended ... 13767
0.735–31 Amended ... 13767
0.735–32 Amended ... 13767
0.735–33 (a) and (c) revised ... 13767
0.735–34 Revised ... 13767
0.735–39 Amended ... 13767
0.735–42 Amended ... 13768
0.735–44 Amended ... 13768
0.735–46 Amended ... 13768
0.735–47 Amended ... 13768
0.735–48 Amended ... 13768
0.735–51 Amended ... 13768
0.735–53 Amended ... 13768
0.735–55 (a) revised; (b) amended; (j) added ... 13768
0.735–70 Revised ... 13768
0.735–70a Added ... 13768
0.735–71 Revised ... 13768
0.735–72 Revoked ... 13768
0.735–73 Revised ... 13768
0.735–75 Revised ... 13768
0.735–79 Amended ... 13768
0.735–80 Revised ... 13769
0.735–100 Revised ... 13769
0.735–209 Revised ... 13769
0.735–231 (a) revised ... 13769
0.735–236 Revised ... 13769
1 Heading revised; Subpart A heading deleted and text revised; Subpart B recodified as Part 256 ... 9562
Authority citation corrected ... 10059
1.4 (d) corrected ... 10059
1.6 (c) and (d) redesignated as (d) and (e), respectively; new (c) added ... 17519
1.10, 1.11 Subpart B recodified as Part 256 ... 9562
3.20 Amended ... 3056
5 Added ... 452

Chapter I

56 Added ... 7496
90.3 Amended ... 14599
56.1 Revised ... 13380
56.2 Revised ... 13380
80 Deleted ... 195
81 Added ... 195
82 Added ... 7486
82.5 Added ... 17859
82.6 Added ... 17860
90.4 Heading of (b) revised ... 14599
92.5 Revised ... 14599
92.21 Revoked ... 9664
92.21 Added ... 9665
92.22 Revoked ... 9664
92.22 Added ... 9665
92.23 Revoked ... 9664
92.24 Revoked ... 9664
93.12 Revised ... 7496
93.14 Revoked ... 10435
93.15 Revoked ... 10435
93.16 Revoked ... 10435
93.17 Revised ... 10435
93.75 Deleted ... 196
93.75 Added ... 7496
Deleted ... 13380
93.76 Deleted ... 196
93.77 Deleted ... 196
93.80 Added ... 196
100.10 (a) revised ... 14274
100.14 (a) revised ... 14274
178.23 Added ... 14055

Chapter II

202 Revised ... 14215
203 Revised ... 14216
205 Added ... 10201
214 Added ... 2820; Revised ... 18044
251 Added ... 7948
256 Added; recodified from Part 1, Subpart B ... 9562
257 Added ... 9665
270 Revised ... 9665
306 Subpart O redesignated as Subpart P; new Subpart O added ... 15672
306.0 Revised ... 3446
306.115—306.118 Subpart O redesignated as Subpart P and recodified as 306.123—306.126 ... 15672
306.115—306.122 Subpart O added ... 15672
306.117 (b) corrected ... 15920
306.118 Corrected ... 15920
306.123—306.126 Subpart P redesignated from Subpart O and recodified from 306.115—306.118 ... 15672
309.5 Revised ... 3821
312.2 Rescinded ... 3446
312.4 Revised ... 3447
315.0 Revised ... 3447
315.2 (a) revised ... 3447
315.16 Revised ... 3447
316 Table 51 supplemented ... 10655
316.8 (a)(4) and (b)(5) revised; (b)(6) added ... 3700
317 Revised ... 3447
317.2 (a) revised ... 12914
317.3 Revised ... 12914
321.2 Revised ... 12914
323 Revised ... 9967
342 Added ... 3356
351 Revised ... 9666
360 Revised ... 14217
365.8 Added ... 20717
500.204 Revised ... 3822; Appendix amended ... 3833; Appendix amended ... 7830; Appendix amended ... 10503
500.515 Revised ... 10846
500.803 Revised ... 10846
500.808 Revised ... 3829
500.809 Added ... 10846
515.508 Revised ... 10846
515.515 Revised ... 10847
515.803 Revised ... 10847
515.804 Revised ... 10847
515.809 Added ... 10847
520.803 Revised ... 10847
520.804 Revised ... 10847
520.809 Added ... 10847
525 Added ... 3448
525.201 (c) corrected ... 4024
525.802 Revoked ... 10847
525.803 Revised ... 10847
525.809 Added ... 10847

31 CFR—Continued

	Page
Proposed Rules:	
351	6612
357	7858
306	11216

32 CFR

Chapter I	
Heading of Subchapter E revised	11382
1	
Subpart T added	502
Subpart Q recodified and revised	12088
1.108	
(a)(5) revised	16398
1.109–2	
Revised	16398
1.201–1	
Revised	4242
1.201–18	
Revised	4242
1.201–29	
Added	10157
1.201–30	
Added	10157
1.305–3	
(b) and (c) revised	16398
1.305–5	
Added	10157
1.308	
Revised	10157
1.311	
Added	10157
1.313	
Added	10157
1.315	
Added	10157
1.319	
(f) revised	10158
1.320	
Revised	5505
1.322–1	
Revised	499
1.322–2	
Revised	500
1.322–3	
(e) revised; (f) and (g) added	500
1.322–4	
Redesignated as 1.322–5; revised	501
1.322–4	
Added	501
1.322–5	
Redesignated from 1.322–4; revised	501
1.323	
(b) revised; (c) added	501
1.328—1.328–5	
Added	6138
1.329—1.329–4	
Added	16398
1.506–1	
Amended	16400
1.506–2	
(a) revised	16400
1.601–4	
Revised	16400
1.603	
(a)(3) revised	4242
1.608–1	
(c) revised	4242
1.701–1	
(a)(2)(iv)(d) revised; (a)(2)(iv)(e) added	4242
(a)(2) and (c) revised	12084
1.701–4	
Amended	12085
Introductory text revised	16400

	Page
1.704–3	
(b)(3) revised	12085
1.705–4	
(f) revised	16400
1.706–6	
(c) revised	12085
1.707–3	
(c) revised	12086
1.707–4	
(a) revised	12086
1.801–1	
Revised	12086
1.801–2	
Revised	12087
1.803	
(a)(4) revised	12087
1.804–2	
(b) revised	12087
1.805–3	
(b) amended	12088
1.905–3	
(c) revised	10158
1.905–4	
(b) revised	502
1.907	
Revised	16400
1.1002–1	
Amended	10158
Revised	16400
1.1003–4	
Amended	10158
1.1003–9	
(b) amended	4242
1.1004	
(b) revised	16400
1.1006–2	
Revised	16401
1.1604	
(c) revised	502
(c) amended	16401
1.1701—1.1706–5	
Subpart Q recodified as 1.1701—1.1710; revised	12088
1.1701—1.1710	
Subpart Q recodified from 1.1701—1.1706–5; revised	12088
1.1705–1	
Revised	16401
1.1707–3	
(b) amended	16401
1.2000, 1.2001	
Subpart T added	502
2.201	
Introductory text, (a)(8), (12) and (31), and (b)(21) revised	502
Introductory text, (a)(25) and (29), and (c)(4) revised	4242
(a)(27) revoked; (a)(40) revised	5506
(a)(11) and (b)(15) and (23) added; (c)(7) revised	10158
(b)(24) added	12097
2.208	
(a) revised	4242
2.405	
(f) added	10159
2.406–3	
(b)(2) revised	10159
(b)(1) revised	16401
2.407–1	
Revised	16401
2.407–3	
(a) revised	16401
2.407–5	
Revised	10159
2.503–1	
(g) revised	5506
Subpart I recodified and revised	4249
3.101	
Introductory text and (h) revised	4242
Introductory text revised	10159
(h) revised	16402
3.102	
(c) revised	16402
3.109	
Revised	10159
3.201–2	
(b)(3) added	16402
3.201–3	
Revised	16402
3.202–2	
(g) added	4243
3.202–3	
Revised	4243
3.306	
(b) added	4243
3.405–3	
Revised	10159
3.405–5	
(c)(1) and (d)(3) revised	10159
3.410–2	
(a) amended	16402
3.501	
(b)(16), (43), and (58) revised	503
(b)(15), (23), (31), (33), (49), and (51) revised; (b)(52) revoked; (b)(54), (56), and (59) revised	4243
(b)(64) revised	5506
(b)(2) and (18) revised; (b)(52) and (65) added	10159
(b)(66) added	12097
3.505	
(a) revised	4243
3.506	
Revised	5506
3.507–1	
Revised	4243
(a) amended; (d) and (e) revised	10160
3.507–2	
(a) revised	5507
3.600	
Revised	4244
3.603–1	
(c) revised	16402
3.604–2	
Revised	4244
Revised	5507
Revised	16402
3.605–1	
Revised	16402
3.605–3	
(b) and (f)(8) revised	4244
(f)(6)(v) revoked	5507
(b) revised	16402
3.605–6	
Revised	4244
3.606–3	
(a) and (b)(3) revised	4244
(b)(4) amended	5507
3.607–3	
(b)(3) added	4244
3.607–4	
(c)(1) revised	4244
3.608–1	
Revised	4245
3.608–2	
Revised	4245
(b)(2) revised	10160
(d)(4) and (7) revised	16403
3.608–4	
Revised	4246
(c) revised	10160
3.608–5	
Revised	4247

	Page
3.608–8	
Redesignated as 3.608–9; revised	4248
3.608–8	
Added	4247
3.608–9	
Redesignated from 3.608–8; revised	4248
3.609—3.609–3	
Added	4248
3.707	
Amended	10160
3.802–2	
Revised	10160
3.805–1	
(a)(5) and (b) revised	4249
Introductory text of (a), and (b) and (c), revised	10160
3.807–10	
Introductory text of (a) and (b) revised	4249
3.807–12	
Added	10160
3.808–2	
(b)(1) revised	12097
3.808–3	
(b) revised	16403
3.808–4	
(a) amended	5507
(f) added	12097
3.808–5	
(d)(2) amended	10161
3.808–6	
Revised	503
3.809	
(c)(3) revised; (c)(4) added	5507
3.811	
(a) revised	5508
3.901—3.902–5	
Subpart I recodified from 3.901—3.904; revised	4249
3.901—3.904	
Subpart I recodified as 3.901—3.902–5; revised	4249
4	
Subparts H and I revoked	504
Subpart B redesignated as Subpart A and revised	10161
Subpart C revoked	10161
4.100—4.117	
Subpart A redesignated from Subpart B and recodified from 4.200—4.215; revised	10161
4.106–4	
(d) revised	16403
4.110	
(d) added	16403
4.117	
Revised	12097
4.200—4.215	
Subpart B redesignated as Subpart A and recodified as 4.100—4.117; revised	10161
4.205–1	
(e) revised	4251
4.210	
Revised	4251
4.214–4	
(c) revised	503
4.301—4.303–24	
Subpart C revoked	10161
4.502	
Amended	12098
4.503–1	
Revised	12098
4.503–5	
Introductory text amended	12098
4.507–2	
Revised	12098
4.507–3	
Revised	12098
4.507–4	
Revoked	12098
4.800—4.806	
Subpart H revoked	504
4.900—4.903–2	
Subpart I revoked	504
5	
Subpart K revised	504
Subpart L recodified and revised	509
5.101	
(a) amended	504
5.102–2	
(b) revised	4251
5.1100—5.1118	
Subpart K revised	504
5.1106–3	
(a)(2) revised	16403
5.1106–5	
Revised	16404
5.1107–4	
Added	12098
5.1201—5.1201–7	
Subpart L recodified from 5.1201—5.1203; revised	509
5.1201—5.1203	
Subpart L recodified as 5.1201—5.1201–7; revised	509
6	
Subpart D heading revised	516
Subpart B revoked; cross reference added	4254
Subpart H added	4254
Subpart J added	16405
6.000	
Revised	4252
6.001	
Added	4252
6.101	
Revised	4252
6.102–2	
(b) revised	4252
6.102–3	
Revised	4253
(a)(2) revised	10167
6.103–2	
Revised	4253
Introductory text of (b) revised	10167
6.103–5	
(a) revised	4253
6.104–2	
Revised	4253
6.104–4	
(e) added	4253
6.104–6	
Revised	4253
6.105	
Revised	4253
6.200—6.206	
Subpart B revoked; cross reference added	4254
6.301	
Revised	4254
6.303	
(d) revised	4254
6.401—6.403	
Subpart D heading revised	516
6.401–5	
Revised	516
6.403	
Revised	516
6.502	
(d) added	5508
6.504–5	
Added	5508
6.505	
Revised	5508
6.701	
Revoked	4254
6.705—6.705–3	
Revised	16404
6.800—6.807	
Subpart H added	4254
6.805–2	
(b)(1)(ii) and (iii), (d)(1)(i) and (ii), and (e) revised	16404
6.1000—6.1004	
Subpart J added	16405
7	
Subpart M added	10168
Subpart N added	10171
Subpart O added	10172
7.101	
(a)(2) revised	4258
7.103–5	
(d) revised	16405
7.103–15	
Revised	516
7.103–16	
Revised	5508
7.104–1	
(a) revised	516
(b) revised	4258
7.104–6	
Revised	4258
7.104–9	
Revised	516
7.104–23	
Revised	4258
7.104–26	
Revoked	4258
7.104–28	
Revised	16405
7.104–45	
Revised	12098
7.104–47	
Revised	516
7.104–48	
Revised	516
7.104–60	
Added	516
7.104–61	
Added	517
7.104–62	
Added	10167
7.104–63	
Added	10167
7.104–64	
Added	16405
7.105–7	
Revised	10167
7.105–8	
Added	517
Revoked	10167
7.105–9	
Revoked	517
7.105–10	
Revoked	517
7.108–1	
Amended	4258
7.108–2	
Amended	4258
7.109–2	
(b) amended	4258
7.109–4	
(b) amended	4258
7.203–2	
Revised	517
Amended	10167
7.203–3	
Revised	517
7.203–5	
(b) revised	16405

32 CFR—Continued

Chapter I—Continued

	Page
7.203–8 Revised	4258
7.203–16 Revised	5508
7.203–22 Amended	5508
7.203–25 Revised	518
7.203–27 Revised	12098
7.204–1 (a) revised	518
(b) revised	4258
7.204–6 Revised	16405
7.204–9 Revised	518
7.204–10 Revised	16405
7.204–26 Added	518
Revised	16405
7.204–32 Revised	12098
7.204–34 Revised	518
Revised	16405
7.204–44 Added	10167
7.204–45 Added	16405
7.205–6 Revoked	10168
7.205–8 Revoked	518
7.302–4 (c) revised	16406
7.302–23 Revised	518
7.302–24 Revised	518
7.303–1 (a) revised	518
(b) revised	4259
7.303–8 Revised	518
7.303–12 Revised	4259
7.303–13 Revoked	4259
7.303–13 Added	10168
7.303–14 Added	518
7.303–15 Revised	16406
7.303–32 Revised	12098
7.303–44 Added	518
7.303–45 Added	16406
7.304–6 Added	518
7.304–7 Revoked	519
7.304–7 Redesignated from 7.304–8; revised	519
7.304–8 Redesignated as 7.304–7; revised	519
7.304–9 Revoked	519
7.402–2 Revised	519
7.402–5 (c) revised	16406
7.402–8 Revised	4259
7.402–11 Revised	4259
7.402–22 Revised	520
7.402–28 Revised	12098
7.403–1 (a) revised	521
(b) revised	4259
7.403–2 Revised	4259
7.403–8 Revised	521
7.403–15 Revised	16406
7.403–39 Added	521
7.403–40 Added	521
7.403–41 Added	10168
7.403–42 Added	16403
7.404–1 Revised	521
Revised	10168
7.404–7 Revoked	521
7.505–1 Revised	4259
7.602–2 Revised	521
7.602–7 (b) amended	521
7.602–10 (b) revised	16406
7.602–20 Revised	4259
7.602–29 Revised	521
7.602–24 Revised	4259
7.602–37 Revised	521
7.603–2 Revised	521
7.603–3 Revised	4259
7.603–9 Revised	4259
7.603–13 Revised	521
7.603–30 Revised	10168
7.605–15 Revised	16406
7.605–18 Revised	521
7.605–23 Revised	4259
7.606–3 Revised	4260
7.606–4 Revised	4260
7.606–11 Revised	12098
7.607–14 Revised	521
7.607–18 Revised	16406
7.702–33 Revised	5509
7.702–42 Revised	12098
7.702–46 Revised	521
Revised	5509
7.703–24 Revoked	521
7.703–25 Revised	5509
7.703–34 Revised	12098
7.703–44 Added	16406
7.704–21 Revised	521
7.704–27 Revised	12098
7.704–30 Revised	521
Revised	5509
7.705–2 Revised	10168
7.705–4 Revised	10168
7.705–5 Revised	521
7.705–6 Revised	4260
7.705–8 Revised	522
7.802–4 Introductory text added	10168
7.802–5 (a) amended	10168
7.901–11 Revised	5509
7.901–25 Added	16406
7.901–26 Added	16406
7.902–7 Revised	10168
7.902–12 Heading revised	522
7.902–16 Heading revised	522
7.902–25 Added	10168
7.1000 Revised	522
7.1001 Revised	522
7.1003–1 Heading revised	522
7.1004–3 Revoked	522
7.1102–2 (b) amended; (b)(4) added	522
(b)(2) revised	12098
7.1102–4 Added	10168
7.1200 Revised	522
7.1201–27 Revised	5509
7.1202–1 Revised	16406
7.1300—7.1303–2 Subpart M added	10168
7.1400—7.1401–12 Subpart N added	10171
7.1500—7.1503 Subpart O added	10172
8.403 Revised	16406
9 Subpart D added	534
9.102–1 Introductory text revised	522
9.104 Closing sentence revised	522
9.105 Revoked	522
9.106 Revised	522
9.106–1 Revised	523
9.106–2 Added	523
9.107–4 (a) and (b) revised; (h) added	523
9.107–5 Revised	524
(b) amended	4260
9.107–7 (a) revised	528
9.107–9 Revised	528
9.108 Revised	528
9.109 Revised	528
9.109–1—9.109–5 Added	528
9.109–3 (b) revised	10172
9.110 Revised	530
(a)(2) revised	4260
9.111 Redesignated as 9.112; revised	531
9.111 Redesignated from 9.112; revised	530
9.112 Redesignated as 9.111; revised	530
9.112 Redesignated from 9.111; revised	531
9.202–3 Revised	531
(e) amended	10172
(b) revised	12099
9.203 (a) revised	531
9.204–1 Revised	531
9.204–2 Revised	531
9.205–2 Revised	532
9.206 Revised	532
9.207–2 Revised	532
9.301–2 Revised	532
9.302 Heading and (a) revised	533
9.303 Revised	533
9.304–1 Introductory text revised	533
9.304–2 Revised	533
Introductory text of (b) revised	4260
9.401—9.413 Subpart D added	534
10.104–2 (b) revised	537
10.105–3 (a) revised	537
10.110 (b) revised	537
10.112 (a) revised	5509
(a) revised	10172
10.201–2 (d) revised	12099
10.505 Revised	16406
10.603 Revised	16407
11.403 Revised	537
11.403–1 (a) revised	537
(a) amended	12099
11.403–2 Revised	537
11.404 Revoked	538
12 Subpart D revoked; cross reference added	539
12.000 Revised	538
12.102—12.102–6 Recodified as 12.102—12.102–7; revised	12099
12.102—12.102–7 Recodified from 12.102—12.102–6; revised	12099
12.102–4 (b) revised	538
(e) amended	16407
12.106 Revised	538
12.106–1 Added	538
12.106–2 Added	539
12.202 Introductory text revised	12100
12.300 Revised	539
12.302 Revised	5509
(a) revised	12101
Introductory text and (e) revised	16407
12.303 Revised	5509
12.303–1 Revoked	5509
12.303–2 Revoked	5509
12.304 Revised	539
Revised	5509
12.305 Revised	5509
12.306 Added	5509
Revised	12101
12.400—12.404–12 Subpart D revoked; cross reference added	539
12.602–1 Revised	16407
12.602–3 Revised	16407
12.1001 Revised	16407
12.1003 Revised	5510
12.1004 (a) and (b) amended	5510
(c) added	16407
12.1005 (a) revised	4260
(b) revised	16407
13 Subpart H added	16408
13.106 Added	10173
13.107 Added	16408
13.701 (a) and (c) revised	4260
13.702 Introductory text of (a) revised; (b) redesignated as (c); new (b) added	10173
13.706 (b) amended	10173
13.707 (b) amended	10173
13.710 Text designated as (a); (b) added	10173
13.801—13.803 Subpart H added	16408
14 Revised	16406
15.107 (l) added	5510
15.203 (f) added	5510
15.205–1 Revised	5510
15.205–2 Revised	5510
15.205–3 Revised	5510
15.205–4 Heading revised	5510
15.205–5 (a) revised	5510
15.205–10 Heading revised	5511
15.205–11 Heading revised	5511
15.205–12 Revised	5511
15.205–13 Heading revised	5511
15.205–46 (g) added	4260
16 Subpart A recodified and revised	4261
16.000 Revised	4261
16.100—16.101–2 Subpart A recodified as 16.100—16.104–4; revised	4261
16.100—16.104–4 Subpart A recodified from 16.100—16.101–2; revised	4261
16.102–2 (c)(2)(x) and (d) revised	12101
16.103 (a) and (d) revised	12101
16.200 Revoked	4264
16.200 Added	12101
16.201—16.201–2 Revoked	4264
16.201 Added	12101
16.202 (b)(2)(v) revised	539
Revoked	4264
16.202 Added	12101
16.203—16.203–3 Revoked	4264
16.206–1 Revised	10173
16.206–3 Revised	10173
16.303 Revised	4264
16.401–1 Revised	4264
(l) revised	12101
16.401–2 Revised	4264
16.401–3 (g) revoked	4265

32 CFR—Continued

Chapter I—Continued

16.402–1
Revised ... 4265
16.404–1
(a) and (c) revised ... 539
16.404–2
Amended ... 539
16.405–1
Added ... 12101
16.405–3
Revised ... 12101
16.600
Revised ... 539
16.601
Revised ... 539
16.604
Added ... 12102
16.803–1
Revised ... 539
16.803–3
Added ... 12102
16.803–4
Added ... 12102
16.807
Revised ... 10173
16.814
Added ... 10173
16.815—16.815–2
Revoked ... 4265
16.815
Added ... 10173
17.201
Revised ... 4265
17.203
(a) amended; (b) (2) revised; (b) (4) added ... 4265
17.205–2
(c) revised ... 4266
17.206
(h) revised ... 539
17.207–1
(c) and (f) added ... 4266
17.207–3
(b), (c), and (d) revised; (e) and (f) added ... 4266
17.208–3
(c) (4) and (5) added ... 4266
17.208–5
Revised ... 4266
17.304
Revised ... 4266
18
Subpart G added ... 540
Subpart E recodified and revised ... 4266
18.100
Revised ... 539
18.101–2
Revised ... 540
18.113
Revised ... 16415
18.117—18.117–3
Added ... 10174
18.206
Revised ... 540
Revised ... 12102
18.208
Revised ... 540
18.210
Revised ... 540
18.211
Introductory text revised ... 12102
18.303–3
(c) revised ... 4266
18.304
Revised ... 4266
18.305–1
(a) and (b) (1) revised ... 4266
18.501—18.505
Subpart E recodified as 18.501—18.511; revised ... 4266
18.501—18.511
Subpart E recodified from 18.501—18.505; revised ... 4266
18.602
Revised ... 540
18.618–9
Revised ... 540
18.700—18.706
Subpart G added ... 540
18.704–16
Revised ... 5511
18.903–3
(a) revised ... 10174
18.906
Revised ... 549
22
Added ... 549
Subpart F added ... 10174
Subpart G added ... 10179
Subpart H added ... 10180
22.207–5
Revised ... 10174
22.601—22.603–24
Subpart F added ... 10174
22.700—22.702–2
Subpart G added ... 10179
22.800—22.803
Subpart H added ... 10180
25
Added ... 4268
30.2
Revised ... 16415
30.3
Amended ... 555
Amended ... 10180
Revised ... 16421
30.6
Revised ... 555
30.7
Amended ... 569
30.8
Added ... 4272
44
Appendix B amended ... 12179
40.735–5
(b) (14) revised ... 12179
40.735–6
Revised ... 12179
40.735–14
(a), (b), (i), and (m) revised ... 12179
42
Revoked ... 9066
42
Added ... 13380
49
Added ... 6192
51
Added ... 6777
52
Added ... 17661
53
Revised ... 6567
54
Added ... 17619
57
Added ... 18087
63
Revised ... 8293
66
Revised ... 15111
67
Added ... 9968
68
Added ... 9968
81
Added ... 52
82.1
Revised ... 12845
82.3
Introductory text of (a) and (a) (1) revised ... 12845
83.3
(d) added ... 7175
(b) amended ... 7771
83.5
(d) revised ... 7175
86
Added ... 6393
100
Added ... 3829
102
Revised ... 14820
103
Added ... 7175
110
Revised ... 6488
127
Revised ... 15112
151
Added ... 5682
155.7
(a) (5) revised ... 14552
155.8
Revised ... 14552
156.2
Revised ... 5420
156.3
Revised ... 5420
156.6
(b) revised ... 5420
156.7
(b) (8) revised ... 5420
156.8
(a) (1) (ii), (c), and (d) revised ... 5420
156.9
(c) (12 corrected ... 4114
Heading, (a) (1) and (4), introductory text of (b), (b) (1) and (4), (c) (5), (g), and (h) revised ... 5421
156.10
Revised ... 5421
156.11
Revised ... 5421
156.13
Revised ... 5421
Revised ... 10644
163—167
Subchapter E heading revised ... 11382
163.2
Revised ... 11950
163.3
Revised ... 11950
163.4
Revised ... 11950
163.6
Revised ... 11950
163.12–3
Revised ... 11950
163.16
Revised ... 11950
163.17
Revised ... 11950
163.26
Revised ... 11950
163.30
Revised ... 11951
163.31
Revised ... 11951
163.32
Revised ... 11951
163.33
Revised ... 11951
163.33a–3
Revised ... 11951

163.38
Revoked ... 11951
163.38
Redesignated from 163.38–1; revised ... 11951
163.38–1
Redesignated as 163.38; revised ... 11951
163.40
Revised ... 11951
163.40–1
Revised ... 11951
163.40–2
Revised ... 11951
163.42
Revised ... 11952
163.49
(a) revised ... 11952
163.56–1
Revised ... 11952
163.62–1
Revised ... 11952
163.70
Revised ... 11952
163.72
Revised ... 11952
163.74
Revised ... 11953
163.77
Revised ... 11953
163.78–1
Revised ... 11953
163.78–7
Revised ... 11953
163.79
Revised ... 11953
163.81–2
(c) revised ... 11953
163.85—163.85–6
Revoked ... 11953
163.86
(a) revised ... 11953
163.88
Revised ... 11953
163.92
Revised ... 11953
163.92–1
Revised ... 11954
163.93–3
Revised ... 11954
163.96
Revised ... 11954
163.97
Revised ... 11954
163.98
Revised ... 11954
163.98–1
Revised ... 11954
163.99
(i) and (j) revised; (k) and (l) revoked ... 11955
163.101–4
Revised ... 11955
163.101–5
Revised ... 11955
163.102
Revised ... 11955
163.106–2
Revised ... 11955
163.107
Revised ... 11955
163.109
Revised ... 11955
163.109–1
Revised ... 11955
163.119
Revised ... 11955
163.119–1
(c) added ... 11955
163.120
Revised ... 11955
163.121
Revised ... 11955
163.123
Added ... 11956
163.123–1
Added ... 11956
163.124
Added ... 11956
164
Added ... 2772
168
Added ... 12716
169
Added ... 12607
169a
Added ... 12675
231
Added ... 16426
242
Added ... 9969
243
Added ... 9971
245
Added ... 15014
246
Added ... 14760
247
Added ... 15019
248
Added ... 11706
256
Added ... 8089
257
Added ... 7019
265
Revised ... 9066
267
Added ... 8588
267.4
(c) added ... 12608
274
Revised ... 14660
275
Added ... 16436
280
Revised ... 11160
286
Added ... 9666
286a
Added ... 12102
287
Added ... 9670
288
Revised ... 6025
289
Deleted ... 6025
289
Added ... 11780
290
Added ... 9671
291
Added ... 14552

Chapter V

504
Revised ... 18069
505.17
Revised ... 3391
518
Revised ... 10355
518.5
(d) (5) added ... 4355
518.10
Added ... 3771
518.13
(a), (c), and (d) (1) and (4) revised ... 11265
519
Added ... 4114
536.12
Revised ... 10789
536.12a
Added ... 10789
536.13
Revised ... 10789
536.15
Revised ... 10789
536.18
Revised ... 10790
536.19
Revised ... 10790
536.21
Redesignated as 536.22; revised ... 10790
536.21
Redesignated from 536.22; revised ... 10790
536.22
Redesignated as 536.21; revised ... 10790
536.22
Redesignated from 536.21; revised ... 10790
536.22a
Added ... 10790
536.23
Revised ... 10790
536.24
Revised ... 10791
536.24a
Revised ... 10791
536.24b
Revised ... 10791
536.26
(i) (1) (iv), (k) (3), (n) (4), (5), (6), and (7), and (p) (2) (iv) revised ... 11469
(i) (1) (iv), (k) (3), and (p) (1) (i) and (ii) revised; (p) (1) (iv) added; (s) amended ... 16264
536.27
(a) (3) (iii), (4) (vi) (c), and (6) (viii), and introductory text of (b) (4) revised; (c) (2) (ii) (e) revoked; (c) (8) (iv) added; (d) (3) (i), (ii), and (v) revised; (d) (3) (vi) added ... 11780
536.29
Revised ... 6366
(h) (18) added; (i) (3) revised; (l) (4) added; introductory text of (q) (1), (q) (1) (ii), and (r) revised; (t) added ... 9164
536.140
Revised ... 15113
536.143
(w) added ... 15113
536.146
(a) revised; (c) added ... 15113
536.147
Revised ... 15114
536.148
Revised ... 15114
536.151b
Added ... 15114
536.152
Revised ... 15114
536.161
Revised ... 13658
536.162
Revised ... 13658
536.163
Revised ... 13658
536.164
Revised ... 13658
536.167
Revised ... 13658
536.169
Revised ... 13658

32 CFR—Continued

Chapter V—Continued

536.170
Redesignated as 563.171; revised ... 13659
536.170
Added ... 13659
536.171
Redesignated from 563.170; revised ... 13659
536.191—536.198
Added ... 6193
537.1
Revised ... 20977
537.21—537.24
Revised ... 17519
538
Deleted ... 8091
552.21
Revoked ... 15115
553.18
Introductory text of (b)(2)(v), (vi), and (vii), and (b)(2)(vii)(b) revised; (b)(4)(i) revised; (b)(4)(v) and (vi) added ... 2886
577.60—577.70
Recodified from 577.60—577.72; revised ... 6623
577.60—577.72
Recodified as 577.60—577.70; revised ... 6623
577.65
Revised ... 215
577.66
(f) and (g) revised ... 216
577.67
Heading, (a), (b), (c)(2)(iii) and (iv), (d), and (f)(6) through (9) revised; (f)(10) added; (g)(2) revised ... 217
577.70
Added ... 219
577.71
Added ... 220
577.72
Added ... 220
577.80—577.84
Revised ... 6931
577.80
Revised ... 366
577.81
Revised ... 366
577.84
Revised ... 366
583
Revised ... 13279
591
Subpart YY added ... 2618
591.103
Amended ... 2616
591.109–2
(a) and (b) revised ... 8895
591.113
Revised ... 8895
591.150
(b)(6) revised; (b)(7) and (18) added ... 8895
591.151
Revised ... 8895
591.357
Added ... 2616
591.401
(a) and (g) revised ... 8895
591.403–50
Revised ... 8895
591.403–55
Added ... 8896
591.405
(a)(2) revised ... 8896
591.450–1
Revised ... 8896
591.450–2
(a) and introductory text of (b) revised ... 8896
591.450–4
(c) and (g) revised ... 8896
591.452
Revised ... 2616
591.452–1
Revised ... 2616
591.452–2
Revised ... 2616
Revised ... 8896
591.452–3
Revised ... 2616
591.452–4
Revised ... 2616
(b) revised ... 8896
591.452–5
Revised ... 2616
591.452–6
Revised ... 2617
(a)(2), (b), and (c) revised ... 8896
591.452–7
Revised ... 2617
591.452–8
Revised ... 2617
591.452–9
Revised ... 2617
591.452–10
Revised ... 2618
591.452–11
Revoked ... 2618
591.452–12
Revoked ... 2618
591.452–13
Revoked ... 2618
591.452–14
Revoked ... 2618
591.452–15
Revoked ... 2618
591.1506–50
Revised ... 8897
591.5001
Revised ... 8897
591.5003
Revised ... 8897
591.5005
(b) and (c) revised ... 8897
591.5101, 591.5102
Subpart YY added ... 2618
591.5102
(c) amended ... 8897
592.406–50
(c) revised ... 8898
592.407–9
(c) amended; (g)(3) revised ... 8898
592.450
Revised ... 8898
593
Subpart F recodified and revised ... 8899
593.302
(a)(7) revised ... 8898
593.305
(b), (j)(2), and (p)(4) and (6) revised ... 8898
593.306
(j) revised; (p) amended ... 8898
593.605—593.609–1
Subpart F recodified from 593.608–2—593.608–51 and revised ... 8899
593.608–2—593.608–51
Subpart F recodified as 593.605—593.609–1 and revised ... 8899
594
Subpart YY revoked ... 8900
594.205–1
Revoked ... 8900
594.211
Added ... 8900
594.5101—594.5106
Subpart YY revoked ... 8900
595
Subpart A revoked ... 8900
595.101
Subpart A revoked ... 8900
595.1102
Added ... 8900
595.1102–1
Revoked ... 8900
595.1103
Added ... 8900
595.1103–6
Revoked ... 8900
596
Subpart D revised ... 2622
Subpart B revoked ... 8900
596.103–2
(c)(3) revised ... 2622
(b) and introductory text of (d) revised ... 8900
596.104–4
Revoked ... 8900
596.204–3, 596.205–50
Subpart B revoked ... 8900
596.304–1
Revised ... 8900
596.402
Subpart D revised ... 2622
(c)(1) revised ... 8901
597
Subpart O revoked ... 2623
597.150–5
Added ... 2622
597.403–52
Revoked ... 8901
597.1501—597.1501–3
Subpart O revoked ... 2623
598.602–3
(a) revised ... 8901
600.112
(a) revised ... 2623
600.554
(c) revised ... 2623
601
Subpart XX added ... 8901
601.5000—601.5004
Subpart XX added ... 8901
602
Subpart D revoked ... 2623
602.101–4
Added ... 8902
602.102–4
(f) revised ... 8902
602.401—602.451
Subpart D revoked ... 2623
603.1704
(a) revised ... 8902
606
Subpart A revoked ... 8902
606.101, 606.101–2
Subpart A revoked ... 8902
606.551
Revised ... 8902
606.552
Recodified as 606.552—606.552–4; revised ... 2623
606.552—606.552–4
Recodified from 606.552; revised ... 2623
606.553
Revised ... 2623
606.553–1—606.553–4
Revoked ... 2623

606.554
Revoked ... 2623
612
Added ... 8903

Chapter VI

701
Authority citation revised ... 317
701.1
Revised ... 17588
706.2
Amended ... 2624
Amended ... 8806
Amended ... 14388
707.1
(c) revised ... 8589
710
Amended ... 20717
710.13
(a) and (b)(7) revised ... 20717
710.14
Added ... 12790
(b)(1)(viii) added ... 15115
710.24
(a) amended ... 20717
710.25
(a) revised ... 20717
710.32
(c) revised ... 20717
710.34
(b) amended; (k) and (o) revised ... 20718
710.54
Revised ... 20718
713
Subparts A and B authority citations revised ... 317
713.211
Revised ... 6028
713.213
Revised ... 6028
713.217
Revised ... 6028
713.221
Revised ... 6029
713.336
(a), (c), (d), (e), (f), and (g) revised ... 6029
713.351
(e)(2)(vi), (f)(2)(vi) and (h)(2)(iii) deleted; (k)(1)(vii), (o), and (t)(1) revised ... 6030
713.353
(b) revised ... 6030
713.353a
Added ... 6030
713.361
(b) redesignated as (c); new (b) added ... 6031
713.371
Revised ... 10509
713.372
Revised ... 10509
713.373
Revised ... 10509
713.374
(c) revised; (d) and (e) added ... 10509
713.375
Revised ... 10509
713.376
Deleted ... 10510
713.376
Added ... 10510
713.377
Deleted ... 10510
713.377
Added ... 10510
713.378
Added ... 10510
713.379
Added ... 10510
713.379a
Added ... 10510
713.379b
Added ... 10510
713.379c
Added ... 10510
713.379d
Added ... 10510
713.413
Introductory text revised ... 6031
713.444
(a) revised ... 6031
713.514
(e) added ... 6031
713.517
(g) deleted ... 6031
713.521
Revised ... 6031
713.522
(a) revised ... 6032
713.600
Added ... 2525
713.1000—713.17005
Added ... 2528
715
Authority citation revised ... 317
719
Authority citation revised ... 317
719.109a
(h)(1)(i) revised ... 16153
719.116
Heading revised; existing text designated as (b) and heading added; (a) added ... 16154
719.117
(b) revised ... 16154
719.120
Heading and (a) revised ... 16154
719.122
(b) revised ... 16154
719.261
(a)(1) revised ... 16154
720
Authority citation revised ... 317
720.12
Redesignated as 720.13; revised ... 319
720.12
Added ... 319
720.13
Redesignated from 720.12; revised ... 319
721
Authority citation revised ... 318
721.5
(b)(3) and (f) revised; (q) deleted ... 20719
723
Authority citation revised ... 318
725
Authority citation revised ... 318
726
Authority citation revised ... 318
Authority citation revised ... 2846
726.4
(c)(4) revised; (c)(5) deleted ... 2846
726.5
Revised ... 2847
726.5a
Added ... 2847
726.6
(a)(2), (e), and (g) revised ... 2847
728
Authority citation revised ... 318
729
Authority citation revised ... 318
730
Authority citation revised ... 318
730.8
(h) and (h)(2)(ii) and (iii) revised ... 10511
730.9
(j) revised ... 10511
730.10
(h) revised ... 10511
730.12
(g) revised ... 10511
730.13
(f) revised ... 10511
730.303
(b)(14) revised; (b)(29) deleted ... 11266
732
Authority citation revised ... 318
732.41
Revised ... 11851
732.43
Revised ... 11851
732.44
Revised ... 11852
732.45
Revised ... 11852
732.46
Revised ... 11852
733
Authority citation revised ... 318
733.70
Introductory text of (d) and (d)(5)(iv) revised ... 221
734
Authority citation revised ... 318
750
Subpart A heading revised ... 3393
Subpart A–1 added ... 3393
750.1—750.16
Subpart A heading revised ... 3393
750.16a—750.161
Subpart A–1 added ... 3393
750.25
(c) revised ... 3395
750.27
Deleted ... 3395
750.27—750.27b
Redesignated from 750.28a—750.28c and revised ... 3395
750.28
Deleted ... 3395
750.28—750.28b
Center heading and sections added ... 3395
750.28a—750.28c
Redesignated as 750.27—750.27b and revised ... 3395
750.29
Introductory text of (a) and (d) and (e) revised ... 3396
750.31
(b) revised ... 3396
750.41
(d) and (e) revised; (f) added ... 3396
750.45
(a) revised ... 3396
750.48
(a)(6) revised ... 3397
(a)(8) and (c) added ... 16154
751
Authority citation revised ... 318
751.4
(c) revised ... 16154
751.16
Revised ... 319
751.29
Revised ... 16154
752
Authority citation revised ... 318
753
Authority citation revised ... 318
753.29
(b)(1)(vi) revised ... 3397
753.31
Revised ... 3397

32 CFR—Continued

Chapter VI—Continued
755 Authority citation revised 318
756 Authority citation revised 318
757 Authority citation revised 318
761 Authority citation revised 318
765 Authority citation revised 318
Chapter VII
800 Revised 9673
800.4 (c)(2) deleted 11782
801 Heading revised 569
801.1 Revised 569
803.1 (a)(4) added 6032
803.2 (a) and (b)(1), (2), and (3) revised 6032
803.13 (f)(2) revised 6032
804.1 (f) revised 6368
804.2 (d) revised 6368
804.3 Revised 6369
804.4 Introdustory text of (a) revised 6369
804.10 Revised 6369
806 Added 9674
806.6 (a) and (b) revised 14821
806.9 (e) revised 14821
806.11 (b) revised 13000
807 Added 12609
810 Revised 7020
812 Revised 16035
813a Added 9677
818 Added 2367
819 Added 7021
819a Added 11782
820 Revised 6093
822 Revised 9674
823.1 (e) revised; (f) and (j) redesignated as (j) and (k), respectively; new (f) added 6032
827 Revoked 9677
835.23 (d) revised 6369
835.24 Revised 6369
837 Added 3009
838 Added 11783
839 Added 12609
840 Revised 7021
841 Revised 3010
842 Revised 14824
844 Deleted 15920
845 Revised 13810
847 Added 569
850.2 Revised 4118
850.9 (e) amended 10512
850.10a Added 10512
850.11 (a)(3) and (4) revised 4118
850.11a (a) and (b) deleted 10512
850.13 (e) amended 4118
851.7 (a) revised 16154
852 Revised 16264
855.5 (g) revised 15920
855.6 Revised 15920
855.7 (a) (1), (2), and (3) revised 15921
855.9 (c)(4) revised 15921
855.15 Introductory text and (a) revised 15921
856 Revised 570
857 Revoked 9677
858 Revised 6094
860 Revised 16155
870.2 (m) and (w) amended 9677
870.8 Introductory text revised; (b) amended 9677
870.9 Introductory text added 9678
870.10 (a)(1) revised; (a)(2) amended; (b) and (c) revised 9678
872 Heading corrected 570
872.21 (b) revised 13000
872.23 Revised 13000
872.25 Revised 13000
872.26 Added 13000
873 Added 9678
874 Added 12611
Heading corrected 13811
875 Added 14821
881 Revised 7962
881.1a Added 20720
881.3 (b) revised 20720
881.7 (b)(4) and introductory text of (d)(1) revised 20720
881.8 (p) amended 20720
881.12 (g)(1) revised 20720
881.13 (a)(4) revised; (b) amended 20720
881.17 (c) revised 20721
881.19 (a) revised 20721
881.20 (c)(1)(ii) and (3) and introductory text of (c)(4) revised 20721
881.28 (a)(3), (4), and (5) added 20721
881.29 (a)(3) added 20721
881.39 Introductory text and (a) revised 20721
881.40 Heading revised 20722
881.41 Heading revised 20722
881.44 Heading and (b) revised 20722
882 Revised 11852
Subpart L added 13126
882.25 (j) deleted 14824
882.43 (a) corrected 13811
882.54a Added 14824
Revised 15921
882.77 Amended 14824
882.132 Amended 14824
882.150—882.152 Subpart L added 13126
885 Revised 7441
888 Revised 4118
888.4 (a) amended 13126
888.5 Amended 13126
888.6 Amended 13126
888.8 Revised 13126
888.11 Revised 13126
888a Revised 5778
888b Added 13065
888c Added 20648
901 Revised 14762
901.6 Introductory text corrected 15922
902.1 Revised 4356
902.2 (j) revised 4356
902.4 (a) and (e) revised 4356
902.5 (f) added 4356
902.6 Tables 1 and 2 revised; Table 3 amended; Tables 4, 5, and 6 revised 4356
902.7 Tables 7, 8, and 10 revised 4357
902.10 Table 11 revised 4358
902.12 (b)(1) and (2) revised 4358
906 Revised 16159
908 Added 2367
908.3 (d) revised 3011
909 Added 10513
920.6 Revised 13000
920.13 Revised 13001
920.21 Introductory text of (a)(1) amended; (a)(2) revised; (d)(5) deleted; (f)(2) revised 13001
920.23 (b)(14) revised 13001
920.24 (a)(4) and (5) added; (b) deleted; (c) revised; (f) amended; (g), (j), (k), (l), and (m)(1) and (2) revised 13001
1001.310 (a)(1) and (d) revised 8142
1001.312–50 (c)(3) amended 5781
Revised 12476
1001.313–50 Amended 5782
1001.313–53 Added 5782
1001.321 Text deleted 5782
1001.321–50 Added 5782
1001.325—1001.325–2 Deleted 5782
1001.402 (b)(3) amended 6450
1001.405 (b) revised 6450
1001.405–2 Introductory text of (a)(1) revised 6450
1001.405–50 (b) revised 3011
1001.453 (l)(3) amended 6450
1001.456 Revised 8143
1001.461 Revised 16036
1001.704–3 (b) revised 3011
1001.705–4 Added 3011
Revised 8963
Introductory text of (c) revised 16036
1001.706–1 (a) revised 3012
(a) revised 5782
1001.1002 (a)(2) through (13) deleted; (a)(2) and (3) added 5782
1001.1306 (c) revised 3976
1002.403 Deleted 13717
1002.407–9 (a) added 5782
1002.408–1 (b) revised 8143
(b) revised 12476
1003 Subpart H recodified and revised 3977
Subpart T deleted 3977
Subpart B revised 5782
Subpart A deleted 8143
1003.101 Deleted 5782
1003.101–50 Deleted 5782
1003.103, 1003.106 Subpart A deleted 8143
1003.103 (a) and (b) deleted 5782
1003.204—1003.217–2 Subpart B revised 5782
1003.210–2 (c) amended 8143
1003.215–51 Amended 3976
1003.250 Deleted 3976
1003.305 (a) revised 5786
1003.306 (a), (b), and (c) revised; (d)(3) amended; (d)(5) added 5786
(b)(1)(i) and (c) revised 13717
1003.408 (e)(3) amended 8143
1003.410–2 (d)(4) amended 5786
1003.604–49 Added 8143
1003.605–3 Added 3976
1003.605–7 Added 3976
1003.605–8 Added 3976
1003.607–2 (a)(1)(iv) revised; (c)(2)(vii) deleted 3977
(a)(1)(ii) revised 6450
1003.607–4 (f) deleted 3977
1003.608–2 Deleted 3977
1003.608–6 (b) and (d)(5)(ii) revised 10978
(b) revised; (d)(5) redesignated as (6) and revised; new (d)(5) added 13717
1003.608–7 Added 5786
Revised 10978
1003.609 Added 8143
1003.609–2 Added 8143
1003.609–3 Added 8143
(a) and (c) revised 13717
1003.609–49 Added 8143
Revised 13717
1003.651 Deleted 5786
1003.651–1 Deleted 8144
1003.651–2 Deleted 8144
1003.651–3 Deleted 8144
1003.651–7 Deleted 8144
1003.801—1003.850–8 Subpart H recodified as 1003.807–6—1003.850–4; revised 3977
1003.807–6—1003.850–4 Subpart H recodified from 1003.801—1003.850–8; revised 3977
1003.2000—1003.2006 Subpart T deleted 3977
1004 Subpart A deleted 3977
Subpart YY added 6450
Subpart C deleted 16427
1004.150—1004.150–5 Subpart A deleted 3977
1004.302, 1004.302–50 Subpart C deleted 16427
1004.302–50 (b)(3) deleted 3977
(b)(3) added 5786
(b) revised 8964
(b) revised 12476
(d) revised 13717
1004.2103 Revised 3978
Revised 8964
1004.5002–3 (a)(1) and (2) and (f)(1) revised 3012
(a) revised 12477
1004.5100—1004.5102 Subpart YY added 6450
1004.5102 (a)(3) revised 8964
1005 Subpart A recodified and revised 12477
Subpart B added 12478
Subpart C added 12478
1005.100—1005.106 Subpart A recodified as 1005.100—1005.150; revised 12477
1005.100—1005.150 Subpart A recodified from 1005.100—1005.106; revised 12477
1005.204—1005.208 Subpart B added 12478
1005.301, 1005.303 Subpart C added 12478
1005.650–1 (c)(1) and (3) revised 12478
1005.1201–50 Deleted 13718
1006 Subpart H heading revised 8964
Subpart H recodified and revised 16036
1006.103–2 (h) deleted 5787
1006.552 Revised 16036
1006.850—1006.850–3 Subpart H heading revised 8964
Subpart H recodified as 1006.850—1006.850–7; revised 16036
1006.850—1006.850–7 Subpart H recodified from 1006.850—1006.850–3; revised 16036
1007 Subpart U deleted 3012
Subpart PP recodified and revised 10978
Subpart PP deleted 12479
Subpart VV deleted 12479
Subpart HHH added 12479
Subpart FF deleted 13718
Subpart GG deleted 13718

32 CFR—Continued

Page

Chapter VII—Continued

1007.104
Added ... 6451
1007.104–61
Added ... 6451
1007.105–51
Amended ... 6451
1007.106
Deleted ... 6451
1007.106–50
Added ... 16039
1007.403–53
Deleted ... 12479
1007.602–9
Added ... 16039
1007.2100—1007.2105–1
Subpart U deleted ... 3012
1007.3200—1007.3205–1
Subpart FF deleted ... 13718
1007.3204–10
Deleted ... 5787
1007.3302—1007.3305–1
Subpart GG deleted ... 13718
1007.3304–3
Deleted ... 5787
1007.3706
Revised ... 3978
1007.3706–3
(a) amended ... 3978
(a) and (b) amended ... 6451
(b) amended ... 13718
1007.3706–4
Amended ... 3978
Amended ... 6451
1007.4015
Revised ... 3978
1007.4016
Revised ... 3978
1007.4021
Deleted ... 3012
1007.4043
(a) (1) revised ... 6451
1007.4048
(a) amended ... 3978
(a) amended ... 6451
(a) amended ... 8144
1007.4054
Introductory text revised; (a) amended ... 6451
(b) deleted; (c) redesignated as (b) ... 6451
1007.4061
Introductory text of (a) revised ... 16427
1007.4064
Deleted ... 10978
1007.4067
Deleted ... 6451
1007.4200—1007.4210
Subpart PP recodified as 1007.-4200; revised ... 10978
1007.4200
Subpart PP recodified from 1007.4200—107.4210; revised ... 10978
Subpart PP deleted ... 12479
1007.4800—1007.4806
Subpart VV deleted ... 12479
1007.6000—1007.6001–3
Subpart HHH added ... 12479
1007.6001–3
Added ... 16039
1008.202–50
Introductory text of (g) amended ... 12479
1009
Subpart A recodified and revised ... 3012
Subparts J and K recodified and revised ... 3014
1009.102—1009.112
Subpart A recodified as 1009.-103–1—1009.112; revised ... 3012
1009.103–1—1009.112
Subpart A recodified from 1009.-102—1009.112; revised ... 3012
1009.1000—1009.1002
Subpart J recodified and revised ... 3014
1009.1100—1009.1108
Subpart K recodified as 1009.-1100—1009.1109; revised ... 3014
1009.1100—1009.1109
Subpart K recodified from 1009.1100—1009.1108; revised ... 3014
1011.356—1011.356–2
Deleted ... 16427
1013.406—1013.406–2
Deleted ... 13718
1013.406
Added ... 13718
1013.552
Amended ... 8144
1013.2103–4
(b) (4) amended ... 3978
1016
Subpart C added ... 6451
Subpart C revised ... 13718
1016.202
Amended ... 3978
Deleted ... 10979
1016.207–50
(c) added ... 3978
Introductory text revised ... 10979
1016.207–56
Revised ... 3978
1016.303
Subpart C added ... 6451
Subpart C revised ... 13718
1016.815
Added ... 6451
1016.815–2
Added ... 6451
Deleted ... 10979
1018.150
Added ... 16039
1018.306–1
Added ... 13718
1022
Added ... 16427
1053
Subpart X deleted ... 5787
1053.404–2
Revised ... 3017
1053.404–6
Deleted ... 3018
1053.2400—1053.2404
Subpart X deleted ... 5787
1054
Subpart Z recodified and revised ... 3018
Subpart H deleted ... 13718
1054.800—1054.803
Subpart H deleted ... 13718
1054.804
Deleted ... 10979
1054.2600—1054.2605
Subpart Z recodified from 1054.-2600—1054.2606; revised ... 3018
1054.2600—1054.2606
Subpart Z recodified as 1054.-2600—1054.2605; revised ... 3018
1054.3004
(a) (3) (iii) revised ... 3978
Introductory text of (a) and (a) (2) (i) and (iv) and (3) (ii) revised ... 10979
1054.3005
Added ... 10979
Deleted ... 16428
1054.3006
Revised ... 10979
1055.201
Revised ... 5787
1055.202
(a) revised ... 5787
1057
Subpart KK deleted ... 10980
1057.3700—1057.3703
Subpart KK deleted ... 10980
1059.602
(a) deleted; (b) and (c) redesignated as (a) and (b), respectively; (b) (3) (i) amended ... 8994
1059.604
Revised ... 8994

Chapter XII

1260
Added ... 11324

Chapter XIV

1450.735–4
(c) and (d) added ... 13187
1450.735–7
Added ... 13187
1450.735–21
Redesignated as 1450.735–22; (c), (d), and (e) revised ... 13187
1450.735–21
Added ... 13187
1450.735–22
Redesignated as 1450.735–23; heading amended; (e) (1) deleted ... 13187
1450.735–22
Redesignated from 1450.735–21; (c), (d), and (e) revised ... 13187
1450.735–23—1450.735–29
Redesignated as 1450.735–24—1450.735–30 ... 13187
1450.735–23
Redesignated from 1450.735–22; heading amended; (e) (1) deleted ... 13187
1450.735–24—1450.735–30
Redesignated from 1450.735–23—1450.735–29 ... 13187
1450.735–30
(f), (i), (j), (l), and (r) amended; (s) added ... 13188
1450.735–32
(b) amended ... 13188
1450.735–34
(b) amended ... 13188
1450.735–35
Amended ... 13188
1450.735–36
Amended ... 13188
1450.735–42
Revised ... 13188
1450.735–42a
Added ... 13188
1450.735–45
(a) revised; (b) amended ... 13188
1450.735–46
Amended ... 13188
1453.3
(d) (2) (i) amended ... 6095
(d) (2) (i) amended ... 12400
1453.5
(g) revoked ... 5457
1455.6
(b) amended ... 10299
1457.9
Revised ... 6971
1464.12
Revised ... 6972
1467.26
(b) (3) added ... 8091

Page

1467.30
(b) (3) added ... 8091
1470.92
Revised ... 9226
1472.6
(d) (1) amended ... 16213
1480
Revised ... 9226
1498.8
Revised ... 5457

Chapter XVI

Amended ... 9787
1600
Revised ... 14947
1604.22
Revised ... 9787
1604.52
(c) revised; (d) added ... 9787
1604.71
(c) revised; (e) added ... 9788
1606.41
Revised ... 13811
1606.55—1606.61
Added ... 14328
1607.2
Revised ... 9973
1607.3
Rescinded ... 9973
1607.5
Revised ... 9973
1609.1
(b) and (d) revised ... 9973
1609.2
Revised ... 9973
1609.21
(b) revised ... 9973
1610.2
(a) and (b) revised ... 9973
1611.2
(a) revised ... 9788
1611.5
(a) deleted; (b) redesignated as text of section ... 9788
1622.1
(a) revised; (e) added ... 9789
1622.11
(b) deleted; (a) redesignated as text of section ... 9789
1622.12
(d) revised ... 9789
1622.13
(f) revised ... 9789
1622.14
(b) deleted; (a) redesignated as text of section ... 9790
1622.15
(b) revised ... 9790
1622.22
Text designated as (a); (b) added ... 9790
1622.23
(c) revised ... 9790
1622.23a
(f) (2) revised ... 9973
1622.24
(c) deleted ... 9790
1622.25
Revised ... 9790
1622.25a
Revoked ... 9973
1622.26
Added ... 9791
1622.30
(a) revised ... 9791
1622.30a
Revised ... 2368
1622.40
(a) (3) revised; (b) (6) added ... 9791
1622.42
(d) added ... 9792
1622.50
(a) and (b) revised ... 9792
1624.1
(a) revised ... 6961
1626.2
(b) and (c) (1) revised ... 6961
1626.24
(b) (3) and (4) deleted ... 9792
1626.25
(a), (b), and (c) revised ... 6961
(d) rescinded; (e) redesignated as (d) ... 6962
Deleted ... 9792
1626.61
(b) revised ... 6962
1627.3
Revised ... 6962
1628.14
(h) revised ... 6963
1628.25
(a) (2) and (3), (c), and (d) (3) and (4) revised ... 6963
1630.4
(a) revised ... 9793
1631.4
Revised ... 9793
1631.5
(a) revised ... 9793
1631.7
(a) amended; (b) redesignated as (c); new (b) added ... 9793
1631.8
(c) added ... 9794
1632.5
(a) (2) revised ... 6964
1632.9
(j) revised ... 6964
1632.20
(a) (3) revised ... 6964
(b) (3) revised ... 9794
1632.21
(b) revised ... 6964
1642.10
Revised ... 9794
1642.12
Revised ... 9794
1642.13
Revised ... 9795
1642.14
Revised ... 9795
1642.15
Revised ... 9795
1642.21
(c) redesignated as (e) and revised; new (c) and (d) added ... 9796
1643
Added ... 1119
1690.16
(d) (1) revised ... 7073
1690.17
(c) revised ... 7073

Chapter XVII

1703
Redesignated from 32A CFR OEP Reg. 6; revised ... 20722
1705
Added ... 8757
1711
Added ... 7628
1711.3
(b) revised ... 12845

Chapter XVIII

1810.4
(a) amended ... 6932

32A CFR

OEP (Chapter I)

DMO 3000.1
Amended ... 788
DMO 8540.2
Added ... 6032
DMP 4
Revised ... 14388
OEP Reg. 6
Redesignated as 32 CFR Part 1703; revised ... 20722
BDSA (Chapter VI)
BDSA Reg. 2, Dir. 11
Added ... 11734
M–11A
Schedule A revised ... 7208
Schedule A revised ... 15710
M–11A, Dir. 1
Amended ... 7208
M–11A, Dir. 2
Revised ... 2886
Amended ... 7208
ABCDIB (Chapter VII)
Heading revised; text amended ... 15631
OIA (Chapter X)
OI Reg. 1
Amended ... 1175
Amended ... 11382
Amended ... 13856
OI Reg. 2
Added ... 15876
Residual Fuel Oil Import Instructions—District I
Revoked ... 1175
NSA (Chapter XVIII)
INS–1
Revised ... 5422
Corrected ... 5621
OMA (Chapter XIX)
MA–ET–1
Added ... 10568
Terminated ... 10791
Proposed Rules:
Ch. X ... 11225, 11736, 13631
Ch. XVIII ... 10103, 13625

33 CFR

Chapter I
Subchapter J added ... 12791
Subchapter O added ... 14390
Subchapter I added; Subchapter J revised ... 17727, 17890
1
Subpart 1.25 revised ... 11211
Subpart 1.26 added ... 11211
1.25–1—1.25–80
Subpart 1.25 revised ... 11211
1.26–1—1.26–25
Subpart 1.26 added ... 11211
3.10–1
Revised ... 5269
3.10–40
Revised ... 5269
3.10–80
Revised ... 5270
3.40–1
Revised ... 5270
3.40–10
Revised ... 5270
3.40–30
Revised ... 5270
3.40–35
Revised ... 5270
19.20
Added ... 12794
23.05
Revised ... 6576
23.10
Revised ... 6577
33
Subpart 33.05 authority citation revised ... 3393

33 CFR—Continued

Page

Chapter I—Continued
33.05–1—33.05–25
Subpart 33.05 authority citation revised 3398
33.05–3
(a)(1) amended 3398
33.05–6
(c) amended 3398
33.05–7
(c) revised 3398
33.05–11
(a) and (b) amended 3398
33.05–19
(b) amended 3398
64
Revised 3056
80
Authority citation revised 20773
80.18
(b) revised 20773
80.21
(b) revised 20773
80.24
(a) and (b) revised 20773
80.40
Amended 20773
82
Authority citation revised 7127
82.145
Revised 7127
95
Authority citation revised 20773
95.02
Amended 20773
95.52
(b) revised 20773
95.55
(b) revised 20773
95.56
(a) and (b) revised 20773
109
Added 17727
110
Redesignated from Part 202 of Chapter II; revised 17728
114
Added 17769
115
Recodified from Part 120 and Part 209 of Chapter II; revised 17771
116
Recodified from Part 150 and Part 209 of Chapter II; revised 17773
117
Redesignated from Part 203 of Chapter II 12791
Republished 17774
117.90
Revised 12915
117.220
(d) revised; (n) added 13127
117.245
(f)(5–a) revised 13127
(f)(12) revised 13128
(g)(2) revised 13410
(h)(23–a) added 13582
117.365
Added 17939
117.370
Added 13410
117.712
(i)(1) revised 13582
117.714
(a)(6) revised 13128
117.720
Redesignated from 203.720; (c) revised 12791
117.750
(b)(5)(iii) revised 12129
120
Recodified in new Part 115; revised 17771
124
Authority citation revised 20774
124.14
Revised 20774
126
Authority citation revised 20774
126.05
Revised 20774
126.15
(m)(6) revised; (o) added 20774
126.16
Added 20774
151
Redesignated from Part 212 of Chapter II; revised 14390
180
Recodified in new Part 116; revised 17773
Chapter II
201.20
Added 3057
202
Redesignated as Part 109 of Chapter I; revised 17728
203.168
(a)(6–a) added 3883
203.189a
Added 4410
203
Redesignated as Part 117, Subchapter J, of Chapter I 12791
203.225
(f)(2–a) added 3096
203.240
Heading revised; (k) amended 923
203.245
(f)(16–b) revised; (j)(32) revoked; (j)(39) revised 319
(j)(27) revised 5834
203.446d
Added 6137
203.712
(h)(1) and (i)(1) revised 3772
203.720
Redesignated as 117.720; (c) revised 12791
204.20
(a) revised 4410
204.30
(b) through (m) redesignated as (b) through (k) and revised 15673
204.40
(a)(1) and (2)(ii) and (iii) revised 3883
204.200b
Added 6138
204.201a
(b)(1) revised 5834
204.216
(a) amended 7594
204.225a
Added; designated incorrectly as 204.226 217
Addition designated correctly as 204.225a 611
207.9
Added 8716
207.100
(j)(4) revised 4572
207.110
Revoked 8717
207.117
Added 10289
207.120
Revoked 8717
207.180
Heading and (a)(1) revised 3057
207.440
(w) revised 12479
207.441
(b)(2) revoked 10682
207.476
Added 9068
207.530
Revised 320
207.642
(a)(2) and (b) revised 13382
207.645
Added 5685
207.750
(e)(1) revised 8717
(b) revoked 13382
208.40
Added 5834
209
Revised 17522
Recodified in new Parts 115 and 116 of Chapter I; revised 17771, 17773
209.135
(d) amended 14392
212
Redesignated as Part 151, Subchapter O, of Chapter I; revised 14390
Chapter III
Consolidated with Chapter V of Title 15 in new Parts 906, 907, and 945 of Chapter IX of Title 15 16257
Chapter IV
401.102–9
Revised 6394
401.102–13
Revised 6394
401.102–18
Revised 6394
401.102–19
Revised 6395
401.102–21
Revised 6395
401.102–22
Deleted 6395
401.102–25
Revised 6395
401.103–3
Revised 6395
401.103–6
Deleted 6395
401.103–7
Amended 6395
401.104–15
Revised 6395
401.104–30
Amended 6395
401.105–1—401.105–8
Recodified as 401.105–1—401.105–11; revised 6395
401.105–1—401.105–11
Recodified from 401.105–1—401.105–8; revised 6395
401.105–6
(g) corrected 6973
401.120–1
Amended 6396
402.3
(c) revised 6490
402.6
Revised 6490

Proposed Rules: Page
80 796
82 722, 8760, 14775
95 796
124 796
126 795
401 3830

35 CFR

Chapter I
5.46
Revised 13770
5.61
Amended 13770
9
Added 14219
61
Subpart J added 15641
61.123
Amended 3216
61.284
Revised 3216
61.401
Subpart J added 15641
(d) corrected 16428
67.163
(b)(1) revised 8026
67.591
(b) revised; (c) amended 8026
67.704
(a) revised 8026
67.722
(d)(1) revoked; (e)(1) through (6) revised; (e)(7) and (8) revoked; (e)(9)(x) added; (f)(3) and (h)(1)(i) revised 8026
111.203
(a) revised 8243
111.207
Added 8243
111.221
Revised 8243
117.1a
Added 3830
117.1b
Added 3830
Corrected 7022
117.3
Revised 3830
119.141
Revised 4061
123.4
(a) amended 8243
123.7
Revised 8243
253.2
(k)(2), (l), and (n) revised 4281
(l) corrected 5270
253.3
(a) amended 4281
253.8
(a) amended; (b)(6) and (7) and (d)(6) revised; (e) and (f)(1) amended 4281
253.38
Amended 4281
253.41
(b)(2) revised 8361
253.43
(a) revised 8361
253.112
Amended 4281
253.134
Amended 4281
253.135
(d) revised 4281
253.241
Revised 4281
255.735–2
(h) amended 15832
255.735–30
Added 15832
255.735–31
Introductory text of (a) revised; (c) redesignated as 255.735–30 and revised; (d) and (e) revised; (f) redesignated from 255.735–32(g)(1) and revised 15832
255.735–32
Heading revised; (g)(1) redesignated as 255.735–31(f) and revised 15832
255.735–39
Amended 15832
255.735–40
Amended 15832
255.735–56
Amended 15832
255.735–72
Revised 15832
255.735–72a
Added 15832
255.735–74
Revised 15833
255.735–78
Revised 15833
255.735–80
(a)(2) revised 15833

36 CFR

Chapter I
1.1
(c) added 8294
2.1
Amended 8294
3.1
(w) added 8294
3.17
(b) revised 8294
5.4
Introductory text of (a) amended 8294
6.2
(b) revised 6399
6.4
Introductory text of (c)(1) revised 6399
7
Note added 6932
Note corrected 7333
Heading revised; note amended 21037
7.1
Revised 16213
7.9
Revoked 21038
7.11
Revised 13071
7.12
Revoked 6932
7.13
(c)(1), (2)(ii), and (5) revised 7595
(i)(3) revised 21038
7.14
(f) revoked 21038
7.15
(a)(7), (b), (c), (d), (e)(2), and (f) revoked 17662
7.17
Revoked 13129
7.18
(a) revoked 15710
7.19
Revoked 6932
7.19
Added 13129
7.20
Revoked 6932
7.20
Added 11989
(a)(3)(v) revised 15391
7.21
Revoked 16213
7.22
(a) revised 7772
7.23
Revoked 6932
Added 21038
7.24
Revised 5771
7.29
Revoked 6932
7.30
Revoked 6932
7.31
Revoked 21038
7.32
Revoked 6932
7.33
Revoked 6932
7.35
Revoked 6932
7.37
Revoked 6932
7.38
(f) added 13812
7.48
Revised 15751
7.50
Revoked 6932
7.51
Revoked 6932
7.52
Revoked 6932
7.53
Revoked 6932
7.54
Revoked 6932
7.55
Revoked 21038
7.56
Revoked 6932
7.59
Revoked 6932
7.61
(b) revoked 16213
7.62
Revoked 6932
7.70
Revised 5424
7.76
Added 2564
7.77
Added 13072
30
Added 13189
50.19
Introductory text of (c) revised 13582
Chapter II
200
Added 9679
251.24
Revoked 12946
251.40—251.42
Center heading and sections added 13190
251.90—251.96
Center heading and sections added 12945
261.6
Revised 6622
261.11
(a) and (b) revised; (g) revoked; (h) revised 12946
Chapter III
311.1
Amended 3742
Amended 6933
Amended 15989

36 CFR—Continued

Page

Chapter III—Continued

311.3
(b) revised ... 13280
326.3
(b) revised ... 13280

Chapter V

502.735–11
Redesignated as 502.735–11a, revised ... 13222
502.735–11
Added ... 13222
502.735–11a
Redesignated from 502.735–11; revised ... 13222
502.735–12
(i)(1) redesignated as 502.735–11a(h) and revised ... 13223
502.735–21
(c), (g), (h), (j), and (n) revised; (r) added ... 13223
502.735–41
(e) revised ... 13223
502.735–41a
Added ... 13223
502.735–42
Revised ... 13223
502.735–44
Revised ... 13223
502.735–49
Revised ... 13223
504
Added ... 9682

Proposed Rules:

7 ... 8039, 9235, 9236, 10603, 12723, 15761
30 ... 6079
251 ... 6079

37 CFR

Chapter I

1.15
Added ... 13812
1.119
Revised ... 13583
1.121
Revised ... 13583
1.126
Revised ... 13583

Chapter II

201.2
(b)(3) added; (c) (1) and (3) revised ... 9315

Proposed Rules:

1 ... 9036

38 CFR

Chapter I

1.500—1.526
Center heading revised; note added ... 10848
1.500
(c) and (d) added ... 10848
1.501
Revised ... 10848
1.502
Revised ... 10848
1.507
Revised ... 10848
1.508
(b) revised ... 10848
1.509
Revised ... 10848
1.510
Revised ... 10848
1.511
(d) and (e) revised ... 10849
1.512
Revised ... 10849
1.513
Heading, (a), and (b)(1)(iv) and (2) revised ... 10849
1.514
(b)(2) revised; (b)(3) added ... 10849
1.516
Revised ... 10849
1.518
(c) revised ... 10849
1.523
Revoked ... 10849
1.524
Revised ... 10849
1.525
(a)(1) and (b) (5) and (6) revised ... 10849
1.526
(b), (e), (g), (i), (j), and (k) revised ... 10850
1.527
Added ... 10850
1.550—1.558
Center heading, note, and sections added ... 10850
1.900—1.906
Center heading and sections added ... 2613
1.910—1.921
Center heading and sections added ... 2613
1.930—1.937
Center heading and sections added ... 2614
1.940—1.943
Center heading and sections added ... 2615
1.950—1.954
Center heading and sections added ... 2615
2.1
(b) revised ... 7127
2.3
(b) revised ... 7127
2.4
Revised ... 7127
2.6
(a)(6) added; (b), (c), (d), and (e) revised ... 2815
2.68
Revoked ... 4533
2.68a
Revised ... 4533
3
Subpart E revoked ... 4533
3.1
(g)(4) revised ... 6840
3.2
(f) redesignated as (g) and republished; new (f) added ... 13223
3.3
(c)(1) and (3) and (d)(3) revised ... 13223
3.7
(h) revised ... 6840
3.13
(a)(2) revised ... 13224
3.17
Revised ... 13224
3.52
(a) revised ... 13224
3.54
(a) through (d) revised ... 13224
3.100
(c) revoked; (d) redesignated as (c) and revised ... 4533
3.252
Heading revised ... 13224
3.262
(m), (n), and (p) revised ... 13224
3.314
Introductory text of (b) and (b)(2) and (3) revised ... 13224
3.315
(d) and (e) revised ... 13225
3.326
(d) "evised; (h) added ... 13225
3.342
(a) revised ... 13225
3.350
Introductory text of (a) revised ... 13225
(f)(3) revised ... 15878
3.351
Revised ... 13225
Cross reference amended ... 13226
3.402
(a) revised; (c) added ... 13226
3.450
(g) revised ... 13226
3.454
(b) revised ... 13226
3.460
Revised ... 13226
3.502
(e) added ... 13226
3.551
(c) revised ... 13226
3.552
(b)(1) and (e) revised ... 13226
3.667
(c) revised; (f) added ... 12114
3.711
Revised ... 13226
3.802
(a) revised ... 6840
3.808
(a) and introductory text of (c) revised; (e) added ... 13227
3.1600
Introductory text, (a), (b)(4), and (c) revised ... 3742
3.1601
Introductory text of (a) revised; (c) added ... 13227
3.1605
Introductory text added; (a) revised ... 3743
3.1900—3.1908
Subpart E revoked ... 4533
6.65
Revised ... 14274
6.95
(b) revised ... 13927
8.24
Revised ... 13927
8.26
(b) revised ... 13927
8.77
(a)(2) revised ... 14275
8.116
(e) revised ... 14275
8.186
Added ... 923
9.28
(d) revised ... 8144
(b) revised ... 9165
13.200—13.217
Added ... 4534
13.202
(b)(1)(iv) and (v) revised; (c) added ... 13771
13.209
(a)(3) revised ... 10436
14.514a
Revised ... 2429
14.514b
Revoked ... 2429
14.600—14.610
Center heading revised; note added ... 2429

14.607
(c) revised ... 11162
14.608
Revised ... 11162
14.611—14.613
Center heading, note, and sections added ... 2429
17.30
(r) and (s) added ... 6841
(f) revised; (p) revoked; (k) through (o) redesignated as (l) through (p), respectively, and revised; new (k) added ... 13813
17.33
Added ... 13813
17.36
(b) (2) revised ... 13813
17.45
Center heading, (a), and (d)(1) revised ... 13813
17.45a
Added ... 13813
17.46
(d) redesignated as (e) and revised; new (d) added ... 6841
(e) revised ... 11382
17.47
(a) revised ... 13813
17.48
(h) added ... 6841
Revised ... 13813
17.49
(a)(3)(vii) revised ... 6841
(b)(2)(vi) amended ... 13814
17.50
(k) added ... 6841
(c), (d), (e), (f), and (j)(2) revised ... 13814
17.52
Heading revised; (c) added ... 6841
17.60
(d) added ... 6841
Revised ... 13815
17.60a
Added ... 13815
17.60b
Added ... 13816
17.60c
Added ... 13816
17.60d
Added ... 13816
17.60e
Added ... 13816
17.62
Revised ... 6841
Center heading added; section revised ... 11382
17.63
Added ... 11382
17.64
Added ... 11382
17.65
Center heading and section deleted ... 11383
17.65
Added ... 11383
17.100
(c) revised ... 13816
17.115
Center heading and section revised ... 13816
17.115a
Added ... 13816
17.115b
Added ... 13816
17.115c
Added ... 13816
17.120
(h) revised ... 13817
17.123
Introductory text revised ... 13817
17.142
(b) revised ... 13817
17.210—17.220
Center heading and sections added ... 6841
17.300—17.306
Center heading and sections added ... 11383
19.111
(a) and (c) revised ... 4410
19.119
Revised ... 4410
19.121
(b)(1) and (2) revised ... 4410
19.129
(b) revised ... 4410
19.130
Revised ... 4410
19.131
(a) revised ... 4411
19.132
Revised ... 4411
19.141
Revised ... 4411
19.152
Revised ... 4411
21.42
Revised ... 16099
21.700
(a) revised ... 16099
21.701
Introductory texts of (b) and (c) revised ... 16099
21.1020
(a) revised ... 5271
Introductory text added ... 13402
21.1021
(b) revised ... 5271
(d) added ... 13402
21.1040
(e) revised ... 5549
21.1041
(a)(3) added; (b) and (d)(2) revised ... 13402
21.1042
(c) revised ... 13402
21.1045
(a) and (b) revised ... 13402
21.3032
(a)(3) revised ... 3979
21.3040
(c) revised ... 13402
21.3041
(c), introductory text of (d), and (d)(3) revised; (d)(7) added ... 13402
21.4006
(b) revised ... 13402
21.4008
(a) and (b) revised ... 4533
Revised ... 13402
21.4009
Revised ... 4533
21.4025
(b)(7) and (c)(6) and (7) revised; (c)(8) added ... 5271
21.4134
Revised ... 13403
21.4135
(n) revised; (u) added ... 3979
21.4136
(a), (c), and (g) revised ... 13403
21.4138
Revised ... 3452
21.4200
(b) revised ... 3979
(a)(1) revised; (c) added ... 13403
21.4202
(a), (b)(7), and (c) revised ... 13403
21.4203
(f)(1) revised; (f)(3) and (g) added ... 13403
21.4204
Introductory text and (a) revised ... 3452
(a) revised ... 13404
21.4205
(c)(1) revised ... 3452
(b)(3) revised ... 13404
21.4206
Added ... 13404
21.4209
(c) revised ... 13404
21.4230
(c) revised ... 13404
21.4233
(b)(1) and (2) revised ... 3979
Introductory text revised; (d) added ... 13404
21.4235
Added ... 13404
21.4251
Introductory text of (a) revised ... 13404
21.4252
(a) revised ... 3979
(c) and (d) revised; (g) added ... 13404
21.4253
Introductory text of (f) revised ... 3979
21.4258
(b) added ... 3979
(a)(7) revised; (c) added ... 13405
21.4259
(a) and (d) revised ... 13405
21.4260
(b)(1) revised ... 3979
21.4261
Added ... 13405
21.4262
Added ... 13405
21.4263
Added ... 13405
21.4264
Added ... 13406
21.4270
Revised ... 13406
21.4271
(c) revised ... 13407
21.4272
(g) revised ... 4411
Introductory texts of section, (a), (b), and (c) revised; (d), (e), and (f) revised ... 13407
21.4273
(a) revised; (d) revoked ... 4411
21.4274
Revised ... 4411
21.4275
(l) revised ... 13407
36.4302
(j) revised ... 13583
36.4380—36.4389
Center heading and sections revoked ... 4537
36.4502
Revised ... 13583
36.4503
(a) revised ... 13583
36.4504
(b)(1) revised ... 13583

38 CFR—Continued

Page

Chapter I—Continued

36.4506
Revised ... 3096
36.4509
(b) revised ... 13584
36.4511
(a) revised ... 13584

39 CFR

Chapter I
Subchapter C appendix amended ... 2624
Subchapter I heading revised ... 4572
Subchapter K revised ... 5326
Subchapter C republished ... 12252
Subchapter C appendix amended ... 13808
113
Redesignated as Part 117 ... 9559
113
Added ... 9559
113.2
(b) revised ... 20810
113.5
(c) revised ... 12400
114
Heading revised ... 20811
114.2
Amended ... 3018
Amended ... 20810
114.3
Deleted ... 20811
114.4
(d)(1)(i) revised ... 3345
Deleted ... 20811
114.5
Redesignated as Part 118 ... 20811
117
Redesignated from Part 113 ... 9559
118
Redesignated from 114.5 ... 20811
122.4
(g) added ... 5686
123.1
(e) through (h) redesignated as (f) through (i), respectively; new (e) added; newly designated (i) revised ... 13659
123.5
(b) revised ... 17479
123.8
(b)(3) revised ... 13659
125.2
(c)(2)(i) and (d)(2) revised ... 13659
125.4
(d) and (e) revised ... 13659
126.3
(b)(6)(i)(b), (ii)(b), (iii)(b), (iv)(b), and (v)(b), and (c)(3) and (4) amended ... 3345
126.4
(b) revised ... 3345
126.5
(a) revised ... 3019
126.7
(d)(3) amended ... 3345
127.1
Revised ... 3057
(e)(1)(iii) and (e)(2) revised ... 5737
127.2
Amended ... 3058
Amended ... 5738
Amended ... 12400
Amended ... 13662
131.1
Revised ... 15020
131.2
(c)(4) revised ... 2703
(a), (b), and (c)(1), (2), and (3)(i), introductory text of (3)(ii), and (3)(ii)(a) revised ... 15021
(b)(4)(i) revised ... 15587
131.5
(b) revised ... 2816
132.2
(d) revised ... 3019
(b)(3) revised ... 10436
132.3
(c)(3) revised ... 2704
132.6
(b) revised ... 3019
134.4
(a) revised ... 383
134.8
(b) revised ... 383
135.1
(b)(1)(iii) and (iv) revised; (b)(2) redesignated as (3); new (b)(2) added ... 383
(a) revised; (b)(1) amended; (b)(3) revised ... 450
(b)(1)(i) and (2)(ii) revised ... 20811
135.2
(a)(4)(i) and (b) revised ... 451
135.3
Amended ... 451
Revised ... 12794
137.2
(c)(1)(ii) amended; (c)(1)(iv)(a) revised; (c)(1)(v) and (vi) added; (c)(2) amended; (c)(2)(i) and (ii) deleted ... 2704
141.8
Revised ... 2432
142.2
(c) revised; (e) amended; (f) revised ... 11328
142.3
Amended ... 11328
142.2
(b) redesignated as (c); new (b) added ... 2895
142.3
Revised ... 5687
142.4
(f) revised ... 7955
142.6
Revised ... 7955
142.8
(c) revised ... 7772
(f)(2) revised ... 13455
144.1
Revised ... 2704
144.2
Revised ... 2704
144.3
Revised ... 2704
Revised ... 7438
144.4
Revised ... 2704
Amended ... 7438
144.7
Revised ... 13662
144.8
Added ... 7438
148
Added ... 5686
149
Added ... 5686
151.3
(c)(1)(ii) amended ... 7629
154.2
(b)(2) revised ... 14894
154.9
Added ... 7629
155.4
(b) revised ... 2433
(b) amended ... 6490
155.6
(f)(1) amended ... 2624
(f)(1) amended ... 3356
161.5
(c) revised ... 7629
161.7
(b) revised ... 7629
161.9
(a) and (g)(5) revised ... 7630
164.6
(a) and (b) revised ... 13662
171.1
(c)(1)(i)(c) amended; (d)(1), (e)(1) and (2), and (g)(2)(ii) revised ... 6491
171.2
(d) and (e) revised; (g) amended; (h) revised; (i) amended ... 6492
Revised ... 20633
171.3
(a) and (b) revised ... 6492
Revised ... 20642
171.4
(c) and (e)(2) revised ... 3096
Revised ... 20642
172.4
(a) revised; (c), (d)(4)(ii), (e)(2), and (f) amended; (h) revised ... 3096
173.1
Revised ... 3294
173.2
Revised ... 3294
173.3
(a) revised ... 3295
173.4
Revised ... 3295
173.5
(a) and (b) revised; (d) amended; (f)(3) and (g) revised; (h)(2)(ii) and (3) amended ... 3295
173.6
Revised ... 3295
173.7
Deleted ... 3296
173.7
Redesignated from 173.8; revised ... 3296
173.8
Redesignated as 173.7; revised ... 3296
173.8
Redesignated from 173.9; revised ... 3296
173.9
Redesignated as 173.8; revised ... 3296
201
Subpart K recodified as Part 747; revised ... 12947
201.90—201.94
Subpart K recodified as Part 747; revised ... 12947
211—273
Appendix C amended ... 2624
Subchapter C republished ... 12252
Subchapter C appendix amended ... 13808
224.1
(a)(1) revised ... 18045
224.4
(d)(4) revised ... 3058
232.1
(a) revised ... 18045
232.5
Revised ... 20643

261.4
Revised ... 20643
261.5
Revised ... 20643
261.6
Deleted ... 20645
271.5
(b) revised ... 3058
531
Revised ... 10916
531.3
(g)(2) and (3) revised ... 6974
531.5
(d)(4) added ... 6974
532
Revised ... 10918
533
Revised ... 10919
534
Revised ... 10924
541.1
(c) revised ... 11527
614
Revised ... 4411
742, 743
Subchapter I heading revised ... 4572
742
Revised ... 11785
742.735–29
(f)(1) revised ... 17479
(f)(1) corrected ... 17860
742.735–52
(d) corrected ... 12115
743
Added ... 4413
747
Recodified from Subpart K of Part 201; revised ... 12947
811
Revised ... 5326
812
Revised ... 5326
812.9
(a)(5) revised ... 7266
813
Revised ... 5328
821
Revised ... 5329
821.6
Revised ... 15480
821.8
Revised ... 13129
822
Revised ... 5332
Amended ... 15481
822.2
Revised ... 13130
(a)(19) corrected ... 13869
822.3
(e)(3) revised ... 15480
822.4
(h) revised ... 7266
Heading, (f)(2)(viii), and (g)(6) revised; (g)(7) deleted ... 15481
822.6
(a)(1), (g)(1)(ii), (g)(2)(i), and (g)(3)(ii) revised; (g)(4) amended; (h)(1)(i) and (ii) revised; (h)(1)(iv) added ... 11384
823
Revised ... 15099
956
Added ... 3143
956.2
(e) corrected ... 3296

Proposed Rules:

Page

Ch. I ... 415, 15643
132 ... 4027, 6701
141 ... 8379
143 ... 4027, 4420, 10806
154 ... 11037
224 ... 14851
232 ... 14851
531 ... 3778

41 CFR

Chapter 1
1–1
Subpart 1–1.4 added ... 16492
1–1.400—1–1.405
Subpart 1–1.4 added ... 16492
1–1.701–1
(a) and (c)(2) revised; (c)(5) added; (d)(3) and (f)(2) revised; (f)(4), (5), (6), and (7) added; (h) amended; (i) added ... 2624
1–1.701–2
Revised ... 2626
1–1.701–10
Added ... 2626
1–1.706–6
(c) amended ... 18045
1–1.711
Added ... 6568
1–1.800
Revised ... 18046
1–1.801—1–1.801–3
Revised ... 18046
1–1.802–1
Revised ... 18047
1–1.802–2
(b)(2), (c), and (d) revised ... 18047
1–1.804–2
(b) revised ... 18047
1–1.804–3
Revised ... 18048
1–1.805–3
(a) revised; (b) amended ... 18048
1–1.807
Revised ... 18048
1–2.404–2
(f) revised ... 2626
1–2.407–6
(a)(1) through (6) revised; (a)(7) and (8) added ... 18049
1–3.201
(b) revised; (c)(3) added ... 5622
1–5
Subpart 1–5.9 recodified and revised ... 15674
1–5.900—1–5.905
Subpart 1–5.9 recodified from 1–5.900—1–5.906; revised ... 15674
1–5.900—1–5.906
Subpart 1–5.9 recodified as 1–5.900—1–5.905; revised ... 15674
1–6
Subpart 1–6.8 added ... 5622
1–6.800—1–6.806–4
Subpart 1–6.8 added ... 5622
1–7.601—1–7.601–4
Recodified from 1–7.601; revised ... 16268
1–7.601
Recodified as 1–7.601—1–7.601–4; revised ... 16268
1–7.602–1
Deleted ... 16268
1–8.700–2
(a) and (b)(5) revised ... 9683
1–12.202
Introductory text revised ... 10852
1–12.302
(d) revised ... 4312
1–12.303
Introductory text revised ... 4312
1–12.304
Revised ... 4312
1–12.403–3
Revised ... 4312
1–12.604
(b), (c), and (d) revised ... 2626
1–16.101
(c) revised ... 18049
1–16.401
(h) revised ... 16268
1–16.801
(a)(2) revised ... 9232
1–16.901–25
Revised ... 9233
Chapter 2
2–60.101
Revised ... 6974
Chapter 3
3–75
Revised ... 15833
Chapter 4
4–1.112
Added ... 1176
4–1.112–1
Added ... 1177
4–1.302–3
Added ... 1177
4–2.407–6
Added ... 10083
4–3.204
(a)(3) revised ... 1177
4–3.211
(c) deleted ... 1177
4–3.350
Deleted ... 1177
4–3.350
Added ... 1177
4–3.901
Deleted ... 1177
4–4
Subpart 4–4.52 deleted ... 1179
4–4.5001
Redesignated as 4–4.5001a ... 1177
4–4.5001
Added ... 1177
4–4.5001a
Redesignated from 4–4.5001 ... 1177
4–4.5002
Deleted ... 1177
4–4.5005
(a) revised ... 1177
4–4.5006
(b) revised ... 1178
4–4.5010
Revised ... 1178
4–4.5014
(b) revised ... 1178
4–4.5016
Revised ... 1178
4–4.5018
Revised ... 1178
4–4.5021
Revised ... 1178
4–4.5024
Deleted ... 1178
4–4.5027
Revised ... 1178
4–4.5032
Deleted ... 1178
4–4.5033
Revised ... 1178
4–4.5041
Revised ... 1178

41 CFR—Continued

Page

Chapter 4—Continued
4-4.5042
Revised 1178
4-4.5043
(b) revised 1178
4-4.5045
Revised 1178
4-4.5046
Revised 1178
4-4.5047
Revised 1179
4-4.5051
Revised 1179
4-4.5053
Revised 1179
4-4.5059
Revised 1179
4-4.5060
Deleted 1179
4-4.5061
Revised 1179
4-4.5064
Revised 1179
4-4.5073
Revised 1179
4-4.5074
(d) revised; (e) deleted 1179
4-4.5079
Revised 1179
4-4.5088
Revised 1179
4-4.5097
Revised 1179
4-4.5099a
Revised 1179
4-4.5099b
(f) (4) (iii) revised 1179
4-4.5200—4-4.5216
Subpart 4-4.52 deleted 1179
4-4.5301-3
(c) revised 1179
4-4.5320
Added 1179
4-5.5500
Deleted 1179
4-12.404-1
Revised 1179
4-12.404-2
(c) added 1179
4-12.404-7
Revised 1179
4-16.804
(c) added 1180
4-50.202-2
(a) revised 1180
4-50.202-6
Added 1180
4-50.206
Revised 1180
4-50.207
Amended 1180

Chapter 5
5-1
Subpart 5-1.50 added 9165
5-1.5000—5-1.5011-4
Subpart 5-1.50 added 9165
5-2.407—5-2.407-8
Added 16160
5-2.407-52
(c) added 16160
5-2.407-53
Added 16160
5-2.407-54
Revised 16160
5-3.802
(a) revised; (b) deleted 6452
5-2.852
Deleted 6452

Chapter 5A
Revised 9462
5A-1.307—5A-1.307-8
Added 12558
5A-1.375
(d) revised 11384
5A-3.103
(e) added 11384
5A-8.602-1
(b) revised 13817
5A-16.950-1535
Revised 11384
5A-73.101-2
Amended 14844
5A-73.101-4
(a) amended 14844
5A-73.109-2
Revised 14844
5A-73.114-3
Amended 11384

Chapter 5B
5B-2.201-70
Deleted 5360
5B-2.201-81
Added 12720
5B-2.202-70
(e) amended 13719
5B-2.202-71
Revised 5361
5B-2.202-76
Deleted 5361
5B-2.407-72
Added 12720
5B-3
Added 5361
5B-7
Subpart 5B-7.70 added 5361
5B-7.701, 5B-7.701-1
Subpart 5B-7.70 added 5361
5B-16
Amended 12720
5B-16.950-1411B
Deleted 5361
5B-16.950-1467
Revised 5361
5B-16.950-1467A
Added 5363
5B-16.950-1468
Revised 5364
5B-16.7001
Revised 5365
5B-53.7001
(a) (7) revised 13719

Chapter 6
6-1.258—6-1.258-2
Recodified from 6-1.258; revised 12115
6-1.258
Recodified as 6-1.258—6-1.258-2; revised 12115
6-3.213
Added 3936
6-6
Subpart 6-6.50 deleted 14695
Subpart 6-6.8 added 14695
6-6.500—6-6.504
Subpart 6-6.50 deleted 14695
6-6.800—6-6.806-2
Subpart 6-6.8 added 14695
6-60
Revised 15751
6-75.201
(b) revised 15427
6-75.202
Revised 3937
6-75.205
(a) revised 12115
(a) revised 15427
6-75.209
Added 15427

Chapter 7
7-1.102
Amended 8467
7-1.104-4
Amended 8467
7-1.104-5
Amended 8467
7-1.106
Amended 8467
7-1.107—7-1.107-3
Recodified from 7-1.107; revised 14844
7-1.107
(b) and (c) amended 8467
Recodified as 7-1.107—7-1.107-3; revised 14844
7-1.204
Amended 8467
7-1.205
Amended 8467
7-1.206
Amended 8467
7-1.305-3
Amended 8467
7-1.310-7
Amended 8467
7-1.310-10
Amended 8467
7-1.313
Deleted 8467
7-1.451-2
Amended 8467
7-1.451-3
Revised 8467
Revised 14845
7-1.451-4
Amended 8467
7-1.453-2
Revised 8467
7-1.602
Amended 8467
7-1.604
Amended 8467
7-1.605-3
Amended 8467
7-1.605-4
Amended 8467
7-1.606
Amended 8467
7-1.1001
(b) revised 8467
7-2.406-3
Amended 8468
7-2.406-4
Amended 8468
7-3.200-50
(a) amended 8468
7-4.202
Revised 8468
7-4.203-1
(b) amended 8468
(b) amended 14845
7-4.203-2
(b) amended 8468
(b) amended 14845
7-4.5300
Amended 14845
7-5.5001
Amended 8468
7-6
Subpart 7-6.52 revised 8468
7-6.5200—7-6.5208
Subpart 7-6.52 revised 8468

Page
7-10.302
Amended 8469
7-12.805-1
(b) amended 8469
7-12.805-5
(a) amended 8469
7-15.205-6
(b) (1) amended; (b) (4) revised 8469
7-15.307-4
Amended 8469
7-16
Subpart 7-16.8 deleted 8470
7-16.200
Revised 8470
7-16.252
Added 8470
7-16.253
Added 8470
7-16.254
Added 8470
7-16.800, 7-16.851
Subpart 7-16.8 deleted 8470
7-16.900
Added 8470
7-16.951
Deleted 8470
7-16.951
Redesignated from 7-16.951-2 8470
7-16.951-1
Deleted 8470
7-16.951-2
Redesignated as 7-16.951 8470
7-16.952
Added 8470
7-16.953
Added 8484
7-16.954
Added 8499
7-30.410
Added 14846

Chapter 8
8-1.108-2
Revised 7267
8-1.302-1
(a) (7) revised; (d) added 5549
8-1.311
Added 7267
8-1.317
Revised 3772
8-1.604-1
(a) (7) (ii) revised 7912
8-2.201
(c) amended 7267
8-2.202-4
Revised 7267
8-2.203-1
(a) revised 7267
8-2.203-3
Revised 7268
8-2.205-1
Added 3773
8-2.205-2
Revised 3773
8-2.407-3
Added 3773
8-2.407-8
Introductory text of (b) revised 3773
8-3.401
Revoked 3773
8-3.403
(b) and (c) revised; (d) added 3773
(c) revised 8027
8-3.405-5
Revised 3773
(d) added 6974
8-3.606-1
Revoked 3773
8-3.606-3
Revoked 3773
8-3.606-5
Revised 3773
8-6
Subpart 8-6.53 revised 7912
Subpart 8-6.2 recodified and revised 12792
8-6.103, 8-6.103-2
Added 12792
8-6.104
Added 12792
8-6.104-3
Revised 12792
8-6.104-4
(a) revised; (b) revoked 12792
8-6.105
Revised 7268
Revised 12792
8-6.202—8-6.204
Subpart 8-6.2 recodified from 8-6.202-1—8-6.204; revised 12792
8-6.202-1—8-6.204
Subpart 8-6.2 recodified as 8-6.202—8-6.204; revised 12792
8-6.5300—8-6.5303
Subpart 8-6.53 revised 7912
8-7.101-5
Introductory text of (b) revised 7268
8-7.150-4
(b) revised 3773
8-7.150-6
(a) revised 7268
8-7.150-8
Amended 3773
8-7.150-9
Added 7268
8-7.150-17
(a) revised 7268
8-7.150-20
Revoked 7268
8-7.150-22
Added 3774
8-7.650-5
Amended 7268
8-7.650-6
Revised 7268
8-7.650-21
Revised 7269
8-7.651-8
Added 7269
8-7.651-9
Added 7269
8-10.103-1
Added 7269
8-10.103-3
Added 7269
8-12.404-1
Added 7269
8-12.404-2
(a) and (d) revised 7269
8-12.404-6
(b) (5) added 7270
8-12.404-7
(c) revised 7270
8-12.404-13
Revised 7270
8-12.803-1
Revised 7270
8-12.803-50
Added 7270
8-12.803-51
Added 7270
8-12.805-1
Revised 7270
8-12.805-3
Revised 7270
8-12.805-4
Revised 7270
8-12.805-6
Revised 7270
8-12.813
Revised 7270
8-12.850
Revised 7270
8-12.851
(a) and (c) revised 7270
8-12.852
Revised 7271
8-12.853
Revoked 7271
8-12.854
Revoked 7271
8-14.102-50
Revoked 6605
8-14.105
Added 6605
8-14.105-51
Revised 6605
8-52.101
Revised 7271
8-52.106
(c) revised 7271
8-75.101
(a) and (b) revised 7271

Chapter 9
9-1
Subpart 9-1.53 added 14055
Subpart 9-1.54 added 15922
9-1.104
(c) amended 15922
9-1.305-1
Revised 3146
9-1.310-5
(a) (2) added 5737
9-1.350-1
Revised 11328
9-1.5103
(b) through (j) redesignated as (c) through (k) respectively; new (b) added 11433
9-1.5201
Revised 8410
9-1.5203
(f) revised 8410
9-1.5300—9-1.5303
Subpart 9-1.53 added 14055
9-1.5401—9-1.5408
Subpart 9-1.54 added 15922
9-1.5407
(f) corrected 17542
9-2.406-4
Revised 7175
9-2.406-50
Introductory text of (b) revised 7175
9-3.000-50
Revised 3358
Revised 8410
9-3.903-2
(a) revised 8410
9-3.951
Added 8410
9-4
Subpart 9-4.54 added 3979
Subpart 9-4.51 recodified and revised 7271
Subpart 9-4.55 added 14952
9-4.000-50
Revised 3979
Revised 14951
9-4.5100—9-4.5112-8
Subpart 9-4.51 recodified from 9-4.5100—9-4.5112-9; revised 7271
9-4.5100—9-4.5112-9
Subpart 9-4.51 recodified as 9-4.5100—9-4.5112-8; revised 7271
9-4.5107-2
(c-1) added 13131
9-4.5109-7
Revised 13132
9-4.5112-4
Revised 13132
9-4.5112-5
(a) (2) (ii) revised 13132

41 CFR—Continued

Page

Chapter 9—Continued
9-4.5400—9-4.5404
Subpart 9-4.54 added 3979
9-4.5500—9-4.5505
Subpart 9-4.55 added 14952
9-6.151
Revised 3358
9-7.5004-6
Revised 7178
9-7.5006-9
Amended 6274
Amended 7178
Amended 8411
9-7.5006-10
Amended 3358
Amended 6275
Amended 8411
9-7.5006-11
Amended 6275
9-7.5006-12
Amended 3358
Amended 6275
Amended 8411
9-7.5006-14
Revised 6275
Amended 7913
9-7.5006-15
Revised 6275
9-7.5006-17
Revised 6276
9-7.5006-18
Revised 6276
9-7.5006-19
Revised 6276
9-7.5006-20
Revised 6276
9-7.5006-21
Revised 6276
9-7.5006-22
Revised 6276
9-7.5006-29
Revised 8411
9-7.5006-33
Deleted 8411
9-7.5006-45
(b) revised 3358
9-7.5006-56
Added 8411
9-7.5006-57
Added 14953
9-7.5006-58
Added 14953
9-7.5007-4
Deleted 8411
9-8.211-2
(a) revised 11328
9-8.507-5
Revised 11329
9-9.5103
(f) revised 3358
9-12.5408
Deleted 15924
9-15.000-50
Revised 3358
9-15.5003
Revised 7175
Revised 11329
9-15.5005-2
(b) revised 11329
9-15.5008-1
Revised 7175
9-15.5008-2
Revised 7175
9-15.5010-19
Added 8411
9-16.5002-2
Amended 7913
Amended 8412
9-16.5002-4
Amended 7913
Amended 8412
9-16.5002-5
Amended 7913
Amended 8412
9-16.5002-6
Amended 8412
9-16.5002-8
Revised 7278
Amended 13132
9-16.5002-9
Amended 7282
9-16.5002-15
Added 3981
9-61.201
(a) revised 8412
9-68.002
(a) revised 11329

Chapter 10
10-1
Redesignated as Part 10-60; revised 8676
10-60
Redesignated from Part 10-1; revised 8676

Chapter 11
11-1
Subpart 11-1.7 recodified and revised 138
Subpart 11-1.52 added 6974
11-1.313
(b)(4) amended 13135
11-1.315-3
Added 13135
11-1.318
Revised 9234
11-1.353—11-1.353-3
Added 13133
11-1.709—11-1.709
Subpart 11-1.7 recodified from 11-1.708-2—11-1.750; revised 138
11-1.708-2—11-1.750
Subpart 11-1.7 recodified as 11-1.700—11-1.709; revised 138
11-1.5201—11-1.5264-1
Subpart 11-1.52 added 6974
11-2.201-50
(a) amended 13135
11-2.201-51
(c) and (d) amended 13135
11-3.204
Revised 139
11-3.2407-8
(c) added 139
11-3.201
Revised 1040
11-3.203
Revised 1041
(b) revised 13135
11-3.204
Revised 4061
(b) amended 13135
11-3.215
Revised 1041
11-3.252
Recodified as 11-3.252—11-3.252-2; revised 1041
11-3.252—11-3.252-2
Recodified from 11-3.252; revised 1041
11-3.600
Added 8027
Amended 13135
11-3.604—11-3.604-7
Added 8027
11-3.605, 11-3.605-1
Added 8029
11-3.605-2
Revised 8029
11-3.606—11-3.606-5
Added 8029
11-3.650—11-3.650-9
Added 8029
11-3.650-8
(b) amended 13135
11-3.651—11-3.651-4
Added 8032
11-3.652—11-3.652-6
Added 11470
11-3.652-3
(a) corrected 11796
11-4
Subpart 11-4.50 deleted 4061
Subpart 11-4.52 added 13133
11-4.5000—11-4.5007
Subpart 11-4.50 deleted 4061
11-4.5105-34
Revised 13135
11-4.5200—11-4.5203
Subpart 11-4.52 added 13133
11-5.5002-2
(b) revised 12442
11-7
Subpart 11-7.1 recodified and revised 6976
Subpart 11-7.6 recodified and revised 7209
Subpart 11-7.50 recodified and revised 13584
11-7.100—11-7.101-68
Subpart 11-7.1 recodified as 11-7.100—11-7.150-18; revised 6976
11-7.100—11-7.150-18
Subpart 11-7.1 recodified from 11-7.100—11-7.101-68; revised 6976
11-7.150-5
Revised 13135
11-7.150-14
Amended 13135
11-7.600—11-7.602-75
Subpart 11-7.6 recodified as 11-7.600—11-7.650-36; revised 7209
11-7.600—11-7.650-36
Subpart 11-7.6 recodified from 11-7.600—11-7.602-75; revised 7209
11-7.650-5
Amended 13135
11-7.5000—11-7.5001
Subpart 11-7.50 recodified as 11-7.5000—11-7.5002-6; revised 13584
11-7.5000—11-7.5002-6
Subpart 11-7.50 recodified from 11-7.5000—11-7.5001-9; revised 13584
11-10
Subpart 11-10.3 added 13135
11-10.305
Subpart 11-10.3 added 13135
11-11
Subpart 11-11.4 added 139
11-11.000
Added 139
11-11.401-4
Subpart 11-11.4 added 139
11-12.404-8
Deleted 13135
11-16
Subpart 11-16.1 added 7074
Subpart 11-16.3 recodified and revised 7076
Subpart 11-16.4 added 7077
Subpart 11-16.5 added 7078
Subpart 11-16.50 added 13590

Page

11-16.100—11-16.101-51
Subpart 11-16.1 added 7074
11-16.200
Revised 7074
11-16.201, 11-16.201-1
Added 7074
11-16.202—11-16.202-52
Added 7074
11-16.202-52
(b)(3) and (5) revised 13135
11-16.250
(b)(2)(v) revoked; (b)(2)(vi) through (x) redesignated as (v) through (ix), respectively 139
Revoked 7076
11-16.250—11-16.250-4
Added 7076
11-16.251—11-16.251-3
Revoked 7076
11-16.251
Added 7076
11-16.300—11-16.350
Subpart 11-16.3 recodified from 11-16.301-2; revised 7076
11-16.301-2
Subpart 11-16.3 recodified as 11-16.300—11-16.350; revised 7076
11-16.400—11-16.404
Subpart 11-16.4 added 7077
11-16.404
(d) amended 13135
11-16.500—11-16.501-51
Subpart 11-16.5 added 7078
11-16.804
(b) amended 13136
11-16.850—11-16.850-2
Revoked 7079
11-16.851
Amended 13136
11-16.853
Added 13136
11-16.5000—11-16.5003
Subpart 11-16.50 added 13590
11-50.102-1
(f) revised 13136
11-60
Subpart 11-60.5 added 9234
11-60.500
Subpart 11-60.5 added 9234
11-75.101
(a) and (c) amended 13136
11-75.102-1
(d) added 13136
11-75.102-2
Revised 13136
11-75.201
Introductory text of (d) revised 13136
Chapter 12
Added 7772
12-60
Added 7772
12-60.211-1
Added 13411
Chapter 18
Revised 17002
Chapter 50
Heading revised 7702
50-201.601
(b) revised 7702
50-202.2
Revised 2431
50-202.11
Deleted 2431
50-202.14
(b)(1) revised 2431
50-202.19
Deleted 2431
50-202.21
(b)(1) revised 2431
50-202.23
(b)(1) and (2) and (c)(1) revised 2432
50-202.25
Deleted 2432
50-203.1
Revised 7702
50-203.6
(b) revised 7703
50-203.8
(m) revised 7703
50-203.11
(a) and (d) through (h) revised 7703
50-203.13
(c) revised 7703
50-203.14
Revised 7704
50-204.315
Revised 7704
50-204.316
Revised 7704
50-204.319
Revised 7704
50-204.320
(e)(1) and (2) amended 5835
50-204.321
Added 7023
Revised 8412
Heading, (b), and (c) revised; (d) added 15641
50-205.2
(d) revised 7704
50-205.7
Revised 7704
50-205.9
Revised 7704
Chapter 60
60-2
Added 7439
Chapter 101
101-7.102-1
(a) revised 3146
101-7.102-3
(a) revised 3146
101-7.104-3
Revised 3146
101-7.107-2
Revised 3146
101-7.109-1
(a) revised 3146
101-10.106
Text deleted 3146
101-11
Subpart 101-11.8 added 8034
101-11.201-1
(b)(1) revised 3147
101-11.203-1
(b) revised 3147
101-11.203-2
Revised 3147
101-11.210—101-11.210-4
Added 3147
101-11.410-1
Amended 3147
101-11.800—101-11.810
Subpart 101-11.8 added 8034
101-11.4919
Deleted 8036
101-11.4920
Added 8036
101-12
Deleted 10299
101-20.902—101-20.902-3
Deleted 2432
101-20.4902-1807
Deleted 2432
101-20.4902-1807A
Deleted 2432
101-25.107
Added 4413
101-25.302-1
Revised 9683
101-25.405
Revised 12490
101-26
Subpart 101-26.48 added 17939
101-26.102-1
(c) added 3690
101-26.102-3
Added 17939
101-26.200
Revised 983
101-26.201
Revised 983
101-26.202
Revised 984
101-26.203—101-26.203-2
Revised 984
101-26.204
Deleted 984
101-26.205
Revised 984
101-26.205-1
Deleted 984
101-26.300
Revised 12850
101-26.301-2
Added 12850
101-26.307-1
(a) revised 11162
101-26.307-2
Revised 11163
101-26.309
Revised 11163
101-26.312—101-26.312-6
Added 12850
101-26.401
(b) revised 15754
101-26.401-1
Revised 15754
101-26.402-4
Revised 15754
101-26.402-5
Revised 15754
101-26.406-4
(a) revised 3690
101-26.4800, 101-26.4801
Subpart 101-26.48 added 17939
101-26.4901
Revised 15754
101-26.4901-344
Added 984
101-26.4902
(b) revised 15754
101-26.4902-1052
Deleted 11163
101-26.4902-1348-4
Deleted 984
101-26.4902-1424
Added 15754
101-27
Subpart 101-27.2 added 6493
Subpart 101-27.4 added 12401
Subpart 101-27.3 added 13456
101-27.201—101-27.209-3
Subpart 101-27.2 added 6493
101-27.300—101-27.305
Subpart 101-27.3 added 13456
101-27.400—101-27.406
Subpart 101-27.4 added 12401
101.27-405
Note corrected 12712
101-28
Subpart 101-28.3 added 4161
101-28.300—101-28.308
Subpart 101-28.3 added 4161
101-29.303
Deleted 13635

41 CFR—Continued

Page

Chapter 101—Continued
101–32
Added 5687
101–34
Added 4024
101–35
Subpart 101–35.5 added 8759
101–35.307
Added 8759
101–35.308—101–35.308–9
Added 8759
101–35.501—101–35.506
Subpart 101–35.5 added 8759
101–38.001–11
Revised 8144
101–38.001–12
Revised 8144
101–38.001–15
Revised 8154
101–38.001–16
Revised 8145
101–38.304–1
Amended 8145
101–38.602
(b) revised 8145
101–39.504
(b) revised 13635
101–40
Subpart 101–40.7 added 8965
101–40.700—101–40.713
Subpart 101–40.7 added 8965
101–40.4902
Added 8967
101–40.4906–3—101–40.4906–5
Added 8967
101–43.303–1
(b) revised; (c) and (d) added 12402
101–43.311–1
Revised 571
101–43.315–2
Revised 10255
101–43.315–5
(i) added 571
101–43.4900
Revised 571
101–43.4903
Amended 12402
101–43.4904
Revised 571
101–45
Subpart 101–45.6 added 8145
Subpart 101–45.8 added 16270
101–45.600—101–45.603
Subpart 101–45.6 added 8145
101–45.800—101–45.804
Subpart 101–45.8 added 16270
101–46.403
(c) added 8145
Chapter 105
105–60
Added 9564
105–735.105
Revised 15022
105–735.202–2
Revised 15022
105–735.202–3
Revised 15022
105–735.203–5
Introductory text and (a) revised 15022
105–735.213
Revised 15022
105–735.214
Revised 15023
105–735.217
Revised 15023
105–735.218
Revised 15023
105–735.306
Revised 15023
105–735.401
Revised 15023
105–735.402
Revised 15023
105–735.403
(a) revised 15023
105–735.404
Revised 15023
105–735.408
Revised 15023
105–735.410
Revised 15023
105–735.411
(a) (1) revised 15024
105–735.413
Added 15024
105–735.511
Revised 15024
105–735.514
Revised 15024
105–735.523
Added 15024
105–735.601
Revised 15024
105–735.602
Deleted 10524
105–735.603—105–735.610
Revised 15024
105–735.611
Deleted 15025
Chapter 109
Added 14765
109–1
Added 14765
Proposed Rules:
50–203 16220
50–204 5948, 12449

42 CFR

Chapter I
35.17
Added 6842
51
Revised 8243
Revised 10792
53
Subpart N revoked 17662
53.1
(f) (2) revised 17662
53.101
(a) revised 17662
53.125
Revised 17662
53.130
(a) (1) and (2) deleted 11875
53.141—53.165
Subpart N revoked 17662
54
Subpart E added 571
54.1
(d) revised 5676
54.4
(c) revised 5676
54.5
Deleted 11875
54.101
(d) revised 5676
54.112
(c) revised 5676
54.115
(a) (1) and (2) deleted 11875
54.201
(j) revised 8146
54.208
(a) (1) and (2) deleted 11875
54.209
(c) revised 8146
54.212
(c) (2) revised; (c) (3) and (4) redesignated as (4) and (5), respectively; new (c) (3) added 8146
54.401—54.414
Subpart E added 571
56
Revised 7830
57
Subpart H added 204
57.9
Deleted 11875
57.108
Deleted 11875
57.408
Deleted 11875
57.701—57.716
Subpart H added 204
57.703
(b) revised 10202
57.707
(d) revoked 10202
59.5
(e) revoked 8295
59a.8
Deleted 11875
71
Subpart J–1 added 14058
71.152
Deleted 14058
71.153
Deleted 14058
71.161—71.166
Subpart J–1 added 14058
76.1
(c) revised 4415
76.5
(c) revised 4415
77
Added 11990
Chapter II
Heading revised 20811
Chapter IV
Revoked 11735
Proposed Rules:
35 578
53 8334
71 8679
73 7215, 8161, 13773, 13775, 15178
77 3169, 9698
81 5514
306 10601

43 CFR

Subtitle A
2
Revised 9974
18
Revised 207
18.2
(b) (4) revised 6494
20
Appendix revised 3701
21
Added 8361
21.8
Corrected 10299
22
Added 6683
Chapter I
407
Revoked 2774
408
Revoked 2774
410
Revoked 2774
414
Revoked 2774

Page

415
Revoked 2774
418
Added 3099
Chapter II
1810
Subpart 1815 added 3059
1815.0–5—1815.1–4
Subpart 1815 added 3059
2215.0–3
(a) and (e) revised 17891
2215.2
(a) revised 17891
2226.1–5
(e) and (f) revised 7713
2232.2–3
(a), (b), and (c) revised 6194
2234.2–3
(b) (16) (ii) revised 4414
2244.9–1
(d) (2) revised 5689
3100
Subpart 3107 added 8968
3107.01—3107.1–4
Subpart 3107 added 8968
3122.1
(a) amended 13324
3123.3
(c) added 13324
3131.1
Revised 10652
3131.2
(b) revised 10653
3131.5—3131.5–9
Added 10653
3132.1–1
(c) revised 10653
3132.1–2
(a) and (b) revised 10653
3132.2
(a) (2), (3), and (5) revised 10653
3132.3–1
Revised 3297
Revised 10654
3132.7
(b) revised 10654
3133.4
(a) revised 10654
3134.1
(a) revised 10654
3143.2–2
Revised 3297
3153.2–2
Revised 3297
3161.1
(a) (1) revised 10654
3161.2
(b) (1) revised 10655
3161.3–4
Revised 10655
3162.2
Revised 3297
Revised 10655
Public Land Orders
47
Revoked in part by PLO 4199 6640
334
Revoked in part by PLO 4333 17480
386
Revoked in part by PLO 4234 9167
583
Revoked in part by PLO 4274 13412
684
See PLO 4161 3151
686
Revoked in part by PLO 4133 211
1035
Revoked by PLO 4341 20980
1067
Revoked by PLO 4213 6644
1096
Revoked in part by PLO 4141 213
1166
Revoked by PLO 4295 14275
1230
Revoked in part by PLO 4348 20981
1259
Revoked by PLO 4121 52
1374
Revoked in part by PLO 4198 6640
1552
Revoked in part by PLO 4204 6642
1564
Revoked in part by PLO 4198 6640
1583
See PLO 4307 15428
1630
See PLO 4315 15482
1654
Revoked by PLO 4154 3020
1718
Revoked in part by PLO 4280 13413
1767
Revoked in part by PLO 4255 10933
1796
Revoked in part by PLO 4331 17479
1967
Revoked in part by PLO 4233 9167
2135
Revoked in part by PLO 4168 3745
2198
Revoked in part by PLO 4157 3020
Revoked in part by PLO 4206 6642
2375
Revoked in part by PLO 4296 14276
2449
Revoked by PLO 4140 213
2631
Revoked by PLO 4140 213
2749
Revoked in part by PLO 4137 212
2764
See PLO 4331 17479
3036
Amended by PLO 4259 10934
3263
Revoked in part by PLO 4307 15428
3456
Revoked in part by PLO 4239 10437
3518
See PLO 4123 53
3623
Revoked in part by PLO 4342 20980
3634
Revoked in part by PLO 4302 15427
3945
Revoked in part by PLO 4275 13412
4038
Revoked in part by PLO 4208 6643
4074
Corrected and amended by PLO 4134 211
4111
Corrected and modified by PLO 4120 6
4120 6
4121 52
4122 53
4123 53
4124 53
4125 53
4126 54
4127 54
4128 54
4129 210
4130 210
4131 210
4132 210
4133 210
4134 211
4135 211
4136 211
4137 212
4138 212
4139 212
4140 213
4141 213
4142 213
4143 213
4144 213
4145 214
4146 214
4147 214
4148 320
4149 452
4150 452
4151 611
4152 2817
Corrected 6780
4153 2888
Corrected 4061
Revoked in part by PLO 4252 10933
4154 3020
4155 3020
4156 3020
4157 3020
4158 3021
4159 3021
4160 3021
Revoked in part by PLO 4212 6644
4161 3151
4162 3297
4163 3743
4164 3743
4165 3744
4166 3744
4167 3744
4168 3744
4169 3745
4170 3745
4171 3745
4172 3746
4173 3747
4174 3747
4175 3991
4176 4121
4177 4122
4178 4282
4179 5835
4180 5836
4181 5836
4182 5836
4183 5836
4184 5837
4185 5837
4186 5837
4187 5837
4188 5837
4189 7913
4190 6095
4191 6096
4192 6096
4193 6194
4194 6138
4195 6494
4196 6495
4197 6639
4198 6640
4199 6640
4200 6640
4201 6641
4202 6641

43 CFR—Continued

Chapter II—Continued
Public Land Orders—Continued

	Page
4203	6641
4204	6642
4205	6642
4206	6642
4207	6642
4208	6643
4209	6643
4210	6643
4211	6644
4212	6644
4213	6644
4214	6644
Corrected by PLO 4294	14156
4215	6645
4216	6645
4217	6645
4218	6645
4219	6646
4220	6646
4221	7913
4222	7913
4223	8036
4224	8036
4225	8037
4226	8037
4227	8037
4228	8808
4229	8809
4230	8809
4231	9166
4232	9166
4233	9167
4234	9167
4235	9167
4236	9224
See PLO 4317	15483
4237	10255
4238	10256
4239	10437
4240	10257
4241	10257
4242	10258
4243	10258
4244	10258
4245	10259
4246	10259
Corrected by PLO 4284	13414
4247	10259
4248	10259
4249	10260
4250	10260
4251	10260
4252	10933
4253	10933
4254	10933
4255	10933
4256	10934
4257	10934
4258	10934
4259	10934
4260	10934
4261	11875
4262	11875
4263	11876
4264	11876
4265	12752
4266	12950
See PLO 4317	15483
4267	13072
4268	13072
4269	13072
4270	13192
Amended by PLO 4312	15429
4271	13411
4272	13411
4273	13411
4274	13412
4275	13412
4276	13412
4277	13412
4278	13412
4279	13413
4280	13413
4281	13413
4282	13413
4283	13413
4284	13414
4285	13414
4286	13414
4287	14060
4288	14060
4289	14101
4290	14155
4291	14155
4292	14155
4293	14156
4294	14156
4295	14275
4296	14276
4297	14276
4298	14276
4299	14276
4300	14276
4301	15098
4302	15427
4303	15427
4304	15427
4305	15428
4306	15428
4307	15428
4308	15428
4309	15428
4310	15429
4311	15429
4312	15429
4313	15429
4314	15482
4315	15482
4316	15482
4317	15482
4318	15483
4319	15878
4320	16100
4321	16213
4322	16214
4323	16214
4324	16214
4325	16214
4326	16215
4327	16531
4328	17429
4329	16532
4330	17479
4331	17479
4332	17479
4333	17480
4334	17429
4335	17429
4336	17620
4337	17662
4338	17891
4339	20775
4340	20979
4341	20980
4342	20980
4343	20980
4344	20980
4345	20980
4346	20980
4347	20981
4348	20981
4349	20981

Proposed Rules:

	Page
23	10656, 13050, 13972
1720	15548
1820	13196
2240	7086
2244	8622, 10790, 11996
3100	15883
3120	13196, 15883
3170	7086, 8622, 11996
4120	11192, 16164

44 CFR

Chapter IV

401.2
(j) and (k) added 9816

Proposed Rules:
401 7978

45 CFR

Subtitle A

4.1
Amended 6684

5
Revised 9315

5.3
Revised 14895

5.4
Revised 14895

5.11
Amended 14895

5.31
(a) and (c) amended 14895

5.32
(a) revised; (c) amended 14895

5.34
(a) (3) and (4) revised 14895

5.62
Amended 14895

5.70
Amended 14895

5.71
Amended 14895

5.72
Amended 14895

13
Revised 4572

14
Revised 9167

14.15
Added 16100

30
Added 17891

35
Revised 14101

55
Added 10852

80
Authority citation for part deleted; authority citations added to individual sections 14556

80.3
(c) amended 14556

80.4
(c) (2) revised 14555

80.6
(a) amended 14555

80.8
(c) (3) deleted; (c) (4) redesignated as (c) (3) 14556
(d) (2) deleted; (d) (3) and (4) redesignated as (d) (2) and (3), respectively 14557

80.9
(e) amended 14555
(d) (1) amended 14556
(b) and (d) amended 14557

80.10
(a) through (e) revised 14555
(g) added 14556

	Page
80.12	
(b) revised	14555
(a) (1) deleted; (a) (2) and (3) redesignated as (a) (1) and (2), respectively; (c) amended	14557
80.13	
(c) revised	14555
(d) through (j) redesignated as (e) through (k), respectively; new (d) added	14556
(k) amended	14557
81	
Revised	15156
85.10	
Revised	12851
85.200—85.204	
Subpart added	11947

Chapter I

114	
Revised	5549
116	
Revised	2742
117	
Revised	2753
118	
Revised	2758
121	
Added	11434
130	
Revised	2946
141.1	
Introductory text of (e) revised; (e) (10) added	4162
141.20	
Revised	7498
141.21	
Revised	7498
141.23	
Revoked	7498
142.2	
Introductory text of (e) revised; (e) (10) added	4162
166	
Revised	6276
177.3	
Revised	8146
178.3	
Revised	8147

Chapter II

Heading revised	20811

Chapter III

301.26	
Added	5271
301.27	
Added	5271
301.28	
Added	5272
308.4	
Revised	7334

Chapter IV

Heading revised	20811
402	
Subpart H recodified and revised	3148
402.75, 402.76	
Subpart H recodified as 402.75—402.93; revised	3148
402.75—402.93	
Subpart H recodified from 402.75, 402.76; revised	3148

Chapter V

502	
Revised	13508
503	
Added	9569
531.1	
(e) added	413
(e) revised	15641
531.2	
(f) and (g) redesignated as (g) and (h), respectively; new (f) added	413
531.5	
(e) and (l) revised	413

Chapter VI

611.12a	
Added	3150
Revoked	4062

Chapter VII

Revised	4062
701	
Revised	4062
702	
Revised	4063
703	
Revised	4065
704	
Revised	4066
Revised	9684
704.1	
(h) corrected	11085
705	
Added	272
Revised	4067
Revised	14589
705.735-1	
Corrected	2848
705.735-3	
Corrected	2848

Chapter VIII

801	
Appendix A amended	5470, 5554, 6685, 8091, 8246, 8523, 8590, 10736, 11085, 11440, 12180, 12620, 13193.

Chapter IX

Heading revised	20811

Chapter X

1005	
Added	9685
1009	
Added	9687
1015	
Added	13965
1030.10	
Revised	10073

Chapter XI

Added	10513
1100	
Added	10513
1100.3	
(d) (2) corrected	11215
1105	
Redesignated from 5 CFR Part 2300; revised	17663

Proposed Rules:

	Page
85	2443
301	387
308	3778

46 CFR

Chapter I

10	
Authority citation revised	7914
Subpart 10.02 authority citation revised	7914
Subpart 10.05 authority citation revised	7914
Subpart 10.10 authority citation revised	7915
Subpart 10.13 authority citation revised	7915
Subpart 10.15 authority citation revised	7915
Subpart 10.20 authority citation revised	7915
Subpart 10.25 authority citation revised	7915
Authority citation revised	15755
10.02-1—10.02-33	
Subpart 10.02 authority citation revised	7914
10.02-19	
(a) revised	7914
10.05-1—10.05-61	
Subpart 10.05 authority citation revised	7914
10.05-5	
Introductory text of (b) revised	7914
10.05-6	
Added	15755
10.05-28	
Revised	7914
10.05-29	
(a) (3) revised	7914
10.05-31	
(a) (2) revised	7914
10.05-36	
Added	15755
10.05-52	
Added	15756
10.05-58	
Added	15756
10.10-1—10.10-29	
Subpart 10.10 authority citation revised	7915
10.13-1—10.13-33	
Subpart 10.13 authority citation revised	7915
10.15-1—10.15-33	
Subpart 10.15 authority citation revised	7915
10.20-1—10.20-13	
Subpart 10.20 authority citation revised	7915
10.25-1—10.25-9	
Subpart 10.25 authority citation revised	7915
10.25-9	
(a) (6) redesignated as (a) (7) and revised; new (a) (6) added	7915
25	
Authority citation revised	20812
25.05-15	
Added	20812
32	
Authority citation revised	20814
32.25-1	
(b) revised	20814
39	
Authority citation revised	17621
39.20-1	
Heading revised	17621
39.20-2	
Added	17621
43	
Subpart 43.03 added	78
43.03-1—43.03-20	
Subpart 43.03 added	78
43.03-15	
(a) (2) revised	3022
43.03-20	
(a) (2) revised	3622
45	
Authority citation revised	13509
45.01-75	
(b) revised	13509
55	
Authority citation revised	19180
55.10-40	
(g) revised	19180

46 CFR—Continued

Chapter I—Continued
61
Authority citation revised ... 19180
61.05–25
(b) added ... 19180
70.05–1
(b) added ... 6397
70.05–3
Introductory text of (a) and (b) revised; (d) added ... 6397
72
Authority citation revised ... 19180
72.05–90
Revised ... 19180
75.43–5
(b) revised ... 384
75.43–90
(a)(2) added ... 384
76
Authority citation revised ... 19180
76.10–3
Added ... 19181
76.10–10
(f) and (g) revised ... 19181
76.10–90
(a)(3) and (4) revised; (a)(5) added ... 19181
76.15–90
(a)(2) revised ... 19181
77
Authority citation revised ... 19181
77.35–5
(f), (g), and (h) added ... 19181
77.35–10
(a) revised ... 19181
78
Authority citation revised ... 19181
Authority citations of Subparts 78.07, 78.13, 78.14, 78.17, 78.30, 78.45, 78.47, 78.70, 78.75, 78.80, and 78.85 amended ... 19181
78.07–1—78.07–25
Subpart 78.07 authority citation amended ... 19181
78.13–1—78.13–20
Subpart 78.13 authority citation amended ... 19181
78.14–1—78.14–20
Subpart 78.14 authority citation amended ... 19181
78.17–1—78.17–80
Subpart 78.17 authority citation amended ... 19181
78.30–5—78.30–30
Subpart 78.30 authority citation amended ... 19181
78.45–1
Subpart 78.45 authority citation amended ... 19181
78.47–1—78.47–90
Subpart 78.47 authority citation amended ... 19181
78.47–53
Revised ... 19181
78.70–1—78.70–5
Subpart 78.70 authority citation amended ... 19181
78.75–1
Subpart 78.75 authority citation amended ... 19181
78.80–1—78.80–35
Subpart 78.80 authority citation amended ... 19181
78.85–1
Subpart 78.85 authority citation amended ... 19181
80
Added ... 6397
Subpart 80.15 added ... 12480
80.15–1
Subpart 80.15 added ... 12480
94.43–5
(b) revised ... 384
94.43–90
(a)(2) added ... 384
98
Authority citation revised ... 17621
98.03–35
(h) added ... 17621
98.05–50
(f) amended ... 17621
98.10–45
(f) amended ... 17621
98.15–45
(f) and (g) amended ... 17622
98.18–45
(f) and (g) amended ... 17622
98.20–40
(c) revised ... 17622
98.20–55
Revised ... 17622
98.20–60
(b), (d), and (f) revised ... 17622
98.20–70
(e) and (f) amended ... 17622
98.25–90
(d) amended ... 17622
98.25–95
(a) revised ... 17622
98.35–7
(a) amended ... 17622
111
Authority citation revised ... 19181
111.05–25
(b) amended ... 20814
111.35–15
(b)(1) and (c)(1) revised ... 20814
111.40–1
(g) amended ... 20814
111.50–5
(c)(2) added ... 19181
111.55–1
(d), (h)(1), and (i)(1) revised ... 20814
111.55–20
Revised ... 20814
111.65–15
(a)(2) revised; (a)(3) added ... 19182
112
Authority citation revised ... 19182
112.05–5
(a) amended ... 20815
112.50–1
Revised ... 20815
112.90–3
Added ... 19182
112.90–5
Heading and (a) revised ... 19182
112.90–10
Heading and (a) revised ... 19182
113
Authority citation revised ... 19182
113.25–5
Revised ... 19182
113.25–10
(b)(1) revised; (b)(7) added ... 19182
113.25–90
(d) added ... 19183
113.50–5
(a)(7) added ... 19183
113.50–90
(b)(1)(v) added ... 19183
113.55–30
Added ... 20812
146
Authority citation revised ... 8148
Authority citation revised ... 20816
146.02–10
Revised ... 8148
146.02–11
Revised ... 8148
146.03–4
Added ... 8149
146.04–5
Amended ... 8149
146.05–17
(q) amended ... 8149
146.06–14
Revised ... 8149
146.09–15
Introductory texts of (b) and (d) revised ... 8149
146.20–35
(e) revised ... 8150
146.20–85
(a) revised ... 8150
146.20–87
Introductory text of (a) revised ... 8150
146.21–15
Revised ... 8150
146.21–57
Revised ... 8150
146.22–7
Revised ... 8150
146.22–100
Amended ... 8150
146.23–13
Revised ... 8150
146.23–100
Amended ... 8150
146.24–27
Revised ... 8151
146.25–20
Revised ... 8151
146.25–21
Revised ... 8151
146.25–23
Added ... 8151
146.25–25
Revised ... 8151
146.25–26
Revised ... 8151
146.25–30
Revised ... 8152
146.25–35
(e) and (f) revised; (g) and (h) added ... 8152
146.25–43
Revised ... 8153
146.25–45
Heading and (i) revised; (j) added ... 20816
146.25–50
(b) revised ... 8153
(a) revised ... 20817
146.25–400
Amended ... 8153
146.26–35
Revised ... 8154
146.27–35
Revised ... 8154
146.29–5
Revised ... 8154
146.29–11
(c) revised ... 8154
146.29–13
Revised ... 8157
146.29–14
Added ... 8157
146.29–29
(c) revised ... 8158
146.29–35
(b) revised ... 8158
146.29–39
(c) and (m) revised ... 8158
146.29–51
(b) revised ... 8158
146.29–57
(c) revised ... 8158
146.29–59
Introductory text of (d) and (d)(5) revised ... 8158
146.29–61
(a) revised ... 8158
146.29–73
(c) revised ... 8158
146.29–75
Introductory text of (b) revised ... 8159
146.29–81
(b) and (c) revised ... 8159
146.29–85
(h) revised ... 8159
146.29–90
Added ... 8159
146.29–93
(a) revised ... 8159
146.29–99
(c) amended; Chart A revised ... 8159
146.29–100
Amended ... 8160
147
Authority citation revised ... 8161
147.03–8
Revised ... 8161
147.03–10
Revised ... 8161
147.05–100
Amended ... 8161
154.20
Added ... 12794
160
Subpart 160.055 revised ... 5500
160.055–1—160.055–9
Subpart 160.055 revised ... 5500
171.10–1
(a)(2) and (b) amended ... 4499
171.10–3
(a) amended ... 4499
171.10–25
(a) amended ... 4499
171.15–20
(b) and (c) amended ... 4499
180.30–1
(b) added ... 385
184
Authority citation revised ... 20813
184.15–5
Added ... 20813
184.40–1
Amended ... 20813
Chapter II
202
Revised ... 2705
206
Subpart A revised ... 12951
206.1—206.5
Subpart A revised ... 12951
221
Appendix amended ... 4499
221.7
(a)(2) revised ... 4122
221.11
Amended ... 17595
222.2
Revised ... 7525
247
Revoked ... 7054
255.2
(a) revised ... 17595
255.3
(a) revised ... 17595
282.0–11
Added ... 20775
282.329
(a) revised ... 20775
282.330
(a) revised ... 20775
282.332
Heading and (a) revised ... 20775
282.338
Heading and (a) revised ... 20775
282.343
Revised ... 20775
282.344
Heading and (a) revised ... 20776
282.349
(a) and (b) amended ... 20776
282.350
Heading revised ... 20776
282.354
Heading and (a) revised ... 20776
282.384
(b) revised ... 20776
282.556
(b) revised ... 20776
282.570
(b) amended ... 20776
282.595
Deleted ... 20776
282.599
Revised ... 20776
282.600
Center heading and (a) revised ... 20776
282.690
Revised ... 20776
282.700
(a) amended ... 20776
282.979
Revised ... 20776
282.985
Redesignated from 282.995 ... 20777
282.986
Redesignated from 282.996; revised ... 20777
282.989
Redesignated from 282.999; revised ... 20777
282.990
Center heading and section added ... 20777
282.994
Added ... 20777
282.995
Redesignated as 282.985 ... 20777
282.996
Redesignated as 282.986; revised ... 20777
282.998
Added ... 20777
282.999
Redesignated as 282.989; revised ... 20777
282.999
Deleted ... 20777
283.095
Revised ... 20777
283.0–20
Amended ... 20777
283.0–30
Amended ... 20777
290.1
Revised ... 7174
293.8
Redesignated as 293.9(b); revised ... 10855
293.8
Added ... 10855
293.9
Revised ... 10855
308.6
Amended ... 4537
Amended ... 11528
308.106
Amended ... 4537
Amended ... 11528
308.206
Amended ... 4537
Amended ... 11528
308.305
Amended ... 4537
Amended ... 11528
308.552
Amended ... 17891
309.1—309.101
Revised ... 7525
Revised ... 16272
310
Subpart A recodified and revised ... 4537
310.1—310.12
Subpart A recodified from 310.1—310.12a; revised ... 4537
310.1—310.12a
Subpart A recodified as 310.1—310.12; revised ... 4537
310.58
(c) amended ... 3022
310.60
(c) amended ... 3022
350.4
Revised ... 9224
350.5
Revised ... 9224
380
Subpart D added ... 12845
380.30—380.36
Subpart D added ... 12845
Chapter III
Heading revised ... 8590
401
Authority citation revised ... 14220
401.110
(a)(1), (2), (3), (7), and (8) revised; (a)(9) added ... 14220
401.200
Revised ... 14220
401.210
(a)(1), (4), and (7) revised ... 14220
401.211
(a)(3) suspended in part ... 871
Introductory text of (a) and (a)(3) amended; (c) and (d) revised ... 14220
401.220
(a), (b)(1) and (4), (c), and (e) amended ... 14221
401.230
(b), (c), (d), and (e) amended; (f) canceled ... 14221
401.240
(a), (c), (d), and (e) amended ... 14221
401.250
Revised ... 14221
401.260
(a), (b), and (c) amended ... 14221
401.300
Introductory text of (a) and (b) amended ... 14221
401.310
Introductory text amended ... 14221
401.320
(a) and (d)(2), (3), (4), and (5) amended ... 14221
401.330
(a) and (b) amended ... 14221
401.340
(c) amended ... 14221
401.400
Revised ... 14104
(a)(1) corrected ... 14895
401.410
Revised ... 14105
401.420
Revised ... 14105
401.430
Amended ... 14221

46 CFR—Continued

Chapter III—Continued

401.431 (a), (d), (e), and (f) amended 14221
401.440 Amended 14221
401.500 Amended 14221
401.510 Revised 14221
401.600 (a) and (b) amended 14222
401.606 Revised 14222
401.610 Revised 14222
401.615 Revised 14222
401.620 Revised 14222
401.630 Revised 14222
401.645 Amended 14222
401.650 Revised 14222
402 Authority citation revised 8590
402.100 Amended 14223
402.210 Introductory text of (a) amended 14223
402.320 (a)(3) revised 8590
Introductory text of (a) amended 14223
403 Authority citation revised; part amended 14223

Chapter IV

500.735–3 Revised 13382
500.735–10 Added 13382
500.735–11 Revised 13382
500.735–12 Heading revised; (e)(1) recodified as 500.735–11(f) and revised 13383
500.735–19 (a), (d), (g), (h), (j), and (p) revised; (q) added 13383
500.735–32 Revised 13383
500.735–33 Revised 13383
500.735–35 Revised 13383
500.735–39 Revised 13383
500.735–42 Added 13384
502 Subparts S and T added 7455
502.5 Revoked; superseded by new Part 503 8407
502.6 Recodified as Subpart E of new Part 503; revised 8407
502.301—502.304 Subpart S added 7455
502.311—502.321 Subpart T added 7455
503 Added 8407
Authority citation corrected 9319
503.43 (f) added 10515
510.9 Amended 8524
510.22 Effective date of amendment of (a) 3774
Effective date of amendment of (a) postponed 5457
Effective date of amendment of (a) postponed 6399
Amendment of (a) revoked 17480
510.23 Effective date of revision of (f) 3774
Effective date of revision of (f) postponed 5457
510.24 Effective date of revision of (a) and (f) 3774
Effective date of revision of (a) and (f) postponed 5457
510.26 (b) revised 6370
513 Added 5504
526.1 (c) and (d) revised; (f) added 17667
530.6 Added 9170
530.7 Added 9650
531 Heading revised 7457
531.5 (i) added 7457
531.25 Added 12753
533 Compliance date 7214
533.3 Revised 7915
540 Added 3987
Subpart B added 7283
540.5 Introductory text amended 5457
540.20—540.27 Subpart B added 7283

Proposed Rules:

2 13514
10 795
20 795, 13514
25 795
26 795
30 13514
31 795, 13514
32 795, 13514
33 795, 15835
34 795
35 795, 13514
37 13514
38 13514
39 795, 13514
40 13514
50 13514
51 13514
52 13514
53 13514
54 13514
55 795, 13514
56 13514
57 13514
58 13514
59 13514
60 13514
61 795, 13514
62 13514
63 13514
64 13514
65 13514
66 13514
67 13514
68 13514
69 13514
70 13514
71 795, 13514
72 795
75 795
76 795
77 795
78 795, 13514
79 13514
80 3153
90 795, 13514
91 795, 13514
92 795
93 795
94 795, 15835
95 795
96 795
97 795, 13514
98 795, 13514
99 13514
111 795, 13514
112 795, 15835
113 795
146 795
147 795
160 795
162 13514
167 795
175 795
176 795, 13514
180 795
182 13514
184 795
187 795
189 795
192 795
195 795
Ch. II 16486, 17980
401 3709, 5425, 12756, 13079, 13668
403 3709, 5425, 13668
Ch. IV 16432, 16226
502 6513
510 285, 4579, 19192
512 5516
514 16496, 20618
536 7857, 19192
540 3064

47 CFR

Chapter I

0 Subpart C heading revised 10570
0.1 Deleted 10569
0.1 Redesignated from 0.2(a); revised 10569
0.2 (a) redesignated as 0.1 and revised; (b) redesignated as 0.4 and revised 10569
Deleted 12180
0.3 Revised 10569
0.4 Redesignated from 0.2(b); revised 10569
0.5 Revised 10569
(a)(12) and (b)(6) amended 13125
0.61 Center heading and section revised 13125
0.93 Revised 20859
0.114 Amended 20859
0.121 (a) amended; (b), (c), (d), and (e) revised 20859
0.184 Heading revised; (c) amended 20860

1.211 (e) deleted 20860
1.261 (b) amended 20860
1.281 (dd) through (jj) added 10363
(kk) added 15472
(ll) added 15675
1.289 (c) added 3831
(c)(10) added 6283
(c)(11) added 7835
(b) revised 20860
1.291 (k) added 5273
1.311 (a)(9) revised 20860
1.314 (e) revised 20860
1.315 (b) revised 20860
1.331 (b)(8) revised; (b)(19) added 3831
1.385 (a) revised 20860
1.401—1.493 Subpart C heading revised 10570
1.401 (b) revised 12795
(a) revised 20860
1.403—1.431 Revoked 10570
1.403 Added 10570
1.405 Added 10570
1.406 Added 10570
(b)(7) corrected 12180
1.411—1.420 Center heading and sections added 10571
1.421—1.423 Center heading and sections added 10572
1.422 Amended 20860
1.423 (c)(15) and (16) corrected 12180
Introductory text of (a) amended 13125
1.431—1.434 Center heading and sections added 10573
1.441 Redesignated as 1.481; amended 10578
1.441—1.467 Center heading and sections added 10573
1.443—1.453 Redesignated as 1.483—1.493 10578
1.443 (c) revised 2626
Amended 13125
1.455 (g) amended 13125
1.457 (g) revised 11213
Headings of (a), (b), (c), (d), (e), and (f) corrected 12180
1.471—1.475 Center heading and sections added 10578
1.481 Redesignated from 1.441; amended 10578
1.483—1.493 Redesignated from 1.443—1.453 10578
1.51 (g) added 8813
Amended 20860
1.70 Added 2890
1.202 Revised 20861
1.412 (a)(1) amended 20861
1.526 (a)(1), (2), and (3) amended 20861
1.545 Revised 2771
1.570 (b)(3) amended 20861
1.572 (a)(1) revised 11214
1.573 Amended 20861
1.912 (e) revised 20861
1.1209 (g) added 4358
1.1227 (b) revised 4358
2.106 Amended 924, 2772, 3832, 4069, 6933, 8147, 10300, 11991, 12916.
2.561 (b) revised 12795
2.601 Revised 273
Revised 10181
2.602 Revised 10181
2.603 (a) and (b) revised; (d) added 273
Revised 10181
5.63 Revised 1129
13.5 (c)(2) and (3) redesignated as (c)(3) and (4) respectively; (c)(2) added 9232
13.11 (b)(1) revised 2627
15.63 (c) amended 6933
(c) revised 10854
17.1 Revised 11268
17.2 (o) added 8813
(a) deleted; (b) redesignated as (a) and revised; (c) through (n) deleted; (o) redesignated as (b) 11268
17.3 Deleted 11268
17.4 Revised 11268
17.7 Added 11269
17.8 Added 8813
(a) revised 13591
17.9 Added 8813
17.10 Added 8813
17.11 Deleted 11268
17.12 Deleted 11268
17.13 Deleted 11268
17.14 Revised 11269
17.15 Deleted 11269
17.16 Deleted 11269
17.17 Revised 11269
17.21 Revised 11269
17.22 Revised 11269
17.24 Revised 11269
17.25 (a) (1) and (2) revised 11269
17.26 (a) (1) and (2) revised 11270
17.27 (a) (1) and (2) revised 11270
17.28 (a) (1) and (2) revised 11270
17.29 (a) (1) and (2) revised 11270
17.30 (a) (1) and (2) revised 11270
17.31 (a) (1) and (2) revised 11271
17.32 (a) (1) and (2) revised 11271
17.33 (a) (1) and (2) revised 11271
17.34—17.45 Deleted 11271
17.34—17.58 Added 11271
19.735–201a Added 13457
19.735–202 Introductory text of (a) revised; (c) redesignated as 19.735–201a and revised; (d) and (e) revised; (f) redesignated from 19.735–203(e)(1) and revised 13457
19.735–203 Heading revised; (e)(1) redesignated as 19.735–202(f) and revised 13457
19.735–210 (d), (g), (h), (j), and (p) revised; (q) added 13457
19.735–403 Revised 13458
19.735–403a Added 13458
19.735–405 (c) revised 13458
19.735–406 Revised 13458
19.735–410 Revised 13458
21.15 (p) added 2890
21.32 (a) and (b) revised 13282
21.502 Revised 12041
21.503 Revised 12041
21.504 Revised 12041
21.712 (c) and (d)(3) revised; (d)(4) added 914
23.20 (c) added 2890
25 Subpart E added 321
25.390 Subpart E added 321

47 CFR—Continued

Chapter I—Continued

31 Page
Appendix B amended 2634
31.1–17
Revised 2628
31.120:1
(a) revised 2628
31.122
(a) revised 2628
31.137
Revised 2629
31.159:1
(a) revised 2629
31.2–20
(c) revised 2629
31.2–25
(c) revised 2629
31.212
Amended 2629
31.221
Amended 2629
31.231
Amended 2630
31.234
Amended 2630
31.241
Amended 2630
31.242:1
Amended 2630
31.242:2
Amended 2630
31.242:3
Amended 2630
31.242:4
Amended 2631
31.243
Amended 2631
31.261
Amended 2631
31.264
Amended 2631
31.500
Amended 276
31.504
Revised 2631
31.510
(b) revised; (c) added 276
31.521
Revised 2631
31.6–63
(a) revised 2631
31.602:1
Amended 2631
31.602:2
Amended 2631
31.602:3
Amended 2632
31.602:4
Amended 2632
31.602:5
Amended 2632
31.602:6
Amended 2632
31.602:7
Amended 2632
31.604
Amended 2632
31.622
Amended 2633
31.624
(a) and (b) revised 2633
31.626
Amended 2633
31.627
Amended 2633
31.629
Amended 2633
31.630
Amended 2633
31.643
Amended 2633
31.645
Amended 2634
31.662
Amended 2634
31.668
Amended 2634
31.702
Amended 2634
31.707
Amended 2634
31.8
Amended 2634
33
Report Form M amended 276
33.1064
Amended 2635
33.3010
Amended 276
33.3030
Amended 276
33.9000
Amended; (a) revised 2635
34.04–1
Revised 2635
34.1–99
Amended 2635
34.14
Amended 2635
34.22
Amended 2635
34.31
Revised 2636
34.32
Revoked 2636
34.33
Amended 2636
34.36
(b) revised 2636
34.40
Amended 2636
34.41
Amended 2636
34.51
Amended 2636
34.71
Revised 2636
34.4250
Amended 2636
34.1–6–1
Amended 2637
35.15
Amended 2637
35.21
Amended 2638
35.23
Amended 2638
35.51
Amended 2638
35.61
Amended 2638
35.71
Amended 2638
35.4223
Amended 2638
64
Subpart D added 788
Appendix A added 788
Subpart E added 11275
64.202
(a) revised 2892
64.221
(a) amended 10855
64.227
(b) revised 2892
64.401
Subpart D added 788
64.501
Subpart E added 11275
73 Page
Subpart G revised 10184
73.13
Deleted 11796
73.18
Text designated as (a); (b) added 2890
73.39
(j) added 13511
73.49
(b)(4) and (5) deleted 10306
73.62
(c)(5) added 11796
73.66
(a) and (c) revised 4359
Revised 11797
73.67
Revised 10447, 12402
73.99
Added 10447, 12402
Corrected; (j) added 10794
73.117
(g) and note added 15162
73.119
(h) redesignated as (i) and revised; new (h) added 7916
73.123
Added 10305
(b) revised 11532
73.190
Amended 10447, 10794
73.202
Amended 326, 926, 3151, 6138, 7336, 8528, 8914, 10302, 11877, 11879, 12615, 15166, 15545, 15711, 19187
73.209
(c) added 8813
73.215
Text designated as (a) and amended; (b) added 2891
73.253
(a) amended 7531
73.257
(b)(8) deleted 11797
73.262
Revised 19188
73.274
(b) revised 4359
Revised 11797
73.287
(g) and note added 15162
73.289
(h) redesignated as (i) and revised; new (h) added 7916
73.300
Added 10305
(b) revised 11532
73.311
(a) revised 11471
73.320
(g) added 13511
73.332
(d)(6) amended 4532
73.515
Text designated as (a) and amended; (b) added 2891
73.553
(a) amended 7531
73.557
(b)(8) deleted 11797
73.572
(b) revised 4359
Revised 11797
73.598
Added 10305
(b) revised 11532
73.606 Page
(b) amended 925, 1129, 1130, 3833, 6142–6143 (3 docs.), 6399, 6779, 8789, 7023, 7024, 7393–7394 (3 docs.), 7966, 8677, 9816, 11214, 11472 (2 docs.), 11880, 12560, 12797, 12798.
73.612
Text designated as (a); (b) added 3814
73.623
Text designated as (a) and amended; (b) added 2891
73.652
(c) and note added 15162
73.654
(i) redesignated as (j) and revised; new (i) added 7916
73.679
Added 10305
(b) revised 11532
73.688
(g) added 13511
73.712
Text designated as (a) and amended; (b) added 2891
73.901–73.971
Subpart G recodified as 73.901–73.981 and revised 10184
73.901–73.981
Subpart G recodified from 73.901–73.971 and revised 10184
74.11
Revised 914
74.12
Text designated as (a) and amended; (b) added 2891
74.402
(a) amended 11992
74.682
(a)(3) corrected 452
74.950
(f) revised 13512
74.1033
(a) and (b)(3) revised; (b)(4) added 914
74.1100
Added 914
74.1103
(a) and (b)(3) revised; (b)(4) added 914
74.1105
Revised 915
Corrected 1090
Amended 10306
74.1107
(a), (b), and (d) revised 915
(e) added 5554
Amended 10306
81
Subpart P added 6935
Subpart F recodified and revised 13663
81.31
(h) added 2891
81.111
(e) and (f) revised; (g) and (h) added 6934
81.131
(d) revised 6934
81.132
(a) amended 6934
81.133
Revised 6934
81.134
(f) revised 6934
81.137
(c) added 6935
81.151–81.156
Subpart F recodified as 81.151–81.159; revised 13663
81.151–81.159
Subpart F recodified from 81.151–81.156; revised 13663
81.213
(a)(2) revised 13664
81.313
(a)(2) revised 13664
81.369
(a)(2) revised 13664
81.481–81.486
Center heading and sections deleted 6935
81.535
(b)(2) revised 13664
81.601–81.604
Subpart P added 6935
83
Subpart F recodified and revised 13664
83.104
(a) revised 13664
83.151–83.158
Subpart F recodified as 83.151–83.165; revised 13664
83.151–83.165
Subpart F recodified from 83.151–83.158; revised 13664
85.4
(b) revised 6936
85.106
(a)(2) revised 13667
85.115
(b) amended 6936
(h) amended 13667
85.151
(h)(3) added 6936
85.152
(g) added; note revised 6936
85.153
(e) added 6936
85.155
(c) added 6936
85.156
(b) added 6936
85.208
Added 6936
87.31
(e) added 2891
87.99
(a) revised 4069
87.183
(i) amended 10300
87.195
(e) added 10300
87.201
(b) and (c) revised 4069
87.251
Revised 4069
87.253
Revised 4069
87.257
Revised 4069
(c) revised 11276
87.277
Revised 11276
87.303
Revised 16161
87.305
Revised 16162
87.401
(a) amended 10300
89.55
(f) added 2891
89.101
Introductory text of (f) revised 12917
89.107
Order regarding effectiveness 7531
89.259
(f) amended; (g)(1) and (2) added 12917
89.309
(c) revised 927
91.8
(a)(1)(viii) added 6937
(23) added 12917
91.54
(f) added 2891
91.104
Order regarding effectiveness 7531
91.254
(a) amended; (b)(17) through (23) added 12917
91.304
(a) amended; (b)(21) through (26) added 12917
91.354
(a) amended; (b)(21) added 11993
(a) amended; (b)(10) revised; (b)(22) through (26) added 12918
91.504
(a) amended; (b)(19) added 11993
(a) amended; (b)(20) through (25) added 12918
91.554
(a) amended; (b)(25) through (28) added 11994
(a) amended; (b)(29), (30), and (31) added 12918
91.559
(a) and (b)(3) revised; (b)(4) added 916
91.604
(b)(2) revised 924
93.54
(f) added 2891
93.104
Order regarding effectiveness 7531
95.15
(e) added 2891
95.41
(e) revised 2892
95.51
Order regarding effectiveness 7531
97.7
Revised 12684
(d)(2) corrected 16162
97.9
(b) revised 12685
97.21
Revised 12685
97.23
Revised 12685
97.25
(c) revised 12685
97.29
(a) revised 12685
97.31
(b) revised 12685
97.33
Revised 12685
97.35
(b) deleted 6143
97.41
(c) added 2891
97.51
(a)(5) revised 12685
(a)(5) corrected 13277
97.59
(a) and (b) revised 12685
97.87
Revised 17480
97.139
Deleted 12560
97.141
Deleted 12560

47 CFR—Continued

Chapter I—Continued

97.143
Deleted ... 12560
99.11
(g) added ... 2892

Chapter II
Added ... 790
201
Added ... 791

Proposed Rules:
0 ... 10663
1 ... 7917, 10663, 13821
2 ... 332, 2699, 3105, 3301, 4501, 6583, 12562, 12143, 13972, 15180, 15712, 16103, 16405, 18115, 20782
13 ... 13821
15 ... 6145, 7686, 12563
18 ... 3699
21 ... 464, 2383, 2403, 9103, 9173, 12005, 12121, 18723, 13726, 20661
43 ... 14159
64 ... 3384
73 ... 464, 823, 873–874, 1135, 1196, 3384, 3699, 3023, 3024, 3178, 3471, 3835, 3836, 3886, 4077, 4078, 4124, 4175, 4384, 4383, 5564–5565, 5642, 5740, 6099, 6147, 6403, 6409, 7082, 7844, 7897, 7918, 7919, 8590, 8883, 9105, 9173, 10675, 10453, 10606, 10664, 11086, 11283, 11285, 11338, 11886, 12407, 12564, 12954, 13232, 13384, 13527, 13776, 13823, 14160, 14605, 15679, 16053, 16054, 16107, 19191, 20659, 20739, 20662
74 ... 332, 7537, 8725, 9103, 10664, 12121, 12562, 13010
81 ... 332, 4501, 6583, 12294
83 ... 4501, 6583, 10663, 12294
85 ... 332, 10663, 12294
87 ... 3699, 7345, 10665, 11894, 14161, 15712, 16053, 16056, 16405, 18115, 20782
89 ... 3301, 10675, 11953, 13143, 13145, 13972, 14161, 14853, 15180, 15680, 16056
91 ... 3301, 7537, 8533, 9103, 12121, 13143, 13972, 14161, 14853, 15180, 16056, 17440
93 ... 13143, 13972, 14161, 15180, 15680, 16056
95 ... 3105, 13972
97 ... 3293, 6409, 6942, 8303, 13726

48 CFR

Chapter IV
411.21
Revised ... 9024

Chapter V
501.12
Revised ... 17940

49 CFR (Prior to April 1, 1967)

Chapter I
Parts 0–500 recodified as Parts 100–600, respectively ... 5606
0–500
Chapter I recodified as Parts 100–600, respectively ... 5606
1.5
(k) added ... 5273
1.55
Revised ... 5273
1.88
Revised ... 5273
1.91
(d) revised ... 5273
1.247
(i) revised ... 4070
72.5
(a) amended ... 5274

73
Note 1 cancelled ... 3453
73.7
(b) revised ... 5274
73.22
Introductory text of (a) revised ... 6, 413
Effective date of revision of introductory text of (a) postponed ... 1180
73.33
Revised ... 3453
73.119
(a) (17) amended; (e) (3) and (f) (5) revised ... 3455
73.123
(a) (6) revised ... 3455
73.134
(a) (6) revised ... 3455
73.135
(a) (9) revised ... 3455
73.136
(a) (8) revised ... 3455
73.141
(a) (8) revised ... 3455
73.145
(a) (7) revised ... 3455
73.148
(a) (5) revised ... 3455
73.190
(b) (4) revised ... 3455
73.206
(c) (3) revised ... 3455
73.224
(a) (4) revised ... 3455
73.247
(a) (12) revised ... 3456
73.248
(a) (6) revised ... 3456
73.249
(a) (6) revised ... 3456
73.252
(a) (4) revised ... 3456
73.253
(a) (6) revised ... 3456
73.254
(a) (5) revised ... 3456
73.255
(a) (5) revised ... 3456
73.257
(a) (4) revised ... 3456
73.262
(a) (11) and (b) (4) revised ... 3456
73.263
(a) (10) revised ... 3456
73.264
(a) (14) amended; (b) (3) revised ... 3456
73.265
(b) (4) revised ... 3456
73.266
(f) (2) revised ... 3456
73.267
(a) (7) revised ... 3456
73.268
(b) (3) revised ... 3456
73.271
(a) (3), (13), (14), and (15) revised ... 3457
73.272
(h) (2) and (i) (3) revised ... 3457
73.273
(a) (5) revised ... 3457
73.276
(a) (6) revised ... 3457
73.280
(a) (8) revised ... 3457
73.289
(a) (4) revised ... 3457
73.292
(a) (2) revised ... 3457
73.294
(a) (3) revised ... 3457
73.296
(a) (9) and (10) revised ... 3457
73.296
(a) (2) revised ... 3457
73.297
(a) (1) revised ... 3457
73.315
(b) (1) added ... 7, 413
Effective date of (b) (1) postponed ... 1180
73.346
(a) (12) revised ... 3457
73.347
(a) (3) revised ... 3457
73.352
(a) (5) revised ... 3457
73.353
(e) revised ... 3457
73.354
(a) (5) amended ... 3458
73.369
Introductory text of (a) (14) revised ... 3458
73.391
(a) (1) and (3), introductory text of (b), and (b) (1) ... 5274
73.392
Introductory text of (a), (a) (2) (i) and (iii) and (3), (b), (e), and (f) revised ... 5274
73.393
(a) revised; (h) and (e) cancelled; (f) (2) and (5) revised; (f) (6) redesignated as (9) and revised; new (f) (6), (7), and (8) added; (h), introductory texts of (i) and of (l), (l) (2), (m) (3), and (n) revised ... 5275
73.394
(c) revised; (d) (1) added ... 5275
74.532
(j) revised ... 5275
74.544
(a) (6) revised ... 5276
74.584
(a) amended ... 5276
74.586
(h) (2) amended; (h) (3) revised ... 5276
74.588
(c) revised ... 5276
74.597
(e) revised ... 5276
74.600
(c) revised ... 5276
75.655
(j) (2) amended; (j) (3) revised; (j) (6) cancelled; (j) (7) redesignated as (6) and revised ... 5276
77
Subpart F revised ... 2818
Note 1 cancelled ... 3458
77.806
(b) revised ... 5276
77.815
(a) (1) added ... 3458
77.819
(a) (1) added ... 3458
77.824
Heading revised; (a) through (c) and (e) through (h) cancelled; (d) redesignated as (e); new (a) through (d) and (f) through (h) added ... 3458

77.841
(d) (1) amended; (d) (2), (4), and introductory text of (5) revised ... 5276
77.860
(c) revised ... 5277
77.875–77.877
Subpart F revised ... 2818
78.205–38
Added ... 5277
78.321
Cancelled ... 3459
78.323
Cancelled ... 3459
78.324
Cancelled ... 3459
78.325
Cancelled ... 3459
78.326
Cancelled ... 3459
78.330
Cancelled ... 3459
78.331
Cancelled ... 3459
78.336
Cancelled ... 3459
78.340–78.340–10
Added ... 3459
78.341–78.341–7
Added ... 3462
78.342–78.342–7
Added ... 3464
78.343–78.343–7
Added ... 3465
91.201
Introductory text of (b) corrected ... 4360
91.206
(c) corrected ... 4360
91.208
Corrected ... 4361
91.212
(c) and (d) corrected ... 4361
91.247
(b) corrected ... 4361
91.264–91.267
Center heading and sections deleted ... 4361
91.330
Reinstated ... 4361
91.331
Revised and reinstated ... 4361
91.334
Reinstated; (a) revised; (b) through (f) deleted ... 4361
95.988
(e) revised ... 4499
95.990
Added ... 794
131.1
Introductory note added ... 2701
131.27
Added ... 2701
(a) (3) (ii) revised ... 3152
131.28
Added ... 2703
135
Added ... 927
Effective date postponed ... 3059
170.4
Revised ... 76
Effective date of revision stayed ... 3884
177a
Corrected and republished ... 385
190.33
Effective date of amendment further postponed ... 3467
191.8
Revised ... 719
191.9
Revised ... 720
191.10
Revised ... 720
191.11
Revised ... 720
193.25
(f) through (i) revised ... 3775
Effective date of revision of (f) through (i) postponed ... 5424

49 CFR (After April 1, 1967)

Chs. I and II designated as Subtitle B; Subtitle A added ... 5606
Subtitle A
Added ... 5606
1
Added ... 5606
Subpart B added ... 5609
1.4
(a–1) added ... 7497
Introductory text of (b) revised; (b) (3) added ... 12919
1.5
(j) (1) revised ... 6495
(j) (1) revised ... 11277
(q) (1) revised ... 14105
(j) (1) revised ... 14277
(j) (1) (ii) revised ... 15711
1.21—1.33
Subpart B added ... 5609
3
Added ... 11472
3.5
Added ... 14846
5
Added ... 10363
Appendix A added ... 11473
7
Added ... 9284
9
Added ... 10076
91
Added, superseding 15 CFR Part 7 ... 13384
93
Redesignated from 14 CFR Part 1502; revised ... 20778
Chapter I
Parts 100–600 recodified from Parts 0–500 respectively ... 5606
ICC regulations transferred to new Chapter X and republished ... 20003
100–600
Ch. I recodified from Parts 0–500 respectively ... 5606
100.5
Revised ... 11215
100.10
Added ... 9020
101.68
(a) (7) revised ... 14696
101.70
(a) amended ... 14696
101.101
(a) (2) amended; (e) revised; (g) amended ... 12753
101.242
Deleted ... 12753
101.243
Deleted ... 12753
101.244
Deleted ... 12753
103.5
Added ... 15484
105a
Added ... 9020
105a.1
(f) added ... 9816
106.2
Revised ... 13414
107a
Added ... 10794
110
Amended ... 13136
114
Amended ... 15484
120
Amended ... 13927
124
Amended ... 14392
171.8
(h) added ... 13324
Effective date of (h) postponed ... 16277
173.22
(a) (1) revised ... 5624
173.33
(c) revised ... 5624
(b) (2) revised ... 5624
173.404
(b) revised ... 13324
Effective date of revision of (b) postponed ... 16277
173.427
Revised ... 13324
Effective date of revision postponed ... 16277
173.428
Deleted ... 13325
Effective date of deletion postponed ... 16277
173.429
Deleted ... 13325
Effective date of deletion postponed ... 16277
173.430
Revised ... 13325
Effective date of revision postponed ... 16277
174.507
(c) added ... 13325
Effective date of (c) postponed ... 16277
174.510
Added ... 13325
Effective date postponed ... 16277
174.511
Added ... 13325
Effective date postponed ... 16277
174.532
(m) added ... 20982
174.566
(a) (1) added ... 20982
174.597
(b) amended ... 20982
174.655
(k) and (l) added ... 20982
175.652a
Added ... 13325
Effective date postponed ... 16277
175.653
(a) revised ... 13325
Effective date of revision of (a) postponed ... 16277
175.654
Revised ... 13325
Effective date of revision postponed ... 16277
175.657
Deleted ... 13325
Effective date of revision postponed ... 16277
176.704
Revised ... 13325
Effective date of revision postponed ... 16277

49 CFR (After April 1, 1967—Continued

Chapter I—Continued

176.704a
Added 13325
Effective date postponed 16277
176.704b
Added 13326
Effective date postponed 16277
177.815
(a) revised 13326
Effective date of revision of (a) postponed 16277
177.817
Revised 13326
Effective date of revision postponed 16277
177.818
Deleted 13326
Effective date of revision postponed 16277
177.819
Revised 13326
Effective date of revision postponed 16277
177.841
(e) added 20982
177.860
Heading revised; (a) (1) added 20982
180
Added 9228
Effective date postponed 12851
Revised 16040
191.201
Effective date of correction of introductory text of (b) postponed 8092
Effective date of correction of introductory text of (b) 11994
191.206
Effective date of correction of (c) postponed 8092
Effective date of correction of (c) 11994
(c) amended 13512
191.208
Effective date of correction postponed 8092
Amended; effective date 11994
191.212
Effective date of correction of (c) and (d) postponed 8092
Effective date of correction of (c) and (d) 11994
191.247
Effective date of correction of (b) postponed 8092
Effective date of correction of (b) 11994
191.331
Effective date of revision and reinstatement postponed 8092
Effective date of revision and reinstatement 11994
191.334
Effective date of reinstatement, revision of (a) and deletion of (b) through (f) postponed 8092
Effective date of reinstatement, revision of (a), and deletion of (b) through (f) 11994
195.935
Revised 5931
Vacated 11948
195.948
(d) revised 9230
195.949
(d) revised 9231
Vacated 11277
195.950
(d) revised 9231
195.966
(e) revised 8678
Vacated 14601
195.975
Temporarily suspended 8678
(e) revised 9689
195.976
Vacated 8718, 8969
195.979
Vacated 8718
195.981
Revised 6033
195.988
(e) revised 6780
195.990
Vacated 10515
195.991
Added 6347
195.992
Added 8037
195.993
Added 8038
195.995
Added 11949
195.996
Added 14156
Revised 14755
195.997
Added 14963
197.562
Revised 5932
Vacated 11949
197.994
Added 11949
235
Vacated 5624
239.1
Amended 16162
239.1A
Added 16162
239.2
Revised 16163
239.4
Revised 16163
239.5
(c) revised 16215
239.6
Revised 16163
239.8
Revised 16163
270.3
Revised 9231
270.8
Revised 13930
274.8
(b) revised 14557
277a
Revised 13282
277a.2
Corrected 13512
277c
Added 13283
281
Amended 14601
283
Amended 13326
287.100
Revised 8893
287.101
Revised 8894
287.201
(a) amended 6843
289.3
Revised 12403
290
Revised 17941
290.40
Revised 7128
291
Revised 17942
291.2
(a) revised 7128
291.10
Revised 7129
292
Revised 17945
292.10
Revised 10306
293
Revised 17949
293.17
(b) and (c) revised 5625
(b) and (c) revised 7957, 8246
293.42
(b) revised 5625
(b) revised 7957
293.71
(a), (b), (c), (g), (j) (2), (k) (1) and (7), and (l) (1) revised; (n) added 5625
(a), (b), (c), (g), (j) (2), (k) (1) and (7), and (l) (1) revised 7957
(n) revised 7958
293.91
Revised 7129
294
Revised 17969
294.3
Introductory text of (a) and (b) revised 7129
294.5
Revised 7129
294.7
Revised 7129
294.8
Revised 7129
294.9
Revised 7129
294.10
Revised 7129
294.11
Revised 7129
295
Revised 17971
295.8
(a), (j), (l) through (o), (s), and (t) revised 7130
295.9
Revised 7130
Revoked 17892
295.13
Revised 7130
296
Revised 17976
296.5
(a), (b), (c) (1), and (d) revised 7130
297
Revised 17978
423
Amended 14661
424
Amended 15025
505.6
(b) revised 14557
540
Amended 16428
600
Effective date 12689
890
Redesignated from Part 1200 of Chapter II 17480

Chapter II

1200
Redesignated as Part 890 of Chapter I 17480

Chapter X
Added; redesignated from ICC regulations in Chapter I 20003
1033.948
(d) revised 20861
1033.950
(d) revised 20862
1033.992
(e) revised 20862
1033.995
(f) revised 20817
1034.994
(d) revised 20817
1100
Appendix D added 20779
1100.8
Heading, introductory text, and (a) revised; (c) added 20778
1100.9
Revised 20778
1100.10
Heading revised 20778
1100.11
Revised 20778
1100.12
Revised 20778
1100.13
Revised 20778
1100.225
Revised 20654
1306.50
(a) and (c) revised 20654

Proposed Rules:

Ch. I 10517, 12853
71–90 10, 14, 675, 5294
80 1098
103 6451, 7128, 7134, 7185, 7600
110 8381, 8725
114 12008
120 9028
124 11644
152 14697
170 16487
176 890
177 18114, 20739
239 11477–11480, 16439, 18062
270 8182, 13823
274 12858
276 11170, 12854, 13197
281 10608
282 8725, 13823
288 12407, 15589
293 12190, 13821
294 18114, 20739
305 13823
423 10666
424 11959
505 12853
540 13233
1033 20987
1034 20987
1048 20863
1056 20659
1322 21039

50 CFR

Chapter I

1.11
Added 10855
10.3
(a) (1) and (3), (b) (4) and (7), and (c) revised 7713
(a) (3) revised 12689
10.6
(b) revised 7713
10.41
Revised 10795
10.45
Revised 10796
10.51
Revised 10797
10.52
Revised 7497
(a) corrected 7713, 8718
10.53
Revised 10797
(a) (1) corrected 11163
(c) added 11642
(b) revised 12039
(d) through (h) added 12686
Heading, (e), (f), and (g) corrected 12798
(e) corrected 13072
(c) (3 revised 13227
(c) (1) and (2) amended; (c) (3) revised 15834
10.54
Revised 12688
13
Amended 10356
Authority citation revised 20655
13.1
(d) (2) revised 10856
13.2
Revised 20655
13.6
(a) and (b) revised 20655
13.7
Revised 20655
13.12
Revised 20656
14
Amended 10856
15
Amended 10856
16
Amended 10856
16.1
(a) revised 10856
28.28
Amended 326, 666, 929, 2892, 4414, 6577, 12615, 14696, 17622, 20862 (3 docs.).
32
Amended 13384
32.11
Amended 3059, 12039, 12722, 12919, 13329, 13771, 13932, 14206, 15586.
32.12
Amended 11528, 11707, 11735, 11799, 11880, 11881, 12180, 12560, 12561, 12615–12617 (5 docs.), 12721, 12754, 12851–12852 (3 docs.), 12951 (2 docs.), 13002, 13003, 13073–13074 (3 docs.), 13193–13194 (3 docs.), 13227, 13226, 13284–13286 (2 docs.), 13329, 13512–13513 (3 docs.), 13592 (2 docs.), 13817–13818 (4 docs.), 13867–13868 (3 docs.), 13930, 13931, 13970, 13971, 14103, 14157, 14206, 14328, 14394, 14558, 14846, 14954, 15166, 15587, 15878, 16431.
32.21
Amended 12689, 12722, 12919, 13329, 13772, 13932, 14206, 14767 (2 docs.), 14954
32.22
Amended 79, 3884, 11276, 11440, 11441, 11473 (2 docs.), 11528 (3 docs.), 11530, 11735, 11798, 12039, 12181, 12617–12618 (3 docs.), 12722 (2 docs.), 12754, 12851, 12852, 12952 (2 docs.), 13003, 13005, 13074–13076 (5 docs.), 13194, 13228, 13329, 13458, 13513, 13592–13593 (4 docs.), 13719, 13818–13819 (4 docs.), 13932, 13971 (2 docs.), 14394, 14558, 14559, 14696, 14766, 15587, 15642, 15675, 17542, 20656, 20983
32.31
Amended 4415, 11163, 13329, 13771, 13772, 13932, 16100
32.32
Amended 7054, 8246, 9234, 9690, 10798, 11036, 11085, 11440, 11474, 11530 (4 docs.), 11735, 11799–11800 (3 docs.), 11881 (2 docs.), 11934, 12040, 12181, 12442, 12561, 12618–12620 (5 docs.), 12721, 12754, 12852, 12954 (2 docs.), 13004–13005 (2 docs.), 13075–13076 (3 docs.), 13194–13195 (3 docs.), 13227–13228 (5 docs.), 13286–13287 (3 docs.), 13329–13330 (3 docs.), 13458, 13513, 13593–13594 (3 docs.), 13771, 13819 (2 docs.), 13868, 13869, 13932, 13971, 14068–14061 (3 docs.), 14103, 14157, 14559, 14664, 14847, 15012, 15924, 16100
33.4
Amended 12919, 13772, 13932, 14767, 14954
33.5
Amended 327, 414 (2 docs.), 611, 720, 929, 983, 1180, 2376–2377 (7 docs.), 2639 (2 docs.), 2700 (3 docs.), 2848, 2893, 2952, 3097, 3151, 3216, 3218 (2 docs.), 3467, 3884 (3 docs.), 4415 (2 docs.), 4578, 5325 (2 docs.), 5626–5627, (3 docs.), 5689, 5738–5739 (3 docs.), 5835, 6034, 6096–6097 (3 docs.), 6143, 6400, 6495, 6685, 7024, 7131, 7394, 11036, 11531, 13229, 13330, 14847, 15166, 15711, 15758 (2 docs.), 15924, 16277–16278 (6 docs.), 16532 (2 docs.), 17430, 17481, 17623 (2 docs.), 17667, 17668, 18049, 20656, 20704, 20817, 20863
60.11
Amended 5787
80
Revised 16215

Chapter II

254
Added 16492
280
Revised 8970

Proposed Rules:

10 5626, 6196
13 16982, 13595
32 1132, 8765, 10857, 10982, 11224, 11801, 12404, 12444, 12958, 13720, 13983, 14063.
33 10857, 12444, 12958, 13720, 14063
80 12481
254 8419
280 7776

PARALLEL TABLE OF STATUTORY AUTHORITIES AND RULES

(Additions to 2 CFR; January—December 1967)

This table lists the sections of the U.S. Code which were added to 2 CFR as a result of new citations of authority carried in the *Federal Register* during January—December 1967. Recent legislation not yet assigned within the U.S. Code is carried by public law number at the end of the list.

In order to determine the *Federal Register* page numbers of the parallel CFR citations, users should consult the List of CFR Sections Affected, above.

5 U.S.C.:	CFR
552	1 Part 20; 5 Part 294; 7 Parts 1, 370, 412, 798, 900, 1520, 1701, 1813, 2101; 8 Part 103; 9 Parts 165, 204; 10 Part 9; 12 Parts 4, 261–262, 271, 505, 604; 13 Part 301; 14 Parts 221, 250, 310, 384, 389, 400, 401, 1201, 1206; 15 Parts 4, 60, 903; 17 Parts 140, 200; 19 Parts 14, 17, 26; 21 Part 308; 22 Parts 5–6, 212, 302–303, 503, 602–603; 24 Part 15; 26 Part 601; 28 Part 16; 29 Parts 70, 1401–1404; 31 Parts 1, 92, 270, 323, 351; 32 Parts 168, 169, 169a, 245, 248, 275, 286–286a, 287, 290–291, 518, 806, 813a, 1260, 1480, 1606, 1705; 33 Part 1; 35 Part 9; 36 Parts 200, 504; 37 Part 1; 39 Part 113; 41 Part 105–60; 43 Part 2; 45 Parts 5, 503, 704, 1005, 1100; 46 Parts 380, 503; 47 Part 0; 49 Parts 7, 100, 105a.
553	13 Part 19; 14 Parts 221, 250; 15 Parts 4, 60, 903; 36 Parts 7, 50.
559	7 Parts 1, 370, 412, 798, 900, 1520, 1701, 1813, 2101; 9 Parts 165, 204; 17 Part 140; 29 Part 70; 32 Part 1260; 36 Part 504; 45 Part 1005
1104	5 Part 294
1302	5 Parts 752, 771
3110	5 Part 310
3301–3302	5 Parts 305, 330, 713, 733, 752, 771
3302	5 Part 310
4118	5 Part 410
5338	5 Parts 531,752,771
5351	5 Part 511
6305	5 Part 630
6311	5 Part 630
7301	5 Parts 310, 752, 771
7327	5 Part 733
7701	5 Parts 752, 771
8124	20 Part 01
8128	20 Part 01
8140	32 Part 732
8145	20 Part 01
8149	20 Part 01
8347	5 Part 831
8716	5 Part 870
8 U.S.C. App.:	
652c	5 Part 550
759	5 Parts 330, 332
1117	5 Part 550
1134	5 Part 550
7 U.S.C.:	
211	9 Part 203
214	9 Part 203
218a	9 Part 203
601–674	7 Parts 900, 953
612c	7 Part 251
1131	7 Part 894
1132	7 Part 877
1133	7 Part 833
1134	7 Parts 833, 891–892, 894
1136	7 Parts 891–892, 894
1153	7 Parts 793, 894
1312	7 Part 725
1314a–1314b	7 Part 724
1373	7 Part 718
1375	7 Part 793
1379j	7 Parts 793–794
1421	7 Part 793
1423	7 Part 1421
1441 note	7 Parts 793–794
1444	7 Parts 793–794
1445	7 Part 1421
1506	7 Part 411
1516	7 Part 411
1702	7 Part 778
1707a	7 Part 1488
1785	7 Part 793
1813	7 Part 1421
1838	7 Parts 707, 719, 793
1989	7 Parts 1804, 1811–1812, 1821, 1823, 1861, 1872
2053	29 Part 40
2106	7 Part 1205
2133	9 Part 2
2151	9 Parts 1–3
2260	7 Part 354; 9 Part 97
8 U.S.C.:	
1103	8 Parts 100, 215, 234, 312
1185	8 Part 215
1224	8 Part 234
1228	8 Part 238
1423	8 Part 312
1443	8 Part 312
10 U.S.C.:	
133	32 Parts 151, 289, 713
136	32 Parts 164, 231
263 note	32 Part 100
471	33 Part 202
1085 note	32 Part 536
1331–1337	32 Part 86
1401–1406	32 Part 86
1577	29 Part 28
2101–2111	32 Part 110
2202	32 Parts 246, 248
2301–2314	32 Part 612
2737	32 Parts 750, 753
3012	32 Parts 519, 612
8012	32 Parts 806–807, 813a, 819–819a, 838–839, 873–875, 888b–888c, 909.
12 U.S.C.:	
1 et seq	12 Part 18
221a	12 Part 208
248	12 Part 264
365	31 Part 214
391	31 Part 214
565	12 Part 619
1464	5 Part 550; 12 Parts 505, 564
1725–1726	12 Parts 506, 566
1725	12 Part 505
1728	12 Part 561
1730	12 Part 566
1748b	24 Part 803a
1748f	24 Part 803a
1749aaa–3	24 Part 1100
1813	12 Part 330
1817	12 Part 330
1818	12 Parts 19, 263
1821	12 Part 330
1828	12 Part 263
1844	12 Part 263
13 U.S.C.:	CFR
4	15 Part 70
5	15 Part 70
14 U.S.C.:	
81	33 Part 64
501	33 Part 1
632	33 Part 1
641	33 Part 1
654	33 Part 1
891	33 Part 1
15 U.S.C.:	
13	16 Parts 240, 412
19	12 Part 263
41–58	16 Parts 412–413
45	16 Parts 228–240
46	16 Parts 228–240
69	16 Part 15
78c	17 Part 249
78l–78m	12 Part 18
79b	17 Part 250
80a–11	17 Part 270
189a	46 Part 206
636	13 Part 122
671	13 Part 123
687	13 Part 123
692–694	13 Part 106
714b–714c	7 Part 793
714c	7 Part 778
717c	13 Part 260
1261	21 Part 191
1392	23 Part 255
1407	22 Parts 216, 255
1453	21 Parts 1, 3
1454	15 Part 12
1455	21 Parts 1, 3
16 U.S.C.:	
3	36 Part 30; 43 Part 21
460k	43 Part 21
460q–1	36 Parts 30, 251
590d	7 Parts 719, 793
590p	7 Parts 793–794
664	43 Part 21
668dd	50 Parts 32, 33
686	43 Part 21
690	43 Part 21
703	50 Part 10
725	43 Part 21
824e	18 Part 2
825g	18 Part 32
1005	7 Part 1823
1202	50 Part 254
18 U.S.C.:	
201–209	45 Part 705
203	7 Part 1
205	7 Part 1
207	7 Part 1
208	24 Part 0; 45 Part 1015
834	49 Part 180
19 U.S.C.:	
2051	22 Part 502
20 U.S.C.:	
91	15 Part 256
443	45 Part 142
871–881	45 Part 121
883–885	45 Part 121
883	45 Part 116
954	29 Part 505
988	45 Part 178
1209	45 Part 166

21 U.S.C.:	CFR
80–86	9 Parts 160–162
89	9 Parts 160–162, 310
96	9 Parts 160–162
105	9 Parts 160–162
111–113	9 Parts 83, 160–162
114—114a–1	9 Parts 160–162
115–116	9 Parts 160–162
115	9 Part 83
117	9 Part 83
120	9 Parts 83, 160–162
121	9 Parts 76, 160–162
123	9 Part 83
125	9 Parts 76, 83, 160–162
134–134h	9 Part 74
134b	9 Parts 76, 83, 160–162
134f	9 Parts 76, 160–162
353	21 Part 165
357	21 Part 148z
358	21 Part 138
360a	21 Part 165
371	21 Parts 138, 191
376 note	21 Part 8
22 U.S.C.:	
287	15 Part 11
287c	22 Part 126; 31 Part 525
620	28 Part 5
1431 et seq	22 Part 502
2381	22 Part 212
2503	22 Parts 302–303
2581	22 Parts 602–603
2626	22 Part 3
2658	22 Parts 3, 5–7, 503; 41 Parts 6–6, 6–60.
25 U.S.C.:	
2	25 Parts 53, 255–256
9	25 Parts 53, 255–256
476	25 Part 53
26 U.S.C. (1954 I.R.C.):	
38	26 Part 1
5362	26 Part 170
6302	31 Part 214
7502	26 Part 270
7805	26 Parts 240, 245, 601
28 U.S.C.:	
2671–2680	43 Part 22
2672	5 Part 177; 13 Part 114
29 U.S.C.:	
41a	29 Part 10
181	29 Part 70
201	29 Part 526
203 note	29 Parts 519, 526
205	29 Parts 721–729
206	29 Parts 512, 661, 721–729
208	29 Parts 721–729
301 et seq	29 Part 2
307	29 Part 70
401 et seq	29 Part 2
438	29 Part 70
461	29 Part 70
30 U.S.C.:	
482	30 Part 53
31 U.S.C.:	
52	4 Part 20
71	4 Part 20
74	4 Part 20
394	31 Part 81
395	31 Part 82
397	31 Part 81
405a–1	31 Parts 56, 93
483a	13 Part 301; 22 Parts 5–6, 503, 602–603; 28 Part 16; 29 Part 70; 42 Part 35; 49 Parts 7, 106.
492	31 Part 360
725s	31 Part 251
753	31 Parts 317, 342
754b	31 Parts 317, 342
771	31 Part 214
951–952	32 Parts 750, 753
952	7 Part 1; 24 Part 200; 45 Part 30; 49 Part 107a.
33 U.S.C.:	
403	33 Part 64
1008–1011	33 Part 151
36 U.S.C.:	
182	32 Part 57
37 U.S.C.:	
1001	32 Part 726
38 U.S.C.:	
107 note	38 Part 8
212	38 Part 2
39 U.S.C.:	
501	39 Parts 113, 148–149, 743, 747, 956
4556–4557	39 Part 135
40 U.S.C.:	
442	7 Parts 1823, 1861, 1872
486	41 Parts 6–1, 6–6, 6–60, 8–1—8–3, 8–6—8–7, 10–60, 101–32, 105–60, 109–1.
40 U.S.C. App.:	
203	7 Parts 793, 1821, 1872
41 U.S.C.:	
353	29 Parts 4, 6, 1516
42 U.S.C.:	
216	42 Part 54
246	45 Part 55
295h–1	42 Part 57
295h–4	42 Part 57
299–299f	42 Part 54
2991	42 Part 54
421	20 Part 422
1395ff	20 Part 422
1395hh	20 Part 422
1480	7 Parts 1811–1812, 1861, 1872
1771	7 Part 220
1772	7 Part 215
1773	7 Part 220
1775	7 Part 220
1777–1785	7 Part 220
1855aa	43 Part 1810
1855ee	32 Part 1711
1855gg	43 Part 1810
1857f–2	45 Part 85
1891–1893	30 Part 52
1900a	30 Part 52
2000d—2000d–1	45 Part 80
2000d–1	24 Part 2
2000e–12	29 Part 1610
2165	10 Part 10
2201	41 Part 109–1
2454	14 Part 1205
2457–2458	14 Part 1209
2472	14 Part 1221
2901–2902	13 Part 119
2905–2907	13 Part 119
2942	7 Parts 1804, 1823, 1833, 1861, 1872; 29 Part 51; 45 Parts 1009, 1015.
3535	24 Parts 1, 2, 6–7, 15, 1520
43 U.S.C.:	
315	43 Part 21
373	43 Parts 21, 418
682a–682e	43 Part 21
869	43 Part 21
1201	43 Part 21
44 U.S.C.:	CFR
305	32 Part 257
45 U.S.C.:	
151–163	29 Part 1208
46 U.S.C.:	
71–75	19 Part 2
72	19 Part 3
216b	46 Parts 402–403
216c	46 Part 403
362	46 Part 80
817d–817e	19 Part 4; 46 Part 540
821	46 Part 502
841a	46 Part 513
1114	46 Part 350
47 U.S.C.:	
151	47 Parts 64, 73
155	47 Part 73
202–205	47 Part 64
307	47 Part 17
316	47 Part 73
318	47 Parts 81, 83, 85
353	47 Parts 81, 83, 85
353a	47 Parts 81, 83, 85
49 U.S.C.:	
12	49 Part 105a
304–305	49 Part 277c
904	49 Part 424
1302	14 Parts 221, 250
1324	14 Parts 250, 310, 384
1324 note	49 Part 91
1343–1344	14 Part 187
1348	14 Part 135
1372	14 Parts 217, 221, 378
1373	14 Parts 208, 212, 214, 250, 288, 295
1374	14 Part 250
1376	14 Part 298
1377	14 Parts 295, 298
1381	14 Part 250
1386	14 Parts 221, 250
1387	14 Part 295
1402	14 Parts 47, 49
1404	14 Parts 47, 49
1427	14 Part 135
1472	14 Part 401
1504	14 Part 401
1507	33 Part 1
1537	14 Part 198
1651 note	14 Parts 224, 400, 401; 41 Part 12–60; 49 Part 1
1652	14 Parts 47, 49
1654–1655	14 Parts 400, 401
1655	14 Part 198; 33 Part 151; 46 Parts 55, 61, 72, 76–78, 111–113, 401–403; 49 Parts 91, 191.
1657	49 Parts 1, 3, 5, 7, 9, 91
50 U.S.C.:	
791	28 Part 202
50 U.S.C. App.:	
456	32 Part 110
1219	32 Part 1450
2154	32A Ch. VI, BDSA Reg. 2, Dir. 11; Ch. XIX, MA–ET–1
2166	32A Ch. VI, BDSA Reg. 2, Dir. 11; M–11A, Dir. 2; Ch. XIX, MA–ET–1.
Public laws:	
Pub. Law 89–488	20 Part 1
Pub. Law 90–67	14 Part 1209

212

U
83
.A2
Y.32
no212-231

FEDERAL REGISTER

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Pages 15059–15143

THE UNIVERSITY OF MICHIGAN
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Agencies in this issue—

Agency for International Development
Agricultural Stabilization and Conservation Service
Agriculture Department
Army Department
Atomic Energy Commission
Business and Defense Services Administration
Civil Aeronautics Board
Consumer and Marketing Service
Defense Department
Federal Aviation Administration
Federal Communications Commission
Federal Maritime Commission
Federal Power Commission
Federal Register Administrative Committee
Federal Reserve System
Federal Trade Commission
Fish and Wildlife Service
Food and Drug Administration
Housing and Urban Development Department
Interior Department
International Commerce Bureau
Interstate Commerce Commission
Land Management Bureau
National Bureau of Standards
Navy Department
Packers and Stockyards Administration
Post Office Department
Securities and Exchange Commission
Small Business Administration
Treasury Department

Detailed list of Contents appears inside.

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Contents

AGENCY FOR INTERNATIONAL DEVELOPMENT

Proposed Rule Making

Rules and procedures applicable to commodity transactions financed by A.I.D. 15116

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Rules and Regulations

Rice; determination of acreage allotments for 1964 and subsequent crops 15076

Notices

Authority delegations:
Kansas City ASCS Commodity Office; Director or Acting Director 15125
Wheat Subsidy and Market Branch, Procurement and Sales Division; certain officials 15125

AGRICULTURE DEPARTMENT

See also Agricultural Stabilization and Conservation Service; Consumer and Marketing Service; Packers and Stockyards Administration.

Notices

North Dakota; designation of area for emergency loans 15126

ARMY DEPARTMENT

Rules and Regulations

Claims arising from activities of National Guard personnel while engaged in duty or training 15113
Military reservations; inspection of steam boilers 15115

ATOMIC ENERGY COMMISSION

Notices

Chemical processing and conversion of spent fuels; proposed notice 15128
United Nuclear Corp.; extension of completion date 15130

BUSINESS AND DEFENSE SERVICES ADMINISTRATION

Notices

Texas A. & M. University; decision on application for duty-free entry of scientific article 15127

CIVIL AERONAUTICS BOARD

Rules and Regulations

Certificated air carriers; charter and special services revenue aircraft miles flown 15098
Military backhaul charters:
Charter trips and special services 15096
Supplemental air transportation; certificates 15097

Notices

Hearings, etc.:
Jamestown Aviation Co 15130
Live animals and birds, revised charges 15131

COMMERCE DEPARTMENT

See Business and Defense Services Administration; International Commerce Bureau; National Bureau of Standards.

CONSUMER AND MARKETING SERVICE

Rules and Regulations

Fresh fruits, vegetables, and other products; inspection, certification, and standards:
Pecans in the shell 15073
Regulations 15066
Milk in certain marketing areas:
Connecticut 15090
Massachusetts-Rhode Island-New Hampshire 15076
Ozarks 15093

Proposed Rule Making

Oranges, grapefruit, tangerines, and tangelos from Florida; expenses and rate of assessment 15116

Notices

Humanely slaughtered livestock; identification of carcasses; establishments 15125

DEFENSE DEPARTMENT

See also Army Department; Navy Department.

Rules and Regulations

Medical records; release of information 15111
Ready Reserve, involuntary order to active duty 15112

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations

Airworthiness directive; Sikorsky aircraft 15094
Control zones and transition areas; alterations (2 documents) 15094, 15095
Prohibited area; alteration 15096
Transition areas:
Alterations (2 documents) 15095
Designation 15095

Proposed Rule Making

Alterations; control zones and transition areas (4 documents) 15117–15119

Designations:
Control zone 15119
Transition areas (4 documents) 15120, 15121

FEDERAL COMMUNICATIONS COMMISSION

Notices

Guidelines for presunrise operating authority waiver requests; order revising memorandum opinion and order 15133
Standard broadcast application ready and available for processing 15132

Hearings, etc.:
Brainerd Video 15131
City of Camden and L & P Broadcasting Corp 15131
Cosmos Cablevision Corp 15131
General Telephone Company of the Northwest, Inc 15131
Grayson Television Co., Inc., and Hercules Broadcasting Co 15132
Patriot State Television, Inc., and Boston Heritage Broadcasting, Inc 15132
Robertson, Donald J 15132
Shriner, T. J 15132
Vestal Video, Inc., and Eastern Microwave, Inc 15132

FEDERAL MARITIME COMMISSION

Notices

Mediterranean-USA Great Lakes Westbound Freight Conference; agreement filed for approval 15133

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:
Michigan Wisconsin Pipe Line Co. and Michigan Consolidated Gas Co 15133
Northern Natural Gas Co 15134
Samedan Oil Corp. et al 15134
United Gas Pipe Line Co 15134

FEDERAL REGISTER ADMINISTRATIVE COMMITTEE

CFR Checklist 15065

FEDERAL RESERVE SYSTEM

Notices

Barnett National Securities Corp.; approval of applications under Bank Holding Company Act 15135

FEDERAL TRADE COMMISSION

Rules and Regulations

Prohibited trade practices:
American Cyanamid Co. et al 15105
Jo Rich Originals, Inc., and Jack Rich 15106
S & S Pharmaceutical Co., Inc., et al 15107

(Continued on next page)

FISH AND WILDLIFE SERVICE

Notices

Loan applications:
- Harris, Harry R. 15124
- Miller, Rodman A. and Lois Mae 15124

FOOD AND DRUG ADMINISTRATION

Rules and Regulations

Drugs; medicated premixes; manufacturing practices and controls 15109

Food additives:
- Adhesives 15108
- Emulsifiers and/or surface-active agents 15108
- Partial phosphoric acid esters of polyester resins 15109
- Resinous and polymeric coatings for polyolefin films 15108

Pesticide chemical tolerance; *S*-ethyl hexahydro-1H-azepine-1-carbothioate 15107

Proposed Rule Making

Cherry pie; definition and standard of identity and standard of quality 15116

Notices

Morton Chemical Co.; food additive petition 15128

Upjohn Co.; withdrawal of approval of new-drug application 15128

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Food and Drug Administration.

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Notices

Assistant Regional Administrator for Renewal Assistance et al., Region IV; redelegations of authority 15124

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Land Management Bureau.

Notices

George Everett Millican; statement of changes in financial interests 15125

INTERNATIONAL COMMERCE BUREAU

Notices

W. L. Tansley & Co. (Pty.), Ltd., and Peter J. Courtenay; denial of export privileges for indefinite period 15126

INTERSTATE COMMERCE COMMISSION

Notices

Motor carriers:
- Alternate route deviation notices 15136
- Applications and certain other proceedings 15138
- Temporary authority applications 15141
- Transfer proceedings 15143

LAND MANAGEMENT BUREAU

Rules and Regulations

Wyoming; public land order; withdrawal for reclamation project 15098

NATIONAL BUREAU OF STANDARDS

Rules and Regulations

Radiation physics; neutron physics 15104

Standard reference materials; radioactivity standards 15105

Notices

NBS radio stations; standard frequency and time broadcasts 15128

NAVY DEPARTMENT

Rules and Regulations

Naval Honor Schools; nondiscrimination 15115

PACKERS AND STOCKYARDS ADMINISTRATION

Notices

Peoria Union Stock Yards Co., Inc.; petition to vacate order and dismiss proceeding 15126

POST OFFICE DEPARTMENT

Rules and Regulations

Office of the Regional Director 15099

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:
- Gulf & Western Industries, Inc. (Delaware) 15135
- Interamerican Industries, Ltd. 15135
- Nuveen Tax-Exempt Bond Fund, Series 16 15136
- Penrose Industries Corp. 15136
- Power Oil Co. 15136

SMALL BUSINESS ADMINISTRATION

Rules and Regulations

Lease guarantee; miscellaneous amendments; correction 15065

STATE DEPARTMENT

See Agency for International Development.

TRANSPORTATION DEPARTMENT

See Federal Aviation Administration.

TREASURY DEPARTMENT

Notices

Authority delegation; Director, Office of Domestic Gold and Silver Operations 15122

Offering of notes:
- 5¾ percent Treasury Notes of Series A-1974 15123
- 5⅝ percent Treasury Notes of Series A-1969 15122

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

7 CFR

51 (2 documents) 15066, 15073
730 15076
1001 15076
1015 15090
1067 15093

PROPOSED RULES:
905 15116

13 CFR

106 15065

14 CFR

39 15094
71 (5 documents) 15094, 15095
73 15096
207 15096
208 15097
241 15098

PROPOSED RULES:
71 (9 documents) 15117–15121

15 CFR

204 15104
230 15105

16 CFR

13 (3 documents) 15105–15107

21 CFR

120 15107
121 (4 documents) 15108, 15109
133 15109

PROPOSED RULES:
26 15116

22 CFR

PROPOSED RULES:
201 15116

32 CFR

66 15111
127 15112
536 15113
552 15115
710 15115

39 CFR

823 15099

43 CFR

PUBLIC LAND ORDER:
4301 15098

68 16 AA A 30

Rules and Regulations

Title 1—GENERAL PROVISIONS

Chapter I—Administrative Committee of the Federal Register

CFR CHECKLIST

This checklist, arranged in order of titles, shows the issuance date and price of current bound volumes and supplements of the Code of Federal Regulations. The rate for subscription service to all revised volumes and supplements issued as of January 1, 1967, is $100 domestic, $30 additional for foreign mailing. The subscription price for revised volumes and supplements to be issued as of January 1, 1968, will be $125 domestic, $35 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit:	Price
1–3 (Rev. Jan. 1, 1967)	$1.75
3 1938–1943 (Compilation)	[1] 3.00
1943–1948 (Compilation)	7.00
1949–1953 (Compilation)	7.00
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1966 (Compilation)	1.00
4 (Rev. Jan. 1, 1967)	.40
5 (Rev. Jan. 1, 1964)	4.75
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6 [Vacated; Reserved]	
7 Parts:	
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8 (Rev. Jan. 1, 1967)	.60
9 (Rev. Jan. 1, 1967)	1.25
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11 [Reserved]	
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16 Parts:	
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150–end (Rev. Jan. 1, 1967)	1.25
17 (Rev. Jan. 1, 1967)	2.00
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19 (Rev. Jan. 1, 1967)	2.00
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1 (§§ 1.6001–end) to Part 19 (Rev. Jan. 1, 1967)	.70
20–29 (Rev. Jan. 1, 1961)	4.25
(Supp. Jan. 1, 1966)	.40
30–39 (Rev. Jan. 1, 1967)	.75
40–169 (Rev. Jan. 1, 1967)	1.75
170–299 (Rev. Jan. 1, 1967)	2.25
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(Supp. Jan. 1, 1967)	.50
500–599 (Rev. Jan. 1, 1961)	4.25
(Supp. Jan. 1, 1967)	.35
600–end (Rev. Jan. 1, 1961)	3.00
(Supp. Jan. 1, 1967)	.45
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0–499 (Rev. Jan. 1, 1967)	.70
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900–end (Rev. Jan. 1, 1967)	.75
30 (Rev. Jan. 1, 1967)	1.00
31 (Rev. Jan. 1, 1967)	1.75
32 Parts:	
1–39 (Rev. Jan. 1, 1967)	2.75
40–399 (Rev. Jan. 1, 1967)	1.25
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590–699 (Rev. Jan. 1, 1966)	4.25
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700–799 (Rev. Jan. 1, 1967)	2.00
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1000–1199 (Rev. Jan. 1, 1967)	1.25
1200–1599 (Rev. Jan. 1, 1967)	1.25
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32A (Rev. Jan. 1, 1967)	$1.00
33 Parts:	
1–199 (Rev. Jan. 1, 1967)	1.00
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34 [Reserved]	
35 (Rev. Jan. 1, 1967)	5.25
36 (Rev. Jan. 1, 1967)	.75
37 (Rev. Jan. 1, 1967)	4.00
38 (Rev. Jan. 1, 1967)	2.25
39 (Rev. Jan. 1, 1967)	2.00
40 [Reserved]	
41 Chapters:	
1 (Rev. Jan. 1, 1967)	2.00
2–4 (Rev. Jan. 1, 1967)	1.00
5–5D (Rev. Jan. 1, 1967)	.60
6–17 (Rev. Jan. 1, 1967)	2.00
18 (Rev. Jan. 1, 1967)	3.00
19–100 (Rev. Jan. 1, 1967)	.60
101–end (Rev. Jan. 1, 1967)	1.25
42 (Rev. Jan. 1, 1966)	4.00
(Supp. Jan. 1, 1967)	1.00
43 (Rev. Jan. 1, 1967)	2.75
44 (Rev. Jan. 1, 1967)	.40
45 (Rev. Jan. 1, 1967)	1.75
46 Parts:	
1–145 (Rev. Jan. 1, 1967)	3.00
146–149 (Rev. Jan. 1, 1967)	2.50
(Supp. July 1, 1967)	.40
150–199 (Rev. Jan. 1, 1967)	1.25
200–end (Rev. Jan. 1, 1967)	2.00
47 Parts:	
0–19 (Rev. Jan. 1, 1967)	1.00
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70–79 (Rev. Jan. 1, 1967)	1.00
80–end (Rev. Jan. 1, 1967)	1.50
48 (Rev. Jan. 1, 1967)	.60
49 Parts:	
0–70 (Rev. Jan. 1, 1967)	1.25
71–90 (Rev. Jan. 1, 1967)	2.25
91–164 (Rev. Jan. 1, 1967)	1.50
165–end (Rev. Jan. 1, 1964)	[2] 6.25
(Supp. Jan. 1, 1967)	.65
50 (Rev. Jan. 1, 1967)	.75
General Index (Rev. Jan. 1, 1967)	.70
List of Sections Affected, 1949–1963 (Compilation)	6.75

[1] Temporarily out of print.

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Amdt. 1]

PART 106—LEASE GUARANTEE

Miscellaneous Amendments

Correction

In F.R. Doc. 67-12556 appearing in the issue for Wednesday, October 25, 1967, at page 14759, the reference to § 106.6(g) (1) on page 14760 should read § 106.6(g) (2). As corrected it will read as follows:

(g) Minimizing the risk:

(2) [Deleted]

[2] Out of print.

Title 7—AGRICULTURE

Chapter I—Consumer and Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS[1] [2] (INSPECTION, CERTIFICATION, AND STANDARDS)

Subpart—Regulations

On August 22, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 12053) regarding a revision of Regulations (Inspection, Certification, and Standards) Fresh Fruits, Vegetables and Other Products (7 CFR 51.1-51.61). A correction to the aforesaid proposal was published in the FEDERAL REGISTER on September 12, 1967 (32 F.R. 13053) and an extension of time to September 30, 1967 for submission of written data, views or arguments was published in the FEDERAL REGISTER on September 14, 1967 (32 F.R. 13077).

Statement of considerations leading to the revision of the regulations. Following publication of the proposal in the FEDERAL REGISTER on August 22, no written comments were received. The text is the same as published in the aforesaid notice of proposed rule making, as corrected, with the following exceptions:

(a) Under § 51.40 *Approved identifications* (d) the date on stamp illustration, Figure 6, is changed from "Aug. 27, 1956" to "Aug. 27, 1966"; and

(b) Under § 51.54 *Plant survey*, the section number reference, "51.53", which was inadvertently inserted in the proposal, is corrected to read "51.56".

The revised regulations incorporate the several amendments issued since 1957. The principal changes are in the interest of improved format, clarity, and the inclusion of up-to-date procedures in line with current practices.

New additions to the regulations include more detailed information for those who may be interested in using the Department's Continuous Inspection Program. This revision also gives the Administrator the authority to license firms to manufacture and sell color standards or defect guides.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the following Regulations governing Inspection, Certification and Standards are hereby promulgated pursuant to the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621 et seq.).

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[1] Among such other products are the following: Hay, straw, Christmas trees and evergreens; flowers and flower bulbs; and onion sets.

[2] None of the requirements in the regulations of this part shall excuse failure to comply with any Federal, State, county, or municipal laws applicable to products covered in the regulations in this part.

ADMINISTRATIVE

Sec.
51.1 Administration of regulations.

DEFINITIONS

51.2 Terms defined.
51.3 Designation of official certificates, memoranda, marks other identifications and devices for purposes of the Agricultural Marketing Act.

INSPECTION SERVICE

51.4 Where inspection service is offered.
51.5 Who may obtain inspection service.
51.6 How to make application.
51.7 Form of application.
51.8 Filing of application.
51.9 When application may be rejected.
51.10 When application may be withdrawn.
51.11 Authority to request inspection.
51.12 Accessibility of products.
51.13 Basis of service.
51.14 Order of Inspection Service.
51.15 Financial interest of inspector.
51.16 Postponing inspection service.
51.17 Official sampling.
51.18 Certificate forms.
51.19 Issuance of certificates.
51.20 Issuance of corrected certificates.
51.21 Disposition of inspection certificates.
51.22 Disposition of samples.
51.23 Report of inspection results prior to issuance of formal report.

APPEAL INSPECTION

51.24 When appeal inspection may be requested.
51.25 Where to file for an appeal inspection and information required.
51.26 Record of filing time.
51.27 When appeal inspection may be refused.
51.28 When an application for an appeal inspection may be withdrawn.
51.29 Order in which made.
51.30 Who shall perform appeal inspections.
51.31 Appeal inspection certificate.

LICENSING OF INSPECTORS

51.32 Who may be licensed.
51.33 Application to become a licensed inspector.
51.34 Suspension or revocation of license of a licensed inspector.
51.35 Surrender of license.
51.36 Expiration and renewal of license.

SCHEDULE OF FEES AND CHARGES AT DESTINATION MARKETS

51.37 Amount of fees, rates and charges.
51.38 Basis for charges.
51.39 Fees for appeal inspections.
51.40 Traveling and other expenses.
51.41 Fees for additional copies of inspection certificates.
51.42 Charges for inspection services on a contract basis.
51.43 How fees shall be paid.
51.44 Disposition of fees.

SCHEDULE OF FEES AND CHARGES AT SHIPPING POINT AREAS

51.45 Fees and charges at shipping point areas.

MISCELLANEOUS

51.46 Denial of inspection service.
51.47 Political activity.
51.48 Inspector's identification.
51.49 Approved identifications.
51.50 Custody of official inspection marking devices.
51.51 Prohibited uses of approved identification.
51.52 Licensing and identification of certain official devices.

REQUIREMENTS FOR PLANTS OPERATING UNDER CONTINUOUS INSPECTION ON A CONTRACT BASIS

Sec.
51.53 Continuous inspections.
51.54 Plant survey.
51.55 Premises.
51.56 Buildings and structures.
51.57 Facilities.
51.58 Equipment.
51.59 Operations and operating procedures.
51.60 Termination of contracts.
51.61 Congressional interest in contracts.

AUTHORITY: The provisions of this subpart issued under secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended; 7 U.S.C. 1622, 1624.

ADMINISTRATIVE

§ 51.1 Administration of regulations.

The Administrator, Consumer and Marketing Service, U.S. Department of Agriculture, is charged with the administration of the regulations in this part, except at his discretion, he may delegate any or all such functions to any other officer or employee of the Consumer and Marketing Service of the Department.

DEFINITIONS

§ 51.2 Terms defined.

Words in the regulations in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand. For the purposes of the regulations in this part, unless the context otherwise requires, the following terms shall have the following meanings:

(a) *Act.* "Act" means the applicable provisions of the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq.) as amended; (7 U.S.C. 1621 et seq.) or any other act of Congress conferring like authority.

(b) *Administrator.* "Administrator" means the Administrator of Consumer and Marketing Service.

(c) *Applicant.* "Applicant" means any interested party who has applied for inspection service under the regulations in this part.

(d) *Condition.* (1) "Condition" means the relative degree of soundness of a product which may affect its merchantability and includes those factors which are subject to change and may result from, but not necessarily limited to, age, improper handling, storage or lack of refrigeration.

(2) Examples of condition factors include maturity or stage of ripeness; state of freshness, such as crispness, tenderness, or toughness; wilting; shriveling or flabbiness; mechanical injuries resulting from improper handling after packing; progressive pathological, physiological, and virus diseases, including fungal and bacterial rots; and freezing damage which may occur in transit or storage; or any other factor which may occur, develop, or progress in the marketing channels.

(e) *Consumer and Marketing Service.* "Consumer and Marketing Service" means the Consumer and Marketing Service of the Department.

(f) *Department.* "Department" means the U.S. Department of Agriculture.

(g) *Federal-State Inspection Agency.* "Federal-State Inspection Agency" means any State agency, business association or trade organization, private firm, or other person or corporation with which the Department has entered into a cooperative agreement for inspection service.

(h) *Grade.* "Grade" means a class or rank of quality.

(i) *Inspector.* "Inspector" means any employee of the Department authorized by the Secretary or any other person licensed by the Secretary, to investigate, sample, inspect, and certify, in accordance with the regulations in this part, to any interested party the quality, quantity and/or condition of any fresh product covered in this part, and to perform related duties in connection with the inspection service.

(j) *Inspection service.* "Inspection service" means:

(1) The Service established and conducted under the regulations in this part for the determination and certification or other identification as to the grade, the quality and/or condition of fresh fruits or vegetables and related products including the condition of container.

(2) Performance by an inspector of any related services such as reporting the temperatures of loads or lots of fresh products.

(3) To observe conditions under which a product is being packed, to observe plant sanitation as a prerequisite to inspection of the packed product either on a continuous or periodic basis, or checkload the inspected product in connection with the marketing of the product.

(4) The issuance of inspection certificates or reports relating to subparagraphs (1), (2), and (3) of this paragraph.

(k) *Interested party.* "Interested party" means any person who has a financial interest in the product for which inspection is requested.

(l) *Lot.* "Lot" means any number of containers which contain a product of the same kind located in the same conveyance, warehouse, packing house, or on the same dock or platform and which are available for inspection at the same time: *Provided*, That:

(1) Products which are different from each other as to grade, variety, size, condition, identification marks, or other factors may be deemed to be separate lots;

(2) If the applicant requests more than one inspection certificate covering different portions of the same lot, the quantity of the lot covered by each certificate shall be deemed to be a separate lot; and,

(3) If said product is packed in more than one size or type of container, each such size or type may be deemed to be a separate lot.

(m) *Person.* "Person" means any individual, partnership, association, business trust, corporation, any organized group of persons (whether incorporated or not), the United States (including, but not limited to, any corporate agencies thereof), and any State, county, or municipal government, any common carrier, and any authorized agent of any of the foregoing.

(n) *Packing plant.* "Packing plant" means the premises, buildings, structures, and equipment including but not limited to, machines, utensils, fixtures, employed or used with respect to preparation and packing the product.

(o) *Quality.* "Quality" means the combination of the inherent properties or attributes of a product which determines its relative degree of excellence.

(p) *Regulations.* "Regulations" means the regulations in this subpart.

(q) *Sample.* "Sample" means any number of sample units to be used for inspection.

(r) *Sample unit.* "Sample unit" means a container and/or its entire contents, a portion of the contents of a container or other unit of a commodity, or a composite mixture of a commodity to be used for inspection.

(s) *Sampling.* "Sampling" means the act of selecting samples of a commodity for the purpose of inspection under the regulations in this part.

(t) *Secretary.* "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the Consumer and Marketing Service to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

§ 51.3 Designation of official certificates, memoranda, marks, other identifications and devices for purposes of the Agricultural Marketing Act.

Subsection 203(h) of the Agricultural Marketing Act of 1946, as amended by Public Law 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks or other identifications, and devices for making such marks or identifications, issued or authorized under section 203 of said act, and certain misrepresentations concerning the inspection or grading of agricultural products under said section. For the purpose of said subsection and the provisions in this part, the terms listed below shall have the respective meanings specified:

(a) *Inspection certificate.* "Inspection certificate" means any form of certification, either written or printed, used under this part to certify with respect to the inspection, identification, class, grade, quality, size, quantity, or condition of products (including the compliance of products with applicable specifications).

(b) *Official memorandum.* "Official memorandum" means any initial record of findings made by an authorized person in the process of grading, inspecting, or sampling pursuant to this part, any processing or plant-operation report made by an authorized person in connection with grading, inspecting, or sampling under this part, and any report made by an authorized person of services performed pursuant to this part.

(c) *Official mark.* "Official mark" means the grade mark, inspection mark, combined form of inspection and grade mark, and any other mark, or any variations in such marks, including those prescribed in § 51.49, approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product, stating that the product was graded or inspected, or both, or indicating the appropriate U.S. grade or condition of the product, or for the purpose of maintaining the identity of products graded or inspected, or both, under this part.

(d) *Official identification.* "Official identification" means any United States (U.S.) standard designation of class, grade, quality, size, quantity, or condition specified in this Part or any symbol, stamp, label or seal indicating that the product has been graded or inspected and/or indicating the class, grade, quality, size, quantity, or condition of the product approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product.

(e) *Official device.* "Official device" means a stamping appliance, branding device, stencil, printed label, or any other mechanically or manually operated tool that is approved by the Administrator for the purpose of applying any official mark or other identification to any product or the packaging material thereof; or any device approved and designated by the Administrator as a USDA official device for use as a color standard, defect guide, or other similar aid to interpret the U.S. Department of Agriculture grade standards and to facilitate conduct of the Inspection Service.

INSPECTION SERVICE

§ 51.4 Where inspection service is offered.

Products will be inspected at appropriate points indicated in paragraphs (a), (b), and (c) of this section whenever inspectors are available.

(a) *Shipping points.* Inspection service is available in all areas covered by cooperative agreements entered into on behalf of the Department with Cooperating Federal-State Inspection Agencies providing for this inspection work pursuant to authority contained in any Act of Congress, or may be provided in any other area which is not covered by a cooperative agreement if the Administrator determines that it is practicable to provide inspection service.

(b) *Destination markets.* Inspection is available in all central markets in which an inspection office is located.

(c) *Other destination points.* Inspection may be made at any point which may be conveniently reached from any terminal market in which an inspection office is located to the extent inspection personnel is available.

(d) *Addresses of offices.* Any prospective applicant may obtain an up-to-date list of inspection offices by addressing an inquiry to Fresh Products Standardization and Inspection Branch, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

§ 51.5 Who may obtain inspection service.

An application for inspection service may be made by any interested party, including, but not limited to, the United States and any instrumentality or agency thereof, any State, county, municipality, or common carrier, and any authorized agent in behalf of the foregoing.

§ 51.6 How to make application.

An application for inspection service may be filed in an office of inspection at any market referred to in § 51.4 (b), (c), or (d) or with any inspector. It may be made in writing, orally, by telegraph, or by telephone. If made orally or by telephone, the inspector may require that it be confirmed by applicant in writing or by telegraph. An application may be made for one or more lots, or it may be in the nature of a blanket application for inspection of all designated lots of a given commodity within a particular period, or for all designated lots loaded or received at a specified point.

§ 51.7 Form of application.

Each application for inspection service shall state (a) the name and address of the applicant and the name and capacity of the person, if any, making the application in his behalf; (b) the name and address of the shipper; (c) the kind and quantity of the products involved; (d) the interest of the applicant therein; (e) the identification of the products by (1) grade, brand, or other marks, if practicable, (2) car number of carrier or number of truck or name of boat, if practicable, and (3) the name and location of the store, warehouse, or other place where the products are located; (f) the particular quality or condition concerning which inspection is requested, to which may be added the time and place at which it is desired that the inspection be made; (g) when the lot is to be inspected in a receiving market, the name and address of the receiver; (h) the name of the shipping point and of the destination, when known; and (i) such other information as may be necessary for identification of the product, or as may be required by the inspector or the Administrator.

§ 51.8 Filing of application.

An application shall be regarded as filed only when made at the office of inspection nearest the place where the commodity is located. A record showing the date and time of filing shall be made and kept in such office.

§ 51.9 When application may be rejected.

An application may be rejected by the inspector in charge of the appropriate office of inspection if the applicant objects to the inspector cutting an adequate number of specimens to determine the interior quality or condition of the product to be inspected, or for failure of the applicant (a) to observe the regulations of this part, (b) to furnish necessary information or to make the commodity reasonably available or accessible for inspection, (c) to pay for previous inspection services rendered, or (d) when it appears that to perform the inspection and certification service would not be to the best interest of the Government. Such applicant shall be notified promptly of the reason for such rejection.

§ 51.10 When application may be withdrawn.

An application may be withdrawn by the applicant at any time before the inspection is performed: *Provided*, That the applicant shall pay any travel expenses, telephone, telegraph, or other expenses which have been incurred by the Inspection Service in connection with such application.

§ 51.11 Authority to request inspection.

Proof of the interest of an applicant in the product involved, or of the authority of any person applying for inspection in behalf of another may be required, at the discretion of the inspector.

§ 51.12 Accessibility of products.

The applicant shall cause the products for which inspection is requested to be made reasonably accessible for sampling or inspection and to be so placed as to disclose their quality or condition. Samples of the products drawn for examination shall be inspected only under such conditions as, in the opinion of the inspector, will permit a true and correct determination to be made of their quality or condition.

§ 51.13 Basis of service.

Inspection and certification service for quality and/or condition shall be based upon the appropriate standards promulgated by the U.S. Department of Agriculture, applicable standards prescribed by the laws of the State where the particular product was produced, specifications of any governmental agency, written buyer and seller contract specifications, or any written specification by an applicant which is approved by the Administrator: *Provided*, That if such product is regulated pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), or the comparable laws of any State, such inspection and certification shall be on the basis of the standards, if any, prescribed in, or pursuant to, the marketing order and/or agreement effective thereunder.

§ 51.14 Order of inspection service.

Inspection service shall be performed, insofar as practicable, in the order of which applications are received, except that precedence shall be given (a) to the inspection of lots involved in complaints filed pursuant to the Perishable Agricultural Commodities Act, 1930 (U.S.C. 44fa et seq.), and (b) to appeal inspections. Precedence may also be given to applications made on behalf of the Federal or State Government.

§ 51.15 Financial interest of inspector.

No inspector shall inspect any product in which he is directly or indirectly financially interested.

§ 51.16 Postponing inspection service.

If the inspector has reason to believe that, because of latent defects due to climatic or other conditions, he is unable to determine the true quality or condition of the product, he shall postpone examination for such period as may, in his judgment, be reasonably necessary to enable him to determine its true quality or condition. Inspection shall also be postponed by the inspector, unless otherwise directed by the applicant, if in his judgment examination of the product when exposed to low temperatures may result in damage to the product.

§ 51.17 Official sampling.

Samples may be officially drawn by any duly authorized inspector and delivered, or shipped, for analysis and certification to the nearest designated market or to such market as shall be directed by the Administrator. The container in which such samples are delivered, or shipped, shall contain a statement, signed by the inspector who drew the samples, showing the time and place of the sampling and the brands or other identifying marks of the containers from which the samples were drawn. The certificate based on such samples shall show the time and place of drawing the samples, and the name of the inspector by whom they were drawn.

§ 51.18 Certificate forms.

Certificates shall be issued on forms approved by the Administrator.

§ 51.19 Issuance of certificates.

The inspector shall sign and issue a separate certificate for each lot inspected by him, except that when an application covers a number of lots a single certificate may be issued to cover all such lots: *Provided*, That (a) another employee of the Inspection Service may sign any such certificate covering any product inspected by an inspector when given power of attorney by such inspector and authorized by the Administrator, to affix the inspector's signature to an inspection certificate which has been prepared in accordance with the facts set forth in the notes, made by the inspector, in connection with the inspection; when (b) inspection is made by any person for the purpose of determining whether food products for use by such applicant comply with contract specifications therefor, a formal certificate need not be issued, but, the fact of such compliance or noncompliance may be indicated by affixing an appropriate stamp or mark on such products or the containers thereof, at the discretion of the inspector.

§ 51.20 Issuance of corrected certificates.

A corrected inspection certificate may be issued by the inspector who issued the original certificate after distribution of a certificate if errors, such as incorrect dates, grade statements, lot or car numbers, identification marks, types of containers, sizes, weights, quantities, or errors in any other pertinent information require the issuance of a corrected certificate. Whenever a corrected certificate is issued, such certificate shall supersede the inspection certificate which was issued in error and the superseded certificate shall become null and void after the issuance of the corrected certificate.

§ 51.21 Disposition of inspection certificates.

(a) The original certificate, and not to exceed four copies (if requested by applicant prior to issuance), shall be delivered or mailed promptly to the applicant or to a person designated by him. One copy shall be filed in the office of the inspector when the inspection is made by a Federal Government employee, otherwise, it shall be filed in the appropriate office of the cooperating Federal-State Inspection Agency. Unless otherwise directed by the Administrator, two copies of each official certificate issued on products received in destination markets shall be forwarded to the Administrator to be kept on file in Washington and no copies of official certificates issued at shipping point need be so forwarded. In the case of any product covered by a marketing agreement and/or order effective pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), at least one copy of each certificate covering the inspection of such product shall, on request, be delivered to the administrative agency established thereunder, subject to such terms and conditions as the Administrator may prescribe. Copies may be furnished to other interested parties as outlined in § 51.41.

§ 51.22 Disposition of samples.

If it is necessary to take samples of the product to the inspection office for further examination, the inspector, after completion of inspection of such samples shall dispose of them or any usable portion as follows: (a) Ascertain from the applicant if the owner wants the samples returned to him at his expense, (b) if he does not want them returned at his expense, give them to a nonsectarian charitable organization or, (c) if they have a substantial monetary value, sell them and remit the proceeds to the Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, or if applicable, to the cooperating State Agency. Such proceeds shall be deposited to the credit of the Inspection Trust Fund, Federal or cooperating agency, whichever is applicable.

§ 51.23 Report of inspection results prior to issuance of formal report.

Upon request of an applicant, all or any part of the contents of a certificate covering an inspection requested by him may be telegraphed or telephoned to him, or to any person designated by him, at his expense. If the application for such information is received after the certificate has been issued, it will be considered as an application for an extra copy of the certificate, and the fees prescribed in § 51.41 shall apply.

APPEAL INSPECTION

§ 51.24 When appeal inspection may be requested.

An application for appeal inspection may be made by any financially interested person who is dissatisfied with the results of an inspection as stated in an inspection certificate, if the lot can be positively identified by the Inspection Service as the lot which was previously inspected.

§ 51.25 Where to file for an appeal inspection and information required.

An appeal inspection may be obtained by the applicant, or other person financially interested in the product, by filing a request (a) with the Inspection Office nearest the point where the product is located, or (b) with the inspector who made the original inspection, or (c) with any district supervisory inspection office, or (d) with the Administrator. The application for the appeal inspection shall state the reasons therefor, and shall be accompanied by a copy of any previous inspection certificate or inspection report, and any other information which the applicant received regarding the quality or condition of the product at the time of the original inspection. Such application may be made orally (in person or by telephone), in writing, or by telegraph. If made orally, written confirmation shall be made promptly.

§ 51.26 Record of filing time.

A record showing the date and time of filing an application for appeal inspection shall be made promptly by the receiving office.

§ 51.27 When appeal inspection may be refused.

An application for an appeal inspection may be refused if: (a) The reasons for the appeal inspection are frivolous or not substantial; (b) the quality or condition of the product has undergone a material change since the inspection covering the product on which the appeal inspection is requested; (c) the lot in question is not, or cannot be, made accessible for the inspection; (d) the lot relative to which appeal inspection is requested cannot be identified positively by the inspector as the lot which was previously inspected; or (e) there is noncompliance with the regulations in this part. Such an applicant shall be notified promptly of the reason for refusal.

§ 51.28 When an application for an appeal inspection may be withdrawn.

An application for appeal inspection may be withdrawn by the applicant at any time before the appeal inspection is performed: *Provided*, That the applicant shall pay any travel expenses, telephone, telegraph or other expenses which have been incurred by the Inspection Service in connection with such application.

§ 51.29 Order in which made.

Appeal inspections shall be made, as soon as practicable, following the time requested by the applicant and in the order in which applications are received. They shall take precedence over all other pending applications, except applications for inspections covering lots involved in complaints filed pursuant to the Perishable Agricultural Commodities Act, 1930 as amended (7 U.S.C. 499a et seq.).

§ 51.30 Who shall perform appeal inspections.

Appeal inspections shall be performed by an inspector or inspectors authorized for this purpose by the Administrator and whenever practical, such appeal inspections shall be made by two inspectors.

§ 51.31 Appeal inspection certificate.

After an appeal inspection has been completed, an appeal inspection certificate shall be issued showing the results of such appeal inspection; and such certificate shall supersede the inspection certificate previously issued for the product involved. Each appeal inspection certificate shall clearly identify the number and date of the inspection certificate which it supersedes. The superseded certificate shall become null and void upon the issuance of the appeal inspection certificate and shall no longer represent the quality described therein. The inspector or inspectors issuing an appeal inspection certificate shall sign the certificate and forward notice of such issuance to such persons as considered necessary to prevent misuse of the superseded certificate if the original and all copies of such superseded certificate have not previously been delivered to the inspector or inspectors issuing the appeal inspection certificate. The provisions in the regulations in this part concerning forms of certificates and issuance of certificates, shall apply to appeal inspection certificates, except that copies of such appeal inspection certificates shall be furnished all interested parties who receive copies of the superseded certificate.

LICENSING OF INSPECTORS

§ 51.32 Who may be licensed.

Persons who are employed by a cooperative Federal-State Inspection Agency and possess adequate qualifications, as determined by such examinations as the Administrator may consider to be appropriate, may be licensed as inspectors of products which may be inspected under the regulations in this part. Such license shall bear the printed signature of the Secretary and shall be countersigned by an authorized employee of the Department. A licensed inspector shall perform his duties pursuant to the regulations in this subpart as directed by the Administrator.

§ 51.33 Application to become a licensed inspector.

Application to become a licensed inspector shall be made to the Administrator on forms furnished for that purpose. Each such application shall be filled in and signed by the applicant in his own handwriting, and the application shall contain or be accompanied by:

(a) A statement of present address, age, height, and weight of the applicant;

(b) A statement showing education and present and previous occupations, together with names of all employers for whom he has worked with periods of service, during the last 5 years previous to the date of his application;

(c) A statement by the applicant that he agrees to comply with all terms and conditions of the regulations in this part relating to the duties of inspectors; and

(d) Such other information as may be required by the Administrator.

§ 51.34 Suspension or revocation of license of a licensed inspector.

Pending final action by the Secretary, the Administrator may, whenever he deems such action necessary, suspend the license of any licensed inspector issued pursuant to the regulations in this part by giving notice of such suspension to the respective licensee, accompanied by a statement of the reasons therefor. Within 10 days after the receipt of the aforesaid notice and statement of the reasons by such licensee, he may file an appeal, in writing, with the Secretary, supported by any argument or evidence that he may wish to offer as to why his license should not be suspended or revoked. After the expiration of the aforesaid 10-day period and consideration of such argument and evidence, the Secretary will take such action as he deems appropriate with respect to such suspension or revocation. When no appeal is filed within the prescribed 10 days, the license shall be automatically revoked.

§ 51.35 Surrender of license.

Upon termination of his services as a licensed inspector, or suspension or revocation of his license, a licensee shall surrender his license immediately to the office of inspection serving the area in which he is located. These same provisions shall apply in case of an expired license.

§ 51.36 Expiration and renewal of license.

An inspector's license issued pursuant to the regulations in this part shall expire on June 30 of each year following the date of issuance. The license of an inspector may be renewed by the issuance of a new license and the renewal shall subject the inspector to the terms and conditions of the regulations in this part.

SCHEDULE OF FEES AND CHARGES AT DESTINATION MARKETS

§ 51.37 Amount of fees, rates, and charges.

For each lot of products inspected, a fee and expenses, determined in accordance with §§ 51.38 to 51.40 shall be paid by the applicant.

§ 51.38 Basis for charges.[5]

(a) The fee for each lot of products inspected by an inspector acting exclusively for the Department, except for peanuts, pecans and other nuts, shall be on the following basis:

(1) Quality and condition inspections:

(i) $15.00 for each over one-half carlot equivalent of an individual product up to a full carlot.

(ii) $12.00 for each half carlot equivalent or less of an individual product.

(iii) $30.00 maximum for inspection of each carlot equivalent when more than one kind of product is involved.

(2) Condition inspection only:

(i) $12.00 for each over one-half carlot equivalent of an individual product up to a full carlot.

(ii) $10.00 for each half carlot equivalent or less of an individual product.

(iii) $24.00 maximum for inspection of each carlot equivalent when more than one kind of product is involved.

(3) When any lot involved is in excess of a carlot equivalent, the quantity shall be calculated in terms of carlot and fractions thereof of the customary carlot quantity for such carlots and carlot inspection fee rates: *Provided*, That such fractions shall be calculated in terms of fourths or next higher fourths.

(b) The base fee for peanuts (shelled), pecans or other nuts shall be 60 cents per ton: *Provided*, That the minimum fee shall be $12 per lot, the different grades and varieties of peanuts shall be considered separate lots, and the fee for Farmers' stock peanuts (unshelled) shall be $1.65 per ton.

(c) When inspections are made and the products inspected cannot readily be calculated in terms of carlots, or when the services rendered are such that a charge on the carlot or other unit basis would be inadequate or inequitable, charges for inspection may be based on the time consumed by the inspector in connection with such inspections, computed at the rate of $6 per hour.

(d) Not withstanding the fee rates prescribed in the preceding paragraphs, fees and charges for the inspection of small lots where detailed reports of inspection are not normally required,[4] the following rates may be applied:

1 to 25 packages inclusive	$3.25
26 to 50 packages inclusive	4.25
51 to 150 packages inclusive	6.50
151 to ½ customary carlot equivalent	9.00

(e) Whenever inspections are performed at the request of the applicant on Saturdays, Sundays, holidays or at any other periods which are outside the inspector's regular scheduled workweek, the charge for inspection service shall be $3 per hour or portion thereof per inspector in addition to the regular commercial lot or hourly fees specified in this subpart.

§ 51.39 Fees for appeal inspections.

The fee to be charged for appeal inspections on all products shall be at the same rate as those set forth in this part except that when it is found that there was a material error in the determination based upon the original inspection, no fee will be charged, and except that appeal inspection for Government agencies shall be on the hourly basis prescribed in this part, plus traveling and other expenses authorized to be charged by the provisions in this part.

§ 51.40 Traveling and other expenses.

Costs including travel incurred by the Consumer and Marketing Service in providing inspection service at a place where no inspector is located or costs in appeal inspections requiring a second inspector may be charged to the applicant. These charges shall be included with the fee for inspection on the bill furnished the applicant.

§ 51.41 Fees for additional copies of inspection certificates.

Additional copies of any inspection certificate other than those provided for in § 51.31, may be supplied to any interested party upon payment of a fee of $2.25 for each set of five, or less, copies.

§ 51.42 Charges for inspection services on a contract basis.

Irrespective of fees and charges prescribed in the foregoing sections, the Administrator may enter into contracts with applicants to perform inspection services pursuant to the regulations in this part and other requirements as prescribed by the Administrator in such contract, and the charges for such inspection services provided for in such contracts shall be on such basis as will reimburse the Consumer and Marketing Service of the Department for the full cost of conducting such inspection service, including an appropriate overhead charge to cover as nearly as practicable administrative overhead expenses, as may be determined by the Administrator.

§ 51.43 How fees shall be paid.

Fees shall be paid by the applicant in accordance with the directions on the fee bill furnished him by the billing office, and in advance, if required by the inspector.

§ 51.44 Disposition of fees.

(a) The fees collected for services rendered shall be disposed of as follows:

(1) Fees for inspections made by inspectors acting exclusively for the Consumer and Marketing Service shall be remitted promptly to the Consumer and Marketing Service.

(2) Fees for inspections made by an inspector acting under a cooperative agreement with a State or other organization shall be disposed of in accordance with the terms of such agreement. Such portion of the fees collected under a cooperative agreement with a State or other cooperating bodies as may be due the United States shall be remitted to the Consumer and Marketing Service.

(b) Fees and charges collected pursuant to §§ 51.40 to 51.41 shall be remitted to the Consumer and Marketing Service.

(c) Fees and charges collected pursuant to § 51.42 shall be disposed of in accordance with the terms of the contract.

[5] Carlot equivalent shall be based on the customary quantity of a product loaded in common carrier rail cars.

[4] For example, the inspection of small lots for export to Canada or delivery to private and public institutions.

SCHEDULE OF FEES AND CHARGES AT SHIPPING POINT AREAS

§ 51.45 Fees and charges at shipping point areas.

Fees for inspection performed under cooperative agreements pursuant to authority contained in any Act of Congress shall be those provided by such agreements.

MISCELLANEOUS

§ 51.46 Denial of inspection service.

Any or all benefits of the act may be denied any person for any of the following reasons: (a) Any willful misrepresentation or deceptive or fraudulent practice made or committed by any person in connection with the making or filing of an application for inspection service; (b) any fraudulent or unauthorized use, alteration, or imitation of any certificate issued pursuant to the regulations in this subpart; (c) any interference with or obstruction of any inspector or official sampler in the performance of his duties, by intimidation, threat, assault or any other improper means; or (d) any willful violation of the regulations in this subpart may be deemed sufficient cause for debarring the person found guilty thereof from any or all benefits of the acts, after notice and opportunity for hearing has been accorded him. The rules of practice governing withdrawal of Inspection and Grading Services, Part 50 of this chapter, shall govern the proceedings pursuant to this section.

§ 51.47 Political activity.

All inspectors are forbidden, during the period of their respective appointments or while holding a valid inspectors' license to take an active part in political campaigns and a violation by a licensee shall constitute grounds for revocation of his license. All Federal employees are subject to the applicable provisions of the Department's administrative regulations relating to political activity.

§ 51.48 Inspector's identification.

Each inspector shall have in his possession at all times, and pursuant upon request, while on duty, the means of identification furnished by the Department to such person.

§ 51.49 Approved identifications.

(a) *Grade marks.* The approved shield mark with the appropriate U.S. grade designation may be used on containers, labels or otherwise indicated on the package when: (1) The product has been packed under continuous inspection as provided by the Inspection Service, (2) the plant in which the product is packed is maintained under good commercial sanitary practices, and (3) the product has been certified by an inspector as meeting the requirements of U.S. Grade A, U.S. Grade No. 1, or a higher U.S. grade as shown within the shield. The shields with approved grade designation for use shall be similar in form and design to the examples in figures 1 and 2 of this section.

Shield using red, white and blue background.

FIGURE 1.

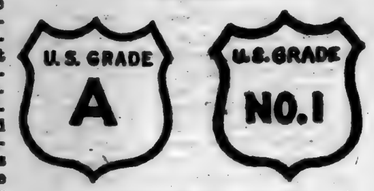

Shields with plain background.

FIGURE 2.

(b) *Inspection legends.* The approved continuous inspection legends may be used on containers, labels or otherwise indicated on the package when: (1) The product has been packed under continuous inspection provided by the Inspection Service, (2) the plant in which the product is packed is maintained under good commercial sanitary practices, and (3) the product meets the requirements of such quality, grade, or specification as may be approved by the Administrator. The continuous inspection legends approved for use shall be similar in form and design to the examples in figures 3 and 4.

PACKED UNDER CONTINUOUS INSPECTION OF THE U. S. DEPT. OF AGRICULTURE

FIGURE 3.

PACKED BY

UNDER CONTINUOUS FEDERAL-STATE INSPECTION

FIGURE 4.

(c) *Combined grade and inspection legends.* The grade marks set forth in paragraph (a) of this section and illustrated by figures 1 and 2 of this section and the inspection legends set forth in paragraph (b) of this section and illustrated by figures 3 and 4 of paragraph (b) of this section may be combined into a consolidated grade and inspection legend for use on products which meet the requirements of both of these paragraphs. See figure 5.

PACKED BY

UNDER CONTINUOUS FEDERAL-STATE INSPECTION

FIGURE 5.

(d) *Other identification marks.* Products may be inspected on a lot inspection basis as provided in this part and identified by an official inspection mark similar in form and design to figure 6 of this paragraph. The use of this mark or other comparable identification marks may be required by the Administrator whenever he determines that such identification is necessary in order to maintain the identity of lots which have been inspected and certified.

US DEPT OF AGRICULTURE
INSPECTED
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FIGURE 6.

§ 51.50 Custody of official inspection marking devices.

All official inspection marking devices as shown in figure 6 of § 51.49 shall be kept in the custody of the Consumer and Marketing Service and accurate records shall be kept of these devices. Each inspection office shall keep a record of the devices assigned to it. Such devices shall be distributed only to authorized

employees of the Department who shall keep the devices in their official possession or control at all times and keep complete records of such devices.

§ 51.51 Prohibited uses of approved identification.

No label or advertising material used on, or in conjunction with any product, shall bear a brand name, trademark, product name or any other descriptive material that incorporates, resembles, simulates, or alludes to any official U.S. Department of Agriculture grade mark, grade statement, continuous inspection legend, sampling mark or sampling statement, or combination of one or more thereof.

§ 51.52 Licensing and identification of certain official devices.

The Administrator may issue licenses permitting the manufacture, identification, distribution, and sale of any official device designated as a USDA color standard, defect guide or other similar aid under such terms and conditions as may be specified by the Administrator. Licenses shall be available to all persons meeting conditions prescribed by the Administrator, shall be nonexclusive, and shall be revocable for cause. No person shall manufacture, identify, distribute or sell any such official device except at the direction of or under license from the Administrator. Such official devices may be marked, tagged or otherwise designated with the prefix "USDA" together with other identifying words or symbols, as prescribed by the license.

REQUIREMENTS FOR PLANTS OPERATING UNDER CONTINUOUS INSPECTION ON A CONTRACT BASIS

§ 51.53 Continuous inspections.

Continuous inspection service which is associated with the use of the approved shield showing the U.S. grade, the approved continuous inspection legend, or both, on the container may be furnished whenever inspectors are available, the facilities and conditions are satisfactory for the conduct of the service, and there is a signed contract between the applicant and the Department or a cooperative Federal-State Inspection Agency in which it is agreed that such service will be conducted subject to regulations governing the inspection and certification of fresh fruits, vegetables, and other products, contained in this part and any additional and supplemental instructions issued by the Department or such instructions issued by a cooperating agency which are not inconsistent with those issued by the Department.

§ 51.54 Plant survey.

Prior to the inauguration of continuous Federal or Federal-State Inspection Service on a contract basis, the Administrator will make or cause to be made a survey and inspection where such service is to be performed to determine whether the premises, plant and facilities are suitable and adequate for the performance of such service in accordance with the regulations in this part, including, but not limited to requirements contained in §§ 51.54 through 51.59.

§ 51.55 Premises.

The premises shall be free from conditions objectionable to packing operations, including, but not limited to litter, waste and refuse within the immediate vicinity of the plant buildings, excessively dusty roads, yards or parking lots, and poorly drained areas.

§ 51.56 Buildings and structures.

The packing plant buildings shall be properly constructed and maintained in a sanitary condition, including, but not limited to the following requirements:

(a) There shall be sufficient light consistent with the use to which the particular portion of the building is devoted and to permit efficient cleaning. The grading belts and bins shall be provided with sufficient proper nonglaring light to insure adequacy of grading and inspection operations;

(b) If the product is washed there shall be ample supply of water of a safe and sanitary quality with adequate facilities for its distribution throughout the plant and washing machinery;

(c) There shall also be an efficient waste disposal and plumbing system maintained in good repair;

(d) Each room in which the product is graded or stored shall be designed and constructed so as to insure operating conditions of a clean and orderly character and shall be maintained in a clean and sanitary manner; and,

(e) Every practical precaution shall be taken to exclude dogs, cats, rodents and other vermin from the rooms in which the products are to be graded or stored.

§ 51.57 Facilities.

Each packing plant shall be equipped with adequate sanitary facilities and accommodations, including but not being limited to the following:

(a) There shall be a sufficient number of adequately lighted toilet rooms, ample in size and conveniently located. Toilet rooms shall be adequately screened and equipped with self-closing doors, and shall have independent outside ventilation;

(b) Adequate lavatory accommodations and supplies shall be placed at such locations in or near toilet rooms as to insure the cleanliness of each person who grades or handles the product to be inspected; and

(c) Suitable facilities for cleaning shall be provided at convenient locations in the plant.

§ 51.58 Equipment.

All equipment used for receiving, washing, grading, packaging or storing shall be of such design, material and construction that it may be kept clean.

§ 51.59 Operations and operating procedures.

(a) The inspector shall refuse to permit the use of the official shield with grade mark or continuous inspection legend on packages if the produce is from a field or orchard having a disease or other condition which may not be apparent on individual specimens at packing time but which may cause the product to materially decrease in quality after packing.

(b) All products which are certified shall be subjected to continuous inspection throughout the packing operations.

(c) The inspectors are available for consultation purposes but shall not become involved in plant operations.

(d) The Inspection Service will not be responsible for damages occurring through any act of commission or omission on the part of its inspectors when engaged in rendering continuous inspection service; for packing errors or misbranding of products; or for failure to supply enough inspectors during any period of service provided under the contract.

(e) The applicant for continuous inspection shall:

(1) Conform to all applicable regulations under which the continuous inspection service is conducted.

(2) Use only raw material which has been handled or stored under conditions which insures its suitability for packing; maintain the plant designated herein in such sanitary condition and to employ such methods of handling raw materials for packing as may be necessary to conform to the sanitary requirements prescribed in this part.

(3) Not permit any of his marks or labels or buyers' and distributors' marks or labels applied by him on which reference is made to continuous inspection to be used on any product not packed under this continuous inspection service; or permit any of his marks or labels or buyers' and distributors' marks or labels applied by him on which reference is made to any U.S. Grade to be used on any product which does not meet the requirements of such grade; or to supply labels bearing reference to continuous inspection service to another plant unless the products to which such labels are to be applied have been packed under continuous inspection.

(4) Furnish any reports of packaging and output of products inspected, as may be requested by the inspection agencies.

(5) Make available to inspectors adequate office space in the designated plant and furnish suitable desks and office equipment for the proper care of inspection records.

(6) Make his laboratory or other facilities and necessary equipment available for the use of inspectors in making inspection of samples.

(7) Furnish if required, such stenographic and clerical assistance as may be necessary in the typing of certificates and reports and the handling of official correspondence, as well as the labor incident to drawing of samples and facilitating adequate inspection procedure when necessary.

(8) Submit to the Consumer and Marketing Service, through the inspector assigned to the plant or other representative of the Inspection Service for approval prior to use, copies or proof of each packer's or distributor's label bearing or referring in any manner to official identification of the designated packaged products hereunder.

(9) Not make deceptive, fraudulent, or unauthorized use in his advertising, or otherwise, of the continuous inspection service, the inspection certificates or reports issued, or the containers on which the shield of the Department is identified, in connection with the sale of any of the packaged products; and to submit to the Consumer and Marketing Service through the inspector assigned to the plant or other representative of the Inspection Service, for approval to use any proposed advertising in which reference is made to the Inspection Service.

§ 51.60 Termination of contracts.

In case the applicant wishes to terminate the contract he agrees either to continue the service until all unused containers, labels and advertising material on hand or in the possession of his supplier bearing the Department shield, or reference to continuous inspection service have been used, or to destroy such containers, labels and advertising material, or to obliterate the Department shield and all other reference to the continuous inspection service on said containers, labels, and advertising material, or otherwise furnish assurance satisfactory to the Consumer and Marketing Service that such containers, labels and advertising material will not be used in violation of the terms and conditions of this agreement. In case the continuous inspection service is terminated for cause by the Consumer and Marketing Service, the applicant agrees to destroy all unused containers, labels and advertising material on hand bearing the Department shield, or reference to continuous inspection service, or to obliterate the Department shield, and all reference to the continuous inspection service on said containers, labels and advertising material or otherwise furnish assurance satisfactory to the Consumer and Marketing Service that such containers, labels and advertising material will not be used in violation of the terms and conditions of the agreement.

§ 51.61 Congressional interest in contracts.

No member of, or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of any contract provided for in the regulations in this subpart or to any benefit that may arise therefrom, but this provision shall not be construed to extend to such contract if made with a corporation for its general benefit, and shall not extend to any benefits that may accrue from the contract to a member of, or delegate to Congress, or a Resident Commissioner in his capacity as a farmer.

The Regulations Governing the Inspection, Certification, and Standardization of Fresh Fruits, Vegetables and other Products contained in this subpart shall become effective December 1, 1967.

Dated: October 24, 1967.

G. R. GRANGE,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 67-12760; Filed, Oct. 31, 1967; 8:45 a.m.]

PART 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS (INSPECTION, CERTIFICATION AND STANDARDS)

Subpart—U.S. Standards for Grades of Pecans in the Shell [1]

On September 7, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 12799) regarding a proposed revision of the U.S. Standards for Grades of Pecans in the Shell (7 CFR 51.1400–51.1418).

Statement of considerations leading to the revision of the grade standards. Several communications have been received relative to the revised standards since their publication under notice of proposed rule making. A number of recommendations for changes were made by the industry.

In the light of the available information and the recommendations and comments from the industry, it is determined that some adjustments are needed in the proposed revised standards. The provisions of the standards as published herein are the same as proposed, except for the following changes:

In § 51.1403, the counts of the numbers of pecans per pound in the four size classifications are increased by approximately 5 percent. For example, the requirement for "Extra Large" size has been 53 to 60 nuts per pound, and is now 56 to 63 nuts per pound. These changes are made because of the gradual slight decrease in recent years of the average weight of individual nuts of a given diameter.

In § 51.1405 *Tolerances*, paragraph (a) (2) (U.S. No. 1 kernel defects) has been rearranged and reworded for clarification. Also, that portion of the total tolerance which may be applied to defective kernels of all classes is increased from 10 to 12 percent. This change has been made as a result of convincing evidence that the proposed 10-percent limitation on defects other than damage by skin discoloration was unreasonably restrictive.

In order to balance the increase from 10 to 12 percent permitted for general kernel defects, the separate tolerance for skin color defects is reduced from 10 to 8 percent. This tolerance applies only to kernels which are one color classification darker than the specified minimum skin color but which otherwise are of U.S. No. 1 quality.

Paragraph (b) (2) of § 51.1405 is changed in two respects to make the tolerances for kernel defects in the U.S. Commercial grade more restrictive. The total tolerance for kernel defects is reduced from 35 to 30 percent. Also a provision is added which restricts to 6 percent the number of defective kernels of the so-called "inedible" class which may be permitted within the 10 percent tolerance for "serious defects." These changes were requested by the industry in order to reflect a trade demand for a somewhat higher minimum quality requirement in the Commercial grade.

The "Small" size classification, inadvertently omitted from the published proposal, is added, and reflects the count adjustment.

All other provisions of the revision of the standards as published on September 7, 1967 remain unchanged.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the following U.S. Standards for Grades of Pecans in the Shell are hereby promulgated pursuant to the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621–1627).

GRADES

Sec.
51.1400 U.S. No. 1.
51.1401 U.S. Commercial.
UNCLASSIFIED
51.1402 Unclassified.
SIZE CLASSIFICATION
51.1403 Size classification.
KERNEL COLOR CLASSIFICATION
51.1404 Kernel color classification.
TOLERANCES
51.1405 Tolerances.
APPLICATION OF STANDARDS
51.1406 Application of standards.
DEFINITIONS
51.1407 Fairly uniform in color.
51.1408 Loose extraneous or foreign material.
51.1409 Well developed.
51.1410 Fairly well developed.
51.1411 Poorly developed.
51.1412 Well cured.
51.1413 Light color.
51.1414 Light amber color.
51.1415 Amber color.
51.1416 Dark amber color.
51.1417 Damage.
51.1418 Serious damage.

AUTHORITY: The provisions of this subpart issued under secs. 203, 205, 60 Stat. 1087, as amended; 1090 as amended; 7 U.S.C. 1623, 1624.

GRADES

§ 51.1400 U.S. No. 1.

"U.S. No. 1" consists of pecans in the shell which meet the following requirements:

(a) Free from loose extraneous or foreign material

(b) Shells are:

(1) Fairly uniform in color; and,

(2) Free from damage by any cause.

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

(c) Kernels are:
(1) Free from damage by any cause.
(d) Comply with tolerances in § 51.1405.

§ 51.1401 U.S. Commercial.

The requirements for this grade are the same as for U.S. No. 1 except for:
(a) No requirement for uniformity of color of shells; and,
(b) Increased tolerances for defects (see § 51.1405).

UNCLASSIFIED

§ 51.1402 Unclassified.

"Unclassified" consists of pecans in the shell which have not been classified in accordance with either of the foregoing grades. The term "unclassified" is not a grade within the meaning of these standards but is provided as a designation to show that no grade has been applied to the lot.

SIZE CLASSIFICATION

§ 51.1403 Size classification.

Size of pecans may be specified in connection with the grade in accordance with one of the following classifications. To meet the requirements for any one of these classifications, the lot must conform to both the specified number of nuts per pound and the weight of the 10 smallest nuts per 100-nut sample:

Size classification	Number of nuts per pound	Minimum weight of the 10 smallest nuts in a 100-nut sample
Oversize	55 or less	In each classification, the 10 smallest nuts per 100 must weigh at least 7 percent of the total weight of the 100-nut sample.
Extra large	56 to 68	
Large	64 to 77	
Medium	78 to 96	
Small	96 to 120	

KERNEL COLOR CLASSIFICATION

§ 51.1404 Kernel color classification.

(a) Color of a lot of pecans having kernels generally lighter than "amber color" may be specified in connection with the U.S. No. 1 grade in terms of one of the classifications as follows:
(1) Light color; or,
(2) Light amber color.
(b) For tolerances see § 51.1405.

TOLERANCES

§ 51.1405 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances are provided as specified:

(a) *U.S. No. 1*—(1) *For shell defects, by count.* (i) 5 percent for pecans with damaged shells, including therein not more than 2 percent for shells which are seriously damaged.

(2) *For kernel defects, by count.* (i) 12 percent for pecans with kernels which fail to meet the requirements for the grade or for any specified color classification, including therein not more than 5 percent for kernels which are seriously damaged by any cause.

(ii) In addition, 8 percent for kernels which fail to meet the color requirements for the grade or for any specified color classification, but which are not seriously damaged by dark discoloration of the skin: *Provided,* That these kernels meet the requirements for the grade other than for skin color.

(3) *For loose extraneous or foreign material, by weight.* (i) 0.5 percent (one-half of 1 percent).

(b) *U.S. Commercial*—(1) *For shell defects, by count.* (i) 10 percent for pecans with damaged shells, including therein not more than 3 percent for shells which are seriously damaged.

(2) *For kernel defects, by count.* (i) 30 percent for pecans with kernels which fail to meet the requirements of the U.S. No. 1 grade, including therein not more than 10 percent for pecans with kernels which are seriously damaged: *Provided,* That not more than six-tenths of this amount, or 6 percent, shall be allowed for kernels which are rancid, moldy, decayed or injured by insects.

(3) *For loose extraneous or foreign material, by weight.* (i) 0.5 percent (one-half of 1 percent).

APPLICATION OF STANDARDS

§ 51.1406 Application of standards.

The grade of a lot of pecans shall be determined on the basis of a composite sample drawn at random from containers in various locations in the lot. However, any identifiable containers in which the pecans are obviously of a quality or size materially different from that in the majority of containers, shall be considered as a separate lot, and shall be sampled and graded separately.

DEFINITIONS

§ 51.1407 Fairly uniform in color.

"Fairly uniform in color" means that the shells do not show sufficient variation in color to materially detract from the general appearance of the lot.

§ 51.1408 Loose extraneous or foreign material.

"Loose extraneous or foreign material" means loose hulls, empty broken shells, or any substance other than pecans in the shell or pecan kernels.

§ 51.1409 Well developed.

"Well developed" means that the kernel has a large amount of meat in proportion to its width and length. (See Fig. 1.)

§ 51.1410 Fairly well developed.

"Fairly well developed" means that the kernel has at least a moderate amount of meat in proportion to its width and length. Shriveling and hollowness shall be considered only to the extent that they have reduced the meatiness of the kernel. (See Fig. 1.)

§ 51.1411 Poorly developed.

"Poorly developed" means that the kernel has a small amount of meat in proportion to its width and length. (See Fig. 1.)

§ 51.1412 Well cured.

"Well cured" means that the kernel separates freely from the shell, breaks cleanly when bent, without splintering, shattering, or loosening the skin; and the kernel appears to be in good shipping or storage condition as to moisture content.

§ 51.1413 Light color.

"Light color" means that the skin of the outer surface of the kernel is mostly golden color, or lighter, with not more than 25 percent of the outer surface darker than golden, and none of that 25 percent area darker than light brown.

Figure 1

CROSS SECTION ILLUSTRATION

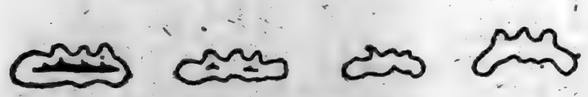

1. WELL DEVELOPED

Lower limit. Kernels having less meat content than these are not considered well developed.

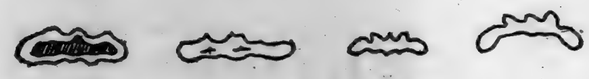

2. FAIRLY WELL DEVELOPED

Lower limit for U. S. No. 1 grade. Kernels having less meat content than these are not considered fairly well developed and are classed as damaged.

3. POORLY DEVELOPED

Lower limit, damaged but not seriously damaged. Kernels having less meat content than these are considered undeveloped and are classed as seriously damaged.

§ 51.1414 Light amber color.

"Light amber color" means that more than 25 percent of the skin of the outer surface of the kernel is light brown, with not more than 25 percent of the outer surface darker than light brown, and none of that 25 percent area darker than medium brown.

§ 51.1415 Amber color.

"Amber color" means that more than 25 percent of the skin of the outer surface of the kernel is medium brown, with not more than 25 percent of the outer surface darker than medium brown, and none of that 25 percent area darker than dark brown.

§ 51.1416 Dark amber color.

"Dark amber color" means that more than 25 percent of the skin of the outer surface of the kernel is dark brown, with not more than 25 percent of the outer surface very dark or blackish-brown (dark discoloration).

§ 51.1417 Damage.

"Damage" means any specific defect described in this section; or an equally objectionable variation of any one of these defects, or any other defect, or any combination of defects, which materially detracts from the appearance or the edible or marketing quality of the individual pecan or the general appearance of the pecans in the lot. The following defects shall be considered as damage:

(a) Adhering hull material or dark stains affecting an aggregate of more than 5 percent of the surface of the individual shell;

(b) Split or cracked shells when the shell is spread apart or will spread upon application of slight pressure;

(c) Broken shells when any portion of the shell is missing;

(d) Kernels which are not well cured;

(e) Poorly developed kernels;

(f) Kernels which are dark amber in color;

(g) Kernel spots when more than one dark spot is present on either half of the kernel, or when any such spot is more than one-eighth inch in greatest dimension;

(h) Adhering material from the inside of the shell when firmly attached to more than one-third of the outer surface of the kernel and contrasting in color with the skin of the kernel; and,

(i) Internal flesh discoloration of a medium shade of gray or brown extending more than one-fourth inch lengthwise beneath the center ridge, or an equally objectionable amount in other portions of the kernel; or lesser areas of dark discoloration affecting the appearance to an equal or greater extent.

§ 51.1418 Serious damage.

"Serious damage" means any specific defect described in this section; or an equally objectionable variation of any one of these defects, or any other defect, or any combination of defects, which seriously detracts from the appearance or the edible or marketing quality of the individual pecan. The following defects shall be considered as a serious damage:

(a) Adhering hull material or dark stains affecting an aggregate of more than 20 percent of the surface of the individual shell;

(b) Broken shells when the missing portion of shell is greater in area than a circle one-fourth inch in diameter;

(c) Worm holes when penetrating the shell;

(d) Rancidity when the kernel is distinctly rancid to the taste. Staleness of flavor shall not be classed as rancidity;

(e) Mold, on the surface or inside the kernel, which is plainly visible without magnification;

(f) Decay affecting any portion of the kernel;

(g) Insect injury when the insect, web or frass is present inside the shell, or the kernel shows distinct evidence of insect feeding;

(h) Kernel spots when more than three dark spots are on either half of the kernel, or when any spot or the aggregate of two or more spots on one of the halves of the kernel affects more than 10 percent of the surface;

(i) Dark discoloration of the skin which is darker than dark amber over more than 25 percent of the outer surface of the kernel;

(j) Internal flesh discoloration of a dark shade extending more than one-third the length of the kernel beneath the ridge, or an equally objectionable amount of dark discoloration in other portions of the kernel; and,

(k) Undeveloped kernels having practically no food value, or which are blank (complete shell containing no kernel).

It is hereby found that good cause exists for not postponing the effective date of the revision beyond the date of publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011), in that (1) the 1967 packing season for pecans is well under way and it is in the interest of the public and the industry that the

revision be placed in effect at the earliest possible date; and (2) no special preparation is required for compliance with this revision on the part of members of the pecan industry or of others.

Accordingly the U.S. Standards for Grades of Pecans in the Shell contained in this subpart shall become effective upon publication in the FEDERAL REGISTER, and will thereupon supersede the U.S. Standards for Pecans in the Shell which have been in effect since October 1, 1951 (7 CFR 51.1400–51.1416).

Dated: October 27, 1967.

G. R. GRANGE,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 67-12944; Filed, Oct. 31, 1967; 8:47 a.m.]

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 13]

PART 730—RICE

Subpart—Regulations for Determination of Acreage Allotments for 1964 and Subsequent Crops of Rice

APPLICATIONS FOR NEW GROWER RICE ALLOTMENTS WHEN NO STATE RESERVE IS ESTABLISHED FOR SUCH ALLOTMENTS

Basis and purpose. The amendment herein is issued under and in accordance with the provisions of the Agricultural Adjustment Act of 1938, as amended.

The purpose of this amendment is to provide that requests for new grower allotments shall not be accepted for any year for a State for which no State reserve is established for such allotments.

Since this amendment eliminates the need for accepting a request for an allotment for which no reserve has been established, it is found that compliance with the notice, public procedure, and effective date requirements of 5 U.S.C. 553 is unnecessary and this amendment shall become effective as provided herein.

1. Section 730.1518 is amended by adding at the end thereof a new paragraph (h) to read:

§ 730.1518 Determination of allotments for new producers.

* * * * *

(h) Notwithstanding the provisions of paragraphs (a) and (b) of this section, applications for new producer allotments shall not be accepted for any year for a State for which no State reserve is established for such allotments.

2. Section 730.1529 is amended by adding at the end thereof a new paragraph (j) to read:

§ 730.1529 Determination of allotments for new farms.

* * * * *

(j) Notwithstanding the provisions of paragraph (a) of this section, requests for new farm allotments shall not be accepted for any year for a State for which no State reserve is established for such allotments.

(Secs. 352, 375, 52 Stat. 61, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1359, 1375)

Effective date. Date of filing with the Director, Office of the Federal Register.

Signed at Washington, D.C., on October 27, 1967.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 67-12908; Filed, Oct. 31, 1967; 8:51 a.m.]

Chapter X—Consumer and Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order 1]

PART 1001—MILK IN MASSACHUSETTS-RHODE ISLAND-NEW HAMPSHIRE MARKETING AREA

Order Amending Order [1]

GENERAL DEFINITIONS

Sec.
1001.1 Act.
1001.2 Massachusetts-Rhode Island-New Hampshire marketing area.
1001.3 Route disposition.

DEFINITIONS OF PERSONS

1001.5 Person.
1001.6 Secretary.
1001.7 Producer.
1001.8 Cooperative association.
1001.9 Handler.
1001.10 Producer-handler.
1001.11 Dairy farmer for other markets.

DEFINITIONS OF PLANTS

1001.15 Plant.
1001.16 Pool plant.
1001.17 Exempt distributing plant.
1001.18 Distributing plant for unregulated markets.
1001.19 Regulated plant under another Federal order.

DEFINITIONS OF MILK AND MILK PRODUCTS

1001.22 Fluid milk products.
1001.23 Cream.
1001.24 Producer milk.
1001.25 Pool milk.
1001.26 Exempt milk.
1001.27 Diverted milk.

MARKET ADMINISTRATOR

1001.30 Designation.
1001.31 Powers.
1001.32 Duties.

POOL PLANT REQUIREMENTS

1001.35 Distributing plants.
1001.36 Cooperative association plants located in the marketing area.
1001.37 Supply plants.

REPORTS, RECORDS, AND FACILITIES

1001.40 Monthly reports of receipts and utilization.
1001.41 Other reports of receipts and utilization.
1001.42 Reports regarding individual producers and dairy farmers.
1001.43 Notices to producers.
1001.44 Records and facilities.
1001.45 Retention of records.

CLASSIFICATION

1001.47 Classification of milk and milk products—in general.
1001.48 Class I milk.
1001.49 Class II milk.
1001.50 Classification of fluid milk products moved to plants.
1001.51 Classification of inventories.

ASSIGNMENT OF RECEIPTS

1001.53 Assignment of receipts to classes—in general.
1001.54 Initial assignments to Class I milk.
1001.55 Initial assignments to Class II milk.
1001.56 Special assignments to classes.
1001.57 Additional assignments to Class I milk.
1001.58 Additional assignment to Class II milk.

MINIMUM PRICES

1001.60 Class I price.
1001.61 Class II price.
1001.62 Zone differentials.
1001.63 Determination of applicable zone locations for pricing purposes.
1001.64 Computation of value of fluid milk products at class prices.
1001.65 Basic blended price.
1001.66 Factors used in formulas.

PAYMENTS—GENERAL

1001.70 Payments to producers.
1001.71 Butterfat differential.
1001.72 Farm location differentials.
1001.73 Statements to producers.
1001.74 Adjustment of payments to producers.
1001.75 Marketing service deductions.
1001.76 Payments to cooperative associations.

PAYMENTS—PRODUCER SETTLEMENT FUND

1001.80 Producer settlement fund.
1001.81 Handlers' producer settlement fund debits and credits.
1001.82 Payments to and from the producer settlement fund.
1001.83 Adjustment of errors in producer settlement fund payments.
1001.84 Adjustment of overdue producer settlement fund accounts.

ADMINISTRATION EXPENSE

1001.87 Payment of administration expense.

MISCELLANEOUS PROVISIONS

1001.90 Effective time.
1001.91 Suspension or termination.
1001.92 Continuing obligations.
1001.93 Liquidation.
1001.94 Termination of obligations.
1001.95 Agents.
1001.96 Separability of provisions.

AUTHORITY: The provisions of this Part 1001 issued under secs. 1–19, 48 Stat. 31 as amended, 7 U.S.C. 601–674.

§ 1001.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Massachusetts-Rhode Island-New Hampshire marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expenses of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such amount not to exceed 4 cents per hundredweight as the Secretary may prescribe, with respect to:

(i) All of the handler's receipts at pool plants during the month of fluid milk products from all sources, except receipts from pool plants, receipts from regulated plants under other Federal orders if such receipts were subject to an administration expense assessment under the other order, and receipts of exempt milk processed at plants other than pool plants;

(ii) All receipts and beginning inventory of a cooperative association in its capacity as a handler under § 1001.9(d) for the month less its disposition to pool plants and ending inventory for the month; and

(iii) The quantity of pool milk distributed as route disposition in the marketing area from a handler's nonpool plant.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means, pursuant to the declared policy of the Act, of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the Massachusetts-Rhode Island order (Part 1001) shall be known as the Massachusetts-Rhode Island-New Hampshire order and the handling of milk in the Massachusetts-Rhode Island-New Hampshire marketing area shall be in conformity to and in compliance with the terms and conditions of Order No. 1, as amended and as hereby amended, as follows:

[1] Order No. 1, as amended, expands the marketing area heretofore covered by said order and redesignates the expanded area as the Massachusetts-Rhode Island-New Hampshire Marketing Area.

GENERAL DEFINITIONS

§ 1001.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 1001.2 Massachusetts-Rhode Island-New Hampshire marketing area.

"Massachusetts-Rhode Island-New Hampshire marketing area," referred to in this part as the "marketing area," means all territory within the places listed below, all waterfront facilities connected therewith and craft moored thereat, and all territory therein occupied by any governmental installation, institution, or other establishment:

MASSACHUSETTS

COUNTIES

Barnstable.
Bristol.
Dukes.
Essex.
Norfolk.
Plymouth.
Suffolk.

CITIES AND TOWNS

Agawam.
Arlington.
Ashland.
Auburn.
Ayer.
Bedford.
Belmont.
Billerica.
Blackstone.
Boylston.
Burlington.
Cambridge.
Charlton.
Chelmsford.
Chicopee.
Clinton.
Dracut.
Dudley.
Easthampton.
East Longmeadow.
Everett.
Fitchburg.
Framingham.
Gardner.
Grafton.
Holden.
Holliston.
Holyoke.
Hopedale.
Hopkinton.
Lancaster.
Leicester.
Leominster.
Lexington.
Littleton.
Longmeadow.
Lowell.
Ludlow.
Lunenburg.
Malden.
Marlborough.
Medford.
Melrose.
Mendon.
Milford.
Millbury.
Millville.
Natick.
Newton.
Northampton.
Northborough.
North Reading.
Oxford.
Paxton.
Princeton.
Reading.
Rutland.
Sherborn.
Shrewsbury.
Somerville.
Southborough.
Southbridge.
South Hadley.
Spencer.
Springfield.
Sterling.
Stoneham.
Sutton.
Tewksbury.
Tyngsborough.
Upton.
Wakefield.
Waltham.
Watertown.
Wayland.
Webster.
Westborough.
West Boylston.
Westfield.
Westford.
Westminster.
Weston.
West Springfield.
Wilbraham.
Wilmington.
Winchester.
Woburn.
Worcester.

NEW HAMPSHIRE

COUNTIES

Belknap.
Hillsboro.
Merrimack.
Rockingham.
Strafford.

CITIES AND TOWNS

Ashland.
Bridgewater.
Bristol.
Dublin.
Harrisville.
Holderness.
Jaffrey.
Keene.
Marlborough.
Nelson.
Plymouth.
Roxbury.
Sullivan.

RHODE ISLAND

All cities and towns except New Shoreham (Block Island).

§ 1001.3 Route disposition.

"Route disposition" means distribution of Class I milk by a handler to retail or wholesale outlets, which include vending machines but do not include plants or distribution points. The route disposition of a handler shall be attributed to the processing and packaging plant from which the Class I milk is moved to retail or wholesale outlets without intermediate movement to another processing and packaging plant.

DEFINITIONS OF PERSONS

§ 1001.5 Person.

"Person" means any individual, partnership, corporation, association, or any other business unit.

§ 1001.6 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

§ 1001.7 Producer.

"Producer" means a dairy farmer who produces milk which is moved, other than

in packaged form, from his farm to a pool plant, or to any other plant as diverted milk. Notwithstanding what his status otherwise would be under any other Federal order, the term shall include a dairy farmer with respect to all milk caused to be moved from his farm to a pool plant under this order by a handler under another Federal order if any of the dairy farmer's milk so received is assigned to Class I milk under this order. However, the term shall not include:

(a) A producer-handler under any Federal order;

(b) A dairy farmer with respect to milk caused to be moved from his farm to a pool plant under this order by a handler under another Federal order if all of the dairy farmer's milk so received is assigned to Class II milk under this order and considered as a receipt from a producer under the provisions of the other Federal order notwithstanding what his status otherwise would be under this order;

(c) A dairy farmer for other markets;

(d) A dairy farmer who is a local or state government and has nonproducer status for the month under § 1001.26(c);

(e) A dairy farmer with respect to salvage product assigned under § 1001.55 (c); or

(f) A dairy farmer with respect to milk which a handler causes to be moved from the dairy farmer's farm to a regulated plant under another Federal order, if any of the milk is assigned to Class I milk under that order and all of the dairy farmer's milk so moved is considered as producer milk under the other order.

§ 1001.8 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members; and

(c) To be engaged in making collective sales of, or marketing, milk or its products for its members.

§ 1001.9 Handler.

"Handler" means:

(a) Any person who operates a pool plant;

(b) Any person who operates any other plant, or a pool bulk tank unit as defined under another Federal order, from which fluid milk products are disposed of, directly or indirectly, in the marketing area;

(c) Any person who does not operate a plant but who engages in the business of receiving fluid milk products for resale and distributes to retail or wholesale outlets packaged fluid milk products received from any plant described in paragraph (a) or (b) of this section; or

(d) Any cooperative association with respect to the milk which is moved from farms of its members in tank trucks operated by or under contract to the association, and which is moved to pool plants, or as diverted milk to nonpool plants other than producer-handlers' plants, for the account of and at the direction of the association. The association shall be considered as the handler who received the milk from the dairy farmers. However, the cooperative association shall not be the handler with respect to the milk moved from any farm if the association and the operator of the pool plant to which milk from such farm is moved both submit a request in writing, on or before the due date for filing the monthly reports of receipts and utilization, that the operator of the pool plant be considered as the handler who received the milk from the dairy farmer, and the pool plant operator's request states that he is purchasing the milk from such farm on the basis of the farm bulk tank measurement readings and of the butterfat tests of samples of the milk taken from the farm bulk tank.

§ 1001.10 Producer-handler.

"Producer-handler" means any person who, during the month, is both a dairy farmer and a handler and who meets the conditions specified in each of the paragraphs of this section.

(a) He provides as his own enterprise and at his own risk the maintenance, care, and management of the dairy herd and other resources and facilities which he uses to produce milk, to process and package such milk at his own plant, and to distribute it as route disposition.

(b) His own route disposition constitutes the majority of the route disposition from his plant.

(c) The quantity of route disposition in the marketing area from his plant is greater than in any other Federal marketing area.

(d) He receives no fluid milk products except from his own production and pool plants under any New England Federal order. If his receipts from own production and the total route disposition from his plant each exceed 2,150 pounds per day for the month, his receipts from New England Federal order pool plants are not in excess of 3 percent of his receipts from own production. For the purposes of this paragraph, his receipts of fluid milk products shall include receipts from plants of other persons at all retail and wholesale outlets which are located in New England Federal marketing areas and which are operated by him, an affiliate, or any person who controls or is controlled by him.

§ 1001.11 Dairy farmer for other markets.

"Dairy farmer for other markets" means any dairy farmer described in this section. For the purposes of this section, the acts of any person who is an affiliate of, or who controls or is controlled by, a handler or dealer shall be considered as having been performed by the handler or dealer. Receipts from a "dairy farmer for other markets" shall be considered as receipts from the unregulated plant at which the greatest quantity of his milk was received in the most recent month.

(a) The term includes a dairy farmer with respect to milk which is purchased from him during the month by a dealer who operates a plant but does not operate a pool plant, if the milk is moved to a pool plant directly from the dairy farmer's farm. The term shall not apply to the dairy farmer, however, if all the nonpool milk purchased from him during the month by the same dealer is a receipt of producer milk under the provisions of another Federal order or will be such if the dairy farmer is a producer under this part.

(b) The term includes a dairy farmer with respect to milk which is purchased from him by a handler and moved to a pool plant or which is purchased from him by a cooperative association in its capacity as a handler under § 1001.9(d), if that handler caused milk from the same farm to be moved as nonpool milk to any plant during the same month. The term shall not apply to the dairy farmer, however, if all the nonpool milk is a receipt of producer milk under the provisions of another Federal order or will be such if the dairy farmer is a producer under this part.

(c) The term includes a dairy farmer with respect to milk which is received from him by a handler at a pool plant or which is purchased from him by a cooperative association in its capacity as a handler under § 1001.9(d) during any of the months of December through June, if the handler caused nonpool milk from the same farm to be received during any of the preceding months of July through November at a plant which is not a pool plant under any Federal order in the current month. The term shall not apply to the dairy farmer, however, if all the nonpool milk was a receipt of producer milk under the provisions of another Federal order or represented receipts from own production by a producer-handler under any Federal order.

DEFINITIONS OF PLANTS

§ 1001.15 Plant.

"Plant" means the land and buildings, together with their surroundings, facilities, and equipment, constituting a single operating unit or establishment which is operated exclusively by one or more persons engaged in the business of handling fluid milk products for resale or manufacture into milk products, and which is used for the handling or processing of milk or milk products. The term "plant" does not include:

(a) Distribution points (separate premises used primarily for the transfer to vehicles of packaged fluid milk products moved there from processing and packaging plants); or

(b) Bulk reload points (separate premises used for the transfer of milk en route from dairy farmers' farms to

a plant, at which premises facilities for washing and sanitizing cans or tank trucks are not maintained and used).

§ 1001.16 Pool plant.

"Pool plant" means any plant which meets the applicable conditions for pool plant status as a pool distributing plant, under § 1001.35; a cooperative association plant located in the marketing area, under § 1001.36; or a pool supply plant, under § 1001.37. However, if the market administrator determines that a specified proportion or quantity of the receipts from dairy farmers and of pool milk from other sources handled at a plant is not available for Class I use because there is in force an unconditional contract for the plant to supply fluid milk products for Class II use, the plant shall not be a pool plant for the month in which the market administrator notifies the handler of the determination and for any subsequent month in which the contract is in force for any part of the month.

§ 1001.17 Exempt distributing plant.

"Exempt distributing plant" means a plant, other than a pool supply plant or a regulated plant under another Federal order, which meets all the requirements for status as a pool distributing plant except that its route disposition in the marketing area in the month does not exceed 700 quarts on any day or a daily average of 300 quarts.

§ 1001.18 Distributing plant for unregulated markets.

"Distributing plant for unregulated markets" means a processing and packaging plant from which the route disposition outside any Federal marketing area amounts to more than 50 percent of its total receipts of fluid milk products during the month. The term shall not apply to a pool plant, an exempt distributing plant under any New England Federal order, a producer-handler's plant under any Federal order, or a regulated plant under another Federal order.

§ 1001.19 Regulated plant under another Federal order.

"Regulated plant under another Federal order" means a pool plant or any other plant at which all fluid milk products handled become subject to the classification and pricing provisions of another Federal order.

DEFINITIONS OF MILK AND MILK PRODUCTS

§ 1001.22 Fluid milk products.

"Fluid milk products" means milk, skimmed milk, flavored milk or skimmed milk, cultured skimmed milk, buttermilk, concentrated milk, any mixture of milk or skimmed milk and cream containing less than 10 percent butterfat, and 50 percent of the quantity by weight of any mixture of milk or skimmed milk and cream containing at least 10 percent but less than 16 percent butterfat. The term includes these products in fluid, frozen, fortified, or reconstituted form but does not include sterilized products in hermetically sealed containers and such products as eggnog, yogurt, whey, ice cream mix, ice milk mix, milk shake base mix, and evaporated or condensed milk or skimmed milk, in either plain or sweetened form. Fluid milk products which have been placed in containers for disposition to retail or wholesale outlets are referred to in this part as packaged fluid milk products.

§ 1001.23 Cream.

"Cream" means that portion of milk, containing not less than 16 percent butterfat, which rises to the surface of milk on standing, or is separated from it by centrifugal force. The term also includes soured cream, frozen cream, fortified cream, reconstituted cream, any mixture of milk or skimmed milk and cream containing 16 percent or more of butterfat, and 50 percent of the quantity by weight of any mixture of milk or skimmed milk and cream containing at least 10 percent but less than 16 percent butterfat.

§ 1001.24 Producer milk.

"Producer milk" means milk which the handler has received from producers. The quantity of milk received by a handler from producers shall include any milk of a producer which was not received at any plant but which the handler or an agent of the handler has accepted, measured, sampled, and transferred from the producer's farm tank into a tank truck during the month. Such milk shall be considered as having been received at the pool plant at which other milk from the same farm of that producer is received by the handler during the month, except that in the case of a cooperative association in its capacity as a handler under § 1001.9(d), the milk shall be considered as having been received at a plant in the zone location of the pool plant, or pool plants within the same zone, to which the greatest aggregate quantity of the milk of the cooperative association in such capacity was moved during the current month or the most recent month.

§ 1001.25 Pool milk.

"Pool milk" means fluid milk products (other than exempt milk) received or disposed of as specified in this section:

(a) Receipts of producer milk;

(b) The following receipts of fluid milk products at pool plants (exclusive of receipts from other pool plants, producer-handlers under any Federal order, exempt distributing plants under any New England Federal order, and receipts from regulated plants under other Federal orders which are classified and priced under the other orders):

(1) Receipts at pool distributing plants from plants located outside the New England States and beyond zone 40;

(2) Receipts at pool plants, other than pool distributing plants, to the extent assigned to Class I milk under § 1001.55 (g), from plants located outside the New England States and beyond zone 40; and

(3) Receipts at pool plants, to the extent assigned to Class I milk under § 1001.55(h), from plants located within one of the New England States or in zone 40 or a nearer zone, exclusive of bulk fluid milk products from distributing plants for unregulated markets;

(c) Receipts of bulk fluid milk products at pool distributing plants, to the extent assigned to classes under § 1001.56 (b), from regulated plants under other Federal orders with individual-handler pools;

(d) Receipts of bulk fluid milk products at pool plants, other than pool distributing plants, to the extent assigned to Class I milk under § 1001.57(g), from regulated plants under other Federal orders with individual-handler pools;

(e) Route disposition in the marketing area from any processing and packaging plant (except a pool plant, a producer-handler's plant under any Federal order, an exempt distributing plant under any New England Federal order, or a regulated plant under another Federal order) to the extent of all such disposition in the month which is in excess of a daily average of 300 quarts or of 700 quarts on any day, whichever is greater. In determining the quantity of pool milk under this paragraph, the total quantity of route disposition in the marketing area from the plant first shall be reduced by the quantity of fluid milk products received at the plant during the month which is classified and priced as Class I milk or the equivalent thereof under any marketwide pool Federal order and which is not used to offset route disposition in any other Federal marketing area. The reduction shall be made first in any route disposition which is in excess of 700 quarts on any day; and

(f) Route disposition in the marketing area from a regulated plant under another Federal order of fluid milk products which are not both classified and priced under the other order, to the extent of all such disposition in the month which is in excess of 700 quarts on any day or of a daily average of 300 quarts, whichever is greater.

§ 1001.26 Exempt milk.

"Exempt milk" means:

(a) Milk received at a pool plant in bulk from a nonpool plant to be processed and packaged, for which an equivalent quantity of packaged fluid milk products is returned to the operator of the nonpool plant during the same month, if the receipts of bulk milk and return of packaged fluid milk products occur during an interval in which the facilities of the nonpool plant at which the milk is usually processed and packaged are temporarily unusable because of fire, flood, storm, or similar extraordinary circumstances completely beyond the dealer's control;

(b) Packaged fluid milk products received at a pool plant from a nonpool plant in return for an equivalent quantity of bulk milk moved from a pool plant for processing and packaging during the same month, if the movement of bulk milk and receipt of packaged fluid milk products occur during an interval in which the facilities of the pool plant at which the milk is usually processed and

packaged are temporarily unusable because of fire, flood, storm, or similar extraordinary circumstances completely beyond the handler's control; and

(c) Milk received at a pool plant in bulk from the dairy farmer who produced it, to the extent of the quantity of any packaged fluid milk products returned to the dairy farmer, if:

(1) The dairy farmer is a State or local government which is not engaged in the route disposition of any of the returned products; and

(2) The dairy farmer has, by written notice to the market administrator and the receiving handler, elected nonproducer status for a period of not less than 12 months beginning with the month in which the election was made and continuing for each subsequent month until canceled in writing, and the election is in effect for the current month.

§ 1001.37 Diverted milk.

"Diverted milk" means milk, other than that excluded under § 1001.7 from being considered as received from a producer, which meets the following conditions:

(a) Milk which a handler in his capacity as the operator of a pool plant reports as having been moved from a dairy farmer's farm to the pool plant, but which he caused to be moved from the farm to another plant, if the handler specifically reports such movement to the other plant as a movement of diverted milk, and the conditions of subparagraph (1) or (2) of this paragraph have been met. Milk which is diverted milk under this paragraph shall be considered to have been received at the pool plant from which it was diverted, but for pricing purposes the differentials for the zone location specified in § 1001.63 shall be used.

(1) The handler caused milk from the farm to be moved to such pool plant, or to another of his pool plants which is no longer operated as a plant, on a majority of the delivery days, during the 12 months ending with the current month, on which the handler either caused milk to be moved from the farm as producer milk, or caused milk to be moved as producer milk from the farm in a tank truck.

(2) The handler caused the milk to be moved from the farm in a tank truck in which it was intermingled with milk from other farms, the milk from a majority of which farms was diverted from the same pool plant during the month in accordance with the preceding provisions of this paragraph.

(b) Milk which a cooperative association in its capacity as a handler under § 1001.9(d) caused to be moved from a farm to a nonpool plant, if the cooperative association specifically reports the movement to such plant as a movement of diverted milk, and the conditions of subparagraph (1) or (2) of this paragraph have been met.

(1) The cooperative association caused milk from the farm to be moved to pool plants on a majority of the delivery days, during the 12 months ending with the current month, on which the cooperative association caused milk to be moved from the farm as producer milk.

(2) The cooperative association caused the milk to be moved from the farm in a tank truck in which it was intermingled with milk from other farms, the milk from a majority of which farms was diverted by the cooperative association during the month in accordance with the preceding provisions of this paragraph.

MARKET ADMINISTRATOR

§ 1001.30 Designation.

The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 1001.31 Powers.

The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To make rules and regulations to effectuate its terms and provisions;

(c) To receive, investigate, and report to the Secretary complaints of violations; and

(d) To recommend amendments to the Secretary.

§ 1001.32 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part. His duties shall include but not be limited to those specified in this section.

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, he shall execute and deliver to the Secretary a bond effective as of the date on which he enters upon his duties. The bond shall be conditioned upon the faithful performance of those duties and shall be in an amount and with surety thereon satisfactory to the Secretary.

(b) He shall employ and fix the compensation of any persons necessary to enable him to administer the terms and provisions of this part.

(c) He shall obtain a bond in a reasonable amount, and with reasonable surety thereon, covering each employee who handles funds entrusted to the market administrator.

(d) He shall pay from the funds provided by § 1001.87 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties except those expenses incurred under § 1001.75.

(e) He shall keep books and records to reflect clearly the transactions provided for in this part and, upon request by the Secretary, surrender them to any other person the Secretary may designate.

(f) He shall submit his books and records to examination by the Secretary and furnish any information and reports requested by the Secretary.

(g) He shall prepare and make available for the benefit of producers, handlers, and consumers, statistics and information concerning the operation of this part.

(h) He shall verify handlers' reports and payments to the extent necessary, by any appropriate means including audit of the handlers' records and, if made available, of the records of any other persons upon whose utilization the classification of butterfat and skim milk depends. If verification discloses that the original classification was incorrect, the market administrator shall make appropriate reclassification of the butterfat and skim milk.

(i) At his discretion and unless otherwise directed by the Secretary, he shall publicly announce (by posting in a conspicuous place in his office and by such other means as he deems appropriate) the name of any handler the value of whose fluid milk products is not included in the computation of the basic blended price because of failure to file reports under § 1001.40 or make payments under § 1001.82.

(j) He shall publicly announce (by posting in a conspicuous place in his office and by such other means as he deems appropriate):

(1) By the 25th day of the month, the Class I price for the following month, as computed under § 1001.60;

(2) By the 5th day of the month, the Class II price and the butterfat differential for the preceding month, as computed under §§ 1001.61 and 1001.71(b), respectively;

(3) By the 13th day of each month, the zone blended prices resulting from the adjustment of the basic blended price for the preceding month, as computed under § 1001.65, by the zone differentials contained in § 1001.62(d);

(4) Whenever required for purpose of assigning receipts from other Federal order plants under § 1001.56(b), his estimate of the utilization (to the nearest whole percentage) in each class during the month of butterfat and skim milk, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose; and

(5) By the 25th day of each January, the monthly base Class I percentage factors computed under § 1001.68(a).

(k) He shall place the sums deducted under § 1001.65(c) and retained under § 1001.80 in an interest-bearing bank account or accounts in a bank or banks duly approved as a Federal depository for such sums, or invest them in short-term U.S. Government securities.

POOL PLANT REQUIREMENTS

§ 1001.35 Distributing plants.

Each processing and packaging plant (other than a producer-handler's plant

under any Federal order or a regulated plant under another Federal order) shall be a pool distributing plant in any month in which it meets the conditions specified in this section.

(a) Its total Class I disposition in the month, or in either of the 2 preceding months, is not less than 40 percent of its total receipts of fluid milk products in the corresponding month.

(b) Its route disposition in the marketing area in the month:

(1) Is not less than 10 percent of its total receipts of fluid milk products;

(2) Exceeds its route disposition in any other Federal marketing area; and

(3) Exceeds 700 quarts on any day or a daily average of 300 quarts.

§ 1001.36 Cooperative association plants located in the marketing area.

Each plant which is located in the marketing area and which is operated by a cooperative association shall be a pool plant in any month in which its route disposition does not exceed 2 percent of its total receipts of fluid milk products.

§ 1001.37 Supply plants.

Each plant (other than a plant described in paragraph (e) of this section) shall be a pool supply plant in any month in which it meets the conditions specified in paragraph (a), and in paragraph (b), (c), or (d), of this section. For the purposes of this section, milk received at a plant from a cooperative association in its capacity as a handler under § 1001.9(d) shall be considered as received at that plant from dairy farmers' farms.

(a) It is a plant at which facilities are maintained and used for washing and sanitizing cans or tank trucks and to which milk is moved from dairy farmers' farms in cans and is there accepted, weighed or measured, sampled, and cooled, or to which milk is moved from dairy farmers' farms in tank trucks and is there transferred to stationary equipment or to other vehicles.

(b) For the month of July it is a plant from which at least 15 percent, and for any month of August through November it is a plant from which at least 35 percent of its total receipts of milk from dairy farmers' farms is shipped as fluid milk products, other than as diverted milk:

(1) To pool distributing plants; or

(2) To plants to which qualifying shipments may be made under any New England Federal order and a greater quantity of fluid milk products is shipped to pool distributing plants under this order than to the other plants.

(c) For any month of July through November, it is one of a group of plants which meets the conditions specified in this paragraph.

(1) The handler's written request for continuation of pool supply plant status, which the plant held under his operation in the preceding month, is received by the market administrator on or before the 16th day of the month.

(2) The plant does not qualify for pool plant status under another New England Federal order on the basis of shipments of fluid milk products which exceed those made to pool distributing plants under this order, and the group of plants, considered as a unit, meets the shipping requirements specified in paragraph (b) of this section.

(3) To qualify as a pool supply plant under this paragraph in November of any year, the plant, considered individually, shall have met the shipping requirements specified in paragraph (b) of this section in one of the months of July through October of that year.

(4) For the purposes of this paragraph, any supply plant operated by a cooperative association which is also a handler under § 1001.9(d) may be considered as one of a group of plants. In that event, the group's total receipts of milk from dairy farmer's farms shall be the total of such receipts by the association other than at any of its plants which is not one of the group; and the group's qualifying shipments shall consist of the qualifying shipments from the plants in the group plus the quantity of milk moved from farms of its members to other handlers' pool distributing plants by the association in its capacity as a handler under § 1001.9(d).

(d) For any month of December through June, it is a plant from which at least 15 percent of its total receipts of milk from dairy farmers' farms is shipped as fluid milk products, other than as diverted milk, to plants in accordance with paragraph (b) (1) or (2) of this section, or it is a plant which meets the requirements for automatic pool plant status specified in this paragraph. The automatic pool plant status of a plant shall be revoked for any month for which the market administrator has received the handler's written request for revocation on or before the 16th day of that month. In that event the plant shall not have automatic pool plant status in any subsequent month of the current December through June period.

(1) The plant was a pool supply plant in each of the preceding months of July through November; or

(2) The plant was a pool supply plant under one or another of the New England Federal orders in at least two of the preceding months of July through November and would have been such a plant in all other months in that period had it not been a pool plant under the New York-New Jersey Federal order, and a greater quantity of its receipts from dairy farmers' farms during the July through November period was pooled under this order than under any other New England Federal order.

(e) No plant shall be a pool supply plant in any month in which it is operated as:

(1) A pool distributing plant;

(2) The plant of a producer-handler under any Federal order;

(3) A regulated plant under another Federal order with a marketwide pool, including any plant which meets the requirements for pool supply plant status specified in § 1015.16(b) (3) or (5) of the Connecticut order; or

(4) A plant qualifying for pooling under a Federal order with individual-handler pools on the basis of its route disposition or on the basis of shipments of fluid milk products which exceed the shipments of fluid milk products qualifying the plant for pooling under this order.

REPORTS, RECORDS, AND FACILITIES

§ 1001.40 Monthly reports of receipts and utilization.

On or before the 8th day after the end of the month, or not later than the 10th day if the report is delivered in person to the office of the market administrator, each handler who operates a pool plant or any other plant from which there is route disposition in the marketing area, and each cooperative association in its capacity as a handler under § 1001.9(d), shall file a report for the month with the market administrator. The report for each such plant and for each such cooperative association in its capacity as a handler under § 1001.9(d) shall be in the detail and on forms prescribed by the market administrator and shall show the quantities of butterfat and of skim milk contained in:

(a) Receipts of milk and milk products in the form of:

(1) Producer milk (including the specific quantities of diverted milk and of receipts from the handler's own production);

(2) Pool milk other than producer milk;

(3) Fluid milk products and cream from all other plants;

(4) Milk from cooperative associations in their capacity as handlers under § 1001.9(d); and

(5) Fluid milk products and cream from all other sources (including the quantities of fluid milk products or cream reconstituted from other milk products and the quantities of other milk products used to fortify fluid milk products or cream);

(b) Inventories of fluid milk products and cream at the beginning and at the end of the month; and

(c) The respective quantities of fluid milk products and cream sold, distributed, used, or otherwise disposed of, classified in accordance with the provisions of §§ 1001.47 through 1001.51.

§ 1001.41 Other reports of receipts and utilization.

(a) Within 5 days after the first receipt at his pool plant of fluid milk products during the month from each plant which is neither a pool plant nor a producer-handler's plant under any New England Federal order, each handler shall file with the market administrator a report showing the identity of the operator of the shipping plant, the plant location, the quantities of bulk and packaged fluid milk products received, and such other information respecting the receipt as the market administrator may prescribe.

(b) For any month in which it is claimed that the farm of any dairy farmer from whom he received milk is

located in a farm location differential area described in § 1001.72, each handler from whose plant pool milk other than producer milk is moved to a pool plant and each handler with route disposition of pool milk in the marketing area from a nonpool plant shall file with the market administrator a report showing the name, post office address, and farm location of each dairy farmer from whom he received milk at the plant during the month, and the total pounds of milk received from each farm. The report shall be submitted within 10 days after the market administrator's request, made not earlier than the 20th day after the end of the month.

(c) Each handler who is not required to file monthly reports of receipts and utilization under § 1001.40 shall file with the market administrator reports relating to his receipts and utilization of milk and milk products at the time and in the manner prescribed by the market administrator.

§ 1001.42 Reports regarding individual producers and dairy farmers.

(a) Within 20 days after a handler begins or resumes receiving milk at his pool plant from a producer's farm or begins receiving milk by tank truck at his pool plant from a producer's farm, or a cooperative association in its capacity as a handler under § 1001.9(d) begins receiving milk from a producer's farm, the handler shall file with the market administrator a report showing the applicable date and the producer's name, post office address, and farm location. The report shall indicate, if known, the plant at which, or the cooperative association in its capacity as a handler under § 1001.9 (d) by which, the producer's milk was being received prior to the beginning or resumption of receipts from the farm by the handler.

(b) Within 15 days after the 5th consecutive day on which a handler fails to receive milk at his pool plant from a producer's farm or a cooperative association in its capacity as a handler under § 1001.9(d) fails to receive milk from a producer's farm, the handler shall file with the market administrator a report showing the last date on which he received milk from the farm and the producer's name, post office address, and farm location. The report shall indicate, if known, the reason why the handler is no longer receiving milk from the farm.

(c) With respect to a producer who moves from one farm to another the handler shall file reports as required under paragraphs (a) and (b) of this section, respectively, relative to the farm to which the producer moves and the farm from which he moves.

(d) Each handler who is not a cooperative association, upon request from any such association, shall furnish it with information with respect to each of its producer members from whose farm the handler begins, resumes, or stops receiving milk at his pool plant. Such information shall include the applicable date, the producer member's post office address and farm location, and, if known, the plant at which his milk was previously received, or the reason for the handler's failure to continue receiving milk from his farm. In lieu of providing the information directly to the association, the handler may authorize the market administrator to furnish the association with such information, derived from the handler's reports and records.

§ 1001.43 Notices to producers.

Each handler shall furnish each producer from whom he receives milk with information regarding the daily weight and composite butterfat test of the producer's milk, as follows:

(a) Within 3 days after each day on which he received milk from the producer, the handler shall give the producer written notice of the daily quantity so received; and

(b) Within 7 days after the end of any sampling period for which the composite butterfat test of the producer's milk was determined, the handler shall give the producer written notice of such composite test.

§ 1001.44 Records and facilities.

(a) Each handler shall maintain detailed and summary records showing the quantities of butterfat and of skim milk and the total thereof contained in all receipts, movements, and disposition of milk and milk products during each month, and inventories of milk and milk products at the beginning and end of the month.

(b) For the purpose of ascertaining the correctness of any report made to the market administrator as required by this part, or for the purpose of obtaining the information required in any such report where it has been requested and has not been furnished, each handler shall permit the market administrator or his agent, during the usual hours of business, to:

(1) Verify the information contained in the reports submitted in accordance with this part;

(2) Verify the payments to producers, including any deductions, and the disbursement of money so deducted;

(3) Weigh, sample, and test milk and milk products; and

(4) Make whatever examination of records, operations, equipment, and facilities as the market administrator deems necessary for the purpose specified in this section.

(c) Each handler shall submit to the market administrator, within 10 days after his request made not earlier than 20 days after the end of the month, his producer payroll for the month, which shall show for each producer:

(1) The daily and total pounds of milk delivered and its average butterfat test; and

(2) The net amount of the handler's payments to the producer, with the prices, deductions, and charges involved.

§ 1001.45 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the month to which the books and records pertain. If, within the 3-year period, the market administrator notifies the handler in writing that the retention of the books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain the books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

Classification

§ 1001.47 Classification of milk and milk products—in general.

All butterfat and skim milk in milk and milk products required to be reported under § 1001.40 shall be classified as Class I milk or Class II milk under §§ 1001.48 through 1001.51.

§ 1001.48 Class I milk.

Subject to the provisions of §§ 1001.50 and 1001.51, Class I milk shall be all butterfat and skim milk (including that used to produce concentrated milk):

(a) Disposed of in the form of fluid milk products other than as specified in § 1001.49; or

(b) Not established as Class II milk under § 1001.49.

§ 1001.49 Class II milk.

Subject to the provisions of §§ 1001.50 and 1001.51, Class II milk shall be all butterfat and skim milk for which the handler who first receives the butterfat and skim milk proves that the butterfat and skim milk were:

(a) Disposed of, or in inventory at the end of the month, in the form of cream;

(b) Used to produce milk products other than fluid milk products or cream;

(c) Disposed of in fluid milk products for livestock feed, or disposed of in bulk fluid milk products to manufacturing establishments such as bakeries, candy factories, soup factories, and similar establishments at which the fluid milk products were used in the manufacture of food products other than milk products;

(d) Contained in fluid milk products in inventory at the end of the month to the extent not classified as Class I milk under § 1001.51;

(e) Contained in fluid milk products dumped or discarded;

(f) Contained in fluid milk products destroyed or lost under extraordinary circumstances; and

(g) In shrinkage not in excess of 2 percent of the respective quantities of butterfat and of skim milk contained in receipts of fluid milk products and cream, exclusive of diverted milk and inventory at the beginning of the month. The shrinkage on the milk of a cooperative association in its capacity as a handler

under § 1001.9(d) which is received at a pool plant shall be classified as Class II milk up to the entire 2 percent maximum rate if the operator of the pool plant notifies the market administrator in writing, on or before the date on which its receipt is required to be reported under § 1001.40, that he has agreed to purchase the milk on the basis of farm bulk tank measurement readings and of the butterfat tests of samples of the milk taken from the farm bulk tank; otherwise the shrinkage on such receipts at a pool plant shall be classified as Class II milk only up to 1½ percent thereof and shrinkage of up to one-half of 1 percent on the milk so moved shall be classified as Class II milk to the cooperative association in its capacity as a handler under § 1001.9(d).

§ 1001.50 Classification of fluid milk products moved to plants.

Butterfat and skim milk in fluid milk products moved from a pool plant to any other plant, or by a cooperative association in its capacity as a handler under § 1001.9(d) to any plant, shall be classified as follows:

(a) As Class I milk if moved as packaged fluid milk products to any other plant;

(b) As Class I milk if moved from a pool plant to the plant of a producer-handler under any Federal order;

(c) In the class to which assigned under § 1001.57 if moved as bulk fluid milk products to any pool plant;

(d) In the class to which assigned under the other order if moved as bulk fluid milk products to a regulated plant under another Federal order;

(e) As Class I milk, to the extent of the total quantity of the same form of fluid milk products so moved which is utilized as Class I milk at the plant to which transferred, if moved as bulk fluid milk products to any plant other than a plant to which movements of bulk fluid milk products are subject to classification under the preceding paragraphs of this section, and as Class II milk to the extent of any remainder; and

(f) As Class I milk if moved as bulk fluid milk products to any plant other than a pool plant or a regulated plant under another Federal order and thence to another plant, not regulated under a Federal order, located outside the New England States and New York State.

§ 1001.51 Classification of inventories.

All butterfat and skim milk contained in inventories of fluid milk products at the end of each month shall be classified as Class I milk pending final disposition of the fluid milk products, if the handler requests such classification and either receives no milk from producers or does not claim classification as Class II milk of any fluid milk products.

Assignment of Receipts

§ 1001.53 Assignment of receipts to classes—in general.

(a) The total quantities of butterfat and of skim milk received during the month at each pool plant and by each cooperative association in its capacity as a handler under § 1001.9(d) (including those quantities in inventory at the beginning of the month) shall be assigned separately, in the manner and sequence provided in §§ 1001.54 through 1001.56, to the respective quantities of butterfat and of skim milk classified as Class I milk and Class II milk under §§ 1001.47 through 1001.51.

(b) Except as provided in § 1001.56, whenever receipts have been assigned under §§ 1001.54 through 1001.56 to the remaining pounds in a class, all remaining receipts shall be assigned to the other class.

(c) If receipts from more than one plant are to be assigned under a paragraph in § 1001.55 or § 1001.57, or under § 1001.56, the receipts shall be assigned in sequence according to the zone locations of the plants, beginning with the plant in the nearest zone to Boston for assignments to Class I milk and beginning with the plant in the most distant zone from Boston for assignments to Class II milk.

§ 1001.54 Initial assignments to Class I milk.

(a) Assign to Class I milk the quantities received in exempt milk.

(b) Assign to Class I milk the quantities in packaged fluid milk products received from regulated plants under other Federal orders, if the fluid milk products received are classified and priced under the other orders as Class I milk or the equivalent thereof or in accordance with their assignment under this part.

(c) Assign to Class I milk the quantities in packaged fluid milk products received from other pool plants.

(d) Assign to Class I milk the quantities in fluid milk products in inventory at the beginning of the month which were classified as Class I milk in the preceding month.

§ 1001.55 Initial assignments to Class II milk.

(a) Assign to Class II milk the quantities in fluid milk products or cream reconstituted from other milk products, and the quantities in other milk products used to fortify fluid milk products or cream. If the quantity of any reconstituted product is not known, the quantities assigned shall be the quantity of butterfat used in the reconstitution and the quantity of skim milk required to produce the milk products so used. Any unaccounted-for plain condensed milk or skimmed milk, dry whole milk, or nonfat dry milk shall be considered to have been used in the reconstitution of fluid milk products.

(b) Assign to Class II milk the quantities in cream in inventory at the beginning of the month and received during the month.

(c) Assign to Class II milk the quantities in fluid milk products (other than exempt milk) received from a local or State government which has elected nonproducer status for the month under § 1001.26(c).

(d) Assign to Class II milk the quantities in fluid milk products in inventory at the beginning of the month not assigned under § 1001.54(d).

(e) Assign to Class II milk the quantities in fluid milk products received from producer-handlers under any Federal order and from exempt distributing plants under any New England Federal order; and in receipts from dairy farmers which are rejected and segregated in the handler's normal operation for receiving milk, and are accepted and disposed of by the handler as salvage product rather than as milk.

(f) Assign to Class II milk the quantities in bulk fluid milk products received from distributing plants for unregulated markets located within one of the New England States or in zone 40 or a nearer zone.

(g) At pool plants other than pool distributing plants, assign to Class II milk the quantities in fluid milk products received from plants located outside the New England States and beyond zone 40, if the fluid milk products received are not classified and priced under any Federal order.

(h) Assign to Class II milk the quantities in fluid milk products received from plants located within one of the New England States or in zone 40 or a nearer zone, except receipts assigned under paragraph (f) of this section and receipts which are classified and priced under any Federal order.

§ 1001.56 Special assignments to classes.

(a) At pool distributing plants, assign to Class II milk, to the extent of the respective remaining pounds in that class, the quantities in bulk fluid milk products received from each regulated plant or handler under another Federal order, if the shipper and the operator of the receiving plant have both requested such Class II classification and assignment.

(b) At pool distributing plants, assign in the manner provided in subparagraphs (1) and (2) of this paragraph any remaining receipts of bulk fluid milk products from each regulated plant under another Federal order, if such receipts are classified and priced under the other order as Class I milk or the equivalent thereof or in accordance with their assignment under this part.

(1) Assign the quantities in such receipts to Class I milk and Class II milk in proportion to the estimated percentages of butterfat and skim milk, respectively, in each class in producer milk of all handlers for the month as announced under § 1001.39(j)(4), or in proportion to the respective remaining pounds in each class at all of the handler's pool plants, whichever procedure results in the greater combined quantity of butterfat and of skim milk in such receipts being assigned to Class II milk.

(2) The quantities assigned to Class II milk under this paragraph shall not exceed the respective quantities of butterfat and of skim milk in Class II milk remaining at all of the handler's pool plants. Any remaining receipts shall be assigned to Class I milk.

(c) If the quantity to be assigned to a class under paragraph (b) of this section exceeds the respective quantity remaining in that class at the pool distributing plant, the remaining quantity shall be increased to the quantity to be assigned to that class and the respective remaining quantity in that class at the handler's other pool plants shall be decreased to the same extent, in sequence beginning with the plant in the zone nearest to Boston. The respective quantity remaining in the other class thereupon shall be decreased correspondingly at the pool distributing plant and shall be increased correspondingly at those other pool plants involved in the adjustment.

(d) The quantities assigned under this section shall be limited to the excess of the receipts from a plant over the respective quantities in bulk fluid milk products moved to that plant from the pool distributing plant.

§ 1001.57 Additional assignments to Class I milk.

(a) At pool distributing plants, assign to Class I milk the quantities in bulk fluid milk products received from the handler's pool plants located in the nearby plant zone.

(b) Assign to Class I milk the quantities received from other handlers' pool plants in bulk fluid milk products for which classification as Class II milk has not been requested by both handlers.

(c) Assign to Class I milk the quantities received in milk from producers and from cooperative associations in their capacity as handlers under § 1001.9(d).

(d) Assign to Class I milk the quantities received from the handler's pool plants in bulk fluid milk products not assigned under paragraph (a) of this section.

(e) At pool distributing plants, assign to Class I milk the quantities received from plants located outside the New England States and beyond zone 40 in pool milk other than producer milk, if the fluid milk products received are not classified and priced under any Federal order.

(f) Assign to Class I milk the quantities received from other handlers' pool plants in bulk fluid milk products for which classification as Class II milk has been requested by both handlers.

(g) At pool plants other than pool distributing plants, assign to Class I milk the quantities in bulk fluid milk products received from regulated plants or handlers under other Federal orders, if such receipts are classified and priced under the other order as Class I milk or the equivalent thereof or in accordance with their assignment under this part.

§ 1001.58 Additional assignment to Class II milk.

Assign to Class II milk the quantities received from regulated plants under other Federal orders in fluid milk products not previously assigned to classes under §§ 1001.54 through 1001.57.

MINIMUM PRICES

§ 1001.60 Class I price.

The Class I price per hundredweight of milk containing 3.5 percent butterfat, at plants located in zone 21, shall be computed for each month as specified in this section. The latest reported figures available to the market administrator on the 25th day of the preceding month shall be used in making the computations, except that if the 25th day of the preceding month falls on a Sunday or legal holiday the latest figures available on the next succeeding workday shall be used.

(a) Compute an economic index, with the year 1958 as the base period, as follows:

(1) Calculate a U.S. wholesale commodity price index by dividing the monthly wholesale price index for all commodities (as reported by the Bureau of Labor Statistics, U.S. Department of Labor, with the years 1957–59 as the base period) by 1.0025.

(2) Calculate a New England consumer income index by multiplying the current annual rate of per capita disposable personal income in the United States (based upon the quarterly figure released by the U.S. Department of Commerce or the Council of Economic Advisers to the President) by the New England adjustment percentage and dividing the result by 20.50. The New England adjustment percentage shall be the current percentage relationship of per capita personal income in New England to per capita personal income in the United States (using data on per capita personal income by States and regions as published by the U.S. Department of Commerce).

(3) Calculate a New England dairy ration index by dividing the monthly average price paid by farmers in the New England region for 100 pounds of mixed dairy feed containing less than 20 percent protein (as reported by the U.S. Department of Agriculture) by 0.03884.

(4) Calculate a New England farm wage rate index by dividing the weighted average farm wage rate for the New England region by 1.9833. The weighted average farm wage rate for the New England region shall be the average of the farm wage rates for the New England region (as reported by the U.S. Department of Agriculture) weighted by the factors indicated in the following table.

	Weighting factor
Per month with board and room	1.00
Per month with house	1.00
Per week with board and room	4.33
Per week without board or room	4.33
Per day without board or room	26.00

(5) Calculate a New England grain-labor cost index by multiplying the New England dairy ration index by 0.6 and the New England farm wage rate index by 0.4, and combining the two results.

(6) The economic index shall be the result of dividing by seven the sum of three times the U.S. wholesale commodity price index, the New England consumer income index, and three times the New England grain-labor cost index.

(b) Compute an economic index price as follows:

(1) Multiply the economic index by $0.0557; expressing the result to the nearest mill.

(2) Divide the Class I–A price for the month computed under the New York-New Jersey Federal order, applicable to milk containing 3.5 percent butterfat received at plants located in the 201–210-mile freight zone, by the utilization adjustment percentage which entered into the computation of that price, expressing the result to the nearest mill.

(3) The economic index price shall be the price computed in subparagraph (1) of this paragraph, except that its deviation from the result obtained in subparagraph (2) of this paragraph shall be limited to $0.09.

(c) Compute a supply-demand adjustment factor (using quantities announced in the statistical reports of the respective market administrators for the New England Federal orders for the second, third, and fourth months preceding the month for which the price is being computed but excluding receipts and sales of plants which become regulated on the basis of their sales in the area of extension) as follows:

(1) For each of the three months, determine the total Class I producer milk and the total producer milk for the New England Federal order markets by combining the respective totals for the individual markets.

(2) For each of the three months, divide the total Class I producer milk for the New England Federal order markets by the base Class I percentage factor for the same month as determined under § 1001.66(a). The result shall be the New England base supply for that month.

(3) For each of the three months, express the total producer milk for the New England Federal order markets as a percentage of the New England base supply for the same month. The simple average of the three resulting percentages shall be the percentage of base supply.

(4) The supply-demand adjustment factor shall be the figure in the following table opposite the bracket within which the percentage of base supply falls. When the percentage of base supply falls in an interval between brackets, the supply-demand adjustment shall be the figure shown for the next higher bracket if the factor for the previous month was based on a bracket higher than such interval, and shall be the figure for the next lower bracket if the factor for the previous month was based on a bracket lower than such interval.

Percentage of base supply:[1]	*Supply-demand adjustment factor*
90.5–91.5	1.06
91.6–92.5	1.05
92.5–94.5	1.04
95.5–96.5	1.03
96.5–97.5	1.02
98.0–99.0	1.01
99.5–100.5	1.00
101.0–102.0	.99
102.5–103.5	.98
104.0–105.0	.97
105.5–106.5	.96
107.0–108.0	.95
108.5–109.5	.94

[1] If the percentage of base supply calculated according to subparagraph (3) of this paragraph falls outside the extremes shown in this column, the supply-demand adjustment factor shall be determined by extending the table at the indicated rate of extension.

(d) The Class I price shall be the result, rounded to the nearest full cent, of the economic index price determined under paragraph (b) of this section, multiplied by the supply-demand adjustment factor determined under paragraph (c) of this section, except that from the effective date of this amendment the Class I price each month shall be $6.39 through April 1968.

§ 1001.61 Class II price.

The Class II price per hundredweight of milk containing 3.5 percent butterfat, at plants located in zone 21, shall be computed for each month as specified in this section.

(a) Adjust the average price for milk for manufacturing purposes, f.o.b. plants United States, as reported by the U.S. Department of Agriculture on a preliminary basis for the month, by subtracting for each one-tenth of 1 percent of average butterfat content above 3.5 percent, or adding for each one-tenth of 1 percent of average butterfat content below 3.5 percent, an amount per hundredweight which shall be calculated by multiplying by 0.125 the average of the daily prices, using the midpoint of any range as one price, for Grade A (92-score) butter at wholesale in the New York market as reported by the U.S. Department of Agriculture for the period beginning with the 16th day of the preceding month and ending with the 15th day of the current month.

(b) Adjust the result obtained in paragraph (a) of this section by the amount shown below for the applicable month:

Month:	*Amount*
January	+$0.06
February	+.07
March	.00
April	−.04
May	−.07
June	−.06
July	+.08
August	+.15
September	+.11
October	+.11
November	+.11
December	+.11

NOTE: Milk Order No. 1, 32 F.R. 13804, October 4, 1967, reads in part as follows:

It is hereby found and determined that: (a) The following provisions of the order no longer tend to effectuate the declared policy of the Act for milk delivered on and after September 1, 1967: In § 1001.61(b), all of the text and table except that which reads as follows: (b) Adjust the result obtained in paragraph (a) of this section by +0.07. *It is therefore ordered*, That the aforesaid provisions of the order are hereby suspended for an indefinite period.

§ 1001.62 Zone differentials.

The class prices and blended prices computed under §§ 1001.60, 1001.61, and 1001.65 shall be subject to zone differentials based upon the zone locations of plants. The zone location of any plant and the differentials applicable to each zone location shall be determined as specified in this section.

(a) Each plant which is located in any of the places specified in this paragraph shall be in the "nearby plant" zone.

CONNECTICUT

All of the State of Connecticut.

MASSACHUSETTS

COUNTIES

Barnstable.	Middlesex.
Bristol.	Nantucket.
Dukes.	Norfolk.
Essex.	Plymouth.
Franklin.	Suffolk.
Hampden.	Worcester.
Hampshire.	

TOWNS

Sandisfield.	Becket.
Savoy.	Florida.
Washington.	Hinsdale.
Windsor.	Otis.
Peru.	

RHODE ISLAND

All of the State of Rhode Island.

(b) The zone location of each plant which is outside the "nearby plant" zone shall be based upon its highway mileage distance to Boston, as determined by use of Mileage Guide No. 8, and supplements to and revisions thereof, issued by Household Goods Carriers' Bureau, Agent, Washington, D.C. The mileages used shall be those shown between designated key points in the mileage charts, and between named points on the appropriate State road maps, as published in the mileage guide. In any instance in which the map does not clearly show the mileage between points on a road, the mileage used shall be the mileage as determined by the highway authority for the State in which the road is located.

(c) The distance for each plant shall be the mileage between Boston and the named point nearest to the plant, as shown in the mileage charts. If that named point is not listed in the mileage charts, the distance for the plant shall be the lowest mileage distance between Boston and that named point, computed as follows:

(1) Determine from the charts the mileage between Boston and each of the three key points nearest to the named point which are nearer to Boston than the named point.

(2) For each of these key points, add to the result in subparagraph (1) of this paragraph the mileage between the key point and the named point, measured to the greatest possible extent over roads designated as paved, all-weather roads.

(d) The zone differentials for each plant shall be those applicable to its zone location as shown in the following table.

DIFFERENTIALS FOR DETERMINATION OF ZONE PRICES

Distance to Boston (miles)	Plant location zone	Class I and blended price differentials (cents per hundredweight)	Class II price differentials (cents per hundredweight)
Various	Nearby plant	+0.0	+0
31 to 40	4	+36.4	+13
41 to 50	5	+35.2	+13
51 to 60	6	+34.0	+12
61 to 70	7	+33.8	+12
71 to 80	8	+32.4	+11
81 to 90	9	+31.4	+11
91 to 100	10	+30.8	+11
101 to 110	11	+29.0	+10
111 to 120	12	+28.8	+10
121 to 130	13	+28.6	+10
131 to 140	14	+26.4	+9
141 to 150	15	+7.2	+3
151 to 160	16	+6.0	+2
161 to 170	17	+4.8	+2
171 to 180	18	+3.6	+1
181 to 190	19	+2.4	+1
191 to 200	20	+1.2	0
201 to 210	21	0	0
211 to 220	22	−1.0	−0
221 to 230	23	−2.0	−1
231 to 240	24	−3.0	−1
241 to 250	25	−4.0	−1
251 to 260	26	−4.0	−1
261 to 270	27	−4.0	−1
271 to 280	28	−7.0	−2
281 to 290	29	−8.0	−3
291 to 300	30	−9.0	−3
301 to 310	31	−10.0	−3
311 to 320	32	−11.0	−4
321 to 330	33	−12.0	−4
331 to 340	34	−13.0	−4
341 to 350	35	−14.0	−5
351 to 360	36	−15.0	−5
361 to 370	37	−16.0	−6
371 to 380	38	−17.0	−6
381 to 390	39	−18.0	−6
391 to 400	40	−18.0	−6
401 and over	41 and over	(1)	(1)

[1] Class I and blended price differentials applicable to plants located more than 400 miles from Boston shall be obtained by extending the table at the rate of 1 cent for each additional 10 miles except that in no event shall the Class I or blended price at any zone be less than the Class II price for the month for plants in the same zone.

(e) Notwithstanding the provisions of paragraphs (b) and (c) of this section, for any named point located in New England and New York State, determine the highway mileage distance between Boston and the named point by use of the appropriate State maps contained in Mileage Guide No. 7, issued by Household Goods Carriers' Bureau, Agent, Washington, D.C. Such distance shall be the lowest highway mileage between Boston and the named point on the map, over roads designated thereon as paved, all-weather roads. In the event that the

named point is not located on a through, paved, all-weather road, such other roads shall be used to reach a through, paved, all-weather road as will result in the lowest highway mileage to Boston, except that such other roads shall not be used for a distance of more than 15 miles if it is otherwise possible to connect with a through, paved, all-weather road. In any instance in which the map does not clearly show the mileage between points on a road, the mileage used shall be the mileage as determined by the highway authority for the State in which the road is located. The mileage so determined, or the mileage determined under paragraphs (b) and (c) of this section, whichever is less, shall be considered to be the lowest highway mileage distance between Boston and the named point.

§ 1001.63 Determination of applicable zone locations for pricing purposes.

In computing the value of fluid milk products at class prices under § 1001.64, the minimum amounts payable to producers under § 1001.70, the minimum amounts payable to cooperative associations under § 1001.76, and the handlers' producer settlement fund debits and credits under § 1001.81, the differentials specified in § 1001.62 for the zone location of the plant for which the computation is being made shall be used except that for the following items the differentials for the zone locations specified shall be used:

(a) For producer milk diverted by any handler, including a cooperative association in its capacity as a handler under § 1001.9(d), from a pool plant in zone 14 or a nearer zone to a plant located in any zone more distant than zone 14, the zone location of the plant to which the milk was diverted;

(b) For producer milk of a cooperative association in its capacity as a handler under § 1001.9(d) moved to a pool plant, the zone location of the plant to which the milk was moved;

(c) For milk of a cooperative association in its capacity as a handler under § 1001.9(d) in diversions to nonpool plants other than diversions described in paragraph (a) of this section, the zone location of the pool plant, or pool plants within the same zone, to which, during the current month or the most recent month, the association moved the greatest aggregate quantity of milk from the farms of the producers whose milk was diverted;

(d) For milk of a cooperative association in its capacity as a handler under § 1001.9(d) in shrinkage, overage, extraordinary loss, and ending inventory, the zone location of the pool plant, or pool plants within the same zone, to which the greatest aggregate quantity of such milk of the cooperative association was moved during the current month or the most recent month;

(e) For beginning inventory of a cooperative association in its capacity as a handler under § 1001.9(d), the zone location at which the milk was priced as ending inventory during the previous month;

(f) For receipts of pool milk other than producer milk from plants, the zone location of the plant from which it was received;

(g) For receipts assigned to Class I milk under §§ 1001.55 (e) and (f), and 1001.58, the zone location of the plant from which the product was received; and

(h) For any excess of beginning inventory assigned to Class I milk under § 1001.55(d) over the quantities of producer milk and of milk from cooperative associations in their capacity as handlers under § 1001.9(d) assigned to Class II milk in the preceding month, the zone location of the pool plants from which an equivalent quantity of receipts of fluid milk products were assigned to Class II milk in the preceding month in sequence beginning with the plant in the zone nearest to Boston.

§ 1001.64 Computation of value of fluid milk products at class prices.

For each month, the market administrator shall compute, as specified in this section, the value of fluid milk products at class prices, at each plant other than the plant of a producer-handler under any Federal order, and of the fluid milk products of each cooperative association in its capacity as a handler under § 1001.9(d) which were not moved to a pool plant. The prices used shall be those for the applicable zone locations as determined under § 1001.63.

(a) Multiply by the applicable class prices the quantities of:

(1) Producer milk assigned under § 1001.57(c), except that for any cooperative association in its capacity as a handler under § 1001.9(d), the quantity of producer milk shall be reduced by the total quantity of milk moved to pool plants during the month, to the limit of the quantity of producer milk;

(2) Pool milk other than producer milk assigned under §§ 1001.55 (g) and (h), 1001.56, and 1001.57 (e) and (g); and

(3) Milk received at a pool plant from a cooperative association in its capacity as a handler under § 1001.9(d) and assigned under § 1001.57(c).

(b) Multiply by the applicable Class I prices the quantities of:

(1) Product assigned to Class I milk under §§ 1001.54(d) and 1001.55 (a) through (c);

(2) Product assigned to Class I milk under § 1001.55(d), except that for any cooperative association in its capacity as a handler under § 1001.9(d), the quantity shall be reduced by the quantity of any excess of milk moved to pool plants during the month over the quantity of producer milk, to the limit of the quantity assigned to Class I milk under § 1001.55(d); and

(3) Product assigned to Class I milk under §§ 1001.55(e) and (f), and 1001.58.

(c) If the total quantity of butterfat or of skim milk classified as Class I milk or Class II milk under §§ 1001.47 through 1001.51 exceeds the respective total quantity assigned to that class under §§ 1001.53 through 1001.58, multiply the excess (overage) by the applicable class price, adjusted by the butterfat differential.

(d) Multiply by the applicable Class I price the quantity of pool milk distributed as route disposition in the marketing area from the handler's nonpool plant.

(e) Multiply by the applicable Class II prices the quantities of:

(1) Product assigned to Class I milk under § 1001.55 (a) through (c); and

(2) Product assigned to Class I milk under §§ 1001.55 (e) and (f), and 1001.58.

(f) Multiply by the applicable Class I price for the preceding month the product assigned to Class I milk under § 1001.54(d).

(g) Multiply by the applicable Class II price for the preceding month the quantity of product for which a value is determined under subparagraph (b) (2) of this section.

(h) For any cooperative association in its capacity as a handler under § 1001.9(d), multiply by the applicable Class II price for the preceding month the quantity of any excess of milk moved to pool plants during the month over the quantity of producer milk, to the limit of the quantity of milk in its inventory at the beginning of the month.

(i) Add together the amounts obtained under paragraphs (a) through (d) of this section and subtract therefrom the sum of the amounts obtained under paragraphs (e) through (h) of this section.

§ 1001.65 Basic blended price.

The basic blended price per hundredweight of pool milk containing 3.5 percent butterfat, applicable to plants located in zone 21, shall be computed for each month as specified in this section.

(a) Combine into one total the respective values of fluid milk products at class prices computed under § 1001.64 for each handler from whom the market administrator has received at his office, prior to the 11th day after the end of the month, the reports for the month prescribed in § 1001.40 and the payment for the preceding month required under § 1001.82(a).

(b) Deduct the amount of the plus differentials, and add the amount of the minus differentials, which are applicable under §§ 1001.62, and 1001.63, 1001.72, and 1001.81(a)(3).

(c) Subtract for each of the months of March, April, May, and June an amount computed by multiplying the total hundredweight of pool milk included in these computations by 10 cents in March, 20 cents in April, and 30 cents in May and June.

(d) Add for the months of August, September, and October, respectively, an amount representing 25 percent, 30 percent, and 30 percent of the aggregate amount subtracted under paragraph (c) of this section for the prior period of March–June, and for November add the remainder of the amount subtracted under paragraph (c) and the interest earned on the aggregate fund.

(e) Add the amount of the unobligated balance of the producer-settlement fund as at the close of business on the 10th day after the end of the month.

(f) Divide the resulting amount by the total hundredweight of pool milk for which a value is included under paragraph (a) of this section.

(g) Subtract not less than 4 cents nor more than 5 cents for the purpose of retaining a cash balance in the producer-settlement fund.

§ 1001.66 Factors used in formulas.

(a) The base Class I percentage factors to be used in the computation of the Class I price under § 1001.60 for each of the 12 months beginning with February of each year shall be computed on or before January 25 of that year as specified in this paragraph.

(1) For each month of the 3 preceding years and for December of the fourth preceding year (using the most recent statistical reports of the market administrators for the New England Federal orders) compute the daily average of the total Class I producer milk under all the New England Federal orders and the daily average of the total receipts from producers under all the New England Federal orders.

(2) For each of the two series of daily averages, using the median link-relative method, compute a seasonal index for each month, rounded to two decimal places.

(3) For each month, multiply the seasonal index of Class I producer milk by 0.6812 and divide the product by the seasonal index of receipts from producers for the same month. The result, rounded to one decimal place, shall be the base Class I percentage factor for the month.

(b) If for any reason a price, index, or wage rate specified in this part for use in computing class prices or for other purposes is not reported or published in the manner described in this part, the market administrator shall use one determined by the Secretary to be equivalent to the factor which is specified.

PAYMENTS—GENERAL

§ 1001.70 Payments to producers.

(a) On or before the 8th day after the end of the month, each handler shall pay each producer for the approximate value of milk received from him during the first 15 days of the month. This payment shall be at a rate not less than the applicable zone Class II price for the month.

(b) On or before the 20th day after the end of the month, each handler shall make final payment to each producer for the total value of milk received from him during the month at not less than the basic blended price per hundredweight computed under § 1001.65, adjusted by the zone and butterfat [, *and farm location*][1] differentials applicable under §§ 1001.62, 1001.63, and 1001.71 [, *and 1001.72*],[1] minus the amount of the payment made to the producer under paragraph (a) of this section.

(c) If the handler's net payment to a producer is for an amount less than the total amount due the producer under this section, the burden shall rest upon the handler to prove to the market administrator that each deduction from the total amount due is properly authorized, and properly chargeable to the producer.

(d) In making payments to producers under paragraph (b) of this section, the handler may use the simple average of the butterfat tests of semimonthly composite samples of the milk unless the difference between the semimonthly tests is more than two points (0.2 percent) or the quantity of milk received from the producer in either semimonthly period is as much as three times as large as the quantity received from him in the other semimonthly period.

(e) In making payment to producers under paragraph (b) of this section for milk diverted from a pool plant in Zone 14 or a nearer zone to a plant located in any zone more distant than Zone 14, the handler may elect to pay such producers at the price applicable at the zone location of the plant from which the milk was diverted, if the resulting net payment to each producer is not less than that otherwise required under this section and the rate of payment and the deductions shown on the statement required to be furnished under § 1001.73 are those used in computing the payment.

§ 1001.71 Butterfat differential.

(a) In making the payments to producers required under § 1001.70 and the payments to cooperative associations required under § 1001.76(d), each handler shall add for each one-tenth of 1 percent of average butterfat content above 3.5 percent, or may deduct for each one-tenth of 1 percent of average butterfat content below 3.5 percent, as a butterfat differential, an amount per hundredweight which shall be computed by the market administrator under paragraph (b) of this section.

(b) Multiply by 1.20 the average of the daily prices, using the midpoint of any range as one price, for Grade A (92-score) butter at wholesale in the New York market as reported by the U.S. Department of Agriculture for the period beginning with the 16th day of the preceding month and ending with the 15th day of the current month, and divide the result by 10.

§ 1001.72 Farm location differentials.

[*In making the payments to producers required under § 1001.70, each handler shall add any applicable farm location differential specified in this section.*][1]

(a) With respect to milk received from a producer whose farm is located within any of the places specified in this paragraph, the differential shall be 46 cents per hundredweight, unless the addition of 46 cents gives a result greater than the Class I price determined under §§ 1001.60, 1001.62, and 1001.63 which is effective at the plant at which the milk is received. In that event there shall be added a rate which will produce that price.

CONNECTICUT

All of the State of Connecticut east of the Connecticut River and the towns of:

Granby.	Suffield.

MAINE

The towns of:

Eliot.	Kittery.

MASSACHUSETTS

All counties other than Berkshire County.

NEW HAMPSHIRE

Rockingham County, and the following cities and towns:

Allenstown.	Lyndeborough.
Amherst.	Madbury.
Barrington.	Manchester.
Bedford.	Mason.
Bow.	Merrimack.
Brookline.	Milford.
Chichester.	Mount Vernon.
Deering.	Nashua.
Dover.	New Boston.
Durham.	New Ipswich.
Epsom.	Pelham.
Francestown.	Pembroke.
Goffstown.	Pittsfield.
Greenfield.	Rochester.
Greenville.	Rollinsford.
Hinsdale.	Strafford.
Hollis.	Temple.
Hooksett.	Weare.
Hudson.	Wilton.
Lee.	Winchester.
Litchfield.	

RHODE ISLAND

All of the State of Rhode Island.

VERMONT

The towns of:

Guilford.	Vernon.
Halifax.	Whitingham.
Readsboro.	

(b) With respect to milk received from a producer whose farm is located within any of the following cities and towns, the differential shall be 23 cents per hundredweight, unless the addition of 23 cents gives a result greater than the Class I price determined under §§ 1001.60, 1001.62, and 1001.63 which is effective at the plant at which the milk is received. In that event there shall be added a rate which will produce that price.

MAINE

Berwick.	North Berwick.
Kennebunk.	Sanford.
Kennebunkport.	South Berwick.
Lebanon.	Wells.
Lyman.	York.

[1] Under suspension pursuant to order of Jan. 13, 1967 (32 F.R. 446, F.R. Doc. 67-569).

MASSACHUSETTS

Becket.	Sandisfield.
Florida.	Savoy.
Hinsdale.	Washington.
Otis.	Windsor.
Peru.	

NEW HAMPSHIRE

Antrim.	Loudon.
Barnstead.	Marlborough.
Bennington.	Middleton.
Boscawen.	Milton.
Bradford.	Nelson.
Canterbury.	Northfield.
Chesterfield.	Peterborough.
Concord.	Richmond.
Dublin.	Rindge.
Dunbarton.	Roxbury.
Farmington.	Sharon.
Fitzwilliam.	Somersworth.
Gilmanton.	Stoddard.
Gilsum.	Sullivan.
Hancock.	Surry.
Harrisville.	Swanzey.
Henniker.	Troy.
Hillsborough.	Webster.
Hopkinton.	Westmoreland.
Jaffrey.	Windsor.
Keene.	

VERMONT

Brattleboro.	Marlboro.
Brookline.	Newfane.
Dover.	Putney.
Dummerston.	Wilmington.

§ 1001.73 Statements to producers.

In making the payments to producers required under § 1001.70, each handler shall furnish each producer with a supporting statement, in such form that it may be retained by the producer, which shall show:

(a) The month and the identity of the handler and of the producer;

(b) The pounds and butterfat test of milk which is received from the producer, or if more than one minimum rate of payment is applicable to the producer's milk under § 1001.70, the respective pounds and test to which each minimum rate of payment applies;

(c) The minimum rate or rates, including the butterfat differential, at which payment to the producer is required under § 1001.70;

(d) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(e) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deductions claimed under §§ 1001.75 and 1001.76, together with a description of the respective deductions; and

(f) The net amount of payment to the producer.

§ 1001.74 Adjustment of payments to producers.

Whenever the market administrator's verification of a handler's payments to producers discloses payment to a producer of an amount less than is required by § 1001.70, the handler shall make payment of the balance due the producer not later than the 20th day after the end of the month in which the handler is notified of the deficiency.

§ 1001.75 Marketing service deductions.

(a) In making the payments required by § 1001.70 to producers, other than himself and any producer who is a member of a cooperative association which the Secretary determines is performing the services specified in this section, each handler shall deduct 3 cents per hundredweight, or such lesser rate as the Secretary shall determine to be sufficient, for marketing services. The handler shall pay the amount deducted to the market administrator on or before the 18th day after the end of the month.

(b) The market administrator shall expend amounts received under paragraph (a) of this section only in providing for market information to such producers and for verification of weights, samples, and tests of milk received from them. The market administrator may contract with a cooperative association for the furnishing of the whole or any part of these services.

§ 1001.76 Payments to cooperative associations.

(a) Each cooperative association may file with a handler who is not a cooperative association a claim either for the payments which the handler is required to make to the association's producer members under § 1001.70 or for authorized deductions from such payments. The claim shall contain a list of the producers to whom the payments are due or to whom the deductions apply, an agreement to indemnify the handler in the making of such payments or deductions, and a certification that the association has, with each producer listed, an unterminated membership contract authorizing the payment or deduction.

(b) The handler shall withhold from the association's producer members the payments or the deductions specified in paragraph (a) of this section in accordance with the association's claim. He shall pay the amounts withheld to the association on or before the dates on which such amounts otherwise would have been due to the producer members under § 1001.70.

(c) For each producer member from whom payment was withheld, the handler shall furnish the association a supporting statement showing the information required to be furnished to the producer under § 1001.73. For each producer member from whom a deduction is made under this section, the handler shall furnish the association a statement showing the pounds of milk received.

(d) Each handler who receives fluid milk products at his plant from a cooperative association in its capacity as the operator of a pool plant or in its capacity as a handler under § 1001.9(d) shall make payment to the association for such receipts as follows:

(1) On or before the 5th day after the end of the month, for the approximate value of the fluid milk products received from the association during the first 15 days of the month. This payment shall be at a rate not less than the applicable zone Class II price for the month. The payment made to the association under this subparagraph shall constitute partial payment of the total amount required to be paid under this paragraph.

(2) On or before the 20th day after the end of the month, for not less than the total value of fluid milk products received from the association's pool plants, as determined by multiplying the respective quantities assigned to each class under §§ 1001.54 and 1001.57 by the class prices for the month, adjusted by the zone and butterfat differentials applicable under §§ 1001.62, 1001.63, and 1001.71.

(3) On or before the 20th day after the end of the month, for not less than the total value of milk received from the cooperative association in its capacity as a handler under § 1001.9(d), at the basic blended price per hundredweight for the month computed under § 1001.65, adjusted by the zone and butterfat differentials applicable under §§ 1001.62, 1001.63, and 1001.71.

(4) Whenever the market administrator's verification of a handler's payments under this paragraph discloses an underpayment, the handler shall make payment of the balance due the cooperative association not later than the 20th day after the end of the month in which the handler is notified of the deficiency.

PAYMENTS—PRODUCER SETTLEMENT FUND

§ 1001.80 Producer settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer settlement fund." He shall deposit into the fund all amounts received from handlers under §§ 1001.82, 1001.83, and 1001.84. He shall pay from the fund all amounts due handlers under §§ 1001.82, 1001.83, and 1001.84, subject to his right to offset any amounts due from the handler under these sections. All amounts subtracted under § 1001.65 (c), inclusive of interest earned thereon, shall remain therein as an obligated balance until it is withdrawn for the purpose of effectuating § 1001.65(d).

§ 1001.81 Handlers' producer settlement fund debits and credits.

On or before the 15th day after the end of the month, the market administrator shall render a statement to each handler showing the amount of the handler's producer settlement fund debit or credit, as calculated in this section.

(a) The producer settlement fund debit or credit for each plant and each cooperative association in its capacity as a handler under § 1001.9(d) shall be computed as specified in this paragraph.

(1) Multiply the quantities of pool milk and the quantities of fluid milk products received at the pool plant from cooperative associations in their capacity as handlers under § 1001.9(d) by the basic blended price computed under § 1001.65 adjusted by any zone differentials applicable under §§ 1001.62 and 1001.63.

(2) [*Multiply the quantities of producer milk which are subject to farm location differentials under § 1001.72 (a) and (b) by the respective rates applicable under those paragraphs.*][1]

(3) With respect to any nonpool plant from which pool milk other than producer milk was received or distributed, divide the respective quantities of milk received at the plant directly from dairy farmers' farms located in the farm location differential areas described in § 1001.72 (a) and (b) by the total receipts of fluid milk products at the plant, multiply by 100, and apply the resulting percentages to the total quantity of pool milk received or distributed from the plant. Multiply each resulting quantity by the respective farm location differential rate specified in § 1001.72(a) or (b). Until such time as full information relative to all receipts at the plant, including the respective quantities of milk received directly from dairy farmers' farms in each farm location differential area, is submitted to the market administrator, it shall be considered that none of the farms from which milk was received at the plant is located in a farm location differential area.

(4) Combine the values obtained under subparagraphs (1) through (3) of this paragraph.

(5) For any cooperative association in its capacity as a handler under § 1001.9 (d), multiply the quantities of milk moved to each pool plant by the basic blended price computed under § 1001.65 adjusted by any zone differentials applicable under §§ 1001.62 and 1001.63; and to the result add the value determined under § 1001.84.

(6) If the value of fluid milk products, as determined under § 1001.64 for any plant, or as determined under subparagraph (5) of this paragraph for any cooperative association in its capacity as a handler under § 1001.9(d), is greater than the credit as determined under subparagraph (4) of this paragraph, the difference shall be the producer settlement fund debit for the plant or the cooperative association in its capacity as a handler under § 1001.9(d).

(7) If the value of fluid milk products, as determined under § 1001.64 for any plant, or as determined under subparagraph (5) of this paragraph for any cooperative association in its capacity as a handler under § 1001.9(d), is less than the credit as determined under subparagraph (4) of this paragraph, the difference shall be the producer settlement fund credit for the plant or the cooperative association in its capacity as a handler under § 1001.9(d).

(b) The producer settlement fund debit or credit of any handler shall be the net of the producer settlement fund debits and credits as computed for all of its operations under paragraph (a) of this section.

§ 1001.82 Payments to and from the producer settlement fund.

(a) On or before the 18th day after the end of the month, each handler shall make payment to the market administrator of the amount of the handler's producer settlement fund debit for the month as determined under § 1001.81.

(b) On or before the 20th day after the end of the month, the market administrator shall make payment to each handler of the amount of the handler's producer settlement fund credit for the month as determined under § 1001.81.

§ 1001.83 Adjustment of errors in producer settlement fund payments.

Whenever the market administrator's verification of reports or payments of any handler discloses an error in producer settlement fund payments made under § 1001.82, the market administrator shall promptly issue to the handler a charge bill or a credit, as the case may be, for the amount of the error. Adjustment charge bills issued during the period beginning with the 11th day of the prior month and ending with the 10th day of the current month shall be payable by the handler to the market administrator on or before the 18th day of the current month. Adjustment credits issued during that period shall be payable by the market administrator to the handler on or before the 20th day of the current month.

§ 1001.84 Adjustment of overdue producer settlement fund accounts.

Any producer settlement fund account balance due from or to a handler under §§ 1001.82, 1001.83, or 1001.84, for which remittance has not been received in or paid from the market administrator's office by the close of business on the 20th day of any month, shall be increased one-half of 1 percent effective the following day. Any remittance received by the market administrator after the 20th day of any month in an envelope which is postmarked not later than the 18th day of the month shall be considered to have been received by the 20th day of that month.

ADMINISTRATION EXPENSE

§ 1001.87 Payment of administration expense.

On or before the 18th day after the end of the month, each handler shall make payment to the market administrator of his pro rata share of the expense of administration of this part. The payment shall be at the rate of 4 cents per hundredweight, or such lesser rate as the Secretary may prescribe. The payment shall apply to:

(a) All of a handler's receipts at pool plants during the month of fluid milk products from all sources, except receipts from pool plants, receipts from regulated plants under other Federal orders if such receipts were subject to an administration expense assessment under the other order, and receipts of exempt milk processed at plants other than pool plants;

(b) All receipts and beginning inventory of a cooperative association in its capacity as a handler under § 1001.9(d) for the month less its disposition to pool plants and ending inventory for the month; and

(c) The quantity of pool milk distributed as route disposition in the marketing area from a handler's nonpool plant.

MISCELLANEOUS PROVISIONS

§ 1001.90 Effective time.

The provisions of this part, or any amendments to its provisions, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated under § 1001.91.

§ 1001.91 Suspension or termination.

The Secretary may suspend or terminate this part or any provision thereof whenever he finds that it obstructs or does not tend to effectuate the declared policy of the Act. This part, in any event, shall terminate whenever the provisions of the Act authorizing it cease to be in effect.

§ 1001.92 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, there are any obligations arising under it, the final accrual or ascertainment of which requires further acts by any person, such further acts shall be performed notwithstanding such suspension or termination.

§ 1001.93 Liquidation.

Upon the suspension or termination of any or all provisions of this part the market administrator, or such person as the Secretary may designate, if so directed by the Secretary, shall liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected under the provisions of this part, over and above the amount necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 1001.94 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part, except as provided in paragraphs (b) and (c) of this section, shall terminate 2 years after the last day of the month during which the market administrator received the handler's utilization report on the milk involved in the obligation, unless within the 2-year period the market administrator notifies the handler in writing that the money is due and payable. Service of the notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

[1] Under suspension pursuant to order of Jan. 18, 1967 (32 F.R. 446, F.R. Doc. 67-569).

(1) The amount of the obligation;
(2) The month during which the milk, with respect to which the obligation exists, was received or handled; and
(3) If the obligation is payable to one or more producers or to a cooperative association, the name of the producer or cooperative association, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator, within the 2-year period provided for in paragraph (a) of this section, may notify the handler in writing of the failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to the obligation shall not begin to run until the first day of the month following the month during which all the books and records pertaining to the obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud, or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which the handler claims to be due him under the terms of this part shall terminate 2 years after the end of the month during which the milk involved in the claim was received if an underpayment is claimed, or 2 years after the end of the month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on the payment is claimed, unless the handler, within the applicable period of time, files a petition under section 8c(15)(A) of the Act, claiming the money.

§ 1001.95 Agents.

The Secretary, by designation in writing, may name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 1001.96 Separability of provisions.

If any provision of this part, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

Effective date: December 1, 1967.

Signed at Washington, D.C., on October 27, 1967.

RODNEY E. LEONARD,
Deputy Assistant Secretary.

[F.R. Doc. 67-12920; Filed, Oct. 31, 1967; 8:52 a.m.]

[Milk Order 15]

PART 1015—MILK IN CONNECTICUT MARKETING AREA

Order Amending Order

§ 1015.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Connecticut marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof the handling of milk in the Connecticut marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended and as hereby amended, as follows:

In § 1015.9, paragraph (c)(4) is revoked and paragraph (d) is revised to read as follows:

§ 1015.9 Handler.

* * * * *

(c) * * *

(4) [Revoked]

(d) Any cooperative association with respect to producer milk transferred from the producer's farm tank to a tank truck owned and operated by or under contract to such association for delivery to a pool plant if prior to delivery the operator of the pool plant gives notice in writing to both the market administrator and the association of its intention to purchase such milk on a basis of weights and butterfat tests other than as determined from farm tank measurements and farm tank samples.

* * * * *

In § 1015.10 the introductory paragraph and paragraph (a) are revised to read as follows:

§ 1015.10 Producer-handler.

"Producer-handler" means any person who is both a dairy farmer and a handler during the month and who meets all the conditions specified in this section. Sections 1015.62, 1015.64, 1015.72, 1015.73, 1015.75, 1015.80, through 1015.82, and 1015.87 through 1015.89 shall not apply to a producer-handler as defined under this or any other Federal order.

(a) His only sources of milk supply (except that represented by nonfat solids used in fortification) are his own production and fluid milk products transferred from pool plants. For the purpose of this paragraph, any fluid milk products which were acquired or purchased from a nonpool plant by him, his agent, partner or other associate and which he or such other person caused to be delivered at retail or wholesale outlets (including vending machines) in any Federal marketing area without being first received at his plant shall be included in such person's nonpool source of fluid milk products.

* * * * *

In § 1015.16(b), subparagraph (1) is revised to read as follows:

§ 1015.16 Pool plants.

* * * * *

(b) * * *

(1) Any plant, other than as provided in subparagraphs (2) through (5) of this paragraph, from which is shipped during the month of July at least 15 percent, and during any month of August through November at least 25 percent, and during any month of December through June at least 15 percent, of its total receipts of milk from dairy farmers as fluid milk products, other than as diverted milk, to pool distributing plants, producer-handlers and plants to which qualifying shipments may be made under another New England Federal order, if a greater quantity of qualifying shipments are made to pool distributing plants and producer-handlers under this order than to the other plants. In the case of any plant which is eligible for qualification under subparagraph (5) of this paragraph and for which such qualification is requested the receipts at the plant from dairy farmers and the shipments therefrom to pool distributing plants for the purpose described in this subparagraph, shall include all direct deliveries of milk to pool distributing plants by producer-members of the cooperative association.

* * * * *

In § 1015.26, paragraph (c) is revoked.

§ 1015.26 Exempt milk.

* * * * *

(c) [Revoked]

In § 1015.32(g), a new subparagraph (5) is added to read as follows:

§ 1015.32 Duties.

* * * * *

(g) * * *

(5) Whenever required for purpose of assigning receipts from other Federal order plants pursuant to § 1015.58(c)(2), his estimate of the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

* * * * *

A new § 1015.35 together with a center heading is provided to read as follows:

APPLICATION OF PROVISIONS

§ 1015.35 Exempt governmental agency.

None of the provisions of this part shall apply to a governmental agency. Receipts of fluid milk products at a pool plant from such an agency shall be Class II. The disposition of fluid milk products by a pool handler to such an agency shall be Class I except that the disposition of fluid milk products in bulk to a plant operated by the University of Connecticut shall be Class II if claimed by the selling handler and supported by a certification, signed by an authorized agent of the University, that such milk was used to produce milk products other than fluid milk products or cream.

In § 1015.41, paragraphs (c) and (e)(1) are revised to read as follows:

§ 1015.41 Other reports of receipts and utilization.

* * * * *

(c) Each handler under § 1015.9(d) shall report to the market administrator in detail and on forms prescribed by the market administrator by the date on which reports are due under § 1015.40 after the end of each month, the quantities of skim milk and butterfat in producer milk delivered to each pool plant in such month and in the milk transferred into the tank truck at each producer's farm, and the classification of the quantities of skim milk and butterfat which are considered producer milk pursuant to § 1015.24(a)(4).

* * * * *

(e) * * *

(1) Mail or deliver to the market administrator on or before the second day (exclusive of Sundays and of legal holidays applicable at the location of the plant) following the day of each dumping not witnessed by the market administrator or his agent, a report in writing, as prescribed by the market administrator, showing the date on which the dumping was performed and the quantity dumped, such report to be signed by both the person who performed the dumping operation and the person authorized to sign reports for the handler under § 1015.40 (if the latter person is not available to sign the report within the 2-day period, the signature of the plant manager or plant superintendent shall be substituted on the report); and

* * * * *

Section 1015.50 is revised to read as follows:

§ 1015.50 Skim milk and butterfat to be classified.

All skim milk and butterfat which is required to be reported pursuant to § 1015.40, or is producer milk pursuant to § 1015.24(a)(4) and required to be reported pursuant to § 1015.41(c), shall be classified pursuant to the provisions of §§ 1015.51 to 1015.53. Bulk milk which a cooperative association causes to be delivered under § 1015.9(c)(3) to the pool plant of another cooperative association shall be considered as if it were transferred between two pool plants located in the same zone location. When nonfat milk solids derived from nonfat dry milk, condensed skim milk or any other product condensed from milk or skim milk are utilized or unaccounted for by the handler, the total pounds of skim milk classified shall reflect a volume equivalent to the skim milk used to produce such nonfat milk solids, except that if the solids are utilized to fortify fluid milk products or cream, the actual weight of any such products shall be included in classifying the total product weight.

In § 1015.52, paragraphs (g)(2), (g)(3), and, (i) are revised, paragraph (i) is redesignated as paragraph (j), and a new paragraph (i) is added. Paragraphs (g)(2), (g)(3), (i), and (j) are to read as follows:

§ 1015.52 Class II milk.

* * * * *

(g) * * *

(2) Plus 1.5 percent of:

(i) Producer milk received from a handler under § 1015.9(d);

(ii) Milk received at the pool plant of a cooperative association from another cooperative association as specified in § 1015.9(c)(3) unless the association that received the milk at its pool plant notifies the market administrator in writing by the date reports are due under § 1015.40 that it is purchasing the milk on the basis of farm tank measurements and butterfat tests determined from farm tank samples in which case the applicable percentage shall be 2 percent;

(3) Plus 0.5 percent of:

(i) Producer milk received by a handler under § 1015.9(c)(3) if the association operating the pool plant where the milk is delivered has not notified the market administrator in writing by the date reports are due under § 1015.40 that it is purchasing the milk on the basis of farm tank measurements and butterfat tests determined from farm tank samples;

(ii) Milk transferred by a cooperative association in its capacity as a handler pursuant to § 1015.9(d) from a producer's farm tank into a tank truck.

* * * * *

(i) Contained in bulk fluid milk products transferred or diverted to the plant of an exempt governmental agency if the conditions of § 1015.35 are met.

(j) Contained in fluid milk products transferred or diverted from a pool plant to another plant other than the plant of a producer-handler under any Federal order or the plant of an exempt governmental agency if the conditions of § 1015.53 are met.

In § 1015.55, the introductory paragraph, and paragraphs (b)(3), (c), and (e) are revised to read as follows:

§ 1015.55 Assignment to classes of skim milk and butterfat received.

The total quantity of skim milk and butterfat received during the month at each pool plant and by handlers specified in § 1015.9(c) and required to be reported under § 1015.40 (including those quantities in inventory at the beginning of the month) and in producer milk pursuant to § 1015.24(a)(4) required to be reported pursuant to § 1015.41(c), shall be assigned separately, in the manner and sequence provided below, to the respective quantities of skim milk and butterfat classified in each class under §§ 1015.50 through 1015.53.

* * * * *

(b) * * *

(3) Fluid milk products from producer-handlers under any Federal order, from exempt governmental agencies, or from exempt distributing plants under any New England Federal order in sequence beginning with the source most distant from Hartford according to its zone location;

* * * * *

(c) For pool distributing plants:

(1) To the remaining pounds in Class II milk, assign the pounds of bulk fluid

milk products received during the month from regulated plants or handlers under another Federal order on which a Class II use was claimed by both the shipper and the operator of the receiving plant; and

(3) To the remaining pounds in each class, assign in the manner provided in subdivisions (i) and (ii) of this subparagraph any remaining receipts of bulk fluid milk products from each regulated plant under another Federal order, to the extent that such receipts are not offset by transfers of bulk fluid milk products to the same plants, if such receipts are classified and priced under the other order as Class I milk or are subject to such classification and pricing or the equivalent thereof, if assigned to Class I milk under this order. Should the quantity to be assigned to either class exceed the respective quantity remaining in that class at the plant of receipt, the respective quantity remaining in that class shall be increased to the quantity to be assigned and the respective quantity remaining in the other class shall be decreased by an identical quantity. If such an adjustment is required at the receiving plant, an offsetting adjustment shall be made to the respective remaining quantities in each class at the handler's other pool plants, in sequence beginning with the plant nearest Hartford.

(i) Assign the quantities in such receipts to Class I milk and Class II milk in proportion to the estimated percentages of skim milk and butterfat, respectively, in each class in producer milk of all handlers for the month as announced under § 1015.32(g)(5), or in proportion to the respective remaining pounds in each class at all of the handler's pool plants, whichever procedure results in the greater combined quantity of skim milk and of butterfat in such receipts being assigned to Class II milk.

(ii) The quantities assigned to Class II milk under this paragraph shall not exceed the respective quantities of skim milk and of butterfat in Class II milk remaining at all of the handler's pool plants. Any remaining receipts shall be assigned to Class I milk.

* * * * *

(e) For pool supply plants, assign to the remaining pounds in each class, beginning with Class II milk, the pounds of bulk fluid milk products received during the month from regulated plants or handlers under other Federal orders which were not previously assigned.

* * * * *

Section 1015.60 is revised to read as follows:

§ 1015.60 Class I price.

The Class I price per hundredweight of milk containing 3.5 percent butterfat, at plants in the nearby plant zone under § 1015.62 shall be the amount computed for each month as specified in this section. The latest reported figures available to the market administrator on the 25th day of the preceding month shall be used in making the computations, except that if the 25th day of the preceding month falls on a Sunday or legal holiday the latest figures available on the next succeeding workday shall be used.

(a) Compute an economic index, with the year 1958 as the base period, as follows:

(1) Calculate a U.S. wholesale commodity price index by dividing the monthly wholesale price index for all commodities (as reported by the Bureau of Labor Statistics, U.S. Department of Labor, with the years 1957–59 as the base period) by 1.0025.

(2) Calculate a New England consumer income index by multiplying the current annual rate of per capita disposable personal income in the United States (based upon the quarterly figure released by the U.S. Department of Commerce or the Council of Economic Advisers to the President) by the New England adjustment percentage and dividing the result by 20.50. The New England adjustment percentage shall be the current percentage relationship of per capita personal income in New England to per capita personal income in the United States (using data on per capita personal income by States and regions as published by the United States Department of Commerce).

(3) Calculate a New England dairy ration index by dividing the monthly average price paid by farmers in the New England region for 100 pounds of mixed dairy feed containing less than 29 percent protein (as reported by the U.S. Department of Agriculture) by 0.03884.

(4) Calculate a New England farm wage rate index by dividing the weighted average farm wage rate for the New England region by 1.9833. The weighted average farm wage rate for the New England region shall be the average of the farm wage rates for the New England region (as reported by the U.S. Department of Agriculture) weighted by the factors indicated in the following table.

Rate	Weighting factor
Per month with board and room	1.00
Per month with house	1.00
Per week with board and room	4.33
Per week without board or room	4.33
Per day without board or room	26.00

(5) Calculate a New England grain-labor cost index by multiplying the New England dairy ration index by 0.6 and the New England farm wage rate index by 0.4, and combining the two results.

(6) The economic index shall be the result of dividing by seven the sum of three times the U.S. wholesale commodity price index, the New England consumer income index, and three times the New England grain-labor cost index.

(b) Compute an economic index price as follows:

(1) Multiply the economic index by $0.0557, expressing the result to the nearest mill.

(2) Divide the Class I–A price for the month computed under the New York-New Jersey Federal order, applicable to milk containing 3.5 percent butterfat received at plants located in the 201–210-mile freight zone, by the utilization adjustment percentage which entered into the computation of that price, expressing the result to the nearest mill.

(3) The economic index price shall be the price computed in subparagraph (1) of this paragraph, except that its deviation from the result obtained in subparagraph (2) of this paragraph shall be limited to $0.09.

(c) Compute a supply-demand adjustment factor (using quantities announced in the statistical reports of the respective market administrators for the New England Federal orders for the second, third, and fourth months preceding the month for which the price is being computed but excluding receipts and sales of plants which become regulated on the basis of their sales in the Massachusetts-Rhode Island area extension) as follows:

(1) For each of the three months, determine the total Class I producer milk and the total producer milk for the New England Federal order markets by combining the respective totals for the individual markets.

(2) For each of the three months, divide the total Class I producer milk for the New England Federal order markets by the base Class I percentage factor for the same month as determined under § 1015.65(a). The result shall be the New England base supply for that month.

(3) For each of the three months, express the total producer milk for the New England Federal order market as a percentage of the New England base supply for the same month. The simple average of the three resulting percentages shall be the percentage of base supply.

(4) The supply-demand adjustment factor shall be the figure in the following table opposite the bracket within which the percentage of base supply falls. When the percentage of base supply falls in an interval between brackets, the supply-demand adjustment factor shall be the figure shown for the next higher bracket if the factor for the previous month was based on a bracket higher than such interval, and shall be the figure for the next lower bracket if the factor for the previous month was based on a bracket lower than such interval.

Percentage of base supply: [1]	Supply-demand adjustment factor
90.5–91.5	1.06
92.0–93.0	1.05
93.5–94.5	1.04
95.0–96.0	1.03
96.5–97.5	1.02
98.0–99.0	1.01
99.5–100.5	1.00
101.0–102.0	.99
102.5–103.5	.98
104.0–105.0	.97
105.5–106.5	.96
107.0–108.0	.95
108.5–109.5	.94

[1] If the percentage of base supply calculated according to subparagraph (3) of this paragraph falls outside the extremes shown in this column, the supply-demand adjustment factor shall be determined by extending the table at the indicated rate of extension.

(d) The Class I price shall be the result, rounded to the nearest full cent, of the economic index price determined under paragraph (b) of this section, multiplied by the supply-demand adjustment factor determined under paragraph (c) of this section, plus 40 cents, except that from the effective date of this amendment the Class I price each month shall be $6.79 through April 1968.

In § 1015.62, paragraph (d) is revised to read as follows:

§ 1015.62 Plant zone price differentials.

* * * * *

(d) The zone price differentials for each plant shall be those applicable to its zone location as shown in the following table:

PLANT ZONE PRICE DIFFERENTIALS

Distance to Hartford (miles)	Plant location zone	Class I and uniform price differentials (cents per hundredweight)	Class II price differentials (cents per hundredweight)
Various	Nearby plant	0.0	0.0
61 to 70	6	−16.0	−1.4
71 to 80	7	−20.4	−1.7
81 to 90	8	−21.8	−2.0
91 to 100	9	−23.2	−2.6
101 to 110	10	−24.6	−2.8
111 to 120	11	−26.0	−2.9
121 to 130	12	−27.4	−3.2
131 to 140	13	−28.8	−3.4
141 to 150	14	−30.2	−3.7
151 to 160	15	−31.6	−4.2
161 to 165	16	−33.0	−4.5
166 to 170	17	−34.4	−4.6
171 to 180	18	−35.8	−5.2
181 to 190	19	−37.2	−5.4
191 to 200	20	−38.6	−5.7
201 to 210	21	−40.0	−5.8
211 to 220	22	−41.4	−6.4
221 to 230	23	−42.8	−6.5
231 to 240	24	−44.2	−6.7
241 to 250	25	−45.6	−6.7
251 to 260	26	−47.0	−7.0
261 to 270	27	−48.4	−7.1
271 to 280	28	−49.8	−7.3
281 to 290	29	−51.2	−7.4
291 to 300	30	−52.6	−7.6
301 to 310	31	−54.0	−8.1
311 to 320	32	−55.4	−8.2
321 to 330	33	−56.8	−8.3
331 to 340	34	−58.2	−8.6
341 to 350	35	−59.6	−8.6
351 to 360	36	−61.0	−8.9
361 to 370	37	−62.4	−8.9
371 to 380	38	−63.8	−9.1
381 to 390	39	−65.2	−9.3
391 to 400	40	−66.6	−9.5
401 and over	41 and over	(1)	−9.5

[1] Class I and uniform price differentials applicable to plants located more than 400 miles from Hartford shall be obtained by extending the table at the rate of 1.4 cents for each additional 10 miles, except that in no event shall the Class I or uniform price at any zone be less than the Class II price for the month for plants in such zone.

* * * * *

In § 1015.63, the introductory paragraph and paragraph (c) are revised to read as follows:

§ 1015.63 Value of each handler's fluid milk products.

For each month, the market administrator shall compute the value of fluid milk products for each handler under § 1015.9(a), (b), (c), and (d) except a producer-handler under any Federal order. The prices used shall be those for the zone location of the plant for which the value is being computed or at which it has been considered that a handler under § 1015.9(c) or (d) received producer milk, except that under paragraphs (a)(2), (b)(2), and (f)(2) of this section the prices used shall be those applicable at the zone locations of the plants from which the fluid milk products were received, and under paragraph (c) of this section, the prices which are specified therein shall be used.

* * * * *

(c) Compute a charge on the handler's beginning inventory as follows:

(1) Multiply the difference between the Class II price for the preceding month and the Class I price for the current month applicable at the nearest plant location from which an equivalent quantity of skim milk and butterfat, respectively, was allocated to Class II milk in the preceding month, by the hundredweight of skim milk and butterfat, respectively, assigned to Class I milk under § 1015.55(b)(7) for the month which is in excess of the hundredweight of skim milk and butterfat, respectively, allocated to Class II milk under § 1015.55(e) and (i) during the preceding month and classified and priced as Class I milk or the equivalent thereof under the provisions of any Federal order; and

(2) Multiply the hundredweight of skim milk and butterfat in milk which is in transit to a pool plant at the beginning of the month from a cooperative association in its capacity as a handler under § 1015.9(d), by the difference between the Class II price for the preceding month and the uniform price for the current month applicable at the location at which such milk was priced during the preceding month.

* * * * *

In § 1015.64, paragraph (a) is revised to read as follows:

§ 1015.64 Basic uniform price.

(a) Combine into one total the value of fluid milk products computed under § 1015.63, excluding any charge under § 1015.63(c)(2), for each handler who made the reports prescribed in §§ 1015.40 and 1015.41(c) for the month and who was not in default of payments under § 1015.81 for the preceding month.

* * * * *

In § 1015.73, paragraph (b) is revised to read as follows:

§ 1015.73 Statements to producers.

* * * * *

(b) The total pounds and average butterfat test of milk received from the producer or from the cooperative association in its capacity as a handler under § 1015.9(d) except that the butterfat test shall not be required on statements accompanying payment for the first 15 days of the month;

* * * * *

Section 1015.74 is revised to read as follows:

§ 1015.74 Adjustment of payments to producers and cooperative associations.

Whenever the market administrator's verification of a handler's payments to producers or cooperative associations discloses payment of an amount less than is required by § 1015.70 the handler shall make payment of the balance due the producer or cooperative association not later than the date for making payment under § 1015.70 for the month in which the handler is notified by the market administrator of the deficiency.

Section 1015.80 is revised to read as follows:

§ 1015.80 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund." He shall deposit all amounts received from handlers under §§ 1015.81, 1015.88, and 1015.89 into the fund. He shall pay all amounts due handlers under §§ 1015.82 and 1015.86 from the fund, subject to his right to offset a payment due to a handler from the producer-settlement fund against any payment due from the handler to the fund. All amounts subtracted under § 1015.64(c) inclusive of interest earned thereon, shall remain therein as an obligated balance until it is withdrawn for the purpose of effectuating § 1015.64(d). The market administrator shall render a statement to each handler who made the reports prescribed in § 1015.40 or § 1015.41(c), by the 16th day of the month showing the amount due to or from the producer-settlement fund computed in accordance with §§ 1015.80, 1015.81, and 1015.82.

In § 1015.87, paragraph (b) is revised to read as follows:

§ 1015.87 Payment of administration expense.

* * * * *

(b) The payment shall also apply to the quantity of pool milk distributed as route disposition in the marketing area from a handler's nonpool plant, to the quantity of producer milk for which a cooperative association is the handler under § 1015.9(c), and to the quantity of producer milk for which the cooperative association is the handler under § 1015.9(d), except that disposed of to pool plants or in ending inventory for the month.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: December 1, 1967.

Signed at Washington, D.C., on October 27, 1967.

RODNEY E. LEDWARD,
Deputy Assistant Secretary.

[F.R. Doc. 67-12921; Filed, Oct. 31, 1967; 8:53 a.m.]

[Milk Order 67]

PART 1067—MILK IN OZARKS MARKETING AREA

Order Suspending Certain Provision

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.),

and of the order regulating the handling of milk in the Ozarks marketing area, (7 CFR Part 1067), it is hereby found and determined that:

(a) The following provision of the order no longer tends to effectuate the declared policy of the Act for the month of October: In § 1067.11(b) in the table and opposite the month of October the figure "40".

(b) Thirty days notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(1) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date.

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(3) This action has been requested by three cooperative associations, representing more than 80 percent of the producers in this market. The cooperatives state that the suspension is necessary to maintain pool plant status for supply plants so as to facilitate the orderly disposition of the market's reserve supply of milk during the month of October. Supply plants are experiencing difficulties meeting pool shipping requirements largely from increased milk production this year over last year. Further, a substantial handler distributing fluid milk in the market has changed his operation in a manner so as to receive nearly all his milk directly from farmers rather than from supply plants.

(4) This suspension action will make it unnecessary for the operators of supply plants to make unneeded and uneconomical shipments to processing plants in order to maintain pool status. This suspension will maintain producer status of many farmers regularly associated with the market and will promote orderly marketing conditions.

(5) Interested parties were afforded opportunity to file written data, views or arguments concerning this suspension (32 F.R. 14278). None were filed in opposition to the proposed suspension.

Therefore, good cause exists for making this order effective October 1, 1967.

It is therefore ordered, That the aforesaid provision of the order is hereby suspended for the month of October 1967.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: October 1, 1967.

Signed at Washington, D.C., on October 27, 1967.

RODNEY E. LEONARD,
Deputy Assistant Secretary.

[F.R. Doc. 67-12845; Filed, Oct. 31, 1967; 8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 67-EA-92; Amdt. 39-501]

PART 39—AIRWORTHINESS DIRECTIVES

Sikorsky Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to require inspection and when applicable, replacement of the rotary wing hub horizontal hinge pins in the Sikorsky S-61 Helicopters.

A recent surveillance has disclosed the presence of cracks in the exterior surface of the horizontal hinge pins. The cause of the cracks is believed to be the omission of a blend radius on the interior surface of the pin during machining. Further inspection also disclosed other defects in the interior surface. The existence of these defects could under normal loads be the cause of fatigue failures. Since this condition is likely to exist or develop in other aircraft of the same type an airworthiness directive is being issued to require inspection and replacement of the hinge pins.

Since a situation exists that requires immediate adoption of this amendment, it is found that notice and procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

SIKORSKY. Applies to type S61 Helicopters. Compliance required as indicated.

To prevent fatigue failures of the Rotary Wing Hub Horizontal Hinge Pins, P/N S6110-22020 and P/N S6110-22320, accomplish the following:

(a) Within the next 10 hours' time in service after the effective date of this AD, unless already accomplished, inspect the horizontal hinge pins in accordance with Sikorsky Service Bulletin No. 61B10-4 dated August 21, 1967 or later revisions approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Eastern Region. Equivalent inspections may be approved by an FAA maintenance inspector.

(1) If a machining defect is found on the interior surface of the cylindrical part of the pin or on the inner surface of the part of the pin where the damper is attached (sections 1 or 2 of the pin as defined in the Sikorsky Service Bulletin) remove the hinge pin from service prior to further flight.

(2) If a machining defect is found on the interior surface of the tapered part of the hinge pin (section 2 of the pin as defined in the Sikorsky Service Bulletin) inspect the external surface of this tapered section using a magnifying glass (2-power minimum). If a crack is found replace the hinge pin prior to further flight.

(3) If a defect is found on the interior surface of the tapered part of the hinge pin (section 2 of the pin as defined in the Sikorsky Service Bulletin) and no crack is detected on the external surface of this section:

(i) Perform a daily visual inspection of the external surface of section 2 using a magnifying glass (2-power minimum). If a crack is found remove the hinge pin from service before further flight.

(ii) The hinge pin must be removed from service within the next 50 hours' time in service.

This amendment is effective on October 30, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Jamaica, N.Y., on October 19, 1967.

MARTIN J. WHITE,
Acting Director, Eastern Region.

[F.R. Doc. 67-12848; Filed, Oct. 31, 1967; 8:47 a.m.]

[Airspace Docket No. 67-WE-58]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

On page 13140 of the FEDERAL REGISTER for September 15, 1967, there was published a notice of proposed rule making to amend Part 71 of the Federal Aviation Regulations that would alter the controlled airspace in the Montague, Calif., area. Interested persons were given 30 days in, which to submit written comments, suggestions, or objections regarding the proposed alteration.

No objections have been received, and the proposed amendments are hereby adopted without change.

Effective date. These amendments shall be effective January 4, 1968.

Issued in Los Angeles, Calif., on October 20, 1967.

WILLIAM R. KRIEGER,
Acting Director, Western Region.

In § 71.171 (32 F.R. 2118) the Montague, Calif., control zone is amended to read as follows:

MONTAGUE, CALIF.

Within a 5-mile radius of Siskiyou County Airport (latitude 41°46'55" N., longitude 122°28'00" W.); within 2 miles each side of the Siskiyou TACAN 194° radial, extending from the 5-mile radius zone to 7 miles south of the TACAN; and within 2 miles each side of the Siskiyou TACAN 014° radial, extending from the 5-mile radius zone to 8.5 miles north of the TACAN, excluding the airspace within a 1-mile radius of Montague-Yreka Airport (latitude 41°43'50" N., longitude 122°32'45" W.).

In § 71.181 (32 F.R. 6022) the Montague, Calif., transition area is amended to read as follows:

MONTAGUE, CALIF.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Siskiyou County Airport (latitude 41°46'-55" N., longitude 122°28'00" W.); that airspace extending upward from 1,200 feet above the surface bounded on the north by latitude 42°04'00" N., on the east by an arc of a 40-mile radius circle centered on the Klamath Falls, Oreg., VORTAC and an arc of a 14-mile radius circle centered on the Siskiyou County Airport, on the southeast by a line extending from latitude 41°41'00" N., longitude 122°20'00" W., to latitude 41°-25'00" N., longitude 122°20'00" W., on the south by latitude 41°25'00" N., and on the west by the east edge of V-23; within 5 miles each side of the Siskiyou TACAN 014° radial, extending from the 7-mile radius area to 19 miles north of the TACAN, and within 5 miles east and 8 miles west of the Siskiyou TACAN 194° radial, extending from the TACAN to 20 miles south of the TACAN.

[F.R. Doc. 67-12849; Filed, Oct. 31, 1967; 8:47 a.m.]

[Airspace Docket No. 67-SO-84]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

On September 9, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 12922), stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the Hickory, N.C., control zone and 700-foot transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., January 4, 1968, as hereinafter set forth.

In § 71.171 (32 F.R. 2071), the Hickory, N.C., control zone is amended as follows: "• • • (lat. 35°44'24" N., long. 81°23'30" W.) • • •" is deleted and "• • • (lat. 35°44'25" N., long. 81°23'28" W.) • • •" is substituted therefor.

In § 71.181 (32 F.R. 2148), the Hickory, N.C., 700-foot transition area (32 F.R. 7153) is amended to read:

HICKORY, N.C.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Hickory Municipal Airport (lat. 35°44'26" N., long. 81°23'28" W.); within 2 miles each side of the Hickory VOR 223° and 038° radials, extending from the 8-mile radius area to 8 miles northeast of the VOR; within 2 miles each side of the Hickory VOR 114° radial, extending from the VOR to 14 miles southeast;

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348(a))

Issued in East Point, Ga., on October 20, 1967.

GORDON A. WILLIAMS, JR.,
Acting Director, Southern Region.

[F.R. Doc. 67-12850; Filed, Oct. 31, 1967; 8:47 a.m.]

[Airspace Docket No. 67-WE-60]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On page 13141 of the FEDERAL REGISTER for September 15, 1967, there was published a notice of proposed rule making to amend Part 71 of the Federal Aviation Regulations that would alter the description of the Klamath Falls, Oreg., transition area. Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed alteration.

No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective January 4, 1968.

Issued in Los Angeles, Calif., on October 20, 1967.

WILLIAM R. KRIEGER,
Acting Director, Western Region.

In § 71.181 (32 F.R. 2268) the Klamath Falls transition area, as amended in 32 F.R. 50, is further amended by deleting, "That airspace extending upward from 700 feet above the surface within a 15-mile radius of Klamath Falls VORTAC; • • •", and substituting therefor, "That airspace extending upward from 700 feet above the surface within a 15-mile radius of the Klamath Falls VORTAC and within 5 miles east and 8 miles west of the Klamath Falls ILS localizer south course extending from the 15-mile radius area to 12 miles south of the RBN; • • •"

[F.R. Doc. 67-12851; Filed, Oct. 31, 1967; 8:47 a.m.]

[Airspace Docket No. 67-SO-83]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On September 9, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 12922), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Yazoo City, Miss., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., January 4, 1968, as hereinafter set forth.

In § 71.181 (32 F.R. 2146) the Yazoo City, Miss, transition area is amended to read:

YAZOO CITY, MISS.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Barrier Field (lat. 32°52'30" N., long. 90°24'25" W.); within 2 miles each side of the 100° bearing from WAKP Commercial Broadcast Station (lat. 32°52'00" N., long. 90°22'51" W.), extending from the 6-mile radius area to 8 miles east of WAKP Commercial Broadcast Station; within 2 miles each side of the Jackson, Miss. VORTAC 332° radial, extending from the 6-mile radius area to 13 miles northwest of the VORTAC; and that airspace extending upward from 1200 feet above the surface within 5 miles each side of the 280° bearing from WAKP Commercial Broadcast Station, extending from WAKP Commercial Broadcast Station to 13 miles west; and within 8 miles north and 5 miles south of the 100° bearing from WAKP Commercial Broadcast Station, extending from WAKP Commercial Broadcast Station to 13 miles east.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348(a))

Issued in East Point, Ga., on October 20, 1967.

GORDON A. WILLIAMS, JR.,
Acting Director, Southern Region.

[F.R. Doc. 67-12852; Filed, Oct. 31, 1967; 8:47 a.m.]

[Airspace Docket No. 67-SO-89]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On September 16, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 13197), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Alexander City, Ala., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

Subsequent to the publication of the Notice, Coast and Geodetic Survey redefined the final approach bearing from 170° to 171°. Because of this redefinement, it is necessary to alter the description accordingly. Since this alteration is minor in nature, it is incorporated in this rule.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., January 4, 1968, as hereinafter set forth.

In § 71.181 (32 F.R. 2145), the following transition area is added:

ALEXANDER CITY, ALA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Thomas C. Russell Field Airport (lat. 32°55'15" N., long. 85°57'45" W.); within 2 miles each side of the 171° bearing from the Alexander City RBN (lat. 32°58'10" N., long. 85°57'30" W.), extending from the 5-mile radius area to 8 miles south of the RBN.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348(a))

Issued in East Point, Ga., on October 23, 1967.

GORDON A. WILLIAMS, JR.,
Acting Director, Southern Region.

[F.R. Doc. 67-12908; Filed, Oct. 31, 1967; 8:48 a.m.]

[Airspace Docket No. 67-WA-38]

PART 73—SPECIAL USE AIRSPACE

Alteration of Prohibited Area

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to change the designated altitude of Prohibited Area P-56, Washington, D.C.

In keeping with its continuing policy of re-examining restrictions on the public use of airspace, the FAA has determined that, coincident with lowering the base altitude of positive control area, the upper limit of P-56 should extend only that base rather than upward without limitation.

Since the effect of this amendment is to return prohibited airspace to the public for use, notice and public procedure thereon is unnecessary and may be made effective in less than 30 days after publication.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., November 9, 1967, as hereinafter set forth.

Section 73.57 (32 F.R. 9739 and 32 F.R. 5769) is amended by deleting "Designated altitudes: Surface to unlimited" and substituting therefor "Designated altitudes: Surface to 18,000 feet MSL."

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on October 27, 1967.

WILLIAM E. MORGAN,
Acting Director, Air Traffic Service.

[F.R. Doc. 67-12872; Filed, Oct. 31, 1967; 8:49 a.m.]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-515, Amdt. 6]

PART 207—CHARTER TRIPS AND SPECIAL SERVICES

Military Backhaul Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of October 1967.

On May 4, 1967, by notice of proposed rule making, EDR-115 (32 F.R. 7090), the Board proposed to amend Part 207, as well as Part 208 (Terms, Conditions, and Limitations of Certificates to Engage in Supplemental Air Transportation) of the Economic Regulations, to exempt from the limitations of Part 207 commercial charters performed in overseas or foreign air transportation on the reverse leg of a one-way military charter in the opposite direction, and to include a blanket exemption under Part 208 authorizing supplemental carriers to engage in similar operations. Pursuant to the notice, comments have been received from six air carriers and the Department of Defense. Three carriers[1] and the Department of Defense support the proposed rule essentially for the reasons stated in the rule-making notice, two carriers[2] do not oppose the rule but propose certain conditions, and only one carrier, Pan American World Airways, Inc., opposes the proposed rule.

After consideration of all relevant matter presented, we have decided to adopt the amendments to Part 207 as proposed, for the reasons set forth in the rule-making notice. Accordingly, the tentative findings set forth in the explanatory statement to the proposed rule (EDR-115, supra) are incorporated herein by reference and made final. The proposed amendments to Part 208 are also being adopted and issued concurrently herewith (ER-515). In addition, we are concurrently amending section 25, Schedule T-41, paragraph (c), of Part 241, to make provision for reporting of military backhaul charter mileage performed by route carriers, which will henceforth be excluded from the computation of off-route charter mileage under Part 207 (ER-517).

Pan American urges that, in view of the already excessive eastbound transpacific cargo capacity resulting from the Vietnam emergency,[3] the proposed additional authority would seriously vitiate the overall development of our air transportation system by depressing the eastbound transpacific cargo rate structure, diverting traffic from the scheduled services of certificated carriers, and creating an artificial transpacific eastbound cargo market which will dissolve upon termination of the present emergency leaving the shipping public unable to cope with the impact of normal cargo rates on their pricing structures; would encourage and aggravate the present practice of illegal consolidation of individual shipments by foreign freight forwarders and shipping associations whose activities are difficult to police, and similarly would encourage illegal passenger charters involving solicitation of the general public; and would create similar detrimental effects in areas other than the Pacific, where the military emergency justification does not exist. Pan American also expresses concern that the amendments will force one-way MAC charter rates down to uneconomic levels; will result in difficulties in securing foreign landing rights for cargo charters; and will adversely affect the balance of payments problem. In the event that the Board should adopt the proposed rules, Pan American requests that backhaul charters from scheduled flights of combination carriers also be exempted from the Part 207 limitations.

Northwest proposes that the rules should be made effective only until the end of fiscal year 1968, and that a reporting requirement should be included to aid the Board's review of the impact of the expanded authority at that time. TIA, a supplemental carrier, requests that carriers certificated in the Pacific be given the right of first refusal on any backhaul charters, in order to give it some measure of protection against any and all MAC carriers performing backhaul charters.[4]

As more fully detailed in our rule-making notice, the Board is concerned that the present restrictions contribute to uneconomic utilization of equipment by prohibiting the filling of empty return flights from one-way MAC charters with commercial charter traffic which might otherwise be available. Moreover, although all carriers have been authorized to participate in military contracts, those carriers to whom the restrictions apply cannot participate in such contracts on an equal basis with carriers to whom the restrictions are inapplicable or do not constitute a meaningful limitation. So long as the minimum one-way military rates reflect the carriers' experience in securing commercial revenues on backhaul flights, those carriers who are deprived of the opportunity of obtaining such revenues by reason of the present restrictions may be induced to seek more remunerative forms of utilization of available capacity, and the military may be deprived of needed airlift capacity which otherwise would be available. The alternative would be to retain the minimum one-way military rates at needlessly high levels, and thereby in effect provide a subsidy for uneconomical utilization of equipment and windfall profits for those carriers who are not substantially limited by the present restrictions.[5] We are unable to conclude that retention of the present restrictions provides benefits which would warrant such an alternative. Accordingly, we find that the interests of the public and the national defense require that the present restrictions which may prevent certain carriers from obtaining commercial revenues on return flights of one-way military charters should be removed.

We recognize that various problems could conceivably arise in connection with the grant of the military backhaul exemptions. We further recognize the legitimate concern of foreign governments that the U.S. military requirements for one-way charters should not result in the operation of commercial charters in the reverse direction in a manner that would be disruptive of normal commercial operations. However, we are unable to conclude that the limited additional backhaul charter authority which will be granted herein would have such an effect. Should it appear, nevertheless, that the backhaul authority were to result in commercial charter operations which were disruptive of the sound development of an international air transport system, we would promptly consider amendments to the regulations to avoid such consequences.[6] More specifically, we reserve the right to condition the exemptions granted herein upon the observance of appropriate minimum rates, should it later appear to the Board that the additional authorizations have resulted in an unwarranted adverse effect on the transpacific rate structure.[7]

Despite the heavy military demand for westbound cargo charter capacity in the Pacific, arising from the Vietnam emergency, there is little reason to believe that this limited additional backhaul authorization will result in operations which would be seriously detrimental to carriers presently authorized to provide service in this area. In the first place, several of the carriers performing military cargo charter operations in the Pacific are not subject to substantial restrictions in the carriage of backhaul commercial charters under the present regulations, either because they hold certificate authority for the area, or, with respect to route carriers, because their on-route operations are so large as to obviate any meaningful volume restrictions under Part 207. Secondly, even for those carriers who would not be authorized to engage in commercial backhaul charters absent the authority granted herein, the utilization of such authorization will be limited by the necessity to schedule any commercial backhaul flights to coincide with the one-way military charter contracts.[8] Finally, there is no reason to believe that the efforts of carriers to reduce the economic waste of empty ferry legs from one-way military contracts will be directed primarily toward traffic which would be diverted from presently authorized carriers. Rather, it may be expected that a substantial portion of such traffic would constitute newly developed traffic which would not move at the higher rates of scheduled service, and which, because of the size of the shipment and timing requirements, would be able to utilize the less flexible charter services.[9]

Nor are we persuaded that the additional authorizations will result in any significant diversion from the certificated route carriers as a result of illegal consolidations and solicitations. While there may be certain difficulties in policing foreign freight forwarders and shipping associations, the same is not true with respect to the air carriers performing the service. In this connection, it is our intention to hold all carriers who may engage in commercial backhaul charters strictly accountable for assuring that their charters are not the result of cargo consolidations or passenger solicitation in violation of the charter regulations. There is, therefore, no reason to anticipate that unlawful operations under the proposed backhaul authority will become a significant problem.

As previously noted, we are contemporaneously herewith revising Schedule T-41 of CAB Form 41, "Charter and Special Services Revenue Aircraft Miles Flown," and the related instructions in paragraph (c) of section 25, Schedule T-41, Part 241, of the Economic Regulations, so as to provide for separate reporting of mileage performed in commercial backhauls to one-way military charters. In view of this reporting requirement, and the information as to commercial backhaul charters submitted in connection with the annual review of the minimum MAC charter rates, we do not believe that imposition of an additional reporting requirement is required to enable the Board to evaluate the effects of the amendments.[10] Therefore, Northwest's request for a reporting requirement will be granted only to the extent indicated.

Accordingly, the Civil Aeronautics Board hereby amends Part 207 of the Economic Regulations (14 CFR Part 207), effective December 1, 1967, by amending the definition of "off-route" in § 207.1 to read as follows:

§ 207.1 Definitions.

* * * * * *

"Off-route" shall refer to any charter which is not on-route, except (1) charters performed for the Department of Defense, and (2) charters performed in overseas or foreign air transportation on the reverse leg of a charter performed in the opposite direction under a contract with the Department of Defense calling for one-way service.

* * * * * *

(Secs. 204(a), 401(c)(6); 72 Stat. 743, 49 U.S.C. 1324; 72 Stat. 754, as amended by 76 Stat. 143, 49 U.S.C. 1371)

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-12868; Filed, Oct. 31, 1967; 8:50 a.m.]

[Reg. ER-516, Amdt. 9]

PART 208—TERMS, CONDITIONS AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN SUPPLEMENTAL AIR TRANSPORTATION

Military Backhaul Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of October 1967.

On May 4, 1967, by notice of proposed rule making EDR-115 (32 F.R. 7090), the Board proposed to amend Part 208 as well as Part 207 (Charter Trips and Special Services) to include a blanket exemption under Part 208 authorizing supplemental carriers to carry commercial charters in overseas or foreign air transportation on the reverse leg of a one-way military charter in the opposite direction, and similarly to exempt such military backhaul charters performed by certificated route carriers from the off-route charter limitations of Part 207. Pursuant to the notice, comments have been received from six air carriers and the Department of Defense. Three carriers[1] and the Department of Defense support the proposed rule essentially for the reasons stated in the rule-making notice, two carriers[2] do not oppose the rule but propose certain conditions, and only one carrier, Pan American World Airways, Inc., opposes the proposed rule.

In ER-515, issued concurrently herewith, we have adopted the amendments to Part 207 as proposed. For the reasons set forth therein, and on the basis of the tentative findings set forth in the Explanatory Statement to the proposed rule (EDR-115, supra, hereby made final and incorporated by reference), we have determined that the amendments to Part 208 should also be adopted as proposed.

Accordingly, the Civil Aeronautics Board hereby amends Part 208 of the

[1] Airlift International, Inc.; Eastern Air Lines, Inc.; and The Flying Tiger Line Inc.

[2] Northwest Airlines, Inc., and Trans International Airlines Corp. (TIA).

[3] MAC cargo charters are predominantly one-way while MAC passenger charters are predominantly round trip.

[4] Flying Tiger notes that it is a practical necessity that the backhaul charter be permitted to originate at a point different from, but in the same region as, the destination of the one-way MAC charter (i.e., MAC charter destination to the Philippines, backhaul charter originating at Hong Kong). We agree that such an operation would be permitted under the amendments.

[5] We cannot agree with Pan American's contention that the effect of the proposed amendments will be to drive the one-way MAC charter rates down to uneconomic levels. On the contrary, the amendments will merely result in maintenance of rates at reasonable levels, taking account of the average experience of the carriers in obtaining a more economical utilization of equipment.

[6] We are not persuaded that the likelihood of such undesirable consequences is sufficiently great as to justify limiting the effectiveness of the proposed amendments to the end of fiscal year 1968 as proposed by Northwest.

[7] Furthermore, we are not here passing upon the validity of any tariff rate which may be filed in connection with such backhaul operations. Thus, any aggrieved person may, pursuant to sections 404(b) and 1002(a)(f) of the Act (49 U.S.C. 1374, 1482), file a complaint with respect to any such tariffs which may be unjustly discriminatory, unduly preferential, or unduly prejudicial. Under these circumstances, the Board should be in a position to avoid unwarranted transpacific directional rate imbalance. We are, moreover, unable to conclude that the nature of the authorizations granted herein is such as would have any significant adverse effect on the balance of payments problem.

[8] Thus, the carriers' experience for fiscal year 1966 shows that utilization of return mileage for commercial traffic averaged only 7.1 percent for passenger charters, 1.2 percent for cargo charters on jet aircraft, and 16.4 percent for cargo charters on CL-44 equipment. The relatively larger CL-44 figure represents primarily the 24.6 percent of commercial backhaul mileage by a single carrier, Flying Tiger, the other two carriers operating this equipment, Seaboard and Airlift, securing only 5.2 percent and 1.3 percent respectively.

[9] In view of our conclusion that carriers presently certificated to provide service will not be subject to serious detriment as a result of the increased authorizations, we find no need for and will not adopt TIA's proposal for first refusal rights on the part of carriers certificated in the area involved, with the substantial administrative burdens upon both the Board and the carriers that such a proposal would involve. Similarly, we shall reject as unsupported Pan American's alternative request for extending the Part 207 exemption to backhaul commercial charters performed in conjunction with scheduled flights in the opposite direction by route carriers certificated in the Pacific area.

[10] We recognize that military backhaul charters performed by supplemental carriers will not be reflected in the schedule T-41 reports. However, in view of the limited participation of the supplementals in one-way cargo charters in the Pacific, information as to their operations submitted in connection with the annual minimum MAC rate review should be sufficient.

[1] Airlift International, Inc.; Eastern Air Lines, Inc.; and The Flying Tiger Line, Inc.

[2] Northwest Airlines, Inc., and Trans International Airlines Corp. (TIA).

Economic Regulations (14 CFR Part 208), effective December 1, 1967, as follows:

1. Amend the table of contents of Part 208, to add a new Subpart B1, and a new § 208.150 thereunder, to read as follows:

Subpart B1—Provisions Relating to Military Backhaul Charters

Sec.
208.150 Military backhaul exemption.

2. Add a new Subpart B1 to Part 208, with a new § 208.150 thereunder, to read as follows:

Subpart B1—Provisions Relating to Military Backhaul Charters

§ 208.150 Military backhaul exemption.

Subject to the provisions of this part, Part 295 of this chapter, and all other applicable rules, regulations, conditions, or requirements, supplemental air carriers are hereby exempted from the provisions of section 401 of the Federal Aviation Act of 1958, as amended, to the extent necessary to permit them to engage in overseas or foreign "supplemental air transportation" and "transatlantic supplemental air transportation" on the reverse leg of a charter performed in the opposite direction under a contract with the Department of Defense calling for one-way service.

(Secs. 204(a), 416(b); 72 Stat. 743, 771; 49 U.S.C. 1284, 1386)

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 67-12889; Filed, Oct. 31, 1967; 8:50 a.m.]

[Reg. ER-517, Amdt. 14]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Charter and Special Services Revenue Aircraft Miles Flown

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of October 1967.

In ER-515 issued contemporaneously herewith, the Board adopted an amendment to Part 207 of the Economic Regulations (14 CFR Part 207—Charter Trips and Special Services), which exempts from the limitations of that part applicable to off-route charters performed by certificated route carriers, commercial charters performed in overseas or foreign air transportation on the reverse leg of a one-way military charter in the opposite direction. The annual on- and off-route charter milage performed by certificated route carriers is reported on schedule T-41 of CAB Form 41. These reports permit the computation of the off-route charter volume limitations contained in §§ 207.5 and 207.6.[1] Paragraph (c) of section 25—Schedule T-41, of Part 241, contains instructions related to this schedule, which require, inter alia, a breakdown of charter mileage between military and nonmilitary, and a further breakdown of nonmilitary charter mileage between charters performed pursuant to a special exemption,[2] and charters not performed under an exemption. In order to make provisions for reporting of military backhaul charter mileage, which will be excluded from the computation of off-route charter mileage in accordance with the amendment to Part 207 (ER-515, supra), it will be necessary to revise schedule T-41, and to amend the related instructions in paragraph (c) of section 25—Schedule T-41 of Part 241, to provide a further breakdown of nonmilitary charters. The revised schedule T-41, as it will appear pursuant to this amendment, is set forth as an attachment hereto.[2]

Military backhaul charters will be exempted from the Part 207 restrictions only upon the effective date of ER-515, supra. Accordingly, the instant amendment will be made effective on the same date, and carriers in completing the revised schedule T-41 for the calendar year 1967 should include in the "Foreign and Overseas Military Backhauls" column only mileage performed in military backhaul charters subsequent to the effective date of ER-515 and this amendment.

The foregoing amendment merely reflects a minor change in the manner of complying with an existing reporting requirement. Moreover, the revision is in implementation of a rule, adopted after full public rule making procedures, which relieves the carriers of an existing restriction. In addition, for the reasons stated, the amendment should be made effective simultaneously with that rule. Accordingly, the Board finds that notice and public procedure with respect to this amendment are unnecessary and impracticable.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 241 of the Economic Regulations (14 CFR Part 241), effective December 1, 1967, as follows:

Amend Section 25—Traffic and Capacity Elements by revising paragraph (c) of instructions for Schedule T-41 to read as follows:

Schedule T-41—Charter and Special Service Revenue Aircraft Miles Flown

* * * * *

(c) Total charter and special service revenue aircraft miles flown during the calendar year shall be reflected in this schedule by combination carriers and all-cargo carriers in the respective sections provided therefor. Such data shall be broken down to reflect revenue aircraft miles flown for: (1) The Department of Defense; and (2) all other customers subdivided into (a) operations performed under special exemption authority, (b) operations performed without such special exemptions, and (c) operations performed in overseas or foreign air transportation on the reverse legs of one-way military charters.

* * * * *

(Secs. 204(a), 401(c)(6), 407(a); 72 Stat. 743, 754 and 766, as amended; 49 U.S.C. 1324, 1371, 1377)

NOTE: The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 67-12890; Filed, Oct. 31, 1967; 8:50 a.m.]

[1] Sections 207.5 and 207.6, applicable to combination and all-cargo carriers, respectively, impose an annual volume limitation on "off-route" charters of 2 percent of their "base revenue plane" miles performed during the preceding calendar year. "Base Revenue Plane Miles" is defined as "revenue mileage operated by an air carrier in scheduled services, extra sections, and on-route charter trips or special services." § 207.1.

[2] Attachment filed as part of original document.

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4301]

[Wyoming 2886]

WYOMING

Withdrawal for Reclamation Project

By virtue of the authority contained in section 3 of the act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 416), as amended and supplemented, it is ordered as follows:

1. Subject to valid existing rights, the following described public lands, which are under the jurisdiction of the Secretary of the Interior, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, and reserved for the Garland Division, Shoshone Project:

SIXTH PRINCIPAL MERIDIAN

T. 56 N., R. 98 W.,
Sec. 26, SW¼;
Sec. 27, E½SE¼.

The areas described aggregate 240 acres in Park County.

2. The withdrawal made by this order does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

OCTOBER 24, 1967.

[F.R. Doc. 67-12884; Filed, Oct. 31, 1967; 8:46 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 823—OFFICE OF THE REGIONAL DIRECTOR

Part 823 is republished to show the current organization of the Office of Regional Director.

Sec.
823.1 Regional Director.
823.2 Deputy Regional Director.
823.3 Assistant to Regional Director.
823.4 Regional Counsel.
823.5 Divisions.

AUTHORITY: The provisions of this Part 823 issued under 5 U.S.C. 301, 39 U.S.C. 501.

§ 823.1 Regional Director.

(a) Administers the execution of policies, regulations, and procedures governing, and takes final action within his delegated authority on, matters relating to management, operations, transportation, finance, engineering, equipment, supply, facilities, and personnel within an assigned region (except the postal inspection service, internal auditors, the mail bag equipment shops, mail bag repair centers and depositories, area supply centers, postal agency, and stamped envelope agency, equipment production specialists, contract compliance under Executive Order 11246, and other specific matters reserved to the Postmaster General and to the bureaus and offices of the national headquarters).

(b) Is responsible for the efficient management, utilization, and control of manpower, allotted funds, facilities, and equipment within the authority delegated to the region.

(c) Directs the conduct of management and operating surveys in post offices.

(d) Provides guidance and specialized assistance to post offices on mail processing, mail movement methods, and other postal operations.

(e) Exercises direct supervision over all officers and employees within the regions, except as provided in (a).

(f) Is responsible for the annual appraisal of performance and final rating of postmasters at first-class offices.

(g) Serves as deputy equal employment opportunity officer under Executive Order 10925.

(h) May administer activities of certain individuals whose responsibilities extend into other regions.

§ 823.2 Deputy Regional Director.

(a) Assists the Regional Director in the overall management of the region.

(b) Acts for the Regional Director in his absence and at his direction.

§ 823.3 Assistant to Regional Director.

(a) Assists the Regional Director in liaison with the general public, principal mail users, Members of Congress, other Federal agencies, local authorities, and others.

(b) Directs regional information activities and promulgation of postal instructions to the public.

§ 823.4 Regional Counsel.

Represents the General Counsel in furnishing a broad scope of legal services and counsel to the Regional Director, his staff, and postmasters within the region.

§ 823.5 Divisions.

(a) *Controller Division.* Responsible to the Regional Director for advice and assistance in financial management of the postal region. Advises and assists the division directors in the development of programs and resource plans; provides technical financial management guidance and assistance to the regional office and post offices; conducts programs and resource analyses and accumulates, interprets, and presents financial, statistical, and economic data and advises regional officials on trends for use of resources; conducts costs and economic feasibility studies; participates in developing resource plans for postal installations; serves as the regional office liaison with the postal data centers; directs and installs cost ascertainment procedures as well as other statistical requirements of the Bureau of Finance and Administration, and provides training essential to carry out controller functions.

(1) *Accounting Programs Branch.* (i) As directed by the controller, provides technical assistance and guidance to postal officials in his region on the accounting programs. Develops, for them, principles and techniques to be used and defines legal requirements.

(ii) Serves as regional liaison official with the postal data center and with post offices in accounting matters. Provides technical guidance to postal installations on accounting functions which involve new policy or items of a controversial nature.

(iii) Directs the conduct of management appraisals of chief accountant offices in post offices. Arranges for training programs and seminars of postal accounting officials.

(iv) Monitors financial reports and statements provided by the postal data center. Evaluates and recommends appropriate changes in the reports and statements to assure that needs of the regional office for management data are fulfilled.

(v) Responsible for review and necessary action on delinquent accounts receivable when an account cannot be settled between the postal data center and the party involved.

(vi) Interprets and amplifies headquarters instructions on banking policy and procedures, representing regional controller in conferences with postmasters and commercial bank officials.

(vii) Authorizes post office cash reserves and establishment of inactive bank balances of less than $20,000.

(viii) Notifies banks and postmasters on actions taken regarding designation of banks as depositories and increase or release of collateral pledged to secure bank balances.

(ix) Conducts special studies and accomplishes projects assigned by headquarters. Provides recommendations for improvements in the Department's accounting programs.

(2) *Budget and Programs Branch.* (i) Provides guidance and participates in developing budget and program plans for the region and all postal installations and issues approved resource plans to postal installations; prepares justification of resource requirements for the postal region and establishes budgetary controls to prevent overobligation of funds.

(ii) Analyzes and interprets program and budgetary performance against plans by functional activities and postal installations and develops and submits recommendations to division directors and the Regional Director, based on the analyses, to facilitate timely and appropriate management decisions.

(iii) Analyzes and interprets financial and statistical data and advises management in measuring and controlling manpower utilization and costs.

(iv) Makes recommendations to controller regarding overall regional controllership policy, principles and standards which govern or apply to budgeting and financial reporting of the regional offices.

(v) Provides technical guidance to post offices on statistical and budget functions, including interpretative analysis of work measurement systems, all responsive to management needs, and implementation of mail count procedures; monitors and validates mail volume and man-hour usage reports.

(vi) Provides technical supervision for budget activities in postal installations to improve forecast of revenues, workload, and man-hours to permit operating budgets and targets to be more closely related to actual operations.

(vii) Participates in regional management surveys and appraisals of postal installations.

(viii) Develops, maintains, and operates a system of management information reporting, using the latest techniques in visual aids and utilizing all management data available. This reporting will form the basis of periodic management staff meetings for review of operations and status of financial condition.

(3) *Costs and Survey Branch.* (i) Directs the application of approved policies and procedures for accumulating, analyzing, and reporting costs data, cost ascertainment data, and for controlling the release of data to other agencies and the public.

(ii) Directs and participates in the installation of the cost ascertainment system at designated postal installations and maintains constant surveillance of the collection and reporting of data for all cost ascertainment offices in the regions.

(iii) Conducts economic feasibility studies required in connection with facility planning, mechanization, and revision of mail processing procedures and techniques; conducts economic evalua-

tion of installed equipment required for the development of criteria.

(iv) Performs cost surveys and "before" and "after" cost studies as required by headquarters and the regional office necessitated by changes in operations, occupancy of new buildings, or other changes.

(v) Prepares cost estimates reflecting effects of service or transportation changes.

(vi) Prepares cost estimates of proposed service changes in post offices such as transfer of working mail from mobile units to post offices, from post offices to mobile units, from one mobile unit or post office or from terminals to the sectional centers.

(vii) Performs review of contractors' claims for public law adjustments.

(viii) Participates in regional management surveys and appraisals of postal installations, as necessary.

(b) *Industrial Relations Division*—(1) *Responsibilities of Division.* (i) Assists and advises the Regional Director in all facets of personnel management necessary to provide adequate and quality employees to meet postal operations requirements in the Region.

(ii) Controls and supervises all activities and functions necessary for a progressive personnel management program and in accordance with Department policies and procedures.

(iii) Provides personnel services for the local regional headquarters office and for such other independent installations as may be assigned for such administrative support.

(iv) Maintains liaison with various Federal, State, and local agencies having dealings with postal employees in the region such as Civil Service Commission, Department of Labor, Department of Commerce, etc.

(v) Gives technical advice and assistance to postmasters, operating officials, and employees in the region on all matters involving recruitment, selection, training, and development, position ranking, testing and examination, disciplinary actions, grievances, health, safety, awards, pay administration, benefits, and labor relations.

(vi) Provides professional guidance to regional and installation officials and supervisors on equal employment, civil rights, ethical conduct, and labor relations affecting field service personnel.

(vii) Plans and directs the regional medical activities.

(viii) Inspects and evaluates the performance and staffing of personnel office activities in local post offices and other installations in the region.

(ix) Accomplishes such special projects, field tests, pilot studies, etc. as may be assigned by Department headquarters.

(x) Assures the timely and thorough accomplishment of all functions and activities assigned to the Industrial Relations Division.

(xi) Participates with the Regional Director and other regional officials on programs and plans on any phase of regional activity having personnel management implications.

(2) *Planning and Evaluation Office.* (i) Participates with regional officials in their planning activities to assure the timely and adequate provision of personnel support in such plans.

(ii) Provides Regional Director data necessary for identifying and estimating functional and budgetary requirements under the Program, Planning and Budget System.

(iii) Surveys and appraises the work of personnel offices and activities in regional installations and makes recommendations regarding their staffing and organizational needs.

(iv) Reviews contemplated procedures, policies, and regulations as requested by the Department. Conducts studies, pilot tests, etc. as directed or oversees such assignments made to specific units or sections within the industrial relations division.

(v) Reviews and follows up on inspections relative to personnel functions (Civil Service Commission, Postal Inspection, etc.) to assure that appropriate corrective actions are taken.

(3) *Employee Management Branch.* (i) Supervises and coordinates the efforts of the management/labor relations section, the employee relations section, and the safety engineer.

(ii) Responsible for the administration of the National Agreements including processing of alleged violations and serves as the central clearing point for all interpretations of those Agreements.

(iii) Keeps current on trends and policies in labor management contracts in private and public activities within the region and reports to Headquarters matters of significant import.

(iv) Administers procedures for union recognition, conduct of elections, etc.

(v) Recommends means for preventing or reducing the incidence of disciplinary actions, discrimination complaints, or grievance appeals.

(vi) Works closely with management officials as well as employee representatives to assure continuous communication and understanding of their respective roles and goals.

(vii) Chairs all regional labor-management meetings and assures the timely and thorough accomplishments of the subjects assigned to these meetings.

(viii) Represents the Regional Director on any special labor-management action or hearing.

(ix) Administratively responsible for the regional safety program and assures full support of the efforts and goals of the safety program.

(x) Responsible for representing region in all meetings with employee organization representatives concerning impasses in local negotiations, review of local agreements, informal attempts at settlement of alleged violations of the Code of Fair Labor Practices, alleged violations of local agreements and attempts at informal settlement of grievances

(a) *Management-Labor Relations Section.* (1) Coordinates the administration of the management-labor relations activities of the region.

(2) Processes union requests for recognition, conducts union elections when required and maintains records on certification of all locals.

(3) Advises postmasters on all local negotiations.

(4) Provides technical advice on negotiation impasses.

(5) Schedules periodic or special labor-management meetings.

(6) Keeps abreast of trends and policies in the labor-management field among public and private employers and advises his superior.

(b) *Employee Relations Section.* (1) Coordinates the administration of promotion, grievance, adverse action, and equal employment opportunity appeals programs in the region.

(2) Prepares analyses and makes recommendations to Regional Director on resolutions or decisions on specific grievance, and appeals as well as the broader concern of their prevention.

(3) Provides professional, authoritative advice to regional officials and postmasters on effective use of discipline, procedural correctness, role of employee representatives, employee rights, management rights, etc.

(4) Assures procedural correctness of all appeals actions and controls their processing to assure timely accomplishment.

(5) Provides advice on counseling techniques, ethical conduct, and discipline to all levels of management.

(6) Visits post offices and recommends changes to bring about effective employee relations program at local level.

(c) *Safety Section.* (1) Provides professional engineering leadership for the regional safety program including accident and fire prevention and control covering both vehicular and industrial operations.

(2) Assures that all persons who use property or equipment under the control of the Post Office Department receive training or information on the Department's safety requirements.

(3) Assures the full adoption within all levels of regional administration of national safety prevention and accident reporting requirements.

(4) Visits local officials to involve them in safety programs and to assure their full participation.

(5) Takes positive action to eliminate hazardous conditions in postal installations. Makes or causes inspections to be made and evaluates action needed.

(6) Under extreme emergency situations is authorized to temporarily discontinue the occupancy of specific quarters, temporarily discontinue work assignments or the use of certain equipment pending immediate review and resolution by higher postal authority.

(7) Reviews construction and procurement plans for compliance with safety specifications and needs.

(8) Visits post offices, inspects or causes the inspection of any or all premises and activities.

(9) Concurs in selection of safety personnel in local post offices and arranges for their training.

(10) Assures accomplishment of all reports and analyses.

(11) Assures thorough investigation of all accidents specially those involving the loss of life or limb or those of extensive monetary loss.

(12) Keeps abreast of all latest developments in safety field.

(13) Collaborates with medical personnel and other public or private officials whose work involves the safety and health of regional personnel.

(14) Arranges for periodic safety inspections and evaluations for offices without trained safety specialists.

(4) *Personnel Programs Branch.* (i) Coordinates and directs functional activities relating to: compensation, employment, awards, performance, training, and personnel administrative services.

(ii) Provides advice and guidance to management officials, employee unions, and postal personnel on the application of Federal laws and regulations relating to civilian employment programs and actions.

(iii) Provides personnel services for local regional headquarters and other independent installations assigned for administrative support.

(iv) Implements plans, projects, and programs, relating to matters within functional scope of the Branch.

(a) *Personnel Services Section.* (1) Administers the incentive awards, suggestions, performance evaluations, uniform allowances, vending machine, cafeteria, leave, retirement, health benefits, life insurance, and other fringe benefit programs for the region.

(2) Gives technical direction and authoritative interpretations on all programs assigned.

(3) Assures full support by installation heads of programs designed for management improvement and employee motivation and morale.

(4) Provides for processing of personnel transactions on Postmasters, rural carriers, headquarters personnel, and others as directed.

(5) Gives technical advice to postal officials and personnel specialists in postal installations on correct application of postal and Civil Service rules regarding transactions, maintenance of personnel records and documents, the preparation of statistics and reports, etc.

(6) Serves as central employment office for regional headquarters and keeps all personnel documents related thereto.

(b) *Manpower Resources Section.* (1) Administers programs designed to obtain best quality personnel available to meet postal needs.

(2) Develops manpower sources to assure flow of qualified applications within context of postal and civil service.

(3) Administers Civil Service examining board activities for the region.

(4) Assures full support and positive administration of such programs as Equal Employment, Employ Handicapped, Employ Women, etc.

(5) Assures sound administration of in-service promotion program and negotiated agreements thereto.

(6) Administers qualification requirements in Personnel Handbook X118–B.

(7) Coordinates placement of surplus personnel.

(c) *Compensation Section.* (1) Administers the compensation program for the region and assures compliance with laws and regulations relating thereto.

(2) Provides authoritative interpretations on the application of compensation regulations.

(3) Advises management officials of conditions influencing salary level rankings as well as factors relating to economy and efficiency of management operations.

(4) Exercises technical supervision of position rankings accomplished at installations. Recommends delegation or withdrawal of delegation to field installation heads to rank positions.

(5) Administers annual review of positions as prescribed by Headquarters.

(6) Keeps Headquarters informed of wage and cost conditions prevailing in private sector or among public agencies having impact on postal pay matters.

(d) *Training Section.* (1) Coordinates the operation of the training and development system throughout the region.

(2) Provides technical advice and assistance to postmasters and local training staffs in implementing training policies and improving the quality of training services throughout the region. (In regions where the postal data centers are located, provides comparable assistance for PDC Directors.)

(3) In coordination with other organizational units of the regional office, develops administrative systems for implementing specific servicewide training programs within the region.

(4) Assists regional and local management officials in developing specific training and programs whose application is limited to postal installations within the region.

(5) Monitors the planning and execution of training throughout the region and makes related recommendations to appropriate officials.

(6) Assists Department Headquarters in the development of new training programs or systems and in the modification of existing training programs or systems.

(7) Keeps abreast of latest developments in the field of training and development; and advises and assists in the selection, training and development of local training staffs.

(c) *Postal Operations Division*—(1) *Responsibilities of Division.* (i) Interprets and translates postal operation service requirements issued by the Department into planning guidance necessary for the developing and processing of detail plans for the postal region.

(ii) Plans, directs, and coordinates the regional postal operation services.

(iii) Advises the Regional Director as to the capability of the postal region to meet planned and assigned operation requirements.

(iv) Coordinates and recommends to the Regional Director requirements for facilities and equipment.

(v) Maintains a continuous appraisal of postal installations performance in carrying out the regional postal operation services.

(vi) Studies, develops, coordinates, and directs the installation of mail handling and workload systems and system improvements.

(vii) Coordinates, approves, and releases complements and man-hour allowances to postal installations.

(viii) Develops, coordinates, and directs the implementation of changes in organization and staffing of postal installations in accordance with Departmental policy and guidance.

(ix) Provides regional office leadership to formal Departmental and regional appraisals and surveys of postal installations.

(x) Plans and directs the regional customer relations activities.

(2) *Customer Relations Officer.* (i) Guides and coordinates the regional customer relations activities.

(ii) Investigates and recommends action on mail services complaints.

(iii) Provides customer assistance in use of ZIP Code and presorting of mail.

(iv) Assures that fringe service provided the public by postmasters are in keeping with effective customer relations practices and Departmental policy.

(3) *Methods and Plant Improvements Branch.* (i) Guides and coordinates with regional organizational elements, having a technical and functional interest, the regional effort in the determination of operating requirements as to size, location, layout, and equipments for new and modernized leased and Government-owned postal facilities, including airport mail facilities, truck terminals, vehicle maintenance facilities, post office stations and branches, and central mail handling facilities.

(ii) Directs and coordinates advanced planning for methods and plant improvements based on relative operating urgency and budgetary considerations, and as appropriate, requests inspection service space surveys.

(iii) Participates in the developing and approves budget and program plans for methods and plant improvements, and maintains status control records on methods and plant improvements.

(iv) Provides operation inputs into the finalization of plans for plant improvements and selection of equipment.

(v) Participates in site selection.

(vi) Provides methods and industrial engineering services to improve methods and procedures throughout the postal region.

(vii) Reviews and approves engineering layouts, building arrangements, etc. in methods and plant improvements to assure proper utilization of space and equipment.

(viii) Provides consultant and technical services in plant layouts, case diagram, etc. to improve work methods and procedures.

(ix) Participates in management appraisals and surveys of postal installations.

(x) Guides and provides control coordination over the developing and use of forms.

(xi) Maintains liaison with other government agencies, educational institutions and industry on advanced management and industrial engineering methods and techniques.

(4) *Organization and Standards Branch.* (i) Directs and coordinates mail operation services (includes clerk and mail handler operations, general delivery, lock box and window service requirements) for the postal region.

(ii) Develops and approves service plans.

(iii) Monitors, evaluates, reports, and settles problems encountered in the accomplishing of mail operation services.

(iv) Develops, coordinates and directs implementation of changes in organization and staffing of postal installations in accordance with Departmental policy and guidance.

(v) Reviews, coordinates with regional organizational elements having a technical and functional interest, approves and releases complement and man-hour allowances.

(vi) Directs and participates in management appraisals and surveys of postal installations.

(vii) Provides technical procedural guidance on general delivery, lock box and window service requirements.

(viii) Participates in the preparation and approves budget and program plans.

(ix) Provides comments on proposed methods and plant improvements.

(x) Installs, and administers systems of work performance and productivity evaluation.

(xi) Directs the establishment, naming, operating, and discontinuing of classified and contract stations, branches and annexes within the postal region in accordance with Departmental policy and guidance.

(xii) Performs service analyses through selected tests.

(5) *Distribution, Delivery and Vehicle Services Branch.* (i) Directs and coordinates the delivery and vehicle services of the postal region.

(ii) Develops and approves delivery and vehicle service plans.

(iii) Provides technical guidance in the accomplishing of delivery and vehicle service requirements.

(iv) Monitors, evaluates, reports, and settles problems encountered in the accomplishing of delivery and vehicle service requirements.

(v) Reviews and provides comments on organization, staffing, complement and man-hour allowances for carriers and vehicle services.

(vi) Develops and coordinates distribution and operating procedures to include the makeup, distribution, and dispatch of mail at all postal installations within the postal region.

(vii) Reviews and approves changes in city and rural routes, rural stations, assignment and use of vehicles and vehicle maintenance schedules.

(viii) Provides regional guidance on the requirements and preparation of incoming schemes.

(ix) Develops the technical aspects of the ZIP Code System, i.e., ZIP Code number assignments, local ZIP Code areas (zones), and the preparation of ZIP Code Directories.

(x) Issues criteria governing diagrams of letter cases and pouch- and sack-racks, with emphasis on the adequacy of makeup and effect on service.

(xi) Provides comments on proposed methods, case diagrams, and plant improvement plans as to effect on delivery and vehicle services.

(xii) In conjunction with schemes and routing branch, transportation division, provides technical guidance in scheme knowledge requirements for a well-qualified work force.

(xiii) Participates in management appraisals and surveys.

(xiv) Analyses reports of delayed mail involving postal installation operating deficiencies.

(d) *Postal Service Officer Division*—(1) *Responsibilities of Director.* (i) Assists the Regional Director by directing and coordinating the activities of the postal service officers.

(ii) Develops and carries out plans for improving services provided by the postal service officers.

(iii) Participates in nationwide planning for improving the services of the postal service.

(iv) Serves the Regional Director in giving continuity to general management liaison with postmasters provided through the postal service officers.

(2) *Responsibilities of postal service officers.* Within assigned geographical areas:

(i) Provides to the Regional Director a focal point of general management liaison with postmasters on a continuous basis.

(ii) Guides and counsels postmasters on postal service matters and brings to the attention of the regional office problems and situations which require technical expertise in gaining solutions.

(iii) Serves as a source of day-to-day information on needs and performance by postal installations for the regional offices in performing their management activities.

(iv) Contributes to the Regional Director's annual appraisal of postmasters.

(v) Maintains continuous observations of the postal service activities.

(vi) Carries out special assignments of the Regional Director which may be outside geographical areas of regular duty.

(e) *Transportation Division*—(1) *Responsibilities of Division.* (i) Applies Departmental directives pertaining to transportation service requirements and provides necessary guidance for the development, processing, implementation, and operation of detailed transportation plans and programs for the postal region.

(ii) Plans, directs, and coordinates regional transportation services.

(iii) Advises the Regional Director as to the the capability of the postal region to meet planned and assigned transportation requirements.

(iv) Coordinates and recommends to the Director, Postal Operations Division, facilities, equipment, organization, and manpower under post office management needed to meet transportation requirements.

(v) Develops and maintains an integrated regional pattern for transporting all classes of mail consistent with national patterns and plans and coordinates with similar patterns in adjoining regions.

(vi) Prepares schemes and schedules governing the distribution and dispatch of mail.

(vii) Maintains liaison with common carriers; negotiates for the transportation of mail by railroads and highway vehicles and insures efficient utilization of these and air transportation, citing irregularities, imposing and recommending penalties when warranted.

(viii) Provides program and technical guidance to postmasters in planning and operation on mobile units, transfer offices, airport facilities, and truck terminals and determines the need for their establishment or discontinuance; coordinating any changes involving changes in the application or utilization of installed mail processing mechanization in accordance with 858.3 of the Postal Manual.

(ix) Coordinates transportation service and cost studies and plans with the regional controller division for appropriate guidance and inputs and to assure they are consistent with regional plans, budgets, and cost effectiveness analyses.

(2) *Mail equipment officer (Office of Director).* (i) Directs mail equipment transportation program within the region.

(ii) Plans and directs program to assure availability of containers necessary for the movement of all mail between postal installations within the region and coordinates that activity with adjoining regions.

(iii) Establishes and maintains an inventory control system which provides for the maximum utilization of mail equipment at the least possible cost and makes certain all empty mail equipment is processed and dispatched promptly at all postal installations.

(iv) Arranges for the most economical transportation of empty mail equipment between all postal installations and plants of large bulk mailers within the region and interregional when the need exists.

(v) Issues instructions on proper labeling, packing, makeup, and dispatch of surplus mail equipment and makes periodic personal visits to insure that the instructions are being carried out.

(vi) Maintains liaison with the Regional Director, director, transportation division, and all other regional officials concerned with processing and utilization of mail equipment.

(3) *Organization and training assistant (Office of Director).* (i) Conducts organization and staffing studies and provides recommendations on improving the regions capability to meet transportation requirements.

(ii) Participates in regional appraisals and surveys of post offices.

(iii) In conjunction with the training branch, develops, coordinates, and monitors training for planning and implementing transportation requirements.

(iv) Assists the postal operations division and training branch in developing and implementing distribution training.

(v) Coordinates with the postal operations division the staffing and management of mobile units, transfer offices, truck terminals and air mail facilities.

(4) *Transportation Planning Branch.* (i) Provides guidance and coordination to developing transportation program and budget plans.

(ii) Analyses, evaluates, and provides status information on progress in accomplishing transportation programs.

(iii) Directs and conducts studies to evaluate modes of transportation from standpoint of cost and effective service; recommends improvements within and between regions consistent with cost and service.

(iv) Makes surveys of changes in modes of transportation such as rail to highway, rail to air, etc., and develops plans for implementation.

(v) Develops emergency transportation plans.

(vi) Provides plans and participates in necessary studies to keep regional transportation patterns integrated with national plans.

(vii) Studies changing mail volume and flows and closely coordinates with other branches to assure best mode of transportation.

(viii) Recommends improvements based on service analysis.

(5) *Schemes and Routing Branch.* (i) Establishes general pattern and, except for local mail, determines what mail shall be distributed by all installations.

(ii) Directs manner of routing mail within region and coordinates with other regions.

(iii) Directs preparation of schemes (except city) and study maps; issues corrections.

(iv) Except for city schemes, establishes scheme knowledge requirements and directs examination program; prepares schedule of mail routes and corrections thereto.

(v) Issues pouch orders and dispatch instructions with special instructions for registered mail.

(vi) Provides guidelines for distribution training and coordinates with postal operations division on distribution manpower.

(vii) Issues instructions for proper labeling of mail. Provides technical direction to insure the quality and timeliness of production of label printing units.

(viii) Develops routing plans for large mailers.

(ix) Provides technical and functional direction to the postmaster for proper and efficient distribution in mobile units and airport mail facilities and recommends need for establishment or discontinuance of these units.

(x) Coordinates in accordance with section 858.3 of the Postal Manual any changes involving changes in the application of ulitization of installed mail processing mechanization.

(6) *Railway Transportation Branch.* (i) Directs and coordinates railway transportation services for the postal region.

(ii) Develops and approves railway transportation plans.

(iii) Monitors, evaluates, reports, and settles problems encountered in the accomplishing of railway transportation.

(iv) Coordinates and recommends facilities and equipment requirements for railway transportation—transfer offices and railway post offices. Also, coordinates and recommends manpower

(v) Supervises railroad performance and prepares railroad agreements.

(vi) Coordinates with other regions in effecting efficient transportation of mail by rail.

(vii) Provides program and technical direction to postmasters on the operation of transfer offices and determines need for establishment or discontinuance.

(viii) Investigates irregularities in rail service and recommends penalties on carriers as warranted.

(ix) Interprets Interstate Commerce Commission regulations.

(x) Maintains liaison with rail carriers concerning scheduling, railroad personnel, facilities, and protection of mail.

(xi) Inspects RPO cars for adequacy and conformity with standards.

(xii) Administers rail space basis system, exclusive of processing of claims.

(xiii) Observes the handling of mail by railway personnel in terminals and stations, and the operation of the transfer service for evaluation of carrier performance and adequacy of supervision.

(7) *Highway Transportation Branch.* (i) Directs and coordinates highway transportation services for the postal region.

(ii) Develops and approves highway transportation plans.

(iii) Monitors, evaluates, reports, and settles problems encountered in the accomplishing of highway transportation.

(iv) Coordinates and recommends facilities and equipment requirements for highway transportation—truck terminals and highway post offices. Also, coordinates and recommends manpower requirements for truck terminals.

(v) Recommends the procurement of highway transportation service, route establishments, consolidations, discontinuance, changes, and review of schedules to provide the best service at least cost.

(vi) Reviews requests for compensation adjustments under Public Laws 660 and 763, and takes action, after review by the regional controller division for claims of $1,000 or more.

(vii) Examines agreements and contracts for conformity with laws and regulations; enforces adequate protection of the mail by contractors.

(viii) Inspect HPO vehicles for adequacy and conformity with standards.

(ix) Observes operation of highway routes, the handling of mail by highway carriers, and the operation of truck terminals, to evaluate carrier performance and adequacy of service. Recommends penalties against highway carriers when warranted.

(x) Provides program and technical guidance to postmasters on highway operations and on planning and operation of truck terminals, and determines the need for their establishment or discontinuance.

(8) *Air Transportation Branch.* (i) Directs and coordinates air transportation services for the postal region.

(ii) Develops and approves air transportation plans.

(iii) Monitors, evaluates, reports, and settles problems encountered in the accomplishing of air transportation.

(iv) Coordinates and recommends facilities, equipment, and manpower requirements (except that required for distribution) for air transportation—airport mail facilities and transfer offices.

(v) Provides program and technical direction to airport mail facilities and post offices on the dispatch, receipt, and exchange of mail by air with and between air carriers.

(vi) Coordinates with other regions in air transportation of mail to secure maximum performance, effective utilization of space and weight, and improved connections, and to assist in resolving problem areas.

(vii) Investigates irregularities, delinquencies, and other deficiencies in air service; appraises results of investigations and recommends penalties against air carriers when warranted.

(viii) Interprets and directs the implementation of Civil Aeronautics Board regulations.

(f) *Engineering and Facilities Division*—(1) *Responsibilities of Division.* (i) Assists the Regional Director in administering construction, leasing, procurement and supply, and maintenance programs; and maintains program controls within delegated authority.

(ii) Forecasts, plans, and determines plant requirements.

(iii) Within delegated authority, designs Federal building extensions and improvements, and leased facilities.

(iv) Manages real estate program, renewing leases, obtaining site options, and negotiating lease contracts; inspects and accepts construction.

(v) Provides building and equipment preventive maintenance programs for Federal and leased facilities.

(vi) Provides Government vehicle maintenance guidance and technical direction to post offices; assists the training branch in implementing and improving vehicle maintenance training programs; analyzes cost control reports; and administers the vehicle disposal program.

(2) *Engineering Branch.* (i) Makes engineering studies for space and equipment requirements, sites, locations, facilities, mechanization, plant layout, and work flow and processing methods, in connection with new and modernized facility proposals.

(ii) Prepares, reviews, and approves bid and construction plans, specifica-

tions, cost estimates, and evaluations involving remodeling of existing and new postal facilities.

(iii) Inspects and recommends acceptance or rejection of new and remodeled leased buildings. Also, conducts with GSA engineers the inspection of construction and modernization of Federal postal buildings. As delegated by Headquarters, performs resident engineer technical and administrative services in connection with construction and mechanization projects initiated by Headquarters.

(iv) Conducts research and development tests and evaluations of mail processing machines and systems, including design and testing of vehicles when required by the Bureau of Research and Engineering.

(v) Directs and evaluates surveys, programs, designs, installation and tests on the need, adequacy, and operation of all building equipment. Provides technical assistance and guidance to staff members and postal officials on the operation and maintenance of utilities equipment and services.

(vi) Makes studies and prepares reports and recommendations on the utilization and efficiency of newly developed postal equipment systems and materials.

(vii) Makes studies on economics of engineering programs.

(viii) Plans and coordinates with the responsible officials of regional staff immediate and long-range engineering and capital improvement programs and priorities.

(ix) Evaluates technical suggestions under the incentive awards program.

(x) Coordinates in accordance with 858.4 any experimental development projects involving mail processing machines and equipment, having country-wide application.

(3) *Real Estate Branch.* (i) Formulates and develops long-range plans for coordinating regional realty programs with changing postal requirements.

(ii) Negotiates, commits, revises, executes, and terminates agreements for real estate facilities used by the Department under leases, rental agreements, or agreements with other Government agencies for space in Government-owned buildings.

(iii) Acquires control of real property through assignable options; recommends control through purchase, leases, contracts, condemnation, donation, or other means; approves option for advertising purposes, and assigns such options to the successful bidder.

(iv) Prepares bidding documents; assembles bid packages including plot plan, floor plan, elevations and building requirements; and submits to interested bidders for leased postal facilities.

(v) Takes final action on deferred maintenance in leased or rented postal space and directs lessors to take corrective action.

(vi) Conducts surveys and analyses of regional land and building acquisition or rental costs, and recommends procedures whereby economy can be effected in the regional realty program.

(vii) Establishes and maintains realty project files.

(4) *Plant Maintenance Branch.* (i) Directs the operation and maintenance of buildings and building mechanical equipment; and the maintenance of postal operating equipment and vending machines.

(ii) Implements and administers policies, programs, methods, and standards for preventive maintenance, repair maintenance, maintenance inspection, and inventory management.

(iii) Reviews and approves estimates for annual and incidental allowances covering operation and maintenance of buildings and building mechanical equipment; and the maintenance of postal operating equipment and vending machines.

(iv) Recommends to local service division organizational structures and complements for maintenance of postal installations.

(v) Conducts periodic surveys of maintenance of buildings and equipment to determine the effectiveness of, and to improve, the maintenance program.

(vi) Initiates action to provide for maintenance needs at new or modernized facilities, including supplies, spare parts, and equipment.

(vii) Develops guidelines for use of postmasters in soliciting bids for contract maintenance; makes review of performance under approved contracts.

(viii) Directs the program by which representatives in field post offices perform routine and emergency repair and maintenance of building and operating equipment for surrounding areas.

(5) *Vehicle Maintenance Branch.* (i) Directs the maintenance and repair of Government-owned vehicles program.

(ii) Implements and administers policies, programs, methods, and standards for preventive maintenance, repair maintenance, vehicle inspection, and vehicle parts inventory management.

(iii) Reviews and approves estimates for annual and incidental allowances for supplies, automotive parts, and equipment used in maintenance of vehicles.

(iv) Recommends to local services division organizational structures and complements for vehicle maintenance facilities.

(v) Conducts periodic surveys of vehicle maintenance facilities in the region to determine effectiveness of, and to improve, the maintenance program.

(vi) Reviews requests for and recommends additional, new, or modernized vehicle facilities, including garage layout and equipment requirements, based on service needs.

(vii) Develops guidelines for use of postmasters in soliciting bids for contract maintenance; makes continuous review of performance under approved contracts.

(viii) Administers the vehicle disposal program; in conjunction with local services division, develops annual vehicle procurement needs.

(6) *Procurement and Supply Branch.* (i) Administers the regional procurement, supply and personal property management programs.

(ii) Approves, accomplishes and administers procurement of services, supplies and equipment; maintains liaison with GSA on matters pertaining to supply, distribution and transportation.

(iii) Develops, reviews and approves plans and funds for regional and local purchases, subject to targeting responsibilities and fund control by the regional controller.

(iv) Approves procurement, delivery criteria and schedules.

(v) Develops and issues guidelines for use by postmasters in soliciting bids for services, supplies and equipment. Reviews and approves contracts.

(vi) Exercises management control of regional office personal property and determination of requirements and inventory management of selected equipment for regional storage.

(vii) Administers the utilization of all serviceable excess and the disposal of obsolete and unserviceable personal property; arranges for transportation aspects of redistributing equipment.

(viii) Administers regional office small purchase imprest funds.

(ix) Provides training to post office personnel in contracting and procurement.

(x) Recommends to local services division the procurement and supply staffing requirements at larger post offices.

TIMOTHY J. MAY,
General Counsel.

OCTOBER 26, 1967.

[F.R. Doc. 67-12896; Filed, Oct. 31, 1967; 8:48 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter II—National Bureau of Standards, Department of Commerce

SUBCHAPTER A—TEST FEE SCHEDULES

PART 204—RADIATION PHYSICS

Neutron Physics

Under the provisions of 15 U.S.C. 275 (a) and 277, the test fee schedules of the National Bureau of Standards, Department of Commerce, pertaining to the calibration of neutron sources, neutron instruments, and neutron irradiation of foils, are revised as provided herein. All fees have been revised upwards to assure full recovery of the cost of providing calibration services.

This revision, effective upon publication in the FEDERAL REGISTER, supersedes §§ 204.701, 204.702, and 204.703 of Part 204 of Title 15, Code of Federal Regulations which appeared in the FEDERAL REGISTER of January 8, 1965, at 30 F.R. 215.

Neutron Physics

§ 204.701 Neutron sources.

Item	Description	Fee
204.701a	Determination of ratio of neutron emission rate of unknown source to primary standard in $MnSO_4$ bath or graphite column	$260.00

§ 204.702 Neutron instruments.

Item	Description	Fee
204.702a	Calibration of a set (one to three) of thermal neutron dosimeters	$110.00

§ 204.703 Neutron irradiation of foils.

Item	Description	Fee
204.703a	Activation of a set (one to four) of foils in the NBS standard thermal neutron flux geometry	$60.00

(Sec. 9, 31 Stat. 1450, as amended; 15 U.S.C. 277. Interprets or applies sec. 7, 70 Stat. 959; 15 U.S.C. 275a)

R. S. WALLEIGH,
Acting Director.

OCTOBER 17, 1967.

[F.R. Doc. 67-12903; Filed, Oct. 31, 1967; 8:50 a.m.]

SUBCHAPTER B—STANDARD REFERENCE MATERIALS

PART 230—STANDARD REFERENCE MATERIALS

Subpart D—Standards of Certified Properties and Purity

RADIOACTIVITY STANDARDS

Under the provisions of 15 U.S.C. 275a and 277, the following amendment to Part 230 of Title 15 of the Code of Federal Regulations, relating to standard reference materials issued by the National Bureau of Standards is effective upon publication in the FEDERAL REGISTER.

Subpart D of Part 230 is amended by revising § 230.8–5, *Radioactivity standards*, to (1) combine paragraphs (b) (2) and (3) into a new paragraph (b) (2), (2) add standard reference materials 4222, 4223, and 4224 to the new paragraph (b) (2), (3) delete standard reference materials 4932–D, 4937–C, 4941–B, 4945–B, and 4946–B. Accordingly, the following amends 15 CFR Part 230:

§ 230.8–5 Radioactivity standards.

• • • • • •

(b) • • •

(2) *Beta, gamma, and electron-capture solution standards.* (i) These Standard Reference Materials are contained in flame-sealed glass ampoules. The calibration radiation listed is the radiation for which the radionuclide is intended to be used as a standard.

(ii) Standards 4944–D (iodine-125) and 4948 (cerium-praseodymium-144) can be issued only under the special licensing provisions of the Atomic Energy Act of 1954, and it is therefore required that a copy of the purchaser's current AEC Byproduct Material License be on file at the National Bureau of Standards. The activity of the other standards in the group is such that they may be ordered singly under the general licensing provisions of the Atomic Energy Act of 1954.

Sample Nos.	Radionuclide	Calibration radiation	Approximate activity or emission rate at time of calibration (month, year)	Approximate weight of solution	Price
4921–C	Sodium-22	β^+	1×10^6 β^+-ps/g (8/64)	2	$37.00
4923–E	Sodium-22	γ	2×10^5 β^+-ps/g (3/67)	1	62.00
4222	Carbon-14 (n-hexadecane)	$\beta-$	4×10^4 dps/g (10/67)	3	80.00
4223	Carbon-14 (n-hexadecane)	$\beta-$	4×10^5 dps/g (10/67)	3	80.00
4224	Carbon-14 (n-hexadecane)	$\beta-$	4×10^6 dps/g (10/67)	3	80.00
4924	Carbon-14 (water)	$\beta-$	1×10^6 dps/g (7/68)	25	32.00
4926	Carbon-14 (benzoic acid in toluene)	$\beta-$	2×10^4 dps/g (7/68)	3	32.00
4928	Hydrogen-3 (water)	$\beta-$	9×10^5 dps/g (9/61)	25	48.00
4927	Hydrogen-3 (water)	$\beta-$	9×10^5 dps/g (9/61)	3	48.00
4930–B	Iron-55	X	2×10^5 dps/g (5/64)	3	48.00
4940	Promethium-147	$\beta-$	6×10^5 dps/g (8/61)	3	40.00
4943	Chlorine-36	$\beta-$	1×10^5 $\beta-$ps/g (1962)	3	36.00
4944–D	Iodine-125	X	1×10^4 dps/g (12/66)	5	96.00
4947	Hydrogen-3 (tritiated toluene)	$\beta-$	3×10^5 dps/g (2/64)	4	80.00
4948	Cerium-Praseodymium-144	$\beta-$	2×10^5 dps/g (12/66)	2.3	80.00

(3) [Deleted]

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(Sec. 9, Stat. 1450, as amended; 15 U.S.C. 277. Interprets or applies sec. 7, Stat. 959; 15 U.S.C. 275a)

Dated: October 16, 1967.

R. S. WALLEIGH,
Acting Director.

[F.R. Doc. 67-12894; Filed, Oct. 31, 1967; 8:50 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 7211 o]

PART 13—PROHIBITED TRADE PRACTICES

American Cyanamid Co. et al.

Subpart—Using patents, rights or privileges unlawfully: § 13.2485 *Using patents, rights, or privileges unlawfully.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Modified order to cease and desist, American Cyanamid Co. et al., New York, N.Y., Docket 7211 o, Sept. 20, 1967]

In the Matter of American Cyanamid Co., a Corporation; Bristol-Myers Co., a Corporation; Bristol Laboratories, Inc., a Corporation; Chas. Pfizer & Co., Inc., a Corporation; Olin Mathieson Chemical Corp., a Corporation; and The Upjohn Co., a Corporation

Order modifying an earlier Commission order dated December 17, 1963, 29 F.R. 1379, after a rehearing on remand from the U.S. Court of Appeals for the Sixth Circuit, 363 F. 2d 757, by requiring two manufacturing chemical firms to grant to any domestic applicant nonexclusive licenses to make and sell two of their patented antibiotics and furnish such licensees certain technical information. Price-fixing charges of the complaint were dismissed.

The modified order to cease and desist, is as follows:

It is ordered that the original initial decision in this matter issued October 31, 1961, be, and it hereby is, vacated and set aside;

It is further ordered, That the findings and conclusions contained in the initial decision following remand be, and they hereby are, adopted as the findings and conclusions of the Commission as supplemented by (1) the accompanying opinion of the Commission, (2) findings 1 through 18 and 27 through 29 contained in the Commission's findings as to the Facts and Conclusions of Law issued August 8, 1963, and (3) Part II of the Commission's opinion accompanying the Final Order issued December 17, 1963.

It is further ordered, That respondent Chas. Pfizer & Co., Inc., grant to any domestic applicant making written request therefor, a nonexclusive, nondiscriminatory license to make, use, and sell tetracycline under all claims of U.S. Patent 2,699,054. Said licenses granted hereunder shall be for the full, unexpired term of said patent and shall contain no restriction or limitation, except that such licenses may contain provisions in a form customary in such patent licenses, allowing the licensor to collect royalties of not more than two and one-half (2½) percent of the net sales of tetracycline manufactured or sold under said licenses, providing for the inspection of books and records by independent auditors to determine the correctness of any royalty payment, and providing for the cancellation of the licenses at the option of the licensor upon failure of the licensee to permit such inspection or to pay royalties due and payable. Said licenses shall provide that in the case of the licensor granting or having granted more favorable terms to any other licensee, the licensee under said license shall be entitled to equal treatment: *Provided, however*, That respondent may require any such applicant to pay upon acceptance of a license an amount not

exceeding $2,500 which shall be applied against future royalty payments.

It is further ordered, That respondent American Cyanamid Co. grant to any domestic applicant making written request therefor, a nonexclusive, nondiscriminatory license under all claims of U.S. Patent 2,609,329. Said licenses granted hereunder shall be for the full, unexpired term of the patent licensed and shall contain no restriction or limitation on the licensee's right to make and sell tetracycline, except that such licenses may contain provisions, in a form customary in such patent licenses, allowing the licensor to collect royalties of not more than two and one-half (2½) percent of the net sales of tetracycline manufactured under said licenses, providing for the inspection of books and records by independent auditors to determine the correctness of any royalty payment, and providing for the cancellation of the licenses at the option of the licensor upon failure of the licensee to permit such inspection or to pay royalties due and payable. Said licenses shall provide that in the case of the licensor granting or having granted more favorable terms to any other licensee, the licensee under said license shall be entitled to equal treatment: *Provided, however*, That respondent may require any such applicant to pay an amount not exceeding $2,500 which shall apply against future royalty payments under any patent or patents licensed hereunder.

It is further ordered, That respondents Chas. Pfizer & Co., Inc., and American Cyanamid Co. each refrain from making any assignment, sale, or other disposition of any of the patents required to be licensed hereunder which would deprive it of the power to issue licenses pursuant to this order unless said respondent requires as a condition of such disposition that the purchaser, assignee, or licensee shall observe the provisions of this order with respect to such patent and that the purchaser, assignee, or licensee file with the Commission a written undertaking to be bound by such provisions: *Provided, however*, That one or both of said respondents may dedicate any such patent, patents, or a general patent license to the general public in lieu of issuing licenses, pursuant to the provisions of this order.

It is further ordered, That respondent American Cyanamid Company furnish to any person licensed under this order, and making written request therefor, whatever technical information and know-how that American Cyanamid Co. has in the past furnished Chas. Pfizer & Co., Inc., relating to the manufacture and use of chlortetracycline, said technical information and know-how to include a furnishing of viable S. aureofaciens cultures that are identical to or equivalent to any cultures furnished Chas. Pfizer & Co., Inc. The information to be made available hereunder shall be made available without charge other than the expense to respondent of furnishing such information: *Provided, however*, That respondent American Cyanamid Co. may require any such licensee to agree to keep said technical information and know-how confidential.

It is further ordered, That respondent Chas. Pfizer & Co., Inc., furnish to any person licensed under U.S. Patent 2,699,954 pursuant to this order, and making written request therefor, whatever technical information and know-how that Chas. Pfizer & Co., Inc., has in the past furnished American Cyanamid Co. relating to the manufacture of tetracycline by the deschlorination process. The information to be made available hereunder shall be made available without charge other than the expense to respondent of furnishing such information: *Provided, however*, That respondent Chas. Pfizer & Co., Inc., may require any such licensee to agree to keep said technical information and know-how confidential.

It is further ordered, That respondents American Cyanamid Co. and Chas. Pfizer & Co., Inc., shall within sixty (60) days after the effective date of this order file with the Commission a written description of the know-how and technical information required to be furnished under paragraphs 6 and 7.

It is further ordered, That that portion of the complaint charging respondents with fixing prices be, and it hereby is, dismissed.

It is further ordered, That respondents American Cyanamid Co. and Chas. Pfizer and Co., Inc., each shall file with the Commission within sixty (60) days after the effective date of this order, a report in writing under oath, signed by each respondent, setting forth in detail the manner and form of its compliance with this order.

Issued: September 29, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-12629; Filed, Oct. 31, 1967; 8:46 a.m.]

[Docket No. C-1260]

PART 13—PROHIBITED TRADE PRACTICES

Jo Rich Originals, Inc., and Jack Rich

Subpart—Furnishing false guaranties: § 13.1053 *Furnishing false guaranties:* 13.1053-30 Flammable Fabrics Act; 13.1053-90 Textile Fiber Products Identification Act. Subpart—Importing, selling, or transporting flammable wear: § 13.1060 *Importing, selling, or transporting flammable wear.* Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely;* 13.1108-90 Textile Fiber Products Identification Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185-90 Textile Fiber Products Identification Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212-80 Textile Fiber Products Identification Act; § 13.1325 *Source or origin:* 13.1325-70 Place: 13.1325-70(1) Textile Fiber Products Identification Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-70 Textile Fiber Products Identification Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 67 Stat. 111, as amended; 72 Stat. 1717; 15 U.S.C. 45, 1191, 70) [Cease and desist order, Jo Rich Originals, Inc., et al., Miami, Fla., Docket C-1260, Oct. 9, 1967]

Consent order requiring a Miami, Fla., manufacturer of women's clothes to cease misbranding its textile fiber products, failing to maintain required records, furnishing false guaranties, and misrepresenting that the textiles are imported.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Jo Rich Originals, Inc., a corporation, and its officers, and Jack Rich, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by:

1. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising, or otherwise identifying such products as to the name or amount of the constituent fibers contained therein.

2. Failing to affix a stamp, tag, label, or other means of identification to each such product showing in a clear, legible and conspicuous manner each element of information required to be disclosed by section 4(b) of the Textile Fiber Products Identification Act.

B. Failing to maintain and preserve for at least 3 years proper records showing the fiber content of the textile fiber products manufactured by said respondents, as required by section 6(a) of the Textile Fiber Products Identification Act and Rule 39 of the regulations promulgated thereunder.

It is further ordered, That respondents Jo Rich Originals, Inc., a corporation, and its officers, and Jack Rich, individually and as an officer of said corporation and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from furnishing a false guaranty that any textile fiber product is not misbranded or falsely invoiced under the provisions of the Textile Fiber Products Identification Act.

It is further ordered, That respondents Jo Rich Originals, Inc., a corporation, and its officers, and Jack Rich, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from furnishing a false guaranty under the Flammable Fabrics Act, that any fabric is not, under the provisions of section 4 of the said Act, so highly flammable as to be dangerous when worn by individuals, when respondents have reason to believe such fabric may be introduced, sold, or transported in commerce.

It is further ordered, That respondents Jo Rich Originals, Inc., a corporation, and its officers, and Jack Rich, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of textile fiber products or other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting on labels, or on any documents relating to the sale of their products, or in any other manner, that said products are imported.

It is further ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: October 9, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-12630; Filed, Oct. 31, 1967; 8:46 a.m.]

[Docket No. 8696 c]

PART 13—PROHIBITED TRADE PRACTICES

S & S Pharmaceutical Co., Inc., et al.

Subpart—Shipping, for payment demand, goods in excess of or without order: § 13.2195 *Shipping, for payment demand, goods in excess of or without order.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, S & S Pharmaceutical Co., Inc., et al., North Miami Beach, Fla., Docket 8696 c, Oct. 9, 1967]

Order requiring a North Miami Beach, Fla., distributor of a weight-reducing preparation to cease making unordered shipments to retail druggists and using their names in advertising without prior authorization.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents S & S Pharmaceutical Co., Inc., a corporation, and its officers, and Samuel Fox, individually, and Samuel Fox and Seymour Rosen, as officers of said corporation, and respondents' officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale, or distribution of "Galaxon" or any other product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Shipping or sending any merchandise to any retail establishment without having previously obtained the written and express authorization or consent to the complete terms and conditions of sale or consignment, and resale, of any merchandise by the person, company, or corporation to whom such merchandise is sent.

2. Placing any newspaper advertisement, or causing the dissemination of an advertisement in any other manner, for the purpose of publicizing such product, which advertisement uses the name of any drug store or retail establishment without having previously obtained the written and express authorization or consent of the druggist or retail establishment whose name appears in the advertisement.

It is further ordered, That the complaint be, and the same hereby is, dismissed against respondent Seymour Rosen in his individual capacity.

It is further ordered, That respondents S & S Pharmaceutical Co., Inc., and Samuel Fox shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: October 9, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-12631; Filed, Oct. 31, 1967; 8:46 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

S-Ethyl Hexahydro-1H-Azepine-1-Carbothioate

A petition (PP 7F0616) was filed with the Food and Drug Administration by the Stauffer Chemical Co., 1200 South 47th Street, Richmond, Calif. 94804, proposing the establishment of tolerances for negligible residues of the herbicide *S*-ethyl hexahydro-1H-azepine-1-carbothioate in or on the raw agricultural commodities rice and rice straw at 0.1 part per million.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purpose for which the tolerances are being established.

Based on consideration given the data submitted in the petition, and other relevant material, the Commissioner of Food and Drugs concludes that the tolerances established by this order will protect the public health. Therefore, by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and delegated by him to the Commissioner (21 CFR 2.120), Part 120 is amended by adding to Subpart C the following new section:

§ 120.228 S-Ethyl hexahydro-1H-azepine-1-carbothioate; tolerances for residues.

Tolerances are established for negligible residues of the herbicide *S*-ethyl hexahydro-1H-azepine-1-carbothioate in or on the raw agricultural commodities rice and rice straw at 0.1 part per million.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: October 25, 1967.

J. K. KIRK, *Associate Commissioner for Compliance.*

[F.R. Doc. 67-12679; Filed, Oct. 31, 1967; 8:49 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

ADHESIVES

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 7B2188) filed by Amoco Chemicals Corp., 130 East Randolph Drive, Chicago, Ill. 60601, and other relevant material, has concluded that the food additive regulations should be amended to provide for the use of an additional monomer, dimethyl-a-methylstyrene, in polymers used in the formulation of food-packaging adhesives. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), § 121.2520(c)(5) is amended by alphabetically inserting in the list of components a new subitem under the item "Polymers: Homopolymers • • •," as follows:

§ 121.2520 Adhesives.

• • • • • •

(c) • • •

(5) • • •

Components of Adhesives	
Substances	*Limitations*
• • •	• • •
Polymers: Homopolymers • • •	----------
• • •	• • •
Dimethly-a-methylstyrene	----------
• • •	• • •

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: October 25, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-12880; Filed, Oct. 31, 1967; 8:49 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

EMULSIFIERS AND/OR SURFACE-ACTIVE AGENTS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 6B1987) filed by General Aniline and Film Corp., 140 West 51st Street, New York, N.Y. 10020, and other relevant material, has concluded that the food additive regulations should be amended to provide for the use of an additional optional substance, as set forth below, as an emulsifier in polymeric food-contact coatings. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), § 121.2541(c) is amended by alphabetically inserting in the list of substances a new item, as follows:

§ 121.2541 Emulsifiers and/or surface-active agents.

• • • • • •

(c) List of substances:

Limitations	
• • •	• • •
d-(p-Nonylphenyl)-omega-hydroxypoly (oxyethylene) sulfate, ammonium or sodium salt; the nonyl group is a propylene trimer isomer and the poly (oxyethylene) content averages 4 moles.	For use only as an emulsifier at levels not to exceed 3 percent by weight in polymeric coatings that contact food under conditions of use B, C, D, E, F, G, or H described in table 2 of § 121.2526(c). The weight of the finished polymeric coating shall not exceed 2 milligrams per square inch of food-contact surface.
• • •	• • •

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: October 25, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-12881; Filed, Oct. 31, 1967; 8:49 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

RESINOUS AND POLYMERIC COATINGS FOR POLYOLEFIN FILMS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 6B1983) filed by Polymer Industrie Chimiche Societa per Azioni, Largo Guido Donegani, 1-2 Milano, Italy, and other relevant material, has concluded that the food additive regulations should be amended to provide for the safe use of two additional substances, specified below, in resinous and polymeric food-contact coatings for polyolefin films. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), § 121.2569(b)(3)(i) is amended by alphabetically inserting in the list of substances, two new items, as follows:

§ 121.2569 Resinous and polymeric coatings for polyolefin films.

• • • • • •

(b) • • •

(3) • • •

List of substances	*Limitations*
(i) • • •	• • •
4,4'-Isopropylidenediphenol-epichlorohydrin, average molecular weight 900.	----------
• • •	• • •
Polyethylenimine.	For use only as a primer subcoat to anchor epoxy surface coatings to the base sheet.
• • •	• • •

• • • • • •

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5449, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: October 25, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-12882; Filed, Oct. 31, 1967; 8:49 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

PARTIAL PHOSPHORIC ACID ESTERS OF POLYESTER RESINS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 5B1786) filed by the Microbiological and Biochemical Center, Syracuse University Research Corp., 1075 Comstock Avenue, Syracuse, N.Y. 13210, and other relevant material, has concluded that the food additive regulations should be amended to provide for use of partial phosphoric acid esters of polyester resins as food-contact coatings on aluminum. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), Part 121 is amended by adding to Subpart F the following new section:

§ 121.2601 Partial phosphoric acid esters of polyester resins.

Partial phosphoric acid esters of polyester resins identified in this section and applied on aluminum may be safely used as food-contact coatings, in accordance with the following prescribed conditions:

(a) For the purpose of this section, partial phosphoric acid esters of polyester resins are prepared by the reaction of trimellitic anhydride with 2,2-dimethyl-1,3-propanediol followed by reaction of the resin thus produced with phosphoric acid anhydride to produce a resin having an acid number of 81 to 98 and a phosphorus content of 4.05 to 4.55 percent by weight.

(b) The coating is chemically bonded to the metal and cured at temperatures exceeding 450° F.

(c) The finished food-contact coating, when extracted with the solvent or solvents characterizing the type of food and under the conditions of time and temperature characterizing the conditions of its intended use, as determined from tables 1 and 2 of § 121.2514(d), yields total extractives in each extracting solvent not to exceed 0.5 milligrams per square inch of food-contact surface, as determined by the methods described in § 121.2514(e), and the coating yields 2,2-dimethyl-1, 3-propanediol in each extracting solvent not to exceed 0.5 micrograms per square inch of food-contact surface. In testing the finished food-contact articles, a separate test sample is to be used for each required extracting solvent.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: October 25, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-12883; Filed, Oct. 31, 1967; 8:49 a.m.]

SUBCHAPTER C—DRUGS

PART 133—DRUGS; CURRENT GOOD MANUFACTURING PRACTICE IN MANUFACTURE, PROCESSING, PACKING, OR HOLDING

Medicated Premixes; Manufacturing Practices and Controls

In the FEDERAL REGISTER of May 17, 1966 (31 F.R. 7185), the Commissioner of Food and Drugs proposed that Part 133 be amended by the addition of regulations to establish criteria for current good manufacturing practice in the manufacture, processing, packing, and holding of medicated premixes for use in the manufacture of medicated feeds, to effect compliance with section 501(a)(2)(B) of the Federal Food, Drug, and Cosmetic Act. A period of 60 days was provided for filing comments on the proposal and this time was extended to August 17, 1966, as announced in the FEDERAL REGISTER of July 23, 1966 (31 F.R. 10038).

The numerous comments received in response to the proposal have been considered, and it is concluded that the proposed regulations, with some of the suggested changes incorporated, should be issued as set forth below. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 501(a)(2)(B), 701(a), 52 Stat. 1055, as amended 76 Stat. 780, 781; 52 Stat. 1055; 21 U.S.C. 351(a)(2)(B), 371(a)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), Part 133 is amended in the following respects:

1. Section 133.1(c) is revised to read as follows:

§ 133.1 Definitions.

• • • • • •

(c) As used in this Part 133:

(1) The term "medicated feed" means any "complete feed," "feed additive supplement," or "feed additive concentrate," as defined in § 121.200 of this chapter, which feed contains one or more drugs as defined in section 201(g) of the act. Medicated feeds are subject to §§ 133.100–133.110, inclusive.

(2) The term "medicated premix" means a substance that meets the definition in § 121.200 of this chapter for a "feed additive premix," except that it contains one or more drugs as defined in section 201(g) of the act and is intended for manufacturing use in the production of a medicated feed. Medicated premixes are subject to §§ 133.200–133.210, inclusive.

2. The following new sections are added under the center heading indicated:

MEDICATED PREMIXES; MANUFACTURING PRACTICE

Sec.
133.200 Current good manufacturing practice.
133.201 Buildings.
133.202 Equipment.
133.203 Personnel.
133.204 Components.
133.205 Master-formula and batch-production records.
133.206 Production and control procedures.
133.207 Packaging and labeling.
133.208 Laboratory controls.
133.209 Distribution records.
133.210 Complaint files.

AUTHORITY: §§ 133.200–133.210 issued under secs. 501(a)(2)(B), 701(a), 52 Stat. 1055, as amended, 76 Stat. 780, 781; 52 Stat. 1055; 21 U.S.C. 351(a)(2)(B), 371(a).

MEDICATED PREMIXES; MANUFACTURING PRACTICE

§ 133.200 Current good manufacturing practice.

The criteria in §§ 133.201–210, inclusive, shall apply in determining whether the methods used in, or the facilities and controls used for, the manufacture, processing, packing, or holding of a medicated premix conform to or are operated or administered in conformity with current good manufacturing practice to assure that a medicated premix meets the requirements of the act as to safety, and has the identity and strength, and meets the quality and purity characteristics which it purports or is represented to possess, as required by section 501(a)(2)(B) of the act. The regulations in this Part 133 permit the use of precision, automatic, mechanical, or electronic

equipment in the production of a medicated premix when adequate inspection and checking procedures or other quality control procedures are used to assure proper performance.

§ 133.201 Buildings.

Buildings in which medicated premixes are manufactured, processed, packaged, labeled, or held shall be maintained in a clear and orderly manner and shall be of suitable size, construction and location in relation to surroundings to facilitate maintenance and operation for their intended purpose. The building shall:

(a) Provide adequate space for the orderly placement of equipment and materials used in any of the following operations for which they are employed to minimize risk of mixups between different medicated premixes, their components, packaging, or labeling:

(1) The receipt, sampling, control, and storage of components.

(2) Manufacturing and processing operations performed on the medicated premix.

(3) Packaging and labeling operations.

(4) Storage of containers, packaging materials, labeling, and finished products.

(5) Control laboratory operations.

(b) Provide adequate lighting and ventilation, and when necessary for the intended production or control purposes, adequate screening, dust and temperature controls, to avoid contamination of medicated premixes, and to avoid other conditions unfavorable to the safety, identity, strength, quality, and purity of the raw materials and medicated premixes before, during, and after production.

(c) Provide for adequate washing, cleaning, toilet, and locker facilities.

Work areas and equipment used for the production of medicated premixes or for the storage of the components of medicated premixes shall not be used for the production, mixing, or storage of finished or unfinished insecticides, fungicides, rodenticides, or other pesticides or their components unless such materials are recognized as approved drugs intended for use in animal feeds.

§ 133.202 Equipment.

Equipment used for the manufacture, processing, packaging, bulk shipment, labeling, holding, or control of medicated premixes or their components shall be maintained in a clean and orderly manner and shall be of suitable design, size, construction, and location to facilitate maintenance and operation for its intended purpose. The equipment shall:

(a) Be so constructed that any surfaces that come into contact with medicated premixes are suitable, in that they are not reactive, additive, or absorptive to an extent that significantly affects the identity, strength, quality, or purity of the medicated premix or its components.

(b) Be so constructed that any substance required for the operation of the equipment, such as lubricants, coolants, etc., may be employed without hazard of becoming an unsafe additive to the medicated premix.

(c) Be constructed to facilitate adjustment, cleaning, and maintenance, and to assure uniformity of production and reliability of control procedures and to assure the exclusion from medicated premixes of contamination, including cross-contamination from manufacturing operations.

(d) Be suitably grounded electrically to prevent lack of uniform mixing due to electrically charged particles.

(e) Be of suitable size and accuracy for use in any intended measuring, mixing, or weighing operations.

§ 133.203 Personnel.

The key personnel and any consultants involved in the manufacture and control of the medicated premix shall have a background of appropriate education or appropriate experience or combination thereof for assuming responsibility to assure that the medicated premix has the proper labeling and the safety, identity, strength, quality, and purity that it purports to possess.

§ 133.204 Components.

(a) Drug components, including undiluted drugs and any intermediate mixes containing drugs used in the manufacture and processing of medicated premixes, shall be received, examined or tested, stored, handled, and otherwise controlled in a manner to maintain the integrity and identification of such articles. Appropriate receipt and inventory records shall be maintained for 2 years, and such records shall show the origin of any drug components, the manufacturer's control number (if any), the dates and batches in which they were used, and the results of any testing of them.

(b) Nondrug components shall be stored and otherwise handled in a manner to avoid contamination, including cross-contamination from manufacturing operations.

§ 133.205 Master-formula and batch-production records.

(a) For each medicated premix, master-formula records shall be prepared, endorsed, and dated by a competent and responsible individual and shall be independently checked, reconciled, endorsed, and dated by a second competent and responsible individual. The record shall include:

(1) The name of the medicated premix and a specimen copy of its label.

(2) The weight or measure of each ingredient, adequately identified, to be used in manufacturing a stated weight of the medicated premix.

(3) A complete formula for each batch size, or of appropriate size in the case of continuous systems to be produced from the master-formula record, including a complete list of ingredients designated by names or codes sufficiently specific to indicate any special quality characteristic; an accurate statement of the weight or measure of each ingredient, except that reasonable variations may be permitted in the amount of ingredients necessary in the preparation of the medicated premix, provided that the variations are stated in the master formula; an appropriate statement concerning any calculated excess of an ingredient; and a statement of the theoretical yield.

(4) Manufacturing instructions for each type of medicated premix produced on a batch or continuous operation basis, including mixing steps and mixing times that have been determined to yield an adequately mixed medicated premix; and in the case of medicated premixes produced by continuous production run, any additional manufacturing directions including, when indicated, the settings of equipment that have been determined to yield an adequately mixed medicated premix of the specified formula.

(5) Control instructions, procedures, specifications, special notations, and precautions to be followed.

(b) A separate batch-production and control record shall be prepared for each batch or run of medicated premix produced and shall be retained for at least 2 years after distribution by the manufacturer has been completed. The batch-production and control record shall include:

(1) Product identification, date of production, and endorsement by a competent and responsible individual.

(2) Records of each step in the manufacturing, packaging, labeling, and controlling of the batch, including dates, specific identification of drug components used, weights or measures of all components, laboratory-control results, mixing times, and the endorsements of the individual actively performing or the individual actively supervising or checking each step in the operation.

(3) A batch number that permits determination of all laboratory-control procedures and results on the batch and all lot or control numbers appearing on the labels of the medicated premix.

§ 133.206 Production and control procedures.

Production and control procedures shall include all reasonable precautions, including the following, to assure that the medicated premixes produced have the identity, strength, quality, and purity they purport to possess:

(a) Each critical step in the process, such as the selection, weighing, and measuring of components; the addition of drug components during the process; weighing and measuring during various stages of the processing; and the determination of the finished yield, shall be performed by one or more competent, responsible individuals. If such steps in the processing are controlled by precision, automatic, mechanical, or electronic equipment, their proper performance shall be adequately checked by one or more competent, responsible individuals.

(b) All containers to be used for undiluted drugs, drug components, intermediate mixtures thereof, and medicated premixes shall be received, adequately identified, and properly stored and handled in a manner adequate to avoid mixups and contamination.

(c) Equipment, including dust-control and other equipment, such as that used for holding and returning recovered or flush-out materials back into production, shall be maintained and operated in a manner to avoid contamination of the medicated premixes and to insure the integrity of the finished product.

(d) Competent and responsible personnel shall check actual against theoretical yield of a batch of medicated premix, and, in the event of any significant discrepancies, key personnel shall prevent distribution of the batch in question and other associated batches of medicated premixes that may have been involved in a mixup with it.

(e) Adequate procedures for cleaning of those parts of storage, mixing conveying and other equipment coming in contact with the drug component of the medicated premix shall be used to avoid contamination of medicated premixes.

(f) If there is sequential production of batches of a medicated premix containing the same drug component (or components) at the same or lower levels, there shall be sufficient safeguards to avoid any buildup above the specified levels of the drug components in any of the batches of the medicated premix.

(g) Production and control procedures shall include provision for discontinuing distribution of any medicated premix found by the assay procedures, or other controls performed, to fail to conform to appropriate specifications. Distribution of subsequent production of such medicated premix shall not begin until it has been determined that proper control procedures have been established.

§ 133.207 Packaging and labeling.

(a) Packaging and labeling operations shall be adequately controlled:

(1) To assure that only those medicated premixes that have met the specifications established in the master-formula records shall be distributed.

(2) To prevent mixups during the packaging and labeling operations.

(3) To assure that correct labeling is employed for each medicated premix.

(4) To identify medicated premixes with lot or control numbers that permit determination of the history of the manufacture and control of the batch of medicated premix.

(b) Packaging and labeling operations shall provide:

(1) For storage of labeling in a manner to avoid mixups.

(2) For careful checking of labeling for identity and conformity to the labeling specified in the batch-production records.

(3) For adequate control of the quantities of labeling issued for use with the medicated premix.

(c) Medicated premixes shall be distributed in suitable containers to insure the safety, identity, strength, and quality of the finished product.

§ 133.208 Laboratory controls.

Laboratory controls shall include the establishment of adequate specifications and test procedures to assure that the drug components and the medicated premixes conform to appropriate standards of identity, strength, quality, and purity. Laboratory controls shall include:

(a) The establishment of master records containing appropriate specifications and a description of the test procedures used to check them for each kind of drug component used in the manufacture of medicated premixes. This may consist of the manufacturer's or supplier's statement of specifications and methods of analyses.

(b) The establishment of specifications for medicated premixes and a description of necessary laboratory test procedures to check such specifications.

(c) Assays which shall be made of representative samples of finished medicated premixes in accordance with the following schedule:

(1) Each batch of a medicated premix manufactured from an undiluted drug shall be assayed for its drug component(s).

(2) In the case of medicated premixes which are manufactured by dilution of medicated premix(es) assayed in accordance with subparagraph (1) of this paragraph, each batch shall be assayed for its drug component(s) with the first five consecutive batches assaying within the limitations, followed thereafter by assay of representative samples of not less than 5 percent of all batches produced. When any batch does not assay within limitations, each batch should again be assayed until five consecutive batches are within limitations.

(d) A determination establishing that the drug components remain uniformly dispersed and stable in the medicated premix under ordinary conditions of shipment, storage, and use. This may consist of a determination on a medicated premix of substantially the same formula and characteristics. Suitable expiration dates shall appear on the labels of the medicated premixes when needed to assure that the articles meet the appropriate standards of identity, strength, quality, and purity at the time of use.

(e) Adequate provision to check the reliability, accuracy, and precision of any laboratory test procedure used. The official methods in "Methods of Analysis of the Association of Official Analytical Chemists," methods described in an official compendium, and any method submitted as a part of a food additive petition or new-drug application that has been accepted by the Food and Drug Administration shall be regarded as meeting this provision.

(f) Provision for the maintenance of the results of any assays, including dates and endorsement of analysts. Such records shall be retained in the possession of the manufacturer and shall be maintained for a period of at least 2 years after distribution by the manufacturer of the medicated premix has been completed.

§ 133.209 Distribution records.

Complete records shall be maintained for each shipment of medicated premixes in a manner that will facilitate the recall, diversion, or destruction of the medicated premix, if necessary. Such records shall be retained for at least 2 years after the date of the shipment by the manufacturer and shall include the name and address of the consignee, the date and quantity shipped, and the manufacturing dates, control numbers, or marks identifying the medicated premix shipped.

§ 133.210 Complaint files.

Records shall be maintained for a period of 2 years of all written or verbal complaints concerning the safety or efficacy of each medicated premix. Complaints shall be evaluated by competent and responsible personnel and, where indicated, appropriate action shall be taken. The record shall indicate the evaluation and the action.

Effective date. This order shall become effective 60 days from the date of its publication in the FEDERAL REGISTER.

(Secs. 501(a)(2)(B), 701(a), 52 Stat. 1050, as amended 76 Stat. 780, 781; 52 Stat. 1055; 21 U.S.C. 351(a)(2)(B), 371(a))

Dated: October 24, 1967.

JAMES L. GODDARD,
Commissioner of Food and Drugs.

[F.R. Doc. 67-12884; Filed, Oct. 31, 1967; 8:50 a.m.]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER B—PERSONNEL, MILITARY AND CIVILIAN

PART 66—RELEASE OF INFORMATION FROM MEDICAL RECORDS

The Deputy Secretary of Defense has approved the following revision to Part 66:

Sec.
66.1 Purpose.
66.2 Applicability.
66.3 Policy.

AUTHORITY: The provisions of this Part 66 issued under 5 U.S.C. 301, 552.

§ 66.1 Purpose.

This part establishes Department of Defense policy governing the release of information from medical records by the Secretaries of the Military Departments and Directors of Defense Agencies, or their designees for this purpose. These include the medical records of present and former members of the Armed Forces, other individuals treated in military medical facilities, and such other medical records as may have been deposited with the DoD by other Federal and State agencies. Release of information from medical records which are properly included in official personnel folders of civilian employees is governed by the provisions of subchapter 1, chapter 339, Federal Personnel Manual.

§ 66.2 Applicability.

The provisions of this part apply to the Military Departments and Defense Agen-

cies (hereinafter referred to collectively as "DoD components").

§ 66.3 Policy.

(a) *Release to the public.* Information contained in medical records of individuals who have undergone medical examination or treatment is personal to the individual and is therefore considered confidential. Consequently, information from such medical records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, should not be made available to the public (see 5 U.S.C. 552, and DoD Directive 5400.7 (32 F.R. 9066)).

(b) *Release to the individual concerned.* If an individual requests information from his medical record, it shall be released to him unless, in the opinion of the releasing authority, it might prove injurious to his physical or mental health. In such an event, and where the circumstances indicate it to be in his best interests, the individual shall be requested to authorize the release of the information to his next of kin, legal representative, or personal physician, as appropriate.

(c) *Release to representatives of the individual concerned.* Medical information shall be released to authorized representatives of the individual concerned, upon the written request of the individual or his legal representative. If the individual concerned is mentally incompetent, insane, or deceased, the next of kin or legal representative must authorize, in writing, the release of the individual's medical records.

(d) *Release to other government departments and agencies.* Medical information shall be released, upon request, to other departments and agencies which have a proper and legitimate need for the information.

(1) Should the releasing authority have doubts as to whether the requesting department has a proper and legitimate need for the information, the latter will be requested to specify the purpose for which the medical information will be used. In appropriate cases, the requesting department will be advised that the information will be withheld until it obtains the written consent of the individual concerned.

(2) In honoring proper requests, the releasing authority shall disclose only that information which is germane to the request. The following are representative instances where other departments and agencies, both Federal and State, may have a proper and legitimate need for the information.

(i) Medical information is required in order to process a governmental action involving the individual whose medical record is sought. (The Veterans' Administration and the Bureau of Employee's Compensation process claims in which the claimant's medical history is relevant.)

(ii) Medical information is required in furtherance of the treatment to an individual in the department's custody. (Federal and State hospitals and prisons may need the medical history of their patients and inmates.)

(e) *Release to medical research or scientific organizations.* Medical information shall be released, upon the request of medical research or scientific organizations or other qualified researchers when, in the opinion of the releasing authority, release of the requested information is in the public interest. Where possible, names of parties should be deleted. The requesting organization or individual shall be advised that the information must be held in confidence and that any published reports resulting from such study shall not identify in any way the individuals whose medical records were examined.

(f) *Release to Federal or State courts or other administrative bodies.* (1) The foregoing limitations are not intended to preclude compliance with lawful court orders calling for the production of medical records in connection with civil litigation or criminal proceedings, nor to preclude release of information from medical records when required by law.

(2) Whenever the releasing authority has doubts as to whether the supoena or other compulsory process has been issued by a court of competent jurisdiction or by a responsible officer of any agency or body having power to compel production, the Judge Advocate General (or other cognizant legal officer) shall be consulted.

(g) *Copies of medical records.* Upon request, an individual or his authorized representative entitled to have access to medical records, will be furnished copies of the individual's medical records.

Effective date and implementation. This part is effective ninety (90) days from the date of issuance. Within sixty (60) days of the effective date of this part, three (3) copies of proposed implementing regulations shall be submitted to the Assistant Secretary of Defense (Manpower) for approval. Immediately upon issuance three (3) copies of each implementing regulation shall be forwarded to the Assistant Secretary of Defense (Manpower).

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Administration).

[F.R. Doc. 67-12619; Filed, Oct. 31, 1967; 8:45 a.m.]

PART 127—INVOLUNTARY ORDER TO ACTIVE DUTY OF THE READY RESERVE

The Deputy Secretary of Defense approved the following revision to Part 127, on October 3, 1967:

Sec.
127.1 Purpose.
127.2 Applicability.
127.3 Statutory provisions.
127.4 Policy.

AUTHORITY: The provisions of this Part 127 issued under Title 5, U.S.C. sec. 301.

§ 127.1 Purpose.

This part describes uniform policy for the involuntary order to active duty of units and members of the Ready Reserve under sections 672, 673, 673a, 2105, 2107, 4348, 6959, and 9348, Title 10, U.S.C.; Title I, Public Law 89-687, dated October 15, 1966; Public Law 90-40, dated June 30, 1967; and Executive Order 11366, dated August 4, 1967.

§ 127.2 Applicability.

The provisions of this part apply to the Military Departments in the employment of authority contained in the references cited in § 127.1 to order units and members of the Ready Reserve to active duty without their consent.

§ 127.3 Statutory provisions.

(a) *Section 673, Title 10, United States Code.* In time of national emergency declared by the President after January 1, 1953, or when otherwise authorized by law, section 673(a) provides that an authority designated by the Secretary concerned may, without the consent of the persons concerned, order any unit, and any member not assigned to a unit organized to serve as a unit, in the Ready Reserve under the jurisdiction of that Secretary to active duty (other than for training) for not more than twenty-four (24) consecutive months. Section 673(c) provides that not more than 1,900,000 members of the Ready Reserve may be on active duty (other than for training) without their consent, under this section at any one time.

(b) *Title I, Public Law 89-687, October 15, 1966.* Subsection (e) of Title I, Public Law 89-687, October 15, 1966 provides that notwithstanding any other provision of law, until June 30, 1968, the President may, when he deems it necessary, order to active duty any unit of the Ready Reserve of an Armed Force for a period not to exceed twenty-four (24) months.

(c) *Section 673a, Title 10, United States Code.* Provides under sections 672, 673, 673a, 2105, 2107, 4348, 6959, and 9348, Title 10, United States Code and Executive Order 11366, dated August 4, 1967, that certain individual reservists who are not satisfactorily fulfilling their military obligation are subject to being involuntarily ordered to active duty for up to twenty-four (24) months.

(d) *Sections 2105, 2107, 4348, 6959, and 9348, Title 10, United States Code.* Provides authority for the Secretary of the Military Department concerned to order to active duty in his enlisted grade or rating any member of ROTC advanced training, ROTC cadet, ROTC midshipman, Service Academy cadet or Service Academy midshipman, who does not complete the prescribed course of instruction, or who completes the course of instruction but declines to accept a commission when offered. The Secretary may prescribe the period of active duty but in the case of the ROTC member this period may not exceed 2 years, and in the case of ROTC and Service Academy cadets or midshipmen, this period may not exceed 4 years.

§ 127.4 Policy.

(a) *Exercise of authority; general.* (1) The authority contained in § 127.3 (a) and (b) to order units or members of the Ready Reserve involuntarily to active duty shall be exercised only on direction of the President.

(2) The authority contained in § 127.3(c) shall be exercised as prescribed by Executive Order 11366.

(3) The authority contained in § 127.3(d) shall be exercised by the Secretaries of the Military Departments as prescribed by sections 672, 673, 673a, 2105, 2107, 4348, 6959, and 9348, Title 10, United States Code.

(b) *Section 673, Title 10, United States Code.* (1) The authority contained in section 673(a) of Title 10, U.S. Code to order units or members of the Ready Reserve involuntarily to active duty shall be exercised by an authority designated by the Secretary concerned only in time of national emergency declared by the President, or when otherwise authorized by law.

(2) Where the nature of the situation permits, the Secretary of Defense, with the advice of the Joint Chiefs of Staff, subject to applicable strength limitations prescribed by law, will determine the numbers and composition of forces to be ordered involuntarily to active duty from the Ready Reserve by each Military Department.

(3) Where the nature of the situation precludes procedures contemplated in subparagraph (2) of this paragraph, members of the Ready Reserve authorized by law to be ordered involuntarily to active duty may be so ordered by authorities designated by the Secretaries concerned, subject to the conditions of subparagraph (1) of this paragraph, in numbers previously allocated to the Military Departments by the Secretary of Defense.

(i) The Joint Chiefs of Staff shall be responsible for providing to the Secretary of Defense on a current basis the recommended numbers which each service will be authorized to order involuntarily to active duty under such circumstances, based on appropriate war or mobilization plans.

(ii) The Joint Chiefs of Staff shall periodically review such allocation made by the Secretary of Defense, for the purpose of recommending such changes as new conditions may dictate.

(4) Where the nature of the situation indicates imminent attack upon the continental United States, those authorities having been designated by the Secretaries concerned may order to active duty, subject to the conditions of subparagraph (1) of this paragraph, those Ready Reserve forces previously determined by the Secretary of Defense, on the recommendation of the Joint Chiefs of Staff, as required for the immediate defense of the continental United States.

(5) The designation of individuals and units of the Ready Reserve to comprise the forces to be ordered involuntarily to active duty by each Military Department, within numbers determined by the Secretary of Defense in accordance with subparagraphs (2), (3), and (4) of this paragraph, shall be the responsibility of the Secretary of the Military Department concerned.

(c) *Title I, Public Law 89-687, October 15, 1966.* The authority contained in subsection (e) of Title I shall be exercised by an authority designated by the President. If this authority is delegated to one of the Secretaries of the Military Departments, that Secretary shall assure that all actions which concern another Military Department are properly coordinated with the Department concerned.

(d) *Section 673a, Title 10, United States Code.* Executive Order No. 11366 delegates to the Secretary of Defense and, when designated by him for this purpose, any of the Secretaries of the Military Departments, the authority to order members of the Ready Reserve to active duty under subsection 673a(a). Uniform policies for the implementation of this authority by the Secretaries of the Military Departments are prescribed by Part 100 of this subchapter.

(e) *Integrity of units.* In any expansion of the active Armed Forces of the United States which requires that units and members of the Reserve Components be ordered to active duty (other than for training), section 672(c) of Title 10, U.S.C. provides that, insofar as practicable, members of units organized and trained to serve as units who are ordered to that active duty without their consent shall be so ordered only with their units. However, members of such units may be reassigned after being ordered to active duty (other than for training). Policy guidance governing the application of this provision is contained in DoD Directive 1235.6,[1] June 25, 1959.

(f) *Delay, exemption, and early release.* DoD policy concerning the delay, exemption and early release of Ready Reservists who have been involuntarily ordered to active duty is prescribed in Part 126 of this subchapter.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Administration).

OCTOBER 25, 1967.

[F.R. Doc. 67-12620; Filed, Oct. 31, 1967; 8:45 a.m.]

Chapter V—Department of the Army

SUBCHAPTER B—CLAIMS AND ACCOUNTS

PART 536—CLAIMS AGAINST THE UNITED STATES

Claims Arising From Activities of National Guard Personnel While Engaged in Duty or Training

Section 536.140 is revised; new paragraph (w) is added to § 536.143; in § 536.146, paragraph (a) is revised and a new paragraph (c) is added; §§ 536.147 and 536.148 are revised; new § 536.151b is added; and § 536.152 is revised, as follows:

[1] Filed as part of original. Single copies may be obtained from Publications Branch, OASD(A), Room 2E309, Pentagon, Washington, D.C. 22301, ext. 53167.

§ 536.140 Definitions.

The definitions of terms set forth in § 536.3 are applicable to §§ 536.140–536.152 unless otherwise defined herein.

(a) *Army National Guard.* That part of the organized militia of the several States and territories, Puerto Rico, the Canal Zone, and the District of Columbia, active or inactive, that is a land force; is trained, and has its officers appointed under the 16th clause of section 8, Article I of the Constitution; is organized, armed, and equipped wholly or partly at Federal expense; and is federally recognized.

(b) *Army National Guard personnel.* A member of the Army National Guard engaged in training or duty under title 32, United States Code, section 316, 502, 503, 504, or 505, or any other provision of law for which he is entitled to pay under title 37, United States Code, section 206, or for which he has waived that pay, or a person who is employed under title 32, United States Code, section 709.

(c) *Claimant.* An individual, partnership, association, corporation, country, State, Commonwealth, territory, or a political subdivision thereof, presenting a claim. The term does not include the U.S. Government, any of its instrumentalities, except as prescribed by statute, or a State or Commonwealth which maintains the unit to which the Army National Guard personnel causing the injury or damage are assigned.

§ 536.143 Claims not payable.

* * * * *

(w) Is for damage caused from or by floods or flood waters. See the act of May 15, 1928 (45 Stat. 535, 33 U.S.C. 702c).

§ 536.146 Investigation.

(a) *When required.* An incident not arising from combat requires immediate investigation by a claims officer designated by a Continental U.S. Army, the Military District of Washington, U.S. Army, or comparable commander, or by a claims officer designated by a subordinate commander having authority to act on claims pursuant to § 536.151b, when—

(1) Property other than Government property is damaged, lost, or destroyed;

(2) A member of the uniformed services, a dependent, or any other person who is eligible for medical care at Army medical treatment facilities is injured under circumstances which permit recovery of the cost of hospital and medical care under §§ 537.21–537.24 of this chapter;

(3) Injury or death results to any civilian, other than to a civilian employee of the Army, a member of the Army National Guard, or other personnel employed under title 32, United States Code, section 709, sustained while in the performance of duty (§ 536.141);

(4) A claim is made;

(5) Investigation is requested by another armed service of the United States; or

(6) Competent authority so directs.

* * * * * *

(c) *Where claim is covered by insurance.* If the State carries liability insurance on its National Guard vehicles, the claims officer's report will contain a statement from the appropriate State official as to the nature and extent of insurance coverage. If the operator of the Army National Guard vehicle or other vehicle involved in an incident has in effect an automobile liability policy which possibly provides protection for the United States, the policy, or a copy thereof, will be included in the claims officer's report. If there is no insurance coverage the claims officer's report will so indicate.

§ 536.147 Form of claim.

All claims cognizable under §§ 536.140–536.152 will be submitted in triplicate on Standard Form 95 (Claim for Damage or Injury).

§ 536.148 Procedures.

(a) *General.* So far as not inconsistent with §§ 536.140–536.152, the procedures set forth in §§ 536.1–536.11c will be followed as to a claim under this regulation. See § 536.22 as to the law applicable.

(b) *Claims covered by insurance.* (1) When a National Guard vehicle, or a privately owned vehicle operated by a member or employee of the National Guard, is involved in an incident under circumstances which make §§ 536.140–536.152 applicable to the disposition of administrative claims against the United States and results in personal injury, death, or property damage and insurance coverage is indicated; the responsible claims supervisory authority will monitor the insurance aspect of the case and encourage direct settlement between the claimant and the insurer. Where the State is insured, direct contact with State or National Guard officials rather than the insurer is desirable. Where the operator is insured, however, direct negotiation with the insurer is appropriate. Any recovery by claimant from an insurer (other than claimant's insurer) will be deducted from the amount otherwise payable.

(2) If there is insurance coverage, advise claimant to pursue insurance remedy. If payment by the insurer of the amount of the policy does not fully compensate claimant, an additional payment may be made under §§ 536.140–536.152. If liability is clear and claimant settles with insurer for less than the amount of the policy, no payment by United States normally will be made.

(3) If only partial insurance coverage, coordinate settlement with State, or if operator is insured, coordinate settlement with his insurer.

(4) If there is insurance coverage but insurer refuses to make payment and claimant desires to pursue an administrative claim against the United States, settle claim, obtain assignment of claim against the insurer, and initiate appropriate recovery action (see § 537.1 of this chapter and AR 27–41).

(5) If there is insurance coverage but insurer denies liability and claimant desires to pursue court remedy, forward file with seven-paragraph memorandum to the Chief, U.S. Army Claims Service.

§ 536.151 Delegation of authority.

(a) *Settlement authority.* (1) Subject to appeal to the Secretary of the Army, The Judge Advocate General and The Assistant Judge Advocate General are delegated authority under §§ 536.140–536.152 to pay up to $5,000 in settlement of claims, and to disapprove claims regardless of the amount claimed.

(2) Subject to appeal to the Secretary of the Army and such limitations as may be imposed by The Judge Advocate General, the Chief, U.S. Army Claims Service, and all officers of The Judge Advocate General's Corps assigned to the U.S. Army Claims Service, subject to such limitations as may be imposed by the Chief of that Service, are delegated authority under §§ 536.140–536.152 to pay up to $1,000 in settlement of claims, and to disapprove claims regardless of the amount claimed.

(3) Subject to appeal to the Secretary of the Army and such limitations as may be imposed by The Judge Advocate General, the commander or the staff judge advocate of each of the commands listed in subdivisions (i) through (v) of this subparagraph is delegated authority to approve and pay in full, or in part, or disapprove, claims presented for $1,000 or less; and pay claims regardless of the amount claimed provided an award of $1,000 or less is accepted by claimant in full satisfaction and final settlement of the claim.

(i) Each of the numbered Armies within the continental United States;

(ii) Military District of Washington, U.S. Army;

(iii) U.S. Army Forces Southern Command;

(iv) U.S. Army, Alaska;

(v) U.S. Army, Pacific.

(b) *Approving authority.* (1) Each of the following is delegated authority to approve and pay in full claims presented for $1,000 or less; pay claims regardless of the amount claimed provided an award of $1,000, or less, is accepted by claimant in full satisfaction and final settlement of the claim:

(i) The commander, or the staff judge advocate of any command authorized to exercise general courts-martial jurisdiction;

(ii) An officer of the Judge Advocate General's Corps assigned to a maneuver claims service or a disaster claims office when designated by the commander of a command listed in § 536.4a, subject to such limitation as the designating commander may prescribe;

(iii) The chief of a command claims service established pursuant to § 536.4b.

(2) The commanding officer of a command not authorized to exercise general courts-martial jurisdiction but having a judge advocate assigned to his staff, or his judge advocate, is delegated authority to—

(i) Approve and pay in full claims presented for $500, or less, and

(ii) Pay claims regardless of the amount claimed, provided an award of $500, or less, is accepted by claimant in full satisfaction and final settlement of the claim.

(c) *Delegation of authority.* The Judge Advocate General may delegate claims settlement authority (paragraph (a) of this section) or claims approving authority (paragraph (b) of this section) to other commands where the need for such authority can be demonstrated. Requests for delegation of authority will be forwarded to The Judge Advocate General, Attention: Chief, U.S. Army Claims Service, through command channels, with justification and recommendations.

(d) *Claims over $5,000.* Claims cognizable under title 32, United States Code, section 715, and §§ 536.140–536.152, which are meritorious in amounts in excess of $5,000 will be processed for action by the Secretary of the Army. If the Secretary of the Army considers such a claim meritorious, he may, after receipt of a settlement agreement in full satisfaction of the entire claim, pay the claimant $5,000 and report the excess to Congress for its consideration.

§ 536.152 Reconsideration.

(a) An approving or settlement authority may reconsider a claim upon request of the claimant or someone acting in his behalf. In the absence of such a request, an approving or settlement authority may on his own initiative reconsider a claim. He may reconsider a claim which he previously disapproved in whole or in part (even though a settlement agreement has been executed), when it appears that his original action was incorrect in law or fact based on the evidence of record at the time of the action or subsequently received. If he determines that his original action was incorrect, he will modify the action and, if appropriate, make a supplemental payment. The basis for a change in action will be stated in a memorandum included in the file.

(b) A successor or supervisory approving or settlement authority may also reconsider the original action on a claim but only on the basis of fraud or collusion, new and material evidence, or manifest error of fact such as errors in calculation or factual misinterpretation of applicable law.

(c) A request for reconsideration should indicate fully the legal or factual basis asserted as grounds for relief. Following completion of any investigation or other action deemed necessary for an informed disposition of the request, the approving or settlement authority will reconsider the claim and attempt to settle it by granting such relief as may appear warranted.

[AR 27–34, Aug. 24, 1967] (Sec. 2012, 70 A Stat. 157; 10 U.S.C. 2012. Interpret or apply 74 Stat. 878, 76 Stat. 767; 10 U.S.C. 2736, 32 U.S.C. 715)

For the Adjutant General.

J. W. HUBB,
Colonel, AGC, Comptroller, TAGO.

[F.R. Doc. 67-12816; Filed, Oct. 31, 1967; 8:46 a.m.]

SUBCHAPTER D—MILITARY RESERVATIONS AND NATIONAL CEMETERIES

PART 552—REGULATIONS AFFECTING MILITARY RESERVATIONS

Inspection of Steam Boilers

Section 552.21, *Inspection of steam boilers*, is revoked.

[DA Cir. 210-42, Sept. 8, 1967] (Sec. 3012, 70 A Stat. 157; 10 U.S.C. 3012)

For the Adjutant General.

J. W. HUBB,
Colonel, AGC, Comptroller, TAGO.

[F.R. Doc. 67-12817; Filed, Oct. 31, 1967; 8:46 a.m.]

Chapter VI—Department of the Navy

SUBCHAPTER C—PERSONNEL

PART 710—PROCEDURES AND REQUIREMENTS FOR APPOINTMENT AS A MIDSHIPMAN AT THE U.S. NAVAL ACADEMY

Naval Honor Schools

Scope and purpose. Part 710 is amended by adding a nondiscrimination requirement.

Part 710 is amended by adding § 710.14(b) (1) (viii) to read as follows:

§ 710.14 Naval Honor Schools.

* * * * *

(b) * * *

(1) * * *

(viii) It must not discriminate with respect to admission or treatment of students on the basis of race, color, or national origin.

* * * * * *

(Sec. 6064, 70A Stat. 488; 10 U.S.C. 6064)

By direction of the Secretary of Navy.

[SEAL] WILFRED HEARN,
Rear Admiral, U.S. Navy, Judge Advocate General of the Navy.

OCTOBER 24, 1967.

[F.R. Doc. 67-12818; Filed, Oct. 31, 1967; 8:46 a.m.]

Proposed Rule Making

DEPARTMENT OF STATE

Agency for International Development

[22 CFR Part 201]

COMMODITY TRANSACTIONS FINANCED BY A.I.D.

Applicable Rules and Procedures

A.I.D. has just recently rescinded the rules which it promulgated on August 3, 1967 at 32 F.R. 11264–65 as amendments to A.I.D. Regulation 1. In lieu of these rules, A.I.D. now proposes to require each supplier of U.S.-source commodities to execute a new certification as a condition for receiving payment with foreign assistance funds. The new certification may eventually appear as part of a new A.I.D. form or may be incorporated into a revised version of the Supplier's Certificate, A.I.D. Form 282. The certification would read as follows:

In consideration of the receipt of funds made available by the United States under the Foreign Assistance Act of 1961, as amended, in payment, in whole or in part, of the sum indicated on the accompanying invoice to be due and owing for the sale of U.S.-source commodities, the undersigned, acting on behalf of the supplier whose name appears below and authorized to bind the supplier, agrees with and certifies to A.I.D. as follows:

At the time of receiving payment with A.I.D. funds, the supplier is an individual, resident in the United States; a non-resident citizen of the United States; a corporation or partnership organized under the laws of the United States; or a controlled foreign corporation (within the meaning of § 957 et seq. of the Internal Revenue Code) as attested by current information on file with the Internal Revenue Service of the United States (on IRS Form 959, 2952, 2646, or any substitute or successor forms) submitted by shareholders of the corporation. If the supplier is a controlled foreign corporation without a regular place of business in the United States, the supplier appoints any shareholder or officer thereof agent for the supplier to receive service of process in the United States in connection with any dispute arising between the supplier and A.I.D. and relating to the commodity sale financed by A.I.D.

It is the intention of A.I.D. to limit the continued eligibility of suppliers to furnish U.S.-source commodities under A.I.D. financing to those individuals or firms who can execute the foregoing certification. Foreign suppliers located outside the United States who do not qualify as nonresident U.S. citizens or controlled foreign corporations would henceforth be excluded from eligibility to supply U.S.-source commodities under A.I.D. financing.

Comments concerning the regulatory changes proposed by this notice are solicited for receipt by A.I.D. as soon as possible, but not later than December 15, 1967.

Dated: October 30, 1967.

RUTHERFORD M. POATS,
Deputy Administrator.

[F.R. Doc. 67-12970; Filed, Oct. 31, 1967; 8:56 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 905]

ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Approval of Expenses and Fixing of Rate of Assessment for 1967–68 Fiscal Period

Consideration is being given to the following proposals submitted by the Growers Administrative Committee, established under the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(a) That expenses that are reasonable and likely to be incurred by the Growers Administrative Committee during the period August 1, 1967, through July 31, 1968, will amount to $145,000.

(b) That the rate of assessment for such period, payable by each handler in accordance with § 905.41, be fixed at $0.005 per standard packed box.

(c) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: October 27, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-12909; Filed, Oct. 31, 1967; 8:52 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 28]

CHERRY PIE

Definition and Standard of Identity and Standard of Quality

The Commissioner of Food and Drugs, on his own initiative, proposes that the following new Part 28 be added to Title 21 to establish a standard of identity and a standard of quality for cherry pie:

PART 28—FRUIT PIES

Sec.
28.1 Cherry pie; identity; label statement of optional ingredients.
28.2 Cherry pie; quality; label statement of substandard quality.

AUTHORITY: The provisions of this Part 28 issued under secs. 401, 701, 52 Stat. 1046, 1055, as amended; 21 U.S.C. 341, 371.

§ 28.1 Cherry pie; identity; label statement of optional ingredients.

(a) Cherry pie is the food prepared by incorporating in a filling contained in a pastry shell mature, whole, pitted, stemmed, red, sour (tart) cherries (fresh, frozen, or canned) that have not been treated with a chemical preservative. The top of the pie may be open or it may be wholly or partly covered with pastry or other suitable topping. Filling, pastry, and topping components of the food consist of optional ingredients as provided in paragraph (b) of this section. The food may be frozen or baked or both baked and frozen.

(b) The optional ingredients referred to in paragraph (a) of this section consist of suitable substances that are not food additives as defined in section 201(s) of the Federal Food, Drug, and Cosmetic Act or color additives as defined in section 201(t) of the act; or if they are food additives or color additives as so defined, they are used in conformity with regulations established pursuant to section 409 or 706 of the act. Ingredients that perform a useful function in the formulation of the filling, pastry, and topping components, when used in such proportions as are reasonably required to accomplish their intended effect, are regarded as suitable; except that artificial sweeteners, flavors that simulate the flavor of cherries, and chemical preservatives, other than those provided for in this paragraph, are not suitable ingredients of cherry pie. Chemical preservatives that are suitable are:

(1) The antioxidant preservatives listed in § 121.101(d)(2) of this chapter that are used to retard development of rancidity of the shortenings used to fabricate the pastry component, subject to the limitations prescribed thereby.

(2) The antimycotic preservatives listed in § 17.1(a)(13)(i), (ii), (iii), and (iv) of this chapter that are used to inhibit mold growth on the pastry shell, in amounts within the limits prescribed thereby.

(c) The name of the food for which a definition and standard of identity is established by this section is cherry pie, except that if the maximum diameter of the food (measured across opposite outside edges of the pastry shell) is not more than 4 inches the food alternatively may be designated by the name cherry tart.

(d) (1) The label of the cherry pie shall name by their common names (except spices, flavoring, and coloring) the optional ingredients used as provided in paragraph (b) of this section. If spice, flavoring, or coloring is used, the label shall bear the words "with added _____" or "_____ added," the blank to be filled in with the word "spice," "flavoring," or "coloring," or a combination of these as appropriate, or in lieu of the word "spice," "flavoring," or "coloring" the common name of the ingredient. If artificial flavoring or artificial coloring or any combination of these is present, the label shall show that fact by the statement "with _____" or "_____ added," the blank being filled in with the words "artificial flavoring," "artificial coloring," or a combination of these words as appropriate. If an antioxidant preservative as provided in paragraph (b)(1) of this section is used, such preservative shall be designated by its common name followed by the statement "added as a preservative." If an antimycotic preservative as provided in paragraph (b)(2) of this section is used, such preservative shall be designated by its common name followed by the statement "added to retard spoilage."

(2) The words and statements showing the optional ingredients used as provided for in subparagraph (1) of this paragraph shall appear on the principal display panel or panels of the label with such prominence and conspicuousness as to render them likely to be read and understood by the ordinary individual under customary conditions of purchase.

§ 28.2 Cherry pie; quality; label statement of substandard quality.

(a) The standard of quality for cherry pie is as follows:

(1) The pie contains not less than 2.7 cherries per ounce of net weight of the pie when examined in accordance with paragraph (b)(1) of this section.

(2) The net weight of the pie is not less than the weight specified for the maximum diameter of the pie (measured across opposite outside edges of the pastry shell or of the containing pan, whichever is greater) as shown in the following table:

I. Maximum diameter of pie—inches	II. Minimum weight of pie—avoirdupois ounces
3	2.75
3.5	4.50
4	5
5	7
6	10
7	15
8	26
9	31
10	44
11	60

If the diameter in question is not listed, calculate the value for column II as follows: Obtain by subtraction the difference between the listed weights in column II corresponding to the two adjacent diameters above and below the diameter in question. Multiply this difference by the fraction of an inch whereby the diameter in question exceeds the lower of the two listed diameters. Add the resulting product, neglecting fractions of an ounce (except in the case of pies having a diameter of less than 4 inches, in which case the fraction should be rounded to the nearest one-fourth ounce), to the lower of the two listed weights to give the value for column II.

(3) Not more than 15 percent by count of the cherries in the pie are blemished with scab, hail injury, discoloration, scar tissue, or other abnormality. A cherry showing skin discoloration having an aggregate area exceeding three-sixteenths inch in diameter is considered to be blemished. A cherry showing discoloration of any area but extending into the fruit tissue is also considered to be blemished.

(b) The number of cherries per ounce of pie, as required in paragraph (a)(1) of this section, is determined as follows: Remove the filling and cherries from the pie and distribute evenly over the surface of a 12-inch-diameter U.S. No. 8 sieve (0.094-inch openings) stacked on a U.S. No. 20 sieve. Wash the cherries and cherry fragments free from adhering material with a gentle water spray. Drain the cherry contents on the No. 8 sieve for 2 minutes in an inclined position (75°–90° slope). Do not discard contents of No. 20 sieve. Transfer the whole cherries to a tared pan and determine the weight of all whole cherries. Count the whole cherries and calculate average weight per whole cherry. Collect the cherry fragments from both the No. 8 and No. 20 sieves. Weigh the cherry fragments and calculate the whole cherry equivalent based on the average weight per whole cherry. The number of whole cherries plus the number of whole cherry equivalents is the total number of cherries in the pie. Calculate the number of cherries per ounce of net weight of pie.

(c) If the quality of the cherry pie falls below the standard prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard quality specified in § 10.7(a) of this chapter, in the manner and form

therein specified; but in lieu of such general statement of substandard quality, the label may bear the alternative statement "Below standard in quality _____," the blank being filled in with the following words, as applicable: "too few cherries," "too shallow," or "blemished cherries." Such alternative statement shall immediately and conspicuously precede or follow, without intervening written, printed, or graphic matter, the name "cherry pie" or "cherry tart" as prescribed by § 28.1.

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and in accordance with the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), all interested persons are invited to submit their views in writing, preferably in quintuplicate, regarding this proposal. Such views and comments should be addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, within 90 days following the date of publication of this notice in the FEDERAL REGISTER.

Dated: October 24, 1967.

JAMES L. GODDARD,
Commissioner of Food and Drugs.

[F.R. Doc. 67-12885; Filed, Oct. 31, 1967; 8:50 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket 67-EA-89]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Presque Isle, Maine, control zone and 700-foot floor transition area.

Recent changes in the Presque Isle, Maine, Airport VOR/DME and NDB (ADF) instrument approach procedures require modification of the Presque Isle control zone and transition area. The VOR/DME Runway 1 will require a minor increase in the size of the control zone and 700-foot floor transition area to the south.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the

proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Standards Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Presque Isle, Maine, proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations by deleting in the description of the Presque Isle, Maine control zone "VOR 159°" and insert in lieu thereof "VORTAC 158°"; delete "to the VOR; and" and insert in lieu thereof "to the VORTAC;"; delete the phrase, "RBN 169° bearing extending from the 5-mile radius zone to 7 miles south of the RBN." and insert in lieu thereof "RBN 167° bearing extending from the 5-mile radius zone to 7 miles south of the RBN; and within 2 miles each side of the Presque Isle VORTAC 160° radial extending from the 5-mile radius zone to 14 miles south of the VORTAC."

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by deleting in the Presque Isle, Maine, transition area "VOR 339°" and insert in lieu thereof "VORTAC 338°", delete "north of the VOR;" and insert in lieu thereof "north of the VORTAC;" delete "RBN 169°" and insert in lieu thereof "RBN. 167°", following the words "south of the RBN;" add "within 2 miles each side of the Presque Isle VORTAC 160° radial extending from the 5-mile radius area to 21 miles south of the VORTAC;".

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Jamaica, N.Y., on October 16, 1967.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 67-12865; Filed, Oct. 31, 1967; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-CE-119]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Hutchinson, Kans.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

Since designation of the Hutchinson, Kans., control zone and transition area, the Hutchinson Air National Guard Base, Kans., instrument approach procedures have been canceled. As a result, controlled airspace for the protection of aircraft executing these canceled procedures is no longer required. In addition, controlled airspace protection is needed for aircraft in holding patterns at the Stafford, Sterling, and Groveland, Kans., intersections. Therefore, the designations of the Hutchinson, Kans., control zone and transition area must be altered in order to reflect these airspace changes.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

(1) In § 71.171 (32 F.R. 2071), the following control zone is amended to read:

HUTCHINSON, KANS.

Within a 5-mile radius of Hutchinson Municipal Airport (latitude 38°03'55" N., longitude 97°51'35" W.); and within 2 miles each side of the Hutchinson VORTAC 042° radial, extending from the 5-mile radius zone to the VORTAC.

(2) In § 71.181 (32 F.R. 2148), the following transition area is amended to read:

HUTCHINSON, KANS.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Hutchinson Municipal Airport (latitude 38°03'55" N., longitude 97°51'35" W.); within 8 miles northwest and 5 miles southeast of the Hutchinson VORTAC 042° and 222° radials extending from the 8-mile radius area to 13 miles southwest of the VORTAC; and within 8 miles northeast and 5 miles southwest of the Hutchinson ILS localizer northwest course, extending from the 8-mile radius area to 13 miles northwest of the OM; and that airspace extending upward from 1,200 feet above the surface within a 30-mile radius of Hutchinson VORTAC; within 10 miles west and 6 miles east of the Hutchinson VORTAC 025° radial, extending from the 30-mile radius area to 44 miles north of the VORTAC; within 6 miles southwest and 10 miles northeast of the Hutchinson VORTAC 295° radial, extending from the 30-mile radius area to 44 miles northwest of the VORTAC; within 6 miles north and 10 miles south of the Hutchinson VORTAC, 266° radial extending from the 30-mile radius area to 41 miles west of the VORTAC; and the area southwest of Hutchinson bounded on the northeast by the 30-mile radius area, on the south by the north edge of V-12N, and on the northwest by the southeast edge of V-280, excluding the portion which overlies the Wichita and Salina, Kans., transition areas.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued at Kansas City, Mo., on October 18, 1967.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 67-12886; Filed, Oct. 31, 1967; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-CE-119]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Escanaba, Mich.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

Since designation of the Escanaba, Mich., control zone and transition area, the two public use instrument approach procedures for the Escanaba Municipal Airport have been modified by adding DME area. In addition, the special ADF instrument approach procedure for this airport is not presently protected with controlled airspace designation. Therefore, it is necessary to alter the Escanaba control zone and transition area to provide controlled airspace protection for aircraft executing these revised public instrument approach and special instrument approach procedures.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

(1) In § 71.171 (32 F.R. 2071), the following control zone is amended to read:

ESCANABA, MICH.

Within a 5-mile radius of Escanaba Municipal Airport (latitude 45°43'25" N., longitude 87°05'40" W.); within 2 miles each side of the Escanaba VORTAC 007°, 101° and 268° radials, extending from the 5-mile radius zone to 8 miles north, east, and west of the VORTAC; and within 2 miles each side of the 249° bearing from Escanaba Municipal Airport, extending from the 5-mile radius zone to 11 miles north of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Escanaba Municipal Airport (latitude 45°43'25" N., longitude 87°05'40" W.); within 8 miles west and 5 miles east of the Escanaba VORTAC 007° radial, within 8 miles north and 5 miles south of the Escanaba VORTAC 101° radial and within 8 miles south and 5 miles north of the Escanaba VORTAC 268° radial, extending from the VORTAC to 13 miles north, east, and west of the VORTAC; and within 8 miles west and 5 miles east of the 249° bearing from Escanaba Municipal Airport, extending from the airport to 15 miles north of the airport; and that airspace extending upward from 1,200 feet above the surface within a 15-mile radius of Escanaba VORTAC.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued at Kansas City, Mo., on October 13, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 67-12887; Filed, Oct. 31, 1967; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-CE-118]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Bloomington, Ind.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

Two new VOR public use instrument approach procedures have been developed to serve Runways 17 and 35 at the Bloomington, Ind., Monroe County Airport. In addition, the existing VOR public use instrument approach procedures at this airport are being modified by raising the procedure turn, missed approach and transition altitudes to 2,400 feet mean sea level. Therefore, it is necessary to alter the Bloomington control zone and 700-foot floor transition area to protect aircraft executing these new and revised approach procedures. The present Bloomington 1,200-foot floor transition area will not be changed as a result of these proposals.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

(1) In § 71.171 (32 F.R. 2071), the following control zone is amended to read:

BLOOMINGTON, IND.

Within a 5-mile radius of Monroe County Airport (latitude 39°06'26" N., longitude 86°37'00" W.) and within 2 miles each side of the Bloomington, Ind., VOR 072°, 181°, 266°, and 341° radials extending from the 5-mile radius zone to 8 miles east, south, southwest, and north of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

(2) In § 71.181 (32 F.R. 2148), the following transition area is amended to read:

BLOOMINGTON, IND.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Monroe County Airport (latitude 39°06'26" N., longitude 86°37'00" W.) and within 2 miles each side of the Bloomington, Ind., VOR 072°, 181°, 266°, and 341° radials extending from the 6-mile radius area to 8 miles east, south, southwest, and north of the VOR.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued at Kansas City, Mo., on October 13, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 67-12888; Filed, Oct. 31, 1967; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-EA-112]

CONTROL ZONE

Proposed Designation

The Federal Aviation Administration is considering amending § 71.171 of Part 71 of the Federal Aviation Regulations which will establish a part-time control zone for Ohio State University Airport, Columbus, Ohio.

With the proposed operation of an air traffic control tower at Ohio State University Airport a control zone will be required. This control zone will be effective from 0700 to 2300 hours, local time, daily.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, J. F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements templated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Standards Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Columbus, Ohio, proposes the airspace action hereinafter set forth:

Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to designate a Columbus Ohio Control Zone, Columbus, Ohio, (Ohio State University Airport), described as follows:

COLUMBUS, OHIO (OHIO STATE UNIVERSITY AIRPORT)

Within a 5-mile radius of the center 40°-04'45" N., 83°04'30" W., of Ohio State University Airport, Columbus, Ohio, and within

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued at Kansas City, Mo., on October 13, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 67-12886; Filed, Oct. 31, 1967; 8:48 a.m.]

2 miles each side of the Ohio State University RBN (40°04'47" N., 82°54'54" W.) 273° bearing extending from the Ohio State University 5-mile radius zone to 7 miles west of the RBN, excluding that portion within the control zone designated as Columbus, Ohio, control zone. This control zone shall be effective from 0700 to 2300 hours, local time, daily.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Jamaica, N.Y., on October 20, 1967.

R. M. BROWN,
Acting Director, Eastern Region.

[F.R. Doc. 67-12859; Filed, Oct. 31, 1967; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket 67-EA-76]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a 700-foot floor transition area over Sky Acres Airport, Millbrook, N.Y.

A new VOR instrument procedure has been authorized for the Sky Acres Airport and will require controlled airspace protection for aircraft executing the arrival and departure procedures.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Standards Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Millbrook, N.Y., proposes the airspace action hereinafter set forth:

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a 700-foot floor Millbrook, N.Y., transition area described as follows:

MILLBROOK, N.Y.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 41°43'25" N., 73°44'20" W., of the Sky Acres Airport, Millbrook, N.Y., and within 2 miles each side of the centerline of Runway 17 extended from the 5-mile radius area to 6 miles south of the end of the runway, excluding that portion within the Poughkeepsie, N.Y., and the Red Hook, N.Y., transition areas effective from sunrise to sunset daily.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Jamaica, N.Y., on October 16,1967.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 67-12860; Filed, Oct. 31, 1967; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket 67-EA-85]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a 700 foot floor transition area over Haverhill Airport, Haverhill, Mass.

A new VOR instrument procedure has been authorized for Haverhill Airport and will require controlled airspace protection for aircraft executing the instrument approach and departure procedure.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Standards Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Haverhill, Mass., proposes the airspace action hereinafter set forth:

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a 700 foot floor Haverhill, Mass., transition area described as follows:

HAVERHILL, MASS.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 42°46'05" N., 71°05'45" W., of Haverhill Airport, Haverhill, Mass.; and within 2 miles each side of the Runway 33 centerline extended from the 5-mile radius area to 6 miles northwest of the end of the runway, excluding the portion which coincides with the Boston, Mass., transition area. This transition area shall be effective from sunrise to sunset, daily.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Jamaica, N.Y., on October 16, 1967.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 67-12861; Filed, Oct. 31, 1967; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket 67-EA-87]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a 700-foot floor transition area over Plum Island Airport, Newburyport, Mass.

A new VOR instrument procedure has been authorized for Plum Island Airport and will require controlled airspace protection for aircraft executing the arrival and departure procedures.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Standards Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Newburyport, Mass. proposes the airspace action hereinafter set forth:

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a 700 foot floor Newburyport, Mass., transition area described as follows:

NEWBURYPORT, MASS.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, (42°47'45" N., 70°50'25" W.) of Plum Island Airport, Newburyport, Mass.; and within 2 miles each side of the Runway 33 centerline extended from the 5-mile radius area to 6 miles northwest of the end of the runway, excluding the portion which coincides with the Boston, Mass., transition area. This transition area shall be effective from sunrise to sunset, daily.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Jamaica, N.Y., on October 16, 1967.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 67-12862; Filed, Oct. 31, 1967; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-SO-101]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Aiken, S.C., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Area Manager, Atlanta Area Office, Attention: Chief, Air Traffic Branch, Federal Aviation Administration, Post Office Box 20636, Atlanta, Ga. 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Branch. Any data, views, or arguments presented during such conferences must also be in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The Aiken transition area would be designated as:

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Aiken Municipal Airport; within 2 miles each side of the 046° bearing from the Aiken RBN (lat. 33°39'06" N., long. 81°40'38" W.), extending from the 8-mile radius area to 8 miles northeast of the RBN.

The proposed transition area is required for the protection of IFR operations at Aiken Municipal Airport. A prescribed instrument approach procedure to this airport utilizing the Aiken (private) nondirectional radio beacon is proposed in conjunction with the designation of this transition area.

The official docket will be available for examination by interested persons at the Southern Regional Office, Federal Aviation Administration, Room 724, 3400 Whipple Street, East Point, Ga.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)).

Issued in East Point, Ga., on October 19, 1967.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[F.R. Doc. 67-12863; Filed, Oct. 31, 1967; 8:48 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Treasury Dept. Order 190-1, Rev. 2]

DIRECTOR, OFFICE OF DOMESTIC GOLD AND SILVER OPERATIONS

Authorization of Signature and Issuance of Certain Documents

Treasury Department Order No. 189-1, Rev. 1, dated January 19, 1967, is revised as follows:

By virtue of the authority vested in the Secretary of the Treasury, including the authority in Reorganization Plan No. 26 of 1950, and by virtue of the authority vested in me as Under Secretary for Monetary Affairs by Treasury Department Order 190 (Rev. 4), there is hereby delegated to the Director of the Office of Domestic Gold and Silver Operations all authority vested in the Secretary by Part 82 of Title 31 of the Code of Federal Regulations and all authority vested in me by Part 54 of Title 31 of the Code of Federal Regulations. Any action heretofore taken by the Director of the Office of Domestic Gold and Silver Operations which involved the exercise of authority hereby granted is affirmed and ratified.

The authority vested in the Director of the Office of Domestic Gold and Silver Operations by this order and by Parts 54, 81, and 93 of Title 31 of the Code of Federal Regulations may be delegated by him upon such terms and conditions as he deems appropriate.

Dated: October 26, 1967.

[SEAL] FREDERICK L. DEMING,
Under Secretary of the Treasury for Monetary Affairs.

[F.R. Doc. 67-12868; Filed, Oct. 31, 1967; 8:49 a.m.]

[Dept. Circular; Public Debt Series, No. 9-67]

5¾ PERCENT TREASURY NOTES OF SERIES A–1969

Offering of Notes

OCTOBER 26, 1967.

I. *Offering of notes.* 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, offers $10,700,000,000, or thereabouts, of notes of the United States, designated 5¾ percent Treasury Notes of Series A–1969, at par and accrued interest. The following securities, maturing November 15, 1967, will be accepted at par in payment or exchange, in whole or in part, to the extent subscriptions are allotted by the Treasury:

4¼ percent Treasury Notes of Series F–1967; or
3½ percent Treasury Bonds of 1967.

The books will be open only on October 30, 1967, for the receipt of subscriptions.

II. *Description of notes.* 1. The notes will be dated November 15, 1967, and will bear interest from that date at the rate of 5¾ percent per annum, payable on a semiannual basis on February 15 and August 15, 1968, and February 15, 1969. They will mature February 15, 1969, and will not be subject to call for redemption prior to maturity.

2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, $1,000,000, $100,000,000, and $500,000,000. Provisions will be made for the interchange of notes of different denominations and of coupon and registered notes, and for the transfer of registered notes, under rules and regulations prescribed by the Secretary of the Treasury.

5. The notes will be subject to the general regulations of the Treasury Department, now or hereafter prescribed, governing U.S. notes.

III. *Subscription and allotment.* 1. Subscriptions accepting the offer made by this circular will be received at the Federal Reserve banks and branches and at the Office of the Treasurer of the United States, Washington, D.C. 20220. Only the Federal Reserve banks and the Treasury Department are authorized to act as official agencies. Commercial banks, which for this purpose are defined as banks accepting demand deposits, may submit subscriptions for account of customers provided the names of the customers are set forth in such subscriptions. Others than commercial banks will not be permitted to enter subscriptions except for their own account. Subscriptions from commercial banks for their own account will be restricted in each case to an amount not exceeding 50 percent of the combined capital (not including capital notes or debentures), surplus and undivided profits of the subscribing bank. Subscriptions will be received without deposit from banking institutions for their own account, federally insured savings and loan associations, States, political subdivisions or instrumentalities thereof, public pension and retirement and other public funds, international organizations in which the United States holds membership, foreign central banks and foreign States, dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, Federal Reserve banks and Government investment accounts. Subscriptions from all others must be accompanied by payment (in cash or in securities of the issues enumerated in paragraph 1 of section I hereof, which will be accepted at par) of 2 percent of the amount of notes applied for, not subject to withdrawal until after allotment. Registered securities submitted as deposits should be assigned as provided in section V hereof. Following allotment, any portion of the 2-percent payment in excess of 2 percent of the amount of notes allotted may be released upon the request of the subscribers.

2. All subscribers are required to agree not to purchase or to sell, or to make any agreements with respect to the purchase or sale or other disposition of any notes of this issue at a specific rate or price, until after midnight October 30, 1967.

3. Commercial banks in submitting subscriptions will be required to certify that they have no beneficial interest in any of the subscriptions they enter for the account of their customers, and that their customers have no beneficial interest in the banks' subscriptions for their own account.

4. Under the Second Liberty Bond Act, as amended, the Secretary of the Treasury has the authority to reject or reduce any subscription, to allot less than the amount of notes applied for, and to make different percentage allotments to various classes of subscribers when he deems it to be in the public interest; and any action he may take in these respects shall be final. Subject to the exercise of that authority, subscriptions will be allotted:

(1) In full if the subscription is for a State, political subdivision or instrumentality thereof, public pension and retirement and other public fund, international organization in which the United States holds membership, foreign central bank and foreign State, Federal Reserve bank, or Government investment account and such subscriber certifies in writing that at 4 p.m., e.d.s.t., October 25, 1967, it owned or had contracted to purchase for value securities of the issues enumerated in paragraph 1 of section I hereof, in an aggregate amount equal to or greater than the amount of such subscription (any such subscriber may enter an additional subscription subject to a percentage allotment); and

(2) On a percentage basis, to be publicly announced.

Allotment notices will be sent out promptly upon allotment.

IV. *Payment.* 1. Payment at par and accrued interest, if any, for notes allotted hereunder must be made or completed on or before November 15, 1967, or on later allotment. Payment will not be deemed to have been completed where registered notes are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. In every case where full payment is not completed, the payment with application up to 2 percent of the amount of notes allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. Payment may be made for any notes allotted hereunder in cash or by exchange of securities of the issues enumerated in paragraph 1 of section I hereof which will be accepted at par. When payment is made with securities in bearer form, coupons dated November 15, 1967, should be detached and cashed when due. When payment is made with registered securities, the final interest due on November 15, 1967, will be paid by issue of interest checks in regular course to holders of record on October 13, 1967, the date the transfer books closed.

V. *Assignment of registered securities.* 1. Treasury securities in registered form tendered as deposits and in payment for notes allotted hereunder should be assigned by the registered payees or assignees thereof, in accordance with the general regulations of the Treasury Department, in one of the forms hereafter set forth. Securities tendered in payment should be surrendered to a Federal Reserve bank or branch or to the Office of the Treasurer of the United States, Washington, D.C. 20220. The maturing securities must be delivered at the expense and risk of the holder. If the new notes are desired registered in the same name as the securities surrendered, the assignment should be to "The Secretary of the Treasury for 5¾ percent Treasury Notes of Series A–1969"; if the new notes are desired registered in another name, the assignment should be to "The Secretary of the Treasury for 5¾ percent Treasury Notes of Series A–1969 in the name of _____"; if new notes in coupon form are desired, the assignment should be to "The Secretary of the Treasury for 5¾ percent Treasury Notes of Series A–1969 in coupon form to be delivered to _____".

VI. *General provisions.* 1. As fiscal agents of the United States, Federal Reserve banks are authorized and requested to receive subscriptions, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of notes on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve banks.

[SEAL] HENRY H. FOWLER,
Secretary of the Treasury.

[F.R. Doc. 67-12869; Filed, Oct. 31, 1967; 8:49 a.m.]

[Dept. Circular; Public Debt Series, No. 10-67]

5¾ PERCENT TREASURY NOTES OF SERIES A–1974

Offering of Notes

OCTOBER 26, 1967.

I. *Offering of notes.* 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, offers $1,500,000,000, or thereabouts, of notes of the United States, designated 5¾ percent Treasury Notes of Series A–1974, at par and accrued interest. The following securities, maturing November 15, 1967, will be accepted at par in payment or exchange, in whole or in part, to the extent subscriptions are allotted by the Treasury:

4¼ percent Treasury Notes of Series F–1967; or
3½ percent Treasury Bonds of 1967.

The books will be open only on October 30, 1967, for the receipt of subscriptions.

II. *Description of notes.* 1. The notes will be dated November 15, 1967, and will bear interest from that date at the rate of 5¾ percent per annum, payable semiannually on May 15 and November 15 in each year until the principal amount becomes payable. They will mature November 15, 1974, and will not be subject to call for redemption prior to maturity.

2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, $1,000,000, $100,000,000 and $500,000,000. Provision will be made for the interchange of notes of different denominations and of coupon and registered notes, and for the transfer of registered notes, under rules and regulations prescribed by the Secretary of the Treasury.

5. The notes will be subject to the general regulations of the Treasury Department, now or hereafter prescribed, governing U.S. notes.

III. *Subscription and allotment.* 1. Subscriptions accepting the offer made by this circular will be received at the Federal Reserve Banks and Branches and at the Office of the Treasurer of the United States, Washington, D.C. 20220. Only the Federal Reserve Banks and the Treasury Department are authorized to act as official agencies. Commercial banks, which for this purpose are defined as banks accepting demand deposits, may submit subscriptions for account of customers provided the names of the customers are set forth in such subscriptions. Others than commercial banks will not be permitted to enter subscriptions except for their own account. Subscriptions from commercial banks for their own account will be restricted in each case to an amount not exceeding 50 percent of the combined capital (not including capital notes or debentures), surplus and undivided profits of the subscribing bank. Subscriptions will be received without deposit from banking institutions for their own account, federally insured savings and loan associations, States, political subdivisions or instrumentalities thereof, public pension and retirement and other public funds, international organizations in which the United States holds membership, foreign central banks and foreign States, dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, Federal Reserve Banks and Government Investment Accounts. Subscriptions from all others must be accompanied by payment (in cash or in securities of the issues enumerated in par. 1 of sec. I hereof, which will be accepted at par) of 2 percent of the amount of notes applied for, not subject to withdrawal until after allotment. Registered securities submitted as deposits should be assigned as provided in section V hereof. Following allotment, any portion of the 2 percent payment in excess of 2 percent of the amount of notes allotted may be released upon the request of the subscribers.

2. All subscribers are required to agree not to purchase or to sell, or to make any agreements with respect to the purchase or sale or other disposition of any notes of this issue at a specific rate or price, until after midnight October 30, 1967.

3. Commercial banks in submitting subscriptions will be required to certify that they have no beneficial interest in any of the subscriptions they enter for the account of their customers, and that their customers have no beneficial interest in the banks' subscriptions for their own account.

4. Under the Second Liberty Bond Act, as amended, the Secretary of the Treasury has the authority to reject or reduce any subscription, to allot less than the amount of notes applied for, and to make different percentage allotments to various classes of subscribers when he deems it to be in the public interest; and any action he may take in these respects shall be final. Subject to the exercise of that authority, subscriptions will be allotted:

(1) In full if the subscription is for a State, political subdivision or instrumentality thereof, public pension and re-

tirement and other public fund, international organization in which the United States holds membership, foreign central bank and foreign State, Federal Reserve Bank, or Government Investment Account and such subscriber certifies in writing that at 4 p.m., e.d.s.t., October 25, 1967, it owned or had contracted to purchase for value securities of the issues enumerated in paragraph 1 of section I hereof, in an aggregate amount equal to or greater than the amount of such subscription (any such subscriber may enter an additional subscription subject to a percentage allotment); and

(2) On a percentage basis, to be publicly announced.

Allotment notices will be sent out promptly upon allotment.

IV. Payment. 1. Payment at par and accrued interest, if any, for notes allotted hereunder must be made or completed on or before November 15, 1967, or on later allotment. Payment will not be deemed to have been completed where registered notes are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. In every case where full payment is not completed, the payment with application up to 2 percent of the amount of notes allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. Payment may be made for any notes allotted hereunder in cash or by exchange of securities of the issues enumerated in paragraph 1 of section I hereof, which will be accepted at par. When payment is made with securities in bearer form, coupons dated November 15, 1967, should be detached and cashed when due. When payment is made with registered securities, the final interest due on November 15, 1967, will be paid by issue of interest checks in regular course to holders of record on October 13, 1967, the date the transfer books closed.

V. Assignment of registered securities. 1. Treasury securities in registered form tendered as deposits and in payment for notes allotted hereunder should be assigned by the registered payees or assignees thereof, in accordance with the general regulations of the Treasury Department, in one of the forms hereafter set forth. Securities tendered in payment should be surrendered to a Federal Reserve Bank or Branch or to the Office of the Treasurer of the United States, Washington, D.C. 20220. The maturing securities must be delivered at the expense and risk of the holder. If the new notes are desired registered in the same name as the securities surrendered, the assignment should be to "The Secretary of the Treasury for 5¾ percent Treasury Notes of Series A–1974"; if the new notes are desired registered in another name, the assignment should be to "The Secretary of the Treasury for 5¾ percent Treasury Notes of Series A–1974 in the name of _____"; if new notes in coupon form are desired, the assignment should be to "The Secretary of the Treasury for 5¾ percent Treasury Notes of Series A–1974 in coupon form to be delivered to _____".

VI. General provisions. 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive subscriptions, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of notes on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

[SEAL] HENRY H. FOWLER,
Secretary of the Treasury.

[F.R. Doc. 67-12870; Filed, Oct. 31, 1967; 8:49 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANT REGIONAL ADMINISTRATOR FOR RENEWAL ASSISTANCE ET AL., REGION IV (CHICAGO, ILL.), RENEWAL ASSISTANCE OFFICE

Redelegations of Authority Regarding Renewal Assistance Programs

The redelegations of authority to the Assistant Regional Administrator for Renewal Assistance, Deputy Assistant Regional Administrator for Renewal Assistance, and others, Region IV (Chicago, Ill.), effective November 9, 1966 (32 F.R. 6224–35, Apr. 20, 1967), are hereby amended with respect to the Rehabilitation Loan Program by amending section B to read:

Sec. B. *Authority redelegated to Assistant Regional Administrator for Renewal Assistance, Deputy Assistant Regional Administrator for Renewal Assistance, and others.* The Assistant Regional Administrator for Renewal Assistance, the Deputy Assistant Regional Administrator for Renewal Assistance, the Chief, Rehabilitation Loan and Grant Branch, the Regional Rehabilitation Loan Officer, and the Area Rehabilitation Loan Specialists, Region IV (Chicago, Ill.), each is hereby authorized to exercise the power and authority of the Secretary of Housing and Urban Development to the extent redelegated to the Regional Administrator and to the Deputy Regional Administrator in section A of the redelegations of authority of the Assistant Secretary for Renewal and Housing Assistance effective July 1, 1966 (31 F.R. 8966–8967, June 29, 1966) with respect to the Rehabilitation Loan Program under section 312 of the Housing Act of 1964, as amended (42 U.S.C. 1452b).

Effective date. This amendment to redelegations of authority shall be effective as of November 9, 1966.

JOHN P. MCCOLLUM,
Regional Administrator, Region IV.

[F.R. Doc. 67-12866; Filed, Oct. 31, 1967; 8:49 a.m.]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. S-407]

HARRY R. HARRIS

Notice of Loan Application

Harry R. Harris, Box 54, Ilwaco, Wash. 98624, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 37.2-foot registered length wood vessel to engage in the fishery for salmon, albacore and Dungeness crab.

Notice is hereby given pursuant to the provisions of Public Law 89–85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised August 11, 1965) that the above entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic hardship or injury.

J. L. MCHUGH,
Acting Director,
Bureau of Commercial Fisheries.

OCTOBER 25, 1967.

[F.R. Doc. 67-12882; Filed, Oct. 31, 1967; 8:46 a.m.]

[Docket No. S-409]

RODMAN A. AND LOIS MAE MILLER

Notice of Loan Application

Rodman A. Miller and Lois Mae Miller, Star Route, Naselle, Wash. 98638, have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 33-foot registered length wood vessel to engage in the fishery for salmon and albacore.

Notice is hereby given pursuant to the provisions of Public Law 89–85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised August 11, 1965) that the above entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic hardship or injury.

J. L. MCHUGH,
Acting Director,
Bureau of Commercial Fisheries.

OCTOBER 25, 1967.

[F.R. Doc. 67-12883; Filed, Oct. 31, 1967; 8:46 a.m.]

Office of the Secretary

GEORGE EVERETT MILLICAN

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of September 27, 1967.

Dated: September 28, 1967.

GEORGE E. MILLICAN.

[F.R. Doc. 67-12885; Filed, Oct. 31, 1967; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

DIRECTOR OR ACTING DIRECTOR, KANSAS CITY ASCS COMMODITY OFFICE

Delegation of Authority

Pursuant to the authority vested in me by the Export Wheat Marketing Certificate Regulations, I hereby delegate to the Director or Acting Director, Kansas City ASCS Commodity Office, the responsibility to (a) approve an exporter's request for extension of the period of 45 days after date of exportation during which he shall acquire and surrender export wheat marketing certificates as provided in § 778.5(c)(1); (b) determine whether or not an exporter should be required to furnish a bond or letter of credit prior to export in order to secure the purchase of and payment for export wheat marketing certificates and, the form and amount of any such bond or letter of credit as provided in § 778.5(c)(3); and (c) approve an exporter's request for extension of the period during which he shall submit a report of the wheat exported to the Kansas City ASCS Commodity Office as provided in § 778.11. The authority herein delegated shall be exercised in conformity with the requirements of the Export Wheat Marketing Certificate Regulations and may not be redelegated.

(Secs. 379a to 379j, 52 Stat. 31, as amended by 76 Stat. 626, 78 Stat. 178, 79 Stat. 1202; 7 U.S.C. 1379a to 1379j)

Signed at Washington, D.C., on October 26, 1967.

CLIFFORD G. PULVERMACHER,
Director,
Procurement and Sales Division.

[F.R. Doc. 67-12907; Filed, Oct. 31, 1967; 8:51 a.m.]

CERTAIN OFFICIALS IN WHEAT SUBSIDY AND MARKET BRANCH, PROCUREMENT AND SALES DIVISION

Delegation of Authority

Pursuant to the authority vested in me by the Export Wheat Marketing Certificate Regulations, I hereby designate the Chief or Acting Chief of the Wheat Subsidy and Market Branch, Procurement and Sales Division, Agricultural Stabilization and Conservation Service as authorized, when the facts so warrant, to extend the time in which exporters are to submit reports of their intention to export wheat as provided in § 778.6(a); to extend the time in which exporters are to file a notice of sale as provided in §§ 778.7(d) and 778.9(d); to accept reports of additional quantities of wheat exported for application against an offer where the exporter has previously fulfilled his reporting obligations as provided in §§ 778.7(f) and 778.9(e) and where the additional quantity would be within the loading tolerance of such sections; and to approve an exporter's request for an extension in time to export without any increase in the cost of certificates under the conditions provided in §§ 778.7(g), 778.8(h) and 778.9(g). I hereby designate the contracting officers of said branch as authorized, when the facts so warrant, to accept or reject offers or to waive any informality in connection with such offers and to accept or reject modifications or requests for withdrawals of offers as provided in § 778.7(b)(4) and (c)(1) and to register sales reported by exporters and issue notices of registration as provided in § 778.8(d), except that any determination that a different certificate cost shall apply to an offer under § 778.7 or a notice of sale under § 778.8 than the cost based upon the announced rate shall be made by the Director. I also designate such contracting officers, when the facts so warrant, to accept reports as provided in § 778.8(g)(2) and (3) where wheat is exported to a country or buyer other than the country or buyer shown in the declaration of sale. The authority herein delegated shall be exercised in conformance with the requirements of the Export Wheat Marketing Certificate regulations and may not be redelegated.

(Secs. 379a to 379j, 52 Stat. 31, as amended by 76 Stat. 626, 78 Stat. 178, 79 Stat. 1202, sec. 5, 62 Stat. 1070, sec. 109, 66 Stat. 464, 7 U.S.C. 1379a to 1379j, 15 U.S.C. 714c, 7 U.S.C. 1703)

Signed at Washington, D.C., on October 26, 1967.

CLIFFORD G. PULVERMACHER,
Director,
Procurement and Sales Division.

[F.R. Doc. 67-12908; Filed, Oct. 31, 1967; 8:52 a.m.]

Consumer and Marketing Service

HUMANELY SLAUGHTERED LIVESTOCK

Identification of Carcasses and Changes in Lists of Establishments

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1904), and the statement of policy thereunder in 9 CFR 381.1, the lists (32 F.R. 11343, 12630 and 13780) of establishments which are operated under Federal inspection pursuant to the Meat Inspection Act (21 U.S.C. 71 et seq.) and which use humane methods of slaughter and incidental handling of livestock are hereby amended as follows:

The reference to calves with respect to D & W Packing Co., establishment 560 is deleted. The reference to swine with respect to Triolo Bros., establishment 706 is deleted. The reference to calves and sheep with respect to Acee's Meat Co., Inc., establishment 809 is deleted.

The following table lists species at additional establishments and additional species at previously listed establishments that have been reported as being slaughtered and handled humanely.

Name of establishment	Est. No.	Cattle	Calves	Sheep	Goats	Swine	Horses
Clougherty Packing Co.	263.					•	
The Lohrey Packing Co.	721.					•	
Johnson Meat Products Company, Inc.	694.					•	
New establishments reported: 8.							
Armour & Co.	23HT.		•				
Brown Thompson & Sons	73.	•					
Beeville Packing Co.	277.		•				
Philadelphia Beaten Beef Co.	616.		•	•			
Bartel's Meat Co.	497.			•		•	
Beaur's Meat Packing	762.		•				
Species added: 8.							

Done at Washington, D.C., this 26th day of October 1967.

H. M. STEINMEIER,
Acting Deputy Administrator, Consumer Production.

[F.R. Doc. 67-12846; Filed, Oct. 31, 1967; 8:47 a.m.]

Office of the Secretary

NORTH DAKOTA

Designation of Area for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named county in the State of North Dakota a natural disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

NORTH DAKOTA

Pierce.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named county after June 30, 1968, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 27th day of October 1967.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 67-12810; Filed, Oct. 31, 1967; 8:52 a.m.]

Packers and Stockyards Administration

[P. & S. Docket No. 5]

PEORIA UNION STOCK YARDS CO., INC.

Notice of Petition To Vacate Order and Dismiss Proceeding

Pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), a basic order was issued in the case of "In Regarding Peoria Union Stock Yards Company, Inc.," respondent (P. & S. Docket No. 5), on June 30, 1924, prescribing the rates and charges to be assessed by the respondent for the stockyard services rendered by it at the Peoria Union Stock Yards, Peoria, Ill. Such rates and charges have been modified from time to time by subsequent orders issued in the proceeding. The latest such order was issued on September 9, 1966, prescribing the rates and charges to be assessed by respondent to and including December 31, 1968, unless modified or extended by further order before the latter date.

On October 20, 1967, the respondent filed a petition requesting that the rate order in this proceeding be vacated and the proceeding dismissed in conformity with § 203.11 (9 CFR 203.11) of the statements of general policy under the Packers and Stockyards Act. The petition reads as follows:

This is a rate proceeding under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.). The respondent is now operating under an order issued on September 9, 1966 (25 A.D. 1109). The current schedule of rates and charges became effective September 15, 1966, and is to remain in effect, unless modified or extended by further order, to and including December 31, 1968.

The basic rate order in this proceeding was issued June 30, 1924. During the period since the basic rate order has been in effect this respondent has followed the procedure, prior to filing of a petition for modification of the basic order, of seeking an advance indication of the attitude of the Packers and Stockyards Administration toward the changes to be proposed. Information in support of such proposals has been submitted and a tentative agreement is reached before a formal petition for modification has been filed.

The respondent does not believe economic conditions in the industry, the marketing structure in the trade territory, or any other circumstance necessitates the continuation of the formal procedure for obtaining modification in the rates and charges assessed by respondent.

It is requested therefore that in conformity with the policy expressed in section 203.11 of the statements of general policy under the Packers and Stockyards Act (9 CFR 203.11) that the rate order in this proceeding be vacated and the proceeding be dismissed.

Any interested person may file with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, within 15 days after the publication of this notice in the FEDERAL REGISTER, written data, views, comments, or arguments with respect to the petition filed by the respondent.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 26th day of October 1967.

DONALD A. CAMPBELL,
Acting Administrator, Packers and Stockyards Administration.

[F.R. Doc. 67-12847; Filed, Oct. 31, 1967; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[File No. 23(67)-1]

W. L. TANSLEY & CO. (PTY.), LTD., AND PETER J. COURTENAY

Order Denying Export Privileges for Indefinite Period

In the matter of W. L. Tansley & Co. (Pty.), Ltd. and Peter J. Courtenay, 32 Plein Street, Johannesburg, South Africa, respondents; File No. 23(67)-1.

The Director, Investigations Division, Office of Export Control, Bureau of International Commerce, U.S. Department of Commerce, has applied for an order denying to the above-named respondents all export privileges for an indefinite period because the said respondents failed to furnish answers to interrogatories and failed to furnish certain records and documents specifically requested, without good cause being shown. This application was made pursuant to the export regulations (15 CFR 382.15).

In accordance with the usual practice, the application was reviewed by the Compliance Commissioner, Bureau of International Commerce, who after consideration of the evidence has recommended that the application be granted. The report of the Compliance Commissioner and the evidence in support of the application have been considered.

The evidence presented shows that the respondent firm W. L. Tansley & Co. (Pty.), Ltd. is engaged in the insurance and general brokerage business with a place of business in Johannesburg, South Africa; that the respondent Peter J. Courtenay is the managing director of said firm and acted on its behalf in the transaction hereinafter described; that in July 1966 the respondent firm ordered from a U.S. supplier a quantity of cottonseed and represented that the material was not intended for Southern Rhodesia; that as the result of said order and representation the U.S. supplier exported from the United States 32 tons of cottonseed for the account of respondent firm consigned to the port of Lourenco Marques, Mozambique. The said Investigations Division is conducting an investigation into the disposition of the cottonseed in question to ascertain whether the material was diverted, transshipped, or reexported to Southern Rhodesia or any other unauthorized destination.

It is impracticable to subpoena the respondents, and relevant and material written interrogatories and requests to furnish certain specific documents relating to the matter under investigation were served on them pursuant to § 382.15 of the export regulations. They have failed to furnish responsive answers to all of the interrogatories and have failed to furnish the documents requested, all as required by said section. They have not shown good cause for such failure. I find that an order denying export privileges to said respondents for an indefinite period is reasonably necessary to protect the public interest and to achieve effective enforcement of the Export Control Act of 1949, as amended. *Accordingly, it is hereby ordered:*

I. All outstanding validated export licenses in which respondents appear or participate in any manner or capacity are hereby revoked and shall be returned forthwith to the Bureau of International Commerce for cancellation.

II. The respondents, their representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or which are otherwise subject to the export regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any validated export license application; (b) in the preparation or filing of any export license application or reexportation authorization, or any document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control document; (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data in whole or in part exported or to be exported from the United States; and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondents, but also to their agents and employees and to any person, firm, corporation, or business organization with which they now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith.

IV. This order shall remain in effect until the respondents provide responsive answers and documents in response to the interrogatories heretofore served upon them or give adequate reasons for failure to do so, except insofar as this order may be amended or modified hereafter in accordance with the Export Regulations.

V. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Bureau of International Commerce, shall do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondents, or whereby the respondents may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for any such respondent denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

VI. A copy of this order shall be served on respondents.

VII. In accordance with the provisions of § 382.15 of the export regulations, the respondents may move at any time to vacate or modify this indefinite denial order by filing with the Compliance Commissioner, Bureau of International Commerce, U.S. Department of Commerce, Washington, D.C. 20230, an appropriate motion for relief, supported by substantial evidence, and may also request an oral hearing thereon, which, if requested shall be held before the Compliance Commissioner at Washington, D.C., at the earliest convenient date.

This order shall become effective forthwith.

Dated: October 24, 1967.

RAUER H. MEYER,
Director, Office of Export Control.

[F.R. Doc. 67-12864; Filed, Oct. 31, 1967; 8:48 a.m.]

Business and Defense Services Administration

TEXAS A. & M. UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No.: 67-00148-78-42800. Applicant: Texas A. & M. University, Cyclotron Institute, College Station, Tex. 77843. Article: Analyzing Magnet. Manufacturer: Instrument AB Scanditronix, Sweden. Intended use of article: Applicant states: "To magnetically analyze and direct charge particle beams emitted from the Texas A. & M. University Variable Energy Cyclotron." Comments: Comments have been received from one domestic manufacturer, Varian Associates (Varian) which alleges inter alia that "an analyzing magnet of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States." (Letter from Varian dated July 31, 1967 and attachment thereto.) Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is an apparatus consisting of an analyzing magnet, two switching magnets and two corresponding power supplies. Although the above-cited letter refers to the analyzing magnet, Varian did not bid on this unit (bid of Spectromagnetics Industries, Division of Varian). The comments attached to the cited letter from Varian refer only to the switching magnet and power supplies. Moreover, the bid of Spectromagnetics Industries was not responsive in several pertinent design characteristics. An apparatus of the type required by the applicant is a complex system which must be designed and built as an integral unit in which all components are compatible with each other. Such compatibility cannot be assured when the various components are manufactured by different companies, unless each is fabricated according to the precise standards specified in advance by the applicant. Furthermore, the analyzing magnet is the basic component of the apparatus and, therefore, a company undertaking to supply only the switching magnets and power supplies would be required to guarantee that these components would be compatible with the analyzing magnet made by another company despite exceptions from the specified standards. We are unable to discern in the comments from Varian an agreement to guarantee such compatibility.

For the foregoing reasons, we find that the switching magnets and power supplies offered by Varian are not of equivalent scientific value to the corresponding components of the foreign article.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLES M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-12815; Filed, Oct. 31, 1967; 8:46 a.m.]

National Bureau of Standards

NBS RADIO STATIONS

Notice of Standard Frequency and Time Broadcasts

In accordance with the National Bureau of Standards policy of giving monthly notices regarding changes of phases in seconds pulses, notice is hereby given that there will be an adjustment in the phase of seconds pulses emitted from radio station WWVB, Fort Collins, Colo. On December 1, 1967, the clock at the station will be retarded by 300 ms. at 0000 hours UT, as announced by the Bureau International de l'Heure (BIH) for the stepped atomic time (SAT) system. The successive time pulses emitted from station WWVB are one second apart. The carrier frequency is 60 kHz and is broadcast without offset.

Notice is also hereby given that there will be no adjustment in the phases of time signals emitted from radio stations WWV, Fort Collins, Colo, and WWVH, Maui, Hawaii, on December 1, 1967. During 1967, the pulses will occur at intervals which are longer than one second by 300 parts in 10^{10}, due to the offset to be maintained in carrier frequencies, as coordinated by the BIH.

Phase adjustments, when made, insure that the emitted pulses from all stations will remain within about 100 ms. of the UT2 scale. They are made necessary because of changes in the speed of rotation of the earth with which the UT2 scale is associated. Daily UT2 information is obtained from weekly forecasts of extrapolated UT2 clock readings provided by the U.S. Naval Observatory in accordance with the close cooperation maintained between the two agencies.

A. V. ASTIN,
Director.

[F.R. Doc. 67-12978; Filed, Oct. 31, 1967; 10:00 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

MORTON CHEMICAL CO.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 8B2228) has been filed by Morton Chemical Co., Div. of Morton International, Inc., 110 North Wacker Drive, Chicago, Ill. 60606, proposing an amendment to § 121.2560 *Vinylidene chloride copolymer coatings for nylon film* by deleting from paragraph (b) the limitation "Finished vinylidene chloride copolymer coatings containing polymer units derived from methyl acrylate and/or methacrylic acid are limited to use in contact with nonalcoholic foods having a pH above 5.0."

Dated: October 25, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-12886; Filed, Oct. 31, 1967; 8:50 a.m.]

[Docket No. FDC-D-107; NDA No. 13-610V]

UPJOHN CO.

Promone; Notice of Withdrawal of Approval of New-Drug Application

The Upjohn Co., Kalamazoo, Mich. 49001, the applicant for and holder of new-drug application No. 13-610V covering the drug Promone (medroxyprogesterone acetate), has requested withdrawal of the approval of their application and thereby has waived the opportunity for a hearing as provided by section 505(e) of the Federal Food, Drug, and Cosmetic Act.

Promone is a drug having progestational activity. As provided for in the subject aplication, it is intended for use in dogs, cats, and horses.

The firm has submitted information not available at the time the application was approved revealing that the drug is not safe for use in female dogs under the conditions of use upon the basis of which the application was approved and has requested that approval of their new-drug application No. 13-610V be withdrawn.

The Commissioner of Food and Drugs, having evaluated the information submitted, and proceeding under the authority vested in the Secretary of Health, Education, and Welfare by the act (sec. 505(e), 52 Stat. 1053, as amended; 21 U.S.C. 355(e)) and delegated to him by the Secretary (21 CFR 2.120), finds, on the basis of new information evaluated together with the evidence available when the new-drug application was approved, that the application fails to establish that the drug is safe for use in dogs under the conditions of use prescribed, recommended, or suggested in the labeling thereof.

Therefore, on the basis of the foregoing finding of fact and at the request of the applicant, the approval of new-drug application No. 13-610V applying to the drug Promone is withdrawn, effective on the date of signature of this document.

Dated: October 24, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-12887; Filed, Oct. 31, 1967; 8:50 a.m.]

ATOMIC ENERGY COMMISSION

CHEMICAL PROCESSING AND CONVERSION OF SPENT FUELS

Proposed Notice

Notice is hereby given that the U.S. Atomic Energy Commission is publishing for public comment, prior to action thereon, a proposed notice covering AEC provisions for chemical processing services pursuant to sections 161m. and 161i. of the Atomic Energy Act of 1954, as amended. The proposed notice is set forth below as an appendix of this notice. All interested persons desiring to submit comments and suggestions to the Commission in connection with the proposed notice should send them in triplicate to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, within 30 days after initial publication in the FEDERAL REGISTER. The Commission plans to publish the notice, modified as appropriate in light of comments received, in the FEDERAL REGISTER to be effective on January 1, 1968. However, should more time be required for the consideration of public comments, the present arrangements will be continued in effect as required.

Dated at Washington, D.C., this 25th day of October 1967.

For the Atomic Energy Commission.

W. B. MCCOOL,
Secretary.

APPENDIX

CHEMICAL PROCESSING AND CONVERSION OF SPENT FUELS

The U.S. Atomic Energy Commission (the AEC) hereby announces revisions concerning its present undertaking to receive irradiated reactor fuels and blanket materials (reactor materials) and to make a settlement therefor, pursuant to the Atomic Energy Act of 1954, as amended (the Act).

The following notices concerning the foregoing are hereby superseded: 22 F.R. 1591 March 12, 1957; 23 F.R. 1707, March 12, 1958; 24 F.R. 10165, December 16, 1959; 26 F.R. 4435, May 23, 1961; 26 F.R. 11468, October 25, 1961; 29 F.R. 7575, June 13, 1964; 32 F.R. 8836, June 21, 1967; and 32 F.R. 12681, September 20, 1967.

1. In general, the AEC expects chemical processing services to be contracted for between reactor operators and commercial fuel processors without involvement of the AEC. However, in the event a person licensed pursuant to section 53.a.(4), 63.a.(4), 103 or 104 of the Act, or a person operating a reactor abroad fueled with material produced or enriched by the United States, is unable to reach agreement with a U.S. commercial fuel processor, and if such person considers that the terms and conditions, including charges, for services offered by the commercial fuel processor are unreasonable, the AEC would, upon such person's request, review such proposed terms and conditions, including charges, and determine whether the required services are available at reasonable terms and charges. Should the AEC find that such services are available at reasonable terms and charges the AEC would not agree to accept, for financial or other settlement, the person's reactor materials. Should the AEC determine that the required services are not available at reasonable terms and charges, the AEC would agree to accept the person's reactor materials in accordance with the provisions set forth below.

2. The AEC will undertake under contracts individually negotiated with persons licensed pursuant to section 53.a.(4), 63.a.(4), 103 or 104 of the Act and persons operating reactors abroad fueled with material produced or enriched by the United States, who possess or will possess reactor materials, and for whom the AEC has determined that chemical processing services are not available from commercial fuel processors in the United States at reasonable terms and charges, to receive such reactor materials at AEC-designated facilities and to make a settlement therefor in accordance with this notice and other established AEC policies. This settlement will take into account the charges for chemical processing and conversion of the returned materials to the standard forms for which specifications and prices have been established by the AEC. The AEC may chemically process and convert all or part of such returned materials to the extent, in such manner, and at such time and place as it determines advisable, or otherwise dispose of such materials as the AEC may deem advisable.

3. A firm charge for such a service will be part of each contract, subject to escalation in accordance with an appropriate recognized price index. The term of the contract may extend from its date of execution until the following dates:

a. For reactor materials from light water-type power reactors, December 31, 1970.

b. For reactor materials from power reactors other than those of the light water-type, December 31, 1977.

c. For reactor materials from research reactors, December 31, 1970, or such later date as the Commission may determine if commercial processing services are not reasonably available.

Although the terms of the contracts will be for the foregoing period, the AEC will not be committed to accept any particular quantity of reactor materials for more than 360 days after the AEC shall have determined that commercial chemical processing services are not available at reasonable terms and charges for such reactor materials.

4. The charge for chemical processing will depend upon, among other things, the form, content, and other specifications of the reactor materials in question. It will be expressed in terms of a daily charge, fixed by AEC to apply over the time required to process the reactor materials in question.

5. For those reactor materials which can be processed by an assumed chemical processing plant, the establishment of the firm charge by AEC will be based upon the costs estimated to be associated with that plant. Copies of the report describing the assumed processing plant, (WASH-748, AEC Reference Fuel-Processing Plant) are available from USAEC, Washington, D.C. 20545. Briefly, the plant consists of equipment capable of handling one ton per day of normal and slightly enriched uranium, but having a reduced capacity for fuels of higher enrichments or high diluent contents, as determined by the criticality and other processing considerations set on the assumed plant. "Head-end" (handling, mechanical treatment, dissolution, and feed storage) equipment is designed to handle a variety of reactor materials. The product form assumed to be produced by the plant is a purified nitrate salt solution.

6. The estimated installed cost of the assumed plant, upon which firm daily processing charges will be based, is $20,970,000 as of July, 1966. The AEC has determined that the total annual cost, as of July, 1966, for operation of the assumed plant is $4,592,000, of which $2,057,000 is annual depreciation of the facility, and $2,535,000 is cost of operations, overhead, and waste storage. The amount which represents depreciation shall be adjusted, to reflect changes in price levels since 1966, in accordance with the Official Monthly Construction Cost Indices, as appearing in Engineering News-Record, published by McGraw-Hill Publishing Co. The amount which represents costs of operations, overhead, and waste storage shall be adjusted in accordance with the price indices for Inorganic Chemicals, as appearing in Wholesale Prices and Price Indexes, published by the U.S. Bureau of Labor Statistics. If one or both of the indices specified are considered by AEC to be no longer appropriate, other indices will be substituted therefor by AEC. Based on this estimated annual cost, a daily cost based on 300 days of operation per year ($15,300 as of July, 1966) will be the basis for the charge for those reactor materials which can be processed in the assumed plant as presently conceived.

7. The individual contracts will define (1) a total charge in connection with chemical processing and conversion of reactor materials delivered, (2) the specifications of the reactor materials to be delivered, and (3) the batch size or sizes upon which the charge is based. In arriving at the charge, the following factors will be used:

a. The daily cost of plant operation.

(1) For those reactor materials which the assumed plant as presently conceived can process, the daily cost of plant operations is $15,300 as of July, 1966, or

(2) For those reactor materials which the AEC determines involve significantly different costs or which cannot be processed without additions or modifications to the assumed plant, the daily cost of plant operation will be established on a cost-by-case basis for the particular reactor material involved. This daily cost of plant operation will include an appropriate factor to cover AEC overhead and other indirect or intangible costs. (The AEC currently is undertaking studies of several alternative bases upon which to develop specific processing costs, rather than on a case-by-case basis, for uranium-zirconium hydride fuel types discharged from research reactors, and graphite-type fuel discharged from power reactors.)

b. The reactor material processing rate.

(1) For those reactor materials which the assumed plant as presently conceived can process, the processing rate for the particular reactor material will be determined from the extraction portion of the process flow charts used in establishing the assumed plant, or

(2) For those reactor materials which the AEC determines involve significantly different costs or which cannot be processed without additions or modifications to the assumed plant, the processing rate will be established on a case-by-case basis for the particular reactor material involved. (The AEC currently is undertaking studies of several alternative bases upon which to develop specific processing rates, rather than on a case-by-case basis, for uranium-zirconium hydride fuel types discharged from research reactors, and graphite-type fuel discharged from power reactors.)

c. A charge, when U.S. Government-owned uranium or plutonium is to be processed, to cover losses made at the rate of one percent of the value of such material. The value of any such material which was provided to the person under a lease agreement with the AEC shall be determined in accordance with the lease agreement between the person and the AEC. Unless waived by the AEC, a use charge on such material will also be made to cover the normal processing time after delivery of reactor materials to the AEC.

d. A charge for the conversion to uranium hexafluoride of the purified nitrate salt of uranium (except uranium enriched in the isotope uranium-233) produced by the AEC in its processing of reactor materials as follows:

(1) Conversion of purified low-enrichment uranyl nitrate into UF_6, $6.00 per kilogram contained uranium.

(2) Conversion of purified high-enrichment uranyl nitrate into UF_6, $63 per kilogram contained uranium.

As used in this section "low-enrichment uranium," means 5 percent (by weight) and less of U^{235} in total uranium, and "high enrichment uranium" means more than 5 percent (by weight) of U^{235} in total uranium.

e. A charge, when U.S. Government-owned uranium is to be processed, to cover the loss of material which would normally occur in the conversion of the nitrate salt of uranium into uranium hexafluoride equivalent to three-tenths of 1 percent of the value or worth of the uranium to be converted into uranium hexafluoride. The value of the uranium shall be determined as set forth in section 7(c) of this notice. Unless waived by the AEC, a use charge shall be made covering normal time for the conversion to uranium hexafluoride of the nitrate salt of uranium (except uranium enriched in the isotope uranium-233) recovered from uranium held by the person under a lease agreement with the AEC.

f. Batch size determination: The size of the processing batch to be shipped shall be as specified by the person, provided that if the processing batch contains any uranium or plutonium provided to the person under a lease agreement with the AEC which, at any time after the date of termination of irradiation of such material, was not subject to a use charge under the lease agreement, the size of such processing batch shall be subject to the following:

(1) The person may specify as a batch any amount of components of reactor materials to the extent that the dates of termination of irradiation of all components occurred during any continuous period of 1 year. The date of termination of irradiation for any component of reactor material means the date on which the reactor loading containing the component of reactor material was last made subcritical before the component of reactor material was discharged from the reactor;

(2) The person may also specify as a batch any amount of components of reactor materials notwithstanding that the dates of termination of irradiation of all components occurred during a continuous period in excess of 1 year, on the condition that the person will pay to the AEC, in addition to any charges set forth in this notice, a charge equivalent to the use charge provided for in the lease agreement with the AEC with respect to all leased material in the batch, such charge to be computed for each component of reactor material of the batch beginning on the date when the component of reactor material was considered to be cooled and ending when delivery of the total batch to the AEC was completed. Reactor material shall be considered as being cooled when the period specified below has elapsed subsequent to termination of irradiation of the reactor material.

If thorium had not been incorporated in the reactor material assemblies prior to irradiation, the cooling periods are as follows:

(aa) For uranium that contained not more than 6-weight percent of uranium-235 in total uranium before irradiation and that has been irradiated in a nuclear reactor in which the neutron energies were primarily in the thermal region, the cooling period for the purposes of this notice shall be 120 days.

(bb) For uranium not meeting the conditions in (aa) above, the cooling period for the purposes of this notice will be determined by the AEC on request by the person, but will not exceed 180 days.

If thorium had been incorporated in the reactor material assemblies prior to irradiation, the cooling period for the purposes of this notice shall be as given in the following table where the value used for grams of protactinium-233 per kilogram of uranium-

233 shall be determined as a whole for each thorium-containing component of reactor material in the batch. Linear interpolation shall be used between the values tabulated.

Grams of protactinium-233 per kilogram of uranium-233 immediately after termination of irradiation:	Cooling period in days
20 or less	120
45	160
75	170
140	190
250	210
500	230

g. Time required to cover startup, shutdown, and cleanup of the process system between batches which will be not less than 2 days nor more than 8 days, and will equal the processing time determined under subsections 7 (b) and (f) when between these limits.

8. Persons who have contracted with the AEC for these processing services will be credited with the value of U.S. Government-owned uranium and plutonium contained in the reactor materials in accordance with the appropriate AEC price schedules for such materials, less the processing and other charges as determined in the above manner. The AEC will compensate the person for privately owned uranium and plutonium contained in the reactor materials in accordance with the AEC policy in effect at the time of delivery of the reactor materials by the person to the AEC. The compensation by the AEC will consist of cash where appropriate, otherwise it will consist of the provision of materials of equivalent value. The AEC will thereby acquire title to such uranium and plutonium. The AEC will also acquire title, without additional cost, to all waste materials contained in the reactor materials which were not previously the property of the United States.

9. The AEC will permit persons to combine batches with those of other persons in order to obtain a lower processing charge. Persons must notify the AEC of their intent to combine batches prior to delivery of any reactor materials to be included in a proposed batch. Specific arrangements for the combining of batches must meet with AEC approval and such arrangements must include a formula for distributing the processing charges as well as the other settlement factors associated with the return of reactor materials to the AEC.

10. Notwithstanding anything to the contrary appearing in this notice, the charge through December 31, 1970, for chemical processing only of enriched uranium (other than U^{233})—aluminum alloy spent fuels of the type which the assumed plant can process shall be $145 per kilogram of the total weight of uranium and aluminum metal contained in the processing batch: *Provided*, That the processing batch contains less than 400 kilograms of total weight of uranium and aluminum metal and the U^{235} content of the processing batch does not exceed 10 percent of the total weight of the uranium and aluminum metal. All other charges provided for in this notice, such as for conversion, losses of material, and use charges, shall apply to any such processing batch of spent fuels. The provisions of this paragraph 10 shall be applicable only in the event that a person agrees to accept the AEC's determination of the amount of uranium contained in a processing batch, which determination shall be based upon the AEC's statistical measurement methods. (It should be noted that the AEC charge of $145 per kilogram of uranium and aluminum metal for processing uranium-aluminum alloy fuel delivered to AEC in batches of less than 400 kilograms of metal incorporates the advantages of actual processing by AEC of relatively large batches of accumulated fuel in large AEC facilities and proportionate sharing of the costs of processing and waste storage with other AEC operations at the same site. The AEC estimates that the $145 per kilogram of metal charge covers applicable direct and indirect costs, separate headend measurements, depreciation, waste storage costs, and AEC's overhead charge.)

11. Additional information concerning this notice may be obtained from the U.S. Atomic Energy Commission, Washington, D.C. 20545.

[F.R. Doc. 67-12813; Filed, Oct. 31, 1967; 8:45 a.m.]

[Docket No. 50-206]

UNITED NUCLEAR CORP.

Notice of Extension of Completion Date

The Atomic Energy Commission has issued an order extending to December 1, 1967, the latest completion date for Construction Permit No. CPCX-37. The permit authorizes United Nuclear Corp. to construct a critical experiment facility (Proof Test Facility) on its Remote Experimental Station site near Pawling, N.Y.

Copies of the order and the application, dated October 13, 1967, by United Nuclear Corp., are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 23d day of October 1967.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[F.R. Doc. 67-12814; Filed, Oct. 31, 1967; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 18974; Order E-26689]

JAMESTOWN AVIATION CO.

Establishment of Final Service Mail Rate; Order To Show Cause

Issued under delegated authority October 26, 1967.

By petition, filed on September 5, 1967, Jamestown Aviation Co. requests the Board to establish a final service mail rate of 65 cents per mile for the transportation of mail by aircraft between Jamestown, N.Y., and Buffalo, N.Y.

Petitioner is currently engaged in business as an air taxi under Part 298 of the Board's economic regulations. Petitioner will utilize both single and twin engine Piper aircraft in the proposed service, and believes the rate proposed constitutes a fair and reasonable final service mail rate for this service. In its answer, filed September 15, 1967, the Post Office supported Jamestown Aviation's petition, and stated it believed the proposed rates represent fair and reasonable rates for the services which petitioner will perform.

By Order E-25876, October 25, 1967, in this docket, the Board determined to permit petitioner to provide the proposed air transportation of mail for the period terminating June 30, 1969. Since no mail rate is presently in effect for this carrier in these markets, it is necessary to fix and determine the fair and reasonable rate of compensation to be paid to Jamestown Aviation Co. by the Postmaster General for the air transportation of mail.

Under the circumstances, the Board finds it in the public interest to fix and determine the fair and reasonable rates of compensation to be paid to Jamestown Aviation Co. by the Postmaster General for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the petition and other matters officially noticed, the Board proposes to issue an order,[1] to include the following findings and conclusions:

1. That the fair and reasonable final service mail rate to be paid to Jamestown Aviation Co., pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith between Jamestown, N.Y., and Buffalo, shall be 65 cents per mile;

2. The final service mail rate here fixed and determined is to be paid in its entirety by the Postmaster General.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302 and 14 CFR Part 385(f):

It is ordered, That: 1. All interested persons and particularly Jamestown Aviation Co., the Postmaster General, Allegheny Airlines, Inc., and Mohawk Airlines, Inc., are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above, as the fair and reasonable rate of compensation to be paid to Jamestown Aviation Co. for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and if there is any objection to the rate or to the other findings and conclusions proposed herein, notice thereof shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after the date of service of this order;

[1] As this order to show cause does not constitute a final action and merely affords interested persons an opportunity to be heard on the matters herein proposed, it is not regarded as subject to the review provisions of Part 385 (14 CFR, Part 385). The provisions of that Part dealing with petitions for Board review will be applicable to any final action which may be taken by the staff in this matter under authority delegated in § 385.14(g).

3. If notice of objection is not filed within 10 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Jamestown Aviation Co., the Postmaster General, Allegheny Airlines, Inc., and Mohawk Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-12891; Filed, Oct. 31, 1967; 8:50 a.m.]

[Docket No. 16014]

REVISED CHARGES FOR LIVE ANIMALS AND BIRDS

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled matter is assigned to be heard on November 21, 1967, at 10 a.m., e.s.t., in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the Board.

Dated at Washington, D.C., October 26, 1967.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 67-12892; Filed, Oct. 31, 1967; 8:50 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 17818; FCC 67M-1810]

BRAINERD VIDEO

Order Scheduling Hearing

In re cease and desist order to be directed against Brainerd Video, owner and operator of a CATV system at Brainerd, Minn.; Docket No. 17818.

It is ordered, That Forest I. McClenning shall serve as presiding officer in the above-entitled proceeding; that the hearings therein shall be convened on November 30, 1967, at 10 a.m.; and that a prehearing conference shall be held on November 22, 1967, commencing at 9 a.m.: *And, it is further ordered*, That all proceedings shall take place in the Offices of the Commission, Washington, D.C.

Issued: October 26, 1967.

Released: October 26, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-12893; Filed, Oct. 31, 1967; 8:51 a.m.]

[Docket No. 16792; FCC 67M-1813]

CITY OF CAMDEN AND L & P BROADCASTING CORP.

Order Regarding Procedural Dates

In re application of City of Camden (Assignor), Docket No. 16792, File No. BAL-5702; and L & P Broadcasting Corp. (Assignee); for assignment of license of station WCAM, Camden, N.J.

The Hearing Examiner having under consideration the joint petition for continuance filed on October 24, 1967, by the City of Camden and L & P Broadcasting Corp.;

It appearing, that as a consequence of the designation of the instant application for hearing agreement has been reached between the parties looking toward the assignment of the contract to a third party, the filing of an application with the Commission to effectuate the proposed assignment of license and dismissal of the instant application.

It further appearing, that the contemplated action requires preliminary actions by the City Council of the City of Camden and resolution of other statutory procedural matters which will require a minimum period of 70 days;

It further appearing, that all parties have consented to immediate consideration and grant of the instant request and good cause for grant thereof is shown:

It is ordered, That all previously established procedural dates herein are canceled including the date for commencement of hearing on November 27, 1967, and the proceeding is continued without date.

Issued: October 25, 1967.

Released: October 26, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-12896; Filed, Oct. 31, 1967; 8:51 a.m.]

[Docket No. 17817; FCC 67M-1811]

COSMOS CABLEVISION CORP.

Order Scheduling Hearing

In re petition by Cosmos Cablevision Corp., Darlington, S.C., Docket No. 17817, File No. CATV 100-182; for authority pursuant to § 74.1107 of the rules to serve and operate a CATV system in the Columbia, S.C., television market.

It is ordered, That Herbert Sharfman shall serve as Presiding Officer in the above-entitled proceeding; that the hearings therein shall be convened on December 13, 1967, at 10 a.m.; and that a prehearing conference shall be held on November 15, 1967, commencing at 9 a.m.: *And, it is further ordered*, That all proceedings shall take place in the offices of the Commission, Washington, D.C.

Issued: October 26, 1967.

Released: October 26, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-12897; Filed, Oct. 31, 1967; 8:51 a.m.]

[Docket Nos. 17768-17778; FCC 67M-1807]

GENERAL TELEPHONE COMPANY OF THE NORTHWEST, INC.

Order Continuing Hearing

In re applications of General Telephone Company of the Northwest, Inc., Docket No. 17763, File No. 5661-C1-P-66; for a construction permit to establish new facilities in the Domestic Public Point-to-Point Microwave Radio Service at Everett, Wash.; for a construction permit to establish new facilities in the Domestic Public Point-to-Point Microwave Radio Service at Deer Creek Flat near Index, Wash., Docket No. 17764, File No. 5662-C1-P-66; for a construction permit to establish new facilities in the Domestic Public Point-to-Point Microwave Radio Service at Maloney Lookout near Skykomish, Wash., Docket No. 17765, File No. 5663-C1-P-66; for a construction permit to establish new facilities in the Domestic Public Point-to-Point Microwave Radio Service at Stevens Pass near Scenic, Wash., Docket No. 17766, File No. 5664-C1-P-66; General Telephone Company of the Northwest, Docket No. 17767, File No. 5665-C1-P-66; for a construction permit to establish new facilities in the Domestic Public Point-to-Point Microwave Radio Service at Richland, Wash.; for a construction permit to establish new facilities in the Domestic Public Point-to-Point Microwave Radio Service at Sentinel Mountain near Beverly, Wash., Docket No. 17768, File No. 5666-C1-P-66; for a construction permit to establish new facilities in the Domestic Public Point-to-Point Microwave Radio Service at Quincy, Wash., Docket No. 17769, File No. 5667-C1-P-66; for a construction permit to establish new facilities in the Domestic Public Point-to-Point Microwave Radio Service at Horselake Mountain near Wenatchee, Wash., Docket No. 17770, File No. 5668-C1-P-66; for a construction permit to establish new facilities in the Domestic Public Point-to-Point Microwave Radio Service at Miners Ridge near Lake Wenatchee Resort Area, Wash., Docket No. 17771, File No. 5669-C1-P-66; for a construction permit to

establish new facilities in the Domestic Public Point-to-Point Microwave Radio Service at Wenatchee, Wash., Docket No. 17772, File No. 5670-C1-P-66; for a construction permit to establish new facilities in the Domestic Public Point-to-Point Microwave Radio Service at Lake Wenatchee near Plain, Wash., Docket No. 17773, File No. 5671-C1-P-66.

Pursuant to a prehearing conference as of this date: *It is ordered*, That the exchange of the direct written cases shall be accomplished on or before December 22, 1967, and the notification of witnesses desired for cross-examination shall be accomplished on or before January 3, 1968;

It is further ordered, That the hearing now scheduled for November 21, 1967, be and the same is hereby rescheduled for January 22, 1968, 10 a.m., in the Commission's offices, Washington, D.C.

Issued: October 25, 1967.

Released: October 26, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-12896; Filed, Oct. 31, 1967; 8:51 a.m.]

[Docket Nos. 17770, 17779; FCC 67M-1814]

GRAYSON TELEVISION CO., INC., AND HERCULES BROADCASTING CO.

Order Regarding Procedural Dates

In re applications of Grayson Television Co. Inc., Sacramento, Calif., Docket No. 17778, File No. BPCT-3688; Hercules Broadcasting Co., Sacramento, Calif., Docket No. 17779, File No. BPCT-3812; for construction permit for new television broadcast station (Channel 13).

A prehearing conference having been held on October 25, 1967:

It is ordered, That:

(1) The direct cases of the parties shall be presented primarily in the form of sworn, written exhibits, but may be supplemented by oral testimony;

(2) On or before December 18, 1967, the parties shall exchange copies of any exhibits to be offered in support of their direct cases, together with a list of all witnesses to be presented orally and a brief statement as to the scope of the testimony of each such witness;

(3) Any party wishing the sponsor of any exhibit produced for cross-examination shall give notification thereof on or before January 5, 1968; and

(4) Hearing shall commence on January 15, 1968, at 10 a.m. in the offices of the Commission at Washington, D.C.

Issued: October 25, 1967.

Released: October 26, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-12899; Filed, Oct. 31, 1967; 8:51 a.m.]

[Docket Nos. 17742, 17743; FCC 67M-1804]

PATRIOT STATE TELEVISION, INC., AND BOSTON HERITAGE BROADCASTING, INC.

Order Continuing Hearing

In re applications of Patriot State Television, Inc., Boston, Mass., Docket No. 17742, File No. BPCT-3771; Boston Heritage Broadcasting, Inc., Boston, Mass., Docket No. 17743, File No. BPCT-3794; for construction permit for new television broadcast station (Channel 68).

Pursuant to a prehearing conference as of this date: *It is ordered*, That the hearing now scheduled for December 18, 1967, be and the same is hereby rescheduled for January 29, 1968, 10 a.m., in the Commission's offices, Washington, D.C.

Issued: October 24, 1967.

Released: October 26, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-12900; Filed, Oct. 31, 1967; 8:51 a.m.]

[Docket No. 17738; FCC 67M-1797]

DONALD J. ROBERTSON

Order Scheduling Hearing

In the matter of Donald J. Robertson, Milwaukie, Oreg., Docket No. 17735; order to show cause why the license for radio station KOX-2747 in the Citizens Radio Service should not be revoked.

It is ordered, That Basil P. Cooper shall serve as Presiding Officer in the above-entitled proceeding; and that the hearing therein shall be convened in the offices of the Commission, Washington, D.C., on January 10, 1968, at 10 a.m.

Issued: October 24, 1967.

Released: October 26, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-12901; Filed, Oct. 31, 1967; 8:51 a.m.]

[Docket No. 17635; FCC 67M-1806]

T. J. SHRINER

Order Continuing Hearing

In re application of T. J. Shriner, Bellaire, Texas, Docket No. 17635, File No. BP-12137; for construction permit.

For the reasons advanced in an order released October 9, 1967 (FCC 67M-1671): *It is ordered*, That the hearing herein presently scheduled for November 8, 1967, be and the same is hereby continued without date.

Issued: October 25, 1967.

Released: October 26, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-12902; Filed, Oct. 31, 1967; 8:51 a.m.]

[Docket No. 17186; FCC 67M-1798]

VESTAL VIDEO, INC., AND EASTERN MICROWAVE, INC.

Order Scheduling Further Prehearing Conference

In the matter of Vestal Video, Inc., Vestal, N.Y., Complainant, versus Eastern Microwave, Inc., Syracuse, N.Y., Defendant, Docket No. 17186.

Upon the unopposed verbal request of counsel for Eastern Microwave, Inc.: *It is ordered*, That a further hearing conference in lieu of hearing in the above-entitled proceeding will be held November 6, 1967, 9 a.m., in the offices of the Commission, Washington, D.C.

Issued: October 24, 1967.

Released: October 26, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-12905; Filed, Oct. 31, 1967; 8:51 a.m.]

[FCC 67-1176]

STANDARD BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING

In accordance with the Commission's action of October 25, 1967, granting a waiver of §§ 73.37(a) and 1.571(c) of its rules to permit acceptance and expeditious consideration of this application to reestablish the deleted facilities of Station WZZZ, Boynton Beach, Fla., notice is hereby given that on December 5, 1967, the following application:

Boynton Beach, Fla., North American Broadcasting Co., Inc., Req: 1510 kc, 1 kw, Day, Class II.

will be considered as ready and available for processing. Similarly, we hereby waive the provisions of these sections for timely filed applications proposing essentially the same facilities at Boynton Beach, Fla. Pursuant to the provisions of §§ 1.227(b)(1) and 1.591(b) of the rules, an application, in order to be considered with this application, or with any other application on file by the close of business on December 4, 1967, which involves a conflict necessitating a hearing with this application, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by whichever date is earlier: (a) The close of business on December 4, 1967, or (b) the earlier effective cut-off date which this application or any other conflicting application may have by virtue of conflicts necessitating a hearing with applications appearing on previous lists.

The attention of any party in interest desiring to file pleadings concerning the above application pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for the provisions governing the time of filing and other requirements relating to such pleadings.

Adopted: October 25, 1967.

Released: October 27, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-12903; Filed, Oct. 31, 1967; 8:51 a.m.]

[Docket No. 14419; FCC 67-1191]

GUIDELINES FOR PRESUNRISE OPERATING AUTHORITY WAIVER REQUESTS

Order Revising Memorandum Opinion and Order

In the matter of amendment of the rules with respect to hours of operation of standard broadcast stations, Docket No. 14419, RM-386.

1. On October 11, 1967, the Commission adopted a memorandum opinion and order (FCC 67-1143), paragraph 65(c) of which provided as follows:

> Existing presunrise operations on 930 kc/s by stations having PSA proposals on file (but not presently grantable because of the outstanding stay order involving this frequency) may continue beyond October 28, 1967, pending final outcome of WBEN v. USA & FCC (Case No. 31633, U.S. Court of Appeals, Second Circuit), but such operations shall be adjusted in accordance with the agreement with Canada respecting time and permissible power.

2. The Commission has, on its own motion, reconsidered the above-quoted language in light of the order entered October 2, 1967, by the U.S. Court of Appeals (Second Circuit) staying the grant of any presunrise service authority (PSA) on 930 kc/s which would cause interference within the protected service area of Radio Station WBEN, Buffalo, N.Y.

3. Forty-seven standard broadcast stations on this channel are eligible for PSA's under the new presunrise rules. 47 CFR 73.99. Nineteen (19) of the 47 would cause nighttime interference to WBEN if 500-watt PSA's were granted under the new rules. The grant of these stations' PSA proposals now is clearly proscribed by the terms of the stay. Two (2) of the 19, however, are presently operating during the presunrise hours by virtue of our inaction on WBEN's long-standing petitions to deny their applications for renewal of station license: WITN, Washington, N.C., and WEEV, Sevierville, Tenn. A question obtains as to whether these two stations, and any other stations similarly operating, may be allowed to continue their existing "permissive" operations beyond October 28, 1967, as contemplated by paragraph 65(c), supra, without violating the mandate of the court.

4. Upon reconsideration of this matter, we have concluded that continued presunrise operation beyond the October 28 deadline by stations in this category, under the "permissive" provisions of former § 73.87 of the rules, would be inconsistent with the October 2 stay. We therefore find it necessary to terminate all sources of objectionable interference within WBEN's normally protected nighttime service area until such time as the WBEN litigation is concluded.

5. *Accordingly, it is ordered*, That paragraph 65(c) of the Commission's memorandum opinion and order of October 11, 1967, is revised to read as follows:

> Pending final outcome of WBEN, Inc. v. USA & FCC (Case No. 31633, U.S. Court of Appeals, Second Circuit), no presunrise operation shall be authorized under § 73.99 of the rules, nor continued under former § 73.87 of the rules, if objectionable interference would be caused within WBEN's normally protected nighttime service area.

Adopted: October 25, 1967.

Released: October 27, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-12904; Filed, Oct. 31, 1967; 8:51 a.m.]

[1] Commissioner Bartley absent.

[2] Commissioners Bartley and Wadsworth absent.

FEDERAL MARITIME COMMISSION

MEDITERRANEAN-USA GREAT LAKES WESTBOUND FREIGHT CONFERENCE

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. Eric G. Brown, Secretary, Mediterranean-USA Great Lakes Westbound Freight Conference, 10, Place de la Joliette, Marseilles, France.

Agreement No. 9020-8, between the members of the Mediterranean-USA Great Lakes Westbound Freight Conference, modifies the basic agreement (1) by substituting Cadiz for Sevilla as a loading port from September 15, 1967, to the end of the open water season in Article 3 and (2) by amending Article 9 to provide that a call at Cadiz will count as a call at Sevilla in fulfilling service obligations.

Dated: October 27, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-12873; Filed, Oct. 31, 1967; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP68-37]

MICHIGAN WISCONSIN PIPE LINE CO. AND MICHIGAN CONSOLIDATED GAS CO.

Notice of Petition To Amend

OCTOBER 25, 1967.

Take notice that on October 18, 1967, Michigan Wisconsin Pipe Line Co. (Michigan), One Woodward Avenue, Detroit, Mich. 48226, and Michigan Consolidated Gas Co. (Consolidated), One Woodward Avenue, Detroit, Mich. 48226 (Petitioners), filed in Docket No. CP68-37 a petition to amend the order issued by the Commission September 22, 1967, by authorizing petitioners to increase the volumes of natural gas delivered to Great Lakes Gas Transmission Co. (Lakes) from 5 million Mcf to 8 million Mcf, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the abovementioned order, Michigan was authorized to transport for Lakes up to 5 million Mcf of natural gas for a period of 90 days pending completion of Lakes' phase I facilities, said volumes to be delivered by Michigan to Consolidated who would in turn redeliver equal volumes to Lakes at an interconnection in the Belle River Mills Storage Field, St. Claire County, Mich., said volumes to be transported by Lakes for the account of Trans-Canada Pipe Lines Ltd. (Transcan). By the instant filing, petitioners seek authorization to increase the volumes to be delivered from the 5 million Mcf presently authorized to the 8 million Mcf requested by Lakes. Petitioners state that the original agreement provided for the abovementioned deliveries for a period of 90 days

until Lakes could complete its phase I facilities, said facilities to have been completed by November 1, 1967. Lakes has now indicated to petitioners that such facilities can not be completed before the end of November 1967, and as November 1 is the beginning of Transcan's new contract year and such new contracts call for greater volumes of natural gas, it is necessary that petitioners provide such additional volumes to enable Transcan to meet its market requirements until the completion of the facilities mentioned above.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before November 24, 1967.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-12831; Filed, Oct. 31, 1967; 8:45 a.m.]

[Docket No. CP68-124]

NORTHERN NATURAL GAS CO.

Notice of Application

OCTOBER 24, 1967.

Take notice that on October 18, 1967, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP68-124 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant seeks authorization to construct and operate a measuring station to enable it to deliver to Southern Union Gas Co. (Southern) volumes of natural gas on a standby basis. Applicant states that the proposed measuring station will be located on applicant's 20-inch pipeline, Upton County, Tex., near the facilities of Southern. Applicant further states that such facilities will be used to provide emergency service to Southern of up to 2,000 Mcf per day of natural gas in the event that Southern's gas supply is interrupted or curtailed and will be made only after applicant has determined that such deliveries can be made without impairing service to its other customers. Applicant also states that the service proposed above will be rendered pursuant to a contract between applicant and Southern, dated July 31, 1967, under which Southern will pay applicant $360 per year plus 29¢ per Mcf for all gas delivered.

Applicant estimates the total cost of the facilities proposed at approximately $1,145, said cost to be reimbursed in full by Southern.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before November 24, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-12832; Filed, Oct. 31, 1967; 8:45 a.m.]

[Docket Nos. RI67-453, RI67-454]

SAMEDAN OIL CORP. ET AL.

Order Amending Order Providing for Hearings on and Suspension of Proposed Changes in Rates To Permit Substitute Rate Filings

OCTOBER 25, 1967.

On May 31, 1967, Samedan Oil Corp. and Samedan Oil Corp. et al. (both referred to herein as Samedan) filed with the Commission proposed rate increases from 15.0 cents to 17.0 cents[1] and 17.0 cents to 18.0 cents[2] under its FPC Gas Rate Schedule Nos. 11 and 15, respectively, which pertain to its jurisdictional sales of natural gas from Love County, Okla. (Oklahoma "Other" Area) and Beaver County, Okla. (Panhandle Area) to Cimarron Transmission Co. and Northern Natural Gas Co., respectively. The Commission by order issued June 16, 1967, in Docket Nos. RI67-453 and RI67-454, suspended for 5 months Samedan's rate filings until December 1, 1967, and thereafter until made effective in the manner prescribed by the Natural Gas Act. Samedan's proposed rate increases have not been made effective pursuant to section 4(e) of the Natural Gas Act.

On October 2, 1967, Samedan submitted amended notices of change in rates, designated as Supplement No. 1 to Supplement Nos. 6 and 4 to Samedan's FPC Gas Rate Schedule Nos. 11 and 15, respectively, amending the supplements to the aforementioned rate schedules to provide for rate increases to 17.0175 cents (Supplement No. 1 to Supplement No. 6) and 18.015 cents (Supplement No. 1 to Supplement No. 4) instead of the 17.0 cents and 18.0 cents per Mcf rates filed on May 31, 1967. Samedan now proposes to further increase the suspended rates to include partial tax reimbursement for the increase in the Oklahoma Excise Tax which became effective on July 1, 1967.

Samedan's proposed 17.0175 cents and 18.015 cents per Mcf rates exceed the area ceiling for increased rates in Oklahoma "Other" and Panhandle Areas as announced in the Commission's Statement of General Policy No. 61-1, as amended, as did the previously suspended rates in said dockets. Since Samedan's amended filings include partial reimbursement for the tax increase imposed by the State of Oklahoma, we believe that it would be in the public interest to accept the amended filings subject to the suspension proceedings in Docket Nos. RI67-453 and RI67-454, with the suspension periods of such amended rate filings to terminate concurrently with the suspension periods (December 1, 1967) of the original rate filings in said docket.

Samedan request a retroactive effective date of July 1, 1967, the date the Oklahoma tax increase became effective, for their amended rate filings. Good cause has not been shown for waiving the 30-day notice requirement provided by section 4(d) of the Natural Gas Act to permit an earlier effective date for Samedan's proposed rate filings and such requests are denied.

The Commission orders:

(A) The suspension order issued June 16, 1967, in Docket Nos. RI67-453 and RI67-454, is amended only so far as to permit the 17.0175 cents and 18.015 cents rates provided in Supplement No. 1 to Supplement Nos. 6 and 4 to Samedan's FPC Gas Rate Schedule Nos. 11 (Samedan) and 15 (Samedan et al.), respectively, to be filed to supersede 17.0 cents and 18.0 cents per Mcf rates contained in Supplement Nos. 6 and 4 to the aforementioned rate schedules, subject to the suspension proceedings in Docket No. RI67-453 and RI67-454. The suspension periods for such substitute filings shall terminate concurrently with the suspension periods (December 1, 1967) presently in effect in said dockets.

(B) In all other respects, the order issued by the Commission on June 16, 1967, in Docket Nos. RI67-453 and RI67-454, shall remain unchanged and in full force and effect.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-12833; Filed, Oct. 31, 1967; 8:45 a.m.]

[Docket No. CP68-125]

UNITED GAS PIPE LINE CO.

Notice of Application

OCTOBER 25, 1967.

Take notice that on October 18, 1967, United Gas Pipe Line Co. (Applicant), Post Office Box 1407, Shreveport, La. 71102, filed in Docket No. CP68-125 an application pursuant to subsection (c) of section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the installation and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to install and operate one 550 horsepower Ingersoll-Rand compressor unit and appurtenant piping facilities at its Jackson Compressor Station, Rankin County, Miss. Applicant states that the proposed compressor unit will be used to provide additional flexibility during the injection cycle of the Jackson Storage Field and to reinforce mainline service during peak periods.

Applicant estimates the total cost of the facilities proposed at approximately $90,550, said cost to be financed from funds on hand.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (§ 157.10) on or before November 24, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-12834; Filed, Oct. 31, 1967; 8:46 a.m.]

FEDERAL RESERVE SYSTEM

BARNETT NATIONAL SECURITIES CORP.

Order Approving Applications Under Bank Holding Company Act

In the matter of the applications of Barnett National Securities Corp., Jacksonville, Fla., for approval of acquisition of 80 percent or more of the voting shares of The American National Bank & Trust Co. in Winter Haven, Winter Haven, Fla., and The American National Bank in Cypress Gardens, Cypress Gardens, Fla.

There have come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.4 (a)(3) of Federal Reserve Regulation Y (12 CFR 222.4(a)(3)), applications by Barnett National Securities Corp., Jacksonville, Fla., for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of The American National Bank & Trust Co. in Winter Haven, Winter Haven, Fla., and The American National Bank in Cypress Gardens, Cypress Gardens, Fla.

As required by section 3(b) of the Act, the Board notified the Comptroller of the Currency of the applications and requested his views and recommendation. The Comptroller recommended approval of both applications.

Notice of receipt of the applications was published in the FEDERAL REGISTER on July 26, 1967 (32 F.R. 10939), providing an opportunity for interested persons to submit comments and views with respect to the proposals. A copy of each of the applications was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

It is hereby ordered, For the reasons set forth in the Board's Statement[1] of this date, that said applications be and hereby are approved, provided that the acquisitions so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

Dated at Washington, D.C., this 25th day of October 1967.

By order of the Board of Governors.[2]

[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 67-12836; Filed, Oct. 31, 1967; 8:46 a.m.]

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Atlanta.

[2] Voting for this action: Chairman Martin, and Governors Robertson, Daane, Maisel, and Brimmer. Absent and not voting: Governors Mitchell and Sherrill.

SECURITIES AND EXCHANGE COMMISSION

[File No. 7-2755]

GULF & WESTERN INDUSTRIES, INC. (DELAWARE)

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

OCTOBER 26, 1967.

In the matter of application of the Pacific Coast Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Gulf & Western Industries, Inc. (Delaware), File No. 7-2755.

Upon receipt of a request, on or before November 9, 1967, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-12838; Filed, Oct. 31, 1967; 8:46 a.m.]

INTERAMERICAN INDUSTRIES, LTD.

Order Suspending Trading

OCTOBER 25, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the capital stock of Interamerican Industries, Ltd., Calgary, Alberta, Canada, being traded in the United States otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in the United States in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period October 26, 1967, through November 4, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-12837; Filed, Oct. 31, 1967; 8:46 a.m.]

[812-2197]

NUVEEN TAX-EXEMPT BOND FUND, SERIES 16

Notice of Filing of Application for Order of Exemption

OCTOBER 25, 1967.

Notice is hereby given that Nuveen Tax-Exempt Bond Fund, Series 16 ("Applicant"), 209 South LaSalle Street, Chicago, Ill. 60604, a unit investment trust registered under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section 6(c) of the Act for an order of the Commission exempting Applicant from compliance with the provisions of section 14(a) of the Act. In substance, section 14(a) of the Act provides that no registered investment company shall make a public offering of securities of which it is the issuer unless it has a new worth of at least $100,000. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

Applicant is one of a series of 16 similar funds, named "Nuveen Tax-Exempt Bond Funds, Series 1–16," organized pursuant to a Trust Indenture and Agreement ("Trust Agreement") between John Nuveen & Co. (Inc.), as sponsor, and United States Trust Company of New York, as trustee. It is contemplated that the Sponsor will deposit with the Trustee under the Trust Agreement a minimum of $8 million principal amount of municipal bonds and will receive in exchange therefor certificates of undivided interest in Applicant. It is proposed to offer such units for sale to the public and for this purpose a registration statement under the Securities Act of 1933 has been filed and has not yet become effective. The Trust Agreement provides in substance that no additional bonds will be deposited during the life of the Trust and no additional units will be issued. The proceeds of bonds which may be sold, redeemed or matured will be distributed to unit holders. Units may be redeemed by the holders at their current net asset value. The Trust may be terminated by written consent of 100 percent of the unit holders of Applicant, or, in the event that the value of the Applicant shall fall below 20 percent of the aggregate principal amount of bonds initially deposited therein, upon direction of the sponsor to the trustee.

In connection with the requested exemption, the sponsor has agreed to refund the original price including sales load, paid by purchasers for units, if within 90 days after the registration of Applicant under the 1933 Act becomes effective, the net worth of Applicant shall be reduced to less than $100,000. Applicant further represents that at the present time the sponsor maintains a market for the units of the Nuveen Tax-Exempt Bond Funds, with which it is similarly connected, and continually offers to purchase such units at prices which exceed the redemption price for such units by amounts which depend upon general market conditions. In addition, it is the sponsor's intention to maintain a market for the units of Applicant and to continually offer to purchase such units at prices in excess of the redemption price as set forth in the trust agreement, although the sponsor is not obligated to do so.

Notice is further given that any interested person may, not later than November 14, 1967, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after such date, as provided by Rule A–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67–12839; Filed, Oct. 31, 1967; 8:47 a.m.]

[File No. 1–1277]

PENROSE INDUSTRIES CORP.

Order Suspending Trading

OCTOBER 25, 1967.

The common stock $1 par value, of Penrose Industries Corp., being listed and registered on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and the 5 percent Cumulative Convertible Preferred stock, $20 par value of Penrose Industries Corp., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the American Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period October 26, 1967 through November 4, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67–12840; Filed, Oct. 31, 1967; 8:47 a.m.]

POWER OIL CO.

Order Terminating Summary Suspension of Trading

OCTOBER 25, 1967.

The common stock of Power Oil Co., Houston, Tex., and all other securities of Power Oil Co. being traded otherwise than on a national securities exchange; and

The Commission having, on October 20, 1967, issued an order pursuant to section 15(c)(5) of the Securities Exchange Act of 1934 summarily suspending trading in said securities effective for the period October 22, 1967, through October 31, 1967; and

The Commission being of the opinion that the public interest does not require the continuance of said suspension of trading after October 29, 1967:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that the suspension of trading pursuant to said order of October 20, 1967, shall terminate effective at the opening of business on October 30, 1967.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67–12841; Filed, Oct. 31, 1967; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 470]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

OCTOBER 27, 1967.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission, under the Commission's Deviation Rules Revised, 1957 (49 CFR 211.1(c)(8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1(d)(4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1(e)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 1124 (Deviation No. 26) (Correction), HERRIN TRANSPORTATION COMPANY, Post Office Box 1140, Houston, Tex. 77001, filed September 5, 1967, amended September 25, 1967. Previous notice published in the FEDERAL REGISTER on October 18, 1967, was in error in describing the proposed deviation route. The correct deviation route as proposed is as follows: From Memphis, Tenn., over U.S. Highway 72 to junction Alternate U.S. Highway 72, thence over Alternate U.S. Highway 72 to junction Alabama Highway 67, at or near Decatur, Ala., thence over Alabama Highway 67 to junction U.S. Highway 278, thence over U.S. Highway 278 to Macon, Ga., and return over the same route for operating convenience only.

No. MC 30311 (Deviation No. 5), A.C.E.—FREIGHT, INC., Post Office Box 123, Northfield, Ohio 44067, filed October 18, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Marion, Ohio, over U.S. Highway 23 to junction U.S. Highway 40, thence over U.S. Highway 40 to junction Interstate Highway 70, thence over Interstate Highway 70 (U.S. Highway 40) to New Stanton, Pa., thence over U.S. Highway 119 to junction U.S. Highway 22, thence over U.S. Highway 22 to junction U.S. Highway 422, at Ebensburg, Pa., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: From Youngstown, Ohio, over U.S. Highway 422, to junction Ohio Highway 169, thence over Ohio Highway 169 to Warren, Ohio, thence over Ohio Highway 5 to Akron, Ohio, thence over Ohio Highway 18 to Medina, Ohio, thence over U.S. Highway 42 to Mansfield, Ohio, thence over U.S. Highway 30–S to Lima, Ohio, thence over U.S. Highway 25 to Wapakoneta, Ohio, thence over U.S. Highway 33 to St. Marys, Ohio, thence over Ohio Highway 29 to the Ohio-Indiana State line, thence over Indiana Highway 67 to Indianapolis, Ind., thence over Indiana Highway 34 to Crawfordsville, Ind. (also from the Ohio-Indiana State line over Indiana Highway 67 to junction unnumbered highway approximately 2 miles east of Anderson, Ind., thence over unnumbered highway to junction Indiana Highway 32, thence over Indiana Highway 32 to Crawfordsville), thence continuing over Indiana Highway 34 to the Indiana-Illinois State line, thence over Illinois Highway 10 to Danville, Ill., thence over U.S. Highway 150 to Peoria, Ill., (2) from Youngstown, Ohio, over U.S. Highway 62 via Salem, Ohio, to Canton, Ohio, thence over Ohio Highway 8 to Akron, Ohio (also from Youngstown over Ohio Highway 18 to Akron; also from Salem over Ohio Highway 14 to Edinburg, Ohio, thence over Ohio Highway 18 to Akron), thence to Mansfield as specified above, thence over U.S. Highway 30–N to Delphos, Ohio, thence over U.S. Highway 30 to Van Wert, Ohio, thence over U.S. Highway 224 to Huntington, Ind., thence over U.S. Highway 24 to Peoria, Ill., (3) from Tiffin, Ohio, over Ohio Highway 100 to junction Ohio Highway 19, thence over Ohio Highway 19 to Bucyrus, Ohio, thence over Ohio Highway 4 to Marion, Ohio, and (4) from Akron, Ohio, over Ohio Highway 18 to Youngstown, Ohio (also from Akron over Ohio Highway 8 to Canton, Ohio, thence over U.S. Highway 30 to junction Ohio Highway 7, thence over Ohio Highway 7 to Youngstown), thence over U.S. Highway 422 to New Castle, Pa. (also from Akron over U.S. Highway 224 to New Castle), thence over U.S. Highway 422 to Ebensburg, Pa., and return over the same routes.

No. MC 30311 (Deviation No. 6), A.C.E.—FREIGHT, INC., Post Office Box 123, Northfield, Ohio 44067, filed October 19, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Akron, Ohio, over Interstate Highway 80S to junction Interstate Highway 80 west of Youngstown, Ohio, thence over Interstate Highway 80 to New York, N.Y., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Akron, Ohio, over Ohio Highway 18 to Youngstown, Ohio (also from Akron, over Ohio Highway 8 to Canton, Ohio, thence over U.S. Highway 30 to junction Ohio Highway 7, thence over Ohio Highway 7 to Youngstown), thence over U.S. Highway 422 to New Castle, Pa. (also from Akron over U.S. Highway 224 to New Castle, Pa.), thence over U.S. Highway 422 to Ebensburg, Pa., thence over U.S. Highway 22 to Newark, N.J., thence over U.S. Highway 9 to junction U.S. Highway 9W, thence over U.S. Highway 9W to Albany, N.Y. (also from Newark, over U.S. Highway 9 to Albany), and thence over New York Highway 32 to Troy N.Y., and return over the same routes.

No. MC 107363 (Deviation No. 2), HELPHREY MOTOR FREIGHT, INC., 3417 East Springfield, Spokane, Wash., 99202, filed October 17, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Portland, Oreg., over Interstate Highway 80–N to junction U.S. Highway 730, hence over U.S. Highway 730 to junction U.S. Highway 395, thence over U.S. Highway 395 to junction Interstate Highway 90, thence over Interstate Highway 90 to Spokane, Wash., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Coram, Mont., over U.S. Highway 2 to junction unnumbered highway approximately 2 miles east of Glasgow, Mont., thence over unnumbered highway to the site of the Glasgow Air Force Base, approximately 22 miles northeast of Glasgow, Mont., (2) from Glasgow, Mont., over Montana Highway 24 to Fort Peck, Mont., (3) from Havre, Mont., over U.S. Highway 2 to junction U.S. Highway 87, thence over U.S. Highway 87 to Great Falls, Mont., (4) Browning Mont., over U.S. Highway 2 to junction U.S. Highway 89, thence over U.S. Highway 89 to Great Falls, Mont., (5) from Shelby, Mont., over U.S. Highway 2 to junction U.S. Highway 91, thence over U.S. Highway 91 to Great Falls, Mont., (6) from Spokane, Wash., over U.S. Highway 2 (formerly Alternate U.S. Highway 10) to Wilbur, Wash., thence over Washington Highway 21 to junction Washington Highway 174 (formerly Washington Highway 4–C), thence over Washington Highway 174 to Coulee Dam, Wash., thence over Washington Highway 155 (formerly Washington Highway 10–A), to Omak, Wash. (also from Wilbur over U.S. Highway 2 (formerly Alternate U.S. Highway 10) to junction Washington Highway 17 (formerly Washington Highway 10), thence over Washington Highway 17 to junction Washington Highway 172, thence over Washington Highway 172 via Mansfield, Wash., to junction unnumbered highway, thence over unnumbered highway to junction Washington Highway 17 (formerly portion Washington Highway 10), thence over Washington Highway 17 to Brewster, Wash., thence over U.S. Highway 97 to Omak), thence over U.S. Highway 97 to Oroville, Wash., (5) from Oroville, Wash., over U.S. Highway 97 to the U.S.-Canada boundary line, (7) from Wenatchee, Wash., over U.S. Highway 2 to junction U.S. Highway 97, thence over U.S. Highway 97 to Brewster, Wash., (8) from Brewster, Wash., over Washington Highway 173 (formerly Washington Highway 10) to junction Washington Highway 17, thence over Washington Highway 17 to junction Washington Highway 174, thence over Washington Highway 174 to Grand Coulee, Wash., (9) from Tonasket, Wash., over Washington Highway 30 to Republic, Wash., (10) from Grand Coulee, Wash., over Washington Highway 155 to Coulee City, (11) from Coulee City, Wash., over U.S. Highway 2 to junction Washington Highway 17, thence over Washington Highway 17 to junction Washington Highway 28, thence over Washington Highway 28 via Quincy to Wenatchee, Wash., (12) from Spokane, Wash., over U.S. Highway 2 to junction U.S. Highway 97, thence over U.S. Highway 97, to Teanaway, Wash., thence over U.S. Highway 10 to Seattle Wash., (13) from Quincy, Wash., over Washington Highway 28 to junction Washington Highway 283 (formerly U.S. Highway 10), thence over Washington Highway 283 to junction U.S. Highway 10, thence over U.S. Highway 10 to Ellensburg, Wash., (14) from Prosser, Wash., over U.S.

Highway 410 to Yakima, Wash., thence over U.S. Highway 97 to Ellensburg, Wash., thence over U.S. Highway 10 to Teanaway, Wash., and (15) from Yakima, Wash., over U. S. Highway 97 to Maryhill, Wash., thence over U.S. Highway 830 to Vancouver, Wash., thence over U.S. Highway 99 to Portland, Oreg., and return over the same routes.

MOTOR CARRIER OF PASSENGERS

No. MC 1515 (Deviation No. 410), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, Ohio 44113, filed October 18, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From Kalamazoo, Mich., over U.S. Highway 131 to Grand Rapids, Mich., with the following access routes (1) from Plainwell, Mich., over Michigan Highway 89 to junction U.S. Highway 131, (2) from Martin, Mich., over Michigan Highway 118 to junction U.S. Highway 131, and (3) from Wayland, Mich., over unnumbered county highway to junction U.S. Highway 131, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Kalamazoo, Mich., over unnumbered highway (formerly U.S. Highway 131) via Plainwell, Martin and Wayland, Mich., to Grand Rapids, Mich., and return over the same route.

No. MC 13300 (Deviation No. 12), CAROLINA COACH COMPANY, 1201 South Blount Street, Raleigh, N.C. 27602, filed October 16, 1967. Carrier's representative: James E. Wilson, 1735 K Street NW., Washington, D.C. 20006. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Norfolk, Va., over Interstate Highway 264 to junction Virginia Highway 44, thence over Virginia Highway 44 to Virginia Beach, Va., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: Between Norfolk, Va., and Virginia Beach, Va., over U.S. Highway 58.

No. MC 61598 (Deviation No. 5), SMOKY MOUNTAIN STAGES, INC., Post Office Box 2387, Charlotte, N.C. 28201, filed October 17, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Chattanooga, Tenn., over Interstate Highway 75 to Cleveland, Tenn., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Chattanooga, Tenn., over U.S. Highway 64 to Ranger, N.C., and return over the same route.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-12876; Filed, Oct. 31, 1967; 8:49 a.m.]

[Notice 1118]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

OCTOBER 27, 1967.

The following publications are governed by Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER issue of April 20, 1966, which became effective May 20, 1966.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 114904 (Sub-No. 125) (Republication), filed September 9, 1966, published FEDERAL REGISTER issue of October 6, 1966, and republished this issue. Applicant: WRIGHT MOTOR LINES, INC., Post Office Box 1191, Cushing, Okla., 74023. Applicant's representative: Marion F. Jones, 420 Denver Club Building, Denver, Colo. 80202. By application filed September 9, 1966, applicant seeks a certificate of public convenience and necessity, authorizing operation in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of foodstuffs and dog foods, in cans in cartons, not requiring refrigeration, and not in bulk or in tank vehicles, from Gentry, Ark., Siloam Springs, Ark., the plantsite of Allen Canning Co., approximately 10 miles east of Siloam Springs, Ark., and Kansas, Okla., to Douglas, Flagstaff, Kingman, Phoenix, and Tucson, Ariz., Great Bend, Hutchinson, Liberal, Topeka, and Wichita, Kans., points in Nebraska, and Albuquerque, Gallup, and Santa Fe, N. Mex., and Abilene, Amarillo, Austin, Big Springs, Brownsville, Brownwood, Bryan, El Paso, Houston, Lubbock, Odessa, San Angelo, San Antonio, Tyler, Waco, and Wichita Falls, Tex. The application was referred to Examiner Harry M. Schooman for hearing and the recommendation of an appropriate order thereon. Hearing was held on March 8, 1967, at Little Rock, Ark.

A report and order of the Commission, Division 1, served August 7, 1967, which became effective September 9, 1967, by notice served September 18, 1967, as amended, finds that the present and future public convenience and necessity require operation by applicant as a common carrier by motor vehicle, in interstate or foreign commerce, over irregular routes, of (a) *canned goods* and (b) *dog food*, in packages, from the plantsites of Allen Canning Co. located at Gentry, Ark., Siloam Springs, Ark., at a point approximately 10 miles east of Siloam Springs, Ark., at Kansas and Proctor, Okla., to Great Bend, Liberal, Salina, Topeka, Hutchinson, and Wichita, Kans., points in Nebraska, and Albuquerque, Gallup, and Santa Fe, N. Mex., Abilene, Amarillo, Austin, Big Spring, Brownsville, Brownwood, Bryan, El Paso, Houston, Lubbock, Odessa, San Angelo, San Antonio, Tyler, Waco, and Wichita Falls, Tex., restricted (a) to traffic originating at and destined to the origins and destinations specified, and (b) against the transportation of dog food to points in Kansas and Nebraska, other than when moving in mixed loads with the commodities specified in (a) above; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 117590 (Sub-No. 1) (Republication), filed January 25, 1965, published FEDERAL REGISTER issue of February 17, 1965, and republished this issue. Applicant: WOOD BY-PRODUCTS, INC., 420 28th Street North, Lewiston, Idaho. Applicant's representative: Donald A. Ericson, Suite 706, Old National Bank Building, Spokane, Wash. By decision and order entered May 8, 1967, the Commission, Operating Rights Review Board Number 2, affirmed the findings of the examiner in its report and recommended order served July 28, 1966, as to a need for the proposed operations as a contract carrier by motor vehicle of wood chips and sawdust between numerous counties in Idaho, Washington, and Oregon, but found that the holding of such permit by applicant and the holding by the affiliated carrier, Zirbel Transport, Inc., of a certificate in No. MC 93633 (Sub-No. 1) had not been shown to be consistent with the public interest and the national transportation policy under section 210 of the act. In the said order entered December 22, 1966, Operating Rights Board No. 1 proposed several alternatives by which the above-mentioned objectionable dual operations might be removed, including as pertinent, a petition for conversion of the authority held in No. MC 117590 and sought in No. MC 117590 (Sub-No. 1) from contract to common carriage. By separate petitions filed June 12, 1967, applicants in the above-entitled proceedings seek (a) reconsideration of the said order of December 22, 1967, and the said decision and order of May 8, 1967.

(b) Elimination of the objectionable dual operations by a conversion of the authority sought in No. MC 117590 (Sub-No. 1) from contract to common carriage and a cancellation of the authority held in No. MC 117590 conditioned upon a grant of authority in the said Sub-No. 1 proceeding, and (c) amendment of the application in the latter proceeding so as to seek a certificate; that the relief sought by applicants herein is an appropriate method for eliminating the objectionable dual operations; and that upon conversion of the authority sought in No. MC 117590 (Sub-No. 1) from contract to common carriage and revocation of the permit held in No. MC 117590, the issue as to dual operations under section 210 of the act will be eliminated; that the proceeding in No. MC 117590 (Sub-No. 1), be and it was hereby, reopened for reconsideration on the present record; and that the order of May 8, 1967, be, and it is hereby, vacated and set aside. An order of the Commission, Division 1, acting as an Appellate Division, dated October 16, 1967, served October 25, 1967, as amended, finds that in No. MC 117590 (Sub-No. 1) the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of *wood chips and sawdust*, between points in Boundary, Bonner, Kootenai, Benewah, Lewis, Latah, Shoshone, Clearwater, Nez Perce, and Idaho Counties, Idaho, those in Morrow, Grant, Harney, Umatilla, Malheur, Wallowa, Union, and Baker Counties, Oreg., and those in Okanogan, Chelan, Grant, Benton, Douglas, Ferry, Stevens, Columbia, Asotin, Pend Oreille, Lincoln, Spokane, Adams, Whitman, Franklin, Walla Walla, and Garfield Counties, Wash.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder; and that an appropriate certificate should be issued conditioned upon receipt from applicant of a request in writing for coincidental cancellation of the permit held in No. MC 117590.

Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 127028 (Sub-No. 2) (Republication) filed October 3, 1966, published FEDERAL REGISTER issue of October 20, 1966, and republished this issue. Applicant: BREDEHOEFT PRODUCE CO., INC., Decatur, Ark. 72722. Applicant's representative: Louis Tarlowski, 914 Pyramid Life Building, Little Rock, Ark. 72201. By application filed October 3, 1966, applicant seeks a certificate of public convenience and necessity authorizing operation in interstate or foreign commerce, as a common carrier, by motor vehicle, over irregular routes, of (1) foodstuffs and dog food, in cans, in cartons, not requiring refrigeration, and not in bulk or in tank vehicles, from Gentry and Siloam Springs, Ark., the plantsite of Allen Canning Co., approximately ten (10) miles east of Siloam Springs, and Kansas, Okla., to Douglas, Flagstaff, Kingman, Phoenix, and Tucson, Ariz., Great Bend, Liberal, Salina, Topeka, and Wichita, Kans., Bowling Green, Louisville, Paducah, and Pikeville, Ky., Alexandria, Baton Rouge, Lake Charles, New Orleans, and Shreveport, La., Baltimore, Md., Albuquerque, Gallup, and Santa Fe, N. Mex., Cincinnati, Cleveland, Columbus, Dayton, and Toledo, Ohio, Harrisburg, Philadelphia, and Pittsburgh, Pa., Abilene, Amarillo, Austin, Big Spring, Brownsville, Brownwood, Bryan, El Paso, Houston, Lubbock, Odessa, San Angelo, San Antonio, Tyler, Waco, and Wichita Falls, Tex., Danville, Norfolk, Richmond, and Roanoke, Va., and Charleston, W. Va., restricted (a) to traffic originating at and destined to the origins and destinations specified, and (b) against the transportation of dog food to points in Kansas, other than when moving in mixed loads with the commodities specified in (A) above; (C) *empty cans, and closures therefor*, from Arlington and Houston, Tex., New Orleans and Harvey, La., to Siloam Springs, Ark.; and (D) *raw sugar*, in bags, from New Orleans, La., to Siloam Springs, Ark.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

NOTICE OF FILING OF PETITION

No. MC 35465 (Notice of Filing of Petition for Waiver of Rule 101(e), and Acceptance of This Petition for Filing, Reopening and Reconsideration and Modification of Certificate), filed August 30, 1967. Petitioner: GRANE TRUCKING COMPANY, INC., Chicago, Ill. Petitioner's representative: Beverley S. Simms, 430 Mills Building, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006. Petitioner is authorized in No. MC 35465 to transport general commodities, except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points and places in that part of the Chicago, Ill., commercial zone, as defined by the Commission in 1 M.C.C. 673, located in Illinois. By the instant petition, petitioner prays the Commission to waive rule 101(e) of the general rules of practice and accept for filing this petition for reconsideration; and upon reconsideration to find: (1) That the record herein established the right to a grandfather certificate authorizing service between all points in the Chicago commercial zone, including specifically those located in Indiana; (2) that the restriction contained in petitioner's certificate limiting its service to those points in the zone located in Illinois is not in accord

with the evidence or the Commission's policy, and should therefore be deleted; and (3) that a corrected certificate should be issued authorizing unrestricted service between points in the Chicago, Ill., commercial zone, as defined by the Commission in 1 M.C.C. 673. Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATION FOR CERTIFICATE OR PERMIT WHICH IS TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 1.240 TO THE EXTENT APPLICABLE

No. MC 129456 (Sub-No. 1), filed October 19, 1967. Applicant: TRANS CANADIAN COURIERS, LTD., 119 Adelaide Street, West, Toronto 1, Ontario, Canada. Applicant's representative: Russell S. Bernhard, 1625 K Street, NW., Washington, D.C. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, written instruments, and business records* (except currency and negotiable securities) as are used in the business of banks and banking institutions, from the international boundary line between the United States and Canada located at the Niagara River at or near Niagara Falls, N.Y., and Fort Erie, Ontario, to the municipality of Buffalo, N.Y., under contract with the Royal Bank of Canada. NOTE: Applicant states it possesses authority to transport these commodities from the municipality of Metropolitan Toronto and the city of Hamilton to the international boundary at the Niagara River at or near Niagara Falls and Fort Erie for furtherance to points in the United States which was granted to it by Ontario Highway Transport Board. Applicant now requires authority from the Interstate Commerce Commission to perform transportation from the United States-Canadian border to the municipality of Buffalo, N.Y., in order to be able to render the complete service. This application is a matter directly related to Docket No. MC-F-9912, published FEDERAL REGISTER issue of October 25, 1967. If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-9915. Authority sought for merger into ALASKA STEAMSHIP COMPANY, Pier 42, Seattle, Wash. 98134, of the operating rights and property of KETCHIKAN WHARF COMPANY, Pier 42, Seattle, Wash. 98134, and for acquisition by SKINNER CORPORATION, and, in turn by D. E. SKINNER, both of Seventh Floor, Skinner Building, Seattle, Wash. 98101, of control of such rights and property through the transaction. Applicants' attorney: Edward G. Lowry III, 14th Floor, Norton Building, Seattle, Wash. 98104. Operating rights sought to be merged: *General commodities*, except those of unusual value, classes A and B explosives, and commodities in bulk, in wheelless van bodies, as a *common carrier*, over irregular routes, between points in Juneau, Alaska, between points in Ketchikan, Alaska. ALASKA STEAMSHIP COMPANY, is authorized to temporarily operate as a common carrier in the State of Alaska, and it controls AAA TRANSFER, INC., 558 Occidental Avenue South, Seattle, Wash. 98104, which is authorized to operate as a *common carrier* in the State of Washington. Application has not been filed for temporary authority under section 210a(b). NOTE: ALASKA STEAMSHIP COMPANY, controls KETCHIKAN WHARF COMPANY, through ownership of capital stock pursuant to authority granted in Docket No. MC-F-9577, effective May 24, 1967, and consummated July 20, 1967.

No. MC-F-9916. Authority sought for control and merger by HALL'S MOTOR TRANSIT COMPANY, 5th and Vine Streets, Sunbury, Pa., of the operating rights and property of SUPER SONIC SERVICE, INC., Greenville, Pa., and for acquisition by JOHN N. HALL, 1151 South 21st Street, Harrisburg, Pa., and W. LEROY HALL, 300 West Willow Street, Carlisle, Pa., of control of such rights and property through the transaction. Applicants' attorneys and representatives, respectively: John E. Fullerton, 407 North Front Street, Harrisburg, Pa. 17101, Russell R. Saga, 2001 Massachusetts Avenue NW., Washington, D.C. 20036, and M. E. Brunner, 5th and Vine Streets, Sunbury, Pa. Operating rights sought to be controlled and merged: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Youngstown, Ohio, and Oil City, Pa., serving all intermediate points; and the off-route points of Clarks Mills and New Lebanon, Pa., between Youngstown, Ohio, and Meadville, Pa., between Youngstown, Ohio, and Titusville, Pa., serving all intermediate points, and certain off-route points, between Hermitage, Pa., and Ellwood City, Pa., serving all intermediate points; and the off-route points of Koppel and Pulaski, Pa.; *general commodities*, excepting, among others, household goods and commodities in bulk, over irregular routes, between Greenville, Pa., on the one hand, and, on the other, points in Ohio and Pennsylvania within 80 miles of Greenville; and *cream*, from points in Mercer and Crawford Counties, Pa., to Conneaut, Ohio. HALL'S MOTOR TRANSIT COMPANY, is authorized to operate as a *common carrier* in Pennsylvania, New York, Connecticut, New Jersey, Ohio, Maryland, Delaware, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-9917. Authority sought for purchase by LIGON SPECIALIZED HAULER, INC., Post Office Box L, Madisonville, Ky. 42431, of a portion of the operating rights of JERRY LIPPS, INC., 130 South Frederick, Cape Girardeau, Mo. 63701, and for acquisition by RALPH LIGON, also of Madisonville, Ky., of control of such rights through the purchase. Applicants' attorneys: Robert M. Pearce, Central Building, 1033 State Street, Bowling Green, Ky. 42101, and Thomas F. Kilroy, 913 Colorado Building, 1341 G Street NW., Washington, D.C. 20005. Operating rights sought to be transferred: *Water-well casing, pipe, and tubing*, except those requiring the use of special equipment because of size or weight, as a *common carrier*, over irregular routes, from certain specified points in Illinois, and Louisiana, Mo., to points in Alabama, Arizona, Florida, Georgia, Louisiana, Mississippi, New Mexico, North Carolina, South Carolina, and Tennessee; *steel sheets, plates, channels, angles, crop ends, mine roof washers, pallets, and couplings*, from certain specified points in Illinois, to points in Alabama, Arizona, Florida, Georgia, Louisiana, Mississippi, New Mexico, North Carolina, South Carolina, and Tennessee; *casing, pipe, and tubing*, from Irvington and Sparta, Ill., to points in Alabama, Arizona, Florida, Georgia, Louisiana, Mississippi, New Mexico, North Carolina, South Carolina, and Tennessee; with restriction; and *pipe*, except those articles which because of size or weight require the use of special equipment, from St. Louis, Mo., to points in Illinois and Indiana. Vendee is authorized to operate as a *common carrier* in all States (except Alaska and Hawaii) and the District of Columbia; and as a *contract carrier* in all States (except Alaska, Hawaii, Idaho, Nevada, New Mexico, North Dakota, Wyoming, and the District of Columbia). Application has not been filed for temporary authority under section 210a(b).

No. MC-F-9918. Authority sought for purchase by MERCURY FREIGHT LINES, INC., Post Office Box 1247, 710 North Joachim Street, Mobile, Ala., of a portion of the operating rights and certain property of SAM N. COLE, doing business as ALABAMA-GEORGIA EXPRESS, 1701 First Avenue South, Birmingham, Ala., and for acquisition by CLARENCE LEVI, also of Mobile, Ala., of control of such rights and property through the purchase. Applicants' attorney and representative: Drew L. Carraway, 618 Perpetual Building, Washington, D.C. 20004, and SAM N. COLE, 1701 First Avenue South, Post Office Box 3327, Birmingham, Ala. Operating rights sought to be transferred: *General commodities*, except explosives, and commodities requiring special equipment, as a *common carrier*, over a regular route, between Birmingham, Ala., and Atlanta, Ga., serving certain intermediate and off-route points, with restriction; and *general commodities*, except explosives, and commodities requiring special equipment, over irregular routes, between Birmingham, Ala., and points within 15 miles of Birmingham, on the one hand, and, on the other, certain specified points in Georgia. Vendee is authorized to operate as a *common carrier* in Alabama, Florida, Texas, and Mississippi. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-9919. Authority sought for purchase by M. BRUENGER & CO., INC., 6330 North Broadway, Wichita, Kans. 67214, of a portion of the operating rights of H. L. HERRIN, JR., 4928 Jefferson Highway, New Orleans, La. 70123, and for acquisition by M. BRUENGER, also of Wichita, Kans., of control of such rights through the purchase. Applicants' attorney: J. F. Miller, 7501 Mission Road, Shawnee Mission, Kans. 66208. Operating rights sought to be transferred: *Bananas*, as a *common carrier*, over irregular routes, from Gulfport, Miss., to points in Oklahoma, Kansas, and Missouri, except St. Louis and points in St. Louis and Cape Girardeau Counties, Mo. Vendee is authorized to operate as a *common carrier* in California, Kansas, Missouri, Oklahoma, Texas, Arizona, Washington, Louisiana, New Mexico, Florida, Utah, Colorado, and Nevada. Application has been filed for temporary authority under section 210a(b).

No. MC-F-9920. Authority sought for purchase by PLAGGE TRUCK LINE, INC., 251 18th Street SE., Mason City, Iowa 50401, of a portion of the operating rights of SECO TRUCKING CO., 219 North Jackson, Mason City, Iowa 50401, and for acquisition by DUANE R. PLAGGE and DON A. PLAGGE, both of 251 18th Street SE., Mason City, Iowa, of control of such rights through the purchase. Applicants' attorney: Clayton L. Wornson, 824 Brick and Tile Building, Mason City, Iowa 50401. Operating rights sought to be transferred: *Fertilizer*, in containers, as a *contract carrier*, over irregular routes, from Mason City, Iowa, to points in Minnesota, Wisconsin, and the Upper Peninsula of Michigan. Vendee is authorized to operate as a *contract carrier* in Iowa, Minnesota, Illinois, North Dakota, and South Dakota. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-9921. Authority sought for purchase by BOWMAN TRANSPORTATION, INC., 1010 Stroud Avenue, East Gadsden, Ala. 35903, of a portion of the operating rights and certain property of ALABAMA HIGHWAY EXPRESS, INC., 3300 South Fifth Avenue, Birmingham, Ala. 35205, and for acquisition by RALPH M. BOWMAN, also of East Gadsden, Ala., of control of such rights and property through the purchase. Applicants' attorney: Maurice F. Bishop, 327 Frank Nelson Building, Birmingham, Ala. 35203. Operating rights sought to be transferred: *General commodities*, except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, as a *common carrier*, over irregular routes, between points in Alabama within 65 miles of Birmingham, Ala., including Birmingham, on the one hand, and, on the other, Louisville, Ky., points in Indiana, and Tennessee, and certain specified points in Florida, Illinois, and Ohio. RESTRICTION: The authority granted immediately above is restricted against the transportation of cement and lime from origin points of Leeds, Roberta, Ragland, and North Birmingham, Ala.; *tires and tubes*, in shipments weighing not less than 10,000 pounds each from any one consignor, from Cumberland, Md., and points within 10 miles of Cumberland, to certain specified points in Alabama; *tire fabric*, in shipments weighing not less than 15,000 pounds each from any one consignor, from certain specified points in Georgia, and Decatur, Ala., to Cumberland, Md., and points within 10 miles of Cumberland; *empty spools, winding cores, core discs, and core protectors*, from Cumberland, Md., and points within 10 miles of Cumberland, to certain specified points in Georgia, and Decatur, Ala.; and *tires, tubes and rubber products*, from Cumberland, Md., to Atlanta, Ga. Vendee is authorized to operate as a *common carrier* in Alabama, Tennessee, South Carolina, Virginia, Maryland, Georgia, Florida, North Carolina, Mississippi, Arkansas, Kentucky, Louisiana, Delaware, West Virginia, Connecticut, New Jersey, New York, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b). NOTE: F.D. 24792, simultaneously filed.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 67-12875; Filed, Oct. 31, 1967; 8:49 a.m.]

[Notice 488]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 27, 1967.

The following are notices of filing of applications for temporary authority under section 210a (a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67, (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protest must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIER OF PROPERTY

No. MC 25798 (Sub-No. 161 TA) filed October 20, 1967. Applicant: CLAY HYDER TRUCKING LINES, INC., 502 East Bridgers Avenue, Post Office Box 1186, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* as described in Parts A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766; from Fremont and Scottsbluff, Nebr.; Huron and Mitchell, S. Dak.; to points in Alabama, Florida, Georgia, North Carolina, and South Carolina; for 180 days. Supporting shipper: Geo. A. Hormel & Co., Post Office Box 800, Austin, Minn. 55912. Send protests to: Joseph B. Teichert, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1226, 51 Southwest First Avenue, Miami, Fla. 33130.

No. MC 97216 (Sub-No. 2 TA), filed October 23, 1967. Applicant: LARRY TREBINO CONSTRUCTION COMPANY, INC., 5 Cypress Drive, Burlington, Mass. 01803. Applicant's representative: Arthur A. Wentzell, Post Office Box 729, Worcester, Mass. 01601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Granite chips*, from Chelmsford and Littleton, Mass., to Danbury, Hartford, Newington, and North Haven, Conn.; *stone grit*, graded to size, from Plainville, Walpole, and Wrentham, Mass.; to Danbury, Hartford, Newington, and North Haven, Conn.; *dry expanded shale*, from Plainville, Mass., to Danbury, Hartford, Newington, and North Haven, Conn.; *sand*, screened, from Monson, Mass., to Danbury, Hartford, Newington, and North Haven, Conn.; *pumice*, from Boston, Mass., New Haven, Conn., North Haven, Conn., Portsmouth, N.H., to Acton, Medford, and Woburn, Mass.; *quartz* and *topaz*, from Lyndeboro, N.H., to Acton, Mass., Danbury, Conn., Hartford, Conn., Medford, Mass., Newington, Conn., North Haven, Conn. The above to be transported in bulk, in dump vehicles, for 150 days. Supporting shipper: Plasticrete Corp., 1883 Dixwell Avenue, Hamden, Conn. 06514. Send protests to: James F. Martin, Jr., Assistant Regional Director, Interstate Commerce Commission, Bureau of Operations, John F. Kennedy Building, Government Center, Boston, Mass. 02203.

No. MC 106760 (Sub-No. 85 TA), filed October 20, 1967. Applicant: WHITEHOUSE TRUCKING, INC., 2905 Airport Highway, Toledo, Ohio 43614. Applicant's representative: O. L. Thee (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings*, knocked down or in sections or *prefabricated*

building sections and components together with materials necessary for the construction and erection thereof; from points in Pinellas County, Fla., to points in Alabama, Arkansas, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia; for 180 days. Supporting: Florida Development Services, Inc., St. Petersburg, Pinellas County, Fla. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5234 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 113362 (Sub-No. 139 TA), filed October 20, 1967. Applicant: ELLSWORTH FREIGHT LINES, INC., 220 East Broadway, Eagle Grove, Iowa 50533. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, dairy products, and articles distributed by meat packinghouses*, as described in appendix I, sections A, B, and C, *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, 766, from the plantsites of John Morrell & Co., at Sioux Falls and Madison, S. Dak., to points in Ohio, Michigan, Pennsylvania, Maine, New Hampshire, Vermont, Connecticut, Massachusetts, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, West Virginia, and District of Columbia; for 180 days. Supporting shipper: John Morrell & Co., 1400 North Weber Avenue, Sioux Falls, S. Dak. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 227 Federal Office Building, Des Moines, Iowa 50309.

No. MC 113843 (Sub-No. 137 TA), filed October 20, 1967. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils, (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods;* (1) from Indianapolis, Ind., to Cleveland, Ohio; (2) from Quincy, Ill., to points in Indiana, Ohio, Michigan, Pennsylvania, New York, New Jersey, Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia; for 180 days. Supporting shipper: Stouffer's, Stouffer Foods Corp., 1375 Euclid Avenue, Cleveland, Ohio 44115. Send protests to: Richard D. Mansfield, District Supervisor, Interstate Commerce Commission, Bureau of Operations, John F. Kennedy Federal Building, Government Center, Boston, Mass. 02203.

No. MC 116073 (Sub-No. 74 TA) filed October 20, 1967. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, Moorhead, Minn. 56561. Applicant's representative: John C. Barrett, 1825 Main Avenue, Moorhead, Minn. 56561. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Travel trailers, pickup campers and special purpose trailers*, in truckaway service; from points in Natrona County, Wyo.; to points in Arizona, Arkansas, California; Colorado, Idaho, Iowa, Kansas, Louisiana, Minnesota, Montana, Missouri, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming; for 180 days. Supporting shipper: Banner Homes Corp., Post Office Box 2186, Casper, Wyo. 82601. Send protests to: Joseph H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1621 South University Drive, Room 213, Fargo, N. Dak. 58102.

No. MC 119639 (Sub-No. 2 TA) filed October 19, 1967. Applicant: INCO EXPRESS, INC., 436 South Massachusetts, Seattle, Wash. 98134. Applicant's representative: Joseph O. Earp, 411 Lyon Building, 607 Third Avenue, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meat and meat products and articles* distributed by meat packinghouses as defined in Parts A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766; (2) *foods, frozen*, or those requiring refrigeration; (3) *dairy products*, frozen or requiring refrigeration; (4) *commodities*, the transportation of which would otherwise be exempt from economic regulation pursuant to the provisions of section 203(b)(6) of the Interstate Commerce Act, when transported in mixed loads with the articles named in (1) through (3) above; (a) between points in Washington, on the one hand, and, on the other, points in California and Oregon; (b) between points in California, on the one hand, and, on the other, points in Oregon; for 180 days. Supporting shippers: Avoset Co., 5131 Shattuck Avenue, Oakland, Calif. 94609; Coast Packing Co., Inc., Post Office Box 11202, Portland, Oreg. 97211; Deaver Specialty Sales Co., 2500 Gilman Drive West, Seattle, Wash. 98119; Del Pero-Mondon Meat Co., 1109 Chestnut Street, Marysville, Calif. 95901; Henry House Packing Co., Inc., 1051 Fourth Avenue South, Seattle, Wash. 98134; Jerry Leipold Co., 935 South Caplan, Anaheim, Calif. 92802; Libby, McNeill & Libby, Post Office Box 3887, Seattle, Wash.; Manning's, Inc., 901 Battery Street, San Francisco, Calif. 94111; Ollie Welch Meat Co., Inc., Post Office Box 5636, Kenton Station, Portland, Oreg.; Perry Farms, 500 Terry Avenue North, Seattle, Wash. 98104; and S & P Meats, Post Office Box 4186, Spokane, Wash. 99202. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 123273 (Sub-No. 15 TA), filed October 20, 1967. Applicant: MIDWESTERN EXPRESS, INC., Post Office Box No. 189, Fort Scott, Kans. 66701. Applicant's representative: Clyde N. Christey, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials and items* used in the manufacture, assembly, and operation of automatic automobile washing devices; from Siloam Springs, Ark., St. Joseph, Mo., Fort Scott, Kans., Kansas City, Mo., El Monte, Calif., Northbrook, Ill., Houma, La., and Muskogee, Okla., to points in the continental United States; for 180 days. Supporting shipper: Robo Wash, Inc., 2 Gregory Boulevard, Kansas City, Mo. 64114. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 906 Schweiter Building, Wichita, Kans. 67202.

No. MC 128375 (Sub-No. 13 TA), filed October 20, 1967. Applicant: CRETE CARRIER CORPORATION, Post Office Box 249, Crete, Nebr. 68333. Applicant's representative: Donald R. Leonard, Post Office Box 2028, Lincoln, Nebr. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automotive parts, materials, and supplies*, and *supplies and materials* utilized by automotive equipment manufacturers, between Columbus, Nebr., Maranna, Ark., Columbus, Tucker, Newnan, and Carrollton, Ga., Cleveland, Miss., Pontiac and Detroit, Mich., Daytona Beach, Fla., Memphis, Tenn., Pennsylvania under continuing contract with Douglas & Lomason Co., Detroit, Mich.; for 150 days. Supporting shipper: Douglas & Lomason Co., 5860 Lincoln Avenue, Detroit, Mich. 48208. Send protests to: Max H. Johnston, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 315 Post Office Building, Lincoln, Nebr. 68508.

No. MC 129095 (Sub-No. 1 TA), filed October 20, 1967. Applicant: A–1 VETERANS TRANSFER COMPANY, Athens, Ga. 30601. Applicant's representative: James Lamar Flemister, Fulton Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in: (a) The counties of Clarke, Barrow, Oconee, Jackson, Madison, Morgan, Hart, Oglethorpe, Wilkes, Greene, Walton, Gwinnett, Banks, Franklin, Stephens, Hall, Elbert, Lumpkin, Habersham, Towns, De Kalb, Union, Rabun, Putnam, Baldwin, Washington, and Gilmer, Ga.; (b) The counties of Anderson, Abbeville, McCormick, Pickens, Oconee, Greenville, and Edgefield, S.C.; *restricted* to shipments having a prior or subsequent movement in containers beyond said counties, and further restricted to pickup and delivery service incidental to and in connection with packing, crating and containerization, or unpacking, uncrating and decontainerization of such shipments over irregular routes; for 180 days. Supporting shipper: Fernstrom Moving System, Post Office Box 66220, Chicago, Ill. 60666. Send protests to: William L. Scrogga, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-12870; Filed, Oct. 31, 1967; 8:49 a.m.]

[Notice 47]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 27, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–69862. By order of October 19, 1967, the Transfer Board approved the transfer to Judith L. McKeever, doing business as Webster Van Lines, Seattle, Wash., of the operating rights in certificate No. MC–10280, issued September 23, 1965, to Slade Transfer and Storage Co., a corporation, Ogden, Utah, authorizing the transportation, over irregular routes, of household goods between points in Weber County, Utah, on the one hand, and, on the other, points in described parts of Idaho and Wyoming. George R. LaBissoniere, 920 Logan Building, Seattle, Wash., attorney for applicants.

No. MC–FC–69928. By order of October 19, 1967, the Transfer Board approved the transfer to Poteet Transfer Co., Inc., 1419 West Broadway, Morrilton, Ark., of Certificate of Registration No. MC–120111 (Sub-No. 1) issued September 8, 1964, to Lowell E. Turner, doing business as Turner Truck Line, Highway 65 South, Clinton, Ark., authorizing the transportation of general commodities between points in Arkansas.

No. MC–FC–69930. By order of October 19, 1967, the Transfer Board approved the transfer to Wilson Transportation Service, Inc., Ottawa, Ohio, of the operating rights in Certificates Nos. MC–17012, MC–17012 (Sub-No. 1) and MC–17012 (Sub-No. 5) issued February 21, 1957, September 20, 1957, and June 17, 1959, respectively, to Stelzer Transportation Service, Inc., Lima, Ohio, authorizing the transportation of: Household goods, canned goods, used canning machinery, supplies and machinery used in the canning industry and other commodities, between points in Illinois, Indiana, Kentucky, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, West Virginia, and Wisconsin. Paul F. Berry, 100 E. Broad Street, Columbus, Ohio 43215, attorney for applicants.

No. MC–FC–69933. By order of October 19, 1967, the Transfer Board approved the transfer to Jean Z. Vitz, doing business as Vita Moving & Storage, Seattle, Wash., of that portion of the operating rights in Certificate No. MC–128879 issued August 30, 1967, to C–B Truck Line, Inc., El Paso, Tex., authorizing the transportation of: Household goods, from El Paso, Tex., and points in specified counties in Texas, to points in specified counties in New Mexico. George R. LaBissoniere, 920 Logan Building, Seattle, Wash. 98101, attorney for applicants.

No. MC–FC–69945. By order of October 19, 1967, the Transfer Board approved the transfer to Lou Mac Transfer, Inc., Miami, Fla., of the operating rights in Permit No. MC–128428 (Sub-No. 1) issued June 19, 1967, to Louis C. Bryan and Charles H. McBride, doing business as Lou Mac Transfer, Miami, Fla., authorizing the transportation of: Telephone equipment, and materials and supplies used in the installation, maintenance, and repair of such equipment, between Miami, Fla., on the one hand, and, on the other, points in Dade, Broward, and Monroe Counties, Fla. John T. Bond, 1955 Northwest 17th Avenue, Miami, Fla. 33125, attorney for applicants.

No. MC–FC–69947. By order of October 19, 1967, the Transfer Board approved the transfer to Streator Transfer & Storage Co., a corporation, Streator, Ill., of Certificate of Registration No. MC–98297 (Sub-No. 1) issued September 3, 1964, to Illinois Bee-Line Express, Inc., Geneva, Ill., authorizing the transportation of: Wallpaper and general freight within a 50-mile radius of 516 West Kinzie Street, Chicago, Ill., and, to transport such property to or from any point outside of such authorized area of operation for a shipper or shippers within such area. Robert H. Levy, 29 South LaSalle Street, Chicago, Ill. 60603, attorney for applicants.

No. MC–FC–69948. By order of October 19, 1967, the Transfer Board approved the transfer to Ralph M. Little, Jr., Earl M. Schaffer, and Albert T. Kirby, copartners, doing business as Via Travels Ltd., New Kensington, Pa., of Broker License No. MC–12932 issued June 27, 1966, to Ralph M. Little, Jr., doing business as Via Travels Ltd., Kensington, Pa., authorizing the transportation of: Passengers and their baggage, in all expense round trip tours, beginning and ending at points in that part of Westmoreland County, Pa., on and north of U.S. Highway 22 and extending to points in the United States, including Alaska and Hawaii. Arthur J. Diskin, 302 Frick Building, Pittsburgh, Pa. 15219, attorney for applicants.

No. MC–FC–69949. By order of October 19, 1967, the Transfer Board approved the transfer to St. Louis Metro Express, Inc., St. Louis, Mo., of the operating rights in Certificate No. MC–21800 issued July 14, 1942, to Ford Drayage Service, Inc., St. Louis, Mo., authorizing the transportation of: General commodities, with the usual exceptions, between points and places in the St. Louis, Mo.-East St. Louis, Ill., COMMERCIAL ZONE, as defined by the Commission in 1 M.C.C. 656. Ernest A. Brooks, II, 1301 Ambassador Building, St. Louis, Mo. 63101, attorney for applicants.

No. MC–FC–69968. By order of October 19, 1967, the Transfer Board approved the transfer to Consolidated Fast Freight, Inc., Chicago, Ill., of the operating rights in Certificate No. MC–26667, issued May 23, 1942, to Fred Rex, doing business as Rex & Rex, Chicago, Ill., authorizing the transportation of: Eggs and butter, over irregular routes, from Chicago, Ill., to New York, N.Y., and Boston, Mass., traversing Indiana, Ohio, and Pennsylvania for operating convenience only. Fish and sea foods, over irregular routes, from Boston, Gloucester, North Truro, and Provincetown, Mass., to Chicago, Ill. Edward A. Biggs, 127 North Dearborn Street, Chicago, Ill., attorney for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-12877; Filed, Oct. 31, 1967; 8:49 a.m.]

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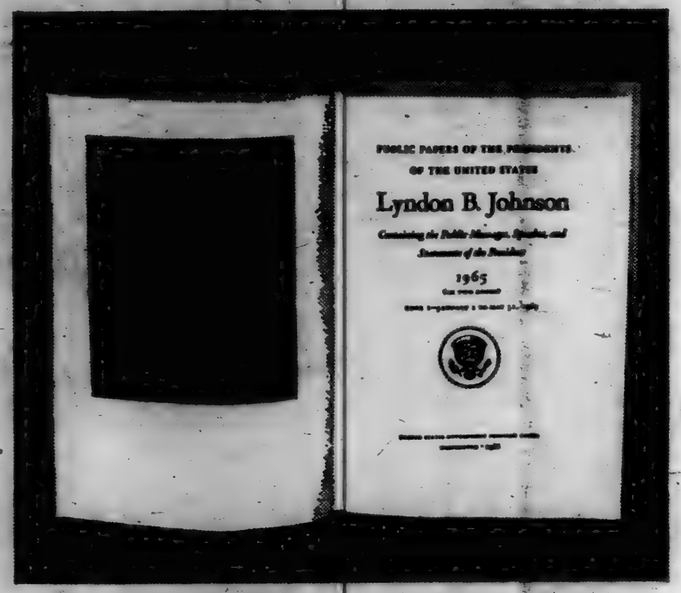

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213

FEDERAL REGISTER

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Thursday, November 2, 1967 • Washington, D.C.

Pages 15145–15231

(Part II begins on page 15221)

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Detailed list of Contents appears inside.

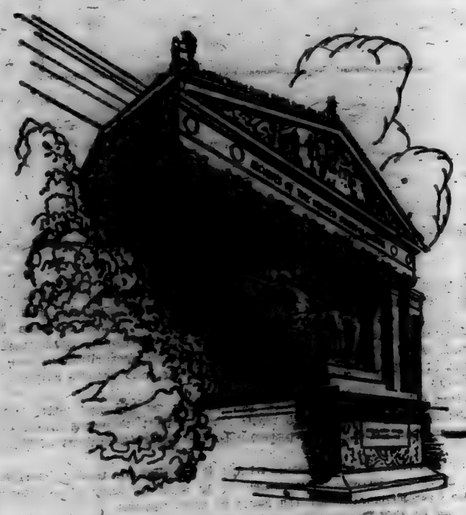

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Contents

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Rules and Regulations

Peanuts; acreage allotments and marketing quotas; 1968 crop 15149

AGRICULTURE DEPARTMENT

See Agricultural Stabilization and Conservation Service; Consumer and Marketing Service.

BUSINESS AND DEFENSE SERVICES ADMINISTRATION

Notices

Decisions on applications for duty free entry of scientific articles:
- Albany Medical College of Union University 15188
- Research Foundation of State University of New York 15189
- Rutgers—The State University 15189
- University of California 15189
- Youngstown University 15190

CENSUS BUREAU

Rules and Regulations

Cutoff date for recognizing boundary changes for 1970 censuses; final date for inclusion of statistics 15154

CIVIL AERONAUTICS BOARD

Notices

Bonanza - Pacific - West Coast merger; notice of hearing 15191

COMMERCE DEPARTMENT

See also Business and Defense Services Administration; Census Bureau.

Rules and Regulations

Employee responsibilities and conduct 15222

CONSUMER AND MARKETING SERVICE

Proposed Rule Making

Milk in Puget Sound, Wash. marketing area; proposed suspension of certain provision of order 15178

Onions grown in south Texas; proposed limitation of shipments 15177

CUSTOMS BUREAU

Rules and Regulations

Cast iron soil pipe from Poland; antidumping 15155

Notices

Second clear wheat flour, tariff classification; change of practice ruling 15186

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations

Airworthiness directives:
- Fairchild Hiller 15153
- Sikorsky Aircraft 15154

Transition area; designation 15154

FEDERAL COMMUNICATIONS COMMISSION

Rules and Regulations

Radio broadcast services:
- Certain FM broadcast stations; table of assignments 15162
- Station identification requirements 15161

Proposed Rule Making

Certain channels and frequencies available; order extending time for filing comments 15160

Notices

Broadcast of statements regarding station's licensed location; examples of application 15191

Hearings, etc.:
- City of Brownsville, Texas and Hemphill Flying Service 15192
- Corinth Broadcasting Co., Inc., and Radio Corinth 15192
- O'Quinn, Farnell 15192
- Tri-Cities Broadcasting Corp., and Palmer-Dykes Broadcasting Co 15192

FEDERAL MARITIME COMMISSION

Notices

South Atlantic & Caribbean Line, Inc., and TMT Trailer Ferry, Inc.; notice of agreement filed for approval 15201

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:
- Hamilton Brothers, Ltd., et al 15197
- Humble Oil & Refining Co. et al 15198
- Tenneco Oil Co., and Continental Oil Co 15199
- Tennessee Gas Pipeline Co 15200
- Yuba County Water Agency 15201

FEDERAL TRADE COMMISSION

Proposed Rule Making

Imported wool products 15160

FISH AND WILDLIFE SERVICE

Rules and Regulations

De Soto National Wildlife Refuge, Iowa and Nebraska; sport fishing 15166

Sand Lake National Wildlife Refuge, S. Dak.; hunting 15166

FOOD AND DRUG ADMINISTRATION

Rules and Regulations

Food additives:
- Adhesives 15155
- Polyurethane resins 15155

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Food and Drug Administration; Public Health Service.

Rules and Regulations

Practice and procedure for hearings 15156

Notices

Office of Civil Rights; Reviewing Authority (Civil Rights); establishment and delegations of authority 15190

Statement of organization and functions and delegations of authority; purpose and scope 15190

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Land Management Bureau.

Notices

Weymouth, Edgar A.; report of appointment and statement of financial interests 15188

INTERNAL REVENUE SERVICE

Proposed Rule Making

Income tax; deduction for dividends received by corporations 15167

INTERSTATE COMMERCE COMMISSION

Notices

Fourth section application for relief 15217

Motor carrier:
- Broker, water carrier and freight forwarder applications 15203
- Temporary authority applications 15217

Rerouting or diversion of traffic:
- Chicago, Burlington and Quincy Railroad Co 15217
- Frankfort and Cincinnati Railroad Co 15217

LAND MANAGEMENT BUREAU

Notices

Arizona; order providing for opening of public lands 15188

Colorado:
- Classification of lands for multiple use management; correction 15186
- Proposed classification of lands for multiple-use management; amendment 15186

Idaho; classification of lands for multiple-use management 15186

(Continued on next page)

PUBLIC HEALTH SERVICE

Proposed Rule Making

Biological products; mumps virus vaccine, live; additional standards 15178

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:

Berkshire Industries, Inc. 15201
Continental Vending Machine Corp 15202
Ivest Fund, Inc. 15202
North American Research & Development Corp. 15203
Pakco Companies, Inc. 15203
Roto American Corp. 15203
Westec Corp. 15203

SMALL BUSINESS ADMINISTRATION

Rules and Regulations

Loans to State and local development companies 15149

Proposed Rule Making

Small business size standards; definition of small business construction contractors 15184

TREASURY DEPARTMENT

See Customs Bureau; Internal Revenue Service.

TRANSPORTATION DEPARTMENT

See Federal Aviation Administration.

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

7 CFR

729 15149

PROPOSED RULES:

959 15177
1125 15178

13 CFR

108 15149

PROPOSED RULES:

121 15184

14 CFR

39 (2 documents) 15153, 15154
71 15154

15 CFR

0 15222
70 15154

16 CFR

PROPOSED RULES:

300 15180

19 CFR

14 15155

21 CFR

121 (2 documents) 15155

26 CFR

PROPOSED RULES:

1 15167

42 CFR

PROPOSED RULES:

73 15178

45 CFR

81 15156

47 CFR

73 (2 documents) 15161, 15162

PROPOSED RULES:

2 15180
89 15180
91 15180
93 15180

50 CFR

32 15166
33 15166

Rules and Regulations

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 729—PEANUTS

Subpart—1968 Crop of Peanuts; Acreage Allotments and Marketing Quotas

Basis and purpose. The provisions of §§ 729.1810 to 729.1813 are issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.) (referred to as the "act"), with respect to the 1968 crop of peanuts. The purposes of §§ 729.1810 to 729.1813 are to proclaim a national marketing quota, establish the national acreage allotment and apportion such allotment to the States for the 1968 crop of peanuts in accordance with section 358 of the act (7 U.S.C. 1358). The findings and determinations made with respect to these matters are based on the latest available statistics of the Federal Government.

Notice that the Secretary was preparing to determine the acreage allotments and marketing quota for the 1968 crop of peanuts was published in accordance with 5 U.S.C. 553 (80 Stat. 383) in the FEDERAL REGISTER of August 18, 1967 (32 F.R. 11967). No submissions were received in response to such notice. In order that peanut farmers may be notified as soon as possible of farm allotments for the 1968 crop of peanuts, it is essential that §§ 729.1810 to 729.1813 be made effective as soon as possible. Accordingly, it is hereby found and determined that compliance with the 30-day effective date requirement of 5 U.S.C. 553 is impracticable and contrary to the public interest and §§ 729.1810 to 729.1813 shall be effective upon filing of this document with the Director, Office of the Federal Register.

Sec.

729.1810 Proclamation of national marketing quota for the 1968 crop of peanuts.
729.1811 National acreage allotment for the 1968 crop of peanuts.
729.1812 National reserve for new farms.
729.1813 Apportionment to States.

AUTHORITY: The provisions of this subpart issued under secs. 301, 358, 375, 52 Stat. 38, as amended, 55 Stat. 88, as amended; 52 Stat. 66, as amended; 7 U.S.C. 1301, 1358, 1375.

§ 729.1810 Proclamation of national marketing quota for the 1968 crop of peanuts.

(a) *Statutory requirement.* Section 358(a) of the act provides that between July 1 and December 1 of each calendar year the Secretary shall proclaim a national marketing quota for the crop of peanuts to be produced in the next succeeding calendar year. The quota for such crop shall be a quantity of peanuts which will make available for marketing a supply equal to the average quantity of peanuts harvested for nuts during the immediately preceding 5 years, adjusted for current trends and prospective demand conditions. The national marketing quota shall be a quantity of peanuts sufficient to provide a national acreage allotment of not less than 1,610,000 acres.

(b) *Findings and determinations.* The following findings and determinations under section 358(a) of the act are hereby made:

(1) Average quantity of peanuts harvested for nuts during the 5-year period 1962–66, adjusted for current trends and prospective demand conditions—890,000 tons;

(2) Normal yield per acre of peanuts for the United States on the basis of the average yield per acre of peanuts in the 5-year period 1962–66, adjusted for trends in yields and abnormal conditions of production affecting yields—1,850 pounds;

(3) Conversion of the quantity of peanuts determined under (1) of this paragraph into acres on the basis of the normal yield with an adjustment for underharvesting—1,162,000 acres;

(4) Conversion of the minimum national acreage allotment of 1,610,000 acres into tons of quota on the basis of the normal yield—1,489,250 tons.

(c) *National marketing quota.* The national marketing quota for the 1968 crop of peanuts is hereby proclaimed to be 1,489,250 tons on the basis of the minimum national acreage allotment determined under paragraph (b)(4) of this section since such amount of quota would not be obtained by the smaller amount determined under paragraph (b)(3) of this section.

§ 729.1811 National acreage allotment for the 1968 crop of peanuts.

The national acreage allotment for the 1968 crop of peanuts based on the national marketing quota under § 729.1810 (c) is hereby established at 1,610,000 acres.

§ 729.1812 National reserve for new farms.

Section 358(f) of the act provides for the establishment of a national reserve of not more than 1 percent of the national acreage allotment for apportionment among farms on which peanuts are to be produced in 1968 but on which peanuts were not produced during any of the years 1965, 1966, or 1967. A national reserve for such new farms in the amount of 1,610 acres is hereb established.

§ 729.1813 Apportionment to States.

The national acreage allotment for the 1968 crop of peanuts of 1,610,000 acres, less the national reserve for new farms of 1,610 acres, is hereby apportioned to the States on the basis of their share of the national acreage allotment for 1967 as provided under section 358(c)(1) of the act:

State	State acreage allotment
Alabama	217,382
Arizona	718
Arkansas	4,194
California	923
Florida	85,900
Georgia	533,247
Louisiana	1,951
Mississippi	7,513
Missouri	247
New Mexico	5,612
North Carolina	166,286
Oklahoma	138,415
South Carolina	12,856
Tennessee	3,618
Texas	336,950
Virginia	105,101
Total apportioned to States	1,608,390
National reserve for new farms	1,610
Total, United States	1,610,000

Effective date: Date of filing this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on October 26, 1967.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 67-12943; Filed, Nov. 1, 1967; 8:47 a.m.]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Rev. 3]

PART 108—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

Because of the number and complexity of published amendments to Part 108 of Chapter I of Title 13 of the Code of Federal Regulations (30 F.R. 11024; 31 F.R. 9270, 14516; 32 F.R. 4465, 12387), Part 108 is recodified and republished as set forth below with miscellaneous minor revisions. As recodified and revised, Part 108 reads as follows:

GENERAL

Sec.

108.1 Policy.
108.2 Definitions.
108.3 Procedures for loan applications.
108.4 Administrative authority.

LOANS UNDER SECTION 501

Sec.
108.501 Statutory provision.
108.501–1 Section 501 loans.

LOANS UNDER SECTION 502

108.502 Statutory provision.
108.502–1 Section 502 loans.

AUTHORITY: The provisions of this Part 108 issued under sec. 5, Pub. Law 85–699, secs. 201, 308, Pub. Law 85–699.

GENERAL

§ 108.1 Policy.

(a) As part of the congressional policy to improve and stimulate the national economy in general, and the small-business segment thereof in particular, by establishing a program to stimulate the flow of private equity capital and long-term loans for the sound financing of the operations, growth, expansion, and modernization of small-business concerns, the Small Business Administration is authorized to make loans to State and local development companies which will further that policy. This policy shall be carried out in such manner as to insure the maximum participation of private financing sources. No such loan shall be made if the effect thereof will be to cause a substantial increase of unemployment in any area of the country.

(b) The Government of the United States has declared that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. (Title VI of the Civil Rights Act of 1964.) The President of the United States has also declared in Executive Orders No. 10925 of March 6, 1961 (26 F.R. 1977), and No. 11114 of June 23, 1963 (28 F.R. 6485), that all qualified persons should be given equal employment opportunity without regard to race, color, creed, or national origin, when employed or seeking employment with Government contractors or with contractors performing under federally assisted construction contracts. Recipients of financial assistance under this part are subject to the nondiscrimination requirements of the laws and policies referred to in this section.

§ 108.2 Definitions.

For purposes of this part:

(a) "Administrator" means the Administrator of the Small Business Administration.

(b) "SBA" means the Small Business Administration.

(c) "Small-business concern" means a business concern which would qualify as a small business under § 121.3–10 or § 121.3–11 of this chapter.

(d) "Development company" means an enterprise incorporated under the laws of one of the several States, formed for the purpose of furthering the economic development of its community and environs, and with authority to promote and assist the growth and development of small-business concerns in the areas covered by their operations. Such corporation may be organized either as a profit or nonprofit enterprise.

(1) A State development company is a corporation organized under or pursuant to a special legislative act to operate on a statewide basis.

(2) A local development company is a corporation chartered under any applicable State corporation law to operate in a specified area within a State. A local development company shall be principally composed of and controlled by persons residing or doing business in the locality; such local persons shall ordinarily constitute not less than 75 percent of the voting control of the development company. No shareholder or member of the development company may own in excess of 25 percent of the voting control in the development company if he and his affiliated interest have direct pecuniary interest in the project involving the section 502 loan or in the small-business concern which is to be assisted. The primary objective of the development company must be of benefit to the community as measured by increased employment, payroll, business volume, and corresponding factors rather than monetary profits to its shareholders or members; any monetary profits or other benefits which flow to the shareholders or members of the local development company must be merely incidental thereto.

(e) "Section 501 loan" means a loan authorized under section 501 of the Small Business Investment Act of 1958, as amended.

(f) "Section 502 loan" means a loan authorized under section 502 of the Small Business Investment Act of 1958, as amended.

(g) "Plant" means any physical facility, including land, buildings, machinery, and equipment owned or acquired by the development company or the small-business concern and employed or to be employed by the small-business concern in the conduct of its business, whether the business be of an industrial, commercial or recreational nature.

(h) "Construction contract" as used herein means any contract entered into by the development company or the small-business concern being assisted for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.

§ 108.3 Procedures for loan applications.

(a) *Relocation.* No loan shall be made under this part that will result in a substantial increase of unemployment in any area of the country.

(1) In cases where the small-business concern to be assisted is relocating its operations, said concern must submit and certify to evidence, prior to the filing of the application by the State or local development company for a section 502 loan or prior to disbursement by the State development company of the proceeds of a section 501 loan previously granted, that its relocation will not result in a substantial increase of unemployment in the area from which it is moving. Said evidence shall be submitted by the State or local development company to the SBA field office as designated in paragraph (c) of this section, and within 30 days SBA will notify the development company whether it may file a section 502 loan application or disburse section 501 loan proceeds.

(2) A substantial increase in unemployment shall be presumed to occur when (i) the relocation would result in the unemployment of one-third of the work force of the small-business concern to be assisted, (ii) the unemployment would result in making the area affected an area of substantial unemployment as designated by the Department of Labor, or (iii) the area affected is one of substantial unemployment as designated by the Department of Labor, or the area is a redevelopment area designated by the Secretary of Commerce pursuant to the Area Redevelopment Act (Pub. Law 87–27).

(b) *Form of application.* An application for a section 501 loan shall be made upon SBA Form 501 and for a section 502 loan upon SBA Form 502, and shall include all other pertinent information required in supporting schedules and forms. The application and supporting materials shall be submitted in duplicate if the request is for a direct loan from SBA. If the section 502 loan is to be made in participation with a bank or other lending institution, the application and supporting materials shall be submitted in triplicate. Detailed instructions on filling out application forms will be found on SBA Form 501, SBA Form 502 and SBA Form 502B.[1]

(c) *Place of filing.* Application shall be made in the SBA field office serving the area in which the applicant is located if no bank participation in the loan is available. If a bank participation is available, the application shall be submitted to such bank or other lending institution which will in turn execute the Application for Participation Agreement contained on page 3 of SBA Form 502 and transmit two copies of the application and supporting materials to the SBA field office serving the area in which the applicant or participating institution may be located.

(d) *Nondiscrimination.* Applicants for section 501 and section 502 loans and identifiable small-business concerns, beneficiaries of such loans, will be required to execute when appropriate Applicants Agreement of Compliance (SBA Form 601) and Assurance of Compliance (SBA Form 652 and SBA Form 652B).[1]

§ 108.4 Administrative authority.

The Administrator may, when in his discretion the best interests of the Government will be served, waive any regulations published under this part to the extent that such regulations are not prescribed by statute, and waiver thereof would not be contrary to the provisions of Title V of the Small Business Investment Act of 1958, as amended.

[1] Forms filed with the Federal Register Office. Copies of these SBA forms are available in all SBA field offices.

LOANS UNDER SECTION 501

§ 108.501 Statutory provision.

SEC. 501. (a) The Administration is authorized to make loans to State development companies to assist in carrying out the purpose of this Act. Any funds advanced under this subsection shall be in exchange for obligations of the development company which bear interest at such rate, and contain such other terms, as the Administration may fix, and funds may be so advanced without regard to the use and investment by the development company funds secured by it from other sources.

(b) The total amount of obligations purchased and outstanding at any one time by the Administration under this section from any one State development company shall not exceed the total amount borrowed by it from all other sources. Funds advanced to a State development company under this section shall be treated on an equal basis with those funds borrowed by such company after the date of the enactment of this Act, regardless of source, which have the highest priority, except when this requirement is waived by the Administrator.

§ 108.501–1 Section 501 loans.

(a) *Participation.* To insure participation of private financing sources, the State development company shall agree, unless otherwise notified by SBA, that within 30 days after disbursement of the loan and thereafter during the period in which the loan or any part thereof remains unpaid, it will maintain portfolio investments or loans, or both, meeting the requirements of paragraph (c) of this section, having a stated outstanding principal value equal to no less than 133⅓ percent of the unpaid principal of the loan. Deviation from this ratio will be permitted during intervals between repayment or other disposal of such investments or loans and the prompt reinvestment of funds resulting from such repayment or disposal.

(b) *Loan amount.* Subject to the limitation contained in section 501(b) of the Small Business Investment Act of 1958, as amended, a loan authorized under this authority shall be in such amount as determined by SBA to be consistent with sound business practice.

(c) *Repayment of loan.* A section 501 loan shall not be made for a term longer than 20 years. Payment of all or any part of a loan may be anticipated without penalty on any interest payment date. Except when the rate of repayment is waived by SBA, such rate shall be adjusted by SBA so that a section 501 loan shall be repaid at no lesser rate than the other debts of the development company which first become due: *Provided, however,* That at no time will the outstanding amount of a section 501 loan to a development company exceed the limitation set forth in section 501(b) of the Small Business Investment Act of 1958, as amended.

(d) *Security.* Except where this requirement is waived by SBA, funds advanced to a development company under a section 501 loan shall be secured on an equal basis with those funds borrowed by such company after August 21, 1958, regardless of source. Equal basis does not require that all SBA funds be secured in the highest degree that any other development company funds are secured; however, SBA funds shall be secured on a ratable basis.

(e) *Use of proceeds.* (1) The proceeds of loans to State development companies shall be used only to provide equity capital or make long-term loans, or both, to small-business concerns. For the purposes of this section, a long-term loan or any debt instrument through which equity may be acquired shall have a final maturity of not less than 5 years. State development companies may use section 501 loan proceeds to acquire capital stock or other equity instruments from, or to relend to, small-business concerns in need of assistance to finance their operations, growth, expansion or modernization: *Provided, however,* That the authority to acquire with such proceeds an equity or other proprietary interest in a borrower shall extend only to State development companies which are wholly owned and controlled by private interests.

(2) The proceeds of loans to State development companies may not be used for:

(i) Investments and loans involving enterprises which derive a substantial portion of their gross income from the sale of alcoholic beverages;

(ii) Relending or reinvesting by the small-business concern;

(iii) Purposes contrary to the public interest, including but not limited to gambling enterprises and activities;

(iv) Any purpose which would encourage monopoly or be inconsistent with accepted standards of free enterprise;

(v) Use outside of the United States: *Provided, however,* That a State development company may provide funds to a small-business concern which is subject to State or Federal jurisdiction, (*a*) for use in the domestic production of products for distribution abroad, or to acquire abroad materials for such operation, or (*b*) for use in its branch operations abroad or for transfer to its controlled foreign subsidiary in exchange for further equity interest in or the monetary obligation of such foreign subsidiary; so long as the major portion of the assets and activities of such concern, after funds are so employed, remains within the territorial jurisdiction of the United States.

(f) *Interest rate.* The rate of interest on section 501 loans to State development companies shall be the same rate at which the State development company borrows funds from its members, but in no case shall this rate be less than the prime rate of interest, nor greater than 6½ percent per annum.

(g) *Firm commitment.* A firm commitment may be given by SBA for a period of 1 year subject to the payment of a commitment fee computed on the basis of 1 percent per annum, beginning with the first day after the first 30 days following the date of the note.

(h) *Disposal of obligations.* SBA may, in its discretion and upon such terms and conditions and for such consideration as shall be deemed to be reasonable, sell, assign, transfer or otherwise dispose of the note, and all other evidence of debt or security held in connection with the payment of any loan made under section 501 of the Small Business Investment Act of 1958, as amended.

LOANS UNDER SECTION 502

§ 108.502 Statutory provision.

SEC. 502. The Administration may, in addition to its authority under section 501, make loans for plant construction, conversion or expansion, including the acquisition of land, to State and local development companies, and such loans may be made or effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis: *Provided, however,* That the foregoing powers shall be subject to the following restrictions and limitations:

(1) All loans made shall be so secured as reasonably to assure repayment. In agreements to participate in loans on a deferred basis under this subsection, such participation by the Administration shall not be in excess of 90 per centum of the balance of the loan outstanding at the time of disbursement.

(2) The proceeds of any such loan shall be used solely by such borrower to assist an identifiable small-business concern and for a sound business purpose approved by the Administration.

(3) Loans made by the Administration under this section shall be limited to $350,000 for each such identifiable small-business concern.

(4) Any development company assisted under this section must meet criteria established by the Administration including the extent of participation to be required or amount of paid-in capital to be used in each instance as is determined to be reasonable by the Administration.

(5) No loans, including extensions or renewals thereof, shall be made by the Administration for a period or periods exceeding 25 years plus such additional period as is estimated may be required to complete construction, conversion, or expansion, but the Administration may extend the maturity of or renew any loan made pursuant to this section beyond the period stated for additional periods, not to exceed 10 years, if such extension or renewal will aid in the orderly liquidation of such loan. Any such loan shall bear interest at a rate fixed by the Administration.

§ 108.502–1 Section 502 loans.

SBA is authorized to make loans to development companies to finance plant construction, conversion or expansion, including the acquisition of land: *Provided, however,* That such loans will assist an identifiable small-business concern in accomplishing a sound business purpose.

(a) *Sound business purpose.* A loan will not be considered to be for a sound business purpose (1) if, in any case where the relocation of a small-business concern is involved, the relocation will result in the avoidance by such concern of obligations incurred in the location from which the move is to be made or if the primary incentive for such relocation is a local subsidy; (2) if the concern is being relocated from another area unless there is demonstrated to SBA a need to locate closer to the source of basic materials or to major consumers, or to consolidate operations in one location, or unless such relocation is justified by other reasons satisfactory to SBA; (3) if it

is to accomplish an expansion or conversion which is unwarranted in the light of the small-business concern's past experience and management ability; (4) if it will subsidize inferior management; (5) if it provides funds for speculation; or (6) if its effect will be to encourage monopolies or be inconsistent with accepted standards of the American system of free competitive enterprise.

(b) *Ineligible categories.* A loan will not be made if (1) it provides assistance for an eleemosynary institution; (2) it is to finance the construction, acquisition, conversion, or operation of recreational or amusement facilities, unless such facilities contribute to the health or general well-being of the public; (3) it will provide assistance to a newspaper, magazine, radio, or television broadcasting company, or similar enterprise; (4) it provides assistance for a small-business concern, any part of whose gross income or that of any of its principal owners is derived from gambling activities; (5) a substantial portion of the small-business concern's gross income is derived from the sale of alcoholic beverages; or (6) it provides assistance for a small-business concern primarily engaged in lending or investment.

(c) *Collateral.* All loans made under this section shall be so secured as reasonably to assure repayment. SBA shall determine that all property and rights available as collateral security for such a loan are of a character and value as reasonably to assure repayment of the loan. Collateral shall be insured against such hazards and risks as SBA may require.

(d) *Loan amount.* (1) Loans made by SBA under this section shall be limited to $350,000 for each identifiable small-business concern. The total unpaid amount of any such SBA loan or loans in aid of a particular small-business concern shall never exceed $350,000.

(2) Development companies may be eligible to be considered for such additional loans of not more than $350,000 each, as there may be additional identifiable small-business concerns to be assisted.

(e) *Participation by the development company.* A development company may be required to furnish a reasonable part, as determined by SBA, of the funds necessary to accomplish the plant construction, conversion, or expansion, or the acquisition of land. For the purposes of this paragraph, the furnishing of not less than 20 percent of the necessary funds shall generally be considered a reasonable part. Exceptions may be made: (1) In communities with a population of 5,500 or less, where the area of operations of the development company encompasses only that community, a minimum of 10 percent of the necessary funds may be considered a reasonable part; (2) in communities with a population of 5,501 to 10,000, where the area of operations of the development company encompasses only that community, a minimum of 15 percent of the necessary funds may be considered a reasonable part; (3) if the small-business concern to be assisted is located or to be established in a so-called "Ghetto Area" or in a "Target Area" or in a "High Unemployment Area", as determined by the Administrator, then the minimum 10 percent of the necessary funds may be considered a reasonable part, regardless of the size of the community and of the area of operations of the development company; and (4) if SBA has made one or more loans under this section to a particular development company whose area of operations encompasses a community having a population of more than 10,000, and the small-business concern to be assisted is located or to be established in a lesser size community, then the minimum percentages set forth in subparagraphs (1) and (2) of this paragraph of the necessary funds may be considered a reasonable part. SBA may require that the funds to be furnished by the development company be derived from paid-in capital or surplus of the development company, as well as from other sources. The amount of paid-in capital to be required will depend in part upon the amount of the loan, the maturity of the loan, the extent to which other borrowings of the development company may be subordinated to the SBA loan and such other factors as the SBA may consider appropriate to the individual case. For the purpose of this section, "paid-in capital" is cash and property actually received in exchange for shares of stock issued by the development company, or cash and property contributed to the development company without obligation therefor, or cash and property for which the development company is indebted on a subordinated basis subject to the limitations set forth in § 121.3(d) of this chapter.

(f) *Other financing.* (1) A loan will not be made unless the development company and the small-business concern shall show to the satisfaction of SBA that the desired financial assistance is not available on reasonable terms.

(2) In the case of a development company, it shall be satisfactorily demonstrated that the desired financing is not available by means of sale of stock or debt securities, or both, in the development company; from funds agreed to be furnished by participating members of the development company; and by means of loans from not less than two lending institutions (where the population of the community exceeds 200,000) which have a sufficient legal and normal lending limit to cover the loan applied for. If such development company be a public corporation, it shall show that such financial assistance is not reasonably available from an appropriation of public funds, nor by the public issuance of its bonds or other means.

(3) In the case of a small-business concern, the demonstration of the unavailability of the desired financial assistance on reasonable terms shall be in accordance with § 120.1(a) of this chapter. SBA will rely on the development company's certification as to the unavailability of such other financial assistance to the small-business concern.

(g) *Participation by other financial institutions in loans to development companies.* In order to stimulate and encourage loans by banks and other lending institutions, the SBA shall require that:

(1) An applicant for a loan show that a participation by another lending institution is not available. No financial assistance shall be extended in participation with another lending institution on an immediate basis unless the applicant shall show that a participation on a deferred basis is not available.

(2) In all agreements to participate in loans on a deferred or immediate basis, the participation by SBA shall not be in excess of 90 percent of the balance of the loan outstanding at the time of disbursement.

(3) Participation charges and service fees shall be in accordance with § 120.2(b) (1) and (3), respectively, of this chapter.

(h) *Interest rate.* The interest rate on a direct section 502 loan to a development company and on SBA's share of a section 502 loan made in participation with another lending institution shall be 5½ percent per annum: *Provided, however,* That where the interest on the share of the loan of the bank or other lending institution in a guaranteed or immediate participation loan is less than 5½ percent per annum, then the rate on SBA's share of the loan shall be at the same rate, but not less than 5 percent per annum. For the purposes of this paragraph, bank's share of a guaranteed participation shall be the entire amount of the loan until such time as SBA shall actually purchase its participation.

(i) *Loan maturity.* The maturity of any loan under this section may not exceed 25 years plus such additional period as is estimated may be required to complete construction, conversion or expansion. It shall be the policy of SBA generally, in the case of a lease agreement between a local development company and an identifiable small-business concern, to require that the term of the lease shall not be less than the term of the loan. It shall also be the policy of SBA generally to require repayment in equal periodic installments. Extensions or renewals of the loan for an additional period not to exceed 10 years beyond the stated maturity may be granted by SBA only if such extensions or renewals will aid in the orderly liquidation of such loans.

(j) *Use of proceeds.* (1) As of the time of approval and the time of disbursement of a section 502 loan, the development company shall submit evidence satisfactory to SBA that the proceeds of such loan will be used for plant construction, conversion, expansion or the acquisition of land, solely to assist an identifiable small-business concern: *Provided, however,* That as of the time of disbursement, with respect to size, evidence need be submitted to show only the fact that the small-business concern to be assisted has not adversely affected its status as an identifiable small-business concern since the date of approval of loan by reason of any reorganization (including any reorganization under any Federal or State statute, sale of assets, merger, consolidation, purchase, sale or exchange of securities, or long-term lease) or franchise agreement.

(2) The identifiable small-business concern, under agreement existing at the time of such disbursement, shall be entitled or permitted to possess and use, as owner or tenant, the plant which is constructed, converted or expanded, with the proceeds of said loan.

(3) Evidence, satisfactory to SBA, shall be submitted prior to approval and disbursement of said loan, that the identifiable small-business concern intends or has the right to use the said plant during a period of time equal at least to the maximum contract term of the section 502 loan or 5 years after full disbursement of the section 502 loan, whichever is the longer period; and that use of said proceeds will assist only the identifiable small-business concern. Evidence of such intent and purpose shall be deemed to exist where the proceeds of the section 502 loan will be used by the development company to (i) relend to the identifiable small-business concern for construction, conversion, or expansion of a plant owned, occupied and used by said concern; (ii) construct, convert, or expand a plant to be sold immediately to the identifiable small-business concern for its occupancy and use; (iii) construct, convert or expand a plant owned by the development company to be leased to the identifiable small-business concern with the right in such concern to apply rentals, under a purchase option arrangement, on the purchase price of the plant; or (iv) construct, convert, or expand a plant owned by the development company to be leased to the identifiable small-business concern without a purchase option arrangement, but with the right in such concern to occupy the plant during a period of time equal at least to the maximum contract term of the section 502 loan or 5 years after full disbursement of the section 502 loan, whichever is the longer period; upon term between the development company and said concern intended to provide the development company with total funds not in excess of those necessary; to repay with interest the section 502 loan; for applicable taxes upon and maintenance of the plant; to recover administrative costs; to provide a reasonable sum as a reserve for contingencies to cover unusual costs or expenses; and to recover capital investments and expenditures of the development company's own funds in the project with a reasonable return on such capital investments and expenditures as may be necessary to attract and maintain a broad base of ownership or membership and interest in continuing local development projects.

(k) *Compliance.* (1) All complaints alleging discrimination in construction contracts involving the use of section 502 loan proceeds shall be investigated by SBA. Complaints alleging discrimination must be filed with SBA within 90 days of the alleged discrimination.

(2) SBA may hold informal hearings and make findings regarding the allegation of discrimination in accordance with the rules of the President's Committee on Equal Employment Opportunity. In the event that SBA finds discrimination to have occurred, it may cancel loans approved but not disbursed to an applicant, it may refuse to make further disbursement on account of the loan or it may accelerate the maturity of the note between borrower and SBA, or it may take any action of a lesser nature. Failure of SBA to invoke or assert any of the aforesaid sanctions or any other sanctions shall not be construed to be a waiver of SBA's right to assert any of such sanctions. See also Part 112 of this chapter.

Effective date. This revision shall become effective upon its publication in the FEDERAL REGISTER.

Dated: October 23, 1967.

ROBERT C. MOOT,
Administrator.

[F.R. Doc. 67-12919; Filed, Nov. 1, 1967; 8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 67-EA-121, Amdt. No. 39-508]

PART 39—AIRWORTHINESS DIRECTIVE

Fairchild Hiller

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to revise AD 67-12-3. Amendment 39-390 (AD 67-12-3) requires repetitive inspections of the rudder skin, stiffeners and rear spar flanges of the F-27 and FH-227 type aircraft. After issuing this amendment service experience has indicated that the incorporation of Fairchild Hiller Service Bulletins No. 27-4 and 27-42 pursuant to the amendment, have not completely eliminated cracks in the affected parts of the airframe. Therefore AD 67-12-3 is being revised and superseded by a new airworthiness directive which will require inspections of aircraft modified in accordance with the aforementioned service bulletins and establishes new alterations for incorporation into the aircraft. The same safety factors applicable to AD 67-12-3 are presently applicable.

Since a situation exists that requires immediate adoption of this amendment, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89, 31 F.R. 13697, § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive.

FAIRCHILD HILLER: Applies to Type FH-227 airplanes, and Type F-27A, F-27F, F-27G and F-27J airplanes.

Compliance required as indicated.

To detect cracks in the rudder skin, stiffeners, and rear spar flange located between the ribs of the lower section of the rudder, accomplish the following:

(a) Within the next 50 hours' time in service after the effective date of this AD, unless already accomplished within the last 150 hours' time in service, and thereafter at intervals not to exceed 300 hours' time in service from the last inspection, comply with (b).

(b) Visually inspect for cracks the left and right rudder skins from Stations 10 to 71 between the middle and rear spars. By manual compression of the left and right rudder skins, inspect for indications of cracks in the rudder stiffeners at Stations 16, 28, 40, 52 and 64 between the middle and rear spars, and in the rear spar flanges at these stations, or use an FAA-approved equivalent inspection. If a skin crack or indications of a crack in the stiffeners or rear spar flanges are found, comply with (d).

(c) Within the next 100 hours' time in service after the effective date of this AD, unless already accomplished within the last 300 hours' time in service, and thereafter at intervals not to exceed 600 hours' time in service from the last inspection, comply with (b) on FH-227 airplanes modified in accordance with Fairchild Hiller Service Bulletin No. 27-4 (FH-227) dated December 27, 1966 or later FAA-approved revision, and on F-27 airplanes modified in accordance with Fairchild Hiller Service Bulletin No. 27-42 (F-27) dated December 27, 1966 or later FAA-approved revision, or an FAA-approved equivalent modification. If a skin crack or indications of a crack in the stiffeners or rear spar flanges are found, comply with (d).

(d) Repair cracked parts in accordance with Part 43 of the Federal Aviation Regulations or replace them with an unused part of the same part number or an FAA-approved equivalent before further flight, except that the airplane may be flown in accordance with FAR 21.197 to a base where the repair can be performed.

(e) The repetitive inspection specified in (c) may be discontinued on FH-227 airplanes modified in accordance with Fairchild Hiller Service Bulletin No. 27-11 (FH-227) Revision No. 1, dated September 7, 1967 or later FAA-approved revision, and on F-27 airplanes modified in accordance with Fairchild Hiller Service Bulletin No. 27-54 (F-27) Revision No. 1, dated September 7, 1967 or later FAA-approved revision, or an FAA-approved equivalent modification.

(f) Equivalent inspections may be approved by an FAA maintenance inspector. Equivalent parts, Service Bulletin revisions, and modifications, must be approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

(g) Upon request with substantiating data submitted through an FAA maintenance inspector, the compliance times specified in this AD may be increased by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

This supersedes Amendment 39-390 (Part 39 F.R. Apr. 8, 1967), AD 67-12-3.

This amendment is effective November 1, 1967.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421 and 1423)

Issued in Jamaica, N.Y., on October 25, 1967.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 67-12941; Filed, Nov. 1, 1967; 8:47 a.m.]

[Docket No. 67-EA-107, Amdt. 39-503]

PART 39—AIRWORTHINESS DIRECTIVES

Sikorsky Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to require inspection of the tail rotor drive shafting on the Sikorsky S-61 type helicopter.

There have been reports of loose rivets in the sleeve and tube assembly, P/N S535180 of the tail rotor drive shafting. Since this condition is likely to exist or develop in other helicopters of the same type an airworthiness directive is being issued to require inspection, and repair or replacement when applicable, of the assembly.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 13 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive.

SIKORSKY AIRCRAFT. Applies to all S-61 type helicopters.

Compliance required as indicated unless already accomplished. To preclude the possibility of loss of tail rotor power due to failure of sleeve and tube assembly P/N S535180, accomplish the following:

(a) Immediately upon the effective date of this AD and every 50 aircraft hours' time in service thereafter, perform the following torsional check on sleeve and tube assembly P/N S535180 as follows:

1. Apply rotor brake.
2. Induce a torsional force in both clockwise and counterclockwise directions to tail rotor drive shafting by hand applied light rotational pressure on tail rotor blades.
3. Inspect shaft ends for evidence of movement between end fittings, rivets, and tube.
4. If evidence of movement is observed, replace sleeve and tube assembly P/N S535180 with like new or serviceable part.

(b) Following the effective date of this AD daily inspect sleeve and tube assembly P/N S535180 for loose rivets as evidenced by the presence of black fretting residue around rivet heads, or actual movement of the rivets, and the presence of cracks in the areas where the tube and sleeves (adapters) are joined. If cracks are found replace sleeve and tube assembly P/N S535180 with like new or serviceable part. Loose rivets may be replaced by removing the existing rivets, drilling No. 2 (.221) diameter and installing new rivets P/N MS20470-B7-6. Alternate oversize rivets P/N MS20470-B8-10 may be used if holes are drilled to No. P, (.323) diameter.

(c) Upon request, with substantiating data submitted through an FAA maintenance inspector, compliance times may be increased by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

(Sikorsky Aircraft telegram to all operators dated Sept. 5, 1967 covers this same subject.)

This amendment is effective October 31, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423)

Issued in Jamaica, N.Y., on October 24, 1967.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 67-12942; Filed, Nov. 1, 1967; 8:47 a.m.]

[Airspace Docket No. 67-SO-85]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On September 13, 1967, a Notice of Proposed Rule Making was published in the FEDERAL REGISTER (32 F.R. 13008), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Washington, N.C., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

Subsequent to the publication of the Notice, the geographic coordinate (lat. 35°34'15" N., long. 77°03'00" W.) for the Washington Municipal Airport was obtained from Coast and Geodetic Survey. Additionally, the longitudinal ordinate for WITN Commercial Broadcast Station was defined by Coast and Geodetic Survey as "long. 77°04'31" W." Accordingly, action is taken herein to add the geographic coordinate for the airport and correct the discrepancy in the longitudinal ordinate of the commercial broadcast station.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., January 4, 1968, as hereinafter set forth.

In § 71.181 (32 F.R. 2148), the following transition area is added:

WASHINGTON, N.C.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Washington Municipal Airport (lat. 35°34'15" N., long. 77°03'00" W.); within 2 miles each side of the 192° bearing from WITN Commercial Broadcast Station (lat. 35°31'34" N., long. 77°04'31" W.), extending from the 8-mile radius area to 8 miles southwest of WITN Commercial Broadcast Station.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348(a))

Issued in East Point, Ga., on October 23, 1967.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 67-12923; Filed, Nov. 1, 1967; 8:46 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter I—Bureau of the Census, Department of Commerce

PART 70—CUTOFF DATE FOR RECOGNIZING BOUNDARY CHANGES FOR THE 1970 CENSUSES

Final Date for Inclusion of Statistics

The FEDERAL REGISTER of September 14, 1967, page 13077, contained a notice and text of a proposed Part 70 of Chapter I, Title 15, Code of Federal Regulations. The purpose of this Part is to encourage municipalities and other units of government to complete their desired boundary changes sufficiently in advance of the 1970 Censuses of Population and Housing to allow time for the Bureau of the Census to incorporate the changes into training materials, maps, computer tapes, and for other purposes. Previous censuses show that the frequency of boundary changes increases just before the census date. This results in an insufficient time to incorporate the changes into the required materials before conducting the census. In addition to creating a workload that is impossible to complete before the census date, untimely boundary changes add to the cost of the census while omission of a change in the census documents causes discrepancies which cannot be resolved before commencing the enumeration.

Interested persons were given 30 days within which to submit written recommendations or suggestions. No recommendations or suggestions have been received and the proposed Part 70 is hereby adopted without change.

Title 15, Chapter I, Code of Federal Regulations is amended by adding a new Part 70 to read as follows:

Sec.
70.1 Cutoff date and the effect on enumeration.
70.2 County subdivision defined for census purposes.
70.3 Effect on boundary changes after the cutoff date.

AUTHORITY: The provisions of this Part 70 issued under title 13, U.S.C. 4 and 5, and the delegation to the Director, Bureau of the Census by Department of Commerce Order No. 85.

§ 70.1 Cutoff date and the effect on enumeration.

The Bureau of the Census will recognize only those boundaries legally in effect on January 1, 1970, for the tabulation and publication of data from the 1970 Censuses of Population and Housing. Respondents will be enumerated on the census date as residing within the legal limits of municipalities, wards, the county subdivision areas, and counties as these limits existed on January 1 of the census year.

§ 70.2 County subdivision defined for census purposes.

For purposes of this part, county subdivisions are defined to include the areas identified by the Bureau of the Census as minor civil divisions. Although civil and judicial townships are the most frequent type of minor civil division, there are also beats, election districts, magisterial districts, towns, and other areas. A more complete description appears on page XXI of "1960 Census of Population, Volume I, Part A."

§ 70.3 Effect of boundary changes after the cutoff date.

Changes in boundaries that become effective after January 1, 1970, will not be recognized by the Bureau of the Census in taking the 1970 Federal censuses. The residents of any area which is transferred to another jurisdiction after January 1, 1970 will be enumerated in the census as residents of the area in which their respective residences were located on January 1.

Dated: October 24, 1967.

A. ROSS ECKLER,
Director, Bureau of the Census.

[F.R. Doc. 67-12971; Filed, Nov. 1, 1967; 8:50 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 67-263]

PART 14—APPRAISEMENT

Cast Iron Soil Pipe From Poland

OCTOBER 24, 1967.

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the Secretary of the Treasury responsibility for determination of sales at less than fair value. Pursuant to such authority the Secretary of the Treasury has determined that cast iron soil pipe from Poland is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)).

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the U.S. Tariff Commission responsibility for determination of injury or likelihood of injury. The U.S. Tariff Commission has determined, and on September 5, 1967, it notified the Secretary of the Treasury that an industry in the United States is being injured by reason of the importation of cast iron soil pipe from Poland sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to cast iron soil pipe from Poland.

Section 14.13(b) of the Customs Regulations is amended by adding the following to the list of findings of dumping currently in effect:

Merchandise	Country	T.D.
Cast iron soil pipe	Poland	67-263

(Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173)

[SEAL] TRUE DAVIS,
Assistant Secretary of the Treasury.

[F.R. Doc. 67-12961; Filed, Nov. 1, 1967; 8:49 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

ADHESIVES

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 2B1065) filed by General Aniline & Film Corp., 140 West 51st Street, New York, N.Y. 10020, and other relevant material, has concluded that § 121.2520 of the food additive regulations should be amended by revising the nomenclature and description of the item "Polyoxyethylene (6-7 mols) nonylphenoxy phosphate" to identify these substances in terms consistent with current nomenclature and to provide for increased poly (oxyethylene) content of these substances that may be used in the formulation of food-packaging adhesives. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348 (c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), § 121.2520 (c)(5) is amended by revising the item "Polyoxyethylene (6-7 mols) nonylphenoxy phosphate" to read as follows and by realphabetizing it accordingly:

§ 121.2520 Adhesives.

(c) . . .
(5) . . .

Components of Adhesives	
Substances	*Limitations*
. . .	. . .
α-(p-Nonylphenyl)-ω-hydroxypoly (oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters; the nonyl group to 5 propylene trimer isomer and the poly (oxyethylene) content averages 6-9 moles or 50 moles.	----------
. . .	. . .

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: October 26, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-12966; Filed, Nov. 1, 1967; 8:49 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

POLYURETHANE RESINS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 7B2180) filed by Spencer Kellogg, Division of Textron, Inc., Research Center, Post Office Box 210, Buffalo, N.Y. 14225, and other relevant material, has concluded that the food additive regulations should be amended to provide for the safe use of two additional substances, identified below, as reactants in the preparation of polyurethane resins for use in contact with dry, bulk food. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), § 121.2522(a)(2) is amended by alphabetically inserting in the list of substances two new items, as follows:

§ 121.2522 Polyurethane resins.

. . .
(a) . . .
(2) List of substances:
. . .
1,3-Butylene glycol.
. . .
Pentaerythritol-fumed oil alcoholysis product.
. . .

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

Sec. 409(c)(1), 78 Stat. 1786; 21 U.S.C. 849 (c)(1))

Dated: October 26, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-12965; Filed, Nov. 1, 1967; 8:49 a.m.]

Title 45—PUBLIC WELFARE

Subtitle A—Department of Health, Education, and Welfare, General Administration

PART 81—PRACTICE AND PROCEDURE FOR HEARINGS UNDER PART 80 OF THIS TITLE

The following revision of Part 81 of subtitle A, Title 45 of the Code of Federal Regulations is for the purpose of adapting it to amendements recently made in Part 80 of Subtitle A. Title 45 and of making additional, nonsubstantial technical changes. The recent amendments to Part 80 transferred administrative authority under Title VI of the Civil Rights Act of 1964 from the heads of the various operating agencies to the Secretary, made specific provision for postermination proceedings relating to the removal of a sanction imposed against an applicant or recipient under Title VI, and made other minor changes.

Part 81 of Subtitle A, Title 45 of the Code of Federal Regulations is hereby revised to read as follows:

Subpart A—General Information

Sec.
81.1 Scope of rules.
81.2 Records to be public.
81.3 Use of gender and number.
81.4 Suspension of rules.

Subpart B—Appearance and Practice

81.11 Appearance.
81.12 Authority for representation.
81.13 Exclusion from hearing for misconduct.

Subpart C—Parties

81.21 Parties; General Counsel deemed a party.
81.22 Amici curiae.
81.23 Complainants not parties.

Subpart D—Form, Execution, Service and Filing of Documents

81.31 Form of documents to be filed.
81.32 Signature of documents.
81.33 Filing and service.
81.34 Service—how made.
81.35 Date of service.
81.36 Certificate of service.

Subpart E—Time

81.41 Computation.
81.42 Extension of time or postponement.
81.43 Reduction of time to file documents.

Subpart F—Proceedings Prior to Hearing

81.51 Notice of hearing or opportunity for hearing.
81.52 Answer to notice.
81.53 Amendment of notice or answer.
81.54 Request for hearing.
81.55 Consolidation.
81.56 Motions.
81.57 Responses to motions and petitions.
81.58 Disposition of motions and petitions.

Subpart G—Responsibilities and Duties of Presiding Officer

81.61 Who presides.
81.62 Designation of hearing examiner.
81.63 Authority of presiding officer.

Subpart H—Hearing Procedures

81.71 Statements of position and trial briefs.
81.72 Evidentiary purpose.
81.73 Testimony.
81.74 Exhibits.
81.75 Affidavits.
81.76 Depositions.
81.77 Admissions as to facts and documents.
81.78 Evidence.
81.79 Cross-examination.
81.80 Unsponsored written material.
81.81 Objections.
81.82 Exceptions to rulings of presiding officer unnecessary.
81.83 Official notice.
81.84 Public document items.
81.85 Offer of proof.
81.86 Appeals from ruling of presiding officer.

Subpart I—The Record

81.91 Official transcript.
81.92 Record for decision.

Subpart J—Posthearing Procedures, Decisions

81.101 Posthearing briefs; proposed findings and conclusions.
81.102 Decisions following hearing.
81.103 Exceptions to initial or recommended decisions.
81.104 Final decisions.
81.105 Oral argument to the reviewing authority.
81.106 Review by the Secretary.
81.107 Service on amici curiae.

Subpart K—Judicial Standards of Practice

81.111 Conduct.
81.112 Improper conduct.
81.113 Ex parte communications.
81.114 Expeditious treatment.
81.115 Matters not prohibited.
81.116 Filing of ex parte communications.

Subpart L—Postermination Proceedings

81.121 Postermination proceedings.

Subpart M—Definitions

Sec.
81.131 Definitions.

AUTHORITY: The provisions of this Part 81 are issued under 5 U.S.C. 301 and 45 CFR 80.9(d).

Subpart A—General Information

§ 81.1 Scope of rules.

The rules of procedure in this part supplement §§ 80.9 and 80.10 of this subtitle and govern the practice for hearings, decisions, and administrative review conducted by the Department of Health, Education, and Welfare, pursuant to Title VI of the Civil Rights Act of 1964 (sec. 602, 78 Stat. 252) and Part 80 of this subtitle.

§ 81.2 Records to be public.

All pleadings, correspondence, exhibits, transcripts of testimony, exceptions, briefs, decisions, and other documents filed in the docket in any proceeding may be inspected and copied in the office of the Civil Rights hearing clerk. Inquiries may be made at the Central Information Center, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201.

§ 81.3 Use of gender and number.

As used in this part, words importing the singular number may extend and be applied to several persons or things, and vice versa. Words importing the masculine gender may be applied to females or organizations.

§ 81.4 Suspension of rules.

Upon notice to all parties, the reviewing authority or the presiding officer, with respect to matters pending before them, may modify or waive any rule in this part upon determination that no party will be unduly prejudiced and the ends of justice will thereby be served.

Subpart B—Appearance and Practice

§ 81.11 Appearance.

A party may appear in person or by counsel and participate fully in any proceeding. A State agency or a corporation may appear by any of its officers or by any employee it authorizes to appear on its behalf. Counsel must be members in good standing of the bar of a State, Territory, or possession of the United States or of the District of Columbia or the Commonwealth of Puerto Rico.

§ 81.12 Authority for representation.

Any individual acting in a representative capacity in any proceeding may be required to show his authority to act in such capacity.

§ 81.13 Exclusion from hearing for misconduct.

Disrespectful, disorderly, or contumacious language or contemptuous conduct, refusal to comply with directions, or continued use of dilatory tactics by any person at any hearing before a presiding officer shall constitute grounds for immediate exclusion of such person from the hearing by the presiding officer.

Subpart C—Parties

§ 81.21 Parties; General Counsel deemed a party.

(a) The term party shall include an applicant or recipient or other person to whom a notice of hearing or opportunity for hearing has been mailed naming him as respondent.

(b) The General Counsel of the Department of Health, Education, and Welfare shall be deemed a party to all proceedings.

§ 81.22 Amici curiae.

(a) Any interested person or organization may file a petition to participate in a proceeding as an amicus curiae. Such petition shall be filed prior to the prehearing conference, or if none is held, before the commencement of the hearing, unless the petitioner shows good cause for filing the petition later. The presiding officer may grant the petition if he finds that the petitioner has a legitimate interest in the proceedings, that such participation will not unduly delay the outcome, and may contribute materially to the proper disposition thereof. An amicus curiae is not a party and may not introduce evidence at a hearing.

(b) An amicus curiae may submit a statement of position to the presiding officer prior to the beginning of a hearing, and shall serve a copy on each party. The amicus curiae may submit a brief on each occasion a decision is to be made or a prior decision is subject to review. His brief shall be filed and served on each party within the time limits applicable to the party whose position he deems himself to support; or if he does not deem himself to support the position of any party, within the longest time limit applicable to any party at that particular stage of the proceedings.

(c) When all parties have completed their initial examination of a witness, any amicus curiae may request the presiding officer to propound specific questions to the witness. The presiding officer, in his discretion, may grant any such request if he believes the proposed additional testimony may assist materially in elucidating factual matters at issue between the parties and will not expand the issues.

§ 81.23 Complainants not parties.

A person submitting a complaint pursuant to § 80.7(b) of this title is not a party to the proceedings governed by this part, but may petition, after proceedings are initiated, to become an amicus curiae.

Subpart D—Form, Execution, Service and Filing of Documents

§ 81.31 Form of documents to be filed.

Documents to be filed under the rules in this part shall be dated, the original signed in ink, shall show the docket description and title of the proceeding, and shall show the title, if any, and address of the signatory. Copies need not be signed but the name of the person signing the original shall be reproduced. Documents shall be legible and shall not be more than 8½ inches wide and 12 inches long.

§ 81.32 Signature of documents.

The signature of a party, authorized officer, employee or attorney constitutes a certificate that he has read the document, that to the best of his knowledge, information, and belief there is good ground to support it, and that it is not interposed for delay. If a document is not signed or is signed with intent to defeat the purpose of this section, it may be stricken as sham and false and the proceeding may proceed as though the document had not been filed. Similar action may be taken if scandalous or indecent matter is inserted.

§ 81.33 Filing and service.

All notices by a Department official, and all written motions, requests, petitions, memoranda, pleadings, exceptions, briefs, decisions, and correspondence to a Department official from a party, or vice versa, relating to a proceeding after its commencement shall be filed and served on all parties. Parties shall supply the original and two copies of documents submitted for filing. Filings shall be made with the Civil Rights hearing clerk at the address stated in the notice of hearing or notice of opportunity for hearing, during regular business hours. Regular business hours are every Monday through Friday (legal holidays in the District of Columbia excepted) from 9 a.m. to 5:30 p.m., eastern standard or daylight saving time, whichever is effective in the District of Columbia at the time. Originals only of exhibits and transcripts of testimony need be filed. For requirements of service on amici curiae, see § 81.107.

§ 81.34 Service—how made.

Service shall be made by personal delivery of one copy to each person to be served or by mailing by first-class mail, properly addressed with postage prepaid. When a party or amicus has appeared by attorney or other representative, service upon such attorney or representative will be deemed service upon the party or amicus. Documents served by mail preferably should be mailed in sufficient time to reach the addressee by the date on which the original is due to be filed, and should be air mailed if the addressee is more than 300 miles distant.

§ 81.35 Date of service.

The date of service shall be the day when the matter is deposited in the U.S. mail or is delivered in person, except that the date of service of the initial notice of hearing or opportunity for hearing shall be the date of its delivery, or of its attempted delivery if refused.

§ 81.36 Certificate of service.

The original of every document filed and required to be served upon parties to a proceeding shall be endorsed with a certificate of service signed by the party making service or by his attorney or representative, stating that such service has been made, the date of service, and the manner of service, whether by mail or personal delivery.

Subpart E—Time

§ 81.41 Computation.

In computing any period of time under the rules in this part or in an order issued hereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed in the District of Columbia, in which event it includes the next following business day. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation.

§ 81.42 Extension of time or postponement.

Requests for extension of time should be served on all parties and should set forth the reasons for the application. Applications may be granted upon a showing of good cause by the applicant. From the designation of a presiding officer until the issuance of his decision such requests should be addressed to him. Answers to such requests are permitted, if made promptly.

§ 81.43 Reduction of time to file documents.

For good cause, the reviewing authority or the presiding officer, with respect to matters pending before them, may reduce any time limit prescribed by the rules in this part, except as provided by law or in Part 80 of this title.

Subpart F—Proceedings Prior to Hearing

§ 81.51 Notice of hearing or opportunity for hearing.

Proceedings are commenced by mailing a notice of hearing or opportunity for hearing to an affected applicant or recipient, pursuant to § 80.9 of this title.

§ 81.52 Answer to notice.

The respondent, applicant or recipient may file an answer to the notice within 20 days after service thereof. Answers shall admit or deny specifically and in detail each allegation of the notice, unless the respondent party is without knowledge, in which case his answer should so state, and the statement will be deemed a denial. Allegations of fact in the notice not denied or controverted by answer shall be deemed admitted. Matters alleged as affirmative defenses shall be separately stated and numbered. Failure of the respondent to file an answer within the 20-day period following service of the notice may be deemed an admission of all matters of fact recited in the notice.

§ 81.53 Amendment of notice or answer.

The General Counsel may amend the notice of hearing or opportunity for hearing once as a matter of course before an answer thereto is served, and each respondent may amend his answer once as a matter of course not later than 10 days before the date fixed for hearing but in no event later than 20 days from the date of service of his original answer. Otherwise a notice or answer may be

amended only by leave of the presiding officer. A respondent shall file his answer to an amended notice within the time remaining for filing the answer to the original notice or within 10 days after service of the amended notice, whichever period may be the longer, unless the presiding officer otherwise orders.

§ 81.54 Request for hearing.

Within 20 days after service of a notice of opportunity for hearing which does not fix a date for hearing the respondent, either in his answer or in a separate document, may request a hearing. Failure of the respondent to request a hearing shall be deemed a waiver of the right to a hearing and to constitute his consent to the making of a decision on the basis of such information as is available.

§ 81.55 Consolidation.

The responsible Department official may provide for proceedings in the Department to be joined or consolidated for hearing with proceedings in other Federal departments or agencies, by agreement with such other departments or agencies. All parties to any proceeding consolidated subsequently to service of the notice of hearing or opportunity for hearing shall be promptly served with notice of such consolidation.

§ 81.56 Motions.

Motions and petitions shall state the relief sought, the authority relied upon, and the facts alleged. If made before or after the hearing, these matters shall be in writing. If made at the hearing, they may be stated orally; but the presiding officer may require that they be reduced to writing and filed and served on all parties in the same manner as a formal motion. Motions, answers, and replies shall be addressed to the presiding officer, if the case is pending before him. A repetitious motion will not be entertained.

§ 81.57 Response to motions and petitions.

Within 5 days after a written motion or petition is served, or such other period as the reviewing authority or the presiding officer may fix, any party may file a response thereto. An immediate oral response may be made to an oral motion.

§ 81.58 Disposition of motions and petitions.

The reviewing authority or the presiding officer may not sustain or grant a written motion or petition prior to expiration of the time for filing responses thereto, but may overrule or deny such motion or petition without awaiting response: *Provided, however,* That prehearing conferences, hearings and decisions need not be delayed pending disposition of motions or petitions. Oral motions and petitions may be ruled on immediately. Motions and petitions submitted to the reviewing authority or the presiding officer, respectively, and not disposed of in separate rulings or in their respective decisions will be deemed denied. Oral arguments shall not be held on written motions or petitions unless the presiding officer in his discretion expressly so orders.

Subpart G—Responsibilities and Duties of Presiding Officer

§ 81.61 Who presides.

A hearing examiner assigned under 5 U.S.C. 3105 or 3344 (formerly sec. 11 of the Administrative Procedure Act) shall preside over the taking of evidence in any hearing to which these rules of procedure apply.

§ 81.62 Designation of hearing examiner.

The designation of the hearing examiner as presiding officer shall be in writing, and shall specify whether the examiner is to make an initial decision or to certify the entire record including his recommended findings and proposed decision to the reviewing authority, and may also fix the time and place of hearing. A copy of such order shall be served on all parties. After service of an order designating a hearing examiner to preside, and until such examiner makes his decision, motions and petitions shall be submitted to him. In the case of the death, illness, disqualification or unavailability of the designated hearing examiner, another hearing examiner may be designated to take his place.

§ 81.63 Authority of presiding officer.

The presiding officer shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, and to maintain order. He shall have all powers necessary to these ends, including (but not limited to) the power to:

(a) Arrange and issue notice of the date, time, and place of hearings, or, upon due notice to the parties, to change the date, time, and place of hearings previously set.

(b) Hold conferences to settle, simplify, or fix the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding.

(c) Require parties and amici curiae to state their position with respect to the various issues in the proceeding.

(d) Administer oaths and affirmations.

(e) Rule on motions, and other procedural items on matters pending before him.

(f) Regulate the course of the hearing and conduct of counsel therein.

(g) Examine witnesses and direct witnesses to testify.

(h) Receive, rule on, exclude or limit evidence.

(i) Fix the time for filing motions, petitions, briefs, or other items in matters pending before him.

(j) Issue initial or recommended decisions.

(k) Take any action authorized by the rules in this part or in conformance with the provisions of 5 U.S.C. 551–559 (the Administrative Procedure Act).

Subpart H—Hearing Procedures

§ 81.71 Statement of position and trial briefs.

The presiding officer may require parties and amici curiae to file written statements of position prior to the beginning of a hearing. The presiding officer may also request the parties to submit trial briefs.

§ 81.72 Evidentiary purposes.

(a) The hearing is directed to receiving factual evidence and expert opinion testimony related to the issues in the proceeding. Argument will not be received in evidence; rather it should be presented in statements, memoranda, or briefs, as determined by the presiding officer. Brief opening statements, which shall be limited to statement of the party's position and what he intends to prove, may be made at hearings.

(b) Hearings for the reception of evidence will be held only in cases where issues of fact must be resolved in order to determine whether the respondent has failed to comply with one or more applicable requirements of Part 80 of this title. In any case where it appears from the respondent's answer to the notice of hearing or opportunity for hearing, from his failure timely to answer, or from his admissions or stipulations in the record, that there are no matters of material fact in dispute, the reviewing authority or presiding officer may enter an order so finding, vacating the hearing date if one has been set, and fixing the time for filing briefs under § 81.101. Thereafter the proceedings shall go to conclusion in accordance with Subpart J of this part. The presiding officer may allow an appeal from such order in accordance with § 81.86.

§ 81.73 Testimony.

Testimony shall be given orally under oath or affirmation by witnesses at the hearing; but the presiding officer, in his discretion, may require or permit that the direct testimony of any witness be prepared in writing and served on all parties in advance of the hearing. Such testimony may be adopted by the witness at the hearing, and filed as part of the record thereof. Unless authorized by the presiding officer, witnesses will not be permitted to read prepared testimony into the record. Except as provided in §§ 81.75 and 81.76, witnesses shall be available at the hearing for cross-examination.

§ 81.74 Exhibits.

Proposed exhibits shall be exchanged at the prehearing conference, or otherwise prior to the hearing if the presiding officer so requires. Proposed exhibits not so exchanged may be denied admission as evidence. The authenticity of all proposed exhibits exchanged prior to hearing will be deemed admitted unless written objection thereto is filed prior to the hearing or unless good cause is shown at the hearing for failure to file such written objection.

§ 81.75 Affidavits.

An affidavit is not inadmissible as such. Unless the presiding officer fixes other time periods affidavits shall be filed and served on the parties not later than 15 days prior to the hearing; and not less than 7 days prior to hearing a party may file and serve written objection to any affidavit on the ground that he believes it necessary to test the truth of assertions therein at hearing. In such event the assertions objected to will not be received in evidence unless the affiant is made available for cross-examination, or the presiding officer determines that cross-examination is not necessary for the full and true disclosure of facts referred to in such assertions. Notwithstanding any objection, however, affidavits may be considered in the case of any respondent who waives a hearing.

§ 81.76 Depositions.

Upon such terms as may be just, for the convenience of the parties or of the Department, the presiding officer may authorize or direct the testimony of any witness to be taken by deposition.

§ 81.77 Admissions as to facts and documents.

Not later than 15 days prior to the scheduled date of the hearing except for good cause shown, or prior to such earlier date as the presiding officer may order, any party may serve upon an opposing party a written request for the admission of the genuineness and authenticity of any relevant documents described in and exhibited with the request, or for the admission of the truth of any relevant matters of fact stated in the request. Each of the matters of which an admission is requested shall be deemed admitted, unless within a period designated in the request (not less than 10 days after service thereof, or within such further time as the presiding officer or the reviewing authority if no presiding officer has yet been designated, may allow upon motion and notice) the party to whom the request is directed serves upon the requesting party a sworn statement either denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully either admit or deny such matters. Copies of requests for admission and answers thereto shall be served on all parties. Any admission made by a party to such request is only for the purposes of the pending proceeding, or any proceeding or action instituted for the enforcement of any order entered therein, and shall not constitute an admission by him for any other purpose or be used against him in any other proceeding or action.

§ 81.78 Evidence.

Irrelevant, immaterial, unreliable, and unduly repetitious evidence will be excluded.

§ 81.79 Cross-examination.

A witness may be cross-examined on any matter material to the proceeding without regard to the scope of his direct examination.

§ 81.80 Unsponsored written material.

Letters expressing views or urging action and other unsponsored written material regarding matters in issue in a hearing will be placed in the correspondence section of the docket of the proceeding. These data are not deemed part of the evidence or record in the hearing.

§ 81.81 Objections.

Objections to evidence shall be timely and briefly state the ground relied upon.

§ 81.82 Exceptions to rulings of presiding officer unnecessary.

Exceptions to rulings of the presiding officer are unnecessary. It is sufficient that a party, at the time the ruling of the presiding officer is sought, makes known the action which he desires the presiding officer to take, or his objection to an action taken, and his grounds therefor.

§ 81.83 Official notice.

Where official notice is taken or is to be taken of a material fact not appearing in the evidence of record, any party, on timely request, shall be afforded an opportunity to show the contrary.

§ 81.84 Public document items.

Whenever there is offered (in whole or in part) a public document, such as an official report, decision, opinion, or published scientific or economic statistical data issued by any of the executive departments (or their subdivisions), legislative agencies or committees, or administrative agencies of the Federal Government (including Government-owned corporations), or a similar document issued by a State or its agencies, and such document (or part thereof) has been shown by the offeror to be reasonably available to the public, such document need not be produced or marked for identification, but may be offered for official notice, as a public document item by specifying the document or relevant part thereof.

§ 81.85 Offer of proof.

An offer of proof made in connection with an objection taken to any ruling of the presiding officer rejecting or excluding proffered oral testimony shall consist of a statement of the substance of the evidence which counsel contends would be adduced by such testimony; and, if the excluded evidence consists of evidence in documentary or written form or of reference to documents or records, a copy of such evidence shall be marked for identification and shall accompany the record as the offer of proof.

§ 81.86 Appeals from ruling of presiding officer.

Rulings of the presiding officer may not be appealed to the reviewing authority prior to his consideration of the entire proceeding except with the consent of the presiding officer and where he certifies on the record or in writing that the allowance of an interlocutory appeal is clearly necessary to prevent exceptional delay, expense, or prejudice to any party, or substantial detriment to the public interest. If an appeal is allowed, any party may file a brief with the reviewing authority within such period as the presiding officer directs. No oral argument will be heard unless the reviewing authority directs otherwise. At any time prior to submission of the proceeding to it for decision, the reviewing authority may direct the presiding officer to certify any question or the entire record to it for decision. Where the entire record is so certified, the presiding officer shall recommend a decision.

Subpart I—The Record

§ 81.91 Official transcript.

The Department will designate the official reporter for all hearings. The official transcripts of testimony taken, together with any exhibits, briefs, or memoranda of law filed therewith shall be filed with the Department. Transcripts of testimony in hearings may be obtained from the official reporter by the parties and the public at rates not to exceed the maximum rates fixed by the contract between the Department and the reporter. Upon notice to all parties, the presiding officer may authorize corrections to the transcript which involve matters of substance.

§ 81.92 Record for decision.

The transcript of testimony, exhibits, and all papers and requests filed in the proceedings, except the correspondence section of the docket, including rulings and any recommended or initial decision shall constitute the exclusive record for decision.

Subpart J—Posthearing Procedures, Decisions

§ 81.101 Posthearing briefs; proposed findings and conclusions.

(a) The presiding officer shall fix the time for filing posthearing briefs, which may contain proposed findings of fact and conclusions of law, and, if permitted, reply briefs.

(b) Briefs should include a summary of the evidence relied upon together with references to exhibit numbers and pages of the transcript, with citations of the authorities relied upon.

§ 81.102 Decisions following hearing.

When the time for submission of posthearing briefs has expired, the presiding officer shall certify the entire record, including his recommended findings and proposed decision, to the responsible Department official; or if so authorized he shall make an initial decision. A copy of the recommended findings and proposed decision, or of the initial decision, shall be served upon all parties, and amici, if any.

§ 81.103 Exceptions to initial or recommended decisions.

Within 20 days after the mailing of an initial or recommended decision, any party may file exceptions to the decision, stating reasons therefor, with the reviewing authority. Any other party may file a response thereto within 20 days after the mailing of the decision. Upon the filing of such exceptions, the reviewing authority shall review the decision and issue its own decision thereon.

§ 81.104 Final decisions.

(a) Where the hearing is conducted by a hearing examiner who makes an initial decision, if no exceptions thereto

are filed within the 20-day period specified in § 81.108, such decision shall become the final decision of the Department, and shall constitute "final agency action" within the meaning of 5 U.S.C. 704 (formerly section 10(a) of the Administrative Procedure Act), subject to the provisions of § 81.108.

(b) Where the hearing is conducted by a hearing examiner who makes a recommended decision, or upon the filing of exceptions to a hearing examiner's initial decision, the reviewing authority shall review the recommended or initial decision and shall issue its own decision thereon, which shall become the final decision of the Department, and shall constitute "final agency action" within the meaning of 5 U.S.C. 704 (formerly section 10(c) of the Administrative Procedure Act), subject to the provisions of § 81.108.

(c) All final decisions shall be promptly served on all parties, and amici, if any.

§ 81.105 Oral argument to the reviewing authority.

(a) If any party desires to argue a case orally on exceptions or replies to exceptions to an initial or recommended decision, he shall make such request in writing. The reviewing authority may grant or deny such requests in its discretion. If granted, it will serve notice of oral argument on all parties. The notice will set forth the order of presentation, the amount of time allotted, and the time and place for argument. The names of persons who will argue should be filed with the Department hearing clerk not later than 7 days before the date set for oral argument.

(b) The purpose of oral argument is to emphasize and clarify the written argument in the briefs. Reading at length from the brief or other texts is not favored. Participants should confine their arguments to points of controlling importance and to points upon which exceptions have been filed. Consolidations of appearances at oral argument by parties taking the same side will permit the parties' interests to be presented more effectively in the time allotted.

(c) Pamphlets, charts, and other written material may be presented at oral argument only if such material is limited to facts already in the record and is served on all parties and filed with the Department hearing clerk at least 7 days before the argument.

§ 81.106 Review by the Secretary.

Within 20 days after an initial decision becomes a final decision pursuant to § 81.104(a) or within 20 days of the mailing of a final decision referred to in § 81.104(b), as the case may be, a party may request the Secretary to review the final decision. The Secretary may grant or deny such request, in whole or in part, or serve notice of his intent to review the decision in whole or in part upon his own motion. If the Secretary grants the requested review, or if he serves notice of intent to review upon his own motion, each party to the decision shall have 20 days following notice of the Secretary's proposed action within which to file exceptions to the decision and supporting briefs and memoranda, or briefs and memoranda in support of the decision. Failure of a party to request review under this paragraph shall not be deemed a failure to exhaust administrative remedies for the purpose of obtaining judicial review.

§ 81.107 Service on amici curiae.

All briefs, exceptions, memoranda, requests, and decisions referred to in this subpart J shall be served upon amici curiae at the same times and in the same manner required for service on parties. Any written statements of position and trial briefs required of parties under § 81.71 shall be served on amici.

Subpart K—Judicial Standards of Practice

§ 81.111 Conduct.

Parties and their representatives are expected to conduct themselves with honor and dignity and observe judicial standards of practice and ethics in all proceedings. They should not indulge in offensive personalities, unseemly wrangling, or intemperate accusations or characterizations. A representative of any party whether or not a lawyer shall observe the traditional responsibilities of lawyers as officers of the court and use his best efforts to restrain his client from impropriety in connection with a proceeding.

§ 81.112 Improper conduct.

With respect to any proceeding it is improper for any interested person to attempt to sway the judgment of the reviewing authority by undertaking to bring pressure or influence to bear upon any officer having a responsibility for a decision in the proceeding, or his decisional staff. It is improper that such interested persons or any members of the Department's staff or the presiding officer give statements to communications media, by paid advertisement or otherwise, designed to influence the judgment of any officer having a responsibility for a decision in the proceeding, or his decisional staff. It is improper for any person to solicit communications to any such officer, or his decisional staff, other than proper communications by parties or amici curiae.

§ 81.113 Ex parte communications.

Only persons employed by or assigned to work with the reviewing authority who perform no investigative or prosecuting function in connection with a proceeding shall communicate ex parte with the reviewing authority, or the presiding officer, or any employee or person involved in the decisional process in such proceedings with respect to the merits of that or a factually related proceeding. The reviewing authority, the presiding officer, or any employee or person involved in the decisional process of a proceeding shall communicate ex parte with respect to the merits of that or a factually related proceeding only with persons employed by or assigned to work with them and who perform no investigative or prosecuting function in connection with the proceeding.

§ 81.114 Expeditious treatment.

Requests for expeditious treatment of matters pending before the responsible Department official or the presiding officer are deemed communications on the merits, and are improper except when forwarded from parties to a proceeding and served upon all other parties thereto. Such communications should be in the form of a motion.

§ 81.115 Matters not prohibited.

A request for information which merely inquires about the status of a proceeding without discussing issues or expressing points of view is not deemed an ex parte communication. Such requests should be directed to the Civil Rights Hearing clerk. Communications with respect to minor procedural matters or inquiries or emergency requests for extensions of time are not deemed ex parte communications prohibited by § 81.113. Where feasible, however, such communications should be by letter with copies to all parties. Ex parte communications between a respondent and the responsible Department official or the Secretary with respect to securing such respondent's voluntary compliance with any requirement of Part 80 of this title are not prohibited.

§ 81.116 Filing of ex parte communications.

A prohibited communication in writing received by the Secretary, the reviewing authority, or by the presiding officer, shall be made public by placing it in the correspondence file of the docket in the case and will not be considered as part of the record for decision. If the prohibited communication is received orally, a memorandum setting forth its substance shall be made and filed in the correspondence section of the docket in the case. A person referred to in such memorandum may file a comment for inclusion in the docket if he considers the memorandum to be incorrect.

Subpart L—Postermination Proceedings

§ 81.121 Postermination proceedings.

(a) An applicant or recipient adversely affected by the order terminating, discontinuing, or refusing Federal financial assistance in consequence of proceedings pursuant to this title may request the responsible Department official for an order authorizing payment, or permitting resumption, of Federal financial assistance. Such request shall be in writing and shall affirmatively show that since entry of the order, it has brought its program or activity into compliance with the requirements of the Act, and with the Regulation thereunder, and shall set forth specifically, and in detail, the steps which it has taken to achieve such compliance. If the responsible Department official denies such request the applicant or recipient shall be given an expeditious hearing if it so requests in writing and specifies why it believes the responsible Department official to have been in error. The request for such a hearing shall be addressed to the responsible Department official and shall be made within 30 days after the applicant or recipient is informed that the responsible Department official has refused to authorize payment or permit resumption of Federal financial assistance.

(b) In the event that a hearing shall be requested pursuant to subparagraph (a) of this section, the hearing procedures established by this part shall be applicable to the proceedings, except as otherwise provided in this section.

Subpart M—Definitions

§ 81.131 Definitions.

The definitions contained in § 80.13 of this subtitle apply to this part, unless the context otherwise requires, and the term "reviewing authority" as used herein includes the Secretary of Health, Education, and Welfare, with respect to action by that official under § 81.108.

Transition provisions: (a) The amendments herein shall become effective upon publication in the FEDERAL REGISTER.

(b) These rules shall apply to any proceeding or part thereof to which Part 80 of this title as amended effective October 19, 1967 (published in the FEDERAL REGISTER for Oct. 19, 1967), and as the same may be hereafter amended, applies. In the case of any proceeding or part thereof governed by the provisions of Part 80 as that part existed prior to such amendment, the rules in this Part 81 shall apply as if these amendments were not in effect.

Dated: October 26, 1967.

[SEAL] JOHN W. GARDNER,
Secretary.

[F.R. Doc. 67-12967; Filed, Nov. 1, 1967; 8:49 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 17146; FCC 67-1131]

PART 73—RADIO BROADCAST SERVICES

Station Identification Requirements

Report and order. 1. On January 25, 1967, the Commission adopted a notice of proposed rule making (FCC 67-114) [1] to prohibit broadcast licensees in station identification announcements, promotional announcements or any other broadcast matter from leading or attempting to lead members of the listening or viewing public to believe that their stations have been assigned to cities other than those specified in their licenses.

2. Efforts of certain licensees to mislead the public as to the licensed location of their stations have long been a matter of concern to the Commission. Gulf Television Co., 12 R.R. 447; Tulsa Broadcasting Co., 12 R.R. 1256. More recently, 8 R.R. 2d 1167, we found such practices by a licensee undesirable but under the particular circumstances of that case not in violation of existing rules because the call letters and city in which the station was licensed were announced at the time specified for station identification. In the light of information coming to our attention regarding misleading announcements as to station location by this and other stations, we thought it necessary to amend the rules. We further believed that nothing short of a general prohibition of the broadcast of misleading matter on this subject would cover all situations and prevent the defeat of the intent and purpose of our station identification rules. Accordingly, we adopted a notice of a proposal to amend Part 73 of the rules to provide that:

> A licensee shall not in station identification announcements, promotional announcements, or any other broadcast matter either lead or attempt to lead the station's listeners to believe that the station has been assigned to a city other than that specified in its license.[2]

3. More than one-half of the parties submitting comments support the proposed rule or its purpose, and one (Old Pueblo Broadcasting Co.) urges the Commission to go further and specify that even in nonbroadcast forms of advertising and promotion stations may not identify themselves with communities other than those in which they are licensed.[3] However, most of the parties favoring the rule ask clarification (a) to specify that stations licensed to more than one city or authorized to use multiple-city identification may in all program matter identify themselves accordingly, and (b) to specify that stations licensed to one city but providing substantial service to other cities or nearby areas may so describe the scope of their coverage, provided no attempt is made to mislead the audience as to their licensed location. One of the parties in this group asks the Commission to state that licensees shall be entitled to declaratory rulings under § 1.2 of the rules. Several suggest that the Commission issue a public notice containing illustrations of specific ways in which it intends to apply the rule. It was not our intent in proposing this rule making to infringe on any authorization for multiple-city identification or to inhibit the broadcast of truthful statements about a station's coverage area. These and other suggestions and requests of parties submitting comments will be dealt with more fully hereinafter.

4. Slightly less than one-half of the comments oppose the rule. Many of these comments are based on misconceptions of its effect in the areas described above; i.e., the use, where authorized, of multiple-city identification and the right to broadcast accurate statements regarding a station's coverage area. However, several submitting opposition comments profess fear that the rule would impose many other prohibitions upon the programming of stations whose licensed locations are suburban communities. Among the consequences conjured up by this group are prohibitions against (a) the broadcast of any public service announcements or programs on behalf of organizations located in the principal city; (b) the broadcast of programs designed to serve the needs and interests of the entire coverage area of the station; (c) the broadcast of advertising sponsored by businesses located in the principal city. A few of these submitting comments even profess fear that a suburban station would be required to delete or severely restrict the amount of news broadcast about events occurring in the adjacent principal city, lest the Commission hold that the broadcast of such news would mislead the station's listeners as to its location.

5. All such fears in the terms stated above are groundless. We have repeatedly stated that a station has an obligation to serve its entire coverage area, and the broadcast of public service announcements and other programing, including news, which pertains to or is of interest to persons in its entire coverage area is not inhibited by the proposed rule. However, as set forth in § 73.30(a) of our rules, the primary responsibility of a licensee is to "serve a particular city, town, political subdivision or community which [is] specified in its station license." The further obligation to serve its entire service area may not be used as justification to ignore the licensee's primary responsibility or to mislead a station's audience as to its licensed location.[4]

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[1] The Notice was published in the FEDERAL REGISTER of Feb. 3, 1967 (32 F.R. 2384). Requests were received for extension of time for filing comments and reply comments, and these deadlines eventually were extended to Apr. 28 and May 17, 1967, respectively (32 F.R. 6408).

[2] The amendment to the rules relating to television stations substitutes the word "audience" for "listeners."

[3] Comments were timely filed by 30 parties, some of which were multiple owners of broadcast stations, and one of which was the National Association of Educational Broadcasters. The other 29 were Scharfeld, Baehhoefer & Baron, Matia Broadcasting Co., Truth Publishing Co., WFGM, Inc., The American University, Broadcaster Services, Inc., New Hampshire-Vermont Broadcasting Corp., Old Pueblo Broadcasting Co., KPOJ, Inc., WPVL, Inc., Independent Music Broadcasters, Inc., King Broadcasting Co., Metromedia, Inc., Storer Broadcasting Co., Spartan Radiocasting Co., the Law Offices of Marcus Cohn, Charles River Broadcasting Co., Bell Broadcasting Co., Northwest Publications, Inc., Triangle Broadcasting Co., Inc., Appalachian Broadcasting Corp., Midwest Radio-Television, Inc., Fly, Shuebruk, Blume and Gaguine (on behalf of seven licensees), Capital Cities Broadcasting Corp., Newport Broadcasting Co., Nassau Broadcasting Co., Knorr Broadcasting Corp., the Chamber of Commerce of Pine Bluff, Ark., and Sparks Broadcasting Co.

[4] The opposition comments in this proceeding repeatedly cite Petersburg Television Corporation, 10 R.R. 567, but we said nothing in that decision to justify lack of service to one's assigned community. In commenting favorably on the proposal of one applicant to serve its entire coverage area, we stated that the "proposed station, while serving the entire area, is a Petersburg station," and that "This is not a case where one party, in attempting to serve his entire coverage area, has made inadequate provision for some important segment such as the community to which the station is assigned."

6. In his statement concurring with the notice of proposed rule making in this proceeding, Commissioner Johnson raised numerous questions going to our basic allocation policies, and invited comments thereon. In response, some filing comments urge that we abandon the principle of licensing stations to individual communities and permit them to identify themselves with entire metropolitan areas. In support of this view, it is urged that the concept of community service is anachronistic; that stations in metropolitan regions now actually serve homogeneous areas rather than political entities, and that the people in such metropolitan areas have the same interests. Although such arguments merit consideration, we do not propose in this proceeding to consider the revision of our historic concept of station allocation, but rather to determine whether a rule should be adopted to prohibit misleading announcements regarding station location as presently assigned. As Commissioner Johnson recognizes in his concurring statement, we have in some areas permitted a substantial increase of interference in order to grant applications for first local transmission services. If we were now to relieve such licensees of their local service obligations we might well reconsider the need for so many facilities in some metropolitan areas.

7. Until such time as we may consider revising our basic policy in allocating facilities, we shall continue to license stations primarily to serve their own communities and secondarily to serve their entire coverage areas. Although the contention has been made that all metropolitan areas are now homogeneous and have the same programing needs, we have been presented no evidence to support such a proposition. Indeed, the tremendous growth of suburban newspapers in recent years would lead to the conclusion that although many suburbanites work in the principal city, they retain their interest in the political, civic, cultural, social, and educational affairs of their home communities.

8. In releasing our notice of proposed rule making, we recognized that if such a rule were finally adopted it would be desirable to issue a supplementary list of examples of its application for the guidance of licensees. We did not release a list of examples at that time because we believed that comments of interested parties in the proceeding would be of assistance to us in preparing the examples. This has proved true. We have considered all suggestions and questions of interpretation submitted in the comments, and are incorporating by reference in the rule examples of ways in which we intend to apply the rule to specific practices. We previously followed this practice with respect to rules on sponsorship identification and fraudulent billing practices, and it apparently has proved helpful. The list of examples will be enlarged as experience dictates. We believe the examples already set forth will materially assist licensees in achieving compliance, will answer most of the specific questions posed in the comments, and will serve to negate the criticism advanced in some comments to the effect that the rule is vague and lacks clearly defined standards.[1]

9. Consideration of the comments submitted in this proceeding has confirmed the belief expressed in the notice of proposed rule making that "the proposed amendments would bring about an end to efforts to confuse or mislead the audience as to the city to which a station is licensed, and that they are appropriate and necessary means to carry out our functions under the public interest standard of the Communications Act."

10. Authority for the amendments herein adopted is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

11. *Accordingly, it is ordered*, That the amendments contained as set forth below are adopted, effective December 4, 1967.

12. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended 1066, 1082; 47 U.S.C. 154, 303)

Adopted: October 11, 1967.

Released: October 30, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

1. Section 73.117 of the Commission's rules and regulations is amended by adding new paragraph (g) and a note to the end thereof to read as follows:

§ 73.117 Station identification.

* * * * *

(g) A licensee shall not in station identification announcements, promotional announcements or any other broadcast matter either lead or attempt to lead the station's listeners to believe that the station has been assigned to a city other than that specified in its license.

NOTE: Commission interpretations in connection with this Rule may be found in a separate public notice issued Oct. 30, 1967, entitled "Applicability of Rule Regarding the Broadcast of Misleading Statements Regarding a Station's Licensed Location." (FCC 67-1132).

2. Section 73.287 of the Commission's rules and regulations is amended by adding new paragraph (g) and a note to the end thereof to read as follows:

§ 73.287 Station identification.

* * * * *

(g) A licensee shall not in station identification announcements, promotional announcements or any other broadcast matter either lead or attempt to lead the station's listeners to believe that the station has been assigned to a city other than that specified in its license.

NOTE: Commission interpretations in connection with this Rule may be found in a separate public notice issued Oct. 30, 1967, entitled "Applicability of Rule Regarding the Broadcast of Misleading Statements Regarding a Station's Licensed Location." (FCC 67-1132).

3. Section 73.652 of the Commission's rules and regulations is amended by adding a new paragraph (c) and a note to the end thereof to read as follows:

§ 73.652 Station identification.

* * * * *

(c) A licensee shall not in station identification announcements, promotional announcements or any other broadcast matter either lead or attempt to lead its audience to believe that the station has been assigned to a city other than that specified in its license.

NOTE: Commission interpretations in connection with this Rule may be found in a separate public notice issued Oct. 30, 1967, entitled "Applicability of Rule Regarding the Broadcast of Misleading Statements Regarding a Station's Licensed Location." (FCC 67-1132).

[F.R. Doc. 67-12962; Filed, Nov. 1, 1967; 8:48 a.m.]

[Docket No. 17627; FCC 67-1179]

PART 73—RADIO BROADCAST SERVICES

Table of Assignments, Certain FM Broadcast Stations

In the matter of Amendment of § 73.202 *Table of Assignments*, FM Broadcast Stations. (Tazewell, Va., Guntersville, Ala., Winnsboro, La., Fosston, Minn., Tuscola, Ill., Mansfield, Pa., Cathedral City, Calif., Harrodsburg, Ky., Pipestone, Minn., Albany, N.Y., Murfreesboro, Ahoskie, Washington, Plymouth, and New Bern, N.C., Laurel, Miss., Ukiah, Calif., and Carbondale, Ill.), Docket No. 17627, RM-1154, RM-1153, RM-1155, RM-1146, RM-1162, RM-1158, RM-1163, RM-1172, RM-1141, RM-1148, FM-1121, RM-1165, RM-1125, RM-1168.

Report and order. 1. The Commission has before it for consideration its notice of proposed rule making, issued in this proceeding on July 31, 1967, (FCC 67-883) and published in the FEDERAL REGISTER on August 3, 1967 (32 F.R. 11283) inviting comments on a number of changes in the FM Table of Assignments proposed by various interested parties. The following determinations were made after due consideration of all the comments and data filed in the proceeding. Except as noted, the proposals were unopposed. All population figures were taken from the 1960 U.S. Census, unless otherwise stated. This decision disposes of all the above-listed petitions.

2. *RM-1154. Tazewell, Va.* (C. A. Hess, W. H. Bowen, and Fred Cox); *RM-1153. Guntersville, Ala.* (Guntersville Broadcasting Co.); *RM-1146. Fosston, Minn.* (Fosston Broadcasting Co.); *RM-1162. Tuscola, Ill.* (Charles R. Banks); *RM-1163. Cathedral City, Calif.* (Glen Barnett); *RM-1172. Harrodsburg, Ky.* (Fort Harrod Broadcasting Co.).

In these six cases interested parties seek the first Class A assignment in communities having no FM assignments and without requiring any other changes in the Table. The communities range in size from a population of 1,704 persons to 6,592 persons. One has a Class IV AM station (Cathedral City, Calif.) and the remainder have a daytime-only station each. We are of the view that the requested assignments are merited and that they would serve the public interest. We are therefore assigning Channel 240A to Guntersville, Ala., 276A to Cathedral City, Calif., 228A to Tuscola, Ill., 257A to Harrodsburg, Ky., 296A to Fosston, Minn., and 261A to Tazewell, Va.

3. *RM-1155. Winnsboro and Bastrop, La.* In response to a petition for rule making filed on May 18, 1967, by KMAR Broadcasting Corp., licensee of Station KMAR(AM), Winnsboro, La., we invited comments on its proposal requesting the assignment of Channel 224A to Winnsboro. This community has a population of 4,437 persons and is the parish seat of Franklin Parish, which has a population of 26,686 persons. KMAR urges that this community enjoys a diversified industrial pattern and is an important agricultural and business center as well, and that it merits the assignment of a first unlimited time radio outlet.

4. Noe Enterprises, Inc., licensee of television station KNOE-TV, Channel 8, Monroe, La., supports the request for an FM assignment in Winnsboro, but proposes that another assignment be made in order to avoid what is described as harmful interference which may result to the reception of KNOE-TV in Winnsboro due to the second harmonic of the proposed FM station falling within the KNOE-TV channel. It is proposed to assign Channel 240A to Winnsboro by substituting Channel 232A for 240A at Bastrop as follows:

City	Channel No.	
	Present	Proposed
Winnsboro, La.		240A
Bastrop, La.	240A	232A

Noe points out that the counterproposal conforms to all the spacing rules, would provide Winnsboro with an FM assignment, and would not create interference to any locally received TV station. No application has been filed for the present Bastrop assignment. KMAR states that it does not object to the substitution proposed by Noe.

5. We are of the view that Winnsboro merits the assignment of a first FM channel and that such an assignment would serve the public interest since it would provide the community with its first early morning and evening listening radio outlet. We are further of the view that the Noe counterproposal should be adopted. However, since the radio spectrum is too scarce and valuable to afford dismo of particular channels for an indefinite time, we are prepared to assign Channel 224A in the general area in the event there is a future need and demand for it.

6. *RM-1141. Pipestone, Minn.* In a petition for rule making filed on April 27, 1967, KLOH, Inc., licensee of Station KLOH(AM), Pipestone, Minn., requested the substitution of Class C, Channel 254 for Class A, Channel 252A in Pipestone, as follows:

City	Channel No.	
	Present	Proposed
Pipestone, Minn.	252A	254

Pipestone is a community of 5,324 persons and its county, of which it is the seat and largest community, has a population of 13,005 persons. KLOH is a daytime-only station and the only one in Pipestone County and in adjoining Rock County. Petitioner urges that Pipestone needs a Class C assignment to provide coverage to the large area served by KLOH (due to the high conductivity in the area) including the city of Luverne in Rock County, where it has one employee on a full-time basis, that it would represent a more efficient use of the spectrum in that improved service would result without depriving any community of an assignment, and that it would permit broadcasts of vital weather information and other information and entertainment programs during the early morning and evening hours.

7. While Pipestone is only 35 miles southeast of Sioux Falls, S. Dak., where four Class C assignments have been made, KLOH submits that there is little expectation that these stations, located in another State, would provide the local program needs of Rock and Pipestone Counties. An engineering showing is also included to prove that a substantial area and population would be served with a first FM signal ("white area"). Based upon assumption of "reasonable facilities" of 100 kw power and antenna height of 400 feet above average terrain (resulting in a radius of 35 miles to the 1 mv/m contour) for all existing and assigned Class C channels in the area and for the proposed station, KLOH shows that an additional area of 1,982 square miles, containing 15,391 persons, would receive a first FM signal of 1 mv/m field strength as against a Class A station at the same location and with maximum Class A facilities.

8. Normally, a community the size of Pipestone is assigned a Class A channel, as was done in this case. However, in view of the isolation of the community from large population centers, and the large "white area" which would be served made by the petitioner, we are adopting the KLOH proposal to substitute a Class C for the Class A channel assigned. It is expected that the petitioner or any other party filing for Channel 254 at Pipestone will utilize the facilities (or the equivalent thereto) assumed in computing the "white area" to be served by the Class C assignment.

9. *RM-1148. Albany, N.Y.* On May 5, 1967, and supplemented on June 30, 1967, WPOW, Inc., licensee of Station WHAZ (AM), Troy, N.Y., filed a petition requesting the addition of Channel 299 as a third Class B assignment to Albany, N.Y., as follows:

City	Channel No.	
	Present	Proposed
Albany, N.Y.	269, 281A, 276A, 280A, 295	269, 281A, 276A, 280A, 295, 299

Albany has a population of 129,726 and its Standard Metropolitan Statistical Area (Albany-Schenectady-Troy) has a population of 657,503. There are four unlimited time AM stations operating in Albany. The two Class B assignments are in operation as is one Class A (276A). No applications have been filed for the remaining Class A assignments. There is one Class B assignment each in Schenectady (population 81,682) and Troy (population 67,492), the former also having two fulltime AM stations and the latter one fulltime and one daytime-only AM station.

10. In support of its proposal, petitioner urges that Albany is not only the capital of New York State but also the principal city in the 38th largest metropolitan area in the nation, that Channel 299 would be only the fifth Class B assignment to the three-city complex, and that it would not require any other changes in the Table. WPOW, Inc., also cites the description of a Class A assignment found in § 73.206(a)(2) of the rules to justify the request for a Class B channel, in spite of the fact that Class A channels are available in the community. WPOW also shows that no possible assignments would be precluded on the pertinent adjacent channels by the proposed addition of Channel 299 to Albany. As to the proposed assignment, petitioner demonstrates that there is a small irregular area in which this assignment can be made with only a few communities (other than Albany) located therein and which already have at least one Class A assignment. In view of the above, petitioner submits that the proposal conforms with the "Policy to Govern Requests for Additional FM Assignments" issued on May 12, 1967 and would achieve a fair and equitable distribution of available facilities with due regard for future needs of other communities.

11. In setting up the present FM Table of Assignments an attempt was made to assign from four to six Class B assignments to a city the size of Albany. Since it was not possible at the time to assign all Class B channels to Albany, a

[1] The National Association of Educational Broadcasters, for some of the same reasons advanced by commercial broadcasters and set forth in para. 3 and 4 above, asked that the Commission state that the amendments to the rules do not apply to the operations of noncommercial educational stations. However, as we have explained, the rules would not prevent a station from truthfully describing its service area, and therefore we believe it would impose no hardship on noncommercial stations.

[2] Dissenting statement of Commissioner Loevinger in which Chairman Hyde joins; and concurring statement of Commissioner Johnson in which Commissioner Wadsworth concurs filed as part of the original document; Commissioner Bartley absent.

mixture of Class A and B were assigned. Considering the three communities together we would have assigned from six to ten such assignments. In view of the fact that the proposal would not exceed the criteria used in drafting the Table and that the proposed addition would not preclude future needed assignments in other communities, we are adopting the petitioner's proposal as outlined above.

12. *RM–1121, Murfreesboro, Ahoskie, Washington, Plymouth and New Bern, N.C.* In a petition for rule making filed on March 14, 1967, and amended on June 13, 1967, Murfreesboro Broadcasting Corp., licensee of Station WWDR(AM), Murfreesboro, N.C., requests the assignment of Channel 252A to Murfreesboro, N.C., by making the necessary changes in four other North Carolina communities as follows:

City	Channel No.	
	Present	Proposed
All in North Carolina:		
Murfreesboro		252A
Ahoskie	240A	257A
Washington	252A	240A
Plymouth	257A	240A
New Bern	240A	257A

13. Murfreesboro has a population of 2,643 and the county in which it is located has a population of 22,716. Petitioner states that the area (northeast North Carolina) is primarily an agricultural section but that new industry is locating in the area. It submits that Murfreesboro is a trade center for its own county, Hertford, and the neighboring county, Northampton, since the latter has no trade center of its own. In view of the fact that the only station in Murfreesboro is a daytime-only station, the proposal would provide the first local nighttime service and the first FM service and that it would give the people access to local emergency weather and news bulletins, sports, concerts, etc.

14. None of the channels proposed to be changed are occupied with the exception of Channel 249A, assigned to New Bern. There is an outstanding construction permit for the use of this assignment at Bridgeton (WVWB–FM) and the proposal would require a modification of this authorization to specify Channel 257A in lieu of 249A. The construction permit for this station was granted on November 29, 1965, but the station has not yet been constructed. The most recent extension of time for this permit was made subject to the condition that no further extensions would be granted absent evidence of substantial progress toward completion of construction. An application is on file for Channel 249A at Ahoskie and this would have to be amended in the event the proposal is adopted.

15. We are of the view that Murfreesboro merits its first FM outlet in order that it may obtain its first early morning and evening hours radio facility. This is especially necessary in an area which is primarily an agricultural one, as is the area surrounding this community. The proposal would require an applicant (at Ahoskie) to amend the application and a permittee (at Bridgeton), which has not yet constructed the proposed station, to change its frequency. However, we believe these small inconveniences to be of insufficient significance to preclude the proposed assignment. We are thus assigning Channel 252A to Murfreesboro, making the other necessary changes in the communities affected, and modifying the authorization of WVWB–FM accordingly.

16. *RM–1165, Laurel, Miss.* New Laurel Radio Station, Inc., licensee of Station WAML(AM), Laurel, Miss., in a petition filed on June 5, 1967, requested the assignment of Channel 272A to Laurel as follows:

City	Channel No.	
	Present	Proposed
Laurel, Miss	262	262, 272A

Laurel has a population of 27,889 and its county (Jones) has a population of 50,542. It has three AM stations, two daytime-only and one Class IV, licensed to petitioner. WNSL–FM operates on Channel 262. Petitioner submits that Laurel and Jones County is one of the largest areas in the State and that it merits additional FM service, that the assignment is technically feasible, and that Channel 272A is feasible only in a small area in which one other town is located. None of the Class C channels are available to Laurel.

17. In view of our reluctance to assign a mixture of classes of stations in the same community, we invited comments on this aspect of the proposal and, in addition, requested a showing on the possible preclusion of needed future assignments in other communities on the same and the six adjacent channels. See Public Notice—Policy to Govern Requests for Additional FM Assignments, issued on May 12, 1967.

18. The assignment of Channel 272A to Laurel would not preclude assignments on the six adjacent channels in the general area in view of the existing stations and assignments surrounding Laurel. There would, however, be an area in which use of Channel 272A itself would be precluded. With the exception of nearly Ellisville, there are no communities of substantial size which do not have an FM assignment already. As to Ellisville (population 4,592) Channel 272A would be available to it as well as another channel in the event there is a future need or demand for one. Thus, the proposed addition does not appear to have any adverse effect on the future needs of other communities for FM assignments. In view of this and the size of Laurel, we are of the view that the proposal would serve the public interest and should be adopted. Accordingly, we are assigning Channel 272A to Laurel as a second FM radio outlet.

19. *RM–1125, Ukiah, Calif.* In response to a petition for reconsideration of its memorandum opinion and order issued in RM–1125 on May 15, 1967, FCC 67–564, denying the request of J & W Broadcasters, permittee of Station KLIL(FM) on Channel 232A at Ukiah, for the substitution of Channel 233 for 232A at Ukiah, Calif., we invited comments on the proposal as follows:

City	Channel No.	
	Present	Proposed
Ukiah, Calif	232A, 261A	232A, 233

Ukiah, the county seat and largest community in Mendocino County, has a population of 9,900 and the county has a population of 51,059. There are two AM stations in the community, a daytime-only station and a Class IV station. There are two outstanding construction permits for the two presently assigned Class A FM channels, including KLIL(FM).

20. The request for the substitution of the Class B channel for the Class A was previously denied on the grounds that there was no showing of need for the wide-area coverage assignment, that no showing was made that unserved areas would be covered, that future needed assignments could be precluded elsewhere, and that no justification was given for the mixture of a Class A and B channel in the same community. J & W urge that their petition for reconsideration now makes all the showings called for in the denial and that it fully justifies the proposal in accordance with the policy statement issued by the Commission on May 12, 1967, Policy to Govern Requests for Additional FM Assignments. J & W submit that Ukiah is far removed from other larger communities, with the nearest being Santa Rosa about 56 miles distant, that it is located in a very mountainous area making it difficult to cover the small communities near Ukiah, and that all the area which would be served by a Class B assignment but not by a Class A station is without any FM service. With respect to the possible future impact on the proposed channel and the pertinent six adjacent channels, petitioner shows that, with the exception of one channel (234), there would not result any preclusion of assignments in the future due to the proposal. On Channel 234 two areas would not be able to have assignments but in both areas about 12 channels are available for future needs or demands. Concerning the matter on intermixture of a Class A and B channel in the community, J. & W states that this can be eliminated since Channel 277 and 293 can also be assigned to Ukiah and thus the intermixture would be "based solely upon the desire, and perhaps the financial ability, of the licensees and permittees to provide wide area service".

21. After consideration of the comments and data submitted by the petitioner, we are of the view that the proposed substitution of a Class B for a Class A assignment in Ukiah would serve the public interest and should be adopted. The new assignment would serve a large

area presently without any FM service without any adverse effect upon the future availability of needed assignments in other communities. Since J & W hold a construction permit for Channel 232A for Station KLIL(FM) and the proposal would substitute another channel for this one, we are also modifying this authorization to specify operation on Channel 233 in lieu of 232A.

22. *RM–1168, Carbondale, Ill.* On June 12, 1967 (amended July 7, 1967), Paul F. McRoy, licensee of Station WCIL(AM), Carbondale, Ill., filed a petition requesting the substitution of Channel 268 for 269A at Carbondale, Ill., as follows:

City	Channel No.	
	Present	Proposed
Carbondale, Ill	269A	268

Carbondale has a population of 14,670 and Jackson County, of which it is the largest community, has a population of 42,151. No applications have been filed for the present Class A assignment. It has a daytime-only AM station (WCIL) and a noncommercial educational FM station licensed to Southern Illinois University (WSIU). Petitioner submits that according to a special U.S. Census on December 28, 1964, the population of Carbondale was 18,531 and that since then the population has increased as a result of annexation to 20,516. In addition, petitioner urges that the growth in the enrollment at Southern Illinois University from 1,462 in 1935 to 18,188 in 1967 is mirrored in the growth of Carbondale. In view of this, McRoy urges that Carbondale easily merits the assignment of a Class B channel.

23. McRoy previously sought a Class B assignment by deleting a Class C assignment from Cape Girardeau, Mo. He states that this request was denied principally on the grounds that the deletion from Cape Girardeau would deprive a "white area" to the west of that city and the substitution of a Class A channel for the Class C at Cape Girardeau would result in a mixture of classes of stations in the community. See memorandum opinion and order in RM–1115 issued on April 17, 1967, 7 FCC 2d 848. McRoy submits that the above considerations leading to the denial of the previous request are not pertinent to the subject request since the assignment of Channel 268 to Carbondale can be accomplished without depriving any other community of an assignment. With respect to the possible impact of the assignment of Channel 268 to Carbondale, McRoy shows that this channel is technically feasible only in an area of southern Illinois in which Carbondale is by far the largest community. As to the impact on the six adjacent channels, petitioner includes a showing which demonstrates that none of these channels would be precluded in any area which is not already precluded by existing stations and assignments in other communities.

24. Normally a community the size of Carbondale would warrant the assignment of a Class A channel. However, since in this case the switch from Class A Channel 269A to the next lower adjacent Class B Channel 268 can be accomplished without any adverse effect on the future needs of other communities and would provide this fast growing community and its environs with a stronger and more satisfactory signal, we are of the view that the proposal would serve the public interest. We are therefore adopting the McRoy request.

25. *RM–1158, Mansfield, Pa.* Farm and Home Broadcasting Co., licensee of radio Station WNBT, Wellsboro, Pa., in a petition filed on May 22, 1967, requests the assignment of a first Class A channel to Mansfield, Pa., by one of the following alternative means:

City	Channel No.	
	Present	Proposed
Wellsboro, Pa.	249A	249A
Mansfield, Pa.		296A
or		
Wellsboro, Pa.	249A	296A
Mansfield, Pa.		249A

Since the first alternative is simpler, we invited comments on the first alternative proposal to make a Class A channel available to each community. Wellsboro is a community of 4,389 persons and Mansfield of 2,676 persons. They are about 12 miles apart and both are located in Tioga County, which has a population of 36,614. Wellsboro is the county seat. WNBT, a Class IV AM station, is the only station in the county and Channel 249A the only FM assignment. There are two applications pending for Channel 249A, one from petitioner and the other from Tioga Broadcasting Co., seeking a new FM station in Mansfield (under the so-called "25-mile rule"). Since the applications are mutually exclusive, a comparative hearing will be necessary.

26. In support of its request petitioner submits that there is a need for a local station in each community and that each can economically support such a station. Figures are submitted on retail establishments and sales for the county and each community. It states that Tioga County has 420 retail establishments with annual sales of $36,642,000, that Wellsboro has 84 retail establishments with an annual sales of $11,012,000, and that Mansfield has 47 such retail trade establishments with annual sales of $5,433,000. It points out that while the two assignments would have a large area in which the 1-mv/m contours would overlap, there will be other areas where there will be no overlap and small areas in which there is no other FM service or only one other FM service. Petitioner also includes an engineering statement showing that there would be no areas precluded from the use of all the adjacent channels due to existing stations and assignments in the general area. It does concede that there will be an area in which Channel 296A would be precluded and lists a number of such communities, which include Lock Haven, Jersey Shore, Shinglehouse, Pa., Portville, and Andover, N.Y. With respect to Lock Haven and Jersey Shore it states that Channel 261A could be assigned to these communities and that nearby assignments are available to the others under the "25-mile rule". Finally, petitioner submits that the proposal would eliminate the need for a comparative hearing and would permit an early grant to both applicants.

27. Tioga opposes the proposal to assign a Class A channel to both Wellsboro and Mansfield. It urges that the county does not need three broadcast services and that it cannot afford to support them. It submits that the county is a rural low-income region of eastern Appalachia and has been officially designated by the U.S. Government as a poverty area. The median family income for the county is given as $4,775, which it is claimed places it near the bottom of the State's average. The percentage of rural population is stated to be over 80 and the population density is given as 32 persons per square mile. Tioga further states that the principal industries consist of highly seasonal tourist trade and agriculture and that about 90 percent of the advertising budgets are applied to out-of-county advertising, and that the almost stagnant economic situation is reflected in the "de minimis" population increase for the area since 1940. The failure, due to lack of advertising support, of two local newspapers in the area and the financial difficulty of the existing local paper are cited as further evidence of the inability of the area to support two additional broadcast stations. Thus, Tioga urges that there is no need or support for the proposed additional assignment.

28. As to the areas which would be precluded from future needed assignments, Tioga points out that Channel 296A would be precluded from Lock Haven (population 11,748), Mill Hall (1,891), Jersey Shore (5,613) and Avis (1,262). While petitioner pointed out that Channel 261A could be assigned to these communities, Tioga states that they are but a few miles apart and therefore Channel 261A could be used to supply the needs of only one of them. It also submits figures to show that the counties in which the above-named communities are located (Lycoming and Clinton) have greater population, urban population, persons per square mile, total retail sales, and median family income. Finally, Tioga argues that in the event future developments should warrant an additional assignment, the Commission will be in a better position to evaluate the public need at that time, after the presently assigned channel has been activated.[1]

[1] On Oct. 20, 1967, 21 days after the last date for filing reply comments, Farm and Country filed pleadings intended to be a reply to the reply comments of Tioga. These requests seek permission to file rebuttal comments. Normally there is no provision for rebuttal comments in rule making and we do not believe there is a need to make an exception in this case since the parties had ample opportunity to submit their views and data during the time provided. We are therefore denying the request to accept the late pleading of Farm and Country.

32. After careful consideration of all the comments and data submitted by the parties we are of the view that the petitioner's proposal should not be adopted. In our view there has been no compelling showing of need or that the present assignments do not represent a fair and equitable distribution of available facilities, taking into account the future needs of other communities. The assignment of one unlimited time AM station and one FM assignment in these small communities (total population 7,047) appears to be adequate to meet the local needs. Since the proposed assignment could preclude future needed assignments in other and larger communities we are inclined to agree with Tioga that we should not use up the available frequencies at this time but should wait future developments in the general area until the present FM assignment has been in operation for some time. We are accordingly denying the petition of Farm and Home Broadcasting Co., RM–1158.

33. Authority for the adoption of the amendments adopted herein is contained in sections 4(i), 303, 307(b), and 316 of the Communications Act of 1934, as amended.

34. In accordance with the determinations made above: *It is ordered*, That effective December 4, 1967, § 73.202(b) of the Commission's rules, the FM Table of Assignments, is amended to read, insofar as the communities named are concerned, as follows:

City	Channel No.
Alabama:	
Guntersville	240A
California:	
Cathedral City	276A
Ukiah	228A, 233
Illinois:	
Carbondale	269
Tuscola	228A
Kentucky:	
Harrodsburg	257A
Louisiana:	
Bastrop	232A
Winnsboro	240A
Minnesota:	
Fosston	296A
Pipestone	264
Mississippi:	
Laurel	269, 272A
New York:	
Albany	238, 266A, 276A, 280A, 296, 299
North Carolina:	
Ahoskie	257A
Murfreesboro	252A
New Bern	257A
Plymouth	240A
Washington	240A
Virginia:	
Tazewell	261A

35. *It is further ordered*, That the outstanding construction permit held by V.W.B. Inc., for Station WVWB–FM, Channel 249A at Bridgeton, N.C., is modified, to specify operation on Channel 257A in lieu of 249A subject to the following conditions.

(a) That the permittee shall submit to the Commission in writing by November 8, 1967, its consent to the above modification.

(b) That the permittee shall submit to the Commission by November 26, 1967, all the technical information normally required for the issuance of a construction permit for operation on Channel 257A including any changes in antenna and transmission line.

36. *It is further ordered*, That the outstanding permit held by J & W Broadcasters, for Station KIL(FM) at Ukiah, Calif., on Channel 232A, is modified to specify operation on Channel 233 in lieu of 232A subject to the following condition:

(a) That the permittee shall submit to the Commission by November 24, 1967, all the technical information normally required for the issuance of a construction permit for operation on Channel 233, including any changes in antenna and transmission line.

37. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat. 1066, 1082, 1083, as amended, Sec. 316, 66 Stat. 717; 47 U.S.C. 154, 303, 307, 316)

Adopted: October 25, 1967.

Released: October 30, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67–12954; Filed, Nov. 1, 1967; 8:46 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Sand Lake National Wildlife Refuge, S. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 32.12 Special regulations; big game; for individual wildlife refuge areas.

SOUTH DAKOTA

SAND LAKE NATIONAL WILDLIFE REFUGE

Public hunting of big game on the Sand Lake National Wildlife Refuge, S. Dak., is permitted only on the area designated by signs as open to hunting. This open area comprising 20,000 acres, is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn. 55408. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following conditions:

(1) Archery season—December 11 through December 31, 1967 inclusive.

(2) Firearms season—December 2 through December 10, 1967 inclusive.

(3) All hunters must exhibit their hunting license, deer tag and vehicle permits to Federal and State officers upon request.

(4) Hunters will not be allowed to drive on refuge maintained trails but may park their vehicles and hunt on foot.

(5) All deer taken on the refuge not checked by State or Federal officers in the field must be checked at refuge headquarters.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1967.

LYLE J. SCHOONOVER,
Refuge Manager,
Sand Lake National Wildlife Refuge.

OCTOBER 19, 1967.

[F.R. Doc. 67–12927; Filed, Nov. 1, 1967; 8:46 a.m.]

PART 33—SPORT FISHING

De Soto National Wildlife Refuge, Iowa and Nebraska

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

IOWA AND NEBRASKA

DE SOTO NATIONAL WILDLIFE REFUGE

Sport fishing on the De Soto National Wildlife Refuge, Iowa and Nebraska, is permitted on all water areas within the refuge. This open area, comprising 850 acres, is delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn. 55408. Sport fishing is subject to the following conditions:

(1) All fishermen shall conform with the regulations of the State in which they are properly licensed, either Iowa or Nebraska, subject to more restrictive regulations that may be included herein.

(2) Open season: Daylight hours January 1, 1968 through February 28, 1968, and 4:30 a.m. to 10 p.m. May 1, 1968 through September 15, 1968.

(3) Trot lines and float lines are not permitted.

(4) Archery fishing is not permitted.

(5) Digging or seining for bait is not permitted.

(6) No more than two lines with two hooks on each line may be used for fishing.

(7) Motor or wind driven conveyances are not permitted on the lake during the period January 1 to February 28.

(8) The use of boats, with or without motors, is permitted during the period May 1 to September 15.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through September 15, 1968.

EVERETT D. DYBDAHLEN,
Refuge Manager, De Soto National Wildlife Refuge, Missouri Valley, Iowa.

OCTOBER 26, 1967.

[F.R. Doc. 67–12955; Filed, Nov. 1, 1967; 8:46 a.m.]

[1] Commissioner Bartley absent.

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Deduction for Dividends Received by Corporations

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) to section 214 of the Revenue Act of 1964 (78 Stat. 52), such regulations are amended as follows:

PARAGRAPH 1. Section 1.243–1 is amended to read as follows:

§ 1.243–1 Deduction for dividends received by corporations.

(a) (1) A corporation is allowed a deduction under section 243 for dividends received from a domestic corporation which is subject to taxation under chapter 1 of the Internal Revenue Code of 1954.

(2) Except as provided in section 243 (c) and in section 246, the deduction is:

(i) For the taxable year, an amount equal to 85 percent of the dividends received from such domestic corporations during the taxable year (other than dividends to which subdivision (ii) or (iii) of this subparagraph applies).

(ii) For a taxable year beginning after September 2, 1964, an amount equal to 100 percent of the dividends received from such domestic corporations if at the time of receipt of such dividends the recipient corporation is a Federal licensee under the Small Business Investment Act of 1958 (15 U.S.C. ch. 14B). However, to claim the deduction provided by section 243(a)(2) the company must file with its return a statement that it was a Federal licensee under the Small Business Investment Act of 1958 at the time of the receipt of the dividends.

(iii) For a taxable year ending after December 31, 1963, an amount equal to 100 percent of the dividends received which are "qualifying dividends," as defined in section 243(b) and § 1.243–4.

(3) To determine the amount of the distribution to a recipient corporation and the amount of the dividend, see §§ 1.301–1 and 1.316–1.

(b) For limitation on the dividends received deduction, see section 246 and the regulations thereunder.

PAR. 2. Section 1.243–3 is amended by deleting the references to section 243(b) which appear in paragraphs (a) and (b) thereof, and by adding a new paragraph (d) at the end thereof. These revised and added provisions read as follows:

§ 1.243–2 Special rules for certain distributions.

(a) *Dividends paid by mutual savings banks, etc.* In determining the deduction provided in section 243(a), any amount allowed as a deduction under section 591 (relating to deduction for dividends paid by mutual savings banks, cooperative banks, and domestic building and loan associations) shall not be considered as a dividend.

(b) *Dividends received from regulated investment companies.* In determining the deduction provided in section 243(a), dividends received from a regulated investment company shall be subject to the limitations provided in section 854.

* * * * *

(d) *Dividends received on preferred stock of a public utility.* The deduction allowed by section 243(a) shall be determined without regard to any dividends described in section 244 (relating to dividends on the preferred stock of a public utility). That is, such deduction shall be determined without regard to any dividends received on the preferred stock of a public utility which is subject to taxation under chapter 1 of the Code and with respect to which a deduction is allowed by section 247 (relating to dividends paid on certain preferred stock of public utilities). For a deduction with respect to such dividends received on the preferred stock of a public utility, see section 244. If a deduction for dividends paid is not allowable to the distributing corporation under section 247 with respect to the dividends on its preferred stock, such dividends received from a domestic public utility corporation subject to taxation under chapter 1 of the Code are includible in determining the deduction allowed by section 243(a).

PAR. 3. There are inserted immediately after § 1.243–3 the following new sections:

§ 1.243–4 Qualifying dividends.

(a) *Definition of qualifying dividends*—(1) *General.* For purposes of section 243(a)(3), the term "qualifying dividends" means dividends received by a corporation if—

(i) At the close of the day the dividends are received, such corporation is a member of the same affiliated group of corporations (as defined in paragraph (b) of this section) as the corporation distributing the dividends,

(ii) An election by such affiliated group under section 243(b)(2) and paragraph (c) of this section is effective for the taxable years of its members which include such day, and

(iii) The dividends are distributed out of earnings and profits specified in subparagraph (2) of the paragraph.

(2) *Earnings and profits.* The earnings and profits specified in this subparagraph are earnings and profits of a taxable year of the distributing corporation (or a predecessor corporation) which satisfies each of the following conditions:

(i) Such year end must end after December 31, 1963;

(ii) On each day of such year the distributing corporation (or the predecessor corporation) and the corporation receiving the dividends must have been members of the affiliated group of which the distributing corporation and the corporation receiving the dividends are members on the day the dividends are received; and

(iii) An election under section 1562 (relating to the election of multiple surtax exemptions) must not be effective for such year.

(3) *Special rule for insurance companies.* Notwithstanding the provisions of subparagraph (2) of this paragraph, if an insurance company subject to taxation under section 802 or 821 distributes a dividend out of earnings and profits of a taxable year with respect to which the company would have been a component member of a controlled group of corporations within the meaning of section 1563 were it not for the application of section 1563(b)(2)(D), such dividend shall not be treated as a qualifying dividend unless an election under section 243(b)(2) is effective for such taxable year.

(4) *Predecessor corporations.* For purposes of this paragraph, a corporation shall be considered to be a predecessor corporation with respect to a distributing corporation if the distributing corporation succeeds to the earnings and profits of such corporation, for example, as the

result of a transaction to which section 381(a) applies. A distributing corporation shall, for purposes of this section, maintain, in respect of each predecessor corporation, a separate account for earnings and profits to which it succeeds, and such earnings and profits shall be considered to be earnings and profits of the predecessor's taxable year in which the earnings and profits were accumulated.

(5) *Mere change in form.* For purposes of subparagraph (2)(ii) of this paragraph, the affiliated group in existence during the taxable year out of the earnings and profits of which the dividend is distributed shall not be considered as a different group from that in existence on the day on which the dividend is received merely because—

(i) The common parent corporation has undergone a mere change in identity, form, or place of organization (within the meaning of section 368(a)(1)(F)), or

(ii) A newly organized corporation (the "acquiring corporation") has acquired substantially all of the outstanding stock of the common parent corporation (the "acquired corporation") solely in exchange for stock of such acquiring corporation, and immediately after the acquisition all of the outstanding stock of the acquiring corporation was owned by persons who were shareholders (immediately before the acquisition) of the acquired corporation.

If a transaction described in the preceding sentence has occurred, the acquiring corporation shall be treated as having been a member of the affiliated group for the entire period during which the acquired corporation was a member of such group.

(6) *Source of distributions.* In determining from what year's earnings and profits a dividend is treated as having been distributed for purposes of this section, the principles of paragraph (a) of § 1.316-2 shall apply. A dividend shall be considered to be distributed, first, out of the earnings and profits of the taxable year which includes the date the dividend is distributed, second, out of the earnings and profits accumulated for the immediately preceding taxable year, third, out of the earnings and profits accumulated for the second preceding taxable year, etc. A deficit in an earnings and profits account for any taxable year shall reduce the most recently accumulated earnings and profits for a prior year in such account. If there are no accumulated earnings and profits in an earnings and profits account because of a deficit incurred in a prior year, such deficit must be restored before earnings and profits can be accumulated in a subsequent year. If a dividend is distributed out of separate earnings and profits accounts (established under the provisions of subparagraph (4) of this paragraph) for two or more taxable years ending on the same day, then the portion of such dividend considered as distributed out of each account shall be the same proportion of the total dividend as the amount of earnings and profits in that account bears to the sum of the earnings and profits in all such accounts.

(7) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). On March 1, 1965, corporation P, a publicly-owned corporation, acquires all of the stock of corporation S and continues to hold the stock throughout the remainder of 1965 and all of 1966. P and S are domestic corporations which file separate returns on the basis of a calendar year. The affiliated group consisting of P and S makes an election under section 243(b)(2) which is effective for the 1965 taxable years of P and S. A multiple surtax exemption election under section 1562 is not effective for their 1965 taxable years. On February 1, 1966, S distributes $80,000 with respect to its stock which is received by P on the same date. S had earnings and profits of $40,000 for 1966 (computed without regard to distributions during 1966). S also had earnings and profits accumulated for 1965 of $70,000. Since $40,000 was distributed out of earnings and profits for 1966 and since each of the conditions prescribed in subparagraphs (1) and (2) of this paragraph is satisfied, P is entitled to a 100-percent dividends received deduction with respect to $40,000 of the $80,000 distribution. However, since $10,000 was distributed out of earnings and profits accumulated for 1965, and since on each day of 1965 S and P were not members of the affiliated group of which S and P were members on February 1, 1966, $10,000 of the $50,000 distribution does not satisfy the condition specified in subparagraph (2)(ii) of this paragraph and thus does not qualify for the 100-percent dividends received deduction.

Example (2). Assume the same facts as in example (1), except that corporation P acquires all the stock of corporation S on January 1, 1965, and sells such stock on November 1, 1966. Since $10,000 is distributed out of earnings and profits for 1965, and since each of the conditions prescribed in subparagraphs (1) and (2) of this paragraph is satisfied, P is entitled to a 100-percent dividends received deduction with respect to $10,000 of the $80,000 distribution. However, since $40,000 of the $50,000 distribution was made out of earnings and profits of S for its 1966 taxable year, and on each day of such year S and P were not members of the affiliated group of which S and P were members on February 1, 1966, $40,000 of the distribution does not satisfy the condition specified in subparagraph (2)(ii) of this paragraph and thus does not qualify for the 100-percent dividends received deduction.

Example (3). Assume the same facts as in example (1), except that corporation P acquires all the stock of corporation S on January 1, 1965, and that a multiple surtax exemption election under section 1562 is effective for P's and S's 1965 taxable years. Further assume that the section 1562 election is terminated effective with respect to their 1966 taxable years, and that an election under section 243(b)(2) is effective for such taxable years. Since $10,000 of the February 1, 1966, distribution was made out of earnings and profits of S for its 1965 taxable year and since a multiple surtax exemption election is effective for such year, $10,000 of the distribution does not satisfy the condition specified in subparagraph (2)(iii) of this paragraph and thus does not qualify for the 100-percent dividends received deduction. However, the portion of the distribution which was distributed out of earnings and profits of S's 1966 year ($40,000) qualifies for the 100-percent dividends received deduction.

Example (4). Assume the same facts as in example (1), except that corporation P acquires all the stock of corporation S on January 1, 1965, and that S is a life insurance company subject to taxation under section 802. Accordingly, S would have been a member of a controlled group of corporations except for the application of section 1563(b)(2)(D). Since $10,000 of the distribution was made out of earnings and profits of S for its 1965 taxable year, and since with respect to such year an election under section 243(b)(2) was not effective, $10,000 of the distribution is not a qualifying dividend by reason of subparagraph (3) of this paragraph. On the other hand, the portion of the distribution which was distributed out of earnings and profits for S's 1966 year ($40,000) does qualify for the 100-percent dividends received deduction because the distribution was out of earnings and profits of a year for which an election under section 243(b)(2) is effective, and because the other conditions specified in subparagraphs (1) and (2) of this paragraph are satisfied. However, if P were also a life insurance company subject to taxation under section 802, then subparagraph (3) of this paragraph would not result in the disqualification of the portion of the distribution made out of S's 1965 earnings and profits because S would be a component member of an insurance group of corporations (as defined in section 1563(a)(4)), consisting of P and S, with respect to its 1965 year.

Example (5). Corporation X owns all the stock of corporation Y from January 1, 1965, through December 31, 1969. X and Y are domestic corporations which file separate returns on the basis of a calendar year. On June 30, 1965, Y acquired all the stock of domestic corporation Z, a calendar year taxpayer, and on December 31, 1967, Y acquired the assets of Z in a transaction to which section 381(a) applied. A multiple surtax exemption election under section 1562 was not effective for any taxable year of X, Y, or Z, and an election under section 243(b)(2) is effective for the 1966 and 1969 taxable years of X and Y. On January 1, 1968, Y's accumulated earnings and profits are, under the provisions of subparagraph (4) of this paragraph, maintained in separate earnings and profits accounts containing the following amounts:

Earnings and profits accumulated for	Corporation Y	Corporation Z
1964	$20,000	$40,000
1965	30,000	15,000
1966	(5,000)	2,000
1967	12,000	6,000

Corporation Y had earnings and profits of $10,000 in each of the years 1968 and 1969, and made distributions during such years in the following amounts:

1968	$39,000
1969	21,000

(i) The source of the 1968 distribution, determined in accordance with the rules of subparagraph (6) of this paragraph, is as follows:

(a) Dividend from Y's current year's earnings and profits (1968)	$10,000
(b) Dividend from earnings and profits of Y accumulated for 1967	12,000
(c) Dividend from earnings and profits of Z accumulated for:	
1967	6,000
1966	1,000
	29,000

Since the 1968 dividend is considered paid out of earnings and profits of Y's 1968 and 1967 years, and Z's 1967 and 1966 years, and since each of these years satisfies each of the conditions specified in subparagraph (2) of this paragraph, X is entitled to a 100-percent dividends received deduction with respect to the entire 1968 distribution, or $39,000 from Y.

(ii) The source of the 1969 distribution of $21,000, determined in accordance with the rules of subparagraph (6) of this paragraph, is as follows:

(a) Dividend from Y's current year's earnings and profits (1969)	$10,000
(b) Dividend from earnings and profits of Y accumulated for 1968 (1968 earnings and profits remaining after 1968 distribution, i.e., $39,000—$29,000)	1,000
(c) Dividend from earnings and profits of Y and Z accumulated for 1968:	
Corporation Y: $25,000 (i.e., $30,000—$5,000 deficit) divided by $40,000 (i.e., the sum of the 1968 earnings and profits of Y and Z) multiplied by $20,000 (the portion of the distribution from the 1968 earnings and profits of Y and Z)	12,500
Corporation Z: $15,000 divided by $40,000 multiplied by $20,000	7,500
	31,000

The sum of the dividends from Y's 1969 year ($10,000), Z's 1969 year ($1,000), and Y's 1968 year ($12,500), or $23,500, qualifies for the 100-percent dividends received deduction. However, the dividends paid out of Z's 1968 year ($7,500) do not qualify because on each day of 1969 Z and X were not members of the affiliated group of which Y (the distributing corporation) and X (the corporation receiving the dividends) were members on the day in 1969 when the dividends were received by X.

(b) *Definition of affiliated group.* For purposes of this section and § 1.243-5, the term "affiliated group" shall have the meaning assigned to it by section 1504(a), except that insurance companies subject to taxation under section 802 or 821 shall be treated as includible corporations (notwithstanding section 1504(b)(2)), and the provisions of section 1504(c) shall not apply.

(c) *Election.*—(1) *Manner and time of making election.*—(i) *General.* The election provided by section 243(b)(2) shall be made for an affiliated group by the common parent corporation and shall be made for a particular taxable year of the common parent corporation. Such election may not be made for any taxable year of the common parent corporation for which a multiple surtax exemption election under section 1562 is effective. The election shall be made by means of a statement, signed by any person who is duly authorized to act on behalf of the common parent corporation, stating that the affiliated group elects under section 243(b)(2) for such taxable year. The statement shall set forth the name, address, taxpayer account number, and taxable year of each corporation (including wholly owned subsidiaries) which is a member of the affiliated group at any time during such corporation's matching taxable year of election (as defined in subdivision (iv) of this subparagraph), and the identity of the internal revenue district where the original of the statement is to be filed. The statement shall be filed with the district director with whom the common parent corporation files its income tax return for such taxable year and shall be filed on or before the due date (including extensions of time) of such return. (However, if the due date of such return (including extensions of time) is before June 10, 1964, such statement shall be filed on or before June 10, 1964, with the district director with whom such return is filed.)

(ii) *Information statement by common parent.* If a corporation becomes a member of the affiliated group after the date on which the election is filed, then the common parent shall within 60 days after such corporation becomes a member of the affiliated group (or, in the case of an affiliated group which made an election under the rules provided in Treasury Decision 6721, approved April 8, 1964 (29 F.R. 4997, C.B. 1964-1 (Part 1), 625), within 60 days after the publication of this regulation in the FEDERAL REGISTER as a Treasury decision) file, with the district director with whom the election was filed, an additional statement containing the name, address, taxpayer account number, and taxable year of such corporation.

(iii) *Election irrevocable for year of election.* A valid election under section 243(b)(2), once filed and consented to by each member of the affiliated group, is irrevocable for the taxable year of the common parent for which it is made, and cannot be terminated under section 243(b)(4) with respect to such taxable year.

(iv) *Definition of matching taxable year of election.* For purposes of this paragraph and paragraphs (d) and (e) of this section, the term "matching taxable year of election" shall mean the taxable years of each member (including the common parent corporation) of the electing affiliated group which includes the last day of the taxable year of the common parent corporation for which an election by the affiliated group is made under section 243(b)(2).

(2) *Consents by subsidiary corporations.*—(i) *General.* Each corporation (other than the common parent corporation) which is a member of the electing affiliated group (including any member which joins in the filing of a consolidated return) at any time during its matching taxable year of election must consent to such election in the manner and time provided in subdivision (ii) or (iii) of this subparagraph, whichever is applicable.

(ii) *Wholly owned subsidiary.* If all of the stock of a corporation is owned by a member or members of the affiliated group on each day of such corporation's matching taxable year of election, then such corporation (referred to in this paragraph as a "wholly owned subsidiary") shall be deemed to consent to such election.

(iii) *Other members.* The consent of each member of the affiliated group (other than a wholly owned subsidiary) shall be made by means of a statement, signed by any person who is duly authorized to act on behalf of the consenting member, stating that such member consents to the election under section 243(b)(2). The statement shall set forth the name, address, taxpayer account number, and taxable year of the consenting member and of the common parent corporation, and the identity of the internal revenue district in which the common parent corporation filed the election. The consent of more than one such member may be incorporated in a single statement. The statement (or statements) shall be attached to the election filed by the common parent corporation. The consent of a corporation which, after the date the election was filed and during its matching taxable year of election, either (a) becomes a member, or (b) ceases to be a wholly owned subsidiary but continues to be a member, shall be filed with the district director with whom the election was filed. Any such consent shall be filed on or before the date prescribed by law (including extensions of time) for the filing of the consenting member's income tax return for such taxable year, or on or before June 10, 1964, whichever is later. A consent of a corporation described in this subdivision, once filed, is irrevocable with respect to the taxable year for which it is filed.

(iv) *Statement attached to return.* Each corporation which consents to an election by means of a statement described in subdivision (iii) of this subparagraph (c) should attach a copy of the statement to the income tax return for its matching taxable year of election, or (b) if such return is filed on or before June 10, 1964, should file a copy of such statement on or before June 10, 1964, with the district director with whom such return is filed. Each wholly owned subsidiary should attach a statement to the income tax return for its matching taxable year of election stating that it is subject to an election under section 243(b)(2) for such taxable year and setting forth the name, address, taxpayer account number, and taxable year of the common parent corporation, and the identity of the internal revenue district in which the common parent corporation filed the election. However, if the due date for such return (including extensions of time) is before June 10, 1964, such statement should be filed on or before June 10, 1964, with the district director with whom such return is filed.

(3) *Information statement by member.* If a corporation becomes a member of the affiliated group during a taxable year which begins after the last day of the common parent corporation's matching taxable year of election, then (unless such election has been terminated) such corporation should attach a statement to its income tax return for such taxable year stating that it is subject to an election under section 243(b)(2) for such taxable year and setting forth the name, address, taxpayer account number, and taxable year of the common parent corporation, and the identity of the internal revenue district in which the common parent corporation filed the election. In the case of an affiliated group which made an election under the rules provided in Treasury Decision 6721, approved April 8, 1964 (29 F.R. 4997, C.B. 1964-1 (Part 1), 625), such statement

shall be filed within 60 days after the publication of this regulation in the FEDERAL REGISTER as a Treasury decision.

(4) *Years for which election effective*—(i) *General rule.* An election under section 243(b)(2) by an affiliated group shall be effective—

(a) In the case of each corporation which is a member of such group at any time during its matching taxable year of election, for such taxable year, and

(b) In the case of each corporation which is a member of such group at any time during a taxable year ending after the last day of the common parent's taxable year of election but which does not include such last day, for such taxable year, unless the election is terminated under section 243(b)(4) and paragraph (f) of this section. Thus, the election has a continuing effect and need not be renewed annually.

(ii) *Special rule for certain taxable years ending in 1964.* In the case of a taxable year of a member (other than the common parent corporation) of the affiliated group (a) which begins in 1963 and ends in 1964, and (b) for which an election is not effective under subdivision (i)(a) of this subparagraph, if an election under section 243(b)(2) is effective for the taxable year of the common parent corporation which includes the last day of such taxable year of such member, then such election shall be effective for such taxable year of such member if such member files a separate consent with respect to such taxable year. However, in order for a dividend distributed by such member during such taxable year to meet the requirements of section 243(b)(1), an election under section 243(b)(2) must be effective for the taxable year of each member of the affiliated group which includes the date such dividend is received. See section 243(b)(1)(A) and paragraph (a)(1) of this section. Accordingly, if the dividend is to qualify for the 100-percent dividends received deduction under section 243(a)(3), a consent must be filed under this subdivision by each member of the affiliated group with respect to its taxable year which includes the day the dividend is received (unless an election is effective for such taxable year under subdivision (i)(a) of this subparagraph). For purposes of this subdivision, a consent shall be made by means of a statement meeting the requirements of subparagraph (2)(iii) of this paragraph, and shall be attached to the election made by the common parent corporation for its taxable year which includes the last day of the taxable year of the member with respect to which the consent is made. A copy of the statement should be filed, within 60 days after such election is filed by the common parent corporation, with the district director with whom the consenting member filed its income tax return for such taxable year.

(iii) *Examples.* The provisions of subdivision (ii) of this subparagraph, relating to the special rule for certain taxable years ending in 1964, may be illustrated by the following examples:

Example (1). P Corporation owns all the stock of S-1 Corporation on each day of 1963, 1964, and 1965. P uses the calendar year as its taxable year and S-1 uses a fiscal year ending June 30 as its taxable year. P makes an election under section 243(b)(2) for 1964. Since S-1 is a wholly owned subsidiary for its taxable year ending June 30, 1965, it is deemed to consent to the election. However, in order for the election to be effective with respect to S-1's taxable year ending June 30, 1964, a statement specifying that S-1 consents to the election with respect to such taxable year and containing the information required in a statement of consent under subparagraph (3)(iii) of this paragraph must be attached to the election.

Example (2). Assume the same facts as in example (1), except that P also owns all the stock of S-2 Corporation on each day of 1963, 1964, and 1965. S-2 uses a fiscal year ending May 31 as its taxable year. If S-1 distributes a dividend to P on January 15, 1964, the dividend may qualify under section 243(a)(3) only if S-1 and S-2 both consent to the election made by P for 1964 with respect to their taxable years ending in 1964.

Example (3). Assume the same facts as in example (1), except that P uses a fiscal year ending on January 31 as its taxable year and makes an election under subparagraph (1) of this paragraph for its taxable year ending January 31, 1964. Since S-1's taxable year beginning in 1963 and ending in 1964 includes January 31, 1964, the last day of P's taxable year for which the election was made, the election is effective under subdivision (i)(a) of this subparagraph, for S-1's taxable year ending June 30, 1964. Accordingly, the special rule of subdivision (ii) of this subparagraph has no application.

(d) *Effect of election.* For restrictions and limitations applicable to corporations which are members of an electing affiliated group on each day of their taxable years, see § 1.243–5.

(e) *Termination of election*—(1) *In general.* An election under section 243(b)(2) by an affiliated group may be terminated with respect to any taxable year of the common parent corporation after the matching taxable year of election of the common parent corporation. The election is terminated as a result of one of the occurrences described in subparagraph (2) or (3) of this paragraph. For years affected by termination, see subparagraph (4) of this paragraph.

(2) *Consent of members.* An election may be terminated for an affiliated group by its common parent corporation with respect to a taxable year of the common parent corporation provided each corporation (other than the common parent) which is a member of such affiliated group at any time during its taxable year which includes the last day of such year of the common parent consents to such termination. The termination shall be filed by the common parent in accordance with the rules prescribed in paragraph (c)(1) of this section, relating to the manner and time for making an election under section 243(b)(2), and the consents to the termination shall be given by the other members in accordance with the rules prescribed in paragraph (c)(2) of this section, relating to manner and time for giving consents to an election under section 243(b)(2). Thus, for example, the common parent shall file a statement which satisfies the requirements of paragraph (c)(1) of this section stating that the affiliated group terminates the section 243(b)(2) election with respect to a particular taxable year of the common parent corporation, and the statement shall be filed on or before the due date (including extensions of time) for the filing of the income tax return for such taxable year. For a further example, if all of the stock of a corporation is owned by a member or members of the affiliated group on each day during its taxable year which includes the last day of the common parent's taxable year for which a termination is made under this subparagraph, for purposes of this subparagraph such corporation shall be considered to be a wholly owned subsidiary and shall be deemed to consent to such termination.

(3) *Refusal by new member to consent*—(i) *Manner of giving refusal.* If any corporation which is a new member of an affiliated group with respect to a taxable year of the common parent corporation (other than the matching taxable year of election of the common parent corporation) files a statement that it does not consent to an election under section 243(b)(2) with respect to such taxable year, then such election shall terminate with respect to such taxable year. Such statement shall be signed by any person who is duly authorized to act on behalf of the new member, and shall be filed with the timely filed income tax return of such new member for its taxable year within which falls the last day of such taxable year of the common parent corporation. In the event of a termination under this subparagraph, each corporation (other than such new member) which is a member of the affiliated group at any time during its taxable year which includes such last day should, within 30 days after such new member files the statement of refusal to consent, notify the district director of such termination. Such notification should be filed with the district director with whom the corporation files, or will file, its income tax return.

(ii) *Corporation considered as new member.* For purposes of subdivision (i) of this subparagraph, a corporation shall be considered to be a new member of an affiliated group of corporations with respect to a taxable year of the common parent corporation if such corporation—

(a) Is a member of the affiliated group at any time during such taxable year of the common parent corporation, and

(b) Was not a member of the affiliated group at any time during the common parent corporation's immediately preceding taxable year.

(4) *Effect of termination.* A termination under subparagraph (2) or (3) of this paragraph is effective with respect to (i) the common parent corporation's taxable year referred to in the particular subparagraph under which the termination occurs, and (ii) the taxable years of the other members of the affiliated group which include the last day of such taxable year of the common parent. An election, once terminated, is no longer

effective. Accordingly, the termination is also effective with respect to the succeeding taxable years of the members of the group. However, the affiliated group may make a new election in accordance with the provisions of section 243(b)(2) and paragraph (c) of this section.

§ 1.243–5 Effect of election.

(a) *General*—(1) *Corporations subject to restrictions and limitations.* If an election by an affiliated group under section 243(b)(2) is effective with respect to a taxable year of the common parent corporation, then each corporation (including the common parent corporation) which is a member of such group on each day of its matching taxable year shall be subject to the restrictions and limitations prescribed by paragraphs (b), (c), and (d) of this section for such taxable year. For purposes of this section, the term "matching taxable year" shall mean the taxable year of each member (including the common parent corporation) of an affiliated group which includes the last day of a particular taxable year of the common parent corporation for which an election by the affiliated group under section 243(b)(2) is effective. If a corporation is a member of an affiliated group on each day of a short taxable year which does not include the last day of a taxable year of the common parent corporation, and if an election under section 243(b)(2) is effective for such short year, see paragraph (g) of this section. In the case of taxable years beginning in 1963 and ending in 1964 for which an election under section 243(b)(2) is effective under paragraph (c)(4)(ii) of § 1.243–4, see paragraph (f)(3) of this section.

(2) *Members filing consolidated returns.* The restrictions and limitations prescribed by this section shall apply notwithstanding the fact that some of the corporations which are members of the electing affiliated group (within the meaning of section 243(b)(5)) join in the filing of a consolidated return. Thus, for example, if an electing affiliated group includes one of more corporations taxable under section 11 of the Code and two or more insurance companies taxable under section 802 of the Code, and if the insurance companies join in the filing of a consolidated return, the amount of such companies' exemptions from estimated tax (for purposes of sections 6016 and 6655) shall be the amounts determined under paragraph (d)(5) of this section and not the amounts determined pursuant to the regulations under section 1502.

(b) *Multiple surtax exemption election*—(1) *General rule.* If an election by an affiliated group under section 243(b)(2) is effective with respect to a taxable year of the common parent corporation, then no corporation which is a member of such affiliated group on each day of its matching taxable year may consent (or shall be deemed to consent) to an election under section 1562(a)(1), relating to election of multiple surtax exemptions, which would be effective for such matching taxable year. Thus, each corporation which is a component member of the controlled group of corporations with respect to its matching taxable year (determined by applying section 1563(b) without regard to paragraph (2)(D) thereof) shall determine its surtax exemption for such taxable year in accordance with section 1561 and the regulations thereunder.

(2) *Special rule for certain insurance companies.* Under section 243(b)(5)(A), if the provisions of subparagraph (1) of this paragraph apply with respect to the taxable year of an insurance company subject to taxation under section 802 or 821, then the surtax exemption of such insurance company for such taxable year shall be determined by applying part II (section 1561 and following), subchapter B, chapter 6 of the Code, with respect to such insurance company and the other corporations which are component members of the controlled group of corporations (as determined under section 1563 without regard to subsections (a)(4) and (b)(2)(D) thereof) of which such insurance company is a member, without regard to section 1563(a)(4) (relating to certain insurance companies treated as a separate controlled group) and section 1563(b)(2)(D) (relating to certain insurance companies treated as excluded members).

(3) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. Throughout 1965 corporation M owns all the stock of corporations L–1, L–2, S–1, and S–2. M is a domestic mutual insurance company subject to tax under section 821 of the Code, L–1 and L–2 are domestic life insurance companies subject to tax under section 802 of the Code, and S–1 and S–2 are domestic corporations subject to tax under section 11 of the Code. Each corporation uses the calendar year as its taxable year. M makes a valid election under section 243(b)(2) for the affiliated group consisting of M, L–1, L–2, S–1, and S–2. If part II, subchapter B, chapter 6 of the Code were applied with respect to the 1965 taxable years of the corporations without regard to section 243(b)(5)(A), the following would result: S–1 and S–2 would be treated as component members of a controlled group of corporations on such date; L–1 and L–2 would be treated as component members of a separate controlled group on such date; and M would be treated as an excluded member. However, since section 243(b)(5)(A) requires that part II of subchapter B be applied without regard to section 1563(a)(4) and (b)(2)(D), for purposes of determining the surtax exemptions of M, L–1, L–2, S–1, and S–2 for their 1965 taxable years, such corporations are treated for purposes of such part II as component members of a single controlled group of corporations on December 31, 1965. Moreover, by reason of having made the election under section 243(b)(2), M, L–1, L–2, S–1, and S–2 cannot consent to multiple surtax exemption elections under section 1562 which would be effective for their 1966 taxable years. Thus, such corporations are limited to a single $25,000 surtax exemption for such taxable years (to be apportioned among such corporations in accordance with section 1561 and the regulations thereunder).

(c) *Foreign tax credit*—(1) *General.* If an election by an affiliated group under section 243(b)(2) is effective with respect to a taxable year of the common parent corporation, then—

(i) The credit under section 901 for taxes paid or accrued to any foreign country or possession of the United States shall be allowed to a corporation which is a member of such affiliated group for each day of its matching taxable year only if each other corporation which pays or accrues such foreign taxes to any foreign country or possession, and which is a member of such group on each day of its matching taxable year, does not deduct such taxes in computing its tax liability for its matching taxable year, and

(ii) A corporation which is a member of such affiliated group on each day of its matching taxable year may use the overall limitation provided in section 904(a)(2) for such matching taxable year only if each other corporation which pays or accrues foreign taxes to any foreign country or possession, and which is a member of such group on each day of its matching taxable year, uses such limitation for its matching taxable year.

(2) *Consent of the Commissioner.* In the absence of unusual circumstances, a request by a corporation for the consent of the Commissioner to the revocation of an election of the overall limitation, or to a new election of the overall limitation, for the purpose of satisfying the requirements of subparagraph (1)(ii) of this paragraph will be given favorable consideration, notwithstanding the fact that there has been no change in the basic nature of the corporation's business or changes in conditions in a foreign country which substantially affect the corporation's business. See paragraph (d)(2) of § 1.904–1.

(d) *Other restrictions and limitations*—(1) *General rule.* If an election by an affiliated group under section 243(b)(2) is effective with respect to a taxable year of the common parent corporation, then, except to the extent that an apportionment plan adopted under paragraph (f) of this section for such taxable year provides otherwise with respect to a restriction or limitation described in this paragraph, the rules provided in subparagraphs (2), (3), (4), and (5) of this paragraph shall apply to each corporation which is a member of such affiliated group on each day of its matching taxable year for the purpose of computing the amount of such restriction or limitation for its matching taxable year. For purposes of this paragraph, each corporation which is a member of an electing affiliated group (including any member which joins in filing a consolidated return) shall be treated as a separate corporation for purposes of determining the amount of such restrictions and limitations.

(2) *Accumulated earnings credit*—(i) *Computation of amount.* The minimum accumulated earnings credit computed under section 535(c)(1) (or, in the case of a mere holding or investment company, the accumulated earnings credit provided by section 535(c)(3)), allowable to each corporation which is a member of such affiliated group on each day of its matching taxable year, shall be an

amount equal to (a) the amount (if any) by which $100,000 exceeds the aggregate of the accumulated earnings and profits of such members as of the close of their preceding taxable years, divided by (b) the number of such members.

(ii) *Apportionment plan not allowed.* An affiliated group may not adopt an apportionment plan, as provided in paragraph (f) of this section, with respect to the amount described in subdivision (i) (a) of this subparagraph.

(3) *Mine exploration expenditures*—(i) *Limitation under section 615(a).* If the aggregate of the expenditures to which section 615(a) applies, which are paid or incurred by corporations which are members of the affiliated group on each day of their matching taxable years (during such taxable years) exceeds $100,000, then the deduction (or amount deferrable) under section 615 for any such member for its matching taxable year shall be limited to an amount equal to the amount which bears the same ratio to $100,000 as the amount deductible or deferrable by such member under section 615 (computed without regard to this subdivision) bears to the aggregate of the amounts deductible or deferrable under section 615 (as so computed) by all such members.

(ii) *Limitation under section 615(c).* If the aggregate of the expenditures to which section 615(a) applies which are paid or incurred by the corporations which are members of such affiliated group on each day of their matching taxable years (during such taxable years) would, when added to the aggregate of the amounts deducted or deferred in prior taxable years which are taken into account by such corporations in applying the limitation of section 615(c), exceed $400,000, then section 615 shall not apply to any such expenditure so paid or incurred by any such member to the extent such expenditure would exceed the amount which bears the same ratio to (a) the amount, if any, by which $400,000 exceeds the amounts so deducted or deferred in prior years, as (b) such member's deduction (or amount deferrable) under section 615 (computed without regard to this subdivision) for such expenditures paid or incurred by such member during its matching taxable year, bears to (c) the aggregate of the amounts deductible or deferrable under section 615 (as so computed) by all such members during their matching taxable years.

(iii) *Treatment of corporations filing consolidated returns.* For purposes of making the computations under subdivisions (i) and (ii) of this subparagraph, a corporation which joins in the filing of a consolidated return shall be treated as if it filed a separate return.

(iv) *Estimate of exploration expenditures.* If, on the date a corporation (which is a member of an affiliated group on each day of its matching taxable year) files its income tax return for such taxable year, it cannot be determined whether or not the $100,000 limitation prescribed by subdivision (i) of this subparagraph, or the $400,000 limitation prescribed by subdivision (ii) of this subparagraph, will apply with respect to such taxable year, then such member shall, for purposes of such return, apply the provisions of such subdivisions (i) and (ii) with respect to such taxable year on the basis of an estimate of the aggregate of the exploration expenditures by all such members of the affiliated group for their matching taxable years. Such estimate shall be made on the basis of the facts and circumstances known at the time of such estimate. If an estimate is used by any such member of the affiliated group pursuant to this subdivision, and if the actual expenditures by all such members differ from the estimate, then each such member shall file as soon as possible an original or amended return reflecting an amended apportionment (either pursuant to an apportionment plan adopted under paragraph (f) of this section or pursuant to the application of the rule provided by subdivision (i) or (ii) of this subparagraph) based upon such actual expenditures.

(v) *Amount apportioned under apportionment plan.* If an electing affiliated group adopts an apportionment plan as provided in paragraph (f) of this section with respect to the limitation under section 615(a) or 615(c), then the amount apportioned under such plan to any corporation which is a member of such group may not exceed the amount which such member could have deducted (or deferred) under section 615 had such affiliated group not filed an election under section 243(b)(2).

(4) *Small business deductions of life insurance companies.* In the case of a life insurance company taxable under section 802 which is a member of such affiliated group on each day of its matching taxable year, the small business deduction under sections 804(a)(4) and 809(d)(10) shall not exceed an amount equal to $25,000 divided by the number of life insurance companies taxable under section 802 which are members of such group on each day of their matching taxable years.

(5) *Estimated tax*—(i) *Exemption from estimated tax.* Except as otherwise provided in subdivision (ii) of this subparagraph, the exemption from estimated tax (for purposes of estimated tax filing requirements under section 6016 and the addition to tax under section 6655 for failure to pay estimated tax) of each corporation which is a member of such affiliated group on each day of its matching taxable year shall be (in lieu of the $100,000 amount specified in section 6016 (a) and (b)(2)(A) and in section 6655 (d)(1) and (e)(2)(A)) an amount equal to $100,000 divided by the number of such members.

(ii) *Nonapplication to certain taxable years beginning in 1963 and ending in 1964.* For purposes of this section, if a corporation has a taxable year beginning in 1963 and ending in 1964 the last day of the eighth month of which falls on or before April 10, 1964, then (notwithstanding the fact that an election under section 243(b)(2) is effective for such taxable year) subdivision (i) of this subparagraph shall not apply to such corporation for such taxable year. Thus, such corporation shall be entitled to a $100,000 exemption from estimated tax for such taxable year. Also, with respect to a taxable year described in the first sentence of this subdivision, any such corporation shall not be considered to be a member of the affiliated group for purposes of determining the number of members referred to in subdivision (i) of this subparagraph.

(iii) *Examples.* The provisions of subdivision (i) of this subparagraph may be illustrated by the following examples:

Example (1). Corporation P owns all the stock of corporation S-1 on each day of 1965. On March 1, 1965, P acquires all the stock of corporation S-2. Corporations P, S-1, and S-2 file separate returns on a calendar year basis. On March 31, 1965, the affiliated group consisting of P, S-1, and S-2 anticipates making an election under section 243(b)(2) for P's 1965 taxable year. If the affiliated group does make a valid election under section 243(b)(2) for P's 1965 year, under subdivision (i) of this subparagraph the exemption from estimated tax of P for 1965, and the exemption from estimated tax of S-1 for 1965, will be (assuming an apportionment plan is not filed pursuant to paragraph (f) of this section) an amount equal to $50,000 ($100,000÷2). (Since S-2 is not a member of the affiliated group on each day of 1965, S-2's exemption from estimated tax will be determined for the year 1965 without regard to subdivision (i) of this subparagraph, whether or not the affiliated group makes the election under section 243(b)(2).) P and S-1 file declarations of estimated tax on April 15, 1965, on such basis and make payments with respect to such declarations on such basis. Thus, if the affiliated group does make a valid election under section 243(b)(2) for P's 1965 year, P and S-1 will not incur (as a result of the application of subdivision (i) of this subparagraph to their 1965 years) additions to tax under section 6655 for failure to pay estimated tax.

Example (2). Assume the same facts as in example (1), except that, on March 31, 1965, S-1 anticipates that it will incur a loss for its 1965 year. Accordingly, in anticipation of making an election under section 243(b)(2) for P's 1965 year and adopting an apportionment plan under paragraph (f) of this section, P computes its estimated tax liability for 1965 on the basis of a $100,000 exemption, and S-1 computes its estimated tax liability for 1965 on the basis of a zero exemption. Assume S-1 incurs a loss for 1965 as anticipated. Thus, if P does make the election for 1965, and an apportionment plan is adopted apportioning $100,000 to P and zero to S-1 (for their 1965 years), P and S-1 will not incur (as a result of the application of subdivision (i) of this subparagraph to their 1965 years) additions to tax under section 6655 for failure to pay estimated tax.

Example (3). Assume the same facts as in example (1), except that P and S-1 file declarations of estimated tax on April 15, 1965, on the basis of separate $100,000 exemptions from estimated tax for their 1965 years, and make payments with respect to such declarations on such basis. Assume that the affiliated group makes an election under section 243(b)(2) for P's 1965 year. Under subdivision (i) of this subparagraph, P and S-1 are limited in the aggregate to a single $100,000 exemption from estimated tax for their 1965 years. The provisions of section 6655 will be applied to the 1965 year of P and the 1965 year of S-1 on the basis of a $50,000 exemption from estimated tax for each corporation, unless a different apportionment of the $100,000 amount is adopted under paragraph (f) of this section. Since the election was made under section 243(b)(2), regardless of whether or not the affiliated group anticipated making the election, P or S-1 (or both) may incur additions to tax under section 6655 for failure to pay estimated tax.

(e) *Effect of election for certain taxable years beginning in 1963 and ending in 1964.* If an election under section 243(b)(2) by an affiliated group is effective for a taxable year of a corporation under paragraph (c)(4)(ii) of § 1.243-4 (relating to election for certain taxable years beginning in 1963 and ending in 1964), and if such corporation is a member of such group on each day of such taxable year, then the restrictions and limitations prescribed by paragraphs (b), (c), and (d) of this section shall apply to all such members having such taxable years (for such taxable years). For purposes of this paragraph, such paragraphs shall be applied with respect to such taxable years as if such taxable years included the last day of a taxable year of the common parent corporation for which an election was effective under section 243(b)(2), i.e., as if such taxable years were matching taxable years. For apportionment plans with respect to such taxable years, see paragraph (f)(9) of this section.

(f) *Apportionment plans*—(1) *In general.* In the case of corporations which are members of an affiliated group of corporations on each day of their matching taxable years—

(i) The $100,000 amount referred to in paragraph (d)(3)(i) of this section (relating to limitation under section 615(a)),

(ii) The amount determined under paragraph (d)(3)(ii)(a) of this section (relating to limitation under section 615(c)),

(iii) The $25,000 amount referred to in paragraph (d)(4) of this section (relating to small business deduction of life insurance companies), and

(iv) The $100,000 amount referred to in paragraph (d)(5)(i) of this section (relating to exemption from estimated tax), may be apportioned among such members (for such taxable years) if the common parent corporation files an apportionment plan with respect to such taxable years in the manner provided in subparagraph (4) of this paragraph, and if all other members consent to the plan, in the manner provided in subparagraph (5) or (6) of this paragraph (whichever is applicable). The plan may provide for the apportionment to one or more of such members, in fixed dollar amounts, of one or more of the amounts referred to in subdivisions (i), (ii), (iii), and (iv) of this subparagraph, but in no event shall the sum of the amounts so apportioned in respect to any such subdivision exceed the amount referred to in such subdivision. See also paragraph (d)(3)(v) of this section, relating to the maximum amount that may be apportioned to a corporation under this subparagraph with respect to exploration expenditures to which section 615 applies.

(2) *Time for adopting plan.* An affiliated group may adopt an apportionment plan with respect to the matching taxable years of its members only if, at the time such plan is sought to be adopted there is at least 1 year remaining in the statutory period (including any extensions thereof) for the assessment of a deficiency against any corporation the tax liability of which would be increased by the adoption of such plan. If there is less than 1 year remaining with respect to any such corporation, the district director with whom such corporation files its income tax return will ordinarily, upon request, enter into an agreement to extend such statutory period for assessment and collection of deficiencies.

(3) *Years for which effective.* A valid apportionment plan with respect to matching taxable years of members of an affiliated group shall be effective for such matching taxable years, and for all succeeding matching taxable years of such members, unless the plan is amended in accordance with subparagraph (8) of this paragraph or is terminated. Thus, the apportionment plan (including any amendments thereof) has a continuing effect and need not be renewed annually. An apportionment plan with respect to a particular taxable year of the common parent shall terminate with respect to the taxable years of the members of the affiliated group which include the last day of a succeeding taxable year of the common parent if—

(i) Any corporation which was a member of the affiliated group on each day of its matching taxable year which included the last day of the particular taxable year of the common parent is not a member of such group on each day of its taxable year which includes the last day of such succeeding taxable year of the common parent, or

(ii) Any corporation which was not a member of such group on each day of its taxable year which included the last day of the particular taxable year of the common parent is a member of such group on each day of its taxable year which includes the last day of such succeeding taxable year of the common parent.

An apportionment plan, once terminated, is no longer effective. Accordingly, unless a new apportionment plan is filed and consented to (or the section 243(b)(2) election is terminated) the amounts referred to in subparagraph (1) of this paragraph will be apportioned among the corporations which are members of the affiliated group on each day of their matching taxable years in accordance with the rules provided in paragraphs (d)(3)(i), (d)(3)(ii), (d)(4), and (d)(5)(i) of this section.

(4) *Filing of plan.* The apportionment plan shall be in the form of a statement filed by the common parent corporation with the district director with whom the common parent files its income tax returns. The statement shall be signed by any person who is duly authorized to act on behalf of the common parent corporation and shall set forth the name, address, internal revenue district, taxpayer account number, and taxable year of each member to whom the common parent could apportion an amount under subparagraph (1) of this paragraph (or, in the case of an apportionment plan referred to in subparagraph (9) of this paragraph, each member to whom the common parent could apportion an amount under such subparagraph) and the amount (or amounts) apportioned to each such member under the plan.

(5) *Consent of wholly owned subsidiaries.* If all the stock of a corporation which is a member of the affiliated group on each day of its matching taxable year is owned on each such day by another corporation (or corporations) which is a member of such group on each day of its matching taxable year, such corporation (hereinafter in this paragraph referred to as a "wholly owned subsidiary") shall be deemed to consent to the apportionment plan. Each wholly owned subsidiary should attach a copy of the plan filed by the common parent corporation to an income tax return, amended return, or claim for refund for its matching taxable year.

(6) *Consent of other members.* The consent of each member (other than the common parent corporation and wholly owned subsidiaries) to an apportionment plan shall be in the form of a statement, signed by any person who is duly authorized to act on behalf of the member consenting to the plan, stating that such member consents to the plan. The consent of more than one such member may be incorporated in a single statement. The statement (or statements) shall be attached to the apportionment plan filed by the common parent corporation. The consent of any such member which, after the date the apportionment plan was filed and during its matching taxable year referred to in subparagraph (1) of this paragraph, ceases to be a wholly owned subsidiary but continues to be a member, shall be filed with the district director with whom the apportionment plan is filed (as soon as possible after it ceases to be a wholly owned subsidiary). Each consenting member should attach a copy of the apportionment plan filed by the common parent to an income tax return, amended return, or claim for refund for its matching taxable year which includes the last day of the taxable year of the common parent corporation for which the apportionment plan was filed.

(7) *Members of group filing consolidated return*—(i) *General rule.* Except as provided in subdivision (ii) of this subparagraph, if the members of an affiliated group of corporations include one or more corporations taxable under section 11 of the Code and one or more insurance companies taxable under section 802 or 821 of the Code and if the affiliated group includes corporations which join in the filing of a consolidated return, then, for purposes of determining the amount to be apportioned to a corporation under an apportionment plan adopted under this paragraph, the corporations filing the consolidated return shall be treated as a single member,

(ii) *Consenting to an apportionment plan.* For purposes of consenting to an apportionment plan under subparagraphs (5) and (6) of this paragraph, if the members of an affiliated group of corporations include corporations which join in the filing of a consolidated return, each corporation which joins in filing the consolidated return shall be treated as a separate member.

(8) *Amendment of plan.* An apportionment plan, which is effective for the matching taxable years of members of an affiliated group, may be amended if an amended plan is filed (and consented to) within the time and in accordance with the rules prescribed in this paragraph for the adoption of an original plan with respect to such taxable years.

(9) *Certain taxable years beginning in 1963 and ending in 1964.* In the case of corporations which are members of an affiliated group of corporations on each day of their taxable years referred to in paragraph (e) of this section—

(i) The $100,000 amount referred to in paragraph (d)(3)(i) of this section (relating to limitation under section 615(a)),

(ii) The amount determined under paragraph (d)(3)(ii)(a) of this section (relating to limitation under section 615(c)),

(iii) The $25,000 amount referred to in paragraph (d)(4) of this section (relating to small business deduction of life insurance companies), and

(iv) The $100,000 amount referred to in paragraph (d)(5)(i) of this section (relating to exemption from estimated tax), may be apportioned among such members (for such taxable years) if an apportionment plan is filed (and consented to) with respect to such taxable years in accordance with the rules provided in subparagraphs (2), (4), (5), (6), (7), and (8) of this paragraph. For purposes of this subparagraph, such subparagraphs shall be applied as if such taxable years included the last day of a taxable year of the common parent corporation, i.e., as if such taxable years were matching taxable years. An apportionment plan adopted under this subparagraph shall be effective only with respect to taxable years referred to in paragraph (e) of this section. The plan may provide for the apportionment to one or more of such members, in fixed dollar amounts, of one or more of the amounts referred to in subdivisions (i), (ii), (iii), and (iv) of this subparagraph, but in no event shall the sum of the amounts so apportioned in respect of any such subdivision exceed the amount referred to in such subdivision. See also paragraph (d)(2)(v) of this section, relating to the maximum amount that may be apportioned to a corporation under an apportionment plan described in this subparagraph with respect to exploration expenditures to which section 615 applies.

(g) *Short taxable years—(1) General.* If—

(i) The return of a corporation is for a short period (ending after December 31, 1963) on each day of which such corporation is a member of an affiliated group,

(ii) The last day of the common parent's taxable year does not end with or within such short period, and

(iii) An election under section 243(b)(2) by such group is effective under paragraph (c)(4)(i) of § 1.243-4 for the taxable year of the common parent within which falls such short period,

then the restrictions and limitations prescribed by section 243(b)(3) shall be applied in the manner provided in subparagraph (2) of this paragraph.

(2) *Manner of applying restrictions.* In the case of a corporation described in subparagraph (1) of this paragraph having a short period described in such subparagraph—

(i) Such corporation may not consent to an election under section 1562, relating to election of multiple surtax exemptions, which would be effective for such short period;

(ii) The credit under section 901 shall be allowed to such corporation for such short period if, and only if, each corporation, which pays or accrues foreign taxes and which is a member of the affiliated group on each day of its taxable year which includes the last day of the common parent's taxable year within which falls such short period, does not deduct such taxes in computing its tax liability for its taxable year which includes such last day;

(iii) The overall limitation provided in section 904(a)(2) shall be allowed to such corporation for such short period if, and only if, each corporation, which pays or accrues foreign taxes and which is a member of the affiliated group on each day of its taxable year which includes the last day of the common parent's taxable year within which falls such short period, uses such limitation for its taxable year which includes such last day;

(iv) The minimum accumulated earnings credit provided by section 535(c)(2) (or in the case of a mere holding or investment company, the accumulated earnings credit provided by section 535(c)(3)) allowable for such short period shall be the amount computed by dividing (a) the amount (if any) by which $100,000 exceeds the aggregate of the accumulated earnings and profits of the corporations, which are members of the affiliated group on the last day of such short period, as of the close of their taxable years preceding the taxable year which includes the last day of such short period, by (b) the number of such members on the last day of such short period;

(v) The deduction allowable under section 615(a) for such short period shall be limited to an amount equal to $100,000 divided by the number of corporations which are members of the affiliated group on the last day of such short period;

(vi) If the expenditures to which section 615(a) applies which are paid or incurred by such corporation during such short period would, when added to the aggregate of the amounts deducted or deferred (in taxable years ending before the last day of such short period) which are taken into account in applying the limitation of section 615(c) by corporations which are members of the affiliated group on the last day of such short period exceed $400,000, then section 615 shall not apply to any such expenditure so paid or incurred by such corporation to the extent such expenditure would exceed an amount equal to (a) the amount (if any) by which $400,000 exceeds the aggregate of the amounts so deducted or deferred in such taxable years (computed as if each member filed a separate return), divided by (b) the number of corporations in the group which have taxable years ending on such last day;

(vii) If such corporation is a life insurance company taxable under section 802, the small business deduction under sections 804(a)(4) and 809(d)(10) shall not exceed an amount equal to (a) $25,000, divided by (b) the number of life insurance companies taxable under section 802 which are members of the affiliated group on the last day of such short period; and

(viii) The exemption from estimated tax (for purposes of estimated tax filing requirements under section 6016 and the addition to tax under section 6655 for failure to pay estimated tax) for such short period shall be an amount equal to $100,000 divided by the number of corporations which are members of the affiliated group on the last day of such short period.

PAR. 4. Section 1.244 is amended by revising section 244 and adding a historical note, as follows:

§ 1.244 Statutory provisions; dividends received on certain preferred stock.

SEC. 244. *Dividends received on certain preferred stock—(a) General rule.* In the case of a corporation, there shall be allowed as a deduction an amount computed as follows:

(1) First determine the amount received as dividends on the preferred stock of a public utility which is subject to taxation under this chapter and with respect to which the deduction provided in section 247 for dividends paid is allowable.

(2) Then multiply the amount determined under paragraph (1) by the fraction—

(A) The numerator of which is 14 percent, and

(B) The denominator of which is that percentage which equals the sum of the normal tax rate and the surtax rate for the taxable year prescribed by section 11.

(3) Finally ascertain the amount which is 85 percent of the excess of—

(A) The amount determined under paragraph (1), over

(B) The amount determined under paragraph (2).

(b) *Exception.* If the dividends described in subsection (a)(1) are qualifying dividends (as defined in section 243(b)(1)), but determined without regard to section 243(c)(4))—

(1) Subsection (a) shall be applied separately to such qualifying dividends, and

(2) For purposes of subsection (a)(3), the percentage applicable to such qualifying dividends shall be 300 percent in lieu of 85 percent.

[Sec. 244 as amended by sec. 216(b)(1), Rev. Act 1964 (78 Stat. 55)]

PAR. 5. Section 1.244-2 is amended to read as follows:

§ 1.244-2 Computation of deduction.

(a) *General rule.* Section 244(a) provides a formula for the computation of the deduction for dividends received on the preferred stock of a public utility. For purposes of this computation, the normal tax rate referred to in section 244(a)(2)(B) shall be determined without regard to any additional tax imposed by section 1562(b). See section 1562(b)(4). The deduction computed under section 244(a) is subject to the limitation provided in section 246.

(b) *Qualifying dividends.* Section 244(b) provides that in the case of dividends received on the preferred stock of a public utility in taxable years ending after December 31, 1963, which are "qualifying dividends" (as defined in section 243(b)(1), but determined without regard to section 243(c)(4)), the computation of the deduction for dividends received shall be made by applying the formula provided by section 244(a) separately to such qualifying dividends. For such purposes, 100 percent shall be used in lieu of the 85 percent specified in section 244(a)(3).

(c) *Examples.* The computation of the deduction provided in section 244 may be illustrated by the following examples:

Example (1). Corporation X, which files its income tax returns on the calendar year basis, received in 1965 $100,000 as dividends on the preferred stock of corporation Y, a public utility corporation which is subject to taxation under chapter 1 of the Code. The deduction provided in section 247 is allowable to Y, the distributing corporation, with respect to these dividends and they are not "qualifying dividends" (as defined in section 243(b)(1) but determined without regard to section 243(c)(4)). The corporation normal tax rate and the surtax rate for the calendar year 1965 are 22 percent and 26 percent, respectively. The deduction allowable to X under section 244(a) for the year 1965 with respect to these dividends is $60,208.33, computed as follows:

Dividends received on preferred stock of corporation Y	$100,000.00
Less: The fraction specified in section 244(a)(2): 14/48 × $100,000	39,166.67
Amount subject to 85-percent deduction	70,833.33
Deduction—85 percent of $70,833.33	60,208.33

The result would be the same if X or Y (or both) were subject to the 6-percent, additional tax imposed by section 1562(b) for 1965.

Example (2). Assume the same facts as in example (1) and also assume that in 1965 corporation X received $200,000 as dividends on the preferred stock of Corporation Z, a public utility corporation which is subject to taxation under chapter 1 of the Code. Assume further that such dividends are "qualifying dividends" (as defined in section 243(b)(1) but determined without regard to section 243(c)(4)). The deduction provided in section 247 is allowable to Z, the distributing corporation, with respect to these dividends. The deduction allowable to X under section 244 for the year 1965 is $205,575, computed as follows:

Deduction allowable under section 244(b) with respect to the dividend received from Z: Qualifying dividends received on preferred stock of corporation	200,000.00
Less: The fraction specified in section 244(a)(2): 14/48 × $200,000	58,333.33
Deduction	141,666.67
Deduction allowable under section 244 for 1965	201,875.00

PAR. 6. Section 1.246 is amended by revising section 246(b) and the historical note to read as follows:

§ 1.246 Statutory provisions; rules applying to deductions for dividends received.

SEC. 246. *Rules applying to deductions for dividends received.* * * *

(b) *Limitation on aggregate amount of deductions—(1) General rule.* Except as provided in paragraph (2), the aggregate amount of the deductions allowed by sections 243(a)(1), 244(a), and 245 shall not exceed 85 percent of the taxable income computed without regard to the deductions allowed by sections 172, 243(a)(1), 244(a), 245, and 247.

(2) *Effect of net operating loss.* Paragraph (1) shall not apply for any taxable year for which there is a net operating loss (as determined under section 172).

* * * * *

[Sec. 246 as amended by sec. 18 and sec. 57(c)(2), Technical Amendments Act 1958 (72 Stat. 1614, 1643); sec. 214(b)(2), Rev. Act 1964 (78 Stat. 55)]

PAR. 7. Section 1.246-2 is amended by striking out the references to sections 243(a) and 244 and by substituting references to sections 243(a)(1) and 244(a). The amended provision reads as follows:

§ 1.246-2 Limitation on aggregate amount of deductions.

(a) *General rule.* The sum of the deductions allowed by sections 243(a)(1) (relating to dividends received by corporations), 244(a) (relating to dividends received on certain preferred stock), and 245 (relating to dividends received from certain foreign corporations), except as provided in section 246(b)(2) and in paragraph (b) of this section, is limited to 85 percent of the taxable income of the corporation. The taxable income of the corporation for this purpose is computed without regard to the net operating loss deduction allowed by section 172, the deduction for dividends paid on certain preferred stock of public utilities allowed by section 247, and the deductions provided in sections 243(a)(1), 244(a), and 245. For definition of the term "taxable income," see section 63.

(b) *Effect of net operating loss.* If the shareholder corporation has a net operating loss (as determined under sec. 172) for a taxable year, the limitation provided in section 246(b)(1) and in paragraph (a) of this section is not applicable for such taxable year. In that event, the deductions provided in sections 243(a)(1), 244(a), and 245 shall be allowable for all tax purposes to the shareholder corporation for such taxable year without regard to such limitation. If the shareholder corporation does not have a net operating loss for the taxable year, however, the limitation will be applicable for all tax purposes for such taxable year. In determining whether the shareholder corporation has a net operating loss for a taxable year under section 172, the deductions allowed by sections 243(a)(1), 244(a), and 245 are to be computed without regard to the limitation provided in section 246(b)(1) and in paragraph (a) of this section.

PAR. 8. Section 1.535-3 is amended by revising the second sentence of paragraph (b)(2) and by adding a new sentence at the end of paragraph (c). These revised and added provisions read as follows:

§ 1.535-3 Accumulated earnings credit.

* * * * *

(b) *Corporation which is not a mere holding or investment company.* * * *

(2) *Minimum credit.* Section 535(c)(2) provides for the allowance of a minimum accumulated earnings credit in the case of a corporation which is not a mere holding or investment company. Except as otherwise provided in section 243(b)(3) and § 1.243-5 (relating to effect of 100-percent dividends received deduction under sec. 243(b)), in the case of such a corporation, this minimum credit shall in no case be less than the amount by which $100,000 ($60,000 if the credit is computed for a taxable year beginning before January 1, 1958), exceeds the accumulated earnings and profits of the corporation at the close of the preceding taxable year. See paragraph (d) of this section for the effect of dividends paid after the close of the taxable year in determining accumulated earnings and profits at the close of the preceding taxable year. In determining the amount of the minimum credit allowable under section 535(c)(2), the needs of the business are not taken into consideration. If the taxpayer has accumulated earnings and profits at the close of the preceding taxable year equal to or in excess of $100,000 ($60,000 if the credit is computed for a taxable year beginning before January 1, 1958), the credit, if any is determined without regard to section 535(c)(2). It is not intended that the provision for the minimum credit shall in any way create an inference that an accumulation in excess of $100,000 ($60,000 if the credit is computed for a taxable year beginning before January 1, 1958) is unreasonable. The reasonable needs of the business may require the accumulation of more or less than $100,000 ($60,000 if the credit is computed for a taxable year beginning before January 1, 1958) depending upon the circumstances in the case, but such needs shall not be taken into consideration to any extent in cases where the minimum accumulated earnings credit is applicable. For a discussion of the reasonable needs of the business, see section 537 and §§ 1.537-1, 1.537-2, and 1.537-3.

* * * * *

(c) *Holding and investment companies.* Section 535(c)(3) provides that, in the case of a mere holding or investment company, the accumulated earnings credit shall be the amount, if any, by which $100,000 ($60,000 if the credit is

computed for a taxable year beginning before January 1, 1958), exceeds the accumulated earnings and profits of the corporation at the close of the preceding taxable year. Thus, if such a corporation has accumulated earnings equal to or in excess of $100,000 ($62,500 if the credit is computed for a taxable year beginning before January 1, 1958), at the close of its preceding taxable year, no accumulated earnings credit is allowable in computing the accumulated taxable income. See paragraph (g) of § 1.532–1 for a definition of a holding or investment company. For the accumulated earnings credit of a mere holding or investment company which is a member of an affiliated group which has elected the 100-percent dividends received deduction under section 243(b), see section 243(b)(3) and § 1.243–5.

* * * * *

PAR. 9. Section 1.615–1 is amended by adding a new sentence at the end of paragraph (a). This amended provision reads as follows:

§ 1.615–1 Exploration expenditures.

(a) *General rule.* Section 615 prescribes rules for the treatment of expenditures for ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (other than oil or gas) paid or incurred by the taxpayer before the beginning of the development stage of the mine or other natural deposit. The development stage of the mine or other natural deposit will be deemed to begin at the time when, in consideration of all the facts and circumstances (including the actions of the taxpayer), deposits of ore or other mineral are shown to exist in sufficient quantity and quality to reasonably justify commercial exploitation by the taxpayer. Such expenditures hereinafter in the regulations under section 615 will be referred to as exploration expenditures. Under section 615(a), a taxpayer may, at his option, deduct exploration expenditures paid or incurred in an amount not to exceed $100,000 for any taxable year. Under section 615(b) and § 1.615–2 he may elect to defer any part of such amount and deduct such part on a ratable basis as the units of produced minerals benefited by such expenditures are sold. In any taxable year in which the taxpayer does not treat exploration expenditures under either of these methods, they will be charged to depletable capital account. The option to deduct under section 615(a), and the election to defer under section 615(b), however, are subject to the limitation provided in section 615(c) and § 1.615–4. In the case of certain corporations which are members of an affiliated group which has elected the 100-percent dividends received deduction under section 243(b), see section 243(b)(3) and § 1.243–5 for limitations on the option to deduct under section 615(a) and the election to defer under section 615(b).

* * * * *

PAR. 10. Section 1.804 is amended by revising section 804(a)(5) and the historical note to read as follows:

§ 1.804 Statutory provisions; life insurance companies; taxable investment income.

SEC. 804. *Taxable investment income.*—(a) *In general.* * * *

(5) *Application of section 246(b).* In applying section 246(b) (relating to limitation on aggregate amount of deductions for dividends received) for purposes of this subsection, the limit on the aggregate amount of the deductions allowed by sections 243(a)(1), 244(a), and 245 shall be 85 percent of the taxable investment income computed without regard to the deductions allowed by such sections.

[SEC. 804 as added by sec. 2, Life Insurance Company Tax Act 1955 (70 Stat. 41); amended by sec. 2, Life Insurance Company Income Tax Act 1959 (73 Stat. 114); sec. 9, Act of October 23, 1962 [Public Law 87-858, 76 Stat. 124); sec. 214(b)(2), Rev. Act 1964 (78 Stat. 44)]

PAR. 11. Section 1.804–1 is amended to read as follows:

§ 1.804–1 Taxable years affected.

Sections 1.804–2 through 1.804–4 (other than paragraph (d)(1)(ii) of § 1.804–2) are applicable only to taxable years beginning after December 31, 1957, and all references to sections of part I, subchapter L, chapter 1 of the Code are to the Internal Revenue Code of 1954, as amended by the Life Insurance Company Income Tax Act of 1959 (73 Stat. 112). Paragraph (d)(1)(ii) of § 1.804–2 is applicable only to taxable years beginning after December 31, 1961, and all references to sections of part I, subchapter L, chapter 1 of the Code are to the Internal Revenue Code of 1954, as amended by the Life Insurance Company Income Tax Act of 1959 (73 Stat. 112), section 3 of the Act of October 23, 1962 (Public Law 87-858, 76 Stat. 1134), and section 214(b)(3) of the Revenue Act of 1964 (78 Stat. 55).

PAR. 12. Section 1.804–2 is amended by revising subparagraph (2)(ii) of paragraph (d). This revised provision reads as follows:

§ 1.804–2 Taxable investment income.

* * * * *

(d) *Taxable investment income of a life insurance company.* * * *

(2) *Modifications.* * * *

(ii) *Application of section 246(b).* The sum of the deductions allowed by sections 243(a)(1) (relating to dividends received by corporations), 244 (a) (relating to dividends received on certain preferred stock), and 245 (relating to dividends received from certain foreign corporations) shall be limited to 85 percent of the taxable investment income (as defined in subparagraph (1) of this paragraph). The taxable investment income of the company for this purpose shall be computed without regard to the deductions provided in sections 243(a)(1), 244(a), and 245.

* * * * *

PAR. 13. Section 1.809 is amended by revising section 809(d)(5)(B) and the historical note to read as follows:

§ 1.809 Statutory provisions; life insurance companies; in general.

SEC. 809. *In general.* * * *

(d) *Deductions.* * * *

(5) *Tax-exempt interest, dividends, etc.* * * *

(B) *Application of section 246(b).* In applying section 246(b) (relating to limitation on aggregate amount of deductions for dividends received) for purposes of subparagraph (A)(iii), the limit on the aggregate amount of the deductions allowed by sections 243(a)(1), 244(a), and 245 shall be 85 percent of the gain from operations computed without regard to—

(i) The deductions provided by paragraphs (2), (3), and (4) of this subsection,

(ii) The operations loss deduction provided by section 812, and

(iii) The deductions allowed by sections 243(a)(1), 244(a), and 245,

but such limit shall not apply for any taxable year for which there is a loss from operations.

[SEC. 809 as added by sec. 2, Life Insurance Company Income Tax Act 1959 (73 Stat. 121); amended by sec. 2, Act of June 27, 1961 (Public Law 87-50, 75 Stat. 130); sec. 5, Act of October 16, 1962 (Public Law 87-700, 76 Stat. 808); sec. 9, Act of October 23, 1962 (Public Law 87-858, 76 Stat. 1134); sec. 214(b)(4), Rev. Act 1964 (78 Stat. 55)]

PAR. 14. Section 1.809–1 is amended to read as follows:

§ 1.809–1 Taxable years affected.

Sections 1.809 through 1.809–5, except as otherwise provided therein, are applicable only to taxable years beginning after December 31, 1957, and all reference to sections of part I, subchapter L, chapter 1 of the Code are to the Internal Revenue Code of 1954, as amended by the Life Insurance Company Income Tax Act of 1959 (73 Stat. 112), the Act of June 27, 1961 (75 Stat. 130), the Act of October 16, 1962 (76 Stat. 808); the Act of October 23, 1962 (76 Stat. 1134), and section 214(b)(4) of the Revenue Act of 1964 (78 Stat. 55).

PAR. 15. Paragraph (a)(5)(ii) of § 1.809–5 is revised to read as follows:

§ 1.809–5 Deductions.

(a) *Deductions allowed.* * * *

(5) *Tax-exempt interests, dividends, etc.* * * *

(ii) The modification contained in section 809(d)(5)(B) provides the method for applying section 246(b) (relating to limitation on aggregate amount of deductions for dividends received) for purposes of section 809(d)(5)(A)(iii) and subdivision (i)(c) of this subparagraph. Under this method, the sum of the deductions allowed by sections 243(a)(1) (relating to dividends received by corporations), 244(a) (relating to dividends received on certain preferred stock), and 245 (relating to dividends received from certain foreign corporations) shall be limited to 85 percent of the gain from operations computed without regard to:

(a) The deductions provided by section 809(d)(2), (3), and (4);

(b) The operations loss deductions provided by section 812; and

(c) The deductions allowed by sections 243(a)(1), 244(a), and 245.

If a life insurance company has a loss from operations (as determined under sec. 812) for the taxable year, the limitation provided in section 809(d)(5)(B) and this subdivision shall not be applicable for such taxable year. In that event, the deductions provided by sections 243(a)(1), 244(a), and 245 shall be allowable for all tax purposes to the life insurance company for such taxable year without regard to such limitation. If the life insurance company does not have a loss from operations for the taxable year, however, the limitation shall be applicable for all tax purposes for such taxable year. In determining whether a life insurance company has a loss from operations for the taxable year under section 812, the deductions allowed by sections 243(a)(1), 244(a), and 245 shall be computed without regard to the limitation provided in section 809(d)(5)(B) and this subdivision.

* * * * *

[F.R. Doc. 67-12967; Filed, Nov. 1, 1967; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 959]

ONIONS GROWN IN SOUTH TEXAS

Proposed Limitation of Shipments Regulation

Consideration is being given to the issuance of the limitation of shipments regulation, hereinafter set forth, which was recommended by the South Texas Onion Committee, established pursuant to Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR Part 959), regulating the handling of onions grown in designated counties in South Texas. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

All persons who desire to submit written data, views, or arguments in connection with this proposal shall file the same with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 30 days after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). The proposed regulation is as follows:

§ 959.308 Limitation of shipments.

During the period beginning March 1, 1968, through June 15, 1968, no handler may package or load onions on Sundays, or handle any lot of onions grown in the production area, except sed onions, unless such onions meet the grade requirements of paragraph (a) of this section, one of the applicable size requirements of paragraph (b) of this section, the container requirements of paragraph (c) of this section, and the inspection requirements of paragraph (f) of this section, or unless such onions are handled in accordance with the provisions of paragraphs (d) or (e) of this section.

(a) *Minimum grade.* Not to exceed 20 percent defects of U.S. No. 1 grade. In percentage grade lots, tolerances for serious damage shall not exceed 10 percent including not more than 2 percent decay. Double the lot tolerances shall be permitted in individual packages in percentage grade lots. Application of tolerances in U.S. Grade Standards shall apply to in-grade lots.

(b) *Size requirements.* (1) "Small"—1 to 2¼ inches in diameter, and limited to whites only;

(2) "Repacker"—1¾ to 3 inches in diameter, with 60 percent or more 2 inches in diameter or larger;

(3) 2 to 3½ inches in diameter; or

(4) "Jumbo"—3 inches or larger in diameter.

(c) *Container requirements.* (1) 25-pound bags, with not to exceed in any lot an average net weight of 27½ pounds per bag, and with outside dimensions not larger than 20 inches by 31 inches; or

(2) 50-pound bags, with not to exceed in any lot an average net weight of 55 pounds per bag, and with outside dimensions not larger than 23 inches by 38½ inches.

(3) These container requirements shall not be applicable to onions sold to Federal Agencies.

(d) *Minimum quantity exemption.* Any handler may handle, only as individual shipments and other than for resale, not more than 100 pounds of onions per day, in the aggregate, without regard to the requirements of this section or to the inspection and assessment requirements of this part.

(e) *Special purpose shipments and sales.*—(1) *Experimental shipments.* Onions may be handled for experimental purposes as follows:

(i) Each handler desiring to make such shipments shall first apply to the committee for and obtain a certificate of privilege to make such shipments.

(ii) After obtaining an approved certificate of privilege, each handler may handle onions packed in 3- or 5-pound consumer size containers, or 50-pound cartons, if they meet the grade and size requirements of paragraphs (a) and (b) of this section and if they are handled in accordance with the reporting requirements established in subparagraph (2) of this paragraph on such shipments: *Provided*, That shipments of 3- and 5-pound containers shall not exceed 10 percent of a handler's total weekly onion shipments, and provided further that shipments of 50-pound cartons shall not exceed 10 percent of a handler's total weekly onion shipments of all onions allowed to be marketed under this section.

(iii) The average gross weight of master containers per lot, as computed by multiplying the number of packages therein by their weight classification, plus the weight of the master container, may not exceed 15 percent over the designated net contents.

(iv) The average net weight per lot of 50-pound cartons shall not exceed 55 pounds.

(2) *Reporting requirements for experimental shipments.* Each handler who handles such experimental shipments of onions shall report thereon to the committee on forms and at such times as the committee prescribes, as follows:

(i) The number of the inspection certificate showing the grade and size of onions so packed and the size container in which such onions were handled.

(ii) Prices received for each such shipment on a f.o.b. basis and prices paid to growers of such onions.

(iii) Any adjustments from the original sales price agreement for such onions on each shipment, with reasons therefor, and the final net prices paid to the grower of such onions.

(iv) Such other incidental and related information necessary to provide the foregoing data on prices received by growers, as requested by the committee.

(v) The time and location at which such shipment may be reinspected at destination.

Such reports, in accordance with § 959.80, shall be furnished to the committee in such manner or form and in such time as it may prescribe. Also, each handler of experimental shipments of onions shall maintain records of such marketings, pursuant to § 959.80(c). Such records shall be subject to review, and audit by the committee to verify reports thereon.

(3) *Onions failing to meet requirements.* Onions failing to meet the grade, size, and container requirements of this section, and are not exempted under paragraph (d) of this section, may be handled only pursuant to § 959.126(a)(1). Shipments for relief or charity may be handled without regard to inspection and assessment requirements.

(f) *Inspection.* (1) No handler may handle any onions regulated hereunder (except pursuant to paragraphs (d) or (e)(3) of this section) unless an appropriate inspection certificate has been issued with respect thereto and the certificate is valid at the time of shipment.

(2) No handler may transport or cause the transportation of any shipment of onions by motor vehicle for which an inspection certificate is required unless each such shipment is accompanied by a copy of the inspection certificate applicable thereto or by documentary evidence on forms furnished by the committee identifying truck lots to which a valid inspection certificate is applicable and a copy of such inspection certificate or committee document, upon request, is surrendered to authorities designated by the committee.

(3) For purpose of operation under this part each inspection certificate or committee form required as evidence of inspection is hereby determined to be valid for a period not to exceed 72 hours following completion of inspection as shown on the certificate.

(g) *Definitions.* The term "U.S. No. 1" shall have the same meaning as set forth in the U.S. Standards for Bermuda-Granex-Grano Type Onions (§§ 51.3195–51.3209 of this title), or in the U.S. Standards for Grades of Onions (§§ 51.2830–51.2854 of this title), whichever is applicable to the particular variety.

All terms used in this section shall have the same meaning as when used in Marketing Agreement No. 143, as amended, and this part.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 30, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-12963; Filed, Nov. 1, 1967; 8:49 a.m.]

[7 CFR Part 1125]

MILK IN PUGET SOUND, WASH., MARKETING AREA

Notice of Proposed Suspension of Certain Provision of Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of certain provision of the order regulating the handling of milk in the Puget Sound, Wash. marketing area is being considered for the month of October 1967.

The following provision is proposed to be suspended:

In paragraph (b)(2) of § 1125.8 (pool plant provisions) the word "distributing" where it appears in the introductory text of subparagraph (2), immediately preceding subdivision (i). The provision relates to the standards required to qualify a supply plant for pool status.

The suspension would permit the volume of Grade A milk moved from a supply plant to another pool supply plant as well as to a pool distributing plant to be counted for purposes of meeting the shipping requirements of a pool supply plant for October 1967. The order presently provides that at least 50 percent of supply plant's Grade A receipts must be moved to a pool distributing plant during the month if it is to obtain pool plant status.

This suspension has been requested by the United Dairymen's Association, the major cooperative association on the market, to insure the pool supply plant status of its plant located at Ellensburg, Wash., for the month of October 1967. The cooperative association contends that without the suspension, pool status for the Ellensburg plant cannot be assured for such month since substantial quantities of milk were shipped to other pool supply plants. They state that loss of pool plant status would adversely affect the income of the dairy farmers who supply the plant by precluding them from sharing in the pool returns or receiving the base price for any of their milk for the month.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 112–A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 3 days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be in quadruplicate.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Signed at Washington, D.C., on October 30, 1967.

JOHN C. BLUM,
Deputy Administrator, Regulatory Programs.

[F.R. Doc. 67-12976; Filed, Nov. 1, 1967; 8:50 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 73]

BIOLOGICAL PRODUCTS

Additional Standards: Mumps Virus Vaccine, Live

Notice is hereby given that the Surgeon General proposes to amend Part 73 of the Public Health Service Regulations by prescribing specific standards of safety, purity, and potency for Mumps Virus Vaccine, Live.

Inquiries may be addressed, and data, views and arguments may be presented by interested parties, in writing, in triplicate, to the Surgeon General, Public Health Service, 9000 Rockville Pike, Bethesda, Md. 20014. All relevant material received not later than 30 days after publication of this notice in the FEDERAL REGISTER will be considered.

Notice is also given that it is proposed to make any amendments that are adopted effective 30 days after the date of publication in the FEDERAL REGISTER.

1. Amend Part 73 by adding the following immediately after § 73.155:

§ 73.160 The product.

(a) *Proper name and definition.* The proper name of this product shall be Mumps Virus Vaccine, Live, which shall consist of a preparation of live, attenuated mumps virus.

(b) *Criteria for acceptable strains of attenuated mumps virus.* Strains of attenuated mumps virus used in the manufacture of vaccine shall be identified by (1) historical records including origin and manipulation during attenuation, (2) antigenic specificity as mumps virus as demonstrated by tissue culture neutralization tests. Strains used for the manufacture of Mumps Virus Vaccine, Live, shall have been shown to be safe and potent in at least 5,000 susceptible individuals by field studies with experimental vaccines. Susceptibility shall be shown by the absence of neutralizing or other antibodies against mumps virus, or by other appropriate methods. Seed virus used for vaccine manufacture shall be free of all demonstrable extraneous viable microbial agents.

(c) *Neurovirulence safety test of the virus seed strain in monkeys*—(1) *The test.* A demonstration shall be made in monkeys of the lack of neurotropic properties of the seed strain of attenuated mumps virus used in manufacture of mumps vaccine. For this purpose, vaccine from each of the five consecutive lots (§ 73.165) used by the manufacturer to establish consistency of manufacture of the vaccine, shall be tested in monkeys shown to be serologically negative for mumps virus antibodies by following the procedures in § 73.140(c)(1) or in § 73.162(c).

(2) *Test results.* The mumps virus seed has acceptable neurovirulence properties for use in vaccine manufacture if for each of the five lots (i) 80 percent of the monkeys survive the observation period and (ii) there is no clinical or histopathological evidence of central nervous system involvement attributable to the replication of the virus.

(3) *New seed lots—test for neurovirulence.* The neurovirulence properties of each new seed shall be tested as prescribed in subparagraphs (1) and (2) of this paragraph. Only seed lots which meet the neurovirulence requirement shall be used for mumps vaccine manufacture. The test need not be repeated as long as the same seed lot of virus is used.

§ 73.161 Manufacture of Mumps Virus Vaccine, Live.

(a) *Virus cultures.* Mumps virus shall be propagated in chick embryo cell cultures. The embryonated chicken eggs used as the source of chick embryo tissue for the propagation of mumps virus shall be derived from flocks certified or tested as prescribed in § 73.141(b).

(b) *NIH Reference Mumps Virus.* An NIH Reference Mumps Virus, Live, shall be obtained from the Division of Biologics Standards as a control for correlation of virus titers.

(c) *Passage of virus strain in vaccine manufacture.* Virus in the final vaccine shall represent no more than five cell culture passages beyond the passage used to perform the clinical trials (§ 73.160(b)) which qualified the manufacturer's vaccine strain for license.

(d) *Cell culture preparation.* Only primary cell cultures shall be used in the manufacture of mumps virus vaccine. Continuous cell lines shall not be introduced or propagated in mumps virus vaccine manufacturing areas.

(e) *Control vessels.* From the tissue used for the preparation of cell cultures for growing attenuated mumps virus, an amount of processed cell suspension equivalent to that used to prepare 500 ml. of cell culture shall be used to prepare uninfected tissue control materials which shall be prepared and tested by following the procedures prescribed in § 73.141(g).

(f) *Test samples.* Test samples of mumps virus harvests or pools shall be withdrawn and maintained by following the procedures prescribed in § 73.141(h).

§ 73.162 Test for safety.

(a) *Tests prior to clarification.* Prior to clarification, the following tests shall be performed on each mumps virus pool prepared in chick embryo cell culture:

(1) *Inoculation of adult mice.* The test shall be performed in the volume and following the procedures prescribed in § 73.142(a)(1), and the virus pool is satisfactory only if equivalent test results are obtained.

(2) *Inoculation of suckling mice.* The test shall be performed in the volume and following the procedures prescribed in § 73.142(a)(2), and the virus pool is satisfactory only if equivalent test results are obtained.

(3) *Inoculation of monkey cell cultures.* A mumps virus pool shall be tested for adventitious agents in the volume and following the procedures prescribed in § 73.142(a)(3), and the virus pool is satisfactory only if equivalent test results are obtained.

(4) *Inoculation of other cell cultures.* The mumps virus pool shall be tested for adventitious agents in the volume and following the procedures prescribed in § 73.142(a)(3), in rhesus or cynomolgus monkey kidney, in whole chick embryo and in human cell cultures. In addition, each virus pool shall be tested in chick embryo kidney and in chick embryo liver in the same manner except that the volume tested in each cell culture shall be equivalent to 250 human doses or 25 ml., whichever represents a greater volume. The mumps virus pool is satisfactory only if results equivalent to those in § 73.142(a)(3) are obtained.

(5) *Inoculation of embryonated chicken eggs.* A neutralized suspension of each undiluted mumps virus pool shall be tested in the volume and following the procedures prescribed in § 73.142(a)(5), and the virus pool is satisfactory only if there is no evidence of adventitious agents.

(6) *Bacteriological tests.* In addition to the tests for sterility required pursuant to § 73.73, bacteriological tests shall be performed on each mumps virus pool for the presence of M. Tuberculosis, both avian and human, by appropriate culture methods. The virus pool is satisfactory only if found negative for M. Tuberculosis, both avian and human.

(7) *Test for avian leucosis.* If the cultures were not derived from a certified source and control fluids were not tested for avian leucosis, the vaccine shall be tested in the volume and following the procedures prescribed in § 73.142(a)(6). The cultures are satisfactory for vaccine manufacture if found negative for avian leucosis.

(b) *Clarification.* The mumps virus fluids shall be clarified by following the procedures prescribed in § 73.142(e).

(c) *Test after clarification—Neurovirulence safety test in monkeys for neurotropic agents.* Before final dilution for standardization for live mumps virus content each lot of mumps vaccine shall be tested for neurotropic agents following the procedures prescribed in § 73.162(a) except that antibody determinations for mumps need not be performed. The test shall be performed before the product is placed in final containers and prior to the addition of an adjuvant, and symptoms suggestive of any neurotropic agent, rather than those specifically suggestive of poliomyelitis, shall be recorded during the observation period of 17 to 19 days. The lot is satisfactory if the histological and other studies produce no evidence of changes in the central nervous system attributable to the presence of an extraneous neurotropic agent in the vaccine.

§ 73.163 Potency test.

The concentration of live mumps virus shall constitute the measure of potency. The titration shall be performed in a suitable cell culture system, free of wild viruses, using either the Reference Mumps Virus, Live, or a calibrated equivalent strain as a titration control. The concentration of live mumps virus contained in the vaccine of each lot under test shall be no less than the equivalent of 5,000 TCID$_{50}$ of the reference virus per human dose.

§ 73.164 General requirements.

(a) *Final container tests.* In addition to the tests required pursuant to § 73.75, an immunological and virological identity test shall be performed on the final container if it was not performed on each pool or the bulk vaccine prior to filling.

(b) *Dose.* These standards are based on an individual human immunizing dose of no less than 5,000 TCID$_{50}$ of Mumps Virus Vaccine, Live, expressed in terms of the assigned titer of the Reference Mumps Virus, Live.

(c) *Labeling.* In addition to the items required by other applicable labeling provisions of this part, single dose container labeling for vaccine which is not protected against photochemical deterioration shall include a statement cautioning against exposure to sunlight.

(d) *Dried vaccine.* Mumps Virus Vaccine, Live, may be dried immediately after completion of processing to their bulk material and stored in the dried state provided its residual moisture and other volatile substances content is not in excess of 2 percent when tested as prescribed in § 73.74(a).

(e) *Photochemical deterioration; protection.* Mumps Virus Vaccine, Live, in multiple dose containers, shall be protected against photochemical deterioration in accordance with the procedures prescribed in § 73.144(g).

(f) *Samples and protocols.* For each lot of vaccine, the following materials shall be submitted to the Director, Division of Biologics Standards, National Institutes of Health, Bethesda, Md. 20014:

(1) A protocol which consists of a summary of the history of manufacture of each lot including all results of each test for which test results are requested by the Director, Division of Biologics Standards.

(2) A total of no less than a 500 ml. sample of bulk vaccine or an equivalent sample prior to addition of any preservative, stabilizer or adjuvant, in the frozen state (−60° C.) prior to filling into final containers.

(3) A total of no less than 200 recommended human doses of the vaccine in final labeled containers.

§ 73.165 Clinical trials to qualify for license.

To qualify for license, the antigenicity of Mumps Virus Vaccine, Live, shall be determined by clinical trials that follow the procedures prescribed in § 73.145 except that the immunogenic effect shall be demonstrated by establishing that a protective antibody response has occurred in at least 90 percent of each of the five groups of mumps susceptible individuals, each having received the parenteral administration of a virus vaccine dose which is not greater than that which was demonstrated to be safe in field studies (§ 73.160(b)) when used under comparable conditions.

§ 73.166 Equivalent methods.

Modification of any particular manufacturing method or process or the conditions under which it is conducted as set forth in the additional standards relating to Mumps Virus Vaccine, Live, shall be permitted whenever the manufacturer presents evidence that demonstrates the modification will provide assurances of the safety, purity, and potency of the vaccine that are equal to or greater than the assurances provided by such standards, and the Surgeon General so finds and makes such finding a matter of official record.

2. Amend § 73.86 by inserting after the listing for "Mumps Vaccine" the following:

Mumps Virus Vaccine, Live.	One year.	Section 73.84 does not apply.

3. Add the following to the Table of Contents immediately after "73.155 Equivalent Methods":

ADDITIONAL STANDARDS: MUMPS VIRUS VACCINE, LIVE

Sec.
73.160 The product.
73.161 Manufacture of Mumps Virus Vaccine, Live.
73.162 Test for safety.
73.163 Potency test.
73.164 General requirements.
73.165 Clinical trials to qualify for license.
73.166 Equivalent methods.

(Sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216. Interpret or apply sec. 351, 58 Stat. 702; 42 U.S.C. 262)

Dated: October 16, 1967.

[SEAL] LEO J. GEORGE,
Acting Surgeon General.

Approved: October 26, 1967.

WILBUR J. COHEN,
Acting Secretary.

[F.R. Doc. 67-12966; Filed, Nov. 1, 1967; 8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2, 89, 91, 93]

[Docket No. 17703]

USE OF CERTAIN CHANNELS AND AVAILABILITY OF CERTAIN FREQUENCIES

Order Extending Time for Filing Comments

In the matter of amendment of the rules in Parts 2, 89, 91, and 93 concerning the use of "tertiary," or 15 kc/s channels, in the 150–162 Mc/s band; amendment of Part 89 to designate frequency 153.740 Mc/s as available to the Local Government Radio Service; Docket No. 17703, RM–525, RM–811, RM–867.

1. The Chief, Safety and Special Radio Services Bureau, acting under delegated authority, has under consideration a request filed by the National Committee for Utilities Radio (NCUR) for extension of time for filing comments in the above-captioned matter from October 18, 1967, until November 15, 1967.

2. In support of its request, NCUR states that in order to develop meaningful operating and technical guidelines for the shared use of certain tertiary frequencies between the Petroleum, Power, and Forest Products Radio Services as proposed in Docket 17703, a meeting has been arranged for Tuesday, October 24, 1967, among the frequency coordinators representing each of the services involved. Therefore, in order to afford NCUR and representatives of the other services sufficient time to incorporate the results of the October 24 meeting into their comments and circulate them for approval among their respective memberships, NCUR requests that the filing date be postponed.

3. It appears that the additional time requested by NCUR would not unduly delay this proceeding and that the comments would be useful to the Commission in resolving the issues in this proceeding.

4. In view of the foregoing: *It is ordered*, Pursuant to §§ 0.331(b) (4) and 1.46 of the Commission's rules, that the time for filing comments in the above-captioned proceeding is extended from October 18, 1967, to November 15, 1967, and that the time for filing reply comments is extended from October 30, 1967, to November 27, 1967.

Adopted: October 18, 1967.

Released: Octber 20, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67–12966; Filed, Nov. 1, 1967; 8:48 a.m.]

FEDERAL TRADE COMMISSION

[16 CFR Part 300]

IMPORTED WOOL PRODUCTS

Notice of Proposed Rule Making

On September 12, 1966, a notice of proposed rule making was issued by the Federal Trade Commission. Such notice was published in the FEDERAL REGISTER on September 15, 1966. The notice stated that on October 26, 1966, the Commission would hold a public hearing and give consideration to a proposal to amend the rules and regulations under the Wool Products Labeling Act of 1939 to provide a procedure for testing imported wool products and for determination of whether such products comply with the Wool Products Labeling Act of 1939 and the rules and regulations thereunder.

The notice of proposed rule making provided that views, arguments or other pertinent data could be submitted in writing on or before the date of the hearing or presented orally at the hearing and that further written views, arguments and data could be submitted for 20 days after such public hearing.

A draft of the proposed rule designated as proposed § 300.36 (Rule 36) of the rules and regulations under the Wool Products Labeling Act of 1939 was made a part of the notice of proposed rule making.

Pursuant to such notice interested parties were afforded an opportunity to submit the written arguments and other data until October 26, 1966. Interested parties were afforded an opportunity to present their views orally at the public hearing held pursuant to the notice of proposed rule making on October 26 and October 27, 1966. Further written views, arguments and data were received for 20 days after the public hearing. All views, arguments, and data presented pursuant to the notice of proposed rule making were made a part of the public record.

Interested parties were also afforded an opportunity to confer informally with representatives of the staff of the Commission's Bureau of Textiles and Furs whenever such a request was made and to present their views informally either orally or in writing.

After due consideration of the proposed amendment and all pertinent information and material relating thereto available to the Commission, including suggested revisions, deletions, and additions thereto, and all views, arguments, or other data submitted, the Commission on June 21, 1967, amended the rules and regulations under the Wool Products Labeling Act of 1939 by adding a new section thereto designated as § 300.36 (Rule 36) of Part 300, rules and regulations under the Wool Products Labeling Act of 1939. Such amendment was published in the FEDERAL REGISTER on June 24, 1967, and provided that interested persons might submit their comments within 30 days after publication, but specified that this should not affect the effective date unless the Commission should so order. The effective date was specified as 120 days after publication in the FEDERAL REGISTER.

In accordance with the aforesaid notice, the Commission afforded interested parties further opportunity to submit written comments for thirty (30) days after publication of the notice in the FEDERAL REGISTER. All views, arguments and data so submitted have been made a part of the public record.

After due consideration of all pertinent information and material available to it including comments and views presented both formally and informally after publication of the amendment on June 24, 1967, the Commission has determined to revise § 300.36 (Rule 36) and to publish the proposed amendment for further written views and comments. Accordingly, written views, arguments, and other pertinent data will be received by the Commission for fifteen (15) days after publication of the proposed revision in the FEDERAL REGISTER. Such written comments may be submitted to the Federal Trade Commission, Washington, D.C. 20580.

The matter to be considered pursuant to this notice is the proposed amendment of § 300.36 (Rule 36) of the rules and regulations under the Wool Products Labeling Act of 1939, and suggested changes, additions to, deletions from, and modifications of such proposal.

The proposed amendment of § 300.36 (Rule 36) of the rules and regulations under the Wool Products Labeling Act of 1939 reads:

§ 300.36 Imported wool products.

(a) *Filing of notice of entry.* Any person who imports wool products into the United States that are subject to a requirement for formal entry through Customs shall file with the Bureau of Customs, at the time of entry for consumption or at the time of entry or withdrawal for consumption from warehouse, a form (Form 36A) in quadruplicate, in the manner prescribed by the Federal Trade Commission showing (1) the proposed type of entry of the shipment (consumption, warehouse, etc.), (2) the port of entry of the shipment, (3) the country of origin of the shipment, (4) a complete description of the products contained in the shipment and the cost thereof per unit in American dollars, (5) the information contained in the required fiber content labels affixed to wool products contained in the shipment, (6) the names and addresses of (i) the exporter, (ii) the manufacturer, (iii) the importer of record, and (iv) the actual importer of the wool products, and (7) the signature of the person filing such form. The original and two copies of Form 36A will be forwarded by the Bureau of Customs to the Bureau of Textiles and Furs, Federal Trade Commission, Washington, D.C. 20580, one copy being retained by the Bureau of Customs.

(b) *Temporary retention in customs.* Wool products subject to this section will be temporarily retained in Customs custody and not released to the importer until the Commission has issued a notice of release: *Provided, however,* That such wool products may be released from Customs custody prior to receipt of the required notice of release upon the giving of a bond, such as an immediate delivery and consumption entry bond, in a form acceptable to the Commissioner of Customs conditioned upon the redelivery to Customs custody of the goods or any part thereof, upon demand by an officer of the Bureau of Customs based upon the determination of the Commission not to issue a notice of release.

(c) *Notice of release.* The Commission will issue a notice of release in one of the following ways: (1) A preentry notice of release may be obtained in appropriate cases where the requirements of paragraph (d) of this section are met by the importer. (2) At ports of entry where a Commission inspector is on duty, he will, upon examination of the Form 36A, either issue a notice of release or inform the importer that certification or testing as provided in paragraph (e) of this section is required. (3) At ports of entry where no Commission inspector is on duty, a determination whether to issue a notice of release or to require certification or testing will be made within 3 working days after the Commission receives the Form 36A. Failure of the Commission to make any determination within this period shall be equivalent to issuance of a notice of release. (4) If certification or testing is required, a notice of release will be issued by the Commission when and if the requirements of paragraph (e) of this section are satisfied.

(d) *Preentry notice of release.* The Commission will, at the request of an importer and upon a proper showing, issue a notice of release prior to entry into the United States of any shipment of wool products. Requests for preentry release shall be accompanied by such information or data, including manufacturers' records, laboratory analyses, foreign government certifications, and certifications of government-designated trade associations or other bodies, as will show no reason to believe that they may be misbranded. The Commission will also consider as relevant a statement that such products are of the same type, category, and fiber content and from the same manufacturer as products that were previously released by the Commission if such statement is accompanied by a copy of the original notice of release. Requests for preentry notice of release shall be filed as early as possible, but in no case less than 7 working days prior to the entry of any shipment. Prior to entry, the Commission will either (1) issue a notice of release, (2) inform the importer that it will require certification and testing of such shipment, or (3) inform the importer that the information submitted is insufficient to support a determination.

(e) *Certification or testing.* (1) Where the Commission has reason to believe that any wool products subject to this section may be misbranded, it may determine not to issue a notice of release but to require that such wool products be held for certification or testing. In such a case, at the option of the Commission, the Commission may (i) accept a certification as to the fiber content of such products based on a test method and sampling procedure approved by the Commission and submitted by a laboratory included in the Commission's list of approved testing laboratories, or (ii) require that it be furnished with samples of the wool products extracted by a person designated by the Commission, which the Commission will test or have tested at the expense of the importer. Upon acceptance of a proper certification or test results showing the products to be correctly labeled, the Commission will immediately issue a notice of release.

(2) If the certification or test results show the goods to be mislabeled, the Commission will not issue a notice of release until after the goods have been correctly relabeled. If the certification or test results demonstrate that there are such wide variations in the fiber content of individual wool products as to preclude a determination of fiber content on the basis of random sampling, the Commission will not issue a notice of release until after it has determined, upon consultation with the importer, the manner in which such goods should be relabeled, and such goods have been relabeled in conformity with that determination. Relabeling will be done at the expense of the importer, and the Commission will issue a notice of release immediately upon the receipt of satisfactory evidence from the importer showing that the goods have been correctly relabeled.

(f) *Forfeiture of bond.* Upon determination by the Commission that a notice of release will not be issued and where such wool products have been released to an importer under a bond described in paragraph (b) of this section, demand for their redelivery will be made. The failure of the importer to redeliver wool products to Customs custody, after demand therefor, shall subject such importer to payment of liquidated damages as provided for in the bond referred to in paragraph (b) of this section.

(g) *Examination and testing after release.* Any notice given by the Commission as to the manner of labeling imported wool products or any notice of release of wool products given under this section shall be without prejudice to the right of the Commission to subsequently examine and test additional wool products contained in any shipment of imported wool products which has been subject to the procedure provided by this section or to make inspections or investigations relative to such products. The Commission will not proceed against any party for misbranding of wool products which have been subject to the testing procedures provided by this section without notice to such party and affording such party an opportunity to take such effective action as the Commission may deem appropriate to cause any misbranded products to be properly labeled: *Provided, however,* That such party must be able to establish that the wool products have been subject to the testing procedures provided by this section.

STATEMENT OF BASIS AND PURPOSE OF PROPOSED AMENDED RULE

Section 300.36 (Rule 36) of the rules and regulations under the Wool Products Labeling Act of 1939 is promulgated on the basis of the Commission's determination that such regulation is the most practical and equitable means of achieving substantial equality in the administration of the Wool Products Labeling Act of 1939 as applicable to domestic products and imported products and to assure that the ultimate consumer receives the same degree of protection with respect to both types of products.

Domestic manufacturers of wool products are required to keep extensive and detailed manufacturing records disclosing the fiber content of products manufactured by them, and are subject to penalties for failure to maintain such records. In many instances such records are records which would not ordinarily be kept in the regular course of business and are maintained at substantial expense to meet the requirements of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder. Many domestic manufacturers also utilize fiber content testing performed at their own expense to substantiate their manufacturing records and to determine the fiber content of end products manufactured or sold by them.

Domestic manufacturers and dealers are also subject to inspections at their places of business by investigators of the Commission's Bureau of Textiles and Furs.

Foreign manufacturers and producers are not subject to the aforesaid requirements and are not subject to the jurisdiction of the Federal Trade Commission. Therefore, the Commission has found it necessary to develop a different program intended to achieve substantial equality in enforcement as between domestically produced products and imported products and designed to offer substantially equal protection to the public with reference to all types of wool products.

With respect to imported wool products, Commission enforcement efforts must necessarily be directed at other than the manufacturing level. Since the Commission has no authority to require recordkeeping by foreign producers as to the accuracy of labeling, or to impose sanctions upon them in cases of misbranding, it therefore looks primarily to their customers, American importers, for compliance with the statute. The testing or certification procedures of Rule 36 are not intended to be applicable to products which are not indicated to be subject to widespread misbranding. The rule provides for the testing or certification by an approved laboratory of wool imports prior to their entry into American channels of commerce in only those instances, hopefully infrequent, where, for the purpose of facilitating effective administration and enforcement of the Act, it is in the public interest to require

such testing or certification before the imports move into the stream of domestic commerce.

The rule contemplates a cooperative endeavor between importers and the Government. If, upon testing or certification, products are found to be correctly labeled, the rule provides for their immediate release. If, however, they are found to be misbranded, the importer will be given the opportunity to relabel the products in accordance with the requirements of American law and, upon proper relabeling, the goods will immediately be released. In situations where imported wool products, initially tested or certified and released by the Commission, are subsequently found to be misbranded, the Commission will not proceed against any party without notice where such party is able to show that the goods were subject to this procedure, but will afford reasonable opportunity for fully corrective action to be taken.

It is the understanding of the Commission that the immediate delivery and consumption entry bond referred to in paragraph (a) of § 300.36 (Rule 36) is at present furnished by importers under standard importation procedures and that goods ordinarily move into the hands of the importer under this bond. It is the intention of the Commission to continue to permit goods to pass through Customs and into the hands of the importer subject to the terms and conditions of the bond and § 300.36 (Rule 36) even in those instances where goods are required to be tested.

Where testing or certification is required, it is the intention of the Commission to utilize applicable methods of testing and procedures developed and prescribed by the American Society for Testing and Materials and the American Association of Textile Chemists and Colorists. These methods and procedures have been utilized by producers of and dealers in textile products and by Government agencies, including the Commission, in determining the fiber content of textiles, and are recognized methods of testing textile materials.

Every effort has been made to minimize delays. At those points of entry where a sufficiently large number of wool imports arrive, the Commission will place inspectors on duty so that they may determine upon arrival whether to release a shipment or require its testing or certification. As to shipments arriving at points of entry where the Commission does not have an inspector on duty, paragraph (c) provides that unless the Commission orders testing and certification within 3 working days after receipt of the necessary forms, such goods will be automatically released. Further, the Commission may issue a notice of release prior to importation of any shipment where it is able to determine, on the basis of information submitted, that such shipment should not be retained for purposes of testing.

Such action is taken pursuant to the authority given to the Federal Trade Commission under paragraph (a) of section 6 of the Wool Products Labeling Act of 1939 (54 Stat. 1131; 15 U.S.C. 68d) which provides in part:

> The Commission is authorized and directed to make rules and regulations for the manner and form of disclosing information required by this Act, and for segregation of such information for different portions of a wool product as may be necessary to avoid deception or confusion and to make such further rules and regulations under and in pursuance of the terms of this Act as may be necessary and proper for administration and enforcement.

The Commission is also authorized to cause inspections, analyses, tests, and examination to be made of any wool products subject to this Act; and to cooperate with any department or agency of the Government, with any State, territory, or possession, or with the District of Columbia; or with any department, agency, or political subdivision thereof; or with any person.

Issued: October 30, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

Dissenting statement of Commissioner Elman, and the separate statements of Chairman Dixon and Commissioner Jones are filed as part of the original document and read as follows:

DISSENTING STATEMENT OF COMMISSIONER ELMAN

If it were properly drafted, Rule 36 would be a useful aid in the enforcement of the Wool Products Labeling Act. Its purpose, which I strongly endorse, is to prevent misbranded wool imports from entering the channels of domestic commerce. To the extent that the rule provides for the testing of imports which the Commission has reason to believe may be misbranded, and for refusal of admission into the country of those found to be misbranded, Rule 36 is a necessary and proper exercise of the Commission's rule-making authority under section 6 of the Act. It is to be regretted, however, that the Commission has impaired the rule by encumbering it with provisions and procedures which not only are unnecessary and go far beyond its stated objectives, but are clearly unfair, unnecessarily burdensome and discriminatory, and illegal in that they violate the provisions of the General Agreement on Tariffs and Trade (GATT), and deprive importers of substantial rights granted to them by the Wool Products Labeling Act, the Federal Trade Commission Act, the Administrative Procedure Act, and the due process clause of the Fifth Amendment of the Constitution.

Rule 36 purports to place domestic manufacturers and importers of wool products on a parity, as required by GATT. Article III(4) of GATT provides: "The products of the territory of any contracting party imported into the territory of any other contracting party shall be accorded treatment no less favorable than that accorded to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use." In fact, however, Rule 36 denies importers rights and protections which are fundamental under American law and which domestic manufacturers enjoy as a matter of course.

It is fundamental under the Wool Products Labeling Act, the Federal Trade Commission Act, the Administrative Procedure Act, and the due process clause of the Fifth Amendment of the Constitution that:

(1) The Commission may issue cease-and-desist orders prohibiting the introduction, sale, transportation, or distribution in commerce of wool products only after administrative proceedings in which the goods have been found to be misbranded.

(2) In the administrative proceedings the respondent is entitled to a fair hearing; the burden of proving that the goods are misbranded rests on the Commission; the findings of violation must be supported by facts of record; and the respondent has a right of judicial review.

(3) In the administrative proceedings the expenses of investigation and prosecution are borne by the Government, not the respondent. Where testing of wool products is required to ascertain whether they are misbranded, the testing is conducted and paid for by the Commission as a regular part of its law enforcement activity.

(4) Where the Commission seeks a preliminary injunction prior to or during the pendency of the administrative proceedings, it must go into a district court and carry the burden of showing the need for such an injunction.

Under Rule 36 in its present form, however, the Commission, without any hearing whatsoever and on the basis of its own refusal to issue a notice of release, without any finding that the goods are misbranded, may permanently exclude wool imports from entering the country. Indeed, the rule goes so far as to provide that the Commission will not conduct any tests unless the importer pays for them. Thus, if an importer cannot afford to bear the expense of testing, his goods will not be released even where, if the tests were conducted, they would show the goods to be correctly labeled.

The short of it is that the Commission is using Rule 36 as a means for depriving wool importers of all the substantive and procedural rights and protections which our law properly gives them in the same measure as domestic manufacturers. In practical effect, Rule 36 creates a presumption that wool imports entering the United States are misbranded unless and until the importer proves otherwise. The Commission's refusal to issue a notice of release need be supported only by its own ipse dixit. No administrative hearing of any sort is provided. No record is made. No findings of fact or conclusions of law need be stated. No opportunity is afforded for judicial review.

It is instructive to contrast Rule 36 with the statutory provisions enacted by Congress for dealing with imported food, drugs, and hazardous substances which may be misbranded and unsafe (15 U.S.C. 1273; 21 U.S.C. 381). Unlike Rule 36, these provisions are applicable not to every shipment of goods that enters the country but only to those questioned by the Secretary of Health, Education, and Welfare and as to which he requests Customs to deliver samples. Notice thereof is given to the owner or consignee, who is afforded a hearing. The articles are refused admission only if the Secretary determines that they are misbranded. The costs of examination or testing of the samples are borne by the government. Pending decision as to their admission, these articles may be released from Customs custody upon execution of an appropriate entry bond. The bond is subject to forfeiture for failure of redelivery only if the articles are found to be misbranded. Under Rule 36, however, an importer's bond may be forfeited merely because he cannot afford the expense of testing. To the extent that Congress has, in 21 U.S.C. 381, limited the scope of judicial review of the Secretary's findings (cf. Sugarman v. Fosbragd, 267 F. Supp. 317 (N.D. Cal. 1967)), it is of course within the exercise of its constitutional power over foreign commerce. This Commission possesses no comparable power, under the Wool Products Labeling Act or otherwise.

In its present form Rule 36 goes far beyond what is "necessary and proper for administration and enforcement" of the Wool Act. It is of sweeping dimensions, covering all wool products entering the United States. Its coverage is so broad that, as a practical matter, it can be administered by the Commission only by making a blank-check delegation of authority to low-echelon subordinate employees in the field. The objectionable features of the rule impose an unfair and unjustifiable burden on international trade. Objections to these provisions have been strongly expressed to the Commission by representatives of many foreign governments, the State Department, and trade associations. It is disheartening that the rule in its present form continues to retain these objectionable features.

It may be noted, finally, that as a practical matter there is no need or justification for Rule 36 in its present drastic form. The enforcement problem at which Rule 36 is directed is narrow and limited. Many hundreds of thousands of shipments of wool imports enter the United States each year. The Commission's records indicate that, of these, less than a handful are misbranded. These have principally involved so-called mohair-blend sweaters imported from Italy, products knitted in homes by Italian women from yarn spun from mohair imported from other countries. As the hearing examiner found in R. H. Macy & Co., Inc., Docket 8850, Initial Decision, August 1, 1966, the problem with respect to the labeling of these mohair-blend sweaters imported from Italy involves "difficulties and peculiarities characteristic of those sweaters which are not generally applicable to other wool products." The nub of the problem is the variance and lack of uniformity of the constituent fibers, making reliable testing of samples difficult if not impossible.

Granting the need for a rule to deal with this problem, there is no justification for the across-the-board, arbitrary, unfair, and discriminatorily restrictive provisions of Rule 36, burdening and delaying the importation of all wool products entering the United States, the overwhelming majority of which are correctly labeled. The rule seems to be a classic example of burning the house down in order to roast the pig. Unfortunately, because of the form in which it has been cast by the Commission, it seems likely that Rule 36 will also be consumed in the conflagration.

SEPARATE STATEMENT OF CHAIRMAN DIXON

In dissenting to the promulgation of Rule 36, Commissioner Elman states that he strongly endorses the purpose of the rule, which is to prevent misbranded wool imports from entering the channels of domestic commerce. However, he finds the provisions and procedures provided by the rule violate the provisions of the General Agreement on Tariffs and Trade (GATT) and deprive importers of substantial rights granted to them by the Wool Products Labeling Act, the Federal Trade Commission Act, the Administrative Procedure Act, and the due process clause of the Fifth Amendment of the Constitution. More specifically, it is his position that the Commission is using Rule 36 as a means for depriving wool importers of all substantive and procedural rights and protections which our law properly gives them. Thus, in criticizing Rule 36, he states that no administrative hearing of any sort is provided; no record is made; no findings of fact or conclusions of law need be stated; and no opportunity is afforded for judicial review.

In support of his position, Commissioner Elman finds it instructive to contrast Rule 36 with the statutory provisions enacted by Congress for dealing with imported food, drugs, and hazardous substances which may be misbranded. By implication, he would not question the Commission's authority to do by rule under the Wool Act what Congress has done by statute in regard to those products.

I find that it is indeed instructive to consider the statutory provisions enacted by Congress to deal with the importation of food, drugs, and hazardous substances. 21 U.S.C. 381, relating to food drugs, devices, and cosmetics (which in all respects here material is identical with 15 U.S.C. 1273, relating to hazardous substances) is directly in point. Under this provision, Customs is directed to deliver to the Secretary of Health, Education, and Welfare, upon his request, samples of such products which are being imported or offered for import into the United States.

The decision of the district court in Sugarman v. Forbragd, 267 F. Supp. 317 (1967), deals squarely with the provisions of 21 U.S.C. 381. In that case the owner of the imported food product alleged a prejudicial abuse of discretion in that the basis for the Food and Drug Administration's decision on his petition for permission to sell the imported product was not confined to the record of hearing. The court, after reviewing the requirements of the Administrative Procedure Act, pointed out that 21 U.S.C. 381 provides that the Secretary is directed to refuse admission of food offered for import "if it appears from the examination of such samples or otherwise that * * * such article is adulterated * * *." Therefore, in response to petitioner's argument, the court stated:

> Thus the mere appearance of adulteration is enough to compel refusal to admit. There is no requirement that the food actually be adulterated or that the Secretary find, as a fact, that the food is adulterated. Nor is the Secretary directed to rely upon testimony offered at the hearing. On the contrary, his conclusion that the food "appears" to be adulterated may derive "from the examination of such samples or otherwise." There is no provision for judicial review.

The court went on to point out that the testimony offered by the owner at the hearing "has no mandatory or limiting effect upon the Secretary" and that, in fact, the hearing is usually informal and without a court stenographer present. On this same point, the court further stated that "[t]he import provisions of the Federal Food, Drug, and Cosmetic Act afford an opportunity for a limited hearing but do not require the agency action to be determined 'on the record.'"

Furthermore, the court in the Sugarman case took the opportunity to comment on the power that Congress has over imports by quoting from the decision in a Supreme Court case[1] that:

> As a result of the complete power of Congress over foreign commerce, it necessarily follows that no individual has a vested right to trade with foreign nations which is so broad in character as to limit and restrict the power of Congress to determine what articles of merchandise may be imported into this country and the terms upon which a right to import may be exercised.

At the risk of belaboring the court's decision, I find that in view of the serious regard with which I hold Commissioner Elman's dissent, a further comment from the Sugarman case is warranted. Thus, the court quoted as follows from the Supreme Court's decision in the Buttfield case in answer to the argument that there was a denial of due process because the importer was not accorded a hearing:

> The provisions in respect to the fixing of standards and the examination of samples by Government experts was for the purpose of determining whether the conditions existed which conferred the right to import, and they therefore in no just sense concerned a taking of property. This latter question was intended by Congress to be finally settled, not by a judicial proceeding, but by the action of the agents of the Government, upon whom power on the subject was conferred.

Thus, the statutory provisions enacted by Congress to deal with imported food, drugs, devices, and cosmetics, which Commissioner Elman would contrast with Rule 36, do not require that agency action be taken on the record and do not provide a right of judicial review.

21 U.S.C. 381(b) does provide that the imported goods may be released from Customs' custody upon execution of an appropriate entry bond. However, goods so released must be retained by the owner separate and apart from other goods and, subject to forfeiture of the bond, may not be distributed in this country until the Secretary has determined whether such goods are misbranded. Moreover, in those instances where the Secretary finds that misbranded imports may be brought into compliance by relabeling, the goods remain subject to the bond until such relabeling is completed.

Rule 36 likewise provides for the release from Customs' custody of imported wool products upon the execution by the importer of an appropriate entry bond. The goods remain subject to the bond until the Commission issues a notice of release. Subparagraph (c) of the rule specifically sets forth the manner in which a notice of release will be issued. Among other things, this section provides for a prentry notice of release and, under certain circumstances, provides that the Commission's failure to make a determination within 3 working days shall be equivalent to issuance of a notice of release.

It is only after the Commission has reason to believe that imported wool products may be misbranded that it can require that imported wool products be held for certification or testing. Subparagraph (c) expressly provides that upon acceptance of a proper certification or test results showing the goods to be properly labeled, the Commission will immediately issue a notice of release. In those instances in which the goods are shown to be misbranded, they remain subject to the bond only until they are correctly labeled.

Under the foregoing circumstances, I think it clear that Rule 36 does conform to the statutory pattern established by Congress in the case of imported food, drugs, devices, and cosmetics and that Commissioner Elman's contentions to the contrary are not justified.

Commissioner Elman is also of the view that Rule 36 violates the provisions of GATT which provide in part; that "[t]he products of the territory of any contracting party imported into the territory of any other contracting party shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use."

GATT certainly doesn't require that imported goods be given more favorable treatment than domestic goods, which is the situation which prevails in the absence of Rule 36. Under past programs available to the to the Commission, there has been no effective means of determining whether imported

[1] Buttfield v. Stranahan, 192 U.S. 470 (1903).

goods were actually in compliance with the Act except by incidental tests after the goods have been distributed in commerce. The result has been that domestic goods have been placed at a substantial disadvantage inasmuch as they have not only been subject to the same type of examination at the retail level as foreign goods, but, in addition, have been subject to examination and investigation throughout the chain of manufacturing and distribution.

Section 6(b) of the Wool Act requires that "[e]very manufacturer of wool products shall maintain proper records showing the fiber content as required by this Act of all wool products made by him, and shall preserve such records for at least 3 years." Failure to maintain these records subjects the domestic manufacturer to a penalty of $100 for each day of such failure. The Commission's regulations spell out in great detail these recordkeeping requirements. In substance, domestic manufacturers have been required to maintain records which establish a line of continuity from the raw materials utilized in the manufacture of the product to the finished product, showing the supplier of the raw material, the fabric content of the raw material, and detailed manufacturing and blend records.

In most instances, the records required to be kept by Section 6(b) and the regulations are much more extensive than ordinarily would be maintained in the course of business and, thus, impose an additional expense on the domestic manufacturer. While it would be extremely difficult to formulate any hard and fast basis of comparison, it would seem that the costs which will be involved in testing under Rule 36 will not be as great as the cost of the time and money spent by domestic producers in maintaining records, devoting working time to Government personnel, and, in general, complying with the requirements of the Wool Act. Additionally, it would be impossible to measure the losses incurred by domestic firms because of their competition with imported goods which, aside from any other factors involved in the case, may be said to substantially lower prices when they are not as represented on their labels. Moreover, the recordkeeping requirements permit the Commission's staff to resolve the bulk of its questionable labeling cases against domestic producers and their dealers by the simple, inexpensive method of checking the records, rather than having to use the time-consuming, expensive laboratory method.

Instead of violating the provisions of GATT, Rule 36 does no more than remove the disadvantages under which domestic manufacturers now operate and place them on a fair competitive basis with foreign manufacturers.

In addition to the foregoing, a few additional comments on Commissioner Elman's dissent are warranted. First, contrary to his assertion, the Commission's records indicate that misbranded imported goods have involved many types of goods, including not only hand-knit sweaters, but also fabrics, yarns, reclaimed fiber stocks, and various types of articles of wearing apparel, especially sportswear and casual wear. Further, since no general information is available to the Commission relative to the nature and type of imports, there may well be other areas of misbranding of which we are not aware.

Commissioner Elman also expresses the fear that under Rule 36, the Commission may permanently exclude wool imports from entering the country. Presumably, he has reference to imports which are properly labeled. Certainly, such action by the Commission would be arbitrary and an abuse of discretion. Section 10 of the Administrative Procedure Act provides for appropriate judicial review of such agency action.

In conclusion, section 6(a) of the Wool Act authorizes and directs the Commission to make such rules and regulations under the Act as may be "necessary and proper for administration and enforcement." I am convinced that Rule 36 as drafted is necessary and proper to achieve substantial equality in the administration of the Wool Act as applicable to domestic products and imported products.

SEPARATE STATEMENT OF COMMISSIONER JONES

I am in basic agreement with Rule 36 as now being promulgated by the Commission. However, there are two provisions to which I dissent—(1) denying the importer the option of furnishing either test results or samples for the Commission to test, and (2) requiring the importer to bear the expense of testing which the Commission may require.

[F.R. Doc. 67-12946; Filed, Nov. 1, 1967; 8:47 a.m.]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 121]

SMALL BUSINESS SIZE STANDARDS

Definition of Small Business Construction Contractors

Notice is hereby given that the Administrator of the Small Business Administration (SBA) proposes to hold a hearing on the definition of small business construction contractors for the purpose of bidding on Government procurements and receiving SBA business loans.

Section 121.3-8(a) of the Small Business Size Standards Regulation (32 F.R. 6175) presently provides:

(a) *Construction.* Any concern bidding on a contract for work which is classified in Division C, Contract Construction of the Standard Industrial Classification Manual, as amended, prepared and published by the Bureau of the Budget, Executive Office of the President, is:

(1) Small if its average annual receipts for its preceding 3 fiscal years do not exceed $7.5 million.

(2) Small if it is bidding on a contract for dredging and its average annual receipts for its preceding 3 fiscal years do not exceed $5 million.

Division C, Contract Construction of the 1967 Standard Industrial Classification Manual prepared by the Bureau of the Budget, Executive Office of the President, includes the following:

MAJOR GROUP 15. BUILDING CONSTRUCTION—GENERAL CONTRACTORS

Sec.
1511 General Building Contractors.

MAJOR GROUP 16. CONSTRUCTION OTHER THAN BUILDING CONSTRUCTION—GENERAL CONTRACTORS

1611 Highway and Street Construction, Except Elevated Highways.
1621 Heavy Construction, Except Highway and Street Construction.

MAJOR GROUP 17. CONSTRUCTION—SPECIAL TRADE CONTRACTORS

Sec.
1711 Plumbing, Heating (Except Electric), and Air Conditioning.
1721 Painting, Paper Hanging, and Decorating.
1731 Electrical Work.
1741 Masonry, Stone Setting, and Other Stonework.
1742 Plastering and Lathing.
1743 Terrazzo, Tile, Marble, and Mosaic Work.
1751 Carpentering.
1752 Floor Laying and Other Floorwork, Not Elsewhere Classified.
1761 Roofing and Sheet Metal Work.
1771 Concrete Work.
1781 Water Well Drilling.
1791 Structural Steel Erection.
1792 Ornamental Metal Work.
1793 Glass and Glazing Work.
1794 Excavating and Foundation Work.
1795 Wrecking and Demolition Work.
1796 Installation or Erection of Building Equipment, Not Elsewhere Classified.
1799 Special Trade Contractors, Not Elsewhere Classified.

The size definition of a small construction concern for the purpose of receiving financial assistance, is set forth in § 121.3-10(a) of the Small Business Size Standards Regulation which provides: Any construction concern is small if its average annual receipts do not exceed $5 million for the preceding 3 fiscal years.

It has been suggested that (1) certain types of special trade construction contractors are much smaller than general construction contractors, and (2) the present $7.5 million annual receipts procurement size standard applicable to all construction contractors, except for dredging contractors, results in nearly all special trade construction contractors being eligible as small business. Accordingly, it has been suggested that SBA establish a separate and smaller size standard for certain special trade construction contractors.

The Small Business Act provides that the Government should aid, insofar as is possible, the interests of small business concerns in order to preserve free competitive enterprise, to insure that a fair proportion of the total purchases and contracts or subcontracts for property or services for the Government be placed with small business enterprises, and to maintain and strengthen the overall economy of the nation. Therefore, SBA is interested in receiving information as to the following:

1. The extent to which small, independently owned and operated special trade construction contractors compete directly with general construction contractors or with subsidiaries or affiliates of general construction contractors which are engaged in special trade work.

2. The extent to which general building construction contractors compete with other general construction contractors, such as highway, street, bridge and other types of heavy construction contractors.

3. The extent to which special trade construction contractors bid separately from general construction contractors on general building contracts.

4. The desirability of establishing one or more separate size standards for special trade construction contractors.

5. The appropriate size standard or size standards for special trade construction contractors.

Whenever possible, proposals or statements should be supported by substantiating statistics or pertinent factual information.

The hearing will be held on November 30, 1967, at 9 a.m., e.s.t., in Room 214-216, 1441 L Street NW., Washington, D.C. Persons intending to testify at the hearing are requested to notify the Associate Administrator for Procurement and Management Assistance on or before November 22, 1967. Parties who wish to submit written comments in lieu of testifying or in addition to their oral testimony shall file such statements with the Associate Administrator for Procurement and Management Assistance not later than 15 days after adjournment of the hearing.

All correspondence shall be addressed to:

Associate Administrator for Procurement and Management Assistance, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416. Attention: Size Standards Staff.

Dated: October 27, 1967.

ROBERT C. MOOT,
Administrator.

[F.R. Doc. 67-12940; Filed, Nov. 1, 1967; 8:47 a.m.]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 67-254]

TARIFF CLASSIFICATION—SECOND CLEAR WHEAT FLOUR

Change of Practice Ruling

OCTOBER 27, 1967.

Pursuant to § 16.10a(d), the Bureau of Customs gave notice in the FEDERAL REGISTER for June 17, 1967 (32 F.R. 8729), that it would review the existing established and uniform practice of classifying second clear wheat flour under the provisions for "Animal feeds, and ingredients therefor, not specially provided for: Byproducts obtained from the milling of grains ° ° °" in item 184.70, Tariff Schedules of the United States (TSUS). This review has been completed and all representations received have been carefully considered.

The review shows that at the time the practice was established second clear wheat flour was considered a byproduct of the milling of grain and was chiefly used as an animal feed or ingredient therefor. Evidence developed during the study showed that second clear wheat flour is no longer considered a byproduct of the milling of grain and is no longer chiefly used as an animal feed or ingredient therefor.

Accordingly, it is the decision of the Bureau that second clear wheat flour is classifiable under the provisions for milled grain products in item 131.40, TSUS, if fit for human consumption, or in item 131.72, TSUS, if unfit for human consumption.

This ruling shall apply only to such second clear wheat flour as is entered, or withdrawn from warehouse, for consumption after the expiration of 90 days after the date of publication of this ruling in the weekly Customs Bulletin.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

[F.R. Doc. 67-12965; Filed, Nov. 1, 1967; 8:49 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[C-3268]

COLORADO

Notice of Classification of Public Lands for Multiple-Use Management; Correction

OCTOBER 25, 1967.

In Federal Register Document 67-12416, appearing at pages 14607-09 of the issue for Friday, October 20, 1967, the following change should be made:

1. Under T. 45 N., R. 14 W., "Secs. 22 to 36" should be "Secs. 22 to 27";

2. T. "45 N., R. 20 W.", should be T. "45 N., R. 18 W.".

J. ELLIOTT HALL,
Acting State Director.

[F.R. Doc. 67-12929; Filed, Nov. 1, 1967; 8:46 a.m.]

[C-3269]

COLORADO

Notice of Proposed Classification of Public Lands for Multiple-Use Management

OCTOBER 25, 1967.

The notice of proposed classification appearing as Federal Register Document 67-7777, pages 9989-91 of the issue for Friday, July 7, 1967, is hereby amended to include the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

MONTROSE COUNTY

T. 46 N., R. 15 W.,
Sec. 15, N½, SW¼;
Sec. 21, that portion south of San Miguel River;
Sec. 22, NE¼, N½NW¼, W½SW¼, SE¼.

J. ELLIOTT HALL,
Acting State Director.

[F.R. Doc. 67-12930; Filed, Nov. 1, 1967; 8:46 a.m.]

[Serial No. I-1518]

IDAHO

Notice of Classification of Public Lands for Multiple-Use Management

OCTOBER 27, 1967.

1. Pursuant to the Act of September 19, 1964 (78 Stat. 986; 43 U.S.C. 1411-18) and to the regulations in 43 CFR Parts 2410 and 2411, the public lands within the area described below, together with any lands therein that may become public lands in the future, are hereby classified for multiple-use management. Publication of this notice (a) segregates all the public land in the described area below from appropriation under the agricultural land laws (43 U.S.C. Parts 7 and 9; 25 U.S.C., sec. 334) and from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171) and (b) further segregates the lands described in paragraph 3 of this notice from the operation of the general mining laws (30 U.S.C., Ch. 2). Except as provided in (a) and (b) above, the lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 5910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (43 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. The classified public lands are located within the following described area in Butte County and are shown on maps designated I-3-607(1), on file in the Idaho Falls District Office, Bureau of Land Management, and in the Land Office, Bureau of Land Management, Boise, Idaho.

BOISE MERIDIAN, IDAHO, BUTTE COUNTY

T. 2 N., R. 23 E.,
Secs. 1, 2, 11, 12, 13, and 24, those portions lying within Butte County.

T. 3 N., R. 23 E.,
Secs. 30, 31, 35, and 36, those portions lying within Butte County.

T. 1 N., R. 24 E.,
Secs. 4, 5, 8, 9, 16, 17, 20, 21, 28, 29, 32, and 33.

T. 2 N., R. 24 E.,
Sec. 1;
Secs. 3 to 10, inclusive;
Sec. 11, NE¼, S½NW¼, and S½;
Secs. 12 to 15, inclusive;
Sec. 16, N½ and N½S½;
Secs. 17, 18, 19, 20, 29, 24, 28, 32, and 33, those portions lying within Butte County.

T. 3 N., R. 24 E.,
Secs. 1 to 4, inclusive;
Secs. 9 to 16, inclusive;
Sec. 17, S½SE¼;
Secs. 19 to 36, inclusive.

T. 4 N., R. 24 E.,
Sec. 1, NE¼NE¼, NE¼NW¼NE¼, S½NW¼NE¼, S½NE¼, NE¼SE¼NW¼, S½SE¼NW¼, and S½.
Sec. 2, S½NE¼SE¼ and SE¼SE¼;
Secs. 10 to 15, inclusive;
Sec. 19;
Secs. 21 to 28, inclusive;
Sec. 30;
Secs. 33 to 36, inclusive.

T. 1 N., R. 25 E.,
Secs. 1, 2, and 11 to 14, inclusive.

T. 2 N., R. 25 E.,
Secs. 1 to 36, inclusive;
Secs. 35 and 36.

T. 3 N., R. 25 E.,
Sec. 4, N½ and N½S½;
Secs. 5 to 8, inclusive;
Secs. 18 and 19;
Sec. 23, S½;
Secs. 24, 25, and 26;
Sec. 27, NE¼, S½NW¼, and S½;
Sec. 28;
Sec. 29, SE¼NE¼ and E½SE¼;
Sec. 31, E½NE¼ and S½;
Secs. 32 to 36, inclusive.

T. 4 N., R. 25 E.,
Secs. 1 to 24, inclusive;
Secs. 28 to 33, inclusive.

T. 5 N., R. 25 E.,
Secs. 12 and 13;
Sec. 14, NE¼NE¼NE¼, S½NE¼NE¼, SE¼NE¼, NE¼SW¼, S½SW¼, and SE¼;
Secs. 21 to 27, inclusive, those portions within Butte County;
Sec. 28, NE¼, NE¼SE¼NW¼, S½SE¼NW¼, and S½;
Sec. 29, S½SW¼, NE¼SE¼, NE¼NW¼SE¼, S½NW¼SE¼, and S½SE¼;
Secs. 31 to 36, inclusive, those portions within Butte County.

T. 7 N., R. 26 E.,
Sec. 23, SE¼, those portions within Butte County;
Sec. 24, NE¼, E½NW¼, and S½;
Secs. 25, 26, and 36, those portions within Butte County.

Tps. 1 and 2 N., R. 26 E.,
All.

T. 3 N., R. 26 E.,
Secs. 3 and 4;
Sec. 5, E½ and E½W½;
Secs. 8 and 9;
Sec. 10, N½NW¼;
Secs. 19, 21, 22;
Sec. 23, W½SW¼;
Sec. 24, S½NE¼, SE¼NW¼, and S½;
Secs. 25 to 28, inclusive;
Sec. 29, S½S½;
Secs. 30 to 36, inclusive.

T. 4 N., R. 26 E.,
Secs. 1, 2, 6, 7, 11, 12, 13, 14, and 18;
Sec. 19, W½E½NW¼, W½NW¼, and W½SW¼;
Secs. 23, 24, 25, and 26;
Sec. 29, S½S½;
Secs. 32 and 33.

T. 5 N., R. 26 E.,
Secs. 2 and 3;
Sec. 7, S½NE¼, NE¼SW¼NW¼, S½SW¼NW¼, SE¼NW¼, SW¼, and W½SE¼;
Sec. 10, NE¼NE¼, E½NW¼NE¼, SE¼NE¼, E½NE¼SE¼, and E½W½NE¼SE¼;
Sec. 11;
Sec. 12, W½;
Sec. 13, W½;
Secs. 14 and 17 to 20, inclusive;
Secs. 23 to 26, inclusive;
Sec. 29, W½NW¼, N½SW¼;
Sec. 30;
Sec. 31, N½NE¼, SW¼NE¼, W½, W½SE¼, SE¼SE¼;
Sec. 32, S½SW¼;
Sec. 35, NE¼, E½NE¼NW¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 36.

T. 6 N., R. 26 E.,
Secs. 5, 6, and 8;
Sec. 9, W½;
Sec. 21, NE¼, E½NW¼, N½SE¼, and SE¼SE¼;
Sec. 22;
Sec. 26, W½;
Secs. 27, 34, and 35.

T. 7 N., R. 26 E.,
Sec. 18, S½S½;
Sec. 19;
Sec. 20, W½;
Sec. 29, W½;
Secs. 30 and 31;
Sec. 32, W½.

T. 8 N., R. 26 E.,
Sec. 1.

T. 9 N., R. 26 E.,
Secs. 1 to 31, inclusive;
Secs. 35 and 36.

T. 10 N., R. 26 E.,
Secs. 1 to 12, inclusive;
Sec. 13, W½ and W½SE¼;
Secs. 14 to 28, inclusive;
Sec. 24, W½NE¼, SE¼NE¼, W½, and SE¼;
Secs. 25 to 36, inclusive.

T. 1 N., R. 27 E.,
All.

T. 2 N., R. 27 E.,
All.

T. 3 N., R. 27 E.,
Secs. 1, 2, and 3;
Sec. 11, N½, NE¼SW¼, E½SE¼SW¼, and SE¼;
Secs. 12, 13, and 14;
Sec. 19, S½NW¼ and S½;
Sec. 20, E½E½, S½SW¼;
Sec. 21;
Sec. 22, S½SW¼, SE¼;
Secs. 23 to 26, inclusive.

T. 4 N., R. 27 E.,
All.

T. 5 N., R. 27 E.,
Sec. 19;
Secs. 25 to 36, inclusive.

T. 6 N., R. 27 E.,
Sec. 1;
Sec. 2, N½;
Sec. 3, N½;
Secs. 12 and 13;
Sec. 14, SE¼;
Sec. 23, E½;
Secs. 24 and 25;
Sec. 26, E½.

T. 7 N., R. 27 E.,
Secs. 1 to 4, inclusive;
Secs. 9, 10, and 11;
Sec. 12, W½NW¼SW¼, SE¼NW¼SW¼, and SW¼SW¼;
Secs. 13 to 16, inclusive;
Secs. 21 to 28, inclusive;
Secs. 34, 35, and 36.

T. 8 N., R. 27 E.,
Secs. 1 and 2;
Sec. 3, NE¼NE¼, W½NW¼SW¼, and S½SW¼;
Secs. 4 to 9, inclusive;
Sec. 10, W½ and W½W½SW¼SE¼;
Sec. 11, NE¼, NE¼NW¼, E½SE¼NW¼, and SE¼;
Secs. 12 to 17, inclusive;
Secs. 20 to 29, inclusive;
Secs. 33 to 36, inclusive.

T. 9 N., R. 27 E.,
Secs. 2 and 3;
Sec. 4, N½, NW¼SW¼, N½SE¼, N½SE¼SW¼, and SE¼SE¼SE¼;
Secs. 5, 6, and 7;
Sec. 8, N½, SW¼, W½SE¼, and W½E½SE¼;
Secs. 10, 11, 12, and 14;
Sec. 15, NE¼, NE¼SE¼NW¼, S½SE¼NW¼, E½SW¼, and SE¼;
Sec. 17, W½NE¼NE¼, W½NE¼, SE¼NE¼, W½, and SE¼;
Secs. 18, 19, and 20;
Sec. 22, NE¼, NE¼NW¼, E½SW¼NW¼, SE¼NW¼, NE¼SW¼, E½NW¼SW¼, E½W½NW¼SW¼, S½SW¼, and SE¼;
Secs. 23 to 25, inclusive;
Sec. 26, N½, NE¼NE¼SW¼, N½SE¼, E½SW¼SE¼, and SE¼SE¼;
Secs. 35 and 36.

T. 10 N., R. 27 E.,
Secs. 4 to 9, inclusive;
Sec. 15, S½;
Secs. 16 to 22, inclusive;
Sec. 23, W½;
Sec. 26, W½;
Sec. 27;
Sec. 28, N½, N½SW¼, N½SW¼SW¼, SE¼SW¼SW¼, SE¼SW¼, and SE¼;
Secs. 29 to 33, inclusive;
Sec. 34, N½, NE¼NE¼SW¼, N½SE¼, E½SW¼SE¼, and SE¼SE¼;
Secs. 35 and 36.

T. 1 N., R. 28 E.,
All.

T. 2 N., R. 28 E.,
Sec. 5, lots 1 to 4, inclusive, S½NW¼ and NW¼SW¼;
Sec. 6.

T. 4 N., R. 28 E.,
Sec. 1;
Secs. 5 to 8, inclusive;
Sec. 9, W½;
Secs. 12 and 13;
Secs. 16 to 22, inclusive;
Sec. 24, N½, SW¼, N½SE¼, and SW¼SE¼;
Sec. 25, NW¼NW¼;
Sec. 26, N½, N½SW¼, SW¼SW¼, and NW¼SE¼;
Secs. 27 to 33, inclusive;
Sec. 33, N½, SW¼, and N½SE¼;
Sec. 34, NW¼NE¼, N½NW¼, and SW¼.

T. 5 N., R. 28 E.,
Secs. 1, 2, 12, 13, 24, and 31.

T. 6 N., R. 28 E.,
Secs. 1 to 12, inclusive;
Sec. 13, NW¼NW¼;
Sec. 14, N½NE¼NE¼, SE¼NE¼NE¼, N½NW¼NE¼, SW¼NW¼NE¼, W½SW¼NE¼, W½, W½SE¼, and W½SE¼SE¼;
Secs. 15 to 23, inclusive;
Sec. 24, SW¼NW¼ and W½SW¼;
Sec. 25, W½E½NW¼NW¼, W½NW¼NW¼, SW¼NW¼, S½S½NE¼SW¼, W½SW¼, SE¼SW¼, and S½SE¼;
Secs. 26 to 30, inclusive;
Secs. 35 and 36.

T. 7 N., R. 28 E.,
Secs. 1 to 6, inclusive;
Sec. 8, E½NE¼, E½NE¼SE¼, E½W½NE¼SE¼, and E½SE¼SE¼;
Secs. 9 to 16, inclusive;
Sec. 18, W½NE¼SW¼, SE¼NE¼SW¼, W½SW¼, SE¼SW¼, SW¼SE¼, S½N½SE¼SE¼, and S½SE¼SE¼;
Secs. 19 and 20;
Sec. 21, NE¼, W½SW¼, SE¼SW¼, and SE¼;
Secs. 22 to 36, inclusive.

T. 8 N., R. 28 E.,
Secs. 5 to 8, inclusive;
Secs. 16 to 18, inclusive;
Sec. 19, N½, N½S½;
Secs. 20 to 23, inclusive;
Secs. 25 to 29, inclusive;
Sec. 30, SW¼;
Sec. 31;
Sec. 32, NE¼, E½NW¼, E½NE¼SW¼, and SE¼;
Secs. 33 to 36, inclusive.

T. 9 N., R. 28 E.,
Sec. 19, S½;
Sec. 20, SW¼;
Sec. 29, W½;
Secs. 30 and 31;
Sec. 32, W½.

T. 1 N., R. 29 E.,
All.

T. 4 N., R. 29 E.,
Sec. 5, NW¼NE¼ and W½;
Secs. 6 and 7;
Sec. 8, N½NW¼, SW¼NW¼, and NW¼SW¼;
Sec. 18, N½NE¼, SW¼NE¼, W½, and NW¼SE¼;
Sec. 19, E½NW¼, and SW¼NW¼.

T. 5 N., R. 29 E.,
Sec. 4;
Sec. 5, W½NW¼NE¼, SE¼NW¼NE¼, S½NE¼, W½, and SE¼;
Secs. 6 to 9, inclusive;
Secs. 17 to 20, inclusive;
Sec. 21, W½W½;
Secs. 29, 30, and 31;
Sec. 32 W½E½, and W½.

T. 6 N., R. 29 E.,
Sec. 1, S½;
Sec. 2, S½;
Sec. 3, W½, and SE¼;
Sec. 4;
Sec. 5, N½, N½SW¼, N½SW¼SW¼, E½SE¼, and SE¼SE¼;
Sec. 6, N½, SW¼, N½SE¼, SW¼SE¼, and N½SE¼SE¼;
Sec. 8;
Sec. 9, N½, E½SW¼, and SE¼;
Sec. 10, 11, and 12;
Sec. 13, N½, N½SW¼, N½SW¼SW¼, N½S½SW¼SE¼, N½SE¼SW¼, E½S½SW¼SE¼, N½SE¼, N½SW¼SE¼, and N½N½SE¼SE¼;
Sec. 14, N½, N½NE¼SW¼, SE¼NE¼SW¼, N½SE¼, N½SE¼SW¼, and N½S½SE¼SE¼;
Sec. 15, N½N½, E½S½NE¼, N½NW¼, and N½S½N½;
Sec. 22;
Sec. 23, N½, N½NW¼, and NW¼SW¼;
Sec. 24, N½, N½NW¼, SW¼NW¼, and NW¼SW¼;
Sec. 25, N½, N½NE¼, SW¼NE¼, W½, and NW¼SE¼;
Sec. 26, N½, SW¼, and N½SE¼;
Sec. 27, E½, and E½W½;
Sec. 34, E½, and E½W½;
Sec. 35, N½, SW¼, and N½SE¼;
Sec. 36, N½, SW¼, and N½SE¼.

T. 7 N., R. 29 E.,
Sec. 1, N½, SW¼, and N½SE¼;
Sec. 2, N½, SW¼, and N½SE¼;
Sec. 3, N½, SW¼, and N½SE¼;
Sec. 4, N½, SW¼, and N½SE¼;
Sec. 5, N½, SW¼, and N½SE¼;
Sec. 6, N½, SW¼, and N½SE¼;
Sec. 7, N½, SW¼, and N½SE¼;
Sec. 8, N½, SW¼, and N½SE¼;
Sec. 9, N½, SW¼, and N½SE¼;
Sec. 10, N½, SW¼, and N½SE¼;
Sec. 11, N½, SW¼, and N½SE¼;
Sec. 12, N½, SW¼, and N½SE¼;
Sec. 13, N½, SW¼, and N½SE¼;
Sec. 14, N½, SW¼, and N½SE¼;
Sec. 15, N½, SW¼, and N½SE¼;
Sec. 16, N½, SW¼, and N½SE¼;
Sec. 17, N½, SW¼, and N½SE¼;
Sec. 18, N½, SW¼, and N½SE¼;
Sec. 19, N½, SW¼, and N½SE¼;
Sec. 20, N½, SW¼, and N½SE¼;
Sec. 21, N½, SW¼, and N½SE¼;
Sec. 22, N½, SW¼, and N½SE¼;
Sec. 23, N½, SW¼, and N½SE¼;
Sec. 24, N½, SW¼, and N½SE¼;
Sec. 25, N½, SW¼, and N½SE¼;
Sec. 26, N½, SW¼, and N½SE¼;
Sec. 27, N½, SW¼, and N½SE¼;
Sec. 28, N½, SW¼, and N½SE¼;
Sec. 29, N½, SW¼, and N½SE¼;
Sec. 30, N½, SW¼, and N½SE¼;
Sec. 31, N½, SW¼, and N½SE¼;
Sec. 32, N½, SW¼, and N½SE¼;
Sec. 33, N½, SW¼, and N½SE¼;
Sec. 34, N½, SW¼, and N½SE¼;
Sec. 35, N½, SW¼, and N½SE¼;
Sec. 36, N½, SW¼, and N½SE¼.

T. 7 N., R. 29 E.,
Secs. 6, 7, 18, and 19;
Sec. 20, W½, and SE¼;
Secs. 30, 31, and 32.
T. 8 N., R. 29 E.,
Sec. 31, S½.
T. 10 N., R. 29 E.,
Secs. 4, 5, 6, 8, 9, 16, 17, 21, and 28.
T. 1 N., R. 30 E.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.
T. 6 N., R. 30 E.,
Secs. 4 to 9, inclusive;
Secs. 16 and 17;
Sec. 18, N½, N½SW¼, N½SW¼SW¼, SE¼SW¼, and SE¼;
Secs. 19, 20, 21, and 28;
Sec. 29, NE¼.
T. 7 N., R. 30 E.,
Secs. 2, 3, 4, 9, 10, 11, 14, and 15;
Sec. 16, E½;
Sec. 21, E½;
Secs. 22, 23, 26, 27, 28, 33, 34, and 35.
T. 1 S., R. 27 E.,
All.
T. 1 S., R. 28 E.,
All.
T. 1 S., R. 29 E.,
All.
T. 1 S., R. 30 E.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.

The area described aggregates approximately 571,600 acres.

3. As provided in paragraph 1 above, the following lands are further segregated from appropriation under the general mining laws:

BOISE MERIDIAN, IDAHO

REDBIRCH ARCHEOLOGICAL SITE

T. 6 N., R. 30 E.,
Sec. 7;
Sec. 8;
Sec. 17, N½N½;
Sec. 18, NE¼NE¼.

LITTLE LOST CAMPGROUND

T. 9 N., R. 27 E.,
Sec. 4, lot 2, SW¼NE¼, NW¼SE¼.

BADGER CREEK CAMPGROUND

T. 9 N., R. 27 E.,
Sec. 28, W½SE¼, SW¼NE¼.

WIND CREEK CAMPGROUND

T. 9 N., R. 28 E.,
Sec. 20, SW¼NW¼.

DRY CREEK CANAL CAMPGROUND

T. 10 N., R. 28 E.,
Sec. 28, S½SE¼.

HAWLEY MT. CAMPGROUND

T. 9 N., R. 26 E.,
Sec. 4, S½NW¼.

KIPUKA

T. 1 N., R. 24 E.,
Sec. 29, NW¼.

These areas aggregate 2,076.52 acres.

4. For a period of thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR, Section 2411.2c.

JOE T. FALLINI,
State Director.

[F.R. Doc. 67-12881; Filed, Nov. 1, 1967; 8:46 a.m.]

NOTICES

[A 2433]

ARIZONA

Order Providing for Opening of Public Lands

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1272) as amended by section 3 of the Act of June 26, 1936 (49 Stat. 1976; 43 U.S.C. 315g), the following described lands have been reconveyed to the United States under Serial No. Arizona 034207.

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 11 S., R. 29 E.,
Sec. 22, NE¼NE¼;
Sec. 23, W½NW¼, N½SW¼, SE¼SW¼, SE¼;
Sec. 26, NE¼.

The area described contains 560 acres.

2. The lands are located in Cochise County approximately 11 miles north of Bowie, Ariz. The topography varies from moderately flat flood plain to gently rolling foothills. Soils are fine sandy and silty clay loam. Vegetation consists of creosote bush, burro weed, snake weed, saltbush, mesquite, tobosa, and various annual grasses. The lands have value for watershed, grazing, and some wildlife which can best be managed under the principals of multiple use.

3. Subject to valid existing rights, the provisions of the present multiple-use classification A 467 published April 27, 1967 (32 F.R. 6526) and the requirements of applicable law, petition, location and selection, any petition-application that is filed for classification will be considered on its own merits in accordance with existing law and regulations.

4. This order shall become effective at 10 a.m. on December 2, 1967.

5. Inquires concerning these lands shall be addressed to the U.S. Bureau of Land Management Arizona Land Office, Room 3022, Federal Building, Phoenix, Ariz. 85025.

RILEY E. FOREMAN,
Acting State Director.

OCTOBER 27, 1967.

[F.R. Doc. 67-12926; Filed, Nov. 1, 1967; 8:46 a.m.]

Office of the Secretary

EDGAR A. WEYMOUTH

Report of Appointment and Statement of Financial Interests

SEPTEMBER 7, 1967.

Pursuant to section 302(a) of Executive Order 10647, the following information on a WOC appointee in the Department of the Interior is furnished for publication in the FEDERAL REGISTER.

Name of appointee: Edgar A. Weymouth.

Name of employing agency: Office of Oil and Gas—Emergency Petroleum and Gas Administration, Region 8.

The title of the appointee's position: Deputy Regional Administrator.

The name of the appointee's private employer or employers: Western Oil and Gas Association.

The statement of "financial interests" for the above appointee is set forth below.

DAVID S. BLACK,
Under Secretary of the Interior.

APPOINTEE'S STATEMENT OF FINANCIAL INTERESTS

In accordance with the requirements of section 302(b) of Executive Order 10647, I am filing the following statement for publication in the FEDERAL REGISTER.

(1) Names of any corporations of which I am, or had been within 60 days preceding my appointment, on September, 25, 1967, as member in, Emergency Petroleum & Gas Administration, an officer or director:

None.

(2) Names of any corporations in which I own, or did own within 60 days preceding my appointment, any stocks, bonds, or other financial interests:

Western Airlines.

(3) Names of any partnerships in which I am associated, or had been associated within 60 days preceding my appointment:

None.

(4) Names of any other businesses which I own, or owned within 60 days preceding my appointment:

None.

EDGAR A. WEYMOUTH.

OCTOBER 10, 1967.

[F.R. Doc. 67-12932; Filed, Nov. 1, 1967; 8:46 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

ALBANY MEDICAL COLLEGE OF UNION UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 67-00123-00-46040. Applicant: Albany Medical College of Union University, 47 New Scotland Avenue, Albany, N.Y. 12208. Article: Electron Microscope Accessory Model 171048 Shutter for applicant's foreign made Electron Microscope. Manufacturer: Siemens Aktiengesellschaft, West Germany. Intended use of article: The article will be used to expose photoplates during operation of the electron microscope. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is an accessory which is intended to be used with a Siemens electron microscope which is manufactured in West Germany.

The accessory must be specially designed to work with the Siemens electron microscope. The only known source for such accessory is the manufacturer of the Siemens electron microscope.

The Department of Commerce knows of no comparable accessory which is being manufactured in the United States.

CHARLES M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-12914; Filed, Nov. 1, 1967; 8:45 a.m.]

RESEARCH FOUNDATION OF STATE UNIVERSITY OF NEW YORK

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 67-00122-00-46040. Applicant: The Research Foundation of State University of New York, Upstate Medical Center, 766 Irving Avenue, Syracuse, N.Y. 13210. Article: Electron Microscope Accessory Model 171460 Shutter for applicant's foreign made Electron Microscope. Manufacturer: Siemens Aktiengesellschaft, West Germany. Intended use of article: The article will be used to expose photoplates during operation of the electron microscope. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is an accessory which is intended to be used with a Siemens electron microscope which is manufactured in West Germany.

The accessory must be specially designed to work with the Siemens electron microscope. The only known source for such accessory is the manufacturer of the Siemens electron microscope.

The Department of Commerce knows of no comparable accessory which is being manufactured in the United States.

CHARLES M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-12915; Filed, Nov. 1, 1967; 8:45 a.m.]

UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 67-00142-65-46040. Applicant: University of California, Lawrence Radiation Laboratory, East End of Hearst Avenue, Berkeley, Calif. 94720. Article: Electron Microscope, Hitachi Perkin-Elmer, Model HU-650 and ancillary equipment. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: Applicant states:

To be used by the senior scientific staff and graduate students for research in studying theory of electron diffraction, multiple beam interactions, and crystalline structure of materials using photomicrographs at magnifications of one hundred thousand times with resolving details separated by less than ten angstroms.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides an accelerating voltage of 650 kilovolts, whereas the only known domestic electron microscope (Radio Corporation of America (RCA) Model EMU-4) provides a maximum of 100 kilovolts accelerating voltage. The higher the accelerating voltage, the greater the penetrating power of the electron beam and, consequently, the thicker the specimen which may be investigated. This is significant in research on metals and similar materials for which thick specimens must be used because of the nature of such materials. Applicant indicates that RCA was developing a prototype electron microscope with a 500 kilovolt acceleration, as well as a prototype 1 MEV (million electron volts) electron microscope. We do not consider it advisable or warranted to render a determination with respect to the equivalency of scientific value of any prototype instrument.

CHARLES M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-12916; Filed, Nov. 1, 1967; 8:45 a.m.]

RUTGERS STATE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No.: 68-00017-65-46040. Applicant: Rutgers—The State University, New Brunswick, N.J. 08903. Article: Electron Microscope, Hitachi Perkin-Elmer Model HU-200. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: Applicant states:

Our intended uses of the requested apparatus are to study the morphology, the structure, and the nature of defects in crystals of both metals and polymers. By use of the 200 KV electron microscope, we hope to obtain new information about structure, and changes in structure, produced by various types of external agencies, such as applied stress, radiation, annealing, crystallization conditions, etc. • • •

We expect to use the new electron microscope in connection with many of the research projects which are currently under investigation by our faculty and our graduate students. Some of these are as follows:

(1) Study of Fatigue of Metal Crystals • • •.

(2) Study of Single Crystals of Polymers • • •.

(3) Study of Precipitation-Hardened Titanium Alloys • • •.

(4) Study of Relaxation Behavior and Structure in Polymers and Related Materials • • •.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which the foreign article is intended to be used, is being manufactured in the United States. Reasons: The foreign article has a specified maximum accelerating voltage of 200 kilovolts. The only comparable domestic instrument is the Model EMU-4 manufactured by the Radio Corporation of America (RCA), which has a specified maximum accelerating voltage of 100 kilovolts. The

higher the available accelerating voltage, the greater is the penetrating power of the electron beam and, concomitantly, the thicker is the specimen that can be examined under an electron microscope. We are advised by the National Bureau of Standards (NBS) (memorandum dated Sept. 26, 1967), that the greater penetration possible with the higher accelerating voltages and, therefore, the use of thicker specimens, makes the differences in accelerating voltages pertinent to the purposes for which the foreign article is intended to be used. We therefore find that the RCA EMU-4 model is not of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLES M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-12917; Filed, Nov. 1, 1967; 8:45 a.m.]

YOUNGSTOWN UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 67-00038-00-46040. Applicant: Youngstown University College of Engineering, Youngstown, Ohio 44503. Article: Electron Microscope Accessories. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: These accessories will be used for Model JEM-7 electron microscope which is used for metallurgical research. Comments: No comments have been received with respect to this application. Decision: Application approved for the following articles listed by the applicant in reply to Question 4 of the application: AHT-3 heating necessary for transmission, AI-3 tilting necessary, AD-3 high resolution diffraction accessory, AR-3 reflection accessory, AT tensile deformation accessory, and AHC high resolution electron diffraction hot stage. No instrument or apparatus of equivalent scientific value to any of these articles, for the purposes for which such articles are intended to be used, is being manufactured in the United States. Application denied without prejudice to its resubmission with respect to the JEE-4B vacuum evaporator, for reasons indicated below. Reasons: (1) The articles listed above, other than the JEE-4B vacuum evaporator, are accessories for a JEM-7 electron microscope made in Japan, which is now in the possession of the applicant. The accessories, when their uses are required, are attached to the JEM-7 electron microscope and function integrally with this instrument. The Department of Commerce knows of no domestic manufacturer which produces comparable accessories which fit the JEM-7 electron microscope. We therefore find that no instrument or apparatus of equivalent scientific value to the foreign articles (other than the JEE-4B vacuum evaporater), for the purposes for which such articles are intended to be used, is being manufactured in the United States.

The JEE-4B vacuum evaporator is an apparatus for preparing metallurgical specimens for examination with any electron microscope. This apparatus functions independently of the electron microscope for which the specimen is being prepared. It is not necessary to the purposes for which the specimen is being prepared, that the vacuum evaporater be manufactured by the manufacturer of the electron microscope under which the specimen will be examined.

The Department of Commerce knows of at least one domestic manufacturer who produces an apparatus comparable to the JEE-4B. The application for duty-free entry of the JEE-4B vacuum evaporater is denied without prejudice to resubmission, in order to afford the applicant an opportunity to state the basis for the belief that no instrument or apparatus of equivalent scientific value to the JEE-4B vacuum evaporater, for the purposes for which this article is intended to be used, is being manufactured in the United States.

CHARLES M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-12918; Filed, Nov. 1, 1967; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

OFFICE FOR CIVIL RIGHTS; REVIEWING AUTHORITY (CIVIL RIGHTS)

Establishment and Delegation of Authority

Establishment of Reviewing Authority (Civil Rights); Delegation of Authority to Reviewing Authority (Civil Rights), to the Assistant Secretary for Administration, and to the Director, Office for Civil Rights. Part 2 of the Statement of Organization and Delegations of Authority of the Department of Health, Education, and Welfare, entitled "Office of the Secretary," is hereby amended by adding the following new subparagraphs:

(a) There is hereby established in the Office of the Secretary a Reviewing Authority (Civil Rights) which shall consist of three members to be appointed by the Secretary.

(b) (1) There is hereby delegated to the members of the Reviewing Authority (Civil Rights) in connection with the administration of the provisions of Part 80 ("Nondiscrimination in Federally-Assisted Programs of the Department of Health, Education, and Welfare—Effectuation of Title VI of the Civil Rights Act of 1964") of Title 45 of the Code of Federal Regulations (45 CFR Part 80), authority to carry out the responsibilities described in 45 CFR 80.10(a)–(d), in addition to which they shall have the function and duty of designating hearing examiners and setting the time and place of hearings pursuant to 45 CFR 80.9(b).

(2) The functions and duties of the Reviewing Authority (Civil Rights) herein delegated may be exercised by a single member of the Authority, except that all final decisions of the Reviewing Authority (Civil Rights) shall be concurred in by at least two of the members thereof.

(3) Prior to the appointment of any member of the Reviewing Authority (Civil Rights) or in any other instance where no member thereof is available, the functions and duties herein delegated (except the rendering of final decisions) may be exercised by the Assistant Secretary for Administration.

(c) There are hereby delegated to the Director, Office for Civil Rights, all functions and duties vested in the responsible Department official pursuant to 45 CFR Part 80, except those relating to the designation of hearing examiners and the setting of the time and place of the hearing under 45 CFR 80.9(b). The authority delegated to the Director, Office for Civil Rights, may be redelegated to any employee of the Department of Health, Education, and Welfare.

Dated: October 26, 1967.

[SEAL] JOHN W. GARDNER,
Secretary.

[F.R. Doc. 67-12966; Filed, Nov. 1, 1967; 8:49 a.m.]

STATEMENT OF ORGANIZATION AND FUNCTIONS AND DELEGATIONS OF AUTHORITY

Purpose and Scope

The Statement of Organization and Functions and Delegations of Authority of the Department of Health, Education, and Welfare is hereby amended to add in Part I "General", Chapter 1-940 as follows:

CHAPTER 1-940—DEPARTMENT RESPONSIBILITIES RELATED TO THE ADMINISTRATION OF THE CIVIL RIGHTS ACT AND EXECUTIVE ORDER 11246

Sec.
1-940.00 Purpose and scope.
1-940.10 Department policy and distribution of responsibility.

Sec. 1-940.00 *Purpose and scope.* This chapter sets forth the Department's policy and distributes responsibility for administering the Civil Rights Act of 1964 and EO-11246.

Sec. 1-940.10 *Department policy and distribution of responsibility.* (a) Title VI of the Civil Rights Act of 1964 prohibits discrimination on account of race, color, or national origin in any program or activity receiving Federal financial assistance. It is the policy of the Department to administer the provisions of Title VI with a full appreciation that it represents a far-reaching national policy. It is recognized that the requirements of the Civil Rights Act are an integral and essential part of every applicable program in the Department. Each operating agency is responsible for seeking and selecting program policies and procedures which can assist in achieving affirmatively the objectives of the Civil Rights Act.

(b) The Office for Civil Rights is responsible for the implementation and enforcement of Title VI including all investigations, negotiations, and compliance activities.

(c) The Office of the General Counsel is responsible for all matters relating to legal activities, including conduct of administrative enforcement proceedings and court litigation with such assistance of the Office for Civil Rights as needed.

(d) The Office of Education is responsible for the administration of Title IV of the Civil Rights Act of 1964.

(e) The Reviewing Authority (Civil Rights) which consists of three members appointed by the Secretary is responsible for reviewing decisions of Hearing Examiners on Title VI compliance cases. Cases are reviewed by the Hearing Examiner or on the basis of exceptions filed by parties to the proceedings. In each case reviewed, the Reviewing Authority shall render a final decision. This decision may be reviewed by the Secretary at his discretion.

(f) Part I of Executive Order 11246 relates to nondiscrimination in Government employment and requires the establishment and maintenance of a positive program of equal employment opportunity. Civil Service Commission regulations require the designation of Departmental Equal Employment Opportunity Officers. The Assistant Secretary for Administration serves in this capacity for the Department, coordinates the activities of the operating agencies in fulfilling their equal employment responsibilities and serves as liaison with Civil Service Commission.

(g) Parts II and III of Executive Order 11246 relate to nondiscrimination in employment by Government contractors and subcontractors and to nondiscrimination provisions in federally assisted construction contracts respectively. The Director, Office for Civil Rights, serves as the Department's Contract Compliance Officer and as Liaison with the Office of Federal Contract Compliance. The Director shall designate the responsibilities of the operating agencies in this area.

Dated: October 26, 1967.

[SEAL] JOHN W. GARDNER,
Secretary.

[F.R. Doc. 67-12965; Filed, Nov. 1, 1967; 8:49 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 18995]

BONANZA AIRLINES, INC., ET AL.

Merger; Notice of Hearing

In the matter of the application of Bonanza Airlines, Inc., Pacific Airlines, Inc., and West Coast Airlines, Inc., for approval of merger.

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, particularly sections 102, 204, 401(h), 408, and 412 thereof, that the above-entitled proceeding is hereby assigned for hearing on November 15, 1967, at 10 a.m., in Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Ralph L. Wiser.

Without limiting the scope of the issues raised by the pleadings in this proceeding, particular attention will be directed to the following matters:

1. Whether the proposed merger will not be consistent with the public interest or the conditions of section 408 will not be fulfilled.

2. What terms, conditions, or modifications will be required in connection with any approval of the merger.

3. Whether the merger will result in creating a monopoly or monopolies and thereby restrain competition or jeopardize another air carrier not a party to the merger.

For further details with respect to the issues involved in this proceeding, interested persons are referred to the orders and notices entered herein, the documents filed by the parties, and the examiner's report of prehearing conference served October 17, 1967, all of which are on file with the Docket Section of the Civil Aeronautics Board.

Notice is further given that any person other than the parties of record desiring to be heard in this proceeding shall file with the Board on or before November 10, 1967, a statement setting forth the issues of fact or law raised by this proceeding which he desires to controvert.

Dated at Washington, D.C., October 27, 1967.

[SEAL] RALPH L. WISER,
Hearing Examiner.

[F.R. Doc. 67-12961; Filed, Nov. 1, 1967; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 67-1138]

BROADCAST OF STATEMENTS REGARDING STATION'S LICENSED LOCATION

Examples of Application

In Docket No. 17148,[1] §§ 73.117 and 73.287 of the Commission's rules and regulations are amended by adding new paragraph (g) thereto as follows:

(g) A licensee shall not in station identification announcements, promotional announcements or any other broadcast matter either lead or attempt to lead the station's listeners to believe that the station has been assigned to a city other than that specified in its license.

Section 73.652 of the rules is amended by adding a new paragraph (c) thereto which is identical to the above except for the substitution of the phrase "its audience" for "the station's listeners" in line 3.

Following are examples illustrating the application of the rule to certain kinds of broadcast statements, whether or not broadcast at the time at which station identification is required:

1. Station XXXX's licensed location is Central City. It broadcasts an announcement: "This is Station XXXX, Central City," or otherwise refers to its location as in Central City.

Ruling: Such statements comply with the rules.

2. Station XXXX has been granted authority by the Commission to use dual-city identification. It broadcasts an announcement: "This is Station XXXX, Central City and Nearby City."

Ruling: The announcement complies with the rules, assuming that the named cities are those specified in the dual-city authorization.

3. Station XXXX is licensed to a suburban community, Suburbia, but also provides primary coverage to substantially all of the adjacent metropolitan area. It broadcasts an announcement: "This is XXXX, Suburbia, serving the greater Principal City area."

Ruling: The announcement complies with the rules. Similarly valid announcements, provided the station's coverage data support the claims, might be:

"Station XXXX, Millville, serving the Green River Valley."

"Station XXXX, Millville, serving Millville, Rushville and Oakville."

"Station XXXX, Millville, serving the Tri-City area."

4. Station XXXX is licensed to Central City only. It broadcasts an announcement: "Station XXXX, serving Central City—Nearby City."

[1] F.R. Doc. 67-12962 in Rules and Regulations Section, supra.

Ruling: The announcement violates the rule because it appears designed to lead listeners to believe that XXXX has been authorized to identify with Nearby City as well as Central City.

5. Station XXXX is licensed to Suburbia. It broadcasts an announcement either at the time for station identification or at any other time: "This is XXXX, covering the greater Principal City area."

Ruling: The announcement violates the rule, since it appears designed to lead listeners to believe that XXXX is licensed to Principal City rather than Suburbia.

6. Station XXXX correctly identifies itself as located in Suburbia at the times specified in the rules for mandatory station identification, but at other times refers to its location as "Here in Principal City" or it makes other references which would be inconsistent with the station's assignment to Suburbia.

Ruling: Such statements and references violate the rules, since they attempt to lead listeners to believe that XXXX has been assigned to a city other than that specified in its license.

7. Station XXXX is licensed to Suburbia. It broadcasts public service announcements not only for organizations located in Suburbia but for those located in Principal City as well.

Ruling: The mere broadcasting of public service announcements or other program matter relating to Principal City or any other city is not a violation of the station identification rule. However, the primary responsibility of XXXX is to serve Suburbia.

8. Station XXXX is licensed to Suburbia. At the times specified in the rules for mandatory station identification, it gives its call letters and licensed location, but at other times it broadcasts such statements and references as the following:

"In the air, everywhere, over Principal City."

"This is XXXX, a symphony of sound designed for Principal City."

"This is XXXX with enchanting music for Principal City, the world's most enchanting city."

"XXXX, the tiger of Principal City radio."

"Principal City's best music station."

"From the good guys of Principal City Radio."

Ruling: Since such announcements "either lead or attempt to lead the station's listeners to believe that the station has been assigned to a city other than that specified in its license," they violate the rule.

9. Station XXXX, licensed to Suburbia, broadcasts announcements: "Station XXXX, Suburbia, in the air everywhere over Principal City."

Ruling: Although the station's licensed location is given, the announcements appear designed to create the impression that XXXX is licensed to both cities or, indeed, to Principal City alone, and therefore violate the rule. Such announcements are to be distinguished from those recited in Example 3, since the areas there described as being served included the city specified in the station's license.

10. Station XXXX, licensed to Suburbia, broadcasts many "vignettes" referring to places or historical events associated with Principal City. The wording of the "vignettes" makes it evident that they are designed to create the impression that XXXX is assigned to or located in Principal City.

Ruling: This is a violation of the rule.

Adopted: October 11, 1967.

Released: October 30, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-12966; Filed, Nov. 1, 1967; 8:48 a.m.]

[Docket Nos. 17761, 17762; FCC 67M-1831]

CITY OF BROWNSVILLE, TEX., AND MEMPHILL FLYING SERVICE

Order Continuing Hearing

In re applications of City of Brownsville, Tex., Docket No. 17761, File No. 139-A-L-77; E. W. Hemphill, doing business as Hemphill Flying Service, Docket No. 17762, File No. 133-A-L-77; for aeronautical advisory station to serve the International Airport, Brownsville, Tex.

As a result of an agreement reached at a prehearing conference held this date:

It is ordered, That the hearing presently scheduled for December 27, 1967, be, and the same is, hereby continued to a date to be set by subsequent order.

Issued: October 27, 1967.

Released: October 30, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-12966; Filed, Nov. 1, 1967; 8:48 a.m.]

[Docket Nos. 17665, 17666; FCC 67M-1836]

CORINTH BROADCASTING CO., INC., AND RADIO CORINTH

Order Continuing Hearing

In re applications of the Corinth Broadcasting Co., Inc., Corinth, Miss., Docket No. 17665, File No. BPH-5975; Ehert A. Wrye, III, and Charles A. Weeks, doing business as Radio Corinth, Corinth, Miss., Docket No. 17666, File No. BPH-5732; for construction permits.

The Hearing Examiner having under consideration a motion for rescheduling hearing dates filed by Radio Corinth on October 20, 1967;

It appearing that the moving party has secured new legal counsel who needs additional time for preparation and that the other parties have consented to the request;

It is ordered, That the motion for rescheduling filed by Radio Corinth is granted and the following dates are rescheduled:

Exchange of written exhibits from November 6 to December 8, 1967;

Notification of witnesses from November 20 to December 22, 1967;

Commencement of hearing from December 4, 1967 to January 16, 1968.

Issued: October 27, 1967.

Released: October 30, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-12967; Filed, Nov. 1, 1967; 8:48 a.m.]

[Docket No. 17762; FCC 67M-1815]

FARNELL O'QUINN

Order Continuing Hearing

In re application of Farnell O'Quinn, Statesboro, Ga., Docket No. 17762, File No. BP-17961; for construction permit.

Pursuant to a prehearing conference as of this date: *It is ordered*, That the preliminary exchange of engineering exhibits shall be accomplished on or before November 15, 1967, and the final exchange of engineering exhibits and lay exhibits shall be accomplished on or before December 1, 1967;

It is further ordered, That the date for the notification of witnesses desired for cross-examination shall be on or before December 11, 1967, and further, that the hearing now scheduled for December 5, 1967, be and the same is hereby rescheduled for December 18, 1967, 10 a.m. in the Commission's Offices, Washington, D.C.

Issued: October 26, 1967.

Released: October 27, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-12968; Filed, Nov. 1, 1967; 8:49 a.m.]

[Docket Nos. 17575, 17576; FCC 67R-459]

TRI-CITIES BROADCASTING CORP. AND PALMER-DYKES BROADCASTING CO.

Memorandum Opinion and Order Enlarging Issues

In re applications of Tri-Cities Broadcasting Corp., Gate City, Va., Docket No. 17575, File No. BPH-5664; Paul Dykes and Basil J. Palmer, doing business as Palmer-Dykes Broadcasting Co., Kingsport, Tenn., Docket No. 17576, File No. BPH-5701; for construction permits.

1. This proceeding involves the applications of Tri-Cities Broadcasting Corp. (Tri-Cities) and Paul Dykes and Basil J. Palmer, doing business as Palmer-Dykes Broadcasting Co. (Palmer-Dykes), both seeking an authorization for a new FM broadcast station in their respective communities of Gate City, Va., and Kingsport, Tenn. By Order, FCC 67-791, released July 13, 1967, the mutually exclusive applications were designated for a hearing under issues including, inter alia, a section 307(b) issue, and a contingent comparative issue. Presently before the Review Board is a motion to enlarge issues, filed August 16, 1967, by Palmer-Dykes seeking the addition of a financial, adequacy of staff, site availability, and Suburban issues against Tri-Cities, as well as the addition of comparative efforts and comparative programing issues.[1] The requests will be treated seriatim.

FINANCIAL ISSUE

2. In its application, Tri-Cities estimates construction costs of $13,122.84 and first year operating expenses of $7,972, totaling $21,094.84. To meet these expenditures, the application indicates that Tri-Cities has available the following sources of funds: (a) Deferred equipment credit from the Collins Radio Co.; (b) a loan from Nancy Shaffer, a 50 percent stockholder; (c) revenues produced by WGAT-AM;[2] and (d) estimated revenues from the first year of operation. Palmer-Dykes objects to both the estimated costs and the availability of funds from the sources specified.

3. To support its allegations with regard to the cost estimates of Tri-Cities, Palmer-Dykes points out that Tri-Cities' application contains no breakdown of the individual items comprising the operating budget for the first year of operation; that the estimated equipment costs ($13,049) are inconsistent with the total cost stated in the Collins letter ($18,973.88); and that, contrary to paragraph 14(b) of the application form, the basis of the applicant's cost estimates is unspecified. Petitioner further contends that the operating costs are substantially understated in light of the amount of unduplicated programming proposed in a recent amendment by Tri-Cities.[3]

4. The Broadcast Bureau, viewing Tri-Cities' total estimated equipment cost of $13,122.84 as low when compared to the $18,973.88 figure stated in the Collins letter, and the applicant's proposed reliance on WGAT-AM as suspect in light of the amount of unduplicated programming and the size of the proposed staff, recommends addition of the issues pertaining to the estimated costs of construction and first year of operation.

5. In its opposition, Tri-Cities submits a detailed breakdown of its first year cost of operation[4] and an itemized list of the equipment it will obtain from Collins Radio Co. at a cost of $12,987.[5] In reply, Palmer-Dykes reiterates the contention that the construction and operating expenses are underestimated. It alleges that the equipment proposal does not contain allocations for: (a) Remote equipment for the proposed play-by-play of local and national sporting events; (b) the emergency power generating equipment proposed by the applicant; and (c) the additional equipment necessary so that Tri-Cities can participate in the Virginia Secondary Defense Network. Palmer-Dykes further contends that the amount allotted for labor costs (see footnote 4(a), *supra*) is inadequate to cover the cost of a new full time employee plus the part time use of the six employees of WGAT-AM; that the operating budget refers to the original proposal and not the 100 hours of unduplicated programming (see footnote 3, *supra*); and that the budget does not include other necessary expenses such as pre-operational costs, legal and engineering expenses, insurance, taxes, workmen's compensation and supplies.

6. The Review Board is unable on the basis of the pleadings before it, to ascertain with a reasonable certainty Tri-Cities' equipment costs and its first year's operating expenses. Tri-Cities' itemization of equipment costs, as pointed out in the reply pleading, does not include allocations for the equipment necessary to effectuate the proposals made in its amended exhibits. Nor has the applicant submitted a realistic estimate of its first year's operating expenses. Allocations for preoperational costs,[6] legal and engineering expenses, insurance, taxes, workmen's compensation, and supplies have been omitted. Also, the Review Board cannot accept the applicant's unsupported contention that the increase in the amount of unduplicated programing "will not appreciably affect estimated first year cost of operation." This statement appears unrealistic in light of the applicant's prior statement that "It is our hope and plan that an improvement of FM revenues will permit a decrease in duplicated programs sometime after the first complete year of operation." Moreover, Tri-Cities has not indicated whether the unduplicated programs will be live or taped; or provided any other details to support the allegation that no increased expense would result. See Associated Television Corp., FCC 66D-126, 7 RR 2d 446. While a general requirement that applicants show the basis for their estimates of operating costs has not been imposed under the Ultravision standard, "if, however, the estimate of operating costs is unrealistic, or if it is estimated, then a detailed breakdown of the estimate will be required." Suspension of Policy and Institution of Inquiry or Rulemaking Concerning the Ultravision Standard, FCC 67-312, 9 FCC 2d 26, 28. Thus, the Review Board will add an issue to determine the basis of Tri-Cities' estimated costs of construction and its first year of operation.

7. The application of Tri-Cities indicates that the following sources of funds are available to demonstrate that the applicant is financially qualified: (a) Deferred equipment credit in the amount of $18,173.30; (b) loan or loans from Nancy Shaffer;[7] (c) revenues produced by WGAT-AM; and (d) estimated revenues of $16,200 from the first year of operation. Palmer-Dykes alleges that the letter of deferred credit is unacceptable since it is subject to a condition precedent;[8] that the loan of $4,000 filed as an amendment on February 27, 1967, is not supported by a financial statement; and that it is not possible to ascertain what part, if any, is to be repaid during the first year of operation since the terms of repayment are not specified. Petitioner further alleges that Tri-Cities has not

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[1] Other pleadings before the Board for consideration are: (a) Broadcast Bureau's comments, filed Sept. 6, 1967; (b) opposition, filed Sept. 8, 1967, by Tri-Cities; and (c) reply to oppositions, filed Sept. 18, 1967, by Palmer-Dykes.

[2] Tri-Cities is the licensee of WGAT-AM in Gate City, Va.

[3] Tri-Cities' petition for leave to amend was filed July 7, 1967, and an amendment thereto was filed Aug. 10, 1967. By order, FCC 67M-1511, released Sept. 13, 1967, the Hearing Examiner granted the petition as amended. The accepted amendment decreases the amount of proposed duplicated programming from 76 hours to 26 hours and 50 minutes out of the applicant's 126-hour total weekly FM operation. The number of unduplicated hours was thereby increased from 50 to approximately 100.

[4] Tri-Cities' estimate of first year cost of operation is:

(a) Labor cost (in addition to present WGAT-AM staff)	$3,218.84
(b) Utilities	648.00
(c) Tube and parts replacement	300.00
(d) Music license fees	246.00
(e) Lease of land	75.00
(f) Repayment on Collins conditional sales contract (including interest)	3,484.36
Total	7,972.00

[5] Tri-Cities explains the disparity between equipment costs reflected in the Collins letter and its present estimate by submitting that several items included in calculating the $18,973.88 figure were deleted and that only the itemized equipment will be obtained from Collins Radio Co.

[6] Palmer-Dykes alleges that a 3-month preoperational period is necessary before Tri-Cities begins its FM operation. In its opposition pleading, Tri-Cities did not respond to this allegation, and has submitted a repayment figure based upon a 12-month period. Since it is clear from the nature of the proposed station (remote controlled) that a preoperational period must be utilized for testing purposes and since the applicant did not expressly contest the reasonableness of the length of the period alleged by the petitioner, the Board will consider 3 months as the preoperational period. Since the period of repayment for Collins equipment commences upon receipt of said equipment (see paragraph 9, *infra*), a preoperational expense of at least $666.06 would be incurred, which expense is not reflected in Tri-Cities' operating budget. In its itemization of "other items" (a category in its equipment allotments), Tri-Cities has provided $666 for "contingencies and incidental expenses not having been paid". However, this contingency fund is inadequate to satisfy even the preoperational expense for the Collins equipment, not to mention the unspecified costs for professional fees, mobile equipment, scantechnical studio furnishings, etc. which should be included in this category (see Form 301, section III, par. 1(a)), or the other omitted items.

[7] A letter of commitment for a $6,500 loan from Mrs. Shaffer was filed on Feb. 2, 1967. On Feb. 27, 1967, a second commitment letter for a $4,000 loan was filed.

[8] While originally stating in its application that $18,973.88 was the amount of deferred credit, Tri-Cities has indicated in its pleading that the Collins Radio Co. will furnish and finance $12,987 or less in equipment items. See footnote 5, *supra*.

indicated the extent of the funds available from the revenues of WGAT–AM, nor has it demonstrated that WGAT–AM is capable of providing any funds in light of the fact that it has experienced an overall loss of $1,586.53 for the period of its operation. Finally, petitioner alleges that Tri-Cities' estimate of first year revenues ($10,200) is unsupported and cannot be accepted.

8. In opposition, Tri-Cities contends that the condition precedent contained in the credit commitment letter is merely customary language in a form letter; that two loan commitments totaling $7,500 are available from Mrs. Nancy Shaffer; that from March 29, 1965, through October 31, 1966, the operation of WGAT–AM has produced a net income of over $14,000 which is available to Tri-Cities; and that the operating loss of WGAT–AM is attributable to the prior owners of the station. The applicant further alleges that all profits, both present and future, derived from the operation of WGAT–AM will be available for the support of its FM operation. Finally, Tri-Cities alleges that its estimate of revenues is based upon broadcast experience in the Gate City market as evidenced by its operation therein of WGAT–AM. The Broadcast Bureau recommends the addition of an issue to ascertain the availability of the funds necessary to Tri-Cities to construct and operate its proposed FM station and a contingent issue to inquire into the basis of Tri-Cities' estimated revenues if this source is utilized by the applicant.

9. The Review Board agrees with the petitioner and the Broadcast Bureau that the manufacturer's letter of credit is not, in its present form, acceptable. The letter expressly states that the manufacturer's willingness to provide the deferred credit arrangement is "contingent upon the receipt of information indicating a satisfactory financial condition." Although letters of credit usually reserve the right to future review of an applicant's financial condition, the wording of these reservations ordinarily reflects, either expressly or by implication, that the manufacturer has already examined and is satisfied with the applicant's present financial condition. Such a reservation does not raise a substantial doubt as to the availability of the credit. However, a similar implication cannot be gleaned from the letter here in dispute. Rather, the only reasonable inferences raised by the wording of this letter are either that the manufacturer has not as yet reviewed the applicant's financial status, or, that it has done so and has not found the information adequate for the issuance of the manufacturer's usual standard letter of credit."

10. An ambiguity exists as to whether the loan commitment of Mrs. Nancy Shaffer, filed February 27, 1967, is a separate and distinct commitment to loan an additional $4,000, or whether it merely increased the amount pledged in a prior $3,500 loan commitment submitted February 2, 1967. Since it is incumbent upon the applicant to submit "proof that adequate funds are available and committed to the proposed station," Ultravision Broadcasting Company, 1 FCC 2d 544, 5 RR 2d 943 (1965); and since Tri-Cities, aware of the ambiguity, did not submit an affidavit or other evidence clarifying Mrs. Shaffer's intentions as it could have done in its opposition pleading, the Review Board must read the second commitment letter as superseding the first. Mrs. Shaffer's balance sheet, dated December 1, 1966 (submitted in support of the first loan commitment), indicated that she had $17,450.75 in liquid assets, $60,800 in nonliquid assets and a net worth of $56,806.75. Tri-Cities states in its opposition pleading, that an updated balance sheet was not submitted with the loan agreement filed February 27, 1967, because there was no substantial change in Mrs. Shaffer's financial condition. Since the balance sheet indicated a net worth of almost $57,000, and since the second loan agreement was filed less than a month after the balance sheet was submitted, the Review Board finds that a $4,000 loan commitment is available to Tri-Cities to offset its estimated costs of construction and first year of operation.[9] See Bay Broadcasting Co., FCC 67R–36, 9 RR 2d 344; and Louis Prado Martorell, FCC 67R–67, 9 RR 2d 509.

11. The Board is unable to accept the availability of the $14,064.30 in past profits or the unspecified present and future profits of WGAT–AM. Tri-Cities' undated balance sheet which was submitted with its application on December 14, 1966, shows current assets of $10,124.59 against current liabilities of $7,708.30; and total assets of $41,461.64 against total liabilities (without consideration of stockholders equity) of $43,948.22. The balance sheet does not reflect the $14,064.30 sum Tri-Cities claims it has available even though Tri-Cities has maintained that said sum was earned from March 29, 1965, through October 31, 1966. Nor does Tri-Cities' application reflect that this sum is on deposit in a bank or other depository. In view of the foregoing, Tri-Cities' statement that it "has had a net income from its formation in March 29, 1965, through October 31, 1966, of $14,064.30" is unacceptable absent a more detailed showing of the operating revenues and expenses of WGAT–AM for this period. Moreover, without an explanation of what has happened to the $14,064.30, we are unable to credit Tri-Cities with any specific amount for the present and contemplated profits of WGAT–AM. See Sawnee Broadcasting Co. (WSNE), FCC 66–398, 7 RR 2d 405. In view of the foregoing, we find that Tri-Cities has established the availability of only $4,000 (the Shaffer loan) and an issue inquiring into the amount of funds Tri-Cities has available is therefore required.

12. In Ultravision, supra, the Commission stated that if an applicant relies upon estimated first year revenue to demonstrate its financial qualifications, it must make a "convincing evidentiary showing that the available and committed funds will be supplemented by sufficient advertising or other revenue." Additionally, "In those instances where operation during the first year is dependent upon estimated advertising revenues, the applicant will be required to establish the validity of the estimate." It is therefore incumbent upon the applicant to fully disclose the factors which were considered in arriving at the estimated figure for only then can the Commission judge whether the figure is realistic and whether it has a sufficient foundation in fact. It is evident that under the Ultravision standard, Tri-Cities has not sustained its burden.[10] See KXYZ Television, Inc., FCC 67R–294, 10 RR 2d 681. It is Tri-Cities' personal opinion based upon past AM broadcasting experience in the area that $10,200 is reasonably available to its FM operation from the sale of spot announcements and the sponsorship of sporting events. However, the applicant has not demonstrated that this "experienced" opinion is predicated upon any detailed analysis of retail sales, population growth, employment, advertisement commitments and other objective factors of the Gate City market. See Lunde Corp., FCC 66R–360, 5 FCC 2d 29; Gordon Sherman, FCC 66R–360, 8 RR 2d 196. Consequently, the Review Board concludes that a contingent financial issue inquiring into the basis of Tri-Cities' estimated revenues is warranted.

STAFFING

13. Palmer-Dykes requests the addition of an adequacy of staff issue. In support of its request, petitioner alleges that the size of the staff of WGAT–AM, the number of hours the proposed FM station will operate—especially the number of unduplicated hours, and the site of the FM transmitter (the site specified is different from the location of the AM station), raise a substantial question as to whether Tri-Cities' staff is adequate to effectuate its proposed FM operation. The Broadcast Bureau recommends addition of the issue since the amount of unduplicated programming raises a serious doubt as to the adequacy of the staffing proposal.

14. In opposition, Tri-Cities contends that it will operate the FM station by remote control with a total staff of seven for the proposed AM–FM combination and that no additional technical personnel would be required than are now necessary to operate WGAT–AM. To support its proposal, Tri-Cities submits a proposed work schedule demonstrating the individual tasks of the seven employees, the exact time each will perform his tasks and the total number of hours each is employed per week. Petitioner in its reply, alleges that the proposed work schedule does not bear any relationship to Tri-Cities' program duplication proposal nor does it provide for the nearly 100 hours of unduplicated FM airtime and 76 hours of AM airtime.

15. Tri-Cities proposes to handle the technical requirements of the combined AM–FM operation by the use of one engineer (a first-class operator) and five announcers who are also operators (although not first-class operators) pursuant to the requirements of §§ 73.93 and 73.265 of the rules.[11] The submitted schedule reveals that for the period of broadcasting (6 a.m. to midnight, 7 days a week), there will always be an authorized operator on duty and in charge of the FM apparatus. However, our review of the work schedule does not fully dispel the doubts as to Tri-Cities' ability to operate as intended with its proposed staff. An examination of the hours of broadcasting contained in the proposed work schedule indicates that Tri-Cities has provided for 126 hours of airtime. Assuming that Tri-Cities will conduct its unlimited FM operation at the same time it is broadcasting on its AM frequency, the Board finds that Tri-Cities has provided for the required airtime for its AM and FM operations.[12] On the other hand, the Board's examination also reveals that there are numerous occasions when only one employee is present during the periods when Tri-Cities proposes concurrent AM and FM broadcasting; and these occasions are not periods when there is duplicated FM programming.[13] In view of the fact that Tri-Cities has not indicated the nature of the AM and FM programing during these occasions (whether remote play-by-play, live, or taped) and how the broadcasting duties of the sole operator can be performed without effect on the proper operation of the FM broadcast transmitter (see §§ 73.93(d) and 73.263(d) of the rules), a serious doubt arises with respect to the adequacy of the proposed staff. Consequently, the Review Board will grant the requested addition of an adequacy of staff issue so that evidence may be adduced to show how Tri-Cities will effectuate its proposals with its presently contemplated staff.

SITE AVAILABILITY ISSUE

16. To support its request for the addition of a site availability issue, petitioner alleges that there is nothing contained in Tri-Cities' application which would permit a finding that there is a reasonable assurance that the property described as the site for the proposed FM transmitter is available for that use. Palmer-Dykes further contends that the application states that no land is to be acquired for the FM antenna site yet it is silent as to whether Tri-Cities presently owns the property described or whether such land is to be leased pursuant to terms which are also unspecified. The Broadcast Bureau recommends addition of the requested issue in the event Tri-Cities fails to explain the arrangements it has made or plans to make for its FM antenna site.

17. With its opposition, Tri-Cities has submitted an exclusive 3-year option to lease, which was executed May 23, 1966. Pursuant to the option, the lease will have a 10-year term with annual rents of $325 for AM broadcasting and $75 for FM broadcasting. Tri-Cities will also have an option to renew for an additional 10-year term. It is further provided that, if the option is exercised, a right-of-way will be provided for vehicle access; and the $100 already paid as consideration for the option to lease, will be applied to the first-year rents. It is clear from the executed option to lease that Tri-Cities does have reasonable assurance that the proposed site is available to it and no question exists as to its ability to meet the terms of the lease. See 1360 Broadcasting Co., Inc. (WEBB), FCC 63R–306, 25 RR 864; Eastside Broadcasting Company, FCC 63R–528, 1 RR 2d 763.

SUBURBAN ISSUE

18. Petitioner requests the addition of an issue to determine what efforts have been made by Tri-Cities to ascertain the programing needs of Gate City, Va., and the area it proposes to serve and the manner in which it proposes to meet such needs (Suburban issue). In support of its request, Palmer-Dykes alleges that Tri-Cities' application does not disclose the dates when an alleged survey of 24 listed organizations was conducted; the names of the individuals interviewed; and neither the questions asked nor the responses of these unnamed persons. Palmer-Dykes further alleges that certain information furnished in the Tri-Cities application (concerning the ascertainment of programing needs, public affairs program policy, proposed news programs, typical programing and diversification) is identical or substantially similar to that submitted by the applicant in its renewal application for WGAT–AM; that there is no indication that the duplicated programing originally proposed (60.21 percent) is in response to needs uncovered by the alleged survey or is consistent with the needs and interests of the public to be served; and that the amendment reducing the amount of duplication (20.21 percent) and news programing has not been shown by virtue of a new survey or other facts to be in response to changed or new public tastes or interests. Moreover, it contends that such reduction in the amount of duplication questions the bona fides of the efforts to ascertain community needs and interests which formed the basis for Tri-Cities' earlier judgment that 80.21 percent duplication was in the public interest. Finally, in its reply pleading, petitioner contends that the chronology of events indicates that the survey conducted by Tri-Cities pertained to the renewal application of WGAT–AM and that the information adduced thereby

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[9] While it may be true, as Tri-Cities contends, that the subject letter is a form letter, and that the Commission's staff on the processing line has not always objected to this form, Tri-Cities has neither alleged nor shown that the format of subject letter is the "usual" letter used by manufacturers in most instances.

[9] Petitioner has contended that the loan agreement does not contain the terms of repayment. However, terms of repayment are not necessarily relevant to the question of reasonable assurance of the availability of the amount pledged. They are important in ascertaining the applicant's first year's operating expenses. Since an issue has been specified as to the estimated cost of operation (see para. 6, supra), evidence concerning the terms of repayment can be adduced thereunder. In this regard, the Review Board rejects as unreasonable Tri-Cities' argument that no terms of repayment are specified since "no repayment is required." Both agreements are entitled "Loan Agreement" and each states Mrs. Shaffer "agrees to loan." In view of this language, the Board must conclude that the agreements evidence a loan, not a gift; and a loan implies repayment.

[10] While Tri-Cities has not expressly indicated that it will rely upon revenues, its present financial proposals suggest that it may have to do so to meet its initial construction costs and first year's operating expenses. Thus, the Review Board, prompted by petitioner's request, will examine the pleadings to ascertain whether the anticipated revenues of $10,200 are adequately substantiated in accordance with the Ultravision standard. See Royal Broadcasting Co., Inc. (KHAI), FCC 66R–333, 8 RR 2d 690; Chicagoland TV Co., FCC 65R–350, 1 FCC 2d 1160.

[11] Tri-Cities' standard broadcast station WGAT operates with a power of 1 kilowatt, nondirectional antenna, daytime. Tri-Cities' proposed FM station would operate with a power of 1.175 kilowatts, nondirectional. In pertinent part, §§ 73.93 and 73.265 of the rules provide (a) that the routine operation of such stations may be performed by an operator holding a valid first-class license, or by operators holding specified lesser class licenses, and (b) that in the latter circumstance a radiotelephone first-class operator or operators shall perform transmitter maintenance and shall be promptly available to correct conditions of improper operation beyond the scope of the authority of the lesser grade operator on duty.

[12] Reading the work schedule in light of our assumption and in conjunction with the amended periods of duplication, the Board finds the following amounts of unduplicated programing during the specified days:

Monday to Friday:	
6 a.m.–6 p.m.	38 hours 30 minutes.
6 p.m.–midnight	30 hours.
Saturday:	
6 a.m.–6 p.m.	8 hours 30 minutes.
6 p.m.–midnight	6 hours.
Sunday:	
6 a.m.–6 p.m.	10 hours 30 minutes.
6 p.m.–midnight	6 hours.
Total	99 hours 10 minutes.

[13] According to the work schedule, on Monday to Friday, employee B is alone from noon to 1 p.m.; on Saturday, employee D is alone from noon to 1 p.m.; and on Sunday, employee B is alone from 6 a.m. to noon with duplication only from 6 a.m. to 7:30 a.m., and employee A is also alone from noon to 6 p.m. Petitioner has not explained how its estimate of 76 hours of AM airtime was reached. Also, Tri-Cities has not contested this figure nor has it supplied the exact number of hours and periods of AM broadcasting of WGAT. The standard broadcast license granted to WGAT authorizes different sign-on and sign-off times depending on the particular month of the year. While this uncertainty as to the exact sign-off time of the AM operation might affect the length of time employees A and B are responsible on Sunday for the concurrent AM and FM operation, the Board believes such is minimal.

was merely reiterated in its FM application."

19. In its opposition, Tri-Cities alleges that as licensee of the sole AM station in its community, it maintains continued contacts therein; that it conducted informal discussions with representative groups, organizations and individuals to ascertain the needs and interests of the community; that from April to June 1966, it conducted a formal survey by personal interviews and the use of a questionnaire; and that the responses of 50 individuals from 34 local representative groups revealed specific community interests, preferences, and needs pursuant to which it formulated its proposed FM programing." Tri-Cities further alleges that the similarity in its FM application to the WGAT-AM renewal application is reflective of identical management applying the same policy and procedure to each station. Finally, it contends that the changes in its programing were in response to continuing informal discussions and a reexamination and analysis of the formal survey by its experienced management which disclosed that reduction in the duplicated programing would be consistent with community needs provided programs similar to those of WGAT-AM are broadcast."

20. The Review Board finds that the requested Suburban issue should be denied. An applicant has the responsibility for a reasonable knowledge of the needs and interests of the community and area it proposes to serve in order to formulate its program proposals in response thereto. The means which an applicant can employ to determine those needs and interests, are personal background, surveys and contacts with local civic and other groups and individuals. Policy Statement on Comparative Broadcast Hearings, FCC 65-689, 5 RR 2d 1901. Herein, Tri-Cities has, in its opposition, made a reasonable showing as to its familiarity with the needs of Gate City and the proposed service area; indicated the manner by which its program proposals reflect the needs it has ascertained; and revealed the methods by which it has ascertained those needs—informal discussions, a formal survey and experience and familiarity in the area obtained from the operation of WGAT-AM and residence in the community. See Logan Broadcasting Co., FCC 67R-382, 10 RR 2d 556; Harriman Broadcasting Co., FCC 66-46, 6 RR 2d 709. On the other hand, petitioner has not made the requisite compelling or persuasive showing that Tri-Cities' proposals do not fulfill the needs and interests ascertained by its efforts." Petitioner's allegation that Tri-Cities' program proposal is in response to a survey conducted for its AM renewal application and not for its FM application is unsupported by affidavits from any of the 34 enumerated organizations which participated in the survey. A motion to add an issue must be based on specific allegations of fact and mere logical speculation or conjecture is not sufficient. Spanish International Television Co., Inc., FCC 64R-239, 2 RR 2d 853. In addition, the amendment does not necessitate an inquiry into any change in Gate City's needs and interests, or even how such a change, if any, was detected, if there is not a corresponding substantive change in Tri-Cities' programing. See Community Broadcasters, Inc., FCC 67R-398, released September 22, 1967. Tri-Cities has merely reduced the number of hours of duplication by its amendment." It has not changed the type of programing proposed in response to the interests ascertained by its formal survey—a continuation of WGAT-AM programs for FM. See footnote 15(b), supra. Thus, the Review Board concludes from the foregoing that addition of a Suburban issue is unwarranted and the request must therefore be denied.

Comparative Survey Issue

21. To support its request for the addition of an issue in respect to the efforts made by each applicant to ascertain the needs and interests in its respective community, Palmer-Dykes alleges that its programming is predicated upon 23 years residence in its proposed service area in addition to specific contacts with 19 separate organizations; that it has listed the particular persons contacted; and that it has given a summary of their views as to how its proposed FM station can be of service to its listeners. Petitioner contends that in view of the foregoing and Tri-Cities' efforts to ascertain the needs and interests of its community (see paragraphs 19 and 20, supra), it has made the requisite prima facie showing of significant differences between the efforts of each applicant. Tri-Cities in opposition, alleges that, if anything, petitioner's allegations reveal that its efforts are inferior to those made by Tri-Cities. The Broadcast Bureau recommends denial of petitioner's request.

22. The Review Board will deny petitioner's request for the addition of a comparative efforts issue. As indicated previously, Tri-Cities conducted from April to June 1966, a formal survey of its proposed service area, interviewing 50 individuals from 34 specified representative organizations. In response to a questionnaire, the persons consulted expressed various opinions relating to the needs and interests of the community and the majority opinions were enumerated in Tri-Cities' opposition pleading wherein the applicant also demonstrated how the formal survey led to several conclusions which shaped its proposed FM programing. The petitioner has not indicated a significant disparity in efforts which should be examined in a comparative hearing." The only outstanding inferiority in Tri-Cities efforts appears to be that Tri-Cities has not specifically identified the 50 representatives of the 34 listed local organizations contacted in its formal survey. This, in and of itself, is not sufficient to warrant the addition of the requested issue.

Comparative Programing Issue

23. Petitioner seeks the addition of a comparative programing issue contending that there are significant differences justifying a comparative evaluation of the programing proposed by the respective applicants. To support its allegation, Palmer-Dykes submits that it proposes 9.46 percent (13 hours, 35 minutes) of public affairs programing whereas Tri-Cities proposes only 0.40 percent (20 minutes); that it proposes 6.23 percent (15 hours, 25 minutes) to "all other programs, exclusive of entertainment and sports" whereas Tri-Cities proposes 4.62 percent (5 hours, 48 minutes); and that it proposes daily discussion programs whereas Tri-Cities proposes only one 30-minute discussion program. In opposition, Tri-Cities alleges that a comparison is impossible due to petitioner's improper inclusion of a number of programs under the Public Affairs category. The Broadcast Bureau, regarding as minimal the differences in the programing proposals of the applicants upon which petitioner relies, recommends the denial of the requested issue.

24. The Review Board will not enlarge the issues in this proceeding by the inclusion of a comparative programing issue. Palmer-Dykes has not made the persuasive showing required for the inclusion of such an issue. It has not indicated in its pleadings the relationship between its own ascertainment of community needs and interests and the reflection of those needs and interests in substantially greater amounts of time, efforts and resources proposed to be devoted to certain of the categories of programing." Palmer-Dykes has drawn comparisons of the amount of time each applicant has allotted to three categories of programing, but it has not justified its allocations with respect to the program needs and interests of Kingsport, Tenn., nor has it explained how its program proposals are designed to meet these ascertained needs and interests. Consequently, the Review Board will deny the addition of the requested issue.

Accordingly, it is ordered, That the petition to enlarge issues, filed August 10, 1967, by Paul Dykes and Basil J. Palmer, doing business as Palmer-Dykes Broadcasting Co., is granted to the extent indicated below and denied in all other respects; and

It is further ordered, That the issues in the above-captioned proceeding are enlarged as follows:

(a) To determine as to Tri-Cities, the basis of (1) its construction costs, and (2) its estimated operating expenses for the first year of operation;

(b) To determine whether Tri-Cities has available to it funds in the amount necessary to construct and operate for 1 year the proposed FM station;

(c) In the event that Tri-Cities will depend upon operating revenues to meet costs and first year's operating expenses, the basis of its estimated revenues for the first year of operation, whether such estimate is reasonable, and the extent to which net operating revenues may be relied upon to yield necessary funds for the initial construction and 1 year's operating costs; and

(d) To determine on the basis of the evidence adduced under the aforesaid items whether Tri-Cities is financially qualified;

(e) To determine whether the staff proposed by Tri-Cities is adequate to operate its proposed FM station.

It is further ordered, That the burden of proceeding with the introduction of evidence and the burden of proof with regard to the issues added herein will be upon Tri-Cities Broadcasting Corp.

Adopted: October 25, 1967.

Released: October 30, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[*]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-12950; Filed, Nov. 1, 1967; 8:48 a.m.]

[*] Dissenting statement of Board Member Pincock filed as part of the original document. Board Members Berkemeyer and Nelson absent.

[*] As indicated by Tri-Cities in its pleadings, the formal survey was conducted during the period of April through June 1966. The renewal application of WGAT-AM was filed approximately 1 month after completion of the survey whereas the application for the FM application was filed 6 months after completion of the survey.

[*] Tri-Cities has listed in its pleading certain majority opinions culled from the survey, such as:

(a) 94 percent believes a balanced format of music, news, talk and information programs would serve area needs best.

(b) 90 percent endorsed a continuation of WGAT-AM programs for FM.

(c) 98 percent believes local and national play-by-play sports coverage would be desired.

(d) 92 percent stated that a 5-minute news program each hour was adequate.

[*] Tri-Cities does not concede that the amount of duplication originally proposed (60.21 percent) was not in response to the public interest. It contends that the surveys did not indicate any preference for or against duplication, but since 90 percent of the respondents endorsed a continuation of WGAT-AM programs for FM (see footnote 15(b), supra), Tri-Cities concluded that the reasonable amount of duplication originally proposed would be in the public interest. Tri-Cities further contends that the amount of news programs originally scheduled provided more than adequate news coverage. However, its reexamination of the survey has indicated that the one 5-minute newscast per hour is not only adequate, but also the maximum allotment permissible if the preferred balanced format is to be continued. See footnote 15, supra.

[*] See Adirondack Television Corp., FCC 67R-400, 8 RR 2d 886; Voice of Middlebury, FCC 66-961, 3 FCC 2d 512, 517, wherein it is stated:

Where, as here, it appears that the applicant has made efforts to ascertain the programing tastes, needs, and interests of the area it proposes to serve and has formulated a program format which, in its judgment, would meet those needs and interests as it has determined them to be, a Suburban issue is not warranted in the absence of a compelling showing that the proposal would not fulfill that function.

[*] In the designation order, the Commission held that evidence regarding program duplication and the benefits to be derived therefrom would be admissible under the comparative issue.

[*] The Commission stated in Chapman Radio and Television Co., supra, that "a proponent of the programing issue should be required to make a prima facie showing that there are significant differences in the programing proposed and should relate his claimed superiority in program planning to his ascertainment of community needs."

[*] Petitioner's reliance on Chapman Radio and Television Co., FCC 67-294, 7 FCC 2d 213, and Lee Broadcasting Corp., FCC 67R-361, 8 FCC 2d 634, to support its allegation that it has made a prima facie showing of significant differences between each applicant's efforts to ascertain the needs and interests of its respective community, is misplaced. In Chapman, the issue was added where the applicant did not reveal the method employed in contacting 389 organizations or the results obtained and in Lee, the issue was added since the petitioner had contacted more persons; shown a broader diversity among communities and types of leaders contacted; and made a more thorough documentation of the results of the contacts and the manner in which those results were reflected in its program proposal.

FEDERAL POWER COMMISSION

[Docket Nos. RI68-114, etc.]

HAMILTON BROTHERS, LTD., ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates, Permitting Withdrawal of Rate Supplement and Terminating Proceeding [1]

OCTOBER 25, 1967.

The above-named Respondents have tendered for filing proposed changes in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are designated as follows:

[1] Does not consolidate for hearing or dispose of the several matters herein.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI68-104	Frederic C. and Ferris F. Hamilton d.b.a. Hamilton Brothers, Ltd., 1517 Denver Club Bldg., Denver, Colo. 80202.	24	2	Northern Natural Gas Co. (Carthage, North Richland and Rolla Mississippi Fields, Texas County, Okla.) (Panhandle Area and Morton County, Kans.).	$8,703 21,815	9-25-67	[3] 10-26-67	3-26-68	[4] 12.0 [5] 12.0	[6] [7] 15.0 [8] [9] 17.0	
RI68-105	Standard Oil Co. of Texas, a division of Chevron Oil Co., Post Office Box 1249, Houston, Tex. 77001. Attention: Mr. C. W. Proctor.	2	20	Texas Eastern Transmission Corp. (Gist Field, Newton County, Tex.) (R.R. District No. 3).	146	10- 5-67	[3] 11- 5-67	4- 5-68	15.2	[6] 16.4	RI67-65.
	Standard Oil Co. of Texas, a division of Chevron Oil Co.	19	11	Texas Eastern Transmission Corp. (Chevron Field, Kleberg County, Tex.) (R.R. District No. 4).	32,550	10- 5-67	[3] 11- 5-67	4- 5-68	15.2	[6] 16.4	RI67-65.

[3] The stated effective date is the first day after expiration of the statutory notice.
[4] Respondent filing to first periodic increase under renegotiated contract. Initial rate under renegotiated contract is 14 cents.
[5] Pressure base is 14.65 p.s.i.a.
[6] For gas produced from depths between the base of the Wolfcamp and the Top of the Morrow Series of the Pennsylvanian System (intermediate zone).
[7] Rates of 14 cents (intermediate zone) and 16 cents (deep zone) suspended in Docket No. RI68-115 until Feb. 13, 1968. Respondent has requested that such rate proceeding be terminated and related notice of change (Supplement No. 1) be considered withdrawn.
[8] Subject to a downward B.t.u. adjustment.
[9] For gas produced from depths below the Top of the Morrow Series of the Pennsylvanian System (deep zone).
[10] Periodic rate increase.

Frederic C. and Ferris F. Hamilton, doing business as Hamilton Brothers, Ltd. (Hamilton), request an effective date of October 1, 1967, for their proposed rate increase. Standard Oil Co. of Texas, a division of Chevron Oil Co. (Standard), requests that its proposed rate increase be permitted to become effective on November 1, 1967. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit earlier effective dates for Hamilton and Standard's rate filings and such requests are denied.

Hamilton proposes rate increases from 12.0 cents to 15.0 cents (intermediate zone) and 17.0 cents (deep zone) under their FPC Gas Rate Schedule No. 24. Previously, on August 18, 1967, Hamilton filed proposed increases from 12.0 cents to 14.0 cents and 16.0 cents, respectively, for the sale involved. Such rates were

suspended in Docket No. RI68-115 until February 12, 1968. Hamilton has requested that the instant notice of change be allowed to supersede the previous filing (Supplement No. 1 to Hamilton's FPC Gas Rate Schedule No. 24) and the suspension proceeding in Docket No. RI68-115 be terminated. Since Hamilton's 14.0 cents and 16.0 cents rate increases in Docket No. RI68-115 have not been made effective pursuant to section 4(e) of the Natural Gas Act and no monies have been collected subject to refund under the rate schedule involved, we conclude that Hamilton should be permitted to withdraw Supplement No. 1 to their FPC Gas Rate Schedule No. 24 and the related suspension proceeding in Docket No. RI68-115 be terminated as hereinafter ordered.

Hamilton and Standard's proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR 2.56).

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) Good cause exists for permitting the withdrawal of Supplement No. 1 to Hamilton's FPC Gas Rate Schedule No. 24, and for terminating the related suspension proceeding in Docket No. RI68-115.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the proposed changes, and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Supplement No. 1 to Hamilton's FPC Gas Rate Schedule No. 24 is permitted to be withdrawn and the suspension proceeding in Docket No. RI68-115 is terminated.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Ch. I), public hearings shall be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in the above-designated rate supplements.

(C) Pending hearings and decisions thereon, the above-designated rate supplements are hereby suspended and the use thereof deferred until the date indicated in the above "Date Suspended Until" column, and thereafter until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(D) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(E) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before December 12, 1967.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-12823; Filed, Nov. 1, 1967; 8:45 a.m.]

[Docket Nos. G-9072, etc.]

HUMBLE OIL & REFINING CO.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

OCTOBER 25, 1967.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service heretofore authorized as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 17, 1967.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein, nor should it be so construed.

Take further notice that pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no protest or petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given: *Provided, however,* That pursuant to 18 CFR 2.56, as amended, all permanent certificates of public convenience and necessity granting applications, filed after July 1, 1967, without further notice, will contain a condition precluding any filing of an increased rate at a price in excess of that designated for the particular area of production for the period prescribed therein unless at the time of filing such certificate application, or within the time fixed herein for the filing of protests or petitions to intervene the applicant indicates in writing that it is unwilling to accept such a condition. In the event applicant is unwilling to accept such condition the application will be set for formal hearing.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

GORDON M. GRANT, *Secretary.*

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
C—9072 C 9-27-67	Humble Oil & Refining Co., Post Office Box 2180, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Various Fields in District 4 Area, Tex.	15.0	14.65
C—10218 D 10-16-67	Gulf Oil Corp. (Operator) et al., Post Office Box 1589, Tulsa, Okla. 74102.	Transwestern Pipeline Co., acreage in Texas County, Okla.	Uneconomical	
C—13726 [2] D 9-19-67	Mobil Oil Corp., Post Office Box 2444, Houston, Tex. 77001.	Transwestern Pipeline Co., Harmit, Keystone, and Emperor Fields, Winkler County, Tex.	(3)	
CI62-1822 D 9-29-67	Pan American Petroleum Corp., Post Office Box 591, Tulsa, Okla. 74102.	Northern Natural Gas Co., acreage in Beaver County, Okla.	(3)	
CI62-597 C 10-18-67	John Douglas Pitman (Operator) et al., Post Office Box 1837, Hereford, Tex. 79045.	Northern Natural Gas Co., Novi Lime Field, Ochiltree County, Tex.	17.0	14.65
CI64-674 E 10-11-67	Hazel Woodford (successor to A. C. Woodford), 120 N. Spring St., Harrisville, W. Va. 26362.	Pennzoil Co., Grant District, Ritchie County, W. Va.	13.0	15.325
CI66-1244 C 10-9-67 [4]	Humble Oil & Refining Co. (Operator) et al.	Natural Gas Pipeline Co. of America, Sarita et al. Fields, Kenedy County, Tex.	14.0	14.65
CI66-321 A 10-11-67	Shell Oil Co., 50 West 50th St., New York, N.Y. 10020.	Southern Natural Gas Co., Tallahalla Creek Field, Smith County, Miss.	18.0	15.025
CI66-322 B 10-11-67	N. H. Whalen Oil Co., Post Office Box 1748, Shreveport, La. 71102.	United Gas Pipe Line Co., Carthage Field, Panola County, Tex.	(5)	

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
CI66-492 A 10-11-67	Jas. F. Smith (Operator) et al., Post Office Box 1005, Avenbell Station, Amarillo, Tex. 79105.	Northern Natural Gas Co., acreage in Beaver County, Okla.	[6] 17.0	14.65
CI66-534 A 10-11-67	Cleary Petroleum, Inc., 210 Kermac Bldg., Oklahoma City, Okla. 73102.	Michigan Wisconsin Pipe Line Co., Laverne Area, Woodward County, Okla.	[6] 17.0	14.65
CI66-535 A 10-11-67	Cleary Petroleum, Inc.	Arkansas Louisiana Gas Co., Bald Area, Garfield County, Okla.	18.0	14.65
CI66-536 A 10-12-67	Humble Oil & Refining Co.	Michigan Wisconsin Pipe Line Co., Eugene Island Block 189 Field, Offshore, Louisiana.	19.5	15.025
CI66-537 (CI62-1104) F 10-12-67	Butler-Johnson, Inc. (Operator), et al. (successor to Union Producing Co.), Post Office Box 308, Shreveport, La. 71103.	United Gas Pipe Line Co., South Downsville Field, Lincoln and Union Parishes, La.	[7] 18.75	15.025
CI66-538 A 10-12-67	Lake Washington Inc. (Operator) et al., Post Office Box 3606, Houston, Tex. 77001.	Southern Natural Gas Co., Lake Washington Field Area, Plaquemines Parish and Bay St. Elaine Field, Terrebonne Parish, La.	21.25	15.025
CI66-539 A 10-12-67	Pan American Petroleum Corp.	Trunkline Gas Co., Lakeside, South Thornwell and Southwest Lake Arthur Fields, Cameron Parish, La.	21.25	15.025
CI66-540 A 10-16-67	Hugh A. Hawthorne et al., Post Office Box 82439, G.C.S., Lafayette, La. 70501.	Trunkline Gas Co., Iowa Field, Jefferson Davis Parish, La.	21.25	15.025
CI66-541 A 10-16-67	Fair Oil Co., Fair Foundation Bldg., Tyler, Tex. 75701.	Arkansas Louisiana Gas Co., Excelsior Field, Marion County, Tex.	[8] 12.5062	14.65
CI66-542 A 10-16-67	Ashland Oil & Refining Co., Post Office Box 18695, Oklahoma City, Okla. 73118.	Consolidated Gas Supply Corp., Sherman District, Boone County, W. Va.	[9] 27.0	15.325
CI66-544 A 10-16-67	Womsky Petroleum, Ltd., 2028 Republic Bank Bldg., Dallas, Tex. 75201.	Panhandle Eastern Pipe Line Co., Putnam Area, Dewey County, Okla.	[6] 14.0	14.65
CI66-545 A 10-16-67	Skyblaber Oil & Gas Co., c/o L. L. Crawford, agent, 116 South Fifth St., Clarksburg, W. Va. 26302.	Consolidated Gas Supply Corp., Elk District, Barbour County, W. Va.	25.0	15.325
CI66-546 A 10-16-67	Parker Petroleum Co., et al., Post Office Box 1741, Parkersburg, W. Va. 26102.	Consolidated Gas Supply Corp., Parkersburg District, Wood County, W. Va.	25.0	15.325
CI66-547 A 10-16-67	Franconia Oil & Gas Co., c/o A. Burke Haris, trustee, 210 Little Falls St., Falls Church, Va. 22046.	Consolidated Gas Supply Corp., Murphy District, Ritchie County, W. Va.	25.0	15.325
CI66-548 A 10-16-67	W. C. Pickens, 2626 Fidelity Union Tower, Dallas, Tex. 75201.	Panhandle Eastern Pipe Line Co., Putnam Area, Dewey County, Okla.	[6] 14.0	14.65
CI66-549 A 10-16-67	S. W. Jack Drilling Co., et al., 801 Allegheny Ave., Avonmore, Pa. 15618.	Consolidated Gas Supply Corp., Sandy Township, Clearfield County, Pa.	27.5	15.325
CI66-550 A 10-12-67	Carl A. Nilsen, c/o James W. George, Esq., George & Kenan, 1200 First National Bldg., Oklahoma City, Okla. 73102.	National Fuels Corp. and Oklahoma Natural Gas Gathering Corp., acreage in Major County, Okla.	13.0	14.65
CI66-551 A 10-16-67	S. W. Jack Drilling Co.	Consolidated Gas Supply Corp., Sandy Township, Clearfield County, Pa.	27.5	15.325
CI66-552 B 10-16-67	Amax Petroleum Corp., Enterprise Bldg., Tulsa, Okla. 74103.	Florida Gas Transmission Co., Bayou-Mallet Field, Acadia Parish, La.	Depleted	
CI66-553 B 10-19-67	Moss-Petroleum Co. (Operator) et al., Post Office Box 2009, Amarillo, Tex. 79101.	Phillips Petroleum Co., West Panhandle Field, Moore County, Tex.	Depleted	
CI66-554 B 10-12-67	Sinclair Oil & Gas Co., Post Office Box 521, Tulsa, Okla. 74102.	Texas Gas Pipe Line Corp., North Port Neches Field, Orange County, Tex.	Depleted	

[1] No permanent certificate issued. Temporary authorization granted by Letter Order issued June 14, 1961.
[2] The application states that Mobil has delivered no gas to Transwestern from the acreage committed to the subject contract at depths below the top of the Ellenburger formation and that in view of Transwestern's serious take-or-pay status, Transwestern and Mobil have mutually agreed to the deletion of these deeper formations from their basic contract.
[3] Well is incapable of producing against Buyer's pipeline pressure.
[4] Amendment also provides for increase in contract quantity.
[5] Subject contract covered sale of "excess gas" as defined therein and there have been no deliveries thereunder since August 1957, and it is not anticipated that there will be any future deliveries.
[6] Subject to upward and downward B.t.u. adjustment.
[7] Includes 1.75 cents per Mcf tax reimbursement.
[8] Includes 0.1062-cent tax reimbursement.
[9] Includes 2 cents per Mcf gathering charge.

[F.R. Doc. 67-12826; Filed, Nov. 1, 1967; 8:45 a.m.]

[Docket No. RI62-506 [1]]

TENNECO OIL CO. AND CONTINENTAL OIL CO. [2]

Order Accepting Decreased Rate Filing

OCTOBER 26, 1967.

On September 25, 1967, Continental Oil Co. (Continental) tendered for filing a proposed rate decrease, from 23.55 cents to 21.75 cents per Mcf, amounting to $360 annually, for gas sold to Florida Gas Transmission Co. from the Bay Natches Field, Assumption and Iberville Parishes, La. (South Louisiana). The filing reflects a decrease from a redetermined rate presently being collected subject to refund in Docket No. RI62-506, to a contractually provided for periodic rate. The redetermined rate was applicable only to July 1, 1967, and since such date, the rate, as proposed in the instant filing, reverted to the rate provided for in the contract's escalation provisions. Such rate still exceeds the area increased rate ceiling. The decreased rate filing is set forth in appendix A hereof.

Continental requests that the Commission waive the 30-day statutory notice requirement and accept for filing its proposed rate decrease effective as of July 1, 1967. Since Continental's decreased rate is provided for in the escalation provisions of its contract, we conclude that it would be in the public interest to waive the 30-day notice requirement provided in section 4(d) of the Natural Gas Act and accept for filing Continental's proposed rate decrease effective as of July 1, 1967, subject to refund in the existing rate proceeding in Docket No. RI62-506.

The Commission finds: Good cause exists for accepting for filing Continental's proposed rate decrease, designated as Supplement No. 4 to its FPC Gas Rate Schedule No. 263, effective as of July 1, 1967, subject to the existing rate suspension proceeding in Docket No. RI62-506 and refund obligation related thereto.

The Commission orders: Supplement No. 4 to Continental's FPC Gas Rate Schedule No. 263 is accepted for filing effective as of July 1, 1967, subject to the existing rate suspension proceeding in Docket No. RI62-506 and refund obligation related thereto.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[1] Docket No. RI62-506 is consolidated with the Area Rate Proceeding (South Louisiana Area), Docket Nos. AR61-2, et al.
[2] Formerly Delhi-Taylor Oil Corp.

Appendix A—Continued

Docket No.	Respondent	Rate sched. No.	Supp. No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date	Rate in effect	Proposed increased rate	Rate in effect subject to refund in docket Nos.
								¶ per Mcf		
RI69-[illegible]	Continental Oil Company P.O. Box 2197, Houston, Tex. 77001. Attn: Mr. R. E. Galbraith.	289	6	Florida Gas Transmission Company (Bay Natchez Field, Assumption and Iberville Parishes, Louisiana) (South Louisiana).	$360	9-25-67	[5] 7-1-67	[11] 21.15	[11] [12] 21.75	RI69-500.

[1] The stated effective date is the contractually provided effective date.
[2] Rate decrease from redetermined rate to contractually provided for periodic rate effective for 5-year period commencing July 1, 1967.
[3] Pressure base is 14.65 p.s.i.a.
[4] Subject to a downward B.t.u. adjustment.
[5] Inclusive of 1.75-cent tax reimbursement.
[6] Inclusive of 2.05-cent tax reimbursement.

[F.R. Doc. 67-12827; Filed, Nov. 1, 1967; 8:45 a.m.]

[Docket No. RP67-22]

TENNESSEE GAS PIPELINE CO.

Order Prescribing Procedure and Setting Prehearing Conference

OCTOBER 27, 1967.

By order issued on June 19, 1967, Tennessee Gas Pipeline Co. (Tennessee), a Division of Tenneco Inc., was directed to show cause why it should not make the accounting adjustments therein set forth in accordance with the Commission's Uniform System of Accounts. On September 5, 1967, Tennessee filed its answer to the order to show cause, dealing separately with the matters covered by subparagraphs (a) through (g) and subparagraphs (h) through (m) of the order to show cause.

Subparagraphs (a) through (g) of the order refer to accounting adjustments, all of which are related to Tennessee's operation of and accounting in connection with its on-system production properties. In the first part of its answer, Tennessee requests permission to file the necessary applications for Commission approval of a transfer of all of its on-system production properties (with the exception of its Bastian Bay and Ship Shoal properties, the subject of other Commission proceedings[1]) to its affiliate, Tenneco Oil Co. Tennessee also requests that pending Commission disposition of said applications the issues contained in subparagraphs (a) through (g) of the order to show cause be held in abeyance. The Commission has considered the request of Tennessee and has determined to grant Tennessee permission to file the said applications. Following the filing of such applications, notice will issue to interested parties who will then have an opportunity to be heard thereon. By granting Tennessee permission to make the filings referred to, the Commission is not thereby making any determination with respect to the proposal of any of the issues contained in subparagraphs (a) through (g) of the order to show cause.

With its responses to the matters covered by subparagraphs (h) through (m) of the order to show cause, Tennessee requests that those items be disposed of under the shortened procedure provided for in §§ 154.2 through 154.6 of the Commission's regulations under the Natural Gas Act. However, it appears that there may be questions of fact and interpretation which require a hearing. Accordingly, we will provide for such a hearing at which Tennessee, interested parties, State commissions and the Commission's staff will have an opportunity to participate.

We note that the order to show cause was served only upon Tennessee and the appropriate State commissions and Tennessee's answer was served only on the Commission's staff. In order that all interested parties receive notice hereof, we are requiring Tennessee to serve copies of the order to show cause and of the answer upon all its jurisdictional customers and, with respect to the answer, upon the appropriate State commissions.

We will also provide for the filing of notices of intervention and petitions to intervene. United Gas Improvement Co. filed a petition to intervene on June 29, 1967, and the said petition will be ruled upon along with any other petitions which may be filed herein.

We are scheduling a prehearing conference in this order at which the parties, intervenors, and staff will have the opportunity to make statements of position and, if possible, to arrive at an acceptable stipulation of facts. If a stipulation on all the facts is not agreed upon at the prehearing conference the examiner will then schedule the hearing herein.

The Commission orders:

(A) Within 10 days from the date of this order Tennessee shall serve copies of the order to show cause and of its answer thereto upon its jurisdictional customers and copies of its answer on the appropriate State commissions.

(B) With respect to the matters covered by subparagraphs (a) through (g) of the order to show cause, Tennessee shall file on or before November 6, 1967, the necessary applications to effectuate the transfer proposal contained in its answer to the order to show cause. Pending such filing and Commission action on said applications, no further action will be taken with respect to the matters covered by the said subparagraphs (a) through (g) of the order to show cause.

(C) Any person who desires to participate as intervenor herein, shall, on or before November 24, 1967, file a notice of intervention or petition to intervene with the Secretary of the Commission in accordance with § 1.8 of the Commission's rules of practice and procedure.

(D) A prehearing conference shall be held pursuant to the Commission's rules of practice and procedure in a hearing room of the Commission at 441 G Street NW., Washington, D.C. 20426, on December 18, 1967, commencing at 10 a.m. before a hearing examiner designated to act as the presiding examiner in this proceeding for the purpose of but not limited to affording all interested parties an opportunity to make statements of position and to enter into a stipulation of facts and to take such other steps as may be appropriate to expeditiously determine the issues herein. At the conclusion of the prehearing conference, or as soon thereafter as may be feasible, the presiding examiner shall set the dates for the submission of briefs in the event a stipulation of all material facts is entered into, or, absent such stipulation, the dates for the service of testimony and exhibits by the staff, parties and intervenors and the date for commencement of the hearing and cross-examination.

(E) Examiner Arthur H. Pribourg, a duly qualified and appointed hearing examiner, or any officer or officers of the Commission designated by the acting chief examiner for that purpose (see delegation of authority, 18 CFR 3.5(d), etc.), is designated to act as presiding examiner in this proceeding as of the date of the issuance of this order and is authorized and directed in so doing to exercise all of the functions and authority prescribed by the Administrative Procedure Act and the Commission's rules of practice and procedure, including the holding of the above scheduled prehearing conference and such other prehearing conferences as he may deem advisable to expedite the proceeding herein.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-12823; Filed, Nov. 1, 1967; 8:45 a.m.]

[1] Docket Nos. CP66-269 et al., and RI64-126, respectively.

[Project 2246]

YUBA COUNTY WATER AGENCY

Notice of Application for Amendment of License for Partly Constructed Project

OCTOBER 27, 1967.

Public notice is hereby given that application for amendment of license has been filed under the Federal Power Act (16 U.S.C. 791a, 825r) by Yuba County Water Agency (correspondence to: Colin H. Handforth, Engineer-Administrator, Yuba County Water Agency, County Courthouse, Post Office Box 1569, Marysville, Calif. 95901) for partly constructed Project No. 2246, known as Yuba River Development, located on Yuba River and its tributaries, North Yuba River, Middle Yuba River, and Oregon Creek, in the counties of Yuba, Nevada, and Sierra, Calif.

The application seeks Commission authorization to permit, during reservoir filling, the floating out of logs and heavy clearing debris from precipitous and inaccessible portions of the New Bullards Bar Reservoir area to disposal areas situated within the project boundary, rather than prior to impoundment of reservoir water, as presently required by license Article 41.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may filed is December 11, 1967. The application is on file with the Commission for public inspection.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-12826; Filed, Nov. 1, 1967; 8:46 a.m.]

FEDERAL MARITIME COMMISSION

SOUTH ATLANTIC & CARIBBEAN LINE, INC., AND TMT TRAILER FERRY, INC.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Homer S. Carpenter, Esq., Carpenter and Garraway, 839 Perpetual Building, Washington, D.C., and John Mason, Regan & Mason, 200 17th Street, Washington, D.C.

South Atlantic and Caribbean Line, Inc. (SACL), and TMT Trailer Ferry, Inc. (C. Gordon Anderson, Trustee) (TMT), have entered into a stipulation and agreement, designated DC-76 in which TMT will publish in its freight tariff No. 4, FMC-F No. 5 an increased rate on "Refrigerated Freight, N.O.S." of $975 per 40-foot trailer (including pickup and delivery at loading and discharge points), in lieu of its presently effective rate of $900 per 40-foot trailer, predicated on a dock-to-dock service. The rate will apply between Miami and Jacksonville on the one hand and San Juan, P.R., on the other. TMT will also publish a trailer overload charge of not less than $1 per 100 pounds applicable to that part of the shipment that exceeds 40,000 pounds. Upon the effectiveness of the aforementioned action by TMT, SACL will move to dismiss its compaint in Docket No. 67-44, South Atlantic & Caribbean Line, Inc. v. TMT Trailer Ferry, Inc. SACL had alleged in Docket 67-44 that TMT's rate for refrigerated freight, n.o.s. of $900 per trailer between the ports of Miami and Jacksonville on the one hand and on the other San Juan, P.R., was below a fair and remunerative basis.

The stipulation and agreement provides that nothing therein shall prejudice or limit the rights of either party to make future changes in their respective rates on refrigerated traffic nor prejudice or limit the rights of each other to exercise any available right or action in connection with future changes in rates.

Dated: October 27, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI, *Secretary.*

[F.R. Doc. 67-12900; Filed, Nov. 1, 1967; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[812-2077]

BERKSHIRE INDUSTRIES, INC.

Notice of and Order for Hearing on Application To Exempt Proposed Transaction

OCTOBER 26, 1967.

Notice is hereby given that Berkshire Industries, Inc. ("Berkshire"), 350 Lexington Avenue, New York, N.Y., a New Jersey corporation, has filed an application pursuant to section 17(b) of the Investment Company Act of 1940 ("Act") for an order of the Commission exempting the merger of Berkshire and American-Hawaiian Steamship Co. ("American"), a management closed-end investment company registered under the Act, from the provisions of section 17(a) of the Act. All interested persons are referred to the application which is on file with the Commission for a statement of Berkshire's representations, which are summarized below.

Berkshire owns 176,719 out of 184,177 shares (approximately 96 percent) of the capital stock of American. The Board of Directors of Berkshire has adopted a resolution to merge American into Berkshire pursuant to section 14:12-10 of the New Jersey Corporation Law, and to pay the sum of $975 per share of American to the stockholders thereof, other than Berkshire, upon the surrender of their shares of Berkshire.

Section 14:12-10 of the New Jersey General Corporation Law permits a New Jersey corporation owning 90 percent or more of the outstanding voting stock of a subsidiary New Jersey corporation to effect a "short form merger" of such subsidiary into itself by the adoption by the parent's board of directors of a resolution setting forth the terms of merger. The merger becomes effective upon the filing of a Certificate of Ownership and Merger with the Secretary of State of the State of New Jersey. The minority stockholders of the subsidiary have the option to accept the price set forth in the directors' resolution or to exercise a right to have their stock appraised, as provided in section 14:12-6 of the New Jersey Corporation Law.

The application represents that Berkshire's Board of Directors has fixed the price of $975 per share to be paid to the minority holders of American's shares after considering the market value of the stock of American, the value of the assets of American, and appraisals of certain assets and liabilities of American.

Berkshire intends promptly after filing the proposed Certificate of Ownership and Merger, to file an application pursuant to section 3(f) of the Act for an order declaring that American has ceased to be an investment company.

Section 17(a) of the Act, as here pertinent, makes it unlawful for Berkshire, an affiliated person of American, a registered investment company, to sell to or purchase from such company any security, unless the Commission finds, upon application pursuant to section 17(b) of the Act, that the terms of the proposed transaction are reasonable and fair and do not involve overreaching and that the proposed transaction is consistent with the policy of the registered investment company, and with the general purposes of the Act.

It appearing to the Commission that it is appropriate, in the public interest and in the interest of investors that a hearing be held with respect to the application;

It is ordered, Pursuant to section 40(a) of the Act, that a hearing on the aforesaid application under the applicable provisions of the Act and of the rules of the Commission thereunder be held on the 28th day of November 1967, at 10 a.m. in the offices of the Securities and

Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549. At such time, the Hearing Room Clerk will advise as to the room in which such hearing will be held. Any person desiring to be heard or otherwise wishing to participate in this proceeding is directed to file with the Secretary of the Commission his application as provided by Rule 9(c) of the Commission's rules of practice, on or before the date provided in the rule, setting forth any issues of law or fact which he desires to controvert or any additional issues which he deems raised by this notice and order or by such application. Persons filing an application to participate or be heard will receive notice of any adjournment of the hearing as well as other actions of the Commission involving the subject matter of these proceedings.

It is further ordered, That any officer or officers of the Commission designated by it for that purpose, shall preside at said hearing. The officer so designated is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42(b) of the Investment Company Act of 1940 and to a hearing officer under the Commission's rules of practice.

The Division of Corporate Regulation having advised the Commission that it has made a preliminary examination of the application, and that upon the basis thereof, the following matter is presented for consideration without prejudice to its specifying additional matters upon further examination.

(1) Whether the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned.

(2) Whether the proposed transaction is consistent with the policy of the registered investment company as recited in its registration statement and reports filed under the Act, and

(3) Whether the proposed transaction is consistent with the general purposes of the Act.

It is further ordered, That at the aforesaid hearing, attention should be given to the foregoing matter.

It is further ordered, That Berkshire shall cause a copy of this notice to be mailed to each of the holders of American's securities at their last known address.

It is further ordered, That the Secretary of the Commission shall give notice of the aforesaid by mailing a copy of this notice and order by certified mail to Berkshire and that notice to all other persons be given by publication of this notice and order in the FEDERAL REGISTER, and that a general release of this Commission in respect of this notice and order be distributed to the press and mailed to the mailing list for release.

By the Commission.

ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-12992; Filed, Nov. 1, 1967; 8:46 a.m.]

[File No. 1-3481]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

OCTOBER 27, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976 being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period October 30, 1967, through November 8, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-12994; Filed, Nov. 1, 1967; 8:46 a.m.]

[812-2303]

IVEST FUND, INC.

Notice of Application for Exemption

OCTOBER 27, 1967.

Notice is hereby given that Ivest Fund, Inc. ("applicant"), 1 State Street, Boston, Mass., an open-end diversified management investment company registered under the Investment Company Act of 1940 ("Act") has filed an application pursuant to section 6(c) of the Act. Applicant requests an order to permit applicant to enter into a renewed management contract on April 1, 1968, if such action is approved by applicant's shareholders at their annual meeting November 15, 1967. All interested persons are referred to the application on file with the Commission for a statement of applicant's representations which are summarized below.

On March 31, 1967, Ivest, Inc., investment adviser to applicant, became a wholly owned subsidiary of Wellington Management Co., the applicant's principal underwriter and the investment adviser to Wellington Fund, Inc., Windsor Fund, Inc., Exeter Fund, Inc., Exeter Second Fund, Inc., Exeter Third Fund, Inc., and Gemini Fund, Inc. This was accomplished by an exchange of all the issued and outstanding shares of Ivest, Inc., for shares of class B common stock of Wellington. The exchange constituted an assignment which thereby terminated Ivest, Inc.'s, management contract with applicant. Accordingly, a new management contract between applicant and Ivest, Inc., and Wellington Management Co. was entered into effective April 1, 1967, the terms of which were approved by applicant's shareholders at a meeting held on January 25, 1967.

As part of the combination of Ivest, Inc., and Wellington Management Co., 9,000 shares of Wellington class B common stock, representing approximately 64 percent of the voting power of Wellington, were deposited in a voting trust with Walter L. Morgan, chairman of Wellington, Joseph E. Welch, president of Wellington, John C. Bogle, executive vice president of Wellington, Andrew B. Young, director of and counsel to Wellington, and W. Nicholas Thorndike, Robert W. Doran, Stephan D. Paine, and George Lewis, managing directors of Wellington, as trustees. However, the terms of the voting trust provide that until April 1, 1968, it will be controlled by the vote of Mr. Morgan and, if the shareholders of the funds then served by Wellington approve new investment advisory contracts, it will be controlled by a majority vote of Messrs. Morgan, Welch, Bogle, and Young from April 1, 1968, until April 1, 1971, except, in each case, for certain major corporate changes.

The April 1, 1968, change in control of the voting trust from Mr. Morgan acting alone to a majority vote of Messrs. Morgan, Welch, Bogle, and Young will cause a termination of applicant's management contract then in effect. Accordingly, it will be necessary to submit to applicant's shareholders for their approval the terms of a renewed management contract to become effective April 1, 1968, in light of the change in control of the voting trust. This renewed management contract will contain precisely the same terms as the management contract in effect immediately prior to the change in control. If the proposed revision of the management fee schedule (to become effective Nov. 30, 1967) is approved by the applicant's shareholders at their November 15, 1967 meeting, the renewed contract to become effective next April 1 will contain such revision. If such approval is not obtained, the renewed contract will contain precisely the same terms as the present management contract.

The date of April 1, 1968 for the change in control of the voting trust was chosen because the stockholders' meetings of the funds managed by Wellington are held in March of each year. However, the annual meeting of applicant's shareholders is to be held in November; and applicant wishes to avoid the expense to its shareholders of holding a special meeting next March.

Section 15(a) of the Act provides that it shall be unlawful for any person to serve or act as investment adviser of a registered investment company except pursuant to a written contract which has been approved by a vote of a majority of the outstanding voting securities and provides for its automatic termination in event of its assignment by the investment adviser. The 4½-month time lapse between the proposed shareholder vote on the contract and the contemplated effective date of the new contract raises a question of the validity of any shareholder approval of the new contract so far in advance of such effective date.

Applicant submits that in light of the foregoing and the fact that the terms of the management contract to be renewed and the proposed change in control of the sole stockholder of the investment adviser have been determined and are set forth in the proxy statement, it is appropriate for applicant on April 1, 1968, to enter into a renewed management contract on the same terms as that in force immediately prior thereto if such action is approved by shareholders of the Fund at their November 15, 1967, annual meeting.

Section 6(c) of the Act provides that the Commission, by order upon application, may exempt any person or transaction from any provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 13, 1967 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address set forth above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 8-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-12995; Filed, Nov. 1, 1967; 8:46 a.m.]

NORTH AMERICAN RESEARCH & DEVELOPMENT CORP.

Order Suspending Trading

OCTOBER 27, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of North American Research & Development Corp., 1636 South Main Street, Salt Lake City, Utah, and all other securities of North American Research & Development Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period October 28, 1967, through November 8, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-12996; Filed, Nov. 1, 1967; 8:47 a.m.]

[File No. 0-893]

PAKCO COMPANIES, INC.

Order Suspending Trading

OCTOBER 27, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Pakco Companies, Inc., and all other securities of Pakco Companies, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period October 30, 1967, through November 8, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-12997; Filed, Nov. 1, 1967; 8:47 a.m.]

[File No. 1-3228]

ROTO AMERICAN CORP.

Order Suspending Trading

OCTOBER 27, 1967.

The common stock, $1 par value, of Roto American Corp., being listed and registered on the National Stock Exchange pursuant to the provisions of the Securities Exchange Act of 1934 and the 7 percent cumulative preferred, $10 par value, being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the National Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period October 28, 1967, through November 7, 1967 both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-12998; Filed, Nov. 1, 1967; 8:47 a.m.]

[File No. 1-4971]

WESTEC CORP.

Order Suspending Trading

OCTOBER 27, 1967.

The common stock, 10 cents par value, of Westec Corp., being listed and registered on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Westec Corp., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the American Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period October 28, 1967, through November 8, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-12999; Filed, Nov. 1, 1967; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 1112]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

OCTOBER 27, 1967.

The following applications are governed by Special Rule 1.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the

[1] Copies of Special Rule 1.247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with § 1.247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the Rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of § 1.247(d)(4) of the special rule, and shall include the certification required therein.

Section 1.247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's General Policy Statement Concerning Motor Carrier Licensing Procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the applications as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 1351 (Sub-No. 11), filed October 18, 1967. Applicant: M. HASKELL, INC., 312 South Main Street, Palmer, Mass. Applicant's representative: Reubin Kaminsky, 410 Asylum Street, Hartford, Conn. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper articles*, from plantsites and warehousing facilities of Diamond-National Corp. at Ludlow and Springfield, Mass., to Mount Vernon, Boscon, Albany, and New York, N.Y., and points in Nassau and Suffolk Counties, N.Y., and points in New Jersey, and (2) *waste paper*, from points in New Jersey (except Harrison, Bloomfield, Bogota, Paterson, Ridgefield Park, Newark, Passaic, Delawanna, and New Brunswick), and points in Nassau and Suffolk Counties, N.Y., and Albany, N.Y., to the plantsite of Diamond-National Corp. at Palmer, Mass., under contract with Diamond-National Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Hartford, Conn., or New York, N.Y.

No. MC 2202 (Sub-No. 333), filed October 13, 1967. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, Ohio 44309. Applicant's representatives: William O. Turney, 2001 Massachusetts Avenue NW., Washington, D.C. 20036, and Douglas Faris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Rockford and Mendota, Ill.: From Rockford over U.S. Highway 51 to Mendota, and return over the same route serving no intermediate points as an alternate route for operating convenience only. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 2860 (Sub-No. 30), filed October 18, 1967. Applicant: NATIONAL FREIGHT, INC., 57 West Park Avenue, Vineland, N.J. 08360. Applicant's representative: Alvin Altman, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass or plastic containers, bottles, jars, pack glasses, and jelly tumblers*, with or without caps, covers, stoppers, or tops, and *corrugated paper boxes or paper containers*, knocked down, when moving in mixed shipments with the above-described commodities, between Jersey City and Carteret, N.J., on the one hand, and, on the other, points in Connecticut, Massachusetts, New York, and Rhode Island. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Newark, N.J.

No. MC 3560 (Sub-No. 32), filed October 17, 1967. Applicant: GENERAL EXPRESSWAYS, INC., 1205 South Platte River Drive, Denver, Colo. 80223. Applicant's representative: Kenneth A. Willhite (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix 1 to the *Report in Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite of Oscar Mayer & Co., Inc., Beardstown, Ill., to points in Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Chicago, Ill.

No. MC 4405 (Sub-No. 452), filed October 12, 1967. Applicant: DEALERS TRANSIT, INC., 13101 South Torrence Avenue, Chicago, Ill. 60633. Applicant's representative: James W. Wrape, 2111 Sterick Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal buildings*, complete, knocked down, or in sections and parts and accessories thereof, from points in Polk County, Ga., to points in Maine, New Hampshire, Vermont, Connecticut, Massachusetts, Rhode Island, Delaware, and the District of Columbia. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 4963 (Sub-No. 26), filed October 13, 1967. Applicant: JONES MOTOR CO., INC., Bridge Street and Schuylkill Road, Spring City, Pa. 19475. Applicant's representative: Roland Rice, Suite 618, Perpetual Building, 1111 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, livestock, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Morton, Ill., and Akron, Ohio, (a) from Morton over Interstate Highway 74 to junction Illinois Highway 117, thence over Illinois Highway 117 to junction U.S. Highway 24, thence over U.S. Highway 24 to junction U.S. Highway 224 at Huntington, Ind., thence over U.S. Highway 224 to Akron, Ohio, and (b) from Morton over Interstate Highway 74 to junction Interstate Highway 55 (U.S. Highway 66), thence over Interstate Highway 55 (U.S. Highway 66) to junction U.S. Highway 24, thence as specified above to Akron, as an alternate route for operating convenience only, serving no intermediate points, with right of joinder at junction Interstate Highway 55 (U.S. Highway 66) and Interstate Highway 74, and at junction Interstate Highway 55 (U.S. Highway 66) and U.S. Highway 24, (2) between St. Louis, Mo., and Akron, Ohio, from St. Louis over Interstate Highway 70 to junction Interstate Highway 71, thence over Interstate Highway 71 to Akron, as an alternate route for operating convenience only, serving no intermediate points, (3) between St. Louis, Mo., and Canton, Ohio, from St. Louis over Interstate Highway 70 to junction Interstate Highway 77 at Cambridge, Ohio, thence over Interstate Highway 77 to Canton, as an alternate route for operating convenience only, serving no intermediate points, with right of joinder at Cambridge, Ohio, and (4) between Pittsburgh, Pa., and Cambridge, Ohio, (a) from Pittsburgh over Interstate Highway 79 to junction Interstate Highway 70, thence over Interstate Highway 70 to Cambridge, as an alternate route for operating convenience only, serving no intermediate points, with right of joinder at Washington, Pa., and Cambridge, Ohio, and (b) from Pittsburgh over U.S. Highway 22 to Cambridge, as an alternate route for operating convenience only, serving no intermediate points, with right of joinder at Cambridge, Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 8544 (Sub-No. 23), filed October 20, 1967. Applicant: GALVESTON TRUCK LINE CORPORATION, 7415 Wingate, Houston, Tex. 77011. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Antifreeze*, packaged, not in bulk, and *sugar*, in packages, from Houston, Tex., to points in Oklahoma, except Oklahoma City, and (2) *sugar*, in packages, from Houston, Tex., to points in Arkansas. NOTE: If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 13250 (Sub-No. 93), filed October 19, 1967. Applicant: J. H. ROSE TRUCK LINE, INC., 5003 Jensen Drive, Post Office Box 16190, Houston, Tex. 77022. Applicant's representative: Thomas E. James, The 904 Lavaca Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery and implements*, between points in Maricopa County, Ariz., on the one hand, and, on the other, points in Texas, Louisiana, Mississippi, Alabama, Georgia, North Carolina, and South Carolina. NOTE: Applicant states that tacking would take place at points in Maricopa County, Ariz., involving movements between California, on the one hand, and, on the other, Mississippi, Alabama, Georgia, North Carolina, and South Carolina. Applicant also states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz., or Washington, D.C.

No. MC 30504 (Sub-No. 15), filed October 18, 1967. Applicant: TRUCKER FREIGHT LINES, INC., 1451 South Olive Street, South Bend, Ind. 46621. Applicant's representative: Ferdinand Born, 601 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the plantsite of Ford Motor Co., Van Dyke and 18 Mile Road, Sterling Township, Mich., as an off-route point in connection with applicant's authorized regular route service into and from Detroit, Mich. NOTE: If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Chicago, Ill.

No. MC 31600 (Sub-No. 621) (CORRECTION) filed October 6, 1967, published FEDERAL REGISTER issue of October 19, 1967, corrected and republished as corrected this issue. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham, Mass. 02154. Applicant's representative: Harry C. Ames, Jr., 529 Transportation Building, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, "in bulk," from Burlington, N.J., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Mississippi, Missouri, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: The purpose of this republication is to add "in bulk," which was inadvertently omitted from the commodity description. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 31600 (Sub-No. 622), filed October 16, 1967. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham, Mass. 02154. Applicant's representative: Harry C. Ames, Jr., 529 Transportation Building, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Edible lard*, in bulk, from Jamaica, N.Y., to Portsmouth, N.H., (2) *flour*, in bulk from Englewood, N.J., to points in Connecticut, Delaware, Maryland, Pennsylvania, and New York, (3) *liquid paint*, in bulk, in tank vehicles, from Elizabeth, N.J., to Roxboro, N.C., (4) *whiskey*, in bulk, in tank vehicles, from port of entry on the international boundary line between the United States and Canada located at Niagara Falls, N.Y., to Hartford, Conn., and (5) *aviation gasoline*, in bulk, moving on Government bills of lading, from Newington, N.J., to Plattsburgh, N.Y. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 44065 (Sub-No. 32), filed October 17, 1967. Applicant: MILNE TRUCK LINES, INC., 2200 South Third West Street, Salt Lake City, Utah 84115. Applicant's representative: Henry A. Dahn (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Apex and Blue Diamond, Nev., as off-route points in connection with applicant's regular-route authority serving Nevada. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 50069 (Sub-No. 289), filed October 9, 1967. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 930 North York Road, Hinsdale, Ill. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, in bulk (except nitrogen fertilizer solutions and ammoniating solutions), from the storage facilities of the Southern Nitrogen Co., Inc., at or near Fulton, Ind., to points in Illinois, Michigan, and Ohio. NOTE: Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 51146 (Sub-No. 64), filed October 16, 1967. Applicant: SCHNEIDER TRANSPORT & STORAGE, INC., 817 McDonald Street, Green Bay, Wis. 54306. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fibrous materials and products, products* produced or distributed by manufacturers of fibrous materials and products, *supplies* incidental to the use of foregoing described commodities and *related premiums and advertising materials* when shipped with foregoing described commodities, from Griswoldville and Walpole, Mass., and Windham, Conn., to St. Louis, Mo., and points in Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, and Wisconsin and (2) *returned and rejected shipments* of the above-described commodities, on return. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 57322 (Sub-No. 2), filed October 9, 1967. Applicant: SYRACUSE RIGGING COMPANY, INC., 223 Pulaski Street, Syracuse, N.Y. 13204. Applicant's representative: Herbert M. Canter, 345 South Warren Street, Syracuse, N.Y. 13202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Heavy machinery, road machinery, structural steel, oil field rigs, and other articles* which because of weight or bulk, require the use of special vehicles, equipment, and rigging, (1) between points in Onondaga County, N.Y., on the one hand, and, on the other, points in New York, (2) between points in Albany, Broome, Cayuga, Chemung, Chenango, Clinton, Cortland, Delaware, Erie, Essex, Franklin, Fulton, Genesee, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Oneida, Onondaga, Ontario, Oswego, Otsego, Rensselaer, St. Lawrence, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, Steuben, Sullivan, Tioga, Tompkins, Washington, Wayne, Wyoming, and Yates Counties, N.Y., and (3) from points in Cayuga County, N.Y., to points in Nassau County, N.Y. NOTE: By this application, applicant seeks to convert its certificate of registration in MC 57322 (Sub-No. 1) into a certificate of public

convenience and necessity. Applicant states it intends to tack each of the above-described authorities at commonly authorized service points. If a hearing is deemed necessary, applicant requests it to be held at Syracuse or New York, N.Y., or Washington, D.C.

No. MC 69007 (Sub-No. 6), filed October 12, 1967. Applicant: ADELAIR TRANSPORTATION, INC., 41 McGregor Street, Manchester, N.H. 03102. Applicants' representative: Mary E. Kelley, 10 Tremont Street, Boston, Mass. 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by wholesale, retail and chain grocery and food business houses*, from Manchester and Nashua, N.H., to points in New Hampshire on and south of U.S. Highway 4, and Wilder, Vt. Note: Applicant indicates it proposes to tank with its regular routes between Boston and Plymouth, N.H., Nashua and Manchester being intermediate points on such route. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass., or Concord, N.H.

No. MC 81219 (Sub-No. 9), filed October 13, 1967. Applicant: JOHN JOSEPH O'HARA AND JAMES P. O'HARA, a partnership, doing business as MEEHAN COMPANY, 2234 North Sixth Street, Philadelphia, Pa. 19133. Applicant's representative: Richard V. Eng, 1418 Packard Building, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Pianos, organs and accessories thereof*, between points in Bucks County, Pa., on the one hand, and, on the other, points in New Jersey and Delaware, (b) *pianos, organs and accessories*, between Philadelphia, Pa., and points in Delaware and Montgomery Counties, Pa., on the one hand, and, on the other, points in that part of New Jersey north of a line beginning at Trenton, N.J., and extending in a northerly direction along U.S. Highway 206 to Princeton, N.J., thence in a southeasterly direction along an unnumbered highway to Hightstown, N.J., and thence in an easterly direction along New Jersey Highway 33 to the Atlantic Ocean (excluding points in the named portions of the highways specified), and (c) *stereo sets, high-fidelity sets, television sets, and record players*, all uncrated, between Philadelphia, Pa., and points in Bucks, Montgomery, and Delaware Counties, Pa., on the one hand, and, on the other, points in New Jersey and Delaware. Note: If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 81893 (Sub-No. 92), filed October 16, 1967. Applicant: JOHNSON TRUCK LINE, INC., 3708 Elm Street, Bettendorf, Iowa 52722. Applicant's representative: R. Conner Wiggins, Jr., 209 100 (North Main Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials, plywood, molding and millwork*, from points in Tipton County, Tenn., to points in North Dakota, South Dakota, Iowa, Wisconsin, Ohio, Minnesota, Illinois, Indiana, Michigan, Nebraska, Missouri, Kansas, Mississippi, Alabama, Georgia, Florida, and Louisiana. Note: Applicant states the proposed authority herein can or will be joined with its presently authorized authority in MC 81893 Subs 20, 36, 55, and 67, wherein it is authorized to operate in the States of Missouri, Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, Wisconsin, Arkansas, Tennessee, Kentucky, Alabama, North Dakota, South Dakota, Missouri, Pennsylvania, Ohio, Texas, Kansas, and Oklahoma. If a hearing is deemed necessary, applicant requests it to be held at Memphis, Tenn.

No. MC 86989 (Sub-No. 31), filed October 16, 1967. Applicant: HOUFF TRANSFER, INCORPORATED, Post Office Box 91, Wayne Cave, Va. 24486. Applicant's representative: Harold G. Hernly, 731 14th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pulp board and paper*, from Covington, Va., to Newark and New Castle, Del., and points within a 5-mile radius of Newark and New Castle, Del., and (2) *rejected shipments* on return. Note: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 71108 (Sub-No. 3), filed October 13, 1967. Applicant: MUNCE BROS. TRANSFER & STORAGE CO., a corporation, 321 South Franklin Avenue, Sioux Falls, S. Dak. 57103. Applicant's representatives: R. G. May, 412 West Ninth Street, Sioux Falls, S. Dak. 57104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities, the transportation of which, by reason of size or weight, require the use of special equipment and related contractors' materials, equipment, and supplies when transported in connection with such commodities*, between Sioux Falls, S. Dak., and points within 75 miles thereof, on the one hand, and, on the other, points in Minnesota south of U.S. Highway 12, extending from the South Dakota-Minnesota State line near Ortonville, Minn., through Willmar and Minneapolis, Minn., to the Minnesota-Wisconsin State line (excluding points in the Minneapolis-St. Paul commercial zone, as defined by the Commission) and points in Iowa and Nebraska within 150 miles of Sioux Falls, S. Dak. Note: If a hearing is deemed necessary, applicant request: it be held at Sioux Falls, S. Dak., Omaha, Nebr., or Minneapolis, Minn.

No. MC 48539 (Sub-No. 231), filed October 20, 1967. Applicant: C & H TRANSPORTATION CO., INC., 1935 West Commerce Street, Dallas, Tex. 75222. Applicant's representatives: J. P. Welsh, Post Office Box 5064, Dallas, Tex., and W. T. Reeves, 410 Northwest Sixth Street, Oklahoma City, Okla. 73102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Material handling equipment, winches, compaction and reclaiming equipment, rollers, self-propelled and non-self-propelled, mobile cranes, and highway freight trailers*, and (2) *parts, attachments and accessories* for the commodities described in (1) above, between the plantsites of the Easter Co. located at or near Danville, Kewanee, and Peoria, Ill., on the one hand, and, on the other, points in Arkansas, Indiana, Kansas, Kentucky, Louisiana, Mississippi, New Mexico, Oklahoma, and Texas, restricted to the handling of traffic originating at or destined to the named plantsites. Note: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 94201 (Sub-No. 59) (Amendment), filed June 7, 1967, published in the FEDERAL REGISTER issue of July 7, 1967, amended October 16, 1967, and republished as amended this issue. Applicant: BOWMAN TRANSPORTATION, INC., 2161 Moreland Avenue SE., Atlanta, Ga. 30316. Applicant's representative: Maurice F. Bishop, 127 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading), (1) between Gadsden, Ala., and Memphis, Tenn.: (a) From Gadsden, over U.S. Highway 431 to junction U.S. Highway 72 at Huntsville, Ala., thence over U.S. Highway 72 to Memphis, Tenn., and return over the same routes serving all intermediate points in Alabama and the off-route point of Scottsboro, Ala.; those points in Alabama within a 15-mile radius of Gadsden; Huntsville, Decatur, Florence, Sheffield, and Tuscumbia, Ala.; and those points in Tennessee, Mississippi, and Arkansas within a 15-mile radius of Memphis, Tenn.; (b) from Gadsden, over U.S. Highway 278 to junction U.S. Highway 231, thence over U.S. Highway 231 to junction Alabama Highway 67, thence over Alabama Highway 67 to junction U.S. Highway 31, thence over U.S. Highway 31 to junction U.S. Alternate Highway 72 at Decatur, Ala., thence over U.S. Alternate Highway 72 to junction U.S. Highway 72, thence over U.S. Highway 72 to Memphis, Tenn., and return over the same routes serving all intermediate points in Alabama; (c) from Gadsden, over U.S. Highway 278 to Cullman, Ala., thence over Interstate Highway 65 to Hartselle, Ala., thence over Alabama Highway 36 to its intersection with Alabama Highway 33 at or near Wren, thence over Alabama Highway 33 to Moulton, thence over Alabama Highway 24 to Russellville, Ala., thence over U.S. Highway 43 to Tuscumbia, Ala., thence over U.S. Highway 72 to Memphis, Tenn., serving all intermediate points in Alabama; (2) between Florence, Ala., and Memphis, Tenn.:

(a) From Florence over Alabama Highway 20 to the Alabama-Tennessee State line, thence over Tennessee Highway 69 to junction U.S. Highway 64 at Savannah, Tenn., thence over U.S. Highway 64 to Memphis, Tenn., and return over the same routes serving all intermediate points in Alabama and Tennessee; (3) between Guntersville, Ala., and junction Alabama Highways 69 and 67 near Hulsco, Ala.; (a) from Guntersville over Alabama Highway 69 to junction Alabama Highway 67, and return over the same routes serving all intermediate points; (4) between Huntsville and Decatur, Ala.; (a) From Huntsville over U.S. Highway Alternate 72 to Decatur, and return over the same routes serving all intermediate points; (5) between Gadsden, and Huntsville, Ala.: (a) From Gadsden over U.S. Highway 278 to junction U.S. Highway 231, thence over U.S. Highway 231 to Huntsville, and return over the same routes serving all intermediate points; (6) between Cedartown, Ga., and Gadsden, Ala., over U.S. Highway 278, serving all intermediate points; (7) between Corinth, Miss., and Selmer, Tenn., over U.S. Highway 45, for operating convenience only; (8) between Selmer and Jackson, Tenn., over U.S. Highway 45, serving no intermediate points; (9) between Memphis and Jackson, Tenn.: From Memphis to Jackson, over U.S. Highway 70 or Interstate Highway 40, serving no intermediate points, but serving all points within a 15-mile radius of Jackson, as off-route points. Note: Applicant states it intends to tack the above proposed routes with each other and with all that authority previously granted under certificates No. MC-94201 and Subs, wherein applicant is authorized to serve points in the States of Alabama, Tennessee, Virginia, Maryland, Florida, Georgia, North Carolina, South Carolina, Mississippi, Kentucky, Louisiana, West Virginia, New York, Delaware, New Jersey, Pennsylvania, District of Columbia, and Connecticut. The purpose of this republication is to broaden the scope of the application previously published. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or Memphis, Tenn.

No. MC 98869 (Sub-No. 4), filed October 4, 1967. Applicant: KOSCHKEE TRANSFER INC., Route 1, Fennimore, Wis. 53809. Applicant's representative: Claude Jasper, 1111 South Fairchild Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Dubuque, Iowa, and Madison, Wis., from Dubuque over U.S. Highway 20 to East Dubuque, Ill., thence over Illinois and Wisconsin Highways 35 to junction Wisconsin Highway 11, thence over Wisconsin Highway 11 to junction Wisconsin Highway 78, thence over Wisconsin Highway 78 to junction U.S. Highway 18, thence over U.S. Highway 18 to Madison, and return over the same route serving all intermediate points, (2) between junction Wisconsin Highways 11 and 23 and Mineral Point, Wis., over Wisconsin Highway 23, serving all intermediate points, (3) between Mount Ida, Wis., and junction Grant County Highway K and junction U.S. Highway 61 over Grant County Highway K, serving all intermediate points, (4) between Boscobel, Wis., and Dubuque, Iowa, over U.S. Highway 61, serving all intermediate points and the off-route point of Stitzer, Wis., (5) between Lancaster and Cassville, Wis., from Lancaster over Wisconsin Highway 35 to junction Wisconsin Highway 81, thence over Wisconsin Highway 81 to Cassville and return over the same route serving all intermediate points, (6) between junction Wisconsin Highways 11 and 80 and Montfort, Wis., over Wisconsin Highway 80 serving all intermediate points and the off-route point of Rewey, Wis., (7) between Platteville, Wis., and junction of Wisconsin Highway 81 and U.S. Highway 61, over Wisconsin Highway 81 serving all intermediate points, (8) between Prairie du Chien and Madison, Wis., over U.S. Highway 18 serving all intermediate points, (9) between junction U.S. Highways 18 and 151 and Dubuque, Iowa, over U.S. Highway 151 serving all intermediate points, (10) between Prairie du Chien, Wis., and Dubuque, Iowa, from Prairie du Chien over U.S. Highway 18 to junction Wisconsin Highway 35, thence over Wisconsin Highway 35 to junction Wisconsin Highway 133, thence over Wisconsin Highway 133 to junction U.S. Highway 61, thence over U.S. Highway 61 to Dubuque and return over the same route serving all intermediate points, (11) between Bloomington, Wis., and junction Wisconsin Highways 35 and 81 over Wisconsin Highway 35 serving all intermediate points, and (12) between Beetown, Wis., and junction Grant County Highway U and Wisconsin Highway 35 over Grant County Highway U, serving no intermediate points. Restriction: The service sought herein is restricted against the transportation of traffic between Prairie du Chien, Wis., and Dubuque, Iowa. Note: The instant application seeks to convert the certificate of registration under MC 98869 Sub-1 to a certificate of public convenience and necessity. If a hearing is deemed necessary, applicant requests it be held at Madison, Wis.

No. MC 100666 (Sub-No. 109), filed October 20, 1967. Applicant: MELTON TRUCK LINES, INC., Post Office Box 7295, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 450 American National Building, Oklahoma City, Okla. 73102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, building and insulating materials, and gypsum and gypsum products*, from Irving, Tex., to points in Colorado, New Mexico, Nebraska, Kansas, Oklahoma, Iowa, Missouri, Arkansas, Louisiana, Kentucky, Tennessee, Alabama, and Mississippi. Note: Applicant states it could tack at Briar, Ark., with its presently held authority in Sub 48, wherein it is authorized to conduct operations in the States of Georgia, Illinois, and Indiana. If a hearing is deemed necessary, applicant requests it be held at Shreveport, La., Dallas, Tex., or Oklahoma City, Okla.

No. MC 102616 (Sub-No. 821), filed October 16, 1967. Applicant: COASTAL TANK LINES, INC., 501 Grantley Road, York, Pa. 17405. Applicant's representative: Harold G. Hernly, 711 Fourteenth Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer, dry, in bulk, in tank and hopper type vehicles, equipped with pneumatic unloading devices*, from Baltimore, Md., to points in Adams, Bedford, Chester, Cumberland, Dauphin, Franklin, Fulton, Lancaster, Lebanon, Somerset, and York Counties, Pa.; Caroline, Clarke, Culpeper, Essex, Fairfax, Fauquier, Frederick, King and Queen, King George, Lancaster, Loudoun, Middlesex, Northumberland, Orange, Prince William, Rappahannock, Richmond, Spotsylvania, Stafford, Warren, and Westmoreland Counties, Va.; and Berkeley, Grant, Hampshire, Hardy, Jefferson, Mineral, and Morgan Counties, W. Va. Note: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 103378 (Sub-No. 327), filed October 19, 1967. Applicant: PETROLEUM CARRIER CORPORATION, 611 South 28th Street, Milwaukee, Wis. 53246. Applicant's representative: James R. Ziperski (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, from Johnston, S.C., to points in Georgia. Note: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 105881 (Sub-No. 40), filed October 16, 1967. Applicant: M. R. & R. TRUCKING COMPANY, a corporation, 715 North Ferdon Boulevard, Crestview, Fla. 32536. Applicant's representative: Dan R. Schwartz, 1729 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: (A) *General commodities*, except commodities of unusual value, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, (1) between Tallahassee, Fla., and Albany, Ga.: From Tallahassee, to Thomasville, Ga., over U.S. Highway 319, thence over U.S. Highway 19 to Albany and return over the same route, serving Moultrie, Ga., and points in Thomas County, Ga., as intermediate or off-route points; (2) between Tampa, Fla., and Thomasville, Ga.: From Tampa over U.S. Highway 41 to Dunnellon, Fla., thence over Florida Highway 336 to Lebanon Station, Fla., thence over U.S. Highway 19 to Thomasville, and return over the same route, serving points between and including Dunnellon and Monticello as intermediate points; (3) between Dunnellon, and Jacksonville, Fla.: From Dunnellon over U.S. Highway 41 to Archer, Fla., thence over Florida Highway 24 to Waldo, Fla., thence over U.S. Highway 301 to Maxville, Fla., thence over Florida Highway 228 to

Jacksonville, and return over the same route, serving points between and including Dunnellon and Gainesville as intermediate points; (4) between Archer and Cedar Key, Fla.: From Archer to Cedar Key over Florida Highway 24, and return over the same route, serving all intermediate points; (5) between Chiefland and Williston, Fla.: From Chiefland over U.S. Highway Alternate 27 to Williston, and return over the same route, serving all intermediate points.

(6) Between Greenville and Lake City, Fla.: From Greenville over U.S. Highway 90 to Lake City, and return over the same route, serving points between and including Greenville and Lake City as intermediate points and the plantsite of Occidental Corp. located near White Springs, Fla., as an off-route point, in connection with the carrier's otherwise authorized route between Jacksonville and Tallahassee, Fla.; (7) between Perry and Lake City, Fla.: From Perry over U.S. Highway 27 to Branford, Fla., thence over Florida Highway 247 to Lake City, and return over the same route, serving Mayo, Fla., as an intermediate point; (8) between Live Oak and Mayo, Fla.: From Live Oak over Florida Highway 51 to Mayo, and return over the same route, serving no intermediate points; (9) between Tampa, Fla., and the junction of Interstate Highway 75 and U.S. Highway 90 near Lake City, Fla.: From Tampa over Interstate Highway 75 to the junction of Interstate Highway 75 and U.S. Highway 90 and return over the same route, serving no intermediate points but serving the junction of Interstate Highway 75 and Florida Highway 24 near Gainesville for the purpose of joinder only, and serving Alachua, High Springs, and the plantsite of General Electric Corp. in Alachua County as off-route points. Restriction: Routes 1 through 9 specified herein may not be combined or tacked with other authorized routes of the carrier for the purpose of performing a direct single line of service: (a) From, to, or through more than one of the points of Atlanta, Ga.; Jacksonville or Tampa, Fla.; including the respective commercial zones of each; or (b) between Atlanta, Ga., including the commercial zone thereof, on the one hand, and, on the other, any points in Georgia located on Routes 1 through 9, including shipments interchanged at Atlanta for movement to or from points beyond. NOTE: If a hearing is deemed necessary, applicant requests it be held at Tallahassee, Fla.

No. MC 106760 (Sub-No. 84), filed October 16, 1967. Applicant: WHITEHOUSE TRUCKING, INC., 2005 Airport Highway, Toledo, Ohio 43614. Applicant's representative: Leonard A. Jaskiewicz, Madison Building, 1155 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings, building sections, and component parts*, from points in Georgia, to points in Florida. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 107002 (Sub-No. 119), filed October 16, 1967. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., 4005 York Street, Denver, Colo. 80216. Applicant's representative: Edward T. Lyons, Jr., 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, dairy products, and articles distributed by meat packinghouses*, as defined in sections A, B, and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Albuquerque, N. Mex., to Grants and Gallup, N. Mex., and Window Rock, Fort Defiance, St. Michaels, Ganado, Chinle, and Many Farms, Ariz. NOTE: Applicant states that it proposes to tack requested authority at Albuquerque, N. Mex., with existing authority in MC-107839 Sub 101, from Denver, Colo., to Albuquerque, so as to transport the described commodities from Denver to destinations named in present application. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 108449 (Sub-No. 273), filed September 1, 1967. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minn. 55113. Applicant's representative: Adolph J. Bieberstein, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals, acids and gases*, from points in Ramsey, Washington, Anoka, Hennepin, Scott, Dakota, and Goodhue Counties, Minn., to points in Minnesota, North Dakota, South Dakota, Iowa, Wisconsin, Illinois, and the Upper Peninsula of Michigan. NOTE: Applicant intends to tack the authority sought with its presently held authority at Fort Madison, Clinton, Fort Dodge, Council Bluffs, Garner, Sioux City, Waterloo, Dakota City, and Sanborn, Iowa, and Albany and Fulton, Ill., wherein applicant is authorized to serve points in Missouri, Ohio, Nebraska, Michigan, Indiana, Kentucky, Arkansas, Kansas, Oklahoma, and Colorado. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 109689 (Sub-No. 194), filed October 16, 1967. Applicant: W. S. HATCH CO., a corporation, 643 South 800 West, Woods Cross, Utah 84087. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, Utah 84111. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid gilsonite*, (1) from Denver, Colo., to points in New Mexico, Arizona, Kansas, Wyoming, Montana, and Idaho; and (2) from Compton, Calif., to points in Arizona, New Mexico, Nevada, and Idaho. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 109697 (Sub-No. 20), filed October 13, 1967. Applicant: GRAIN BELT TRANSPORTATION COMPANY, a corporation, 947 North James Street, Kansas City, Kans. Applicant's representative: Carl V. Kretsinger, 450 Professional Building, Kansas City, Mo. 64106. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities and parts thereof*, between points in the Kansas City, Mo.-Kans., commercial zone, on the one hand, and, on the other, points in Tennessee. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 111401 (Sub-No. 297), filed October 13, 1967. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, Enid, Okla. 73701. Applicant's representative: Edward T. Lyons, Jr., Suite 420, Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Truck bodies*, from the plantsite of Tradewind Industries, Inc., at or near Liberal, Kans., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Idaho, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin; and (2) *materials, equipment, and supplies* used in the production of truck bodies, from points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Idaho, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin to the plantsite of Tradewind Industries, Inc., at or near Liberal, Kans. NOTE: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Oklahoma City, Okla.

No. MC 111497 (Sub-No. 15), filed October 16, 1967. Applicant: ARTHUR J. PAPE, doing business as ART PAPE TRANSFER, 1361 Rockdale Road, Dubuque, Iowa 52001. Applicant's representative: William A. Landau, 1451 East Grand Avenue, Des Moines, Iowa 50306. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, dry, in bulk, in dump vehicles, from Fulton, Ill., to points in Iowa. NOTE: If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 111497 (Sub-No. 16), filed October 16, 1967. Applicant: ARTHUR J. PAPE, doing business as ART PAPE TRANSFER, 1361 Rockdale Road, Dubuque, Iowa 52001. Applicant's representative: William A. Landau, 1451 East Grand Avenue, Des Moines, Iowa 50306. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feed ingredients*, from Dubuque, Iowa, to points in Illinois, Minnesota, Missouri, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 111729 (Sub-No. 283), filed October 6, 1967. Applicant: AMERICAN COURIER CORPORATION, 222–17 Northern Boulevard, Bayside, N.Y. 11361. Applicant's representative: Russell S. Bernhard, 1625 K Street NW., Commonwealth Building, Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Business papers, records, and audit and accounting media of all kinds* (excluding plant removals), and *advertising material and merchandise samples* moving therewith, between Milwaukee, Wis., on the one hand, and, on the other, Elmhurst, Ill.; (2) *business papers, records, and audit and accounting media of all kinds* (excluding plant removals), (a) between Muncie, Ind., on the one hand, and, on the other, Detroit, Mich.; (b) between Minneapolis, Minn., on the one hand, and, on the other, West Chicago, Ill.; (c) between Portland, Maine, on the one hand, and, on the other, Manchester, N.H., and Boston, Mass.; (3) *tax stamp meter machine*, between Boston, Mass., on the one hand, and, on the other, Hartford, Conn., and North Haven, Conn.; (4) *exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies and advertising literature moving therewith* (excluding motion picture film used primarily for commercial theatre and television exhibition), between Cleveland, Ohio, on the one hand, and, on the other, points in Indiana. NOTE: Applicant is also authorized to conduct operations as a contract carrier in permit No. MC 112750 and subs, therefor, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio, or Detroit, Mich.

No. MC 111740 (Sub-No. 22), filed October 12, 1967. Applicant: OIL TRANSPORT COMPANY, a corporation, East Highway 80, Post Office Drawer 2670, Abilene, Tex. 79604. Applicant's representative: Jerry Prestridge, Post Office Box 1148, Austin, Tex. 78767. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Sulphur*, except that sulphur derived from petroleum or petroleum products, in bulk, from points in Culberson, Pecos, and Reeves Counties, Tex., to points in Arizona, New Mexico, and Texas. NOTE: If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 111812 (Sub-No. 359), filed October 19, 1967. Applicant: MIDWEST COAST TRANSPORT, INC., 405½ East Eighth Street, Post Office Box 1233, Sioux Falls, S. Dak. 57101. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat byproducts* and *articles distributed by meat packinghouses* as described in sections A and C in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank trucks), (1) from Huron, S. Dak., to points in California, Cook County, Ill., Oregon, Washington, and Wisconsin, restricted to traffic originating at the plantsite of Rod Barnes Packing Co., and (2) from Scottsbluff, Nebr., to points in Oregon and Washington, restricted to traffic originating at the plantsite of Scottsbluff Packing Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 112539 (Sub-No. 6), filed October 10, 1967. Applicant: PERCHAK TRUCKING, INC., Route 209, Hazle Village, Hazleton, Pa. 18201. Applicant's representative: Louis G. Feldmann, 1009 Northeastern Building, Hazleton, Pa. 18201. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Scrap metals*, from points in Luzerne, Columbia, and Montour Counties, Pa., to points in Wayne County, Mich., and (2) *malt and brewed beverages*, from the Schaefer Brewing Co. located at sites in Kings County, N.Y., Baltimore City and Baltimore County, Md., and from the Budweiser Brewing Co. located in Essex County, N.J., to Hazleton, Pa. and points in an area around Hazleton bounded and described as follows: Beginning at a point in Brockton, Schuylkill County, on U.S. Highway 209; thence continuing in a generally east-northeast direction along U.S. Highway 209 to Jim Thorpe (Carbon County), thence proceeding in a southerly direction along U.S. Highway 209 to intersection of the extension of the northeast Pennsylvania Turnpike; thence along the northeast Pennsylvania Turnpike extension in a generally northerly direction to the intersection Pennsylvania Highway 115; thence continuing in a generally northerly direction along Pennsylvania Highway 115 to intersection Pennsylvania Highway 315; thence along Pennsylvania Highway 315 to the Borough of Ashley, Luzerne County; thence continuing in a generally west-southwest direction along an unnumbered route through Warrior Run, Wanamie, Glen Lyon, to Mocanaqua, thence crossing the Susquehanna River at Mocanaqua to U.S. Highway 11; thence along U.S. Highway 11 in a generally south-westerly direction in Luzerne and Columbia Counties to intersection with Interstate Highway 80; thence along Interstate Highway 80 in a generally easterly direction to Lime Ridge, Columbia County; thence along Pennsylvania Highway 339 in Columbia and Schuylkill Counties in a generally south-southeasterly direction to Mahanoy City, Schuylkill County; thence by an unnumbered route in a south-southeasterly direction to Brockton, Schuylkill County, the place of beginning, and *empty cartons, bottles and barrels and rejected products*, on return. NOTE: If a hearing is deemed necessary, applicant requests it be held at Hazleton or Scranton, Pa.

No. MC 112617 (Sub-No. 244), filed October 13, 1967. Applicant: LIQUID TRANSPORTERS, INC., Post Office Box 5135, Cherokee Station, Louisville, Ky. 40205. Applicant's representative: Leonard A. Jaskiewicz, 900 Madison Building, 1155 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, in tank or hopper vehicles, from Neal, W. Va., to points in Alabama, Arkansas, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Charleston, W. Va.

No. MC 113483 (Sub-No. 2), filed October 12, 1967. Applicant: TAMBRINI STORAGE WAREHOUSE, INC., 137 Carlton Avenue, Brooklyn, N.Y. Applicant's representative: Morris Honig, 150 Broadway, New York, N.Y. 10038. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods, furnishings, appliances and personal effects*, between points in the New York, N.Y., Harbor areas, as defined by the Commission in Ex Parte 140, title 49, CFR 403. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Newark, N.J.

No. MC 113651 (Sub-No. 120), filed October 12, 1967. Applicant: INDIANA REFRIGERATOR LINES, INC., 2404 North Broadway, Muncie, Ind. Applicant's representative: Charles Singer, 33 North Dearborn, Suite 1625, Chicago, Ill. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Plymouth, Ind., Jamestown, Mich., and Somers, Wis., to points in Texas, Oklahoma, Kansas, Nebraska, South Dakota, North Dakota, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Mississippi, Tennessee, Kentucky, Illinois, Wisconsin, Michigan, Ohio, Alabama, Florida, Georgia, North Carolina, South Carolina, Virginia, West Virginia, District of Columbia, Delaware, Maryland, Pennsylvania, New York, New Jersey, and Indiana. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 113678 (Sub-No. 291), filed October 17, 1967. Applicant: CURTIS, INC., 770 East 51st Avenue, Denver, Colo. 80216. Applicant's representative: Duane W. Acklie, Post Office Box 2028, Lincoln, Nebr. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Articles distributed by meat packinghouses*, as described in section C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Denver and Greeley, Colo., to points in Arizona, California, Nevada, and New

Mexico, restricted against tacking or joinder with any other authority now held by applicant for the purpose of providing through service. NOTE: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 113678 (Sub-No. 292), filed October 26, 1967. Applicant: CURTIS, INC., 770 East 51st Avenue, Denver, Colo. 80216. Applicant's representative: Duane W. Acklie, Post Office Box 2028, Lincoln, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Textile, textile products and floor coverings*, from points in West Virginia, Virginia, Tennessee, North Carolina, Mississippi, Alabama, Georgia, South Carolina, and Florida to points in Washington, Oregon, California, Nevada, Idaho, Utah, Arizona, Montana, Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Texas, Minnesota, Iowa, and Missouri. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., and Denver, Colo.

No. MC 113678 (Sub-No. 293), filed October 26, 1967. Applicant: CURTIS, INC., 770 East 51st Avenue, Denver, Colo. 80216. Applicant's representative: Duance W. Acklie, Post Office Box 2028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Textile, textile products, and floor coverings*, from points in Illinois, Ohio, Massachusetts, New York, Pennsylvania, and Rhode Island, to points in Colorado. NOTE: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 113760 (Sub-No. 6), filed October 9, 1967. Applicant: H. M. POPP TRUCK LINES, INC., Post Office Box 447, Commerce City, Colo. 80022. Applicant's representative: Alvin J. Meiklejohn, Jr., 430 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and crude oil*, in bulk, in tank vehicles, from points in Carter and Powder River Counties, Mont., to points in Campbell, Crook, and Weston Counties, Wyo. NOTE: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., Cheyenne, Wyo., or Billings, Mont.

No. MC 114045 (Sub-No. 294), filed October 2, 1967. Applicant: TRANS-COLD EXPRESS, INC., Post Office Box 5842, Dallas, Tex. 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foods, food preparations, foodstuffs, and items used and dealt in by ice cream and confectionary stores or stands*, from Chicago, Ill., and points in its commercial zone as defined by the Commission and points in Kane, Cook, Du Page, Kendall, and Will Counties, Ill., and points in Lake and Porter Counties, Ind., to points in Oklahoma, Texas, Louisiana, Kansas, New Mexico, and Colorado. NOTE: Applicant states the proposed authority herein can or will be joined with its presently authorized authority in MC 114045 Sub 88, 278, and 280, wherein it is authorized to operate in the States of Colorado, Oregon, Washington, Nevada, Utah, Idaho, Montana, and Wyoming. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114045 (Sub-No. 296), filed October 16, 1967. Applicant: TRANS-COLD EXPRESS, INC., Post Office Box 5842, Dallas, Tex. 75222. Applicant's representative: R. L. Moore (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery products*, in mechanically refrigerated vehicles, (1) from West Reading, Pa., to points in Georgia, North Carolina, and South Carolina, and (2) from New York, N.Y., to points in Alabama, Georgia, South Carolina, and North Carolina. NOTE: Applicant states that it could tack at Dunn, N.C., with its present authority in MC 114045 Sub-No. 255, whereas it is authorized to operate in Iowa, Arkansas, Louisiana, Mississippi, Texas, Nebraska, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Washington, Oregon, Nevada, California, and Wisconsin and its pending application in MC 114045 Sub-No. 275, whereas it seeks to operate to points in Illinois, Indiana, Ohio, Michigan, Kansas, Missouri, Oklahoma, Montana, North Dakota, and South Dakota. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 114045 (Sub-No. 297), filed October 19, 1967. Applicant: TRANS-COLD EXPRESS, INC., Post Office Box 5842, Dallas, Tex. 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pet foods, pet supplies, pet accessories and tonics, animal feed supplements and insecticides* (except in bulk) (1) from New York, N.Y., and points in Essex, Hudson, and Bergen Counties, N.J., to New Orleans, La., Phoenix and Tucson, Ariz., Los Angeles, Calif., and points in the Los Angeles, Calif., commercial zone; (2) from Morris, Somerset, Monmouth, and Middlesex, N.J., to points in Texas, Oklahoma, Louisiana, New Mexico, Arizona, and California; and (3) from New York, N.Y., to Essex, Hudson, Bergen, Morris, Somerset, Monmouth, and Middlesex, N.J., to points in Alabama, Florida, Georgia, Missouri, Kansas, Colorado, Nebraska, Iowa, Illinois, Oregon, and Washington. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 114166 (Sub-No. 6), filed October 17, 1967. Applicant: PELICAN TRUCKING COMPANY, INC., 1600 Wells Island Road, Post Office Box 7127, Shreveport, La. 71107. Applicant's representatives: Phineas Stevens, Suite 700, Petroleum Building, Post Office Box 22567, Jackson, Miss. 39205, and Ray A. Barlow, 907 Texas Eastern Building, Post Office Box 1574, Shreveport, La. 71102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight requires the use of special equipment or handling, and of *related parts, materials, and supplies* when their transportation is incidental to the transportation by applicant of commodities which by reason of size or weight require special equipment or handling, between points in Alabama, Arkansas, Florida, Georgia, Indiana, Illinois, Kentucky, Louisiana, Mississippi, New Mexico, Oklahoma, Tennessee, and Texas. NOTE: If a hearing is deemed necessary, applicant requests it be held at Shreveport, La.; Houston, Tex.; or Jackson, Miss.

No. MC 114194 (Sub-No. 144), filed October 6, 1967. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, Ill. 62201. Applicant's representative: Gene Kreider (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dextrine* (starch) in bulk, from points in the Chicago, Ill., commercial zone, to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, Tennessee, and Wisconsin. NOTE: Applicant states it would tack the proposed authority with its presently held authorities at Granite City, Ill., to serve points in Missouri, Tennessee, Illinois, Indiana, Ohio, Pennsylvania, Michigan, Wisconsin, Minnesota, and at Decatur, Ill., to serve Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, Tennessee, and Wisconsin, and at St. Louis, Mo., to serve Illinois, Missouri, Indiana, Ohio, Iowa, and Nebraska. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114194 (Sub-No. 145), filed October 20, 1967. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, Ill. 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Products of corn, and products of soy beans and blends*, in bulk, from Decatur, Ill., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states it could tack at St. Louis, Mo., and Dupo, Ill. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 114552 (Sub-No. 24), filed October 19, 1967. Applicant: SENN TRUCKING COMPANY, a corporation, Post Office Box 333, Newberry, S.C. 29108. Applicant's representative: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, S.C. 29201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Prefabricated metal buildings knocked down, prefabricated metal building sections knocked down, prefabricated prefinished metal panel sections, component parts* thereof, *equipment, materials, and supplies* used in the installation, construction, or erection thereof (except metal buildings which are designed to be drawn by passenger vehicles), from Evansville, Wis., to points in Delaware, Kentucky, Maryland, Tennessee, Virginia, West Virginia, and the District of Columbia, and (2) *materials, equipment, and supplies* used or useful in the manufacture of the commodities described in (1) above, from Delaware, Kentucky, Maryland, Tennessee, Virginia, West Virginia, and the District of Columbia, to Evansville, Wis. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114699 (Sub-No. 29), filed October 11, 1967. Applicant: TANK LINES, INCORPORATED, Chesapeake Avenue and Old Midlothian Pike, Richmond, Va., also Post Office Box 9035, Richmond, Va. Applicant's representative: E. Stephen Heisley, 529 Transportation Building, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Caprolactam* in bulk, in tank vehicles, from Hopewell, Va., to ports of entry on the international boundary of the United States and Mexico at Texas, and (2) *caprolactam wash water*, in bulk, in tank vehicles, from ports of entry on the international boundary of the United States and Mexico at Texas to Hopewell, Va. NOTE: If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., Houston or Dallas, Tex.

No. MC 114848 (Sub-No. 26), filed October 19, 1967. Applicant: WHARTON TRANSPORT CORPORATION, 1498 Channel Avenue, Memphis, Tenn. 38106. Applicant's representative: James N. Clay III, 2700 Sterick Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furfural residue*, from Memphis, Tenn., to points in Alabama, Arkansas, Mississippi, Georgia, Louisiana, Kentucky, Tennessee, and Missouri. NOTE: If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 115056 (Sub-No. 16), filed October 9, 1967. Applicant: BUNDY TRUCK LINE, INC., Gatesville, N.C. Applicant's representative: Jno. C. Goddin, 200 West Grace Street, Richmond, Va. 23220. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass jars and jar caps*, from points in New York, New Jersey, Pennsylvania, and Maryland, to Ahoskie, N.C.; (2) *cans*, from points in Maryland, to Ahoskie, N.C.; (3) *barrels and spices*, from points in New York, to Ahoskie, N.C.; (4) *sugar*, from points in New York, Pennsylvania, and Maryland to Ahoskie, N.C., and (5) *pickles*, from Ahoskie, N.C., to points in Massachusetts, Rhode Island, Vermont, New Hampshire, and Maine. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 115311 (Sub-No. 72), filed October 13, 1967. Applicant: J & M TRANSPORTATION CO., INC., Post Office Box 488, Milledgeville, Ga. 31061. Applicant's representative: Bill R. Davis, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polyvinyl alcohol*, (1) from Charleston, S.C., to points in Georgia, North Carolina, and South Carolina, and (2) from Marietta, Ga., to points in Alabama, Georgia, North Carolina, South Carolina, and Tennessee. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 115311 (Sub-No. 75), filed October 18, 1967. Applicant: J & M TRANSPORTATION CO., INC., Post Office Box 488, Milledgeville, Ga. 31061. Applicant's representative: Bill R. Davis, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, in bulk, having a prior movement by rail, from Atlanta, Ga., to points in Georgia, Florida, North Carolina, South Carolina, Tennessee, Alabama, and Mississippi. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 116077 (Sub-No. 219), filed October 18, 1967. Applicant: ROBERTSON TANK LINES, INC., 5700 Polk Avenue, Post Office Box 1505, Houston, Tex. 77001. Applicant's representative: Thomas E. James, The 904 Lavaca Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Diisodecyl phthalate*, in bulk, from Houston, Tex., to Plano, Tex. NOTE: If a hearing is deemed necessary, applicant does not specify a location.

No. MC 116227 (Sub-No. 7), filed October 17, 1967. Applicant: POLMAN TRANSFER, INC., Route No. 3, Wadena, Minn. Applicant's representative: James F. Greenstein, 112 East Sixth Street, St. Paul, Minn. 55101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alfalfa pellets*, in bulk, from Thief River Falls, Minn., to points in North Dakota, South Dakota, Montana, Iowa, Nebraska, Wisconsin, and Illinois. NOTE: Applicant holds contract carrier authority under MC 108823 and Sub-No. 4 thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Fargo, N. Dak.

No. MC 116949 (Sub-No. 10), filed October 11, 1967. Applicant: BURNS TRUCKING, INC., Route No. 1, South Sioux City, Nebr. Applicant's representative: Paul W. Deck, 222 Davidson Building, Sioux City, Iowa 51101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New, used, and/or wrecked semitrailers, parts, and equipment therefor*, between plantsite of Load King Trailer Co. at or near Elk Point, S. Dak., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under contract with Load King Trailer Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Sioux City, Iowa.

No. MC 116950 (Sub-No. 6), filed October 18, 1967. Applicant: JOSEPH L. DRAKE, 499 North Delaware Street, Chandler, Ariz. 85224. Applicant's representative: A. Michael Bernstein, 1327 Guaranty Bank Building, Phoenix, Ariz. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fire retardant chemical (fire-trol), anhydrous ammonia, and chemical fertilizers*, from Phoenix, Chandler, and Kyrene, Ariz., to points in Idaho, Montana, North Dakota, Washington, and Oregon and (2) *materials* used for the manufacture of agricultural chemicals, on return, under contract with Arizona Agrochemical Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Phoenix or Tucson, Ariz.

No. MC 116810 (Sub-No. 1), filed October 17, 1967. Applicant: MRS. T. E. GROTEVANT, doing business as J & G CONTRACT CARRIERS, 610 West Henry Street, Pontiac, Ill. 61764. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel and aluminum doors, screens, and awnings, and parts and accessories therefor; and steel and aluminum channels, angles, and coils*, (1) between Chatsworth, Ill., on the one hand, and, on the other, Goshen, Ind.; Carlstadt, N.J.; Miami, Fla.; Jefferson City, Mo.; Merrill, Fond du Lac, and Sheboyan, Wis.; Oswego, N.Y.; and Hanover and York, Pa.; and (2) from Goshen, Ind., to Carlstadt, N.J., under contract with American Screen Products Co., Chatsworth, Ill. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119268 (Sub-No. 70), filed October 18, 1967. Applicant: OSBORN, INC., 125 Milton Avenue SE., Atlanta, Ga. 30315. Applicant's representative: John P. Carlton, 325–29 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Minneapolis, Minn., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Atlanta, Ga.

No. MC 119493 (Sub-No. 36), filed October 16, 1967. Applicant: MONKEM COMPANY, INC., West 20th Street Road, Post Office Box 1196, Joplin, Mo. 64801. Applicant's representative: Harry Ross, 948 Warner Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper products, products produced or distributed by manufacturers and converters of paper and paper products; and materials, equipment, and supplies used in the manufacture and distribution of the foregoing commodities* (except commodities in bulk), *and commodities which, due to size and weight, require use of specialized motor vehicle equipment*, between points in Little River County, Ark., on the one hand, and, on the other, points in Arkansas, Illinois, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, and Texas. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 119531 (Sub-No. 70), filed October 16, 1967. Applicant: DIECKBRADER EXPRESS, INC., 5391 Wooster Road, Cincinnati, Ohio 45226. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Suite 1625, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, from Ravenna, Ohio, to points in Illinois, Indiana, Kentucky, Michigan, New York, Pennsylvania, and West Virginia, and (2) *materials and supplies* used in or incidental to the manufacture, sale, and distribution of paper and paper products, from points in Illinois, Indiana, Kentucky, Michigan, New York, Pennsylvania, and West Virginia, to Ravenna, Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 119641 (Sub-No. 69), filed October 19, 1967. Applicant: RINGLE EXPRESS, INC., 456 East Ninth Street, Fowler, Ind. 47944. Applicant's representative: Robert C. Smith, 620 Illinois Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors* (not including tractors with vehicle beds, bed frames or fifth wheels), (2) *agricultural machinery and implements*, (3) *industrial and construction machinery and equipment*, (4) *equipment* designed for use in connection with tractors, (5) *trailers* designed for the transportation of the commodities described above (other than those designed to be drawn by passenger automobiles) (6) *attachments* for the commodities, described above, (7) *internal combustion engines*, and (8) *parts and accessories* of the commodities described in (1) through (7) above when moving in mixed loads with such commodities, from the plant and warehouse sites of Massey-Ferguson, Inc., located at or near Cuyahoga Falls, Ohio, to points in the United States (except Hawaii and Alaska), restricted to traffic originating at the plant and warehouse sites of Massey-Ferguson, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119696 (Sub-No. 1), filed October 4, 1967. Applicant: HAAG TRUCK LINE, INC., 870 West 17th Street, Indianapolis, Ind. Applicant's representative: John E. Leeow, 3737 North Meridian Street, Indianapolis, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lactose* (sugar extraction of milk), from Winsted, Minn., to Sturgis, Mich., and Columbus, Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 119767 (Sub-No. 202), filed October 2, 1967. Applicant: BEAVER TRANSPORT CO., a corporation, 100 South Calumet Street, Burlington, Wis. 53105, also Post Office Box 339, Burlington, Wis. 53105. Applicant's representatives: Allan B. Torhorst, Post Office Box 339, Burlington, Wis., and Fred H. Figge, 100 South Calumet Street, Burlington, Wis. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Offal*, from Fort Dodge and Des Moines, Iowa, to points in Wisconsin. NOTE: Applicant states it could tack the proposed authority with its Sub 26 at points in Wisconsin to enable service to points in Illinois, Indiana, and Iowa. If a hearing is deemed necessary, applicant requests it be held at Milwaukee or Madison, Wis.

No. MC 119777 (Sub-No. 87), filed October 6, 1967. Applicant: LIGON SPECIALIZED HAULER, INC., Post Office Box 1, Madisonville, Ky. 42431. Applicant's representative: Fred F. Bradley, 313 St. Clair Street, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel and iron and steel articles, including coiled stainless steel*, from Coshocton, Ohio, to points in Madison County, Miss., (2) *aluminum wire*, from Newark, Ohio, to points in Madison County, Miss., and (3) *iron and steel and iron and steel articles*, from Middletown, and Lima, Ohio, Gary, Ind., and Ashland, Ky., to Kosciusko, Miss. NOTE: If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss.

No. MC 119931 (Sub-No. 4), filed October 16, 1967. Applicant: HERMAN HEALZER, doing business as P & H TRUCK SERVICE, 3310 Cuvington Court, Hutchinson, Kans. 67501. Applicant's representative: James F. Miller, 7501 Mission Road, Shawnee Mission, Kans. 66208. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, from Peoria, Ill., to Scammon, Kans., and points within 3 miles thereof, and Wichita, Kans., and (2) *pallets, beverages containers and bottles*, from Scammon, Kans., and points within 3 miles thereof, and Wichita, Kans., to Peoria, Ill. NOTE: If a hearing is deemed necessary, applicant requests it be held at Wichita, Kans.

No. MC 119934 (Sub-No. 143), filed October 18, 1967. Applicant: ECOFF TRUCKING, INC., 625 East Broadway, Fortville, Ind. 46040. Applicant's representative: Robert C. Smith, 620 Illinois Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products*, dry, in bulk, in tank or hopper-type vehicles, from Danville, Ill., to points in Michigan, Minnesota, Missouri, Nebraska, and Wisconsin. NOTE: Applicant holds contract carrier authority under MC 128161, therefore dual operations and common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 121340 (Sub-No. 2) (Amendment), filed May 31, 1967, published in the FEDERAL REGISTER issue of June 22, 1967, amended and republished as amended this issue. Applicant: R. LEVINGE and T. L. ALLEN, JR., a partnership, doing business as L & A TRANSPORTATION COMPANY, 5094 Buelow, Houston, Tex. 77023. Applicant's representative: Joe G. Fender, 802 Houston First Savings Building, Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials and supplies* used in, or in connection with, the discover, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts; (2) *machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, except the stringing and picking up of pipe in connection with main or trunk pipelines; and, (3) *commodities*, other than those described above, the transportation of which, because of their size or weight, requires the use of special equipment, and parts thereof, when moving in connection with such commodities. NOTE: Applicant, which operates only between points in Texas, seeks by related proceedings in Docket MC-FC-69629 to purchase authority to physically operate between Texas and Louisiana. It is the sole purpose of the subject proceeding to preserve applicant's present interstate authority under its registration certificate No. 121340 (Sub 1) by converting it to a certificate of convenience and necessity. No extension of present territory or authority is considered to be involved. On grant of authority here sought, applicant would have canceled its certificate No. MC-121340 (Sub 1). The purpose of this republication is to define the commodity description. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 123048 (Sub-No. 106), filed October 13, 1967. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, Wis. 53403. Applicant's representatives: Paul C. Gartzke, 121 West Doty Street, Madison, Wis. 53703, and C. Ernest Carter (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery, agricultural implements and parts, accessories, attachments therefor*, from points in Jones County, Miss., to points in Alabama, Arkansas, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Ohio, Oklahoma, Tennessee, Texas, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss., or Memphis, Tenn.

No. MC 123048 (Sub-No. 108), filed October 16, 1967. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, Wis. 53401. Applicant's representatives: Paul C. Gartzke, 121 West Doty Street, Madison, Wis. 53703, and C. Ernest Carter (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery, implements, and parts* other than hand (except such machinery, implements and parts, which because of size or weight require the use of special equipment)

as described in appendix XII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from La Porte, Ind., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Indianapolis, Ind.

No. MC 123048 (Sub-No. 109), filed October 19, 1967. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, Wis. 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors* (not including tractors with vehicle beds, bed frames, or fifth wheels), (2) *agricultural machinery and implements*, (3) *industrial and construction machinery and equipment*, (4) *equipment* designed for use in connection with tractors, (5) *trailers*, designed for the transportation of the commodities described above (other than those designed to be drawn by passenger automobiles), (6) *attachments*, for the commodities described above, (7) *internal combustion engines*, and (8) *parts and accessories* of the commodities described in (1) through (7) above when moving in mixed loads with such commodities, from the plant and warehouse sites of Massey-Ferguson, Inc., at or near Cuyahoga Falls, Ohio, to points in the United States (except Hawaii and Alaska). Restriction: The authority requested above is restricted to traffic originating at the plant and warehouse sites of Massey-Ferguson, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 123383 (Sub-No. 36), filed October 15, 1967. Applicant: BOYLE BROTHERS, INC., 276 River Road, Edgewater, N.J. 07020. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boards, building, wall and/or insulation, and parts, materials, and accessories incidental thereto, composition boards, and parts, materials, and accessories incidental thereto*, from Deposit, N.Y., to points in Virginia, West Virginia, Georgia, Alabama, Florida, Mississippi, and Kentucky. NOTE: If a hearing is deemed necessary, applicant requests it be held at Tampa, Fla., or Washington, D.C.

No. MC 123446 (Sub-No. 23), filed October 18, 1967. Applicant: BAKERY PRODUCTS DELIVERY, INC., 404 West Putnam Avenue, Greenwich, Conn. Applicant's representative: Reuben Kaminsky, 410 Asylum Street, Hartford, Conn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products*, fresh (except frozen and unleavened bakery products), from Greenwich, Conn., to points in Hillsboro County, N.H., and *stale, damaged, refused, rejected, and nonsalable shipments of the above-described commodities and empty containers*, on return. NOTE: If a hearing is deemed necessary, applicant requests it be held at Hartford, Conn., or New York, N.Y.

No. MC 123508 (Sub-No. 1), filed October 13, 1967. Applicant: M. AND W. CORPORATION, 201 West Commercial Street, Lowell, Ind. Applicant's representative: Warren C. Moberly, 1312 Fletcher Trust Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractory materials*, packaged and palletized, and in bulk, from Schneider, Ind., to points in Illinois and Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 124251 (Sub-No. 20), filed October 18, 1967. Applicant: JACK JORDAN, INC., Post Office Box 244, Dalton, Ga. Applicant's representative: Ariel V. Conlin, Suite 626, Fulton National Bank Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Latex and latex compounds and component parts*, shipped in containers therewith, from points in Whitfield County, Ga., to points in Tennessee on and east of U.S. Highway 27, Florida, North Carolina, and South Carolina, and *rejected or refused shipments, on return*. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Chattanooga, Tenn.

No. MC 124679 (Sub-No. 11), filed October 20, 1967. Applicant: C. R. ENGLAND & SONS, INC., 226 West Fifth South, Salt Lake City, Utah 84101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, when moving in vehicles equipped with mechanical refrigeration, from Oakland, San Francisco, and Leandro, Calif., to points in Nevada, Oregon, Washington, Montana, Idaho, and Utah. NOTE: Applicant holds contract carrier authority in MC 128813 Sub 1, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif., or Salt Lake City, Utah.

No. MC 124774 (Sub-No. 71), filed October 18, 1967. Applicant: CARAVELLE EXPRESS, INC., Post Office Box 344, Norfolk, Nebr. 68701. Applicant's representative: Martin Zimmerman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Feed and feed ingredients* (except salt and except in bulk), from points in Kansas, and La Junta and Evans, Colo., to points in Nebraska, (2) *foodstuffs*, nonfreeze, from Madison, Nebr., to points in Colorado, and (3) *foodstuffs*, edible and inedible, between Norfolk and Lincoln, Nebr., on the one hand, and, on the other, points in Kansas, Iowa (except Waterloo, Sioux City, Cresco, Oakland, Ottumwa, and Des Moines), Minnesota (except Worthington, Mankato, and Albert Lea), Wisconsin, and Kentucky. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr.

No. MC 124813 (Sub-No. 44), filed October 16, 1967. Applicant: UMTHUN TRUCKING CO., a corporation, 910 South Jackson Street, Eagle Grove, Iowa 50533. Applicant's representative: William A. Landau, 1451 East Grand Avenue, Des Moines, Iowa 50306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed and feed ingredients* (except liquids in bulk), from the plantsite, warehouses, and storage facilities utilized by Terra Chemicals International, Inc., located in Woodbury County, Iowa, to points in Colorado, Illinois, Kansas, Minnesota, Missouri, North Dakota, South Dakota, and Wisconsin. NOTE: Applicant is authorized to operate as a contract carrier in MC 119469 Sub 16 and other subs, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 125708 (Sub-No. 76), filed October 13, 1967. Applicant: HUGH MAJOR, 150 Sinclair Avenue, South Roxana, Ill. 62087. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, between points in Illinois, on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, New Jersey, New Mexico, New York, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, West Virginia, Virginia, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Springfield, Ill.

No. MC 126739 (Sub-No. 5), filed October 19, 1967. Applicant: MAHNENSMITH TRUCKING SERVICE, INC., Post Office Box 341, Ossian, Ind. 52161. Applicant's representative: Robert S. McClain, 18th Floor Lincoln Tower, Fort Wayne, Ind. 46802. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizers*, from plantsite of Tuloma Gas Products Co., at Yoder, Ind., to points in Michigan on and south of Michigan Highway 21, under contract with Tuloma Gas Products Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 127616 (Sub-No. 12), filed October 18, 1967. Applicant: HANSON M. SAVAGE, doing business as Savage Trucking Co., Box 108, Chester Depot, Vt. 05144. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, in bulk, from points in Windsor

and Bennington Counties, Vt., to Mechanicville, and Ticonderoga, N.Y., Berlin and Groveton, N.H., and Westbrook, Maine. NOTE: If a hearing is deemed necessary, applicant requests it be held at Montpelier, Vt.

No. MC 127706 (Sub-No. 10), filed October 9, 1967. Applicant: KREVDA BROS. EXPRESS, INC., Post Office Box 68, Gas City, Ind. 46933. Applicant's representative: Donald W. Smith, 511 Fidelity Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass and plastic containers and accessories* therefor, from Dunkirk, Ind., to points in Maryland, New Jersey, New York, Pennsylvania, and Ohio and *returned shipments* on return; and (2) *materials and supplies used in the manufacture of glass and plastic containers* (except commodities in bulk), from points in Maryland, New Jersey, New York, Pennsylvania, and Ohio to Dunkirk, Ind. NOTE: Applicant holds contract carrier authority in MC 123934 Subs 10, 15, and 16, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., Indianapolis, Ind., or Pittsburgh, Pa.

No. MC 127705 (Sub-No. 12), filed October 18, 1967. Applicant: KREVDA BROS. EXPRESS, INC., Post Office Box 68, Gas City, Ind. 46933. Applicant's representative: Donald W. Smith, 511 Fidelity Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from Knox, Marienville, Parker, and points in Elk Township, Pa., to points in West Virginia. NOTE: Applicant holds contract carrier authority under MC 123934 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Pittsburgh, Pa.

No. MC 128247 (Sub-No. 4), filed October 18, 1967. Applicant: BURSAL TRANSPORT, INC., Rural Route 1, Bunker Hill, Ind. Applicant's representative: Warren C. Moberly, 1212 Fletcher Trust Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles and dross*, from Kokomo, Ind., to points in Minnesota, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, North Carolina, South Carolina, and Maryland, and (2) *machinery, n.o.i., machinery parts, n.o.i., mill rolls, iron and steel, ingots, iron and steel, carrier shipping reels, cleaning compounds, and lubricants*, on return, under contract with Continental Steel Corp., Kokomo, Ind. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 128273 (Sub-No. 14), filed October 17, 1967. Applicant: MIDWESTERN EXPRESS, INC., Post Office Box 189, Fort Scott, Kans. 66701. Applicant's representative: Harry Ross, 948 Warner Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper products, products produced or distributed by manufacturers and converters of paper and paper products; and materials, equipment, and supplies used in the manufacture and distribution of the foregoing commodities* except commodities in bulk, and commodities which, due to size and weight, require use of specialized motor vehicle equipment), between points in Little River County, Ark., on the one hand, and, on the other, points in Texas, Oklahoma, Kansas, Nebraska, South Dakota, North Dakota, New Mexico, Colorado, Louisiana, Mississippi, Alabama, Tennessee, Kentucky, Missouri, Iowa, Minnesota, Wisconsin, Illinois, Indiana, Michigan, Ohio, Pennsylvania, and New York. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 128341 (Sub-No. 2), filed October 19, 1967. Applicant: GALE L. HELBLING, 1455 Penn Avenue, New Brighton, Beaver County, Pa. 15066. Applicant's representative: Jerome Solomon, 1302 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastics and plastic forms and shapes* (except commodities in bulk), from the Borough of New Brighton, Beaver County, Pa., to points in Maine, Vermont, New Hampshire, Rhode Island, Connecticut, Massachusetts, Maryland, Virginia, West Virginia, South Carolina, Georgia, Florida, Tennessee, Kentucky, Alabama, Wisconsin, Michigan, and the District of Columbia, under contract with Tuscarora Plastics, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa.

No. MC 128919 (Sub-No. 2), filed September 13, 1967. Applicant: FRANK WEHE, 974 East Barnard, Blythe, Calif. 92225. Applicant's representative: Ernest D. Salm, 3846 Evans Street, Los Angeles, Calif. 90027. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities which because of size or weight require the use of special equipment*, between points in that part of Arizona bounded on the north by the Colorado River, on the east by the eastern boundaries of Mohave and Yuma Counties, and on the south by the U.S.-Mexico International Boundary line; and that part of California bounded on the north by the California-Nevada State line, on the west by a north-south line beginning at the said State line directly north of Nipton, Calif., and extending south through Nipton and Desert Center to the northern boundary of Imperial County, thence west along the northern boundary of Imperial County to the Imperial-San Diego, Calif., County line, thence south along the Imperial-San Diego County line to the U.S.-Mexico International Boundary line, and on the south by said International Boundary line; including points on the indicated portions of the highways and county lines specified. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif., or Phoenix, Ariz.

No. MC 129246 (Sub-No. 1), filed October 16, 1967. Applicant: ROY E. BARKER PRODUCE, INC., 121 Magnolia Street, North Little Rock, Ark. Applicant's representative: Glenn W. Jones, Jr., 1426 Donaghey Building, Little Rock, Ark. 72201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fruit and vegetable shipping containers*, from Little Rock, Ark., to points in Denver, Boulder, Weld, Adams, Arapahoe, Larimer, Jefferson, Douglas, Gilpin, Clear Creek, Park, Costilla, and Alamosa Counties, Colo., under contract with Little Rock Crate & Basket Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark.

No. MC 129291 (Sub-No. 1), filed October 16, 1967. Applicant: McDANIEL MOTOR EXPRESS, INC., 1115 Winchester Road, Lexington, Ky. 40505. Applicant's representative: George M. Catlett, 703-706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Paris and Carlisle, Ky., over U.S. Highway 68, serving all intermediate points. NOTE: Applicant indicates tacking possibilities at Paris, Ky., with its pending authority under MC 129291, wherein applicant seeks authority to serve between Lexington, Ky., and the site of the Rockwell-Standard Corp. at or near Winchester, Ky. If a hearing is deemed necessary, applicant requests it be held at Lexington or Louisville, Ky.

No. MC 129360 (Sub-No. 1), filed October 20, 1967. Applicant: KINSEY MOVING & STORAGE CO., INC., 631 Whitehall Street SW., Atlanta, Ga. 30310. Applicant's representative: James L. Flemister, 1026 Fulton Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Fulton County, Ga., and points in DeKalb, Gwinnett, Barrow, Forsyth, Cherokee, Dawson, Pickens, Bartow, Paulding, Cobb, Polk, Carroll, Heard, Coweta, Fayette, Henry, Meriwether, Troup, Pike, Upson, Lamar, Monroe, Jackson, Jasper, Newton, Rockdale, Morgan, Walton, Putnam, Greene, Oconee, Gilmer, Lumpkin, Hall, Gordon, Haralson, Floyd, Whitfield, and Clarke Counties, Ga., restricted to shipments having a prior or subsequent movement in containers beyond said counties, and further restricted to pickup and delivery service incidental to and in connection with packing, crating and containerization, or unpacking, uncrating and decontainerization of such shipments. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 129390 (Sub-No. 2), filed October 13, 1967. Applicant: S. T. WICKLIFF, Route 2, Algona, Iowa 50511. Applicant's representative: William A. Landau, 1461 East Grand Avenue, Des Moines, Iowa 50306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar beet pulp pellets*, from Chaska, East Grand Forks, and Moorhead, Minn., and Drayton, N. Dak., to points in Iowa and Nebraska. NOTE: If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 129400 (Sub-No. 2), filed October 18, 1967. Applicant: FLOOK, INC., 106 Catoctin Avenue, Frederick, Md. 21701. Applicant's representative: Daniel B. Johnson, 716 Perpetual Building, Washington, D.C. 20004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Concrete products and building materials*, from Hagerstown and Frederick, Md., to Washington, D.C., and points in Arlington, Loudon, Fairfax, and Prince William Counties, Va., and Alexandria and Falls Church, Va., under contract with Supreme Concrete, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 129426, filed September 27, 1967. Applicant: WAYNE A. FORD, doing business as FORD TRANSFER & STORAGE CO., 217 Wall Street, Twin Falls, Idaho. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Osercoat boxes, containing household goods and personal effects*, in providing a local pickup, delivery and transfer service, when moving on through bills of lading of an exempt freight forwarder, between points within a 100-mile radius of Twin Falls, Idaho. NOTE: If a hearing is deemed necessary, applicant requests it be held at Twin Falls or Boise, Idaho.

No. MC 129428 (Clarification), filed September 28, 1967, published in the FEDERAL REGISTER issue of October 19, 1967, and republished as clarified, this issue. Applicant: BEELINE DELIVERY CORP., Post Office Box 99, Cos Cob, Conn. 06807. Applicant's representative: Martin L. Nigro, 348 Greenwich Avenue, Greenwich, Conn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials and supplies* used by interior decorators and antique dealers and *household goods* limited to not more than 500 pounds from any one shipper, between points in Fairfield County, Conn., on the one hand, and, on the other, points in Massachusetts, New York, New Jersey, and Pennsylvania. NOTE: The purpose of this republication is to reflect that points in Fairfield *County*, Conn., was intended as the base area in the scope of the authority sought as previously published. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Hartford, Conn.

No. MC 129440, filed October 5, 1967. Applicant: GEORGE T. GEAHOS, doing business as PIXIE FROZEN FOODS, 7171 West Gunnison, Harwood Heights, Ill. Applicant's representative: Robert H. Levy, 29 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods, meat, meat products, butter* and *bakery goods*, and (2) *commodities*, the transportation of which is partially exempt under the provisions of section 203(b)(6) of the Interstate Commerce Act if transported in vehicles not used in carrying any other property, when moved in the same vehicle at the same time with food products in (1) above, between Chicago, Ill. (except points in Indiana within the Chicago, Ill., Commercial Zone), and the plantsite of American Fruit & Produce Co., located at Minneapolis, Minn., under contract with American Fruit & Produce Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 129444, filed October 6, 1967. Applicant: KNOBLOCK TRUCKING CO., INC., Yaphank Avenue, Brookhaven, N.Y. 11719. Applicant's representatives: Morton E. Kiel, 140 Cedar Street, New York, N.Y., and Douglas Miller, Meadow Brook Bank Building, Malverne, N.Y. 11565. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by whole, chain, and retail food business houses and, in connection therewith, *equipment, materials, and supplies* used in the conduct of such business (except liquid commodities in bulk, in tank vehicles), from Ridgefield, N.J., to points in Nassau and Suffolk Counties, N.Y., and *returned shipments* of the above specified commodities, on return, under contract with Corn Products Co. NOTE: Applicant's president, Fred Knoblock, holds contract authority in MC 41498 and Sub 3 thereunder, and is shown as transferor in pending application MC-FC 69990, filed September 28, 1967. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 129480, filed October 9, 1967. Applicant: DENNIS LINN, 912 West Duke Street, Hugo, Okla. 74743. Applicant's representative: James Bounds, 202 North Second Street, Hugo, Okla. 74743. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Treated and untreated wood products, finished or unfinished lumber*, between Hugo, Okla., on the one hand, and, on the other, points in Texas, New Mexico, Kansas, and Missouri, under contract with E. M. Fry Lumber Co., Inc. NOTE: Applicant indicates tacking possibilities with its Oklahoma State Certificate, which permits such hauling to and from all points in Oklahoma. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., or Dallas, Tex.

No. MC 129457, filed October 6, 1967. Applicant: SPEEDLINE TRUCKING, INC., 45 Oakland Avenue, Amsterdam, N.Y. 12010. Applicant's representative: L. Murray Doody, Jr., 75 State Street, Albany, N.Y. 12207. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Corrugated cartons, interior parts, and components*, knocked down flat, from shipper's plant in the city of Amsterdam, N.Y., to shipper's customers located in the counties of Bennington, Rutland, Addison, and Chittenden, Vt.; county of Berkshire, Mass.; city of Trenton, N.J., and community of Myerstown, Pa., and (2) *returned, refused, and rejected shipments* on return, under contract with General Fibre Box Co., Amsterdam, N.Y. NOTE: If a hearing is deemed necessary, applicant requests it be held at Amsterdam or Albany, N.Y.

No. MC 129458, filed October 19, 1967. Applicant: S & D EXPRESS, INC., 5221 South Highway No. 37, Bloomington, Ind. Applicant's representative: Warren C. Moberly, 1212 Fletcher Trust Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by vehicle, over irregular routes, transporting: (1) *Tents, tent poles, tent pins, metal tent pins, tent frames, tent liners, tarpaulin and canvas goods, canteen cups, rod insect bars and clips and clamps going therewith, snap links, and cargo shelf support* (for back packs), from Bedford, Indianapolis, and Gosport, Ind., to U.S. Government depots at Ogden, Utah; Mechanicsburg (Cumberland County), Pa.; Atlanta, Ga.; Memphis, Tenn.; Richmond, Va.; New Orleans, La.; Los Angeles and San Francisco, Calif., (2) *canvas goods (rolls or bales), screening, webbing, and other fabric products for use in manufacturing tents, tent liners, tarpaulins, and canvas goods*, from Richmond, Va.; Mechanicsburg (Cumberland County), Pa.; and New Orleans, La., to Indianapolis and Gosport, Ind., (3) *iron and steel, and iron and steel products*, from Chicago, Chicago Heights, and Crystal Lake, Ill.; Pittsburgh, Pa.; and Lorain, Ohio, to Bedford, Ind., (4) *metal meter boxes, and meter transformer boxes*, from Bedford, Ind., to Dayton and Lima, Ohio, (5) *machinery and machine tools*, between Bedford, Ind., on the one hand, and, on the other, points in Illinois, Michigan, Ohio, and Kentucky, and (6) *machine shop speciality products*, from Bedford, Ind. to points in Illinois, Michigan, Ohio, and Kentucky, under contract with Maco Tool & Engineering, Inc., Bedford, Ind., and Hoosier Tarpaulin & Canvas Goods Co., Inc., Indianapolis, Ind. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.

No. MC 129462, filed October 12, 1967. Applicant: NEVARES EXPRESS SHIPPING, INC., 560 Claremont Parkway, Bronx, N.Y. 10457. Applicant's representative: Saul Glassman, 66 Court Street, Brooklyn, N.Y. 11201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* and *personal effects*, between points within the exempt New York, N.Y., Commercial Zone wherein operations are exempt from economic regulations. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 129464, filed October 16, 1967. Applicant: MALABE SHIPPING CO.,

INC., 47 Bergen Street, Brooklyn, N.Y. 11201. Applicant's representative: Morris Honig, 150 Broadway, New York, N.Y. 10038. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities, and motor vehicles, parts, supplies, and accessories thereof*, between points in the New York, N.Y., harbor areas as defined by the Commission. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Newark, N.J.

No. MC 129468, filed October 13, 1967. Applicant: DOY REIDHEAD, Box 364, Show Low, Ariz. 85901. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, (1) from Show Low, Ariz., to points in Oklahoma, New Mexico, and Texas, and (2) from Nutrioso to Show Low, Ariz., under contract with Reidhead Lumber Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Show Low, Globe, or Phoenix, Ariz.

No. MC 129473 (Sub-No. 1), filed October 18, 1967. Applicant: R. D. ALLISON, doing business as ALLISON TRANSFER CO., 703 East Ashley Street, Post Office Box 31, Station C, Jacksonville, Fla. 32203. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, restricted to shipments having an immediately prior or subsequent movement in containers by rail, motor, water or air, and *empty containers* having an immediately prior or subsequent movement by rail, motor, water or air, between points in Florida. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Jacksonville, Fla.

No. MC 129474, filed October 13, 1967. Applicant: ALBERT G. PULIZ, WILLIAM EUART HIBBITT, AND DAVID MACAULAY, a Partnership, doing business as LAWRENCE MAYFLOWER MOVING & STORAGE CO., 2730 East Fourth Street, Post Office Box 37, Reno, Nev. 89504. Applicant's representative: Edward J. Hegarty, Shell Building, 100 Bush Street, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, as defined by the Commission, from junction Nevada Highway 28 and the California-Nevada State line, at or near Crystal Bay, Nev., along Nevada Highway 28 to junction U.S. Highway 50, at or near Glenbrook, Nev., thence northeasterly along U.S. Highway 50 to junction Alternate Interstate Highway 95, at or near Silver Springs, Nev., thence northerly along Alternate Interstate Highway 95 to junction Interstate Highway 80, at or near Fernley, Nev., thence northwesterly along Interstate Highway 80 to junction Nevada Highway 34, at or near Wadsworth, Nev., thence northerly along Nevada Highway 34 to junction Nevada Highway 33, at or near Nixon, Nev., thence from Nixon, Nev., along an imaginary line due west to junction with the California-Nevada State line, thence southerly along the California-Nevada State line to point of beginning. Restriction: The service authorized herein is restricted to the transportation of shipments both (1) having a prior or subsequent out-of-State movement by rail, motor, water or air, and (2) to pick-up and delivery services incidental to and in connection with packing, crating, and containerization, or unpacking, uncrating and decontainerization of such shipments. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Reno, Nev.

No. MC 129479, filed October 18, 1967. Applicant: ROGER GREEN, doing business as SUPERIOR MOTOR FREIGHT, 2130 Bel Aire Avenue, Duluth, Minn. 55803. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Millwork, custom wood and plastic casework, plastic countertops and miscellaneous items*, from Superior, Wis., to points in Minnesota, under contract with Erlanson Lumber Co., Superior, Wis. NOTE: If a hearing is deemed necessary, applicant requests it be held at Superior, Wis., or Duluth, Minn.

MOTOR CARRIER OF PASSENGERS

No. MC 67629 (Sub-No. 4) (Clarification), filed August 23, 1967, published FEDERAL REGISTER issue of September 14, 1967, clarified and republished as clarified this issue. Applicant: NORTHERN TRANSPORTATION CO., a corporation, 318 North Fifth Avenue, Virginia, Minn. 55792. Applicant's representative: Joseph J. Dudley, E-1506 First National Bank Building, St. Paul, Minn. 55101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers, their baggage and express*, from Virginia, to Tower, Minn., over Highway No. 135 and return and serving the following intermediate points; Gilbert, McKinley, Biwabik, Aurora, Four Corners (2 miles west of Embarrass), Wahlsten, and Tower, Minn. NOTE: This application is accompanied by a request for revocation of a portion of its existing authority in the event the instant application is granted, which reads as follows: From Virginia, Minn., to Tower, Minn., over Highway 169 serving all intermediate points. The purpose of this republication is to clearly set forth the note described above. If a hearing is deemed necessary, applicant requests it be held at Duluth or Virginia, Minn.

APPLICATION OF WATER CARRIER

No. W-630 (Sub-No. 31), A. L. MECHLING BARGE LINES, INC., EXTENSION—VICTORIA CHANNEL, filed October 23, 1967. Applicant: A. L. MECHLING BARGE LINES, INC., 51 North Desplaines Street, Joliet, Ill. 60431. Applicant's representative: J. Richard Hommarich (same address as applicant). Application of A. L. Mechling Barge Lines, Inc., filed October 23, 1967, for a revised certificate authorizing extension of its operations to include operation as a *common carrier*, by water in interstate or foreign commerce, by non-self-propelled vessels with the use of separate towing vessels in the transportation of *general commodities*, and by towing vessels in the performance of general towage, in year-round operation between ports on the Victoria Channel, from and including Victoria, Tex., to the Gulf Intracoastal Waterway.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 19227 (Sub-No. 123), filed October 13, 1967. Applicant: LEONARD BROS. TRUCKING CO., INC., 2595 Northwest 20th Street, Miami, Fla. 33152. Applicant's representatives: J. Fred Dewhurst, Post Office Box 602, Biscayne Annex, Miami, Fla. 33152, and Armlon Leonard (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refuse, trash, and waste disposal and handling equipment*, between Sun Valley and Pico Rivera, Calif., on the one hand, and, on the other, points in Arkansas, Louisiana, Mississippi, Alabama, Georgia, Tennessee, North Carolina, South Carolina, Florida, Virginia, and West Virginia.

No. MC 19227 (Sub-No. 123), filed October 15, 1967. Applicant: LEONARD BROS. TRUCKING CO., INC., 2595 Northwest 20th Street, Miami, Fla. 33152. Applicant's representative: Armlon Leonard (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refuse, trash, and waste disposal and handling equipment*, between Sun Valley and Pico Rivera, Calif., on the one hand, and, on the other, points in Kentucky, Missouri, Illinois, Indiana, Ohio, Wisconsin, Minnesota, Iowa, and Michigan.

No. MC 19227 (Sub-No. 124), filed October 18, 1967. Applicant: LEONARD BROS. TRUCKING CO., INC., 2595 Northwest 20th Street, Miami, Fla. 33152. Applicant's representative: J. Fred Dewhurst, Post Office Box 602, Biscayne Annex, Miami, Fla. 33152, or Armlon Leonard (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular route, transporting: *Refuse, trash, and waste disposal and handling equipment*, between Sun Valley and Pico Rivera, Calif., on the one hand, and, on the other, points in Arizona, New Mexico, Texas, Nebraska, Kansas, Oklahoma, Colorado, Nevada, Oregon, Washington, Utah, Montana, and Idaho.

No. MC 42406 (Sub-No. 27), filed September 28, 1967. Applicant: MISTLETOE EXPRESS SERVICE, doing business as MISTLETOE EXPRESS, 111 Harrison Avenue, Oklahoma City, Okla. 73101. Applicant's representative: Max G. Morgan, 450 American National Building, Oklahoma City, Okla. 73102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except classes A and B explosives), moving in express service, between Wichita Falls, Tex., and Waurika, Okla., from Wichita Falls over Texas Highway 79 to junction Oklahoma Highway 79, thence over Oklahoma Highway 79 to Waurika, serving no intermediate points, as an alternate route for operating convenience only.

No. MC 83539 (Sub-No. 220), filed October 17, 1967. Applicant: C & H TRANSPORTATION CO., INC., 1935 West Commerce Street, Dallas, Tex. 75222. Applicant's representative: W. T. Brunson, 419 Northwest Sixth Street, Oklahoma City, Okla. 73102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cooling towers and fluid coolers*, which because of size or weight require the use of special equipment, and *cooling towers, fluid coolers, and parts and accessories* for cooling towers and fluid coolers which do not require the use of special equipment, when moving in the same vehicle with cooling towers and fluid coolers which because of size or weight require the use of special equipment, from the plantsites of The Marley Co. at or near Stockton, Calif., to points in Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and Wyoming.

No. MC 116525 (Sub-No. 046), filed October 19, 1967. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Leonard A. Jaskiewicz, 1155 15th Street NW., Washington, D.C. 20005, and Edwin H. van Deusen (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydrogen peroxide*, in bulk, in tank vehicles, from Rochester, N.Y., to Geneseo, N.Y. NOTE: Common control may be involved.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-12871; Filed, Nov. 1, 1967; 8:46 a.m.]

[S.O. 994, ICC Order 3, Amdt. 1]

FRANKFORT & CINCINNATI RAILROAD CO.

Rerouting or Diversion of Traffic

Upon further consideration of ICC Order No. 2 (Frankfort & Cincinnati Railroad Co.) and good cause appearing therefor:

It is ordered, That:

ICC Order No. 2 be, and it is hereby amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) Expiration date: This order shall expire at 11:59 p.m., December 31, 1967, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., October 31, 1967, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., October 30, 1967.

INTERSTATE COMMERCE COMMISSION, R. D. PFAHLER, *Agent.*

[SEAL]

[F.R. Doc. 67-12942; Filed, Nov. 1, 1967; 8:47 a.m.]

[S.O. 994, ICC Order 4, Amdt. 1]

CHICAGO, BURLINGTON AND QUINCY RAILROAD CO.

Rerouting or Diversion of Traffic

Upon further consideration of ICC Order No. 4 (Chicago, Burlington & Quincy Railroad Co.) and good cause appearing therefor:

It is ordered, That:

ICC Order No. 4 be, and it is hereby amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) Expiration date: This order shall expire at 11:59 p.m., December 31, 1967, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., October 31, 1967, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., October 30, 1967.

INTERSTATE COMMERCE COMMISSION, R. D. PFAHLER, *Agent.*

[SEAL]

[F.R. Doc. 67-12947; Filed, Nov. 1, 1967; 8:47 a.m.]

FOURTH SECTION APPLICATION FOR RELIEF

OCTOBER 30, 1967.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT-HAUL

FSA No. 41156—*Passenger Fares to Western Territory*. Filed by H. R. Siddall, alternate agent (No. 12), for interested rail carriers. This application relates to transportation of passengers, between points on lines of applicant carriers and between such points on the one hand, and points on lines of connecting carriers, on the other.

Grounds for relief—Establishment of new fares by applicant carriers and maintenance of present fares by connecting carriers.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-12943; Filed, Nov. 1, 1967; 8:47 a.m.]

[Notice 484]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 30, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protest must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIER OF PROPERTY

No. MC 31600 (Sub-No. 629 TA), filed October 23, 1967. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham, Mass. 02154. Applicant's representative: Frank Hand (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, from Wilmington, Mass., to points in Vermont, for 180 days. Supporting shipper: Dragon Cement Co., 340 Park Square, Boston, Mass. Send protests to: James F. Martin, Jr., Assistant Regional Director, Interstate Commerce Commission, Bureau of Operations, John F. Kennedy Building, Government Center, Boston, Mass. 02203.

No. MC 41706 (Sub-No. 4 TA), filed October 23, 1967. Applicant: TOSH, INC., 64 West Fourth Street, Bridgeport, Pa. 19405. Applicant's representative: Thomas A. Mulroy (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *parcels and packages*, no single parcel or package to exceed 50 pounds, nor an overall dimension of 6 cubic feet, restricted to transportation from retail department stores; from Wilmington, Del., Upper Darby, Pa., and points in Philadelphia

and Montgomery Counties, Pa., to points in New Jersey bounded by the Delaware River, Woodstown, Clayton, Aloo, Mount Holly and Burlington; from Moorestown, N.J., and Wilmington, Del., to points in Philadelphia, Montgomery, Delaware, Bucks, and Chester Counties, Pa.; *damaged and exchanged merchandise and items for storage, on return*, for 150 days. Supporting shippers: Gimbel Brothers, Eighth and Market Streets, Philadelphia, Pa. 19105; John Wanamaker, 13th and Market Streets, Philadelphia, Pa. 19107. Send protests to: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 900 U.S. Customhouse, Second and Chestnut Streets, Philadelphia, Pa. 19106.

No. MC 31818 (Sub-No. 7 TA), filed October 23, 1967. Applicant: MARSH TRUCKING COMPANY, INC., 16621 Broadway, Maple Heights, Ohio 44137. Applicant's representative: Edwin C. Reminger (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Caskets*, finished (metal, wood, or copper) unboxed, unwrapped, from Chicago, Ill., to Denver, Colo., for 180 days. Supporting shipper: F. H. Hill Co., Inc., 2274 St. Clair Avenue, Cleveland, Ohio. Send protests to: District Supervisor G. J. Baccei, Interstate Commerce Commission, Bureau of Operations, 435 Federal Building, 215 Superior Avenue, Cleveland, Ohio 44114.

No. MC 97357 (Sub-No. 20 TA), filed October 19, 1967. Applicant: ALLYN TRANSPORTATION COMPANY, 14011 South Central Avenue, Los Angeles, Calif. 90059. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles; from El Centro, Imperial County, Calif.; to points in Nevada and to ports of entry in California on the United States-Mexico international boundary line, for 150 days. Supporting shipper: Valley Nitrogen Producers, Inc., Post Office Box 128, Helm, Calif. 93627. Send protests to: John E. Nance, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Federal Building, Room 7708, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 111720 (Sub-No. 6 TA), filed October 23, 1967. Applicant: RAY WILLIAMS AND ARLENE WILLIAMS, a partnership doing business as WILLIAMS TRUCK SERVICE, 2800 East 11th Street, Post Office Box 49, Sioux Falls, S. Dak. 57103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, packinghouse products and commodities* used by packinghouses, as defined in appendix I, Ex Parte MC-45, 61 M.C.C. 209, 766, from the plantsites of John Morrell & Co., at Sioux Falls and Madison, S. Dak., to points in Ohio, except Toledo, Columbus, and Dayton; Pennsylvania, except Pittsburgh; Michigan, Maine, New Hampshire, Vermont, Connecticut, Massachusetts, Rhode Island, New York, New Jersey, Delaware, Maryland, District of Columbia, Virginia, and West Virginia, for 180 days. Supporting shipper: John Morrell & Co., 1400 North Weber Avenue, Sioux Falls, S. Dak. 57103, Claude Stewart, Traffic Manager. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 112750 (Sub-No. 249 TA), filed October 23, 1967. Applicant: AMERICAN COURIER CORPORATION, 222–17 North Boulevard, De Bevoise Building, Bayside, N.Y. 11361. Applicant's representative; J. K. Murphy (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, written instruments, and business records* (except coin, currency, and negotiable securities) as are used in the business of banks and banking institutions, (1) between Vineland, Cumberland County, N.J., on the one hand, and, on the other, Philadelphia, Pa.; and (2) between Terre Haute, Ind., on the one hand, and, on the other, points within a 60-mile radius, including Crawford, Jasper, Cumberland, Coles, Clark, Moultrie, Douglas, Edgar, Shelby, Effingham, and Richland Counties, Ill., for 180 days. Supporting Shippers: Citizens State Bank, Vineland, N.J. 08360; The Citizens National Bank of Paris, Paris, Ill.; The Edgar County National Bank of Paris, Paris, Ill. 61944; Terre Haute First National Bank, Terre Haute, Ind. 47808. Send protests to: E. N. Carlgman, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 346 Broadway, New York, N.Y. 10013.

No. MC 116077 (Sub-No. 220 TA), filed October 23, 1967. Applicant: ROBERTSON TANK LINES, INC., 5700 Polk Street, Zip 77023, Houston, Tex. 77011, Post Office Box 9527. Applicant's representative: J. C. Browder (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt*, in bulk, in tank vehicles; from Port Arthur, Tex., to points in Louisiana; for 180 days. Supporting shipper: Bitucote Products Co. (Mr. Herb Warren, manager road sales), Post Office Box 7145, Little Rock, Ark. 72205. Send protests to: District Supervisor, John C. Redus, Bureau of Operations, Interstate Commerce Commission, Post Office Box 61212, Houston, Tex. 77061.

No. MC 116273 (Sub-No. 99 TA), filed October 23, 1967. Applicant: D&L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, Ill. 60650. Applicant's representative: William R. Lavery, 3800 South Laramie, Cicero, Ill. 60650. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid cleaning compound*, in bulk, in tank vehicles; from Muskegon, Mich., to Kansas City, Kans.; for 180 days. Supporting shipper: Lakeway Chemicals, Inc., Muskegon, Mich. Send protests to: Raymond E. Mauk, District Supervisor, Bureau of Operations, U.S. Courthouse, Federal Office Building, Room 1086, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 116314 (Sub-No. 12 TA), filed October 24, 1967. Applicant: MAX BINSWANGER TRUCKING, 13846 Alondra Boulevard, Santa Fe Springs, Calif. 90670. Applicant's representative: Carl Fritze, 1010 Wilshire Boulevard, Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, from the plantsite of Pacific Western Industries, Inc., near Gorman, Calif., to points in Nevada and Arizona, for 180 days. Supporting shipper: Pacific Western Industries, Inc., 3810 Wilshire Boulevard, Los Angeles, Calif. 90005. Send protests to: District Supervisor, John E. Nance, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Building, 3000 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 119641 (Sub-No. 68 TA), filed October 20, 1967. Applicant: RINGLE EXPRESS, INC., 450 East Ninth Street, Post Office Box 471, Fowler, Ind. 47944. Applicant's representative: Robert J. McGriff (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors* (not including tractors with vehicle beds, bed frames or fifth wheels); (2) *industrial and construction machinery and equipment*; (3) *equipment* designed for use in connection with tractors; (4) *trailers* designed for the transportation of the commodities described above (other than those designed to be drawn by passenger automobiles); (5) *attachments* for the commodities described above; (6) *internal combustion engines*, and; (7) *parts and accessories* of the commodities described in (1) above through; (6) above when moving in mixed loads with such commodities; from the plant and warehouse sites of Massey-Ferguson, Inc., at or near Cuyahoga Falls, Ohio, to points in Alabama, Florida, Mississippi, New York, Maine, Massachusetts, Maryland, Pennsylvania, Ohio, Indiana, Georgia, South Carolina, North Carolina, Kentucky, Virginia, Vermont, New Hampshire, Connecticut, Rhode Island, Michigan, Tennessee, West Virginia, New Jersey, Delaware, Louisiana, Wisconsin, Minnesota, Iowa, Missouri, Illinois, Arkansas, North Dakota, South Dakota, Nebraska, Oklahoma, Texas, and Kansas. Restriction: The authority requested above is restricted to traffic originating at the plant and warehouse sites of Massey-Ferguson, Inc., for 180 days. Supporting shipper: Massey-Ferguson, Inc., 1901 Bell Avenue, Des Moines, Iowa 50315. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 308 Federal Building, Fort Wayne, Ind. 46802.

No. MC 124692 (Sub-No. 43 TA), filed October 24, 1967. Applicant: SAMMONS TRUCKING, Post Office Box 933, Missoula, Mont. 59801. Applicant's representative: Gene P. Johnson, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points in Wisconsin, south of U.S. Highway 8 and on and west of U.S. Highway 45, to points in Nebraska and South Dakota, for 180 days. Supporting shipper: Bennett-Daniels Lumber Co., Inc., Dorchester, Wis. 54425. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 251 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 128247 (Sub-No. 5 TA), filed October 24, 1967. Applicant: BURSAL TRANSPORT, INC., Rural Route No. 1, Bunker Hill, Ind. 46914. Applicant's representative: Warren C. Moberly, 1912 Fletcher Trust Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles, and dross*, from the plantsite of Continental Steel Corp. at Kokomo, Ind., to points in Minnesota, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, North Carolina, South Carolina, and Maryland; and (2) *machinery, machinery parts, mill rolls, iron and steel; ingots, iron and steel; carrier shipping reels; cleaning compounds and lubricants*, from points in Minnesota, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, North Carolina, South Carolina, and Maryland to the plantsite of Continental Steel Corp. at Kokomo, Ind., for 180 days. Supporting shipper: Continental Steel Corp., Kokomo, Ind. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 308 Federal Building, Fort Wayne, Ind. 46802.

No. MC 128305 (Sub-No. 3 TA), filed October 23, 1967. Applicant: STALCUP TRUCKING, INC., 795 Teakwood, Coos Bay, Oreg. 97420. Applicant's representative: John G. McLaughlin, Pacific Building, Portland, Oreg. 97204. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Wood chips*, from points in Coos and Curry Counties, Oreg., to Coos Bay, Oreg., for 180 days. Supporting shipper: Weyerhaeuser Co., Tacoma, Wash. 98401. Send protests to: A. E. Odoms, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, Portland, Oreg. 97204.

No. MC 129416 (Sub-No. 1 TA), filed October 23, 1967. Applicant: B.D.C. LTD., 20 Sheffield Street, Toronto, Ontario, Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, written instruments, and business records* (except currency and negotiable securities) as are used in the conduct and operation of banks and banking institutions, between Buffalo, N.Y., on the one hand, and the Canadian-United States international boundary at ports of entry at either Fort Erie or Niagara Falls, N.Y., on the other, for 180 days. Supporting shippers: (1) The Bank of Nova Scotia, Toronto 1, Ontario, Canada; (2) The Toronto-Dominion Bank, 55 King Street West and Bay Street, Toronto 1, Ontario, Canada. Send protests to: District Supervisor George M. Parker, Bureau of Operations, Interstate Commerce Commission, 518 Federal Office Bldg., 121 Ellicott Street, Buffalo, N.Y. 14203.

No. MC 129368 (Sub-No. 1 TA), filed October 23, 1967. Applicant: O'BRIEN TRANSPORT CORPORATION, 720 West Witzel Avenue, (Mail to: Post Office Box 437), Oshkosh, Wis. 54901. Applicant's representative: R. J. Cuvelier (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood preservative oil*, in bulk, in tank vehicles, from Oshkosh, Wis., to Ironwood, Mich., for 150 days. Supporting shipper: The Cook & Brown Lime Co., 2950 Bradley Street, Oshkosh, Wis. 54901 (Rufus C. Brown, president). Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 129477 TA, filed October 20, 1967. Applicant: RICHARDS TRANSPORTATION COMPANY, INC., Port Richards, Savage, Minn. 55378. Applicant's representative: Sidney S. Feinberg, 400 Rand Tower, Minneapolis, Minn. 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Black oils*, bulk; from Superior, Wis., to all points in Minnesota, for 180 days. Supporting shipper: Richards Oil Co., Port Richards, Savage, Minn. 55378. Send protests to: C. H. Bergquist, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401.

No. MC 129484 TA, filed October 24, 1967. Applicant: MELVIN WANG, doing business as MELVIN WANG TRUCKING, Fertile, Minn. 56540. Applicant's representative: Gene P. Johnson, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer and liquid fertilizer ingredients*, in bulk, in tank vehicles; from Crookston, Minn., to points in North Dakota, and from Grafton, N. Dak., to points in Minnesota; for 180 days. Supporting shipper: Fert-L-Flow, Inc., Crookston, Minn. Send protests to: Joseph H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1621 South University Drive, Room 212, Fargo, N. Dak. 58102.

No. MC 129461 (Sub-No. 1 TA), filed October 24, 1967. Applicant: GRAY LINE SIGHTSEEING TOURS, INC., 540 Northwest 16th Street, Miami, Fla. 33136. Applicant's representative: John T. Bond, 1955 Northwest 17th Avenue, Miami, Fla. 33125. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers* in a sightseeing and charter service to, from, and between points and places in Florida; for 180 days. Supporting shippers: Capri Realty, Inc., 17220 Collins Avenue, Miami Beach, Fla.; Tropical Travel Bureau, Inc., 3001 East Las Olas Boulevard, Fort Lauderdale, Fla.; American Automobile Association, East Florida Division, 2898 Biscayne Boulevard, Miami, Fla.; Fergis Travel Service, 326 Biscayne Boulevard, Miami, Fla.; Universal Tours Corp., 2703 Biscayne Boulevard, Miami, Fla.; Seaboard Coast Line Railroad, 2206 Northwest Seventh Avenue, Miami, Fla.; United Tours, Inc., 59 Southeast Eighth Street, Miami, Fla.; Eastern Steamship Lines, Inc., Pier 2, Miami, Fla.; American Express Co., 330 East Flagler Street, Miami, Fla.; British West Indians Airways, 312 Northeast First Street, Miami, Fla.; Scandinavian Airlines System, 100 Biscayne Boulevard, Miami, Fla. Send protests to: Joseph B. Teichert, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1226, 51 Southwest First Avenue, Miami, Fla. 33130.

No. MC 129467 TA, filed October 25, 1967. Applicant: JOHN D. JOHNSON, 3381 Sunnybrook Avenue South, Jacksonville, Fla. 32205. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Clay*, in bags, from Wrens, Macon, McIntyre, Meigs, and Attapulgus, Ga., to Jacksonville, Fla. for 150 days. Supporting shipper: Florida Agricultural Supply Co., Post Office Box 658, 1611 Talleyrand Avenue, Jacksonville, Fla. 32201. Send protests to: District Supervisor, G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Federal Office Building, 400 West Bay Street, Jacksonville, Fla. 32202.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 67-12949; Filed, Nov. 1, 1967; 8:48 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during November.

7 CFR — Page

51 ... 15066, 15073
729 ... 15149
730 ... 15076
1001 ... 15076
1015 ... 15090
1067 ... 15093

PROPOSED RULES:
905 ... 15116
959 ... 15177
1125 ... 15178

13 CFR
106 ... 15065
108 ... 15149

PROPOSED RULES:
121 ... 15184

14 CFR
39 ... 15094, 15153, 15154
71 ... 15094, 15095, 15154
73 ... 15096
207 ... 15096
208 ... 15097
241 ... 15098

PROPOSED RULES:
71 ... 15117–15121

15 CFR
0 ... 15222
70 ... 15154

15 CFR—Continued — Page
304 ... 15104
230 ... 15105

16 CFR
13 ... 15105–15107

PROPOSED RULES:
300 ... 15180

19 CFR
14 ... 15155

21 CFR
120 ... 15107
121 ... 15108, 15109, 15155
133 ... 15109

PROPOSED RULES:
28 ... 15116

22 CFR

PROPOSED RULES:
201 ... 15116

26 CFR

PROPOSED RULES:
1 ... 15167

32 CFR
66 ... 15111
127 ... 15112

32 CFR—Continued — Page
536 ... 15113
552 ... 15115
710 ... 15115

39 CFR
823 ... 15099

42 CFR

PROPOSED RULES:
73 ... 15178

43 CFR

PUBLIC LAND ORDERS:
4301 ... 15098

45 CFR
81 ... 15156

47 CFR
73 ... 15161, 15162

PROPOSED RULES:
2 ... 15180
89 ... 15180
91 ... 15180
93 ... 15180

50 CFR
32 ... 15166
33 ... 15166

FEDERAL REGISTER

VOLUME 32 • NUMBER 213

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PART II

Department of Commerce
Office of the Secretary

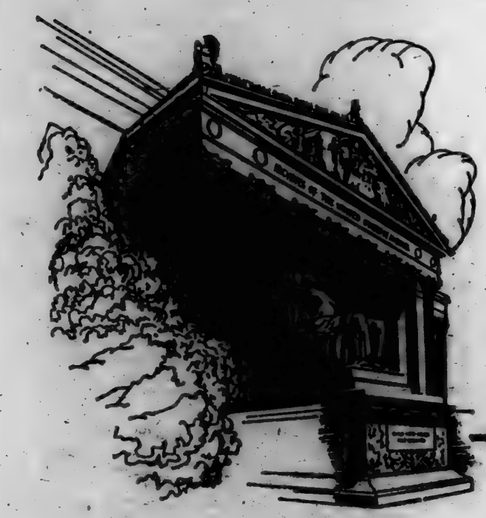

Employee Responsibilities and Conduct

Title 15—COMMERCE AND FOREIGN TRADE

Subtitle A—Office of the Secretary of Commerce

PART 0—EMPLOYEE RESPONSIBILITIES AND CONDUCT

The Civil Service Commission has published in 32 F.R. 8281 its amendments to Title 5, Part 735, of the Code of Federal Regulations, entitled "Employee Responsibilities and Conduct." To conform its own regulations on Employee Responsibilities and Conduct, the Department is hereby amending Part 0 of Subtitle A, Title 15, Code of Federal Regulations.

Part 0 is amended in the following respects: § 0.735–11(c) is deleted and the provisions thereof transferred to a new § 0.735–10a; § 0.735–11(d) is amended to indicate the circumstances under which a gift to an official superior may be allowed; paragraph (e) (1) of § 0.735–12 is deleted and the provisions thereof transferred to § 0.735–11(f) and amended to show that the exception does not necessarily allow non-Government reimbursement for travel on official business under agency orders; § 0.735–11 (d) and (e) are amended to correct obsolete statutory references and to cite pertinent Departmental regulations; § 0.735–21 is amended to limit the types of questions on a statement of employment and financial interests; §§ 0.735–22 and 0.735–23 are amended to restrict the requirements relative to reporting employment and financial interests to those employees in positions in which the possibility of conflicts-of-interest involvement is clear; § 0.735–22a is added to make clear the availability to employees of the Department's grievance procedure for settling questions concerning the applicability of the reporting requirement; § 0.735–25 is amended to eliminate quarterly supplementary statements; § 0.735–29 is amended to assure the confidentiality of statements submitted; §§ 0.735–35 and 0.735–36 are amended to modify an employee certification requirement, and to correct a typographical error; Appendix A is amended to up-date statutory references and to add a reference to 18 U.S.C. 219; and Appendices B and C are added to specify the categories of positions in which the incumbents are required to submit statements of employment and financial interests.

These amendments were approved by the Civil Service Commission on October 4, 1967, and are effective upon publication in the FEDERAL REGISTER.

The Department is reissuing the entire Part 0 as amended so that it will be available as a single document. Since this regulation is a rule of agency practice and procedure, notice and public procedure hereon are not required.

Accordingly, the Department hereby reissues Part 0 of the Regulations (15 CFR Subtitle A, Part 0), effective upon publication in the FEDERAL REGISTER as follows:

Subpart A—General Provisions

Sec.
0.735–1 Purpose.
0.735–2 Relation to basic provisions.
0.735–3 Applicability.
0.735–4 Definitions.

Subpart B—General Policy

0.735–5 General principles.
0.735–6 Standards required in the Federal service.
0.735–7 Special requirements of the Department.
0.735–8 Limitations on private activities and interests.

Subpart C—Statutory Limitations Upon Employee Conduct

0.735–9 Employee responsibilities.

Subpart D—Regulatory Limitations Upon Employee Conduct

0.735–10 Administrative extension of statutory limitations.
0.735–10a Proscribed actions.
0.735–11 Gifts, entertainment, and favors.
0.735–12 Outside employment or other activity.
0.735–13 Financial interests.
0.735–14 Use of Government time or property.
0.735–15 Misuse of employment or information.
0.735–16 Indebtedness.
0.735–17 Gambling, betting, and lotteries.
0.735–18 General conduct prejudicial to the Government.
0.735–19 Reporting undue influence to superiors.

Subpart E—Statements of Employment and Financial Interests

0.735–20 General provisions.
0.735–21 Form and content of statements.
0.735–22 Employees required to submit statements.
0.735–22a Employee's complaint on filing requirement.
0.735–23 Employees not required to submit statements.
0.735–24 Time and place for submission of original statements.
0.735–25 Supplementary statements.
0.735–26 Interests of employees' relatives.
0.735–27 Information not known by employee.
0.735–28 Information not required.
0.735–29 Confidentiality of employees' statements.
0.735–30 Relation of this part to other requirements.
0.735–31 Special Government employees.

Subpart F—Supplementary Regulations

0.735–32 Departmental.
0.735–33 Operating units.
0.735–34 Effective date of supplementary regulations.

Subpart G—Administration

0.735–35 Responsibilities of employees.
0.735–36 Responsibilities of operating units.
0.735–37 Procedure.
0.735–38 Availability for counseling.
0.735–39 Authorizations.
0.735–40 Disciplinary and other remedial action.
0.735–41 Inquiries and exceptions.

Appendix A—Statutes Governing Conduct of Federal Employees.

Appendix B—Position Categories, Grade GS–13 and Above, Requiring Statements of Employment and Financial Interests By Incumbents.

Appendix C—Position Categories Below GS–13 Requiring Statements of Employment and Financial Interests By Incumbents.

AUTHORITY: The provisions of this Part 0 issued under E.O. 11222 of May 8, 1965, 30 F.R. 6469, 3 CFR, 1965 Supp.; 5 CFR 735.104.

Subpart A—General Provisions

§ 0.735–1 Purpose.

The purpose of this part is to set forth Department of Commerce policy and procedure relating to employee responsibilities and conduct.

§ 0.735–2 Relation to basic provisions.

(a) This part implements the following:

(1) The provisions of law cited in this part;

(2) Executive Order 11222 of May 8, 1965 (3 CFR, 1965 Supp. p. 130);

(3) Part 735 of the Civil Service regulations (5 CFR 735.101–735.412, inclusive).

(b) This part prescribes additional standards of ethical and other conduct and reporting requirements deemed appropriate in the light of the particular functions and activities of this Department.

§ 0.735–3 Applicability.

This part applies to all persons included within the term "employee" as defined in § 0.735–4, except as otherwise provided in this part.

§ 0.735–4 Definitions.

For purposes of this part, except as otherwise indicated in this part:

(a) "Employee":

(1) Shall include:

(i) Every officer and employee of the Department of Commerce (regardless of location), including commissioned officers of the Environmental Science Services Administration; and

(ii) Every other person who is retained, designated, appointed, or employed by a Federal officer or employee, who is engaged in the performance of a function of the Department under authority of law or an Executive act, and who is subject to the supervision of a Federal officer or employee while engaged in the performance of the duties of his position not only as to what he does but also as to how he performs his duties, regardless of whether the relationship to the Department is created by assignment, detail, contract, agreement, or otherwise.

(2) Shall not include:

(i) Members of the Executive Reserve except when they are serving as employees of the Department under the circumstances described in subparagraph (1) of this paragraph;

(ii) Members of crews of vessels owned or chartered to the Government and operated by or for the Maritime Administration under a General Agency Agreement; or

(iii) Any other person who is determined legally not to be an officer or employee of the United States.

(b) "Special Government employee" shall mean an employee as defined in paragraph (a) of this section who is retained, designated, appointed, or employed to perform with or without compensation, for not to exceed 130 days during any period of 365 consecutive days, temporary duties on either a full-time or intermittent basis.

(c) "Personnel officer" means a personnel official to whom the power of appointment is redelegated under Administrative Order 202–350.

(d) "Operating unit" means, for purposes of this part, primary and constituent operating units designated as such in the Department Order Series of the Department of Commerce and, in addition, the Office of the Secretary.

(e) "Head of an operating unit," for the purposes of this part, includes the Assistant Secretary for Administration with respect to the performance of functions under this part for the Office of the Secretary.

Subpart B—General Policy

§ 0.735–5 General principles.

Apart from statute, there are certain principles of fair dealing which have the force of law and which are applicable to all officers of the Government. A public office is a public trust. No public officer can lawfully engage in business activities which are incompatible with the duties of his office. He cannot, in his private or official character, enter into engagements in which he has, or can have, a conflicting personal interest. He cannot allow his public duties to be neglected by reason of attention to his private affairs. Such conflicts of interest are not tolerated in the case of any private fiduciary, and they are doubly proscribed for a public trustee. (40 Ops. Atty. Gen. 187, 190.)

§ 0.735–6 Standards required in the Federal service.

5 CFR 735.101 states: "The maintenance of unusually high standards of honesty, integrity, impartiality, and conduct by Government employees and special Government employees is essential to assure the proper performance of the Government business and the maintenance of confidence by citizens in their Government."

§ 0.735–7 Special requirements of the Department.

The close and sensitive relationship between the Department of Commerce and the Nation's business community calls for special vigilance on the part of all officers and employees to avoid even any appearance of impropriety. The regulations set forth in this part have been adopted in order to promote the efficiency of the service in the light of the particular ethical and administrative problems arising out of the work of the Department.

§ 0.735–8 Limitations on private activities and interests.

It is the policy of the Department to place as few limitations as possible on private activities or interests consistent with the public trust and the effective performance of the official business of the Department. There is no general statutory or regulatory limitation on the conduct of private activities for compensation by officers or employees of the Department, when the private activity is not connected with any interest of the Government. When the private activity does not touch upon some interest, it may be conducted if it falls outside applicable statutory limitations and regulatory limitations.

Subpart C—Statutory Limitations Upon Employee Conduct

§ 0.735–9 Employee responsibilities.

Each employee and special Government employee has a positive duty to acquaint himself with the numerous statutes relating to the ethical and other conduct of employees and special employees of the Department and of the Government. Appendix A of this part contains a listing of the more important statutory provisions of general applicability. In case of doubt on any question of statutory application to fact situations that may arise, the employee should consult the text of the statutes, which will be made available to him by his organization unit, and he should also avail himself of the legal counseling provided by this part.

Subpart D—Regulatory Limitations Upon Employee Conduct

§ 0.735–10 Administrative extension of statutory limitations.

The provisions of the statutes identified in this part which relate to the ethical and other conduct of Federal employees are adopted and will be enforced as administrative regulations, violations of which may in appropriate cases be the basis for disciplinary action, including removal. The fact that a statute which may relate to employee conduct is not identified in this part does not mean that it may not be the basis for disciplinary action against an employee.

§ 0.735–10a Proscribed actions.

An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:

(a) Using public office for private gain;

(b) Giving preferential treatment to any person;

(c) Impeding Government efficiency or economy;

(d) Losing complete independence or impartiality;

(e) Making a Government decision outside official channels; or

(f) Affecting adversely the confidence of the public in the integrity of the Government.

§ 0.735–11 Gifts, entertainment, and favors.

(a) *General limitations.* Except as provided in paragraphs (b) and (f) of this section, an employee shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, payment of expenses, fee, compensation, or any other thing of monetary value, for himself or another person, from a person who:

(1) Has, or is seeking to obtain, contractual or other business or financial relations with the Department of Commerce;

(2) Conducts operations or activities that are regulated by the Department of Commerce; or

(3) Has interests that may be substantially affected by the performance or nonperformance of the employee's official duty or by actions of the Department.

(b) *Exceptions.* The following exceptions are authorized to the limitation in paragraph (a) of this section:

(1) Acceptance of a gift, gratuity, favor, entertainment, loan, payment of expenses, fee, compensation, or other thing of monetary value incident to obvious family or personal relationships (such as those between the employee and the parents, children, or spouse of the employee) when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors.

(2) Acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting or on an inspection tour where an employee may properly be in attendance. For the purpose of this section, "nominal value" means that the value of the food or refreshments shall not be unreasonably high under the circumstances.

(3) Acceptance of loans from banks or other financial institutions on customary terms and on security not inconsistent with paragraph (a) of this section, to finance proper and usual activities of employees, such as home mortgage loans.

(4) Acceptance of unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value.

(5) Acceptance of a gift, gratuity, favor, entertainment, loan, payment of expenses, fee, compensation, or other thing of monetary value when such acceptance is determined by the head of the operating unit concerned to be necessary and appropriate in view of the work of the Department and the duties and responsibilities of the employee. A copy of each such determination shall be sent to the counselor of the Department.

(6) Special Government employees are covered by this section only while em-

ployed by the Department or in connection with such employment.

(c) [Reserved]

(d) *Gifts to superiors.* An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement. An employee who violates these requirements shall be removed from the service.

(e) *Gifts from a foreign government.* An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless acceptance is (1) authorized by Congress as provided by the Constitution and in Public Law 89-673, 80 Stat. 952, and (2) authorized by the Department of Commerce as provided in Administrative Order 202-739.

(f) *Reimbursement for travel expenses and subsistence.* Neither this section nor § 0.735-12 precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this part for which no Government payment or reimbursement is made. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits, nor does it allow an employee to be reimbursed by a person for travel on official business under agency orders when reimbursement is prescribed by Decision B-128527 of the Comptroller General dated March 7, 1967. (Requirements applicable to Department of Commerce employees are set forth in Department of Commerce Administrative Order 203-8.)

§ 0.735-12 Outside employment or other activity.

(a) *Incompatible outside employment or other outside activity.* An employee shall not engage in outside employment or other outside activity not compatible (i) with the full and proper discharge of the duties and responsibilities of his Government employment, (ii) with the policies or interests of the Department, or (iii) with the maintenance of the highest standards of ethical and moral conduct. Incompatible activities include but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, a conflict of interest;

(2) Outside employment which tends to impair the employee's mental or physical capacity to perform his Government duties and responsibilities in an acceptable manner;

(3) Employment with any foreign government, corporation, partnership, instrumentality, or individual unless authorized by the Department;

(4) Employment by, or service rendered under contract with, any of the persons listed in § 0.735-11(a);

(5) Receipt by an employee, other than a special Government employee, of any salary or anything of monetary value from a private source as compensation for his services to the Government. (18 U.S.C. 209)

(b) *Improper benefit from official activity.* (1) No employee of the Department shall receive compensation (e.g., an honorarium) or anything of monetary value, other than that to which he is duly entitled from the Government, for the performance of any activity during his service as such employee of the Department and within the scope of his official responsibilities.

(2) As used in this paragraph, "within the scope of his official responsibilities" means in the course of or in connection with his official responsibilities. (See 29 Comp. Gen. 169; 30 id. 248; 32 id. 454; 35 id. 364; B-131971, July 17, 1957.)

(3) An activity shall ordinarily be considered to be in the course of or in connection with an employee's official responsibilities if it is performed as a result of an invitation or request which is addressed to the Department or a component thereof, or which is addressed to an employee at his office at the Department, or which there is reason to believe is extended partly because of the official position of the employee concerned. (When in doubt, it may be asked whether it is likely that the invitation would have been received if the recipient were not associated with the Department.) Whether an employee is on leave while performing an activity shall be considered irrelevant in determining whether an activity is performed in the course of or in connection with the employee's official responsibilities.

(4) Acceptance of a gift or bequest on behalf of the Department shall be made in accordance with Department Order 3 and Administrative Order 202-8.

(c) *Teaching, lecturing, and writing.* Employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law, Executive Order 11222, 5 CFR Part 735, or the regulations in this part and Administrative Order 202-4, "Writing for Outside Publication," subject to the following conditions:

(1) An employee shall not, either for or without compensation, engage in teaching, lecturing, or writing that is dependent on information obtained as a result of his Government employment, except when that information has been made available to the general public or will be made available on request, or when the Assistant Secretary for Administration or his designee gives written authorization for the use of nonpublic information on the basis that the use is in the public interest.

(2) No employee shall receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance, the subject matter of which is devoted substantially to the responsibilities, programs, or operations of the Department of Commerce, or which draws substantially on official data or ideas which have not become part of the body of public information. As used in this subparagraph, "the body of public information" shall mean information which has been disseminated widely among segments of the public which may be affected by or interested in the information concerned, or which is known by such segments of the public to be freely available on request to a Government agency.

(d) *State or local government employment.* An employee may not engage in outside employment under a State or local government except in accordance with Part 734 of the Civil Service regulations (5 CFR Part 734) and Department of Commerce Administrative Order 202-734.

(e) *Application of the limitations.* This section does not preclude an employee from:

(1) [Reserved]

(2) Participation in the activities of National or State political parties not proscribed by law.

(3) Participation in the affairs of, or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational and recreational, public service, or civic organization.

§ 0.735-13 Financial interests.

(a) An employee shall not:

(1) Have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his Government duties and responsibilities; or

(2) Engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through his Government employment.

(b) No employee shall participate in any manner, on behalf of the United States, in the negotiation of contracts, the making of loans, and grants, the granting of subsidies, the fixing of rates, or the issuance of valuable permits or certificates, or in any investigation or prosecution, or in the transaction of any other official business, which affects chiefly a person (1) by whom he has been employed or with whom he has had any economic interest within the preceding 2 years, or (2) with whom he has any economic interest or any pending negotiations concerning a prospective economic interest, except with express prior authorization as provided for in Subpart G of this part.

(c) This section does not preclude an employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government so long as it is not prohibited by law, Executive order, Civil Service regulations (5 CFR Part 735), or regulations in this part.

§ 0.735-14 Use of Government time or property.

(a) An employee shall not directly or indirectly use, or allow the use of, Government time or property of any kind, including property leased to the Government, for other than officially approved activities.

(b) Each employee shall protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to him.

§ 0.735-15 Misuse of employment or information.

(a) *Use of Government employment.* An employee shall not use his Government employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for himself or another person, particularly one with whom he has family, business, or financial ties.

(b) *Use of inside information.* For the purpose of furthering a private interest, an employee shall not, except as provided in § 0.735-12(c), directly or indirectly use, or allow the use of, information which has been or has the appearance of having been obtained through or in connection with his Government employment and which has not been made available to the general public.

(c) *Coercion.* An employee shall not use his Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to himself or another person, particularly one with whom he has family, business, or financial ties.

(d) *Disclosure of restricted information.* No employee shall divulge restricted commercial or economic information, or restricted information concerning the personnel or operations of any Government agency, or release any such information in advance of the time prescribed for its authorized release.

(e) *Discrimination.* No employee, acting in his official capacity, shall, directly or indirectly, authorize, permit, or participate in any act or course of conduct which, on the ground of race, color, creed, national origin, or sex, excludes from participation, denies any benefit to, or otherwise subjects to discrimination any person under any program or activity administered or conducted by the Department or one of its units, or such employee. (See Department Order 195.)

§ 0.735-16 Indebtedness.

(a) An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. For purposes of this section, "a just financial obligation" means one acknowledged by the employee or reduced to judgment by a court, and "in a proper and timely manner" means in a manner which, in the view of the Department, does not, under the circumstances, reflect adversely on the Government as his employer.

(b) In the event of disputes between an employee and an alleged creditor, this section does not require the Department to determine the validity or amount of the disputed debt.

§ 0.735-17 Gambling, betting, and lotteries.

An employee shall not participate while on Government-owned or leased property or while on duty for the Government, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property or in selling or purchasing a numbers slip or ticket. However, this section does not preclude activities (a) necessitated by an employee's law enforcement duties, or (b) under section 3 of Executive Order 10927 (relating to solicitations conducted by organizations composed of civilian employees or members of the armed forces among their own members for organizational support or for benefit or welfare funds for their own members) and similar agency-approved activities.

§ 0.735-18 General conduct prejudicial to the Government.

(a) *General policy.* Officers and employees of the Federal Government are servants of the people. Because of this, their conduct must, in many instances, be subject to more restrictions and to higher standards than may be the case in certain private employments. They are expected to conduct themselves in a manner which will reflect favorably upon their employer. Although the Government is not particularly interested in the private lives of its employees, it does expect them to be honest, reliable, trustworthy, and of good character and reputation. They are expected to be loyal to the Government, and to the department or agency in which they are employed.

(b) *Specific policy.* An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government.

(c) *Regulations applicable to public buildings and grounds.* Each employee is responsible for knowing and complying with regulations of the General Services Administration and of the Department of Commerce applicable to public buildings and grounds.

§ 0.735-19 Reporting undue influence to superiors.

Each employee shall report to his superior any instance in which another person inside or outside the Federal Government uses or attempts to use undue influence to induce, by reason of his official Government position, former Government employment, family relationship, political position, or otherwise, the employee to do or omit to do any official act in derogation of his official duty.

Subpart B—Statements of Employment and Financial Interests

§ 0.735-20 General provisions.

(a) In order to carry out the purpose of this part, certain employees of the Department, specified in or pursuant to this part, will be required to submit statements of outside employment and financial interests for review designed to disclose conflicts of interest, apparent conflicts of interest on the part of employees, and other matters within the purview of this part.

(b) When a conflict or apparent conflict of interest on the part of an employee or other question of compliance with the provisions of this part arises and is not resolved at a lower level within the Department, e.g., by appropriate remedial action, the information concerning the matter shall be reported to the Secretary through the counselor for the Department designated in § 0.735-38.

(c) In the event of a conflict or apparent conflict of interest on the part of an employee or other question of compliance with the provisions of this part, the employee concerned shall be provided an opportunity to explain the matter. After consideration of the conflict or apparent conflict of interest or other question of compliance, and the employee's explanation thereof, appropriate action shall be taken.

§ 0.735-21 Form and content of statements.

(a) Statements of employment and financial interests shall be submitted as far as practicable on one of the following forms, as appropriate:

(1) Form CD-220, "Confidential Statement of Employment and Financial Interests (For Use by Government Employees Other Than Special Government Employees)"; or

(2) Form CD-219, "Confidential Statement of Employment and Financial Interests (For Use by Special Government Employees)."

(b) Each of the foregoing forms shall contain, as a minimum, the information required by the formats prescribed by the Civil Service Commission in the Federal Personnel Manual. Questions on a statement of employment and financial interests that go beyond, or are in greater detail than, those included on the Commission's formats may be included on a statement only with the approval of the Assistant Secretary for Administration and the Commission.

(c) [Reserved]

(d) The employee will not be required to reveal precise amounts of financial interest when such information is not necessary for a proper determination as to whether there is any apparent conflict of interest.

§ 0.735-22 Employees required to submit statements.

Except as provided in § 0.735-23, a statement of employment and financial interests shall be submitted by the following employees other than special Government employees:

(a) Employees paid at a level of the Executive Schedule in subchapter II of chapter 53 of Title 5, United States Code.

(b) Employees classified at GS-18 or above under section 5332 of Title 5,

United States Code, or at a comparable pay level under another authority, who are in positions the basic duties and responsibilities of which are determined by the head of the operating unit concerned to require the incumbent to make a Government decision or to take a Government action in regard to:

(1) Contracting or procurement;

(2) Administering or monitoring grants or subsidies;

(3) Regulating or auditing private or other non-Federal enterprise; or

(4) Other activities where the decision or action has an economic impact on the interests of any non-Federal enterprise.

Each employee who occupies a position in one of the above-listed categories and who is not excluded from the reporting requirement shall be notified that he is subject to the reporting requirement.

(c) The following employees classified at GS-13 or above under section 5332 of Title 5, United States Code, or at a comparable pay level under another authority, not otherwise subject to paragraph (b) of this section:

(1) Employees in grade GS-16 or above, or in comparable or higher positions.

(2) Employees in Schedule C positions.

(3) Employees in hearing examiner or hearing officer positions.

(4) Persons employed as experts, consultants, or advisers.

(5) Employees in positions or categories of positions, regardless of their official title, identified in Appendix B of this part.

(d) Employees classified below GS-13 under section 5332 of Title 5, United States Code, or at a comparable pay level under another authority, who are in positions or categories of positions, regardless of their official title, identified in Appendix C to this part.

(e) *Appendices B and C.*

(1) Appendix B to this part shall be maintained and changes made therein in accordance with the criteria in 5 CFR 736.403(c) and in accordance with the procedure in this paragraph. Appendix C to this part shall be maintained and changes made therein in accordance with the criteria in 5 CFR 736.403(d) and in accordance with the procedure in this paragraph.

(2) Heads of operating units and heads of offices in the Office of the Secretary shall, in conformity with the above-cited criteria, recommend changes in Appendix B and Appendix C to the Assistant Secretary for Administration for approval. Changes in Appendix C shall be submitted, with specific justification, to the Civil Service Commission for further prior approval.

(3) Incumbents of positions added to Appendix B or to Appendix C shall become subject to the reporting requirements of this part upon receipt of notification that their position is subject to such requirements. Appendix B and Appendix C shall be republished annually to reflect changes in the lists.

§ 0.735–23 Employee's complaint on filing requirements.

An employee shall have an opportunity for review through the Department of Commerce grievance procedure, as provided by Administrative Order 202–770, of a complaint by him that his position has been improperly included under the regulations of the Department as one requiring the submission of a statement of employment and financial interests.

§ 0.735–23 Employees not required to submit statements.

(a) Employees in positions that meet the criteria in paragraph (b), (c), or (d) of § 0.735–22 may be excluded from the reporting requirement when the head of the operating unit concerned determines that:

(1) The duties of a position are such that the likelihood of the incumbent's involvement in a conflicts-of-interest situation is remote; or

(2) The duties of a position are at such a level of responsibility that the submission of a statement of employment and financial interests is not necessary because of the degree of supervision and review over the incumbent or the inconsequential effect on the integrity of the Government.

(b) A statement of employment and financial interests is not required by this part from the Secretary of Commerce, from the head of an independent agency for which the Department of Commerce performs administrative services, or from a full-time member of a committee, board, or commission appointed by the President. These employees are subject to separate reporting requirements under section 401 of Executive Order 11222.

§ 0.735–24 Time and place for submission of original statements.

(a) An employee required to submit a statement of employment and financial interests under this part shall submit that statement not later than:

(1) Ninety days after the effective date of this part if the employee is employed by the Department on or before the effective date of this part; or

(2) Thirty days after the employee's entrance on duty date, but in no case earlier than 90 days after the effective date of this part.

(b) Statements shall be submitted to a personnel officer specified by the head of the operating unit or to such other person as the head of the operating unit, with the approval of the Secretary, may specify. Secretarial officers and heads of operating units shall submit their statements to the Secretary or to such person as the Secretary may designate.

§ 0.735–25 Supplementary statements.

Changes in, or additions to, the information contained in an employee's statement of employment and financial interests shall be reported in a supplementary statement as of June 30 each year, except when the Civil Service Commission authorizes a different date on a showing by the Department of necessity therefor. (The Commission has authorized filing of the supplementary statement for 1967 as of Sept. 30, 1967.) If no changes or additions occur, a negative report is required. Notwithstanding the filing of the annual report required by this section, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflicts-of-interest provisions of section 208 of Title 18, United States Code, or Subpart D of this part.

§ 0.735–26 Interests of employees' relatives.

The interest of a spouse, minor child, or other member of an employee's immediate household is considered to be an interest of the employee. For the purpose of this section, "member of an employee's immediate household" means those blood relations who are members of the employee's household.

§ 0.735–27 Information not known by employee.

If any information required to be included on a statement of employment and financial interests or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information in his behalf.

§ 0.735–28 Information not required.

This part does not require an employee to submit on a statement of employment and financial interests or supplementary statement any information relating to the employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise. For the purpose of this section, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement of employment and financial interests.

§ 0.735–29 Confidentiality of employees' statements.

(a) No employee may have access to a statement of employment and financial interests, or a supplementary statement, unless his official duties make access necessary. Each employee who has access to such a statement is responsible for maintaining it in confidence and shall not allow access to, or allow information to be disclosed from, a statement except to an employee of the Department of Commerce or the Civil Service Commission to carry out the purpose of this part or to other persons as the Civil Service Commission or the Assistant Secretary for Administration may determine for good cause shown. (The foregoing limitations do not apply to release of information by an employee with respect to a statement he has submitted under this section.)

(b) The employees designated in paragraph (b) of § 0.735–24 to receive statements are authorized to review and retain the statements and are responsible for maintaining the statements in confidence, as provided in this section.

§ 0.735–30 Relation of this part to other requirements.

(a) The requirement that employees submit statements of employment and financial interests and supplementary statements under this part is in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation.

(b) The submission of a statement or supplementary statement by an employee does not permit him or any other person to participate in a matter in which his or the other person's participation is prohibited by law, order, or regulation, including this part.

§ 0.735–31 Special Government employees.

(a) Special Government employees shall be required to report:

(1) All other employment; and

(2) Financial interests specified on Form CD–219.

(b) A waiver may be granted to the requirements of this section in the case of a special Government employee who is not a consultant or expert (as defined in Chapter 304 of the Federal Personnel Manual) when a determination is made that the duties of the position held by that special Government employee are of such a nature and at such a level of responsibility that the submission of the statement by the incumbent is not necessary to protect the integrity of the Government. Any such waiver shall be approved by the head of the operating unit concerned or his designee. A copy of the waiver shall be filed with the deputy counselor for the organization unit concerned.

(c) The original statement of employment and financial interests required to be submitted by a special Government employee shall be submitted not later than his entry on duty. Each special employee shall keep his statement current throughout his employment with the Department by the submission of supplementary statements.

Subpart F—Supplementary Regulations

§ 0.735–32 Departmental.

The Assistant Secretary for Administration may prescribe supplementary instructions consistent with this part.

§ 0.735–33 Operating units.

Each operating unit is hereby authorized and directed to prescribe, after approval by the Assistant Secretary for Administration, such additional regulations not inconsistent with this part as may be necessary to effectuate the general purpose of this part in the light of its individual operating requirements, including but not limited to pertinent statutory provisions, such as:

(a) 35 U.S.C. 4, 122 (Patent Office);

(b) 46 U.S.C. 1111(b) (Maritime Administration);

(c) Certain provisions of the Defense Production Act of 1950, e.g., 50 U.S.C. App. 2160(b)(2) (avoidance of conflicts of interest), 50 U.S.C. App. 2160(b)(6) (financial statements), and 50 U.S.C. App. 2160(f) (prohibition of use of confidential information for purposes of speculation) (Business and Defense Services Administration and any other primary operating unit affected); and

(d) Certain provisions of Public Law 89–136, the Public Works and Economic Development Act of 1965, e.g., section 711 (restriction on employing certain EDA employees by applicants for financial assistance), and section 710(b) (embezzlement, false book entries, sharing in loans, etc., and giving out unauthorized information for speculation).

§ 0.735–34 Effective date of supplementary regulations.

Supplementary regulations prescribed pursuant to § 0.735–33, shall become effective upon approval by the issuing officer unless a different date is required by law or a later date is specified therein.

Subpart G—Administration

§ 0.735–35 Responsibilities of employees.

It is the responsibility of each employee:

(a) To assure, at the outset of his employment, that each of his interests and activities is consistent with the requirements established by or pursuant to this part;

(b) To submit a statement of employment and financial interests at such times and in such form as may be specified in or pursuant to this part;

(c) To certify, upon entering on duty in the Department, that he has read this part and applicable regulations supplementary thereto;

(d) To obtain prior written authorization of any interest or activity about the propriety of which any doubt exists in the employee's mind, as provided in § 0.735–30;

(e) To confine each of his interests and activities at all times within the requirements established by or pursuant to this part, including any authorizations granted pursuant to this part; and

(f) To obtain a further written authorization whenever circumstances change, or the nature or extent of the interest or activity changes, in such a manner as to involve the possibility of a violation or appearance of a violation of a limitation or requirement prescribed in or pursuant to this part.

§ 0.735–36 Responsibilities of operating units.

The head of each operating unit, or his designee, shall:

(a) Furnish or make available to each employee a copy of this part (or a comprehensive summary thereof) within 90 days after approval of this part by the Civil Service Commission, and, upon their issuance, a copy of any regulations supplementary thereto (or a comprehensive summary thereof);

(b) Furnish or make available to each new employee at the time of his entrance on duty a copy of this part as it may be amended and any supplementary regulations (or a comprehensive summary thereof);

(c) Bring this part (or as it may be amended and any supplementary regulations thereto) to the attention of each employee annually, and at such other times as circumstances may warrant as may be determined by the Assistant Secretary for Administration;

(d) Have available for review by employees, as appropriate, copies of laws, Executive orders, this part, supplementary regulations, and pertinent Civil Service Commission regulations and instructions relating to ethical and other conduct of Government employees;

(e) Advise each employee who is a special Government employee of his status for purposes of 18 U.S.C. 203 and 205;

(f) Require each employee specified in § 0.735–22 to submit a statement of employment and financial interests, as provided by or pursuant to this part;

(g) Develop an appropriate form, with the approval of the counselor of the Department, on which the employee may certify that he has read this part and applicable regulations supplementary thereto, in accordance with § 0.735–35(c), and on which he may, if he so desires, indicate that he has a private activity or interest about which he requests advice and guidance as provided by § 0.735–38.

(h) Require each employee upon entering on duty and at such other times as may be specified, to execute the certification required by § 0.735–35(c);

(i) Report to the program Secretarial Officer concerned and to the Assistant Secretary for Administration promptly any instance in which an employee, after notice, fails to submit the certification required under § 0.735–35(c) or a statement of employment or financial interests required under this part within 14 calendar days following the prescribed time limit for doing so; and

(j) Take action to impress upon each employee required to submit a statement of employment and financial interests, upon his supervisor, and upon employees with whom the employee works, their responsibility as follows:

(1) The employee's supervisor is responsible (i) for excluding from the range of duties of the employee any contracts or other transactions between the Government and his outside employer, clients, or entities in which he has an interest within the purview of this part, and (ii) for overseeing the employee's activities in order to insure that the public interest is protected from improper conduct on his part and that he will not, through ignorance or inadvertence, embarrass the Government or himself.

(2) The employee's supervisor and employees with whom he works are responsible for avoiding the use of the em-

ployee's services in any situation in which a violation of law, regulation, or ethical standards is likely to occur or to appear to occur.

(2) The supervisor of an employee is responsible for initiating prompt and proper disciplinary or remedial action when a violation, intentional or innocent, is detected.

(4) Employees shall avoid divulging to a special Government employee privileged Government information which is not necessary to the performance of his governmental responsibility or information which directly involves the financial interests of his non-Government employer.

(5) An employee shall make every effort in his private work to avoid any personal contact with respect to negotiations with the Department for contracts, grants, or loans, if the subject matter is related to the subject matter of his Government employment. When this is not possible, he may participate if not otherwise prohibited by law (e.g., 18 U.S.C. 208 and 205) in the negotiations for his private employer only with the prior approval of the head of the operating unit concerned.

§ 0.735–37 Procedure.

The review of statements of employment and financial interests shall include the following basic measures, among others:

(a) Statements shall be submitted to the designated officer, who will review each employee's statement of employment and financial interests to ascertain whether they are consistent with the requirements established by or pursuant to this part. (See § 0.735–34(b).)

(b) Where the statement raises any question of compliance with the requirements of this part, it shall be submitted to a deputy counselor for the organization unit concerned. The deputy counselor may, in his discretion, utilize the advice and services of others (including departmental facilities) to obtain further information needed to resolve the questions.

(c) The designated officer shall maintain the statements of employment and financial interests in a file apart from the official personnel files and shall take every measure practicable to insure their confidentiality. Statements of employment and financial interests shall be preserved for 6 years following the separation of an employee from the Department or following termination of any other relationship under which the individual rendered service to the Department, except as may be otherwise authorized by the Assistant Secretary for Administration or as required by law.

§ 0.735–38 Availability for counseling.

(a) The General Counsel of the Department shall:

(1) Serve as the counselor for the Department of Commerce with respect to matters covered by the basic provisions cited in § 0.735–2(a) and otherwise by or pursuant to this part;

(2) Serve as the Department of Commerce designee to the Civil Service Commission on matters covered by this part; and

(3) Coordinate the counseling services provided under this part and assure that counseling and interpretations on questions of conflicts of interest and other matters covered by this part are available to deputy counselors designated under paragraph (b) of this section.

(b) The counselor shall designate employees who shall serve as deputy counselors for employees of the Department of Commerce with respect to matters covered by or pursuant to this part and shall give authoritative advice and guidance to each employee who seeks advice and guidance on questions of conflict of interests and other matters covered by or pursuant to this part.

(c) Each operating unit shall notify its employees of the availability of counseling services and of how and where these services are available. This notification shall be given within 90 days after approval of this part by the Civil Service Commission and periodically thereafter. In the case of a new employee appointed after the foregoing notification, notification shall be made at the time of his entrance on duty.

(d) In each operating unit a deputy counselor shall advise and counsel each employee concerning any adjustments necessary in his financial interests or activities, or in any contemplated interests or activities, in order to meet the requirements established by or pursuant to this part.

§ 0.735–39 Authorizations.

All requests for authorizations required under this part shall be addressed to the head of the operating unit concerned. In the Office of the Secretary such requests shall be addressed to the Secretary or such person as he may designate. When granted, authorizations will be in writing, and a copy of each authorization will be filed in the employee's official personnel file.

(a) In case of doubt, or upon the request of the employee concerned, cases or questions will be forwarded to the counselor or a deputy counselor. (See § 0.735–38.)

(b) Where an activity requested to be authorized can be conducted as official business, it shall not be authorized as a private activity, but shall be conducted as official business.

(c) Where authorizations involve speaking, writing, or teaching, use of the official title of the employee for identification purposes may be authorized, provided the employee makes it clear that his statements and actions are not of an official nature.

(d) If an authorization has been granted for a specific activity or interest, and the activity or interest is subsequently deemed to constitute a violation of the limitations or requirements prescribed in or pursuant to this part, the employee concerned shall be notified in writing of the cancellation of the authorization and shall modify or stop the activity or interest involved, as requested.

§ 0.735–40 Disciplinary and other remedial action.

(a) Violation of a requirement established in or pursuant to this part shall be cause for appropriate disciplinary action, which may be in addition to any penalty prescribed by law.

(b) When, after consideration of the explanation of the employee provided by § 0.735–30(c), the reviewing officer, in cooperation with the responsible supervisory official, decides that remedial action is required, he will take or cause to be taken immediate action to end the conflict or appearance of conflict of interest. Remedial action may include, but is not limited to:

(1) Changes in assigned duties;

(2) Divestment by the employee of his conflicting interest;

(3) Disciplinary action (including removal from the service); or

(4) Disqualification for a particular assignment.

Remedial action, whether disciplinary or otherwise, shall be effected in accordance with applicable laws, Executive orders, and regulations.

(c) No disciplinary or remedial action may be taken under this section against an employee of another Federal department or agency on detail to the Department of Commerce other than through and with the concurrence of the detailed employee's employing agency.

§ 0.735–41 Inquiries and exceptions.

(a) Inquiries relating to legal aspects of the limitations set forth in or cited in or pursuant to this part should be submitted to the appropriate deputy counselor. Inquiries relating to other aspects of this part or regulations supplementary thereto should be referred to the appropriate personnel office.

(b) Within the limits of administrative discretion permitted to the Department, exceptions to the requirements of this part may be granted from time to time in unusual cases by the head of the operating unit, whenever the facts indicate that such an exception would promote the efficiency of the service. Each request for such an exception should be submitted in writing to the head of the operating unit concerned, and shall contain a full statement of the justification for the request. Reports concerning such requests, if approved, shall be forwarded to the program Secretarial Officer concerned and to the Assistant Secretary for Administration by the head of the operating unit concerned.

Date: October 30, 1967.

DAVID B. BALDWIN,
Acting Secretary of Commerce.

APPENDIX A—STATUTES GOVERNING CONDUCT OF FEDERAL EMPLOYEES

There are numerous statutes pertaining to the ethical and other conduct of Federal employees, far too many to attempt to list them all. Consequently, only the more important ones of general applicability are referred to in this Appendix.

A. BRIBERY AND GRATUITY

.01 Title 18, U.S.C., section 201, prohibits anyone from bribing or attempting to bribe a public official by corruptly giving, offering, or promising him or any person selected by him, anything of value with intent (a) to influence any official act by him, (b) to influence him to commit or allow any fraud on the United States, or (c), to induce him to do or omit to do any act in violation of his lawful duty. As used in section 201, "Public officials" is broadly defined to include officers, employees, and other persons carrying on activities for or on behalf of the Government.

.02 Section 201 also prohibits a public official's solicitation or acceptance of, or agreement to take, a bribe. In addition, it forbids offers or payments to, and solicitations or receipt by, a public official of anything of value "for or because of" any official act performed or to be performed by him.

.03 Section 201 further prohibits the offering to or the acceptance by a witness of anything of value involving intent to influence his testimony at a trial, Congressional hearing, or agency proceeding. A similar provision applies to witnesses "for or because of" testimony given or to be given. The provisions summarized in this section do not preclude lawful witness fees, travel and subsistence expenses, or reasonable compensation for expert testimony.

B. COMPENSATION TO OFFICERS AND EMPLOYEES IN MATTERS AFFECTING THE GOVERNMENT

.01 Title 18, U.S.C., section 203, prohibits an officer or employee from receiving compensation for services rendered for others before a Federal department or agency in matters in which the Government is a party or is interested.

.02 Section 203 applies to a special Government employee as follows:

a. If the special Government employee has served in the Department of Commerce more than 60 days during the preceding period of 365 days, section 203 applies to him only in relation to a particular matter involving a specific party or parties (1) in which he has at any time participated personally and substantially in his governmental capacity, or (2) which is pending in the Department of Commerce; or

b. If the special Government employee has served in the Department no more than 60 days during the preceding period of 365 days, section 203 applies to him only in relation to a particular matter involving a specific party or parties in which he has at any time participated personally and substantially in his governmental capacity.

.03 Section 203 does not apply to a retired officer of the uniformed services while not on active duty and not otherwise an officer or employee of the United States.

C. ACTIVITIES OF OFFICERS AND EMPLOYEES IN CLAIMS AGAINST AND OTHER MATTERS AFFECTING THE GOVERNMENT

.01 Title 18, U.S.C., section 205, prohibits an officer or employee, otherwise than in the performance of his official duties, from:

a. Acting as agent or attorney for prosecuting any claim against the United States, or receiving any gratuity, or any share of or interest in any such claim in consideration of assistance in the prosecution of such claim; or

b. Acting as agent or attorney for anyone before any Government agency, court, or officer in connection with any matter in which the United States is a party or has a direct and substantial interest.

.02 Section 205 applies to a special Government employee as follows:

a. If the special Government employee has served in the Department more than 60 days during the preceding period of 365 days, section 205 applies to him only in relation to a particular matter involving a specific party or parties (1) in which he has at any time participated personally and substantially in his governmental capacity, or (2) which is pending in the Department of Commerce; or

b. If the special Government employee has served in the Department no more than 60 days during the preceding period of 365 days, section 205 applies to him only in relation to a particular matter involving a specific party or parties in which he has at any time participated personally and substantially in his governmental capacity.

.03 Section 205 does not preclude:

a. An employee, if not inconsistent with faithful performance of his duties, from acting without compensation as agent or attorney for any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings, in connection with those proceedings; or

b. An employee from giving testimony under oath or from making statements required to be made under penalty for perjury or contempt.

.04 Sections 203 and 205 do not preclude:

a. An employee from acting as agent or attorney for his parents, spouse, child, or any person for whom, or for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary, except in those matters in which he has participated personally and substantially as a Government employee or which are the subject of his official responsibility, provided the head of the operating unit concerned approves; or

b. A special Government employee from acting as agent or attorney for another person in the performance of work under a grant by, or a contract with, or for the benefit of, the United States, provided the head of the operating unit concerned, with the approval of the appropriate program Secretarial Officer, shall certify in writing that the national interest so requires, and such certification shall be published in the FEDERAL REGISTER.

.05 Section 205 does not apply to a retired officer of the uniformed services while not on active duty and not otherwise an officer or employee of the United States.

D. DISQUALIFICATION OF FORMER OFFICERS AND EMPLOYEES IN MATTERS CONNECTED WITH FORMER DUTIES OR OFFICIAL RESPONSIBILITIES; DISQUALIFICATION OF PARTNERS

.01 Title 18 U.S.C., section 207:

a. Provides that a former Government officer or employee, including a former special Government employee, shall be permanently barred from acting as agent or attorney for anyone other than the United States in any matter in which the United States is a party or is interested and in which he participated personally and substantially in a governmental capacity;

b. Bars a former Government officer or employee, including a special Government employee, of an agency, for a period of 1 year after his employment with it has ceased, from appearing personally as agent or attorney for another person before any court or agency in connection with a matter in which the Government has an interest and which was under his official responsibility at the employing agency (e.g., Department of Commerce) at any time within 1 year prior to the end of such responsibility; and

c. Prohibits a partner of a person employed by the Government, including a special Government employee, from acting as agent or attorney for anyone other than the United States in matters in which the employee participates or has participated personally and substantially for the Government or which are the subject of his official responsibility.

.02 Subparagraphs .01a and .01b. of this section do not prevent a former officer or employee or special Government employee who has outstanding scientific or technical qualifications from acting as attorney or agent or appearing personally before the Department of Commerce in connection with a particular matter in a scientific or technological field if the Assistant Secretary of Commerce for Science and Technology shall make a certification in writing, published in the FEDERAL REGISTER, that the national interest would be served by such action or appearance by the former officer or employee.

E. ACTS AFFECTING A PERSONAL FINANCIAL INTEREST

.01 Title 18, U.S.C., section 208 prohibits an officer or employee, including a special Government employee, from participating personally and substantially in a governmental capacity in any matter in which, to his knowledge, he, his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest.

.02 Section 208 does not apply:

a. If the officer or employee first advises the head of the operating unit concerned of the nature and circumstances of the matter involved, makes full disclosure of the financial interest, and receives in advance a written determination made by such official, with the approval of the appropriate program Secretarial Officer, that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from the officer or employee; or

b. If, by general rule or regulation published in the FEDERAL REGISTER, the financial interest has been exempted from the requirements of section 208 as being too remote or too inconsequential to affect the integrity of Government officers' or employees' services.

F. SALARY OF GOVERNMENT OFFICIALS AND EMPLOYEES

.01 Title 18, U.S.C., section 209, prohibits:

a. An officer or employee from receiving any salary, or any contribution to or supplementation of salary, as compensation for his services as an officer or employee of the United States from any source other than the Government of the United States, except as may be contributed out of the treasury of a State, county, or municipality; and

b. Any person or organization from paying, contributing to, or supplementing the salary of an officer or employee under circumstances which would make its receipt a violation of subparagraph .01a. of this section.

.02 Section 209:

a. Does not prevent a Government employee from continuing to participate in a bona fide pension or other welfare plan maintained by a former employer;

b. Exempts special Government employees and employees serving the Government without compensation, and grants a corresponding exemption to any outside person paying compensation to such individuals; and

c. Does not prohibit the payment or acceptance of sums under the terms of the Government Employees Training Act.

G. CODE OF ETHICS FOR GOVERNMENT SERVICE

"Code of Ethics for Government Service," House Concurrent Resolution 175, 85th Congress, 2d Session, 72 Stat. B12 of July 11, 1958, which reads as follows:

"Any Person in Government Service Should:

"Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

"UPHOLD the Constitution, laws, and legal regulations of the United States and all governments therein and never be a party to their evasion.

"GIVE a full day's labor for a full day's pay; giving to the performance of his duties his earnest effort and best thought.

"SEEK to find and employ more efficient and economical ways of getting tasks accomplished.

"NEVER discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

"MAKE no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

"ENGAGE in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

"NEVER use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.

"EXPOSE corruption wherever discovered.

"UPHOLD these principles, ever conscious that public office is a public trust."

E. PROHIBITIONS

.01 The prohibition against lobbying with appropriated funds (18 U.S.C. 1913) reads as follows:

"No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation, but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

"Whoever, being an officer or employee of the United States or of any department or agency thereof, violates or attempts to violate this section, shall be fined not more than $500 or imprisoned not more than 1 year, or both; and after notice and hearing by the superior officer vested with the power of removing him, shall be removed from office or employment."

.02 The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918). An individual may not accept or hold a position in the Government of the United States if he:

a. Advocates the overthrow of our constitutional form of government;

b. Is a member of an organization that he knows advocates the overthrow of our constitutional form of government;

c. Participates in a strike, or asserts the right to strike, against the Government of the United States or the government of the District of Columbia; or

d. Is a member of an organization of employees of the Government of the United States or of individuals employed by the government of the District of Columbia that he knows asserts the right to strike against the Government of the United States or the government of the District of Columbia.

.03 The prohibition against employment of a member of a Communist organization (50 U.S.C. 784).

.04 The prohibitions against (a) the disclosure of classified information (18 U.S.C. 793, 50 U.S.C. 783); and (b) the disclosure of confidential information (18 U.S.C. 1905). Each employee who has access to classified information, e.g., confidential, secret, or top secret, or to a restricted area is responsible for knowing and for complying strictly with the security regulations of the Department of Commerce. (See Administrative Order 203-2.)

.05 The prohibition against employment in the competitive civil service of any person who habitually uses intoxicating beverages to excess (5 U.S.C. 7363).

.06 The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a(c)). No employee may willfully use or authorize the use of a Government-owned or Government-leased passenger motor vehicle or aircraft for other than official purposes.

.07 The prohibition against the use of the franking privilege to avoid payment of postage on private mail (18 U.S.C. 1719).

.08 The prohibition against the use of deceit in an examination or personal action in connection with Government employment (18 U.S.C. 1917).

.09 The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001). An employee in connection with an official matter shall not knowingly and willfully conceal or cover up a material fact or falsify official papers or documents.

.10 The prohibition against mutilating or destroying a public record (18 U.S.C. 2071). No employee may conceal, remove, mutilate, or destroy Government documents or records except for the disposition of records in accordance with law or regulation.

.11 The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508). Falsely making, altering or forging, in whole or in part, any form of transportation request is prohibited.

.12 The prohibitions against:

a. Embezzlement of Government money or property (18 U.S.C. 641). No employee may convert any Government money or Government property to his own use or the use of another person.

b. Failure to account for public money (18 U.S.C. 643). Any employee, who, having received public money which he is not authorized to retain, fails to render his accounts for same as provided by law, is guilty of embezzlement.

c. Embezzlement of the money or property of another person in the possession of the employee by reason of his employment (18 U.S.C. 654). An employee is prohibited from embezzling or wrongfully converting for his own use the money or property of another which comes under his control as the result of his employment.

.13 The prohibition against unauthorized removal or use of documents relating to claims from or by the Government (18 U.S.C. 285). No employee, without authority, may remove from the place where it was kept by authority of the United States any document, record, file, or paper intended to be used to procure the payment of money from or by the United States or the allowance or payment of any claim against the United States, regardless of whether the document or paper has already been used or the claim has already been allowed or paid; and no employee may use or attempt to use any such document, record, file, or paper to procure the payment of any money from or by the United States or the allowance or payment of any claim against the United States.

.14 The prohibition against proscribed political activities, including the following, among others:

a. Using official authority or influence for the purpose of interfering with or influencing the result of an election, except as authorized by law (5 U.S.C. 7324);

b. Taking an active part in political management or in political campaigns, except as authorized by law (5 U.S.C. 7324);

c. Offering or promising to pay anything of value in consideration of the use of, or promise to use, any influence to procure any appointive office or place under the United States for any person (18 U.S.C. 210);

d. Soliciting or receiving, either as a political contribution or for personal emolument, anything of value in consideration of a promise of support or use of influence in obtaining for any person any appointive office or place under the United States (18 U.S.C. 211);

e. Using official authority to interfere with a Federal election (18 U.S.C. 595);

f. Promising any employment compensation, or other benefit made possible by Act of Congress in consideration of political activity or support (18 U.S.C. 600);

g. Action by a Federal officer or employee to solicit or receive, or to be in any manner concerned with soliciting or receiving, any contribution for any political purpose whatever from any other Federal officer or employee or from any person receiving compensation for services from money derived from the Treasury of the United States (18 U.S.C. 602);

h. Soliciting or receiving (by any person) anything of value for any political purpose whatever on any Government premises (18 U.S.C. 603);

i. Soliciting or receiving contributions for political purposes from anyone on Federal relief or work relief (18 U.S.C. 604);

j. Payment of a contribution for political purposes by any Federal officer or employee to another Federal officer or employee (18 U.S.C. 607); and

k. Payment of a political contribution in excess of statutory limitations and purchase of goods, commodities, advertising, or articles the proceeds of which inure to the benefit of certain political candidates or organizations (18 U.S.C. 608).

.15 The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

APPENDIX B—POSITION CATEGORIES, GRADE GS-13, AND ABOVE, REQUIRING STATEMENTS OF EMPLOYMENT AND FINANCIAL INTERESTS BY INCUMBENTS

(1) Auditors.

(2) Attorneys other than attorneys engaged in patent examining or trademark examining operations.

(3) Heads of divisions or comparable organization units, GS-15 or above.

(4) Heads of field offices or installations, GS-15 or above.

(5) Employees in positions involving assigned duties and responsibilities which require the incumbent to make fact-finding determinations or to exercise judgment in recommending a decision or an action in regard to:

a. Evaluation, appraisal, or selection of contracts or sub-contractors, prospective contractors or prospective subcontractors, proposals of such contractors or subcontractors, the activities performed by such contractors or subcontractors, or determination of the extent of compliance of such contractors or subcontractors with contract provisions.

b. Negotiation, modification, or approval of contracts or subcontracts.

c. Evaluation, appraisal, or selection of prospective project sites, or locations of work or activities, including real property proposed for acquisition by purchase or otherwise.

d. Inspection and quality assurance of material, products, or components for acceptability.

e. Review or approval for access permits.

f. Technical planning or design which involves the preparation of specifications or technical requirements.

g. Negotiation of agreements for cooperation or implementing arrangements with foreign countries, international organizations, or non-Federal enterprises.

h. Analysis, evaluation, or review of license applications.

i. Analysis, evaluation, or review of licensees' compliance with Department of Commerce regulations and requirements.

j. Utilization or disposal of excess or surplus property.

k. Procurement of materials, services, supplies, or equipment.

l. Authorization or monitoring of grants or subsidies to educational institutions or other non-Federal enterprises.

m. Audit of financial transactions.

n. Promulgation of safety standards, procedures, and hazards evaluation systems.

o. Other activities where the decision or action has a substantial economic impact on the interests of a non-Federal enterprise.

APPENDIX C—POSITION CATEGORIES BELOW GS-13 REQUIRING STATEMENTS OF EMPLOYMENT AND FINANCIAL INTERESTS BY INCUMBENTS

(1) Employees in the field service of the Maritime Administration who are in the following categories of positions:

a. Shipbuilding inspector.

b. Marine surveyor.

c. Finance and supply officer.

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214

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Agencies in this issue—

The President
Agricultural Research Service
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Consumer and Marketing Service
Customs Bureau
Education Office
Federal Aviation Administration
Federal Communications Commission
Federal Power Commission
Federal Reserve System
Food and Drug Administration
Interagency Textile Administrative Committee
Interior Department
Internal Revenue Service
Interstate Commerce Commission
Labor Department
National Bureau of Standards
National Park Service
Small Business Administration
Treasury Department

Detailed list of Contents appears inside.

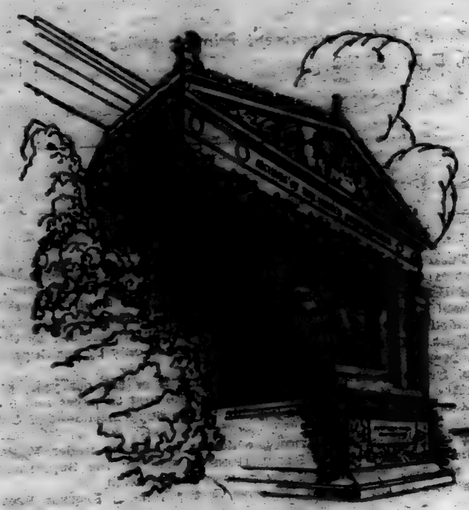

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Contents

THE PRESIDENT

EXECUTIVE ORDER

Exemption of Daniel J. Quill from compulsory retirement for age 15237

EXECUTIVE AGENCIES

AGRICULTURAL RESEARCH SERVICE

Rules and Regulations

Hog cholera and other communicable swine diseases; approved modified live virus vaccines 15240

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Proposed Rule Making

Sugar in continental U.S.; definition of term and definition and interpretation of operator; 1968 and subsequent crops 15283

AGRICULTURE DEPARTMENT

See also Agricultural Research Service; Agricultural Stabilization and Conservation Service; Consumer and Marketing Service.

Notices

South Dakota; designation of areas for emergency loans 15401

ATOMIC ENERGY COMMISSION

Notices

General Dynamics Corp.; issuance of facility license amendment 15403

Philadelphia Electric Co.; hearing on application for provisional construction permits 15403

BUSINESS AND DEFENSE SERVICES ADMINISTRATION

Notices

State University of New York; decision on application for duty-free entry of scientific article 15402

CIVIL AERONAUTICS BOARD

Notices

American Airlines, Inc.; hearing, etc 15406

COMMERCE DEPARTMENT

See Business and Defense Services Administration; National Bureau of Standards.

CONSUMER AND MARKETING SERVICE

Rules and Regulations

Milk handling in certain marketing areas:

Lubbock-Plainview, Tex. 15388

North Texas 15388

Texas Panhandle 15389

Walnuts grown in California, Oregon, and Washington; control percentages for 1967–68 marketing year 15388

Proposed Rule Making

Expenses and rate of assessment:

Grapefruit grown in Florida 15395

Oranges and grapefruit grown in Texas 15394

Oranges, Valencia, grown in Arizona and California; hearing regarding amendment of marketing agreement and order 15394

CUSTOMS BUREAU

Rules and Regulations

Liquidation of duties, countervailing; sugar content of certain articles from Australia 15390

Vessels in foreign and domestic trades; coastwise transportation; Polish People's Republic 15390

EDUCATION OFFICE

Notices

Allotment ratios for Vocational Education Act of 1963; promulgation 15403

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations

Airworthiness directive; Sikorsky aircraft 15390

FEDERAL COMMUNICATIONS COMMISSION

Notices

Hearings, etc.:

Baltimore Broadcasting Co. and Meadows Broadcasting Co., Inc 15406

Clearview TV Cable, Inc 15406

El Camino Broadcasting Corp. and South Coast Broadcasting Co 15407

Gospel Broadcasting Company of Fort Wayne, Inc., and Fort Wayne Broadcasting Co 15407

Minshall Broadcasting Co., Inc., and University City Television Cable Co., Inc 15407

Natchez Broadcasting Co. (WMIS) 15408

Rice, Michael S., and First Capitol Radio, Inc 15408

FEDERAL POWER COMMISSION

Rules and Regulations

Standards of conduct for employees and special Government employees 15239

Notices

Hearings, etc.:

Fleet, Howard W., et al 15411

Florida Gas Transmission Co 15412

Force Co. et al 15412

Gulf Oil Corp. et al 15413

Idaho Power Co 15413

MWJ Producing Co 15410

Mag Petroleum, Inc 15411

Midwest Oil Corp. et al 15413

Mobil Oil Corp. et al 15413

Morgan, R., Estate of, et al 15414

Ohio Fuel Gas Co 15415

Pacific Power & Light Co 15415

Texas Eastern Transmission Corp 15415

FEDERAL RESERVE SYSTEM

Rules and Regulations

Bank service arrangements; credit card service organization 15389

FOOD AND DRUG ADMINISTRATION

Rules and Regulations

Drugs, depressant and stimulant; confirmation of effective date of order 15390

Notices

Hunt-Wesson Foods; canned diced peaches deviating from identity standard; modification of temporary permit for market testing 15402

Silaco Chemical Co.; withdrawal of petition for food additives slimicides 15403

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Education Office; Food and Drug Administration.

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

Notices

Cotton textiles and products produced or manufactured in Brazil; entry or withdrawal from warehouse for consumption 15408

INTERIOR DEPARTMENT

See also National Park Service.

Notices

John W. Hieronymus; statement of changes in financial interests 15401

(Continued on next page)

INTERNAL REVENUE SERVICE

Rules and Regulations

Procedure and administration; republication 15241

Proposed Rule Making

Income tax; information to be furnished in connection with depletion deductions; hearing 15393

INTERSTATE COMMERCE COMMISSION

Notices

Fourth section applications for relief 15408

Motor carrier temporary authority applications 15409

LABOR DEPARTMENT

Proposed Rule Making

Contracts covering federally financed or assisted construction and nonconstruction contracts subject to Contract Work Hours Standards Act; enforcement of labor standards provisions 15396

NATIONAL BUREAU OF STANDARDS

Rules and Regulations

Radiation physics; radioactivity 15391

NATIONAL PARK SERVICE

Rules and Regulations

Fire Island National Seashore, N.Y.; vehicular use 15391

SMALL BUSINESS ADMINISTRATION

Proposed Rule Making

Small business investment companies; definition of venture capital 15399

TRANSPORTATION DEPARTMENT

See Federal Aviation Administration.

TREASURY DEPARTMENT

See also Customs Bureau; Internal Revenue Service.

Notices

Equal employment opportunity program; guidelines for compliance by depositary banks and issuing and paying agents 15401

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

3 CFR

EXECUTIVE ORDERS:

10530 (see EO 11378) 15237
10682 (see EO 11378) 15237
11378 15237

7 CFR

984 15388
1120 15388
1126 15388
1132 15389

PROPOSED RULES:

822 15393
891 15393
892 15393
906 15394
908 15394
912 15396

9 CFR

76 15240

12 CFR

219 15389

13 CFR

PROPOSED RULES:

107 15399

14 CFR

39 15390

15 CFR

204 15391

18 CFR

3 15239

19 CFR

4 15390
16 15390

21 CFR

166 15390

26 CFR

301 15241

PROPOSED RULES:

1 15393

29 CFR

PROPOSED RULES:

5 15396
6 15396
7 15396

36 CFR

7 15391

Presidential Documents

Title 3—THE PRESIDENT

Executive Order 11378

EXEMPTION OF DANIEL J. QUILL FROM COMPULSORY RETIREMENT FOR AGE

WHEREAS Daniel J. Quill, Postmaster at San Antonio, Texas will, during the month of October 1967, become subject to compulsory retirement for age under the provisions of the Civil Service Retirement Law, unless exempted therefrom; and

WHEREAS, in my judgment, the public interest requires that Mr. Quill be exempted from such compulsory retirement:

NOW, THEREFORE, by virtue of and pursuant to the authority vested in me by Title V, 80 Stat. 571 (5 U.S.C. 8335), I hereby exempt Daniel J. Quill from compulsory retirement for age for a period of three years.

Except as the authority vested in the President by Title V of the law, is specifically exercised in this Order, nothing contained in this Order shall be deemed to limit or restrict in any manner the exercise of such authority delegated to the Civil Service Commission by Section 2(c) of Executive Order No. 10530 of May 10, 1954, as amended by Executive Order No. 10682 of October 22, 1956.

Lyndon B. Johnson

THE WHITE HOUSE,
October 31, 1967.

[F.R. Doc. 67-13057; Filed, Nov. 1, 1967; 2:06 p.m.]

Rules and Regulations

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

[Docket No. R-333; Order 333]

PART 3—ORGANIZATION; OPERATION; INFORMATION AND REQUESTS; ETHICAL STANDARDS

Standards of Conduct for Employees and Special Government Employees

By order issued March 9, 1966,[1] the Commission amended Part 3 of its general rules to prescribe standards of conduct for its employees. Those standards implemented Executive Order 11222 and the regulations of the Civil Service Commission issued thereunder (30 F.R. 12529). On June 9, 1967, amended regulations on the subject were issued by the Civil Service Commission (32 F.R. 8281) and it is necessary, therefore, to revise our regulations to conform thereto. The revisions here adopted are, for the most part, designed to clarify or correct the current regulations. The revision to § 3.735–7(c)(4), however, is intended to make less onerous the requirement that employees report outside employment and financial interests by restricting that section to those employees in positions in which the possibility of conflicts-of-interest is involved. Accordingly, the Commission orders:

A. Subparts C and D, Part 3, Chapter I of Title 18 of the Code of Federal Regulations are amended by revising § 3.735–5(c), (2), (3), (4); § 3.735–7 (c)(4), (e); § 3.735–8(a)(1)(ii)(*f*); § 3.735–11 (a)(6), (d)(3), (e)(1); § 3.735–26(e)(2)(v), (3); § 3.735–28(d); and § 3.735–32. As amended, the affected sections or portions thereof read as follows:

§ 3.735–5 Conflicts of interest.

* * * * * * *

(c) *Gifts, entertainment, loans, and favors.* * * *

(2) The requirements of subparagraph (1) of this paragraph do not apply to:

* * * * * * *

(v) Acceptance of bona fide reimbursement for expenses for travel and necessary subsistence to the extent permitted by the provisions of paragraph (e)(4)(i) of this section.

(3) An employee shall not:

(i) Solicit a contribution from another employee for a gift to an official superior;

(ii) Make a donation as a gift to an official superior; or

(iii) Accept a gift from an employee receiving less pay than himself (5 U.S.C. 7351).

(iv) The prohibitions of subdivisions (i), (ii), and (iii) of this subparagraph are not intended to prohibit voluntary gifts or donations of nominal value made to an employee on a special occasion such as marriage, illness, resignation or retirement.

(4) An employee shall not accept a gift, present, decoration, or any other thing from a foreign government unless authorized by Congress as provided by the Constitution and in P.L. 89–673, 80 Stat. 952.

* * * * * * *

(e) *Outside employment: Teaching, writing, lecturing.* * * *

(4) *Limitations on prohibitions of subparagraphs (1) through (3) of this paragraph.* The prohibitions of subparagraphs (1) through (3) of this paragraph do not preclude an employee from:

(i) Receiving a bona fide reimbursement for expenses for travel and such other necessary subsistence as is compatible with this Subpart C for which no Government payment or reimbursement is made, except that an employee may not be reimbursed, and payment may not be made on his behalf for excessive personal living expenses, gifts, entertainment; or other personal benefits. An employee may not receive non-government reimbursement for travel on official business pursuant to Commission order if such reimbursement would in effect constitute an unauthorized augmentation of the Commission's appropriation. (See Decision B–138537 of the Comptroller General, dated Mar. 7, 1967.)

* * * * * * *

§ 3.735–7 Statements of employment and financial interests.

* * * * * * *

(c) *Employees required to submit; time of submission.* * * *

(4) *FPC Form 498—Statement of employment and financial interests.* (i) All employees, except Commissioners, who are:

(*a*) Paid at a level of the Executive Schedule in subchapter II of chapter 53 of title 5, U.S.C.; or

(*b*) In Grade GS–13 or above and are the heads or deputy or assistant heads of bureaus and offices, hearing examiners, division chiefs or their deputies, section chiefs or heads, case managers, regional engineers, deputy regional engineers, engineers-in-charge in regional offices, technical assistants to the Commissioners or have contracting or procurement responsibilities;

shall submit FPC Form 498 not later than:

(*c*) Thirty days after entrance on duty; and

(*d*) Shall also submit a supplemental report on FPC Form 498 on June 30 of each year for the purpose of annual review. Where there are no changes in or additions to the original information submitted a negative report shall be filed.

(ii) Notwithstanding the filing of the annual report required by this section, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that could result, in a violation of the conflicts-of-interest provisions of § 3.735–5.

(iii) Any employee requested to submit FPC Form 498 may request the Interpretation and Advisory Service described in § 3.735–8 to determine whether FPC Form 498 should be required for his position. If an employee after obtaining such a determination believes his position improperly to be included as one requiring the submission of FPC Form 498, he may obtain review of that determination through the Commission's grievance procedure.

* * * * * * *

(e) *Confidentiality.* The Executive Director, the Director, Office of Personnel Programs, and the Agency Counselor shall be responsible for keeping all FPC forms listed in paragraph (a) of this section strictly confidential, and shall not grant access to, or permit disclosure of information from, these forms except to carry out the purpose of these regulations. Information contained thereon will not be disclosed except in accordance with the regulations of the Civil Service Commission or on a determination of good cause made by the Chairman of the Federal Power Commission.

* * * * * * *

§ 3.735–8 Interpretation and advisory service.

(a) * * *

(1) *Agency counselor.* * * *

(ii) *Duties.* The Agency Counselor shall:

* * * * * * *

(*f*) In accordance with the provisions of § 3.735–7(e) relating to confidentiality, exercise responsibility, together with the Executive Director and the Director, Office of Personnel Programs for keeping all FPC forms listed in paragraph (a) of § 3.735–7 strictly confidential.

(2) *Deputy Counselors.*—(i) *Designation.* * * *

(c) The Assistant Secretary of the Commission for the Offices of the Secretary, the Comptroller, Administrative Operations, Economics, and Personnel Programs.

* * * * * * *

§ 3.735–11 Miscellaneous statutes and regulations.

* * * * * * *

[1] Order No. 319, Docket No. R-299, issued and effective Mar. 9, 1966, 31 F.R. 4118.

(a) *General.* • • •

(6) The prohibitions relating to gifts to superiors. (5 U.S.C. 7351.)

• • • • • •

(d) *Foreign governments.* • • •

(3) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act. (18 U.S.C. 219.)

(e) *Political activities.* (1) The prohibitions against political activities (the former Hatch Act) in subchapter III of chapter 73 of title 5, U.S.C. and 18 U.S.C. 602, 603, 607, and 608. The prohibitions, and exemptions therefrom, with respect to Government employees holding state, territorial or municipal offices. (Civil Service Regulations, 5 CFR Part 734.)

• • • • • •

§ 3.735–26 Conflicts of interest.

• • • • • •

(c) *Gifts, entertainment, loans, and favors.* • • •

(2) The requirements of subparagraph (1) of this paragraph do not apply to:

• • • • • •

(v) Receipt of a bona fide reimbursement for expenses for travel and such other necessary subsistence as is compatible with this Subpart D for which no Government payment or reimbursement is made except that a special Government employee may not be reimbursed, and payment may not be made on his behalf for excessive personal living expenses, gifts, entertainment, or other personal benefits. A special Government employee may not receive non-Government reimbursement for travel on official business pursuant to Commission order if such reimbursement would in effect constitute an unauthorized augmentation of the Commission's appropriation. (See Decision B–126527 of the Comptroller General, dated Mar. 7, 1967.)

(3) A special Government employee, while so employed or in connection with his employment, shall not:

(i) Solicit a contribution from another employee for a gift to an official superior;

(ii) Make a donation as a gift to an official superior; or

(iii) Accept a gift from an employee receiving less pay than himself (5 U.S.C. 7351).

(iv) The prohibitions of subdivisions (i), (ii), and (iii) of this subparagraph are not intended to prohibit voluntary gifts or donations of nominal value made to an employee on a special occasion such as marriage, illness, resignation or retirement.

• • • • • •

§ 3.735–28 Statements of employment and financial interests.

• • • • • •

(d) *Confidentiality.* The Executive Director, the Director, Office of Personnel Programs, and the Agency Counselor shall be responsible for keeping all FPC forms listed in paragraph (a) of this section strictly confidential, and shall not grant access to, or permit disclosure of information from, these forms except to carry out the purpose of these regulations. Information contained thereon will not be disclosed except in accordance with the regulations of the Civil Service Commission or on a determination of good cause made by the Chairman of the Federal Power Commission.

• • • • • •

§ 3.735–32 Miscellaneous statutes and regulations.

Each special Government employee shall acquaint himself with the statutes and regulations relating to ethical conduct listed in § 3.735–11. The full texts of the statutes and regulations listed in § 3.735–11 are available in the office of the Agency Counselor and the Office of Personnel Programs.

B. The statutory references contained in the following paragraphs, subparagraphs and subdivisions of Subparts C and D, Chapter I of Title 18 of the Code of Federal Regulations are revised to read as indicated.

1. In § 3.735–5(e)(4)(iii) change "the Hatch Act" to "the prohibitions against political activity".

2. In § 3.735–11(b)(1) change "5 U.S.C. 640" to "5 U.S.C. 7352".

3. In § 3.735–11(c)(1) change "5 U.S.C. 118p, 118r" to "5 U.S.C. 7311, 18 U.S.C. 1918".

4. In § 3.735–11(d)(1) change "5 U.S.C. 114–115a" to "P.L. 89–673, 80 Stat. 953".

5. In § 3.735–11(h)(1) change "5 U.S.C. 637" to "18 U.S.C. 1917".

6. In § 3735–11(i)(1) change "5 U.S.C. 78(c)" to "31 U.S.C. 638a(c)".

7. In § 3.735–21(b) change "§§ 3.735–11 and 3.735–22" to "this Subpart D at § 3.735–22".

8. In § 3.735–26(e)(4) change "5 U.S.C. 114–115a" to "P.L. 89–673, 80 Stat. 953".

C. The following sections, or indicated portions thereof, Subparts C and D, Part 3, Chapter I, Title 18 of the Code of Federal Regulations are revised by changing the words "Director of Personnel" therein appearing to "Director, Office of Personnel Programs":

§ 3.735–5(b)(5)(iii).
§ 3.735–7(a) Footnote 2, (c)(5), and (d).
§ 3.735–8 (a)(1)(ii)(c) and (b).
§ 3.735–9 (a), (b), (c), (d) (2) and (3)(i) (a) and (b), and (e)(1).
§ 3.735–10(c).
§ 3.735–11, opening paragraph.
§ 3.735–23.
§ 3.735–25(b).
§ 3.735–28(a) footnote 3 and (c).
§ 3.735–29(b).
§ 3.735–30 (a), (c), (d)(2), (e).
§ 3.735–31(c).

D. This order was approved by the Civil Service Commission on September 22, 1967, and shall be effective on the date of publication in the FEDERAL REGISTER.

By the Commission.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67–12974; Filed, Nov. 2, 1967; 8:45 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Approved Modified Live Virus Vaccines

Pursuant to § 76.16(c) of the regulations in Part 76, as amended, Title 9, Code of Federal Regulations, containing restrictions on the movement of swine and certain products because of hog cholera, under the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of June 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134–134h), paragraph (d) of § 76.16 of said regulations is amended in the following respects:

1. The spelling of brand name "Vetrocine," License No. 246, is corrected to read "Vitrocine," License No. 246.

2. The following additional approved modified live virus vaccine is added to § 76.16(d):

License number	Brand name or description
246	PURACEL.

(Secs. 4–7, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791, as amended, 702, as amended, sec. 3, 33 Stat. 1265, as amended, sec. 1, 75 Stat. 481; 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134–134h; 29 F.R. 16210, as amended, 30 F.R. 5799, as amended; 9 CFR 76.16(c))

The purpose of the foregoing amendment is to add "PURACEL" to the list of modified live virus vaccines approved by the Director of Division under the regulations in 9 CFR Part 76, and to correct the spelling of an approved vaccine previously listed under § 76.16(d).

The amendment relieves restrictions imposed by 9 CFR Part 76 relating to hog cholera and other communicable swine diseases and must be made effective promptly in order to be of maximum benefit to persons subject to the restrictions which are relieved. Accordingly, under the administrative procedure provisions of 5 U.S.C. section 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary and the amendment may be made effective less than 30 days after publication in the FEDERAL REGISTER.

The amendment shall become effective upon publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 27th day of October 1967.

G. H. WISE,
Acting Director, Animal Health Division, Agricultural Research Service.

[F.R. Doc. 67–13011; Filed, Nov. 2, 1967; 8:48 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

PART 301—PROCEDURE AND ADMINISTRATION

Republication

In order to facilitate its distribution and use, Part 301 of Chapter I of Title 26, Code of Federal Regulations is hereby republished. This republication is a compilation reflecting amendments to such part subsequent to January 1, 1961 and includes the latest amendment to the part dated June 17, 1967 (32 F.R. 9711).

The compilation as set forth below contains no substantive changes.

[SEAL] SHERMAN B. COHEN,
Commissioner of Internal Revenue.

Information and Returns

RECORDS, STATEMENTS, AND SPECIAL RETURNS

Sec.
301.6001 Statutory provisions; authority regulations requiring records, statements, and special returns.
301.6001–1 Notice or regulations requiring records, statements, and special returns.

TAX RETURNS OR STATEMENTS

General Requirement

301.6011 Statutory provisions; general requirement of returns, statements, or lists.
301.6011–1 General requirement of return, statement, or list.

Persons Not Returns

301.6012 Statutory provisions; persons required to make returns of income.
301.6012–1 Persons required to make returns of income.
301.6013 Statutory provisions; joint returns of income tax by husband and wife.
301.6013–1 Joint returns of income tax by husband and wife.
301.6014 Statutory provisions; income tax returns—tax not computed by taxpayer.
301.6014–1 Income tax returns—tax not computed by taxpayer.
301.6015 Statutory provisions; declaration of estimated income tax by individuals.
301.6015–1 Declaration of estimated income tax by individuals.
301.6016 Statutory provisions; declarations of estimated income tax by corporations.
301.6016–1 Declaration of estimated income tax by corporations.
301.6017 Statutory provisions; self-employment tax returns.
301.6017–1 Self-employment tax returns.

Estate and Gift Tax Returns

301.6018 Statutory provisions; estate tax returns.
301.6018–1 Estate tax returns.
301.6019 Statutory provisions; gift tax returns.
301.6019–1 Gift tax returns.

Miscellaneous Provisions

301.6020 Statutory provisions; returns prepared for or executed by Secretary.
301.6020–1 Returns prepared or executed by district directors or other internal revenue officers.
301.6021 Statutory provisions; listing by Secretary of taxable objects owned by nonresidents of internal revenue districts.
301.6021–1 Listing by district directors of taxable objects owned by nonresidents of internal revenue districts.

INFORMATION RETURNS

Information Concerning Persons Subject to Special Provisions

301.6031 Statutory provisions; return of partnership income.
301.6031–1 Return of partnership income.
301.6032 Statutory provisions; returns of banks with respect to common trust funds.
301.6032–1 Returns of banks with respect to common trust funds.
301.6033 Statutory provisions; returns by exempt organizations.
301.6033–1 Returns by exempt organizations.
301.6034 Statutory provisions; returns by trusts claiming charitable deductions under section 642(c).
301.6034–1 Returns by trusts claiming charitable or other deductions under section 642(c).
301.6035 Statutory provisions; returns of officers, directors, and shareholders of foreign personal holding companies.
301.6035–1 Returns of officers, directors and shareholders of foreign personal holding companies.
301.6036 Statutory provisions; notice of qualification as executor or receiver.
301.6036–1 Notice required of executor or of receiver or other like fiduciary.
301.6037 Statutory provisions; return of electing small business corporation.
301.6037–1 Return of electing small business corporation.
301.6038 Statutory provisions; information with respect to certain foreign corporations.
301.6038–1 Information returns required of U.S. persons with respect to certain foreign corporations.
301.6039 Statutory provisions; stock references.

Information Concerning Transactions With Other Persons

301.6041 Statutory provisions; information at source.
301.6041–1 Returns of information regarding certain payments.
301.6042 Statutory provisions; returns regarding payments of dividends and corporate earnings and profits.
301.6042–1 Returns of information regarding payments of dividends and corporate earnings and profits.
301.6043 Statutory provisions; return regarding corporate dissolution or liquidation.
301.6043–1 Returns of information regarding corporate dissolutions or liquidations.
301.6044 Statutory provisions; returns regarding payments of patronage dividends.
301.6044–1 Returns of information regarding payments of patronage dividends.
301.6045 Statutory provisions; returns of brokers.
301.6046 Statutory provisions; returns as to organization or reorganizations of foreign corporations and as to acquisitions of their stock.
301.6046–1 Returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock.
301.6047 Statutory provisions; information relating to certain trusts and annuity and bond purchase plans.
301.6047–1 Information relating to certain trusts and annuity and bond purchase plans.

EXTENSION OF TIME OR PERMITTING ALTERNATIVE METHODS OR OPTIONAL FORMS IN CERTAIN CASES

301.6081 Statutory provisions; extension of time for filing returns.
301.6081–1 Automatic extension of time for filing returns.

EXECUTION OF RETURNS AND OTHER DOCUMENTS

301.6061 Statutory provisions; signing of returns and other documents.
301.6061–1 Signing of returns and other documents.
301.6062 Statutory provisions; signing of corporation returns.
301.6062–1 Signing of corporation returns.
301.6063 Statutory provisions; signing of partnership returns.
301.6063–1 Signing of partnership returns.
301.6064 Statutory provisions; signature presumed authentic.
301.6064–1 Signature presumed authentic.
301.6065 Statutory provisions; verification of returns.
301.6065–1 Verification of returns.

TIME FOR FILING RETURNS AND OTHER DOCUMENTS

301.6071 Statutory provisions; time for filing returns and other documents.
301.6071–1 Time for filing returns and other documents.
301.6072 Statutory provisions; time for filing income tax returns.
301.6072–1 Time for filing income tax returns.
301.6073 Statutory provisions; time for filing declarations of estimated income tax by individuals.
301.6073–1 Time for filing declarations of estimated income tax by individuals.
301.6074 Statutory provisions; time for filing declaration of estimated income tax by corporations.
301.6074–1 Time for filing declarations of estimated income tax by corporations.
301.6075 Statutory provisions; time for filing estate and gift tax returns.
301.6075–1 Time for filing estate and gift tax returns.

EXTENSION OF TIME FOR FILING RETURNS

301.6081 Statutory provisions; extension of time for filing returns.
301.6081–1 Extension of time for filing returns.

PLACE FOR FILING RETURNS OR OTHER DOCUMENTS

301.6091 Statutory provisions; place for filing returns or other documents.
301.6091–1 Place for filing returns or other documents.

PERIOD COVERED

301.6101 Statutory provisions; period covered by returns or other documents.
301.6101–1 Period covered by returns or other documents.
301.6102 Statutory provisions; computations on returns or other documents.
301.6102–1 Computation on returns or other documents.
301.6103(a) Statutory provisions; publicity of returns and lists of taxpayers; public record and inspection.

Sec.
301.6103(a)-1 Inspection of returns by certain classes of persons and State and Federal governmental establishments pursuant to Executive order.
301.6103(a)-2 Copies of returns.
301.6103(a)-100 Inspection by Department of Health, Education, and Welfare of individual income tax returns.
301.6103(a)-101 Inspection of returns by committees of Congress other than those enumerated in section 6103(d).
301.6103(a)-102 Inspection by Securities and Exchange Commission of transcript cards and corporate and individual income tax returns.
301.6103(a)-103 Inspection of returns by the Advisory Commission on Intergovernmental Relations.
301.6103(a)-104 Inspection by Department of Commerce of income tax returns made under the Internal Revenue Code of 1954.
301.6103(a)-105 Inspection by Renegotiation Board of income tax returns made under the Internal Revenue Code of 1954.
301.6103(a)-106 Inspection by Federal Trade Commission of income tax returns of corporations made under the Internal Revenue Code of 1954.
301.6103(a)-107 Inspection of certain interest equalization tax information returns by the Board of Governors of the Federal Reserve System and the Federal Reserve Banks.
301.6103(b) Statutory provisions; publicity of returns and lists of taxpayers; inspection by States.
301.6103(b)-1 Inspection by States.
301.6103(c) Statutory provisions; publicity of returns and lists of taxpayers; inspection by shareholders.
301.6103(c)-1 Inspection of corporation returns by shareholders.
301.6103(d) Statutory provisions; publicity of returns and lists of taxpayers; inspection by committees of Congress.
301.6103(d)-1 Inspection by committees of Congress.
301.6103(e) Statutory provisions; publicity of returns and lists of taxpayers; declarations of estimated tax.
301.6103(f) Statutory provisions; publicity of returns and lists of taxpayers; inspection of list of taxpayers.
301.6103(f)-1 Public lists of persons making returns of income tax and of unemployment tax.
301.6104 Statutory provisions; publicity of information required from certain exempt organizations and certain trusts.
301.6104-1 Public inspection of applications for tax exemption.
301.6104-2 Publicity of information on certain information returns.
301.6105 Statutory provisions; compilation of relief from excess profits tax cases.
301.6105-1 Compilation of relief from excess profits tax cases.
301.6106 Statutory provisions; publicity of unemployment tax returns.
301.6106-1 Publicity of unemployment tax returns.
301.6107 Statutory provisions; list of special taxpayers for public inspection.
301.6107-1 Public list of persons paying special taxes.
301.6108 Statutory provisions; publication of statistics of income.
301.6108-1 Publication of statistics of income.
301.6109 Statutory provisions; identifying numbers.
301.6109-1 Identifying numbers.
301.6110 Statutory provisions; cross references.

Time and Place for Paying Tax

Place and Due Dates for Payment of Tax

Sec.
301.6151 Statutory provisions; time and place for paying tax shown on returns.
301.6151-1 Time and place for paying tax shown on returns.
301.6152 Statutory provisions; installment payments.
301.6152-1 Installment payments.
301.6153 Statutory provisions; installment payments of estimated income tax by individuals.
301.6153-1 Installment payments of estimated income tax by individuals.
301.6154 Statutory provisions; installment payments of estimated income tax by corporations.
301.6154-1 Installment payments of estimated income tax by corporations.
301.6155 Statutory provisions; payment on notice and demand.
301.6155-1 Payment on notice and demand.
301.6156 Statutory provisions; installment payments of tax on use of highway motor vehicles.
301.6156-1 Installment payments of tax on use of highway motor vehicles.
301.6157 Statutory provisions; payment of taxes under provisions of the Tariff Act.

Extensions of Time for Payment

301.6161 Statutory provisions; extension of time for paying tax.
301.6161-1 Extension of time for paying tax.
301.6162 Statutory provisions; extension of time for payment of tax on gain attributable to liquidation of personal holding companies.
301.6162-1 Extension of time for payment of tax on gain attributable to liquidation of personal holding companies.
301.6163 Statutory provisions; extension of time for payment of estate tax on value of reversionary or remainder interest in property.
301.6163-1 Extension of time for payment of estate tax on value of reversionary or remainder interest in property.
301.6164 Statutory provisions; extension of time for payment of taxes by corporations expecting carrybacks.
301.6164-1 Extension of time for payment of taxes by corporations expecting carrybacks.
301.6165 Statutory provisions; bonds where time to pay tax or deficiency has been extended.
301.6165-1 Bonds where time to pay the tax or deficiency has been extended.
301.6166 Statutory provisions; extension of time for payment of estate tax where estate consists largely of interest in closely held business.
301.6166-1 Extension of time for payment of estate tax where estate consists largely of interest in closely held business.

Assessment

In General

301.6201 Statutory provisions; assessment authority.
301.6201-1 Assessment authority.
301.6202 Statutory provisions; establishment by regulations of mode or time of assessment.
301.6202-1 Method of assessment.
301.6204 Statutory provisions; supplemental assessments.
301.6204-1 Supplemental assessments.
301.6205 Statutory provisions; special rules applicable to certain employment taxes.
301.6205-1 Special rules applicable to certain employment taxes.
301.6206 Statutory provisions; special rules applicable to excessive claims under sections 6420 and 6421.
301.6206-1 Special rules applicable to excessive claims under section 6420 and 6421.
301.6207 Statutory provisions; cross references.

Deficiency Procedures

301.6211 Statutory provisions; definition of a deficiency.
301.6211-1 Deficiency defined.
301.6212 Statutory provisions; notice of deficiency.
301.6212-1 Notice of deficiency.
301.6213 Statutory provisions; restrictions applicable to deficiencies; petition to Tax Court.
301.6213-1 Restrictions applicable to deficiencies; petition to Tax Court.
301.6214 Statutory provisions; determinations by Tax Court.
301.6215 Statutory provisions; assessment of deficiency found by Tax Court.
301.6215-1 Assessment of deficiency found by Tax Court.
301.6216 Statutory provisions; cross references.

Collection

General Provisions

301.6301 Statutory provisions; collection authority.
301.6301-1 Collection authority.
301.6302 Statutory provisions; mode or time of collection.
301.6302-1 Mode or time of collection of taxes.
301.6303 Statutory provisions; notice and demand for tax.
301.6303-1 Notice and demand for tax.
301.6304 Statutory provisions; collection under the Tariff Act.

Receipt of Payment

301.6311 Statutory provisions; payment by check or money order.
301.6311-1 Payment by check or money order.
301.6312 Statutory provisions; payment by U.S. notes and certificates of indebtedness.
301.6312-1 Treasury certificates of indebtedness, Treasury notes, and Treasury bills acceptable in payment of internal revenue taxes or stamps.
301.6312-2 Certain Treasury savings notes acceptable in payment of certain internal revenue taxes.
301.6313 Statutory provisions; fractional parts of a cent.
301.6313-1 Fractional parts of a cent.
301.6314 Statutory provisions; receipt for taxes.
301.6314-1 Receipt for taxes.
301.6315 Statutory provisions; payments of estimated income tax.
301.6315-1 Payments of estimated income tax.
301.6316 Statutory provisions; payment by foreign currency.
301.6316-1 Payment of income tax in foreign currency.
301.6316-2 Definitions.
301.6316-3 Allocation of tax attributable to foreign currency.
301.6316-4 Return requirements.
301.6316-5 Manner of paying tax by foreign currency.
301.6316-6 Declarations of estimated tax.
301.6316-7 Payment of Federal Insurance Contributions Act taxes in foreign currency.
301.6316-8 Refunds and credits in foreign currency.
301.6316-9 Interest, additions to tax, etc.

Lien for Taxes

Sec.
301.6321 Statutory provisions; lien for taxes.
301.6321-1 Lien for taxes.
301.6322 Statutory provisions; period of lien.
301.6323 Statutory provisions; validity against mortgagees, pledgees, purchasers, and judgment creditors.
301.6323-1 Validity of lien against mortgagees, pledgees, purchasers, and judgment creditors.
301.6324 Statutory provisions; special liens for estate and gift taxes.
301.6324-1 Special liens for estate and gift taxes; personal liability of transferees and donees.
301.6325 Statutory provisions; release of lien or partial discharge of property.
301.6325-1 Release of lien or partial discharge of property.
301.6326 Statutory provisions; cross references.

Seizure of Property for Collection of Taxes

301.6331 Statutory provisions; levy and distraint.
301.6331-1 Levy and distraint.
301.6332 Statutory provisions; surrender of property subject to levy.
301.6332-1 Surrender of property subject to levy.
301.6333 Statutory provisions; production of books.
301.6333-1 Production of books.
301.6334 Statutory provisions; property exempt from levy.
301.6334-1 Property exempt from levy.
301.6335 Statutory provisions; sale of seized property.
301.6335-1 Sale of seized property.
301.6336 Statutory provisions; sale of perishable goods.
301.6336-1 Sale of perishable goods.
301.6337 Statutory provisions; redemption of property.
301.6337-1 Redemption of property.
301.6338 Statutory provisions; certificate of sale; deed of real property.
301.6338-1 Certificate of sale; deed of real property.
301.6339 Statutory provisions; legal effect of certificate of sale of personal property and deed of real property.
301.6339-1 Legal effect of certificate of sale of personal property and deed of real property.
301.6340 Statutory provisions; records of sale.
301.6340-1 Records of sale.
301.6341 Statutory provisions; expense of levy and sale.
301.6341-1 Expense of levy and sale.
301.6342 Statutory provisions; application of proceeds of levy.
301.6342-1 Application of proceeds of levy.
301.6343 Statutory provisions; authority to release levy.
301.6343-1 Authority to release levy.
301.6344 Statutory provisions; cross references.

Abatements, Credits, and Refunds

Payment in General

301.6401 Statutory provisions; amounts treated as overpayments.
301.6401-1 Amounts treated as overpayments.
301.6402 Statutory provisions; authority to make credits or refunds.
301.6402-1 Authority to make credits or refunds.
301.6402-2 Claims for credit or refund.
301.6402-3 Special rules applicable to income tax.
301.6402-4 Payments in excess of amounts shown on return.
301.6402 Statutory provisions; overpayment of installment.
301.6402-1 Overpayment of installment.
301.6404 Statutory provisions; abatements.
301.6404-1 Abatements.
301.6405 Statutory provisions; reports of refunds and credits.
301.6405-1 Reports of refunds and credits.
301.6406 Statutory provisions; prohibition of administrative review of decisions.
301.6407 Statutory provisions; date of allowance of refund or credit.
301.6407-1 Date of allowance of refund or credit.

Rules of Special Application

301.6411 Statutory provisions; tentative carryback adjustments.
301.6411-1 Tentative carryback adjustments.
301.6413 Statutory provisions; joint stocks refunds.
301.6414 Statutory provisions; special rules applicable to certain employment taxes.
301.6413-1 Special rules applicable to certain employment taxes.
301.6414 Statutory provisions; income tax withheld.
301.6414-1 Income tax withheld.
301.6415 Statutory provisions; credits or refunds to persons who collected certain taxes.
301.6415-1 Credits or refunds to persons who collected certain taxes.
301.6416 Statutory provisions; certain taxes on sales and services.
301.6416-1 Certain taxes on sales and services.
301.6417 Statutory provisions; coconut and palm oil.
301.6417-1 Coconut and palm oil.
301.6418 Statutory provisions; sugar.
301.6418-1 Sugar.
301.6419 Statutory provisions; excise tax on wagering.
301.6419-1 Excise tax on wagering.
301.6420 Statutory provisions; gasoline used on farms.
301.6420-1 Gasoline used on farms.
301.6421 Statutory provisions; gasoline used for certain nonhighway purposes or by local transit systems.
301.6421-1 Gasoline used for certain nonhighway purposes or by local transit systems.
301.6422 Statutory provisions; cross references.
301.6423 Statutory provisions; conditions to allowance in the case of alcohol and tobacco taxes.
301.6423-1 Conditions to allowance in the case of alcohol and tobacco taxes.

Definitions

Limitations on Assessment and Collection

301.6501(a) Statutory provisions; limitations on assessment and collection; general rule.
301.6501(a)-1 Period of limitations upon assessment and collection.
301.6501(b) Statutory provisions; limitations on assessment and collection; time return deemed filed.
301.6501(b)-1 Time return deemed filed for purposes of determining limitations.
301.6501(c) Statutory provisions; limitations on assessment and collection; exceptions.
301.6501(c)-1 Exceptions to general period of limitations on assessment and collection.
301.6501(d) Statutory provisions; limitations on assessment and collection; request for prompt assessment.
301.6501(d)-1 Request for prompt assessment.
301.6501(e) Statutory provisions; limitations on assessment and collection; omission from gross income.
301.6501(f) Statutory provisions; limitations on assessment and collection; deficiency dividends.
301.6501(g) Statutory provisions; limitations on assessment and collection; personal holding company tax.
301.6501(g)-1 Personal holding company tax.
301.6501(g) Statutory provisions; limitations on assessment and collection; certain income tax returns of corporations.
301.6501(g)-1 Certain taxable tax returns of corporations.
301.6501(h) Statutory provisions; limitations on assessment and collection; net operating loss carrybacks.
301.6501(h)-1 Net operating loss carrybacks.
301.6501(i) Statutory provisions; limitations on assessment and collection; foreign tax carrybacks.
301.6501(i)-1 Foreign tax carrybacks; taxable years beginning after December 31, 1957.
301.6501(j) Statutory provisions; limitations on assessment and collection; investment credit carrybacks.
301.6501(j)-1 Investment credit carryback; taxable years ending after December 31, 1962.
301.6501(k) Statutory provisions; limitations on assessment and collection; joint income return after separate return.
301.6502 Statutory provisions; collection after assessment.
301.6502-1 Collection after assessment.
301.6503(a) Statutory provisions; suspension of running of period of limitation; issuance of statutory notice of deficiency.
301.6503(a)-1 Suspension of running of period of limitation; issuance of statutory notice of deficiency.
301.6503(b) Statutory provisions; suspension of running of period of limitation; assets of taxpayer in control or custody of court.
301.6503(b)-1 Suspension of running of period of limitation; assets of taxpayer in control or custody of court.
301.6503(c) Statutory provisions; suspension of running of period of limitation; location of property outside the United States or removal of property from the United States.
301.6503(c)-1 Suspension of running of period of limitation; location of property outside the United States or removal of property from the United States.
301.6503(d) Statutory provisions; suspension of running of period of limitation; extensions of time for payment of estate tax.
301.6503(d)-1 Suspension of running of period of limitation; extension of time for payment of estate tax.
301.6503(e) Statutory provisions; suspension of running of period of limitation; certain powers of appointment.
301.6503(e)-1 Suspension of running of period of limitation; certain powers of appointment.
301.6503(f) Statutory provisions; suspension of running of period of limitation; cross references.
301.6504 Statutory provisions; cross references.

Limitations on Credit or Refund

301.6511(a) Statutory provisions; limitations on credit or refund; period of limitation on filing claim.
301.6511(a)-1 Period of limitation on filing claim.
301.6511(b) Statutory provisions; limitations on credit or refund; limitation on allowance of credits and refunds.

Sec.
301.6511(b)–1 Limitations on allowance of credits and refunds.
301.6511(c) Statutory provisions; limitations on credit or refund; special rules applicable in case of extension of time by agreement.
301.6511(c)–1 Special rules applicable in case of extension of time by agreement.
301.6511(d) Statutory provisions; limitations on credit or refund; special rules applicable to income taxes.
301.6511(d)–1 Overpayment of income tax on account of bad debts, worthless securities, etc.
301.6511(d)–2 Overpayment of income tax on account of net operating loss carrybacks.
301.6511(d)–3 Special rules applicable to credit against income tax for foreign taxes.
301.6511(d)–4 Overpayment of income tax on account of investment credit carryback.
301.6511(e) Statutory provisions; limitations on credit or refund; special rules in case of manufactured sugar.
301.6511(e)–1 Special rules applicable to manufactured sugar.
301.6511(f) Statutory provisions; limitations on credit or refund; cross reference.
301.6512 Statutory provisions; limitations in case of petition to Tax Court.
301.6512–1 Limitations in case of petition to Tax Court.
301.6513 Statutory provisions; time return deemed filed and tax considered paid.
301.6513–1 Time return deemed filed and tax considered paid.
301.6514(a) Statutory provisions; credits or refunds after period of limitation.
301.6514(a)–1 Credits or refunds after period of limitation.
301.6514(b) Statutory provisions; credit after period of limitation.
301.6514(b)–1 Credit against barred liability.
301.6515 Statutory provisions; cross references.

Mitigation of Effect of Period of Limitations

301.6521 Statutory provisions; mitigation of effect of limitation in case of related taxes under different chapters.
301.6521–1 Mitigation of effect of limitation in case of related employee social security tax and self-employment tax.
301.6521–2 Law applicable in determination of error.

Periods of Limitation on Judicial Proceedings

301.6531 Statutory provisions; periods of limitation on criminal prosecutions.
301.6532 Statutory provisions; periods of limitation on suits.
301.6532–1 Periods of limitation on suits by taxpayers.
301.6532–2 Periods of limitation on suits by the United States.
301.6532 Statutory provisions; cross references.

Interest

Interest on Underpayments

301.6601 Statutory provisions; interest on underpayment, nonpayment, or extensions of time for payment, of tax.
301.6601–1 Interest on underpayments.
301.6602 Statutory provisions; interest on erroneous refund recoverable by suit.
301.6602–1 Interest on erroneous refund recoverable by suit.

Interest on Overpayments

301.6611 Statutory provisions; interest on overpayments.
301.6611–1 Interest on overpayments.
301.6612 Statutory provisions; cross references.

Additions to the Tax, Additional Amounts, and Assessable Penalties

Additions to the Tax and Additional Amounts

301.6651 Statutory provisions; failure to file tax return.
301.6651–1 Failure to file tax return.
301.6652 Statutory provisions; failure to file certain information returns.
301.6652–1 Failure to file certain information returns.
301.6653 Statutory provisions; failure to pay tax.
301.6653–1 Failure to pay tax.
301.6654 Statutory provisions; failure by individual to pay estimated income tax.
301.6654–1 Failure by individual to pay estimated income tax.
301.6655 Statutory provisions; failure by corporation to pay estimated income tax.
301.6655–1 Failure by corporation to pay estimated income tax.
301.6656 Statutory provisions; failure to make deposit of taxes.
301.6656–1 Failure to make deposit of taxes.
301.6657 Statutory provisions; bad checks.
301.6657–1 Bad checks.
301.6658 Statutory provisions; addition to tax in case of jeopardy.
301.6658–1 Addition to tax in case of jeopardy.
301.6659 Statutory provisions; applicable rules.
301.6659–1 Applicable rules.

Assessable Penalties

301.6671 Statutory provisions; rules for application of assessable penalties.
301.6671–1 Rules for application of assessable penalties.
301.6672 Statutory provisions; failure to collect and pay over tax, or attempt to evade or defeat tax.
301.6672–1 Failure to collect and pay over tax, or attempt to evade or defeat tax.
301.6673 Statutory provisions; damages assessable for instituting proceedings before the Tax Court merely for delay.
301.6673–1 Damages assessable for instituting proceedings before the Tax Court merely for delay.
301.6674 Statutory provisions; fraudulent statement or failure to furnish statement to employee.
301.6674–1 Fraudulent statement or failure to furnish statement to employee.
301.6675 Statutory provisions; excessive claims with respect to the use of certain gasoline.
301.6675–1 Excessive claims with respect to the use of certain gasoline.
301.6676 Statutory provisions; failure to supply identifying numbers.
301.6676–1 Penalty for failure to supply identifying number.
301.6678 Statutory provisions; failure to furnish certain statements.
301.6678–1 Failure to furnish statements to payees.
301.6679 Statutory provisions; failure to file returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock.
301.6679–1 Failure to file returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock.

General Provisions Relating to Stamps

301.6801 Statutory provisions; authority for establishment, alteration, and distribution.
301.6801–1 Authority for establishment, alteration, and distribution.
301.6803 Statutory provisions; supply and distribution.
301.6803–1 Supply and distribution.
301.6805 Statutory provisions; accounting and safeguarding.
301.6805–1 Accounting and safeguarding.
301.6804 Statutory provisions; attachment and cancellation.
301.6804–1 Attachment and cancellation.
301.6805 Statutory provisions; redemption of stamps.
301.6805–1 Redemption of stamps.
301.6806 Statutory provisions; posting occupational tax stamps.
301.6806–1 Posting occupational tax stamps.
301.6807 Statutory provisions; stamping, marking, and branding seized goods.
301.6808 Statutory provisions; special provisions relating to stamps.

Jeopardy, Bankruptcy and Receivership

Jeopardy

Termination of Taxable Year

301.6851 Statutory provisions; termination of taxable year.
301.6851–1 Termination of taxable year.

Jeopardy Assessments

301.6861 Statutory provisions; jeopardy assessments of income, estate, and gift taxes.
301.6861–1 Jeopardy assessments of income, estate, and gift taxes.
301.6862 Statutory provisions; jeopardy assessment of taxes other than income, estate, and gift taxes.
301.6862–1 Jeopardy assessment of taxes other than income, estate, and gift taxes.
301.6863 Statutory provisions; stay of collection of jeopardy assessments.
301.6863–1 Stay of collection of jeopardy assessments; bond to stay collection.
301.6863–2 Collection of jeopardy assessment; stay of sale of seized property pending Tax Court decision.
301.6864 Statutory provisions; termination of extended period for payment in case of carryback.

Bankruptcy and Receiverships

301.6871(a) Statutory provisions; claims for income, estate, and gift taxes in bankruptcy and receivership proceedings; immediate assessment.
301.6871(a)–1 Immediate assessment of claims for income, estate, and gift taxes in bankruptcy and receivership proceedings.
301.6871(a)–2 Collection of assessed taxes in bankruptcy and receivership proceedings.
301.6871(b) Statutory provisions; claims for income, estate, and gift taxes in bankruptcy and receivership proceedings; claim filed despite pendency of Tax Court proceedings.
301.6871(b)–1 Claims for income, estate, and gift taxes in proceedings under the Bankruptcy Act and receivership proceedings; claim filed despite pendency of Tax Court proceedings.
301.6873 Statutory provisions; suspension of period on assessment.
301.6873–1 Suspension of running of period of limitations on assessment.
301.6873 Statutory provisions; unpaid claims.
301.6873–1 Unpaid claims in bankruptcy or receivership proceedings.

Transferees and Fiduciaries

301.6901 Statutory provisions; transferred assets.
301.6901–1 Procedure in the case of transferred assets.

Sec.
301.6902 Statutory provisions; provisions of special application to transferees.
301.6902–1 Burden of proof.
301.6903 Statutory provisions; notice of fiduciary relationship.
301.6903–1 Notice of fiduciary relationship.
301.6904 Statutory provisions; prohibition of injunctions.

Licensing and Registration

Licensure

301.7001 Statutory provisions; collection of foreign items.
301.7001–1 License to collect foreign items.

Registration

301.7011 Statutory provisions; registration—persons paying especial tax.
301.7011–1 Registration of persons paying a special tax.
301.7012 Statutory provisions; cross references.

Bonds

301.7101 Statutory provisions; form of bonds.
301.7101–1 Form of bond and surety required.
301.7102 Statutory provisions; single bond in lieu of multiple bonds.
301.7102–1 Single bond in lieu of multiple bonds.
301.7103 Statutory provisions; cross reference—other provisions for bonds.

Closing Agreements and Compromises

301.7121 Statutory provisions; closing agreements.
301.7121–1 Closing agreements.
301.7122 Statutory provisions; compromises.
301.7122–1 Compromises.
301.7123 Statutory provisions; cross references.

Closing Agreements and Compromises

Census

General Provisions

301.7201 Statutory provisions; attempt to evade or defeat tax.
301.7202 Statutory provisions; willful failure to collect or pay over tax.
301.7203 Statutory provisions; willful failure to file return, supply information, or pay tax.
301.7204 Statutory provisions; fraudulent statement or failure to make statement to employees.
301.7205 Statutory provisions; fraudulent withholding exemption certificate or failure to supply information.
301.7206 Statutory provisions; fraud and false statements.
301.7207 Statutory provisions; fraudulent returns, statements, or other documents.
301.7207–1 Fraudulent returns, statement, or other documents.
301.7208 Statutory provisions; offenses relating to stamps.
301.7209 Statutory provisions; unauthorized use or sale of stamps.
301.7209–1 Unauthorized use or sale of stamps.
301.7210 Statutory provisions; failure to obey summons.
301.7211 Statutory provisions; false statements to purchasers or lessees relating to tax.
301.7212 Statutory provisions; attempts to interfere with administration of internal revenue laws.
301.7213 Statutory provisions; unauthorized disclosure of information.
301.7214 Statutory provisions; offenses by officers and employees of the United States.
301.7214–1 Offenses by officers and employees of the United States.
301.7215 Statutory provisions; offenses with respect to collected taxes.

Penalties Applicable to Certain Taxes

301.7231 Statutory provisions; failure to obtain license for collection of foreign items.
301.7231–1 Failure to obtain license for collection of foreign items.
301.7232 Statutory provisions; failure to register or give bond, or false statement by manufacturer or producer of gasoline or lubricating oil.
301.7232–1 Failure to register or give bond, or false statement by manufacturer or producer of gasoline or lubricating oil.
301.7233 Statutory provisions; failure to pay, or attempt to evade payment of, tax on cotton futures, and other violations.
301.7234 Statutory provisions; violation of laws relating to oleomargarine or adulterated butter operations.
301.7235 Statutory provisions; violation of laws relating to adulterated butter and process or renovated butter.
301.7236 Statutory provisions; violation of laws relating to filled cheese.
301.7237 Statutory provisions; violation of laws relating to narcotic drugs and to marihuana.
301.7238 Statutory provisions; violation of laws relating to opium for smoking.
301.7239 Statutory provisions; violations of laws relating to white phosphorus matches.
301.7240 Statutory provisions; officials investing or speculating in sugar.

Other Offenses

301.7261 Statutory provisions; representation that retailers' excise tax is excluded from price of article.
301.7262 Statutory provisions; violation of occupational tax laws relating to wagering—failure to pay special tax.
301.7263 Statutory provisions; penalties relating to cotton futures.
301.7264 Statutory provisions; offenses relating to renovated or adulterated butter.
301.7265 Statutory provisions; other offenses relating to oleomargarine or adulterated butter operations.
301.7266 Statutory provisions; offenses relating to filled cheese.
301.7267 Statutory provisions; offenses relating to white phosphorous matches.
301.7268 Statutory provisions; possession with intent to sell in fraud of law or to evade tax.
301.7269 Statutory provisions; failure to produce records.
301.7269–1 Failure to produce records.
301.7270 Statutory provisions; insurance policies.
301.7271 Statutory provisions; penalties for offenses relating to stamps.
301.7272 Statutory provisions; penalty for failure to register.
301.7272–1 Penalty for failure to register.
301.7273 Statutory provisions; penalties for offenses relating to special taxes.
301.7274 Statutory provisions; penalty for offenses relating to white phosphorus matches.
301.7276 Statutory provisions; failure to print correct price on tickets.

Forfeitures

Property Subject to Forfeiture

301.7301 Statutory provisions; property subject to tax.
301.7302 Statutory provisions; property used in violation of internal revenue laws.
301.7303 Statutory provisions; other property subject to forfeiture.
301.7304 Statutory provisions; penalty for fraudulently claiming drawback.
301.7304–1 Penalty for fraudulently claiming drawback.

Provisions Common to Forfeitures

301.7321 Statutory provisions; authority to seize property subject to forfeiture.
301.7321–1 Seizure of property.
301.7322 Statutory provisions; delivery of seized personal property to U.S. marshal.
301.7322–1 Delivery of seized property to U.S. marshal.
301.7323 Statutory provisions; judicial action to enforce forfeiture.
301.7324 Statutory provisions; special disposition of perishable goods.
301.7324–1 Special disposition of perishable goods.
301.7325 Statutory provisions; personal property valued at $2,500 or less.
301.7325–1 Personal property valued at $2,500 or less.
301.7326 Statutory provisions; disposal of forfeited or abandoned property in special cases.
301.7326–1 Disposal of forfeited or abandoned property in special cases.
301.7327 Statutory provisions; customs laws applicable.
301.7327–1 Customs laws applicable.
301.7328 Statutory provisions; confiscation of matches exported.
301.7328–1 Confiscation of matches exported.
301.7329 Statutory provisions; cross references.

Miscellaneous Penalty and Forfeiture Provisions

301.7341 Statutory provisions; penalty for sales to evade tax.
301.7342 Statutory provisions; penalty for refusal to permit entry or examination.
301.7343 Statutory provisions; definition of term "person".
301.7344 Statutory provisions; extended application of penalties relating to officers of the Treasury Department.

Judicial Proceedings

Civil Actions by the United States

301.7401 Statutory provisions; authorization.
301.7401–1 Authorization.
301.7402 Statutory provisions; jurisdiction of district courts.
301.7403 Statutory provisions; action to enforce lien or to subject property to payment of tax.
301.7403–1 Action to enforce lien or to subject property to payment of tax.
301.7404 Statutory provisions; authority to bring civil action for estate taxes.
301.7404–1 Authority to bring civil action for estate taxes.
301.7405 Statutory provisions; action for recovery of erroneous refunds.
301.7405 Statutory provisions; disposition of judgments and moneys recovered.
301.7406–1 Disposition of judgments and moneys recovered.
301.7407 Statutory provisions; cross references.

Procurement of Taxpayers

301.7421 Statutory provisions; prohibition of suits to restrain assessment or collection.
301.7422 Statutory provisions; civil actions for refund.
301.7423 Statutory provisions; repayments to officers or employees.
301.7423–1 Repayments to officers or employees.

Sec.
301.7456 Statutory provisions; civil action to clear title to property.
301.7456-1 Civil action to clear title to property.
301.7457 Statutory provisions; cross references.

THE TAX COURT

ORGANIZATION AND JURISDICTION

301.7441 Statutory provisions; status.
301.7442 Statutory provisions; jurisdiction.
301.7443 Statutory provisions; membership.
301.7444 Statutory provisions; organization.
301.7445 Statutory provisions; offices.
301.7446 Statutory provisions; times and places of sessions.
301.7447 Statutory provisions; retirement.
301.7448 Statutory provisions; annuities to widows and dependent children of judges.

PROCEDURE

301.7451 Statutory provisions; fee for filing petition.
301.7452 Statutory provisions; representation of parties.
301.7453-1 Representation of parties.
301.7454 Statutory provisions; rules of practice, procedure, and evidence.
301.7454-1 Burden of proof in fraud and transferee cases.
301.7454-1 Burden of proof in fraud and transferee cases.
301.7455 Statutory provisions; service of process.
301.7456 Statutory provisions; administration of oaths and procurement of testimony.
301.7456-1 Administration of oaths and procurement of testimony; production of records of foreign corporations, foreign trusts or estates and nonresident alien individuals.
301.7457 Statutory provisions; witness fees.
301.7457-1 Witness fees.
301.7458 Statutory provisions; hearings.
301.7458-1 Hearings.
301.7459 Statutory provisions; reports and decisions.
301.7460 Statutory provisions; provisions of special application to divisions.
301.7461 Statutory provisions; publicity of proceedings.
301.7461-1 Publicity of proceedings.
301.7462 Statutory provisions; publication of reports.
301.7463 Statutory provisions; provisions of special application to transferees.

MISCELLANEOUS PROVISIONS

301.7471 Statutory provisions; employees.
301.7472 Statutory provisions; expenditures.
301.7473 Statutory provisions; disposition of fees.
301.7474 Statutory provisions; fee for transcript of record.

COURT REVIEW OF TAX COURT DECISIONS

301.7481 Statutory provisions; date when Tax Court decision becomes final.
301.7481-1 Date when Tax Court decision becomes final; decision modified or reversed.
301.7482 Statutory provisions; courts of review.
301.7482-1 Courts of review; venue.
301.7483 Statutory provisions; petition for review.
301.7483-1 Petition for review.
301.7484 Statutory provisions; change of incumbent in office.
301.7484-1 Change of incumbent in office.
301.7485 Statutory provisions; bond to stay assessment and collection.
301.7486 Statutory provisions; refund, credit, or abatement of amounts disallowed.

Sec.
301.7487 Statutory provisions; cross references.

MISCELLANEOUS PROVISIONS

301.7491 Statutory provisions; burden of proof of exemptions in case of maritimans offenses.
301.7492 Statutory provisions; enforceability of cotton futures contracts.
301.7493 Statutory provisions; immunity of witnesses in cases relating to cotton futures.

MISCELLANEOUS PROVISIONS

301.7501 Statutory provisions; liability for taxes withheld or collected.
301.7502 Statutory provisions; timely mailing treated as timely filing.
301.7502-1 Timely mailing treated as timely filing.
301.7503 Statutory provisions; time for performance of acts where last day falls on Saturday, Sunday, or legal holiday.
301.7503-1 Time for performance of acts where last day falls on Saturday, Sunday, or legal holiday.
301.7504 Statutory provisions; fractional parts of a dollar.
301.7505 Statutory provisions; sale of personal property purchased by the United States.
301.7505-1 Sale of personal property purchased by the United States.
301.7506 Statutory provisions; administration or real estate acquired by the United States.
301.7506-1 Administration of real estate acquired by the United States.
301.7507 Statutory provisions; exemption of insolvent banks from tax.
301.7507-1 Banks and trust companies covered.
301.7507-2 Scope of section generally.
301.7507-3 Segregated or transferred assets.
301.7507-4 Unsegregated assets.
301.7507-5 Earnings.
301.7507-6 Abatement and refund.
301.7507-7 Establishment of immunity.
301.7507-8 Procedure during immunity.
301.7507-9 Termination of immunity.
301.7507-10 Collection of tax after termination of immunity.
301.7507-11 Exception of employment taxes.
301.7508 Statutory provisions; time for performing certain acts postponed by reason of war.
301.7509 Statutory provisions; expenditures incurred by the Post Office Department.
301.7510 Statutory provisions; exemption from tax of domestic goods purchased for the United States.
301.7510-1 Exemption from tax of domestic goods purchased for the United States.
301.7512 Statutory provisions; separate accounting for certain collected taxes, etc.
301.7512-1 Separate accounting for certain collected taxes.
301.7513 Statutory provisions; reproduction of returns and other documents.
301.7513-1 Reproduction of returns and other documents.
301.7514 Statutory provisions; authority to prescribe or modify seals.
301.7514-1 Seals of office.
301.7515 Statutory provisions; special statistical studies and compilations and other services on request.
301.7515-1 Special statistical studies and compilations on request.
301.7516 Statutory provisions; supplying training and training aids on request.
301.7516-1 Training and training aids on request.

Discovery of Liability and Enforcement of Title

EXAMINATION AND INSPECTION

Sec.
301.7601 Statutory provisions; canvass of districts for taxable persons and objects.
301.7601-1 Canvass of districts for taxable persons and objects.
301.7602 Statutory provisions; examination of books and witnesses.
301.7602-1 Examination of books and witnesses.
301.7603 Statutory provisions; service of summons.
301.7603-1 Service of summons.
301.7604 Statutory provisions; enforcement of summons.
301.7604-1 Enforcement of summons.
301.7605 Statutory provisions; time and place of examination.
301.7605-1 Time and place of examination.
301.7606 Statutory provisions; service of premises for examination of taxable objects.
301.7606-1 Entry of premises for examination of taxable objects.
301.7607 Statutory provisions; additional authority for Bureau of Narcotics and Bureau of Customs.
301.7608 Statutory provisions; authority of internal revenue enforcement officers.
301.7608-1 Authority of internal revenue enforcement officers.
301.7609 Statutory provisions; cross references.

GENERAL POWERS AND DUTIES

301.7621 Statutory provisions; internal revenue districts.
301.7621-1 Internal revenue districts.
301.7622 Statutory provisions; authority to administer oaths and certify.
301.7622-1 Authority to administer oaths and certify.
301.7623 Statutory provisions; expenses of detection and punishment of frauds.
301.7623-1 Rewards for information relating to violations of internal revenue laws.

SUPERVISION OF CERTAIN OCCUPATIONS OR CERTAIN MANUFACTURES

301.7641 Statutory provisions; supervision of operations of certain manufacturers.
301.7641-1 Supervision of operations of certain manufacturers.

POSSESSIONS

301.7651 Statutory provisions; administration and collection of taxes in possessions.
301.7652 Statutory provisions; shipments to the United States.
301.7652-1 Shipments to the United States.
301.7653 Statutory provisions; shipments from the United States.
301.7653-1 Shipments from the United States.
301.7654 Statutory provisions; payment to Guam and American Samoa of proceeds of tax on coconut and palm oil.
301.7655 Statutory provisions; cross references.

DEFINITIONS

301.7701 Statutory provisions; definitions.
301.7701-1 Classification of organizations for tax purposes.
301.7701-2 Associations including organizations labeled "corporations."
301.7701-3 Partnerships.
301.7701-4 Trusts.
301.7701-5 Domestic, foreign, resident, and nonresident persons.
301.7701-6 Fiduciary.
301.7701-7 Fiduciary distinguished from agent.
301.7701-8 Military or naval forces and Armed Forces of the United States.
301.7701-9 Secretary or his delegate.
301.7701-10 District director.

Sec.
301.7701-11 Account number.
301.7701-12 Employer identification number.
301.7701-13 Domestic building and loan association.
301.7701-14 Cooperative bank.
301.7701-15 Other terms.

General Rules

APPLICATION OF INTERNAL REVENUE LAWS

301.7801 Statutory provisions; authority of the Department of the Treasury.
301.7802 Statutory provisions; Commissioner of Internal Revenue.
301.7803 Statutory provisions; other personnel.
301.7803-1 Surety bonds covering personnel of the Internal Revenue Service.
301.7804 Statutory provisions; effect of reorganization plans.
301.7805 Statutory provisions; rules and regulations.
301.7805-1 Rules and regulations.
301.7806 Statutory provisions; construction of title.
301.7807 Statutory provisions; rules in effect upon enactment of this title.
301.7808 Statutory provisions; depositaries for collections.
301.7809 Statutory provisions; deposit of collections.

EFFECTIVE DATE AND RELATED PROVISIONS

301.7851 Statutory provisions; applicability of revenue laws.
301.7852 Statutory provisions, other applicable rules.

MISCELLANEOUS PROVISIONS

301.9000-1 Procedure to be followed by officers and employees of the Internal Revenue Service upon receipt of a request or demand for disclosure of internal revenue records or information.

AUTHORITY: The provisions of this Part 301 issued under sec. 7805, I.R.C. 1954; 68A Stat. 917; 26 U.S.C. 7805.

NOTE: In the text of this part, integral section references are to sections of the Internal Revenue Code of 1954; decimal section references are to sections of the Code of Federal Regulations.

References in the text to the "Code" are references to the Internal Revenue Code of 1954.

Information and Returns

RETURNS AND RECORDS

RECORDS, STATEMENTS, AND SPECIAL RETURNS

§ 301.6001 Statutory provisions; notice or regulations requiring records, statements, and special returns.

SEC. 6001. *Notice or regulations requiring records, statements, and special returns.* Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary or his delegate may from time to time prescribe. Whenever in the judgment of the Secretary or his delegate it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary or his delegate deems sufficient to show whether or not such person is liable for tax under this title.

§ 301.6001–1 Notice or regulations requiring records, statements, and special returns.

For provisions requiring records, statements, and special returns, see the regulations relating to the particular tax.

TAX RETURNS OR STATEMENTS

General Requirement

§ 301.6011 Statutory provisions; general requirement of return, statement, or list.

SEC. 6011. *General requirement of return, statement, or list.*—(a) *General rule.* When required by regulations prescribed by the Secretary or his delegate any person made liable for any tax imposed by this title, or for the collection thereof, shall make a return or statement according to the forms and regulations prescribed by the Secretary or his delegate. Every person required to make a return or statement shall include therein the information required by such forms or regulations.

(b) *Identification of taxpayer.* The Secretary or his delegate is authorized to require such information with respect to persons subject to the taxes imposed by chapter 21 or chapter 24 as is necessary or helpful in securing proper identification of such persons.

(c) *Return of retailers excise taxes by suppliers.*—(1) *General rule.* Under regulations prescribed by the Secretary or his delegate, the Secretary or his delegate may enter into an agreement with any supplier with respect to any retailers excise tax imposed by chapter 31 (not including the taxes imposed by section 4041), whereby such supplier will be liable to return and pay such tax (for the period for which such agreement is in effect) for the person who (without regard to this subsection) is required to return and pay such tax. Except as provided in the regulations prescribed under this subsection—

(A) All provisions of law (including penalties) applicable in respect of the person who (without regard to this subsection) is required to return and pay the tax shall apply to the supplier entering into the agreement, and

(B) The person who (without regard to this subsection) is required to return and pay such tax shall remain subject to all provisions of law (including penalties) applicable in respect of such person.

(2) *Limitations on agreement authority in the case of house-to-house salesmen.* In the case of sales by house-to-house salesmen, of articles subject to tax under chapter 31 (other than section 4041) which are supplied by a manufacturer or distributor, if the manufacturer or distributor establishes the retail list price at which such articles are to be sold, the Secretary or his delegate shall not, as a condition to entering into an agreement under paragraph (1), require—

(A) That such house-to-house salesmen execute powers of attorney making such manufacturer or distributor an agent for the return and payment of such tax,

(B) That the manufacturer or distributor make separate returns with respect to such such house-to-house salesman, or

(C) That the manufacturer or distributor assume any liability for tax on articles supplied by any person other than such manufacturer or distributor.

(d) *Income, estate, and gift taxes.* For requirement that returns of income, estate, and gift taxes be made whether or not there is tax liability, see sections 6012 to 6019, inclusive.

[Sec. 6011 as amended by sec. 161, Excise Tax Technical Changes Act 1958 (72 Stat. 1606)]

§ 301.6011–1 General requirement of return, statement, or list.

For provisions requiring returns, statements, or lists, see the regulations relating to the particular tax.

Income Tax Returns

§ 301.6012 Statutory provisions; persons required to make returns of income.

SEC. 6012. *Persons required to make returns of income.*—(a) *General rule.* Returns with respect to income taxes under subtitle A shall be made by the following:

(1) Every individual having for the taxable year a gross income of $600 or more (except that any individual who has attained the age of 65 before the close of his taxable year shall be required to make a return only if he has for the taxable year a gross income of $1,200 or more);

(2) Every corporation subject to taxation under subtitle A;

(3) Every estate the gross income of which for the taxable year is $600 or more;

(4) Every trust having for the taxable year any taxable income, or having gross income of $600 or over, regardless of the amount of taxable income; and

(5) Every estate or trust of which any beneficiary is a nonresident alien;

except that subject to such conditions, limitations, and exceptions and under such regulations as may be prescribed by the Secretary or his delegate, nonresident alien individuals subject to the tax imposed by section 871 and foreign corporations subject to the tax imposed by section 881 may be exempted from the requirement of making returns under this section.

(b) *Returns made by fiduciaries and receivers.*—(1) *Returns of decedents.* If an individual is deceased, the return of such individual required under subsection (a) shall be made by his executor, administrator, or other person charged with the property of such decedent.

(2) *Persons under a disability.* If an individual is unable to make a return required under subsection (a) or section 6015(a), the return of such individual shall be made by a duly authorized agent, his committee, guardian, fiduciary or other person charged with the care of the person or property of such individual. The preceding sentence shall not apply in the case of a receiver appointed by authority of law in possession of only a part of the property of an individual.

(3) *Receivers, trustees and assignees for corporations.* In a case where a receiver, trustee in bankruptcy, or assignee, by order of a court of competent jurisdiction, by operation of law or otherwise, has possession of or holds title to all or substantially all the property or business of a corporation, whether or not such property or business is being operated, such receiver, trustee, or assignee shall make the return of income for such corporation in the same manner and form as corporations are required to make such returns.

(4) *Returns of estates and trusts.* Returns of an estate or a trust shall be made by the fiduciary thereof.

(5) *Joint fiduciaries.* Under such regulations as the Secretary or his delegate may prescribe, a return made by one of two or more joint fiduciaries shall be sufficient compliance with the requirements of this section. A return made pursuant to this paragraph shall contain a statement that the fiduciary has sufficient knowledge of the affairs of the person for whom the return is made to enable him to make the return, and that the return is, to the best of his knowledge and belief, true and correct.

(c) *Certain income earned abroad or from sale of residence.* For purposes of this section, gross income shall be computed without regard to the exclusion provided for in section 121 (relating to sale of residence by individual who has attained age 65) and without regard to the exclusion provided for in section 911 (relating to earned income from sources without the United States).

(d) *Consolidated returns.* For provisions relating to consolidated returns by affiliated corporations, see chapter 6.

[Sec. 6013 as amended by sec. 72(a), Technical Amendments Act 1958 (72 Stat. 1660); sec. 209(b)(1), Rev. Act 1964 (78 Stat. 60).]

§ 301.6012–1 Persons required to make returns of income.

For provisions with respect to persons required to make returns of income, see §§ 1.6012–1 to 1.6012–4, inclusive, of this chapter (Income Tax Regulations).

§ 301.6013 Statutory provisions; joint returns of income tax by husband and wife.

Sec. 6013. *Joint returns of income tax by husband and wife*—(a) *Joint returns.* A husband and wife may make a single return jointly of income taxes under subtitle A, even though one of the spouses has neither gross income nor deductions, except as provided below:

(1) No joint return shall be made if either the husband or wife at any time during the taxable year is a nonresident alien;

(2) No joint return shall be made if the husband and wife have different taxable years; except that if such taxable years begin on the same day and end on different days because of the death of either or both, then the joint return may be made with respect to the taxable year of each. The above exception shall not apply if the surviving spouse remarries before the close of his taxable year, nor if the taxable year of either spouse is a fractional part of a year under section 443(a)(1);

(3) In the case of death of one spouse or both spouses the joint return with respect to the decedent may be made only by his executor or administrator; except that in the case of the death of one spouse the joint return may be made by the surviving spouse with respect to both himself and the decedent if no return for the taxable year has been made by the decedent, no executor or administrator has been appointed, and no executor or administrator is appointed before the last day prescribed by law for filing the return of the surviving spouse. If an executor or administrator of the decedent is appointed after the making of the joint return by the surviving spouse, the executor or administrator may disaffirm such joint return by making, within 1 year after the last day prescribed by law for filing the return of the surviving spouse, a separate return for the taxable year of the decedent with respect to which the joint return was made, in which case the return made by the survivor shall constitute his separate return.

(b) *Joint return after filing separate returns*—(1) *In general.* Except as provided in paragraph (3), if an individual has filed a separate return for a taxable year for which a joint return could have been made by him and his spouse under subsection (a) and the time prescribed by law for filing the return for such taxable year has expired, such individual and his spouse may nevertheless make a joint return for such taxable year. A joint return filed by the husband and wife under this subsection shall constitute the return of the husband and wife for such taxable year, and all payments, credits, refunds, or other repayments made or allowed with respect to the separate return of either spouse for such taxable year shall be taken into account in determining the extent to which the tax based upon the joint return has been paid. If a joint return is made under this subsection, any election (other than the election to file a separate return) made by either spouse in his separate return for such taxable year with respect to the treatment of any income, deduction, or credit of such spouse shall not be changed in the making of the joint return where such election would have been irrevocable if the joint return had not been made. If a joint return is made under this subsection after the death of either spouse, such return with respect to the decedent can be made only by his executor or administrator.

(2) *Limitations for making of election.* The election provided for in paragraph (1) may not be made—

(A) Unless there is paid in full at or before the time of the filing of the joint return the amount shown as tax upon such joint return; or

(B) After the expiration of 3 years from the last date prescribed by law for filing the return for such taxable year (determined without regard to any extension of time granted to either spouse); or

(C) After there has been mailed to either spouse, with respect to such taxable year, a notice of deficiency under section 6212, if the spouse, as to such notice, files a petition with the Tax Court of the United States within the time prescribed in section 6213; or

(D) After either spouse has commenced a suit in any court for the recovery of any part of the tax for such taxable year; or

(E) After either spouse has entered into a closing agreement under section 7121 with respect to such taxable year, or after any civil or criminal case arising against either spouse with respect to such taxable year has been compromised under section 7122.

(3) *When return deemed filed*—(A) *Assessment and collection.* For purposes of section 6861 (relating to periods of limitations on assessment and collection), and for purposes of section 6651 (relating to delinquent returns), a joint return made under this subsection shall be deemed to have been filed—

(i) Where both spouses filed separate returns prior to making the joint return—on the date the last separate return was filed (but not earlier than the last date prescribed by law for filing the return of either spouse);

(ii) Where only one spouse filed a separate return prior to the making of the joint return, and the other spouse had less than $600 of gross income ($1,200 in case such spouse was 65 or over) for such taxable year—on the date of the filing of such separate return (but not earlier than the last date (prescribed by law for the filing of such separate return); or

(iii) Where only one spouse filed a separate return prior to the making of the joint return, and the other spouse had gross income of $600 or more ($1,200 in case such spouse was 65 or over) for such taxable year—on the date of the filing of such joint return.

(B) *Credit or refund.* For purposes of section 6511, a joint return made under this subsection shall be deemed to have been filed on the last date prescribed by law for filing the return for such taxable year (determined without regard to any extension of time granted to either spouse).

(4) *Additional time for assessment.* If a joint return is made under this subsection, the periods of limitations provided in sections 6501 and 6502 on the making of assessments and the beginning of levy or a proceeding in court for collection shall with respect to such return include one year immediately after the date of the filing of such joint return (computed without regard to the provisions of paragraph (3)).

(5) *Additions to the tax and penalties*—(A) *Additions to the tax.* Where the amount shown as the tax by the husband and wife on a joint return made under this subsection exceeds the aggregate of the amounts shown as the tax upon the separate returns of each spouse—

(i) *Negligence.* If any part of such excess is attributable to negligence or intentional disregard of rules and regulations (but without intent to defraud) at the time of the making of such separate returns, then 5 percent of the total amount of such excess shall be added to the tax;

(ii) *Fraud.* If any part of such excess is attributable to fraud with intent to evade tax at the time of the making of such separate return, then 50 percent of the total amount of such excess shall be added to the tax.

(B) *Criminal penalty.* For purposes of section 7206 (1) and (2) and section 7207 (relating to criminal penalties in the case of fraudulent returns) the term "return" includes a separate return filed by a spouse with respect to a taxable year for which a joint return is made under this subsection after the filing of such separate return.

(c) *Treatment of joint return after death of either spouse.* For purposes of sections 21, 443, and 7851(a)(1)(A), where the husband and wife have different taxable years because of the death of either spouse, the joint return shall be treated as if the taxable years of both spouses ended on the date of the closing of the surviving spouse's taxable year.

(d) *Definitions.* For purposes of this section—

(1) The status as husband and wife of two individuals having taxable years beginning on the same day shall be determined—

(A) If both have the same taxable year—as of the close of such year; and

(B) If one dies before the close of the taxable year of the other—as of the time of such death; and

(2) An individual who is legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married; and

(3) If a joint return is made, the tax shall be computed on the aggregate income and the liability with respect to the tax shall be joint and several.

[Sec. 6013 as amended by Sec. 72, Technical Amendments Act 1958 (72 Stat. 1660)]

§ 301.6013–1 Joint returns of income tax by husband and wife.

For provisions with respect to joint returns of income tax by husband and wife, see §§ 1.6013–1 to 1.6013–4, inclusive, of this chapter (Income Tax Regulations).

§ 301.6014 Statutory provisions; income tax returns—tax not computed by taxpayer.

Sec. 6014. *Income tax returns—tax not computed by taxpayer*—(a) *Election by taxpayer.* An individual entitled to elect to pay the tax imposed by section 3 whose gross income is less than $5,000 and includes no income other than remuneration for services performed by him as an employee, dividends or interest, and whose gross income other than wages, as defined in section 3401(a), does not exceed $100, shall at his election not be required to show on the return the tax imposed by section 1. Such election shall be made by using the form prescribed for purposes of this section and shall constitute an election to pay the tax imposed by section 3. In such case the tax shall be computed by the Secretary or his delegate who shall mail to the taxpayer a notice stating the amount determined as payable. In determining the amount payable, the credit against such tax provided for by section 37 shall not be allowed. In the case of a head of household (as defined in section 1(b)) or a surviving spouse (as defined in section 2(b)) electing the benefits of this subsection, the tax shall be computed by the Secretary or his delegate without regard to the taxpayer's status as a head of household or as a surviving spouse. In the case of a married individual filing a separate return and electing the benefits of this subsection, neither Table V in section 3(a) nor Table V in section 3(b) shall apply.

(b) *Regulations.* The Secretary or his delegate shall prescribe regulations for carrying out this section, and such regulations may provide for the application of the rules of this section to cases where the gross income includes items other than those enumerated by subsection (a), to cases where the gross income from sources other than wages on which the tax has been withheld at the source is more than $100 but not more than $200, and to cases where the gross income is $5,000 or more but not more than $5,200. Such regulations shall provide for the application of this section in the case of husband and wife, including provisions determining when a joint return under this section may be permitted or required, whether the liability shall be joint and several, and whether one spouse may make return under this section and the other without regard to this section.

[Sec. 6014 as amended by secs. 201(d)(14) and 301(b)(3), Rev. Act 1964 (78 Stat. 32, 140)]

§ 301.6014–1 Income tax return—tax not computed by taxpayer.

For provisions relating to the use of Form 1040A by taxpayers with gross income of less than $5,000, see § 1.6014–1 of this chapter (Income Tax Regulations).

§ 301.6015 Statutory provisions; declaration of estimated income tax by individuals.

Sec. 6015. *Declaration of estimated income tax by individuals*—(a) *Requirement of declaration.* Every individual (other than a nonresident alien with respect to whose wages, as defined in section 3401(a), withholding under chapter 24 is not made applicable, but including every alien individual who is a resident of Puerto Rico during the entire taxable year) shall make a declaration of his estimated tax for the taxable year if—

(1) The gross income for the taxable year can reasonably be expected to exceed—

(A) $5,000 in the case of—

(i) A single individual other than a head of a household (as defined in section 1(b)(2)) or a surviving spouse (as defined in section 2(b));

(ii) A married individual not entitled under subsection (b) to file a joint declaration with his spouse; or

(iii) A married individual entitled under subsection (b) to file a joint declaration with his spouse, but only if the aggregate gross income of such individual and his spouse for the taxable year can reasonably be expected to exceed $10,000; or

(B) $10,000, in the case of—

(i) A head of a household (as defined in section 1(b)(2)); or

(ii) A surviving spouse (as defined in section 2(b)); or

(2) The gross income can reasonably be expected to include more than $200 from sources other than wages (as defined in section 3401(a)).

Notwithstanding the provisions of this subsection, no declaration is required if the estimated tax (as defined in subsection (c)) can reasonably be expected to be less than $40.

(b) *Joint declarations by husband and wife.* In the case of a husband and wife, a single declaration under this section may be made by them jointly, in which case the liability with respect to the estimated tax shall be joint and several. No joint declaration may be made if either the husband or the wife is a nonresident alien, if they are separated under a decree of divorce or of separate maintenance, or if they have different taxable years. If a joint declaration is made but a joint return is not made for the taxable year, the estimated tax for such year may be treated as the estimated tax of either the husband or the wife, or may be divided between them.

(c) *Estimated tax.* For purposes of this title, in the case of an individual, the term "estimated tax" means the amount which the individual estimates as the amount of the income tax imposed by chapter 1 for the taxable year, minus the amount which the individual estimates as the sum of any credits against tax provided by part IV of subchapter A of chapter 1.

(d) *Contents of declaration.* The declaration shall contain such pertinent information as the Secretary or his delegate may by forms or regulations prescribe.

(e) *Amendment of declaration.* An individual may make amendments of a declaration filed during the taxable year under regulations prescribed by the Secretary or his delegate.

(f) *Return as declaration or amendment.* If on or before January 31 (or February 15, in the case of an individual referred to in section 6073(b), relating to income from farming or fishing) of the succeeding taxable year the taxpayer files a return, for the taxable year for which the declaration is required, and pays in full the amount computed on the return as payable, then, under regulations prescribed by the Secretary or his delegate—

(1) If the declaration is not required to be filed during the taxable year, but is required to be filed on or before January 15, such return shall be considered as such declaration; and

(2) If the tax shown on the return (reduced by the sum of the credits against tax provided by part IV of subchapter A of chapter 1) is greater than the estimated tax shown in a declaration previously made, or in the last amendment thereof, such return shall be considered as the amendment of the declaration permitted by subsection (e) to be filed on or before January 15.

In the application of this subsection in the case of a taxable year beginning on any date other than January 1, there shall be substituted, for the 15th or last day of the months specified in this subsection, the 15th or last day of the months which correspond thereto.

(g) *Short taxable years.* An individual with a taxable year of less than 12 months shall make a declaration in accordance with regulations prescribed by the Secretary or his delegate.

(h) *Estates and trusts.* The provisions of this section shall not apply to an estate or trust.

(i) *Applicability.* This section shall be applicable only with respect to taxable years beginning after December 31, 1954; and sections 58, 59, and 60 of the Internal Revenue Code of 1939 shall continue in force with respect to taxable years beginning before January 1, 1955.

[Sec. 6015 as amended by sec. 74, Technical Amendments Act 1958 (72 Stat. 1660); sec. 5(a), Act of Sept. 14, 1960 (Pub. Law 86-779, 74 Stat. 1000); sec. 1(a)(1), Act of Sept. 26, 1962 (Pub. Law 87-682, 76 Stat. 578)]

§ 301.6015–1 Declaration of estimated income tax by individuals.

For provisions relating to requirement of declarations of estimated income tax by individuals, see §§ 1.6015(a)–1 to 1.6015(i)–1, inclusive, of this chapter (Income Tax Regulations).

§ 301.6016 Statutory provisions; declarations of estimated income tax by corporations.

Sec. 6016. *Declarations of estimated income tax by corporations*—(a) *Requirement of declaration.* Every corporation subject to taxation under section 11 or 1201(a), or subchapter L of chapter 1 (relating to insurance companies), shall make a declaration of estimated tax under chapter 1 for the taxable year if its income tax imposed by section 11 or 1201(a), or such subchapter L, for such taxable year, reduced by the credits against tax provided by part IV of subchapter A of chapter 1, can reasonably be expected to exceed $100,000.

(b) *Estimated tax.* For purposes of this title, in the case of a corporation, the term "estimated tax" means the excess of—

(1) The amount which the corporation estimates as the amount of the income tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, over

(2) The sum of—

(A) $100,000, and

(B) The amount which the corporation estimates as the sum of any credits against tax provided by part IV of subchapter A of chapter 1.

(c) *Contents of declaration.* The declaration shall contain such pertinent information as the Secretary or his delegate may by forms or regulations prescribe.

(d) *Amendment of declaration.* A corporation may make amendments of a declaration filed during the taxable year under regulations prescribed by the Secretary or his delegate.

(e) *Short taxable year.* A corporation with a taxable year of less than 12 months shall make a declaration in accordance with regulations prescribed by the Secretary or his delegate.

(f) *Applicability.* This section shall apply only with respect to taxable years ending on or after December 31, 1955.

§ 301.6016–1 Declarations of estimated income tax by corporations.

For provisions concerning the requirement of declarations of estimated income tax by corporations, see §§ 1.6016–1 to 1.6016–4, inclusive, of this chapter (Income Tax Regulations).

§ 301.6017 Statutory provisions; self-employment tax returns.

Sec. 6017. *Self-employment tax returns.* Every individual (other than a nonresident alien individual) having net earnings from self-employment of $400 or more for the taxable year shall make a return with respect to the self-employment tax imposed by chapter 2. In the case of a husband and wife filing a joint return under section 6013, the tax imposed by chapter 2 shall not be computed on the aggregate income but shall be the sum of the taxes computed under such chapter on the separate self-employment income of each spouse.

§ 301.6017–1 Self-employment tax returns.

For provisions relating to the requirement of self-employment tax returns, see § 1.6017–1 of this chapter (Income Tax Regulations).

Estate and Gift Tax Returns

§ 301.6018 Statutory provisions; estate tax returns.

Sec. 6018. *Estate tax returns*—(a) *Returns by executor*—(1) *Citizens or residents.* In all

cases where the gross estate at the death of a citizen or resident exceeds $60,000, the executor shall make a return with respect to the estate tax imposed by subtitle B.

(3) *Nonresidents not citizens of the United States.* In the case of the estate of every nonresident not a citizen of the United States if that part of the gross estate which is situated in the United States exceeds $2,000, the executor shall make a return with respect to the estate tax imposed by subtitle B.

(b) *Returns by beneficiaries.* If the executor is unable to make a complete return as to any part of the gross estate of the decedent, he shall include in his return a description of such part and the name of every person holding a legal or beneficial interest therein. Upon notice from the Secretary or his delegate such person shall in like manner make a return as to such part of the gross estate.

§ 301.6018–1 Estate tax returns.

For provisions relating to requirement of estate tax returns, see §§ 20.6018–1 to 20.6018–4, inclusive, of this chapter (Estate Tax Regulations).

§ 301.6019 Statutory provisions; gift tax returns.

SEC. 6019. *Gift tax returns*—(a) *In general.* Any individual who (b) any calendar year makes any transfers by gift (except those which under section 2503(b) are not to be included in the total amount of gifts for such year) shall make a return with respect to the gift tax imposed by subtitle B.

(b) *Tenancy by the entirety.* For provisions relating to requirement of return in the case of election as to the treatment of gift by creation of tenancy by the entirety, see section 2515(c).

§ 301.6019–1 Gift tax returns.

For provisions relating to requirement of gift tax returns, see §§ 25.6019–1 to 25.6019–4, inclusive, of this chapter (Gift Tax Regulations).

Miscellaneous Provisions

§ 301.6020 Statutory provisions; returns prepared for or executed by Secretary.

SEC. 6020. *Returns prepared for or executed by Secretary*—(a) *Preparation of return by Secretary.* If any person shall fail to make a return required by this title or by regulations prescribed thereunder, but shall consent to disclose all information necessary for the preparation thereof, then, and in that case, the Secretary or his delegate may prepare such return, which, being signed by such person, may be received by the Secretary or his delegate as the return of such person.

(b) *Execution of return by Secretary*—(1) *Authority of Secretary to execute return.* If any person fails to make any return (other than a declaration of estimated tax required under section 6015 or 6016) required by any internal revenue law or regulation made thereunder at the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, the Secretary or his delegate shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise.

(2) *Status of returns.* Any return made and subscribed by the Secretary or his delegate shall be prima facie good and sufficient for all legal purposes.

§ 301.6020–1 Returns prepared or executed by district directors or other internal revenue officers.

(a) *Preparation of returns*—(1) *In general.* If any person required by the Code or by the regulations prescribed thereunder to make a return fails to make such return, it may be prepared by the district director or other authorized internal revenue officer or employee provided such person consents to disclose all information necessary for the preparation of such return. The return upon being signed by the person required to make it shall be received by the district director as the return of such person.

(2) *Responsibility of person for whom return is prepared.* A person for whom a return is prepared in accordance with subparagraph (1) of this paragraph shall for all legal purposes remain responsible for the correctness of the return to the same extent as if the return had been prepared by him.

(b) *Execution of returns*—(1) *In general.* If any person required by any internal revenue law or by the regulations prescribed thereunder to make a return (other than a declaration of estimated tax required under section 6015 or 6016) fails to make such return at the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, the district director or other authorized internal revenue officer or employee shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise.

(2) *Status of returns.* Any return made in accordance with subparagraph (1) of this paragraph and subscribed by the district director or other authorized internal revenue officer or employee shall be prima facie good and sufficient for all legal purposes.

(3) *Deficiency procedures.* For deficiency procedures in the case of income, estate, and gift taxes, see sections 6211 to 6216, inclusive, and §§ 301.6211–1 to 301.6215–1, inclusive.

(c) *Cross references.* (1) For provisions that a return executed by a district director or other authorized internal revenue officer or employee will not start the running of the period of limitations on assessment and collection, see section 6501(b)(3) and paragraph (c) of § 301.6501(b)–1.

(2) For additions to the tax and additional amounts for failure to file returns, see section 6651 and § 301.6651–1, and section 6653 and § 301.6653–1, respectively.

(3) For additions to the tax for failure to pay tax, see section 6653 and § 301.6653–1.

(4) For criminal penalties for willful failure to make returns, see sections 7201, 7202, and 7203.

(5) For criminal penalties for willfully making false or fraudulent returns, see sections 7206 and 7207.

(6) For authority to examine books and witnesses, see section 7602 and § 301.7602–1.

§ 301.6021 Statutory provisions; listing by Secretary of taxable objects owned by nonresidents of internal revenue districts.

SEC. 6021. *Listing by Secretary of taxable objects owned by nonresidents of internal revenue districts.* Whenever there are in any internal revenue district any articles subject to tax, which are not owned or possessed by or under the care or control of any person within such district, and of which no list has been transmitted to the Secretary or his delegate, as required by law or by regulations prescribed pursuant to law, the Secretary or his delegate shall enter the premises where such articles are situated, shall make such inspection of the articles as may be necessary and make lists of the same, according to the forms prescribed. Such lists, being subscribed by the Secretary or his delegate, shall be sufficient lists of such articles for all purposes.

§ 301.6021–1 Listing by district directors of taxable objects owned by nonresidents of internal revenue districts.

Whenever there are in any internal revenue district any articles subject to tax, which are not owned or possessed by or under the care or control of any person within such district, and of which no list has been transmitted to the district director, as required by law or by regulations prescribed pursuant to law, the district director, or other authorized internal revenue officer or employee, shall enter the premises where such articles are situated, shall make such inspection of the articles as may be necessary, and shall make lists of the same according to the forms prescribed. Such lists, being subscribed by the district director or other authorized internal revenue officer or employee, shall be sufficient lists of such articles for all purposes.

INFORMATION RETURNS

Information Concerning Persons Subject to Special Provisions

§ 301.6031 Statutory provisions; return of partnership income.

SEC. 6031. *Return of partnership income.* Every partnership (as defined in section 761 (a)) shall make a return for each taxable year, stating specifically the items of its gross income and the deductions allowable by subtitle A, and such other information for the purpose of carrying out the provisions of subtitle A as the Secretary or his delegate may by forms and regulations prescribe, and shall include in the return the names and addresses of the individuals who would be entitled to share in the taxable income if distributed and the amount of the distributive share of each individual.

§ 301.6031–1 Return of partnership income.

For provisions relating to the requirement of returns of partnership income, see § 1.6031–1 of this chapter (Income Tax Regulations).

§ 301.6032 Statutory provisions; returns of banks with respect to common trust funds.

SEC. 6032. *Returns of banks with respect to common trust funds.* Every bank (as defined in section 581) maintaining a common trust fund shall make a return for each taxable year, stating specifically, with respect to such fund, the items of gross income and the deductions allowed by subtitle A, and shall include in the return the names and addresses of the participants who would be entitled to share in the taxable income if distributed and the amount of the proportionate share of each participant. The return shall be executed in the same manner as a return made by a corporation pursuant to the requirements of sections 6012 and 6062.

§ 301.6032–1 Returns of banks with respect to common trust funds.

For provisions relating to requirement of returns of banks with respect to common trust funds, see § 1.6032–1 of this chapter (Income Tax Regulations).

§ 301.6033 Statutory provisions; returns by exempt organizations.

SEC. 6033. *Returns by exempt organizations*—(a) *General.* Every organization, except as hereinafter provided, exempt from taxation under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the provisions of subtitle A as the Secretary or his delegate may by forms or regulations prescribe, and shall keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations, as the Secretary or his delegate may from time to time prescribe, except that, in the discretion of the Secretary or his delegate, an organization described in section 401(a) may be relieved from stating in its return any information which is reported in returns filed by the employer which established such organization. No such annual return need be filed under this subsection by any organization exempt from taxation under the provisions of section 502(a)—

(1) Which is a religious organization described in section 501(c)(3); or

(2) Which is an educational organization described in section 501(c)(3), if such organization normally maintains a regular faculty and curriculum and normally has a regularly organized body of pupils or students in attendance at the place where its educational activities are regularly carried on; or

(3) Which is a charitable organization, or an organization for the prevention of cruelty to children or animals, described in section 501(c)(3), if such organization is supported, in whole or in part, by funds contributed by the United States or any State or political subdivision thereof, or is primarily supported by contributions of the general public; or

(4) Which is an organization described in section 501(c)(3), if such organization is operated, supervised, or controlled by or in connection with a religious organization described in paragraph (1); or

(5) Which is an organization described in section 501(c)(8); or

(6) Which is an organization described in section 501(c)(1), if such organization is a corporation wholly owned by the United States or any agency or instrumentality thereof, or a wholly owned subsidiary of such a corporation.

(b) *Certain organizations described in section 501(c)(3).* Every organization described in section 501(c)(3) which is subject to the requirements of subsection (a) shall furnish annually information, at such time and in such manner as the Secretary or his delegate may by forms or regulations prescribe, setting forth—

(1) Its gross income for the year,

(2) Its expenses attributable to such income and incurred within the year,

(3) Its disbursements out of income within the year for the purposes for which it is exempt,

(4) Its accumulation of income within the year,

(5) Its aggregate accumulations of income at the beginning of the year,

(6) Its disbursements out of principal in the current and prior years for the purposes for which it is exempt,

(7) A balance sheet showing its assets, liabilities, and net worth as of the beginning of such year, and

(8) The total of the contributions and gifts received by it during the year.

(c) *Cross reference.* For provisions relating to statements, etc., regarding exempt status of organizations, see section 6001.

[Sec. 6033 as amended by sec. 75(b), Technical Amendments Act 1958 (72 Stat. 1661)]

§ 301.6033–1 Returns by exempt organizations.

For provisions relating to the requirement of returns by exempt organizations, see § 1.6033–1 of this chapter (Income Tax Regulations).

§ 301.6034 Statutory provisions; returns by trusts claiming charitable deductions under section 642(c).

SEC. 6034. *Returns by trusts claiming charitable deductions under section 642(c)*—(a) *General rule.* Every trust claiming a charitable, etc., deduction under section 642(c) for the taxable year shall furnish such information with respect to such taxable year as the Secretary or his delegate may by forms or regulations prescribe, setting forth—

(1) The amount of the charitable, etc., deduction taken under section 642(c) within such year (showing separately the amount of such deduction which was paid out and the amount which was permanently set aside for charitable, etc., purposes during such year),

(2) The amount paid out within such year which represents amounts for which charitable, etc., deductions under section 642(c) have been taken in prior years,

(3) The amount for which charitable, etc., deductions have been taken in prior years but which has not been paid out at the beginning of such year,

(4) The amount paid out of principal in the current and prior years for charitable, etc., purposes,

(5) The total income of the trust within such year and the expenses attributable thereto, and

(6) A balance sheet showing the assets, liabilities, and net worth of the trust as of the beginning of such year.

(b) *Exception.* This section shall not apply in the case of a taxable year if all the net income for such year, determined under the applicable principles of the law of trusts, is required to be distributed currently to the beneficiaries.

§ 301.6034–1 Returns by trusts claiming charitable or other deductions under section 642(c).

For provisions relating to the requirement of returns by trusts claiming charitable or other deductions under section 642(c), see § 1.6034–1 of this chapter (Income Tax Regulations).

§ 301.6035 Statutory provisions; returns of officers, directors, and shareholders of foreign personal holding companies.

SEC. 6035. *Returns of officers, directors, and shareholders of foreign personal holding companies*—(a) *Officers and directors*—(1) *Monthly returns.* On the 15th day of each month each individual who on such day is an officer or a director of a foreign corporation which, with respect to its taxable year preceding the taxable year in which such month occurs, was a foreign personal holding company (as defined in section 552), shall make a return setting forth with respect to the preceding calendar month the name and address of such shareholder, the class and number of shares held by each, together with any changes in stockholdings during such period, the names and address of any holder of securities convertible into stock of such corporation, and such other information with respect to the stock and securities of the corporation as the Secretary or his delegate shall by forms or regulations prescribe as necessary for carrying out the provisions of this title. The Secretary or his delegate may by regulations prescribe, as the period with respect to which returns shall be made, a longer period than a month. In such case the return shall be due on the 15th day of the succeeding period, and shall be made by the individuals who on such day are officers or directors of the corporation.

(2) *Annual returns.* On the 60th day after the close of the taxable year of a foreign personal holding company (as defined in section 552), each individual who on such 60th day is an officer or director of the corporation shall make a return setting forth—

(A) In complete detail the gross income, deductions and credits, taxable income, and undistributed foreign personal holding company income of such foreign personal holding company for such taxable year; and

(B) The same information with respect to such taxable year as is required in paragraph (1), except that if all the required returns with respect to such year have been filed under paragraph (1), no information under this subparagraph need be set forth in the return filed under this paragraph.

(b) *Shareholders*—(1) *Monthly returns.* On the 15th day of each month each U.S. shareholder, by or for whom 50 percent or more in value of the outstanding stock of a foreign corporation is owned directly or indirectly (including, in the case of an individual, stock owned by the members of his family as defined in section 544(a)(2)), if such foreign corporation with respect to its taxable year preceding the taxable year in which such month occurs was a foreign personal holding company (as defined in section 552), shall make a return setting forth with respect to the preceding calendar month the name and address of each shareholder, the class and number of shares held by each, together with any changes in stockholdings during such period, the name and address of any holder of securities convertible into stock of such corporation, and such other information with respect to the stock and securities of the corporation as the Secretary or his delegate shall by forms or regulations prescribe as necessary for carrying out the provisions of this title. The Secretary or his delegate may by regulations prescribe, as the period with respect to which returns shall be made, a longer period than a month. In such case the return shall be due on the 15th day of the succeeding period, and shall be made by the persons who on such day are U.S. shareholders.

(2) *Annual returns.* On the 60th day after the close of the taxable year of a foreign personal holding company (as defined in section 552) each U.S. shareholder by or for whom on such 60th day 50 percent or more in value of the outstanding stock of such company is owned directly or indirectly (including, in the case of an individual, stock owned by members of his family as defined in section 544(a)(2)) shall make a return setting forth the same information with respect to such taxable years as is required in paragraph (1), except that, if all the required returns with respect to such year have been made under paragraph (1), no return shall be required under this paragraph.

§ 301.6035–1 Returns of officers, directors, and shareholders of foreign personal holding companies.

For provisions relating to the requirement of returns by officers, directors, and shareholders of foreign personal holding companies, see §§ 1.6035–1 to 1.6035–3, inclusive, of this chapter (Income Tax Regulations).

§ 301.6036 Statutory provisions; notice of qualification as executor or receiver.

SEC. 6036. *Notice of qualification as executor or receiver.* Every receiver, trustee in bankruptcy, assignee for benefit of creditors, or other like fiduciary, and every executor (as defined in section 7701), shall give notice of his qualification as such to the Secretary or his delegate in such manner and at such time as may be required by regulations of the Secretary or his delegate. The Secretary or his delegate may by regulation provide such exemptions from the requirements of this section as the Secretary or his delegate deems proper.

§ 301.6036–1 Notice required of executor or of receiver or other like fiduciary.

(a) *Receivers and other like fiduciaries*—(1) *Bankruptcy proceedings.* The receiver or the trustee in bankruptcy, the debtor in possession, or other person, designated as in control of the assets of a debtor in any bankruptcy proceeding by order of the court in which such proceeding is pending, shall, on, or within 10 days of, the date of his appointment or authorization to act, give notice thereof in writing to the district director for the internal revenue district in which such debtor is or was required to make returns. Notice under this subparagraph shall not be required if, prior to, on, or within 10 days of, the date of such appointment or authorization to act, any notice regarding such proceeding has been given under any provision of the Bankruptcy Act (Title 11 of the United State Code) to the Secretary or other proper officer of the Treasury Department.

(2) *Proceedings other than bankruptcy.* A receiver in a receivership proceeding or a similar fiduciary in any proceeding (including a fiduciary in aid of foreclosure), designated by order of any court of the United States or of any State or Territory or of the District of Columbia as in control of all or substantially all the assets of a debtor or other party to such proceeding shall, on, or within 10 days of, the date of his appointment or authorization to act, give notice thereof in writing to the district director for the internal revenue district in which the debtor, or such other party, is or was required to make returns. Moreover, any fiduciary in aid of foreclosure not appointed by order of any such court, if he takes possession of all or substantially all the assets of the debtor, shall, on, or within 10 days of, the date of his taking possession, give notice thereof in writing to such district director.

(3) *Assignment for benefit of creditors.* An assignee for the benefit of a creditor or creditors shall, on, or within 10 days of, the date of an assignment, give notice thereof in writing to the district director for the internal revenue district in which the debtor is or was required to make returns. For purposes of this subparagraph, an assignee for the benefit of creditors shall be any person who, by authority of law, by the order of any court, by oral or written agreement, or in any other manner acquires control or possession of or title to all or substantially all the assets of a debtor, and who under such acquisition is authorized to use, reassign, sell, or in any manner dispose of such assets so that the proceeds from the use, sale, or other disposition may be paid to or may inure directly or indirectly to the benefit of a creditor or creditors of such debtor.

(4) *Contents of notice*—(i) *Bankruptcy and other proceedings.* The written notice required under subparagraph (1) or (2) of this paragraph shall contain:

(a) The name and address of the person making such notice and the date of his appointment or of his taking possession of the assets of the debtor or other person whose assets are controlled,

(b) The name and address of the debtor or other person whose assets are controlled, and

(c) In the case of a court proceeding:

(*1*) The name and location of the court in which the proceedings are pending,

(*2*) The date on which such proceedings were instituted,

(*3*) The number under which such proceedings are docketed, and

(*4*) When possible, the date, time, and place of any hearing, meeting of creditors, or other scheduled action with respect to such proceedings.

(ii) *Assignment for benefit of creditors.* The written notice required under subparagraph (3) of this paragraph shall contain:

(a) The name and address of, and the date the asset or assets were assigned to, the assignee,

(b) The name and address of the debtor whose assets were assigned,

(c) A brief description of the assets assigned,

(d) An explanation of the action expected to be taken with respect to such assets, and

(e) When possible, the date, time, and place of any hearing, meeting of creditors, sale, or other scheduled action with respect to such assets.

(b) *Executors, administrators, and persons in possession of property of decedent.* For provisions relating to requirement of preliminary notice in the case of estate taxes by executor, administrator, or person in possession of property of decedent, see § 20.6036–1 of this chapter (Estate Tax Regulations).

(c) *Notice of fiduciary relationship.* When a notice is required under § 301.6903–1 of a person acting in a fiduciary capacity and is also required of such person under this section, notice given in accordance with the provisions of this section shall be considered as complying with both sections.

(d) *Suspension of period on assessment.* For suspension of the running of the period of limitations on the making of assessments from the date a proceeding is instituted to a date 30 days after receipt of notice from a fiduciary in any proceeding under the Bankruptcy Act or from a receiver in any other court proceeding, see section 6872 and § 301.6872–1.

(e) *Applicability.* The provisions of this section shall apply to those persons referred to in this section whose appointments, authorizations, or assignments occur on or after December 21, 1960.

(f) *Cross references.* (1) For criminal penalty for willful failure to supply information, see section 7203.

(2) For criminal penalties for willfully making false or fraudulent statements, see sections 7206 and 7207.

(3) For time for performance of acts where the last day falls on a Saturday, Sunday, or legal holiday, see section 7503 and § 301.7503–1.

§ 301.6037 Statutory provisions; return of electing small business corporation.

SEC. 6037. *Return of electing small business corporation.* Every electing small business corporation (as defined in section 1371(a)(2)) shall make a return for each taxable year, stating specifically the items of its gross income and the deductions allowable by subtitle A, the names and addresses of all persons owning stock in the corporation at any time during the taxable year, the number of shares of stock owned by each shareholder at all times during the taxable year, the amount of money and other property distributed by the corporation during the taxable year to each shareholder, the date of each such distribution, and such other information, for the purpose of carrying out the provisions of subchapter S of chapter 1, as the Secretary or his delegate may by forms and regulations prescribe. Any return filed pursuant to this section shall, for purposes of chapter 66 (relating to limitations), be treated as a return filed by the corporation under section 6012.

[Sec. 6037 as added by sec. 64(c), Technical Amendments Act 1958 (72 Stat. 1656)]

§ 301.6037–1 Return of electing small business corporation.

For provisions relating to requirement of return of electing small business corporation, see § 1.6037–1 of this chapter (Income Tax Regulations).

§ 301.6038 Statutory provisions; information with respect to certain foreign corporations.

SEC. 6038. *Information with respect to certain foreign corporations*—(a) *Requirement*—(1) *In general.* Every U.S. person shall furnish, with respect to any foreign corporation which such person controls (within the meaning of subsection (d)(1)), such information as the Secretary or his delegate may prescribe by regulations relating to—

(A) The name, the principal place of business, and the nature of business of such foreign corporation, and the country under whose laws incorporated;

(B) The accumulated profits (as defined in section 902(c)) of such foreign corporation, including the items of income (whether or not included in gross income under chapter 1), deductions (whether or not allowed in computing taxable income under chapter 1), and any other items taken into account in computing such accumulated profits;

(C) A balance sheet for such foreign corporation listing assets, liabilities, and capital;

(D) Transactions between such foreign corporation and—

(i) Such person,

(ii) Any other corporation which such person controls, and

(iii) Any U.S. person owning, at the time the transaction takes place, 10 percent or more of the value of any class of stock outstanding of such foreign corporation; and

(E) A description of the various classes of stock outstanding, and a list showing the name and address of, and number of shares held by, each U.S. person who is a shareholder of record owning at any time during the annual accounting period 5 percent or more in value of any class of stock outstanding of such foreign corporation.

The Secretary or his delegate may also require the furnishing of any other information which is similar or related in nature to that specified in the preceding sentence.

(2) *Period for which information is to be furnished, etc.* The information required under paragraph (1) shall be furnished for the annual accounting period of the foreign corporation ending with or within the U.S. person's taxable year. The information so required shall be furnished at such time and in such manner as the Secretary or his delegate shall by regulations prescribe.

(3) *Limitation.* No information shall be required to be furnished under this subsection with respect to any foreign corporation for any annual accounting period unless such information was required to be furnished under regulations in effect on the first day of such annual accounting period.

(b) *Effect of failure to furnish information*—(1) *In general.* If a U.S. person fails to furnish, within the time prescribed under paragraph (2) of subsection (a), any information with respect to any foreign corporation required under paragraph (1) of subsection (a), then—

(A) In applying section 901 (relating to taxes of foreign countries and possessions of the United States) to such U.S. person for the taxable year, the amount of taxes (other than taxes reduced under subparagraph (B)) paid or deemed paid (other than those deemed paid under section 904(d)) to any foreign country or possession of the United States for the taxable year shall be reduced by 10 percent, and

(B) In applying sections 902 (relating to foreign tax credit for corporate stockholder in foreign corporation) and 960 (relating to special rules for foreign tax credit) to any such U.S. person which is a corporation (or to any person who acquires from any other person any portion of the interest of such other person in any such foreign corporation, but only to the extent of such portion) for any taxable year, the amount of taxes paid or deemed paid by such foreign corporation with respect to which such person is required to furnish information during the annual accounting period or periods with respect to which such information is required under paragraph (2) of subsection (a) shall be reduced by 10 percent.

If such failure continues 90 days or more after notice by the Secretary or his delegate to the U.S. person, then the amount of the reduction under this paragraph shall be 10 percent plus an additional 5 percent for each 3-month period, or fraction thereof, during which such failure to furnish information continues after the expiration of such 90-day period.

(2) *Limitation.* The amount of the reduction under paragraph (1) for each failure to furnish information with respect to a foreign corporation required under subsection (a)(1) shall not exceed whichever of the following amounts is the greater:

(A) $10,000, or

(B) The income of the foreign corporation for its annual accounting period with respect to which the failure occurs.

(3) *Special rules.* (A) No taxes shall be reduced under this subsection more than once for the same failure.

(B) For purposes of this subsection, the time prescribed under paragraph (2) of subsection (a) to furnish information (and the beginning of the 90-day period after notice by the Secretary) shall be treated as being not earlier than the last day on which (as shown to the satisfaction of the Secretary or his delegate) reasonable cause existed for failure to furnish such information.

(C) In applying subsections (a) and (b) of section 902, and in applying subsection (a) of section 960, the reduction provided by this subsection shall not apply for purposes of determining the amount of accumulated profits in excess of income, war profits, and excess profits taxes.

(c) *Two or more persons required to furnish information with respect to same foreign corporation.* Where, but for this subsection, two or more U.S. persons would be required to furnish information under subsection (a) with respect to the same foreign corporation for the same period, the Secretary or his delegate may by regulations provide that such information shall be required only from one person. To the extent practicable, the determination of which person shall furnish the information shall be made on the basis of actual ownership of stock.

(d) *Definitions.* For purposes of this section—

(1) *Control.* A person is in control of a corporation if such person owns stock possessing more than 50 percent of the total combined voting power of all classes of stock entitled to vote, or more than 50 percent of the total value of shares of all classes of stock, of a corporation. If a person is in control (within the meaning of the preceding sentence) of a corporation which in turn owns more than 50 percent of the total combined voting power of all classes of stock entitled to vote of another corporation, or owns more than 50 percent of the total value of the shares of all classes of stock of another corporation, then such person shall be treated as in control of such other corporation. For purposes of this paragraph, the rules prescribed by section 318(a) for determining ownership of stock shall apply; except that—

(A) The second sentence of subparagraphs (A) and (B), and clause (ii) of subparagraph (C), of section 318(a)(2) shall not be applied so as to consider a U.S. person as owning stock which is owned by a person who is not a U.S. person, and

(B) In applying clause (i) of subparagraph (C) of section 318(a)(2), the phrase "10 percent" shall be substituted for the phrase "50 percent" used in subparagraph (C).

(2) *Annual accounting period.* The annual accounting period of a foreign corporation is the annual period on the basis of which such corporation regularly computes its income in keeping its books.

(e) *Cross references.* (1) For provisions relating to penalties for violations of this section, see section 7203.

(2) For definition of the term "U.S. person," see section 7701(a)(30).

[Sec. 6038 as added by sec. 6(a), Act of Sept. 14, 1960 (Pub. Law 86-780, 74 Stat. 1014) and as amended by sec. 36(a), Revenue Act 1962 (76 Stat. 1060)]

§ 301.6038–1 Information returns required of U.S. persons with respect to certain foreign corporations.

For provisions relating to information returns required of U.S. persons with respect to certain foreign corporations, see §§ 1.6038–1 and 1.6038–2 of this chapter (Income Tax Regulations).

§ 301.6039 Statutory provisions; cross references.

SEC. 6039. *Cross references.* (1) For the notice required of persons acting in a fiduciary capacity for taxpayers or for transferees, see sections 6212, 6901(g), and 6903.

(2) For application by executor for determination of tax and discharge from personal liability therefor, see section 2204.

(3) For the notice required of taxpayers for redetermination of taxes claimed as credits, see sections 905(c) and 6213.

(4) For exemption certificates required to be furnished to employers by employees, see section 3402(f)(2), (3), (4), and (5).

(5) For receipts, constituting information returns, required to be furnished to employees, see section 6051.

(6) For the requirement to print the price of an admission on a ticket, see section 4264.

(7) For information required with respect to the redemption of stamps, see section 6805.

(8) For the statement required to be filed by a corporation expecting a net operating loss carryback or unused excess profits credit carryback, see section 6164.

(9) For the application, which a taxpayer may file for a tentative carryback adjustment of income taxes, see section 6411.

[Sec. 6037 as renumbered by sec. 64(c), Technical Amendments Act 1958 (72 Stat. 1656); sec. 6, Act of Sept. 14, 1960 (Pub. Law 86-780, 74 Stat. 1014)]

Information Concerning Transactions With Other Persons

§ 301.6041 Statutory provisions; information at source.

SEC. 6041. *Information at source*—(a) *Payments of $600 or more.* All persons engaged in a trade or business and making payment in the course of such trade or business to another person, of rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income (other than payments to which section 6042(a)(1), 6044(a)(1), or 6049(a)(1) applies, and other than payments with respect to which a statement is required under the authority of section 6042(a)(2), 6044(a)(2), 6045, 6049(a)(2), or 6049(a)(3)), of $600 or more in any taxable year, or, in the case of such payments made by the United States, the officers or employees of the United States having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, shall render a true and accurate return to the Secretary or his delegate, under such regulations and in such form and manner and to such extent as may be prescribed by the Secretary or his delegate, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment.

(b) *Collection of foreign items.* In the case of collections of items (not payable in the United States) of interest upon the bonds of foreign countries and interest upon the bonds of and dividends from foreign corporations by any person undertaking as a matter of business or for profit the collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange, such person shall make

a return according to the forms or regulations prescribed by the Secretary or his delegate, setting forth the amount paid and the name and address of the recipient of such payment.

(c) [Reserved]

(d) *Recipient to furnish name and address.* When necessary to make effective the provisions of this section, the name and address of the recipient of income shall be furnished upon demand of the person paying the income.

[Sec. 6041 as amended by sec. 19(f), Revenue Act 1962 (76 Stat. 1060)]

§ 301.6041–1 Returns of information regarding certain payments.

For provisions relating to the requirement of returns of information regarding certain payments, see §§ 1.6041–1 to 1.6041–6, inclusive, of this chapter (Income Tax Regulations).

§ 301.6042 Statutory provisions; returns regarding payments of dividends and corporate earnings and profits.

Sec. 6042. *Returns regarding payments of dividends and corporate earnings and profits*—(a) *Requirement of reporting*—(1) *In general.* Every person—

(A) Who makes payments of dividends aggregating $10 or more to any other person during any calendar year, or

(B) Who receives payments of dividends as a nominee and who makes payments aggregating $10 or more during any calendar year to any other person with respect to the dividends so received, shall make a return according to the forms or regulations prescribed by the Secretary or his delegate, setting forth the aggregate amount of such payments and the name and address of the person to whom paid.

(2) *Returns required by the Secretary.* Every person who makes payments of dividends aggregating less than $10 to any other person during any calendar year shall, when required by the Secretary or his delegate, make a return setting forth the aggregate amount of such payments, and the name and address of the person to whom paid.

(b) *Dividend defined*—(1) *General rule.* For purposes of this section, the term "dividend" means—

(A) Any distribution by a corporation which is a dividend (as defined in section 316); and

(B) Any payment made by a stockbroker to any person as a substitute for a dividend (as so defined).

(2) *Exceptions.* For purposes of this section, the term "dividend" does not include—

(A) To the extent provided in regulations prescribed by the Secretary or his delegate, any distribution or payment—

(i) By a foreign corporation, or

(ii) To a foreign corporation, a nonresident alien, or a partnership not engaged in trade or business in the United States and composed in whole or in part of nonresident aliens; and

(B) Any amount described in section 1373 (relating to undistributed taxable income of electing small business corporations).

(3) *Special rule.* If the person making any payment described in subsection (a)(1)(A) or (B) is unable to determine the portion of such payment which is a dividend or is paid with respect to a dividend, he shall, for purposes of subsection (a)(1), treat the entire amount of such payment as a dividend or as an amount paid with respect to a dividend.

(c) *Statements to be furnished to persons with respect to whom information is furnished.* Every person making a return under subsection (a)(1) shall furnish to each person whose name is set forth in such return a written statement showing—

(1) The name and address of the person making such return, and

(2) The aggregate amount of payments to the person as shown on such return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a)(1) was made. No statement shall be required to be furnished to any person under this subsection if the aggregate amount of payments to such person as shown on the return made under subsection (a)(1) is less than $10.

(d) *Statements to be furnished by corporations to the Secretary.* Every corporation shall, when required by the Secretary or his delegate—

(1) Furnish to the Secretary or his delegate a statement stating the name and address of each shareholder, and the number of shares owned by each shareholder;

(2) Furnish to the Secretary or his delegate a statement of such facts as will enable him to determine the portion of the earnings and profits of the corporation (including gains, profits, and income not taxed) accumulated during such periods as the Secretary or his delegate may specify, which have been distributed or ordered to be distributed, respectively, to its shareholders during such taxable years as the Secretary or his delegate may specify; and

(3) Furnish to the Secretary or his delegate a statement of its accumulated earnings and profits and the names and addresses of the individuals or shareholders who would be entitled to such accumulated earnings and profits if divided or distributed, and of the amounts that would be payable to each.

[Sec. 6042 as amended by sec. 19(a), Revenue Act 1962 (76 Stat. 1060)]

§ 301.6042–1 Returns of information regarding payments of dividends and corporate earnings and profits.

For provisions relating to the requirement of returns of information regarding payments of dividends and corporate earnings and profits, see §§ 1.6042–1 to 1.6042–4, inclusive, of this chapter (Income Tax Regulations).

§ 301.6043 Statutory provisions; return regarding corporate dissolutions or liquidations.

Sec. 6043. *Return regarding corporate dissolution or liquidation.* Every corporation shall—

(1) Within 30 days after the adoption by the corporation of a resolution or plan for the dissolution of the corporation or for the liquidation of the whole or any part of its capital stock, make a return setting forth the terms of such resolution or plan and such other information as the Secretary or his delegate shall by forms or regulations prescribe; and

(2) When required by the Secretary or his delegate, make a return regarding its distributions in liquidation, stating the name and address of, the number and class of shares owned by, and the amount paid to, each shareholder, or, if the distribution is in property other than money, the fair market value (as of the date the distribution is made) of the property distributed to each shareholder.

§ 301.6043–1 Returns of information regarding corporate dissolutions or liquidations.

For provisions relating to the requirement of returns of information regarding corporate dissolutions or liquidations, see §§ 1.6043–1 and 1.6043–2 of this chapter (Income Tax Regulations).

§ 301.6044 Statutory provisions; returns regarding payments of patronage dividends.

Sec. 6044. *Returns regarding payments of patronage dividends*—(a) *Requirement of reporting*—(1) *In general.* Except as otherwise provided in this section, every cooperative to which part I of subchapter T of chapter 1 applies, which makes payments of amounts described in subsection (b) aggregating $10 or more to any person during any calendar year, shall make a return according to the forms or regulations prescribed by the Secretary or his delegate, setting forth the aggregate amount of such payments and the name and address of the person to whom paid.

(2) *Returns required by the Secretary.* Every such cooperative which makes payments of amounts described in subsection (b) aggregating less than $10 to any person during any calendar year shall, when required by the Secretary or his delegate, make a return setting forth the aggregate amount of such payments and the name and address of the person to whom paid.

(b) *Amounts subject to reporting*—(1) *General rule.* Except as otherwise provided in this section, the amounts subject to reporting under subsection (a) are—

(A) The amount of any patronage dividend (as defined in section 1388(a)) which is paid in money, qualified written notices of allocation (as defined in section 1388(c)), or other property (except nonqualified written notices of allocation as defined in section 1388(d));

(B) Any amount described in section 1382(c)(2)(A) (relating to certain nonpatronage distributions) which is paid in money, qualified written notices of allocation, or other property (except nonqualified written notices of allocation) by an organization exempt from tax under section 521 (relating to exemption of farmers' cooperatives from tax), and

(C) Any amount described in section 1382(b)(2) (relating to redemption of nonqualified written notices of allocation) and, in the case of an organization described in section 1381(a)(1), any amount described in section 1382(c)(2)(B) (relating to redemption of nonqualified written notices of allocation paid with respect to earnings derived from sources other than patronage).

(2) *Exceptions.* The provisions of subsection (a) shall not apply, to the extent provided in regulations prescribed by the Secretary or his delegate, to any payment—

(A) By a foreign corporation, or

(B) To a foreign corporation, a nonresident alien, or a partnership not engaged in trade or business in the United States and composed in whole or in part of nonresident aliens.

(c) *Exemption for certain consumer cooperatives.* A cooperative which the Secretary or his delegate determines is primarily engaged in selling at retail goods or services of a type that are generally for personal, living, or family use shall, upon application to the Secretary or his delegate, be granted exemption from the reporting requirements imposed by subsection (a). Application for exemption under this subsection shall be made in accordance with regulations prescribed by the Secretary or his delegate.

(d) *Determination of amount paid.* For purposes of this section, in determining the amount of any payment—

(1) Property (other than a qualified written notice of allocation) shall be taken into account at its fair market value, and

(2) A qualified written notice of allocation shall be taken into account at its stated dollar amount.

(e) *Statements to be furnished to persons with respect to whom information is furnished.* Every cooperative making a return under subsection (a)(1) shall furnish to each person whose name is set forth in such return a written statement showing—

(1) The name and address of the cooperative making such return, and

(2) The aggregate amount of payments to the person as shown on such return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a)(1) was made. No statement shall be required to be furnished to any person under this subsection if the aggregate amount of payments to such person as shown on the return made under subsection (a)(1) is less than $10.

[Sec. 6044 as amended by sec. 19(b), Revenue Act 1962 (76 Stat. 1064)]

§ 301.6044–1 Returns of information regarding payments of patronage dividends.

For provisions relating to the requirement of returns of information regarding payments of patronage dividends, see §§ 1.6044–1 to 1.6044–5, inclusive, of this chapter (Income Tax Regulations).

§ 301.6045 Statutory provisions; returns of brokers.

Sec. 6045. *Returns of brokers.* Every person doing business as a broker shall, when required by the Secretary or his delegate, make a return, in accordance with such regulations as the Secretary or his delegate may prescribe, showing the names of customers for whom such person has transacted any business, with such details regarding the profits and losses and such other information as the Secretary or his delegate may by forms or regulations require with respect to each customer as will enable the Secretary or his delegate to determine the amount of such profits or losses.

§ 301.6046 Statutory provisions; returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock.

Sec. 6046. *Returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock*—(a) *Requirement of return.* A return complying with the requirements of subsection (b) shall be made by—

(1) Each U.S. citizen or resident who is on January 1, 1963, an officer or director of a foreign corporation, 5 percent or more in value of the stock of which is owned by a U.S. person (as defined in section 7701(a)(30)), or who becomes such an officer or director at any time after such date.

(2) Each U.S. person who on January 1, 1963, owns 5 percent or more in value of the stock of a foreign corporation, or who, at any time after such date—

(A) Acquires stock which, when added to any stock owned on January 1, 1963, has a value equal to 5 percent or more of the value of the stock of a foreign corporation, or

(B) Acquires an additional 5 percent or more in value of the stock of a foreign corporation, and

(3) Each person who at any time after January 1, 1963, becomes a U.S. person while owning 5 percent or more in value of the stock of a foreign corporation.

(b) *Form and contents of returns.* The returns required by subsection (a) shall be in such form and shall set forth, in respect of the foreign corporation, such information as the Secretary or his delegate prescribes by forms or regulations as necessary for carrying out the provisions of the income tax laws, except that in the case of persons described only in subsection (a)(1) the information required shall be limited to the names and addresses of persons described in subsection (a)(3).

(c) *Ownership of stock.* For purposes of subsection (a), stock owned directly or in directly by a person (including, in the case of an individual, stock owned by members of his family) shall be taken into account. For purposes of the preceding sentence, the family of an individual shall be considered as including only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

(d) *Time for filing.* Any return required by subsection (a) shall be filed on or before the 90th day after the day on which, under any provision of subsection (a), the U.S. citizen, resident, or person becomes liable to file such return.

(e) *Limitation*—(1) *General rule.* Except as provided in paragraph (2), no information shall be required to be furnished under this section with respect to any foreign corporation unless such information was required to be furnished under regulations which have been in effect for at least 90 days before the date on which the U.S. citizen, resident, or person becomes liable to file a return required under subsection (a).

(2) *Exception.* In the case of liability to file a return under subsection (a) arising on or after January 1, 1963, and before June 1, 1963—

(A) No information shall be required to be furnished under this section with respect to any foreign corporation unless such information was required to be furnished under regulations in effect on or before March 1, 1963, and

(B) If the date on which such regulations becomes effective is later than the day on which such liability arose, any return required by subsection (a) shall (in lieu of the time prescribed by subsection (d)) be filed on or before the 90th day after such date.

(f) *Cross reference.* For provisions relating to penalties for violations of this section, see sections 6679 and 7203.

[Sec. 6046 as amended by sec. 7(a), Act of Sept. 14, 1960 (Pub. Law 86–780, 74 Stat. 1016); sec. 20(b), Revenue Act 1962 (76 Stat. 1061)]

§ 301.6046–1 Returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock.

For provisions relating to requirement of returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock, see §§ 1.6046–1 to 1.6046–3, inclusive, of this chapter. (Income Tax Regulations).

§ 301.6047 Statutory provisions; information relating to certain trusts and annuity and bond purchase plans.

Sec. 6047. *Information relating to certain trusts and annuity and bond purchase plans*—(a) *Trustees and insurance companies.* The trustee of a trust described in section 401(a) which is exempt from tax under section 501(a) to which contributions have been paid under a plan on behalf of any owner-employee (as defined in section 401(c)(3)), and each insurance company or other person which is the issuer of a contract purchased by such a trust, or purchased under a plan described in section 403(a), contributions for which have been paid on behalf of any owner-employee, shall file such returns (in such form and at such times), keep such records, make such identification of contracts and funds (and accounts within such funds), and supply such information, as the Secretary or his delegate shall by forms or regulations prescribe.

(b) *Owner-employee.* Every individual on whose behalf contributions have been paid as an owner-employee (as defined in section 401(c)(3))—

(1) To a trust described in section 401(a) which is exempt from tax under section 501(a), or

(2) To an insurance company or other person under a plan described in section 403(a),

shall furnish the trustee, insurance company, or other person, as the case may be, such information at such times and in such form and manner as the Secretary or his delegate shall prescribe by forms or regulations.

(c) *Employees under qualified bond purchase plans.* Every individual in whose name a bond described in section 405(b)(1) is purchased by his employer under a qualified bond purchase plan described in section 405(a), or by a trust described in section 401(a) which is exempt from tax under section 501(a), shall furnish—

(1) To his employer or to such trust, and

(2) To the Secretary (or to such person as the Secretary may by regulations prescribe),

such information as the Secretary or his delegate shall by forms or regulations prescribe.

(d) *Cross reference.* For criminal penalty for furnishing fraudulent information, see section 7207.

[Sec. 6047 as added by sec. 7(m), Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 820)]

§ 301.6047–1 Information relating to certain trusts and annuity and bond purchase plans.

For provisions relating to the requirement of returns of information regarding certain trusts and annuity and bond purchase plans, see § 1.6047–1 of this chapter (Income Tax Regulations).

§ 301.6048 Statutory provisions; returns as to creation of or transfers to certain foreign trusts.

Sec. 6048. *Returns as to creation of or transfers to certain foreign trusts*—(a) *General rule.* On or before the 90th day after—

(1) The creation of any foreign trust by a U.S. person, or

(2) The transfer of any money or property to a foreign trust by a U.S. person, the grantor in the case of an inter vivos trust, the fiduciary of an estate in the case of a testamentary trust, or the transferor, as the case may be, shall make a return in compliance with the provisions of subsection (b).

(b) *Form and contents of returns.* The returns required by subsection (a) shall be in such form and shall set forth, in respect of the foreign trust, such information as the Secretary or his delegate prescribes by regulation as necessary for carrying out the provisions of the income tax laws.

(c) *Cross references.* (1) For provisions relating to penalties for violations of this section, see sections 6677 and 7203.

(2) For definition of the term "foreign trust created by a U.S. person," see section 643(d).

[Sec. 6048 as added by sec. 7(f), Revenue Act 1962 (76 Stat. 987)]

§ 301.6048–2 Returns as to creation of or transfers to certain foreign trusts.

For provisions relating to the requirement of returns as to creation of or transfers to certain foreign trusts, see § 10.3–1 of this chapter (Temporary Regulations under the Revenue Act of 1962).

§ 301.6049 Statutory provisions; returns regarding payments of interest.

SEC. 6049. *Returns regarding payments of interest*—(a) *Requirement of reporting*—(1) *In general.* Every person—

(A) Who makes payments of interest (as defined in subsection (b)) aggregating $10 or more to any other person during any calendar year, or

(B) Who receives payments of interest as a nominee and who makes payments aggregating $10 or more during any calendar year to any other person with respect to the interest so received,

shall make a return according to the forms or regulations prescribed by the Secretary or his delegate, setting forth the aggregate amount of such payments and the name and address of the person to whom paid.

(2) *Interest required to be shown.* Every person who makes payments of interest (as defined in subsection (b)) aggregating less than $10 to any other person during any calendar year shall, when required by the Secretary or his delegate, make a return setting forth the aggregate amount of such payments and the name and address of the person to whom paid.

(3) *Other returns required by the Secretary.* Every corporation making payments, regardless of amounts, of interest other than interest as defined in subsection (b) shall, when required by regulations prescribed by the Secretary or his delegate, make a return according to the forms or regulations prescribed by the Secretary or his delegate, setting forth the amount paid and the name and address of the recipient of each such payment.

(b) *Interest defined*—(1) *General rule.* For purposes of subsections (a) (1) and (2), the term "interest" means—

(A) Interest on evidences of indebtedness (including bonds, debentures, notes, and certificates) issued by a corporation in registered form, and, to the extent provided in regulations prescribed by the Secretary or his delegate, interest on other evidences of indebtedness issued by a corporation of a type offered by corporations to the public;

(B) Interest on deposits with persons carrying on the banking business;

(C) Amounts (whether or not designated as interest) paid by a mutual savings bank, savings and loan association, building and loan association, cooperative bank, homestead association, credit union, or similar organization, in respect of deposits, investment certificates, or withdrawable or repurchasable shares;

(D) Interest on amounts held by an insurance company under an agreement to pay interest thereon; and

(E) Interest on deposits with stockholders and dealers in securities.

(2) *Exceptions.* For purposes of subsections (a) (1) and (2), the term "interest" does not include—

(A) Interest on obligations described in section 103(a) (1) or (3) (relating to interest on certain governmental obligations);

(B) To the extent provided in regulations prescribed by the Secretary or his delegate, any amount paid by or to a foreign corporation, a nonresident alien, or a partnership not engaged in trade or business in the United States and composed in whole or in part of nonresident aliens; and

(C) Any amount on which the person making payment is required to deduct and withhold a tax under section 1441 (relating to tax-free exchanges) (withholding), or would be so required but for section 1441(c) (relating to terms of personal exemptions).

(c) *Statements to be furnished to persons with respect to whom information is furnished.* Every person making a return under subsection (a) (1) shall furnish to each person whose name is set forth in such return a written statement showing—

(1) The name and address of the person making such return, and

(2) The aggregate amount of payments to the person as shown on such return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) (1) was made. No statement shall be required to be furnished to any person under this subsection if the aggregate amount of payments to such person as shown on the return made under subsection (a) (1) is less than $10.

[Sec. 6049 as added by sec. 52(c), Revenue Act 1962 (76 Stat. 1039)]

§ 301.6049–1 Returns regarding payments of interest.

For provisions relating to the requirement of returns regarding payments of interest, see §§ 1.6049–1 to 1.6049–3, inclusive, of this chapter (Income Tax Regulations).

Information Regarding Wages Paid Employees

§ 301.6051 Statutory provisions; receipts for employees.

SEC. 6051. *Receipts for employees*—(a) *Requirement.* Every person required to deduct and withhold from an employee a tax under section 3101 or 3402, or who would have been required to deduct and withhold a tax under section 3402 if the employee had claimed no more than one withholding exemption, shall furnish to each such employee in respect of the remuneration paid by such person to such employee during the calendar year, on or before January 31 of the succeeding year, or, if his employment is terminated before the close of such calendar year, on the day on which the last payment of remuneration is made, a written statement showing the following:

(1) The name of such person,

(2) The name of the employee (and his social security account number if wages as defined in section 3121(a) have been paid),

(3) The total amount of wages as defined in section 3401(a),

(4) The total amount deducted and withheld as tax under section 3402,

(5) The total amount of wages as defined in section 3121(a), and

(6) The total amount deducted and withheld as tax under section 3101.

In the case of compensation paid for service as a member of a uniformed service, the statement shall show, in lieu of the amount required to be shown by paragraph (5), the total amount of wages as defined in section 3121(e), computed in accordance with such section and section 3121(i)(2). In the case of compensation paid for service as a volunteer or volunteer leader within the meaning of the Peace Corps Act, the statement shall show, in lieu of the amount required to be shown by paragraph (5), the total amount of wages as defined in section 3121(a), computed in accordance with such section and section 3121(i)(3).

(b) *Special rule as to compensation of members of Armed Forces.* In the case of compensation paid for service as a member of the Armed Forces, the statement required by subsection (a) shall be furnished if any tax was withheld during the calendar year under section 3402, or if any of the compensation paid during such year is includible in gross income under chapter 1, or if during the calendar year any amount was required to be withheld as tax under section 3101. In lieu of the amount required to be shown by paragraph (5) of subsection (a), such statement shall show as wages paid during the calendar year the amount of such compensation paid during the calendar year which is not excluded from gross income under chapter 1 (whether or not such compensation constituted wages as defined in section 3401(a)).

(c) *Additional requirements.* The statements required to be furnished pursuant to this section in respect of any remuneration shall be furnished at such other times, shall contain such other information, and shall be in such form as the Secretary or his delegate may by regulations prescribe.

(d) *Statements to constitute information returns.* A duplicate of any statement made pursuant to this section and in accordance with regulations prescribed by the Secretary or his delegate shall, when required by such regulations, be filed with the Secretary or his delegate.

[Sec. 6051 as amended by sec. 332, Servicemen's and Veterans' Survivor Benefits Act (70 Stat. 880); sec. 803(a)(4) Peace Corps Act (75 Stat. 612)]

§ 301.6051–1 Receipts for employees.

For provisions relating to statements for employees regarding remuneration paid during calendar year, see § 31.6051–1 of this chapter (Employment Tax Regulations).

SIGNING AND VERIFYING OF RETURNS AND OTHER DOCUMENTS

§ 301.6061 Statutory provisions; signing of returns and other documents.

SEC. 6061. *Signing of returns and other documents.* Except as otherwise provided by sections 6063 and 6064, any return, statement, or other document required to be made under any provision of the internal revenue laws or regulations shall be signed in accordance with forms or regulations prescribed by the Secretary or his delegate.

§ 301.6061–1 Signing of returns and other documents.

For provisions concerning the signing of returns and other documents, see the regulations relating to the particular tax.

§ 301.6062 Statutory provisions; signing of corporation returns.

SEC. 6062. *Signing of corporation returns.* The return of a corporation with respect to income shall be signed by the president, vice-president, treasurer, assistant treasurer, chief accounting officer or any other officer duly authorized so to act. In the case of a return made for a corporation by a fiduciary pursuant to the provisions of section 6012(b)(3), such fiduciary shall sign the return. The fact that an individual's name is signed on the return shall be prima facie evidence that such individual is authorized to sign the return on behalf of the corporation.

§ 301.6062–1 Signing of corporation returns.

For provisions relating to the signing of corporation income tax returns, see § 1.6062–1 of this chapter (Income Tax Regulations).

§ 301.6063 Statutory provisions; signing of partnership returns.

SEC. 6063. *Signing of partnership returns.* The return of a partnership made under section 6031 shall be signed by any one of the partners. The fact that a partner's name is signed on the return shall be prima facie evidence that such partner is authorized to sign the return on behalf of the partnership.

§ 301.6063–1 Signing of partnership returns.

For provisions relating to the signing of returns of partnership income, see § 1.6063–1 of this chapter (Income Tax Regulations).

§ 301.6064 Statutory provisions; signature presumed authentic.

SEC. 6064. *Signature presumed authentic.* The fact that an individual's name is signed to a return, statement, or other document shall be prima facie evidence for all purposes that the return, statement, or other document was actually signed by him.

§ 301.6064–1 Signature presumed authentic.

An individual's name signed to a return, statement, or other document shall be prima facie evidence for all purposes that the return, statement, or other document was actually signed by him.

§ 301.6065 Statutory provisions; verification of returns.

SEC. 6065. *Verification of returns*—(a) *Penalties of perjury.* Except as otherwise provided by the Secretary or his delegate, any return, declaration, statement, or other document required to be made under any provision of the internal revenue laws or regulations shall contain or be verified by a written declaration that it is made under the penalties of perjury.

(b) *Oath.* The Secretary or his delegate may by regulations require that any return, statement, or other document required to be made under any provision of the internal revenue laws or regulations shall be verified by an oath. This subsection shall not apply to returns and declarations with respect to income taxes made by individuals.

§ 301.6065–1 Verification of returns.

For provisions concerning the verification of returns and other documents, see the regulations relating to the particular tax.

TIME FOR FILING RETURNS AND OTHER DOCUMENTS

§ 301.6071 Statutory provisions; time for filing returns and other documents.

SEC. 6071. *Time for filing returns and other documents*—(a) *General rule.* When not otherwise provided for by this title, the Secretary or his delegate shall by regulations prescribe the time for filing any return, statement, or other document required by this title or by regulations.

(b) *Special taxes.* For payment of special taxes before engaging in certain trades and businesses, see section 4901 and section 5142.

[Sec. 6071 as amended by sec. 204(1) Excise Tax Technical Changes Act 1958 (72 Stat. 1428)]

§ 301.6071–1 Time for filing returns and other documents.

For provisions concerning the time for filing returns and other documents, see the regulations relating to the particular tax.

§ 301.6072 Statutory provisions; time for filing income tax returns.

SEC. 6072. *Time for filing income tax returns*—(a) *General rule.* In the case of returns under section 6012, 6013, 6017, or 6031 (relating to income tax under subtitle A), returns made on the basis of the calendar year shall be filed on or before the 15th day of April following the close of the calendar year and returns made on the basis of a fiscal year shall be filed on or before the 15th day of the fourth month following the close of the fiscal year, except as otherwise provided in the following subsections of this section.

(b) *Returns of corporations.* Returns of corporations under section 6012 made on the basis of the calendar year shall be filed on or before the 15th day of March following the close of the calendar year, and such returns made on the basis of a fiscal year shall be filed on or before the 15th day of the third month following the close of the fiscal year.

(c) *Returns by certain nonresident alien individuals and foreign corporations.* Returns made by nonresident alien individuals (other than those whose wages are subject to withholding under chapter 24) and foreign corporations (other than those having an office or place of business in the United States) under section 6012 on the basis of a calendar year shall be filed on or before the 15th day of June following the close of the calendar year and such returns made on the basis of a fiscal year shall be filed on or before the 15th day of the 6th month following the close of the fiscal year.

(d) *Returns of cooperative associations.* In the case of an income tax return of—

(1) An exempt cooperative association described in section 1381(a)(1), or

(2) An organization described in section 1381(a)(2) which is under an obligation to pay patronage dividends (as defined in section 1388(a)) in an amount equal to at least 50 percent of its net earnings from business done with or for its patrons, or which paid patronage dividends in such an amount out of the net earnings from business done with or for patrons during the most recent taxable year for which it had such net earnings, a return made on the basis of a calendar year shall be filed on or before the 15th day of September following the close of the calendar year, and a return made on the basis of a fiscal year shall be filed on or before the 15th day of the 9th month following the close of the fiscal year.

(e) *Income tax due dates postponed in case of China Trade Act corporations.* In the case of any taxable year beginning after December 31, 1948, and ending before October 1, 1956, no Federal income tax return of any corporation organized under the China Trade Act, 1922 (42 Stat. 849, U.S.C., title 15, chapter 4), as amended, shall become due until December 31, 1956, but only with respect to any such corporation and any such taxable year which the Secretary or his delegate may determine reasonable under the circumstances in China pursuant to such regulations as may be prescribed. Such due date shall be subject to the power of the Secretary or his delegate to extend the time for filing such return, as in other cases.

[Sec. 6072 as amended by sec. 17(b)(2), Revenue Act 1962 (76 Stat. 1061)]

§ 301.6072–1 Time for filing income tax returns.

For provisions relating to time for filing income tax returns, see §§ 1.6072–1 to 1.6072–4, inclusive, of this chapter (Income Tax Regulations).

§ 301.6073 Statutory provisions; time for filing declarations of estimated income tax by individuals.

SEC. 6073. *Time for filing declarations of estimated income tax by individuals*—(a) *Individuals other than farmers or fishermen.* Declarations of estimated tax required by section 6015 from individuals regarded as neither farmers nor fishermen for the purpose of that section shall be filed on or before April 15 of the taxable year, except that if the requirements of section 6015 are first met—

(1) After April 1 and before June 2 of the taxable year, the declaration shall be filed on or before June 15 of the taxable year, or

(2) After June 1 and before September 2 of the taxable year, the declaration shall be filed on or before September 15 of the taxable year, or

(3) After September 1 of the taxable year, the declaration shall be filed on or before January 15 of the succeeding taxable year.

(b) *Farmers or fishermen.* Declarations of estimated tax required by section 6015 from individuals whose estimated gross income from farming or fishing (including oyster farming) for the taxable year is at least two-thirds of the total estimated gross income from all sources for the taxable year may, in lieu of the time prescribed in subsection (a), be filed at any time on or before January 15 of the succeeding taxable year.

(c) *Amendment.* An amendment of a declaration may be filed in any interval between installment dates prescribed for that taxable year, but only one amendment may be filed in each such interval.

(d) *Short taxable years.* The application of this section to taxable years of less than 12 months shall be in accordance with regulations prescribed by the Secretary or his delegate.

(e) *Fiscal years.* In the application of this section to the case of a taxable year beginning on any date other than January 1, there shall be substituted, for the months specified in this section, the months which correspond thereto.

[Sec. 6073 as amended by sec. 1 (a)(2), (b), (c), Act of Sept. 25, 1962 (Pub. Law 87–682, 76 Stat. 575)]

§ 301.6073–1 Time for filing declarations of estimated income tax by individuals.

For provisions relating to time for filing declarations of estimated income tax by individuals, see §§ 1.6073–1 to 1.6073–4, inclusive, of this chapter (Income Tax Regulations).

§ 301.6074 Statutory provisions; time for filing declarations of estimated income tax by corporations.

SEC. 6074. *Time for filing declarations of estimated income tax by corporations*—(a) *General rule.* The declaration of estimated tax required of corporations by section 6016 shall be filed on or before the 15th day of the 9th month of the taxable year, except that if the requirements of section 6016 are first met after the last day of the 6th month and before the 1st day of the 12th month of the taxable year, the declaration shall be filed on or before the 15th day of the 12th month of the taxable year.

(b) *Amendment.* If a declaration is filed before the 16th day of the 12th month of the taxable year, an amendment of such declaration may be filed on or before such day.

(c) *Short taxable year.* The application of this section to taxable years of less than 12 months shall be in accordance with regulations prescribed by the Secretary or his delegate.

§ 301.6074–1 Time for filing declarations of estimated income tax by corporations.

For provisions relating to time for filing declarations of estimated income tax by corporations, see §§ 1.6074–1 to 1.6074–3, inclusive, of this chapter (Income Tax Regulations).

§ 301.6075 Statutory provisions; time for filing estate and gift tax returns.

Sec. 6075. *Time for filing estate and gift tax returns*—(a) *Estate tax returns.* Returns made under section 6018(a) (relating to estate taxes) shall be filed within 15 months after the date of the decedent's death.

(b) *Gift tax returns.* Returns made under section 6019 (relating to gift taxes) shall be filed on or before the 15th day of April following the close of the calendar year.

§ 301.6075–1 Time for filing estate and gift tax returns.

For provisions relating to time for filing estate tax returns and gift tax returns, see § 20.6075–1 of this chapter (Estate Tax Regulations) and § 25.6075–1 of this chapter (Gift Tax Regulations), respectively.

EXTENSION OF TIME FOR FILING RETURNS

§ 301.6081 Statutory provisions; extension of time for filing returns.

Sec. 6081. *Extension of time for filing returns*—(a) *General rule.* The Secretary or his delegate may grant a reasonable extension of time for filing any return, declaration, statement, or other document required by this title or by regulations. Except in the case of taxpayers who are abroad, no such extension shall be for more than 6 months.

(b) *Automatic extension for corporation income tax returns.* An extension of 3 months for the filing of the return of income taxes imposed by subtitle A shall be allowed any corporation if, in such manner and at such time as the Secretary or his delegate may by regulations prescribe, there is filed on behalf of such corporation the form prescribed by the Secretary or his delegate, and if such corporation pays, on or before the date prescribed for payment of the tax, the amount properly estimated as its tax or the first installment thereof required under section 6152; but this extension may be terminated at any time by the Secretary or his delegate by mailing to the taxpayer notice of such termination at least 10 days prior to the date for termination fixed in such notice.

(c) *Postponement by reason of war.* For time for performing certain acts postponed by reason of war, see section 7508.

§ 301.6081–1 Extension of time for filing returns.

For provisions concerning extensions of time for filing returns or other documents, see the regulations relating to the particular tax.

PLACE FOR FILING RETURNS OR OTHER DOCUMENTS

§ 301.6091 Statutory provisions; place for filing returns or other documents.

Sec. 6091. *Place for filing returns or other documents*—(a) *General rule.* When not otherwise provided for by this title, the Secretary or his delegate shall by regulations prescribe the place for the filing of any return, declaration, statement, or other document, or copies thereof, required by this title or by regulations.

(b) *Tax returns.* In the case of returns of tax required under authority of part II of this subchapter—

(1) *Individuals.* Returns (other than corporation returns) shall be made to the Secretary or his delegate in the internal revenue district in which is located the legal residence or principal place of business of the person making the return, or, if he has no legal residence or principal place of business in any internal revenue district, then at such place as the Secretary or his delegate may by regulations prescribe.

(2) *Corporations.* Returns of corporations shall be made to the Secretary or his delegate in the internal revenue district in which is located the principal place of business or principal office or agency of the corporation, or, if it has no principal place of business or principal office or agency in any internal revenue district, then at such place as the Secretary or his delegate may by regulations prescribe.

(3) *Estate tax returns.* Returns of estate tax required under section 6018 shall be made to the Secretary or his delegate in the internal revenue district in which was the domicile of the decedent at the time of his death or, if there was no such domicile in an internal revenue district, then at such place as the Secretary or his delegate may by regulations prescribe.

(4) *Exceptional cases.* Notwithstanding paragraph (1), (2), or (3) of this subsection, the Secretary or his delegate may permit a return to be filed in any internal revenue district, and may require the return of any officer or employee of the Treasury Department to be filed in any internal revenue district selected by the Secretary or his delegate.

§ 301.6091–1 Place for filing returns or other documents.

For provisions concerning the place for filing returns and other documents, see the regulations relating to the particular tax.

MISCELLANEOUS PROVISIONS

§ 301.6101 Statutory provisions; period covered by returns or other documents.

Sec. 6101. *Period covered by returns or other documents.* When not otherwise provided for by this title, the Secretary or his delegate may by regulations prescribe the period for which, or the date as of which, any return, statement, or other document required by this title or by regulations, shall be made.

§ 301.6101–1 Period covered by returns or other documents.

For provisions concerning the period covered by returns or other documents, see the regulations relating to the particular tax.

§ 301.6102 Statutory provisions; computations on returns or other documents.

Sec. 6102. *Computations on returns or other documents*—(a) *Amounts shown on internal revenue forms.* The Secretary or his delegate is authorized to provide with respect to any amount required to be shown on a form prescribed for any internal revenue return, statement, or other document, that if such amount of such item is other than a whole-dollar amount, either—

(1) The fractional part of a dollar shall be disregarded; or

(2) The fractional part of a dollar shall be disregarded unless it amounts to one-half dollar or more, in which case the amount (determined without regard to the fractional part of a dollar) shall be increased by $1.

(b) *Election not to use whole dollar amounts.* Any person making a return, statement, or other document shall be allowed, under regulations prescribed by the Secretary or his delegate, to make such return, statement, or other document without regard to subsection (a).

(c) *Inapplicability to computation of amount.* The provisions of subsections (a) and (b) shall not be applicable to items which must be taken into account in making the computations necessary to determine the amount required to be shown on a form, but shall be applicable only to such final amount.

§ 301.6102–1 Computations on returns or other documents.

(a) *Amounts shown on forms.* To the extent permitted by any internal revenue form or instructions prescribed for use with respect to any internal revenue return, declaration, statement, other document, or supporting schedules, any amount required to be reported on such form shall be entered at the nearest whole dollar amount. The extent to which, and the conditions under which, such whole dollar amounts shall be entered on any form will be set forth in the instructions issued with respect to such form. For the purpose of the computation to the nearest dollar, a fractional part of a dollar shall be disregarded unless it amounts to one-half dollar or more, in which case the amount (determined without regard to the fractional part of a dollar) shall be increased by $1. The following illustrates the application of this paragraph:

	To be reported as—
Exact amount:	
$18.49	$18
18.50	19
18.51	19

(b) *Election not to use whole dollar amounts*—(1) *Method of election.* Where any internal revenue form, or the instructions issued with respect to such form, provide that whole dollar amounts shall be reported, any person making a return, declaration, statement, or other document on such form may elect not to use whole dollar amounts by reporting thereon all amounts in full, including cents.

(2) *Time of election.* The election not to use whole dollar amounts must be made at the time of filing the return, declaration, statement, or other document. Such election may not be revoked after the time prescribed for filing such return, declaration, statement, or other document, including extensions of time granted for such filing. Such election may be made on any return, declaration, statement, or other document which is filed after the time prescribed for filing (including extensions of time), and such an election is irrevocable.

(3) *Effect of election.* The taxpayer's election shall be binding only on the return, declaration, statement, or other document filed for a taxable year or period, and a new election may be made on the return, declaration, statement, or other document filed for a subsequent taxable year or period. An election by either a husband or a wife not to report

whole dollar amounts on a separate income tax return shall be binding on any subsequent joint return filed under the provisions of section 6013(b).

(4) *Fractional part of a cent.* For treatment of the fractional part of a cent in the payment of taxes, see section 6313 and § 301.6313–1.

(c) *Inapplicability to computation of amount.* The provisions of paragraph (a) of this section apply only to amounts required to be reported on a return, declaration, statement, or other document. They do not apply to items which must be taken into account in making the computations necessary to determine such amounts. For example, each item of receipt must be taken into account at its exact amount, including cents, in computing the amount of total receipts required to be reported on an income tax return or supporting schedule. It is the amount of total receipts, so computed, which is to be reported at the nearest whole dollar on the return or supporting schedule.

(d) *Effect on accounting method.* Section 6102 and this section have no effect on any authorized accounting method.

§ 301.6103(a) Statutory provisions; publicity of returns and lists of taxpayers; public record and inspection.

Sec. 6103. *Publicity of returns and lists of taxpayers*—(a) *Public record and inspection.* (1) Returns made with respect to taxes imposed by chapters 1, 2, 3, and 6 upon which the tax has been determined by the Secretary or his delegate shall constitute public records; but, except as hereinafter provided in this section, they shall be open to inspection only upon order of the President and under rules and regulations prescribed by the Secretary or his delegate and approved by the President.

(2) All returns made with respect to the taxes imposed by chapters 1, 2, 3, 5, 6, 11, 12, and 32, subchapters B, C, and D of chapter 33, subchapter B of chapter 37, and chapter 41, shall constitute public records and shall be open to public examination and inspection to such extent as shall be authorized in rules and regulations promulgated by the President.

(3) Whenever a return is open to the inspection of any person, a certified copy thereof shall, upon request, be furnished to such person under rules and regulations prescribed by the Secretary or his delegate. The Secretary or his delegate may prescribe a reasonable fee for furnishing such copy.

[Sec. 6103(a) as amended by sec. 9(c), Interest Equalization Tax Act (78 Stat. 844).]

§ 301.6103(a)–1 Inspection of returns by certain classes of persons and State and Federal government establishments pursuant to Executive order.

(a) *In general*—(1) *Authority.* The President is authorized by subsection (a) of section 6103 to open to public examination and inspection returns in respect of the taxes described in paragraphs (1) and (2) of such subsection. In addition, section 6103 provides that returns in respect of the tax described therein (unemployment tax imposed by chapter 23 of the Code) shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns of the taxes described in section 6103, except that subsections (a)(2) and (b)(3) of section 6103, and subsection (a)(2) of section 7213 (relating to unauthorized disclosure of information) shall not apply.

(2) *Scope.* This section and the Executive orders pursuant to which this section is prescribed govern the inspection of returns by the classes of persons and State and Federal government establishments designated in the succeeding paragraphs of this section insofar as such inspection is permissible only upon order of the President and under regulations approved by the President. Specifically, this section relates to inspection of returns made in respect of the taxes imposed by the following subdivisions of the Code: Chapters 1, 2, 3, and 6 (income taxes); chapter 5 (tax on transfers to avoid income tax); chapter 11 (estate tax); chapter 12 (gift tax); chapter 23 (unemployment tax); chapter 32 (manufacturers excise taxes); subchapters B, C, and D of chapter 33 (communications tax, transportation taxes, and tax on safe deposit boxes, respectively); subchapter B of chapter 37 (tax on coconut and palm oil); and chapter 41 (interest equalization tax).

(3) *Terms used*—(i) *Return.* For purposes of section 6103(a), the term "return" includes information returns, schedules, lists, and other written statements filed with the Internal Revenue Service which are designed to be supplemental to or to become a part of the return, and, in the discretion of the Secretary or the Commissioner or the delegate of either, other records or reports containing information included or required by statute to be included in the return. A notice of acquisition filed under section 4917 is a return for purposes of section 6103. An application for exemption from income tax under section 501(a) filed by an organization described in section 501 (c) or (d) in order to establish its exemption is not a return for purposes of section 6103. For provisions opening to public inspection exemption applications with respect to which a determination has been made that the organization is entitled to exemption from income tax under section 501(a), see section 6104(a) and § 301.6104–1.

(ii) *Other terms.* Any word or term used in this section, other than the word "return", which is defined in any chapter of the Code shall be given the definition contained in the chapter which is applicable to the particular return made.

(4) *Cross references.* For special provisions relating to inspection of returns pursuant to Executive order by committees of Congress other than those enumerated in section 6103(d) or by certain designated Federal Government establishments, see the regulations under section 6103(a) in §§ 301.6103(a)–100, *et seq.*

(b) *Procedure for inspection*—(1) *Authority to permit inspection.* The Secretary or the Commissioner or the delegate of either may grant permission for the inspection of returns in accordance with this section.

(2) *Place of inspection.* Generally, returns may be inspected in the Internal Revenue Service office in which they were filed or in the national office. In appropriate cases, inspection may also be made in other offices of the Internal Revenue Service as designated by the Commissioner. Such inspection shall be made only in the presence of an internal revenue officer or employee and only during the regular hours of business of the Internal Revenue Service office.

(3) *Penalties.* For penalties for unauthorized disclosure of information, see section 7213.

(c) *Inspection by certain classes of persons*—(1) *Returns in respect of income tax, unemployment tax, and certain excise taxes*—(i) *In general.* Returns in respect of the taxes imposed by chapters 1, 2, 3, and 6 (income taxes), chapter 5 (tax on transfers to avoid income tax), chapter 23 (unemployment tax), chapter 32 (manufacturers excise taxes), subchapters B, C, and D of chapter 33 (communications tax, transportation taxes, and the tax on safe deposit boxes, respectively), subchapter B of chapter 37 (tax on coconut and palm oil), and chapter 41 (interest equalization tax) of the Code shall be open to inspection as hereinafter provided in this subparagraph by certain persons having a material interest which will be affected by information contained in the return. The word "return," as used in the succeeding subdivisions of this subparagraph, refers to a return made in respect of any of the taxes described in the preceding sentence except as such word is expressly limited in any such subdivision to the return of a particular tax.

(ii) *Return of individual.* A return of an individual shall be open to inspection—

(a) By the individual for whom the return was made;

(b) If the individual for whom the return was made is legally incompetent, by the committee, trustee, or guardian of his estate;

(c) If the individual for whom the return was made has died, (*1*) by the administrator, executor, or trustee of his estate, and (*2*) in the discretion of the Secretary or the Commissioner or the delegate of either, by any heir at law, next of kin, or beneficiary under the will, of such decedent, upon submission of satisfactory evidence that such heir at law, next of kin, or beneficiary has a material interest which will be affected by information contained in the return;

(*d*) If the property of the individual for whom the return was made is in the hands of a receiver or trustee in bankruptcy, by such receiver or trustee; and

(*e*) By the duly constituted attorney in fact of any of the foregoing persons, subject to the conditions of inspection prescribed for such person.

(iii) *Joint return of income tax.* A joint income tax return of husband and wife shall be open to inspection—

(*a*) By either of the individuals for whom the return was made;

(*b*) If either of the individuals for whom the return was made is legally

incompetent, by the committee, trustee, or guardian of the estate of such individual;

(c) If either of the individuals for whom the return was made has died, (1) by the administrator, executor, or trustee of the estate of such decedent, and (2) in the discretion of the Secretary or the Commissioner or the delegate of either, by any heir at law, next of kin, or beneficiary under the will, of such decedent, upon submission of satisfactory evidence that such heir at law, next of kin, or beneficiary has a material interest which will be affected by information contained in the return;

(d) If the property of either of the individuals for whom the return was made is in the hands of a receiver or trustee in bankruptcy, by such receiver or trustee; and

(e) By the duly constituted attorney in fact of any of the foregoing persons, subject to the conditions of inspection prescribed for such person.

(iv) *Return of partnership.* A return of a partnership shall be open to inspection—

(a) By any person who was a member of the partnership during any part of the period covered by the return upon submission of satisfactory evidence of such membership;

(b) If an individual who was a member of the partnership during any part of the period covered by the return is legally incompetent, by the committee, trustee, or guardian of his estate;

(c) If an individual who was a member of the partnership during any part of the period covered by the return has died, (1) by the administrator, executor, or trustee of his estate, and (2) in the discretion of the Secretary or the Commissioner or the delegate of either, by any heir at law, next of kin, or beneficiary under the will, of such decedent, upon submission of satisfactory evidence that such heir at law, next of kin, or beneficiary has a material interest which will be affected by information contained in the return;

(d) If the property of the partnership is in the hands of a receiver or trustee in bankruptcy, by such receiver or trustee; and

(e) By the duly constituted attorney in fact of any of the foregoing persons, subject to the conditions of inspection prescribed for such person.

(v) *Return of estate.* A return of an estate shall be open to inspection—

(a) By the administrator, executor, or trustee of the estate;

(b) In the discretion of the Secretary or the Commissioner or the delegate of either, by any heir at law, next of kin, or beneficiary under the will, of the decedent for whose estate the return was made, upon submission of satisfactory evidence that such heir at law, next of kin, or beneficiary has a material interest which will be affected by information contained in the return, or, if any such heir at law, next of kin, or beneficiary has died or is legally incompetent, by the administrator, executor, committee, trustee, or guardian of his estate, upon a like submission of evidence; and

(c) By the duly constituted attorney in fact of any of the foregoing persons, subject to the conditions of inspection prescribed for such person.

(vi) *Return of trust.* A return of a trust shall be open to inspection—

(a) By the trustee or trustees, jointly or severally;

(b) By any person who was a beneficiary of the trust during any part of the period covered by the return, upon submission of satisfactory evidence that the person was such a beneficiary;

(c) If any individual who was a beneficiary of the trust during any part of the period covered by the return is legally incompetent, by the committee, trustee, or guardian of his estate;

(d) If any individual who was a beneficiary of the trust during any part of the period covered by the return has died, (1) by the administrator, executor, or trustee of his estate, and (2) in the discretion of the Secretary or the Commissioner or the delegate of either, by any heir at law, next of kin, or beneficiary under the will, of such decedent, upon submission of satisfactory evidence that such heir at law, next of kin, or beneficiary has a material interest which will be affected by information contained in the return; and

(e) By the duly constituted attorney in fact of any of the foregoing persons, subject to the conditions of inspection prescribed for such person.

(vii) *Return of corporation.* A return of a corporation shall be open to inspection—

(a) By any person designated by action of its board of directors, or other similar governing body, upon submission of satisfactory evidence of such action;

(b) By any officer or employee of the corporation upon written request signed by any principal officer and attested by the secretary, or other officer, under the corporate seal, if any;

(c) By the duly constituted attorney in fact of the corporation;

(d) If the property of the corporation is in the hands of a receiver or trustee in bankruptcy, by such receiver or trustee, or by the duly constituted attorney in fact of such receiver or trustee; and

(e) In the discretion of the Secretary or the Commissioner or the delegate of either, if the corporation has been dissolved, by any person who under the regulations in this subdivision (vii) might have inspected the return at the date of dissolution.

For provisions relating to inspection of corporation income or unemployment tax returns by shareholders, see section 6103(e) and § 301.6103(e)-1.

(2) *Returns in respect of estate tax.* A return or notice in respect of estate tax imposed by chapter 11 of the Code shall be open to inspection—

(i) By the executor, or his successor in office, or the duly constituted attorney in fact of such executor or successor; and

(ii) In the discretion of the Secretary or the Commissioner or the delegate of either, by any other person upon submission of satisfactory evidence that such person has a material interest either in ascertaining any fact disclosed by the return or notice or in obtaining information as to the payment of the tax.

(3) *Returns in respect of gift tax.* A return in respect of gift tax imposed by chapter 12 of the Code shall be open to inspection—

(i) By the donor or his duly constituted attorney in fact; and

(ii) In the discretion of the Secretary or the Commissioner or the delegate of either, by any other person upon submission of satisfactory evidence that such person has a material interest either in ascertaining any fact disclosed by the return or in obtaining information as to the payment of the tax.

(4) *Applications for inspection.* Applications for permission to inspect returns under this paragraph shall be made in writing to the internal revenue officer (district director or Director of International Operations) with whom the return was filed and shall set forth (i) the name and address of the person for whom the return was made, (ii) the kind of tax reported on the return, (iii) the taxable period covered by the return, (iv) the reason why inspection is desired, and (v) a statement showing that the applicant is a person entitled under this paragraph to make the inspection requested.

(d) *Inspection by States, the District of Columbia, the Commonwealth of Puerto Rico, and possessions of returns in respect of certain taxes*—(1) *Inspection of estate and gift tax returns by States, the District of Columbia, the Commonwealth of Puerto Rico, and possessions.* Returns and notices in respect of estate tax imposed by chapter 11 of the Code and returns in respect of gift tax imposed by chapter 12 of the Code may, in the discretion of the Secretary or the Commissioner or the delegate of either, be made available for inspection by any properly authorized official, body, or commission, lawfully charged with the administration of any tax law of a State, the District of Columbia, the Commonwealth of Puerto Rico, or a possession of the United States, for the purpose of such administration, provided a like cooperation is given by the State, District of Columbia, the Commonwealth of Puerto Rico, or the possession to the Commissioner and his representatives with respect to the inspection of returns of estate, inheritance, legacy, succession, gift, or other tax of the State, District of Columbia, Commonwealth of Puerto Rico, or possession for use in the administration of the Federal tax laws.

(2) *Inspection of unemployment tax returns by States, the District of Columbia, the Commonwealth of Puerto Rico, and possessions.* Returns in respect of the unemployment tax imposed by chapter 23 of the Code may, in the discretion of the Secretary or the Commissioner or the delegate of either, be made available for inspection by any properly authorized official of a State, the District of Columbia, the Commonwealth of Puerto Rico, or a possession of the United States, provided (i) such government has a law certified to the Secretary as having been approved in accordance with section 3304, and (ii) the inspection is solely for the purpose of administering such law.

(3) *Inspection of excise tax returns by States, the District of Columbia, the Commonwealth of Puerto Rico, and possessions.* Returns in respect of the excise taxes imposed by chapter 5 (tax on transfers to avoid income tax); chapter 32 (manufacturers excise taxes); subchapters B, C, and D of chapter 33 (communications tax, transportation taxes, and tax on safe deposit boxes, respectively); subchapter B of chapter 37 (tax on coconut and palm oil); and chapter 41 (interest equalization tax) may, in the discretion of the Secretary or the Commissioner or the delegate of either, be made available for inspection by any properly authorized official, body, or commission, lawfully charged with the administration of any tax law of a State, the District of Columbia, the Commonwealth of Puerto Rico, or a possession of the United States, for the purpose of such administration.

(4) *Inspection of income tax returns by the District of Columbia, the Commonwealth of Puerto Rico, or possessions.* Returns in respect of income tax imposed by chapter 1, 2, 3, or 6 of the Code, may, in the discretion of the Secretary or the Commissioner or the delegate of either, be made available for inspection by any properly authorized official, body, or commission, lawfully charged with the administration of any tax law of the District of Columbia, the Commonwealth of Puerto Rico, or a possession of the United States, for the purpose of such administration.

(5) *Applications for inspection*—(i) *In general.* Application for the inspection provided for in subparagraph (1), (2), (3), or (4) of this paragraph shall be made in writing and signed by the governor of the State or the executive head of the District of Columbia, the Commonwealth of Puerto Rico, or possession, and shall be addressed to the Commissioner of Internal Revenue, Washington, D.C. 20224. The application shall state—

(a) The title of the official, body, or commission by whom or which inspection is to be made;

(b) By specific reference, the law of the State, District of Columbia, Commonwealth of Puerto Rico, or possession which such official, body, or commission is charged with administering and the law under which he or it is so charged;

(c) The purpose for which the inspection is to be made; and

(d) If inspection of estate or gift tax returns is requested, that the State, District of Columbia, Commonwealth of Puerto Rico, or possession, as the case may be, gives to the Commissioner and his representatives like cooperation with respect to the inspection of returns of estate, inheritance, legacy, succession, gift, or other tax of the State, District of Columbia, Commonwealth of Puerto Rico, or possession, for use in the administration of the Federal tax laws.

(ii) *Returns filed in internal revenue district within or including State or other entity requesting inspection*—(a) *General inspection.* Upon application by a State, the District of Columbia, the Commonwealth of Puerto Rico, or a possession of the United States, permission may be granted for general inspection of returns of the taxes specified in subparagraph (1), (2), (3), or (4) of this paragraph which are filed in an internal revenue district within or including such State or District or, in the case of the Commonwealth of Puerto Rico or a possession, with the Director of International Operations. If such general inspection is desired, the application made to the Commissioner in accordance with subdivision (i) of this subparagraph shall include a statement that general inspection is desired of a specified class or classes of returns (for example, estate tax returns, gift tax returns, etc.). Permission granted to a State, the District of Columbia, the Commonwealth of Puerto Rico, or a possession for the general inspection provided for in this subdivision shall, except as hereinafter provided in the case of unemployment tax returns continue in effect until such time as the Secretary or the Commissioner or the delegate of either, by written notice to the governor of the State or the executive head of the District of Columbia, the Commonwealth of Puerto Rico, or possession, provides that such inspection will be permitted only on the basis of periodic applications therefor. Permission for general inspection of unemployment tax returns will terminate without notice at such time as the State, District of Columbia, Commonwealth of Puerto Rico, or possession ceases to have a law certified to the Secretary as having been approved in accordance with section 3304. The governor of the State or the executive head of the District of Columbia, the Commonwealth of Puerto Rico, or possession, as the case may be, shall supply in writing to the internal revenue officer (district director or Director of International Operations) with whom the returns to be inspected were filed a list of the names of the individuals designated to make the inspection on behalf of the official, body, or commission named in the application to the Commissioner, and shall keep such list current by appropriate deletions or additions as may be necessary.

(b) *Inspection of specific returns.* Permission granted pursuant to (a) of this subdivision for general inspection of returns of a particular tax includes permission to inspect specifically identified returns of such tax when desired. However, if a State, the District of Columbia, the Commonwealth of Puerto Rico, or possession is interested only in examining certain returns of particular taxpayers, the application for inspection of such returns shall be made to the Commissioner as provided in subdivision (i) of this subparagraph and, in addition to the information outlined in such subdivision, shall state the name and address of each taxpayer whose return or returns it is desired to inspect, the kind of tax reported on each such return, the taxable period covered by each such return, and the names of the individuals designated to make the inspection on behalf of the official, body, or commission named in the application.

(iii) *Returns filed in other internal revenue districts.* In the case of returns filed in an internal revenue district other than one within or including the State or District of Columbia requesting inspection or, if the inspection is requested by the Commonwealth of Puerto Rico or a possession, filed elsewhere than with the Director of International Operations, permission for the inspection provided for in subparagraphs (1), (2), (3), and (4) of this paragraph will be granted only with respect to specifically identified returns. The application for such inspection shall be made to the Commissioner as provided in subdivision (i) of this subparagraph and, in addition to the information outlined in such subdivision and in subdivision (ii)(b) of this subparagraph, shall specify the internal revenue district or office in which the returns to be inspected are believed to have been filed.

(6) *Time and place of inspection.* A convenient time and place for the inspection of returns permitted under this paragraph will be arranged by the internal revenue officer (district director or Director of International Operations) with whom the returns were filed.

(7) *Cross reference.* For other provisions relating to inspection of returns on behalf of States or political subdivisions thereof, see section 6103(b) and § 301.6103(b)-1.

(e) *Inspection of returns by Department of the Treasury.* Officers and employees of the Department of the Treasury whose official duties require inspection of returns made in respect of any tax described in paragraph (a)(2) of this section may inspect any such returns without making written application therefor. If the head of a bureau or office in the Department of the Treasury, not a part of the Internal Revenue Service, desires to inspect, or to have an employee of his bureau or office inspect, any such return in connection with some matter officially before him for reasons other than tax administration purposes, the inspection may, in the discretion of the Secretary or the Commissioner or the delegate of either, be permitted upon written application by the head of the bureau or office desiring the inspection. The application shall be made to the Commissioner of Internal Revenue, Washington, D.C. 20224 and shall show (1) the name and address of the person for whom the return was made, (2) the kind of tax reported on the return, (3) the taxable period covered by the return, and (4) the reason why inspection is desired. The information obtained from inspection pursuant to this paragraph may be used as evidence in any proceeding, conducted by or before any department or establishment of the United States, or to which the United States is a party.

(f) *Inspection of returns by executive departments other than the Department of the Treasury and by other establish-*

ments of the Federal Government. Except as provided in paragraphs (d) and (g) of this section, if the head of an executive department (other than the Department of the Treasury), or of any other establishment of the Federal Government, desires to inspect, or to have some other officer or employee of his department or establishment inspect, a return in respect of any tax described in paragraph (a)(2) of this section in connection with some matter officially before him, the inspection may, in the discretion of the Secretary of the Treasury or the Commissioner of Internal Revenue or the delegate of either, be permitted upon written application signed by the head of the executive department or other Government establishment desiring the inspection. The application shall be made to the Commissioner of Internal Revenue, Washington, D.C. 20224 and shall set forth (1) the name and address of the person for whom the return was made, (2) the kind of tax reported on the return, (3) the taxable period covered by the return, (4) the reason why inspection is desired, and (5) the name and the official designation of the person by whom the inspection is to be made. The information obtained from inspection pursuant to this paragraph may be used as evidence in any proceeding conducted by or before any department or establishment of the United States, or to which the United States is a party.

(g) *Inspection of returns by U.S. attorneys and attorneys of Department of Justice.* A return in respect of any tax described in paragraph (a)(2) of this section shall be open to inspection by a U.S. attorney or by an attorney of the Department of Justice where necessary in the performance of his official duties. The application for inspection shall be in writing and shall show (1) the name and address of the person for whom the return was made, (2) the kind of tax reported on the return, (3) the taxable period covered by the return, and (4) the reason why inspection is desired. The application shall, where the inspection is to be made by a U.S. attorney, be signed by such attorney, and, where the inspection is to be made by an attorney of the Department of Justice, be signed by the Attorney General, Deputy Attorney General, or an Assistant Attorney General. The application may be addressed to the Commissioner of Internal Revenue, Washington, D.C. 20224 or to the internal revenue officer (district director or Director of International Operations) with whom the return was filed.

(h) *Use of returns in litigation.* Returns made in respect of any tax described in paragraph (a)(2) of this section, or copies thereof, may be furnished by the Secretary or the Commissioner or the delegate of either to a U.S. attorney or an attorney of the Department of Justice for official use in proceedings before a U.S. grand jury or in litigation in any court, if the United States is interested in the result, or for use in preparation for such proceedings or litigation. The original return will be furnished only in exceptional cases, and then only if it is made to appear that the ends of justice may otherwise be defeated. Returns or copies thereof will be furnished without written application therefor to U.S. attorneys and attorneys of the Department of Justice for official use in the prosecution of claims and demands by, and offenses against, the United States, or the defense of claims and demands against the United States or officers or employees thereof, in cases arising under the internal revenue laws or related statutes which were referred by the Department of the Treasury to the Department of Justice for such prosecution or defense. In all other cases, written application for a return or copies thereof shall be made to the Commissioner of Internal Revenue, Washington, D.C. 20224 or where it is desired that a return or copies thereof be furnished by the internal revenue officer (district director or Director of International Operations) with whom the return was filed, the application shall be made to such officer. The application shall be signed by the U.S. attorney if the return or copy is for his use, or by the Attorney General, the Deputy Attorney General, or an Assistant Attorney General if the return or copy is for the use of an attorney of the Department of Justice. For provisions relating to the certification of copies of returns, see § 301.6103(a)–2. If a return, or copy thereof, is furnished pursuant to this paragraph, it shall be limited in use to the purpose for which it is furnished and is under no condition to be made public except to the extent that publicity necessarily results from such use. Neither the original nor a copy of a return desired for use in litigation in court will be furnished if the United States is not interested in the result, but this provision is not a limitation on the use of copies of returns by the persons entitled thereto. See paragraphs (e) and (f) of this section for use, in proceedings to which the United States is a party, of information obtained by executive departments and other Federal Government establishments from inspection of returns.

(i) *Disclosure by internal revenue officers for investigative purposes.* An internal revenue officer engaged in an official investigation of the liability in connection with any return or notice in respect of estate tax imposed by chapter 11, or any return in respect of gift tax imposed by chapter 12, of the Code may disclose the returned value of any item, the amount of any specific deduction, or other limited information, if the disclosure is necessary in order to verify such value, deduction, or other information, or to arrive at a correct determination of the tax. This right of disclosure, however, is limited to the purpose of the investigation, and in no case extends to such information as the amount of the estate or gift, the amount of the tax, or other general data.

(j) *Inspection of accepted offers in compromise.* Subject to such rules and under such circumstances as the Secretary or the Commissioner shall determine to be in the public interest, returns in respect of income tax imposed by chapter 1, 2, 3, or 6, estate tax imposed by chapter 11, or gift tax imposed by chapter 12, of the Code, shall be open to inspection to the extent necessary to permit examination of any accepted offer in compromise under section 7122 relative to the liability for any such tax.

§ 301.6103(a)–2 Copies of returns.

Any person who may be permitted to inspect a return under section 6103 and § 301.6103(a)–1, § 301.6103(b)–1, or § 301.6103(c)–1 may be furnished with a copy of such return upon request. If the request for a copy of a return is made other than at the time of inspection of such return by the applicant, the request shall be in writing, shall adequately identify the return a copy of which is desired, and shall be accompanied by satisfactory evidence that the applicant qualifies as one of the persons or governmental agencies to whom or which inspection of the return may be permitted. Except as otherwise provided in this section, applications for copies of returns should be submitted to the Commissioner of Internal Revenue, Washington, D.C. 20224, who is authorized to furnish such copies and to certify them upon request under the official seal of his office or under the official seal of the Department of the Treasury. Where the applicant is (a) a person who may be permitted under paragraph (c) of § 301.6103(a)–1 to inspect a return, (b) an official of a State, the District of Columbia, the Commonwealth of Puerto Rico, or a possession of the United States entitled to inspect returns under paragraph (d) of § 301.6103(a)–1 or under § 301.6103(b)–1, or (c) a shareholder entitled under § 301.6103(e)–1 to inspect returns of the corporation of which he is a shareholder, the application for a copy of the return should be submitted to, and such copy may be furnished by, the internal revenue officer (district director or the Director of International Operations) with whom the return was filed. Any copy so furnished by the district director or the Director of International Operations may, upon request, be certified by him under his official seal. The district director or the Director of International Operations is authorized, when so directed by the Commissioner, to furnish to any bureau or office of the Treasury Department or to any other department or agency of the Government copies of any returns which such bureau, office, department, or agency is permitted to inspect under paragraph (c) or (f) of § 301.6103(a)–1, and to certify such copies under the official seal of his office. Applications for copies of returns available to U.S. attorneys or attorneys of the Department of Justice pursuant to paragraph (g) or (h) of § 301.6103(a)–1 may be submitted to, and such copies may be furnished and certified under seal by, the Commissioner or, where desired, the district director or the Director of International Operations, as the case may be, with whom the returns were filed. Where such application is required to be in writing it shall be signed by the U.S. attorney if the copy is for his use, or by the Attorney General, the Deputy Attorney General, or an Assistant Attorney General if the copy is for the use of an attorney of the Department of Justice. The Commissioner may prescribe a reasonable fee for furnishing copies of returns.

§ 301.6103(a)–100 Inspection by Department of Health, Education, and Welfare of individual income tax returns.

Pursuant to the provisions of section 6103(a) and of the Executive order issued thereunder,[1] and in the interest of the internal management of the Government, any individual income tax return made in respect of a tax imposed under chapter 1 or chapter 2 of the Code shall be open to inspection by the Department of Health, Education, and Welfare as may be needed in its administration of the provisions of title II of the Social Security Act, as amended (42 U.S.C. ch. 7). Upon request, the inspection of an individual income tax return may be made by any officer or employee of the Department of Health, Education, and Welfare duly authorized by the Secretary of such Department to make such inspection. The request to inspect an income tax return or returns of a particular individual shall be made, in writing, by the Secretary or any duly authorized officer or employee of the Department of Health, Education, and Welfare to the Commissioner of Internal Revenue or to any officer or employee of the Internal Revenue Service designated by the Commissioner. The written request shall be in such form and manner as may be prescribed by the Commissioner of Internal Revenue. Upon receipt of such a request, any officer or employee of the Internal Revenue Service duly authorized by the Commissioner of Internal Revenue may make the individual income tax return or returns available for inspection by any duly authorized officer or employee of the Department of Health, Education, and Welfare or may furnish such Department with a copy of the return or with any data on such return. Any information thus obtained shall be held confidential, except to the extent necessary to effectuate the purposes for which the returns are open to inspection.

§ 301.6103(a)–101 Inspection of returns by committees of Congress other than those enumerated in section 6103(d).

(a) Pursuant to the provisions of section 6103(a), any return with respect to income, estate, or gift tax imposed by the Code shall be open to inspection by any committee of the Congress, or any subcommittee of a committee of the Congress, specially authorized to inspect such returns by an Executive order issued under the aforementioned statutory provisions. Such inspection shall be subject to the conditions and restrictions imposed by the Executive order and the rules and regulations hereinafter prescribed.

[1] See E. O. 10019; 3 CFR 1954–1958 Comp.

(b) Only such of the aforementioned returns as are specified in a resolution adopted by the committee in accordance with the rules of the appropriate house of the Congress then applicable to the reporting of a measure or recommendation from such committee shall be open to inspection. Such resolution shall set forth the names and addresses of the taxpayers whose returns it is necessary to inspect and the taxable periods covered by the returns. The inspection of returns authorized in this section may be made by the committee of the Congress, or the subcommittee of a committee of the Congress, authorized as provided in paragraph (a) of this section, acting directly as a committee or as a subcommittee, or by or through such examiners or agents as such committee or subcommittee may designate or appoint in its written request hereinafter mentioned. Upon written request by the chairman of such committee or of such subcommittee to the Secretary of the Treasury, giving the names and addresses of the taxpayers whose returns it is desired to inspect and the taxable periods covered by the returns and stating that the resolution hereinbefore mentioned with respect to the inspection of such returns has been duly adopted by such committee or by the committee under which such subcommittee functions, the Secretary or any officer or employee of the Department of the Treasury, with the approval of the Secretary, shall furnish such committee or subcommittee with any data relating to or contained in any such return or shall make such return available for inspection by such committee or subcommittee or by the examiners or agents designated or appointed by such committee or subcommittee. Such data shall be furnished, or such return shall be made available for inspection, in an office of the Internal Revenue Service. Any information thus obtained by such committee or subcommittee shall be held confidential: *Provided, however,* That any portion thereof relevant or pertinent to the purpose of the investigation may be submitted by the investigating committee to the appropriate house of the Congress.

(c) This section shall not be applicable to any committee authorized by section 6103(d) to inspect returns.

§ 301.6103(a)–102 Inspection by Securities and Exchange Commission of transcript cards and corporate and individual income tax returns.

Pursuant to the provisions of section 6103(a) and of the Executive order issued thereunder,[1] and in the interest of internal management of the Government, corporate and individual income tax returns made for taxable years ending after December 31, 1956, and statistical transcript cards prepared by the Internal Revenue Service from income tax returns of corporations made for taxable years beginning after December 31, 1953, and ending after August 16, 1954, shall be open to inspection by the Securities and Exchange Commission as may be needed in gathering statistical information in carrying out its functions under the Securities Exchange Act of 1934 (15 U.S.C. 78a–78jj), as amended, or in complying with directives or recommendations of the Bureau of the Budget pursuant to section 103 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 18b), relating to the development of programs for preparing statistical information by Executive agencies. Upon request, such inspection may be made by any officer or employee of the Securities and Exchange Commission duly authorized by the Chairman of such Commission to make it. Upon written notice by the Chairman of the Securities and Exchange Commission to the Secretary of the Treasury, stating the type of statistical transcript cards or income tax returns of which inspection is desired, the Secretary, or any officer or employee of the Treasury Department with the approval of the Secretary, may furnish the Securities and Exchange Commission with any data on such cards or returns or may make them available for inspection and the taking of such data as the Chairman of the Securities and Exchange Commission may designate. Such data shall be furnished, or such returns or cards shall be made available for inspection, in the Office of the Commissioner of Internal Revenue. Any information thus obtained shall be held confidential except to the extent that it shall be published or disclosed in statistical form, provided such publication shall not disclose, directly or indirectly, the name or address of any taxpayer.

[1] See Executive Order 10814 3 CFR 1959–1963 Comp.

§ 301.6103(a)–103 Inspection of returns by the Advisory Commission on Intergovernmental Relations.

Pursuant to the provisions of sections 6103(a) and 6106 of the Internal Revenue Code of 1954 (68A Stat. 753, 756; 26 U.S.C. 6103(a), 6106) and of the Executive order issued thereunder,[1] any return with respect to income tax, tax on transfers to avoid income tax, estate tax, gift tax, unemployment tax, manufacturers excise taxes, communications tax, transportation taxes, tax on safe deposit boxes, or tax on coconut and palm oil imposed by such Code shall be open to inspection by the Advisory Commission on Intergovernmental Relations for the purpose of making studies and investigations in connection with the performance of its function of recommending methods of coordinating and simplifying tax laws and administrative practices to achieve a more orderly and less competitive fiscal relationship between the levels of government and to reduce the burden of compliance for taxpayers. The inspection of returns herein authorized may be made by any member or employee of the Commission duly authorized by the Chairman of the Commission to make such inspection. Upon written notice by the Chairman to the

[1] See Executive Order 10962 3 CFR 1959–1963 Comp.

Secretary of the Treasury stating the kinds of returns which it is desired to inspect, the Secretary of the Treasury, or any officer or employee of the Department of the Treasury with the approval of the Secretary, may furnish the Commission with any data on such returns or may make the returns available for inspection and the taking of such data as the Chairman may designate. Such data shall be furnished, or such returns shall be made available for inspection, in the office of the Commissioner of Internal Revenue. Any information thus obtained shall be held confidential except that it may be published or disclosed in statistical form provided such publication does not disclose, directly or indirectly, the name or address of any taxpayer.

§ 301.6103(a)–104 Inspection by Department of Commerce of income tax returns made under the Internal Revenue Code of 1954.

Pursuant to the provisions of section 6103(a) of the Internal Revenue Code of 1954 (68A Stat. 753; 26 U.S.C. 6103(a)) and of the Executive order issued thereunder,[1] and in the interest of the internal management of the Government, income tax returns made under such Code shall be open to inspection by the Department of Commerce. The inspection of returns herein authorized may be made by any officer or employee of the Department of Commerce duly authorized by the Secretary of Commerce to make such inspection. Upon written notice by the Secretary of Commerce to the Secretary of the Treasury stating the classes of returns which it is desired to inspect, the Secretary of the Treasury, or any officer or employee of the Department of the Treasury with the approval of the Secretary, may furnish the Department of Commerce with any data on such returns or may make the returns available for inspection and the taking of such data as the Secretary of Commerce may designate. Such data shall be furnished, or such returns shall be made available for inspection, in the office of the Commissioner of Internal Revenue. Any information thus obtained shall be held confidential except that it may be published or disclosed in statistical form provided such publication does not disclose, directly or indirectly, the name or address of any taxpayer.

§ 301.6103(a)–105 Inspection by Renegotiation Board of income tax returns made under the Internal Revenue Code of 1954.

Pursuant to the provisions of section 6103(a) of the Internal Revenue Code of 1954 (68A Stat. 753; 26 U.S.C. 6103(a)) and of the Executive order issued thereunder,[2] and in the interest of the internal management of the Government, income tax returns made under such Code shall be open to inspection by the Renegotiation Board. The inspection of returns herein authorized may be made by any officer or employee of the Renegotiation Board duly authorized by the Chairman of the Board to make such inspection. Upon written notice by the Chairman to the Secretary of the Treasury stating the classes of returns which it is desired to inspect, the Secretary, or any officer or employee of the Department of the Treasury with the approval of the Secretary, may furnish the Renegotiation Board with any data on such returns or may make the returns available for inspection and the taking of such data as the Chairman of the Board may designate. Such data shall be furnished, or such returns shall be made available for inspection, in the office of the Commissioner of Internal Revenue. Any information thus obtained shall be held confidential except that it may be published or disclosed in statistical form provided such publication does not disclose, directly or indirectly, the name or address of any taxpayer.

§ 301.6103(a)–106 Inspection by Federal Trade Commission of income tax returns of corporations made under the Internal Revenue Code of 1954.

Pursuant to the provisions of section 6103(a) of the Internal Revenue Code of 1954 (68A Stat. 753; 26 U.S.C. 6103(a)) and of the Executive order issued thereunder,[1] and in the interest of the internal management of the Government, income tax returns of corporations made under such Code shall be open to inspection by the Federal Trade Commission as an aid in executing the powers conferred upon such Commission by the Federal Trade Commission Act of September 26, 1914 (38 Stat. 717). The inspection of returns herein authorized may be made by any officer or employee of the Federal Trade Commission duly authorized by the Chairman of the Commission to make such inspection. Upon written notice by the Chairman to the Secretary of the Treasury, the Secretary, or any officer or employee of the Department of the Treasury with the approval of the Secretary, may furnish the Federal Trade Commission with any data on such returns or may make the returns available for inspection and the taking of such data as the Chairman of the Commission may designate. Such data shall be furnished, or such returns shall be made available for inspection, in the office of the Commissioner of Internal Revenue. Any information thus obtained shall be held confidential except that it may be published or disclosed in statistical form provided such publication does not disclose, directly or indirectly, the name or address of any taxpayer.

§ 301.6103(a)–107 Inspection of certain interest equalization tax information returns by the Board of Governors of the Federal Reserve System and the Federal Reserve Banks.

Pursuant to the provisions of section 6103(a) of the Internal Revenue Code of 1954 (68A Stat. 753; 26 U.S.C. 6103(a)), as amended by section 3(c) of the Interest Equalization Tax Act (Pub. L. 88-563, 78 Stat. 844), and the Executive orders issued thereunder,[1] any information return made by a commercial bank under the Interest Equalization Tax Act shall be open to inspection by the Board of Governors of the Federal Reserve System and the Federal Reserve Banks. Such inspection may be made by—

(a) A member or employee of the Board of Governors of the Federal Reserve System duly authorized by the Board, or

(b) An officer or employee of a Federal Reserve Bank duly authorized by the president of such bank.

Upon written notice by the Board of Governors of the Federal Reserve System or the president of a Federal Reserve Bank to the Secretary of the Treasury stating that it is desired to inspect information returns made by commercial banks under the Interest Equalization Tax Act, the Secretary of the Treasury, or any officer or employee of the Department of the Treasury with the approval of the Secretary, may furnish the Board or the Bank with any data on such returns or make the returns available for inspection and the taking of such data as the Board or the president of the Bank may designate. Such data may be furnished, or such returns may be made available for inspection, in the offices of the Board of Governors of the Federal Reserve System or in the offices of the Federal Reserve Bank, as the case may be. Any information thus obtained shall be held confidential except that it may be published or disclosed in statistical form provided such publication does not disclose, directly or indirectly, the name or address of any person filing such a return.

§ 301.6103(b) Statutory provisions; publicity of returns and lists of taxpayers; inspection by States.

Sec. 6103. Publicity of returns and lists of taxpayers. * * *

(b) *Inspection by States*—(1) *State officers.* The proper officers of any State may, upon the request of the governor thereof, have access to the returns of any corporation, or to an abstract thereof showing the name and income of any corporation, at such times and in such manner as the Secretary or his delegate may prescribe.

(2) *State bodies or commissions.* All income returns filed with respect to the taxes imposed by chapters 1, 2, 3, and 6 (or copies thereof, if so prescribed by regulations made under this subsection), shall be open to inspection by any official, body, or commission, lawfully charged with the administration of any State tax law, if the inspection is for the purpose of such administration or for the purpose of obtaining information to be furnished to local taxing authorities as provided in this paragraph. The inspection shall be permitted only upon written request of the governor of such State, designating the representative of such official, body, or commission to make the inspection on behalf of such official, body, or commission. The inspection shall be made in such manner, and at such times and places, as shall be prescribed by regulations made by the Secretary or his delegate. Any information thus secured by any official, body, or commission of any State may be used only for the administration of the tax laws of such State, except that upon written request of the governor of such State any such information may be furnished to any official, body, or commission of any political subdivision of such State, lawfully charged with the administration of the tax laws of such political subdivision, but may be furnished only for the purpose of, and may be used only for, the administration of such tax laws.

§ 301.6103(b)–1 Inspection by States.

(a) *Corporation returns of income tax or unemployment tax.* Under the provisions of sections 6103(b)(1) and 6106, the proper tax officers of a State shall have access, upon application made in accordance with the provisions of this paragraph, to the returns filed by any corporation with respect to the taxes imposed by chapters 1, 3, and 6 of the Code and with respect to the unemployment tax imposed by chapter 23 of the Code, or to abstracts of such returns. Application for access to the returns of any corporation, or abstracts thereof, shall be in writing signed by the governor of the State and addressed to the Commissioner of Internal Revenue, Washington, D.C. 20224. The application shall set forth the reason why access is desired; the names and official positions of the officers designated to have such access; and, with respect to each return to which access is desired, the name and address of the corporation filing the return, the kind of tax (income tax or unemployment tax) reported on the return, and the taxable year covered by the return.

(b) *Income tax returns*—(1) *In general.* Income tax returns filed with respect to the taxes imposed by chapters 1, 2, 3, and 6 of the Code shall, upon application made in accordance with the provisions of this paragraph, be open to inspection by any official, body, or commission, lawfully charged with the administration of any State tax law, or any properly designated representative of such official, body, or commission, if the inspection is for the purpose of such administration or for the purpose of obtaining information to be furnished to local taxing authorities as provided in section 6103(b)(2). The application shall be made in writing and signed by the governor of the State and shall be addressed to the Commissioner of Internal Revenue, Washington, D.C. 20224. The application shall state—

(i) The title of the official, body, or commission by whom or which the inspection is to be made;

(ii) By specific reference, the State tax law which such official, body, or commission is charged with administering and the law under which he or it is so charged;

(iii) The purpose for which the inspection is to be made; and

(iv) If the inspection is for the purpose of obtaining information to be furnished to local taxing authorities, (*a*) the title of the official, body, or commission of each political subdivision of the State, lawfully charged with the administration of the tax laws of such political subdivision, to whom or to which the information secured by the inspection is to be furnished, and (*b*) the purpose for which the information is to be used by such official, body, or commission.

(2) *Returns filed in internal revenue district within or including State*—(i) *General inspection.* Permission may be granted by the Commissioner to any State for general inspection of returns of the taxes imposed by chapters 1, 2, 3, and 6 of the Code which are filed in an internal revenue district within or including such State. If such general inspection is desired, the application made to the Commissioner in accordance with subparagraph (1) of this paragraph shall include a statement that general inspection is desired of returns filed in the internal revenue district or districts within or including the State with respect to the taxes imposed by chapters 1, 2, 3, and 6 of the Code. Permission granted for the general inspection provided for in this subdivision shall continue in effect until such time as the Commissioner by written notice to the governor of the State provides that such inspection will be permitted only on the basis of periodic applications therefor. The governor shall supply to the district director with whom the returns to be inspected were filed a written list of the names of the individuals designated to make the inspection on behalf of the official, body, or commission named in the application to the Commissioner, and shall keep such list current by appropriate deletions or additions as may be necessary.

(ii) *Inspection of specific returns.* Permission for the general inspection provided in subdivision (i) of this subparagraph includes permission to inspect a specifically identified return when desired. However, a State interested only in examining the returns of particular taxpayers may inspect such returns on written application therefor to the Commissioner. The application in such case shall state, in addition to the information outlined in subparagraph (1) of this paragraph, the name and address of each taxpayer whose return or returns it is desired to inspect, the taxable year covered by each such return, and the names of the individuals designated to make the inspection on behalf of the official, body, or commission named in the application.

(3) *Returns filed in other internal revenue districts.* In the case of returns filed with the Director of International Operations or in an internal revenue district other than one within or including the State requesting the inspection, permission for the inspection provided for in subparagraph (1) of this paragraph will be granted only with respect to specifically identified returns. The application for such inspection shall be made to the Commissioner as provided in subparagraph (1) of this paragraph and, in addition to the information outlined in such subparagraph and in subparagraph (2)(ii) of this paragraph, shall specify the internal revenue district or office in which the returns to be inspected are believed to have been filed.

(c) *Time and place of inspection.* The internal revenue officer (district director or Director of International Operations) with whom the returns were filed is authorized to make such returns available in accordance with permission granted by the Commissioner pursuant to this section. Such officer shall set a convenient time and place for the inspection. The inspection will be permitted only in the presence of an internal revenue officer or employee and only in an office of the Internal Revenue Service during the regular hours of business of such office.

(d) *Definition of return.* For purposes of section 6103(b) and this section, the term "return" includes information returns, schedules, lists, and other written statements filed with the Internal Revenue Service which are designed to be supplemental to or to become a part of the return, and, in the discretion of the Commissioner, other records or reports containing information included or required by statute to be included in the return. An application for exemption from income tax under section 501 (a) filed by an organization described in section 501 (c) or (d) in order to establish its exemption is not a return for purposes of section 6103(b). For provisions opening to public inspection exemption applications with respect to which a determination has been made that the organization is entitled to exemption from income tax under section 501(a), see section 6104(a) and § 301.6104–1.

(e) *Cross reference.* For additional provisions relating to inspection of returns on behalf of States, see paragraph (d) of § 301.6103(a)–1. For penalties for unauthorized disclosure of information, see section 7213.

§ 301.6103(c) Statutory provisions; publicity of returns and lists of taxpayers; inspection by shareholders.

Sec. 6103. Publicity of returns and lists of taxpayers. * * *

(c) *Inspection by shareholders.* All bona fide shareholders of record owning 1 percent or more of the outstanding stock of any corporation shall, upon making request of the Secretary or his delegate, be allowed to examine the annual income returns of such corporation and of its subsidiaries.

§ 301.6103(c)–1 Inspection of corporation returns by shareholders.

(a) *In general.* Under the provisions of sections 6103(c) and 6106, a bona fide shareholder of record owning one percent or more of the outstanding stock of a corporation shall be allowed, upon request, to examine the annual income tax returns and unemployment tax returns of such corporation and its subsidiaries. A person is not a bona fide shareholder of record within the meaning of section 6103(c) if he acquired his shares for the purpose of obtaining the right to inspect the returns of the corporation. The privilege of inspecting returns in accordance with section 6103(c) and this section is personal to the shareholder and cannot be delegated. In the case of a corporation which has been dissolved, the returns may be ex-

[1] See Executive Order 10007 3 CFR 1959–63 Comp.

[2] See Executive Order 10911 3 CFR 1959–63 Comp.

[1] See Executive Order 10008 3 CFR 1959–63 Comp.

[1] See E.O. 11176, and 11213, 3 CFR 1964–65 Comp.

amined by any shareholder who would have been entitled to examine them at the date of dissolution.

(b) *Applications.* Request for permission to inspect returns under this section shall be made in writing and verified by affidavit. The request shall be submitted to the district director or the Director of International Operations, as the case may be, with whom the return was filed. The request shall set forth (1) the name and address of the applicant, (2) the name and address of the corporation whose return or returns it is desired to inspect, (3) the kind of tax and the taxable period covered by each return it is desired to inspect, (4) the amount of the corporation's outstanding capital stock, (5) the number of shares owned by the applicant and the date or dates on which he acquired them, (6) whether the applicant has the beneficial as well as the record title to such shares, and (7) that the applicant did not acquire the shares for the purpose of obtaining the right to inspect the returns of the corporation. The request shall be accompanied by evidence establishing that the applicant is a bona fide shareholder of record of the required amount of stock of the corporation. Such evidence may be in the form of a certificate signed by the president or vice president of the corporation and countersigned by the secretary under the corporate seal.

(c) *Time and place of inspection.* The district director or the Director of International Operations, upon being satisfied from the evidence presented that the applicant meets the statutory requirements, shall grant permission to examine the returns and shall set a convenient time and place for the examination. Examination of returns by shareholders will be permitted only in the presence of an internal revenue officer or employee and only in an office of the Internal Revenue Service during the regular hours of business of such office.

(d) *Definition of return.* For purposes of section 6103(c) and this section, the term "return" includes information returns, schedules, lists, and other written statements filed with the Internal Revenue Service which are designed to be supplemental to or to become a part of the return, and, in the discretion of the Commissioner, other records or reports containing information included or required by statute to be included in the return. An application for exemption from income tax under section 501 (a) filed by an organization described in section 501 (c) or (d) in order to establish its exemption is not a return for purposes of section 6103(c). For provisions opening to public inspection exemption applications with respect to which a determination has been made that the organization is entitled to exemption from income tax under section 501(a), see section 6104(a) and § 301.6104–1.

(e) *Penalties.* For penalties for unauthorized disclosure of information, see section 7213.

§ 301.6103(d) Statutory provisions; publicity of returns and lists of taxpayers; inspection by committees of Congress.

SEC. 6103. *Publicity of returns and lists of taxpayers.* * * *

(d) *Inspection by committees of Congress*—(1) *Committees on Ways and Means and Finance.* (A) The Secretary and any officer or employee of the Treasury Department, upon request from the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, or a select committee of the Senate or House specially authorized to investigate returns by a resolution of the Senate or House, or a joint committee so authorized by concurrent resolution, shall furnish such committee sitting in executive session with any data of any character contained in or shown by any return.

(B) Any such committee shall have the right, acting directly as a committee, or by or through such examiners or agents as it may designate or appoint, to inspect any or all of the returns at such times and in such manner as it may determine.

(C) Any relevant or useful information thus obtained may be submitted by the committee obtaining it to the Senate or the House, or to both the Senate and the House, as the case may be.

(2) *Joint Committee on Internal Revenue Taxation.* The Joint Committee on Internal Revenue Taxation shall have the same right to obtain data and to inspect returns as the Committee on Ways and Means or the Committee on Finance; and to submit any relevant or useful information thus obtained to the Senate, the House of Representatives, the Committee on Ways and Means, or the Committee on Finance. The Committee on Ways and Means or the Committee on Finance may submit such information to the House or to the Senate, or to both the House and the Senate, as the case may be.

§ 301.6103(d)–1 Inspection by committees of Congress.

(a) *Committees on Ways and Means and Finance and joint and select committees specially authorized to investigate returns.* The Secretary and any officer or employee of the Treasury Department, upon request from the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, or a select committee of the Senate or House specially authorized to investigate returns by a resolution of the Senate or House, or a joint committee so authorized by concurrent resolution, shall furnish such committee sitting in executive session with any data of any character contained in or shown by any return. Any such committee shall have the right, acting directly as a committee, or by or through such examiners or agents as it may designate or appoint, to inspect any or all of the returns at such times and in such manner as it may determine. Any revelant or useful information thus obtained may be submitted by the committee obtaining it to the Senate or the House, or to both the Senate and the House, as the case may be.

(b) *Joint Committee on Internal Revenue Taxation.* The Joint Committee on Internal Revenue Taxation shall have the same right to obtain data and to inspect returns as the Committee on Ways and Means or the Committee on Finance, and the right to submit any relevant or useful information thus obtained to the Senate, the House of Representatives, the Committee on Ways and Means, or the Committee on Finance. The Committee on Ways and Means or the Committee on Finance may submit such information to the House or to the Senate, or to both the House and the Senate, as the case may be. See also section 8022 for authority of the Joint Committee to obtain additional data.

(c) *Application for tax exemption.* The application for exemption of any organization described in section 501 (c) or (d) which is exempt from taxation under section 501(a) for any taxable year, and any other papers which are in the possession of the Internal Revenue Service and which relate to such application, shall, in accordance with section 6104(a)(2), be made available to any committee of Congress designated in paragraph (a) or (b) of this section as if such papers constituted returns.

§ 301.6103(e) Statutory Provisions; publicity of returns and lists of taxpayers; declarations of estimated tax.

SEC. 6103. *Publicity of returns and lists of taxpayers.* * * *

(e) *Declarations of estimated tax.* For purposes of this section, a declaration of estimated tax shall be held and considered a return under this chapter.

§ 301.6103(f) Statutory provisions; publicity of returns and lists of taxpayers; inspection of list of taxpayers.

SEC. 6103. *Publicity of returns and lists of taxpayers.* * * *

(f) *Inspection of list of taxpayers.* The Secretary or his delegate shall as soon as practicable in each year cause to be prepared and made available to public inspection in such manner as he may determine, in the office of the principal internal revenue officer for the internal revenue district in which the return was filed, and in such other places as he may determine, lists containing the name and the post office address of each person making an income tax return in such district.

§ 301.6103(f)–1 Public lists of persons making returns of income tax and of unemployment tax.

In accordance with the provisions of sections 6103(f) and 6106, the district director for each internal revenue district (including the Director of International Operations) shall prepare as soon as practicable in each year and make available to public inspection in his office during regular hours of business—

(a) Lists containing the name and post office address of each person filing an income tax return in such district; and

(b) Lists containing the name and post office address of each person filing a return in such district in respect of unemployment tax imposed by chapter 23 of the Code.

NOTE: §§ 301.6104 to 301.6104–2, inclusive, were prescribed by Treasury Decision 6331, approved October 30, 1958, and amended in respect of § 301.6104–1 by Treasury Decision 6391, approved June 25, 1959.

§ 301.6104 Statutory provisions; publicity of information required from certain exempt organizations and certain trusts.

SEC. 6104. *Publicity of information required from certain exempt organizations and certain trusts.*—(a) *Inspection of applications for tax exemption.*—(1) *Public inspection.*—(A) *In general.* If an organization described in section 501 (c) or (d) is exempt from taxation under section 501(a) for any taxable year, the application filed by the organization with respect to which the Secretary or his delegate made his determination that such organization was entitled to exemption under section 501(a), together with any papers submitted in support of such application, shall be open to public inspection at the national office of the Internal Revenue Service. In the case of any application filed after the date of the enactment of this subparagraph, a copy of such application shall be open to public inspection at the appropriate field office of the Internal Revenue Service (determined under regulations prescribed by the Secretary or his delegate). Any inspection under this subparagraph may be made at such times, and in such manner, as the Secretary or his delegate shall by regulations prescribe. After the application of any organization has been opened to public inspection under this subparagraph, the Secretary or his delegate shall, on the request of any person with respect to such organization, furnish a statement indicating the subsection and paragraph of section 501 which it has been determined describes such organization.

(B) *Withholding of certain information.* Upon request of the organization submitting any supporting papers described in subparagraph (A), the Secretary or his delegate shall withhold from public inspection any information contained therein which he determines relates to any trade secret, patent, process, style of work, or apparatus, of the organization, if he determines that public disclosure of such information would adversely affect the organization. The Secretary or his delegate shall withhold from public inspection any information contained in supporting papers described in subparagraph (A) the public disclosure of which he determines would adversely affect the national defense.

(2) *Inspection by committees of Congress.* Section 6103(d) shall apply with respect to—

(A) The application for exemption of any organization described in section 501 (c) or (d) which is exempt from taxation under section 501(a) for any taxable year, and

(B) Any other papers which are in the possession of the Secretary or his delegate and which relate to such application,

as if such papers constituted returns.

(b) *Inspection of annual information returns.* The information required to be furnished by sections 6033(b) and 6034, together with the names and addresses of such organizations and trusts, shall be made available to the public at such times and in such places as the Secretary or his delegate may prescribe.

[Sec. 6104 as amended by sec. 75(a), Technical Amendments Act 1958 (72 Stat. 1660)]

§ 301.6104–1 Public inspection of applications for tax exemption.

(a) *Applications open to inspection*—(1) *In general.* An application for exemption, together with any supporting documents, filed by an organization described in section 501 (c) or (d) (or in the corresponding provisions of any prior revenue law) shall be open to public inspection on or after November 3, 1958, in accordance with section 6104(a)(1) and the provisions of this section, if the Commissioner or district director has determined, on the basis of such application, that such organization is exempt from taxation for any taxable year under section 501(a) (or under the corresponding provisions of any prior revenue law). Certain applications for exemption have been destroyed pursuant to Congressional authorization and therefore will not be available for inspection.

(2) *Claim for exemption filed under section 503 or 504 and the regulations thereunder.* Claims for exemption filed to reestablish exempt status after denial thereof under the provisions of section 503 or 504 (or under the corresponding provisions of any prior revenue law), relating to denial of exemption because of certain prohibited transactions or an unreasonable accumulation of income, are considered to be applications for exemption for purposes of section 6104(a)(1) and this section.

(3) *Requirement of exempt status.* An application for exemption and supporting documents shall not be available for public inspection before the organization filing such application has been determined, on the basis of such application, to be exempt from taxation for any taxable year. On the other hand, if the organization has been determined to be exempt for any taxable year, the application for exemption with respect to which such determination was made shall not be withheld from public inspection on the grounds that such organization is determined not to be entitled to exemption for any other taxable year or years.

(b) *Meaning of terms*—(1) *Application for exemption.* (i) For purposes of this section, the term "application for exemption" means the documents described in subdivision (ii) of this subparagraph which the organization was required to file when it applied for exemption.

(ii) (a) With respect to an organization for which an application for exemption form is prescribed, the application for exemption includes such form and all documents and statements required to be filed by such form.

(b) With respect to an organization described in section 501 (c) or (d) for which no application for exemption form is prescribed, the application for exemption includes the application letter and a conformed copy of the articles of incorporation, declaration of trust, or other instrument of similar import, setting forth the permitted powers or activities of the organization, the bylaws or other code of regulations, and the latest financial statement showing the assets, liabilities, receipts, and disbursements of the organization, and statements showing the character of the organization, the purpose for which it was organized, its actual activities, sources of income and receipts and the disposition thereof, and whether or not any of its income or receipts is credited to surplus or may inure to the benefit of any private shareholder or individual.

(c) With respect to a mutual insurance company, the application for exemption shall, in addition to the statements and documents required to be submitted by the form, include copies of the policies or certificates of membership issued by such company.

(d) With respect to a title holding company described in section 501(c)(2), if the organization for which title is held has not been specifically notified in writing by the Internal Revenue Service that it is held to be exempt under section 501 (a), the application for exemption shall, in addition to the statements and documents required to be submitted by the form, include the statements or documents which would be considered to be included in the application for exemption of the organization for which title is held.

(e) With respect to a State chartered credit union described in section 501(c)(14), the application for exemption shall, in addition to the statements and documents indicated in (b) of this subdivision, include a statement indicating the State and date of incorporation and showing that the State credit union law with respect to loans, investments, and dividends, if any, is being complied with.

(f) With respect to an organization which is described in section 501(c)(3) and which files its application for exemption after July 26, 1959, the application for exemption shall, in addition to the statements and documents required to be submitted by the form, include a detailed statement of the proposed activities of such organization.

(iii) The term "application for exemption" does not include a request for a ruling as to whether a proposed transaction is a prohibited transaction under section 503 (or under the corresponding provisions of any prior revenue law).

(2) *Supporting document.* For purposes of this section, the term "supporting document" means any statement or document submitted by an organization in support of its application for exemption which is not specifically required by subdivision (ii) of subparagraph (1) of this paragraph. For example, a legal brief submitted in support of an application for exemption is a supporting document.

(c) *Withholding of certain information*—(1) *Trade secrets, patents, processes, styles of work, or apparatus*—(i) *In general.* Any information which is submitted by an organization whose application for exemption is open to inspection under this section and which is determined by the Commissioner to relate to any trade secret, patent, process, style of work, or apparatus of the organization submitting such information shall, upon request in writing of such organization, be withheld from public inspection under section 6104(a)(1) and this section, if the Commissioner determines that the disclosure of such information would adversely affect the organization.

(ii) *Request for withholding of information.* Requests for the withholding of information from public inspection as

provided in subdivision (i) of this subparagraph shall—

(a) In the case of applications for exemption filed before November 3, 1958, be made to the Commissioner of Internal Revenue, Attention: Public Information Division, Washington 25, D.C.; or

(b) In the case of applications for exemption filed on or after November 3, 1958, be filed with the office with which the taxpayer filed the documents in which the material to be withheld is contained.

The request shall clearly identify the material desired to be withheld (the document, page, paragraph, and line) and shall include the reasons for the organization's position that the information is of the type which may be withheld from public inspection.

(iii) *Determination.* An organization which has filed a request under the provisions of this subparagraph will be notified of the determination as to whether the information to which the request relates will be withheld from public inspection.

(2) *National defense material.* The Internal Revenue Service shall withhold from public inspection any information which is submitted by an organization whose application for exemption is open to inspection under this section the public disclosure of which the Commissioner determines would adversely affect the national defense.

(d) *Place of inspection.* Applications for exemption, together with any supporting documents, which are open to public inspection under section 6104(a)(1) shall be available for inspection on or after November 3, 1958, in the Office of the Director, Public Information Division, Internal Revenue Service, Washington 25, D.C., regardless of when or where such applications were filed except for such applications as have been destroyed pursuant to Congressional authority. In addition, in the case of an application for exemption filed on or after September 3, 1958, a copy of such application (as defined in paragraph (b)(1) of this section), but not the supporting documents, shall also be available for public inspection on or after November 3, 1958, in the office of the district director with whom the application was required to be filed.

(e) *Procedure for public inspection of applications for exemption*—(1) *Request for inspection.* Applications for exemption and the supporting documents shall be available for public inspection only upon request. If inspection at the national office is desired, the request shall be made in writing to the Commissioner of Internal Revenue, Attention: Director, Public Information Division, Washington 25, D.C. Requests for inspection in the office of a district director shall be made in writing to the appropriate district director. All requests for inspection must include the name and address of the organization which filed the application for exemption the inspection of which is requested. In addition, if such organization has more than one application for exemption open to public inspection under the provisions of section 6104(a)(1), only the most recent of such applications shall be made available for inspection unless the request for inspection specifically states otherwise.

(2) *Time and extent of inspection.* A person requesting public inspection in the manner specified in subparagraph (1) of this paragraph shall be notified by the Internal Revenue Service when the material he desires to inspect will be made available for his inspection. An application for exemption will be made available for public inspection at such reasonable and proper times as not to interfere with its use by the Internal Revenue Service or to exclude other persons from inspecting it. In addition, the Commissioner or district director may limit the number of applications for exemption to be made available to any person for inspection on a given date. The public inspection authorized by section 6104(a)(1) will be allowed only in the presence of an internal revenue officer or employee and only during the regular hours of business of the Internal Revenue Service office.

(3) *Copies.* Notes may be taken of the material opened for inspection under this section, and copies may be made manually but not photographically. Copies of such material will be furnished by the Internal Revenue Service to any person making request therefor. Requests for such copies shall be made in the same manner as requests for inspection (see subparagraph (1) of this paragraph) to the office of the Internal Revenue Service in which such material is available for inspection as provided in paragraph (d) of this section. If made at the time of inspection, the request for copies need not be in writing. Any copies furnished will be certified upon request. The Commissioner may prescribe a reasonable fee for furnishing copies of applications and supporting documents pursuant to this section.

(f) *Statement of exempt status.* A statement setting forth the following information with respect to an organization shall be furnished to any person, upon request in writing, after the application for exemption of such organization is open to public inspection under section 6104(a)(1):

(1) The subsection and paragraph of section 501 (or the corresponding provision of any prior revenue law) under which the organization has been determined, on the basis of such application, to qualify for exemption from taxation; and

(2) Whether the organization is currently held to be exempt.

Request for such information may be made in writing to the Commissioner of Internal Revenue, Attention: Public Information Division, Washington 25, D.C., or to the district director with whom the organization's application for exemption was required to be filed.

§ 301.6104–2 Publicity of information on certain information returns.

(a) *In general.* The following information, together with the name and address of the organization or trust furnishing such information, shall be a matter of public record:

(1) The information furnished on Part II of Form 990–A.

(2) The information furnished pursuant to section 6034 (relating to annual information required of trusts claiming a charitable deduction under section 642(c)) on Form 1041–A.

Such information may be used by the Commissioner for the purpose of making and publishing statistical or other studies.

(b) *Place of inspection.* Information furnished on the public portion of returns for years ending prior to December 31, 1962, shall be available to any person during the regular hours of business in the office of the district director with whom the Form 990–A or 1041–A was required to be filed; and information furnished on the public portion of returns for taxable years ending on or after December 31, 1962, shall be available to any person in the Office of the Director, Public Information Division, Internal Revenue Service, Washington, D.C. 20224, as well as in the office of the district director with whom the forms were required to be filed.

(c) *Procedure for public inspection of Forms 990–A and 1041–A*—(1) *Requests for inspection.* Forms 990–A and 1041–A shall be available for public inspection only upon request. If inspection at the National Office is desired, the request shall be made in writing to the Commissioner of Internal Revenue, Attention: Director, Public Information Division, Washington, D.C. 20224. Requests for inspection in the office of a district director shall be made in writing to the appropriate district director. All requests for inspection must include the name and address of the organization which filed the return, the type of return, and the taxable year for which filed.

(2) *Time and extent of inspection.* A person requesting public inspection in the manner specified in subparagraph (1) of this paragraph shall be notified by the Internal Revenue Service when the material he desires to inspect will be made available for his inspection. Forms 990–A and 1041–A will be made available for public inspection at such reasonable and proper times as not to interfere with their use by the Internal Revenue Service or to exclude other persons from inspecting them. In addition, the Commissioner or district director may limit the number of returns to be made available to any person for inspection on a given date. Inspection will be allowed only in the presence of an internal revenue officer or employee and only during the regular hours of business of the Internal Revenue Service office.

(3) *Copies.* Notes may be taken of the material opened for inspection under this section. Copies may be made manually or photographically in the National Office subject to reasonable supervision by the Public Information Division with regard to the facilities and equipment to be employed; and copies may be made manually but not photographically in the offices of the district directors. Copies of the material opened for inspection will be furnished by the Internal Revenue Service to any person making request therefor. Requests for such copies shall be made in the same manner as requests for inspection (see subparagraph (1) of this paragraph) to the office of the Internal Revenue Service in which such material is available for inspection as provided in paragraph (b) of this section. If made at the time of inspection, the request for copies need not be in writing. Any copies furnished will be certified upon request. The Commissioner may prescribe a reasonable fee for furnishing copies of returns pursuant to this section.

§ 301.6105 Statutory provisions; compilation of relief from excess profits tax cases.

SEC. 6105. *Compilation of relief from excess profits tax cases.* The Secretary or his delegate shall compile for each fiscal year beginning after June 30, 1941, by internal revenue districts, and alphabetically arranged, all cases in which relief has been allowed during such year under the provisions of section 722 of the Internal Revenue Code of 1939, as amended, by the Secretary or his delegate and by the Tax Court of the United States, as the case may be. Such compilation shall contain the name and address of each taxpayer to which relief has been so allowed, the business in which the taxpayer is engaged, the amount of the excess profits credit before such allowance, the increase in such credit claimed, the increase in such credit allowed, and the amount of the gross reduction in the tax under subchapter E of chapter 2 of the Internal Revenue Code of 1939, as amended, and of the gross increase in the tax under chapter 1 of such Code, which results from the operation of section 722 of the Internal Revenue Code of 1939, as amended. In the case of relief allowed by the Tax Court of the United States, the Secretary or his delegate shall set forth the data previously reported under this section or section 723(g) of the Internal Revenue Code of 1939, as amended, with respect to relief previously allowed in such case by the Secretary or his delegate. Such compilation shall be published in the FEDERAL REGISTER.

§ 301.6105–1 Compilation of relief from excess profits tax cases.

Pursuant to and in accordance with the provisions of section 6105, the Commissioner shall make and publish in the FEDERAL REGISTER a compilation, for each fiscal year beginning after June 30, 1941, of all cases in which relief under the provisions of section 722 of the Internal Revenue Code of 1939, as amended, has been allowed during such fiscal year by the Commissioner and by the TAX COURT of the United States.

§ 301.6106 Statutory provisions; publicity of unemployment tax returns.

SEC. 6106. *Publicity of unemployment tax returns.* Returns filed with respect to the tax imposed by chapter 23 shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns described in section 6103, except that paragraph (2) of subsections (a) and (b) of section 6103 and section 7213(a)(2) shall not apply.

§ 301.6106–1 Publicity of unemployment tax returns.

For provisions relating to publicity of returns made in respect of unemployment tax imposed by chapter 23 of the Code, see §§ 301.6103(a)–1, 301.6103(b)–1, 301.6103(c)–1, 301.6103(d)–1, and 301.6103(f)–1.

§ 301.6107 Statutory provisions; list of special taxpayers for public inspection.

SEC. 6107. *List of special taxpayers for public inspection.* In the principal internal revenue office in each internal revenue district there shall be kept, for public inspection, an alphabetical list of the names of all persons who have paid special taxes under subtitle D or E within such district. Such list shall be prepared and kept pursuant to regulations prescribed by the Secretary or his delegate, and shall contain the time, place, and business for which such special taxes have been paid, and upon application of any prosecuting officer of any State, county, or municipality there shall be furnished to him a certified copy thereof, as of a public record, for which a fee of $1 for each 100 words or fraction thereof in the copy or copies so requested may be charged.

§ 301.6107–1 Public list of persons paying special taxes.

Each district director shall prepare and keep in his office, for public inspection, an alphabetical list showing the name of each person who shall have paid within his district any of the special taxes imposed by subtitles D or E of the Code, together with the time, place, and business for which such tax was paid. The district director shall furnish, as of a public record, a certified copy of such list, or any portion thereof to any prosecuting officer of any State, county, or municipality upon written request by such officer. A fee of $1 for each 100 words or fraction thereof in the copy or copies so requested may be charged.

§ 301.6108 Statutory provisions; publication of statistics of income.

SEC. 6108. *Publication of statistics of income.* The Secretary or his delegate shall prepare and publish annually statistics reasonably available with respect to the operation of the income tax laws, including classifications of taxpayers and of income, the amounts allowed as deductions, exemptions, and credits, and any other facts deemed pertinent and valuable.

§ 301.6108–1 Publication of statistics of income.

Pursuant to and in accordance with the provisions of section 6108, statistics reasonably available with respect to the operation of the income tax laws shall be prepared and published annually by the Commissioner.

§ 301.6109 Statutory provisions; identifying numbers.

SEC. 6109. *Identifying numbers*—(a) *Supplying of identifying numbers.* When required by regulations prescribed by the Secretary or his delegate:

(1) *Inclusion in returns.* Any person required under the authority of this title to make a return, statement, or other document shall include in such return, statement, or other document such identifying number as may be prescribed for securing proper identification of such person.

(2) *Furnishing number to other persons.* Any person with respect to whom a return, statement, or other document is required under the authority of this title to be made by another person shall furnish to such other person such identifying number as may be prescribed for securing his proper identification.

(3) *Furnishing number of another person.* Any person required under the authority of this title to make a return, statement, or other document with respect to another person shall request from such other person, and shall include in any such return, statement, or other document, such identifying number as may be prescribed for securing proper identification of such other person.

(b) *Limitation.* (1) Except as provided in paragraph (3), a return of any person with respect to his liability for tax, or any statement or other document in support thereof, shall not be considered for purposes of paragraphs (2) and (3) of subsection (a) as a return, statement, or other document with respect to another person.

(2) For purposes of paragraphs (2) and (3) of subsection (a), a return of an estate or trust with respect to its liability for tax, and any statement or other document in support thereof, shall be considered as a return, statement, or other document with respect to each beneficiary of such estate or trust.

(c) *Requirement of information.* For purposes of this section, the Secretary or his delegate is authorized to require such information as may be necessary to assign an identifying number to any person.

[Sec. 6109 as added by sec. 1(a), Act of Oct. 5, 1961 (Public Law 87–397, 75 Stat. 828)]

§ 301.6109–1 Identifying numbers.

For provisions concerning the requesting and furnishing of identifying numbers, and their inclusion in returns, statements, or other documents, see the regulations relating to the particular tax.

§ 301.6110 Statutory provisions; cross references.

SEC. 6110. *Cross references.* (1) For reports of Secretary of Agriculture concerning cotton futures, see section 4876.

(2) For inspection of returns, order forms, and prescriptions concerning narcotics, see section 4773.

(3) For inspection of returns, order forms, and prescriptions concerning marihuana, see section 4773.

(4) For authority of Secretary or his delegate to furnish list of special taxpayers, see section 4775.

(5) For inspection of records, returns, etc., concerning gasoline or lubricating oils, see section 4102.

[Sec. 6110 as renumbered by sec. 1(a), Act of Oct. 5, 1961 (Public Law 87–397, 75 Stat. 828)]

Time and Place for Paying Tax

PLACE AND DUE DATE FOR PAYMENT OF TAX

§ 301.6151 Statutory provisions; time and place for paying tax shown on returns.

SEC. 6151. *Time and place for paying tax shown on returns*—(a) *General rule.* Except as otherwise provided in this section, when a return of tax is required under this title or regulations, the person required to make such return shall, without assessment or notice and demand from the Secretary or his delegate, pay such tax to the principal internal revenue officer for the internal revenue district in which the return is required to be filed, and shall pay such tax at the

time and place fixed for filing the return (determined without regard to any extension of time for filing the return).

(b) *Exceptions*—(1) *Income tax not computed by taxpayer.* If the taxpayer elects under section 6014 not to show the tax on the return, the amount determined by the Secretary or his delegate as payable shall be paid within 30 days after the mailing by the Secretary or his delegate to the taxpayer of a notice stating such amount and making demand therefor.

(2) *Use of Government depositaries.* For authority of the Secretary or his delegate to require payments to Government depositaries, see section 6302(c).

(c) *Date fixed for payment of tax.* In any case in which a tax is required to be paid on or before a certain date, or within a certain period, any reference in this title to the date fixed for payment of such tax shall be deemed a reference to the last day fixed for such payment (determined without regard to any extension of time for paying the tax).

§ 301.6151–1 Time and place for paying tax shown on returns.

For provisions concerning the time and place for paying tax shown on returns with respect to a particular tax, see the regulations relating to such tax.

§ 301.6152 Statutory provisions; installment payments.

SEC. 6152. *Installment payments*—(a) *Privilege to elect to make installment payments*—(1) *Corporations.* A corporation subject to the taxes imposed by chapter 1 may elect to pay the unpaid amount of such taxes in installments as follows:

(A) With respect to taxable years ending before December 31, 1954, four installments, the first two of which shall be 45 percent, respectively, of such taxes and the last two of which shall be 5 percent, respectively, of such taxes;

(B) With respect to taxable years ending on or after December 31, 1954, two equal installments.

(2) *Estates of decedents.* A decedent's estate subject to the tax imposed by chapter 1 may elect to pay such tax in four equal installments.

(b) *Dates prescribed for payment of installments*—(1) *Four installments.* In any case (other than payment of estimated income tax) in which the tax may be paid in four installments, the first installment shall be paid on the date prescribed for the payment of the tax, the second installment shall be paid on or before 3 months, the third installment on or before 6 months, and the fourth installment on or before 9 months, after such date.

(2) *Two installments.* In any case (other than payment of estimated income tax) in which the tax may be paid in two installments, the first installment shall be paid on the date prescribed for the payment of the tax, and the second installment shall be paid on or before 3 months after such date.

(c) *Proration of deficiency to installments.* If an election has been made to pay the tax imposed by chapter 1 in installments and a deficiency has been assessed, the deficiency shall be prorated to such installments. Except as provided in section 6861 (relating to jeopardy assessments), that part of the deficiency so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as and as part of such installment. That part of the deficiency so prorated to any installment the date for payment of which has arrived shall be paid upon notice and demand from the Secretary or his delegate.

(d) *Acceleration of payment.* If any installment (other than an installment of estimated income tax) is not paid on or before the date fixed for its payment, the whole of the unpaid tax shall be paid upon notice and demand from the Secretary or his delegate.

[Sec. 6152 as amended by sec. 2, Act of Sept. 1, 1954 (Pub. Law 767, 83d Cong., 68 Stat. 1135).]

§ 301.6152–1 Installment payments.

For provisions relating to the installment payments of income taxes, see § 1.6152–1 of this chapter (Income Tax Regulations).

§ 301.6153 Statutory provisions; installment payments of estimated income tax by individuals.

SEC. 6153. *Installment payments of estimated income tax by individuals*—(a) *General rule.* The amount of estimated tax (as defined in section 6015(c)) with respect to which a declaration is required under section 6015 shall be paid as follows:

(1) If the declaration is filed on or before April 15 of the taxable year, the estimated tax shall be paid in four equal installments. The first installment shall be paid at the time of the filing of the declaration, the second and third on June 15 and September 15, respectively, of the taxable year, and the fourth on January 15 of the succeeding taxable year.

(2) If the declaration is filed after April 15 and not after June 15 of the taxable year, and is not required by section 6073(a) to be filed on or before April 15 of the taxable year, the estimated tax shall be paid in three equal installments. The first installment shall be paid at the time of the filing of the declaration, the second on September 15 of the taxable year, and the third on January 15 of the succeeding taxable year.

(3) If the declaration is filed after June 15 and not after September 15 of the taxable year, and is not required by section 6073(a) to be filed on or before June 15 of the taxable year, the estimated tax shall be paid in two equal installments. The first installment shall be paid at the time of the filing of the declaration, and the second on January 15 of the succeeding taxable year.

(4) If the declaration is filed after September 15 of the taxable year, and is not required by section 6073(a) to be filed on or before September 15 of the taxable year, the estimated tax shall be paid in full at the time of the filing of the declaration.

(5) If the declaration is filed after the time prescribed in section 6073(a) (including cases in which an extension of time for filing the declaration has been granted under section 6081), paragraphs (2), (3), and (4) of this subsection shall not apply, and there shall be paid at the time of such filing all installments of estimated tax which would have been payable on or before such time if the declaration had been filed within the time prescribed in section 6073(a), and the remaining installments shall be paid at the times at which, and in the amounts in which, they would have been payable if the declaration had been so filed.

(b) *Farmers or fishermen.* If an individual referred to in section 6073(b) (relating to income from farming or fishing) makes a declaration of estimated tax after September 15 of the taxable year and on or before January 15 of the succeeding taxable year, the estimated tax shall be paid in full at the time of the filing of the declaration.

(c) *Amendments of declaration.* If any amendment of a declaration is filed, the remaining installments, if any, shall be ratably increased or decreased, as the case may be, to reflect the increase or decrease, as the case may be, in the estimated tax by reason of such amendment, and if any amendment is made after September 15 of the taxable year, any increase in the estimated tax by reason thereof shall be paid at the time of making such amendment.

(d) *Application to short taxable years.* The application of this section to taxable years of less than 12 months shall be in accordance with regulations prescribed by the Secretary or his delegate.

(e) *Fiscal years.* In the application of this section to the case of a taxable year beginning on any date other than January 1, there shall be substituted, for the months specified in this section, the months which correspond thereto.

(f) *Installments paid in advance.* At the election of the individual, any installment of the estimated tax may be paid prior to the date prescribed for its payment.

[Sec. 6153 as amended by sec. 1 (a)(3), (c), Act of Sept. 25, 1962 (Pub. Law 87–682, 76 Stat. 575).]

§ 301.6153–1 Installment payments of estimated income tax by individuals.

For provisions relating to installment payments of estimated income tax by individuals, see § § 1.6153–1 to 1.6153–4, inclusive, of this chapter (Income Tax Regulations).

§ 301.6154 Statutory provisions; installment payments of estimated income tax by corporations.

SEC. 6154. *Installment payments of estimated income tax by corporations*—(a) *Amount of estimated income tax required to be paid.* The amount of estimated tax (as defined in section 6016(b)) with respect to which a declaration is required under section 6016 shall be paid as follows:

If the taxable year ends—	The amount required to be paid shall be the following percentage of the estimated tax
On or after Dec. 31, 1955, and before Dec. 31, 1956	10
On or after Dec. 31, 1956, and before Dec. 31, 1957	20
On or after Dec. 31, 1957, and before Dec. 31, 1958	30
On or after Dec. 31, 1958 and before Dec. 31, 1959	40
On or after Dec. 31, 1959	50

(b) *Time for payment of installment.* If the declaration is filed on or before the 15th day of the 9th month of the taxable year, the amount determined under subsection (a) shall be paid in two equal installments. The first installment shall be paid on or before the 15th day of the 9th month of the taxable year, and the second installment shall be paid on or before the 15th day of the 12th month of the taxable year. If the declaration is filed after the 15th day of the 9th month of the taxable year, the amount determined under subsection (a) shall be paid in full on or before the 15th day of the 12th month of the taxable year.

(c) *Amendment of declaration.* If any amendment of a declaration is filed, installments payable on the 15th day of the 12th month, if any, shall be ratably increased or decreased, as the case may be, to reflect the increase or decrease, as the case may be, in the estimated tax by reason of such amendment.

(d) *Application to short taxable year.* The application of this section to taxable years of less than 12 months shall be in accordance with regulations prescribed by the Secretary or his delegate.

(e) *Installments paid in advance.* At the election of the corporation, any installment of the estimated tax may be paid prior to the date prescribed for its payment.

§ 301.6154–1 Installment payments of estimated income tax by corporations.

For provisions relating to installment payments of estimated income tax by corporations, see § § 1.6154–1 to 1.6154–3, inclusive, of this chapter (Income Tax Regulations).

§ 301.6155 Statutory provisions; payment on notice and demand.

SEC. 6155. *Payment on notice and demand*—(a) *General rule.* Upon receipt of notice and demand from the Secretary or his delegate, there shall be paid at the place and time stated in such notice the amount of any tax (including any interest, additional amounts, additions to tax, and assessable penalties) stated in such notice and demand.

(b) *Cross references.* (1) For restrictions on assessment and collection of deficiency assessment of taxes subject to the jurisdiction of the Tax Court, see sections 6212 and 6213.

(2) For provisions relating to assessment of claims allowed in a bankruptcy or receivership proceeding, see section 6873.

(3) For provisions relating to jeopardy assessments, see subchapter A of Chapter 70.

§ 301.6155–1 Payment on notice and demand.

Upon receipt of notice and demand from the district director (including the Director of International Operations) or the director of the regional service center, there shall be paid at the place and time stated in such notice the amount of any tax (including any interest, additional amounts, additions to the tax, and assessable penalties) stated in such notice and demand.

§ 301.6156 Statutory provisions; installment payments of tax on use of highway motor vehicles.

SEC. 6156. *Installment payments of tax on use of highway motor vehicles*—(a) *Privilege to pay tax in installments.* If the taxpayer files a return of the tax imposed by section 4481 on or before the date prescribed for the filing of such return, he may elect to pay the tax shown on such return in equal installments in accordance with the following table:

If liability is incurred in:	The number of installments shall be—
July, August, or September	4
October, November, or December	3
January, February, or March	2

(b) *Dates for paying installments.* In the case of any tax payable in installments by reason of an election under subsection (a)—

(1) The first installment shall be paid on the date prescribed for payment of the tax,

(2) The second installment shall be paid on or before the last day of the third month following the calendar quarter in which the liability was incurred,

(3) The third installment (if any) shall be paid on or before the last day of the sixth month following the calendar quarter in which the liability was incurred, and

(4) The fourth installment (if any) shall be paid on or before the last day of the ninth month following the calendar quarter in which the liability was incurred.

(c) *Proration of additional tax to installments.* If an election has been made under subsection (a) in respect of tax reported on a return filed by the taxpayer and tax required to be shown but not shown on such return is assessed before the date prescribed for payment of the last installment; the additional tax shall be prorated equally to the installments for which the election was made. That part of the additional tax so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as and as part of such installment. That part of the additional tax so prorated to any installment the date for payment of which has arrived shall be paid upon notice and demand from the Secretary or his delegate.

(d) *Acceleration of payments.* If the taxpayer does not pay any installment under this section on or before the date prescribed for its payment, the whole of the unpaid tax shall be paid upon notice and demand from the Secretary or his delegate.

(e) *Section inapplicable to certain liabilities.* This section shall not apply to any liability for tax incurred in—

(1) April, May, or June of any year, or

(2) July, August, or September of 1972.

[Sec. 6156 as added by sec. 203(c)(1), Federal-Aid Highway Act of 1961 (75 Stat. 125).]

§ 301.6156–1 Installment payments of tax on use of highway motor vehicles.

For provisions relating to installment payments of the tax on use of highway motor vehicles, see § 41.6156–1 of this chapter (Highway Motor Vehicle Use Tax Regulations).

§ 301.6157 Statutory provisions; payment of taxes under provisions of the Tariff Act.

SEC. 6157. *Payment of taxes under provisions of the Tariff Act.* For collection under the provisions of the Tariff Act of 1930 of the taxes imposed by section 4501(b), and subchapters A, B, C, D, and E of chapter 38, see sections 4504 and 4601, respectively.

[Sec. 6156 as renumbered by sec. 203(c)(1), Federal-Aid Highway Act 1961 (75 Stat. 125).]

Extensions of Time for Payment

§ 301.6161 Statutory provisions; extension of time for paying tax.

SEC. 6161. *Extension of time for paying tax*—(a) *Amount determined by taxpayer on return*—(1) *General rule.* The Secretary or his delegate, except as otherwise provided in this title, may extend the time for payment of the amount of the tax shown, or required to be shown, on any return or declaration required under authority of this title (or any installment thereof), for a reasonable period not to exceed 6 months from the date fixed for payment thereof. Such extension may exceed 6 months in the case of a taxpayer who is abroad.

(2) *Estate tax.* If the Secretary or his delegate finds—

(A) That the payment, on the due date, of any part of the amount determined by the executor as the tax imposed by chapter 11,

(B) That the payment, on the date fixed for the payment of any installment under section 6166, of any part of such installment (including any part of a deficiency prorated to an installment the date for payment of which had not arrived), or

(C) That the payment upon notice and demand of any part of a deficiency prorated under the provisions of section 6166 to installments the date for payment of which had arrived,

would result in undue hardship to the estate, he may extend the time for payment for a reasonable period not in excess of 10 years from the date prescribed by section 6151(a) for payment of the tax.

(b) *Amount determined as deficiency.* Under regulations prescribed by the Secretary or his delegate, the Secretary or his delegate may extend, to the extent provided below, the time for payment of the amount determined as a deficiency:

(1) In the case of a tax imposed by chapter 1 or 12, for a period not to exceed 18 months from the date fixed for payment of the deficiency, and, in exceptional cases, for a further period not to exceed 12 months;

(2) In the case of a tax imposed by chapter 11, for a period not to exceed 4 years from the date otherwise fixed for payment of the deficiency.

An extension under this subsection may be granted only where it is shown to the satisfaction of the Secretary or his delegate that the payment of a deficiency upon the date fixed for the payment thereof will result in undue hardship to the taxpayer in the case of a tax imposed by chapter 1, to the estate in the case of a tax imposed by chapter 11, or to the donor in the case of a tax imposed by chapter 12. No extension shall be granted if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

(c) *Claims in bankruptcy or receivership proceedings.* Extensions of time for payment of any portion of a claim for tax under chapter 1 or chapter 12, allowed in bankruptcy or receivership proceedings, which is unpaid, may be had in the same manner and subject to the same provisions and limitations as provided in subsection (b) in respect of a deficiency in such tax.

(d) *Cross references*—(1) *Period of limitation.* For extension of the period of limitation in case of an extension under subsection (a)(2) or subsection (b)(2), see section 6503(d).

(2) *Security.* For authority of the Secretary or his delegate to require security in case of an extension under subsection (a)(2) or subsection (b), see section 6165.

[Sec. 6161 as amended by sec. 206(c), Technical Amendments Act 1958 (72 Stat. 1684).]

§ 301.6161–1 Extension of time for paying tax.

For provisions concerning the extension of time for paying a particular tax or for paying an amount determined as a deficiency, see the regulations relating to such tax.

§ 301.6162 Statutory provisions; extension of time for payment of tax on gain attributable to liquidation of personal holding companies.

SEC. 6162. *Extension of time for payment of tax on gain attributable to liquidation of personal holding companies*—(a) *Extension permitted.* The Secretary or his delegate may (under regulations prescribed by the Secretary or his delegate) extend (for a period not to exceed 5 years from the date fixed for the payment of the tax) the time for the payment of such portion of the amount determined as the tax under chapter 1 by the taxpayer for any taxable year beginning before January 1, 1956, as is attributable to the short-term or long-term capital gain derived by the taxpayer from the receipt by him of property other than money on a complete liquidation of a corporation to which section 331(a)(1) or 342 applies. This section shall apply only if the corporation, for its taxable year preceding the year in which occurred the complete liquidation (or the first of the series of distributions in complete liquidation), was, under the law applicable to such taxable year, a personal holding company or a foreign personal holding company. An extension under this section shall be granted only if it is shown to the satisfaction of the Secretary or his delegate that the

failure to grant the extension will result in undue hardship to the taxpayer.

(b) *Security.* For authority of the Secretary or his delegate to require security in the case of such an extension, see section 6165.

§ 301.6163–1 Extension of time for payment of tax on gain attributable to liquidation of personal holding companies.

For provisions relating to the extension of time for payment of tax on gain attributable to liquidation of personal holding companies, see § 1.6162–1 of this chapter (Income Tax Regulations).

§ 301.6165 Statutory provisions; extension of time for payment of estate tax on value of reversionary or remainder interest in property.

SEC. 6165. *Extension of time for payment of estate tax on value of reversionary or remainder interest in property*—(a) *Extension permitted.* If the value of a reversionary or remainder interest in property is included under chapter 11 in the value of the gross estate, the payment of the part of the tax under chapter 11 attributable to such interest may, at the election of the executor, be postponed until 6 months after the termination of the precedent interest or interests in the property, under such regulations as the Secretary or his delegate may prescribe.

(b) *Extension to prevent undue hardship.* If the Secretary or his delegate finds that the payment of the tax at the expiration of the period of postponement provided for in subsection (a) would result in undue hardship to the estate, he may extend the time for payment for a reasonable period not in excess of 3 years from the expiration of such period of postponement.

(c) *Cross references*—(1) *Interest.* For provisions requiring the payment of interest for the period of such extension, see section 6601(b).

(2) *Security.* For authority of the Secretary or his delegate to require security in the case of such extension, see section 6165.

[Sec. 6165 as amended by sec. 66(b)(1), Technical Amendments Act 1958 (72 Stat. 1658)]

§ 301.6163–1 Extension of time for payment of estate tax on value of reversionary or remainder interest in property.

For provisions relating to the extension of time for payment of estate tax on value of reversionary or remainder interest in property, see § 20.6163–1 of this chapter (Estate Tax Regulations).

§ 301.6164 Statutory provisions; extension of time for payment of taxes by corporations expecting carrybacks.

SEC. 6164. *Extension of time for payment of taxes by corporations expecting carrybacks*—(a) *In general.* If a corporation, in any taxable year, files with the Secretary or his delegate a statement, as provided in subsection (b), with respect to an expected net operating loss carryback from such taxable year, the time for payment of all or part of any tax imposed by subtitle A for the taxable year immediately preceding such taxable year shall be extended, to the extent and subject to the conditions and limitations hereinafter provided in this section.

(b) *Contents of statement.* The statement shall be filed at such time and in such manner and form as the Secretary or his delegate may by regulations prescribe. Such statement shall set forth that the corporation expects to have a net operating loss carryback, as provided in section 172(b), from the taxable year in which such statement is made, and shall set forth, in such detail and with such supporting data and explanation as such regulations shall require—

(1) The estimated amount of the expected net operating loss;

(2) The reasons, facts, and circumstances which cause the corporation to expect such net operating loss;

(3) The amount of the reduction of the tax previously determined attributable to the expected carryback, such tax previously determined being ascertained in accordance with the method prescribed in section 1314 (a); and such reduction being determined by applying the expected carryback in the manner provided by law to the items on the basis of which such tax was determined;

(4) The tax and the part thereof the time for payment of which is to be extended; and

(5) Such other information for purposes of carrying out the provisions of this section as may be required by such regulations.

The Secretary or his delegate shall, upon request, furnish a receipt for any statement filed, which shall set forth the date of such filing.

(c) *Amount to which extension relates and installment payments.* The amount the time for payment of which may be extended under subsection (a) with respect to any tax shall not exceed the amount of such tax shown on the return, increased by any amount assessed as a deficiency (or as interest or addition to the tax) prior to the date of filing the statement and decreased by any amount paid or required to be paid prior to the date of such filing, and the total amount of the tax the time for payment of which may be extended shall not exceed the amount stated under subsection (b)(3). For purposes of this subsection, an amount shall not be considered as required to be paid unless shown on the return or assessed as a deficiency (or as interest or addition to the tax), and an amount assessed as a deficiency (or as interest or addition to the tax) shall be considered to be required to be paid prior to the date of filing of the statement if the 10th day after notice and demand for its payment occurs prior to such date. If an extension of time under this section relates to only a part of the tax, the time for payment of the remainder shall be considered to be the dates on which payments would have been required if such remainder had been the tax and the taxpayer had elected to pay the tax in installments as provided in section 6152.

(d) *Period of extension.* The extension of time for payment provided in this section shall expire—

(1) On the last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for the filing of the return for the taxable year of the expected net operating loss, or

(2) If an application for tentative carryback adjustment provided in section 6411 with respect to such loss is filed before the expiration of the period prescribed in paragraph (1), on the date on which notice is mailed by certified mail or registered mail by the Secretary or his delegate to the taxpayer that such application is allowed or disallowed in whole or in part.

(e) *Revised statements.* Each statement filed under subsection (a) with respect to any taxable year shall be in lieu of the last statement previously filed with respect to such year. If the amount the time for payment of which is extended under a statement filed is less than the amount under the last statement previously filed, the extension of time shall be terminated as to the difference between the two amounts.

(f) *Termination.* The Secretary or his delegate is not required to make any examination of the statement, but he may make such examination thereof as he deems necessary and practicable. The Secretary or his delegate shall terminate the extension as to any part of the amount to which it relates which he deems should be terminated because, upon such examination, he believes that, as of the time such examination is made, all or any part of the statement clearly is in a material respect erroneous or unreasonable.

(g) *Payments on termination.* If an extension of time is terminated under subsection (e) or (f) with respect to any amount, then—

(1) No further extension of time shall be made under this section with respect to such amount, and

(2) The time for payment of such amount shall be considered to be the dates on which payments would have been required if there had been no extension with respect to such amount and the taxpayer had elected to pay the tax in installments as provided in section 6152.

(h) *Jeopardy.* If the Secretary or his delegate believes that collection of the amount to which an extension under this section relates is in jeopardy, he shall immediately terminate such extension, and notice and demand shall be made by him for payment of such amount.

(i) *Consolidated returns.* If the corporation seeking an extension of time under this section made or was required to make a consolidated return, either for the taxable year within which the net operating loss arises or for the preceding taxable year affected by such loss, the provisions of such section shall apply only to such extent and subject to such conditions, limitations, and exceptions as the Secretary or his delegate may by regulations prescribe.

[Sec. 6164 as amended by sec. 89(b), Technical Amendments Act 1958 (72 Stat. 1665)]

§ 301.6164–1 Extensions of time for payment of taxes by corporations expecting carrybacks.

For provisions relating to the extension of time for payment of taxes by corporations expecting carrybacks, see §§ 1.6164–1 to 1.6164–9, inclusive, of this chapter (Income Tax Regulations).

§ 301.6165 Statutory provisions; bonds where time to pay tax or deficiency has been extended.

SEC. 6165. *Bonds where time to pay tax or deficiency has been extended.* In the event the Secretary or his delegate grants any extension of time within which to pay any tax or any deficiency therein, the Secretary or his delegate may require the taxpayer to furnish a bond in such amount (not exceeding double the amount with respect to which the extension is granted) conditioned upon the payment of the amount extended in accordance with the terms of such extension.

§ 301.6165–1 Bonds where time to pay the tax or deficiency has been extended.

For provisions concerning bonds where time to pay a tax or deficiency has been extended, see the regulations relating to the particular tax.

§ 301.6166 Statutory provisions; extension of time for payment of estate tax where estate consists largely of interest in closely held business.

SEC. 6166. *Extension of time for payment of estate tax where estate consists largely of interest in closely held business*—(a) *Extension permitted.* If the value of an interest in a closely held business which is included in determining the gross estate of a decedent who was (at the date of his death) a citizen or resident of the United States exceeds either—

(1) 35 percent of the value of the gross estate of such decedent, or

(2) 50 percent of the taxable estate of such decedent,

the executor may elect to pay part or all of the tax imposed by section 2001 in two or more (but not exceeding 10) equal installments. Any such election shall be made not later than the time prescribed by section 6075(a) for filing the return of such tax (including extensions thereof), and shall be made in such manner as the Secretary or his delegate shall by regulations prescribe. If an election under this section is made, the provisions of this subtitle shall apply as though the Secretary or his delegate were extending the time for payment of the tax. For purposes of this section, value shall be value determined for Federal estate tax purposes.

(b) *Limitation.* The maximum amount of tax which may be paid in installments as provided in this section shall be an amount which bears the same ratio to the tax imposed by section 2001 (reduced by the credits against such tax) as the value of the interest in a closely held business which qualifies under subsection (a) bears to the value of the gross estate.

(c) *Closely held business.* For purposes of this section, the term "interest in a closely held business" means—

(1) An interest as a proprietor in a trade or business carried on as a proprietorship.

(2) An interest as a partner in a partnership carrying on a trade or business, if—

(A) 20 percent or more of the total capital interest in such partnership is included in determining the gross estate of the decedent, or

(B) Such partnership had 10 or less partners.

(3) Stock in a corporation carrying on a trade or business, if—

(A) 20 percent or more in value of the voting stock of such corporation is included in determining the gross estate of the decedent, or

(B) Such corporation had 10 or less shareholders.

For purposes of this subsection, determinations shall be made as of the time immediately before the decedent's death.

(d) *Special rule for interests in two or more closely held businesses.* For purposes of subsections (a), (b), and (h)(1), interests in two or more closely held businesses, with respect to each of which there is included in determining the value of the decedent's gross estate more than 50 percent of the total value of each such business, shall be treated as an interest in a single closely held business. For purposes of the 50 percent requirement of the preceding sentence, an interest in a closely held business which represents the surviving spouse's interest in property held by the decedent and the surviving spouse as community property shall be treated as having been included in determining the value of the decedent's gross estate.

(e) *Date for payment of installments.* If an election is made under subsection (a), the first installment shall be paid on or before the date prescribed by section 6151(a) for payment of the tax, and each succeeding installment shall be paid on or before the date which is one year after the date prescribed by this subsection for payment of the preceding installment.

(f) *Proration of deficiency to installments.* If an election is made under subsection (a) to pay any part of the tax imposed by section 2001 in installments and a deficiency has been assessed, the deficiency shall (subject to the limitation provided by subsection (b)) be prorated to such installments. The part of the deficiency so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as, and as a part of, such installment. The part of the deficiency so prorated to any installment the date for payment of which has arrived shall be paid upon notice and demand from the Secretary or his delegate. This subsection shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

(g) *Time for payment of interest.* If the time for payment of any amount of tax has been extended under this section, interest payable under section 6601 on any unpaid portion of such amount shall be paid annually at the same time as, and as a part of, each installment payment of the tax. Interest, on that part of a deficiency prorated under this section to any installment the date for payment of which has not arrived, for the period before the date fixed for the last installment preceding the assessment of the deficiency, shall be paid upon notice and demand from the Secretary or his delegate. In applying section 6601(b) (relating to the application of the 4-percent rate of interest in the case of certain extensions of time to pay estate tax) in the case of a deficiency, the entire amount which is prorated to installments under this section shall be treated as an amount of tax the payment of which is extended under this section.

(h) *Acceleration of payment*—(1) *Withdrawal of funds from business; disposition of interest.* (A) If—

(i) Aggregate withdrawals of money and other property from the trade or business, an interest in which qualifies under subsection (a), made with respect to such interest, equal or exceed 50 percent of the value of such trade or business, or

(ii) 50 percent or more in value of an interest in a closely held business which qualifies under subsection (a) is distributed, sold, exchanged, or otherwise disposed of,

then the extension of time for payment of tax provided in this section shall cease to apply, and any unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Secretary or his delegate.

(B) In the case of a distribution in redemption of stock to which section 303 (or so much of section 304 as relates to section 303) applies—

(i) Subparagraph (A)(i) does not apply with respect to withdrawals of money and other property distributed; and for purposes of such subparagraph the value of the trade or business shall be considered to be such value reduced by the amount of money and other property distributed, and

(ii) Subparagraph (A)(ii) does not apply with respect to the stock redeemed; and for purposes of such subparagraph the interest in the closely held business shall be considered to be such interest reduced by the value of the stock redeemed.

This subparagraph shall apply only if, on or before the date prescribed by subsection (e) for payment of the first installment which becomes due after the date of the distribution, there is paid an amount of the tax imposed by section 2001 not less than the amount of money and other property distributed.

(C) Subparagraph (A)(ii) does not apply to an exchange of stock pursuant to a plan of reorganization described in subparagraph (D), (E), or (F) of section 368(a)(1) nor to an exchange to which section 355 (or so much of section 356 as relates to section 355) applies; but any stock received in such an exchange shall be treated for purposes of such subparagraph as an interest qualifying under subsection (a).

(D) Subparagraph (A)(ii) does not apply to a transfer of property of the decedent by the executor to a person entitled to receive such property under the decedent's will or under the applicable law of decent and distribution.

(2) *Undistributed income of estate.* (A) If an election is made under this section and the estate has undistributed net income for any taxable year after its fourth taxable year, the executor shall, on or before the date prescribed by law for filing the income tax return for such taxable year (including extensions thereof), pay an amount equal to such undistributed net income in liquidation of the unpaid portion of the tax payable in installments.

(B) For purposes of subparagraph (A), the undistributed net income of the estate for any taxable year is the amount by which the distributable net income of the estate for such taxable year (as defined in section 643) exceeds the sum of—

(i) The amounts for such taxable year specified in paragraphs (1) and (2) of section 661(a) (relating to deduction for distributions, etc.);

(ii) The amount of tax imposed for the taxable year on the estate under chapter 1; and

(iii) The amount of the Federal estate tax (including interest) paid by the executor during the taxable year (other than any amount paid pursuant to this paragraph).

(3) *Failure to pay installment.* If any installment under this section is not paid on or before the date fixed for its payment by this section (including any extension of time for the payment of such installment), the unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Secretary or his delegate.

(i) *Transitional rules*—(1) *In general.* If—

(A) A deficiency in the tax imposed by section 2001 is assessed after the date of the enactment of this section, and

(B) The estate qualifies under paragraph (1) or (2) of subsection (a),

the executor may elect to pay the deficiency in installments. This subsection shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

(2) *Time of election.* An election under this subsection shall be made not later than 60 days after issuance of notice and demand by the Secretary or his delegate for the payment of the deficiency, and shall be made in such manner as the Secretary or his delegate shall by regulations prescribe.

(3) *Effect of election on payment.* If an election is made under this subsection, the deficiency shall (subject to the limitation provided by subsection (b)) be prorated to the installments which would have been due if an election had been timely made under this section at the time the estate tax return was filed. The part of the deficiency so prorated to any installment the date for payment of which would have arrived shall be paid at the time of the making of the election under this subsection. The portion of the deficiency so prorated to installments the date for payment of which would not have so arrived shall be paid at the time such installments would have been due if such an election had been made.

(4) *Application of subsection (h)(3).* In the case of an election under this subsection, subsection (h)(3) shall not apply with re-

spect to undistributed net income for any taxable year ending before January 1, 1960.

(j) *Regulations.* The Secretary or his delegate shall prescribe such regulations as may be necessary to the application of this section.

(k) *Cross references*—(1) *Interest.* For provisions requiring the payment of interest at the rate of 4 percent per annum for the period of an extension, see section 6601(b).

(2) *Security.* For authority of the Secretary or his delegate to require security in the case of an extension under this section, see section 6165.

(3) *Period of limitation.* For extension of the period of limitation in the case of an extension under this section, see section 6503(d).

[Sec. 6166 as added by sec. 206(a), Technical Amendments Act 1958 (72 Stat. 1681)]

§ 301.6166–1 Extension of time for payment of estate tax where estate consists largely of interest in closely held business.

For provisions relating to the extension of time for payment of estate tax where estate consists largely of interest in closely held business, see §§ 20.6166–1 to 20.6166–4, inclusive, of this chapter (Estate Tax Regulations).

Assessment

In General

§ 301.6201 Statutory provisions; assessment authority.

Sec. 6201. *Assessment authority*—(a) *Authority of Secretary or delegate.* The Secretary or his delegate is authorized and required to make the inquiries, determinations, and assessments of all taxes (including interest, additional amounts, additions to the tax, and assessable penalties) imposed by this title, or accruing under any former internal revenue law, which have not been duly paid by stamp at the time and in the manner provided by law. Such authority shall extend to and include the following:

(1) *Taxes shown on return.* The Secretary or his delegate shall assess all taxes determined by the taxpayer or by the Secretary or his delegate as to which returns or lists are made under this title.

(2) *Unpaid taxes payable by stamp*—(A) *Omitted stamps.* Whenever any article upon which a tax is required to be paid by means of a stamp is sold or removed for sale or use by the manufacturer thereof or whenever any transaction or act upon which a tax is required to be paid by means of a stamp occurs without the use of the proper stamp, it shall be the duty of the Secretary or his delegate, upon such information as he can obtain, to estimate the amount of tax which has been omitted to be paid and to make assessment therefor upon the person or persons the Secretary or his delegate determines to be liable for such tax.

(B) *Check or money order not duly paid.* In any case in which a check or money order received under authority of section 6311 as payment for stamps is not duly paid, the unpaid amount may be immediately assessed as if it were a tax imposed by this title, due at the time of such receipt, from the person who tendered such check or money order.

(3) *Erroneous income tax prepayment credits.* If on any return or claim for refund of income taxes under subtitle A there is an overstatement of the credit for income tax withheld at the source, or of the amount paid as estimated income tax, the amount so overstated which is allowed against the tax shown on the return or which is allowed as a credit or refund may be assessed by the Secretary or his delegate in the same manner as in the case of a mathematical error appearing upon the return.

(b) *Estimated income tax.* No unpaid amount of estimated tax under section 6153 or 6154 shall be assessed.

(c) *Compensation of child.* Any income tax under chapter 1 assessed against a child, to the extent attributable to amounts includible in the gross income of the child, and not of the parent, solely by reason of section 73(a), shall, if not paid by the child, for all purposes be considered as having also been properly assessed against the parent.

(d) *Deficiency proceedings.* For special rules applicable to deficiencies of income, estate, and gift taxes, see subchapter B.

§ 301.6201–1 Assessment authority.

(a) *In general.* The district director is authorized and required to make all inquiries necessary to the determination and assessment of all taxes imposed by the Internal Revenue Code of 1954 or any prior internal revenue law. The district director is further authorized and required, and the director of the regional service center is authorized, to make the determinations and the assessments of such taxes. However, certain inquiries and determinations are, by direction of the Commissioner, made by other officials, such as assistant regional commissioners. The term "taxes" includes interest, additional amounts, additions to the taxes, and assessable penalties. The authority of the district director and the director of the regional service center to make assessments includes the following:

(1) *Taxes shown on return.* The district director or the director of the regional service center shall assess all taxes determined by the taxpayer or by the district director or the director of the regional service center and disclosed on a return or list.

(2) *Unpaid taxes payable by stamp.* (i) If without the use of the proper stamp:

(a) Any article upon which a tax is required to be paid by means of a stamp is sold or removed for sale or use by the manufacturer thereof, or

(b) Any transaction or act upon which a tax is required to be paid by means of a stamp occurs;

the district director, upon such information as he can obtain, must estimate the amount of the tax which has not been paid and the district director or the director of the regional service center must make assessment therefor upon the person the district director determines to be liable for the tax. However, the district director or the director of the regional service center may not assess any tax which is payable by stamp unless the taxpayer fails to pay such tax at the time and in the manner provided by law or regulations.

(ii) If a taxpayer gives a check or money order as a payment for stamps but the check or money order is not paid upon presentment, then the district director or the director of the regional service center shall assess the amount of the check or money order against the taxpayer as if it were a tax due at the time the check or money order was received by the district director.

(3) *Erroneous income tax prepayment credits.* If the amount of income tax withheld or the amount of estimated income tax paid is overstated by a taxpayer on a return or on a claim for refund, the amount so overstated which is allowed against the tax shown on the return or which is allowed as a credit or refund shall be assessed by the district director or the director of the regional service center in the same manner as in the case of a mathematical error on the return. See section 6213(b)(1), relating to exceptions to restrictions on assessment.

(b) *Estimated income tax.* Neither the district director nor the director of the regional service center shall assess any amount of estimated income tax required to be paid under section 6153 or 6154 which is unpaid.

(c) *Compensation of child.* Any income tax assessed against a child, to the extent of the amount attributable to income included in the gross income of the child solely by reason of section 73(a) or the corresponding provision of prior law, if not paid by the child, shall, for the purposes of the income tax imposed by chapter 1 of the Code (or the corresponding provisions of prior law), be considered as having also been properly assessed against the parent. In any case in which the earnings of the child are included in the gross income of the child solely by reason of section 73(a) or the corresponding provision of prior law, the parent's liability is an amount equal to the amount by which the tax assessed against the child (and not paid by him) has been increased by reason of the inclusion of such earnings in the gross income of the child. Thus, if for the calendar year 1954 the child has income of $1,000 from investments and of $3,000 for services rendered, and the latter amount is includible in the gross income of the child under section 73(a) and the child has no wife or dependents, the tax liability determined under section 3 is $625. If the child had only the investment income of $1,000, his tax liability would be $62. If the tax of $625 is assessed against the child, the difference between $625 and $62, or $563, is the amount of such tax which is considered to have been properly assessed against the parent, if not paid by the child.

§ 301.6202 Statutory provisions; establishment by regulations of mode or time of assessment.

Sec. 6202. *Establishment by regulations of mode or time of assessment.* If the mode or time for the assessment of any internal revenue tax (including interest, additional amounts, additions to the tax, and assessable penalties) is not otherwise provided for, the Secretary or his delegate may establish the same by regulations.

§ 301.6203 Statutory provisions; method of assessment.

Sec. 6203. *Method of assessment.* The assessment shall be made by recording the liability of the taxpayer in the office of the Secretary or his delegate in accordance with rules or regulations prescribed by the Secretary or his delegate. Upon request of the taxpayer, the Secretary or his delegate shall furnish the taxpayer a copy of the record of the assessment.

§ 301.6203–1 Method of assessment.

The district director and the director of the regional service center shall appoint one or more assessment officers. The district director shall also appoint assessment officers in a Service Center servicing his district. The assessment shall be made by an assessment officer signing the summary record of assessment. The summary record, through supporting records, shall provide identification of the taxpayer, the character of the liability assessed, the taxable period, if applicable, and the amount of the assessment. The amount of the assessment shall, in the case of tax shown on a return by the taxpayer, be the amount so shown, and in all other cases the amount of the assessment shall be the amount shown on the supporting list or record. The date of the assessment is the date the summary record is signed by an assessment officer. If the taxpayer requests a copy of the record of assessment, he shall be furnished a copy of the pertinent parts of the assessment which set forth the name of the taxpayer, the date of assessment, the character of the liability assessed, the taxable period, if applicable, and the amounts assessed.

§ 301.6204 Statutory provisions; supplemental assessments.

Sec. 6204. *Supplemental assessments*—(a) *General rule.* The Secretary or his delegate may, at any time within the period prescribed for assessment, make a supplemental assessment whenever it is ascertained that any assessment is imperfect or incomplete in any material respect.

(b) *Restrictions on assessment.* For restrictions on assessment of deficiencies in income, estate, and gift taxes, see section 6213.

§ 301.6204–1 Supplemental assessments.

If any assessment is incomplete or incorrect in any material respect, the district director or the director of the regional service center, subject to the restrictions with respect to the assessment of deficiencies in income, estate, and gift taxes, and subject to the applicable period of limitation, may make a supplemental assessment for the purpose of correcting or completing the original assessment.

§ 301.6205 Statutory provisions; special rules applicable to certain employment taxes.

Sec. 6205. *Special rules applicable to certain employment taxes*—(a) *Adjustment of tax*—(1) *General rule.* If less than the correct amount of tax imposed by section 3101, 3111, 3301, 3321, or 3402 is paid with respect to any payment of wages or compensation, proper adjustments, with respect to both the tax and the amount to be deducted, shall be made, without interest, in such manner and at such times as the Secretary or his delegate may by regulations prescribe.

(2) *United States as employer.* For purposes of this subsection, in the case of remuneration received from the United States or a wholly owned instrumentality thereof during any calendar year, each head of a Federal agency or instrumentality who makes a return pursuant to section 3122 and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall be deemed a separate employer.

(3) *Guam or American Samoa as employer.* For purposes of this subsection, in the case of remuneration received during any calendar year from the Government of Guam, the Government of American Samoa, a political subdivision of either, or any instrumentality of any one or more of the foregoing which is wholly owned thereby, the Governor of Guam, the Governor of American Samoa, and each agent designated by either who makes a return pursuant to section 3125 shall be deemed a separate employer.

(b) *Underpayments.* If less than the correct amount of tax imposed by section 3101, 3111, 3301, 3321, or 3402 is paid or deducted with respect to any payment of wages or compensation and the underpayment cannot be adjusted under subsection (a) of this section, the amount of the underpayment shall be assessed and collected in such manner and at such times (subject to the statute of limitations properly applicable thereto) as the Secretary or his delegate may by regulations prescribe.

[Sec. 6205 as amended by sec. 103(r)(1), Social Security Amendments 1960 (74 Stat. 940)]

§ 301.6205–1 Special rules applicable to certain employment taxes.

For regulations under section 6205, see § 31.6205–1 of this chapter (Employment Tax Regulations).

§ 301.6206 Statutory provisions; special rules applicable to excessive claims under sections 6420 and 6421.

Sec. 6206. *Special rules applicable to excessive claims under sections 6420 and 6421.* Any portion of a payment made under section 6420 or 6421 which constitutes an excessive amount (as defined in section 6675(b)), and any civil penalty provided by section 6675, may be assessed and collected as if it were a tax imposed by section 4061 and as if the person who made the claim were liable for such tax. The period for assessing any such portion, and for assessing any such penalty, shall be 3 years from the last day prescribed for the filing of the claim under section 6420 or 6421, as the case may be.

[Sec. 6206 as added by sec. 4(b)(1), Act of Apr. 2, 1956 (Pub. Law 466, 84th Cong., 70 Stat. 90), and as amended by sec. 208(d)(1), Highway Revenue Act 1956 (70 Stat. 398)]

§ 301.6206–1 Special rules applicable to excessive claims under sections 6420 and 6421.

For regulations under section 6206, see § 48.6206–1 of this chapter (Manufacturers and Retailers Excise Tax Regulations).

§ 301.6207 Statutory provisions; cross references.

Sec. 6207. *Cross references.* (1) For prohibition of suits to restrain assessment of any tax, see section 7421.

(2) For prohibition of assessment of taxes against insolvent banks, see section 7507.

(3) For assessment where property subject to tax has been sold in a distraint proceeding without the tax having been assessed prior to such sale, see section 6342.

(4) For assessment with respect to taxes required to be paid by chapter 32, see section 5703.

(5) For assessment in case of distilled spirits removed from place where distilled and not deposited in bonded warehouse, see section 5006(c).

(6) For period of limitation upon assessment, see chapter 66.

(7) For assessment under the provisions of the Tariff Act of 1930 of the taxes imposed by section 4501(b), and subchapters A, B, C, D, and E of chapter 38, see sections 4504 and 4601, respectively.

[Sec. 6206 as renumbered 6207 by sec. 4(b)(1), Act of Apr. 2, 1956 (Pub. Law 466, 84th Cong., 70 Stat. 90), and as amended by sec. 208(d)(3), (8), Excise Tax Technical Changes Act 1958 (72 Stat. 1426)]

Deficiency Procedures

§ 301.6211 Statutory provisions; definition of a deficiency.

Sec. 6211. *Definition of a deficiency*—(a) *In general.* For purposes of this title in the case of income, estate, and gift taxes, imposed by subtitles A and B, the term "deficiency" means the amount by which the tax imposed by subtitles A or B exceeds the excess of—

(1) The sum of

(A) The amount shown as the tax by the taxpayer upon his return, if a return was made by the taxpayer and an amount was shown as the tax by the taxpayer thereon, plus

(B) The amounts previously assessed (or collected without assessment) as a deficiency, over—

(2) The amount of rebates, as defined in subsection (b)(2), made.

(b) *Rules for application of subsection (a).* For purposes of this section—

(1) The tax imposed by chapter 1 and the tax shown on the return shall both be determined without regard to payments on account of estimated tax, without regard to the credit under section 31, and without regard to so much of the credit under section 32 as exceeds 2 percent of the interest on obligations described in section 1451.

(2) The term "rebate" means so much of an abatement, credit, refund, or other repayment, as was made on the ground that the tax imposed by subtitles A or B was less than the excess of the amount specified in subsection (a)(1) over the rebates previously made.

(3) The computation by the Secretary or his delegate, pursuant to section 6014, of the tax imposed by chapter 1 shall be considered as having been made by the taxpayer and the tax so computed considered as shown by the taxpayer upon his return.

§ 301.6211–1 Deficiency defined.

(a) In the case of the income tax imposed by subtitle A of the Code, the estate tax imposed by chapter 11, subtitle B, of the Code, or the gift tax imposed by chapter 12, subtitle B, of the Code, the term "deficiency" means the excess of the tax (income, estate, or gift tax, as the case may be) over the sum of the amount shown as such tax by the taxpayer upon his return and the amounts previously assessed (or collected without assessment) as a deficiency; but such sum shall first be reduced by the amount of rebates made. If no return is made, or if the return (except a return of income tax on Form 1040A pursuant to sec. 6014) does not show any tax, for the purpose of the definition "the amount shown as the tax by the taxpayer upon his return" shall be considered as zero. Accordingly, in any such case, if no deficiencies with respect to the tax have been as-

sessed, or collected without assessment, and no rebates with respect to the tax have been made, the deficiency is the amount of the tax imposed by subtitle A, chapter 11, or chapter 12. Additional tax shown on an "amended return", so-called, filed after the due date of the return, is a deficiency within the meaning of the Code.

(b) For purposes of the definition, the income tax imposed by subtitle A and the income tax shown on the return shall both be determined without regard to the credit provided in section 31 for income tax withheld at the source and without regard to so much of the credit provided in section 32 for income taxes withheld at the source as exceeds 2 percent of the interest on tax-free covenant bonds described in section 1451. Payments on account of estimated income tax, like other payments of tax by the taxpayer, shall likewise be disregarded in the determination of a deficiency.

(c) The computation by the district director, pursuant to section 6014(a), of the income tax imposed by subtitle A shall be considered as having been made by the taxpayer and the tax so computed shall be considered as the tax shown by the taxpayer upon his return.

(d) If so much of the credit claimed on the return for income taxes withheld at the source as exceeds 2 percent of the interest on tax-free covenant bonds is greater than the amount of such credit allowable, the unpaid portion of the tax attributable to such difference will be collected not as a deficiency but as an underpayment of the tax shown on the return.

(e) This section may be illustrated by the following examples:

Example (1). The amount of income tax shown by the taxpayer upon his return for the calendar year 1954 was $1,600. The taxpayer had no amounts previously assessed (or collected without assessment) as a deficiency. He claimed a credit in the amount of $2,850 for tax withheld at source on wages under section 3402, and a refund of $450 (not a rebate under section 6211) was made to him as an overpayment of tax for the taxable year. It is later determined that the correct tax for the taxable year is $1,850. A deficiency of $250 is determined as follows:

Tax imposed by subtitle A		$1,850
Tax shown on return	$1,600	
Tax previously assessed (or collected without assessment) as a deficiency	None	
Total	1,600	
Amount of rebates made	None	
Balance		1,600
Deficiency		250

Example (2). The taxpayer made a return for the calendar year 1954 showing a tax of $1,350 before any credits for tax withheld at the source. He claimed a credit in the amount of $800 for tax withheld at source on wages under section 3402 and $60 for tax paid at source under section 1451 upon interest on bonds containing a tax-free covenant. The taxpayer had no amounts previously assessed (or collected without assessment) as a deficiency. The district director determines that the 2 percent tax paid at the source on tax-free covenant bonds is $40 instead of $60 as claimed by the taxpayer and that the tax imposed by subtitle A is $1,360 (total tax $1,400 less $40 paid at source on tax-free covenant bonds). A deficiency in the amount of $170 is determined as follows:

Tax imposed by subtitle A ($1,400 minus $40)		$1,360
Tax shown on return ($1,350 minus $60)	$1,190	
Tax previously assessed (or collected without assessment) as a deficiency	None	
Total	1,190	
Amount of rebates made	None	
Balance		1,190
Deficiency		170

(f) As used in section 6211, the term "rebate" means so much of an abatement, credit, refund, or other repayment as is made on the ground that the tax imposed by subtitle A or B of the Code is less than the excess of (1) the amount shown as the tax by the taxpayer upon his return increased by the amount previously assessed (or collected without assessment) as a deficiency over (2) the amount of rebates previously made. For example, assume that the amount of income tax shown by the taxpayer upon his return for the taxable year is $600 and the amount claimed as a credit under section 31 for income tax withheld at the source is $900. If the district director determines that the tax imposed by subtitle A is $600 and makes a refund of $300, no part of such refund constitutes a "rebate" since the refund is not made on the ground that the tax imposed by subtitle A is less than the tax shown on the return. If, however, the district director determines that the tax imposed by subtitle A is $500 and refunds $400, the amount of $100 of such refund would constitute a rebate since it is made on the ground that the tax imposed by subtitle A ($500) is less than the tax shown on the return ($600). The amount of such rebate ($100) would be taken into account in arriving at the amount of any deficiency subsequently determined.

§ 301.6212 Statutory provisions; notice of deficiency.

SEC. 6212. *Notice of deficiency*—(a) *In general.* If the Secretary or his delegate determines that there is a deficiency in respect of any tax imposed by subtitles A or B, he is authorized to send notice of such deficiency to the taxpayer by certified mail or registered mail.

(b) *Address for notice of deficiency*—(1) *Income and gift taxes.* In the absence of notice to the Secretary or his delegate under section 6903 of the existence of a fiduciary relationship, notice of a deficiency in respect of a tax imposed by subtitle A or chapter 12, if mailed to the taxpayer at his last known address, shall be sufficient for purposes of subtitle A, chapter 12, and this chapter even if such taxpayer is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

(2) *Joint income tax return.* In the case of a joint income tax return filed by husband and wife, such notice of deficiency may be a single joint notice, except that if the Secretary or his delegate has been notified by either spouse that separate residences have been established, then, in lieu of the single joint notice, a duplicate original of the joint notice shall be sent by certified mail or registered mail to each spouse at his last known address.

(3) *Estate tax.* In the absence of notice to the Secretary or his delegate under section 6903 of the existence of a fiduciary relationship, notice of a deficiency in respect of a tax imposed by chapter 11, if addressed in the name of the decedent or other person subject to liability and mailed to his last known address, shall be sufficient for purposes of chapter 11 and of this chapter.

(c) *Further deficiency letters restricted*—(1) *General rule.* If the Secretary or his delegate has mailed to the taxpayer a notice of deficiency as provided in subsection (a), and the taxpayer files a petition with the Tax Court within the time prescribed in section 6213(a), the Secretary or his delegate shall have no right to determine any additional deficiency of income tax for the same taxable year, or of gift tax for the same calendar year, or of estate tax in respect of the taxable estate of the same decedent, except in the case of fraud, and except as provided in section 6214(a) (relating to assertion of greater deficiencies before the Tax Court), in section 6213(b)(1) (relating to mathematical errors), or in section 6861(c) (relating to the making of jeopardy assessments).

(2) *Cross references.* For assessment as a deficiency notwithstanding the prohibition of further deficiency letters, in the case of—

(A) Deficiency attributable to change of election to take standard deduction where taxpayer and his spouse made separate returns, see section 144(b).

(B) Deficiency attributable to gain on involuntary conversion, see section 1033 (a)(3)(C) and (D).

(C) Deficiency attributable to gain on sale or exchange of personal residence, see section 1034(j).

(D) Deficiency attributable to war loss recoveries where prior benefit rule is elected, see section 1336.

[Sec. 6212 as amended by secs. 76, 89(b), Technical Amendments Act 1958 (72 Stat. 1661, 1665)]

§ 301.6212–1 Notice of deficiency.

(a) *General rule.* If a district director (or an assistant regional commissioner, appellate) determines that there is a deficiency in respect of income, estate, or gift tax imposed by subtitle A or B of the Code, he is authorized to notify the taxpayer of the deficiency by registered mail prior to September 3, 1958, and by either registered or certified mail on and after September 3, 1958.

(b) *Address for notice of deficiency*—(1) *Income and gift taxes.* Unless the district director for the district in which the return in question was filed has been notified under the provisions of section 6903 as to the existence of a fiduciary relationship, notice of a deficiency in respect of income tax or of gift tax shall be sufficient if mailed to the taxpayer at his last known address, even though such taxpayer is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

(2) *Joint income tax returns.* If a joint income tax return has been filed by husband and wife, the district director (or assistant regional commissioner, appellate) may, unless the district director for the district in which such joint return was filed has been notified by either spouse that a separate residence has been established, send either a joint or separate notice of deficiency to the taxpayers at their last known address. If, however, the proper district director has been so notified, a separate notice of deficiency that is a duplicate original of the joint notice, must be sent by registered mail prior to September 3, 1958, and by either registered or certified mail on and after September 3, 1958, to each spouse at his or her last known address. The notice of separate residences should be addressed to the district director for the district in which the joint return was filed.

(3) *Estate tax.* In the absence of notice, under the provisions of section 6903 as to the existence of a fiduciary relationship, to the district director for the district in which the estate tax return was filed, notice of a deficiency in respect of the estate tax imposed by chapter 11, subtitle B, of the Code shall be sufficient if addressed in the name of the decedent or other person subject to liability and mailed to his last known address.

(c) *Further deficiency letters restricted.* If the district director (or assistant regional commissioner, appellate) mails to the taxpayer notice of a deficiency, and the taxpayer files a petition with the Tax Court within the prescribed period, no additional deficiency may be determined with respect to income tax for the same taxable year, gift tax for the same calendar year, or estate tax with respect to the taxable estate of the same decedent. This restriction shall not apply in the case of fraud, assertion of greater deficiencies before the Tax Court as provided in section 6214(a), mathematical errors as provided in section 6213(b)(1), or jeopardy assessments as provided in section 6861(c).

§ 301.6213 Statutory provisions; restrictions applicable to deficiencies; petition to Tax Court.

SEC. 6213. *Restrictions applicable to deficiencies; petition to Tax Court*—(a) *Time for filing petition and restriction on assessment.* Within 90 days, or 150 days if the notice is addressed to a person outside the States of the Union and the District of Columbia, after the notice of deficiency authorized in section 6212 is mailed (not counting Saturday, Sunday, or a legal holiday in the District of Columbia as the last day), the taxpayer may file a petition with the Tax Court for a redetermination of the deficiency. Except as otherwise provided in section 6861 no assessment of a deficiency in respect of any tax imposed by subtitle A or B and no levy or proceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the taxpayer, nor until the expiration of such 90-day or 150-day period, as the case may be, nor, if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final. Notwithstanding the provisions of section 7421(a), the making of such assessment or the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

(b) *Exceptions to restrictions on assessment*—(1) *Mathematical errors.* If the taxpayer is notified that, on account of a mathematical error appearing upon the return, an amount of tax in excess of that shown upon the return is due, and that an assessment of the tax has been or will be made on the basis of what would have been the correct amount of tax but for the mathematical error, such notice shall not be considered as a notice of deficiency for the purpose of subsection (a) (prohibiting assessment and collection until notice of the deficiency has been mailed), or of section 6213(c)(1) (restricting further deficiency letters), or section 6512(a) (prohibiting credits or refunds after petition to the Tax Court), and the taxpayer shall have no right to file a petition with the Tax Court based on such notice, nor shall such assessment or collection be prohibited by the provisions of subsection (a) of this section.

(2) *Assessments arising out of tentative carryback adjustments.* If the Secretary or his delegate determines that the amount applied, credited, or refunded under section 6411 is in excess of the overassessment attributable to the carryback with respect to which such amount was applied, credited, or refunded, he may assess the amount of the excess as a deficiency as if it were due to a mathematical error appearing on the return.

(3) *Assessment of amount paid.* Any amount paid as a tax or in respect of a tax may be assessed upon the receipt of such payment notwithstanding the provisions of subsection (a). In any case where such amount is paid after the mailing of a notice of deficiency under section 6212, such payment shall not deprive the Tax Court of jurisdiction over such deficiency determined under section 6211 without regard to such assessment.

(c) *Failure to file petition.* If the taxpayer does not file a petition with the Tax Court within the time prescribed in subsection (a), the deficiency, notice of which has been mailed to the taxpayer, shall be assessed, and shall be paid upon notice and demand from the Secretary or his delegate.

(d) *Waiver of restrictions.* The taxpayer shall at any time (whether or not a notice of deficiency has been issued) have the right, by a signed notice in writing filed with the Secretary or his delegate, to waive the restrictions provided in subsection (a) on the assessment and collection of the whole or any part of the deficiency.

(e) *Cross references.* (1) For assessment as if a mathematical error on the return, in the case of erroneous claims for income tax prepayment credits, see section 6201(a)(3).

(2) For assessments without regard to restrictions imposed by this section in the case of—

(A) Recovery of foreign income taxes, see section 905(c).

(B) Recovery of foreign estate tax, see section 2016.

§ 301.6213–1 Restrictions applicable to deficiencies; petition to Tax Court.

(a) *Time for filing petition and restrictions on assessment*—(1) *Time for filing petition.* Within 90 days after notice of the deficiency is mailed (or within 150 days after mailing in the case of such notice addressed to a person outside the States of the Union and the District of Columbia), as provided in section 6212, a petition may be filed with the Tax Court of the United States for a redetermination of the deficiency. In determining such 90-day or 150-day period, Saturday, Sunday, or a legal holiday in the District of Columbia is not counted as the 90th or 150th day. In determining the time for filing a petition with the Tax Court in the case of a notice of deficiency mailed to a resident of Alaska prior to 12:01 p.m., e.s.t., January 3, 1959, and in the case of a notice of deficiency mailed to a resident of Hawaii prior to 4 p.m., e.d.s.t., August 21, 1959, the term "States of the Union" does not include Alaska or Hawaii, respectively, and the 150-day period applies. In determining the time within which a petition to the Tax Court may be filed in the case of a notice of deficiency mailed to a resident of Alaska after 12:01 p.m., e.s.t., January 3, 1959, and in the case of a notice of deficiency mailed to a resident of Hawaii after 4 p.m., e.d.s.t., August 21, 1959, the term "States of the Union" includes Alaska and Hawaii, respectively, and the 90-day period applies.

(2) *Restrictions on assessment.* Except as otherwise provided by this section, by section 6861(a) (relating to jeopardy assessments of income, estate, and gift taxes), by section 6871(a) (relating to immediate assessment of claims for income, estate, and gift taxes in bankruptcy and receivership cases), or by section 7485 (in case taxpayer petitions for a review of a Tax Court decision without filing bond), no assessment of a deficiency in respect of a tax imposed by subtitle A or B of the Code and no levy or proceeding in court for its collection shall be made until notice of deficiency has been mailed to the taxpayer, nor until the expiration of the 90-day or 150-day period within which a petition may be filed with the Tax Court, nor, if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final. As to the date on which a decision of the Tax Court becomes final, see section 7481. Notwithstanding the provisions of section 7421(a), the making of an assessment or the beginning of a proceeding or levy which is forbidden by this paragraph may be enjoined by a proceeding in the proper court.

(b) *Exceptions to restrictions on assessment of deficiencies*—(1) *Mathematical errors.* If a taxpayer is notified of an additional amount of tax due on account of a mathematical error appearing upon the return, such notice is not deemed a notice of deficiency, and the taxpayer has no right to file a petition with the Tax Court upon the basis of such notice, nor is the assessment of such additional amount prohibited by section 6213(a).

(2) *Tentative carryback adjustments.* (i) If the district director or the director of the regional service center determines that any amount applied, credited, or refunded under section 6411(b) with respect to an application for a tentative carryback adjustment is in excess of the overassessment properly attributable to the carryback upon which such application was based, the district director or the director of the regional service center may assess the amount of the excess as a deficiency as if such deficiency were due to a mathematical error appearing on the return. That is, the district director or the director of the regional service center may assess an amount equal to the excess, and such amount may be collected, without regard to the restrictions on assessment and collection imposed by section 6213(a). Thus, the district direc-

tor or the director of the regional service center may assess such amount without regard to whether the taxpayer has been mailed a prior notice of deficiency. Either before or after assessing such an amount, the district director or the director of the regional service center will notify the taxpayer that such assessment has been or will be made. Such notice will not constitute a notice of deficiency, and the taxpayer may not file a petition with the Tax Court of the United States based on such notice. However, the taxpayer, within the applicable period of limitations, may file a regular claim for credit or refund based on the carryback, if he has not already filed such a claim, and may maintain a suit based on such claim if it is disallowed or if it is not acted upon by the Internal Revenue Service within 6 months from the date the claim was filed.

(ii) The method provided in subdivision (i) of this subparagraph to recover any amount applied, credited, or refunded in respect of an application for a tentative carryback adjustment which should not have been so applied, credited, or refunded is not an exclusive method. Two other methods are available to recover such amount: (a) By way of a deficiency notice under section 6212; or (b) by a suit to recover an erroneous refund under section 7405. Any one or more of the three available methods may be used to recover any amount which was improperly applied, credited, or refunded in respect of an application for a tentative carryback adjustment.

(3) *Assessment of amount paid.* Any payment made after the mailing of a notice of deficiency which is made by the taxpayer as a payment with respect to the proposed deficiency may be assessed without regard to the restrictions on assessment and collection imposed by section 6213(a) even though the taxpayer has not filed a waiver of restrictions on assessment as provided in section 6213 (d). A payment of all or part of the deficiency asserted in the notice together with the assessment of the amount so paid will not affect the jurisdiction of the Tax Court. If any payment is made before the mailing of a notice of deficiency, the district director or the director of the regional service center is not prohibited by section 6213(a) from assessing such amount, and such amount may be assessed if such action is deemed to be proper. If such amount is assessed, the assessment is taken into account in determining whether or not there is a deficiency for which a notice of deficiency must be issued. Thus, if such a payment satisfies the taxpayer's tax liability, no notice of deficiency will be mailed and the Tax Court will have no jurisdiction over the matter. In any case in which there is a controversy as to the correct amount of the tax liability, the assessment of any amount pursuant to the provisions of section 6213(b)(2) shall in no way be considered to be the acceptance of an offer by the taxpayer to settle such controversy.

(d) *Jeopardy.* If the district director believes that the assessment or collection of a deficiency will be jeopardized by delay, such deficiency shall be assessed immediately, as provided in section 6861 (a).

(e) *Failure to file petition.* If no petition is filed with the Tax Court within the period prescribed in section 6213(a), the district director or the director of the regional service center shall assess the amount determined as the deficiency and of which the taxpayer was notified by registered or certified mail and the taxpayer shall pay the same upon notice and demand therefor. In such case the district director will not be precluded from determining a further deficiency and notifying the taxpayer thereof by registered or certified mail. If a petition is filed with the Tax Court the taxpayer should notify the district director who issued the notice of deficiency that the petition has been filed in order to prevent an assessment of the amount determined to be the deficiency.

(f) *Waiver of restrictions.* The taxpayer may at any time by a signed notice in writing filed with the district director waive the restrictions on the assessment and collection of the whole or any part of the deficiency. The notice must in all cases be filed with the district director or other authorized official under whose jurisdiction the audit or other consideration of the return in question is being conducted. The filing of such notice with the Tax Court does not constitute filing with the district director within the meaning of the Code. After such waiver has been acted upon by the district director and the assessment has been made in accordance with its terms, the waiver cannot be withdrawn.

§ 301.6214 Statutory provisions; determinations by Tax Court.

SEC. 6214. *Determinations by Tax Court*—(a) *Jurisdiction as to increase of deficiency, additional amounts, or additions to the tax.* The Tax Court shall have jurisdiction to redetermine the correct amount of the deficiency even if the amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to the taxpayer, and to determine whether any additional amount, or addition to the tax should be assessed, if claim therefor is asserted by the Secretary or his delegate at or before the hearing or a rehearing.

(b) *Jurisdiction over other years.* The Tax Court in redetermining a deficiency of income tax for any taxable year or of gift tax for any calendar year shall consider such facts with relation to the taxes for other years as may be necessary correctly to redetermine the amount of such deficiency, but in so doing shall have no jurisdiction to determine whether or not the tax for any other year has been overpaid or underpaid.

(c) *Power conferred by Tax Court.* For purposes of this chapter and subtitles A or B, the date on which a decision of the Tax Court becomes final shall be determined according to the provisions of section 7481.

§ 301.6215 Statutory provisions; assessment of deficiency found by Tax Court.

SEC. 6215. *Assessment of deficiency found by Tax Court*—(a) *General rule.* If the taxpayer files a petition with the Tax Court, the entire amount redetermined as the deficiency by the decision of the Tax Court which has become final shall be assessed and shall be paid upon notice and demand from the Secretary or his delegate. No part of the amount determined as a deficiency by the Secretary or his delegate but disallowed as such by the decision of the Tax Court which has become final shall be assessed or be collected by levy or by proceeding in court with or without assessment.

(b) *Cross references.* (1) For assessment or collection of the amount of the deficiency determined by the Tax Court pending appellate court review, see section 7485.

(2) For dismissal of petition by Tax Court as affirmation of deficiency as determined by the Secretary or his delegate, see section 7459(d).

(3) For decision of Tax Court that tax is barred by limitation as its decision that there is no deficiency, see section 7459(e).

(4) For assessment of damages awarded by Tax Court for instituting proceedings merely for delay, see section 6673.

(5) For treatment of certain deficiencies as having been paid, in connection with sale of surplus war-built vessels, see section 9(h)(3) of the Merchant Ship Sales Act of 1946 (60 Stat. 48; 50 U.S.C. App. 1742).

(6) For rules applicable to Tax Court proceedings, see generally subchapter C of chapter 76.

(7) For proration of deficiency to installments, see section 6152(c).

(8) For extension of time for paying amount determined as deficiency, see section 6161(b).

§ 301.6215–1 Assessment of deficiency found by Tax Court.

Where a petition has been filed with the Tax Court, the entire amount redetermined as the deficiency by the decision of the Tax Court which has become final shall be assessed by the district director or the director of the regional service center and the unpaid portion of the amount so assessed shall be paid by the taxpayer upon notice and demand therefor.

§ 301.6216 Statutory provisions; cross references.

SEC. 6216. *Cross references.* (1) For procedures relating to bankruptcy and receivership, see subchapter B of chapter 70.

(2) For procedures relating to jeopardy assessments, see subchapter A of chapter 70.

(3) For procedures relating to claims against transferees and fiduciaries, see chapter 71.

Collection

General Provisions

§ 301.6301 Statutory provisions; collection authority.

SEC. 6301. *Collection authority.* The Secretary or his delegate shall collect the taxes imposed by the internal revenue laws.

§ 301.6301–1 Collection authority.

The taxes imposed by the internal revenue laws shall be collected by district directors of internal revenue. See, however, section 6302, relating to the collection of certain taxes under the provisions of the Tariff Act of 1930 (19 U.S.C. ch. 4).

§ 301.6302 Statutory provisions; mode or time of collection.

SEC. 6302. *Mode or time of collection*—(a) *Establishment by regulations.* If the mode or time for collecting any tax is not provided for by this title, the Secretary or his delegate may establish the same by regulations.

(b) *Discretionary method.* Whether or not the method of collecting any tax imposed by chapters 21, 31, 32, 33, section 4481 of chapter 36, sections 4501(a) or 4511 of chapter 37, or section 4701 or 4721 of chapter 39 is specifically provided for by this title, any such tax may, under regulations prescribed by the Secretary or his delegate, be collected by means of returns, stamps, coupons, tickets, books, or such other reasonable devices or methods as may be necessary or helpful in securing a complete and proper collection of the tax.

(c) *Use of Government depositaries.* The Secretary or his delegate may authorize Federal Reserve banks, and incorporated banks or trust companies which are depositaries or financial agents of the United States, to receive any tax imposed under the internal revenue laws, in such manner, at such times, and under such conditions as he may prescribe; and he shall prescribe the manner, times, and conditions under which the receipt of such tax by such banks and trust companies is to be treated as payment of such tax to the Secretary or his delegate.

[Sec. 6302 as amended by sec. 206(b), Highway Revenue Act 1956 (70 Stat. 391)]

§ 301.6302–1 Mode or time of collection of taxes.

(a) *Employment and excise taxes.* For provisions relating to the mode or time of collection of certain employment and excise taxes and the use of Federal Reserve banks and authorized commercial banks in connection with the payment thereof, see the regulations relating to the particular tax.

(b) *Income taxes.* (1) For provisions relating to the use of Federal Reserve banks or authorized commercial banks in depositing income and estimated income taxes of certain corporations, see § 1.6302–1 of this chapter (Income Tax Regulations).

(2) For provisions relating to the use of Federal Reserve banks or authorized commercial banks in depositing the tax required to be withheld under chapter 3 of the Code on nonresident aliens and foreign corporations and tax-free covenant bonds, see § 1.6302–2 of this chapter.

§ 301.6303 Statutory provisions; notice and demand for tax.

SEC. 6303. *Notice and demand for tax*—(a) *General rule.* Where it is not otherwise provided by this title, the Secretary or his delegate shall, as soon as practicable, and within 60 days, after the making of an assessment of a tax pursuant to section 6203, give notice to each person liable for the unpaid tax, stating the amount and demanding payment thereof. Such notice shall be left at the dwelling or usual place of business of such person, or shall be sent by mail to such person's last known address.

(b) *Assessment prior to last date for payment.* Except where the Secretary or his delegate believes collection would be jeopardized by delay, if any tax is assessed prior to the last date prescribed for payment of such tax, payment of such tax shall not be demanded under subsection (a) until after such date.

§ 301.6303–1 Notice and demand for tax.

(a) *General rule.* Where it is not otherwise provided by the Code, the district director or the director of the regional service center shall, after the making of an assessment of a tax pursuant to section 6203, give notice to each person liable for the unpaid tax, stating the amount and demanding payment thereof. Such notice shall be given as soon as possible and within 60 days. However, the failure to give notice within 60 days does not invalidate the notice. Such notice shall be left at the dwelling or usual place of business of such person, or shall be sent by mail to such person's last known address.

(b) *Assessment prior to last date for payment.* If any tax is assessed prior to the last date prescribed for payment of such tax, demand that such tax be paid will not be made before such last date, except where it is believed collection would be jeopardized by delay.

§ 301.6304 Statutory provisions; collection under the Tariff Act.

SEC. 6304. *Collection under the Tariff Act.* For collection under the provisions of the Tariff Act of 1930 of the taxes imposed by section 4501(b), and subchapters A, B, C, D, and E of chapter 38, see sections 4504 and 4601, respectively.

Receipt of Payment

§ 301.6311 Statutory provisions; payment by check or money order.

SEC. 6311. *Payment by check or money order*—(a) *Authority to receive.* It shall be lawful for the Secretary or his delegate to receive for internal revenue taxes, or in payment for internal revenue stamps, checks or money orders, to the extent and under the conditions provided in regulations prescribed by the Secretary or his delegate.

(b) *Check or money order unpaid*—(1) *Ultimate liability.* If a check or money order so received is not duly paid, the person by whom such check or money order has been tendered shall remain liable for the payment of the tax or for the stamps, and for all legal penalties and additions, to the same extent as if such check or money order had not been tendered.

(2) *Liability of banks and others.* If any certified, treasurer's or cashier's check or any money order so received is not duly paid, the United States shall, in addition to its right to exact payment from the party originally indebted therefor, have a lien for the amount of such check upon all the assets of the bank or trust company on which drawn or for the amount of such money order upon all the assets of the issuer thereof; and such amount shall be paid out of such assets in preference to any other claims whatsoever against such bank or issuer except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such bank.

§ 301.6311–1 Payment by check or money order.

(a) *Authority to receive*—(1) *In general.* (i) District directors may accept checks drawn on any bank or trust company incorporated under the laws of the United States or under the laws of any State, Territory, or possession of the United States, or money orders in payment for internal revenue taxes, provided such checks or money orders are collectible in U.S. currency at par, and subject to the further provisions contained in this section. District directors may accept such checks or money orders in payment for internal revenue stamps to the extent and under the conditions prescribed in subparagraph (2) of this paragraph. A check or money order in payment for internal revenue taxes or internal revenue stamps should be made payable to the Internal Revenue Service. A check or money order is payable at par only if the full amount thereof is payable without any deduction for exchange or other charges. As used in this section, the term "money order" means: (a) U.S. postal, bank, express, or telegraph money order; (b) money order issued by a domestic building and loan association (as defined in section 7701(a)(19)) or by a similar association incorporated under the laws of a possession of the United States; (c) a money order issued by such other organization as the Commissioner may designate; and (d) a money order described in subdivision (ii) of this subparagraph in cases therein described. However, the district director may refuse to accept any personal check whenever he has good reason to believe that such check will not be honored upon presentment.

(ii) An American citizen residing in a country with which the United States maintains direct exchange of money orders on a domestic basis may pay his tax by postal money order of such country. For a list of such countries, see section 171.27 of the Postal Manual of the United States.

(iii) If one check or money order is remitted to cover two or more persons' taxes, the remittance should be accompanied by a letter of transmittal clearly identifying—

(a) Each person whose tax is to be paid by the remittance;

(b) The amount of the payment on account of each such person; and

(c) The kind of tax paid.

(2) *Payment for internal revenue stamps*—(i) *In general.* The district director may accept checks and money orders described in subparagraph (1) of this paragraph in payment for internal revenue stamps other than stamps for taxes imposed under chapter 34 of the Code (relating to documentary stamps). However, the district director may refuse to accept any personal check whenever he has good reason to believe that such check will not be honored upon presentment. For special provisions relating to documentary stamps, see subdivision (ii) of this subparagraph.

(ii) *Documentary stamps.* The district director may accept in payment for taxes imposed under chapter 34 of the Code (relating to documentary stamps) certified, cashiers' or treasurers' checks drawn on any bank or trust company incorporated under the laws of the United States or under the laws of any State, Territory, or possession of the United States or money orders described in subparagraph (1) of this paragraph. However, if an application has been submitted by a person desiring to tender personal checks for such taxes and the application has been approved by the district director, the district director may accept such personal checks as are described in subparagraph (1)(i) of this paragraph. The application shall be made to the district director and shall contain the applicant's name, address,

firm name (if any), such financial information as will enable the district director to determine the amount of the credit to be extended to the applicant, and the approximate value of stamps to be purchased during the period fixed by the district director. The district director is authorized to approve or disapprove such application and, if the application is approved, to fix the maximum amount of the value of the documentary stamps for which personal checks will be accepted and to prescribe such other limitations and conditions as he deems appropriate. The district director may, for good cause, discontinue at any time the acceptance of personal checks under the provisions of this subdivision.

(3) *Payment of tax on distilled spirits, wines, beer, cigars, or cigarettes; proprietor in default.* Where a check or money order tendered in payment for taxes on distilled spirits, wines, beer, or rectified products (imposed under chapter 51 of the Code), or cigars or cigarettes (imposed under chapter 52 of the Code) is not paid on presentment, or where a taxpayer is otherwise in default in payment of such taxes, any remittance for such taxes made during the period of such default, and until the Assistant Regional Commissioner (Alcohol and Tobacco Tax) finds that the revenue will not be jeopardized by the acceptance of personal checks (if acceptable to the district director under subparagraph (1) of this paragraph), shall be in cash, or shall be in the form of a certified, cashier's, or treasurer's check, drawn on any bank or trust company incorporated under the laws of the United States, or under the laws of any State, Territory, or possession of the United States, or a money order as described in subparagraph (1) of this paragraph.

(b) *Checks or money orders not paid*—(1) *Ultimate liability.* The person who tenders any check (whether certified or uncertified, cashier's, treasurer's, or other form of check) or money order in payment for taxes or stamps is not released from his liability until the check or money order is paid; and, if the check or money order is not duly paid, he shall also be liable for all legal penalties and additions, to the same extent as if such check or money order had not been tendered. For the penalty in case a check or money order is not duly paid, see section 6657 and § 301.6657–1. For assessment of the amount of a check or money order not duly paid, see section 6201(a)(2)(B) and paragraph (a)(2)(ii) of § 301.6201–1.

(2) *Liability of banks and others.* If any certified, treasurer's, or cashier's check or money order is not duly paid, the United States shall have a lien for the amount of such check upon all assets of the bank or trust company on which drawn or for the amount of such money order upon the assets of the issuer thereof. The unpaid amount shall be paid out of such assets in preference to any other claims against such bank or issuer except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such bank. In addition, the Government has the right to exact payment from the person required to make the payment.

(c) *Payment in nonconvertible foreign currency.* For rules relating to payment of income taxes and taxes under the Federal Insurance Contributions Act in nonconvertible foreign currency, see section 6316 and the regulations thereunder.

§ 301.6312 Statutory provisions; payment by U.S. notes and certificates of indebtedness.

SEC. 6312. *Payment by U.S. notes and certificates of indebtedness*—(a) *General rule.* It shall be lawful for the Secretary or his delegate to receive, at par with an adjustment for accrued interest, Treasury bills, notes and certificates of indebtedness issued by the United States in payment of any internal revenue taxes, or in payment for internal revenue stamps, to the extent and under the conditions provided in regulations prescribed by the Secretary or his delegate.

(b) *Cross references.* (1) For authority to receive silver certificates, see section 5 of the act of June 19, 1934 (48 Stat. 1178; 31 U.S.C. 405a).

(2) For full legal tender status of all coins and currencies of the United States, see section 43(b)(1) of the Agricultural Adjustment Act, as amended (48 Stat. 52, 113; 31 U.S.C. 462).

(3) For authority to receive obligations under the Second Liberty Bond Act, see section 20(b) of that act, as amended (56 Stat. 189; 31 U.S.C. 754b).

§ 301.6312–1 Treasury certificates of indebtedness, Treasury notes, and Treasury bills acceptable in payment of internal revenue taxes or stamps.

(a) Treasury certificates of indebtedness, Treasury notes, or Treasury bills of any series (not including interim receipts issued by Federal reserve banks in lieu of definitive certificates, notes, or bills) may be tendered at or before maturity in payment of internal revenue taxes due on the date (or in payment for stamps purchased on the date), on which the certificates, notes, or bills mature, or in payment of internal revenue taxes due on a specified prior date, but only if such certificates, notes, or bills, according to the express terms of their issue, are made acceptable in payment of such taxes or for the purchase of stamps. If the taxes for which the certificates, notes, or bills are tendered in payment become due, or the stamps are purchased, on the same date as that on which such certificates, notes, or bills mature, they will be accepted at par plus accrued interest, if any, payable with the principal (not represented by coupons attached) in payment of such taxes or stamps. If the taxes for which the certificates, notes, or bills are tendered in payment become due, or the stamps are purchased, on a date prior to that on which the certificates, notes, or bills mature, they will be accepted at the value specified in the terms under which such certificates, notes, or bills were issued. All interest coupons attached to Treasury certificates of indebtedness or Treasury notes shall be detached by the taxpayer before such certificates or notes are tendered in payment of taxes or stamps.

(b) Receipts given by a district director for Treasury certificates of indebtedness, Treasury notes, or Treasury bills received in payment of internal revenue taxes or for stamps as provided in this section shall contain an adequate description of such certificates, notes, or bills, and a statement of the value, including accrued interest, if any, payable with the principal (not represented by coupons attached), at which accepted, and shall show that the certificates, notes, or bills are tendered by the taxpayer and received by the district director, subject to no conditions, qualification, or reservation whatsoever, in payment of an amount of taxes or for stamps no greater than such value. Any certificate, note, or bill offered in payment of internal revenue taxes or for stamps subject to any condition, qualification, or reservation, or for any greater amount than the value at which acceptable in payment of taxes or stamps, as specified in the terms under which such certificate, note, or bill was issued, shall not be deemed to be duly tendered and shall be returned to the taxpayer.

(c) For the purpose of saving taxpayers the expense of transmitting Treasury certificates of indebtedness, Treasury notes, or Treasury bills to the office of the district director in whose district the taxes are payable, or stamps are to be purchased, taxpayers desiring to pay taxes, or purchase stamps, with such certificates, notes, or bills acceptable in payment of taxes or for the purchase of stamps may deposit such certificates, notes, or bills with a Federal reserve bank or branch, or with the Office of the Treasurer of the United States, Treasury Building, Washington, D.C. In such cases, the Federal reserve bank or branch, or the Office of the Treasurer of the United States, shall issue a receipt in the name of the district director, describing the certificates, notes, or bills by par or dollar face amount and stating on the face of the receipt that the certificates, notes, or bills represented thereby are held by the bank or branch, or the Office of the Treasurer of the United States, for redemption at the value specified in the terms under which the certificates, notes, or bills were issued, and for application of the proceeds in payment of taxes due or for the purchase of stamps on a specified date by the taxpayer named therein.

(d) In the case of payments of tax required to be deposited with Government depositaries by regulations under section 6302 of the Code, certificates, notes, or bills referred to in paragraph (a) of this section may be deposited with a Federal Reserve bank or branch, or with the Office of the Treasurer of the United States, in part or full satisfaction of such tax liability. As in the case of all remittances of amounts so required to be deposited, each such deposit of certificates, notes, or bills shall be accompanied by the appropriate deposit form in accordance with the regulations under section 6302. In such cases, notwithstanding paragraphs (b) and (c) of this section, receipts for such certificates, notes or bills shall no longer be issued in the name of the district director.

§ 301.6313–2 Certain Treasury savings notes acceptable in payment of certain internal revenue taxes.

According to the express terms of their issue, the following series of Treasury savings notes are presently acceptable in payment of income taxes (current and back, personal and corporation taxes, and excess profits taxes) and estate and gift taxes (current and back):

(a) Treasury Savings Notes, Series A,
(b) Treasury Savings Notes, Series B,
(c) Treasury Savings Notes, Series C.

§ 301.6313 Statutory provisions; fractional parts of a cent.

SEC. 6313. *Fractional parts of a cent.* In the payment of any tax imposed by this title not payable by stamp, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

§ 301.6313–1 Fractional parts of a cent.

In the payment of any tax not payable by stamp, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent. Fractional parts of a cent shall not be disregarded in the computation of taxes.

§ 301.6314 Statutory provisions; receipt for taxes.

SEC. 6314. *Receipt for taxes*—(a) *General rule.* The Secretary or his delegate shall, upon request, give receipts for all sums collected by him, excepting only when the same are in payment for stamps sold and delivered; but no receipts shall be issued in lieu of a stamp representing a tax.

(b) *Duplicate receipts for payment of estate taxes.* The Secretary or his delegate shall, upon request, give to the person paying the tax under chapter 11 (relating to the estate tax) duplicate receipts, either of which shall be sufficient evidence of such payment, and shall entitle the executor to be credited and allowed the amount thereof by any court having jurisdiction to audit or settle his accounts.

(c) *Cross references.* (1) For receipt required to be furnished by employer to employee with respect to employment taxes, see section 6051.

(2) For receipt of discharge of executor from personal liability, see section 2204.

§ 301.6314–1 Receipt for taxes.

(a) *In general.* The district director shall issue a receipt for each tax payment made in cash (other than a payment for stamps sold and delivered). In the case of payments made by check, the canceled check is usually a sufficient receipt. However, upon request, the district director shall issue a receipt for such payment (other than a payment for stamps sold and delivered). No receipt shall be issued in lieu of a stamp representing a tax, whether the payment is in cash or otherwise.

(b) *Duplicate receipt for payment of estate taxes.* Upon request, the district director will issue duplicate receipts to the person paying the estate tax, either of which will be sufficient evidence of such payment and entitle the executor to be credited with the amount by any court having jurisdiction to audit or settle his accounts. For definition of the term "executor", see section 2203.

§ 301.6315 Statutory provisions; payments of estimated income tax.

SEC. 6315. *Payments of estimated income tax.* Payments of the estimated income tax, or any installment thereof, shall be considered payment on account of the income taxes imposed by subtitle A for the taxable year.

§ 301.6315–1 Payments of estimated income tax.

The payment of any installment of the estimated income tax (see sections 6015 and 6016) shall be considered payment on account of the income tax for the taxable year for which the estimate is made. The aggregate amount of the payments of estimated tax should be entered upon the income tax return for such taxable year as payments to be applied against the tax shown on such return.

§ 301.6316 Statutory provisions; payment by foreign currency.

SEC. 6316. *Payment by foreign currency.* The Secretary or his delegate is authorized in his discretion to allow payment of taxes in the currency of a foreign country under such circumstances and subject to such conditions as the Secretary or his delegate may by regulations prescribe.

§ 301.6316–1 Payment of income tax in foreign currency.

Subject to the provisions of §§ 301.6316–3 to 301.6316–5, inclusive, that portion of the income tax which is attributable to amounts received by a citizen of the United States in nonconvertible foreign currency may be paid in such currency—

(a) For any taxable year beginning on or after January 1, 1955, and before January 1, 1964, if such amounts—

(1) Are disbursed from funds made available to a foundation or commission established in a foreign country pursuant to an agreement made under the authority of section 32(b) of the Surplus Property Act of 1944, as amended (50 U.S.C. App. 1641(b)(2)), or reestablished under the authority of the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451);

(2) Constitute either a grant made for authorized purposes of the agreement or compensation for personal services performed in the employ of the foundation or commission;

(3) Are at least 75 percent of the entire amount of the grant or compensation; and

(4) Are treated as income from sources without the United States under the provisions of sections 861 to 864, inclusive, and §§ 1.861–1 to 1.864, inclusive, of this chapter (Income Tax Regulations); and

(b) For any taxable year beginning on or after January 1, 1964, if such amounts—

(1) Are disbursed from funds made available either to a foundation or commission, established pursuant to an agreement made under the authority of section 32(b) of the Surplus Property Act of 1944, as amended, or to a foundation or commission established or continued pursuant to an agreement made under the authority of the Mutual Educational and Cultural Exchange Act of 1961, as amended; or are paid from grants made to such citizen, or to a foundation or an educational or other institution, under the authority of the Mutual Educational and Cultural Exchange Act of 1961, as amended, or section 104 (h), (j), (k), (o), or (p) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704 (h), (j), (k), (o), (p));

(2) Constitute either a grant made for a purpose authorized under any such agreement or law, or compensation for personal services performed in the employ of any organization engaged in administering any program or activity pursuant to any such agreement or law;

(3) Are at least 70 percent of the entire amount of the grant or compensation; and

(4) Are treated as income from sources without the United States under the provisions of sections 861 to 864, inclusive, and §§ 1.861–1 to 1.864, inclusive, of this chapter (Income Tax Regulations).

§ 301.6316–2 Definitions.

For purposes of §§ 301.6316–1 to 301.6316–6, inclusive:

(a) The term "tax", as used in §§ 301.6316–1, 301.6316–3, 301.6316–4, 301.6316–5, and 301.6316–6 means the income tax imposed for the taxable year by chapter 1 of the Internal Revenue Code of 1954, and as used in § 301.6316–7 means the Federal Insurance Contributions Act taxes imposed by chapter 21 of the Code (or by the corresponding provisions of the Internal Revenue Code of 1939). The term "tax", as used in §§ 301.6316–8 and 301.6316–9 shall relate to either of such taxes, whichever is appropriate.

(b) The term "nonconvertible foreign currency" means currency of the government of a foreign country which, owing to (1) monetary, exchange, or other restrictions imposed by the foreign country, (2) an agreement entered into with the United States of America, or (3) the terms and conditions of the U.S. Government grant, is not convertible into U.S. dollars or into other money which is convertible into U.S. dollars. The term shall not, however, include currency which, notwithstanding such restrictions, agreement, terms, or conditions, is in fact converted into U.S. dollars or into property which is readily disposable for U.S. dollars.

(c) If the taxpayer computes taxable income under the accrual method, then the term "received" shall be construed to mean "accrued."

§ 301.6316–3 Allocation of tax attributable to foreign currency.

(a) *Adjusted gross income ratio.* The portion of the tax which is attributable to amounts received in nonconvertible foreign currency shall, for purposes of applying § 301.6316–1 to the currency of each foreign country, be the amount by which:

(1) The amount which bears the same ratio to the entire tax for the taxable

year as (i) the taxpayer's adjusted gross income received in that currency bears to (ii) the adjusted gross income determined under section 62 by taking into account the entire gross income and all deductions allowable under that section without distinction as to amounts received in foreign currency, exceeds

(2) The total of the allowable credits against tax, and payments on account of tax, which are properly allocable to the amount of that currency included in gross income.

(b) *Example.* (1) For the calendar year 1955 Mr. Jones and his wife filed a joint return on which the adjusted gross income is as follows, after amounts received in foreign currency had been properly translated into United States dollars for tax computation purposes:

Fulbright grant received by Mr. Jones in nonconvertible foreign currency	$8,000
Dividends received by Mr. Jones entitled to dividends-received credit	500
Compensation for personal services of Mrs. Jones	3,000
Net profit from business carried on by Mrs. Jones	2,500
Total adjusted gross income	14,000

(2) The following amounts are allowable as properly deductible from adjusted gross income, no determination being made as to whether or not any part of them is properly allocable to the Fulbright grant:

Deduction for personal exemptions	$2,000
Charitable contributions	500
Interest expense	400
Taxes	300
Total allowable deductions	4,200

(3) For the taxable year the following amounts are allowable as credits against the tax, or as payments on account of the tax:

Foreign tax credit for foreign taxes paid on Fulbright grant		$300.00
Dividends-received credit		20.00
Credit for income tax withheld upon compensation of Mrs. Jones		304.80
Payments of estimated tax (see § 301.6316–6 (b) (2) for determination of amounts):		
U.S. dollars	$426.32	
Foreign currency	800.88	
		1,220.20
Total allowable credits and payments		1,845.00

(4) The portion of the tax which is attributable to amounts received in nonconvertible foreign currency is $33.49, determined as follows:

Adjusted gross income	$14,000.00
Less: Allowable deductions	4,200.00
Taxable income	9,800.00
Tax computed under section 2	2,148.00
Ratio of adjusted gross income received in nonconvertible foreign currency to entire adjusted gross income ($8,000÷$14,000) (percent)	57.14
Portion of tax attributable to nonconvertible foreign currency ($2,148×57.14 percent)	1,227.37
Less:	
Credit for foreign taxes paid on Fulbright grant	$900.00
Payment in foreign currency of estimated tax	293.88
	1,193.88
Portion of tax attributable to amounts received in nonconvertible foreign currency	33.49

§ 301.6316–4 **Return requirements.**

(a) *Place for filing.* A return of income which includes amounts received in foreign currency on which the tax is paid in accordance with § 301.6316–1 shall be filed with the Director of International Operations, Internal Revenue Service, Washington, D.C. 20225. For the time for filing income tax returns, see sections 6072 and 6081 and §§ 1.6072–1, 1.6081–1, and 1.6081–2 of this chapter (Income Tax Regulations).

(b) *Statements required.* (1) A statement, prepared by the taxpayer, and certified by the foundation, commission, or other person having control of the payments made to the taxpayer in nonconvertible foreign currency, shall be attached to the return showing that for the taxable year involved the taxpayer is entitled to pay tax in foreign currency in accordance with section 6316 and the regulations thereunder. This statement shall disclose the total amount of grants or compensation received by the taxpayer during the taxable year under the authority of section 32(b) of the Surplus Property Act of 1944, as amended (50 U.S.C. App. 1641(b)(2)), or of the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451), or section 104 (h), (j), (k), (o), or (p) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704 (h), (j), (k), (o), (p)), and the amount thereof paid in nonconvertible foreign currency. It shall also state that with respect to the grant or compensation the applicable percentage requirement of § 301.6316–1 is satisfied.

(2) The taxpayer shall also attach to the return a detailed statement showing (i) the computation, in the manner prescribed by § 301.6316–3, of the portion of the tax attributable to amounts received in nonconvertible foreign currency and (ii) the rates of exchange used in determining the tax liability in U.S. dollars. See paragraph (c) of § 301.6316–5.

§ 301.6316–5 **Manner of paying tax by foreign currency.**

(a) *Time and place to pay.* The unpaid tax required to be shown on a return filed in accordance with § 301.6316–4, whether payable in whole or in part in foreign currency, is due and payable to the Director of International Operations, Internal Revenue Service, Washington, D.C. 20225, at the time the return is filed. However, see paragraph (d) of this section with respect to the depositing of the foreign currency with the disbursing officer of the Department of State.

(b) *Certified statement.* Every taxpayer who desires to pay tax in foreign currency under the provisions of § 301.6316–1 shall first obtain the certified statement referred to in paragraph (b)(1) of § 301.6316–4.

(c) *Determination of the tax.* In determining the tax payable for the taxable year in U.S. dollars, the taxpayer, with respect to amounts described in paragraph (a) of § 301.6316–1, or amounts described in paragraph (b) of § 301.6316–1 received before November 1, 1965, shall use the rates of exchange which most clearly reflect the correct tax liability in dollars, whether it be the official rate, the open market rate, or any other appropriate rate. With respect to amounts described in paragraph (b) of § 301.6316–1 received on or after November 1, 1965, the taxpayer shall use the official rate of exchange in determining the tax payable for the taxable year in U.S. dollars. After determining the correct tax liability in U.S. dollars the taxpayer shall then ascertain, in accordance with the principles of § 301.6316–3, the portion of the tax which is attributable to amounts received in nonconvertible foreign currency.

(d) *Deposit of foreign currency with disbursing officer.* (1) After the portion of the tax which is attributable to amounts received in nonconvertible foreign currency is determined in U.S. dollars, the amount so determined shall be deposited in the same nonconvertible foreign currency with the disbursing officer of the Department of State for the foreign country where the fund is located from which the payments in nonconvertible foreign currency are made to the taxpayer. The amount of foreign currency to be deposited shall be that amount which, when converted at the rate of exchange used on the date of deposit by that disbursing officer for the acquisition of such currency for his official disbursements, equals the portion of the tax so determined in U.S. dollars.

(2) The disbursing officer may rely upon the taxpayer for the determination of the amount of tax payable in foreign currency but may not accept any such currency for deposit until the taxpayer has presented for inspection the certified statement referred to in paragraph (b)(1) of § 301.6316–4. Upon acceptance of foreign currency for deposit the disbursing officer shall give the taxpayer a receipt in duplicate showing the name and address of the depositor, the date of the deposit, the amount of foreign currency deposited, and its equivalent in U.S. dollars on the date of deposit.

(3) Every taxpayer making a deposit of foreign currency in accordance with this paragraph shall attach to the return required to be filed in accordance with § 301.6316–4, in part or full payment of the taxes shown thereon, the original of the receipt given by the disbursing officer and shall pay to the Director of International Operations in U.S. dollars the balance, if any, of the tax shown to be due. Tender of such receipt to the Director of International Operations shall be considered as payment of tax in an amount equal to the U.S. dollars represented by the receipt.

(4) A taxpayer shall make the deposit required by this paragraph in ample time to permit him to attach the receipt to his return for filing within the time prescribed by section 6072 or 6081 and §§ 1.6072–1, 1.6081–1, and 1.6081–2 of this chapter (Income Tax Regulations).

§ 301.6316–6 **Declarations of estimated tax.**

(a) *Filing of declaration.* A declaration of estimated tax in respect of amounts on which the tax is to be paid in foreign currency under the provisions of § 301.6316–1 shall be filed with the Director of International Operations, Internal Revenue Service, Washington, D.C. 20225, and shall have attached thereto the statements required by paragraph (b)(1) and (2)(i) of § 301.6316–4 in respect of the tax return except that the statement certified by the foundation, commission, or other person having control of the payments to the taxpayer in nonconvertible foreign currency may be based upon amounts expected to be received by the taxpayer during the taxable year if they are not in fact known at the time of certification. A copy of this certified statement shall be retained by the taxpayer for the purpose of exhibiting it to the disbursing officer when making installment deposits of foreign currency under the provisions of paragraph (c) of this section. For the time for filing declarations of estimated tax, see sections 6073 and 6081 and §§ 1.6073–1 to 1.6073–4, inclusive, and §§ 1.6081–1 and 1.6081–2 of this chapter (Income Tax Regulations).

(b) *Determination of estimated tax—*(1) *Allocation of tax attributable to foreign currency.* In determining the amount of estimated tax for purposes of this section, all items of income, deduction, and credit, whether or not attributable to amounts received in nonconvertible foreign currency, shall be taken into account. The portion of the estimated tax which is attributable to amounts to be received during the taxable year in nonconvertible foreign currency shall be determined consistently with the manner prescribed by § 301.6316–3.

(2) *Example.* (i) For the calendar year 1955 Mr. Jones and his wife filed a joint declaration of estimated tax in the determination of which the adjusted gross income was estimated to be as follows, after amounts to be received in foreign currency had been properly translated into U.S. dollars for tax computation purposes:

Fulbright grant to be received by Mr. Jones in nonconvertible foreign currency	$8,000
Dividends to be received by Mr. Jones entitled to dividends-received credit	375
Compensation to be received by Mrs. Jones for personal services	3,000
Net profit to be derived from business carried on by Mrs. Jones	2,625
Total estimated adjusted gross income	14,000

(ii) The following amounts were determined to be allowable as properly deductible from estimated adjusted gross income, no determination being made as to whether or not any part of them was properly allocable to the Fulbright grant:

Deduction for personal exemptions	$2,000
Charitable contributions	500
Interest expense	400
Taxes	500
Total allowable deductions	4,000

(iii) The following estimated amounts were determined to be allowable as credits against the tax for the taxable year:

Foreign tax credit for foreign taxes to be paid on Fulbright grant	$300.00
Credit for income tax expected to be withheld upon compensation of Mrs. Jones	304.80
Dividends-received credit	15.00
Total allowable estimated credits	619.80

(iv) The portion of the estimated tax which is attributable to amounts to be received during the taxable year in nonconvertible foreign currency is $393.88, determined as follows:

Estimated adjusted gross income	$13,000.00
Less: Allowable deductions	4,000.00
Estimated taxable income	9,000.00
Tax computed under section 2	1,940.00
Ratio of estimated adjusted gross income to be received in nonconvertible foreign currency to entire estimated adjusted gross income ($8,000÷$13,000) (percent)	61.54
Portion of above tax attributable to nonconvertible foreign currency ($1,940×61.54 percent)	1,193.88
Less: Credit for foreign taxes expected to be paid on Fulbright grant	300.00
Portion of estimated tax which is attributable to amounts to be received during the taxable year in nonconvertible foreign currency	893.88

(v) The portion of the estimated tax which is payable in U.S. dollars is $426.32, determined as follows:

Tax computed under section 2	$2,940.00
Less: Total allowable estimated credits	619.80
Total estimated tax	2,320.20
Less: Portion of estimated tax payable in foreign currency	893.88
Portion of estimated tax payable in U.S. dollars	426.32

(c) *Payment of estimated tax.* (1) The provisions of § 301.6316–5 relating to the certified statement, determination of the tax, and the depositing of the foreign currency shall apply for purposes of this section. The full amount of estimated tax payable in foreign currency, as determined under paragraph (b) of this section, may be deposited before the date prescribed for the payment thereof.

(2) Every taxpayer making a deposit of foreign currency in accordance with this paragraph shall tender to the Director of International Operations, Internal Revenue Service, Washington, D.C. 20225, the original of the receipt from the disbursing officer as payment, to the extent of the amount represented thereby in U.S. dollars, of the estimated tax. For the dates prescribed for the payment of estimated tax, see sections 6153 and 6081 and §§ 1.6153–2 to 1.6153–4, inclusive, and § 1.6161–1 of this chapter (Income Tax Regulations). A taxpayer should make the deposit required by this paragraph in ample time to permit him to tender such receipt by the date prescribed for payment of the estimated tax.

(d) *Credit on return for the taxable year.* The receipt given by the disbursing officer of the Department of State and tendered in payment of estimated tax under this section shall, for purposes of paragraph (a)(2) of § 301.6316–2, be considered as payment on account of the tax for the taxable year. The amount so considered to be paid shall be the amount in U.S. dollars represented by the receipt.

§ 301.6316–7 **Payment of Federal Insurance Contributions Act taxes in foreign currency.**

(a) *In general.* The taxes imposed on employees and employers by sections 3101 and 3111, respectively, of chapter 21 of the Code (Federal Insurance Contributions Act) or the corresponding sections of the Internal Revenue Code of 1939 may, with respect to wages (as defined in section 3121(a) of chapter 21 of the Code or the corresponding section of the Internal Revenue Code of 1939) paid in nonconvertible foreign currency (as defined in paragraph (b) of § 301.6316–2) for services performed on or after January 1, 1951, be paid in that currency if all such wages—

(1) Are paid from funds made available to a foundation or commission established in a foreign country pursuant to an agreement made under the authority of section 32(b) of the Surplus Property Act of 1944, as amended (50 U.S.C. App. 1641(b)(2)), or established or continued pursuant to an agreement made under authority of the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451); and

(2) Are paid to a U.S. citizen for services performed in the employ of such foundation or commission.

(b) *Before requirements.*—(1) *Statement required.* (i) A return on which payment of Federal Insurance Contributions Act taxes is made in accordance with this section shall have attached thereto a statement, certified by the foundation or commission filing the return, stating that the foundation or commission is an organization established pursuant to an agreement made under authority of section 32(b) of the Surplus Property Act of 1944, as amended, or established or continued pursuant to an agreement made under authority of the Mutual Educational and Cultural Exchange Act of 1961, as amended.

(ii) The taxpayer shall also attach to the return a statement showing the rates of exchange used in determining in United States dollars the wages reported on the return and the taxes due with respect thereto. See paragraph (c)(1) of this section.

(2) *Cross references.* For the place for filing returns of the Federal Insurance Contributions Act taxes, see § 31.6091–1(c) of this chapter (Employment Tax Regulations). For the time for filing returns of the Federal Insurance Contributions Act taxes, see § 31.6071(a)–1 of this chapter (Employment Tax Regulations).

(c) *Payment of tax*—(1) *Determination of the tax.* In determining in U.S. dollars the wages required to be reported on the return and the taxes due with respect thereto, the taxpayer shall use the rate of exchange which most clearly reflects the correct equivalent in dollars, whether it be the official rate, the open market rate, or any other appropriate rate.

(2) *Deposit of foreign currency with disbursing officer.* (i) After determination is made in U.S. dollars of the Federal Insurance Contributions Act taxes with respect to wages paid in nonconvertible foreign currency, the amount so determined shall be deposited in the same nonconvertible foreign currency with the disbursing officer of the Department of State for the foreign country where the fund is located from which such wages were paid. The amount of the foreign currency to be deposited shall be that amount which, when converted at the rate of exchange used on the date of deposit by the disbursing officer for the acquisition of such currency for his official disbursements, equals the taxes determined in U.S. dollars.

(ii) The disbursing officer may rely upon the taxpayer for the determination of the amount of tax payable in foreign currency but may not accept any such currency for deposit until the taxpayer has presented for inspection the certified statement referred to in paragraph (b)(1) of this section. Upon acceptance of foreign currency for deposit the disbursing officer shall give the taxpayer a receipt in duplicate showing the name and address of the depositor, the date of the deposit, the amount of foreign currency deposited and its equivalent in U.S. dollars on the date of deposit, and the kind of tax for which the deposit is made.

(iii) Every taxpayer making a deposit of foreign currency in accordance with this paragraph shall attach to the return required to be filed in accordance with paragraph (b) of this section the original of the receipt given by the disbursing officer. Tender of such receipt to the Director of International Operations shall be considered as payment of tax in an amount equal to the U.S. dollars represented by the receipt.

(iv) A taxpayer shall make the deposit required by this paragraph in ample time to permit it to attach the receipt to its return for filing within the time prescribed by § 31.6071(a)–1 of this chapter (Employment Tax Regulations).

§ 301.6316–8 Refunds and credits in foreign currency.

(a) *Refunds.* The refund of any overpayment of tax which has been paid under section 6316 in foreign currency may, in the discretion of the Commissioner, be made in the same foreign currency by which the tax was paid. The amount of any such refund made in foreign currency shall be the amount of the overpayment in U.S. dollars converted, on the date of the refund check, at the rate of exchange then used for his official disbursements by the disbursing officer of the Department of State in the country where the foreign currency was originally deposited.

(b) *Credits.* Unless otherwise in the best interest of the Internal Revenue Service, no credit of any overpayment of tax which has been paid under section 6316 in foreign currency shall be allowed against any outstanding liability of the person making the overpayment except in respect of that portion or the liability which, in accordance with § 301.6316–1 or § 301.6316–7, would otherwise be permitted to be paid in the same foreign currency.

§ 301.6316–9 Interest, additions to tax, etc.

Any reference in §§ 301.6316–1 to 301.6316–8, inclusive, to "tax" shall be deemed also to refer to the interest, additions to the tax, additional amounts, and penalties attributable to the tax.

LIEN FOR TAXES

§ 301.6321 Statutory provisions; lien for taxes.

SEC. 6321. *Lien for taxes.* If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount (including any interest, additional amount, addition to tax, or assessable penalty, together with any costs that may accrue in addition thereto) shall be a lien in favor of the United States upon all property and rights to property, whether real or personal, belonging to such person.

§ 301.6321–1 Lien for taxes.

If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount (including any interest, additional amount, addition to tax, or assessable penalty, together with any costs that may accrue in addition thereto) shall be a lien in favor of the United States upon all property and rights to property, whether real or personal, tangible or intangible, belonging to such person. The lien attaches to all property and rights to property belonging to such person at any time during the period of the lien, including any property or rights to property acquired by such person after the lien arises. For the special lien for estate and gift taxes, see section 6324 and § 301.6324–1.

§ 301.6322 Statutory provisions; period of lien.

SEC. 6322. *Period of lien.* Unless another date is specifically fixed by law, the lien imposed by section 6321 shall arise at the time the assessment is made and shall continue until the liability for the amount so assessed is satisfied or becomes unenforceable by reason of lapse of time.

§ 301.6323 Statutory provisions; validity against mortgagees, pledgees, purchasers, and judgment creditors.

SEC. 6323. *Validity against mortgagees, pledgees, purchasers, and judgment creditors*—(a) *Invalidity of lien without notice.* Except as otherwise provided in subsection (c), the lien imposed by section 6321 shall not be valid as against any mortgagee, pledgee, purchaser, or judgment creditor until notice thereof has been filed by the Secretary or his delegate—

(1) *Under State or territorial laws.* In the office designated by the law of the State or Territory in which the property subject to the lien is situated, whenever the State or Territory has by law designated an office within the State or Territory for the filing of such notice; or

(2) *With clerk of district court.* In the office of the clerk of the U.S. district court for the judicial district in which the property subject to the lien is situated, whenever the State or Territory has not by law designated an office within the State or Territory for the filing of such notice; or

(3) *With clerk of district court for District of Columbia.* In the office of the clerk of the U.S. District Court for the District of Columbia, if the property subject to the lien is situated in the District of Columbia.

(b) *Form of notice.* If the notice filed pursuant to subsection (a)(1) is in such form as would be valid if filed with the clerk of the U.S. district court pursuant to subsection (a)(2), such notice shall be valid notwithstanding any law of the State or Territory regarding the form or content of a notice of lien.

(c) *Exception in case of securities*—(1) *Exception.* Even though notice of a lien provided in section 6321 has been filed in the manner prescribed in subsection (a) of this section, the lien shall not be valid with respect to a security, as defined in paragraph (2) of this subsection, as against any mortgagee, pledgee, or purchaser of such security, for an adequate and full consideration in money or money's worth, if at the time of such mortgage, pledge, or purchase such mortgagee, pledgee, or purchaser is without notice or knowledge of the existence of such lien.

(2) *Definition of security.* As used in this subsection, the term "security" means any bond, debenture, note, or certificate or other evidence of indebtedness, issued by any corporation (including one issued by a government or political subdivision thereof), with interest coupons or in registered form, share of stock, voting trust certificate, or any certificate of interest or participation in, certificate of deposit or receipt for, temporary or interim certificate for, or warrant or right to subscribe to or purchase, any of the foregoing; negotiable instrument; or money.

(d) *Disclosure of amount of outstanding lien.* If a notice of lien has been filed under subsection (a), the Secretary or his delegate is authorized to provide by rules or regulations the extent to which, and the conditions under which, information as to the amount of the outstanding obligation secured by the lien may be disclosed.

§ 301.6323–1 Validity of lien against mortgagees, pledgees, purchasers, and judgment creditors.

(a) *Invalidity of lien without notice*—(1) *Filing of notice.* The lien imposed by section 6321 shall not be valid as against any mortgagee, pledgee, purchaser, or judgment creditor until notice of lien has been filed. (See, however, section 6323(c) and paragraph (b) of this section, relating to the circumstances under which the lien is not valid with respect to a security even though notice thereof is duly filed.) The place for the filing of the notice of lien is:

(i) The office designated by the law of the State or Territory in which the property subject to the lien is situated, whenever the State or Territory has designated an office within the State or Territory for the filing of such notice;

(ii) The office of the clerk of the U.S. district court for the judicial district in which the property subject to the lien is situated, whenever the State or Territory has not by law designated an office within the State or Territory for the filing of such notice; or

(iii) The office of the clerk of the U.S. District Court for the District of Columbia if the property subject to the lien is situated in the District of Columbia.

(2) *Meaning of terms.* (i) As used in section 6323 and this section:

(a) The term "purchaser" means a person who, for a valuable present consideration, acquires property or an interest in property.

(b) The term "judgment creditor" means a person who has obtained a valid judgment in a court of record and of competent jurisdiction for the recovery of specifically designated property or for a certain sum of money and, in the case of a judgment for the recovery of a certain sum of money, who has a perfected lien under such judgment on the property involved. The term "judgment" does not include an inchoate lien, such as an attachment lien, unless and until such lien has ripened into a judgment. United States v. Security Trust and Savings Bank (1950) 340 U.S. 47. Nor does the term "judgment" include the determination of a quasi-judicial body or of an individual acting in a quasi-judicial capacity, such as, for example, the action of State taxing authorities. United States v. Gilbert Associates (1953) 345 U.S. 361; and United States v. City of New Britain (1954) 347 U.S. 81.

(ii) The determination whether a person is a mortgagee, pledgee, purchaser, or judgment creditor, entitled to the protection of section 6323(a), shall be made by reference to the realities and the facts in a given case rather than to the technical form or terminology used to designate such person. Thus, a person who is in fact and in law a mortgagee, pledgee, or purchaser will be entitled as such to the protection of section 6323(a) even though such person is otherwise designated under the law of a State, such as the Uniform Commercial Code.

(3) *Form of notice.* The form to be used for filing the notice of lien shall be Form 668, "Notice of Federal Tax Lien under Internal Revenue Laws." Such notice, filed in the office designated by the law of a State or Territory, shall be valid notwithstanding any law of the State or Territory regarding the form or content of a notice of lien. For example, the omission from the notice of lien of a description of the property subject to the lien will not affect the validity thereof, even though the law of the State or Territory requires that the notice of lien contain a description of the property subject to the lien.

(b) *Exception in case of securities*—(1) *Exception.* Even though a notice of lien provided for in section 6321 has been filed in the manner prescribed in section 6323(a), the lien shall not be valid with respect to a security, as defined in section 6323(c)(2), as against any mortgagee, pledgee, or purchaser of such security, for an adequate and full consideration in money or money's worth, if at the time of such mortgage, pledge, or purchase such mortgagee, pledgee, or purchaser is without notice or knowledge of the existence of such lien. An adequate and full consideration in money or money's worth, as used in section 6323(c), means that the consideration must have been an adequate and full equivalent reducible to a money value. A purchase of property made in the ordinary course of business (that is, a transaction which is bona fide and made at arm's length) will be considered as made for an adequate and full consideration in money or money's worth. A relinquishing or promised relinquishment of dower, curtesy, or of a statutory estate created in lieu of dower or curtesy, or of other marital rights is not a consideration in money or money's worth. Nor is love and affection, promise of marriage, or any other consideration not reducible to a money value a consideration in money or money's worth.

(2) *Definition of security.* As used in section 6323(c), the term "security" means: Any bond, debenture, note, or certificate or other evidence of indebtedness, issued by any corporation (including one issued by a government or political subdivision thereof), with interest coupons or in registered form, share of stock, voting trust certificate, or any certificate of interest or participation in, certificate of deposit or receipt for, temporary or interim certificate for, or warrant or right to subscribe to or purchase, any of the foregoing; negotiable instrument; or money.

(c) *Disclosure of amount of outstanding lien.* (1) If a notice of lien has been filed, the district director to whom the assessment which gave rise to the lien is charged is authorized to disclose information as to the amount of the outstanding obligation secured by the lien to any person who has a proper interest in determining the amount of the outstanding obligation. Any person desiring such information should present to the district director a written request. Such request should clearly describe the property subject to the lien, identify the applicable lien, and give the reasons for requesting such information. Any person who has a right in the property or intends to obtain a right in the property by purchase or otherwise will, upon satisfactory proof of such right or of the intention to obtain such right, be considered to have a proper interest.

(2) If the district director determines that the applicant is entitled to the information requested, he will disclose to such applicant the total amount of the outstanding obligation secured by the lien.

(3) The Commissioner may disclose the amount of any outstanding obligation secured by the lien if he determines such action is warranted under the facts and circumstances in the particular case.

(4) The provisions of this paragraph apply to any notice of lien filed under section 6323 or corresponding provisions of prior internal revenue laws.

(d) *Application of section 6323 to liens imposed under section 3670 of the Internal Revenue Code of 1939.* In the case of any lien arising under section 3670 of the Internal Revenue Code of 1939 or the corresponding provisions of prior law (relating to the general tax lien) which is in effect on January 1, 1955, the provisions of section 6323 shall be applicable to such lien on and after such date in lieu of the provisions of section 3672 of the Internal Revenue Code of 1939 or the corresponding provisions of prior law.

§ 301.6324 Statutory provisions; special liens for estate and gift taxes.

SEC. 6324. *Special liens for estate and gift taxes*—(a) *Liens for estate tax.* Except as otherwise provided in subsection (c) (relating to transfers of securities)—

(1) *Upon gross estate.* Unless the estate tax imposed by chapter 11 is sooner paid in full, it shall be a lien for 10 years upon the gross estate of the decedent, except that such part of the gross estate as is used for the payment of charges against the estate and expenses of its administration, allowed by any court having jurisdiction thereof, shall be divested of such lien.

(2) *Liability of transferees and others.* If the estate tax imposed by chapter 11 is not paid when due, then the spouse, transferee, trustee (except the trustee of an employee's trust which meets the requirements of section 401(a)), surviving tenant, person in possession of the property by reason of the exercise, nonexercise, or release of a power of appointment, or beneficiary, who receives or has on the date of the decedent's death, property included in the gross estate under sections 2034 to 2042, inclusive, to the extent of the value, at the time of the decedent's death, of such property, shall be personally liable for such tax. Any part of such property transferred by (or transferred by a transferee of) such spouse, transferee, trustee, surviving tenant, person in possession of property by reason of the exercise, nonexercise, or release of a power of appointment, or beneficiary, to a bona fide purchaser, mortgagee, or pledgee, for an adequate and full consideration in money or money's worth shall be divested of the lien provided in paragraph (1) and a like lien shall then attach to all the property of such spouse, transferee, trustee, surviving tenant, person in possession, beneficiary, or transferee of any such person, except any part transferred to a bona fide purchaser, mortgagee, or pledgee for an adequate and full consideration in money or money's worth.

(3) *Continuance after discharge of executor.* The provisions of section 2204 (relating to discharge of executor from personal liability) shall not operate as a release of any part of the gross estate from the lien for any deficiency that may thereafter be determined to be due, unless such part of the gross estate (or any interest therein) has been transferred to a bona fide purchaser, mortgagee, or pledgee for an adequate and full consideration in money, or money's worth, in which case such part (or such interest) shall not be subject to a lien or

to any claim or demand for any such deficiency, but the lien shall attach to the consideration received from such purchaser, mortgagee, or pledgee by the heirs, legatees, devisees, or distributees.

(b) *Lien for gift tax.* Except as otherwise provided in subsection (c) (relating to transfers of securities), the gift tax imposed by chapter 12 shall be a lien upon all gifts made during the calendar year, for 10 years from the time the gifts are made. If the tax is not paid when due, the donee of any gift shall be personally liable for such tax to the extent of the value of such gift. Any part of the property comprised in the gift transferred by the donee (or by a transferee of the donee) to a bona fide purchaser, mortgagee, or pledgee for an adequate and full consideration in money or money's worth shall be divested of the lien herein imposed and the lien, to the extent of the value of such gift, shall attach to all the property (including after-acquired property) of the donee (or the transferee) except any part transferred to a bona fide purchaser, mortgagee, or pledgee for an adequate and full consideration in money or money's worth.

(c) *Exception in case of securities.* The lien imposed by subsection (a) or (b) shall not be valid with respect to a security, as defined in section 6323(c)(2), as against any mortgagee, pledgee, or purchaser of any such security, for an adequate and full consideration in money or money's worth, if at the time of such mortgage, pledge, or purchase such mortgagee, pledgee, or purchaser is without notice or knowledge of the existence of such lien.

§ 301.6324–1 Special liens for estate and gift taxes; personal liability of transferees and others.

(a) *Estate tax.* (1) The lien imposed by section 6324(a) attaches at the date of the decedent's death to every part of the gross estate, whether or not the property comes into the possession of the duly qualified executor or administrator. It attaches to the extent of the tax shown to be due by the return and of any deficiency in tax found to be due upon review and audit. If the estate tax is not paid when due, then the spouse, transferee, trustee (except the trustee of an employee's trust which meets the requirements of section 401(a)), surviving tenant, person in possession of the property by reason of the exercise, nonexercise, or release of a power of appointment, or beneficiary, who receives, or has on the date of the decedent's death, property included in the gross estate under sections 2034 to 2042, inclusive, shall be personally liable for such tax to the extent of the value, at the time of the decedent's death, of such property.

(2) Unless the tax is paid in full, and except as otherwise provided in section 6324(c) (relating to transfers of securities), the lien upon the entire property constituting the gross estate continues for a period of 10 years after the decedent's death, except that such lien shall be divested with respect to:

(i) Such portion of the gross estate as is used for the payment of charges against the estate and expenses of its administration allowed by any court having jurisdiction thereof;

(ii) Such property as is transferred to a bona fide purchaser, mortgagee, or pledgee, for an adequate and full consideration in money or money's worth, by the spouse, transferee, trustee, surviving tenant, person in possession of the property by reason of the exercise, nonexercise, or release of a power of appointment, or beneficiary, who receives, or has on the date of the decedent's death, property included in the gross estate under sections 2034 to 2042, inclusive (or the corresponding provisions of the Internal Revenue Code of 1939), or such property as is transferred by the transferee of such person. In such case, a like lien attaches to all the property of such spouse, transferee, trustee, surviving tenant, person in possession, beneficiary, or transferee of any such person, except such part thereof as may be transferred to a bona fide purchaser, mortgagee, or pledgee for an adequate and full consideration in money or money's worth. See paragraph (b)(1) of § 301.6323–1 for the meaning of the term "an adequate and full consideration in money or money's worth";

(iii) Such portion of the gross estate (or any interest therein) as has been transferred to a bona fide purchaser, mortgagee, or pledgee for an adequate and full consideration in money or money's worth, if payment is made of the full amount of tax determined by the district director pursuant to a request of the executor for discharge from personal liability as authorized by section 2204 (relating to discharge of executor from personal liability), but there is substituted a like lien upon the consideration received from such purchaser, mortgagee, or pledgee by the heirs, legatees, devisees, or distributees; and

(iv) Such property as to which the district director has issued a certificate releasing the lien pursuant to section 6325.

(b) *Lien for gift tax.* Except as provided in section 6324(c) (relating to securities), a lien attaches upon all gifts made during the calendar year for the amount of the tax imposed upon the gifts made during such year. The lien extends for a period of 10 years from the time the gifts were made, unless the tax is sooner paid. If the tax is not paid when due, the donee of any gift becomes personally liable for the tax to the extent of the value of his gift. Any part of the property comprised in the gift which is transferred by the donee (or by a transferee of the donee) to a bona fide purchaser, mortgagee, or pledgee, for an adequate and full consideration in money or money's worth, is divested of the lien, but a like lien to the extent of the value of such gift attaches to all the property (including after-acquired property) of the donee (or the transferee), except any part transferred to a bona fide purchaser, mortgagee, or pledgee, for an adequate and full consideration in money or money's worth. See paragraph (b)(1) of § 301.6323–1 for the meaning of the term "an adequate and full consideration in money or money's worth".

(c) *Application of lien imposed by section 6321.* The general lien under section 6321 and the special lien under subsection (a) or (b) of section 6324 for the estate or gift tax are not exclusive of each other, but are cumulative. Each lien will arise when the conditions precedent to the creation of such lien are met and will continue in accordance with the provisions applicable to the particular lien. Thus, the special lien may exist without the general lien being in force, or the general lien may exist without the special lien being in force, or the general lien and the special lien may exist simultaneously, depending upon the facts and pertinent statutory provisions applicable to the respective liens.

(d) *Application of section 6324 to estate and gift tax liens imposed under the Internal Revenue Code of 1939.* In the case of any lien arising under section 827 or 1009 of the Internal Revenue Code of 1939 (relating to liens for estate and gift taxes, respectively) which is in effect on January 1, 1958, the provisions of section 6324 shall be applicable to such lien on and after such date in lieu of the provisions of section 827 or 1009 of the 1939 Code.

§ 301.6325 Statutory provisions; release of lien or partial discharge of property.

SEC. 6325. *Release of lien or partial discharge of property*—(a) *Release of lien.* Subject to such rules or regulations as the Secretary or his delegate may prescribe, the Secretary or his delegate may issue a certificate of release of any lien imposed with respect to any internal revenue tax if—

(1) *Liability satisfied or unenforceable.* The Secretary or his delegate finds that the liability for the amount assessed, together with all interest in respect thereof, has been fully satisfied or has become legally unenforceable; or

(2) *Bond accepted.* There is furnished to the Secretary or his delegate and accepted by him a bond that is conditioned upon the payment of the amount assessed, together with all interest in respect thereof, within the time prescribed by law (including any extension of such time), and that is in accordance with such requirements relating to terms, conditions, and form of the bond and sureties thereon, as may be specified by such rules or regulations.

(b) *Partial discharge of property*—(1) *Property double the amount of the liability.* Subject to such rules or regulations as the Secretary or his delegate may prescribe, the Secretary or his delegate may issue a certificate of discharge of any part of the property subject to any lien imposed under this chapter if the Secretary or his delegate finds that the fair market value of that part of such property remaining subject to the lien is at least double the amount of the unsatisfied liability secured by such lien and the amount of all other liens upon such property which have priority to such lien.

(2) *Part payment or interest of United States valueless.* Subject to such rules or regulations as the Secretary or his delegate may prescribe, the Secretary or his delegate may issue a certificate of discharge of any part of the property subject to the lien if—

(A) there is paid over to the Secretary or his delegate in part satisfaction of the liability secured by the lien an amount determined by the Secretary or his delegate, which shall not be less than the value, as determined by the Secretary or his delegate, of the interest of the United States in the part to be so discharged, or

(B) the Secretary or his delegate determines at any time that the interest of the United States in the part to be so discharged has no value.

In determining the value of the interest of the United States in the part to be so discharged, the Secretary or his delegate shall give consideration to the fair market value of such part and to such liens thereon as have priority to the lien of the United States.

(c) *Estate or gift tax.* Subject to such rules or regulations as the Secretary or his delegate may prescribe, the Secretary or his delegate may issue a certificate of discharge of any or all of the property subject to any lien imposed by section 6324 if the Secretary or his delegate finds that the liability secured by such lien has been fully satisfied or provided for.

(d) *Effect of certificate of release or discharge.* A certificate of release or of discharge issued under this section shall be held conclusive that the lien upon the property covered by the certificate is extinguished.

(e) *Cross references.* (1) For single bond complying with the requirements of both subsection (a)(2) and section 6165, see section 7103.

(2) For other provisions relating to bonds, see generally chapter 78.

(3) For provisions relating to suits to enforce lien, see section 7403.

(4) For provisions relating to suits to clear title to realty, see section 7424.

[Sec. 6325 as amended by sec. 77, Technical Amendments Act 1958 (72 Stat. 1662)]

§ 301.6325–1 Release of lien or partial discharge of property.

(a) *Release of lien*—(1) *Liability satisfied or unenforceable.* Any district director may issue a certificate of release of a lien imposed with respect to any internal revenue tax, whenever he finds that the entire liability for the tax has been satisfied or has become unenforceable as a matter of law (and not merely uncollectible or unenforceable as a matter of fact). Tax liabilities frequently are unenforceable in fact for the time being, due to the temporary nonpossession by the taxpayer of discoverable property or property rights. In all cases the liability for the payment of the tax continues until satisfaction of the tax in full or until the expiration of the statutory period for collection, including such extension of the period for collection as may be agreed upon in writing by the taxpayer and the district director.

(2) *Bond accepted.* The district director may, in his discretion, issue a certificate of release of any tax lien if he is furnished and accepts a bond that is conditioned upon the payment of the amount assessed (together with all interest in respect thereof), within the time agreed upon in the bond, but not later than 6 months before the expiration of the statutory period for collection, including any period for collection agreed upon in writing by the district director and the taxpayer. For provisions relating to bonds, see sections 7101 and 7102 and §§ 301.7101–1 and 301.7102–1.

(b) *Discharge of specific property from the lien*—(1) *Property double the amount of the liability.* (i) The district director may, in his discretion, issue a certificate of discharge of any part of the property subject to any tax lien if he determines that the fair market value of that part of the property remaining subject to the lien is at least double the sum of the amount of the unsatisfied liability secured by such lien and of the amount of all other liens upon such property which have priority to such lien. In general, fair market value is that amount which one ready and willing but not compelled to buy would pay to another ready and willing but not compelled to sell the property. For information required to be submitted in an application for a certificate of discharge, see subparagraph (4) of this paragraph.

(ii) The following example illustrates a case in which a certificate of discharge may not be given under this subparagraph:

Example. The Federal tax liability secured by a lien is $1,000. The fair market value of all property which after the discharge will continue to be subject to the Federal tax lien is $10,000. There is a prior mortgage on the property of $5,000, including interest, and the property is subject to a prior lien of $100 for real estate taxes. Accordingly, the taxpayer's equity in the property over and above the amount of the mortgage and real estate taxes is $4,900, or nearly five times the amount required to pay the assessed tax on which the Federal tax lien is based. Nevertheless, a discharge under this subparagraph is not permissible. In the illustration, the sum of the amount of the Federal tax liability ($1,000) and of the amount of the prior mortgage and the lien for real estate taxes ($5,000+$100=$5,100) is $6,100. Double this sum is $12,200, but the fair market value of the remaining property is only $10,000. Hence, a discharge of the property is not permissible under this subparagraph, since the Code requires that the fair market value of the remaining property be at least double the sum of two amounts, one amount being the outstanding Federal tax liability and the other amount being all prior liens upon such property. In order that the discharge may be issued, it would be necessary that the remaining property be worth not less than $12,200.

(2) *Part payment.* The district director may, in his discretion, issue a certificate of discharge of any part of the property subject to the lien if there is paid over to him in part satisfaction of the liability secured by the lien an amount determined by him to be not less than the value of the interest of the United States in the property to be so discharged. In determining the amount to be paid, the district director will take into consideration all the facts and circumstances of the case, including the expenses to which the Government has been put in the matter. In no case shall the amount to be paid be less than the value of the interest of the United States in the property with respect to which the certificate of discharge is to be issued, as such value has been determined by the district director in the light of the fair market value of the property and the amount of all liens and encumbrances thereon having priority over the Federal tax lien. For information required to be submitted in an application for a certificate of discharge, see subparagraph (4) of this paragraph.

(3) *Interest of the United States valueless.* The district director may, in his discretion, issue a certificate of discharge of any part of the property subject to the lien if he determines that the interest of the United States in the property to be so discharged has no value. For information required to be submitted in an application for a certificate of discharge, see subparagraph (4) of this paragraph.

(4) *Application for certificate of discharge.* Any person desiring a certificate of discharge of property from a Federal tax lien shall submit to the district director responsible for the collection of the tax a written application in triplicate, under penalties of perjury, requesting that the certificate be issued. The application shall contain the following information:

(i) A clear description of the property with respect to which the discharge is desired (setting forth the description of each parcel of realty on a separate page) and, where applicable, of the property remaining subject to the lien;

(ii) The reason the discharge is sought;

(iii) A description of the Federal tax lien in respect of which the certificate of discharge is sought, including the amount, nature of the tax, the dates of assessment, and, if applicable, an appropriate reference to the registry and the page and volume of the book in which the notice of Federal tax lien is filed, indexed, or recorded, and the date of the filing of the notice;

(iv) A statement in numbered paragraphs of all facts material to the application, including the amount, character, and dates (both of execution and of record) of all encumbrances of record prior to the Federal lien, with an appropriate reference to the registry and the page and volume of the book in which each such encumbrance is recorded;

(v) The amounts, character, and dates of execution of any unrecorded encumbrances believed to be prior to the Federal tax lien, including information as to how and when such encumbrances arose;

(vi) In support of the application, the applicant must furnish proof sufficient to establish the fair market value of the property with respect to which the discharge is sought, and, where applicable, proof sufficient to establish the fair market value of the property which will remain subject to the lien; and

(vii) Any other information which in the opinion of the applicant might have a bearing upon the determination to be made.

Applications submitted under subparagraph (1) or (3) of this paragraph do not require the submission of any sum of money for the discharge of the property from a tax lien. Since the amount to be paid for the issuance, under subparagraph (2) of this paragraph, of a certificate of discharge of property from a Federal tax lien is a matter for the determination of the district director after consideration of the facts and law involved, no sum of money or check should be submitted with the application. The district director shall cause a thorough investigation to be made as to the proof and accuracy of all material statements made in the application. Upon completion of such investigation the district

director will make his determination and advise the applicant of the decision reached.

(c) *Estate or gift tax liability fully satisfied or provided for*—(1) *Certificate of discharge.* If the district director determines that the tax liability for estate or gift tax has been fully satisfied, he may issue a certificate of discharge of any or all property from the lien imposed thereon. If the district director determines that the tax liability for estate or gift tax has been adequately provided for, he may issue a certificate discharging particular items of property from the lien. The issuance of such a certificate is a matter resting within the discretion of the district director, and a certificate will be issued only in case there is actual need therefor. The primary purpose of such discharge is not to evidence payment or satisfaction of the tax, but to permit the transfer of property free from the lien in case it is necessary to clear title. The tax will be considered fully satisfied only when investigation has been completed and payment of the tax, including any deficiency determined, has been made.

(2) *Application for certificate of discharge.* An application for a certificate of discharge of property from the lien for estate or gift tax should be filed with the district director responsible for the collection of the tax. It should be made in writing under penalties of perjury and should explain the circumstances that require the discharge, and should fully describe the particular items for which the discharge is desired. Where realty is involved each parcel sought to be discharged from the lien should be described on a separate page and each such description submitted in duplicate. In the case of an estate tax lien, the application should show the applicant's relationship to the estate, such as executor, heir, devisee, legatee, beneficiary, transferee, or purchaser. If the estate or gift tax return has not been filed, a statement under penalties of perjury may be required showing (i) the value of the property to be discharged, (ii) the basis for such valuation, (iii) in the case of the estate tax, the approximate value of the gross estate and the approximate value of the total real property included in the gross estate, (iv) in the case of the gift tax, the total amount of gifts made during the calendar year and the prior calendar years subsequent to the enactment of the Revenue Act of 1932 and the approximate value of all real estate subject to the gift tax lien, and (v) if the property is to be sold or otherwise transferred, the name and address of the purchaser or transferee and the consideration, if any, paid or to be paid by him.

(3) For provisions relating to transfer certificates in the case of nonresident estates, see § 20.6325–1 of this chapter (Estate Tax Regulations).

(d) *Effect of certificate of release or discharge of specific property.* A certificate of release of lien or a certificate discharging specific property from the lien issued under section 6325 shall be conclusive that the lien upon the property covered by the certificate is extinguished.

§ 301.6326 Statutory provisions; cross references.

Sec. 6326. *Cross references.* (1) For lien in case of tax on distilled spirits, see section 5004.

(2) For exclusion of tax liability from discharge in bankruptcy, see section 17 of the Bankruptcy Act, as amended (52 Stat. 851; 11 U.S.C. 35).

(3) For limit on amount allowed in bankruptcy proceedings on debts owing to the United States, see section 57(j) of the Bankruptcy Act, as amended (52 Stat. 867; 11 U.S.C. 93).

(4) For recognition of tax liens in proceedings under the Bankruptcy Act, see section 67 (b) and (c) of that act, as amended (52 Stat. 876–877; 11 U.S.C. 107).

(5) For collection of taxes in connection with wage earners' plans in bankruptcy courts, see section 680 of the Bankruptcy Act, as added by the act of June 22, 1938 (52 Stat. 888; 11 U.S.C. 1080).

(6) For provisions permitting the United States to be made party defendant in a proceeding in a State court for the foreclosure of a lien upon real estate where the United States may have a claim upon the premises involved, see section 2410 of Title 28 of the United States Code.

(7) For priority of lien of the United States in case of insolvency, see R.S. 3466 (31 U.S.C. 191).

SEIZURE OF PROPERTY FOR COLLECTION OF TAXES

§ 301.6331 Statutory provisions; levy and distraint.

Sec. 6331. *Levy and distraint*—(a) *Authority of Secretary or delegate.* If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary or his delegate to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax. Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official. If the Secretary or his delegate makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary or his delegate and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section.

(b) *Seizure and sale of property.* The term "levy" as used in this title includes the power of distraint and seizure by any means. In any case in which the Secretary or his delegate may levy upon property or rights to property, he may seize and sell such property or rights to property (whether real or personal, tangible or intangible).

(c) *Successive seizures.* Whenever any property or right to property upon which levy has been made by virtue of subsection (a) is not sufficient to satisfy the claim of the United States for which levy is made, the Secretary or his delegate may, thereafter, and as often as may be necessary, proceed to levy in like manner upon any other property liable to levy of the person against whom such claim exists, until the amount due from him, together with all expenses, is fully paid.

(d) *Cross references.* (1) For provisions relating to jeopardy, see subchapter A of chapter 70.

(2) For proceedings applicable to sale of seized property, see section 6336.

§ 301.6331–1 Levy and distraint.

(a) *Authority to levy*—(1) *In general.* If any person liable to pay any tax neglects or refuses to pay such tax within 10 days after notice and demand, the district director to whom the assessment is charged or, upon his request, any other district director may proceed to collect the tax by levy upon any property, or rights to property, whether real or personal, tangible or intangible, belonging to such person or on which there is a lien provided by section 6321 or 6324 (or the corresponding provision of prior law) for the payment of such tax. As used in section 6331 and this section, the term "tax" includes any interest, additional amount, addition to tax, or assessable penalty, together with any costs and expenses that may accrue in addition thereto. For exemption of certain property from levy, see section 6334 and the regulations thereunder. Property subject to a Federal tax lien, which has been sold or otherwise transferred by the taxpayer, may be seized in the hands of the transferee or of any subsequent transferee. Levy may be made by serving a notice of levy on any person in possession of, or obligated with respect to, property or rights to property subject to levy, such as, for example, receivables, bank accounts, evidences of debt, securities, and accrued salaries, wages, commissions, and other compensation.

(2) *Jeopardy cases.* If the district director finds that the collection of any tax is in jeopardy, he may make notice and demand for immediate payment of such tax and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in section 6331 (a).

(3) *Bankruptcy or receivership cases.* During a bankruptcy proceeding or a receivership proceeding in either a Federal or a State court, the assets of the taxpayer are in general under the control of the court in which such proceeding is pending. Taxes cannot be collected by levy upon assets in the custody of a court, whether or not such custody is incident to a bankruptcy or receivership proceeding, except where the proceeding has progressed to such a point that the levy would not interfere with the work of the court or where the court grants permission to levy. Any assets which under applicable provisions of law are not under the control of the court may be levied upon, for example, property exempt from court custody under State law or the bankrupt's earnings and property acquired after the date of bankruptcy. However, levy upon such property is not mandatory and the Government may rely upon payment of taxes in the proceeding.

(4) *Certain types of compensation*—(i) *Federal employees.* Levy may be made upon the accrued salary or wages of any officer or employee (including members of the Armed Forces), or elected or appointed official, of the United States, the District of Columbia, or any agency or instrumentality of either, by serving a notice of levy on the employer of the delinquent taxpayer. As used in this subdivision, the term "employer" means (*a*) the officer or employee of the United States, the District of Columbia, or of the agency or instrumentality of the United States or the District of Columbia, who has control of the payment of the wages, or (*b*) any other officer or employee designated by the head of the branch, department, agency, or instrumentality of the United States or of the District of Columbia as the party upon whom service of the notice of levy may be made. If the head of such branch, department, agency or instrumentality designates an officer or employee other than one who has control of the payment of the wages, as the party upon whom service of the notice of levy may be made, such head shall promptly notify the Commissioner of the name and address of each officer or employee so designated and the scope or extent of his authority as such designee.

(ii) *State and municipal employees.* Accrued salaries, wages, or other compensation of any officer, employee, or elected or appointed official of a State or Territory, or of any agency, instrumentality, or political subdivision thereof, are also subject to levy to enforce collection of any Federal tax.

(iii) *Seamen.* Notwithstanding the provisions of section 12 of the Seamen's Act of 1915 (46 U.S.C. 601), accrued wages of seamen, apprentice seamen, or fishermen employed on fishing vessels are subject to levy. See section 6334(e).

(b) *Successive seizures.* Whenever any property or rights to property upon which a levy has been made are not sufficient to satisfy the claim of the United States for which the levy is made, the district director may thereafter, and as often as may be necessary, proceed to levy in like manner upon any other property or rights to property subject to levy of the person against whom such claim exists or on which there is a lien imposed by section 6321 or 6324 (or the corresponding provision of prior law) for the payment of such claim until the amount due from such person, together with all costs and expenses, is fully paid.

§ 301.6332 Statutory provisions; surrender of property subject to levy.

Sec. 6332. *Surrender of property subject to levy*—(a) *Requirement.* Any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made shall, upon demand of the Secretary or his delegate, surrender such property or rights (or discharge such obligation) to the Secretary or his delegate, except such part of the property or rights as is, at the time of such demand, subject to an attachment or execution under any judicial process.

(b) *Penalty for violation.* Any person who fails or refuses to surrender as required by subsection (a) any property or rights to property, subject to levy, upon demand by the Secretary or his delegate, shall be liable in his own person and estate to the United States in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of the taxes for the collection of which such levy has been made, together with costs and interest on such sum at the rate of 6 percent per annum from the date of such levy.

(c) *Person defined.* The term "person," as used in subsection (a), includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to surrender the property or rights to property, or to discharge the obligation.

§ 301.6332–1 Surrender of property subject to levy.

(a) *Requirement*—(1) *In general.* Any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made shall, upon demand of the district director, surrender such property or rights (or discharge such obligation) to the district director, except such part of the property or right as is, at the time of such demand, subject to an attachment or execution under any judicial process.

(2) *Property held by banks.* Notwithstanding subparagraph (1) of this paragraph, if a levy has been made upon property or rights to property subject to levy which a bank engaged in the banking business in the United States or a possession of the United States is in possession of (or obligated with respect to), the Commissioner shall not enforce the levy with respect to any deposits held in an office of the bank outside the United States or a possession of the United States, unless the notice of levy specifies that the district director intends to reach such deposits. The notice of levy shall not specify that the district director intends to reach such deposits unless the district director believes—

(i) That the taxpayer is within the jurisdiction of a U.S. court at the time the levy is made and that the bank is in possession of (or obligated with respect to) deposits of the taxpayer in an office of the bank outside the United States or a possession of the United States; or

(ii) That the taxpayer is not within the jurisdiction of a U.S. court at the time the levy is made, that the bank is in possession of (or obligated with respect to) deposits of the taxpayer in an office outside the United States or a possession of the United States, and that such deposits consist, in whole or in part, of funds transferred from the United States or a possession of the United States in order to hinder or delay the collection of a tax imposed by the Code.

For purposes of this subparagraph, the term "possession of the United States" includes Guam, the Midway Islands, the Panama Canal Zone, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, and Wake Island.

(b) *Penalty for violation.* Any person who fails or refuses, upon demand of the district director, to surrender any property or rights to property subject to levy, as required by section 6332(a), shall be liable in his own person and estate to the United States in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of the taxes for the collection of which such levy has been made, together with costs and interest on such sum at the rate of 6 percent per annum from the date of such levy.

(c) *Person defined.* The term "person," as used in section 6332(a) and this section, includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to surrender the property or rights to property or to discharge the obligation. Thus, in the case of a levy upon the salary or wages of an officer, employee, or elected or appointed official, of the United States, the District of Columbia, or any agency or instrumentality of either, the term "person" includes the officer or employee of the United States, of the District of Columbia, or of such agency or instrumentality, who as such officer or employee is under a duty to discharge the obligation. As to the officer or employee who is under such duty, see paragraph (a)(4)(i) of § 301.6331–1.

§ 301.6333 Statutory provisions; production of books.

Sec. 6333. *Production of books.* If a levy has been made or is about to be made on any property, or right to property, any person having custody or control of any books or records, containing evidence or statements relating to the property or right to property subject to levy, shall, upon demand of the Secretary or his delegate, exhibit such books or records to the Secretary or his delegate.

§ 301.6333–1 Production of books.

If a levy has been made or is about to be made on any property or rights to property, any person, having custody or control of any books or records containing evidence or statements relating to the property or rights to property subject to levy, shall, upon demand of the internal revenue officer who has made or is about to make the levy, exhibit such books or records to such officer.

§ 301.6334 Statutory provisions; property exempt from levy.

Sec. 6334. *Property exempt from levy*—(a) *Enumeration.* There shall be exempt from levy—

(1) *Wearing apparel and school books.* Such items of wearing apparel and such school books as are necessary for the taxpayer or for members of his family;

(2) *Fuel, provisions, furniture, and personal effects.* If the taxpayer is the head of a family, so much of the fuel, provisions, furniture, and personal effects in his household, and of the arms for personal use, livestock, and poultry of the taxpayer, as does not exceed $500 in value;

(3) *Books and tools of a trade, business, or profession.* So many of the books and tools necessary for the trade, business, or profession of the taxpayer as do not exceed in the aggregate $250 in value.

(4) *Unemployment benefits.* Any amount payable to an individual with respect to his unemployment (including any portion thereof payable with respect to dependents) under an unemployment compensation law of the United States, of any State or Territory, or of the District of Columbia or of the Commonwealth of Puerto Rico.

(5) *Undelivered mail.* Mail, addressed to any person, which has not been delivered to the addressee.

FEDERAL REGISTER, VOL. 32, NO. 214—FRIDAY, NOVEMBER 3, 1967

(b) *Appraisal.* The officer seizing property of the type described in subsection (a) shall appraise and set aside to the owner the amount of such property declared to be exempt. If the taxpayer objects at the time of the seizure to the valuation fixed by the officer making the seizure, the Secretary or his delegate shall summon three disinterested individuals who shall make the valuation.

(c) *No other property exempt.* Notwithstanding any other law of the United States, no property or rights to property shall be exempt from levy other than the property specifically made exempt by subsection (a).

[Sec. 6334 as amended by sec. 406, Social Security Amendments 1958 (72 Stat. 1047); as amended by sec. 812, Excise Tax Reduction Act of 1965 (79 Stat. 170)]

Sec. 12 [Railroad Retirement Act of 1937, as amended]. Notwithstanding any other law of the United States, or of any State, Territory, or of the District of Columbia, no annuity or pension payment shall be assignable or be subject to any tax or to garnishment, attachment, or other legal process under any circumstances whatsoever, nor shall the payment thereof be anticipated.

[Sec. 12 as amended by sec. 4, Act of Aug. 12, 1955 (Pub. Law 383, 84th Cong., 69 Stat. 716), effective as of Aug. 28, 1935 (45 U.S.C. 228l)]

Sec. 2 [Railroad Unemployment Insurance Act]. * * *

(c) Notwithstanding any other law of the United States, or of any State, Territory, or the District of Columbia, no benefits shall be assignable or be subject to any tax or to garnishment, attachment, or other legal process under any circumstances whatsoever, nor shall the payment thereof be anticipated.

[Sec. 2 as amended by sec. 4, Act of Aug. 12, 1955 (Pub. Law 383, 84th Cong., 69 Stat. 716), effective as of June 25, 1948 (45 U.S.C. 352 (c))]

Sec. 862 [Title 38, United States Code]. *Special provisions relating to pension.* * * *

(c) Special pension shall not be subject to any attachment, execution, levy, tax lien, or detention under any process whatever.

[38 U.S.C. 562(c), enacted into positive law by Act of Sept. 2, 1958 (Pub. Law 85-857, 72 Stat. 1105)]

Sec. 1440 [Title 10, United States Code]. *Annuities not subject to legal process.* No annuity payable under this chapter (Chapter 73) is assignable or subject to execution, levy, attachment, garnishment, or other legal process.

[10 U.S.C. 1440, enacted into positive law by Act of Aug. 10, 1956 (Pub. Law 1028, 84th Cong., 70A Stat. 111)]

§ 301.6334–1 Property exempt from levy.

(a) *Enumeration.* There shall be exempt from levy—

(1) *Wearing apparel and school books.* Such items of wearing apparel and such school books as are necessary for the taxpayer or for members of his family. Expensive items of wearing apparel, such as furs, which are luxuries and are not necessary for the taxpayer or for members of his family, are not exempt from levy.

(2) *Fuel, provisions, furniture, and personal effects.* If the taxpayer is the head of a family, so much of the fuel, provisions, furniture, and personal effects in his household, and of the arms for personal use, livestock, and poultry of the taxpayer, as does not exceed $500 in value.

(3) *Books and tools of a trade, business, or profession.* So many of the books and tools necessary for the trade, business, or profession of the taxpayer as do not exceed in the aggregate $250 in value.

(4) *Unemployment benefits.* Any amount payable to an individual with respect to his unemployment (including any portion thereof payable with respect to dependents) under an unemployment compensation law of the United States, of any State or Territory, or of the District of Columbia or of the Commonwealth of Puerto Rico.

(5) *Undelivered mail.* Mail, addressed to any person, which has not been delivered to the addressee.

(b) *Appraisal.* The internal revenue officer seizing property of the type described in section 6334(a) shall appraise and set aside to the owner the amount of such property declared to be exempt. If the taxpayer objects at the time of the seizure to the valuation fixed by the officer making the seizure, such officer shall summon three disinterested individuals who shall make the valuation.

(c) *Other property.* Annuity or pension payments under the Railroad Retirement Act (45 U.S.C. ch. 9), benefits under the Railroad Unemployment Insurance Act (45 U.S.C. ch. 11), special pensions under 38 U.S.C. 562, and annuities payable under 10 U.S.C. ch. 73 are exempt from levy. No other property or rights to property are exempt from levy except the property specifically exempted by section 6334(a). No provision of a State law may exempt property or rights to property from levy for the collection of any Federal tax. Thus, property exempt from execution under State personal or homestead exemption laws is, nevertheless, subject to levy by the United States for collection of its taxes.

§ 301.6335 Statutory provisions; sale of seized property.

Sec. 6335. *Sale of seized property.*—(a) *Notice of seizure.* As soon as practicable after seizure of property, notice in writing shall be given by the Secretary or his delegate to the owner of the property (or, in the case of personal property, the possessor thereof), or shall be left at his usual place of abode or business if he has such within the internal revenue district where the seizure is made. If the owner cannot be readily located, or has no dwelling or place of business within such district, the notice may be mailed to his last known address. Such notice shall specify the sum demanded and shall contain, in the case of personal property, an account of the property seized and, in the case of real property, a description with reasonable certainty of the property seized.

(b) *Notice of sale.* The Secretary or his delegate shall, as soon as practicable after the seizure of the property give notice to the owner, in the same manner as that prescribed in subsection (a), and shall cause a notification to be published in some newspaper within the county wherein such seizure is made, or, if there be no newspaper published in such county, shall post such notice at the post office nearest the place where the seizure is made, and in not less than two other public places. Such notice shall specify the property to be sold, and the time, place, manner, and conditions of the sale thereof. Whenever levy is made without regard to the 10-day period provided in section 6331(a), public notice of sale of the property seized shall not be made within such 10-day period unless section 6336 (relating to sale of perishable goods) is applicable.

(c) *Sale of indivisible property.* If any property liable to levy is not divisible, so as to enable the Secretary or his delegate by sale of a part thereof to raise the whole amount of the tax and expenses, the whole of such property shall be sold.

(d) *Time and place of sale.* The time of sale shall not be less than 10 days nor more than 40 days from the time of giving public notice under subsection (b). The place of sale shall be within the county in which the property is seized, except by special order of the Secretary or his delegate.

(e) *Manner and conditions of sale.*—(1) *Minimum price.* Before the sale the Secretary or his delegate shall determine a minimum price for which the property shall be sold, and if no person offers for such property at the sale the amount of the minimum price, the property shall be declared to be purchased at such price for the United States; otherwise the property shall be declared to be sold to the highest bidder. In determining the minimum price, the Secretary or his delegate shall take into account the expense of making the levy and sale.

(2) *Additional rules applicable to sale.* The Secretary or his delegate shall by regulations prescribe the manner and other conditions of the sale of property seized by levy. If one or more alternative methods or conditions are permitted by regulations, the Secretary or his delegate shall select the alternatives applicable to the sale. Such regulations shall provide:

(A) That the sale shall not be conducted in any manner other than—

(i) by public auction, or

(ii) by public sale under sealed bids.

(B) In the case of the seizure of several items of property, whether such items shall be offered separately, in groups, or in the aggregate; and whether such property shall be offered both separately (or in groups) and in the aggregate, and sold under whichever method produces the highest aggregate amount.

(C) Whether the announcement of the minimum price determined by the Secretary or his delegate may be delayed until the receipt of the highest bid.

(D) Whether payment in full shall be required at the time of acceptance of a bid, or whether a part of such payment may be deferred for such period (not to exceed 1 month) as may be determined by the Secretary or his delegate to be appropriate.

(E) The extent to which methods (including advertising) in addition to those prescribed in subsection (b) may be used in giving notice of the sale.

(F) Under what circumstances the Secretary or his delegate may adjourn the sale from time to time (but such adjournments shall not be for a period to exceed in all 1 month).

(3) *Payment of amount bid.* If payment in full is required at the time of acceptance of a bid and is not then and there paid, the Secretary or his delegate shall forthwith proceed to again sell the property in the manner provided in this subsection. If the conditions of the sale permit part of the payment to be deferred, and if such part is not paid within the prescribed period, suit may be instituted against the purchaser for the purchase price or such part thereof as has not been paid, together with interest at the rate of 6 percent per annum from the date of the sale; or, in the discretion of the Secretary or his delegate, the sale may be declared by the Secretary or his delegate to be null and void for failure to make full payment of the purchase price and the property may again be advertised and sold as provided in subsections (b) and (e) and this subsection. In the event of such readvertisement and sale any new purchaser shall receive such property or rights to property, free and clear of any claim or right of the former defaulting purchaser, of any nature whatsoever, and the amount paid upon the bid price by such defaulting purchaser shall be forfeited.

(f) *Stay of sale of seized property pending Tax Court decision.* For restrictions on sale of seized property pending Tax Court decision, see section 6863(b)(3).

§ 301.6335–1 Sale of seized property.

(a) *Notice of seizure.* As soon as practicable after seizure of property, the internal revenue officer seizing the property shall give notice in writing to the owner of the property (or, in the case of personal property, to the possessor thereof). The written notice shall be delivered to the owner (or to the possessor, in the case of personal property) or left at his usual place of abode or business if he has such within the internal revenue district where the seizure is made. If the owner cannot be readily located, or has no dwelling or place of business within such district, the notice may be mailed to his last known address. Such notice shall specify the sum demanded and shall contain, in the case of personal property, a list sufficient to identify the property seized and, in the case of real property, a description with reasonable certainty of the property seized.

(b) *Notice of sale.* (1) As soon as practicable after seizure of the property, the district director shall give notice of sale in writing to the owner. Such notice shall be delivered to the owner or left at his usual place of abode or business if he has such within the internal revenue district where the seizure is made. If the owner cannot be readily located, or has no dwelling or place of business within such district, the notice may be mailed to his last known address. The notice shall specify the property to be sold, and the time, place, manner, and conditions of the sale thereof, and shall expressly state that only the right, title, and interest of the delinquent taxpayer in and to such property is to be offered for sale. The notice shall also be published in some newspaper within the county wherein such seizure is made. However, if there is no newspaper published in such county, such notice shall be posted at the post office nearest the place where the seizure is made, and in not less than two other public places.

(2) The district director may use other methods of giving notice of sale and of advertising seized property in addition to those referred to in subparagraph (1) of this paragraph when he believes that the nature of the property to be sold is such that a wider or more specialized advertising coverage will enhance the possibility of obtaining a higher price for the property.

(3) Whenever levy is made without regard to the 10-day period provided in section 6331(a) (relating to cases in which collection is in jeopardy), a public notice of sale of the property seized shall not be made within such 10-day period unless section 6336 (relating to perishable goods) is applicable.

(c) *Time, place, manner, and conditions of sale.* The time, place, manner, and conditions of the sale of property seized by levy shall be as follows:

(1) *Time and place of sale.* The time of sale shall not be less than 10 days nor more than 40 days from the time of giving public notice under section 6335 (b) (see paragraph (b) of this section). The place of sale shall be within the county in which the property is seized, except that if it appears to the district director under whose supervision the seizure was made that substantially higher bids may be obtained for the property if the sale is held at a place outside such county, he may order that the sale be held in such other place. The sale shall be held at the time and place stated in the notice of sale.

(2) *Adjournment of sale.* When it appears to the district director that an adjournment of the sale will best serve the interest of the United States or that of the taxpayer, the district director may adjourn, or cause the internal revenue officer conducting the sale to adjourn, the sale from time to time, but the date of the sale shall not be later than one month after the date fixed in the original notice of sale.

(3) *Minimum price.* The district director shall determine a minimum price, taking into account the expenses of levy and sale, for which the property shall be sold. If no person offers for such property at the sale the amount of the minimum price, the property shall be declared purchased at such price for the United States; otherwise, the property shall be declared to be sold to the highest bidder. The internal revenue officer conducting the sale shall either announce the minimum price before the sale begins or defer announcement of the minimum price until after the receipt of the highest bid, and, if the highest bid is greater than the minimum price, no announcement of the minimum price shall be made.

(4) *Offering of property.*—(i) *Sale of indivisible property.* If any property levied upon is not divisible, so as to enable the district director by sale of a part thereof to raise the whole amount of the tax and expenses of levy and sale, the whole of such property shall be sold. For application of surplus proceeds of sale, see section 6342(b).

(ii) *Separately, in groups, or in the aggregate.* The seized property may be offered for sale—

(a) As separate items, or

(b) As groups of items, or

(c) In the aggregate, or

(d) Both as separate items (or in groups) and in the aggregate. In such cases, the property shall be sold under the method which produces the highest aggregate amount.

The district director shall select whichever of the foregoing methods of offering the property for sale is, in his opinion, is most feasible under all the facts and circumstances of the case, except that if the property to be sold includes both real and personal property, only the personal property may be grouped for the purpose of offering such property for sale. However, real and personal property may be offered for sale in the aggregate, provided the real property, as separate items, and the personal property as a group, or as groups, or as separate items, are first offered separately.

(iii) *Condition of title and of property.* Only the right, title, and interest of the delinquent taxpayer in and to the property seized shall be offered for sale, and such interest shall be offered subject to any prior outstanding mortgages, encumbrances, or other liens in favor of third parties which are valid as against the delinquent taxpayer and are superior to the lien of the United States. All seized property shall be offered for sale "as is" and "where is" and without recourse against the United States. No guaranty or warranty, express or implied, shall be made by the internal revenue officer offering the property for sale, as to the validity of the title, quality, quantity, weight, size, or condition of any of the property, or its fitness for any use or purpose. No claim shall be considered for allowance or adjustment or for rescission of the sale based upon failure of the property to conform with any representation, express or implied.

(iv) *Terms of payment.* The property shall be offered for sale upon whichever of the following terms is fixed by the district director in the public notice of sale:

(a) Payment in full upon acceptance of the highest bid, without regard to the amount of such bid, or

(b) If the aggregate price of all property purchased by a successful bidder at the sale is more than $200, an initial payment of $200 or 20 percent of the purchase price, whichever is the greater, and payment of the balance (including all costs incurred for the protection or preservation of the property subsequent to the sale and prior to final payment) within a specified period, not to exceed 1 month from the date of the sale.

(5) *Method of sale.* The district director shall sell the property either—

(i) At public auction, at which open competitive bids shall be received, or

(ii) At public sale under sealed bids. The following rules, in addition to the other rules provided in this paragraph, shall be applicable to public sale under sealed bids:

(a) *Invitation to bidders.* Bids shall be solicited through a public notice of sale.

(b) *Form for use by bidders.* A bid shall be submitted on a form which will be furnished by the district director upon request. The form shall be completed in accordance with the instructions thereon.

(c) *Remittance with bid.* If the total bid is $200 or less, the full amount of the bid shall be submitted therewith. If the total bid is more than $200, 20 percent of such bid or $200, whichever is greater, shall be submitted therewith. (In the case of alternative bids submit-

ted by the same bidder for items of property offered separately, or in groups, or in the aggregate, the bidder shall remit the full amount of the highest alternative bid submitted, if that bid is $200 or less. If the highest alternative bid submitted is more than $200, the bidder shall remit 20 percent of the highest alternative bid or $200, whichever is greater.) Such remittance shall be by a certified, cashier's, or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States or under the laws of any State, Territory, or possession of the United States, or by a U.S. postal, bank, express, or telegraph money order.

(d) *Time for receiving and opening bids.* Each bid shall be submitted in a securely sealed envelope. The bidder shall indicate in the upper left hand corner of the envelope his name and address and the time and place of sale as announced in the public notice of sale. A bid will not be considered unless it is received by the internal revenue officer conducting the sale prior to the opening of the bids. The bids will be opened at the time and place stated in the notice of sale, or at the time fixed in the announcement of the adjournment of the sale.

(e) *Consideration of bids.* The public notice of sale shall specify whether the property is to be sold separately, by groups, or in the aggregate or by a combination of these methods, as provided in subparagraph (4)(ii) of this paragraph. If the notice specifies an alternative method, bidders may submit bids under one or more of the alternatives. In case of error in the extension of prices in any bid, the unit price will govern. The internal revenue officer conducting the sale shall have the right to waive any technical defects in a bid. In the event two or more highest bids are equal in amount, the internal revenue officer conducting the sale shall determine the successful bidder by drawing lots. After the opening, examination, and consideration of all bids, the internal revenue officer conducting the sale shall announce the amount of the highest bid or bids and the name of the successful bidder or bidders. Any remittance submitted in connection with an unsuccessful bid shall be returned at the conclusion of the sale.

(f) *Withdrawal of bids.* A bid may be withdrawn on written or telegraphic request received from the bidder prior to the time fixed for opening the bids. A technical defect in a bid confers no right on the bidder for the withdrawal of his bid after it has been opened.

(6) *Payment of bid price.* All payments for property sold under this section shall be made by cash or by a certified, cashier's, or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States or under the laws of any State, Territory, or possession of the United States, or by a U.S. postal, bank, express, or telegraph money order. If payment in full is required upon acceptance of the highest bid, the payment shall be made at such time. If deferred payment is permitted, the initial payment shall be made upon acceptance of the bid, and the balance shall be paid on or before the date fixed for payment thereof. Any remittance submitted with a successful sealed bid shall be applied toward the purchase price.

(7) *Delivery and removal of personal property.* Responsibility of the United States for the protection or preservation of seized personal property shall cease immediately upon acceptance of the highest bid. The risk of loss is on the purchaser of personal property upon acceptance of his bid. Possession of any personal property shall not be delivered to the purchaser until the purchase price has been paid in full. If payment of part of the purchase price for personal property is deferred, the United States will retain possession of such property as security for the payment of the balance of the purchase price and, as agent for the purchaser, will cause the property to be cared for until the purchase price has been paid in full or the sale is declared null and void for failure to make full payment of the purchase price. In such case, all charges and expenses incurred in caring for the property after the acceptance of the bid shall be borne by the purchaser.

(8) *Default in payment.* If payment in full is required upon acceptance of the bid and is not then and there paid, the internal revenue officer conducting the sale shall forthwith proceed again to sell the property in the manner provided in section 6335(e) and this section. If the conditions of the sale permit part of the payment to be deferred, and if such part is not paid within the prescribed period, suit may be instituted against the purchaser for the purchase price or such part thereof as has not been paid, together with interest at the rate of 6 percent per annum from the date of the sale; or, in the discretion of the district director, the sale may be declared by the district director to be null and void for failure to make full payment of the purchase price and the property may again be advertised and sold as provided in subsections (b), (c), and (e) of section 6335 and this section. In the event of such readvertisement and sale, any new purchaser shall receive such property or rights to property free and clear of any claim or right of the former defaulting purchaser, of any nature whatsoever, and the amount paid upon the bid price by such defaulting purchaser shall be forfeited to the United States.

(9) *Stay of sale of seized property pending Tax Court decision.* For restrictions on sale of seized property pending Tax Court decision, see section 6863(b)(3) and § 301.6863–2.

§ 301.6336 Statutory provisions; sale of perishable goods.

Sec. 6336. *Sale of perishable goods.* If the Secretary or his delegate determines that any property seized is liable to perish or become greatly reduced in price or value by keeping, or that such property cannot be kept without great expense, he shall appraise the value of such property and—

(1) *Return to owner.* If the owner of the property can be readily found, the Secretary or his delegate shall give him notice of such determination of the appraised value of the property. The property shall be returned to the owner if, within such time as may be specified in the notice, the owner—

(A) Pays to the Secretary or his delegate an amount equal to the appraised value, or

(B) Gives bond in such form, with such sureties, and in such amount as the Secretary or his delegate shall prescribe, to pay the appraised amount at such time as the Secretary or his delegate determines to be appropriate in the circumstances.

(2) *Immediate sale.* If the owner does not pay such amount or furnish such bond in accordance with this section, the Secretary or his delegate shall as soon as practicable make public sale of the property in accordance with such regulations as may be prescribed by the Secretary or his delegate.

§ 301.6336–1 Sale of perishable goods.

(a) *Appraisal of certain seized property.* If the district director determines that any property seized by levy is liable to perish or become greatly reduced in price or value by keeping, or that such property cannot be kept without great expense, he shall appraise the value of such property and return it to the owner if the owner complies with the conditions prescribed in paragraph (b) of this section or, if the owner does not comply with such conditions, dispose of the property in accordance with paragraph (c) of this section.

(b) *Return to owner.* If the owner of the property can be readily found, the district director shall give him written notice of his determination of the appraised value of the property. However, if the district director determines that the circumstances require immediate action, he may give the owner an oral notice of his determination of the appraised value of the property, which notice shall be confirmed in writing prior to sale. The property shall be returned to the owner if, within the time specified in the notice, the owner—

(1) Pays to the district director an amount equal to the appraised value, or

(2) Gives an acceptable bond as prescribed by section 7101 and § 301.7101–1. Such bond shall be in an amount not less than the appraised value of the property and shall be conditioned upon the payment of such amount at such time as the district director determines to be appropriate in the circumstances.

(c) *Immediate sale.* If the owner does not pay the amount of the appraised value of the seized property within the time specified in the notice, or furnish bond as provided in paragraph (b) of this section within such time, the district director shall as soon as practicable make public sale of the property in accordance with the following terms and conditions—

(1) *Notice of sale.* If the owner can readily be found, a notice shall be given to him. A notice of sale also shall be posted in two public places in the county in which the property is to be sold. The notice shall specify the time and place of sale, the property to be sold, and the manner and conditions of sale. The district director may give such other notice and in such other manner as he deems advisable under the circumstances.

(2) *Sale.* The property shall be sold at public auction to the highest bidder.

(3) *Terms.* The purchase price shall be paid in full upon acceptance of the highest bid. The payment shall be made in cash, or by a certified, cashier's, or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States or under the laws of any State, Territory, or possession of the United States, or by a U.S. postal, bank, express, or telegraph money order.

§ 301.6337 Statutory provisions; redemption of property.

Sec. 6337. *Redemption of property*—(a) *Before sale.* Any person whose property has been levied upon shall have the right to pay the amount due, together with the expenses of the proceeding, if any, to the Secretary or his delegate at any time prior to the sale thereof, and upon such payment the Secretary or his delegate shall restore such property to him, and all further proceedings in connection with the levy on such property shall cease from the time of such payment.

(b) *Redemption of real estate after sale*—(1) *Period.* The owners of any real property sold as provided in section 6335, their heirs, executors, or administrators, or any person having any interest therein, or a lien thereon, or any person in their behalf, shall be permitted to redeem the property sold, or any particular tract of such property, at any time within 1 year after the sale thereof.

(2) *Price.* Such property or tract of property shall be permitted to be redeemed upon payment to the purchaser, or in case he cannot be found in the county in which the property to be redeemed is situated, then to the Secretary or his delegate, for the use of the purchaser, his heirs, or assigns, the amount paid by such purchaser and interest thereon at the rate of 20 percent per annum.

(c) *Record.* When any lands sold are redeemed as provided in this section, the Secretary or his delegate shall cause entry of the fact to be made upon the record mentioned in section 6340, and such entry shall be evidence of such redemption.

§ 301.6337–1 Redemption of property.

(a) *Before sale.* Any person whose property has been levied upon shall have the right to pay the amount due, together with costs and expenses of the proceeding, if any, to the district director at any time prior to the sale of the property. Upon such payment the district director shall restore such property to the owner and all further proceedings in connection with the levy on such property shall cease from the time of such payment.

(b) *Redemption of real estate after sale*—(1) *Period.* The owner of any real estate sold as provided in section 6335, his heirs, executors, or administrators, or any person having any interest therein, or a lien thereon, or any person in their behalf, shall be permitted to redeem the property sold, or any particular tract of such property, at any time within one year after the sale thereof.

(2) *Price.* Such property or tract of property may be redeemed upon payment to the purchaser, or in case he cannot be found in the county in which the property to be redeemed is situated, then to the district director for the internal revenue district in which the property is situated, for the use of the purchaser, his heirs, or assigns, the amount paid by such purchaser and interest thereon at the rate of 20 percent per annum. In case real and personal property (or several tracts of real property) are purchased in the aggregate, the redemption price of the real property (or of each of the several tracts) shall be determined on the basis of the ratio, as of the time of sale, of the value of the real property (or tract) to the value of the total property purchased. For this purpose the minimum price or the highest bid price, whichever is higher, offered for the property separately or in groups shall be treated as the value.

(c) *Record.* When any real property is redeemed, the district director shall cause entry of the fact to be made upon the record of sale kept in accordance with section 6340, and such entry shall be evidence of such redemption. The party who redeems the property shall notify the district director of the internal revenue district in which the property is situated of the date of such redemption and of the transfer of the certificate of sale, the amount of the redemption price, and the name of the party to whom such redemption price was paid.

§ 301.6338 Statutory provisions; certificate of sale; deed of real property.

Sec. 6338. *Certificate of sale; deed of real property*—(a) *Certificate of sale.* In the case of property sold as provided in section 6335, the Secretary or his delegate shall give to the purchaser a certificate of sale upon payment in full of the purchase price. In the case of real property, such certificate shall set forth the real property purchased, for whose taxes the same was sold, the name of the purchaser, and the price paid therefor.

(b) *Deed to real property.* In the case of any real property sold as provided in section 6335 and not redeemed in the manner and within the time provided in section 6337, the Secretary or his delegate shall execute (in accordance with the laws of the State in which such real property is situated pertaining to sales of real property under execution) to the purchaser of such real property at such sale, upon his surrender of the certificate of sale, a deed of the real property so purchased by him, reciting the facts set forth in the certificate.

(c) *Real property purchased by United States.* If real property is declared purchased by the United States at a sale pursuant to section 6335, the Secretary or his delegate shall at the proper time execute a deed therefor after its preparation and the endorsement of approval as to its form by the U.S. attorney for the district in which the property is situated, and the Secretary or his delegate shall, without delay, cause the deed to be duly recorded in the proper registry of deeds.

[Sec. 6338 as amended by sec. 78, Technical Amendments Act 1958 (72 Stat. 1662)]

§ 301.6338–1 Certificate of sale; deed of real property.

(a) *Certificate of sale.* In the case of property sold as provided in section 6335 (relating to sale of seized property), the district director shall give to the purchaser a certificate of sale upon payment in full of the purchase price. A certificate of sale of real property shall set forth the real property purchased, for whose taxes the same was sold, the name of the purchaser, and the price paid therefor.

(b) *Deed to real property.* In the case of any real property sold as provided in section 6335 and not redeemed in the manner and within the time prescribed in section 6337, the district director shall execute (in accordance with the laws of the State in which the real property is situated pertaining to sales of real property under execution) to the purchaser of such real property at such sale, upon his surrender of the certificate of sale, a deed of the real property so purchased by him, reciting the facts set forth in the certificate.

(c) *Deed to real property purchased by the United States.* If real property is declared purchased by the United States at a sale pursuant to section 6335, the district director shall at the proper time execute a deed therefor after its preparation and the endorsement of approval as to the form by the U.S. attorney for the district in which the property is situated, and the district director shall, without delay, cause the deed to be duly recorded in the proper registry of deeds.

§ 301.6339 Statutory provisions; legal effect of certificate of sale of personal property and deed of real property.

Sec. 6339. *Legal effect of certificate of sale of personal property and deed of real property*—(a) *Certificate of sale of property other than real property.* In all cases of sale pursuant to section 6335 of property (other than real property), the certificate of such sale—

(1) *As evidence.* Shall be prima facie evidence of the right of the officer to make such sale, and conclusive evidence of the regularity of his proceedings in making the sale; and

(2) *As conveyances.* Shall transfer to the purchaser all right, title, and interest of the party delinquent in and to the property sold; and

(3) *As authority for transfer of corporate stock.* If such property consists of stocks, shall be notice, when received, to any corporation, company, or association of such transfer, and shall be authority to such corporation, company, or association to record the transfer on its books and records in the same manner as if the stocks were transferred or assigned by the party holding the same, in lieu of any original or prior certificate, which shall be void, whether canceled or not; and

(4) *As receipts.* If the subject of sale is securities or other evidences of debt, shall be a good and valid receipt to the person holding the same, as against any person holding or claiming to hold possession of such securities or other evidences of debt; and

(5) *As authority for transfer of title to motor vehicle.* If such property consists of a motor vehicle, shall be notice, when received, to any public official charged with the registration of title to motor vehicles, of such transfer and shall be authority to such official to record the transfer on his books and records in the same manner as if the certificate of title to such motor vehicle were transferred or assigned by the party holding the same, in lieu of any original or prior certificate, which shall be void, whether canceled or not.

(b) *Deed of real property.* In the case of the sale of real property pursuant to section 6335—

(1) *Deed as evidence.* The deed of sale given pursuant to section 6338 shall be prima

facie evidence of the facts therein stated; and

(3) *Deed as conveyance of title.* If the proceedings of the Secretary or his delegate as set forth have been substantially in accordance with the provisions of law, such deed shall be considered and operate as a conveyance of all the right, title, and interest the party delinquent had in and to the real property thus sold at the time the lien of the United States attached thereto.

[Sec. 6339 as amended by sec. 79, Technical Amendments Act 1958 (72 Stat. 1662)]

§ 301.6339–1 Legal effect of certificate of sale of personal property and deed of real property.

(a) *Certificate of sale of property other than real property.* In all cases of sale pursuant to section 6335 of property (other than real property), the certificate of such sale—

(1) *As evidence.* Shall be prima facie evidence of the right of the officer to make such sale, and conclusive evidence of the regularity of his proceedings in making the sale; and

(2) *As conveyance.* Shall transfer to the purchaser all right, title, and interest of the party delinquent in and to the property sold; and

(3) *As authority for transfer of corporate stock.* If such property consists of corporate stocks, shall be notice, when received, to any corporation, company, or association of such transfer, and shall be authority to such corporation, company, or association to record the transfer on its books and records in the same manner as if the stocks were transferred or assigned by the party holding the stock certificate, in lieu of any original or prior certificate, which shall be void, whether canceled or not; and

(4) *As receipts.* If the subject of sale is securities or other evidences of debt, shall be a good and valid receipt to the person holding the certificate of sale as against any person holding or claiming to hold possession of such securities or other evidences of debt; and

(5) *As authority for transfer of title to motor vehicle.* If such property consists of a motor vehicle, shall be notice, when received, to any public official charged with the registration of title to motor vehicles, of such transfer and shall be authority to such official to record the transfer on his books and records in the same manner as if the certificate of title to such motor vehicle were transferred or assigned by the party holding the certificate of title, in lieu of any original or prior certificate, which shall be null and void, whether canceled or not.

(b) *Deed to real property.* In the case of the sale of real property pursuant to section 6335—

(1) *Deed as evidence.* The deed of sale given pursuant to section 6338 shall be prima facie evidence of the facts therein stated; and

(2) *Deed as conveyance of title.* If the proceedings of the district director as set forth have been substantially in accordance with the provisions of law, such deed shall be considered and operate as a conveyance of all the right, title, and interest the party delinquent had in and to the real property thus sold at the time the lien of the United States attached thereto.

§ 301.6340 Statutory provisions; records of sale.

SEC. 6340. *Records of sale*—(a) *Requirement.* The Secretary or his delegate shall, for each internal revenue district, keep a record of all sales of real property under section 6335 and of redemptions of such property. The record shall set forth the tax for which any such sale was made, the dates of seizure and sale, the name of the party assessed and all proceedings in making such sale, the amount of expenses, the names of the purchasers, the date of the deed, and, in the case of redemption of the property, (2) the date of such redemption and of the transfer of the certificate of sale, the amount of the redemption price, and the name of the party to whom such redemption price was paid.

(b) *Copy as evidence.* A copy of such record, or any part thereof, certified by the district director shall be evidence in any court of the truth of the facts therein stated.

§ 301.6341 Statutory provisions; expense of levy and sale.

SEC. 6341. *Expense of levy and sale.* The Secretary or his delegate shall determine the expenses to be allowed in all cases of levy and sale.

§ 301.6341–1 Expense of levy and sale.

The district director shall determine the expenses to be allowed in all cases of levy and sale. Such expenses shall include the expenses of protection and preservation of the property during the period subsequent to the levy, as well as the actual expenses incurred in connection with the sale thereof. In case real and personal property (or several tracts of real property) are sold in the aggregate, the district director shall properly apportion the expenses to the real property (or to each tract).

§ 301.6342 Statutory provisions; application of proceeds of levy.

SEC. 6342. *Application of proceeds of levy*—(a) *Collection of liability.* Any money realized by proceedings under this subchapter (whether by seizure, by surrender under section 6332, or by sale of seized property) shall be applied as follows:

(1) *Expense of levy and sale.* First, against the expenses of the proceedings under this subchapter;

(2) *Specific tax liability on seized property.* If the property seized and sold is subject to a tax imposed by any internal revenue law which has not been paid, the amount remaining after applying paragraph (1) shall then be applied against such tax liability (and, if such tax was not previously assessed, it shall then be assessed);

(3) *Liability of delinquent taxpayer.* The amount, if any, remaining after applying paragraphs (1) and (2) shall then be applied against the liability in respect of which the levy was made.

(b) *Surplus proceeds.* Any surplus proceeds remaining after the application of subsection (a) shall, upon application and satisfactory proof in support thereof, be credited or refunded by the Secretary or his delegate to the person or persons legally entitled thereto.

§ 301.6342–1 Application of proceeds of levy.

(a) *Collection of liability.* Any money realized by proceedings under subchapter D, chapter 64, of the Code (whether by seizure, by surrender under section 6332, or by sale of seized property), shall be applied as follows:

(1) *Expense of levy and sale.* First, against the expenses of the proceedings as allowable under section 6341;

(2) *Specific tax liability on seized property.* If the property seized and sold is subject to a tax imposed by any internal revenue law which has not been paid, the amount remaining after applying subparagraph (1) of this paragraph shall then be applied against such tax liability (and, if such tax was not previously assessed, it shall then be assessed);

(3) *Liability of delinquent taxpayer.* The amount, if any, remaining after applying subparagraphs (1) and (2) of this paragraph shall then be applied against the liability in respect of which the levy was made.

(b) *Surplus proceeds.* Any surplus proceeds remaining after the application of paragraph (a) of this section shall, upon application and satisfactory proof in support thereof, be credited or refunded by the district director to the person or persons legally entitled thereto. The delinquent taxpayer is the person entitled to the surplus proceeds unless another person establishes a superior claim thereto.

§ 301.6343 Statutory provisions; authority to release levy.

SEC. 6343. *Authority to release levy.* It shall be lawful for the Secretary or his delegate, under regulations prescribed by the Secretary or his delegate, to release the levy upon all or part of the property or rights to property levied upon where the Secretary or his delegate determines that such action will facilitate the collection of the liability, but such release shall not operate to prevent any subsequent levy.

§ 301.6343–1 Authority to release levy.

(a) *Authority.* The district director may release the levy upon all or part of the property or rights to property levied upon as provided in paragraphs (b) and (c) of this section. A levy may be released under paragraph (b) of this section only if the delinquent taxpayer complies with such of the conditions thereunder as the district director may require and if the district director determines that such action will facilitate the collection of the liability. A release pursuant to paragraph (c) of this section is considered to facilitate the collection of the liability. The release under this section shall not operate to prevent any subsequent levy.

(b) *Conditions for release.* The district director may release the levy as authorized under paragraph (a) of this section, if—

(1) *Escrow arrangement.* The delinquent taxpayer offers, and there is accepted by the district director, a satisfactory arrangement placing property in escrow to secure the payment of the liability (including the expenses of levy) which is the basis of the levy.

(2) *Bond.* The delinquent taxpayer delivers an acceptable bond to the district director conditioned upon the payment of the liability (including the expenses of levy) which is the basis of the levy. Such bond shall be in the form provided in section 7101 and § 301.7101–1.

(3) *Payment of amount of U.S. interest in the property.* There is paid to the district director an amount determined by him to be equal to the interest of the United States in the seized property or the part of the seized property to be released.

(4) *Assignment of salaries and wages.* The delinquent taxpayer executes an agreement directing his employer to pay to the district director amounts deducted from the employee's wages on a regular, continuing, or periodic basis, in such manner and in such amount as is agreed upon with the district director, until the full amount of the liability is satisfied, and such agreement is accepted by the employer.

(5) *Installment payment arrangement.* The delinquent taxpayer makes satisfactory arrangements with the district director to pay the amount of the liability in installments.

(6) *Extension of statute of limitations.* The delinquent taxpayer executes an agreement to extend the statute of limitations in accordance with section 6502 (a) (2) and § 301.6502–1.

(c) *Release where value of interest of United States is insufficient to meet expenses of sale.* The district director may release the levy as authorized under paragraph (a) of this section if he determines that the value of the interest of the United States in the seized property, or in the part of the seized property to be released, is insufficient to cover the expenses of the sale of such property.

§ 301.6344 Statutory provisions; cross references.

SEC. 6344. *Cross references*—(a) *Length of period.* For period within which levy may be begun in case of—

(1) Income, estate, and gift taxes, see sections 6502(a) and 6503(a)(1).

(2) Employment and miscellaneous excise taxes, see section 6503(a).

(b) *Delinquent collection officers.* For distraint proceedings against delinquent internal revenue officers, see section 7803(d).

(c) *Other references.* For provisions relating to—

(1) Stamps, marks and brands, see section 6807.

(2) Administration of real estate acquired by the United States, see section 7506.

Abatements, Credits, and Refunds

PROCEDURE IN GENERAL

§ 301.6401 Statutory provisions; amounts treated as overpayments.

SEC. 6401. *Amounts treated as overpayments*—(a) *Assessment and collection after limitation period.* The term "overpayment" includes that part of the amount of the payment of any internal revenue tax which is assessed or collected after the expiration of the period of limitation properly applicable thereto.

(b) *Excessive withholding.* If the amount allowable as a credit under section 31 (relating to credit for tax withheld at the source under chapter 24) exceeds the taxes imposed by chapter 1 against which such credit is allowable, the amount of such excess shall be considered an overpayment.

(c) *Rule where no tax liability.* An amount paid as tax shall not be considered not to constitute an overpayment solely by reason of the fact that there was no tax liability in respect of which such amount was paid.

§ 301.6401–1 Amounts treated as overpayments.

(a) The term "overpayment" includes:

(1) Any payment of any internal revenue tax which is assessed or collected after the expiration of the period of limitation applicable thereto.

(2) Any amount allowable for a taxable year as a credit under section 31 (relating to credit for income tax withheld at source on wages) which exceeds the correct income tax imposed by chapter 1 of the Code for such year.

(b) An amount paid as tax shall not be considered not to constitute an overpayment solely by reason of the fact that there was no tax liability in respect of which such amount was paid.

§ 301.6402 Statutory provisions; authority to make credits or refunds.

SEC. 6402. *Authority to make credits or refunds*—(a) *General rule.* In the case of any overpayment, the Secretary or his delegate, within the applicable period of limitations, may credit the amount of such overpayment, including any interest allowed thereon, against any liability in respect of an internal revenue tax on the part of the person who made the overpayment and shall refund any balance to such person.

(b) *Credits against estimated tax.* The Secretary or his delegate is authorized to prescribe regulations providing for the crediting against the estimated income tax for any taxable year of the amount determined by the taxpayer or the Secretary (or his delegate) to be an overpayment of the income tax for a preceding taxable year.

§ 301.6402–1 Authority to make credits or refunds.

The Commissioner, within the applicable period of limitations, may credit any overpayment of tax, including interest thereon, against any outstanding liability for any tax (or for any interest, additional amount, addition to the tax, or assessable penalty) owed by the person making the overpayment, and the balance, if any, shall be refunded to such person by the Commissioner.

§ 301.6402–2 Claims for credit or refund.

(a) *Requirement that claim be filed.* (1) Credits or refunds of overpayments may not be allowed or made after the expiration of the statutory period of limitation properly applicable unless, before the expiration of such period, a claim therefor has been filed by the taxpayer. Furthermore, under section 7422, a civil action for refund may not be instituted unless a claim has been filed within the properly applicable period of limitation.

(2) The claim, together with appropriate supporting evidence, must be filed in the office of the district director for the internal revenue district in which the tax was paid. As to interest in the case of credits or refunds, see section 6611. See section 7502 for provisions treating timely mailing as timely filing and section 7503 for time for filing claim when the last day falls on Saturday, Sunday, or a legal holiday.

(b) *Grounds set forth in claim.* (1) No refund or credit will be allowed after the expiration of the statutory period of limitation applicable to the filing of a claim therefor except upon one or more of the grounds set forth in a claim filed before the expiration of such period. The claim must set forth in detail each ground upon which a credit or refund is claimed and facts sufficient to apprise the Commissioner of the exact basis thereof. The statement of the grounds and facts must be verified by a written declaration that it is made under the penalties of perjury. A claim which does not comply with this paragraph will not be considered for any purpose as a claim for refund or credit.

(2) Neither the district director nor the director of the regional service center has authority to refund on equitable grounds penalties or other amounts legally collected.

(c) *Form for filing claim.* Claims by the taxpayer for the refunding of overpayments of taxes, interest, penalties, and additions to tax shall be made on Form 843. For special rules applicable to income tax, see § 301.6402–3. For other provisions relating to credits and refunds of taxes other than income tax, see the regulations relating to the particular tax.

(d) *Separate claims for separate taxable periods.* In the case of income, gift, and Federal unemployment taxes, a separate claim shall be made for each type of tax for each taxable year or period.

(e) *Proof of representative capacity.* If a return is filed by an individual and, after his death, a refund claim is filed by his legal representative, certified copies of the letters testamentary, letters of administration, or other similar evidence must be annexed to the claim, to show the authority of the legal representative to file the claim. If an executor, administrator, guardian, trustee, receiver, or other fiduciary files a return and thereafter a refund claim is filed by the same fiduciary, documentary evidence to establish the legal authority of the fiduciary need not accompany the claim, provided a statement is made in the claim

showing that the return was filed by the fiduciary and that the latter is still acting. In such cases, if a refund is to be paid, letters testamentary, letters of administration, or other evidence may be required, but should be submitted only upon the receipt of a specific request therefor. If a claim is filed by a fiduciary other than the one by whom the return was filed, the necessary documentary evidence should accompany the claim. A claim may be executed by an agent of the person assessed, but in such case a power of attorney must accompany the claim.

(f) *Mailing of refund check.* (1) Checks in payment of claims allowed will be drawn in the names of the persons entitled to the money and, except as provided in subparagraph (2) of this paragraph, the checks may be sent direct to the claimant or to such person in care of an attorney or agent who has filed a power of attorney specifically authorizing him to receive such checks.

(2) Checks in payment of claims which have either been reduced to judgment or settled in the course or as a result of litigation will be drawn in the name of the person or persons entitled to the money and, in the case of actions arising in the U.S. district courts, will be sent to the appropriate U.S. attorney, and, in actions arising in the U.S. Court of Claims, to the Assistant Attorney General, Tax Division, Department of Justice, for delivery to the taxpayer or the counsel of record in the court proceeding.

(3) For restrictions on the assignment of claims, see section 3477 of the Revised Statutes (31 U.S.C. 203).

§ 301.6402–3 Special rules applicable to income tax.

(a) In the case of income tax, claims for refund may not only be made on Form 843 but may also be made on any individual, fiduciary, or corporation income tax return (other than the return of a departing alien on Form 1040C), or on any amended income tax return.

(b) A properly executed individual, fiduciary, or corporation income tax return shall, at the election of the taxpayer, constitute a claim for refund or credit within the meaning of section 6402 and section 6511 for the amount of the overpayment disclosed by such return. For purposes of section 6511, such claim shall be considered as filed on the date on which such return is considered as filed, except that if the requirements of § 301.7502–1, relating to timely mailing treated as timely filing, are met the claim shall be considered to be filed on the date of the postmark stamped on the cover in which the return was mailed. An election to treat the return as a claim for refund or credit shall be evidenced by a statement on the return setting forth the amount determined as an overpayment and advising whether such amount shall be refunded to the taxpayer or shall be applied as a credit against the taxpayer's estimated income tax for the taxable year immediately succeeding the taxable year for which such return is filed. If the taxpayer elects to have all or part of the overpayment shown by his return applied to his estimated income tax for his succeeding taxable year, no interest shall be allowed on such portion of the overpayment credited and such amount shall be applied as a payment on account of the estimated income tax for such year or the installments thereof.

(c) The filing of a properly executed income tax return on Form 1040A shall, in any case in which the taxpayer is not required to show his tax on such form, constitute an election by the taxpayer to have the return treated as a claim for refund, and such return shall constitute a claim for refund within the meaning of section 6402 and section 6511 for the amount of the overpayment shown by the computation of the tax made by the district director or the director of the regional service center on the basis of the return. For purposes of section 6511, such claim shall be considered as filed on the date on which such return is considered as filed, except that if the requirements of § 301.7502–1, relating to timely mailing treated as timely filing, are met the claim shall be considered to be filed on the date of the postmark stamped on the cover in which the return was mailed.

(d) In any case in which a taxpayer elects to have an overpayment refunded to him he may not thereafter change his election to have the overpayment applied as a payment on account of his estimated income tax.

§ 301.6402–4 Payments in excess of amounts shown on return.

In certain cases, the taxpayer's payments in respect of his tax liability, made before the filing of his return, may exceed the amount of tax shown on the return. For example, such payments may arise in the case of the income tax when the estimated tax or the credit for income tax withheld at the source on wages exceeds the amount of tax shown on the return, or where a corporation obtains an extension of time for filing its return and makes installment payments based on its estimate of its tax liability which exceed the tax liability shown on the return subsequently filed. In any case in which the district director or the director of the regional service center determines that the payments by the taxpayer (made within the period prescribed for payment and before the filing of the return) are in excess of the amount of tax shown on the return, he may make credit or refund of such overpayment without awaiting examination of the completed return and without awaiting filing of a claim for refund. However, the provisions of §§ 301.6402–2 and 301.6402–3 are applicable to such overpayment, and taxpayers should submit claims for refund if the income tax return is not itself a claim for refund, as provided in § 301.6402–3) to protect themselves in the event the district director or the director of the regional service center fails to make such determination and credit or refund. The provisions of section 6405 (relating to reports of refunds of more than $100,000 to the Joint Committee on Internal Revenue Taxation) are not applicable to the overpayments described in this section caused by timely payments of tax which exceed the amount of tax shown on a timely return.

§ 301.6403 Statutory provisions; overpayment of installment.

SEC. 6403. *Overpayment of installment.* In the case of a tax payable in installments, if the taxpayer has paid as an installment of the tax more than the amount determined to be the correct amount of such installment, the overpayment shall be credited against the unpaid installments, if any. If the amount already paid, whether or not on the basis of installments, exceeds the amount determined to be the correct amount of the tax, the overpayment shall be credited or refunded as provided in section 6402.

§ 301.6403–1 Overpayment of installment.

If any installment of tax is overpaid, the overpayment shall first be applied against any outstanding installments of such tax. If the overpayment exceeds the correct amount of tax due, the overpayment shall be credited or refunded as provided in section 6402 and §§ 301.6402–1 to 301.6402–4, inclusive.

§ 301.6404 Statutory provisions; abatements.

SEC. 6404. *Abatements*—(a) *General rule.* The Secretary or his delegate is authorized to abate the unpaid portion of the assessment of any tax or any liability in respect thereof, which—

(1) Is excessive in amount, or

(2) Is assessed after the expiration of the period of limitation properly applicable thereto, or

(3) Is erroneously or illegally assessed.

(b) *No claim for abatement of income, estate, and gift taxes.* No claim for abatement shall be filed by a taxpayer in respect of an assessment of any tax imposed under subtitle A or B.

(c) *Small tax balances.* The Secretary or his delegate is authorized to abate the unpaid portion of the assessment of any tax, or any liability in respect thereof, if the Secretary or his delegate determines under uniform rules prescribed by the Secretary or his delegate that the administration and collection costs involved would not warrant collection of the amount due.

§ 301.6404–1 Abatements.

(a) The district director or the director of the regional service center may abate any assessment, or unpaid portion thereof, if the assessment is in excess of the correct tax liability, if the assessment is made subsequent to the expiration of the period of limitations applicable thereto, or if the assessment has been erroneously or illegally made.

(b) No claim for abatement may be filed with respect to income, estate, or gift tax.

(c) Except in case of income, estate, or gift tax, if more than the correct amount of tax, interest, additional amount, addition to the tax, or assessable penalty is assessed but not paid to the district director, the person against whom the assessment is made may file a claim for abatement of such overassessment. Each claim for abatement under this section shall be made on Form 843 in accordance with the instructions relating to such form and shall be filed with the district director for the internal revenue district in which the tax would otherwise have been paid.

(d) The Commissioner may issue uniform instructions to district directors authorizing them, to the extent permitted in such instructions, to abate amounts the collection of which is not warranted because of the administration and collection costs.

§ 301.6405 Statutory provisions; reports of refunds and credits.

SEC. 6405. *Reports of refunds and credits*—(a) *By Treasury to Joint Committee.* No refund or credit of any income, war profits, excess profits, estate, or gift tax in excess of $100,000 shall be made until after the expiration of 30 days from the date upon which a report giving the name of the person to whom the refund or credit is to be made, the amount of such refund or credit, and a summary of the facts and the decision of the Secretary or his delegate, is submitted to the Joint Committee on Internal Revenue Taxation.

(b) *By Joint Committee to Congress.* A report to Congress shall be made annually by such committee of such refunds and credits, including the names of all persons and corporations to whom amounts are credited or payments are made, together with the amounts credited or paid to each.

(c) *Tentative adjustments.* Any credit or refund allowed or made under section 6411 shall be made without regard to the provisions of subsection (a) of this section. In any such case, if the credit or refund, reduced by any deficiency in such tax thereafter assessed and by deficiencies in any other tax resulting from adjustments reflected in the determination of the credit or refund, is in excess of $100,000, there shall be submitted to such committee a report containing the matter specified in subsection (a) at such time after the making of the credit or refund as the Secretary or his delegate shall determine the correct amount of the tax.

§ 301.6405–1 Reports of refunds and credits.

Section 6405 requires that a report be made to the Joint Committee on Internal Revenue Taxation of proposed refunds or credits of any income, war profits, excess profits, estate, or gift tax in excess of $100,000.

§ 301.6406 Statutory provisions; prohibition of administrative review of decisions.

SEC. 6406. *Prohibition of administrative review of decisions.* In the absence of fraud or mistake in mathematical calculation, the findings of fact in and the decision of the Secretary or his delegate upon the merits of any claim presented under or authorized by the internal revenue laws and the allowance or nonallowance by the Secretary or his delegate of interest on any credit or refund under the internal revenue laws shall not, except as provided in subchapters C and D of chapter 76 (relating to the Tax Court), be subject to review by any other administrative or accounting officer, employee, or agent of the United States.

§ 301.6407 Statutory provisions; date of allowance of refund or credit.

SEC. 6407. *Date of allowance of refund or credit.* The date on which the Secretary or his delegate first authorizes the scheduling of an overassessment in respect of any internal revenue tax shall be considered as the date of allowance of refund or credit in respect of such tax.

§ 301.6407–1 Date of allowance of refund or credit.

The date on which the district director or the director of the regional service center, or an authorized certifying officer designated by either of them, first certifies the allowance of an overassessment in respect of any internal revenue tax shall be considered as the date of allowance of refund or credit in respect of such tax.

RULES OF SPECIAL APPLICATION

§ 301.6411 Statutory provisions; tentative carryback adjustments.

SEC. 6411. *Tentative carryback adjustments*—(a) *Application for adjustment.* A taxpayer may file an application for a tentative carryback adjustment of the tax for the prior taxable year affected by a net operating loss carryback, provided in section 172(b), from any taxable year. The application shall be verified in the manner prescribed by section 6065 in the case of a return of such taxpayer, and shall be filed, on or after the date of filing of the return for the taxable year of the net operating loss from which the carryback results and within a period of 12 months from the end of such taxable year, in the manner and form required by regulations prescribed by the Secretary or his delegate. The application shall set forth in such detail and with such supporting data and explanation as such regulations shall require—

(1) The amount of the net operating loss;

(2) The amount of the tax previously determined for the prior taxable year affected by such carryback, the tax previously determined being ascertained in accordance with the method prescribed in section 1314(a);

(3) The amount of decrease in such tax, attributable to such carryback, such decrease being determined by applying the carryback in the manner provided by law to the items on the basis of which such tax was determined;

(4) The unpaid amount of such tax, not including any amount required to be shown under paragraph (5);

(5) The amount, with respect to the tax for the taxable year immediately preceding the taxable year of such loss, as to which an extension of time for payment under section 6164 is in effect; and

(6) Such other information for purposes of carrying out the provisions of this section as may be required by such regulations. An application under this subsection shall not constitute a claim for credit or refund.

(b) *Allowance of adjustments.* Within a period of 90 days from the date on which an application for a tentative carryback adjustment is filed under subsection (a), or from the last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for filing the return for the taxable year of the net operating loss from which such carryback results, whichever is the later, the Secretary or his delegate shall make, to the extent he deems practicable in such period, a limited examination of the application, to discover omissions and errors of computation therein, and shall determine the amount of the decrease in the tax attributable to such carryback upon the basis of the application and the examination, except that the Secretary or his delegate may disallow, without further action, any application which he finds contains errors of computation which he deems cannot be corrected by him within such 90-day period or material omissions. Such decrease shall be applied against any unpaid amount of the tax decreased (including any amount of such tax as to which an extension of time under sec. 6164 is in effect) and any remainder shall be credited against any unsatisfied amount of any tax for the taxable year immediately preceding the taxable year of the net operating loss the time for payment of which tax is extended under section 6164. Any remainder shall, within such 90-day period, be either credited against any tax or installment thereof then due from the taxpayer, or refunded to the taxpayer.

(c) *Consolidated returns.* If the corporation seeking a tentative carryback adjustment under this section, made or was required to make a consolidated return, either for the taxable year within which the net operating loss arises, or for the preceding taxable year affected by such loss, the provisions of this section shall apply only to such extent and subject to such conditions, limitations, and exceptions as the Secretary or his delegate may by regulations prescribe.

§ 301.6411–1 Tentative carryback adjustments.

For regulations under section 6411, see §§ 1.6411–1 to 1.6411–4, inclusive, of this chapter (Income Tax Regulations).

§ 301.6412 Statutory provisions; floor stocks refunds.

SEC. 6412. *Floor stocks refunds*—(a) *In general*—(1) *Passenger automobiles, etc.* Where before July 1, 1968, any article subject to the tax imposed by section 4061(a)(2) has been sold by the manufacturer, producer, or importer and on such date is held by a dealer and has not been used and is intended for sale, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer an amount equal to the difference between the tax paid by such manufacturer, producer, or importer on his sale of the article and the amount of tax made applicable to such article on and after July 1, 1968, if claim for such credit or refund is filed with the Secretary or his delegate on or before November 10, 1968, based upon a request submitted to the manufacturer, producer, or importer before October 1, 1968, by the dealer who held the article in respect of which the credit or refund is claimed, and, on or before November 10, 1968, reimbursement has been made to such dealer by such manufacturer, producer, or importer for the tax reduction on such article or written consent has been obtained from such dealer to allowance of such credit or refund.

(2) *Trucks and buses, tires, tubes, tread rubber, and gasoline.* Where before October 1, 1972, any article subject to the tax imposed by section 4061(a)(1), 4071(a)(1), (3), or (4), or 4081 has been sold by the manufacturer, producer, or importer and on such date is held by a dealer and has not been used and is intended for sale (or, in the case of tread rubber, is intended for sale or is held for use), there shall be credited or refunded (without interest) to the manufacturer, producer, or importer an amount equal to the difference between the tax paid by such manufacturer, producer, or importer on his sale of the article and the amount of tax made applicable to such article on and after October 1, 1972, if claim for such credit or refund is filed with the Secretary or his delegate on or before February 10, 1973, based upon a request submitted to the manufacturer, producer, or importer before January 1, 1973, by the dealer who held the article in respect of which the credit or refund is claimed, and, on or before February 10, 1973, reimbursement has been made to such dealer by such manufacturer, producer, or importer for the tax reduction on

such article or written consent has been obtained from such dealer to allowance of such credit or refund. No credit or refund shall be allowable under this paragraph with respect to gasoline in retail stocks held at the place where intended to be sold at retail, nor with respect to gasoline held for sale by a producer or importer of gasoline. No credit or refund shall be allowable under this paragraph with respect to inner tubes for bicycle tires (as defined in section 4221 (e)(4)(B)).

(3) [Deleted]

(4) *Definitions.* For purposes of this section—

(A) The term "dealer" includes a wholesaler, jobber, distributor, or retailer, or, in the case of tread rubber subject to tax under section 4071(a)(4), includes any person (other than the manufacturer, producer, or importer thereof) who holds such tread rubber for sale or use.

(B) An article shall be considered as "held by a dealer" if title thereto has passed to such dealer (whether or not delivery to him has been made), and if for purposes of consumption title to such article or possession thereof has not at any time been transferred to any person other than a dealer.

(b) *Limitation on eligibility for credit or refund.* No manufacturer, producer, or importer shall be entitled to credit or refund under subsection (a) unless he has in his possession such evidence of the inventories with respect to which the credit or refund is claimed as may be required by regulations prescribed under this section.

(c) *Other laws applicable.* All provisions of law, including penalties, applicable in respect of the taxes imposed by sections 4061, 4071, and 4081 shall, insofar as applicable and not inconsistent with subsections (a) and (b) of this section, apply in respect of the credits and refunds provided for in subsection (a) to the same extent as if such credits or refunds constituted overpayments of such taxes.

(d) [Deleted]

(e) *Cross reference.* For floor stocks refunds in case of certain alcohol and tobacco taxes, see sections 5063 and 5707.

[Sec. 6412 as amended by sec. 3(b)(4), Tax Rate Extension Act 1965 (80 Stat. 15); sec. 3(b)(4), Tax Rate Extension Act 1966 (70 Stat. 67); sec. 19, Act of May 29, 1956 (Pub. Law 545, 84th Cong., 70 Stat. 221); sec. 208 (a), Highway Revenue Act 1956 (70 Stat. 392); sec. 3(b)(4), Tax Rate Extension Act 1957 (71 Stat. 10); sec. 3(b)(4), Tax Rate Extension Act 1958 (72 Stat. 260); sec. 162(a), Excise Tax Technical Changes Act 1958 (72 Stat. 1306); sec. 3(b)(3), Tax Rate Extension Act 1959 (73 Stat. 158); sec. 201(c)(4), Federal-Aid Highway Act 1959 (73 Stat. 614); sec. 202(b)(3), Public Debt and Tax Rate Extension Act 1960 (74 Stat. 291); sec. 2, Act of July 6, 1960 (Pub. Law 86-592, 74 Stat. 330); sec. 2(b), Act of Mar. 31, 1961 (Pub. Law 87-15, 75 Stat. 40); sec. 206 (c), (d), Federal-Aid Highway Act 1961 (75 Stat. 127); sec. 3(b)(3), Tax Rate Extension Act 1961 (75 Stat. 193); sec. 302(d), Tariff Classification Act 1962 (76 Stat. 77); sec. 3(b)(3), Tax Rate Extension Act 1962 (76 Stat. 114); sec. 18(b), Sugar Act Amendments 1962 (76 Stat. 166)]

§ 301.6413 Statutory provisions; special rules applicable to certain employment taxes.

SEC. 6413. *Special rules applicable to certain employment taxes*—(a) *Adjustment of tax*—(1) *General rule.* If more than the correct amount of tax imposed by section 3101, 3111, 3201, 3221, or 3402 is paid with respect to any payment of remuneration proper adjustments, with respect to both the tax and the amount to be deducted, shall be made, without interest, in such manner and at such times as the Secretary or his delegate may by regulations prescribe.

(2) *United States as employer.* For purposes of this subsection, in the case of remuneration received from the United States or a wholly owned instrumentality thereof during any calendar year, each head of a Federal agency or instrumentality who makes a return pursuant to section 3122 and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall be deemed a separate employer.

(3) *Guam or American Samoa as employer.* For purposes of this subsection, in the case of remuneration received during any calendar year from the Government of Guam, the Government of American Samoa, a political subdivision of either, or any instrumentality of any one or more of the foregoing which is wholly owned thereby, the Governor of Guam, the Governor of American Samoa, and each agent designated by either who makes a return pursuant to section 3125 shall be deemed a separate employer.

(b) *Overpayments of certain employment taxes.* If more than the correct amount of tax imposed by section 3101, 3111, 3201, 3221, or 3402 is paid or deducted with respect to any payment of remuneration and the overpayment cannot be adjusted under subsection (a) of this section, the amount of the overpayment shall be refunded in such manner and at such times (subject to the statute of limitations properly applicable thereto) as the Secretary or his delegate may by regulations prescribe.

(c) *Special refunds*—(1) *In general.* If by reason of an employee receiving wages from more than one employer during a calendar year after the calendar year 1950 and prior to the calendar year 1955, the wages received by him during such year exceed $3,600, the employee shall be entitled (subject to the provisions of section 31(b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 1400 of the Internal Revenue Code of 1939 and deducted from the employee's wages (whether or not paid to the Secretary or his delegate), which exceeds the tax with respect to the first $3,600 of such wages received; or if by reason of an employee receiving wages from more than one employer (A) during any calendar year after the calendar year 1954 and prior to the calendar year 1959, the wages received by him during such year exceed $4,200, or (B) during any calendar year after the calendar year 1958, the wages received by him during such year exceed $4,800, the employee shall be entitled (subject to the provisions of section 31(b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 3101 and deducted from the employee's wages (whether or not paid to the Secretary or his delegate), which exceeds the tax with respect to the first $4,200 of such wages received in such calendar year after 1954 and before 1959, or which exceeds the tax with respect to the first $4,800 of such wages received in such calendar year after 1958.

(2) *Applicability in case of Federal and State employees, employees of certain foreign corporations, and governmental employees in Guam and American Samoa*—(A) *Federal employees.* In the case of remuneration received from the United States or a wholly owned instrumentality thereof during any calendar year, each head of a Federal agency or instrumentality who makes a return pursuant to section 3122 and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall, for purposes of this subsection, be deemed a separate employer, and the term "wages" includes for purposes of this subsection the amount, not to exceed $3,600 for the calendar year 1951, 1952, 1953, or 1954, $4,200 for the calendar year 1955, 1956, 1957, or 1958, or $4,800 for any calendar year after 1958, determined by each such head or agent as constituting wages paid to an employee.

(B) *State employees.* For purposes of this subsection, in the case of remuneration received during any calendar year, the term "wages" includes such remuneration for services covered by an agreement made pursuant to section 218 of the Social Security Act as would be wages if such services constituted employment; the term "employer" includes a State or any political subdivision thereof, or any instrumentality of any one or more of the foregoing; the term "tax" or "tax imposed by section 3101" includes, in the case of services covered by an agreement made pursuant to section 218 of the Social Security Act, an amount equivalent to the tax which would be imposed by section 3101, if such services constituted employment as defined in section 3121; and the provisions of this subsection shall apply whether or not any amount deducted from the employee's remuneration as a result of an agreement made pursuant to section 218 of the Social Security Act has been paid to the Secretary.

(C) *Employees of certain foreign corporations.* For purposes of paragraph (1) of this subsection, the term "wages" includes such remuneration for services covered by an agreement made pursuant to section 3121(l) as would be wages if such services constituted employment; the term "employer" includes any domestic corporation which has entered into an agreement pursuant to section 3121(l); the term "tax" or "tax imposed by section 3101," includes, in the case of services covered by an agreement entered into pursuant to section 3121(l), an amount equivalent to the tax which would be imposed by section 3101, if such services constituted employment as defined in section 3121; and the provisions of paragraph (1) of this subsection shall apply whether or not any amount deducted from the employee's remuneration as a result of the agreement entered into pursuant to section 3121(l) has been paid to the Secretary or his delegate.

(D) *Governmental employees in Guam.* In the case of remuneration received from the Government of Guam or any political subdivision thereof or from any instrumentality of any one or more of the foregoing which is wholly owned thereby, during any calendar year, the Governor of Guam and each agent designated by him who makes a return pursuant to section 3125(a) shall, for purposes of this subsection, be deemed a separate employer.

(E) *Governmental employees in American Samoa.* In the case of remuneration received from the Government of American Samoa or any political subdivision thereof or from any instrumentality of any one or more of the foregoing which is wholly owned thereby, during any calendary year, the Governor of American Samoa and each agent designated by him who makes a return pursuant to section 3125(b) shall, for purposes of this subsection, be deemed a separate employer.

(d) *Refund or credit of Federal unemployment tax.* Any credit allowable under section 3302, to the extent not previously allowed, shall be considered an overpayment, but no interest shall be allowed or paid with respect to such overpayment.

[Sec. 6413 as amended by sec. 202, Social Security Amendments 1954 (68 Stat. 1089); sec. 402(d), Social Security Amendments 1958 (72 Stat. 1043); sec. 103(r)(2), (3), (4), Social Security Amendments 1960 (74 Stat. 940)]

§ 301.6413–1 Special rules applicable to certain employment taxes.

For regulations under section 6413, see §§ 31.6413(a)–1 to 31.6413(c)–1, inclusive, of this chapter (Employment Tax Regulations).

§ 301.6414 Statutory provisions; income tax withheld.

SEC. 6414. *Income tax withheld.* In the case of an overpayment of tax imposed by chapter 24, or by chapter 3, refund or credit shall be made to the employer or to the withholding agent, as the case may be, only to the extent that the amount of such overpayment was not deducted and withheld by the employer or withholding agent.

§ 301.6414–1 Income tax withheld.

(a) For rules relating to the refund or credit of income tax withheld under chapter 3 of the Code on nonresident aliens and foreign corporations and tax-free covenant bonds, see § 1.6414–1 of this chapter (Income Tax Regulations).

(b) For rules relating to the refund or credit of income tax withheld under chapter 24 of the Code from wages, see § 31.6414–1 of this chapter (Employment Tax Regulations).

§ 301.6415 Statutory provisions; credits or refunds to persons who collected certain taxes.

SEC. 6415. *Credits or refunds to persons who collected certain taxes*—(a) *Allowance of credits or refunds.* Credit or refund of any overpayment of tax imposed by section 4231(1), 4231(2), 4231(3), 4241, 4251, 4261, or 4286 may be allowed to the person who collected the tax and paid it to the Secretary or his delegate if such person establishes, under such regulations as the Secretary or his delegate may prescribe, that he has repaid the amount of such tax to the person from whom he collected it, or obtains the consent of such person to the allowance of such credit or refund. For purposes of this subsection, in the case of any payment outside the United States in respect of which tax is imposed under paragraph (1), (2), or (3) of section 4231, the person who paid for the admission or for the use of the box or seat shall be considered the person from whom the tax was collected.

(b) *Credit on returns.* Any person entitled to a refund of tax imposed by section 4231(1), 4231(2), 4231(3), 4241, 4251, 4261, or 4286 paid, or collected and paid, to the Secretary or his delegate by him may, instead of filing a claim for refund, take credit therefor against taxes imposed by such section due upon any subsequent return.

(c) *Refund of overcollections.* In case any person required under section 4231(1), 4231(2), 4231(3), 4241, 4251, 4261, or 4286 to collect any tax shall make an overcollection of such tax, such person shall, upon proper application, refund such overcollection to the person entitled thereto.

(d) *Refund of taxable payment.* Any person making a refund of any payment on which tax imposed by section 4231(1), 4231(2), 4231(3), 4241, 4251, 4261, or 4286 has been collected may repay therewith the amount of tax collected on such payment.

[Sec. 6415 as amended by sec. 4(b)(4), Tax Rate Extension Act 1958 (72 Stat. 260); sec. 163(d)(1), Excise Tax Technical Changes Act 1958 (72 Stat. 1311)]

§ 301.6415–1 Credits or refunds to persons who collected certain taxes.

For regulations under section 6415, see Part 49 of this chapter (Facilities and Services Excise Tax Regulations).

§ 301.6416 Statutory provisions; certain taxes on sales and services.

SEC. 6416. *Certain taxes on sales and services*—(a) *Condition to allowance*—(1) *General rule.* No credit or refund of any overpayment of tax imposed by section 4231 (4), (5), or (6) (cabarets, etc.), chapter 31 (retailers taxes), or chapter 32 (manufacturers taxes) shall be allowed or made unless the person who paid the tax establishes, under regulations prescribed by the Secretary or his delegate, that he—

(A) Has not included the tax in the price of the article, admission, or service with respect to which it was imposed and has not collected the amount of the tax from the person who purchased such article, admission, or service;

(B) Has repaid the amount of the tax—

(i) In the case of any tax imposed by chapter 31 (other than the tax imposed by section 4041(a)(1) or (b)(1)), to the purchaser of the article,

(ii) In the case of any tax imposed by chapter 32 and the tax imposed by section 4041 (a)(1) or (b)(1) (diesel and special motor fuels), to the ultimate purchaser of the article, or

(iii) In the case of any tax imposed by section 4231 (4), (5), or (6) (cabarets, etc.) to the person who paid for the admission, refreshment, service, or merchandise;

(C) In the case of an overpayment under subsection (b)(2), (b)(3) (C) or (D), or (b)(4) of this section—

(i) Has repaid or agreed to repay the amount of the tax to the ultimate [ultimate] vendor of the article, or

(ii) Has obtained the written consent of such ultimate vendor to the allowance of the credit or the making of the refund; or

(D) Has filed with the Secretary or his delegate the written consent of the person referred to in subparagraph (B) (i), (ii), or (iii), as the case may be, to the allowance of the credit or the making of the refund.

(2) *Exceptions.* This subsection shall not apply to—

(A) The tax imposed by section 4041 (a)(2) or (b)(2) (use of diesel and special motor fuels), and

(B) An overpayment of tax under paragraph (1), (3) (A) or (B), or (5) of subsection (b) of this section.

(3) *Special rules.* For purposes of this subsection—

(A) Any tax collected under section 4231 (6) from a concessionaire and paid to the Secretary or his delegate shall be treated as paid by the concessionaire;

(B) If tax under chapter 31 was paid by a supplier pursuant to an agreement under section 6011(c), either the person who (without regard to section 6011(c)) was required to return and pay the tax or the supplier may be treated as the person who paid the tax;

(C) In any case in which the Secretary or his delegate determines that an article is not taxable, the term "ultimate purchaser" (when used in paragraph (1)(B)(ii) of this subsection) includes a wholesaler, jobber, distributor, or retailer who, on the 15th day after the date of such determination, holds such article for sale; but only if claim for credit or refund by reason of this subparagraph is filed on or before the day for filing the return with respect to the taxes imposed under chapter 32 for the first period which begins more than 60 days after the date of such determination; and

(D) In applying paragraph (1)(C) to any overpayment under paragraph (3)(F), (3)(C) or (D), or (4) of subsection (b), the term "ultimate vendor" means the ultimate vendor of the other article.

(b) *Special cases in which tax payments considered overpayments.* Under regulations prescribed by the Secretary or his delegate, credit or refund (without interest) shall be allowed or made in respect of the overpayments determined under the following paragraphs:

(1) *Price readjustments.* If the price of any article in respect of which a tax, based on such price, is imposed by chapter 31 or 32, is readjusted by reason of the return or repossession of the article or a covering or container, or by a bona fide discount, rebate, or allowance, including (in the case of a tax imposed by chapter 32) a readjustment for local advertising (but only to the extent provided in section 4216(f)(2) and (3)), the part of the tax proportionate to the part of the price repaid or credited to the purchaser shall be deemed to be an overpayment. The preceding sentence shall not apply in the case of an article in respect of which tax was computed under section 4223(b)(8); but if the price for which such article was sold is readjusted by reason of the return or repossession of the article, the part of the tax proportionate to the part of such price repaid or credited to the purchaser shall be deemed to be an overpayment.

(2) *Specified uses and resales.* The tax paid under chapter 32 (or under section 4041 (a)(1) or (b)(1)) in respect of any article shall be deemed to be an overpayment if such article was, by any person—

(A) Exported (except in any case to which subsection (g) applies);

(B) Used or sold for use as supplies for vessels or aircraft;

(C) Sold to a State or local government for the exclusive use of a State or local government;

(D) Sold to a nonprofit educational organization for its exclusive use;

(E) Resold to a manufacturer or producer for use by him as provided in subparagraph (A), (B), (E), or (F) of paragraph (3);

(F) In the case of a tire, inner tube, or receiving set, resold for use as provided in subparagraphs (C) or (D) of paragraph (3) and the other article referred to in such subparagraph is by any person exported or sold as provided in such subparagraph;

(G) In the case of a liquid taxable under section 4041, sold for use as fuel in a diesel-powered highway vehicle or as fuel for the propulsion of a motor vehicle, motorboat, or airplane, if (i) the vendee used such liquid otherwise than as fuel in such a vehicle, motorboat, or airplane or resold such liquid, or (ii) such liquid was (within the meaning of paragraphs (1), (2), and (3) of section 6420(c)) used on a farm for farming purposes;

(H) In the case of a liquid in respect of which tax was paid under section 4041 at the rate of 3 cents or 4 cents a gallon, used during any calendar quarter in vehicles while engaged in furnishing scheduled common carrier public passenger land transportation service along regular routes; except that (i) this subparagraph shall apply only if the 60 percent passenger fare revenue test set forth in section 6421(b)(2) is met with respect to such quarter, and (ii) the amount of such overpayment for such quarter shall be an amount determined by multiplying 1 cent (where tax was paid at the 3-cent rate) or 2 cents (where tax was paid at the 4-cent rate) for each gallon of liquid so used by the percentage which such person's commuter fare revenue (as defined in section 6421(d)(2)) derived from such scheduled service during such quarter was of his total passenger fare revenue derived from such scheduled service during such quarter;

(I) In the case of a liquid in respect of which tax was paid under section 4041(a)(1) at the rate of 3 cents or 4 cents a gallon, used or resold for use as a fuel in a diesel-powered highway vehicle (i) which (at the time of such use or resale) is not registered, and is

not required to be registered, for highway use under the laws of any State or foreign country, or (ii) which, in the case of a diesel-powered highway vehicle owned by the United States, is not used on the highway; except that the amount of any overpayment by reason of this subparagraph shall not exceed an amount computed at the rate of 1 cent a gallon where tax was paid at the 3-cent rate or at the rate of 2 cents a gallon where tax was paid at the 4-cent rate;

(J) In the case of a liquid in respect of which tax was paid under section 4041(b)(1) at the rate of 3 cents or 4 cents a gallon, used or resold for use otherwise than as a fuel for the propulsion of a highway vehicle (i) which (at the time of such use or resale) is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or (ii) which, in the case of a highway vehicle owned by the United States, is used on the highway; except that the amount of any overpayment by reason of this subparagraph shall not exceed an amount computed at the rate of 1 cent a gallon where tax was paid at the 3-cent rate or at the rate of 2 cents a gallon where tax was paid at the 4-cent rate;

(K) In the case of any article taxable under section 4061(b) (other than spark plugs and storage batteries), used or sold for use as repair or replacement parts or accessories for farm equipment (other than equipment taxable under section 4061(a));

(L) In the case of tread rubber in respect of which tax was paid under section 4071(a)(4), used or sold for use otherwise than in the recapping or retreading of tires of the type used on highway vehicles (as defined in section 4072(e)), unless credit or refund of such tax is allowable under subsection (b)(3);

(M) In the case of gasoline, used or sold for use in production of special motor fuels referred to in section 4041(b);

(N) In the case of lubricating oil, used or sold for nonlubricating purposes;

(O) In the case of lubricating oil in respect of which tax was paid at the rate of 6 cents a gallon, used or sold for use as cutting oils (within the meaning of section 4092(b)); except that the amount of such overpayment shall not exceed an amount computed at the rate of 3 cents a gallon;

(P) In the case of any musical instrument taxable under section 4151, sold to a religious institution for exclusively religious purposes;

(Q) In the case of unexposed motion picture film, used or sold for use in the making of newsreal motion picture film.

(3) *Tax-paid articles used for further manufacture, etc.* If the tax imposed by chapter 32 has been paid with respect to the sale of any article by the manufacturer, producer, or importer thereof to a second manufacturer or producer, such tax shall be deemed to be an overpayment by such second manufacturer or producer if—

(A) In the case of any article other than an article to which subparagraph (B), (C), (D), or (E) applies, such article is used by the second manufacturer or producer as material in the manufacture or production of, or as a component part of, another article taxable under chapter 32 manufactured or produced by him;

(B) In the case of—

(i) A part or accessory taxable under section 4061(b),

(ii) A radio or television component taxable under section 4141, or

(iii) A camera lens taxable under section 4171,

such article is used by the second manufacturer or producer as material in the manufacture or production of, or as a component part of, any other article manufactured or produced by him;

(C) In the case of—

(i) A tire or inner tube taxable under section 4071, or

(ii) An automobile radio or television receiving set taxable under section 4141,

such article is sold by the second manufacturer or producer on or in connection with, or with the sale of, any other article manufactured or produced by him and such other article is by any person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft;

(D) In the case of a radio receiving set or an automobile radio receiving set—

(i) Such set is used by the second manufacturer or producer as a component part of any other article manufactured or produced by him, and

(ii) Such other article is by any person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft;

(E) In the case of—

(i) A bicycle tire (as defined in section 4221(e)(4)(B)), or

(ii) An inner tube for such a tire,

such article is used by the second manufacturer or producer as material in the manufacture or production of, or as a component part of, a bicycle (other than a rebuilt or reconditioned bicycle); or

(F) In the case of gasoline taxable under section 4081, such gasoline is used by the second manufacturer or producer, for nonfuel purposes, as a material in the manufacture or production of any other article manufactured or produced by him.

For purposes of subparagraphs (A) and (B), an article shall be treated as having been used as a component part of another article if, had it not been broken or rendered useless in the manufacture or production of such other article, it would have been so used.

(4) *Tires, inner tubes, and automobile radio and television receiving sets.* If—

(A) (i) A tire or inner tube taxable under section 4071, or automobile radio or television receiving set taxable under section 4141, is sold by the manufacturer, producer, or importer thereof on or in connection with, or with the sale of, any other article manufactured or produced by him and such other article is by any person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft;

(ii) A radio receiving set or an automobile radio receiving set is used by the manufacturer thereof as a component part of any other article manufactured or produced by him; and

(B) Such other article is by any person exported, sold to a State or local government for the exlusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft,

any tax imposed by chapter 32 in respect of such tire, inner tube, or receiving set which has been paid by the manufacturer, producer, or importer thereof shall be deemed to be an overpayment by him.

(5) *Return of certain installment accounts.* If—

(A) Tax was paid under section 4063(b)(1) or 4216(e)(1) in respect of any installment account,

(B) Such account is, under the agreement under which the account was sold, returned to the person who sold such account, and

(C) The consideration is readjusted as provided in such agreement,

the part of the tax paid under section 4063(b)(1) or 4216(e)(1) proportionate to the part of the consideration repaid or credited to the purchaser of such account shall be deemed to be an overpayment.

This subsection shall apply in respect of an article only if the exportation or use referred to in the applicable provision of this subsection occurs before any other use, or, in the case of a sale or resale, the use referred to in the applicable provision of this subsection is to occur before any other use.

(c) *Credit for tax paid on tires, inner tubes, or radio or television receiving sets.* If tires, inner tubes, or automobile radio or television receiving sets on which tax has been paid under chapter 32 are sold on or in connection with, or with the sale of, another article taxable under chapter 32, there shall (under regulations prescribed by the Secretary or his delegate) be credited (without interest) against the tax imposed on the sale of such other article, an amount determined by multiplying the applicable percentage rate of tax for such other article by—

(1) The purchase price (less, in the case of tires, the part of such price attributable to the metal rim or rim base) if such tires or inner tubes were taxable under section 4071 (relating to tax on tires and inner tubes) or, in the case of automobile radio or television receiving sets, if such sets were taxable under section 4141; or

(2) If such tires, inner tubes, or automobile radio or television receiving sets were taxable under section 4218 (relating to use by manufacturer, producer, or importer), the price (less, in the case of tires, the part of such price attributable to the metal rim or rim base) at which such or similar tires, inner tubes, or sets are sold, in the ordinary course of trade, by manufacturers, producers, or importers thereof, as determined by the Secretary or his delegate.

The credit provided by this subsection shall be allowable only in respect of the first sale on or in connection with, or with the sale of, another article on the sale of which tax is imposed under chapter 32.

(d) *Mechanical pencils taxable as jewelry.* If any article, on the sale of which tax has been paid under section 4201, is further manufactured or processed resulting in an article taxable under section 4001, the person who sells such article at retail shall, in the computation of the retailers' excise tax due on such sale, be entitled to a credit or refund, without interest, in an amount equal to the tax paid under section 4201.

(e) *Refund to exporter or shipper.* Under regulations prescribed by the Secretary or his delegate the amount of any tax imposed by subchapter E of chapter 31, or chapter 32 erroneously or illegally collected in respect of any article exported to a foreign country or shipped to a possession of the United States may be refunded to the exporter or shipper thereof, if the person who paid such tax waives his claim to such amount.

(f) *Credit on returns.* Any person entitled to a refund of tax imposed by chapter 31 or 32, paid to the Secretary or his delegate may, instead of filing a claim for refund, take credit therefor against taxes imposed by such chapter due on any subsequent return.

(g) *Automobiles, etc.* Under regulations prescribed by the Secretary or his delegate, subsection (b)(2)(A) shall apply, in the case of any article subject to the tax imposed by sections 4061(a), 4111, 4121, and 4141, only if the article with respect to which the tax was paid was sold by the manufacturer, producer, or importer for export after receipt by him of notice of intent to export or to resell for export.

(h) *Accounting procedures for like articles.* Under regulations prescribed by the Secretary or his delegate, if any person uses or resells like articles, then for purposes of this section the manufacturer, producer, or importer of any such article may be identified, and the amount of tax paid under chapter 32 in respect of such article may be determined—

(1) On a first-in-first-out basis,

(2) On a last-in-first-out basis, or

(3) In accordance with any other consistent method approved by the Secretary or his delegate.

(i) *Meaning of terms.* For purposes of this section, any term used in this section has the same meaning as when used in chapter 31, 32, or 33, as the case may be.

[Sec. 6416 as amended by sec. 2, Act of Aug. 11, 1955 (Pub. Law 355, 84th Cong., 69 Stat. 676); secs. 1 (h), (i), 2(b), Act of Aug. 11, 1955 (Pub. Law 367, 84th Cong., 69 Stat. 690); sec. 2(b), Act of Apr. 2, 1956 (Pub. Law 466, 84th Cong., 70 Stat. 90); sec. 208(b), Highway Revenue Act 1956 (70 Stat. 393); sec. 4(b)(5), (6), Tax Rate Extension Act 1958 (72 Stat. 260); sec. 168 (a), (c), Excise Tax Technical Changes Act 1958 (72 Stat. 1306); sec. 201(d)(1), Federal-Aid Highway Act 1959 (73 Stat. 614); sec. 3, Act of Apr. 8, 1960 (Pub. Law 86-418, 74 Stat. 33); sec. 2, Act of Sept. 14, 1960 (Pub. Law 86-781, 74 Stat. 1016); sec. 205 (c), (d), Federal-Aid Highway Act 1961 (75 Stat. 136); sec. 5(c)(3), Tax Rate Extension Act 1962 (76 Stat. 119)]

§ 301.6416–1 Certain taxes on sales and services.

For regulations under section 6416, see Part 48 of this chapter (Manufacturers and Retailers Excise Tax Regulations) and Part 49 of this chapter (Facilities and Services Excise Tax Regulations).

§ 301.6417 Statutory provisions; coconut and palm oil.

SEC. 6417. *Coconut and palm oil*—(a) *Sales to States or political subdivisions.* Subject to such rules or regulations as the Secretary or his delegate may prescribe, any person who has sold to a State, or a political subdivision thereof, for use in the exercise of an essential governmental function any article containing any oil, combination, or mixture, upon the processing of which a tax has been paid under section 4511, shall be entitled to a credit or refund of the tax paid with respect to the quantity of such oil, combination, or mixture contained in such article.

(b) *Exportation.* Upon the exportation to any foreign country or to a possession of the United States of any article, wholly or in chief value of an article, with respect to the processing of which a tax has been paid under subchapter B of chapter 37, the exporter thereof shall be entitled to a refund of the amount of such tax.

§ 301.6417–1 Coconut and palm oil.

For regulations under section 6417, see §§ 46.6417–1 and 46.6417–2 of this chapter (Regulations Relating to Miscellaneous Excise Taxes Payable by Return).

§ 301.6418 Statutory provisions; sugar.

SEC. 6418. *Sugar*—(a) *Use as livestock feed or for distillation of alcohol.* Upon the use of any manufactured sugar, or article manufactured therefrom, as livestock feed, or in the production of livestock feed, or for the distillation of alcohol, there shall be paid by the Secretary or his delegate to the person so using such manufactured sugar, or article manufactured therefrom, the amount of any tax paid under section 4501 with respect thereto.

(b) *Exportation.* Upon the exportation from the United States to a foreign country, or the shipment from the United States to any possession of the United States except Puerto Rico, of any manufactured sugar, or any article manufactured wholly or partly from manufactured sugar, with respect to which tax under the provisions of section 4501(a) has been paid, the amount of such tax shall be paid by the Secretary or his delegate to the consignor named in the bill of lading under which the article was exported or shipped to a possession, or to the shipper, or to the manufacturer of the manufactured sugar or of the articles exported, if the consignor waives any claim thereto in favor of such shipper or manufacturer.

[Sec. 6418 as amended by sec. 21(b), Act of May 29, 1956 (Pub. Law 545, 84th Cong., 70 Stat. 221); sec. 302(c), Tariff Classification Act 1962 (76 Stat. 77)]

§ 301.6418–1 Sugar.

For regulations under section 6418, see §§ 46.6418–1 and 46.6418–2 of this chapter (Regulations Relating to Miscellaneous Excise Taxes Payable by Return).

§ 301.6419 Statutory provisions; excise tax on wagering.

SEC. 6419. *Excise tax on wagering*—(a) *Credit or refund generally.* No overpayment of tax imposed by chapter 35 shall be credited or refunded (otherwise than under subsection (b)), in pursuance of a court decision or otherwise, unless the person who paid the tax establishes, in accordance with regulations prescribed by the Secretary or his delegate, (1) that he has not collected (whether as a separate charge or otherwise) the amount of the tax from the person who placed the wager on which the tax was imposed, or (2) that he has repaid the amount of the tax to the person who placed such wager, or unless he files with the Secretary or his delegate written consent of the person who placed such wager to the allowance of the credit or the making of the refund. In the case of any laid-off wager, no overpayment of tax imposed by chapter 35 shall be so credited or refunded to the person with whom such laid-off wager was placed unless he establishes, in accordance with regulations prescribed by the Secretary or his delegate, that the provisions of the preceding sentence have been complied with both with respect to the person who placed the laid-off wager with him and with respect to the person who placed the original wager.

(b) *Credit or refund on wagers laid-off by taxpayer.* Where any taxpayer lays off part or all of a wager with another person who is liable for tax imposed by chapter 35 on the amount so laid off, a credit against such tax shall be allowed, or a refund shall be made to, the taxpayer laying off such amount. Such credit or refund shall be in an amount which bears the same ratio to the amount of tax which such taxpayer paid on the original wager as the amount so laid off bears to the amount of the original wager. Credit or refund under this subsection shall be allowed or made only in accordance with regulations prescribed by the Secretary or his delegate; and no interest shall be allowed with respect to any amount so credited or refunded.

§ 301.6419–1 Excise tax on wagering.

For regulations under sections 6419, see §§ 44.6419–1 and 44.6419–2 of this chapter (Wagering Tax Regulations).

§ 301.6420 Statutory provisions; gasoline used on farms.

SEC. 6420. *Gasoline used on farms*—(a) *Gasoline.* If gasoline is used on a farm for farming purposes, the Secretary or his delegate shall pay (without interest) to the ultimate purchaser of such gasoline the amount determined by multiplying—

(1) The number of gallons so used, by

(2) The rate of tax on gasoline under section 4081 which applied on the date he purchased such gasoline.

(b) *Time for filing claim; period covered.* Not more than one claim may be filed under this section by any person with respect to gasoline used during the 1-year period ending on June 30 of any year. No claim shall be allowed under this section with respect to any 1-year period unless filed on or before September 30 of the year in which such 1-year period ends.

(c) *Meaning of terms.* For purposes of this section—

(1) *Use on a farm for farming purposes.* Gasoline shall be treated as used on a farm for farming purposes only if used (A) in carrying on a trade or business, (B) on a farm situated in the United States, and (C) for farming purposes.

(2) *Farm.* The term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultual commodities, and orchards.

(3) *Farming purposes.* Gasoline shall be treated as used for farming purposes only if used—

(A) By the owner, tenant, or operator of a farm, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife, on a farm of which he is the owner, tenant, or operator; except that if such use is by any person other than the owner, tenant, or operator of such farm, then (i) for purposes of this subparagraph, in applying subsection (a) to this subparagraph, and for purposes of section 6416(b)(2)(G)(ii) (but not for purposes of section 4041), the owner, tenant, or operator of the farm on which gasoline or a liquid taxable under section 4041 is used shall be treated as the user and ultimate purchaser of such gasoline or liquid, and (ii) for purposes of applying section 6416(b)(2)(G)(ii), any tax paid under section 4041 in respect of a liquid used on a farm for farming purposes (within the meaning of this subparagraph) shall be treated as having been paid by the owner, tenant, or operator of the farm on which such liquid is used;

(B) By the owner, tenant, or operator of a farm, in handling, drying, packing, grading, or storing any agricultural or horticultural commodity in its unmanufactured state; but only if such owner, tenant, or operator produced more than one-half of the commodity which he so treated during the period with respect to which claim is filed;

(C) By the owner, tenant, or operator of a farm, in connection with—

(i) The planting, cultivating, caring for, or cutting of trees, or

(ii) The preparation (other than milling) of trees for market,

incidental to farming operations; or

(D) by the owner, tenant, or operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment.

(4) *Gasoline.* The term "gasoline" has the meaning given to such term by section 4082(b).

(d) *Exempt sales; other payments or refunds available.* No amount shall be paid under this section with respect to any gasoline which the Secretary or his delegate determines was exempt from the tax imposed

by section 4061. The amount which (but for this sentence) would be payable under this section with respect to any gasoline shall be reduced by any other amount which the Secretary or his delegate determines is payable under this section, or is refundable under any provision of this title, to any person with respect to such gasoline.

(e) *Applicable laws*—(1) *In general.* All provisions of law, including penalties, applicable in respect of the tax imposed by section 4061 shall, insofar as applicable and not inconsistent with this section, apply in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of overpayments of the tax so imposed.

(2) *Examination of books and witnesses.* For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary or his delegate shall have the authority granted by paragraphs (1), (2), and (3) of section 7602 (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

(3) *Fractional parts of a dollar.* Section 7504 (granting the Secretary discretion with respect to fractional parts of a dollar) shall not apply.

(f) *Regulations.* The Secretary or his delegate may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

(g) *Effective date.* This section shall apply only with respect to gasoline purchased after December 31, 1956.

(h) *Cross references.* (1) For exemption from tax in case of diesel fuel and special motor fuels used on a farm for farming purposes, see section 4041(d).

(2) For civil penalty for excessive claim under this section, see section 6675.

(3) For fraud penalties, etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures).

[Sec. 6420 as added by sec. 1, Act of Apr. 2, 1956 (Pub. Law 466, 84th Cong., 70 Stat. 67), and as amended by sec. 108(d)(2), Excise Tax Technical Changes Act 1958 (72 Stat. 1311)]

§ 301.6420–1 Gasoline used on farms.

For regulations under section 6420, see §§ 48.6420(a)–1 to 48.6420(h)–1, inclusive, of this chapter (Manufacturers and Retailers Excise Tax Regulations).

§ 301.6421 Statutory provisions; gasoline used for certain nonhighway purposes or by local transit systems.

SEC. 6421. *Gasoline used for certain nonhighway purposes or by local transit systems*—(a) *Nonhighway uses.* If gasoline is used otherwise than as a fuel in a highway vehicle (1) which (at the time of such use) is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or (2) which, in the case of a highway vehicle owned by the United States, is used on the highway, the Secretary or his delegate shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to 1 cent for each gallon of gasoline so used on which tax was paid at the rate of 3 cents a gallon and 2 cents for each gallon of gasoline so used on which tax was paid at the rate of 4 cents a gallon.

(b) *Local transit systems*—(1) *Allowance.* If gasoline is used during any calendar quarter in vehicles while engaged in furnishing scheduled common carrier public passenger land transportation service along regular routes, the Secretary or his delegate shall, subject to the provisions of paragraph (2), pay (without interest) to the ultimate purchaser of such gasoline the amount determined by multiplying—

(A) 1 cent for each gallon of gasoline so used on which tax was paid at the rate of 3 cents a gallon and 2 cents for each gallon of gasoline so used on which tax was paid at the rate of 4 cents a gallon, by

(B) The percentage which the ultimate purchaser's commuter fare revenue derived from such scheduled service during such quarter was of his total passenger fare revenue derived from such scheduled service during such quarter.

(2) *Limitation.* Paragraph (1) shall apply in respect of gasoline used during any calendar quarter only if at least 60 percent of the total passenger fare revenue derived during such quarter from scheduled service described in paragraph (1) by the person filing the claim was attributable to commuter fare revenue derived during such quarter by such person from such scheduled service.

(c) *Time for filing claims; period covered*—(1) *General rule.* Except as provided in paragraph (2), not more than one claim may be filed under subsection (a), and not more than one claim may be filed under subsection (b), by any person with respect to gasoline used during the 1-year period ending on June 30 of any year. No claim shall be allowed under this paragraph with respect to any 1-year period unless filed on or before September 30 of the year in which such 1-year period ends.

(2) *Exception.* If $1,000 or more is payable under this section to any person with respect to gasoline used during a calendar quarter, a claim may be filed under this section by such person with respect to gasoline used during such quarter. No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first calendar quarter following the calendar quarter for which the claim is filed.

(d) *Definitions.* For purposes of this section—

(1) *Gasoline.* The term "gasoline" has the meaning given to such term by section 4062(b).

(2) *Commuter fare revenue.* The term "commuter fare revenue" means revenue attributable to fares derived from the transportation of persons and attributable to—

(A) Amounts paid for transportation which do not exceed 60 cents,

(B) Amounts paid for commutation or season tickets for single trips of less than 30 miles, or

(C) Amounts paid for commutation tickets for 1 month or less.

(e) *Exempt sales; other payments or refunds available*—(1) *Exempt sales.* No amount shall be paid under this section with respect to any gasoline which the Secretary or his delegate determines was exempt from the tax imposed by section 4061. The amount which (but for this sentence) would be payable under this section with respect to any gasoline shall be reduced by any other amount which the Secretary or his delegate determines is payable under this section, or is refundable under any provision of this title, to any person with respect to such gasoline.

(2) *Gasoline used on farms.* This section shall not apply in respect of gasoline which was (within the meaning of paragraphs (1), (2), and (3) of section 6420(c)) used on a farm for farming purposes.

(f) *Applicable laws*—(1) *In general.* All provisions of law, including penalties, applicable in respect of the tax imposed by section 4061 shall, insofar as applicable and not inconsistent with this section, apply in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of overpayments of the tax so imposed.

(2) *Examination of books and witnesses.* For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary or his delegate shall have the authority granted by paragraphs (1), (2), and (3) of section 7602 (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

(g) *Regulations.* The Secretary or his delegate may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

(h) *Effective date.* This section shall apply only with respect to gasoline purchased after June 30, 1956, and before October 1, 1972.

(i) *Cross references.* (1) For reduced rate of tax in case of diesel fuel and special motor fuels used for certain nonhighway purposes, see subsections (a) and (b) of section 4041.

(2) For partial refund of tax in case of diesel fuel and special motor fuels used for certain nonhighway purposes, see section 6416(b)(2)(I) and (J).

(3) For partial refund of tax in case of diesel fuel and special motor fuels used by local transit systems, see section 6416(b)(3)(H).

(4) For civil penalty for excessive claims under this section, see section 6675.

(5) For fraud penalties, etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures).

[Sec. 6421 as added by sec. 208(c), Highway Revenue Act 1956 (70 Stat. 394), and as amended by sec. 2, Act of July 25, 1956 (Pub. Law 796, 84th Cong., 70 Stat. 644); secs. 163(d)(3), 164, Excise Tax Technical Changes Act 1958 (72 Stat. 1312); sec. 201(d)(2), Federal-Aid Highway Act 1959 (73 Stat. 615); sec. 201(e), Federal-Aid Highway Act 1961 (75 Stat. 134); sec. 5(c)(2), Tax Rate Extension Act 1962 (76 Stat. 115)]

§ 301.6421–1 Gasoline used for certain nonhighway purposes or by local transit systems.

For regulations under section 6421, see §§ 48.6421(a)–1 to 48.6421(g)–1, inclusive, of this chapter (Manufacturers and Retailers Excise Tax Regulations).

§ 301.6422 Statutory provisions; cross references.

SEC. 6422. *Cross references.* (1) For limitations on credits and refunds, see subchapter B of chapter 66.

(2) For overpayment arising out of adjustments incident to involuntary liquidation of inventory, see section 1321.

(3) For overpayment in case of adjustments to accrued foreign taxes, see section 905(c).

(4) For credit or refund in case of deficiency dividends paid by a personal holding company, see section 547.

(5) For refund, credit, or abatement of amounts disallowed by courts upon review of Tax Court decision, see section 7486.

(6) For abatement or refund of tax on transfers to avoid income tax, see section 1494(b).

(7) For abatement or refund in case of tax on silver bullion, see section 4894.

(8) For overpayment in certain renegotiations of war contracts, see section 1481.

(9) For refund or redemption of stamps, see chapter 69.

(10) For abatement, credit, or refund in case of jeopardy assessments, see chapter 70.

(11) For treatment of certain overpayments as having been refunded, in connection with sale of surplus war-built vessels, see section 9(b)(8) of the Merchant Ship Sales Act of 1946 (60 Stat. 46; 50 U.S.C. App. 1742.)

(12) For restrictions on transfers and assignments of claims against the United States, see R.S. 3477 (31 U.S.C. 203).

(13) For set-off of claims against amounts due the United States, see the act of March 3, 1875, as amended by section 13 of the act of March 3, 1933 (47 Stat. 1516; 31 U.S.C. 227).

(14) For special provisions relating to alcohol and tobacco taxes, see subtitle E.

[Sec. 6420 as renumbered 6422 by sec. 1, Act of Apr. 2, 1956 (Pub. Law 466, 84th Cong., 70 Stat. 67); sec. 208(c), Highway Revenue Act 1956 (70 Stat. 394); and as amended by sec. 204(4), Excise Tax Technical Changes Act 1958 (72 Stat. 1429)]

§ 301.6423 Statutory provisions; conditions to allowance in the case of alcohol and tobacco taxes.

SEC. 6423. *Conditions to allowance in the case of alcohol and tobacco taxes*—(a) *Conditions.* No credit or refund shall be allowed or made, in pursuance of a court decision or otherwise, of any amount paid or collected as an alcohol or tobacco tax unless the claimant establishes (under regulations prescribed by the Secretary or his delegate)—

(1) That he bore the ultimate burden of the amount claimed; or

(2) That he has unconditionally repaid the amount claimed to the person who bore the ultimate burden of such amount; or

(3) That (A) the owner of the commodity furnished him the amount claimed for payment of the tax, (B) he has filed with the Secretary or his delegate the written consent of such owner to the allowance to the claimant of the credit or refund, and (C) such owner satisfies the requirements of paragraph (1) or (2).

(b) *Filing of claims.* No credit or refund of any amount to which subsection (a) applies shall be allowed or made unless a claim therefor has been filed by the person who paid the amount claimed, and, except as hereinafter provided in this subsection, unless such claim is filed after April 30, 1958, and within the time prescribed by law, and in accordance with regulations prescribed by the Secretary or his delegate. All evidence relied upon in support of such claim shall be clearly set forth and submitted with the claim. Any claimant who has on or before April 30, 1958, filed a claim for any amount to which subsection (a) applies may, if such claim was not barred from allowance on April 30, 1958, file a superseding claim after April 30, 1958, and on or before April 30, 1959, conforming to the requirements of this section and covering the amount (or any part thereof) claimed in such prior claim. No claim filed before May 1, 1958, for the credit or refund of any amount to which subsection (a) applies shall be held to constitute a claim for refund or credit within the meaning of, or for purposes of, section 7422(a); except that any claimant who instituted a suit before June 15, 1957, for recovery of any amount to which subsection (a) applies shall not be barred by this subsection from the maintenance of such suit as to any amount claimed in such suit on such date if in such suit he establishes the conditions to allowance required under subsection (a) with respect to such amount.

(c) *Period not extended.* Any suit or proceeding, with respect to any amount to which subsection (a) applies, which is barred on April 30, 1958, shall remain barred. No claim for credit or refund of any such amount which is barred from allowance on April 30, 1958, shall be allowed after such date in any amount.

(d) *Application of section.* This section shall apply only if the credit or refund is claimed on the grounds that an amount of alcohol or tobacco tax was assessed or collected erroneously, illegally, without authority, or in any manner wrongfully, or on the grounds that such amount was excessive. This section shall not apply to—

(1) Any claim for drawback,

(2) Any claim made in accordance with any law expressly providing for credit or refund where a commodity is withdrawn from the market, returned to bond, or lost or destroyed, and

(3) Any amount claimed with respect to a commodity which has been lost, where a suit or proceeding was instituted before June 15, 1957.

(e) *Meaning of terms.* For purposes of this section—

(1) *Alcohol or tobacco tax.* The term "alcohol or tobacco tax" means—

(A) Any tax imposed by chapter 51 (other than part II of subchapter A, relating to occupational taxes) or by chapter 52 or by any corresponding provision of prior internal revenue laws, and

(B) In the case of any commodity of a kind subject to a tax described in subparagraph (A), any tax equal to any such tax, any additional tax, or any floor stocks tax.

(2) *Tax.* The term "tax" includes a tax and an exaction denominated a "tax", and any penalty, addition to tax, additional amount, or interest applicable to any such tax.

(3) *Ultimate burden.* The claimant shall be treated as having borne the ultimate burden of an amount of an alcohol or tobacco tax for purposes of subsection (a)(1), and the owner referred to in subsection (a)(3) shall be treated as having borne such burden for purposes of such subsection, only if—

(A) He has not, directly or indirectly, been relieved of such burden or shifted such burden to any other person,

(B) No understanding or agreement exists for any such relief or shifting, and

(C) If he has neither sold nor contracted to sell the commodities involved in such claim, he agrees that there will be no such relief or shifting, and furnishes such bond as the Secretary or his delegate may require to insure faithful compliance with his agreement.

[Sec. 6423 as added by Act of Feb. 11, 1958 (Pub. Law 85-323, 72 Stat. 8)]

§ 301.6423–1 Conditions to allowance in the case of alcohol and tobacco taxes.

For regulations under section 6423, see Part 170 of this chapter, relating to distilled spirits, wine and beer; Part 296 of this chapter, relating to tobacco materials, tobacco products, and cigarette papers and tubes; and Part 285 of this chapter, relating to cigarette papers and tubes—manufacturers and importers.

Limitations

LIMITATIONS ON ASSESSMENT AND COLLECTION

§ 301.6501(a) Statutory provisions; limitations on assessment and collection; general rule.

SEC. 6501. *Limitations on assessment and collection*—(a) *General rule.* Except as otherwise provided in this section, the amount of any tax imposed by this title shall be assessed within 3 years after the return was filed (whether or not such return was filed on or after the date prescribed) or, if the tax is payable by stamp, at any time after such tax became due and before the expiration of 3 years after the date on which any part of such tax was paid, and no proceeding in court without assessment for the collection of such tax shall be begun after the expiration of such period.

[Sec. 6501(a) as amended by sec. 225(a), Excise Tax Technical Changes Act 1958 (72 Stat. 1312)]

§ 301.6501(a)–1 Period of limitations upon assessment and collection.

(a) The amount of any tax imposed by the Code (other than a tax collected by means of stamps) shall be assessed within 3 years after the return was filed. For rules applicable in cases where the return is filed prior to the due date thereof, see section 6501(b). In the case of taxes payable by stamp, assessment shall be made at any time after the tax became due and before the expiration of 3 years after the date on which any part of the tax was paid. For exceptions and additional rules, see subsections (b) to (g) of section 6501, and for cross references to other provisions relating to limitations on assessment and collection, see sections 6501(h) and 6504.

(b) No proceeding in court without assessment for the collection of any tax shall be begun after the expiration of the applicable period for the assessment of such tax.

§ 301.6501(b) Statutory provisions; limitations on assessment and collection; time return deemed filed.

SEC. 6501. *Limitations on assessment and collection.* * * *

(b) *Time return deemed filed*—(1) *Early return.* For purposes of this section, a return of tax imposed by this title, except tax imposed by chapter 2, 21, or 24, filed before the last day prescribed by law or by regulations promulgated pursuant to law for the filing thereof, shall be considered as filed on such last day.

(2) *Return of certain employment taxes and tax imposed by chapter 3.* For purposes of this section, if a return of tax imposed by chapter 2, 21, or 24 for any period ending with or within a calendar year is filed before April 15 of the succeeding calendar year, such return shall be considered filed on April 15 of such calendar year.

(3) *Return executed by Secretary.* Notwithstanding the provisions of paragraph (2) of section 6020(b), the execution of a return by the Secretary or his delegate pursuant to the authority conferred by such section shall not start the running of the period of limitations on assessment and collection.

(4) *Return of excise taxes.* For purposes of this section, the filing of a return for a specified period on which an entry has been made with respect to a tax imposed under a provision of subtitle D (including a return on which an entry has been made showing no liability for such tax for such period) shall constitute the filing of a return of all amounts of such tax which, if properly paid, would be required to be reported on such return for such period.

[Sec. 6501(b) as amended by sec. 310(a), Excise Tax Reduction Act 1965 (79 Stat. 169); sec. 105(f)(3), Foreign Investors Tax Act 1966 (80 Stat. 1568)]

§ 301.6501(b)–1 Time return deemed filed for purposes of determining limitations.

(a) *Early return.* Any return, other than a return of tax referred to in paragraph (b) of this section, filed before the last day prescribed by law or regulations for the filing thereof (determined

without regard to any extension of time for filing) shall be considered as filed on such last day.

(b) *Returns of social security tax and of income tax withholding.* If a return on or after November 13, 1966, of tax imposed by chapter 3 of the Code (relating to withholding of tax on nonresident aliens and foreign corporations and tax-free covenant bonds), or if a return of tax imposed by chapter 21 of the Code (relating to the Federal Insurance Contributions Act) or by chapter 24 of the Code (relating to collection of income tax at source on wages), for any period ending with or within a calendar year is filed before April 15 of the succeeding calendar year, such return shall be deemed filed on April 15 of such succeeding calendar year. For example, if quarterly returns of the tax imposed by chapter 24 of the Code are filed for the four quarters of 1955 on April 30, July 31, and October 31, 1955, and on January 31, 1956, the period of limitation for assessment with respect to the tax required to be reported on such return is measured from April 15, 1956. However, if any of such returns is filed after April 15, 1956, the period of limitation for assessment of the tax required to be reported on that return is measured from the date it is in fact filed.

(c) *Returns executed by district directors or other internal revenue officers.* The execution of a return by a district director or other authorized internal revenue officer or employee under the authority of section 6020(b) shall not start the running of the statutory period of limitations on assessment and collection.

§ 301.6501(c) Statutory provisions; limitations on assessment and collection; exceptions.

SEC. 6501. *Limitations on assessment and collection.* • • •

(c) *Exceptions*—(1) *False return.* In the case of a false or fraudulent return with the intent to evade tax, the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time.

(2) *Willful attempt to evade tax.* In case of a willful attempt in any manner to defeat or evade tax imposed by this title (other than tax imposed by subtitle A or B), the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment at any time.

(3) *No return.* In the case of failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(4) *Extension by agreement.* Where, before the expiration of the time prescribed in this section for the assessment of any tax imposed by this title, except the estate tax provided in chapter 11, both the Secretary or his delegate and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(5) *Tax resulting from changes in certain income tax or estate tax credits.* For special rules applicable in cases where the adjustment of certain taxes allowed as a credit against income taxes or estate taxes results in additional tax, see section 905(c) (relating to the foreign tax credit for income tax purposes) and section 2016 (relating to taxes of foreign countries, States, etc., claimed as credit against estate taxes).

(6) *Tax resulting from certain distributions or from termination as life insurance company.* In the case of any tax imposed under section 802(a) by reason of section 802(b) (3) on account of a termination of the taxpayer as an insurance company or as a life insurance company to which section 815 (d) (2) (A) applies, or on account of a distribution by the taxpayer to which section 815(d) (2) (B) applies, such tax may be assessed within 3 years after the return was filed (whether or not such return was filed on or after the date prescribed) for the taxable year for which the taxpayer ceases to be an insurance company, the second taxable year for which the taxpayer is not a life insurance company, or the taxable year in which the distribution is actually made, as the case may be.

[Sec. 6501(c) as amended by sec. 3(g), Life Insurance Company Income Tax Act 1959 (73 Stat. 140); sec. 3(b)(4), Act of Oct. 23, 1962 (Pub. Law 87-858, 76 Stat. 1137)]

§ 301.6501(c)–1 Exceptions to general period of limitations on assessment and collection.

(a) *False return.* In the case of a false or fraudulent return with intent to evade any tax, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time after such false or fraudulent return is filed.

(b) *Willful attempt to evade tax.* In the case of a willful attempt in any manner to defeat or evade any tax imposed by the Code (other than a tax imposed by subtitle A or B, relating to income, estate, or gift taxes), the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(c) *No return.* In the case of a failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time after the date prescribed for filing the return.

(d) *Extension by agreement.* The time prescribed by section 6501 for the assessment of any tax (other than the estate tax imposed by chapter 11 of the Code) may, prior to the expiration of such time, be extended for any period of time agreed upon in writing by the taxpayer and the district director or an assistant regional commissioner. The extension shall become effective when the agreement has been executed by both parties. The period agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

§ 301.6501(d) Statutory provisions; limitations on assessment and collection; request for prompt assessment.

SEC. 6501. *Limitations on assessment and collection.* • • •

(d) *Request for prompt assessment.* Except as otherwise provided in subsection (c), (e), or (f), in the case of any tax (other than the tax imposed by chapter 11 of subtitle B, relating to estate taxes) for which return is required in the case of a decedent, or by his estate during the period of administration, or by a corporation, the tax shall be assessed, and any proceeding in court without assessment for the collection of such tax shall be begun, within 18 months after written request therefor (filed after the return is made and filed in such manner and such form as may be prescribed by regulations of the Secretary or his delegate) by the executor, administrator, or other fiduciary representing the estate of such decedent, or by the corporation, but not after the expiration of 3 years after the return was filed. This subsection shall not apply in the case of a corporation unless—

(1) (A) Such written request notifies the Secretary or his delegate that the corporation contemplates dissolution at or before the expiration of such 18-month period, (B) the dissolution is in good faith begun before the expiration of such 18-month period, and (C) the dissolution is completed;

(2) (A) Such written request notifies the Secretary or his delegate that a dissolution has in good faith been begun, and (B) the dissolution is completed; or

(3) A dissolution has been completed at the time such written request is made.

[Sec. 6501(d) as amended by sec. 80, Technical Amendments Act 1958 (72 Stat. 1662)]

§ 301.6501(d)–1 Request for prompt assessment.

(a) Except as otherwise provided in section 6501 (c), (e), or (f), any tax for which a return is required and for which:

(1) A decedent or an estate of a decedent may be liable, other than the estate tax imposed by chapter 11 of the Code, or

(2) A corporation which is contemplating dissolution, is in the process of dissolution, or has been dissolved, may be liable,

shall be assessed, or a proceeding in court without assessment for the collection of such tax shall be begun, within 18 months after the receipt of a written request for prompt assessment thereof.

(b) The executor, administrator, or other fiduciary representing the estate of the decedent, or the corporation, or the fiduciary representing the dissolved corporation, as the case may be, shall, after the return in question has been filed, file the request for prompt assessment in writing with the district director for the internal revenue district in which such return was filed. The request, in order to be effective, must be transmitted separately from any other document, must set forth the classes of tax and the taxable periods for which the prompt assessment is requested, and must clearly indicate that it is a request for prompt assessment under the provisions of section 6501(d). The effect of such a request is to limit the time in which an assessment of tax may be made, or a proceeding in court without assessment for collection of tax may be begun, to a period of 18 months from the date the request is filed with the proper district director. The request does not extend the time within which an assessment may be made, or a proceeding in court without assessment may be begun, beyond 3 years from the date the return was filed. This special period of limitations will not apply to any return filed after a request for prompt assessment has been made unless an additional request is filed in the manner provided herein.

(c) In the case of a corporation the 18-month period shall not apply unless:

(1) The written request notifies the district director that the corporation contemplates dissolution at or before the expiration of such 18-month period; the dissolution is in good faith begun before the expiration of such 18-month period; and the dissolution so begun is completed either before or after the expiration of such 18-month period; or

(2) The written request notifies the district director that a dissolution has in good faith been begun, and the dissolution is completed either before or after the expiration of such 18-month period; or

(3) A dissolution has been completed at the time the written request is made.

§ 301.6501(e) Statutory provisions; limitations on assessments and collection; omission from gross income.

SEC. 6501. *Limitations on assessment and collection.* • • •

(e) *Omission from gross income.* Except as otherwise provided in subsection (c)—

(1) *Income taxes.* In the case of any tax imposed by subtitle A—

(A) *General rule.* If the taxpayer omits from gross income an amount properly includible therein which is in excess of 25 percent of the amount of gross income stated in the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed. For purposes of this subparagraph—

(i) In the case of a trade or business, the term "gross income" means the total of the amounts received or accrued from the sale of goods or services (if such amounts are required to be shown on the return) prior to diminution by the cost of such sales or services; and

(ii) In determining the amount omitted from gross income, there shall not be taken into account any amount which is omitted from gross income stated in the return if such amount is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the Secretary or his delegate of the nature and amount of such item.

(B) *Constructive dividends.* If the taxpayer omits from gross income an amount properly includible therein under section 551 (b) (relating to the inclusion in the gross income of U.S. shareholders of their distributive shares of the undistributed foreign personal holding company income), the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed.

(2) *Estate and gift taxes.* In the case of a return of estate tax under chapter 11 or a return of gift tax under chapter 12, if the taxpayer omits from the gross estate or from the total amount of the gifts made during the year items includible in such gross estate or such total gifts, as the case may be, as exceed in amount 25 percent of the gross estate stated in the return or the total amount of gifts stated in the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed. In determining the items omitted from the gross estate or the total gifts, there shall not be taken into account any item which is omitted from the gross estate or from the total gifts stated in the return if such item is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the Secretary or his delegate of the nature and amount of such item.

§ 301.6501(e)–1 Omission from return.

(a) *Income taxes*—(1) *General rule.* (i) If the taxpayer omits from the gross income stated in the return of a tax imposed by subtitle A of the Code an amount properly includible therein which is in excess of 25 percent of the gross income so stated, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed.

(ii) For purposes of this subparagraph, the term "gross income", as it relates to a trade or business, means the total of the amounts received or accrued from the sale of goods or services, to the extent required to be shown on the return, without reduction for the cost of such sales or services. An item shall not be considered as omitted from gross income if information, sufficient to apprise the district director of the nature and amount of such item, is disclosed in the return or in any schedule or statement attached to the return.

(2) *Constructive dividends.* If a taxpayer omits from gross income an amount properly includible therein under section 551(b) as his distributive share of the undistributed foreign personal holding company income, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed.

(b) *Estate and gift taxes.* (1) If the taxpayer omits from the gross estate as stated in the estate tax return, or from the total amount of the gifts made during the year as stated in the gift tax return, an item or items properly includible therein the amount of which is in excess of 25 percent of the gross estate as stated in the return, or 25 percent of the total amount of the gifts as stated in the return the tax may be assessed on a proceeding in court for the collection thereof may be begun without assessment, at any time within 6 years after the return was filed.

(2) For purposes of this paragraph, an item disclosed in the return or in any schedule or statement attached to the return in a manner sufficient to apprise the district director of the nature and amount thereof shall not be taken into account in determining items omitted from the gross estate or total gifts, as the case may be. Further, there shall not be taken into account in computing the 25 percent omission from the gross estate stated in the estate tax return or from the total gifts stated in the gift tax return, any increases in the valuation of assets disclosed on the return.

(c) *Exception.* The provisions of this section do not limit the application of section 6501(c).

§ 301.6501(f) Statutory provisions; limitations on assessment and collection; personal holding company tax.

SEC. 6501. *Limitations on assessment and collection.* • • •

(f) *Personal holding company tax.* If a corporation which is a personal holding company for any taxable year fails to file with its income tax return for such year a schedule setting forth the items of gross income described in section 543(a) received by the corporation during such year, and the names and addresses of the individuals who owned, within the meaning of section 544, at any time during the last half of such taxable year, more than 50 percent in value of the outstanding capital stock of the corporation, the personal holding company tax for such year may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return for such year was filed.

§ 301.6501(f)–1 Personal holding company tax.

If a corporation which is a personal holding company for any taxable year fails to file with its income tax return for such year a schedule setting forth the items of gross income described in section 543(a) received by the corporation during such year, and the names and addresses of the individuals who owned, within the meaning of section 544, at any time during the last half of such taxable year, more than 50 percent in value of the outstanding capital stock of the corporation, the personal holding company tax for such year may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return for such year was filed.

§ 301.6501(g) Statutory provisions; limitations on assessment and collection; certain income tax returns of corporations.

SEC. 6501. *Limitations on assessment and collection.* • • •

(g) *Certain income tax returns of corporations*—(1) *Trusts or partnerships.* If a taxpayer determines in good faith that it is a trust or partnership and files a return as such under subtitle A, and if such taxpayer is thereafter held to be a corporation for the taxable year for which the return is filed such return shall be deemed the return of the corporation for purposes of this section.

(2) *Exempt organizations.* If a taxpayer determines in good faith that it is an exempt organization and files a return as such under section 6033, and if such taxpayer is thereafter held to be a taxable organization for the taxable year for which the return is filed, such return shall be deemed the return of the organization for purposes of this section.

[Sec. 6501(g) as amended by sec. 81(a), Technical Amendments Act 1958 (72 Stat. 1662)]

§ 301.6501(g)–1 Certain income tax returns of corporations.

(a) *Trusts or partnerships.* If a taxpayer determines in good faith that it is a trust or partnership and files a return as such under subtitle A of the Code, and if the taxpayer is later held to be a corporation for the taxable year for which the return was filed, such return shall be deemed to be the return of the corporation for the purpose of section 6501.

(b) *Exempt organizations.* If a taxpayer determines in good faith that it

is an exempt organization and files a return as such under section 6033, and if the taxpayer is later held to be a taxable organization for the taxable year for which the return was filed, such return shall be deemed to be the return of the organization for the purpose of section 6501.

§ 301.6501(h) Statutory provisions; limitations on assessment and collection; net operating loss carrybacks.

SEC. 6501. *Limitations on assessment and collection.* • • •

(h) *Net operating loss carrybacks.* In the case of a deficiency attributable to the application to the taxpayer of a net operating loss carryback (including deficiencies which may be assessed pursuant to the provisions of section 6213(b)(2)), such deficiency may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the net operating loss which results in such carryback may be assessed, or within 18 months after the date on which the taxpayer files in accordance with section 172(b)(3) a copy of the certification (with respect to such taxable year) issued under section 317 of the Trade Expansion Act of 1962, whichever is later.

[Sec. 6501(h) as added by sec. 61(b), Technical Amendments Act 1958 (72 Stat. 1663); and as amended by sec. 317(c), Trade Expansion Act 1962 (76 Stat. 880)]

§ 301.6501(h)–1 Net operating loss carrybacks.

In the case of a deficiency attributable to the application to the taxpayer of a net operating loss carryback (including deficiencies which may be assessed pursuant to the provisions of section 6213(b)(2)), such deficiency may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the net operating loss which results in such carryback may be assessed, or within 18 months after the date on which the taxpayer files in accordance with section 172(b)(3) a copy of the certification (with respect to such taxable year) issued under section 317 of the Trade Expansion Act of 1962, whichever is later.

§ 301.6501(i) Statutory provisions; limitations on assessment and collection; foreign tax carrybacks.

SEC. 6501. *Limitations on assessment and collection.* • • •

(i) *Foreign tax carrybacks.* In the case of a deficiency attributable to the application to the taxpayer of a carryback under section 904(d) (relating to carryback and carryover of excess foreign taxes), such deficiency may be assessed at any time before the expiration of 1 year after the expiration of the period within which a deficiency for the taxable year of the excess taxes described in section 904(d), which result in such carryback.

[Sec. 6501(i) as added by sec. 3(c), Act of Sept. 14, 1960 (Pub. Law 86-780, 74 Stat. 1013)]

§ 301.6501(i)–1 Foreign tax carrybacks; taxable years beginning after December 31, 1957.

With respect to taxable years beginning after December 31, 1957, a deficiency attributable to the application to the taxpayer of a carryback under section 904(d) (relating to carryback and carryover of excess foreign taxes), may be assessed at any time before the expiration of 1 year after the expiration of the period within which a deficiency may be assessed for the taxable year of the excess taxes described in section 904(d) which result in such carryback.

§ 301.6501(j) Statutory provisions; limitations on assessment and collection; investment credit carrybacks.

SEC. 6501. *Limitations on assessment and collection.* • • •

(j) *Investment credit carrybacks.* In the case of a deficiency attributable to the application to the taxpayer of an investment credit carryback, such deficiency may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the unused investment credit which results in such carryback may be assessed.

[Sec. 6501(j) as added by sec. 2(e)(1), Revenue Act 1962 (76 Stat. 971)]

§ 301.6501(j)–1 Investment credit carryback; taxable years ending after December 31, 1961.

With respect to taxable years ending after December 31, 1961, a deficiency attributable to the application to the taxpayer of an investment credit carryback may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the unused investment credit which results in such carryback may be assessed.

§ 301.6501(k) Statutory provisions; limitations on assessment and collection; joint income return after separate return.

SEC. 6501. *Limitations on assessment and collection.* • • •

(k) *Joint income return after separate return.* For period of limitations for assessment and collection in the case of a joint income return filed after separate returns have been filed, see section 6013(b)(3) and (4).

[Sec. 6501(k) as redesignated by sec. 81(b), Technical Amendments Act 1958 (72 Stat. 1663); sec. 3(c), Act of Sept. 14, 1960 (Pub. Law 86-780, 74 Stat. 1013); sec. 2(e)(1), Revenue Act 1962 (76 Stat. 971)]

§ 301.6502 Statutory provisions; collection after assessment.

SEC. 6502. *Collection after assessment*—(a) *Length of period.* Where the assessment of any tax imposed by this title has been made within the period of limitation properly applicable thereto, such tax may be collected by levy or by a proceeding in court, but only if the levy is made or the proceeding begun—

(1) Within 6 years after the assessment of the tax, or

(2) Prior to the expiration of any period for collection agreed upon in writing by the Secretary or his delegate and the taxpayer before the expiration of such 6-year period (or, if there is a release of levy under section 6343 after such 6-year period, then before such release.)

The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(b) *Date when levy is considered made.* The date on which a levy on property or rights to property is made shall be the date on which the notice of seizure provided in section 6335(a) is given.

§ 301.6502–1 Collection after assessment.

(a) *Length of period*—(1) *General rule.* In any case in which a tax has been assessed within the statutory period of limitation properly applicable thereto, a proceeding in court to collect such tax may be begun, or levy for the collection of such tax may be made, within 6 years after the assessment thereof.

(2) *Extension by agreement.* (i) The 6-year period of limitation on collection after assessment of any tax may, prior to the expiration thereof, be extended for any period of time agreed upon in writing by the taxpayer and the district director. The extension shall become effective upon execution of the agreement by both the taxpayer and the district director.

(ii) The period of limitation on collection after assessment of any tax (including any extension of such period) may be extended after the expiration thereof if there has been a levy on any part of the taxpayer's property prior to such expiration and if the extension is agreed upon in writing prior to a release of the levy under the provisions of section 6343. An extension under this subdivision has the same effect as an agreement made prior to the expiration of the period of limitation on collection after assessment, and during the period of the extension collection may be enforced as to all property or rights to property owned by the taxpayer whether or not seized under the levy which was released.

(iii) Any period agreed upon under the provisions of this subparagraph may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(b) *Date when levy is considered made.* The date on which a levy on property or rights to property is made is the date on which the notice of seizure provided in section 6335(a) is given.

§ 301.6503(a) Statutory provisions; suspension of running of period of limitation; issuance of statutory notice of deficiency.

SEC. 6503. *Suspension of running of period of limitation*—(a) *Issuance of statutory notice of deficiency*—(1) *General rule.* The running of the period of limitations provided in section 6501 or 6502 on the making of assessments or the collection by levy or a proceeding in court, in respect of any deficiency as defined in section 6211 (relating to income, estate, and gift taxes), shall (after the mailing of a notice under section 6212(a)) be suspended for the period during which the Secretary or his delegate is prohibited from making the assessment or from collecting by levy or a proceeding in court (and in any event, if a proceeding in respect of the deficiency is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

(2) *Corporation joining in consolidated income tax return.* If a notice under section 6212(a) in respect of a deficiency in tax imposed by subtitle A for any taxable year is mailed to a corporation, the suspension of the running of the period of limitations provided in paragraph (1) of this subsection shall apply in the case of corporations with which such corporation made a consolidated income tax return for such taxable year.

§ 301.6503(a)–1 Suspension of running of period of limitation; issuance of statutory notice of deficiency.

(a) *General rule.* Upon the mailing of a notice of deficiency for income, estate, or gift tax under the provisions of section 6212, the period of limitation on assessment and collection of any deficiency is suspended for 90 days if the notice of deficiency is addressed to a person within the States of the Union and the District of Columbia, or 150 days if such notice is addressed to a person outside the States of the Union and the District of Columbia (not counting Saturday, Sunday, or a legal holiday in the District of Columbia as the 90th or 150th day), plus an additional 60 days thereafter in either case. If a proceeding in respect of the deficiency is placed on the docket of the Tax Court, the period of limitation is suspended until the decision of the Tax Court becomes final, and for an additional 60 days thereafter. If a notice of deficiency is mailed to a taxpayer within the period of limitation and the taxpayer does not appeal therefrom to the Tax Court, the notice of deficiency so given does not suspend the running of the period of limitation with respect to any additional deficiency shown to be due in a subsequent deficiency notice.

Example. A taxpayer filed a return for the calendar year 1954 on April 15, 1955; the notice of deficiency was mailed to him (at an address within the United States) on April 15, 1958; and he filed a petition with the Tax Court on July 14, 1958. The decision of the Tax Court became final on November 6, 1959. The running of the period of limitation for assessment is suspended from April 15, 1958, to January 5, 1960, which date is 60 days after the date (November 6, 1959), on which the decision became final. If in this example the taxpayer had failed to file a petition with the Tax Court, the running of the period of limitation for assessment would then be suspended from April 15, 1958 (the date of notice), to September 12, 1958 (that is, for the 90-day period in which he could file a petition with the Tax Court, and for 60 days thereafter).

(b) *Corporations joining in consolidated return.* If a notice under section 6212(a) with respect to a deficiency in tax imposed by subtitle A of the Code for any taxable year is mailed to a corporation, the suspension of the running of the period of limitation provided in section 6503(a)(1) shall apply in the case of corporations with which such corporation made a consolidated income tax return for such taxable year. Under § 1.1502–16 of this chapter (Income Tax Regulations), relating to consolidated returns, notices of deficiency are mailed only to the common parent.

§ 301.6503(b) Statutory provisions; suspension of running of period of limitation; assets of taxpayer in control or custody of court.

SEC. 6503. *Suspension of running of period of limitation.* • • •

(b) *Assets of taxpayer in control or custody of court.* The period of limitations on collection after assessment prescribed in section 6502 shall be suspended for the period the assets of the taxpayer (other than the estate of a decedent or of an incompetent) are in the control or custody of the court in any proceeding before any court of the United States or of any State or Territory or of the District of Columbia, and for 6 months thereafter.

§ 301.6503(b)–1 Suspension of running of period of limitation; assets of taxpayer in control or custody of court.

Where the assets of a taxpayer (other than the estate of a decedent or of an incompetent) are in the control or custody of the court in any proceeding before any court of the United States or of any State or Territory of the United States or of the District of Columbia, the period of limitation on collection after assessment prescribed in section 6502 is suspended for the period such assets are in the control or custody of the court, and for 6 months thereafter.

§ 301.6503(c) Statutory provisions; suspension of running of period of limitation; location of property outside the United States or removal of property from the United States.

SEC. 6503. *Suspension of running of period of limitation.* • • •

(c) *Location of property outside the United States or removal of property from the United States.* In case collection is hindered or delayed because property of the taxpayer is situated or held outside the United States or is removed from the United States, the period of limitations on collection after assessment prescribed in section 6502 shall be suspended for the period collection is so hindered or delayed. The total suspension of time under this subsection shall not in the aggregate exceed 6 years.

§ 301.6503(c)–1 Suspension of running of period of limitation; location of property outside the United States or removal of property from the United States.

The running of the period of limitation on collection after assessment prescribed in section 6502 is suspended for the period of time that collection is hindered or delayed because property of the taxpayer is situated or held outside the United States or is removed from the United States. The total suspension of time under this provision shall not in the aggregate exceed 6 years. In any case in which the district director determines that collection is so hindered or delayed, he shall make and retain in the files of his office a written report which shall identify the taxpayer and the tax liability, shall show what steps were taken to collect the tax liability, shall state the grounds for his determination that property of the taxpayer is situated or held outside, or is removed from, the United States, and shall show the date on which it was first determined that collection was so hindered or delayed. The term "property" includes all property or rights to property, real or personal, tangible or intangible, belonging to the taxpayer. The suspension of the running of the period of limitation on collection shall be considered to begin on the date so determined by the district director. A copy of the report shall be mailed to the taxpayer at his last known address.

§ 301.6503(d) Statutory provisions; suspension of running of period of limitation; extensions of time for payment of estate tax.

SEC. 6503. *Suspension of running of period of limitation.* • • •

(d) *Extensions of time for payment of estate tax.* The running of the period of limitations for collection of any tax imposed by chapter 11 shall be suspended for the period of any extension of time for payment granted under the provisions of section 6161 (a)(2) or (b)(2) or under the provisions of section 6166.

[Sec. 6503(d) as amended by sec. 206(d), Small Business Tax Revision Act 1958 (72 Stat. 1685)]

§ 301.6503(d)–1 Suspension of running of period of limitation; extension of time for payment of estate tax.

Where an estate is granted an extension of time as provided in section 6161 (a)(2) or (b)(2), or under the provisions of section 6166, for payment of any estate tax, the running of the period of limitations for collection of such tax is suspended for the period of time for which the extension is granted.

§ 301.6503(e) Statutory provisions; suspension of running of period of limitation; certain powers of appointment.

SEC. 6503. *Suspension of running of period of limitation.* • • •

(e) *Certain powers of appointment.* The running of the period of limitations for assessment or collection of any tax imposed by chapter 11 shall be suspended in respect of the estate of a decedent claiming a deduction under section 2055(b)(2) until 30 days after the expiration of the period for assessment or collection of the tax imposed by chapter 11 on the estate of the surviving spouse.

[Sec. 6503(e) as added by sec. 2, Act of Aug. 6, 1956 (Pub. Law 1011, 84th Cong., 70 Stat. 1075)]

§ 301.6503(e)–1 Suspension of running of period of limitation; certain powers of appointment.

Where the estate of a decedent is allowed an estate tax charitable deduction under the provisions of section 2055(b)(2) (with respect to property over which the decedent's surviving spouse was given a power of appointment exercisable in favor of charitable organizations) subject to the later disallowance of the deduction if all conditions set forth in section 2055(b)(2) are not complied with, the running of the period of limitation for assessment or collection of any estate tax imposed on the decedent's estate is suspended until 30 days after the expiration of the period for assessment or collection of the estate tax imposed on the estate of the decedent's surviving spouse.

§ 301.6503(f) Statutory provisions; suspension of running of period of limitation; cross references.

SEC. 6503. *Suspension of running of period of limitations.* • • •

(f) *Cross references.* For suspension in case of—

(1) Deficiency dividends of a personal holding company, see section 547(f).

(2) Bankruptcy and receiverships, see subchapter B of chapter 70.

(3) Claims against transferees and fiduciaries, see chapter 71.

[Sec. 6901(f) as redesignated by sec. 2, Act of Aug. 6, 1956 (Pub. Law 1011, 84th Cong., 70 Stat. 1056)]

§ 301.6504 Statutory provisions; cross references.

SEC. 6504. *Cross references.* For limitation period in case of—

(1) Adjustments incident to involuntary liquidation of inventory, see section 1321.

(2) Adjustments to accrued foreign taxes, see section 905(c).

(3) Change of election to take standard deduction where taxpayer and his spouse make separate returns, see section 144(b).

(4) Involuntary conversion of property, see section 1033(a)(3)(C) and (D).

(5) Gain upon sale or exchange of residence, see section 1034(j).

(6) War loss recoveries where prior benefit rule is elected, see section 1336.

(7) Recovery of unconstitutional Federal taxes, see section 1346.

(8) Limitations on deductions allowable to individuals in certain cases, see section 270(d).

(9) Application by executor for discharge from personal liability for estate tax, see section 2204.

(10) Insolvent banks and trust companies, see section 7507.

(11) Service in a combat zone, etc., see section 7508.

(12) Claims against transferees and fiduciaries, see chapter 71.

(13) Assessments to recover excessive amounts paid under section 6420 (relating to gasoline used on farms) and assessments of civil penalties under section 6675 for excessive claims under section 6420, see section 6206.

(14) Assessments to recover excessive amounts paid under section 6421 (relating to gasoline used for certain nonhighway purposes or by local transit systems) and assessments of civil penalties under section 6675 for excessive claims under section 6421, see section 6206.

(15) Assessment and collection of interest, see section 6601(h).

[Sec. 6504 as amended by sec. 4(d), Act of Apr. 2, 1956 (Pub. Law 456, 84th Cong., 70 Stat. 91); sec. 208(e)(3), Highway Revenue Act 1956 (70 Stat. 397); sec. 84(b), Technical Amendments Act 1958 (72 Stat. 1664)]

LIMITATIONS ON CREDIT OR REFUND

§ 301.6511(a) Statutory provisions; limitations on credit or refund; period of limitation on filing claim.

SEC. 6511. *Limitations on credit or refund.*—(a) *Period of limitation on filing claim.* Claim for credit or refund of an overpayment of any tax imposed by this title in respect of which tax the taxpayer is required to file a return shall be filed by the taxpayer within 3 years from the time the return was filed or 2 years from the time the tax was paid, whichever of such periods expires the later, or if no return was filed by the taxpayer, within 2 years from the time the tax was paid. Claim for credit or refund of an overpayment of any tax imposed by this title which is required to be paid by means of a stamp shall be filed by the taxpayer within 3 years from the time the tax was paid.

[Sec. 6511(a) as amended by sec. 83(a), Technical Amendments Act 1958 (72 Stat. 1663)]

§ 301.6511(a)–1 Period of limitation on filing claim.

(a) In the case of any tax (other than a tax payable by stamp):

(1) If a return is filed, a claim for credit or refund of an overpayment must be filed by the taxpayer within 3 years from the time the return was filed or within 3 years from the time the tax was paid, whichever of such periods expires the later.

(2) If no return is filed, the claim for credit or refund of an overpayment must be filed by the taxpayer within 2 years from the time the tax was paid.

(b) In the case of any tax payable by means of a stamp, a claim for credit or refund of an overpayment of such tax must be filed by the taxpayer within 3 years from the time the tax was paid. For provisions relating to redemption of unissued stamps, see section 6805.

(c) For limitations on allowance of credit or refund, special rules, and exceptions, see subsections (b) through (e) of section 6511. For limitations in the case of a petition to the Tax Court, see section 6512. For rules as to time return is deemed filed and tax considered paid, see section 6513.

§ 301.6511(b) Statutory provisions; limitations on credit or refund; limitation on allowance of credits and refunds.

SEC. 6511. *Limitations on credit or refund.* • • •

(b) *Limitation on allowance of credits and refunds.*—(1) *Filing of claim within prescribed period.* No credit or refund shall be allowed or made after the expiration of the period of limitation prescribed in subsection (a) for the filing of a claim for credit or refund, unless a claim for credit or refund is filed by the taxpayer within such period.

(2) *Limit on amount of credit or refund.*—(A) *Limit where claim filed within 3-year period.* If the claim was filed by the taxpayer during the 3-year period prescribed in subsection (a), the amount of the credit or refund shall not exceed the portion of the tax paid within the period, immediately preceding the filing of the claim, equal to 3 years plus the period of any extension of time for filing the return. If the tax was required to be paid by means of a stamp, the amount of the credit or refund shall not exceed the portion of the tax paid within the 3 years immediately preceding the filing of the claim.

(B) *Limit where claim not filed within 3-year period.* If the claim was not filed within such 3-year period, the amount of the credit or refund shall not exceed the portion of the tax paid during the 2 years immediately preceding the filing of the claim.

(C) *Limit if no claim filed.* If no claim was filed, the credit or refund shall not exceed the amount which would be allowable under subparagraph (A) or (B), as the case may be, if claim was filed on the date the credit or refund is allowed.

[Sec. 6511(b)(2) as amended by sec. 83 (b), (c), Technical Amendments Act 1958 (72 Stat. 1663)]

§ 301.6511(b)–1 Limitations on allowance of credits and refunds.

(a) *Effect of filing claim.* Unless a claim for credit or refund of an overpayment is filed within the period of limitation prescribed in section 6511(a), no credit or refund shall be allowed or made after the expiration of such period.

(b) *Limit on amount to be credited or refunded.* (1) In the case of any tax (other than a tax payable by stamp):

(i) If a return was filed, and a claim is filed within 3 years from the time the return was filed, the amount of the credit or refund shall not exceed the portion of the tax paid within the period, immediately preceding the filing of the claim, equal to 3 years plus the period of any extension of time for filing the return.

(ii) If a return was filed, and a claim is filed after the 3-year period described in subdivision (i) of this subparagraph but within 2 years from the time the tax was paid, the amount of the credit or refund shall not exceed the portion of the tax paid within the 2 years immediately preceding the filing of the claim.

(iii) If no return was filed, but a claim is filed, the amount of the credit or refund shall not exceed the portion of the tax paid within the 2 years immediately preceding the filing of the claim.

(iv) If no claim is filed, the amount of the credit or refund allowed or made by the district director or the director of the regional service center shall not exceed the amount that would have been allowable under the preceding subdivisions of this subparagraph if a claim had been filed on the date the credit or refund is allowed.

(2) In the case of a tax payable by stamp:

(i) If a claim is filed, the amount of the credit or refund shall not exceed the portion of the tax paid within the 3 years immediately preceding the filing of the claim.

(ii) If no claim is filed, the amount of the credit or refund allowed or made by the district director or the director of the regional service center shall not exceed the portion of the tax paid within the 3 years immediately preceding the allowance of the credit or refund.

For provisions relating to redemption of unused stamps, see section 6805.

§ 301.6511(c) Statutory provisions; limitations on credit or refund; special rules applicable in case of extension of time by agreement.

SEC. 6511. *Limitations on credit or refund.* • • •

(c) *Special rules applicable in case of extension of time by agreement.* If an agreement under the provisions of section 6501(c)(4) extending the period for assessment of a tax imposed by this title is made within the period prescribed in subsection (a) for the filing of a claim for credit or refund—

(1) *Time for filing claim.* The period for filing claim for credit or refund or for making credit or refund if no claim is filed, provided in subsections (a) and (b)(1), shall not expire prior to 6 months after the expiration of the period within which an assessment may be made pursuant to the agreement or any extension thereof under section 6501(c)(4).

(2) *Limit on amount.* If a claim is filed, or a credit or refund is allowed when no claim was filed, after the execution of the agreement and within 6 months after the expiration of the period within which an assessment may be made pursuant to the agreement or any extension thereof, the amount of the credit or refund shall not exceed the portion of the tax paid after the execution of the agreement and before the filing of the claim or the making of the credit or refund, as the case may be, plus the portion of the tax paid within the period which would be applicable under subsection (b)(2) if a claim had been filed on the date the agreement was executed.

(3) *Claims not subject to special rule.* This subsection shall not apply in the case of a claim filed, or credit or refund allowed if no claim is filed, either—

(A) Prior to the execution of the agreement or

(B) More than 6 months after the expiration of the period within which an assessment may be made pursuant to the agreement or any extension thereof.

§ 301.6511(c)–1 Special rules applicable in case of extension of time by agreement.

(a) *Scope.* If, within the period prescribed in section 6511(a) for the filing of a claim for credit or refund, an agreement extending the period for assessment of a tax has been made in accordance with the provisions of section 6501(c)(4), the special rules provided in this section become applicable. This section shall not apply to any claim filed, or credit or refund allowed if no claim is filed, either (1) prior to the execution of an agreement extending the period in which assessment may be made, or (2) more than 6 months after the expiration of the period within which an assessment may be made pursuant to the agreement or any extension thereof.

(b) *Period in which claim may be filed.* Claim for credit or refund of an overpayment may be filed, or credit or refund may be allowed if no claim is filed, at any time within which an assessment may be made pursuant to an agreement, or any extension thereof, under section 6501(c)(4), and for 6 months thereafter.

(c) *Limit on amount to be credited or refunded.* (1) If a claim is filed within the time prescribed in paragraph (b) of this section, the amount of the credit or refund allowed or made shall not exceed the portion of the tax paid after the execution of the agreement and before the filing of the claim, plus the amount that could have been properly credited or refunded under the provisions of section 6511(b)(2) if a claim had been filed on the date of the execution of the agreement.

(2) If no claim is filed, the amount of credit or refund allowed or made within the time prescribed in paragraph (b) of this section shall not exceed the portion of the tax paid after the execution of the agreement and before the making of the credit or refund, plus the amount that could have been properly credited or refunded under the provisions of section 6511(b)(2) if a claim had been filed on the date of the execution of the agreement.

(d) *Effective date of agreement.* The agreement referred to in this section shall become effective when signed by the taxpayer and the district director or an assistant regional commissioner.

§ 301.6511(d) Statutory provisions; limitations on credit or refund; special rules applicable to income taxes.

SEC. 6511. *Limitations on credit or refund.* • • • (d) *Special rules applicable to income taxes.*—(1) *Seven-year period of limitation with respect to bad debts and worthless securities.* If the claim for credit or refund relates to an overpayment of tax imposed by subtitle A on account of—

(A) The deductibility by the taxpayer, under section 166 or section 823(c), of a debt as a debt which became worthless, or, under section 165(g), of a loss from worthlessness of a security, or

(B) The effect that the deductibility of a debt or loss described in subparagraph (A) has on the application to the taxpayer of a carryover,

in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be 7 years from the date prescribed by law for filing the return for the year with respect to which the claim is made. If the claim for credit or refund relates to an overpayment on account of the effect that the deductibility of such a debt or loss has on the application to the taxpayer of a carryback, the period shall be either 7 years from the date prescribed by law for filing the return for the year of the net operating loss which results in such carryback or the period prescribed in paragraph (2) of this subsection, whichever expires the later. In the case of a claim described in this paragraph the amount of the credit or refund may exceed the portion of the tax paid within the period prescribed in subsection (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to the deductibility of items described in this paragraph.

(2) *Special period of limitation with respect to net operating loss carrybacks.*—(A) *Period of limitation.* If the claim for credit or refund relates to an overpayment attributable to a net operating loss carryback, in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be that period which ends with the expiration of the 15th day of the 40th month (or the 39th month, in the case of a corporation) following the end of the taxable year of the net operating loss which results in such carryback, or the period prescribed in subsection (c) in respect of such taxable year, whichever expires later; except that—

(i) With respect to an overpayment attributable to a net operating loss carryback to any year on account of a certification issued to the taxpayer under section 317 of the Trade Expansion Act of 1962, the period shall not expire before the expiration of the sixth month following the month in which such certification is issued to the taxpayer, and

(ii) With respect to an overpayment attributable to the creation of, or an increase in, a net operating loss carryback as a result of the elimination of excessive profits by a renegotiation (as defined in section 1481(a)(1)(A)), the period shall not expire before September 1, 1959, or the expiration of the twelfth month following the month in which the agreement or order for the elimination of such excessive profits becomes final, whichever is the later.

In the case of such a claim, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to such carryback.

(B) *Applicable rules.* If the allowance of a credit or refund of an overpayment of tax attributable to a net operating loss carryback is otherwise prevented by the operation of any law or rule of law other than section 7122, relating to compromises, such credit or refund may be allowed or made, if claim therefor is filed within the period provided in subparagraph (A) of this paragraph. If the allowance of an application, credit, or refund of a decrease in tax determined under section 6411(b) is otherwise prevented by the operation of any law or rule of law other than section 7122, such application, credit, or refund may be allowed or made if application for a tentative carryback adjustment is made within the period provided in section 6411(a). In the case of any such claim for credit or refund or any such application for a tentative carryback adjustment, the determination by any court, including the Tax Court, in any proceeding in which the decision of the court has become final, shall be conclusive except with respect to the net operating loss deduction, and the effect of such deduction, to the extent that such deduction is affected by a carryback which was not in issue in such proceeding.

(3) *Special rules relating to foreign tax credit.*—(A) *Special period of limitation with respect to foreign taxes paid or accrued.* If the claim for credit or refund relates to an overpayment attributable to any taxes paid or accrued to any foreign country or to any possession of the United States for which credit is allowed against the tax imposed by subtitle A in accordance with the provisions of section 901 or the provisions of any treaty to which the United States is a party, in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be 10 years from the date prescribed by law for filing the return for the year with respect to which the claim is made.

(B) *Exception in the case of foreign taxes paid or accrued.* In the case of a claim described in subparagraph (A), the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to the allowance of a credit for the taxes described in subparagraph (A).

(4) *Special period of limitation with respect to investment credit carrybacks.*—(A) *Period of limitation.* If the claim for credit or refund relates to an overpayment attributable to an investment credit carryback, in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be that period which ends with the expiration of the 15th day of the 40th month (or 39th month, in the case of a corporation) following the end of the taxable year of the unused investment credit which results in such carryback, or the period prescribed in subsection (c) in respect of such taxable year, whichever expires later. In the case of such a claim, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to such carryback.

(B) *Applicable rules.* If the allowance of a credit or refund of an overpayment of tax attributable to an investment credit carryback is otherwise prevented by the operation of any law or rule of law other than section 7122, relating to compromises, such credit or refund may be allowed or made, if claim therefor is filed within the period provided in subparagraph (A) of this paragraph. In the case of any such claim for credit or refund, the determination by any court, including the Tax Court, in any proceeding in which the decision of the court has become final, shall not be conclusive with respect to the investment credit, and the effect of such credit, to the extent that such credit is affected by a carryback which was not in issue in such proceeding.

[Sec. 6511(d) as amended by sec. 83(d), Technical Amendments Act 1958 (72 Stat. 1663); sec. 1(a), Act of Sept. 16, 1959 (Pub. Law 86-380, 73 Stat. 563); sec. 317(d), Trade Expansion Act 1962 (76 Stat. 901); sec. 2(c)(2), Revenue Act 1962 (76 Stat. 971)]

§ 301.6511(d)–1 Overpayment of income tax on account of bad debts, worthless securities, etc.

(a) (1) If the claim for credit or refund relates to an overpayment of income tax on account of—

(i) The deductibility by the taxpayer, under section 166 or section 832(c), of a debt as a debt which became worthless, or, under section 165(g), of a loss from the worthlessness of a security, or

(ii) The effect that the deductibility of a debt or loss described in subdivision (i) of this subparagraph has on the application to the taxpayer of a carryover, then in lieu of the 3-year period from the time the return was filed in which claim may be filed or credit or refund allowed, as prescribed in section 6511 (a) or (b), the period shall be 7 years from the date prescribed by law for filing the return (determined without regard to any extension of time for filing such return) for the taxable year for which the claim is made or the credit or refund allowed or made.

(2) If the claim for credit or refund relates to an overpayment on account of the effect that the deductibility of a debt or loss, described in subparagraph (1) of this paragraph, has on the application to the taxpayer of a net operating loss carryback provided in section 172(b), the period in which claim for credit or refund may be filed shall be whichever of the following two periods expires later:

(i) Seven years from the last date prescribed for filing the return (determined without regard to any extension of time for filing such return) for the taxable year of the net operating loss which results in such carryback, or

(ii) The period which ends with the expiration of the period prescribed in section 6511(c) within which a claim for credit or refund may be filed with respect to the taxable year of the net operating loss which resulted in the carryback.

(3) In the case of a claim for credit or refund involving items described in this section, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in section 6511 (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to the deductibility of items described in subparagraph (1) of this paragraph. If the claim involves an overpayment based not only on the deductibility of items described in subparagraph (1) of this paragraph but based also on other items, the credit or refund cannot exceed the sum of the following:

(i) The amount of the overpayment which is attributable to the deductibility of items described in subparagraph (1) of this paragraph, and

(ii) The balance of such overpayment up to a limit of the portion, if any, of the tax paid within the period provided in section 6511 (b)(2) or (c), or within the period provided in any other applicable provision of law.

(4) If the claim involves an overpayment based not only on the deductibility of items described in subparagraph (1) of this paragraph but based also on other items, and if the claim with respect to any items is barred by the expiration of any applicable period of limitation, the portion of the overpayment attributable to the items not so barred shall be determined by treating the allowance of such items as the first adjustment to be made in computing such overpayment.

(b) If a claim for credit or refund is not filed within the applicable period described in paragraph (a) of this section, then credit or refund may be allowed or made only if claim therefor is filed or if such credit or refund is allowed within any period prescribed in section 6511 (a), (b), or (c), whichever is applicable, subject to the provisions thereof limiting the amount of credit or refund in the case of a claim filed, or, if no claim was filed, in the case of credit or refund allowed within such applicable period as prescribed in section 6511 (b) or (c).

(c) The provisions of this section and section 6511(d)(1) do not apply to an overpayment resulting from the deductibility of a debt that became partially worthless during the taxable year, but only to an overpayment resulting from the deductibility of a debt which became entirely worthless during such year.

(d) The provisions of paragraph (a) of this section with regard to an overpayment caused by the deductibility of a bad debt under section 166 or section 832(c), or of a loss from the worthlessness of a security under section 165(g), are likewise applicable to an overpayment caused by the effect that the deductibility of such bad debt or loss has on the application to the taxpayer of a carryover or of a carryback.

§ 301.6511(d)–2 Overpayment of income tax on account of net operating loss carryback.

(a) *Special period of limitation.* (1) If the claim for credit or refund relates to an overpayment of income tax attributable to a net operating loss carryback, provided in section 172(b), then in lieu of the 3-year period from the time the return was filed in which the claim may be filed or credit or refund allowed, as prescribed in section 6511 (a) or (b), the period shall be whichever of the following 2 periods expires later:

(i) The period which ends with the expiration of the 15th day of the fortieth month (or 39th month, in the case of a corporation) following the end of the taxable year of the net operating loss which resulted in the carryback; or

(ii) The period which ends with the expiration of the period prescribed in section 6511(c) within which a claim for credit or refund may be filed with respect to the taxable year of the net operating loss which resulted in the carryback;

except that—

(*a*) With respect to an overpayment attributable to a net operating loss carryback to any year on account of a certification issued to the taxpayer under section 317 of the Trade Expansion Act of 1962, the period shall not expire before the expiration of the sixth month following the month in which such certification is issued to the taxpayer, and

(*b*) With respect to an overpayment attributable to the creation of, or an increase in, a net operating loss carryback as a result of the elimination of excessive profits by a renegotiation (as defined in section 1481(a)(1)(A)), the period shall not expire before September 1, 1959, or the expiration of the 12th month following the month in which the agreement or order for the elimination of such excessive profits becomes final, whichever is the later.

(2) In the case of a claim for credit or refund involving a net operating loss carryback described in subparagraph (1) of this paragraph, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in section 6511 (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to the carryback. If the claim involves an overpayment based not only on a net operating loss carryback described in subparagraph (1) of this paragraph but based also on other items, the credit or refund cannot exceed the sum of the following:

(i) The amount of the overpayment which is attributable to the net operating loss carryback, and

(ii) The balance of such overpayment up to a limit of the portion, if any, of the tax paid within the period provided in section 6511 (b)(2) or (c), or within the period provided in any other applicable provision of law.

(3) If the claim involves an overpayment based not only on a net operating loss carryback described in subparagraph (1) of this paragraph but based also on other items, and if the claim with respect to any items is barred by the expiration of any applicable period of limitation, the portion of the overpayment attributable to the items not so barred shall be determined by treating the allowance of such items as the first adjustment to be made in computing such overpayment. If a claim for credit or refund is not filed, and if credit or refund is not allowed, within the period prescribed in this paragraph, then credit or refund may be allowed or made only if claim therefor is filed, or if such credit or refund is allowed, within the period prescribed in section 6511 (a), (b), or (c), whichever is applicable, subject to the provisions thereof limiting the amount of credit or refund in the case of a claim filed, or if no claim was filed, in case of credit or refund allowed, within such applicable period. For the limitations on the allowance of interest for an overpayment where credit or refund is subject to the provisions of this section, see section 6611(f).

(b) *Barred overpayments.* If the allowance of a credit or refund of an overpayment of tax attributable to a net operating loss carryback is otherwise prevented by the operation of any law or rule of law (other than section 7122, relating to compromises), such credit or refund may be allowed or made under the provisions of section 6511(d)(2)(B) if a claim therefor is filed within the period provided by section 6511(d)(2)(A) and paragraph (a) of this section for filing a claim for credit or refund of an overpayment attributable to a carryback. Similarly, if the allowance of an application, credit, or refund of a decrease in tax determined under section 6411(b) is otherwise prevented by the operation of any law or rule of law (other than section 7122), such application, credit, or refund may be allowed or made if an application for a tentative carryback adjustment is filed within the period provided in section 6411(a). Thus, for example, even though the tax liability (not including the net operating loss deduction or the effect of such deduction) for a given taxable year has previously been litigated before the Tax Court, credit or refund of an overpayment may be allowed or made despite the provisions of section 6512(a), if claim for such credit or refund is filed within the period provided in section 6511(d)(2)(A) and paragraph (a) of this section. In the case of a claim for credit or refund of an overpayment attributable to a carryback, or in the case of an application for a tentative carryback adjustment, the determination of any court, including the Tax Court, in any proceeding in which the decision of the court has become final, shall be conclusive except with respect to the net operating loss deduction, and the effect of such deduction, to the extent that such deduction is affected by a carryback which was not in issue in such proceeding.

§ 301.6511(d)–3 Special rules applicable to credit against income tax for foreign taxes.

(a) *Period in which claim may be filed.* In the case of an overpayment of income tax resulting from a credit, allowed under the provisions of section 901 or under the provisions of any treaty to which the United States is a party, for taxes paid or accrued to a foreign country or possession of the United States, a claim for credit or refund must be filed by the taxpayer within 10 years from the last date prescribed for filing the return (determined without regard to any extension of time for filing such return) for the taxable year with respect to which the claim is made. Such 10-year period shall be applied in lieu of the 3-year period prescribed in section 6511(a).

(b) *Limit on amount to be credited or refunded.* In the case of a claim described in paragraph (a) of this section, the amount of the credit or refund allowed or made may exceed the portion of the tax paid within the period prescribed in section 6511 (b) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to the allowance of a credit against income tax referred to in paragraph (a) of this section.

§ 301.6511(d)–4 Overpayment of income tax on account of investment credit carryback.

(a) *Special period of limitation.* (1) If the claim for credit or refund relates to an overpayment of income tax attributable to an investment credit carryback, provided in section 46(b), then in lieu of the 3-year period from the time the return was filed in which the claim may be filed or credit or refund allowed, as prescribed in section 6511 (a) or (b), the period shall be whichever of the following 2 periods expires later:

(i) The period which ends with the expiration of the 15th day of the fortieth month (or 39th month, in the case of a corporation) following the end of the taxable year of the unused investment credit which resulted in the carryback; or

(ii) The period which ends with the expiration of the period prescribed in section 6511(c) within which a claim for credit or refund may be filed with respect to the taxable year of the unused investment credit which resulted in the carryback.

(2) In the case of a claim for credit or refund involving an investment credit carryback described in subparagraph (1) of this paragraph, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in section 6511 (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to the carryback. If the claim involves an overpayment based not only on an investment credit carryback described in subparagraph (1) of this paragraph but based also on other items, the credit or refund cannot exceed the sum of the following:

(i) The amount of the overpayment which is attributable to the investment credit carryback, and

(ii) The balance of such overpayment up to a limit of the portion, if any, of the tax paid within the period provided in section 6511 (b)(2) or (c), or within the period provided in any other applicable provision of law.

(3) If the claim involves an overpayment based not only on an investment credit carryback described in subparagraph (1) of this paragraph but based also on other items, and if the claim with respect to any items is barred by the expiration of any applicable period of limitation, the portion of the overpayment attributable to the items not so barred shall be determined by treating the allowance of such items as the first adjustment to be made in computing such overpayment. If a claim for credit or refund is not filed, and if credit or refund is not allowed, within the period prescribed in this paragraph, then credit or refund may be allowed or made only if claim therefor is filed, or if such credit or refund is allowed, within the period prescribed in section 6511 (a), (b), or (c), whichever is applicable, subject to the provisions thereof limiting the amount of credit or refund in the case of a claim filed, or if no claim was filed, in case of credit or refund allowed, within such applicable period. For the limitations on the allowance of interest for an overpayment where credit or refund is subject to the provisions of this section, see section 6611(f).

(b) *Barred overpayments.* If the allowance of a credit or refund of an overpayment of income tax attributable to an investment credit carryback is otherwise prevented by the operation of any law or rule of law (other than section 7122, relating to compromises), such credit or refund may be allowed or made under the provisions of section 6511(d)(4)(B) if a claim therefor is filed within the period provided by section 6511(d)(4)(A) and paragraph (a) of this section for filing a claim for credit or refund of an overpayment attributable to a carryback. In the case of a claim for credit or refund of an overpayment attributable to a carryback, the determination of any court, including the Tax Court, in any proceeding in which the decision of the court has become final, shall not be conclusive with respect to the investment credit, and the effect of such credit, to the extent that such credit is affected by a carryback which was not in issue in such proceeding.

§ 301.6511(e) Statutory provisions; limitations on credit or refund; special rules in case of manufactured sugar.

SEC. 6511. *Limitations on credit or refund.*

* * *

(e) *Special rules in case of manufactured sugar*—(1) *Use as livestock feed or for distillation of alcohol.* No payment shall be allowed under section 6418(a) unless within 2 years after the right to such payment has accrued a claim therefor is filed by the person entitled thereto.

(2) *Exportation.* No payment shall be allowed under section 6418(b) unless within 2 years after the right to such payment has accrued a claim therefor is filed by the person entitled thereto.

§ 301.6511(e)–1 Special rules applicable to manufactured sugar.

(a) *Use as livestock feed and for distillation of alcohol.* No payment shall be allowed or made under section 6418 (a) unless within 2 years after the date the right to such payment has accrued a claim therefor is filed by the person entitled thereto. Such right accrues as of the date the manufactured sugar, or article manufactured therefrom, is used for a purpose for which payment is allowable under section 6418(a).

(b) *Exportation.* No payment shall be allowed or made under section 6418 (b) unless within 2 years after the date the right to such payment has accrued a claim therefor is filed by the person entitled thereto. Such right accrues as of the date the articles are exported.

§ 301.6511(f) Statutory provisions; limitations on credit or refund; cross references.

SEC. 6511. *Limitations on credit or refund.*

* * *

(f) *Cross references.* (1) For time return deemed filed and tax considered paid, see section 6513.

(2) For limitations with respect to certain credits against estate tax, see sections 2011(c), 2014(b), and 2016.

(3) For limitations in case of floor stocks refunds, see section 6412.

(4) For a period of limitations for credit or refund in the case of joint income returns after separate returns have been filed, see section 6013(b)(3).

(5) For limitations in case of payments under section 6420 (relating to gasoline used on farms), see section 6420(b).

(6) For limitations in case of payments under section 6421 (relating to gasoline used for certain nonhighway purposes or by local transit systems), see section 6421(e).

[Sec. 6511(f) as amended by sec. 4(e), Act of Apr. 2, 1956 (Pub. Law 466, 84th Cong., 70 Stat. 91); sec. 208(e)(6), Highway Revenue Act 1956 (70 Stat. 397)]

§ 301.6512 Statutory provisions; limitations in case of petition to Tax Court.

SEC. 6512. *Limitations in case of petition to Tax Court*—(a) *Effect of petition to Tax Court.* If the Secretary or his delegate has mailed to the taxpayer a notice of deficiency under section 6212(a) (relating to deficiencies of income, estate, and gift taxes) and if the taxpayer files a petition with the Tax Court within the time prescribed in section 6213(a), no credit or refund of income tax for the same taxable year, of gift tax for the same calendar year, or of estate tax in respect of the taxable estate of the same decedent, in respect of which the Secretary or his delegate has determined the deficiency shall be allowed or made and no suit by the taxpayer for the recovery of any part of the tax shall be instituted in any court except—

(1) As to overpayments determined by a decision of the Tax Court which has become final; and

(2) As to any amount computed in accordance with the decision of the Tax Court which has become final; and

(3) As to any amount collected after the period of limitation upon the making of levy or beginning a proceeding in court for collection has expired; but in any such claim for credit or refund or in any such suit for refund the decision of the Tax Court which has become final, as to whether such period has expired before the notice of deficiency was mailed, shall be conclusive.

(b) *Overpayment determined by Tax Court*—(1) *Jurisdiction to determine.* If the Tax Court finds that there is no deficiency and further finds that the taxpayer has made an overpayment of income tax for the same taxable year, of gift tax for the same calendar year, or of estate tax in respect of the taxable estate of the same decedent, in respect of which the Secretary or his delegate determined the deficiency, or finds that there is a deficiency but that the taxpayer has made an overpayment of such tax, the Tax Court shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Tax Court has become final, be credited or refunded to the taxpayer.

(2) *Limit on amount of credit or refund.* No such credit or refund shall be allowed or made of any portion of the tax unless the Tax Court determines as part of its decision that such portion was paid—

(A) After the mailing of the notice of deficiency,

(B) Within the period which would be applicable under section 6511 (b)(2), (c), or (d), if on the date of the mailing of the notice of deficiency a claim had been filed (whether or not filed) stating the grounds upon which the Tax Court finds that there is an overpayment, or

(C) Within the period which would be applicable under section 6511 (b)(2), (c), or (d), in respect of any claim for refund filed within the applicable period specified in section 6511 and before the date of the mailing of the notice of deficiency—

(i) Which had not been disallowed before that date,

(ii) Which had been disallowed before that date and in respect of which a timely suit for refund could have been commenced as of that date, or

(iii) In respect of which a suit for refund had been commenced before that date and within the period specified in section 6532.

[Sec. 6512 as amended by sec. 4, Act of Oct. 26, 1962 (Pub. Law 87-870, 76 Stat. 1161)]

§ 301.6512–1 Limitations in case of petition to Tax Court.

(a) *Effect of petition to Tax Court*—(1) *General rule.* If a person, having a right to file a petition with the Tax Court with respect to a deficiency in income, estate, or gift tax imposed by subtitle A or B of the Code, has filed such petition within the time prescribed in section 6213(a), no credit or refund of income tax for the same taxable year, or of gift tax for the same calendar year, or of estate tax in respect of the taxable estate of the same decedent, in respect of which a district director (or an assistant regional commissioner, appellate) has determined the deficiency, shall be allowed or made, and no suit in any court for the recovery of any part of such tax shall be instituted by the taxpayer, except as to items set forth in subparagraph (2) of this paragraph.

(2) *Exceptions.* The exceptions to the rule stated in subparagraph (1) of this paragraph are as follows:

(i) An overpayment determined by a decision of the Tax Court which has become final;

(ii) Any amount collected in excess of an amount computed in accordance with the decision of the Tax Court which has become final; and

(iii) Any amount collected after the expiration of the period of limitation upon levying or beginning a proceeding in court for collection.

(b) *Overpayment determined by Tax Court.* If the Tax Court finds that there is no deficiency and further finds that the taxpayer has made an overpayment of income tax for the same taxable year, or of gift tax for the same calendar year, or of estate tax in respect of the taxable estate of the same decedent, in respect of which a district director (or an assistant regional commissioner, appellate) has determined the deficiency, or finds that there is a deficiency but that the taxpayer has made an overpayment of such tax, the overpayment determined by the Tax Court shall be credited or refunded to the taxpayer when the decision of the Tax Court has become final. (See section 7481, relating to the date when Tax Court decision becomes final.) No such credit or refund shall be allowed or made of any portion of the tax unless the Tax Court determines as part of its decision that such portion was paid—

(1) After the mailing of the notice of deficiency, or

(2) Within the period which would be applicable under section 6511 (b)(2), (c), or (d) (see §§ 301.6511(b)–1, 301.6511(c)–1, 301.6511(d)–1, 301.6511(d)–2, and 301.6511(d)–3), if on the date of the mailing of the notice of deficiency a claim had been filed (whether or not filed) stating the grounds upon which the Tax Court finds that there is an overpayment.

(c) *Jeopardy assessments.* In the case of a jeopardy assessment made under section 6861(a), if the amount which should have been assessed as determined by a decision of the Tax Court which has become final is less than the amount already collected, the excess payment shall be credited or refunded subject to a determination being made by the Tax Court with respect to the time of payment as stated in paragraph (b) of this section.

(d) *Disallowance of deficiency by reviewing court.* If the amount of the deficiency determined by the Tax Court (in a case where collection has not been stayed by the filing of a bond) is disallowed in whole or in part by the reviewing court, then the overpayment resulting from such disallowance shall be credited or refunded without the making of claim therefor, subject to a determination being made by the Tax Court with respect to the time of payment as stated in paragraph (b) of this section. (See section 7481, relating to date Tax Court decision becomes final.)

(e) *Collection in excess of amount determined by Tax Court.* Where the amount collected is in excess of the amount computed in accordance with the decision of the Tax Court which has become final, the excess payment shall be credited or refunded within the period of limitation provided in section 6511.

(f) *Collection after expiration of statutory period.* Where an amount is collected after the statutory period of limitation upon the beginning of levy or a proceeding in court for collection has expired (see section 6502, relating to collection after assessment), the taxpayer may file a claim for refund of the amount so collected within the period of limitation provided in section 6511. In any such case, the decision of the Tax Court as to whether the statutory period upon collection of the tax expired before notice of the deficiency was mailed shall, when the decision becomes final, be conclusive.

§ 301.6513 Statutory provisions; time return deemed filed and tax considered paid.

SEC. 6513. *Time return deemed filed and tax considered paid*—(a) *Early return or advance payment of tax.* For purposes of section 6511, any return filed before the last day prescribed for the filing thereof shall be considered as filed on such last day. For purposes of section 6511 (b)(2) and (c) and section 6512, payment of any portion of the tax made before the last day prescribed for the payment of the tax shall be considered made on such last day. For purposes of this subsection, the last day prescribed for filing the return or paying the tax shall be determined without regard to any extension of time granted the taxpayer and without regard to any election to pay the tax in installments.

(b) *Prepaid income tax.* For purposes of section 6511 or 6512—

(1) Any tax actually deducted and withheld at the source during any calendar year under chapter 24 shall, in respect of the recipient of the income, be deemed to have been paid by him on the 15th day of the fourth month following the close of his taxable year with respect to which such tax is allowable as a credit under section 31.

(2) Any amount paid as estimated income tax for any taxable year shall be deemed to have been paid on the last day prescribed for filing the return under section 6012 for such taxable year (determined without regard to any extension of time for filing such return).

(3) Any tax withheld at the source under chapter 3 shall, in respect of the recipient of the income, be deemed to have been paid by such recipient on the last day prescribed for filing the return under section 6012 for the taxable year (determined without regard to any extension of time for filing) with respect to which such tax is allowable as a credit under section 1462. For this purpose, any exemption granted under section 6012 from the requirement of filing a return shall be disregarded.

(c) *Return and payment of social security taxes and income tax withholding.* Notwithstanding subsection (a), for purposes of section 6511 with respect to any tax imposed by chapter 3, 21, or 24—

(1) If a return for any period ending with or within a calendar year is filed before April 15 of the succeeding calendar year, such return shall be considered filed on April 15 of such succeeding calendar year; and

(2) If a tax with respect to remuneration or other amount paid during any period ending with or within a calendar year is paid before April 15 of the succeeding calendar year, such tax shall be considered paid on April 15 of such succeeding calendar year.

(d) *Overpayment of income tax credited to estimated tax.* If any overpayment of income tax is, in accordance with section 6402(b), claimed as a credit against estimated tax for the succeeding taxable year, such amount shall be considered as a payment of the income tax for the succeeding taxable year (whether or not claimed as a credit in the return of estimated tax for such succeeding taxable year), and no claim for credit or refund of such overpayment shall be allowed for the taxable year in which the overpayment arises.

[Sec. 6513 as amended by sec. 105(f) (1) and (2), Foreign Investors Tax Act 1966 (80 Stat. 1567)]

§ 301.6513–1 Time return deemed filed and tax considered paid.

(a) *Early return or advance payment of tax.* For purposes of section 6511, a return filed before the last day prescribed by law or regulations for the filing thereof shall be considered as filed on such last day. For purposes of section 6511 (b)(2) and (c) and section 6512, payment of any portion of the tax made before the last day prescribed for payment shall be considered made on such last day. An extension of time for filing a return or for paying any tax, or an election to pay any tax in installments, shall not be given any effect in determining under this section the last day prescribed for filing a return or paying any tax.

(b) *Prepaid income tax.* For purposes of section 6511 (relating to limitations on credit or refund) or section 6512 (relating to limitations in case of petition to Tax Court)—

(1) Any tax actually deducted and withheld at the source during any calendar year under chapter 24 of the Code (relating to collection of income tax at source on wages) shall, in respect of the recipient of the income, be deemed to have been paid by him on the 15th day of the fourth month following the close of his taxable year with respect to which such tax is allowable as a credit under section 31 (relating to tax withheld on wages),

(2) Any amount paid as estimated income tax for any taxable year shall be deemed to have been paid on the last day prescribed for filing the return under section 6012 for such taxable year (determined without regard to any extension of time for filing such return), and

(3) Any tax withheld at the source on or after November 13, 1966, under chapter 3 of the Code (relating to tax withheld on nonresident aliens and foreign corporations and tax-free covenant bonds) shall, in respect of the recipient of the income, be deemed to have been paid by such recipient on the last day prescribed for filing his income tax return under section 6012 for the taxable year (determined without regard to any extension of time for filing such return) with respect to which such tax is allowable as a credit under section 1462 (relating to withheld tax as credit to recipient of income).

Subparagraph (3) of this paragraph shall apply even though the recipient of the income has been granted under section 6012 and the regulations thereunder an exemption from the requirement of making an income tax return for the taxable year.

(c) *Return and payment of social security taxes and income tax withholding.* Notwithstanding paragraph (a) of this section, if a return (or payment) on or after November 13, 1966, of tax imposed by chapter 3 of the Code (relating to withholding of tax on nonresident aliens and foreign corporations and tax-free covenant bonds), or if a return (or payment) of tax imposed by chapter 21 of the Code (relating to the Federal Insurance Contributions Act) or by chapter 24 of the Code (relating to the collection of income tax at source on wages), for any period ending with or within a calendar year is filed or paid before April 15 of the succeeding calendar year, for purposes of section 6511 (relating to limitations on credit or refund) the return shall be considered filed, or the tax considered paid, on April 15 of such succeeding calendar year.

(d) *Overpayment of income tax credited to estimated tax.* If a taxpayer elects under the provisions of section 6402(b) to credit an overpayment of income tax for a taxable year against estimated tax for the succeeding taxable year, the amount so credited shall be considered a payment of income tax for such succeeding taxable year (whether or not claimed as a credit on the estimated tax return for such succeeding taxable year). If the treatment of such amount as a payment of income tax for the succeeding taxable year results in an overpayment for such succeeding taxable year, the period of limitations applicable to such overpayment is determined by reference to that taxable year. An election so to credit an overpayment of income tax precludes the allowance of a claim for credit or refund of such overpayment for the taxable year in which the overpayment arises.

§ 301.6514(a) Statutory provisions; credits or refunds after period of limitation.

SEC. 6514. *Credits or refunds after period of limitation*—(a) *Credits or refunds after period of limitation.* A refund of any portion of an internal revenue tax shall be considered erroneous and a credit of any such portion shall be considered void—

(1) *Expiration of period for filing claim.* If made after the expiration of the period of limitation for filing claim therefor, unless within such period claim was filed; or

(2) *Disallowance of claim and expiration of period for filing suit.* In the case of a claim filed within the proper time and disallowed by the Secretary or his delegate, if the credit or refund was made after the expiration of the period of limitation for filing suit, unless within such period suit was begun by the taxpayer.

(3) *Recovery of erroneous refunds.* For procedure by the United States to recover erroneous refunds, see sections 6532(b) and 7405.

§ 301.6514(a)–1 Credits or refunds after period of limitation.

(a) A refund of any portion of any internal revenue tax (or any interest, additional amount, addition to the tax, or assessable penalty) shall be considered erroneous and a credit of any such portion shall be considered void:

(1) If made after the expiration of the period of limitation prescribed by section 6511 for filing claim therefor, unless prior to the expiration of such period claim was filed, or

(2) In the case of a timely claim, if the credit or refund was made after the expiration of the period of limitation prescribed by section 6532(a) for the filing of suit, unless prior to the expiration of such period suit was begun.

(b) For procedure by the United States to recover erroneous refunds, see sections 6532(b) and 7405.

§ 301.6514(b) Statutory provisions; credit after period of limitation.

SEC. 6514. *Credits or refunds after period of limitation.* * * *

(b) *Credit after period of limitation.* Any credit against a liability in respect of any taxable year shall be void if any payment in respect to such liability would be considered an overpayment under section 6401(a).

§ 301.6514(b)–1 Credit against barred liability.

Any credit against a liability in respect of any taxable year shall be void if the collection of such liability would be barred by the applicable statute of limitations at the time such credit is made.

§ 301.6515 Statutory provisions; cross references.

SEC. 6515. *Cross references.* For limitations in case of—

(1) Adjustments incident to involuntary liquidation of inventory, see section 1321.

(2) War loss recoveries where prior benefit rule is elected, see section 1335.

(3) Deficiency dividends of a personal holding company, see section 547.

(4) Overpayment in certain renegotiations of war contracts, see section 1481.

(5) Tentative carryback adjustments, see section 6411.

(6) Service in a combat zone, etc., see section 7508.

(7) Suits for refund by taxpayers, see section 6532(a).

MITIGATION OF EFFECT OF PERIOD OF LIMITATIONS

§ 301.6521 Statutory provisions; mitigation of effect of limitation in case of related taxes under different chapters.

SEC. 6521. *Mitigation of effect of limitation in case of related taxes under different chapters*—(a) *Self-employment tax and tax on wages.* In the case of the tax imposed by chapter 2 (relating to tax on self-employment income) and the tax imposed by section 3101 (relating to tax on employees under the Federal Insurance Contributions Act)—

(1) If an amount is erroneously treated as self-employment income, or if an amount is erroneously treated as wages, and

(2) If the correction of the error would require an assessment of one such tax and the refund or credit of the other tax, and

(3) If at any time the correction of the error is authorized as to one such tax but is prevented as to the other tax by any law or rule of law (other than section 7122, relating to compromises),

then, if the correction authorized is made, the amount of the assessment, or the amount of the credit or refund, as the case may be, authorized as to the one tax shall be reduced by the amount of the credit or refund, or the amount of the assessment, as the case may be, which would be required with respect to such other tax for the correction of the error if such credit or refund, or such assessment, of such other tax were not prevented by any law or rule of law (other than section 7122, relating to compromises).

(b) *Definitions.* For purposes of subsection (a), the terms "self-employment income" and "wages" shall have the same meaning as when used in section 1402(b).

§ 301.6521–1 Mitigation of effect of limitation in case of related employee social security tax and self-employment tax.

(a) Section 6521 may be applied in the correction of a certain type of error involving both the tax on self-employment income under section 1401 and the employee tax under section 3101 if the correction of the error as to one tax is, on the date the correction is authorized, prevented in whole or in part by the operation of any law or rule of law other than section 7122, relating to compromises. Examples of such law are section 6212(c), 6401(a), 6501, 6511, 6512(a), 6514, 6532, 6901 (c), (d) and (e), 7121, and 7459(e).

(b) If the liability for either tax with respect to which the error was made has been compromised under section 7122, the provisions of section 6521 limiting the correction with respect to the other tax do not apply.

(c) Section 6521 is not applicable if, on the date of the authorization, correction of the effect of the error is permissible as to both taxes without recourse to such section.

(d) If, because an amount of wages, as defined in section 3121(a), is erroneously treated as self-employment income, as defined in section 1402(b), or an amount of self-employment income is erroneously treated as wages, it is necessary in correcting the error to assess the correct tax and give a credit or refund for the amount of the tax erroneously paid, and if either, but not both, of such adjustments is prevented by any law or rule of law (other than section 7122), the amount of the assessment, or the amount of the credit or refund, authorized shall reflect the adjustment which would be made in respect of the other tax (either the tax on self-employment income under section 1401 or the employee tax under section 3101) but for the operation of such law or rule of law. For example, assume that during 1955 A paid $10 as tax on an amount erroneously treated as "wages", when such amount was actually self-employment income, and that credit or refund of the $10 is not barred. A should have paid a self-employment tax of $15 on the amount. If the assessment of the correct tax, that is, $15, is barred by the statute of limitations, no credit or refund of the $10 shall be made without offsetting against such $10 the $15, assessment of which is barred. Thus, no credit or refund in respect of the $10 can be made.

(e) As another example, assume that during 1955 a taxpayer reports wages of $4,200 and net earnings from self-employment of $900. By reason of the limitations of section 1402(b) he shows no self-employment income. Assume further that by reason of a final decision by the Tax Court of the United States, further adjustments to the taxpayer's income tax liability are barred. The question of the amount of his wages, as defined in section 3121, was not in issue in the Tax Court litigation, but it is subsequently determined (within the period of limitations applicable under the Federal Insurance Contributions Act) that $700 of the $4,200 reported as wages was not for employment as defined in section 3121 (b). Therefore, the taxpayer is entitled to the allowance of a refund of the $14 tax paid on such remuneration under section 3101. The reduction of his wages from $4,200 to $3,500 would result in the determination of $700 self-employment income, the tax on which is $21 for the year. Under section 6521, the overpayment of $14 would be offset by the barred deficiency of $21, thus eliminating the refund otherwise allowable. If the facts were changed so that the taxpayer erroneously paid tax on self-employment income of $700, having been taxed on only $3,500 as wages, and within the period of limitations applicable under the Federal Insurance Contributions Act, it is determined that his wages were $4,200, the tax of $14 under section 3101, otherwise collectible, would be eliminated by offsetting under section 6521 the barred overpayment of $21. The balance of the barred overpayment, $7, cannot be credited or refunded.

(f) Another illustration of the operation of section 6521 is the case of a taxpayer who, for 1955, is erroneously taxed on $3,500 as wages, the tax on which is $50, and who reports no self-employment income. After the period of limitations has run on the refund of the tax under the Federal Insurance Contributions Act, it is determined that the amount treated as wages should have been reported as net earnings from self-employment. The taxpayer's self-employment income would then be $2,500 and the tax thereon would be $75. Assume that the period of limitations applicable to subtitle A of the Code has not expired, and that a notice of deficiency may properly be issued. Under section 6521, the amount of the deficiency of $75 must be reduced by the barred overpayment of $50.

§ 301.6521–2 Law applicable in determination of error.

The question of whether there was an erroneous treatment of self-employment income or of wages is determined under the provisions of law and regulations applicable with respect to the year or other taxable period as to which the error was made. The fact that the error was in pursuance of an interpretation, either judicial or administrative, accorded such provisions of law and regulations at the time the action involved was taken is not necessarily determinative of this question. For example, if a later judicial decision authoritatively alters such interpretation so that such action is contrary to the applicable provisions of the law and regulations as later interpreted, the error comes within the scope of section 6521.

PERIODS OF LIMITATION IN JUDICIAL PROCEEDINGS

§ 301.6531 Statutory provisions; periods of limitation on criminal prosecutions.

SEC. 6531. *Periods of limitation on criminal prosecutions.* No person shall be prosecuted, tried, or punished for any of the various offenses arising under the internal revenue laws unless the indictment is found or the information instituted within 3 years next after the commission of the offense, except that the period of limitation shall be 6 years—

(1) For offenses involving the defrauding or attempting to defraud the United States or any agency thereof, whether by conspiracy or not, and in any manner;

(2) For the offense of willfully attempting in any manner to evade or defeat any tax or the payment thereof;

(3) For the offense of willfully aiding or assisting in, or procuring, counseling, or advising, the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a false or fraudulent return, affidavit, claim, or document (whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document);

(4) For the offense of willfully failing to pay any tax, or make any return (other than a return required under authority of part III of subchapter A of chapter 61) at the time or times required by law or regulations;

(5) For offenses described in sections 7206 (1) and 7207 (relating to false statements and fraudulent documents);

(6) For the offense described in section 7212(a) (relating to intimidation of officers and employees of the United States);

(7) For offenses described in section 7214 (a) committed by officers and employees of the United States; and

(8) For offenses arising under section 371 of Title 18 of the United States Code, where the object of the conspiracy is to attempt in any manner to evade or defeat any tax or the payment thereof.

The time during which the person committing any of the various offenses arising under the internal revenue laws is outside the United States or is a fugitive from justice within the meaning of section 3290 of Title 18 of the United States Code, shall not be taken as any part of the time limited by law for the commencement of such proceedings. (The preceding sentence shall also be deemed as amendment to section 3748(a) of the Internal Revenue Code of 1939, and shall apply in lieu of the sentence in section 3748 (a) which relates to the time during which a person committing an offense is absent from the district wherein the same is committed, except that such amendment shall apply only if the period of limitations under section 3748 would, without the application of such amendment, expire more than 3 years after the date of enactment of this title, and except that such period shall not, with the application of this amendment, expire prior to the date which is 3 years after the date of enactment of this title.) Where a complaint is instituted before a commissioner of the United States within the period above limited, the time shall be extended until the date which is 9 months after the date of the making of the complaint before the commissioner of the United States. For the purpose of determining the periods of limitation on criminal prosecutions, the rules of section 6513 shall be applicable.

§ 301.6532 Statutory provisions; periods of limitation on suits.

SEC. 6532. *Periods of limitation on suits*—(a) *Suits by taxpayers for refund*—(1) *General rule.* No suit or proceeding under section 7422(a) for the recovery of any internal revenue tax, penalty, or other sum, shall be begun before the expiration of 6 months from the date of filing the claim required under such section unless the Secretary or his delegate renders a decision thereon within that time, nor after the expiration of 2 years from the date of mailing by certified mail or registered mail by the Secretary or his delegate to the taxpayer of a notice of the disallowance of the part of the claim to which the suit or proceeding relates.

(2) *Extension of time.* The 2-year period prescribed in paragraph (1) shall be extended for such period as may be agreed upon in writing between the taxpayer and the Secretary or his delegate.

(3) *Waiver of notice of disallowance.* If any person files a written waiver of the requirement that he be mailed a notice of disallowance, the 2-year period prescribed in paragraph (1) shall begin on the date such waiver is filed.

(4) *Reconsideration after mailing of notice.* Any consideration, reconsideration, or action by the Secretary or his delegate with respect to such claim following the mailing of a notice by certified mail or registered mail of disallowance shall not operate to extend the period within which suit may be begun.

(b) *Suits by United States for recovery of erroneous refunds.* Recovery of an erroneous refund by suit under section 7405 shall be allowed only if such suit is begun within 2 years after the making of such refund, except that such suit may be brought at any time within 5 years from the making of the refund if it appears that any part of the refund was induced by fraud or misrepresentation of a material fact.

[Sec. 6532 as amended by sec. 59(b), Technical Amendments Act 1958 (72 Stat. 1665)]

§ 301.6532–1 Periods of limitation on suits by taxpayers.

(a) No suit or proceeding under section 7422(a) for the recovery of any internal revenue tax, penalty, or other sum shall be begun until whichever of the following first occurs:

(1) The expiration of 6 months from the date of the filing of the claim for credit or refund, or

(2) A decision is rendered on such claim prior to the expiration of 6 months after the filing thereof.

Except as provided in paragraph (b) of this section, no suit or proceeding for the recovery of any internal revenue tax, penalty, or other sum may be brought after the expiration of 2 years from the date of mailing by registered mail prior to September 3, 1958, or by either registered or certified mail on or after September 3, 1958, by a district director, a director of an internal revenue service center, or an assistant regional commissioner to a taxpayer of a notice of disallowance of the part of the claim to which the suit or proceeding relates.

(b) The 2-year period described in paragraph (a) of this section may be extended if an agreement to extend the running of the period of limitations is executed. The agreement must be signed by the taxpayer or by an attorney, agent, trustee, or other fiduciary on behalf of the taxpayer. If the agreement is signed by a person other than the taxpayer, it shall be accompanied by an authenticated copy of the power of attorney or other legal evidence of the authority of such person to act on behalf of the taxpayer. If the taxpayer is a corporation, the agreement should be signed with the corporate name followed by the signature of a duly authorized officer of the corporation. The agreement will not be effective until signed by a district director, a director of an internal revenue service center, or an assistant regional commissioner.

(c) The taxpayer may sign a waiver of the requirement that he be mailed a notice of disallowance. Such waiver is irrevocable and will commence the running of the 2-year period described in paragraph (a) of this section on the date the waiver is filed. The waiver shall set forth:

(1) The type of tax and the taxable period covered by the taxpayer's claim for refund;

(2) The amount of the claim;

(3) The amount of the claim disallowed;

(4) A statement that the taxpayer agrees the filing of the waiver will commence the running of the 2-year period provided for in section 6532(a)(1) as if a notice of disallowance had been sent the taxpayer by either registered or certified mail.

The filing of such a waiver prior to the expiration of 6 months from the date the claim was filed does not permit the filing of a suit for refund prior to the time specified in section 6532(a)(1) and paragraph (a) of this section.

(d) Any consideration, reconsideration, or other action with respect to a claim after the mailing by registered mail prior to September 3, 1958, or by either registered or certified mail on or after September 3, 1958, of a notice of disallowance or after the execution of a waiver referred to in paragraph (c) of this section, shall not extend the period for bringing suit or other proceeding under section 7422(a).

§ 301.6532–2 Periods of limitation on suits by the United States.

The United States may not recover any erroneous refund by civil action under section 7405 unless such action is begun within 2 years after the making of such refund. However, if any part of the refund was induced by fraud or misrepresentation of a material fact, the action to recover the erroneous refund may be brought at any time within 5 years from the date the refund was made.

§ 301.6533 Statutory provisions; cross references.

SEC. 6533. *Cross references.* (1) For period of limitation in respect of civil actions for fines, penalties, and forfeitures, see section 2462 of Title 28 of the United States Code.

(2) For extensions of time by reason of armed service in a combat zone, see section 7508.

(3) For suspension of running of statute until 3 years after termination of hostilities, see section 3287 of Title 18.

Interest

INTEREST ON UNDERPAYMENTS

§ 301.6601 Statutory provisions; interest on underpayment, nonpayment, or extensions of time for payment, of tax.

SEC. 6601. *Interest on underpayment, nonpayment, or extensions of time for payment, of tax*—(a) *General rule.* If any amount of tax imposed by this title (whether required to be shown on a return, or to be paid by stamp or by some other method) is not paid on or before the last date prescribed for payment, interest on such amount at the rate of 6 percent per annum shall be paid for the period from such last date to the date paid.

(b) *Extensions of time for payment of estate tax.* If the time for payment of an amount of tax imposed by chapter 11 is extended as provided in section 6161(a)(2) or 6166, or if the time for payment of an amount of such tax is postponed or extended as provided by section 6163, interest shall be paid at the rate of 4 percent, in lieu of 6 percent as provided in subsection (a).

(c) *Last date prescribed for payment.* For purposes of this section, the last date prescribed for payment of the tax shall be determined under chapter 62 with the application of the following rules:

(1) *Extensions of time disregarded.* The last date prescribed for payment shall be determined without regard to any extension of time for payment.

(2) *Installment payments.* In the case of an election under section 6152(a) or 6156(a) to pay the tax in installments—

(A) The date prescribed for payment of each installment of the tax shown on the return shall be determined under section 6152(b) or 6156(b), as the case may be, and

(B) The last date prescribed for payment of the first installment shall be deemed the last date prescribed for payment of any portion of the tax not shown on the return.

(3) *Jeopardy.* The last date prescribed for payment shall be determined without regard to any notice and demand for payment issued, by reason of jeopardy (as provided in chapter 70), prior to the last date otherwise prescribed for such payment.

(4) *Last date for payment not otherwise prescribed.* In the case of taxes payable by stamp and in all other cases in which the

last date for payment is not otherwise prescribed, the last date for payment shall be deemed to be the date the liability for tax arises (and in no event shall be later than the date notice and demand for the tax is made by the Secretary or his delegate).

(d) *Suspension of interest in certain income, estate, and gift tax cases.* In the case of a deficiency as defined in section 6211 (relating to income, estate, and gift taxes), if a waiver of restrictions under section 6213(d) on the assessment of such deficiency has been filed, and if notice and demand by the Secretary or his delegate for payment of such deficiency is not made within 30 days after the filing of such waiver, interest shall not be imposed on such deficiency for the period beginning immediately after such 30th day and ending with the date of notice and demand.

(e) *Income tax reduced by carryback.*—(1) *Net operating loss carryback.* If the amount of any tax imposed by subtitle A is reduced by reason of a carryback of a net operating loss, such reduction in tax shall not affect the computation of interest under this section for the period ending with the last day of the taxable year in which the net operating loss arises.

(2) *Investment credit carryback.* If the credit allowed by section 38 for any taxable year is increased by reason of an investment credit carryback, such increase shall not affect the computation of interest under this section for the period ending with the last day of the taxable year in which the investment credit carryback arises.

(f) *Applicable rules.* Except as otherwise provided in this title—

(1) *Interest treated as tax.* Interest prescribed under this section on any tax shall be paid upon notice and demand, and shall be assessed, collected, and paid in the same manner as taxes. Any reference in this title (except subchapter B of chapter 63, relating to deficiency procedures) to any tax imposed by this title shall be deemed also to refer to interest imposed by this section on such tax.

(2) *No interest on interest.* No interest under this section shall be imposed on the interest provided by this section.

(3) *Interest on penalties, additional amounts, or additions to the tax.* Interest shall be imposed under subsection (a) in respect of any assessable penalty, additional amount, or addition to the tax only if such assessable penalty, additional amount, or addition to the tax is not paid within 10 days from the date of notice and demand therefor, and in such case interest shall be imposed only for the period from the date of the notice and demand to the date of payment.

(4) *Payments made within 10 days after notice and demand.* If notice and demand is made for payment of any amount, and if such amount is paid within 10 days after the date of such notice and demand, interest under this section on the amount so paid shall not be imposed for the period after the date of such notice and demand.

(g) *Satisfaction by credits.* If any portion of a tax is satisfied by credit of an overpayment, then no interest shall be imposed under this section on the portion of the tax so satisfied for any period during which, if the credit had not been made, interest would have been allowable with respect to such overpayment.

(h) *Limitation on assessment and collection.* Interest prescribed under this section on any tax may be assessed and collected at any time during the period within which the tax to which such interest relates may be collected.

(i) *Exception as to estimated tax.* This section shall not apply to any failure to pay estimated tax required by section 6153 (or section 59 of the Internal Revenue Code of 1939) or section 6154.

(j) *No interest on certain adjustments.* For provisions prohibiting interest on certain adjustments in tax, see section 6205(a).

[Sec. 6601 as amended by secs. 65(c), 83(a)(1), 84(a), Technical Amendments Act 1958 (72 Stat. 1656, 1663, 1664); sec. 205(e), Small Business Tax Revision Act 1958 (72 Stat. 1685); sec. 208(c)(2), Federal-Aid Highway Act 1961 (75 Stat. 126); sec. 2(e)(3), Revenue Act 1962 (76 Stat. 972)]

SEC. 83(c) [Technical Amendments Act of 1958]. *Interest attributable to net operating loss carryback for certain taxable years ending in 1954.* If by reason of enactment of section 172(b)(1)(A) of the Internal Revenue Code of 1954—

(1) A deficiency resulted for the first taxable year preceding a taxable year ending after December 31, 1953, and before August 17, 1954, and

(2) An overpayment resulted for the second preceding taxable year,

no interest shall be payable with respect to any portion of such deficiency for any period during which there existed a corresponding amount of such overpayment with respect to which interest is not payable.

[Sec. 83(c), Technical Amendments Act 1958 (72 Stat. 1664)]

§ 301.6601–1 Interest on underpayments.

(a) *General rule.* Interest at the rate of 6 percent per annum shall be paid on any unpaid amount of tax from the last date prescribed for payment of the tax (determined without regard to any extension of time for payment) to the date on which payment is received.

(b) *Exceptions to the general rule.*—(1) *Satisfaction by credits made after December 31, 1957.* If any portion of a tax is satisfied by the credit of an overpayment after December 31, 1957, interest shall not be imposed under section 6601 on such portion of the tax for any period during which interest on the overpayment would have been allowable if the overpayment had been refunded. The provisions of this subdivision may be illustrated by the following examples:

Example (1). An examination of A's income tax returns for the calendar years 1955 and 1956 discloses an underpayment of $800 for 1955 and an overpayment of $500 for 1956. Interest under section 6601(a) ordinarily accrues on the underpayment of $800 from April 15, 1956, to the date of payment. However, the 1956 overpayment of $500 is credited after December 31, 1957, against the underpayment in accordance with the provisions of section 6402(a), and § 301.6402–1. Under such circumstances interest on the $800 underpayment runs from April 15, 1956, the last date prescribed for payment of the 1955 tax, to April 15, 1957, the date the overpayment of $500 was made. Since interest would have been allowed on the overpayment, if refunded, from April 15, 1957, to a date not more than 30 days prior to the date of the refund check, no interest is imposed after April 15, 1957, on $500, the portion of the underpayment satisfied by credit. Interest continues to run, however, on $300 (the $800 underpayment for 1955 less the $500 overpayment for 1956) to the date of payment.

Example (2). An examination of A's income tax returns for the calendar years 1956 and 1957 discloses an overpayment, occurring on April 15, 1957, of $700 for 1956 and an underpayment of $400 for 1957. After April 15, 1958, the last date prescribed for payment of the 1957 tax, the district director credits $400 of the overpayment against the underpayment. In such a case, interest will accrue upon the overpayment of $700 from April 15, 1957, to April 15, 1958, the due date of the amount against which the credit is taken. Interest will also accrue under section 6611 upon $300 ($700 overpayment less $400 underpayment) from April 15, 1958, to a date not more than 30 days prior to the date of the refund check. Since a refund of the portion of the overpayment credited against the underpayment would have resulted in interest running upon such portion from April 15, 1958, to a date not more than 30 days prior to the date of the refund check, no interest is imposed upon the underpayment.

(2) *Time for payment of estate tax extended or postponed.* In the case of estate tax—

(i) If an extension of time has been granted, in accordance with section 6161(a)(2) or section 6166, for paying any portion of the tax shown on an estate tax return, or

(ii) If the time for payment of the portion of the tax attributable to a reversionary or remainder interest is extended or postponed in accordance with the provisions of section 6163,

such portion shall bear interest at the rate of 4 percent per annum from the expiration of 15 months after the date of the decedent's death to the date of the expiration of the period of the extension or postponement or to the date on which payment is received, whichever is earlier. If any part of such portion is paid before the date of the expiration of the period of the extension or postponement, such part shall bear interest only to the date on which payment is received. If, however, the full amount of the tax to which the extension or postponement applies is not paid on or before the date of the expiration of the period of the extension or postponement, the unpaid amount shall bear interest at the rate of 6 percent per annum from the date of the expiration of the period of the extension or postponement to the date on which payment is received.

(c) *Last date prescribed for payment.* The term "last date prescribed for payment", as used in section 6601 and this section, means the last date prescribed for payment as determined under the provisions of chapter 62 of the Code and the following rules:

(1) In determining the last date prescribed for payment, any extension of time granted for payment of tax (including any postponement elected under section 6163(a)) shall be disregarded. The granting of an extension of time for the payment of tax does not relieve the taxpayer from liability for the payment of interest thereon during the period of the extension. Thus, except as provided in paragraph (b) of this section, interest at the rate of 6 percent per annum is payable on any unpaid portion of the tax for the period during which such portion remains unpaid by reason of an extension of time for the payment thereof.

(2) (i) If a tax or portion thereof is payable in installments in accordance with an election made under section 6152(a) or 6156(a), the last date prescribed for payment of any installment of such tax or portion thereof shall be determined under the provisions of section 6152(b) or 6156(b), as the case may be, and interest shall run on any unpaid installment from such last date to the date on which payment is received. However, in the event installment privileges are terminated for failure to pay an installment when due as provided by section 6152(d) and the time for the payment of any remaining installment is accelerated by the issuance of a notice and demand therefor, interest shall run on such unpaid installment from the date of the notice and demand to the date on which payment is received. But see section 6601(j)(4).

(ii) If the tax shown on a return is payable in installments, interest will run on any tax not shown on the return from the last date prescribed for payment of the first installment. If a deficiency is prorated to any unpaid installments, in accordance with section 6152(c), interest shall run on such prorated amounts from the date prescribed for the payment of the first installment to the date on which payment is received.

(3) If, by reason of jeopardy, a notice and demand for payment of any tax is issued before the last date otherwise prescribed for payment, such last date shall nevertheless be used for the purpose of the interest computation, and no interest shall be imposed for the period commencing with the date of the issuance of the notice and demand and ending on such last date. If the tax is not paid on or before such last date, interest will automatically accrue from such last date to the date on which payment is received.

(4) In the case of taxes payable by stamp and in all other cases where the last date for payment of the tax is not otherwise prescribed, such last date for the purpose of the interest computation shall be deemed to be the date on which the liability for the tax arose. However, such last date shall in no event be later than the date of issuance of a notice and demand for the tax.

(d) *Suspension of interest; waiver of restrictions on assessment.* In the case of a deficiency determined by a district director (or an assistant regional commissioner, appellate) with respect to any income, estate, or gift tax, if the taxpayer files with such internal revenue officer an agreement waiving the restrictions on assessment of such deficiency, and if notice and demand for payment of such deficiency is not made within 30 days after the filing of such waiver, no interest shall be imposed on the deficiency for the period beginning immediately after such 30th day and ending on the date notice and demand is made. In the case of an agreement with respect to a portion of the deficiency, the rules as set forth in this paragraph are applicable only to that portion of the deficiency to which the agreement relates.

(e) *Income tax reduced by carryback.* (1) The carryback of a net operating loss or an investment credit shall not affect the computation of interest on any income tax for the period commencing with the last date prescribed for the payment of such tax and ending with the last day of the taxable year in which the loss or credit arises. For example, if the carryback of a net operating loss or an investment credit to a prior taxable period eliminates or reduces a deficiency in income tax for that period, the full amount of the deficiency will nevertheless bear interest at the rate of 6 percent per annum from the last date prescribed for payment of such tax until the last day of the taxable year in which the loss or credit arose. Interest will continue to run beyond such last day on any portion of the deficiency which is not eliminated by the carryback.

(2) Where an extension of time for payment of income tax has been granted under section 6164 to a corporation expecting a net operating loss carryback, interest is payable at the rate of 6 percent per annum on the amount of such unpaid tax from the last date prescribed for payment thereof without regard to such extension.

(3) Where there has been an allowance of an overpayment attributable to a net operating loss carryback or an investment credit carryback and all or part of such allowance is later determined to be excessive, interest shall be computed on the excessive amount from the last day of the year in which the net operating loss or investment credit arose until the date on which the repayment of such excessive amount is received.

(f) *Applicable rules.* (1) Any interest prescribed by section 6601 shall be assessed and collected in the same manner as tax and shall be paid upon notice and demand by the district director or the director of the regional service center. Any reference in the Code (except in subchapter B, chapter 63, relating to deficiency procedures) to any tax imposed by the Code shall be deemed also to refer to the interest imposed by section 6601 on such tax. Interest on a tax may be assessed and collected at any time within the period of limitation on collection after assessment of the tax to which it relates. For rules relating to the period of limitation on collection after assessment, see section 6502.

(2) No interest under section 6601 shall be payable on any interest provided by such section.

(3) Interest shall not be imposed on any assessable penalty, addition to the tax, or additional amount unless such assessable penalty, addition to the tax, or additional amount is not paid within 10 days from the date of notice and demand therefor. If interest is imposed, it shall be imposed only for the period from the date of the notice and demand to the date on which payment is received.

(4) If notice and demand is made for any amount and such amount is paid within 10 days after the date of such notice and demand, interest shall not be imposed for the period after the date of such notice and demand.

(5) No interest shall be imposed for failure to pay estimated tax as required by section 59 of the Internal Revenue Code of 1939 or section 6153 or 6154 of the Internal Revenue Code of 1954.

§ 301.6602 Statutory provision; interest on erroneous refund recoverable by suit.

SEC. 6602. *Interest on erroneous refund recoverable by suit.* Any portion of an internal revenue tax (or any interest, assessable penalty, additional amount, or addition to tax) which has been erroneously refunded, and which is recoverable by suit pursuant to section 7405, shall bear interest at the rate of 6 percent per annum from the date of the payment of the refund.

§ 301.6602–1 Interest on erroneous refund recoverable by suit.

Any portion of an internal revenue tax (or any interest, assessable penalty, additional amount, or addition to tax) which has been erroneously refunded, and which is recoverable by a civil action pursuant to section 7405, shall bear interest at the rate of 6 percent per annum from the date of the payment of the refund.

INTEREST ON OVERPAYMENTS

§ 301.6611 Statutory provisions; interest on overpayments.

SEC. 6611. *Interest on overpayments.* (a) *Rate.* Interest shall be allowed and paid upon any overpayment in respect of any internal revenue tax at the rate of 6 percent per annum.

(b) *Period.* Such interest shall be allowed and paid as follows:

(1) *Credits.* In the case of a credit, from the date of the overpayment to the due date of the amount against which the credit is taken.

(2) *Refunds.* In the case of a refund, from the date of the overpayment to a date (to be determined by the Secretary or his delegate) preceding the date of the refund check by not more than 30 days, whether or not such refund check is accepted by the taxpayer after tender of such check to the taxpayer. The acceptance of such check shall be without prejudice to any right of the taxpayer to claim any additional overpayment and interest thereon.

(c) [Repealed]

(d) *Advance payment of tax, payment of estimated tax, and credit for income tax withholding.* The provisions of section 6513 (except the provisions of subsection (c) thereof), applicable in determining the date of payment of tax for purposes of determining the period of limitation on credit or refund, shall be applicable in determining the date of payment for purposes of subsection (a).

(e) *Income tax refund within 45 days of due date of tax.* If any overpayment of tax imposed by subtitle A is refunded within 45 days after the last date prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return), no interest shall be allowed under subsection (a) on such overpayment.

(f) *Refund of income tax caused by carryback.*—(1) *Net operating loss carryback.* For purposes of subsection (a), if any overpayment of tax imposed by subtitle A results from a carryback of a net operating loss, such overpayment shall be deemed not to have been made prior to the close of the taxable year in which such net operating loss arises.

(2) *Investment credit carryback.* For purposes of subsection (a), if any overpayment of tax imposed by subtitle A results from an investment credit carryback, such overpayment shall be deemed not to have been made prior to the close of the taxable

year in which such investment credit carryback arises.

(g) *Refund of income tax caused by carryback of foreign taxes.* For purposes of subsection (a), if any overpayment of tax results from a carryback of tax paid or accrued to foreign countries or possessions of the United States, such overpayment shall be deemed not to have been paid or accrued prior to the close of the taxable year under this subtitle in which such taxes were in fact paid or accrued.

(h) *Prohibition of administrative review.* For prohibition of administrative review, see section 6406.

[Sec. 6611 as amended by secs. 42(b), 53 (b), (c), Technical Amendments Act 1958 (72 Stat. 1660, 1664); sec. 2(e)(4), Revenue Act 1962 (76 Stat. 972)]

§ 301.6611–1 Interest on overpayments.

(a) *General rule.* Except as otherwise provided, interest shall be allowed on any overpayment of any tax at the rate of 6 percent per annum from the date of overpayment of the tax.

(b) *Date of overpayment.* Except as provided in section 6401(a), relating to assessment and collection after the expiration of the applicable period of limitation, there can be no overpayment of tax until the entire tax liability has been satisfied. Therefore, the dates of overpayment of any tax are the date of payment of the first amount which (when added to previous payments) is in excess of the tax liability (including any interest, addition to the tax, or additional amount) and the dates of payment of all amounts subsequently paid with respect to such tax liability. For rules relating to the determination of the date of payment in the case of an advance payment of tax, a payment of estimated tax, and a credit for income tax withholding, see paragraph (d) of this section.

(c) *Examples.* The application of paragraph (b) may be illustrated by the following examples:

Example (1). Corporation X files an income tax return on March 15, 1955, for the calendar year 1954 disclosing a tax liability of $1,000 and elects to pay the tax in installments. Subsequent to payment of the final installment, the correct tax liability is determined to be $900.

Tax liability

Assessed	$1,000
Correct liability	900
Overassessment	100

Record of payments

Mar. 15, 1955	$300
June 15, 1955	300

Since the correct liability in this case is $900, the payment of $500 made on March 15, 1955, and $400 of the payment made on June 15, 1955, are applied in satisfaction of the tax liability. The balance of the payment made on June 15, 1955 ($100) constitutes the amount of the overpayment, and the date on which such payment was made would be the date of the overpayment from which interest would be computed.

Example (2). Corporation Y files an income tax return for the calendar year 1954 on March 15, 1955, disclosing a tax liability of $50,000, and elects to pay the tax in installments. On October 15, 1956, a deficiency in the amount of $10,000 is assessed and is paid in equal amounts on November 15 and November 26, 1956. On April 15, 1957, it is determined that the correct tax liability of the taxpayer for 1954 is only $35,000.

Tax liability

Original assessment	$50,000
Deficiency assessment	10,000
Total assessed	60,000
Correct liability	35,000
Overassessment	25,000

Record of payments

Mar. 15, 1955	$25,000
June 15, 1955	25,000
Nov. 15, 1956	5,000
Nov. 26, 1956	5,000

Since the correct liability in this case is $35,000, the entire payment of $25,000 made on March 15, 1955, and $10,000 of the payment made on June 15, 1955, are applied in satisfaction of the tax liability. The balance of the payment made on June 15, 1955 ($15,000), plus the amounts paid on November 15 ($5,000), and November 26, 1956 ($5,000), constitute the amount of the overpayment. The dates of the overpayments from which interest would be computed are as follows:

Date	Amount of overpayment
June 15, 1955	$15,000
Nov. 15, 1956	5,000
Nov. 26, 1956	5,000

The amount of any interest paid with respect to the deficiency of $10,000 is also an overpayment.

(d) *Advance payment of tax, payment of estimated tax, and credit for income tax withholding.* In the case of an advance payment of tax, a payment of estimated income tax, or a credit for income tax withholding, the provisions of section 6513 (except the provisions of subsection (c) thereof), applicable in determining the date of payment of tax for purposes of the period of limitations on credit or refund, shall apply in determining the date of overpayment for purposes of computing interest thereon.

(e) *Refund of income tax caused by carryback.* If any overpayment of tax imposed by subtitle A of the Code results from the carryback of a net operating loss or an investment credit, such overpayment, for purposes of this section, shall be deemed not to have been made prior to the end of the taxable year in which the loss or credit arises.

(f) *Refund of income tax caused by carryback of foreign taxes.* For purposes of paragraph (a) of this section, any overpayment of tax resulting from a carryback of tax paid or accrued to foreign countries or possessions of the United States shall be deemed not to have been paid or accrued before the close of the taxable year under subtitle F of the Code in which such taxes were in fact paid or accrued.

(g) *Period for which interest allowable in case of refunds.* If an overpayment of tax is refunded, interest shall be allowed from the date of the overpayment to a date determined by the district director or the director of the regional service center, which shall be not more than 30 days prior to the date of the refund check. The acceptance of a refund check shall not deprive the taxpayer of the right to make a claim for any additional overpayment and interest thereon, provided the claim is made within the applicable period of limitation. However, if a taxpayer does not accept a refund check, no additional interest on the amount of the overpayment included in such check shall be allowed.

(h) *Period for which interest allowable in case of credits*—(1) *General rule.* If an overpayment of tax is credited, interest shall be allowed from the date of overpayment to the due date (as determined under subparagraph (2) of this paragraph) of the amount against which such overpayment is credited.

(2) *Determination of due date*—(i) *In general.* The term "due date", as used in this section, means the last day fixed by law or regulations for the payment of the tax (determined without regard to any extension of time), and not the date on which the district director or the director of the regional service center makes demand for the payment of the tax. Therefore, the due date of a tax (other than an additional assessment subject to the special rule provided by subdivision (iv) of this subparagraph) is the date fixed for the payment of the tax or the several installments thereof.

(ii) *Tax payable in installments*—(a) *In general.* In the case of a credit against a tax, where the taxpayer had properly elected to pay the tax in installments, the due date is the date prescribed for the payment of the installment against which the credit is applied.

(b) *Delinquent installment.* If the taxpayer is delinquent in payment of an installment of tax and a notice and demand has been issued for the payment of the delinquent installment and the remaining installments, the due date of each remaining installment shall then by the date of such notice and demand.

(iii) *Tax or installment not yet due.* If a taxpayer agrees to the crediting of an overpayment against tax or an installment of tax and the schedule of allowance is signed prior to the date on which such tax or installment would otherwise become due, then the due date of such tax or installment shall be the date on which such schedule is signed.

(iv) *Additional assessment satisfied by credit before January 1, 1958.* In the case of a credit made before January 1, 1958, against an additional assessment, the due date of the tax satisfied by the credit is the date the additional assessment was made. For purposes of this subdivision, the term "additional assessment" means a further assessment of a tax of the same character previously paid in part, and includes the assessment of a deficiency as defined in section 6211.

(v) *Assessed interest.* In the case of a credit against assessed interest, the due date is the date of the assessment of such interest.

(vi) *Additional amount, addition to the tax, or assessable penalty.* In the case of a credit against an amount assessed as an additional amount, addition to the tax, or assessable penalty, the due date is the date of the assessment.

(vii) *Estimated income tax for succeeding year.* If the taxpayer elects to have all or part of the overpayment shown by his return applied to his estimated tax for his succeeding taxable year, no interest shall be allowed on such portion of the overpayment credited and such amount shall be applied as a payment on account of the estimated tax for such year or the installments thereof.

(i) [Reserved]

(j) *Refund within 45 days.* If an overpayment of tax imposed by subtitle A of the Code is refunded within 45 days after the last date prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return), no interest shall be allowed on such overpayment.

§ 301.6612 Statutory provisions; cross references.

SEC. 6612. *Cross reference*—(a) *Interest on judgments for overpayments.* For interest on judgments for overpayments, see 28 U.S.C. 2411(a).

(b) *Adjustments.* For provisions prohibiting interest on certain adjustments in tax, see section 6413(a).

(c) *Other restrictions on interest.* For other restrictions on interest, see section 2011 (c) (relating to refunds due to credit for State taxes), 2014(e) (relating to refunds attributable to foreign tax credits), 6412 (relating to floor stock refunds), 6413(d) (relating to taxes under the Federal Unemployment Tax Act), 6416 (relating to certain taxes on sales and services), 6419 (relating to the excise tax on wagering), 6420 (relating to payments in the case of gasoline used on the farm for farming purposes), and 6421 (relating to payments in case of gasoline used for certain nonhighway purposes or by local transit systems).

[Sec. 6612 as amended by sec. 4(f), Act of Apr. 2, 1956 (Pub. Law 466, 84th Cong., 70 Stat. 91); sec. 208(e)(7), Highway Revenue Act 1956 (70 Stat. 397)]

Additions to the Tax, Additional Amounts, and Assessable Penalties

ADDITIONS TO THE TAX AND ADDITIONAL AMOUNTS

§ 301.6651 Statutory provisions; failure to file tax return.

SEC. 6651. *Failure to file tax return*—(a) *Addition to the tax.* In case of failure to file any return required under authority of subchapter A of chapter 61 (other than part III thereof), of subchapter A of chapter 51 (relating to distilled spirits, wines, and beer), or of subchapter A of chapter 52 (relating to tobacco, cigars, cigarettes, and cigarette papers and tubes), or of subchapter A of chapter 53 (relating to machine guns and certain other firearms), on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount required to be shown as tax on such return 5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate.

(b) *Penalty imposed on net amount due.* For purposes of subsection (a), the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed upon the return.

(c) *Exception for declarations of estimated tax.* This section shall not apply to any failure to file a declaration of estimated tax required by section 6015 or section 6016.

§ 301.6651–1 Failure to file tax return.

(a) *Addition to the tax*—(1) *In general.* In case of failure to file a return required under authority of—

(i) Subchapter A, chapter 61, of the Code, relating to returns and records (other than sections 6015 and 6016, relating to declarations of estimated tax, and part III thereof, relating to information returns);

(ii) Subchapter A, chapter 51, of the Code, relating to distilled spirits, wines, and beer;

(iii) Subchapter A, chapter 52, of the Code, relating to tobacco, cigars, cigarettes, and cigarette paper and tubes; or

(iv) Subchapter A, chapter 53, of the Code, relating to machineguns and certain other firearms;

and the regulations thereunder, on or before the date prescribed for filing (determined with regard to any extension of time for such filing), there shall be added to the tax required to be shown on the return the amount specified below unless the failure to file the return within the prescribed time is shown to the satisfaction of the district director or the director of the regional service center to be due to reasonable cause and not to willful neglect. (See subparagraph (3) of this paragraph.) The amount to be added to the tax is 5 percent thereof if the failure is for not more than one month, with an additional 5 percent for each additional month or fraction thereof during which the failure continues, but not to exceed 25 percent in the aggregate.

(2) *Month defined.* (i) If the date prescribed for filing the return is the last day of a calendar month, each succeeding calendar month or fraction thereof during which the failure to file continues shall constitute a month for purposes of section 6651.

(ii) If the date prescribed for filing the return is a date other than the last day of a calendar month, the period which terminates with the date numerically corresponding thereto in the succeeding calendar month and each such successive period shall constitute a month for purposes of section 6651. If, in the month of February, there is no date corresponding to the date prescribed for filing the return, the period from such date in January through the last day of February shall constitute a month for purposes of section 6651. Thus, if a return is due on January 30, the first month shall end on February 28 (or 29 if a leap year), and the succeeding months shall end on March 30, April 30, etc.

(iii) If a return is not timely filed, the fact that the date prescribed for filing the return, or the corresponding date in any succeeding calendar month, falls on a Saturday, Sunday, or a legal holiday is immaterial in determining the number of months for which the addition to the tax under section 6651 applies.

(3) *Showing of reasonable cause.* A taxpayer who wishes to avoid the addition to the tax for failure to file a tax return must make an affirmative showing of all facts alleged as a reasonable cause for his failure to file such return on time in the form of a written statement containing a declaration that it is made under penalties of perjury. Such statement should be filed with the district director with whom the return is required to be filed. If the district director or the director of the regional service center determines that the delinquency was due to a reasonable cause, and not to willful neglect, the addition to the tax will not be assessed. If the taxpayer exercised ordinary business care and prudence and was nevertheless unable to file the return within the prescribed time, then the delay is due to a reasonable cause.

(b) *Penalty imposed on net amount due.* The amount of tax required to be shown on the return shall be reduced for purposes of section 6651(a) by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed on the return. For example, under section 6072(a), income tax returns of individuals on a calendar year basis must be filed on or before the 15th day of April following the close of the calendar year. Assume an individual filed his income tax return, Form 1040, for the calendar year 1954 on May 20, 1955, and such delinquency is not due to reasonable cause. The tax shown on the return is $800 and a deficiency of $200 is subsequently assessed, making the tax required to be shown on the return $1,000. Of this amount, $300 has been paid by withholding from wages and $400 has been paid as estimated tax. In addition to interest from April 15, 1955, there will be assessed an additional amount of $30, which is 10 percent (5 percent for the month from April 16 through May 15, and 5 percent for the fractional part of the month from May 16 through May 20) of the net amount of $300 due ($1,000 less $700 paid on or before April 15).

(c) *No addition to tax if fraud penalty assessed.* No addition to the tax under section 6651 shall be assessed with respect to an underpayment of tax if a 50 percent addition to the tax for fraud is assessed with respect to the same underpayment under section 6653(b). See section 6653(d).

§ 301.6652 Statutory provisions; failure to file certain information returns.

SEC. 6652. *Failure to file certain information returns*—(a) *Returns relating to payments of dividends, etc., and certain transfers of stock.* In the case of each failure—

(1) To file a statement of the aggregate amount of payments to another person required by section 6042(a)(1) (relating to payments of dividends aggregating $10 or more), section 6044(a)(1) (relating to payments of patronage dividends aggregating $10 or more), or section 6049(a)(1) (relating to payments of interest aggregating $10 or more),

(2) To make a return required by section 6039(a) (relating to reporting information in connection with certain options) with respect to a transfer of stock or a transfer of legal title to stock, or

(2) To make a return required by section 6052(a) (relating to reporting payment of wages in the form of group-term life insurance) with respect to group-term life insurance on the life of an employee, on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary or his delegate and in the same manner as tax), by the person failing to file a statement referred to in paragraph (1) or failing to make a return referred to in paragraph (2) or (3), $10 for each such failure, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed $25,000.

(b) *Other returns.* In the case of each failure to file a statement of a payment to another person required under authority of section 6041 (relating to certain information at source), section 6042(a)(2) (relating to payments of dividends aggregating less than $10), section 6044(a)(2) (relating to payments of patronage dividends aggregating less than $10), section 6049(a)(2) (relating to payments of interest aggregating less than $10), section 6049(a)(3) (relating to other payments of interest by corporations), or section 6051(d) (relating to information returns with respect to income tax withheld), on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary or his delegate and in the same manner as tax) by the person failing to so file the statement, $1 for each such statement not so filed, but the total amount imposed on the delinquent person for all such failures during the calendar year shall not exceed $1,000.

(c) *Alcohol and tobacco taxes.* For penalties for failure to file certain information returns with respect to alcohol and tobacco taxes, see, generally, subtitle E.

[Sec. 6652 as amended by sec. 35, Technical Amendments Act 1958 (72 Stat. 1664); sec. 19(d), Rev. Act 1962 (76 Stat. 1057); sec. 221(b)(3), Rev. Act 1964 (78 Stat. 74).]

§ 301.6652–1 Failure to file certain information returns.

(a) *Returns with respect to payments made in calendar years after 1962—(1) Payments of dividends, interest, or patronage dividends aggregating $10 or more.* In the case of each failure to file a statement required by—

(i) Section 6042(a)(1), relating to information returns with respect to payments of dividends aggregating $10 or more in a calendar year, in effect with respect to payments made after December 31, 1962,

(ii) Section 6044(a)(1), relating to information returns with respect to certain payments by cooperatives aggregating $10 or more in a calendar year, in effect with respect to payments made on or after the first day of the first taxable year of the cooperative beginning after December 31, 1962, with respect to patronage occurring on or after such first day, or

(iii) Section 6049(a)(1), relating to information returns with respect to payments of interest aggregating $10 or more in a calendar year, in effect with respect to payments made after December 31, 1962, and the regulations under such section, within the time prescribed for filing such statement (determined with regard to any extension of time for filing), there shall be paid by the person failing to so file the statement $10 for each such statement not so filed. However, the total amount imposed on the delinquent person for all such failures under section 6652(a) and this section during any calendar year shall not exceed $25,000.

(2) *Other payments.* In the case of each failure to file a statement of a payment made after December 31, 1962, to another person required under authority of—

(i) Section 6041, relating to information returns with respect to certain information at source, or

(ii) Section 6051(d), relating to information returns with respect to payments of wages as defined in section 3401(a),

and the regulations under such section, within the time prescribed for filing such statement (determined with regard to any extension of time for filing), there shall be paid by the person failing to so file the statement $1 for each such statement not so filed. However, the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed $1,000.

(b) *Returns with respect to payments made in calendar years before 1963 and to certain payments by cooperatives after 1962.* In the case of each failure to file a statement, with respect to a payment to another person, required under authority of—

(1) Section 6041, relating to information returns with respect to certain information at source, in effect with respect to payments made before 1963,

(2) Section 6042(1), relating to information returns with respect to payments of corporate dividends, in effect with respect to payments made before 1963,

(3) Section 6044, relating to information returns with respect to payments of patronage dividends, in effect with respect to payments made by a cooperative with respect to patronage occurring before the first day of the first taxable year of the cooperative beginning after December 31, 1962, or

(4) Section 6051(d), relating to information returns with respect to payments of wages as defined in section 3401(a), in effect with respect to payments made before 1963,

and the regulations under such section, within the time prescribed for filing such statement (determined with regard to any extension of time for filing), there shall be paid by the person failing to so file such statement $1 for each such statement not so filed. However, the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed $1,000.

(c) *Returns with respect to reporting payments of wages in the form of group-term life insurance provided in a calendar year after December 31, 1963.* In the case of each failure to file a return required by section 6052(a), relating to reporting payment of wages in the form of group-term life insurance provided for any employee on his life in a calendar year after December 31, 1963, and the regulations under such section, within the time prescribed for filing such return (determined with regard to any extension of time for filing), there shall be paid by the person failing to so file such return $10 for each such return not so filed. However, the total amount imposed on the delinquent person for all such failures under section 6652(a) and this section during any calendar year shall not exceed $25,000.

(d) *Returns with respect to transfer of stock or record title thereto pursuant to options exercised on or after January 1, 1964.* In the case of each failure to file a statement of the transfer of stock or of record title thereto as required by section 6039(a) and the regulations under such section within the time prescribed for filing such statement (determined with regard to any extension of time for filing), there shall be paid by the corporation failing to so file such statement, $10 for each such statement not so filed. However, the total amount imposed on the delinquent corporation for all such failures under section 6652(a) and this section during any calendar year shall not exceed $25,000.

(e) *Manner of payment.* The penalty imposed under section 6652 and this section on any person shall be paid in the same manner as tax upon the issuance of a notice and demand therefor.

(f) *Showing of reasonable cause.* The penalty imposed by section 6652 shall not apply with respect to a failure to file a statement within the time prescribed if it is established to the satisfaction of the district director or the director of the regional service center that such failure was due to reasonable cause and not to willful neglect. An affirmative showing of reasonable cause must be made in the form of a written statement, containing a declaration that it is made under the penalties of perjury, setting forth all the facts alleged as a reasonable cause.

(g) *Alcohol and tobacco taxes.* For penalties for failure to file certain information returns with respect to alcohol and tobacco taxes, see, generally, subtitle E of the Code.

§ 301.6653 Statutory provisions; failure to pay tax.

SEC. 6653. *Failure to pay tax*—(a) *Negligence or intentional disregard of rules and regulations with respect to income or gift taxes.* If any part of any underpayment (as defined in subsection (c)(1) of any tax imposed by subtitle A or by chapter 12 of subtitle B (relating to income taxes and gift taxes) is due to negligence or intentional disregard of rules and regulations (but without intent to defraud), there shall be added to the tax an amount equal to 5 percent of the underpayment.

(b) *Fraud.* If any part of any underpayment (as defined in subsection (c)) of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 50 percent of the underpayment. In the case of income taxes and gift taxes, this amount shall be in lieu of any amount determined under subsection (a).

(c) *Definition of underpayment.* For purposes of this section, the term "underpayment" means—

(1) *Income, estate, and gift taxes.* In the case of tax to which section 6211 (relating to income, estate, and gift taxes) is applicable, a deficiency as defined in that section (except that, for this purpose, the tax shown on a return referred to in section 6211(a)(1)(A) shall be taken into account only if such return was filed on or before the last day prescribed for the filing of such return, determined with regard to any extension of time for such filing), and

(2) *Other taxes.* In the case of any other tax, the amount by which such tax imposed by this title exceeds the excess of—

(A) The sum of—

(i) The amount shown as the tax by the taxpayer upon his return (determined without regard to any credit for an overpayment for any prior period, and without regard to any adjustment under authority of sections 6205(a) and 6413(a)), if a return was made by the taxpayer within the time prescribed for filing such return (determined with regard to any extension of time for such filing) and an amount was shown as the tax by the taxpayer thereon, plus

(ii) Any amount, not shown on the return, paid in respect of such tax, over—

(B) The amount of rebates made.

For purposes of subparagraph (B), the term "rebate" means so much of an abatement, credit, refund, or other repayment, as was made on the ground that the tax imposed was less than the excess of the amount specified in subparagraph (A) over the rebates previously made.

(d) *No delinquency penalty if fraud assessed.* If any penalty is assessed under subsection (b) (relating to fraud) for an underpayment of tax which is required to be shown on a return, no penalty under section 6651 (relating to failure to file such return) shall be assessed with respect to the same underpayment.

(e) *Failure to pay stamp tax.* Any person (as defined in section 6671(b) who willfully fails to pay any tax imposed by this title which is payable by stamp, coupons, tickets, books, or other devices or methods prescribed by this title or by regulations under authority of this title, or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty of 50 percent of the total amount of the underpayment of the tax.

[Sec. 6653 as amended by sec. 36, Technical Amendments Act 1958 (72 Stat. 1665).]

§ 301.6653–1 Failure to pay tax.

(a) *Negligence or intentional disregard of rules and regulations with respect to income or gift taxes.* If any part of any underpayment, as defined in section 6653(c)(1) and paragraph (c)(1) of this section, of any income tax imposed by subtitle A of the Code, or gift tax imposed by chapter 12, subtitle B, of the Code, is due to negligence or intentional disregard of rules and regulations, but without intent to defraud, there shall be added to the tax an amount equal to 5 percent of the underpayment.

(b) *Fraud.* (1) If any part of any underpayment of tax, as defined in section 6653(c) and paragraph (c) of this section, required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 50 percent of the underpayment.

(2) If a 50 percent addition to the tax for fraud is assessed under section 6653(b) with respect to an underpayment—

(i) The addition to the tax under section 6651, relating to failure to file a tax return, will not be assessed with respect to the same underpayment, and

(ii) In the case of the income taxes imposed by subtitle A and the gift tax imposed by chapter 12 of subtitle B, the 5 percent addition to the tax under section 6653(a), relating to negligence and intentional disregard of rules and regulations, will not be assessed with respect to the same underpayment.

(c) *Definition of underpayment—(1) Income, estate, and gift taxes.* In the case of income, estate, and gift taxes, an underpayment for purposes of section 6653 and this section is—

(i) The total amount of all deficiencies as defined in section 6211, if a return was filed on or before the last date (determined with regard to any extension of time) prescribed for filing such return, or

(ii) The amount of the tax imposed by subtitle A or B, as the case may be, if a return was not filed on or before the last date (determined with regard to any extension of time) prescribed for filing such return.

(2) *Other taxes.* In the case of any tax other than income, estate, and gift taxes, an underpayment for purposes of section 6653 and this section is the amount by which the tax imposed exceeds—

(i) In the case of any tax with respect to which the taxpayer is required to file a return, the sum of (a) the amount shown as tax by the taxpayer upon his return filed in respect of such tax, but only if the return is filed on or before the last date (determined with regard to any extension of time) prescribed for filing such return, plus (b) any amount not shown on a return filed by the taxpayer which is paid in respect of such tax prior to the date prescribed for filing the return. The "amount shown as tax by the taxpayer upon his return" for the purposes of this subparagraph shall be determined without regard to any credit for an overpayment for any prior tax return period, and without regard to any adjustment made under section 6205(a), or section 6413(a), relating to special rules applicable to certain employment taxes.

(ii) In the case of any tax payable by stamp, the amount paid (on or before the date prescribed for payment) in respect of such tax.

The amounts specified in subdivisions (i) and (ii) of this subparagraph shall be reduced, for purposes of determining the amount of the underpayment, by the amount of any rebates made. For purposes of this subparagraph, the term "rebates" means so much of an abatement, credit, refund, or other repayment as was made on the ground that the tax imposed was less than the excess of the amount specified in subdivision (i) or (ii) of this subparagraph, whichever is applicable, over any rebates previously made.

(d) *No delinquency penalty if fraud assessed.* See paragraph (b)(3) of this section.

(e) *Failure to pay stamp tax.* Any person (as defined in section 6671(b)) who willfully fails to pay any tax payable by stamp, coupons, tickets, books or other devices or methods prescribed by the Code or regulations promulgated thereunder, or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty of 50 percent of the total amount of the underpayment of the tax.

§ 301.6654 Statutory provisions; failure by individual to pay estimated income tax.

SEC. 6654. *Failure by individual to pay estimated income tax*—(a) *Addition to the tax.* In the case of any underpayment of estimated tax by an individual, except as provided in subsection (d), there shall be added to the tax under chapter 1 for the taxable year an amount determined at the rate of 6 percent per annum upon the amount of the underpayment (determined under subsection (b)) for the period of the underpayment (determined under subsection (c)).

(b) *Amount of underpayment.* For purposes of subsection (a), the amount of the underpayment shall be the excess of—

(1) The amount of the installment which would be required to be paid if the estimated tax were equal to 70 percent (66⅔ percent in the case of individuals referred to in section 6073(b), relating to income from farming or fishing) of the tax shown on the return for the taxable year, or, if no return was filed, 70 percent (66⅔ percent in the case of individuals referred to in section 6073(b), relating to income from farming or fishing) of the tax for such year, over

(2) The amount, if any, of the installment paid on or before the last date prescribed for such payment.

(c) *Period of underpayment.* The period of the underpayment shall run from the date the installment was required to be paid to whichever of the following dates is the earlier—

(1) The 15th day of the fourth month following the close of the taxable year.

(2) With respect to any portion of the underpayment, the date on which such portion is paid. For purposes of this paragraph, a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment determined under subsection (b)(1) for such installment date.

(d) *Exception.* Notwithstanding the provisions of the preceding subsections, the addition to the tax with respect to any underpayment of any installment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds whichever of the following is the lesser—

(1) The amount which would have been required to be paid on or before such date if the estimated tax were whichever of the following is the least—

(A) The tax shown on the return of the individual for the preceding taxable year, if a return showing a liability for tax was filed by the individual for the preceding taxable year and such preceding year was a taxable year of 12 months, or

(B) An amount equal to the tax computed, at the rates applicable to the taxable year, on the basis of the taxpayer's status with respect to personal exemptions under section 151 for the taxable year, but otherwise on the basis of the facts shown on his return for, and the law applicable to, the preceding taxable year, or

(C) An amount equal to 70 percent (66⅔ percent in the case of individuals referred to in section 6073(b), relating to income from farming or fishing) of the tax for the taxable year computed by placing on an annualized basis the taxable income for the months in the taxable year ending before the month in which the installment is required to be paid. For purposes of this subparagraph, the taxable income shall be placed on an annualized basis by—

(i) Multiplying by 12 (or, in the case of a taxable year of less than 12 months, the number of months in the taxable year) the taxable income (computed without deduction of personal exemptions) for the months in the taxable year ending before the month in which the installment is required to be paid,

(ii) Dividing the resulting amount by the number of months in the taxable year ending before the month in which such installment date falls, and

(iii) Deducting from such amount the deductions for personal exemptions allowable for the taxable year (such personal exemptions being determined as of the last date prescribed for payment of the installment); or

(2) An amount equal to 90 percent of the tax computed, at the rates applicable to the taxable year, on the basis of the actual taxable income for the months in the taxable year ending before the month in which the installment is required to be paid.

(c) *Application of section in case of tax withheld on wages.* For purposes of applying this section—

(1) The estimated tax shall be computed without any reduction for the amount which the individual estimates as his credit under section 31 (relating to tax withheld at source on wages), and

(2) The amount of the credit allowed under section 31 for the taxable year shall be deemed a payment of estimated tax, and an equal part of such amount shall be deemed paid on each installment date (determined under section 6153) for such taxable year, unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case the amounts so withheld shall be deemed payments of estimated tax on the dates on which such amounts were actually withheld.

(f) *Tax computed after application of credits against tax.* For purposes of subsections (b) and (d), the term "tax" means the tax imposed by chapter 1 reduced by the credits against tax allowed by part IV of subchapter A of chapter 1, other than the credit against tax provided by section 31 (relating to tax withheld on wages).

(g) *Short taxable year.* The application of this section to taxable years of less than 12 months shall be in accordance with regulations prescribed by the Secretary or his delegate.

(h) *Applicability.* This section shall apply only with respect to taxable years beginning after December 31, 1954; and section 294(d) of the Internal Revenue Code of 1939 shall continue in force with respect to taxable years beginning before January 1, 1955.

[Sec. 6654 as amended by sec. 1(a)(4), Act of Sept. 26, 1962 (Pub. Law 87-682, 76 Stat. 575)]

§ 301.6654–1 Failure by individual to pay estimated income tax.

For regulations under section 6654, see §§ 1.6654–1 to 1.6654–4, inclusive, of this chapter (Income Tax Regulations).

§ 301.6655 Statutory provisions; failure by corporation to pay estimated income tax.

Sec. 6655. *Failure by corporation to pay estimated income tax.*—(a) *Addition to the tax.* In case of any underpayment of estimated tax by a corporation, except as provided in subsection (d), there shall be added to the tax under chapter 1 for the taxable year an amount determined at the rate of 6 percent per annum upon the amount of the underpayment (determined under subsection (b)) for the period of the underpayment (determined under subsection (c)).

(b) *Amount of underpayment.* For purposes of subsection (a), the amount of the underpayment shall be the excess of—

(1) The amount of the installment which would be required to be paid if the estimated tax were equal to 70 percent of the tax shown on the return for the taxable year or, if no return was filed, 70 percent of the tax for such year, over

(2) The amount, if any, of the installment paid on or before the last date prescribed for payment.

(c) *Period of underpayment.* The period of the underpayment shall run from the date the installment was required to be paid to whichever of the following dates is the earlier—

(1) The 15th day of the third month following the close of the taxable year.

(2) With respect to any portion of the underpayment, the date on which such portion is paid. For purposes of this paragraph, a payment of estimated tax on the 15th day of the 12th month shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment determined under subsection (b)(1) for the 15th day of the 12th month.

(d) *Exception.* Notwithstanding the provisions of the preceding subsections, the addition to the tax with respect to any underpayment of any installment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds the amount which would have been required to be paid on or before such date if the estimated tax were whichever of the following is the lesser—

(1) The tax shown on the return of the corporation for the preceding taxable year reduced by $100,000, if a return showing a liability for tax was filed by the corporation for the preceding taxable year and such preceding year was a taxable year of 12 months.

(2) An amount equal to the tax computed at the rates applicable to the taxable year but otherwise on the basis of the facts shown on the return of the corporation for, and the law applicable to, the preceding taxable year.

(3) (A) An amount equal to 70 percent of the tax for the taxable year computed by placing on an annualized basis the taxable income:

(i) For the first 6 months or for the first 8 months of the taxable year, in the case of the installment required to be paid in the ninth month, and

(ii) For the first 9 months or for the first 11 months of the taxable year, in the case of the installment required to be paid in the twelfth month.

(B) For purposes of this paragraph, the taxable income shall be placed on an annualized basis by—

(i) Multiplying by 12 the taxable income referred to in subparagraph (A), and

(ii) Dividing the resulting amount by the number of months in the taxable year (8 or 8, or 9 or 11, as the case may be) referred to in subparagraph (A).

(e) *Definition of tax.* For purposes of subsections (b), (d)(2), and (d)(3), the term "tax" means the excess of—

(1) The tax imposed by section 11 or 1201 (a), or subchapter L of chapter 1, whichever is applicable, over

(2) The sum of—

(A) $100,000, and

(B) The credits against tax provided in part IV of subchapter A of chapter 1.

(f) *Short taxable year.* The application of this section to taxable years of less than 12 months shall be in accordance with regulations prescribed by the Secretary or his delegate.

§ 301.6655–1 Failure by corporation to pay estimated income tax.

For regulations under section 6655, see §§ 1.6655–1 to 1.6655–3, inclusive, of this chapter (Income Tax Regulations).

§ 301.6656 Statutory provisions; failure to make deposit of taxes.

Sec. 6656. *Failure to make deposit of taxes.*—(a) *Penalty.* In case of failure by any person required by this title or by regulation of the Secretary or his delegate under this title to deposit on the date prescribed therefor any amount of tax imposed by this title in such government depositary as is authorized under section 6302(c) to receive such deposit, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be imposed upon such person a penalty of 1 percent of the amount of the underpayment if the failure is for not more than 1 month, with an additional 1 percent for each additional month or fraction thereof during which such failure continues, not exceeding 6 percent in the aggregate. For purposes of this subsection, the term "underpayment" means the excess of the amount of the tax required to be so deposited over the amount, if any, thereof deposited on or before the date prescribed therefor.

(b) *Penalty not imposed after due date for return.* For purposes of subsection (a), the failure shall be deemed not to continue beyond the last date (determined without regard to any extension of time) prescribed for payment of the tax required to be deposited or beyond the date the tax is paid, whichever is earlier.

§ 301.6656–1 Failure to make deposit of taxes.

(a) *Penalty.* (1) In case of failure by any person required by the Code or regulations prescribed thereunder to deposit any tax in a Government depositary, as is authorized under section 6302(c), within the time prescribed therefor, a penalty shall be imposed on such person unless such failure is shown to the satisfaction of the district director, the Director of International Operations, or the director of the regional service center, as the case may be, to be due to reasonable cause and not to willful neglect. The penalty shall be 1 percent of the amount of the underpayment if the failure is for not more than 1 month, with an additional 1 percent for each additional month or fraction thereof during which failure continues, not to exceed 6 percent in the aggregate. For purposes of this section, the term "underpayment" means the amount of tax required to be deposited less the amount, if any, which was deposited on or before the date prescribed therefor, and the term "month" shall have the same meaning assigned to such term in paragraph (a)(2) of § 301.6651–1.

(2) A taxpayer who wishes to avoid the penalty for failure to deposit must make an affirmative showing of all facts alleged as a reasonable cause in a written statement containing a declaration that it is made under the penalties of perjury, which should be filed with the district director for the district in which the return with respect to the tax is required to be filed, or with the Director of International Operations, as the case may be. If the district director, the Director of International Operations, or the director of the regional service center determines that the delinquency was due to a reasonable cause, and not to willful neglect, the penalty will not be imposed.

(b) *Penalty not imposed after due date for return.* For the purpose of computing the amount of the penalty imposed by section 6656, the period of failure to make deposit is deemed not to continue beyond the last date (determined without regard to any extension of time) prescribed for payment of the tax required to be deposited, or beyond the date the tax is paid, whichever date is earlier. For example, during the months of January, February, and March 1955, the aggregate amount of the employee tax withheld under section 3102, the employer tax for each such month under section 3111, and the income tax withheld at source on wages under section 3402 (exclusive of the employee tax withheld under section 3102 and the employer tax under section 3111 with respect to wages of household employees), amount to $1,000 for each month. Under § 31.6302(c)–1 of this chapter (Employment Tax Regulations), the employer is required to deposit the $1,000 for January on or before February 15, 1955, and the $1,000 for February on or before March 15, 1955, but is not required to deposit the $1,000 for March 1955, prior to the date the return is due. The employer filed his quarterly return on April 30, 1955, the date prescribed for filing such return, accompanied by a remittance of $3,000. Assuming that the employer failed, without reasonable cause, to make timely deposits the penalty under section 6656 for failure to make the January deposit is $30, and the penalty for failure to make the February deposit is $20, computed as follows:

Amount required to be deposited on or before Feb. 15, 1955	$1,000
Less: Amount deposited	0
Underpayment	1,000
(1 percent penalty for each month or fraction thereof, Feb. 15, 1955 to Apr. 30, 1955, 3 months)	3%
Penalty for failure to make January deposit	$30
Amount required to be deposited on or before Mar. 15, 1955	$1,000
Less: Amount deposited	0
Underpayment	1,000
(1 percent penalty for each month or fraction thereof, Mar. 15, 1955 to Apr. 30, 1955, 2 months)	2%
Penalty for failure to make February deposit	20
Total penalty	50

§ 301.6657 Statutory provisions; bad checks.

Sec. 6657. *Bad checks.* If any check or money order in payment of any amount receivable under this title is not duly paid, in addition to any other penalties provided by law, there shall be paid as a penalty by the person who tendered such check, upon notice and demand by the Secretary or his delegate, in the same manner as tax, an amount equal to 1 percent of the amount of such check, except that if the amount of such check is less than $500, the penalty under this section shall be $5 or the amount of such check, whichever is the lesser. This section shall not apply if the person tendered such check in good faith and with reasonable cause to believe that it would be duly paid.

§ 301.6657–1 Bad checks.

(a) *In general.* Except as provided in paragraph (b) of this section, if a check or money order is tendered in the payment of any amount receivable under the Code, and such check or money order is not paid upon presentment, a penalty of one percent of the amount of the check or money order, in addition to any other penalties provided by law shall be paid by the person who tendered such check or money order. If, however, the amount of the check or money order is less than $500, the penalty shall be $5 or the amount of the check or money order, whichever amount is the lesser. Such penalty shall be paid in the same manner as tax upon the issuance of a notice and demand therefor.

(b) *Reasonable cause.* If payment is refused upon presentment of any check or money order and the person who tendered such check or money order establishes to the satisfaction of the district director that it was tendered in good faith with reasonable cause to believe that it would be duly paid, the penalty set forth in paragraph (a) of this section shall not apply.

§ 301.6658 Statutory provisions; addition to tax in case of jeopardy.

Sec. 6658. *Addition to tax in case of jeopardy.* If a taxpayer violates or attempts to violate section 6851 (relating to termination of taxable year) there shall, in addition to all other penalties, be added as part of the tax 25 percent of the total amount of the tax or deficiency in the tax.

§ 301.6658–1 Addition to tax in case of jeopardy.

Upon a finding by the district director that any taxpayer violated, or attempted to violate, section 6851 (relating to termination of taxable year) there shall, in addition to all other penalties, be added as part of the tax 25 percent of the total amount of the tax or deficiency in the tax.

§ 301.6659 Statutory provisions; applicable rules.

Sec. 6659. *Applicable rules.*—(a) *Additions treated as tax.* Except as otherwise provided in this title—

(1) The additions to the tax, additional amounts, and penalties provided by this chapter shall be paid upon notice and demand and shall be assessed, collected, and paid in the same manner as taxes;

(2) Any reference in this title to "tax" imposed by this title shall be deemed also to refer to the additions to the tax, additional amounts, and penalties provided by this chapter.

(b) *Procedure for assessing certain additions to tax.* For purposes of subchapter B of chapter 63 (relating to deficiency procedures for income, estate, and gift taxes), subsection (a) shall not apply to any addition to tax under section 6651, 6654, or 6655; except that it shall apply—

(1) In the case of an addition described in section 6651, to that portion of such addition which is attributable to a deficiency in tax described in section 6211; or

(2) To an addition described in section 6654 or 6655, if no return is filed for the taxable year.

[Sec. 6659 as amended by sec. 1, Act of May 14, 1960 (Pub. Law 86-470, 74 Stat. 132)]

§ 301.6659–1 Applicable rules.

(a) *Additions treated as tax.* Except as otherwise provided in the Code, any reference in the Code to "tax" shall be deemed also to be a reference to any addition to the tax, additional amount, or penalty imposed by chapter 68 of the Code with respect to such tax. Such additions to the tax, additional amounts, and penalties shall become payable upon notice and demand therefor and shall be assessed, collected, and paid in the same manner as taxes.

(b) *Additions to tax for failure to file return or pay tax.* Any addition under section 6651 or section 6653 to a tax shall be considered a part of such tax for the purpose of the assessment and collection of such tax. For applicability of deficiency procedures to additions to the tax, see paragraph (c) of this section.

(c) *Deficiency procedures.*—(1) *Addition to the tax for failure to file tax return.* Subchapter B, chapter 63, of the Code (deficiency procedures) applies to the additions to the income, estate, and gift taxes imposed by section 6651 for failure to file a tax return to the same extent that it applies to such taxes. Accordingly, if there is a deficiency (as defined in section 6211) in the tax (apart from the addition to the tax) where a return has not been timely filed, deficiency procedures apply to the addition to the tax under section 6651. If there is no deficiency in the tax where a return has not been timely filed, the addition to the tax under section 6651 may be assessed and collected without deficiency procedures. The provisions of this subparagraph may be illustrated by the following examples:

Example (1). A filed his income tax return for the calendar year 1955 on May 15, 1956, not having been granted an extension of time for such filing. His failure to file on time was not due to reasonable cause. The return showed a liability of $1,000 and it was determined that A is liable under section 6651 for an addition to such tax of $50

(5 percent a month for 1 month). The provisions of subchapter B of chapter 68 (deficiency procedures) do not apply to the assessment and collection of the addition to the tax since such provisions are not applicable to the tax with respect to which such addition was asserted, there being no statutory deficiency for purposes of section 6211.

Example (2). Assume the same facts as in example (1) and assume further that a deficiency of $500 in tax and a further $25 addition to the tax under section 6651 is asserted against A for the calendar year 1955. Thus, the total addition to the tax under section 6651 is $75. Since the provisions of subchapter B of chapter 68 are applicable to the $500 deficiency, they likewise apply to the $25 addition to the tax asserted with respect to such deficiency (but not to the $50 addition to the tax under example (1)).

(2) *Additions to the tax for negligence or fraud.* Subchapter B of chapter 63 (deficiency procedures) applies to all additions to the income, estate, and gift taxes imposed by section 6653 (a) and (b) for negligence and fraud.

(3) *Additions to tax for failure to pay estimated income taxes*—(i) *Return filed by taxpayer.* The addition to the tax for underpayment of estimated income tax imposed by section 6654 (relating to failure by individuals to pay estimated income tax) or section 6655 (relating to failure by corporations to pay estimated income tax) is determined by reference to the tax shown on the return if a return is filed. Therefore, such addition may be assessed and collected without regard to the provisions of subchapter B of chapter 63 (deficiency procedures) if a return is filed since such provisions are not applicable to the assessment of the tax shown on the return. Further, since the additions to the tax imposed by section 6654 or 6655 are determined solely by reference to the amount of tax shown on the return if a return is filed, the assertion of a deficiency with respect to any tax not shown on such return will not make the provisions of subchapter B of chapter 63 (deficiency procedures) apply to the assessment and collection of any additions to the tax under section 6654 or 6655.

(ii) *No return filed by taxpayer.* If the taxpayer has not filed a return and his entire income tax liability is asserted as a deficiency to which the provisions of subchapter B of chapter 63 apply, such provisions likewise will apply to any addition to such tax imposed by section 6654 or 6655.

Assessable Penalties

§ 301.6671 Statutory provisions; rules for application of assessable penalties.

Sec. 6671. *Rules for application of assessable penalties*—(a) *Penalty assessed as tax.* The penalties and liabilities provided by this subchapter shall be paid upon notice and demand by the Secretary or his delegate, and shall be assessed and collected in the same manner as taxes. Except as otherwise provided, any reference in this title to "tax" imposed by this title shall be deemed also to refer to the penalties and liabilities provided by this subchapter.

(b) *Person defined.* The term "person" as used in this subchapter, includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

§ 301.6671–1 Rules for application of assessable penalties.

(a) *Penalty assessed as tax.* The penalties and liabilities provided by subchapter B, chapter 68, of the Code (sections 6671 to 6675, inclusive) shall be paid upon notice and demand by the district director or the director of the regional service center and shall be assessed and collected in the same manner as taxes. Except as otherwise provided, any reference in the Code to "tax" imposed thereunder shall also be deemed to refer to the penalties and liabilities provided by subchapter B of chapter 68.

(b) *Person defined.* For purposes of subchapter B of chapter 68, the term "person" includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

§ 301.6672 Statutory provisions; failure to collect and pay over tax, or attempt to evade or defeat tax.

Sec. 6672. *Failure to collect and pay over tax, or attempt to evade or defeat tax.* Any person required to collect, truthfully account for, and pay over any tax imposed by this title who willfully fails to collect such tax, or truthfully account for and pay over such tax, or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty equal to the total amount of the tax evaded, or not collected, or not accounted for and paid over. No penalty shall be imposed under section 6653 for any offense to which this section is applicable.

§ 301.6672–1 Failure to collect and pay over tax, or attempt to evade or defeat tax.

Any person required to collect, truthfully account for, and pay over any tax imposed by the Code who willfully fails to collect such tax, or truthfully account for and pay over such tax, or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties, be liable to a penalty equal to the total amount of the tax evaded, or not collected, or not accounted for and paid over. The penalty imposed by section 6672 applies only to the collection, accounting for, or payment over of taxes imposed on a person other than the person who is required to collect, account for, and pay over such taxes. No penalty under section 6653, relating to failure to pay tax, shall be imposed for any offense to which this section is applicable.

§ 301.6673 Statutory provisions; damages assessable for instituting proceedings before the Tax Court merely for delay.

Sec. 6673. *Damages assessable for instituting proceedings before the Tax Court merely for delay.* Whenever it appears to the Tax Court that proceedings before it have been instituted by the taxpayer merely for delay, damages in an amount not in excess of $500 shall be awarded to the United States by the Tax Court in its decision. Damages so awarded shall be assessed at the same time as the deficiency and shall be paid upon notice and demand from the Secretary or his delegate and shall be collected as a part of the tax.

§ 301.6673–1 Damages assessable for instituting proceedings before the Tax Court merely for delay.

Any damages awarded to the United States by the Tax Court under section 6673 against a taxpayer for instituting proceedings before the Tax Court merely for delay shall be assessed at the same time at the deficiency and shall be paid upon notice and demand from the district director or the director of the regional service center and shall be collected as a part of the tax.

§ 301.6674 Statutory provisions; fraudulent statement or failure to furnish statement to employee.

Sec. 6674. *Fraudulent statement or failure to furnish statement to employee.* In addition to the criminal penalty provided by section 7204, any person required under the provisions of section 6051 to furnish a statement to an employee who willfully furnishes a false or fraudulent statement, or who willfully fails to furnish a statement in the manner, at the time, and showing the information required under section 6051, or regulations prescribed thereunder, shall for each such failure be subject to a penalty under this subchapter of $50, which shall be assessed and collected in the same manner as the tax on employers imposed by section 3111.

§ 301.6674–1 Fraudulent statement or failure to furnish statement to employee.

For regulations under section 6674, see § 31.6674–1 of this chapter (Employment Tax Regulations).

§ 301.6675 Statutory provisions; excessive claims with respect to the use of certain gasoline.

Sec. 6675. *Excessive claims with respect to the use of certain gasoline*—(a) *Civil penalty.* In addition to any criminal penalty provided by law, if a claim is made under section 6420 (relating to gasoline used on farms) or 6421 (relating to gasoline used for certain nonhighway purposes or by local transit systems) for an excessive amount, unless it is shown that the claim for such excessive amount is due to reasonable cause, the person making such claim shall be liable to a penalty in an amount equal to whichever of the following is the greater:

(1) Two times the excessive amount; or

(2) $10.

(b) *Excessive amount defined.* For purposes of this section, the term "excessive amount" means in the case of any person the amount by which—

(1) The amount claimed under section 6420 or 6421, as the case may be, for any period, exceeds

(2) The amount allowable under such section for such period.

(c) *Assessment and collection of penalty.* For assessment and collection of penalty provided by subsection (a), see section 6206.

[Sec. 6675 as added by sec. 3, Act of Apr. 3, 1956 (Pub. Law 466, 84th Cong., 70 Stat. 90), and as amended by sec. 208(d)(2), Highway Revenue Act 1956 (70 Stat. 396)]

§ 301.6675–1 Excessive claims with respect to the use of certain gasoline.

For regulations under section 6675, see § 48.6675–1 of this chapter (Manufacturers and Retailers Excise Tax Regulations).

§ 301.6676 Statutory provisions; failure to supply identifying numbers.

Sec. 6676. *Failure to supply identifying numbers*—(a) *Civil penalty.* If any person who is required by regulations prescribed under section 6109—

(1) To include his identifying number in any return, statement, or other document,

(2) To furnish his identifying number to another person, or

(3) To include in any return, statement, or other document made with respect to another person the identifying number of such other person,

fails to comply with such requirement at the time prescribed by such regulations, such person shall pay a penalty of $5 for each such failure, unless it is shown that such failure is due to reasonable cause.

(b) *Deficiency procedures not to apply.* Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, and gift taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).

[Sec. 6676 as added by sec. 1(b), Act of Oct. 5, 1961 (Public Law 87-397, 75 Stat. 828)]

§ 301.6676–1 Penalty for failure to supply identifying number.

(a) *In general.* Except as provided in paragraph (c) of this section, if any person who is required by the regulations under section 6109—

(1) To include his identifying number in any return, statement, or other document,

(2) To furnish his identifying number to another person, or

(3) To include in any return, statement, or other document made with respect to another person the identifying number of such other person,

fails to comply with such requirement at the time prescribed by such regulations, such person shall pay a penalty of $5 for each such failure. Such penalty shall be paid in the same manner as tax upon the issuance of a notice and demand therefor. Under § 1.6109–1(b)(2) a payer is required to request the identifying number of the payee. If, after such a request has been made, the payee does not furnish the payer with his identifying number, the penalty will not be assessed against the payer.

(b) *Deficiency procedures not to apply.* Subchapter B, chapter 63, of the Code (deficiency procedures) shall not apply in respect of the assessment or collection of the penalty set forth in paragraph (a) of this section.

(c) *Reasonable cause.* If any person who is required by the regulations under section 6109 to supply an identifying number fails to comply with such requirement at the time prescribed by such regulations, but establishes to the satisfaction of the district director or the director of the regional service center that such failure was due to reasonable cause, the penalty set forth in paragraph (a) of this section shall not apply.

(d) *Persons required to supply identifying numbers.* For regulations under section 6109 relating to persons required to supply an identifying number, see the regulations relating to the particular tax.

§ 301.6678 Statutory provisions; failure to furnish certain statements.

Sec. 6678. *Failure to furnish certain statements.* In the case of each failure to furnish a statement under section 6039(b), 6042(c), 6044(e), 6049(c), and 6052(b) on the date prescribed therefor to a person with respect to whom a return has been made under section 6039(a), 6042(a)(1), 6044(a)(1), 6049(a)(1), or 6052(a), respectively, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary or his delegate and in the same manner as tax), by the person failing to so furnish the statement, $10 for each such statement not so furnished, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed $25,000.

[Sec. 6678 as added by sec. 19(e), Rev. Act 1962 (76 Stat. 1058) and as amended by secs. 204(c)(2), 221(b)(3), Rev. Act. 1964 (78 Stat. 37, 75)]

§ 301.6678–1 Failure to furnish statements to payees.

(a) *In general.* In the case of each failure to furnish a statement required—

(1) Under section 6042(c) and § 1.6042–4 to a person with respect to whom a return has been made under section 6042(a)(1), relating to information returns with respect to payment of dividends aggregating $10 or more in a calendar year,

(2) Under section 6044(e) and § 1.6044–5 to a person with respect to whom a return has been made under section 6044(a)(1), relating to information returns with respect to certain payments by cooperatives aggregating $10 or more in a calendar year,

(3) Under section 6049(c) and § 1.6049–3 to a person with respect to whom a return has been made under section 6049(a)(1), relating to information returns with respect to payments of interest aggregating $10 or more in a calendar year,

(4) Under section 6039(b) and § 1.6039–2 to a person with respect to whom a return has been made under section 6039(a), relating to information returns with respect to certain stock option transactions occurring in a calendar year, or

(5) Under section 6052(b) and § 1.6052–2 to a person with respect to whom a return has been made under section 6052(a), relating to information returns with respect to payment of wages in the form of group-term life insurance provided for an employee on his life,

within the time prescribed for furnishing such statement (determined with regard to any extension of time for furnishing), there shall be paid by the person failing to so furnish the statement $10 for each such statement not so furnished. However, the total amount imposed on the delinquent person for all such failures during a calendar year shall not exceed $25,000.

(b) *Manner of payment.* The penalty imposed under section 6678 and this section on any person shall be paid in the same manner as tax upon the issuance of a notice and demand therefor.

(c) *Showing of reasonable cause.* The penalty imposed by section 6678 shall not apply with respect to a failure to furnish a statement within the time prescribed if it is established to the satisfaction of the district director or the director of the regional service center that such failure was due to reasonable cause and not to willful neglect. An affirmative showing of reasonable cause must be made in the form of a written statement, containing a declaration that it is made under the penalties of perjury, setting forth all the facts alleged as a reasonable cause.

§ 301.6679 Statutory provisions; failure to file returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock.

Sec. 6679. *Failure to file returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock*—(a) *Civil penalty.* In addition to any criminal penalty provided by law, any person required to file a return under section 6046 who fails to file such return at the time provided in such section, or who files a return which does not show the information required pursuant to such section, shall pay a penalty of $1,000, unless it is shown that such failure is due to reasonable cause.

(b) *Deficiency procedures not to apply.* Subchapter B of chapter 63 (relating to deficiency procedure for income, estate, and gift taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).

[Sec. 6679 as added by sec. 30(c), Revenue Act 1962 (76 Stat. 1062)]

§ 301.6679–1 Failure to file returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock.

(a) *Civil penalty*—(1) *In general.* In addition to any criminal penalty provided by law, each person required to file a return under section 6046, and the regulations thereunder, who fails to file such a return within the time provided, or who files a return which does not show the required information, shall pay a penalty of $1,000, unless such failure is shown to be due to reasonable cause.

(2) *Joint return.* The penalty imposed by section 6679 and this section shall apply to each U.S. citizen, resident, or person filing a joint return pursuant to the provisions of section 6046 and § 1.6046–1, which does not show the required information.

(3) *Showing of reasonable cause.* The penalty imposed by section 6679 shall not apply if it is established to the satisfaction of the Director of International Operations that such failure was due to a reasonable cause. An affirmative showing of reasonable cause must be made in the form of a written statement, containing a declaration that it is made under the penalties of perjury, setting forth all the facts alleged as a reasonable cause. If the taxpayer exercises ordinary business care and prudence and is nevertheless unable to fur-

nish any item of information required under section 6046, and the regulations thereunder, such failure shall be considered due to a reasonable cause. In determining the extent of a taxpayer's ability to obtain information, the percentage of stock owned by such taxpayer and the nature of the other interests in the foreign corporation will be considered.

(b) *Deficiency procedures not to apply.* The penalty imposed by section 6679 may be assessed and collected without regard to the deficiency procedures provided by subchapter B of chapter 63 of the Code.

General Provisions Relating to Stamps

§ 301.6801 Statutory provisions; authority for establishment, alteration, and distribution.

SEC. 6801. *Authority for establishment, alteration, and distribution*—(a) *Establishment and alteration.* The Secretary or his delegate may establish, and from time to time alter, renew, replace, or change the form, style, character, material, and device of any stamp, mark, or label under any provision of the laws relating to internal revenue.

(b) *Preparation and distribution of regulations, forms, stamps and dies.* The Secretary or his delegate shall prepare and distribute all the instructions, regulations, directions, forms, blanks, and stamps; and shall provide proper and sufficient adhesive stamps and other stamps or dies for expressing and denoting the several stamp taxes.

§ 301.6801–1 Authority for establishment, alteration, and distribution.

(a) *Establishment and alteration.* The Commissioner may establish, and from time to time alter, renew, replace, or change the form, style, character, material, and device of any stamp, mark, or label under any provision of the law relating to internal revenue.

(b) *Preparation and distribution of forms, stamps and dies.* The Commissioner shall prepare and distribute all the instructions, directions, forms, blanks, and stamps; and shall provide proper and sufficient adhesive stamps and other stamps or dies for expressing and denoting the several stamp taxes.

§ 301.6802 Statutory provisions; supply and distribution.

SEC. 6802. *Supply and distribution.* The Secretary or his delegate shall furnish, without prepayment, to—

(1) *Postmaster General.* The Postmaster General a suitable quantity of adhesive stamps (other than the stamps on playing cards), coupons, tickets, or such other devices as may be prescribed by the Secretary or his delegate pursuant to section 6803(b) or this chapter, to be distributed to, and kept on sale by, the various postmasters in the United States in all post offices of the first and second classes, and such post offices of the third and fourth classes as—

(A) Are located in county seats, or

(B) Are certified by the Secretary to the Postmaster General as necessary;

(2) *Designated depositary of the United States.* Any designated depositary of the United States a suitable quantity of adhesive stamps to be kept on sale by such designated depositary;

(3) *State agents.* Any person who is—

(A) Duly appointed and acting as agent of any State for the sale of stock transfer stamps of such State, and

(B) Designated by the Secretary or his delegate for the purpose,

a suitable quantity of such adhesive stamps as are required by section 4301, to be kept on sale by such person.

§ 301.6802–1 Supply and distribution.

(a) *Postmaster General.* The Commissioner shall furnish to the Postmaster General, without prepayment, a suitable quantity of adhesive stamps (other than the stamps on playing cards), coupons, tickets, or such other devices as may be prescribed pursuant to section 6302(b) (authorizing a discretionary method for collecting certain specified taxes) or chapter 69 of the Code, to be distributed to, and kept on sale by, the various postmasters in the United States in all post offices of the first and second classes, and such post offices of the third and fourth classes as are located in county seats or as are certified by the Secretary to the Postmaster General as necessary.

(b) *Designated depositary of the United States.* The district director for the district in which any designated depositary of the United States is located shall furnish to such designated depositary, without prepayment, a suitable quantity of adhesive stamps to be kept on sale by the designated depositary.

(c) *State agents.* Any person who is duly appointed and acting as agent of any State for the sale of stock transfer stamps of such State may make application to the district director for the district in which the State agent is located, to be designated for the purpose of being furnished without prepayment, for sale, stamps to be used in payment of the tax imposed by section 4301. The application shall contain the location and post office address of the State agent, and the maximum amount of stamps he desires to maintain on hand. A copy of the agent's appointment as State agent should be attached to the application.

§ 301.6803 Statutory provisions; accounting and safeguarding.

SEC. 6803. *Accounting and safeguarding*—(a) *The Postmaster General*—(1) *Bond and accounting.* The Postmaster General may require each postmaster under paragraph (1) of section 6802 to furnish bond in such increased amount as he may from time to time determine, and each such postmaster shall deposit the receipts from the sale of such stamps, coupons, tickets, books, or other devices, to the credit of, and render accounts to the Postmaster General at such times and in such form as the Postmaster General may by regulations prescribe.

(2) *Deposit of receipts.* The Postmaster General shall at least once a month transfer to the Treasury as internal revenue collections all receipts so deposited.

(b) *Depositaries and State agents*—(1) *Bond.* In cases coming within the provisions of paragraph (2) or (3) of section 6802, the Secretary or his delegate may require a bond, with sufficient sureties, in a sum to be fixed by the Secretary or his delegate, conditioned for the faithful return, whenever so required, of all quantities or amounts undisposed of and for the payment monthly for all quantities or amounts sold or not remaining on hand.

(2) *Regulations.* The Secretary or his delegate may from time to time make such regulations as he may find necessary to insure the safekeeping or prevent the illegal use of all adhesive stamps referred to in paragraphs (2) and (3) of section 6802.

§ 301.6803–1 Accounting and safeguarding.

In cases coming within the provisions of section 6802 (2) and (3) and paragraphs (b) and (c) of § 301.6802–1, the district director may require a bond in such amount as he deems advisable, conditioned for the faithful return, whenever so required, of all quantities or amounts of adhesive stamps undisposed of and for the payment monthly for all quantities or amounts of adhesive stamps sold or not remaining on hand. Such bond shall be furnished in accordance with the provisions contained in section 7101 and § 301.7101–1.

§ 301.6804 Statutory provisions; attachment and cancellation.

SEC. 6804. *Attachment and cancellation.* Except as otherwise expressly provided in this title, the stamps referred to in section 6801 shall be attached, protected, removed, cancelled, obliterated, and destroyed, in such manner and by such instruments or other means as the Secretary or his delegate may prescribe by rules or regulations.

§ 301.6804–1 Attachment and cancellation.

For provisions relating to the attachment and cancellation of specific stamps used with respect to a particular tax, see the regulations relating to such tax.

§ 301.6805 Statutory provisions; redemption of stamps.

SEC. 6805. *Redemption of stamps*—(a) *Authorization.* The Secretary or his delegate, subject to regulations prescribed by him, may, upon receipt of satisfactory evidence of the facts, make allowance for or redeem such of the stamps, issued under authority of any internal revenue law, as may have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the owner may have no use.

(b) *Method and conditions of allowance.* Such allowance or redemption may be made, either by giving other stamps in lieu of the stamps so allowed for or redeemed, or by refunding the amount or value to the owner thereof, deducting therefrom, in case of repayment, the percentage, if any, allowed to the purchaser thereof; but no allowance or redemption shall be made in any case until the stamps so spoiled or rendered useless shall have been returned to the Secretary or his delegate, or until satisfactory proof has been made showing the reason why the same cannot be returned; or, if so required by the Secretary or his delegate, when the person presenting the same cannot satisfactorily trace the history of said stamps from their issuance to the presentation of his claim as aforesaid.

(c) *Time for filing claims.* No claim for the redemption of, or allowance for, stamps shall be allowed under this section unless presented within 3 years after the purchase of such stamps from the Government.

(d) *Finality of decisions.* The findings of fact in and the decision of the Secretary or his delegate upon the merits of any claim presented under or authorized by this section shall, in the absence of fraud or mistake in mathematical calculation, be final, and not subject to revision by any accounting officer.

[Sec. 6805 as amended by sec. 105 (b), (c), Excise Tax Technical Changes Act 1958 (72 Stat. 1313)]

§ 301.6805–1 Redemption of stamps.

(a) *Authorization.* (1) Upon receipt of satisfactory evidence of the facts by the district director, he may make allowance for or redeem stamps issued under the authority of any internal revenue law if—

(i) The stamps have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or

(ii) The owner of the stamps has no use therefor.

(2) If a stamp has been in use for any period of time, it may not be redeemed under section 6805. Similarly, no allowance shall be made for stamps which have been lost or stolen.

(3) For submission of claims for allowance or redemption of certain alcohol and tobacco tax stamps to an assistant regional commissioner (alcohol and tobacco taxes), see subtitle E of the Code and the regulations in Subchapter E of this chapter (Alcohol, Tobacco, and Other Excise Taxes).

(b) *Method and conditions of allowance.* Such allowance or redemption may be made, either by giving other stamps in lieu of the stamps so allowed for or redeemed, or by refunding the amount or value to the owner thereof, deducting therefrom, in case of repayment, the percentage, if any, allowed to the purchaser thereof. Claims for the redemption of or allowance for stamps shall be made on Form 843 and filed with the district director within three years from the date of the purchase of the stamps from the Government. The stamps for which redemption or allowance is claimed shall be submitted with the claim. If the stamps are destroyed or damaged to the extent that they cannot be presented for redemption or allowance, proof satisfactory to the district director that they have been destroyed or so damaged must accompany the claim before allowance or redemption shall be made. In any case where the actual date of purchase of the stamps from the Government cannot be established, it must be definitely shown in the claim whether they were so purchased within three years prior to the date of filing of the claim.

(c) *Time for filing claims.* No claim for the redemption of, or allowance for, stamps shall be allowed under this section unless presented within 3 years after the purchase of such stamps from the Government.

(d) *Finality of decisions.* The findings of fact in and the decision of the district director upon the merits of any claim presented under or authorized by this section, shall in the absence of fraud or mistake in mathematical calculation, be final and not subject to revision by any accounting officer.

§ 301.6806 Statutory provisions; posting occupational tax stamps.

SEC. 6806. *Posting occupational tax stamps.*—(a) *General rule.* Every person engaged in any business, avocation, or employment, who is thereby made liable to a special tax, shall place and keep conspicuously in his establishment or place of business all stamps denoting payment of said special tax.

(b) *Coin-operated amusement and gaming devices.* The Secretary or his delegate may by regulations require that the stamps denoting the payment of the special tax imposed by section 4461 shall be posted on or in each device in such a manner that it will be visible to any person operating the device.

(c) *Occupational wagering tax.* Every person liable for special tax under section 4411 shall place and keep conspicuously in his principal place of business the stamp denoting the payment of such special tax; except that if he has no such place of business, he shall keep such stamp on his person, and exhibit it, upon request, to any officer or employee of the Treasury Department.

§ 301.6806–1 Posting occupational tax stamps.

For provisions relating to the posting of specific stamps used with respect to a particular tax, see the regulations relating to such tax. For penalties for failure to post occupational tax stamps, see section 7273.

§ 301.6807 Statutory provisions; stamping, marking, and branding seized goods.

SEC. 6807. *Stamping, marking, and branding seized goods.* If any article of manufacture or produce requiring brands, stamps, or marks of whatever kind to be placed thereon, is sold upon levy, forfeiture (except as provided in section 5688 with respect to distilled spirits), or other process provided by law, the same not having been branded, stamped, or marked, as required by law, the officer selling the same shall, upon sale thereof, fix or cause to be affixed the brands, stamps, or marks so required.

§ 301.6808 Statutory provisions; special provisions relating to stamps.

SEC. 6808. *Special provisions relating to stamps.* For special provisions on stamps relating to—

(1) Capital stock, see chapter 34.

(2) Cotton futures, see subchapter D of chapter 39.

(3) Distilled spirits and fermented liquors, see chapter 51.

(4) Documents and other instruments, see chapter 34.

(5) Filled cheese, see subchapter C of chapter 39.

(6) Machineguns and short-barrelled firearms, see chapter 53.

(7) Oleomargarine, see subchapter F of chapter 38.

(8) Opium, opium for smoking, opiates and coca leaves, and marihuana, see subchapter A of chapter 39.

(9) Playing cards, see subchapter A of chapter 36.

(10) Process, renovated, or adulterated butter, see subchapter C of chapter 39.

(11) Silver bullion, see subchapter F of chapter 39.

(12) Tobacco, snuff, cigars, and cigarettes, see chapter 52.

(13) White phosphorus matches, see subchapter B of chapter 39.

Jeopardy, Bankruptcy and Receiverships

JEOPARDY

TERMINATION OF TAXABLE YEAR

§ 301.6851 Statutory provisions; termination of taxable year.

SEC. 6851. *Termination of taxable year*—(a) *Income tax in jeopardy*—(1) *In general.* If the Secretary or his delegate finds that a taxpayer designs quickly to depart from the United States or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect the income tax for the current or the preceding taxable year unless such proceedings be brought without delay, the Secretary or his delegate shall declare the taxable period for such taxpayer immediately terminated, and shall cause notice of such finding and declaration to be given the taxpayer, together with a demand for immediate payment of the tax for the taxable period so declared terminated and of the tax for the preceding taxable year or so much of such tax as is unpaid, whether or not the time otherwise allowed by law for filing return and paying the tax has expired; and such taxes shall thereupon become immediately due and payable. In any proceeding in court brought to enforce payment of taxes made due and payable by virtue of the provisions of this section, the finding of the Secretary or his delegate, made as herein provided, whether made after notice to the taxpayer or not, shall be for all purposes presumptive evidence of jeopardy.

(2) *Corporation in liquidation.* If the Secretary or his delegate finds that the collection of the income tax of a corporation for the current or the preceding taxable year will be jeopardized by the distribution of all or a portion of the assets of such corporation in the liquidation of the whole or any part of its capital stock, the Secretary or his delegate shall declare the taxable period for such taxpayer immediately terminated and shall cause notice of such finding and declaration to be given the taxpayer, together with a demand for immediate payment of the tax for the taxable period so declared terminated and of the tax for the preceding taxable year or so much of such tax as is unpaid, whether or not the time otherwise allowed by law for filing return and paying the tax has expired; and such taxes shall thereupon become immediately due and payable.

(b) *Reopening of taxable period.* Notwithstanding the termination of the taxable period of the taxpayer by the Secretary or his delegate, as provided in subsection (a), the Secretary or his delegate may reopen such taxable period each time the taxpayer is found by the Secretary or his delegate to have received income, within the current taxable year, since a termination of the period under subsection (a). A taxable period so terminated by the Secretary or his delegate may be reopened by the taxpayer (other than a nonresident alien) if he files with the Secretary or his delegate a true and accurate return of the items of gross income and of the deductions and credits allowed under this title for such taxable period, together with such other information as the Secretary or his delegate may by regulations prescribe. If the taxpayer is a nonresident alien the taxable period so terminated may be reopened by him if he files, or causes to be filed, with the Secretary or his delegate a true and accurate return of his total income derived from all sources within the United States, in the manner prescribed in this title.

(c) *Citizens.* In the case of a citizen of the United States or of a possession of the United States about to depart from the United States, the Secretary or his delegate may, at his discretion, waive any or all of the requirements placed on the taxpayer by this section.

(d) *Departure of alien.* Subject to such exceptions as may, by regulations, be prescribed by the Secretary or his delegate—

(1) No alien shall depart from the United States unless he first procures from the Secretary or his delegate a certificate that he has complied with all the obligations imposed upon him by the income tax laws.

(2) Payment of taxes shall not be enforced by any proceedings under the provisions of this section prior to the expiration of the time otherwise allowed for paying

such taxes if, in the case of an alien about to depart from the United States, the Secretary or his delegate determines that the collection of the tax will not be jeopardized by the departure of the alien.

(e) *Furnishing of bond where taxable year is closed by the Secretary or his delegate.* Payment of taxes shall not be enforced by any proceedings under the provisions of this section prior to the expiration of the time otherwise allowed for paying such taxes if the taxpayer furnishes, under regulations prescribed by the Secretary or his delegate, a bond to insure the timely making of returns with respect to, and payment of, such taxes or any income or excess profits taxes for prior years.

[Sec. 6851 as amended by sec. 87, Technical Amendments Act 1958 (72 Stat. 1666)]

§ 301.6851–1 Termination of taxable year.

For regulations under section 6851, see §§ 1.6851–1 to 1.6851–3, inclusive, of this chapter (Income Tax Regulations).

JEOPARDY ASSESSMENTS

§ 301.6861 Statutory provisions; jeopardy assessments of income, estate, and gift taxes.

SEC. 6861. *Jeopardy assessments of income, estate, and gift taxes*—(a) *Authority for making.* If the Secretary or his delegate believes that the assessment or collection of a deficiency, as defined in section 6211, will be jeopardized by delay, he shall, notwithstanding the provisions of section 6213(a), immediately assess such deficiency (together with all interest, additional amounts, and additions to the tax provided for by law), and notice and demand shall be made by the Secretary or his delegate for the payment thereof.

(b) *Deficiency letters.* If the jeopardy assessment is made before any notice in respect of the tax to which the jeopardy assessment relates has been mailed under section 6212(a), then the Secretary or his delegate shall mail a notice under such subsection within 60 days after the making of the assessment.

(c) *Amount assessable before decision of Tax Court.* The jeopardy assessment may be made in respect of a deficiency greater or less than that notice of which has been mailed to the taxpayer, despite the provisions of section 6212(c) prohibiting the determination of additional deficiencies, and whether or not the taxpayer has theretofore filed a petition with the Tax Court. The Secretary or his delegate may, at any time before the decision of the Tax Court is rendered, abate such assessment, or any unpaid portion thereof, to the extent that he believes the assessment to be excessive in amount. The Secretary or his delegate shall notify the Tax Court of the amount of such assessment, or abatement, if the petition is filed with the Tax Court before the making of the assessment or is subsequently filed, and the Tax Court shall have jurisdiction to redetermine the entire amount of the deficiency and of all amounts assessed at the same time in connection therewith.

(d) *Amount assessable after decision of Tax Court.* If the jeopardy assessment is made after the decision of the Tax Court is rendered, such assessment may be made only in respect of the deficiency determined by the Tax Court in its decision.

(e) *Expiration of right to assess.* A jeopardy assessment may not be made after the decision of the Tax Court has become final or after the taxpayer has filed a petition for review of the decision of the Tax Court.

(f) *Collection of unpaid amounts.* When the petition has been filed with the Tax Court and when the amount which should have been assessed has been determined by a decision of the Tax Court which has become final, then any unpaid portion, the collection of which has been stayed by bond as provided in section 6863(b) shall be collected as part of the tax upon notice and demand from the Secretary or his delegate, and any remaining portion of the assessment shall be abated. If the amount already collected exceeds the amount determined as the amount which should have been assessed, such excess shall be credited or refunded to the taxpayer as provided in section 6402, without the filing of claim therefor. If the amount determined as the amount which should have been assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the Secretary or his delegate.

(g) *Abatement if jeopardy does not exist.* The Secretary or his delegate may abate the jeopardy assessment if he finds that jeopardy does not exist. Such abatement may not be made after a decision of the Tax Court in respect of the deficiency has been rendered or, if no petition is filed with the Tax Court, after the expiration of the period for filing such petition. The period of limitation on the making of assessments and levy or a proceeding in court for collection, in respect of any deficiency, shall be determined as if the jeopardy assessment so abated had not been made, except that the running of such period shall in any event be suspended for the period from the date of such jeopardy assessment until the expiration of the 10th day after the day on which such jeopardy assessment is abated.

(h) *Cross references.* (1) For the effect of the furnishing of security for payment, see section 6863.

(2) For provision permitting immediate levy in case of jeopardy, see section 6331 (a).

§ 301.6861–1 Jeopardy assessments of income, estate, and gift taxes.

(a) *Authority for making.* If a district director believes that the assessment or collection of a deficiency in income, estate, or gift tax will be jeopardized by delay, he is required to assess such deficiency immediately, together with the interest, additional amounts, and additions to the tax provided by law. A jeopardy assessment may be made before or after the mailing of the notice of deficiency provided by section 6212. However, a jeopardy assessment for a taxable year under section 6861 cannot be made after a decision of the Tax Court with respect to such taxable year has become final (see section 7481) or after the taxpayer has filed a petition for review of the decision of the Tax Court with respect to such taxable year. In the case of a deficiency determined by a decision of the Tax Court which has become final or with respect to which the taxpayer has filed a petition for review and has not filed a bond as provided in section 7485, assessment may be made in accordance with the provisions of section 6215, without regard to section 6861.

(b) *Amount of jeopardy assessment.* If a notice of a deficiency is mailed to the taxpayer before it is discovered that delay would jeopardize the assessment or collection of the tax, a jeopardy assessment may be made in an amount greater or less than that included in the deficiency notice. If a deficiency is assessed on account of jeopardy after the decision of the Tax Court is rendered, the jeopardy assessment may be made only with respect to the deficiency determined by the Tax Court.

(c) *Jurisdiction of Tax Court.* If the jeopardy assessment is made before the notice in respect of the tax to which the jeopardy assessment relates has been mailed pursuant to section 6212(a), the district director shall, within 60 days after the making of the assessment, send the taxpayer a notice of deficiency pursuant to such subsection. The taxpayer may file a petition with the Tax Court for a redetermination of the amount of the deficiency within the time prescribed in section 6213(a). If the petition of the taxpayer is filed with the Tax Court, either before or after the making of the jeopardy assessment, the Commissioner, through his counsel, is required to notify the Tax Court of such assessment or of any abatement thereof, and the Tax Court has jurisdiction to redetermine the amount of the deficiency, together with all other amounts assessed at the same time in connection therewith.

(d) *Payment and collection of jeopardy assessment.* After a jeopardy assessment has been made, the district director is required to send notice and demand to the taxpayer for the amount of the jeopardy assessment. Regardless of whether the taxpayer has filed a petition with the Tax Court, he is required to make payment of the amount of such assessment (to the extent that it has not been abated) within 10 days after the sending of notice and demand by the district director, unless before the expiration of such 10-day period he files with the district director a bond as provided in section 6863. Section 6331 provides that, if the district director makes a finding that the collection of the tax is in jeopardy, he may make demand for immediate payment of the amount of the jeopardy assessment and, in such case, the taxpayer shall immediately pay such amount or shall immediately file the bond provided in section 6863. If a petition is not filed with the Tax Court within the period prescribed in section 6213(a), the district director will be so advised, and, if collection of the deficiency has been stayed by the timely filing of a bond as provided in section 6863, he should then give notice and make demand for payment of the amount assessed plus interest. After the Tax Court has rendered its decision and such decision has become final, the district director will be notified of the action taken. He will then send notice and demand for payment of the unpaid portion of the amount determined by the Tax Court, the collection of which has been stayed by the bond. If the amount of the jeopardy assessment is less than the amount determined by the Tax Court, the difference will be assessed and collected as part of the tax upon the issuance of a notice and demand therefor. If the amount of the jeopardy assessment is in excess of the amount determined by the Tax Court, the unpaid portion of such excess will be abated. If any part of the excess amount has been paid, it will be credited or refunded to the taxpayer as provided in section 6402, without the filing of claim therefor.

(e) *Abatement of excessive assessment.* The district director or the director of the regional service center may, at any time before the decision of the Tax Court is rendered, abate a jeopardy assessment in whole or in part if the district director believes that such assessment is excessive in amount.

(f) *Abatement if jeopardy does not exist.* (1) The district director or the director of the regional service center may abate a jeopardy assessment in whole or in part, if it is shown to the satisfaction of the district director that jeopardy does not exist. An abatement may not be made under this paragraph after a decision of the Tax Court in respect of the deficiency has been rendered or, if no petition is filed with such court, after the expiration of the period for filing such petition.

(2) After abatement of a jeopardy assessment in whole or in part, a deficiency may be assessed and collected in the manner authorized by law as if the jeopardy assessment or part thereof so abated had not existed. If a notice of deficiency has been sent to the taxpayer before the abatement of the jeopardy assessment in whole or in part, whether such notice was sent before or after the making of the assessment, such abatement will not affect the validity of the notice or of any proceedings for redetermination based thereon. The period of limitation on the making of assessments and the beginning of levy or a proceeding in court for collection in respect of any deficiency shall be determined as if the jeopardy assessment so abated had not been made, except that the running of such period shall in any event be suspended for the period from the date of such jeopardy assessment until the expiration of the tenth day after the date on which such jeopardy assessment is abated in whole or in part. The provisions of this subparagraph may be illustrated by the following example:

Example. On March 18, 1958, 28 days before the last day of the 3-year period of limitations on assessment, a jeopardy assessment is made in respect of a proposed deficiency. On May 2, 1958, before the mailing of the notice of deficiency provided by section 6861(b), this assessment is abated. By virtue of this subparagraph, the last day of the period of limitations for the making of an assessment is June 9, 1958, that is, the 38th day after the date of the abatement. If the notice of deficiency provided for in section 6861(b) has been sent before the abatement, the running of the period of limitations on assessment would have been suspended pursuant to the provisions of the section 6503(a).

(3) Request for abatement of a jeopardy assessment, because jeopardy does not exist, shall be filed with the district director, shall state fully the reasons for the request, and shall be supported by such evidence as will enable the district director to determine that the collection of the deficiency is not in jeopardy. See paragraph (e) of this section with respect to the abatement of jeopardy assessments which are excessive in amount.

§ 301.6862 Statutory provisions; jeopardy assessment of taxes other than income, estate, and gift taxes.

SEC. 6862. *Jeopardy assessment of taxes other than income, estate, and gift taxes*—(a) *Immediate assessment.* If the Secretary or his delegate believes that the collection of any tax (other than income tax, estate tax, and gift tax) under any provision of the internal revenue laws will be jeopardized by delay, he shall, whether or not the time otherwise prescribed by law for making return and paying such tax has expired, immediately assess such tax (together with all interest, additional amounts, and additions to the tax provided for by law). Such tax, additions to the tax, and interest shall thereupon become immediately due and payable, and immediate notice and demand shall be made by the Secretary or his delegate for the payment thereof.

(b) *Immediate levy.* For provision permitting immediate levy in case of jeopardy, see section 6331(a).

§ 301.6862–1 Jeopardy assessment of taxes other than income, estate, and gift taxes.

(a) If the district director believes that the collection of any tax (other than income, estate, or gift tax) will be jeopardized by delay, he shall, whether or not the time otherwise prescribed by law for filing the return or paying such tax has expired, immediately assess such tax, together with all interest, additional amounts and additions to the tax provided by law. For example, assume that a taxpayer incurs on January 18, 1955, liability for admissions tax imposed by section 4231, that the last day on which return and payment of such tax is required to be made is April 30, 1955, and that on January 18, 1955, the district director determines that collection of such tax would be jeopardized by delay. In such case, the district director shall immediately assess the tax.

(b) The tax, interest, additional amounts, and additions to the tax will, upon assessment, become immediately due and payable, and the district director shall, without delay, issue a notice and demand for payment thereof in full. Upon failure or refusal to pay the amount demanded, collection thereof by levy shall be lawful without regard to the 10-day period provided in section 6331(a). However, the collection of the whole or any part of the amount of the jeopardy assessment may be stayed by timely filing with the district director a bond as provided in section 6863.

§ 301.6863 Statutory provisions; stay of collection of jeopardy assessments.

SEC. 6863. *Stay of collection of jeopardy assessments*—(a) *Bond to stay collection.* When a jeopardy assessment has been made under section 6861 or 6862, the collection of the whole or any amount of such assessment may be stayed by filing with the Secretary or his delegate, within such time as may be fixed by regulations prescribed by the Secretary or his delegate, a bond in an amount equal to the amount as to which the stay is desired, conditioned upon the payment of the amount (together with interest thereon) the collection of which is stayed, at the time at which, but for the making of the jeopardy assessment, such amount would be due. Upon the filing of the bond the collection of so much of the amount assessed as is covered by the bond shall be stayed. The taxpayer shall have the right to waive such stay at any time in respect of the whole or any part of the amount covered by the bond, and if as a result of such waiver any part of the amount covered by the bond is paid, then the bond shall, at the request of the taxpayer, be proportionately reduced. If any portion of the jeopardy assessment is abated, the bond shall, at the request of the taxpayer, be proportionately reduced.

(b) *Further conditions in case of income, estate, or gift taxes.* In the case of taxes subject to the jurisdiction of the Tax Court—

(1) *Prior to petition to Tax Court.* If the bond is given before the taxpayer has filed his petition under section 6213(a), the bond shall contain a further condition that if a petition is not filed within the period provided in such section, then the amount, the collection of which is stayed by the bond, will be paid on notice and demand at any time after the expiration of such period, together with interest thereon from the date of the jeopardy notice and demand to the date of notice and demand under this paragraph.

(2) *Effect of Tax Court decision.* The bond shall be conditioned upon the payment of so much of such assessment (collection of which is stayed by the bond) as is not abated by a decision of the Tax Court which has become final. If the Tax Court determines that the amount assessed is greater than the amount which should have been assessed, then when the decision of the Tax Court is rendered the bond shall, at the request of the taxpayer, be proportionately reduced.

(3) *Stay of sale of seized property pending Tax Court decision*—(A) *General rule.* Where, notwithstanding the provisions of section 6213(a), a jeopardy assessment has been made under section 6861 the property seized for the collection of the tax shall not be sold—

(i) If section 6861(b) is applicable, prior to the issuance of the notice of deficiency and the expiration of the time provided in section 6213(a) for filing petition with the Tax Court, and

(ii) If petition is filed with the Tax Court (whether before or after the making of such jeopardy assessment under section 6861), prior to the expiration of the period during which the assessment of the deficiency would be prohibited if section 6861(a) were not applicable.

(B) *Exceptions.* Such property may be sold if—

(i) The taxpayer consents to the sale,

(ii) The Secretary or his delegate determines that the expenses of conservation and maintenance will greatly reduce the net proceeds, or

(iii) The property is of the type described in section 6336.

(C) *Applicability.* Subparagraphs (A) and (B) shall be applicable only with respect to a jeopardy assessment made on or after January 1, 1955, and shall apply with respect to taxes imposed by this title and with respect to taxes imposed by the Internal Revenue Code of 1939.

§ 301.6863–1 Stay of collection of jeopardy assessments; bond to stay collection.

(a) *General rule.* (1) The collection of a jeopardy assessment of any tax may be stayed by filing with the district director a bond on the form to be furnished by the district director upon request.

(2) The bond may be filed—

(i) At any time before the time collection by levy is authorized under section 6331(a), or

(ii) After collection by levy is authorized and before levy is made on any property or rights to property, or

(iii) In the discretion of the district director, after any such levy has been made and before the expiration of the period of limitations on collection.

(3) The bond must be in an amount equal to the portion (including interest thereon to the date of payment as calculated by the district director) of the jeopardy assessment collection of which is sought to be stayed. See section 7101 and § 301.7101–1, relating to the form of bond and the sureties thereon. The bond shall be conditioned upon the payment of the amount (together with interest thereon), the collection of which is stayed, at the time at which, but for the making of the jeopardy assessment, such amount would be due.

(4) Upon the filing of a bond in accordance with this section, the collection of so much of the assessment as is covered by the bond will be stayed. The taxpayer may at any time waive the stay of collection of the whole or any part of the amount covered by the bond. If as a result of such waiver any part of the amount covered by the bond is paid, or if any portion of the jeopardy assessment is abated by the district director, then the bond shall at the request of the taxpayer be proportionately reduced.

(b) *Additional conditions applicable to income, estate, and gift tax assessments.* In the case of a jeopardy assessment of income, estate, or gift tax, the bond must be conditioned upon the payment of so much of the amount included therein as is not abated by a decision of the Tax Court which has become final, together with the interest on such amount. If the Tax Court determines that the amount assessed is greater than the correct amount of the tax, the bond will be proportionately reduced at the request of the taxpayer after the Tax Court renders its decision. If the bond is given before the taxpayer has filed his petition with the Tax Court, it must contain a further condition that if a petition is not filed before the expiration of the period provided in section 6213(a) for the filing of such petition the amount stayed by the bond will be paid upon notice and demand at any time after the expiration of such period, together with interest thereon at the rate of 6 percent per annum from the date of the jeopardy notice and demand to the date of the notice and demand made after the expiration of the period for filing petition with the Tax Court.

§ 301.6863–2 Collection of jeopardy assessment; stay of sale of seized property pending Tax Court decision.

(a) *General rule.* In the case of a jeopardy assessment made after December 31, 1954, of income, estate, or gift tax imposed by the Internal Revenue Code of 1954 or the Internal Revenue Code of 1939, any property seized for the collection of such assessment shall not (except as provided in paragraph (b) of this section) be sold—

(1) Until the expiration of the period provided in section 6213(a) within which the taxpayer may file a petition for redetermination with the Tax Court, and

(2) If a petition for redetermination is filed with the Tax Court (whether before or after the making of the jeopardy assessment), until the decision of the Tax Court becomes final, except that a petition for review of the Tax Court decision will not operate as a further stay of the sale of the seized property unless the taxpayer files a bond as provided in section 7485.

(b) *Exceptions.* Notwithstanding the provisions of paragraph (a) of this section, any property seized may be sold—

(1) If the taxpayer files with the district director a written consent to the sale, or

(2) If the district director determines that the expenses of conservation and maintenance of the property will greatly reduce the net proceeds from the sale of such property, or

(3) If the property is of a type to which section 6336 (relating to sale of perishable goods) is applicable.

§ 301.6864 Statutory provisions; termination of extended period for payment in case of carryback.

SEC. 6864. *Termination of extended period for payment in case of carryback.* For termination of extensions of time for payment of income tax granted to corporations expecting carrybacks in case of jeopardy, see section 6164(h).

BANKRUPTCY AND RECEIVERSHIPS

§ 301.6871(a) Statutory provisions; claims for income, estate, and gift taxes in bankruptcy and receivership proceedings; immediate assessment.

SEC. 6871. *Claims for income, estate, and gift taxes in bankruptcy and receivership proceedings*—(a) *Immediate assessment.* Upon the adjudication of bankruptcy of any taxpayer in any liquidating proceeding, the filing or (where approval is required by the Bankruptcy Act) the approval of a petition of, or the approval of a petition against, any taxpayer in any other bankruptcy proceeding, or the appointment of a receiver for any taxpayer in any receivership proceeding before any court of the United States or of any State or Territory or of the District of Columbia, any deficiency (together with all interest, additional amounts, or additions to the tax provided by law) determined by the Secretary or his delegate in respect of a tax imposed by subtitle A or B upon such taxpayer shall, despite the restrictions imposed by section 6213(a) upon assessments, be immediately assessed if such deficiency has not theretofore been assessed in accordance with law.

[Sec. 6871(a) as amended by sec. 88(a), Technical Amendments Act 1958 (72 Stat. 1665)]

§ 301.6871(a)–1 Immediate assessment of claims for income, estate, and gift taxes in bankruptcy and receivership proceedings.

(a) Upon (1) the adjudication of bankruptcy of any taxpayer in any liquidating proceeding, (2) the filing with a court of competent jurisdiction or (where approval is required by the Bankruptcy Act, 11 U.S.C. chs. 1–14) the approval of a petition of, or the approval of a petition against, any taxpayer in any other proceeding under the Bankruptcy Act, or (3) the appointment of any receiver for any taxpayer in a receivership proceeding before any court of the United States or of any State or Territory or of the District of Columbia, the district director shall immediately assess any deficiency of income, estate, or gift tax (together with all interest, additional amounts, or additions to the tax provided by law), determined by him, if such deficiency has not heretofore been assessed in accordance with law. Such assessment shall be made immediately, whether or not a notice of deficiency has been issued, and without regard to the restrictions upon assessment under section 6213.

(b) As used in this section and §§ 301.6871(a)–2 to 301.6873–1, inclusive, the term "proceeding under the Bankruptcy Act" includes a proceeding under chapters I to VII, inclusive, of the Bankruptcy Act, or under section 75 or 77 (11 U.S.C. 203, 205), or chapters X to XIII, inclusive, of such Act, or any other proceeding under the Act.

§ 301.6871(a)–2 Collection of assessed taxes in bankruptcy and receivership proceedings.

(a) During a proceeding under the Bankruptcy Act (11 U.S.C. chs. 1–14) or a receivership proceeding in either a Federal or State court, generally the assets of the taxpayer are under the control of the court in which such proceeding is pending, and the collection of taxes cannot be made by levying upon such assets. However, any assets which under applicable provisions of law are not under the control of the court may be subject to levy. See paragraph (b) of this section and § 301.6871(b)–1 with respect to claims for such taxes. See section 6873 with respect to collection of unpaid claims.

(b) District directors should, promptly after ascertaining the existence of any outstanding liability against a taxpayer in any proceeding under the Bankruptcy Act or in any receivership proceeding, and in any event within the time limited by the appropriate provisions of the Bankruptcy Act, or by the appropriate orders of the court in which such proceeding is pending, file proof of claim covering such liability in the court in which such proceeding is pending. Such proof of claim should be filed whether the unpaid taxes involved have been assessed or not, except in cases where the instructions of the Commissioner direct otherwise; for example, where the payment of the taxes is secured by a sufficient bond. At the same time proof of claim is filed with the bankruptcy or receivership court, the district director will send notice and demand for payment to the taxpayer, together with a copy of such proof of claim.

(c) Under sections 3466 and 3467 of the Revised Statutes (31 U.S.C. 191, 192) and section 64 of the Bankruptcy Act (11 U.S.C. 104), taxes are entitled to the priority over other claims therein specified, and the trustee, receiver, debtor in possession, or other person designated as in control of the assets of the debtor by the court in which the proceeding under the Bankruptcy Act or

receivership proceeding is pending, may be held personally liable for failure on his part to protect the priority of the Government respecting taxes of which he has notice. Sections 75(l), 77(e), 199, 337(2), 455, and 659(6) of the Bankruptcy Act (11 U.S.C. 203(l), 205(e), 599, 737(2), 855, and 1059(6)) also contain provisions with respect to the rights of the United States relative to priority of payment. For the filing of returns by a trustee in bankruptcy or by a receiver, see section 6012(b)(3) and 28 U.S.C. 960. Bankruptcy courts have jurisdiction under the Bankruptcy Act to determine all disputes regarding the amount and validity of taxes claimed in a proceeding under the Bankruptcy Act. A proceeding under the Bankruptcy Act or a receivership proceeding does not discharge any portion of a claim of the United States for taxes except in the case of a proceeding under section 77 or chapter X of the Bankruptcy Act. However, the claim may be settled or compromised as in other cases in court.

(d) For the requirement that a receiver, trustee in bankruptcy, or other like fiduciary give notice as to his qualification as such, see section 6036 and the regulations thereunder.

§ 301.6871(b) Statutory provisions; claims for income, estate, and gift taxes in bankruptcy and receivership proceedings; claim filed despite pendency of Tax Court proceedings.

SEC. 6871. *Claims for income, estate, and gift taxes in bankruptcy and receivership proceedings.* * * *

(b) *Claim filed despite pendency of Tax Court proceedings.* In the case of a tax imposed by subtitle A or B claims for the deficiency and such interest, additional amounts, and additions to the tax may be presented, for adjudication in accordance with law, to the court before which the bankruptcy or receivership proceeding is pending, despite the pendency of proceedings for the redetermination of the deficiency in pursuance of a petition to the Tax Court; but no petition for any such redetermination shall be filed with the Tax Court after the adjudication of bankruptcy, the filing or (where approval is required by the Bankruptcy Act) the approval of a petition of, or the approval of a petition against, any taxpayer in any other bankruptcy proceeding, or the appointment of the receiver.

[Sec. 6871(b) as amended by sec. 88(b), Technical Amendments Act 1958 (72 Stat. 1665)]

§ 301.6871(b)–1 Claims for income, estate, and gift taxes in proceedings under the Bankruptcy Act and receivership proceedings; claim filed despite pendency of Tax Court proceedings.

(a) If it is determined that a deficiency is due in respect of income, estate, or gift tax and the taxpayer has filed a petition with the Tax Court before (1) the adjudication of bankruptcy in any liquidating proceeding, (2) the filing with a court of competent jurisdiction or (where approval is required by the Bankruptcy Act, 11 U.S.C. chs. 1–14) the approval of a petition of, or the approval of a petition against, any taxpayer in any other proceeding under the Bankruptcy Act, or (3) the appointment of a receiver, the trustee, receiver, debtor in possession, or other like fiduciary, may, upon his own motion, be made a party to the Tax Court proceeding and thereafter may prosecute the appeal before the Tax Court as to that particular determination. No petition shall be filed with the Tax Court for a redetermination of the deficiency after the adjudication of bankruptcy, the filing or (where approval is required by the Bankruptcy Act) the approval of a petition of, or the approval of a petition against, any taxpayer in any other bankruptcy proceeding, or the appointment of the receiver.

(b) Even though the determination of a deficiency is pending before the Tax Court for redetermination, proof of claim for the amount of such deficiency may be filed with the court in which the proceeding under the Bankruptcy Act or receivership proceeding is pending without awaiting final decision of the Tax Court. In case of a final decision of the Tax Court before the payment or the disallowance of the claim in the proceeding under the Bankruptcy Act or receivership proceeding, a copy of the Tax Court's decision may be filed by the district director with the court in which such proceeding is pending.

(c) While a district director is required by section 6871(a) and paragraph (a) of § 301.6871(a)–1 to make immediate assessment of any deficiency, such assessment is not made as a jeopardy assessment within the meaning of section 6861, and consequently the provisions of that section do not apply to any assessment made under section 6871. Therefore, the notice of deficiency provided in section 6861(b) will not be mailed. Although such notice will not be issued, a letter will be sent to the taxpayer or to the trustee, receiver, debtor in possession, or other like fiduciary, notifying him in detail how the deficiency was computed, that he may furnish evidence showing wherein the deficiency is incorrect, and that upon request he will be granted a conference by the district director with respect to such deficiency. However, such letter will not provide for such a conference where a petition was filed with the Tax Court before (1) the adjudication of bankruptcy in a liquidating proceeding, (2) the filing with a court of competent jurisdiction or (where approval is required by the Bankruptcy Act), the approval of a petition of, or the approval of a petition against, any taxpayer in any other proceeding under the Bankruptcy Act, or (3) the appointment of a receiver.

§ 301.6872 Statutory provisions; suspension of period on assessment.

SEC. 6872. *Suspension of period on assessment.* If the regulations issued pursuant to section 6036 require the giving of notice by any fiduciary in any proceeding under the Bankruptcy Act, or by a receiver in any other court proceeding, to the Secretary or his delegate of his qualification as such, the running of the period of limitations on the making of assessments shall be suspended for the period from the date of the institution of the proceeding to a date 30 days after the date upon which the notice from the receiver or other fiduciary is received by the Secretary or his delegate; but the suspension under this sentence shall in no case be for a period in excess of 2 years.

§ 301.6872–1 Suspension of running of period of limitations on assessment.

If any fiduciary in any proceeding under the Bankruptcy Act (11 U.S.C. chs. 1–14), including a trustee, receiver, or debtor in possession, or a receiver in any other court proceeding is required, pursuant to section 6036, to give notice in writing to the district director of his qualification as such, then the running of the period of limitations on assessment shall be suspended from the date the proceeding is instituted to the date such notice is received by the district director, and for an additional 30 days thereafter. However, the suspension under this section of the running of the period of limitation on assessment shall in no case exceed 2 years.

§ 301.6873 Statutory provisions; unpaid claims.

SEC. 6873. *Unpaid claims*—(a) *General rule.* Any portion of a claim for taxes allowed in a receivership proceeding or any proceeding under the Bankruptcy Act which is unpaid shall be paid by the taxpayer upon notice and demand from the Secretary or his delegate after the termination of such proceeding.

(b) *Cross references.* (1) For suspension of running of period of limitations on collection, see section 6503(b).

(2) For extension of time for payment, see section 6161(c).

§ 301.6873–1 Unpaid claims in bankruptcy or receivership proceedings.

(a) If any portion of the claim allowed by the court in a receivership proceeding, or in any proceeding under the Bankruptcy Act (11 U.S.C. chs. 1–14) remains unpaid after the termination of such proceeding, the district director will send notice and demand for payment thereof to the taxpayer. Such unpaid portion with interest as provided in section 6601 may be collected from the taxpayer by levy or proceeding in court within the period of limitation for collection after assessment. For the general rule as to such period of limitation, see section 6502, and for suspension of the running of the period provided in section 6502, see, for example, section 6503. For suspensions under other provisions of law, see, for example, section 11f of the Bankruptcy Act (11 U.S.C. 29(f)). Extension of time for the payment of such unpaid amount may be granted in the same manner and subject to the same provisions and limitations as provided in section 6161(c).

(b) Section 6873 is applicable only where a claim for taxes is allowed in a receivership proceeding or in a proceeding under the Bankruptcy Act. Claims for taxes, interest, additional amounts, or additions to the tax may be collectible in equity or under other provisions of law although no claim was allowed in the proceeding because, for example, such items were not included in a proof of claim filed in the proceeding or no

proof of claim was filed. Except in the case of a proceeding under section 77 or chapter X of the Bankruptcy Act, a tax or a liability in respect thereof is not discharged by a proceeding under such act, whether or not a claim is filed in such proceeding, and provisions suspending the running of the period of limitation on the collection of taxes are applicable, whether or not a claim is filed in such proceeding.

Transferees and Fiduciaries

§ 301.6901 Statutory provisions; transferred assets.

SEC. 6901. *Transferred assets*—(a) *Method of collection.* The amounts of the following liabilities shall, except as hereinafter in this section provided, be assessed, paid, and collected in the same manner and subject to the same provisions and limitations as in the case of the taxes with respect to which the liabilities were incurred:

(1) *Income, estate, and gift taxes*—(A) *Transferees.* The liability, at law or in equity, of a transferee of property—

(i) Of a taxpayer in the case of a tax imposed by subtitle A (relating to income taxes),

(ii) Of a decedent in the case of a tax imposed by chapter 11 (relating to estate taxes), or

(iii) Of a donor in the case of a tax imposed by chapter 12 (relating to gift taxes), in respect of the tax imposed by subtitle A or B.

(B) *Fiduciaries.* The liability of a fiduciary under section 3467 of the Revised Statutes (31 U.S.C. 192) in respect of the payment of any tax described in subparagraph (A) from the estate of the taxpayer, the decedent, or the donor, as the case may be.

(2) *Other taxes.* The liability, at law or in equity of a transferee of property of any person liable in respect of any tax imposed by this title (other than a tax imposed by subtitle A or B), but only if such liability arises on the liquidation of a partnership or corporation, or on a reorganization within the meaning of section 368(a).

(b) *Liability.* Any liability referred to in subsection (a) may be either as to the amount of tax shown on a return or as to any deficiency or underpayment of any tax.

(c) *Period of limitations.* The period of limitations for assessment of any such liability of a transferee or a fiduciary shall be as follows:

(1) *Initial transferee.* In the case of the liability of an initial transferee, within 1 year after the expiration of the period of limitation for assessment against the transferor;

(2) *Transferee of transferee.* In the case of the liability of a transferee of a transferee, within 1 year after the expiration of the period of limitation for assessment against the preceding transferee, but not more than 3 years after the expiration of the period of limitation for assessment against the initial transferor;

except that if, before the expiration of the period of limitation for the assessment of the liability of the transferee, a court proceeding for the collection of the tax or liability in respect thereof has been begun against the initial transferor or the last preceding transferee, respectively, then the period of limitation for assessment of the liability of the transferee shall expire 1 year after the return of execution in the court proceeding.

(3) *Fiduciary.* In the case of the liability of a fiduciary, not later than 1 year after the liability arises or not later than the expiration of the period for collection of the tax in respect of which such liability arises, whichever is the later.

(d) *Extension by agreement.* (1) *Extension of time for assessment.* If before the expiration of the time prescribed in subsection (c) for the assessment of the liability, the Secretary or his delegate and the transferee or fiduciary have both consented in writing to its assessment after such time, the liability may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. For the purpose of determining the period of limitation on credit or refund to the transferee or fiduciary of overpayments of tax made by such transferee or fiduciary or overpayments of tax made by the transferor of which the transferee or fiduciary is legally entitled to credit or refund, such agreement and any extension thereof shall be deemed an agreement and extension thereof referred to in section 6511(c).

(2) *Extension of time for credit or refund.* If the agreement is executed after the expiration of the period of limitation for assessment against the taxpayer with reference to whom the liability of such transferee or fiduciary arises, then in applying the limitations under section 6511(c) on the amount of the credit or refund, the periods specified in section 6511(b)(2) shall be increased by the period from the date of such expiration to the date of the agreement.

(e) *Period for assessment against transferor.* For purposes of this section, if any person is deceased, or is a corporation which has terminated its existence, the period of limitation for assessment against such person shall be the period that would be in effect had death or termination of existence not occurred.

(f) *Suspension of running of period of limitations.* The running of the period of limitations upon the assessment of the liability of a transferee or fiduciary shall, after the mailing to the transferee or fiduciary of the notice provided for in section 6212 (relating to income, estate, and gift taxes), be suspended for the period during which the Secretary or his delegate is prohibited from making the assessment in respect of the liability of the transferee or fiduciary (and in any event, if a proceeding in respect of the liability is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

(g) *Address for notice of liability.* In the absence of notice to the Secretary or his delegate under section 6903 of the existence of a fiduciary relationship, any notice of liability enforceable under this section required to be mailed to such person, shall, if mailed to the person subject to the liability at his last known address, be sufficient for purposes of this title, even if such person is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

(h) *Definition of transferee.* As used in this section, the term "transferee" includes donee, heir, legatee, devisee, and distributee, and with respect to estate taxes, also includes any person who, under section 6324(a)(2), is personally liable for any part of such tax.

(i) *Extension of time.* For extensions of time by reason of armed service in a combat zone, see section 7508.

§ 301.6901–1 Procedure in the case of transferred assets.

(a) *Method of collection*—(1) *Income, estate, and gift taxes.* The amount for which a transferee of property of—

(i) A taxpayer, in the case of a tax imposed by subtitle A of the Code (relating to income taxes),

(ii) A decedent, in the case of the estate tax imposed by chapter 11 of the Code, or

(iii) A donor, in the case of the gift tax imposed by chapter 12 of the Code, is liable, at law or in equity, and the amount of the personal liability of a fiduciary under section 3467 of the Revised Statutes, as amended (31 U.S.C. 192), in respect of the payment of such taxes, whether shown on the return of the taxpayer or determined as a deficiency in the tax, shall be assessed against such transferee or fiduciary and paid and collected in the same manner and subject to the same provisions and limitations as in the case of a deficiency in the tax with respect to which such liability is incurred, except as hereinafter provided.

(2) *Other taxes.* The liability, at law or in equity, of a transferee of property of any person liable in respect of any other tax, in any case where the liability of the transferee arises on the liquidation of a corporation or partnership, or a corporate reorganization within the meaning of section 368(a), shall be assessed against such transferee and paid and collected in the same manner and subject to the same provisions and limitations as in the case of the tax with respect to which such liability is incurred, except as hereinafter provided.

(3) *Applicable provisions.* The provisions of the Code made applicable by section 6901(a) to the liability of a transferee or fiduciary referred to in subparagraphs (1) and (2) of this paragraph include the provisions relating to:

(i) Delinquency in payment after notice and demand and the amount of interest attaching because of such delinquency;

(ii) The authorization of distraint and proceedings in court for collection;

(iii) The prohibition of claims and suits for refund; and

(iv) In any instance in which the liability of a transferee or fiduciary is one referred to in subparagraph (1) of this paragraph, the filing of a petition with the Tax Court of the United States and the filing of a petition for review of the Tax Court's decision.

For detailed provisions relating to assessments, collections, and refunds, see chapters 63, 64, and 65 of the Code, respectively.

(b) *Definition of transferee.* As used in this section, the term "transferee" includes an heir, legatee, devisee, distributee of an estate of a deceased person, the shareholder of a dissolved corporation, the assignee or donee of an insolvent person, the successor of a corporation, a party to a reorganization as defined in section 368, and all other classes of distributees. Such term also includes, with respect to the gift tax, a donee (without regard to the solvency of the donor) and, with respect to the estate tax, any person who, under section 6324(a)(2), is personally liable for any part of such tax.

(c) *Period of limitation on assessment.* The period of limitation for assessment of the liability of a transferee or of a fiduciary is as follows:

(1) *Initial transferee.* In the case of the liability of an initial transferee, one year after the expiration of the period of limitation for assessment against the taxpayer in the case of a tax imposed by subtitle A (relating to income taxes), the executor in the case of the estate tax imposed by chapter 11, or the donor in the case of the gift tax imposed by chapter 12, each of which for purposes of this section is referred to as the "taxpayer" (see subchapter A, chapter 66, of the Code).

(2) *Transferee of transferee.* In the case of the liability of a transferee of a transferee, 1 year after the expiration of the period of limitation for assessment against the preceding transferee, or 3 years after the expiration of the period of limitation for assessment against the taxpayer, whichever of such periods first expires.

(3) *Court proceeding against taxpayer or last preceding transferee.* If, before the expiration of the period specified in subparagraph (1) or subparagraph (2) of this paragraph (whichever is applicable), a court proceeding against the taxpayer or last preceding transferee for the collection of the tax or liability in respect thereof, respectively, has been begun within the period of limitation for the commencement of such proceeding, then within one year after the return of execution in such proceeding.

(4) *Fiduciary.* In the case of the liability of a fiduciary, not later than 1 year after the liability arises or not later than the expiration of the period for collection of the tax in respect of which such liability arises, whichever is the later.

(d) *Extension by agreement*—(1) *Extension of time for assessment.* The time prescribed by section 6901 for the assessment of the liability of a transferee or fiduciary may, prior to the expiration of such time, be extended for any period of time agreed upon in writing by the transferee or fiduciary and the district director or an assistant regional commissioner. The extension shall become effective when the agreement has been executed by both parties. The period agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(2) *Extension of times for credit or refund.* (i) For the purposes of determining the period of limitation on credit or refund to the transferee or fiduciary of overpayments made by such transferee or fiduciary or overpayments made by the taxpayer to which such transferee or fiduciary may be legally entitled to credit or refund, an agreement and any extension thereof referred to in subparagraph (1) of this paragraph shall be deemed an agreement and extension thereof for purposes of section 6511(c) (relating to limitations on credit or refund in case of extension of time by agreement).

(ii) For the purpose of determining the limit specified in section 6511(c)(2) on the amount of the credit or refund, if the agreement is executed after the expiration of the period of limitation for assessment against the taxpayer with reference to whom the liability of such transferee or fiduciary arises, the periods specified in section 6511(b)(2) shall be increased by the period from the date of such expiration to the date the agreement is executed. The application of this subdivision may be illustrated by the following example:

EXAMPLE. Assume that Corporation A files its income tax return on March 15, 1955, for the calendar year 1954, showing a liability of $100,000 which is paid with the return. The period within which an assessment may be made against Corporation A expires on March 15, 1958. Corporation B is a transferee of Corporation A. An agreement is executed on October 9, 1958, extending, beyond its normal expiration date of March 15, 1959, the period within which an assessment may be made against Corporation B. Under section 6511(c)(2) and section 6511(b)(2)(A), the portion of an overpayment, paid before the execution of an agreement extending the period for assessment, may not be credited or refunded unless paid within three years prior to the date on which the agreement is executed. However, as applied to Corporation B such 3-year period is increased under section 6901(d)(2) to include the period from March 15, 1958, to October 9, 1958, the date on which the agreement was executed.

(e) *Period of assessment against taxpayer.* For the purpose of determining the period of limitation for assessment against a transferee or a fiduciary, if the taxpayer is deceased, or, in the case of a corporation, has terminated its existence, the period of limitation for assessment against the taxpayer shall be the period that would be in effect had the death or termination of existence not occurred.

(f) *Suspension of running of period of limitations.* In the cases of the income, estate, and gift taxes, if a notice of liability of a transferee or the liability of a fiduciary has been mailed to such transferee or to such fiduciary under the provisions of section 6212, then the running of the statute of limitations shall be suspended for the period during which assessment is prohibited in respect of liability of the transferee or fiduciary (and in any event, if a proceeding in respect of the liability is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

§ 301.6902 Statutory provisions; provisions of special application to transferees.

SEC. 6902. *Provisions of special application to transferees*—(a) *Burden of proof.* In proceedings before the Tax Court the burden of proof shall be upon the Secretary or his delegate to show that a petitioner is liable as a transferee of property of a taxpayer, but not to show that the taxpayer was liable for the tax.

(b) *Evidence.* Upon application to the Tax Court, a transferee of property of a taxpayer shall be entitled, under rules prescribed by the Tax Court, to a preliminary examination of books, papers, documents, correspondence, and other evidence of the taxpayer or a preceding transferee of the taxpayer's property, if the transferee making the application is a petitioner before the Tax Court for the redetermination of his liability in respect of the tax (including interest, additional amounts, and additions to the tax provided by law) imposed upon the taxpayer. Upon such application, the Tax Court may require by subpoena, ordered by the Tax Court or any division thereof and signed by a judge, the production of all such books, papers, documents, correspondence, and other evidence within the United States the production of which, in the opinion of the Tax Court or division thereof, is necessary to enable the transferee to ascertain the liability of the taxpayer or preceding transferee and will not result in undue hardship to the taxpayer or preceding transferee. Such examination shall be had at such time and place as may be designated in the subpoena.

§ 301.6902–1 Burden of proof.

In proceedings before the Tax Court the burden of proof shall be upon the Commissioner to show that a petitioner is liable as a transferee of property of a taxpayer, but not to show that the taxpayer was liable for the tax.

§ 301.6903 Statutory provisions; notice of fiduciary relationship.

SEC. 6903. *Notice of fiduciary relationship*—(a) *Rights and obligations of fiduciary.* Upon notice to the Secretary or his delegate that any person is acting for another person in a fiduciary capacity, such fiduciary shall assume the powers, rights, duties, and privileges of such other person in respect of a tax imposed by this title (except as otherwise specifically provided and except that the tax shall be collected from the estate of such other person), until notice is given that the fiduciary capacity has terminated.

(b) *Manner of notice.* Notice under this section shall be given in accordance with regulations prescribed by the Secretary or his delegate.

§ 301.6903–1 Notice of fiduciary relationship.

(a) *Rights and obligations of fiduciary.* Every person acting for another person in a fiduciary capacity shall give notice thereof to the district director in writing. As soon as such notice is filed with the district director such fiduciary must, except as otherwise specifically provided, assume the powers, rights, duties, and privileges of the taxpayer with respect to the taxes imposed by the Code. If the person is acting as a fiduciary for a transferee or other person subject to the liability specified in section 6901, such fiduciary is required to assume the powers, rights, duties, and privileges of the transferee or other person under that section. The amount of the tax or liability is ordinarily not collectible from the personal estate of the fiduciary but is collectible from the estate of the taxpayer or from the estate of the transferee or other person subject to the liability specified in section 6901.

(b) *Manner of notice.* The notice shall be signed by the fiduciary, and shall be filed with the district director for the district where the return of the person for whom the fiduciary is acting is required to be filed. The notice must state the name and address of the person for whom the fiduciary is acting, and the nature of the liability of such person; that is, whether it is a liability for tax, and, if so, the type of tax, the year

or years involved, or a liability at law or in equity of a transferee of property of a taxpayer, or a liability of a fiduciary under section 3467 of the Revised Statutes, as amended (31 U.S.C. 192) in respect of the payment of any tax from the estate of the taxpayer. Satisfactory evidence of the authority of the fiduciary to act for any other person in a fiduciary capacity must be filed with and made a part of the notice. If the fiduciary capacity exists by order of court, a certified copy of the order may be regarded as satisfactory evidence. When the fiduciary capacity has terminated, the fiduciary, in order to be relieved of any further duty or liability as such, must file with the district director with whom the notice of fiduciary relationship was filed written notice that the fiduciary capacity has terminated as to him, accompanied by satisfactory evidence of the termination of the fiduciary capacity. The notice of termination should state the name and address of the person, if any, who has been substituted as fiduciary. Any written notice disclosing a fiduciary relationship which has been filed with the Commissioner under the Internal Revenue Code of 1939 or any prior revenue law shall be considered as sufficient notice within the meaning of section 6903. Any satisfactory evidence of the authority of the fiduciary to act for another person already filed with the Commissioner or district director need not be resubmitted.

(c) *Where notice is not filed.* If the notice of the fiduciary capacity described in paragraph (b) of this section is not filed with the district director before the sending of notice of a deficiency by registered mail or certified mail to the last known address of the taxpayer (see section 6212), or the last known address of the transferee or other person subject to liability (see section 6901(g)), no notice of the deficiency will be sent to the fiduciary. In such a case the sending of the notice to the last known address of the taxpayer, transferee, or other person, as the case may be will be a sufficient compliance with the requirements of the Code, even though such taxpayer, transferee, or other person is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence. Under such circumstances, if no petition is filed with the Tax Court of the United States within 90 days after the mailing of the notice (or within 150 days after mailing in the case of such a notice addressed to a person outside the States of the Union and the District of Columbia) to the taxpayer, transferee, or other person, the tax, or liability under section 6901, will be assessed immediately upon the expiration of such 90-day or 150-day period, and demand for payment will be made. See paragraph (a) of § 301.6213–1 with respect to the expiration of such 90-day or 150-day period.

(d) *Definition of fiduciary.* The term "fiduciary" is defined in section 7701(a)(6) to mean a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

(e) *Applicability of other provisions.* This section, relating to the provisions of section 6903, shall not be taken to abridge in any way the powers and duties of fiduciaries provided for in other sections of the Code.

§ 301.6904 Statutory provisions; prohibition of injunctions.

Sec. 6904. *Prohibition of injunctions.* For prohibition of suits to restrain enforcement of liability of transferee, or fiduciary, see section 7421(b).

Licensing and Registration

Licensing

§ 301.7001 Statutory provisions; collection of foreign items.

Sec. 7001. *Collection of foreign items*—(a) *License.* All persons undertaking as a matter of business or for profit the collection of foreign payments of interest or dividends by means of coupons, checks, or bills of exchange shall obtain a license from the Secretary or his delegate and shall be subject to such regulations enabling the Government to obtain the information required under subtitle A (relating to income taxes) as the Secretary or his delegate shall prescribe.

(b) *Penalty for failure to obtain license.* For penalty for failure to obtain the license provided for in this section, see section 7231.

§ 301.7001–1 License to collect foreign items.

(a) *In general.* Any bank or agent undertaking as a matter of business or for profit the collection of foreign items must obtain a license from the district director for the district in which is located its principal place of business within the United States. For definitions of the terms "foreign item" and "collection", see paragraph (b) of this section.

(b) *Definitions*—(1) *Foreign item.* The term "foreign item" as used in this section, means any item of interest upon the bonds of a foreign country or of a nonresident foreign corporation not having a fiscal or paying agent in the United States (including Puerto Rico as if a part of the United States), or any item of dividends upon the stock of such corporation.

(2) *Collection.* The term "collection", as used in this section, includes the following:

(i) The payment by the licensee of the foreign item in cash;

(ii) The crediting by the licensee of the account of the person presenting the foreign item;

(iii) The tentative crediting by the licensee of the account of the person presenting the foreign item until the amount of the foreign item is received by the licensee from abroad; and

(iv) The receipt of foreign items by the licensee for the purpose of transmitting them abroad for deposits.

(c) *Application for license.* Application for the license required by paragraph (a) of this section shall be made in writing and shall contain the following information:

(1) The name and present business of the person, partnership (including names of all partners), or corporation applying for the license;

(2) The address of the applicant's principal place of business in the United States and of any branch offices in the United States;

(3) The date on which the applicant intends to commence the collection of foreign items; and

(4) An estimate of the aggregate amount of annual collections of foreign items (in dollars).

The application shall be signed by the applicant (a partner, in the case of a partnership, or an officer, in the case of a corporation).

(d) *Issuance of license.* The license will be issued by the district director in letter form without cost to the licensee.

(e) *Previous license holders.* Any person who has been issued a license under the corresponding provision of the Internal Revenue Code of 1939, or any prior revenue law, is not required to renew such license under this section.

(f) *Returns of information as to foreign items.* For provisions relating to the filing of returns as to foreign items, see section 6041(b) and § 1.6041–4 of this chapter (Income Tax Regulations).

Registration

§ 301.7011 Statutory provisions; registration—persons paying a special tax.

Sec. 7011. *Registration—persons paying a special tax*—(a) *Requirement.* Every person engaged in any trade or business on which a special tax is imposed by law shall register with the Secretary or his delegate his name or style, place of residence, trade or business, and the place where such trade or business is to be carried on. In case of a firm or company, the names of the several persons constituting the same, and the places of residence, shall be so registered.

(b) *Registration in case of death or change of location.* Any person exempted under the provisions of section 4906 from the payment of a special tax, shall register with the Secretary or his delegate in accordance with regulations prescribed by the Secretary or his delegate.

§ 301.7011–1 Registration of persons paying a special tax.

(a) *Persons required to register.* Every person engaged in a trade or business in respect of which a special tax is imposed by one of the following sections of the Code is required to register with the district director for the district in which such trade or business is located:

(1) Section 4461 (relating to special tax on persons who maintain for use or permit the use of coin-operated amusement or gaming devices);

(2) Section 4471 (relating to special tax on persons who operate a bowling alley, billiard room, or poolroom);

(3) Section 4821 (relating to special tax on manufacturers, wholesale dealers, and retail dealers of adulterated butter and manufacturers of process or renovated butter);

(4) Section 4841 (relating to special tax on manufacturers, wholesale dealers, and retail dealers of filled cheese);

(5) Section 5091 (relating to special tax on rectifiers of distilled spirits or wines);

(6) Section 5091 (relating to special tax on brewers);

(7) Section 5101 (relating to special tax on manufacturers of stills);

(8) Section 5111 (relating to special tax on wholesale dealers in liquors and wholesale dealers in beer); or

(9) Section 5121 (relating to special tax on retail dealers in liquors and retail dealers in beer).

For provisions with respect to the registration of persons subject to the special tax imposed by section 5131, relating to the tax on persons claiming drawback on distilled spirits used in the manufacture of certain nonbeverage products, see section 5132 and Part 197 of this chapter (Regulations on Drawback on Distilled Spirits Used in Manufacturing Nonbeverage Products). For cross references to provisions requiring registration of persons engaged in a trade or business in respect of which a special tax is imposed by other sections of the Code, see § 301.7012.

(b) *Procedure for registration.* The registration required of a person by reason of his being engaged in a trade or business in respect of which one of the special taxes listed in paragraph (a)(1) to (9), inclusive, of this section is imposed shall be accomplished by executing and filing, in accordance with the instructions relating thereto, Special Tax Return Form 11 or Special Tax Return Form 11–B, whichever is applicable. Special Tax Return Form 11–B is used to report the special tax imposed by a section listed in paragraph (a) (1) or (2) of this section, and Special Tax Return Form 11 is used to report the special tax imposed by a section listed in paragraph (a), (3), (4), (5), (6), (7), (8), or (9) of this section.

(c) *Registration in case of change of ownership or location.* Any change of ownership or location of a trade or business in respect of which a special tax is imposed by a section listed in paragraph (a) (1), (2), (3), or (4), of this section must be registered with the Internal Revenue Service if, pursuant to section 4905 (relating to liability for special tax in case of death or change of location), such trade or business may be continued without the payment of any additional special tax. For requirements and procedures with respect to such registration, see section 4905 and the regulations thereunder in Part 45 of this chapter (Miscellaneous Stamp Tax Regulations).

§ 301.7012 Statutory provisions; cross references.

Sec. 7012. *Cross references*—(a) *Narcotic drugs.* For provisions relating to registration in relation to narcotic drugs, see section 4722.

(b) *Marihuana.* For provisions relating to registration in relation to marihuana, see section 4753.

(c) *Firearms.* For provisions relating to registration in connection with firearms, see sections 5802, 5841, and 5854.

(d) For provisions relating to registration in relation to the manufacture of playing cards, see section 4455.

(e) For provisions relating to registration in relation to the manufacture of white phosphorus matches, see section 4804(d).

(f) For special rules with respect to registration by persons engaged in receiving wagers, see section 4412.

(g) For provisions relating to registration in relation to the production or importation of gasoline, see section 4101.

(h) For provisions relating to registration in relation to the manufacture or production of lubricating oils, see section 4101.

(i) *Penalty.* (1) For penalty for failure to register, see section 7272.

(2) For other penalties for failure to register with respect to wagering, see section 7262.

[Sec. 7012 as amended by sec. 4(b)(7), Tax Rate Extension Act 1958 (72 Stat. 260)]

Bonds

§ 301.7101 Statutory provisions; form of bonds.

Sec. 7101. *Form of bonds.* Whenever, pursuant to the provisions of this title (other than sections 7485 and 6803(a)(1), or rules or regulations prescribed under authority of this title, a person is required to furnish a bond or security—

(1) *General rule.* Such bond or security shall be in such form and with such surety or sureties as may be prescribed by regulations issued by the Secretary or his delegate.

(2) *U.S. bonds and notes in lieu of surety bonds.* The person required to furnish such bond or security may, in lieu thereof, deposit bonds or notes of the United States as provided in 6 U.S.C. 15.

§ 301.7101–1 Form of bond and surety required.

(a) *In general.* Any person required to furnish a bond under the provisions of the Code (other than section 6803(a)(1), relating to bonds required of certain postmasters, and section 7485, relating to bonds to stay assessment and collection of a deficiency pending review of a Tax Court decision), or under any rules or regulations prescribed under the Code, shall (except as provided in paragraph (d) of this section) execute such bond—

(1) On the appropriate form prescribed by the Internal Revenue Service (which may be obtained from the district director), and

(2) With satisfactory surety.

For provisions as to what will be considered "satisfactory surety", see paragraph (b) of this section. The bonds referred to in this paragraph shall be drawn in favor of the United States.

(b) *Satisfactory surety*—(1) *Approved surety company or bonds or notes of the United States.* For purposes of paragraph (a) of this section, a bond shall be considered executed with satisfactory surety if:

(i) It is executed by a surety company holding a certificate of authority from the Secretary as an acceptable surety on Federal bonds; or

(ii) It is secured by bonds or notes of the United States as provided in 6 U.S.C. 15 (see 31 CFR Part 225).

(2) *Other surety acceptable in discretion of district director.* Unless otherwise expressly provided in the Code, or the regulations thereunder, a bond may, in the discretion of the district director, be considered executed with satisfactory surety if, in lieu of being executed or secured as provided in subparagraph (1) of this paragraph, it is:

(i) Executed by a corporate surety (other than a surety company) provided such corporate surety establishes that it is within its corporate powers to act as surety for another corporation or an individual;

(ii) Executed by two or more individual sureties, provided such individual sureties meet the conditions contained in subparagraph (3) of this paragraph;

(iii) Secured by a mortgage on real or personal property;

(iv) Secured by a certified, cashier's, or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States or any State, Territory, or possession of the United States, or by a U.S. postal, bank, express, or telegraph money order;

(v) Secured by corporate bonds or stocks, or by bonds issued by a State or political subdivision thereof, of recognized stability; or

(vi) Secured by any other acceptable collateral. Collateral shall be deposited with the district director or, in his discretion, with a responsible financial institution acting as escrow agent.

(3) *Conditions to be met by individual sureties.* If a bond is executed by two or more individual sureties, the following conditions must be met by each such individual surety:

(i) He must reside within the State in which the principal place of business or legal residence of the primary obligor is located;

(ii) He must have property subject to execution of a current market value, above all encumbrances, equal to at least the penalty of the bond;

(iii) All real property which he offers as security must be located in the State in which the principal place of business or legal residence of the primary obligor is located;

(iv) He must agree not to mortgage, or otherwise encumber, any property offered as security while the bond continues in effect without first securing the permission of the district director; and

(v) He must file with the bond, and annually thereafter so long as the bond continues in effect, an affidavit as to the adequacy of his security, executed on the appropriate form furnished by the district director.

Partners may not act as sureties upon bonds of their partnership. Stockholders of a corporate principal may be accepted as sureties provided their qualifications as such are independent of their holdings of the stock of the corporation.

(4) *Adequacy of surety.* No surety or security shall be accepted if it does not adequately protect the interest of the United States.

(c) *Bonds required by Internal Revenue Code of 1939.* This section shall also apply in the case of bonds required under the Internal Revenue Code of 1939 (other than sections 1423(b) and 1145) or under the regulations under such Code.

(d) *Bonds required under subtitle E and chapter 75 of the Internal Revenue Code of 1954.* Bonds required under subtitle E and chapter 75, subtitle F, of the Internal Revenue Code of 1954 (or

under the corresponding provisions of the Internal Revenue Code of 1939) shall be in such form and with such surety or sureties as are prescribed in the regulations in Subchapter E of this chapter (Alcohol, Tobacco, and Other Excise Taxes).

§ 301.7102 Statutory provisions; single bond in lieu of multiple bonds.

SEC. 7102. *Single bond in lieu of multiple bonds.* In any case in which two or more bonds are required or authorized, the Secretary or his delegate may provide for the acceptance of a single bond complying with the requirements for which the several bonds are required or authorized.

§ 301.7102–1 Single bond in lieu of multiple bonds.

(a) *In general.* Except as provided in paragraph (b) of this section, a person who is required, or authorized, under the Code (other than sections 6803(a)(1) and 7485), or under any rules or regulations under the Code, to execute two or more bonds may, in the discretion of the district director, furnish a single bond in lieu of such two or more bonds but only if such single bond meets all the conditions and requirements prescribed for each of the separate bonds which it replaces. This section shall also apply in the case of bonds required or authorized under the Internal Revenue Code of 1939 (other than sections 1423 (b) and 1145) or under the regulations under such Code.

(b) *Bonds required under subtitle E and chapter 75 of the Internal Revenue Code of 1954.* In the case of bonds required under subtitle E and chapter 75, subtitle F, of the Internal Revenue Code of 1954 (or under the corresponding provisions of the Internal Revenue Code of 1939), a single bond will not be accepted in lieu of two or more bonds except as provided in the regulations in subchapter E of this chapter (Alcohol, Tobacco, and Other Excise Taxes).

§ 301.7103 Statutory provisions; cross references—other provisions for bonds.

SEC. 7103. *Cross references—other provisions for bonds.*—(a) *Extensions of time.* (1) For bond where time to pay tax or deficiency has been extended, see section 6165.

(2) For bond to stay collection of a jeopardy assessment, see section 6863.

(3) For bond to stay assessment and collection prior to review of a Tax Court decision, see section 7485.

(4) For furnishing of bond where taxable year is closed by the Secretary or his delegate, see section 6851(a).

(5) For bond in case of an election to postpone payment of estate tax where the value of a reversionary or remainder interest is included in the gross estate, see section 6165.

(b) *Release of lien or seized property.* (1) For the release of the lien provided for in section 6325 by furnishing the Secretary or his delegate a bond, see section 6325(a)(2).

(2) For bond to obtain release of perishable goods which have been seized under forfeiture proceeding, see section 7324(3).

(3) For bond to release perishable goods under levy, see section 6336.

(4) For bond executed by claimant of seized goods valued at $2,000 or less, see section 7325(3).

(c) *Miscellaneous.* (1) For bond as a condition precedent to the allowance of the credit for accrued foreign taxes, see section 905(c).

(2) For bonds relating to alcohol and tobacco taxes, see generally subtitle E.

(d) *Bonds required with respect to certain products.* (1) For bond in case of articles taxable under subchapter B of chapter 27 processed for exportation without payment of the tax provided therein, see section 4513(c).

(2) For bond in case of oleomargarine removed from the place of manufacture for exportation to a foreign country, see section 4503(b).

(3) For requirement of bonds with respect to certain industries see—

(A) Section 4596 relating to a manufacturer of oleomargarine;

(B) Section 4814(c) relating to a manufacturer of process or renovated butter or adulterated butter;

(C) Section 4833(c) relating to a manufacturer of filled cheese;

(D) Section 4713(b) relating to a manufacturer of opium suitable for smoking purposes;

(E) Section 4804(c) relating to a manufacturer of white phosphorus matches;

(F) Section 4101 relating to a producer or importer of gasoline or a manufacturer or producer of lubricating oils subject to tax under chapter 32.

(e) *Personnel bonds.* (1) For bonds of internal revenue personnel to insure faithful performance of duties, see section 7803(c).

(2) For jurisdiction of U.S. district courts, concurrently with the courts of the several States, in an action on the official bond of any internal revenue officer or employee, see section 7402(d).

(3) For bonds of postmasters to whom stamps have been furnished under section 6302(1), see section 6803(a)(1).

(4) For bonds in cases coming within the provisions of section 6902 (2) or (3), relating to stamps furnished a designated depositary of the United States or State agent, see section 6808(b)(1).

Closing Agreements and Compromises

§ 301.7121 Statutory provisions; closing agreements.

SEC. 7121. *Closing agreements.*—(a) *Authorization.* The Secretary or his delegate is authorized to enter into an agreement in writing with any person relating to the liability of such person (or of the person or estate for whom he acts) in respect of any internal revenue tax for any taxable period.

(b) *Finality.* If such agreement is approved by the Secretary or his delegate within such time as may be stated in such agreement, or later agreed to) such agreement shall be final and conclusive, and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact—

(1) The case shall not be reopened as to the matters agreed upon or the agreement modified by any officer, employee, or agent of the United States, and

(2) In any suit, action, or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded.

§ 301.7121–1 Closing agreements.

(a) *In general.* The Commissioner may enter into a written agreement with any person relating to the liability of such person (or of the person or estate for whom he acts) in respect of any internal revenue tax for any taxable period ending prior or subsequent to the date of such agreement. A closing agreement may be entered into in any case in which there appears to be an advantage in having the case permanently and conclusively closed, or if good and sufficient reasons are shown by the taxpayer for desiring a closing agreement and it is determined by the Commissioner that the United States will sustain no disadvantage through consummation of such an agreement.

(b) *Scope of closing agreement.*—(1) *In general.* A closing agreement may be executed even though under the agreement the taxpayer is not liable for any tax for the period to which the agreement relates. There may be a series of closing agreements relating to the tax liability for a single period.

(2) *Taxable periods ended prior to date of closing agreement.* Closing agreements with respect to taxable periods ended prior to the date of the agreement may relate to the total tax liability of the taxpayer or to one or more separate items affecting the tax liability of the taxpayer, as, for example, the amount of gross income, deduction for losses, depreciation, depletion, the year in which an item of income is to be included in gross income, the year in which an item of loss is to be deducted, or the value of property on a specific date. A closing agreement may also be entered into for the purpose of allowing a deficiency dividend deduction under section 547. In addition, a closing agreement constitutes a determination as defined by section 1313.

(3) *Taxable periods ending subsequent to date of closing agreement.* Closing agreements with respect to taxable periods ending subsequent to the date of the agreement may relate to one or more separate items affecting the tax liability of the taxpayer.

(4) *Illustration.* The provisions of this paragraph may be illustrated by the following example:

Example. A owns 500 shares of stock in the XYZ Corporation which he purchased prior to March 1, 1913. A is considering selling 200 shares of such stock but is uncertain as to the basis of the stock for the purpose of computing gain. Either prior or subsequent to the sale, a closing agreement may be entered into determining the market value of such stock as of March 1, 1913, which represents the basis for determining gain if it exceeds the adjusted basis otherwise determined as of such date. Not only may the closing agreement determine the basis for computing gain on the sale of the 200 shares of stock, but such an agreement may also determine the basis (unless or until the law is changed to require the use of some other factor to determine basis) of the remaining 300 shares of stock upon which gain will be computed in a subsequent sale.

(c) *Finality.* A closing agreement which is approved within such time as may be stated in such agreement, or later agreed to, shall be final and conclusive, and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact:

(1) The case shall not be reopened as to the matters agreed upon or the agreement modified by any officer, employee, or agent of the United States, and

(2) In any suit, action, or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded.

However, a closing agreement with respect to a taxable period ending subsequent to the date of the agreement is subject to any change in, or modification of, the law enacted subsequent to the date of the agreement and made applicable to such taxable period, and each closing agreement shall so recite.

(d) *Procedure with respect to closing agreements.*—(1) *Submission of request.* A request for a closing agreement which relates to a prior taxable period may be submitted at any time before a case with respect to the tax liability involved is docketed in the Tax Court of the United States. All closing agreements shall be executed on forms prescribed by the Internal Revenue Service. The procedure with respect to requests for closing agreements shall be under such rules as may be prescribed from time to time by the Commissioner in accordance with the regulations under this section.

(2) *Collection, credit, or refund.* Any tax or deficiency in tax determined pursuant to a closing agreement shall be assessed and collected, and any overpayment determined pursuant thereto shall be credited or refunded, in accordance with the applicable provisions of law.

§ 301.7122 Statutory provisions; compromises.

SEC. 7122. *Compromises.*—(a) *Authorization.* The Secretary or his delegate may compromise any civil or criminal case arising under the internal revenue laws prior to reference to the Department of Justice for prosecution or defense; and the Attorney General or his delegate may compromise any such case after reference to the Department of Justice for prosecution or defense.

(b) *Record.* Whenever a compromise is made by the Secretary or his delegate in any case, there shall be placed on file in the office of the Secretary or his delegate the opinion of the General Counsel for the Department of the Treasury or his delegate, with his reasons therefor, with a statement of:

(1) The amount of tax assessed,

(2) The amount of interest, additional amount, addition to the tax, or assessable penalty, imposed by law on the person against whom the tax is assessed, and

(3) The amount actually paid in accordance with the terms of the compromise.

Notwithstanding the foregoing provisions of this subsection, no such opinion shall be required with respect to the compromise of any civil case in which the unpaid amount of tax assessed (including any interest, additional amount, addition to the tax, or assessable penalty) is less than $500.

§ 301.7122–1 Compromises.

(a) *In general.* Except with respect to certain criminal liabilities arising under the internal revenue laws relating to narcotics, smoking opium, and marihuana, the Commissioner may compromise any civil or criminal liability arising under the internal revenue laws prior to reference of a case involving such liability to the Department of Justice for prosecution or defense. Any such liability may be compromised only upon one or both of the following two grounds:

(1) Doubt as to liability; or

(2) Doubt as to collectibility.

No such liability will be compromised if the liability has been established by a valid judgment or is certain, and there is no doubt as to the ability of the Government to collect the amounts owing with respect to such liability.

(b) *Scope of compromise agreement.* A compromise agreement may relate to a civil or criminal liability for taxes, interest, ad valorem penalties, or specific penalties. However, a criminal liability may be compromised only if it involves a violation of a regulatory provision of the Code, or a related statute, and then only if such violation was not deliberately committed with an intent to defraud.

(c) *Effect of compromise agreement.* A compromise agreement relates to the entire liability of the taxpayer (including taxes, ad valorem penalties, and interest) with respect to which the offer in compromise is submitted and all questions of such liability are conclusively settled thereby. Specific penalties, however, shall be compromised separately and not in connection with taxes, interest, or ad valorem penalties. Neither the taxpayer nor the Government shall, upon acceptance of an offer in compromise, be permitted to reopen the case except by reason of (1) falsification or concealment of assets by the taxpayer, or (2) mutual mistake of a material fact sufficient to cause a contract to be reformed or set aside. However, acceptance of an offer in compromise of a civil liability does not remit a criminal liability, nor does acceptance of an offer in compromise of a criminal liability remit a civil liability.

(d) *Procedure with respect to offers in compromise.*—(1) *Submission of offers.* Offers in compromise shall be submitted on forms prescribed by the Internal Revenue Service which may be obtained from district directors of internal revenue, and should generally be accompanied by a remittance representing the amount of the compromise offer or a deposit if the offer provides for future installment payments. If the final payment on an accepted offer is contingent upon the immediate or simultaneous release of a tax lien in whole or in part, such payment must be in cash, or in the form of a certified, cashier's, or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States or any State, Territory, or possession of the United States, or by a U.S. postal, bank, express, or telegraph money order.

(2) *Stay of collection.* The submission of an offer in compromise shall not automatically operate to stay the collection of any tax liability. However, enforcement of collection may be deferred if the interests of the United States shall not be jeopardized thereby.

(3) *Acceptance.* An offer in compromise shall be considered accepted only when the proponent thereof is so notified in writing. As a condition to accepting an offer in compromise, the taxpayer may be required to enter into any collateral agreement or to post any security which is deemed necessary for the protection of the interests of the United States.

(4) *Withdrawal or rejection.* An offer in compromise may be withdrawn by the proponent at any time prior to its acceptance. In the event an offer is rejected, the proponent shall be promptly notified in writing. Frivolous offers or offers submitted for the purpose of delaying the collection of tax liabilities shall be immediately rejected. If an offer in compromise is withdrawn or rejected, the amount tendered with the offer, including all installments paid, shall be refunded without interest, unless the taxpayer has stated or agreed that the amount tendered may be applied to the liability with respect to which the offer was submitted.

(e) *Record.* Except as otherwise provided in this paragraph, if an offer in compromise is accepted, there shall be placed on file the opinion of the Chief Counsel for the Internal Revenue Service with respect to such compromise, with his reasons therefor, and including a statement of—

(1) The amount of tax assessed,

(2) The amount of interest, additional amount, addition to the tax, or assessable penalty, imposed by law on the person against whom the tax is assessed, and

(3) The amount actually paid in accordance with the terms of the compromise.

However, no such opinion shall be required with respect to the compromise of any civil case in which the unpaid amount of tax assessed (including any interest, additional amount, addition to the tax, or assessable penalty) is less than $500.

(f) *Requirement with respect to statute of limitations.* No offer in compromise shall be accepted unless the taxpayer waives the running of the statutory period of limitations on both or either assessment or collection of the tax liability involved for the period during which the offer is pending, or the period during which any installment remains unpaid, and for one year thereafter.

(g) *Inspection with respect to accepted offers in compromise.* For provisions relating to the inspection of returns and accepted offers in compromise, see section 6103(a) and the regulations thereunder contained in this part.

§ 301.7123 Statutory provisions; cross references.

SEC. 7123. *Cross references.*—(a) *Criminal penalties.* For criminal penalties for concealment of property, false statement, or falsifying and destroying records, in connection with any closing agreement, compromise, or offer of compromise, see section 7206.

(b) *Compromise after judgment.* For compromise after judgment, see R.S. 3469 (31 U.S.C. 194).

Crimes, Other Offenses, and Forfeitures

CRIMES

GENERAL PROVISIONS

§ 301.7201 Statutory provisions; attempt to evade or defeat tax.

SEC. 7201. *Attempt to evade or defeat tax.* Any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution.

§ 301.7202 Statutory provisions; willful failure to collect or pay over tax.

SEC. 7202. *Willful failure to collect or pay over tax.* Any person required under this title to collect, account for, and pay over any tax imposed by this title who willfully fails to collect or truthfully account for and pay over such tax shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution.

§ 301.7203 Statutory provisions; willful failure to file return, supply information, or pay tax.

SEC. 7203. *Willful failure to file return, supply information, or pay tax.* Any person required under this title to pay any estimated tax or tax, or required by this title or by regulations made under authority thereof to make a return (other than a return required under authority of section 6015 or section 6016), keep any records, or supply any information, who willfully fails to pay such estimated tax or tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution.

§ 301.7204 Statutory provisions; fraudulent statement or failure to make statement to employees.

SEC. 7204. *Fraudulent statement or failure to make statement to employees.* In lieu of any other penalty provided by law (except the penalty provided by section 6674) any person required under the provisions of section 6051 to furnish a statement who willfully furnishes a false or fraudulent statement or who willfully fails to furnish a statement in the manner, at the time, and showing the information required under section 6051, or regulations prescribed thereunder, shall, for each such offense, upon conviction thereof, be fined not more than $1,000, or imprisoned not more than 1 year, or both.

§ 301.7205 Statutory provisions; fraudulent withholding exemption certificate or failure to supply information.

SEC. 7205. *Fraudulent withholding exemption certificate or failure to supply information.* Any individual required to supply information to his employer under section 3402(f) who willfully supplies false or fraudulent information, or who willfully fails to supply information thereunder which would require an increase in the tax to be withheld under section 3402, shall, in lieu of any penalty otherwise provided, upon conviction thereof, be fined not more than $500, or imprisoned not more than 1 year, or both.

§ 301.7206 Statutory provisions; fraud and false statements.

SEC. 7206. *Fraud and false statements.* Any person who—

(1) *Declaration under penalties of perjury.* Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter; or

(2) *Aid or assistance.* Willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document; or

(3) *Fraudulent bonds, permits, and entries.* Simulates or falsely or fraudulently executes or signs any bond, permit, entry, or other document required by the provisions of the internal revenue laws, or by any regulation made in pursuance thereof, or procures the same to be falsely or fraudulently executed, or advises, aids in, or connives at such execution thereof; or

(4) *Removal or concealment with intent to defraud.* Removes, deposits, or conceals, or is concerned in removing, depositing, or concealing, any goods or commodities for or in respect whereof any tax is or shall be imposed, or any property upon which levy is authorized by section 6331, with intent to evade or defeat the assessment or collection of any tax imposed by this title; or

(5) *Compromises and closing agreements.* In connection with any compromise under section 7122, or offer of such compromise, or in connection with any closing agreement under section 7121, or offer to enter into any such agreement, willfully—

(A) *Concealment of property.* Conceals from any officer or employee of the United States any property belonging to the estate of a taxpayer or other person liable in respect of the tax, or

(B) *Withholding, falsifying, and destroying records.* Receives, withholds, destroys, mutilates, or falsifies any book, document, or record, or makes any false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax;

shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $5,000, or imprisoned not more than 3 years, or both, together with the costs of prosecution.

§ 301.7207 Statutory provisions; fraudulent returns, statements, or other documents.

SEC. 7207. *Fraudulent returns, statements, or other documents.* Any person who willfully delivers or discloses to the Secretary or his delegate any list, return, account, statement, or other document, known by him to be fraudulent or to be false as to any material matter, shall be fined not more than $1,000, or imprisoned not more than 1 year, or both. Any person required pursuant to section 6047 (b) or (c) to furnish any information to the Secretary or any other person who willfully furnishes to the Secretary or such other person any information known by him to be fraudulent or to be false as to any material matter shall be fined not more than $1,000, or imprisoned not more than 1 year, or both.

[Sec. 7207, as amended by sec. 7(m)(3), Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 831)]

§ 301.7207–1 Fraudulent returns, statement, or other documents.

Any person who willfully delivers or discloses to any officer or employee of the Internal Revenue Service any list, return, account, statement, or other document, known by him to be fraudulent or to be false as to any material matter, shall be fined not more than $1,000, or imprisoned not more than 1 year, or both. Any person required pursuant to section 6047 (b) or (c) to furnish information to any officer or employee of the Internal Revenue Service or any other person who willfully furnishes to such officer or employee of the Internal Revenue Service or such other person any information known by him to be fraudulent or to be false as to any material matter shall be fined not more than $1,000 or imprisoned not more than 1 year, or both.

§ 301.7208 Statutory provisions; offenses relating to stamps.

SEC. 7208. *Offenses relating to stamps.* Any person who—

(1) *Counterfeiting.* With intent to defraud, alters, forges, makes, or counterfeits any stamp, coupon, ticket, book, or other device prescribed under authority of this title for the collection or payment of any tax imposed by this title or sells, lends, or has in his possession any such altered, forged, or counterfeited stamp, coupon, ticket, book, or other device, or makes, uses, sells, or has in his possession any material in imitation of the material used in the manufacture of such stamp, coupon, ticket, book, or other device; or

(2) *Mutilation or removal.* Fraudulently cuts, tears, or removes from any vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title, any adhesive stamp or the impression of any stamp, die, plate, or other article provided, made, or used in pursuance of this title; or

(3) *Use of mutilated, insufficient, or counterfeited stamps.* Fraudulently uses, joins, fixes, or places to, with, or upon any vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title,

(A) Any adhesive stamp, or the impression of any stamp, die, plate, or other article, which has been cut, torn, or removed from any other vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title; or

(B) Any adhesive stamp or the impression of any stamp die, plate, or other article of insufficient value; or

(C) Any forged or counterfeited stamp, or the impression of any forged or counterfeited stamp, die, plate, or other article; or

(4) *Reuse of stamps*—(A) *Preparation for reuse.* Willfully removes, or alters the cancellation or defacing marks of, or otherwise prepares, any adhesive stamp, with intent to use, or cause the same to be used, after it has already been used; or

(B) *Trafficking.* Knowingly or willfully buys, sells, offers for sale, or gives away, any such washed or restored stamp to any person for use, or knowingly uses the same; or

(C) *Possession.* Knowingly and without lawful excuse (the burden of proof of such excuse being on the accused) has in possession any washed, restored, or altered stamp, which has been removed from any vellum, parchment, paper, instrument, writing, package, or article; or

(5) *Emptied stamped packages.* Commits the offense described in section 7271 (relating to disposal and receipt of stamped packages) with intent to defraud the revenue, or to defraud any person;

shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

§ 301.7209 Statutory provisions; unauthorized use or sale of stamps.

SEC. 7209. *Unauthorized use or sale of stamps.* Any person who buys, sells, offers for sale, uses, transfers, takes or gives in exchange, or pledges or gives in pledge, except as authorized in this title or in regulations made pursuant thereto, any stamp, coupon, ticket, book, or other device prescribed by the Secretary or his delegate under this title for the collection or payment of any tax imposed by this title, shall, upon conviction thereof, be fined not more than $1,000, or imprisoned not more than 6 months, or both.

§ 301.7209–1 Unauthorized use or sale of stamps.

(a) Any person who buys, sells, offers for sale, uses, transfers, takes or gives in exchange, or pledges or gives in pledge, except as authorized in the Code or in regulations made pursuant thereto, any stamp, coupon, ticket, book, or other device prescribed by the Commissioner under the Code for the collection or payment of any tax imposed by the Code, shall, upon conviction thereof, be fined not more than $1,000, or imprisoned not more than 6 months, or both.

(b) For use or resale of unused documentary stamps, see paragraph (c) of § 43.6802–1 of this chapter (Documentary Stamp Tax Regulations).

§ 301.7210 Statutory provisions; failure to obey summons.

SEC. 7210. *Failure to obey summons.* Any person who, being duly summoned to appear to testify, or to appear and produce books, accounts, records, memoranda, or other papers, as required under sections 6420 (e)(2), 6421(f)(2), 7602, 7603, and 7604(b), neglects to appear or to produce such books, accounts, records, memoranda, or other papers, shall, upon conviction thereof, be fined not more than $1,000, or imprisoned not more than 1 year, or both, together with costs of prosecution.

[Sec. 7210 as amended by sec. 4(h), Act of Apr. 2, 1956 (Pub. Law 466, 84th Cong., 70 Stat. 91); sec. 208(d)(3), Highway Revenue Act 1956 (70 Stat. 396)]

§ 301.7211 Statutory provisions; false statements to purchasers or lessees relating to tax.

SEC. 7211. *False statements to purchasers or lessees relating to tax.* Whoever in connection with the sale or lease, or offering for sale or lease, of any article, or for the purpose of making such sale or lease, makes any statement, written or oral—

(1) Intended or calculated to lead any person to believe that any part of the price at which such article is sold or leased, or offered for sale or lease, consists of a tax imposed under the authority of the United States, or

(2) Ascribing a particular part of such price to a tax imposed under the authority of the United States,

knowing that such statement is false or that the tax is not so great as the portion of such price ascribed to such tax, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than $1,000, or by imprisonment for not more than 1 year, or both.

§ 301.7212 Statutory provisions; attempts to interfere with administration of internal revenue laws.

SEC. 7212. *Attempts to interfere with administration of internal revenue laws*—(a) *Corrupt or forcible interference.* Whoever corruptly or by force or threats of force (including any threatening letter or communication) endeavors to intimidate or impede any officer or employee of the United States acting in an official capacity under this title, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or endeavors to obstruct or impede, the due administration of this title, shall, upon conviction thereof, be fined not more than $5,000, or imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person convicted thereof shall be fined not more than $3,000, or imprisoned not more than 1 year, or both. The term "threats of force", as used in this subsection, means threats of bodily harm to the officer or employee of the United States or to a member of his family.

(b) *Forcible rescue of seized property.* Any person who forcibly rescues or causes to be rescued any property after it shall have been seized under this title, or shall attempt or endeavor so to do, shall, excepting in cases otherwise peovided for, for every such offense, be fined not more than $500, or not more than double the value of the property so rescued, whichever is the greater, or be imprisoned not more than 2 years.

§ 301.7213 Statutory provisions; unauthorized disclosure of information.

SEC. 7213. *Unauthorized disclosure of information*—(a) *Income returns*—(1) *Federal employees and other persons.* It shall be unlawful for any officer or employee of the United States to divulge or to make known in any manner whatever not provided by law to any person the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any income return, or to permit any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; and it shall be unlawful for any person to print or publish in any manner whatever not provided by law any income return, or any part thereof or source of income, profits, losses, or expenditures appearing in any income return; and any person committing an offense against the foregoing provision shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution; and if the offender be an officer or employee of the United States he shall be dismissed from office or discharged from employment.

(2) *State employees.* Any officer, employee, or agent of any State or political subdivision, who divulges (except as authorized in section 6103(b), or when called upon to testify in any judicial or administrative proceeding to which the State or political subdivision, or such State or local official, body, or commission, as such, is a party), or who makes known to any person in any manner whatever not provided by law, any information acquired by him through an inspection permitted him or another under section 6103(b), or who permits any income return or copy thereof or any book containing any abstract or particulars thereof, or any other information, acquired by him through an inspection permitted him or another under section 6103(b), to be seen or examined by any person except as provided by law, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution.

(3) *Shareholders.* Any shareholder who pursuant to the provisions of section 6103(c) is allowed to examine the return of any corporation, and who makes known in any manner whatever not provided by law the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any such return, shall be guilty of a misdemeanor and, upon conviction thereof shall be fined not more than $1,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution.

(b) *Disclosure of operations of manufacturer or producer.* Any officer or employee of the United States who divulges or makes known in any manner whatever not provided by law to any person the operations, style of work, or apparatus of any manufacturer or producer visited by him in the discharge of his official duties shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution; and the offender shall be dismissed from office or discharged from employment.

(c) *Offenses relating to reproduction of documents.* Any person who uses any film or photoimpression, or reproduction therefrom, or who discloses any information contained in any such film, photoimpression, or reproduction, in violation of any provision of the regulations prescribed pursuant to section 7513(b), shall be fined not more than $1,000, or imprisoned not more than 1 year, or both.

(d) *Disclosures by certain delegates of Secretary.* All provisions of law relating to the disclosure of information, and all provisions of law relating to penalties for unauthorized disclosure of information, which are applicable in respect of any function under this title when performed by an officer or employee of the Treasury Department are likewise applicable in respect of such function when performed by any person who is a "delegate" within the meaning of section 7701(a)(12)(B).

(e) *Cross references*—(1) *Returns of Federal unemployment tax.* For special provisions applicable to returns of tax under chapter 23 (relating to Federal Unemployment Tax), see section 6106.

(2) *Penalties for disclosure of confidential information.* For penalties for disclosure of confidential information by any officer or employee of the United States or any department or agency thereof, see 18 U.S.C. 1905.

[Sec. 7213 as amended by sec. 99(c), Technical Amendments Act 1958 (72 Stat. 1666); sec. 103(s), Social Security Amendments 1960 (74 Stat. 940)]

§ 301.7214 Statutory provisions; offenses by officers and employees of the United States.

SEC. 7214. *Offenses by officers and employees of the United States*—(a) *Unlawful acts of revenue officers or agents.* Any officer or employee of the United States acting in connection with any revenue law of the United States—

(1) Who is guilty of any extortion or willful oppression under color of law; or

(2) Who knowingly demands other or greater sums than are authorized by law, or receives any fee, compensation, or reward, except as by law prescribed, for the performance of any duty; or

(3) Who with intent to defeat the application of any provision of this title fails to

perform any of the duties of his office or employment; or

(4) Who conspires or colludes with any other person to defraud the United States; or

(5) Who knowingly makes opportunity for any person to defraud the United States; or

(6) Who does or omits to do any act with intent to enable any other person to defraud the United States; or

(7) Who makes or signs any fraudulent entry in any book, or makes or signs any fraudulent certificate, return, or statement; or

(8) Who, having knowledge or information of the violation of any revenue law by any person, or of fraud committed by any person against the United States under any revenue law, fails to report, in writing, such knowledge or information to the Secretary or his delegate; or

(9) Who demands, or accepts, or attempts to collect, directly or indirectly as payment or gift, or otherwise, any sum of money or other thing of value for the compromise, adjustment, or settlement of any charge or complaint for any violation or alleged violation of law, except as expressly authorized by law so to do;

shall be dismissed from office or discharged from employment and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 5 years, or both. The court may in its discretion award out of the fine so imposed an amount, not in excess of one-half thereof, for the use of the informer, if any, who shall be ascertained by the judgment of the court. The court also shall render judgment against the said officer or employee for the amount of damages sustained in favor of the party injured, to be collected by execution.

(b) *Interest of internal revenue officer or employee in tobacco or liquor production.* Any internal revenue officer or employee interested, directly or indirectly, in the manufacture of tobacco, snuff, or cigarettes, or in the production, rectification, or redistillation of distilled spirits, shall be dismissed from office; and each such officer or employee so interested in any such manufacture or production, rectification, or redistillation or production of fermented liquors shall be fined not more than $5,000.

(c) *Cross reference.* For penalty on collecting or disbursing officers trading in public funds or debts or property, see 18 U.S.C. 1901.

[Sec. 7214 as amended by sec. 204(5), Excise Tax Technical Changes Act 1958 (72 Stat. 1429)]

§ 301.7214–1 Offenses by officers and employees of the United States.

Any officer or employee of the United States acting in connection with any revenue law of the United States required to make a written report under the provisions of section 7214(a)(8) shall submit such report to the Commissioner, or to a regional commissioner or district director.

§ 301.7215 Statutory provisions; offenses with respect to collected taxes.

SEC. 7215. *Offenses with respect to collected taxes*—(a) *Penalty.* Any person who fails to comply with any provision of section 7512(b) shall, in addition to any other penalties provided by law, be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $5,000, or imprisoned not more than one year, or both, together with the costs of prosecution.

(b) *Exceptions.* This section shall not apply—

(1) To any person, if such person shows that there was reasonable doubt as to (A) whether the law required collection of tax, or (B) who was required by law to collect tax, and

(2) To any person, if such person shows that the failure to comply with the provisions of section 7512(b) was due to circumstances beyond his control.

For purposes of paragraph (2), a lack of funds existing immediately after the payment of wages (whether or not created by the payment of such wages) shall not be considered to be circumstances beyond the control of a person.

[Sec. 7215 as added by sec. 2, Act of Feb. 11, 1958 (Pub. Law 85-321, 72 Stat. 6)]

PENALTIES APPLICABLE TO CERTAIN TAXES

§ 301.7231 Statutory provisions; failure to obtain license for collection of foreign items.

SEC. 7231. *Failure to obtain license for collection of foreign items.* Any person required by section 7001 (relating to collection of certain foreign items) to obtain a license who knowingly undertakes to collect the payments described in section 7001 without having obtained a license therefor, or without complying with regulations prescribed under section 7001, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $5,000, or imprisoned not more than 1 year, or both.

§ 301.7231–1 Failure to obtain license for collection of foreign items.

For provisions relating to the obtaining of a license for the collection of foreign items, see section 7001 and § 301.7001–1.

§ 301.7232 Statutory provisions; failure to register or give bond, or false statement by manufacturer or producer of gasoline or lubricating oil.

SEC. 7232. *Failure to register or give bond, or false statement by manufacturer or producer of gasoline or lubricating oil.* Every person who fails to register or give bond as required by section 4101, or who in connection with any purchase of gasoline or lubricating oil falsely represents himself to be registered and bonded as provided by section 4101, or who willfully makes any false statement in an application for registration under section 4101, shall, upon conviction thereof, be fined not more than $5,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution.

§ 301.7232–1 Failure to register or give bond, or false statement by manufacturer or producer of gasoline or lubricating oil.

For provisions relating to registration and bonding of persons subject to tax on the sale of gasoline or lubricating oil, see section 4101 and § 48.4101–1 of this chapter (Manufacturers and Retailers Excise Tax Regulations).

§ 301.7233 Statutory provisions; failure to pay, or attempt to evade payment of, tax on cotton futures, and other violations.

SEC. 7233. *Failure to pay, or attempt to evade payment of, tax on cotton futures, and other violations.* Any person—

(1) *Nonpayment or evasion of tax.* Liable to the payment of any tax imposed by subchapter D of chapter 39, who fails to pay, or evades, or attempts to evade the payment of such tax; and

(2) *Other violations.* Who otherwise violates any provision of subchapter D of chapter 39, or any rule or regulation made in pursuance thereof;

shall, upon conviction thereof, be fined not less than $100 nor more than $20,000, in the discretion of the court; and, in case of natural persons, may, in addition, be punished by imprisonment for not less than 60 days nor more than 2 years, in the discretion of the court.

§ 301.7234 Statutory provisions; violation of laws relating to oleomargarine or adulterated butter operations.

SEC. 7234. *Violation of laws relating to oleomargarine or adulterated butter operations*—(a) *False branding, selling, or packing, in violation of law.* Every person who knowingly sells or offers for sale, or delivers or offers to deliver, any oleomargarine in any other form than in new wooden, tinplate, or paper packages, as described in section 4594 (a) and (b), or who packs in any package any oleomargarine in any manner contrary to law, or who falsely brands any package or affixes a stamp on any package denoting a less amount of tax than that required by law shall be fined for each offense not more than $1,000, and be imprisoned not more than 2 years.

(b) *Removal or defacement of stamps, marks, or brands.* Any person who shall willfully remove or deface the stamps, marks, or brands on a package containing oleomargarine or adulterated butter, taxed as provided by subchapter F of chapter 38, or subchapter C of chapter 39, respectively, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than $100 nor more than $2,000, and by imprisonment for not less than 30 days nor more than 6 months.

(c) *Failure of wholesale dealers to keep or permit inspection of books, or to render returns.* Any person who willfully violates any of the provisions of section 4597(a) shall for each such offense be fined not less than $50 and not exceeding $500, and imprisoned not less than 30 days nor more than 6 months.

(d) *Imported oleomargarine or adulterated butter*—(1) *Failure of customs officer to comply with law.* Every officer or employee of the Treasury Department having duties under section 4591 who permits any imported oleomargarine or adulterated butter to pass out of his custody or control without compliance by the owner or importer thereof with the provisions of section 4591 relating thereto, shall be fined not less than $1,000 nor more than $5,000, and imprisoned not less than 6 months nor more than 3 years.

(2) *Empty packages*—(A) *Failure to destroy stamps.* Any person who willfully neglects or refuses to destroy utterly the stamps on any empty package which contained oleomargarine or adulterated buttar, or filled cheese shall for each such offense be fined not exceeding $50, and imprisoned not less than 10 days nor more than 6 months; and

(B) *Trafficking.* Any person who fraudulently gives away or accepts from another, or who sells, buys, or uses for packing oleomargarine or adulterated butter, any such stamped package shall for each such offense be fined not exceeding $100, and be imprisoned not more than 1 year.

(3) *Sale when improperly packed or stamped.* Every person who sells or offers for sale any imported oleomargarine or adulterated butter, or oleomargarine or adulterated butter purporting or claimed to have been imported, not put up in packages and stamped as provided by subchapter F of chapter 38 or subchapter C of chapter 39, shall be fined not less than $600 nor more than $5,000, and be imprisoned not less than 6 months nor more than 2 years.

(4) *Fraud by importer.* Whenever any person importing oleomargarine defrauds, or attempts to defraud, the United States of the tax on the oleomargarine imported by him, or any part thereof, he shall be fined not less than $500 nor more than $5,000, and shall be imprisoned not less than 6 months nor more than 3 years.

§ 301.7235 Statutory provisions; violation of laws relating to adulterated butter and process or renovated butter.

SEC. 7235. *Violation of laws relating to adulterated butter and process or renovated butter*—(a) *Adulterated butter—False branding, sale, packing, or stamping in violation of law.* Every person who knowingly sells or offers for sale, or delivers or offers to deliver, any adulterated butter in any other form than in new wooden, tin-plate, or paper packages as described in section 4815 (a), or who packs in any package any adulterated butter in any manner contrary to law, or who falsely brands any package or affixes a stamp on any package denoting a less amount of tax than that required by law, shall be fined for each offense not more than $1,000, and be imprisoned not more than 2 years.

(b) *Failure of wholesale dealers to keep or permit inspection of books, or to render returns.* Any person who willfully violates any of the provisions of section 4815(b) shall for each such offense be fined not less than $50 and not exceeding $500, and imprisoned not less than 30 days nor more than 6 months.

(c) *Failure to comply with provisions relating to the manufacture, storage, and marking of process or renovated butter.* Any person, firm, or corporation violating any of the provisions of section 4817 shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than $1,000, or by imprisonment for not more than 6 months, or by both such fine and imprisonment, in the discretion of the court.

(d) *Dealers in adulterated butter.* Every person who carries on the business of a dealer in adulterated butter without having paid the special tax therefor, as required by law, shall, besides being liable to the payment of the tax, be fined not less than $50 nor more than $500 for each offense.

(e) *Fraud by manufacturer.* Whenever any person manufacturing adulterated butter defrauds, or attempts to defraud, the United States of the tax on the adulterated butter manufactured by him, or any part thereof, he shall be fined not less than $500 nor more than $5,000, and shall be imprisoned not less than 6 months nor more than 3 years.

§ 301.7236 Statutory provisions; violation of laws relating to filled cheese.

SEC. 7236. *Violation of laws relating to filled cheese—False branding, sale, packing, or stamping in violation of law.* Every person who knowingly sells or offers to sell, or delivers or offers to deliver, filled cheese in any other form than in new wooden or paper packages, marked and branded as provided for and described in section 4834(b), or who packs in any package or packages filled cheese in any manner contrary to law, or who falsely brands any package or affixes a stamp on any package denoting a less amount of tax than that required by law, shall upon conviction thereof be fined for each and every offense not less than $50 and not more than $500, or be imprisoned not less than 30 days nor more than 1 year.

§ 301.7237 Statutory provisions; violation of laws relating to narcotic drugs and to marihuana.

SEC. 7237. *Violation of laws relating to narcotic drugs and to marihuana*—(a) *Where no specific penalty is otherwise provided.* Whoever commits an offense, or conspires to commit an offense, described in part I or part II of subchapter A of chapter 39 for which no specific penalty is otherwise provided, shall be imprisoned not less than 2 or more than 10 years and, in addition, may be fined not more than $20,000. For a second offense, the offender shall be imprisoned not less than 5 or more than 20 years and, in addition, may be fined not more than $20,000. For a third or subsequent offense, the offender shall be imprisoned not less than 10 or more than 40 years and, in addition, may be fined not more than $20,000.

(b) *Sale or other transfer without written order.* Whoever commits an offense, or conspires to commit an offense, described in section 4705(a) or section 4742(a) shall be imprisoned not less than 5 or more than 20 years and, in addition, may be fined not more than $20,000. For a second or subsequent offense, the offender shall be imprisoned not less than 10 or more than 40 years and, in addition, may be fined not more than $20,000. If the offender attained the age of 18 before the offense and—

(1) The offense consisted of the sale, barter, exchange, giving away, or transfer of any narcotic drug or marihuana to a person who had not attained the age of 18 at the time of such offense, or

(2) The offense consisted of a conspiracy to commit an offense described in paragraph (1),

the offender shall be imprisoned not less than 10 or more than 40 years and, in addition, may be fined not more than $20,000.

(c) *Conviction of second or subsequent offense*—(1) *Prior offenses counted.* For purposes of subsections (a), (b), and (d) of this section, subsections (c) and (h) of section 2 of the Narcotic Drugs Import and Export Act, as amended (21 U.S.C., sec. 174), and the Act of July 11, 1941, as amended (21 U.S.C., sec. 184a), an offender shall be considered a second or subsequent offender, as the case may be, if he previously has been convicted of any offense the penalty for which was provided in subsection (a) or (b) of this section or in—

(A) Subsection (c), (h), or (i) of section 2 of the Narcotic Drugs Import and Export Act (21 U.S.C., sec. 174);

(B) The Act of July 11, 1941 (21 U.S.C. sec. 184a);

(C) Section 9 of the Act of December 17, 1914 (38 Stat. 789);

(D) Section 1 of the Act of May 26, 1922 (42 Stat. 596);

(E) Section 12 of the Marihuana Tax Act of 1937 (50 Stat. 556); or

(F) Section 2557(b)(1) or 2596 of the Internal Revenue Code of 1939.

For purposes of determining prior offenses under the preceding sentence, a reference to any subsection, section, or Act providing a penalty for an offense shall be considered as a reference to such subsection, section, or Act as in effect (as originally enacted or as amended, as the case may be) with respect to the offense for which the offender previously has been convicted.

(2) *Procedure.* After conviction (but before pronouncement of sentence) of any offense the penalty for which is provided in subsection (a) or (b) of this section, subsection (c) or (h) of section 2 of the Narcotic Drugs Import and Export Act, as amended, or such Act of July 11, 1941, as amended, the court shall be advised by the U.S. attorney whether the conviction is the offender's first or a subsequent offense. If it is not a first offense, the U.S. attorney shall file an information setting forth the prior convictions. The offender shall have the opportunity in open court to affirm or deny that he is identical with the person previously convicted. If he denies the identity, sentence shall be postponed for such time as to permit a trial before a jury on the sole issue of the offender's identity with the person previously convicted. If the offender is found by the jury to be the person previously convicted, or if he acknowledges that he is such person, he shall be sentenced as prescribed in subsection (a) or (b) of this section, subsection (c) or (h) of such section 2, or such Act of July 11, 1941, as amended, as the case may be.

(d) *No suspension of sentence; no probation; etc.*—Upon conviction—

(1) Of any offense the penalty for which is provided in subsection (b) of this section, subsection (c), (h), or (i) of section 2 of the Narcotic Drugs Import and Export Act, as amended, or such Act of July 11, 1941, as amended, or

(2) Of any offense the penalty for which is provided in subsection (a) of this section, if it is the offender's second or subsequent offense,

the imposition or execution of sentence shall not be suspended, probation shall not be granted, section 4202 of title 18 of the United States Code shall not apply, and the Act of July 15, 1932 (47 Stat. 696; D.C. Code 24–301 and following), as amended, shall not apply.

(e) *Unlawful disclosure of information on returns and order forms.* Any person who shall disclose the information contained in the statements or returns required under section 4732(b) or 4754(a), in the duplicate order forms required under section 4705(c), or in the order forms or copies thereof referred to in section 4742(d), except—

(1) As expressly provided in section 4773,

(2) For the purpose of enforcing any law of the United States relating to narcotic drugs or marihuana, or

(3) For the purpose of enforcing any law of any State or Territory or the District of Columbia, or any insular possession of the United States, or ordinance of any organized municipality therein, regulating the sale, prescribing, dispensing, dealing in, or distribution of narcotic drugs or marihuana,

shall be fined not more than $2,000 or imprisoned not more than 5 years or both.

[Sec. 7237 as amended by Act of Jan. 30, 1955 (Pub. Law 1, 84th Cong., 69 Stat. 3); sec. 103, Narcotic Control Act 1956 (70 Stat. 568)]

§ 301.7238 Statutory provisions; violation of laws relating to opium for smoking.

SEC. 7238. *Violation of laws relating to opium for smoking.* A penalty of not less than $10,000 or imprisonment for not less than 5 years, or both, in the discretion of the court, shall be imposed for each and every violation of subpart B of part I of subchapter A of chapter 39 (relating to opium for smoking) by any person or persons.

§ 301.7239 Statutory provisions; violations of laws relating to white phosphorus matches.

SEC. 7239. *Violations of laws relating to white phosphorus matches*—(a) *Selling unstamped matches.* Any manufacturer of matches who manufactures, sells, removes, distributes, or offers to sell or distribute, white phosphorus matches without there being affixed thereto an adhesive stamp, denoting the tax required by subchapter B of chapter 39 effectually canceled as provided by section 4804(a)(2), shall, for each offense, be guilty of a felony and, upon con-

victim thereof, shall be fined not more than $1,000, or imprisoned not more than 2 years, or both.

(b) *Use of insufficient stamps.* Every person who affixes a stamp on any package of white phosphorus matches denoting a less amount of tax than that required by law shall, for each offense, be guilty of a felony and, upon conviction thereof, shall be fined not more than $1,000, or imprisoned not more than 2 years, or both.

§ 301.7240 Statutory provisions; officials investing or speculating in sugar.

SEC. 7240. *Officials investing or speculating in sugar.* Any person, while acting in any official capacity in the administration of subchapter A of chapter 27, relating to manufactured sugar, who invests or speculates in sugar or liquid sugar, contracts relating thereto, or the stock or membership interests of any association or corporation engaged in the production or manufacture of sugar or liquid sugar, shall be dismissed from office or discharged from employment and shall be guilty of a felony and, upon conviction thereof, be fined not more than $10,000, or imprisoned not more than 2 years, or both.

OTHER OFFENSES

§ 301.7261 Statutory provisions; representation that retailers' excise tax is excluded from price of article.

SEC. 7261. *Representation that retailers' excise tax is excluded from price of article.* Whoever, in connection with the sale or lease, or offer for sale or lease, of any article taxable under chapter 31, makes any statement, written or oral, in advertisement or otherwise, intended or calculated to lead any person to believe that the price of the article does not include the tax imposed by chapter 31, shall on conviction thereof be fined not more than $1,000.

§ 301.7262 Statutory provisions; violation of occupational tax laws relating to wagering—failure to pay special tax.

SEC. 7262. *Violation of occupational tax laws relating to wagering—failure to pay special tax.* Any person who does any act which makes him liable for special tax under subchapter B of chapter 35 without having paid such tax, shall, besides being liable to the payment of the tax, be fined not less than $1,000 and not more than $5,000.

§ 301.7263 Statutory provisions; penalties relating to cotton futures.

SEC. 7263. *Penalties relating to cotton futures.*—(a) *Withholding information.* Any person engaged in the business of dealing in cotton who shall, within a reasonable time prescribed by the Secretary of Agriculture or any agent acting under his instructions, willfully fail or refuse to answer questions or to produce books, letters, papers, or documents, as required under section 4862(b), or who shall willfully give any answer that is false or misleading, shall, upon conviction thereof, be fined not more than $500.

(b) *Civil penalties.* In addition to the criminal penalties provided by section 7233, there shall be imposed, on account of each violation of subchapter D of chapter 39, relating to cotton futures, a penalty of $2,000, to be recovered in a civil action founded on subchapter D of chapter 39 in the name of the United States as plaintiff, and when so recovered one-half of said amount shall be paid over to the person giving the information upon which such recovery was based. It shall be the duty of United States attorneys, to whom satisfactory evidence of violations of subchapter D of chapter 39 is furnished, to institute and prosecute actions for the recovery of the penalties prescribed by this subsection.

§ 301.7264 Statutory provisions; offenses relating to renovated or adulterated butter.

SEC. 7264. *Offenses relating to renovated or adulterated butter.* Every person who carries on the business of a manufacturer of process or renovated butter or adulterated butter without having paid the special tax therefor, as required by law, shall, besides being liable to the payment of the tax, be fined not less than $1,000 nor more than $5,000.

§ 301.7265 Statutory provisions; other offenses relating to oleomargarine or adulterated butter operations.

SEC. 7265. *Other offenses relating to oleomargarine or adulterated butter operations.*—(a) *Omission or removal of label.* (1) Every manufacturer of oleomargarine who neglects to affix the label described in section 4594(c) to any package containing oleomargarine made by him, or sold or offered for sale by or for him, and every person who removes any such label so affixed from any such package, shall be fined $50 for each package in respect to which such offense is committed.

(2) Every manufacturer of adulterated butter who neglects to affix the label required under section 4814(a)(1) to any package containing adulterated butter made by him, or sold or offered for sale for or by him, and every person who removes any such label so affixed from any such package shall be fined $50 for each package in respect to which such offense is committed.

(b) *Purchasing when not properly branded or stamped.* Every person who knowingly purchases or receives for sale any oleomargarine or adulterated butter which has not been branded or stamped according to law shall be liable to a penalty of $50 for each such offense.

(c) *Other offenses.* If any manufacturer of oleomargarine or adulterated butter, any dealer therein, or any importer or exporter thereof shall knowingly or willfully omit, neglect, or refuse to do, or cause to be done, any of the things required by law in the carrying on or conducting of his business, or shall do anything prohibited by subchapter F of chapter 36 or subchapter C of chapter 39, if there be no specific penalty or punishment imposed by any other provision of this chapter or chapter 68 for the neglecting, omitting, or refusing to do, or for the doing or causing to be done, the things required or prohibited, he shall pay a penalty of $1,000.

§ 301.7266 Statutory provisions; offenses relating to filled cheese.

SEC. 7266. *Offenses relating to filled cheese.*—(a) *Failure to pay special tax.* Every person, firm, or corporation—

(1) *Manufacturers.* Who carries on the business of a manufacturer of filled cheese without having paid the special tax therefor, as required by law, shall, besides being liable to the payment of the tax, be fined not less than $400 nor more than $2,000; and

(2) *Wholesale dealers.* Who carries on the business of a wholesale dealer in filled cheese without having paid the special tax therefor, as required by law, shall, besides being liable to the payment of the tax, be fined not less than $250 nor more than $1000; and

(3) *Retail dealers.* Who carries on the business of a retail dealer in filled cheese without having paid the special tax therefor, as required by law, shall, besides being liable for the payment of the tax, be fined not less than $40 nor more than $800 for each and every offense.

(b) *Other offenses.* Any manufacturer of filled cheese who fails to comply with the provisions of section 4965 (b) and (c), or with the regulations therein authorized, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than $500 nor more than $1,000.

(c) *Failure of wholesale and retail dealers to display signs.* Any wholesale or retail dealer in filled cheese who fails or neglects to comply with the provisions of section 4834 (a) shall be deemed guilty of a misdemeanor, and shall on conviction thereof be fined for each and every offense not less than $50 and not more than $200.

(d) *Omission or removal of label.* Every manufacturer of filled cheese who neglects to affix the label provided for in section 4833 (a)(2) to any package containing filled cheese made by him or sold or offered for sale by or for him, and every person who removes any such label so affixed from any such package, shall be fined $50 for each package in respect to which such offense is committed.

(e) *Purchasing when special tax not paid.* Every person who knowingly purchases or receives for sale any filled cheese from any manufacturer or importer who has not paid the special tax provided for in section 4841 shall be liable, for each offense, to a penalty of $100.

(f) *Purchasing when not stamped, branded, or marked according to law.* Any person who knowingly purchases or receives for sale any filled cheese which has not been branded or stamped according to law, or which is contained in packages not branded or marked according to law, shall be liable to a penalty of $50 for each such offense.

§ 301.7267 Statutory provisions; offenses relating to white phosphorus matches.

SEC. 7267. *Offenses relating to white phosphorus matches.*—(a) *Exportation of matches.* Any person guilty of violation of section 4805(b) shall be fined not less than $1,000 and not more than $5,000.

(b) *Offenses not specifically covered.* If any manufacturer of white phosphorus matches, or any importer or exporter of matches, shall omit, neglect, or refuse to do or cause to be done any of the things required by law in carrying on or conducting his business, or shall do anything prohibited by subchapter B of chapter 38, if there be no specific penalty or punishment imposed by any other provision of this chapter or chapter 68 for the neglecting, omitting, or refusing to do, or for the doing or causing to be done, the thing required or prohibited, he shall be fined $1,000 for each offense.

(c) *Omission of label from packages.* Every manufacturer of white phosphorus matches who neglects to affix the label required by section 4804(a)(4) to any original package containing stamped packages of white phosphorus matches made by him or sold or removed by or for him, and every person who removes any such label so affixed from any such original package, shall be fined not more than $50 for each package in respect of which such offense is committed.

(d) *Omission of factory number from packages.* Every manufacturer of white phosphorus matches who omits to mark, brand, affix, stamp, or print the factory number required under section 4804(b) on every package of white phosphorus matches manufactured, sold, or removed by him shall be fined not more than $50 for each package in respect of which such offense is committed.

§ 301.7268 Statutory provisions; possession with intent to sell in fraud of law or to evade tax.

SEC. 7268. *Possession with intent to sell in fraud of law or to evade tax.* Every person who shall have in his custody or possession any goods, wares, merchandise, articles, or objects on which taxes are imposed by law, for the purpose of selling the same in fraud of the internal revenue laws, or with design to avoid payment of the taxes imposed thereon, shall be liable to a penalty of $500 or not less than double the amount of taxes fraudulently attempted to be evaded.

§ 301.7269 Statutory provisions; failure to produce records.

SEC. 7269. *Failure to produce records.* Whoever fails to comply with any duty imposed upon him by section 6018, 6036 (in the case of an executor), or 6075(a), or, having in his possession or control any record, file, or paper, containing or supposed to contain any information concerning the estate of the decedent, or, having in his possession or control any property comprised in the gross estate of the decedent, fails to exhibit the same upon request to the Secretary or his delegate who desires to examine the same in the performance of his duties under chapter 11 (relating to estate taxes), shall be liable to a penalty of not exceeding $500, to be recovered, with costs of suit, in a civil action in the name of the United States.

§ 301.7269–1 Failure to produce records.

Whoever fails to comply with any duty imposed upon him by section 6018, 6036 (in the case of an executor), or 6075(a), or, having in his possession or control any record, file, or paper, containing or supposed to contain any information concerning the estate of the decedent, or, having in his possession or control any property comprised in the gross estate of the decedent, fails to exhibit the same upon request of any officer or employee of the Internal Revenue Service who desires to examine the same in the performance of his duties under chapter 11 of the Code (relating to estate taxes) shall be liable to a penalty of not exceeding $500, to be recovered with costs of suit, in a civil action in the name of the United States.

§ 301.7270 Statutory provisions; insurance policies.

SEC. 7270. *Insurance policies.* Any person who fails to comply with the requirements of section 4374 (relating to the affixing of stamps on insurance policies, etc.), with intent to evade the tax shall, in addition to other penalties provided therefor, pay a fine of double the amount of the tax.

§ 301.7271 Statutory provisions; penalties for offenses relating to stamps.

SEC. 7271. *Penalties for offenses relating to stamps.* Any person who with respect to any tax payable by stamps—

(1) *Failure to attach or cancel stamps, etc.* Fails to comply with rules or regulations prescribed pursuant to section 6804 (relating to attachment, cancellation, etc., of stamps), unless such failure is shown to be due to reasonable cause and not willful neglect; or

(2) *Manufacture or offer for sale.* Manufactures or imports and sells, or offers for sale, or causes to be manufactured or imported and sold, or offered for sale, any playing cards, package, or other article without the full amount of tax being duly paid; or

(3) *Instruments.* Makes, signs, issues; or accepts, or causes to be made, signed, issued, or accepted, any instrument, document, or paper of any kind or description whatsoever without the full amount of tax thereon being duly paid; or

(4) *Disposal and receipt of stamped packages.* In the case of any container which is stamped, branded, or marked (whether or not under authority of law) in such manner as to show that the provisions of the internal revenue laws with respect to the contents or intended contents thereof have been complied with, and which is empty or contains any contents other than contents therein when the container was lawfully stamped, branded, or marked—

(A) Transfers or receives (whether by sale, gift, or otherwise) such container knowing it to be empty or to contain such other contents; or

(B) Stamps, brands, or marks such container, or otherwise produces such a stamped, branded, or marked container, knowing it to be empty or to contain such other contents;

shall be liable for each such offense to a penalty of $50.

§ 301.7272 Statutory provisions; penalty for failure to register.

SEC. 7272. *Penalty for failure to register.*—(a) *In general.* Any person (other than persons required to register under subtitle E, or persons engaging in a trade or business on which a special tax is imposed by such subtitle) who fails to register with the Secretary or his delegate as required by this title or by regulations issued thereunder shall be liable to a penalty of $50.

(b) *Cross references.* For provisions relating to persons required by this title to register, see sections 4101, 4413, 4455, 4722, 4753, 4804(d), and 7011.

[Sec. 7272 as amended by sec. 4(b)(5), Tax Rate Extension Act of 1958 (72 Stat. 360); sec. 204 (5), (7), Excise Tax Technical Changes Act 1958 (72 Stat. 1429)]

§ 301.7272–1 Penalty for failure to register.

(a) Any person who fails to register with the district director as required by the Code or by regulations issued thereunder shall be liable to a penalty of $50 except that on and after September 3, 1958, this section shall not apply to persons required to register under subtitle E of the Code, or persons engaging in a trade or business on which a special tax is imposed by such subtitle.

(b) For provisions relating to registration under sections 4101, 4412, 4455, 4722, 4753, and 4804(d), see the regulations relating to the particular tax. For regulations under section 7011, see § 301.7011–1.

§ 301.7273 Statutory provisions; penalties for offenses relating to special taxes.

SEC. 7273. *Penalties for offenses relating to special taxes.*—(a) *General rule.* Any person who shall fail to place and keep stamps denoting the payment of the special tax as provided in section 6806 (a) or (b) (whichever is applicable) shall be liable to a penalty equal to the special tax for which his business rendered him liable (unless such failure is shown to be due to reasonable cause); but in no case shall said penalty be less than $10. Where the failure to comply with the provisions of section 6806 (a) or (b) shall be through willful neglect or refusal, then the penalty shall be double the amount above prescribed. Nothing in this subsection shall in any way affect the liability of any person for exercising or carrying on any trade, business, or profession, or doing any act for the exercising, carrying on, or doing of which a special tax is imposed by law, without the payment thereof.

(b) *Failure to post or exhibit special wagering tax stamp.* Any person who, through negligence, fails to comply with section 6806(c) relating to the posting or exhibiting of the special wagering tax stamp, shall be liable to a penalty of $50. Any person who, through willful neglect or refusal, fails to comply with section 6806(c) shall be liable to a penalty of $100.

§ 301.7274 Statutory provisions; penalty for offenses relating to white phosphorus matches.

SEC. 7274. *Penalty for offenses relating to white phosphorus matches.* Any manufacturer of white phosphorus matches who omits to mark, brand, affix, stamp, or print the factory number required under section 4804(b) on every package of white phosphorus matches manufactured, sold, or removed by him shall be liable to a penalty of $50 for each package in respect of which such offense is committed.

§ 301.7275 Statutory provisions; failure to print correct price on tickets.

SEC. 7275. *Failure to print correct price on tickets.* For penalty applicable to certain offenses relating to admissions taxes, see section 4234(b).

FORFEITURES

PROPERTY SUBJECT TO FORFEITURE

§ 301.7301 Statutory provisions; property subject to tax.

SEC. 7301. *Property subject to tax.*—(a) *Taxable articles.* Any property on which, or for or in respect whereof, any tax is imposed by this title which shall be found in the possession or custody or within the control of any person, for the purpose of being sold or removed by him in fraud of the internal revenue laws, or with design to avoid payment of such tax, or which is removed, deposited, or concealed, with intent to defraud the United States of such tax or any part thereof, may be seized, and shall be forfeited to the United States.

(b) *Raw materials.* All property found in the possession of any person intending to manufacture the same into property of a kind subject to tax for the purpose of selling such taxable property in fraud of the internal revenue laws, or with design to evade the payment of such tax, may also be seized, and shall be forfeited to the United States.

(c) *Equipment.* All property whatsoever, in the place or building, or any yard or enclosure, where the property described in subsection (a) or (b) is found, or which is intended to be used in the making of property described in subsection (a), with intent to defraud the United States of tax or any part thereof, on the property described in subsection (a) may also be seized, and shall be forfeited to the United States.

(d) *Packages.* All property used as a container for, or which shall have contained, property described in subsection (a) or (b) may also be seized, and shall be forfeited to the United States.

(e) *Conveyances.* Any property (including aircraft, vehicles, vessels, or draft animals) used to transport or for the deposit or concealment of property described in subsection (a) or (b), or any property used to transport or for the deposit or concealment of property which is intended to be used in the making or packaging of property described in subsection (a), may also be seized, and shall be forfeited to the United States.

[Sec. 7301 as amended by sec. 204(5), Excise Tax Technical Changes Act 1958 (72 Stat. 1429)]

§ 301.7302 Statutory provisions; property used in violation of internal revenue laws.

SEC. 7302. *Property used in violation of internal revenue laws.* It shall be unlawful to have or possess any property intended for use in violating the provisions of the internal revenue laws, or regulations prescribed under such laws, or which has been so used, and no property rights shall exist in any such property. A search warrant may issue as provided in chapter 205 of title 18 of the United States Code and the Federal Rules of Criminal Procedure for the seizure of such property. Nothing in this section shall in any manner limit or affect any criminal or forfeiture provision of the internal revenue laws, or of any other law. The seizure and forfeiture of any property under the provisions of this section and the disposition of such property subsequent to seizure and forfeiture, or the disposition of the proceeds from the sale of such property, shall be in accordance with existing laws or those hereafter in existence relating to seizures, forfeitures, and disposition of property or proceeds, for violation of the internal revenue laws.

§ 301.7303 Statutory provisions; other property subject to forfeiture.

SEC. 7303. *Other property subject to forfeiture.* There may be seized and forfeited to the United States the following:

(1) *Counterfeit stamps.* Every stamp involved in the offense described in section 7209 (relating to counterfeit, reused, counterfeited, etc., stamps), and the vellum, parchment, document, paper, package, or article upon which such stamp was placed or impressed in connection with such offense.

(2) [Repealed]

(3) *Offenses by manufacturer or importer of or wholesale dealer in oleomargarine or adulterated butter.* All oleomargarine or adulterated butter owned by any manufacturer or importer of or wholesale dealer in oleomargarine or adulterated butter, or in which he has any interest as owner, if he shall knowingly or willfully omit, neglect, or refuse to do, or cause to be done, any of the things required by law in the carrying on or conducting of his business, or if he shall do anything prohibited by subchapter F of chapter 36, or subchapter C of chapter 39.

(4) *Purchase or receipt of filled cheese or adulterated butter.* All articles of filled cheese or adulterated butter (or the full value thereof) knowingly purchased or received by any person from any manufacturer or importer who has not paid the special tax provided in section 4831 or 4861.

(5) *Packages of oleomargarine or filled cheese.* All packages of oleomargarine or filled cheese subject to the tax under subchapter F of chapter 36, or part II of subchapter C of chapter 39, whichever is applicable, that shall be found without the stamps or marks provided for in the applicable subchapter or part thereof.

(6) *White phosphorus matches.* (A) All packages of white phosphorus matches subject to tax under subchapter B of chapter 39 and found without the stamps required by subchapter B of chapter 39.

(B) All the white phosphorus matches owned by any manufacturer of white phosphorus matches, or any importer or exporter of matches, or in which he has any interest as owner if he shall omit, neglect, or refuse to do or cause to be done any of the things required by law in carrying on or conducting his business, or shall do anything prohibited by subchapter B of chapter 39, if there be no specific penalty or punishment imposed by any other provision of subchapter B of chapter 39 for the neglecting, omitting, or refusing to do, or for the doing or causing to be done, the thing required or prohibited.

(7) *False stamping of packages.* Any container involved in the offense described in section 7271 (relating to disposal of stamped packages), and of the contents of such container.

(8) *Fraudulent bonds, permits, and entries.* All property to which any false or fraudulent instrument involved in the offense described in section 7207 relates.

[Sec. 7303 as amended by sec. 1(c), Act of Sept. 2, 1958 (Pub. Law 85-881, 72 Stat. 1703).]

§ 301.7304 Statutory provisions; penalty for fraudulently claiming drawback.

SEC. 7304. *Penalty for fraudulently claiming drawback.* Whenever any person fraudulently claims or seeks to obtain an allowance of drawback on goods, wares, or merchandise on which no internal tax shall have been paid, or fraudulently claims any greater allowance of drawback than the tax actually paid, he shall forfeit triple the amount wrongfully or fraudulently claimed or sought to be obtained, or the sum of $500, at the election of the Secretary or his delegate.

§ 301.7304–1 Penalty for fraudulently claiming drawback.

Whenever any person fraudulently claims or seeks to obtain an allowance of drawback on goods, wares, or merchandise on which no internal tax shall have been paid, or fraudulently claims any greater allowance of drawback than the tax actually paid, he shall forfeit triple the amount wrongfully or fraudulently claimed or sought to be obtained, or the sum of $500, at the election of the district director.

PROVISIONS COMMON TO FORFEITURES

§ 301.7321 Statutory provisions; authority to seize property subject to forfeiture.

SEC. 7321. *Authority to seize property subject to forfeiture.* Any property subject to forfeiture to the United States under any provision of this title may be seized by the Secretary or his delegate.

§ 301.7321–1 Seizure of property.

Any property subject to forfeiture to the United States under any provision of the Code may be seized by the district director or assistant regional commissioner (alcohol and tobacco tax). Upon seizure of property by the district director he shall notify the assistant regional commissioner (alcohol and tobacco tax) for the region wherein the district is located who will take charge of the property and arrange for its disposal or retention under the provisions of law and regulations applicable thereto.

§ 301.7322 Statutory provisions; delivery of seized personal property to U.S. marshal.

SEC. 7322. *Delivery of seized personal property to U.S. marshal.* Any forfeitable property which may be seized under the provisions of this title may, at the option of the Secretary or his delegate, be delivered to the U.S. marshal of the district, and remain in the care and custody and under the control of such marshal, pending disposal thereof as provided by law.

§ 301.7322–1 Delivery of seized property to U.S. marshal.

Any forfeitable property which may be seized under the provisions of the Code may, at the option of the assistant regional commissioner (alcohol and tobacco tax), be delivered to the U.S. marshal of the judicial district wherein the property was seized, and remain in the care and custody and under the control of such marshal, pending the disposal thereof as provided by law.

§ 301.7323 Statutory provisions; judicial action to enforce forfeiture.

SEC. 7323. *Judicial action to enforce forfeiture.*—(a) *Nature and venue.* The proceedings to enforce such forfeitures shall be in the nature of a proceeding in rem in the U.S. District Court for the district where such seizure is made.

(b) *Service of process when property has been returned under bond.* In case bond as provided in section 7324(3) shall have been executed and the property returned before seizure thereof by virtue of process in the proceedings in rem authorized in subsection (a) of this section, the marshal shall give notice of pendency of proceedings in court to the parties executing said bond, by personal service or publication, and in such manner and form as the court may direct, and the court shall thereupon have jurisdiction of said matter and parties in the same manner as if such property had been seized by virtue of the process aforesaid.

(c) *Cost of seizure taxable.* The cost of seizure made before process issues shall be taxable by the court.

§ 301.7324 Statutory provisions; special disposition of perishable goods.

SEC. 7324. *Special disposition of perishable goods.* When any property which is seized under the provisions of section 7301 or section 7302 is liable to perish or become greatly reduced in price or value by keeping, or when it cannot be kept without great expense—

(1) *Application for examination.* The owner thereof, or the U.S. marshal of the district, may apply to the Secretary or his delegate to examine it; and

(2) *Appraisal.* If, in the opinion of the Secretary or his delegate, it shall be necessary that such property should be sold to prevent such waste or expense, the Secretary or his delegate shall appraise the same; and thereupon

(3) *Return to owner under bond.* The owner shall have such property returned to him upon giving bond in an amount equal to such appraised value to abide the final order, decree, or judgment of the court having cognizance of the case, and to pay the amount of said appraised value to the Secretary or his delegate, the U.S. marshal, or otherwise, as may be ordered and directed by the court, which bond shall be filed by the Secretary or his delegate with the U.S. attorney for the district in which the proceedings in rem authorized in section 7323 may be commenced.

(4) *Sale in absence of bond*—(A) *Order to sell.* If such owner shall neglect or refuse to give such bond, the Secretary or his delegate shall issue to any Treasury officer or employee or to the U.S. marshal an order to sell the same.

(B) *Manner of sale.* Such Treasury officer or employee or the marshal shall as soon as practicable make public sale of such property in accordance with such regulations as may be prescribed by the Secretary or his delegate.

(C) *Disposition of proceeds.* The proceeds of the sale, after deducting the reasonable costs of the seizure and sale, shall be paid to the court to abide its final order, decree, or judgment.

(5) *Form of bond and sureties.* For provisions relating to form and sureties on bonds, see section 7101.

[Sec. 7324 as amended by sec. 204(9), Excise Tax Technical Changes Act 1958 (72 Stat. 1429); sec. 78, Technical Amendments Act 1958 (72 Stat. 1662).]

§ 301.7324–1 Special disposition of perishable goods.

For regulations relating to the disposal of perishable goods, see § 172.30 of this chapter (Disposition of Seized Personal Property).

§ 301.7325 Statutory provisions; personal property valued at $2,500 or less.

SEC. 7325. *Personal property valued at $2,500 or less.* In all cases of seizure of any goods, wares, or merchandise as being subject to forfeiture under any provision of this title which, in the opinion of the Secretary or his delegate, are of the appraised value of $2,500 or less, the Secretary or his delegate shall, except in cases otherwise provided, proceed as follows:

(1) *List and appraisement.* The Secretary or his delegate shall cause a list containing a particular description of the goods, wares, or merchandise seized to be prepared in duplicate, and an appraisement thereof to be made by three sworn appraisers, to be selected by the Secretary or his delegate who shall be respectable and disinterested citizens of the United States residing within the internal revenue district wherein the seizure was made. Such list and appraisement shall be properly attested by the Secretary or his delegate and such appraisers. Each appraiser shall be allowed for his services such compensation as the Secretary or his delegate shall by regulations prescribe, to be paid in the manner similar to that provided for other necessary charges incurred in collecting internal revenue.

(2) *Notice of seizure.* If such goods are found by such appraisers to be of the value of $2,500 or less, the Secretary or his delegate shall publish a notice for 3 weeks, in some newspaper of the district where the seizure was made, describing the articles and stating the time, place, and cause of their seizure, and requiring any person claiming them to appear and make such claim within 30 days from the date of the first publication of such notice.

(3) *Execution of bond by claimant.* Any person claiming the goods, wares, or merchandise so seized, within the time specified in the notice, may file with the Secretary or his delegate a claim, stating his interest in the articles seized, and may execute a bond to the United States in the penal sum of $250, conditioned that, in case of condemnation of the articles so seized, the obligors shall pay all the costs and expenses of the proceedings to obtain such condemnation; and upon the delivery of such bond to the Secretary or his delegate, he shall transmit the same, with the duplicate list or description of the goods seized, to the United States attorney for the district, and such attorney shall proceed thereon in the ordinary manner prescribed by law.

(4) *Sale in absence of bond.* If no claim is interposed and no bond is given within the time above specified, the Secretary or his delegate shall give reasonable notice of the sale of the goods, wares, or merchandise by publication, and, at the time and place specified in the notice, shall, unless otherwise provided by law, sell the articles so seized at public auction, or upon competitive bids, in accordance with such regulations as may be prescribed by the Secretary or his delegate.

[Sec. 7325 as amended by sec. 204 (10), (12), Excise Tax Technical Changes Act 1958 (72 Stat. 1429); sec. 78, Technical Amendments Act 1958 (72 Stat. 1662).]

§ 301.7325–1 Personal property valued at $2,500 or less.

For regulations relating to the forfeiture of personal property valued at $2,500 or less, see Part 172 of this chapter (Disposition of Seized Personal Property).

§ 301.7326 Statutory provisions; disposal of forfeited or abandoned property in special cases.

SEC. 7326. *Disposal of forfeited or abandoned property in special cases.*—(a) *Coin-operated gaming devices.* Any coin-operated gaming device as defined in section 4462(a)(2) upon which a tax is imposed by section 4461 and which has been forfeited under any provision of this title shall be destroyed, or otherwise disposed of, in such manner as may be prescribed by the Secretary or his delegate.

(b) *Narcotic drugs.* For provisions relating to disposal of forfeited narcotic drugs, see sections 4716, 4733, and 4745(d).

(c) *Firearms.* For provisions relating to disposal of forfeited firearms, see section 5682(b).

[Sec. 7326 as amended by sec. 204(13), Excise Tax Technical Changes Act 1958 (72 Stat. 1429).]

§ 301.7326–1 Disposal of forfeited or abandoned property in special cases.

(a) *Coin-operated gaming devices.* For regulations relating to the disposal of coin-operated gaming devices, see § 172.65 of this chapter (Disposition of Seized Personal Property).

(b) *Narcotics.* For regulations relating to the disposal of forfeited narcotic drugs, see 21 CFR 302.56. For the disposal of forfeited marihuana, see 26 CFR (1939) 152.99 and 152.100 (Regulations under the Marihuana Tax Act of 1937, as amended).

(c) *Firearms.* For regulations relating to the disposal of forfeited firearms, see § 177.102 of this chapter (Interstate Traffic in Firearms and Ammunition), and § 179.101 of this chapter (Machine Guns and Certain Other Firearms).

§ 301.7327 Statutory provisions; customs laws applicable.

SEC. 7327. *Customs laws applicable.* The provisions of law applicable to the remission or mitigation by the Secretary or his delegate of forfeitures under the customs laws shall apply to forfeitures incurred or alleged to have been incurred under the internal revenue laws.

§ 301.7327–1 Customs laws applicable.

For regulations relating to the remission or mitigation of forfeitures, see Part 172 of this chapter (Disposition of Seized Personal Property).

§ 301.7328 Statutory provisions; confiscation of matches exported.

SEC. 7328. *Confiscation of matches exported.* Any white phosphorus matches exported or attempted to be exported shall be confiscated to the United States and destroyed in such manner as may be prescribed by the Secretary or his delegate.

§ 301.7328–1 Confiscation of matches exported.

Any white phosphorus matches exported or attempted to be exported shall be seized by the district director and destroyed by the assistant regional commissioner (alcohol and tobacco tax) in such manner as he may deem appropriate.

§ 301.7329 Statutory provisions; cross references.

SEC. 7329. *Cross references.*

(1) For the issuance of certificates of probable cause relieving officers making seizures of responsibility for damages, see 28 U.S.C. 2465.

(2) For provisions relating to forfeitures generally in connection with alcohol taxes, see chapter 51.

(3) For provisions relating to forfeitures generally in connection with tobacco taxes, see chapter 52.

(4) For provisions relating to forfeitures generally in connection with taxes on certain firearms, see chapter 53.

MISCELLANEOUS PENALTY AND FORFEITURE PROVISIONS

§ 301.7341 Statutory provisions; penalty for sales to evade tax.

SEC. 7341. *Penalty for sales to evade tax.*—(a) *Nonenforceability of contract.* Whenever any person who is liable to pay any tax imposed by this title upon, for, or in respect of, any property sells or causes or allows the same to be sold before such tax is paid, with intent to avoid such tax, or is fraud of the internal revenue laws, any debt contracted in such sale, and any security given therefor, unless the same shall have been bona fide transferred to an innocent holder, shall be void, and the collection thereof shall not be enforced in any court.

(b) *Forfeiture of sums paid on contract.* If such property has been paid for, in whole or in part, the sum so paid shall be deemed forfeited.

(c) *Moiety.* Any person who shall sue for the sum so paid (in an action of debt) shall recover from the seller the amount so paid; one-half to his own use and the other half to the use of the United States.

§ 301.7342 Statutory provisions; penalty for refusal to permit entry or examination.

SEC. 7342. *Penalty for refusal to permit entry or examination.* Any owner of any building or place, or person having the agency or superintendence of the same, who refuses to admit any officer or employee of the Treasury Department acting under the authority of section 7606 (relating to entry of premises for examination of taxable articles) or refuses to permit him to examine such article or articles, shall, for every such refusal, forfeit $500.

§ 301.7343 Statutory provisions; definition of term "person".

SEC. 7343. *Definition of term "person".* The term "person" as used in this chapter includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

§ 301.7344 Statutory provisions; extended application of penalties relating to officers of the Treasury Department.

SEC. 7344. *Extended application of penalties relating to officers of the Treasury Department.* All provisions of law imposing

fines, penalties, or other punishment for offenses committed by an internal revenue officer or other officer of the Department of the Treasury, or under any agency or office thereof, shall apply to all persons whomsoever, employed, appointed, or acting under the authority of any internal revenue law, or any revenue provision of any law of the United States, when such persons are designated or acting as officers or employees in connection with such law, or are persons having the custody or disposition of any public money.

Judicial Proceedings

Civil Actions by the United States

§ 301.7401 Statutory provisions; authorization.

Sec. 7401. *Authorization.* No civil action for the collection or recovery of taxes, or of any fine, penalty, or forfeiture, shall be commenced unless the Secretary or his delegate authorizes or sanctions the proceedings and the Attorney General or his delegate directs that the action be commenced.

§ 301.7401–1 Authorization.

(a) *In general.* No civil action for the collection or recovery of taxes, or of any fine, penalty, or forfeiture, shall be commenced unless the Commissioner (or the Director, Alcohol and Tobacco Tax Division, with respect to the provisions of subtitle E of the Code), or the Chief Counsel for the Internal Revenue Service or his delegate authorizes or sanctions the proceedings and the Attorney General or his delegate directs that the action be commenced. With respect to forfeitures, the assistant regional commissioner or supervisor in charge (alcohol and tobacco tax) may also authorize or sanction the proceedings.

(b) *Property held by banks.* The Commissioner shall not authorize or sanction any civil action for the collection or recovery of taxes, or of any fine, penalty, or forfeiture, from any deposits held in a foreign office of a bank engaged in the banking business in the United States or a possession of the United States unless the Commissioner believes—

(1) That the taxpayer is within the jurisdiction of a U.S. court at the time the civil action is authorized or sanctioned and that the bank is in possession of (or obligated with respect to) deposits of the taxpayer in an office of the bank outside the United States or a possession of the United States; or

(2) That the taxpayer is not within the jurisdiction of a U.S. court at the time the civil action is authorized or sanctioned, that the bank is in possession of (or obligated with respect to) deposits of the taxpayer in an office outside the United States or a possession of the United States, and that such deposits consist, in whole or in part, of funds transferred from the United States or a possession of the United States in order to hinder or delay the collection of a tax imposed by the Code.

For purposes of this paragraph, the term "possession of the United States" includes Guam, the Midway Islands, the Panama Canal Zone, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, and Wake Island.

§ 301.7402 Statutory provisions; jurisdiction of district courts.

Sec. 7402. *Jurisdiction of district courts.*—(a) *To issue orders, processes, and judgments.* The district courts of the United States at the instance of the United States shall have such jurisdiction to make and issue in civil actions, writs and orders of injunction, and of *ne exeat republica*, orders appointing receivers, and such other orders and processes, and to render such judgments and decrees as may be necessary or appropriate for the enforcement of the internal revenue laws. The remedies hereby provided are in addition to and not exclusive of any and all other remedies of the United States in such courts or otherwise to enforce such laws.

(b) *To enforce summons.* If any person is summoned under the internal revenue laws to appear, to testify, or to produce books, papers, or other data, the district court of the United States for the district in which such person resides or may be found shall have jurisdiction by appropriate process to compel such attendance, testimony, or production of books, papers, or other data.

(c) *For damages to U.S. officers or employees.* Any officer or employee of the United States acting under authority of this title, or any person acting under or by authority of any such officer or employee, receiving any injury to his person or property in the discharge of his duty shall be entitled to maintain an action for damages therefor, in the district court of the United States, in the district wherein the party doing the injury may reside or shall be found.

(d) *Action on bonds.* The United States district courts, concurrently with the courts of the several States, shall have jurisdiction of any action brought on the official bond of any internal revenue officer or employee required to give bond under regulations promulgated by authority of section 7803.

(e) *General jurisdiction.* For general jurisdiction of the district courts of the United States in civil actions involving internal revenue, see section 1340 of title 28 of the United States Code.

§ 301.7403 Statutory provisions; action to enforce lien or to subject property to payment of tax.

Sec. 7403. *Action to enforce lien or to subject property to payment of tax.*—(a) *Filing.* In any case where there has been a refusal or neglect to pay any tax, or to discharge any liability in respect thereof, whether or not levy has been made, the Attorney General or his delegate, at the request of the Secretary or his delegate, may direct a civil action to be filed in a district court of the United States to enforce the lien of the United States under this title with respect to such tax or liability or to subject any property, of whatever nature, of the delinquent, or in which he has any right, title, or interest, to the payment of such tax or liability.

(b) *Parties.* All persons having liens upon or claiming any interest in the property involved in such action shall be made parties thereto.

(c) *Adjudication and decree.* The court shall, after the parties have been duly notified of the action, proceed to adjudicate all matters involved therein and finally determine the merits of all claims to and liens upon the property, and, in all cases where a claim or interest of the United States therein is established, may decree a sale of such property, by the proper officer of the court, and a distribution of the proceeds of such sale according to the findings of the court in respect to the interests of the parties and of the United States.

(d) *Receivership.* In any such proceeding, at the instance of the United States, the court may appoint a receiver to enforce the lien, or, upon certification by the Secretary or his delegate during the pendency of such proceedings that it is in the public interest, may appoint a receiver with all the powers of a receiver in equity.

§ 301.7403–1 Action to enforce lien or to subject property to payment of tax.

In any case where there has been a refusal or neglect to pay any tax, or to discharge any liability in respect thereof, whether or not levy has been made, the Attorney General or his delegate, at the request of the Commissioner (or the Director, Alcohol and Tobacco Tax Division, with respect to the provisions of subtitle E of the Code) or the Chief Counsel for the Internal Revenue Service or his delegate, may direct a civil action to be filed in a district court of the United States to enforce the lien of the United States under the Code with respect to such tax or liability or to subject any property, of whatever nature, of the delinquent, or in which he has any right, title or interest, to the payment of such tax or liability. In any such proceeding, at the instance of the United States, the court may appoint a receiver to enforce the lien, or, upon certification by the Commissioner during the pendency of such proceedings that it is in the public interest, may appoint a receiver with all the powers of a receiver in equity.

§ 301.7404 Statutory provisions; authority to bring civil action for estate taxes.

Sec. 7404. *Authority to bring civil action for estate taxes.* If the estate tax imposed by chapter 11 is not paid on or before the due date thereof, the Secretary or his delegate shall proceed to collect the tax under the provisions of general law; or appropriate proceedings in the name of the United States may be commenced in any court of the United States having jurisdiction to subject the property of the decedent to be sold under the judgment or decree of the court. From the proceeds of such sale the amount of the tax, together with the costs and expenses of every description to be allowed by the court, shall be first paid, and the balance shall be deposited according to the order of the court, to be paid under its direction to the person entitled thereto. This section insofar as it applies to the collection of a deficiency shall be subject to the provisions of sections 6213 and 6601.

§ 301.7404–1 Authority to bring civil action for estate taxes.

(a) If the estate tax imposed by chapter 11 of the Code is not paid on or before the last date prescribed for payment, the district director shall proceed to collect the tax under the provisions of general law; or appropriate proceedings in the name of the United States may be commenced in any court having jurisdiction to subject the property of the decedent to be sold under the judgment or decree of the court.

(b) The remedy by action provided in section 7404 is not exclusive. The district director may proceed to collect the tax by levy, as provided in section 6331, on any or all property or rights to property of the estate, or collection may be enforced by an appropriate action against the executor, certain transferees, trustees, and beneficiaries for their personal liability. See § 20.2002–1 of this chapter (Estate Tax Regulations).

§ 301.7405 Statutory provisions; action for recovery of erroneous refunds.

Sec. 7405. *Action for recovery of erroneous refunds.*—(a) *Refunds after limitation period.* Any portion of a tax imposed by this title, refund of which is erroneously made, within the meaning of section 6514, may be recovered by civil action brought in the name of the United States.

(b) *Refunds otherwise erroneous.* Any portion of a tax imposed by this title which has been erroneously refunded (if such refund would not be considered as erroneous under section 6514) may be recovered by civil action brought in the name of the United States.

(c) *Interest.* For provision relating to interest on erroneous refunds, see section 6602.

(d) *Periods of limitation.* For periods of limitations on actions under this section, see section 6532(b).

§ 301.7406 Statutory provisions; disposition of judgments and moneys recovered.

Sec. 7406. *Disposition of judgments and moneys recovered.* All judgments and moneys recovered or received for taxes, costs, forfeitures, and penalties shall be paid to the Secretary or his delegate as collections of internal revenue taxes.

§ 301.7406–1 Disposition of judgments and moneys recovered.

All judgments and moneys recovered or received for taxes, costs, forfeitures, and penalties shall be paid to the district director as collections of internal revenue taxes.

§ 301.7407 Statutory provisions; cross references.

Sec. 7407. *Cross references.* (1) For provisions for collecting taxes in general, see chapter 64.

(2) For venue in a civil action for the collection of any tax, see section 1396 of Title 28 of the United States Code.

(3) For venue of a proceeding for the recovery of any fine, penalty, or forfeiture, see section 1395 of Title 28 of the United States Code.

Proceedings by Taxpayers

§ 301.7421 Statutory provisions; prohibition of suits to restrain assessment or collection.

Sec. 7421. *Prohibition of suits to restrain assessment or collection.*—(a) *Tax.* Except as provided in sections 6212 (a) and (c), and 6213(a), no suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court.

(b) *Liability of transferee or fiduciary.* No suit shall be maintained in any court for the purpose of restraining the assessment or collection (pursuant to the provisions of chapter 71) of—

(1) The amount of the liability, at law or in equity, of a transferee of property of a taxpayer in respect of any internal revenue tax, or

(2) The amount of the liability of a fiduciary under section 3467 of the Revised Statutes (31 U.S.C. 192) in respect of any such tax.

§ 301.7422 Statutory provisions; civil actions for refund.

Sec. 7422. *Civil actions for refund.*—(a) *No suit prior to filing claim for refund.* No suit or proceeding shall be maintained in any court for the recovery of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Secretary or his delegate, according to the provisions of law in that regard, and the regulations of the Secretary or his delegate established in pursuance thereof.

(b) *Protest or duress.* Such suit or proceeding may be maintained whether or not such tax, penalty, or sum has been paid under protest or duress.

(c) *Suits against collection officer a bar.* A suit against any officer or employee of the United States (or former officer or employee) or his personal representative for the recovery of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected shall be treated as if the United States had been a party to such suit in applying the doctrine of res judicata in all suits instituted after June 15, 1942, in respect of any internal revenue tax, and in all proceedings in the Tax Court and on review of decisions of the Tax Court where the petition to the Tax Court was filed after such date.

(d) *Credit treated as payment.* The credit of an overpayment of any tax in satisfaction of any tax liability shall, for the purpose of any suit for refund of such tax liability so satisfied, be deemed to be a payment in respect of such tax liability at the time such credit is allowed.

(e) *Stay of proceedings.* If the Secretary or his delegate prior to the hearing of a suit brought by a taxpayer in a district court or the Court of Claims for the recovery of any income tax, estate tax, or gift tax (or any penalty relating to such taxes) mails to the taxpayer a notice that a deficiency has been determined in respect of the tax which is the subject matter of taxpayer's suit, the proceedings in taxpayer's suit shall be stayed during the period of time in which the taxpayer may file a petition with the Tax Court for a redetermination of the asserted deficiency, and for 60 days thereafter. If the taxpayer files a petition with the Tax Court, the district court or the Court of Claims, as the case may be, shall lose jurisdiction of taxpayer's suit to whatever extent jurisdiction is acquired by the Tax Court of the subject matter of taxpayer's suit for refund. If the taxpayer does not file a petition with the Tax Court for a redetermination of the asserted deficiency, the United States may counterclaim in the taxpayer's suit, or intervene in the event of a suit as described in subsection (c) (relating to suits against officers or employees of the United States), within the period of the stay of proceedings notwithstanding that the time for such pleading may have otherwise expired. The taxpayer shall have the burden of proof with respect to the issues raised by such counterclaim or intervention of the United States except as to the issue of whether the taxpayer has been guilty of fraud with intent to evade tax. This subsection shall not apply to a suit by a taxpayer which, prior to the date of enactment of this title, is commenced, instituted, or pending in a district court or the Court of Claims for the recovery of any income tax, estate tax, or gift tax (or any penalty relating to such taxes).

(f) *Cross references.* (1) For provisions relating generally to claims for refund or credit, see chapter 66 (relating to abatements, credit, and refund) and chapter 66 (relating to limitations).

(2) For duty of U.S. attorneys to defend suits, see section 507 of Title 28 of the United States Code.

(3) For jurisdiction of U.S. district courts, see section 1346 of Title 28 of the United States Code.

(4) For payment by the Treasury of judgments against internal revenue officers or employees, upon certificate of probable cause, see section 2006 of Title 28 of the United States Code.

[Sec. 7422 as amended by sec. 76 Technical Amendments Act 1958 (72 Stat. 1662)]

§ 301.7423 Statutory provisions; repayments to officers or employees.

Sec. 7423. *Repayments to officers or employees.* The Secretary or his delegate, subject to regulations prescribed by the Secretary or his delegate is authorized to repay—

(1) *Collections recovered.* To any officer or employee of the United States the full amount of such sums of money as may be recovered against him in any court for any internal revenue taxes collected by him, with the cost and expense of suit; also

(2) *Damages and costs.* All damages and costs recovered against any officer or employee of the United States in any suit brought against him by reason of anything done in the due performance of his official duty under this title.

Sec. 2006 [Title 28, United States Code]. *Execution against revenue officer.* Execution shall not issue against a collector [district director] or other revenue officer on a final judgment in any proceeding against him for any of his acts or for the recovery of any money exacted by or paid to him and subsequently paid into the Treasury, in performing his official duties, if the court certifies that:

(1) Probable cause existed; or

(2) The officer acted under the directions of the Secretary of the Treasury or other proper Government officer.

When such certificate has been issued, the amount of the judgment shall be paid out of the proper appropriation by the Treasury.

[28 U.S.C. 2006, enacted into positive law by Act of June 25, 1948 (Pub. Law 773, 80th Cong., 62 Stat. 960)]

§ 301.7423–1 Repayments to officers or employees.

The Commissioner is authorized to repay to any officer or employee of the United States the full amount of such sums of money as may be recovered against him in any court, for any internal revenue taxes collected by him, with the cost and expense of suit, and all damages and costs recovered against any officer or employee of the United States in any suit brought against him by reason of anything done in the official performance of his duties under the Code.

§ 301.7424 Statutory provisions; civil action to clear title to property.

Sec. 7424. *Civil action to clear title to property.*—(a) *Obtaining leave to file.*—(1) *Request for institution of proceedings by United States.* Any person having a lien upon or any interest in the property referred to in section 7403, notice of which has been duly filed of record in the jurisdiction in which the property is located, prior to the filing of notice of the lien of the United States as provided in section 6323, or any person purchasing the property at a sale to satisfy such prior lien or interest, may make written request to the Secretary or his delegate to authorize the filing of a civil action as provided in section 7403.

(2) *Petition to court.* If the Secretary or his delegate fails to authorize the filing of such civil action within 6 months after receipt of such written request, such person or purchaser may, after giving notice to the Secretary or his delegate, file a petition in the district court of the United States for the district in which the property is located, praying leave to file a civil action for a final determination of all claims to or liens upon the property in question.

(3) *Court order.* After a full hearing in open court, the district court may in its discretion enter an order granting leave to file such civil action, in which the United States and all persons having liens upon or claiming any interest in the property shall be made parties.

(b) *Adjudication.* Upon the filing of such civil action, district court shall proceed to adjudicate the matters involved therein, in the same manner as in the case of civil actions filed under section 7403. For the purpose of such adjudication, the assessment of the tax upon which the lien of the United States is based shall be conclusively presumed to be valid.

(c) *Costs.* All costs of the proceedings on the petition and the civil action shall be borne by the person filing the civil action.

§ 301.7424–1 Civil action to clear title to property.

(a) Any person having a lien upon or any interest in the property referred to in section 7403, notice of which has been duly filed of record in the jurisdiction in which the property is located, prior to the filing of the notice of the lien of the United States as provided in section 6323, or any person purchasing the property at a sale to satisfy such prior lien or interest, may make a written request to the Commissioner to authorize the filing of a civil action as provided in section 7403.

(b) If the Commissioner fails to authorize the filing of such civil action within 6 months after receipt of such written request, such person or purchaser may, after giving notice to the Commissioner, file a petition in the district court of the United States for the district in which the property is located, praying leave to file a civil action for a final determination of all claims to or liens upon the property in question.

§ 301.7425 Statutory provisions; cross references.

SEC. 7425. *Cross references.* (1) For exclusion of tax liability from discharge in bankruptcy, see section 17 of the Bankruptcy Act, as amended (52 Stat. 861; 11 U.S.C. 35).

(2) For limit on amount allowed in bankruptcy proceedings on debts owing to the United States, see section 57(j) of the Bankruptcy Act, as amended (52 Stat. 867; 11 U.S.C. 93).

(3) For recognition of tax liens in proceedings under the Bankruptcy Act, see section 67 (b) and (c) of that act, as amended (52 Stat. 870–877; 11 U.S.C. 107).

(4) For collection of taxes in connection with wage earners' plans in bankruptcy courts, see section 660 of the Bankruptcy Act, as added June 22, 1938 (52 Stat. 936; 11 U.S.C. 1060).

(5) For provisions permitting the United States to be made party defendant in a proceeding in a State court for the foreclosure of a lien upon real estate where the United States may have claim upon the premises involved, see section 2410 of Title 28 of the United States Code.

(6) For priority of lien of the United States in case of insolvency, see R.S. 3466 (31 U.S.C. 191).

(7) For interest on judgements for overpayments, see section 2411(a) of Title 28 of the United States Code.

(8) For review of a Tax Court decision, see section 7482.

(9) For statute prohibiting suits to replevy property taken under revenue laws, see section 2463 of Title 28 of the United States Code.

THE TAX COURT

ORGANIZATION AND JURISDICTION

§ 301.7441 Statutory provisions; status.

SEC. 7441. *Status.* The Board of Tax Appeals shall be continued as an independent agency in the Executive Branch of the Government, and shall be known as the Tax Court of the United States. The members thereof shall be known as the chief judge and the judges of the Tax Court.

§ 301.7442 Statutory provisions; jurisdiction.

SEC. 7442. *Jurisdiction.* The Tax Court and its divisions shall have such jurisdiction as is conferred on them by this title, by chapters 1, 2, 3, and 4 of the Internal Revenue Code of 1939, by title II and title III of the Revenue Act of 1926 (44 Stat. 10–87), or by laws enacted subsequent to February 26, 1926.

§ 301.7443 Statutory provisions; membership.

SEC. 7443. *Membership*—(a) *Number.* The Tax Court shall be composed of 16 members.

(b) *Appointment.* Judges of the Tax Court shall be appointed by the President, by and with the advice and consent of the Senate, solely on the grounds of fitness to perform the duties of the office.

(c) *Salary.* Each judge shall receive salary at the rate of $22,500 per annum, to be paid in monthly installments.

(d) *Expenses for travel and subsistence.* Judges of the Tax Court shall receive necessary traveling expenses, and expenses actually incurred for subsistence while traveling on duty and away from their designated stations, subject to the same limitations in amount as are now or may hereafter be applicable to the U.S. Customs Court.

(e) *Term of office.* The terms of office of all judges of the Tax Court shall expire 12 years after the expiration of the terms for which their predecessors were appointed; but any judge appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the unexpired term of his predecessor.

(f) *Removal from office.* Judges of the Tax Court may be removed by the President, after notice and opportunity for public hearing, for inefficiency, neglect of duty, or malfeasance in office, but for no other cause.

(g) *Disbarment of removed judges.* A judge of the Tax Court removed from office in accordance with subsection (f) shall not be permitted at any time to practice before the Tax Court.

[Sec. 7443(c) as amended by sec. 1(h), Act of Mar. 2, 1955 (Pub. Law 9, 84th Cong., 69 Stat. 10)]

§ 301.7444 Statutory provisions; organization.

SEC. 7444. *Organization*—(a) *Seal.* The Tax Court shall have a seal which shall be judicially noticed.

(b) *Designation of chief judge.* The Tax Court shall at least biennially designate a judge to act as chief judge.

(c) *Divisions.* The chief judge may from time to time divide the Tax Court into divisions of one or more judges, assign the judges of the Tax Court thereto, and in case of a division of more than one judge, designate the chief thereof. If a division, as a result of a vacancy or the absence or inability of a judge assigned thereto to serve thereon, is composed of less than the number of judges designated for the division, the chief judge may assign other judges to the division or direct the division to proceed with the transaction of business without awaiting any additional assignment of judges thereto.

(d) *Quorum.* A majority of the judges of the Tax Court or of any division thereof shall constitute a quorum for the transaction of the business of the Tax Court or of the division, respectively. A vacancy in the Tax Court or in any division thereof shall not impair the powers nor affect the duties of the Tax Court or division nor of the remaining judges of the Tax Court or division, respectively.

§ 301.7445 Statutory provisions; offices.

SEC. 7445. *Offices.* The principal office of the Tax Court shall be in the District of Columbia, but the Tax Court or any of its divisions may sit at any place within the United States.

§ 301.7446 Statutory provisions; times and places of sessions.

SEC. 7446. *Times and places of sessions.* The times and places of the sessions of the Tax Court and of its divisions shall be prescribed by the chief judge with a view to securing reasonable opportunity to taxpayers to appear before the Tax Court or any of its divisions, with as little inconvenience and expense to taxpayers as is practicable.

§ 301.7447 Statutory provisions; retirement.

SEC. 7447. *Retirement*—(a) *Definitions.* For purposes of this section—

(1) The term "Tax Court" means the Tax Court of the United States.

(2) The term "Civil Service Commission" means the U.S. Civil Service Commission.

(3) The term "judge" means the chief judge or a judge of the Tax Court; but such term does not include any individual performing judicial duties pursuant to subsection (c).

(4) The term "Civil Service Retirement Act" means the Civil Service Retirement Act of May 29, 1930, as amended.

(5) In any determination of length of service as judge there shall be included all periods (whether or not consecutive) during which an individual served as judge or as a member of the board.

(b) *Retirement.* (1) Any judge who has served as judge for 15 years or more may retire at any time.

(2) Any judge who has served as judge for 10 years or more and has attained the age of 70 shall retire not later than the close of the third month beginning after whichever of the following months is the latest:

(A) The month in which he attained age 70;

(B) The month in which he completed 10 years of service as judge; or

(C) August 1958.

Section 2(a) of the Civil Service Retirement Act (relating to automatic separation from the Service) shall not apply in respect of judges.

(c) *Recalling of retired judges.* Any individual who is receiving retired pay under subsection (d) may be called upon by the chief judge of the Tax Court to perform such judicial duties with the Tax Court as may be requested of him for any period or periods specified by the chief judge; except that in the case of any such individual—

(1) The aggregate of such periods in any one calendar year shall not (without his consent) exceed 90 calendar days; and

(2) He shall be relieved of performing such duties during any period in which illness or disability precludes the performance of such duties.

Any act, or failure to act, by an individual performing judicial duties pursuant to this subsection shall have the same force and effect as if it were the act (or failure to act) of a judge of the Tax Court; but any such individual shall not be counted as a judge of the Tax Court for purposes of section 7443(a). Any individual who is performing judicial duties pursuant to this subsection shall be paid the same compensation (in lieu of retired pay) and allowances for travel and other expenses as a judge.

(d) *Retired pay.* Any individual who after August 7, 1953—

(1) Ceases to be a judge by reason of paragraph (2) of subsection (b), or ceases to be a judge after having served as judge for 15 years or more; and

(2) Elects under subsection (e) to receive retired pay under this subsection,

shall receive retired pay at a rate which bears the same ratio to the rate of the salary payable to him as judge at the time he ceases to be a judge as the number of years he has served as judge bears to 24; except that the rate of such retired pay shall be not less than one-half of the rate of such salary and not more than the rate of such salary. Such retired pay shall begin to accrue on the day following the day on which his salary as judge ceases to accrue, and shall continue to accrue during the remainder of his life. Retired pay under this subsection shall be paid in the same manner as the salary of a judge. In computing the rate of the retired pay under this subsection for any individual who is entitled thereto, that portion of the aggregate number of years he has served as a judge which is a fractional part of 1 year shall be eliminated if it is less than 6 months, or shall be counted as a full year if it is 6 months or more.

(e) *Election to receive retired pay.* Any judge may elect to receive retired pay under subsection (d). Such an election—

(1) May be made only while an individual is a judge (except that in the case of an individual who fails to be reappointed as judge at the expiration of a term of office, it may be made at any time before the day after the day on which his successor takes office);

(2) Once made, shall be irrevocable;

(3) In the case of any judge other than the chief judge, shall be made by filing notice thereof in writing with the chief judge; and

(4) In the case of the chief judge, shall be made by filing notice thereof in writing with the Civil Service Commission.

The chief judge shall transmit to the Civil Service Commission a copy of each notice filed with him under this subsection.

(f) *Individuals receiving retired pay to be available for recall.* Any individual who has elected to receive retired pay under subsection (d) who thereafter—

(1) Accepts civil office or employment under the Government of the United States (other than the performance of judicial duties pursuant to subsection (c)); or

(2) Performs (or supervises or directs the performance of) legal or accounting services in the field of Federal taxation or in the field of the renegotiation of Federal contracts for his client, his employer, or any of his employer's clients,

shall forfeit all rights to retired pay under subsection (d) for all periods beginning on or after the first day on which he accepts such office or employment or engages in any activity described in paragraph (2). Any individual who has elected to receive retired pay under subsection (d) who thereafter during any calendar year fails to perform judicial duties required of him by subsection (c) shall forfeit all rights to retired pay under subsection (d) for the 1-year period which begins on the first day on which he so fails to perform such duties.

(g) *Coordination with Civil Service retirement*—(1) *General rule.* Except as otherwise provided in this subsection, the provisions of the Civil Service Retirement Act (including the provisions relating to the deduction and withholding of amounts from basic pay, salary, and compensation) shall apply in respect of service as a judge (together with other service as an officer or employee to whom such Act applies) as if this section had not been enacted.

(2) *Effect of electing retired pay.* In the case of any individual who has filed an election to receive retired pay under subsection (d) and who has not filed a waiver under paragraph (3) of this subsection—

(A) He shall not be entitled to any annuity under section 1, 2, 3A, 6, or 7 of the Civil Service Retirement Act for any period beginning on or after the day on which he files such election;

(B) No amount shall be returned to him under section 7(a) of such Act;

(C) Subsections (b) and (c) of section 4 of such Act, and subsection (c) of section 12 of such Act, shall apply in respect of such individual as if he were retiring or had retired under section 1 of such Act on the date on which his retired pay under subsection (d) of this section began to accrue; except that—

(i) The amount of any annuity payable to a survivor of such individual under subsection (b) or (c) of such section 4 or under subsection (c) of such section 12 shall be based on a life annuity for such individual computed as provided in subsection (a) of such section 4, and

(ii) If such individual makes the election provided by subsection (b) or (c) of such section 4, his retired pay under subsection (d) of this section shall be reduced by the amount by which a life annuity computed as provided in subsection (a) of such section 4 would be reduced;

(D) In computing the aggregate amount of the annuity paid for purposes of section 12(g) of such Act, any retired pay which has accrued under subsection (d) of this section (including any such retired pay forfeited under subsection (f)) shall be included as if it were an annuity payable to him under such Act; and

(E) No deduction for purposes of the civil service retirement and disability fund shall be made from the retired pay payable to him under subsection (d) of this section, or from any other salary, pay, or compensation payable to him, for any period after the date on which such retired pay began to accrue.

(3) *Waiver of civil service benefits.* (A) Any individual who has elected to receive retired pay under subsection (d) of this section may (at any time thereafter during the period prescribed by subsection (e)(1)) waive all benefits under the Civil Service Retirement Act. Such a waiver—

(i) Once made, shall be irrevocable, and

(ii) Shall be made in the same manner as is provided for an election by such individual under subsection (e). The chief judge shall transmit to the Civil Service Commission a copy of each notice of waiver filed with him under this paragraph.

(B) In the case of any individual who has made a waiver under this paragraph—

(i) No annuity shall be payable to any person under the Civil Service Retirement Act with respect to any service performed by such individual (whether performed before or after such waiver is filed and whether performed as judge or otherwise);

(ii) No deduction shall be made from any salary, pay, or compensation of such individual for purposes of the civil service retirement and disability fund for any period beginning after the day on which such waiver is filed;

(iii) Except as provided in clause (iv), no refund shall be made under the Civil Service Retirement Act of any amount credited to the account of such individual or of any interest on any amounts so credited;

(iv) Additional sums voluntarily deposited by such individual under the second paragraph of section 10 of the Civil Service Retirement Act shall be promptly refunded, together with interest on such additional sums at 3 percent per annum (compounded on December 31 of each year) to the day of such filing; and

(v) Subsections (c) and (g) of section 12 of the Civil Service Retirement Act shall not apply.

(4) *Employees' compensation.* The fourth and sixth paragraphs of section 6 of the Civil Service Retirement Act shall apply in respect of retired pay accruing under subsection (d) of this section as if such retired pay were an annuity payable under such act.

§ 301.7448 Statutory provisions; annuities to widows and dependent children of judges.

SEC. 7448. *Annuities to widows and dependent children of judges*—(a) *Definitions.* For purposes of this section—

(1) The term "Tax Court" means the Tax Court of the United States.

(2) The term "judge" means the chief judge or a judge of the Tax Court, including any individual receiving retired pay (or compensation in lieu of retired pay) under section 7447 or under section 1106 of the Internal Revenue Code of 1939 whether or not performing judicial duties pursuant to section 7447(c) or pursuant to section 1106(d) of the Internal Revenue Code of 1939.

(3) The term "chief judge" means the chief judge of the Tax Court.

(4) The term "judge's salary" means the salary of a judge received under section 7443(c), retired pay received under section 7447(d), and compensation (in lieu of retired pay) received under section 7447(c).

(5) The term "survivors annuity fund" means the Tax Court judges survivors annuity fund established by this section.

(6) The term "widow" means a surviving wife of an individual, who either (A) shall have been married to such individual for at least 2 years immediately preceding his death or (B) is the mother of issue by such marriage, and who has not remarried.

(7) The term "dependent child" means an unmarried child, including a dependent stepchild or an adopted child, who is under the age of 18 years or who because of physical or mental disability is incapable of self-support.

(b) *Election.* Any judge may by written election filed with the chief judge within 6 months after the date on which he takes office after appointment or any reappointment, or within 6 months after the date upon which he first becomes eligible for retirement under section 7447(b), or within 6 months after the enactment of this section, bring himself within the purview of this section, except that, in the case of such an election by the chief judge, the election shall be filed as prescribed by the Tax Court subject to the preceding requirements as to the time of filing.

(c) *Salary deductions.* There shall be deducted and withheld from the salary of each judge electing under subsection (b) a sum equal to 6 percent of such judge's salary. The amounts so deducted and withheld from such judge's salary shall, in accordance with such procedure as may be prescribed by the Comptroller General of the United States, be deposited in the Treasury of the United States to the credit of a fund to be known as the "Tax Court judges survivors annuity fund" and said fund is appropriated for the payment of annuities, refunds, and allowances as provided by this section. Each judge electing under subsection (b) shall be deemed thereby to consent and agree to the deductions from his salary as provided in this subsection, and payment less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all judicial services rendered by such judge during the period covered by such payment, except the right to the benefits to which he or his survivors shall be entitled under the provisions of this section.

(d) *Deposits to survivors annuity fund.* Each judge electing under subsection (b) shall deposit, with interest at 4 percent per annum to December 31, 1947, and 3 percent per annum thereafter, compounded on December 31 of each year, to the credit of the survivors annuity fund, a sum equal to 3 percent of his judge's salary and of his basic salary, pay, or compensation for service as a Senator, Representative, Delegate, or Resident Commissioner in Congress, and for any other civilian service within the purview of section 3 of the Civil Service Retirement Act (5 U.S.C. 2253). Each such judge may elect to make such deposits in installments during the continuance of his service as a judge in such amount and under such conditions as may be determined in each instance by the chief judge. Notwithstanding the failure of a judge to make such deposit, credit shall be allowed for the service rendered, but the annuity of the widow of such judge shall be reduced by an amount equal to 10 percent of the amount of such deposit, computed as of the date of the death of such judge, unless such widow shall elect to eliminate such service entirely from credit under subsection (n), except that no deposit shall be required from a judge for any year with respect to which deductions from his salary were actually made under the Civil Service Retirement Act and no deposit shall be required for any honorable service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States.

(e) *Investment of survivors annuity fund.* The Secretary of the Treasury shall invest from time to time, in interest-bearing securities of the United States or Federal farm loan bonds, such portions of the survivors annuity fund as in his judgment may not be immediately required for the payment of the annuities, refunds, and allowances as provided in this section. The income derived from such investments shall constitute a part of said fund for the purpose of paying annuities and of carrying out the provisions of subsections (g), (h), and (j).

(f) *Crediting of deposits.* The amount deposited by or deducted and withheld from the salary of each judge electing to bring himself within the purview of this section for credit to the survivors annuity fund shall be credited to an individual account of such judge.

(g) *Termination of service.* If the service of any judge electing under subsection (b) terminates other than pursuant to the provisions of section 7447 or other than pursuant to section 1106 of the Internal Revenue Code of 1939, the amount credited to his individual account, together with interest at 4 percent per annum to December 31, 1947, and 3 percent per annum thereafter, compounded on December 31 of each year, to the date of his relinquishment of office, shall be returned to him. For the purpose of this section, the service of any judge electing under subsection (b) who is not reappointed following expiration of his term, but who, at the time of such expiration, is eligible for and elects to receive retired pay under section 7447 shall be deemed to have terminated pursuant to said section.

(h) *Entitlement to annuity.* In case any judge electing under subsection (b) shall die while a judge after having rendered at least 5 years of civilian service computed as prescribed in subsection (n), for the last 5 years of which the salary deductions provided for by subsection (c) or the deposits required by subsection (d) have actually been made or the salary deductions required by the Civil Service Retirement Act have actually been made—

(1) If such judge is survived by a widow but not by a dependent child, there shall be paid to such widow an annuity beginning with the day of the death of the judge or following the widow's attainment of the age of 50 years, whichever is the later, in an amount computed as provided in subsection (m); or

(2) If such judge is survived by a widow and a dependent child or children, there shall be paid to such widow an immediate annuity in an amount computed as provided in subsection (m), and there shall also be paid to or on behalf of each such child an immediate annuity equal to one-half the amount of the annuity of such widow, but not to exceed $900 per year divided by the number of such children or $360 per year whichever is lesser; or

(3) If such judge leaves no surviving widow or widower but leaves a surviving dependent child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to the amount of the annuity to which such widow would have been entitled under paragraph (2) of this subsection had she survived, but not to exceed $480 per year.

The annuity payable to a widow under this subsection shall be terminable upon such widow's death or remarriage. The annuity payable to a child under this subsection shall be terminable upon (A) his attaining the age of 18 years, (B) his marriage, or (C) his death, whichever first occurs, except that if such child is incapable of self-support by reason of mental or physical disability his annuity shall be terminable only upon death, marriage, or recovery from such disability. In case of the death of a widow of a judge leaving a dependent child or children of the judge surviving her, the annuity of such child or children shall be recomputed and paid as provided in paragraph (2) of this subsection. In any case in which the annuity of a dependant child is terminated under this subsection, the annuities of any remaining dependent child or children, based upon the service of the same judge, shall be recomputed and paid as though the child whose annuity was so terminated had not survived such judge.

(i) *Determination of dependency and disability.* Questions of dependency and disability arising under this section shall be determined by the chief judge subject to review only by the Tax Court, the decision of which shall be final and conclusive. The chief judge may order or direct at any time such medical or other examinations as he shall deem necessary to determine the facts relative to the nature and degree of disability of any dependent child who is an annuitant or applicant for annuity under this section, and may suspend or deny any such annuity for failure to submit to any examination so ordered or directed.

(j) *Payments in certain cases.* (1) In any case in which—

(A) A judge electing under subsection (b) shall die while in office (whether in regular active service or retired from such service under section 7447), before having rendered 5 years of civilian service computed as prescribed in subsection (n), or after having rendered 5 years of such civilian service but without a survivor or survivors entitled to annuity benefits provided by subsection (h), or

(B) The right of all persons entitled to annuity under subsection (h) based on the service of such judge shall terminate before a valid claim therefor shall have been established,

the total amount credited to the individual account of such judge, with interest at 4 percent per annum to December 31, 1947, and 3 percent per annum thereafter, compounded on December 31 of each year, to the date of the death of such judge, shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date title to the payment arises, in the following order of precedence, and such payment shall be a bar to recovery by any other person:

(i) To the beneficiary or beneficiaries whom the judge may have designated by a writing filed prior to his death with the chief judge, except that in the case of the chief judge such designation shall be by a writing filed by him, prior to his death, as prescribed by the Tax Court;

(ii) If there be no such beneficiary, to the widow of such judge;

(iii) If none of the above, to the child or children of such judge and the descendants of any deceased children by representation;

(iv) If none of the above, to the parents of such judge or the survivor of them;

(v) If none of the above, to the duly appointed executor or administrator of the estate of such judge; and

(vi) If none of the above, to such other next of kin of such judge as may be determined by the chief judge to be entitled under the laws of the domicile of such judge at the time of his death.

Determination as to the widow, child, or parent of a judge for the purposes of this paragraph shall be made by the chief judge without regard to the definitions in subsections (a) (6) and (7).

(2) In any case in which the annuities of all persons entitled to annuity based upon the service of a judge shall terminate before the aggregate amount of annuity paid equals the total amount credited to the individual account of such judge, with interest at 4 percent per annum to December 31, 1947, and 3 percent per annum thereafter, compounded on December 31 of each year, to the date of the death of such judge, the difference shall be paid, upon establishment of a valid claim therefor, in the order of precedence prescribed in paragraph (1).

(3) Any accrued annuity remaining unpaid upon the termination (other than by death) of the annuity of any person based upon the service of a judge shall be paid to such person. Any accrued annuity remaining unpaid upon the death of any person receiving annuity based upon the service of a judge shall be paid, upon the establishment of a valid claim therefor, in the following order of precedence:

(A) To the duly appointed executor or administrator of the estate of such person;

(B) If there is no such executor or administrator payment may be made, after the expiration of 30 days from the date of the death of such person, to such individual or individuals as may appear in the judgment of the chief judge to be legally entitled thereto, and such payment shall be a bar to recovery by any other individual.

(k) *Payments to persons under legal disability.* Where any payment under this section is to be made to a minor, or to a person mentally incompetent or under other legal disability adjudged by a court of competent jurisdiction, such payment may be made to the person who is constituted guardian or other fiduciary by the law of the State of residence of such claimant or is otherwise legally vested with the care of the claimant or his estate. Where no guardian or other fiduciary of the person under legal disability has been appointed under the laws of the State of residence of the claimant, the chief judge shall determine the person who is otherwise legally vested with the care of the claimant or his estate.

(l) *Method of payment of annuities.* Annuities granted under the terms of this section shall accrue monthly and shall be due and payable in monthly installments on the first business day of the month following the month or other period for which the annuity shall have accrued. None of the moneys mentioned in this section shall be assignable, either in law or in equity, or subject to execution, levy, attachment, garnishment, or other legal process.

(m) *Computation of annuities.* The annuity of the widow of a judge electing under subsection (b) shall be an amount equal to the sum of (1) 1¼ percent of the average annual salary received by such judge for judicial service and any other prior allowable service during the last 5 years of such service prior to his death, or prior to his receiving retired pay under section 7447(d), whichever first occurs, multiplied by the sum of his years of judicial service, his years of prior allowable service as a Senator, Representative, Delegate, or Resident Commissioner in Congress, his years of prior allowable service performed as a member of the Armed Forces of the United States and his years, not exceeding 15, of prior allowable service performed as a congressional employee (as defined in section 1(c) of the Civil Service Retirement Act (5 U.S.C. 2251(c)), and (2) three-fourths of 1 percent of such average annual salary multiplied by his years of any other prior allowable service, but such annuity shall not exceed 37½ percent of such average annual salary and shall be further reduced in accordance with subsection (d), if applicable.

(n) *Includible service.* Subject to the provisions of subsection (d), the years of service of a judge which are allowable as the basis for calculating the amount of the annuity of his widow shall include his years of service as a member of the U.S. Board of Tax Appeals and as a judge of the Tax Court, his years of service as a Senator, Representative, Delegate, or Resident Commissioner in Congress, his years of active service as a member of the Armed Forces of the United States not exceeding 5 years in the aggregate and not including any such service for which credit is allowed for the purposes of retirement or retired pay under any other provision of law, and his years of any other civilian service within the purview of section 3 of the Civil Service Retirement Act (5 U.S.C. 2253).

(o) *Simultaneous entitlement.* Nothing contained in this section shall be construed to prevent a widow eligible therefor from simultaneously receiving an annuity under this section and any annuity to which she would otherwise be entitled under any other law without regard to this section, but in computing such other annuity service used in the computation of her annuity under this section shall not be credited.

(p) *Estimates of expenditures.* The chief judge shall submit to the Bureau of the Budget annual estimates of the expenditures and appropriations necessary for the maintenance and operation of the survivors annuity fund, and such supplemental and deficiency estimates as may be required from time to time for the same purposes, according to law. The chief judge shall cause periodic examinations of the survivors annuity fund to be made by an actuary, who may be an actuary employed by another department of the Government temporarily assigned for the purpose, and whose findings and recommendations shall be transmitted by the chief judge to the Tax Court.

(q) *Transitional provision.* In the case of a judge who dies within 6 months after the date of enactment of this section after having rendered at least 5 years of civilian service computed as prescribed in subsection (n), but without having made an election as provided in subsection (b), an annuity shall be paid to his widow and surviving dependents as is provided in this section, as if such judge had elected on the day of his death to bring himself within the purview of this section but had not made the deposit provided for by subsection (d). An annuity shall be payable under this section computed upon the basis of the actual length of service as a judge and other allowable service of the judge and subject to the reduction required by subsection (d) even though no deposit has been made, as required by subsection (h) with respect to any of such service.

(r) *Waiver of civil service benefits.* Any judge electing under subsection (b) shall, at the time of such election, waive all benefits under the Civil Service Retirement Act. Such a waiver shall be made in the same manner and shall have the same force and effect as a waiver filed under section 7447(g)(3).

(s) *Authorization of appropriation.* Funds necessary to carry out the provisions of this section may be appropriated out of any money in the Treasury not otherwise appropriated.

[Sec. 7448 as added by sec. 1, Act of Oct. 4, 1961 (Pub. Law 87-370, 75 Stat. 796)]

PROCEDURE

§ 301.7451 Statutory provisions; fee for filing petition.

SEC. 7451. *Fee for filing petition.* The Tax Court is authorized to impose a fee in an amount not in excess of $10 to be fixed by the Tax Court for the filing of any petition for the redetermination of a deficiency.

§ 301.7452 Statutory provisions; representation of parties.

SEC. 7452. *Representation of parties.* The Secretary or his delegate shall be represented by the Chief Counsel for the Internal Revenue Service or his delegate in the same manner before the Tax Court as he has heretofore been represented in proceedings before such Court. The taxpayer shall continue to be represented in accordance with the rules of practice prescribed by the Court. No qualified person shall be denied admission to practice before the Tax Court because of his failure to be a member of any profession or calling.

[Sec. 7452 as amended by sec. 2(a), Act of Sept. 22, 1959 (Pub. Law 86-368, 73 Stat. 648)]

§ 301.7452-1 Representation of parties.

The Commissioner shall be represented by the Chief Counsel for the Internal Revenue Service in the same manner before the Tax Court as he has heretofore been represented in proceedings before such Court. The taxpayer shall continue to be represented in accordance with the rules of practice prescribed by the Court.

§ 301.7453 Statutory provisions; rules of practice, procedure, and evidence.

SEC. 7453. *Rules of practice, procedure, and evidence.* The proceedings of the Tax Court and its divisions shall be conducted in accordance with such rules of practice and procedure (other than rules of evidence) as the Tax Court may prescribe and in accordance with the rules of evidence applicable in trials without a jury in the U.S. District Court of the District of Columbia.

§ 301.7454 Statutory provisions; burden of proof in fraud and transferee cases.

SEC. 7454. *Burden of proof in fraud and transferee cases.*—(a) *Fraud.* In any proceeding involving the issue whether the petitioner has been guilty of fraud with intent to evade tax, the burden of proof in respect of such issue shall be upon the Secretary or his delegate.

(b) *Cross reference.* For provisions relating to burden of proof as to transferee liability, see section 6902(a).

§ 301.7454-1 Burden of proof in fraud and transferee cases.

In any proceeding involving the issue whether the petitioner has been guilty of fraud with intent to evade tax, the burden of proof in respect of such issue shall be upon the Commissioner.

§ 301.7455 Statutory provisions; service of process.

SEC. 7455. *Service of process.* The mailing by certified mail or registered mail of any pleading, decision, order, notice, or process in respect of proceedings before the Tax Court shall be held sufficient service of such pleading, decision, order, notice, or process.

[Sec. 7455 as amended by sec. 89(b), Technical Amendments Act 1958 (72 Stat. 1665)]

§ 301.7456 Statutory provisions; administration of oaths and procurement of testimony.

SEC. 7456. *Administration of oaths and procurement of testimony.*—(a) *In general.* For the efficient administration of the functions vested in the Tax Court or any division thereof, any judge of the Tax Court, the clerk of the court or his deputies, as such, or any other employee of the Tax Court designated in writing for the purpose by the chief judge, may administer oaths, and any judge of the Tax Court may examine witnesses and require, by subpoena ordered by the Tax Court or any division thereof and signed by the judge (or by the clerk of the Tax Court or by any other employee of the Tax Court when acting as deputy clerk)—

(1) The attendance and testimony of witnesses, and the production of all necessary returns, books, papers, documents, correspondence, and other evidence, from any place in the United States at any designated place of hearing, or

(2) The taking of a deposition before any designated individual competent to administer oaths under this title. In the case of a deposition the testimony shall be reduced to writing by the individual taking the deposition or under his direction and shall then be subscribed by the deponent.

(b) *Production of records in the case of foreign corporations, foreign trusts or estates and nonresident alien individuals.* The Tax Court or any division thereof, upon motion and notice by the Secretary or his delegate, and upon good cause shown therefor, shall order any foreign corporation, foreign trust or estate, or nonresident alien individual,

who has filed a petition with the Tax Court, to produce, or, upon satisfactory proof to the Tax Court or any of its divisions, that the petitioner is unable to produce, to make available to the Secretary or his delegate, and, in either case, to permit the inspection, copying, or photographing of, such books, records, documents, memoranda, correspondence and other papers, wherever situated, as the Tax Court or any division thereof, may deem relevant to the proceedings and which are in the possession, custody or control of the petitioner, or of any person directly or indirectly under his control or having control over him or subject to the same common control. If the petitioner fails or refuses to comply with any of the provisions of such order, after reasonable time for compliance has been afforded to him, the Tax Court or any division thereof, upon motion, shall make an order striking out pleadings or parts thereof, or dismissing the proceeding or any part thereof, or rendering a judgment by default against the petitioner. For the purpose of this subsection, the term "foreign trust or estate" includes an estate or trust, any fiduciary of which is a foreign corporation or nonresident alien individual; and the term "control" is not limited to legal control.

(c) *Commissioners.* The chief judge may from time to time by written order designate an attorney from the legal staff of the Tax Court to act as a commissioner in a particular case. The commissioner so designated shall proceed under such rules and regulations as may be promulgated by the Tax Court. The commissioner shall receive the same travel and subsistence allowances now or hereafter provided by law for commissioners of the U.S. Court of Claims.

§ 301.7456–1 Administration of oaths and procurement of testimony; production of records of foreign corporations, foreign trusts or estates and nonresident alien individuals.

Upon motion and upon good cause shown therefor, the Tax Court or any division thereof shall order any foreign corporation, foreign trust or estate, or nonresident alien individual, who has filed a petition with the Tax Court, to produce, or, upon satisfactory proof to the Tax Court or any of its divisions that the petitioner is unable to produce, to make available to the Commissioner, and, in either case, to permit the inspection, copying, or photographing of, such books, records, documents, memoranda, correspondence and other papers, wherever situated, as the Tax Court or any of its divisions may deem relevant to the proceedings and which are in the possession, custody or control of the petitioner, or of any person directly or indirectly under his control or having control over him or subject to the same common control.

§ 301.7457 Statutory provisions; witness fees.

SEC. 7457. *Witness fees*—(a) *Amount.* Any witness summoned or whose deposition is taken under section 7456 shall receive the same fees and mileage as witnesses in courts of the United States.

(b) *Payment.* Such fees and mileage and the expenses of taking any such deposition shall be paid as follows:

(1) *Witnesses for Secretary or his delegate.* In the case of witnesses for the Secretary or his delegate, such payments shall be made by the Secretary or his delegate out of any moneys appropriated for the collection of internal revenue taxes, and may be made in advance.

(2) *Other witnesses.* In the case of any other witnesses, such payments shall be made, subject to rules prescribed by the Tax Court, by the party at whose instance the witness appears or the deposition is taken.

§ 301.7457–1 Witness fees.

Any witness summoned for the Commissioner or whose deposition is taken under section 7456 shall receive the same fees and mileage as witnesses in courts of the United States. Such fees and mileage and the expense of taking any such deposition shall be paid by the Commissioner out of any moneys appropriated for the collection of internal revenue taxes, and may be paid in advance.

§ 301.7458 Statutory provisions; hearings.

SEC. 7458. *Hearings.* Notice and opportunity to be heard upon any proceeding instituted before the Tax Court shall be given to the taxpayer and the Secretary or his delegate. If an opportunity to be heard upon the proceeding is given before a division of the Tax Court, neither the taxpayer nor the Secretary nor his delegate shall be entitled to notice and opportunity to be heard before the Tax Court upon review, except upon a specific order of the chief judge. Hearings before the Tax Court and its divisions shall be open to the public, and the testimony, and, if the Tax Court so requires, the argument, shall be stenographically reported. The Tax Court is authorized to contract (by renewal of contract or otherwise) for the reporting of such hearings, and in such contract to fix the terms and conditions under which transcripts will be supplied by the contractor to the Tax Court and to other persons and agencies.

§ 301.7458–1 Hearings.

Notice and opportunity to be heard upon any proceeding instituted before the Tax Court shall be given to the taxpayer and the Commissioner. If an opportunity to be heard upon the proceeding is given before a division of the Tax Court, neither the taxpayer nor the Commissioner shall be entitled to notice and opportunity to be heard before the Tax Court upon review, except upon a specific order of the chief judge.

§ 301.7459 Statutory provisions; reports and decisions.

SEC. 7459. *Reports and decisions*—(a) *Requirement.* A report upon any proceeding instituted before the Tax Court and a decision thereon shall be made as quickly as practicable. The decision shall be made by a judge in accordance with the report of the Tax Court, and such decision so made shall, when entered, be the decision of the Tax Court.

(b) *Inclusion of findings of fact or opinions in report.* It shall be the duty of the Tax Court and of each division to include in its report upon any proceeding its findings of fact or opinion or memorandum opinion. The Tax Court shall report in writing all its findings of fact, opinions, and memorandum opinions.

(c) *Date of decision.* A decision of the Tax Court (except a decision dismissing a proceeding for lack of jurisdiction) shall be held to be rendered upon the date that an order specifying the amount of the deficiency is entered in the records of the Tax Court. If the Tax Court dismisses a proceeding for reasons other than lack of jurisdiction and is unable from the record to determine the amount of the deficiency determined by the Secretary or his delegate, or if the Tax Court dismisses a proceeding for lack of jurisdiction, an order to that effect shall be entered in the records of the Tax Court, and the decision of the Tax Court shall be held to be rendered upon the date of such entry.

(d) *Effect of decision dismissing petition.* If a petition for a redetermination of a deficiency has been filed by the taxpayer, a decision of the Tax Court dismissing the proceeding shall be considered as its decision that the deficiency is the amount determined by the Secretary or his delegate. An order specifying such amount shall be entered in the records of the Tax Court unless the Tax Court cannot determine such amount from the record in the proceeding, or unless the dismissal is for lack of jurisdiction.

(e) *Effect of decision that tax is barred by limitation.* If the assessment or collection of any tax is barred by any statute of limitations, the decision of the Tax Court to that effect shall be considered as its decision that there is no deficiency in respect of such tax.

(f) *Findings of fact as evidence.* The findings of the Board of Tax Appeals made in connection with any decision prior to February 26, 1926, shall, notwithstanding the enactment of the Revenue Act of 1926 (44 Stat. 9), continue to be prima facie evidence of the facts therein stated.

(g) *Penalty.* For penalty for taxpayer instituting proceedings before Tax Court merely for delay, see section 6673.

§ 301.7460 Statutory provisions; provisions of special application to divisions.

SEC. 7460. *Provisions of special application to divisions*—(a) *Hearings, determinations, and reports.* A division shall hear, and make a determination upon, any proceeding instituted before the Tax Court and any motion in connection therewith, assigned to such division by the chief judge, and shall make a report of any such determination which constitutes its final disposition of the proceeding.

(b) *Effect of action by a division.* The report of the division shall become the report of the Tax Court within 30 days after such report by the division, unless within such period the chief judge has directed that such report shall be reviewed by the Tax Court. Any preliminary action by a division which does not form the basis for the entry of the final decision shall not be subject to review by the Tax Court except in accordance with such rules as the Tax Court may prescribe. The report of a division shall not be a part of the record in any case in which the chief judge directs that such report shall be reviewed by the Tax Court.

§ 301.7461 Statutory provisions; publicity of proceedings.

SEC. 7461. *Publicity of proceedings.* All reports of the Tax Court and all evidence received by the Tax Court and its divisions, including a transcript of the stenographic report of the hearings, shall be public records open to the inspection of the public; except that after the decision of the Tax Court in any proceeding has become final the Tax Court may, upon motion of the taxpayer or the Secretary or his delegate, permit the withdrawal by the party entitled thereto of originals of books, documents, and records, and of models, diagrams, and other exhibits, introduced in evidence before the Tax Court or any division; or the Tax Court may, on its own motion, make such other disposition thereof as it deems advisable.

§ 301.7461–1 Publicity of proceedings.

All reports of the Tax Court and all evidence received by the Tax Court and its divisions, including a transcript of the stenographic report of the hearings, shall be public records open to the inspection of the public; except that after the decision of the Tax Court in any proceeding has become final the Tax Court may, upon motion of the taxpayer or the Commissioner, permit the withdrawal by the party entitled thereto of the originals of books, documents, and records, and of models, diagrams, and other exhibits, introduced in evidence before the Tax Court or any of its divisions; or the Tax Court may, on its own action, make such other disposition thereof as it deems advisable.

§ 301.7462 Statutory provisions; publication of reports.

SEC. 7462. *Publication of reports.* The Tax Court shall provide for the publication of its reports at the Government Printing Office in such form and manner as may be best adapted for public information and use, and such authorized publication shall be competent evidence of the reports of the Tax Court therein contained in all courts of the United States and of the several States without any further proof or authentication thereof. Such reports shall be subject to sale in the same manner and upon the same terms as other public documents.

§ 301.7463 Statutory provisions; provisions of special application to transferees.

SEC. 7463. *Provisions of special application to transferees.* (1) For rules of burden of proof in transferee proceedings, see section 6902(a).

(2) For authority of Tax Court to prescribe rules by which a transferee of property of a taxpayer shall be entitled to examine books, records and other evidence, see section 6902(b).

MISCELLANEOUS PROVISIONS

§ 301.7471 Statutory provisions; employees.

SEC. 7471. *Employees*—(a) *Appointment and compensation.* The Tax Court is authorized in accordance with the civil service laws to appoint, and in accordance with the Classification Act of 1949 (63 Stat. 954; 5 U.S.C. chapter 21), as amended, to fix the compensation of, such employees as may be necessary efficiently to execute the functions vested in the Tax Court.

(b) *Expenses for travel and subsistence.* The employees of the Tax Court shall receive their necessary traveling expenses, and expenses for subsistence while traveling on duty and away from their designated stations, as provided in the Travel Expense Act of 1949 (63 Stat. 166; 5 U.S.C. chapter 16).

(c) *Commissioners.* For travel and subsistence allowances of commissioners of the Tax Court, see section 7456(c).

§ 301.7472 Statutory provisions; expenditures.

SEC. 7472. *Expenditures.* The Tax Court is authorized to make such expenditures (including expenditures for personal services and rent at the seat of Government and elsewhere, and for law books, books of reference, and periodicals), as may be necessary efficiently to execute the functions vested in the Tax Court. All expenditures of the Tax Court shall be allowed and paid, out of any moneys appropriated for purposes of the Tax Court, upon presentation of itemized vouchers therefor signed by the certifying officer designated by the chief judge.

§ 301.7473 Statutory provisions; disposition of fees.

SEC. 7473. *Disposition of fees.* All fees received by the Tax Court shall be covered into the Treasury as miscellaneous receipts.

§ 301.7474 Statutory provisions; fee for transcript of record.

SEC. 7474. *Fee for transcript of record.* The Tax Court is authorized to fix a fee, not in excess of the fee fixed by law to be charged and collected therefor by the clerks of the district courts, for comparing, or for preparing and comparing, a transcript of the record, or for copying any record, entry, or other paper and the comparison and certification thereof.

COURT REVIEW OF TAX COURT DECISIONS

§ 301.7481 Statutory provisions; date when Tax Court decision becomes final.

SEC. 7481. *Date when Tax Court decision becomes final.* The decision of the Tax Court shall become final—

(1) *Timely petition for review not filed.* Upon the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time; or

(2) *Decision affirmed or petition for review dismissed*—(A) *Petition for certiorari not filed on time.* Upon the expiration of the time allowed for filing a petition for certiorari, if the decision of the Tax Court has been affirmed or the petition for review dismissed by the U.S. Court of Appeals and no petition for certiorari has been duly filed; or

(B) *Petition for certiorari denied.* Upon the denial of a petition for certiorari, if the decision of the Tax Court has been affirmed or the petition for review dismissed by the U.S. Court of Appeals; or

(C) *After mandate of Supreme Court.* Upon the expiration of 30 days from the date of issuance of the mandate of the Supreme Court, if such Court directs that the decision of the Tax Court be affirmed or the petition for review dismissed.

(3) *Decision modified or reversed*—(A) *Upon mandate of Supreme Court.* If the Supreme Court directs that the decision of the Tax Court be modified or reversed, the decision of the Tax Court rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of 30 days from the time it was rendered, unless within such 30 days either the Secretary or his delegate or the taxpayer has instituted proceedings to have such decision corrected to accord with the mandate, in which event the decision of the Tax Court shall become final when so corrected.

(B) *Upon mandate of the Court of Appeals.* If the decision of the Tax Court is modified or reversed by the U.S. Court of Appeals, and if—

(i) The time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or

(ii) The petition for certiorari has been denied, or

(iii) The decision of the U.S. Court of Appeals has been affirmed by the Supreme Court, then the decision of the Tax Court rendered in accordance with the mandate of the U.S. Court of Appeals shall become final on the expiration of 30 days from the time such decision of the Tax Court was rendered, unless within such 30 days either the Commissioner or the taxpayer has instituted proceedings to have such decision corrected so that it will accord with the mandate, in which event the decision of the Tax Court shall become final when so corrected.

(4) *Rehearing.* If the Supreme Court orders a rehearing; or if the case is remanded by the U.S. Court of Appeals to the Tax Court for a rehearing, and if—

(A) The time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or

(B) The petition for certiorari has been denied, or

(C) The decision of the U.S. Court of Appeals has been affirmed by the Supreme Court,

then the decision of the Tax Court rendered upon such rehearing shall become final in the same manner as though no prior decision of the Tax Court has been rendered.

(5) *Definition of "mandate".* As used in this section, the term "mandate", in case a mandate has been recalled prior to the expiration of 30 days from the date of issuance thereof, means the final mandate.

§ 301.7481–1 Date when Tax Court decision becomes final; decision modified or reversed.

(a) *Upon mandate of Supreme Court.* Under section 7481(3)(A) of the Code, if the Supreme Court directs that the decision of the Tax Court be modified or reversed, the decision of the Tax Court rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of 30 days from the time it was rendered, unless within such 30 days either the Commissioner or the taxpayer has instituted proceedings to have such decision corrected to accord with the mandate, in which event the decision of the Tax Court shall become final when so corrected.

(b) *Upon mandate of the Court of Appeals.* Under section 7481(3)(B) of the Code, if the decision of the Tax Court is modified or reversed by the U.S. Court of Appeals, and if—

(i) The time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or

(ii) The petition for certiorari has been denied, or

(iii) The decision of the U.S. Court of Appeals has been affirmed by the Supreme Court, then the decision of the Tax Court rendered in accordance with the mandate of the U.S. Court of Appeals shall become final on the expiration of 30 days from the time such decision of the Tax Court was rendered, unless within such 30 days either the Commissioner or the taxpayer has instituted proceedings to have such decision corrected so that it will accord with the mandate, in which event the decision of the Tax Court shall become final when so corrected.

§ 301.7482 Statutory provisions; courts of review.

SEC. 7482. *Courts of review*—(a) *Jurisdiction.* The U.S. Courts of Appeals shall have exclusive jurisdiction to review the decisions of the Tax Court, except as provided in section 1254 of Title 28 of the United States Code, in the same manner and to the same extent as decisions of the district courts in civil actions tried without a jury; and the judgment of any such court shall be final, except that it shall be subject to review by the Supreme Court of the United States upon certiorari, in the manner provided in section

1254 of Title 28 of the United States Code.

(b) *Venue*—(1) *In general.* Except as provided in paragraph (3), such decisions may be reviewed by the U.S. Court of Appeals for the circuit in which is located the office to which was made the return of the tax in respect of which the liability arises, or, if no return was made, then by the U.S. Court of Appeals for the District of Columbia.

(2) *By agreement.* Notwithstanding the provisions of paragraph (1), such decisions may be reviewed by any U.S. Court of Appeals which may be designated by the Secretary or his delegate and the taxpayer by stipulation in writing.

(c) *Powers*—(1) *To affirm, modify, or reverse.* Upon such review, such courts shall have power to affirm or, if the decision of the Tax Court is not in accordance with law, to modify or to reverse the decision of the Tax Court, with or without remanding the case for a rehearing, as justice may require.

(2) *To make rules.* Rules for review of decisions of the Tax Court shall be those prescribed by the Supreme Court under section 2074 of Title 28 of the United States Code. Until such rules become effective the rules adopted under authority of section 1141(c)(2) of the Internal Revenue Code of 1939 shall remain in effect.

(3) *To require additional security.* Nothing in section 7482 shall be construed as relieving the petitioner from making or filing such undertakings as the court may require as a condition of or in connection with the review.

(4) *To impose damages.* The U.S. Court of Appeals and the Supreme Court shall have power to impose damages in any case where the decision of the Tax Court is affirmed and it appears that the petition was filed merely for delay.

§ 301.7482–1 Courts of review; venue.

Under section 7482(b)(2) of the Code, decisions of the Tax Court may be reviewed by any U.S. Court of Appeals which may be designated by the Commissioner and the taxpayer by stipulation in writing.

§ 301.7483 Statutory provisions; petition for review.

SEC. 7483. *Petition for review.* The decision of the Tax Court may be reviewed by a U.S. Court of Appeals as provided in section 7482 if a petition for such review is filed by either the Secretary (or his delegate) or the taxpayer within 3 months after the decision is rendered. If, however, a petition for such review is so filed by one party to the proceeding, a petition for review of the decision of the Tax Court may be filed by any other party to the proceeding within 4 months after such decision is rendered.

§ 301.7483–1 Petition for review.

The decision of the Tax Court may be reviewed by a U.S. Court of Appeals as provided in section 7482 of the Code if a petition for such review is filed by either the Commissioner or the taxpayer within 3 months after the decision is rendered. If, however, a petition for such review is so filed by one party to the proceeding, a petition for review of the decision of the Tax Court may be filed by any other party to the proceeding within 4 months after such decision is rendered.

§ 301.7484 Statutory provisions; change of incumbent in office.

SEC. 7484. *Change of incumbent in office.* When the incumbent of the office of Secretary or his delegate changes, no substitution of the name of his successor shall be required in proceedings pending before any appellate court reviewing the action of the Tax Court.

§ 301.7484–1 Change of incumbent in office.

When the incumbent of the office of Commissioner changes, no substitution of the name of his successor shall be required in proceedings pending before any appellate court reviewing the action of the Tax Court.

§ 301.7485 Statutory provisions; bond to stay assessment and collection.

SEC. 7485. *Bond to stay assessment and collection*—(a) *Upon petition for review.* Notwithstanding any provision of law imposing restrictions on the assessment and collection of deficiencies, the review under section 7483 shall not operate as a stay of assessment or collection of any portion of the amount of the deficiency determined by the Tax Court unless a petition for review in respect of such portion is duly filed by the taxpayer, and then only if the taxpayer—

(1) On or before the time his petition for review is filed has filed with the Tax Court a bond in a sum fixed by the Tax Court not exceeding double the amount of the portion of the deficiency in respect of which the petition for review is filed, and with surety approved by the Tax Court, conditioned upon the payment of the deficiency as finally determined, together with any interest, additional amounts, or additions to the tax provided for by law, or

(2) Has filed a jeopardy bond under the income or estate tax laws.

If, as a result of a waiver of the restrictions on the assessment and collection of a deficiency, any part of the amount determined by the Tax Court is paid after the filing of the review bond, such bond shall, at the request of the taxpayer, be proportionately reduced.

(b) *Cross references.* (1) For requirement of additional security notwithstanding this section, see section 7483(c)(3).

(2) For deposit of U.S. bonds or notes in lieu of sureties, see 6 U.S.C. 15.

§ 301.7486 Statutory provisions; refund, credit, or abatement of amounts disallowed.

SEC. 7486. *Refund, credit, or abatement of amounts disallowed.* In cases where assessment or collection has not been stayed by the filing of a bond, then if the amount of the deficiency determined by the Tax Court is disallowed in whole or in part by the court of review, the amount so disallowed shall be credited or refunded to the taxpayer, without the making of claim therefor, or, if collection has not been made, shall be abated.

§ 301.7487 Statutory provisions; cross reference.

SEC. 7487. *Cross reference.* For authority of the Tax Court to fix fees for transcripts of records, see section 7474.

MISCELLANEOUS PROVISIONS

§ 301.7491 Statutory provisions; burden of proof of exemptions in case of marihuana offenses.

SEC. 7491. *Burden of proof of exemptions in case of marihuana offenses.* It shall not be necessary to negative any exemptions set forth in part II of subchapter A of chapter 39, relating to marihuana, in any complaint, information, indictment, or other writ or proceeding laid or brought with respect to part II of subchapter A of chapter 39 and the burden of proof of any such exemption shall be upon the defendant. In the absence of the production of evidence by the defendant that he has complied with the provisions of section 4753 relating to registration, or that he has complied with the provisions of section 4742 relating to order forms, he shall be presumed not to have complied with such provisions of such section, as the case may be.

§ 301.7492 Statutory provisions; enforceability of cotton futures contracts.

SEC. 7492. *Enforceability of cotton futures contracts.* No contract of sale of cotton for future delivery mentioned in section 4851(a), which does not conform to the requirements of section 4853 and has not the necessary stamps affixed thereto as required by section 4871, shall be enforceable in any court of the United States by, or on behalf of, any party to such contract or his privies.

§ 301.7493 Statutory provisions; immunity of witnesses in cases relating to cotton futures.

SEC. 7493. *Immunity of witnesses in cases relating to cotton futures.* No person whose evidence is deemed material by the officer prosecuting on behalf of the United States in any case brought under any provision of subchapter D of chapter 39 (relating to cotton futures) shall withhold his testimony because of complicity by him in any violation of subchapter D of chapter 39, or of any regulation made pursuant to such chapter, but any such person called by such officer who testifies in such case shall be exempt from prosecution for any offense to which his testimony relates.

Miscellaneous Provisions

§ 301.7501 Statutory provisions; liability for taxes withheld or collected.

SEC. 7501. *Liability for taxes withheld or collected*—(a) *General rule.* Whenever any person is required to collect or withhold any internal revenue tax from any other person and to pay over such tax to the United States, the amount of tax so collected or withheld shall be held to be a special fund in trust for the United States. The amount of such fund shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations (including penalties) as are applicable with respect to the taxes from which such fund arose.

(b) *Penalties.* For penalties applicable to violations of this section, see sections 6672 and 7202.

§ 301.7502 Statutory provisions; timely mailing treated as timely filing.

SEC. 7502. *Timely mailing treated as timely filing*—(a) *General rule.* If any claim, statement, or other document (other than a return or other document required under authority of chapter 61), required to be filed within a prescribed period or on or before a prescribed date under authority of any provision of the internal revenue laws is, after such period or such date, delivered by U.S. mail to the agency, officer, or office with which such claim, statement, or other document is required to be filed, the date of the U.S. postmark stamped on the cover in which such claim, statement, or other document is mailed shall be deemed to be the date of delivery. This subsection shall apply only if the postmark date falls within the prescribed period or on or before the prescribed date for the filing of the claim, statement, or other document, determined with regard to any extension granted for such filing, and only if the claim, statement, or other document was, within the prescribed time, deposited in the mail in the United States in an envelope or other appropriate wrapper, postage prepaid, properly addressed to the agency, office, or officer with which the claim, statement, or other document is required to be filed.

(b) *Stamp machine.* This section shall apply in the case of postmarks not made by the U.S. Post Office only if and to the extent provided by regulations prescribed by the Secretary or his delegate.

(c) *Registered and certified mail*—(1) *Registered mail.* If any such claim, statement, or other document is sent by U.S. registered mail, such registration shall be prima facie evidence that the claim, statement, or other document was delivered to the agency, office, or officer to which addressed, and the date of registration shall be deemed the postmark date.

(2) *Certified mail.* The Secretary or his delegate is authorized to provide by regulations the extent to which the provisions of paragraph (1) of this subsection with respect to prima facie evidence of delivery and the postmark date shall apply to certified mail.

(d) *Exception.* This section shall not apply with respect to the filing of a document in any court other than the Tax Court.

[Sec. 7502 as amended by sec. 80(a), Technical Amendments Act 1958 (72 Stat. 1665)]

§ 301.7502–1 Timely mailing treated as timely filing.

(a) *General rule.* Section 7502 provides that, if the requirements of such section are met, a document shall be deemed to be filed on the date of the postmark stamped on the cover in which such document was mailed. Thus, if the cover containing such document bears a timely postmark, the document will be considered filed timely although it is received after the last date, or the last day of the period, prescribed for filing such document. Section 7502 does not apply to the payment of any tax. Section 7502 is applicable only to those documents which come within the definition of such term provided by paragraph (b) of this section and only if the document is mailed in accordance with paragraph (c) of this section and is delivered in accordance with paragraph (d) of this section.

(b) *Document defined.* (1) The term "document," as used in this section, means any claim, statement, or other document required to be filed within a prescribed period or on or before a prescribed date under authority of any provision of the internal revenue laws, except as provided in the following subdivisions of this subparagraph:

(i) The term does not include any return required under authority of any internal revenue law or any other document required under authority of chapter 61 of the Code. Thus, for example, such term does not include the income tax returns required by section 6012, the declarations of estimated income tax by individuals and corporations required by sections 6015 and 6016, and the estate tax and gift tax returns required by sections 6018 and 6019. Nor does the term include any return required under authority of subtitle E of the Code, relating to alcohol, tobacco, and certain other excise taxes.

(ii) The term does not include any document filed in any court other than the Tax Court, but the term does include any document filed with the Tax Court, including a petition for redetermination of a deficiency and a petition for review of a decision of the Tax Court.

(iii) The term does not include any document which is required to be filed with a bank or other depositary pursuant to section 6302(c).

(2) A return may contain, or have attached to it, a statement which sets forth an election under the internal revenue laws. In such a case, section 7502 is applicable to the statement if the conditions of such section are met, although it does not apply to the return. Moreover, in the case of certain taxes, a return may constitute a claim for refund or credit. In such a case, section 7502 is applicable to the claim for refund or credit if the conditions of such section are met, irrespective of whether the claim is also a return.

(c) *Mailing requirements.* (1) Section 7502 is not applicable unless the document is mailed in accordance with the following requirements:

(i) The document must be contained in an envelope or other appropriate wrapper, properly addressed to the agency, officer, or office with which the document is required to be filed.

(ii) The document must be deposited within the prescribed time in the mail in the United States with sufficient postage prepaid. For this purpose, a document is deposited in the mail in the United States when it is deposited with the domestic mail service of the U.S. Post Office. The domestic mail service of the U.S. Post Office, as defined by the postal regulations, includes mail transmitted within, among, and between the United States, its Territories and possessions, and Army-Air Force (APO) and Navy (FPO) post offices (see 39 CFR 2.1). Section 7502 does not apply to any document which is deposited with the mail service of any other country.

(iii) (a) If the postmark on the envelope or wrapper is made by the U.S. Post Office, such postmark must bear a date on or before the last date, or the last day of the period, prescribed for filing the document. If the postmark does not bear a date on or before the last date, or the last day of the period, prescribed for filing the document, the document will be considered not to be filed timely, regardless of when the document is deposited in the mail. Accordingly, the sender who relies upon the applicability of section 7502 assumes the risk that the postmark will bear a date on or before the last date, or the last day of the period, prescribed for filing the document, but see subparagraph (2) of this paragraph with respect to the use of registered mail or certified mail to avoid this risk. If the postmark on the envelope or wrapper is not legible, the person who is required to file the document has the burden of proving the time when the postmark was made. Furthermore, in case the cover containing a document bearing a timely postmark made by the U.S. Post Office is received after the time when a document postmarked and mailed at such time would ordinarily be received, the sender may be required to prove that it was timely mailed.

(b) If the postmark on the envelope or wrapper is made other than by the U.S. Post Office, (1) the postmark so made must bear a date on or before the last date, or the last day of the period, prescribed for filing the document, and (2) the document must be received by the agency, officer, or office with which it is required to be filed not later than the time when a document contained in an envelope or other appropriate wrapper which is properly addressed and mailed and sent by the same class of mail would ordinarily be received if it were postmarked at the same point of origin by the U.S. Post Office on the last date, or the last day of the period, prescribed for filing the document. However, in case the document is received after the time when a document so mailed and so postmarked by the U.S. Post Office would ordinarily be received, such document will be treated as having been received at the time when a document so mailed and so postmarked would ordinarily be received, if the person who is required to file the document establishes (i) that it was actually deposited in the mail before the last collection of the mail from the place of deposit which was postmarked (except for the metered mail) by the U.S. Post Office on or before the last date, or the last day of the period, prescribed for filing the document, (ii) that the delay in receiving the document was due to a delay in the transmission of the mail, and (iii) the cause of such delay. If the envelope has a postmark made by the U.S. Post Office in addition to the postmark not so made, the postmark which was not made by the U.S. Post Office shall be disregarded, and whether the envelope was mailed in accordance with this subdivision shall be determined solely by applying the rule of (a) of this subdivision.

(2) If the document is sent by U.S. registered mail, the date of registration of the document shall be treated as the postmark date. If the document is sent by U.S. certified mail and the sender's receipt is postmarked by the postal employee to whom such document is presented, the date of the U.S. postmark on such receipt shall be treated as the postmark date of the document. Accordingly, the risk that the document will not be postmarked on the day that it is deposited in the mail may be overcome by the use of registered mail or certified mail.

(3) As used in this section, the term "the last date, or the last day of the period, prescribed for filing the document" includes any extension of time granted for such filing. When the last date, or the last day of the period, prescribed for filing the document falls on a Saturday, Sunday, or legal holiday, section 7503 is also applicable, so that, in applying the rules of this paragraph, the next succeeding day which is not a Saturday, Sunday, or legal holiday shall be treated as the last date, or the last day of the period, prescribed for filing the document.

(d) *Delivery.* (1) Section 7502 is not applicable unless the document is delivered by U.S. mail to the agency, officer, or office with which it is required to be filed. However, if the document is sent by registered mail or certified mail, proof that the document was properly registered or that a postmarked certified mail sender's receipt was properly issued therefor, and that the envelope or wrapper was properly addressed to such agency, officer, or office shall constitute prima facie evidence that the document was delivered to such agency, officer, or office.

(2) Section 7502 is applicable only when the document is delivered after the last date, or the last day of the period, prescribed for filing the document. However, section 7502 is also applicable when a claim for credit or refund is delivered after the last day of the period specified in section 322(b)(2) of the Internal Revenue Code of 1939 or in any other corresponding provision of law relating to the limit on the amount of credit or refund that is allowable. For example, taxpayer A was required to file his income tax return for 1953 on or before March 15, 1954, but he secured an extension until June 15, 1954, to file such return. His return was filed on June 15, 1954, but no tax was paid at such time because the tax liability disclosed by the return had been completely satisfied by the income tax that had been withheld on his wages and by the payments of estimated tax. On March 14, 1957, A mailed in accordance with the requirements of this section a claim for refund of a portion of his 1953 tax. The envelope containing the claim was postmarked on such day, but it was not delivered to the district director's office until March 18, 1957. Under section 322(b)(1) of the Internal Revenue Code of 1939, A's claim for refund is timely if filed within three years from June 15, 1954. However, as a result of the limitation of section 322(b)(2) of the 1939 Code, if his claim is not filed within three years after March 15, 1954, the date on which he is deemed under section 322(e) of the 1939 Code to have paid his 1953 tax, he is not entitled to any refund. Thus, since A's claim for refund was mailed in accordance with the requirements of this section and was delivered after the last day of the period specified in such section 322(b)(2), section 7502 is applicable, and the claim is deemed to have been filed on March 14, 1957.

(e) *Applicability*—(1) *General rule.* Except as provided in subparagraph (2) of this paragraph, section 7502 and this section are applicable with respect to any document which is mailed and delivered in accordance with the requirements of this section and which is mailed in an envelope having a postmark bearing a date after August 16, 1954, irrespective of whether the postmark is made by the U.S. Post Office, and irrespective of whether the tax to which the document pertains is imposed by the Code or a prior internal revenue law.

(2) *Exception.* The provisions of section 7502 and this section which specifically apply to certified mail are applicable only if the mailing occurs on or after January 15, 1960.

§ 301.7503 Statutory provisions; time for performance of acts where last day falls on Saturday, Sunday, or legal holiday.

SEC. 7503. *Time for performance of acts where last day falls on Saturday, Sunday, or legal holiday.* When the last day prescribed under authority of the internal revenue laws for performing any act falls on Saturday, Sunday, or a legal holiday, the performance of such act shall be considered timely if it is performed on the next succeeding day which is not a Saturday, Sunday, or a legal holiday. For purposes of this section, the last day for the performance of any act shall be determined by including any authorized extension of time; the term "legal holiday" means a legal holiday in the District of Columbia; and in the case of any return, statement, or other document required to be filed, or any other act required under authority of the internal revenue laws to be performed, at any office of the Secretary or his delegate, or at any other office of the United States or any agency thereof, located outside the District of Columbia but within an internal revenue district, the term "legal holiday" also means a Statewide legal holiday in the State where such office is located.

§ 301.7503–1 Time for performance of acts where last day falls on Saturday, Sunday, or legal holiday.

(a) *In general.* Section 7503 provides that when the last day prescribed under authority of any internal revenue law for the performance of any act falls on a Saturday, Sunday, or legal holiday, such act shall be considered performed timely if performed on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For this purpose, any authorized extension of time shall be included in determining the last day for performance of any act. Section 7503 is applicable only in case an act is required under authority of any internal revenue law to be performed on or before a prescribed date or within a prescribed period. For example, if the 2-year period allowed by section 6532(a)(1) to bring a suit for refund of any internal revenue tax expires on Thursday, November 22, 1956 (Thanksgiving Day), the suit will be timely if filed on Friday, November 23, 1956, in the Court of Claims, or in a district court. Section 7503 applies to acts to be performed by the taxpayer (such as, the filing of any return of, and the payment of, any income, estate, or gift tax; the filing of a petition with the Tax Court for redetermination of a deficiency, or for review of a decision rendered by such Court; the filing of a claim for credit or refund of any tax) and acts to be performed by the Commissioner, a district director, or the director of a regional service center (such as, the giving of any notice with respect to, or making any demand for the payment of, any tax; the assessment or collection of any tax).

(b) *Legal holidays.* (1) For the purpose of section 7503, the term "legal holiday" includes the legal holidays in the District of Columbia. Such legal holidays are—

(i) January 1, New Year's Day (D.C. Code, Title 28, sec. 616),

(ii) January 20, when such day is Inauguration Day (D.C. Code, Title 28, sec. 616),

(iii) February 22, Washington's Birthday (D.C. Code, Title 28, sec. 616),

(iv) May 30, Memorial Day (D.C. Code, Title 28, sec. 616),

(v) July 4, Independence Day (D.C. Code, Title 28, sec. 616),

(vi) First Monday in September, Labor Day (5 U.S.C. 87),

(vii) November 11, Veterans' Day (5 U.S.C. 87a, as amended),

(viii) Fourth Thursday in November, Thanksgiving Day (5 U.S.C. 87b), and

(ix) December 25, Christmas Day (D.C. Code, Title 28, sec. 616).

When a legal holiday in the District of Columbia falls on a Sunday, the next day is a legal holiday in the District of Columbia (see D.C. Code, Title 28, sec. 616).

(2) In the case of any return, statement, or other document required to be filed, or any other act required under the authority of the internal revenue laws to be performed, at any office of the Internal Revenue Service, or any other office or agency of the United States, located outside the District of Columbia, but within an internal revenue district, the term "legal holiday" includes, in addition to the legal holidays enumerated in subparagraph (1) of this paragraph, any Statewide legal holiday of the State where the act is required to be performed. If the act is performed in accordance with law at an office of the Internal Revenue Service or any other office or agency of the United States located in a Territory or possession of the United States, the term "legal holiday" includes, in addition to the legal holidays described in subparagraph (1) of this paragraph, any legal holiday which is recognized throughout the Territory or possession in which the office is located.

(c) *Applicability.* Section 7503 and this section are applicable in any case when the last day prescribed under authority of any internal revenue law for the performance of any act falls on a Saturday, Sunday, or legal holiday, which occurs after August 16, 1954, irrespective of whether the tax in connection with which the act is required to be performed is imposed by this title or a prior internal revenue law.

§ 301.7504 Statutory provisions; fractional parts of a dollar.

SEC. 7504. *Fractional parts of a dollar.* The Secretary or his delegate may by regulations provide that in the allowance of any amount as a credit or refund, or in the collection of any amount as a deficiency or underpayment, of any tax imposed by this title, a fractional part of a dollar shall be disregarded, unless it amounts to 50 cents or more, in which case it shall be increased to 1 dollar.

§ 301.7505 Statutory provisions; sale of personal property purchased by the United States.

SEC. 7505. *Sale of personal property purchased by the United States*—(a) *Sale.* Any personal property purchased by the United States under the authority of section 6335(e) (relating to purchase for the account of the United States of property sold under levy) may be sold by the Secretary or his delegate in accordance with such regulations as may be prescribed by the Secretary or his delegate.

(b) *Accounting.* In case of the resale of such property, the proceeds of the sale shall be paid into the Treasury as internal revenue collections, and there shall be rendered a distinct account of all charges incurred in such sales.

§ 301.7505–1 Sale of personal property purchased by the United States.

(a) *Sale*—(1) *In general.* Any personal property (except bonds, notes, checks, and other securities) purchased by the United States under the authority of section 6335(e) (relating to purchase for the account of the United States of property sold under levy) or the corresponding provisions of prior law may be sold by the district director who purchased such property for the United States. U.S. Savings Bonds shall not be sold by the district director but shall be transferred to the Division of Loans and Currency, Treasury Department, for redemption. Other bonds, notes, checks, and other securities shall be disposed of in accordance with instructions issued by the Commissioner.

(2) *Time, place, manner, and terms of sale.* The time, place, manner, and terms of sale of personal property purchased for the United States shall be as follows:

(i) *Time, notice, and place of sale.* The property may be sold at any time after it has been purchased by the United States. A public notice of sale shall be posted at the post office nearest the place of sale and in at least two other public places. The notice shall specify the property to be sold and the time, place, manner, and conditions of sale. In addition, the district director may use such other methods of advertising as he believes will result in obtaining the highest price for the property. The place of sale shall be within the internal revenue district where the property was originally purchased for the United States. However, if the district director believes that a substantially higher price may be obtained, the sale may be held outside his district.

(ii) *Rejection of bids and adjournment of sale.* The internal revenue officer conducting the sale reserves the right to reject any and all bids and withdraw the property from the sale. When it appears to the internal revenue officer conducting the sale that an adjournment of the sale will best serve the interest of the United States, he may order the sale adjourned from time to time. If the sale is adjourned for more than 30 days in the aggregate, public notice of the sale must again be given in accordance with subdivision (i) of this subparagraph.

(iii) *Liquidated damages.* The notice shall state whether, in the case of default in payment of the bid price, any amount deposited with the United States will be retained as liquidated damages. In case liquidated damages are provided, the amount thereof shall not exceed $200.

(3) *Agreement to bid.* The district director may, before giving notice of sale, solicit offers from prospective bidders and enter into agreements with such persons that they will bid at least a specified amount in case the property is offered for sale. In such cases, the district director may also require such persons to make deposits to secure the performance of their agreements. Any such deposit, but not more than $200, shall be retained as liquidated damages in case such person fails to bid the specified amount and the property is not sold for as much as the amount specified in such agreement.

(4) *Terms of payment.* The property shall be offered for sale upon whichever of the following terms is fixed by the district director in the public notice of sale—

(i) Payment in full upon acceptance of the highest bid, without regard to the amount of such bid, or

(ii) If the aggregate price of all property purchased by a successful bidder at the sale is more than $200, an initial payment of $200 or 20 percent of the purchase price, whichever is the greater, and payment of the balance (including all costs incurred for the protection or preservation of the property subsequent to the sale and prior to final payment) within a specified period, not to exceed one month from the date of the sale.

(5) *Method of sale.* The property may be sold either—

(i) At public auction, at which open competitive bids shall be received, or

(ii) At public sale under sealed bids.

(6) *Sales under sealed bids.* The following rules, in addition to the other rules provided in this paragraph, shall be applicable to public sales under sealed bids.

(i) *Invitation to bidders.* Bids shall be solicited through a public notice of sale.

(ii) *Form for use by bidders.* A bid shall be submitted on a form which will be furnished by the district director upon request. The form shall be completed in accordance with the instructions thereon.

(iii) *Remittance with bid.* If the total bid is $200 or less, the full amount of the bid shall be submitted therewith. If the total bid is more than $200, 20 percent of such bid or $200, whichever is greater, shall be submitted therewith. Such remittance shall be by a certified, cashier's, or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States or under the laws of any State, Territory, or possession of the United States, or by a U.S. postal, bank, express, or telegraph money order.

(iv) *Time for receiving and opening bids.* Each bid shall be submitted in a securely sealed envelope. The bidder shall indicate in the upper left hand corner of the envelope his name and address and the time and place of sale as announced in the public notice of sale. A bid will not be considered unless it is received by the internal revenue officer conducting the sale prior to the opening of the bids. The bids will be opened at the time and place stated in the notice of sale, or at the time fixed in the announcement of the adjournment of the sale.

(v) *Consideration of bids.* The internal revenue officer conducting the sale shall have the right to waive any technical defects in a bid. After the opening, examination, and consideration of all bids, the internal revenue officer conducting the sale shall announce the amount of the highest bid or bids and the name of the successful bidder or bidders, unless in the opinion of the officer a higher price can be obtained for the property than has been bid. In the event the highest bids are equal in amount (and unless in the opinion of the internal revenue officer conducting the sale a higher price can be obtained for the property than has been bid), the officer shall determine the successful bidder by drawing lots. Any remittance submitted in connection with an unsuccessful bid shall be returned to the bidder at the conclusion of the sale.

(vi) *Withdrawal of bids.* A bid may be withdrawn on written or telegraphic request received from the bidder prior to the time fixed for opening the bids. A technical defect in a bid confers no right on the bidder for the withdrawal of his bid after it has been opened.

(7) *Payment of bid price.* All payments for property sold pursuant to this section shall be made by cash or by a certified, cashier's, or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States or under the laws of any State, Territory, or possession of the United States, or by a U.S. postal, bank, express, or telegraph money order. If payment in full is required upon acceptance of the highest bid, the payment shall be made at such time. If payment in full is not made at such time, the internal revenue officer conducting the sale may forthwith proceed again to sell the property in the manner provided in subparagraph (5) of this paragraph. If deferred payment is permitted, the initial payment shall be made upon acceptance of the bid, and the balance shall be paid on or before the date fixed for payment thereof. Any remittance submitted with a successful sealed bid shall be applied toward the purchase price.

(8) *Delivery and removal of personal property.* The risk of loss is on the purchaser of the property upon acceptance of his bid. Possession of any property shall not be delivered to the purchaser until the purchase price has been paid in full. If payment of part of the purchase price for the property is deferred, the United States will retain possession of such property as security for the payment of the balance of the purchase price and, as agent for the purchaser, will cause the property to be cared for until the purchase price has been paid in full or the sale is declared null and void for failure to make full payment of the purchase price. In such case, all charges and expenses incurred in caring for the property after acceptance of the bid shall be borne by the purchaser.

(9) *Certificate of sale.* The internal revenue officer conducting the sale shall issue a certificate of sale to the purchaser upon payment in full of the purchase price.

(b) *Accounting.* In case of the resale of such property, the proceeds of the sale shall be paid into the Treasury as internal revenue collections, and there shall be rendered by the district director a distinct account of all charges incurred in such sale. For additional accounting rules, see section 7809 and the instructions thereunder.

§ 301.7506 Statutory provisions; administration of real estate acquired by the United States.

SEC. 7506. *Administration of real estate acquired by the United States*—(a) *Person charged with.* The Secretary or his delegate shall have charge of all real estate which is or shall become the property of the United States by judgment of forfeiture under the internal revenue laws, or which has been or shall be assigned, set off, or conveyed by purchase or otherwise to the United States in payment of debts or penalties arising under the laws relating to internal revenue, or which has been or shall be vested in the United States by mortgage or other security for the payment of such debts, and of all trusts created for the use of the United States in payment of such debts due them.

(b) *Sale.* The Secretary or his delegate, may, at public sale, and upon not less than 20 days' notice, sell and dispose of any real estate owned or held by the United States as aforesaid.

(c) *Lease.* Until such sale, the Secretary or his delegate may lease such real estate owned as aforesaid on such terms and for such period as the Secretary or his delegate shall deem proper.

(d) *Release to debtor.* In cases where real estate has or may become the property of the United States by conveyance or otherwise, in payment of or as security for a debt arising under the laws relating to internal revenue, and such debt shall have been paid, together with the interest thereon, at the rate of 1 percent per month, to the United States, within 2 years from the date of the acquisition of such real estate, it shall be lawful for the Secretary or his delegate to release by deed or otherwise convey such real estate to the debtor from whom it was taken, or to his heirs or other legal representatives.

§ 301.7506–1 Administration of real estate acquired by the United States.

(a) *Persons charged with.* The district director for the internal revenue district in which the property is situated shall have charge of all real estate which is or shall become the property of the United States by judgment of forfeiture under the internal revenue laws, or which has been or shall be assigned, set off, or conveyed by purchase or otherwise to the United States in payment of debts or penalties arising under the laws relating to internal revenue, or which has been or shall be vested in the United States by mortgage, or other security for the payment of such debts, or which has been or shall be purchased for the United States under section 6335(e) or under a corresponding provision of prior law, and of all trusts created for the use of the United States in payment of such debts due the United States.

(b) *Sale.* The district director for the internal revenue district in which the property is situated may sell any real estate owned or held by the United States as aforesaid, subject to the following rules—

(1) *Property purchased at sale under levy.* If the property was acquired as a result of being declared purchased for the United States at a sale under section 6335, relating to sale of seized property, the property shall not be sold until after the expiration of 1 year after such sale under levy.

(2) *Notice of sale.* A notice of sale shall be published in some newspaper published or generally circulated within the county where the property is situated, or a notice shall be posted at the post office nearest the place where the property is situated and in at least two other public places. The notice shall specify the property to be sold and the time, place, manner, and conditions of sale. In addition, the district director may use other methods of advertising and of giving notice of sale if he believes such methods will enhance the possibility of obtaining a higher price for the property.

(3) *Time and place of sale.* The time of the sale shall be not less than 20 days from the date of giving public notice of sale under subparagraph (2) of this paragraph. The place of sale shall be within the county where the property is situated. However, if the district director believes a substantially better price may be obtained, he may hold the sale outside such county.

(4) *Rejection of bids and adjournment of sale.* The internal revenue officer conducting the sale reserves the right to reject any and all bids and withdraw the property from the sale. When it appears to the internal revenue officer conducting the sale that an adjournment of the sale will best serve the interest of the United States, he may order the sale adjourned from time to time. If the sale is adjourned for more than 30 days in the aggregate, public notice of the sale must be given again in accordance with subparagraph (2) of this paragraph.

(5) *Liquidated damages.* The notice shall state whether, in the case of default in payment of the bid price, any amount deposited with the United States will be retained as liquidated damages. In case liquidated damages are provided, the amount thereof shall not exceed $200.

(6) *Agreement to bid.* The district director may, before giving notice of sale, solicit offers from prospective bidders and enter into agreements with such persons that they will bid at least a specified amount in case the property is offered for sale. In such cases, the district director may also require such persons to make deposits to secure the performance of their agreements. Any such deposit, but not more than $200, shall be retained as liquidated damages in case such person fails to bid the specified amount and the property is not sold for as much as the amount specified in such agreement.

(7) *Terms.* The property shall be offered for sale upon whichever of the following terms is fixed by the district director in the public notice of sale:

(i) Payments in full upon acceptance of the highest bid, or

(ii) If the price of the property purchased by a successful bidder at the sale is more than $200, an initial payment of $200 or 20 percent of the purchase price, whichever is the greater, and payment of the balance within a specified period, not to exceed one month from the date of the sale.

(8) *Method of sale.* The property may be sold either—

(i) At public auction, at which open competitive bids shall be received, or

(ii) At public sale under sealed bids.

(9) *Sales under sealed bids.* The following rules, in addition to the other rules provided in this paragraph, shall be applicable at public sales under sealed bids:

(i) *Invitation to bidders.* Bids shall be solicited through a public notice of sale.

(ii) *Form for use by bidders.* A bid shall be submitted on a form which will be furnished by the district director upon request. The form shall be completed in accordance with the instructions thereon.

(iii) *Remittance with bid.* If the total bid is $200 or less, the full amount of the bid shall be submitted therewith. If the total bid is more than $200, 20 percent of such bid or $200, whichever is greater, shall be submitted therewith. Such remittance shall be by a certified, cashier's, or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States or under the laws of any State, Territory, or possession of the United States, or by a U.S. postal, bank, express, or telegraph money order.

(iv) *Time for receiving and opening bids.* Each bid shall be submitted in a securely sealed envelope. The bidder shall indicate in the upper left hand corner of the envelope his name and address and the time and place of sale as announced in the public notice of sale. A bid shall not be considered unless it is received by the internal revenue officer conducting the sale prior to the opening of the bids. The bids will be opened at the time and place stated in the notice of sale, or at the time fixed in the announcement of the adjournment of the sale.

(v) *Consideration of bids.* The internal revenue officer conducting the sale shall have the right to waive any technical defects in a bid. After the opening, examination, and consideration of all bids, the internal revenue officer conducting the sale shall announce the amount of the highest bid or bids and the name of the successful bidder or bidders, unless in the opinion of the officer a higher price can be obtained for the property that has been bid. In the event the highest bids are equal in amount (and unless in the opinion of the internal revenue officer conducting the sale a higher price can be obtained for the property than has been bid), the officer shall determine the successful bidder by drawing lots. Any remittance submitted in connection with an unsuccessful bid shall be returned to the bidder at the conclusion of the sale.

(vi) *Withdrawal of bids.* A bid may be withdrawn on written or telegraphic request received from the bidder prior to the time fixed for opening the bids. A technical defect in a bid confers no right on the bidder for the withdrawal of his bid after it has been opened.

(10) *Payment of bid price.* All payments for property sold pursuant to this section shall be made by cash or by a certified, cashier's, or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States or under the laws of any State, Territory, or possession of the United States, or by a U.S. postal, bank, express, or telegraph money order. If payment in full is required upon acceptance of the highest bid, the payment shall be made at such time. If payment in full is not made at such time, the internal revenue officer conducting the sale may forthwith proceed again to sell the property in the manner provided in subparagraph (8) of this paragraph. If deferred payment is permitted, the initial payment shall be made upon acceptance of the bid, and the balance shall be paid on or before the date fixed for payment thereof. Any remittance submitted with a successful sealed bid shall be applied toward the purchase price.

(11) *Deed.* Upon payment in full of the purchase price, the district director shall execute a quitclaim deed to the purchaser.

(c) *Lease.* Until real estate is sold, the district director for the internal revenue district in which the property is situated may, in accordance with instructions issued by the Commissioner, lease such property.

(d) *Release to debtor.* In cases where real estate has or may become the property of the United States by conveyance or otherwise, in payment of or as security for a debt arising under the laws relating to internal revenue, and such debt shall have been paid, together with the interest thereon (at the rate of 1 percent per month), to the United States within 2 years from the date of the acquisition of such real estate, the district director for the internal revenue district in which the property is located may release by deed or otherwise convey such real estate to the debtor from whom it was taken, or to his heirs or other legal representatives. If property is declared purchased by the United States under section 6335, then, for the purpose of this paragraph, the date of such declaration shall be deemed to be the date of acquisition of such real estate.

(e) *Accounting.* The district director for the internal revenue district in which the property is situated shall, in accordance with section 7809 and the instructions thereunder, account for the proceeds of all sales or leases of the property and all expenses connected with the maintenance, sale, or lease of the property.

(f) *Authority of Commissioner.* Notwithstanding the other paragraphs of this section, the Commissioner may, when he deems it advisable, take charge of and assume responsibility for any real estate to which this section is applicable. In such case, the Commissioner will notify in writing the district director for the internal revenue district in which the property is situated. In any case where a single parcel of real estate is situated in more than one internal revenue district, the Commissioner may designate in writing a district director who shall have charge of and be responsible for the entire property.

§ 301.7507 Statutory provisions; exemption of insolvent banks from tax.

SEC. 7507. *Exemption of insolvent banks from tax*—(a) *Assets in general.* Whenever and after any bank or trust company, a substantial portion of the business of which consists of receiving deposits and making loans and discounts, has ceased to do business by reason of insolvency or bankruptcy, no tax shall be assessed or collected, or paid into the Treasury of the United States, on account of such bank or trust company, which shall diminish the assets thereof necessary for the full payment of all its depositors; and such tax shall be abated from such national banks as are found by the Comptroller of the Currency to be insolvent; and the Secretary or his delegate, when the facts shall appear to him, is authorized to remit so much of the said tax against any such insolvent banks and trust companies organized under State law as shall be found to affect the claims of their depositors.

(b) *Segregated assets; earnings.* Whenever any bank or trust company, a substantial portion of the business of which consists of receiving deposits and making loans and discounts, has been released or discharged from its liability to its depositors for any part of their claims against it, and such depositors have accepted, in lieu thereof, a lien upon subsequent earnings of such bank or trust company, or claims against assets segregated by such bank or trust company or against assets transferred from it to an individual or corporate trustee or agent, no tax shall be assessed or collected, or paid into the Treasury of the United States, on account of such bank or trust company, such individual or corporate trustee or such agent, which shall diminish the assets thereof which are available for the payment of such depositor claims and which are necessary for the full payment thereof. The term "agent", as used in this subsection, shall be deemed to include a corporation acting as a liquidating agent.

(c) *Refund; reassessment; statutes of limitation.* (1) Any such tax collected shall be deemed to be erroneously collected, and shall be refunded subject to all provisions and limitations of law, so far as applicable, relating to the refunding of taxes.

(2) Any tax, the assessment, collection, or payment of which is barred under subsection (a), or any such tax which has been abated or remitted after May 28, 1938, shall be assessed or reassessed whenever it shall appear that payment of the tax will not diminish the assets as aforesaid.

(3) Any tax, the assessment, collection, or payment of which is barred under subsection (b), or any such tax which has been refunded after May 28, 1938, shall be assessed or reassessed after full payment of such claims of depositors to the extent of the remaining assets segregated or transferred as described in subsection (b).

(4) The running of the statute of limitations on the making of assessment and collection shall be suspended during, and for 90 days beyond, the period for which, pursuant to this section, assessment or collection may not be made, and a tax may be reassessed as provided in paragraphs (2) and (3) of this subsection and collected, during the time within which, had there been no abatement, collection might have been made.

(d) *Exception of employment taxes.* This section shall not apply to any tax imposed by chapter 21 or chapter 22.

§ 301.7507–1 Banks and trust companies covered.

(a) Section 7507 applies to any national bank, or bank or trust company organized under State law, a substantial portion of the business of which consists of receiving deposits and making loans and discounts, and which has—

(1) Ceased to do business by reason of insolvency or bankruptcy, or

(2) Been released or discharged from its liability to its depositors for any part of their deposit claims, and the depositors have accepted in lieu thereof a lien upon its subsequent earnings or claims against its assets either (i) segregated and held by it for benefit of the depositors or (ii) transferred to an individual or corporate trustee or agent who liquidates, holds or operates the assets for the benefit of the depositors.

(b) As used in this section and §§ 301.7507–2 to 301.7507–11, inclusive:

(1) The term "bank", unless otherwise indicated by the context, means any national bank, or bank or trust company organized under State law, within the scope of section 7507.

(2) The terms "statute of limitations" and "limitations" mean all applicable provisions of law (including section 7507) which impose, change, or affect the limitations, conditions, or requirements relative to the allowance of refunds and abatements or the assessment or collection of tax, as the case may be.

(3) The term "segregated assets" includes transferred or trusteed assets, or assets set aside or earmarked, to all or a portion of which, or the proceeds of which, the depositors are absolutely or conditionally entitled.

§ 301.7507–2 Scope of section generally.

(a) *Purpose.* Section 7507 is intended to assist depositors of a bank which had ceased to do business by reason of insolvency to recover their deposits, by prohibiting collection of taxes of the bank which would diminish the assets necessary for payment of its depositors and also assist depositors of banks which are in financial difficulties but which, in certain conditions, continue in business.

(b) *Requisites of application.* In order that section 7507 shall operate in a case where the bank continues business it is necessary that the depositors shall agree to accept, in lieu of all or a part of their deposit claims as such, claims against segregated assets, or a lien upon subsequent earnings of the bank, or both. When such an agreement exists, no tax diminishing such assets or earnings, or both, otherwise available and necessary for payment of depositors, may be collected therefrom. If, under such an agreement, the depositors have the right also to look to the unsegregated assets of the bank for recovery, in whole or in part, the unsegregated assets are likewise, until they exceed the amount of the depositors' claims chargeable thereto, unavailable for tax collection. Any tax of such a bank, or part of any tax, which

is once uncollectible under section 7507, cannot thereafter be collected except from any residue of segregated assets remaining after claims of depositors against such assets have been paid.

(c) *Interest.* For the purposes of section 7507, depositors' claims include bona fide interest, either on the deposits as such, or on the claims accepted in lieu of deposits as such.

(d) *Limitations on immunity.* Section 7507 is not primarily intended for the relief of banks as such. It does not prevent tax collection, from assets not necessary, or not available, for payment of depositors, from a bank within section 7507(a), at any time within the statute of limitations. In other words, the immunity of such a bank is not complete, but ceases whenever, within the statutory period for collection, it becomes possible to make collection without diminishing assets necessary for payment of depositors. In the case of a bank within section 7507(b), any immunity to which the bank is entitled is absolute except as to segregated assets. Any tax coming within such immunity may never be collected. With respect to segregated assets, such a bank is subject to the same rule as a bank within section 7507(a), that is to say, after claims of depositors against segregated assets have been paid, any surplus is subject, within the statute of limitations, to collection of any tax, due at any time, the collection of which was suspended by the section. The section is not for the relief of creditors other than depositors, although it may incidentally operate for their benefit. See § 301.7507–4 and paragraph (b) of § 301.7507–9.

§ 301.7507–3 Segregated or transferred assets.

(a) *In general.* In a case involving segregated or transferred assets, it is not necessary, for application of section 7507, that the assets shall technically constitute a trust fund. It is sufficient that segregated assets be definitely separated from other assets of the bank and that transferred assets be definitely separated both from other assets of the bank and from other assets held or owned by the trustee or agent to whom assets of the bank have been transferred; that the bank be wholly or partially released from liability for repayment of deposits as such; and that the depositors have claims against the separated assets. Any excess of separated assets over the amount necessary for payment of such depositors will be available for tax collection after full payment of depositors' claims under the agreement against such assets. But see paragraph (a) of § 301.7507–9.

(b) *Corporate transferees.* Where the segregated assets are transferred to a separate corporate trustee or corporate agent, the assets and earnings therefrom are within the protection of the section, until full payment of depositors' claims against such assets and earnings, no matter by whom the stock of such corporation is held, and no matter whether the assets be liquidated or operated or held for benefit of the depositors.

§ 301.7507–4 Unsegregated assets.

(a) *Depositors' claims against assets.* (1) Claims of depositors, to the extent that they are to be satisfied out of segregated assets, will not be considered in determining the availability of unsegregated assets for tax collection. If depositors have agreed to accept payment out of segregated assets only, collection of tax from unsegregated assets will not diminish the assets available and necessary for payment of the depositors' claims. Thus, it may be possible to collect taxes from the unsegregated assets of a bank although the segregated assets are immune under the section.

(2) If the unsegregated assets of the bank are subject to any portion of the depositors' claims, such unsegregated assets will be within the immunity of the section only to the extent necessary to satisfy the claims to which such assets are subject. Taxes will still be collectible from the unsegregated assets to the extent of the amount by which the total value of such assets exceeds the liability to depositors to be satisfied therefrom. Therefore, if, for example, in the case of a bank having a tax liability, not previously immune under the section, of $50,000, the deposit claims against the bank are in the amount of $75,000, and the assets available for satisfaction of deposit claims amount to $100,000, the $50,000 tax is collectible to the extent of the $25,000 excess of assets over deposit claims. Collection is not to be postponed until the full amount of the tax is collectible.

(b) *Depositors' claims against earnings.* Even though under a bona fide agreement a bank has been released from depositors' claims as to unsegregated assets, if all or a portion of its earnings are subject to depositors' claims, all assets the earnings from which, in whole or part, are charged with the payment of depositors' claims, will be immune from tax collection. But see paragraph (a) of § 301.7507–5.

§ 301.7507–5 Earnings.

(a) *Availability for tax collection.* Earnings of a bank within section 7507(b), whether from segregated or unsegregated assets, which are necessary for, applicable to, and actually used for, payment of depositors' claims under an agreement, are within the immunity of the section. If only a portion or percentage of income from segregated or unsegregated assets is available and necessary for payment of depositors' claims, the remaining income is available for tax collection. Earnings of the bank's first fiscal year ending after the making of the agreement not applicable to payment of depositors will be assumed to be applicable for collection of any tax due prior or subsequent to execution of the agreement. Earnings of subsequent fiscal periods from unsegregated assets not applicable to depositors' claims will be assumed to be applicable to payment of taxes as to which immunity under the section has not previously attached. Earnings from segregated assets are available for collection of tax, whether previously uncollectible under the section or not, after depositors' claims against such assets have been paid in full. See paragraph (a) of § 301.7507–3 and paragraph (a) of § 301.7507–9.

(b) *Tax computation.* The fact that earnings of a given year may be wholly or partly unavailable under section 7507 for collection of taxes does not exempt the income for that year, or any part thereof, from tax liability. The section affects collectibility only, and is not concerned with taxability. Accordingly, the taxpayer's income tax return shall correctly compute the tax liability, even though in the opinion of the taxpayer it is immune from tax collection under the section. The tax shall be determined with respect to the entire gross income and not merely with respect to the portion of the earnings out of which tax may be collected. As to establishment of immunity from tax collection see § 301.7507–7.

Example. (1) An agreement, executed in the year 1954 between a bank and its depositors, provides (i) that certain assets are to be segregated for the benefit of the depositors who have waived (as claims against unsegregated assets of the bank) a percentage of the deposits; (ii) that 40 percent of the bank's net earnings, for years beginning with 1954, from unsegregated assets, shall be paid to the depositors until the portion of their claims waived with respect to unsegregated assets of the bank has been paid; and (iii) that the unsegregated assets shall not be subject to depositors' claims. The net income of the bank for the calendar year 1954 is $10,000, $4,000 produced by the segregated, and $6,000 produced by the unsegregated assets. Such amount shall be considered the net earnings for the purpose of section 7507 in computing the portion of the earnings to be paid to depositors. The bank has an outstanding tax liability for prior years of $7,000. The income tax liability of the bank for 1954 is 30 percent of $10,000, or $3,000, making a total outstanding tax liability of $10,000. The portion of the earnings of the bank for 1954 remaining after provision for depositors is $3,600 ($6,000 less 40 percent thereof, or $2,400). It will be assumed that of the total outstanding tax liability of $10,000, $3,600 may be assessed and collected, leaving $6,400 to be collected from any excess of the segregated assets after claims of depositors against such segregated assets have been paid in full. No part of the $6,400 immune from collection from 1954 earnings may be collected thereafter from unsegregated assets of the bank or earnings therefrom, so that except for any possible surplus of the segregated assets the $6,400 is uncollectible.

(2) In the year 1955, the earnings are again $10,000, $4,000 from segregated and $6,000 from unsegregated assets, as in 1954. However, the return filed shows income of $5,000 and a tax liability of $1,800. An investigation shows the true income to be $10,000, on which the tax is $3,000. The full $3,000 will be assumed to be collectible. The $800 difference between $3,800 (the excess of earnings from unsegregated assets over the amount going to the depositors), and the $3,000 tax for 1955, is not available for collection of the tax for prior years, which became immune as described above, but may be available for collection of tax for subsequent years.

(c) No significance attaches to the selection of the years 1954 and 1955 in the example set forth in paragraph (b) of this section. The rules indicated by the example are equally applicable to

subsequent or prior years not excluded by limitations.

§ 301.7507–6 Abatement and refund.

(a) An assessment or collection, no matter when made, if contrary to section 7507, is subject to abatement or refund within the applicable statutory period of limitations.

(b) Collection from a bank within section 7507(b) which diminishes assets necessary for payment of depositors, if made prior to agreement with depositors, is not contrary to the section, and affords no ground for refund.

(c) Any abatement or refund is subject to existing statutory periods of limitation, which periods are not suspended or extended by section 7507. In order to secure a refund of any taxes paid for any taxable year during the period of immunity the bank must file claim therefor.

§ 301.7507–7 Establishment of immunity.

(a) The mere allegation of insolvency, or that depositors have claims against segregated or other assets or earnings, will not of itself secure immunity from tax collection. It must be affirmatively established to the satisfaction of the district director that collection of tax will be contrary to section 7507. See also § 301.7507–8.

(b) Any claim, by a bank, of immunity under section 7507(b), shall be supported by a statement, under oath or affirmation, which shall show: (1) The total of depositors' claims outstanding, and (2) separately and in detail, the amount of each of the following, and the amount of depositors' claims properly chargeable against each: (i) Segregated or transferred assets; (ii) unsegregated assets; (iii) estimated future average annual earnings and profits; (iv) amount collectible from shareholders; and (v) any other resources available for payment of depositors' claims. The detail shall show the full amount of depositors' claims chargeable against each of the items in subdivisions (i) to (v), inclusive, of this subparagraph even though part or all of the amount chargeable against a particular item is also chargeable against some other item or items. There shall also be filed a copy of any agreement between the bank and its depositors, and any other agreement or document bearing on the claim of immunity. The statement shall show the basis, as "book," "market," etc., of valuation of the assets.

§ 301.7507–8 Procedure during immunity.

(a) *Statements to be filed.* As long as complete or partial immunity is claimed, a bank within section 7507(b) shall file with each income tax return a statement as required by § 301.7507–7, in duplicate, and shall also file such additional statements as the district director may require. Whether or not additional statements shall be required, and the frequency thereof, will depend on the circumstances, including the financial status and apparent prospects of the bank, and the time which is available for assessment and collection. If a copy of an agreement or document has once been filed, a copy of the same agreement or document need not again be filed with a subsequent statement, if it is shown by the subsequent statement, when and where and with what return the copy was filed. In case of amendment a copy of the amendment must be filed with the return for the taxable year in which the amendment is made.

(b) *Failure to file.* Failure of a bank to file any required statement will be treated as indicating that the bank is not entitled to immunity.

§ 301.7507–9 Termination of immunity.

(a) *In general.* (1) In the case of a bank within section 7507(a), immunity will end whenever, and to the extent that, taxes may be assessed and collected, within the applicable limitation periods as extended by section 7507, without diminishing the assets available and necessary for payment of depositors. Immunity of a bank within section 7507 (b) is terminated, as to segregated assets, whenever claims of depositors against such assets have been paid in full. See § 301.7507–3. As to segregated assets, the termination of immunity is complete, and any balance remaining after payment of depositors is available, within statutory limitations, for collection of tax due at any time. However, taxes of the bank will be collectible from segregated assets only to the extent that the bank has a legal or equitable interest therein. Assets as to which there has been a complete conveyance for benefit of depositors, and the bank has bona fide been divested of all legal and equitable interest, are not available for collection of the bank's tax liability.

(2) As to unsegregated assets of a bank within section 7507(b), immunity terminates only as to taxes thereafter becoming due. When taxes are once immune from collection, the immunity as to unsegregated assets is absolute. But see paragraph (a) of § 301.7507–4.

(b) *General creditors.* While the immunity from tax collection is for protection of depositors, and not for benefit of general creditors, in some cases the immunity will not end until the assets are sufficient to cover indebtedness of creditors generally. This situation will exist where under applicable law the claims of general creditors are on a parity with those of depositors, so that to pay depositors in full it is necessary to pay all creditors in full.

(c) *Shareholder liability.* In determining the sufficiency of the assets to satisfy the depositors' claims, shareholders' liability to the extent collectible shall be treated as available assets. See § 301.7507–7.

(d) *Deposit insurance.* Deposit insurance payable to depositors shall not be treated as an asset of the bank and shall be disregarded in determining the sufficiency of the assets to meet the claims of depositors.

(e) *Notice by bank.* A bank within section 7507(b), upon termination of immunity with respect to (1) earnings, (2) segregated or transferred assets, or (3) unsegregated assets, shall immediately notify the district director for the internal revenue district in which the taxpayer's returns were filed of such termination of immunity. See paragraph (b) of § 301.7507–8.

(f) *Payment by bank.* As immunity terminates with respect to any assets, it will be the duty of the bank, without notice from the district director, to make payment of taxes collectible from such assets.

§ 301.7507–10 Collection of tax after termination of immunity.

If, in the case of a bank within section 7507(b), segregated assets (including earnings therefrom), in excess of those necessary for payment of outstanding deposits become available, such excess of segregated assets shall be applied toward satisfaction of accumulated outstanding taxes previously immune under the section, and not barred by the statute of limitations. But see § 301.7507–3. Where sufficient segregated or unsegregated assets are available, statutory interest shall be collected with the tax. When unsegregated assets or earnings therefrom previously immune become available for tax collection, they will be available only for collection of taxes (including interest and other additions) becoming due after immunity ceases. See the example in paragraph (b) of § 301.7507–5.

§ 301.7507–11 Exception of employment taxes.

The immunity granted by section 7507 does not apply to taxes imposed by chapter 21 or chapter 23 of the Code.

§ 301.7508 Statutory provisions; time for performing certain acts postponed by reason of war.

SEC. 7508. *Time for performing certain acts postponed by reason of war.*—(a) *Time to be disregarded.* In the case of an individual serving in the Armed Forces of the United States, or serving in support of such Armed Forces, in an area designated by the President of the United States by Executive order as a "combat zone" for purposes of section 112, at any time during the period designated by the President by Executive order as the period of combatant activities in such zone for purposes of such section, or hospitalized outside the States of the Union and the District of Columbia as a result of injury received while serving in such an area during such time, the period of service in such area, plus the period of continuous hospitalization outside the States of the Union and the District of Columbia attributable to such injury, and the next 180 days thereafter, shall be disregarded in determining, under the internal revenue laws, in respect of any tax liability (including any interest, penalty, additional amount, or addition to the tax) of such individual—

(1) Whether any of the following acts was performed within the time prescribed therefor:

(A) Filing any return of income, estate, or gift tax (except income tax withheld at source and income tax imposed by subtitle C or any law superseded thereby);

(B) Payment of any income, estate, or gift tax (except income tax withheld at source and income tax imposed by subtitle C or any law superseded thereby) or any installment thereof or of any other liability to the United States in respect thereof;

(C) Filing a petition with the Tax Court for redetermination of a deficiency, or for review of a decision rendered by the Tax Court;

(D) Allowance of a credit or refund of any tax;

(E) Filing a claim for credit or refund of any tax;

(F) Bringing suit upon any such claim for credit or refund;

(G) Assessment of any tax;

(H) Giving or making any notice or demand for the payment of any tax, or with respect to any liability to the United States in respect of any tax;

(I) Collection, by the Secretary or his delegate, by levy or otherwise, of the amount of any liability in respect of any tax,

(J) Bringing suit by the United States, or any officer on its behalf, in respect of any liability in respect of any tax; and

(K) Any other act required or permitted under the internal revenue laws specified in regulations prescribed under this section by the Secretary or his delegate;

(2) The amount of any credit or refund (including interest).

(b) *Exceptions*—(1) *Tax in jeopardy; bankruptcy and receiverships; and transferred assets.* Notwithstanding the provisions of subsection (a), any action or proceeding authorized by section 6851 (regardless of the taxable year for which the tax arose), chapter 70, or 71, as well as any other action or proceeding authorized by law in connection therewith, may be taken, begun, or prosecuted. In any other case in which the Secretary or his delegate determines that collection of the amount of any assessment would be jeopardized by delay, the provisions of subsection (a) shall not operate to stay collection of such amount by levy or otherise as authorized by law. There shall be excluded from any amount assessed or collected pursuant to this paragraph the amount of interest, penalty, additional amount, and addition to the tax, if any, in respect of the period disregarded under subsection (a). In any case to which this paragraph relates, if the Secretary or his delegate is required to give any notice to or make any demand upon any person, such requirement shall be deemed to be satisfied if the notice or demand is prepared and signed, in any case in which the address of such person last known to the Secretary or his delegate is in an area for which U.S. post offices under instructions of the Postmaster General are not, by reason of the combatant activities, accepting mail for delivery at the time the notice or demand is signed. In such case the notice or demand shall be deemed to have been given or made upon the date it is signed.

(2) *Action taken before ascertainment of right to benefits.* The assessment or collection of any internal revenue tax or of any liability to the United States in respect of any internal revenue tax, or any action or proceeding by or on behalf of the United States in connection therewith, may be made, taken, begun, or prosecuted in accordance with law, without regard to the provisions of subsection (a), unless prior to such assessment, collection, action, or proceeding it is ascertained that the person concerned is entitled to the benefits of subsection (a).

§ 301.7509 Statutory provisions; expenditures incurred by the Post Office Department.

SEC. 7509. *Expenditures incurred by the Post Office Department.* The Postmaster General or his delegate shall at least once a month transfer to the Treasury of the United States, together with the receipts required to be deposited under section 6808(a), a statement of the additional expenditures in the District of Columbia and elsewhere incurred by the Post Office Department in performing the duties, if any, imposed upon such Department with respect to chapter 21, relating to the tax under the Federal Insurance Contributions Act, and the Secretary or his delegate shall be authorized and directed to advance from time to time to the credit of the Post Office Department, from appropriations made for the collection of the taxes imposed by chapter 21, such sums as may be required for such additional expenditures incurred by the Post Office Department.

§ 301.7510 Statutory provisions; exemption from tax of domestic goods purchased for the United States.

SEC. 7510. *Exemption from tax of domestic goods purchased for the United States.* The privilege existing by provision of law on December 1, 1873, or thereafter of purchasing supplies of goods imported from foreign countries for the use of the United States, duty free, shall be extended, under such regulations as the Secretary or his delegate may prescribe, to all articles of domestic production which are subject to tax by the provisions of this title.

§ 301.7510–1 Exemption from tax of domestic goods purchased for the United States.

For any regulations under section 7510, see the applicable regulations with respect to the various taxes.

§ 301.7512 Statutory provisions; separate accounting for certain collected taxes, etc.

SEC. 7512. *Separate accounting for certain collected taxes, etc.*—(a) *General rule.* Whenever any person who is required to collect, account for, and pay over any tax imposed by subtitle C or by chapter 33—

(1) At the time and in the manner prescribed by law or regulations (A) fails to collect, truthfully account for, or pay over such tax, or (B) fails to make deposits, payments, or returns of such tax, and

(2) Is notified, by notice delivered in hand to such person, of any such failure,

then all the requirements of subsection (b) shall be complied with. In the case of a corporation, partnership, or trust, notice delivered in hand to an officer, partner, or trustee, shall, for purposes of this section, be deemed to be notice delivered in hand to such corporation, partnership, or trust and to all officers, partners, trustees, and employees thereof.

(b) *Requirements.* Any person who is required to collect, account for, and pay over any tax imposed by subtitle C or by chapter 33, if notice has been delivered to such person in accordance with subsection (a), shall collect the taxes imposed by subtitle C or chapter 33 which become collectible after delivery of such notice, shall (not later than the end of the second banking day after any amount of such taxes is collected) deposit such amount in a separate account in a bank (as defined in section 581), and shall keep the amount of such taxes in such account until payment over to the United States. Any such account shall be designated as a special fund in trust for the United States, payable to the United States by such person as trustee.

(c) *Relief from further compliance with subsection (b).* Whenever the Secretary or his delegate is satisfied, with respect to any notification made under subsection (a), that all requirements of law and regulations with respect to the taxes imposed by subtitle C or chapter 33, as the case may be, will henceforth be complied with, he may cancel such notification. Such cancellation shall take effect at such time as is specified in the notice of such cancellation.

[Sec. 7512 as added by sec. 1, Act of Feb. 11, 1958 (Pub. Law 85–321, 72 Stat. 5)]

§ 301.7512–1 Separate accounting for certain collected taxes.

(a) *Scope.* The provisions of section 7512 and this section apply to—

(1) The following taxes imposed by subtitle C of the Code in respect of wages or compensation paid after February 11, 1958, for pay periods beginning after such date:

(i) The employee tax imposed by section 3101 of chapter 21 (Federal Insurance Contributions Act),

(ii) The employee tax imposed by section 3201 of chapter 22 (Railroad Retirement Tax Act), and

(iii) The income tax required to be withheld on wages by section 3402 of chapter 24 (Collection of Income Tax at Source on Wages); and

(2) The following taxes imposed by chapter 33 of the Code in respect of taxable payments made, except as otherwise specifically provided in this subparagraph, after February 11, 1958:

(i) The taxes imposed by section 4231 (1), (2), and (3) on amounts paid for admissions, and the tax imposed by section 4231(6) on amounts paid for admission, refreshment, service, or merchandise, at any roof garden, cabaret, or other similar place, to the extent that such tax on amounts paid on or after January 1, 1959, is required to be collected by the proprietor of the roof garden, cabaret, or similar place from a concessionaire in such establishment,

(ii) The taxes imposed by section 4241 on amounts paid as club dues,

(iii) The taxes imposed by section 4251 on amounts paid for communications services or facilities,

(iv) The tax imposed by section 4261 on amounts paid for transportation of persons and the tax imposed by section 4271 on amounts paid before August 1, 1958, for the transportation of property, and

(v) The tax imposed by section 4286 on amounts collected for the use of safe deposit boxes.

(b) *Requirement.* If the district director determines that any person required to collect, account for, and pay over any tax described in paragraph (a) of this section has, at the time and in the manner prescribed by law or regulations, failed to collect, truthfully account for, or pay over any such tax, or make deposits, payments, or returns of any such tax, such person, if notified to do so by the district director in accordance with section 7512 and paragraph (d) of this section, shall—

(1) Collect, at the times and in the manner provided by the law and the regulations in respect of the various taxes described in paragraph (a) of this section, all of the taxes described in such paragraph which become collectible by him after receipt of such notice;

(2) Deposit the taxes so collected, not later than the end of the second banking day after collection, with a bank, as defined in section 581, in a separate account established in accordance with paragraph (c) of this section; and

(3) Keep in such account the taxes so deposited until payment thereof is made to the United States as required by the law and the regulations in respect of such taxes.

The separate accounting requirements contained in subparagraphs (1), (2), and (3) of this paragraph are applicable, in the case of the taxes described in paragraph (a)(1) of this section, to taxes with respect to wages or compensation paid after receipt of the notice from the district director, irrespective of whether such wages or compensation was earned prior to or after receipt of the notice; and, in the case of the taxes described in paragraph (a)(2) of this section, to taxes with respect to taxable payments made after receipt of the notice from the district director, irrespective of whether the transactions with respect to which such payments were made occurred prior to or after receipt of the notice.

(c) *Trust fund account.* The separate bank account referred to in paragraph (b) of this section shall be established under the designation, "(Name of person required to establish account), Trustee, Special Fund in Trust for U.S. under sec. 7512, I.R.C.". The taxes deposited in such account shall constitute a fund in trust for the United States payable only to the Internal Revenue Service on demand by the trustee.

(d) *Notice.* Notice to any person requiring his compliance with the provisions of section 7512(b) and this section shall be in writing and shall be delivered in hand to such person by an internal revenue officer or employee. In the case of a trade or business carried on other than as a sole proprietorship, such as a corporation, partnership, or trust, notice delivered in hand to an officer, partner, or trustee shall be deemed to be notice delivered in hand to such corporation, partnership, or trust and to all officers, partners, trustees, and employees thereof.

(e) *Cancellation of notice.* The district director may relieve a person to whom notice requiring separate accounting has been given pursuant to section 7512 and this section from further compliance with such separate accounting requirements whenever he is satisfied that such person will comply with all requirements of the Code and the regulations applicable, in respect of the taxes to which the notice relates, in the case of persons not required to comply with the provisions of section 7512(b). Notice of cancellation of the requirement for separate accounting shall be made in writing and shall take effect at such time as is specified in the notice of cancellation.

(f) *Penalties.* For criminal penalty for failure to comply with any provision of section 7512, see section 7215. For criminal penalties for failure to file return, supply information, or pay tax, for failure to collect or pay over tax, and for attempt to evade or defeat tax, see sections 7202, 7202, and 7201, respectively.

§ 301.7513 Statutory provisions; reproduction of returns and other documents.

SEC. 7513. *Reproduction of returns and other documents.*—(a) *In general.* The Secretary or his delegate is authorized to have any Federal agency or any person process films or other photoimpressions of any return, document, or other matter, and make reproductions from films or photoimpressions of any return, document, or other matter.

(b) *Regulations.* The Secretary or his delegate shall prescribe regulations which shall provide such safeguards as in the opinion of the Secretary or his delegate are necessary or appropriate to protect the film, photoimpressions, and reproductions made therefrom, against any unauthorized use, and to protect the information contained therein against any unauthorized disclosure.

(c) *Use of reproductions.* Any reproduction of any return, document, or other matter made in accordance with this section shall have the same legal status as the original; and any such reproduction shall, if properly authenticated, be admissible in evidence in any judicial or administrative proceeding, as if it were the original, whether or not the original is in existence.

(d) *Penalty.* For penalty for violation of regulations for safeguarding against unauthorized use of any film or photoimpression, or reproduction made therefrom, and against unauthorized disclosure of information contained therein, see section 7213.

[Sec. 7513 as added by sec. 90(a), Technical Amendments Act 1958 (72 Stat. 1666)]

§ 301.7513–1 Reproduction of returns and other documents.

(a) *In general.* The Commissioner, district directors, and other authorized officers and employees of the Internal Revenue Service may contract with any Federal agency or any person to have such agency or person process films and other photoimpressions of any return, statement, document, or of any card, record, or other matter, and make reproductions from such films and photoimpressions.

(b) *Safeguards*—(1) *By private contractor.* Any person entering into a contract with the Internal Revenue Service for the performance of any of the services described in paragraph (a) of this section shall agree to comply, and to assume responsibility for compliance by his employees, with the following requirements:

(i) The films or photoimpressions, and reproductions made therefrom, shall be used only for the purpose of carrying out the provisions of the contract, and information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the contract;

(ii) All the services shall be performed under the supervision of the person with whom the contract is made or his responsible employees;

(iii) All material received for processing and all processed and reproduced material shall be kept in a locked and fireproof compartment in a secure place when not being worked upon;

(iv) All spoilage of reproductions made from the film or photoimpressions supplied to the contractor shall be destroyed, and a statement under the penalties of perjury shall be submitted to the Internal Revenue Service that such destruction has been accomplished; and

(v) All film, photoimpressions, and reproductions made therefrom, shall be transmitted to the Internal Revenue Service by personal delivery, first-class mail, parcel post, or express.

(2) *By Federal agency.* Any Federal agency entering into a contract with the Internal Revenue Service for the performance of any services described in paragraph (a) of this section, shall treat as confidential all material processed or reproduced pursuant to such contract.

(3) *Inspection.* The Internal Revenue Service shall have the right to send its officers and employees into the offices and plants of Federal agencies and other contractors for inspection of the facilities and operations provided for the performance of any work contracted or to be contracted for under this section.

(4) *Criminal sanctions.* For penalty provisions relating to the unauthorized use and disclosure of information in violation of the provisions of this section, see section 7213(c).

(c) *Legal status of reproductions.* Section 7513 provides that any reproduction made in accordance with such section of any return, document, or other matter shall have the same legal status as the original and requires that any such reproduction shall, if properly authenticated, be admissible in evidence in any judicial or administrative proceeding, as if it were the original, whether or not the original is in existence.

§ 301.7514 Statutory provisions; authority to prescribe or modify seals.

SEC. 7514. *Authority to prescribe or modify seals.* The Secretary or his delegate is authorized to prescribe or modify seals of office for the district directors of internal revenue and other officers or employees of the Treasury Department to whom any of the functions of the Secretary shall have been or may be delegated. Each seal so prescribed shall contain such device as the Secretary or his delegate may select. Each seal shall remain in the custody of any officer or employee whom the Secretary or his delegate may designate, and, in accordance with the regulations approved by the Secretary or his delegate, may be affixed in lieu of the seal of the Treasury Department to any certificate or attestation (except for material to be published in the FEDERAL REGISTER) that may be required of such officer or employee. Judicial notice shall be taken of any seal prescribed in accordance with this authority, a facsimile of which has been published in the FEDERAL REGISTER together with the regulations prescribing such seal and the affixation thereof.

[Sec. 7514 as added by sec. 91, Technical Amendments Act 1958 (72 Stat. 1667)]

§ 301.7514–1 Seals of office.

(a) *Establishment of seals.*—(1) *Commissioner of Internal Revenue.* There is hereby established in and for the office of the Commissioner of Internal Revenue an official seal. The seal is described as follows, and illustrated below: A circle within which shall appear that

part of the seal of the Treasury Department represented by the shield and side wreaths. Exterior to this circle and within a circumscribed circle in the form of a rope shall appear in the upper part the words "Office of" and in the lower part the words "Commissioner of Internal Revenue."

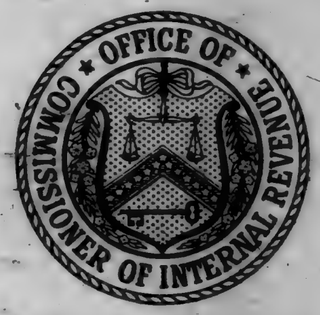

(2) *District directors of internal revenue.* (i) There is hereby established an official seal in and for each of the offices of district director of internal revenue listed in subdivision (ii) of this subparagraph. The seal is described as follows, and one such seal is illustrated below: A circle within which shall appear that part of the seal of the Treasury Department represented by the shield and side wreaths. Exterior to this circle and within a circumscribed circle in the form of a rope shall appear in the upper part the words "District Director of Internal Revenue" and in the lower part the location of the office for which the seal is established.

(ii) The offices of district director of internal revenue for which seals are established in subdivision (i) of this subparagraph are as follows:

District Director of Internal Revenue, Birmingham, Ala.
District Director of Internal Revenue, Anchorage, Alaska.
District Director of Internal Revenue, Phoenix, Ariz.
District Director of Internal Revenue, Little Rock, Ark.
District Director of Internal Revenue, Los Angeles, Calif.
District Director of Internal Revenue, San Francisco, Calif.
District Director of Internal Revenue, Denver, Colo.
District Director of Internal Revenue, Hartford, Conn.
District Director of Internal Revenue, Wilmington, Del.
District Director of Internal Revenue, Jacksonville, Fla.
District Director of Internal Revenue, Atlanta, Ga.
District Director of Internal Revenue, Honolulu, Hawaii.
District Director of Internal Revenue, Boise, Idaho.
District Director of Internal Revenue, Chicago, Ill.
District Director of Internal Revenue, Springfield, Ill.
District Director of Internal Revenue, Indianapolis, Ind.
District Director of Internal Revenue, Des Moines, Iowa.
District Director of Internal Revenue, Wichita, Kans.
District Director of Internal Revenue, Louisville, Ky.
District Director of Internal Revenue, New Orleans, La.
District Director of Internal Revenue, Augusta, Maine.
District Director of Internal Revenue, Baltimore, Md.
District Director of Internal Revenue, Boston, Mass.
District Director of Internal Revenue, Detroit, Mich.
District Director of Internal Revenue, St. Paul, Minn.
District Director of Internal Revenue, Jackson, Miss.
District Director of Internal Revenue, St. Louis, Mo.
District Director of Internal Revenue, Helena, Mont.
District Director of Internal Revenue, Omaha, Nebr.
District Director of Internal Revenue, Reno, Nev.
District Director of Internal Revenue, Portsmouth, N.H.
District Director of Internal Revenue, Newark, N.J.
District Director of Internal Revenue, Albuquerque, N. Mex.
District Director of Internal Revenue, Albany, N.Y.
District Director of Internal Revenue, Brooklyn, N.Y.
District Director of Internal Revenue, Buffalo, N.Y.
District Director of Internal Revenue, Manhattan, New York, N.Y.
District Director of Internal Revenue, Greensboro, N.C.
District Director of Internal Revenue, Fargo, N. Dak.
District Director of Internal Revenue, Cincinnati, Ohio.
District Director of Internal Revenue, Cleveland, Ohio.
District Director of Internal Revenue, Oklahoma City, Okla.
District Director of Internal Revenue, Portland, Oreg.
District Director of Internal Revenue, Philadelphia, Pa.
District Director of Internal Revenue, Pittsburgh, Pa.
District Director of Internal Revenue, Providence, R.I.
District Director of Internal Revenue, Columbia, S.C.
District Director of Internal Revenue, Aberdeen, S. Dak.
District Director of Internal Revenue, Nashville, Tenn.
District Director of Internal Revenue, Austin, Tex.
District Director of Internal Revenue, Dallas, Tex.
District Director of Internal Revenue, Salt Lake City, Utah.
District Director of Internal Revenue, Richmond, Va.
District Director of Internal Revenue, Burlington, Vt.
District Director of Internal Revenue, Seattle, Wash.
District Director of Internal Revenue, Parkersburg, W. Va.
District Director of Internal Revenue, Milwaukee, Wis.
District Director of Internal Revenue, Cheyenne, Wyo.

(3) *Director of International Operations.* There is hereby established in and for the office of the Director of International Operations an official seal. The seal is described as follows, and illustrated below: A circle within which shall appear that part of the seal of the Treasury Department represented by the shield and side wreaths. Exterior to this circle and within a circumscribed circle in the form of a rope shall appear in the upper part the words "Director of International Operations" and in the lower part "Washington, D.C., Internal Revenue Service."

(4) *Regional commissioners of internal revenue.* (i) There is hereby established an official seal in and for each of the offices of regional commissioner of internal revenue listed in subdivision (ii) of this subparagraph. The seal is described as follows, and one such seal is illustrated below: A circle within which shall appear that part of the seal of the Treasury Department represented by the shield and side wreaths. Exterior to this circle and within a circumscribed circle in the form of a rope shall appear in the upper part the words "Regional Commissioner of Internal Revenue" and in the lower part the title of the region for which the seal is established.

(ii) The offices of the regional commissioner of internal revenue for which seals are established in subdivision (i) of this subparagraph are as follows:

Regional Commissioner of Internal Revenue, Central Region.
Regional Commissioner of Internal Revenue, Mid-Atlantic Region.
Regional Commissioner of Internal Revenue, Midwest Region.
Regional Commissioner of Internal Revenue, North-Atlantic Region.
Regional Commissioner of Internal Revenue, Southeast Region.
Regional Commissioner of Internal Revenue, Southwest Region.
Regional Commissioner of Internal Revenue, Western Region.

(5) *Directors of internal revenue service centers.* (i) There is hereby established an official seal in and for each of the offices of director of internal revenue service center listed in subdivision (ii) of this subparagraph. The seal is described as follows, and one such seal is illustrated below: A circle within which shall appear that part of the seal of the Treasury Department represented by the shield and side wreaths. Exterior to this circle and within a circumscribed circle in the form of a rope shall appear in the upper part the words "Director, Internal Revenue Service Center" and in the lower part the name of the region and the name of the principal city in or near which the service center is located.

(ii) The offices of director of internal revenue service center for which seals are established in subdivision (i) of this subparagraph are as follows:

Director, Internal Revenue Service Center, Central Region, Cincinnati, Ohio.
Director, Internal Revenue Service Center, Mid-Atlantic Region, Philadelphia, Pa.
Director, Internal Revenue Service Center, Midwest Region, Kansas City, Mo.
Director, Internal Revenue Service Center, North-Atlantic Region, Lawrence, Mass.
Director, Internal Revenue Service Center, Southeast Region, Chamblee, Ga.
Director, Internal Revenue Service Center, Southwest Region, Austin, Tex.
Director, Internal Revenue Service Center, Western Region, Ogden, Utah.

(b) *Custody of seal.* Each seal established by this section shall be in the custody of the officer for whose office such seal is established.

(c) *Use of official seal.* Each seal of office established by this section may be affixed in lieu of the seal of the Treasury Department to any certificate or attestation required to be made by the officer for whose office such seal is established in authentication of originals and copies of books, records, papers, writings, and documents of the Internal Revenue Service in the custody of such officer, for all purposes, including the purposes of 28 U.S.C. 1733(b), Rule 44 of the Federal Rules of Civil Procedure, and Rule 27 of the Federal Rules of Criminal Procedure, except that—

(1) No such seal shall be affixed to material to be published in the FEDERAL REGISTER, and

(2) The seal of the office of a district director of internal revenue or the Director of International Operations shall not be affixed to the certification of copies of books, records, papers, writings, or documents in his custody in any case in which, pursuant to Executive order, Treasury decision, or Part 601 of this chapter (Statement of Procedural Rules), such copies may be furnished to applicants only by the Commissioner.

(d) *Judicial notice.* In accordance with the provisions of section 7514, judicial notice shall be taken of the seals established under this section.

§ 301.7515 Statutory provisions; special statistical studies and compilations and other services on request.

SEC. 7515. *Special statistical studies and compilations and other services on request.* The Secretary or his delegate is authorized within his discretion, upon written request, to make special statistical studies and compilations involving data from any returns, declarations, statements, or other documents required by this title or by regulations or from any records established or maintained in connection with the administration and enforcement of this title, to engage in any such special study or compilation jointly with the party or parties requesting it, and to furnish transcripts of any such special study or compilation, upon the payment, by the party or parties making the request, of the cost of the work or services performed for such party or parties.

[Sec. 7515 as added by sec. 3(a), Act of Oct. 23, 1962 (Pub. Law 87-870, 76 Stat. 1160)]

§ 301.7515–1 Special statistical studies and compilations on request.

The Commissioner is authorized within his discretion, upon written request of any person and payment by such person of the cost of the work to be performed, to make special statistical studies and compilations involving data from returns, declarations, statements, or other documents required by the Code or regulations or from records established or maintained in connection with the administration and enforcement of the Code; to engage in any such special study or compilation jointly with the party or parties requesting it; and to furnish transcripts of any such study or compilation. The requests for services should be addressed to the Commissioner of Internal Revenue, Attention: PR, Washington, D.C. 20224. The requests should describe fully the nature of the study or compilation desired, giving detailed specifications for all tables to be prepared, and should include a general statement regarding the use to be made of the data requested.

§ 301.7516 Statutory provisions; supplying training and training aids on request.

SEC. 7516. *Supplying training and training aids on request.* The Secretary or his delegate is authorized within his discretion, upon written request, to admit employees and officials of any State, the Commonwealth of Puerto Rico, any possession of the United States, any political subdivision or instrumentality of any of the foregoing, the District of Columbia, or any foreign government to training courses conducted by the Internal Revenue Service, and to supply them with texts and other training aids. The Secretary or his delegate may require payment from the party or parties making the request of a reasonable fee not to exceed the cost of the training and training aids supplied pursuant to such request.

[Sec. 7516 as added by sec. 3(a), Act of Oct. 23, 1962 (Pub. Law 87-870, 76 Stat. 1160)]

§ 301.7516–1 Training and training aids on request.

The Commissioner is authorized, within his discretion, upon written request, to admit employees and officials of any State, the Commonwealth of Puerto Rico, any possession of the United States, any political subdivision or instrumentality of any of the foregoing, the District of Columbia, or any foreign government to training courses conducted by the Internal Revenue Service, and to supply them with texts and other training aids. Requests for such training or training aids should be addressed to the Commissioner of Internal Revenue, Washington, D.C. 20224, Attention: A:T, except that requests involving officials or visitors of foreign governments should be addressed to the Commissioner of Internal Revenue, Washington, D.C. 20224. Attention: C:FA. The Commissioner may require payment from the party or parties making the request of a reasonable fee not to exceed the cost of the training and training aids supplied pursuant to such request.

Discovery of Liability and Enforcement of Title

EXAMINATION AND INSPECTION

§ 301.7601 Statutory provisions; canvass of districts for taxable persons and objects.

SEC. 7601. *Canvass of districts for taxable persons and objects.*—(a) *General rule.* The Secretary or his delegate shall, to the extent he deems it practicable, cause officers or employees of the Treasury Department to proceed, from time to time, through each internal revenue district and inquire after and concerning all persons therein who may be liable to pay any internal revenue tax,

and all persons owning or having the care and management of any objects with respect to which any tax is imposed.

(b) *Penalties.* For penalties applicable to forcible obstruction or hindrance of Treasury officers or employees in the performance of their duties, see section 7212.

§ 301.7601–1 Canvass of districts for taxable persons and objects.

Each district director shall, to the extent he deems it practicable, cause officers or employees under his supervision and control to proceed, from time to time, through his district and inquire after and concerning all persons therein who may be liable to pay any internal revenue tax, and all persons owing or having the care and management of any objects with respect to which any tax is imposed. Each assistant regional commissioner (alcohol and tobacco tax) shall, to the extent he deems it practicable, cause officers or employees under his supervision and control to make similar inquiries in respect of taxes imposed under subtitle E of the Code.

§ 301.7602 Statutory provisions; examination of books and witnesses.

SEC. 7602. *Examination of books and witnesses.* For the purpose of ascertaining the correctness of any return, making a return where none has been made, determining the liability of any person for any internal revenue tax or the liability at law or in equity of any transferee or fiduciary of any person in respect of any internal revenue tax, or collecting any such liability, the Secretary or his delegate is authorized—

(1) To examine any books, papers, records, or other data which may be relevant or material to such inquiry;

(2) To summon the person liable for tax or required to perform the act, or any officer or employee of such person, or any person having possession, custody, or care of books of account containing entries relating to the business of the person liable for tax or required to perform the act, or any other person the Secretary or his delegate may deem proper, to appear before the Secretary or his delegate at a time and place named in the summons and to produce such books, papers, records, or other data, and to give such testimony, under oath, as may be relevant or material to such inquiry; and

(3) To take such testimony of the person concerned, under oath, as may be relevant or material to such inquiry.

§ 301.7602–1 Examination of books and witnesses.

(a) *In general.* For the purpose of ascertaining the correctness of any return, making a return where none has been made, determining the liability of any person for any internal revenue tax (including any interest, additional amount, addition to the tax, or civil penalty) or the liability at law or in equity of any transferee or fiduciary of any person in respect of any internal revenue tax, or collecting any such liability, any authorized officer or employee of the Internal Revenue Service may examine any books, papers, records or other data which may be relevant or material to such inquiry; and take such testimony of the person concerned, under oath, as may be relevant to such inquiry.

(b) *Summons.* For the purposes described in paragraph (a) of this section the officers and employees of the Internal Revenue Service designated in paragraph (c) of this section are authorized to summon the person liable for tax or required to perform the act, or any officer or employee of such person, or any person having possession, custody, or care of books of account containing entries relating to the business of the person liable for tax or required to perform the act, or any other person deemed proper, to appear before a designated officer or employee of the Internal Revenue Service at a time and place named in the summons and to produce such books, papers, records, or other data, and to give such testimony, under oath, as may be relevant or material to such inquiry; and take such testimony of the person concerned, under oath, as may be relevant or material to such inquiry. The officers and employees designated in paragraph (c) of this section may designate any other employee of the Internal Revenue Service as the individual before whom a person summoned pursuant to section 6420(e)(2), 6421(f)(2), or 7602 shall appear. Any such other employee, when so designated in a summons, is authorized to take testimony under oath of the person summoned and to receive and examine books, papers, records, or other data produced in compliance with the summons. The authority to issue a summons may not be redelegated.

(c) *Persons who may issue summons.* The following officers and employees of the Internal Revenue Service are authorized to issue a summons pursuant to sections 6420(e)(2), 6421(f)(2), and 7602—

(1) Regional commissioners and district directors.

(2) Inspection: Assistant Commissioner; director and assistant directors, Internal Security Division; regional inspectors; and all internal security inspectors.

(3) Alcohol and Tobacco Tax: Assistant regional commissioners.

(4) Intelligence: Director; assistant director; assistant regional commissioners; executive assistants to assistant regional commissioner; chiefs, Review and Conference Staff; reviewer-conferees; chiefs and assistant chiefs of divisions, branches and sections; group supervisors; and special agents of the national, regional and district officers.

(5) International Operations: Director; assistant director; chiefs of divisions, branches, and groups; special agents; internal revenue agents; estate tax examiners; revenue service representatives; and assistant revenue service representatives.

(6) Collection: Chiefs and assistant chiefs of divisions; chiefs and assistant chiefs of the Delinquent Accounts and Returns Branches; group supervisors; and revenue officers.

(7) Audit: Chiefs of divisions and branches; group supervisors; internal revenue agents; and estate tax examiners.

§ 301.7603 Statutory provisions; service of summons.

SEC. 7603. *Service of summons.* A summons issued under section 6420(e)(2), 6421(f)(2), or 7602 shall be served by the Secretary or his delegate, by an attested copy delivered in hand to the person to whom it is directed, or left at his last and usual place of abode; and the certificate of service signed by the person serving the summons shall be evidence of the facts it states on the hearing of an application for the enforcement of the summons. When the summons requires the production of books, papers, records, or other data, it shall be sufficient if such books, papers, records, or other data are described with reasonable certainty.

[Sec. 7603 as amended by sec. 4(1), Act of Apr. 2, 1956 (Pub. Law 466, 84th Cong., 70 Stat. 91); sec. 208(d)(4), Highway Revenue Act 1956 (70 Stat. 396)]

§ 301.7603–1 Service of summons.

(a) *In general.* A summons issued under section 6420(e)(2), 6421(f)(2), or 7602 shall be served by an attested copy delivered in hand to the person to whom it is directed, or left at his last and usual place of abode. The certificate of service signed by the person serving the summons shall be evidence of the facts it states on the hearing of an application for the enforcement of the summons. When the summons requires the production of books, papers, records, or other data, it shall be sufficient if such books, papers, records, or other data are described with reasonable certainty.

(b) *Persons who may serve summons.* The following officers and employees of the Internal Revenue Service are authorized to serve a summons issued under section 6420(e)(2), 6421(f)(2), or 7602—

(1) The officers and employees designated in paragraph (c) of § 301.7602–1, and

(2) Alcohol and Tobacco Tax: Chiefs; aides to chiefs; supervisors in charge; assistant supervisors in charge; investigators; special investigators; and inspectors.

The authority to serve a summons may be redelegated only by the Assistant Commissioner (Inspection), regional commissioners, assistant regional commissioners (alcohol and tobacco tax), district directors, and the Director of International Operations to officers and employees under their jurisdiction.

§ 301.7604 Statutory provisions; enforcement of summons.

SEC. 7604. *Enforcement of summons.*—(a) *Jurisdiction of district court.* If any person is summoned under the internal revenue laws to appear, to testify, or to produce books, papers, records, or other data, the U.S. district court for the district in which such person resides or is found shall have jurisdiction by appropriate process to compel such attendance, testimony, or production of books, papers, records, or other data.

(b) *Enforcement.* Whenever any person summoned under section 6420(e)(2), 6421(f)(2), or 7602 neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony, as required, the Secretary or his delegate may apply to the judge of the district court or to a U.S. commissioner for the district within which the person so summoned resides or is found for an attachment against him as for a contempt. It shall be the duty of the judge or commissioner to hear the application, and, if satisfactory proof is made, to issue an attachment, directed to some proper officer, for the arrest of such person, and upon his being brought before him to proceed to a hearing of the case; and upon such hearing the judge or the U.S. commissioner shall have power to make such order as he shall deem proper, not inconsistent with the law for the punishment of contempts, to enforce obedience to the requirements of the summons and to punish such person for his default or disobedience.

(c) *Cross references.*—(1) *Authority to issue orders, processes, and judgments.* For authority of district courts generally to enforce the provisions of this title, see section 7402.

(2) *Penalties.* For penalties applicable to violation of section 6420(e)(2), 6421(f)(2), or 7602, see section 7210.

[Sec. 7604 as amended by sec. 4(1), Act of Apr. 2, 1956 (Pub. Law 466, 84th Cong., 70 Stat. 91); sec. 208(d)(4), Highway Revenue Act 1956 (70 Stat. 396)]

§ 301.7604–1 Enforcement of summons.

(a) *In general.* Whenever any person summoned under section 6420(e)(2), 6421(f)(2), or 7602 neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony, as required, application may be made to the judge of the district court or to a U.S. commissioner for the district within which the person so summoned resides or is found for an attachment against him as for a contempt.

(b) *Persons who may apply for an attachment.* The officers and employees of the Internal Revenue Service designated in paragraph (b) of § 301.7603–1 are authorized to apply for an attachment as provided in paragraph (a) of this section. The authority to apply for an attachment for the enforcement of a summons may not be redelegated.

§ 301.7605 Statutory provisions; time and place of examination.

SEC. 7605. *Time and place of examination.*—(a) *Time and place.* The time and place of examination pursuant to the provisions of section 6420(e)(2), 6421(f)(2), or 7602 shall be such time and place as may be fixed by the Secretary or his delegate and as are reasonable under the circumstances. In the case of a summons under authority of paragraph (2) of section 7602, or under the corresponding authority of section 6420(e)(2) or 6421(f)(2), the date fixed for appearance before the Secretary or his delegate shall not be less than 10 days from the date of the summons.

(b) *Restrictions on examination of taxpayer.* No taxpayer shall be subjected to unnecessary examination or investigations, and only one inspection of a taxpayer's books of account shall be made for each taxable year unless the taxpayer requests otherwise or unless the Secretary or his delegate, after investigation, notifies the taxpayer in writing that an additional inspection is necessary.

[Sec. 7605 as amended by sec. 4(1), Act of Apr. 2, 1956 (Pub. Law 466, 84th Cong., 70 Stat. 91); sec. 208(d)(4), Highway Revenue Act 1956 (70 Stat. 396)]

§ 301.7605–1 Time and place of examination.

(a) *Time and place.* The time and place of examination pursuant to the provisions of section 6420(e)(2), 6421(f)(2), or 7602 shall be such time and place as may be fixed by an officer or employee of the Internal Revenue Service and as are reasonable under the circumstances. In the case of a summons under authority of section 7602(2) and § 301.7602–1, or under the corresponding authority of section 6420(e)(2) or 6421(f)(2), the date fixed for appearance before an officer or employee of the Service, shall not be less than 10 days from the date of the summons.

(b) *Restrictions on examination of taxpayer.* No taxpayer shall be subjected to unnecessary examination or investigations, and only one inspection of a taxpayer's books of account shall be made for each taxable year unless the taxpayer requests otherwise or unless an authorized internal revenue officer, after investigation, notifies the taxpayer in writing that an additional inspection is necessary.

§ 301.7606 Statutory provisions; entry of premises for examination of taxable objects.

SEC. 7606. *Entry of premises for examination of taxable objects.*—(a) *Entry during day.* The Secretary or his delegate may enter, in the daytime, any building or place where any articles or objects subject to tax are made, produced, or kept, so far as it may be necessary for the purpose of examining said articles or objects.

(b) *Entry at night.* When such premises are open at night, the Secretary or his delegate may enter them while so open, in the performance of his official duties.

(c) *Penalties.* For penalty for refusal to permit entry or examination, see section 7342.

§ 301.7606–1 Entry of premises for examination of taxable objects.

Any officer or employee of the Internal Revenue Service may, in the performance of his duty, enter in the daytime any building or place where any articles or objects subject to tax are made, produced, or kept, so far as it may be necessary for the purpose of examining said articles or objects and also enter at night any such building or place, while open, for a similar purpose. For additional provisions relating to entry of premises in connection with the administration of alcohol taxes, see sections 5146, 5203, and 5275.

§ 301.7607 Statutory provisions; additional authority for Bureau of Narcotics and Bureau of Customs.

SEC. 7607. *Additional authority for Bureau of Narcotics and Bureau of Customs.* The Commissioner, Deputy Commissioner, Assistant to the Commissioner, and agents, of the Bureau of Narcotics of the Department of the Treasury, and officers of the customs (as defined in section 401(*i*) of the Tariff Act of 1930, as amended; 19 U.S.C., sec. 1401(*i*)), may—

(1) Carry firearms, execute and serve search warrants and arrest warrants, and serve subpenas and summonses issued under the authority of the United States, and

(2) Make arrests without warrant for violations of any law of the United States relating to narcotic drugs (as defined in section 4731) or marihuana (as defined in section 4761) where the violation is committed in the presence of the person making the arrest or where such person has reasonable grounds to believe that the person to be arrested has committed or is committing such violation.

[Sec. 7607 as added by sec. 104(a), Narcotic Control Act 1956 (70 Stat. 570)]

§ 301.7608 Statutory provisions; authority of internal revenue enforcement officers.

SEC. 7608. *Authority of internal revenue enforcement officers.* Any investigator, agent, or other internal revenue officer by whatever term designated, whom the Secretary or his delegate charges with the duty of enforcing any of the criminal, seizure, or forfeiture provisions of subtitle E or of any other law of the United States pertaining to the commodities subject to tax under such subtitle for the enforcement of which the Secretary or his delegate is responsible, may—

(1) Carry firearms;

(2) Execute and serve search warrants and arrest warrants, and serve subpenas and summonses issued under authority of the United States;

(3) In respect to the performance of such duty, make arrests without warrant for any offense against the United States committed in his presence, or for any felony cognizable under the laws of the United States if he has reasonable grounds to believe that the person to be arrested has committed, or is committing, such felony; and

(4) In respect to the performance of such duty, make seizures of property subject to forfeiture to the United States.

[Sec. 7608 as added by sec. 204(14), Excise Tax Technical Changes Act 1958 (72 Stat. 1429)]

§ 301.7608–1 Authority of internal revenue enforcement officers.

Any investigator, agent, or other internal revenue officer by whatever term designated, whom the Commissioner, Assistant Commissioner (Operations), Director, Alcohol and Tobacco Tax Division, regional commissioner, or assistant regional commissioner (alcohol and tobacco tax) charges with the duty of enforcing any of the criminal, seizure, or forfeiture provisions of subtitle E of the Code or of any other law of the United States pertaining to the commodities subject to tax under such subtitle for the enforcement of which such officers are responsible, may perform the functions provided in section 7608.

§ 301.7609 Statutory provisions; cross references.

SEC. 7609. *Cross references.*—(a) *Inspection of books, papers, records, or other data.* For inspection of books, papers, records, or other data in the case of—

(1) Wholesale dealers in oleomargarine, see section 4597.

(2) Wholesale dealers in process or renovated butter or adulterated butter, see section 4815(b).

(3) Opium, opiates, and coca leaves, see section 4703(a), 4705, 4721, 4773.

(4) Marihuana, see sections 4742, 4753(b), and 4773.

(5) Wagering, see section 4423.

(6) Alcohol, tobacco, and firearms taxes, see subtitle E.

(b) *Search warrants.* For provisions relating to—

(1) Searches and seizures, see Rule 41 of the Federal Rules of Criminal Procedure.

(2) Issuance of search warrants with respect to subtitle E, see section 5557.

(3) Search warrants with respect to property used in violation of the internal revenue laws, see section 7302.

[Sec. 7607 as renumbered by sec. 104(a), Narcotic Control Act 1956 (70 Stat. 570); and as renumbered and amended by sec. 204(14), (15), Excise Tax Technical Changes Act 1958 (72 Stat. 1426, 1430)]

GENERAL POWERS AND DUTIES

§ 301.7621 Statutory provisions; internal revenue districts.

SEC. 7621. *Internal revenue districts*—(a) *Establishment and alteration.* The President shall establish convenient internal revenue districts for the purpose of administering the internal revenue laws. The President may from time to time alter such districts.

(b) *Boundaries.* For the purpose mentioned in subsection (a), the President may subdivide any State, Territory, or the District of Columbia, or may unite into one district two or more States or a Territory and one or more States.

[Sec. 7621 as amended by sec. 22(c), Alaska Omnibus Act (73 Stat. 146)]

§ 301.7621–1 Internal revenue districts.

For delegation to the Secretary of authority to prescribe internal revenue districts for the purpose of administering the internal revenue laws, see Executive Order No. 10289, dated September 17, 1951 (16 F.R. 9499), as made applicable to the Code by Executive Order No. 10574, dated November 5, 1954 (19 F.R. 7249).

§ 301.7622 Statutory provisions; authority to administer oaths and certify.

SEC. 7622. *Authority to administer oaths and certify*—(a) *Internal revenue personnel.* Every officer or employee of the Treasury Department designated by the Secretary or his delegate for that purpose is authorized to administer such oaths or affirmations and to certify to such papers as may be necessary under the internal revenue laws or regulations made thereunder.

(b) *Others.* Any oath or affirmation required or authorized under any internal revenue law or under any regulations made thereunder may be administered by any person authorized to administer oaths for general purposes by the law of the United States, or of any State, Territory, or possession of the United States, or of the District of Columbia, wherein such oath or affirmation is administered. This subsection shall not be construed as an exclusive enumeration of the persons who may administer such oaths or affirmations.

§ 301.7622–1 Authority to administer oaths and certify.

The officers and employees of the Internal Revenue Service designated in paragraph (b) of § 301.7603–1 and the directors of the regional service centers are authorized to administer such oaths or affirmations and to certify to such papers as may be necessary under the internal revenue laws or regulations issued thereunder, except that the authority to certify shall not be construed as applying to those papers or documents the certification of which is authorized by separate order or directive. The authority to administer oaths and to certify may be redelegated only by the Assistant Commissioner (Inspection); regional commissioners, assistant regional commissioners (alcohol and tobacco tax), assistant regional commissioners (intelligence), district directors, directors of regional service centers, and the Director of International Operations, to officers and employees under their jurisdiction.

§ 301.7623 Statutory provisions; expenses of detection and punishment of frauds.

SEC. 7623. *Expenses of detection and punishment of frauds.* The Secretary or his delegate, under regulations prescribed by the Secretary or his delegate, is authorized to pay such sums, not exceeding in the aggregate the sum appropriated therefor, as he may deem necessary for detecting and bringing to trial and punishment persons guilty of violating the internal revenue laws, or conniving at the same, in cases where such expenses are not otherwise provided for by law.

§ 301.7623–1 Rewards for information relating to violations of internal revenue laws.

(a) *In general.* A district director may approve such reward as he deems suitable for information that leads to the detection and punishment of any person guilty of violating any internal revenue law, or conniving at the same. The rewards provided for by section 7623 are limited in their aggregate to the sum appropriated therefor and shall be paid only in cases not otherwise provided for by law.

(b) *Eligibility to file claim for reward*—(1) *In general.* Any person, other than certain present or former federal employees (see subparagraph (2) of this paragraph), who submits, in the manner set forth in paragraph (d) of this section, information relating to the violation of an internal revenue law is eligible to file a claim for reward under section 7623.

(2) *Federal employees.* No person who was an officer or employee of the Department of the Treasury at the time he came into possession of information relating to violations of the internal revenue laws, or at the time he divulged such information, shall be eligible for reward under section 7623 and this section. Any other federal employee, or former federal employee, is eligible to file a claim for reward if the information submitted came to his knowledge other than in the course of his official duties.

(3) *Deceased informants.* A claim for reward may be filed by an executor, administrator, or other legal representative on behalf of a deceased informant if, prior to his death, the informant was eligible to file a claim for such reward under section 7623 and this section. Certified copies of the letters testamentary, letters of administration, or other similar evidence must be annexed to such a claim for reward on behalf of a deceased informant in order to show the authority of the legal representative to file the claim for reward.

(c) *Amount and payment of reward.* All relevant factors, including the value of the information furnished in relation to the facts developed by the investigation of the violation, shall be taken into account by a district director in determining whether a reward shall be paid, and, if so, the amount thereof. The amount of a reward shall represent what the district director deems to be adequate compensation in the particular case, normally not to exceed 10 percent of the additional taxes, penalties, and fines which are recovered as a result of the information. No reward, however, shall be paid with respect to any additional interest that may be collected. Payment of a reward will be made as promptly as the circumstances of the case permit, but generally not until the taxes, penalties, or fines involved have been collected. However, the informant may waive any claim for reward with respect to an uncollected portion of the taxes, penalties, or fines involved, in which case the claim may be immediately processed. No person is authorized under these regulations to make any offer, or promise, or otherwise to bind a district director with respect to the payment of any reward or the amount thereof.

(d) *Submission of information.* Persons desiring to claim rewards under the provisions of section 7623 and this section may submit information relating to violations of the internal revenue laws, in person, to the Office of the Director of the Intelligence Division, Washington 25, D.C., or to the office of a district director, preferably to a representative of the Intelligence Division thereof. Such information may also be submitted in writing to the Commissioner of Internal Revenue, Attention: Director, Intelligence Division, Washington 25, D.C., or to any district director, Attention: Chief, Intelligence Division. If the information is submitted in person, either orally or in writing, the name and official title of the person to whom it is submitted and the date on which it is submitted must be included in the formal claim for reward.

(e) *Anonymity.* No unauthorized person shall be advised of the identity of an informant.

(f) *Filing claim for reward.* An informant who intends to claim a reward under section 7623 should notify the person to whom he submits his information of such intention, and must file a formal claim, signed with his true name, as soon after submission of the information as practicable. If other than the informant's true name was used in furnishing the information, the claimant must include with his claim satisfactory proof of his identity as that of the informant. Claim for reward under the provisions of section 7623 shall be made on Form 211, which may be obtained from the offices of the district directors, or from the Commissioner of Internal Revenue, Washington 25, D.C. A claim for reward should be transmitted to the district director, Attention: Informant's Claim Examiner, or to the Commissioner of Internal Revenue, Attention: Director, Intelligence Division, Washington 25, D.C.

(g) *Claims involving Alcohol and Tobacco Tax Division.* Rewards for information leading to the detection and punishment of persons guilty of violating the internal revenue laws administered by the Alcohol and Tobacco Tax Division shall be handled consistently with the provisions of this section, except that—

(1) Assistant regional commissioners (alcohol and tobacco tax), under the direction and supervision of the regional commissioners, shall perform all functions delegated to district directors by these regulations, and

(2) The Director, Alcohol and Tobacco Tax Division, Washington 25, D.C., shall perform all functions delegated to the Director, Intelligence Division, Washington 25, D.C., by these regulations.

SUPERVISION OF OPERATIONS OF CERTAIN MANUFACTURERS

§ 301.7641 Statutory provisions; supervision of operations of certain manufacturers.

SEC. 7641. *Supervision of operations of certain manufacturers.* Every manufacturer of filled cheese, oleomargarine, opium suitable for smoking purposes, process or renovated butter or adulterated butter, or white phosphorous matches shall conduct his business under such surveillance of officers or employees of the Treasury Department as the Secretary or his delegate may by regulations require.

§ 301.7641–1 Supervision of operations of certain manufacturers.

For regulations under section 7641, except the provisions thereof relating to the manufacture of opium suitable for smoking purposes, see Subparts E, F, G, and H of Part 45 of this chapter (Miscellaneous Stamp Tax Regulations). For regulations relating to the manufacture of opium suitable for smoking purposes, see 26 CFR (1939) 150 (Narcotics Regulations 3, 3 F.R. 1402) as made applicable to section 7641 by Treasury Decision 6091, approved August 16, 1954 (19 F.R. 5197).

POSSESSIONS

§ 301.7651 Statutory provisions; administration and collection of taxes in possessions.

SEC. 7651. *Administration and collection of taxes in possessions.* Except as otherwise provided in this subchapter and in sections 4705(b), 4755, and 4762 (relating to taxes on narcotic drugs and marihuana), and except as otherwise provided in section 28(a) of the Revised Organic Act of the Virgin Islands and section 30 of the Organic Act of Guam (relating to the covering of the proceeds of certain taxes into the treasuries of the Virgin Islands and Guam, respectively)—

(1) *Applicability of administrative provisions.* All provisions of the laws of the United States applicable to the assessment and collection of any tax imposed by this title or of any other liability arising under this title (including penalties) shall, in respect of such tax or liability, extend to and be applicable in any possession of the United States in the same manner and to the same extent as if such possession were a State, and as if the term "United States" when used in a geographical sense included such possession.

(2) *Tax imposed in possession.* In the case of any tax which is imposed by this title in any possession of the United States—

(A) *Internal revenue collections.* Such tax shall be collected under the direction of the Secretary or his delegate, and shall be paid into the Treasury of the United States as internal revenue collections; and

(B) *Applicable laws.* All provisions of the laws of the United States applicable to the administration, collection, and enforcement of such tax (including penalties) shall, in respect of such tax, extend to and be applicable in such possession of the United States in the same manner and to the same extent as if such possession were a State, and as if the term "United States" when used in a geographical sense included such possession.

(3) *Other laws relating to possessions.* This section shall apply notwithstanding any other provision of law relating to any possession of the United States.

(4) *Canal Zone.* For purposes of this section, the term "possession of the United States" includes the Canal Zone.

(5) *Virgin Islands*—(A) For purposes of this section, the reference in section 28(a) of the Revised Organic Act of the Virgin Islands to "any tax specified in section 3811 of the Internal Revenue Code" shall be deemed to refer to any tax imposed by chapter 2 or by chapter 21.

(B) For purposes of this title, section 28 (a) of the Revised Organic Act of the Virgin Islands shall be effective as if such section had been enacted subsequent to the enactment of this title.

§ 301.7652 Statutory provisions; shipments to the United States.

SEC. 7652. *Shipments to the United States*—(a) *Puerto Rico*—(1) *Rate of tax.* Except as provided in section 5314, articles of merchandise of Puerto Rican manufacture coming into the United States and withdrawn for consumption or sale shall be subject to a tax equal to the internal revenue tax imposed in the United States upon the like articles of merchandise of domestic manufacture.

(2) *Payment of tax.* The Secretary or his delegate shall by regulations prescribe the mode and time for payment and collection of the tax described in paragraph (1), including any discretionary method described in section 4502 (b) and (c). Such regulations shall authorize the payment of such tax before shipment from Puerto Rico, and the provisions of section 7651(2)(B) shall be applicable to the payment and collection of such tax in Puerto Rico.

(3) *Deposit of internal revenue collections.* All taxes collected under the internal revenue laws of the United States on articles produced in Puerto Rico and transported to the United States, or consumed in the island, shall be covered into the treasury of Puerto Rico.

(b) *Virgin Islands*—(1) *Taxes imposed in the United States.* Except as provided in section 5314, there shall be imposed in the United States, upon articles coming into the United States from the Virgin Islands, a tax equal to the internal revenue tax imposed in the United States upon like articles of domestic manufacture.

(2) *Exemption from tax imposed in the Virgin Islands.* Such articles shipped from such islands to the United States shall be exempt from the payment of any tax imposed by the internal revenue laws of such islands.

(3) *Disposition of internal revenue collections.* Beginning with the fiscal year ending June 30, 1954, and annually thereafter, the Secretary or his delegate shall determine the amount of all taxes imposed by, and collected during the fiscal year under, the internal revenue laws of the United States on articles produced in the Virgin Islands and transported to the United States. The amount so determined less 1 percent and less the estimated amount of refunds or credits shall be subject to disposition as follows:

(A) There shall be transferred and paid over to the government of the Virgin Islands from the amounts so determined a sum equal to the total amount of the revenue collected by the government of the Virgin Islands during the fiscal year, as certified by the Government Comptroller of the Virgin Islands. The moneys so transferred and paid over shall constitute a separate fund in the treasury of the Virgin Islands and may be expended as the legislature may determine: *Provided*, That the approval of the President or his designated representative shall be obtained before such moneys may be obligated or expended.

(B) There shall also be transferred and paid over to the government of the Virgin Islands during each of the fiscal years ending June 30, 1955, and June 30, 1956, the sum of $1 million or the balance of the internal revenue collections available under this paragraph (3) after payments are made under subparagraph (A), whichever amount is greater. The moneys so transferred and paid over shall be deposited in the separate fund established by subparagraph (A), but shall be obligated or expended for emergency purposes and essential public projects only, with the prior approval of the President or his designated representative.

(C) Any amounts remaining shall be deposited in the Treasury of the United States as miscellaneous receipts.

If at the end of any fiscal year the total of the Federal contribution made under subparagraph (A) at the beginning of that fiscal year has not been obligated or expended for an approved purpose, the balance shall continue available for expenditure during any succeeding fiscal year, but only for approved emergency relief purposes and essential public projects as provided in subparagraph (B). The aggregate amount of moneys available for expenditure for emergency relief purposes and essential public projects only, including payments under subparagraph (B), shall not exceed the sum of $5 million at the end of any fiscal year. Any unobligated or unexpended balance of the Federal contribution remaining at the end of a fiscal year which would cause the moneys available for emergency relief purposes and essential public projects only to exceed the sum of $5 million shall thereupon be transferred and paid over to the Treasury of the United States as miscellaneous receipts.

[Sec. 7652 as amended by sec. 204 (17), (18), Excise Tax Technical Changes Act 1958 (72 Stat. 1490)]

§ 301.7652–1 Shipments to the United States.

For regulations under section 7652, see Part 179 of this chapter, relating to machine guns and certain other firearms; Part 250 of this chapter, relating to liquors and articles from Puerto Rico and the Virgin Islands; Part 280 of this chapter, relating to dealers in tobacco materials; Part 285 of this chapter, relating to cigarette papers and tubes; and Part 296 of this chapter, relating to tobacco products.

§ 301.7653 Statutory provisions; shipments from the United States.

SEC. 7653. *Shipments from the United States*—(a) *Tax imposed*—(1) *Puerto Rico.* All articles of merchandise of U.S. manufacture coming into Puerto Rico shall be entered at the port of entry upon payment of a tax equal in rate and amount to the internal revenue tax imposed in Puerto Rico upon the like articles of Puerto Rican manufacture.

(2) *Virgin Islands.* There shall be imposed in the Virgin Islands upon articles imported from the United States a tax equal to the internal revenue tax imposed in such islands upon like articles there manufactured.

(b) *Exemption from tax imposed in the United States.* Articles, goods, wares, or merchandise going into Puerto Rico, the Virgin Islands, Guam, and American Samoa from the United States shall be exempted from the payment of any tax imposed by the internal revenue laws of the United States.

(c) *Drawback of tax paid in the United States.* All provisions of law for the allowance of drawback of internal revenue tax on articles exported from the United States are, so far as applicable, extended to like articles upon which an internal revenue tax has been paid when shipped from the United States to Puerto Rico, the Virgin Islands, Guam, or American Samoa.

(d) *Cross reference.* For the disposition of the proceeds of all taxes collected under the internal revenue laws of the United States on articles produced in Guam and transported into the United States or its possessions, or consumed in Guam, see the Act of August 1, 1950 (c. 512, 64 Stat. 392, section 30; 48 U.S.C. 1421h).

[Sec. 7653 as amended by sec. 22(f), Alaska Omnibus Act (73 Stat. 146); sec. 18(h), Hawaii Omnibus Act (74 Stat. 416)]

§ 301.7653–1 Shipments from the United States.

For regulations under section 7653, see Part 179 of this chapter, relating to machine guns and certain other firearms; Part 196 of this chapter, relating to stills; Part 252 of this chapter, relating to exportation of liquors; Part 285 of this chapter, relating to cigarette papers and tubes; and Part 290 of this chapter, relating to the withdrawal of tobacco materials, tobacco products, and cigarette papers and tubes.

§ 301.7654 Statutory provisions; payment to Guam and American Samoa of proceeds of tax on coconut and palm oil.

SEC. 7654. *Payment to Guam and American Samoa of proceeds of tax on coconut and palm oil.* All taxes collected under subchapter B of chapter 37 with respect to coconut oil wholly of the production of Guam or American Samoa, or produced from materials wholly of the growth or production of Guam or American Samoa, shall be held as separate funds and paid to the treasury of Guam or American Samoa, respectively. No part of the money from such funds shall be used, directly or indirectly, to pay a subsidy to the producers or processors of copra, coconut oil, or allied products, except that this sentence shall not be construed as prohibiting the use of such money, in accordance with regulations prescribed by the Secretary or his delegate, for the acquisition or construction of facilities for the better curing of copra or for bona fide loans to copra producers of Guam or American Samoa.

§ 301.7655 Statutory provisions; cross references.

SEC. 7655. *Cross references*—(a) *Imposition of tax in possessions.* For provisions imposing tax in possessions, see—

(1) Chapter 2, relating to self-employment tax;

(2) Chapter 21, relating to the tax under the Federal Insurance Contributions Act;

(3) Parts I and III of subchapter A of chapter 39, relating to taxes in respect of narcotic drugs;

(4) Parts II and III of subchapter A of chapter 39, relating to taxes in respect of marihuana;

(5) Subchapter A of chapter 37, relating to tax on sugar.

(b) *Other provisions.* For other provisions relating to possessions of the United States, see—

(1) Section 936, relating to income tax on residents of Puerto Rico;

(2) Section 6418(b), relating to exportation of sugar to Puerto Rico.

[Sec. 7655 as amended by sec. 204(19), Excise Tax Technical Changes Act 1958 (72 Stat. 1330)]

Definitions

§ 301.7701 Statutory provisions; definitions.

SEC. 7701. *Definitions.* (a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—

(1) *Person.* The term "person" shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation.

(2) *Partnership and partner.* The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this title, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization.

(3) *Corporation.* The term "corporation" includes associations, joint-stock companies, and insurance companies.

(4) *Domestic.* The term "domestic" when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or any State or Territory.

(5) *Foreign.* The term "foreign" when applied to a corporation or partnership means a corporation or partnership which is not domestic.

(6) *Fiduciary.* The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

(7) *Stock.* The term "stock" includes shares in an association, joint-stock company, or insurance company.

(8) *Shareholder.* The term "shareholder" includes a member in an association, joint-stock company, or insurance company.

(9) *United States.* The term "United States" when used in a geographical sense includes only the States and the District of Columbia.

(10) *State.* The term "State" shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title.

(11) *Secretary.* The term "Secretary" means the Secretary of the Treasury.

(12) *Delegate.*—(A) *In general.* The term "Secretary or his delegate" means the Secretary of the Treasury, or any officer, employee, or agency of the Treasury Department duly authorized by the Secretary (directly, or indirectly by one or more redelegations of authority) to perform the function mentioned or described in the context, and the term "or his delegate" when used in connection with any other official of the United States shall be similarly construed.

(B) *Performance of certain functions in Guam or American Samoa.* The term "delegate", in relation to the performance of functions in Guam or American Samoa with respect to the taxes imposed by chapters 2 and 21, also includes any officer or employee of any other department or agency of the United States, or of any possession thereof, duly authorized by the Secretary (directly, or indirectly by one or more redelegations of authority) to perform such functions.

(13) *Commissioner.* The term "Commissioner" means the Commissioner of Internal Revenue.

(14) *Taxpayer.* The term "taxpayer" means any person subject to any internal revenue tax.

(15) *Military or naval forces and Armed Forces of the United States.* The term "military or naval forces of the United States" and the term "Armed Forces of the United States" each includes all regular and reserve components of the uniformed services which are subject to the jurisdiction of the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force, and each term also includes the Coast Guard. The members of such forces include commissioned officers and personnel below the grade of commissioned officers in such forces.

(16) *Withholding agent.* The term "withholding agent" means any person required to deduct and withhold any tax under the provisions of sections 1441, 1442, 1443, 1451, or 1461.

(17) *Husband and wife.* As used in sections 71, 153(b)(4), 215, and 682, if the husband and wife therein referred to are divorced, wherever appropriate to the meaning of such sections, the term "wife" shall be read "former wife" and the term "husband" shall be read "former husband"; and, if the payments described in such sections are made by or on behalf of the wife or former wife to the husband instead of vice versa, wherever appropriate to the meaning of such sections, the term "husband" shall be read "wife" and the term "wife" shall be read "husband".

(18) *International organization.* The term "international organization" means a public international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (22 U.S.C. 288–288f).

(19) *Domestic building and loan association.* The term "domestic building and loan association" means a domestic building and loan association, a domestic savings and loan association, and a Federal savings and loan association—

(A) Which either (i) is an insured institution within the meaning of section 401(a) of the National Housing Act (12 U.S.C., sec. 1724(a)), or (ii) is subject by law to supervision and examination by State or Federal authority having supervision over such associations;

(B) Substantially all of the business of which consists of acquiring the savings of the public and investing in loans described in subparagraph (C);

(C) At least 90 percent of the amount of the total assets of which (as of the close of the taxable year) consists of (i) cash, (ii) obligations of the United States or of a State or political subdivision thereof, stock or obligations of a corporation which is an instrumentality of the United States or of a State or political subdivision thereof, and certificates of deposit in, or obligations of, a corporation organized under a State law which specifically authorizes such corporation to insure the deposits or share accounts of member associations, (iii) loans secured by an interest in real property and loans made for the improvement of real property, (iv) loans secured by a deposit or share of a member, (v) property acquired through the liquidation of defaulted loans described in clause (iii), and (vi) property used by the association in the conduct of the business described in subparagraph (B);

(D) Of the assets of which taken into account under subparagraph (C) as assets constituting the 90 percent of total assets—

(i) At least 60 percent of the amount of such assets consists of assets described in clauses (i), (ii), (iv), and (vi) of such subparagraph and of loans secured by an interest in real property which is (or, from the proceeds of the loan, will become) residential real property or real property used primarily for church purposes, loans made for the improvement of residential real property or real property used primarily for church purposes, or property acquired through the liquidation of defaulted loans described in this clause; and

(ii) At least 60 percent of the amount of such assets consists of assets described in clauses (i), (ii), (iv), and (vi) of such subparagraph and of loans secured by an interest in real property which is (or, from the proceeds of the loan, will become) residential real property containing 4 or fewer family units or real property used primarily for church purposes, loans made for the improvement of residential real property containing 4 or fewer family units or real property used primarily for church purposes, or property acquired through the liquidation of defaulted loans described in this clause;

(E) Not more than 10 percent of the amount of the total assets of which (as of the close of the taxable year) consists of assets other than those described in clause (i) of subparagraph (D), and not more than 36 percent of the amount of the total assets of which (as of the close of the taxable year) consists of assets other than those described in clause (ii) of subparagraph (D); and

(F) Except for property described in subparagraph (C), not more than 2 percent of the assets of which consists of stock of any corporation.

The term "domestic building and loan association" also includes any association which, for the taxable year, would satisfy the requirements of the first sentence of this paragraph if "41 percent" were substituted for "36 percent" in subparagraph (E). Except in the case of the taxpayer's first taxable year beginning after the date of the enactment of the Revenue Act of 1962, the second sentence of this paragraph shall not apply to an association for the taxable year unless such association (i) was a domestic building and loan association within the meaning of the first sentence of this paragraph for the first taxable year preceding the taxable year, or (ii) was a domestic building and loan association solely by reason of the second sentence of this paragraph for the first taxable year preceding the taxable year (but not for the second preceding taxable year). At the election of the taxpayer, the percentages specified in this paragraph shall be applied on the basis of the average assets outstanding during the taxable year, in lieu of the close of the taxable year, computed under regulations prescribed by the Secretary or his delegate.

(20) *Employee.* For the purpose of applying the provisions of sections 104, 105, and 106 with respect to accident and health insurance or accident and health plans, for the purpose of applying the provisions of section 101(b) with respect to employees' death benefits, and for the purpose of applying the provisions of subtitle A with respect to contributions to or under a stock bonus, pension, profit-sharing, or annuity plan, and with respect to distributions under such a plan, or by a trust forming part of such a plan, the term "employee" shall include a full-time life insurance salesman who is considered an employee for the purpose of chapter 21, or in the case of services performed before January 1, 1951, who would be considered an employee if his services were performed during 1951.

(21) *Levy.* The term "levy" includes the power of distraint and seizure by any means.

(22) *Attorney General.* The term "Attorney General" means the Attorney General of the United States.

(23) *Taxable year.* The term "taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the taxable income is computed under subtitle A. "Taxable year" means, in the case of a return made for a fractional part of a year under the provisions of subtitle A or under regulations prescribed by the Secretary or his delegate, the period for which such return is made.

(24) *Fiscal year.* The term "fiscal year" means an accounting period of 12 months ending on the last day of any month other than December.

(25) *Paid or incurred, paid or accrued.* The terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under subtitle A.

(26) *Trade or business.* The term "trade or business" includes the performance of the functions of a public office.

(27) *Tax Court.* The term "Tax Court" means the Tax Court of the United States.

(28) *Other terms.* Any term used in this subtitle with respect to the application of, or in connection with, the provisions of any other subtitle of this title shall have the same meaning as in such provisions.

(29) *Internal Revenue Code.* The term "Internal Revenue Code of 1954" means this title, and the term "Internal Revenue Code of 1939" means the Internal Revenue Code enacted February 10, 1939, as amended.

(30) (31) [Reserved]

(32) *Cooperative bank.* The term "cooperative bank" means an institution without capital stock organized and operated for mutual purposes and without profit, which—

(A) Either—

(i) Is an insured institution within the meaning of section 401(a) of the National Housing Act (12 U.S.C., sec. 1724(a)), or

(ii) Is subject by law to supervision and examination by State or Federal authority having supervision over such institutions, and

(B) Meets the requirements of subparagraphs (B), (C), (D), (E), and (F) of paragraph (19) of this subsection (relating to definition of domestic building and loan association) determined with the application of the second, third, and fourth sentences of paragraph (19).

In determining whether an institution meets the requirements referred to in subparagraph (B) of this paragraph, any reference to an association or to a domestic building and loan association contained in paragraph (19) shall be deemed to be a reference to such institution. In the case of an institution which, for the taxable year, is a cooperative bank within the meaning of the first sentence of this paragraph by reason of the application of the second and third sentences of paragraph (19) of this subsection, the deduction otherwise allowable under section 166(c) for a reasonable addition to the reserve for bad debts shall, under regulations prescribed by the Secretary or his delegate, be reduced in a manner consistent with the reductions provided by the table contained in section 593(b)(5).

(b) *Includes and including.* The terms "includes" and "including" when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(c) *Commonwealth of Puerto Rico.* Where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, references in this title to possessions of the United States shall be treated as also referring to the Commonwealth of Puerto Rico.

(d) *Cross references*—(1) *Other definitions.* For other definitions, see the following sections of Title 1 of the United States Code:

(1) Singular as including plural, section 1.
(2) Plural as including singular, section 1.
(3) Masculine as including feminine, section 1.
(4) Officer, section 1.
(5) Oath as including affirmation, section 1.
(6) County as including parish, section 2.
(7) Vessel as including all means of water transportation, section 3.
(8) Vehicle as including all means of land transportation, section 4.
(9) Company or association as including successors and assigns, section 5.

(2) *Effect of cross references.* For effect of cross references in this title, see section 7806(a).

[Sec. 7701, as amended by sec. 22(g), (h), Alaska Omnibus Act (73 Stat. 146, 147); sec. 18 (i), (j), Hawaii Omnibus Act (74 Stat. 416); sec. 103(t), Social Security Amendments 1960 (74 Stat. 941); sec. 6(c), Rev. Act 1962 (76 Stat. 962); sec. 5, Act of Oct. 23, 1962 (Pub. Law 87–870, 76 Stat. 1161)]

§ 301.7701–1 Classification of organizations for tax purposes.

(a) *Person.* The term "person" includes an individual, a corporation, a partnership, a trust or estate, a joint-stock company, an association, or a syndicate, group, pool, joint venture, or other unincorporated organization or group. Such term also includes a guardian, committee, trustee, executor, administrator, trustee in bankruptcy, receiver, assignee for the benefit of creditors, conservator, or any person acting in a fiduciary capacity.

(b) *Standards.* The Internal Revenue Code prescribes certain categories, or classes, into which various organizations fall for purposes of taxation. These categories, or classes, include associations (which are taxable as corporations), partnerships, and trusts. The tests, or standards, which are to be applied in determining the classification in which an organization belongs (whether it is an association, a partnership, a trust, or other taxable entity) are determined under the Internal Revenue Code. Sections 301.7701–2 to 301.7701–4 set forth these tests, or standards, which are to be applied in determining whether an organization is (1) an association (see § 301.7701–2), (2) a partnership (see § 301.7701–3), or (3) a trust (see § 301.7701–4).

(c) *Effect of local law.* As indicated in paragraph (b) of this section, the classes into which organizations are to be placed for purposes of taxation are determined under the Internal Revenue Code. Thus, a particular organization might be classified as a trust under the law of one State and a corporation under the law of another State. However, for purposes of the Internal Revenue Code, this organization would be uniformly classed as a trust, an association (and, therefore, taxable as a corporation), or some other entity, depending upon its nature under the classification standards of the Internal Revenue Code. Similarly, the term "partnership" is not limited to the common-law meaning of partnership, but is broader in its scope and includes groups not commonly called part-

nerships. See § 1.761–1 of this chapter (Income Tax Regulations) and § 301.7701–3. The term "corporation" is not limited to the artificial entity usually known as a corporation, but includes also an association, a trust classed as an association because of its nature or its activities, a joint-stock company, and an insurance company. Although it is the Internal Revenue Code rather than local law which establishes the tests or standards which will be applied in determining the classification in which an organization belongs, local law governs in determining whether the legal relationships which have been established in the formation of an organization are such that the standards are met. Thus, it is local law which must be applied in determining such matters as the legal relationships of the members of the organization among themselves and with the public at large, and the interests of the members of the organization in its assets. Nevertheless, the labels applied by local law to organizations, which may now or hereafter be authorized by local law, are in and of themselves of no importance in the classification of such organizations for the purposes of taxation under the Internal Revenue Code. Thus, a professional service organization, formed under the law of a State authorizing the formation by one or more persons of a so-called professional service corporation, would not be classified for purposes of taxation as a "corporation" merely because the organization was so labeled under local law. See Morrissey et al. v. Commissioner, 296 U.S. 344 (1935). The classification in which a professional service organization belongs is determined under the tests and standards set forth in §§ 301.7701–2, 301.7701–3, and 301.7701–4.

§ 301.7701–2 Associations, including organizations labeled "corporations."

(a) *Characteristics of corporations.* (1) The term "association" refers to an organization whose characteristics require it to be classified for purposes of taxation as a corporation rather than as another type of organization such as a partnership or a trust. There are a number of major characteristics ordinarily found in a pure corporation which, taken together, distinguish it from other organizations. These are: (i) Associates, (ii) an objective to carry on business and divided the gains therefrom, (iii) continuity of life, (iv) centralization of management, (v) liability for corporate debts limited to corporate property, and (vi) free transferability of interests. Whether a particular organization is to be classified as an association must be determined by taking into account the presence or absence of each of these corporate characteristics. The presence or absence of these characteristics will depend upon the facts in each individual case. In addition to the major characteristics set forth in this subparagraph, other factors may be found in some cases which may be significant in classifying an organization as an association, a partnership, or a trust. An organization will be treated as an association if the corporate characteristics are such that the organization more nearly resembles a corporation than a partnership or trust. See Morrissey et al. v. Commissioner (1935) 296 U.S. 344.

(2) Since associates and an objective to carry on business for joint profit are essential characteristics of all organizations engaged in business for profit (other than the so-called one-man corporation and the sole proprietorship), the absence of either of these essential characteristics will cause an arrangement among co-owners of property for the development of such property for the separate profit of each not to be classified as an association. Some of the major characteristics of a corporation are common to trusts and corporations, and others are common to partnerships and corporations. Characteristics common to trusts and corporations are not material in attempting to distinguish between a trust and an association, and characteristics common to partnerships and corporations are not material in attempting to distinguish between an association and a partnership. For example, since centralization of management, continuity of life, free tranferability of interests, and limited liability are generally common to trusts and corporations, the determination of whether a trust which has such characteristics is to be treated for tax purposes as a trust or as an association depends on whether there are associates and an objective to carry on business and divide the gains therefrom. On the other hand, since associates and an objective to carry on business and divide the gains therefrom are generally common to both corporations and partnerships, the determination of whether an organization which has such characteristics is to be treated for tax purposes as a partnership or as an association depends on whether there exists centralization of management, continuity of life, free tranferability of interests, and limited liability.

(3) An unincorporated organization shall not be classified as an association unless such organization has more corporate characteristics than noncorporate characteristics. In determining whether an organization has more corporate characteristics than noncorporate characteristics, all characteristics common to both types of organizations shall not be considered. For example, if a limited partnership has centralized management and free transferability of interests but lacks continuity of life and limited liability, and if the limited partnership has no other characteristics which are significant in determining its classification, such limited partnership is not classified as an association. Although the limited partnership also has associates and an objective to carry on business and divide the gains therefrom, these characteristics are not considered because they are common to both corporations and partnerships.

(4) The rules of this section and §§ 301.7701–3 and 301.7701–4 are applicable only to taxable years beginning after December 31, 1960. However, for any taxable year beginning after December 31, 1960, but before October 1, 1961, any amendment of the agreement establishing the organization will, in the case of an organization in existence on November 17, 1960, be treated for purposes of determining the classification of the organization as being in effect as of the beginning of such taxable year (i) if the amendment of the agreement is made before October 1, 1961, and (ii) if the amendment results in the classification of the organization under the rules of this section and §§ 301.7701–1, 301.7701–3, and 301.7701–4 in the same manner as the organization was classified for tax purposes on November 17, 1960.

(5) The rules of paragraph (h) of this section are applicable only to taxable years beginning after December 31, 1960. However, in the case of an organization formed as a partnership association, a business trust, an ordinary business corporation, or a professional service organization formed under a local law or regulatory rule specifically authorizing the formation of such organizations, the rules of paragraph (h) of this section shall not apply to any taxable year ending on or before December 31, 1964, if such organization made its return for any such taxable year, filed at or prior to the time (including extensions thereof) that the return for such taxable year was required to be filed, as if its income were subject to the tax imposed by section 11 of the Code (relating to tax imposed on corporations).

(b) *Continuity of life.* (1) An organization has continuity of life if the death, insanity, bankruptcy, retirement, resignation, or expulsion of any member will not cause a dissolution of the organization. On the other hand, if the death, insanity, bankruptcy, retirement, resignation, or expulsion of any member will cause a dissolution of the organization, continuity of life does not exist. If the retirement, death, or insanity of a general partner of a limited partnership causes a dissolution of the partnership, unless the remaining general partners agree to continue the partnership or unless all remaining members agree to continue the partnership, continuity of life does not exist. See Glensder Textile Company (1942) 46 B.T.A. 176 (A., C.B. 1942–1, 8).

(2) For purposes of this paragraph, dissolution of an organization means an alteration of the identity of an organization by reason of a change in the relationship between its members as determined under local law. For example, since the resignation of a partner from a general partnership destroys the mutual agency which exists between such partner and his copartners and thereby alters the personal relation between the partners which constitutes the identity of the partnership itself, the resignation of a partner dissolves the partnership. A corporation, however, has a continuing identity which is detached from the relationship between its stockholders. The death, insanity, or bankruptcy of a shareholder or the sale of a shareholder's interest has no effect upon the identity of the corporation and, therefore, does not work a dissolution of the organization. An agreement by which an organization is established may provide that the business will be continued by the remaining members in the event of the death or withdrawal of any member, but such agreement does not establish continuity of life if under local law the death or withdrawal of any member causes a dissolution of the organization. Thus, there may be a dissolution of the organization and no continuity of life although the business is continued by the remaining members.

(3) An agreement establishing an organization may provide that the organization is to continue for a stated period or until the completion of a stated undertaking or such agreement may provide for the termination of the organization at will or otherwise. In determining whether any member has the power of dissolution, it will be necessary to examine the agreement and to ascertain the effect of such agreement under local law. For example, if the agreement expressly provides that the organization can be terminated by the will of any member, it is clear that the organization lacks continuity of life. However, if the agreement provides that the organization is to continue for a stated period or until the completion of a stated transaction, the organization has continuity of life if the effect of the agreement is that no member has the power to dissolve the organization in contravention of the agreement. Nevertheless, if, notwithstanding such agreement, any member has the power under local law to dissolve the organization, the organization lacks continuity of life. Accordingly, a general partnership subject to a statute corresponding to the Uniform Partnership Act and a limited partnership subject to a statute corresponding to the Uniform Limited Partnership Act both lack continuity of life.

(c) *Centralization of management.* (1) An organization has centralized management if any person (or any group of persons which does not include all the members) has continuing exclusive authority to make the management decisions necessary to the conduct of the business for which the organization was formed. Thus, the persons who are vested with such management authority resemble in powers and functions the directors of a statutory corporation. The effective operation of a business organization composed of many members generally depends upon the centralization in the hands of a few of exclusive authority to make management decisions for the organization, and therefore, centralized management is more likely to be found in such an organization than in a smaller organization.

(2) The persons who have such authority may, or may not, be members of the organization and may hold office as a result of a selection by the members from time to time, or may be self-perpetuating in office. See Morrissey et al. v. Commissioner (1935) 296 U.S. 344. Centralized management can be accomplished by election to office, by proxy appointment, or by any other means which has the effect of concentrating in a management group continuing exclusive authority to make management decisions.

(3) Centralized management means a concentration of continuing exclusive authority to make independent business decisions on behalf of the organization which do not require ratification by members of such organization. Thus, there is not centralized management when the centralized authority is merely to perform ministerial acts as an agent at the direction of a principal.

(4) There is no centralization of continuing exclusive authority to make management decisions, unless the managers have sole authority to make such decisions. For example, in the case of a corporation or a trust, the concentration of management powers in a board of directors or trustees effectively prevents a stockholder or a trust beneficiary, simply because he is a stockholder or beneficiary, from binding the corporation or the trust by his acts. However, because of the mutual agency relationship between members of a general partnership subject to a statute corresponding to the Uniform Partnership Act, such a general partnership cannot achieve effective concentration of management powers and, therefore, centralized management. Usually, the act of any partner within the scope of the partnership business binds all the partners; and even if the partners agree among themselves that the powers of management shall be exclusively in a selected few, this agreement will be ineffective as against an outsider who had no notice of it. In addition, limited partnerships subject to a statute corresponding to the Uniform Limited Partnership Act, generally do not have centralized management, but centralized management ordinarily does exist in such a limited partnership if substantially all the interests in the partnership are owned by the limited partners.

(d) *Limited liability.* (1) An organization has the corporate characteristic of limited liability if under local law there is no member who is personally liable for the debts of or claims against the organization. Personal liability means that a creditor of an organization may seek personal satisfaction from a member of the organization to the extent that the assets of such organization are insufficient to satisfy the creditor's claim. A member of the organization who is personally liable for the obligations of the organization may make an agreement under which another person, whether or not a member of the organization, assumes such liability or agrees to indemnify such member for any such liability. However, if under local law the member remains liable to such creditors notwithstanding such agreement, there exists personal liability with respect to such member. In the case of a general partnership subject to a statute corresponding to the Uniform Partnership Act, personal liability exists with respect to each general partner. Similarly, in the case of a limited partnership subject to a statute corresponding to the Uniform Limited Partnership Act, personal liability exists with respect to each general partner, except as provided in subparagraph (2) of this paragraph.

(2) In the case of an organization formed as a limited partnership, personal liability does not exist, for purposes of this paragraph, with respect to a general partner when he has no substantial assets (other than his interest in the partnership) which could be reached by a creditor of the organization and when he is merely a "dummy" acting as the agent of the limited partners. Notwithstanding the formation of the organization as a limited partnership, when the limited partners act as the principals of such general partner, personal liability will exist with respect to such limited partners. Also, if a corporation is a general partner, personal liability exists with respect to such general partner when the corporation has substantial assets (other than its interest in the partnership) which could be reached by a creditor of the limited partnership. A general partner may contribute his services, but no capital, to the organization, but if such general partner has substantial assets (other than his interest in the partnership), there exists personal liability. Furthermore, if the organization is engaged in financial transactions which involve large sums of money, and if the general partners have substantial assets (other than their interests in the partnership), there exists personal liability although the assets of such general partners would be insufficient to satisfy any substantial portion of the obligations of the organization. In addition, although the general partner has no substantial assets (other than his interest in the partnership), personal liability exists with respect to such general partner when he is not merely a "dummy" acting as the agent of the limited partners.

(e) *Free transferability of interests.* (1) An organization has the corporate characteristic of free transferability of interests if each of its members or those members owning substantially all of the interests in the organization have the power, without the consent of other members, to substitute for themselves in the same organization a person who is not a member of the organization. In order for this power of substitution to exist in the corporate sense, the member must be able, without the consent of other members, to confer upon his substitute all the attributes of his interest in the organization. Thus, the characteristic of free transferability of interests does not exist in a case in which each member can, without the consent of other members, assign only his right to share in profits but cannot so assign his rights to participate in the management of the organization. Furthermore, although the agreement provides for the transfer of a member's interest, there is no power of substitution and no free transferability of interest if under local

law a transfer of a member's interest results in the dissolution of the old organization and the formation of a new organization.

(2) If each member of an organization can transfer his interest to a person who is not a member of the organization only after having offered such interest to the other members at its fair market value, it will be recognized that a modified form of free transferability of interests exists. In determining the classification of an organization, the presence of this modified corporate characteristic will be accorded less significance than if such characteristic were present in an unmodified form.

(f) *Cross reference.* See paragraph (b) of § 301.7701–3 for the application to limited partnerships of the rules relating to corporate characteristics.

(g) *Examples.* The application of the rules described in this section may be illustrated by the following examples:

Example (1). [Deleted]

Example (2). A group of seven doctors forms a clinic for the purpose of furnishing, for profit, medical and surgical services to the public. They each transfer assets to the clinic, and their agreement provides that except upon complete liquidation of the organization on the vote of three-fourths of its members, no member has any individual interest in its assets. Their agreement also provides that neither the death, insanity, bankruptcy, retirement, resignation, nor expulsion of a member shall cause the dissolution of the organization. However, under the applicable local law, a member who withdraws does have the power to dissolve the organization. While the agreement provides that the management of the clinic is to be vested exclusively in an executive committee of four members elected by all the members, this provision is ineffective as against outsiders who had no notice of it; and, therefore, the act of any member within the scope of the organization's business binds the organization insofar as such outsiders are concerned. While the agreement declares that each individual doctor alone is liable for acts of malpractice, members of the clinic are, nevertheless, personally liable for all debts of the clinic including claims based on malpractice. No member has the right, without the consent of all the other members, to transfer his interest to a doctor who is not a member of the clinic. The organization has associates and an objective to carry on business and divide the gains therefrom. However, it does not have the corporate characteristics of continuity of life, centralized management, limited liability, and free transferability of interests. The organization will be classified as a partnership for all purposes of the Internal Revenue Code.

Example (3). A group of 25 lawyers forms an organization for the purpose of furnishing, for profit, legal services to the public. Their agreement provides that the organization will dissolve upon the death, insanity, bankruptcy, retirement, or expulsion of a member. While their agreement provides that the management of the organization is to be vested exclusively in an executive committee of five members elected by all the members, this provision is ineffective as against outsiders who had no notice of it; and, therefore, the act of any member within the scope of the organization's business binds the organization insofar as such outsiders are concerned. Members of the organization are personally liable for all debts, or claims against, the organization. No member has the right, without the consent of all the other members, to transfer his interest to a lawyer who is not a member of the organization. The organization has associates and an objective to carry on business and divide the gains therefrom. However, the four corporate characteristics of limited liability, centralized management, free transferability of interests, and continuity of life are absent in this case. The organization will be classified as a partnership for all purposes of the Internal Revenue Code.

Example (4). A group of 25 persons forms an organization for the purpose of engaging in real estate investment activities. Each member has the power to dissolve the organization at any time. The management of the organization is vested exclusively in an executive committee of five members elected by all the members, and under the applicable local law, no one acting without the authority of this committee has the power to bind the organization by his acts. Under the applicable local law, each member is personally liable for the obligations of the organization. Every member has the right to transfer his interest to a person who is not a member of the organization, but he must first advise the organization of the proposed transfer and give it the opportunity on a vote of the majority to purchase the interest at its fair market value. The organization has associates and an objective to carry on business and divide the gains therefrom. While the organization does not have the characteristic of centralized management and a modified form of free transferability of interests, it does not have the corporate characteristics of continuity of life and limited liability. Under the circumstances presented, the organization will be classified as a partnership for all purposes of the Internal Revenue Code.

Example (5). A group of 25 persons forms an organization for the purpose of engaging in real estate investment activities. Under their agreement, the organization is to have a life of 30 years, and under the applicable local law, no member has the power to dissolve the organization prior to the expiration of that period. The management of the organization is vested exclusively in an executive committee of five members elected by all the members, and under the applicable local law, no one acting without the authority of this committee has the power to bind the organization by his acts. Under the applicable local law, each member is personally liable for the obligations of the organization. Every member has the right to transfer his interest to a person who is not a member of the organization, but he must first advise the organization of the proposed transfer and give it the opportunity on a vote of the majority to purchase the interest at its fair market value. The organization has associates and an objective to carry on business and divide the gains therefrom. While the organization does not have the characteristic of continuity of life, it does have limited liability, centralized management, and a modified form of free transferability of interests. The organization will be classified as an association for all purposes of the Internal Revenue Code.

Example (6). A group of 25 persons forms an organization for the purpose of engaging in real estate investment activities. Each member has the power to dissolve the organization at any time. The management of the organization is vested exclusively in an executive committee of five members elected by all the members, and under the applicable local law, no one acting without the authority of this committee has the power to bind the organization by his acts. Under the applicable local law, the liability of each member for the obligations of the organization is limited to paid and subscribed capital. Every member has the right to transfer his interest to a person who is not a member of the organization, but he must first advise the organization of the proposed transfer and give it the opportunity on a vote of the majority to purchase the interest at its fair market value. The organization has associates and an objective to carry on business and divide the gains therefrom. While the organization does not have the characteristic of continuity of life, it does have limited liability, centralized management, and a modified form of free transferability of interests. The organization will be classified as an association for all purposes of the Internal Revenue Code.

Example (7). A group of 26 persons forms an organization for the purpose of investing in securities so as to educate the members in principles and techniques of investment practices and to share the income from such investments. While the agreement states that the organization will operate until terminated by a three-fourths vote of the total membership and will not terminate upon the withdrawal or death of any member, under the applicable local law, a member has the power to dissolve the organization at any time. The business of the organization is carried on by the members at regular monthly meetings and buy or sell action may be taken only when voted by a majority of the organization's membership present. Elected officers perform only ministerial functions such as presiding at meetings and carrying out the directions of the members. Members of the organization are personally liable for all debts of, or claims against, the organization. No member may transfer his membership. The organization has associates and an objective to carry on business and divide the gains therefrom. However, the organization does not have the corporate characteristics of limited liability, free transferability of interests, continuity of life, and centralized management. The organization will be treated as a partnership for all purposes of the Internal Revenue Code.

(h) *Classification of professional service organizations.* (1) (i) A professional service organization is treated as a corporation (or as an association and, therefore, taxable as a corporation) only if it has sufficient corporate characteristics to be classifiable as a corporation under paragraph (a) of this section, rather than as a partnership or proprietorship. For purposes of determining the classification of an organization under these regulations, the term "professional service organization," as used in this paragraph, means an organization formed by one or more persons to engage in a business involving the performance of professional services for profit which under local law, may not be organized and operated in the form of an ordinary business corporation having the usual characteristics of such a corporation. Thus, even if a professional service organization is organized as an ordinary business corporation, this paragraph applies if such corporation is subject to local regulatory rules which deprive such corporation of the usual characteristics of an ordinary business corporation. This paragraph applies irrespective of whether an organization is labeled under local law as a professional service corporation, a professional service association, a trust, or otherwise.

(ii) In determining whether a professional service organization has the major characteristics ordinarily found in a business corporation and whether any other significant factors are to be taken into account in classifying the organization, the special professional requirements of the profession engaged in by the members of the organization must be taken into consideration. Although such an organization may have associates and is engaged in business for profit, the relationships of the members of such an organization to each other as well as their relationships to employees, to clients, patients, or customers and to the public are inherently different from the relationships characteristic of an ordinary business corporation. In determining the nature of these relationships, consideration must be given to the law under which the organization is formed, the charter, articles of association, bylaws, or other documents relating to the formation of the organization, and all other facts and rules governing or pertaining to such relationships in the usual course of the practice of the profession of the participants.

(2) A professional service organization does not have continuity of life within the meaning of paragraph (b) of this section if the death, insanity, bankruptcy, retirement, resignation, expulsion, professional disqualification, or election to inconsistent public office of any member will (determined without regard to any agreement among the members) cause under local law the dissolution of the organization. A business corporation has a continuing identity as an entity which is not dependent upon a shareholder's active participation in any capacity in the production of the income of the corporation. Furthermore, the interest of a shareholder in an ordinary business corporation includes a right to share in the profits of the corporation, and such right is not legally dependent (determined without regard to any agreement among the shareholders) upon his participation in the production of the corporation's income. However, the interest of a member of a professional service organization generally is inextricably bound to the establishment and continuance of an employment relationship with the organization, and he cannot share in the profits of a professional service organization unless he also shares in the performance of the services rendered by the organization. For purposes of this paragraph, the term "employment relationship" is used to describe such active participation by the member and is not restricted to the common-law meaning of such term. If local law, applicable regulations, or professional ethics do not permit a member of a professional service organization to share in its profits unless an employment relationship exists between him and the organization, and if in such case, he or his estate is required to dispose of his interest in the organization if the employment relationship terminates, the continuing existence of the organization depends upon the willingness of its remaining members, if any, either to agree, by prior arrangement or at the time of such termination, to acquire his interest or to employ his proposed successor. The continued existence of such a professional service organization is similar to that of a partnership formed under the Uniform Partnership Act, whose business continues pursuant to an agreement providing that the business will be continued by the remaining members after the withdrawal or death of a partner (see paragraph (b) of this section), and is essentially different from the continuity of life possessed by an ordinary business corporation. Consequently, such a professional service organization lacks continuity of life.

(3) In applying the rules of paragraph (c) of this section, relating to centralization of management, a professional service organization does not have centralization of management where the managers of a professional service organization under local law are not vested with the continuing exclusive authority to determine any one or more of the following matters: (i) The hiring and firing of professional members of the organization and its professional and lay employees, (ii) the compensation of the members and of such employees, (iii) the conditions of employment—such as working hours, vacation periods, and sick leave, (iv) the persons who will be accepted as clients or patients, (v) who will handle each individual case or matter, (vi) the professional policies and procedures to be followed in handling each individual case, (vii) the fees to be charged by the organization, (viii) the nature of the records to be kept, their use, and their disposition, and (ix) the times and amounts of distributions of the earnings of the organization to its members as such. Moreover, although a measure of central control may exist in a professional service organization, the managers of a professional service organization in which a member retains traditional professional responsibility cannot have the continuing exclusive authority to determine all of the matters described in the preceding sentence. Instead, such measure of central control is no more than that existing in an ordinary large professional partnership which has one or more so-called managing partners and in which a member retains the traditional professional autonomy with respect to professional decisions and the traditional responsibility of a professional person to the client or patient. Such measure of central control is essentially different from the centralization of management existing in an ordinary business corporation. Therefore, centralization of management does not exist in such a professional service organization.

(4) A professional service organization has the corporate characteristic of limited liability within the meaning of paragraph (d) of this section only if the personal liability of its members, in their capacity as members of the organization, is no greater in any aspect than that of shareholder-employees of an ordinary business corporation. If under local law and the rules pertaining to professional practice, a mutual agency relationship, similar to that existing in an ordinary professional partnership, exists between the members of a professional service organization, such organization lacks the corporate characteristic of limited liability.

(5) (i) If the right of a member of a professional service organization to share in its profits is dependent upon the existence of an employment relationship between him and the organization, free transferability of interests within the meaning of paragraph (e) of this section exists only if the member, without the consent of other members, may transfer both the right to share in the profits of the organization and the right to an employment relationship with the organization.

(ii) The corporate characteristic of free transferability of interests exists in a modified form within the meaning of paragraph (e)(2) of this section when a shareholder in an ordinary business corporation can transfer his interest in such corporation only after having offered such interest to the other shareholders at its fair market value. In such a case, the so-called right of first refusal applies only to an interest which is a right to share in the profits, the assets, and the management of the enterprise. However, if the interest of a member of a professional service organization constitutes a right to share in the profits of the organization which is contingent upon and inseparable from the member's continuing employment relationship with the organization, and the transfer of such interest is subject to a right of first refusal, such interest is subject to a power in the other members of the organization to determine not only the individuals whom the organization is to employ, but also who may share with them in the profits of the organization. The possession by other members of the power to determine, in connection with the transfer of such an interest, whom the organization is to employ is so substantial a hindrance upon the free transferability of interests in the organization that such power precludes the existence of a modified form of free transferability of interests. Therefore, if a member of a professional service organization who possesses such an interest may transfer his interest to a qualified person who is not a member of the organization only after having first offered his interest to the other members of the organization at its fair market value, the corporate characteristic of free transferability of interests does not exist.

§ 301.7701–3 Partnerships.

(a) *In general.* The term "partnership" is broader in scope than the common law meaning of partnership and may include groups not commonly called partnerships. Thus, the term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization through or by means of which any business, financial operation, or venture is carried on, and which is not a corporation or a trust or estate within the meaning of the Internal Revenue Code of 1954. A joint undertaking merely to share expenses is not a part-

nership. For example, if two or more persons jointly construct a ditch merely to drain surface water from their properties, they are not partners. Mere co-ownership of property which is maintained, kept in repair, and rented or leased does not constitute a partnership. For example, if an individual owner, or tenants in common, of farm property lease it to a farmer for a cash rental or a share of the crops, they do not necessarily create a partnership thereby. Tenants in common, however, may be partners if they actively carry on a trade, business, financial operation, or venture and divide the profits thereof. For example, a partnership exists if co-owners of an apartment building lease space and in addition provide services to the occupants either directly or through an agent.

(b) *Limited partnerships*—(1) *In general.* An organization which qualifies as a limited partnership under State law may be classified for purposes of the Internal Revenue Code as an ordinary partnership or as an association. Such a limited partnership will be treated as an association if, applying the principles set forth in § 301.7701–2, the organization more nearly resembles a corporation than an ordinary partnership or other business entity.

(2) *Examples.* The principles of this paragraph may be illustrated by the following examples:

Example (1). Three individuals form an organization which qualifies as a limited partnership under the laws of the State in which the organization was formed. The purpose of the organization is to acquire and operate various pieces of commercial and other investment property for profit. Each of the three individuals who are general partners invests $100,000 in the enterprise. Five million dollars of additional capital is raised through contributions of $100,000 or more by each of 20 limited partners. The three general partners are personally capable of assuming a substantial part of the obligations to be incurred by the organization. While a limited partner may assign his right to receive a share of the profits and a return of his contribution, his assignee does not become a substituted limited partner except with the unanimous consent of the general partners. The life of the organization as stated in the certificate is 20 years, but the death, insanity, or retirement of a general partner prior to the expiration of the 20-year period will dissolve the organization. The general partners have exclusive authority to manage the affairs of the organization but can act only upon the unanimous consent of all of them. The organization has associates and an objective to carry on business and divide the gains therefrom, which characterize both partnerships and corporations. While the organization has the corporate characteristic of centralized management, since substantially all of the interests in the organization are owned by the limited partners, it does not have the characteristics of continuity of life, free transferability of interests, or limited liability. The organization will be classified as a partnership for all purposes of the Internal Revenue Code.

Example (2). Three individuals form an organization which qualifies as a limited partnership under the laws of the State in which the organization was formed. The purpose of the organization is to acquire and operate various pieces of commercial and other investment property for profit. The certificate provides that the life of the organization is to be 40 years, unless a general partner dies, becomes insane, or retires during such period. On the occurrence of such death, insanity, or retirement, the remaining general partners may continue the business of the partnership for the balance of the 40-year period under a right so to do stated in the certificate. Each of the three individuals who is a general partner invests $20,000 in the enterprise and has means to satisfy the business obligations of the organization to a substantial extent. Five million dollars of additional capital is raised through the sale of freely transferable interests in amounts of $10,000 or less to limited partners. Nine hundred such interests are sold. The interests of the 900 limited partners are fully transferable, that is, a transferee acquires all the attributes of the transferor's interest in the organization. The general partners have exclusive control over management of the business, their interests are not transferable, and their liability for debts of the organization is not limited to their capital contributions. The organization has associates and an objective to carry on business and divide the gains therefrom. It does not have the corporate characteristics of limited liability and continuity of life. It has centralized management, however, since the three general partners exercise exclusive control over the management of the business, and since substantially all of the interests in the organization are owned by the limited partners. While the interests of the general partners are not transferable, the transferability test of an association is met since substantially all of the interests in the organization are represented by transferable interests. The organization will be classified as a partnership for all purposes of the Internal Revenue Code.

(c) *Partnership associations.* The laws of a number of States provide for the formation of organizations commonly known as partnership associations. Such a partnership association will be treated as an association if, applying the principles set forth in § 301.7701–2, the organization more nearly resembles a corporation than the other types of business entities.

(d) *Partner.* The term "partner" means a member of a partnership.

§ 301.7701–4 Trusts.

(a) *Ordinary trusts.* In general, the term "trust" as used in the Internal Revenue Code refers to an arrangement created either by a will or by an inter vivos declaration whereby trustees take title to property for the purpose of protecting or conserving it for the beneficiaries under the ordinary rules applied in chancery or probate courts. Usually the beneficiaries of such a trust do no more than accept the benefits thereof and are not the voluntary planners or creators of the trust arrangement. However, the beneficiaries of such a trust may be the persons who create it and it will be recognized as a trust under the Internal Revenue Code if it was created for the purpose of protecting or conserving the trust property for beneficiaries who stand in the same relation to the trust as they would if the trust had been created by others for them. Generally speaking, an arrangement will be treated as a trust under the Internal Revenue Code if it can be shown that the purpose of the arrangement is to vest in trustees responsibility for the protection and conservation of property for beneficiaries who cannot share in the discharge of this responsibility and, therefore, are not associates in a joint enterprise for the conduct of business for profit.

(b) *Business trusts.* There are other arrangements which are known as trusts because the legal title to property is conveyed to trustees for the benefit of beneficiaries, but which are not classified as trusts for purposes of the Internal Revenue Code because they are not simply arrangements to protect or conserve the property for the beneficiaries. These trusts, which are often known as business or commercial trusts, generally are created by the beneficiaries simply as a device to carry on a profit-making business which normally would have been carried on through business organizations that are classified as corporations or partnerships under the Internal Revenue Code. However, the fact that the corpus of the trust is not supplied by the beneficiaries is not sufficient reason in itself for classifying the arrangement as an ordinary trust rather than as an association or partnership. The fact that any organization is technically cast in the trust form, by conveying title to property to trustees for the benefit of persons designated as beneficiaries, will not change the real character of the organization if, applying the principles set forth in §§ 301.7701–2 and 301.7701–3, the organization more nearly resembles an association or a partnership than a trust.

(c) *Certain investment trusts.* An "investment" trust of the type commonly known as a management trust is an association, and a trust of the type commonly known as a fixed investment trust is an association if there is power under the trust agreement to vary the investment of the certificate holders. See Commissioner v. North American Bond Trust (C.C.A. 2d, 1941) 122 F. 2d 545, cert. denied 314 U.S. 701. However, if there is no power under the trust agreement to vary the investment of the certificate holders, such fixed investment trust shall be classified as a trust.

(d) *Liquidating trusts.* Certain organizations which are commonly known as liquidating trusts are treated as trusts for purposes of the Internal Revenue Code. An organization will be considered a liquidating trust if it is organized for the primary purpose of liquidating and distributing the assets transferred to it, and if its activities are all reasonably necessary to, and consistent with, the accomplishment of that purpose. A liquidating trust is treated as a trust for purposes of the Internal Revenue Code because it is formed with the objective of liquidating particular assets and not as an organization having as its purpose the carrying on of a profit-making business which normally would be conducted through business organizations classified as corporations or partnerships. However, if the liquidation is unreasonably prolonged or if the liquidation purpose becomes so obscured by business activities that the declared purpose of liquidation can be said to be lost or abandoned, the status of the organization will no longer be that of a liquidating trust. Bondholders' protective committees, voting trusts, and other agencies formed to protect the interests of security holders during insolvency, bankruptcy, or corporate reorganization proceedings are analogous to liquidating trusts but if subsequently utilized to further the control or profitable operation of a going business on a permanent continuing basis, they will lose their classification as trusts for purposes of the Internal Revenue Code.

§ 301.7701–5 Domestic, foreign, resident, and nonresident persons.

A domestic corporation is one organized or created in the United States, including only the States (and during the periods when not States, the Territories of Alaska and Hawaii), and the District of Columbia, or under the law of the United States or of any State or Territory. A foreign corporation is one which is not domestic. A domestic corporation is a resident corporation even though it does no business and owns no property in the United States. A foreign corporation engaged in trade or business within the United States is referred to in the regulations in this chapter as a resident foreign corporation, and a foreign corporation not engaged in trade or business within the United States, as a nonresident foreign corporation. A partnership engaged in trade or business within the United States is referred to in the regulations in this chapter as a resident partnership, and a partnership not engaged in trade or business within the United States, as a nonresident partnership. Whether a partnership is to be regarded as resident or nonresident is not determined by the nationality or residence of its members or by the place in which it was created or organized. The term "nonresident alien," as used in the regulations in this chapter, includes a nonresident alien individual and a nonresident alien fiduciary.

§ 301.7701–6 Fiduciary.

"Fiduciary" is a term which applies to persons who occupy positions of peculiar confidence toward others, such as trustees, executors, and administrators. A fiduciary is a person who holds in trust an estate to which another has the beneficial title or in which another has a beneficial interest, or receives and controls income of another, as in the case of receivers. A committee or guardian of the property of an incompetent person is a fiduciary.

§ 301.7701–7 Fiduciary distinguished from agent.

There may be a fiduciary relationship between an agent and a principal, but the word "agent" does not denote a fiduciary. An agent having entire charge of property, with authority to effect and execute leases with tenants entirely on his own responsibility and without consulting his principal, merely turning over the net profits from the property periodically to his principal by virtue of authority conferred upon him by a power of attorney, is not a fiduciary within the meaning of the Internal Revenue Code. In cases where no legal trust has been created in the estate controlled by the agent and attorney, the liability to make a return rests with the principal.

§ 301.7701–8 Military or naval forces and Armed Forces of the United States.

The term "military or naval forces of the United States" and the term "Armed Forces of the United States" each includes all regular and reserve components of the uniformed services which are subject to the jurisdiction of the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force. The terms also include the Coast Guard. The members of such forces include commissioned officers and the personnel below the grade of commissioned officer in such forces.

§ 301.7701–9 Secretary or his delegate.

(a) The term "Secretary or his delegate" means the Secretary of the Treasury, or any officer, employee, or agency of the Treasury Department duly authorized by the Secretary (directly, or indirectly by one or more redelegations of authority) to perform the function mentioned or described in the context, and the term "or his delegate" when used in connection with any other official of the United States shall be similarly construed.

(b) In any case in which a function is vested by the Internal Revenue Code of 1954 or any other statute in the Secretary or his delegate, and Treasury regulations or Treasury decisions approved by the Secretary or his delegate provide that such function may be performed by the Commissioner, assistant commissioner, regional commissioner, assistant regional commissioner, district director, director of a regional service center, or by a designated officer or employee in the office of any such officer, such provision in the regulations or Treasury decision shall constitute a delegation by the Secretary of the authority to perform such function to the designated officer or employee. If such authority is delegated to any officer or employee performing services under the supervision and control of the Commissioner, such provision in the regulations or Treasury decision shall constitute a delegation by the Secretary to the Commissioner of the authority to perform such function and a redelegation thereof by the Commissioner to the designated officer or employee.

(c) An officer or employee, including the Commissioner, authorized by regulations or Treasury decision to perform a function shall have authority to redelegate the performance of such function to any officer or employee performing services under his supervision and control, unless such power to so redelegate is prohibited or restricted by proper order or directive. The Commissioner may also redelegate authority to perform such function to other officers or employees under his supervision and control and, to the extent he deems proper, may authorize further redelegation of such authority.

(d) The Commissioner may prescribe such limitations as he deems proper on the extent to which any officer or employee under his supervision and control shall perform any such function, but, in the case of an officer or employee designated in regulations or Treasury decision as authorized to perform such function, such limitations shall not render invalid any performance by such officer or employee of the function which, except for such limitations, such officer or employee is authorized to perform by such regulations or Treasury decision in effect at the time the function is performed.

§ 301.7701–10 District director.

The term "district director" means the district director of internal revenue for an internal revenue district. The term also includes the Director of International Operations.

§ 301.7701–11 Account number.

For purposes of this chapter, the term "account number" means the identifying number of an individual which is assigned pursuant to section 6011(b) or corresponding provisions of prior law, or pursuant to section 6109, and in which nine digits are separated by hyphens as follows: 000–00–0000. Such term does not include a number with a letter as a suffix which is used to identify an auxiliary beneficiary under the social security program. The terms "account number" and "social security account number" refer to the same number.

§ 301.7701–12 Employer identification number.

For purposes of this chapter, the term "employer identification number" means the identifying number of an individual or other person (whether or not an employer) which is assigned pursuant to section 6011(b) or corresponding provisions of prior law, or pursuant to section 6109, and in which nine digits are separated by a hyphen, as follows: 00–0000000. The terms "employer identification number" and "identification number" (defined in § 31.0–2(a)(11) of this chapter (Employment Tax Regulations)) refer to the same number.

§ 301.7701–13 Domestic building and loan association.

(a) *In general.* For taxable years beginning after October 16, 1962, the term "domestic building and loan association" means a domestic building and loan association, a domestic savings and loan association, a Federal savings and loan association, and any other savings institution chartered and supervised as a savings and loan or similar association under Federal or State law which meets the supervisory test (described in paragraph (b) of this section), the business operations test (described in paragraph (c) of this section), and each of the various assets tests (described in para-

graphs (d), (e), (f), and (h) of this section).

(b) *Supervisory test.* A domestic building and loan association must be either (1) an insured institution within the meaning of section 401(a) of the National Housing Act (12 U.S.C., sec. 1724 (a) or (2) subject by law to supervision and examination by State or Federal authority having supervision over such associations. An "insured institution" is one the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

(c) *Business operations test*—(1) *In general.* An association must utilize its assets so that substantially all of its business consists of acquiring the savings of the public and investing in the loans described in subparagraphs (6) through (10) of paragraph (d) of this section. The requirement of this paragraph is referred to in this section as the business operations test. The business of acquiring the savings of the public and investing in the prescribed loans includes ancillary or incidental activities which are directly and primarily related to such acquisition and investment, such as advertising for savings, appraising property on which loans are to be made by the association, and inspecting the progress of construction in connection with construction loans. Even though an association meets the supervisory test in paragraph (b) and all the assets tests described in paragraphs (d) through (h) of this section, it will nevertheless not qualify as a domestic building and loan association if any substantial part of its business consists of activities which are not directly and primarily related to such acquisition and investment, such as brokering mortgage paper, selling insurance, or subdividing real estate. However, an association will meet the business operations test for a taxable year if it meets the requirements of both subparagraphs (2) and (3) of this paragraph, relating respectively to acquiring the savings of the public, and investing in loans.

(2) *Acquiring the savings of the public.* The requirement that substantially all of an association's business (other than investing in loans) must consist of acquiring the savings of the public ordinarily will be considered to be met if savings are acquired in all material respects in conformity with the rules and regulations of the Federal Home Loan Bank Board or substantially equivalent rules of a State law or supervisory authority. In addition, such requirement will be considered to be met if more than 85 percent of the dollar amount of the total deposits and withdrawable shares of the association are held during the taxable year by the general public as opposed to amounts deposited by family or related business groups or persons who are officers or directors of the association. The percentage specified in this subparagraph shall be computed as of the close of the taxable year, or at the option of the taxpayer, on the basis of the average of the amounts of deposits held during the year. Such average shall be determined by computing the percentage specified either as of the close of each month, as of the close of each quarter, or semiannually during the taxable year and by using the yearly average of the monthly, quarterly, or semiannual percentages obtained.

(3) *Investing in loans*—(i) *In general.* The requirement that substantially all of an association's business (other than acquiring the savings of the public) must consist of investing in the loans described in subparagraphs (6) through (10) of paragraph (d) of this section ordinarily will be considered to be met for a taxable year if the association meets both the gross income test described in subdivision (ii) of this subparagraph, and the sales activity test described in subdivision (iii) of this subparagraph. However, if an association does not meet the requirements of both subdivisions (ii) and (iii) of this subparagraph, it will nevertheless meet the investing in loans requirement if it is able to demonstrate that substantially all its business (other than acquiring the savings of the public) consisted of investing in the prescribed loans. Transactions which are necessitated by exceptional circumstances and which are not undertaken as recurring business activities for profit will not be considered a substantial part of an association's business. Thus, for example, an association would meet the investing in loans requirement if it can establish that it failed to meet the gross income test because of receipt of a non-recurring item of income due to exceptional circumstances, or it failed to meet the sales activity test because of sales made to achieve necessary liquidity to meet abnormal withdrawals from savings accounts. For the purposes of this subparagraph, however, the acquisition of loans in anticipation of their sale to other financial institutions does not constitute "investing" in loans, even though such acquisition and sale resulted from an excess of demand for loans over savings capital in the association's area.

(ii) *Gross income test.* The gross income test is met if more than 85 percent of the gross income of an association consists of:

(a) Interest or dividends on assets defined in subparagraph (2), (3), or (4) of paragraph (d) of this section,

(b) Interest on loans defined in subparagraphs (6) through (10) of paragraph (d) of this section,

(c) Income attributable to the portion of property used in the association's business as defined in paragraph (d)(5) of this section,

(d) Premiums, discounts, commissions, or fees (including late charges and penalties) on loans defined in subparagraphs (6) through (10) of paragraph (d) of this section which have at some time been held by the association, or for which firm commitments have been issued,

(e) Gain or loss on the sale of governmental obligations defined in paragraph (d)(3) of this section, or

(f) Income, gain, or loss attributable to foreclosed property (as defined in paragraph (j)(1) of this section), but not including such income, gain, or loss which, pursuant to section 595 and the regulations thereunder, is not included in gross income.

For the purposes of this subparagraph, gross income shall be computed without regard to gains or losses on the sale of the portion of property used in the association's business (described in paragraph (d)(5) of this section), without regard to gains or losses on the rented portion of property used as the principal or branch office of the association (described in such paragraph), and without regard to gains or losses on the sale of participations and loans (other than governmental obligations defined in paragraph (d)(3) of this section). Examples of types of income which would cause an association to fail to meet the gross income test, if in the aggregate they exceed 15 percent of gross income, are the excess of gains over losses on sale of real estate (other than foreclosed property); rental income (other than on foreclosed property and the portion of property used in the association's business); premiums, commissions, and fees (other than commitment fees) on loans which have never been held by the association; and insurance brokerage fees.

(iii) *Sales activity test: in general.* The sales activity test is met for a taxable year if the association meets both the sales of whole loans test described in subdivision (iv) of this subparagraph, and the sales of whole loans and participations test described in subdivision (v) of this subparagraph. For the purposes of this subdivision and subdivisions (iv), (v), and (vi) of this subparagraph:

(a) The term "loan" means loan as defined in paragraph (j)(1) of this section, other than foreclosed property defined in such paragraph and governmental obligations defined in paragraph (d)(3) of this section.

(b) The amount of a loan shall be determined in accordance with the rules contained in paragraph (l)(1) and (2)(ii) of this section.

(c) The term "loans acquired for investment during the taxable year" means the amount of loans outstanding as of the close of the taxable year, reduced (but not below zero) by the amount of loans outstanding as of the beginning of such year, and increased by the lesser of (1) the amount of repayments made on loans during the taxable year or (2) an amount equal to 20 percent of the amount of loans outstanding as of the beginning of the taxable year. For this purpose, repayments do not include repayments on loans to the extent such loans are refinanced by the association.

(d) The term "sales of participations" means sales by an association of interests in loans, which sales meet the requirements of the regulations of the Federal Home Loan Bank Board relating to sales of participations, or which meet substantially equivalent requirements of State law or regulations relating to sales of participations.

(e) The term "sales of whole loans" means sales of loans other than sales of participations as defined in subdivision (d) of this subdivision, but in determining the amount of sales of whole loans, the following sales shall be disregarded: Sales of loans made to other financial institutions pursuant to an arrangement whereunder the association simultaneously enters into a bona fide agreement to repurchase such loans within a period of 18 months from the time of sale if such arrangement conforms to the rules and regulations of applicable supervisory authorities; sales made to the Federal Savings and Loan Insurance Corporation or to a corporation defined in paragraph (d)(4) of this section (relating to deposit insurance company securities); and sales made in the course of liquidation of the association pursuant to Federal or State law.

(iv) *Sales of whole loans test.* The sales of whole loans test is met for a taxable year if the amount of sales of whole loans during the taxable year does not exceed the greater of (a) 15 percent of the amount of loans acquired for investment during the taxable year, or (b) 20 percent of the amount of loans outstanding at the beginning of the taxable year. However, the 20 percent of beginning loans limitation specified in subdivision (b) of the previous sentence shall be reduced by the number of percentage points (rounded to the nearest one hundredth of a percentage point) which is equal to the sum of the 2 percentages obtained by dividing, for each of the 2 preceding taxable years, the amount of sales of whole loans during each such taxable year by the amount of loans outstanding at the beginning of such taxable year. For example, if the amounts of sales of whole loans made by a calendar year association in 1965 and 1966 were 3 percent and 4 percent, respectively, of loans outstanding at the beginning of each such year, the amount of sales of whole loans allowed under such subdivision (b) for 1967 would be an amount equal to 13 percent (20 percent minus 7 percentage points) of loans outstanding at the beginning of 1967. In computing the reduction to the 20 percent of beginning loans limitation specified in such subdivision (b), sales of whole loans made before January 1, 1964, shall not be taken into account.

(v) *Sales of whole loans and participations test.* The sales of whole loans and participations test is met if the sum of the amount of sales of whole loans and the amount of sales of participations during the taxable year does not exceed 100 percent of the amount of loans acquired for investment during the taxable year.

(vi) *Sales activity tests: special rules*—(a) *Carryover of sales.* The amount specified in subdivision (iv)(a) of this subparagraph as the maximum amount of sales of whole loans shall be increased by the amount by which 15 percent of the amount of loans acquired for investment by the association during the 2 preceding taxable years exceeds the amount of sales of whole loans made during such preceding taxable years; and the amount specified in subdivision (v) of this subparagraph as the maximum amount of sales of whole loans and participations shall be increased by the amount by which the amount of loans acquired for investment by the association during the 2 preceding taxable years exceeds the sum of the amount of sales of whole loans and participations made during such preceding taxable years. For example, if 15 percent of the amount of loans acquired for investment in 1965 and 1966 exceeded the amount of sales of whole loans during such years by $250,000, the amount of sales of whole loans permitted in 1967 under subdivision (iv)(a) of this subparagraph would be increased by $250,000.

(b) *Use of preceding year's base.* If the amount of loans acquired for investment by the association during the preceding taxable year exceeds such amount for the current taxable year, the 15 percent limitation provided in subdivision (iv)(a) of this subparagraph and the 100 percent limitation provided in subdivision (v) of this subparagraph shall be based upon such preceding taxable year's amount. However, the maximum amount of sales of whole loans permitted under subdivision (iv)(a) and the maximum amount of sales of whole loans and participations permitted under subdivision (v) in any taxable year shall be reduced by the amount of the increase in such sales allowed for the preceding taxable year solely by reason of the application of the provisions of the previous sentence. For example, assuming no carryover of sales under subdivision (a) of this subdivision, if the amount of loans acquired for investment by a calendar year association was $1,000,000 in 1965, under subdivision (iv)(a) of this subparagraph the association could make sales of whole loans in 1966 of $150,000 (15 percent of $1,000,000) even though the amount of its loans acquired for investment during 1966 was only $800,000. However, the amount of sales of whole loans permitted in 1967 under subdivision (iv)(a) of this subparagraph would be reduced to the extent that the amount of the sales of whole loans made by the association during 1966 exceeded $120,000 (15 percent of $800,000).

(vii) *Examples illustrating sales activity test.* The provisions of subdivisions (iii) through (vi) of this subparagraph may be illustrated by the following examples in each of which it is assumed that the association is a calendar year taxpayer which is operated in all material respects in conformity with applicable rules and regulations of Federal or State supervisory authorities.

Example (1). X Association made sales of whole loans in 1964 and 1965 which were 10 percent and 7 percent, respectively, of the amounts of loans outstanding at the beginning of each such year, and which were 25 percent and 17 percent, respectively, of the amounts of loans acquired for investment in each such year. The amount of X's loans outstanding at the beginning of 1966 was $1 million, and the amount of its loans acquired for investment for such year was $800,000. The maximum amount of sales of whole loans which X may make under the percentage of beginning loans limitation for 1966 is $30,000, which is 3 percent (20 percent reduced by the sum of 10 percent and 7 percent) of $1 million. The maximum amount of sales of whole loans permitted under the percentage of loans acquired for investment limitation for 1966 is $45,000 (15 percent of $300,000). X may therefore sell whole loans in an amount up to $45,000 in 1966 and meet the sales of whole loans test. It is assumed that the amount of loans acquired for investment in 1965 did not exceed $300,000, so that the preceding year's base cannot be used to increase the amount of sales permitted in 1966.

Example (2). Assume the same facts as in the previous example, except that the amount of loans acquired for investment in the preceding year (1965) was $320,000. Since such amount is greater than the $300,000 amount of loans acquired for investment in 1966, X may base its 15 percent limitation for 1966 on the $320,000 amount and sell whole loans in an amount up to $48,000 (15 percent of $320,000) and still meet the sales of whole loans test. However, to the extent that the amount of sales of whole loans exceeds $45,000 (15 percent of the $300,000 amount of loans acquired for investment in 1966), the maximum amount of sales computed under the percentage of loans acquired for investment limitation (but not the 20 percent of beginning loans limitation) for 1967 must be reduced.

Example (3). Y Association made no sales of whole loans in 1964 and 1965, and made sales of participations in the 2 years in amounts which, in the aggregate, were $50,000 less than the amounts of loans acquired for investment for such years. At the beginning of 1966 the amount of Y's loans outstanding was $1 million, and the amount of its loans acquired for investment in such year was $100,000. Although the maximum amount of sales of whole loans which Y could make under the sales of whole loans test is $200,000 (20 percent of $1 million), nevertheless, in order to meet the sales of whole loans and participations test, the sum of the amounts of sales of whole loans and sales of participations may not exceed $150,000 (100 percent of the $100,000 amount of loans acquired for investment in 1966 plus a carryover of sales from the previous two years of $50,000). It is assumed that the amount of loans acquired for investment in 1965 did not exceed $100,000, so that the preceding year's base cannot be used to increase the amount of sales permitted in 1966.

(viii) *Reporting requirements.* In the case of income tax returns for taxable years ending after October 31, 1964, there shall be filed with the return a statement showing the amount of gross income for the taxable year in each of the categories described in subdivision (ii) of this subparagraph; and, for the taxable year and the two preceding taxable years, the amount of loans (described in subdivision (iii)(a) of this subparagraph) outstanding at the beginning of the year and at the end of the year, the amount of repayments on loans (not including repayments on loans to the extent such loans are refinanced by the association), the amount of sales of whole loans, and the amount of sales of participations.

(4) *Effective date.* The provisions of subparagraphs (1) through (3) of this paragraph are applicable to taxable years ending after October 31, 1964. However, at the option of the taxpayer, for a taxable year beginning before November 1, 1964, and ending after October 31, 1964, the provisions of subparagraphs (1) through (3) of this paragraph (except the 20 percent of beginning loans limitation specified in subdivision (iv)(b) of subparagraph (3) of

this paragraph) shall apply only to the part year falling after October 31, 1964, as if such part year constituted a taxable year. In such case, the following rules shall apply:

(i) The amount of the "loans acquired for investment" for such part year shall be equal to the loans acquired for investment during the entire taxable year within which falls such part year, multiplied by a fraction the numerator of which is the number of days in such part year and the denominator of which is the number of days in such entire taxable year.

(ii) The increase in sales of whole loans and participations permitted by subdivision (vi) of subparagraph (3) of this paragraph (relating to carryover of sales and use of preceding year's base) shall be the amount of such increase computed under such subdivision, multiplied by the fraction specified in subdivision (i) of this subparagraph.

If, treating the part year as a taxable year, the association meets all the requirements of this paragraph for such part year it will be considered to have met the business operations test for the entire taxable year, providing it operated in all material respects in conformity with applicable rules and regulations of Federal or State supervisory authorities for the entire taxable year. The 20 percent of beginning loans limitation specified in subdivision (iv) (b) of subparagraph (3) of this paragraph shall be applied only on the basis of a taxable year and not the part year. For taxable years beginning after October 16, 1962, and ending before November 1, 1964, an association will be considered to have met the business operations test if it operated in all material respects in conformity with applicable rules and regulations of Federal or State supervisory authorities.

(d) *90 percent of assets test*—(1) *In general.* At least 90 percent of the amount of the total assets of a domestic building and loan association must consist of the assets defined in subparagraphs (2) through (10) of this paragraph. For purposes of this paragraph, it is immaterial whether the association originated the loans defined in subparagraphs (6) through (10) of this paragraph or purchased or otherwise acquired them in whole or in part from another. See paragraph (j) of this section for definition of certain terms used in this paragraph, and paragraph (k) of this section for the determination of amount and character of loans.

(2) *Cash.* The term "cash" means cash on hand, and time or demand deposits with, or withdrawable accounts in, other financial institutions.

(3) *Governmental obligations.* The term "governmental obligations" means obligations of the United States, a State or political subdivision of a State, and stock or obligations of a corporation which is an instrumentality of the United States, a State, or political subdivision of a State.

(4) *Deposit insurance company securities.* The term "deposit insurance company securities" means certificates of deposit in, or obligations of, a corporation organized under a State law which specifically authorizes such corporation to insure the deposits or share accounts of member associations.

(5) *Property used in the association's business*—(i) *In general.* The term "property used in the association's business" means land, buildings, furniture, fixtures, equipment, leasehold interests, leasehold improvements, and other assets used by the association in the conduct of its business of acquiring the savings of the public and investing in the loans defined in subparagraphs (6) through (10) of this paragraph. Real property held for the purpose of being used primarily as the principal or branch office of the association constitutes property used in the association's business so long as it is reasonably anticipated that such property will be occupied for such use by the association, or that construction work preparatory to such occupancy will be commenced thereon, within 2 years after acquisition of the property. Stock of a wholly owned subsidiary corporation which has as its exclusive activity the ownership and management of property more than 50 percent of the fair rental value of which is used as the principal or branch office of the association constitutes property used in such business. Real property held by an association for investment or sale, even for the purpose of obtaining mortgage loans thereon, does not constitute property used in the association's business.

(ii) *Property rented to others.* Except as provided in the second sentence of subdivision (i) of this subparagraph, property or a portion thereof rented by the association to others does not constitute property used in the association's business. However, if the fair rental value of the rented portion of a single piece of real property (including appurtenant parcels) used as the principal or branch office of the association constitutes less than 50 percent of the fair rental value of such piece of property, or if such property has an adjusted basis of not more than $150,000, the entire property shall be considered used in such business. If such rented portion constitutes 50 percent or more of the fair rental value of such piece of property, and such property has an adjusted basis of more than $150,000, an allocation of its adjusted basis is required. The portion of the total adjusted basis of such piece of property which is deemed to be property used in the association's business shall be equal to an amount which bears the same ratio to such total adjusted basis as the amount of the fair rental value of the portion used as the principal or branch office of the association bears to the total fair rental value of such property. In the case of all property other than real property used or to be used as the principal or branch office of the association, if the fair rental value of the rented portion thereof constitutes less than 15 percent of the fair rental value of such property, the entire property shall be considered used in the association's business. If such rented portion constitutes 15 percent or more of the fair rental value of such property, an allocation of its adjusted basis (in the same manner as required for real property used as the principal or branch office) is required.

(6) *Passbook loan.* The term "passbook loan" means a loan to the extent secured by a deposit, withdrawable share, or savings account in the association, or share of a member of the association, with respect to which a distribution is allowable as a deduction under section 591.

(7) *Home loan.* The term "home loan" means a loan secured by an interest in—

(i) Improved residential real property consisting of a structure or structures containing, in the aggregate, no more than 4 family units,

(ii) An individually owned family unit in a multiple-unit structure, the owner of which unit owns an undivided interest in the underlying real estate and the common elements of such structure (so-called condominium type),

or a construction loan or improvement loan for such property. A construction loan made for the purpose of financing more than one structure (so-called tract financing) constitutes a home loan, providing no individual structure contains more than 4 family units and it is contemplated that, as soon as possible after completion of construction, the structures will become property described in subdivision (i) of this subparagraph. A construction loan secured by a structure containing more than 4 family units constitutes a home loan only if the structure has been committed to a plan of individual apartment ownership described in subdivision (ii) of this subparagraph and such plan is held out and advertised as such. A loan secured by a cooperative apartment building containing more than 4 family units does not constitute a home loan.

(8) *Church loan.* The term "church loan" means a loan secured by an interest in real property which is used primarily for church purposes, or a construction loan or improvement loan for such property. For the purposes of this subparagraph, the term "church purposes" means the ministration of sacerdotal functions, the conduct of religious worship and closely associated activities designed primarily to provide fellowship among members of the congregation, or the instruction of religion. Thus, a parish hall would normally qualify as property used primarily for church purposes, whereas a building used primarily to furnish education, other than the instruction of religion, would not.

(9) *Multifamily loan.* The term "multifamily loan" means a loan, other than one defined in subparagraph (7) of this paragraph (relating to a home loan), secured by an interest in improved residential real property or a construction loan or improvement loan for such property.

(10) *Nonresidential real property loan.* The term "nonresidential real property loan" means a loan, other than one defined in subparagraph (7), (8), or (9) of this paragraph (relating respectively to a home loan, church loan, and multifamily loan) secured by an interest in real property, or a construction loan or improvement loan for such property.

(e) *18 percent of assets test.* Not more than 18 percent of the amount of the total assets of a domestic building and loan association may consist of assets other than those defined in subparagraphs (2) through (9) of paragraph (d) of this section. Thus, the sum of the amounts of the nonresidential real property loans and the assets other than those defined in paragraph (d) of this section may not exceed 18 percent of total assets.

(f) *36 or 41 percent of assets test*—(1) *36 percent test.* Unless subparagraph (2) of this paragraph applies, not more than 36 percent of the amount of the total assets of a domestic building and loan association may consist of assets other than those defined in subparagraphs (2) through (8) of paragraph (d) of this section. Thus, unless subparagraph (2) of this paragraph applies, the sum of the amounts of multifamily loans, nonresidential real property loans, and assets other than those defined in paragraph (d) of this section may not exceed 36 percent of total assets.

(2) *41 percent test.* If this subparagraph applies, not more than 41 percent of the amount of the total assets of a domestic building and loan association may consist of assets other than those defined in subparagraphs (2) through (8) of paragraph (d) of this section. Thus, if this subparagraph applies, the sum of the amounts of multifamily loans, nonresidential real property loans, and assets other than those defined in paragraph (d) of this section may not exceed 41 percent of total assets. See section 593(b)(5) and the regulations thereunder for the effect of application of this subparagraph on the allowable addition to the reserves for bad debts.

(g) *Taxable years for which 41 percent of assets test applies*—(1) *First taxable year.* For an association's first taxable year beginning after October 16, 1962, subparagraph (2) of paragraph (f) applies.

(2) *Second taxable year.* For an association's second taxable year beginning after October 16, 1962, subparagraph (2) of paragraph (f) applies if such association met all the requirements of paragraphs (b) through (e), (h), and either subparagraph (1) or (2) of paragraph (f) for its first taxable year.

(3) *Years other than first and second taxable years.* For any taxable year of an association beginning after October 16, 1962, other than its first and second taxable years beginning after such date, subparagraph (2) of paragraph (f) applies if such association met either—

(i) The requirements of paragraphs (b) through (e), (f)(1), and (h) of this section for the immediately preceding taxable year, or

(ii) The requirements of paragraphs (b) through (e), (f)(2), and (h) of this section for the immediately preceding taxable year, and the requirements of paragraphs (b) through (e), (f)(1), and (h) of this section for the second preceding taxable year.

Thus, in years other than its first and second taxable years beginning after October 16, 1962, an association may apply the 41 percent of assets test for 2 consecutive years, but only if it met the 36 percent test (and all other tests) for the year previous to the 2 consecutive years.

(4) *Examples.* The provisions of paragraph (f) and this paragraph may be illustrated by the following examples in each of which it is assumed that the association at all times meets all the requirements of paragraphs (b) through (e) and (h) of this section and files its returns on a calendar year basis.

Example (1). An association has 41 percent of its assets invested in assets other than those defined in subparagraphs (2) through (8) of paragraph (d) of this section as of the close of 1963 and 1964. Because 1963 is its first taxable year beginning after October 16, 1962, the 41 percent of assets test applies, and the association therefore qualifies as a domestic building and loan association for 1963. Because 1964 is its second taxable year beginning after such date and the 41 percent of assets test applied for its first taxable year, the 41 percent of assets test applies for 1964 and it therefor qualifies for such year.

Example (2). An association has 36 percent of its assets invested in assets other than those defined in subparagraphs (2) through (8) of paragraph (d) of this section as of the close of 1964, and 41 percent as of the close of 1965, 1966, and 1967. The association qualifies in 1965 because, as a result of having met the 36 percent of assets test for the immediately preceding taxable year (1964), the 41 percent of assets test applies to 1965. It qualifies in 1966 because as a result of having met the 41 percent of assets test in the immediately preceding taxable year (1965) and the 36 percent of assets test in the second preceding taxable year (1964), the 41 percent of assets test applies to 1966. The association would not qualify in 1967, however, because, although it met the 41 percent of assets test for the immediately preceding taxable year (1966), it did not meet the 36 percent of assets test in the second preceding taxable year (1965), and therefore the 41 percent of assets test does not apply to 1967.

Example (3). An association has more than 41 percent of its assets invested in assets other than those defined in subparagraphs (2) through (8) of paragraph (d) of this section as of the close of 1963, and 41 percent invested in such assets as of the close of 1964. The association does not qualify in either year. It does not qualify in 1963 because it exceeded the 41 percent limitation, and it does not qualify in 1964 because the 41 percent of assets test does not apply to 1964 since the association did not meet either the 41 percent of assets test or the 36 percent of assets test in the prior year (1963).

(h) *3 percent of assets test.* Not more than 3 percent of the amount of the total assets of a domestic building and loan association may consist of stock of any corporation, unless such stock is property which is defined in paragraph (d) of this section. The stock which constitutes property defined in such paragraph (d) is:

(1) Stock representing a withdrawable account in another financial institution;

(2) Stock of a corporation which is an instrumentality of the United States or of a State or political subdivision thereof;

(3) Stock which was security for a loan and which, by reason of having been bid in at foreclosure or otherwise having been reduced to ownership or possession of the association, is a loan within the definition of such term in paragraph (j)(1) of this section; and

(4) Stock of a wholly owned subsidiary corporation which has as its exclusive activity the ownership and management of property more than 50 percent of the fair rental value of which is used as the principal or branch office of the association.

(i) [Reserved]

(j) *Definition of certain terms.* For purposes of this section—

(1) *Loan.* The term "loan" means debt, as the term "debt" is used in section 166 and the regulations thereunder. The term "loan" also includes a redeemable ground rent (as defined in section 1055(c)) which is owned by the taxpayer, and any property (referred to in this section as "foreclosed property") which was security for the payment of any indebtedness and which has been bid in at foreclosure, or otherwise been reduced to ownership or possession of the association by agreement or process of law, whether or not such property was acquired subsequent to December 31, 1962.

(2) *Secured.* A loan will be considered as "secured" only if the loan is on the security of any instrument (such as a mortgage, deed of trust, or land contract) which makes the interest of the debtor in the property described therein specific security for the payment of the loan, provided that such instrument is of such a nature that, in the event of default, the interest of the debtor in such property could be subjected to the satisfaction of the loan with the same priority as a mortgage or deed of trust in the jurisdiction in which the property is situated.

(3) *Interest.* The word "interest" means an interest in real property which, under the law of the jurisdiction in which such property is situated, constitutes either (i) an interest in fee in such property, (ii) a leasehold interest in such property extending or renewable automatically for a period of at least 30 years, or at least 10 years beyond the date scheduled for the final payment on a loan secured by an interest in such property, (iii) a leasehold interest in property described in paragraph (d)(7)(i) of this section (relating to certain home loans) extending for a period of at least 2 years beyond the date scheduled for the final payment on a loan secured by an interest in such property or (iv) a leasehold interest in such property held subject to a redeemable ground rent defined in section 1055(c).

(4) *Real property.* The term "real

property" means any property which, under the law of the jurisdiction in which such property is situated, constitutes real property.

(5) *Improved real property.* The term "improved real property" means—

(i) Land on which is located any building of a permanent nature (such as a house, apartment house, office building, hospital, shopping center, warehouse, garage, or other similar permanent structure), provided that the value of such building is substantial in relation to the value of such land;

(ii) Any building lot or site which, by reason of installations and improvements that have been completed in keeping with applicable governmental requirements and with general practice in the community, is a building lot or site ready for the construction of any building of a permanent nature within the meaning of subdivision (i) of this subparagraph; or

(iii) Real property which, because of its state of improvement, produces sufficient income to maintain such real property and retire the loan in accordance with the terms thereof.

(6) *Construction loan.* The term "construction loan" means a loan, the proceeds of which are to be disbursed to the borrower (either by the association or a third party) as construction work progresses on real property which is security for the loan, which property is, or from the proceeds of such loan will become, improved real property.

(7) *Improvement loan.* The term "improvement loan" means a loan which, by its terms and conditions, requires that the proceeds of the loan be used for altering, repairing, or improving real property. If more than 35 percent of the proceeds of a single loan are to be used for such purposes, the entire loan will qualify. If 35 percent or less of the proceeds of a loan are to be used for such purposes, an allocation of its adjusted basis is required. Examples of loans which constitute improvement loans are loans made for the purpose of painting a house, adding a new room to a house, remodeling the lobby of an apartment building, and purchasing and installing storm windows, storm doors, and awnings. Examples of loans which do not constitute improvement loans are loans made for the purpose of purchasing draperies, and removable appliances, such as refrigerators, ranges, and washing machines. It is not necessary that a loan be secured by the real property which is altered, repaired, or improved.

(8) *Residential real property.* The term "residential real property" means real property which consists of one or more family units. A family unit is a building or portion thereof which contains complete living facilities which are to be used on other than a transient basis by only one family consisting of one or more persons. Thus, an apartment which is to be used on other than a transient basis by one family, which contains complete facilities for living, sleeping, eating, cooking, and sanitation constitutes a family unit. Hotels, motels, dormitories, fraternity and sorority houses, rooming houses, hospitals, sanitariums, rest homes, and parks and courts for mobile homes do not normally constitute residential real property.

(k) *Amount and character of loans*—(1) *Treatment at time of determination*—(i) *In general.* The amount of a loan, as of the time the determination required by subparagraph (3) of this paragraph is made, shall be treated for the purposes of this section as being secured:

(*a*) First by the portion of property, if any, defined in subparagraph (6), (7), or (8) of paragraph (d) of this section to the extent of the loan value thereof;

(*b*) Next by the portion of property, if any, defined in subparagraph (9) of paragraph (d) of this section to the extent of the loan value thereof; and

(*c*) Next by the portion of property, if any, defined in subparagraph (10) of paragraph (d) of this section to the extent of the loan value thereof.

To the extent that the amount of a loan exceeds the amount treated as being secured by property defined in subparagraphs (6) through (10) of paragraph (d) of this section, such loan shall be treated as property not defined in paragraph (d) of this section. If the loan value of any one category of property defined in paragraph (d) of this section exceeds 35 percent of the amount of the loan for which it is security then the entire loan shall be treated as a loan secured by such property.

(ii) *Loans of $40,000 or less.* Notwithstanding the provisions of subdivision (i) of this subparagraph, in the case of loans amounting to $40,000 or less as of the time of a determination, made on the security of property which is a combination of two or more categories or property defined in subparagraph (6) through (10) of paragraph (d) of this section, all such loans for any taxable year may, at the option of the association, be treated for the purposes of this section as being secured by the category of property the loan value of which constitutes the largest percentage of the total loan value of the property except to the extent that the loan is treated as property not defined in paragraph (d) of this section.

(iii) *Home loans of $20,000 or less.* Notwithstanding the provisions of subdivisions (i) and (ii) of this subparagraph, if a loan amounting to $20,000 or less as of the time of a determination, is secured partly by property of a category described in subparagraph (7) of paragraph (d) of this section (relating to a home loan), the amount of the loan shall, for the purposes of this section, be treated as a loan described in such subparagraph except to the extent that the loan is treated as property not defined in paragraph (d) of this section.

(2) *Treatment subsequent to time of determination.* The amount of a loan outstanding as of any time subsequent to the time of a determination shall be treated, for the purposes of this section, as being secured by each of the categories of property in the same ratio that the amount which was treated as being secured by each category bore to the total amount of the loan at the time as of which the determination was last made with respect to such loan.

(3) *Time of determination*—(i) *In general.* The determination of the amount of a loan which is treated as being secured by each of the categories of property shall be made:

(*a*) As of the time a loan is made;

(*b*) As of the time a loan is increased;

(*c*) As of the time any portion of the property which was security for the loan is released; and

(*d*) As of any time required by applicable Federal or State regulatory authorities for reappraisal or reanalysis of such loans.

(ii) *Special rule.* In the case of loans outstanding with respect to which no event described in subdivision (i) of this subparagraph has occurred in a taxable year beginning on or after October 17, 1962, the determination of the amounts of such loans which are treated as being secured by each of the categories of property may be made, at the option of the association, as of the close of the first taxable year beginning on or after such date, providing the determinations with respect to all such loans are made as of such date.

(4) *Loan value.* The loan value of property which is security for a loan is the maximum amount at the time as of which the determination is made which the association is permitted to lend on such property under the rules and regulations of applicable Federal and State regulatory authorities. Such loan value shall not exceed the fair market value of such property at such time as determined under such rules and regulations. However, in the case of loans made incidentally with and as a part of a bona fide salvage operation, the loan value of the security property shall be considered to be the face amount of the loan where the loan can be shown by the association to have been made for the primary purpose of recovering the investment of the association, and where such salvage operation is in conformity with rules and regulations of applicable Federal or State regulatory authorities.

(5) *Examples.* The following examples, in each of which it is assumed that X Savings and Loan Association files its return on a calendar year basis, illustrate the application of the rules in this paragraph:

Example (1). On July 1, 1963, X makes a single loan of $1 million to M Corporation which loan is secured by real property which is a combination of homes, apartments, and stores. As of the time the loan is made X determines that the loan values of the categories of property are as follows:

Category of property:	Loan value
Home	$400,000
Multifamily	420,000
Nonresidential real property	240,000
Total	1,060,000

As of the time the loan is made, therefore, the $1,000,000 loan is treated under subparagraph (1)(i) of this paragraph as being secured as follows:

Category of loan	Amount of loan	Percentage of total
Home loan	$400,000	40
Multifamily loan	420,000	42
Nonresidential real property loan	180,000	18
Total	1,000,000	100

Assuming that the $1 million loan to M was reduced to $900,000 as of the close of 1963, that there were no increases in the amount of the loan and no releases of property which was security for the loan, and that there was no regulatory requirement to reappraise or reanalyze the loan, such loan will be considered under subparagraph (3) of this paragraph to be secured, as of the close of 1963, as follows:

Category	Percentage as of last determination July 1, 1963	Amount as of Dec. 31, 1963
Home	40	$360,000 (40%×$900,000)
Multifamily	42	378,000 (42%×$900,000)
Nonresidential real property	18	162,000 (18%×$900,000)
Total	100	900,000

Example (2). X makes a loan of $40,000 secured by a building which contains a store on the first floor and four family units on the upper floors. The loan value of the part of the building used as a store is $21,000 and the loan value of the residential portion is $23,000. The loan will be treated under subdivision (1) of subparagraph (1) of this paragraph as a loan secured by residential real property containing four or fewer family units to the extent of $23,000, and by nonresidential property to the extent of $17,000, as of the time the loan is made. However, if X exercises the option to treat all loans of $40,000 or less in accordance with subdivision (ii) of subparagraph (1) of this paragraph, this loan would be treated as a home loan to the extent of the full $40,000 because the loan value of the residential portion is larger than the loan value of the nonresidential part.

(l) *Computation of percentages*—(1) *In general.* The percentages specified in paragraphs (d) through (h) of this section shall, except as provided in subparagraph (3) of this paragraph, be computed by comparing the amount of the assets described in each paragraph as of the close of the taxable year with the total amount of assets as of the close of the taxable year. The amount of the assets in any category and the total amount of assets shall be determined with reference to their adjusted basis under § 1.1011–1, or by such other method as is in accordance with sound accounting principles, provided such method is used in valuing all the assets in a taxable year.

(2) *Treatment of certain assets and reserves.* For purposes of this paragraph:

(i) Reserves for bad debts established pursuant to section 593, or corresponding provisions of prior law, and the regulations thereunder shall not constitute a reduction of total assets, but shall be treated as a surplus or net worth item.

(ii) The adjusted basis of a "loan in process" does not include the unadvanced portion of such loan.

(iii) Advances made by the association for taxes, insurance, etc., on loans shall be treated as being in the same category as the loan with respect to which the advances are made (irrespective of whether the advances are secured by the property securing the loan).

(iv) Interest receivable included in gross income shall be treated as being in the same category as the loan or asset with respect to which it is earned.

(v) The unamortized portion of premiums paid on mortgage loans acquired by the association shall be considered part of the acquisition cost of such loans.

(vi) Prepaid Federal Savings and Loan Insurance Corporation premiums shall be treated as being governmental obligations defined in paragraph (d)(3) of this section.

(vii) Accounts receivable (other than accrued interest receivable), and prepaid expenses and deferred charges other than those referred to in subdivision (v) or (vi) of this subparagraph, shall be disregarded both as separate categories and in the computation of total assets.

(viii) Foreclosed property (is defined in paragraph (j)(1) of this section) shall be treated as having the same character as the loan for which it was given as security.

(3) *Alternative method.* At the option of the taxpayer, the percentages specified in paragraphs (d) through (h) of this section may be computed on the basis of the average assets outstanding during the taxable year. Such average shall be determined by making the computation provided in subparagraph (1) of this paragraph either as of the close of each month, as of the close of each quarter, or semiannually during the taxable year and by using the yearly average of the monthly, quarterly, or semiannual percentages obtained for each category. The method selected must be applied uniformly for the taxable year to all categories of assets, but the method may be changed from year to year.

(4) *Acquisition of certain assets.* For the purpose of the annual computation of percentages under subparagraph (1) of this paragraph—

(i) Assets which, within a 60-day period beginning in one taxable year of the taxpayer and ending in the next year, are acquired directly or indirectly through borrowing and then repaid or disposed of within such period, shall be considered assets other than those defined in paragraph (d) of this section, unless both the acquisition and disposition are established to the satisfaction of the district director to have been for bona fide purposes; and

(ii) The amount of cash shall not include amounts received directly or indirectly from another financial institution (other than a Federal Home Loan Bank or a similar institution organized under State law) to the extent of the amount of cash which an association has on deposit or holds as a withdrawable account in such other financial institution.

(5) *Reporting requirements.* In the case of income tax returns for taxable years ending after October 31, 1964, there shall be filed with the return a statement showing the amount of assets as of the close of the taxable year in each of the categories defined in paragraph (d), and in the category described in paragraph (h) of this section, and a brief description and amount of all other assets. If the alternative method of computing percentages under subparagraph (3) of this paragraph is selected, such statement shall show such information as of the end of each month, each quarter, or semiannually and the manner of calculating the averages. With respect to taxable years beginning after October 16, 1962, and ending before November 1, 1964, taxpayers shall maintain adequate records to establish to the satisfaction of the district director that it meets the various assets tests specified in this section.

(6) *Example.* The principles of this paragraph may be illustrated by the following example in which a description of the assets, the subparagraph of paragraph (d) in which the assets are defined, the amount of the assets, and the percentage of the total assets included in the calculation are set forth.

Z SAVINGS AND LOAN ASSOCIATION ASSETS AS OF DECEMBER 31, 1964

Item	Described in paragraph (d), subparagraph	Amount	Percentage
1. Cash	(2)	$1,000,000	1
2. Governmental obligations [1]	(3)	5,000,000	5
3. Deposit insurance company securities	(4)	1,000,000	1
Loans outstanding: [2]			
4. Home	(7)	80,000,000	80
5. Church	(8)	1,000,000	1
6. Multifamily	(9)	20,000,000	20
7. Nonresidential real property	(10)	5,000,000	5
8. Passbook	(6)	1,000,000	1
9. Other		3,000,000	3
Fixed assets (less depreciation reserves):	(5)	1,000,000	1
10. Used in the association's business		500,000	.5
11. Rented to others		800,000	.8
12. Land held for investment			
13. Total assets included for purposes of this paragraph		100,000,000	100.0%
14. Accounts receivable		100,000	(disregarded)
15. Prepaid expenses (other than prepaid FSLIC premiums)		1,000,000	(disregarded)
16. Deferred charges		1,000,000	(disregarded)
17. Total assets		102,100,000	

[1] Prepaid FSLIC premiums treated as governmental obligations.
[2] Not including unadvanced portion of loans in process, but including interest receivable and advances with respect to loans.

The computation of the percentages of assets in the various categories for the purpose of determining whether the percentage of assets tests in the paragraphs in this section are met as of the close of the year are as follows:

Test and paragraph	Items considered	Percentage
90 percent test (d)	the sum of items 1 through 8 and 10 / item 13 (total included assets)	=97 percent
12 percent test (e)	the sum of items 7, 9, 12, and 13 / item 13 (total included assets)	=8 percent
36 percent test (f)	the sum of items 6, 7, 9, 11, and 12 / item 13 (total included assets)	=36 percent
3 percent test (h)	0 / item 13 (total included assets)	=0 percent

At the option of the association, the computations listed above could have been made as of the close of each month, each quarter, or semiannually, and averaged for the entire year.

(m) *Taxable years beginning before October 17, 1962.* For taxable years beginning before October 17, 1962, the term "domestic building and loan association" means a domestic building and loan association, a domestic savings and loan association, and a Federal savings and loan association substantially all the business of which is confined to making loans to members.

§ 301.7701–14 Cooperative bank.

For taxable years beginning after October 16, 1962, the term "cooperative bank" means an institution without capital stock organized and operated for mutual purposes without profit which meets the supervisory test, the business operations test, and the various assets tests specified in paragraphs (d) through (h) of § 301.7701–13, employing the rules and definitions of paragraphs (j) through (l) of that section. In applying paragraphs (b) through (l) of such section any references to an "association" or to a "domestic building and loan association" shall be deemed to be a reference to a cooperative bank.

§ 301.7701–15 Other terms.

Any terms which are defined in section 7701 and which are not defined in §§ 301.7701–1 to 301.7701–14, inclusive, shall, when used in this chapter, have the meanings assigned to them in section 7701.

General Rules

Application of Internal Revenue Laws

§ 301.7801 Statutory provisions; authority of the Department of the Treasury.

Sec. 7801. *Authority of the Department of the Treasury*—(a) *Powers and duties of Secretary.* Except as otherwise expressly provided by law, the administration and enforcement of this title shall be performed by or under the supervision of the Secretary of the Treasury.

(b) *Office of General Counsel for the Department*—(1) *General Counsel.* There shall be in the Department of the Treasury the office of General Counsel for the Department of the Treasury. The General Counsel shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall be the chief law officer of the Department and shall perform such duties as may be prescribed by the Secretary.

(2) *Assistant General Counsels.* The President is authorized to appoint, by and with the advice and consent of the Senate, an Assistant General Counsel who shall be the Chief Counsel for the Internal Revenue Service and shall receive basic compensation at the annual rate of $19,000. The Chief Counsel shall be the chief law officer for the Internal Revenue Service and shall perform such duties as may be prescribed by the Secretary. The Secretary may appoint, without regard to the provisions of the civil service laws, and fix the duties of not to exceed five other Assistant General Counsels.

(3) *Attorneys.* The Secretary may appoint and fix the duties of such other attorneys as he may deem necessary.

(c) *Functions of Department of Justice unaffected.* Nothing in this section shall be considered to affect the duties, powers, or functions imposed upon, or vested in, the Department of Justice, or any officer thereof, by law existing on May 10, 1934.

[Sec. 7801 as amended by Act of Sept. 22, 1959 (Pub. Law 86–668, 73 Stat. 647)]

§ 301.7802 Statutory provisions; Commissioner of Internal Revenue.

Sec. 7802. *Commissioner of Internal Revenue.* There shall be in the Department of the Treasury a Commissioner of Internal Revenue, who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioner of Internal Revenue shall have such duties and powers as may be prescribed by the Secretary.

§ 301.7803 Statutory provisions; other personnel.

Sec. 7803. *Other personnel*—(a) *Appointment and supervision.* The Secretary or his delegate is authorized to employ such number of persons as the Secretary or his delegate deems proper for the administration and enforcement of the internal revenue laws, and the Secretary or his delegate shall issue all necessary directions, instructions, orders, and rules applicable to such persons.

(b) *Posts of duty of employees in field service or traveling*—(1) *Designation of post of duty.* The Secretary or his delegate shall determine and designate the posts of duty of all such persons engaged in field work or traveling on official business outside of the District of Columbia.

(2) *Detail of personnel from field service.* The Secretary or his delegate may order any such person engaged in field work to duty in the District of Columbia, for such periods as the Secretary or his delegate may prescribe, and to any designated post of duty outside the District of Columbia upon the completion of such duty.

(c) *Bonds of employees.* Whenever the Secretary or his delegate deems it proper, he may require any such officer or employee to furnish such bond, or he may purchase such blanket or schedule bonds, as the Secretary or his delegate deems appropriate. The premium of any such bond or bonds may, in the discretion of the Secretary or his delegate, be paid from the appropriation for expenses of the Internal Revenue Service.

(d) *Delinquent internal revenue officers and employees.* If any officer or employee of the Treasury Department acting in connection with the internal revenue laws fails to account for and pay over any amount of money or property collected or received by him in connection with the internal revenue laws, the Secretary or his delegate shall issue notice and demand to such officer or employee for payment of the amount which he failed to account for and pay over, and, upon failure to pay the amount demanded within the time specified in such notice, the amount so demanded shall be deemed imposed upon such officer or employee and assessed upon the date of such notice and demand, and the provisions of chapter 64 and all other provisions of law relating to the collection of assessed taxes shall be applicable in respect of such amount.

[Sec. 7803(c) was superseded by Act of Aug. 9, 1955 (Pub. Law 323, 84th Cong., 69 Stat. 618) effective as of Jan. 1, 1955]

§ 301.7803–1 Surety bonds covering personnel of the Internal Revenue Service.

For regulations relating to the procurement of surety bonds covering designated personnel of the Internal Revenue Service after January 1, 1956, see 31 CFR Part 226.

§ 301.7804 Statutory provisions; effect of reorganization plans.

Sec. 7804. *Effect of reorganization plans*—(a) *Application.* The provisions of Reorganization Plan Numbered 26 of 1950 and Reorganization Plan Numbered 1 of 1952 shall be applicable to all functions vested by this title, or by any act amending this title (except as otherwise expressly provided in such amending act), in any officer, employee, or agency, of the Department of the Treasury.

(b) *Preservation of existing rights and remedies.* Nothing in Reorganization Plan Numbered 26 of 1950 or Reorganization Plan Numbered 1 of 1952 shall be considered to impair any right or remedy, including trial by jury, to recover any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority, or any sum alleged to have been excessive or in any manner wrongfully collected under the internal revenue laws. For the purpose of any action to recover any such tax, penalty, or sum, all statutes, rules, and regulations referring to the collector of internal revenue, the principal officer for the internal revenue district, or the Secretary or his delegate, shall be deemed to refer to the officer whose act or acts referred to in the preceding sentence gave rise to such action. The venue of any such action shall be the same as under existing law.

§ 301.7805 Statutory provisions; rules and regulations.

Sec. 7805. *Rules and regulations*—(a) *Authorization.* Except where such authority is expressly given by this title to any person other than an officer or employee of the Treasury Department, the Secretary or his delegate shall prescribe all needful rules and regulations for the enforcement of this title, including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.

(b) *Retroactivity of regulations or rulings.* The Secretary or his delegate may prescribe the extent, if any, to which any ruling or regulation, relating to the internal revenue laws, shall be applied without retroactive effect.

(c) *Preparation and distribution of regulations, forms, stamps, and other matters.* The Secretary or his delegate shall prepare and distribute all the instructions, regulations, directions, forms, blanks, stamps, and other matters pertaining to the assessment and collection of internal revenue.

§ 301.7805–1 Rules and regulations.

(a) *Issuance.* The Commissioner, with the approval of the Secretary, shall prescribe all needful rules and regulations for the enforcement of the Code (except where this authority is expressly given by the Code to any person other than an officer or employee of the Treasury Department), including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.

(b) *Retroactivity.* The Commissioner, with the approval of the Secretary, may prescribe the extent, if any, to which any regulation or Treasury decision relating to the internal revenue laws shall be applied without retroactive effect. The Commissioner may prescribe the extent, if any, to which any ruling relating to the internal revenue laws, issued by or pursuant to authorization from him, shall be applied without retroactive effect.

(c) *Preparation and distribution of regulations, forms, stamps, and other matters.* The Commissioner, under the direction of the Secretary, shall prepare and distribute all the instructions, regulations, directions, forms, blanks, stamps, and other matters pertaining to the assessment and collection of internal revenue.

§ 301.7806 Statutory provisions; construction of title.

Sec. 7806. *Construction of title*—(a) *Cross references.* The cross references in this title to other portions of the title, or other provisions of law, where the word "see" is used, are made only for convenience, and shall be given no legal effect.

(b) *Arrangement and classification.* No inference, implication, or presumption of legislative construction shall be drawn or made by reason of the location or grouping of any particular section or provision or portion of this title, nor shall any table of contents, table of cross references, or similar outline, analysis, or descriptive matter relating to the contents of this title be given any legal effect. The preceding sentence also applies to the sidenotes and ancillary tables contained in the various prints of this Act before its enactment into law.

§ 301.7807 Statutory provisions; rules in effect upon enactment of this title.

Sec. 7807. *Rules in effect upon enactment of this title*—(a) *Interim provision for administration of title.* Until regulations are promulgated under any provision of this title which depends for its application upon the promulgation of regulations (or which is to be applied in such manner as may be prescribed by regulations) all instructions, rules or regulations which are in effect immediately prior to the enactment of this title shall, to the extent such instructions, rules, or regulations could be prescribed as regulations under authority of such provision, be applied as if promulgated as regulations under such provision.

(b) *Provisions of this title corresponding to prior internal revenue laws—(1) Reference to law applicable to prior period.* Any provision of this title which refers to the application of any portion of this title to a prior period (or which depends upon the application to a prior period of any portion of this title) shall, when appropriate and consistent with the purpose of such provision, be deemed to refer to (or depend upon the application of) the corresponding provision of the Internal Revenue Code of 1939 or of such other internal revenue laws as were applicable to the prior period.

(2) *Election or other act.* If an election or other act under the provisions of the Internal Revenue Code of 1939 would, if this title had not been enacted, be given effect for a period subsequent to the date of enactment of this title, and if corresponding provisions are contained in this title, such election or other act shall be given effect under the corresponding provisions of this title.

§ 301.7808 Statutory provisions; depositaries for collections.

Sec. 7808. *Depositaries for collections.* The Secretary or his delegate is authorized to designate one or more depositaries in each State for the deposit and safekeeping of the money collected by virtue of the internal revenue laws; and the receipt of the proper officer of such depositary to the proper officer or employee of the Treasury Department for the money deposited by him shall be a sufficient voucher for such Treasury officer or employee in the settlement of his accounts.

§ 301.7809 Statutory provisions; deposit of collections.

Sec. 7809. *Deposit of collections*—(a) *General rule.* Except as provided in subsections (b) and (c) and in sections 4735, 4762, 7651, 7652, and 7654, the gross amount of all taxes and revenues received under the provisions of this title, and collections of whatever nature received or collected by authority of any internal revenue law, shall be paid daily into the Treasury of the United States under instructions of the Secretary or his delegate as internal revenue collections, by the officer or employee receiving or collecting the same, without any abatement or deduction on account of salary, compensation, fees, costs, charges, expenses, or claims of any description. A certificate of such payment, stating the name of the depositor and the specific account on which the deposit was made, signed by the Treasurer of the United States, designated depositary, or proper officer of a deposit bank, shall be transmitted to the Secretary or his delegate.

(b) *Deposit funds.* In accordance with instructions of the Secretary or his delegate, there shall be deposited with the Treasurer of the United States in a deposit fund account—

(1) *Sums offered in compromise.* Sums offered in compromise under the provisions of section 7122;

(2) *Sums offered for purchase of real estate.* Sums offered for the purchase of real estate under the provisions of section 7506; and

(3) *Surplus proceeds in sales under levy.* Surplus proceeds in any sale under levy, after making allowance for the amount of the tax, interest, penalties, and additions thereto, and for costs and charges of the levy and sale.

Upon the acceptance of such offer in compromise or offer for the purchase of such real estate, the amount so accepted shall be withdrawn from such deposit fund account and deposited in the Treasury of the United States as internal revenue collections. Upon the rejection of any such offer, the Secretary or his delegate shall refund to the maker of such offer the amount thereof.

(c) *Deposit of certain receipts.* Moneys received in payment for—

(1) Work or services performed pursuant to section 7515 (relating to special statistical studies and compilations and other services on request);

(2) Work or services performed (including materials supplied) pursuant to section 7516 (relating to the supplying of training and training aids on request); and

(3) Other work or services performed for a State or a department or agency of the Federal Government (subject to all provisions of law and regulations governing disclosure of information) in supplying copies of, or data from, returns, statements, or other documents filed under authority of this title or records maintained in connection with the administration and enforcement of this title, shall be deposited in a separate account which may be used to reimburse appropriations which bore all or part of the costs of such work or services, or to refund excess sums when necessary.

[Sec. 7809 as amended by sec. 3(b), Act of Oct. 23, 1962 (Pub. Law 87–670, 76 Stat. 1161)]

Effective Date and Related Provisions

§ 301.7851 Statutory provisions; applicability of revenue laws.

Sec. 7851. *Applicability of revenue laws*—(a) *General rules.* Except as otherwise provided in any section of this title—

(1) *Subtitle A.* (A) Chapters 1, 2, 4, and 6 of this title shall apply only with respect to taxable years beginning after December 31, 1953, and ending after the date of enactment of this title, and with respect to such taxable years, chapters 1 (except sections 143 and 144) and 2, and section 3801, of the Internal Revenue Code of 1939 are hereby repealed.

(B) Chapters 3 and 5 of this title shall apply with respect to payments and transfers occurring after December 31, 1954, and as to such payments and transfers sections 143 and 144 and chapter 7 of the Internal Revenue Code of 1939 are hereby repealed.

(C) Any provision of subtitle A of this title the applicability of which is stated in terms of a specific date (occurring after December 31, 1953), or in terms of taxable years ending after a specific date (occurring after December 31, 1953), shall apply to taxable years ending after such specific date. Each such provision shall, in the case of a taxable year subject to the Internal Revenue Code of 1939, be deemed to be included in the Internal Revenue Code of 1939, but shall be applicable only to taxable years ending after such specific date. The provisions of the Internal Revenue Code of 1939 superseded by provisions of subtitle A of this title the applicability of which is stated in terms of a specific date (occurring after December 31, 1953), shall be deemed to be included in subtitle A of this title, but shall be applicable only to the period prior to the taking effect of the corresponding provision of subtitle A.

(D) Effective with respect to taxable years ending after March 31, 1954, and subject to tax under chapter 1 of the Internal Revenue Code of 1939—

(i) Sections 13(b)(3), 26(b)(2)(c), 26(h)(j)(C) (including the comma and the word "and" immediately preceding such section), 26(i)(3), 108(k), 207(a)(1)(C), 207(a)(3)(C), and the last sentence of section 362(b)(3) of such Code are hereby repealed; and

(ii) Sections 13(b)(2), 26(b)(2)(B), 26(h)(1)(B), 26(i)(2), 207(a)(1)(B), 207(a)(3)(B), 421(a)(1)(B), and the second sentence of section 362(b)(2) of such Code are hereby amended by striking out "and before April 1, 1954" (and any accompanying punctuation) wherever appearing therein.

(2) *Subtitle B.* (A) Chapter 11 of this title shall apply with respect to estates of decedents dying after the date of enactment of this title, and with respect to such estates chapter 3 of the Internal Revenue Code of 1939 is hereby repealed.

(B) Chapter 12 of this title shall apply with respect to the calendar year 1955 and all calendar years thereafter, and with respect to such years chapter 4 of the Internal Revenue Code of 1939 is hereby repealed.

(3) *Subtitle C.* Subtitle C of this title shall apply only with respect to remuneration paid after December 31, 1954, except that chapter 22 of such subtitle shall apply only with respect to remuneration paid after December 31, 1954, which is for services performed after such date. Chapter 9 of the Internal Revenue Code of 1939 is hereby repealed with respect to remuneration paid after December 31, 1954, except that subchapter B of such chapter (and subchapter E of such chapter to the extent it relates to subchapter B) shall remain in force and effect with respect to remuneration paid after December 31, 1954, for services performed on or before such date.

(4) *Subtitle D.* Subtitle D of this title shall take effect on January 1, 1955. Subtitles E and C of the Internal Revenue Code of 1939 (except chapters 7, 9, 15, 26, and 28, subchapter E of chapter 25, and parts VII and VIII of subchapter A of chapter 27 of such code) are hereby repealed effective January 1, 1955. Provisions having the same effect as section 6416(b)(2)(H), and so much of section 4062(c) as refers to special motor fuels, shall be considered to be included in the Internal Revenue Code of 1939 effective as of May 1, 1954, Section 3450(a) of the Internal Revenue Code of 1939 (as amended by the Excise Tax Reduction Act of 1954) applies to the period beginning on April 1, 1954, and ending on December 31, 1954.

(5) *Subtitle E.* Subtitle E shall take effect on January 1, 1955, except that the provisions in section 5411 permitting the use of a brewery under regulations prescribed by the Secretary or his delegate for the purpose of producing and bottling soft drinks, section 5554, and chapter 83 shall take effect on the day after the date of enactment of this title. Subchapter B of chapter 25, and part VIII of subchapter A of chapter 27, of the Internal Revenue Code of 1939 are hereby repealed effective on the day after the date of enactment of this title. Chapters 15 and 26, and part VII of subchapter A of chapter 27, of the Internal Revenue Code of 1939 are hereby repealed effective January 1, 1955.

(6) *Subtitle F*—(A) *General rule.* The provisions of subtitle F shall take effect on the day after the date of enactment of this title and shall be applicable with respect to any tax imposed by this title. The provisions of subtitle F shall apply with respect to any tax imposed by the Internal Revenue Code of 1939 only to the extent provided in subparagraphs (B) and (C) of this paragraph.

(B) *Assessment, collection, and refunds.* Notwithstanding the provisions of subparagraph (A), and notwithstanding any contrary provision of subchapter A of chapter 63 (relating to assessment), chapter 64 (relating to collection), or chapter 65 (relating to abatements, credits, and refunds) of this title, the provisions of part II of subchapter A of chapter 26 and chapters 35, 36, and 37 (except section 3777) of subtitle D of the Internal Revenue Code of 1939 shall remain in effect until January 1, 1955, and shall also be applicable to the taxes imposed by this title. On and after January 1, 1955, the provisions of subchapter A of chapter 63, chapter 64, and chapter 65 (except section 6405) of this title shall be applicable to all internal revenue taxes (whether imposed by this title or by the Internal Revenue Code of 1939), notwithstanding any contrary provision of part II of subchapter A of chapter 26, or of chapter 35, 36, or 37, of the Internal Revenue Code of 1939. The provisions of section 6405 (relating to reports of refunds and credits) shall be applicable with respect to refunds or credits allowed after the date of enactment of this title, and section 3777 of the Internal Revenue Code of 1939 is hereby repealed with respect to such refunds and credits.

(C) *Taxes imposed under the 1939 code.* After the date of enactment of this title, the following provisions of subtitle F shall apply to the taxes imposed by the Internal Revenue Code of 1939, notwithstanding any contrary provisions of such code:

(i) Chapter 73, relating to bonds.

(ii) Chapter 74, relating to closing agreements and compromises.

(iii) Chapter 75, relating to crimes and other offenses, but only insofar as it relates to offenses committed after the date of enactment of this title, and in the case of such offenses, section 6531, relating to periods of limitation on criminal prosecution, shall be applicable. The penalties (other than penalties which may be assessed) provided by the Internal Revenue Code of 1939 shall not apply to offenses committed after the date of enactment of this title, to which chapter 75 of this title is applicable.

(iv) Chapter 76, relating to judicial proceedings.

(v) Chapter 77, relating to miscellaneous provisions, except that section 7502 shall apply only if the mailing occurs after the date of enactment of this title, and section 7503 shall apply only if the last date referred to therein occurs after the date of enactment of this title.

(vi) Chapter 78, relating to discovery of liability and enforcement of title.

(vii) Chapter 79, relating to definitions.

(viii) Chapter 80, relating to application of internal revenue laws, effective date, and related provisions.

(D) *Chapter 28 and subtitle D of 1939 code.* Except as otherwise provided in subparagraphs (B) and (C), the provisions of chapter 28 and of subtitle D of the Internal Revenue Code of 1939 shall remain in effect with respect to taxes imposed by the Internal Revenue Code of 1939.

(7) *Other provisions.* If the effective date of any provision of the Internal Revenue Code of 1954 is not otherwise provided in this section or in any other section of this title, such provisions shall take effect on the day after the date of enactment of this title. If the repeal of any provision of the Internal Revenue Code of 1939 is not otherwise provided by this section or by any other section of this title, such provision is hereby repealed effective on the day after the date of enactment of this title.

(b) *Effect of repeal of Internal Revenue Code of 1939*—(1) *Existing rights and liabilities.* The repeal of any provision of the Internal Revenue Code of 1939 shall not affect any act done or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause, before such repeal; but all rights and liabilities under such code shall continue, and may be enforced in the same manner, as if such repeal had not been made.

(2) *Existing offices.* The repeal of any provision of the Internal Revenue Code of 1939 shall not abolish, terminate, or otherwise change—

(A) Any internal revenue district,

(B) Any office, position, board, or committee, or

(C) The appointment or employment of any officer or employee,

existing immediately preceding the enactment of this title, the continuance of which is not manifestly inconsistent with any provision of this title, but the same shall continue unless and until changed by lawful authority.

(3) *Existing delegations of authority.* Any delegation of authority made pursuant to the provisions of Reorganization Plan Numbered 26 of 1950 or Reorganization Plan Numbered 1 of 1952, including any redelegation of authority made pursuant to any such delegation of authority, and in effect under the Internal Revenue Code of 1939 immediately preceding the enactment of this title shall, notwithstanding the repeal of such code, remain in effect for purposes of this title, unless distinctly inconsistent or manifestly incompatible with the provisions of this title. The preceding sentence shall not be construed as limiting in any manner the power to amend, modify, or revoke any such delegation or redelegation of authority.

(c) *Crimes and forfeitures.* All offenses committed, and all penalties or forfeitures incurred, under any provision of law hereby repealed, may be prosecuted and punished in the same manner and with the same effect as if this title had not been enacted.

(d) *Periods of limitation.* All periods of limitation, whether applicable to civil causes and proceedings, or to the prosecution of offenses, or for the recovery of penalties or forfeitures, hereby repealed shall not be affected thereby, but all suits, proceedings, or prosecutions, whether civil or criminal, for causes arising, or acts done or committed, prior to said repeal, may be commenced and prosecuted within the same time as if this title had not been enacted.

(e) *Reference to other provisions.* For the purpose of applying the Internal Revenue Code of 1939 or the Internal Revenue Code of 1954 to any period, any reference in either such code or another provision of the Internal Revenue Code of 1939 or the Internal Revenue Code of 1954 which is not then applicable to such period shall be deemed a reference to the corresponding provision of the other code which is then applicable to such period.

§ 301.7852 Statutory provisions; other applicable rules.

SEC. 7852. *Other applicable rules*—(a) *Separability clause.* If any provision of this title, or the application thereof to any person or circumstances, is held invalid, the remainder of the title, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(b) *Reference in other laws to Internal Revenue Code of 1939.* Any reference in any other law of the United States or in any Executive order to any provision of the Internal Revenue Code of 1939 shall, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, be deemed also to refer to the corresponding provision of this title.

(c) *Items not to be twice included in income or deducted therefrom.* Except as otherwise distinctly expressed or manifestly intended, the same item (whether of income, deduction, credit, or otherwise) shall not be taken into account both in computing a tax under subtitle A of this title and a tax under chapter 1 or 2 of the Internal Revenue Code of 1939.

(d) *Treaty obligations.* No provision of this title shall apply in any case where its application would be contrary to any treaty obligation of the United States in effect on the date of enactment of this title.

MISCELLANEOUS PROVISIONS

§ 301.9000-1 Procedure to be followed by officers and employees of the Internal Revenue Service upon receipt of a request or demand for disclosure of internal revenue records or information.

(a) *Authority.* The provisions of this section are prescribed under the authority of 5 U.S.C. 301; section 2 of Reorganization Plan No. 26 of 1950, 64 Stat. 1280; 18 U.S.C. 1905; section 2(g) of the Federal Alcohol Administration Act (27 U.S.C. 202(c)); and sections 5274, 6103, 6104, 6106, 6107, 7213, 7237(e), 7803, and 7805 of the Internal Revenue Code of 1954.

(b) *Definitions.* When used in this section—

(1) *Internal revenue records or information.* The term "internal revenue records or information" means any records (including copies thereof) or information, made or obtained by, furnished to, or coming to the knowledge of, any officer or employee of the Internal Revenue Service while acting in his official capacity, or because of his official status, with respect to the administration of the internal revenue laws or any other laws administered by or concerning the Internal Revenue Service.

(2) *Internal revenue officer and employee.* The term "internal revenue officer and employee" means all officers and employees of the United States, engaged in the administration and enforcement of the internal revenue laws or any other laws administered by the Internal Revenue Service, appointed or employed by, or subject to the directions, instructions or orders of, the Secretary of the Treasury or his delegate.

(3) *Demand.* The term "demand" means any subpoena, notice of deposition either upon oral examination or written interrogatory, or other order, of any court, administrative agency, or other authority.

(c) *Disclosure of internal revenue records or information prohibited without prior approval of the Commissioner.* The disclosure, including the production, of internal revenue records or information to any person outside the Treasury Department or to any court, administrative agency, or other authority, in response to any request or demand for the disclosure of such records or information shall be made only with the prior approval of the Commissioner. However, nothing in this section shall restrict the disclosure of internal revenue records or information which the Commissioner has determined is authorized under any provision of statute, Executive order, or regulations, or for which a procedure has been established by the Commissioner. For example, this section does not restrict the inspection of returns and approved applications for tax exemption inspection of which is governed by sections 6103 and 6104 of the Code and the Executive orders and regulations issued thereunder, nor does it restrict the disclosure of internal revenue records or information which is requested by U.S. attorneys or attorneys of the Department of Justice for use in cases which arise under the internal revenue laws or related statutes and which are referred by the Department of the Treasury to the Department of Justice for prosecution or defense.

(d) *Delegation to Commissioner of authority to determine disclosure and establish procedures; procedure in the event of a request or demand for disclosure*—(1) *Delegation to Commissioner.* The Commissioner is hereby authorized to determine whether or not officers and employees of the Internal Revenue Service will be permitted to disclose internal revenue records or information in response to:

(i) A request by any court, administrative agency, or other authority, or by any person, for the disclosure of such records or information, or

(ii) A demand for the disclosure of such records or information.

The Commissioner is also authorized to establish such procedures as he may deem necessary with respect to the disclosure of internal revenue records or information by internal revenue officers and employees. Any determination by the Commissioner as to whether internal revenue records or information will be disclosed, or any procedure established by him in connection therewith, will be made in accordance with applicable statutes, Executive orders, and regulations, and such instructions as may be issued by the Secretary or his delegate. Notwithstanding the preceding provisions of this subparagraph, the Commissioner shall, where either he or the Secretary deems it appropriate, refer the opposing of a request or demand for disclosure of internal revenue records or information to the Secretary.

(2) *Procedure in the event of a request or demand for internal revenue records or information*—(i) *Request procedure.* Any officer or employee of the Internal Revenue Service who receives a request for internal revenue records or information, the disposition of which is not covered by a procedure established by the Commissioner, shall promptly communicate the contents of the request to the Commissioner through the appropriate supervisor for the district or region in which he serves. Such officer or employee shall await instructions from the Commissioner concerning the response to the request. For the procedure to be followed in the event a person making a request seeks to obtain a court order or other demand requiring the production of internal revenue records or information, see subdivision (ii) of this subparagraph.

(ii) *Demand procedure.* Any officer or employee of the Internal Revenue Service who is served with a demand for internal revenue records or information, the disposition of which is not covered by a procedure established by the Commissioner, shall promptly, and without awaiting appearance before the court, administrative agency, or other authority, communicate the contents of the demand to the Commissioner through the appropriate supervisor for the district or region in which he serves. Such officer or employee shall await instructions from the Commissioner concerning the response to the demand. If it is determined by the Commissioner that the demand should be opposed, the U.S. attorney, his assistant, or other appropriate legal representative shall be requested to respectfully inform the court, administrative agency, or other authority that the Commissioner has instructed the officer or employee to refuse to disclose the internal revenue records or information sought. If instructions have not been received from the Commissioner at the time when the officer or employee is required to appear before the court, administrative agency, or other authority in response to the demand, the U.S. attorney, his assistant, or other appropriate legal representative shall be requested to appear with the officer or employee upon whom the demand has been served and request additional time in which to receive such instructions. In the event the court, administrative agency, or other authority rules adversely with respect to the refusal to disclose the records or information pursuant to the instructions of the Commissioner, or declines to defer a ruling until instructions from the Commissioner have been received, the officer or employee upon whom the demand has been served shall, pursuant to this section, respectfully decline to disclose the internal revenue records or information sought.

(e) *Record of seizure and sale of real estate.* Record 21, "Record of seizure and sale of real estate", is open for public inspection in offices of district directors of internal revenue and copies are furnished upon application.

(f) *State liquor cases or State firearms cases.* Assistant regional commissioners (alcohol and tobacco tax) may, in the interest of Federal and State law enforcement, upon receipt of demands or requests of State authorities, and at the expense of the State, authorize investigators and other employees under their supervision to attend trials and administrative hearings in liquor cases or firearms cases in which the State is a party, produce records and testify as to facts coming to their knowledge in their official capacities: *Provided*, That information will not be divulged contrary to section 7213 of the Code by such production or testimony.

(g) *Penalties.* Any officer or employee of the Internal Revenue Service who disobeys the provisions of this section will be subject to dismissal and may incur criminal liability.

(h) *Effective date.* The provisions of this section are applicable to any request or demand for internal revenue records or information received by any officer or employee of the Internal Revenue Service after June 15, 1967.

[F.R. Doc. 67-12966; Filed, Nov. 2, 1967; 8:45 a.m.]

Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 984—WALNUTS GROWN IN CALIFORNIA, OREGON, AND WASHINGTON

Control Percentages for 1967–68 Marketing Year

Notice was published in the October 18, 1967, issue of the FEDERAL REGISTER (32 F.R. 14395) regarding a proposal to establish control percentages applicable to walnuts grown in California, Oregon, and Washington for the marketing year which began August 1, 1967. The percentages are based on the unanimous recommendations of the Walnut Control Board and other available information in accordance with the applicable provisions of the marketing agreement, as amended, and Order No. 984, as amended (7 CFR Part 984), regulating the handling of walnuts grown in California, Oregon, and Washington, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons opportunity to submit written data, views, or arguments with respect to the proposal. None were submitted within the prescribed time.

After consideration of all relevant matter presented, including those in the notice, the information and recommendations submitted by the Board, and other available information, it is found that to establish marketable and surplus percentages as hereinafter set forth will tend to effectuate the declared policy of the act.

Therefore, the marketable and surplus percentages for walnuts handled during the 1967–68 marketing year are established as follows:

§ 984.215 Marketable and surplus percentages for walnuts during the 1967–68 marketing year.

The marketable and surplus percentages during the marketing year beginning August 1, 1967, shall be as follows:

	District 1	District 2
Marketable	93	96.5
Surplus	7	3.5

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said amended marketing agreement and this part require that marketable and surplus percentages designated for a particular marketing year shall be applicable to all walnuts handled during such year; and (2) the current marketing year began on August 1, 1967, and the percentages established herein will automatically apply to all such walnuts beginning with such date.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 31, 1967.

PAUL A. NICHOLSON,
Deputy Director,
Fruit and Vegetable Division.

[F.R. Doc. 67–13015; Filed, Nov. 2, 1967; 8:49 a.m.]

Chapter X—Consumer and Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order 120]

PART 1120—MILK IN LUBBOCK-PLAINVIEW, TEX., MARKETING AREA

Order Suspending Certain Provision

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Lubbock-Plainview, Texas, marketing area (7 CFR Part 1120), it is hereby found and determined that:

(a) The provision in § 1120.14(a)(2) of the order which reads: "Not more than 15 days' production during any month of", relating to producer milk diversion limitations no longer tends to effectuate the declared policy of the Act for the months of November and December 1967.

(b) Thirty days notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(1) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date.

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(3) This suspension order is necessary to provide for the efficient and orderly disposition of the reserve supply of milk for the market. Ample supplies to furnish the Class I needs of the market are available at pool plants located in Lubbock. Under the present order provision it is necessary to receive milk from the farms of more distant producers at pool plants for purposes of qualifying it as producer milk although it is not needed at such plants but must be transferred to nonpool plants for use in manufactured dairy products.

(4) Suspension is necessary to permit the association representing a majority of producers on the market to divert milk directly from the farms of producers to nonpool plants without having to incur the unnecessary costs of transporting the milk to pool plants to retain producer milk status. Suspension will enable the cooperative to divert milk of the same producers during the period instead of having to alternate deliveries of milk from a large number of producers to pool plants to keep within the 15-day diversion limitation of the order.

(5) Interested parties were afforded opportunity to file written data, views, or arguments concerning this suspension (32 F.R. 14773). Views were filed in support of the suspension. None were filed in opposition.

Therefore, good cause exists for making this order effective November 1, 1967.

It is therefore ordered, That the aforesaid provision of the order is hereby suspended for the period November 1, 1967, through December 31, 1967.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: November 1, 1967.

Signed at Washington, D.C., on October 31, 1967.

RODNEY E. LEONARD,
Deputy Assistant Secretary.

[F.R. Doc. 67–13012; Filed, Nov. 2, 1967; 8:49 a.m.]

[Milk Order 126]

PART 1126—MILK IN NORTH TEXAS MARKETING AREA

Order Suspending Certain Provision

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the North Texas marketing area (7 CFR Part 1126), it is hereby found and determined that:

(a) The provision in § 1126.41(b)(2)(i) of the order which reads: "during the months of March through August", relating to the classification of milk disposed of to commercial bakeries or food product manufacturing plants no longer tends to effectuate the declared policy of the Act of November 1967 through February 1968.

(b) Thirty days notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(1) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date.

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(3) This suspension order is necessary for November 1967 through February 1968 to permit milk moved to bakeries, soup companies or other food product manufacturing plants where it is used for manufacturing product uses to be classified as Class II. The present provision providing for Class I classification of such movements except for March through August of any year was incorporated in the order at a time when the North Texas market had a much closer relationship of producer receipts to Class I sales during the months of September through February. The provision discouraged the use of milk in commercial food establishments if alternative fluid milk outlets were available. Class I classification for milk disposed of to commercial food establishments is not needed to assure an adequate supply for fluid uses in the market.

(4) Suspension is necessary so that a local soup manufacturing plant and a candy manufacturing plant may continue to be used as outlets for the efficient and economical disposal of milk excess to the fluid needs of the market. The producer association which represents more than two-thirds of the producers states that it will be unable to dispose of milk to these facilities during November 1967 through February 1968 unless suspension to permit Class II classification is provided. Plants regulated under other nearby milk orders are permitted by the provisions of such other orders to dispose of milk to the aforementioned commercial food establishments as Class II milk while North Texas handlers are precluded from doing so unless suspension action is taken for this period.

(5) Interested parties were afforded opportunity to file written data, views, or arguments concerning this suspension (32 F.R. 14774). Views were filed in support of the suspension. None were filed in opposition.

Therefore, good cause exists for making this order effective November 1, 1967.

It is therefore ordered, That the aforesaid provision of the order is hereby suspended for the period of November 1, 1967, through February 29, 1968.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: November 1, 1967.

Signed at Washington, D.C., on October 31, 1967.

RODNEY E. LEONARD,
Deputy Assistant Secretary.

[F.R. Doc. 67–13013; Filed, Nov. 2, 1967; 8:49 a.m.]

[Milk Order 132]

PART 1132—MILK IN TEXAS PANHANDLE MARKETING AREA

Order Suspending Certain Provision

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Texas Panhandle marketing area (7 CFR Part 1132), it is hereby found and determined that:

(a) The provision in § 1132.7(b)(2) of the order which reads: "on not more than 15 days", relating to limitations on diversion of producer milk no longer tends to effectuate the declared policy of the Act for the months of November and December 1967.

(b) Thirty days notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(1) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date.

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(3) This provision was suspended for September and October 1967. A cooperative association which represents more than two-thirds of the producers in the market has requested continued suspension of the diversion provision limitation for an additional two months. This suspension order is necessary because recent amendments to the Texas Health Code require that milk produced outside the State of Texas for consumption within the State meet Grade A milk health standards at least equal to those met by Grade A milk produced in Texas. Texas State Health Department inspection of farms located outside Texas was expected to be completed by the end of October.

(4) It is now apparent that inspection by Texas health authorities of farms of producers located outside Texas cannot be completed by the end of October. This suspension order is necessary because producer milk regularly received at Texas Panhandle pool plants must be diverted to nonpool plants on more than the number of days permitted by present order diversion provisions during November and December 1967. Extension of the suspension will provide for the continued pooling and pricing of such milk as producer milk until inspection is accomplished which is now expected to be in December.

(5) Interested parties were afforded opportunity to file written data, views, or arguments concerning this suspension (32 F.R. 14774). Views were filed in support of suspension. None were filed in opposition.

Therefore, good cause exists for making this order effective November 1, 1967.

It is therefore ordered, That the aforesaid provision of the order is hereby suspended for the period of November 1, 1967, through December 31, 1967.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: November 1, 1967.

Signed at Washington, D.C., on October 31, 1967.

RODNEY E. LEONARD,
Deputy Assistant Secretary.

[F.R. Doc. 67–13014; Filed, Nov. 2, 1967; 8:49 a.m.]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. S]

PART 219—BANK SERVICE ARRANGEMENTS

Credit Card Service Organization

§ 219.104 Bank Credit Card Service Organization and the Bank Service Corporation Act.

(a) The Board of Governors recently considered whether the so-called Bank Service Corporation Act (12 U.S.C. 1861 ff) and the Board's Regulation S, "Bank Service Arrangements" (12 CFR Part 219), are applicable where a bank credit card plan of a State member bank and other banks uses the facilities of a nonprofit no-stock service organization.

(b) The functions of the service organization include the following: (1) Performs cardholder accounting for participating banks; (2) develops information concerning each credit card and holder, including such holder's current balance owing to the card issuing bank and the amount of such balance that is delinquent; (3) assists in procedures relating to the presentation and settlement of drafts and credit memoranda; (4) develops procedures relating to credit card security control; (5) upon telephonic request, advises merchants and participating banks respecting credit authorizations above certain specified limits; and (6) compiles lists of participating merchants.

(c) The Board expressed the view that, because the service organization has no stock and the State member bank does not otherwise "invest" therein by "the making of a loan, or otherwise, except a payment for rent earned, goods sold and delivered, or services rendered prior to the making of such payment" (section 1(d) of the Act), the service organization is not a "bank service corporation" within the meaning of section 1(c) of the Act.

(d) However, the Board concluded that the functions described above do constitute "bank services" as defined in section 1(b) of the Act. Under the Act, such term "means services such as check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or any other clerical, bookkeeping, accounting, statistical, or similar functions performed for a bank."

(e) Section 5 of the Act provides that no federally-insured bank may have any such bank services performed for it unless assurances satisfactory to the appropriate supervisory agency "are furnished to such agency by both the bank and the party performing such services that the performance thereof will be subject to regulation and examination by such agency to the same extent as if such services were being performed by the bank itself on its own premises."

(f) Accordingly, the State member bank and the service organization are required to furnish assurances to the Board in accordance with the provisions of Regulation S, which implements section 5 of the Act.

(Interprets or applies 12 U.S.C. 1861, 1865)

Dated at Washington, D.C., this 27th day of October 1967.

By order of the Board of Governors.

[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 67–12984; Filed, Nov. 2, 1967; 8:48 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 67-EA-114, Amdt. 39-506]

PART 39—AIRWORTHINESS DIRECTIVES

Sikorsky Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation regulations so as to require an inspection and when necessary, replacement of the azimuth control assembly on Sikorsky Type S-55 helicopters.

There have been instances of fatigue failure of a rod end fitting in the control system. It has been determined that certain propulsion system gear frequencies impose bending loads on the subject control rod assembly. A new rod assembly has been designed to alleviate this deficiency. Since this condition is likely to exist or develop in other helicopters of the same type, an airworthiness directive is being issued which will require an inspection and replacement of the assembly.

Since a situation exists that requires immediate adoption of this amendment, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89, 31 F.R. 13697, § 39.13 of Part 39 of the Federal Aviation regulations is amended by adding the following new airworthiness directive.

SIKORSKY. Applies to Type S-55 Helicopters equipped with Wright R-1300 engines (Restricted and Normal Category). Compliance required as indicated.

To prevent fatigue failure of the azimuth control rod assembly, P/N S1440-2105-1, accomplish the following:

(a) Remove from service all control rod assemblies, P/N S1440-2105-1, with 725 or more hours' time in service on the effective date of this AD within the next 25 hours' time in service.

(b) Remove from service all other control rod assemblies P/N S1440-2105-1, before the accumulation of 750 hours' time in service.

(c) Within the next 15 hours' time in service after the effective date of this AD, unless already accomplished, and thereafter at intervals not to exceed 50 hours' time in service from the last inspection, inspect the control rod assembly in accordance with paragraph B of Sikorsky Service Bulletin No. 55B40-5, dated October 18, 1967, or later revisions approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Eastern Region. Equivalent inspections may be approved by an FAA maintenance inspector.

This amendment is effective November 2, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Jamaica, N.Y., on October 27, 1967.

MARTIN J. WHITE,
Acting Director, Eastern Region.

[F.R. Doc. 67-13008; Filed, Nov. 2, 1967; 8:48 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 67-255]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Coastwise Transportation; Polish People's Republic

On the basis of information obtained and furnished by the Department of State, it is found that the Government of the Polish People's Republic extends to vessels of the United States in ports of the Polish People's Republic privileges reciprocal to those provided for in § 4.93 (a) of the Customs Regulations. Therefore, vessels of the Polish People's Republic are permitted to transport coastwise empty cargo vans, lift vans, and shipping tanks under the conditions specified in the applicable proviso to 46 U.S.C. 883.

Accordingly, § 4.93(b) of the Customs Regulations is amended by the insertion of "Polish People's Republic" in appropriate alphabetical order in the list of countries in that section.

(80 Stat. 379, R.S. 251, sec. 624, 46 Stat. 759, sec. 27, 41 Stat. 999, as amended; 5 U.S.C. 301, 19 U.S.C. 66, 1624, 46 U.S.C. 883)

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: October 26, 1967.

TRUE DAVIS,
Assistant Secretary of the Treasury.

[F.R. Doc. 67-13020; Filed, Nov. 2, 1967; 8:49 a.m.]

[T.D. 67-256]

PART 16—LIQUIDATION OF DUTIES

Countervailing Duties; Sugar Content of Certain Articles From Australia

OCTOBER 26, 1967.

The Treasury Department is in receipt of official information that the rates of bounties or grants paid or bestowed by the Australian Government within the meaning of section 303, Tariff Act of 1930 (19 U.S.C. 1303), on the exportation during the month of October 1967, of approved fruit products and other approved products containing sugar amounts to Australian $117 per 2,240 pounds of sugar content.

The net amount of bounties or grants on the above-described commodities which are manufactured or produced in Australia is hereby ascertained, determined, and declared to be Australian $117 per 2,240 pounds of sugar content. Additional duties on the above-described commodities, except those commodities covered by T.D. 55716 (27 F.R. 9595), whether imported directly or indirectly from that country, equal to the net amount of the bounty shown above shall be assessed and collected.

In view of the change in the periods to be covered by countervailing duty orders relating to the sugar content of certain articles from Australia, only the three last Treasury decisions publishing such orders will be listed at any one time in the table in § 16.24(f) of the Customs Regulations.

The table in § 16.24(f) of the Customs Regulations is amended by inserting after the last line under "Australia—Sugar content of certain articles" the number of this Treasury decision in the column headed "Treasury Decision" and the words "New rate" in the column headed "Action." The table in § 16.24(f) is further amended by deleting therefrom under "Australia—Sugar content of certain articles" the number 67-221 in the column headed "Treasury Decision" and the words "New rate" appearing opposite such number in the column headed "Action."

(R.S. 251, secs. 303, 624, 46 Stat. 687, 759; 19 U.S.C. 66, 1303, 1624)

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: October 26, 1967.

TRUE DAVIS,
Assistant Secretary of the Treasury.

[F.R. Doc. 67-13021; Filed, Nov. 2, 1967; 8:49 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 166—DEPRESSANT AND STIMULANT DRUGS; DEFINITIONS, PROCEDURAL AND INTERPRETATIVE REGULATIONS

Confirmation of Effective Date of Order Listing Additional Drugs as Drugs Subject to Control

In the matter of listing bufotenine and its salts, DET and its salts, and ibogaine and its salts as depressant or stimulant drugs within the meaning of section 201(v) of the Federal Food, Drug, and Cosmetic Act because of their hallucinogenic effect:

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(v), 511, 701, 52 Stat. 1055, as amended, 79 Stat. 227 et seq.; 21 U.S.C. 321(v), 360a, 371), and under the authority delegated by the Secretary of Health, Education, and Welfare to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections were filed to the order in the above-identified matter published in the FEDERAL REGISTER of September 23, 1967 (32 F.R. 13407). Accordingly, the amendments promulgated by that order will become effective November 22, 1967.

(Secs. 201(v), 511, 701, 52 Stat. 1055, as amended, 79 Stat. 227 et seq.; 21 U.S.C. 321(v), 360a, 371)

Dated: October 26, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-12997; Filed, Nov. 2, 1967; 8:47 a.m.]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 7—SPECIAL REGULATIONS RELATING TO PARKS AND MONUMENTS

Fire Island National Seashore, N.Y.; Vehicular Use

Notice is hereby given that, pursuant to the authority vested in the Secretary of the Interior by section 3 of the Act of August 25, 1916, as amended (39 Stat. 535; 16 U.S.C. 3), and in order to further implement the purposes of the Act of September 11, 1964 (78 Stat. 928; 16 U.S.C. 459e), authorizing the establishment of the Fire Island National Seashore, an amendment to Part 7, Chapter I, Title 36, Code of Federal Regulations is adopted, as hereinafter set forth.

The purpose of the amendment is to permit vehicular use of Seashore lands for recreational activities along the Atlantic Ocean beach, in a manner and to the extent that they will be consistent with preservation of the Seashore. The amendment seeks to strike a balance between hunting, fishing and other recreational activities and conservation of the area's natural features, since both of these objectives are provided for in the act authorizing establishment of the Seashore.

Since this amendment will result in a relaxation of restrictions already in effect and imposes no new or further requirements, and in order to give the public the benefit of its provisions as soon as possible, publication of a notice of proposed rule making and public comment thereon, as well as the usual 30-day waiting period before the effective date of the amendment are deemed unnecessary. Accordingly, the amended regulation will become effective upon publication of this notice in the FEDERAL REGISTER.

Section 7.20 of Chapter I, Title 36 of the Code of Federal Regulations is amended to change the text of § 7.20(a)(3)(v) as follows:

§ 7.20 Fire Island National Seashore.

(a) *Operation of motor vehicles.* * * *

(3) *Authorized and prohibited travel.* * * *

(v) Travel on Seashore lands by all other vehicles between the easterly boundary of Ocean Ridge and the westerly boundary of Smith Point County Park is prohibited, except under prior existing rights of ingress and egress. However, during the period of September 16 through May 14 such vehicles may, for recreational purposes, travel over Seashore lands on the beach along the Atlantic Ocean between Smith Point County Park and Long Cove. No such vehicle may travel farther inland from the ocean than the base of the dunes.

* * * * *

(5 U.S.C. 553; 39 Stat. 535; 16 U.S.C. 3)

LEMUEL A. GARRISON,
Regional Director, Northeast Region, National Park Service.

[F.R. Doc. 67-13089; Filed, Nov. 2, 1967; 8:50 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter II—National Bureau of Standards, Department of Commerce

SUBCHAPTER A—TEST FEE SCHEDULES

PART 204—RADIATION PHYSICS

Radioactivity

Under the provisions of 15 U.S.C. 275 (a) and 277, the test fee schedules of the National Bureau of Standards, Department of Commerce, pertaining to the calibration of gamma-emitting radioactive samples, alpha-emitting radioactive samples and beta-emitting radioactive samples are revised as provided herein. Mercury-197 has been added to the list of samples, and all fees have been revised upwards to assure full recovery of the cost of providing calibration services.

This revision, effective upon publication in the FEDERAL REGISTER, supersedes §§ 204.201, 204.202, and 204.203 of Part 204 of Title 15, Code of Federal Regulations, published in the FEDERAL REGISTER of December 17, 1966, at 31 F.R. 16186.

§ 204.201 Calibration of gamma-emitting radioactive samples.

Calibration of gamma-emitting radioactive samples that conform to the physical, chemical, and activity level specifications for measurement in the National Bureau of Standards $4\pi\gamma$-ionization chamber.

Item	Description	Fee
204.201a	(1) 100-800 micrograms of radium....	$120.00
	(2) Chemically stable solutions of the following radionuclides in the specified activity ranges can be measured:	120.00
	i. 50-100 microcuries of sodium-22, sodium-24, scandium-46, cobalt-60, yttrium-88.	
	ii. 150-300 microcuries of manganese-54, iron-59, zinc-65, strontium-85, niobium-95, iodine-131, cesium-137, tantalum-182, gold-198, mercury-203.	
	iii. 300-600 microcuries of potassium-42, cobalt-57, cerium-139, cerium-141, mercury-197.	
	Solutions should be 5 ml in volume and flame-sealed in glass vials or ampoules of O.D. 16.0±0.5 mm, wall thickness approximately 0.5 mm.	
204.201b	Chemically stable solutions of the following radionuclides in the specified activity ranges can be be measured:	135.00
	i. 10-20 microcuries of sodium-22, sodium-24, scandium-46, cobalt-60, yttrium-88.	
	ii. 30-60 microcuries of manganese-54, iron-59, zinc-65, strontium-85, niobium-95, iodine-131, cesium-137, tantalum-182, gold-198, mercury-203.	
	iii. 60-100 microcuries of potassium-42, cobalt-57, cerium-139, cerium-141, mercury-197.	
	Solutions should be 5 ml in volume and flame-sealed in glass vials or ampoules of O.D. 16.0±0.5 mm, wall thickness approximately 0.5 mm.	
204.201s	Fees have not been fixed for these services. Charges will be made for actual costs incurred. Upon request, estimates will be furnished for specific tasks which should provide a close approximation of actual cost.	

§ 204.202 Calibration of alpha-emission rate of sources.

Calibration of alpha-emitting radioactive samples that conform to the physical and activity level specifications for measurement in the National Bureau of Standards $2\pi\alpha$-proportional counter.

Item	Description	Fee
204.202a	Chemically stable samples that conform to physical and activity level specifications listed below can be measured:	$92.00
	i. Source diameter should not exceed 10 cm.	
	ii. Source thickness should be such that more than 99.5 percent of the emitted alpha particles have an energy greater than 400 keV.	
	iii. Emission rate should not exceed 5×10^5 aps.	
204.202s	Fees have not been fixed for these services. Charges will be made for actual cost incurred. Upon request, estimates will be furnished for specific tasks which should provide a close approximation of actual cost.	

§ 204.203 Calibration of beta-emitting radioactive samples.

Calibration of beta-emitting radioactive samples that conform to the chemical and activity level specifications for measurement in either the National Bureau of Standards $2\pi\beta$-windowless proportional flow counter, or in the National Bureau of Standards $2\pi\beta$-ionization chamber.

Item	Description	Fee
204.203a	Chemically stable solutions of the following radionuclides in the specified activity ranges can be measured in the National Bureau of Standards $2\pi\beta$-window-less proportional flow counter: i. 1–20 microcuries/milliliter of chlorine-36, strontium-yttrium-90. ii. 2–20 microcuries/milliliter of thallium-204. iii. 5–50 microcuries/milliliter of calcium-45, promethium-147. iv. 10–100 microcuries/milliliter of sulfur-35. Solutions should be approximately 5 ml in volume and flame-sealed in glass vials or ampoules.	$305.00
204.203b	Chemically stable solutions of the following radionuclides in the specified activity ranges can be measured in the National Bureau of Standards $2\pi\beta$-ionization chamber: i. 2–20 microcuries/milliliter of phosphorus-32. Solution should be neutral or weak acid with not more than 0.2 mg/ml total solids. ii. 2–20 microcuries/milliliter of strontium-89, strontium-yttrium-90. Solution should be weak HCl (1N or less) with not more than 0.2 mg/ml total solids. Solutions should be approximately 5 ml in volume and flame-sealed in glass vials or ampoules.	155.00
204.203c	Fees have not been fixed for these services. Charges will be made for actual cost incurred. Upon request, estimates will be furnished for specific tasks which should provide a close approximation of actual cost.	

(Sec. 9, 31 Stat. 1450, as amended; 15 U.S.C. 277. Interprets or applies sec. 7, 70 Stat. 959; 15 U.S.C. 276a)

A. V. ASTIN,
Director.

[F.R. Doc. 67-13072; Filed, Nov. 2, 1967; 8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Information To Be Furnished in Connection With Depletion Deductions; Notice of Hearing

The proposed amendment to the regulations under section 611 of the Internal Revenue Code relating to information to be furnished in connection with deductions for depletion of mines, oil and gas wells, and other natural deposits was published in the FEDERAL REGISTER for October 3, 1967 (32 F.R. 13773).

A public hearing on the provisions of this proposed amendment to the regulations will be held on Thursday, November 16, 1967 at 10:00 a.m., e.s.t., and continuing if necessary on November 17, in Room 3313, Internal Revenue Building, Twelfth and Constitution Avenue NW., Washington, D.C.

Persons who plan to attend the hearing are requested to notify the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by November 13, 1967, indicating whom they represent. Telephone (Area Code 202) 964-3935.

[SEAL] JAMES F. DRING,
Director, Legislation and Regulations Division.

[F.R. Doc. 67-13067; Filed, Nov. 2, 1967; 8:50 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Parts 822, 891, 892]

SUGAR IN CONTINENTAL UNITED STATES

Definition of Farm and Definition and Interpretation of Operator; 1968 and Subsequent Crops

Notice is hereby given that pursuant to the provisions of section 304(b) of the Sugar Act of 1948, as amended, the Secretary is prepared to issue regulations revising the definition of a farm in the continental United States, now included in 7 CFR 822.1, revising the definition of the term "operator" now included in 7 CFR 891.1 and 892.1 as amended in 32 F.R. 7837 and 8413, and to include guides to county committees for determining the operators of farms.

The proposals contained herein reflect several suggestions received from interested persons in response to the proposed notice of rule making published in the FEDERAL REGISTER of February 9, 1967 (32 F.R. 2708).

All persons who desire to submit comments and views regarding the revision of regulations as hereafter proposed, may submit the same in writing and in duplicate to the Director, Farmer Programs Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250 within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

1. It is proposed that the definition of a farm in the continental United States, set forth in 7 CFR 822.1, be revised to read as follows:

§ 822.1 Determination of a farm; continental United States.

Effective for the 1968 and subsequent crops of sugar beets and sugarcane, a farm within the limits of the continental United States for the purposes of the Sugar Act of 1948, as amended, means all land within a State farmed by the same operator and shall include, in addition, any land in an adjoining State or States farmed by such operator, if any of the equipment or labor used in the operation of the land in one State is also used in the operation of the land in the other State or States.

§§ 891.1, 892.1 [Amended]

2. It is proposed that the definition of the term operator, set forth in §§ 891.1 and 892.1 of Title 7 appearing in 32 F.R. 7837 and 8413 be revised to read as follows:

"Operator" means, effective for the 1968 and subsequent crops, the producer (or producers) who has general control of the sugar beet or sugarcane operations on the farm.

3. It is proposed to amend Parts 891 and 892 of Title 7 (32 F.R. 7837, 8413) by adding the following:

§§ 891.___, 892.___ Guides for determining the operator of a farm.

(a) The county committee shall determine the person (or persons acting together) who is a producer, as defined, of the sugar beet or sugarcane crop and who has general control of the sugar beet or sugarcane operations and, hence, is the operator of all lands on which sugar beet or sugarcane operations are under his general control. To assist the county committee in determining who controls a sugar beet or sugarcane operation, there are set forth as follows certain factors that should be given careful consideration in determining the operator of a farm. In developing information as to who controls a sugar beet or sugarcane operation where a partnership or legal entity such as a corporation is involved, the county committee should consider whether an individual as distinguished from the partnership or legal entity has the general control of the sugar beet or sugarcane operations.

(b) As possible indicia of control of a sugar beet or sugarcane operation, the county committee should ascertain the producer who performs the following functions: (1) Controls the land (by ownership or lease); (2) arranges for financing and is responsible for repayment of any loans or advances; (3) arranges for and pays labor; and (4) manages the sugar beet or sugarcane operations and makes the decisions with respect thereto.

(c) Also, as an indication of control over a sugar beet or sugarcane operation, the county committee should ascertain whether a written record of accounts covering costs and income from such operations are maintained separately from those of any other operation in which the persons involved have an interest.

(d) Generally, the person (or persons acting together) who directs the sugar beet or sugarcane operation and who has the authority to make the final decisions with respect to growing, harvesting, and marketing the crop should be considered as controlling the operation. Often, such person performs the actual farming functions himself. Usually, such person (or persons) also has the majority financial interest in the crop, either by direct ownership or indirectly by stock ownership or otherwise.

(e) The fact that a person has the majority financial interest in the crop of sugar beets or sugarcane does not preclude the county committee from determining that he is not the operator where it can be shown to the satisfaction of the committee that in consideration of pertinent factors another person is a producer of the crop and controls the operations. Also, since the definition of a producer has been construed over a long period of time as not including a creditor whose only interest in a crop results from a lien upon a crop of sugar beets or sugarcane, such a creditor by not being a producer of such crop would not qualify as the operator of the land on which such crop was produced.

(f) In the following situations, it would appear that control of the sugar beet or sugarcane operations would be as indicated:

(1) Where two or more persons have the same ownership interest in a crop of sugar beets or sugarcane growing or grown on one or more tracts of land, and they are the only persons engaged in farming operations on such land, they will, generally, be considered as the operator of all of such land. However, if

one or more of such persons is determined by the county committee as exercising control, he or they shall be considered as the operator.

(2) Where a husband and wife not legally separated by judgment of a court are both engaged in the production of sugar beets or sugarcane and one of them shares in the crop produced on the land of the other, if the county committee determines that the one who shares in the crop of the other also controls the sugar beet or sugarcane operations of the other, the spouse exercising the control would be considered as the operator. If neither spouse shares in the sugarcane or sugar beet crop of the other, or the county committee determines that the indicia of control justify a conclusion that separate operations are involved, each such spouse would be considered as separate operators.

(3) If a minor child and a parent live in the same household and each is engaged in the production of sugar beets or sugarcane, the parent who is a producer of the crop would be considered the operator unless the county committee is satisfied that the minor child controls his sugar beet or sugarcane operations. However, the cosigning of a note by a parent to enable the child to obtain financing shall not of itself be considered as representing control by the parent. Any land farmed by a minor as a Future Farmers of America or 4–H project shall be considered a part of the parent's farm unless the land on which the sugarcane or sugar beets are grown is leased by the minor from someone other than the parent and the parent has no control over the operation.

Signed at Washington, D.C., on October 30, 1967.

H. D. Godfrey,
Administrator, Agricultural stabilization and Conservation Service.

[F.R. Doc. 67-12967; Filed, Nov. 2, 1967; 8:46 a.m.]

Consumer and Marketing Service

[7 CFR Part 906]

ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

Approval of Expenses and Fixing of Rate of Assessment for 1967–68 Fiscal Period and Carryover of Unexpended Funds

Consideration is being given to the following proposals submitted by the Texas Valley Citrus Committee, established under the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in Lower Rio Grande Valley in Texas, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(1) That expenses that are reasonable and likely to be incurred by the Texas Valley Citrus Committee, during the period from August 1, 1967, through July 31, 1968, will amount to $170,000;

(2) That there be fixed, at $0.045 per ⅘-bushel carton or equivalent quantity of oranges and grapefruit, the rate of assessment payable by each handler in accordance with § 906.34 of the aforesaid marketing agreement and order; and

(3) That unexpended assessment funds in excess of expenses incurred during the fiscal period ended July 31, 1967, in the amount of $17,341.29, be carried over as a reserve in accordance with § 906.35 of the said marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: October 30, 1967.

Paul A. Nicholson,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-12968; Filed, Nov. 2, 1967; 8:46 a.m.]

[7 CFR Part 908]

[Do No. AO-250-A4]

VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Notice of Hearing With Respect to Proposed Amendment to Marketing Agreement and Order

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674), and in accordance with the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders, as amended (7 CFR Part 900), notice is hereby given of a public hearing to be held in the Town Hall, Valley Plaza Shopping Center, 2701 Ming Avenue at New Freeway 99, Bakersfield, Calif., at 9:30 a.m., local time, Tuesday, December 5, 1967, and at the Chilton Inn, Highway 80 at Catalina Drive, Yuma, Ariz., at 9:30 a.m., local time, Tuesday, December 12, 1967, with respect to proposed further amendment of the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), hereinafter referred to as the "marketing agreement" and "order," respectively, regulating the handling of Valencia oranges grown in Arizona and designated part of California. The proposed amendments have not received the approval of the Secretary of Agriculture.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and to any appropriate modifications thereof.

The following amendments to the marketing agreement and order have been proposed by Pure Gold, Inc., Post Office Box 40, Redlands, Calif.:

§ 908.30 [Amended]

1. Amend § 908.30(a) by adding the following: "Providing, That at any unassembled meeting held in accordance with § 908.51(c) to recommend to the Secretary an increase in allotment for any week such action shall require at least seven concurring votes."

§ 908.57 [Amended]

2. Amend § 908.57(a) by deleting the first sentence and substituting the following: "A person to whom allotments have been issued under general maturity may lend such allotments to other persons within any prorate district to whom allotment have also been issued: *Provided*, That allotments issued under the short life provision of this subpart may be loaned only to other persons in the same prorate district to whom such allotment have also been issued."

The following amendments to the marketing agreement and order have been proposed by Sunkist Growers, Inc., Box 2706, Terminal Annex, Los Angeles, Calif.:

1. Revise § 908.4, *Production area*, to read as follows:

§ 908.4 Production area.

"Production area" means the State of Arizona and the State of California.

2. Revise § 908.5, *Oranges*, to read as follows:

§ 908.5 Oranges.

"Oranges" means any and all strains of the Valencia variety of oranges grown in the production area and additional types or strains (other than Navels and Mandarins) handled at any time during the period beginning with the first week of allocation ending in May and ending with the last such week ending in October.

§ 908.12 [Amended]

3. Revise § 908.12, *Oranges available for current shipment*, by adding the following proviso at the end thereof: "*Provided*, That oranges available for current shipment shall include varieties determined by the committee to have reached general maturity and shall only include the remaining supplies of any variety of oranges defined in the order other than Valencia oranges beginning with the first week of allocation ending in May."

§ 908.15 [Amended]

4. Revise § 908.15, *General maturity*, by adding the following proviso at the end thereof: "*Provided*, That the committee need not determine general maturity for all varieties of oranges at the same time."

5. Revise § 908.20, *Establishment and membership*, so that the first sentence shall read:

§ 908.20 Establishment and membership.

There is hereby established a Valencia Orange Administrative Committee consisting of 11 members, for each of whom there shall be one alternate, and for each grower member an additional alternate. * * *

§§ 908.22, 908.23 [Amended]

6. Revise § 908.22, *Nominations*, and § 908.23, *Selection*, to provide for nomination and selection of two alternates for each grower member, instead of one.

§ 908.27 [Amended]

7. Revise § 908.27, *Alternate members*, to insert before the end of the proviso, the following: ", unless another alternate member is so designated by a grower member, his alternate shall act for the member and, in the absence of such alternate the additional alternate shall so act."

§ 908.51 [Amended]

8. Revise § 908.51, *Recommendations for volume regulation*, by adding the following proviso to the end of the first sentence: "*Provided*, That the committee may determine by variety that such variety will not be included as a part of such total quantity, in which event they will not be included as oranges available for current shipment."

By amending paragraph (b) so that the first sentence to the colon will read:

(b) In making its recommendations, the committee shall provide equity of marketing opportunity to handlers in all districts and shall give due consideration to the following factors:

By adding the following paragraph at the end of the section:

(d) The committee shall, with the approval of the Secretary, adopt procedural rules and regulations to effectuate the provisions of this § 908.51.

9. Revise § 908.53, *Prorate bases*, by redesignating paragraphs (f) and (g) as paragraphs (g) and (h), respectively, and adding a new paragraph to be designated paragraph (f), in substance as follows:

§ 908.53 Prorate bases.

* * * * *

(f) When any person having a prorate base has moved all his oranges or has remaining a quantity smaller than his allotment, he shall be removed from the prorate base or his prorate base shall be reduced so that his allotment based thereon shall not exceed the quantity of oranges remaining under his control; except that he shall receive his allotments on his full prorate base to the extent necessary to pay back loans for which he is obligated in any week that repayment of loans may be due.

* * * * *

§ 908.55 [Amended]

10. Revise § 908.55, *Overshipments*, by substituting for the phrase "equivalent to 10 percent" in the first sentence, "equivalent to 20 percent" and adding at the end of such first sentence the following proviso: "*Provided, however*, That the committee may, with the approval of the Secretary, reduce such 20 percent to a percentage not less than 10 percent."

11. Revise § 908.57, *Allotment loans*, by deleting the first sentence of paragraphs (a) and (b) and substituting the following as set forth below and by adding paragraph (f) as follows:

§ 908.57 Allotment loans.

(a) A person to whom allotments have been issued under general maturity may lend such allotments to other persons within any prorate district to whom allotments have also been issued: *Provided*, That allotments issued under the short life provision of this subpart may be loaned only to other persons in the same district to whom such allotments have been issued. * * *

(b) A person desiring to loan all or part of his allotment shall attempt to do so first within his own district and if he so chooses, may request the committee to act in his behalf. A person desiring to loan to persons outside his own district shall request the committee to arrange the loan on his behalf with the committee first offering the loan to persons within the district who have previously filed requests for such loans; and failing to so arrange may then offer the loan outside of the district in an equitable manner. * * *

* * * * *

(f) The committee may, with the approval of the Secretary, adopt procedural rules and regulations to effectuate the provisions of this § 908.57.

§ 908.61 [Amended]

12. Revise § 908.61, *Short life allotments*, by deleting the fourth and fifth sentences and substituting the following: "Such determination and allotment issued pursuant thereto shall permit the handling in total during periods of open movement and under volume regulations of a quantity of short life oranges equal proportionately to the average to be handled by all handlers of oranges within the prorate district. After a handler of short life oranges has received allotment sufficient to permit such total handling, allotment thereafter due such handler of short life oranges shall be allocated to handlers from whom allotment has been withheld."

13. Revise paragraphs (a), (b), and (c) of § 908.66, *Prorate districts*, to read as follows:

§ 908.66 Prorate districts.

* * * * *

(a) District 1 shall include that part of the State of California west of a line drawn due north and south through White Water, Calif., and north of a line drawn due east and west through Gorman, Calif., but excluding San Luis Obispo and Santa Barbara Counties.

(b) District 2 shall include that part of the State of California west of a line drawn due north and south through White Water, Calif., and south of a line drawn due east and west through Gorman, Calif., but including San Luis Obispo and Santa Barbara Counties.

(c) District 3 shall include the State of Arizona and that part of the State of California east of a line drawn due north and south through White Water, Calif.

The Fruit and Vegetable Division, Consumer and Marketing Service, has proposed that consideration be given to making such other changes in the marketing agreement and order as may be necessary to make the entire marketing agreement and order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing may be obtained from the Director, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, or from the Los Angeles Marketing Field Office, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, 1031 South Broadway, Room 1005, Los Angeles, Calif. 90015.

Dated: October 31, 1967.

John C. Blum,
Deputy Administrator, Regulatory Programs.

[F.R. Doc. 67-13017; Filed, Nov. 2, 1967; 8:49 a.m.]

[7 CFR Part 913]

GRAPEFRUIT GROWN IN THE INTERIOR DISTRICT IN FLORIDA

Approval of Expenses and Fixing of Rate of Assessment for 1967–68 Fiscal Period

Consideration is being given to the following proposals submitted by the Interior Grapefruit Marketing Committee, established under the marketing agreement and Order No. 913 (7 CFR Part 913) regulating the handling of grapefruit grown in the Interior District in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(a) That the expenses that are reasonable and likely to be incurred by the Interior Grapefruit Marketing Committee, during the fiscal period beginning August 1, 1967, and ending July 31, 1968, will amount to $28,000.

(b) That the rate of assessment for such period, payable by each handler in accordance with § 913.31, be fixed at $0.004 per standard packed box.

(c) Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same, in quadruplicate, with the

Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: October 31, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-13016; Filed, Nov. 2, 1967; 8:49 a.m.]

DEPARTMENT OF LABOR

Office of the Secretary

[29 CFR Parts 5, 6, 7]

CONTRACTS COVERING FEDERALLY FINANCED OR ASSISTED CONSTRUCTION AND NONCONSTRUCTION CONTRACTS SUBJECT TO CONTRACT WORK HOURS STANDARDS ACT

Enforcement of Labor Standards Provisions; Rules of Practice

Under authority provided in 5 U.S.C. 301, section 2 of the Copeland Act (48 Stat. 948, as amended; 40 U.S.C. 276c), section 4 of the Service Contract Act of 1965 (79 Stat. 1035, as amended; 41 U.S.C. 353), section 10 of the Portal-to-Portal Act of 1947 (61 Stat. 89, as amended; 29 U.S.C. 259), sections 104 and 105 of the Contract Work Hours Standards Act (76 Stat. 358, 359; 40 U.S.C. 330, 331), and in Reorganization Plan No. 14 of 1950 (64 Stat. 1267), it is proposed to amend 29 CFR Parts 5, 6 and 7 in the manner set forth below.

Interested persons may submit written data, views, or argument concerning the proposed amendments within 30 days of the publication of this document in the FEDERAL REGISTER. Such submissions may be filed with the Administrator of the Wage and Hour and Public Contracts Divisions, U.S. Department of Labor, 14th Street and Constitution Avenue NW., Washington, D.C. 20210.

1. It is proposed to amend paragraph (a) of § 5.1 to read as follows:

§ 5.1 Purpose and scope.

(a) The regulations contained in this part are promulgated in order to coordinate the administration and enforcement of the labor standards provisions of each of the acts listed below, and of such additional statutes as may from time to time confer upon the Secretary of Labor additional duties and responsibilities similar to those conferred upon him under Reorganization Plan No. 14 of 1950:

Davis-Bacon Act (40 U.S.C. 276a—276a-7).
Copeland Act (40 U.S.C. 276c).
Contract Work Hours Standards Act (40 U.S.C 327–331).
Any statute enacted after July 1, 1967, which incorporates by reference any provisions of any of the statutes listed above.
Federal Aid Highway Act of 1956 (23 U.S.C. 113).
National Housing Act (12 U.S.C. 1713, 1715a, 1715c, 1715k, 1715(d) (3) and (4), 1715v, 1715w, 1715z, 1743, 1747, 1748b, 1748h–2, 1750g).
Hospital Survey and Construction Act (42 U.S.C. 291h).
Federal Airport Act (49 U.S.C. 1114).
Housing Act of 1949 (42 U.S.C. 1459).
School Survey and Construction Act of 1950 (20 U.S.C. 636).
Defense Housing and Community Facilities and Services Act of 1951 (42 U.S.C. 15921).
United States Housing Act of 1937 (42 U.S.C. 1416).
Federal Civil Defense Act of 1950 (50 U.S.C. App. 2281).
Area Redevelopment Act (42 U.S.C. 2518).
Delaware River Basin Compact (sec. 15.1, 75 Stat. 714).
Health Professions Educational Assistance Act of 1963 (42 U.S.C. 292(c)(4), 293a (c)(5)).
Mental Retardation Facilities Construction Act (42 U.S.C. 295(a)(2)(d), 2662(5), 2675(a)(5)).
Community Mental Health Centers Act (42 U.S.C. 2685(a)(5)).
Higher Educational Facilities Act of 1963 (20 U.S.C. 753).
Vocational Educational Act of 1963 (20 U.S.C. 35f).
Library Services and Construction Act (20 U.S.C. 355(a)(4)).
Urban Mass Transportation Act of 1964 (sec. 10a, 78 Stat. 307).
Economic Opportunity Act of 1964 (sec. 607, 78 Stat. 532).
Public Health Service Act (sec. 605(a)(5), 78 Stat. 454).
Housing Act of 1964 (78 Stat. 797).
The Commercial Fisheries Research and Development Act of 1964 (sec. 7, 78 Stat. 199).
The Nurse Training Act of 1964 (sec. 2, 78 Stat. 910).
Elementary and Secondary Education Act of 1965 (20 U.S.C. 239).
Federal Water Pollution Control Act (33 U.S.C. 466).
Appalachian Regional Development Act of 1965 (79 Stat. 5, 21, sec. 402).
National Foundation on the Arts and the Humanities Act of 1965 (79 Stat. 845).
The Research and Development in High-Speed Ground Transportation Act of 1965 (Public Law 89–220).
National Technical Institute for the Deaf Act (79 Stat. 126, 126, sec. 5(b)(5)).
National Capital Transportation Act of 1965 (Public Law 89–173).
Alaska Centennial (Public Law 89–378).
Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89–754).
Federal Aid Highway Act of 1966 (Public Law 89–574).
Models Secondary School for the Deaf Act (Public Law 89–694).
Allied Health Professions Personnel Training Act of 1966 (Public Law 89–751).

* * * * *

§ 5.2 [Amended]

2. In § 5.2, it is proposed to amend paragraph (d) by inserting the words "With respect to any contract for which a wage determination is required under any of the statutes identified in § 5.1:" following the paragraph designation, and by redesignating the present text of the paragraph as subparagraph (1).

Paragraphs (e), (f), (g), (h), and (k) of § 5.2 are redesignated as paragraph (d)(2), (d)(3), (d)(4), (d)(5), and (d)(6), respectively.

Paragraphs (i) and (j) of § 5.2 are redesignated as paragraphs (e) and (f) of such section and a new paragraph (g) is added as follows:

(g) The term "Administrator" means the Administrator of the Wage and Hour and Public Contracts Divisions of the United States Department of Labor.

3. In § 5.5, it is proposed to amend subparagraphs (6) and (7) and to add subparagraph (8) to paragraph (a) and to add subparagraphs (5) and (6) to paragraph (c) to read as follows:

§ 5.5 Contract provisions and related matters.

(a) * * *

(6) *Subcontracts.* The contractor will insert in any subcontracts the clauses contained in 29 CFR 5.5(a) (1) through (5), (7), and (8), and such other clauses as the (write in the name of the Federal agency) may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

(7) *Contract termination; debarment.* A breach of clauses (1) through (6) may be grounds for termination of the contract, and for debarment as provided in 29 CFR 5.9.

(8) *Administrative procedure.* The contractor and the Government agree to submit to the procedure provided in 29 CFR Parts 6 and 7 for the administrative determination of any alleged violation of any of the clauses contained in 29 CFR 5.5(a) (1) and (3) through (6), and to the sanctions provided there and in 29 CFR 5.9. The contractor and the Government further agree that any finding of fact in a decision made pursuant to 29 CFR Part 6 or 7 shall be conclusive upon any agency of the United States, and, if supported by substantial evidence, shall be conclusive in any court of the United States.

* * * * *

(c) * * *

(5) *Administrative procedure.* The contractor and the Government agree to submit to the procedure provided in 29 CFR Parts 6 and 7 for the administrative determination of any alleged violation of any of the clauses contained in 29 CFR 5.5(c) (1) and (4) and to the sanctions provided in 29 CFR 5.9. The contractor and the Government further agree that any finding of facts in a decision made pursuant to 29 CFR Part 6 or 7 shall be conclusive upon any agency of the United States, and, if supported by substantial evidence, shall be conclusive in any court of the United States.

(6) As used in subparagraphs (1), (2), and (3), the terms "laborers" and "mechanics" include watchmen and guards, and the term "work" includes any work performed under a contract subject to such act.

* * * * *

4. In 29 CFR 5.6 it is proposed that paragraphs (b), (c), and (d) be amended and new paragraphs (e), (f), and (g) be added, to read as follows:

§ 5.6 Enforcement.

* * * * *

(b) Report of complaints of possible violations: The Federal agency shall report to the District Office, or where there is no District Office, the Regional Office of the Wage and Hour and Public Contracts Divisions of the U.S. Department of Labor for the District or Region which includes the place of employment in question for investigation any complaint of any violation made to the agency.

(c) Enforcement reports: Where the Federal agency discovers underpayments which total less than $500 and are not willful, and settles the matter on terms whereby there is restitution of all underpayments and future compliance is assured, the Federal agency need not submit its investigative findings and recommendation to the Administrator other than as may be required by paragraph (d) of this section. In any other case, the Federal agency shall furnish a detailed report as soon as practicable to the District Office or, where there is no District Office, the Regional Office of the Wage and Hour and Public Contracts Divisions of the U.S. Department of Labor for the District or Region which includes the place of employment in question. The report should be prepared in accordance with the Department of Labor's investigation and enforcement manual with respect to labor standards provisions applicable to contracts covering federally financed or assisted construction. In cases involving underpayments under the Davis-Bacon Act, the report should meet the reporting requirements contained in Comptroller General's Letter B–3368, dated March 19, 1957.

(d) Semiannual enforcement reports: To assist the Administrator in carrying out the Secretary of Labor's responsibilities under Reorganization Plan No. 14 of 1950, and any other statute which may confer upon the Secretary responsibilities similar to those conferred upon him by such Plan, Federal agencies shall furnish to the Administrator by July 31 and January 31 of each calendar year semiannual reports on compliance with and enforcement of the labor standards provisions of any statute identified in § 5.1, covering the periods January 1 through June 30 and July 1 through December 31, respectively. Such reports shall be prepared in the manner prescribed by the Secretary of Labor or the Administrator.

(e) Withholding of funds: The Federal agency shall withhold, or take such action as may be necessary to cause the suspension of the payment, advance or guaranty of funds to a contractor or subcontractor until sums are withheld in such amount as the Administrator or a regional or district director of the Wage and Hour and Public Contracts Divisions, U.S. Department of Labor, shall request pursuant to § 5.7(b). The Federal agency shall disburse, or similarly cause or permit disbursement, of such sums only as provided in § 5.7(b).

(f) Additional information: Upon request by the Administrator or his authorized representative, the Agency Head shall transmit such information available to the agency with respect to contractors and subcontractors, their contracts, and the nature of the contract work as the Administrator may find necessary for the performance of his duties with respect to the labor standards provisions referred to in this part.

(g) Contract termination: Where a contract is terminated by reason of violations of the labor standards, a report shall be submitted to the Administrator and to the Comptroller General, giving the name and address of the contractor or subcontractor whose right to proceed has been terminated, the name and address of the contractor or subcontractor, if any, who is to complete the work, the amount and number of his contract, and the description of the work he is to perform.

5. Section 5.7 is proposed to be amended to read as follows:

§ 5.7 Department of Labor investigations.

(a) The Administrator shall cause to be made such investigations as he may deem necessary to obtain compliance with the labor standards provisions of the statutes identified in § 5.1. Federal agencies, contractors, subcontractors, sponsors, and applicants or owners shall cooperate with the Administrator and with any of his authorized representatives in the inspection of records, in interviews with workers, and in all other aspects of an investigation. The Administrator or his authorized representative may settle the issue of violations of such statutes which do not appear to be willful and where there is satisfactory assurance of future compliance with the labor standards provisions of such statutes and the contracts to which they apply, upon payment by the contractor or subcontractor to the employees affected of all monies withheld from them contrary to the requirements of such statutes or such contracts. A term of such settlement may involve the payment of any liquidated damages likely to be due and unremitted under the provisions of the Contract Work Hours Standards Act. Any authorized representative of the Administrator under this section may, in his discretion, act as a person designated to aid in the enforcement of the overtime standards required by the Contract Work Hours Standards Act, within the meaning of section 104(a) of that Act. A report of an investigation of such representative acting in that capacity shall be transmitted to the proper officers of the United States, of any territory or possession, or of the District of Columbia, as the case may be, as required by section 104(a) of that Act.

(b) Whenever as a result of an investigation conducted by the Administrator or by a Federal agency, the Administrator or a regional or district director of the Wage and Hour and Public Contracts Divisions, U.S. Department of Labor, believes that a contractor or subcontractor may have violated a labor standards provision of any statute identified in § 5.1, the Administrator or the regional or district director may request the Federal agency to withhold or cause to be withheld as provided in § 5.6(e) such sums as he considers may be necessary to satisfy any liability of such contractor or subcontractor for unpaid wages and liquidated damages incurred by reason of his violation of such a labor standards provision. As soon as it may appear that any sums withheld are in excess of the needs for this purpose, the Administrator or the regional or district director will advise the Federal agency and it shall release the excess to such extent as it would had there been no request for withholding them. If the contractor or subcontractor is found at a hearing pursuant to § 5.10 to have violated a labor standards provision, or without such hearing or finding, upon written authorization from the contractor or subcontractor, the Administrator or the regional or district director shall direct the Federal agency: (1) To pay or cause to be paid (as provided in § 5.6(e)) directly to workers the respective amounts determined to be due them, or to the Treasury of the United States as miscellaneous receipts any sum due to a worker but not paid to him or his next of kin within 3 years because neither can be located; (2) to pay or cause to be paid (as provided in § 5.6(e)) any amount withheld as liquidated damages, according to applicable law; and (3) to pay or cause to be paid (as provided in § 5.6(e)) the remainder, if any, as it would have been paid if it had not been withheld.

6. In § 5.8, it is proposed that paragraph (b) be amended to read as follows:

§ 5.8 Review of recommendations for an appropriate adjustment in liquidated damages under the Contract Work Hours Standards Act.

* * * * *

(b) The Administrator shall review all the pertinent facts of the case, may conduct such relevant investigations as he deems necessary or appropriate and shall issue a decision affirming or rejecting the recommendation. The decision of the Administrator shall be final.

* * * * *

7. Sections 5.9 and 5.10 are proposed to be amended to read as follows:

§ 5.9 Ineligibility for future contracts.

(a) Whenever, in a decision pursuant to § 5.10, any person or firm is found to have violated any of the labor standards under any of the statutes identified in § 5.1, other than the Davis-Bacon Act, such person or firm, and any other firm, corporation, partnership, or association in which he or any person in his organization responsible for the violation has a substantial interest, shall be ineligible to have any contract with the United States or any of its agencies until 3 years have elapsed from the date of the publication of list containing the names of such persons or firms, unless the Solicitor of Labor, or on review, the Wage Appeals Board, otherwise decides.

(b) Whenever, in a decision pursuant to § 5.10, any person or firm is found to have disregarded his obligations to employees under the Davis-Bacon Act, it shall be recommended to the Comptroller General, unless the Solicitor of Labor, or on review, the Wage Appeals Board, otherwise decides, that such person or firm, and any other firm, corporation, partnership, or association in which he

or any person in his organization responsible for the violation has a substantial interest shall be ineligible to have any contract with the United States or any of its agencies until three years have elapsed from the date of the publication of a list containing the names of such persons or firms.

(c) The Solicitor of Labor may remove from the ineligibility list referred to in paragraph (a) of this section the name of any person or firm when he finds all wages and liquidated damages due to have been paid and when he finds that such person or firm has demonstrated a current responsibility to comply with the labor standards provisions applicable to work subject to any of the statutes identified in § 5.1. The procedure for such relief shall be informal.

(d) The Comptroller General of the United States will distribute to all Federal agencies a list of the names of persons and firms ineligible to receive contracts under this section.

§ 5.10 Administrative proceedings.

Formal administrative proceedings on charges of violations of the labor standards provisions of the statutes identified in § 5.1 or of any contract to which any of them applies may be held pursuant to rules of practice provided in Parts 6 and 7 of this subtitle.

§ 5.11 [Revoked]

8. Section 5.11 is proposed to be revoked and § 5.12 is proposed to be amended to read as follows:

§ 5.12 Rulings or interpretations.

Any question arising in any agency relating to the application or interpretation of the rules contained in this part and in Parts 1 and 3 of this subtitle, or of the labor standards provisions of any of the statutes identified in § 5.1 shall be referred to the Solicitor of Labor for appropriate rulings or interpretation. The rulings or interpretations of the Solicitor shall be authoritative unless and until they are set aside by the Wage Appeals Board in cases that may arise under Part 7 of this subtitle and those under the Davis-Bacon Act may be relied upon as provided for in section 10 of the Portal-to-Portal Act of 1947 (29 U.S.C. 259). Requests for such rulings or interpretations should be addressed to the Solicitor of Labor, U.S. Department of Labor, Washington ,D.C. 20210.

9. Section 5.13 is proposed to be amended to read as follows:

§ 5.13 Variations, tolerances, and exemptions from Parts 1 and 3 of this subtitle and from this part.

The Solicitor of Labor, with respect to construction work, and the Administrator, with respect to nonconstruction work, may make variations, tolerances, and exemptions from the requirements of this part and those of Parts 1 and 3 of this subtitle whenever the Solicitor or the Administrator, as the case may be, finds that such action is necessary and proper in the public interest, or to prevent injustice or undue hardship.

10. In 29 CFR 5.14, paragraph (c)(3) is proposed to be deleted and paragraph (a) is proposed to be amended to read as follows:

§ 5.14 Limitations, variations, tolerances, and exemptions under the Contract Work Hours Standards Act.

(a) *General.* Upon his own initiative or at the request of any Federal Agency, the Solicitor of Labor, with respect to construction work, and the Administrator, with respect to nonconstruction work, may provide under section 105 of the Contract Work Hours Standards Act reasonable limitations and allow reasonable variations, tolerances, and exemptions to and from any or all provisions of that Act whenever the Solicitor, or the Administrator, as the case may be, finds such action to be necessary and proper in the public interest to prevent injustice, or undue hardship or to avoid serious impairment of the conduct of Government business. Any request for such action shall be submitted in writing, and shall set forth the reasons for which the request is made.

* * * * *

(c) *Tolerances.* * * *

(4) [Deleted]

* * * * *

11. In Part 6 of Title 29, Code of Federal Regulations (32 F.R. 6133), the part heading is proposed to be revised to read as follows:

PART 6—RULES OF PRACTICE FOR ADMINISTRATIVE PROCEEDINGS ENFORCING LABOR STANDARDS IN CERTAIN CONTRACTS

12. The authority box in 29 CFR Part 6 is proposed to be revised to read as follows:

AUTHORITY: The provisions of this Part 6 issued under 41 U.S.C. 353; 40 U.S.C. 276c; 40 U.S.C. 330; 5 U.S.C. 301; Reorganization Plan No. 14 of 1950 (64 Stat. 1267).

13. Section 6.1 of Title 29, Code of Federal regulations, is proposed to be revised to read as follows:

§ 6.1 Applicability of rules.

This part provides the rules of practice for administrative proceedings relating to the enforcement of labor standards under the Service Contract Act of 1965 (41 U.S.C. 351), and under all of the statutes identified in § 5.1 of this subtitle.

14. In § 6.2 of Title 29, Code of Federal Regulations, paragraph (c) is proposed revised to read as follows:

§ 6.2 Definitions.

* * * * *

(c) "The Act" means the Service Contract Act of 1965 (41 U.S.C. 351) or any of the statutes identified in § 5.1 of this subtitle.

* * * * *

15. Section 6.10 of Title 29, Code of Federal Regulations, is proposed to be revised to read as follows:

§ 6.10 Decision of the hearing examiner.

(a) *Proposed findings of fact, conclusions, and order.* Within 10 days after receipt of notice that the transcript of the testimony has been filed or such additional time as the hearing examiner may allow, each party may file with the hearing examiner proposed findings of fact, conclusions of law, and order, together with a supporting brief expressing the reasons for such proposals. Such proposals and brief shall be served on all parties, and shall refer to all portions of the record and to all authorities relied upon in support of each proposal.

(b) *Decision of the hearing examiner.* Within a reasonable time after the time allowed for the filing of proposed findings of fact, conclusions of law, and order, or after submission of an agreement containing consent findings and order, the hearing examiner shall make his decision, which shall become the final decision in the administrative process 20 days after service thereof unless exceptions are filed thereto, as provided in § 6.11. The decision of the hearing examiner shall include a statement of findings and conclusions, with reasons and bases therefor, upon each material issue of fact, law, or discretion presented on the record. If the respondent is found to have violated the Act or his contract, the hearing examiner in his decision shall make a recommendation as to whether the respondent should be relieved from the application of the list of those ineligible for future contracts as provided in the pertinent statute or regulation. If liquidated damages or wages are found due and are unpaid, no recommendation for relief shall be made except on condition that the liquidated damages and wages due are paid. The decision shall also include an appropriate order (excluding such issue of ineligibility). The decision of the hearing examiner shall be based upon a consideration of the whole record, including any administrative admissions made under § 6.6. It shall be supported by reliable, probative, and substantial evidence and be made upon the bases of a preponderance of that evidence.

16. Section 6.11 of Title 29, Code of Federal Regulations, is proposed to be revised to read as follows:

§ 6.11 Exceptions.

Within 20 days after the date of the decision of the hearing examiner, any party aggrieved thereby may file exceptions thereto with supporting reasons. Such party shall transmit his exceptions in writing to the Chief Hearing Examiner, referring to the specific findings of fact, conclusions of law, or order excepted to, the specific pages of transcript relevant to the exceptions, and suggesting corrected findings of fact, conclusions of law, or order.

17. Section 6.12 of Title 29, Code of Federal Regulations, is proposed to be revised to read as follows:

§ 6.12 Relief from ineligible list.

(a) *Service Contract Act of 1965.* Application for relief from the ineligible list provision under section 5(a) of the Service Contract Act of 1965 may be filed by the respondent with the Secretary of Labor within 20 days from the date of service of the hearing examiner's decision, Administrator's decision, or Director's decision, as the case may be. Notice of the determination of the Secretary on the application of the ineligible list provision of the act shall be served upon the parties.

(b) *Other statutes.* Application for relief from the ineligibility provisions of § 5.9 (a) or (b) of this subtitle may be filed by the respondent with the Solicitor of Labor within 20 days from the date of the hearing examiner's decision. Notice of the determination of the Solicitor of Labor shall be served on the parties.

18. Section 6.13 of Title 29, Code of Federal Regulations, is proposed to be revised to read as follows:

§ 6.13 Transmission of record.

If exceptions are filed, the hearing examiner shall transmit the record of the proceeding to the Director for review of all exceptions taken in cases which involve only allegations of violations of the safety and health provisions and for review of exceptions which relate to findings concerning violations of the safety and health provisions in cases which involve both allegations of violations of the safety and health provisions and allegations of violations of other provisions. All other exceptions together with the record shall be transmitted to the Administrator or the Solicitor of Labor for review. Those in cases under the Service Contract Act of 1965 and the Contract Work Hours Standards Act in nonconstruction cases shall be transmitted to the Administrator and all others shall be transmitted to the Solicitor of Labor. The record shall include: The pleadings, motions, and requests filed in written form, rulings thereon, the transcript of the testimony and proceeding taken at the hearing, together with the exhibits admitted in evidence, any documents or papers filed in connection with prehearing conferences, such proposed findings of fact, conclusions of law, orders, and supporting reasons, as may have been filed, the hearing examiner's decision, and such exceptions, statements of objections, and briefs in support thereof, as may have been filed in the proceedings.

19. Section 6.14 of Title 29, Code of Federal Regulations, is proposed to be revised to read as follows:

§ 6.14 Decisions and order of the Solicitor of Labor, Administrator or Director.

If exceptions to the decision of the hearing examiner are taken as provided in this part, the Solicitor of Labor, Administrator, or Director, who is to make the review in accordance with § 6.13 shall upon consideration thereof, together with the record references and authorities cited in support thereof, make his decision, which shall affirm, modify, or set aside, in whole or part, the findings, conclusions, and order contained in the decision of the hearing examiner, and shall include a statement of reasons or bases for the actions taken. With respect to the findings of fact, the Solicitor of Labor, Administrator, or Director, as the case may be shall modify or set aside only those findings that are clearly erroneous. Copies of the decision and order shall be served upon the parties. Any such decision and the decision on any application under § 6.12 shall treat any question of relief from the ineligible list under section 5(a) of the Service Contract Act of 1965 to the same extent and subject to the same limitations as provided in § 6.10(b) concerning decisions of the hearing examiner. Decisions of the Solicitor of Labor under this section shall be subject to further review by the Wage Appeals Board pursuant to Part 7 of this subtitle. Decisions of the Solicitor of Labor on applications for relief under § 6.12 from the ineligible list provided in § 5.9 of this subtitle shall observe the limitations provided in § 6.10 (b) and shall be final, except to the extent that it may be reviewed by the Wage Appeals Board pursuant to Part 7 of this subtitle. If no exception is taken and no application is made under § 6.11 or § 6.12, The Solicitor of Labor, Administrator, or Director shall make the necessary decision or recommendation concerning the ineligibility list on an ex parte basis.

20. Part 7 of Title 29 CFR would be amended by revoking 7.10 and amending § 7.1(b), the title to Subpart C, the title and paragraph (a) of § 7.9 and § 7.15(a) to read as follows:

§ 7.1 Purpose and scope.

* * * * *

(b) The Board has jurisdiction to review, on appeal, in its discretion, questions of law, fact, and discretion decided by the Solicitor of Labor.

(1) In determining prevailing wages pursuant to Part 1 of this subtitle, and

(2) In resolving issues of liability and ineligibility for contracts coming before him pursuant to Part 6 of this subtitle.

* * * * *

Subpart C—Review of Other Proceedings

§ 7.9 Review of the debarment and liability proceedings.

(a) In any proceedings to review decisions of the Solicitor on issues of liability and ineligibility for contracts coming before him pursuant to Part 6 of this subtitle, any party may file with the Wage Appeals Board, within a reasonable time after the decision by the Solicitor, a petition for review.

* * * * *

§ 7.10 [Revoked]

§ 7.15 Public information.

(a) Subject to the provisions of §§ 1.15 and 5.6(b) of this subtitle all papers and documents made a part of the official record in the proceedings of the Board and decisions of the Board shall be made available for public inspection during usual business hours at the office of the Board in Washington, D.C.

* * * * *

(Reorganization Plan No. 14 of 1950, 64 Stat. 1267; 5 U.S.C. 301; 3 CFR 1949–53 Comp., p. 1007)

Signed at Washington, D.C., this 30th day of October 1967.

W. WILLARD WIRTZ,
Secretary of Labor.

[F.R. Doc. 67-13019; Filed, Nov. 2, 1967; 8:49 a.m.]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 107]

SMALL BUSINESS INVESTMENT COMPANIES

Definition of Venture Capital

Notice is hereby given that pursuant to authority contained in section 308 of the Small Business Investment Act of 1958, Public Law 85–699, 72 Stat. 694, as amended, it is proposed to amend, as set forth below, Part 107 of Subchapter B, Chapter I, of Title 13 of the Code of Federal Regulations, as revised in 29 F.R. 16946–16961, and amended in 30 F.R. 534, 1187, 2652, 2653, 2654, 3635, 3856, 7597, 7651,8775, 8900, 11960, 13005, 14095, 14850, 14851, 31 F.R. 2815, 4954, 4954–4955, 9720, 10114, 13532, and 32 F.R. 2769, 6620, 7743, and 12842–12844, by amending § 107.12.

The proposed amendment would add a definition of the term Venture Capital to the regulation. In view of the importance of this addition, and its bearing on the eligibility of small business investment companies (SBICs) to sell debentures to Small Business Administration (SBA) under the Small Business Investment Act Amendments of 1967, Public Law 90–104, (Amendments), SBA will conduct a hearing on the proposed definition. The hearing will be held on November 16, 1967, at 10 a.m. in Room 214, Imperial Building, 1441 L Street NW., Washington, D.C. 20416. In addition, written comments and suggestions, in triplicate, are invited.

Comments and suggestions, and notices of intention to testify at the hearing, should be addressed to the Office of the Associate Administrator for Investment, SBA, at the above-given address, not later than November 8, 1967.

Information. The Amendments provide, among other things, that SBA may purchase debentures issued by SBICs in order to encourage the formation and growth of such companies. Debentures may be purchased only to the extent that the necessary funds are not available to the SBIC from private sources on reasonable terms. Also, any outstanding amounts of financial assistance provided to an SBIC by SBA prior to the effective date of the Amendments (Jan. 9, 1968) must be deducted from the maximum

amount of the newly authorized debentures.

The Amendments further provide that the maximum amount of debentures which SBA may purchase from an SBIC which meets the Venture Capital criterion described below will be greater than the maximum amount which it may purchase from an SBIC which does not meet such criterion. Thus, debentures may be purchased from an SBIC which (1) has a combined paid-in capital and paid-in surplus of $1 million or more and (2) has investments or legally binding commitments of 65 percent or more of its total funds available for investment in small business concerns invested or committed in Venture Capital, in an amount not to exceed $2 million plus 300 percent of that portion of the SBIC's paid-in capital and paid-in surplus which exceeds $1 million, with an overall maximum of $10 million. The 65 percent ratio must be maintained during the period in which any debentures attributable to meeting the Venture Capital criterion remain outstanding.

In the case of SBICs which do not meet the 65 percent Venture Capital criterion, debenture purchases by SBA are limited to 200 percent of the combined paid-in capital and paid-in surplus, with a maximum of $7,500,000.

The Amendments define the term Venture Capital to include "such common stock, preferred stock, or other financing with subordination or nonamortization characteristics as the Administration (i.e., SBA) determines to be substantially similar to equity financing."

It is proposed to amend the Regulations Governing Small Business Investment Companies as follows:

By adding at the end of § 107.12 *Definitions* a new paragraph to read as follows:

§ 107.12 Definitions.

* * * * *

Venture Capital. For purposes of this part, the following types of financings will be considered Venture Capital.

a. Common stock and preferred stock provided there is no agreement requiring repurchase by the small business concern.

b. Any right to purchase such stock.

c. Loans (including notes and debentures) provided they are unsecured, subordinated and do not require amortization during the first 5 years.

Dated: October 27, 1967.

ROBERT C. MOOT,
Administrator.

[F.R. Doc. 67-12986; Filed, Nov. 2, 1967; 8:46 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

Guidelines for Compliance by Depositary Banks and Issuing and Paying Agents

The regulations of the Department of the Treasury governing deposits of public money, special deposits of public money, and the qualification of issuing and paying agents of U.S. Savings Bonds and Savings Notes (31 CFR Parts 202, 203, 317, 321) were amended on August 25, 1966, and September 5, 1967, respectively, to incorporate the equal employment opportunity provision of Executive Order 11246, 3 CFR 339, 1964–65 Comp., into the contracts entered into by the Department with such depositaries and agents. The amendments were published on August 27, 1966, 31 F.R. 11388, and September 9, 1967, 32 F.R. 12914.

Under Executive Order 11246 the Secretary of Labor is given the responsibility for assuring compliance with the terms of the order and providing the regulations governing compliance and procedure. These regulations appear in 41 CFR Ch. 60. The Labor Department is in the process of revising these regulations. When revised, they will be more clearly applicable to depositary banks and issuing and paying agents.

Notice is hereby given that until the revised regulations of the Department of Labor are issued in final form the following interpretations of the Executive order and the present regulations will be adhered to by the Treasury Department in the exercise of its responsibility as compliance agency for the depositary banks and issuing and paying agents. Under authorization from the Office of Federal Contract Compliance of the Labor Department, the Treasury Department will issue from time to time regulations and interpretations supplemental to those promulgated by the Labor Department.

1. *Affirmative action.* The first provision respecting equal employment opportunity included in depositary contracts and application-agreements for qualification of issuing and paying agents under the Executive order is the agreement not to discriminate against any employee or applicant for employment because of race, creed, color, or national origin, and to take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to race, creed, color or national origin. This provision means that the depositary banks and issuing and paying agents must actively seek to establish equal employment opportunity as a positive guide in hiring, promoting, selecting for training, and other personnel activities.

2. *Notices and facilities.* The depositary bank and issuing and paying agent agree to post in conspicuous places available to employees and applicants for employment notices, furnished by the Treasury Department, of the nondiscrimination provisions of the Executive order. This Department will provide copies of the standard poster prepared by the Office of Federal Contract Compliance and the Equal Employment Opportunity Commission for this purpose. The depositary bank and issuing agent agree not to maintain or provide for employees any segregated facilities at the main office or any branch office.

3. *Solicitations or advertisements.* The depositary bank and issuing and paying agent agree to include in all solicitations or advertisements for employees a statement that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin. The alternative types of action which will satisfy this requirement are set forth in 41 CFR 60–1.60.

4. *Compliance reports.* Depositary banks and issuing and paying agents having 50 or more employees will be required to file compliance reports annually, on or before the 31st day of March on Standard Form 100 (EEO–1) promulgated jointly by the Office of Federal Contract Compliance, the Equal Employment Opportunity Commission, and Plans for Progress, or such form as may hereafter be promulgated in its place. The Treasury Department will provide the appropriate form. The dollar amount of the contract now stated in Standard Form 100 as one of the criteria determining contractors required to file this report is not considered to be applicable to depositary banks and issuing and paying agents.

5. *Subcontracts.* The definition of "subcontract" in 41 CFR 60–1.2(k) restricts the term to "any agreement made or purchase order executed by a prime contractor or a subcontractor where a material part of the supplies or services covered by such agreement or purchase order is being obtained for use in the performance of a contract." Depositary banks and issuing and paying agents will not be considered to be entering into subcontracts within the application of the Executive order except in those instances where the supplies or services are obtained in material part for use in the performance of the contract with the Treasury Department.

6. *Compliance reviews.* The Treasury Department will conduct compliance reviews, in accordance with the procedure in 41 CFR 60–1.20, to determine the extent to which the contract provisions in the Executive order are being observed. The objective will be to resolve compliance problems by conciliation before formal action.

7. *Complaints.* The Treasury Department, through such officers as it may designate, has the responsibility for investigating complaints directed to the Department or to the Office of Federal Contract Compliance. Every effort will be made to resolve complaints by conciliation.

8. *Communications.* Requests for advice and information may be directed to the Equal Employment Opportunity Officer, U.S. Treasury Department, Washington, D.C. 20220.

[SEAL] ROBERT A. WALLACE,
Assistant Secretary, Equal Employment Opportunity Officer.

[F.R. Doc. 67-13023; Filed, Nov. 2, 1967; 8:50 a.m.]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

JOHN W. HIERONYMUS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of October 23, 1967.

Dated: October 23, 1967.

JOHN W. HIERONYMUS.

[F.R. Doc. 67-13035; Filed, Nov. 2, 1967; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

SOUTH DAKOTA

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the State of South Dakota natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

South Dakota	
Beadle.	Douglas.
Clark.	Hanson.
Codington.	Hutchinson.
Davison.	Roberts.
Deuel.	Sanborn.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1968, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 31st day of October 1967.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 67-13018; Filed, Nov. 2, 1967; 8:49 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

STATE UNIVERSITY OF NEW YORK

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 67-00093-33-46040. Applicant: State University of New York Downstate Medical Center, 450 Clarkson Avenue, Brooklyn, N.Y. 11203. Article: Electron microscope, Model Elmiskop 1A, No. 171000, incorporating series micrograph cassette with airlock, object decontamination device, and superfine focus control for objective lens; closed water-circuit cooling system number 5NY-1C-CR-14; 70mm roll film camera, No. 171023b; vacuum evaporating unit (VBG 500) with equipment for carbon shadowing, No. 172502; and spare parts kit, No. 171005. Manufacturer: Siemens AG, West Germany. Intended use of article: Research and teaching involving the ultrastructural normal and pathologic morphology of tissues in investigation of kidney diseases, liver diseases, intestinal diseases, "small vessel" diseases, neural and neuro-muscular diseases, diseases of the blood and blood forming tissues, malignant diseases (cancer), and microbiologic diseases. Comments: Comments with respect to this application were received from one domestic manufacturer, Radio Corporation of America (RCA), which alleges inter alia that "The RCA Model EMU-4 Electron Microscope is of equivalent scientific value to the instrument for which duty-free entry has been requested for the purposes stated in the application for which the instrument is intended to be used." (Par. (3) RCA comments dated June 29, 1967.) Decision: Application approved for duty-free entry of Elmiskop 1A electron microscope; no instrument or apparatus of equivalent scientific value to this foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Application for duty-free entry of the vacuum evaporating unit model VBG 500 is denied without prejudice to resubmission, for reasons indicated below.

Reasons for approving duty-free entry of Elmiskop 1A electron microscope: (1) This foreign article provides four accelerating voltages, 40, 60, 80 and 100 kilovolts (specifications for Elmiskop 1A electron microscope attached to application), whereas the RCA Model EMU-4 provides only two accelerating voltages, 50 and 100 kilovolts (specifications for RCA Model EMU-4 attached to comments of RCA). The National Bureau of Standards advises (memorandum dated August 3, 1967) that lower accelerating voltages are pertinent to purposes for which the foreign article is intended to be used. In a memorandum dated June 27, 1967, which is added to the record pursuant to § 602.5(b) of the regulations (32 F.R. 2433 et seq.), the Department of Health, Education, and Welfare (HEW) cites references which illustrate that the use of lower accelerating voltages has been under active investigation for several years. (2) The Elmiskop 1A electron microscope provides simple progressions from low to high magnification and from high to low magnification, without need to break the vacuum in the instrument. To achieve progression from low to high magnification in the RCA Model EMU-4 requires a change in pole pieces with an attendant break in the vacuum, which could destroy the specimen. (3) The Elmiskop 1A electron microscope provides focusing a change in pole pieces with an attendant break in the vacuum, which could destroy the specimen. (3) The Elmiskop 1A electron microscope provides focusing steps of 100 Angstroms, whereas the RCA Model EMU-4 provides focusing steps of 300 Angstroms. The differences in fineness of adjustment in focusing are considered pertinent to the purposes for which the Elmiskop 1A electron microscope is intended to be used. (See memorandum from the Department of Health, Education, and Welfare dated Aug. 2, 1967.) For the foregoing reasons, we find that the RCA Model EMU-4 is not of equivalent scientific value to the Model Elmiskop 1A, for the purposes for which this article is intended to be used. The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to this foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States. Reasons for denying duty-free entry of evaporating unit Model VBG 500 without prejudice to resubmission: Vacuum evaporators are used in the preparation of specimens to be examined with electron microscopes and operate independently of the instruments for which specimens are prepared. There are known domestic manufacturers of vacuum evaporators designed for preparing specimens for electron microscopy. We note that the applicant did not include in its application information on the issue of whether any domestic vacuum evaporators were of equivalent scientific value to the Model VBG 500, for the purposes for which it is intended to be used.

The application for duty-free entry of this article is denied without prejudice to resubmission, to afford the applicant an opportunity to remedy this deficiency in the application.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-12977; Filed, Nov. 2, 1967; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

HUNT-WESSON FOODS .

Canned Diced Peaches Deviating From Identity Standard; Notice of Modification of Temporary Permit for Market Testing

Notice was given in the FEDERAL REGISTER of September 26, 1967 (32 F.R. 13466), that a temporary permit had been issued to Hunt-Wesson Foods, 1645 West Valencia Drive, Fullerton, Calif. 92634. The permit, granted pursuant to § 10.5 (21 CFR 10.5), covered interstate marketing tests of canned diced peaches with added erythorbic acid, an ingredient not provided for by the standard of identity for canned peaches (21 CFR 27.2).

Notice is hereby given that the subject temporary permit has been modified to provide for the added ingredient to be named on the label by the statement "Erythorbic acid added to preserve color."

Other terms and conditions of the permit are not altered by this modification.

Dated: October 30, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-12998; Filed, Nov. 2, 1967; 8:47 a.m.]

SILACO CHEMICAL CO.

Notice of Withdrawal of Petition for Food Additives Slimicides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Silaco Chemical Co., 3821 Montrose Avenue, Chicago, Ill. 60618, has withdrawn its petition (FAP 7H2138), notice of which was published in the FEDERAL REGISTER of January 28, 1967 (32 F.R. 1060), proposing an amendment to § 121.2505 *Slimicides* to provide for the safe use of silver bisthiocyanate as a slimicide in the manufacture of paper and paperboard for food-contact use.

Dated: October 30, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-12999; Filed, Nov. 2, 1967; 8:47 a.m.]

Office of Education

ALLOTMENT RATIOS FOR VOCATIONAL EDUCATION ACT OF 1963

Promulgation

Pursuant to section 3 of the Vocational Education Act of 1963 (77 Stat. 403, 20 U.S.C. 35b), the following allotment ratios for the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa, as computed pursuant to said Act on the basis of the average of the per capita incomes for a State and for all the States (exclusive of Puerto Rico, Guam, American Samoa, and the Virgin Islands) for the years 1964, 1965, and 1966, being the three most recent consecutive fiscal years for which satisfactory data are available from the Department of Commerce, are hereby promulgated for the fiscal year ending June 30, 1969.

Alabama	0.6000
Alaska	.4162
Arizona	.5670
Arkansas	.6000
California	.4967
Colorado	.5070
Connecticut	.4000
Delaware	.4000
Florida	.5579
Georgia	.6000
Hawaii	.4718
Idaho	.5805
Illinois	.4047
Indiana	.4857
Iowa	.5118
Kansas	.5178
Kentucky	.6000
Louisiana	.6000
Maine	.5839
Maryland	.4549
Massachusetts	.4430
Michigan	.4518
Minnesota	.5179
Mississippi	.6000
Missouri	.5317
Montana	.5502
Nebraska	.5247
Nevada	.4000
New Hampshire	.5292
New Jersey	.4116
New Mexico	.5957
New York	.4061
North Carolina	.6000
North Dakota	.5939
Ohio	.4856
Oklahoma	.5852
Oregon	.5020
Pennsylvania	.4996
Rhode Island	.4872
South Carolina	.6000
South Dakota	.6000
Tennessee	.6000
Texas	.5724
Utah	.5718
Vermont	.5736
Virginia	.5606
Washington	.4679
West Virginia	.6000
Wisconsin	.5031
Wyoming	.5347
District of Columbia	.4000
American Samoa	.6000
Guam	.6000
Puerto Rico	.6000
Virgin Islands	.6000

Dated: October 27, 1967.

HAROLD HOWE II,
U.S. Commissioner of Education.

[F.R. Doc. 67-12996; Filed, Nov. 2, 1967; 8:47 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-288]

GENERAL DYNAMICS CORP.

Notice of Issuance of Facility License Amendment

The Atomic Energy Commission has issued Amendment No. 1, effective as of the date of issuance and in the form set forth below, to Facility License No. R-105. The license authorizes General Dynamics Corp. to operate its Accelerator Pulsed Fast Critical Assembly III (APFA-III) nuclear reactor facility located at the Corporation's site on Torrey Pines Mesa in San Diego, Calif.

This amendment authorizes storage of APFA-III fuel pieces in Butler Building No. 10 located at the Corporation's General Atomic Waste Yard Facility.

Within fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing, and any person whose interest may be affected by the issuance of this amendment may file a petition for leave to intervene. A request for a hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's rules of practice, 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, a notice of hearing or an appropriate order will be issued.

For further details with respect to this license amendment, see (1) the application dated September 25, 1967, and (2) the related Safety Evaluation prepared by the Division of Reactor Licensing, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of items (2) above may be obtained at the Commission's Public Document Room, or upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 25th day of October 1967.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[License R-105, Amdt. 1]

FACILITY LICENSE AMENDMENT

The Atomic Energy Commission has found that:

a. The application for license amendment dated September 25, 1967, complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Ch. I, CFR;

b. The issuance of this amendment and the licensee's engaging in the activities authorized thereunder will not be inimical to the common defense and security or to the health and safety of the public; and

c. Prior public notice of proposed issuance of this amendment is not required since the amendment does not involve significant hazard considerations different from those previously evaluated.

Facility License No. R-105, is amended, effective as of the date of issuance, in the following respects:

1. In paragraph "1" after February 22, 1967, add September 25, 1967; and

2. Subparagraph 3.D is revised to read:

D. Storage of the APFA-III fuel shall be limited to the CD Area, to the Fast Spectrum Cell and to Butler Building No. 10.

Date of issuance: October 25, 1967.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[F.R. Doc. 67-13075; Filed, Nov. 2, 1967; 8:45 a.m.]

[Docket Nos. 50-277, 50-278]

PHILADELPHIA ELECTRIC CO.

Notice of Hearing on Application for Provisional Construction Permits

In the matter of Philadelphia Electric Co., (Peach Bottom Atomic Power Station Units No. 2 and 3); Docket Nos. 50-277, 50-278.

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities", and Part 2, "Rules of Practice", notice is hereby given that a hearing will be held at 10 a.m., local time on December 7, 1967 in the Delta-Cardiff Community Memorial Hall, Main Street, Delta, Pa., to consider the application filed under section 104b. of the Act by Philadelphia Electric Co., for provisional construction permits for two boiling water reactors each designated to operate at 3,293 megawatts

(thermal) to be located at Peach Bottom, York County, Pa.

The hearing will be conducted by the Atomic Safety and Licensing Board designated by the Atomic Energy Commission consisting of Dr. Lawrence R. Quarles, Charlottesville, Va.; Dr. David B. Hall, Los Alamos, N. Mex.; and Jack M. Campbell, Esq., Chairman, Santa Fe, N. Mex. Dr. Hugh C. Paxton, Los Alamos, N. Mex., has been designated as a technically qualified alternate.

A prehearing conference will be held by the Board at 10 a.m., local time, on November 21, 1967, in the Delta-Cardiff Community Memorial Hall, Main Street, Delta, Pa., to consider the matters provided for consideration by § 2.752 of 10 CFR Part 2 and section II of Appendix A to 10 CFR Part 2.

The Director of Regulation proposes to make affirmative findings on Item Numbers 1–3 and a negative finding on Item 4 specified below as the basis for the issuance of provisional construction permits to the applicant substantially in the form proposed in Appendices A and B hereto.

1. Whether in accordance with the provisions of 10 CFR 50.35(a)

(a) The applicant has described the proposed design of the facilities, including, but not limited to, the principal architectural and engineering criteria for the design, and has identified the major features or components incorporated therein for the protection of the health and safety of the public;

(b) Such further technical or design information as may be required to complete the safety analysis and which can reasonably be left for later consideration, will be supplied in the final safety analysis reports;

(c) Safety features or components, if any, which require research and development have been described by the applicant and the applicant has identified, and there will be conducted, a research and development program reasonably designed to resolve any safety questions associated with such features or components; and

(d) On the basis of the foregoing, there is reasonable assurance that (i) such safety questions will be satisfactorily resolved at or before the latest dates stated in the application for completion of construction of the proposed facilities and (ii) taking into consideration the site criteria contained in 10 CFR Part 100, the proposed facilities can be constructed and operated at the proposed location without undue risk to the health and safety of the public;

2. Whether the applicant is technically qualified to design and construct the proposed facilities;

3. Whether the applicant is financially qualified to design and construct the proposed facilities; and

4. Whether the issuance of permits for the construction of the facilities will be inimical to the common defense and security or to the health and safety of the public.

In the event that this proceeding is not a contested proceeding, as defined by § 2.4 of the Commission's rules of practice, 10 CFR Part 2, the Board will, without conducting a de novo evaluation of the application, consider the issues of whether the application and the record of the proceeding contain sufficient information, and the review by the Commission's regulatory staff has been adequate, to support the findings proposed to be made and the provisional construction permits proposed to be issued by the Director of Regulation.

In the event that this proceeding becomes a contested proceeding, the Board will consider and initially decide, as the issues in this proceeding, Item Numbers 1 through 4 above as the basis for determining whether the provisional construction permits should be issued to the applicant.

As they become available, the application, the report of the Commission's Advisory Committee on Reactor Safeguards (ACRS) and the Safety Evaluation by the Commission's regulatory staff will be placed in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., where they will be available for inspection by members of the public. Copies of the ACRS report and the regulatory staff's Safety Evaluation may be obtained by request to the Director of the Division of Reactor Licensing, United States Atomic Energy Commission, Washington, D.C. 20545.

Any person who wishes to make an oral or written statement in this proceeding setting forth his position on the issues specified, but who does not wish to file a petition for leave to intervene, may request permission to make a limited appearance pursuant to the provisions of § 2.715 of the Commission's rules of practice. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, by November 16, 1967.

Any person whose interest may be affected by the proceeding who does not wish to make a limited appearance and who wishes to participate as a party in the proceeding must file a petition for leave to intervene.

Petitions for leave to intervene, pursuant to the provisions of § 2.714 of the Commission's rules of practice, must be received in the Office of the Secretary, U.S. Atomic Energy Commission, Germantown, Md., or the Commission's Public Document Room, 171 H Street NW., Washington, D.C., not later than November 16, 1967, or in the event of a postponement of the prehearing conference, at such time as the Board may specify.

The petition shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by Commission action and the contentions of the petitioner. A petition for leave to intervene which is not timely filed will be denied unless the petitioner shows good cause for failure to file it on time.

A person permitted to intervene becomes a party to the proceeding, and has all the rights of the applicant and the regulatory staff to participate fully in the conduct of the hearing. For example, he may examine and cross-examine witnesses. A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above. A member of the public does not have the right to participate unless he has been granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, pursuant to the provisions of § 2.705 of the Commission's rules of practice, must be filed by the applicant on or before November 16, 1967.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, or may be filed by delivery to the Office of the Secretary, U.S. Atomic Energy Commission, Germantown, Md., or the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545.

Pending further order of the Board, parties are required to file, pursuant to the provisions of § 2.708 of the Commission's rules of practice, an original and 20 conformed copies of each such paper with the Commission.

Dated at Germantown, Md., this 1st day of November 1967.

UNITED STATES ATOMIC ENERGY COMMISSION,
W. B. McCOOL,
Secretary to the Commission.

APPENDIX A

[Peach Bottom Atomic Power Station Unit No. 2]

[Docket No. 50-277]

PROVISIONAL CONSTRUCTION PERMIT

Construction Permit No. .....

1. Pursuant to section 104b. of the Atomic Energy Act of 1954, as amended (the Act), and Title 10, Chapter I, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities", and pursuant to the order of the Atomic Safety and Licensing Board, the Atomic Energy Commission (the Commission) hereby issues a provisional construction permit to Philadelphia Electric Co. (the applicant) for a utilization facility (the facility), designed to operate at 3,295 megawatts (thermal), described in the application and amendments thereto filed in this matter by the applicant and as more fully described in the evidence received at the public hearing upon that application. The facility, known as Peach Bottom Atomic Power Station Unit No. 2 will be located at the applicant's site in Peach Bottom, York County, Pa.

2. This permit shall be deemed to contain and be subject to the conditions specified in §§ 50.54 and 50.55 of said regulations; is subject to all applicable provisions of the Act, and rules, regulations and orders of the Commission now or hereafter in effect; and is subject to the conditions specified or incorporated below:

A. The earliest date for the completion of the facility is June 1, 1970, and the latest date for completion of the facility is October 1, 1970.

B. The facility shall be constructed and located at the site as described in the application, as amended, at Peach Bottom in York County, Pa.

C. This construction permit authorizes the applicant to construct the facility described in the application and the hearing record in accordance with the principal architectural and engineering criteria set forth therein.

3. This permit is provisional to the extent that a license authorizing operation of the facility will not be issued by the Commission unless (a) the applicant submits to the Commission, by amendment to the application, the complete final safety analysis report, portions of which may be submitted and evaluated from time to time; (b) the Commission finds that the final design provides reasonable assurance that the health and safety of the public will not be endangered by the operation of the facility in accordance with procedures approved by it in connection with the issuance of said license; and (c) the applicant submits proof of financial protection and the execution of an indemnity agreement as required by section 170 of the Act.

For the Atomic Energy Commission.

APPENDIX B

[Peach Bottom Atomic Power Station Unit No. 3]

[Docket No. 50-278]

PROVISIONAL CONSTRUCTION PERMIT

Construction Permit No. .....

1. Pursuant to section 104b. of the Atomic Energy Act of 1954, as amended (the Act), and Title 10, Chapter I, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities", and pursuant to the order of the Atomic Safety and Licensing Board, the Atomic Energy Commission (the Commission) hereby issues a provisional construction permit to Philadelphia Electric Co. (the applicant), for a utilization facility (the facility), designed to operate at 3,295 megawatts (thermal), described in the application and amendments thereto filed in this matter by the applicant and as more fully described in the evidence received at the public hearing upon that application. The facility, known as Peach Bottom Atomic Power Station Unit No. 3 will be located at the applicant's site in Peach Bottom, York County, Pa.

2. This permit shall be deemed to contain and be subject to the conditions specified in §§ 50.54 and 50.55 of said regulations; is subject to all applicable provisions of the Act, and rules, regulations and orders of the Commission now or hereafter in effect; and is subject to the conditions specified or incorporated below:

A. The earliest date for the completion of the facility is June 1, 1972, and the latest date for completion of the facility is October 1, 1973.

B. The facility shall be constructed and located at the site as described in the application, as amended, at Peach Bottom in York County, Pa.

C. This construction permit authorizes the applicant to construct the facility described in the application and the hearing record in accordance with the principal architectural and engineering criteria set forth therein.

3. This permit is provisional to the extent that a license authorizing operation of the facility will not be issued by the Commission unless (a) the applicant submits to the Commission, by amendment to the application, the complete final safety analysis report, portions of which may be submitted and evaluated from time to time; (b) the Commission finds that the final design provides reasonable assurance that the health and safety of the public will not be endangered by the operation of the facility in accordance with procedures approved by it in connection with the issuance of said license; and (c) the applicant submits proof of financial protection and the execution of an indemnity agreement as required by section 170 of the Act.

For the Atomic Energy Commission.

[F.R. Doc. 67-13082; Filed, Nov. 2, 1967; 8:50 a.m.]

CIVIL AERONAUTICS BOARD

[Docket Nos. 19016, 19192; Order E-25903]

AMERICAN AIRLINES, INC.

Order Instituting Investigation and Granting Exemption

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 31st day of October 1967.

Application of American Airlines, Inc., Docket No. 19016, for an exemption pursuant to section 416(b) of the Federal Aviation Act of 1958, as amended, Houston-Cleveland Nonstop Investigation, Docket No. 19192.

On September 19, 1967, American Airlines, Inc. (American), filed an application requesting exemption authority, after providing one daily round trip between Houston, Tex., and Pittsburgh, Pa., to operate an additional daily round trip flight on a one-stop basis between Houston and Cleveland via Nashville, Tenn., without serving Pittsburgh.[1] In support of its application, American alleges, inter alia, that this exemption would benefit the public by enabling American to improve its Houston-North services, to provide first single-plane service in the Houston-Cleveland market, and to improve its Houston-Nashville service; that a through-plane service between Houston and Cleveland is needed by both cities; and that this request is limited in extent by reason of the fact that it involves only one daily round trip on a one-stop basis.

The principal civic parties affected by American's proposal all filed answers in support of the application.[2] Answers in opposition to American's application were filed by Delta Air Lines, Inc., Eastern Air Lines, Inc., and Trans World Airlines, Inc. These carriers generally allege that American's application does not meet the requirements of section 416(b) of the Act; that the factual statements made by American need the further analysis which a hearing could best provide; and that the application presents certain issues which are currently being heard in the Gulf States-Midwest Points Service Investigation, Docket 17726. Eastern further alleges that it has filed an application in Docket 19065 which is mutually exclusive with the authority sought herein by American, and thus a hearing on both applications is required.

Upon consideration of the foregoing pleadings we have decided to grant American exemption authority, after the provision of one daily round trip in the Houston-Pittsburgh market, to operate one daily one-stop round trip between Houston and Cleveland via Nashville without serving Pittsburgh, pending the conclusion of an investigation which we are instituting herein to determine whether the public convenience and necessity require the grant of nonstop authority over a new segment between Houston and Cleveland.[3]

Houston and Cleveland are, on the basis of the 1960 U.S. Census, the seventh and eighth largest cities in the United States, with populations of 938,219 and 876,950, respectively. However, these two cities are without any single-plane service to link them. Moreover, as American points out, direct through-plane service is authorized in all of Houston's ten leading long-haul markets (over 1,000 miles) except Cleveland, and vice versa. Despite the fact that the only available service has been both circuitous and via connecting flights, in 1966 over 14,000 O&D passengers were generated in this market, or almost 40 passengers a day. In these circumstances it is logical to assume that, if single-plane service were provided, the traffic would respond significantly. In our view, this amount of traffic when related to the service available warrants the institution of an investigation to determine whether the public convenience and necessity require

[1] Houston is on segment 4 of American's route 4, while Cleveland is on segments 1 and 2. Thus American presently has authority to operate Houston-Cleveland single-plane service via the segment junction point, Nashville. However, condition (16) of its certificate requires all flights serving Houston on segment 4 also to serve Pittsburgh—a requirement which could only be met, given American's route structure, by a flight pattern such as Houston-Nashville-Cleveland-Columbus-Pittsburgh. American, however, contends that such a flight pattern would not be economically feasible, and that an exemption from condition (16) is needed to make possible a feasible Houston-Nashville-Cleveland service.

[2] City of Cleveland, Ohio; Cleveland Chamber of Commerce; city of Houston, Tex.; Houston Chamber of Commerce; and Metropolitan Government of Nashville and Davidson County, Tenn.

[3] Contrary to the contentions of Delta and TWA, there is no material conflict between the services which might result from the Gulf States-Midwest Points Service Investigation, Docket 17726, in the Houston-Cleveland and San Antonio-Cleveland markets and the investigation we are instituting herein. The issues of the Gulf States case will not permit the authorization of nonstop Houston-Cleveland service therein; at best, that case could result in the authorization of one-stop service over St. Louis, by tacking of new Houston-St. Louis with existing St. Louis-Cleveland authority, and the best Houston-Cleveland service any carrier has actually proposed is two-stop. These services, we find, would be so far inferior to the nonstop service we propose to investigate herein that there is no significant problem of overlap or mutual exclusivity. And, while one-stop San Antonio-Cleveland service (via Chicago or Detroit could result from Gulf States, no applicant in that case has in fact proposed any single-plane service in this market.

the authorization of nonstop service over a new segment between Houston and Cleveland.[4]

We shall also grant American's exemption application pending final Board action in the investigation.[5] We find that grant of this limited authority to American will benefit the traveling public and is in the public interest. Our action will permit Houston and Cleveland to receive the benefits, for the interim period, of the single-plane service which American proposes herein.[6] As we indicated above, both these cities are major U.S. traffic points, which, despite the absence of through-plane service to link them, generated over 40 Houston-Cleveland O&D passengers daily during 1966. To deny this exemption application would only serve to inconvenience further these passengers until the investigation is completed.

We also find that our award will not result in any meaningful diversion of revenues from any other carrier. No carrier opposing American's application claims that this authorization would result in traffic diversion from it. Although there are at present over 14,600 passengers in the market, participation in this traffic is divided between a number of carriers, so that no one carrier stands to suffer a diversionary impact which would have any significant consequences for its overall operations. This in turn is underscored by the fact that American is being authorized herein to provide only one daily round trip on a one-stop basis.

The exemption granted herein is temporary, involves no new stations for American, and is limited to one daily one-stop round trip. American already holds certificate authority to provide single-plane Cleveland service; the effect of the exemption will be simply to relieve American of the requirement that its daily Houston-Cleveland flight backhaul to Columbus and then proceed on to Pittsburgh. The condition we are imposing will insure that American does not reduce the level of its Houston-Pittsburgh service; accordingly, to require its proposed Houston-Cleveland flight also to serve Pittsburgh in the manner indicated would be economically wasteful, and is not required to fulfill the purpose for which the certificate restriction was originally imposed. Moreover, this award will permit American increased operational flexibility in serving its Houston markets. Thus, this award will permit American to increase the volume of its Houston-Nashville service as well as to provide first single-plane service between San Antonio and Houston on the one hand and Cleveland on the other. The factors set forth above establish that an exemption to American is in the public interest.

In these circumstances it would be an undue burden on American to deprive it of the revenues, savings, and increased operational flexibility which will inure to it from the services we are authorizing. Accordingly, we find that enforcement of section 401 of the Federal Aviation Act of 1958, as amended, and the terms, conditions, and limitations of American's certificate would be an undue burden on the carrier by reason of the limited extent of and unusual circumstances affecting its operations and is not in the public interest.

Accordingly, it is ordered, That:

1. An investigation designated as the Houston-Cleveland Nonstop Investigation be and it hereby is instituted in Docket 19192, pursuant to sections 204(a) and 401(g) of the Federal Aviation Act of 1958, as amended, to determine whether the public convenience and necessity require the alteration, amendment or modification of any air carrier authorizations so as to authorize nonstop service on a new segment between Houston, Tex., and Cleveland, Ohio;

2. American Airlines, Inc., be and it hereby is exempted from section 401 of the Act and the terms, conditions, and limitations of its certificate of public convenience and necessity for route 4 to the extent necessary to permit it to operate one daily round trip flight on a one-stop basis between Cleveland, Ohio, and Houston, Tex., via Nashville, Tenn., without being required to serve Pittsburgh, Pa., on such flight, subject to the condition that it provide at least one daily round trip between Houston, Tex., and Pittsburgh, Pa.;

3. The authority granted herein shall terminate 60 days after final Board action in the investigation instituted herein;

4. Except to the extent granted herein, the application of American Airlines, Inc., in Docket 19016 be and it hereby is denied;

5. Motions to consolidate, applications, and motions or petitions seeking modification or reconsideration of this order shall be filed no later than 20 days after the service date of this order, and answers to such pleadings shall be filed no later than 10 days thereafter;

6. This proceeding shall be set down for hearing before an examiner of the Board at a time and place hereafter designated; and

7. A copy of this order shall be served upon the city of Cleveland, Ohio; Cleveland Chamber of Commerce; city of Houston, Tex.; Houston Chamber of Commerce; Metropolitan Government of Nashville and Davidson County, Tenn.; Nashville Metropolitan Airport Authority; American Airlines, Inc.; Delta Air Lines, Inc.; Eastern Air Lines, Inc.; and Trans World Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 67-13002; Filed, Nov. 2, 1967; 8:48 a.m.]

[4] We will provide that any authority granted pursuant to this investigation shall be in the form of a separate segment.

[5] Contrary to Easterns' contention, the authorization to American we are granting herein is not mutually exclusive with Eastern's application for certificate authority in Docket 19065. The fact that American holds temporary one-stop exemption authority in this market will in no way prejudice the outcome of the nonstop investigation. Similarly, the existence of American's temporary exemption authority will not be a decisional factor in the Gulf States case.

[6] No other carrier has requested such exemption authority.

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 17740, 17741; FCC 67M-1824]

BALTIMORE BROADCASTING CO. AND MEADOWS BROADCASTING CO., INC.

Order Canceling Hearing

In re applications of Baltimore Broadcasting Co., Baltimore, Md., Docket No. 17740, File No. BPCT-3810; The Meadows Broadcasting Co., Inc., Baltimore, Md., Docket No. 17741, File No. BPCT-3878; for construction permit for new television broadcast station (Channel 54).

It is ordered, That the prehearing conference scheduled for October 30, 1967, is continued to December 13, 1967 at 10 a.m., and

It is further ordered, That the hearing date of December 13, 1967, heretofore specified is canceled.

Issued: October 27, 1967.

Released: October 30, 1967.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-13004; Filed, Nov. 2, 1967; 8:48 a.m.]

[Docket No. 17774; FCC 67M-1825]

CLEARVIEW TV CABLE, INC.

Order Continuing Hearing

In re cease and desist order to be directed against the following CATV operator: Clearview TV Cable, Inc., Enumclaw and Buckley, Wash., Docket No. 17774.

KIRO, Inc., licensee of Station KIRO-TV, Seattle, Wash., filed on October 17, 1967, a petition for leave to intervene in the above-entitled proceeding. This petition was considered at the prehearing conference held on this date, and no objection to granting the petition was made. Good cause for granting the petition was shown.

It is ordered, That the petition for leave to intervene is granted, and KIRO, Inc., licensee of KIRO-TV, Seattle, Wash., is made a party to this proceeding;

It is further ordered, Pursuant to the agreements reached at the prehearing conference, that the evidentiary hearing is continued from Monday, November 6, 1967 to Tuesday, November 7, 1967, beginning at 10 a.m., in the offices of the Commission, Washington, D.C.

Issued: October 27, 1967.

Released: October 30, 1967.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-13005; Filed, Nov. 2, 1967; 8:48 a.m.]

[Docket Nos. 17648, 17649; FCC 67R-462]

EL CAMINO BROADCASTING CORP. AND SOUTH COAST BROADCASTING CO.

Memorandum Opinion and Order Enlarging Issues

In re applications of El Camino Broadcasting Corp., San Clemente, Calif., Docket No. 17648, File No. BPH-5566; Leon Hynen, Charles W. Jobbins, and Leon F. Westendorf, doing business as South Coast Broadcasting Co., San Clemente, Calif., Docket No. 17649, File No. BPH-5756; for construction permits.

1. This proceeding involves the above-captioned mutually exclusive applications for FM broadcast stations operating on Channel 300 in San Clemente, Calif. The applications were designated for hearing by an order (Mimeo No. 4796), released August 18, 1967, on a standard comparative issue. Presently before the Review Board is a petition to enlarge issues, filed September 7, 1967 by South Coast Broadcasting Co. (South Coast), for an issue to determine whether, from the proposed transmitter site, El Camino Broadcasting Corp. (El Camino) will provide satisfactory coverage of the principal community to be served.[1]

2. In support of its request, South Coast submits an engineering statement, which, it contends, shows that the city of San Clemente is well below the line-of-sight from El Camino's proposed antenna for the bearings from about 180° to 235° from the transmitter site, and that the area shadowed includes all of the main business district and more than one-half of the area within the San Clemente city limits. The Broadcast Bureau supports the addition of an issue. El Camino, in opposition, contends that no new information is submitted that was not known to the Commission, and that the Commission found it technically qualified to operate an FM station in San Clemente, Calif. It further contends that the petitioner failed to demonstrate the degree of attenuation of El Camino's proposed signal from its site in any direction, and that it has submitted no measurements or any other meaningful engineering data which would demonstrate the signal strength over the principal city to be served. El Camino's engineer, in a statement submitted with the opposition, contends that the expected signal over the city will be 100 dbu, or greater, and that it is reasonable to expect that signals from the proposed El Camino site will not suffer attenuation in excess of 30 db. South Coast replies that it has submitted a profile study of eight radials (in addition to the three radials set forth in El Camino's application) and a line showing the line-of-sight limit of coverage; that the burden of proof regarding the selection of a transmitter site is upon El Camino; that the rules state that, if a shadow problem exists, the applicant may be required to make site tests; and that no reasons are offered, no authorities are quoted, and no calculations are shown to support the opinion expressed by El Camino's engineer as to the expected level of signal attenuation.

3. The petitioner's request for addition of an issue will be granted. By submission of ground profiles of 11 radials over the bearings of 180° to 270°, South Coast has shown the existence of a land barrier over the bearings of 180° to 235° which could attentuate the signal to a level below the required value over the city proper. In view of El Camino's failure to to submit supporting data to substantiate the opinion it expresses as to the expected level of signal attenuation, the Board is unable to resolve this question on the basis of the pleadings.[2] An issue under which the question can be resolved at the hearing will therefore be added.[3]

Accordingly, it is ordered, That the petition of Leon Hynen, Charles W. Jobbins and Leon F. Westendorf, doing business as South Coast Broadcasting Co. to enlarge issues with respect to the application of El Camino Broadcasting Corp., filed September 7, 1967, is granted; and

It is further ordered, That the issues in this proceeding are enlarged by the addition of the following issue: To determine whether the operation of an FM broadcast station by El Camino Broadcasting Corp. from its proposed transmitter site will provide the required signal over the principal community to be served.

It is further ordered, That the burden of proceeding and burden of proof under the issue added herein will be on El Camino Broadcasting Corp.

Adopted: October 27, 1967

Released: October 31, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[4]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-13006; Filed, Nov. 2, 1967; 8:48 a.m.]

[1] Also before the Review Board are: (a) Opposition of El Camino, filed Sept. 20, 1967; (b) Broadcast Bureau's comments, filed Sept. 21, 1967; (c) opposition to Bureau's comments, filed Sept. 25, 1967, by El Camino; and (d) reply to opposition, filed Sept. 27, 1967, by South Coast.

[2] Cf BBPS Broadcasting Corp., 5 FCC 2d 969, 8 RR 2d 1235 (1966).

[3] Since the designation order herein contains no reference to the particular question raised in the subject petition, the Board is not precluded from consideration of the merits of the allegations. See Atlantic Broadcasting Co. (WUST), FCC 66-1058, 5 FCC 2d 717.

[4] Board Member Berkemeyer absent.

[Docket Nos. 17594, 17595; FCC 67M-1839]

GOSPEL BROADCASTING COMPANY OF FORT WAYNE, INC., AND FORT WAYNE BROADCASTING CO.

Order Continuing Hearing

In re applications of the Gospel Broadcasting Company of Fort Wayne, Inc., Fort Wayne, Ind., Docket No. 17594, File No. BPH-5561; Clarence C. Moore trading as Fort Wayne Broadcasting Co., Fort Wayne, Ind., Docket No. 17595, File No. BPH-5672; for construction permits.

The Hearing Examiner having under consideration an unopposed oral motion by counsel for Clarence C. Moore, trading as Fort Wayne Broadcasting Co., asking for brief postponements of certain procedural dates, and

It appearing that such postponements are proper under the circumstances:

It is ordered, That:

1. Exchange of exhibits shall occur November 17, 1967,

2. Notification of witnesses for cross-examination shall occur November 27, 1967, and

3. The hearing now scheduled for November 27, 1967 is rescheduled to commence at 10 a.m., December 4, 1967, in the Commission's offices in Washington, D.C.

Issued: October 27, 1967.

Released: October 30, 1967.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-13007; Filed, Nov. 2, 1967; 8:48 a.m.]

[Docket Nos. 17609, 17610; FCC 67M-1837]

MINSHALL BROADCASTING CO., INC., AND UNIVERSITY CITY TELEVISION CABLE CO., INC.

Order Continuing Prehearing Conference

In re applications of Minshall Broadcasting Co., Inc., Gainesville, Fla., Docket No. 17609, File No. BPCT-3879; University City Television Cable Co., Inc., Gainesville, Fla., Docket No. 17610, File No. BPCT-3939; for construction permit for new television broadcast station.

On the Hearing Examiner's own motion: *It is ordered*, That there will be a prehearing conference in this proceeding on November 9, 1967, 9 a.m., in the Commission's offices, Washington, D.C.

Issued: October 27, 1967.

Released: October 30, 1967.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-13008; Filed, Nov. 2, 1967; 8:48 a.m.]

[Docket No. 17626; FCC 67M-1630]

NATCHEZ BROADCASTING CO. (WMIS)

Order Continuing Hearing

In re application of Natchez Broadcasting Co. (WMIS), Natchez, Miss., for construction permit, Docket No. 17626, File No. BP-18963.

It is ordered, In accordance with the agreement of all counsel reached during prehearing conference held October 27, 1967, that the following procedural dates are established in the above-entitled proceeding:

Preliminary Exchange of Exhibits, November 27, 1967.

Final Exchange of Exhibits, December 6, 1967.

Notification of Witnesses, December 12, 1967.

Hearing continued from October 31 to December 14, 1967.

Issued: October 27, 1967.

Released: October 30, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13009; Filed, Nov. 2, 1967; 8:48 a.m.]

[Docket No. 17420, 17421; FCC 67M-1636]

MICHAEL S. RICE AND FIRST CAPITOL RADIO, INC.

Order Continuing Hearing

In re applications of Michael S. Rice, St. Charles, Mo., Docket No. 17420, File No. BP-17043; First Capitol Radio, Inc., St. Charles, Mo., Docket No. 17421, File No. BP-17155; for standard broadcast construction permits.

Under consideration is a motion for continuance of hearing; and

It appearing that the two applicants are prosecuting before the Review Board action which may moot this hearing;

And it further appearing that the only other party to the hearing, the Broadcast Bureau, has no objection to grant of the continuance requested:

It is ordered, That the motion for continuance of hearing filed by Michael S. Rice on October 26, 1967, is granted and the hearing now scheduled for October 31, 1967, is continued to January 2, 1968.

Issued: October 27, 1967.

Released: October 30, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13010; Filed, Nov. 2, 1967; 8:48 a.m.]

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN BRAZIL

Entry or Withdrawal From Warehouse for Consumption

OCTOBER 27, 1967.

On October 23, 1967, the U.S. Government, in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles, done at Geneva on February 9, 1962, including Article 6(c) thereof relating to nonparticipants, informed the Government of Brazil that it was renewing for an additional 12-month period beginning October 28, 1967, and extending through October 27, 1968, the restraint on imports to the United States of cotton textiles in Category 9, produced or manufactured in Brazil. The level of restraint for this 12-month period is 5 percent greater than the level of restraint applicable to this category for the preceding 12-month period.

There is published below a letter of October 26, 1967, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, directing that the amounts of cotton textiles in Category 9, produced or manufactured in Brazil, which may be entered or withdrawn from warehouse for consumption in the United States, for the 12-month period beginning October 28, 1967, and extending through October 27, 1968, be limited to the designated level.

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.

THE SECRETARY OF COMMERCE
PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE
WASHINGTON, D.C. 20230,
OCTOBER 26, 1967.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, including Article 6(c) thereof relating to nonparticipants, and in accordance with the procedures outlined in Executive Order 11052 of September 28, 1962, as amended by Executive Order 11214 of April 7, 1965, you are directed to prohibit, effective October 28, 1967, and for the 12-month period extending through October 27, 1968, entry into the United States for consumption and withdrawal from warehouse for consumption, of cotton textiles in Category 9, produced or manufactured in Brazil, in excess of a 12-month level of restraint of 607,754 square yards.

Entries of cotton textiles in Category 9, produced or manufactured in Brazil, which have been exported to the United States from Brazil prior to October 28, 1967, shall be subject to this directive since the level for the period October 28, 1966, through October 27, 1967, has been exhausted by previous entries.

A detailed description of Category 9 in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on July 7, 1966 (31 F.R. 9310).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Brazil and with respect to imports of cotton textiles and cotton textile products from Brazil have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 553 (Supp. II, 1965-66). This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

DAVID R. BALDWIN,
Acting Secretary of Commerce, Chairman, President's Cabinet Textile Advisory Committee.

[F.R. Doc. 67-12980; Filed, Nov. 2, 1967; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 31, 1967.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of Practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41157—*Potassium (potash) to points in Idaho, Oregon, and Washington.* Filed by G. H. Mitchell, agent (No. 15), for interested rail carriers. Rates on potassium (potash), in carloads, as described in the application, from Allan Mines, Duvco and Vade, Saskatchewan, Canada, to points in Idaho, Oregon, and Washington.

Grounds for relief—Market competition.

Tariff—Supplement 46 to G. H. Mitchell, agent, tariff ICC 144.

FSA No. 41158—*Cotton and related articles to Gideon, Mo.* Filed by Southwestern Freight Bureau, agent (No. B-9021), for interested rail carriers. Rates on cotton, cotton linters, and cottonseed hull fiber or shavings, in carloads, as described in the application, from points in Kansas, New Mexico, Oklahoma, and Texas, to Gideon, Mo.

Grounds for relief—Market competition.

Tariff—Supplement 83 to Southwestern Freight Bureau, agent, tariff ICC 4576.

FSA No. 41159—*Iron and steel articles from Arroyo, W. Va.* Filed by Southwestern Freight Bureau, agent (No. B-9019), for interested rail carriers. Rates on iron and steel articles, in carloads, as described in the application, from Arroyo, W. Va., to specified points in Louisiana and Texas.

Grounds for relief—Market competition.

Tariff—Supplement 11 to Southwestern Freight Bureau, agent, tariff ICC 4573.

FSA No. 41160—*Vermiculite to Wilmington, Del.* Filed by O. W. South, Jr., agent (No. A5064), for interested rail carriers. Rates on vermiculite, in carloads, as described in the application, from Travelers Rest and Kearney, S.C., to Wilmington, Del.

Grounds for relief—Market competition.

Tariff—Supplement 61 to Southern Freight Association, agent, tariff ICC S-623.

FSA No. 41161—*Fish meal from points in Canada to points in southern territory.* Filed by O. W. South, Jr., agent (No. A5063), for interested rail carriers. Rates on fish meal, in carloads, from points in provinces of New Brunswick, Nova Scotia, Prince Edward Island, and Quebec, Canada, to points in Southern Freight Association territory.

Grounds for relief—Market competition, short-line distance formula and grouping.

Tariff—Canadian Freight Association, agent, tariff ICC 287.

By the Commission.

[SEAL] ANDREW ANTHONY, JR.,
Acting Secretary.

[F.R. Doc. 67-13000; Filed, Nov. 2, 1967; 8:47 a.m.]

[Notice 486]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 31, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protest must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 66562 (Sub-No. 2206 TA), filed October 23, 1967. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York, N.Y. 10017. Applicant's representative: John H. Engel, 2413 Broadway, Kansas City, Mo. 64108. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* moving in express service, in interstate or foreign commerce, between Temple and Killeen, Tex., serving no intermediate or off-route points: from Temple over U.S. Highway 190 to Killeen, and return over the same route. Restrictions: The service to be performed shall be limited to that which is auxiliary to or supplemental of express service of the Railway Express Agency, Inc. Shipments transported shall be limited to those moving on through bills of lading or express receipts. NOTE: Applicant requests that the authority for the proposed operation, if granted, be construed as an extension, to be joined, tacked, and combed with REA's existing authority in MC 66562 and subs thereunder, thereby negating the restrictions against tacking or joinder customarily placed upon temporary authority, for 150 days. Supporting shippers: Railway Express Agency, Inc., 219 East 42d Street, New York, N.Y. 10017; Rhonda Rae Shelley, Manager, Copelin's, Killeen, Tex.; Stanley L. Weiss, Killeen, Tex.; Stanley Cohen, The Stag Shop, Killeen, Tex.; B. E. Bradsby, President, Gibsons Discount Stores, Killeen, Tex. Send protests to: District Supervisor Stephen P. Tomany, Interstate Commerce Commission, Bureau of Operations, 346 Broadway, New York, N.Y. 10013.

No. MC 107064 (Sub-No. 60 TA), filed October 23, 1967. Applicant: STEERE TANK LINES, INC., 2806 Fairmont Street, Dallas, Tex. 75201, Post Office Box 2998, Dallas, Tex. 75221. Applicant's representative: Hugh T. Matthews, 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizers, sulphur and sulphur products;* from points in Castro County, Tex.; to points in Alabama, Arizona, Arkansas, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, South Carolina, Tennessee, and Texas. NOTE: Does not intend to tack, for 180 days. Supporting shipper: Elcor Chemical Corp., 1300 V & J Tower Building, Midland, Tex. Send protests to: E. K. Willis, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 513 Thomas Building, 1314 Wood Street, Dallas, Tex. 75202.

No. MC 116710 (Sub-No. 11 TA), filed October 26, 1967. Applicant: MISSISSIPPI CHEMICAL EXPRESS, INC., Post Office Box 1634, Highway 11 South, Hattiesburg, Miss. 39401. Applicant's representative: Hart F. Smith, Hattiesburg, Miss. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid sulphur dioxide*, from Baton Rouge, La.; to points in Oklahoma without return movement, for 180 days. Supporting shipper: Stauffer Chemical Co., Baton Rouge, La. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 312-A U.S. Post Office Building, Jackson, Miss. 39201.

No. MC 117815 (Sub-No. 129 TA), filed October 26, 1967. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, Iowa 50317. Applicant's representative: William A. Landau, 1451 East Grand Avenue, Des Moines, Iowa 50306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meat*, from Green Bay, Wis., to Davenport, Iowa, and its commercial zone, for 150 days. Supporting shipper: Giefman Food Stores, Inc., 2728 West Central Park, Davenport, Iowa 52804. Send protests to: Ellis L. Annett, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 227 Federal Office Building, Des Moines, Iowa 50309.

No. MC 119777 (Sub-No. 89 TA), filed October 23, 1967. Applicant: LIGON SPECIALIZED HAULER, INC., Post Office Drawer L, Madisonville, Ky. 42431. Applicant's representative: Louis J. Amato, 1033 State Street, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Forklift trucks, and parts, attachments, and accessories for forklift trucks*, between the plantsite of International Equipment Co., near Sedalia, Graves County, Ky., on the one hand, and, on the other, all points in the United States (except those in Alaska and Hawaii), for 180 days. Supporting shipper: William J. Hoffman, General Traffic Manager, International Equipment Co., Post Office Box 767, Mayfield, Ky. 42066. Send protests to: Wayne L. Merilatt, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 126835 (Sub-No. 16 TA), filed October 23, 1967. Applicant: EDGAR BISCHOFF, doing business as CASKET DISTRIBUTORS, RR. No. 2, West Harrison, Ind., Post Office Harrison, Ohio 45030. Applicant's representative: Jack B. Josselson, Atlas Bank Building, Cincinnati, Ohio 45202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Caskets, casket displays, and funeral supplies when moving with caskets;* from Cincinnati, Ohio; to Chicago, Ill., Detroit, Mich., Philadelphia, Pa.; and New York, N.Y.; for 180 days. Edwards Manufacturing Co., Casket Division, Fifth and Butler Streets, Cincinnati, Ohio 45202. NOTE: Rates to be filed on statutory notice. Send protests to: Bureau of Operations, Interstate Commerce Commission, 902 Century

Building, 36 South Pennsylvania Street, Indianapolis, Ind. 46204.

No. MC 129206 (Sub-No. 1 TA), filed October 24, 1967. Applicant: COASTAL HAULING, INC., 401 Bay Colony Drive Virginia Beach, Va. 23451. Applicant's representative: A. B. Midgett (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bulk salt* in dump vehicles; from Norfolk, Va.; to Camden, Currituck, Dare, Gates, Pasquotank, Perquimans, Bertie, Hertford, Northampton, Chowan, Hyde, Martin, Tyrrell, Washington, Edgecombe, Halifax, and Warren Counties, N.C.; for 150 days. Supporting shipper: Southern Salt Co., Post Office Box 3417, Norfolk, Va. Send protests to: Robert W. Waldron, District Supervisor, Interstate Commerce Commission, 10-502 Federal Building, Richmond, Va. 23240.

No. MC 129414 (Sub-No. 1 TA), filed October 25, 1967. Applicant: BELL & MOONEY, INC., Post Office Box 925, Gillette, Wyo. 82716. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oil field supplies, namely lost circulation materials and chemicals;* from Gillette and Upton, Wyo.; to points in Carter and Powder River Counties, Mont.; for 180 days. Supporting shippers: Banks Mud Sales, Box 487, Gillette, Wyo. 82716; Milchem, Post Office Box 693, Casper, Wyo. Send protests to: District Supervisor, Paul A. Naughton, Bureau of Operations, Interstate Commerce Commission, D&S Building, 255 North Center Street, Casper, Wyo. 82601.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13001; Filed, Nov. 2, 1967; 8:47 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RI68-206]

MWJ PRODUCING CO.

Order Providing for Hearing on and Suspension of Proposed Change in Rates

OCTOBER 27, 1967.

MWJ Producing Co. (Operator), agent (MWJ)[1] tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes increased rates and charges, is designated as follows:

[1] Address is: 413 First National Bank Bldg., Midland, Tex. 79701. Attention: R. Ken Williams, president.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI68-206	MWJ Producing Co. (Operator), agent, 413 First National Bank Bldg., Midland, Tex. 79701. Attn: R. Ken Williams, president.	12	6	El Paso Natural Gas Co. (Spraberry Field, Reagan County, Tex.) (R.R. District No. 7-C) (Permian Basin Area).	$122 230	9-29-67	[3] 10-30-67	3-30-68	[4] 17.2295 [7] 10.0	[5] [6] 18.2430 [6] 18.2430	

[3] The stated effective date is the first day after expiration of the statutory notice.
[4] Periodic rate increase.
[5] Pressure base is 14.65 p.s.i.a.
[6] 75 percent of the interest formerly covered by French's FPC Gas Rate Schedule No. 3. Rate effective subject to refund in Docket No. RI60-9.
[7] Pertains to acreage added by Supplement No. 5 (25 percent of the total interest and formerly dedicated to a contract between Sohio and El Paso Natural Gas Co., dated Oct. 3, 1952).

MWJ's proposed rate increases from 10.0 cents and 17.2295 cents to 18.2430 cents per Mcf are for a sale of residue gas derived from casinghead gas to El Paso Natural Gas Co. from the Spraberry Field in the Permian Basin Area of Texas and covered by MWJ's FPC Gas Rate Schedule No. 12.

MWJ was recently authorized to continue the sale of gas from acreage acquired from L. R. French, Jr. At the time the succession was filed, 75 percent of the interest involved in the subject sale of gas was covered under L. R. French, Jr., FPC Gas Rate Schedule No. 3, having an effective rate of 17.2295 cents per Mcf. The remaining 25 percent was covered under another producer's rate schedule having an effective rate of 10.0 cents per Mcf. MWJ now proposes to bring such rates in line with its contractually provided rate of 18.2430 cents per Mcf.

The proposed increased rates exceed the applicable area base rate of 14.50 cents per Mcf prescribed by Opinion Nos. 468 and 468-A. MWJ has not submitted a quality statement to establish the applicable area ceiling rate for the subject sale,[8] but a review of other quality statements for residue gas from the Spraberry Field indicates that the proposed rates exceed the applicable area base rate of 14.50 cents per Mcf, adjusted for quality. Under the circumstances, we conclude that MWJ's proposed rate increases should be suspended for 5 months from October 30, 1967, the date of expiration of the statutory notice.

MWJ proposes a retroactive effective date of February 1, 1967, the date of transfer of the properties involved, or, if suspended, the suspension period be limited to 1 day. Good cause has not been shown for granting MWJ's request for an earlier effective date or for limiting to 1 day the suspension period with respect to such rate filing and MWJ's request is denied.

Except for the stay of the moratorium in Opinion No. 468, MWJ's proposed rate increases would be rejectable because they are in excess of the applicable area ceiling determined in Opinion No. 468. If the moratorium is ultimately upheld upon judicial review, MWJ's rate increases will be rejected ab initio.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed change, and that Supplement No. 6 to MWJ's FPC Gas Rate Schedule No. 12 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in Supplement No. 6 to MWJ's FPC Gas Rate Schedule No. 12.

(B) Pending such hearing and decision thereon, Supplement No. 6 to MWJ's FPC Gas Rate Schedule No. 12 is hereby suspended and the use thereof deferred until March 30, 1968, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before December 15, 1967.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-13002; Filed, Nov. 2, 1967; 8:45 a.m.]

[8] MWJ has been advised to submit a quality statement but has not done so to date.

[Docket No. RI68-207]

MAY PETROLEUM, INC.

Order Providing for Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject to Refund

OCTOBER 27, 1967.

Respondent named herein has filed a proposed change in rate and charge of a currently effective rate schedule for the sale of natural gas under Commission jurisdiction, as set forth in appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, Ch. I), and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplement to the rate schedule filed by Respondent shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order Respondent shall execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of a copy thereof upon the purchaser under the rate schedule involved. Unless Respondent is advised to the contrary within 15 days after the filing of its agreement and undertaking, such agreement and undertaking shall be deemed to have been accepted.

(C) Until otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37 (f)) on or before December 15, 1967.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI68-207	May Petroleum, Inc., 1436 Republic National Bank Bldg., Dallas, Tex. 75201.	25	11	Colorado Interstate Gas Co. (Mocane Field, Beaver County, Okla.) (Panhandle Area).	$1,440	10-2-67	[1] 10-31-67	[2] 11-1-67	[3] 17.000 [4] 16.0	[3] [5] 18.105 [5] 17.0	RI60-440, RI62-449.

[1] The stated effective date is the effective date requested by Respondent.
[2] The suspension period is limited to 1 day.
[3] Periodic rate increase.
[4] Pressure base is 14.65 p.s.i.a.
[5] Includes base rate of 16 cents plus 1.000 cent upward B.t.u. adjustment (1,055 B.t.u. gas) before increase and base rate of 17 cents plus 1.105 cent upward B.t.u. adjustment after increase. Base rate subject to upward and downward B.t.u. adjustment.
[6] For production from acreage located in the South half of Southeast quarter, Section 4, T5N-R26ECM, rate is subject to downward B.t.u. adjustment only.

May Petroleum, Inc. (May), requests waiver of the statutory notice to permit its proposed rate changes to become effective on October 31, 1967. Good cause exists for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to the extent necessary to permit the suspension period for May's rate filing to be shortened to coincide with the suspension period ordered in the Champlin proceeding in Docket No. RI67-402.

May acquired the acreage herein by assignment from Champlin Petroleum Co. (Champlin) on February 16, 1967, and filed on June 15, 1967, its rate schedule and certificate application in Docket No. CI67-1787. Prior thereto the acreage was covered under Champlin's Rate Schedule No. 46 and related certificate issued in Docket No. G-18065. The effective rate under Champlin's rate schedule at the time of May's filing was 16.0 cents subject to refund in Docket No. RI62-449. However, on May 1, 1967, prior to the filing of May's rate schedule, and after the assignment of the subject acreage to May, Champlin filed a notice of change in rate from 16.0 cents to 17.0 cents plus applicable B.t.u. adjustment which higher rate was suspended until November 1, 1967, in Docket No. RI67-402.

May was issued a conditioned temporary certificate by letter order dated August 28, 1967, in Docket No. CI67-1787 at 16.0 cents subject to the same refunding obligation of Champlin in Docket No. RI62-449. Such letter also advised May that it could file a proposed rate increase to the contractually due 17.0 cents, which would be subject to suspension, but that May could request a shortened suspension period (until November 1, 1967) to coincide with Champlin's suspension proceeding.

May's proposed increased rates and charges exceed the area increased rate ceiling of 11.0 cents per Mcf for the Panhandle Area as announced in the Commission's Statement of General Policy No. 61-1, as amended, and should be suspended. Under the circumstances, however, we conclude that the suspension period for May's proposed rate increases should be shortened until November 1, 1967, for the reasons stated above.

[F.R. Doc. 67-12920; Filed, Nov. 2, 1967; 8:45 a.m.]

[Docket No. CS68-84 etc.]

HOWARD W. FLEET ET AL.

Notice of Applications for Small Producer Certificates[1]

OCTOBER 30, 1967.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce from the Permian Basin area of Texas and New Mexico, all as

[1] This notice does not provide for consolidation for hearing of the several matters covered herein, nor should it be so construed.

more fully set forth in the applications which are on file with the Commission and open to public inspection.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 20, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

Docket No.	Date filed	Name of applicant
CS68-36	10- 5-67	Howard W. Fleet, Post Office Box 729, Ada, Okla. 74820.
CS68-35	10- 5-67	Two States Oil Co., 530 Wilson Bldg., Dallas, Tex. 75201.
CS68-36	10- 9-67	James L. Lamb, Jr. et al., Post Office Box 5365, Midland, Tex. 79701.
CS68-37	10-12-67	Jay Simmons, 2620 Republic National Bank Bldg., Dallas, Tex. 75201.

[F.R. Doc. 67-12978; Filed, Nov. 2, 1967; 8:45 a.m.]

[Docket Nos. RP68-1, RP66-4]

FLORIDA GAS TRANSMISSION CO.

Notice Extending Time for Filing Notices of Intervention and Petitions To Intervene

OCTOBER 26, 1967.

The order issued July 19, 1967, in the above-designated proceedings provided that a public hearing be held on a date fixed by notice from the Presiding Examiner. The order prescribed that Florida Gas Transmission Co. serve its direct testimony and exhibits in Docket No. RP68-1 on or before September 18, 1967; that Commission staff serve its testimony and exhibits in Docket No. RP68-1 on or before December 4, 1967; and that interveners serve their testimony and exhibits in Docket No. RP68-1 on or before December 18, 1967. The order further provided that notices of intervention and petitions to intervene be filed on or before August 11, 1967, and that a prehearing conference before the Presiding Examiner commence on January 9, 1968. By notice issued August 14, 1967, the time for filing notices of intervention and petitions to intervene was extended to September 6, 1967.

By order issued September 1, 1967, the dates for the filing of testimony and exhibits and for the commencement of the prehearing conference were in each instance extended by 30 days.

Notice is hereby given that the time for filing notices of intervention and petitions to intervene in the proceeding in Docket No. RP68-1 is further extended to and including November 16, 1967. The order issued July 19, 1967, provided that any party who had been permitted to intervene in Docket No. RP66-4 may participate in these consolidated proceedings to the extent provided in the order granting them permission to intervene.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-12980; Filed, Nov. 2, 1967; 8:45 a.m.]

[Docket No. RI68-15]

FOREE CO. ET AL.

Order Accepting Contract Amendment, and Providing for Hearing on and Suspension of Proposed Change in Rate

JULY 26, 1967.

Foree Co. (Operator) et al. (Foree) [1] tendered for filing on June 26, 1967, a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: (1) Amendment, dated May 23, 1967. (2) Notice of change, filed June 26, 1967.

Purchaser and producing area: Northern Natural Gas Co., West Gate Field, Beaver Co., Oklahoma Panhandle Area.

Effective date: (1) July 27, 1967,[2] (2) July 27, 1967.[3]

Rate schedule designation: (1) Supplement No. 1 to Foree's FPC Gas Rate Schedule No. 1. (2) Supplement No. 2 to Foree's FPC Gas Rate Schedule No. 1.

Amount of annual increase: $321.

Effective rate: 16.36 cents per Mcf.[4][5]

Proposed rate: 17.41 cents per Mcf.[4][6]

Pressure base: 14.65 p.s.i.a.

Foree requests that its proposed rate increase be permitted to become effective as of July 1, 1967. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit an earlier effective date for Foree's rate filing and such request is denied.

Concurrently with the filing of its rate increase, Foree submitted a contract amendment dated May 23, 1967, which provides the basis for its proposed increased rate. The contract amendment has been designated as Supplement No. 1 to Foree's FPC Gas Rate Schedule No. 1. We believe that it would be in the public interest to accept for filing Foree's aforementioned contract amendment to become effective on July 27, 1967, but not the proposed rate contained therein which will be suspended as indicated below.

Foree's proposed increased rate and charge exceeds the area price level for increased rates for the Oklahoma Panhandle Area as announced in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56).

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) Good cause has been shown for accepting for filing Foree's proposed contract amendment dated May 23, 1967, designated as Supplement No. 1 to Foree's FPC Gas Rate Schedule No. 1, and for permitting such supplement to become effective on July 27, 1967.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed change, and that Supplement No. 2 to Foree's FPC Gas Rate Schedule No. 1 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Foree's contract amendment dated May 23, 1967, designated as Supplement No. 1 to Foree's FPC Gas Rate Schedule No. 1, is accepted for filing and permitted to become effective on July 27, 1967.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 2 to Foree's FPC Gas Rate Schedule No. 1.

(C) Pending such hearing and decision thereon, Supplement No. 2 to Foree's FPC Gas Rate Schedule No. 1 is hereby suspended and the use thereof deferred until December 27, 1967, and thereafter until such further time as it is made effective to the manner prescribed by the Natural Gas Act.

(D) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(E) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before September 8, 1967.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-12979; Filed, Nov. 2, 1967; 8:45 a.m.]

[1] Address is: 3700 First National Bank Building, Dallas, Tex. 75202.

[2] The stated effective date is the first day after expiration of the statutory notice.

[3] Base rate subject to upward and downward B.t.u. adjustment.

[4] Includes base rate of 16 cents per Mcf, plus 0.36 cent per Mcf upward B.t.u. adjustment.

[5] Includes base rate of 17 cents per Mcf, plus 0.41 cent per Mcf upward B.t.u. adjustment.

[6] Periodic rate increase.

[Docket No. RI68-143, etc.]

GULF OIL CORP. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates; Correction

OCTOBER 26, 1967.

Gulf Oil Corp. et al., Docket Nos. RI68-143, etc.; Tenneco Oil Co., Docket No. RI68-147.

In order providing for hearings on and suspension of proposed changes in rates, issued October 6, 1967, and published in the FEDERAL REGISTER October 13, 1967 (F.R. Doc. 67-12032, 32 F.R. 14256), Docket Nos. RI68-143 et al., Appendix A, page 14256, delete footnote 22 in its entirety and insert the following: "Includes 1.75-cent tax reimbursement. Buyer deducts handling charge of 1.35 cents from rate shown."

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-12982; Filed, Nov. 2, 1967; 8:46 a.m.]

[Docket No. E-7239]

IDAHO POWER CO.

Notice of Postponement of Prehearing Conference

OCTOBER 5, 1967.

Upon consideration of the requests filed on October 2, 1967, by Idaho Power Co. and Idaho Public Utilities Commission for postponement of the prehearing conference in the above-designated matter presently scheduled to commence on October 17, 1967, and the letter filed on October 4, 1967, by counsel for Wells Rural Electric Co.;

Notice is hereby given that the prehearing conference will commence at 10 a.m., e.s.t., on November 20, 1967, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-12990; Filed, Nov. 2, 1967; 8:46 a.m.]

[Docket No. RI67-311, etc.]

MIDWEST OIL CORP. ET AL.

Order Accepting Contract Agreement, Providing for Hearings on and Suspension of Proposed Changes in Rates; Correction

OCTOBER 26, 1967.

Midwest Oil Corp. et al., Docket Nos. RI67-311, etc.; Shell Oil Co., Docket No. RI67-312.

In order accepting contract agreement, providing for hearings on and suspension of proposed changes in rates, issued March 7, 1967, and published in the FEDERAL REGISTER March 15, 1967 (F.R. Doc. 67-2806, 32 F.R. 4093), Docket Nos. RI67-311 et al., page 4093, in the table for Docket Nos. RI67-311 et al., under column headed "Supplement No." change "6" to read "5" for Docket No. RI67-312, Shell Oil Co.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-12983; Filed, Nov. 2, 1967; 8:46 a.m.]

[Docket No. RI68-112 etc.]

MOBIL OIL CORP. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

SEPTEMBER 13, 1967.

The Respondents named herein have filed proposed changes in rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplements to the rate schedules filed by Respondents, as set forth herein, shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order Respondents shall each execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a/ certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless Respondents are advised to the contrary within 15 days after the filing of their respective agreements and undertakings, such agreements and undertakings shall be deemed to have been accepted.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before November 1, 1967.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI68-112	Mobil Oil Corp. (Operator) et al., Post Office Box 2444, Houston, Tex. 77001, Attn: H. H. Beeson, attorney.	196	3	Sinclair Oil & Gas Co. (Abell Field, Pecos County, Tex.) (R.R. District No. 8) (Permian Basin Area).	$31,691	8-14-67	[2] 9-14-67	[3] 9-15-67	6.5	[4] 9.0	
	do	195	2	do	1,086	8-14-67	[2] 9-14-67	[3] 9-15-67	[5] 6.5	[4] 9.0	
	do	197	7	do	858	8-14-67	[2] 9-14-67	[3] 9-15-67	[7] 9.0	[4] 9.0	
RI68-113	Mobil Oil Corp.	196	2	do	(8)	274	8-14-67	[2] 9-14-67	[3] 9-15-67	6.5	[4] 9.0

[1] The stated effective date is the first day after expiration of the statutory notice.
[2] The suspension period is limited to 1 day.
[3] Unilateral rate increase filed to bring rate in line with minimum rates prescribed in ordering Paragraph (G), Opinion No. 468—unadjusted for quality.
[4] Pressure base is 14.65 p.s.i.a.
[5] Rate pertains to volumes produced at 35 p.s.i.g.
[6] Rate pertains to volumes produced at 360 p.s.i.g.
[7] No volumes produced at 360 p.s.i.g.

Mobil Oil Corp. (Operator) et al., and Mobil Oil Corp. (both referred to herein as Mobil) request that their proposed rate increases be permitted to become effective as of September 1, 1967. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit an earlier effective date for Mobil's rate filings and such requests are denied.

Mobil proposes unilateral rate increases from 6.5 cents and 8 cents[9] to 9 cents per Mcf, amounting to $32,909 annually, for sales of casinghead gas to Sinclair Oil & Gas Co. (Sinclair)[10] in the Permian Basin Area of Texas. The proposed rates are equal to the minimum base rate specified in ordering paragraph (G) of Opinion No. 468, but do not reflect any adjustment for quality deviations. The contract rates for the sales are 6.5 cents and 8 cents per Mcf.

Mobil has submitted unilateral quality statements for the casinghead gas sales showing that the gas is not of pipeline quality in that it has sulphur and high water content and requires compression. However, the quality statements do not reflect the amounts of impurities or the costs involved in bringing the gas to pipeline quality. The buyer, to date, has not filed a statement with respect to the quality of the gas or the amount of quality adjustments.

Since the quality of the gas and the amount of adjustments are unknown, we conclude that Mobil's proposed rate increases should be suspended for one day from September 14, 1967, the date of expiration of the statutory notice, as ordered herein.

[F.R. Doc. 67-12991; Filed, Nov. 2, 1967; 8:46 a.m.]

[Docket No. G-19679 etc.]

ESTATE OF R. MORGAN ET AL.

Order Accepting Offers of Settlement, Requiring Filing of Notice of Change, Requiring Refunds, Severing and Terminating Proceedings

OCTOBER 26, 1967.

Estate of R. Morgan, Docket Nos. G-19679, RI61-3; Associated Oil & Gas Co. and South-Tex Corp., Docket Nos. G-19652, RI60-449.

On August 11, 1967, the Estate of R. Morgan (Morgan) filed an offer of settlement in Docket Nos. G-19679 and RI61-3, in accordance with the provisions of § 1.18(c) of the Commission's rules of practice and procedure, for its sale of natural gas from the Parenthold Field, Nueces and Jim Wells Counties, Texas District No. 4 to South-Tex Corp. (South-Tex),[1] who, in turn, resells the gas to Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee), at a rate which is in effect subject to refund in Docket Nos. G-19652 and RI60-449. On August 14, 1967, Associated Oil and Gas Co. (Associated) and South-Tex jointly filed a reply and a companion offer of settlement for their related rate proceedings. The details of the offers are as follows:

Respondent	Docket No.	Rate schedule and supplement No.	Effective dates	Rates[2]	
				Suspended	Settlement
Morgan	G-19679	1-4	4- 1-60	12.57589	[3] 13.7806
Morgan	RI61-3	1-5	13-10-60	16.02416	[3] 13.7806
Associated and South-Tex	G-19652	3-5	4- 1-60	14.57589	[3] 14.7806
	RI60-449	[3] 3-6	13- 9-60	17.02416	[3] 14.7806

[1] Cents per Mcf at 14.65 p.s.i.a., inclusive of tax reimbursement.
[2] Reflects 0.21031 cent per Mcf deduction for delivery of nondehydrated gas.
[3] Formerly Associated's FPC Gas Rate Schedule No. 3.

The Respondents have proposed to make refunds of all monies charged and collected, subject to refund, above their settlement rates with applicable interest computed from the date received until refunded. The amount to be refunded by Morgan to Associated and South-Tex computed through September 1, 1967, will be approximately $44,400, exclusive of interest; and such refunds will, in turn, be refunded by Associated and South-Tex to Tennessee. Tennessee is required to flow-through all refund amounts it receives herein, but since some of its jurisdictional customers may not have similar obligations we will require Tennessee to retain these refunds pending further Commission orders with respect to such monies.

Concurrent with its offer of settlement, Morgan filed an executed contract amendment (designated as Supplement No. 6 to its FPC Gas Rate Schedule No. 1) which extends the contract term an additional five years and establishes a life-of-the-contract rate of 13.78069 cents per Mcf except for partial reimbursement of future tax increases, and a notice of change in rate (designated as Supplement No. 7 to its FPC Gas Rate Schedule No. 1) to the aforementioned settlement rate level.

In return for the approval of the joint settlement proposals, South-Tex also agrees to eliminate all future price escalation provisions from its contract except for the tax clause which provides for 75 percent reimbursement of future tax increases, and to extend its present contract term of 2 years an additional 5 years.

Respondents' proposals are consistent with the provisions of the Second and Ninth Amendments to the Commission's statement of general policy No. 61-1 (18 CFR 2.56) and we shall approve the same.

However, we desire to make it clear that acceptance of Respondents' offers of settlement shall not be construed as approval of any future increased rates that may be filed by Respondents under their subject rate schedules in accordance with their reservation of the right to file increased rates to cover possible future tax increases, and is without prejudice to any findings or order of the Commission in any future proceedings, including area rate or other similar proceedings, involving Respondents' rates and rate schedules.

The Commission finds: The proposed settlement of the above-designated proceedings, on the basis described herein, as more fully set forth in Morgan's offer of settlement filed August 11, 1967, and in Associated and South-Tex's offer of settlement filed August 14, 1967, as conditioned herein, is in the public interest and appropriate to carry out the provisions of the Natural Gas Act, and should be approved and made effective as hereinafter ordered.

The Commission orders:

(A) The offers of settlement filed with the Commission by Morgan on August 11, 1967, and by Associated and South-Tex on August 14, 1967, are approved in accordance with the provisions of this order.

(B) Supplement Nos. 6 and 7 to Morgan's FPC Gas Rate Schedule No. 1 are accepted for filing effective as of the date of issuance of this order.

(C) South-Tex shall file, within 30 days from the date of the order, as supplements to its Rate Schedule No. 3, a notice of change in rate providing for the settlement rate of 14.78069 cents per Mcf and an executed contract amendment as provided for in its subject offer. The notice of change and contractual amendments shall be submitted in accordance with Part 154 of the Commission's regulations under the Natural Gas Act.

(D) Morgan shall refund, with applicable interest computed to the date of this order, to South-Tex and Associated the difference between the rates collected subject to refund in Docket Nos. G-19679 and RI61-3 and its settlement rate; and shall report to the Commission, with a copy to Tennessee, within 45 days from the date of this order, the amount of such refund, showing separately the amount of principal and interest, and the basis used for such determination, and 10 days thereafter shall file a release for the same from South-Tex and Associated.

(E) Associated and South-Tex shall refund to Tennessee the amounts received from Morgan under paragraph (D) above and within 20 days of the receipt of such amounts from Morgan shall file a release for the same from Tennessee. Tennessee shall retain the refunded amount pending further order of the Commission.

(F) Upon notification by the Secretary of the Commission that Morgan has complied with the terms and conditions of this order, the surety bonds filed by Morgan in Docket Nos. G-19679 and RI61-3 shall be deemed discharged and these proceedings shall be deemed severed from Docket No. AR64-2 and terminated without further order of this Commission.

(G) Upon notification by the Secretary of the Commission that Associated and South-Tex have complied with the terms and conditions of this order, their agreements and undertakings in Docket Nos. G-19652 and RI60-449 shall be deemed discharged, and these proceedings shall be deemed severed from Docket No. AR64-2 and terminated without further order of this Commission.

(H) The acceptance by the Commission of the offers of settlement in these proceedings is without prejudice to any findings or determinations that may be made in any proceedings now pending, or hereafter instituted by or against Respondents, including area rate or other similar proceedings.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-12961; Filed, Nov. 2, 1967; 8:46 a.m.]

[9] Rate of 8 cents per Mcf pertains only to gas delivered to buyer at 950 p.s.i.g. under Mobil's FPC Gas Rate Schedule No. 197.

[10] Sinclair processes the casinghead gas at its Imperial Plant, Pecos County, Tex., and resells residue gas, under its FPC Gas Rate Schedule No. 317, to Northern Natural Gas Co. at a rate of 14.5 cents per Mcf, which is equal to the applicable area ceiling rate established by Sinclair's quality statement for the resale. Although the 14.5-cent rate is collected subject to refund in Docket No. RI64-219 (consolidated in Permian order to show cause) the proceeding will be terminated in due course since the rate does not exceed the applicable area ceiling.

[Docket No. CP68-71]

OHIO FUEL GAS CO.

Notice of Application

OCTOBER 31, 1967.

Take notice that on September 6, 1967, Ohio Fuel Gas Co. (Applicant), 99 North Front Street, Columbus, Ohio 43215, filed in Docket No. CP68-71 an application pursuant to subsection (c) of section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to acquire and operate the following facilities from Panhandle Eastern Pipe Line Co. (Panhandle) in Lucas County, Ohio;

(1) Approximately 107 feet of 16-inch pipeline;

(2) Approximately 6,175 feet of 22-inch pipeline; and

(3) All miscellaneous fittings and valves appurtenant thereto and all rights of way, easements, permits, and property rights related to said facilities.

Applicant states that the proposed acquisition will enable it to own and operate all transmission facilities downstream of Panhandle's measuring station where it delivers volumes of natural gas to Applicant and will put Applicant in a better position to render service to its affiliated wholesale customer in the Toledo metropolitan area. Applicant also states that the sale of the facilities described above will eliminate Panhandle's obligation to operate and maintain that portion of its Maumee Lateral which is downstream of its delivery point to Applicant.

Applicant estimates the total cost of the proposed acquisition at approximately $135,000, said cost to be financed from cash on hand.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before November 20, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-12992; Filed, Nov. 2, 1967; 8:47 a.m.]

[Project 2652]

PACIFIC POWER & LIGHT CO.

Notice of Application for License for Constructed Project

OCTOBER 31, 1967.

Public notice is hereby given that application for license has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by Pacific Power & Light Co. (correspondence to: E. Robert de Lucchi, Senior Vice President, Pacific Power & Light Co., Public Service Building, Portland, Oreg. 97204) for constructed Project No. 2652, known as Big Fork Hydroelectric Project, located on Swan River in Flathead County, Mont., near Big Fork and Kalispell.

The existing project consists of: (1) A concrete diversion dam approximately 300 feet long and 12 feet high which includes an unregulated ogee spillway 235 feet long (crest elevation at 3,008.6 feet M.S.L.) and a 15-pool fish ladder; (2) a 109-acre-foot reservoir with maximum high water elevation at 3,014.5 feet (M.S.L.); (3) an intake structure which diverts water into a 1-mile long conduit which includes: 1,500 feet of concrete flume, 1,800 feet of asphalt membrane lined canal, and 1,800 feet of wood-stave pipe, 9 feet in diameter, paralleled by 1,860 feet of concrete flume and concrete lined canal; (4) two 72-inch diameter steel penstocks 130 feet long and one 54-inch diameter penstock 160 feet long; (5) an indoor powerhouse containing two generators each rated at 1,700 kw and one generator rated at 750 kw; (6) a switchyard with one 2.4/12.5 kv transformer and six 2.4/34.5 kv transformers; and (7) appurtenant facilities.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is November 20, 1967. The application is on file with the Commission for public inspection.

KENNETH F. PLUMB, *Acting Secretary.*

[F.R. Doc. 67-12993; Filed, Nov. 2, 1967; 8:47 a.m.]

[Docket No. CP68-67]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Application

OCTOBER 30, 1967.

Take notice that on August 31, 1967, Texas Eastern Transmission Corp. (Applicant), Post Office Box 2521, Houston, Tex. 77001, filed in Docket No. CP68-67 an application pursuant to subsection (c) of section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and the sale and delivery of additional quantities of natural gas to existing customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to construct and operate the following facilities together with related appurtenances:

(1) Approximately 94 miles of 36-inch pipeline loops at various locations and in varying lengths along its pipeline system between St. Francisville, La., and Lambertville, N.J.;

(2) Approximately 14 miles of 30-inch pipeline loops at various locations and in varying lengths along its pipeline system between St. Francisville, La., and Lambertville, N.J.;

(3) Dual river crossings of 30-inch and 36-inch pipe of the Conemaugh River, Cumberland River, and Ohio River;

(4) An additional 19,800 horsepower gas turbine compressor unit at the Barton, La., Compressor Station;

(5) An additional 15,000 horsepower electric centrifugal compressor unit, at the Mount Pleasant, Tenn., Compressor Station;

(6) An additional 19,800 horsepower gas turbine compressor unit at the Bernville, Pa., Compressor Station;

(7) A 19,800 horsepower gas turbine compressor unit on the 36-inch Venice Line near White Castle, La.;

(8) Upgrade the 15,000 horsepower gas turbine compressor units at Grantville and Bechtelsville, Pa., to 18,500 horsepower; and

(9) A metering and regulating station in Dauphin County, Pa.

Applicant also seeks authorization to sell and deliver, under long-term service agreements, additional maximum daily quantities of 35,374 Mcf of natural gas to 13 existing customers. Applicant states that the facilities proposed above will provide approximately 130,000 Mcf of additional peak day capacity on its pipeline system. Applicant further states that the additional facilities and sales of natural gas proposed above are necessary to enable it to meet its customers growing demands for their increasing market requirements. Applicant also states that the facilities proposed above will be constructed over a 3-year period.

Applicant estimates the total cost of the facilities proposed at approximately $63,804,000, said cost to be financed by the issuance and sale of bonds and securities.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before November 20, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-12994; Filed, Nov. 2, 1967; 8:47 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during November.

3 CFR

Page

EXECUTIVE ORDERS:
- 10530 (see EO 11378) 15237
- 10582 (see EO 11378) 15237
- 11378 15237

7 CFR

- 51 ..... 15066, 15073
- 729 15149
- 730 15076
- 984 15388
- 1001 15076
- 1015 15090
- 1067 15093
- 1120 15386
- 1126 15386
- 1132 15389

PROPOSED RULES:
- 882 15393
- 891 15393
- 892 15393
- 905 15116
- 906 15394
- 908 15394
- 913 15395
- 959 15177
- 1125 15178

9 CFR

- 76 15240

12 CFR

- 219 15389

13 CFR

- 106 15065
- 108 15149

PROPOSED RULES:
- 107 15399
- 121 15184

14 CFR

- 39 ..... 15094, 15152, 15154, 15389
- 71 ..... 15094, 15095, 15154
- 73 15096

14 CFR—Continued

Page

- 207 15096
- 208 15097
- 241 15096

PROPOSED RULES:
- 71 15117–15121

15 CFR

- 6 15222
- 70 15154
- 204 ..... 15104, 15391
- 230 15105

16 CFR

- 13 15105–15107

PROPOSED RULES:
- 300 15180

18 CFR

- 3 15239

19 CFR

- 4 15390
- 14 15155
- 16 15390

21 CFR

- 120 15107
- 121 ..... 15108, 15109, 15155
- 133 15109
- 135 15390

PROPOSED RULES:
- 28 15118

22 CFR

PROPOSED RULES:
- 201 15118

26 CFR

- 301 15241

PROPOSED RULES:
- 1 ..... 15167, 15393

29 CFR

Page

PROPOSED RULES:
- 5 15396
- 6 15396
- 7 15396

32 CFR

- 66 15111
- 127 15112
- 536 15113
- 552 15113
- 710 15115

36 CFR

- 7 15391

39 CFR

- 823 15099

42 CFR

PROPOSED RULES:
- 73 15178

43 CFR

PUBLIC LAND ORDERS:
- 4301 15098

45 CFR

- 81 15156

47 CFR

- 73 ..... 15161, 15162

PROPOSED RULES:
- 2 15180
- 89 15180
- 91 15180
- 93 15180

50 CFR

- 32 15164
- 33 15166

215

FEDERAL REGISTER

VOLUME 32 • NUMBER 215

Saturday, November 4, 1967 • Washington, D.C.

Pages 15417–15461

THE UNIVERSITY OF MICHIGAN
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MAIN READING ROOM

Agencies in this issue—

Atomic Energy Commission
Civil Aeronautics Board
Consumer and Marketing Service
Customs Bureau
Federal Aviation Administration
Federal Highway Administration
Federal Housing Administration
Federal Maritime Commission
Federal Power Commission
Federal Trade Commission
Food and Drug Administration
Health, Education, and Welfare Department
Internal Revenue Service
Interstate Commerce Commission
Justice Department
Land Management Bureau
National Park Service
Securities and Exchange Commission
Small Business Administration
State Department
Wage and Hour Division

Detailed list of Contents appears inside.

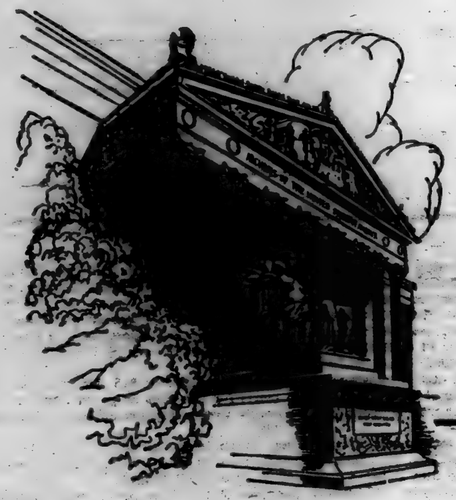

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2

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January–September 1967

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Contents

AGRICULTURE DEPARTMENT
See Consumer and Marketing Service.

ATOMIC ENERGY COMMISSION
Proposed Rule Making
Standards for protection against radiation; exposure of individuals to concentrations of radioactive material in restricted areas 15432
Notices
Aerojet-General Corp.; notice of termination of facility license 15447

CIVIL AERONAUTICS BOARD
Notices
Hearings, etc.:
Aerolineas El Salvador S.A. 15445
Compagnie Nationale Air France 15445
Southern Airways, Inc. 15445

CONSUMER AND MARKETING SERVICE
Rules and Regulations
Grapefruit grown in Interior District in Florida; shipment limitations 15430
Handling limitations:
Grapefruit grown in Indian River District in Florida 15430
Lemons grown in California and Arizona 15430
Milk in eastern Colorado marketing area; order suspending certain provisions 15431
Proposed Rule Making
Cauliflower; proposed U.S. standards for grades 15435
Grapefruit grown in Indian River District in Florida; expenses and rate of assessment 15436
Milk in Chattanooga, Tenn., marketing area; handling 15437

CUSTOMS BUREAU
Rules and Regulations
Articles conditionally free, subject to reduced rate, etc.; public international organization entitled to free-entry privileges 15424

FEDERAL AVIATION ADMINISTRATION
Rules and Regulations
Airworthiness; British Aircraft Corporation Model BAC 1-11 200 and 400 Series airplanes (2 documents) 15421
General operating and flight rules; noise abatement rules 15422
Standard instrument approach procedures; miscellaneous amendments 15423

FEDERAL HIGHWAY ADMINISTRATION
Notices
Motor vehicle safety standards; notice of certification 15444

FEDERAL HOUSING ADMINISTRATION
Rules and Regulations
Introduction; miscellaneous amendments 15425

FEDERAL MARITIME COMMISSION
Proposed Rule Making
Rules governing filing of agreements between common carriers of freight by water in foreign commerce of U.S 15438
Notices
Agreements filed for approval:
American President Lines, Ltd., and Royal Interocean 15445
American President Lines and Sea-Land Service, Inc. 15446
Java-New York Rate Agreement 15447
Moore-McCormack Lines, Inc., and Lykes Bros. Steamship Co., Inc. (2 documents) 15446
Golfo Y. Steamship Lines, S.A.; indemnification of passengers for nonperformance of transportation 15445
Golfo Y. Caribe Steamship Lines, S.A., and Princess Cruises Corp., Inc. (Princess Cruises); application for certificate of financial responsibility 15445
Sherriff-Guerringue, Inc.; revocation of license 15445

FEDERAL POWER COMMISSION
Proposed Rule Making
Annual reports of Class A and B public utilities, licenses and natural gas companies; proposed revision of schedule for reporting charges for professional and other consultative services 15434
Notices
Hearings, etc.:
Ballard, Norval et al 15448
Mobil Oil Corp., et al 15447
Northern Natural Gas Co., et al 15447
Pacific Power & Light Co. 15448
United Gas Pipe Line Co. 15448
Western Massachusetts Electric Co., et al 15448

FEDERAL TRADE COMMISSION
Rules and Regulations
Failure to disclose that skin irritation may result from washing or handling glass fiber curtains and draperies and glass fiber curtain and drapery fabrics; extension of effective date of rule 15424

FOOD AND DRUG ADMINISTRATION
Rules and Regulations
Drugs; sodium colistimethate for injection 15425
O,O-diethyl *O*-(isopropyl-4-methyl-6-pyrimidinyl) phosphorothioate; tolerances and exemptions from tolerances 15424

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
See also Food and Drug Administration.
Notices
Public Health Service; statement of organization and functions and delegations of authority 15443

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
See Federal Housing Administration.

INTERIOR DEPARTMENT
See Land Management Bureau; National Park Service.

INTERNAL REVENUE SERVICE
Rules and Regulations
Income tax; date of sale in case of short sales of stock or securities at a loss; correction 15421

INTERSTATE COMMERCE COMMISSION
Notices
Motor carrier temporary applications 15459

JUSTICE DEPARTMENT
Rules and Regulations
Organization; transfer of functions relating to gifts and bequests to United States to Civil Division 15425

LABOR DEPARTMENT
See Wage and Hour Division.

LAND MANAGEMENT BUREAU
Rules and Regulations
Public land orders:
Alaska 15427
Arizona (2 documents) 15428, 15429
California (2 documents) 15428, 15429
Idaho 15427
Montana (2 documents) 15428, 15429
Oregon (3 documents) 15427, 15428
Utah 15428
Notices
Arkansas; proposed withdrawal and reservation of lands 15443

(Continued on next page)

NATIONAL PARK SERVICE

Notices

Certain officials, Great Smoky Mountains National Park, Tennesse-North Carolina; delegation of authority 15443

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:

American Hydrocarbon Corp... 15449
Gillette International Capital Corp 15450
Jodmar Industries, Inc..... 15451
Mississippi Power & Light Co... 15451
SCM Corp..... 15452
Trans International Airlines Corp 15452

SMALL BUSINESS ADMINISTRATION

Notices

Delegations of authority to conduct program activities:

Area Coordinators et al., Southeastern Area, Atlanta, Ga.... 15453
Branch Manager, Agana, Guam 15453
Regional Directors, New York Area 15452

STATE DEPARTMENT

Rules and Regulations

Delegations of procurement authority; miscellaneous amendments 15427

TRANSPORTATION DEPARTMENT

See Federal Aviation Administration; Federal Highway Administration.

TREASURY DEPARTMENT

See Customs Bureau; Internal Revenue Service.

WAGE AND HOUR DIVISION

Rules and Regulations

Miscellaneous amendments to chapter 15425

Notices

Certificates authorizing employment of learners at special minimum wages..... 15457

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

3 CFR

EXECUTIVE ORDER:

2295 (modified by PLO 4311)..... 15429

7 CFR

910..... 15430
912..... 15430
913..... 15430
1137..... 15431

PROPOSED RULES:

51..... 15435
912..... 15436
1090..... 15437

10 CFR

PROPOSED RULES:

20..... 15432

14 CFR

39 (2 documents)..... 15421
91..... 15422
97..... 15423

16 CFR

413..... 15424

18 CFR

PROPOSED RULES:

141..... 15434
260..... 15434

19 CFR

10..... 15424

21 CFR

120..... 15424
148e..... 15425

24 CFR

200..... 15425

26 CFR

1..... 15421

28 CFR

0..... 15425

29 CFR

526..... 15425
786..... 15425

41 CFR

6–75..... 15427

43 CFR

PUBLIC LAND ORDERS:

3263 (revoked in part by PLO 4307) 15428
3634 (revoked in part by PLO 4302) 15427
4270 (amended by PLO 4312)..... 15429
4302..... 15427
4303..... 15427
4304..... 15427
4305..... 15428
4306..... 15428
4307..... 15428
4308..... 15428
4309..... 15428
4310..... 15429
4311..... 15429
4312..... 15429
4313..... 15429

46 CFR

PROPOSED RULES:

Ch. IV..... 15438

Rules and Regulations

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6938]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Date of Sale in the Case of Short Sales of Stock or Securities at a Loss

Correction

Paragraph 3 of F.R. Doc. 67–8309, 32 F.R. 11468, should read as follows:

PAR. 3. The amendment is effective for taxable years beginning after December 31, 1953, and ending after August 16, 1954, except that the special rule treating the date of entering into a short sale as the date of sale shall be applied only in the case of short sales entered into after May 2, 1967.

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 7927, Amdt. 39–506]

PART 39—AIRWORTHINESS DIRECTIVES

British Aircraft Corp. Model BAC 1–11 200 Series Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring the modification of the No. 2 Auxiliary Hydraulic System Thermal Relief Value to provide a thermal relief device on British Aircraft Corp. Model BAC 1–11 200 Series airplanes was published in 33 F.R. 11882.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BRITISH AIRCRAFT. Applies to Model BAC 1–11 200 Series airplanes.

Compliance required as indicated, unless already accomplished.

To prevent failure of the Thermal Relief Valve installed in the No. 2 Auxiliary Hydraulic Power System, introduced by Modification PM 1655, and to provide an adequate thermal relief device in all airplanes, accomplish the following:

(a) For Post Modification PM 1655 airplanes, within the next 200 hours' time in service after the effective date of this AD, and thereafter at intervals not to exceed 200 hours' time in service from the last inspection, check No. 2 Auxiliary Hydraulic System Thermal Relief Valve for satisfactory functioning in accordance with BAC One-Eleven Service Bulletin 29–A–PM 2758, Issue 2, or later ARB-approved issue, or FAA-approved equivalent.

(b) For Post Modification PM 1653 airplanes, within the next 600 hours' time in service after the effective date of this AD, and thereafter at intervals not to exceed 600 hours' time in service from the date of the last inspection or when a low maximum pressure is indicated in the No. 2 Auxiliary Hydraulic System or emergency elevator power system, conduct a bench test of Thermal Relief Valve P/N AIR 91186/2 in accordance with British Aircraft Corp., Ltd., BAC One-Eleven Alert Service Bulletin No. 29–A–PM 2758, Issue 2, or later ARB-approved issue, or FAA-approved equivalent.

(c) If defective parts are found during the inspections provided for in paragraphs (a) and (b), either modify the hydraulic system in accordance with paragraph (d), or replace the defective part with a serviceable P/N AIR 91186/2 and continue the inspections required by paragraphs (a) and (b).

(d) For Post Modification PM 1653 airplanes, within the next 1,800 hours' time in service after the effective date of this AD, remove Thermal Relief Valve P/N AIR 91186/2, Conduit Guide P/N AB58A3907, and Pipe P/N AB58/48/2675, and rework Lockheed Non-Return Valve P/N 91178 to the standard of Choke Valve Assembly P/N AB48A1427 in accordance with British Aircraft Corp., Ltd., BAC One-Eleven Service Bulletin No. 29–PM 2758, Part C, or FAA-approved equivalent.

(e) For Pre Modification PM 1653 airplanes, within the next 1,800 hours' time in service after the effective date of this AD, rework Lockheed Non-Return Valve P/N AIR 91178 to the standard of Choke Valve Assembly P/N AB48A1427 in accordance with British Aircraft Corporation, Ltd., BAC One-Eleven Service Bulletin No. 29–PM 2758, Part B, or FAA-approved equivalent.

(f) The repetitive inspections required by paragraphs (a) and (b) of this AD may be discontinued when modifications in accordance with paragraph (d) of this AD have been accomplished.

This amendment becomes effective December 4, 1967.

Issued in Washington, D.C., on October 30, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

EDWARD C. HODGSON,
Acting Director,
Flight Standards Service.

[F.R. Doc. 67–12068; Filed, Nov. 3, 1967; 8:47 a.m.]

[Docket No. 8246; Amdt. 39–507]

PART 39—AIRWORTHINESS DIRECTIVES

British Aircraft Corp. Model BAC 1–11 200 and 400 Series Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring periodic inspection of the lower sidestay pin retaining bolts for cracks on British Aircraft Corp. Model BAC 1–11 200 and 400 Series airplanes was published in 32 F.R. 12066.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BRITISH AIRCRAFT. Applies to Model BAC 1–11 200 and 400 Series airplanes which incorporate Modification PM 1558 part (c). Compliance required as indicated unless already accomplished.

To prevent fatigue damage of the lower sidestay pin retaining bolt, P/N AC42–267, accomplish the following:

(a) Within the next 200 landings after the effective date of this AD or before the accumulation of 5,000 landings, whichever occurs later, and thereafter at intervals not to exceed 5,000 landings from the last inspection, inspect the main landing gear lower sidestay retaining bolts, P/N AC42–267, for cracks, using the magnetic particle procedure or an FAA-approved equivalent, in accordance with British Aircraft Corp. BAC 1–11 Alert Service Bulletin 32–A–PM 2698, Issue 1, dated April 14, 1967, or later ARB-approved issue, or an FAA-approved equivalent.

(b) If defective retaining bolts, P/N AC42–267, are found during the inspection required by paragraph (a), before further flight replace the bolts with serviceable bolts of the same part number or new bolts, P/N AC42–269, in accordance with BAC 1–11 Service Bulletin No. 32–PM 2698 Revision 1, dated April 10, 1967, or later ARB-approved issue, or an FAA-approved equivalent.

(c) Before the accumulation of 15,000 landings, replace retaining bolts, P/N AC42–267, with serviceable bolts of the same part number or new bolts, P/N AC42–269. If bolts P/N AC42–267 are used as replacement bolts, inspect the bolts at intervals not to exceed 5,000 landings in accordance with paragraph (a) and replace the bolts at intervals not to exceed 15,000 landings.

(d) The repetitive inspections and replacements required by paragraphs (a) and (c) may be discontinued after the new bolts, P/N AC42–269, are installed. Retaining bolt P/N AC42–269 does not have a service life limitation.

(e) For the purpose of complying with this AD, subject to acceptance by the assigned FAA maintenance inspector, the number of landings may be determined by dividing each airplane's hours' time in service by the operator's fleet average time from takeoff to landing for the airplane type.

This amendment becomes effective December 4, 1967.

Issued in Washington, D.C., on October 30, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

EDWARD C. HODSON,
Acting Director,
Flight Standards Service.

[F.R. Doc. 67-13060; Filed, Nov. 3, 1967; 8:47 a.m.]

[Docket No. 8065; Amdt. 91-46]

PART 91—GENERAL OPERATING AND FLIGHT RULES

Noise Abatement Rules

The purpose of this amendment is to include all large and all turbine-powered airplanes within the class of aircraft to which the noise abatement rules apply, to omit the written report required from pilots by § 91.87(g), and to make minor editorial changes clarifying the intent of these rules.

The substance of this amendment was published as a notice of proposed rule making in the FEDERAL REGISTER on March 29, 1967 (32 F.R. 5559), and circulated as Notice No. 67-10. Many comments were received in response to the Notice. Generally, the comments were favorable and recommended adoption of the proposed amendments, frequently with minor changes or additional suggestions. Due consideration was given to all comments received.

A number of comments pointed out that there are several small turboprop airplanes that make less noise than reciprocating-engine airplanes of comparable size. These comments objected to classifying airplanes on the basis of a design factor that may not necessarily be associated with the problem. While it is true that some light turboprop airplanes produce less noise than reciprocating-engine airplanes of a comparable size, studies have indicated that, generally, reciprocating-engine airplanes are less objectionable from a noise standpoint than turbine-powered airplanes. It would be impracticable to specify, by regulation, which airplanes within the light turbine-powered category should comply with noise abatement regulations, and which should be excluded. Since application of this rule to all turbine-powered airplanes would not impose an undue burden on light turboprop airplanes, and since the proposed application would not compromise aviation safety, it is determined that the rule should apply to all large, and all turbine-powered airplanes.

A number of commentators, and particularly the Aircraft Owners and Pilots Association, questioned the safety inherent in a requirement to have small reciprocating-engine airplanes, including those piloted by relatively inexperienced noninstrument pilots, follow the ILS glide slope when approaching to land on an ILS runway. The ILS glide slope approach is an instrument approach procedure which a VFR pilot may not be competent to execute. It was suggested that requiring these pilots to divert their attention to instruments inside the cockpit, when their full attention should be concentrated outside the cockpit to avoid other traffic, would increase the collision hazard in the vicinity of airports and would contribute little to the noise abatement program. It was recommended that this provision be limited to large airplanes and turbine-powered airplanes. There is merit in this suggestion and the amendment as adopted herein has been modified accordingly.

The Department of the Air Force commented that it uses two traffic pattern altitudes separating conventional and turbine-powered aircraft by 500 feet. It was suggested that combining the traffic pattern altitudes would cause an unsafe mixture of fast and slow aircraft, and that the climb provision would expose aircraft on overhead approaches to departing aircraft climbing rapidly to 1,500 feet. It was requested that some latitude be allowed in the establishment of traffic patterns. These problems are primarily applicable to military airports and it would be impracticable to design the general rule to accommodate these exceptional cases. Moreover, all necessary latitude can be provided through an ATC authorization. Therefore, it is determined that a change in the proposed rules is not required to satisfy the military requirements.

As proposed in the notice, § 91.87(f)(2) prescribes certain climb requirements applicable "unless otherwise required by noise abatement departure procedures * * *." Since many departure procedures are not related to noise abatement, and since the present language of § 91.87(f)(2) refers to "departure procedures," no purpose is served by the change of language and the phrase as it presently appears in the part is retained.

The Airport Operators Council International opposed the proposed rescission of the requirement for a written pilot report when a pilot uses a runway other than the assigned preferential runway, feeling that no portion of the preferential runway system procedures should be relaxed. However, rescission of the reporting requirement was generally supported by other comments, and, for the reasons stated in the notice § 91.87(g) is amended accordingly. In addition, editorial changes have been made in the section to more clearly identify this runway use provision as a noise abatement measure.

In consideration of the foregoing, paragraphs (d), (f)(2), and (g) of § 91.87 of the Federal Aviation Regulations are amended, effective December 4, 1967, as hereinafter set forth.

§ 91.87 Operation at airports with operating control towers.

* * * * *

(d) *Minimum altitudes.* When operating to an airport with an operating control tower, each pilot of—

(1) A turbine-powered airplane or a large airplane shall, unless otherwise required by the applicable distance from cloud criteria, enter the airport traffic area at an altitude of at least 1,500 feet above the surface of the airport and maintain at least 1,500 feet within the airport traffic area, including the traffic pattern, until further descent is required for a safe landing;

(2) A turbine-powered airplane or a large airplane approaching to land on a runway being served by an ILS, shall, if the airplane is ILS equipped, fly that airplane at an altitude at or above the glide slope between the outer marker (or the point of interception with the glide slope, if compliance with the applicable distance from clouds criteria requires interception closer in) and the middle marker; and,

(3) An airplane approaching to land on a runway served by a visual approach slope indicator, shall maintain an altitude at or above the glide slope until a lower altitude is necessary for a safe landing.

However, subparagraphs (2) and (3) of this paragraph do not prohibit normal bracketing maneuvers above or below the glide slope that are conducted for the purpose of remaining on the glide slope.

* * * * * *

(f) * * *

(2) Unless otherwise required by the departure procedure or the applicable distance from clouds criteria, each pilot of a turbine-powered airplane and each pilot of a large airplane shall climb to an altitude of 1,500 feet above the surface as rapidly as practicable.

(g) *Noise abatement runway system.* When landing or taking off from an airport with an operating control tower, and for which a formal runway use program has been established by the FAA, each pilot of a turbine-powered airplane and each pilot of a large airplane, assigned a noise abatement runway by ATC, shall use that runway. However, each pilot has final authority and responsibility for the safe operation of his airplane and if he determines in the interest of safety that another runway should be used, ATC will assign that runway (air traffic and other conditions permitting).

* * * * * *

(Sec. 307 and 313(a) of the Federal Aviation Act of 1958; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on October 30, 1967.

WILLIAM F. MCKEE,
Administrator.

[F.R. Doc. 67-13061; Filed, Nov. 3, 1967; 8:47 a.m.]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 8491, Amdt. 507]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

The amendments to the standard instrument approach procedures contained herein are adopted to become effective when indicated in order to promote safety. The amended procedures supersede the existing procedures of the same classification now in effect for the airports specified therein. For the convenience of the users, the complete procedure is republished in this amendment indicating the changes to the existing procedures.

As a situation exists which demands immediate action in the interests of safety in air commerce, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In view of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 97 (14 CFR Part 97) is amended as follows:

1. By amending the following automatic direction finding procedures prescribed in § 97.11(b) to read:

ADF STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

From—	To—	Course and distance	Minimum altitude (feet)	Condition	Ceiling and visibility minimums: 2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots
All directions	AWK RBn	Direct	1800	T-dn	300-1	300-1	300-1½
				C-dn	500-1	500-1	500-1½
				A-dn	800-2	800-2	800-2

Procedure turn N side of crs, 095° Outbnd, 275° Inbnd, 2000' within 10 miles.
Minimum altitude over facility on final approach crs, 700'. Descend to 519' on crs, 295° within 2.2 miles.
Contact must be established with shoreline 2.2 miles W of facility and flight to airport made under visual conditions.
Crs and distance, facility to airport, 109°—1.4 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, 2.2 miles W of AWK RBn, climb to 1800' on crs, 275° within 20 miles.
MSA within 25 miles of facility: 090°-360°—1800'.
State, Wake Island; Airport name, Wake Island; Elev., 14'; Fac. Class., RBW; Ident., AWK; Procedure No. NDB(ADF)-4, Amdt. Orig.; Eff. date, 4 Nov. 67

2. By amending the following very high frequency omnirange (VOR) procedures prescribed in § 97.11(c) to read:

VOR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

From—	To—	Course and distance	Minimum altitude (feet)	Condition	Ceiling and visibility minimums: 2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots
All directions	XWI VORTAC	Direct	1500	T-dn	300-1	300-1	300-1½
E 100°, XWI VORTAC clockwise	E 280°, XWI VORTAC	Via 10-mile DME Arc.	1500	C-dn	500-1	500-1	500-1½
				B-dn-10	800-1	800-1	800-1
R 360°, XWI VORTAC counterclockwise	R 280°, XWI VORTAC	Via 10-mile DME Arc.	1500	A-dn	800-2	800-2	800-2
10-mile DME Fix R 280°, XWI VORTAC	XWI VORTAC (final)	Direct	514				

Procedure turn S side of crs, 280° Outbnd, 460° Inbnd, 1500' within 10 miles.
Minimum altitude over facility on final approach crs, 514'.
Facility on airport. Crs and distance, breakoff point to runway, 280°—0.3 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished over XWI VORTAC, climb to 1300' on XWI R 100° within 20 miles.
MSA within 25 miles of facility: 000°-360°—1300'.
State, Wake Island; Airport name, Wake Island; Elev., 14'; Fac. Class., VORTAC; Ident., XWI; Procedure No. VOR Runway 10, Amdt. Orig.; Eff. date, 4 Nov. 67

VOR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition From—	To—	Course and distance	Minimum altitude (feet)	Ceiling and visibility minimums: Condition	2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots
All directions	XWI VORTAC	Direct	1500	T-dn	300-1	300-1	300-1½
R 360° XWI VORTAC clockwise	R 092° XWI VORTAC	Via 10-mile DME Arc.	1500	C-dn	500-1	500-1	500-1½
R 180° XWI VORTAC counterclockwise	R 092° XWI VORTAC	Via 10-mile DME Arc.	1500	S-dn-28	500-1	500-1	500-1
10-mile DME Fix, R 092° XWI VORTAC	XWI VORTAC (final)	Direct	514	A-dn	800-2	800-2	800-2

Procedure turn N side of crs, 092° Outbnd, 272° Inbnd, 1500' within 10 miles.
Minimum altitude over facility on final approach crs, 514'.
Facility on airport. Crs and distance, breakoff point to runway, 276°—0.3 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished over XWI VORTAC, climb to 1500' on XWI R 272° within 20 miles.
MSA within 25 miles of facility: 000°-360°—1500'.
State, Wake Island; Airport name, Wake Island; Elev., 13'; Fac. Class., VORTAC; Ident., XWI; Procedure No. VOR Runway 28, Amdt. Orig.; Eff. date, 4 Nov. 67

These procedures shall become effective on the dates specified therein.

(Secs. 307(c), 313(a), and 601, of the Federal Aviation Act of 1958; 49 U.S.C. 1348(c), 1354(a), 1421; 72 Stat. 749, 752, 775)

Issued in Washington, D.C., on October 23, 1967.

W. E. ROGERS,
Acting Director, Flight Standards Service.

[F.R. Doc. 67-12643; Filed, Nov. 3, 1967; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

SUBCHAPTER D—TRADE REGULATION RULES

PART 413—FAILURE TO DISCLOSE THAT SKIN IRRITATION MAY RESULT FROM WASHING OR HANDLING GLASS FIBER CURTAINS AND DRAPERIES AND GLASS FIBER CURTAIN AND DRAPERY FABRICS

Extension of Effective Date

The Commission has extended the effective date of the Trade Regulation Rule Relating to Failure To Disclose That Skin Irritation May Result From Washing or Handling Glass Fiber Curtains and Draperies and Glass Fiber Curtain and Drapery Fabrics from January 2, 1968 to July 1, 1968.

Approved: November 1, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 67-13137; Filed, Nov. 3, 1967; 8:50 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 67-288]

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Public International Organizations Entitled to Free-Entry Privilege

By Executive Order 11372, signed September 18, 1967, the President has designated the Lake Ontario Claims Tribunal as an international organization entitled to enjoy certain privileges, exemptions, and immunities conferred by the International Organizations Immunities Act of December 29, 1945.

The list of public international organizations currently entitled to free-entry privileges in § 10.30a(a) of the Customs Regulations is, therefore, amended by inserting in the proper alphabetical order the following:

§ 10.30a Organizations included.

(a) • • •

Organization	Executive order	Date
• • •	• • •	• • •
Lake Ontario Claims Tribunal	11372	Sept. 18, 1967
• • •	• • •	• • •

(80 Stat. 379, R.S. 251; 5 U.S.C. 301, 19 U.S.C. 66)

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: October 26, 1967.

TRUE DAVIS,
Assistant Secretary of the Treasury.

[F.R. Doc. 67-10828; Filed, Nov. 3, 1967; 8:45 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

O,O-diethyl O-(2-isopropyl-4-methyl-6-pyrimidinyl) Phosphorothioate

A petition (PP 7F0576) was filed with the Food and Drug Administration by Geigy Chemical Corp., Ardsley, N.Y. 10502, proposing the establishment of tolerances for residues of the insecticide *O,O*-diethyl *O*-(2-isopropyl-4-methyl-6-pyrimidinyl) phosphorothioate in or on raw agricultural commodities as follows: Bananas at 0.2 part per million; and asparagus, safflower, sunflower, and watercress at 0.75 part per million. The petitioner also proposes that the tolerances on grapefruit, oranges, and lemons be extended to all citrus.

Subsequently the petitioner withdrew the request for tolerances regarding asparagus, safflower, and sunflower and specified that in the case of bananas not more than 0.1 part per million of the insecticide shall be present in the pulp after peel is removed.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purposes for which the tolerances are being established.

Based on consideration given the data submitted in the petition, and other relevant material, the Commissioner of Food and Drugs concludes that the tolerances established in this order will protect the public health. Therefore, by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and delegated by him to the Commissioner (21 CFR 2.120), § 120.153 is amended by revising the eighth paragraph and by adding a new paragraph to the end of the section, as follows:

§ 120.153 Tolerances for residues of *O,O*-diethyl *O*-(2-isopropyl-4-methyl-6-pyrimidinyl) phosphorothioate.

• • • • • •

0.75 part per million in or on apples, apricots, beans (snap), beet roots, beet tops, blackberries, blueberries, boysenberries, broccoli, cabbage, carrots, cauliflower, celery, cherries, citrus, collards, corn (kernels and cob with husks removed), cranberries, cucumbers, dewberries, endive (escarole), figs, grapes, hops, kale, lettuce, lima beans, loganberries, melons, nectarines, onions, parsley, parsnips, peaches, pears, peas with pods (determined on peas after removing any shell present when marketed), peppers, pineapples, plums (fresh prunes), radishes, raspberries, sorghum grain, spinach, strawberries, sugarbeet roots, summer squash, Swiss chard, tomatoes, turnip roots, turnip tops, watercress, winter squash.

• • • • • •

0.2 part per million in or on bananas (of which not more than 0.1 part per million shall be present in the pulp after peel is removed).

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: October 30, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-13065; Filed, Nov. 3, 1967; 8:48 a.m.]

SUBCHAPTER C—DRUGS

PART 148c—COLISTIN

Sodium Colistimethate for Injection

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and delegated by him to the Commissioner of Food and Drugs (21 CFR 2.120), § 148c.5(b)(3) is revised to read as follows to effect a technical improvement in the pyrogens test for the subject antibiotic drug:

§ 148c.5 Sodium colistimethate for injection.

• • • • • •

(b) • • •

(3) *Pyrogens.* Proceed as directed in § 141a.3 of this chapter, using a test dose of 1.0 milliliter per kilogram of a solution in sterile, pyrogen-free distilled water containing 5 milligrams of colistin per milliliter.

• • • • • •

This order merely effects a technical change in the pyrogens test for the subject antibiotic drug and raises no points of controversy; therefore, notice and public procedure are not prerequisites to this promulgation.

Effective date. This order shall become effective 30 days from its date of publication in the FEDERAL REGISTER.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: October 30, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-13066; Filed, Nov. 3, 1967; 8:48 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Chapter II—Federal Housing Administration, Department of Housing and Urban Development

SUBCHAPTER A—GENERAL

PART 200—INTRODUCTION

Subpart D—Delegations of Basic Authority and Functions

MISCELLANEOUS AMENDMENTS

1. In Part 200 in the Table of Contents § 200.81 is deleted.

2. In § 200.77 paragraphs (a) and (c) are amended and paragraph (*l*) is revoked as follows:

§ 200.77 Assistant Commissioner-Comptroller and Deputy.

• • • • • •

(a) To be responsible for coordination and general supervision of the Procedures Branch, the Financial Reports Branch, the Accounting Branch, the Insurance Branch, and the Fiscal Branch.

• • • • • •

(c) To devise and establish insurance fiscal servicing, accounting and fiscal procedures and to administer the fiscal policies and activities of FHA; and to provide or cause to be provided under his direction technical advice and guidance to all organizational elements of the FHA in the fields of accounting, insurance fiscal servicing and fiscal matters.

• • • • • •

(*l*) [Revoked]

3. In Part 200 § 200.81 is revoked as follows:

§ 200.81 Data Processing Officer and Deputy. [Revoked]

(Sec. 2, 48 Stat. 1246, as amended; sec. 211, 52 Stat. 23, as amended; sec. 607, 55 Stat. 61, as amended; sec. 712, 63 Stat. 1281, as amended; sec. 907, 65 Stat. 301, as amended; sec. 807, 69 Stat. 651, as amended; 12 U.S.C. 1709, 1715b, 1742, 1747k, 1748f, 1750f)

Issued at Washington, D.C., October 31, 1967.

PHILIP N. BROWNSTEIN,
Federal Housing Commissioner.

[F.R. Doc. 67-13056; Filed, Nov. 3, 1967; 8:48 a.m.]

Title 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice

[Order 365-67]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Transfer of Functions Relating to Gifts and Bequests to the U.S. to Civil Division

By virtue of the authority vested in me by sections 509 and 510 of Title 28 and section 301 of Title 5 of the United States Code, Part 0 of Chapter I of Title 28 of the Code of Federal Regulations is amended as follows:

1. Paragraph (d) of § 0.25 of Subpart E is revoked.

§ 0.25 General functions.

• • • • • •

(d) [Revoked]

• • • • • •

2. A new paragraph (e) is added after paragraph (d) in § 0.45 of Subpart I to read as follows:

§ 0.45 General functions.

• • • • • •

(e) Gifts and Bequests—handling matters arising out of devises and bequests and inter vivos gifts to the United States, except determinations as to the validity of title to any lands involved and litigation pertaining to such determinations.

• • • • • •

Dated: October 30, 1967.

RAMSEY CLARK,
Attorney General.

[F.R. Doc. 67-13055; Filed, Nov. 3, 1967; 8:47 a.m.]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 526—INDUSTRIES OF A SEASONAL NATURE AND INDUSTRIES WITH MARKED SEASONAL PEAKS OF OPERATION

PART 786—MISCELLANEOUS EXEMPTIONS

Miscellaneous Amendments

Pursuant to the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), and General Order No. 45-A (15 F.R. 3290), I hereby

amend 29 CFR Parts 526 and 786, by revising §§ 526.11, 526.12, 786.50, 786.100, 786.200, and 786.250, as set forth below.

The provisions of 5 U.S.C. 553 which require notice of proposed rule making, opportunity for public participation, and delay in effective date are not applicable because these amendments merely make nonsubstantive corrections, and adapt the interpretative language and statements of general enforcement policy in the current Part 786 to the provisions of the Fair Labor Standards Amendments of 1966 (P.L. 89-601). In addition, and for the same reason, good cause is found to provide no delay in the effective date; delay would serve no useful purpose here. Accordingly, the amendments are effective immediately.

1. Section 526.11 is revised to read as follows:

§ 526.11 Industries characterized by annually recurring seasonal peaks of operations.

The following industries as defined in the FEDERAL REGISTER citation given for each, but no other industries, have been found to be engaged in the operations on perishable agricultural commodities and to have the seasonal characteristics required for exemption under section 7(d)(1)(a) of the Fair Labor Standards Act of 1938, as amended, but have not been found to qualify for the exemption in section 7(c) of such Act. An employer operating an establishment in an enterprise in any such industry in which operations named in the finding are carried on may select the workweeks (not more than 14) in each calendar year in which the partial overtime exemption provided by section 7(d) will be applied to employees in such establishment. (See § 516.19 of this chapter.) During each of the workweeks thus selected, any employee may be employed by an employer in such establishment without payment of the overtime compensation prescribed by section 7(a) of the Act, if such employee is not employed in any nonexempt work outside the scope of the industry and is paid overtime compensation at a rate not less than one and one-half times the regular rate at which he is employed for all hours worked in such workweek in excess of 10 in any workday or in excess of 48 in the workweek, whichever is greater. No employer, however, is permitted to employ any employee under the special provisions of section 7(d) in any industry in the following list for more than 14 workweeks in any calendar year.

Industry	Date of finding	Citation
Dairy products industry	July 17, 1967	32 F.R. 10649.
Cottonseed processing industry.	Aug. 30, 1967	32 F.R. 12675.

2. Section 526.12 is revised to read as follows:

§ 526.12 Seasonal industries engaged in certain operations on perishable agricultural or horticultural commodities.

The following industries as defined in the FEDERAL REGISTER citations given for each, but no other industries, have been found to be seasonal in nature and engaged in certain operations on perishable agricultural or horticultural commodities in their raw or natural state so that both the partial exemptions from the maximum hours requirement of the Fair Labor Standards Act of 1938 provided in its sections 7(c) and 7(d) apply to them. An employer operating an establishment in an enterprise in any such industry in which operations named in the finding are carried on may select the workweeks (not more than 10 for each exemption, or a total of 20 for both exemptions) in each calendar year in which the partial overtime exemptions provided by sections 7(c) and 7(d) will be applied in such establishment. (See §§ 516.18 and 516.19 of this chapter.) During each of the 20 workweeks thus selected, any employee may be employed by an employer in such establishment without payment of the overtime compensation prescribed by section 7(a) of the Act, if such employee is not employed in any nonexempt work outside the scope of the industry and is paid overtime compensation at a rate not less than one and one-half times the regular rate at which he is employed for all hours worked in such workweek in excess of 10 in any workday or in excess of 50 in not more than 10 of the workweeks which may be attributed to section 7(c), or in excess of 10 hours in any workday or in excess of 48 hours in the workweek in not more than 10 of the workweeks which may be attributed to section 7(d), whichever number of hours attributed to daily or weekly overtime work is greater. No employer, however, is permitted to employ any employee under the special provisions of sections 7(c) and 7(d) combined in any industry in the following list for more than 20 workweeks in any calendar year.

Industry	Date of finding	Citation
Sugar cane processing and milling in the State of Florida	May 15, 1967	32 F.R. 7390.
Fresh fruit and vegetable industry	June 30, 1967	32 F.R. 9811.
Puerto Rican sugarcane processing and milling industry	Sept. 26, 1967	32 F.R. 13767.

3. Section 786.50 is revised to read as follows:

§ 786.50 Enforcement policy concerning performance of nonexempt work.

The Division has taken the position that the exemption provided by section 13(b)(7) of the Fair Labor Standards Act will be deemed applicable even though some nonexempt work (that is, work of a nature other than that which characterizes the exemption) is performed by the employee during the workweek, unless the amount of such nonexempt work is substantial. For enforcement purposes, the amount of nonexempt work will be considered substantial if it occupies more than 20 percent of the time worked by the employee during the workweek.

4. Section 786.100 is revised to read as follows:

§ 786.100 Enforcement policy concernperformance of nonexempt work.

The Division has taken the position that the exemption provided by section 13(a)(10) of the Fair Labor Standards Act will be deemed applicable even though some nonexempt work (that is, work of a nature other than that which characterizes the exemption) is performed by the employee during the workweek, unless the amount of such nonexempt work is substantial. For enforcement purposes, the amount of nonexempt work will be considered substantial if it occupies more than 20 percent of the time worked by the employee during the workweek.

5. Section 786.200 is revised to read as follows:

§ 786.200 Enforcement policy concerning performance of nonexempt work.

The Division has taken the position that the exemption provided by section 13(b)(17) of the Fair Labor Standards Act will be deemed applicable even though some nonexempt work (that is, work of a nature other than that which characterizes the exemption) is performed by the employee during the workweek, unless the amount of such nonexempt work is substantial. For enforcement purposes, the amount of nonexempt work will be considered substantial if it occupies more than 20 percent of the time worked by the employee during the workweek.

6. Section 786.250 is revised to read as follows:

§ 786.250 Enforcement policy.

The exemption provided by paragraph 13(a)(8) of the Fair Labor Standards Act of 1938 applies to "any employee employed in connection with the publication of any weekly, semiweekly, or daily newspaper with a circulation of less than four thousand the major part of which circulation is within the county where published or counties contiguous thereto." For the purpose of enforcement, it is the Divisions' position that such an employee is within the exemption even though he is also engaged in job printing activities, if less than 50 percent of the employee's worktime during the workweek is spent in job printing work, some of which is subject to the Act. If none of the job printing activities are within the general coverage of the Act, the exemption applies even if the job printing activities equal or exceed 50 percent of the employee's worktime. However, this exemption is not applicable if the employee spends 50 percent or more of his worktime in a workweek on job printing, any portion of which is within the general coverage of the Act on an individual or enterprise basis.

(29 U.S.C. 201 et seq.); Reorganization Plan No. 6 of 1950 (3 CFR, 1949-53 Comp., p. 1004), General Order 45-A (15 F.R. 3290)

Signed at Washington, D.C., this 31st day of October 1967.

CLARENCE T. LUNDQUIST,
Administrator, Wage and Hour and Public Contracts Divisions, U.S. Department of Labor.

[F.R. Doc. 67-13063; Filed, Nov. 3, 1967; 8:50 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 6—Department of State

[Departmental Reg. 108.569]

PART 6-75—DELEGATIONS OF PROCUREMENT AUTHORITY

Subpart 6-75.2 Delegations

MISCELLANEOUS AMENDMENTS

Subpart 6-75.2 is amended as follows:

1. In § 6-75.201 paragraph (b) is revised to read as follows:

§ 6-75.201 General delegation—Supply and Transportation Services Division.

* * * * *

(b) The authority to authorize the publication of paid advertisements, notices, and proposals within the United States is delegated to the Chief, Supply and Transportation Services Division. This authority may not be redelegated.

2. In § 6-75.205 paragraph (a) is revised to read as follows:

§ 6-75.205 Diplomatic and consular posts located outside the United States.

(a) The authority to execute, award, and administer contracts for the expenditure of funds involved in the acquisition of supplies, equipment, publications and nonpersonal services; to sell personal property; and to authorize the publication of paid advertisements, notices and proposals, is delegated to the Principal Officer, Administrative Officer and General Services Officer.

* * * * *

3. Subpart 6-75.2 is amended by adding a new § 6-75.209 reading as follows:

§ 6-75.209 Office of Overseas Schools.

The authority to execute, award and administer contracts for the overseas schools assistance activities of the Department is delegated to the Director.

(Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); sec. 4, 63 Stat. 111, 22 U.S.C. 2658)

Dated: October 20, 1967.

[SEAL] IDAR RIMESTAD,
Deputy Under Secretary for Administration.

[F.R. Doc. 67-13048; Filed, Nov. 3, 1967; 8:47 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4302]

[Oregon 013665]

OREGON

Withdrawal for National Forest Recreation Area, Partial Revocation of Public Land Order No. 3634

By virtue of the authority vested in the President, and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

MT. HOOD NATIONAL FOREST

WILLAMETTE MERIDIAN

Bear Paw Forest Camp

T. 5 S., R. 9 E.,
Sec. 3, SE¼SW¼SE¼SE¼ and SW¼SE¼SE¼SE¼;
Sec. 10, W½NE¼NE¼NE¼ and E½NW¼NE¼NE¼.

The areas described aggregate approximately 15 acres in Clackamas County.

2. Public Land Order No. 3634 of April 15, 1965, withdrawing national forest lands as administrative sites and recreation areas, is hereby revoked so far as it affects the following described lands:

MT. HOOD NATIONAL FOREST

WILLAMETTE MERIDIAN

Bear Paw Forest Camp

T. 5 S., R. 10 E.,
Sec. 3, SE¼SW¼SE¼SE¼ and SW¼SE¼SE¼SE¼;
Sec. 10, W½NE¼NE¼NE¼ and E½NW¼NE¼NE¼.

The areas described aggregate approximately 15 acres in Clackamas County.

3. The withdrawal made by paragraph 1 of the order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

4. At 10 a.m. on December 6, 1967, the lands released from withdrawal by paragraph 2 above, shall be open to such forms of disposition as may by law be made of national forest lands.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

OCTOBER 31, 1967.

[F.R. Doc. 67-13033; Filed, Nov. 3, 1967; 8:46 a.m.]

[Public Land Order 4303]

[Anchorage AA-578]

ALASKA

Exclusion of Lands From Chugach and Tongass National Forests

By virtue of the authority vested in the President by Chapter 2, section 1 of the act of June 4, 1897 (30 Stat. 34, 36; 16 U.S.C. 473), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

The following described tracts of land in Alaska, occupied as homesites, are hereby excluded from the Chugach and Tongass National Forests and restored, subject to valid existing rights, for purchase as homesites under section 10 of the act of May 14, 1898 (30 Stat. 413), as amended by the act of May 26, 1934 (48 Stat. 809; 48 U.S.C. 461):

CHUGACH NATIONAL FOREST

U.S. SURVEY 3323

Latitude 60°28'23" N., longitude 149°21' 00" W., lot 7 (Homesite No. 157, Trail Lake Group) 3.98 acres.

TONGASS NATIONAL FOREST

U.S. SURVEY 2414

Latitude 58°06'24" N., longitude 135°27'00" W.

(a) Lot 4 (Homesite No. 1151, Gartina Game Creek Group) 1.19 acres.

(b) Lot 10 (Homesite No. 1147, Gartina Game Creek Group) 3.12 acres.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

OCTOBER 31, 1967.

[F.R. Doc. 67-13034; Filed, Nov. 3, 1967; 8:46 a.m.]

[Public Land Order 4304]

[Blackfoot 042852]

IDAHO

Release of Lands in Reservoir District From Lien For Irrigation Charges

By virtue of the authority contained in section 3 of the act of August 11, 1916 (39 Stat. 507; 43 U.S.C. 625), and at the request of the Board of Directors of the American Falls Reservoir District No. 2, it is ordered as follows:

1. The following described lands, designated in a statement marked "Exhibit G" attached to and made part of a contract dated September 21, 1927, between the District and the United States, as being subject to the provisions of the said act of August 11, 1916, are hereby deleted from said "Exhibit G":

BOISE MERIDIAN

T. 7 S., R. 18 E.,
Sec. 10, E½SW¼, SE¼;
Sec. 11, W½SW¼.
T. 9 S., R. 20 E.,
Sec. 8, S½SW¼, W½SE¼;
Sec. 17, E½W½.

The areas described aggregate 640 acres.

2. The said contract and the said Exhibit G are hereby amended to conform with the deletion made by this order, and the lands above described shall no longer be subject to the provisions of the laws of the State of Idaho relating to the organization, government and regulations of irrigation districts, and shall hereafter be subject to the general operation of the public land laws free of the lien for irrigation charges provided by the said act of August 11, 1916, subject to valid existing rights and the provisions of existing withdrawals.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

OCTOBER 31, 1967.

[F.R. Doc. 67-13085; Filed, Nov. 3, 1967; 8:46 a.m.]

[Public Land Order 4305]

[Oregon 1573]

OREGON

Withdrawal for Public Recreation Site

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described lands which are under the jurisdiction of the Secretary of the Interior, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, and reserved for protection of public recreation values:

WILLAMETTE MERIDIAN

ALSEA FALLS RECREATION SITE ADDITION

T. 14 S., R. 7 W.,
Sec. 25, W½NE¼SW¼NE¼, SE¼SW¼NW¼, W½NW¼NE¼SW¼, SW¼NE¼SW¼, NW¼SW¼, NE¼SW¼SW¼, E½SE¼SW¼SW¼, SE¼SW¼, SW¼NW¼SW¼SE¼, and W½SW¼SW¼SE¼.

The areas described aggregate 132.5 acres in Benton County.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

OCTOBER 31, 1967.

[F.R. Doc. 67-13086; Filed, Nov. 3, 1967; 8:46 a.m.]

[Public Land Order 4306]

[Utah 2960]

UTAH

Addition to National Forest

By virtue of the authority vested in the President by section 24 of the act of March 3, 1891 (26 Stat. 1103; 16 U.S.C. 471), and section 1 of the act of June 4, 1897 (30 Stat. 34, 36; 16 U.S.C. 473), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

Subject to valid existing rights, the following described public lands are hereby added to and made a part of the Fishlake National Forest, and hereafter shall be subject to all laws and regulations applicable thereto, and the boundaries of said forest are adjusted accordingly:

SALT LAKE MERIDIAN

T. 23 S., R. 3 E.,
Sec. 11, E½E½, S½SW¼, SW¼SE¼.

The areas described aggregate 280 acres in Sevier County.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

OCTOBER 31, 1967.

[F.R. Doc. 67-13087; Filed, Nov. 3, 1967; 8:46 a.m.]

[Public Land Order 4307]

[Arizona 07159]

ARIZONA

Partial Revocation of Public Land Order No. 3263

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

Public Land Order No. 3263 of October 29, 1963, withdrawing the minerals in national forest lands from prospecting, location, entry, and purchase under the mining laws of the United States in aid of programs of the Forest Service, Department of Agriculture, for utilization of the surface as administrative sites, recreation areas, campgrounds, and for other program purposes, and for protection of forest roads and highways and adjacent roadside zones, is hereby revoked so far as it affects the following described lands:

GILA AND SALT RIVER MERIDIAN

APACHE NATIONAL FOREST

U.S. Highway No. 666—Roadside Zone

A strip of land 200 feet from the centerline on each side of U.S. Highway No. 666, where it traverses forest land, through the following legal subdivisions:

T. 3 N., R. 29 E.,
Secs. 28 and 33.

The area described contains approximately 50 acres in Greenlee County.

The land remains withdrawn by Public Land Order No. 1583 of February 5, 1958, for a national forest roadside zone.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

OCTOBER 31, 1967.

[F.R. Doc. 67-13088; Filed, Nov. 3, 1967; 8:49 a.m.]

[Public Land Order 4308]

[Sacramento 079934]

CALIFORNIA

Withdrawal For Forest Service Research Natural Area and Experimental Forest

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights and the provisions of existing withdrawals, the following described national forest lands are hereby withdrawn from appropriation under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

MOUNT DIABLO MERIDIAN

MODOC NATIONAL FOREST

Burnt Lava Flow Virgin Area

T. 42 N., R. 3 E. (unsurveyed),
Sec. 12, SE¼NE¼SE¼, SE¼SW¼SE¼, and SE¼SE¼;
Sec. 13, N½NE¼.
T. 42 N., R. 4 E.,
Sec. 3, SW¼ of lot 4, SW¼NW¼, SW¼SE¼NW¼, W½NE¼SW¼, SE¼NE¼SW¼, W½SW¼, and SE¼SW¼;
Sec. 4, lots 2, 3, and 4, NW¼ of lot 1, S½ of lot 1, S½N½, and S½;
Sec. 5, lots 1, 2, and 4, S½ of lot 3, S½N½, and S½;
Sec. 6, lot 1, SE¼NE¼, and SE¼;
Sec. 7, lots 3 and 4, E½NW¼, E½SW¼, and E½;
Secs. 8 and 9;
Sec. 10, W½W½NE¼, W½, and W½SE¼;
Sec. 14, S½NW¼NW¼, SW¼NW¼, W½SE¼NW¼, and NW¼SW¼;
Secs. 15, 16, and 17;
Sec. 18, lots 1, 2, and 3, E½NW¼, NE¼SW¼, and E½;
Sec. 19, NE¼NE¼;
Sec. 20, NE¼, NW¼NW¼, E½NW¼, N½SE¼, and SE¼SE¼;
Sec. 21;
Sec. 22, N½, SW¼, NW¼NE¼SE¼, NW¼SE¼, and E½E½SE¼;
Sec. 23, W½W½;
Sec. 26, NW¼NW¼;
Sec. 27, NW¼ and NE¼SW¼;
Sec. 28, N½NE¼, N½NE¼NW¼, and NE¼NW¼NW¼.
T. 43 N., R. 4 E. (unsurveyed),
Sec. 32, SE¼SE¼SE¼;
Sec. 33, SW¼SW¼, S½SE¼SW¼, and S½SW¼SE¼.

The areas described aggregate approximately 8,908 acres in Siskiyou County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

OCTOBER 31, 1967.

[F.R. Doc. 67-13081; Filed, Nov. 3, 1967; 8:50 a.m.]

[Public Land Order 4309]

[Montana 072630]

MONTANA

Withdrawal for National Forest Recreation Areas

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

KOOTENAI NATIONAL FOREST

PRINCIPAL MERIDIAN, MONTANA

T. 26 N., R. 26 W.,
Sec. 12, Lots 2, 3, and 4.

The area described contains 94.16 acres in Flathead County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

OCTOBER 31, 1967.

[F.R. Doc. 67-13089; Filed, Nov. 3, 1967; 8:46 a.m.]

[Public Land Order 4311]

[Oregon 185]

OREGON

Withdrawal for National Forest Administrative Sites and Recreation Areas

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

WILLAMETTE MERIDIAN

UMATILLA NATIONAL FOREST

Wheeler Point Administrative Area

T. 7 S., R. 34 E.,
Sec. 18, SE¼ of lot 2.

Big Rock Flat Administrative Area

T. 6 S., R. 36 E.,
Sec. 14, SE¼SE¼;
Sec. 23, NE¼ and NE¼SE¼.

Ant Hill Administrative Area

T. 8 S., R. 36 E.,
Sec. 19, NE¼NE¼SW¼.

Tamarack Mountain Administrative Area

T. 8 S., R. 26 E.,
Sec. 18, S½SW¼NE¼ and NW¼NW¼SE¼.

Madison Butte Administrative Area

T. 5 S., R. 27 E.,
Sec. 29, SE¼NE¼NE¼ and NE¼SE¼NE¼.

Bottle Spring Administrative Area

T. 5 S., R. 27 E.,
Sec. 29, NW¼SE¼NW¼.

Ditch Creek Administrative Area

T. 5 S., R. 26 E.,
Sec. 21, SE¼SW¼NW¼.

Deerhorn Campground

T. 5 S., R. 26 E.,
Sec. 24, SE¼SW¼SW¼.

Mallory Spring Campground

T. 5 S., R. 26 E.,
Sec. 34, NE¼NE¼NE¼.

KOOTENAI NATIONAL FOREST

PRINCIPAL MERIDIAN, MONTANA

T. 26 N., R. 26 W.,
Sec. 12, Lots 2, 3, and 4.

The area described contains 94.16 acres in Flathead County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

OCTOBER 31, 1967.

[F.R. Doc. 67-13039; Filed, Nov. 3, 1967; 8:46 a.m.]

[Public Land Order 4311]

[Oregon 185]

OREGON

Withdrawal for National Forest Administrative Sites and Recreation Areas

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

WILLAMETTE MERIDIAN

UMATILLA NATIONAL FOREST

Wheeler Point Administrative Area

T. 7 S., R. 34 E.,
Sec. 18, SE¼ of lot 2.

Big Rock Flat Administrative Area

T. 6 S., R. 36 E.,
Sec. 14, SE¼SE¼;
Sec. 23, NE¼ and NE¼SE¼.

Ant Hill Administrative Area

T. 8 S., R. 36 E.,
Sec. 19, NE¼NE¼SW¼.

Tamarack Mountain Administrative Area

T. 8 S., R. 26 E.,
Sec. 18, S½SW¼NE¼ and NW¼NW¼SE¼.

Madison Butte Administrative Area

T. 5 S., R. 27 E.,
Sec. 29, SE¼NE¼NE¼ and NE¼SE¼NE¼.

Bottle Spring Administrative Area

T. 5 S., R. 27 E.,
Sec. 29, NW¼SE¼NW¼.

Ditch Creek Administrative Area

T. 5 S., R. 26 E.,
Sec. 21, SE¼SW¼NW¼.

Deerhorn Campground

T. 5 S., R. 26 E.,
Sec. 24, SE¼SW¼SW¼.

Mallory Spring Campground

T. 5 S., R. 26 E.,
Sec. 34, NE¼NE¼NE¼.

The areas described aggregate 349.90 acres in Grant, Morrow, and Wheeler Counties.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetable resources other than under the mining laws.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

OCTOBER 31, 1967.

[F.R. Doc. 67-13040; Filed, Nov. 3, 1967; 8:46 a.m.]

[Public Land Order 4312]

[Riverside 753]

CALIFORNIA

Amendment of Public Land Order No. 4270

Public Land Order No. 4270 of September 11, 1967 (32 F.R. 13192-3), transferring jurisdiction over the oil and gas deposits in or adjacent to certain lands of the Veterans Administration Center, Los Angeles, to the Department of the Interior, is hereby amended by deleting from the last line in the first paragraph the words "in private ownership."

The adjacent lands to which it refers are federally owned.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

OCTOBER 31, 1967.

[F.R. Doc. 67-13041; Filed, Nov. 3, 1967; 8:46 a.m.]

[Public Land Order 4313]

[Arizona 821]

ARIZONA

Modification of Executive Order No. 2295

By virtue of the authority vested in the President by section 1 of the act of June 25, 1910 (36 Stat. 847; 43 U.S.C. 141), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

Executive Order No. 2295 of January 1, 1916, withdrawing certain lands in Arizona for a rifle range, is hereby modified to the extent necessary to permit the granting of a right-of-way under section 2477, U.S. Revised Statutes (43 U.S.C. 932), to the city of Tucson, Ariz., over the following described lands, as delineated on a map entitled "Proposed Realignment of W. Speedway and Opening of La Cholla Boulevard, etc.", on file with the Bureau of Land Management in Arizona 821, for construction of a public road:

GILA AND SALT RIVER MERIDIAN

T. 14 S., R. 13 E.,
Sec. 30, lot 18.

The area described contains 13.94 acres in Pima County.

OCTOBER 31, 1967.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

[F.R. Doc. 67-13043; Filed, Nov. 3, 1967; 8:46 a.m.]

Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Lemon Reg. 392]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.592 Lemon Regulation 392.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on October 31, 1967.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period November 5, 1967, through November 11, 1967, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 50,220 cartons;

(iii) District 3: 149,730 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 2, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-13136; Filed, Nov. 3, 1967; 8:50 a.m.]

[Grapefruit Reg. 46]

PART 912—GRAPEFRUIT GROWN IN INDIAN RIVER DISTRICT IN FLORIDA

Limitation of Handling

§ 912.346 Grapefruit Regulation 46.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 912, as amended (7 CFR Part 912), regulating the handling of grapefruit grown in the Indian River District in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Indian River Grapefruit Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Indian River grapefruit, and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Indian River grapefruit; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 2, 1967.

(b) *Order.* (1) The quantity of grapefruit grown in the Indian River District which may be handled during the period November 6, 1967 through November 12, 1967, is hereby fixed at 125,000 standard packed boxes.

(2) As used in this section, "handled," "Indian River District," "grapefruit," and "standard packed box" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 2, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-13187; Filed, Nov. 3, 1967; 11:17 a.m.]

[Grapefruit Reg. 14]

PART 913—GRAPEFRUIT GROWN IN INTERIOR DISTRICT IN FLORIDA

Limitation of Shipments

§ 913.314 Grapefruit Regulation 14.

(a) *Findings.* (1) (i) Pursuant to the marketing agreement and Order No. 913 (7 CFR Part 913), regulating the handling of grapefruit grown in the Interior District in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and after consideration of the recommendations and information submitted by the Interior Grapefruit Marketing Committee, established under the said marketing agreement and order, and upon other available information, it is hereby found, on the basis hereinafter set forth, that the limitation of handling of such grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(ii) The committee reports that the market for Interior grapefruit is slow with excessive supplies in the market; there is seasonal consumer resistance to the purchase of large supplies of fresh grapefruit; and thus additional supplies should not be permitted in the market as they could tend to further depress the market. The current average auction price for Interior grapefruit shows a reduction to $3.28 per ⅘-bushel carton from $2.76 per ⅘-bushel carton at the beginning of the previous week which had declined from a somewhat higher average price for the week prior thereto. A limitation of grapefruit shipments at this time of season would tend to prevent market gluts; and such limitation would also tend to establish and maintain such orderly marketing conditions for such grapefruit as will provide, in the interest of producers and consumers, an orderly flow of the supply thereof to market throughout its normal marketing season so as to avoid unreasonable fluctuations in supplies and prices, which could result in part from an Interior grapefruit crop which is currently estimated to be significantly smaller than that of last year. The committee concluded on the basis of the foregoing and other pertinent factors that shipment of Interior grapefruit should be fixed at 550 carloads (275,000 standard packed boxes); and it so recommended.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Interior grapefruit, and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee; and information concerning such provisions and effective time has been disseminated among handlers of such Interior grapefruit; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on October 31, 1967.

(b) *Order.* (1) The quantity of grapefruit grown in the Interior District which may be handled during the period November 6, 1967, through November 12, 1967, is hereby fixed at 275,000 standard packed boxes.

(2) As used in this section, "handled," "Interior District," "grapefruit," and "standard packed box" have the same meaning as when used in said marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 1, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-13063; Filed, Nov. 3, 1967; 8:47 a.m.]

[Milk Order No. 137]

PART 1137—MILK IN EASTERN COLORADO MARKETING AREA

Order Suspending Certain Provision

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Eastern Colorado marketing area (7 CFR Part 1137), it is hereby found and determined that:

(a) The following provision of the order no longer tends to effectuate the declared policy of the Act for the months of November and December 1967 and January 1968:

(1) Section 1137.51(a) (1) and (2) in its entirety, relating to the computation of the supply-demand adjustment.

(b) Thirty days notice of the effective date hereof are impractical, unnecessary, and contrary to the public interest in that:

(1) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date.

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(3) The suspension will cancel minus supply-demand adjustments which, otherwise, would lower Class I milk prices during the suspension period. The suspension is intended to maintain sufficient milk production for the Eastern Colorado and Western Colorado milk markets to meet the need for Class I milk during the suspension period.

The supply-demand adjustor which is provided in the Eastern Colorado order utilizes milk supply and Class I utilization data for both the Eastern Colorado and Western Colorado markets. The Western Colorado Class I milk price is directly related to the Class I price established for Eastern Colorado. Consequently, the suspension order will also affect the Class I price for the Western Colorado market during the suspension period.

(4) Interested parties were afforded opportunity to file written data, views or arguments concerning this suspension (32 F.R. 14774). None was filed in opposition.

Therefore, good cause exists for making this order effective November 1, 1967.

It is therefore ordered, That the aforesaid provision of the order is hereby suspended for the months of November and December 1967, and January 1968.

(Secs. 1–19, 48 Stat. 31, as amended; U.S.C. 601–674)

Effective date: November 1, 1967.

Signed at Washington, D.C., on November 3, 1967.

ROBERT E. LEONARD,
Deputy Assistant Secretary.

[F.R. Doc. 67-13188; Filed, Nov. 3, 1967; 11:17 a.m.]

Proposed Rule Making

ATOMIC ENERGY COMMISSION

[10 CFR Part 20]

STANDARDS FOR PROTECTION AGAINST RADIATION

Exposure of Individuals to Concentrations of Radioactive Material in Restricted Areas

Under the Atomic Energy Commission's currently effective regulations, 10 CFR Part 20, "Standards for Protection Against Radiation", Commission licensees may make allowance for the use of protective clothing or equipment in determining whether an individual is exposed to airborne concentrations of radioactive material in excess of specified limits only upon approval of a specific application to the Commission (§ 20.103).

The Commission is considering the amendment of § 20.103 to permit licensees, without prior specific authorization by the Commission, to make allowance for the use of respiratory protective equipment, under certain conditions, in limiting individual exposures. As revised, § 20.103(c) would specify conditions to be met by the licensee, including criteria for assuring an adequate respiratory protective program. The proposed amendment is designed to allow licensees greater operational flexibility by eliminating the time-consuming reviews now required for prior authorization without materially reducing the degree of safety provided. To this extent, the Commission's regulatory process would be simplified. In addition, the Commission will publish in the near future, as a technical information document WASH-_____,[1] a guide on the use of respirators for protection against airborne radioactive materials.

The primary objective of respiratory protective programs is to limit the inhalation of airborne radioactive materials. This objective is normally accomplished by the application of engineering controls, including process, containment, and ventilation design, as the primary means to assure that exposures are below permissible levels. The Commission continues to encourage licensees to follow the common industrial practice of using engineering controls to keep airborne concentrations as low as practicable in areas that may be occupied. When such controls are not feasible or cannot be applied to obtain sufficiently low concentrations, the use of respiratory protective equipment may be appropriate. In general, the use of respirators is less desirable than the use of process, containment, and ventilation techniques in providing respiratory protection. The use of respirators entails both greater likelihood of accidental exposures and greater likelihood that such exposures may go undetected, and may also subject the wearer to additional stress. The provision and use of respiratory protective equipment are subject to the following considerations regarding circumstances under which respiratory protection may be needed.

a. Routine operations are planned activities that are generally repetitive and occur with varying frequencies. For such operations, potential sources of airborne radioactive materials should be identified and respiratory protection provided by the use of process, containment and ventilation measures and by preplanning of work to limit exposure to airborne concentrations. The use of respiratory protective devices as a substitute for feasible engineering controls in routine operations is inappropriate.

b. Nonroutine operations are activities that are either nonrepetitive or else occur so infrequently that adequate limitation of exposure by engineering controls is impracticable. To the extent that process, containment, and ventilation controls are not reasonably feasible, the use of respiratory protective devices in nonroutine operations to avoid excessive exposure to radioactive materials is appropriate.

c. Emergencies are unplanned events characterized by risks sufficient to require immediate action to avoid or mitigate an abrupt or rapidly deteriorating situation. In such situations, use of respiratory protective equipment may be essential. While emergencies are, of course, unplanned, there should be plans for coping with potential emergencies. Such plans should assure that respiratory protective equipment likely to be needed is properly selected and maintained and that personnel are instructed in its use. The advance preparations appropriate to a particular potential emergency will depend upon its possible consequences and the probability of its occurrence.

Respiratory protective equipment is likely to be ineffective unless it is properly chosen, maintained, and used. The requirements set forth in the proposed § 20.103(c)(3) below are considered to be essential for an adequate respiratory protective program.

The periods of time for which respirators may be worn continuously and the overall time of use should be kept to a minimum. It is common practice to allow adequate rest periods at reasonable intervals for respirator users, and to limit total time of use. However, it is difficult to assign specific time limits on respirator use because of the wide variations in job requirements and in the physical capacities and psychological attitudes of individuals. It is expected that these factors would be taken into account by licensees in establishing a respiratory protective program. In lieu of a specific time limitation, the proposed amendment would include provision for relief of individuals wearing respirators. Experience has shown that where such relief is not provided, the protection afforded the wearer and the overall safety of the operation are likely to be reduced.

The proposed amendment of § 20.103 would:

a. Revise the present paragraph (a) to limit time average inhalation of airborne radioactive material to permissible concentration limits.

b. Delete the present paragraph (b) and add a proposed new paragraph (b) providing limitations on total intake of radioactive materials into the body by inhalation or absorption.

c. Delete the present paragraph (c) and add a proposed new paragraph (c) providing performance criteria under which allowance might be made for use of respiratory protective equipment which, among other things, would further limit the intake of radioactive materials in any 24-hour period during any portion of which respirators are worn.

d. Add a new paragraph (d) providing for imposition of further restrictions by the Commission on use of respirators, and to limit exposures of personnel to airborne radioactive materials when respiratory protective programs are found to be inadequate.

e. Add a new paragraph (e) requiring a report to be made to the appropriate AEC Compliance Office of the establishment of any respiratory protective program under the provisions of paragraph (c).

f. Add a new paragraph (f) indicating that the provisions of the proposed § 20.103 shall not be interpreted as precluding the use of appropriate respiratory protective devices in an emergency.

g. Add an Appendix E to 10 CFR 20—Protection Factors for Respirators.

Pursuant to the Atomic Energy Act of 1954, as amended, and the Administrative Procedure Act of 1946, as amended, notice is hereby given that adoption of the following amendment of 10 CFR Part 20 is contemplated. All interested persons who desire to submit written comments or suggestions in connection with the proposed amendment should send them to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch within 90 days after publication of this notice in the FEDERAL REGISTER. Comments received after that period will be considered if it is practicable to do so, but assurance of consideration cannot be given except as to comments received within the period specified. Copies of comments on the proposed rule may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. 20545.

1. Section 20.103 is amended to read as follows:

§ 20.103 Exposure of individuals to concentrations of radioactive material in restricted areas.

(a) No licensee shall possess, use, or transfer licensed material in such a manner as to permit any individual in a restricted area, within any period of 7 consecutive days to inhale airborne radioactive material in time-weighted average concentrations in excess of the pertinent values specified in Appendix B, Table I, Column 1 of this part. Except as provided in paragraph (c)(2) of this section, the concentration values specified in Appendix B, Table I, Column 1, of this part are based upon inhalation at these concentrations during 40 hours in any period of 7 consecutive days. In any 7 consecutive days in which the number of hours during which airborne radioactive material is inhaled is less than 40, the concentration average values may be increased proportionately. In any 7 consecutive days in which the number of hours during which airborne radioactive material is inhaled is greater than 40, the concentration average values shall be decreased proportionately. For the purposes of this regulation, it is assumed that an individual inhales radioactive material at the airborne concentrations in which he is present, unless he uses respiratory protective equipment pursuant to paragraph (c) of this section.

(b) If the radioactive material is of such form that intake through the skin or other additional route is likely, individual exposures to radioactive material shall be controlled so that the radioactive content of any critical organ from all routes of intake averaged over 7 consecutive days does not exceed that which would result from inhaling such radioactive material for 40 hours at the pertinent concentration values provided in Appendix B, Table I, Column 1 of this part.[2]

(c) In nonroutine operations in which adequate limitation of the inhalation of radioactive material by the use of process or other engineering controls is impracticable, a licensee may permit an individual in a restricted area to use respiratory protective equipment to limit the inhalation of airborne radioactive material, provided:

(1) The limits specified in paragraphs (a) and (b) of this section are not exceeded.

(2) Individual exposures to airborne radioactive material are controlled so that the quantity of radioactive material inhaled within any period of 24 consecutive hours during any portion of which respirators are used does not exceed that intake which would result from inhaling such material for 8 hours at the pertinent concentration values provided in Appendix B, Table I, Column 1. For the purposes of this subparagraph the concentration of radioactive material that is inhaled when respirators are worn may be determined by dividing the ambient airborne concentration by the protection factor specified in Appendix E of this part for the respiratory protective equipment worn.

(3) The licensee advises each respirator user that he may leave the area at any time for relief from respirator use.

(4) The licensee maintains a respiratory protective program adequate to assure that the requirements of subparagraphs (1) and (2) of this paragraph are met.[3] Such a program shall include:

(i) Air sampling and other surveys sufficient to identify the hazard, to evaluate individual exposure, and to permit proper selection of respiratory protective equipment.

(ii) Procedures to assure proper selection, supervision and training of personnel using such protective equipment.

(iii) Procedures to assure the adequate fitting of respirators and the testing of respiratory protective equipment for operability.

(iv) Procedures for maintenance to assure full effectiveness of respiratory protective equipment, including issuance, cleaning and decontamination, inspection, repair, and storage.

(v) Bioassays of individuals and other surveys, as appropriate, to evaluate individual exposures and to assess protection actually provided.

(vi) Records sufficient to permit periodic evaluation of the adequacy of the respiratory protective program.

(5) The licensee has evaluated[4] the respiratory protective equipment and has determined that, when used to protect against radioactive material under the conditions of use to be encountered, such equipment is capable of providing a degree of protection at least equal to the protection factors listed in Appendix E of this part.[5]

(6) Unless otherwise authorized by the Commission, the licensee does not assign protection factors in excess of those specified in Appendix E of this part in selecting and using respiratory protective equipment. The Commission may authorize a licensee to use higher protection factors upon receipt of an application (i) describing the situation for which a need exists for higher protection factors and (ii) demonstrating that the respirator will provide such higher protection factors under the proposed conditions of use.

(d) Notwithstanding the provisions of paragraph (c) of this section the Commission may impose further restrictions:

(1) On the extent to which a licensee may use respirators in lieu of process, containment, ventilation or other engineering controls; and

(2) To limit exposures of personnel to airborne radioactive materials if the respiratory protective program of the licensee is found to be inadequate.

(e) The licensee shall notify, in writing, the Director of the appropriate Atomic Energy Commission Regional Compliance Office listed in Appendix D of this part when he initiates a respiratory protective program. Such notification shall be made within 30 days after the date that he first permits use of respiratory protective equipment under the provisions of this section.

(f) Nothing contained in the provisions of this section shall preclude the use of respiratory protective equipment in an emergency. For the purposes of this section, an emergency is considered an unplanned event characterized by risks sufficient to require immediate action or avoid or mitigate an abrupt or rapidly deteriorating situation.

2. An Appendix E is added to 10 CFR Part 20, to read as follows:

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[1] The draft guide is available for inspection at the Commission's Public Document Room, 1717 H Street, Washington, D.C., and copies may be obtained by addressing a request to the Director, Division of Radiation Protection Standards, U.S. Atomic Energy Commission, Washington, D.C. 20545.

[2] Since the concentration specified for tritium oxide vapor assumes equal intakes by skin absorption and inhalation, the total intake permitted is that which would result from inhalation at twice the Appendix B, Table I, Column 1 concentration for 40 hours.

[3] Technical guidance in meeting the requirements of this subparagraph is provided in AEC technical information document WASH-_____, dated _____, 1968.

[4] Equipment approved under appropriate test schedules of the U.S. Bureau of Mines is acceptable to the extent pertinent under the conditions to be encountered.

[5] The factors listed are intended for use in protection against radioactive materials. These factors must be modified and additional precautions must be taken as necessary to portect against concurrent nonradiation hazards.

APPENDIX B

PROTECTION FACTORS FOR RESPIRATORS

Description	Modes [1]	Protection Factors [2]	
		Particulates and vapors and gases except tritium oxide [3]	Tritium oxide
I. Air-purifying respirator:			
Facepiece, half-mask	NP	10	1
Facepiece, full	NP	100	1
Facepiece, half-mask or full, or hood	PP	1,000	1
II. Atmosphere-supplying respirator:			
1. Air-line respirator:			
Facepiece, half-mask	CF	1,000	2
Facepiece, half-mask	D	100	2
Facepiece, full	CF	10,000	2
Facepiece, full	D	5,000	2
Facepiece, full	PD	10,000	2
Hood	CF	1,000	2
Suit	CF	(4)	(4)
2. Self-contained breathing apparatus (SCBA):			
Facepiece, full	D	5,000	2
Facepiece, full	PD	10,000	2
Facepiece, full	R	10,000	2
III. Combination respirator: Any combination of air-purifying and atmosphere-supplying respirator.		Protection factor for type and mode of operation as listed above.	

[1] See the following symbols:
CF: continuous flow.
D: demand.
NP: negative pressure (i.e. negative phase during inhalation).
PD: pressure demand (i.e. always positive pressure).
PP: positive pressure.
R: recirculating (closed circuit).

[2] (a) For purposes of this part the protection factor is a measure of the degree of protection afforded by a respirator, defined as the ratio of the concentration of airborne radioactive material outside the respiratory protective equipment to that inside the equipment (usually inside the facepiece) under conditions of use. It is applied to the ambient airborne concentration to determine the concentration inhaled by the wearer according to the following formula:

$$\text{Concentration Inhaled} = \frac{\text{Ambient Airborne Concentration}}{\text{Protection Factor}}$$

(b) The protection factors apply:
(i) only for trained individuals wearing properly fitted respirators used and maintained under supervision in a well-planned respiratory protective program.
(ii) for air-purifying respirators only when high efficiency particulate filters and/or sorbents appropriate to the hazard are used in atmospheres not deficient in oxygen.
(iii) for atmosphere-supplying respirators only when supplied with adequate respirable air.

[3] Excluding radioactive contaminants that present an absorption or submersion hazard.

[4] Appropriate protection factors must be determined taking account of the design of the suit and its permeability to the contaminant under conditions of use. No protection factor greater than 10,000 shall be used except as authorized pursuant to § 20.103(c)(6).

NOTE 1: Protection factors for respirators, as may be approved by the U.S. Bureau of Mines according to approval schedules for respirators to protect against airborne radionuclides, may be used to the extent that they do not exceed the protection factors listed in this Table. These protection factors may not be appropriate to circumstances where chemical or other respiratory hazards exist in addition to radioactive hazards. The selection and use of respirators for such circumstances should take into account approvals of the U.S. Bureau of Mines in accordance with their applicable schedules.

NOTE 2: Radioactive contaminants for which the concentration values in Appendix B, Table I of this part are based on internal dose due to inhalation may, in addition, present external exposure hazards at higher concentrations. Under such circumstances, limitations on occupancy may have to be governed by external dose limits.

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Washington, D.C., this eighteenth day of October 1967.

For the Atomic Energy Commission.

F. T. HOSS,
Acting Secretary.

[F.R. Doc. 67-13053; Filed, Nov. 3, 1967; 8:45 a.m.]

FEDERAL POWER COMMISSION

[18 CFR Parts 141, 260]

[Docket No. R-332]

ANNUAL REPORTS OF CLASS A AND B PUBLIC UTILITIES, LICENSEES AND NATURAL GAS COMPANIES

Schedule for Reporting Charges for Professional and Other Consultative Services

OCTOBER 31, 1967.

1. Notice is given pursuant to section 553 of title 5 of the United States Code that the Commission proposes to amend the schedule "Charges For Professional Services", page 354, of FPC Form No. 1 and FPC Form No. 2 [1] prescribed, respectively, for public utilities and licensees by § 141.1, and for natural gas companies by § 260.1 of its regulations.

2. The schedule we propose to revise currently requires the reporting of specified information on any outside professional services for which payment is made in the amount of (1) $5,000 by a Class B utility, (2) $10,000 by a Class A utility having operating revenues under $25 million, and (3) $25,000 by Class A utilities having operating revenues of $25 million or more. The proposed revision would require reporting on all outside services of a professional nature procured by Class A and B utilities, regardless of the amount of payment. The title of the schedule would be changed to "Charges for Outside Consultative and Other Professional Services" to make clear that it covers all types of services. The additional information that will be required to be furnished as a result of this revision will assure full public disclosure of basic business practices and thereby assist in the discharge of our responsibilities for continuing surveillance of the operations of jurisdictional companies. The significance of the latter stems from the fact that, in general, appropriate consultative fees are classifiable as operating expenses, includible principally in Account 923, of our Uniform Systems of Accounts.

3. Accordingly, we propose to amend the schedule "Charges for Professional Services", page 354 of Forms Nos. 1 and 2, by revising the title to read "Charges for Outside Professional and Other Consultative Services. Instruction paragraph 1 is being revised to require the reporting of all charges made rather than only those above the limits currently specified. As amended paragraph 1 reads:

1. Report the information specified below for all charges made during the year included in any account for rate, management, construction, engineering, research, financial, valuation, legal, accounting, purchasing, advertising, labor relations, public relations, professional and other consultative services rendered the respondent under written or oral arrangements by any corporation, partnership, individual (other than for services as an employee), or organization of any kind, including legislative services except for those which should be reported in Account 426.4, Uniform System of Accounts.

In addition instruction 1(d) has been revised to require in more specific language the disclosure of the accounts and departments involved, and the word "professional" has been deleted from instruction 2. The deletion is intended to remove an unnecessary ambiguity. The propriety of including specific charges on Forms Nos. 1 and 2 should turn on the nature of the services for which the charge was incurred and not on the label by which the service is designated. The schedule, as proposed to be revised, is appended hereto.

4. This amendment of the schedule in FPC Forms Nos. 1 and 2 is proposed to be issued under the authority contained in sections 304 and 309 of the Federal Power Act (49 Stat. 855, 858; 16 U.S.C. 825c, 825h) and sections 10 and 16 of the Natural Gas Act (52 Stat. 826, 830; 15 U.S.C. 717i, 717o).

5. Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than December 20, 1967, data, views and comments in writing concerning the amendments here proposed. An original and 14 conformed copies should be filed with the Commission. In addition, interested persons, wishing to have their comments considered in the clearance of the proposed revisions under provisions of the Federal Reports Act of 1942 may at the same time submit a conformed copy of their comments directly to the Clearance Officer, Office of Statistical Standards, Bureau of the Budget, Washington, D.C. 20503. Submissions to the Commission should indicate the name and address of the person to whom correspondence in regard to the proposal should be addressed. The Commission will consider all such written submissions before acting on the matters here proposed.

By the Commission.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13094; Filed, Nov. 3, 1967; 8:46 a.m.]

[1] Forms Nos. 1 and 2 filed as part of the original document.

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 51]

CAULIFLOWER [1]

U.S. Standards for Grades

Notice is hereby given that the U.S. Department of Agriculture is considering the revision of U.S. Standards for Cauliflower (7 CFR, §§ 51.540–51.549) pursuant to the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621–1627).

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposal should file the same in duplicate, not later than January 1, 1968, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, where they will be available for public inspection during official hours of business (paragraph (b) of § 1.27, as amended at 29 F.R. 7311).

Statement of considerations leading to the proposed revision of the grade standards. Trends in production and marketing practices over the past years have prompted interest by the industry in updating and improving the U.S. Standards for Cauliflower which have been in effect since December 14, 1952. The proposed changes in the standards result from discussions and field studies with industry members in various producing areas and terminal markets. It is believed that use of the proposed standards would benefit the cauliflower industry.

The proposed revision includes the following changes:

(1) The present standards provide for only one grade, U.S. No. 1. The proposed revision would include a U.S. Commercial grade, requiring at least 80 percent U.S. No. 1 quality. The quality requirements of U.S. No. 1 would remain basically the same as in the current standards.

(2) Each grade would require the diameter of the curd to be at least 4 inches.

(3) Jacket leaves would be required to be closely trimmed, unless otherwise specified.

(4) Definitions of certain defects would be added and others more precisely defined, and the standards would be presented in a new format which should be more readily understood.

(5) An optional standard sizing section would be added for those desiring uniformity of curd size within the container. Standard sizing would require that variation of curd size in individual packages not exceed 1½ inches.

The proposed standards, as revised, are as follows:

GRADES

Sec.
51.540 U.S. No. 1.
51.541 U.S. Commercial.

UNCLASSIFIED

51.542 Unclassified.

TOLERANCES

51.543 Tolerances.

APPLICATION OF TOLERANCES

51.544 Application of tolerances.

STANDARD SIZING

51.545 Standard sizing.

DEFINITIONS

51.546 Clean.
51.547 Compact.
51.548 Diameter.
51.549 Fresh.
51.550 Closely trimmed.
51.551 Fairly clean.
51.552 Curd.
51.553 Soft or wet decay.
51.554 Damage.
51.555 Serious damage.

METRIC CONVERSION TABLE

51.556 Metric conversion table.

AUTHORITY: The provisions of this subpart issued under secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended; 7 U.S.C. 1622, 1624.

GRADES

§ 51.540 U.S. No. 1.

"U.S. No. 1" consists of heads of cauliflower which meet the following requirements:

(a) Basic requirements for curds:
(1) Clean;
(2) Compact;
(3) Color—white, creamy white, or cream;
(4) Size—not less than 4 inches in diameter.

(b) Basic requirements for jacket leaves:
(1) Fresh;
(2) Closely trimmed, unless otherwise specified;
(3) Fairly clean.

(c) Free from:
(1) Soft or wet decay.
(2) Bruising;
(3) Cuts;
(4) Discoloration;
(5) Enlarged bracts;
(6) Fuzziness;
(7) Hollow stem;
(8) Insects;
(9) Mold;
(10) Ricciness;
(11) Wilting; and,
(12) Other means.

(d) Free from damage caused by:
(1) Bruising;
(2) Cuts;
(3) Discoloration;
(4) Enlarged bracts;
(5) Fuzziness;
(6) Hollow stem;
(7) Insects;
(8) Mold;
(9) Ricciness;
(10) Wilting; and,
(11) Other means.

(e) Free from serious damage by any cause.

(f) For tolerances (see § 51.543).

§ 51.541 U.S. Commercial.

"U.S. Commercial" consists of heads of cauliflower which meet the requirements for the U.S. No. 1 grade except for the increased tolerances for defects specified in § 51.543.

UNCLASSIFIED

§ 51.542 Unclassified.

"Unclassified" consists of cauliflower which has not been classified in accordance with either of the foregoing grades. The term "unclassified" is not a grade within the meaning of these standards but is provided as a designation to show that no grade has been applied to the lot.

TOLERANCES

§ 51.543 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, are provided as specified:

(a) *For defects.*—(1) *U.S. No. 1.* 10 percent for heads of cauliflower in any lot which fail to meet the requirements of the grade, but not more than one-half of this tolerance, or 5 percent, shall be allowed for defects causing serious damage, including in this latter amount not more than 1 percent for soft or wet decay affecting the curd or butt. (See § 51.544.)

(2) *U.S. Commercial.* 30 percent for heads of cauliflower in any lot which fail to meet the requirements of the grade, but not more than one-half of this tolerance, or 10 percent, shall be allowed for defects causing serious damage, including in this latter amount not more than 1 percent for soft or wet decay affecting the curd or butt. (See § 51.544.)

(b) *For off-size.* 5 percent for heads of cauliflower smaller than the specified minimum curd size and 5 percent for heads of cauliflower larger than any specified maximum curd size. (See § 51.544.)

APPLICATION OF TOLERANCES

§ 51.544 Application of tolerances.

The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations:

(a) A package may contain not more than double any specified tolerance ex-

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

cept that at least two defective and two off-size specimens may be permitted in any package: *Provided*, That not more than one specimen which is affected by soft or wet decay occurring on the curd or butt portion of the head may be permitted in any package: *And provided further*, That the averages for the lot are within the tolerances specified for the grade.

STANDARD SIZING

§ 51.545 Standard sizing.

(a) Any lot of cauliflower may be designated as meeting the requirements for standard sizing provided the variation in diameter of the curd in any individual package is not more than 1½ inches.

(b) In order to allow for variations incident to proper packing not more than 10 percent of the containers in any lot may fail to meet the requirements for standard sizing.

DEFINITIONS

§ 51.546 Clean.

"Clean" means that the curd is practically free from dirt or other foreign matter.

§ 51.547 Compact.

"Compact" means that the flower clusters are closely united and the curd is solid.

§ 51.548 Diameter.

"Diameter" means the greatest dimension measured in a straight line which would pass through the center of the curd.

§ 51.549 Fresh.

"Fresh" means that the jacket leaves are of normal color and are not wilted.

§ 51.550 Closely trimmed.

"Closely trimmed" means that the butts are smoothly trimmed and jacket leaves do not exceed the number and length necessary for protection against bruising, and do not extend above the crown of the curd. No jacket leaves are required on heads which are individually wrapped, or packed with cushions, partitions or other protective means.

§ 51.551 Fairly clean.

"Fairly clean" means the jacket leaves are not caked or badly smeared with dirt or other foreign matter.

§ 51.552 Curd.

"Curd" means the edible portion of the head exclusive of the butt and any attached jacket leaves.

§ 51.553 Soft or wet decay.

"Soft or wet decay" means any soft or mushy breakdown of the curd, butt, or leaves.

§ 51.554 Damage.

"Damage" means any specific defect described in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the cauliflower. The following specific defects shall be considered as damage:

(a) Bruising when the size or color of the affected area materially detracts from the appearance or marketing quality, or when more than a small portion of the curd has broken off;

(b) Cuts when materially detracting from the appearance or marketing quality, or when any cut exposes the flower stem;

(c) Discoloration when yellow or other abnormal color materially detracts from the appearance of the curd or the jacket leaves of closely trimmed cauliflower, or when discoloration from causes other than disease seriously detracts from the appearance of the jacket leaves of cauliflower not closely trimmed;

(d) Enlarged bracts when leaves growing up through and extending above the curd materially detract from the appearance of the head;

(e) Fuzziness when more than one-third of the curd surface has a distinct fuzzy appearance;

(f) Hollow stem when the opening extends into the curd, or when the opening is more than slightly discolored or watersoaked;

(g) Insects when any feeding injury on the curd is evident, or when the curd is more than slightly infested or the jacket leaves are more than moderately infested with aphids or other insects;

(h) Mold when the aggregate area of all spots exceeds that of a circle three-eighths inch in diameter, or when the area of any individual spot exceeds that of a circle one-eighth inch in diameter. Mold which causes disintegration of the curd is considered soft decay; and,

(i) Riciness when causing the surface of the curd to be abnormally rough or granular.

§ 51.555 Serious damage.

"Serious damage" means any specific defect described in this section, any other defect, or any combination of defects, which seriously detracts from the appearance, or the edible or marketing quality of the cauliflower. The following specific defects shall be considered as serious damage:

(a) Insects when the curd is more than slightly infested or the jacket leaves badly infested with aphids or other insects, or when insect feeding injury seriously detracts from the appearance of the head;

(b) Soft or wet decay affecting any portion of the head.

METRIC CONVERSION TABLE

§ 51.556 Metric conversion table.

Inches	Millimeters (mm)	Inches	Millimeters (mm)
⅛ equals	3.2	3 equals	76.2
¼ equals	6.4	4 equals	101.6
½ equals	12.7	5 equals	127.0
¾ equals	19.1	6 equals	152.4
1 equals	25.4	7 equals	177.8
1½ equals	38.1	8 equals	203.2
2 equals	50.8	9 equals	228.6

Dated: November 1, 1967.

G. R. GRANGE,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 67-13086; Filed, Nov. 3, 1967; 8:50 a.m.]

[7 CFR Part 912]

GRAPEFRUIT GROWN IN INDIAN RIVER DISTRICT IN FLORIDA

Approval of Expenses and Fixing of Rate of Assessment for 1966-67 Fiscal Period

Consideration is being given to the following proposals submitted by the Indian River Grapefruit Committee, established pursuant to the marketing agreement, as amended, and Order No. 912, as amended (7 CFR Part 912), regulating the handling of grapefruit grown in the Indian River District in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), as the agency to administer the terms and provisions thereof:

(a) That the expenses that are reasonable and likely to be incurred by the Indian River Grapefruit Committee, during the period beginning August 1, 1967, and ending July 31, 1968, will amount to $25,000.

(b) That the rate of assessment for such period, payable by each handler in accordance with § 912.41, be fixed at $0.005 per standard packed box.

(c) Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: November 1, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-13087; Filed, Nov. 3, 1967; 8:50 a.m.]

[7 CFR Part 1090]

[Docket No. AO 266-A10]

MILK IN CHATTANOOGA, TENN., MARKETING AREA

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held at the Holiday Inn-Downtown, Golden Gateway, 401 West Ninth Street, Chattanooga, Tenn., beginning at 10 a.m., e.s.t., on November 29, 1967, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Chattanooga, Tenn., marketing area.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposals relative to a redefinition of the marketing area raise the issue whether the provisions of the present order would tend to effectuate the declared policy of the Act, if they are applied to the marketing area as proposed to be redefined and, if not, what modifications of the provisions of the order would be appropriate.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Chattanooga Area Milk Producers Association:

Proposal No. 1. Amend § 1090.3 to read as follows:

§ 1090.3 Chattanooga, Tenn., marketing area.

The "Chattanooga, Tenn., Marketing Area," in this part, means all the territory included within the boundaries of Bradley, Hamilton, McMinn, Polk, Monroe, Meigs, Rhea, Bledsoe, Sequatchie, and Marion Counties, all in the State of Tennessee, and Dade, Walker, Catoosa, Whitfield, Chattooga, Murray, Fannin, Gordon, Gilmer, and Union Counties, all in the State of Georgia.

Proposal No. 2. Delete § 1090.7(a) and substitute a new paragraph (a) to read as follows:

(a) Milk distributing plant approved or recognized by a duly constituted health authority for the receiving or processing of Grade A milk and from which Class I milk equal to not less than 50 percent of its receipts of milk from other pool plants and from approved dairy farmers is disposed of during the month on a route(s) and from which Class I milk equal to not less than 15 percent of its total Class I disposition is disposed of during the month on a route(s) in the marketing area.

Proposal No. 3. Delete the present § 1090.10 in its entirety and substitute a new definition to read as follows:

§ 1090.10 Producer-handler.

"Producer-handler" means any person who:

(a) Operates a dairy farm and a distributing plant from which the Class I distribution (except that represented by nonfat solids used in the fortification of fluid milk products) is entirely from his own production;

(b) Receives no fluid milk products from sources other than his own farm production and other pool plants;

(c) Receives no other source milk other than that used in fortification; and

(d) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce the entire volume of fluid milk products handled (excluding receipts from pool plants) and the operation of the processing, packaging, and distribution business are the personal enterprise and risk of such person.

Proposal No. 4. Delete § 1090.52(a) and substitute a new paragraph (a) to read as follows:

(a) *Class I milk price.* Multiply the Chicago butter price for the preceding month by 0.12; and

Proposal No. 5. Delete in § 1090.72(b) the words "and subtract 4 cents" and in § 1090.72(d) the words "plus 4 cents".

Proposal No. 6. Amend § 1090.12 to read as follows:

§ 1090.12 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, flavored and skim milk drinks, fluid filled milk products, yogurt, cream (sweet or sour), or any mixture in fluid form of milk, skim milk and cream (except sterilized products packaged in hermetically sealed containers, eggnog, ice cream and ice milk mix and aerated cream).

Proposed by Happy Valley Farms, Inc., Mayfield Dairy Farms, Inc., Sealtest Foods Division, National Dairy Products Corp., and Ray Moss Farms, Inc.:

Proposal No. 7. Amend § 1090.3 by striking the present language and replacing with the following:

§ 1090.3 Chattanooga, Tenn., marketing area.

"Chattanooga, Tenn., Marketing Area", called the "marketing area" in this part, means all the territory included within the boundaries of Bledsoe, Bradley, Hamilton, Marion, McMinn, Meigs, Monroe, Polk, Rhea, and Sequatchie Counties, all in the State of Tennessee.

Proposal No. 8. Amend § 1090.41(b)(4) by striking the present language and replacing with the following:

(4) Disposed of and used as livestock feed, or dumped after prior notification to, and opportunity for verification by, the Market Administrator.

Proposal No. 9. Amend § 1090.41(b)(5) by striking the present language and replacing with the following:

(5) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1090.42(b)(1) but not to exceed the following:

(i) Two percent of producer milk (except that diverted pursuant to § 1090.6);

(ii) Plus 1.5 percent of fluid milk products received in bulk tank lots from pool plants;

(iii) Plus 1.5 percent of receipts of fluid milk products in bulk from other order plants, exclusive of the quantity for which Class II utilization was requested by the operators of such plants and the handler;

(iv) Plus 1.5 percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization is requested by the handler; and

(v) Less 1.5 percent of fluid milk products disposed of in bulk tank lots to pool plants and nonpool plants.

Proposal No. 10. Amend § 1090.46 by inserting between the present subparagraphs (1) and (2) of paragraph (a), a subparagraph identified as subparagraph (2), as follows:

(2) Subtract from the total pounds of skim milk in Class I milk the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant or the pounds of skim milk classified as Class I milk and transferred or diverted during the month to such nonpool plant, whichever is less;

Redesignate the present subparagraph (2) of paragraph (a) as subparagraph (3), and renumber the following subparagraphs of paragraph (a) appropriately in sequence.

Proposed by the Dairy Division, Consumer and Marketing Service:

Proposal No. 11. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, 5916 Brainerd Road, Post Office Box 8085, Chattanooga, Tenn. 37411, or from the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

Signed at Washington, D.C., on November 1, 1967.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 67-13088; Filed, Nov. 3, 1967; 8:50 a.m.]

FEDERAL MARITIME COMMISSION

[46 CFR Ch. IV]

[Docket No. 67-56]

FILING OF AGREEMENTS BETWEEN COMMON CARRIERS OF FREIGHT BY WATER IN THE FOREIGN COMMERCE OF THE UNITED STATES

Notice of Proposed Rule Making

Section 15 of the Shipping Act, 1916, requires every common carrier by water, or other person subject to the Act, to file immediately with the Commission a true copy, or if oral, a true and complete memorandum, of every agreement with another such carrier or other person subject to the Act, to which it may be a party or conform in whole or in part. The agreements covered by this section which pertain to this general order are those which in any way limit competition between or among common carriers by water in regard to rates, rules, and practices pertaining to the carriage of cargoes moving in the foreign commerce of the United States. Such agreements include those which:

1. Fix or regulate transportation rates;

2. Give or receive special rates, accommodations, or other special privileges or advantages;

3. Control, regulate, prevent, or destroy competition;

4. Pool or apportion earnings, losses, or traffic;

5. Allot ports or restrict or otherwise regulate the number and character of sailings between ports;

6. Limit or regulate in any way the volume or character of freight traffic to be carried;

7. Provide in any manner for an exclusive, preferential, or cooperative working arrangement.

The Commission is required to disapprove, cancel, or modify any such agreements that it finds, after notice and hearing, to be "unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or to operate to the detriment of the commerce of the United States, or to be contrary to the public interest, or to be in violation of this Act."

The Commission is also required to disapprove any conference agreement (1) which fails to provide reasonable and equal terms and conditions for admission and readmission to conference membership of other qualified carriers in the trade, or (2) which fails to provide that any member may withdraw from membership upon reasonable notice without penalty for such withdrawal, or (3) where it finds inadequate policing of the obligations under it; or (4) where it finds a failure or refusal to adopt and maintain reasonable procedures for promptly and fairly hearing and considering shippers' requests and complaints. In order to carry out the requirements of the statute in these respects the Commission has promulgated its General Orders Nos. 7, 9 and 14 (46 CFR 528, 523, 527.)

In the interest of uniformity and in order to assure expeditious processing and consideration of agreements filed with the Commission pursuant to section 15 of the Shipping Act, 1916, notice is hereby given in accordance with the provisions of section 4, Administrative Procedure Act (5 U.S.C. 1003) and sections 15 and 43 of the Shipping Act, 1916 (46 U.S.C. 814 and 841a), that the Federal Maritime Commission is considering promulgation of the proposed rules set forth hereinafter. The proposed rules apply to agreements between common carriers by water in the foreign commerce of the United States and not to interconference agreements or to agreements between "other persons subject to the Act" or between "other persons subject to the Act" and "common carriers by water" subject to the Act.

These rules, when promulgated, will cancel and supersede 46 CFR Part 522.

§ 522.1 Statement of policy.

The Commission is required to disapprove, cancel, or modify all anticompetitive agreements between common carriers by water subject to the Act that it finds, after notice and hearing, not to comport with the criteria established in section 15 of the Shipping Act. The rules in this part are promulgated to establish guidelines for the filing, format and content of agreements submitted to the Commission pursuant to section 15. Such guidelines should result in the filing of agreements that are as uniform as possible; reduction of the cost of preparation, handling, and processing to those that file the agreements, and to the Government; and expeditious consideration and processing of filed agreements. Except for the provisions pertaining to the mechanics of filing and to the method of handling modifications of approved agreements, the rules in this part are permissive rather than mandatory. The forms of agreements set forth in the rules in this part are those which would ensure expeditious processing and which could, in most instances, result in approval without the necessity for formal hearings. Commission processing of section 15 agreements can be further expedited if accompanied by the information set forth in § 522.3.

§ 522.2 Definitions.

For the purposes of the rules in this part only the following definitions of terms used therein shall apply.

(a) *Agreement.* The term "agreement" refers to a formal document or written memorandum which reflects an understanding, arrangement, or undertaking between two or more common carriers subject to the Shipping Act, 1916, as amended, which, because of the anticompetitive nature of the understanding, arrangement or undertaking, is required by the provisions of section 15 of said Act to be filed with the Commission for approval. Such agreements include but are not limited to the following general types:

(1) *Freight conference agreement.* An understanding, arrangement or undertaking between or among two or more common carriers of freight by water in the foreign commerce of the United States which results in a restriction of competition and which is denominated as a "conference" by the parties; or an understanding, arrangement or undertaking between or among two or more common carriers by water of freight in the foreign commerce of the United States which results in a restriction of competition and which will or could reasonably be expected to cause the parties to become a dominant force in the trade covered by the arrangement. Such agreements usually contain provisions for:

(i) The fixing and adherence to uniform rates, charges, and practices relating to the receipt, carriage and delivery of cargo, for all members;

(ii) The filing of a common tariff or tariffs in the name of the group, in which all members participate;

(iii) The appointment of a chairman or secretary to conduct the administrative affairs of the parties;

(iv) Such other matters as the parties may agree upon or as may from time to time be required by statute or by general orders of the Commission.

(2) *Rate agreement.* An understanding, arrangement or undertaking between or among two or more common carriers of freight by water in the foreign commerce of the United States which is not, will not be, or could not reasonably be expected to cause the parties to become a dominant factor in the commerce of the United States in the trade covered by the arrangement. Such agreements usually contain provisions for:

(i) The fixing and adherence to uniform rates, charges and practices relating to the receipt, carriage, and delivery of cargo, for all members;

(ii) The filing of tariffs;

(iii) Such other matters the parties may agree upon or as may from time to time be required by statute or by general orders of the Commission.

(3) *Pooling agreement.* An understanding, arrangement or undertaking between two or more common carriers in a trade which provides for the division of the cargo carryings or earnings and/or losses among the several carrier parties in accordance with a fixed formula.

(4) *Joint service agreement.* An understanding, arrangement, or undertaking between two or more common carriers which establishes a new and separate line or service to be operated by the parties as a joint venture. The new and separate service fixes its own rates, publishes its own tariffs or is a party in its own name to conference tariffs, issues its own bills of lading and acts generally as a single carrier.

(5) *Sailing agreement.* An understanding, arrangement, or undertaking between two or more common carriers which establishes a schedule of ports each carrier will serve and the frequency of each carrier's calls at those ports.

(6) *Transshipment agreement.* An understanding, arrangement, or undertaking between two or more common carriers which establishes a joint through route between the United States, or any of its Districts, Territories, or possessions, and a foreign country. The agreement provides for the fixing of joint through rates and the publication of such rates in tariffs in which all parties participate.

(7) *Cooperative working arrangement.* An understanding or arrangement between two or more common carriers which establishes exclusive, preferential or cooperative working relationships which are anticompetitive in nature but which do not fall precisely within any of the arrangements in subparagraphs (1) through (6) of this paragraph.

(b) *Modification.* An understanding, arrangement or undertaking between parties to an approved agreement which changes the approved terms of the agreement.

(c) *Carrier.* A common carrier by water of freight in the foreign commerce of the United States.

(d) *Commission.* The Federal Maritime Commission.

(e) *Shipping Act.* The Shipping Act, 1916, as amended.

§ 522.3 Filing of agreements (general).

(a) A true copy and 15 additional copies of all agreements and modifications or cancellations of approved agreements, filed for approval pursuant to section 15 of the Act, should be submitted to the Federal Maritime Commission, Washington, D.C., accompanied by a letter of transmittal which states that such agreements are filed pursuant to section 15 of the Shipping Act and specifically requests Commission approval of the agreement or agreements submitted. The true copy of the agreement so submitted should be personally signed by each of the parties or by a representative authorized to act for each such party, and show immediately below each signature the position and/or authority of the signer. The 15 copies may be made by any permanent process of duplication.

(b) Determinations regarding the compatibility of anticompetitive agreements with the standards of approvability enunciated in section 15 will be facilitated and the agreement can be more expeditiously processed if the letter of transmittal is accompanied by a memorandum demonstrating that the agreement is required by serious transportation considerations.

§ 522.4 Modifications.

(a) Every modification of an approved agreement when submitted for filing and approval, should indicate the page and restate the portion of the agreement for which modifications are contemplated. The portions of the agreement to be modified or excised should be struck through, but not obliterated, and the substituted language, if any, should be inserted directly following that which is to be modified or excised. The modifications should be underscored. If the modification consists of new material that is not a complete substitute for approved provisions, the page or pages on which the proposed modifications will appear should be restated with the proposed modifications underscored and placed in proper sequence on the page.

(b) Agreements shall not be modified more than three times in the manner stated in paragraph (a) of this section. Additional modifications shall be accomplished by restating the entire agreement, incorporating all previous modifications and showing the latest change in the same manner as provided in paragraph (a) of this section. Further modifications should follow the pattern provided in this section.

(c) Approved agreements which, at the effective date of this part, have more than three approved modifications, will be governed by the provisions of this section in respect to further modifications of such agreements.

§ 522.5 Contents of agreements.

The Commission has determined that the sample agreements that follow comply as to form with the provisions of the Shipping Act and the general orders issued pursuant to such Act. Agreements which are filed pursuant to the rules in this part and contain, either verbatim or in language of substantially the same import, the provisions hereinafter shown, will receive expedited handling by the Commission. Each of the following forms of agreement contains an optional clause which provides that the parties agree not to implement the agreement prior to Commission approval. It should be made plain that absence of this clause does not negate the specific prohibition in section 15 of the Act against carrying out any agreement or modification prior to Commission approval.

(a) *Freight conference agreement.*

AGREEMENT NO. ------

(Name of Conference)

This agreement was entered into by and between the parties on ----------. The undersigned, common carriers by water in the foreign commerce of the United States (hereinafter referred to as "Members"), in consideration of the benefits, advantages and privileges to be severally and collectively derived from this agreement, hereby associate themselves in a conference to be known as ---------- (hereinafter referred to as "the Conference"), to govern their transportation of freight from ------ ------ to ---------- (or between ---------- and ----------). (Reference should not be made to foreign-to-foreign trades.) Service provided by the Members shall be by single line haul (or by single or joint Member line haul).

AUTHORITY UNDER THIS AGREEMENT

Subject to applicable provisions of law, the Conference is authorized to:

1. Agree upon and establish rates and charges for the carriage of cargo;

2. Declare rates for specified commodities to be "open", with or without agreed minimum, and thereafter declare the rates for such commodities to be "closed" (optional);

3. Agree upon and establish tariffs, tariff amendments and supplements;

4. Make rules and regulations for the handling and carriage of cargo;

5. Provide for use of a contract/noncontract rate system for filing with the Commission for approval pursuant to section 14b of the Shipping Act, 1916 (optional);

6. Agree on amounts of brokerage and conditions for the payment of brokerage as permitted by applicable law (optional);

7. Keep such records and statistics as may be required by the parties or deemed helpful to their interests.

ADMISSION

Any common carrier by water, as defined in section 1 of the Shipping Act, 1916, which has been regularly engaged as a common carrier in the trade covered by this Agreement, or which furnishes evidence of ability and intention in good faith to institute and maintain such a common carrier service between ports within the scope of this Agreement, and which agrees in good faith to abide by all the terms and conditions of this Agreement, may hereafter become a party to this Agreement by affixing its signature thereto. Every application for membership shall be acted upon promptly. No carrier which has complied with the conditions set forth in this paragraph shall be denied admission or readmission to membership.

Prompt notice of admission to membership shall be furnished to the Federal Maritime Commission and no admission shall be effective prior to the postmark date of such notice. Advice of any denial of admission to membership, together with a complete statement of the reasons therefor, shall be furnished promptly to the Federal Maritime Commission. (Other conditions of membership which are not inconsistent with the foregoing, including payment of a reasonable admission fee, payment of any outstanding financial obligations arising out of prior membership, or the posting of a security bond or deposit may be included.)

WITHDRAWAL

Any Member may withdraw from the Conference without penalty by giving the Conference at least ------- days written notice of intention to withdraw: *Provided, however,* That action taken by the Conference to compel the payment of outstanding financial obligations by the resigning Member shall not be construed as a penalty for withdrawal. Notice of the withdrawal of any Member shall be furnished promptly to the Federal Maritime Commission.

EXPULSION

No Member may be expelled against its will from this Conference except for failure to maintain a common carrier service between the ports within the scope of this Agreement (said failure to be determined according to the minimum sailing requirements set forth in this Agreement) or for substantial failure to abide by the terms and conditions of this Agreement. No expulsion shall become effective until a detailed statement setting forth the reason or reasons therefor has been furnished the expelled Member and a copy of the statement submitted to the Federal Maritime Commission.

ABANDONMENT OF SERVICE

Membership in the Conference shall cease when service is abandoned. A Member's failure to have a sailing in the trade for a period of ------- consecutive sailing months shall be regarded as an abandonment. If war, strikes, force majeure, or other circumstances beyond its control compel a Member to suspend service, it may apply for inso-

tive status: *Provided*, That application is made prior to termination of membership. Notice of termination of membership shall be furnished promptly to the Federal Maritime Commission.

OFFICERS, ORGANIZATION AND ADMINISTRATION

The Members shall select a Chairman and/or Secretary to serve for ---------- The Chairman (or Secretary), when available, shall preside at Conference meetings. He (or she) shall have full authority to carry out the decisions of the Conference and perform such duties and appoint such committees as may be directed by the Conference. In the absence of the Chairman (or Secretary) at any meeting, an Acting Chairman may be selected by the Members present to conduct the meeting. The Chairman (or Secretary) shall keep a record of the proceedings of all Conference meetings, whether formal or otherwise, and of the actions taken by the Conference. Information and statistics required by the Chairman (or Secretary) in making or carrying out decisions of the Conference shall be made available by the Conference members.

The Members may select a Vice Chairman (or Assistant Secretary) and such other assistants as may be required to assist the Chairman (or Secretary) in the performance of his (or her) duties.

The Conference office shall be located at ---------- This office may compile cargo (City)

statistics required or necessary to the carrying out of Conference decisions; compile data relating to rate applications; issue dockets for meetings; maintain contract lists and files of all conference tariffs (copies of such tariffs shall be filed with the Federal Maritime Commission in conformity with the provisions of section 18(b)(1) of the Shipping Act, 1916); and perform such other duties as are prescribed by this Agreement, directed by the Members and specifically recorded in the minutes of Conference meetings.

The expenses of annual Conference maintenance, as determined by the Conference members or by a committee established or appointed for the purpose, shall be divided among the members of the Conference in a manner to be agreed upon. Bills for such expenses shall be paid promptly upon receipt thereof.

MEETINGS

Regular Conference meetings shall be held ---------- upon not less than 2 weeks (or (specify)

on ----------) notice from the Chairman (Secretary) unless such notice is unanimously waived. Advance notice of all matters requiring Conference action shall be given each member.

Special Conference meetings may be requested by any member upon application to the Conference office together with an explanation of the reason or reasons therefor. The special meeting shall be called by the Chairman (Secretary), and adequate notice thereof shall be given all members. The notice shall indicate the subject matter and reason for the meeting.

If it is required or necessary that the Conference take emergency action with respect to rates or other matters, and there is not time to convene a special meeting, the members may be polled by the Chairman (Secretary) by telephone, and such action authorized by the affirmative consent of the members. All such telephone polls, the subject matter thereof, and the action taken by the Conference shall be reported in the Minutes of the next regular Conference meeting.

Meetings of such committees as are appointed by the Conference in the conduct of its affairs shall be held at times and places as may be decided by such committees and a record shall be made of proceedings of all such committee meetings, whether formal or otherwise, including the results of all actions taken.

VOTING RIGHTS

Each member shall be entitled to vote with the following exceptions:

1. Any member who has given notice of withdrawal shall not, while such notice is outstanding, be entitled to vote on any Conference matter, rate, rule, or regulation which is to continue in effect or become effective after the effective date of such withdrawal;

2. Any inactive member whose service has been suspended shall not be entitled to vote on any matter except (a) amendment of the Conference agreement, and (b) dissolution of the Conference;

3. No member shall be entitled to vote on the expulsion of another member if it is a parent, subsidiary or associated company of the member complained against.

4. The member charged or the member complaining shall not be entitled to vote on the assessment of penalties recommended by the Chairman (Secretary) and/or investigative authority, for the breach or violation of the Conference agreement or its obligations thereunder.

A quorum at any meeting shall consist of ----------, and no meeting shall be held unless a quorum is present. Voting on any matter regularly before the Conference shall be by those present (or by proxy) and entitled to vote.

All Conference action shall be authorized by the affirmative vote of not less than ------ of the members, except that:

1. Unanimous consent shall be required:
a. To dissolve the Conference;
b. To grant or withdraw approval of inactive status of a member (optional);
c. To expel a party from Conference membership with the exceptions previously noted (optional);
d. To agree upon amounts of brokerage, commissions or other compensation to be paid brokers or forwarders as permitted by applicable law (optional);
e. Authorise any changes in Conference tariff rules relating to the currency in which payment or receipt of freight is provided (optional).

2. An affirmative vote of not less than ------ of the Members shall be required to authorise the taking of the following actions:
a. Modification of the Conference agreement.
b. Assessment of penalties.

SELF-POLICING OF AGREEMENT

(The agreement must contain provisions describing the method or system used by the parties in policing the obligations under the agreement, including the procedure for handling complaints and the authority of every person having responsibility for administering the system.)

OTHER PROVISIONS

(The agreement may contain such other provisions permitted by law and not inconsistent with those indicated above, as may be deemed necessary by the parties.)

IMPLEMENTATION (OPTIONAL)

This agreement and any additions thereto or modifications thereof will not be carried out prior to approval by the Federal Maritime Commission in accordance with the provisions of section 15 of the Shipping Act, 1916, as amended.

(b) *Rate agreement.*

AGREEMENT NO. -------

(Name of Agreement—if any)

This agreement was entered into by and between the parties on ---------- The undersigned, common carriers by water in the foreign commerce of the United States (hereinafter referred to as "parties"), hereby associated themselves in a Rate Agreement to be known as the (---------- Rate Agreement) to govern their transportation of freight from ---------- to ---------- (or between ---------- and ----------.)

(Reference should not be made to foreign-to-foreign trades.)

AUTHORITY UNDER THIS AGREEMENT

Subject to applicable provisions of law, the parties to this Agreement are authorized to:

1. Agree upon and establish rates and charges for the carriage of cargo;
2. Agree upon and establish tariffs, tariff amendments and supplements;
3. Make rules and regulations for the handling and carriage of cargo;
4. Agree upon amounts of brokerage and conditions for the payment of brokerage as permitted by applicable law (optional);
5. Keep such records and statistics as may be required by the parties or deemed helpful to their interests.

SELF-POLICING OF AGREEMENT

(The agreement must contain provisions describing the method or system used by the parties in policing the obligations under the agreement, including the procedure for handling complaints and the authority of every person having responsibility for administering the system.)

OTHER PROVISIONS

1. (Every agreement should contain a provision stating the manner in which the joint business of the parties may be carried out, i.e., full membership meeting, agents' meeting, principals' meeting, owners' meeting, through committees or subcommittees, telephone or oral polls, or through any other procedure by which the business of the joint parties may be conducted. This provision should also include quorum requirements, and the types of vote necessary to take various actions; i.e., majority, two-thirds, three-fourths, majority plus one, unanimous, etc.)

2. This agreement and any additions thereto or modifications thereof will not be carried out prior to approval by the Federal Maritime Commission in accordance with the provisions of section 15 of the Shipping Act, 1916, as amended (optional).

(The agreement may contain such other provisions, permitted by law and not inconsistent with those indicated above, as may be deemed necessary by the parties.)

(c) *Pooling agreement.*

AGREEMENT NO. -------

(Name of Agreement—if any)

1. This agreement was entered into by and between the parties on ---------- The undersigned, common carriers by water in the foreign commerce of the United States (hereinafter referred to as "parties") agree that in the trade from ---------- to ---------- (or between ---------- and ----------) they will pool (or apportion) the revenues earned by, or losses of, each party for the carriage of (all cargoes, specific commodities, etc.) (If the pool is for traffic only to specify.)

2. The pool to be established pursuant to this agreement will operate as follows:

(List in lettered subparagraphs the exact method or procedure under which the pool will operate. Show percentage formula for division of revenue; deductions prior to division; expenses to be shared, with share of each party; division of carryings, if any; allocation by each party of space and/or vessels; etc.)

3. (If a pool secretary is to be appointed, his duties must be specified.)

4. (Provision should be made for the method of settling any disputes that may arise among the parties in the operation of the pool.)

5. (A limitation on the duration of the agreement should be shown.)

6. (Provision should be made for periodic (not less than yearly) reports to the Commission, showing at least the carryings, total earnings and divisions for each party to the pool.)

7. (The agreement may contain such other provisions, permitted by law and not inconsistent with those indicated above, as may be deemed necessary by the parties.)

8. This agreement and any additions thereto or modifications thereof will not be carried out prior to approval by the Federal Maritime Commission in accordance with the provisions of section 15 of the Shipping Act, 1916, as amended. (Optional)

(d) *Joint service agreement.*

AGREEMENT NO. -------

(Name of Agreement—if any)

1. This agreement was entered into by and between the parties on ---------- The undersigned, common carriers by water in the foreign commerce of the United States (hereinafter referred to as "parties") agree that in the trade from ---------- to ---------- (or between ---------- and ----------) they will establish and maintain a joint cargo service to be known as ---------- (Insert name of new service.)

2. The joint service may become a member of, and may resign, or withdraw from any lawful conference, pooling arrangement or other agreement subject to the Shipping Act, 1916, as amended, that may operate in the whole or any portion of the trades covered hereby. The joint service shall act as a single member or party to such agreements and shall be represented for such conference, pooling or other purposes by ---------- ---------- which (or who) shall have full authority with respect to all matters coming before the conference. The signature to such conference, pooling or other arrangements shall be in the following form:

(Name of new service)

By: ----------

(Title or authority)

3. In the case of any trades or traffic within the scope of this agreement where the rates, charges, and practices are not prescribed by any conference of which the joint service is a member, the new service shall establish and maintain its own rates, charges and practices covering such trades or traffic. The joint service shall file a tariff containing such rates, rules and regulations with the Federal Maritime Commission in accordance with the provisions of section 18(b) of the Shipping Act, 1916, as amended.

4. The parties shall cooperate to supply tonnage for this joint service as their owned or chartered vessels are available (or ----------). It is intended to have a sailing approximately at least ----------

5. The parties shall contribute to and share in any and all deposits, costs, expenses, profits, and losses incurred by and derived from this joint service in the following proportions: ----------

6. Copies of bills of lading of the joint service, showing the name of the new service and the names of the companies which are parties to this agreement, shall be furnished promptly to the Federal Maritime Commission.

7. The parties shall establish and maintain at ---------- an office from (Address)

which the operations of the joint service will be directed.

8. This agreement may be canceled by any party giving ------- months written notice to the other party, and to the Federal Maritime Commission. Notice of resignation or withdrawal from every conference, pooling or other agreement of which the joint service is a member or party shall also be given, so that such resignations or withdrawals shall become effective simultaneously or as near thereto as possible, with the termination of this agreement; provided, however, that this agreement shall remain in full force and effect until all such resignations and withdrawals become effective.

9. This agreement and any additions thereto or modification thereof will not be carried out prior to approval by the Federal Maritime Commission in accordance with the provisions of section 15 of the Shipping Act, 1916, as amended (optional).

(The agreement may contain such other provisions, permitted by law and not inconsistent with those indicated above, as may be deemed necessary by the parties.)

(e) *Sailing agreement.*

AGREEMENT NO. -------

(Name of Agreement—if any)

1. This agreement was entered into by and between the parties on ---------- The undersigned, common carrier by water in the foreign commerce of the United States (hereinafter referred to as the "parties") agree that in the trade from ---------- to ---------- (or between ---------- and ----------) they will space their sailings in accordance with the following provisions of this agreement.

2. This agreement shall apply to the berth services operated or to be operated by the parties in the above named trade(s).

3. Each of the parties hereto will furnish equivalent tonnage as regards type and capacity, and will maintain *alternate* (or specify other arrangement) sailings in the trade mantioned above, with a minimum of ------ sailings each annually, so far as practicable and subject to such changes as may be instituted by cargo requirements or other factors. The parties will cooperate to arrange advertising and sailing schedules so as to avoid conflicting sailing dates.

4. There shall be no pooling or sharing of profits or losses. Revenues earned by the vessels employed under this agreement shall accrue to the operator thereof.

5. Each party shall manage and operate its own vessels at its own risk and expense, each party being responsible for the manning, navigation, etc. of its own vessels, the solicitation and booking of cargoes, collection of freight, appointment and removal of agents, settlement of cargo claims and all other activities required in the maintenance of service and sailings covered by this agreement.

6. The parties may advertise their respective services separately but in the event that such services are advertised in a single newspaper advertisement, or other medium, the full corporate or trade name of each party shall be shown in a manner to reflect their separate interests (For example: XYZ Line, Inc.) (For example: ABC Lines).

ALTERNATE SERVICES

7. Each of the parties hereto shall, as a member of any conference, exercise its rights, independent of the other, in voting on freight rates or on any other matter or thing within the scope of the agreement or such conference.

8. This agreement shall continue in effect until—

(a) Canceled by mutual consent to be evidenced in writing; or

(b) By the giving of ------- ( ) months written notice by either party to the other.

9. This agreement, or any modifications thereof, will not become effective until it shall have been approved by the Federal Maritime Commission, pursuant to the provisions of section 15 of the United States Shipping Act, 1916, as amended (optional).

10. If, in the opinion of a party to this agreement, one of the parties hereto has committed a breach of this agreement the matter of whether such breach has occurred shall be left to the determination of three (3) arbitrators, one to be nominated by the complaining party within thirty (30) days after his giving written notice to the party charged of demand for arbitration, a second to be nominated by the party charged within thirty (30) days after receipt by him of notice of demand for arbitration, and the third to be appointed by agreement of the two so nominated or, failing agreement thereon, by (a recognized arbitration body). The arbitrators so chosen shall, after hearing both parties, make their award in writing. The decision of the arbitrators shall be final and binding on the parties hereto and there shall be no appeal against the award of the arbitrators. All expenses in connection with any complaint made under this agreement shall be borne equally by all parties hereto. Nothing contained in this agreement shall interfere with the rights of any party hereto under the provisions of the Shipping Act of 1916, as amended (optional).

(The agreement may contain such other provisions, permitted by law and not inconsistent with those indicated above, as may be deemed necessary by the parties.)

(f) *Transshipment agreement.*

AGREEMENT NO. -------

(Name of Agreement—if any)

1. This agreement was entered into by and between the parties on ---------- The undersigned are common carriers by water in the foreign commerce of the United States.

2. This agreement, between ---------- ---------- (hereinafter referred to as the initial carrier) and ---------- (hereinafter referred to as the delivering carrier) covers and is restricted to transportation of cargo under through bills of lading from ports of call of the initial carrier in ---------- to ports of call of the delivering carrier in ---------- with transshipment at ----------

3. The parties to this agreement shall establish joint through rates, rules and regulations and shall file a joint tariff containing such rates, rules and regulations with the Federal Maritime Commission in accordance with the provisions of section 18(b) of the Shipping Act, 1916, as amended.

4. Accessorial and port charges (not including loading and discharging) shall be in addition to the through rates and will

accrue to the initial carrier or to the delivering carrier, as appropriate, over and above its proportion of the through rate (optional).

5. The through rates shall be apportioned on the basis of _____ percent to the initial carrier and _____ percent to the delivering carrier.

6. The expenses of transshipment on such cargo shall be absorbed on the basis of _____ percent by the initial carrier and _____ percent by the delivering carrier.

7. Each carrier will indemnify and hold the other carrier harmless from all expenses and liabilities it may incur which in any way may arise from or be connected with any loss, damage, delay, or misdelivery of goods while in the possession or custody of such other carrier under this agreement, except such loss, damage, delay, or misdelivery which is directly attributable to the neglect or willful misconduct of the other carrier, its agents, servants, or employees.

8. Nothing in this agreement shall bind the delivering carrier to transhipments exclusively from vessels employed in the initial carrier's service (optional).

9. Cargo shall be carried on the terms of the initial carrier's customary bill of lading subject to the Carriage of Goods by Sea Ordinance in force at the port of shipment and any amending Ordinance thereafter.

10. Neither party hereto shall enter an agreement with any other party with respect to transportation of cargo within the scope of this agreement on terms at variance with those stated herein (optional).

11. Either party to this agreement may terminate its participation herein by giving _____ ( ) days' written notice to the other. A copy of such notice shall be promptly furnished to the Federal Maritime Commission.

12. This agreement and any additions thereto or modifications thereof will not be carried out prior to approval by the Federal Maritime Commission in accordance with the provisions of section 15 of the Shipping Act, 1916, as amended (optional).

(The agreement may contain such other provisions, permitted by law and not inconsistent with those indicated above, as may be deemed necessary by the parties.)

(g) *Cooperative working agreement.*

AGREEMENT NO. _____

(Name of Agreement, if any)

1. This agreement was entered into by and between the parties on _____, _____ and _____ _____ (hereinafter referred to as the "parties") common carriers by water in the foreign commerce of the United States, agree:

2. (Set forth in numbered paragraphs the exact extent of the agreement between the parties which establishes the exclusive, preferential, or cooperative anticompetitive relationship between the parties, including the method by which the matters agreed upon will be carried out.)

3. This agreement and any additions thereto or modifications thereof shall not be carried out prior to approval by the Federal Maritime Commission in accordance with the provisions of section 15 of the Shipping Act, 1916, as amended (optional).

§ 522.6 Conditional approvals.

(a) In expediting the procedures involved in processing section 15 agreements, the Commission may grant approval of the agreement conditioned upon the acceptance by the parties of certain changes in the filed agreement. If the parties accept the Commission's changes within the time specified in the order of conditional approval by submitting a complete revised agreement signed by the parties, the agreement as revised will stand approved from the date of receipt by the Commission of the signed revised agreement. Notice of such date shall be given the parties or their representative by the Commission. In instances in which the time specified in the order of conditional approval expires without the above-stated acceptance, the approval shall be null and void and the agreement, as filed, will be reconsidered without further notice to the parties.

(b) It is unlawful to carry out the provisions of a conditionally approved agreement prior to acceptance by the parties of the conditions stated in the order of conditional approval in the manner specified in paragraph (a) of this section.

Interested persons may participate in this rulemaking proceeding by filing with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 30 days of the publication of this notice in the FEDERAL REGISTER, an original and 15 copies of their views or arguments pertaining to the proposed amended rules. All suggestions for changes in the text as set out above should be accompanied by drafts of the language thought necessary to accomplish the desired change and should be supported by statements and arguments relating the proposed change to the purposes of section 15, of the Shipping Act, 1916. (46 U.S.C. 814.)

The Federal Maritime Commission, Bureau of Compliance, Office of Hearing Counsel shall participate in the proceeding and shall file Reply to Comments on or before January 8, 1968, by serving an original and 15 copies on the Federal Maritime Commission and one copy on each party who filed written comments. Answers to Hearing Counsel's replies shall be submitted to the Federal Maritime Commission on or before January 29, 1968.

By order of the Federal Maritime Commission.

[SEAL] THOMAS LISI,
Secretary.

[F.R. Doc. 67-13090; Filed, Nov. 3, 1967; 8:50 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES 2252]

ARKANSAS

Notice of Proposed Withdrawal and Reservation of Lands

OCTOBER 24, 1967.

By letter of December 16, 1966, the Corps of Engineers, Department of the Army, filed application ES 2252 for the withdrawal of the lands described below from all forms of appropriation under the public land laws for use in the Millwood Dam and Reservoir Project, Little River County, Ark.

For a period of 30 days from the date of the publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, 7981 Eastern Avenue, Silver Spring, Md. 20910.

The Department's regulations, 43 CFR 2311.1-3(c) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary of the Interior on the application will be published in the FEDERAL REGISTER. A copy of the notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place which will be announced.

The lands involved in the application are:

FIFTH PRINCIPAL MERIDIAN

T. 11 S., R. 29 W.,
Sec. 20, fr'l SW¼SW¼, south of river (1.40 acres).
T. 10 S., R. 31 W.,
Sec. 29, fr'l S½SE¼, south of river (2.52 acres);
Sec. 32, fr'l SE¼NE¼, south of river (0.80 acre).

The areas described aggregate 4.52 acres.

JOSEPH P. HAGAN,
Acting Manager, Land Office.

[F.R. Doc. 67-13032; Filed, Nov. 3, 1967; 8:45 a.m.]

National Park Service

[Order 4]

CERTAIN OFFICIALS, GREAT SMOKY MOUNTAINS NATIONAL PARK, TENNESSEE-NORTH CAROLINA

Delegation of Authority

SECTION 1. *Assistant Superintendent.* The Assistant Superintendent may execute, approve and administer contracts not in excess of $100,000 for construction, supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to availability of allotted funds. Construction contracts shall be entered into only with the advice and consent of the concerned Chief, Office of Design and Construction. This authority may be exercised by the Assistant Superintendent in behalf of any office or area administered by the Great Smoky Mountains National Park.

SEC. 2. *Administrative Officer.* The Administrative Officer may execute, approve and administer contracts not in excess of $100,000 for construction, supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to availability of allotted funds. Construction contracts shall be entered into only with the advice and consent of the concerned Chief, Office of Design and Construction. This authority may be exercised by the Administrative Officer in behalf of any office or area administered by the Great Smoky Mountains National Park.

SEC. 3. *General Supply Officer.* The General Supply Officer may execute, approve and administer contracts not in excess of $25,000 for construction, supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to availability of allotted funds. Construction contracts shall be entered into only with the advice and consent of the concerned Chief, Office of Design and Construction. This authority may be exercised by the General Supply Officer in behalf of any office or area administered by the Great Smoky Mountains National Park.

SEC. 4. *Chief of Maintenance.* The Chief of Maintenance may issue purchase orders not in excess of $300 for supplies and equipment in conformity with applicable regulations and statutory authority and subject to availability of allotted funds.

SEC. 5. *Construction and Maintenance Superintendent.* The Construction and Maintenance Superintendent may issue purchase orders not in excess of $300 for supplies and equipment in conformity with applicable regulations and statutory authority and subject to availability of allotted funds.

SEC. 6. *Foremen III and IV.* Foremen III and IV may issue purchase orders not in excess of $300 for supplies and equipment in conformity with applicable regulations and statutory authority and subject to availability of allotted funds.

SEC. 7. *Supervisory Park Rangers.* Supervisory Park Rangers in grades GS-9 and above may issue purchase orders not in excess of $300 for supplies and equipment in conformity with applicable regulations and statutory authority and subject to availability of allotted funds.

SEC. 8. *Storage Management Assistant.* The Storage Management Assistant may issue purchase orders not in excess of $300 for supplies and equipment in conformity with applicable regulations and statutory authority and subject to availability of allotted funds.

SEC. 9. *Supply Clerk.* The Supply Clerk may issue purchase orders not in excess of $300 for supplies and equipment in conformity with applicable regulations and statutory authority and subject to availability of allotted funds.

SEC. 10. *Oconaluftee and Tremont Job Corps Conservation Center Directors and Administrative Officers.* Oconaluftee and Tremont Job Corps Conservation Center Directors and Administrative Officers may issue purchase orders not in excess of $2,500 for supplies, materials and equipment in conformity with applicable regulations and statutory authority and subject to availability of funds.

SEC. 11. *Revocation.* This order supersedes Order No. 3 issued May 28, 1965.

(National Park Service Order 24 (31 F.R. 4255) as amended; 39 Stat. 535, 16 U.S.C. sec. 2; Southeast Region Order 4 (31 F.R. 3135)

GEORGE W. FRY,
Superintendent, Great Smoky Mountains National Park.

SEPTEMBER 26, 1967.

[F.R. Doc. 67-13031; Filed, Nov. 3, 1967; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

PUBLIC HEALTH SERVICE

Statement of Organization and Functions and Delegations of Authority

Part 4 (Public Health Service) of the Statement of Organization and Functions and Delegations of Authority for

the Department of Health, Education, and Welfare (32 F.R. 9739 et seq., July 4, 1967) is hereby amended as follows:

With regard to section 4–B, Organization and Functions—The paragraph under *Division of Finance (20194)* is revised to read:

(1) Provides leadership for the improvement of Service programing and financial management activities, (2) develops policies and instructions for budget preparation and presentation, (3) coordinates the development of the 5-year program and financial plan under the Planning - Programing - Budgeting System, (4) directs allocation of funds and manages a system of budgetary controls, (5) directs planning and implementation of fiscal systems and procedures and provides accounting services, and (6) in coordination with the Division of Grants and Contracts, develops policies and procedures concerning the financial aspects of grants and negotiated research and development contracts and furnishes financial advice to contracting officers.

The paragraph under *Division of Procurement and Materiel Management (20195)* is revised to read: (1) Plans, directs, and coordinates the PHS procurement and materiel management programs, providing leadership, guidance, and technical assistance in the management areas of procurement, supply, data automation, directives, records, forms, printing, and distribution, and (2) maintains liaison, in the Division's program areas, with components of the PHS, DHEW, and other Federal agencies, and various public and private organizations.

The name of the *Office of Comprehensive Health Planning and Development (2029)* is revised to read: *Office of Comprehensive Health Planning (2029)*.

The paragraph under *Public Health Service Regional Organization (20A1)* is revised to read: The Public Health Service Regional Organization provides a focal point for responding to the needs of State and local governmental officials, community agencies, and public or private institutions involved in the planning or provision of health services. As such, it (1) exerts leadership in planning and maintaining effective health programs, (2) provides or arranges for the provision of consultative and technical assistance, (3) reviews and approves applications for formula and project grants for health planning, for health services, and for the construction of health facilities where these functions have been delegated to the Regions, (4) promotes programs to increase the supply and improve the quality and utilization of health manpower, (5) evaluates State and local health programs, (6) assures compliance with Federal laws and regulations, and (7) reports to Public Health Service headquarters on health needs, problems, and significant developments.

In the section on the National Center for Health Statistics (2200), the paragraph under *Division of Vital Statistics (2245)* is revised to read: (1) Conducts a statistical program serving demographic and public health needs, (2) promotes utilization of data through expansion of the U.S. vital registration system and through conduct of sampling surveys to provide demographic and health information, (3) conducts methodological research on analyzing, evaluating, and presenting vital data and publishes results, (4) evaluates the responsiveness of the statistical product to user needs, and (5) develops and applies actuarial methods and formulae for construction of life tables and publishes results.

The paragraph entitled *Division of Health Records Statistics (2251)* is deleted.

The paragraph under *Division of Health Resources Statistics (2259)* is revised to read: (1) Conducts a national statistical program, using sampling surveys of records, and primary and secondary sources, to develop data on health resources including facilities and manpower, on short-term hospital visits, and on the health of the entire institutionalized population, and publishes reports, (2) conducts research on collection methodologies and publishes methodological reports, (3) makes studies to improve data quality and reliability, (4) provides technical assistance on the content and utilization of health records data, and (5) evaluates the responsiveness of the statistical product to user needs.

In the section on the National Library of Medicine, following the paragraph under *History of Medicine Division (2355)*, insert: *National Medical Audiovisual Center (2370)*. (1) Operates the central facility in the Public Health Service for the development, production, distribution, evaluation, and utilization of motion pictures, videotapes, and other audiovisual forms, (2) coordinates a comprehensive audiovisual program for the Service to assure maximum responsiveness and economy of funds and manpower, (3) provides consultation and assistance in the development of specialized audiovisual activities, (4) encourages the production, dissemination, and utilization of medical films and other audiovisuals in the schools of health professions and elsewhere, (5) operates a national clearinghouse and archival program, and (6) acts as a national/international film and videotape center for the distribution and exchange of biomedical audiovisuals.

In the section on the Bureau of Disease Prevention and Environmental Control (2500), the paragraph under *National Communicable Disease Center (2561)* is revised to read: Plans, conducts, and coordinates (1) a national program for the prevention and control of communicable and certain other preventable diseases, (2) a national program for the detection, assessment, control, and reduction of potential and harmful and/or unnecessary exposure of man to pesticides and other chemical agents, and (3) a comprehensive national laboratory improvement program, including the provision of laboratory technical support for other national centers of the Bureau, other segments of the Public Health Service, and State, local, and other groups engaged in medical laboratory practice or administration.

With regard to section 4–C, Delegations of Authority—paragraph (5) on Freedmen's Hospital is deleted.

DONALD F. SIMPSON,
Assistant Secretary for Administration.

OCTOBER 31, 1967.

[F.R. Doc. 67–13068; Filed, Nov. 3, 1967; 8:48 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

MOTOR VEHICLE SAFETY STANDARDS

Certification Requirement

Section 114 of the National Traffic and Motor Vehicle Safety Act of 1966, specifies that: (1) Every manufacturer or distributor of a motor vehicle or motor vehicle equipment shall furnish to the distributor or dealer at the time of delivery of such vehicle or equipment by such manufacturer or distributor the certification that each such vehicle or item of motor vehicle equipment conforms to all applicable Federal motor vehicle safety standards; (2) in the case of an item of motor vehicle equipment such certification may be in the form of a label or tag on such item or on the outside of a container in which such item is delivered; and (3) in the case of a motor vehicle such certification shall be in the form of a label or tag permanently affixed to such motor vehicle.

Manufacturers or distributors of motor vehicles should comply with the requirements of section 114 by permanently affixing an English language certification label or tag to each applicable vehicle in a location where it can be easily read. Manufacturers or distributors of motor vehicle equipment should comply with the requirements of section 114 by affixing an English language certification label or tag to each applicable item of motor vehicle equipment or to the outside of the container in which the item is delivered. In addition to these statutory requirements, manufacturers or distributors or motor vehicles and motor vehicle equipment must comply with any certification or labeling requirement that may presently or hereafter appear or be referred to in an applicable motor vehicle safety standard.

In accordance with section 112 of the Act it is requested that motor vehicle manufacturers or distributors, as applicable, submit the following information to the Director, National Highway Safety Bureau, before January 1, 1968:

1. The location on the vehicle at which the certification label or tag will be placed.
2. A sample certification label or tag.
3. The means by which the certification label or tag will be attached, e.g., weld, rivet, screw, or adhesive.
4. A description of the serial number system by which vehicles manufactured on or after January 1, 1968, can be identified.

Manufacturers or distributors should be aware that the certification requirement of section 114 applies only in the event that there is a Federal Motor Vehicle Safety Standard applicable to the particular type of motor vehicle or item of motor vehicle equipment (whether original equipment or a replacement part).

The National Highway Safety Bureau has under study an appropriate program which will lead to specific regulations applicable to certification. After completion of the study and evaluation of the certification experience gained by both the Bureau and the manufacturers during the next few months, the Bureau will issue and publish in the FEDERAL REGISTER a notice of proposed rule making of certification regulations. It is contemplated that these regulations will have an effective date of January 1, 1969.

Issued in Washington, D.C., on October 31, 1967.

LOWELL K. BRIDWELL,
Federal Highway Administrator.

[F.R. Doc. 67–13064; Filed, Nov. 3, 1967; 8:48 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 19170]

AEROLINEAS EL SALVADOR S.A.

Notice of Prehearing Conference

Application for renewal of its foreign air carrier permit pursuant to section 402 of the Federal Aviation Act of 1958, as amended.

Notice is hereby given that a prehearing conference on the above-entitled application is assigned to be held on November 14, 1967, at 10 a.m., e.s.t., in Room 211, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Leslie G. Donahue.

Dated at Washington, D.C., October 31, 1967.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 67–13069; Filed, Nov. 3, 1967; 8:48 a.m.]

[Docket No. 18136]

COMPAGNIE NATIONALE AIR FRANCE

Notice of Postponement of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceeding is postponed to be held on December 11, 1967, at 10 a.m., e.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., October 31, 1967.

[SEAL] WALTER W. BRYAN,
Hearing Examiner.

[F.R. Doc. 67–13070; Filed, Nov. 3, 1967; 8:49 a.m.]

[Docket No. 18784]

SOUTHERN AIRWAYS, INC.

Notice of Prehearing Conference To Show Cause

Pursuant to Board instructions notice is hereby given that a prehearing conference on the above-entitled application is assigned to be held on November 13, 1967, at 10 a.m., e.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Herbert K. Bryan.

Dated at Washington, D.C., November 1, 1967.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 67–13071; Filed, Nov. 3, 1967; 8:49 a.m.]

FEDERAL MARITIME COMMISSION

GOLFO Y. CARIBE STEAMSHIP LINES, S.A. AND PRINCESS CRUISES CORP., INC.

Application for Certificate of Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Application for Certificate (Casualty)

Notice is hereby given that pursuant to the provisions of section 2, Public Law 89–777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, Amendment 2 (46 CFR Part 540), the following persons have applied to the Federal Maritime Commission for a Certificate of Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages:

Golfo Y. Caribe Steamship Lines, S.A.
Princess Cruises Corp., Inc. (Princess Cruises).

Dated: November 1, 1967.

THOMAS LISI,
Secretary.

[F.R. Doc. 67–13072; Filed, Nov. 3, 1967; 8:49 a.m.]

GOLFO Y. CARIBE STEAMSHIP LINES, S.A.

Indemnification of Passengers for Nonperformance of Transportation; Notice of Application for Certificate (Performance)

Notice is hereby given that pursuant to the provisions of section 3, Public Law 89–777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20 (46 CFR Part 540) the following persons have applied to the Federal Maritime Commission for a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation:

Golfo Y. Caribe Steamship Lines, S.A.

Dated: November 1, 1967.

THOMAS LISI,
Secretary.

[F.R. Doc. 67–13073; Filed, Nov. 3, 1967; 8:49 a.m.]

[Independent Ocean Freight Forwarder License 957]

SHERRIFF-GUERRINGUE, INC.

Revocation of License

Whereas, on October 10, 1967, the St. Paul Mercury Insurance Co. notified the Commission that the surety bond filed pursuant to section 44(c), Shipping Act, 1916 (46 U.S.C. 841(b)) by Sherriff-Guerringue, Inc., Suite 400, Colman Building, Seattle, Wash. 98104, would be canceled effective November 9, 1967, and

Whereas, Sherriff-Guerringue, Inc., has returned its Independent Ocean Freight Forwarder License No. 957 to the Commission.

Now, therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (revised), section 6.03.

It is ordered, That the Independent Ocean Freight Forwarder License No. 957 of Sherriff-Guerringue, Inc. be and is hereby revoked, effective November 1, 1967.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served on the licensee.

JOHN F. GILSON,
Deputy Director,
Bureau of Domestic Regulation.

[F.R. Doc. 67–13074; Filed, Nov. 3, 1967; 8:49 a.m.]

AMERICAN PRESIDENT LINES, LTD., AND ROYAL INTEROCEAN LINES

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as set forth below) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. D. J. Morris, Manager, Rates and Conferences, American President Lines, Ltd., 601 California Street, San Francisco, Calif. 94108.

Agreement 9667, between American President Lines, Ltd., and Royal Interocean Lines establishes a through billing arrangement for movement of general cargo from Mombasa and other ports in East Africa to U.S. Pacific Coast ports and Honolulu, Hawaii, with transshipment at Kobe or Yokohama, Japan, in accordance with terms and conditions set forth in the agreement.

Dated: November 1, 1967.

By order of the Federal Maritime Commission.

THOMAS LIST,
Secretary.

[F.R. Doc. 67-13075; Filed, Nov. 3, 1967; 8:49 a.m.]

AMERICAN PRESIDENT LINES AND SEA-LAND SERVICE, INC.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as set forth below) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. J. D. Morris, Manager, Rates and Conferences, American President Lines, 601 California Street, San Francisco, Calif. 94108.

Agreement No. 8504-3, between American President Lines (APL) and Sea-Land Service, Inc. of Puerto Rico (Sea-Land), reconstitutes the basic agreement by incorporating therein all previously approved modifications, and further amends the agreement by expanding its geographic scope to include Korea, Pakistan, Vietnam, Thailand, Phnom Penh, Cambodia, Ceylon, and India and provides that Sea-Land's proportion of the through rate on cargo from India and Pakistan shall be subject to a net minimum of $12 per 40 cubic feet and/or $18 per 2,000 pounds, as freighted.

Dated: November 1, 1967.

By order of the Federal Maritime Commission.

THOMAS LIST,
Secretary.

[F.R. Doc. 67-13076; Filed, Nov. 3, 1967; 8:49 a.m.]

JAVA-NEW YORK RATE AGREEMENT

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as set forth below) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. Elliott B. Hixon, Burlingham Underwood Barron Wright & White, 25 Broadway, New York, N.Y. 10004.

Agreement 90-12, between the member lines of the Java-New York Rate Agreement No. 90, as amended, and Mitsui-O.S.K. Lines, Ltd., provides for the admission of Mitsui-O.S.K. Lines as an associate member of the conference. Under the agreement Mitsui-O.S.K. Lines (1) will be subject to all of the duties and obligations and entitled to all of the rights and privileges of members of the Java-New York Rate Agreement except that Mitsui's voting rights will be limited to arbitraries from ports as described therein to Singapore, and (2) for the purpose of this agreement discontinuance, abandonment, and termination of service or berthing of vessels as embodied in Clause 10 of Agreement 90, as amended, shall refer to berthing of Mitsui's vessels at Singapore for the loading of through cargoes originating at ports within the scope of the Java-New York Rate Agreement. Agreement 90-12, supersedes Agreement 90-11 published in the FEDERAL REGISTER of August 19, 1967, which is now categorized as withdrawn prior to approval.

Dated: November 1, 1967.

By order of the Federal Maritime Commission.

THOMAS LIST,
Secretary.

[F.R. Doc. 67-13077; Filed, Nov. 3, 1967; 8:49 a.m.]

MOORE-McCORMACK LINES, INC., AND LYKES BROS. STEAMSHIP CO., INC.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as set forth below) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. W. J. Amoss, Jr., Vice President—Traffic, Lykes Bros. Steamship Co., Inc., 821 Gravier Street, New Orleans, La. 70150.

Agreement 9665, between Moore-McCormack Lines, Inc., and Lykes Bros. Steamship Co., Inc., establishes a through billing arrangement between ports in the Somali Republic and U.S. Atlantic and Gulf Coast ports with transshipment at Capetown, Durban, Lourenco Marques, Beira, Dar es Salaam, or Zanzibar in accordance with terms and conditions set forth in the agreement.

Dated: November 1, 1967.

By order of the Federal Maritime Commission.

THOMAS LIST,
Secretary.

[F.R. Doc. 67-13078; Filed, Nov. 3, 1967; 8:49 a.m.]

MOORE-McCORMACK LINES, INC., AND LYKES BROS. STEAMSHIP CO., INC.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as set forth below) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. W. J. Amoss, Jr., Vice President—Traffic, Lykes Bros. Steamship Co., Inc., 821 Gravier Street, New Orleans, La. 70150.

Agreement 9666, between Moore-McCormack Lines, Inc., and Lykes Bros. Steamship Co., Inc., establishes a through billing arrangement for movement of general cargo between ports in Malagasy Republic, Mauritius, Reunion, and the Comores Islands and U.S. Gulf ports with transshipment at South and East African ports (Capetown-Mombasa range, inclusive) in accordance with terms and conditions set forth in the agreement.

Dated: November 1, 1967.

By order of the Federal Maritime Commission.

THOMAS LIST,
Secretary.

[F.R. Doc. 67-13079; Filed, Nov. 3, 1967; 8:49 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-32]

AEROJET-GENERAL CORP.

Notice of Termination of Facility License

The Commission has terminated Facility License No. R-10 which authorized Aerojet-General Corp. to operate its Model AGN-201, Serial No. 103M nuclear reactor on the Corporation's facility site in San Ramon, Calif.

The reactor has been satisfactorily dismantled and the component parts and a portion of the fuel transferred to Idaho State University at Pocatello, Idaho, under Construction Permit No. CPRR-98 (Docket No. 50-284). The remaining fuel is being held under the Corporation's Special Nuclear Materials License No. SNM-31 until eventual transfer to other licensees.

Copies of the Commission's order, the licensee's application dated August 18, 1967, and the related Safety Evaluation by the Division of Reactor Licensing are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the Safety Evaluation may be obtained at the Public Document Room or upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 26th day of October 1967.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[F.R. Doc. 67-13054; Filed, Nov. 3, 1967; 8:47 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. RI67-275, RI68-124]

MOBIL OIL CORP. ET AL.

Order Accepting Contract Amendments, Accepting Decreased Rate Filings Subject to Refund in Existing Rate Suspension Proceeding, and Providing for Hearing on and Suspension of Proposed Increased Rate

OCTOBER 26, 1967.

In order accepting contract amendments, accepting decreased rate filings subject to refund in existing rate suspension proceeding, and providing for hearing on and suspension of proposed increased rate, issued September 15, 1967, and published in the FEDERAL REGISTER, September 27, 1967, F.R. Doc. 67-11161, 32 F.R. 13541, Docket Nos. RI67-275 et al., Appendix A, page 13541, delete last line of footnote 3 and insert; "Indefinite pricing provisions waived, from January 1, 1967 to June 30, 1978, and provides for 1-cent periodic escalations."

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13026; Filed, Nov. 3, 1967; 8:45 a.m.]

[Docket Nos. CP67-365, CP68-11]

NORTHERN NATURAL GAS CO. ET AL.

Order Consolidating Applications, Permitting Interventions, Prescribing Procedures and Setting Date for Pre-Hearing Conference

OCTOBER 27, 1967.

Northern Natural Gas Co.; Michigan Gas and Electric Co., Applicant; Northern Natural Gas Co., Respondent; Docket Nos. CP67-365, CP68-11.

On June 5, 1967, Northern Natural Gas Co. (Northern) filed its application in Docket No. CP67-365 pursuant to section 7(c) of the Natural Gas Act (Act) in which it seeks authorization to construct and operate certain facilities and to deliver, through its Peoples Natural Gas Division, volumes of natural gas on a firm and interruptible basis to White Pine Copper Co. (White Pine) for use in its copper refining plant located in White Pine, Mich. Notice of the application was issued on June 13, 1967, and was published in the FEDERAL REGISTER on June 17, 1967 (32 F.R. 8734). A petition to intervene in opposition to the application was timely filed by Michigan Gas and Electric Co. (MG&E) and a late notice of intervention was filed by the Michigan Public Service Commission (PSC) in which it requested permission to enter the late filing.

On July 10, 1967, MG&E filed an application in Docket No. CP68-11 pursuant to section 7(a) of the Natural Gas Act for an order of the Commission directing Northern to construct and operate natural gas transmission facilities and to sell and deliver natural gas in interstate commerce for resale and distribution in Ontonagon County, Mich. Notice of the application was issued on July 18, 1967, and was published in the FEDERAL REGISTER on July 26, 1967 (32 F.R. 10952). The gas which MG&E seeks to have made available would be used to serve natural gas to White Pine in the same volumes as proposed by Northern in its application in Docket No. CP67-365 and in addition would be used to serve other firm distribution markets in the Village of White Pine, Mich. The Michigan PSC filed a notice of intervention in Docket No. CP68-11.

In its petition to intervene in Docket No. CP67-365 MG&E alleges that it has secured franchises to provide natural gas service in the Upper Peninsula of Michigan in the villages of Baraga and South Range and the townships of Carp Lake and Ontonagon and that White Pine Copper Co. is located within Carp Lake Township. It opposes Northern's application to serve White Pine, because of its own proposal to serve White Pine as contemplated in its application in Docket No. CP68-11. MG&E requests that a formal hearing be set and that its application be consolidated for hearing with Northern's application in Docket No. CP67-365.

Northern filed an answer to MG&E's application in which it objects to that application because MG&E had submitted a competitive proposal to serve White Pine Copper Co. which was rejected by the proposed customer in favor of the offer from Northern's Peoples division and because "MG&E has not complied with the orderly procedure set out in Northern's tariff for the attachment of new communities."

Since the applications of both Northern and MG&E envision service of the same volume of gas to a single purchaser they apparently are mutually exclusive and should be consolidated for hearing so that they can be considered together.

The Commission further finds:

(1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the matters in Docket Nos. CP67-365 and CP68-11 be consolidated for hearing and decision.

(2) Although the notice of intervention filed by the Michigan Public Service Commission in Docket No. CP67-365 was not filed within the time required by § 1.8(d) of the Commission's rules of practice and procedure (18 CFR 1.8(d)), good cause exists to permit the late filing

(3) It is desirable and in the public interest to allow Michigan Gas and Electric Co. to intervene in Docket No. CP67-365 in order that it may establish the facts and the law from which the nature and validity of alleged rights and interests may be determined and show what further action may be appropriate under the circumstances in the administration of the Natural Gas Act.

(4) The expeditious disposition of these proceedings may be effectuated by holding a prehearing conference and to that end a prehearing conference should be held on November 28, 1967.

The Commission orders:

(A) The above-captioned matters are hereby consolidated for the purpose of hearing and decision.

(B) Michigan Gas and Electric Co. is hereby permitted to become an intervener in Docket No. CP67-365 subject to the rules and regulations of the Commission: *Provided, however*, That the participation of such intervener shall be limited to matters affecting asserted rights and interests as specifically set forth in its petition to intervene: *And provided, further*, That the admission of such intervener shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(C) Intervention by the Michigan Public Service Commission is hereby granted.

(D) All evidence in support of the applications to be relied upon at the hearing shall be filed with the Commission and served on all parties and the Commission's staff on or before November 17, 1967.

(E) Pursuant to the provisions of § 1.18 of the Commission's rules of practice and procedure, a prehearing conference before a duly designated presiding examiner shall commence at 10 a.m., e.s.t. on November 28, 1967, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., for the purpose of effectuating the expeditious disposition of these consolidated proceedings. The purpose of such conference shall be to consider all matters at issue in the above dockets, the manner in which evidence shall be presented, to fix the date on which the consolidated hearing shall commence, and to consider any and all matters which might contribute to an expeditious disposition of these consolidated proceedings.

(F) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held on a date to be fixed by the presiding examiner in accordance with paragraph (D) above, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such applications.

(G) The Presiding Examiner, at a time deemed appropriate and in consideration of the magnitude of the respective presentations and the record that will have been made thereon, will, at his discretion, set a date for the filing of any answering evidence. In all other matters, the examiner's right to prescribe the manner in which the hearing is to be conducted is preserved.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-13027; Filed, Nov. 3, 1967; 8:45 a.m.]

[Docket No. RI67-321]

NORVAL BALLARD ET AL.

Order Redesignating Proceeding

OCTOBER 31, 1967.

By order issued September 19, 1967, in Docket No. G-6170 et al., the Commission authorized Norval Ballard, Trustee (Operator) et al., in Docket No. G-6390 to continue the sale of natural gas theretofore authorized in said docket to be made by Norval Ballard (Operator) et al.; and Norval Ballard (Operator) et al., FPC Gas Rate Schedule No. 2 was redesignated as Norval Ballard, Trustee (Operator) et al., FPC Gas Rate Schedule No. 1. By notice issued September 1, 1967, in Docket No. RI67-321 a change in rate filed by Norval Ballard (Operator) et al.; under his FPC Gas Rate Schedule No. 2 was made effective subject to refund as of August 23, 1967, and an escrow agreement to assure the refund of any amounts collected in excess of the amount determined to be just and reasonable in Docket No. RI67-321 was accepted for filing. The escrow agreement, as filed by Norval Ballard, reflects his status as trustee. The notice of change in rate was filed on February 20, 1967. The assignment from Norval Ballard to Norval Ballard, Trustee, was effective February 24, 1967. Therefore, the proceeding pending in Docket No. RI67-321 will be redesignated to conform to that of the redesignated rate schedule and new certificate holder.

The Commission orders: The proceeding pending in Docket No. RI67-321 is redesignated from Norval Ballard (Operator) et al., to Norval Ballard, Trustee (Operator) et al.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-13028; Filed, Nov. 3, 1967; 8:45 a.m.]

[Project 2111]

PACIFIC POWER & LIGHT CO.

Notice of Additional Land Withdrawal in Washington

OCTOBER 31, 1967.

On June 16, 1967, Pacific Power & Light Co., Portland, Oreg., filed an application for amendment of license (major) for power Project No. 2111.

Conformable to the provisions of section 24 of the Act of June 10, 1920, as amended, notice is hereby given that the lands hereinafter described, insofar as title thereto remains in the United States, are included in power Project No. 2111 and are from the date of filing of the said application, reserved from entry, location or other disposal under the laws of the United States until otherwise directed by this Commission or by Congress.

WILLAMETTE MERIDIAN, WASHINGTON

T. 6 N., R. 6 E.,
Sec. 4, lot 4, SW¼NW¼, NW¼SW¼, N½SW¼SW¼;
Sec. 5, lots 1 and 2, S½NE¼, E½E½SW¼, N½SE¼, SW¼SE¼, N½SE¼SE¼;
Sec. 8, NW¼NW¼NE¼, NE¼NE¼NW¼.

The total area of United States lands reserved pursuant to the filing of this application is approximately 500.11 acres located entirely within the Gifford Pinchot National Forest. Of the total area reserved approximately 198.82 acres have been previously withdrawn for power purposes in connection with Project Nos. 935 or 2111.

Copies of revised maps, Exhibit K, sheets 6 of 9, 7 of 9, and 8 of 9 (FPC Nos. 2111-52 to -54, respectively) are being transmitted to the Bureau of Land Management, Geological Survey and Forest Service.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-13029; Filed, Nov. 3, 1967; 8:45 a.m.]

[Project Nos. 1889, 2485]

WESTERN MASSACHUSETTS ELECTRIC CO. ET AL.

Notice Postponing Oral Argument

OCTOBER 27, 1967.

Western Massachusetts Electric Co., Project No. 1889; The Connecticut Light and Power Co., The Hartford Electric Light Co., Western Massachusetts Electric Co., Project No. 2485.

Take notice that the oral argument in the above-designated proceedings, set for December 5, 1967, by notice issued October 23, 1967, is hereby postponed to December 7, 1967, at 10 a.m., e.s.t.

By direction of the Commission.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-13030; Filed, Nov. 3, 1967; 8:46 a.m.]

[Docket No. CP68-68]

UNITED GAS PIPE LINE CO.

Notice of Application

OCTOBER 30, 1967.

Take notice that on September 5, 1967, United Gas Pipe Line Co. (Applicant), Post Office Box 1407, Shreveport, La. 71102, filed in Docket No. CP68-68 a "budget-type" application pursuant to subsection (c) of section 7 of the Natural Gas Act, as implemented by § 157.7(c) of the regulations under the Act, for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to construct and operate, during the 12-month period commencing November 1, 1967, certain minor natural gas sales and transportation facilities, including taps, valves, meters, and service lines, for the purpose of enabling Applicant to render both direct natural gas service and sales and deliveries for resale to various customers located near Applicant's pipeline system in the States of Alabama, Florida, Louisiana, Mississippi, and Texas.

Applicant states that the deliveries to any one purchaser will not exceed 100,000 Mcf of natural gas per year and that such natural gas will not be used as boiler fuel as defined by the Commission.

The total estimated cost of Applicant's proposed construction will not exceed $300,000 and will be financed from current working funds.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before November 20, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-13031; Filed, Nov. 3, 1967; 8:47 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[812-2117]

AMERICAN HYDROCARBON CORP.

Notice of Filing of Application for Order Declaring Company Is Not Investment Company

OCTOBER 30, 1967.

Notice is hereby given that American Hydrocarbon Corp. ("Applicant"), 111 Braniff Building, Dallas, Tex. 75235, a Delaware corporation, has filed an application pursuant to section 3(b)(2) of the Investment Company Act of 1940 ("Act") for an order of the Commission declaring it to be primarily engaged, through a controlled company, in a business other than that of investing, reinvesting, owning, holding or trading in securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was organized, in August 1953, for the purpose of developing oil and gas properties, which gradually deteriorated, and was subsequently engaged in the business of Intercontinental Manufacturing Co., Inc. ("Intercontinental"), a wholly owned subsidiary which it acquired from the Lionel Corp. in June 1964. Applicant asserts that it then concentrated upon the development of Intercontinental to its maximum potential and attempted to consolidate Intercontinental with another manufacturing company in such a manner as to provide for the orderly retirement of certain debt of Applicant and the satisfaction of numerous creditors. Applicant further asserts that at the time of its ownership of Intercontinental, such ownership of Intercontinental comprised over 95 percent of Applicant's total assets, and Applicant was engaged through Intercontinental in the business of Intercontinental. Intercontinental engages in the manufacture of component parts for use in the aerospace and munitions fields as a prime or subcontractor under Government contracts, and is now primarily engaged in the manufacture of bomb bodies for sale under contract to the U.S. Navy.

The application states that on May 9, 1967, a transaction was consummated between Applicant and Intercontinental Industries, Inc. ("INI") whereby Applicant exchanged 900 shares of the common stock of Intercontinental, representing 90 percent of such common stock (the remaining ten percent to be sold to five officers of Intercontinental), for 40 percent of the outstanding voting securities of INI, certain convertible or secured notes of INI, and the assumption by INI of certain debt of Applicant. As stated by Applicant, this transaction represents the culmination of over a year and a half of effort by Applicant to attempt to salvage the affairs and assets of Applicant. Applicant submits that it "controls" INI, as such term is defined in section 2(a)(9) of the Act.

On June 30, 1967, subsequent to the disposition by Applicant of 143,600 shares of INI common stock primarily in settlement of certain existing obligations, Applicant held 416,000 shares, or approximately 29 percent of the outstanding voting securities of INI. Applicant's holding may be increased to approximately 31 percent if Applicant converts a $144,550 5-percent note into 48,183 shares of INI, or decreased to approximately 23 percent if 75,000 shares of INI are distributed to Applicant's stockholders. This distribution, although approved by a vote of stockholders, has been deferred until settlement is made with all of Applicant's creditors. If Applicant elects both to convert the notes and to make the distribution to shareholders, it will hold in excess of 25 percent of the outstanding voting securities of INI. INI, shares of the capital stock of which are listed on the American Stock Exchange, has disposed of the general construction business in which it was engaged until recently under the name of Jefferson Construction Co., and is presently engaged in the business of Intercontinental through Intercontinental.

Six designees of Applicant, including three of Applicant's five directors, are members of INI's Board of Directors, which is composed of nine members, and all of INI's major officers are representatives of Applicant. In addition, five designees of Applicant, including two of Applicant's five directors, are members of Intercontinental's Board of Directors, which is composed of nine members. Applicant represents that its officers and directors direct a substantial portion of their time and effort to the operations and daily activities of INI and Intercontinental.

Applicant states that it has never held itself out as, or engaged in the business of, an investment company. Applicant further states that its ownership in INI is its only significant investment, such ownership representing approximately 93 percent of the value of its total assets (exclusive of cash items and Government securities) at June 30, 1967. Applicant submits that, although it is an investment company as defined by section 3(a)(3) of the Act since it owns investment securities having a value exceeding 40 percent of its total assets (exclusive of cash items and Government securities), its control of and primary engagement in the business of INI and Intercontinental entitle it to a declaration and finding by the Commission pursuant to section 3(b)(2) of the Act.

Section 3(b)(2) of the Act provides in pertinent part that the Commission may, upon application, find and by order declare an issuer to be primarily engaged in a business other than that of investing, reinvesting, owning, holding, or trading in securities through a controlled company.

Notice is further given that any interested person may, not later than November 20, 1967, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the

address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after such date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13042; Filed, Nov. 3, 1967; 8:46 a.m.]

[812-2204]

GILLETTE INTERNATIONAL CAPITAL CORP.

Notice of Filing of Application for Order Exempting Company

OCTOBER 30, 1967.

Notice is hereby given that Gillette International Capital Corp. ("applicant"), c/o Gillette Co., Gillette Park, Boston, Mass. 02106, a Delaware corporation, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an order exempting it from all provisions of the Act and the rules and regulations thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

Applicant was organized by The Gillette Co. ("Gillette") under the laws of the State of Delaware on October 10, 1967. Gillette or a fully owned subsidiary of Gillette will subscribe for all capital stock of applicant to be issued and outstanding. Of the 1,000 authorized shares without par value of applicant, Gillette has subscribed for 100 shares and will pay an aggregate amount of not less than $10,000 in cash for said 100 shares. On or before December 31, 1967 Gillette or a fully owned subsidiary of Gillette will make such capital contributions to applicant of, or will purchase additional shares for, additional cash, securities or other property so that the capital of applicant will not be less than $15 million at that date. Any additional securities which applicant may issue, other than debt securities, shall be issued only to Gillette or to a fully owned subsidiary of Gillette. Gillette will continue to retain its present holdings of applicant's common stock and any additional securities of applicant which Gillette may acquire, and will not dispose of any of applicant's securities (other than debt securities) except to applicant itself or to a fully owned subsidiary of Gillette; and Gillette will cause each fully owned subsidiary not to dispose of applicant's securities (other than debt securities) except to Gillette, applicant, or to one or more fully owned subsidiaries of Gillette. In the event that any additional debt securities of applicant are issued to or held by the public, such debt securities will be guaranteed by Gillette in a manner substantially similar to the guarantee of the Debentures referred to below.

The principal business of Gillette is the manufacture and sale of men's personal care products—safety razors, blades, and men's toiletries; home permanent waves and other women's hair care and toiletry products; and ballpoint pens and refills and porous point pens utilizing a tapered nylon tip and refills.

Applicant intends to issue and sell an aggregate of up to $50 million of its Guaranteed Debentures Due 1982 ("Debentures") to a group of underwriters for offering and sale only outside the United States. Gillette will guarantee the payment of principal, interest, and premium, if any, on the Debentures. The Debentures will be convertible into common stock of Gillette at any time on and after May 1, 1968.

Applicant will use its best efforts to secure the listing of the Debentures on the New York Stock Exchange and their registration under the Securities Exchange Act of 1934, so that the holders of the Debentures will have the benefit of the reporting and disclosure requirements of the Exchange and the Securities Exchange Act of 1934. Applicant will also use its best efforts to secure the listing of the Debentures on the Luxembourg Stock Exchange. Similarly, holders of the Debentures will have the benefit of such reporting and disclosure requirements with respect to Gillette, the common stock of which is listed on the New York Stock Exchange (and certain other stock exchanges referred to above) and registered under the Securities Exchange Act of 1934.

It is intended that upon completion of the long-term investment of applicant's assets, substantially all of the assets of applicant (exclusive of U.S. Government securities and cash items) will be invested in securities of or loaned to foreign companies (including U.S. companies all or substantially all of whose business is carried on abroad either directly or indirectly through foreign companies) (A) which are, or upon the making of such investments or loans will be (1) majority owned subsidiaries of Gillette within the meaning of section 2(a)(23) of the Act (2) companies under Gillette's control within the meaning of section 2(a)(9) of the Act, or (3) companies which are engaged in a business related to the business of Gillette in which Gillette owns, directly or indirectly, an equity interest of 15 percent or more and (B) which are primarily engaged in a business or businesses other than investing, reinvesting, owning, holding or trading in securities; *Provided, however,* That clause (B) shall not preclude investments by applicant in a fully owned direct or indirect subsidiary of Gillette primarily engaged in the business of owning or holding securities of companies in which the applicant may make investments in securities of or loans to in accordance with clauses (A) and (B) above. Applicant will proceed as expeditiously as possible with the long-term investment of its assets in the manner described above, will not acquire securities for the purpose of resale and will not trade in securities. Pending such investment, and from time to time thereafter in connection with changes in long-term investments, applicant will invest temporarily in debt obligations (including time deposits) of governments, financial institutions and foreign subsidiaries of Gillette, payable in U.S. dollars or other currencies and in each case maturing in 1 year or less from the date of acquisition.

Gillette is interested in developing and expanding its foreign operations, including increasing its investments in its existing foreign subsidiaries, the setting up or the acquisition of additional foreign subsidiaries, and otherwise making substantial direct or indirect investments and direct or indirect acquisitions of interests in foreign companies and businesses. Gillette is utilizing applicant to fulfill its general objective of developing and expanding its foreign operations, as described above, and at the same time to support the balance-of-payments position of the United States in compliance with the voluntary cooperation program instituted by President Johnson in February 1965. Such utilization of the applicant is contemplated to include assistance in the financing of certain aspects of the acquisition of not less than a controlling interest in Braun A.G., a German corporation having its principal place of business at Frankfurt, Germany, and engaged in the business of manufacturing and selling electric shavers; small household appliances; electronic products, including radios, stereo phonographs, and tape recorders; and photographic equipment, including motion picture cameras, slide and movie projectors and photoflash guns. A substantial amount of the net proceeds of the Debentures are expected to be used to assist Gillette directly or indirectly in financing the acquisition of the Braun A.G., stock and the balance is expected to be used in otherwise financing the foreign operations of Gillette. Shares of stock of Braun A.G. proposed to be acquired will be held by the applicant, Gillette or other Gillette foreign fully owned subsidiaries.

The Debentures are to be sold by the Underwriters under conditions which are intended to assure that the Debentures will not be sold to nationals, citizens, or residents of the United States. Any additional debt securities of the applicant which may be offered to the public in the future will be sold under substantially similar conditions.

In connection with the intended issue and sale of the Debentures, applicant has requested certain rulings from the Internal Revenue Service, and it is expected that the Internal Revenue Service will

rule, among other things, that U.S. persons (as defined in the Interest Equalization Tax Act) will be required to report and pay Interest Equalization Tax with respect to the acquisition of the Debentures from applicant or other persons except where a specific statutory exemption is available, and in that event, by financing these various foreign operations through the applicant rather than through the sale of its own debt obligations, Gillette will utilize an instrumentality the acquisition of whose debt obligations by U.S. persons would generally subject such persons to the Interest Equalization Tax, thus discouraging them from purchasing such debt obligations. The Debentures will bear a legend stating that U.S. persons (as so defined) may be liable for such tax.

Applicant submits that it is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act for the Commission to enter an order exempting applicant from each and every provision of the Act for the following reasons: (1) A significant purpose of the applicant is to assist in improving the balance-of-payments program of the United States by obtaining funds for foreign operations in foreign countries; (2) The payment of the Debentures which is guaranteed by Gillette and the value of the right to convert the Debentures into shares of Gillette's common stock, does not depend on the operation or investment policy of applicant for the Debenture holders may ultimately look to the business enterprise of Gillette which has net assets in excess of $150 million. Accordingly, the public policy which dictated the enactment of the Act is not applicable to applicant nor do the security holders of applicant require the protection afforded by the Act; (3) None of the securities of applicant, other than debt securities, will be held by any person other than Gillette. Any additional debt securities of applicant issued to or held by the public will be guaranteed by Gillette in a manner substantially similar to the guarantee of the Debentures; (4) Applicant will not deal or trade in any securities; (5) Applicant's security holders will have the benefit of disclosure and reporting provisions of the Securities Exchange Act of 1934 and the New York Stock Exchange; (6) The Debentures will be sold only to foreign nationals and the burden of the Interest Equalization Tax will discourage resale to any U.S. national, citizen, or resident.

Notice is further given that any interested person may, not later than November 15, 1967, at 5:30 p.m., submit to the Commission in writing a request for hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13044; Filed, Nov. 3, 1967; 8:47 a.m.]

JODMAR INDUSTRIES, INC.

Order Suspending Trading

OCTOBER 30, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Jodmar Industries, Inc., 1790 East 93d Street, Brooklyn, N.Y., and all other securities of Jodmar Industries, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period October 31, 1967, through November 9, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13045; Filed, Nov. 3, 1967; 8:47 a.m.]

[70-4562]

MISSISSIPPI POWER & LIGHT CO.

Notice of Proposed Transfer from Earned Surplus to Common Stock Capital Account

OCTOBER 30, 1967.

Notice is hereby given that Mississippi Power & Light Co. ("MP&L"), Post Office Box 1640, Jackson, Miss. 39205, an electric utility subsidiary company of Middle South Utilities, Inc., a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 6(a) and 7 of the Act as applicable to the proposed transaction. All interested persons are referred to the declaration which is summarized below, for a complete statement of the proposed transaction.

MP&L proposes to transfer from earned surplus to the common stock capital account the sum of $3,100,000—the equivalent of $1 for each of the 3,100,000 shares of common stock (no par value) now outstanding. At August 31, 1967, the common stock capital and the earned surplus of MP&L amounted to $55,800,000 and $12,586,947, respectively. Giving effect to the proposed transfer, common stock capital would be increased to $58,900,000 and earned surplus would be reduced to $9,486,947. The transaction is proposed for the principal purpose of effectuating a permanent capitalization of a portion of the company's earned surplus.

It is stated that the fees and expenses in connection with the proposed transaction are estimated not to exceed $1,000, including legal fees. It is further stated that no State commission or Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than November 20, 1967, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13046; Filed, Nov. 3, 1967; 8:47 a.m.]

[File No. 7-2786, 7-2787]

TRANS INTERNATIONAL AIRLINES CORP.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

OCTOBER 30, 1967.

In the matter of applications of the Philadelphia-Baltimore-Washington Stock Exchange, for unlisted trading privileges in certain securities.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Trans International Airlines Corporation	7-2786
Ex-Cell-O Corporation	7-2787

Upon receipt of a request, on or before November 13, 1967, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13047; Filed, Nov. 3, 1967; 8:47 a.m.]

[File Nos. 2-28782(23-4326), 2-14423(23-2442)]

SCM CORP.

Notice of Application and Opportunity for Hearing

OCTOBER 31, 1967.

Notice is hereby given that SCM Corp. ("SCM") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeship of the First National City Bank ("First National") under two indentures of SCM is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify First National from acting as trustee under either of such indentures.

Section 310(b) of the Act provides in part that if a Trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of this section provides, in effect, with certain exceptions, that a trustee under an indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the same issuer are outstanding. However, under clause (ii) of section (1), there may be excluded from the operation of this provision another indenture or indentures under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under both indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under one of such indentures.

The Corporation alleges that:

(1) On September 22, 1967, the Glidden Co. ("Glidden"), an Ohio corporation, was merged into SCM, a New York corporation, the applicant herein, pursuant to an Agreement and Plan of Merger (the "Plan"), dated as of June 15, 1967, as amended.

(2) SCM has issued and outstanding $20 million principal amount of 5¾ percent Sinking Fund Debentures due February 1, 1987, under an Indenture (the "SCM Indenture"), dated as of February 1, 1967, between SCM and First National, Trustee.

(3) At the time of the merger Glidden had issued and outstanding $23,995,000 principal amount of 4¾ percent Sinking Fund Debentures due November 1, 1983 under an Indenture (the "Glidden Indenture"), dated as of November 1, 1958, between Glidden and City Bank Farmers Trust Co., Trustee (First National being successor trustee).

(4) Both such indentures were qualified under the Act. In connection with the merger, consents were obtained from the holders of the SCM and Glidden debentureholders to certain modifications of such indentures. Supplemental indentures reflecting such modifications were subsequently executed and delivered to First National. As used herein, the terms "SCM Indenture" and "Glidden Indenture" means such indentures as so supplemented.

(5) Upon the effectiveness of the merger of Glidden into SCM, SCM assumed all of Glidden's obligations under the Glidden Indenture. SCM has become the successor obligor under the Glidden Indenture and is the obligor under the SCM Indenture. First National is Trustee under both indentures.

(6) The SCM Indenture and the Glidden Indenture are wholly unsecured and the SCM Debentures and the Glidden Debentures are general obligations of SCM, of equal rank and without priority or preference of either one over the other.

(7) The differences between the SCM and Glidden Indentures are not so likely to involve First National, as Trustee under such Indentures, in a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify First National from acting as Trustee under the SCM Indenture and under the Glidden Indenture.

(8) SCM waives notice of hearing, and waives hearing, in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to such application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C. 20549.

Notice is further given that any interested person may, not later than November 30, 1967, request in writing that a hearing be held on such matters, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13068; Filed, Nov. 3, 1967; 8:48 a.m.]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 30 (New York Area) Amdt. 2]

REGIONAL DIRECTORS

Delegation of Authority To Conduct Program Activities in New York Area

Pursuant to the authority delegated to the Area Administrators by Delegation of Authority No. 30 (Revision 12) 32 F.R. 179, Delegation of Authority No. 30 New York 32 F.R. 3032 and 32 F.R. 4331 is hereby amended by revising Item II.I. to read as follows:

II. *Regional Directors—I. Chief, Accounting, Clerical, and Training Division.* 1. To purchase reproductions of loan documents, chargeable to the revolving fund, requested by U.S. attorney in foreclosure cases.

2. To (a) purchase office supplies and equipment, including office machines, and rent regular office equipment and furnishings; (b) contract for repair and maintenance of equipment and furnishings; (c) contract for services required in setting up and dismantling and moving SBA exhibits and (d) issue Government bills of lading.

3. In connection with the establishment of disaster loan offices, to obligate Small Business Administration to reimburse General Services Administration for the rental of office space.

4. To rent motor vehicles for the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by this Administration.

***5. To cancel, reinstate, modify and amend authorizations for business, economic opportunity and disaster loans.

**6. To extend the disbursement period on all loan authorizations or undisbursed portions of loans.*

***7. To approve final actions concerning current direct or participation loans:

a. Use of the cash surrender value of life insurance to pay the premium on the policy.

b. Release of dividends of life insurance or consent to application against premiums.

c. Minor modifications in the authorization.

d. Adjustment of interest payment dates.

e. Release of hazard insurance checks not in excess of $200 and endorse such checks on behalf of the Agency where SBA is named as joint loss payee.

f. Release of equipment with or without consideration where the value of equipment being released does not exceed $200.*

Effective date: September 7, 1967.

CHARLES H. KRIGER, *Area Administrator, New York Area.*

[F.R. Doc. 67-13069; Filed, Nov. 3, 1967; 8:48 a.m.]

[Delegation of Authority No. 30 (Pacific Coastal Area) Amdt. 3]

BRANCH MANAGER, AGANA, GUAM

Delegation of Authority To Conduct Program Activities in the Pacific Coastal Area

Pursuant to the authority delegated to the Area Administrators by Delegation of Authority No. 30 (Revision 12) 32 F.R. 179, and Amendment 1, 32 F.R. 8113, Delegation of Authority No. 30 (Pacific Coastal Area), 32 F.R. 1203, 32 F.R. 3188, and 32 F.R. 13243, is hereby amended by revising Item III to read as follows:

III. *Branch Manager—Agana, Guam—*
A. *Financial assistance.* 1. To approve or decline direct loans not in excess of $50,000 and participation loans not in excess of $50,000 (SBA share).

2. To approve or decline economic opportunity loans not in excess of $25,000 (SBA share).

3. To close and disburse approved business, economic opportunity and disaster loans.

4. To enter into business loan participation agreements with banks.

5. To execute loan authorizations for Washington, area, and regional approved loans and loans approved under delegated authority, said execution to read as follows:

(Name), Administrator,
By _____
(Name)
Title of person signing.

6. To cancel, reinstate, modify and amend authorizations for business, economic opportunity and disaster loans.

7. To extend the disbursement period on all loan authorizations or undisbursed portions of loans.

8. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorizations.

9. To approve service charges by participating banks not to exceed 2 percent per annum on the outstanding balance on construction loans and loans involving accounts receivable and inventory financing.

10. To take all necessary actions in connection with the administration, servicing, and collection, other than those accounts classified as "in liquidation"; and to do and to perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing:

a. The assignment, endorsement, transfer and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or in part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use in liquidity privileges under the loan guaranty plan.

d. Except: (a) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and (b) to deny liability of the Small Business Administration under the terms of a participation of guaranty agreement or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

11. *Size determination for financial assistance only.* To make initial size determinations in all cases within the meaning of the Small Business Size Standards Regulations, as amended, except sections 501 and 502 loans; and further, to make product classification decisions for financial assistance purposes only. Product classification decisions for procurement purposes are made by contracting officers.

12. *Eligibility determinations for financial assistance only.* To determine eligibility of applicants for assistance under any program of the Agency, except sections 501 and 502 loans; in accordance with Small Business Administration standards and policies.

Effective date: October 11, 1967.

WILLIAM S. SCHUMACHER, *Area Administrator.*

[F.R. Doc. 67-13060; Filed, Nov. 3, 1967; 8:48 a.m.]

[Delegation of Authority No. 30 (Southeastern Area), Rev. 1]

AREA COORDINATORS ET AL, SOUTHEASTERN AREA, ATLANTA, GA.

Delegation of Authority To Conduct Program Activities in the Southeastern Area

Pursuant to the authority delegated to the Area Administrators by Delegation of Authority No. 30 (Rev. 12), 32 F.R. 179, dated January 7, 1967, and Amendment 1, 32 F.R. 8113, dated June 6, 1967, the following authority is hereby redelegated to the positions as indicated herein:

I. *Area Coordinators*—A. *Economic Development Coordinator.* **1. To approve or decline section 501 State Development Company loans without dollar limitation and section 502 Local Development Company loans up to $350,000 (SBA share).

2. To close and disburse sections 501 and 502 loans.

3. To extend the disbursement period on sections 501 and 502 loan authorizations or undisbursed portions of sections 501 and 502 loans.

4. To cancel wholly or in part undisbursed balances of partially disbursed sections 501 and 502 loans.

5. To take all necessary actions in connection with the administration, servicing, and collection; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing.

a. The assignment, endorsement, transfer, and delivery (but in all cases without representation, recourse or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts,

patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use of liquidity privilege under the loan guaranty plan.

d. Except: (a) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and (b) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

6. Eligibility determinations (for financial assistance only): To determine eligibility of applicants for assistance under the sections 501 and 502 programs of the Agency in accordance with Small Business Administration standards and policies.

7. Size determinations (for financial assistance only): To make initial size determinations in all sections 501 and 502 loans within the meaning of the Small Business Size Standards Regulations, as amended, and further, to make product classification decisions for sections 501 and 502 loans only. Product classification decisions for procurement purposes are made by contracting officers.

B. *Supervisory Loan Officer (economic development).* 1. To close and disburse sections 501 and 502 loans.

2. To extend the disbursement period on sections 501 and 502 loan authorizations or undisbursed portions of sections 501 and 502 loans.

3. To cancel wholly or in part undisbursed balances of partially disbursed sections 501 and 502 loans.

4. To take all necessary actions in connection with the administration, servicing, and collections; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing:

a. The assignment, endorsement, transfer, and delivery (but in all cases without representation, recourse or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use of liquidity privilege under the loan guaranty plan.

d. Except: (a) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and (b) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

C. *Loan Officer (economic development).* 1. To close and disburse sections 501 and 502 loans.

2. To extend the disbursement period on sections 501 and 502 loans.

3. To cancel wholly or in part undisbursed balances of partially disbursed sections 501 and 502 loans.

4. To approve final actions concerning current direct, participation, and 40-percent First Mortgage Plan—501 and 502 loans:

a. Use of the cash surrender value of life insurance to pay the premium on the policy.

b. Release of dividends of life insurance or consent to applications against premiums.

c. Minor modifications in the authorization.

d. Extension of disbursement period.

e. Extension of initial principal payments.

f. Adjustment of interest payment dates.

g. Release of hazard insurance checks not in excess of $500 and endorse such checks on behalf of the Agency where SBA is named as joint loss payee.

h. Release of equipment with or without consideration where the value of equipment being released does not exceed $500.

D. *Liquidation and Disposal Coordinator.* 1. To take all necessary actions in connection with the liquidation and disposal of all loans and other obligations or assets, including collateral purchased; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing:

a. The assignment, endorsement, transfer and delivery (but in all cases without representation, recourse or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents, and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. To take all necessary action in liquidating Economic Development Administration loans and acquired collateral when and as authorized by Economic Development Administration.

d. To advertise regarding the public sale of (a) collateral in connection with the liquidation of loans, and (b) acquired property.

e. Except: (a) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; (b) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

E. *Supervisory Liquidation and Disposal Officer.* 1. To take all necessary actions in connection with the liquidation and disposal of all loans and other obligations or assets, including collateral purchased; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing:

a. The assignment, endorsement, transfer and delivery (but in all cases without representation, recourse or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal, and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. To take all necessary action in liquidating Economic Development Administration loans and acquired collateral when and as authorized by Economic Development Administration.

d. To advertise regarding the public sale of (a) collateral in connection with the liquidation of loans and (b) acquired property.

e. Except: (a) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon: (b) to deny liability of the

Small Business Administration under the terms of a participating or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement; and (c) the cancellation of authority to liquidate.

F. *Area Claims Review Committee.* To consist of the liquidation and disposal coordinator, area counsel and the area supervisory appraiser who will meet and consider reasonable and properly supported compromise proposals of indebtedness owed to the Agency and to take final action on such proposals provided such action represents the majority recommendation of the committee on claims not in excess of $5,000 (including CPC advances but excluding interest), or represents the unanimous recommendation of said committee on claims in excess of $5,000 but not exceeding $100,000 (including CPC advances but excluding interest).

G. *Financial Assistance Coordinator—1. Eligibility Determinations (for financial assistance only).* To determine eligibility of applicants for assistance under any program of the Agency, except sections 501 and 502 loans, in accordance with Small Business Administration standards and policies.

2. *Size determinations (for financial assistance only).* To make initial size determinations in all cases within the meaning of the Small Business Size Standards Regulations, as amended, except sections 501 and 502 loans; and further, to make product classification decisions for financial assistance purposes only. Product classification decisions for procurement purposes are made by contracting officers.

H. *Procurement and Management Assistance Coordinator—1. Eligibility determinations (for PMA activities only).* To determine eligibility of applicants for assistance under any program of the Agency in accordance with Small Business Administration standards and policies.

2. *Size determinations (for PMA activities only).* To make initial size determinations in all cases within the meaning of the Small Business Size Standards Regulations, as amended, and further, to make product classification decisions for financial assistance purposes only. Product classification decisions for procurement purposes are made by contracting officers.

I. *Area Administrative Officer.* 1. To purchase reproductions of loan documents, chargeable to the revolving fund, requested by U.S. attorneys in foreclosure cases.

2. To (a) purchase office supplies and equipment, including office machines and rent regular office equipment and furnishings; (b) contract for repair and maintenance of equipment and furnishings; and (c) contract for services required in setting up and dismantling and moving SBA exhibits and (d) issue Government bills of lading.

3. In connection with the establishment of Disaster Loan Offices, to obligate Small Business Administration for the rental of office space.

4. To rent motor vehicles from the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by this Administration.

II. *Regional Directors—A. Financial assistance.* 1. To approve business and disaster loans not exceeding $350,000 (SBA share) and economic opportunity loans not exceeding $25,000 (SBA share).

2. To decline business, economic opportunity, and disaster loans of any amount.

3. To close and disburse approved loans.

4. To enter into business, economic opportunity and disaster loan participation agreements with banks.

5. To execute loan authorizations for Washington and area approved loans and for loans approved under delegated authority, said execution to read as follows:

(Name), *Administrator,*

By ----------
(Name)
Regional Director
(City)

6. To cancel, reinstate, modify, and amend authorizations for business, economic opportunity, and disaster loans.

7. To extend the disbursement period on all loan authorizations or undisbursed portions of loans.

8. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization.

9. To approve service charges by participating banks not to exceed 2 percent per annum on the outstanding principal balance of construction loans and loans involving accounts receivable and inventory financing.

•• 10. To establish disaster field offices upon receipt of advice of the designation of a disaster area; to advise on the making of disaster loans; to appoint as a processing representative any bank in the disaster area; and to close disaster field offices when no longer advisable to maintain such offices.

11. To take all necessary actions in connection with the administration, servicing and collection, other than those accounts classified as "in liquidation"; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing:

a. The assignment, endorsement, transfer and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposits, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use of liquidity privilege under the loan guaranty plan.

d. Except: (a) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and (b) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

B. Size determinations. To make initial size determinations in all cases within the meaning of the Small Business Size Standards Regulations, as amended, except sections 501 and 502 loans, and further, to make product classification decisions for financial assistance purposes only. Product classification decisions for procurement purposes are made by contracting officers.

C. Eligibility determinations. To determine eligibility of applicants for assistance under any program of the Agency, except sections 501 and 502 loans, in accordance with Small Business Administration standards and policies.

D. Administration. 1. To purchase reproductions of loan documents, chargeable to the revolving fund, requested by U.S. attorneys in foreclosure cases.

2. To (a) purchase office supplies and equipment, including office machines, and rent regular office equipment and furnishings; (b) contract for repair and maintenance of equipment and furnishings; (c) contract for services required in setting up and dismantling and moving SBA exhibits and (d) issue Government bills of lading.

3. In connection with the establishment of Disaster Loan Offices, to obligate Small Business Administration to reimburse the General Services Administration for the rental of office space.

4. To rent motor vehicles from the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by this Administration.

E. Chiefs, Financial Assistance Divisions (and Assistant Chiefs, if assigned). 1. Size determinations for financial assistance only: To make initial size determinations in all cases within the meaning of the Small Business Size Standards Regulations, as amended, except sections 501 and 502 loans, and further, to make product classification decisions for financial assistance purposes only. Product classification decisions for procurement purposes are made by contracting officers.

2. Eligibility determinations for financial assistance only: To determine eligibility of applicants for assistance under any program of the Agency, except sections 501 and 502 loans, in accordance

with Small Business Administration standards and policies.

3. To approve business and disaster loans not exceeding $350,000 (SBA share), and economic opportunity loans not exceeding $25,000 (SBA share).

4. To close and disburse approved business, economic opportunity, and disaster loans.

5. To decline business, economic opportunity and disaster loans of any amount.

6. To enter into business, economic opportunity, and disaster loan participation agreements with banks.

7. To execute loan authorization for Washington, area, and regional approved loans and loans approved under delegated authority said execution to read as follows:

(Name), Administrator,
By ----------
(Name)
Title of person signing.

8. To cancel, reinstate, modify, and amend authorizations for business, economic opportunity and disaster loans.

9. To extend the disbursement period on all loan authorizations or undisbursed portions of loans.

10. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization.

11. To approve service charges by participating banks not to exceed 2 percent per annum on the outstanding balance on construction loans and loans involving accounts receivable and inventory financing.

12. To take all necessary actions in connection with the administration, servicing and collection, other than those accounts classified as "in liquidation"; and to do and to perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers including without limiting the generality of the foregoing:

a. The assignment, endorsement, transfer, and delivery (but in all cases without representation, recourse or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or in part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use of liquidity priviliges under the loan guaranty plan.

d. Except: (a) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and (b) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

F. *Supervisory loan officer.* 1. To approve or decline direct loans not in excess of $50,000 and participation loans not in excess of $50,000 (SBA share).

2. To approve or decline economic opportunity loans not in excess of $25,000 (SBA share).

3. To close and disburse approved business, economic opportunity and disaster loans.

4. To enter into business loan participation agreements with banks.

5. To execute loan authorizations for Washington area and regional approved loans and loans approved under delegated authority, said execution to read as follows:

(Name), Administrator,
By ----------
(Name)
Title of person signing.

6. To cancel, reinstate, modify, and amend authorizations for business, economic opportunity and disaster loans.

7. To extend the disbursement period on all loan authorizations or undisbursed portions of loans.

8. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization.

9. To approve service charges by participating banks not to exceed 2 percent per annum on the outstanding balance on construction loans and loans involving accounts receivable and inventory financing.

10. To take all necessary actions in connection with the administration, servicing, and collection, other than those accounts classified as "in liquidation"; and to do and to perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing:

a. The assignment, endorsement, transfer and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or in part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use of liquidity privileges under the loan guaranty plan.

d. Except: (a) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and (b) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation of guaranty agreement.

11. Size determinations for financial assistance only: To make initial size determinations in all cases within the meaning of the Small Business Size Standards Regulations, as amended except sections 501 and 502 loans, and further, to make product classification decisions for financial assistance purposes only. Product classification decisions for procurement purposes are made by contracting officers.

12. Eligibility determinations for financial assistance only: To determine eligibility of applicants for assistance under any program of the Agency, except sections 501 and 502 loans, in accordance with Small Business Administration standards and policies.

G. *Loan Officer.* 1. To approve final actions concerning current direct or participation loans:

a. Use of the cash surrender value of life insurance to pay the premium on the policy.

b. Release of dividends of life insurance or consent to application against premiums.

c. Minor modifications in the authorization.

d. Extension of disbursement period.

e. Extension of initial principal payments.

f. Adjustment of interest payment dates.

g. Release of hazard insurance checks not in excess of $200 and endorse such checks on behalf of the Agency where SBA is named as joint loss payee.

h. Release of equipment with or without consideration where the value of equipment being released does not exceed $200.

2. To close and disburse approved business, economic opportunity and disaster loans.

H. *Regional Counsel (reserved).*

I. *Chief, Accounting, Clerical and Training Division.* 1. To purchase reproductions of loan documents, chargeable to the revolving fund, requested by U.S. attorney in foreclosure cases.

2. To (a) purchase office supplies and equipment, including office machines, and rent regular office equipment and furnishings; (b) contract for repair and maintenance of equipment and furnishings; (c) contract for services required in setting up and dismantling and moving SBA exhibits and (d) issue Government bills of lading.

3. In connection with the establishment of Disaster Loan Offices, to obligate Small Business Administration for the rental of office space.

4. To rent motor vehicles from the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by this Administration.

** 5. To cancel, reinstate, modify, and amend authorizations for business, economic opportunity and disaster loans.

** 6. To extend the disbursement period on all loan authorizations or undisbursed portions of loans.*

** 7. To approve final actions concerning current direct or participation loans:

a. Use of the cash surrender value of life insurance to pay the premium on the policy.

b. Release of dividends of life insurance or consent to application against premiums.

c. Minor modifications in the authorization.

d. Adjustment of interest payment dates.

e. Release of hazard insurance checks not in excess of $200 and endorse such checks on behalf of the Agency where SBA is named as joint loss payee.

f. Release of equipment with or without consideration where the value of equipment being released does not exceed $200.*

J. *Assistant Chief, Accounting, Clerical and Training division.* 1. To purchase reproduction

Newport News Children's Dress Co., Newport News, Va.; 10-20-67 to 10-19-68 (children's dresses).

Oshkosh B'Gosh, Inc., Celina Division, Celina, Tenn.; 10-6-67 to 10-5-68 (men's work pants and shirts).

Phillips-Van Heusen Corp., Ozark, Ala.; 10-4-67 to 10-3-68 (pajamas).

Publix Shirt Corp., Myerstown, Pa.; 10-16-67 to 10-14-68 (men's and boys' dress shirts).

Rappahannock Sportswear Co., Inc., Fredericksburg, Va.; 10-6-67 to 10-5-68 (men's and ladies' slacks).

Red Hill Apparel Co., Red Hill, Pa.; 10-4-67 to 10-3-68 (children's dresses).

Ringer Co., Park Rapids, Minn.; 10-16-67 to 10-15-68 (men's shirts).

Riverside Industries, Inc., Moultrie, Ga.; 9-25-67 to 9-24-68; 10 learners (men's work pants).

Riverside Manufacturing Co., Moultrie, Ga.; 9-25-67 to 9-24-68 (men's work clothes).

J. H. Rutter Rex Manufacturing Co., Inc., New Orleans, La.; 10-11-67 to 10-10-68 (men's and boys' work pants).

Henry I. Siegel Co., Inc., South Fulton, Tenn.; 10-14-67 to 10-13-68 (men's and boys' pants).

Southern Garment Co., Robbins, N.C.; 10-12-67 to 10-11-68; 10 learners (women's wash dresses).

Susan Garment, Inc., Lebanon, Pa.; 9-29-67 to 9-28-68; 10 learners (ladies' blouses and dresses).

Susan Garment, Inc., Bethel, Pa.; 9-29-67 to 9-28-68; 10 learners (ladies' blouses and dresses).

Southland Manufacturing Co., Inc., Wilmington, N.C.; 10-3-67 to 10-2-68 (men's and boys' shirts).

Standard Romper Co., Inc., Portland, Me.; 10-4-67 to 10-3-68 (children's shirts).

Standard Romper Co., Inc., Brunswick, Me.; 10-27-67 to 10-26-68 (children's pants).

Standard Romper Co., Inc., Central Falls, R.I.; 10-15-67 to 10-14-68 (children's outer garments).

Levi Strauss & Co., Denison, Tex.; 9-27-67 to 9-26-68 (men's and boys' slacks).

Sullcraft Manufacturing Co., Inc., Dushore, Pa.; 10-4-67 to 10-3-68 (boys' pajamas).

Sunstate Sportswear of Vienna, Inc., Vienna, Ga.; 10-9-67 to 10-8-68; 10 learners (men's trousers).

Toll-Gate Garment Co., Hamilton, Ala.; 10-1-67 to 9-30-68 (men's and boys' dress and sport shirts).

The Van Heusen Co., Clayton, Ala.; 10-4-67 to 10-3-68 (dress shirts).

The Van Heusen Co., Fort Payne, Ala.; 9-21-67 to 9-20-68 (boys' dress and sport shirts).

The Van Heusen Co., Geneva, Ala.; 10-4-67 to 10-3-68 (men's shirts).

The Van Heusen Co., Hartford, Ala.; 10-4-67 to 10-3-68 (men's dress shirts).

Vista Slack Corp., Chula Vista, Calif.; 9-30-67 to 9-29-68 (men's slacks).

Washington Garment Co., Inc., Washington, N.C.; 10-24-67 to 10-23-68 (children's dresses).

Wendell Garment Co., Inc., Wendell, N.C.; 9-5-67 to 9-4-68 (men's sport shirts).

Westmoreland Manufacturing Co., Westmoreland, Tenn.; 9-21-67 to 9-20-68 (ladies' blouses).

J. M. Wood Manufacturing Co., Inc., Dublin, Tex.; 10-5-67 to 10-4-68 (men's work pants).

The following plant expansion certificates were issued authorizing the number of learners indicated.

Bland Sportswear, Inc., Bland, Va.; 10-3-67 to 4-1-68; 35 learners (children's pants and outerwear jackets).

Hemo Foundations of W. Va., Inc., Beckley, W. Va.; 9-25-67 to 3-24-68; 20 learners (brassieres).

Ringer Co., Park Rapids, Minn.; 10-16-67 to 4-15-68; 40 learners (men's shirts).

Salant & Salant, Inc., Lawrenceburg, Tenn., Loretto, Tenn.; 10-23-67 to 4-22-68; 300 learners (men's work shirts and men's and boys' outerwear jackets and jeans).

Tom & Buck Togs, Inc., Columbus, Miss.; 10-2-67 to 4-1-68; 75 learners (men's and boys' dress and sport pants).

The Van Heusen Co., Hazen, Ark.; 10-2-67 to 4-1-68; 50 learners (men's dress shirts).

Cigar Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.80 to 522.85, as amended).

Bayuk Cigars, Inc., Selma, Ala.; 9-29-67 to 9-28-68; 10 percent of the total number of factory production workers for normal labor turnover purposes.

Glove Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.60 to 522.65, as amended).

Bona Manufacturing Co., Greenville, Ala.; 9-27-67 to 9-26-68; 10 percent of the total number of machine stitchers for normal labor turnover purposes (work gloves).

Burnham-Edina Manufacturing Co., Edina, Mo.; 10-2-67 to 10-1-68; 5 learners for normal labor turnover purposes (work gloves).

The Glove Corp., Heber Springs, Ark.; 9-25-67 to 9-24-68; 10 learners for plant expansion purposes (work gloves).

The Genest Glove Corp., South Royalton, Vt.; 10-15-67 to 10-14-68; 5 learners for normal labor turnover purposes (work gloves).

Monte Glove Co., Inc., Maben, Miss.; 10-7-67 to 10-6-68; 10 learners for normal labor turnover purposes (work gloves).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.40 to 522.43, as amended).

Ames Hosiery Mills, Inc., High Point, N.C.; 10-12-67 to 10-11-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Great American Knitting Mills, Inc., Bally, Bechtel, and Norristown, Pa.; 10-1-67 to 9-30-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Harriman Hosiery Co., Harriman, Tenn.; 10-1-67 to 9-30-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Indian Head Hosiery Co., Division of Joseph Bancroft & Sons Co., Paducah, Ky.; 10-1-67 to 9-30-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Morganton Hosiery Mills, Inc., Morganton, N.C.; 10-1-67 to 9-30-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (full-fashioned, seamless).

Ragan Knitting Co., Inc., Ragan Knitting Co. (Wrenn Division), Thomasville, N.C.; 9-29-67 to 9-28-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Scottsboro Hosiery Co., Scottsboro, Ala.; 10-9-67 to 10-8-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.30 to 522.35, as amended).

Benham Corp., Scottsboro, Ala.; 10-1-67 to 9-30-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (infants' polo shirts and creeper sets, men's and boys' woven underwear).

Buckeye Industries, Inc., Buckeye, Ariz.; 9-25-67 to 3-24-68; 50 learners for plant expansion purposes (ladies' nylon knit sleepwear).

Casa Grande Mills, Division of Parsons & Baker Co., Casa Grande, Ariz.; 9-30-67 to 3-29-68; 40 learners for plant expansion purposes (infants' cotton knit underwear and men's and boys' briefs).

Dothan Manufacturing Co., Dothan, Ala.; 9-30-67 to 9-29-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (men's pajamas and underwear).

East Tennessee Undergarment Co., Inc., Elizabethton, Tenn.; 9-27-67 to 9-26-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (ladies' and children's nylon and rayon undergarments).

Norwich Mills, Inc., Clayton, N.C.; 10-1-67 to 9-30-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (men's and boys' cotton knit tee shirts and briefs).

Russell Mills, Inc., Alexander City, Ala.; 10-1-67 to 9-30-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (knit underwear and sleepwear).

Standard Romper Co., Inc., Pawtucket, R.I.; 10-12-67 to 10-11-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (children's knit shirts).

Sylvester Textile Corp., Sylvester, Ga.; 10-22-67 to 10-21-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (ladies' lingerie and sleepwear).

The following learner certificates were issued in Puerto Rico to the companies hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods and the number of learners authorized to be employed, are indicated.

Bonita, Inc., Cayey, P.R.; 9-1-67 to 8-31-68; 10 learners for normal labor turnover purposes in the occupations of: (1) Sewing machine operating, for a learning period of 320 hours at the rate of 95 cents an hour, and (2) pressing, for a learning period of 160 hours at the rate of 95 cents an hour (skirts).

Bonita, Inc. (Swimwear Division), Cayey, P.R.; 9-1-67 to 8-31-68; 10 learners for normal labor turnover purposes in the occupations of machine stitching, pressing, each for a learning period of 320 hours at the rates of 95 cents an hour for the first 160 hours and $1.15 an hour for the remaining 160 hours (swimwear and bralettes for swimwear).

Boqueron Manufacturing Corp., Cabo Rojo, P.R.; 9-11-67 to 3-10-68; 70 learners for plant expansion purposes in the occupations of knitting, toe sewing (seaming), preboarding, each for a learning period of 240 hours at the rate of 80 cents an hour (ladies' seamless hosiery).

Consolidated Cigar Corp. of Cayey, Cayey, P.R.; 9-11-67 to 9-10-68; 105 learners for normal labor turnover purposes in the occupations of cigar making, packing, each for a learning period of 320 hours at the rates of $1.05 an hour for the first 160 hours and $1.16 an hour for the remaining 160 hours (cigars).

Consolidated Cigar Corp., Caguas, P.R.; 8-8-67 to 8-7-68; 70 learners for normal labor turnover purposes in the occupations of cigar making, packing, each for a learning period of 320 hours at the rates of $1.05 an hour for the first 160 hours and $1.16 an hour for the remaining 160 hours (cigars).

Consolidated Cigar Corp., Caguas, P.R.; 8-8-67 to 8-7-68; 35 learners for normal labor turnover purposes in the occupations of cigar making, packing, each for a learning period of 320 hours at the rates of $1.05 an hour for the first 160 hours and $1.16 an hour for the remaining 160 hours (cigars).

Finrico, Inc., Cayey, P.R.; 9-11-67 to 9-10-68; 10 learners for normal labor turnover purposes in the occupation of machine stitching, for a learning period of 320 hours at the rates of 98 cents an hour for the first 160 hours and $1.15 an hour for the remaining 160 hours (sweaters).

Isabel Products, Inc., Santa Isabel, P.R.; 9-1-67 to 8-31-68; 10 learners for normal labor turnover purposes in the occupation of sewing machine operating, for a learning period of 320 hours at the rate of $1.03 an hour (girdles and brassieres).

Joya Mills, Inc., Toa Baja, P.R.; 8-28-67 to 8-27-68; 10 learners for normal labor turnover purposes in the occupation of knitting, for a learning period of 480 hours at the rates of 98 cents an hour for the first 240 hours and $1.15 an hour for the remaining 240 hours (full-fashioned sweaters).

Laric Manufacturing Corp., Luquillo, P.R.; 9-11-67 to 3-10-68; 15 learners for plant expansion purposes in the occupation of sewing machine operating, for a learning period of 320 hours at the rate of $1.03 an hour (garter belts, girdles and brassieres).

Roelta Mills, Inc., Toa Baja, P.R.; 8-28-67 to 8-27-68; 10 learners for normal labor turnover purposes in the occupation of knitting, for a learning period of 480 hours at the rates of 98 cents an hour for the first 240 hours and $1.15 an hour for the remaining 240 hours (full-fashioned knitted outerwear).

Sabana Grande Manufacturing Corp., Sabana Grande, P.R.; 8-1-67 to 7-31-68; 33 learners for normal labor turnover purposes in the occupations of: (1) Looping, for a learning period of 960 hours at the rates of 80 cents an hour for the first 480 hours and 87 cents an hour for the remaining 480 hours; (2) mending, for a learning period of 720 hours at the rates of 80 cents an hour for the first 360 hours and 87 cents an hour for the remaining 360 hours; and (3) knitting, examining, and inspecting, each for a learning period of 240 hours at the rate of 80 cents an hour (ladies' seamless hosiery).

Sira Corp., Mayaguez, P.R.; 8-21-67 to 8-20-68; 10 learners for normal labor turnover purposes in the occupation of machine stitching, for a learning period of 480 hours at the rates of 90 cents an hour for the first 240 hours and $1.03 an hour for the remaining 240 hours.

Each learner certificate has been issued upon the representations of the employer, which, among other things, were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 15 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in 29 CFR, Part 528.

Signed at Washington, D.C., this 27th day of October 1967.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[F.R. Doc. 67-13084; Filed, Nov. 3, 1967; 8:50 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 486]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 1, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protest must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 42286 (Sub-No. 5 TA), filed October 27, 1967. Applicant: RIZZO TRUCKING, INC., 71 North Fifth Street, Brooklyn, N.Y. 11211. Applicant's representative: Morris Honig, 150 Broadway, New York, N.Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Packinghouse products* as described in sections A, B, and C in Appendix 1 to report in 61 MCC 209 and 766, from points in the New York, N.Y., commercial zone to points in Bergen, Essex, Hudson, Morris, Passaic, and Union Counties, N.J., for 150 days. Supporting shipper: George A. Hormel & Co., Post Office Box 800, Austin, Minn. 55912. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 346 Broadway, New York, N.Y. 10013.

No. MC 52709 (Sub-No. 297 TA), filed October 25, 1967. Applicant: RINGSBY TRUCK LINES, INC., 3201 Ringsby Court, Denver, Colo. 80216. Applicant's representative: Eugene Hamilton (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, serving the new plantsite of American Telephone and Telegraph Co. Coaxial Building in Platte County, Wyo., about 22 miles southwest of Wheatland, Wyo., on Wyoming Highway 34, in connection with carrier's operations in Wyoming. Also between Wheatland and said plantsite over irregular routes; for 150 days. Supporting shipper: Reynolds Electrical & Engineering Co., Inc., Post Office Box 9323, Denver, Colo. 80209. Send protests to: District Supervisor Charles W. Buckner, Interstate Commerce Commission, 2022 Federal Building, 1961 Stout Street, Denver, Colo. 80202.

No. MC 64932 (Sub-No. 440 TA), filed October 27, 1967. Applicant: ROGERS CARTAGE CO., 1439 West 10th Street, Chicago, Ill. 60643. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Resin Plasticizer*, in bulk, in tank vehicles; from the plantsite of the United States Steel Corp., Chemical Co., at or near Neville Island, Pa., to the plantsites of Monsanto Co. in the St. Louis, Mo.-East St. Louis, Ill., commercial zone as defined by the Interstate Commerce Commission; for 180 days. Supporting shipper: Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 66562 (Sub-No. 2269 TA), filed October 24, 1967. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York, N.Y. 10017. Applicant's representative: William H. Marx (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* moving in express service; between Philadelphia, Pa., and Newark, N.J.; (1) From Philadelphia over U.S. Highway 1 to New Brunswick, N.J., thence over New Jersey Highway 18 to Exit 9 of New Jersey Turnpike, thence over New Jersey Turnpike to Newark, and return over the same route; (2) from Philadelphia over Interstate 676 to junction New Jersey Interstate 295, thence over New Jersey Interstate 295 to New Jersey Highway 73, thence over New Jersey Highway 73 to entrance No. 4 of New Jersey Turnpike, thence over New Jersey Turnpike to Newark, N.J., and return over the same route, for 150 days. Supporting shippers: There are approximately (16) statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Applicant intends to tack with its existing authority. Send protests to: Stephen P. Tomany, District Supervisor, Interstate Commerce Commission, Bureau of Operation, 346 Broadway, New York, N.Y. 10013.

No. MC 87113 (Sub-No. 9 TA), filed October 25, 1967. Applicant: WHEATON VAN LINES, INC., 2525 East 56th Street, ZIP 46220, Indianapolis, Ind., Post Office Box 55191, ZIP 46205. Applicant's representative: Alan F. Wholstetter, 1 Farragut Square South, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission; between points in Hawaii, restricted to the

handling of traffic originating at or destined to out-of-State points, for 180 days. Supporting shippers: Chicago Bridge & Iron Co., 901 West 22d St., Oak Brook, Ill.; Libby, McNeill & Libby, 200 South Michigan Avenue, Chicago, Ill.; Radio Corp. of America, Camden, N.J. 08102. Send protests to: Bureau of Operations, Interstate Commerce Commission, 802 Century Building, 36 South Pennsylvania Street, Indianapolis, Ind. 46204.

No. MC 109689 (Sub-No. 185 TA), filed October 26, 1967. Applicant: W. S. HATCH CO., 643 South 800 West Street, Woods Cross, Utah 84067, Post Office Box 18525, Salt Lake City, Utah 84110. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum crude oil*, in bulk, in tank vehicles; from the terminal of Phillips Pipe Line Co., approximately 7 miles south of Robertson, Uinta County, Wyo; to the plantsite of Phillips Petroleum Co., Woods Cross Refinery, West Bountiful, Utah, for 180 days. Supporting shipper: Phillips Petroleum Co., Supply and Transportation Department, Transportation Division, Bartlesville, Okla. 74003. Send protests to: John T. Vaughan, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2224 Federal Building, Salt Lake City, Utah 84111.

No. MC 116014 (Sub-No. 33 TA), filed October 27, 1967. Applicant: OLIVER TRUCKING COMPANY, INC., Post Office Box 53, Winchester, Ky. 40391. Applicant's representative: Louis J. Amato, Central Building, 1033 State Street, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Finished and unfinished railroad ties*, from the the plantsite of the Treated Wood Products Co., Louisville, Ky., to points in Illinois, Indiana, Michigan, Ohio, Wisconsin, West Virginia, Pennsylvania, Kentucky, and Tennessee; and *laminated wood products*, from Laurel County, Ky., to points in Illinois, Indiana, Michigan, Ohio, Pennsylvania, Kentucky, Tennessee, Alabama, West Virginia, and Virginia, for 180 days. Supporting shippers: Fred B. Mewhinney, President, Gillis & Co., 134 Breckenridge Lane, Post Office Box 7091, Louisville, Ky. 40207; Glen Chaney, Partner, Chaney Lumber Co., Post Office Box 479, London, Ky. 40741. Send protests to: R. W. Schneiter, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 207 Exchange Building, 147 North Upper Street, Lexington, Ky. 40507.

No. MC 123766 (Sub-No. 5 TA), filed October 27, 1967. Applicant: D & O TRANSPORT, INC., 214 South Fourth Avenue, Yakima, Wash. 98901. Applicant's representative: Douglas A. Wilson, Suite 2, Yakima Legal Center, 303 East D Street, Yakima, Wash. 98901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boxes, fiberboard, paper, or pulp board*, in bags, cases, or bundles, and *partitions or interior packing forms*, fiberboard, paper, or pulp board, flat or nested in bundles, between Longview, Wash., on the one hand, and points in Idaho, on the other hand, for 180 days. Supporting shipper: Longview Fibre Co., Longview, Wash. 98632. Send protests to: S. F. Martin, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, Portland, Oreg. 97204.

No. MC 126195 (Sub-No. 5 TA), filed October 25, 1967. Applicant: MERCHANTS PICKUP AND DELIVERY SERVICE, INC., 715 South Church Street, Burlington, N.C. 27215. Applicant's representative: Carl B. Coley (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail mail-order houses, limited to contract with Avon Products, Inc.; between Burlington and points in Alamance, Caswell, Chatham, Davidson, Davie, Forsyth, Guilford, Montgomery, Moore, Orange, Randolph, Rockingham, Stokes, Surry, and Yadkin Counties, N.C., for 180 days. Supporting shipper: Avon Products, Inc., Newark, Del. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Post Office Box 10685, Cameron Village Station, Raleigh, N.C. 27605.

No. MC 126822 (Sub-No. 20 TA), filed October 25, 1967. Applicant: PASSAIC GRAIN AND WHOLESALE COMPANY, INC., Post Office Box 23, Passaic, Mo. 64777. Applicant's representative: Warren H. Sapp, 450 Professional Building, Kansas City, Mo. 64106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides and pelts*, processed and partially processed; from Joplin, Mo., points in the Kansas City, Mo.-Kans., commercial zone, and Springfield, Mo.; to Wilmington, Del.; Berwick, Dover-Foxcroft, Hartland, South Paris, and Saco, Maine; Danversport, Peabody, Salem, and Woburn, Mass.; Dover, Lebanon, Manchester, Merrimack, Nashua, and Pennacook, N.J.; and Gloversville, N.Y., for 150 days. Supporting shipper: Bert Lyon & Co., 100 West 12th Street, Kansas City, Mo. 64101. Send protests to: H. J. Simmons, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 110 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 129449 (Sub-No. 1 TA), filed October 27, 1967. Applicant: OWENS AND ASHER, INC., 306 Northwest Fifth Street, John Day, Oreg. 97845. Applicant's representative: Lawrence V. Smart, Jr., 419 Northwest 23d Avenue, Portland, Oreg. 97210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Veneer*, from Mount Vernon, Oreg., to points in Idaho, for 180 days. Supporting shipper: Astoria Plywood, Plant No. 2, Mount Vernon, Oreg. Send protests to: S. F. Martin, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, Portland, Oreg. 97204.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 67-13063; Filed, Nov. 3, 1967; 8:48 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during November.

3 CFR

Page

EXECUTIVE ORDERS:
- 2295 (modified by PLO 4312) — 15429
- 10530 (see EO 11378) — 15237
- 10682 (see EO 11378) — 15237
- 11378 — 15237

7 CFR

- 51 — 15066, 15073
- 729 — 15149
- 730 — 15076
- 910 — 15430
- 912 — 15430
- 913 — 15430
- 984 — 15388
- 1001 — 15076
- 1015 — 15090
- 1067 — 15093
- 1120 — 15388
- 1126 — 15388
- 1132 — 15389
- 1137 — 15431

PROPOSED RULES:
- 51 — 15435
- 882 — 15393
- 891 — 15393
- 892 — 15393
- 905 — 15116
- 906 — 15394
- 908 — 15394
- 912 — 15436
- 913 — 15395
- 959 — 15177
- 1090 — 15437
- 1125 — 15178

9 CFR

- 76 — 15240

10 CFR

PROPOSED RULES:
- 20 — 15432

12 CFR

- 219 — 15389

13 CFR

- 106 — 15065
- 108 — 15149

PROPOSED RULES:
- 107 — 15399
- 121 — 15184

14 CFR

- 39 — 15094, 15153, 15154, 15390, 15421
- 71 — 15094, 15095, 15154
- 73 — 15096
- 91 — 15422
- 97 — 15423
- 207 — 15096
- 208 — 15097
- 241 — 15098

14 CFR—Continued

Page

PROPOSED RULES:
- 71 — 15117–15121

15 CFR

- 0 — 15222
- 70 — 15154
- 204 — 15104, 15391
- 230 — 15105

16 CFR

- 13 — 15105–15107
- 413 — 15424

PROPOSED RULES:
- 300 — 15180

18 CFR

- 3 — 15239

PROPOSED RULES:
- 141 — 15434
- 260 — 15434

19 CFR

- 4 — 15390
- 10 — 15424
- 14 — 15155
- 16 — 15390

21 CFR

- 120 — 15107, 15120, 15424
- 121 — 15108, 15109, 15155
- 133 — 15109
- 148c — 15425
- 166 — 15390

PROPOSED RULES:
- 28 — 15116

22 CFR

PROPOSED RULES:
- 201 — 15116

24 CFR

- 200 — 15425

26 CFR

- 1 — 15421
- 301 — 15241

PROPOSED RULES:
- 1 — 15167, 15393

28 CFR

- 0 — 15425

29 CFR

- 526 — 15425
- 786 — 15425

PROPOSED RULES:
- 5 — 15396
- 6 — 15396
- 7 — 15396

32 CFR

Page
- 66 — 15111
- 127 — 15112
- 536 — 15113
- 552 — 15115
- 710 — 15115

36 CFR

- 7 — 15391

39 CFR

- 823 — 15099

41 CFR

- 6–75 — 15427

42 CFR

PROPOSED RULES:
- 73 — 15178

43 CFR

PUBLIC LAND ORDERS:
- 3263 (revoked in part by PLO 4307) — 15428
- 3634 (revoked in part by PLO 4302) — 15427
- 4270 (amended by PLO 4312) — 15429
- 4301 — 15098
- 4302 — 15427
- 4303 — 15427
- 4304 — 15427
- 4305 — 15428
- 4306 — 15428
- 4307 — 15428
- 4308 — 15428
- 4309 — 15428
- 4310 — 15429
- 4311 — 15429
- 4312 — 15429
- 4313 — 15429

45 CFR

- 81 — 15156

46 CFR

PROPOSED RULES:
- Ch. IV — 15438

47 CFR

- 73 — 15161, 15162

PROPOSED RULES:
- 2 — 15180
- 89 — 15180
- 91 — 15180
- 93 — 15180

50 CFR

- 32 — 15166
- 33 — 15166

PUBLIC PAPERS OF THE PRESIDENTS OF THE UNITED STATES

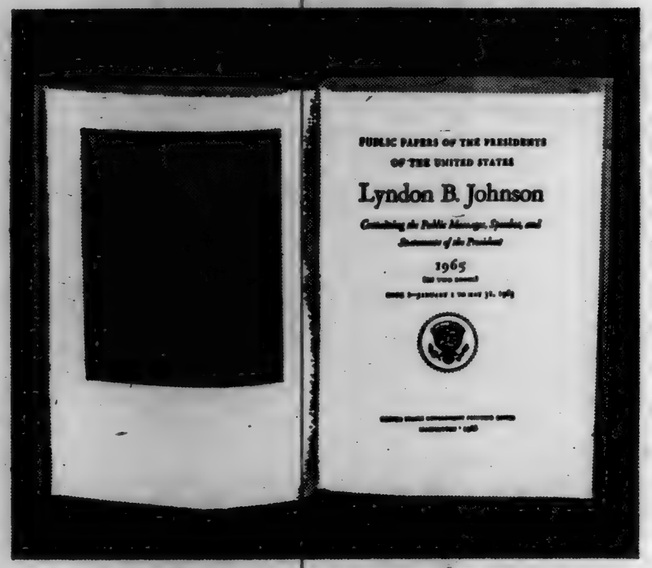

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Pages 15463–15518

Agencies in this issue—

The President
Agricultural Research Service
Business and Defense Services Administration
Civil Aeronautics Board
Commodity Credit Corporation
Consumer and Marketing Service
Emergency Planning Office
Federal Aviation Administration
Federal Communications Commission
Federal Crop Insurance Corporation
Federal Power Commission
Federal Trade Commission
Immigration and Naturalization Service
Indian Affairs Bureau
Internal Revenue Service
Interstate Commerce Commission
Labor Standards Bureau
Land Management Bureau
National Park Service
Post Office Department
Railroad Retirement Board
Securities and Exchange Commission
Small Business Administration

Detailed list of Contents appears inside.

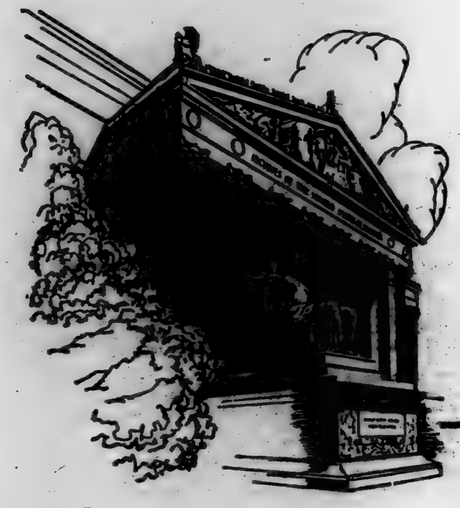

216

Current White House Releases

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Contents

THE PRESIDENT

PROCLAMATION

Termination of further staging of certain concessions in interim trade agrreements with Canada, the United Kingdom, and Japan 15467

EXECUTIVE AGENCIES

AGRICULTURAL RESEARCH SERVICE

Rules and Regulations

Handling of anti-hog-cholera serum and hog-cholera virus; termination of marketing agreement and marketing order and discharging Control Agency..... 15469

AGRICULTURE DEPARTMENT

See Agricultural Research Service; Commodity Credit Corporation; Consumer and Marketing Service; Federal Crop Insurance Corporation.

BUSINESS AND DEFENSE SERVICES ADMINISTRATION

Notices

Decisions on applications for duty-free entry of scientific articles:

Harvard University..... 15501
Montefiore Hospital and Medical Center..... 15501
Stanford University (2 documents) 15502
University of California (2 documents) 15502
University of Rochester..... 15503
University of Wisconsin..... 15503

CIVIL AERONAUTICS BOARD

Notices

Flying Tiger Line, Inc.; hearing, etc 15503

COMMERCE DEPARTMENT

See Business and Defense Services Administration.

COMMODITY CREDIT CORPORATION

Notices

Sales of certain commodities; November sales list..... 15497

CONSUMER AND MARKETING SERVICE

Proposed Rule Making

Milk handling in certain marketing areas:

Greater Kansas City..... 15490
Indianapolis, Ind..... 15489

Oranges, Navel, grown in Arizona and California; amendment of rules and regulations..... 15488

Raisins produced from grapes grown in California; free and reserve percentages for 1967-68 crop year..... 15488

EMERGENCY PLANNING OFFICE

Notices

New York; notice of major disaster 15510

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations

Airworthiness directive; Fairchild Hiller aircraft; correction 15472

Certification procedures for products and parts; delegation option authorization..... 15472

Standard instrument approach procedures; miscellaneous amendments 15473

Proposed Rule Making

Airworthiness directives:

Bristol Siddeley de Havilland Model Gipsy Queen Series 70 engines with crankshafts with certain modifications..... 15490

British Aircraft Corp. Model BAC 1-11 200 and 400 Series airplanes 15491

Designations:

Positive control area..... 15491
Transition areas (4 documents) 15492, 15493

FEDERAL COMMUNICATIONS COMMISSION

Rules and Regulations

Organization; multiple-city AM and FM station identification... 15472

Notices

Hearings, etc.:

Bettervision Systems, Inc..... 15504
General Electric Cablevision Corp 15504
Industrial Communications Systems, Inc..... 15504
O'Quinn, Farnell..... 15505
V.W.B., Inc..... 15505

FEDERAL CROP INSURANCE CORPORATION

Notices

Citrus crops in Arizona-Desert Valley; extension of closing date for filing applications for 1967 crop year..... 15501

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:

Armer, Elva, et al..... 15505
Bowman, Fred..... 15508
Continental Oil Co. et al..... 15509
Foree Co. et al..... 15509
Kadiak Fisheries Co..... 15509
Lone Star Gas Co..... 15509
Michigan Wisconsin Pipe Line Co 15510
Mobil Oil Corp. et al..... 15510
Northern Natural Gas Co..... 15510
United Fuel Gas Co..... 15510

FEDERAL TRADE COMMISSION

Rules and Regulations

Administrative opinions and rulings; corsage wearing apparel under Flammable Fabrics Act... 15470

Prohibited trade practices; La Salle Quilting Co., Inc., and Arthur D. Rifas..... 15470

IMMIGRATION AND NATURALIZATION SERVICE

Rules and Regulations

Miscellaneous amendments to chapter 15469

INDIAN AFFAIRS BUREAU

Rules and Regulations

Preparation of rolls of Indians; requirements for enrollment and deadlines for filing applications.. 15471

INTERIOR DEPARTMENT

See Indian Affairs Bureau; Land Management Bureau; National Park Service.

INTERNAL REVENUE SERVICE

Rules and Regulations

Procedure and administration; change in location of IRS center and modification of seal..... 15483

(Continued on next page)

INTERSTATE COMMERCE COMMISSION

Rules and Regulations

Carrier agreements relating to rates, fares, etc.; public notice of tariff publication proposals... 15484
Electric railways; uniform system of accounts 15484

Notices

Fourth section applications for relief 15514
Motor carriers:
Temporary authority applications 15515
Transfer proceedings..... 15516

JUSTICE DEPARTMENT

See Immigration and Naturalization Service.

LABOR DEPARTMENT

See Labor Standards Bureau.

LABOR STANDARDS BUREAU

Rules and Regulations

Child labor regulations, orders, and statements of interpretation (3 documents)..... 15478, 15479

LAND MANAGEMENT BUREAU

Rules and Regulations

Public land orders:
Idaho..... 15482
Montana..... 15483
Nevada (2 documents)..... 15482
Utah 15482

Notices

Oregon; proposed classification of public lands for multiple-use management 15494

NATIONAL PARK SERVICE

Notices

Concession permits:
Blue Ridge Parkway..... 15497
Great Smoky Mountains National Park..... 15497

POST OFFICE DEPARTMENT

Rules and Regulations

Bureau of Transportation..... 15481
Office of International Postal Affairs and Bureau of Operations.. 15480

RAILROAD RETIREMENT BOARD

Rules and Regulations

Employee responsibilities and conduct 15471

SECURITIES AND EXCHANGE COMMISSION

Rules and Regulations

Delegation of authority to Director of Division of Corporate Regulation; correction..... 15470

Notices

Hearings, etc.:
American Variable Annuity Life Assurance Co. and American Variable Annuity Fund..... 15511
Coditron Corp..... 15512
Gulf & Western Industries, Inc. (Delaware) 15512
Hubbard, M. M., Associates, Inc.. 15513
Murphy Oil International Finance Co..... 15513

SMALL BUSINESS ADMINISTRATION

Notices

Mississippi; declaration of disaster loan area..... 15514

TRANSPORTATION DEPARTMENT

See Federal Aviation Administration.

TREASURY DEPARTMENT

See Internal Revenue Service.

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

3 CFR

PROCLAMATIONS:
3694 (terminated in part by Proc. 3818)..... 15467
3712 (terminated in part by Proc. 3818)..... 15467
3744 (terminated in part by Proc. 3818)..... 15467
3818..... 15467
EXECUTIVE ORDERS:
4702 (revoked in part by PLO 4315)..... 15482
8652 (revoked in part by PLO 4317)..... 15482

7 CFR

PROPOSED RULES:
907..... 15488
989..... 15488
1049..... 15489
1064..... 15490

8 CFR

103..... 15469
212..... 15469
238..... 15469

9 CFR

131..... 15469

14 CFR

21..... 15472
39..... 15472
97..... 15473
PROPOSED RULES:
39 (2 documents)..... 15490, 15491
71 (5 documents)..... 15491–15493

16 CFR

13..... 15470
15..... 15470

17 CFR

200..... 15470

20 CFR

396..... 15471

25 CFR

41..... 15471

26 CFR

301..... 15483

29 CFR

1500 (3 documents)..... 15478, 15479

39 CFR

821..... 15480
822 (2 documents)..... 15480, 15481

43 CFR

PUBLIC LAND ORDERS:
1630 (see PLO 4315)..... 15482
4236 (see PLO 4317)..... 15482
4266 (see PLO 4317)..... 15482
4314..... 15482
4315..... 15482
4316..... 15482
4317..... 15482
4318..... 15483

47 CFR

0..... 15472

49 CFR

103..... 15484
114..... 15484

Presidential Documents

Title 3—THE PRESIDENT

Proclamation 3818

TERMINATION OF FURTHER STAGING OF CERTAIN CONCESSIONS IN INTERIM TRADE AGREEMENTS WITH CANADA, THE UNITED KINGDOM, AND JAPAN

By the President of the United States of America

A Proclamation

1. WHEREAS, pursuant to Section 201(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1821(a)), I entered into and proclaimed the following Interim Agreements Relating to the Renegotiation of Schedule XX (United States) to the General Agreement on Tariffs and Trade (61 Stat. (pt. 5) A1157):

(a) Agreement of December 17, 1965, with Canada (TIAS 5912), which was proclaimed by Proclamation No. 3694 of December 27, 1965 (30 F.R. 17147),

(b) Agreement of April 5, 1966, with the United Kingdom (TIAS 5975), which was proclaimed by Proclamation No. 3712 of April 5, 1966 (31 F.R. 5543), and

(c) Agreement of September 6, 1966, with Japan (TIAS 6106), which was proclaimed by Proclamation No. 3744 of September 13, 1966 (31 F.R. 12391);

2. WHEREAS Article II of, and Annex II to, the agreements identified in the first recital of this proclamation provide, for each of the items in the Tariff Schedules of the United States listed in the annex to this proclamation, a rate reduction less than the maximum rate reduction authorized by Section 201(b)(1) of the Trade Expansion Act of 1962 (19 U.S.C. 1821(b)(1)), or than the duty elimination authorized by Section 202 of that Act (19 U.S.C. 1822);

3. WHEREAS Part I of Schedule XX (United States) to the Geneva (1967) Protocol, of June 30, 1967, to the General Agreement on Tariffs and Trade (GATT, 6th Round of Trade Negotiations, Schedule XX: United States, June 1967) provides, for each of the items listed in the annex to this proclamation, a rate reduction greater than that provided for in any of the agreements identified in the first recital of this proclamation, or a duty elimination;

4. WHEREAS, by separate agreements of June 30, 1967, with Canada (TIAS 6316), the United Kingdom (TIAS 6318), and Japan (TIAS 6317), it was agreed that, in the case of each item listed in the annex to this proclamation for which a reduction was provided for in the agreement with that country identified in the first recital to this proclamation, the level of reduction in effect on June 30, 1967, shall be the final level of reduction under that agreement for purposes of staging the further reduction or elimination of duty provided for in Part I of Schedule XX (United States) referred to in the third recital of this proclamation; and

5. WHEREAS Section 255(b) of the Trade Expansion Act of 1962 (19 U.S.C. 1885(b)) provides that the President may at any time terminate, in whole or in part, any proclamation made under Section 201(a) of that Act:

NOW, THEREFORE, I, LYNDON B. JOHNSON, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes, including Section 255(b) of the Trade Expansion Act of 1962, do proclaim that:

(1) Proclamation Nos. 3694, 3712, and 3744 identified in the first recital of this proclamation are terminated to the extent that they provide, on and after July 1, 1967, for any item in the Tariff Schedules of the United States identified in the annex to this proclamation, a rate of duty lower than the rate set forth opposite thereto in the annex.

(2) The Tariff Schedules of the United States shall be modified, with respect to each item identified in the annex to this proclamation, to provide for such item, effective on and after July 1, 1967, the continuation, until modified or amended, of the rate of duty set forth opposite thereto in the annex.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of November in the year of our Lord nineteen hundred and sixty-seven, and of the Independence of the United States of America the one hundred and ninety-second.

Lyndon B. Johnson

ANNEX

ITEMS ON WHICH FURTHER REDUCTIONS ARE BEING TERMINATED, LEVEL OF RATE REDUCTION IN EFFECT ON JUNE 30, 1967, AND DATE ON WHICH SUCH LEVEL BECAME EFFECTIVE

TSUS Item Number	June 30, 1967, Rate	Date June 30, 1967, Rate Became Effective	Interim Agreement or Agreements
222.60	23% ad val.	May 1, 1967	United Kingdom.
245.30	26% ad val.	Jan. 1, 1967	Canada.
245.90	4% ad val.	Jan. 1, 1966	Canada.
535.31	28% ad val.	Oct. 1, 1966	Japan.
544.51	33% ad val.	Oct. 1, 1966	Japan.
607.50	0.72¢ per lb. on silicon content	Jan. 1, 1967	Canada and Japan.
607.51	0.84¢ per lb. on silicon content	Jan. 1, 1967	Canada.
646.92	17% ad val.	Jan. 1, 1967	Canada and Japan.
648.97	21.5% ad val.	Oct. 1, 1966	Japan.
651.37	21.5% ad val.	Oct. 1, 1966	Japan.
660.10	13% ad val.	Jan. 1, 1966	Canada.
660.22	13% ad val.	Jan. 1, 1966	Canada.
661.20	11% ad val.	Jan. 1, 1966	Canada.
685.42	13% ad val.	Jan. 1, 1967	Canada and Japan.
694.60	9% ad val.	Jan. 1, 1966	Canada and United Kingdom.
708.72	33% ad val.	Oct. 1, 1966	Japan.
722.40	33% ad val.	Oct. 1, 1966	Japan.
734.20	10% ad val.	Jan. 1, 1967	Canada.
737.50	41% ad val.	Oct. 1, 1966	Japan.
737.80	41% ad val.	Oct. 1, 1966	Japan.
745.70	48% ad val.	Oct. 1, 1966	Japan.
745.72	38% ad val.	Oct. 1, 1966	Japan.
756.04	48% ad val.	Oct. 1, 1966	Japan.
760.10	32¢ per gross & 30.5% ad val.	Oct. 1, 1966	Japan.
770.80	24% ad val.	Oct. 1, 1966	Japan.
773.05	16% ad val.	Oct. 1, 1966	Japan.
792.60	11% ad val.	May 1, 1966	United Kingdom.

[F.R. Doc. 67-13243; Filed, Nov. 6, 1967; 11:19 a.m.]

Rules and Regulations

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

MISCELLANEOUS AMENDMENTS TO CHAPTER

The following amendments to Chapter I of Title 8 of the Code of Federal Regulations are hereby prescribed:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

The first sentence of § 103.4 *Certifications* is amended to read as follows: "The Commissioner, regional commissioners, associate commissioners, deputy associate commissioners, assistant commissioners, and district directors outside the United States, within their respective areas of responsibility, may direct that any case or classes of cases be certified for decision."

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

1. The fourth, fifth, and sixth sentences of paragraph (a) *Applications under section 212(d)(3)(A)* of § 212.4 *Applications for the exercise of discretion under section 212(d)(3)* are amended to read as follows: "The recommendation shall specify (1) the reasons for inadmissibility and each section of law under which the alien is inadmissible; (2) each intended date of arrival; (3) the length of each proposed stay in the United States; (4) the purpose of each stay; (5) the number of entries which the alien intends to make, and (6) the justification for exercising the authority contained in section 212(d)(3) of the Act. If the alien desires to make multiple entries and the consular officer or other State Department official believes that the circumstances justify the issuance of a visa valid for multiple entries rather than for a specified number of entries, and recommends that the alien be accorded an authorization valid for multiple entries, the information required by items (2) and (3) shall be furnished only with respect to the initial entry. Item (2) does not apply to a bona fide crewman."

2. The first, second, third, and seventh sentences of paragraph (c) *Terms of authorization* of § 212.4 *Applications for the exercise of discretion under section 212(d)(3)* are amended to read as follows: "Each authorization under section 212(d)(3)(A) or (B) of the Act shall specify (1) the reasons for inadmissibility and each section of law under which the alien is inadmissible; (2) the intended date of each arrival; (3) the length of each stay authorized in the United States; (4) the purpose of each stay; (5) the number of entries for which the authorization is valid; (6) the dates on or between which each application for admission at ports of entry in the United States is valid, and (7) the justification for exercising the authority contained in section 212(d)(3) of the Act. If the consular officer has recommended under section 212(d)(3)(A), or an applicant under section 212(d)(3)(B) seeks, the issuance of an authorization valid for multiple entries rather than for a specified number of entries, and it is determined that the circumstances justify the issuance of the authorization valid for multiple entries, the information required by items (2) and (3) shall be specified only with respect to the initial entry. Item (2) does not apply to a bona fide crewman. • • • The period for which the alien's admission is authorized pursuant to item (3) shall not exceed the period justified, subject to the limitations specified in Part 214 of this chapter for each class of nonimmigrants."

PART 238—CONTRACTS WITH TRANSPORTATION LINES

The listing of transportation lines under "At Nassau" of § 238.4 *Preinspection outside the United States* is amended by adding the following transportation line in alphabetical sequence: "Trans Caribbean Airways, Inc."

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

This order shall be effective on the date of its publication in the FEDERAL REGISTER. Compliance with the provisions of section 553 of title 5 of the United States Code (P.L. 89-554, 80 Stat. 383), as to notice of proposed rule making and delayed effective date, is unnecessary in this instance because the amendment to § 103.4 is clarifying in nature; the amendment to § 212.4 relieves a restriction, and the amendment to § 238.4 adds a transportation line to the listing under "At Nassau."

Dated: November 1, 1967.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[F.R. Doc. 67-13145; Filed, Nov. 6, 1967; 8:49 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER E—VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS; ORGANISMS AND VECTORS

PART 131—HANDLING OF ANTI-HOG-CHOLERA SERUM AND HOG-CHOLERA VIRUS

Termination of Marketing Agreement and Marketing Order and Discharging Control Agency

A notice was issued by the Acting Administrator for Agricultural Research Service, and published in the FEDERAL REGISTER of September 29, 1967 (32 F.R. 13668), in which was announced a proposal to terminate the provisions of § 131.113 of the Marketing Agreement, as amended, and Marketing Order, as amended, Regulating Handling of Anti-Hog-Cholera Serum and Hog-Cholera Virus (9 CFR Part 131), and to discharge the members of the Control Agency.

An order was issued by the Assistant Secretary of Agriculture on December 13, 1966 (31 F.R. 16185), terminating the provisions of the Marketing Agreement Regulating Handling of Anti-Hog-Cholera Serum and Hog-Cholera Virus, as amended, and the Marketing Order Regulating Handling of Anti-Hog-Cholera Serum and Hog-Cholera Virus, as amended (9 CFR Part 131), except the provisions thereof concerning liquidation of the affairs of the Control Agency (9 CFR 131.113).

The affairs of the Control Agency have been liquidated, and any funds collected for expenses and held by the Control Agency over and above the amounts necessary to meet outstanding obligations and expenses necessarily incurred by the Control Agency have been returned to the contributing handlers, all in accordance with the provisions of the said § 131.113 (9 CFR 131.113).

The aforesaid notice also gave opportunity to interested persons to file any written data, views, or arguments concerning the proposal to terminate said § 131.113. No such communications were received within the prescribed time.

The foregoing being considered, thirty days notice of the effective date hereof will serve no practical purpose, is unnecessary, and contrary to the public interest and good cause exists for making this order effective upon publication in the FEDERAL REGISTER.

It is, therefore, ordered, That the members of the Control Agency be and they are herewith discharged and the

provisions of § 131.113, Title 9, Code of Federal Regulations are hereby terminated.

Issued at Washington, D.C., this 1st day of November 1967, to be effective as aforesaid.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 67-13138; Filed, Nov. 6, 1967; 8:48 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-1262]

PART 13—PROHIBITED TRADE PRACTICES

La Salle Quilting Co., Inc., and Arthur D. Rifas

Subpart—Invoicing products falsely: § 13.1106 *Invoicing products falsely:* 13.1108–80 Textile Fiber Products Identification Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185–80 Textile Fiber Products Identification Act; 13.1185–90 Wool Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212–80 Textile Fiber Products Identification Act; 13.1212–90 Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; secs. 2–6, 54 Stat. 1128–1130, 72 Stat. 1717; 15 U.S.C. 45, 68, 70) [Cease and desist order, La Salle Quilting Co., Inc., et al, Chicago, Ill., Docket C–1262, Oct. 10, 1967]

Consent order requiring a Chicago, Ill., manufacturer of bedding and quilted fabrics to cease misbranding its wool and textile fiber products and failing to maintain required records.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents La Salle Quilting Co., Inc., a corporation, and its officers, and Arthur D. Rifas, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment or shipment, in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

1. Falsely and deceptively stamping, tagging, labeling, or otherwise identifying such products as to the character or amount of the constituent fibers contained therein.

2. Failing to securely affix to, or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

It is further ordered, That respondents La Salle Quilting Co., Inc., a corporation, and its officers, and Arthur D. Rifas, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, manufacture for introduction, sale, advertising, or, offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by:

1. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising, or otherwise identifying such products as to the name or amount of constituent fibers contained therein.

2. Failing to affix a stamp, tag, label, or other means of identification to each such product showing in a clear, legible, and conspicuous manner each element of information required to be disclosed by section 4(b) of the Textile Fiber Products Identification Act.

B. Failing to maintain and preserve proper records showing the fiber content of the textile fiber products manufactured by said respondents, as required by section 6 of the Textile Fiber Products Identification Act and Rule 39 of the regulations promulgated thereunder.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: October 10, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 67-13110; Filed, Nov. 6, 1967; 8:46 a.m.]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Corsage Wearing Apparel Under Flammable Fabrics Act

§ 15.148 Corsage wearing apparel under Flammable Fabrics Act.

(a) The Commission was requested to render an advisory opinion as to whether a corsage made of wood fiber chips is considered to be wearing apparel under the Flammable Fabrics Act.

(b) The Commission has advised the requesting party that in its opinion a corsage made of wood fiber chips is an article of wearing apparel as the term "article of wearing apparel" is defined in the Flammable Fabrics Act, and is subject to the Act.

(38 Stat. 717, as amended; 15 U.S.C. 41–58; 67 Stat. 111; 15 U.S.C. 1191)

Issued: November 6, 1967.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 67-13062; Filed, Nov. 6, 1967; 8:45 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Delegation of Authority to Director of Division of Corporate Regulation; Correction

In F.R. Doc. 66-4776, filed May 2, 1966, appearing at 31 F.R. 6588, a correction is hereby made in subparagraph (1) of paragraph (b) of § 200.30–2 of Chapter II of Title 17 of the Code of Federal Regulations by adding immediately following subdivision (xxiii) a new subdivision (xxiv) reading as follows:

§ 200.30–2 Delegation of authority to Director of Division of Corporate Regulation.

* * * * * * *

(b) * * *

(1) * * *

(xxiv) Section 3(b)(2), 15 U.S.C. 80a–3(b)(2).

* * * * * * *

The foregoing will conform such section to the regulation as adopted by the Commission in its Release Nos. 33–4828, 34–7873, 35–15455, 39–231, 40–4578, and IA–200, dated April 27, 1966.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

NOVEMBER 1, 1967.

[F.R. Doc. 67-13120; Filed, Nov. 6, 1967; 8:47 a.m.]

Title 20—EMPLOYEES' BENEFITS

Chapter II—Railroad Retirement Board

SUBCHAPTER B—REGULATIONS ON EMPLOYEE RESPONSIBILITIES AND CONDUCT

PART 396—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Pursuant to and in accordance with sections 201 through 209 of Title 18 of the United States Code, Executive Order 11222 of May 8, 1965 (30 F.R. 6469), and Title 5, Chapter I, Part 735 of the Code of Federal Regulations, Part 396 of Title 20 of the Code of Federal Regulations is amended to read as follows:

Sec.
396.735–101 Adoption of regulations.
396.735–102 Review of statements of employment and financial interests.
396.735–103 Disciplinary and other remedial action.
396.735–104 Gifts, entertainment, and favors.
396.735–105 Specific provisions governing special Government employees.
396.735–106 Statements of employment and financial interest.
396.735–107 Supplementary statements.
396.735–108 Statements of employment and financial interest of special Government employees.

AUTHORITY: The provisions of this Part 396 issued under E.O. 11222, 30 F.R. 6469, 3 CFR, 1965 Supp.; 5 CFR 735.101 et seq.

§ 396.735–101 Adoption of regulations.

Pursuant to 5 CFR 735.104(f), the Railroad Retirement Board (referred to hereinafter as the Board) hereby adopts the following sections of Part 735 of Title 5, Code of Federal Regulations: §§ 735.–101–735.102, 735.201a, 735.202 (a), (d), (e), (f)–735.210, 735.302, 735.303(a), 735.304, 735.305(a), 735.403(a), 735.404, 735.405, 735.407–735.411, 735.412 (b) and (d). These adopted sections are modified and supplemented as set forth in this part.

§ 396.735–102 Review of statements of employment and financial interests.

Each statement of employment and financial interests submitted under this part shall be reviewed by the Secretary of the Board. When this review indicates a conflict between the interests of an employee or special Government employee of the Board and the performance of his services for the Government, the Secretary of the Board shall have the indicated conflict brought to the attention of the employee or special Government employee, grant the employee or special Government employee an opportunity to explain the indicated conflict, and attempt to resolve the indicated conflict. If the indicated conflict cannot be resolved, the Secretary of the Board shall forward a written report on the indicated conflict to the Board.

§ 396.735–103 Disciplinary and other remedial action.

An employee or special Government employee of the Board who violates any of the regulations in this part or adopted under § 396.735–101 may be disciplined. The disciplinary action may be in addition to any penalty prescribed by law for the violation. In addition to or in lieu of disciplinary action, remedial action to end conflicts or appearance of conflicts of interest may include but is not limited to:

(a) Changes in assigned duties;

(b) Divestment by the employee or special Government employee of his conflicting interest; or

(c) Disqualification for a particular assignment.

§ 396.735–104 Gifts, entertainment, and favors.

The Board authorizes the exceptions to 5 CFR 735.202(a) set forth in 5 CFR 735.202(b)(1)–(4).

§ 396.735–105 Specific provisions governing special Government employees.

(a) Special Government employees of the Board shall adhere to the standards of conduct applicable to employees as set forth in this part and adopted under § 396.735–101, except 5 CFR 735.203(b).

(b) Special Government employees of the Board may teach, lecture, or write in a manner not inconsistent with 5 CFR 735.203(c).

(c) Pursuant to 5 CFR 735.305(b), the Board authorizes the same exceptions concerning gifts, entertainment, and favors for special Government employees as are authorized for employees by § 396.735–104.

§ 396.735–106 Statements of employment and financial interest.

(a) Employees in the following named positions shall submit statements of employment and financial interest:

(1) Chief Executive Officer.

(2) Director of Bureau of Retirement Claims.

(3) Director of Unemployment and Sickness Insurance.

(4) Director of Bureau of Data Processing and Accounts.

(5) Director of Budget and Fiscal Operations.

(6) Director of Supply and Service.

(b) Each statement of employment and financial interest required by this section shall be submitted to the Secretary of the Board, 844 Rush Street, Chicago, Ill. 60611.

(c) An employee who feels that his position has been improperly included in this section as one requiring the submission of a statement of employment and financial interest may obtain a review of his complaint under the Board's grievance procedure.

§ 396.735–107 Supplementary statements.

Notwithstanding the filing of the annual supplementary statement required by 5 CFR 735.406, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflicts-of-interest provisions of section 208 of title 18, United States Code or the regulations in this part or adopted under § 396.735–101.

§ 396.735–108 Statements of employment and financial interest of special Government employees.

Pursuant to 5 CFR 735.412(c), special Government employees who are not consultants or experts as defined in 5 CFR 735.412(c) are not required to submit statements of employment and financial interest.

This amended Part 396 was approved by the Civil Service Commission on September 25, 1967, and is effective upon publication in the FEDERAL REGISTER.

Dated: November 1, 1967.

By authority of the Board.

LAWRENCE GARLAND,
Secretary of the Board.

[F.R. Doc. 67-13144; Filed, Nov. 6, 1967; 8:49 a.m.]

Title 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

SUBCHAPTER F—ENROLLMENT

PART 41—PREPARATION OF ROLLS OF INDIANS

Requirements for Enrollment and Deadlines for Filing Applications

The following amendment is made to Title 25—Indians, Part 41, incident to the preparation of a roll of Brotherton Indians entitled to share in the funds appropriated to pay judgments in favor of the Emigrant New York Indians as authorized by the Act of September 27, 1967 (P.L. 90–93).

To include requirements for enrollment and establish a deadline for filing applications, § 41.3 is amended by adding a new paragraph designated as (i) which reads as follows:

§ 41.3 Qualifications for enrollment and the deadline for filing applications.

* * * * * * *

(i) Brotherton Indians of Wisconsin: All persons who establish to the satisfaction of the Secretary of the Interior that they are Brotherton Indians of Wisconsin of at least one-fourth degree Emigrant New York Indian blood shall be eligible for enrollment to share in the distribution of the judgment funds awarded the Emigrant New York Indians in Indian Claims Commission Docket 75 provided:

(1) They were born on or prior to and living on September 27, 1967.

(2) They are not members of either the Oneida Tribe of Indians of Wisconsin or the Stockbridge-Munsee Indian Community of Wisconsin.

(3) Applications for enrollment are filed with the Superintendent, Bureau of Indian Affairs, Great Lakes Agency, Ashland, Wis., on forms provided for that purpose. Applications for enrollment must be postmarked no later than July 1, 1968.

In the absence of proof to the contrary, for the purposes of determining degree of Emigrant New York Indian blood, all persons listed on the roll of "Brothertown Allottees of Wisconsin Lands in 1839" will be considered as possessing 4/4 degree Emigrant New York Indian blood.

No further changes are made in the text of Part 41.

Notice of proposed rule making would cause undue delay in the preparation of the roll and would be contrary to the public interest. Therefore, notice and public procedure imposed by 5 U.S.C. 553 (Supp. II, 1965–66), are dispensed with under the exceptions provided in that section. Accordingly, this amendment shall become effective on the date of publication in the FEDERAL REGISTER.

ROBERT L. BENNETT,
Commissioner.

[F.R. Doc. 67-13111; Filed, Nov. 6, 1967; 8:45 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 67-1190]

PART 0—COMMISSION ORGANIZATION

Memorandum Opinion and Order Regarding Multiple-City AM and FM Station Identification

In the matter of amendment of Part 0 of the Commission's rules, Commission Organization, to delegate to the Chief, Broadcast Bureau, authority to waive the provisions of §§ 73.117 and 73.287 to the extent of allowing multiple-city AM and FM station identification, upon proper request therefor.

1. The Commission has before it a number of applications and waiver requests from AM and FM broadcast stations looking toward on-the-air identification with one or more communities other than the community to which the station is assigned. Most seek dual-city identification, without the establishment of additional studios or other technical changes.

2. These applications and requests have been reviewed in light of the purposes and objectives of our Report on AM and FM Program Origination, 1 RR (Part Three) 91:465 (1950) and all subsequent case law and policy statements, as well as changes in AM and FM operating practices and program sources which are known to have occurred over the past 17 years. As a result of this study, we have concluded that the AM and FM practice should be aligned with television practice to the extent of permitting on-the-air identification with all communities lying within the pertinent principal city contours (5 and 25 mv/m for AM; 3.16 mv/m for FM). Further, we have concluded that this can best be accomplished by delegating to the Chief, Broadcast Bureau, authority to waive the AM and FM station identification requirements (§§ 73.117 and 73.287, respectively) on the same footing as the provisions of § 73.652 are waived for the benefit of television stations under the delegation contained in § 0.281(d)(17) of the rules. As in the case of television stations receiving such waivers, however, the station's primary obligation to the community of license will in no way be affected by the grant of a waiver.

3. The amendment herein ordered is a relaxation of existing requirements, and will improve efficiency by achieving greater consistency in the administration of the aural and television services. For these reasons, the notice and effective date provisions of section 4 of the Administrative Procedure Act (5 U.S.C. 553) need not be followed. Authority for the adoption of this amendment is contained in sections 4(i), 303(d), 303(r), and 307(b) of the Communications Act of 1934, as amended.

4. *Accordingly, it is ordered,* That, effective November 8, 1967, §0.281 of the Commission's rules and regulations is amended as set forth below.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: October 25, 1967.

Released: November 2, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

In Part 0 of Chapter I of Title 47, Code of Federal Regulations, § 0.281 is amended by adding the following:

§ 0.281 Authority delegated.

* * * * *

(kk) For waiver of the provisions of §§ 73.117 and 73.287 of this chapter to permit multiple-city identification, where the additional community or communities with which identification is sought are provided with the minimum principal city signal intensity specified in §§ 73.188(b) and 73.315(a) of this chapter for AM and FM broadcast stations, respectively.

[F.R. Doc. 67-13152; Filed, Nov. 6, 1967; 8:50 a.m.]

[1] Concurring statement of Commissioner Johnson filed as part of the original document; Commissioners Bartley and Wadsworth absent.

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

SUBCHAPTER C—AIRCRAFT

[Docket No. 8516; Amdt. 21-16]

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

Delegation Option Authorization

The purpose of this amendment is to clarify Part 21 of the Federal Aviation Regulations with respect to the authority of delegation option manufacturers to issue airworthiness certificates.

Present § 21.273(a) limits a manufacturer holding a delegation option authorization to the issuance of standard airworthiness certificates for aircraft produced by him under his authorization. The word "standard" was inadvertently incorporated into § 21.273(a) during the adoption of Amendment 21-5 to the delegation option procedures. The provisions of § 21.251 covering the limits of applicability for delegation option authorizations contain no such limitation and the delegation option manufacturers have been issuing airworthiness certificates other than standard certificates for many years without any adverse effect on safety. For these reasons, the FAA considers it appropriate to correct the provisions of § 21.273(a) to make it clear that delegation option manufacturers are not limited to the issuance of standard airworthiness certificates.

Since this amendment is clarifying in nature and imposes no additional burden on any person, notice and public procedure thereon are unnecessary and the amendment may be made effective immediately.

In consideration of the foregoing, § 21.273(a) of Part 21 is amended effective November 1, 1967, by striking out the words "a standard" and inserting the word "an" in place thereof.

(Secs. 313(a), 314, 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354, 1355, 1421, 1423)

Issued in Washington, D.C., on November 1, 1967.

WILLIAM F. MCKEE,
Administrator.

[F.R. Doc. 67-13127; Filed, Nov. 6, 1967; 8:48 a.m.]

[Docket No. 67-EA-83; Amdt. 39-493]

PART 39—AIRWORTHINESS DIRECTIVES

Fairchild Hiller Aircraft

Correction

In F.R. Doc. 67-12467 appearing at page 14647 in the issue of Saturday, October 21, 1967, paragraph 1 is corrected to read as follows:

1. Airworthiness Directive 66-30-4 is amended by deleting the applicability and insert in lieu thereof "Applies to F-27 Type Airplanes Equipped with Upper Engine Mount Support Tube Assemblies, P/N 27-503105-11, -31, -41, or -51; Upper Engine Mount Support Tube Brackets, P/N 27-110105-11, -12, -31, -32, -41, -42, -51, -52, -61, or -62; or Lower Engine Mount Support Tube Assemblies, P/N 27-503101-11, -31, -41, -51, -61, or -71."

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 8470; Amdt. 565]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

The amendments to the standard instrument approach procedures contained herein are adopted to become effective when indicated in order to promote safety. The amended procedures supersede the existing procedures of the same classification now in effect for the airports specified therein. For the convenience of the users, the complete procedure is republished in this amendment indicating the changes to the existing procedures.

As a situation exists which demands immediate action in the interests of safety in air commerce, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In view of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 97 (14 CFR Part 97) is amended as follows:

1. By amending the following automatic direction finding procedures prescribed in § 97.11(b) to read:

ADF STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

From—	To—	Course and distance	Minimum altitude (feet)	Condition	Ceiling and visibility minimums: 2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots
Mentor Int	Stadium RBn	Direct	3000	T-dn	800–1	800–1	200–½
Sharon Int	Stadium RBn	Via STG VOR, R 183° and STG VOR, R 086°	3000	C-dn	700–1	700–1	700–1½
				S-dn-28L/R	700–1	700–1	700–1
				A-dn	800–2	800–2	800–2
CLE RBn	Stadium RBn	Direct	3000				
Vermilion Int	Stadium RBn	Direct	3000				

Radar available.
Procedure turn N side of crs, 054° Outbnd, 234° Inbnd, 3000′ within 10 miles of Stadium RBn.
Minimum altitude over facility on final approach crs, 3000′.
Crs and distance, facility to airport, 234°—6.8 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6.8 miles after passing SUM RBn, make right-climbing turn to 3000′ direct to CLE VOR. Hold SW, 1-minute right turns, 069° Inbnd.
CAUTION: 1971′ towers approximately 6 miles ESE of airport.
MSA within 25 miles of facility: 000°–090°—2600′; 090°–270°—3000′; 270°–360°—1900′.

City, Cleveland; State, Ohio; Airport name, Cleveland-Hopkins International; Elev., 792′; Fac. Class., MHW; Ident., SUM; Procedure No. NDB(ADF) Runway 28 L/R, Amdt. 6; Eff. date, 25 Nov. 67; Sup. Amdt. No. ADF 2, Amdt. 5; Dated, 29 Feb. 64

Fort Riley Int	FRI NDB	Direct	2900	T-dn	800–1	800–1	*800–1
				C-dn	600–1	600–1	600–1½
				A-dn	1000–2	1000–2	1000–2

Procedure turn S side of crs, 211° Outbnd, 031° Inbnd, 2900′ within 10 miles.
Minimum altitude over facility on final approach crs, 1900′.
Crs and distance, facility to airport, 031°—1.8 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 1.8 miles after passing FRI NDB, climb to 2900′ on a crs of 050° from the NDB within 15 miles. Turn right and return to FRI NDB.
NOTES: (1) Authorized for military use only except by prior arrangement. (2) Final approach from holding pattern not authorized. Procedure turn required.
CAUTION: Restricted area R–3602 adjacent to airport NW. Small arms firing range 2.4 miles N.
*Takeoff minimums 200–½ on Runway 22 only.
#All circling approaches will be made to the E of the airport. See caution note.
MSA within 25 miles of the facility: 000°–360°—2600′.

City, Fort Riley; State, Kans.; Airport name, Marshall AAF; Elev., 1062′; Fac. Class., MHW; Ident., FRI; Procedure No. NDB(ADF) Runway 4, Amdt. 5; Eff. date, 25 Nov. 67; Sup. Amdt. No. ADF 1, Amdt. 4; Dated, 5 Sept. 64

PROCEDURE CANCELED, EFFECTIVE 25 NOV. 1967.

City, Lancaster; State, Pa.; Airport name, Garden Spot Airpark; Elev., 427′; Fac. Class., MHW; Ident., LRP; Procedure No. 1, Amdt. 2; Eff. date, 31 Oct. 64; Sup. Amdt. No. 1; Dated, 29 Sept. 62

Grand Beach Int	MGC RBn (final)	Direct	1250	T-dn	800–1	800–1	200–½
North Liberty Int	MGC RBn	Direct	2300	C-dn	600–1	600–1	600–1½
Westville Int	MGC RBn	Direct	2300	S-dn-20	600–1	600–1	600–1
				A-dn	NA	NA	NA

Procedure turn E side of crs, 010° Outbnd, 190° Inbnd, 2300′ within 10 miles.
Minimum altitude over facility on final approach crs, 1250′.
Facility on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile of MGC RBn, climb to 2300′ on crs 190° and return to RBn.
NOTE: Use South Bend altimeter setting.
CAUTION: 720′ MSL (90′ AGL) light pole 450′ W of Runway 20 centerline and 400′ past threshold.
MSA within 25 miles of facility: 000°–090°—2100′; 090°–180°—2900′; 180°–360°—2100′.

City, Michigan City; State, Ind.; Airport name, Michigan City; Elev., 650′; Fac. Class., MHW; Ident., MGC; Procedure No. NDB(ADF) Runway 20, Amdt. 1; Eff. date, 25 Nov. 67; Sup. Amdt. No. NDB(ADF) Runway 20, Orig.; Dated, 14 Sept. 67

ADF STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
OKM VOR	MKO RBn	Direct	3000	T-d	300-1	300-1	200-½
Maxie Int	MKO RBn	Direct	3000	C-d	300-1	300-1½	300-1½
				S-d-31	300-1	300-1	300-1
				A-d	NA	NA	NA

Procedure turn S side of crs, 128° Outbnd, 308° Inbnd, 3000' within 10 miles.
Minimum altitude over facility on final approach crs, 3000'.
Facility on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished make immediate left turn, return to the MKO RBn climbing to 3500'. Hold SE bearing 128°, 308° Inbnd. Left turns, 1-minute.
NOTE: Use Tulsa, Okla., altimeter setting.
MSA within 25 miles of facility: 000°–270°—3900'; 270°–360°—3700'.

City, Muskogee; State, Okla.; Airport name, Davis; Elev., 610'; Fac. Class., MHW; Ident., MKO; Procedure No. NDB(ADF) Runway 31, Amdt. 4; Eff. date, 25 Nov. 67; Sup. Amdt. No. ADF 1, Amdt. 3; Dated, 19 Nov. 66

PVU VOR	PVU RBn	Direct	9800	T-dn%	300-1	300-1	200-½
PVU 139/14 DME Fix counter-clockwise	PVU 157/14 DME Fix	14-mile DME Arc	9800	C-dn	2000-3	2000-3	2000-3
				S-dn	NA	NA	NA
PVU 157/14 DME Fix	Lincoln Int (final)	Direct	7500	A-dn	NA	NA	NA
				VOR minimums:			
				C-dn	900-1½	900-1½	900-2

Procedure turn W side of crs, 329° Outbnd, 023° Inbnd, 9800' within 10 miles.
Minimum altitude over Lincoln Int on final approach crs, 7500'.
Facility on airport. Crs and distance, Lincoln Int to airport, 026°—5.4 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile after passing PVU RBn, turn left, climb to 7100' on bearing 313° from PVU RBn, reverse crs, continue climb to 9400' on 312° bearing from PVU RBn. Hold NW on 312° bearing PVU RBn, 1-minute right turns. All maneuvering W of crs.
CAUTION: Use SLC altimeter. High terrain all quadrants.
%Takeoffs all runways: Climb between PVU RBn and a point 5 miles NW on PVU RBn 312° bearing to sufficient altitude to cross PVU RBn for direction of flight; northwestbound on crs, 312° to intercept V21 northbound 5500'; westbound direct PVU VOR 7000'. All maneuvering W of crs.
MSA within 25 miles of facility: 320°–050°—12,800'; 050°–140°—12,100'; 140°–320°—12,900'; 320°–320°—11,700'.

City, Provo; State, Utah; Airport name, Provo Municipal; Elev., 4490'; Fac. Class., MHW; Ident., PVU; Procedure No. NDB(ADF)-1, Amdt. Orig.; Eff. date, 25 Nov. 67

PVU VOR	Orem Int	Direct	9800	NDB(ADF) minimums not authorised. NDB(ADF)/ VOR minimums:			
SLC VOR	Riverton Int	Direct	9800				
PVU VOR	PVU VOR 241/9 DME Fix	Direct	9800	T-dn%	300-1	300-1	200-½
PVU VOR 241/9 DME Fix clockwise	Williams Int	9-mile DME Arc	9800	C-dn	600-1	600-1	600-1½
				S-dn-13	600-1	600-1	600-1
Williams Int	Orem Int (final)	Direct	6400	A-dn	NA	NA	NA
Riverton Int	Williams Int	Direct	9800				

Procedure turn W side of crs, 312° Outbnd, 132° Inbnd, 9800' within 12 miles of Orem Int.
Minimum altitude over Williams Int on final approach crs, 9800' over Orem Int, 6400'.
Facility on airport. Crs and distance, Orem Int to airport, 132°—5.5 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile after passing PVU RBn, turn right, climb to 7100' on bearing 312° from PVU RBn, reverse crs, continue climb to 9600' on 312° bearing from PVU RBn. Hold NW on 312° bearing PVU RBn, 1-minute right turns. All maneuvering W of crs.
CAUTION: Use SLC altimeter. High terrain all quadrants.
%Takeoffs all runways: Climb between PVU RBn and a point 5 miles NW of PVU RBn 312° bearing to sufficient altitude to cross PVU RBn for direction of flight; northwestbound on crs, 312° to intercept V21 northbound 5500'; westbound direct PVU VOR 7000'. All maneuvering W of crs.
MSA within 25 miles of facility: 320°–050°—12,800'; 050°–140°—12,100'; 140°–320°—12,900'; 320°–320°—11,700'.

City, Provo; State, Utah; Airport name, Provo Municipal; Elev., 4490'; Fac. Class., MHW; Ident., PVU; Procedure No. NDB(ADF) Runway 18, Amdt. Orig.; Eff. date, 25 Nov. 67

PIE VORTAC	LOM	Direct	1700	T-dn°	300-1	300-1	200-½
AMP RBn	LOM	Direct	1700	C-dn°	600-1	600-1	600-1½
				S-dn-18L	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Radar available.
Procedure turn W side of crs, 001° Outbnd, 181° Inbnd, 1700' within 10 miles.
Minimum altitude over facility on final approach crs, 1700'.
Crs and distance, facility to airport, 181°—5.9 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.9 miles after passing LOM, right-climbing turn to 1700', proceed direct to PIE VORTAC via PIE VORTAC R 095° or, when directed by ATC, climb to 2000' on direct bearing to AMP RBn.
CAUTION: 210' radio tower, 1 mile WSW of airport.
°200-½ absolute minimums for takeoff Runway 27. RVR 2400' authorized Runway 18L.
#Circling ceiling minimum 800' authorized W of centerline extended of Runways 18L–36R.
MSA within 25 miles of facility: 000°–090°—1500'; 090°–180°—2000'; 180°–270°—1600'; 270°–360°—1600'.

City, Tampa; State, Fla.; Airport name, Tampa International; Elev., 27'; Fac. Class., LOM; Ident., TP; Procedure No. NDB(ADF) Runway 18L, Amdt. 22; Eff. date, 25 Nov. 67; Sup. Amdt. No. NDB(ADF) Runway 18L, Amdt. 21; Dated, 30 Sept. 67

2. By amending the following very high frequency omnirange (VOR) procedures prescribed in § 97.11(c) to read:

VOR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
AM LOM	AMA VOR	Direct	5000	T-dn	300-1	300-1	200-½
ARO VOR	AMA VOR	Direct	5000	C-dn	500-1	500-1	500-1½
				S-dn-21°	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Radar available.
Procedure turn N side of crs, 030° Outbnd, 210° Inbnd, 5000' within 10 miles.
Minimum altitude over facility on final approach crs, 4600'.
Crs and distance, facility to airport, 210°—4.5 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.5 miles after passing AMA VOR, climb to 5000' on R 210° within 15 miles or, when directed by ATC, turn left, climb to 5000' on R 076° within 15 miles.
CAUTION: 3764' grain elevator located adjacent to SW boundary of airport.
°Runway 21: 400-¾ authorized with operative HIRL, except for 4-engine turbojets.
MSA within 25 miles of facility: 000°–180°—4600'; 180°–360°—5400'.

City, Amarillo; State, Tex.; Airport name, Amarillo AAF/Municipal; Elev., 3605'; Fac. Class., H-BVORTAC; Ident., AMA; Procedure No. VOR Runway 21, Amdt. 14; Eff. date, 25 Nov. 67; Sup. Amdt. No. VOR Runway 21, Amdt. 13; Dated, 11 Nov. 67

Fort Riley Int	FRI VOR	Direct	2900	T-dn	300-1	300-1	°300-1
				C-dn	700-1	700-1	700-1½
				S-dn-4	600-1	600-1	600-1
				A-dn	1000-2	1000-2	1000-2

Procedure turn S side of crs, 213° Outbnd, 033° Inbnd, 2900' within 10 miles.
Minimum altitude over facility on final approach crs, 2600'.
Crs and distance, facility to airport, 033°—5.3 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6.3 miles after passing VOR, climb to 2900' on FRI VOR, R 060° within 15 miles. Turn right and return to FRI VOR.
NOTE: Authorized for military use only except by prior arrangement.
CAUTION: Restricted area R-3602 adjacent to airport NW. Small arms firing range 2.4 miles N.
°Takeoff minimums 200-½ on Runway 22 only.
#All circling approaches will be made to the E of the airport. See caution note.
MSA within 25 miles of the facility: 000°–360°—2900'.

City, Fort Riley; State, Kans.; Airport name, Marshall AAF; Elev., 1062'; Fac. Class., L-VOR; Ident., FRI; Procedure No. VOR Runway 4, Amdt. 3; Eff. date, 25 Nov. 67; Sup. Amdt. No. VOR 1, Amdt. 2; Dated, 5 Sept. 64

PROCEDURE CANCELED, EFFECTIVE 25 NOV. 1967.

City, Lancaster; State, Pa.; Airport name, Garden Spot Airpark; Elev., 423'; Fac. Class., BVOR; Ident., LRP; Procedure No. 1, Amdt. 1; Eff. date, 21 Oct. 64; Sup. Amdt. No. Orig.; Dated, 18 Aug. 62

				T-dn	700-1½		
				C-dn	1100-2		
				S-dn			
				A-dn	NA	NA	NA
				DME Minimums:			
				C-dn	900-1½		

Procedure turn S side of crs, 308° Outbnd, 128° Inbnd, 4000' within 10 miles.
Minimum altitude over facility on final approach crs, 4000'; over 6-mile DME Fix, R 120°, 2341'.
Crs and distance, facility to airport, 128°—7.6 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 7.6 miles after passing PSB VOR, make right-climbing turn to 4000', proceed direct to PSB VOR. Hold NW, 1-minute right turns, Inbnd crs, 128°.
NOTE: Use Philipsburg, Pa., altimeter setting.
CAUTION: Boundary lights only on Runways 6/24.
MSA within 25 miles of facility: 000°–090°—3600'; 090°–180°—3600'; 180°–270°—3900'; 270°–360°—3600'.

City, State College; State, Pa.; Airport name, University Park; Elev., 1241'; Fac. Class., H-BVORTAC; Ident., PSB; Procedure No. VOR-1, Amdt. 1; Eff. date, 25 Nov. 67; Sup. Amdt. No. VOR-1, Orig.; Dated, 8 Aug. 64

R 286°, TLH VORTAC clockwise	R 352°, TLH VORTAC	3-mile DME Arc TLH, R 336°, lead radial.	2000	T-d°	300-2	300-2	NA
				C-d°	300-2	300-2	NA
				A-d°	NA	NA	NA
R 089°, TLH VORTAC counterclockwise	R 352°, TLH VORTAC	3-mile DME Arc TLH, R 006°, lead radial.	2000	DME Minimums:			
				C-d°	700-2	700-2	NA
3-mile DME, R 352°	TLH VORTAC (final)	R 352°	957				

Procedure turn W side of crs, 352° Outbnd, 172° Inbnd, 2000' within 10 miles.
Minimum altitude over 3-mile DME Fix, R 352° on final approach crs, 957'.
Facility on airport. Crs and distance, 3-mile DME Fix, R 352° to airport, 172°—3 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished immediately after passing TLH VORTAC, climb to 2000' on R 172° within 15 miles and return to TLH VORTAC; or, when directed by ATC, proceed direct to TL LOM at 2000'.
NOTES: (1) Use Tallahassee, Fla., altimeter setting. (2) Sod field, no runways.
°Night instrument operations not authorized.
MSA within 25 miles of facility: 000°–090°—2200'; 090°–180°—1600'; 180°–270°—1900'; 270°–360°—1700'.

City, Tallahassee; State, Fla.; Airport name, Tallahassee Commercial; Elev., 167'; Fac. Class., H-BVORTAC; Ident., TLH; Procedure No. VOR-1, Amdt. Orig; Eff. date, 25 Nov. 67

3. By amending the following very high frequency omnirange—distance measuring equipment (VOR/DME) procedures prescribed in § 97.15 to read:

VOR/DME STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
R 061°, AHN VORTAC clockwise	R 139°	Via 10-mile DME Arc.	2500	T–dn	300–1	300–1	NA
				C–dn	500–1	500–1	NA
R 187°, AHN VORTAC counterclockwise	R 139°	Via 10-mile DME Arc.	2600	S–dn–34	400–1	400–1	NA
				A–dn	NA	NA	NA
10-mile DME, R 139°	AHN VORTAC (final)	R 139°	2900				

Procedure turn E side of crs, 139° Outbnd, 319° Inbnd, 2300' within 10 miles.
Minimum altitude over facility on final approach crs, 2300'; over 6-mile DME Fix, R 319°, 2300'; over 15-mile DME Fix, R 319°, 1500'.
Crs and distance, facility to airport, 319°—17.7 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 17.7 miles after passing AHN VORTAC, make climbing left turn to 2300' and proceed to AHN VORTAC via R 319°.
NOTES: (1) Contact Anderson area radio via AHN VORTAC. (2) Use AHN altimeter setting. (3) Close IFR flight plan with AND area radio when landing is assured or by telephone upon landing.
MSA within 25 miles of facility: 000°–090°—2000'; 090°–180°—2400'; 180°–270°—3100'; 270°–360°—2600'.

City, Jefferson; State, Ga.; Airport name, Jackson County; Elev., 949'; Fac. Class., L–BVORTAC; Ident., AHN; Procedure No. VOR/DME Runway 34, Amdt. Orig.; Eff. date, 25 Nov. 67

4. By amending the following instrument landing system procedures prescribed in § 97.17 to read:

ILS STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Mentor Int	Stadium RBn (6.1 DME Fix)	Direct	3000	T–dn	300–1	300–1	200–½
Cleveland RBn	Stadium RBn	Direct	3000	C–dn	700–1	700–1	700–1½
Sharon Int	Stadium RBn	Via STG VOR, R 153° and STG VOR, R 036°.	3000	S–dn–23 L & R	700–1	700–1	700–1
				A–dn	800–2	800–2	800–2
Vermilion Int	Stadium RBn	Direct	3000	If 4-mile Radar Fix (5.3 DME Fix) is received, the following minimums apply:			
				C–dn	400–1	500–1	500–1½
				S–dn–23 L & R*	400–1	400–1	400–1

Radar available.
Procedure turn N side of NE crs, 064° Outbnd, 234° Inbnd, 3000' within 10 miles of SUM RBn.
Minimum altitude over Stadium RBn on final approach crs, 3000'.
Crs and distance, Stadium RBn to airport, 234°—4.8 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6.8 miles after passing Stadium RBn or 4 miles after passing 4-mile Radar Fix (5.3 DME Fix) make right-climbing turn to 3000', proceed direct to Cleveland VOR, hold SW, 1-minute right turns, 069° Inbnd.
NOTES: (1) Minimums altitude 1260' after SUM RBn Inbnd until 4-mile Radar Fix (5.3 DME Fix) is received. (2) Four-mile Radar Fix not provided by ATC unless weather is 700–2 or below.
CAUTION: TV towers 1971' approximately 6 miles ESE of airport. DME indication at SUM 8.1; at 4-mile Radar Fix—6.8 miles. DME should not be used to determine aircraft position over the runway threshold or touchdown point. DME located at glide slope site.
*400–¾ authorized, with operative high-intensity runway lights, except for 4-engine turbojets.
MSA within 25 miles of SUM RBn: 000°–090°—2600'; 090°–270°—3000'; 270°–360°—1900'.

City, Cleveland; State, Ohio; Airport name, Cleveland-Hopkins International; Elev., 792'; Fac. Class., ILS; Ident., I–CLE; Procedure No. LOC (BC) Runways 23L/R, Amdt. 3; Eff. date, 25 Nov. 67; Sup. Amdt. No. LOC (BC) Runways 23L/R, Amdt. 2; Dated, 25 Mar. 67

LSF VOR	XLE RBn	Direct	2000	T–dn*	300–1	300–1	200–½
Lumpkin Int	XLE RBn	Direct	2000	C–dn	600–1	600–1	600–1½
EUF VOR	XLE RBn	Direct	3000	S–dn–32%§	200–½	200–½	200–½
AWS RBn	XLE RBn	Direct	2000	A–dn	600–2	600–2	600–2
Omaha Int	XLE RBn	Direct	2000				
XLE RBn	LSF OM (final)	Direct	1600				

Radar available.
Procedure turn not authorized. Enter localizer final approach from XLE RBn holding pattern (142° Outbnd, 326° Inbnd, left turns, 1 minute, 2000') or radar vectors.
Minimum altitude at glide slope interception Inbnd, 1500'.
Altitude of glide slope and distance to approach end of runway at OM, 1662'—4.4 miles, at MM, 430'—0.5 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 12.1 miles after passing XLE RBn, or 4.4 miles after passing OM, climb to 2000' on 202° bearing from AWS RBn within 15 miles or, when directed by ATC, climb to 1500', turn right, climb to 2200', and proceed to Flat Rock Int via 024° bearing from AWS RBn.
NOTE: Authorized for military use only except by prior arrangement.
CAUTION: Jump tower 880', 1½ miles NE; R–3002 E and SE of Lawson AAF.
%400–¾ (RVR 4000') required when glide slope not utilized. 400–½ (RVR 2400') authorized with operative ALS, except for 4-engine turbojets.
§RVR 2400'. Descent below 422' not authorized unless ALS are visible.
*RVR 2400' authorized Runway 32.
MSA within 25 miles of XLE RBn: 000°–090°—3300'; 090°–180°—2000'; 180°–270°—1900'; 270°–360°—3300'.

City, Fort Benning; State, Ga.; Airport name, Lawson AAF; Elev., 282'; Fac. Class., ILS; Ident., I–LSF; Procedure No. ILS Runway 32, Amdt. Orig.; Eff. date, 25 Nov. 67

ILS STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
JHW VOR	JHW OM	Via JHW VOR, R 277°, 1.9 miles.	3600	T–dn–7 & 25	800–1	800–1	800–1½
				C–dn*	800–1	800–1	800–1½
				S–dn–25°&	800–¾	800–¾	800–¾
				A–dn	NA	NA	NA
				With glide slope inoperative:			
				C–dn§	800–1	800–1	800–1½
				S–dn–25°	800–1	800–1	800–1
				A–dn	NA	NA	NA

Procedure turn N side of crs, 085° Outbnd, 246° Inbnd, 3600' within 10 miles of JHW OM.
Minimum altitude at glide slope interception Inbnd, 3300'.
Altitude of glide slope and distance to approach end of runway at OM, 3236'—4.6 miles; at MM, 1950'—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.6 miles after passing the outer marker, climb to 3600', right turn, direct to JHW VOR. Hold NE, R 075°, 1-minute right turns, 256° Inbnd.
*When control zone not effective, increase straight-in and circling ceiling minimum 100'; use Bradford FSS altimeter setting.
&Increase visibility values ¼ mile when control zone not effective.

City, Jamestown; State, N.Y.; Airport name, Jamestown Municipal; Elev., 1729'; Fac. Class., ILS; Ident., I–JHW; Procedure No. ILS Runway 25, Amdt. Orig.; Eff. date, 25 Nov. 67

PIE VORTAC	LOM	Direct	1700	T–dn**	800–1	800–1	800–1½
AMP RBn	LOM	Direct	1700	C–dn§	600–1	600–1	600–1½
				S–dn–18L/%–	200–½	200–½	200–½
				A–dn	600–2	600–2	600–2

Radar available.
Procedure turn W side of crs, 001° Outbnd, 181° Inbnd, 1700' within 10 miles.
Minimum altitude at glide slope interception Inbnd, 1700'.
Altitude of glide slope and distance to approach end of runway at LOM, 1669'—5.9 miles; at MM, 219'—0.5 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, right-climbing turn to 225° to 1700' on R 060°/R 260° PIE VORTAC within 15 miles or, when directed by ATC, climb to 2000' on S crs of ILS within 15 miles.
CAUTION: 210' radio tower 1 mile WSW of airport.
**200–½ absolute minimums for takeoff Runway 27. RVR 2400' authorized Runway 18L.
§Circling ceiling minimum 800' authorized W of centerline extended of Runways 18L–36R.
*RVR 2400'. Descent below 227' not authorized unless approach lights are visible.
%400–¾ (RVR 4000') required when glide slope not utilized, 400–½ (RVR 2400') authorized with operative ALS, except for 4-engine turbojets.
MSA within 25 miles of LOM: 000°–090°—1500'; 090°–180°—2600'; 180°–270°—1600'; 270°–360°—1600'.

City, Tampa; State, Fla.; Airport name, Tampa International; Elev., 27'; Fac. Class., ILS; Ident., I–TPA; Procedure No. ILS Runway 18L, Amdt. 26; Eff. date, 25 Nov. 67; Sup. Amdt. No. ILS Runway 18L, Amdt. 25; Dated, 30 Sept. 67

5. By amending the following radar procedures prescribed in § 97.19 to read:

RADAR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet, MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If a radar instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below. Positive identification must be established with the radar controller. From initial contact with radar to final authorized landing minimums, the instructions of the radar controller are mandatory except when (A) visual contact is established on final approach at or before descent to the authorized landing minimums, or (B) at pilot's discretion if it appears desirable to discontinue the approach, except when the radar controller may direct otherwise prior to final approach, a missed approach shall be executed as provided below; when (A) communication on final approach is lost for more than 5 seconds during a precision approach, or for more than 30 seconds during a surveillance approach; (B) directed by radar controller; (C) visual contact is not established upon descent to authorized landing minimums; or (D) if landing is not accomplished.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
300°	175°	0–6 miles	2300	Surveillance approach			
				T–dn§	300–1	300–1	200–½
175°	300°	0–6 miles	3000	C–dn–18°	700–1	700–1	700–1½
300°	010°	6–15 miles	2700	C–dn–32°	600–1	600–1	700–1
010°	175°	6–15 miles	2600	S–dn–14	700–1	700–1	700–1
175°	300°	6–15 miles	3600	S–dn–32	600–1	600–1	600–1½
				A–dn	800–2	800–2	800–2
				Precision approach			
				T–dn§	300–1	300–1	200–½
				C–dn*	600–1	600–1	700–1½
				S–dn–14, 32	300–1	300–1	300–1
				A–dn	600–2	600–2	600–2

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished: Runway 15—Climb to 2700' on runway heading. Intercept STJ VOR, R 170°, proceed to Lansing Int. Runway 32—Make right turn, climbing to 2700', intercept STJ VOR, R 170°, proceed to Lansing Int.
NOTE: Procedure authorized for military use only except by prior arrangement.
CAUTION: Hills and towers with elevations to 1140' adjacent to airport W and NW.
*All circling approaches will be made to the E of the airport.
§When 1269' tower, 3 miles SW is not visible on takeoff, climb to 1800' before turning toward tower.

City, Fort Leavenworth; State, Kans.; Airport name, Sherman AAF; Elev., 770'; Fac. Class. and Ident., Radar FLV; Procedure No. 1, Amdt. 1; Eff. date, 25 Nov. 67; Sup. Amdt. No. 1, Amdt. Orig.; Dated, 8 Sept. 66

RADAR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
000°.....	360°.....	Within 0-20 miles.	3000	T-dn.....	300-1	300-1	**300-1
				#Precision approach			
				C-d*.....	600-1	600-1	600-1½
				C-n*.....	600-2	600-2	600-2
				S-d-4-22.....	400-1	400-1	400-1
				S-n-4.....	400-2	400-2	400-2
				S-n-22.....	500-2	500-2	500-2
				A-dn.....	1000-2	1000-2	1000-2
				#Surveillance approach			
				C-d*.....	600-1	600-1	600-1½
				C-n*.....	600-2	600-2	600-2
				S-d-4-22.....	600-1	600-1	600-1
				S-n-4-22.....	600-2	600-2	600-2
				A-dn.....	1000-2	1000-2	1000-2

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished: Runway 4—Turn right, climb to 3000' on 050° bearing from FRI NDB within 15 miles, make right turn and return to FRI NDB. Runway 22—Turn left, climb to 3000' on 060° bearing from FRI NDB within 15 miles, make right turn and return to FRI NDB.

NOTE: Procedure authorized for military use only except by prior arrangement.

CAUTION: Restricted Area R-3602 adjacent to airfield NW. Small arms firing ranges 2.4 miles N of airfield.

*Circling approaches will be made E of the airfield.

**Takeoff minimums 200-½ on Runway 23 only.

#CAUTION: On approach to Runway 4 do not descend below 2100' until Radar advises passing 1736' tower 5 miles SW of airport.

City, Fort Riley; State, Kans.; Airport name, Marshall AAF; Elev., 1062'; Fac. Class. and Ident., Marshall Radar; Procedure No. 1, Amdt. 4; Eff. date, 25 Nov. 67; Sup. Amdt. No. 1, Amdt. 3; Dated, 5 Sept. 64

These procedures shall become effective on the dates specified therein.

(Secs. 307(c), 313(a), 601, Federal Aviation Act of 1958; 49 U.S.C. 1348(c), 1354(a), 1421; 72 Stat. 749, 752, 775)

Issued in Washington, D.C., on October 19, 1967.

W. E. ROGERS,
Acting Director, Flight Standards Service.

[F.R. Doc. 67-12561; Filed, Nov. 6, 1967; 8:45 a.m.]

Title 29—LABOR

Chapter XIII—Bureau of Labor Standards, Department of Labor

PART 1500—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION

Employment of Minors Between 14 and 16 Years of Age in Economic Opportunity Programs

A proposal to amend 29 CFR 1500.35 was published in the FEDERAL REGISTER June 22, 1967 (32 F.R. 8919). After consideration of all matter submitted in response, it has been decided to modify only the requirement that work be confined to periods outside of school hours, and to do this only when there is other adequate assurance that the employment is restricted to periods which will not interfere with the children's schooling and to conditions which will not interfere with their health and well-being.

Accordingly, 29 CFR 1500.35 is amended to read as set out below. As this amendment relieves restriction, delay in its effective date is not required by 5 U.S.C. 553, and there is need for it to be in effect for the 1967–68 school year. This amendment shall, therefore, be effective immediately.

As amended, 29 CFR 1500.35 reads as follows:

§ 1500.35 Periods and conditions of employment.

(a) Except as provided in paragraph (b) of this section, employment in any of the occupations to which this subpart is applicable shall be confined to the following periods:

(1) Outside school hours;

(2) Not more than 40 hours in any 1 week when school is not in session;

(3) Not more than 18 hours in any 1 week when school is in session;

(4) Not more than 8 hours in any 1 day when school is not in session;

(5) Not more than 3 hours in any 1 day when school is in session;

(6) Between 7 a.m. and 7 p.m. in any 1 day, except during the summer (June 1 through Labor Day) when the evening hour will be 9 p.m.

(b) In the case of enrollees in work training programs conducted under Part B of Title I of the Economic Opportunity Act of 1964, there is an exception to the requirement of paragraph (a)(1) of this section if the employer has on file with his records kept pursuant to Part 516 of this title an unrevoked written statement of the Administrator of the Bureau of Work Programs or his representative setting out the periods which the minor will work and certify that his employment confined to such periods will not interfere with his health and well-being, countersigned by the principal of the school which the minor is attending with his certificate that such employment will not interfere with the minor's schooling.

(52 Stat. 1061 as amended; 29 U.S.C. 203)

Signed at Washington, D.C., this 1st day of November 1967.

W. WILLARD WIRTZ,
Secretary of Labor.

[F.R. Doc. 67-13161; Filed, Nov. 6, 1967; 8:50 a.m.]

PART 1500—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION

Certain Hazardous Occupations

A proposal was published at 32 F.R. 6102 to make several amendments to 29 CFR Part 1500 as a first step in an updating of all of the Hazardous Occupation Orders and Child Labor regulations in light of current working conditions, safety improvements and the contemporary work situation. Upon consideration of all matter presented in response to the proposal, several of the proposed amendments are adopted subject to certain changes and modifications in form and manner as set out below. As each of these amendments grants an exemption or relieves a restriction, each is excepted from the 30 days delayed effective date otherwise required by 5 U.S.C. 533(d) and these amendments shall be effective immediately. The effect of these changes will be to provide increased opportunity for employment to young persons without hazard or detriment to their health or well-being.

1. In § 1500.52 the heading, paragraph (a), and paragraph (b) are amended as follows:

§ 1500.52 Motor-vehicle driver and outside helper (Order 2).

(a) *Finding and declaration of fact.* The occupations of motor-vehicle driver and outside helper on any public road, highway, in or about any mine (including open pit mine or quarry), place where logging or sawmill operations are in progress, or in any excavation of the type identified in § 1500.68(a) are particularly hazardous for the employment of minors between 16 and 18 years of age.

(b) *Definitions.* • • •

(3) The term "outside helper" shall mean any individual, other than a driver, whose work includes riding on a motor vehicle outside the cab for the purpose of assisting in transporting or delivering goods.

2. In § 1500.58 a new paragraph (c) is added to read as follows:

§ 1500.58 Occupations involved in the operation of power-driven hoisting apparatus (Order 7).

• • • • •

(c) *Exception.* (1) This section shall not prohibit the operation of an automatic elevator and an automatic signal operation elevator provided that the exposed portion of the car interior (exclusive of vents and other necessary small openings), the car door, and the hoistway doors are constructed of solid surfaces without any opening through which a part of the body may extend; all hoistway openings at floor level have doors which are interlocked with the car door so as to prevent the car from starting until all such doors are closed and locked; the elevator (other than hydraulic elevators) is equipped with a device which will stop and hold the car in case of overspeed or if the cable slackens or breaks; and the elevator is equipped with upper and lower travel limit devices which will normally bring the car to rest at either terminal and a final limit switch which will prevent the movement in either direction and will open in case of excessive over travel by the car.

(2) For the purpose of this exception the term "automatic elevator" shall mean a passenger elevator, a freight elevator, or a combination passenger-freight elevator, the operation of which is controlled by pushbuttons in such a manner that the starting, going to the landing selected, leveling and holding, and the opening and closing of the car and hoistway doors are entirely automatic.

(3) For the purpose of this exception, the term "automatic signal operation elevator" shall mean an elevator which is started in response to the operation of a switch (such as a lever or pushbutton) in the car which when operated by the operator actuates a starting device that automatically closes the car and hoistway doors—from this point on, the movement of the car to the landing selected, leveling and holding when it gets there, and the opening of the car and hoistway doors are entirely automatic.

Signed at Washington, D.C., this 1st day of November 1967.

W. WILLARD WIRTZ,
Secretary of Labor.

[F.R. Doc. 67-13162; Filed, Nov. 6, 1967; 8:50 a.m.]

PART 1500—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION

Hazardous Occupations in Agriculture; Employment of Children Below Age of 16

On April 19, 1967 there was published in the FEDERAL REGISTER a proposal to amend 29 CFR Part 1500 by finding and declaring certain occupations in agriculture to be particularly hazardous for the employment of children below the age of sixteen (32 F.R. 6144). After consideration of all oral and written matter presented in response to the proposal, 29 CFR Part 1500 is amended in the manner set out below, effective January 1, 1968.

In the table of contents and text of Part 1500, immediately subsequent to § 1500.69 (Reserved) a new Subpart E–1 is established as follows:

Subpart E–1—Occupations in Agriculture Particularly Hazardous for the Employment of Children Below the Age of 16

Sec.
1500.70 General.
1500.71 Interim determinations.

AUTHORITY: The provisions of this Subpart E–1 issued under 29 U.S.C. 213, 216.

Subpart E–1—Occupations in Agriculture Particularly Hazardous for the Employment of Children Below the Age of 16

§ 1500.70 General.

(a) *Higher standards.* Nothing in this subpart shall authorize noncompliance with any Federal or State law, regulation, or municipal ordinance establishing a higher standard. If more than one standard within this subpart applies to a single activity the higher standard shall be applicable.

(b) *Definition.* As used in this subpart, the term "agriculture" shall mean farming in all its branches, including among other things the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in section 15(g) of the Agricultural Marketing Act, as amended), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.

(c) *Exception.* This subpart shall not prohibit the employment of a child below the age of 16 by his parent or by a person standing in the place of his parent on a farm owned or operated by such parent or person.

(d) *Student-learners.* The findings in this subpart shall not apply to persons employed as vocational agriculture student-learners when all of the following requirements are met: (1) The student-learner is enrolled in a course of study and training in a cooperative vocational education training program in agriculture under a recognized State or local educational authority or in a course of study in a substantially similar program conducted by a private school and; (2) such student-learner is employed under a written agreement which provides: (i) That the work of the student-learner in the occupations declared particularly hazardous shall be incidental to his training; (ii) that such work shall be intermittent and for short periods of time, and under the direct and close supervision of a qualified and experienced person; (iii) that safety instructions shall be given by the school and correlated by the employer with on-the-job training and; (iv) that a schedule of organized and progressive work processes to be performed on the job shall have been prepared. Each such written agreement shall contain the name of the student-learner, and shall be signed by the employer and a person authorized to represent the school. Copies of each agreement shall be kept on file by both the school and the employer. This exemption for the employment of student-learners may be revoked in any individual situation where it is found that reasonable precautions have not been observed for the safety of minors employed thereunder.

(e) *Applications for exclusion.* Any person or organization may at any time file with the Secretary of Labor written application for exclusion from certain findings in this subpart of work pursuant to an educational or training program or portion thereof. Such an application shall identify the program, number of youth enrolled, and provisions of this subpart from which exclusion is sought. It shall describe the program, including the safety training and supervision the minors will receive. It shall be signed and give the title of any person who signs on behalf of an organization.

§ 1500.71 Interim determinations.

(a) *Effective period.* The determinations in this section are made on an interim basis pending a study in greater depth of the occupations in agriculture particularly hazardous for the employment of children below the age of 16. This section shall expire January 1, 1970 unless this paragraph is amended or revoked after further proceedings of the type presently described in Subpart D of this part.

(b) *Finding and declaration of fact.* Subject to § 1500.70 and for the period provided in paragraph (a) of this section, the following occupations in agriculture are particularly hazardous for the employment of children below the age of 16:

(1) Handling or applying anhydrous ammonia, organic arsenic herbicides, organic phosphate pesticides, halogenated hydrocarbon pesticides, or heavy-metal fungicides, including cleaning or decontaminating equipment used in application or mixing of such chemicals.

(2) Handling or using a blasting agent. For the purpose of this subparagraph, the term "blasting agent" shall

include explosives such as, but not limited to, dynamite, black powder, sensitized ammonium nitrate, blasting caps, and primer cord.

(3) Serving as flagman for aircraft.

(4) Working as—

(i) Driver of a truck or automobile on a public road or highway.

(ii) Driver of a bus.

(5) Operating, driving, or riding on a tractor (track or wheel) over 20-belt horsepower, or attaching or detaching an implement or power-take-off unit to or from such tractor while the motor is running.

(6) Operating or riding on a self-unloading bunk feeder wagon, a self-unloading bunk feeder trailer, a self-unloading forage box wagon, a self-unloading forage box trailer, a self-unloading auger wagon, or a self-unloading auger trailer.

(7) Operating or riding on a dump wagon, hoist wagon, fork lift, rotary tiller (except walking type), or power-driven earthmoving equipment or power-driven trenching equipment.

(8) Operating or unclogging a power-driven combine, field baler, hay conditioner, corn picker, forage harvester, or vegetable harvester.

(9) Operating, feeding, or unclogging any of the following machines when power-driven; Stationary baler, thresher, huller, feed grinder, chopper, silo filler, or crop dryer.

(10) Feeding materials into or unclogging a roughage blower or auger conveyor.

(11) Operating a power-driven post-hole digger or power-driven driver.

(12) Operating, adjusting, or cleaning a power-driven saw.

(13) Felling, bucking, skidding, loading, or unloading timber with a butt diameter of more than 6 inches.

(14) Working from a ladder or scaffold at a height over 20 feet.

(15) Working inside a gas-tight type fruit enclosure, gas-tight type grain enclosure or gas-tight type forage enclosure, or inside a silo when a top unloading device is in operating position.

(16) Working in a yard, pen, or stall occupied by a dairy bull, boar, or stud horse.

Signed at Washington, D.C., this 1st day of November 1967.

W. WILLARD WIRTZ,
Secretary of Labor.

[F.R. Doc. 67-13163; Filed, Nov. 6, 1967; 8:51 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 821—OFFICE OF THE POSTMASTER GENERAL AND DEPUTY POSTMASTER GENERAL

PART 822—BUREAUS AND OFFICES

Office of International Postal Affairs and Bureau of Operations

The organizational statement of the Post Office Department is amended as follows:

I. Section 821.6 is reorganized and redesignated as the Office of International Postal Affairs. This office is the Department's focal point for all international affairs relationships.

§ 821.6 Office of International Postal Affairs.

(a) *Director.* (1) Provides expert advice to the Postmaster General/Deputy Postmaster General in making policy decisions affecting international postal affairs.

(2) Participates in and directs representation of the Department in its postal relationships with other countries, with the United Nations, and with international postal organizations.

(3) Participates in, or directs U.S. participation in meetings of international postal organizations or their suborganizational units. Serves as chairman or officer of suborganizational units as required or requested.

(4) Directs development of U.S. policy and position on proposals of other governments submitted to postal congresses; directs preparation of similar U.S. proposals.

(5) Directs the negotiation of postal agreements with other countries.

(6) Gives overall direction to the international exchange program; recommends U.S. postal officials (retired or active) to the Postmaster General/Deputy Postmaster General for assignments in other countries, when such assistance is requested.

(7) Furnishes overall policy guidance to those activities of the Department's Bureaus and Offices concerning training programs for visitors from other countries and in other areas affecting the Department's international postal affairs.

(8) Furnishes overall direction to those phases of the Postal Service Institute which apply to and affect the exchange program and the training of postal officials and students from other countries.

(9) Furnishes overall policy guidance in maintaining liaison with the Department of State, the Agency for International Development and other Federal departments and agencies in matters related to international postal affairs.

(10) Arranges for the designation of International Relations officers (IRO) as vacancies occur by establishing procedures to be followed by Bureaus and Offices in making recommendations. Provides advice to the Postmaster General in designating those officers.

(11) Directs the translation of official documents and other papers relating to the functions of the Office of International Postal Affairs.

(b) *UPU and PUAS Affairs Division.* (1) Furnishes advice and substantive information to the Director, Office of International Postal Affairs upon which the Postmaster General/Deputy Postmaster General can base policy decisions affecting international postal relations.

(2) Coordinates the continuing contact of the Department in its postal relations (except day-to-day operational work involved in such areas as finance, transportation, mailability, classification, insurance, registry, etc.) with other countries, with the United Nations, and with international postal organizations, including the Universal Postal Union (UPU) the Postal Union of the Americas and Spain (PUAS), and their suborganizational units. Coordinates any necessary contacts with international regional postal organizations, such as the African Postal Union (UPAF), the Arab Postal Union (APU), and the African and Malagasy Postal and Telecommunications Union (AMPTU).

(3) Develops and recommends to the Director U.S. policy and position on proposals of other governments submitted to postal congresses; develops and recommends similar U.S. proposals.

(4) Represents the United States and participates in meetings of international postal organizations or their suborganizational units, and serves as chairman or officer of those units as required or requested.

(5) Negotiates postal agreements with other countries.

(6) Coordinates, through Departmental Bureau and Office international relations officers, those activities having to do with the Department's international postal relations as they relate to the UPU and PUAS.

(7) Maintains active liaison with the Department of State and other Federal departments and agencies in matters concerning UPU and PUAS.

(c) *Exchange Program Division.* (1) Furnishes advice and information to the Director, Office of International Postal Affairs upon which the Postmaster General/Deputy Postmaster General can base policy decisions affecting the exchange program.

(2) Develops, coordinates, and directs the international visitor exchange and training program; recommends to the Director, U.S. postal officials (retired or active) for assignments in other countries.

(3) Actively directs and participates in those phases of the Postal Service Institute affecting the exchange program and the training of postal officials and students from other countries.

(4) Maintains active liaison with the Agency for International Development and other Federal agencies on matters concerning the exchange program.

NOTE: The corresponding Postal Manual section is 821.6.

II. In § 822.3 paragraph (e) (3) is revised to show that the Classification and Special Services Division in the Bureau of Operations will assume the responsibility for admissibility, classification, application of rates and fees for international mail, as well as for international insured and registered mail, and related matter.

§ 822.3 Bureau of Operations.

* * * * *

(e) *Office of the Deputy Assistant Postmaster General—Postmasters and patron relations.* * * *

(3) *Classification and Special Services Division.* (i) Recommends policies, prescribes standards, and issues regulations for the management and control of the admissibility, classification, and application of rates and fees for domestic mail and the disposition of undeliverable mail.

(ii) Makes final departmental determination, subject to appeal and hearing under the Administrative Procedure Act, on sufficiency of applications for—

(*a*) Entry of newspapers and other periodical publications as second-class matter;

(*b*) Acceptance into the mail of controlled circulation publications and matter for use by the blind; and

(*c*) Granting of mailing privileges of news agents.

(iii) Directs the administration of all standards, regulations, and procedures established by the Universal Postal Convention, the Convention and Parcel Post Agreement of the Postal Union of the Americas and Spain, and bilateral agreements, as they affect classification, rates and fees, and related matter concerning the international mail service; recommends proposals for consideration at international postal congresses concerning such standards, regulations and procedures; directs the establishment of procedures relating to customs treatment of international and military mail and admissibility of such mail under controls established by other agencies of the Government.

(iv) Recommends policies and prescribes regulations governing the domestic c.o.d. and certified mail services, and the domestic and international registry and insurance services including filing, processing, and administrative settlement of indemnity claims arising therefrom; the operation of the post office lock box service; and the disposal of dead mail. Maintains controls over the manufacture, distribution and use of postage meter equipment.

(*a*) *Domestic Mail Classification Branch.* (*1*) Prescribes standards and regulations covering admissibility of matter to the mail, classification, and application of rates; addressing, preparation and packaging, and weight and size limitations for domestic free mail, official Government mail, use of penalty and franking privileges, and acceptance of mail for the Armed Forces.

(*2*). Prescribes the regulations and procedures for collection of postage by various permit methods, such as postage permit imprints and postage meter stamps, etc.; interprets the laws and regulations pertaining to refunds of postage.

(*3*) Performs staff work pertaining to the adequacy of applications for entry of newspapers and other periodical publications as second-class matter, acceptance into the mail of controlled circulation publications and matter for use by the blind, granting of mailing privileges to news agents, and authorization of nonprofit organizations to enter second- and bulk third-class matter at reduced postage rates.

(*4*) Administers provisions of law requiring filing and publication of statements of ownership, management, and circulation of second-class publications.

(*5*) Prescribes standards and regulations governing management and control of mail forwarding and return, disposition of undeliverable matter, exceptional dispatch of publisher's second-class mail, approval of additional mailing places for second-class publications, newspaper handling, mailing list correction, and handling of short-paid and unpaid mail.

(*6*) Administers the annual migratory waterfowl kill survey.

(*7*) Administers the annual alien address report program.

(*8*) Transportation of Radioactive Material and on the Advisory Committee formed by the Surgeon General to advise the Post Office Department regarding toxicity of materials when mailability is concerned.

(*b*) *International Mail Classification Branch.* (*1*) Administers standard and promulgates regulations applying the provisions of international conventions and agreements as they relate to classification, admissibility, addressing, preparation and packaging, size and weight limits, postage rates and special charges, forms used, recall or change of address, forwarding, and treatment of undeliverable, shortpaid, unpaid, and improperly accepted international mail. Administers regulations and procedures relating to refunds of postage, fees and charges, and to purchase, sale, and exchange of international reply coupons.

(*2*) Maintains liaison with Bureau of Customs, U.S. Treasury Department, relating to measures for submitting international and military mail for customs treatment; corresponds with postal authorities in other countries and with postal installations in the United States concerning makeup of mail subject to customs treatment, and initiates and administers regulations and procedures for postal service handling of such mail and for collection of duty thereon; maintains liaison with other agencies of the Government relative to application of their international control measures as may be applicable to shipments by mail.

(*3*) Corresponds with postal authorities in other countries concerning interpretation of provisions of international postal conventions and agreements as they apply to the operating aspects of the international mail service assigned as its responsibility. Informs the International Bureau of the Universal Postal Union and the International Office of the Postal Union of the Americas and Spain about conditions in the U.S. postal service for dissemination to other countries of the world.

(*4*) Develops material for informing the postal service and the public about international postage rates, fees, and other mailing conditions; collaborates with the Bureau of Finance and Administration concerning adjustments in international postage rates and fees and the Bureau of Transportation on any operational matters that might affect international mail transportation.

(*c*) *Special Mail Services Branch.* (*1*) Prescribes rules for the acceptance and handling of domestic registered, insured, special delivery, certified, c.o.d., and special handling mail, and for the application of the fees and other charges required by law, regulation, or conventions and agreements with other countries. Maintains liaison with other Government agencies and the Federal Reserve Board concerning use of the special mail services.

(*2*) Administers the laws, conventions and agreements under which postal insurance is paid for the loss or rifling of, or damage to, registered, insured, and c.o.d. mail. Maintains actuarial data and controls.

(*3*) Prescribes procedures and regulations governing the use of post office lockboxes.

(*4*) Develops and prescribes criteria for the placement in post offices of postage metering and vending equipment for stamps and other accountable stock.

(*5*) Prescribes standards and maintains controls over the manufacture, distribution and use of all postage meter equipment and the use of meter advertising dies.

(*6*) Administers the law and prescribes regulations for the authorization, use, and disposition of special cancellation dies used to print advertising slogans on postmarked mail.

(*7*) Administers the application of fees for special delivery and special handling mail.

(*8*) Administers the law under which certificates of mailing are issued for ordinary mail of any class, and for duplicate receipts for registered, insured, certified, and c.o.d. mail.

(*9*) Develops and prescribes procedures for the preparation and use of Parcel Post Zone Guides and the standardization of Parcel Post Zone Keys.

(*10*) Prescribes the regulations for treatment of dead mail and management of dead letter and dead parcel post branches.

* * * * *

NOTE: The corresponding Postal Manual section is 822.353.

(5 U.S.C. 301, 39 U.S.C. 501, 505)

TIMOTHY J. MAY,
General Counsel.

NOVEMBER 2, 1967.

[F.R. Doc. 67-13141; Filed, Nov. 6, 1967; 8:49 a.m.]

PART 822—BUREAUS AND OFFICES

Bureau of Transportation

The regulations of the Post Office Department are amended as follows:

I. In Part 822 change the "Bureau of Transportation, and International Services," to read "Bureau of Transportation" wherever it appears.

II. In § 822.4, *Bureau of Transportation and International Services* make the following changes:

Paragraph (f) (2) (viii) is amended to read as set forth below for clarification, paragraph (g) (7) is deleted, and paragraph (g) (6) is revised to read as follows:

§ 822.4 Bureau of Transportation.

* * * * *

(f) *Distribution and routing division.* • • •

(2) *Schemes and routing branch.* • • •

(viii) Develops policies and issues instructions for the handling of registered mail of unusual value, including the routing and protecting in transit.

• • • • • •

NOTE: The corresponding Postal Manual section is 822.463b.

(g) *International Services Division.* • • •

(6) Implements international postal agreements relating to transportation of mail and administers regulations resulting therefrom.

(7) [Deleted]

• • • • • •

NOTE: The corresponding Postal Manual sections are 822.477 and 822.47g, respectively.

(5 U.S.C. 301, 39 U.S.C 501, 505)

TIMOTHY J. MAY,
General Counsel.

OCTOBER 31, 1967.

[F.R. Doc. 67-13119; Filed, Nov. 6, 1967; 8:47 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4314]

[Nevada 051778]

NEVADA

Revocation of Air Navigation Site Withdrawal No. 213

By virtue of the authority contained in section 4 of the act of May 24, 1928 (45 Stat. 729; 49 U.S.C. 214), it is ordered as follows:

1. The departmental order of December 13, 1943, which withdrew the following described public land as Air Navigation Site Withdrawal No. 213, is hereby revoked:

MOUNT DIABLO MERIDIAN

T. 21 N., R. 46 E.,
Sec. 26, S½NW¼NW¼SE¼, N½SW¼NW¼SE¼.

The area described contains 10 acres in Lander County.

The land is located on the east side of northern Reese River Valley, approximately 10 miles southeast of Battle Mountain, Nev.

2. The lands are withdrawn by a departmental order of October 24, 1919, as a part of Stock Driveway Withdrawal No. 101, Nevada No. 26. They will be open to location under the mining laws, subject to the regulations in 43 CFR 3400.3, at 10 a.m. on December 6, 1967.

3. The land has been open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the Manager, Land Office, Bureau of Land Management, Reno, Nev.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

OCTOBER 31, 1967.

[F.R. Doc. 67-13112; Filed, Nov. 6, 1967; 8:46 a.m.]

[Public Land Order 4315]

[Nevada 051755]

NEVADA

Revocation of Airmail Beacon Site Withdrawal

By virtue of the authority contained in section 4 of the Act of May 24, 1928 (45 Stat. 729; 49 U.S.C. 214), it is ordered as follows:

1. Executive Order No. 4702 of August 10, 1927, which withdrew 160 acres in Nevada for an airmail beacon site, is hereby revoked so far as it affects the following described lands:

MOUNT DIABLO MERIDIAN

T. 19 S., R. 63 E.,
Sec. 4, S½SW¼NE¼.

The area described contains 20 acres in Clark County. Public Land Order No. 1630 of May 7, 1958, eliminated 140 acres from the withdrawal.

The land is located south of Apex, Nev. The topography is rough and rocky. Vegetative cover consists of typical desert shrubs.

2. At 10 a.m. on December 6, 1967, the land shall be open to operation of the public land laws generally, including the mining laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on December 6, 1967, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The land has been open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the Manager, Land Office, Bureau of Land Management, Reno, Nev.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

OCTOBER 31, 1967.

[F.R. Doc. 67-13113; Filed, Nov. 6, 1967; 8:46 a.m.]

[Public Land Order 4316]

[Idaho 822]

IDAHO

Revocation of Air Navigation Site Withdrawal

By virtue of the authority contained in section 4 of the act of May 24, 1928 (45 Stat. 729; 49 U.S.C. 214), as amended, it is ordered as follows:

1. The departmental order of January 24, 1935, withdrawing the following described land for use by the Department of Commerce in the maintenance of air navigation facilities, is hereby revoked:

BOISE MERIDIAN

T. 48 N., R. 4 E.,
Sec. 22, NW¼SW¼SE¼NE¼, SW¼NW¼SE¼NE¼, SE¼NE¼SW¼NE¼, SE¼SW¼NE¼.

The area described contains 17.50 acres in Shoshone County.

This steeply sloping, rocky, timbered tract lies on the north facing slope of a mountain top 1½ miles north of Wallace, Idaho. The commercial timber is medium to small-saw-timber comprised primarily of Douglas Fir, Grand Fir, Western Larch, and Western White Pine, with an understory of native brush, grasses, and forbs. The soils are shallow, rocky, typical of coniferous forest they support.

2. At 10 a.m. on January 31, 1968, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, and to the rights of the State of Idaho in an airways beacon it maintains upon the lands, with rights of access thereto. All valid applications received at or prior to 10 a.m. on January 31, 1968, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The State of Idaho has waived the preference right of application granted to certain States by R.S. 2276 as amended (43 U.S.C. 852).

3. The lands will be open to location under the U.S. mining laws at 10 a.m. on January 31, 1968. They have been open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Boise, Idaho.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

[F.R. Doc. 67-13113; Filed, Nov. 6, 1967; 8:47 a.m.]

[Public Land Order 4317]

[Utah 0146674; 826; 1836]

UTAH

Partial Revocation of Executive Order No. 8652

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Executive Order No. 8652 of January 28, 1941, which reserved the public lands within described areas in Utah for use of the Department of the Air Force as an aerial bombing and gunnery range, is hereby revoked so far as it affects the following described areas:

SALT LAKE MERIDIAN

T. 1 S., R. 18 W.,
Secs. 1, 3, 4, 5, 6, 7, 8, and 9.
T. 1 S., R. 19 W.,
Secs. 1, 3, 4, 5, 6, 7, and 8.
T. 2 S., R. 19 W.,
Secs. 3, 10, 13, 14, and 15.

The public lands in the areas described aggregate 11,376 acres, of which the following tracts have been restored by Public Land Order Nos. 4236 of June 22, 1967, and 4266 of September 6, 1967:

T. 1 S., R. 18 W.,
Sec. 7.
T. 1 S., R. 19 W.,
Sec. 12;
Sec. 14, N½;
Sec. 17, SE¼NE¼.

Aggregating 1,577 acres in Toole County.

2. Until 10 a.m. on January 31, 1968, the State of Utah shall have a preferred right of application to select the lands as provided by R.S. 2276 as amended (43 U.S.C. 852). After that time the lands shall be open to the operation of the public land laws generally, including the mining laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on January 31, 1968, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. A microwave relay station has been erected by the United States on lands in the southwest corner of the NE¼ of sec. 8, T. 1 S., R. 19 W. The United States also is maintaining obstruction lights on mountain peaks in secs. 17 and 18, T. 1 S., R. 19 W., and has constructed a water pipeline and reservoir over some of the lands for the Wendover Water System Annex. These improvements, together with sufficient land necessary for the maintenance and operation thereof, constitute an appropriation of the land by the United States and bar private appropriation thereof. The tracts, together with access ways, are identified upon the records of the Bureau of Land Management at Salt Lake City, Utah.

4. Secs. 4 to 8, and 17 and 18, T. 1 S., R. 19 W., are rolling desert foothills and mountains, with salt desert shrubs and a light understory of grasses. The rest of the lands are flat, with a high content of salt, and are devoid of vegetative growth.

The lands have been open to applications and offers under the mineral leasing laws.

Inquiries should be addressed to the Manager, Land Office, Bureau of Land Management, Salt Lake City, Utah.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

OCTOBER 31, 1967.

[F.R. Doc. 67-13114; Filed, Nov. 6, 1967; 8:47 a.m.]

[Public Land Order 4318]

[Montana 2106]

MONTANA

Reservation for Constructed Forest Service Road

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights and to the provisions of existing withdrawals (and except as provided in paragraph 2 hereof), the following described public lands are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, nor the disposal of materials under the Act of July 31, 1947 (61 Stat. 681; 30 U.S.C. 601-604), as amended, for use of the Department of Agriculture for the granting of easements for road rights-of-way as authorized by section 2 of the Act of October 13, 1964 (78 Stat. 1089; 16 U.S.C. 532, 533):

PRINCIPAL MERIDIAN
LOLO NATIONAL FOREST
Harvey Creek Road

T. 11 N., R. 14 W.,
Sec. 20, lot 3, SE¼SW¼.

A strip of land 60 feet in width, being 30 feet on each side of the centerline of Harvey Creek Road No. 307 in and through the above subdivisions as shown on a map or plat filed in the Regional Forester's office in Missoula, Mont., and the land office, Bureau of Land Management, Billings, Mont.

T. 11 N., R. 14 W.,
Sec. 20, NW¼SW¼.

A tract of land of variable width in the above subdivision in accordance with the figures and measurements as shown on a map or plat filed in the Regional Forester's office in Missoula, Mont., and the land office, Bureau of Land Management, Billings, Mont.

The areas described aggregate 3.64 acres in Granite County.

2. The jurisdiction of the Secretary of the Interior over the lands shall not otherwise be affected by this order. Entries may be allowed and disposals made of the lands under the public land laws, but any disposal shall be subject to the rights of the United States in the road, and if an easement has been granted for rights-of-way over said road, then subject also to such easement and to the rights of the easement holder, all of which rights shall be reserved in the instrument of conveyance.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

OCTOBER 31, 1967.

[F.R. Doc. 67-13142; Filed, Nov. 6, 1967; 8:49 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 6938]

PART 301—PROCEDURE AND ADMINISTRATION

Change in Location of Internal Revenue Service Center and Modification of Seal

In order to conform the Regulations on Procedure and Administration (26 CFR Part 301) under section 7514 of the Internal Revenue Code of 1954 to reflect the changes of location of the offices of the Directors, Internal Revenue Service Center, Central Region, and North-Atlantic Region, from Cincinnati, Ohio, and Lawrence, Mass., respectively, to Covington, Ky., and Andover, Mass., respectively, and in order to modify the seals of office for the directors of such internal revenue service centers, such regulations are amended as follows:

Section 301.7514-1 is amended by revising paragraph (a)(5)(ii) to read as follows:

§ 301.7514-1 Seals of office.

(a) *Establishment of seals.* • • •

(5) *Directors of internal revenue service centers.* • • •

(ii) The offices of director of internal revenue service center for which seals are established in subdivision (i) of this subparagraph are as follows:

Director, Internal Revenue Service Center, Central Region, Covington, Ky.
Director, Internal Revenue Service Center, Mid-Atlantic Region, Philadelphia, Pa.
Director, Internal Revenue Service Center, Midwest Region, Kansas City, Mo.
Director, Internal Revenue Service Center, North-Atlantic Region, Andover, Mass.
Director, Internal Revenue Service Center, Southeast Region, Chamblee, Ga.
Director, Internal Revenue Service Center, Southwest Region, Austin, Tex.
Director, Internal Revenue Service Center, Western Region, Ogden, Utah.

Because this Treasury decision constitutes a general statement of policy and establishes rules of Treasury Department practice and procedure, it is found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under section 553(b) of title 5 of the United States Code, or subject to the effective date limitation of subsection (d) of such section.

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

Approved: November 2, 1967.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

[F.R. Doc. 67-13128; Filed, Nov. 6, 1967; 8:48 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission and Department of Transportation

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. 253]

PART 103—CARRIER AGREEMENTS RELATING TO RATES, FARES, ETC.

Public Notice of Tariff Publication Proposals

Order. At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 24th day of October, 1967.

Notice of independent action—regulations governing the giving of public notice of tariff publication proposals by individual carriers where publication is to be effected by a rate conference.

It appearing, that by notice and order of September 21, 1966, published on page 13392 of the FEDERAL REGISTER issue of October 15, 1966, the Commission instituted this proceeding under sections 5a and 12(1) of Part I of the Interstate Commerce Act, to inquire into the operations of conferences, bureaus, committees, and other organizations operating pursuant to approved agreements by this Commission in accordance with the provisions of section 5a, with a view to determining whether it is necessary and desirable to adopt rules and regulations requiring them to establish uniform procedures for giving public notice of proposals initiated as the independent action of a member of such organizations but in which other members are given the opportunity to join;

And it further appearing, that the Commission, on the date hereof, has made and filed its report herein setting forth the basis for its conclusions and findings, which report is hereby referred to and made a part hereof; therefore:

It is ordered, That Part 103 of Chapter I, Subtitle B, of Title 49 of the Code of Federal Regulations be amended by adding a new § 103.5, reading as follows:

§ 103.5 Public notice.

When independent action is announced and tariff publication is to be made by a publishing agent operating pursuant to an agreement under section 5a of the Interstate Commerce Act, notification thereof will be given by the agent to the same extent and in the same manner that the agent gives notice of actions proposed under procedures for collective consideration of the parties to the agreement; and no other joint or collective procedures under the agreement are thereby invoked.

(Sec. 12, 24 Stat. 383, as amended; 49 U.S.C. 12. Interpret or apply sec. 1, 62 Stat. 472; 49 U.S.C. 5b)

It is further ordered, That this addition will become effective on November 15, 1967.

And it is further ordered, That notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing with the Director, Office of the Federal Register.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13146; Filed, Nov. 6, 1967; 8:49 a.m.]

[No. 34861]

PART 114—ELECTRIC RAILWAYS; UNIFORM SYSTEM OF ACCOUNTS

Miscellaneous Amendments

Order. At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 20th day of October 1967.

On August 19, 1967, notice of proposed rule making regarding proposed amendments of the Uniform System of Accounts for Electric Railways, pertaining to the accounting treatment of extraordinary and prior period items in the determination of net income, was published in the FEDERAL REGISTER (32 F.R. 12008). After consideration of all such relevant matter as was submitted by interested persons, the amendments as so proposed are hereby adopted.

It is ordered, That the amendments to Part 114 as proposed are adopted subject to the following changes:

1. In the last sentence of paragraph (a), instruction 114.01–6, the words "ordinary income accounts" are changed to read "ordinary income are to be entered directly in the income accounts".

2. In the first sentence of § 114.01–6, the words "value of the carrier" are changed to read "value to the carrier".

It is further ordered, That these amendments are effective January 1, 1967.

And it is further ordered, That service of this order shall be made on all Electric Railways which are affected hereby and notice thereto shall be given the general public by depositing a copy of this order in the Office of the Secretary of the Commission at Washington, D.C., and by filing the order with the Director, Office of the Federal Register.

(Secs. 12, 20, 24 Stat. 383, 386, as amended; 49 U.S.C. 12, 20)

By the Commission, Division 2.

[SEAL] H. NEIL GARSON, *Secretary.*

I. The Table of Contents is amended as follows:

(a)

From		To
CHANGE		
114.01–6	Delayed items.	114.01–6 Extraordinary and prior period items.
114.02–3	Delayed items.	114.02–3 Extraordinary and prior period items.
114.03–2	Delayed items.	114.03–2 Extraordinary and prior period items.
114.306	Miscellaneous credits.	114.306 Other credits to earned surplus.
114.317	Miscellaneous debits.	114.317 Other debits to earned surplus.

(b) The following lines are deleted:

114.51–2	Retirements; power.
114.212–1	Delayed income credits.
114.226	Income applied to sinking and other reserve funds.
114.227	Income appropriated for investment in physical property.
114.228	Miscellaneous appropriations of income.
114.229	Delayed income debits.
114.312	Stock discount extinguished through surplus.
114.419	Retirements.

(c) After Income Accounts add:

ORDINARY ITEMS

(d) The following lines are added after § 114.225:

EXTRAORDINARY AND PRIOR PERIOD ITEMS

114.270	Extraordinary items (net).
114.280	Prior period items (net).
114.290	Income taxes on extraordinary and prior period items.

II. Operating expenses; instructions and Accounts Amended:

Item No. 1. Section 114.01–6 is revised to read as follows:

§ 114.01–6 Extraordinary and prior period items.

(a) All items of profit and loss recognized during the year are includible in ordinary income except nonrecurring items which in the aggregate for the same class are both material in relation to operating revenues and ordinary income, and are clearly not identified with or do not result from the usual business operations for the year. Important items of the kind which occur from time to time and which, when material in amount, are to be excluded from ordinary income are those resulting from unusual sales of property and investment securities other than temporary cash investments, from company bonds, reacquired, from change in the application of accounting principles, and from prior period items (other than ordinary adjustments of a recurring nature). Material items are those which, unless excluded from ordinary income, would distort the accounts and impair the significance of ordinary income for the year. Items so excludible from ordinary income are to be entered directly in the income accounts provided for extraordinary and prior period items upon approval of the Commission.

(b) Adjustments, constituting items of a character typical of customary business activities or representing corrections or refinements resulting from the natural use of estimates inherent in the accounting process, shall not be considered extraordinary or prior period items regardless of amount.

(c) In determining materiality, items of a similar nature should be considered in the aggregate; dissimiliar items should be considered individually. As a general standard, an item to qualify for inclusion as an extraordinary or prior period item shall exceed one percent of total operating revenues and ten percent of ordinary income for the year.

(d) Ordinary delayed items and adjustments arising during the current year which are applicable to or related to transactions of prior years shall be included in the same accounts which would have been charged or credited if the item had been taken up or adjusted in the period to which it pertained. Ordinary delayed items exeludes items of the character described in paragraph (a).

Item No. 2. The first sentence of § 114.01–8 *Salvage and value of material removed*, is revised to read as follows: "As used in this system of accounts, the terms 'salvage' and 'value of material removed' include the value to the carrier (not to exceed cost, estimated if not known), recovered or removed in the process of repairing, renewing, replacing or abandoning roadway, structures, and equipment."

Item No. 3. The last sentence of § 114.01–9, "Insurance recovered" is deleted.

Item No. 4. Section 114.01–10 *Property retired*, is amended by revising the first sentence of the second paragraph as follows: "When the amount chargeable to operating expenses in connection with the retirement of nondepreciable property is so material that its inclusion would distort the ordinary income for the year, the service value shall be recorded in account 270, 'Extraordinary items', when authorized by the Commission. See instruction 1–6."

Item No. 5. The last sentence of the second paragraph of § 114.01–14 *Depreciation*, is revised as follows: "The carrier may request, or the Commission may direct, that special accounting be applied in situations causing undue inflation or deflation of depreciation reserves, such as premature or unusual retirements or sales of depreciable property, or related insurance recoveries. A carrier's request for special accounting shall contain full particulars concerning the situation, including the basis for its proposal. Alternative accounting techniques shall be applied to the extent approved or directed by the Commission."

Item No. 6. Section 114.28–2 *Retirements; way and structures*, is revised to read as follows:

§ 114.28–2 Retirements; way and structures.

(a) This account shall include the service value of nondepreciable way and structure retired and not replaced, the ledger value of which is credited to account 401, "Road and equipment". It shall also include the service value of nondepreciable property which the carrier has been authorized by the Commission to charge to operating expenses in anticipation of its ultimate retirement from service.

(b) When the amounts referred to in paragraph (a) of this account are sufficiently large to constitute an extraordinary item, pursuant to section 114.01–6, they shall be credited to account 270, "Extraordinary items".

Item No. 7. Section 114.51–2 *Retirements; power*, is deleted.

Item No. 8. Section 114.0–7 *Accounts for small carriers, Class II*, is amended by deleting line 51–2, "Retirements—Power."

Item No. 9. Section 114.0–8 *Accounts for small carriers, Class III*, is amended by deleting line 51–2, "Retirements—Power."

III. Operating revenues; instructions amended:

Item No. 1. Section 114.02–3 is revised as follows:

§ 114.02–3 Extraordinary and prior period items.

See § 114.01–6 *Extraordinary and prior period items.*

IV. Income instructions and accounts amended:

Item No. 1. Section 114.03–2 is revised as follows:

§ 114.03–2 Extraordinary and prior period items.

See § 114.01–6 *Extraordinary and prior period items.*

Item No. 2. The last sentence of § 114.03–4 *Income from sinking and reserve funds*, is deleted.

Item No. 3. Section 114.03–6 *Form of income statement*, is amended as follows:

(a) Add the caption "Ordinary Items" above "Operating Income".

(b) Delete line 212–1, "Delayed income credits" and line 229, "Delayed income debits".

(c) Delete all lines between "Total deductions from gross income", and "Income Accounts" and add the following line items:

ORDINARY INCOME

EXTRAORDINARY AND PRIOR PERIOD ITEMS

270	Extraordinary items (net)
280	Prior period items (net)
290	Income taxes on extraordinary and prior period items.
	Total extraordinary and prior period items.
	Net income (or loss).

Item No. 4. Above § 114.201 *Railway operating revenues*, add center caption "Ordinary Items" between "Income Accounts" and "Credit".

Item No. 5. Section 114.212 *Miscellaneous income*, is amended by adding the following: Among the items which shall be included in this account are:

Profits from sale or transfer of land.
Profits from sale of investment securities.
Profits for sale or retirement of property assignable to account 404, "Miscellaneous physical property".
Unreleased premiums on funded debt securities reacquired before maturity.
Cancellation of balance sheet accounts representing unclaimed wages and vouchered accounts written off because of inability to locate creditors.
Credit from adjustments to bring funded debt securities issued or assumed to par when reacquired at less than par.
Collection of old accounts previously written off to profit and loss.

When the profits or adjustments resulting from any of the first four items are of an amount sufficiently large to constitute extraordinary items, pursuant to instruction 1–6, such profit or proceeds shall be credited to account 270, "Extraordinary Items."

Item No. 6. Section 114.212–1 *Delayed income credits*, is deleted.

Item No. 7. The first paragraph of § 114.215 *Taxes assignable to transportation operations*, is designated paragraph (a) and the next two paragraphs are revised to read as follows:

* * * * *

(b) The taxes on leased property shall be included in this account by the carrier obligated to assume such expenses under the terms of the lease.

(c) Monthly accruals of income taxes applicable to ordinary income shall be included in this account. See texts of account 290, "Income taxes on extraordinary and prior period items", account 306, "Other credits to earned surplus", and account 317, "Other debits to earned surplus", for recording other income tax consequences.

(d) Details pertaining to the income tax consequences of other unusual and significant items, and also cases where tax consequences are disproportionate to related amounts included in income accounts, shall be submitted to the Commission for consideration and decision as to proper accounting.

(e) Income taxes which are refundable or reduced as the result of carry-back or carry-forward of operating loss shall be credited to this account, if a carry-back, in the year in which the loss occurs, or if a carry-forward, in the year in which such loss is applied to reduce taxes. However, when the amount constitutes an extraordinary item, pursuant to section 114.01–6, it shall be included in account 280, "Prior period items".

Item No. 8. Section 114.225 *Miscellaneous debits*, is amended by adding the following: "Among other items which shall be included in this account are:

Losses from sale or transfer of land.
Losses from sale of investment securities.
Losses from sale or retirement of property assignable to account 404, "Miscellaneous physical property".
Unextinguished discount on funded debt securities reacquired before maturity.
Debits from adjustments to bring funded debt securities issued or assumed to par when reacquired at less than par.
Payment of old accounts previously written off to profit and loss.

When the profits or adjustments resulting from any of the first four tabulated items are of an amount sufficiently large to constitute extraordinary items, pursuant to instruction 1–6, such profits or proceeds shall be credited to account 270, "Extraordinary items"."

Item No. 9. Sections 114.226 to 114.229 are deleted.

Item No. 10. The system of accounts following § 114.225 is amended by adding the following:

EXTRAORDINARY AND PRIOR PERIOD ITEMS

§ 114.270 Extraordinary items (net).

(a) This account shall include extraordinary items accounted for during the current accounting year in accordance with § 114.01–6, upon approval of the Commission. Among the items which shall be included in this account are:

Net gain or loss on sale of land used for transportation purposes and of noncarrier property.

Net gain or loss on sale of securities acquired for investment purposes, and charges to write down the ledger value of such securities because of impairment of value.

Net gain or loss on reacquisition of company bonds.

Loss on retirement of transportation property because of abandonment or other cause for which depreciation reserve has not been provided.

Changes in application of accounting principles.

(b) Income tax consequences of charges and credits to this account shall be included in account 290, "Income taxes on extraordinary and prior period items".

(c) This account shall be maintained in a manner sufficient to identify the nature and gross amount of each debit and credit.

§ 114.280 Prior period items (net).

(a) This account shall include unusual delayed items accounted for during the current accounting year in accordance with the text of § 114.01–6, upon approval of the Commission. Among the items which shall be included in this account are:

Unusual adjustments, refunds or assessments of income taxes of prior years.

Unusual adjustments of reserves of prior years determined to be excessive or deficient.

Similar items representing transactions of prior years which are not identifiable with or do not result from business operations of the current year.

(b) Income tax consequences of charges and credits to this account shall be included in account 290, "Income taxes on extraordinary and prior period items".

(c) This account shall be maintained in a manner sufficient to identify the nature and gross amount of each debit and credit.

§ 114.290 Income taxes on extraordinary and prior period items.

This account shall include the estimated income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which, for accounting purposes, are classified as unusual and extraordinary and are includible in account 270, "Extraordinary items", or 280 "Prior period items", as appropriate.

V. Earned surplus instructions and accounts amended:

Item No. 1. Section 114.306 *Miscellaneous credits*, is revised to read as follows:

§ 114.306 Other credits to earned surplus.

(a) This account shall include other credit adjustments, net of assigned income taxes, not provided for elsewhere in this system but only after such inclusion has been authorized by the Commission.

(b) The records supporting entries in this account shall be so maintained that an analysis thereof may be readily made available.

Item No. 2. Section 114.312 *Stock discount extinguished through surplus*, is deleted.

Item No. 3. Section 114.317 *Miscellaneous debits*, is revised to read as follows:

§ 114.317 Other debits to earned surplus.

(a) This account shall include (1) losses on resale of reacquired capital stock, (2) charges which reduce or write off discount on capital stock issued by the company, and (3) in pooling of equity interests situations, the excess of the value of the surviving company's capital stock over the aggregate total of the capital stock of the separate companies before such merger or consolidation, but only to the extent that capital surplus is not available for such purposes. (See § 114.05–2.)

(b) This account shall include other debit adjustments, net of assigned income taxes, not provided for elsewhere in this system, but only after such inclusion has been authorized by the Commission.

(c) The records supporting entries in this account shall be so maintained that an analysis thereof may be readily made available.

VI. General balance sheet instructions and accounts amended:

Item No. 1. The first sentence of the second paragraph of § 114.05–2 *Discount and premium on capital stock*, is revised to read as follows: "Entries in these accounts representing discounts shall be carried therein until offset (a) by premiums realized on subsequent sales of the same class of stock, (b) by assessments levied on the stockholders, (c) by charges to account 448, 'Unearned surplus', to the extent of the credit balance carried therein, (d) by charges to account 317, 'Other debits to earned surplus'; or discount may be retained in account 423–1, 'Discount on capital stock', until the stock to which the discount applies is reacquired or retired."

Item No. 2. The last sentence of the fourth paragraph of § 114.05–2 *Discount and premium on capital stock*, is revised to read as follows: "*Provided, however,* That the excess of a debit over the balance carried in unearned surplus shall be charged to account 317, 'Other debits to earned surplus'."

* * * * *

Item No. 3. The fourth paragraph of § 114.05–3 is revised to read as follows:

Except as provided in this section, the balance in each of the discount, expense, and premium accounts shall be carried therein until the reacquirements of the securities to which they relate, at which time the proportion (based on the ratio of the amount of funded debt reacquired to the actual outstanding before reacquirement) of discount, expense, and premium for the class of funded debt reacquired shall be cleared to account 212, "Miscellaneous income", account 225, "Miscellaneous debits", or to account 270, "Extraordinary items", as appropriate, in accordance with the text of these accounts.

Item No. 4. Section 114.05–7 *Form of general balance sheet statements*, is amended by deleting line 419, "Retirements".

Item No. 5. The note to § 114.401–3 *Reserve for depreciation—Road and equipment*, is deleted and the following paragraph is added:

A carrier may request, or the Commission may direct, that special accounting be applied in situations causing undue inflation or deflation of depreciation reserves, such as premature or unusual retirements or sales of depreciable property, or related insurance recoveries. A carrier's request for special accounting shall contain full particulars concerning the situation, including the basis for its proposal. Alternative accounting techniques shall be applied to the extent approved or directed by the Commission.

Item No. 6. The second paragraph of § 114.406–1 is revised to read as follows: "When such investments are written down, written off, sold, or otherwise disposed of at a loss, the losses sustained shall be charged to this account to the extent of the total credit balance in the account and the remainder, if any, shall be charged to account 225, 'Miscellaneous debits', or account 270, 'Extraordinary items', as appropriate."

Item No. 7. The second paragraph of § 114.418 *Discount on funded debt*, is revised to read as follows:

* * * * *

When an issue of funded debt, or any part thereof, is canceled and at the date of cancellation there is a balance of unamortized discount and expense relating thereto, the amount of such balance, together with any premium paid in retiring the debt, shall be charged to account 225, "Miscellaneous debits", or account 270, "Extraordinary items", as appropriate.

Item No. 8. Section 114.419 *Retirements*, is deleted.

Item No. 9. NOTE D of § 114.423 *Capital stock*, is revised to read as follows:

* * * * *

NOTE D: When par value capital stock is exchanged for capital stock without par value, any sums resting in discount, expense, and premium accounts with respect thereto shall be charged to account 448–1, "Paid-in surplus": *Provided*, That any debit in excess of the credit balance carried in that account shall be included in account 317, "Other debits to earned surplus".

Item No. 10. The second paragraph of § 114.440 *Premium on funded debt*, is revised to read as follows:

* * * * *

When an issue of funded debt or any part thereof is cancelled and at the date of cancellation there is a balance of unamortized premium relating thereto, the amount of such balance shall be credited to account 212, "Miscellaneous income",

or account 270, "Extraordinary items", as appropriate.

VII. Road and equipment instructions and accounts amended:

Item No. 1. The first paragraph of § 114.06–7 *Land sold or reclassed*, is revised to read as follows:

If any land the cost of which has been included in these accounts is sold, the appropriate account shall be credited with the amount at which such property stands charged therein at the time of the disposal, and the difference between the amount thus credited and the amount received from the sale or disposal of the property shall be included in account 212, "Miscellaneous income", account 225, "Miscellaneous debits", or account 270, "Extraordinary items", pursuant to § 114.01–6, as appropriate.

* * * * *

Item No. 2. The last sentence of Note B of § 114.50 *Engineering*, is amended to read as follows:

* * * * *

NOTE B: * * * If the project is continued, expenditures for all surveys in connection therewith shall then be transferred to this account, and, if abandoned, to appropriate income accounts.

[F.R. Doc. 67–13147; Filed, Nov. 6, 1967; 8:49 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 907]

NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Notice of Proposed Amendment of Rules and Regulations

Notice is hereby given that the Department is considering proposed amendments, as hereinafter set forth, to the rules and regulations (7 CFR 907.100 et seq.; Subpart—Rules and Regulations) of the Navel Orange Administrative Committee, currently in effect pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Consideration is also being given to making any amendments resulting from this notice effective on November 17, 1967, the time when the handling of the current crop of Navel oranges is expected to begin. The committee proposed that these changes be made prior to or at the time shipments start so that the records for the entire crop will reflect the new proposed weekly period.

The amendment of said rules and regulations was proposed by the Navel Orange Administrative Committee, established under the said marketing agreement and order as the agency to administer the terms and provisions thereof. The proposed amendments would (1) define the term week or weekly regulation period to mean the period from Friday through Thursday, and (2) make changes in the rules and regulations to make such rules and regulations in conformance with the new weekly period.

The proposed amendments are as follows:

1. Add a new paragraph (f) to § 907.100 *Definitions* reading as follows:

§ 907.100 Definitions.

* * * * *

(f) Whenever the term week or weekly appears in this Part 907, it shall mean the period from Friday through Thursday.

2. Amend § 907.111(d) to read as follows:

§ 907.111 Allotment loans.

* * * * *

(d) *Confirmation.* All allotment loans made on Saturday shall be confirmed as required by § 907.57 but not later than 5 p.m. on the following Monday.

§ 907.113 [Amended]

3. Delete the word "Monday" whenever it appears in § 907.113(b) and substitute in lieu thereof the word "Friday."

§ 907.120 [Amended]

4. Delete the word "Friday" whenever it appears in § 907.120(a) and substitute in lieu thereof the word "Wednesday."

§ 907.140 [Amended]

5. Delete the word "Monday" whenever it appears in § 907.140 and substitute in lieu thereof the word "Friday."

6. Amend § 907.142 (32 F.R. 7839) by designating the present provisions as paragraph (a) and adding thereto a new paragraph (b) reading as follows:

§ 907.142 Other reports.

* * * * *

(b) Each handler, upon request, shall furnish on NOAC Form No. 29, Inventory Report of Oranges Controlled, the date of inventory, variety, field boxes picked to date, estimated number of field boxes to be picked, field boxes in the house, rail cars and trucks loaded for Friday shipment in cartons, cartons in storage, cartons on the floor, loose fruit on hand converted to cartons, products fruit on hand converted to cartons, including date when he plans to complete picking. Such report shall be signed by the handler or by his authorized representative.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed amendment shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than November 11, 1967. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: November 1, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-13140; Filed, Nov. 6, 1967; 8:49 a.m.]

[7 CFR Part 989]

RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Proposed Modification of Free and Reserve Percentages Applicable to Natural Thompson Seedless Raisins for 1967–68 Crop Year

Notice is hereby given of a proposal to modify the preliminary free tonnage percentage and the preliminary reserve tonnage percentage applicable to standard natural (sun-dried) Thompson Seedless raisins acquired by handlers during the 1967–68 crop year (§ 989.225; 32 F.R. 14272). The modification would increase, from 60 percent to 80 percent, the preliminary free tonnage percentage and decrease, from 40 percent to 20 percent, the preliminary reserve tonnage percentage. The preliminary free tonnage and reserve tonnage percentages were designated, and the modification would be, pursuant to § 989.55 of the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989; 32 F.R. 12157, 12555, 12710), regulating the handling of raisins produced from grapes grown in California. The amending marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Section 989.222 (32 F.R. 14272) fixes 142,500 tons as the desirable free tonnage for natural Thompson Seedless raisins. The present preliminary free tonnage percentage of 60 percent was intended to release, based on the then estimated 1967 production of 155,000 tons of such varietal type, approximately 65 percent of the desirable free tonnage. Initial release of less than the desirable free tonnage is intended to prevent excessive supplies of free tonnage in the early part of the crop year from depressing field prices. A final free tonnage percentage which will tend to release the full desirable free tonnage of 142,500 tons is to be recommended by the Raisin Administrative Committee no later than February 15, 1968. Meanwhile, this program permits interim percentage changes before February 15 to release less than the full 142,500 tons.

Field prices to raisin producers now appear to be firmly established. The Committee has recommended, pursuant to § 989.54(b), an interim increase in the preliminary free tonnage percentage. The increase would permit handlers to use more of their raisin acquisitions as free tonnage and would permit earlier payment to producers on the additional free tonnage.

The California Crop and Livestock Reporting Service recently revised its estimate of the 1967 production of natural Thompson Seedless raisins from 155,000 tons to 164,000 tons. However, industry sources indicate that, mainly due to crop damage, the quantity of standard raisins of this varietal type will be closer to 155,000 tons than to 164,000 tons. Based on this information, designation of the preliminary free tonnage at 80 percent and the preliminary reserve percentage at 20 percent, as proposed, would release somewhat less than 90 percent of the desirable free tonnage of 142,500 tons.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposal should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the eighth day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection during regular business hours (7 CFR 1.27(b)).

The proposal is to revise § 989.225 to read as follows:

§ 989.225 Free and reserve percentages for the 1967–68 crop year.

The preliminary percentages of standard (sun-dried) Thompson Seedless raisins acquired by handlers during the crop year beginning September 1, 1967, which shall be free tonnage and reserve tonnage, respectively, are designated as follows: Preliminary free tonnage percentage, 80 percent; and preliminary reserve tonnage percentage, 20 percent.

Dated: November 1, 1967.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-13139; Filed, Nov. 6, 1967; 8:49 a.m.]

[7 CFR Part 1049]

[Docket No. AO 319-A10]

MILK IN INDIANAPOLIS, IND., MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Indianapolis, Ind., marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the third day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Preliminary statement. The hearing on the record of which the proposed amendment, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, was formulated, was conducted at Indianapolis, Ind., on October 5, 1967, pursuant to notice thereof issued September 19, 1967 (32 F.R. 13418).

The material issue on the record of the hearing relates to the elimination of location differentials for plants in Ohio.

Findings and conclusions. The following findings and conclusions on the material issue are based on evidence presented at the hearing and the record thereof:

The location of differential provisions should be revised to eliminate minus location adjustments on milk received at plants located in Ohio.

Under the present order, minus location adjustments apply at plants located 70 miles or more in any direction from Monument Circle in Indianapolis. Class I prices and blend (uniform) prices to producers are reduced 10 cents if the plant is 70 miles but less than 80 miles from Indianapolis, plus 1.5 cents for each additional 10 miles or fraction thereof.

Three producer associations, representing about 75 percent of the producers delivering to the market, joined in support of a proposal to eliminate the location differential for any plant located in the State of Ohio. The representative of the cooperatives testified that the higher prices to producers prevailing in Ohio markets causes price misalignment at a distributing plant at Greenville, Ohio, regulated by the Indianapolis order. Such plant presently has a minus location adjustment of 13 cents applicable because of its location in the 90–100-mile zone from Indianapolis. The cooperative operating the plant stated that the relatively low price level at this location has necessitated the payment of "premiums" to its producers over the Indianapolis minimum blend price for the zone to raise the plant's price to about the level of the Miami Valley, Ohio, market (formerly Dayton-Springfield market).

The Indianapolis marketing area includes 34 central Indiana counties, in an area extending from the Ohio-Indiana State line to the Indiana-Illinois boundary. Although the main concentration of Indianapolis regulated plants is in Indianapolis, several are located in 12 widely scattered cities from Greenville, Ohio, to Brazil, Ind., near the Illinois boundary.

The production area for Indianapolis order plants other than Greenville is either within the marketing area or primarily west and north of the marketing area. Such handlers generally draw supplies from more than 60 of the 92 counties in the State of Indiana, five counties in Illinois and about 12 counties in Wisconsin. This is an area where Class I prices and uniform prices tend to be less than in the Ohio markets. There are no location adjustments applicable at any of these plants other than Greenville.

In contrast, Greenville is located in Darke County, Ohio, an area where dairy farmers deliver to plants regulated by the Northwestern Ohio, Miami Valley, Ohio, Columbus, Ohio, and Greater Cincinnati markets, as well as to the Greenville plant. In December 1966, 85 percent of the farms of the 261 producers supplying the Greenville plant were located in the four Ohio counties of Darke, Mercer, Miami, and Shelby. The remaining 39 producers supplying the plant were from two nearby Indiana counties, Jay and Wayne. All such producer farms are located less than 50 miles from Greenville.

This distributing plant is the only one presently under the regulation which would be affected by the proposal although potentially other plants in Ohio might be in similar position. Most of the milk handled by the Greenville plant (over 86 percent in 1966) is used for fluid milk products. It packages milk for sale through outlets in both Indiana and Ohio. At the present time, over 70 percent of the fluid milk products at such plant is distributed within the Indianapolis marketing area, 15 percent in the Miami Valley, Ohio, Federal order market and the remainder in unregulated areas in Ohio.

Class I prices under the Ohio Federal orders generally have exceeded those under the Indianapolis order. For example, in 1966 the nearby Miami Valley, Ohio, order Class I price ($5.32) averaged 9 cents over the Indianapolis "base zone"[1] Class I price ($5.23). Class I prices in 1966 for all other Ohio orders also exceeded the Indianapolis Class I price.

When compared to the price at Greenville the difference is greater. For example, the Miami Valley, Ohio, Class I price for 1966 averaged 22 cents higher than the Indianapolis Class I price for the Greenville location. The Class I price at this location tends to run counter to prices in the Ohio markets east and southeast of Indianapolis since the latter increase gradually with distance from the heavy milk production areas of northern Indiana and Wisconsin.

A closer Class I price alignment with the Ohio markets is desirable. This is because of the competition for Class I sales between the Greenville plant and Miami Valley market plants both inside and outside the Miami Valley marketing area. As previously stated, Class I prices under the Miami Valley order for 1966 averaged 22 cents more than the Indianapolis Class I price at Greenville even though the Greenville plant is only 37 miles from Dayton. Only 9 cents difference will prevail under the provision adopted.

Within this area of Ohio milk can move directly from farms either to the Greenville distributing plant or to plants regulated by other Ohio Federal orders. Since quite comparable farm-to-plant hauling rates prevail for producers delivering to either the Greenville plant or such other plants, minus location adjustments for Ohio locations do not provide appropriate location values under the Indianapolis order for milk delivered to such locations. In 1966 the blend price for the Miami Valley order ($4.97) averaged 21 cents over the Indianapolis zone

[1] The area in which no location adjustments apply to plants—within 70 miles of Monument Circle, Indianapolis.

price at Greenville ($4.76). The average blend prices in 1966 for most other Ohio orders likewise exceeded the Indianapolis blend price.

The change herein adopted will not eliminate all differences in either Class I or blend prices between the Indianapolis order and the several nearby Ohio orders. However, such differences computed at the Greenville location will be reduced by 13 cents and will substantially improve price alignment among competing plants.

No opposition to the proposed amendment was presented. The proposal should be adopted.

Rulings on proposed findings and conclusions. A brief with proposed findings and conclusions was filed on behalf of certain interested parties. This brief, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended marketing agreement and order amending the order. The following order amending the order as amended regulating the handling of milk in the Indianapolis, Ind., marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended:

Section 1049.53(a) is revised to read as follows:

§ 1049.53 Location differentials to handlers.

(a) For producer milk which is received at a pool plant located outside the State of Ohio and 70 miles or more from Monument Circle in Indianapolis, Ind., by the shortest hard-surfaced highway distance as determined by the market administrator and which milk is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, and for other source milk for which a location adjustment credit is applicable, the price specified in § 1049.51(a) shall be reduced at a rate set forth in the following schedule.

	Rate per hundredweight (cents)
Distance (miles):	
70 but less than 80	10.0
For each additional 10 miles or fraction thereof	1.5

* * * * *

Signed at Washington, D.C., on November 2, 1967.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 67-13158; Filed, Nov. 6, 1967; 8:50 a.m.]

[7 CFR Part 1064]

MILK IN GREATER KANSAS CITY MARKETING AREA

Notice of Proposed Suspension of Certain Provisions of Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of certain provisions of the order regulating the handling of milk in the Greater Kansas City marketing area is being considered for a temporary period.

The provisions proposed to be suspended are related to the supply-demand adjustment to the Class I price.

This proposed suspension would temporarily suspend the supply-demand adjustor pending a public hearing on proposals to revise the presently effective provisions.

The specific provisions proposed to be suspended are:

(1) In § 1064.51(a), in the language preceding subparagraph (1), the words "and plus or minus a supply-demand adjustment of not more than 45 cents, computed as follows:"; and

(2) In § 1064.51(a), subparagraphs (1), and (2), and (3).

This action was requested by seven cooperative associations representing in excess of two-thirds of the producers supplying milk to the Greater Kansas City market. These associations contend that this suspension action is necessary to maintain orderly marketing conditions pending a public hearing to consider a proposal to revise the supply-demand adjustor.

The supply-demand adjustment for November 1967 is calculated to be minus 7 cents. The cooperative associations expect the supply-demand adjustor to continue to reduce the Class I price during the coming months. Additionally, the cooperatives indicate that suspension of supply-demand adjustments in nearby orders has created a Class I price alignment problem. They indicate that these factors jeopardize the supply of milk for the Greater Kansas City market.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 3 days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be in quadruplicate.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Signed at Washington, D.C., on November 2, 1967.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 67-13159; Filed, Nov. 6, 1967; 8:50 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 8499]

AIRWORTHINESS DIRECTIVES

Certain Bristol Siddeley de Havilland Model Gipsy Queen Series 70 Engines

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Bristol Siddeley de Havilland Model Gipsy Queen Series 70 Engines with crankshafts with modification 1399 (R.155), 1609 (R.259), 2289 (R.155 and R.259), 2931 (R.563 and R.564), or repair schemes R.155 and R.259 incorporated. There have been reports of failures of the Gipsy Queen 70 crankshafts due to cracks which could result in loss of the propeller. Since this condition is likely to exist or develop in other engines of the same type design, the airworthiness directive would require periodic inspection of the crankshafts for cracks, the replacement of cracked crankshafts, and the discontinuance of the inspections after the incorporation of Modification 2925 (R.550) which must be accomplished not later than the next engine overhaul.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before December 7, 1967, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

BRISTOL SIDDELEY. Applies to de Havilland Model Gipsy Queen Series 70 Engines with Crankshafts with Modifications 1399 (R.155), 1609 (R.259), 2289 (R.155 and R.259), 2931 (R.563 and R.564), or Repair Schemes R.155 and R.259 incorporated.

Compliance required as indicated unless already accomplished.

To prevent failure of the crankshaft front end that could result in loss of the propeller, accomplish the following:

(a) Within the next 400 hours' time in service after the effective date of this AD and thereafter at intervals not to exceed 400 hours' time in service from the last inspection, visually inspect the crankshaft for cracks, in accordance with Bristol Siddeley Technical News Sheet (TNS) G.Q. 70 No. 106, dated August 14, 1967, or later ARB-approved issue, or an FAA-approved equivalent.

(b) If cracks are found during the inspections required by paragraph (a), replace cracked crankshaft before further flight with an uncracked crankshaft, or incorporate Gipsy Modification 2926 (R.550). If Gipsy Modification 2925 (R.550) is not incorporated, inspect the replacement crankshaft in accordance with paragraph (a).

(c) If no cracks are found during the inspections required by paragraph (a), incorporate Modifications 2925 (R.550) at next overhaul.

(d) The repetitive inspections required by paragraph (a) may be discontinued after the incorporation of Gipsy Modification 2925 (R.550).

Issued in Washington, D.C., on October 31, 1967.

JAMES F. RUDOLPH,
Director, Flight Standards Service.

[F.R. Doc. 67-13129; Filed, Nov. 6, 1967; 8:48 a.m.]

[14 CFR Part 39]

[Docket No. 8808]

AIRWORTHINESS DIRECTIVES

British Aircraft Corporation Model BAC 1-11 200 and 400 Series Airplanes

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to British Aircraft Corporation Model BAC 1-11 200 and 400 Series airplanes. There has been an instance of inadvertent "stick push" which occurred during takeoff due to oleo relay failure. Since this condition is likely to exist or develop in other airplanes of the same type design, the airworthiness directive would require the modification of the stall protection system oleo relays by removing the links strapping the oleo relays and connecting the oleo relays in a series configuration.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before December 7, 1967, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

BRITISH AIRCRAFT. Applies to BAC 1-11 200 and 400 Series airplanes.

Compliance required as indicated unless already accomplished.

To prevent possible inadvertent "stick push" during takeoff resulting from oleo relay failure, accomplish the following:

Within the next 1,000 hours' time in service after the effective date of this AD, modify the stall protection system oleo relays by removing the links strapping the oleo relays and connecting the oleo relays in a series configuration, in accordance with British Aircraft Corp. BAC 1-11 Service Bulletin 24-PM 2784, dated August 28, 1967, or later ARB-approved issue, an FAA-approved equivalent.

Issued in Washington, D.C., on October 31, 1967.

JAMES F. RUDOLPH,
Director, Flight Standards Service.

[F.R. Doc. 67-13130; Filed, Nov. 6, 1967; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 66-WA-83]

POSITIVE CONTROL AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations which would expand positive control area so as to include several small areas along the United States/Canadian border which are not designated as positive control areas.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received within 45 days from publication in the FEDERAL REGISTER will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Positive control area is presently designated within the continental control area from flight level 240 to and including flight level 600 over the 48 conterminous States, excluding portions of the States of Washington, New Hampshire, Maine, North Dakota, South Dakota, Minnesota, Wisconsin, Michigan, and Texas, and excluding some of the islands and keys in the coastal waters of the United States. Small portions of the States of Washington, New Hampshire, and Maine have been excluded from positive control area since air traffic control jurisdiction of these portions is delegated to the Canadian Department of Transport. Airspace Docket No. 67-WA-16 was published in the FEDERAL REGISTER on September 20, 1967 (32 F.R. 13270), and effective on November 9, 1967, lowers the floor of existing positive control area to 18,000 feet MSL in the northeast quarter of the United States.

On July 7, 1966, the Canadian Department of Transport designated the Southern Control Area which expanded the Canadian positive control area southward to include all the airspace along the United States/Canadian border above flight level 230 up to and including flight level 450. It is desirable to maintain the continuity of positive control area along the United States/Canadian border within those small areas which presently are not designated as positive control area. Radar service is provided within these areas and air safety would be enhanced by maintaining the integrity of positive control service along the border. Therefore, it is proposed herein to designate as positive control area the airspace over those portions of the States of

Washington, New Hampshire, and Maine which are under the air traffic control jurisdiction of the Canadian Department of Transport. The vertical extent of such designation would be from 18,000 feet MSL up to and including flight level 600 over those portions of New Hampshire and Maine, and from flight level 240 up to and including flight level 600 over those portions of Washington. Specifically, § 71.193 would be changed as follows:

1. All between "latitude 48°30'00" N., longitude 124°45'00" W.; thence along the United States/Canadian border to" and "latitude 49°00'00" N., longitude 100°00'00" W.;" would be deleted.

2. All between "latitude 47°40'40" N., longitude 86°46'00" W.; thence along the United States/Canadian border to" and "latitude 44°48'00" N., longitude 66°-53'00" W.;" would be deleted.

3. All between "latitude 43°52'00" N., longitude 82°11'20" W.; thence along the United States/Canadian border to" and "latitude 44°48'00" N., longitude 66°-53'00" W.;" would be deleted.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on October 27, 1967.

T. McCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-13131; Filed, Nov. 6, 1967; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-EA-103]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a transition area in the vicinity of Tidioute, Pa., as follows:

The Tidioute, Pa., transition area would be designated as that airspace extending upward from 1,200 feet above the surface south of the Tidioute, Pa., VORTAC bounded by VOR Federal airways Nos. 115, 184, and the Youngstown, Ohio, 1,200-foot transition areas; and southeast of the Tidioute VORTAC bounded by VOR Federal airways Nos. 119, 184, and 188.

The proposed transition area would provide controlled airspace for aircraft executing holding patterns at the Tidioute, Pa., VORTAC and Cooksburg, Pa. intersection.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, JFK International Airport, New York 11430. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on October 26, 1967.

T. McCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-13132; Filed, Nov. 6, 1967; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-SW-58]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a transition area at Alva, Okla. The proposed transition area will provide airspace protection for aircraft executing approach/departure procedures proposed at Alva Muncipal Airport, Alva, Okla.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (32 F.R. 2148), the following transition area is added:

ALVA, OKLA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Alva Municipal Airport (lat. 36°46'00" N., long. 98°40'00" W.); within 2 miles each side of the 170° bearing (160° magnetic) from the Alva RBN (lat. 36°46'47" N., long. 98°40'34" W.), extending from the 5-mile radius area to 8 miles south of the RBN; and that airspace extending upward from 1,200 feet above the surface within an area bounded by a line beginning at lat. 36°50'30" N., long. 98°50'30" W., to lat. 36°34'40" N., long. 98°47'00" W., to lat. 36°37'00" N., long. 98°30'00" W., thence north via long. 98°30'00" W. to and west via the south boundary of V-190 to the southeast boundary of V-12, thence to point of beginning, excluding the portion within Federal airways.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Fort Worth, Tex., on October 25, 1967.

A. L. COULTER,
Acting Director, Southwest Region.

[F.R. Doc. 67-13133; Filed, Nov. 6, 1967; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-SW-67]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a transition area at Refugio, Tex. The proposed transition area will provide airspace protection for aircraft executing approach/departure procedures proposed at Tom O'Connor Field and Mellon Ranch Airport, Refugio, Tex.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Forth Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (32 F.R. 2148), the following transition area is added:

REFUGIO, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Tom O'Connor Field (lat. 28°20'04" N., long. 97°08'58" W.); within 2 miles each side of the 335° bearing (325° magnetic) from the Vidauri RBN (lat. 28°29'51" N., long. 97°10'-40" W.), extending from the 5-mile radius area to 8 miles northwest of the RBN; within 2 miles each side of the 039° (030° magnetic) bearing from the Refugio RBN (lat. 28°20'-27" N., long. 97°08'58" W.), extending from the 5-mile radius area to 8 miles northeast of the RBN; and within a 4-mile radius of Mellon Ranch Airport (lat. 28°16'15" N., long. 97°12'30" W.).

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Forth Worth, Tex., on October 26, 1967.

A. L. COULTER,
Acting Director, Southwest Region.

[F.R. Doc. 67-13134; Filed, Nov. 6, 1967; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-WE-66]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate controlled airspace in the Logan, Utah, terminal area.

Interested persons may participate in the proposed rule-making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 90007, Airport Station, Los Angeles, Calif. 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 5651 West Manchester Avenue, Los Angeles, Calif. 90045.

Having completed a comprehensive review of the airspace requirements for Logan-Cache Airport, it has been determined that transition areas are required at 700 feet above the surface, 1,200 feet above the surface, and 15,500 feet above mean sea level. The 700-foot transition area would provide controlled airspace protection for aircraft executing prescribed instrument procedures during operation below 1,500 feet above the surface. The 1,200-foot transition area would provide controlled airspace for aircraft executing prescribed instrument approach, departure and holding procedures at 1,500 feet, and higher, above the surface. The 15,500-foot transition area would provide lower radar vectoring altitudes for aircraft destined for Hill Air Force Base from the northeast and establish uniform continuity and compatibility with presently designated airway floors and transition areas.

In view of the foregoing, the FAA proposes the following airspace action:

In § 71.181 (32 F.R. 2147) the following transition area is added.

LOGAN, COLO.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Logan-Cache Airport (latitude 41°47'09" N., longitude 111°50'56" W.); that airspace extending upward from 1,200 feet above the surface bounded on the north by the south edge of V-4, on the east by longitude 111°40'-30" W., on the south by the north edge of V-288, on the west by the east edge of V-21; and that airspace extending upward from 15,500 feet MSL bounded on the northeast by the southwest edge of V-48, on the west by longitude 111°40'30" W., and on the south by the north edge of V-288.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (72 Stat. 749; 49 U.S.C. 1348).

Issued in Los Angeles, Calif., on October 26, 1967.

ARVIN O. BASNIGHT,
Director, Western Region.

[F.R. Doc. 67-13135; Filed, Nov. 6, 1967; 8:46 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR 1898]

OREGON

Notice of Proposed Classification of Public Lands for Multiple-Use Management

OCTOBER 31, 1967.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18) and the regulations in 43 CFR Parts 2410 and 2411, it is proposed to classify for multiple-use management the public lands within the area described below, together with any lands therein that may become public lands in the future. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. Publication of this notice has the effect of segregating the described lands from appropriation only under the agricultural land laws (43 U.S.C., Chs. 7 and 9; 25 U.S.C., sec. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171). However, the lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws.

3. The lands proposed to be classified are shown on a map designated "Oregon 1898, 2411.2: 36–020: May 1967," on file in the Burns District Office, Bureau of Land Management, Burns, Oreg., and the Land Office, Bureau of Land Management, 729 Northeast Oregon Street, Portland, Oreg. The description of the area is as follows:

WILLAMETTE MERIDIAN

HARNEY COUNTY

T. 18 S., R. 33½ E.,
Secs. 22 to 27, inclusive, and secs. 32 to 35, inclusive.
T. 18 S., R. 34 E.,
Secs. 16, 20 to 29, inclusive, and secs. 32 to 36, inclusive.
T. 18 S., R. 35 E.,
Secs. 19 to 35, inclusive.
T. 18 S., R. 36 E.,
Secs. 1 to 15, inclusive, and secs. 18 to 35, inclusive.
T. 19 S., R. 25 E.,
Secs. 8, 15, 28, and 32.
T. 19 S., R. 31 E.,
Sec. 2, secs. 11 to 14, inclusive, secs. 16, 24, 25, and 36.
T. 19 S., R. 32 E.,
Secs. 3 to 7, inclusive, secs. 17 to 22, inclusive, secs. 27 to 29, inclusive, and secs. 31 to 34, inclusive.
T. 19 S., R. 33½ E.,
Secs. 2, 3, 11, 12, 13, 14, secs. 16 to 20, inclusive, and secs. 24 to 36, inclusive.
T. 19 S., R. 34 E.,
Secs. 1 to 20, inclusive, secs. 12, 13, 15, 16, 17, secs. 20 to 29, inclusive, and secs. 31 to 36, inclusive.
T. 19 S., R. 35 E.,
Secs. 1 to 21, inclusive, secs. 23, 24, 26 to 34, inclusive, and sec. 36.
T. 19 S., R. 36 E.,
Secs. 1 to 18, inclusive, secs. 20 to 28, inclusive, secs. 34 and 35.
T. 20 S., R. 28 E.,
Secs. 33, 34, and 35.
T. 20 S., R. 29 E.,
Secs. 11 to 16, inclusive, secs. 20 to 28, inclusive, and secs. 31 to 35, inclusive.
T. 20 S., R. 30 E.,
Secs. 5 to 8, inclusive, secs. 17 to 23, inclusive, secs. 27 to 34, inclusive, and sec. 36.
T. 20 S., R. 32 E.,
Secs. 3 to 10, inclusive, secs. 20, 21, and 36.
T. 20 S., R. 33½ E.,
Secs. 1 to 15, inclusive, secs. 18 to 26, inclusive, secs. 28, 29, 33, 35, and 36.
T. 20 S., R. 34 E.,
Secs. 1 to 36, inclusive.
T. 20 S., R. 35 E.,
Secs. 1 to 5, inclusive, secs. 6 to 15, inclusive, secs. 17, 18, 19, 22, 25, and secs. 27 to 35, inclusive.
T. 20 S., R. 36 E.,
Secs. 1, 2, 3, 6, 7, 11, 12, 13, secs. 16 to 20, inclusive, and secs. 32 to 36, inclusive.
T. 21 S., R. 25 E.,
Sec. 36.
T. 21 S., R. 26 E.,
Secs. 1, 2, 3, 8, 11, 12, 13, 20, secs. 22 to 26, inclusive, secs. 28, 30, 31, 32, 34, 35, and 36.
T. 21 S., R. 27 E.,
Secs. 7 to 10, inclusive, secs. 17 to 22, inclusive, and secs. 28 to 32, inclusive.
T. 21 S., R. 28 E.,
Secs. 1, 2, 11, 12, 13, 24, and 25.
T. 21 S., R. 29 E.,
Secs. 1 to 16, inclusive, and secs. 17 to 35, inclusive.
T. 21 S., R. 30 E.,
Secs. 1 to 11, inclusive, secs. 13, 14, 16, 17, 18, 19, and secs. 22 to 36, inclusive.
T. 21 S., R. 31 E.,
Secs. 5 to 8, inclusive, secs. 13, 14, and secs. 16 to 36, inclusive.
T. 21 S., R. 32 E.,
Secs. 25, 26, 28, 30, and secs. 32 to 35, inclusive.
T. 21 S., R. 32½ E.,
Secs. 13, 24, 25, and secs. 27 to 36, inclusive.
T. 21 S., R. 33 E.,
Secs. 1 to 4, inclusive, secs. 9 to 16, inclusive, secs. 17, 18, 24, 26, and secs. 32 to 35, inclusive.
T. 21 S., R. 34 E.,
Secs. 1 to 4, inclusive, secs. 6 to 16, inclusive, and secs. 17 to 35, inclusive.
T. 21 S., R. 35 E.,
Secs. 1 to 15, inclusive, and secs. 17 to 36, inclusive.
T. 21 S., R. 36 E.,
Secs. 1 to 4 inclusive, and secs. 7 to 36, inclusive.
T. 22 S., R. 24 E.,
Sec. 10, secs. 13 to 16, inclusive, secs. 23 to 26, inclusive, and secs. 31 to 36, inclusive.
T. 22 S., R. 25 E.,
Secs. 1, 2, 3, 6 to 16, inclusive, secs. 17 to 24, inclusive, and secs. 26 to 34, inclusive.
T. 22 S., R. 26 E.,
Secs. 3 to 10, inclusive, secs. 16 to 20, inclusive, secs. 22, 23, 24, 26, 28, and 32.
T. 22 S., R. 27 E.,
Sec. 16 and secs. 19 to 36, inclusive.
T. 22 S., R. 28 E.,
Secs. 19, 30, and 31.
T. 22 S., R. 29 E.,
Secs. 1 to 16, inclusive, secs. 20, 21, 23, 24, 26, and 34.
T. 22 S., R. 30 E.,
Secs. 1 to 23, inclusive, secs. 27 to 30, inclusive, secs. 32, 33, and 34.
T. 22 S., R. 31 E.,
Secs. 2 to 15, inclusive, secs. 17 and 18.
T. 22 S., R. 32 E.,
Secs. 1, 2, 3, 5 to 12, inclusive, secs. 14, 17, 18, 19, 20, 30, and 32.
T. 22 S., R. 32½ E.,
Secs. 1 to 18, inclusive, secs. 21 to 24, inclusive, and secs. 26 to 29, inclusive.
T. 22 S., R. 33 E.,
Secs. 1 to 5, inclusive, secs. 7 to 10, inclusive, secs. 12, 14, 16, 18 to 20, inclusive, secs. 22, 24, 25, 26, 35, and 36.
T. 22 S., R. 34 E.,
Secs. 1 to 35, inclusive.
T. 22 S., R. 35 E.,
Secs. 1 to 11, inclusive, secs. 13, 15 to 20, inclusive, secs. 22 to 27, inclusive, sec. 30, and secs. 32 to 36, inclusive.
T. 22 S., R. 36 E.,
Secs. 1 to 36, inclusive.
T. 23 S., R. 24 E.,
Secs. 1 to 36, inclusive.
T. 23 S., R. 25 E.,
Secs. 1 to 36, inclusive.
T. 23 S., R. 26 E.,
Secs. 3 to 10, inclusive, secs. 17 to 22, inclusive, secs. 28 to 34, inclusive, and sec. 36.
T. 23 S., R. 26 E.,
Secs. 32, 34, and 36.
T. 23 S., R. 27 E.,
Secs. 2, 4, 8, 10, 12, 14, 16, 22, 24, and 36.
T. 23 S., R. 28 E.,
Sec. 1 and secs. 6 to 36, inclusive.
T. 23 S., R. 30 E.,
Secs. 1 to 36, inclusive.
T. 23 S., R. 33 E.,
Sec. 16, secs. 19 to 21, inclusive, secs. 28, 30, 31, and 32.
T 23 S., R. 33 E.,
Secs. 1 and 2.
T. 23 S., R. 34 E.,
Secs. 1, 2, 4, 5, 6, 8 to 17, inclusive, secs. 20 to 29, inclusive, and secs. 32 to 36, inclusive.
T. 23 S., R. 35 E.,
Secs. 1 to 4, inclusive, secs. 6, 8 to 16, inclusive, secs. 17, 18, 20 to 26, inclusive, and secs. 28 to 36, inclusive.
T. 23 S., R. 36 E.,
Secs. 1 to 36, inclusive.
T. 24 S., R. 24 E.,
Secs. 1 to 36, inclusive.
T. 24 S., R. 25 E.,
Secs. 1 to 7, inclusive, secs. 18, 19, and secs. 30 to 36, inclusive.
T. 24 S., R. 26 E.,
Secs. 1 to 17, inclusive, and secs. 19 to 36, inclusive.
T. 24 S., R. 27 E.,
Secs. 18, 20, 22, and secs. 25 to 36, inclusive.
T. 24 S., R. 28 E.,
Secs. 1 to 36, inclusive.
T. 24 S., R. 29 E.,
Secs. 2, 6, 8, 10, 14, 16, 18, 20, 22, 26, secs. 28 to 34, inclusive and sec. 36.
T. 24 S., R. 30 E.,
Secs. 6, 28, 30, 32, 34, and 36.

T. 24 S., R. 34 E.,
Secs. 1 to 5, inclusive, secs. 8 to 16, inclusive, secs. 20 to 29, inclusive, and secs. 32 to 34, inclusive.
T. 24 S., R. 35 E.,
Secs. 1 to 4, inclusive, secs. 6, 7, 8, 12, secs. 17 to 20, inclusive, secs. 29 to 32, inclusive and sec. 36.
T. 24 S., R. 36 E.,
Secs. 1 to 18, inclusive, and secs. 20 to 36, inclusive.
T. 25 S., R. 24 E.,
Secs. 1 to 16, inclusive, secs. 17, 18, 20 to 30, inclusive, and secs. 32 to 36, inclusive.
T. 25 S., R. 25 E.,
Secs. 1 to 36, inclusive.
T. 25 S., R. 26 E.,
Secs. 1 to 36, inclusive.
T. 25 S., R. 27 E.,
Secs. 1 to 36, inclusive.
T. 25 S., R. 28 E.,
Secs. 1 to 16 inclusive, secs. 18, 19, 23, 24, and 30.
T. 25 S., R. 29 E.,
Secs. 1 to 15, inclusive, secs. 17, 18, 20 to 29, inclusive, secs. 32, 33, 35, and 36.
T. 25 S., R. 30 E.,
Secs. 1 to 16, inclusive, and secs. 17 to 32, inclusive.
T. 25 S., R. 34 E.,
Secs. 3, 4, 10, 14, 18, 20, 22, 24, 26, 28, 30, and 34.
T. 25 S., R. 35 E.,
Secs. 5, 6, 8, 12, 14, 18, 30, 32, and 34.
T. 25 S., R. 36 E.,
Secs. 2, 3, 4, 6, 8, 10, 12, 14, 16, 18, 22, 24, 27, 28, 30, 32, and 34.
T. 26 S., R. 24 E.,
Secs. 1 to 7, inclusive, secs. 9 to 16, inclusive, secs. 19 to 25, inclusive, and secs. 27 to 36, inclusive.
T. 26 S., R. 25 E.,
Secs. 1 to 36, inclusive.
T. 26 S., R. 26 E.,
Secs. 1 to 36, inclusive.
T. 26 S., R. 27 E.,
Secs. 1 to 36, inclusive.
T. 26 S., R. 28 E.,
Secs. 5 to 8, inclusive, secs. 17 to 22, inclusive, and secs. 27 to 34, inclusive.
T. 26 S., R. 29 E.,
Secs. 1 to 5, inclusive, secs. 8 to 15, inclusive, secs. 17, 20 to 25, inclusive, 27, and 28.
T. 26 S., R. 30 E.,
Secs. 5, 6, 7, 18, 19, and 20.
T. 26 S., R. 32 E., south of Malheur Lake,
Secs. 23 to 26, inclusive, and sec. 35.
T. 26 S., R. 33 E.,
Sec. 3 and secs. 10 to 34, inclusive.
T. 26 S., R. 34 E.,
Secs. 1 to 5, inclusive, secs. 7, 8, 10 to 15, inclusive, secs. 17, 18, 20 to 29, inclusive, and secs. 31 to 35, inclusive.
T. 26 S., R. 35 E.,
Secs. 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, and secs. 24 to 36, inclusive.
T. 26 S., R. 36 E.,
Secs. 2, 4, 6, 8, 12, 18, 20, 22, 24, 26, 28, 30, 32, 33, 34, and 36.
T. 27 S., R. 24 E.,
Secs. 1 to 3, inclusive, and secs. 5 to 36, inclusive.
T. 27 S., R. 25 E.,
Secs. 1 to 36, inclusive.
T. 27 S., R. 26 E.,
Secs. 1 to 36, inclusive.
T. 27 S., R. 27 E.,
Secs. 1 to 36, inclusive.
T. 27 S., R. 28 E.,
Secs. 1 to 36, inclusive.
T. 27 S., R. 29 E.,
Secs. 5 to 9, inclusive, secs. 16 to 23, inclusive, and secs. 25 to 36, inclusive.
T. 27 S., R. 29½ E.,
Secs. 30, 31, 32, and 36.
T. 27 S., R. 30 E.,
Sec. 16 and secs. 19 to 36, inclusive.
T. 27 S., R. 31 E.,
Secs. 1, 2, 11 to 14, inclusive, 23 to 26, inclusive, and sec. 35.
T. 27 S., R. 32 E.,
Secs. 1 to 36, inclusive.
T. 27 S., R. 33 E.,
Secs. 1, 2, and secs. 4 to 36, inclusive.
T. 27 S., R. 34 E.,
Secs. 1 to 10, inclusive, secs. 17 to 21, inclusive, secs. 23, 26 to 34, inclusive, and sec. 36.
T. 27 S., R. 35 E.,
Secs. 1 to 15, inclusive, secs. 17, 18, and secs. 20 to 36, inclusive.
T. 27 S., R. 36 E.,
Secs. 1 to 5, inclusive, and secs. 7 to 35, inclusive.
T. 28 S., R. 24 E.,
Secs. 1 to 36, inclusive.
T. 28 S., R. 25 E.,
Secs. 1 to 36, inclusive.
T. 28 S., R. 26 E.,
Secs. 1 to 36, inclusive.
T. 28 S., R. 27 E.,
Secs. 1 to 36, inclusive.
T. 28 S., R. 28 E.,
Secs. 1 to 36, inclusive.
T. 28 S., R. 29 E.,
Secs. 1 to 36, inclusive.
T. 28 S., R. 29½ E.,
Secs. 1 to 11, inclusive, and secs. 13 to 36, inclusive.
T. 28 S., R. 29¾ E.,
Secs. 1 to 3, inclusive, secs. 11 to 14, inclusive, secs. 22 to 27, inclusive, secs. 34, 35, and 36.
T. 28 S., R. 30 E.,
Secs. 1 to 36, inclusive.
T. 28 S., R. 31 E.,
Secs. 1, 2, 3, 6, 7, secs. 10 to 15, inclusive, secs. 18, 19, 22 to 25, inclusive secs. 29 to 32, inclusive, and sec. 36.
T. 28 S., R. 32 E.,
Secs. 1 to 36, inclusive.
T. 28 S., R. 33 E.,
Secs. 1 to 20, inclusive, secs. 22 to 24, inclusive, secs. 26, 27, and secs. 29 to 35, inclusive.
T. 28 S., R. 34 E.,
Secs. 1 to 6, inclusive, secs. 10 to 16, inclusive, secs. 19 to 30, inclusive, and secs. 32 to 35, inclusive.
T. 28 S., R. 35 E.,
Secs. 1 to 19, inclusive, and secs. 21 to 36, inclusive.
T. 28 S., R. 36 E.,
Secs. 1 to 36, inclusive.
T. 29 S., R. 24 E.,
Secs. 1 to 36, inclusive.
T. 29 S., R. 25 E.,
Secs. 1 to 36, inclusive.
T. 29 S., R. 26 E.,
Secs. 1 to 36, inclusive.
T. 29 S., R. 27 E.,
Secs. 1 to 36, inclusive.
T. 29 S., R. 28 E.,
Secs. 1 to 36, inclusive.
T. 29 S., R. 29 E.,
Secs. 1 to 36, inclusive.
T. 29 S., R. 29½ E.,
Secs. 1 to 36, inclusive.
T. 29 S., R. 29¾ E.,
Secs. 1 to 3, inclusive, secs. 10 to 15, inclusive, secs. 22 to 27, inclusive, and secs. 34 to 36, inclusive.
T. 29 S., R. 30 E.,
Secs. 1 to 36, inclusive.
T. 29 S., R. 31 E.,
Secs. 1, 4 to 10, inclusive, 12, 15, 16, 19, 22, 23 to 33, inclusive, 35, and 36.
T. 29 S., R. 32 E.,
Secs. 2 to 11, inclusive, 14, 15, 16, 19, 20, 21, 23, 24, and secs. 26 to 36, inclusive.
T. 29 S., R. 33 E.,
Secs. 2 to 29, inclusive, and secs 32 to 36, inclusive.
T. 29 S., R. 34 E.,
Secs. 1 to 5, inclusive, and secs. 7 to 36, inclusive.
T. 29 S., R. 35 E.,
Secs. 1 to 36, inclusive.
T. 29 S., R. 36 E.,
Secs. 1 to 36, inclusive.
T. 30 S., R. 24 E.,
Secs. 1 to 36, inclusive.
T. 30 S., R. 25 E.,
Secs. 1 to 36, inclusive.
T. 30 S., R. 26 E.,
Secs. 1 to 36, inclusive.
T. 30 S., R. 27 E.,
Secs. 1 to 36, inclusive.
T. 30 S., R. 28 E.,
Secs. 1 to 36, inclusive.
T. 30 S., R. 29 E.,
Secs. 1 to 36, inclusive.
T. 30 S., R. 29½ E.,
Secs. 1 to 36, inclusive.
T. 30 S., R. 29¾ E.,
Secs. 1, 2, 10 to 15, inclusive, secs. 22 to 27, inclusive, and secs. 34 to 36, inclusive.
T. 30 S., R. 30 E.,
Secs. 1 to 15, inclusive and secs. 17 to 35, inclusive.
T. 30 S., R. 31 E.,
Secs. 1, 3 to 10, inclusive, 12, 15 to 23, inclusive, 25, 26, and secs. 28 to 36, inclusive.
T. 30 S., R. 32 E.,
Secs. 1 to 36, inclusive.
T. 30 S., R. 33 E.,
Secs. 1 to 3, inclusive, secs. 6 to 15, inclusive, secs. 17 to 22, inclusive, 34, and 35.
T. 30 S., R. 34 E.,
Secs. 1 to 17, inclusive, and secs. 19 to 35, inclusive.
T. 30 S., R. 35 E.,
Secs. 1 to 15, inclusive, and secs. 18 to 35, inclusive.
T. 30 S., R. 36 E.,
Secs. 1 to 29, inclusive, and secs. 31 to 36, inclusive.
T. 30½ S., R. 34 E.,
Secs. 25 to 31, inclusive, secs. 33, 34, and 35.
T. 31 S., R. 24 E.,
Secs. 1 to 36, inclusive.
T. 31 S., R. 25 E.,
Secs. 1 to 36, inclusive.
T. 31 S., R. 26 E.,
Secs. 1 to 36, inclusive.
T. 31 S., R. 27 E.,
Secs. 1 to 36, inclusive.
T. 31 S., R. 28 E.,
Secs. 1 to 36, inclusive.
T. 31 S., R. 29 E.,
Secs. 1, 2, and secs. 4 to 36, inclusive.
T. 31 S., R. 30 E.,
Secs. 1 to 36, inclusive.
T. 31 S., R. 31 E.,
Secs. 1, 2, and secs. 4 to 23, inclusive, and secs. 25 to 36, inclusive.
T. 31 S., R. 32 E.,
Secs. 1 to 24, inclusive, and secs. 26 to 35, inclusive.
T. 31 S., R. 32½ E.,
Secs. 1 to 5, inclusive, secs. 8 to 16, inclusive, secs. 21 to 28, inclusive, and secs. 33 to 36, inclusive.
T. 31 S., R. 32¾ E.,
Secs. 1 to 36, inclusive.
T. 31 S., R. 33 E.,
Secs. 2 to 11, inclusive, 14, 15, 17 to 23, inclusive, 26 to 32, inclusive, and secs. 33 to 35, inclusive.
T. 31 S., R. 34 E.,
Secs. 1 to 13, inclusive, 15, 18 to 22, inclusive, 24 to 28, inclusive, and secs. 30 to 36, inclusive.
T. 31 S., R. 35 E.,
Secs. 1 to 36, inclusive.
T. 31 S., R. 36 E.,
Secs. 1 to 36, inclusive.
T. 32 S., R. 24 E.,
Secs. 1 to 35, inclusive.
T. 32 S., R. 25 E.,
Secs. 1 to 24, inclusive.

T. 32 S., R. 26 E.,
Secs. 1 to 15, inclusive, and secs. 17 to 35, inclusive.
T. 32 S., R. 27 E.,
Secs. 1 to 36, inclusive.
T. 32 S., R. 28 E.,
Secs. 1 to 36, inclusive.
T. 32 S., R. 29 E.,
Secs. 1 to 36, inclusive.
T. 32 S., R. 30 E.,
Secs. 1 to 36, inclusive.
T. 32 S., R. 31 E.,
Secs. 1 to 16, inclusive, 18, 20 to 29, inclusive, and secs. 32 to 36, inclusive.
T. 32 S., R. 32 E.,
Secs. 4 to 9, inclusive, and secs. 12 to 36, inclusive.
T. 32 S., R. 32½ E.,
Secs. 1 to 5, inclusive, and secs. 8 to 36, inclusive.
T. 32 S., R. 32¾ E.,
Secs. 1 to 9, inclusive, secs. 17 to 21, inclusive, and secs. 26 to 35, inclusive.
T. 32 S., R. 33 E.,
Secs. 3 to 6, inclusive, secs. 8 to 11, inclusive, secs. 14 to 23, inclusive, and secs. 26 to 34, inclusive.
T. 32 S., R. 34 E.,
Secs. 1 to 15, inclusive, secs. 17 to 23, inclusive, and secs. 27 to 35, inclusive.
T. 32 S., R. 35 E.,
Secs. 1 to 36, inclusive.
T. 32 S., R. 36 E.,
Secs. 1 to 36, inclusive.
T. 32½ S., R. 33 E.,
Secs. 20 to 28, inclusive, secs. 32, 33, 35, and 36.
T. 33 S., R. 29 E.,
Secs. 1 to 36, inclusive.
T. 33 S., R. 30 E.,
Secs. 1, 2, 4 to 10, inclusive, 12, 13, 15, 17, 18, and secs. 21 to 34, inclusive.
T. 33 S., R. 31 E.,
Secs. 1, 2, 3, 5, 7, 8, 10, 12, 14, 15, 17, secs. 19 to 23, inclusive, secs. 27 to 30, inclusive, and secs. 32 and 34.
T. 33 S., R. 32 E.,
Secs. 1 to 36, inclusive.
T. 33 S., R. 32½ E.,
Secs. 1 to 36, inclusive.
T. 33 S., R. 32¾ E.,
Secs. 1, 2, 4 to 15, inclusive, and secs. 17 to 36, inclusive.
T. 33 S., R. 33 E.,
Secs. 1 to 5, inclusive, secs. 8 to 17, inclusive, secs. 20 to 29, inclusive, and secs. 32 to 36, inclusive.
T. 33 S., R. 34 E.,
Secs. 2 to 10, inclusive, secs. 15, 17 to 22, inclusive, and secs. 27 to 33, inclusive.
T. 33 S., R. 35 E.,
Secs. 1 to 18, inclusive, secs. 20 to 30, inclusive, and secs. 33 to 36, inclusive.
T. 33 S., R. 36 E.,
Secs. 1 to 36, inclusive.
T. 34 S., R. 29 E.,
Secs. 1 to 36, inclusive.
T. 34 S., R. 30 E.,
Secs. 4 to 8, inclusive, secs. 17 to 21, inclusive, and secs. 28 to 35, inclusive.
T. 34 S., R. 31 E.,
Secs. 4, 9, 10, 15, 19, 20, 23, and 27.
T. 34 S., R. 32 E.,
Secs. 1 to 5, inclusive, secs. 8 to 16, inclusive, secs. 21 to 27, inclusive, and secs. 34 to 36, inclusive.
T. 34 S., R. 32½ E.,
Secs. 1 to 36, inclusive.
T. 34 S., R. 32¾ E.,
Secs. 2 to 26, inclusive, and secs. 28 to 35, inclusive.
T. 34 S., R. 33 E.,
Secs. 1 to 5, inclusive, secs. 8 to 15, inclusive, secs. 17, 21 to 29, inclusive, and secs. 32 to 36, inclusive.
T. 34 S., R. 34 E.,
Secs. 4 to 9, inclusive, secs. 17 to 20, inclusive, and secs. 22 to 36, inclusive.
T. 34 S., R. 35 E.,
Secs. 1 to 5, inclusive, secs. 8 to 17, inclusive, and secs. 19 to 36, inclusive.
T. 34 S., R. 36 E.,
Secs. 1 to 36, inclusive.
T. 35 S., R. 29 E.,
Secs. 1 to 36, inclusive.
T. 35 S., R. 30 E.,
Secs. 1 to 32, inclusive, and secs. 34 and 36.
T. 35 S., R. 31 E.,
Secs. 1, 3 to 15, inclusive, 17 to 22, inclusive, 25, 28, 30, 32, and 34.
T. 35 S., R. 32 E.,
Secs. 1, 2, 3, 6, 7, 8, 10 to 15, inclusive, 23, 24, 25, 30, and 31.
T. 35 S., R. 32½ E.,
Secs. 1 to 24, inclusive, 26 to 30, inclusive, 32, and 34.
T. 35 S., R. 32¾ E.,
Secs. 1 to 13, inclusive, 16, 17, 18, 20 to 30, inclusive, and 36.
T. 35 S., R. 33 E.,
Secs. 1, 2, 4, 5, 8, 9, 10, 12, 16, 17, 22, 24, 28, 32, 34, and 36.
T. 35 S., R. 34 E.,
Secs. 1 to 14, inclusive, 16, 18, 20, 22, 24, 26, 28, 30, 32, 34, and 36.
T. 35 S., R. 35 E.,
Secs. 1 to 18, inclusive, secs. 20 to 28, inclusive, 30, and secs. 33 to 36, inclusive.
T. 35 S., R. 36 E.,
Secs. 1 to 36, inclusive.
T. 35½ S., R. 32 E.,
Secs. 30 and 32.
T. 35½ S., R. 32½ E.
Secs. 20, 22, 26, 30, 32, and 34.
T. 35½ S., R. 32¾ E.,
Secs. 24, 26, and 36.
T. 36 S., R. 29 E.,
Secs. 2, 4, 5, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, 34, 35, and 36.
T. 36 S., R. 30 E.,
Secs. 2, 4, 6, 8, 10, 12, 14, 16, 17, 18, and secs. 22 to 36, inclusive.
T. 36 S., R. 31 E.,
Secs. 2, 4, 6, 8, 10, 12, 14, 18, 19, 20, 22, 24, 26, and secs. 28 to 35, inclusive.
T. 36 S., R. 32 E.,
Secs. 9, 10, 16, 20, 22, 25, secs. 27 to 29, inclusive, and secs. 32 to 36, inclusive.
T. 36 S., R. 32½ E.,
Secs. 2, 10, 14, 15, secs. 19 to 23, inclusive, and secs. 25 to 36, inclusive.
T. 36 S., R. 32¾ E.,
Secs. 2, 12 to 14, inclusive, 20, 23 to 28, inclusive, and 30 to 36, inclusive.
T. 36 S., R. 33 E.,
Secs. 3, 4, 6, 8, 13, secs. 16to 26, inclusive, and secs. 28 to 35, inclusive.
T. 36 S., R. 34 E.,
Secs. 4, 6 to 10, inclusive, and 15 to 36, inclusive.
T. 36 S., R. 35 E.,
Secs. 1 to 4, inclusive, and secs. 8 to 36, inclusive.
T. 36 S., R. 36 E.,
Secs. 5, 6, 8, 18, 20, 30, and 32.
T. 37 S., R. 29 E.,
Secs. 1 to 36, inclusive.
T. 37 S., R. 30 E.,
Secs. 1 to 36, inclusive.
T 37 S., R. 31 E.,
Secs. 1 to 36, inclusive.
T. 37 S., R. 32 E.,
Secs. 1 to 5, inclusive, secs. 8 to 17, inclusive, secs. 20 to 29, inclusive, and secs. 32 to 36, inclusive.
T. 37 S., R. 32½ E.,
Secs. 1 to 36, inclusive.
T. 37 S., R. 32¾ E.,
Secs. 1 to 36, inclusive.
T. 37 S., R. 33 E.,
Secs. 1 to 36, inclusive.
T. 37 S., R. 34 E.,
Secs. 1 to 36, inclusive.
T. 37 S., R. 35 E.,
Secs. 1 to 36, inclusive.
T. 37 S., R. 36 E.,
Secs. 6, 8, secs. 16 to 22, inclusive, and secs. 24 to 35, inclusive.
T. 38 S., R. 29 E.,
Secs. 1 to 36, inclusive.
T. 38 S., R. 30 E.,
Secs. 1 to 36, inclusive.
T. 38 S., R. 31 E.,
Secs. 1 to 36, inclusive.
T. 38 S., R. 32 E.,
Secs. 13 to 36, inclusive.
T. 38 S., R. 33 E.,
Secs. 13 to 36, inclusive.
T. 38 S., R. 34 E.,
Secs. 13 to 36, inclusive.
T. 38 S., R. 35 E.,
Secs. 13 to 36, inclusive.
T. 38 S., R. 36 E.,
Secs. 13 to 36, inclusive.
T. 38 S., R. 37 E.,
Secs. 13 to 36, inclusive.
T. 38 S., R. 38 E.,
Secs. 13 to 36, inclusive.
T. 39 S., R. 29 E.,
Secs. 1 to 36, inclusive.
T. 39 S., R. 30 E.,
Secs. 1 to 36, inclusive.
T. 39 S., R. 31 E.,
Secs. 1 to 36, inclusive.
T. 39 S., R. 32 E.,
Secs. 1 to 36, inclusive.
T. 39 S., R. 33 E.,
Secs. 1 to 36, inclusive.
T. 39 S., R. 34 E.,
Secs. 1 to 36, inclusive.
T. 39 S., R. 35 E.,
Secs. 1 to 13, inclusive, secs. 15 to 22, inclusive, and secs. 26 to 35, inclusive.
T. 39 S., R. 36 E.,
Secs. 1 to 30, inclusive, and secs. 32 to 36, inclusive.
T. 39 S., R. 37 E.,
Secs. 1 to 15, inclusive, and secs. 17 to 36, inclusive.
T. 39 S., R. 38 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 29 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 30 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 31 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 32 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 33 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 34 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 35 E.,
Secs. 1 to 33, inclusive, 35, and 36.
T. 40 S., R. 36 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 37 E.,
Secs 1 to 36, inclusive.
T. 40 S., R. 38 E.,
Secs. 1 to 36, inclusive.
T. 41 S., R. 29 E.,
Secs. 1 to 24, inclusive.
T. 41 S., R. 30 E.,
Secs. 1 to 24, inclusive.
T. 41 S., R. 31 E.,
Secs. 1 to 24, inclusive.
T. 41 S., R. 32 E.,
Secs. 1 to 24, inclusive.
T. 41 S., R. 33 E.,
Secs. 1 to 24, inclusive.
T. 41 S., R. 34 E.,
Secs. 1 to 24, inclusive.
T. 41 S., R. 35 E.,
Secs. 1 to 15, inclusive, and secs. 17 to 24, inclusive.
T. 41 S., R. 36 E.,
Secs. 1 to 24, inclusive.
T. 41 S., R. 37 E.,
Secs. 1 to 17, inclusive, 20, 21, 22, and 24.
T. 41 S., R. 38 E.,
Secs. 1 to 6, inclusive, and secs. 8 to 24, inclusive.

The areas described aggregate approximately 4,135,000 acres of public land.

4. For a period of 60 days from the publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions or objections in connection with the proposed classification may present their views in writing to the District Manager, Bureau of Land Management, 74 South Alvord Street, Burns, Oreg. 97720.

5. A public hearing on the proposed classification will be held at 2 p.m. on November 30, 1967, at the Burns District Office, 74 South Alvord Street, Burns, Oreg.

ARCHIE D. CRAFT,
State Director.

[F.R. Doc. 67-13115; Filed, Nov. 6, 1967; 8:47 a.m.]

National Park Service

BLUE RIDGE PARKWAY

Notice of Intention To Issue Concession Permits

Pursuant to the provisions of section 5, Public Law 89-249, public notice is hereby given that the Department of the Interior, through the Superintendent of Blue Ridge Parkway, National Park Service, proposes, thirty (30) days after the date of publication of this notice, to issue for the period January 1, 1968, through December 31, 1968, the concession permit under which Homer Harris provides concession facilities and services for the public at Mabry Mill in the Blue Ridge Parkway; and to issue for the period January 1, 1968, through December 31, 1972, the concession permit under which Chatham Manufacturing Co. provides concession facilities and services for the public at Brinegar Cabin in the Blue Ridge Parkway.

The foregoing concessioners have performed their obligations under prior permits to the satisfaction of the National Park Service and, therefore, pursuant to the act cited above are entitled to be given preference in the renewal of the permits and in the negotiation of new permits. However, under the act cited above the Service is also required to consider and evaluate all proposals received as a result of this notice.

JAMES M. EDEN,
Superintendent of Blue Ridge Parkway.

OCTOBER 16, 1967.

[F.R. Doc. 67-13116; Filed, Nov. 6, 1967; 8:47 a.m.]

GREAT SMOKY MOUNTAINS NATIONAL PARK

Notice of Intention To Extend Concession Permits

Pursuant to the provisions of section 5, Public Law 89-249, public notice is hereby given that the Department of the Interior, through the Superintendent of the Great Smoky Mountains National Park, proposes, thirty (30) days after the date of publication of this notice, to extend for the period from January 1, 1968, through December 31, 1972, the concession permits under which Smoky Mountain Riding Stables, Inc., and Lawrence E. Segrist severally provide concession facilities and services for the public in the Great Smoky Mountains National Park.

The foregoing concessioners have performed their obligations under prior permits to the satisfaction of the National Park Service and, therefore, pursuant to the act cited above are entitled to be given preference in the renewal of the permits and in the negotiation of new permits. However, under the act cited above the Service is also required to consider and evaluate all proposals received as a result of this notice.

Interested parties should contact the Superintendent, Great Smoky Mountains National Park, Gatlinburg, Tenn. 37738, for information as to the requirements of the proposed permits.

V. L. LAFOLLETTE,
Acting Superintendent of Great Smoky Mountains National Park.

OCTOBER 17, 1967.

[F.R. Doc. 67-13117; Filed, Nov. 6, 1967; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

SALES OF CERTAIN COMMODITIES

November Sales List

Notice to Buyers. Pursuant to the policy of Commodity Credit Corporation issued October 12, 1954 (19 F.R. 6669), and subject to the conditions stated therein as well as herein, the commodities listed below are available for sale and, where noted, for redemption of payment-in-kind certificates on the price basis set forth.

The U.S. Department of Agriculture announced the prices at which CCC commodity holdings are available for sale beginning at 3 p.m., e.s.t., on October 31, 1967, and, subject to amendment, continuing until superseded by the December Monthly Sales List.

The following commodities are available: Cotton (upland and extra long staple), wheat, corn, oats, barley, rye, rice, grain sorghum, peanuts, flax, tung oil, butter, cheese, and nonfat dry milk.

There is no change in the number of commodities listed for November.

For grain sorghum, barley, rye, and oats, export pricing will be the same as for unrestricted use sales.

Information on the availability of commodities stored in Commodity Credit Corporation bin sites may be obtained from ASCS State offices shown at the end of the sales list, and for commodities stored at other locations from ASCS commodity and grain offices also shown at the end of the list.

Corn, oats, barley, or grain sorghum, as determined by CCC, will be sold for unrestricted use for "Dealers' Certificates" issued under the emergency livestock feed program. Grain delivered against such certificates will be sold at the applicable current market price, determined by CCC.

In the following listing of commodities and sales prices or method of sales, "unrestricted use" applies to sales which permit either domestic or export use and "export" applies to sales which require export only. CCC reserves the right to determine the class, grade, quality, and available quantity of commodities listed for sale.

The CCC Monthly Sales List, which varies from month to month as additional commodities become available or commodities formerly available are dropped, is designed to aid in moving CCC's inventories into domestic or export use through regular commercial channels.

If it becomes necessary during the month to amend this list in any material way—such as by the removal or addition of a commodity in which there is general interest or by a significant change in price or method of sale—an announcement of the change will be sent to all persons currently receiving the list by mail from Washington. To be put on this mailing list, address: Director, Procurement and Sales Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Interest rates per annum under the CCC Export Credit Sales Program (Announcement GSM-3 or 4) for November 1967 are 5½ percent for U.S. bank obligations and 6½ percent for foreign bank obligations. Commodities now eligible for financing under the CCC Export Credit Sales Program include wheat, wheat flour, barley, bulgur, corn, cornmeal, grain sorghum, upland and extra long staple cotton, tobacco, cottonseed oil, soybean oil, dairy products, and tallow. Commodities purchased from CCC may be financed for export as private stocks under Announcement GSM-4.

Information on commodities available under Title I, Public Law 480, private trade agreements, and current information on interest rates and other phases of the program may be obtained from the Office of the General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250.

The following commodities are currently available for new and existing barter contracts: Oats, cotton (upland and extra long staple), and tobacco. Wheat and grain sorghum are also available under conditions noted in the individual commodity listings. (In addition, free market stocks of corn, grain sorghum, wheat, wheat flour, tobacco, cottonseed oil, and soybean oil are eligible for barter programing under barter contracts covering procurement for Federal agencies that will reimburse CCC except that Hard Red Winter, Hard Red Spring, and durum wheats, and flour produced

from those wheats, may not be exported through west coast ports.)

The CCC will entertain offers from responsible buyers for the purchase of any commodity on the current list. Offers accepted by CCC will be subject to the terms and conditions prescribed by the Corporation. These terms include payment by cash or irrevocable letter of credit before delivery of the commodity, and the conditions require removal of the commodity from CCC stocks within a reasonable period of time. Where sales are for export, proof of exportation is also required, and the buyer is responsible for obtaining any required U.S. Government export permit or license. Purchases from CCC shall not constitute any assurance that any such permit or license will be granted by the issuing authority.

Applicable announcements containing all terms and conditions of sale will be furnished upon request. For easy reference a number of these announcements are identified by code number in following list. Interested persons are invited to communicate with the Agricultural Stabilization and Conservation Service, USDA, Washington, D.C. 20250, with respect to all commodities or—for specified commodities—with the designated ASCS commodity office.

Commodity Credit Corporation reserves the right to amend from time to time, any of its announcements. Such amendments shall be applicable to and be made a part of the sale contracts thereafter entered into.

CCC reserves the right to reject any or all offers placed with it for the purchase of commodities pursuant to such announcements.

CCC reserves the right to refuse to consider an offer, if CCC does not have adequate information of financial responsibility of the offerer to meet contract obligations of the type contemplated in this announcement. If a prospective officer is in doubt as to whether CCC has adequate information with respect to his financial responsibility, he should either submit a financial statement to the office named in the invitation prior to making an offer, or communicate with such office to determine whether such a statement is desired in his case. When satisfactory financial responsibility has not been established, CCC reserves the right to consider an offer only upon submission by offerer of a certified or cashier's check, a bid bond, or other security, acceptable to CCC, assuring that if the offer is accepted, the offerer will comply with any provisions of the contract with respect to payment for the commodity and the furnishing of performance bond or other security acceptable to CCC.

Disposals and other handling of inventory items often result in small quantities at given locations or in qualities not up to specifications. These lots are offered by the appropriate ASCS office promptly upon appearance and therefore, generally, they do not appear in the Monthly Sales List.

On sales for which the buyer is required to submit proof to CCC of exportation, the buyer shall be regularly engaged in the business of buying or selling commodities and for this purpose shall maintain a bona fide business office in the United States, its territories or possessions and have a person, principal, or resident agent upon whom service of judicial process may be had.

Prospective buyers for export should note that generally, sales to U.S. Government agencies, with only minor exceptions will constitute domestic unrestricted use of the commodity.

Commodity Credit Corporation reserves the right, before making any sales, to define or limit export areas.

The Department of Commerce, Bureau of International Commerce, pursuant to regulations under the Export Control Act of 1949, prohibits the exportation or reexportation by anyone of any commodities under this program to Cuba, the Soviet Bloc or Communist-controlled areas of the Far East including Communist China, North Korea, and the Communist-controlled area of Viet Nam except under validated license issued by the U.S. Department of Commerce, Bureau of International Commerce.

For all exportations, one of the destination control statements specified in Commerce Department Regulations (Comprehensive Export Schedule § 379.10(c)) is required to be placed on all copies of the shipper's export declaration, all copies of the bill of lading, and all copies of the commercial invoices. For additional information as to which destination control statement to use, the exporter should communicate with the Bureau of International Commerce or one of the field offices of the Department of Commerce.

Exporters should consult the applicable Commerce Department regulations for more detailed information if desired and for any changes that may be made therein.

Sales Price or Method of Sale

WHEAT, BULK

Unrestricted use.

A. *Storable.* All classes of wheat in CCC inventory are available for sale at market price but not below 115 percent of the 1967 price-support loan rate for the class, grade, and protein of the wheat plus the markup shown in C below applicable to the type of carrier involved.

B. *Nonstorable.* At not less than market price, as determined by CCC.

C. *Markup and examples (dollars per bushel, in-store).*[1]

Markup in-store[1] received by—		Examples—Agricultural Act of 1949; Stat. minimum
Truck	Rail or barge	
$0.10	$0.07½	Minneapolis—No. 1 DNS ($1.85) 115 percent +$0.07½; $1.86½. Portland—No. 1 SW ($1.44) 115 percent +$0.07½; $1.73½. Kansas City—No. 1 HRW ($1.42) 115 percent +$0.07½; $1.72½. Chicago—No. 1 SW ($1.47) 115 percent +$0.07½; $1.77½.

Export.

A. CCC will sell limited quantities of Hard Red Winter and Hard Red Spring wheat at west coast ports at domestic market price levels for export under Announcement GR–345 (Revision IV, Oct. 30, 1967, as amended) as follows:

(1) Notice of foreign sale must be furnished CCC within 5 calendar days after purchase.

(2) Sales will be made only to fill dollar market sales abroad and exporter must show export from the west coast to a destination west of the 170th meridian, west longitude, and east of the 80th meridian, east longitude, and to countries on the west coast of Central and South America.

B. CCC will sell wheat for export under Announcement GR–261 (Revision III, Jan. 9, 1961, as amended and supplemented) subject to the following:

(1) All classes will be sold subject to offers which include the price at which the buyer proposes to purchase the wheat.

(2) All classes will be sold to fill dollar market sales abroad and exporter must show export from the west coast to a destination within the geographical limitation shown in A(2) above.

(3) All classes will be sold for application to barter contracts entered into pursuant to invitations for barter offers dated prior to 3:30 p.m., e.d.t., on August 26, 1966. However, CCC-owned wheat will not be sold for barter at west coast ports nor will evidence of export at west coast ports be acceptable under a sale for barter.

C. Announcement GR–262 (Revision II, Jan. 9, 1961, as amended) for export as flour as follows: All classes will be sold for application to barter contracts entered into pursuant to invitations for barter offers dated prior to 3:30 p.m., e.d.t., on August 26, 1966. However, sales for barter will not be made at west coast ports nor will evidence of export from west coast ports be acceptable under a sale for barter pursuant to this announcement.

D. CCC will not sell wheat under Announcement GR–346 until further notice.

Available: Evanston, Kansas City, Minneapolis, and Portland ASCS offices.

CORN, BULK

Unrestricted use.

A. *Redemption of domestic payment-in-kind certificates.* Such CCC dispositions of corn as CCC may designate will be in redemption of certificates or rights represented by pooled certificates under a feed grain program. The price at which corn shall be valued for such dispositions shall be the market price as determined by CCC, but not less than 115 percent of the applicable 1967 price-support loan rate[2] for the class, grade, and quality of the corn plus the markup shown in C of this unrestricted use section.

B. *General sales.*—1. *Storable.* Such CCC dispositions of storable corn as CCC may designate as general sales will be made during the month at market price, as determined by CCC, but not less than the Agricultural Act of 1949 formula minimum price for such sales which is 105 percent of the applicable 1967 price support rate[2] (published loan rate plus 19 cents per bushel) for the class, grade, and quality of the corn, plus the markup shown in C of this unrestricted use section.

2. *Nonstorable.* At not less than market price as determined by CCC.

C. *Markups and examples (dollars per bushel in-store[1] basis No. 2 Yellow Corn 14 percent M.T. 2 percent F.M.).*

Markup in-store received by—		Examples
Truck	Rail or barge	
$0.05½		Feed grain program domestic PIK certificate minimums: McLean County, Ill. ($1.08+$0.02½) 115 percent +$0.05½; $1.33½. Agricultural Act of 1949; stat. minimums: McLean County, Ill. ($1.08+$0.02½ +$0.19); 105 percent +$0.05½; $1.41½.

Available. Evanston, Kansas City, Minneapolis, and Portland ASCS grain offices.

Export. Corn from CCC inventory is not available for export sale.

GRAIN SORGHUM (BULK)

Unrestricted use.

A. *Redemption of domestic payment-in-kind certificates.* Such CCC dispositions of grain sorghum as CCC may designate will be in redemption of certificates or rights represented by pooled certificates under a feed grain program. The minimum price at which grain sorghum shall be valued for such dispositions shall be market price, as determined by CCC, but not less than 115 percent of the applicable 1967 price-support loan rate[2] for the class, grade, and quality of the grain sorghum, plus the markup shown in C of this unrestricted use section applicable to the type of carrier involved.

B. *General sales.*—1. *Storable.* Such CCC dispositions of storable grain sorghum as CCC may designate as general sales will be made during the month at market price, as determined by CCC, but not less than the Agricultural Act of 1949 formula minimum price for such sales which is 105 percent of the applicable 1967 price-support rate[2] (published loan rate plus 34 cents per hundredweight) for the class, grade, and quality of the grain sorghum, plus the markup shown in C of this unrestricted use section applicable to the type of carrier involved.

2. *Nonstorable.* At not less than market price as determined by CCC.

C. *Markups and examples (dollars per hundredweight in-store[1] No. 2 or better).*

Markup in-store received by—		Examples
Truck	Rail or barge	
$0.09½	$0.05½	Feed grain program domestic PIK certificate minimums: Hale County, Tex. ($1.89) 115 percent +$0.09½; $1.92½. Kansas City, Mo. (ex-rail) ($1.86) 115 percent +$0.05½; $2.18½. Agricultural Act of 1949; stat. minimums: Hale County, Tex. ($1.89+$0.34); 105 percent +$0.09½; $2.12½. Kansas City, Mo. (ex-rail) ($1.85+$0.34); 105 percent +$0.05½; $2.25½.

Export. Sales are made at the higher of the domestic market price, as determined by CCC, or 115 percent of the applicable 1967 price-support loan rate plus carrying charges in section C. The statutory minimum price referred to in the price adjustment provisions of the following export sales announcements is 105 percent of the applicable price-support rate plus the markup referred to in C of the unrestricted use section for grain sorghum. Sales will be made pursuant to the following announcements:

A. Announcement GR–368 (Revision 2, Mar. 1, 1965, as amended), for export commodity certificate redemption.

B. Announcement GR–212 (Revision 2, Jan. 9, 1961) for application to barter contracts entered into pursuant to invitations for barter offers dated prior to 3:30 p.m., e.d.t., on August 26, 1966, and for cash or other designated sales.

Available. Evanston, Kansas City, Minneapolis, and Portland ASCS grain offices.

BARLEY, BULK

Unrestricted use.

A. *Storable.* Market price, as determined by CCC, but not less than 115 percent of the applicable 1967 price-support rate[2] for the class, grade, and quality of the barley plus the applicable markup.

B. *Markups and examples (dollars per bushel in-store[1] No. 2 or better).*

Markup in-store received by—		Examples
Truck	Rail or barge	
$0.10	$0.07½	Cass County, N. Dak. ($0.87); 115 percent +$0.10; $1.11. Minneapolis, Minn. (ex-rail) ($1.10); 115 percent +$0.07½; $1.34½.

C. *Nonstorable.* At not less than market price as determined by CCC.

Export. Sales are made at the higher of the domestic market price, as determined by CCC, or 115 percent of the applicable 1967 price-support loan rate plus carrying charges in section B. The statutory minimum price referred to in the price adjustment provisions of the following export sales announcement is 105 percent of the applicable price-support rate plus the markup referred to in B of the unrestricted use section for barley. Sales will be made pursuant to the following announcements:

A. Announcement GR–368 (Revision 2, Mar. 1, 1965, as amended), for export commodity certificate redemption.

B. Announcement GR–212 (Revision 2, Jan. 9, 1961) for cash or other designated sales.

Available. Kansas City, Evanston, Portland, and Minneapolis grain offices.

OATS, BULK

Unrestricted use.

A. Market price, as determined by CCC, but not less than 115 percent of the applicable 1967 price-support rate[2] for the class, grade, and quality of the oats plus the markup shown in B below.

B. *Markups and examples (dollars per bushel in-store[1] basis No. 2 XHWO).*

Markup in-store received by—	Examples—Agricultural Act of 1949; Stat. minimum
Truck	
$0.10	Redwood County, Minn. ($0.00+$0.03 quality differential); 115 percent +$0.10; $0.83.

C. *Nonstorable.* At not less than the market price as determined by CCC.

Export. Sales are made at the higher of the domestic market price, as determined by CCC, or 115 percent of the applicable 1967 price-support loan rate plus carrying charges in section B. The statutory minimum price referred to in the price adjustment provisions of the following export sales announcements is 105% of the applicable price-support rate plus the markup referred to in B of the unrestricted use section for oats. Sales will be made pursuant to the following announcements.

A. Announcement GR–368 (Revision 2, Mar. 1, 1965, as amended), for export commodity certificate redemption.

B. Announcement GR–212 (Revision 2, Jan. 9, 1961), for application to barter contracts and for cash or other designated sales.

Available. Kansas City, Evanston, Minneapolis, and Portland ASCS grain offices.

RYE, BULK

Unrestricted use.

A. *Storable.* Market price, as determined by CCC, but not less than the Agricultural Act of 1949 formula price which is 115 percent[2] of the applicable 1967 price-support rate for the class, grade, and quality of the grain plus the markup shown in B below applicable to the type of carrier involved.

B. *Markups and examples (dollars per bushel in-store[1] No. 2 or better).*

Markup in-store received by—		Examples—Agricultural Act of 1949; Stat. minimum
Truck	Rail or barge	
$0.010	$0.07½	Rolette County, N. Dak. ($0.90); 115 percent +$0.10; $1.14. Minneapolis, Minn. (ex-rail) ($1.23); 115 percent +$0.07½; $1.40½.

C. *Nonstorable.* At not less than market price as determined by CCC.

Export. Sales are made at the higher of the domestic market price, as determined by CCC, or 115 percent of the applicable 1967 price-support loan rate plus carrying charges in section B. The statutory minimum price referred to in the price adjustment provisions of the following export sales announcement is 105 percent of the applicable price-support rate plus the markup referred to in B of the unrestricted use section for rye. Sales will be made pursuant to the following announcements:

A. Announcement GR–368 (Revision 2, Mar. 1, 1965, as amended), for export commodity certificate redemption.

B. Announcement GR–212 (Revision 2, Jan. 9, 1961) for cash or other designated sales.

Available. Evanston, Kansas City, Portland, and Minneapolis ASCS grain offices.

RICE, ROUGH

Unrestricted use.

Market price but not less than 1967 loan rate plus 5 percent plus 22 cents per hundredweight, basis in store.

Export. As milled or brown under Announcement GR–369, Revision III, as amended, Rice Export Program.

Available. Prices, quantities, and varieties of rough rice available from Kansas City ASCS Commodity Office.

COTTON, UPLAND

Unrestricted use.

A. Competitive offers under the terms and conditions of Announcement NO–C–32 (Sale of Upland Cotton for Unrestricted Use). Under this announcement, upland cotton acquired under price-support programs will be sold at the highest price offered but in no event at less than the higher of (a) 110 percent of the current loan rate for such cotton, or (b) the market price for such cotton, as determined by CCC.

B. Competitive offers under the terms and conditions of Announcement NO–C–31 (Disposition of Upland Cotton—In Redemption of Payment-In-Kind Certificates or Rights

in Certificate Pools, In Redemption of Export Commodity Certificates, Against the "Shortfall," and Under Barter Transactions), as amended. Cotton may be acquired at its current market price, as determined by CCC; but not less than a minimum price determined by CCC which will in no event be less than 120 points (1.2 cents per pound) above the loan rate for such cotton.

Export.

CCC disposals for barter. Competitive offers under the terms and conditions of Announcements CN–EX–26 (Acquisition of Upland Cotton for Export under the Barter Program) and NO–C–31 (described above), as amended.

COTTON, EXTRA LONG STAPLE

Unrestricted use.

Competitive offers under, the terms and conditions of Announcements NO–C–6 (Revised July 22, 1960), as amended, and NO–C–10, as amended. Under these announcements extra long staple cotton (domestically grown) will be sold at the highest price offered but in no event at less than the higher of (a) 115 percent of the current support price for such cotton plus reasonable carrying charges, or (b) the domestic market price as determined by CCC.

Export.

A. *CCC sales for export.* Competitive offers under the terms and conditions of Announcements CN–EX–22 (Extra Long Staple Cotton Export Program) and NO–C–27 (Sale of Extra Long Staple Cotton), as amended.

B. *Barter.* Competitive offers under the terms and conditions of Announcement CN–EX–27 (Acquisition of Extra Long Staple Cotton for Export under the Barter Program), and NO–C–27 (Sale of Extra Long Staple Cotton), as amended.

COTTON, UPLAND OR EXTRA LONG STAPLE

Unrestricted use.

A. Competitive offers under the terms and conditions of Announcement NO–C–18 (Sale of Cotton—To Establish Claims). Any such cotton will be offered for sale periodically on the basis of samples representing the cotton for the purpose of establishing claims against producers and others according to schedules issued from time to time by CCC.

B. Competitive offers under the terms and conditions of Announcement NO–C–20 (Sale of Special Condition Cotton). Any such cotton (Below Grade, Sample Loose, Damaged Pickings, etc.) owned by CCC will be offered for sale periodically on the basis of samples representing the cotton according to schedules issued from time to time by CCC.

Availability information.

Sale of cotton will be made by the New Orleans ASCS Commodity Office. Sales announcements, related forms and catalogs for upland cotton and extra long staple cotton showing quantities, qualities and location may be obtained for a nominal fee from that office.

PEANUTS, SHELLED

When stocks are available in their area of responsibility, the quantity, type, and grade offered and whether for restricted or unrestricted use are announced in weekly lot lists or invitations to bid issued by the following:

GPA Peanut Association, Camilla, Ga.

Peanut Growers Cooperative Marketing Association, Franklin, Va.

Southwestern Peanut Growers' Association, Gorman, Tex.

A. Restricted use sales. Announcement PR–1 as amended, and the lot list contain terms and conditions of sales restricted to domestic crushing or export.

1. Shelled peanuts of less than U.S. No. 1 grade may be purchased for foreign or domestic crushing.

2. U.S. Medium, Virginia type may be purchased for export only.

3. Farmers stock peanuts may be purchased for domestic crushing or for export of U.S. No. 1 or better shelled peanuts. All peanuts of less than U.S. No. 1 quality must be crushed domestically.

All sales are made on the basis of competitive bids each Wednesday, by the Producer Associations Division, Agricultural Stabilization and Conservation Service, Washington, D.C. 20250, to which all bids are submitted.

TUNG OIL

Unrestricted use.

Sales are made periodically on a competitive bid basis. Bids are submitted to the Producer Associations Division, Agricultural Stabilization and Conservation Service, Washington, D.C. 20250.

The quantity offered and the date bids are to be received are announced to the trade in notices of Invitation to Bid, issued by the National Tung Oil Marketing Cooperative, Inc., Poplarville, Miss. 39470.

Terms and conditions of sale are as set forth in Announcement NTOM–PR–4 of April 6, 1967, as amended, and the applicable Invitation to Bid.

Bids will include, and be evaluated on the basis of, price offered per pound f.o.b. storage location. For certain destinations, CCC will as provided in the Announcement, as amended, refund to the buyer a "freight equalization" allowance.

Copies of the Announcement or the Invitation may be obtained from the Cooperative or Producer Associations Division, ASCS, telephone Washington, D.C., area code 202, DU 8–8901.

FLAXSEED, BULK

Unrestricted use.

A. Storable. Domestic market price but not less than the applicable 1967 support price for the class, grade, and quality of flaxseed plus 14½ cents per bushel, and plus the respective markup shown in B below applicable to the type of carrier involved.

B. Markups and examples (dollars per bushel in-store [1]).

Markup per bushel received by—		Examples of minimum prices (ex-rail or barge)		
Truck	Rail or barge	Terminal	Class and grade	Price
Cents $0.13	*Cents* $0.07½	Minneapolis..	No. 1.....	$3.57½

C. Nonstorable. At not less than domestic market price as determined by CCC.

Available. Through the Minneapolis ASCS commodity office.

DAIRY PRODUCTS

Sales are in carlots only in-store at storage location of products.

Submission of offers. Submit offers to the Minneapolis ASCS Commodity Office.

NONFAT DRY MILK

Unrestricted use.

Announced prices, under MP–14: Spray process, U.S. Extra Grade, 21.60 cents per pound.

BUTTER

Unrestricted use.

Announced prices, under MP–14: 74.0 cents per pound—New York, Pennsylvania, New Jersey, New England, and other States bordering the Atlantic Ocean and Gulf of Mexico. 73.25 cents per pound—Washington, Oregon, and California. All other States 73.0 cents per pound.

CHEDDAR CHEESE (STANDARD MOISTURE BASIS)

Unrestricted use.

Announced prices, under MP–14: 49.125 cents per pound—New York, Pennsylvania, New England, New Jersey, and other States bordering the Atlantic Ocean and Pacific Ocean and the Gulf of Mexico. All other States 48.125 cents per pound.

FOOTNOTES

[1] The formula price delivery basis for bin site sales will be f.o.b.

[2] Round product up to the nearest cent.

USDA AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE OFFICES

GRAIN OFFICES

Kansas City ASCS Commodity Office, 8930 Ward Parkway (Post Office Box 205), Kansas City, Mo. 64141. Telephone: Emerson 1–0660.

Alabama, Alaska, Arizona, Arkansas, Colorado, Florida, Georgia, Hawaii, Kansas, Louisiana, Mississippi, Missouri, Nebraska, Nevada, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Wyoming (domestic and export), California (domestic only).

Branch Office—Evanston ASCS Branch Office, 2201 Howard Street, Evanston, Ill. 60202. Telephone: Long Distance—University 9–0600 (Evanston Exchange), Local — Rogers Park 1–5000 (Chicago, Ill.).

Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, Vermont, and West Virginia.

Branch Office—Minneapolis ASCS Branch Office, 310 Grain Exchange Building, Minneapolis, Minn. 55415. Telephone: 334–3051.

Minnesota, Montana, North Dakota, South Dakota, and Wisconsin.

Branch Office—Portland ASCS Branch Office, 1218 Southwest Washington Street, Portland Oreg. 97205. Telephone: 226–3361.

Idaho, Oregon, Utah, and Washington (domestic and export sales), **California** (export sales only).

PROCESSED COMMODITIES OFFICE (ALL STATES)

Minneapolis ASCS Commodity Office, 6400 France Avenue, South, Minneapolis, Minn. 55435. Telephone: Area Code 612, 334–3200.

COTTON OFFICES (ALL STATES)

New Orleans ASCS Commodity Office, Wirth Building, 120 Marais Street, New Orleans, La. 70112. Telephone: 527–7766.

GENERAL SALES MANAGER OFFICES

Representative of General Sales Manager, New York Area: Joseph Reidinger, 80 Lafayette Street, New York, N.Y. 10013. Telephone: 264–8439, 8440, 8441.

Representative of General Sales Manager, West Coast Area: Callan B. Duffy, Appraisers' Building, Room 802, 630 Sansome Street, San Francisco, Calif. 94111. Telephone: 556–6185.

ASCS STATE OFFICES

Illinois, Room 232, U.S. Post Office and Courthouse, Springfield, Ill. 62701. Telephone: Area Code 217, 525–4180.

Indiana, Room 110, 311 West Washington Street, Indianapolis, Ind. 46204. Telephone: Area Code 317, 633–8521.

Iowa, Room 311, Iowa Building, 506 Sixth Avenue, Des Moines, Iowa 50307. Telephone: Area Code 515, 284–4213.

Kansas, 2601 Anderson Avenue, Manhattan, Kans. 66502. Telephone: Area Code 913, JE 9–3531.

Michigan, 1405 South Harrison Road, East Lansing, Mich. 48823, Telephone: Area Code 517, 372–1910.

Missouri, I.O.O.F. Building, 10th and Walnut Streets, Columbia, Mo. 65201. Telephone: Area Code 314, 443–3111.

Minnesota, Griggs Midway Building, 1821 University Avenue, St. Paul, Minn. 55104. Telephone: Area Code 612, 228–7651.

Montana, Post Office Box 670, U.S.P.O. and Federal Office Building, Bozeman, Mont. 59715. Telephone: Area Code 587, 4511, Ext. 3271.

Nebraska, Post Office Box 798, 5301 O Street, Lincoln, Nebr. 68501. Telephone: Area Code 402, 475–3361.

North Dakota, Post Office Box 2017, 15 South 21st Street, Fargo, N. Dak. 58103, Telephone: Area Code 701, 237–5205.

Ohio, Room 202, Old Federal Building, Columbus, Ohio 43215. Telephone: Area Code 614, 469–5644.

South Dakota, Post Office Box 843, 239 Wisconsin Street SW., Huron, S. Dak. 57350. Telephone: Area Code 605, 352–8651, Ext. 321 or 310.

Wisconsin, Post Office Box 4248, 4601 Hammersley Road, Madison, Wis. 53711. Telephone: Area Code 608, 256–4441, Ext. 7585.

(Sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 407, 63 Stat. 1066; sec. 105, 63 Stat. 1051, as amended by 76 Stat. 612; secs. 303, 306, 307, 76 Stat. 614–617; 7 U.S.C. 1441 (note))

Signed at Washington, D.C. on October 31, 1967.

H. D. GODFREY,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 67–13085; Filed, Nov. 6, 1967; 8:45 a.m.]

Federal Crop Insurance Corporation

[Notice 29]

CITRUS CROPS IN ARIZONA-DESERT VALLEY

Extension of Closing Date for Filing of Applications for 1967 Crop Year

Pursuant to the authority contained in § 409.22 of Title 7 of the Code of Federal Regulations, and pursuant to paragraph 1 of the resolution adopted by the Board of Directors of the Federal Crop Insurance Corporation on March 19, 1954, the time for filing applications for citrus crop insurance for the 1967 crop year in Maricopa and Yuma Counties, Ariz., and Riverside County, Calif., where such insurance is otherwise authorized to be offered is hereby extended until the close of business on November 30, 1967. Such applications received during this period will be accepted only after it is determined that no adverse selectivity will result.

ROSS A. DEMOCK,
Acting Manager,
Federal Crop Insurance Corporation.

[F.R. Doc. 67–13160; Filed, Nov. 6, 1967; 8:50 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

HARVARD UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68–00012–33–46040. Applicant: Harvard University, Purchasing Department, 75 Mount Auburn Street, Cambridge, Mass. 02138. Article: Electron Microscope, Norelco Model EM–300. Manufacturer: Philips Electronics, The Netherlands. Intended use of article: Applicant states:

> The electron microscope will be used to study atherosclerosis of arteries obtained at autopsy from humans plus naturally occurring and diet-induced atherosclerosis in monkeys.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article provides a guaranteed resolution of 5 Angstroms. The only known domestic electron microscope, Model EMU–4, manufactured by the Radio Corporation of America (RCA), has a guaranteed resolution of 8 Angstroms. (The lower the numerical rating in terms of Angstroms, the better the resolving power.) We find that the difference in resolving capabilities is pertinent to the purposes for which the foreign article is intended to be used. (2) The foreign article provides five accelerating voltages, 20, 40, 60, 80, and 100 kilovolts, whereas the RCA Model EMU–4 provides only two accelerating voltages. It has been experimentally established that the lower accelerating voltages provide optimum contrast for unstained specimens and that the accelerating voltages intermediate between 50 and 100 kilovolts provide optimum contrast for negatively stained specimens. Since the purposes for which the foreign article is intended to be used include investigations of both unstained and negatively stained biological specimens, we find the additional accelerating voltages provided by the foreign article to be pertinent.

For the foregoing reasons, we find that the RCA Model EMU–4 is not of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67–13091; Filed, Nov. 6, 1967; 8:45 a.m.]

MONTEFIORE HOSPITAL AND MEDICAL CENTER

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68–00028–00–46040. Applicant: Montefiore Hospital and Medical Center, 111 East 210th Street, Bronx, N.Y. 10467. Article: Shutter for Siemens Electron Microscope Model 171460. Manufacturer: Siemens Aktiengesellschaft, West Germany. Intended use of article: The shutter will be used for accurate preset exposure of photoplates in the Siemens Elmiskop Electron Microscope. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is an accessory to a Siemens electron microscope which is designed specifically for use with the foreign electron microscope. We know of no domestic manufacturer that produces a comparable accessory which will fit the Siemens electron microscope.

For the foregoing reasons, we find that no instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67–13094; Filed, Nov. 6, 1967; 8:45 a.m.]

STANFORD UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No.: 68–00002–00–46040. Applicant: Stanford University, Controller's Office, Encina Hall, Stanford, Calif. 94305. Article: Shutter for Siemens Electron Microscope, type number 171460. Manufacturer: Siemens Aktiengesellschaft, West Germany. Intended use of article: Applicant states: "Accurate preset exposure of photoplates in the Siemens Elmiskop." Comments: No comments were received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purpose for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is an accessory to a Siemens electron microscope which is designed specifically for use with the foreign electron microscope. We know of no domestic manufacturer that produces a comparable accessory which will fit the Siemens electron microscope.

For the foregoing reasons, we find that no instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67–13092; Filed, Nov. 6, 1967; 8:45 a.m.]

STANFORD UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68–00003–00–46040. Applicant: Stanford University, Controller's Office, Post Office Box 4409, Stanford, Calif. 94305. Article: Camera for Electron Microscope, model 70mm Rolfilm, type number 171 023. Manufacturer: Siemens Aktiengesellschaft, West Germany. Intended use of article: Applicant states: "Taking of pictures inside the Siemens electron microscope." Comments: No comments were received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purpose for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is an accessory to a Siemens electron microscope. We know of no domestic manufacturer that produces a comparable accessory which will fit the Siemens electron microscope.

For the foregoing reasons, we find that no instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67–13093; Filed, Nov. 6, 1967; 8:45 a.m.]

UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No.: 68–00018–00–46040. Applicant: University of California, San Francisco Medical Center, Purchasing Department, San Francisco, Calif. 94122. Article: Shutter for Siemens Electron Microscope, type No. 171,460. Manufacturer: Siemens Aktiengesellschaft, West Germany. Intended use of article: Applicant states: "Accurate preset exposure of photoplates in the Siemens Elmiskop." Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is an accessory to a Siemens electron microscope which is designed specifically for use with the foreign electron microscope. We know of no domestic manufacturer that produces a comparable accessory which will fit the Siemens electron microscope.

For the foregoing reasons, we find that no instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67–13094; Filed, Nov. 6, 1967; 8:45 a.m.]

UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No.: 68–00019–00–46040. Applicant: University of California, San Francisco Medical Center, 1434 South 10th Street, Richmond, Calif. 94122. Article: Shutter for Siemens Electron Microscope, Type No. 171,460. Manufacturer: Siemens Aktiengesellschaft, West Germany. Intended use of article: Applicant states: "Accurate preset exposure of photoplates in the Siemens Elmiskop." Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is an accessory to a Siemens electron microscope which is designed specifically for use with the foreign electron microscope. We know of no domestic manufacturer that produces a comparable accessory which will fit the Siemens electron microscope.

For the foregoing reasons, we find that no instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67–13095; Filed, Nov. 6, 1967; 8:45 a.m.]

UNIVERSITY OF ROCHESTER

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68–00029–00–46040. Applicant: University of Rochester, Purchasing Department, Rochester, N.Y. 14627. Article: Accessories for Siemens Electron Microscope consisting of shutter Model 171048, decontamination device 171047, and valve Model 171068. Manufacturer: Siemens Aktiengesellschaft, West Germany. Intended use of article: These articles are intended to be used as accessories for Siemens Electron Microscope. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which the foreign article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is an accessory to a Siemens electron microscope which is designed specifically for use with the foreign electron microscope.

We know of no domestic manufacturer that produces a comparable accessory which will fit the Siemens electron microscope.

For the foregoing reasons, we find that no instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67–13097; Filed, Nov. 6, 1967; 8:45 a.m.]

UNIVERSITY OF WISCONSIN

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No.: 68–00016–33–46500. Applicant: University of Wisconsin, 750 University Avenue, Madison, Wisc. 53706. Article: Reichert Ultramicrotome "Om U2." Manufacturer: C. Reichert Optische Werke A.G., Austria. Intended use of article: Applicant states:

> Plant and insect tissue infected with RNA-viruses will be embedded in Epoxy-resins. Radioactive labeling techniques and antibody labeling techniques will be employed to tag virus specific metabolites in cells. Consecutive thick (0.5μ) and thin (600Å) sections of these specimens will be prepared for light and electron microscopy, respectively. The objective of this study is to establish a correlation between structure and function as far as virus synthesis is concerned.

Comments: No comments were received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The purposes for which the foreign article is intended to be used require a series of ultrathin sections to be produced with consistent accuracy and uniformity. The foreign article incorporates a thermal advance (feed) which allows sections to be produced, which range in thickness down to one Angstrom. The only known comparable domestic instrument, Model MT–2 ultramicrotome manufactured by Ivan Sorvall Inc., employs a mechanical advance which has a minimum thickness capability down to 100 Angstroms. (See Sorvall catalog on MT–1 and MT–2 ultramicrotomes, 1966, page 11.) In the case of a prior application relating to an identical foreign article, we were advised by the Department of Health, Education, and Welfare (HEW), that in the experience of experts working with biological materials, ultramicrotomes equipped with a thermal feed have been proven superior to those equipped only with a mechanical feed. (See Docket No. 67–00052–33–46500 and memorandum from HEW dated July 26, 1967, contained therein.) In cited memorandum, HEW also advised that consistent reproducibility of section thickness is substantially greater when the thermal advance is used than when the advance is achieved through purely mechanical means.

We therefore find that the Sorvall Model MT–2 is not of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67–13098; Filed, Nov. 6, 1967; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 18388; Order E-25910]

FLYING TIGER LINE, INC.

Order Regarding Application for Certificate of Public Convenience and Necessity

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of November 1967.

On April 7, 1967, The Flying Tiger Line, Inc. (Flying Tiger), filed an application, Docket 18388, requesting the addition of the following points to its certificate: Atlanta; Baltimore/Washington; Charlotte; Indianapolis; Minneapolis/St. Paul; Nashville; Norfolk; Oklahoma City; St. Louis; and Syracuse. In addition, Flying Tiger filed a motion for expedited hearing on its application. In support of its motion, Flying Tiger contends, in pertinent part, that there has been a considerable change in circumstances since the last all-cargo case (Domestic Cargo-Mail Service Case, 36 CAB 344 (1962)); and that since that case, based largely on 1959 data, there has been a substantial increase in demand for all-cargo services. Thus Flying Tiger states that: (1) All-cargo carrier common carriage has increased from 385.4 million ton-miles in 1959 to over 2 billion[1] in 1966 (Flying Tiger has increased from 86.4 million ton-miles in 1959 to 166.3 million in 1966); (2) since 1959, the number of points contracted for all-cargo service by the Defense Department has more than tripled; (3) the number of cities receiving all-cargo flights has increased from 44 to 66 since 1959. In addition, Flying Tiger contends that its financial posture and that of the other cargo carriers has improved considerably since 1959, and there has been a great improvement in equipment types since that period.

Answers in opposition to Flying Tiger's motion for expedited hearing were filed by Airlift International, Inc., American Airlines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., Northwest Airlines, Inc., Slick Corp., and Trans World Airlines, Inc., and a reply was filed by Flying Tiger.[2]

The trunkline carriers state that: (1) No showing of need for Flying Tiger's

[1] As Eastern Air Lines correctly points out, this figure should be 1,178,190,000 ton-miles.

[2] We will grant Flying Tiger's motion to accept the reply which is an unauthorized document.

services has been shown at any of the points involved; (3) eight[5] of the 11 points applied for are currently receiving all-cargo services and six of these points are receiving service by more than two trunk carriers and in some cases as many as five; (3) the service needs of four of the points in question were examined within the last 2 years (Indianapolis and St. Louis—Orders E-22588, E-23352, E-23872; Atlanta and Charlotte—American Airlines, Cargo Amendment, Docket 6541 et al., Orders E-23456 and E-23457); and (4) contrary to Flying Tiger's allegation that there has been significant change in the profitability in domestic cargo services, Flying Tiger's own profit position has gone from an operating profit of $937,745, on scheduled cargo services for the 11 months ended May 31, 1959, to an operating profit of only $867,536 for the 12 months ended June 30, 1966.

In addition to answers filed by the trunkline carriers, Airlift International and Slick Corp. filed a joint answer in opposition to Flying Tiger's motion. Airlift and Slick state that while they are not opposed to the Board considering the need of additional all-cargo services, they are opposed to the timing and scope of the application to which the motion relates. Airlift and Slick state that the Board is currently processing a large number of all-cargo routes proceedings, foremost of which is the Airlift-Slick Certificate Transfer Case, Docket 17622. In addition to this, Airlift is also an applicant for all-cargo service in 18 major U.S. markets in the Southern Tier Competitive Nonstop Investigation, Docket 18257. Airlift further states that Flying Tiger's application raises major issues of competition between all-cargo carriers. For example, Flying Tiger would be an applicant in seven of the ten Atlanta markets which Airlift serves today with single-plane flights.

Upon consideration of the pleadings and all the relevant facts we have decided to set Flying Tiger's application for hearing. As the applicant points out, the last comprehensive all-cargo service case (the Domestic Cargo-Mail Service Case, 36 CAB 344 (1962)), was based on a record containing data from 1959. Since that time the technology and the economics of the all-cargo industry, as well as the profit positions of the individual carriers, have undergone various changes. Thus, it is clear that since 1959 there has been a considerable change in the type of equipment available for cargo services. Moreover, there has been an increased demand in the last few years for cargo services.

It is evident that the present all-cargo certificated system is essentially noncompetitive and quite limited. Furthermore, the heavy commitment of equipment to military contracts and the limited nature of the all-cargo carriers' authority in relation to that of the combination carriers makes it desirable to consider whether an expansion of all-cargo authority is warranted.

We are mindful of the fact that the Board has in process other proceedings involving issues relating to all-cargo services. These proceedings, however, principally involve matters unrelated to the issues posed by Flying Tiger's application.[6]

In view of the foregoing, we have decided to set Flying Tiger's application for hearing.

Accordingly, it is ordered, That:

1. The application of the Flying Tiger Line, Inc., Docket 18388, be and hereby is set for hearing before an examiner of the Board at a time and place to be hereafter designated;

2. The motion of the Flying Tiger Line, Inc., for leave to file an unauthorized document be and it hereby is granted; and

3. Motions to consolidate, applications, and motions or petitions seeking modification or reconsideration of this order be filed no later than 20 days after the date of service of this order and that answers to such pleadings be filed no later than 10 days thereafter.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 67-13151; Filed, Nov. 6, 1967; 8:50 a.m.]

[5] At the time of the carrier's filing, Apr. 18, 1967, there were only eight. However, since that time Oklahoma City began receiving service from Braniff and Syracuse began receiving service from Mohawk.

[6] The Airlift-Slick Acquisition Case, Docket 17622, does not involve new route applications pursuant to sec. 401(a) of the Act; the Domestic Coterminal Points-Europe All-Cargo Investigation, Docket 18661, involves questions of service to interior and west coast points from the European countries named in Seaboard's certificate; the Southern Tier Competitive Nonstop Investigation, Docket 18257, involves only two markets in which Flying Tiger has herein requested authority, i.e., Atlanta-Los Angeles and Atlanta-San Francisco.

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 17634; FCC 67M-1844]

BETTERVISION SYSTEMS, INC.

Order Scheduling Hearing

In re cease and desist order to be directed against Bettervision Systems, Inc., owner and operator of a CATV System at Buckhannon, W. Va.; Docket No. 17834.

It is ordered, That David I. Kraushaar shall serve as Presiding Officer in the above-entitled proceeding; that the hearings therein shall be convened on December 6, 1967, at 10 a.m.; and that a prehearing conference shall be held on November 15, 1967, commencing at 9 a.m.: *And, it is further ordered*, That all proceedings shall take place in the offices of the Commission, Washington, D.C.

Issued: October 30, 1967.

Released: October 31, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-13153; Filed, Nov. 6, 1967; 8:50 a.m.]

[Docket Nos. 17144, 17155; FCC 67M-1851]

GENERAL ELECTRIC CABLEVISION CORP.

Order Regarding Procedural Dates

In re petitions of General Electric Cablevision Corp., Peoria, Ill., Docket No. 17144, File No CATV 100-25; General Electric Cablevision Corp., Peoria Heights and Bartonville, Ill., Docket No. 17155, File No. CATV 100-59; for authority pursuant to § 74.1107 of the rules to operate CATV systems in the Peoria television market.

It is ordered, That the unopposed petition for modification of procedural dates filed on October 30, 1967, by counsel for General Electric Cablevision Corp., is granted (subject to the representations in Par. 5 of GE's petition filed Sept. 13, 1967). Procedural dates are further extended as follows:

GE to furnish direct affirmative written case to counsel for other parties and to Hearing Examiner from October 31 to December 4, 1967;

Receipt of notification of GE witnesses for cross-examination from November 14 to December 18, 1967;

Hearing from November 27, 1967, to January 15, 1968.

Issued: October 31, 1967.

Released: November 1, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-13154; Filed, Nov. 6, 1967; 8:50 a.m.]

[Docket Nos. 17431, 17432; FCC 67M-1849]

INDUSTRIAL COMMUNICATIONS SYSTEMS, INC.

Order Regarding Procedural Dates

In re applications of Industrial Communications Systems, Inc., Docket No. 17431, File No. 5444-C1-P-66, for a construction permit to establish a new station in the Domestic Public Point-to-Point Microwave Radio Service at Los Angeles, Calif.; for a construction permit to establish a new station in the Domestic Public Point-to-Point Microwave Radio Service at Santiago Peak, Calif., Docket No. 1732, File No. 5445-C1-P-66.

On October 30, 1967, counsel for Industrial Communications Systems, Inc., filed a motion for continuance of the hearing for at least 60 days from November 8, 1967, the scheduled date. The motion is unopposed.

In addition to continuing the hearing, as requested, on his own motion the Hearing Examiner is setting up the following procedural dates:

Parties to furnish direct affirmative case exhibits on issues on which each has burden of proof to counsel for other parties and Hearing Examiner by December 29, 1967;

Receipt of notification of witnesses desired for cross-examination by January 12, 1968;

Hearing on January 30, 1968 (rescheduled from November 8, 1967).

So ordered.

Issued: October 31, 1967.

Released: October 31, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-13156; Filed, Nov. 6, 1967; 8:50 a.m.]

[Docket No. 17722; FCC 67M-1861]

FARNELL O'QUINN

Order Continuing Hearing

In re application of Farnell O'Quinn, Statesboro, Ga., Docket No. 17722, File No. BP-17351; for Construction Permit.

Pursuant to a hearing conference as of this date, and for the reasons stated on the record: *It is ordered*, That all procedural dates heretofore scheduled are canceled; and

It is further ordered, That the hearing now scheduled for December 18, 1967, be and the same is hereby continued without date.

Issued: November 2, 1967.

Released: November 2, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-13155; Filed, Nov. 6, 1967; 8:50 a.m.]

[Docket No. 17560; FCC 67M-1847]

V.W.B., INC.

Order Continuing Prehearing Conference

In re application of V.W.B., Inc., Bridgeton, N.C., Docket No. 17560, File No. BP-16766; for Construction Permit.

It is ordered, On the Hearing Examiner's own motion, that the further prehearing conference now scheduled for November 13, 1967, is hereby rescheduled to commence at 10 a.m., November 27, 1967, in the Commission's offices in Washington, D.C.

Issued: October 31, 1967.

Released: October 31, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-13157; Filed, Nov. 6, 1967; 8:50 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-3609 etc.]

ELVA ARMER ET AL.

Findings and Orders

OCTOBER 30, 1967.

Findings and orders after statutory hearing issuing certificates of public convenience and necessity, amending certificates, permitting and approving abandonment of service, terminating certificate, making successors co-respondents, redesignating proceedings, requiring filing of agreements and undertakings, accepting agreement and undertaking for filing, and accepting related rate schedules and supplements for filing.

Each of the Applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce, for permission and approval to abandon service, or a petition to amend an existing certificate authorization, all as more fully described in the respective applications and petitions (and any supplements or amendments thereto) which are on file with the Commission.

The Applicants herein have filed related FPC gas rate schedules and propose to initiate or abandon, add or delete natural gas service in interstate commerce as indicated by the tabulation herein. All sales certificated herein are at rates either equal to or below the ceiling prices established by the Commission's statement of general policy No. 61-1, as amended, or involve sales for which permanent certificates have been previously issued.

Elva Armer et al., Applicants in Docket No. G-3609, propose to continue that part of the sale of natural gas heretofore authorized in said docket to be made by Lee Drilling Co. pursuant to W. G. Haun and Lee Drilling Co. FPC Gas Rate Schedule No. 1. Said rate schedule will be redesignated as that of W. G. Haun and Elva Armer, et al. The presently effective rate under said rate schedule is in effect subject to refund in Docket No. RI65-484. A prior increased rate was collected for a locked-in period subject to refund in Docket No. RI60-388. Applicants have submitted an agreement and undertaking to assure the refund of any amounts collected by them in excess of the amount determined to be just and reasonable in Docket No. RI65-484. Therefore, Applicants will be made co-respondents in said proceeding, said proceeding will be redesignated accordingly, and the agreement and undertaking will be accepted for filing.

Clarke Corp. (Operator) et al., Applicant in Docket No. G-12143, proposes to continue the sale of natural gas heretofore authorized in said docket to be made pursuant to Jay Kornfeld (Operator) et al., FPC Gas Rate Schedule No. 2. Said rate schedule will be redesignated as that of Applicant. The presently effective rate under said rate schedule is in effect subject to refund in Docket No. RI60-249. Therefore, Applicant will be made co-respondent in said proceeding, said proceeding will be redesignated accordingly, and Applicant will be required to file an agreement and undertaking to assure the refund of any amounts collected by it in excess of the amount determined to be just and reasonable in said proceeding.

Westmore Drilling Co., Inc. (Operator) et al., Applicant in Docket No. CI61-227, proposes to continue the sale of natural gas heretofore authorized in said docket to be made pursuant to D. W. Skinner (Operator) et al., FPC Gas Rate Schedule No. 2. Said rate schedule will be redesignated as that of Applicant. The presently effective rate under said rate schedule is in effect subject to refund in Docket No. RI61-75. Therefore, Applicant will be made co-respondent in said proceeding, said proceeding will be redesignated accordingly, and Applicant will be required to file an agreement and undertaking to assure the refund of any amounts collected by it in excess of the amount determined to be just and reasonable in said proceeding.

The Commission's staff has reviewed each application and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

After due notice, no petitions to intervene, notices of intervention, or protests to the granting of any of the respective applications or petitions in this order have been received.

At a hearing held on October 26, 1967, the Commission on its own motion received and made a part of the record in these proceedings all evidence, including the applications, amendments, and exhibits thereto, submitted in support of the respective authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Each Applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and will, therefore, be a "natural-gas company" within the meaning of said Act upon the commencement of the service under the respective authorization granted hereinafter.

(2) The sales of natural gas hereinbefore described, as more fully described in the respective applications, amendments and/or supplements herein, will be made in interstate commerce, subject to the jurisdiction of the Commission and such sales by the respective Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) The respective Applicants are able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and

regulations of the Commission thereunder.

(4) The sales of natural gas by the respective Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity and certificates therefore should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the certificate authorizations heretofore issued by the Commission in Docket Nos. G–3609, G–11969, G–12143, G–12988, G–17009, CI61–227, CI65–522, CI66–1079, and CI67–159 should be amended as hereinafter ordered and conditioned.

(6) The sale of natural gas proposed to be abandoned by Applicant in Docket No. CI68–114, as hereinbefore described and as more fully described in the application and in the tabulation herein is subject to the requirements of subsection (b) of section 7 of the Natural Gas Act, and such abandonment should be permitted and approved as hereinafter ordered.

(7) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificate heretofore issued in Docket No. G–18276 should be terminated.

(8) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Elva Armer et al., should be co-respondents in the proceeding in Docket No. RI65–484, that said proceeding should be redesignated accordingly, and that the agreement and undertaking submitted by them in said proceeding should be accepted for filing.

(9) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Clarke Corp. (Operator) et al., should be co-respondent in the proceeding in Docket No. RI60–249, that said proceeding should be redesignated accordingly, and that Clarke Corp. (Operator) et al., should be required to file an agreement and undertaking.

(10) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Westmore Drilling Co., Inc. (Operator), et al., should be co-respondent in the proceeding in Docket No. RI61–75, that said proceeding should be redesignated accordingly, and that Westmore Drilling Co., Inc. (Operator), et al., should be required to file an agreement and undertaking.

(11) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the respective related rate schedules and supplements as designated in the tabulation herein should be accepted for filing as hereinafter ordered.

The Commission orders:

(A) Certificates of public convenience and necessity are issued upon the terms and conditions of this order, authorizing the sales by the respective Applicants herein of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary for such sales, all as hereinbefore described and as more fully described in the respective applications, amendments, supplements, and exhibits in this proceeding.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as Applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 4 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's regulations thereunder, and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against the respective Applicants. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. Nor shall the grant of the certificates aforesaid for service to the particular customers involved imply approval of all of the terms of the respective contracts particularly as to the cessation of service upon termination of said contracts, as provided by section 7(b) of the Natural Gas Act. Nor shall the grant of the certificates aforesaid be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) The grant of the certificates issued herein on all applications filed after July 1, 1967, is upon the condition that no increase in rate which would exceed the ceiling prescribed for the given area by paragraph (d)(3) of the Commission's statement of general policy No. 61–1, as amended, shall be filed prior to the applicable date as indicated by footnote 9 in the tabulation set forth below.

(E) The certificate issued herein in Docket No. CI68–139 is subject to the following conditions:

(1) The initial rate shall not exceed 15 cents per Mcf at 14.65 p.s.i.a., including tax reimbursement, plus B.t.u. adjustment; however,

(2) In the event the Commission, by amendment of its policy statement No. 61–1, adjusts the boundary between the Panhandle area and the "Other" Oklahoma area so as to increase the initial wellhead price for new gas in the area of the sale involved herein, Applicant may thereupon substitute the new rate reflecting the amount of such increase, and thereafter collect the new rate prospectively in lieu of the initial rate herein required.

(F) The acceptance for filing of the related rate filings in Docket Nos. CI68–105 and CI68–140 is contingent upon Applicants' filing three copies each of an estimated billing statement as required by the regulations under the Natural Gas Act.

(G) Applicant in Docket No. CI68–139 shall submit three copies of a sample billing statement for a month's service as required by the regulations under the Natural Gas Act.

(H) Certificates are issued herein in Docket Nos. CI68–135 and CI68–145 authorizing the respective Applicants to continue the sales of natural gas which were initiated without prior Commission authorization.

(I) The certificates heretofore issued in Docket Nos. G–17009 and CI67–159 are amended by adding thereto or deleting therefrom authorization to sell natural gas to the same purchasers and in the same areas as covered by the original authorizations pursuant to the rate schedule supplements as indicated in the tabulation herein.

(J) The certificates heretofore issued in Docket Nos. G–11969, G–12988, and CI65–522 are amended by deleting therefrom authorization to sell natural gas from acreage assigned to Applicants in Docket Nos. CI68–105, CI68–119, and CI68–116, respectively.

(K) The certificate heretofore issued in Docket No. CI68–1079 is amended to reflect the change in name from Alma Oringderff Schaefer to Alma Oringderff Schaefer, doing business as Alma Oringderff.

(L) The certificates heretofore issued in Docket Nos. G–3609, G–12143, and CI61–227 are amended by changing the certificate holders to the respective successors in interest as indicated in the tabulation herein.

(M) The related FPC Gas Rate Schedule No. 1 of W. G. Haun and Lee Drilling Co., in Docket No. G–3609, is redesignated as W. G. Haun and Elva Armer, et al., FPC Gas Rate Schedule No. 1, as supplemented.

(N) Permission for and approval of the abandonment of service by Applicant in Docket No. CI68–114, as hereinbefore described, all as more fully described in the application and in the tabulation herein, are granted.

(O) The certificate heretofore issued in Docket No. G–18276 is terminated.

(P) Elva Armer et al., shall be co-respondents in the proceeding pending in Docket No. RI65–484, said proceeding is redesignated accordingly,[1] and the agreement and undertaking submitted by them in said proceeding is accepted for filing.

(Q) Elva Armer et al., shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder and the agreement and undertaking submitted by them in Docket No. RI65–484 shall remain in full force and effect until discharged by the Commission.

[1] W. G. Haun, Lee Drilling Co. and Elva Armer, et al.

(R) Clarke Corp. (Operator) et al., shall be a co-respondent in the proceeding pending in Docket No. RI60–249 and said proceeding is redesignated accordingly.[2]

(S) Within 30 days from the issuance of this order Clarke Corp. (Operator) et al., shall execute, in the form set out below, and shall file with the Secretary of the Commission an acceptable agreement and undertaking in Docket No. RI60–249 to assure the refund of any amounts collected by it, together with interest at the rate of 7 percent per annum, in excess of the amount determined to be just and reasonable in said proceeding. Unless notified to the contrary by the Secretary of the Commission within 30 days from the date of submission, such agreement and undertaking shall be deemed to have been accepted for filing.

(T) Clarke Corp. (Operator) et al., shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, and the agreement and undertaking filed by it in Docket No. RI60–249 shall remain in full force and effect until discharged by the Commission.

(U) Westmore Drilling Co., Inc. (Operator), et al., shall be a co-respondent in the proceeding pending in Docket No. RI61–75 and said proceeding is redesignated accordingly.[3]

(V) Within 30 days from the issuance of this order, Westmore Drilling Co., Inc. (Operator), et al., shall execute, in the form set out below, and shall file with the Secretary of the Commission an acceptable agreement and undertaking in Docket No. RI61–75 to assure the refund of any amounts collected by it, together with interest at the rate of 7 percent per annum, in excess of the amount determined to be just and reasonable in said proceeding. Unless notified to the contrary by the Secretary of the Commission within 30 days from the date of submission, such agreement and undertaking shall be deemed to have been accepted for filing.

(W) Clarke Corp. (Operator) et al., shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, and the agreement and undertaking filed by it in Docket No. RI61–75 shall remain in full force and effect until discharged by the Commission.

(X) The respective related rate schedules and supplements as indicated in the tabulation herein are accepted for filing; further, the rate schedules relating to the successions herein are accepted and redesignated, subject to the applicable Commission regulations under the Natural Gas Act, to be effective on the dates as indicated in the tabulation herein.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted: Description and date of document	No.	Supp.
G–3609 E 6-21-67	Elva Armer et al.[4] (successor to Lee Drilling Co.).	Zenith Natural Gas Co., Aetna Gas Field, Beber County, Kans.	W. G. Haun and Lee Drilling Co., FPC GRS No. 1.[5]	1	----
			Supplement Nos. 1–5	1	1–5
			Notice of succession (Undated).		
			Assignment 3-31-67.[5]	1	6
			Effective date: 4-1-67.		
G–12143 E 6-6-67	Clarke Corp. (Operator) et al. (successor to Jay Kornfeld (Operator) et al.).	Cities Service Gas Co., McGuire-Goeman Gas Field, Barber County, Kans.	Jay Kornfeld (Operator) et al., FPC GRS No. 2.	1	----
			Supplement No. 1	1	1
			Notice of succession 9-3-67.		
			Assignment 7-27-67.[5]	1	2
			Effective date: 7-22-67		
G–17009 D 7-19-67	Graham-Michaelis Drilling Co. (Operator) et al. (partial abandonment).	Phillips Petroleum Co., Hugoton Field, Texas County, Okla.	Notice of partial cancellation 7-17-67.[6][8]	23	4
D 7-19-67	do	do	Notice of partial cancellation 7-17-67.[6][8]	23	5
CI61–227 E 8-3-67	Westmore Drilling Co., Inc. (Operator) et al. (successor to D. W. Skinner (Operator) et al.	Cities Service Gas Co., Southwest Medicine Lodge Field, Barber County, Kans.	D. W. Skinner (Operator) et al., FPC GRS No. 2.	5	----
			Supplement Nos. 1–2	5	1–2
			Notice of succession 9-1-67.		
			Assignment 8-1-67.[5]	5	3
			Effective date: 9-1-64.		
CI66–1079 5-31-66[9]	Alma Oringderff Schaefer d.b.a. Alma Oringderff.	Northern Natural Gas Co., Camrick Gas Area, Beaver County, Okla.	Contract 2-24-66	1	----
CI67–159 C 8-2-67[9]	Sohio Petroleum Co.	Northern Natural Gas Co., Woodward Pool, Woodward County, Okla.	Agreement 7-25-67[10]	128	1
CI66–105 (G–11969) F 7-31-67	Intermountain Petroleum Corp. (successor to Pan American Petroleum Corp.)	El Paso Natural Gas Co., South Blanco-Pictured Cliffs Field, Rio Arriba County, N. Mex.	Contract 1-23-67[10]	2	----
			Letter agreement 7-6-67.[10]	2	1
			Assignment 7-7-67[10][11]	2	2
CI66–114 (G–18276) B 8-2-67	Mobil Oil Corp.	Natural Gas Pipeline Co. of America, Quinduno Field, Roberts County, Tex.	Notice of cancellation 7-31-67.[5]	186	3
CI66–116 (CI65–522) F 7-26-67	PPC Oil & Gas Co., Inc. (successor to J. B. Abraham).	El Paso Natural Gas Co., Tapacito-Pictured Cliffs Field, Rio Arriba County, N. Mex.	Ratified 10-6-64[10]	1	----
			Letter agreement 12-14-64.	1	1
			Supplemental agreement 10-14-66.	1	2
			Assignment 11-6-66[10]	1	3
			Assignment 11-7-66[10][11]	1	4
CI66–117 A 7-31-67[9]	Charles W. Oliphant (Operator) et al.	Wunderlich Development Co., acreage in Kay County, Okla.	Contract 6-8-67[10]	3	----
CI66–118 A 7-31-67[9]	Professional Oil Management, Inc.	United Fuel Gas Co., Jefferson District, Lincoln County, W. Va.	Contract 6-8-67[10]	1	----
CI66–119 (G–12988) F 8-1-67	Wessely Petroleum, Ltd. (successor to Atlantic Richfield Co.).	Colorado Interstate Gas Co., Laverne Field, Harper County, Okla.	Contract 6-26-67[10]	5	----
			Assignment 5-31-67 (SE/4).	5	1
			Assignment 5-31-67 (NE/4).	5	2
			Assignment 5-31-67 (NW/4).	5	3
			Assignment 5-31-67 (SW/4).	5	4
CI66–139 A 8-3-67[9]	A. C. Radford et al.	United Fuel Gas Co., Elk District, Kanawha County, W. Va.	Contract 7-21-67[10]	5	----
CI66–123 A 8-4-67[9]	Don Conner, d.b.a. Don Conner Drilling Co.	Consolidated Gas Supply Corp., Center District, Gilmer County, W. Va.	Contract 5-26-67[10]	1	----
CI66–122 A 8-4-67[9]	P. P. Gunn et al.	Consolidated Gas Supply Corp., Lee District, Calhoun County, W. Va.	Contract 5-19-67[10]	27	----
CI66–125 A 8-4-67[9]	Eric T. Duncan et al., d. b. a. Erics Oil Co.	Consolidated Gas Supply Corp., Murphy District, Ritchie County, W. Va.	Contract 5-26-67[10]	5	----
CI66–126 A 8-4-67[9]	Hays & Co., agent for W. C. Wilson Oil & Gas Co. et al.	do	Contract 5-5-67[10]	257	----

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

[2] Jay Kornfeld (Operator) et al., and Clarke Corp. (Operator) et al.

[3] D. W. Skinner (Operator) et al., and Westmore Drilling Co., Inc. (Operator) et al.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted		
			Description and date of document	No.	Supp.
CI68-127 A 9-4-67	Theda B. Boyd et al., d. b. a. Boyd & Shriver et al.	Consolidated Gas Supply Corp., North Mahoning Township, Indiana County, Pa.	Contract 8-21-66	4	
			Amendment 10-13-66 [2]	4	1
			Amendment 10-15-66 [2]	4	2
			Amendment 11-14-66 [2]	4	3
			Amendment 11-21-66 [2]	4	4
			Amendment 12-5-66 [2]	4	5
			Amendment 2-7-67 [2]	4	6
			Amendment 2-21-67 [2]	4	7
			Amendment 2-21-67 [2]	4	8
			Amendment 4-13-67 [2]	4	9
			Amendment 5-9-67 [2]	4	10
			Amendment 5-9-67 [2] [3]	4	11
CI68-130 A 9-7-67 [4]	Violet Strader, agent for Wiles Oil & Gas Co.	Consolidated Gas Supply Corp., Grant District, Doddridge County, W. Va.	Contract 5-24-67 [5]	1	
CI68-131 A 9-7-67 [4]	R. L. Richardson, et al., d.b.a. R Oil & Gas Co.	Consolidated Gas Supply Corp., Union District, Ritchie County, W. Va.	Contract 4-13-67 [5]	1	
CI68-134 A 9-8-67 [6]	Fairman Drilling Co.	Consolidated Gas Supply Corp., Gaskill and Banks Townships, Jefferson and Indiana Counties, Pa.	Contract 1-14-65 [5]	32	
CI68-136 A 9-7-67 [4]	Calvert Drilling & Producing Co. et al.	Mountain Fuel Supply Co., South Baggs Area, Carbon County, Wyo.	Contract 4-24-67 [5]	1	
CI68-137 A 9-7-67 [4]	LeRoy Horton	Wunderlich Development Co., acreage in Sumner County, Kans.	Contract 6- 6-67 [5]	1	
CI68-139 A 9-7-67 [4]	Sinclair Oil & Gas Co.	Panhandle Eastern Pipe Line Co., Northeast Waynoka Field, Woods County, Okla.	Contract 7-17-67 [5]	[8] 261	
CI68-140 A 9-6-67 [4]	Marshall Exploration, Inc.	Lone Star Gas Co., Oak Hill Field, Rusk County, Tex.	Contract 7- 1-67 [5]	2	
CI68-141 A 9-8-67	Fairman Drilling Co. et al.	Consolidated Gas Supply Corp., Young Township, Jefferson County, Pa.	Contract 4-19-66 [5]	35	
CI68-145 A 9-8-67 [9]	F. P. Hurt et al.	United Fuel Gas Co., Wolfe Creek, Martin County, Ky.	Contract 7-26-67 [5]	3	

[1] Elva Armer et al. filed to succeed to the interest of Lee Drilling Co. only, W. G. Hearn retains his interest in the sale; therefore, the related rate schedule will be redesignated as W. G. Hearn and Elva Armer et al.
[2] Assigns interest of Lee Drilling Co. to Elva Armer et al.
[3] Assigns interest from Jay Kornfeld to Clarke Corp. (Operator) et al.
[4] Covers Phillippe No. 1 Unit, section 34, Township 2 North, Range 12 ECM (Supp. No. 4) and Brady No. 1 Unit, section 71, Block I-T, T & NO Survey (Supp. No. 5), respectively.
[5] Source of gas depleted.
[6] Effective date: Date of this order.
[7] Assigns interest of D. W. Skinner to Westmere Drilling Co., Inc. (Operator) et al.
[8] Amended application filed to reflect the change in name from Alma Oringderff Schaefer to Alma Oringderff Schaefer d.b.a. Alma Oringderff. Certificate issued June 21, 1966, did not reflect such change in name.
[9] Jan. 1, 1970, moratorium pursuant to the Commission's statement of general policy No. 61-1, as amended.
[10] Effective date: Date of initial delivery (Applicant shall advise the Commission as to such date).
[11] Omitted.
[12] On file as Pan American Petroleum Corp. FPC GRS No. 198.
[13] Provides for delivery into El Paso's low pressure system (260 p.s.i.g.) and a reduction of 2 cents per Mcf from the contract price.
[14] From Pan American Petroleum Corp. to Intermountain Petroleum Corp.
[15] Ratifies a contract of May 6, 1968, between Mike Abraham and El Paso; also on file as J. R. Abraham FPC GRS No. 1.
[16] Assigns operating rights from J. R. Abraham to R. A. Bryant, Jr.
[17] Assigns operating rights of R. A. Bryant, Jr., to PPC Oil & Gas Co., Inc.
[18] On file as Atlantic Richfield Co. FPC GRS No. 173.
[19] Adds acreage.
[20] Sale being rendered without prior Commission authorization.
[21] Contract price is 17 cents per Mcf, but Applicant states it will accept a permanent certificate at 15 cents per Mcf subject to B.t.u. adjustment.

Suggested agreement and undertaking:

BEFORE THE FEDERAL POWER COMMISSION

(Name of Respondent .....)
Docket No. .....

AGREEMENT AND UNDERTAKING OF (NAME OF RESPONDENT) TO COMPLY WITH REFUNDING AND REPORTING PROVISIONS OF SECTION 154.102 OF THE COMMISSION'S REGULATIONS UNDER THE NATURAL GAS ACT

(Name of Respondent) hereby agrees and undertakes to comply with the refunding and reporting provisions of section 154.102 of the Commission's regulations under the Natural Gas Act insofar as they are applicable to the proceeding in Docket No. ..... and has caused this agreement and undertaking to be executed and sealed in its name by its officers, thereupon duly authorized in accordance with the terms of the resolution of its board of directors, a certified copy of which is appended hereto [1] this ..... day of ....., 196....

(Name of Respondent)
By .....

Attest: .....

[F.R. Doc. 67-13025; Filed, Nov. 6, 1967; 8:45 a.m.]

[1] If a corporation.

[Docket No. RI67-410]

FRED BOWMAN

Order Substituting Respondent, Redesignating Proceeding, and Accepting Agreement and Undertaking for Filing

OCTOBER 31, 1967.

By order issued September 12, 1967, in Docket No. G-4804 et al., the Commission amended the order issuing a certificate of public convenience and necessity in Docket No. CI62-260 to Jenny Manufacturing Co. (Jenny) by authorizing Fred Bowman (Bowman) to continue the sales of natural gas therefore authorized in said docket in lieu of Jenny. Jenny's FPC Gas Rate Schedule No. 1 was redesignated as Bowman's FPC Gas Rate Schedule No. 3 as of June 1, 1967, the effective date of the transfer of the producing properties. Jenny had filed for an increase in rate under its rate schedule which increase was suspended in Docket No. RI67-410 until May 30, 1967, and was allowed to become effective on said date upon the filing of an agreement and undertaking. Jenny did not file an agreement and undertaking and did not produce gas on May 30 or 31, 1967. Bowman commenced production on June 1, 1967, and has submitted an agreement and undertaking to assure the refund of any amounts collected by him in excess of the amount determined to be just and reasonable in Docket No. RI67-410. Therefore, Bowman will be substituted as respondent in said proceeding; the proceeding will be redesignated accordingly; and the agreement and undertaking will be accepted for filing.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Bowman should be substituted in lieu of Jenny as respondent in the proceeding pending in Docket No. RI67-410, that said proceeding should be redesignated accordingly, and that the agreement and undertaking submitted by Bowman should be accepted for filing.

The Commission orders:

(A) Fred Bowman is substituted in lieu of Jenny Manufacturing Co. as respondent in the proceeding pending in Docket No. RI67-410, said proceeding is redesignated accordingly, and the agreement and undertaking submitted by Fred Bowman in said proceeding is accepted for filing.

(B) Fred Bowman shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, and the agreement and undertaking filed by Fred Bowman in Docket No. RI67-410 shall remain in full force and effect until discharged by the Commission.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-13099; Filed, Nov. 6, 1967; 8:46 a.m.]

[Doc. No. G-20439, etc.]

CONTINENTAL OIL CO. ET AL.

Order Making Successors Co-Respondents, Redesignating Proceedings, and Accepting Agreement and Undertaking for Filing

OCTOBER 31, 1967.

Continental Oil Co. (Operator) et al., and Clinton Oil Co. (Operator) et al., Docket Nos. G-20439, RI65-231 and RI65-375; Continental Oil Co. et al., and Clinton Oil Co. (Operator) et al., Docket No. RI65-376.

By order issued September 12, 1967, in Docket No. G-4804 et al., the Commission authorized Clinton Oil Co. (Clinton) to continue certain sales of natural gas theretofore authorized to be made by Continental Oil Co. (Continental). In each case Continental's related FPC gas rate schedule was redesignated as that of Clinton or the contract comprising Continental's rate schedule was also accepted for filing as that of Clinton. The presently effective rates under said rate schedules are in effect subject to refund. Clinton has filed a motion to be made a party respondent in each rate proceeding together with an agreement and undertaking to assure the refund of any amounts collected by itself in excess of the amount determined to be just and reasonable in said proceedings. Therefore, Clinton will be made co-respondent in each proceeding; the proceedings will be redesignated accordingly; and the agreement and undertaking will be accepted for filing.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Clinton should be made co-respondent in Continental's rate proceedings, that said proceedings should be redesignated accordingly, and that the agreement and undertaking submitted by Clinton should be accepted for filing.

The Commission orders:

(A) Clinton is made a co-respondent in each of the following proceedings, each proceeding is redesignated accordingly, and the agreement and undertaking submitted by Clinton is accepted for filing:

Rate Docket No.	Clinton's certificate Docket No.	Clinton Oil Co. FPC gas rate schedule	Continental Oil Co. FPC gas rate schedule
G-20439	CI65-41	[1] 3	[1] 189
RI65-231	CI61-1046	[1] 6	[1] 195
RI65-375	CI65-41	[1] 2	[1] 188
RI65-375	CI68-48	7	[1] 148
RI65-376	CI61-1046	[1] 5	[2] 194

[1] (Operator) et al.
[2] Et al.

(B) Clinton shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, and the agreement and undertaking filed by Clinton shall remain in full force and effect until discharged by the Commission.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-13107; Filed, Nov. 6, 1967; 8:46 a.m.]

[Docket No. RI68-15]

FOREE CO. ET AL.

Notice of Extension of Time

OCTOBER 31, 1967.

Notice is hereby given that the time for filing notices of intervention or petitions to intervene, as provided by paragraph (E) of the Order Accepting Contract Amendment, and providing for hearing on and suspension of proposed change in rate, issued July 26, 1967, is extended to and including November 20, 1967.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-13100; Filed, Nov. 6, 1967; 8:46 a.m.]

[Project 1909]

KADIAK FISHERIES CO.

Notice of Application for License for Constructed Project

NOVEMBER 1, 1967.

Public notice is hereby given that application for license has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by Kadiak Fisheries Co., 1826 Exchange Building, Seattle, Wash. 98104, for a license for constructed Project No. 1909, located on an unnamed creek on the east side of Kodiak Island which flows into Shearwater Bay. The project has been under a 25-year license which expired on December 31, 1966.

The existing project consists of: A wooden flume about 60 feet long, a wood penstock, 18 feet long, a wirewound wood pipe line about 3,643 feet long, a powerhouse containing a waterwheel and a 10.5 kw generator; and a short powerline to Applicant's cannery and accessory buildings.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is December 18, 1967. The application is on file with the Commission for public inspection.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-13101; Filed, Nov. 6, 1967; 8:46 a.m.]

[Docket No. CP68-133]

LONE STAR GAS CO.

Notice of Application

OCTOBER 31, 1967.

Take notice that on October 17, 1967, Lone Star Gas Co. (Applicant), 301 South Harwood Street, Dallas, Tex. 75201, filed in Docket No. CP68-133 a "budget-type" application pursuant to subsection (c) of section 7 of the Natural Gas Act, as implemented by § 157.7(c) of the regulations under the Act, for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to construct and operate, during calendar year 1968, transportation facilities for the purpose of making direct sales of natural gas to industrial customers located outside of the franchise area of any local distributor. Applicant states that the maximum delivery to any one customer through the facilities proposed will not exceed 100,000 Mcf of natural gas annually and such gas will not be used for boiler fuel purposes as defined by the Commission.

The total estimated cost of the facilities proposed by Applicant will not exceed $100,000, with the cost of any single project not to exceed $15,000, said cost to be financed from cash on hand.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before November 27, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, futher notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-13102; Filed, Nov. 6, 1967; 8:46 a.m.]

[Docket No. CP67-210]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Petition To Amend

NOVEMBER 1, 1967.

Take notice that on October 20, 1967, Michigan Wisconsin Pipe Line Co. (Petitioner), 1 Woodward Avenue, Detroit, Mich. 48226, filed in Docket No. CP67-210 a petition to amend the order issued in said docket on April 24, 1967, as amended August 4, 1967, by requesting authorization to change the service to be rendered to one of its resale customers, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Specifically, Petitioner requests that the aforementioned order be amended to allow a change in the service to be rendered to North Central Public Service Co. (North Central). North Central has requested a maximum daily quantity (MDQ) of 16,500 Mcf under Rate Schedule LVS-1 to meet the increased requirements of its customer, Chevron Chemical Co., and an MDQ of 5,500 Mcf under Rate Schedule ACQ-1 to meet all of North Central's other requirements. The requested service will supersede the presently authorized MDQ of 19,000 Mcf under Rate Schedule ACQ-1 and results in an increase in the total MDQ of North Central of 3,000 Mcf. Petitioner states, however, since 40 percent of the MDQ deliverable under Rate Schedule LVS-1 is interruptible, there will be no increase in the maximum day delivery obligation of Petitioner.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before November 27, 1967.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13103; Filed, Nov. 6, 1967; 8:46 a.m.]

[Docket No. RI68-112, etc.]

MOBIL OIL CORP. ET AL.

Notice of Extension of Time

OCTOBER 31, 1967.

Notice is hereby given that the time for filing notices of intervention or petitions to intervene, as provided by paragraph (D) of the order providing for hearing on and suspension of proposed changes in rates, and allowing rate changes to become effective subject to refund, issued on September 13, 1967, is extended to and including November 20, 1967.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13104; Filed, Nov. 6, 1967; 8:46 a.m.]

[Docket No. CP68-136]

NORTHERN NATURAL GAS CO.

Notice of Application

NOVEMBER 1, 1967.

Take notice that on October 20, 1967, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP68-136 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to acquire and operate certain facilities presently owned by Humble Oil & Refining Co. (Humble) in the Gomes Field, Pecos County, Tex. Applicant and Humble executed a contract, dated November 4, 1964, for the purchase of natural gas from the Gomes Field under the terms of which contract Humble had the right to terminate the contract if acceptable certificates were not issued by December 1, 1966. Neither party received certificates as of that date. Humble agreed to extend the period during which the parties could receive proper certificates and, in consideration thereof, Applicant agreed to assume the obligation of gathering, treating, and conditioning the gas produced from Humble's acreage in the Gomes Field. Applicant proposes to acquire from Humble the necessary facilities to fulfill its obligation.

The facilities to be acquired by Applicant from Humble consist of seven well lines and a treating plant. Applicant states that five of the well lines have been completed and the other two are expected to be completed during 1967.

The total estimated cost of the proposed acquisition is $2,991,008, which cost will be financed out of cash on hand, reserve, accruals, and retained earnings.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before November 27, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13105; Filed, Nov. 6, 1967; 8:46 a.m.]

[Docket No. G-10658]

UNITED FUEL GAS CO.

Notice of Petition To Amend

NOVEMBER 1, 1967.

Take notice that on October 23, 1967, United Fuel Gas Co. (Petitioner), Post Office Box 1273, Charleston, W. Va. 25325, filed in Docket No. G-10658 a petition to amend the order, as amended, issued September 18, 1956, by requesting authorization to extend interim delivery of natural gas to one of its industrial customers, E. I. du Pont de Nemours & Co. (Du Pont), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the order issued September 18, 1956, Petitioner was authorized, inter alia, to sell and deliver to Du Pont at its Belle, W. Va., plant a maximum of 35,000 Mcf of natural gas per day. Pursuant to Petitioner's requests, the Commission, by orders, issued March 13, 1967, and June 29, 1967, authorized Petitioner to transport and deliver, during the period April 1, 1967, through October 31, 1967, up to 70,000 Mcf of natural gas daily on an interruptible basis to Du Pont in lieu of the authorized daily delivery of 60,000 Mcf of interruptible natural gas, as authorized by order amending order issued October 27, 1964.

In response to a letter from Du Pont dated October 18, 1967, Petitioner now requests that the interim delivery period be extended from November 1, 1967 through May 31, 1968, at which time Du Pont contemplates that its new anhydrous ammonia plant at Belle, Kanawha County, W. Va., will be in operation and all changeover problems solved.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before November 29, 1967.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13106; Filed, Nov. 6, 1967; 8:46 a.m.]

OFFICE OF EMERGENCY PLANNING

NEW YORK

Notice of Major Disaster

Pursuant to the authority vested in me by the President under Executive Order 10427 of January 16, 1953, Executive Order 10737 of October 29, 1957, and Executive Order 11051 of September 27, 1962 (18 F.R. 407, 22 F.R. 8799, 27 F.R. 9683); Reorganization Plan No. 1 of 1958, Public Law 85-763, and Public Law 87-296; by virtue of the Act of September 30, 1950, entitled "An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes" (42 U.S.C. 1855-1855g), as amended; notice is hereby given of a declaration of "major disaster" by the President in his letter dated October 30, 1967, reading in part as follows:

I have determined that the damage in various areas of the State of New York, adversely affected by severe storms and flooding, beginning on or about September 28, 1967, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 81-875.

I do hereby determine the following areas in the State of New York to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 30, 1967:

The counties of: Allegany, Cattaraugus.

Dated: October 31, 1967.

PRICE DANIEL,
Director,
Office of Emergency Planning.

[F.R. Doc. 67-13118; Filed, Nov. 6, 1967; 8:47 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[812-2160]

AMERICAN VARIABLE ANNUITY LIFE ASSURANCE CO. AND AMERICAN VARIABLE ANNUITY FUND

Notice of Application for Exemptions

NOVEMBER 1, 1967.

Notice is hereby given that American Variable Annuity Life Assurance Co. ("Company") and American Variable Annuity Fund ("Fund"), 440 Lincoln Street, Worcester, Mass. 01605 (hereinafter collectively called "Applicants") have filed an application pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an order exempting Applicants from the provisions of sections 22(d), 22(e), 27(a), and 27(c) (1) and (2) thereunder. The Fund, an open-end diversified management investment company registered under the Act, was established by the Company on March 21, 1967. The Company, a stock insurance company organized under the provisions of the Insurance Code of Arkansas, is a wholly owned subsidiary of the State Mutual Assurance Co. of America ("State Mutual"), a mutual life insurance company organized under the laws of the Commonwealth of Massachusetts.

The Fund intends to offer, through the Company which is the principal underwriter of the Fund, both group and individual variable annuity contracts, which may or may not include provision for life insurance and guaranteed fixed annuities. The group variable annuity contracts will be offered to public school systems and tax-exempt organizations for annuity purchase plans under which participating employees will be afforded Federal income tax benefits in accordance with section 403(b) of the Internal Revenue Code of 1954 as amended. Individual variable annuity contracts are of three types: (a) Single payments contracts, (b) flexible payment contracts, and (c) stipulated payment contracts. Both the group and the individual contracts will offer fixed, variable, and combination fixed and variable annuity payment options. All interested persons are referred to the application as amended, on file with the Commission, and the Fund's registration statement under the Act (File No. 811-1497) which is incorporated by reference, for a statement of the representations which are summarized below.

Section 22(d). (1) Section 22(d) of the Act, in pertinent part, provides that no principal underwriter shall sell any redeemable security to the public except at a public offering price described in the prospectus. Group variable annuity contracts initially to be offered to the public by the Company will provide for a combined deduction for sales and administrative expenses of 6.5 percent of payments received in the first through the 10th contract years and 5 percent of the payments received thereafter. If special death benefits are included, the foregoing combined deduction are increased by 0.5 percent in the first through the 10th contract years and 1 percent thereafter. Applicants have reserved the right to increase the combined deduction to the maximum cumulative deduction permitted by section 27(a) of the Act. They state that the requested exemption is necessary because it is impossible to identify in advance for each contract the portion of the combined fee attributable to each type of expense.

(2) Applicants request a further exemption from section 22(d) to permit experience rating under its group variable annuity contracts. Pursuant to such a provision the Company would annually determine the combined sales and administrative expenses applicable to each group contract; that is, whether the Company's charges exceeded its applicable costs for the prior year. On the basis of such determination, the Company in its discretion may credit on a nondiscriminatory basis, to the employer in the case of unallocated contracts and to individual participants in case of allocated group contracts, none, some or all of the excess, if any, of the amounts deducted for such charges over applicable costs. No additional charge is made if the deduction fails to cover such costs. Any credit due an employer in the case of unallocated contracts will be applied to reduce the amount of subsequent payments. Any credits due the participants in the case of an allocated contract will be applied, as considered appropriate by the Company, either (a) to reduce the amount deducted from subsequent contributions for sales and administrative expenses, or (b) to increase the number of accumulation units or annuity units, as applicable, by an amount equal in value to the amount of the credit due less any applicable premium taxes, in either case without deduction therefrom of any amount for sales and administrative expenses.

Sections 22(e) and 27(c)(1). Section 22(e) of the Act, among other things, provides that no registered investment company may suspend the right of redemption, or postpone the date of payment of any redeemable security more than seven days after its tender for redemption. Section 27(c)(1) of the Act prohibits a registered investment company issuing periodic payment plan certificates from selling any such certificate unless it is a redeemable security.

Applicants request an exemption from sections 22(e) and 27(c)(1) to permit issuance of variable annuity contracts which preclude their owners from surrendering the contracts for a cash settlement during the annuity payment period. Applicants represent that such an exemption is necessary to maintain the actuarial basis of life annuity contracts. During the pay-in period, the accumulation unit is redeemable.

Section 27(a). Section 27(a) of the Act, prohibits the sale of any periodic payment plan certificate issued by a registered investment company if, among other things, (1) the sales load on such certificate exceeds 9 per centum of the total payments to be made thereon; (2) more than one-half of any of the first 12 monthly payments thereon, or their equivalent, is deducted for sales load; (3) the amount of sales load deducted from any one of such first payments exceeds proportionately the amount deducted from any other such payment, or the amount deducted from any subsequent payment exceeds proportionately the amount deducted from any other subsequent payment.

(1) Applicants propose to offer group variable annuity contracts with respect to plans qualified under section 401 and contracts meeting the requirements of section 403(b) of the Internal Revenue Code of 1954 which may include special death benefits. As stated above, such contracts initially to be offered to the public will provide for a combined deduction for sales and administrative expenses of 6.5 percent of payments received in the first through the 10th contract years and 5 percent of payments received thereafter and if special death benefits are included, the foregoing combined deduction will be increased by 0.5 percent in the first through the 10th contract years and 1 percent thereafter. Applicants request an exemption from section 27(a) to permit a reduction in the combined deduction under such group contracts at the end of the 10th contract year in the manner proposed.

(2) Applicants state that at some future time it may be necessary to offer group contracts which provide for a reduction in the combined deduction at a date following the first contract year which is different from the end of the 10-year period now proposed. In any

case, a modification of the reduction date will not result in a combined deduction which exceeds the maximum cumulative deduction permitted by section 27(a). Applicants request an exemption from section 27(a) to permit such modification with respect to group contracts which may be offered in the future.

(3) Applicants also propose to offer individual variable annuity contracts providing for periodic payments. Initially such contracts will provide for deduction of 35 percent of the stipulated payments in the first contract year, 9 percent of such payments in the second through the 10th contract years, and 5 percent thereafter. Such deductions will include 33 percent, 5.4 percent and 1 percent, respectively, for sales charges and the balance for administrative services. The cumulative deductions for sales load as proposed would be less at any point in the life of a contract than the maximum cumulative deductions permitted by section 27(a). Because the sales load on the payments after the first year are not proportionately equal, Applicants request an exemption from section 27(a) to permit the proposed second reduction in the sales load after the 10th year.

(4) Applicants state that, although the sales load initially proposed on the individual contracts calling for periodic payments will be adequate, they may find it necessary to increase the sales load on such contracts to be offered in the future up to the maximum permitted by section 27(a) during an assumed payment period of 11 years, and to fix another date following the first contract year at which to make the second reduction in the sales load. In the event of any such adjustment, the maximum cumulative deduction will not exceed that permitted by section 27(a). Applicants submit that the assumed 11-year period is a reasonable period for determining compliance with the provisions of section 27(a). If any contract is issued providing for an accumulation period during which the average sales load would exceed 9 percent, an adjustment will be made so that total deductions for sales charges during the accumulation period will be less than the maximum permitted by section 27(a).

Section 27(a)(4). Section 27(a)(4) of the Act prohibits the sale of any periodic payment plan certificate issued by a registered investment company if the initial payment is less than $20 or if any subsequent payment is less than $10.

Applicants request an exemption from section 27(a)(4) with respect to group variable annuity contracts issued in connection with plans qualified under section 401 or meeting the requirements of section 403(b) of the Internal Revenue Code to permit uniform minimum payments including the initial payment between $10 and $20. The Applicants allege that requiring two different amounts as minimum payments places an administrative burden upon the employer to make two payroll adjustments.

Section 27(c)(2). Section 27(c)(2) of the Act prohibits the sale of any periodic payment plan certificate unless the net proceeds of all purchase payments are deposited with a bank having the qualifications prescribed by section 26(a)(1) of the Act and are held by the bank as trustee or custodian under an agreement containing, in substance, the provisions of section 26(a)(2) and (3) of the Act.

Applicants request an exemption from section 27(c)(2) to avoid the administrative burdens and expenses which such custodianship or trusteeship by a bank would entail. The Company represents that it is subject to extensive supervision and control by the Arkansas Insurance Commissioner in all its dealings with contract owners. State Mutual, which will hold Applicant's securities and similar investments under a safekeeping agreement meeting the requirements of Rule 17f-2 under the Act, is subject to similar supervision and control by the Massachusetts Insurance Commissioner.

Applicants consent to the requested exemption being made subject to the condition that deductions under the variable annuity contracts for administrative expenses subject to section 26(a)(2) shall not exceed such reasonable amount as the Commission shall prescribe, and that the Commission shall reserve jurisdiction for such purpose.

Section 6(c) of the Act authorizes the Commission to exempt any person, security or transaction, or any class or classes or persons, securities, or transactions, from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 17, 1967, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13121; Filed, Nov. 6, 1967; 8:47 a.m.]

CODITRON CORP.

Order Suspending Trading

NOVEMBER 1, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $3 par value, of Coditron Corp., New York, N.Y., otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 2, 1967, through November 11, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13122; Filed, Nov. 6, 1967; 8:47 a.m.]

[File No. 7-2766]

GULF AND WESTERN INDUSTRIES, INC. (DELAWARE)

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 1, 1967.

In the matter of application of the Pittsburgh Stock Exchange for unlisted trading privileges in a certain security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Gulf & Western Industries, Inc. (Delaware) — File No. 7-2766.

Upon receipt of a request, on or before November 15, 1967 from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13123; Filed, Nov. 6, 1967; 8:47 a.m.]

[File Nos. 24B-1452, 24B-1403]

M. M. HUBBARD ASSOCIATES, INC.

Order Vacating Temporary Suspension Order

NOVEMBER 1, 1967.

By order of May 4, 1967, the Securities and Exchange Commission temporarily suspended the Regulation A exemption from registration under the Securities Act of 1933 with respect to the subject notifications by M. M. Hubbard Associates, Inc. (Hubbard), 151 Franklin Street, Newton, Mass. The suspension order was based upon the asserted noncompliance by Hubbard with certain terms and conditions of Regulation A, including particularly the alleged failure of the company's offering circulars to provide accurate and adequate disclosure of certain material facts.

Pursuant to a request of Hubbard filed May 29, 1967, the Commission ordered a hearing on the question whether the suspension order should be vacated or made permanent; but the hearing was deferred at Hubbard's request and has not been held.

Hubbard has submitted an offer of settlement of the issues in these proceedings, which includes an amendment of its Regulation A notifications and a revised offering circular, by means of which Hubbard seeks to make accurate disclosures with regard to the information alleged in the temporary suspension order to have been false and misleading.

It appearing to the Commission, upon the basis of the offer of settlement and under all of the circumstances here present, including the disclosures now contained in the Hubbard's revised offering circular, that it is appropriate in the public interest and for the protection of investors to vacate the temporary suspension order,

It is ordered, That the Commission's order of May 4, 1967, temporarily suspending the Regulation A exemptions with respect to the subject notifications be, and it hereby is, vacated.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13124; Filed, Nov. 6, 1967; 8:47 a.m.]

[812-2177]

MURPHY OIL INTERNATIONAL FINANCE CO.

Notice of Filing of Application for Order Exempting Company

NOVEMBER 1, 1967.

Notice is hereby given that Murphy Oil International Finance Co. ("Applicant"), 200 Jefferson Avenue, El Dorado, Ark. 71730, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an order exempting Applicant from all provisions of the Act and the rules and regulations thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

Applicant was organized by Murphy Oil Corp. ("Murphy") under the laws of the State of Delaware on September 21, 1967. Murphy or a fully owned subsidiary of Murphy (which term as used herein means a corporation all of the outstanding securities of which, other than short-term paper as defined in section 2(a)(36) of the Act and directors' qualifying shares, are owned, directly or indirectly, by Murphy) will subscribe for all of the capital stock of Applicant to be issued and outstanding. Murphy has purchased five of the 2,500 authorized shares of Applicant's common stock for $5,000. Murphy will make such capital contributions to Applicant of, or will purchase additional securities of Applicant for, cash, securities or other property as may be necessary in order that Applicant's equity capital will not be less than 20 percent of Applicant's outstanding long-term debt at any time. Any additional securities which Applicant may issue, other than debt securities, will be issued only to Murphy or a fully owned subsidiary of Murphy. Murphy will continue to retain its present holdings of Applicant's common stock and any additional securities of Applicant which Murphy may acquire and Murphy will not dispose of any of Applicant's securities (other than debt securities) except to Applicant or to a fully owned subsidiary of Murphy and Murphy will cause each fully owned subsidiary not to dispose of Applicant's securities (other than debt securities) except to Murphy, Applicant or to one or more fully owned subsidiaries of Murphy.

Murphy is engaged principally in exploration for development, production and sale of crude oil and natural gas, in extraction and sale of liquefied petroleum products, and in refining, transporting, buying and selling crude petroleum and products derived therefrom.

A principal purpose for the organization of Applicant was to raise funds abroad for financing the expansion and development of Murphy's foreign operations while at the same time providing assistance in improving the balance of payments position of the United States in compliance with the voluntary cooperation program instituted by the President in February 1965.

Applicant proposes to issue a 5-year note in the amount of $5 million. The buyer will represent that as to the United States it is a foreign corporation not engaged in any business within the United States, its territories or possessions, and that it is not purchasing the note for persons who are nationals, citizens or residents of the United States, its territories or possessions. The purchaser will also agree that it will not transfer the note to any national, citizen or resident of the United States, its territories or possessions, and that it will obtain a similar agreement from any person to whom it transfers the note.

In the future, as funds are required for investment in Murphy's foreign operations, Applicant intends to issue additional debt securities which may be sold privately or publicly. Murphy will guarantee the principal, interest payments and premium, if any, and sinking fund payments on all of Applicant's debt securities.

It is intended that upon completion of the long-term investment of Applicant's assets, substantially all of the assets of Applicant (exclusive of United States companies all or substantially all of whose business is carried on abroad either directly or indirectly through foreign companies which are, or upon the making of such investments will be (1) majority-owned subsidiaries of Murphy within the meaning of section 2(a)(23) of the Act, (2) companies under Murphy's control within the meaning of section 2(a)(9) of the Act, or (3) companies in which Murphy or Applicant own directly or indirectly, an equity interest of 15 percent or more. Applicant will not invest, directly or indirectly, in companies primarily engaged in the business of investing, reinvesting, owning, holding or trading in securities provided that this restriction shall not preclude investments by Applicant in fully owned subsidiaries of Murphy primarily engaged in the business of owning or holding securities of companies in which Applicant may invest as stated herein. Applicant will proceed as expeditiously as practicable with the long-term investment of its assets in the manner described above. Pending such investment, and from time to time thereafter in connection with changes in long-term investments, Applicant will invest temporarily in debt obligations (including time deposits) of foreign governments, foreign financial institutions (including foreign branches of United States financial institutions) and foreign subsidiaries of Murphy, payable in U.S. dollars or other currencies and in each case maturing in one year or less from the date of acquisition. Applicant will not acquire the securities representing its investments or loans for the purpose of resale and will not trade in securities.

If a public distribution is made through underwriters, the debt securities will be offered and sold under conditions which

are intended to assure that the debt securities will not be offered or sold in the United States, its territories or possessions or to nationals, citizens or residents of the United States, its territories or possessions. The contracts relating to such offer and sale will contain various provisions intended to assure that the debt securities will not be purchased by nationals, citizens, or residents of the United States, its territories or possessions.

Counsel has advised Applicant that United States persons will be required to report and pay an interest equalization tax with respect to acquisition of the debt securities, except where a specific statutory exemption is available. By financing its foreign operations through Applicant rather than through the sale of its own obligations, Murphy will utilize an instrumentality the acquisition of whose debt obligations by U.S. persons would generally subject such persons to the interest equalization tax, thus discouraging them from purchasing such debt obligations.

The common stock of Murphy is listed on the New York Stock Exchange and registered under the Securities Exchange Act of 1934.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction from any provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that it is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act for the Commission to enter an order exempting Applicant from each and every provision of the Act for the following reasons: (1) A significant purpose of the Applicant is to assist in improving the balance of payments program of the United States by obtaining funds for foreign operations in foreign countries; (2) the payment of the debt securities to be issued by Applicant, which is guaranteed by Murphy, does not depend solely on the operation or investment policy of Applicant, for the security holders may ultimately look to the business enterprise of Murphy; (3) none of the securities of Applicant (other than debt securities) will be held by any person other than Murphy or a fully owned subsidiary of Murphy; (4) Applicant will not deal or trade in securities; (5) the debt securities to be issued by Applicant will be sold only to foreign nationals and the burden of the Interest Equalization Tax will discourage resale to any U.S. national, citizen, or resident.

Notice is further given that any interested person may, not later than November 16, 1967, at 12:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13125; Filed, Nov. 6, 1967; 8:48 a.m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 639]

MISSISSIPPI

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of October 1967, because of the effects of certain disasters, damage resulted to residences and business property located in Harrison County, in the State of Mississippi;

Whereas, the Small Business Administration has investigated and received other reports of investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Acting Associate Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the offices below indicated from persons or firms whose property, situated in the aforesaid county and areas adjacent thereto, suffered damage or destruction resulting from tornadoes occurring on October 30, 1967.

OFFICE

Small Business Administration Regional Office, Capital and West Streets, Jackson, Miss. 39201.

2. A temporary office will be established at Gulfport, Miss., address to be announced locally.

3. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to April 30, 1968.

Dated: October 31, 1967.

HOWARD W. ROGERSON, *Acting Associate Administrator.*

[F.R. Doc. 67-13126; Filed, Nov. 6, 1967; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 2, 1967.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41162—*Corn and grain sorghums to Morrilton, Ark.* Filed by Southwestern Freight Bureau, agent (No. B-9036), for interested rail carriers. Rates on corn and grain articles, in carloads, as described in the application, from points in Iowa, Kansas, Missouri, and Nebraska, to Morrilton, Ark. (Group 24).

Grounds for relief—Carrier competition.

Tariff—Supplement 12 to Southwestern Freight Bureau, agent, tariff ICC 4748.

FSA No. 41163—*Class and commodity rates from and to Marbledale, Tenn.* Filed by O. W. South, Jr., agent (No. A5065), for interested rail carriers. Rates on property moving on class and commodity rates, between Marbledale, Tenn., on the one hand, and points in the United States and Canada, on the other.

Grounds for relief—New station and grouping.

FSA No. 41164—*Fertilizer and fertilizer materials to points in Wyoming.* Filed by Union Pacific Railroad Co. (No. 130), for itself and interested rail carriers. Rates on fertilizer and fertilizer materials, liquid and dry, in carloads, and tank carloads, from Don and Epco, Idaho, Garfield, Geneva, and Ironton, Utah, to points in Wyoming.

Grounds for relief—Market competition.

Tariff—Supplement 8 to Union Pacific Railroad Co., tariff ICC 5636.

By the Commission.

[SEAL] ANDREW ANTHONY, JR., *Acting Secretary.*

[F.R. Doc. 67-13145; Filed, Nov. 6, 1967; 8:49 a.m.]

[Notice 487]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 2, 1967.

The following are notices of filing of applications for temporary authority under section 210(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provided that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 14552 (Sub-No. 27 TA), filed October 23, 1967. Applicant: J. V. McNICHOLAS, TRANSFER COMPANY, 555 West Federal Street, Youngstown, Ohio 44502. Applicant's representative: Paul F. Berry, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, tubing, mine roof bolts, and bar stock;* from the plantsite of the Edward Corp. at Warren, Ohio to points in Wisconsin, Iowa, Missouri, Illinois, Kentucky, Indiana, Ohio, Michigan, Virginia, West Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, and the District of Columbia; Omaha, Nebr.; Kansas City, Kans.; and Minneapolis and St. Paul, Minn.; and *steel mill equipment, materials, and supplies*, from points in Wisconsin, Iowa, Missouri, Illinois, Kentucky, Indiana, Ohio, Michigan, Virginia, West Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, and the District of Columbia; Omaha, Nebr.; Kansas City, Kans.; and Minneapolis and St. Paul, Minn., to the plantsite of the Edward Corp., at Warren, Ohio, for 180 days. Supporting shipper: The Youngstown Sheet & Tube Co., Youngstown, Ohio. Send protests to: District Supervisor G. J. Baccei, Interstate Commerce Commission, Bureau of Operations, 435 Federal Building, 215 Superior Avenue, Cleveland, Ohio 44114.

No. MC 34767 (Sub-No. 41 TA), filed October 30, 1967. Applicant: GOOD'S TRANSFER, INCORPORATED, 234 Charles Street, Harrisonburg, Va. 22801. Applicant's representative: Thomas J. Wilson, 402 First National Bank Building, Harrisonburg, Va. 22801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Poultry plant and packinghouse waste products*, from Linville and Harrisonburg, Va., to points in West Virginia, for 180 days. Supporting shipper: Triangle E By-Products Co., Inc., Linville, Va. 22834. Send protests to: George S. Hales, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 215 Campbell Avenue SW., Roanoke, Va. 24011.

No. MC 43654 (Sub-No. 72 TA), filed October 30, 1967. Applicant: DIXIE OHIO EXPRESS, INC., 237 Fountain Street, Akron, Ohio 44304, Post Office Box 750, Akron, Ohio 44309. Applicant's representative: R. E. Gifford (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between the plantsite and warehouses of Rockwell-Standard Corp., at or near Winchester, Ky., on the one hand, and, on the other, Detroit, Mich., and points within 25 miles thereof; the intermediate point of Monroe, Mich.; and the off-route points of Flint and Ann Arbor, Mich., over presently authorized routes to Dayton and/or Delaware, Ohio, thence over Interstate Highway 75 or U.S. Highway 25, from Dayton, Ohio, to Detroit, serving the intermediate point of Monroe, Mich.; U.S. Highway 23 from Delaware, Ohio, to its junction with Interstate Highway 75 or U.S. Highway 25 to near Toledo, Ohio, thence over Interstate Highway 75 or U.S. Highway 25 to Detroit, serving the intermediate point of Monroe, Mich., and return over the same routes, for 180 days. Supporting shipper: Rockwell Standard Corp., Winchester, Ky. 40391. Send protests to: G. J. Baccei, District Supervisor, Interstate Commerce Commission, 435 Federal Building, 215 Superior Avenue, Cleveland, Ohio 44114.

No. MC 52579 (Sub-No. 91 TA), filed October 30, 1967. Applicant: GILBERT CARRIER CORP., 1 Gilbert Drive, Secaucus, N.J. 07094. Applicant's representative: Aaron Hoffman (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, loose, on hangers, from Star City, Ark., to points in the New York, N.Y., commercial zone, as defined by the Commission, for 150 days. Supporting shipper: Spartans Industries, Inc., Box 270, Sparta, Tenn. 38583. Send protests to: District Supervisor, Walter J. Grossman, Interstate Commerce Commission, Bureau of Operations, 1060 Broad Street, Room 363, Newark, N.J. 07102.

No. MC 66562 (Sub-No. 2262 TA), filed October 26, 1967. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York, N.Y. 10017. Applicant's representative: Joseph A. Papa, 30th and Walnut Streets, Philadelphia, Pa. 19104. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, moving in express service, (1) Between Washington, D.C., and Richmond, Va., serving the intermediate or off-route points of Newington, Woodbridge, Quantico, Fredericksburg, Milford, and Ashland, Va.: From Richmond over Virginia Highway 33 to junction Virginia Highway 161, thence over Virginia Highway 161 to junction Interstate Highway 95; thence over Interstate Highway 95 to Fredericksburg; thence over U.S. Highway 1 to junction Virginia Highway 3; thence over Virginia Highway 3 to junction Interstate Highway 95; thence over Interstate Highway 95 to junction Virginia Highway 234; thence over Virginia Highway 234 to Quantico; thence return over same route to Interstate Highway 95; thence over Interstate Highway 95 to Washington, D.C., and return over the same route; (2) between Fredericksburg and Milford, Va.: (a) from Fredericksburg over U.S. Highway 17 to junction Virginia Highway 2; thence over Virginia Highway 2 to junction Virginia Highway 207; thence over Virginia Highway 207 to junction Virginia Highway 722; thence over Virginia Highway 722 to Milford; return over same route to junction Interstate Highway 95; thence over Interstate Highway 95 to Ashland; (b) from Ashland over Interstate Highway 95 to Richmond, Va., also, from Milford, Va. over Virginia Highway 722 to junction Virginia Highway 207; thence over Virginia Highway 207 to junction Interstate Highway 95; thence over Interstate Highway 95 to Ashland, Va., and return over the same route, for 150 days. NOTE: Applicant proposes to tack the authority here applied for, to other existing authorities (MC 66562 and Subs thereunder). Supporting shippers: W. Francis Martin, 320 Patomac Avenue, Quantico, Va.; A. M. Bolognese, 306 Patomac Avenue, Quantico, Va.; Ralph S. Gale, 324 Caroline Street, Fredericksburg, Va.; Lena Boutchyard, 900½ Caroline Street, Fredericksburg, Va.; Park & Shop Merchants Association, 1239 Jefferson Davis Boulevard, Fredericksburg, Va.; Charles P. Rhein, Keller Ladders Eastern, Milford, Va.; Royal School Laboratories, Ashland, Va.; Lewis Business Forms, Inc., Watts Division, Post Office Box 72, Ashland, Va.; Electra Motors, Inc., Ashland, Va.; Hanover Shirt Co., Inc., Ashland, Va. Send protests to: District Supervisor Stephen P. Tomany, Interstate Commerce Commission, Bureau of Operations, 346 Broadway, New York, N.Y. 10013.

No. MC 96500 (Sub-No. 3 TA), filed October 30, 1967. Applicant: HARRY'S EXPRESS COMPANY, INC., 545 West 25th Street, New York, N.Y. 10001. Applicant's representative: Martin Werner, 2 West 45th Street, New York, N.Y. 10036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Radios, clock radios, and parts*, between points in the New York, N.Y., commercial zone, on the one hand, and, on the other, Hackensack, N.J., for 150 days. Supporting shipper:

New York Transistor Corp., 150 Fifth Avenue, New York, N.Y. 10011. Send protests to: Paul W. Assenza, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 346 Broadway, New York, N.Y. 10013.

No. MC 109064 (Sub-No. 17 TA), filed October 30, 1967. Applicant: TEX-O-KA-N TRANSPORTATION COMPANY, INC., 3301 Southeast Loop 820, Post Office Box 6367, Fort Worth, Tex. 76113. Applicant's representative: Paul Healy (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, plastic tubing, plastic conduit, valves, fittings, compounds, joint sealer, bonding cement, primer, coating, thinner, and accessories* used in the installation of such products, from the plantsite of Universal Pipe & Plastic, Inc., at Hillsboro, Tex., to points in Oklahoma, Kansas, New Mexico, Arizona, Colorado, Arkansas, and Louisiana, for 120 days. Supporting shipper: Universal Pipe & Plastic, Inc., Hillsboro, Tex. 76645. Send protests to: Billy R. Reid, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 9A27 Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 119164 (Sub-No. 25 TA), filed October 30, 1967. Applicant: J-E-M TRANSPORTATION CO., INC., 509 Liberty Street, Syracuse, N.Y. 13201, Post Office Box 1315, Syracuse, N.Y. 13204. Applicant's representative: Helen S. Morley (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic resins*, dry, in bulk, in pneumatic tank vehicles, in a coordinated rail-motor service, from the Flexi-Flo rail-motor exchange terminal facilities on the lines of the New York Central Railroad Co. located at Rochester, N.Y., restricted to shipments having prior movement inbound via rail service; for 150 days. Supporting shipper: Allied Chemical Corp., Traffic Department, 40 Rector Street, New York, N.Y. 10006. Send protests to: Morris H. Gross, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 104, 301 Erie Boulevard, West, Syracuse, N.Y. 13202.

No. MC 123502 (Sub-No. 19 TA), filed October 30, 1967. Applicant: FREE STATE TRUCK SERVICE, INC., 10 Vernon Avenue, Glen Burnie, Md. 21061. Applicant's representative: Donald E. Freeman, Post Office Box 806, Westminster, Md. 21157. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement clinker*, in bulk, from Security, Md., and York, Pa., to Martinsburg, W. Va.; for 150 days. Supporting shipper: Capitol Cement Co., Post Office Box 5618, Baltimore, Md. 21210. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 1125 Federal Building, 31 Hopkins Plaza, Baltimore, Md. 21201.

No. MC 124802 (Sub-No. 9 TA), filed October 30, 1967. Applicant: CURTIS WOMELDORF, doing business as ACE MOTOR FREIGHT, Post Office Box 331, Summerville, Pa. 15864. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay products*, from Porter Township, Clarion County, Pa., to Newark and Nutley, N.J.; for 150 days. Supporting shipper: New Bethlehem Tile Co., New Bethlehem, Pa. 16242. Send protests to: Frank L. Calvary, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2109 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 129475 (Sub-No. 1 TA), filed October 30, 1967. Applicant: E. D. CARRELL, doing business as E. D. CARRELL TRUCKING CO., Monroe, Ga. Applicant's representative: William Addams, Suite 527, 1776 Peachtree Street NW. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Molded plastic products*, from Social Circle, Ga., to points in Arkansas, Indiana, Kentucky, North Carolina, South Carolina, Tennessee, Virginia, Alabama, and Pennsylvania, for 150 days. Supporting shipper: Ronthor Reiss Corp., 111 Fourth Avenue, New York, N.Y. 10003. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 129490 (Sub-No. 1 TA), filed October 26, 1967. Applicant: HOLMES DEHAVEN, doing business as FRIGID INSTITUTIONAL DELIVERIES, Route 3, Box 86, Berkeley Springs, W. Va. 25411. Applicant's representative: Charles E. Creager, Post Office Box 81, Winchester, Va. 22601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meats* from Chicago, Ill., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Indiana, Kansas, Kentucky, Maryland, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and the District of Columbia, for 150 days. Supporting shipper: Frigidmeats, Inc., 3755 South Racine Avenue, Chicago, Ill. 60609, Sidn ey Jaffe, President. Send protests to: J. A. Niggemyer, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 531 Hawley Building, Wheeling, W. Va. 26003.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13140; Filed, Nov. 6, 1967; 8:49 a.m.]

[Notice 48]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 2, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-69902. By order of October 20, 1967, the Transfer Board approved the transfer to John P. Rodgers, doing business as Rodgers Tours, Hazleton, Pa., of license in No. MC-12556 (Sub-No. 1), issued July 20, 1953, to Victor Craig, Hazleton, Pa., authorizing service as a broker of passengers in round-trip all-expense tours, beginning and ending at Hazleton, Pa., and points within 15 miles of Hazleton, and extending to all points in the United States. Roy N. LaRocca, 1100 Northeastern Building, Hazleton, Pa. 18201, attorney for applicants.

No. MC-FC-69909. By order of October 20, 1967, the Transfer Board approved the transfer to G & J Freight, Inc., Fresno, Calif., of that portion of the certificate of registration in No. MC-125491 (Sub-No. 1), issued to Sierra Distributing, Ltd., a corporation, authorizing the transportation, in interstate or foreign commerce of: Various commodities of a general commodity nature, i.e., iron, steel, iron and steel articles, roofing, building and paving materials, waste paper, paperboard, pulpboard, machinery and parts, petroleum and petroleum products, chemicals, and other commodities, between points in a specified area of California. Marshall G. Berol, 100 Bush Street, San Francisco, Calif. 94104, attorney for applicants.

No. MC-FC-69950. By order of October 20, 1967, the Transfer Board approved the transfer to Yellowstone Park Lines, Inc., Yellowstone National Park, Wyo. 83020, of the operating rights in certificate No. MC-127736 (Sub-No. 2), issued by the Commission December 21, 1966, to Elvin J. Kenda, doing business as Gallatin Canyon Lines, Bozeman, Mont., authorizing the transportation of: Passengers and their baggage, and express and newspapers, in the same vehicle, between Bozeman, and West Yellowstone, Mont., serving all intermediate points. Cordell Johnson, Post Office Box 1686, Helena, Mont. 59601, attorney for applicants.

No. MC-FC-69967. By order of October 20, 1967, the Transfer Board approved the transfer to Violet B. Miller, doing business as Miller's Trucking Service, Shippensburg, Pa., of the operating rights in certificate No. MC-53930, issued May 5, 1950, to Paul G. Miller, doing business as Miller's Trucking Service, Shippensburg, Pa., authorizing the transportation of: Grain, feed, grit, meat, fish meal, oyster shells, fruit, and fertilizer, between specified points in Pennsylvania, and Maryland. Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101, attorney for applicants.

No. MC-FC-69963. By order of October 20, 1967, the Transfer Board approved the transfer to Compton Service Co., a corporation, St. Louis, Mo., of the operating rights in permit No. MC-126270 (Sub-No. 2) issued by the Commission April 12, 1965, to Billy J. Hunt and Hollis Garrett, doing business as Compton Appliance Service Co., St. Louis, Mo., authorizing the transportation of: Kitchen equipment, electrical appliances, new furniture, and various other named commodities, between specified points and areas in Illinois and Missouri. Whitney R. Harris, 225 South Meramec, St. Louis, Mo. 63105, attorney for applicants.

No. MC-FC-69951. By order of October 23, 1967, the Transfer Board approved the transfer to Marion F. Alderman, doing business as Mar-Vel Trucking, Idanha, Oreg., of the operating rights in certificate No. MC-13313 (Sub-No. 2), issued December 18, 1961, to Cummings Transfer & Fuel Co., a corporation, Albany, Oreg., authorizing the transportation, over irregular routes, of wood chips, from points in Marion, Benton, and Linn Counties, Oreg., to Vancouver, Wash., and points within 5 miles thereof (except Camas, Wash.). Earle V. White, 2400 Southwest Fourth Avenue, Portland, Oreg., attorney for applicants.

No. MC-FC-69936. By order of October 30, 1967, the Transfer Board approved the transfer to Northern Equipment Leasing Co., a corporation, Andover, Conn., of certificate No. MC-57943 (Sub-No. 5), issued September 30, 1964, to Highland Industries, Inc., East Hartford, Conn., authorizing the transportation of: Bakery supplies and flour, from East Hartford, Conn., to Holyoke and Springfield, Mass.; flour and bakers' supplies and equipment, between Hartford, Conn., on the one hand, and, on the other, Clinton, Pittsfield, and Springfield, Mass., and between Springfield, Mass., on the one hand, and, on the other, Albany, Claverack, Saratoga Springs, and Troy, N.Y. David C. Wichman, 753, Main Street, Manchester, Conn. 06040, attorney for applicants.

No. MC-FC-69964. By order of October 23, 1967, the Transfer Board approved the transfer to Masso & Sons Express, Emerson, N.J., of the operating rights in certificate No. MC-127490, issued November 29, 1965, to J&J Garment Delivery, Dumont, N.J., authorizing the transportation of: General commodities, with the usual exceptions, between New York, N.Y., on the one hand, and, on the other, points in specified counties in New Jersey, and Rockland County, N.Y. Herman B. J. Weckstein, 1060 Broad Street, Newark, N.J. 07102, attorney for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13150; Filed, Nov. 6, 1967; 8:49 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during November.

3 CFR (Page)

PROCLAMATIONS:
3694 (terminated in part by Proc. 3818) 15467
3712 (terminated in part by Proc. 3818) 15467
3744 (terminated in part by Proc. 3818) 15467
3818 15467

EXECUTIVE ORDERS:
2295 (modified by PLO 4312) 15429
4702 (revoked in part by PLO 4315) 15482
8652 (revoked in part by PLO 4317) 15482
10530 (see EO 11378) 15237
10682 (see EO 11378) 15237
11378 15237

7 CFR
51 15066, 15073
729 15149
730 15076
910 15430
912 15430
913 15430
984 15388
1001 15076
1015 15090
1067 15093
1120 15388
1126 15388
1132 15389
1137 15431

PROPOSED RULES:
51 15435
882 15393
891 15393
892 15393
905 15116
906 15394
907 15488
908 15394
912 15436
913 15395
959 15177
989 15488
1049 15489
1064 15490
1090 15437
1125 15178

8 CFR
103 15469
212 15469
238 15469

9 CFR
76 15240
131 15469

10 CFR
PROPOSED RULES:
20 15432

12 CFR
219 15389

13 CFR
106 15065
108 15149

PROPOSED RULES:
107 15399
121 15184

14 CFR
21 15472
39 15094, 15153, 15154, 15390, 15421, 15472.
71 15094, 15095, 15154
73 15096
91 15422
97 15423, 15473
207 15096
208 15097
241 15098

PROPOSED RULES:
39 15491
71 15117–15121, 15491–15493

15 CFR
0 15222
70 15154
204 15104, 15391
230 15105

16 CFR
13 15105–15107, 15470
15 15470
413 15424

PROPOSED RULES:
300 15180

17 CFR
200 15470

18 CFR
3 15239

PROPOSED RULES:
141 15434
260 15434

19 CFR
4 15390
10 15424
14 15155
16 15390

20 CFR
396 15471

21 CFR

	Page
120	15107, 15120, 15424
121	15108, 15109, 15155
133	15109
148c	15425
166	15390
PROPOSED RULES:	
28	15116

22 CFR

PROPOSED RULES:	
201	15116

24 CFR

200	15425

25 CFR

41	15471

26 CFR

1	15421
301	15483
PROPOSED RULES:	
1	15167, 15393

28 CFR

0	15425

29 CFR

526	15425
786	15425
1500	15478, 15479
PROPOSED RULES:	
5	15396
6	15396
7	15396

32 CFR

66	15111
127	15112
536	15113
552	15115
710	15115

36 CFR

7	15391

39 CFR

821	15480
822	15480, 15481
823	15099

41 CFR

6-75	15427

42 CFR

PROPOSED RULES:	
73	15178

43 CFR

PUBLIC LAND ORDERS:	
1630 (see PLO 4315)	15482
3263 (revoked in part by PLO 4307)	15428
3634 (revoked in part by PLO 4302)	15427
4236 (see PLO 4317)	15482
4266 (see PLO 4317)	15482
4270 (amended by PLO 4312)	15429
4301	15098
4302	15427
4303	15427
4304	15427
4305	15428
4306	15428
4307	15428
4308	15428
4309	15428
4310	15428
4311	15428
4312	15428
4313	15429
4314	15429
4315	15429
4316	15481
4317	15482
4318	15482

45 CFR

81	15180

46 CFR

PROPOSED RULES:	
Ch. IV	15482

47 CFR

0	15478
73	15161, 15162
PROPOSED RULES:	
2	15180
89	15180
91	15180
93	15180

49 CFR

103	15484
114	15482

50 CFR

32	15166
33	15166

217

FEDERAL REGISTER

VOLUME 32 • NUMBER 217

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Agencies in this issue—

Agency for International Development
Agricultural Stabilization and Conservation Service
Atomic Energy Commission
Automotive Agreement Adjustment Assistance Board
Civil Aeronautics Board
Comptroller of the Currency
Consumer and Marketing Service
Federal Aviation Administration
Federal Communications Commission
Federal Power Commission
Federal Reserve System
Federal Trade Commission
Food and Drug Administration
International Joint Commission—United States and Canada
Interstate Commerce Commission
Land Management Bureau
Securities and Exchange Commission
Social Security Administration

Detailed list of Contents appears inside.

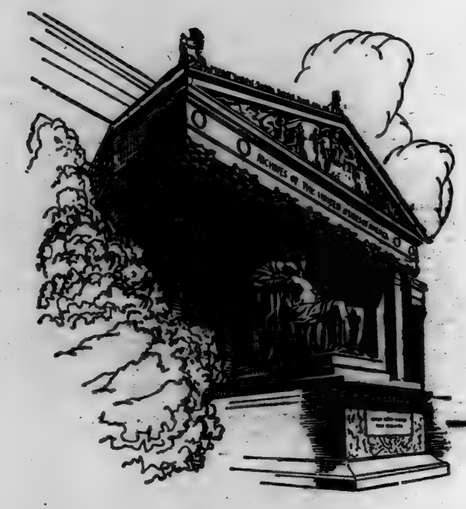

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3

2

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Contents

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notices
Assistant Administrator for Administration et al.; delegation of authority 15550

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Proposed Rule Making
Cigar-filler tobacco (Type 41); farm acreage allotments and normal yields, 1967–68 marketing year 15546

AGRICULTURE DEPARTMENT

See Agricultural Stabilization and Conservation Service; Consumer and Marketing Service.

ATOMIC ENERGY COMMISSION

Notices
Gulf General Atomic, Inc.; notice of amendments for transfer of facility licenses 15553

AUTOMOTIVE AGREEMENT ADJUSTMENT ASSISTANCE BOARD

Notices
Rockwell-Standard Corp., Bumper Division; petition by certain workers for determination of eligibility to apply for adjustment assistance 15554

CIVIL AERONAUTICS BOARD

Notices
Hearings, etc.:
Continental Air Lines, Inc 15555
Saber Air Freight, Inc 15557
Service to White Plains, N.Y 15556

COMPTROLLER OF THE CURRENCY

Rules and Regulations
Investment securities regulation; Visalia Area Hospital Authority Revenue Bonds (California) 15544

CONSUMER AND MARKETING SERVICE

Rules and Regulations
Lemons grown in California and Arizona; handling limitations 15524

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations
Airworthiness directives; Piper Model PA 32–300 airplanes 15523
Transition area:
Alterations (2 documents) 15523, 15524
Transition area and control zone:
Alteration 15523
Designation 15524

Proposed Rule Making
Control zone; proposed alteration 15546
Control zone and transition area; proposed alteration 15547
Federal airway; proposed extension 15548
Transition area:
Proposed alteration 15547
Proposed designation (3 documents) 15547, 15548

FEDERAL COMMUNICATIONS COMMISSION

Rules and Regulations
Certain FM broadcast stations; table of assignments 15545

Notices
Standard broadcast applications ready and available for processing 15558
Hearings, etc.:
Lawrence County Broadcasting Corp., et al 15558
Meredith-Avco, Inc., et al 15558
New York University and Fairleigh Dickinson University 15558

FEDERAL POWER COMMISSION

Notices
Hearings, etc.:
Featherstone, Martha, et al 15559
Louisiana Nevada Transit Co 15561
Superior Oil Co 15560

FEDERAL RESERVE SYSTEM

Notices
Barnett National Securities Corp.; notice of application for approval of acquisition of shares of bank 15559

FEDERAL TRADE COMMISSION

Rules and Regulations
Application of guides and trade practice rules in preventing unlawful competitive restraints 15540
Guides and trade practice rules; recodification of certain provisions 15525
Guides against bait advertising 15540
Guides against deceptive advertising of guarantees 15541
Guides for advertising allowances and other merchandising payments and services 15542

FOOD AND DRUG ADMINISTRATION

Rules and Regulations
Food additives; coumaphos 15545

Notices
Food and Drug Research Laboratories, Inc.; notice of withdrawal of petition for food additives 15553

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Food and Drug Administration; Social Security Administration.

INTERIOR DEPARTMENT

See Land Management Bureau.

INTERNATIONAL JOINT COMMISSION—UNITED STATES AND CANADA

Notices
Red River (of the North) water pollution; public hearings 15561

INTERSTATE COMMERCE COMMISSION

Notices
Motor carrier:
Alternate route deviation notices 15562
Applications and certain other proceedings 15564
Intrastate applications 15569
Temporary authority applications 15570

LAND MANAGEMENT BUREAU

Proposed Rule Making
Programs and objectives; designation of natural resource experiment and research areas 15546

Notices
California; termination of proposed classification of public lands 15550
Idaho; change in location of land office 15550
Oregon; proposed withdrawal and reservation of lands; correction 15550
Wyoming; classification of public lands for multiple use management (2 documents) 15551, 15552

SECURITIES AND EXCHANGE COMMISSION

Notices
National Exhibition Co.; notice of hearing 15562

SOCIAL SECURITY ADMINISTRATION

Rules and Regulations
Disclosure of information to protect the national security 15544

STATE DEPARTMENT

See Agency for International Development.

TRANSPORTATION DEPARTMENT

See Federal Aviation Agency.

TREASURY DEPARTMENT

See Comptroller of the Currency.

(Continued on next page)

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

7 CFR
910 15524
PROPOSED RULES:
723 15544

12 CFR
1 15546

14 CFR
39 15523
71 (4 documents) 15523, 15524
PROPOSED RULES:
71 (7 documents) 15546

16 CFR
17 15540
228 15525
229 15529
230 15531
231 15532
232 15533
233 15534
234 15536
235 15538
236 15538
237 15539
238 15540
239 15541
240 15542

20 CFR
401 15544

21 CFR
121 15545

43 CFR
PROPOSED RULES:
1720 15546

47 CFR
73 15545

Rules and Regulations

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 67-SO-106; Amdt. 39-508]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Model PA-32-300 Airplanes

There have been reports of the flexible engine air inlet duct reinforcing wire coils becoming detached from the inside of the duct wall. This allows the duct to collapse and restricts the air flow into the engine induction system causing a loss of engine power or engine stoppage.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 is amended by adding the following new airworthiness directive.

PIPER.—Applies to Models PA-32-300, PA-32S-300 series airplanes, Serial Numbers 32-15, 32-40000 through 32-40699.

Compliance required within the next 10 hours' time in service after the effective date of this AD unless already accomplished and thereafter at intervals not to exceed 25 hours' time in service from the last inspection. To prevent the possibility of restricting air flow through the engine air induction system, accomplish the following:

(a) Inspect the flexible duct Piper P/N 457599 between the engine air box and engine throttle body assembly for loose and/or collapsed wire reinforcing coils inside the duct. Also each end of the reinforcing wire must be secured under the duct end clamps. Inspection may be accomplished by removal of the entire engine cowling and the intake air box cover, P/N 66047-00.

(b) If loose and/or collapsed wire reinforcing coils are found, remove the duct from service. Install a new duct, P/N 457599, making sure that the wire reinforcing coils extend over the pilot tubes at each end and are clamped under the clamps, P/N 554883.

Methods which will eliminate the requirement for the repetitive inspections may be utilized, if approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region. The inspection time intervals (other than for the initial inspection) may be adjusted up to a maximum of 5 hours to coincide with aircraft annual or 100-hour scheduled inspections.

This directive becomes effective November 8, 1967.

(Secs. 313(a), 601, and 603, of the Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, and 1423)

Issued in East Point, Ga., on November 2, 1967.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 67-13268; Filed, Nov. 7, 1967; 8:49 a.m.]

[Airspace Docket 67-CE-120]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

The purpose of these amendments to Part 71 of the Federal Aviation Regulations is to alter the Benton Harbor, Mich., control zone and transition area.

New ILS and ADF instrument approach procedures have been developed to serve Benton Harbor, Mich., Ross Field, which will become effective upon completion of a new partial instrument landing system currently being constructed for Runway 27 at this airport. Concurrently, with the effectiveness of these approach procedures, the existing MH facility located on Ross Field will be decommissioned and the ADF instrument approach procedures predicated on this facility will be canceled. As a result, controlled airspace must be provided for the protection of aircraft executing the new instrument approach procedures and deleted with respect to the canceled ADF approach procedures.

Since the proposed alterations and deletions of airspace will reduce the existing designated Benton Harbor, Mich., control zone and transition area, they will not impose any additional burden on any person. Therefore, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0001 e.s.t., February 1, 1968, as hereinafter set forth:

(1) In § 71.171 (32 F.R. 2071), the following control zone is amended to read:

BENTON HARBOR, MICH.

Within a 5-mile radius of Ross Field (latitude 42°07'40" N., longitude 86°25'40" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

(2) In § 71.181 (32 F.R. 2148), the following transition area is amended to read:

BENTON HARBOR, MICH.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Ross Field (latitude 42°07'40" N., longitude 86°25'40" W.), and within 2 miles each side of the ILS back course and Keller, Mich., VORTAC 266° radial extending from the 7-mile radius area to 12 miles west of the airport.

(Sec. 307(a) of the Federal Aviation Act of 1958, 49 U.S.C. 1348)

Issued at Kansas City, Mo., on October 25, 1967.

DANIEL E. BARROW,
Acting Director Central Region.

[F.R. Doc. 67-13175; Filed, Nov. 7, 1967; 8:46 a.m.]

[Airspace Docket No. 67-CE-94]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On page 12120 of the FEDERAL REGISTER dated August 23, 1967, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Fargo, N. Dak.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the amendment as so proposed is hereby adopted, subject to the following change:

The Hector Field coordinates recited in the Fargo, N. Dak., transition area designation as "latitude 46°55'05" N., longitude 96°49'00" W." are changed to read "latitude 46°55'05" N., longitude 96°48'-55" W.".

This amendment shall be effective 0001 e.s.t., January 4, 1968.

(Sec. 307(a) of the Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Kansas City, Mo., on October 25, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

In § 71.181 (32 F.R. 2148), the following transition area is amended to read:

FARGO, NORTH DAKOTA

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Hector Field (latitude 46°55'05" N., longitude 96°48'55" W.); within 2 miles each side of the Fargo ILS localizer north course, extending from the 7-mile radius area to 8 miles north of the RBN; within 2 miles each side of the Fargo VORTAC 007° radial, extending from the 7-mile radius area to 24 miles north of the VORTAC; and within 5 miles west and 8 miles east of the Fargo ILS localizer south course, extending from 5 miles north to 12 miles south of the LOM; and that airspace extending upward from 1,200 feet above the surface within a 35-mile

radius of the Fargo VORTAC; within a 26-mile radius of the Fargo VORTAC, extending from a line 9 miles west of and parallel to the Fargo VORTAC 353° radial, clockwise to a line 5 miles east of and parallel to the Fargo VORTAC 094° radial; and within 10 miles east and 7 miles west of the Fargo VORTAC 187° radial, extending from the 35-mile radius area to 56 miles south of the VORTAC.

[F.R. Doc. 67-13176; Filed, Nov. 7, 1967; 8:46 a.m.]

[Airspace Docket No. 67-CE-101]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On page 12690 of the FEDERAL REGISTER dated September 1, 1967, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Indianapolis, Ind.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set fourth below.

This amendment shall be effective 0001 e.s.t., January 4, 1968.

(Sec. 307(a) of the Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Kansas City, Mo., on October 25, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

In § 71.181 (32 F.R. 2148), the following transition area is amended to read:

INDIANAPOLIS, IND.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Indianapolis Municipal (Weir-Cook) Airport (latitude 39°43'35" N., longitude 86°17'05" W.); within a 5-mile radius of Bob Shank Airport (latitude 39°49'15" N., longitude 86°14'30" W.); within 2 miles each side of the Indianapolis, Ind., VORTAC 262° radial extending from the 5-mile radius area to the VORTAC; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 40°07'00" N., longitude 87°23'00" W.; to latitude 40°07'00" N., longitude 86°00'00" W.; to latitude 40°00'00" N., longitude 86°00'00" W.; to latitude 40°00'00" N., longitude 85°30'00" W.; to latitude 39°30'00" N., longitude 85°30'00" W.; to latitude 39°30'00" N., longitude 86°06'00" W.; to latitude 38°57'00" N., longitude 86°06'00" W.; to latitude 38°57'00" N., longitude 88°00'00" W.; to the north along longitude 88°00'00" W., to the north edge of V-50; thence to the point of beginning.

[F.R. Doc. 67-13177; Filed, Nov. 7, 1967; 8:46 a.m.]

[Airspace Docket No. 67-SO-88]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On September 20, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 13293), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Cedartown, Ga., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

Subsequent to the publication of the notice, the geographic coordinate (lat. 34°01'20" N., long. 85°08'50" W.) for the Polk County Airport was obtained from Coast and Geodetic Survey. Accordingly, action is taken herein to add the geographic coordinate for the airport in the description of this transition area.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., January 4, 1968, as hereinafter set forth.

In § 71.181 (32 F.R. 2148), the following transition area is added:

CEDARTOWN, GA.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Polk County Airport (lat. 34°01'20" N., long. 85°08'50" W.).

(Sec. 307(a) of the Federal Aviation Act of 1958; 49 U.S.C. 1348(a))

Issued in East Point, Ga., on October 27, 1967.

JAMES S. ROGERS,
Director, Southern Region.

[F.R. Doc. 67-13178; Filed, Nov. 7, 1967; 8:46 a.m.]

Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Lemon Reg. 298]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.593 Lemon Regulation 293.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified to provide for continued size regulation of lemons; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on October 31, 1967.

(b) *Order.* (1) During the period November 12, 1967, through November 16, 1968, no handler shall handle any lemons, grown in District 1, District 2, or District 3, which are of a size smaller than 1.82 inches in diameter, which shall be the largest measurement at right angles to a straight line running from the stem to the blossom end of the fruit: *Provided*, That not to exceed 5 percent, by count, of the lemons in any type of container may measure less than 1.82 inches in diameter.

(2) As used in this section, "handle," "handler," "District 1," "District 2," and "District 3" shall have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: November 3, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-13216; Filed, Nov. 7, 1967; 8:49 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

SUBCHAPTER B—GUIDES AND TRADE PRACTICE RULES

RECODIFICATION OF CERTAIN PROVISIONS

In Part 14 of Subchapter A, §§ 14.3, 14.5, 14.6, and 14.8 through 14.15 are transferred to Subchapter B and recodified without substantive change as Parts 228 to 237, respectively. The heading of Subchapter B is amended to read as set forth above and Parts 228 to 237 are added to read as follows:

PART 228—TIRE ADVERTISING AND LABELING GUIDES

Sec.
228.0 "Industry Product" and "Industry Member" defined.
228.0-1 Use of guide principles.
228.1 Tire description.
228.2 Designations of grade, line, level, or quality.
228.3 Deceptive designations.
228.4 Original equipment.
228.5 Comparative quality and performance claims.
228.6 Ply count, plies, ply rating.
228.7 Cord materials.
228.8 "Change-Overs," "New Car Take Offs," etc.
228.9 Retreaded and used tires.
228.10 Disclosure that products are obsolete or discontinued models.
228.11 Blemished, imperfect, defective, etc., products.
228.12 Pictorial misrepresentations.
228.13 Racing claims.
228.14 Bait advertising.
228.15 Deceptive pricing.
228.16 Guarantees.
228.17 Safety or performance features.
228.18 Other claims and representations.
228.19 Snow tire advertising.

AUTHORITY: The provisions of this Part 228 issued under secs. 5, 6, 38 Stat. 719, as amended, 721; 15 U.S.C. 45, 46.

§ 228.0 "Industry Product" and "Industry Member" defined.

As used in this part, the terms "Industry Product" or "Product" shall mean pneumatic tires for use on passenger automobiles, station wagons, and similar vehicles, or the materials used therein. The term "Industry Member" shall mean: All persons or firms who are engaged in the manufacture, sale or distribution of industry products as above defined whether under the manufacturer's or a private brand; and the manufacturers of passenger automobiles, station wagons, and similar vehicles for which industry products are provided as original equipment.

§ 228.0-1 Use of guide principles.

The following general principles will be used in determining whether terminology and other direct or indirect representations subject to the Commission's jurisdiction regarding industry products conform to laws administered by the Commission.

§ 228.1 Tire description.

(a) The purchase of tires for a motor vehicle is an extremely important matter to the consumer. Not only are substantial economic factors involved, but in most instances the purchaser will entrust the safety of himself and others to the performance of the product.

(b) To avoid being deceived, the consumer must have certain basic information. Certain of this information should be provided before the purchaser makes his choice but other is essential throughout the life of the tire.

(1) *Disclosure before the sale.* The following information should be disclosed in point of sale material which is prominently displayed and of easy access, on the premises where the purchase is to be made in order to apprise the consumer:

(i) *Load-carrying capacity of the tire.* This information is essential to assure the purchaser that the tires he selects are capable of safely carrying the intended load. This information should consist of the maximum load-carrying capacity as related to various recommended air pressures and may include data which indicates the effect such varying pressures will have on the operation of the automobile. All such information shall be based on actual tests utilizing adequate and technically sound procedures. The test procedures and results shall be in writing and available for inspection.

(ii) *Generic name of cord material.* Different cord materials can have performance characteristics that will affect the consumer's selection of tires. These various characteristics are widely advertised, and the consumer is aware of the distinctions. Without a disclosure of the generic name of the cord material, the consumer is unable to consider this factor in his purchase.

(iii) *Actual number of plies.* Consumers have preference for industry products of a stated type of construction (e.g., 2 ply v. 4 ply). Without adequate disclosure the consumer is denied the basis for considering this factor in his selection.

NOTE: Where the tire is of radial construction the ply count disclosure will be satisfied by the statement "radial ply."

(2) *Disclosure on the tire.* The following information should be clearly disclosed in a permanent manner on the outside wall of the tire:

(i) *Size.* Size is extremely important not only to insure that the tire will fit the vehicle wheel, but because it also is a determining factor as to the load-carrying capacity of the vehicle.

(ii) *Whether tire is tubeless or tube type.*

(iii) *Actual number of plies.*

NOTE: Where the tire is of radial construction the ply count disclosure will be satisfied by the statement "radial ply."

(3) *Other disclosures*—(i) *Generic name of cord material used in ply.* A disclosure of the generic name of the cord material used in the ply of the tire should be made on a label or tag prominently displayed on the tire itself, and affixed in such a fashion that it cannot be easily removed prior to sale.

(ii) *Load-carrying capacity and inflation pressure.* One of the most important factors in obtaining tire performance is proper care and use. Included in such care is inflating the tire to the required level as related to load-carrying capacity and use. To insure that such pressures are maintained by the user and the tire is not overloaded beyond its safe capacity, a table or chart should be provided for retention by the purchaser. This will apprise the purchaser of the load-carrying capacity of the tires as related to the range of recommended air pressures and use. It may also supply data which indicate the effect such varying pressures will have on the operation of the automobile.

NOTE: Automobile manufacturers who provide tires as original equipment with new automobiles should incorporate such information in the owner's manual given to new car purchasers. To permit the car owner to calculate for himself the proper size tires for his car, the owner's manual should also contain the following information: (1) The curb weight of the empty vehicle, and the distribution of the weight, in pounds, on each tire; (2) The total weight of the vehicle when loaded to its designed capacity (e.g., for a six passenger car, the weight of the car when loaded with six passengers and 240 pounds of baggage) and the distribution of such weight, in pounds, on each tire.

[Guide 1]

§ 228.2 Designations of grade, line, level, or quality.

(a) There exists today no industry-wide, government or other accepted system of quality standards or grading of industry products. Within the industry, however, a variety of trade terminology has developed which, when used in conjunction with consumer transactions, has the tendency to suggest that a system of quality standards or grading does in fact exist. Typical of such terminology are the expressions "line," "level," and "premium." The exact meaning of such terminology may vary from one industry member to another. Therefore, the "1st line" or "100 level" or "premium" tire of one industry member may be grossly inferior to the "1st line" or "100 level" or "premium" tire of another member since in the absence of an accepted system of grading or quality standards, each member can determine what "line," "level," or "premium" classification to attach to a tire.

(b) The consumer does not understand the significance of the absence of accepted grading or quality standards and is likely to assume that the expressions "line," "level," and "premium" connote valid criteria. Since the consumer is likely to misinterpret the meaning of such terminology, he may be deceived into purchasing an inferior product because it has been given such designation.

(c) In the absence of an accepted system of grading or quality standards for industry products, it is improper to represent, either through the use of such

expressions as "line," "level," "premium" or in any other manner, that such a system exists, unless the representation is accompanied by a clear and conspicuous disclosure:

(1) That no industrywide or other accepted system of quality standards or grading of industry products currently exists, and

(2) That representations as to grade, line, level, or quality, relate only to the private standard of the marketer of the tire so described (e.g., "XYZ first line").

(d) Additionally, products should not be described as being "first line" unless the products so described are the best products, exclusive of premium quality products embodying special features, of the manufacturer or brand name distributor applying such designation. [Guide 2]

§ 228.3 Deceptive designations.

In the advertising or labeling of products, industry members should not use designations for grades of products they offer to the public:

(a) Which have the capacity to deceive purchasers into believing that such products are equal or superior to a better grade or grades of their products when such conclusion would be contrary to fact (for example, if the "first line" tire of a manufacturer is designated as "Standard," "High Standard," or "Deluxe High Standard," the tires of that manufacturer which are of lesser quality should not be designated or described as "Super Standard," "Supreme High Standard," "Super Deluxe High Standard," or "Premium"), or

(b) Which are otherwise false or misleading.

NOTE: When a manufacturer applies a designation to a product which falsely represents or implies the product is equal or superior in quality to its better grade or grades of products, it is responsible for any resulting deception whether it is a direct result of the designation or a result of the placing in the hands of others a means and instrumentality for the creation by them of a false and deceptive impression with respect to the comparative quality of products made by that manufacturer.

[Guide 3]

§ 228.4 Original equipment.

Original equipment tires are understood to mean the same brand and quality tires used generally as original equipment on new current models of vehicles of domestic manufacture. A tire which was formerly but is not currently used as "Original Equipment," should not be described as "Original Equipment" without clear and conspicuous disclosure in close conjunction with the term, of the latest actual year such tire was used as "Original Equipment." [Guide 4]

§ 228.5 Comparative quality and performance claims.

Representations and claims made by industry members that their products are superior in quality or performance to other products should not be made unless:

(a) The representation or claim is based on an actual test utilizing adequate and technically sound procedures of the performance of the advertised product and of the product with which it is compared; the test procedure, results of which are in writing and available for inspection; and

(b) The basis of the comparison is clearly stated and the comparison is based on identical conditions of use. Dangling comparatives should not be used.

(c) Claims or representations that one tire is comparable or identical to another should not be used unless the advertiser is able to establish that such tires are comparable not only as respects the molds in which the tires are made, but also as respects all significant materials used in their construction. [Guide 5]

§ 228.6 Ply count, plies, ply rating.

A ply is a layer of rubberized fabric contained in the body of the tire and extending from one bead of the tire to the other bead of the tire. The consumer is interested in, and is entitled to know, certain information in regard to plies in tires. However, a great deal of terminology connected with plies which is utilized in advertising has the tendency to confuse and deceive the public and is accordingly inappropriate.

(a) It is improper to utilize any statement or depiction which denotes or implies that tires possess more plies than they in fact actually possess. Phrases such as "Super 6" or "Deluxe 8" as descriptive of tires of less than 6 or 8 plies, respectively, should not be used.

(b) The actual number of plies in a tire is not necessarily determinative of the ultimate strength, performance or quality of the product. Variations in the amount and type of fabric utilized in the ply and other construction features of the tire will determine the ultimate strength, performance or quality of the product. Through variations in these construction aspects, a tire of a stated number of plies may be inferior in strength, quality, and performance to another tire of lesser actual ply count. Accordingly, it is improper to represent in advertising, or otherwise, that solely because a product has more plies than another, it is superior.

(c) (1) The expression "ply rating" as used in the trade is an index of tire strength. Each manufacturer, however, has his own system of computing "ply rating." Thus, a product of one industry member of a stated "ply rating" is not necessarily of the same strength as the product of another member with the identical rating. While the expression "ply rating" may have significance to industry members, in the absence of a publicized system of standardized ratings, the use of such expressions in connection with sales to the general public may be deceptive.

(2) To avoid deception, the expression "ply rated" or "ply rating" or any similar language should not be used unless said claim is based on actual tests utilizing adequate and technically sound procedures, the results of which are in writing and available for inspection. Further, certain disclosures must be made when such expressions are used in connection with consumer transactions.

(3) When ply rating is stated on the tire itself, it must be accompanied in immediate conjunction therewith, and in identical size letters, the disclosure of the actual ply count. In addition, there must be a tag or label attached to the tire or its packaging, of such permanency that it cannot easily be removed prior to sale to the consumer, which tag or label contains a clear and conspicuous disclosure:

(i) That there is no industrywide definition of ply rating; and

(ii) Of the basis of comparison of the claimed rating. (For example, "2-ply tire, 4-ply rating means this 2-ply tire is equivalent to our current or most recent 4-ply nylon cord tire.")

(4) When ply rating is used in advertising or in other sales or promotional materials, in addition to the disclosure of actual ply count as indicated, it must be accompanied by the disclosure:

(i) That there is no industrywide definition of ply rating; and

(ii) Of the basis of comparison of the claimed rating. (For example, "2-ply tire, 4-ply rating means this 2-ply tire is equivalent to our current or most recent 4-ply nylon cord tire.") [Guide 6]

§ 228.7 Cord materials.

(a) The fabric that is utilized in the ply is known as the cord material. The use of a particular type of cord material may be determined by the use to which the tire will be placed. One type of cord material may provide one desired characteristic, but not be used because of other characteristics which may be unfavorable.

(b) The type of cord material utilized in a tire is not necessarily determinative of its ultimate quality, performance or strength. Through variations in the denier of the material, the amount to be used and other construction aspects of the tire, the ultimate quality, performance, and strength is determined.

(c) It is improper to represent in advertising, or otherwise, that solely because a particular type of cord material is utilized in the construction of a tire, it is superior to tires constructed with other types of cord material. Such advertising is deceptive for it creates that impression in the consumer's mind whereas in fact it does not take into consideration the other variable aspects of tire construction.

(d) When the type of cord material is referred to in advertising, it must be made clear that it is only the cord that is of the particular material and not the entire tire. For example, it would be improper to refer to a product as "Nylon Tire." The proper description is "Nylon Cord Tire." Similarly, when the manufacturer of the cord material is mentioned, it should be made clear that he did not manufacture the tire. For example, a tire should be described as "Brand X Nylon Cord Material" and not "Brand X Nylon Tire."

(e) Cord material should be identified by its generic name when referred to in advertising. [Guide 7]

§ 228.8 "Change-Overs," "New Car Take Offs," etc.

Industry products should not be represented as "Change-Overs" or "New Car Take Offs" unless the products so described have been subjected to but insignificant use necessary in moving new vehicles prior to delivery of such vehicles to franchised distributor or retailer. "Change-Overs" or "New Car Take Offs" should not be described as new. Advertisements of such products should include a clear and conspicuous disclosure that "Change-Overs" or "New Car Take Offs" have been subjected to previous use. [Guide 8]

§ 228.9 Retreaded and used tires.

Advertisements of used or retreaded products should clearly and conspicuously disclose that same are not new products. Unexplained terms, such as "New Tread," "Nu-Tread" and "Snow Tread" as descriptive of such tires do not constitute adequate disclosure that tires so described are not new. All such tires should be clearly designated as "retreads" or "retreaded." [Guide 9]

§ 228.10 Disclosure that products are obsolete or discontinued models.

Advertisements should clearly and conspicuously disclose that the products offered are discontinued models or designs or are obsolete when such is the fact.

NOTE: The words "model" and "design" used in connection with tires include width, depth, and pattern of the tread as well as other aspects of their construction.

[Guide 10]

§ 228.11 Blemished, imperfect, defective, etc., products.

Advertisements of products which are blemished, imperfect, or which for any reason are defective, should contain conspicuous disclosure of that fact. In addition, such products should have permanently stamped or molded thereon or affixed thereto and to the wrappings in which they are encased, a plain and conspicuous legend or statement to the effect that such products are blemished, imperfect, or defective. Such markings by a legend such as "XX" or by a color marking or by any other code designation which is not generally understood by the public are not considered to be an adequate disclosure. [Guide 11]

§ 228.12 Pictorial misrepresentations.

(a) It is improper to utilize in advertising, any picture or depiction of an industry product other than the product offered for sale. Where price is featured in advertising, any picture or depiction utilized in connection therewith should be the exact tire offered for sale at the advertised price.

(b) For example, it would be improper to depict a white side wall tire with a designated price when the price is applicable to black wall tires. Such practice would be improper even if a disclosure is made elsewhere in the advertisement that the featured price is not for the depicted whitewalls. [Guide 12]

§ 228.13 Racing claims.

(a) Advertising in connection with racing, speed records, or similar events should clearly and conspicuously disclose that the tires on the vehicle are not generally available all purpose tires, unless such is the fact.

(b) The requirement of this section is applicable also to special purpose racing tires, which although available for such special purpose, are not the advertiser's general purpose product.

(c) Similarly, designations should not be utilized in conjunction with any industry product which falsely suggest, directly or indirectly, that such product is the identical one utilized in racing events or in a particular event. [Guide 13]

§ 228.14 Bait advertising.

(a) Bait advertising is an alluring but insincere offer to sell a product which the advertiser in truth does not intend or want to sell. Its purpose is to obtain leads as to persons interested in buying industry products and to induce them to visit the member's premises. After the person visits the premises, the primary effort is to switch him from buying the advertised product in order to sell something else, usually at a higher price.

(b) No advertisement containing an offer to sell a product should be published when the offer is not a bona fide effort to sell the advertised product. Among the acts and practices which will be considered in determining if an advertisement is bona fide are:

(1) The advertising of a product at a price applicable only to unusual or off size tires or for special purpose tires;

(2) The refusal to show or sell the product offered in accordance with the terms of the offer;

(3) The failure to have available at all outlets listed in the advertisement a sufficient quantity of the advertised product to meet reasonably anticipated demands, unless the advertisement clearly and adequately discloses that the supply is limited and/or the merchandise is available only at designated outlets;

(4) The disparagement by acts or words of the advertised product or the disparagement of the guarantee, credit terms, or in any other respect in connection with it;

(5) Use of a sales plan or method of compensation for salesmen or penalizing salesmen, designed to prevent or discourage them from selling the advertised product. [Guide 14]

§ 228.15 Deceptive pricing.

(a) *Former price comparisons.* One form of advertising in the replacement market is the offering of reductions or savings from the advertiser's former price. This type of advertising may take many forms, of which the following are examples:

Formerly $_____—Reduced to $_____
50% Off—Sale Priced at $_____

Such advertising is valid where the basis of comparison, that is, the price on which the represented savings are based, is the actual bona fide price at which the advertiser recently and regularly sold the advertised tire to the public for a reasonably substantial period of time prior to the advertised sale. However, where the basis of comparison (1) is not the advertiser's actual selling price, (2) is a price which was not used in the recent past but at some remote period in the past, or (3) is a price which has been used for only a short period of time and a reduction is claimed therefrom, the claimed savings or reduction is fictitious and the purchaser deceived. Following are examples illustrating the application of this provision:

Example 1. Dealer A advertises a tire as follows: "Memorial Day Sale—Regular price of tire, $15.95—Reduced to $13.95." During the preceding 6 months Dealer A has conducted numerous "sales" at which the tire was sold in large quantities at the $13.95 price. The tire was sold at $15.95 only during periods between the so-called "sales." In these circumstances, the advertised reduction from a "regular" price of $15.95 would be improper, since that was not the price at which the tire was recently and regularly sold to the public for a reasonably substantial period of time prior to the advertised sale.

Example 2. Dealer B engaged in sale advertising weekly on the last 3 days of the week. It was his practice during the selling week to offer a particular line of tires at $24.95 on Monday, Tuesday, and Wednesday, and advertise the same line as "Sale Priced $19.95" on the final 3 days of the selling week. Use of the price for only 3 days prior to the reduction, even though the higher price is resumed after 3 days of "sale" advertising would not constitute a basis for claiming a price reduction. The higher price was not the regular selling price for a reasonably substantial period of time. Furthermore, when the higher price is used only for the first 3 days of the week and another price is used for the final 3 days, the higher price has not been established as a regular price, especially when most sales are made at the lower price during the final 3-day period.

(b) *Trade area price comparisons.* (1) Another recognized form of bargain advertising is to offer tires at prices lower than those being charged by others for the same tires in the area where the advertiser is doing business. Examples of this type of advertising where used in connection with the advertiser's own price are:

Sold Elsewhere at $_____
Retail Value $_____

(2) The tire market, because of its nature, requires that special care and precaution be exercised before this type of advertising is used. Trade area price comparisons are understood by purchasers to mean that the represented bargain is a reduction or saving from the price being charged by representative retail outlets for the same tires at the time of the advertisement.

(3) If a tire manufacturer decides to conduct a promotion of a particular tire, reduces the price in his wholly owned stores and independent dealers follow the promotion price, the "sale" price has become the retail price in the area and it

would be deceptive to represent that this "sale" price is reduced from that charged by others. In most circumstances where a promotion is sponsored by the manufacturer and is followed by the wholly owned stores and most of the independent dealers in the area, such trade area price comparisons would be improper.

(4) A trade area price comparison would be valid where an individual dealer, acting on his own, decides to lower the price of a tire significantly below that being charged by others in his area. In this situation, he would be honestly offering a genuine reduction from the price charged by others in his area.

(5) When using a retail price comparison great care should be exercised to make the advertising clear that the basis of the reduction or saving is the price being charged by others and not the advertiser's own former selling price.

(c) *Substantiality of reduction or savings.* In order for an advertiser to represent that a price is reduced or offers savings to purchasers without specifying the extent thereof, it is necessary that the represented reduction or savings be significant. When the amount of the reduction or savings is not stated in advertising and is not substantial enough to attract and influence prospective purchasers if they knew the true facts, the representation is deceptive.

Example. Dealer C advertises a Fourth of July sale featuring X brand tires at a claimed reduction in price. The sale price in the advertisement is stated as $14.75 per tire. The advertisement does not state the former price of the tire. The tire previously had been sold at $16.95. Under the circumstances, the advertisement would be deceptive. The 20-cent reduction in price is insignificant when compared with the actual selling price of the tire. Purchasers generally, if they knew the amount of the reduction, would not be influenced sufficiently thereby to cause them to purchase the tire at the reduced price.

(d) *Representations of specific price reductions and savings.* (1) Advertisements which offer a specified amount or percentage of price reduction or savings should not be used where there is no determinable regular selling price, whether it be the advertiser's former price or the retail price in the area.

(2) The lack of a determinable actual selling price does not preclude all "sale" advertising. For example, if a dealer desires to offer a tire at a price which represents a significant reduction from the lowest price in the range of prices at which he has actually sold the tire in the recent regular course of his business, it would not be deceptive to advertise the tire with such representations as "Sale Priced," "Reduced" or "Save."

(3) However, an advertiser is not precluded from offering specific savings from the lowest price at which he has actually sold tires, provided that the advertising clearly states that the offered savings are a reduction from the lowest previous selling price and not from the advertiser's regular selling price.

(e) *No trade-in prices.* (1) The most common device used in advertising is to offer a purported reduction or savings from a so-called "no trade-in" price. Prospective purchasers are entitled to believe this to mean that they would realize a savings from the price they would have had to pay for the tire prior to the "Sale," either in cash or in cash plus the fair value of a traded-in tire. If this is not true, purchasers are deceived. Where a significant number of sales in relation to a seller's total sales is not made at the so-called "no trade-in" price and such price appreciably exceeds the price purchasers would normally pay the seller (including the fair value of any trade-in), use of the price as a basis for claiming a reduction or savings would be deceptive and contrary to this part.

(2) Representations of high trade-in allowances are sometimes used in combination with fictitious "no trade-in" prices to deceive purchasers. These may take the form of direct representations that a specified amount (usually significantly higher than the value of the tire carcass) will be allowed for a trade-in tire, or, representations of specific savings in the purchase of a new tire when a tire is traded in during a "sale." In either case, the purchaser is given the illusion of a bargain in the guise of a high trade-in allowance which he does not in fact receive if the amount of the allowance is deducted from a fictitiously high "no trade-in" price.

Example 1. An advertisement offers a 25 percent reduction during a May tire sale. The body of the advertisement sets forth a "no trade-in" price as the price from which the represented 25 percent reduction is made. However, such price represents the price at which only 15 percent of the advertiser's total sales were made and which was appreciably higher than the price at which the tire usually sold with a trade-in even with the addition of an amount representing a reasonable, bona fide trade-in allowance. Use of the "no trade-in" price in the advertisement is deceptive.

Example 2. Dealer D advertises, "Now Get $4 to $10 Per Tire Trade-In Allowance" in connection with the sale of a certain tire. Dealer D has regularly sold the tire for $12 to customers having a good recappable tire to offer in trade. During the regular course of Dealer D's business he has granted allowances ranging from 50 cents to $3, depending upon the condition of the tire taken in trade. During the advertised sale, however, Dealer D sells all of the tires at the manufacturer's suggested "no trade-in" price of $22 and deducts from that price the inflated trade-in allowances. Under the circumstances, the advertisement would be deceptive. Dealer D has not granted the allowances in connection with his regular selling price but has used instead the fictitious "no trade-in" price as a basis for offering the inflated allowances. The consumer has been led to believe that his old tire is worth far more than its actual value and Dealer D receives what has been his regular selling price or, in some instances, an amount in excess of the regular price, depending upon the allowance granted.

(f) *Combination offers.* (1) Frequent use is made in the tire market of purported bargain advertising which offers "free" or at a represented reduced price a tire, some other article of merchandise or a service, with the purchase of one or more tires at a specified price. The following are typical examples of this type of offer:

Buy 3, get four at no additional cost.
Buy one tire at $_____, get second tire at 50% off.
Get a wheel free with purchase of each snow tire.
Free wheel alignment with purchase of two new tires.

Such advertising is understood by purchasers to mean that the price charged by the advertiser for the initial tire or tires to be purchased is the price at which they have been regularly sold by the advertiser for a reasonably substantial period of time prior to the sale, and that the amount of the purported reduction or the value of the so-called "free" article or service represents actual savings. If the price of the tires to be purchased is not the advertiser's regular selling price, purchasers are deceived.

Example. Dealer E advertises "2nd Tire ½ Off When You Buy First Tire At Price Listed Below—No Trade-In Needed!" In the body of the advertisement the first tire is listed as costing $25.15 and the second tire $12.57. The figure listed as the price for the first tire is not Dealer E's regular selling price, but the manufacturer's suggested "no trade-in" price. E's regular selling price prior to the so-called sale had been $18.86 per tire. Under the circumstances, the "½ Off" offer would be deceptive. The basis for the advertised offer is not the advertiser's actual selling price for the tire. While consumers are led to believe that they are being afforded substantial savings by purchasing a second tire, in fact they are paying Dealer E's regular selling price for two tires.

(g) *Federal Excise Tax.* Since the Federal Excise Tax on tires is assessed on the manufacturer and is based on the weight of the materials used and not the retail selling price, the tax should be included in the price quoted for a particular tire, or the amount of the tax set out in immediate conjunction with the tire price. For example, assuming the tax on a particular tire to be $1 and the advertised selling price $9.95, the price should be stated as "$10.95" or "$9.95 plus $1 Federal Excise Tax" and not "$9.95 plus Federal Excise Tax."

(h) *Advertising furnished by tire manufacturers.* It is the practice of some tire manufacturers to supply advertising to independent as well as to wholly owned retail outlets in local trade areas. A tire manufacturer providing advertising material to be used in local trade areas by either wholly owned or independent outlets is responsible for the representations made in such advertising and should base price and savings claims on conditions actually existing in the particular areas. In view of price fluctuations at the local level, the general dissemination (i.e., in more than one trade area) to independent retail outlets of advertising material containing stated prices or reduction claims results in deception [1] and is, accordingly, contrary to this part. [Guide 15]

[1] This part does not deal with the question of whether such practice may be improper as contributing to unlawful restraints of trade connected with the enforcement of the Antitrust Laws and the Federal Trade Commission Act.

§ 228.16 Guarantees.

(a) In general, any advertising containing a guarantee representation shall clearly and conspicuously disclose:

(1) *The nature and extent of the guarantee.* (i) The general nature of the guarantee should be disclosed. If the guarantee is, for example, against defects in material or workmanship, this should be clearly revealed.

(ii) Disclosure should be made of any material conditions or limitations in the guarantee. This would include any limitation as to the duration of a guarantee, whether stated in terms of treadwear, time, mileage, or otherwise. Exclusion of tire punctures also would constitute a material limitation. If the guarantor's performance is conditioned on the return of the tire to the dealer who made the original sale, this fact should be revealed.

(iii) When a tire is represented as "guaranteed for life" or as having a "lifetime guarantee," the meaning of the term "life" or "lifetime" should be explained.

(iv) Guarantees which under normal conditions are impractical of fulfillment or for such a period of time or number of miles as to mislead purchasers into the belief the tires so guaranteed have a greater degree of serviceability or durability than is true in fact, should not be used.

(2) *The manner in which the guarantor will perform.* This consists generally of a statement of what the guarantor undertakes to do under the guarantee. Types of performance would be repair of the tire, refund of purchase price or replacement of the tire. If the guarantor has an option as to the manner of the performance, this should be expressly stated.

(3) *The identity of the guarantor.* The identity of the guarantor should be clearly revealed in all advertising, as well as in any documents evidencing the guarantee. Confusion of purchasers often occurs when it is not clear whether the manufacturer or the retailer is the guarantor.

(4) *Pro rata adjustment of guarantees.*—(i) *Disclosure in advertising.* Many guarantees provide that in the event of tire failure during the guarantee period a credit will be allowed on the purchase price of a replacement tire, the amount of the credit being in proportion to the treadwear or time remaining under the guarantee. All advertising of the guarantee should clearly disclose the pro rata nature of the guarantee and the price basis upon which adjustments will be made.

(ii) *Price basis for adjustments.* Usually under this type of guarantee the same predetermined amount is used as a basis for the prorated credit and the purchase price of the replacement tire. If this so-called "adjustment" price is not the actual selling price but is an artificial, inflated price the purchaser does not receive the full value of his guarantee. This is illustrated by the following example:

"A" purchases a tire which is represented as being guaranteed for the life of the tread. After 75 percent of the tread is worn, the tire fails. The dealer from whom "A" seeks an adjustment under his guarantee is currently selling the tire for $15 but the "adjustment" price of the tire is $20. "A" receives a credit of 25 percent or $5 toward the price of the replacement tire. This credit is applied not on the actual selling price but on the artificial "adjustment" price of $20. Thus, "A" pays $15 for the new tire which is the current selling price of the tire.

Under the facts described in this illustration the guarantee was worthless as the purchaser could have purchased a new tire at the same price without a guarantee. If 50 percent of the tread remained when the adjustment was made, the purchaser would have received a credit of $10 toward the $20 replacement price. He must still pay $10 for a replacement tire. Had the adjustment been made on the basis of the actual selling price he would have obtained a new tire for $7.50. Thus, while deriving some value from his guarantee he did not receive the value he had reason to expect under the guarantee.

(b) Accordingly, to avoid deception of purchasers as to the value of guarantees, adjustments should be made on the basis of a price which realistically reflects the actual selling price of the tire. The following would be considered appropriate price bases for making guarantee adjustments:

(1) The original purchase price of the guaranteed tire; or

(2) The adjusting dealer's actual current selling price at the time of adjustment; or

(3) A predetermined price which fairly represents the actual selling price of the tire.

Whenever an advertisement for tires includes reference to a guarantee, the advertisement should also disclose, clearly and conspicuously, the price basis on which adjustments will be made. Such disclosure of the price basis for adjustments should be in terms of actual purchase or selling price, e.g., original purchase price, adjusting dealer's current selling price, etc. A mere reference to a guarantor's "adjustment price," for example, would not satisfy this disclosure requirement. In addition, written material disclosing the basis for adjustments should be made available to prospective purchasers at the point of sale, and if the third method of adjustment is chosen, such written material should include the actual price on which guarantee adjustments will be made. [Guide 16]

§ 228.17 Safety or performance features.

Absolute terms such as "skidproof," "blowout proof," "blow proof," "puncture proof" should not be unqualifiedly used unless the product so described affords complete and absolute protection from skidding, blowouts, or punctures, as the case may be, under any and all driving conditions. [Guide 17]

§ 228.18 Other claims and representations.

(a) No claim or representation should be made concerning an industry product which directly, by implication, or by failure to adequately disclose additional relevant information, has the capacity or tendency or effect of deceiving purchasers or prospective purchasers in any material respect. This prohibition includes, but is not limited to, representations or claims relating to the construction, durability, safety, strength, condition or life expectancy of such products.

(b) Also included among the prohibitions of this section are claims or representations by members of this industry or by distributors of any component parts of materials used in the manufacture of industry products, concerning the merits or comparative merits (as to strength, safety, cooler running, wear, or resistance to shock, heat, moisture, etc.) of such products, components or materials, which are not true in fact or which are otherwise false or misleading. [Guide 18]

§ 228.19 Snow tire advertising.

Many manufacturers are now offering winter tread tires with metal spikes. Certain States, or other jurisdictions, however, prohibit the use of such tires because of possible road damage. Accordingly, in the advertising of such products, a clear and conspicuous statement should be made that the use of such tires is illegal in certain States or jurisdictions. Further, when such tires are locally advertised in areas where their use is prohibited, a clear and conspicuous statement to this effect must be included. [Guide 19]

PART 229—GUIDES FOR ADVERTISING FALLOUT SHELTERS

Sec.
229.0 Definitions.
229.1 Fallout and blast protection.
229.2 Installation.
229.3 Affirmative disclosures as to capacity.
229.4 Pictorial and other misrepresentations.
229.5 Deceptive prices.
229.6 Financial terms.
229.7 Guarantees.
229.8 Government connection, approval or endorsement.
229.9 Maintenance or repairs.
229.10 "Custom made," "custom built," etc.
229.11 Model shelters.
229.12 Combination or dual-purpose shelters.
229.13 Bait advertising.
229.14 Lottery schemes.
229.15 Scare tactics.

AUTHORITY: The provisions of this Part 229 issued under secs. 5, 6, 38 Stat. 719, as amended, 721; 15 U.S.C. 45, 46.

§ 229.0 Definitions.

(a) *Fallout shelter.* A structure which, when properly installed, has a protection factor against fallout gamma radiation of at least 40. Protection factor is the relative reduction in the amount of radiation that would be received by a person in a shelter compared with the amount which he would receive if unprotected. For example, an unprotected person would receive 40 times more radiation than a person in a shelter with a protection factor of 40.

(b) *Blast-resistant or limited blast-resistant shelter.* A structure which qual-

ifies as a fallout shelter and, in addition, is capable of affording a certain minimum amount of protection against the effects of a blast overpressure and associated nuclear and thermal radiation. To qualify as a "blast-resistant shelter" a structure must be capable of withstanding an overpressure of at least 25 pounds per square inch (psi). To qualify as a "limited blast-resistant shelter" a structure must be capable of withstanding an overpressure of at least 5 psi. For example, 5 psi overpressure would occur at a range of about 8½ miles from a 10 megaton, and about 18 miles from a 100 megaton explosion. 30 psi overpressure would occur at a range of about 2½ miles from a 10 megaton, and about 5 miles from a 100 megaton explosion.

NOTE: These definitions are based upon the minimum technical requirements established by the Office of Civil Defense, Department of Defense.

§ 229.1 Fallout and blast protection.

(a) A structure shall not be described or designated as a "fallout shelter," or by any other term of like implication, nor shall any representation be made that a structure affords protection against radioactive fallout, unless such structure meets the minimum requirements set forth in the foregoing definition of a "fallout shelter."

(b) A structure shall not be described or designated as a "blast shelter" or by any other term of like implication.

(c) A structure shall not be described or designated as a "blast-resistant shelter" or a "limited blast-resistant shelter," or by any other term of like implication, unless it meets the applicable minimum requirements set forth in this part.

(d) No representation, express or implied, shall be made that a structure affords protection against nuclear blast unless such structure meets the minimum requirements for a "limited blast-resistant shelter."

(e) No advertisement for, or representation as to the characteristics or capabilities of, any structure designated as a "fallout shelter," "blast-resistant shelter," "limited blast-resistant shelter," or any other term of like implication, shall be used without the inclusion of an affirmative disclosure, in clear and conspicuous terms, of the limits of the protection provided by such structure.

Example 1. With reference to a fallout shelter which does not qualify as a "limited blast-resistant shelter," the advertisement should disclose that the structure has not been designed to afford protection against blast or other related hazards.

Example 2. If the structure qualifies as a "limited blast-resistant shelter" or a "blast-resistant shelter," the advertisement should disclose that the structure, when properly installed, will protect its occupants from a blast of a stated force (such as 10 megatons) occurring an approximate number of miles distant, as set forth in the examples in § 229.0(b).

(f) If a structure meets the minimum requirements for a "fallout shelter," factual and nondeceptive representations may be made as to the degree and nature of fallout protection afforded. Claims that the fallout protection afforded exceeds the requirements shall not be used, however, unless the protection so afforded exceeds the prescribed minimum to a significant degree.

(g) Claims, express or implied, of absolute or complete protection from fallout or blast under any and all conditions shall not be used. [Guide 1]

§ 229.2 Installation.

(a) Any advertisement offering a shelter shall disclose affirmatively that the structure must be properly installed before it can provide protection as a shelter.

(b) No representation shall be made that a shelter can be installed in one day or in any other period of time, unless the installation can in fact be completed within the stated period.

(c) Statements which deceptively exaggerate the ease or economy with which a shelter can be installed shall not be used. [Guide 2]

§ 229.3 Affirmative disclosures as to capacity.

(a) Whenever any representation is made which conveys any implication as to the size or capacity of the advertised shelter, the advertisement must clearly and conspicuously disclose the number of persons the shelter will protect.

(b) Advertisements containing pictures, a quoted price, the use of the word "family," are examples of the type of representations which are subject to the above requirement.

(c) Minimum standard requirements of the Office of Civil Defense in effect at the time the advertised offer is made will be applied in determining the number of persons that the shelter can protect. These requirements take into account the floor space, the air space (cubic volume of the shelter), and the quantity of fresh air required by each person occupying the shelter. [Guide 3]

§ 229.4 Pictorial and other misrepresentations.

(a) No advertisement shall be used which would mislead prospective buyers, through pictorial representations, or in any other manner, as to the protection afforded by a shelter or as to the size, composition, construction, design, capacity, quality, cost or manner of installation, fire or water-resistant properties, location, or utility of a shelter or any part thereof, or which would be misleading in any other material respect.

(b) All construction items featured in a pictorial representation must be included in the price stated in the advertisement.

Example 1. Picturizations of fallout shelters which imply protection against blast effects but which are not capable of providing this protection shall not be used.

Example 2. An advertisement shall not feature the picture of a higher-priced shelter in conjunction with the price of a lower-priced shelter, thus leading consumers to believe the higher-priced model can be purchased at the lower price. [Guide 4]

§ 229.5 Deceptive prices.

(a) No statement, express or implied, shall be used which misrepresents prices or savings in any manner.

(b) Claims that the price offer is for a limited time only or that there will be an increase in price shall not be used unless in fact true.

(c) Advertised or quoted prices shall include the cost of all parts of the structure which are essential to its functioning as a shelter.

(d) Advertised or quoted prices also shall include all charges for the delivery and installation of the shelter, unless the advertisement clearly and conspicuously discloses that delivery or installation charges are not included.

NOTE: The Guides Against Deceptive Pricing furnish guidance respecting other pricing representations and are to be considered as supplementing this section. [Guide 5]

§ 229.6 Financial terms.

(a) Installment purchase plans shall not be misrepresented in any manner nor shall an advertiser claim that loans from any lending institution are available, or that such loans may be insured by the Federal Housing Administration, unless such is the fact.

(b) Down payments shall not be quoted in such a manner as to imply that the down payment constitutes the entire price.

(c) If a shelter is offered at a quoted price under an installment plan which requires additionally the payment of carrying charges, the fact that carrying charges are to be added to the advertised price must be disclosed.

(d) If an interest rate is quoted, it must be simple interest per annum calculated on the basis of the unpaid balance due as reduced after crediting installments as paid. [Guide 6]

§ 229.7 Guarantees.

A guarantee shall not be used in such a manner as to constitute a misrepresentation of a material fact. For example, "guaranteed fallout proof" is a representation that complete protection against fallout is afforded under all conditions. This would constitute a misrepresentation of a material fact, contrary to the provisions of § 229.1.

NOTE: The Guides Against Deceptive Advertising of Guarantees furnish guidance respecting other guarantee representations and are to be considered as supplementing this section. [Guide 7]

§ 229.8 Government connection, approval or endorsement.

If a shelter design meets the minimum requirements of the Office of Civil Defense, the advertiser may reveal this fact in advertising. Even though the shelter design meets the aforementioned requirements, however, an advertiser shall not represent that the shelter has been approved or endorsed by the Government or is being offered by an agency of the Government. Thus, the use of seals, insignia, trade or brand names, or any other term or symbol implying Government connection, approval, or endorsement shall not be used in advertising. [Guide 8]

§ 229.9 Maintenance or repairs.

No statement shall be made which misrepresents the extent to which maintenance, repairs or replacement of a shelter or parts thereof may be required. [Guide 9]

§ 229.10 "Custom made," "custom built," etc.

Claims that a shelter is "custom made," "custom built," or representations of similar import, shall not be used unless the shelter is to be designed and built specially for the particular purchaser. [Guide 10]

§ 229.11 Model shelters.

An advertiser shall not claim that prospective purchasers' homes have been selected for the installation of "model shelters," or that the owners thereof will receive any amount of money, a reduction in price or other thing of value conditioned upon the sale to others of similar shelters, when such is not the fact. [Guide 11]

§ 229.12 Combination or dual-purpose shelters.

Claims to the effect that a shelter serves a combination or dual purpose shall not be used unless factually true. If a shelter can in fact be utilized for other purposes which would not interfere with its use as a shelter, factual and nondeceptive representations as to such other utilization may be made. [Guide 12]

§ 229.13 Bait advertising.

An advertiser shall not offer a shelter for sale unless such offer is made in good faith for the purpose of selling the advertised shelter. Insincere offers to sell, made for the purpose of contacting prospective purchasers and switching them to a shelter other than the shelter advertised, are not to be used. [Guide 13]

§ 229.14 Lottery schemes.

Sales promotional plans involving lottery shall not be used. [Guide 14]

§ 229.15 Scare tactics.

Scare tactics, such as the employment of horror pictures calculated to arouse unduly the emotions of prospective shelter buyers, shall not be used. [Guide 15]

PART 230—GUIDES FOR ADVERTISING SHELL HOMES

Sec.
230.1 Extent of completion.
230.2 Size or dimensions.
230.3 Pictorial representations.
230.4 Savings.
230.5 Financial terms.
230.6 Bait advertising.
230.7 Guarantees.
230.8 Model homes.
230.9 Delivery and installation.

AUTHORITY: The provisions of this Part 230 issued under secs. 5, 6, 38 Stat. 719, as amended, 721; 15 U.S.C. 45, 46.

§ 230.1 Extent of completion.

(a) Since the typical shell home does not include such features as wiring, plumbing, heating, interior trim and finish, or other requisite components, an advertiser may not represent that the home is finished or completed to any degree inconsistent with the facts.

(b) For example, an advertiser may not claim that the home in its unfinished state is habitable, or that it has appliances, fixtures, equipment, material or services which are not actually included at the time it is accepted by the purchaser.

(c) In every case the advertiser must clearly and conspicuously disclose it is a shell home. [Guide 1]

§ 230.2 Size or dimensions.

(a) An advertiser shall not misrepresent, pictorially or through any other means, the overall size or dimension of the home or the rooms or space therein.

(b) This section prohibits misrepresentation through the use of picturizations, as well as the publication of figures which exaggerate the size or dimension. [Guide 2]

§ 230.3 Pictorial representations.

(a) All construction items featured in a pictorial representation, such as a porch, carport, chimney, steps, etc., must be included in the price quoted in the advertisement.

(b) An advertisement shall not feature the picture of a higher-priced home in conjunction with the price of a lower-priced home, thus leading prospective purchasers to believe the higher-priced home can be purchased at the lower price.

(c) If the price of any home other than the one pictured in the advertisement is quoted, the price of the pictured home must be disclosed and quoted with equal size and conspicuousness. [Guide 3]

§ 230.4 Savings.

(a) If savings claims are made (1) the basis for the comparison must be clearly disclosed, (2) the savings must be factually true, and (3) the advertising must clearly disclose: (i) That the buyer must furnish the remaining material and (ii) that the saving, if any, is based upon the buyer completing the remainder of the work.

(b) For example, if the advertiser has a factually true savings claim to make in comparison either with a project type or custom-built home, he must disclose the type of home with which the comparison is being made.

(c) In determining whether the savings claim is factually true, the comparison must be based upon a home of like quality, material, size, design and workmanship in the same general locality where the shell home is to be built.

(d) If savings claims other than those outlined in paragraphs (a), (b), and (c) of this section, are utilized, the claim must meet the applicable provisions of the Commission's Guides Against Deceptive Pricing. [Guide 4]

§ 230.5 Financial terms.

(a) Installment purchase plans shall not be misrepresented in any manner. This section prohibits claims to the effect that loans are available from any particular lending institution or through a particular lending program, or that loans are federally insured, or that the seller will finance the purchaser's indebtedness, unless such is the fact.

(b) Down payments shall not be quoted in such a manner as to imply that the down payment constitutes the entire price.

(c) Claims such as "No Money Down" shall not be used unless factually true. Moreover, where such claims are predicated on the existence of other material conditions, such as the possession of a lot free and clear of encumbrances equal in value to 5 percent of the cost of the shell home, such condition or conditions must be clearly and conspicuously disclosed in the advertising.

(d) If a home is advertised at a quoted price under an installment plan which requires additionally the payment of interest, carrying charges, down payment, or premiums for credit life insurance, the fact that such costs are to be added to the advertised price must be clearly disclosed. If monthly payments are quoted, the duration of the payments must be disclosed. Additionally, if terminal payments significantly larger than the advertised monthly payments are required, this fact must also be clearly disclosed as well as the amount thereof.

(e) A seller shall not procure the signature of purchasers on negotiable promissory notes without revealing to such purchasers they are signing a negotiable promissory note which may be discounted and also revealing the amount, terms, and conditions of such instrument.

(f) If an interest rate is quoted in advertising, it must be simple interest per annum calculated on the basis of the unpaid balance due as reduced after crediting installments as paid. [Guide 5]

§ 230.6 Bait advertising.

(a) An advertiser shall not offer a home for sale unless such offer is made in good faith for the purpose of selling the advertised home. Insincere offers to sell, made for the purpose of contacting prospective purchasers and switching them to a home other than the home advertised, shall not be used.

(b) Even though the true facts are subsequently made known to the buyer, the law is violated if the first contact or interview is secured by deception.

NOTE: The Guides Against Bait Advertising furnish specific guidance in regard to bait practices and are to be considered as supplementing this section. [Guide 6]

§ 230.7 Guarantees.

In general, any guarantee in advertising shall clearly and conspicuously disclose:

(a) The nature and extent of the guarantee. This includes disclosure of:

(1) What product or part of the product is guaranteed,

(2) What characteristics or properties of the designated product or part thereof are covered by, or excluded from, the guarantee,

(3) What is the duration of the guarantee,

(4) What, if anything, any one claiming under the guarantee must do before the guarantor will fulfill his obligation under the guarantee, such as return of the product and payment of service or labor charges; and

(b) The manner in which the guarantor will perform. This consists primarily of a statement of exactly what the guarantor undertakes to do under the guarantee. Examples of this would be repair, replacement or refund. If the guarantor or the person receiving the guarantee has an option as to what may satisfy the guarantee this should be set out; and

(c) The identity of the guarantor. The identity of the guarantor should be clearly revealed in all advertising, as well as in any documents evidencing the guarantee. Confusion of purchasers often occurs when it is not clear whether the manufacturer or the builder is the guarantor.

NOTE: The Guides Against Deceptive Advertising of Guarantees furnish guidance respecting other guarantee representations and are to be considered as supplementing this section. [Guide 7]

§ 230.8 Model homes.

An advertiser shall not claim that a prospective buyer has been "selected" or that his home will be used as a "model" or "demonstration," or that the owner thereof will receive any amount of money, a reduction in price or other thing of value conditioned upon the sale of similar homes to others, unless such representation is factually true. [Guide 8]

§ 230.9 Delivery and installation.

(a) Advertised or quoted prices shall include all charges for delivery and installation of the home, unless the advertisement clearly and conspicuously discloses that delivery or installation charges are not included.

(b) Representations that a home will be delivered or installed within a specified period of time shall not be used unless factually true. [Guide 9]

PART 231—GUIDES FOR SHOE CONTENT LABELING AND ADVERTISING

Subpart A—Labeling

Sec.
231.1 Labeling in general.
231.2 Simulated or imitation leather.
231.3 Concealed innersoles.
231.4 Split leather.
231.5 Embossed or processed leather.
231.6 Ground or shredded leather.

Subpart B—Advertising

231.7 Disclosures in advertising.

AUTHORITY: The provisions of this Part 231 issued under secs. 5, 6, 38 Stat. 719, as amended, 721; 15 U.S.C. 45, 46.

Subpart A—Labeling

§ 231.1 Labeling in general.

(a) (1) The term "leather" and other terms suggestive of leather may be unqualifiedly used in the labeling of shoes and slippers only when the shoes or slippers are composed in all substantial parts of top grain leather, exclusive of heels, stiffenings and ornamentation.

(2) If a shoe or slipper is composed in substantial part of leather, such terms may be used if immediately qualified to show clearly what part or parts are of leather, provided the other requirements of this part are met and provided further that no reference to leather content shall be so emphasized as to exaggerate or otherwise deceptively represent the quantity, quality or extent of leather present.

(3) The unqualified term "leather" and other terms suggestive of leather may not be used to describe shoes and slippers or parts thereof made from split leather or from ground, pulverized or shredded leather. The term may be used if qualified so as to provide an accurate, nondeceptive description of the split leather or the ground, pulverized or shredded leather content.

(b) In the labeling of shoes and slippers, no trade name, coined name, trade-mark, depiction, symbol, or other words or terms may be used, which would tend to convey the impression that the shoes or slippers are made of a certain kind or type of material when they are not.

(c) Examples of words and terms prohibited by this section, when applied to nonleather material are:

"Duraleather."
"Barkhyde."

(d) All labeling disclosures required by this Subpart A must be in the form of stamps, tags or labels imbedded in or attached to the product itself and so affixed as to remain thereon until completion of the sale to the retail customer. The disclosures required need not be in a single location or on the same stamp, tag or label, but they must all be easily and readily observed and understood upon casual inspection of the shoes or slippers. [Guide 1]

§ 231.2 Simulated or imitation leather.

Shoes or slippers composed either wholly, or in any part other than heels, of visible, or partly visible, nonleather material having the appearance of leather, or split leather, must bear labeling which clearly identifies the part or parts so composed and which clearly discloses either:

(a) The material is simulated or imitation leather, or

(b) The general nature of the material in such manner as will show it is not leather or split leather.

(c) Examples of disclosures which will meet the requirements of this section, when justified by the facts, are:

"Outersole, innersole and linings composed of imitation leather," or "imitation leather shoeboard."

"Midsoles composed of cellulose fibres," or "cellulose fibre shoeboard."

"Sock lining, quarter lining and heel pad are imitation leather made from ground leather fibres."

"Vinyl linings."

(d) A disclosure that will not meet the requirements of this section is:

"Shoeboard innersole."

[Guide 2]

§ 231.3 Concealed innersoles.

(a) Shoes or slippers containing innersoles of nonleather material which are concealed from view, but which also contain other visible parts of leather, must bear a label clearly disclosing the presence of the nonleather innersole.

(b) Examples of disclosures which will meet the requirements of this section are:

"Innersole of nonleather shoeboard."
"Innersole of cellulose fibre" or "cellulose fibre shoeboard."
"Innersole of rubberized felt."

(c) A disclosure which will not meet the requirements of this section is:

"Shoeboard Innersole."

[Guide 3]

§ 231.4 Split leather.

(a) Shoes or slippers composed either wholly or in part of visible split leather which simulates top grain leather must bear a label clearly disclosing the material is split leather and clearly identifying the part or parts to which the disclosure applies. (Leather made from portions of hides or skins which have been split into two or more thicknesses, other than the grain or hair side, shall be considered split leather.)

(b) Example of disclosures which will meet the requirement of this section is:

"Upper composed of split cowhide."

[Guide 4]

§ 231.5 Embossed or processed leather.

(a) Shoes or slippers composed either wholly or in part of visible leather which has been embossed, dyed, or otherwise processed, so as to simulate the appearance of a different kind or type of leather, must bear a label clearly disclosing the kind or type of leather of which they are actually made.

(b) If representations as to the leather appearance of the shoes or slippers are made, the label must reveal the simulated or imitation nature of the visible surface, and the disclosure as to the true composition of the material must be set forth in immediate conjunction with such representations.

Example. "Simulated alligator made of split cowhide."

[Guide 5]

§ 231.6 Ground or shredded leather.

Shoes or slippers, composed either wholly or in part of visible ground, pulverized or shredded leather that has the appearance of being leather must bear a label clearly identifying the part or parts involved and clearly disclosing either:

(a) The material is simulated or imitation leather, or

(b) The material is of ground, pulverized or shredded leather. [Guide 6]

Subpart B—Advertising

§ 231.7 Disclosures in advertising.

(a) Whenever a shoe or slipper is visually depicted in advertising, including catalogs, with sufficient clarity so that the picturization itself would have a tendency to create the impression that pictorially visible nonleather parts exclusive of heels are composed of leather or split leather or that pictorially visible leather parts exclusive of heels are composed of a different kind or type of leather than is the case, the advertising must contain a statement clearly and conspicuously disclosing either:

(1) The visible part or parts are simulated or imitation leather, or

(2) The general nature of the visible part or parts in such manner as will show they are not leather or not the type of leather depicted.

Example. An advertisement contains a picture of a shoe in sufficient detail as to lead a casual reader to expect the upper and linings were composed of leather. This advertisement must disclose the true composition of these parts or disclose that they are imitation leather.

(b) The term "leather" and other terms suggestive of leather may be unqualifiedly used in advertising of shoes and slippers only when the shoes or slippers are composed in all substantial parts of top grain leather, exclusive of heels, stiffenings and ornamentation.

(1) If a shoe or slipper is composed in substantial part of leather, such terms may be used in advertising if immediately qualified to show clearly what part or parts are of leather, provided no reference to leather content shall be so emphasized as to exaggerate or otherwise deceptively represent the quantity, quality or extent of leather present.

(2) The unqualified term "leather" and other terms suggestive of leather may not be used to describe shoes and slippers or parts thereof made from split leather or from ground, pulverized or shredded leather. The term may be used if qualified so as to provide an accurate, nondeceptive description of the split leather or the ground, pulverized or shredded leather content.

(3) Terms suggestive of leather may be used to describe the appearance of a nonleather material which has the appearance of leather if immediately accompanied by a disclosure that the term refers only to the appearance and that the material is not leather.

Example. "Imitation Alligator."

(c) In the advertising of shoes and slippers, no trade name, coined name, trade-mark, depiction, symbol, or other words or terms may be used which would tend to convey the impression that the shoes or slippers advertised are made of a certain kind or type of material when they are not.

(d) Examples of words and terms prohibited by this section, when applied to nonleather material are:

"Duraleather."
"Barkhyde."

[Guide 7]

PART 232—GUIDES FOR ADVERTISING RADIATION MONITORING INSTRUMENTS

Sec.
232.0 Application.
232.0–1 Explanation of terms.
232.1 Products adequate for home civil defense use.
232.2 Products of limited home civil defense use—affirmative disclosures of limitations.
232.3 Representations for toys, novelties, etc.
232.4 Representations for professional monitoring instruments.
232.5 Representations requiring qualifications.
232.6 Government approval or endorsement.
232.7 Performance claims and other representations.

AUTHORITY: The provisions of this Part 232 issued under secs. 5, 6, 38 Stat. 719, as amended, 721; 15 U.S.C. 45, 46.

§ 232.0 Application.

This part is applicable to the advertising of instruments, devices or other products which are represented in any manner to be of use to the general public for detecting or measuring fallout radiation. All forms of advertising, labeling and other promotional material, however, disseminated, are within the scope of this part.

§ 232.0–1 Explanation of terms.

As used in this part:

(a) "Gamma radiation" refers to the high energy radiation which would be given off by radioactive fallout particles and would present the major radiation hazard for the first few weeks after a nuclear attack;

(b) "Roentgen" refers to the standard unit of measure for the amount (dose) of gamma radiation exposure;

(c) "Dosimeter" refers to an instrument or device designed to measure the accumulated amount (total dose) of gamma radiation to which an individual or area has been exposed during the period of measurement;

(d) "Rate meter" refers to an instrument or device designed to measure the intensity (dose rate) of gamma radiation existing at the time and place of measurement;

(e) "Official OCD Criteria" refers to the "Criteria for Radiation Instruments for Use by the General Public" [1] as published by the Office of Civil Defense, Department of Defense, Washington, D.C. 20301.

[1] Copies of the "Criteria for Radiation Instruments for Use by the General Public" are available upon request from the Office of Civil Defense, Department of Defense, Washington, D.C. 20301.

§ 232.1 Products adequate for home civil defense use.

(a) A product should not be represented, directly or by implication, as providing an adequate means whereby families or individual users may detect or measure radiation resulting from a nuclear attack, unless the product meets the Official OCD Criteria in all material respects.

(b) The following are some examples of products which would fail, in material respects, to meet the Official OCD Criteria:

Example 1. A rate meter which will not measure (indicate quantitatively) gamma radiation dose rates from 1 to at least 100 roentgens per hour and give positive indication when the dose rate is between 200 roentgens per hour and 1,000 roentgens per hour;

Example 2. A dosimeter which will not measure (indicate quantitatively) accumulated doses of gamma radiation:

a. From zero to at least 200 roentgens, or

b. From zero to at least 200 roentgens (when provision is made for resetting the instrument's indicator back to zero to permit further use);

Example 3. A rate meter which will not provide a measure of gamma radiation within an over-all accuracy of plus or minus 25 percent of the true gamma radiation intensity (dose rate);

Example 4. A dosimeter which will not measure gamma radiation within an over-all accuracy of plus or minus 25 percent of the true accumulated amount (total dose) of gamma radiation;

Example 5. An instrument, the operation of which would be materially affected by temperature changes, habitable altitudes, high humidity and other climatic and weather conditions, or by prolonged periods of storage;

Example 6. An instrument or device which would require the user to evaluate the radiation dose or dose rate by nothing more than his interpretation of variations in tone, brightness, loudness, color or photographic densities.

[Guide I]

§ 232.2 Products of limited home civil defense use—affirmative disclosures of limitations.

A product which does not meet the official OCD criteria in all material respects, but which would be of some significant use in detecting and measuring fallout radiation, should not be represented, directly or by implication, as providing any means whereby members of the general public could detect or measure radiation resulting from a nuclear attack, unless all advertising, labeling and promotional material used therefor clearly and conspicuously disclose all material respects in which the product fails to meet the official OCD criteria. [Guide II]

§ 232.3 Representations for toys, novelties, etc.

Products which cannot be relied on to serve a significant purpose in detecting and measuring radiation after a nuclear attack, should not be advertised or labeled in any manner which would convey the impression that the product would fulfill any such home civil defense need. [Guide III]

§ 232.4 Representations for professional monitoring instruments.

Professional, industrial, laboratory and other types of products designed for specialized radiation monitoring, but which would not be of practical use for some significant home civil defense need, should not be represented in any manner that would convey the impression that the product would be useful for home civil defense purposes. [Guide IV]

§ 232.5 Representations requiring qualifications.

(a) Representations which are susceptible of more than one interpretation, one or more of which would be misleading, should be qualified to remove the deceptive implications.

Example 1. Claims implying that radiation monitoring instruments provide "protection" from fallout radiation are misleading because such instruments only detect and measure radiation. Shelter is required for protection against radiation hazards. Therefore, any statement implying that monitoring instruments afford protection, such as, "Help Protect the Family," should be properly qualified.

Example 2. Such representations as "Detect and Measure Radiation" should be qualified so as to make it clear that the advertised product would be adequate for measuring only dose rates or only total doses of gamma radiation, as the case may be, unless the product adequately provides for making both types of measurements.

(b) Representations which cannot be qualified without the qualification amounting to a contradiction should not be used.

Example 1. Representations such as "100 percent Accurate" and "Fully Accurate," or any other expressions implying that an instrument would be completely accurate under all possible conditions of use, should not be used unless true in fact, because any qualification would amount to a contradiction.

Example 2. If a product does not include an adequate dosimeter and an adequate rate meter it should not be represented as a "Complete Family Kit," because any qualification of that claim, or one of similar meaning, would necessarily contradict the implication that a family would need nothing more than the kit to satisfy its basic radiation monitoring needs.

(c) Qualifications or disclosures should be made clearly and conspicuously in close conjunction with any representation which makes the qualification or disclosure necessary, and should have sufficient prominence to be observed by casual readers. Qualifications and disclosures should not be deceptively deemphasized through use of small print, asterisks, footnotes or by any other means. [Guide V]

§ 232.6 Government approval or endorsement.

If a product meets the official OCD criteria, the advertiser may reveal this fact in advertising. However, even though the product meets such criteria, an advertiser should not represent in any manner that the product is being offered by, or has been approved, accepted, recommended or otherwise endorsed by the Government or any agency thereof. Thus, representations, pictures, seals, insignia, trade or brand names, or any other term or symbol which would imply any Government connection, approval or any other form of governmental endorsement, should not be used. [Guide VI]

§ 232.7 Performance claims and other representations.

No representation should be made, in any manner, which would mislead prospective purchasers concerning:

(a) A product's manner of performance, capabilities, reliability, utility, durability, or shock-resistant or moisture-resistant properties; or

(b) The ease or simplicity with which a product may be operated, interpreted, calibrated, tested, repaired or maintained. [Guide VII]

NOTE: The Federal Trade Commission's Guides Against Deceptive Pricing and Guides Against Deceptive Advertising of Guarantees furnish guidance respecting price and guarantee representations.

PART 233—GUIDES AGAINST DECEPTIVE PRICING

Sec.
- 233.1 Former price comparisons.
- 233.2 Retail price comparisons; comparable value comparisons.
- 233.3 Advertising retail prices which have been established or suggested by manufacturers (or other nonretail distributors).
- 233.4 Bargain offers based upon the purchase of other merchandise.
- 233.5 Miscellaneous price comparisons.

AUTHORITY: The provisions of this Part 233 issued under secs. 5, 6, 38 Stat. 719, as amended, 721; 15 U.S.C. 45, 46.

§ 233.1 Former price comparisons.

(a) One of the most commonly used forms of bargain advertising is to offer a reduction from the advertiser's own former price for an article. If the former price is the actual, bona fide price at which the article was offered to the public on a regular basis for a reasonably substantial period of time, it provides a legitimate basis for the advertising of a price comparison. Where the former price is genuine, the bargain being advertised is a true one. If, on the other hand, the former price being advertised is not bona fide but fictitious—for example, where an artificial, inflated price was established for the purpose of enabling the subsequent offer of a large reduction—the "bargain" being advertised is a false one; the purchaser is not receiving the unusual value he expects. In such a case, the "reduced" price is, in reality, probably just the seller's regular price.

(b) A former price is not necessarily fictitious merely because no sales at the advertised price were made. The advertiser should be especially careful, however, in such a case, that the price is one at which the product was openly and actively offered for sale, for a reasonably substantial period of time, in the recent, regular course of his business, honestly and in good faith—and, of course, not for the purpose of establishing a fictitious higher price on which a deceptive comparison might be based. And the advertiser should scrupulously avoid any implication that a former price is a selling, not an asking price (for example, by use of such language as, "Formerly sold at $_____"), unless substantial sales at that price were actually made.

(c) The following is an example of a price comparison based on a fictitious former price. John Doe is a retailer of Brand X fountain pens, which cost him $5 each. His usual markup is 50 percent over cost; that is, his regular retail price is $7.50. In order subsequently to offer an unusual "bargain", Doe begins offering Brand X at $10 per pen. He realizes that he will be able to sell no, or very few, pens at this inflated price. But he doesn't care, for he maintains that price for only a few days. Then he "cuts" the price to its usual level—$7.50—and advertises: "Terrific Bargain: X Pens, Were $10, Now Only $7.50!" This is obviously a false claim. The advertised "bargain" is not genuine.

(d) Other illustrations of fictitious price comparisons could be given. An advertiser might use a price at which he never offered the article at all; he might feature a price which was not used in the regular course of business, or which was not used in the recent past but at some remote period in the past, without making disclosure of that fact; he might use a price that was not openly offered to the public, or that was not maintained for a reasonable length of time, but was immediately reduced.

(e) If the former price is set forth in the advertisement, whether accompanied or not by descriptive terminology such as "Regularly," "Usually," "Formerly," etc., the advertiser should make certain that the former price is not a fictitious one. If the former price, or the amount or percentage of reduction, is not stated in the advertisement, as when the ad merely states, "Sale," the advertiser must take care that the amount of reduction is not so insignificant as to be meaningless. It should be sufficiently large that the consumer, if he knew what it was, would believe that a genuine bargain or saving was being offered. An advertiser who claims that an item has been "Reduced to $9.99," when the former price was $10, is misleading the consumer, who will understand the claim to mean that a much greater, and not merely nominal, reduction was being offered. [Guide I]

§ 233.2 Retail price comparisons; comparable value comparisons.

(a) Another commonly used form of bargain advertising is to offer goods at prices lower than those being charged by others for the same merchandise in the advertiser's trade area (the area in which he does business). This may be done either on a temporary or a permanent basis, but in either case the advertised higher price must be based upon fact, and not be fictitious or misleading. Whenever an advertiser represents that he is selling below the prices being charged in his area for a particular article, he should be reasonably certain that the higher price he advertises does not appreciably exceed the price at which substantial sales of the article are being made in the area—that is, a sufficient number of sales so that a consumer would consider a reduction from the price to represent a genuine bargain or saving. Expressed another way, if a number of the principal retail outlets in the area are regularly selling Brand X fountain pens at $10, it is not dishonest for retailer Doe to advertise: "Brand X Pens, Price Elsewhere $10, Our Price $7.50".

(b) The following example, however, illustrates a misleading use of this advertising technique. Retailer Doe advertises Brand X pens as having a "Retail Value $15.00, My Price $7.50," when the fact is that only a few small suburban outlets in the area charge $15. All of the larger outlets located in and around the main shopping areas charge $7.50, or slightly more or less. The advertisement here would be deceptive, since the price charged by the small suburban outlets would have no real significance to Doe's customers, to whom the advertisement of "Retail Value $15.00" would suggest a prevailing, and not merely an isolated and unrepresentative, price in the area in which they shop.

(c) A closely related form of bargain advertising is to offer a reduction from the prices being charged either by the advertiser or by others in the advertiser's trade area for other merchandise of like grade and quality—in other words, comparable or competing merchandise—to that being advertised. Such advertising can serve a useful and legitimate purpose when it is made clear to the consumer that a comparison is being made with other merchandise and the other merchandise is, in fact, of essentially similar quality and obtainable in the area. The advertiser should, however, be reasonably certain, just as in the case of comparisons involving the same merchandise, that the price advertised as being the price of comparable merchandise does not exceed the price at which such merchandise is being offered by representative retail outlets in the area. For example, retailer Doe advertises Brand X pen as having "Comparable Value $15.00". Unless a reasonable number of the principal outlets in the area are offering Brand Y, an essentially similar pen, for that price, this advertisement would be deceptive. [Guide II]

§ 233.3 Advertising retail prices which have been established or suggested by manufacturers (or other nonretail distributors).

(a) Many members of the purchasing public believe that a manufacturer's list price, or suggested retail price, is the price at which an article is generally sold. Therefore, if a reduction from this price is advertised, many people will believe that they are being offered a genuine bargain. To the extent that list or suggested retail prices do not in fact correspond to prices at which a substantial number of sales of the article in question are made, the advertisement of a reduction may mislead the consumer.

(b) There are many methods by which manufacturers' suggested retail or list prices are advertised: large scale (often nationwide) mass-media advertising by the manufacturer himself; prepricketing by the manufacturer; direct mail advertising; distribution of promotional material or price lists designed for display to the public. The mechanics used are not of the essence. This part is concerned with any means employed for placing such prices before the consuming public.

(c) There would be little problem of deception in this area if all products were invariably sold at the retail price set by the manufacturer. However, the widespread failure to observe manufacturers' suggested or list prices, and the advent of retail discounting on a wide scale, have seriously undermined the dependability of list prices as indicators of the exact prices at which articles are in fact generally sold at retail. Changing competitive conditions have created a more acute problem of deception than may have existed previously. Today, only in the rare case are all sales of an article at the manufacturer's suggested retail or list price.

(d) But this does not mean that all list prices are fictitious and all offers of reductions from list, therefore, deceptive. Typically, a list price is a price at which articles are sold, if not everywhere, then at least in the principal retail outlets which do not conduct their business on a discount basis. It will not be deemed fictitious if it is the price at which substantial (that is, not isolated or insignificant) sales are made in the advertiser's trade area (the area in which he does business). Conversely, if the list price is significantly in excess of the highest price at which substantial sales in the trade area are made, there is a clear and serious danger of the consumer being misled by an advertised reduction from this price.

(e) This general principle applies whether the advertiser is a national or regional manufacturer (or other nonretail distributor), a mail-order or catalog distributor who deals directly with the consuming public, or a local retailer. But certain differences in the responsibility of these various types of businessmen should be noted. A retailer competing in a local area has at least a general knowledge of the prices being charged in his area. Therefore, before advertising a manufacturer's list price as a basis for comparison with his own lower price, the retailer should ascertain whether the list price is in fact the price regularly charged by principal outlets in his area.

(f) In other words, a retailer who advertises a manufacturer's or distributor's suggested retail price should be careful to avoid creating a false impression that he is offering a reduction from the price at which the product is generally sold in his trade area. If a number of the principal retail outlets in the area are regularly engaged in making sales at the manufacturer's suggested price, that price may be used in advertising by one who is selling at a lower price. If, however, the list price is being followed only by, for example, small suburban stores, house-to-house canvassers, and credit houses, accounting for only an insubstantial volume of sales in the area, advertising of the list price would be deceptive.

(g) On the other hand, a manufacturer or other distributor who does business on a large regional or national scale cannot be required to police or investigate in detail the prevailing prices of his articles throughout so large a trade area. If he advertises or disseminates a list or pricketed price in good faith (i.e., as an honest estimate of the actual retail price) which does not appreciably exceed the highest price at which substantial sales are made in his trade area, he will not be chargeable with having engaged in a deceptive practice. Consider the following example:

(h) Manufacturer Roe, who makes Brand X pens and sells them throughout the United States, advertises his pen in a national magazine as having a "Suggested Retail Price $10," a price determined on the basis of a market survey. In a substantial number of representative communities, the principal retail outlets are selling the product at this price in the regular course of business and in substantial volume. Roe would not be considered to have advertised a fictitious "suggested retail price." If retailer Doe does business in one of these communities, he would not be guilty of a deceptive practice by advertising, "Brand X Pens, Manufacturer's Suggested Retail Price, $10, Our Price, $7.50."

(i) It bears repeating that the manufacturer, distributor or retailer must in every case act honestly and in good faith in advertising a list price, and not with the intention of establishing a basis, or creating an instrumentality, for a deceptive comparison in any local or other trade area. For instance, a manufacturer may not affix price tickets containing inflated prices as an accommodation to particular retailers who intend to use such prices as the basis for advertising fictitious price reductions. [Guide III]

§ 233.4 Bargain offers based upon the purchase of other merchandise.

(a) Frequently, advertisers choose to offer bargains in the form of additional merchandise to be given a customer on the condition that he purchase a particular article at the price usually offered by the advertiser. The forms which such offers may take are numerous and varied, yet all have essentially the same purpose and effect. Representative of the language frequently employed in such offers are "Free," "Buy One—Get One Free," "2-For-1 Sale," "Half Price Sale," "1¢ Sale," "50% Off," etc. Literally, of course, the seller is not offering anything "free" (i.e., an unconditional gift), or ½ free, or for only 1¢, when he makes such an offer, since the purchaser is required to purchase an article in order to receive the "free" or "1¢" item. It is important, therefore, that where such a form of offer is used, care be taken not to mislead the consumer.

(b) Where the seller, in making such an offer, increases his regular price of the article required to be bought, or decreases the quantity and quality of that article, or otherwise attaches strings

(other than the basic condition that the article be purchased in order for the purchaser to be entitled to the "free" or "1¢" additional merchandise) to the offer, the consumer may be deceived.

(c) Accordingly, whenever a "free," "2-for-1," "half price sale," "1¢ sale," "50% off" or similar type of offer is made, all the terms and conditions of the offer should be made clear at the outset. [Guide IV]

§ 233.5 Miscellaneous price comparisons.

The practices covered in the provisions set forth above represent the most frequently employed forms of bargain advertising. However, there are many variations which appear from time to time and which are, in the main, controlled by the same general principles. For example, retailers should not advertise a retail price as a "wholesale" price. They should not represent that they are selling at "factory" prices when they are not selling at the prices paid by those purchasing directly from the manufacturer. They should not offer seconds or imperfect or irregular merchandise at a reduced price without disclosing that the higher comparative price refers to the price of the merchandise if perfect. They should not offer an advance sale under circumstances where they do not in good faith expect to increase the price at a later date, or make a "limited" offer which, in fact, is not limited. In all of these situations, as well as in others too numerous to mention, advertisers should make certain that the bargain offer is genuine and truthful. Doing so will serve their own interest as well as that of the public. [Guide V]

PART 234—GUIDES FOR THE MAIL ORDER INSURANCE INDUSTRY

Sec.

234.0 Definitions.
234.1 Deception (general).
234.2 Advertisement of benefits, losses covered or premiums payable.
234.3 Health of the applicant or insured.
234.4 Disclosure of policy provisions relating to renewability, cancellability, or termination.
234.5 Testimonials, appraisals or analyses.
234.6 Deceptive use of statistics.
234.7 Identification of plan or number of policies.
234.8 Deception as to introductory, initial or special offers.
234.9 Misrepresentation as to licensing, approval or endorsement of insurer, policy or advertisement.
234.10 Deception as to "group" or "quasi-group" policies.
234.11 Allocation of benefits under a "Family Group" policy.
234.12 Deceptive use of trade names, service marks, etc.
234.13 Disparagement.
234.14 Misrepresentation concerning the insurer.

AUTHORITY: The provisions of this Part 234 issued under secs. 5, 6, 38 Stat. 719, as amended, 721; 15 U.S.C. 45, 46.

§ 234.0 Definitions.

(a) "Advertisement" for the purpose of this part, shall mean any of the following material when used in connection with solicitation of the original purchase of a policy, or renewal or reinstatement thereof:

(1) Any printed or published material, descriptive literature, statements or depictions of an insurer used in newspapers, magazines, radio and TV scripts or presentations, billboards, and similar displays, and

(2) Descriptive literature and sales aids of all kinds issued or caused to be issued by an insurer or by an insurer's agent or broker for presentation to members of the public, including, but not limited to, circulars, leaflets, booklets, depictions, illustrations, form letters, and policy forms.

(b) "Policy" for the purpose of this part, shall include any policy, plan, certificate, contract, agreement, statement of coverage, rider or endorsement which provides insurance benefits for any kind of loss or expense.

(c) "Insurer" for the purpose of this part, shall include any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds, fraternal benefit society, and any other legal entity, engaged in the advertisement and sale of a policy as herein defined.

§ 234.1 Deception (general).

No advertisement shall be used which because of words, phrases, statements or illustrations therein or information omitted therefrom has the capacity and tendency to mislead or deceive purchasers or prospective purchasers, irrespective of whether a policy advertised is made available to an insured prior to the consummation of the sale, or an offer is made of a premium refund if a purchaser is not satisfied. Words or phrases which are misleading or deceptive because the meaning thereof is not clear, or is clear only to persons familiar with insurance terminology, shall not be used. [Guide 1]

§ 234.2 Advertisement of benefits, losses covered or premiums payable.

(a) *Disclosure as to exceptions, reductions and limitations.* (1) No advertisement shall refer to any loss covered or benefit provided by an insurance policy, period of time for which any benefit is payable, or the cost of a policy, without clearly and conspicuously disclosing in close conjunction therewith such exceptions, reductions and limitations relating thereto as will fully relieve the advertisement of all capacity to deceive.

(2) The disclosure requirements of this section are not applicable to advertisements which mention only the general kind of insurance (e.g., "Life," "Accident," "Hospitalization"), give no information as to losses covered, benefits or premiums, and serve the purpose of merely inviting inquiries or a show of interest on the part of the recipients.

(3) As used in this section:

(i) The term "exception" means any provision in a policy whereby coverage for a specified hazard is entirely eliminated. It is a statement of risk not assumed under the policy.

(ii) The term "reduction" shall mean any provision which reduces the amount of the benefit; a risk of loss is assumed but payment upon the occurrence of such loss is limited to some amount or period less than would be otherwise payable had such reduction clause not been used.

(iii) The term "limitation" means any provision which restricts the duration or extent of coverage, losses covered, or benefits payable under the policy other than an exception or a reduction.

(4) *Waiting, elimination, probationary or similar periods:* When there is a time period between the effective date of a policy and the effective date of coverage under the policy, or a time period between the date a loss occurs and the date benefits begin to accrue for such loss, such fact must be clearly and conspicuously disclosed in close conjunction with any reference to such coverage or benefits made in any advertisement.

(5) *Benefits contingent on conditions:* When a policy pays varying amounts of benefits for the same loss occurring under different conditions or which pays benefits only when a loss occurs under certain conditions, any reference to such benefits in an advertisement must be closely accompanied by clear and conspicuous disclosure of such different or limited conditions as are applicable.

(6) *Preexisting conditions:* If a policy provides any limitations on the coverage of a loss if the cause of such loss is traceable to a condition existing prior to the effective date of the policy, or prior to any other particular time, any reference to the policy coverage of the loss made in any advertisement must be closely accompanied by clear and conspicuous disclosure of such limitations. (See also § 234.3.)

(7) *Deceptive words or phrases:* (i) No words, terms or phrases shall be used as descriptive of the coverage provided by a policy which misrepresent the extent of such coverage. Words such as "all," "full," "complete," "unlimited," and words of similar import must not be used to refer to any coverage which under the terms of the policy is subject to exceptions, reductions or limitations. Other words, terms, or phrases representing or implying broad insurance coverage must not be used as descriptive of losses covered or benefits provided by a policy which are subject to exceptions, reductions or limitations without disclosure of the applicable exceptions, reductions or limitations as required by this paragraph (a).

(ii) The terms "hospitalization," "accident," or "life" must not be used as descriptive of an insurance policy which provides benefits for only unusual or unique sicknesses, accidents, or causes of death unless in close conjunction with such terms clear and conspicuous disclosure is made of such coverage (e.g. "Leukemia Hospitalization," "Death by Drowning").

(iii) Words or phrases such as "up to," "as high as," etc. shall not be used as descriptive of the dollar amount payable for any kind of represented losses or expenses unless the policy provides benefit payments up to such amount in all cases for such losses or expenses actually sustained by a policyholder, or there is full and conspicuous disclosure in close conjunction with such words or phrases of either—

(a) the complete schedule of payments provided by the policy, or

(b) the specific loss or expense for which the represented dollar amount is provided by the policy; and also disclosure that benefits provided by the policy for losses or expenses of the kind represented vary in amount depending on the particular kind of loss or expense incurred, if such is the case, as for example—"Policy provides surgical benefits which vary in amount depending on kind of operation performed. For example, pays up to $150 for operation to remove a lung."

and there is also disclosure of such other exceptions, reductions or limitations as required by this paragraph (a).

(iv) An advertisement must not contain representations such as "This policy pays $1,800 for hospital room and board expenses" without clear and conspicuous disclosure in close conjunction therewith of the maximum daily benefit and the maximum time limit for such hospital room and board expense.

(v) An advertisement must not represent the weekly, monthly, or other periodic benefits payable under a policy without clearly and conspicuously disclosing in close conjunction with such representation the limitation of time over which such benefits will be paid or of the number of payments or total amount thereof which will be made if, by the terms of the policy, payment of benefits for any loss or aggregate of losses is limited to time, number, or total amount.

(8) *Age limitation:* Any reference in an advertisement to any insurance coverage or benefits which by the terms of the policy are limited to a certain age group must be closely accompanied by clear and conspicuous disclosure of such fact.

(b) *Deception as to coverage and additional benefits.* (1) A policy covering only one disease or certain specified diseases must not be advertised in such manner as to imply coverage beyond the terms of the policy, either by use of synonymous words or terms to refer to any disease or physical conditions so as to imply broader coverage, or by other means.

(2) An advertisement must not represent, directly or indirectly, that a policy provides for the payment of certain benefits in addition to other benefits when such is not the fact. [Guide 2]

§ 234.3 Health of the applicant or insured.

No advertisement shall be used which represents or implies—

(a) That the condition of the applicant's or insured's health prior to, or at the time of issuance of a policy, or thereafter, will not be considered by the insurer in determining its liability or benefits to be furnished for or in the settlement of a claim when such is not the fact (see also § 234.2(a)(6); or

(b) That no medical examination is required if the furnishing of benefits by an insurer under a policy so represented is or may be contingent on a medical examination under any condition; or

(c) That no medical examination is required, even though such is the case, without conspicuously disclosing in close conjunction therewith all the conditions pertaining to or involving the insured's health under which the insurer is not liable for the furnishing of benefits under a policy. [Guide 3]

§ 234.4 Disclosure of policy provisions relating to renewability, cancellability, or termination.

(a) No advertisement shall refer, directly or by implication, to renewability, cancellability, or termination of a policy or a policy benefit, or contain any statement or illustration of time or age in connection with any benefit payable, loss, eligibility of applicants, or continuation of a policy, unless in close conjunction with such reference, statement or illustration there is clear and conspicuous disclosure of the material provisions in the policy relating thereto.

(b) No advertisement shall represent or imply that an insurance policy may be continued in effect indefinitely or for any period of time, when, in fact, said policy provides that it may not be renewed or may be canceled by the insurer, or terminated under any circumstances over which insured has no control, during the period of time represented. [Guide 4]

§ 234.5 Testimonials, appraisals or analyses.

No testimonial, appraisal or analysis shall be used in any advertisement which is not genuine, does not represent the current opinion of the author, does not accurately describe the facts, does not correctly reflect the present practices of an insurer, is not applicable to the policy or insurer advertised or is not accurately reproduced.

NOTE: An insurer makes as his own all statements contained in any testimonial which he uses in his advertisement, and the advertisement including such statements is subject to all of the provisions of this part.

[Guide 5]

§ 234.6 Deceptive use of statistics.

(a) No advertisement shall be used in which representations are made as to the time within which claims are paid, the dollar amounts of claims paid, the number of claims paid or the number of persons insured under a particular policy or otherwise, or which contains other statistical information relating to any insurer or policy, unless such advertisement accurately reflects all the relevant facts. The advertisement shall not imply that the statistics are derived from a policy advertised unless such is the fact.

(b) No advertisement shall be used which misrepresents that claim settlements by an insurer are liberal or generous beyond the terms of a policy. [Guide 6]

§ 234.7 Identification of plan or number of policies.

(a) No advertisement shall offer a choice of the amount of benefits without clearly and conspicuously disclosing that the amount of benefits provided depends upon the plan selected and that the premium will vary with the amount of benefits.

(b) No advertisement shall refer to various benefits which may be contained in two or more policies, other than group master policies, without clearly and conspicuously disclosing that such benefits are provided only through a combination of such policies. [Guide 7]

§ 234.8 Deception as to introductory, initial or special offers.

No representation shall be made in an advertisement, directly or by implication, that a policy or combination of policies is an introductory, initial, special or limited offer and that applicants will receive advantages not available at a later date, unless such is the fact. [Guide 8]

§ 234.9 Misrepresentation as to licensing, approval or endorsement of insurer, policy or advertisement.

No advertisement shall represent directly or by implication—

(a) That an insurer, or any policy or advertisement thereof, has been licensed, approved, endorsed or recommended by any governmental agency or department, unless such is the fact;

(b) That an insurer, or a policy or an advertisement thereof, has been approved, endorsed or recommended by any individual, group of individuals, society, association, or other organization, unless such is the fact. [Guide 9]

§ 234.10 Deception as to "group" or "quasi-group" policies.

No advertisement shall represent, directly or indirectly, that prospective policyholders become group or quasi-group members and as such enjoy special rates or underwriting privileges ordinarily associated with group insurance as recognized in the industry, unless such is the fact. [Guide 10]

§ 234.11 Allocation of benefits under a "Family Group" policy.

No advertisement shall refer to a benefit payable under a "Family Group" policy when the full amount of such benefit is not payable upon the death or disability, etc. of only one member of the family unless clear and conspicuous disclosure of such fact is made in the advertisement. [Guide 11]

§ 234.12 Deceptive use of trade names, service marks, etc.

There shall not be used in an advertisement any trade name, service mark, slogan, symbol, or other device which has the capacity and tendency to mislead or deceive prospective purchasers as to the true identity of the insurer or its relation with public or private institutions. [Guide 12]

§ 234.13 Disparagement.

No advertisement shall be used which, directly or indirectly, falsely disparages

competitors, their policies, services, or business methods. [Guide 13]

§ 234.14 Misrepresentation concerning the insurer.

No advertisement shall be used which, directly or by implication, has the capacity and tendency to mislead or deceive prospective purchasers with respect to an insurer's assets, corporate structure, financial standing, age, or relative position in the insurance business, or in any other material respect. [Guide 14]

PART 235—GUIDES AGAINST DECEPTIVE LABELING AND ADVERTISING OF ADHESIVE COMPOSITIONS

Sec.
235.1 Metal composition products.
235.2 Use of the term "solder" or "weld."
235.3 Use of the word "porcelain."
235.4 Epoxy adhesives.
235.5 Use of the word "rubber," etc.
235.6 Misrepresentation (general).
235.7 Guarantees, warranties, etc.
235.8 Placing deceptive material in the hands of others.

AUTHORITY: The provisions of this Part 235 issued under secs. 5, 6, 38 Stat. 719, as amended, 721; 15 U.S.C. 45, 46.

§ 235.1 Metal composition products.

Products which do not, after application, have the same physical and chemical properties of metal, or of a particular represented metal, shall not be represented as metal or as having the intrinsic characteristics of metal, or of the particular metal indicated. Thus, neither the term "metal" nor the terms "iron," "steel," "aluminum" or other names of metal shall be used to designate in brand names or otherwise any product of the kind herein described. While this section does not prohibit truthful representations in advertising and labeling of the percentage of content of any metallic substances in such products (e.g., contains 20 percent powdered aluminum) it does prohibit with respect thereto the use of representations such as, but not limited to, the following:

"Plastic Steel."
"Dries to steel."
"Hardens into metal."
"Steel in paste form."
"Liquid aluminum."
"Instant aluminum."
"Real metallic putty."
"Fluid Steel."

[Guide 1]

§ 235.2 Use of the term "solder" or "weld."

Products which, when used, do not form a metallic seal or bond, shall not be represented as solders or as welding products unless it is clearly disclosed in connection therewith that they are nonmetallic, as for example, "Plastic Solder" or "Plastic Weld." A "solder" or "weld" product which is nonmetallic shall not be represented as producing a metallic seal or bond. This section does not prohibit an accurate representation of the percentage of metallic substance contained in a product. [Guide 2]

§ 235.3 Use of the word "porcelain."

(a) The word "porcelain" shall not be used to designate in brand names or otherwise any product which, after application, does not possess all of the chemical and physical properties of porcelain. Under this section products of the type herein described shall not be represented as being, among other things:

"Porcelain."
"Porcelain Glaze."
"Liquid Porcelain."
"Porcelain in Paste Form."
"Plastic Porcelain."
"Porcelain restorer."
"Porcelain renewer."

(b) This section does not prohibit truthful representations of the actual percentage of porcelain contained in an industry product as, for example,

"Contains 25% powdered porcelain."

[Guide 3]

§ 235.4 Epoxy adhesives.

(a) No product shall be represented as being an epoxy adhesive unless the epoxy component thereof is derived from an epoxide or oxirane which, when applied in use, chemically reacts with a hardener or curing agent to form a substantially infusible and insoluble bond.

(b) No product containing an epoxy shall be represented as having the characteristics and capabilities of an epoxy adhesive, where the epoxy component present in the product is in an amount not sufficient to produce the characteristics and capabilities represented.

(c) No representation shall be made that the epoxy component in an industry product is present to produce the characteristics and capabilities of an epoxy adhesive where such component is not productive of such characteristics and capabilities, but is present for a different purpose and use. [Guide 4]

§ 235.5 Use of the word "rubber," etc.

(a) The word "rubber" or other words denominating rubber shall not be used to designate, in brand names or otherwise, any product which, after application, does not possess the essential characteristics of rubber. Under this section such a product shall not be represented as, for example, "Rubber," "Plastic Rubber," "Liquid Rubber," etc.

(b) This section does not prohibit truthful representation of the actual percentage of rubber contained in a product. [Guide 5]

§ 235.6 Misrepresentation (general).

(a) No representation shall be made in any manner respecting any adhesive products to which this part is applicable which is likely to mislead or deceive purchasers as to their nature, composition, characteristics, uses, effectiveness, capabilities, durability, toughness, hardness, adhesive strength, lasting effect, thermal or electrical properties, resistance to water, steam, gas, or chemicals, or in any other material respect.

(b) Among the representations prohibited by this section are the following:

(1) Representations that a product will seal, repair or mend "anything" when, in fact, there are certain materials which it cannot seal, repair or mend.

(2) Representations that a product is proof against or will withstand any specified temperature when in fact the product is adversely affected in any way when subjected to such temperature for any period of time.

(3) Representations that a product will effect permanent repairs if, in fact, the repairs made by use of the product will not last as long as the product so repaired.

(4) Representations that a product makes any product like new if it does not actually restore the part thereof repaired to its original new condition. [Guide 6]

§ 235.7 Guarantees, warranties, etc.

Industry members shall not represent in advertising or otherwise that a product is "guaranteed" without a clear and conspicuous disclosure in close conjunction with such representation of:

(a) The nature and extent of the guarantee; and

(b) Any material conditions or limitations in the guarantee which are imposed by the guarantor; and

(c) The manner in which the guarantor will perform thereunder; and

(d) The identity of the guarantor.

NOTE: The Commission's April 26, 1960 Guides Against Deceptive Advertising of Guarantees (25 F.R. 3772) furnish additional guidance respecting guarantee representations and are to be considered as supplementing this section. Copies are available upon request.

[Guide 7]

§ 235.8 Placing deceptive material in the hands of others.

Manufacturers and distributors shall not place in the hands of wholesalers, jobbers, retailers, or others, promotional material by or through which they may deceive or mislead the purchasing and consuming public concerning any product. [Guide 8]

PART 236—GUIDE FOR AVOIDING DECEPTIVE USE OF WORD "MILL" IN THE TEXTILE INDUSTRY

Sec.
236.1 General rule.
236.2 The requirement of operational control.
236.3 Examples of deceptive usage of the word "mill."
236.4 Exception to general rule.

AUTHORITY: The provisions of this Part 236 issued under secs. 5, 6, 38 Stat. 719, as amended, 721; 15 U.S.C. 45, 46.

§ 236.1 General rule.

Simply stated, the general rule is that the word "mill" should not be used in the corporate, business, or trade name of any person or concern handling textiles, or in any other manner, unless the person or concern actually owns and operates or directly and absolutely controls the manufacturing facility in which all textile materials which are sold under that name are produced.

§ 236.2 The requirement of operational control.

(a) For a firm to qualify as a bona fide mill it must exercise direct and absolute control over the milling facility in which its merchandise is produced. Contracting to have milling operations performed by others will not qualify one as a mill.

(b) A distributor who furnishes yarns and other materials to a knitting mill for manufacture into garments according to the distributor's specifications is not a mill because it does not exercise direct and absolute operational control over the milling operations. A firm having a written "lease" with a mill whereby the mill allocated five of its looms and the workers at such looms to manufacture ribbon for the jobber from materials supplied by, and according to instructions from, the jobber is not a mill for the same reason. Even if a jobber takes the entire output of a mill, he does not thereby become a mill.

§ 236.3 Examples of deceptive usage of the word "mill."

Illustrative situations in which use of "mill" in designating trade status has been found to be deceptive are the following:

(a) A corporation which purchased unfinished silk and rayon cloth from weavers or manufacturers, caused such cloth to be dyed, printed, or processed into finished dry goods by others and sold such goods to retailers, members of the cutting up trade and others;

(b) A tailor who made made-to-measure suits but did not produce the cloth from which the suits were made;

(c) A selling agent who represented a number of suit fabric manufacturers;

(d) An independent retailer who claimed to be a "mill's outlet."

§ 236.4 Exception to general rule.

(a) Under the exceptional circumstances set forth below, the Commission may permit a nonmanufacturing concern to continue to use the word "mill" in its trade name provided that it is accompanied by a qualifying phrase which clearly states that the concern is not a mill and does not own or operate a facility which manufactures textiles. This exception only applies if:

(1) The name of the concern has become a valuable business asset and its loss would result in a substantial hardship; and

(2) The qualifying phrase will eliminate all possibility of deception.

(b) Factors to be taken into consideration in determining whether a trade name has become a valuable business asset the loss of which would become a hardship are as follows:

(1) Extent and period of time during which the name has been used;

(2) Funds and efforts expended in establishing and promoting the name;

(3) The extent of the goodwill enjoyed by the company;

(4) The adverse effect on the company that could reasonably be expected if use of the word "mill" had to be discontinued.

PART 237—GUIDES AGAINST DEBT COLLECTION DECEPTION

Sec.
237.0 Definitions of terms as used in these guides in this part.
237.1 Deception (general).
237.2 Disclosure of purpose.
237.3 Government affiliation.
237.4 Organizational titles.
237.5 Trade status.
237.6 Services.

AUTHORITY: The provisions of this Part 237 issued under secs. 5, 6, 38 Stat. 719, as amended, 721; 15 U.S.C. 45, 46.

§ 237.0 Definitions of terms as used in these guides in this part.

(a) "Industry Member" shall mean any person, firm, partnership, corporation, organization, association and any other legal entity engaged in the practice of collecting or attempting to collect any and all kinds of money debts for itself or others, or any person, firm, partnership, corporation, organization, association, or any other legal entity which places in the hands of others through sale or otherwise, or distributes for itself or others, any kind of material used or to be used in connection with collecting or attempting to collect such debts or seeking information concerning debtors, commonly called skip-tracing.

(b) "Debt" shall mean money which is due or alleged to be due from one to another.

(c) "Debtor" shall mean one who owes or is alleged to owe a money debt.

(d) "Creditor" shall mean one to whom a money debt is due or is alleged to be due.

(e) "Credit Bureau"—any person, firm, partnership, corporation, organization, association, or any other legal entity engaged in gathering, recording, and disseminating favorable as well as unfavorable information relative to the credit worthiness, financial responsibility, paying habits and character of individuals, firms, corporations, and any other legal entity being considered for credit extension, so that a prospective creditor may be able to make a sound decision in the extension of credit.

(f) "Collection Agency"—any person, firm, partnership, corporation, organization, association, and any other legal entity which collects money debts for others.

§ 237.1 Deception (general).

An industry member shall not use any deceptive representation or deceptive means to collect or attempt to collect debts or to obtain information concerning debtors.

NOTE: The Commission has found that in the collection of debts some industry members either disguise the purpose for which information is desired or hold out an inducement to debtors to furnish information which is not in their interest to supply and which they normally would not voluntarily furnish. In connection with the collection or attempted collection of debts or the seeking of information concerning debtors, the Commission has prohibited, among others, the following misrepresentations:

1. That an industry member was seeking information in connection with a survey.
2. That an industry member is in the business of a casting service for the motion picture or television industry.
3. That an industry member has a prepaid package for the debtor.
4. That a sum of money or valuable gift will be sent to the addressee if the required information is furnished.
5. That accounts have been turned over to innocent purchasers for value.
6. That debts have been turned over to an attorney or an independent organization engaged in the business of collecting past-due accounts.
7. That documents are legal process forms.

[Guide 1]

§ 237.2 Disclosure of purpose.

(a) An industry member shall not use or cause to be used in his behalf in connection with the collection of or the attempt to collect a debt or in connection with obtaining or attempting to obtain information concerning a debtor, any forms, letters, questionnaires, or other material printed or written which do not clearly and conspicuously disclose that such are used for the purpose of collecting or attempting to collect a debt or to obtain or attempt to obtain information concerning a debtor, when the communication suggests that its objective is other than to collect a debt or to obtain information concerning a debtor. (This affirmative disclosure also applies to all forms of communication, oral or otherwise.)

(b) An industry member shall not, through sale or otherwise, place in the hands of others for use in connection with the collection of or attempt to collect a debt or in connection with obtaining or attempting to obtain information concerning a debtor, any forms, letters, questionnaires or other material printed or written which do not clearly and conspicuously reveal thereon that such are used for the purpose of collecting or attempting to collect a debt or to obtain or attempt to obtain information concerning a debtor, when the communication suggests that its objective is other than to collect a debt or to obtain information concerning a debtor. [Guide 2]

§ 237.3 Government affiliation.

An industry member shall not use any trade name, address, insignia, picture, emblem, or any other means which creates a false impression that such industry member is connected with or is an agency of government. [Guide 3]

§ 237.4 Organizational titles.

An industry member shall not use the term "Credit Bureau" or any other term of similar import or meaning in its corporate or trade name, or in any other manner, when such member is not in fact a "Credit Bureau" as defined in this part. [Guide 4]

§ 237.5 Trade status.

In collecting or attempting to collect debts due him, an industry member shall not, through the use of any designation or by any other means, create the impression that he is a collection agency, unless he is such as defined in this part. [Guide 5]

§ 237.6 Services.

In the solicitation of accounts for collection or for ascertainment of credit status, an industry member shall not directly, or by implication, misrepresent the services he renders.

NOTE: § 237.6 is general in nature since the varied misrepresentations used in connection with the solicitation of accounts for collection are numerous. Listed below are a few specific examples of representations which have been prohibited by the Commission because they were false or deceptive:

1. That the industry member's organization is separated into functional divisions, such as credit reporting, analytical, tracing, and collecting.
2. That the industry member employs local representatives, regional investigators, and lawyers on his personnel staff in various States and throughout the world.
3. That collection fees are less than what the industry member actually charges.
4. That no charges will be made for accounts unless they are collected.
5. That the industry member makes personal calls on debtors to collect accounts.
6. That the industry member will furnish credit reports to parties who assign accounts to him for collection.

[Guide 6]

Dated: November 7, 1967.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-13196; Filed, Nov. 7, 1967; 8:47 a.m.]

PART 17—APPLICATION AND DEFINITIONS

Application of Guides and Trade Practice Rules in Preventing Unlawful Competitive Restraints

Section 17.1 has been amended to read as follows:

§ 17.1 Application of guides and trade practice rules in preventing unlawful competitive restraints.

(a) Industry guides are administrative interpretations of laws administered by the Commission for the guidance of the public in conducting its affairs in conformity with legal requirements. They provide the basis for voluntary and simultaneous abandonment of unlawful practices by members of industry. Failure to comply with the guides may result in corrective action by the Commission under applicable statutory provisions. Guides may relate to a practice common to many industries or to specific practices of a particular industry.

(b) Trade practice rules promulgated by the Commission are designed to foster and promote the maintenance of fair competitive conditions in the interest of protecting industry, trade, and the public. It is to this end, and to the exclusion of any act or practice which suppresses competition, restrains trade, fixes or controls price through combination or agreement, or which otherwise injures, destroys, or prevents competition, that the rules are to be applied.

(Sec. 6(g), 38 Stat. 722; 15 U.S.C. 46(g))

Issued: November 7, 1967.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-13197; Filed, Nov. 7, 1967; 8:47 a.m.]

PART 238—GUIDES AGAINST BAIT ADVERTISING

The following guides were adopted by the Federal Trade Commission on November 24, 1959, for the use of its staff in the evaluation of bait advertising[1] and related switch practices. While the guides do not purport to be all inclusive, they enumerate the major indications of bait and switch schemes. They were released to the public in the interest of consumer education and to obtain voluntary, simultaneous, and prompt cooperation by those whose practices are subject to the jurisdiction of the Federal Trade Commission.

Adversary actions against those who [F.R. Doc. 67-13199; Filed, Nov. 7, 1967; engage in bait advertising and whose practices are subject to Commission jurisdiction, are brought under the Federal Trade Commission Act (15 U.S.C. secs. 41-58). Section 5 of the Act declares unlawful, "unfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce."

Sec.
238.0 Bait advertising defined.
238.1 Bait advertisement.
238.2 Initial offer.
238.3 Discouragement of purchase of advertised merchandise.
238.4 Switch after sale.

AUTHORITY: The provisions of this Part 238 issued under Secs. 5, 6, 38 Stat. 719, as amended, 721; 15 U.S.C. 45, 46.

§ 238.0 Bait advertising defined.[1]

Bait advertising is an alluring but insincere offer to sell a product or service which the advertiser in truth does not intend or want to sell. Its purpose is to switch consumers from buying the advertised merchandise, in order to sell something else, usually at a higher price or on a basis more advantageous to the advertiser. The primary aim of a bait advertisement is to obtain leads as to persons interested in buying merchandise of the type so advertised.

§ 238.1 Bait advertisement.

No advertisement containing an offer to sell a product should be published when the offer is not a bona fide effort to sell the advertised product. (Guide 1.)

[1] For the purpose of this part "advertising" includes any form of public notice however disseminated or utilized.

§ 238.2 Initial offer.

(a) No statement or illustration should be used in any advertisement which creates a false impression of the grade, quality, make, value, currency of model, size, color, usability, or origin of the product offered, or which may otherwise misrepresent the product in such a manner that later, on disclosure of the true facts, the purchaser may be switched from the advertised product to another.

(b) Even though the true facts are subsequently made known to the buyer, the law is violated if the first contact or interview is secured by deception. (Guide 2.)

§ 238.3 Discouragement of purchase of advertised merchandise.

No act or practice should be engaged in by an advertiser to discourage the purchase of the advertised merchandise as part of a bait scheme to sell other merchandise. Among acts or practices which will be considered in determining if an advertisement is a bona fide offer are:

(a) The refusal to show, demonstrate, or sell the product offered in accordance with the terms of the offer,

(b) The disparagement by acts or words of the advertised product or the disparagement of the guarantee, credit terms, availability of service, repairs or parts, or in any other respect, in connection with it,

(c) The failure to have available at all outlets listed in the advertisement a sufficient quantity of the advertised product to meet reasonably anticipated demands, unless the advertisement clearly and adequately discloses that supply is limited and/or the merchandise is available only at designated outlets,

(d) The refusal to take orders for the advertised merchandise to be delivered within a reasonable period of time,

(e) The showing or demonstrating of a product which is defective, unusable or impractical for the purpose represented or implied in the advertisement,

(f) Use of a sales plan or method of compensation for salesmen or penalizing salesmen, designed to prevent or discourage them from selling the advertised product. (Guide 3.)

§ 238.4 Switch after sale.

No practice should be pursued by an advertiser, in the event of sale of the advertised product, of "unselling" with the intent and purpose of selling other merchandise in its stead. Among acts or practices which will be considered in determining if the initial sale was in good faith, and not a strategem to sell other merchandise, are:

(a) Accepting a deposit for the advertised product, then switching the purchaser to a higher-priced product,

(b) Failure to make delivery of the advertised product within a reasonable time or to make a refund,

(c) Disparagement by acts or words of the advertised product, or the disparagement of the guarantee, credit terms, availability of service, repairs, or in any other respect, in connection with it,

(d) The delivery of the advertised product which is defective, unusable or impractical for the purpose represented or implied in the advertisement. (Guide 4.)

NOTE: *Sales of advertised merchandise.* Sales of the advertised merchandise do not preclude the existence of a bait and switch scheme. It has been determined that, on occasions, this is a mere incidental byproduct of the fundamental plan and is intended to provide an aura of legitimacy to the overall operation.

Nothing contained in these Guides relieves any party subject to a Commission cease and desist order or stipulation from complying with the provisions of such order or stipulation. The Guides do not constitute a finding in and will not affect the disposition of any formal or informal matter before the Commission.

Adopted: November 24, 1959.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-13199; Filed, Nov. 7, 1967; 8:47 a.m.]

PART 239—GUIDES AGAINST DECEPTIVE ADVERTISING OF GUARANTEES

The following guides were adopted by the Federal Trade Commission April 26, 1960 for the use of its staff in evaluation of the advertising of guarantees. They were released to the public in the interest of education of the businessman and the consumer and to obtain voluntary, simultaneous, and prompt cooperation by those whose practices are subject to the jurisdiction of the Federal Trade Commission.

The guides enumerate the major principles applicable to the advertising of guarantees although they do not purport to be all-inclusive and do not attempt to define the exact border lines between compliance with and violation of the law.

The Federal Trade Commission Decisions, upon which these guides are based, indicate that the major difficulty with this type of advertising has been the failure to state adequately what the guarantee is. Concerning this, an appellate court stated: "Ordinarily the word, guarantee, or warrantee, is incomplete unless it is used in connection with other explanatory words. To say a * * * [product] or other subject is guaranteed is meaningless. What is the guarantee? The answer to this question gives meaning to the word, 'guaranteed'."

The guides have application not only to "guarantees" but also to "warranties", to purported "guarantees" and "warranties", and to any promise or representation in the nature of a "guarantee" or "warranty".

Adversary actions against those who engage in deceptive advertising of guarantees and whose practices are subject to Commission jurisdiction are brought under the Federal Trade Commission Act (15 U.S.C., secs. 41-58). Section 5 of the Act declares unlawful "unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce".

Sec.
239.0 Determining violations.
239.1 Guarantees in general.
239.2 Prorata adjustment of guarantees.
239.3 "Satisfaction or Your Money Back" representations.
239.4 Lifetime guarantees.
239.5 Savings guarantees.
239.6 Guarantees under which the guarantor does not or cannot perform.
239.7 Guarantee as a misrepresentation.

AUTHORITY: The provisions of this Part 239 issued under secs. 5, 6, 38 Stat. 719, as amended, 721; 15 U.S.C. 45, 46.

§ 239.0 Determining violations.

In determining whether terminology and direct or implied representations concerning guarantees, however made, i.e., in advertising or otherwise, in connection with the sale or offering for sale of a product, may be in violation of the Federal Trade Commission Act, the following general principles will be used:

§ 239.1 Guarantees in general.

In general, any guarantee in advertising shall clearly and conspicuously disclose—

(a) *The nature and extent of the guarantee.* This includes disclosure of—product is guaranteed,

(1) What product or part of the product is guaranteed,

(2) What characteristics or properties of the designated product or part thereof are covered by, or excluded from, the guarantee,

(3) What is the duration of the guarantee,

(4) What, if anything, any one claiming under the guarantee must do before the guarantor will fulfill his obligation under the guarantee, such as return of the product and payment of service or labor charges; and

(b) *The manner in which the guarantor will perform.* This consists primarily of a statement of exactly what the guarantor undertakes to do under the guarantee. Examples of this would be repair, replacement, refund. If the guarantor or the person receiving the guarantee has an option as to what may satisfy the guarantee this should be set out; and

(c) *The identity of the guarantor.* The identity of the guarantor should be clearly revealed in all advertising, as well as in any documents evidencing the guarantee. Confusion of purchasers often occurs when it is not clear whether the manufacturer or the retailer is the guarantor. (Guide 1.)

§ 239.2 Prorata adjustment of guarantees.

(a) Many guarantees are adjusted by the guarantor on a prorata basis. The advertising of these guarantees should clearly disclose this fact, the basis on which they will be prorated, e.g., the time for which the guaranteed product has been used, and the manner in which the guarantor will perform.

(b) If these guarantees are to be adjusted on the basis of a price other than that paid by the purchaser, this price should be clearly and conspicuously disclosed.

Example: "A" sells a tire with list price of $48 to "B" for $24, with a 12 months guarantee. After 6 months use the tire proves defective. If "A" adjusts on the basis of the price "B" paid, $24, "B" will only have to pay one-half of $24, or $12, for a new tire. If "A" instead adjusts on the basis of list price, "B" will owe one-half of $48, of $24, for a new tire. The guarantor would be required to disclose here the following: That this was a 12 months guarantee, that a list price of $48 would be used in the adjustment, that there would be an adjustment on the basis of the time that the tire was used, and that he would not pay the adjusted amount in cash, but would make an adjustment on a new tire.

NOTE: Guarantees which provide for an adjustment based on a fictitious list price should not be used even where adequate disclosure of the price used is made. (Guide 2.)

§ 239.3 "Satisfaction or Your Money Back" representations.

(a) "Satisfaction or Your Money Back", "10 Day Free Trial", or similar representations will be construed as a guarantee that the full purchase price will be refunded at the option of the purchaser.

(b) If this guarantee is subject to any conditions or limitations whatsoever, they shall be set forth as provided for in § 239.1.

Example: A rose bush is advertised under the representation "Satisfaction or Your Money Back". The guarantor requires return of the product within 1 year of purchase date before he will make refund. These limitations, i.e., "return" and "time" shall be clearly and conspicuously disclosed in the ad. (Guide 3.)

§ 239.4 Lifetime guarantees.

If the words "Life", "Lifetime", or the like, are used in advertising to show the duration of a guarantee, and they relate to any life other than that of the purchaser or original user, the life referred to shall be clearly and conspicuously disclosed.

Example: "A" advertised that his carburetor was guaranteed for life, whereas his guarantee ran for the life of the car in which the carburetor was originally installed. The advertisement is ambiguous and deceptive and should be modified to disclose the "life" referred to. (Guide 4.)

§ 239.5 Savings guarantees.

(a) Advertisements frequently contain representations of guarantees that assure prospective purchasers that savings may be realized in the purchase of the advertiser's products.

(b) Some typical advertisements of this type are "Guaranteed to save you 50%", "Guaranteed never to be undersold", "Guaranteed lowest price in town".

(c) These advertisements should include a clear and conspicuous disclosure of what the guarantor will do if the savings are not realized, together with any time or other limitations that he may impose.

Example: "Guaranteed lowest price in town" might be accompanied by the following disclosure: "If within 30 days from the date that you buy a sewing machine from me, you purchase the identical machine in town for less and present a receipt therefor to me, I will refund your money".

NOTE: The above guarantees may constitute affirmative representations of fact and, in this respect, are governed by § 239.7. (Guide 5.)

§ 239.6 Guarantees under which the guarantor does not or cannot perform.

(a) A seller or manufacturer should not advertise or represent that a product is guaranteed when he cannot or does not promptly and scrupulously fulfill his obligations under the guarantee.

(b) A specific example of refusal to perform obligations under the guarantee is use of "Satisfaction or your money back" when the guarantor cannot or does not intend promptly to make full refund upon request. (Guide 6.)

§ 239.7 Guarantee as a misrepresentation.

Guarantees are often employed in such a manner as to constitute representations of material facts. If such is the case, the guarantor not only undertakes to perform under the terms of the guarantee, but also assumes responsibility under the law for the truth of the representations made.

Example 1: "Guaranteed for 36 months" applied to a battery is a representation that the battery can normally be expected to last for 36 months and should not be used in connection with a battery which can normally be expected to last for only 18 months.

Example 2: "Guaranteed to grow hair or money back" is a representation that the product will grow hair and should not be used when in fact such product is incapable of growing hair.

Example 3: "Guaranteed lowest prices in town" is a representation that the advertiser's prices are lower than the prices charged by all others for the same products in the same town and should not be used when such is not the fact.

Example 4: "We guarantee you will earn $500 a month" is a representation that prospective employees will earn a minimum of $500 each month and should not be used unless such is the fact. (Guide 7.)

Nothing contained in these Guides relieves any party subject to a Commission cease and desist order or stipulation from complying with the provisions of such order or stipulation. The guides do not constitute a finding in and will not affect the disposition of any formal or informal matter before the Commission.

Adopted: April 26, 1960.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-13200; Filed, Nov. 7, 1967; 8:48 a.m.]

PART 240—GUIDES FOR ADVERTISING ALLOWANCES AND OTHER MERCHANDISING PAYMENTS AND SERVICES; COMPLIANCE WITH SECTIONS 2(d) AND 2(e) OF THE CLAYTON ACT, AS AMENDED BY THE ROBINSON-PATMAN ACT

These guides were adopted by the Federal Trade Commission on May 19, 1960 and revised on January 31, 1967.

What the guides are meant to do. These guides can be of great value to businessmen who want to avoid violating the laws against giving or receiving improper promotional allowances, including advertising or special services, for promoting products. The guides will make possible a better understanding of the obligations of sellers and their customers in joint promotional activities.

The Commission's job is to obtain compliance with these laws. It has a duty to move against violators. However, as an administrative agency, the Commission believes the more knowledge businessmen have with respect to the laws enforced by the Commission the more likelihood there is that compliance with the laws will be obtained.

For the Commission to do its job properly and for business to stay out of legal trouble requires that every effort be made to give individual businessmen a better understanding of these laws. This, of course, does not mean that a businessman must become a legal expert, but it will help him—and the Commission's law enforcement efforts—if he has a good general knowledge of what he can and cannot do in the field of promotional allowances.

If a businessman knows what the legal pitfalls are he can steer his business policies to avoid them. Furthermore, such knowledge is most useful in determining when competitors are trying to use illegal methods. In other words, it pays for a businessman to know what his rights are as well as his obligations.

These guides are designed to be both practical and understandable. They contain carefully considered suggestions, or general rules of thumb, which business will find very useful in preventing unintentional violations. They highlight the requirements of law and offer means for complying with it without any attempt to suggest ways for skirting along the borderline between what is legal and illegal.

What they are not meant to do. It should be made clear too that the Guides are not meant to do several things:

(a) They are not meant to cover every situation. Decided cases dealing with unusual situations are not covered. Nor are situations which have not been considered by the Commission or the courts.

(b) They are not meant to tell how to skirt illegality. Clever people can undoubtedly devise practices not mentioned in the guides, but they may still violate the law.

(c) They are not a substitute for sound legal advice.

(d) They do not offer either new interpretations of law or change or amend the laws as determined by the Commission or the Courts. They should be read as a nontechnical explanation of what the law means, not as a legal restatement.

What the law covers generally. The Robinson-Patman Act is an amendment to the Clayton Act. It is directed at preventing competitive inequalities that come from certain types of discrimination by sellers in interstate commerce. Sections 2 (d) and (e) of the Act deal with discriminations in the field of promotional services made available to purchasers who buy for resale. Where the seller pays the buyer to perform the service, section 2(d) applies. Where the seller furnishes the service itself to the buyer, section 2(e) applies. Both sections require a seller to treat his competing customers on proportionally equal terms.

Other law covered. In two places, the Guides go beyond sections 2 (d) and (e):

(a) A seller who uses a promotional scheme to cover a price discrimination by paying for services that are not rendered may thereby violate section 2(a) of the Clayton Act, as amended by the Robinson-Patman Act. (See § 240.11)

(b) A customer who improperly receives payments, services or facilities may thereby violate section 2(f) of the Clayton Act, as amended by the Robinson-Patman Act, or section 5 of the Federal Trade Commission Act. (See § 240.11 and § 240.16)

Sec.

240.1 When does the law apply?
240.2 Who is a seller?
240.3 Who is a customer?
240.4 What is interstate commerce?
240.5 What are services or facilities?
240.6 Need for a plan.
240.7 Proportionally equal terms.
240.8 Seller's duty to inform.
240.9 Covering all competing customers.
240.10 Need to understand terms.
240.11 Checking customer's use of payments.
240.12 Competing customers.
240.13 Indirect payments.
240.14 Meeting competition in good faith.
240.14 Cost justification.
240.16 Customer's liability.

AUTHORITY: The provisions of this Part 240 issued under secs. 5, 6, 38 Stat. 719, as amended, 721; 15 U.S.C. 45, 46; 49 Stat. 1536; 15 U.S.C. 13, as amended.

§ 240.1 When does the law apply?

Sections 2 (d) and (e) apply to a seller of products in interstate commerce, if he either (a) pays for services or facilities furnished by his customers in connection with the distribution of his products (section 2(d)), or (b) furnishes such services or facilities to his customers (section 2(e)). (Guide 1.)

§ 240.2 Who is a seller?

"Seller" includes anyone who sells products for resale, with or without further processing. Selling corn syrup to a candy manufacturer is an example of a sale for resale with processing. (Guide 2.)

§ 240.3 Who is a customer?

A "customer" is someone who buys directly from the seller or his agent or broker. Sometimes someone who buys from the customer may have such a relationship with the seller that the law also makes him a customer of the seller. In this part, the word "customer" which is used in section 2(d) of the law includes "purchaser" which is used in section 2(e). (Guide 3.)

§ 240.4 What is interstate commerce?

This is something that whole law books have been written about; you cannot define it in a few words. Legal decisions tend to interpret the term quite broadly. If there is any part of a business which is not wholly within one State (for example, sales or deliveries of products, their subsequent distribution or purchases or deliveries of supplies or raw materials), the business may be subject to the Robinson-Patman Act. Sales in the District of Columbia are also covered by the law. (Guide 4.)

§ 240.5 What are services or facilities?

This term has not been exactly defined by the statute or in decisions. The following are merely examples—the law also covers other services and facilities.

(a) The following have been held to be services or facilities covered by the law where the seller has paid the buyer for furnishing them:

Any kind of advertising,
Handbills,
Window and floor displays,
Special sales or promotional efforts for which "push money" is paid to clerks, salesmen, and other employees of the customers,
Demonstrators and demonstrations,
Collecting of orders from individual stores,
Furnishing complete distribution of seller's line.

(b) Here are some examples that have been held to be services or facilities covered by the law when the seller furnished them to a customer:

Any kind of advertising,
Catalogs,
Demonstrators,
Display and storage cabinets,
Display materials,
Special packaging, or package sizes,
Warehouse facilities,
Accepting returns for credit,
Prizes or merchandise for conducting promotional contests.

NOTE: In this Part 240, the term "services" is often used as short for "services and facilities." (Guide 5.)

§ 240.6 Need for a plan.

If a seller makes payments or furnishes services that come under these sections, he must do it under a plan that meets several requirements. Although this plan need not be written or formal, this may be advisable, particularly if there are many competing customers to be considered or if the plan is at all complex. Briefly, the requirements are:

(a) The payments or services under the plan must be available on a proportionally equal basis to all competing customers. (See § 240.7.)

(b) The seller should take some action to inform all of his customers who compete with any participating customer that the promotion is available. See § 240.8.)

(c) The plan must either allow all types of competing customers to participate or provide some other means of participation for those who cannot use the basic plan. (See § 240.9.)

(d) The seller and customer should have a clear understanding about the exact terms of the offer and the conditions upon which payments will be made for services and facilities furnished. (See § 240.10.)

(e) The seller must take reasonable precautions to see that the services are actually furnished and also that he is not overpaying for them. (See § 240.11.) (Guide 6.)

§ 240.7 Proportionally equal terms.

The payment or services under the plan must be made available to competing customers on proportionally equal terms. This means that payments or services must be proportionalised on some basis that is fair to all customers who compete. No single way to proportionalise is prescribed by law. Any method that treats competing customers on proportionally equal terms may be used. Generally, this can best be done by basing the payments made or the services furnished on the dollar volume or on the quantity of goods purchased during a specified time.

Example 1. A seller may properly offer to pay a specified part (say 50 percent) of the cost of local newspaper advertising up to an amount equal to a set percentage (such as 5 percent) of the dollar volume of purchases during a specified time.

Example 2. A seller may properly place in reserve a specified amount of money for each unit purchased, and use it to reimburse customers for newspaper advertising when they prove they have advertised.

Example 3. A seller may not select one or a few customers to receive special allowances to promote his product, because of their special reputation, without making those allowances available on proportionally equal terms to other customers who compete with them.

Example 4. A seller's plan may not provide an allowance on a basis that has rates graduated with the amount of goods purchased, as, for instance, 1 percent of the first $1,000 purchases per month, 2 percent of second $1,000 per month, and 3 percent of all over that. (Guide 7.)

§ 240.8 Seller's duty to inform.

The seller should take some action to inform all his customers competing with any participating customer that the plan is available. He can do this by any means he chooses, including letter, telegram, notice on invoices, salesmen, brokers, etc. However, if a seller wants to be able to show later that he did make an offer to a certain customer, he is in a better position to do so if he made it in writing. (Guide 8.)

§ 240.9 Covering all competing customers.

The plan must allow all types of competing customers to participate. It must not be tailored to satisfy the needs of a favored customer or class, but must be suitable and usable under reasonable terms by all competing customers. This may require offering all customers more than one way to participate in the plan. The seller cannot either expressly, or by the way the plan operates, eliminate some competing customers. Where the seller has alternative promotional plans, his customers must be given the opportunity to choose among the plans.

Example 1. S offers a plan for cooperative advertising on radio, television or in a newspaper. Some of his customers who compete with those who receive the allowance are too small to use the offer. He must offer them some usable and proportional alternative, such as advertising in a neighborhood paper, handbills, etc. (See § 240.7.)

Example 2. The seller's plan provides for furnishing demonstrators to large department store customers. He must provide usable alternatives to his customers who run other types of stores and compete with these customers but cannot use demonstrators. The alternatives might be services of equivalent value that the competing customers could use, or payments of like value for advertising or displays furnished by the customers. (See also § 240.7.)

Example 3. A seller of appliances makes his plan available only to those customers purchasing at least some minimum number (such as eight) of his appliances in a single order or a stated period. If this requirement is beyond the reach of some customers competing with those participating in the promotion, it may be illegal.

Example 4. A seller should not refuse advertising allowances to those who advertise the seller's products at prices below a given figure, where this may be a means of fixing prices illegally. (Guide 9.)

§ 240.10 Need to understand terms.

There should be a clear understanding between the seller and each participating customer as to the exact terms of the offer and the conditions upon which payments will be made for services and facilities furnished. (Guide 10.)

§ 240.11 Checking customer's use of payments.

The seller must take reasonable precautions to see that the services he is paying for are furnished and also that he is not overpaying for them. Moreover, the customer must expend the value received in full solely for the purpose for which the allowances were given. If the seller knows or should know that what he pays or furnishes is not being properly used, the payments or services must be discontinued. It should be noted that payments by the seller where the customer performs no services may result in legal action against the seller under section 2(a) of the Robinson-Patman Act and against the customer under section 2(f) of that law. Likewise, a seller may not properly pay, nor may a customer properly receive and retain, any amount in excess of that actually used by the customer to perform the service. (Guide 11.)

§ 240.12 Competing customers.

The seller is required to provide in his plan only for those customers who compete in the distribution of the promoted

product with the customer who is participating in the promotion. Therefore, the seller can limit the area of his promotion to that in which participating customers sell.

Example 1. Manufacturer A, located in Wisconsin and distributing shoes nationally, sells shoes to three retailers who sell only in Roanoke, Virginia, and compete with each other there. He has no other customers selling in Roanoke or its vicinity. If he offers his promotion to one Roanoke customer he must include all three, but can limit it to them.

Example 2. Manufacturer A distributes his products nationally. He may lawfully engage in a special promotional campaign in the New England states without making the same program available to customers in the remainder of the country who do not compete with New England customers.

NOTE: The seller must be careful here not to discriminate against customers located on the fringes but outside the area selected for the special promotion, since they may be actually competing with those participating. (Guide 12.)

§ 240.13 Indirect payments.

(a) Promotional assistance plans are sometimes devised and/or administered by third parties who are neither suppliers nor customers. The fact that a promotional assistance plan is thus devised and/or administered in no way insulates suppliers or customers from the requirements of the statute. Furthermore, the third party or intermediary may himself be liable if the use or administration of the plan results in violation of the law.

Example. A seller may not buy advertising time from a radio station that is furnishing free radio time to certain favored customers of the seller because the customers run an in-store promotion of the seller's goods.

(b) Sellers or intermediaries contemplating the use of such tripartite promotional plans may obtain an advisory opinion concerning the legality of a specific, proposed plan by submitting a request, together with complete details of the proposed plan, to the Secretary, Federal Trade Commission, Washington, D.C. 20580. Assistance with respect to existing plans may be obtained by writing to the Commission's Bureau of Industry Guidance. (Guide 13.)

§ 240.14 Meeting competition in good faith.

A seller charged with discrimination in violation of section 2(d) or section 2(e) may defend his actions by showing that the payments were made or the services were furnished in good faith to meet equally high payments or equivalent services paid or furnished by a competitor. However, this is a very technical defense subject to important limitations. (Guide 14.)

§ 240.15 Cost justification.

It is no defense to a charge of unlawful discrimination in the payment of an allowance or the furnishing of a service for a seller to show that such payment, service, or facility, could be justified through savings in the cost of manufacture, sale or delivery. (Guide 15.)

§ 240.16 Customer's liability.

Sections 2 (d) and (e) apply only to sellers and not to customers. However, a customer who knows or has reason to know that he is receiving payment or service granted or furnished when the seller violates section 2 (d) or (e) may also be proceeded against by the Commission under section 5 of the Federal Trade Commission Act, which prohibits unfair methods of competition.

Example. Buyer "A" actively solicits his suppliers to purchase advertising in connection with an anniversary sale or new store opening knowing or having reason to believe that such payments are not made under the seller's regular cooperative advertising program and that they are not offered to competing customers. (Guide 16.)

Nothing contained in these guides relieves any party subject to a Commission cease and desist order or other requirement from complying with the specific provisions of such order or requirement. The guides do not constitute a finding in and will not affect the disposition of any formal or informal matter now pending with the Commission.

Adopted: May 19, 1960.

Revised: January 31, 1967.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-13201; Filed, Nov. 7, 1967; 8:48 a.m.]

Title 12—BANKS AND BANKING

Chapter I—Bureau of the Comptroller of the Currency, Department of the Treasury

PART 1—INVESTMENT SECURITIES REGULATION

Visalia Area Hospital Authority Revenue Bonds (California)

§ 1.198 Visalia Area Hospital Authority Revenue Bonds (California).

(a) *Request.* The Comptroller of the Currency has been requested to rule that the $4,300,000 Visalia Area Hospital Authority Revenue Bonds are eligible for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Visalia Area Hospital Authority is a public entity created pursuant to the laws of California by an agreement between the City of Visalia and Kaweah-Delta Hospital District to construct and finance hospital facilities to be leased to the City and to be subleased by the City to, and operated by, the District. The Authority is issuing these bonds for that purpose.

(2) Kaweah-Delta Hospital District is a municipal corporation created pursuant to the laws of California to provide hospital services within a district which includes the City of Visalia and a part of Tulare County. Under the law the District is managed by elected directors and may be financed by assessment on real and personal property within the District.

(3) Under separate lease rental agreements the City has unconditionally promised to pay annual rentals to the Authority in an amount sufficient to meet annual interest and principal payments on the bonds and the District has unconditionally promised to pay annual rentals to the City in amounts at least equal to the rental payments which the City has promised to make to the Authority. The City and the District, each of which possesses general powers of taxation, have thus each committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion therefore, that the $4,300,000 Visalia Area Hospital Authority Revenue Bonds are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

Dated: November 2, 1967.

[SEAL] WILLIAM B. CAMP, *Comptroller of the Currency.*

[F.R. Doc. 67-13190; Filed, Nov. 7, 1967; 8:47 a.m.]

Title 20—EMPLOYEES' BENEFITS

Chapter III—Social Security Administration, Department of Health, Education, and Welfare

PART 401—DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION

Disclosure of Information To Protect National Security

On June 29, 1967, there was published in the FEDERAL REGISTER (32 F.R. 9236), a notice of proposed rule making to issue an amendment to Regulation No. 1 of the Social Security Administration, relating to disclosure of official records and information. The purpose of the amendment was to authorize disclosure of information, under specified conditions, to the U.S. Secret Service, in addition to the Federal Bureau of Investigation as presently authorized. Interested persons were given the opportunity to submit written comments within 30 days after publication.

No comments have been received and the proposed amendment to the regulation is hereby adopted without change and is set forth below.

Effective date. This amendment shall be effective on the date of publication in the FEDERAL REGISTER.

Dated: October 11, 1967.

[SEAL] ROBERT M. BALL, *Commissioner of Social Security.*

Approved: November 1, 1967.

WILBUR J. COHEN, *Acting Secretary of Health, Education, and Welfare.*

Regulation No. 1 of the Social Security Administration, as amended (20 CFR 401.1 et seq.) is further amended to read as follows:

Section 401.3(i) (4) is amended to read as follows:

§ 401.3 Information which may be disclosed and to whom.

Disclosure of any such file, record, report, or other paper, or information, is hereby authorized in the following cases and for the following purposes:

* * * * * *

(i) To any officer, agency, establishment, or department of the Federal Government, charged with the duty of conducting an investigation or prosecution, for the purpose of such an investigation or prosecution involving:

* * * * *

(4) An inquiry relating to the commission or threatened commission of an act of espionage or sabotage or other similar act inimical to the national security: *Provided*, That such information shall be disclosed only to the Federal Bureau of Investigation or the U.S. Secret Service and only upon written certification by a central official of the requesting agency that the information requested is required in an investigation of major importance to enable it to discharge its statutory responsibility for protecting the national security.

* * * * * *

[F.R. Doc. 67-13208; Filed, Nov. 7, 1967; 8:48 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 73—RADIO BROADCAST SERVICES

Table of Assignments; Tazewell, Va. etc.

In the matter of amendment of § 73.-202, Table of Assignments, FM Broadcast Stations. (Tazewell, Va., Guntersville, Ala., Winnsboro, La., Fosston, Minn., Tuscola, Ill., Mansfield, Pa., Cathedral City, Calif., Harrodsburg, Ky., Pipestone, Minn., Albany, N.Y., Murfreesboro, Ahoskie, Washington, Plymouth, and New Bern, N.C., Laurel, Miss., Ukiah, Calif., and Carbondale, Ill.), Docket No. 17627, RM-1154, RM-1153, RM-1155, RM-1146, RM-1162, RM-1158, RM-1163, RM-1172, RM-1141, RM-1148, RM-1121, RM-1165, RM-1125, RM-1168.

In the released report and order (FCC 67-1179), October 30, 1967, in this proceeding, the entry for Washington, N.C., in the Table in paragraph 91 is corrected to read as follows:

City	Channel No.
Washington, N.C.	277, 249A

Released: November 3, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-13209; Filed, Nov. 7, 1967; 8:48 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

COUMAPHOS

The Commissioner of Food and Drugs, having evaluated the data submitted in a petition (FAP 4I1348) filed by Chemagro Corp., Post Office Box 4913, Kansas City, Mo. 64120, and other relevant material, has concluded that the food additive regulations should be amended to provide for the safe use of coumaphos (chemical name set forth below) in the feed of cattle as an aid in the reduction of fecal breeding flies through control of fly larvae. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), Part 121 is amended by adding to Subpart C the following new section:

§ 121.304 Coumaphos (*O,O*-diethyl *O*-3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphorothioate).

The food additive coumaphos (*O,O*-diethyl *O*-3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphorothioate) may be safely used in animal feed when incorporated therein in accordance with the following prescribed conditions:

(a) In cattle feed as follows:

	Amount	Limitations	Indications for use
Coumaphos	0.00012 lb. (0.054 gm.) per 100 lb. body weight per day.	For beef and dairy cattle; feed for the duration of fly season in a complete feed containing 0.0025%, or in a feed supplement containing not over 0.0086% coumaphos; do not feed to animals less than 3 months old.	As an aid in the reduction of fecal breeding flies through control of fly larvae.

(b) To assure safe use, the label and labeling of the additive, any combination of additives, and any feed additive premix, feed additive concentrate, feed additive supplement, or complete feed prepared therefrom, shall bear, in addition to the other information required by the act, the following:

(1) The name of the additive.

(2) A statement of the quantity contained therein.

(3) Adequate directions and warnings for use which shall include a statement that coumaphos is a cholinesterase inhibitor and that animals being treated with coumaphos should not be exposed during or within a few days before or after treatment to any other cholinesterase-inhibiting drugs, insecticides, pesticides, or chemicals.

(c) Tolerance limitations for residues of coumaphos in edible products from treated animals are established in § 120.189 of this chapter under the chemical name.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: October 31, 1967.

J. K. KIRK, *Associate Commissioner for Compliance.*

[F.R. Doc. 67-13206; Filed, Nov. 7, 1967; 8:48 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 723]

CIGAR-FILLER TOBACCO (TYPE 41)

Notice of Formulation of Regulations for 1968–69 Marketing Year Relating to Farm Acreage Allotments and Normal Yields

Pursuant to the authority contained in applicable provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.), hereinafter referred to as the "Act", regulations are being prepared to govern the establishment of farm acreage allotments and normal yields for the 1968 crop of cigar-filler (type 41) tobacco.

Section 301(b)(15) of the Act includes only type 41 tobacco in the definition of cigar-filler tobacco. Producers of cigar-filler (type 41) tobacco disapproved marketing quotas for such kind of tobacco for the three marketing years beginning October 1, 1965 (30 F.R. 4313), and previously thereto had disapproved marketing quotas in referenda held in three successive years subsequent to 1952 (18 F.R. 8474, 19 F.R. 9365, 21 F.R. 3865). Hence, pursuant to the provisions of section 312 of the Act, acreage allotments and marketing quotas were not determined for such kind of tobacco for the 1966 and 1967 crops of such kind of tobacco. Pursuant to section 312 of the Act, the Secretary is required to proclaim not later than February 1, 1968, a quota for such kind of tobacco for each of the three marketing years beginning October 1, 1968, and hold a referendum of farmers who were engaged in the production of such kind of tobacco in 1967 to see whether such farmers favor or oppose marketing quotas. Under section 313 of the Act, as amended by Public Law 90–106, when the national marketing quota is announced by the Secretary it will be converted into a national acreage allotment less a reserve not to exceed 1 percent thereof for new farms, for making corrections in old farm acreage allotments, for adjusting inequities in old farm acreage allotments and providing acreage allotments for overlooked old farms. Such national acreage allotment will be apportioned to farms. (Tobacco classified as type 41 tobacco is grown only in Pennsylvania.) Section 362 of the Act requires that notice of the farm acreage allotment for each old farm shall insofar as practicable be mailed to the farm operator in sufficient time to be received prior to the referendum.

It is contemplated that the regulations for cigar-filler (type 41) tobacco will be similar to those issued for such kind of tobacco for the 1965–66 marketing year (29 F.R. 15742), except such regulations will reflect the new method for apportionment of the national acreage allotment to farms as prescribed by Public Law 90–106 (approved October 12, 1967).

Allotments determined under the regulations will remain in effect for the 1968 crop year whether or not marketing quotas are approved in the referendum.

Prior to final adoption and issuance of these regulations, consideration will be given to any data, views, and recommendations pertaining thereto which are submitted in writing to the Director, Farmer Programs Division, ASCS, USDA, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at such time and place and in the manner convenient to the public business (7 CFR 1.27(b)).

All submissions must be postmarked not later than 15 days after date of publication of this notice in the FEDERAL REGISTER in order to be considered.

Signed at Washington, D.C., on November 2, 1967.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 67–13189; Filed, Nov. 7, 1967; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Subpart 1720]

PROGRAMS AND OBJECTIVES

Designation of Natural Resource Experiment and Research Areas

Basis and purpose. Notice is hereby given that it is proposed to amend Subpart 1727, Designation of Areas and Sites, as set forth below. The purpose of this amendment is to provide for an additional type of designation for public and other Federal lands exclusively administered by the Secretary of the Interior through the Bureau of Land Management, namely, Natural Resource Experiment and Research Areas. Such designation will identify and improve public knowledge of the experimental and research efforts under way on these lands, and provide a basis for interpreting these efforts.

It is the policy of the Department of the Interior whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendments to the Bureau of Land Management, Washington, D.C. 20240, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

A new subparagraph is added to § 1727.1(b) to read as follows:

§ 1727.1 Areas or sites that may be designated.

* * * * * * *

(b) * * *

(4) *Natural resource experiment and research areas.* These are relatively small areas of land which are used for research or experimental purposes.

HARRY R. ANDERSON,
Secretary of the Interior.

NOVEMBER 2, 1967.

[F.R. Doc. 67–13167; Filed, Nov. 7, 1967; 8:45 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 67–EA–104]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the Millville, N.J., control zone.

With the abandonment of the Vineland Airport in Vineland, N.J., the exclusion of the airspace around the airport from the Millville, N.J., control zone is no longer necessary. The proposed alteration will delete the exclusion.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, J. F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Standards Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Millville, N.J., proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the Millville, N.J., control zone all after the words "Millville, N.J."

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Jamaica, N.Y., on October 25, 1967.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 67–13179; Filed, Nov. 7, 1967; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67–CE–123]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Bloomington, Ill.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

As a result of the development of two new public use instrument approach procedures to serve Bloomington Normal Airport, Bloomington, Ill., utilizing the Bloomington VOR as a navagational aid, it is necessary to alter the Bloomington control zone and transition area to provide protection for aircraft executing these approach procedures.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

(1) In § 71.171 (32 F.R. 2071), the following control zone is amended to read:

BLOOMINGTON, ILL.

Within a 5-mile radius of Bloomington Normal Airport (latitude 40°28'50" N., longitude 88°55'45" W.); and within 2 miles each side of the Bloomington VOR 043°, 105°, and 319° radials, extending from the 5-mile radius zone to 8 miles northeast, east, and northwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

(2) In § 71.181 (32 F.R. 2148), the following transition area is amended to read:

BLOOMINGTON, ILL.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Bloomington Normal Airport (latitude 40°-28'50" N., longitude 88°55'45" W.); and within 2 miles each side of the Bloomington VOR 043°, 105°, and 319° radials, extending from the 5-mile radius area to 8 miles northeast, east, and northwest of the VOR.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued at Kansas City, Mo., on October 20, 1967.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 67–13180; Filed, Nov. 7, 1967; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67–EA–106]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Paducah, Ky., transition area.

The VOR instrument approach to Barkley Field, Paducah, Ky., has been modified to include use of DME. The modification will require an alteration of the airspace protection for aircraft executing the instrument procedures in the Paducah, Ky., transition area.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, J. F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Standards Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Paducah, Ky., proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the description of the Paducah, Ky., transition area by deleting in the 700-foot airspace description "8 miles" and insert in lieu thereof "12 miles"; in the 1,200-foot airspace description delete "36°54'10" N., 89°06'10" W." and insert in lieu thereof, "36°50'00" N., 89°10'-00" W. thence north along longitude 89°10'00" W. to the southern edge of V–178S, thence east along the southern edge of V–178S to 36°59'10" N., 89°00'-50" W.".

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Jamaica, N.Y., on October 25, 1967.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 67–13181; Filed, Nov. 7, 1967; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67–CE–122]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Seymour, Ind.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with

Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

As a result of the development of a public use instrument approach procedure to serve Freeman Field, Seymour, Ind., utilizing a privately owned radio beacon located on the airport as a navagational aid, it is necessary to designate a 700-foot floor transition area at Seymour, Ind., to protect aircraft executing this approach procedure.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (32 F.R. 2148), the following transition area is added:

SEYMOUR, IND.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Freeman Field (latitude 38°55'30" N., longitude 85°54'35" W.); and within 2 miles each side of the 161° bearing from Freeman Field, extending from the 6-mile radius area to 8 miles south of the airport.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued at Kansas City, Mo., on October 20, 1967.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 67-13182; Filed, Nov. 7, 1967; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-EA-101]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a 700-foot floor transition area over VPI Airport, Blacksburg, Va.

A new VOR/DME instrument procedure has been authorized for the airport and will therefore require airspace protection for aircraft executing the approach and departure instrument procedures.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, J. F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Standards Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Blacksburg, Va., proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a 700-foot floor Blacksburg, Va., Transition Area described as follows:

BLACKSBURG, VA.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 37°12'25" N., 80°24'30" W., of VPI Airport, Blacksburg, Va.; within 2 miles each side of the Pulaski VORTAC 064° radial extending from the 6-mile radius area to the VORTAC; within 2 miles each side of the Runway 8 centerline extended from the 6-mile radius area to 7 miles east of the end of the runway; and within 2 miles each side of the Runway 30 centerline extended from the 6-mile radius area to 11 miles northwest of the end of the runway, excluding the portion within the Dublin, Va., transition area. This transition area shall be effective from sunrise to sunset daily.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Jamaica, N.Y., on October 25, 1967.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 67-13183; Filed, Nov. 7, 1967; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-SO-103]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Sanford, N.C., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Area Manager, Atlanta Area Office, Attention: Chief, Air Traffic Branch, Federal Aviation Administration, Post Office Box 20636, Atlanta, Ga. 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The Sanford transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Sanford Municipal Airport.

The proposed transition area is required for the protection of IFR operations at Sanford Municipal Airport. A prescribed instrument approach procedure to this airport utilizing the Southern Pines, N.C., VORTAC is proposed in conjunction with the designation of this transition area.

The official docket will be available for examination by interested persons at the Southern Regional Office, Federal Aviation Administration, Room 724, 3400 Whipple Street, East Point, Ga.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)).

Issued in East Point, Ga., on October 27, 1967.

JAMES S. ROGERS,
Director, Southern Region.

[F.R. Doc. 67-13184; Filed, Nov. 7, 1967; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-CE-121]

FEDERAL AIRWAY

Proposed Extension

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a VOR airway between Dells, Wis., and Eau Claire, Wis., via the intersection of Dells 321° T (318° M) and Eau Claire 134° T (130° M) radials, with a floor established at 1,200 feet AGL.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Building, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

This action would provide a route for IFR traffic from Eau Claire, Wis., to Madison, Wis., Milwaukee, Wis., and Chicago, Ill. It would also provide transition airspace to or from the Continental Control Area for high performance aircraft operating into and out of Eau Claire and Madison.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on October 31, 1967.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-13185; Filed, Nov. 7, 1967; 8:47 a.m.]

Notices

DEPARTMENT OF STATE

Agency for International Development

[No. 19, Amdt. 3]

ASSISTANT ADMINISTRATOR, WAR ON HUNGER

Delegation of Authority

Pursuant to the authority delegated to me by Delegation of Authority No. 104 from the Secretary of State dated November 3, 1961, and in accordance with the authority contained in section 632(b) of the Foreign Assistance Act of 1961, as amended, I hereby direct that Delegation of Authority No. 19 be, and it is hereby amended, as follows:

1. In the first paragraph immediately after the title "Assistant Administrator for Administration" delete the following: "to the Assistant Administrator for Technical Cooperation and Research for interregional services and projects for which that office has responsibility";

2. In the first paragraph immediately after the title "Assistant Administrator for Administration" insert the following: "to the Assistant Administrator, Office of War on Hunger, for interregional projects and for research projects,".

3. This amendment shall be effective immediately.

WILLIAM S. GAUD,
Administrator.

OCTOBER 31, 1967.

[F.R. Doc. 67-13174; Filed, Nov. 7, 1967; 8:46 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Oregon 013237]

OREGON

Notice of Termination of Proposed Withdrawal and Reservation of Lands

Correction

In F.R. Doc. 67-12160 appearing at page 14284 of the issue for Saturday, October 14, 1967, the land description for Hardman Reservoir Site is corrected to read as follows:

HARDMAN RESERVOIR SITE

T. 13 S., R. 26 E.,
Sec. 28, NE¼NE¼, W½NE¼, N½SE¼NE¼, and S½S½SE¼.

IDAHO

Change of Location of Land Office

NOVEMBER 1, 1967.

Notice is hereby given that the Idaho Land Office, Bureau of Land Management, in Boise, Idaho, will be closed to the public on November 20, 21, 22, 23 (a legal holiday), and 24, 1967, to move to the New Federal Building, 550 West Fort Street, Boise, Idaho 83702. This office will reopen at the new address at 10 a.m., November 27, 1967. All filings for public lands in the State of Idaho after 4 p.m., November 17, 1967, should be addressed to the Idaho Land Office, Bureau of Land Management, Post Office Box 2237, Boise, Idaho 83701. In accordance with Title 43, Code of Federal Regulations, §§ 1821.2-1 through 1821.2-3, any applications, payments, or other documents received at that location during this period will be deemed as having been filed simultaneously at 10 a.m., m.s.t., November 27, 1967. Any payments or other documents that are due during the period of closure will be considered timely filed if received on or before 4 p.m., m.s.t., November 27, 1967.

JOE T. FALLINI,
State Director.

[F.R. Doc. 67-13168; Filed, Nov. 7, 1967; 8:45 a.m.]

CALIFORNIA

Notice of Termination of Proposed Classification of Public Lands

NOVEMBER 1, 1967.

The notice of proposed classification of public lands appearing in F.R. Doc. 66-7973 in the issue of July 22, 1966 (31 F.R. 10000-10002); in F.R. Doc. 66-8772 in the issue of August 12, 1966 (31 F.R. 10751-10752); and in F.R. Doc. 66-12084 in the issue of November 8, 1966 (31 F.R. 14361-14362) are hereby terminated insofar as they relate to the following described lands:

HUMBOLDT MERIDIAN

T. 11 N., R. 2 E.,
Sec. 26, NW¼SW¼.
T. 3 N., R. 3 E.,
Sec. 10, SW¼NW¼, NW¼SE¼, SW¼SE¼;
Sec. 14, SW¼NW¼;
Sec. 15, NW¼NE¼, SE¼NE¼.
T. 7 N., R. 3 E.,
Sec. 10, SE¼NW¼.
T. 10 N., R. 3 E.,
Sec. 21, SW¼SW¼;
Sec. 31, NE¼NE¼.
T. 1 N., R. 4 E.,
Sec. 12, NE¼NW¼.
T. 4 N., R. 4 E.,
Sec. 22, SW¼SW¼.
T. 2 S., R. 5 E.,
Sec. 3, NE¼NE¼;
Sec. 22, NW¼NE¼.

MOUNT DIABLO MERIDIAN

T. 9 N., R. 1 E.,
Sec. 11, N½S½.
T. 9 N., R. 2 E.,
Sec. 10, SE¼NE¼, NE¼SE¼;
Sec. 11, NW¼NW¼, S½NW¼, N½SW¼;
Sec. 19, S½NE¼.
T. 10 N., R. 2 E.,
Sec. 34, SE¼.
T. 9 N., R. 3 E.,
Sec. 3, W½ of lot 2;
Sec. 8, SE¼NW¼;
Sec. 18, N½ of lots 1 and 2, and E½SW¼;
Sec. 20, S½SW¼;
Sec. 35, S½SE¼.
T. 9 N., R. 4 E.,
Sec. 19, lots 1 and 2, and W½SE¼;
Sec. 30, lot 2.
T. 16 N., R. 7 E.,
Sec. 23, E½E½NW¼NW¼;
Sec. 24, SE¼NW¼.
T. 15 N., R. 8 E.,
Sec. 1, lots 7, 10(a), 10(b), 11(a), 11(b), 22, 23, 25, 26, 27, 29, 30, 31, 32, 36, 37, 38;
Sec. 2, lots 13, 14(a), 14(b), and portion of lot 59;
Sec. 3, lots 11, 16, 28, 29, and 30;
Sec. 6, lots 1 and 20;
Sec. 11, lot 22.
T. 16 N., R. 8 E.,
Sec. 1, lots 7 and 8;
Sec. 2, Mt. Auburn Lode, and lots 5, 9, and 25;
Sec. 4, lot 3;
Sec. 6, SE¼SE¼, SE¼SW¼, and lot 7;
Sec. 9, lot 222 (por.);
Sec. 10, lots 3, 4, and 221, 222, and S½NE¼;
Sec. 12, lot 1 (por.), lots 7, 17, and 94;
Sec. 13, lots 4, 13, 17, and 23;
Sec. 14 SW¼NW¼ (except M.S. 6186);
Sec. 19, S½NE¼;
Sec. 21, lots 2, 3, and 4, M.S. 4022, NW¼NE¼NW¼NW¼, and N½NW¼NW¼NW¼.
Sec. 22, lots 8, 9, and 114;
Sec. 23, lots 45 and 67;
Sec. 26, lots 1, 2, 19, 20, 22, and 45;
Sec. 27, lots 3 and 8;
Sec. 28, lot 6 (por.);
Sec. 29, lots 1 to 11, inclusive;
Sec. 31, lot 190, NW¼SE¼SE¼, N½NE¼SE¼SE¼, N½SW¼SE¼SE¼, and SE¼SE¼SE¼;
Sec. 32, W½SW¼SW¼;
Sec. 33, lots 11 and 15;
Sec. 35, lots 7 and 9.
T. 17 N., R. 8 E.,
Sec. 20, S½SE¼NE¼, and N½NW¼SE¼;
Sec. 33, lot 1.
T. 7 N., R. 9 E.,
Sec. 9, S½SE¼SW¼.
T. 11 N., R. 9 E.,
Sec. 12, NW¼SE¼NW¼.
T. 13 N., R. 9 E.,
Sec. 23, lot 41.
T. 15 N., R. 9 E.,
Sec. 33, lot 51.
T. 16 N., R. 9 E.,
Sec. 6, lot 5;
Sec. 7, lot 12;
Sec. 17, lots 20, 21, 24, 25, 26, and 29;
Sec. 18, lots 12, 64, and 65;
Sec. 19, lot 6, and NE¼SW½ (except M.S. 5117).
T. 17 N., R. 9 E.,
Sec. 32, SE¼NW¼SE¼ and lot 3.
T. 5 N., R. 10 E.,
Sec. 16, NW¼SW¼.
T. 7 N., R. 10 E.,
Sec. 14, lots 3, 4, 13, 15, and 16.
T. 10 N., R. 10 E.,
Sec. 4, lots 5 and 7;
Sec. 21, lot 38;
Sec. 22, lots 38 and 39, SW¼SW¼;
Sec. 27, "Jersey Q.M.", lot 49.

T. 11 N., R. 10 E.,
Sec. 11, lot 15;
Sec. 12, lots 1, 5, 7, 75, and N½NW¼ less W½SW¼NW¼NW¼;
Sec. 14, lot 12 (a.k.a. lot 4);
Sec. 15, lot 54;
Sec. 23, lots 1, 2, 3, and SE¼NE¼;
Sec. 24, lots 9 and 10;
Sec. 33, E½NE¼SE¼NW¼.
T. 12 N., R. 10 E.,
Sec. 1, lot 1 (except M.S. 6312), lot 2 (except M.S. 6312), SW¼NE¼ (except M.S. 6312);
Sec. 2, lot 4, and portion of SW¼NW¼;
Sec. 27, lot 3.
T. 13 N., R. 10 E.,
Sec. 4, lot 32, lots 36 to 41, inclusive, and SW¼SW¼;
Sec. 5, lots 9, 11, 12;
Sec. 6, lots 17 and 57.
T. 15 N., R. 10 E.,
Sec. 3, lot 4 in W½NW¼, lot 4 in E½NW¼, lot 5;
Sec. 4, lots 4 and 19.
T. 7 N., R. 11 E.,
Sec. 23, NE¼SE¼.
T. 3 N., R. 13 E.,
Sec. 12, NE¼SW¼.
T. 2 N., R. 14 E.,
Sec. 21, N½NE¼.
T. 3 N., R. 14 E.,
Sec. 7, lot 4, SE¼SW¼.
T. 32 N., R. 5 W.,
Sec. 12, NE¼SW½;
Sec. 14, SW¼NW¼NE¼, SW¼NE¼SW¼, W½SE¼SW¼NE¼, N½NE¼SW¼NW¼SW¼, W½SW¼NW¼SW¼, W½NW¼NW¼SW¼SW¼, W½NE¼NE¼SE¼, W½SW¼NE¼SE¼, NE¼NW¼SE¼, S½S½SE¼NW¼SE¼, lots 8, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26.
T. 8 S., R. 8 E.,
Sec. 10, NE¼, NW¼NW¼, S½NW¼, S½;
Sec. 22, all;
Sec. 26, SE¼SW¼NE¼SW¼, NW¼SW¼SW¼SW¼, N½, and SE¼.
T. 13 S., R. 12 E.,
Sec. 25, SW¼SE¼.
T. 23 S., R. 20 E.,
Sec. 34, lots 2, 3, 5.
T. 25 S., R. 21 E.,
Sec. 8, fractional NE¼SW¼, fractional W½SE¼, SE¼SW¼.
T. 26 S., R. 21 E.,
Sec. 2, lot 1 of NE¼.
T. 25 S., R. 36 E.,
Sec. 21, SW¼NE¼, NE¼SW¼.
T. 32 S., R. 38 E.,
Sec. 20, all.

SAN BERNARDINO MERIDIAN

T. 9 N., R. 1 E.,
Sec. 11, N½S½.
T. 9 N., R. 2 E.,
Sec. 10, SE¼NE¼, NE¼SE¼;
Sec. 11, NW¼NW¼, S½NW¼, NW¼SW¼;
Sec. 19, S½NE¼.
T. 10 N., R. 2 E.,
Sec. 34, SE¼.
T. 9 N., R. 3 E.,
Sec. 3, W½ of lot 2;
Sec. 8, SE¼NW¼;
Sec. 18, N½ of lots 1 and 2, and E½SW¼;
Sec. 20, S½SW¼;
Sec. 35, S½SE¼.
T. 9 N., R. 4 E.,
Sec. 19, lots 1 and 2, and W½SE¼;
Sec. 30, lot 2.
T. 9 N., R. 1 W.,
Sec. 30, N½ and SW¼.
T. 9 N., R. 2 W.,
Sec. 19, SE¼SW¼SW¼, W½W½SE¼SW¼, SE¼SE¼SW¼, NW¼SE¼, E½E½SW¼SE¼, S½SW¼SE¼SE¼, W½SE¼SE¼SE¼;
Sec. 11, lots 43, 49, 75, 76, 84, 87, 111, and 113;
Sec. 12, N½S½SW¼NW¼, lots 34, 37, 38, 43, 44, 45, 46, 49, 50, 52, 54, 55, 56, 57, 77, 81, 82, 83, 94, 100, 101, 102, 103, 115, 116, 132, 133, 134, 155, 171, 172, 173, 177, 181, 183, 184, 201, 202, 207, 208, 211, 216, 218, 232, 234, 236, 243, 268, 272, 282, 311, 314.
T. 5 S., R. 7 E.,
Sec. 6, NW¼SW¼SE¼, E½SW¼SW¼SE¼, W½E½SW¼SE¼.
T. 8 S., R. 8 E.,
Sec. 16, NE¼, NW¼NW¼, S½NW¼, S½;
Sec. 22, all;
Sec. 26, SE¼SW¼, NE¼SW¼, NW¼SW¼, SW¼SW¼, and SE¼.
T. 8 S., R. 10 E.,
Sec. 12, N½S½SW¼NW¼, lots 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43,

f. Unit 08-31 (Laramie Peak) is bounded on the northeast by the Medicine Bow National Forest, on the west by the organized grazing district boundary, on the south by the township line between Tps. 22 and 23 N., Rs. 71 and 73 W., the range line between Rs. 72 and 73 W., Tps. 21 and 22 N., the township line between Tps. 20 and 21 N., Rs. 73 and 74 W., then the range line between Rs. 74 and 75 W., Tps. 18, 19, and 20 N., then the township line between Tps. 17 and 18 N., Rs. 75 and 76 and part of R. 77 W.

g. Unit 08-32 (Red Desert) is bounded on the north by the Railroad Grant Limit, on the west by a fence which is the proposed Rock Springs-Rawlins District Boundary, on the south by the Interstate 80 Highway and on the east by the North Platte River excluding the public lands within secs. 2, 6, 8, 18, and 20, T. 21 N., R. 87 W., 6th P.M.

h. Unit 08-33 (Overland) is bounded on the north by the Interstate 80 Highway, on the west by the proposed Rock Springs-Rawlins District Boundary, on the south by the Railroad Grant Limit and on the east by the North Platte River excluding the public lands within secs. 20, 22, 26, 28, and 30 T. 21 N., R. 87 W., 6th P.M.

i. Unit 08-34 (Hanna) is bounded on the north by various grazing allotment boundaries, on the west by the North Platte River, on the south by the Medicine Bow National Forest and an east-west line dividing in half T. 17 N., Rs. 82 and 83 W., 6th P.M., and on the east by the organized grazing district boundary.

The total area of the public lands included within the purview of this notice of classification aggregates approximately 3,641,500 acres.

4. As provided in paragraph 1 above, the following described lands are further segregated from appropriation under the mining laws (Aggregating approximately 3,120 acres):

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 19 N., R. 81 W.,
Sec. 6, NE¼NE¼ and N½SE¼;
Sec. 8, SW¼SW¼NE¼, SE¼SE¼NW¼, NE¼NE¼SW¼, and NW¼NW¼SE¼.
T. 25 N., R. 81 W.,
Sec. 4, SW¼SW¼;
Sec. 5, SE¼SE¼;
Sec. 7, NW¼NE¼;
Sec. 8, S½S½SW¼ and SW¼SW¼SE¼;
Sec. 12, NW¼SE¼;
Sec. 17, NW¼NW¼NE¼ and N½NE¼NW¼.
T. 26 N., R. 81 W.,
Sec. 7, SW¼NW¼;
Sec. 17, S½SW¼NW¼ and N½NW¼SW¼;
Sec. 18, S½SE¼NE¼ and N½NE¼SE¼;
Sec. 20, SE¼SW¼.
T. 25 N., R. 82 W.,
Sec. 10, N½NE¼.
T. 26 N., R. 82 W.,
Sec. 11, N½SE¼;
Sec. 24, SE¼SE¼.
T. 20 N., R. 83 W.,
Sec. 24, S½SW¼SW¼, SE¼SW¼, S½SE¼, and S½N½SE¼.
T. 20 N., R. 84 W.,
Sec. 18, W½SW¼, SE¼SW¼, SW¼NE¼SW¼, and SW¼SW¼SE¼;
Sec. 30, W½NE¼, SE¼NW¼, N½NE¼SW¼, and N½N½SE¼.
T. 23 N., R. 84 W.,
Sec. 26, S½NW¼, E½NE¼NW¼, and W½W½NE¼.
T. 16 N., R. 85 W.,
Sec. 18, S½NE¼NE¼ and S½NE¼.
T. 18 N., R. 85 W.,
Sec. 2, NE¼SE¼;
Sec. 12, NE¼NE¼.
T. 19 N., R. 85 W.,
Sec. 2, SE¼NE¼, SW¼NE¼NW¼, S½NW¼NW¼, SW¼NW¼, W½SE¼NW¼, W½SW¼, and NE¼SE¼.
T. 21 N., R. 85 W.,
Sec. 4, SW¼.
T. 22 N., R. 86 W.,
Sec. 13, S½SW¼SW¼;
Sec. 14, NE¼NE¼, E½NW¼NE¼, NE¼SW¼NE¼, and N½SE½NE¼;
Sec. 24, W½NW¼, S½SE¼NW¼, N½SW¼, N½SE¼SW¼, W½NW¼SE¼, SE¼NW¼SE¼, and S½SE¼.
T. 19 N., R. 88 W.,
Sec. 24, S½N½ and S½.
T. 22 N., R. 88 W.,
Sec. 2, W½NW¼NE¼, NW¼SW¼NE¼, E½SE¼NW¼, SW¼SE¼NW¼, N½NE¼SW¼, and SE¼NE¼SW¼.
T. 18 N., R. 89 W.,
Sec. 12, N½SW¼SE¼.
T. 21 N., R. 89 W.,
Sec. 22, S½SW¼NW¼ and N½NW¼SW¼.
T. 23 N., R. 96 W.,
Sec. 24, SW¼SE¼;
Sec. 25, NW¼NE¼.

5. For a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2411.2c.

ED PIERSON,
State Director.

[F.R. Doc. 67-13170; Filed, Nov. 7, 1967; 8:45 a.m.]

[Wyoming 5697]

WYOMING

Notice of Classification of Public Lands for Multiple-Use Management

NOVEMBER 1, 1967.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18) and to the regulations in 43 CFR Parts 2410 and 2411, the public lands within the areas described below, together with any lands therein that may become public lands in the future, are hereby classified for multiple-use management. Publication of this notice segregates: (a) All the described lands from appropriation only under the agricultural land laws (43 U.S.C. Parts 7 and 9; 25 U.S.C. sec. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171); (b) the public lands described in paragraph 4 of this notice from appropriation under the general mining laws (30 U.S.C. 21). Except as provided in (a) and (b) above, the lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. Public hearings on the proposed classification (32 F.R. 6219) were held in Evanston, Wyo., on June 1 and Kemmerer, Wyo., on June 2, 1967. No comments were received at the Evanston hearing. At the Kemmerer hearing, two individuals commented in opposition to the segregation of lands from appropriation under the general mining laws. The comments have been carefully considered, in light of available facts. It has been determined that the segregations from mineral appropriation are not excessive in view of the national significance of most of the area being segregated. Accordingly, no changes have been made in the proposed classification insofar as the areas segregated from mineral appropriation are concerned. However, a minor change affecting lands not segregated from mineral appropriation has been made. Three tracts of land, lot 3 and the NW¼SW¼ sec. 1 and the NW¼NE¼ sec. 11, T. 12 N., R. 114 W., 6th P.M., listed in the notice of proposed classification are not included in this notice of classification. The segregative effect of the notice of proposed classification is hereby terminated as to these three tracts.

3. Public lands located within the following described areas are shown on the Uinta and Lincoln County Planning Unit Classification Maps, which are on file in the District Office, Bureau of Land Management, Rock Springs, Wyo., and the Land Office, Bureau of Land Management, Federal Building, Cheyenne, Wyo. The general descriptions of the areas are as follows:

SIXTH PRINCIPAL MERIDIAN

UINTA COUNTY, WYO.

All public lands within the following described areas, except lot 3 and the NW¼SW¼ sec. 1 and the NW¼NE¼ sec. 11, T. 12 N., R. 114 W., 6th P.M. and those lands within Planning Unit 0471, as said planning unit is delineated upon the maps previously referred to:

Beginning at the junction of the Uinta-Lincoln-Sweetwater County lines; thence west along the Uinta-Lincoln County line to the Wyoming-Utah border; thence south along the Wyoming-Utah border to U.S. Highway 89; thence southeasterly along U.S. 89 to its junction with Interstate 80 at Evanston; thence easterly along Interstate 80 to the range line between Rs. 117 and 118 W.; thence south along said range line to the southwest corner of sec. 19, T. 15 N., R. 117 W.; thence east to the northeast corner of sec. 29, T. 15 N., R. 117 W.; thence south to the southeast corner of sec. 8, T. 14 N., R. 117 W.; thence east to the range line between Rs. 116 and 117 W.; thence south along said range line to the Wasatch National Forest Boundary; thence east and south along the Wasatch and Ashley National Forest Boundary to its intersection with the Wyoming-Utah border in T. 12 N., R. 114 W.; thence east along the Wyoming-Utah border to the Uinta-Sweetwater County line; thence north along the Uinta-Sweetwater County line to the point of beginning.

Also the following described area:

All public lands within T. 12 N., R. 117 W.

LINCOLN COUNTY WYO.

All public lands within the following described area, except those lands within Planning Unit 0474, as said planning unit is delineated upon the maps previously referred to:

Beginning at the junction of the Lincoln-Uinta-Sweetwater County lines; thence north along the Lincoln-Sweetwater County line to the Lincoln-Sublette County line; thence west along the Lincoln-Sublette County line to the Green River; thence southerly down the Green River to the township line between Tps. 24 and 25 N.; thence west along said township line to the range line between Rs. 115 and 116 W., in T. 25 N.; thence north along said range line to the Bridger National Forest Boundary; thence west and north along the Bridger National Forest Boundary to its intersection with the Wyoming-Idaho border in T. 26 N., R. 120 W.; thence south along the Wyoming-Idaho and Wyoming-Utah borders to the Lincoln-Uinta County line; thence east along the Lincoln-Uinta County line to the point of beginning.

The total area of the public lands included within the purview of this notice of classification aggregates approximately 1,300,356 acres.

4. As provided in paragraph 1 above, the following lands are further segregated from appropriation under the mining laws (aggregating approximately 23,113 acres):

UINTA COUNTY, WYO.

T. 12 N., R. 117 W.,
Secs. 10, 14, and 22.
T. 17 N., R. 119 W.,
Sec. 20, SW¼SW¼.

LINCOLN COUNTY, WYO.

T. 23 N., R. 116 W.,
Sec. 10, SW¼SE¼;
Sec. 15, lot 2.
T. 21 N., R. 117 W.,
Sec. 4, lot 3, SW¼NW¼, and NW¼SW¼;
Secs. 5 and 6;
Sec. 17, W½;
Sec. 18, lots 6, 7, and 8, SE¼NW¼;
Sec. 19, lots 5, 6, 7, and 8, E½W½, W½E½, E½NE¼, and NE¼SE¼;
Sec. 20, N½NW¼, SW¼NW¼, and NW¼SW¼;
Sec. 30, lots 5, 6, 7, and 8, E½W½;
Sec. 31, lots 5, 6, 7, and 8, W½NE¼, and E½W½.
T. 22 N., R. 117 W.,
Sec. 19, lots 14, 15, and 16;
Sec. 29, SW¼SW¼;
Sec. 30, lots 5 to 16, inclusive, S½SE¼;
Sec. 31, lots 5 to 16, inclusive, NE¼, N½SE¼, and SW¼SE¼;
Sec. 32, W½NW¼.
T. 23 N., R. 117 W.,
Sec. 31, N½NE¼NE¼.
T. 25 N., R. 117 W.,
Sec. 7, S½;
Secs. 18 and 19;
Sec. 30, lots 5, 6, 7, and 8, NE¼, and E½W½;
Sec. 31, lots 5, 6, 7, and 8, E½W½.
T. 21 N., R. 118 W.,
Sec. 1, lots 5 and 6, S½NE¼ and SE¼;
Sec. 13, SE¼SW¼ and SE¼;
Sec. 23, SE¼SW¼ and SE¼;
Secs. 24 to 27, inclusive;
Sec. 28, NE¼, NW¼NW¼, S½NW¼, and S½;
Sec. 29, SE¼NE¼ and E½SE¼;
Sec. 34, NE¼, N½NW¼, SE¼NW¼, and N½SE¼;
Sec. 35, N½ and N½S½.
T. 22 N., R. 118 W.,
Sec. 11, SE¼;
Sec. 13, SW¼NW¼, NW¼SW¼, and S½S½;
Sec. 14, NE¼, S½NW¼, and S½;
Sec. 15, S½N½ and S½;
Sec. 23, N½ and E½SE¼;
Secs. 24 and 25;
Sec. 26, E½E½.
T. 23 N., R. 118 W.,
Sec. 26, SE¼SE¼.
T. 24 N., R. 118 W.,
Sec. 4, lot 8.
T. 25 N., R. 118 W.,
Sec. 13;
Sec. 19, lot 38;
Sec. 20, lot 33;
Secs. 23 and 24;
Sec. 25, lots 1, 2, 3, and 4, N½ and N½S½;
Sec. 26;
Sec. 31, lots 11, 12, 21, and 22;
Sec. 35, lots 2, 3, 6, and 7, W½ and W½E½;
Sec. 36, lots 1, 10, 11, 20, 21, 22, and 23.
T. 26 N., R. 119 W.,
Sec. 4, N½NW¼;
Sec. 5, NW¼.
T. 27 N., R. 119 W.,
Sec. 33, SW¼.
T. 28 N., R. 119 W.,
Sec. 19, SW¼NW¼;
Sec. 26, S½NW¼.
T. 28 N., R. 120 W.,
Sec. 24, SE¼NE¼.

5. The record showing testimony made by members of the public attending the hearings is on file and can be examined in the Rock Springs District Office, Rock Springs, Wyo., and the Land Office, Bureau of Land Management, Federal Building, Cheyenne, Wyo.

6. For a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2411.2c.

ED PIERSON,
State Director

[F.R. Doc. 67-13171; Filed, Nov. 7, 1967; 8:45 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-89, etc.]

GULF GENERAL ATOMIC, INC., AND GENERAL DYNAMICS CORP.

Notice of Amendments for Transfer of Facility Licenses

Docket Nos. 50-89, 50-163, 50-227, 50-234, 50-235, 50-240 and 50-253.

The Atomic Energy Commission has issued amendments, in the form set forth below, to Facility Licenses R-38, R-67, R-99, R-100, R-104, R-105, and CX-23 to transfer the said licenses to Gulf General Atomic, Inc. The amendments are effective as of October 31, 1967, or at such subsequent time as the transfer takes place. The licenses were previously issued to General Dynamics Corp. and authorized possession, use and operation of six of the facilities and possession, but not operation, of one facility on the corporation's Torrey Pines Mesa site in San Diego, Calif.

By application dated October 24, 1967, Gulf Oil Corp. advised of its intent to purchase the assets and business of the General Atomic Division of General Dynamics and requested transfer of Facility Licenses R-38, R-67, R-99, R-100, R-104, R-105, and CX-23 to Gulf General Atomic, Inc., a wholly owned subsidiary of Gulf Oil Corp. General Dynamics Corp. notified the Commission of its consent to the transfer in a letter dated October 26, 1967. Gulf General Atomic, Inc., will have the same operating staff which was responsible for the facilities while owned by General Dynamics Corp. Consequently, the technical qualifications of the applicant are not altered by the transfer; therefore, no safety considerations not previously evaluated are involved.

The Commission has found that the proposed transfer of the licenses to Gulf General Atomic, Inc., is in accordance with the provisions of the Atomic Energy Act of 1954, as amended, and has consented thereto, pursuant to the provisions of 10 CFR 50.80.

Accordingly, the amendments to the licenses transfer the authority to possess,

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

FOOD AND DRUG RESEARCH LABORATORIES, INC.

Notice of Withdrawal of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Food and Drug Research Laboratories, Inc., Maurice Avenue at 58th Street, Maspeth, N.Y. 11378, has withdrawn its petition (FAP 8A2203), notice of which was published in the FEDERAL REGISTER of August 17, 1967 (32 F.R. 11896), proposing an amendment to § 121.1164 *Synthetic flavoring substances and adjuvants* to provide for the safe use of 1-hydroxy-2-butanone, trimethylamine, and 4-thujanol as synthetic flavoring substances in food.

Dated: October 31, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-13207; Filed, Nov. 7, 1967; 8:48 a.m.]

use and operate the facilities covered by Facility License Nos. R–28, R–67, R–89, R–100, R–104, and R–105, and to possess, but not to operate, the facility covered by License No. CX–23 from General Dynamics Corp. to Gulf General Atomic, Inc. There are no changes to the facilities or in the uses which will be made of the facilities.

Within 15 days from the date of publication of this notice in the FEDERAL REGISTER, the licensee may file a request for a hearing, and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's rules of practice, 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this transfer, see Gulf's application for transfer dated October 24, 1967, and supplement thereto dated October 28, 1967, and General Dynamics Corp.'s consent to the transfer dated October 26, 1967, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 31st day of October 1967.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

AMENDMENTS FOR TRANSFER OF FACILITY LICENSES FROM GENERAL DYNAMICS CORP. TO GULF GENERAL ATOMIC, INC.

Amdt. 15, License R–28 (TRIGA Mark I).
Amdt. 20, License R–67 (TRIGA Mark F).
Amdt. 1, License R–100 (TRIGA Mark III).
Amdt. 2, License CX–23 (ECF).
Amdt. 1, License R–89 (APPA II).
Amdt. 1, License R–104 (Modified HTGR Critical).
Amdt. 2, License R–105 (APPA III).

The Atomic Energy Commission ("the Commission") has found in accordance with the provisions of the regulations in Parts 2 and 50, particularly § 50.80, that:

a. The application for transfer of the licenses specified above dated October 24, 1967, and the supplement thereto dated October 28, 1967, comply with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Ch. 1, CFR;

b. Gulf General Atomic, Inc., is qualified to be holder of the licenses;

c. The transfer of the licenses is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto;

d. Gulf General Atomic, Inc., is technically and financially qualified to possess and operate the facilities and to engage in the proposed activities authorized by these licenses in accordance with the Commission's regulations;

e. The transfer of these licenses from General Dynamics Corp. to Gulf General Atomic, Inc., will not be inimical to the common defense and security or to the health and safety of the public;

f. Gulf General Atomic, Inc., has furnished proof of financial protection which satisfies the requirements of Commission regulations currently in effect, and will execute an indemnity agreement as required by section 170 of the Act and 10 CFR Part 140; and

g. Prior public notice of proposed issuance of these amendments is not required since the amendments do not involve significant hazard considerations different from those previously evaluated.

Accordingly, Facility License Nos. R–28, R–67, R–89, R–100, R–104, R–105, and CX–23, previously issued to General Dynamics Corp., are hereby amended by transferring the authority conferred therein from General Dynamics Corp. to Gulf General Atomic, Inc., and by deleting the name "General Dynamics Corp." and replacing it with the name "Gulf General Atomic, Inc.," wherever appearing in the licenses and amendments thereto.

These amendments are effective as of October 31, 1967, or at such subsequent time as the transfer of General Atomic Division of General Dynamics Corp. to Gulf General Atomic, Inc., takes place. The Commission shall be notified at such time as the transfer is effectuated.

Date of issuance: October 31, 1967.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[F.R. Doc. 67–13164; Filed, Nov. 7, 1967; 8:45 a.m.]

AUTOMOTIVE AGREEMENT ADJUSTMENT ASSISTANCE BOARD

[APTA No. 7–012]

ROCKWELL-STANDARD CORP., MISHAWAKA, IND.

Petition for Determination of Eligibility To Apply for Adjustment Assistance by Certain Workers; Summary of Final Determinations

Determinations of the Board. Pursuant to the Automotive Products Trade Act of 1965 (P.L. 89–283; 79 Stat. 1016), the Automotive Agreement Adjustment Assistance Board determines that:

1. Dislocation of workers of the Bumper Division, Mishawaka, Ind., has occurred.

2. U.S. production of the automotive product concerned—bumpers—has decreased appreciably and U.S. imports from Canada of the automotive product concerned have increased appreciably.

3. The operation of the United States-Canadian Automotive Products Agreement has not been the primary factor in causing the dislocation.

Background. A petition for determination of eligibility to apply for adjustment assistance under the Automotive Products Trade Act of 1965 was filed with the Automotive Agreement Adjustment Assistance Board on August 23, 1967, by the International Union, United Automobile, Aerospace & Agricultural Implement Workers of America (U.A.W.) and its Local 586, on behalf of a group of workers at the Bumper Division of Rockwell-Standard Corp. in Mishawaka. The petition stated that on June 26, 1967, Rockwell-Standard Corp. advised the U.A.W. and the plant employees that it would discontinue operations at the Mishawaka plant on or before July 31, 1967, with some 554 employees to be affected by permanent layoffs. The petition alleged that since the company indicated that 12 percent of the Mishawaka annual volume would thereafter be produced at the Houdaille Industries plant in Oshawa, Ontario, 12 percent of the 554 affected workers, or 66 workers, would be dislocated by the operation of the United States-Canadian Automotive Products Trade Agreement.

On August 28, 1967, the Board requested the U.S. Tariff Commission to investigate and report on the facts relating to this petition (32 F.R. 12702, Sept. 1, 1967). Neither the petitioners nor any other party requested a hearing and none was held.

The Commission submitted its report on October 17, 1967 (APTA–W–18), and stated that only certain sections of the report could be made public since much of the information contained therein was received in confidence (32 F.R. 14676, Oct. 21, 1967).

The Board obtained advice from the Departments of the Treasury, Commerce, Labor, and the Small Business Administration pursuant to section 302(f)(1) of the Act.

Mishawaka Bumper Division. The Mishawaka Bumper Division produced bumpers for use as original equipment in the manufacture of motor vehicles by the Chrysler Corp. Rockwell-Standard management stated that the Mishawaka plant showed a loss in each of the 11 years the plant was in operation. On June 26, 1967, the company sent a letter to all employees and to the U.A.W. informing them that the plant would terminate operations after the close of business on July 31, 1967. In a statement to the Tariff Commission the company said:

"The United States Canadian Auto Agreement had absolutely no bearing on the decision to discontinue the production of bumpers at our Mishawaka, Indiana plant; the Mishawaka plant has not been an efficient producer."

Rockwell-Standard absorbed a small portion of the Mishawaka output at its Newton Falls, Ohio, plant, which fully utilized its available capacity. The Chrysler Corp., therefore, transferred the remainder of its model year 1968 orders to another firm, Houdaille Industries. Houdaille scheduled the majority of this production at its Huntington, W. Va., plant and allocated a small percentage to its plant in Oshawa, Canada.

Conclusions and determinations—automotive product. The Board concludes that the petitioners were employed in a plant of Rockwell-Standard Corp., manufacturing an automotive product as defined by the Act: Automotive components (bumpers) to be used as original equipment.

Dislocation. Dislocation in the case of a group of workers means actual or threatened unemployment or underemployment of a significant number or proportion of the workers of a firm or an appropriate subdivision thereof.

Approximately 550 employees were permanently laid off as a consequence of the closing of the Mishawaka plant on July 28, 1967. This was the entire work force at Mishawaka.

The Board determines that the entire Mishawaka Bumper Division is the appropriate subdivision of Rockwell-Standard Corp., and that a significant number or proportion of the workers thereof have been dislocated (sec. 302(b)(1), APTA; sec. 501.2(i)(2), Board Regulations).

Role of the operation of the agreement. Under section 302(c) of the Act, if there is an appreciable decrease in U.S. production and an appreciable increase in imports from Canada, or an appreciable decrease in exports to Canada, of the automotive product concerned (sec. 302(b), APTA), the appropriate group of workers must be certified as eligible to apply for adjustment assistance unless the Board determines that the operation of the Agreement has not been the primary factor in causing or threatening to cause the dislocation.

The Tariff Commission obtained data covering U.S. bumper production and trade with Canada. In the 4-month period, March–June 1967, U.S. production was appreciably lower than production during the corresponding months in 1964. Likewise, the data on U.S. imports of bumpers from Canada show an appreciable increase in March–June 1967 over the same period in 1964.

The Board, therefore, determines that the economic criteria in section 302(b) of the Act are met.

Conclusions. The Board finds that Rockwell-Standard decided to close the Mishawaka plant because it was not a profitable operation.

The Board notes that none of the Mishawaka plant production was transferred by Rockwell-Standard to Canada. Houdaille Industries, a firm not connected with the Rockwell-Standard Corp., obtained most of the unfilled bumper orders originally placed with the Mishawaka plant. Houdaille Industries made the decision to allocate a small portion of this new business to its Oshawa, Ontario, plant.

The Board finds no evidence that any layoffs at Mishawaka were caused by the Houdaille Industries action.

The Board concludes that the operation of the United States-Canadian Automotive Products Agreement has not been the primary factor in causing or threatening to cause the dislocation of the workers at the Mishawaka plant.

(Section 302, Automotive Products Trade Act of 1965, 79 Stat. 1018, Executive Order 11354, 30 F.R. 13569, the Automotive Agreement Adjustment Assistance Board Regulations, 48 CFR, Part 501; 31 F.R. 827; and Board Order No. 1, 31 F.R. 853)

Dated: November 1, 1967.

AUTOMOTIVE AGREEMENT ADJUSTMENT ASSISTANCE BOARD,
EDGAR I. EATON,
Executive Secretary.

[F.R. Doc. 67–13172; Filed, Nov. 7, 1967; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 19207 etc.; Order E–25918]

CONTINENTAL AIR LINES, INC.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 2d day of November 1967.

Docket No. 19207; Docket Nos. 18944, 18950, 18953, 18975, 19082, 19138, 19142, 19145.

By tariff[1] filed September 22, 1967, marked to become effective November 6, 1967, Continental Air Lines, Inc. (Continental), proposes to establish 10–90-day circle trip and open jaw excursion fares applicable to jet first-class, jet coach, and jet economy services. The fares would apply to family groups of two or more, individual men 65 years old and over, and individual women age 62 and over. Children 2 through 21 years old would qualify as family members.

The proposed fares would apply between Monday noon and Friday noon, and from midnight Friday to noon Sunday. Discover America fares and family fares also apply during these same periods of the week. Also similar to the Discover America fares, Continental's proposed excursion fares would not apply on various specified dates during holiday periods, 28 days in all. Additional conditions of travel require that a minimum of four flights and a minimum of three stopovers of at least 48 hours each be via Continental, and that the portion of any open jaw trip not traveled under the proposed vacation excursion fares must be traveled via another scheduled air carrier.

The fares for vacation excursion travel are established by rule as a percentage of the applicable jet first-class, jet coach, and jet economy fares. Fares for adults, members of family groups and also individual male travelers age 65 and over, and female travelers age 62 and over, would be 70 percent of the applicable regular fares, when the trip consists of four segments of travel, and 65 percent of regular fares, when the trip consists of five or more segments. Children's fares would be 25 percent of the applicable regular fares for all segments of travel; however, children's fares would apply only after two adult fares have been purchased by the group. If only one parent is in the family group, the first child would pay adult fares. A segment is defined as that portion of travel (1) from the point of origin to the first point of stopover, (2) between two stopover points, and (3) from the last point of stopover to the final destination. The fares are constructed by applying the applicable percentages to the combinations of local fares between stopover points.

The proposal is marked to expire with December 31, 1968.

The proposed fares reflect discounts for the family group that range from 30 percent to over 50 percent of the regular fares, depending upon the size of the family and the number of segments traveled. In comparison to the present family fares applicable to regular service, the proposed fares for coach service are from about 16 percent to 23 percent lower than present coach family fares. The proposed fares per mile for the entire family group will vary considerably, again depending upon the size of the family. Continental has estimated that the overall yield of family groups will be about 4.50 cents per mile.

Eastern Air Lines, Inc. (Eastern), National Airlines, Inc. (National), United Air Lines, Inc. (United), and the National Trailways Bus System, Inc., and its 46 Independent Member Carriers (Trailways), have filed complaints requesting investigation and suspension of the proposed vacation excursion fares. The complainants allege that the tariff would result in fares which are unjust, unreasonable, prejudicial, and discriminatory; that the tariff would present the traveling public, travel agents, and airline ticketing employees with a promotional fare of such complexity as to be unduly burdensome; and that the broad fare experimentation which the Board has encouraged in recent years should be subject to some limitations, particularly since the multiplicity of complex fares has now reached a significant number.

The complainants also allege that the proposed tariff would have the curious anomaly of offering a discount for stopovers, when historically the added handling and reservations costs inherent in stopover traffic have been reflected by assessing a stopover charge; that the cost increases which will stem from the proposal far outweigh any possible generative effect the tariff may have; and that the tariff is unreasonable as it does not satisfy the profit impact test. In addition, Trailways contends that the family group requirement is unjustly discriminatory, and that although the Board has permitted family fares for many years, that error should not be compounded by approving the instant proposal.

As for the reduced fares for men over 65 years of age and women over 62 years of age, the complainants strongly contend that such fares are preferential and unjustly discriminatory, that to permit age to be the sole basis for availability of the excursion fares would be inconsistent with the recent opinion on promotional fares of the Fifth Circuit Court of Appeals, dated July 24, 1967; and that failure to suspend and investigate this tariff would be inconsistent with recent orders of the Board which suspended and ordered an investigation of individual senior citizen fares filed by Trans Caribbean Airways, Inc., and Ozark Air Lines, Inc.[2]

In support of its proposal and in answer to the complaints, Continental asserts that the proposed fares are designed to appeal to a large segment of the American public who have the time,

[1] Airline Tariff Publishers, Inc., Agent, Local and Joint Passenger Fares Tariff CAB No. 101, Rule 23.

[2] Orders E–23669, May 12, 1966, and E–21973, Mar. 31, 1965.

the means, and the desire to take vacation trips by air, but who up to now have not done so in any significant amount; that the proposal embodies a combination of a substantial traffic generating potential with a minimal dilutionary effect on existing traffic; and that based on a conservative estimate of additional revenues, a reasonable estimate of traffic dilution, and additional costs occasioned by the extra traffic, Continental would expect to realize a minimum increase in operating income of $1,643,000 from its first year's sales of the proposed vacation excursion fares. In rebuttal to the allegations of the complainants that the proposal is overly complex, Continental contends that the proposed fares are no more complex than existing promotional fares; that its program is experimental; and that its vacation excursion fares are designed to promote certain special and circumscribed travel interests of family groups and senior citizens.

Upon consideration of the tariff filing, complaints, answers, and other matters of record, the Board concludes that the proposed filing, insofar as it applies to the family groups, should not be suspended or investigated; but that the portion of the filing applicable to senior citizens should be suspended in accordance with previous actions of the Board.

The complainant's contentions that these fares, as applicable to the family groups, will not cover costs, are not supported by economic data. We find no evidence supporting the allegations that these fares are uneconomic and must meet the fully allocated costs of the service. These experimental fares, designed to produce an average yield of 4.5 cents per passenger mile, will utilize the unused capacity that is available on existing flights of Continental, and are intended to promote vacation travel, and to fill seats that would otherwise go empty. Therefore, since they appear amply adequate to cover incremental costs and make a substantial contribution to overhead, the Board does not find these experimental fares to be uneconomic.

At the present time, the Board is not aware of any basis supporting the suspension of the family feature of Continental's proposal. Reduced family fares have been used for several years throughout the airline industry and have become an integral part of the airline fare structure. The proposal is very similar in nature to existing family fares, and although the fare discounts are somewhat larger, the minimum travel time requirement of 10 days and the three or more stopovers of at least 48 hours required by the tariff are sufficiently restrictive to distinguish these experimental fares from other fares presently in effect. With regard to the request for investigation, Trailways has filed a general complaint in Docket 19047 requesting investigation of the various family fare offerings of the domestic airline industry. The Board views the instant family fare tariff as being within the scope of the complaint in Docket 19047 and will consider whether to investigate the family fare features of this tariff at the time a decision is made regarding investigation of the various other domestic family fare plans.

Insofar as the proposed tariff rule applies to individual men 65 years of age and over, and individual women age 62 and over, the Board has concluded that such tariff provision raises substantial questions of unjust discrimination, preference, and prejudice, and that it should be investigated and its operations suspended pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 404, and 1002 thereof,

It is ordered, That:

1. An investigation is instituted to determine whether the fares and provisions in Rule 23(A)(1), (b), and (c) on 6th and 7th revised pages 35 and Rule 23(C)(2) on 6th and 7th revised pages 36 of tariff CAB No. 101 issued by Airline Tariff Publishers, Inc., Agent, and rules, regulations, and practices affecting such fares and provisions, are or will be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fares and provisions, and rules, regulations, or practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions in Rule 23(A)(1), (b), and (c) on 6th and 7th revised pages 35 and Rule 23(C)(2) on 6th and 7th revised pages 36 of tariff CAB No. 101 issued by Airline Tariff Publishers, Inc., Agent, are suspended and their use deferred to and including February 3, 1968, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The proceeding ordered herein be assigned for hearing before an Examiner of the Board at a time and place hereafter to be designated;

4. Except to the extent granted herein, the complaints of Eastern Air Lines, Inc., in Dockets 18953 and 19142, National Airlines, Inc., in Dockets 18944 and 19138, National Trailways Bus System in Dockets 18975 and 19082, and United Air Lines, Inc., in Dockets 18950 and 19145 be dismissed;

5. To the extent granted herein, the complaints of Eastern Air Lines, Inc., in Dockets 18953 and 19142, National Airlines, Inc., in Dockets 18944 and 19138, National Trailways Bus System in Dockets 18975 and 19082, and United Air Lines, Inc., in Dockets 18950 and 19145 be consolidated in this docket; and

6. Copies of this order be filed with the aforesaid tariff and be served upon American Airlines, Inc., Continental Air Lines, Inc., Eastern Air Lines, Inc., National Airlines, Inc., National Trailways Bus System, Trans World Airlines, Inc., and United Air Lines, Inc., which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-13203; Filed, Nov. 7, 1967; 8:46 a.m.]

[Docket No. 19201; Order E-26913]

SERVICE TO WHITE PLAINS, N.Y.

Order Instituting Investigation of Service

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 2d day of November 1967.

The Board is hereby instituting an investigation to determine whether the public convenience and necessity require additional service on a nonsubsidy basis between Chicago, Ill., Cincinnati and Cleveland, Ohio, Pittsburgh, Pa., and St. Louis, Mo., on the one hand, and New York City, N.Y., on the other (to be served through the Westchester County Airport at White Plains, N.Y.)[1] The principal necessity for this investigation arises from congested conditions at the three major New York air terminals, John F. Kennedy International, La Guardia, and Newark Airports. Accordingly, the investigation will explore the possibility of improving the quality of service to the New York area by authorizing additional service between five major midwest points and Westchester County Airport with a view to attracting to Westchester some of the existing traffic now moving through Kennedy, La Guardia, and Newark and thereby relieving some of the congestion at those airports.[2]

By most standards the present three major New York airports are now or will in the future be taxed to the utmost in three respects; namely, operations in excess of capacity, overcrowding in the terminals, and difficulty of airport access. For example, under one method of measurement, the delays at Kennedy during typical peak hours range from an average of over 15 minutes to over 50 minutes per operation, and in some cases individual flights are delayed far in excess of these times. Under the same method of measurement, operational delays at La Guardia and Newark already range between an average of over 4 minutes to over 15 minutes per operation during typical peak hours. Beyond this, most forecasts for the immediate future show that these operational delays will be increasing at all three airports. For the traveling public these delays are, in turn, compounded by the difficulties encountered in traveling to the airport and by the fact that once the airport has been reached, overcrowded terminals provide a further barrier to convenient air travel. Waiting rooms are jammed, substantial delays are encountered at ticket counters and in baggage claim areas, and gate facilities are overcrowded.

[1] All authority granted will be on separate segments.

[2] Chicago, Cincinnati, Cleveland, Pittsburgh, and St. Louis all have service to and from New York City through Kennedy, La Guardia, and Newark.

By any standard all of these problems associated with airport congestion are highly undesirable. Operational delays cost the airlines and traveling public millions of dollars annually. And, although impossible to measure, the intangible losses for both the public and the airlines cannot but be significant.

In part, the cause of these problems is the tremendous numbers of passengers which now must move through only three New York airports. For fiscal year 1966, over 6.8 million passengers enplaned at Kennedy; over 2.8 million at La Guardia, and over 2.5 million at Newark. Approximately an equal number of passengers deplaned at these points and these figures grow significantly each year.

One approach to improving the quality of service to suburban New York and to relieving the three major New York airports of some of their problems would be to attract some of the passengers presently using the three major airports to another nearby airport. The Westchester County Airport provides a logical alternative. Westchester County is a prosperous, densely populated suburban area just north of New York City. The principal Westchested suburban communities, Mount Vernon, New Rochelle, Yonkers, and White Plains, are capable of generating considerable traffic, all of which is now moving over crowded roadways to the congested terminals. In addition, the large amount of business activity which has grown up in Westchester County attracts a substantial number of air travelers who must now use the New York terminals. The Westchester County Airport has a runway over 6,500 feet in length capable of serving aircraft hops over 400 miles in length. Accordingly, we have instituted this investigation to determine whether the public convenience and necessity require additional service on a nonsubsidy basis between Pittsburgh, Chicago, Cincinnati, Cleveland, and St. Louis, on the one hand, and White Plains, N.Y., on the other hand.

We have selected these particular markets for inclusion in this case on the basis of a variety of criteria. First, only a limited number of markets were selected in order to keep the proceeding within reasonable and manageable proportions. For this same reason, the markets selected were concentrated in one geographical area. Second, each of the markets selected is a high-density market which experienced at least 250,000 local and connecting passengers in and out of New York in 1966. Evidence presented by Westchester County in the Allegheny Airlines, Inc., Segment 8 Renewal and Route Realignment Investigation, Docket 16474 et al., indicates that there is a demand for service between Westchester County and each of the cities selected. The introduction of an attractive alternative service to Westchester, in high-density markets, maximizes the opportunity for helping relieve the New York airports of congestion.[3] Markets over 1,000 miles in length are excluded since present runway lengths at Westchester would not make operations in such markets feasible. Lastly, each of the markets selected is large enough so that it is more likely to be profitable than the markets excluded, and the markets included also permit a greater variety of aircraft types to be used given the present runway length at Westchester.

In addition to the question of relieving airport congestion, the proceeding should also focus on the questions of carrier selection and diversion from the existing carriers. Finally, any awards made in this proceeding will be for separate segments and on a subsidy ineligible basis.

Accordingly, it is ordered, That:

1. An investigation designated Service to White Plains, N.Y., be and it hereby is instituted in Docket 19201, pursuant to sections 204(a) and 401 of the Federal Aviation Act of 1958, as amended, to determine whether the public convenience and necessity require, and the Board should order the authorization of additional air service over the following new segments:

a. Chicago, Ill., to White Plains, N.Y.;
b. Cincinnati, Ohio to White Plains, N.Y.;
c. Cleveland, Ohio to White Plains, N.Y.;
d. Pittsburgh, Pa., to White Plains, N.Y.; and
e. St. Louis, Mo., to White Plains, N.Y.

2. Any authority awarded in this proceeding shall be on a subsidy ineligible basis and shall be in the form of a separate segment or segments; and

3. Applications, motions to consolidate, and motions or petitions seeking modification or reconsideration of this order shall be filed no later than 20 days from the date of service of this order, and answers to such pleadings shall be filed no later that 10 days thereafter.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-13204; Filed, Nov. 7, 1967; 8:48 a.m.]

[Docket No. 19133]

SABER AIR FREIGHT, INC.

Notice of Proposed Approval of Control Relationships

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the undersigned intends to issue the attached order under delegated authority. Interested persons are hereby afforded a period of 15 days from the date of service within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., November 3, 1967.

[SEAL] A. M. ANDREWS,
Director,
Bureau of Operating Rights.

ORDER APPROVING CONTROL RELATIONSHIPS

Issued under delegated authority.

Application of Saber Air Freight, Inc., Bernard Resnick, Gerald L. Murphy, for approval of control and interlocking relationships pursuant to sections 408 and 409 of the Federal Aviation Act of 1958.

By joint application filed October 18, 1967, Saber Air Freight, Inc. (Saber), and Bernard Resnick request approval pursuant to section 408 of the Federal Aviation Act of 1958, as amended (the Act), of the ownership by Resnick of 100 percent of the stock of Saber, an applicant for domestic and international air freight forwarder authority and of Universal Mail Delivery, Inc., a common carrier by truck within the state of California.[1]

Approval is also requested, pursuant to section 409 of the Act, of the following interlocking relationships:

Saber	*Universal*
Bernard Resnick, president-director.	Owner.
Gerald L. Murphy, vice president, treasurer, secretary, director.	General manager.

Applicants state that approval of the relationships will increase rather than restrain competition in the air freight forwarder industry; that it will not tend to create a monopoly and that there are no inherent conflicts between the proposed operations of Saber and the operations of Universal or Sav-On.

No comments relative to the application or request for a hearing have been received.

Notice of intent to dispose of the application without a hearing has been published in the FEDERAL REGISTER and a copy of such notice has been furnished by the Board to the Attorney General not later than 1 day following such publication, both in accordance with the requirements of section 408(b) of the Act.

Upon consideration of the foregoing, it is concluded that, for the purpose of this proceeding, Saber is an air carrier, that Universal is a common carrier, both within the meaning of section 408(a) of the Act, and that the common control of both companies by Resnick is subject to that section. However, it has been further concluded that such control relationships do not affect a carrier directly engaged in the operation of aircraft in air transportation, do not result in creating a monopoly and do not restrain competition. Furthermore, no person disclosing a substantial interest in the proceeding is currently requesting a hearing, and it is found that the public interest does not require a hearing. The control relationships are similar to others which have been approved by the Board and essentially do not present any new substantive issues.[2] It therefore appears that approval of the control relationships would not be inconsistent with the public interest.

We also find that interlocking relationships within the scope of section 409(a) of the Act will result from the holding by the individual applicants of the positions described herein. However, we have concluded that such relationships come within the scope of the exemption from the provisions of section 409 afforded by section 287.2 of the

[1] Resnick also owns 100 percent of the stock of Sav-On Freight Distributing Agency (Sav-On), a sole proprietorship which acts as agent for shippers for the break-bulk and distribution of freight in various western cities. The activities of this company do not appear to fall within the scope of section 408 or 409 of the Act.

[2] Trans-Pacific Air Cargo et al., Docket 16029, Order E-22158, May 13, 1965.

[3] None of these markets has single-plane service to the Westchester Airport at this time.

Board's Economic Regulations. Thus, to the extent that the application requests approval of such relationships, it will be dismissed.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.13 and 385.2, it is found that the foregoing control relationships should be approved under section 408(b) of the Act, without hearing, and that the application, to the extent that it requests approval of the aforementioned interlocking relationships should be dismissed.

Accordingly, it is ordered:

1. That the common control of Saber and Universal by Bernard Rosnick be and it hereby is approved; and

2. That, to the extent that approval of interlocking relationships is sought under section 409 of the Act, the application be and it hereby is dismissed.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 5 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 67-13203; Filed, Nov. 7, 1967; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 17178-17180; FCC 67M-1864]

LAWRENCE COUNTY BROADCASTING CORP. ET AL.

Order Continuing Hearing

In re applications of Lawrence County Broadcasting Corp., New Castle, Pa., Docket No. 17178, File No. BP-16602; Brownsville Radio, Inc., Brownsville, Pa., Docket No. 17179, File No. BP-16648; Shawnee Broadcasting Co., Aliquippa, Pa., Docket No. 17180, File No. BP-16880; for construction permits.

The Hearing Examiner having under consideration a letter dated November 1, 1967 by counsel for the above-named applicants, requesting an extension of the scheduled dates for proceedings in the above-entitled matter;

It appearing, that on June 12, 1967, the applicants filed a joint request for approval of agreement looking toward removal of the conflict in this proceeding; and

It further appearing, that on August 4, and September 25, 1967, it was necessary to file supplemental material and as a result thereof the Review Board has not as yet been able to act on the aforementioned joint request; and

It further appearing, that pending Review Board action on such request, all proceedings should be held in abeyance;

It is ordered, That the above-mentioned letter request is granted, and that the presently scheduled procedural dates, including the hearing date of November 21, 1967, be, and the same are, hereby continued to dates to be set by subsequent order after Review Board action on the aforementioned joint request for approval of agreement.

Issued: November 2, 1967.

Released: November 3, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-13211; Filed, Nov. 7, 1967; 8:49 a.m.]

[Docket No. 17721; FCC 67M-1866]

MEREDITH-AVCO, INC. ET AL.

Order Continuing Hearing

In re Meredith-Avco, Inc., Alexander City, Ozark, and Talladega, Ala.; El Dorado and Magnolia, Ark.; Cocoa-Rockledge and Merritt Island, Fla.; Mayfield, Madisonville-Earlington, and Murray, Ky.; Brookhaven, Miss.; and Harriman and Rockwood, Tenn., request for waiver of section 74.1103 of the Commission's rules; and Hirsch Broadcasting Co., Cape Girardeau, Mo.; Paducah Newspapers, Inc., Paducah, Ky.; requests for issuance of orders to show cause and cease and desist, directed against Meredith-Avco, Inc., owner and operator of a CATV system at Mayfield, Ky.; Docket No. 17721.

It is ordered, On the Chief Hearing Examiner's own motion and with the agreement of all parties, that the hearing in the above-entitled proceeding is rescheduled from November 13, to November 14, 1967, and will be convened on the latter date at 10 a.m., in the offices of the Commission, Washington, D.C.; and, *It is further ordered,* That the "Motion for Continuance" filed November 2, 1967, by Meredith-Avco, Inc., is dismissed as moot.

Issued: November 3, 1967.

Released: November 3, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-13212; Filed, Nov. 7, 1967; 8:49 a.m.]

[Docket Nos. 17454, 17455; FCC 67M-1865]

NEW YORK UNIVERSITY AND FAIRLEIGH DICKINSON UNIVERSITY

Order Continuing Hearing

In re applications of New York University, New York, New York, Docket No. 17454, File No. BPED-742; Fairleigh Dickinson University, Teaneck, New Jersey, Docket No. 17455, File No. BPED-751; for construction permits.

It is ordered, By the Hearing Examiner on his own motion that the hearing in the above matter now scheduled for December 12, 1967, is hereby rescheduled to commence at 10 a.m., December 18, 1967, in the Commission's offices in Washington, D.C.

Issued: November 2, 1967.

Released: November 3, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-13213; Filed, Nov. 7, 1967; 8:49 a.m.]

[BP-17716, etc.]

STANDARD BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Notice is hereby given, pursuant to section 1.571(c) of the Commission's rules, that on December 6, 1967, the standard broadcast applications listed in the Appendix set forth below will be considered as ready and available for processing. Pursuant to section 1.227(b)(1) and section 1.591(b) of the Commission's rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on December 5, 1967, which involves a conflict necessitating a hearing with an application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by whichever date is earlier: (a) The close of business on December 5, 1967, or (b) the earlier effective cut-off date which a listed application or by any other conflicting application may have by virtue of conflicts necessitating a hearing with applications appearing on previous lists.

The attention of any party in interest desiring to file pleadings concerning any pending standard broadcast application pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to Section 1.580(i) of the Commission's rules for provisions governing the time of filing and other requirements relating to such pleadings.

Adopted: November 2, 1967.

Released: November 3, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE, *Secretary.*

BP-17716 New, Circleville, Ohio.
Scioto Broadcasting Co.
Req: 1540 kc, 250 w, DA, D.

BP-17718 New, Buffalo, Minn.
Buffalo Broadcasting Co.
Req: 1360 kc, 500 w, D.

BP-17719 New, Ava, Mo.
KAVA Radio Association.
Req: 1480 kc, 500 w, D.

BP-17720 New, Kodiak, Alaska.
Midnight Sun Broadcasters, Inc.
Req: 610 kc, 5 kw, U.

BP-17731 KFIL, Preston, Minn.
Obed S. Borgen.
Has: 1060 kc, 500 w, D.
Req: 1060 kc, 1 kw, D.

BP-17732 New, Hilo, Hawaii.
Southwestern Broadcasting Co.
Req: 670 kc, 10 kw, U.

BP-17733 WFSC, Franklin, N.C.
Radio Station WFSC, Inc.
Has: 1050 kc, 1 kw, D.
Req: 810 kc, 1 kw, D.

BP-17743 New, Burnettown, S.C.
Midland Valley Investment Co., Inc.
Req: 1510 kc, 500 w, 250 w-CH, D.

BP-17744 KOLY, Mobridge, S. Dak.
Mobridge Broadcasting Corp.
Has: 1300 kc, 1 kw, D.
Req: 1300 kc, 5 kw, D.

BP-17745 WSEN, Baldwinsville, N.Y.
Century Radio Corp.
Has: 1050 kc, 250 w, D.
Req: 1050 kc, 5 kw, DA, D.

BP-17746 KPBC, Port Sulphur, La.
Plaquemines Broadcasting Co., Inc.
Has: 1510 kc, 500 w, D.
Req: 1510 kc, 1 kw, D.

BP-17747 New, Jacksonville, Ala.
Jacksonville Broadcasting Co.
Req: 1090 kc, 250 w, D.

BP-17748 KEHG, Fosston, Minn.
Fosston Broadcasting Co.
Has: 1480 kc, 1 kw, D.
Req: 1480 kc, 5 kw, D.

BP-17749 New, Ellwood City, Pa.
Jud, Inc.
Req: 1500 kc, 250 w, DA, D.

BP-17751 New, Warrenton, N.C.
Radio Voice of Warrenton.
Req: 1520 kc, 1 kw, D.

BP-17752 New, Jackson, Miss.
Ford Broadcasting Co.
Req: 1060 kc, 10 kw, DA, D.

BP-17754 New, Hurricane, W. Va.
Putnam Broadcasting Co., Inc.
Req: 1060 kc, 5 kw, DA, D.

BP-17755 New, Luverne, Minn.
Gleason Bros.
Req: 800 kc, 500 w, DA, D.

BP-17757 WRAN, Dover, N.J.
Lion Broadcasting Co., Inc.
Has: 1510 kc, 1 kw, DA-2, U.
Req: 1510 kc, 1 kw, 10 kw-LS, DA-2, U.

BP-17775 New, Northfield, Minn.
M. D. Price, Jr.
Req: 1060 kc, 1 kw, D.

BP-17776 New, Ozark, Ala.
Wade B. Sullivan.
Req: 1190 kc, 1 kw, D.

BP-17777 New, Guayamo, P.R.
Fidelity Broadcasting Corp.
Req: 840 kc, 250 w, D.

BP-17778 New, Red Bay, Ala.
Redmont Broadcasting Corp.
Req: 1430 kc, 1 kw, D.

BP-17779 New, Springfield, Ky.
The Washington County Broadcasting Co.
Req: 1540 kc, 250 w, D.

BP-17780 New, Houston, Tex.
Strauss Broadcasting Co. of Houston.
Req: 850 kc, 5 kw, DA, D.

BP-17784 WISN, Milwaukee, Wis.
The Hearst Corp.
Has: 1130 kc, 10 kw, 50 kw-LS, DA-2, U.
Req: 1130 kc, 25 kw, 50 kw-LS, DA-2, U.

BP-17782 WSEW, Selinsgrove, Pa.
B&K Broadcasting Co.
Has: 1240 kc, 250 w, U.
Req: 1240 kc, 250 w, 1 kw-LS, U.

BP-17786 WDGY, Minneapolis, Minn.
Storz Broadcasting Co.
Has: 1130 kc, 25 kw, 50 kw-LS, DA-2, U.
Req: 1130 kc, 50 kw, DA-2, U.

BP-17788 KSDO, San Diego, Calif.
Gordon Broadcasting of San Diego, Inc.
Has: 1130 kc, 1 kw, 5 kw-LS, DA-2, U.
Req: 1130 kc, 10 kw, 50 kw-LS, DA-2, U.

BP-17789 New, Taylorsville, Miss.
Taylorsville Broadcasting Co., Inc.
Req: 1260 kc, 500 w, D.

BP-17793 WYRN, Louisburg, N.C.
Franklin Broadcasting Co.
Has: 1480 kc, 500 w, D.
Req: 1060 kc, 500, w, D.

BP-17795 WNPS, New Orleands, La.
Greater New Orleans Educational TV Foundations.
Has: 1450 kc, 250 w, U.
Req: 1450 kc, 250 w, 1 kw-LS, U.

BP-17797 New, Galion, Ohio.
Radio Galion, Inc.
Req: 1570 kc, 500 w, DA-D.

BP-17799 New, Windsor, Colo.
Harry P. Brewer.
Req: 1170 kc, 1 kw, D.

BP-17801 KYSS, Missoula, Mont.
Garden City Broadcasting, Inc.
Has: 910 kc, 1 kw, D.
Req: 930 kc, 5 kw, D.

BP-17817 New, Harlan, Ky.
Eastern Broadcasting Co.
Req: 1470 kc, 1 kw, D.

BP-17819 WSJC, Magee, Miss.
Southeast Mississippi Broadcasting Co.
Has: 810 kc, 250 w, 50 kw-LS, DA-2, U.
Req: 810 kc, 250 w, 50 kw-LS, DA-N, U.

BP-17822 KWIK, Pocatello, Idaho.
WKIK Broadcasting Co., Inc.
Has: 1240 kc, 250 w, U.
Req: 1240 kc, 250 w, 1 kw-LS, U.

BP-17829 WJXN, Jackson, Miss.
Jackson Broadcasting Co.
Has: 1450 kc, 250 w, U.
Req: 1450 kc, 250 w, 1 kw-LS, U.

BP-17831 KWXY, Cathedral City, Calif.
Glen Barnett.
Has: 1340 kc, 250 w, U.
Req: 1340 kc, 250 w, 500 w-LS, U.

BP-17834 KEYE, Perryton, Tex.
Perryton Radio, Inc.
Has: 1400 kc, 250 w, U.
Req: 1400 kc, 250 w, 1 kw-LS, U.

BP-17842 New, Prattville, Ala.
Prattville Radio, Inc.
Req: 1410 kc, 1 kw, 5 kw-LS, DA-2, U.

BP-17878 KZNG, Hot Springs, Ark.
KZNG Broadcasting Co.
Has: 1340 kc, 250 w, U.
Req: 1340 kc, 250 w, 1 kw-LS, U.

BP-17881 WMON, Montgomery, W. Va.
Greater Montgomery Broadcasters, Inc.
Has: 1240 kc, 250 w, U.
Req: 1340 kc, 250 w, 1 kw-LS, U.

[F.R. Doc. 67-13214; Filed, Nov. 7, 1967; 8:49 a.m.]

FEDERAL RESERVE SYSTEM

BARNETT NATIONAL SECURITIES CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made to the Board of Governors of the Federal Reserve System pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842 (a)), by Barnett National Securities Corp., which is a bank holding company located in Jacksonville, Fla., for the prior approval of the Board of the acquisition by Applicant of 80 percent or more of the voting shares of Regency Square Barnett Bank, Jacksonville, Fla., a proposed new bank.

Section 3(c) of the Act provides that the Board shall not approve (1) any acquisition or merger or consolidation under this section which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or (2) any other proposed acquisition or merger or consolidation under this section whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that in every case, the Board shall take into consideration, the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Public access to the application may be had at the office of the Board of Governors or the Federal Reserve Bank of Atlanta.

Dated at Washington, D.C., this 30th day of October 1967.

By order of the Board of Governors.

[SEAL] MERRITT SHERMAN, *Secretary.*

[F.R. Doc. 67-13165; Filed, Nov. 7, 1967; 8:45 a.m.]

FEDERAL POWER COMMISSION

[Docket No. R168-208, etc.]

MARTHA FEATHERSTONE ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates[1]

OCTOBER 31, 1967.

The Respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and

[1] Does not consolidate for hearing or dispose of the several matters herein.

that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before December 15, 1967.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI68-208	Martha Featherstone, Roswell Petroleum Bldg., Roswell, N. Mex. 88201.	2	5	Colorado Interstate Gas Co. (Patrick Draw Field, Sweetwater County, Wyo.).	$124	10- 4-67	[3] 1- 1-68	6- 1-68	[4] 15.304	[5] [6] 17.0	
RI68-209	Aztec Oil & Gas Co., 300 First National Bank Bldg., Dallas, Tex. 75202, Attn: Quitman B. Davis, Esq.	7	[7] 20	Southern Union Gathering Co. (Basin Dakota Pool, San Juan County, N. Mex.) (San Juan Basin Area).	667	10-10-67	[8] 11-10-67	4-10-68	13.0	[5] [6] 14.08333	
	do	7	[8] 20	do	1,997	10-10-67	[8] 11-10-67	4-10-68	13.0	[5] [6] 14.08333	
	do	7	[9] 31	do	445	10-12-67	[8] 11-12-67	4-12-68	13.0	[5] [6] 14.08333	
	do	7	[10] 32	do	3,114	10-11-67	[8] 11-11-67	4-11-68	13.0	[5] [6] 14.08333	
	do	7	[11] 33	do	127	10-12-67	[8] 11-12-67	4-12-68	13.0	[5] [6] 14.08333	
RI68-210	Cabot Corp. (SW) Post Office Box 1101, Pampa, Tex. 79065.	36	4	Northern Natural Gas Co. (Perry G Unit, Ochiltree County, Tex.) (R.R. District No. 10).	60	10- 6-67	[8] 12- 1-67	5- 1-68	[12] [13] 17.5	[13] [14] [15] 18.5	RI63-201.
RI68-211	Continental Oil Co., Post Office Box 2197, Houston, Tex. 77001.	200	2	Arkansas-Louisiana Gas Co. (Ethel Field, Kingfisher County, Okla.) (Oklahoma "Other" Area).	205	10- 9-67	[8] 12-12-67	5-12-68	13.0	[5] [6] 16.015	
RI68-212	Atlantic Richfield Co., Post Office Box 2819, Dallas, Tex. 75221.	226	5	Michigan Wisconsin Pipe Line Co. (Lovedale and Southwest Freedom Fields, Harper and Woodward Counties, Okla.) (Panhandle Area).	710	10-11-67	[16] 11-11-67	4-11-68	[17] 17.910	[13] [15] [17] 19.910	
	do	206	5	Arkansas-Louisiana Gas Co. (Chenière Brake Field, Quachita Parish, La.) (North Louisiana).	663	10-13-67	[8] 12- 5-67	5- 5-68	[13] [18] 18.333	[5] [6] [18] 19.333	
RI68-213	Tenneco Oil Co. (Operator) et al., Post Office Box 2511, Houston, Tex. 77001.	2	13	United Gas Pipe Line Co. (Mustang Island Field, Nueces and San Patricio Counties, Tex.) (R.R. District No. 4).	24,029	[19] 9- 6-67	[8] 11- 1-67	5- 1-68	[20] 14.6	[13] [21] 15.6	

[2] The stated effective date is the contractually due effective date.
[3] Periodic rate increase.
[4] Pressure base is 15.025 p.s.i.a.
[5] Initial rate.
[6] The stated effective date is the effective date proposed by Respondent.
[7] Pertains only to acreage covered by Supplement No. 23.
[8] Pertains only to acreage covered by Supplement No. 25.
[9] Pertains only to acreage covered by Supplement No. 26.
[10] Pertains only to acreage covered by Supplement No. 27.
[11] Pertains only to acreage covered by Supplement No. 28.
[12] Pressure base is 14.65 p.s.i.a.
[13] Includes 1 cent per Mcf for sale of liquids.
[14] Subject to a downward B.t.u. adjustment.
[15] The stated effective date is the first day after expiration of the statutory notice.
[16] "Fractured" rate increase. Contractural due rate is 19.5 cents per Mcf.
[17] Includes base rate of 17 cents before increase and base rate of 19 cents after increase plus 0.910 upward B.t.u. adjustment (1,021 B.t.u. gas). Base rate subject to upward and downward B.t.u. adjustment.
[18] Includes 1.333 cents tax reimbursement.
[19] Rate at time of settlement and settlement rate in Atlantic's company-wide settlement in Docket Nos. G-9283 et al. Filing moratorium on rate increases in excess of area ceiling expired Aug. 1, 1967.
[20] Revised filing submitted in substitution for filing submitted on Sept. 8, 1967, with the original filing date being used.
[21] "Fractured" rate increase. Second Amendment settlement limits increases in rate not in excess of 1 cent per Mcf under this rate schedule.
[22] "Fractured" rate increase. Contractually due a rate of 15.5 cents base plus 0.1984 cent tax reimbursement.
[23] Settlement rate approved by Commission order issued Apr. 8, 1964, in Docket No. G-13562.

Martha Featherstone (Featherstone) requests that her proposed rate increase be permitted to become effective on December 1, 1967. Featherstone's request for an earlier effective date is denied for the reason that the proposed rate is not contractually due until January 1, 1968. Atlantic Richfield Co. (Atlantic) requests an effective date of October 1, 1967, for Supplement No. 5 to its FPC Gas Rate Schedule No. 226. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit an earlier effective date for Atlantic's aforementioned rate filing and such request is denied.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56).

[F.R. Doc. 67-13106; Filed, Nov. 7, 1967; 8:45 a.m.]

[Docket No. RI68-214, etc.]

SUPERIOR OIL CO.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

NOVEMBER 1, 1967.

The Respondents named herein have filed proposed changes in rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, Ch I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until

[1] Does not consolidate for hearing or dispose of the several matters herein.

date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplements to the rate schedules filed by Respondents, as set forth herein, shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order Respondents shall each execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless Respondents are advised to the contrary within 15 days after the filing of their respective agreements and undertakings, such agreements and undertakings shall be deemed to have been accepted.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before December 15, 1967.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in Docket Nos.
RI68-214	The Superior Oil Co., Post Office Box 1521, Houston, Tex. 77001.	77	9	El Paso Natural Gas Co. (Aneth Field, San Juan County, Utah).	$239	10- 2-67	[3] 11- 2-67	[8] 11- 3-67	[4] 17.877	[4] [6] 17.8947	
RI68-215	Independent Gas & Oil Producers, Inc., Knox Bldg., Enid, Okla. 73701.	1	2	Oklahoma Natural Gas Gathering Corp. (Ringwood Field, Major County, Okla.) (Oklahoma "Other" Area).	697	10-11-67	[8] 10-11-67	[8] 10-12-67	11.0	[8] [9] 12.0	
RI68-216	General American Oil Co. of Texas, Meadows Bldg., Dallas, Tex. 75206.	[8] 61	4	Texas Gas Transmission Corp. (Lawson Field, Acadia Parish, La.) (South Louisiana).	225	10- 6-67	[8] 11- 6-67	11- 7-67	[10] 19.5	[8] [10] [11] 20.5	

[2] The stated effective date is the effective date proposed by Respondent.
[3] The suspension period is limited to 1 day.
[4] Tax reimbursement increase. 100 percent reimbursement of the increase in the Utah Oil & Gas Conservation Tax from ½ mill to 1½ mills on each $1 market value effective July 1, 1967.
[5] Pressure base is 15.025 p.s.i.a.
[6] Includes 0.177-cent tax reimbursement authorized by letter-order dated Aug. 5, 1965.
[7] Oklahoma Natural classed as a pipeline in its Certificate (CI61-1408) for resale of the gas to Cities Service Gas Co. at initial rate of 17 cents. Oklahoma Natural's related increase to 19 cents has been approved. However, Oklahoma Natural must flow through any refund made by its suppliers.
[8] The stated effective date is the date of filing.
[9] Periodic rate increase.
[10] Pressure base is 14.65 p.s.i.a.
[11] Contract executed after Sept. 28, 1960, the date of issuance of the Commission's statement of general policy No. 61-1.
[12] Including 1.75-cents tax reimbursement.

The Superior Oil Co.'s (Superior) proposed rate increase is for reimbursement of the increase in the Utah oil and gas conservation tax which became effective on July 1, 1967. The sale is from the Aneth Field in San Juan County, Utah. No formal rate ceiling has been announced by the Commission for this area; however, Superior, along with other producers, received authorization to sell gas in the area at an initial rate of 17.877 cents per Mcf in Opinion No. 335 issued February 23, 1960. The proposed rate of 17.8947 cents per Mcf exceeds the 17.87 cents per Mcf rate. Other increased rates of 16.3844 cents and 18.7 cents per Mcf previously filed in the Utah Area were suspended for 5 months. We conclude that Superior's proposed rate increase should also be suspended. However, since the increased rate exceeds the initial rate for the area only because of the tax reimbursement, a one day suspension period is appropriate.

Independent Gas & Oil Producers, Inc.'s (Independent) proposes a periodic rate increase from 11 cents to 12 cents per Mcf for a wellhead sale of gas to Oklahoma Natural Gas Gathering Corp. (Oklahoma Natural) from the Ringwood Area, Major County, Okla. (Oklahoma "Other" Area). The area ceiling rate is 11 cents per Mcf. The sale, covered under a contract dated March 23, 1967, was authorized under a temporary certificate issued August 3, 1967, in Docket No. CI68-1, at a conditional rate of 11 cents per Mcf. Independent was advised in the letter granting the temporary certificate that it could file a rate increase to the 12 cents per Mcf contractual rate and request a shortened suspension period. Although Independent requested an effective date of October 1, 1967, for which adequate notice has not been given, it did not request a shortened suspension period as suggested in the temporary letter. Consistent with prior Commission action on filings in the Ringwood Area, it is appropriate that the 30-day notice requirement be waived and that Independent's rate filing be suspended for one day from October 11, 1967, the date of filing.

The contract related to the rate filing proposed by General American Oil Co. of Texas (General American) was executed subsequent to September 29, 1960, the date of issuance of the Commission's statement of general policy No. 61-1, as amended, and the proposed increased rate is above the applicable ceiling for increased rates but does not exceed the applicable ceiling price for initial rates in the area involved. Under the circumstances, we believe that General American's rate filing should be suspended for one day from November 6, 1967, the proposed effective date.

[F.R. Doc. 67-13109; Filed, Nov. 7, 1967; 8:45 a.m.]

[Docket No. RP68-4]

LOUISIANA NEVADA TRANSIT CO.

Notice of Proposed Changes in Rates and Charges

NOVEMBER 2, 1967.

Take notice that on October 25, 1967, Louisiana Nevada Transit Co. (Louisiana Nevada) tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1. The proposed changes, designated as Third Revised Sheet No. 3A, reflect an increase of 4.87 cents per Mcf and a new form of rate for sales of natural gas to the city of De Queen, Ark., the sole purchaser under Louisiana Nevada's Rate Schedule G-1.

The proposed change, amounting to $45,904 annually, based on sales for the year 1966, is proposed to become effective November 25, 1967. Copies of the filing have been served upon the city of De Queen and the Public Service Commissions of Arkansas and Louisiana. Comments may be filed with the Commission on or before November 20, 1967.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-13205; Filed, Nov. 7, 1967; 8:48 a.m.]

INTERNATIONAL JOINT COMMISSION—UNITED STATES AND CANADA

RED RIVER (OF THE NORTH) WATER POLLUTION

Public Hearings

The International Joint Commission will conduct public hearings at 10 a.m., local time, in the Lecture Bowl, Second Floor, University Center, University of North Dakota, Grand Forks, N. Dak., on December 4, 1967, and at 10 a.m., local time, in Room 254, Legislative Buildings,

Winnipeg, Manitoba, on December 5, 1967, on the question of pollution of the waters crossing the international boundary in the Red River.

On October 1, 1964, the Governments of Canada and the United States requested the Commission "to inquire into and report to the two Governments upon the following questions:

1. Are the waters [referred to in the first paragraph above] being polluted on either side of the international boundary to an extent which is causing, or likely to cause, injury to health or property on the other side of the boundary?

2. If the foregoing question is answered in the affirmative, to what extent, by what causes, and in what localities is such pollution taking place?

3. If the Commission should find that pollution of the character just referred to is taking place, what remedial measures would, in its judgment, be most practicable from the economic, sanitary and other points of view and what would be the probable cost thereof?

Upon receipt of the reference, the Commission established the International Red River Water Pollution Board to carry out the necessary technical investigations. Volume I of the Board's report to the International Joint Commission dated October 1967 has been received. Copies may be obtained by writing to either Secretary of the Commission or may be examined at the following locations indicated hereunder.

Office of the Town Clerk, Pembina, N. Dak.
Grand Forks Public Library, Grand Forks, N. Dak.
Fargo Public Library, Fargo, N. Dak.

Pursuant to the above, the purpose of the public hearings is to receive testimony and evidence with respect to the information contained in the report of the Board or which is relevant to the questions before the Commission, such testimony and evidence to be taken into account by the Commission in formulating its report to the Governments.

At the hearings all interested persons will be given opportunity to express their views orally or by written statements. Where possible, twelve (12) copies of the written statements should be filed with either Secretary ten (10) days in advance of the hearing, with thirty (30) copies to be deposited with them at the hearings.

WILLIAM A. BULLARD,
Secretary, United States Section, International Joint Commission, Washington, D.C. 20440, STOP 36.

D. G. CHANCE,
Secretary, Canadian Section, International Joint Commission, Room 850, 151 Slater Street, Ottawa 4, Ontario, Canada.

NOVEMBER 2, 1967.

[F.R. Doc. 67-13166; Filed, Nov. 7, 1967; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[81-75]

NATIONAL EXHIBITION CO.

Notice of Hearing for Exemption

NOVEMBER 2, 1967.

National Exhibition Co. has applied to the Securities and Exchange Commission for exemption from the registration provisions of section 12(g) of the Securities Exchange Act of 1934. Such exemption, if granted, also would provide an exemption from the provisions of sections 13 and 16 of the Act.

The hearing upon the exemption application was scheduled for October 16, 1967, in the Commission's Washington office, later postponed to November 13, 1967.

Notice is hereby given that, on motion of National Exhibition Co., the hearing scheduled for November 13, 1967, has been transferred to the Commission's New York Regional Office, Room 2300, 225 Broadway, New York City, N.Y.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-13173; Filed, Nov. 7, 1967; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 471]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

NOVEMBER 3, 1967.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission, under the Commission's Deviation Rules Revised, 1957 (49 CFR 211.1(c)(3)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1(d)(4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1(c)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 35465 (Sub-No. 2) (Deviation No. 1), WEST NEBRASKA EXPRESS, INC., Box 350, 709 Mill Drive, Scottsbluff, Nebr. 69361, filed October 26, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Sidney, Nebr., over U.S. Highway 30 to Kimball, Nebr., thence over Nebraska Highway 71 to the Nebraska-Colorado State line, thence over Colorado Highway 71 to junction Colorado Highway 14, thence over Colorado Highway 14 to junction Colorado Highway 54, thence over Colorado Highway 52 to Fort Morgan, Colo., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Henry, Nebr., over U.S. Highway 26 to junction U.S. Highway 385 (formerly Nebraska Highway 19), thence over U.S. Highway 385 to Sidney, Nebr., thence over U.S. Highway 30 to Fremont, Nebr., thence over U.S. Highway 275 to Omaha, Nebr., (2) from Denver, Colo., over Interstate Highway 25 and U.S. Highway 87 to junction U.S. Highway 85 (approximately 8 miles north of Cheyenne, Wyo.), thence over U.S. Highway 85 to Torrington, Wyo., thence over U.S. Highway 26 to Scottsbluff, Nebr., thence over Nebraska Highway 29 to Gering, Nebr., and (3) from Denver, over U.S. Highway 6 to Sterling, Colo., thence over U.S. Highway 138 to junction Colorado Highway 113, thence over Colorado Highway 113 to the Colorado-Nebraska State line, thence over Nebraska Highway 19 to Sidney, Nebr., thence over U.S. Highway 30 to Pine Bluffs, Wyo., and return over the same routes.

No. MC 106943 (Deviation No. 11), EASTERN EXPRESS, INC., 1450 Wabash Avenue, Terre Haute, Ind. 47808, filed October 23, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Harrisburg, Pa., over Interstate Highway 81 to junction Interstate Highway 84 at Scranton, Pa., thence over Interstate Highway 84 to junction Interstate Highway 90 near Sturbridge, Mass., thence over Interstate Highway 90 to Boston, Mass., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Harrisburg, Pa., over U.S. Highway 22 to Newark, N.J., thence over U.S. Highway 1 to Boston, Mass., and return over the same route.

No. MC 108859 (Deviation No. 4) (Amended), CLAIRMONT TRANSFER CO., 1803 Seventh Avenue, North, Escanaba, Mich. 49829, filed September 5, 1967, amended October 20, 1967, published in the FEDERAL REGISTER September 20, 1967, and republished, as amended, in this issue. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes (as amended) as follows: (1) From Milwaukee, Wis., over U.S. Highway 41 to Green Bay, Wis., (2) from Chicago, Ill., over Interstate Highway 94 to Milwaukee, Wis., and (3) from junction Interstate Highway 294 and U.S. Highway 41 and Interstate Highway 94 north of Chicago, Ill., over Interstate Highway 294 to junction U.S. Highway 41 at or near Hammond, Ind., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From Milwaukee, Wis., over Wisconsin Highway 57 to junction Wisconsin Highway 23, thence over Wisconsin Highway 23 to Plymouth, Wis., thence over Wisconsin Highway 67 to Kiel, Wis., thence over Wisconsin Highway 57 via Chilton, Wis., to Green Bay, Wis., (2) from Chicago, Ill., over U.S. Highway 41 to Milwaukee, Wis., and (3) from junction U.S. Highway 41 and Interstate Highway 294 at or near Hammond, Ind., over U.S. Highway 41 to junction Interstate Highway 294 north of Chicago, Ill. The purpose of this republication is to delete the first four deviation routes previously requested by the carrier in its deviation notice and which was described in the FEDERAL REGISTER of September 20, 1967.

MOTOR CARRIERS OF PASSENGERS

No. MC 1130 (Deviation No. 2), INTERSTATE BUSSES CORPORATION, Post Office Box 1116, Annex Station, Providence, R.I. 02901, filed October 27, 1967. Carrier proposes to operate as a common carrier, by motor vehicle, of *passengers and their baggage, and express and newspapers*, in the same vehicle with passengers, over deviation routes as follows: (1) From Palmer, Mass., over U.S. Highway 20 to junction Massachusetts Highway 32, thence over Massachusetts Highway 32 for a distance of one mile to junction with Massachusetts Turnpike, thence over the Massachusetts Turnpike to Interchange No. 10 at Auburn, Mass., thence over Massachusetts Highway 146 to the Massachusetts-Rhode Island State line, thence over Rhode Island Highway 146 to Providence, R.I., thence over U.S. Highway 44 to East Providence, R.I., thence over Rhode Island Highway 114 to Rumford, R.I., thence over U.S. Highway 1A to the Narragansett Race Track, Pawtucket, R.I., (2) from Palmer, Mass., over the route described in (1) above to the Massachusetts-Rhode Island State line, thence over Rhode Island Highway 146 to Ashton, R.I., thence over Interstate Highway 295 to junction Interstate Highway 95, at Attleboro, Mass., thence over Interstate Highway 95 to junction U.S. Highway 1A at South Attleboro, Mass., thence over U.S. Highway 1A to the Narragansett Race Track at Pawtucket, R.I., (3) from Palmer, Mass., over the routes described above to the Lincoln Downs Race Track, in Lincoln, R.I., on Rhode Island Highway 146, and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over pertinent service routes as follows: (1) From Providence, R.I., over U.S. Highway 44 to Putnam, Conn., thence over Connecticut Highway 171 to South Woodstock, Conn., thence over Connecticut Highway 169 to North Woodstock, Conn., thence over Connecticut Highway 197 to Quinebaug, Conn., thence over Connecticut Highway 131 to the Massachusetts-Connecticut State line, thence over Massachusetts Highway 131 to Sturbridge, Mass., thence over U.S. Highway 20 to North Wilbraham, Mass., thence over Wilbraham Road to Springfield, Mass., (2) from Centerdale, R.I., over Mineral Spring Avenue and unnumbered highways in the town of North Providence into Pawtucket, R.I., thence over city streets to the Narragansett Race Track, and (3) from Greenville, R.I., over Rhode Island Highway 116 to junction Rhode Island Highway 146, thence over Rhode Island Highway 146 to Lincoln Downs Race Track, and return over the same routes.

No. MC 1515 (Deviation No. 410) (Cancels Deviation No. 216 and No. 243), GREYHOUND LINES, INC. (Western Division), Market and Fremont Streets, San Francisco, Calif. 94106, filed October 27, 1967. Carrier's representative: W. T. Meinhold, 371 Market Street, San Francisco, Calif. 94105. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From junction U.S. Highway 40, unnumbered highway and Interstate Highway 80 (Westfall Road Junction), over Interstate Highway 80 to junction unnumbered highway (Pershing-Churchill County Line), (2) from junction unnumbered highway and Interstate Highway 80 (North Hot Springs Junction), over Interstate Highway 80 to junction unnumbered highway (South Hot Springs Junction), (3) from junction U.S. Highway 40 and Interstate Highway 80 (East Fernley), over Interstate Highway 80 to junction U.S. Highway 40 (West Wadsworth), and (4) from junction U.S. Highway 40 and Interstate Highway 80 (East Verdi Junction) over Interstate Highway 80 to junction unnumbered highway (West Verdi Junction), and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From the Utah-Nevada State line over U.S. Highway 40 to junction Interstate Highway 80 (West Deeth Junction), thence over Interstate Highway 80 to junction U.S. Highway 40 (West Osino Junction), thence over U.S. Highway 40 to junction Interstate Highway 80 (West Emigrant Summit Junction), thence over Interstate Highway 80 to junction U.S. Highway 40 (West Argenta Junction), thence over U.S. Highway 40 to junction Interstate Highway 80 (West Battle Mountain Junction), thence over Interstate Highway 80 to junction U.S. Highway 40 (East Winnemucca Junction), thence over U.S. Highway 40 to junction Interstate Highway 80 (West Humboldt Junction), thence over Interstate Highway 80 to junction U.S. Highway 40 (East Wendover Junction), thence over U.S. Highway 40 to junction unnumbered highway (Westfall Road Junction), thence over unnumbered highway to junction Interstate Highway 80 (Pershing-Churchill County Line), thence over Interstate Highway 80 to junction unnumbered highway (North Hot Springs Junction), thence over unnumbered highway to junction Interstate Highway 80 (South Hot Springs Junction), thence over Interstate Highway 80 to junction U.S. Highway 40 (East Fernley Junction), thence over U.S. Highway 40 to junction Interstate Highway 80 (West Wadsworth), thence over Interstate Highway 80 to Sparks, thence over U.S. Highway 40 to junction unnumbered highway (East Verdi Junction), thence over unnumbered highway via Verdi to junction Interstate Highway 80 (West Verdi Junction), thence over Interstate Highway 80 to the Nevada-California State line. (Connects with Utah Route 1 and California Route 68.)

No. MC 1515 (Deviation No. 411) (Cancels Deviation No. 201), GREYHOUND LINES, INC. (Southern Division), 219 East Short Street, Lexington, Ky. 40507, filed October 27, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From junction U.S. Highway 60 and Interstate Highway 64 east of Owingsville, Ky., over Interstate Highway 64 to junction U.S. Highway 60 at the city limits of Lexington, Ky., (b) from junction Interstate Highway 64 and Kentucky Highway 36 over Kentucky Highway 36 to Owingsville, Ky., (b) frrom junction Interstate Highway 64 and Kentucky Highway 11 over Kentucky Highway 11 to Mount Sterling, Ky., (c) from junction Interstate Highway 64 and U.S. Highway 227 over U.S. Highway 227 to Winchester, Ky., and (d) from junction Interstate Highway 64 and Kentucky Highway 1678 over Kentucky Highway 1678 to junction U.S. Highway 60, and (2) from junction U.S. Highway 60 and Interstate Highway 64, near Jett, Ky., over Interstate Highway 64 to Louisville, Ky., with the following access routes: (a) From Frankfort, Ky., over U.S. Highway 127 to junction Interstate Highway 64, (b) from Shelbyville, Ky., over Kentucky Highway 53 to junction U.S. Highway 60, (c) from junction Interstate Highway 64 and Kentucky Highway 55 over Kentucky Highway 55 to junction U.S. Highway 60, and (d) from junction Interstate Highway 64 and Kentucky Highway 841 over Kentucky Highway 841 to junction U.S. Highway 60, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Huntington, W. Va., over U.S. Highway 60 to Louisville, Ky., thence over U.S. Highway 31W via West Point, Ky., to Tip Top, Ky., thence over U.S. Highway 60 to Henderson, Ky., and return over the same route.

No. MC 1515 (Deviation No. 412) (Cancels Deviation No. 365), GREYHOUND LINES, INC. (Southern Division), 219 East Short Street, Lexington, Ky. 40507, filed October 27, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, *of passengers and their baggage, and express and newspapers*, in the same vehicle with passengers, over deviation routes as follows: (1) From St. Louis, Mo., over Interstate Highway 55 to Festus, Mo., with the following access routes: (a) From junction Interstate Highway 55 and U.S. Highways 61 and 67 over U.S. Highways 61 and 67 to junction Missouri Highway 267, and (b) from junction Interstate Highway 55 and Missouri Highway 141 over Missouri Highway 141 to junction U.S. Highways 61 and 67, and (2) from junction Interstate Highway 55 and U.S. Highway 61, 4 miles east of Jackson, Mo., over Interstate Highway 55 to Memphis, Tenn., with the following access routes: (a) From junction Interstate Highway 55 and U.S. Highway 62 over U.S. Highway 62 to Sikeston, Mo., (b) from junction Interstate Highway 55 and Missouri Highway 162 over Missouri Highway 162 to Portageville, Mo., (c) from junction Interstate Highway 55 and Missouri Highway 84 over Missouri Highway 84 to Hayti, Mo., (d) from junction Interstate Highway 55 and Arkansas Highway 18 over Arkansas Highway 18 to Blytheville, Ark., (e) from junction Interstate Highway 55 and Arkansas Highway 140 over Arkansas Highway 140 to Osceola, Ark., (f) from junction Interstate Highway 55 and Arkansas Highway 181 over Arkansas Highway 181 to Wilson, Ark., (g) from junction Interstate Highway 55 and Arkansas Highway 118 over Arkansas Highway 118 to Joiner, Ark., and (h) from junction Interstate Highway 55 and Arkansas Highway 42 over Arkansas Highway 42 to Turrell, Ark., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From St. Louis, Mo., over U.S. Highway 67 to Mehlville, Mo., thence over U.S. Highway 61 to junction old U.S. Highway 61 at a point approximately 1 mile northeast of Turrell, Ark., thence over old U.S. Highway 61 to Turrell, Ark., thence over U.S. Highway 61 via Clarksdale, Miss., to Vicksburg, Miss., and return over the same route.

No. MC 28985 (Deviation No. 1), SEASHORE TRANSPORTATION COMPANY, New Bern, N.C. 28560, filed October 24, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, *of passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From Raleigh, N.C., over new U.S. Highway 70 and North Carolina Highway 50 to junction North Carolina Highway 50 and old U.S. Highway 70, at Garner, N.C., (2) from junction North Carolina Highway 50 and U.S. Highway 70 over U.S. Highway 70 to junction North Carolina Highway 210, and (3) from junction U.S. Highways 70 and 301 in Smithfield, N.C., over U.S. Highway 70 to junction North Carolina Highway 581 in Goldsboro, N.C., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over pertinent service routes as follows: (1) From Raleigh, N.C., over old U.S. Highway 70 (known as Garner Road) to junction North Carolina Highway 50 and new U.S. Highway 70 at Garner, N.C., (2) from junction North Carolina Highway 50 and U.S. Highway 70 over North Carolina Highway 50 to junction County Road 1010, thence over County Road 1010 to junction North Carolina Highway 210, thence over North Carolina Highway 210 to junction U.S. Highway 70, and (3) from junction U.S. Highways 70 and 301 in Smithfield, N.C., over U.S. Highway 301 to junction County Road 1007, thence over County Road 1007 to junction North Carolina Highway 581, thence over North Carolina Highway 581 to junction U.S. Highway 70, in Goldsboro, N.C., and return over the same route.

No. MC 29640 (Deviation No. 3), TRI-STATE EXPRESS, INC., 2510 North 11th Street, Omaha, Nebr. 68110, filed October 24, 1967. Carrier's representative: Grant J. Merritt, 1000 First National Bank Building, Minneapolis, Minn. 55402. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Omaha, Nebr., over Interstate Highway 480 to junction Alternate U.S. Highway 30, thence over Alternate U.S. Highway 30 to junction Interstate Highway 29, thence over Interstate Highway 29 to Sioux City, Iowa, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Wakefield, Nebr., over Nebraska Highway 16 to junction Nebraska Highway 9, thence over Nebraska Highway 9 to junction U.S. Highway 20, thence over U.S. Highway 20 to Sioux City, Iowa, and (2) from Wakefield, Nebr., over Nebraska Highway 16 to junction Nebraska Highway 9, thence over Nebraska Highway 9 to Westpoint, Nebr., thence over U.S. Highway 275 to Omaha, Nebr., and return over the same routes.

No. MC 60325 (Deviation No. 4), JEFFERSON TRANSPORTATION CO., 1114 Currie Avenue, Minneapolis, Minn. 55403, filed October 27, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Ames, Iowa, over U.S. Highway 30 to junction Interstate Highway 35, thence over Interstate Highway 35 to junction U.S. Highway 20, thence over U.S. Highway 20 to junction U.S. Highway 65 at Iowa Falls, Iowa, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over pertinent service routes as follows: (1) From Minneapolis, Minn., over city streets to St. Paul, Minn., thence over Minnesota Highway 49 to junction Minnesota Highway 218, thence over Minnesota Highway 218 to Farmington, Minn., thence over U.S. Highway 65 to Albert Lea, Minn., thence over U.S. Highway 69 to Kansas City, Kans., thence over city streets to Kansas City, Mo., and (2) from Minneapolis, Minn., over the above specified route to Albert Lea, Minn., thence over U.S. Highway 65 to junction U.S. Highway 30, thence over U.S. Highway 30 to Ames, Iowa, thence over U.S. Highway 69 to Bethany, Mo., and return over the same routes.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13192; Filed, Nov. 7, 1967; 8:47 a.m.]

[Notice 1120]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

NOVEMBER 3, 1967.

The following publications are governed by Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER issue of April 20, 1966, which became effective May 20, 1966.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 30837 (Sub-No. 329) (Republication), filed April 6, 1966, published FEDERAL REGISTER issue of April 28, 1966, and republished this issue. Applicant: KENOSHA AUTO TRANSPORT CORPORATION, 4519 76th Street, Kenosha, Wis. Applicant's representative: Paul F. Sullivan, Colorado Building, 3141 G Street NW., Washington, D.C. 20005. In the above-entitled proceeding, the examiner recommended the granting to applicant a certificate of public convenience and necessity, authorizing operations in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of the commodities, to, and from points as described below. A decision and order of the Commission, Review Board Number 5 dated October 17, 1967, and served October 26, 1967, as amended, finds that operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of *truck concrete mixers, dump trailers and dump semitrailers, dump bodies, and trenching machines*, in initial movements, in truckaway service, from Industry, Calif., to points in the United States, except Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, and Wyoming; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 82841 (Sub-No. 18) (Republication), filed May 30, 1966, published FEDERAL REGISTER issues of June 23, 1966, August 11, 1966, and January 18, 1967, and republished this issue. Applicant: R. D. TRANSFER, INC., 801 Livestock Exchange Building, Omaha, Nebr. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. By application filed May 30, 1966, applicant seeks a certificate of public convenience and necessity authorizing operation in interstate or foreign commerce as a common carrier by motor vehicle over irregular routes, of (1) (a) pipe, tubing, and electric light poles, (b) accessories and fittings when moving in the same vehicle with pipe, tubing, and electric light poles, and (c) materials, equipment, and supplies used in installation and maintenance of electric light poles when moving with such light poles, from points in Douglas County, Nebr. (except Omaha, Nebr., and points in its commercial zone) to points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the international boundary line between the United States and Canada, and (2) irrigation systems and parts thereof, from points in Douglas County, Nebr. (except Omaha, Nebr., and points in its commercial zone), to points in Kentucky, Tennessee, and Florida, restricted against handling of commodities which by reason of size or weight require the use of special equipment or those which fall within the so-called "Mercer Description in (a), (b), and (c) above. NOTE: Applicant states the proposed operation could be tacked at Valley or Waterloo, Nebr., so as to transport agricultural machinery and parts, and contractors equipment and supplies, from Colorado and Kansas.

The application was referred to Examiner William J. Kane, for hearing and the recommendation of an appropriate order thereon. Hearing was held on February 20 and 21, 1967, at Omaha, Nebr. A report and order of the Commission, Division 1, served September 14, 1967, which became effective October 16, 1967, by notice served October 24, 1967, as amended, finds that the present and future public convenience and necessity require operation by applicants as a common carrier by motor vehicle, over irregular routes, in interstate or foreign commerce, of (1) *irrigation systems*, from the plantsite of Valmont Industries, Inc., located at or near Valley, Nebr., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia, and (2) *pipe, tubing, light poles, mast arms, brackets, bases, and accessories*, from the plantsite of Valmont Industries, Inc., located at or near Valley, Nebr., to points in Minnesota, Iowa, Missouri, Arkansas, and Louisiana, and States located east thereof, restricted to traffic originating at the above plantsite, further restricted against the transportation of commodities which by reason of size or weight require the use of special equipment, and against the transportation of oilfield commodities as described in *Mercer Extension—Oilfield Commodities*, 74 M.C.C. 459, and further restricted against combining or joining the authority granted herein with any other authority held by applicant to transport contractors' equipment, machinery, and supplies, for the purpose of performing any through transportation service; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 129666 (Sub-No. 101) (Republication), filed May 25, 1967, published FEDERAL REGISTER issue of June 15, 1967, and republished this issue. Applicant: MELTON TRUCK LINES, INC., Box 7295, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 450 American National Building, Oklahoma City, Okla. 73102. By application filed May 25, 1967, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of flakeboard and/or particleboard, when made from wood chips, wood shavings, sawdust, or ground wood with added liquid resin binder, from the plantsite or warehouse facilities of International Paper Co., at or near Gifford, Ark., to points in 24 States, including Arkansas. An order of the Commission, Operating Rights Board dated October 16, 1967, and served October 26, 1967, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of *flakeboard and particleboard*, from the plantsite or storage facilities of International Paper Co., located at or near Gifford, Ark., to points in Alabama, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, and Wisconsin; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest, may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 113855 (Sub-No. 142) (Republication), filed January 16, 1967, published FEDERAL REGISTER issue of February 1, 1967, and republished this issue. Applicant: INTERNATIONAL TRANSPORT, INC., South Highway 52, Rochester, Minn. 55902. Applicant's representative: Gene P. Johnson, 502 First National Bank Building, Fargo, N. Dak. 58102. By application filed January 16, 1967, applicant seeks a certificate of public convenience and necessity authorizing operation in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of (1) Irrigation systems, and parts for irrigation systems, from points in Douglas County, Nebr. (except Omaha, Nebr., and points in its commercial zone), to points in Alabama, Connecticut, Delaware, Florida, Georgia, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Rhode Island, Vermont, Virginia, and

West Virginia; (2) (a) pipe, accessories, and fittings when moving in the same vehicle with pipe, tubing, and electric light poles, and (b) materials, equipment, and supplies used in installation and maintenance of electric light poles when moving with such light poles, from points in Douglas County, Nebr. (except Omaha, Nebr., and points in its commercial zone), to points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the international boundary line between the United States and Canada. Restriction: Restricted against the transportation of commodities which by reason of size or weight require the use of special equipment and oilfield commodities, as described in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, 229, in (1) and (2) above. The application was referred to Examiner William J. Kane for hearing and the recommendation of an appropriate order thereon. Hearing was held on February 20 and 21, 1967, at Omaha, Nebr.

A report and order of the Commission, Division 1, served September 14, 1967, which became effective October 16, 1967, by notice served October 24, 1967, as amended, finds that the present and future public convenience and necessity require operation by applicant as common carriers by motor vehicle, in interstate or foreign commerce, over irregular routes of (1) *irrigation systems*, from the plantsite of Valmont Industries, Inc., located at or near Valley, Nebr., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia, and (2) *pipe, tubing, light poles, mast arms, brackets, bases, and accessories*, from the plantsite of Valmont Industries, Inc., located at or near Valley, Nebr., to points in Minnesota, Iowa, Missouri, Arkansas, and Louisiana, and States located east thereof, restricted to traffic originating at the above plantsite, further restricted against the transportation of commodities which by reason of size or weight require the use of special equipment, and against the transportation of oilfield commodities as described in *Mercer Extension—Oilfield Commodities*, 74 M.C.C. 459, and further restricted against combining or joining the authority granted herein with any other authority held by applicant to transport contractors' equipment machinery, and supplies, for the purpose of performing any through transportation service; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 128669 (Sub-No. 3) (Republication), filed June 12, 1967, published FEDERAL REGISTER issue of June 29, 1967 and republished this issue. Applicant: A. E. MORRIS, Route No. 3, Virgilina, Va. Applicant's representative: Henry W. McLaughlin III, Halifax, Va. 24558. By application filed June 12, 1967, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of plant mix, granular asphalt, in bulk, and crushed stone and sand from and to the points substantially as indicated below. An order of the Commission, Operating Rights Board dated October 16, 1967, and served November 1, 1967, finds that the present and future public convenience and necessity require operation by applicant in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of: (A) *Asphalt*, in bulk, and *sand* (1) from the site of the W. E. Graham Vulcan Materials Quarry located 3 miles north of South Boston, Va., (2) from the Southern Materials Quarry located at or near Bracey (Mecklenburg County), Va., (3) from the site of a quarry located about 2 miles north of Buggs Island (Mecklenburg County), Va., and (4) from the site of a quarry located about 2 miles east of Edgerton, Va., to points in Person, Granville, Vance, and Warren Counties, N.C.

(B) *Crushed stone and sand*, (1) from the site of the W. E. Graham Vulcan Materials Quarry, to Roxboro, N.C., (2) from the site of the Shelton quarry located in North Carolina south of Danville, Va., to Reidsville and Leaksville, N.C., and points in Rockingham and Caswill Counties, N.C., (3) from the site of a quarry located about 2 miles east of Edgerton, Va., to points in Halifax, Northampton, and Warren Counties, N.C.; and (C) *crushed stone*, (1) from the site of the W. E. Graham Vulcan Materials Quarry located 3 miles north of South Boston, Va., to points in Person and Granville Counties, N.C., and (2) from the site of a quarry located about 2 miles north of Buggs Island (Mecklenburg County), Va., to points in Vance and Granville Counties, N.C.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

NOTICES OF FILING OF PETITIONS

No. MC 3332 (Notice of filing of petition for correction of certificate to restore portion of authority mistakenly revoked), filed October 20, 1967. Petitioner: HOMER J. MICKLETHWAITE, EXECUTOR OF THE ESTATE OF CHARLES H. OAKES, Portsmouth, Ohio. Petitioner's representative: Earl N. Merwin, 85 East Gay Street, Columbus, Ohio 43215. By certificate dated January 9, 1941, petitioner was authorized to transport, over irregular routes: (1) *Natural stone*, rough quarried, sawed, chipped, dressed, polished, or otherwise treated, from McDermott, Ohio, *to points and places in Boone, Kenton, Campbell, Pendleton, Bracken, Mason, Lewis, Greenup, Boyd, and Lawrence Counties, Ky.*, those in that part of Pennsylvania bounded by a line beginning at the Pennsylvania-Maryland State line and extending along U.S. Highway 522 to Lewistown, Pa., thence along U.S. Highway 322 to junction U.S. Highway 119, thence along U.S. Highway 119 to Indiana, Pa., thence along U.S. Highway 422 to the Pennsylvania-Ohio State line, and thence along the Pennsylvania-Ohio, Pennsylvania-West Virginia, and Pennsylvania-Maryland State lines to point of beginning, and those in West Virginia west and north of a line beginning at Williamson, W. Va., and extending along U.S. Highway 52 to Bluefield, W. Va., and thence along U.S. Highway 219 to the West Virginia-Maryland State line, including points and places on the indicated portions of the highways specified; (2) *steel*, structural or fabricated, (a) from *Portsmouth, Ohio, to Louisville, Ky., and the above-specified destination points;* (b) from Huntington, W. Va., to Cleveland, Ohio; (c) from Pittsburgh, Pa., to Georgetown and Youngstown, Ohio. In June 1949, petitioner requested that the Commission revoke that portion of his authority in MC 3332 "with respect to the State of Kentucky." The certificate issued June 9, 1950, not only eliminated reference to the State of Kentucky, but also eliminated reference to authority to transport steel, structural or fabricated, "from Portsmouth, Ohio, to the above-specified destination points." By the instant petition, petitioner requests that the certificate be reissued so as to include the above authority which it claims was mistakenly revoked. Any interested person desiring to participate, may file an original and six copies of his written representations, views or argument in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 115841 (Sub-No. 135) (Notice of filing of petition to modify its certificate), filed October 27, 1967. Petitioner: COLONIAL REFRIGERATED TRANSPORTATION, INC., Birmingham, Ala. Petitioner's representative: C. E. Wesley, Post Office Box 2169, Birmingham, Ala. 35201. Petitioner is authorized in No. MC 115841 (Sub-No. 135) to transport: *Foods, and food preparations*, raw or manufactured, and *foodstuffs* raw and manufactured except such commodities as are already included in the commodities described above, in vehicles equipped with mechanical refrigeration, from Brundidge, Huntsville, Birmingham, and Decatur, Ala., to points in Connecticut, Delaware, Indiana (except points in Lake County, Ind.), Kentucky, Maryland, Massachusetts, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Virginia, West Virginia, and Wisconsin (except Kenosha, Milwaukee, and Racine, Wis., and the commercial zones of Kenosha, Milwaukee, and Racine, as defined by the Commission), with no transportation for compensation on return except as otherwise authorized. Restriction: The service authorized herein is subject to the following conditions: The authority granted herein is restricted against the movement of any traffic which has as its origin any point in Florida. The authority granted herein is restricted to the transportation of mixed loads of perishable and nonperishable commodities. The authority granted herein to the extent that it duplicates any authority heretofore granted to or now held by carrier shall not be construed as conferring more than one operating right. By the instant petition, petitioner seeks to modify the above-portion of the certificate whereby it would read the same except that sentence which reads: "The authority granted herein is restricted to the transportation of mixed loads of perishable and nonperishable commodities." Petitioner states it has no objection to the other portion of the restriction remaining in effect which concerns traffic from the State of Florida. Petitioner seeks to remove only that portion of the restriction in its certificate which requires *mixed loads* of perishable and nonperishable commodities to be moved at the same time. Any interested person desiring to participate, may file an original and six copies of his written representations, views or argument in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 118803 and No. MC 118803 (Sub-No. 2) (Notice of filing of petition for reconsideration and modification of permits), filed October 19, 1967. Petitioner: ATLANTIC TRUCK LINES, INC., Paterson, N.J. Petitioner's representative: Athur H. Priest, 71-23 Austin Street, Forest Hills, N.Y. 11375. Petitioner holds a permit in No. MC 118803 authorizing the transportation of roofing materials, from Clark, N.J., Philadelphia, Pa., Charleston, S.C., Birmingham, Ala., and Shreveport, La., to points in Florida south and east of the Suwannee River; and sheet metal, sheet metal products, and sheet metal working tools other than power; air conditioning and heating ducts, pipes, elbows, fittings, vents, dampers, flues, grills, registers, insulating materials and adhesives; rain carrying gutters, downspouts, eaves, valleys, elbows and fittings and roof ventilators, from the plantsite of L. Bieler & Sons, Inc., and National Elbow & Fitting Corp. located at Hauppauge, Suffolk County, Long Island City and Rochester, N.Y., Newark, N.J., Philadelphia, Lancaster, and Pittsburgh, Pa., Martins Ferry, Ohio, Chicago, Ill., Baltimore, Md., Atlanta, Ga., and Birmingham, and Gadsden, Ala., to points in Florida south and east of the Suwannee River; and returned shipments of the commodities specified above, from points in Florida south and east of the Suwannee River; and returned shipments of the commodities specified above, from points in Florida south and east of the Suwannee River, to their respective origin points, under continuing contract, or contracts with Southern Metal Products, Inc., of Miami, Fla. Floor coverings, from New York, N.Y., South Plainfield, N.J., Chicago, Ill., and Jackson, Miss., to points in Florida south and east of the Suwannee River; and returned shipments, on return, limited to a transportation service to be performed under a continuing contract, or contracts, with Southern Tile Supply Corp., of Miami, Fla.

Air conditioning and heating ducts, pipes, elbows, fittings, vents, dampers, flues, grills, registers, and rain carrying gutters, downspouts, eaves, valleys, elbows and fittings and roof ventilators, from the plantsite of L. Bieler & Sons, Inc., and National Elbow & Fitting Corp. located at Hauppauge, Suffolk County, and Long Island City, N.Y., to points in Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, Ohio, Delaware, Maryland, Virginia, North Carolina, Georgia, Alabama, and that part of New Jersey south of U.S. Highway 30; and returned shipments, on return (no authority is granted hereinabove to transport commodities in bulk, in tank vehicles). Air conditioning and heating ducts, pipes, elbows, fittings, vents, dampers, flues, grills, registers, rain carrying gutters, down spouts, eaves, valleys, elbows and fittings and roof ventilators, from the plantsite of L. Bieler & Sons, Inc., and National Elbow & Fitting Corp. located at Hauppauge, Suffolk County, and Long Island City, N.Y., to points in Kentucky, Tennessee, Iowa, Indiana, West Virginia, Illinois, South Carolina, New Hampshire, Maine, Michigan, Mississippi, Vermont, Wisconsin, points in Florida north and west of the Suwannee River, points in New Jersey north of U.S. Highway 30, and points in Audrain, Callaway, Crawford, Franklin, Gasconade, Jefferson, Lincoln, Monroe, Montgomery, Perry, Pike, Ralls, St. Charles, Saint Francois, St. Louis, St. Louis City, Ste. Genevieve, Warren, and Washington Counties, Mo., and returned shipments on return, restricted to a transportation service to be performed, under a continuing contract, or contracts, with the L. Bieler & Sons, Inc., of Long Island City, N.Y., and National Elbow & Fitting Corp., of Long Island City, N.Y.

In No. MC 118803 (Sub-No. 2), petitioner holds a permit authorising the transportation of air conditioning and heating ducts, pipes, elbows, fittings, vents, dampers, flues, grills, registers, rain carrying gutters, downspouts, eaves, valleys, elbows and fittings and roof ventilators, from Hauppauge, Suffolk County, N.Y., and Long Island City, N.Y., to points in Arkansas, Kansas, Louisiana, Nebraska, Oklahoma, Texas, and Missouri (except points in Audrain, Callaway, Crawford, Franklin, Gasconade, Jefferson, Lincoln, Monroe, Montgomery, Perry, Pike, Ralls, St. Charles, St. Francois, St. Louis City, Ste. Genevieve, Warren, and Washington Counties), with no transportation for compensation on return except as otherwise authorized, limited to a transportation service to be performed under a continuing contract, or contracts with L. Bieler & Sons, Inc., and National Elbow & Fitting Corp., both of Hauppauge, Suffolk County, N.Y., and Long Island City, N.Y. By the instant petition, petitioner seeks to add the following contracting shippers: Bieler International Corp., and Southern Diversified Industries, Inc., both of Hauppauge, Suffolk County, N.Y. Any interested person desiring to participate, may file an original and six copies of his written representations, views or argument in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER. Petitioner shall, within a period of 30 days from the date of this publication, file verified statements in support of the petition (including appropriate evidence of shipper support for the modification proposed).

No. MC 119903 (Subs 2, 5, and 6) (Notice of Filing of Petition To Modify Permits), filed October 25, 1967. Petitioner: D. J. WALRAVEN, 2713 Maple Drive, Rome, Ga. Petitioner's representative: Monty Schumacher, 1375 Peachtree Street NE., Suite 693, Atlanta, Ga. 30309. Petitioner is authorized in No. MC 119903 Sub 2 to transport, over irregular routes: (1) *Fertilizer and feed*, in bulk or in bags, from Guntersville, Birmingham, Cullman, Gadsden, and Sheffield, Ala., to points in that part of Georgia on and north of the south and east line of Troup, Coweta, Spalding, Butts, Jasper, and Putnam Counties, and on and west of U.S. Highway 441; and to points in Knox, Blount, Sevier, and Anderson Counties, Tenn., with no transportation for compensation on return except as otherwise authorized; from Carrollton, Savannah, and Cordele, Ga., to points in that part of Alabama on and north of U.S. Highway 78 and on and east of U.S. Highway 11; and to points in Knox, Blount, Sevier, and Anderson Counties, Tenn., with no transportation for compensation on return except as otherwise authorized; (2) *feed ingredients*, from Guntersville, Ala., to points in that part of Georgia on and north of the south and east line of Troup,

Coweta, Spalding, Butts, Jasper, and Putnam Counties, and on and west of U.S. Highway 441; and to points in Knox, Blount, Sevier, and Anderson Counties, Tenn., with no transportation for compensation on return except as otherwise authorized; (3) *farm supplies*, from Gadsden, Ala., to points in that part of Georgia on and north of the south and east line of Troup, Coweta, Spalding, Butts, Jasper, and Putnam Counties, and on and west of U.S. Highway 441; and to points in Knox, Blount, Sevier, and Anderson Counties, Tenn., with no transportation for compensation on return except as otherwise authorized;

(4) *Field fence posts*, from Sweetwater, Tenn., to points in that part of Georgia on and north of the south and east line of Troup, Coweta, Spalding, Butts, Jasper, and Putnam Counties, and on and west of U.S. Highway 441; and to points in that part of Alabama on and north of U.S. Highway 78 and on and east of U.S. Highway 11, with no transportation for compensation on return except as otherwise authorized; (5) *field fencing wire*, from Savannah, Ga., to points in that part of Alabama on and north of U.S. Highway 78 and on and east of U.S. Highway 11, and to points in Knox, Blount, Sevier, and Anderson Counties, Tenn., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract or contracts, with Farmers Mutual Exchanges of Rome and LaFayette, Ga., and Cleveland, Tenn. In MC 119903 Sub 5, petitioner is authorized to transport, over irregular routes: *Fertilizer and fertilizer materials*, in bags and in bulk, from Tyner, Tenn., to points in Georgia located on or north of U.S. Highway 80, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Cotton Producers' Association of Atlanta, Ga. In MC 119903 Sub 6, petitioner is authorized to transport, over irregular routes: (6) *Feed*, in bulk, from Calhoun, Ga., to points in that part of Alabama on and east of a line beginning at the Alabama-Tennessee State line and extending along U.S. Highway 72 to Scottsboro, Ala., thence along Alabama Highway 79 to junction U.S. Highway 431, thence along U.S. Highway 431 to Gadsden, Ala., thence along Alabama Highway 77 to junction Alternate U.S. Highway 231, thence along Alternate U.S. Highway 231 to Sylacauga, Ala., thence along U.S. Highway 280 to the southern boundary of Talladega County, Ala., and thence east along the southern boundaries of Talladega, Clay, and Randolph Counties, Ala., to the Georgia-Alabama State line, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts with Cotton Producers' Association of Atlanta, Ga., and its affiliates. By the instant petition, petitioner seeks to modify his outstanding permits to include Morris Feed & Seed Co., Rome, Ga., as an additional contracting shipper. Any interested person desiring to participate, may file an original and six copies of his written representations, views, or argument in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 126835 (Sub-No. 11) (Notice of Filing of Petition for Authority To Add Shipper), filed October 27, 1967. Petitioner: EDGAR BISCHOFF, doing business as CASKET DISTRIBUTORS, West Harrison, Ind., Rural Route 2, Post Office Harrison, Ohio 45030. Petitioner is authorized in No. MC 126835 (Sub-No. 11) to transport, over irregular routes: *Caskets, and casket displays and funeral supplies* when moving at the same time and in the same vehicle with caskets, from Cincinnati, Ohio, to points in the United States (except Alaska and Hawaii); and *returned shipments* of caskets, casket displays, and funeral supplies, from the above-designated destination points to Cincinnati, Ohio. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts with the Crane & Breed Casket Co. of Cincinnati, Ohio. By the instant petition, petitioner requests permission to add Edwards Manufacturing Co. as a shipper. Any interested person desiring to participate, may file an original and six copies of his written representations, views, or argument in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240.)

MOTOR CARRIERS OF PROPERTY

No. MC-F-9908 (correction) (WERNER TRANSPORTATION CO.—Control and Merger—CONTINENTAL TRANSPORTATION LINES, INC.), published in the October 25, 1967, issue of the FEDERAL REGISTER on page 14809. Transaction should also include: Authority sought for control by WERNER TRANSPORTATION CO., 2500 West County Road C, Roseville, Minn. 55113, of RAND EXPRESS FREIGHT LINES, INC., Continental Square, Graham Street, McKees Rocks, Pa. 15136, and for acquisition by HARVEY L. WERNER, also of Roseville, Minn., of control of RAND EXPRESS FREIGHT LINES, INC., through the acquisition by WERNER TRANSPORTATION CO. Operating rights sought to be controlled: (A) *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between New York, N.Y., and Boston, Mass., between New Haven, Conn., and Boston, Mass., between Springfield, Mass., and Williamstown, Mass., between Providence, R.I., and New Bedford, Mass., between junction Massachusetts Highway 3A and Massachusetts Highway 128, and Gloucester, Mass., between Boston, Mass., and Worcester, Mass., between Leominster, Mass., and Greenfield, Mass., between Lowell, Mass., and Fall River, Mass., between New Bedford, Mass., and junction Massachusetts Highways 140 and 24, between Providence, R.I., and junction Massachusetts Highways 122 and 2, between Providence, R.I., and Springfield, Mass., between Providence, R.I., and Hartford, Conn., between New London, Conn., and Hartford, Conn., between junction U.S. Highway 20 and Massachusetts Highway 189 and junction Connecticut Turnpike and Connecticut Highway 2; serving all intermediate points and all off-route points in Connecticut, Rhode Island, and Massachusetts, with restrictions; (B) *general commodities*, excepting, among others, household goods and commodities in bulk, between Philadelphia, Pa., and New York, N.Y., between Albany, N.Y., and New York, N.Y.; serving all intermediate and certain off-route points, between Waterford, N.Y., and New York, N.Y., serving all intermediate points; and *general commodities*, excepting, among others, household goods and commodities in bulk, over irregular routes, between Albany, N.Y., on the one hand, and, on the other, points within 15 miles of Albany, from New York, N.Y., and Yonkers, N.Y., to points in New Jersey within 15 miles of New York, from points in Boston, Mass., commercial zone, as defined by the Commission, to points in Connecticut, and those in New Jersey within 15 miles of New York.

No. MC-F-9922. Authority sought for purchase by RITEWAY EXPRESS, INC., 285 Old Hook Road, Westwood, N.J., of a portion of the operating rights of KING'S EXPRESS, INC., 509 Susquehanna Avenue, Old Forge, Pa. 18518, and for acquisition by CHARLES N. KAUFMAN, 25 Clinton Avenue, Westwood, N.J., ADELAIDE M. KAUFMAN, 15 John Street, Spring Valley, N.Y., and GEORGE S. FREEMAN, 231 Kinderkamack Road, Westwood, N.J., of control of such rights through the purchase. Applicant's attorney and representative: Carl Carey, 700 Scranton Life Building, Scranton, Pa., and Charles H. Trayford, 137 East 36th Street, New York, N.Y. 10016. Operating rights sought to be transferred: *General commodities*, except those of unusual value, classes A and B explosives, and commodities requiring special equipment, as a *common carrier*, over irregular routes, between points in Orange, Rockland, and Ulster Counties, N.Y., and Pike County, Pa., on the one hand, and, on the other, points in Westchester, Kings, Queens, Bronx, Richmond, and New York Counties, N.Y., and those in Bergen, Passaic, Sussex, Hudson, Essex, Union, and Morris Counties, N.J. Vendee is authorized to operate as a *common carrier* in New York, and New Jersey.

Application has not been filed for temporary authority under section 210a(b).

No. MC-F-9923. Authority sought for purchase by C. A. WHITE TRUCKING COMPANY, 4641 Greenville Avenue, Dallas, Tex. 75206, of the operating rights of D. E. McALISTER GRAHAM, doing business as McALISTER TRUCKING CO., Post Office Box 2377, Abilene, Tex. 79604, and for acquisition by FRANK CRANE, also of Dallas, Tex., of control of such rights through the purchase. Applicants' attorney: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Operating rights sought to be transferred: *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas, and petroleum and their products, and by-products; and *machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, except the stringing and picking up of pipe in connections with main pipelines, as a *common carrier*, over irregular routes, between points in Texas, on the one hand, and, on the other, points in Wyoming, Utah, and Montana; *machinery and equipment* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of sulphur and its products, and *materials and supplies* (not including sulphur) used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of sulphur and its products, restricted to the transportation of shipments of materials and supplies moving to or from exploration, drilling, production, job, construction, plant (including refining, manufacturing, and processing plant) sites or storage sites, between points in Texas, on the one hand, and, on the other, points in Wyoming; *machinery, equipment, materials, and supplies*, used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of-way, between points in Texas, on the one hand, and, on the other, points in Wyoming, Utah, and Montana; *machinery, equipment, materials, and supplies* used in or in connection with, the drilling of water wells, between points in Texas, on the one hand, and, on the other, points in Wyoming, Utah, and Montana. Vendee is authorized to operate as a *common carrier* in Oklahoma, Kansas, Texas, Arkansas, Illinois, New Mexico, and Colorado. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-9924. Authority sought for control by VALLERIE'S TRANSPORTATION SERVICE, INC., Connecticut Avenue, Norwalk, Conn., of THE DARCEY TRANSPORTATION COMPANY, INC., 18 West Dover Street, Waterbury, Conn. 06720, and for acquisition by JOHN E. VALLERIE, SR., Indian Spring Road, Rowayton, Conn., ALBERT E. VALLERIE, SR., Wolfpit Road, Norwalk, Conn., and STANLEY E. DABROWSKI, 41 Canterbury Lane, Wilton, Conn., of control of THE DARCEY TRANSPORTATION COMPANY, INC., through the acquisition by VALLERIE'S TRANSPORTATION SERVICE, INC. Applicants' attorneys: Thomas W. Murrett, 410 Asylum Street, Hartford, Conn., and Walter R. Griffin, 48 Leavenworth Street, Waterbury, Conn. Operating rights sought to be controlled: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Bridgeport, Conn., and Boston, Mass., between Hartford, Conn., and New Bedford, Mass., between Providence, R.I., and New Bedford, Mass., between Coventry, Conn., and Providence, R.I., between Providence, R.I., and Boston, Mass., between Hartford, Conn., and North Wilbraham, Mass., between points in Connecticut, serving all intermediate and certain off-route points; *general commodities*, with exceptions as above, over irregular routes, between points in Connecticut on the one hand, and, on the other, points in Massachusetts and Rhode Island. VALLERIE'S TRANSPORTATION SERVICE, INC., is authorized to operate as a *common carrier* in Connecticut, New York, New Jersey, and Massachusetts. Application has been filed for temporary authority under section 210a(b).

No. MC-F-9925. Authority sought for purchase by MIDWESTERN EXPRESS, INC., Fort Scott, Kans., of a portion of the operating rights of JERRY LIPPS, INC., 130 South Frederick Street, Cape Girardeau, Mo., and for acquisition by DANNY ELLIS, also of Fort Scott, Kans., of control of such rights through the purchase. Applicants' attorneys: John E. Jandera, 641 Harrison, Topeka, Kans. 66603, and Stuart Symington, Jr., 434 Paul Brown Building, 818 Olive Street, St. Louis 1, Mo. Operating rights sought to be transferred: *Sugar*, in bags or packages, as a *common carrier*, over irregular routes, from New Orleans, Gramercy, Houma, Mathews, Reserve, and Supreme, La., to points in Illinois (except Chicago and the commercial zone thereof), Indiana, Iowa, Kansas, Kentucky (except Louisville and the commercial zone thereof), Missouri (except Kansas City and St. Louis and the respective commercial zones thereof), Ohio, and Tennessee (except Memphis and the commercial zone thereof), from Gramercy, Mathews, New Orleans, Reserve, Southdown, and Supreme, La., to points in Arkansas. Vendee is authorized to operate as a *common carrier* in Texas, Colorado, Iowa, Kansas, Oklahoma, Nebraska, North Dakota, South Dakota, Louisiana, Montana, Wyoming, New Mexico, Arizona, Minnesota, Missouri, Wisconsin, and Illinois. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-9926. Authority sought for purchase by R. D. FOWLER MOTOR LINES, INC., Post Office Box 1128, High Point, N.C., of a portion of the operating rights of BYRD MOTOR LINE, INCORPORATED, Post Office Box 787, Lexington, N.C., and for acquisition by GEORGE L. HUNDLEY, State Commercial Bank, Thomasville, N.C., and BOYD C. ROYAL, also of High Point, N.C., of control of such rights through the purchase. Applicants' attorney: William Addams, Suite 527, 1776 Peachtree Building, Atlanta, Ga. 30309. Operating rights sought to be transferred: *New furniture*, as a *common carrier*, over irregular routes, from points in North Carolina within 25 miles of High Point, N.C., to points in Connecticut, Delaware, Maryland, New Jersey, New York, and Pennsylvania. Vendee is authorized to operate as a *common carrier* in North Carolina, Virginia, Delaware, Pennsylvania, Maryland, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-9927. Authority sought for purchase by WILLERS, INC., doing business as WILLERS TRUCK SERVICE, 1400 North Cliff Avenue, Sioux Falls, S. Dak. 57101, of the operating rights of H. L. CRAMER, 1109 East Third Street, Sioux Falls, S. Dak. 57101, and for acquisition by CLIFFORD F. WILLERS, 1400 North Cliff Avenue, Sioux Falls, S. Dak. of control of such rights through the purchase. Applicants' attorney: R. G. May, 412 West Ninth Street, Sioux Falls, S. Dak. 57104. Operating rights sought to be transferred: *Hardware, farm machinery, binder twine, and lubricating oil and grease*, as a *common carrier*, over irregular routes, between Sioux Falls, S. Dak., on the one hand, and, on the other, Minneapolis and St. Paul, Minn.; *agricultural implements*, between Moline and East Moline, Ill., certain specified points in Iowa, Omaha, Nebr., and Sioux Falls, S. Dak.; and *agricultural machinery and implements*, as described in appendix XII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, *agricultural machinery and implements parts* when moving with the machines or implements on which they are to be installed, and *agricultural tractors*, from Sioux Falls, S. Dak., to certain specified points in Iowa and Minnesota. Vendee is authorized to operate as a *common carrier* in South Dakota, Minnesota, Iowa, Nebraska, and North Dakota. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13193; Filed, Nov. 7, 1967; 8:47 a.m.]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

NOVEMBER 3, 1967.

The following application for motor common carrier authority to operate in

intrastate commerce sought concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. This application is governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket (no number given), filed October 18, 1967. Applicant: GIL McKEEN, doing business as BLACK OTTER EXPRESS, 2321 Belknap Avenue, Billings, Mont. 59101. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of class B service from Billings, Mont., to Roundup, and Forsyth, Mont., over U.S. Highways 87 and 12 serving all intermediate points. Carriage of general commodities not to exceed 5,000 pounds in any one shipment. Applicant also requires interstate authority to serve this same route with shipments of goods, merchandise, and material moving in interstate traffic.

HEARING: Not yet assigned for hearing. Requests for procedural information, including the time for filing protests concerning this application should be addressed to the Public Service Commission of Montana, Helena, Mont. 59601, and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13194; Filed, Nov. 7, 1967; 8:47 a.m.]

[Notice 488]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 3, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 35628 (Sub-No. 281 TA) (Republication), filed August 24, 1967, published FEDERAL REGISTER issue of September 2, 1967, and republished this issue. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, 134 Grandville Avenue SW., Grand Rapids, Mich. 49502. Applicant's representative: J. M. Neath, Jr., 1 Vandenberg Center, Grand Rapids, Mich. 49502. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk, (1) between plantsites and warehouses of Rockwell-Standard Corp., at or near Winchester, Ky., and Louisville, Ky.; from Winchester over U.S. Highway 60 to Lexington, thence over U.S. Highway 421 to Frankfort and thence over U.S. Highway 60 to Louisville; and (2) between plantsites and warehouses of Rockwell-Standard Corp., at or near Winchester, Ky., and Cincinnati, Ohio, from Winchester over U.S. Highway 227 to Paris, and thence over U.S. Highway 27 to Cincinnati; and return over the same routes, serving no intermediate points in (1) and (2) above, for 180 days. NOTE: Applicant states it intends to tack at Louisville, Ky., and Cincinnati, Ohio, with authority presently held by it. Supporting Shipper: Rockwell-Standard Corp., Winchester, Ky. 40391. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 221 Federal Building, Lansing, Mich. 48933.

No. MC 47142 (Sub-No. 94 TA), filed October 31, 1967. Applicant: C. I. WHITTEN TRANSFER COMPANY, 200 19th Street, Post Office Box No. 1833, Huntington, W. Va. 25719. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Explosives*, moving on Government bills of lading; between West Hanover, Mass., and Picatinny Arsenal, N.J., Aberdeen Proving Grounds and Edgewood Arsenal, Md., and Charleston, S.C., for 150 days. (NOTE: Applicant states it does not intend to tack the authority here applied for to other authority held by it, or to interline with other carriers.) Send protests to: H. R. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 3202 Federal Office Building, Charleston, W. Va. 25301.

No. MC 59567 (Sub-No. 10 TA), filed October 31, 1967. Applicant: AUCLAIR TRANSPORTATION, INC., 41 McGregor Street, Manchester, N.H. 03102. Applicant's representative: Mary E. Kelley, 10 Tremont Street, Boston, Mass. 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Packinghouse products*, in shipper owned trailers, from Manchester, N.H., to Wilder, Vt., for 150 days. Supporting shipper: Wilson & Co. Inc., 9 Hills Avenue, Concord, N.H. 03301. Send protests to: District Supervisor, Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, 24 Hanover Street, Lebanon, N.H. 03766.

No. MC 107107 (Sub-No. 386 TA), filed October 24, 1967. Applicant: ALTERMAN TRANSPORT LINES, INC., 2424 Northwest 46th Street, Post Office Box 458, Miami, Fla. 33142. Applicant's representative: Ford W. Sewell (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Impregnated broadgoods*, in vehicles equipped with mechanical refrigeration, from Dallas, Tex., to Bridgeport, Conn., Bethpage, Long Island, N.Y., Moosup, Conn., Morton, Pa., Wauregan, Conn., Mineola, Long Island, N.Y., Buffalo, N.Y., and Monson, Mass.; the traffic involved will originate in Costa Mesa, Calif., by Frozen Food Express Co., Dallas, Tex., MC 106307, and applicant will interline at Dallas, Tex., for 180 days. Supporting shipper: Reliable Manufacturing Inc., 1880 Whittier Street, Costa Mesa, Calif. Send protests to: Joseph B. Teichert, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1226, 51 Southwest First Avenue, Miami, Fla. 33130.

No. MC 107403 (Sub-No. 732 TA), filed October 31, 1967. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium phosphate*, in bulk, in dump vehicles, from Kearny, N.J., to Cleveland, Ohio, for 180 days. Supporting shipper: Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166. Send protests to: Ross A. Davis, District Supervisor, Interstate Commerce Commission, 900 U.S. Customhouse, Second and Chestnut Streets, Philadelphia, Pa. 19106.

No. MC 126835 (Sub-No. 15 TA) (Correction), filed October 2, 1967, published FEDERAL REGISTER issue of November 10, 1967, and republished as corrected this issue. Applicant: EDGAR BISCHOFF, doing business as CASKET DISTRIBUTORS, Rural Route No. 2, West Harrison, Ind. 45030. Applicant's representative: Jack B. Josselson, Atlas Bank Building, Cincinnati, Ohio 45202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Caskets, casket displays and funeral supplies* when moving with caskets; from York, Pa.; to Dearborn, Grand Rapids, and Saginaw, Mich.; Miami and Tampa, Fla.; Wichita, Kans.; Minneapolis, Minn.; Omaha, Nebr.; Oklahoma City, Okla.; and Milwaukee, Wis.; for 180 days. NOTE: The purpose of this republication is to include Minneapolis, Minn.; and Omaha, Nebr.; as destinations, which were omitted from previous publication. Supporting shipper: York Hoover Corp., York, Pa. Send protests to: Bureau of Operations, Interstate Commerce Commission, 802 Century Building, 36 South Pennsylvania Street, Indianapolis, Ind. 46204.

No. MC 129387 (Sub-No. 1 TA), filed October 31, 1967. Applicant: BILL PAYNE, doing business as PAYNE TRUCKING COMPANY, 413 15th Street West, Billings, Mont. 59102. Applicant's representative: Franklin S. Longan, Suite 319, Securities Building, Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat byproducts*, from Billings, Mont., and points within 5 miles thereof, to points in Illinois, Minnesota, Wisconsin, and Colorado, for 180 days. Supporting shipper: Midland Empire Packing Co., Inc., Post Office Box 1375, Billings, Mont. 59102. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 251 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 129418 TA (Republication), filed September 27, 1967, published FEDERAL REGISTER issue of October 7, 1967, and republished this issue. Applicant: M&V EXPRESS, INC., 827 North Madison, Tulsa, Okla. 74106. Applicant's representative: William D. Shea (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, between Tulsa, Okla., and the Kansas-Oklahoma border, serving the intermediate points of Vinita, Afton, Miami, Commerce, Cardin, Pitcher, and Quapaw, Okla., over U.S. Highways 66 and 69; also Interstate Highway 1-44 as an alternate route only, for 180 days. NOTE: The purpose of this republication is to include the tacking information which was omitted from the previous publication. Applicant intends to interline at Miami and Tulsa, Okla. Supporting shipper: Miami Chamber of Commerce, Miami, Okla.; Vinita Flag & Apron Co., Vinita, Okla.; C&L Supply, Inc., Vinita, Okla.; Vinita Chamber of Commerce, Vinita, Okla. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 350, American General Building, 210 Northwest Sixth, Oklahoma City, Okla. 73102.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13195; Filed, Nov. 7, 1967; 8:47 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during November.

3 CFR

	Page
PROCLAMATIONS:	
3694 (terminated in part by Proc. 3818)	15467
3712 (terminated in part by Proc. 3818)	15467
3744 (terminated in part by Proc. 3818)	15467
3818	15467
EXECUTIVE ORDERS:	
2295 (modified by PLO 4312)	15429
4702 (revoked in part by PLO 4315)	15482
8652 (revoked in part by PLO 4317)	15482
10530 (see EO 11378)	15237
10682 (see EO 11378)	15237
11378	15237

7 CFR

51	15066, 15073
729	15149
730	15076
910	15430, 15524
912	15430
913	15430
984	15388
1001	15076
1015	15090
1067	15093
1120	15388
1126	15388
1132	15389
1137	15431
PROPOSED RULES:	
51	15435
723	15546
891	15393
892	15393
905	15116
906	15394
907	15488
908	15394
912	15436
913	15395
959	15177
989	15488
1049	15489
1064	15490
1090	15437
1125	15178

8 CFR

103	15469
212	15469
238	15469

9 CFR

76	15240
131	15469

10 CFR

PROPOSED RULES:	
20	15432

12 CFR

1	15544
219	15389

13 CFR

106	15065
108	15149
PROPOSED RULES:	
107	15399
121	15184

14 CFR

21	15472
39	15094, 15153, 15154, 15390, 15421, 15472, 15523.
71	15094, 15095, 15154, 15523, 15524
73	15096
91	15422
97	15423, 15473
207	15096
208	15097
241	15098
PROPOSED RULES:	
39	15490, 15491
71	15117–15121, 15491–15493, 15546–15548.

15 CFR

0	15222
70	15154
204	15104, 15391
230	15105

16 CFR

13	15105–15107, 15470
15	15470
17	15540
228	15525
229	15529
230	15531
231	15532
232	15533
233	15534
234	15536
235	15538
236	15538
237	15539
238	15540
239	15541
240	15542
413	15424
PROPOSED RULES:	
300	15180

17 CFR

200	15470

18 CFR

3	15239
PROPOSED RULES:	
141	15434
260	15434

19 CFR Page

4 15390
10 15424
14 15155
16 15390

20 CFR

396 15471
401 15544

21 CFR

120 ..... 15107, 15120, 15424
121 ..... 15108, 15109, 15155, 15545
133 15109
148c 15425
166 15390

PROPOSED RULES:

28 15116

22 CFR

PROPOSED RULES:

201 15116

24 CFR

200 15425

25 CFR

41 15471

26 CFR

1 15421
201 15483

PROPOSED RULES:

1 ..... 15167, 15393

28 CFR

0 15425

29 CFR

526 15425
786 15425
1500 ..... 15478, 15479

29 CFR—Continued Page

PROPOSED RULES:

5 15396
6 15396
7 15396

32 CFR

66 15111
127 15112
536 15113
552 15115
710 15115

36 CFR

7 15391

39 CFR

821 15480
822 ..... 15480, 15481
823 15099

41 CFR

6–75 15427

42 CFR

PROPOSED RULES:

73 15178

43 CFR

PUBLIC LAND ORDERS:

1630 (see PLO 4315) 15482
3263 (revoked in part by PLO 4307) 15428
3634 (revoked in part by PLO 4302) 15427
4236 (see PLO 4317) 15482
4266 (see PLO 4317) 15482
4270 (amended by PLO 4312) 15429
4301 15098
4302 15427
4303 15427
4304 15427

43 CFR—Continued Page

PUBLIC LAND ORDERS—Continued

4305 15428
4306 15428

43 CFR

4307 15428
4308 15428
4309 15428
4310 15429
4311 15429
4312 15429
4313 15429
4314 15482
4315 15482
4316 15482
4317 15482
4318 15483

PROPOSED RULES:

1720 15546

45 CFR

81 15156

46 CFR

PROPOSED RULES:

Ch. IV 15438

47 CFR

0 15472
73 ..... 15161, 15162, 15545

PROPOSED RULES:

2 15180
89 15180
91 15180
93 15180

49 CFR

103 15484
114 15484

50 CFR

32 15166
33 15166

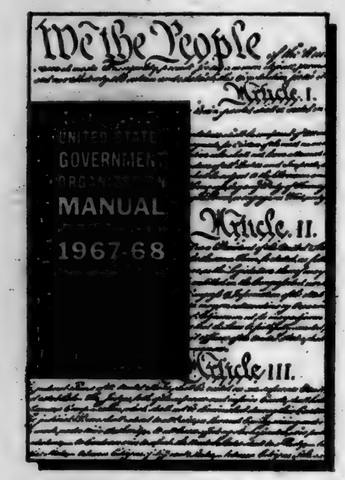

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218

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FEDERAL REGISTER

VOLUME 32 • NUMBER 218

Thursday, November 9, 1967 • Washington, D.C.

Pages 15573–15619

Agencies in this issue—

Agricultural Research Service
Agricultural Stabilization and Conservation Service
Atomic Energy Commission
Business and Defense Services Administration
Census Bureau
Civil Aeronautics Board
Consumer and Marketing Service
Federal Aviation Administration
Federal Communications Commission
Federal Housing Administration
Federal Maritime Commission
Federal Power Commission
Federal Trade Commission
Fish and Wildlife Service
Food and Drug Administration
Health, Education, and Welfare Department
Interior Department
Interstate Commerce Commission
Land Management Bureau
Post Office Department
Securities and Exchange Commission
Small Business Administration
Treasury Department

Detailed list of Contents appears inside.

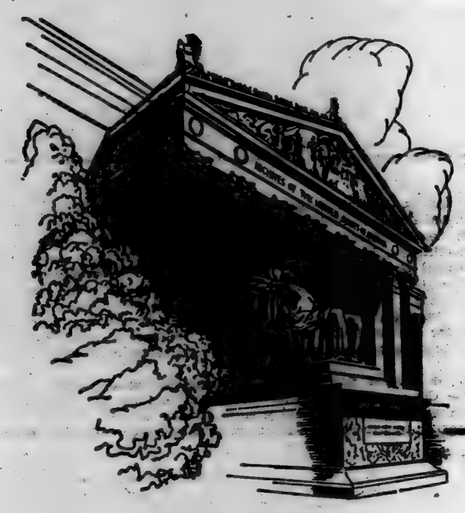

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[Revised as of January 1, 1967]

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Contents

AGRICULTURAL RESEARCH SERVICE

Rules and Regulations

Brucellosis; modified certified areas 15577
Foreign quarantine; citrus fruits 15577

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Notices

Sugarbeets; hearings on wages and prices and designation of presiding officers 15595

AGRICULTURE DEPARTMENT

See Agricultural Research Service; Agricultural Stabilization and Conservation Service; Consumer and Marketing Service.

ATOMIC ENERGY COMMISSION

Notices

Uranium supply policies and related activities; proposed statement 15598

BUSINESS AND DEFENSE SERVICES ADMINISTRATION

Notices

Stanford University; decision on application for duty-free entry of scientific article 15596

CENSUS BUREAU

Notices

Annual surveys in manufacturing area; determination 15595

CIVIL AERONAUTICS BOARD

Notices

Transamerica Corp. and Trans International Airlines Corp.; prehearing conference 15597

COMMERCE DEPARTMENT

See Business and Defense Services Administration; Census Bureau.

CONSUMER AND MARKETING SERVICE

Rules and Regulations

Potatoes, Irish, grown in Idaho and Oregon; shipments limitation 15577

Proposed Rule Making

Milk in Central Arizona marketing area; extension of time 15588

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations

Airworthiness directive; McDonnell Douglas Model DC-9 Series airplanes 15579
Control zone and transition area; alteration; correction 15579
Pilot schools; chief flight instructor experience requirements 15583
Standard instrument approach procedures; miscellaneous amendments 15580

Proposed Rule Making

Airworthiness directive; General Dynamics Models 340, 440, and C-131E airplanes 15588
Federal airways:
Alteration 15588
Extension 15589
Valparaiso, Fla., terminal area; communications requirement 15589

FEDERAL COMMUNICATIONS COMMISSION

Notices

Mexican broadcast stations; changes, proposed changes, and corrections in assignments 15602

FEDERAL HOUSING ADMINISTRATION

Rules and Regulations

Organization and management; delegations of authority and functions 15586

FEDERAL MARITIME COMMISSION

Notices

Agreements filed for approval:
American President Lines, Ltd., and Pacific Far East Line, Inc 15600
Italy, South France/U.S. Gulf Conference 15600
Tica Line and Gallen Line 15600
Trans-Ocean Steamship Co.; applications for certificates (2 documents) 15600

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:
Continental Oil Co. et al 15601
Idaho Power Co 15601
Kansas City Power & Light Co 15601
Letchfield, Ky., city of, and Texas Gas Transmission Corp 15601
Midwestern Gas Transmission Co 15601
Northern Natural Gas Co. and Cities Service Gas Co 15602
Western Transmission Corp 15602

FEDERAL TRADE COMMISSION

Rules and Regulations

Discriminatory practices in men's and boys' tailored clothing industry 15584

FISH AND WILDLIFE SERVICE

Rules and Regulations

Hunting on certain national wildlife refuges:
California; Kern 15587
Colorado; Alamosa (2 documents) 15586, 15587

FOOD AND DRUG ADMINISTRATION

Rules and Regulations

Pesticide chemical tolerances; 1,1-dimethyl-3-(α,α,α-trifluoro-*m*-tolyl) urea 15578

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Food and Drug Administration.

Notices

Interstate air pollution in National Capital Metropolitan Area; conference of air pollution control agencies 15597
Statements of organization, functions, and delegations of authority:
Office of Education 15597
Public Health Service 15597

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Federal Housing Administration.

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Land Management Bureau.

Notices

Carrol M. Bennett; report of appointment and statement of financial interests 15594

INTERSTATE COMMERCE COMMISSION

Proposed Rule Making

Motor carriers of household goods; payment of rates and charges; credit regulations 15589

Notices

Fourth section applications for relief 15615
Motor carrier, broker, water carrier, and freight forwarder applications 15605
Motor carriers:
Temporary authority applications 15615
Transfer proceedings (2 documents) 15616, 15617

(Continued on next page)

LAND MANAGEMENT BUREAU

Notices

Classification or proposed classification of public lands for multiple use management:
Arizona (5 documents) ... 15591, 15592
Montana ... 15593
Delegation of authority; Administrative Officer and Assistant Administrative Officer, Ft. Vannoy Job Corps Conservation Center ... 15594

POST OFFICE DEPARTMENT

Rules and Regulations

First class mail; postal and post cards; correction ... 15587

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:
Interamerican Industries, Ltd. ... 15604
Penrose Industries Corp. ... 15604
Scripps-Howard Investment Co. ... 15604

SMALL BUSINESS ADMINISTRATION

Notices

Declarations of disaster loan areas:
California ... 15605
Florida ... 15605

TRANSPORTATION DEPARTMENT

See Federal Aviation Administration.

TREASURY DEPARTMENT

Notices

Refrigeration compressors from Denmark; determination of sales at not less than fair value ... 15595

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

7 CFR
319 ... 15577
945 ... 15577
PROPOSED RULES:
1131 ... 15588

9 CFR
78 ... 15577

14 CFR
39 ... 15579
71 ... 15579
97 ... 15580
141 ... 15583
PROPOSED RULES:
39 ... 15588
71 (2 documents) ... 15588, 15589
93 ... 15589

16 CFR
412 ... 15584

21 CFR
120 ... 15578

24 CFR
200 ... 15586

39 CFR
131 ... 15587

49 CFR
PROPOSED RULES:
288 ... 15589

50 CFR
32 (3 documents) ... 15586, 15587

Rules and Regulations

Title 7—AGRICULTURE

Chapter III—Agricultural Research Service, Department of Agriculture

PART 319—FOREIGN QUARANTINE NOTICES

Subpart—Citrus Fruits

QUARANTINE

Pursuant to sections 5, 7, and 9 of the Plant Quarantine Act of 1912 (7 U.S.C. 159, 160, 162), Notice of Quarantine No. 28 (7 CFR 319.28) relating to the importation of citrus fruits is hereby amended in the following respect:

A new paragraph to be designated as § 319.28(h) is added to the said notice of quarantine to read as follows:

§ 319.28 Notice of quarantine.

* * * * *

(h) This prohibition shall not apply to importations into Alaska during the 1967 shipping season of oranges of the Unshu class grown in Japan, but such importations are subject to permit and other requirements under the Fruits and Vegetables Quarantine (§ 319.56).

(Secs. 5, 7, 9, 37 Stat. 316, 317, 318; 7 U.S.C. 159, 160, 162; 29 F.R. 16210, as amended, 30 F.R. 5799, as amended)

This amendment shall become effective November 9, 1967.

Effective July 3, 1967, the quarantine was revised to allow imports of Unshu oranges from Japan into Alaska, Washington, Oregon, Idaho, and Montana under specified requirements. Seasonal growing conditions in Japan have made it impossible to comply with such requirements. The foregoing amendment of the quarantine permits the importation of such oranges into Alaska under the same safeguards as were in force prior to the revision of July 3, 1967. No change is made in the requirements with respect to imports into the other States named.

Inasmuch as the shipping season for Unshu oranges from Japan is imminent it is necessary to make this amendment effective at the earliest possible date to be of maximum benefit to importers. Therefore, pursuant to the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable, and the amendment may be made effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 3d day of November 1967.

[SEAL] GEORGE W. IRVING, Jr.,
Administrator,
Agricultural Research Service.

[F.R. Doc. 67-12940; Filed, Nov. 8, 1967; 8:47 a.m.]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Amdt. 1]

PART 945—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREG.

Limitation of Shipments

Findings. (a) Pursuant to Marketing Agreement No. 98 and Order No. 945, as amended (7 CFR Part 945), regulating the handling of Irish potatoes grown in the production area defined therein, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of recommendations and information submitted by the Idaho-Eastern Oregon Potato Committee, established pursuant to the said marketing agreement and order, and other available information, it is hereby found that the amendment to the limitation of shipments hereinafter set forth, will tend to effectuate the declared policy of the act.

(b) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice or engage in public rule making procedure, and that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), in that (1) shipments of 1967 crop potatoes grown in the production area are now being made, (2) compliance with this amendment will not require any special preparation by handlers which cannot be completed by the effective date, (3) information regarding the committee's recommendation has been made to producers and handlers in the production area, and (4) this amendment relieves restrictions on the handling of potatoes in the production area.

Order, as amended. Paragraph (a) of § 945.326 (32 F.R. 9298) is amended to read as follows:

§ 945.326 Limitation of shipments.

* * * * *

(a) *Minimum quality requirements—*
(1) *Grade.* All varieties—U.S. No. 2, or better grade.
(2) *Size—*(i) *Round red varieties.* 1⅞ inches minimum diameter.
(ii) *All other varieties.* 2 inches minimum diameter, or 4 ounces minimum weight.
(iii) *All varieties.* Size B if U.S. No. 1, or better grade.
(3) *Cleanliness—*(i) *Kennebec variety.* Not more "slightly dirty."
(ii) *All other varieties.* Generally "fairly clean."

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated November 3, 1967, to become effective November 6, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-12941; Filed, Nov. 8, 1967; 8:47 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 78—BRUCELLOSIS

Subpart D—Designation of Modified Certified Brucellosis Areas, Public Stockyards, Specifically Approved Stockyards, and Slaughtering Establishments

MODIFIED CERTIFIED BRUCELLOSIS AREAS

Pursuant to § 78.16 of the regulations in Part 78, as amended, Title 9, Code of Federal Regulations, containing restrictions on the interstate movement of animals because of brucellosis, under sections 4, 5, and 13 of the Act of May 29, 1884, as amended; sections 1 and 2 of the Act of February 2, 1903, as amended, and section 3 of the Act of March 3, 1905, as amended (21 U.S.C. 111–113, 114a–1, 120, 121, 125), § 78.13 of said regulations designating modified certified brucellosis areas is hereby amended to read as follows:

§ 78.13 Modified certified brucellosis areas.

The following States, or specified portions thereof, are hereby designated as modified certified brucellosis areas:

Alabama. Autauga, Baldwin, Barbour, Bibb, Blount, Bullock, Butler, Calhoun, Chambers, Cherokee, Chilton, Choctaw, Clarke, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dale, Dallas, De Kalb, Elmore, Escambia, Etowah, Fayette, Franklin, Geneva, Greene, Hale, Henry, Houston, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Lowndes, Macon, Madison, Marion, Marshall, Mobile, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, Russell, St. Clair, Shelby, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, and Winston Counties;
Alaska. The entire State except Kodiak, Sitkalidak, and Chirikof Islands;
Arizona. The entire State;
Arkansas. The entire State;
California. The entire State;

Colorado. Adams, Alamosa, Arapahoe, Archuleta, Baca, Bent, Boulder, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Delta, Denver, Dolores, Douglas, Eagle, Elbert, El Paso, Fremont, Garfield, Gilpin, Gunnison, Hinsdale, Huerfano, Jackson, Jefferson, Kiowa, Kit Carson, Lake, La Plata, Larimer, Las Animas, Lincoln, Logan, Mesa, Mineral, Moffat, Montezuma, Montrose, Morgan, Otero, Ouray, Park, Phillips, Pitkin, Prowers, Pueblo, Rio Blanco, Rio Grande, Saguache, San Juan, San Miguel, Sedgwick, Teller, Washington, Weld, and Yuma Counties; and Southern Ute Indian Reservation and Ute Mountain Ute Indian Reservation;

Connecticut. The entire State;

Delaware. The entire State;

Florida. Baker, Bay, Bradford, Calhoun, Citrus, Clay, Columbia, Dade, Dixie, Duval, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Holmes, Jackson, Jefferson, Lafayette, Lee, Leon, Levy, Liberty, Madison, Manatee, Monroe, Nassau, Okaloosa, Pinellas, Santa Rosa, Sarasota, Sumter, Suwannee, Taylor, Union, Wakulla, Walton, and Washington Counties;

Georgia. The entire State;

Hawaii. Honolulu, Kauai, and Maui Counties;

Idaho. The entire State;

Illinois. The entire State;

Indiana. The entire State;

Iowa. The entire State;

Kansas. The entire State;

Kentucky. The entire State;

Louisiana. Ascension, Assumption, Bienville, Claiborne, Iberia, Jackson, Jefferson, Lafayette, Lafourche, Lincoln, Livingston, St. Charles, St. Helena, St. James, St. John the Baptist, St. Mary, St. Tammany, Tangipahoa, Tensas, Terrebonne, Union, Vernon, Washington, Webster, West Baton Rouge, and Winn Parishes;

Maine. The entire State;

Maryland. The entire State;

Massachusetts. The entire State;

Michigan. The entire State;

Minnesota. The entire State;

Mississippi. Alcorn, Amite, Attala, Benton, Bolivar, Calhoun, Chickasaw, Choctaw, Clarke, Clay, Coahoma, Copiah, Covington, De Soto, Forrest, Franklin, George, Greene, Grenada, Hancock, Harrison, Humphreys, Itawamba, Jackson, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lamar, Lauderdale, Lawrence, Leake, Lee, Lincoln, Lowndes, Marion, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Pearl River, Perry, Pike, Pontotoc, Prentiss, Quitman, Scott, Simpson, Smith, Stone, Sunflower, Tate, Tippah, Tishomingo, Tunica, Union, Walthall, Wayne, Webster, Wilkinson, Winston, and Yalobusha Counties;

Missouri. The entire State;

Montana. The entire State;

Nebraska. Adams, Antelope, Banner, Boone, Buffalo, Burt, Butler, Cass, Cedar, Chase, Cheyenne, Clay, Colfax, Cuming, Custer, Dakota, Dawson, Deuel, Dixon, Dodge, Douglas, Dundy, Fillmore, Franklin, Frontier, Furnas, Gage, Gosper, Greeley, Hall, Hamilton, Harlan, Hayes, Hitchcock, Howard, Jefferson, Johnson, Kearney, Kimball, Knox, Lancaster, Madison, Merrick, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Perkins, Phelps, Pierce, Platte, Polk, Red Willow, Richardson, Saline, Sarpy, Saunders, Seward, Sherman, Sioux, Stanton, Thayer, Thurston, Valley, Washington, Wayne, Webster, Wheeler, and York Counties;

Nevada. The entire State;

New Hampshire. The entire State;

New Jersey. The entire State;

New Mexico. The entire State;

New York. The entire State;

North Carolina. The entire State;

North Dakota. The entire State;

Ohio. The entire State;

Oklahoma. Adair, Alfalfa, Atoka, Beaver, Bryan, Canadian, Cherokee, Choctaw, Cimarron, Coal, Craig, Delaware, Garfield, Grant, Greer, Harmon, Harper, Haskell, Jackson, Johnston, Kay, Kingfisher, Kiowa, Latimer, McCurtain, McIntosh, Major, Marshall, Mayes, Noble, Nowata, Okfuskee, Oklahoma, Okmulgee, Osage, Ottawa, Pawnee, Payne, Pontotoc, Pushmataha, Rogers, Sequoyah, Texas, Washington, Washita, and Woods Counties;

Oregon. The entire State;

Pennsylvania. The entire State;

Rhode Island. The entire State;

South Carolina. The entire State;

South Dakota. Beadle, Bennett, Brookings, Brown, Buffalo, Butte, Campbell, Clark, Clay, Codington, Corson, Custer, Day, Deuel, Edmonds, Fall River, Faulk, Grant, Haakon, Hamlin, Hand, Hanson, Harding, Jackson, Jerauld, Kingsbury, Lake, Lawrence, Lincoln, McCook, McPherson, Marshall, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Roberts, Sanborn, Shannon, Spink, Todd, Turner, Union, Walworth, Washabaugh, Yankton, and Ziebach Counties; and Crow Creek Indian Reservation;

Tennessee. The entire State;

Texas. Andrews, Armstrong, Atascosa, Bailey, Bandera, Baylor, Bell, Bexar, Blanco, Borden, Bosque, Brewster, Briscoe, Brooks, Brown, Burnet, Caldwell, Callahan, Cameron, Camp, Carson, Castro, Childress, Cochran, Coke, Coleman, Collingsworth, Comal, Comanche, Concho, Coryell, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Dawson, Deaf Smith, Dickens, Donley, Duval, Eastland, Ector, Edwards, El Paso, Erath, Falls, Fisher, Floyd, Foard, Gaines, Garza, Gillespie, Glasscock, Gray, Guadalupe, Hale, Hall, Hamilton, Hansford, Hardeman, Hartley, Haskell, Hays, Hidalgo, Hockley, Hood, Howard, Hudspeth, Hutchinson, Irion, Jack, Jeff Davis, Jim Hogg, Jim Wells, Jones, Karnes, Kendall, Kent, Kerr, Kimble, King, Kinney, Knox, Lamb, Lampasas, Lee, Lipscomb, Live Oak, Llano, Loving, Lubbock, Lynn, Martin, Mason, McCulloch, Medina, Menard, Midland, Milam, Mills, Mitchell, Moore, Motley, Nolan, Ochiltree, Oldham, Palo Pinto, Parker, Parmer, Pecos, Potter, Presidio, Randall, Reagan, Real, Reeves, Roberts, Runnels, San Saba, Schleicher, Scurry, Shackelford, Sherman, Somervell, Stephens, Sterling, Stonewall, Sutton, Swisher, Taylor, Terrell, Terry, Throckmorton, Tom Green, Travis, Upton, Uvalde, Val Verde, Ward, Wheeler, Williamson, Wilson, Winkler, Yoakum, and Young Counties;

Utah. The entire State;

Vermont. The entire State;

Virginia. The entire State;

Washington. The entire State;

West Virginia. The entire State;

Wisconsin. The entire State;

Wyoming. Albany, Big Horn, Campbell, Carbon, Converse, Crook, Fremont, Goshen, Hot Springs, Johnson, Laramie, Lincoln, Natrona, Niobrara, Park, Platte, Sublette, Sweetwater, Teton, Uinta, Washakie, and Weston Counties;

Puerto Rico. The entire area; and

Virgin Islands of the United States. The entire area.

(Secs. 4, 5, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791–792, as amended, sec. 3, 33 Stat. 1265, as amended, sec. 2, 65 Stat. 693; 21 U.S.C. 111–113, 114a–1, 120, 121, 125; 29 F.R. 16210, as amended; 9 CFR 78.16)

Effective date. The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER.

The amendment adds the following additional areas to the list of areas designated as modified certified brucellosis areas because it has been determined that such areas come within the definition of § 78.1(i): Dade, Lee, Monroe, Pinellas, and Sumter Counties in Florida; Lafayette County in Louisiana; Bolivar, Quitman, and Scott Counties in Mississippi; Beaver, Okmulgee, Marshall, Pawnee, and Rogers Counties in Oklahoma; Mellette County in South Dakota; and Camp and Foard Counties in Texas.

The amendment imposes certain restrictions necessary to prevent the spread of brucellosis in cattle and relieves certain restrictions presently imposed. It should be made effective promptly in order to accomplish its purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 2d day of November 1967.

E. E. SAULMON,
Director, Animal Health Division, Agricultural Research Service.

[F.R. Doc. 67-13289; Filed, Nov. 8, 1967; 8:47 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

1,1-Dimethyl-3-(α,α,α-trifluoro-m-tolyl)urea

A petition (PP 6F0505) was filed with the Food and Drug Administration by the CIBA Corp., Post Office Box 1105, Vero Beach, Fla. 32960, proposing the establishment of a tolerance of 0.1 part per million for negligible residues of the herbicide 1,1-dimethyl-3-(α,α,α-trifluoro-m-tolyl) urea in or on the raw agricultural commodity cottonseed.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purposes for which the tolerance is being established.

Based on consideration given the data submitted in the petition, and other relevant material, the Commissioner of Food and Drugs concludes that the tolerance established by this order will protect the public health. Therefore, by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and delegated by him to the Commissioner (21 CFR 2.120), Part 120 is amended by adding to Subpart C the following new section:

§ 120.229 1,1-Dimethyl-3-(α,α,α-trifluoro-m-tolyl)urea; tolerance for residues.

A tolerance of 0.1 part per million is established for negligible residues of the herbicide 1,1-dimethyl-3-(α,α,α-trifluoro-m-tolyl) urea in or on the raw agricultural commodity cottonseed.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: November 1, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-13270; Filed, Nov. 8, 1967; 8:50 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

SUBCHAPTER C—AIRCRAFT

[Airworthiness Docket No. 67-WE-21-AD; Amdt. 39-406]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-9 Series Airplanes

Pursuant to the authority delegated to me by the Administrator (14 CFR 11.81), an Airworthiness Directive (AD) was adopted on October 20, 1967, and made effective by telegram immediately as to all known operators of McDonnell Douglas Model DC-9 Series airplanes.

Adoption of this AD was necessitated by at least three reports of malfunctions in the battery charger installed in DC-9 airplanes that resulted in smoke and fire in the electrical compartment. The agency determined that this condition was unsafe and might occur in other DC-9 airplanes. In view of the urgency in prescribing appropriate corrective action of this unsafe condition and notifying affected operators as soon as possible of this action, the AD was issued in the form of a telegram. The telegraphic AD requires:

1. Within 10 hours' time in service, the battery charger be inspected, specific circuit breakers associated with the battery charger be deactivated, and placards to insure that the battery charger would not be activated in flight and to minimize battery discharge on the ground be installed.

2. Replacement of the battery charger before flight if evidence of overheating, cracking, or other abnormalities appear as a result of the inspection of the battery charger; and

3. The prescription of certain operating limitations applicable immediately prior to the start of each taxi and after parking.

The telegraphic AD also indicates that a revision thereto will follow concerning approved modification methods when such methods become available.

Since it was found that the corrective action was required within a very short time, notice and public procedure thereon was found to be impracticable and contrary to the public interest and good cause existed for making this Airworthiness Directive effective immediately as to all known operators of McDonnell Douglas Model DC-9 Series airplanes by individual telegram dated October 20, 1967. These conditions still exist and the AD is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.81), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

McDONNELL DOUGLAS. Applies to Model DC-9 Series airplanes.

Compliance required as indicated.

Due to at least three reports of malfunctions in the battery charger installed in DC-9 airplanes that have resulted in smoke and fire in the electrical compartment, accomplish the following:

1. Within 10 hours' time in service after the effective date of this AD:

A. Inspect the battery charger, P/N 26340061-01 and inspect and service each battery in the electrical compartment in accordance with paragraphs 1, 2, and 3 of the "Inspection Procedures for Aircraft" section of a wire dated October 19, 1967, constituting McDonnell Douglas DC-9 Alert Service Bulletin A-24-26, or by a method approved by the Chief, Aircraft Engineering Division, FAA, Western Region;

B. Deactivate circuit breakers normally coded K7, K8, and K9, titled battery charger and transfer relay (20 AMP, left bus) and secure in the open position, or remove and stow wires P82A14C, P83A14B, and P84A14A at the circuit breaker;

C. Placard circuit breakers K7, K8, and K9 to indicate that they are deactivated;

D. Unless already accomplished in accordance with paragraph 6 of the "Inspection Procedures for Aircraft" section of the Service Bulletin referenced in this paragraph, place an operating limitation in the form of a placard in the vicinity of the APU start switch stating: "Operating Limitation. Do not start APU electrically in flight"; and

E. Unless already accomplished in accordance with paragraph 5 of the "Inspection Procedures for Aircraft" section of the Service Bulletin referenced in this paragraph, place an operating limitation in the form of a placard in the cockpit in clear view of the pilot and copilot, stating: "Operating Limitation. Do not ground start APU after battery charger circuit breakers are opened (pulled) prior to takeoff".

2. If an inspection specified in paragraph 1 of this AD reveals evidence of overheating, cracking, or other abnormal appearance of the battery charger (including the flag lugs and positive ceramic stud buildup and solder-joint on the inside and outside of the charger on the filter, and the solder-joints to chassis), replace before further flight.

3. The following operating limitations are prescribed for all affected airplanes:

A. Immediately prior to start of each taxi:

i. Determine that the battery charger is operating in the pulsing mode.

ii. Pull circuit breakers U21, W21, and X21 in immediate succession to deactivate the battery charger.

iii. Enter the electrical compartment and inspect the battery charger and adjacent vicinity to determine that the charger has been operating satisfactorily as evidenced by a lack of smoke. (May be accomplished by ground personnel.)

B. After parking close (push in) circuit breakers U21, W21, and X21 in immediate succession.

NOTE No. 1: The APU may be started after landing and during taxi to the ramp.

NOTE No 2: The APU may be windmill started in flight in the event of a complete in flight loss of electrical power.

4. A revision to this AD will follow concerning approved modification methods.

This amendment becomes effective upon publication in the FEDERAL REGISTER for all persons except those to whom it was made effective immediately by telegram dated October 20, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421 and 1423)

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corp., Douglas Aircraft Co., Aircraft Division, 3855 Lakewood Boulevard, Long Beach, Calif. 90801. These documents may also be examined at FAA Western Region, 5651 West Manchester Avenue, Los Angeles, Calif. 90045, and FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. 20553. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at FAA Western Region.

Issued in Los Angeles, Calif., on October 31, 1967.

LEE E. WARREN,
Acting Regional Director, FAA Western Region.

The incorporation by reference provisions in this document were approved by the Director of the Federal Register on November 8, 1967.

[F.R. Doc. 67-13260; Filed, Nov. 8, 1967; 8:48 a.m.]

SUBCHAPTER E—AIRSPACE

[Airspace Docket No. 67-CE-64]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area; Correction

On October 14, 1967, a final rule was published in the FEDERAL REGISTER (32 F.R. 14266), F.R. Doc. 67-12171, which

included redesignation of the Alpena, Mich., transition area, incorrectly described the extension based on the Alpena VORTAC 346° radial as extending from the VORTAC to 22 miles north of the VORTAC. This 22-mile extension should have been 12 miles. Action is taken herein to make this correction.

Since this amendment is editorial in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, the redesignation of the Alpena, Mich., transition area as set forth in F.R. Doc. 67-12171 is corrected effective immediately as follows: "22 miles" is deleted and "12 miles" substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Kansas City, Mo., on October 25, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 67-12347; Filed, Nov. 8, 1967; 8:48 a.m.]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 8495; Amdt. 568]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

The amendments to the standard instrument approach procedures contained herein are adopted to become effective when indicated in order to promote safety. The amended procedures supersede the existing procedures of the same classification now in effect for the airports specified therein. For the convenience of the users, the complete procedure is republished in this amendment indicating the changes to the existing procedures.

As a situation exists which demands immediate action in the interests of safety in air commerce, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In view of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 97 (14 CFR Part 97) is amended as follows:

1. By amending the following automatic direction finding procedures prescribed in § 97.11(b) to read:

ADF STANDARD INSTRUMENT APPROACH PROCEDURES

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition: From—	Transition: To—	Course and distance	Minimum altitude (feet)	Ceiling and visibility minimums: Condition	2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots
MOL VOR	H8P RBn	Direct	6000	T-dn%	300-1	300-1	200-½
Natural Well Int	H8P RBn	Direct	6000	C-dn°	300-2	300-2	NA
ROA VOR	H8P RBn	Direct	6000	S-dn-24	300-1	300-1½	300-1½
MOL VOR	Goshen Int	Via MOL R 268°...	6000	A-dn	NA	NA	NA
Goshen Int	H8P RBn (final)	Direct	4601				

Procedure turn N side of crs 080° Outbnd, 260° Inbnd, 5300' within 10 miles.
Minimum altitude over facility on final approach crs, 4601.
Facility on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile of H8P RBn, make immediate right-climbing turn to 6000' to Natural Well Int. via MOL VOR R 279°. Hold N 1-minute left turns 183° Inbnd.
NOTE: Use Roanoke altimeter.
CAUTION: Terrain 4289' 1.6 miles SSW airport boundary.
°All circling approaches are prohibited in the area S of Runway 6 and SW of Runway 32.
%Runway 24 climb on heading 279° to 5000' before proceeding on crs.
MSA within 25 miles of facility: 090°–120°—5500'; 120°–210°—5300'; 210°–300°—5600'; 300°–090°—5900'.

City, Hot Springs; State, Va.; Airport name, Ingalls Field; Elev., 3601'; Fac. Class., MHW; Ident., H8P; Procedure No. NDB(ADF) Runway 24, Amdt. 1; Eff. date, 2 Dec. 67; Sup. Amdt. No. ADF No. 1, Orig.; Dated, 3 Oct. 64

LAX VOR	LOM	Direct	3000	T-dn%	300-1	300-1	°200-½
Downey FM/NDB	LOM (final)	Direct	2000	C-dn	600-1	600-1	600-1½
LGB VOR	Downey FM/NDB	Direct	3000	S-dn-25L/R	600-1	600-1	600-1
La Habra Int	Downey FM/NDB	Direct	3000	A-dn	800-2	800-2	800-2
Tower Int	LOM	Direct	4000				

Radar available.
Procedure turn S side of crs, 025° Outbnd, 245° Inbnd, 2400' within 10 miles of LOM.
Minimum altitude over facility on final approach crs, 2000'.
Crs and distance, facility to airport, 245°, 4.4 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.4 miles after passing LOM, climb to 2000' on crs of 245° within 15 miles of LOM.
%Northbound (260° through 099°) IFR departures: Unless otherwise directed by ATC, published SID's must be used.
°EVE 2400' authorized Runways 25L/R and 7L/R.
MSA within 25 miles of facility: 045°–135°—3600'; 135°–225°—3600'; 225°–315°—4800'; 315°–045°—9100'.

City, Los Angeles; State, Calif.; Airport name, Los Angeles International; Elev., 126'; Fac. Class., LOM; Ident., LA; Procedure No. NDB(ADF) Runway 25L/R, Amdt. 27; Eff. date, 2 Dec. 67; Sup. Amdt. No. NDB(ADF) Runway 25L/R, Amdt. 26; Dated, 7 Oct. 67

ADF STANDARD INSTRUMENT APPROACH PROCEDURES—Continued

Transition: From—	Transition: To—	Course and distance	Minimum altitude (feet)	Ceiling and visibility minimums: Condition	2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots
SEA VOR	SZ LOM	Direct	2000	T-dn%	300-1	300-1	200-½
PAE VOR	SZ LOM (final)	Direct	2000	C-dn	800-1	800-1	800-1½
Burton Int	SZ LOM	Direct	2800	S-dn-16R	800-1	800-1	800-1
Lofall Int	SZ LOM	Direct	3000	A-dn	800-2	800-2	800-2

Radar available.
Procedure turn W side of crs, 336° Outbnd, 156° Inbnd, 2000' within 10 miles.
Minimum altitude over facility on final approach crs, 1600'.
Crs and distance, facility to airport, 156°, 4.2 miles.°
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.2 miles after passing SZ LOM, climb to 2600' direct to SZ LOM or, when directed by ATC, turn right, climb southwestbound to 2000' on R 227° SEA VOR within 10 miles.
°Distance indicated is to the displaced threshold.
%Takeoff all runways: climb on SEA VOR R 265° within 10 miles to cross SEA VOR at or above: Northeastbound V2N 4300'; eastbound V2 2000'; southeastbound V28/V4 4000'; southbound V48 4000'.
#Sliding scale not authorized for landing.
MSA within 25 miles of facility: 000°–090°—6200'; 090°–180°—5400'; 180°–360°—4500'.

City, Seattle; State, Wash.; Airport name, Seattle-Tacoma International; Elev., 429'; Fac. Class., LOM; Ident., SZ; Procedure No. NDB(ADF) Runway 16, Amdt. 6; Eff. date, 2 Dec. 67; Sup. Amdt. No. ADF2, Amdt. 5; Dated, 24 Dec. 66

TCM RBn	SE LOM (fina)	Via crs 020° from TCM RBn & crs 338° to LOM.	2000	T-dn%	300-1	300-1	200-½
				C-dn	500-1	500-1	500-1½
				S-dn-34	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2
SEA VOR	SE LOM	Direct	2000				
Burton VHF Int	SE LOM	Direct	3000				

Radar available.
Procedure turn E side of crs, 158° Outbnd, 338° Inbnd, 1700' within 10 miles.
Minimum altitude over facility on final approach crs, 1600'.
Crs and distance, facility to airport, 338° 4 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4 miles after passing SE LOM, climb to 3000' direct to SZ LOM or, when directed by ATC, turn left, climb southwestbound to 2000' on R 227° SEA VOR within 10 miles.
%Takeoff all runways: Climb on the SEA VOR R 265° within 10 miles to cross SEA VOR at or above: Northeastbound V2N 4300'; eastbound V2 2000'; southeastbound V28/4 4000'; southbound V48 4000'.
MSA within 25 miles of facility: 000°–090°—6200'; 090°–180°—7100'; 180°–360°—2900'.

City, Seattle; State, Wash.; Airport name, Seattle-Tacoma International; Elev., 429'; Fac. Class., LOM; Ident., SE; Procedure No. NDB(ADF) Runway 34, Amdt. 27; Eff. date, 2 Dec. 67; Sup. Amdt. No. ADF 1, Amdt. 26; Dated, 24 Dec. 66

2. By amending the following very high frequency omnirange (VOR) procedures prescribed in § 97.11(c) to read:

VOR STANDARD INSTRUMENT APPROACH PROCEDURES

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition: From—	Transition: To—	Course and distance	Minimum altitude (feet)	Ceiling and visibility minimums: Condition	2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots
15-mile DME Fix, R 060° ITO VORTAC	6.9-mile DME Fix, R 060° ITO VORTAC.	Direct	1000	T-dn°	300-1	300-1	200-½
				C-dn	600-1	600-1	%600-1½
Hibiscus Int	Bayview Int	Direct	1500	S-dn-26#	400-1	400-1	400-1
6.9-mile DME Fix, R 060° (Bayview Int.)...	ITO VORTAC (final)	Direct	427	A-dn	800-2	800-2	800-2
R 323°, ITO VORTAC clockwise	R 090°, ITO VORTAC	Via 15-mile DME Arc.	1500				
R 110°, ITO VORTAC counterclockwise	R 060°, ITO VORTAC	Via 7- to 15-mile DME Arc.	1500				

Procedure turn S side of crs, 060° Outbnd, 240° Inbnd, 1500' within 10 miles.
Minimum altitude over facility on final approach crs, 427'.
Crs and distance, facility to airport, 259°—1 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 1 mile (1-mile DME Fix, R 259°) after passing ITO VORTAC, turn right and climb to 3000' on R 355° within 30 miles, turn right, return to VOR on R 355°, hold E on R 060°, left turns.
CAUTION: Gradually rising terrain westerly quadrants.
°400-1 required Runway 26 with right turn after takeoff.
#400-½ authorized, with operative high-intensity runway lights, except for 4-engine turbojets.
%4-engine turbojets: 800-2 circling N of Runways 8/26; 800-2 circling S of Runways 8/26.
MSA within 25 miles of facility: 060°–120°—1200'; 120°–210°—7000'; 210°–300°—16,800'; 300°–060°—8000'.

City, Hilo; State, Hawaii; Airport name, General Lyman Field; Elev., 37'; Fac. Class., H-BVORTAC; Ident., ITO; Procedure No. VOR Runway 26, Amdt. 2; Eff. date, 2 Dec. 67; Sup. Amdt. No. VOR Runway 26, Amdt. 1; Dated, 27 May 67

3. By amending the following very high frequency omnirange—distance measuring equipment (VOR/DME) procedures prescribed in § 97.15 to read:

VOR/DME STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
10-mile DME Fix ITO VORTAC, R 323°...	7-mile DME Fix ITO VORTAC, R 323°.	Direct	2500	T-dn*	300-1	300-1	300-1
7-mile DME Fix R 323°	1-mile DME Fix, R 323° (final)	Direct	637	C-dn	600-1	600-1	600-1
				A-dn	800-2	800-2	800-2

Procedure turn not authorized.
Straight-in to facility from 10-mile DME Fix, R 323° only.
Minimum altitude over 7-mile DME Fix, 2500'; over 1-mile DME Fix, R 323°, 637', on final approach crs.
Crs and distance, facility to airport 259°—1 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished at 1-mile DME Fix, R 323°, turn left and climb to 3000' on R 265° within 20 miles, turn right, return to VOR on R 265°, hold E on R 080°, left turns.
NOTE: DME required for execution of this approach.
*400-1 required Runway 26 with right turn after takeoff.
%4-engine turbojets: 600-2 circling N of Runways 8/26, 800-2 circling S of Runways 8/26.
MSA within 25 miles of facility: 090°-120°—12000'; 120°-210°—7000'; 210°-300°—15,800'; 300°-090°—8000'.

City, Hilo; State, Hawaii; Airport name, General Lyman Field; Elev., 37'; Fac. Class., H-BVORTAC; Ident., ITO; Procedure No. VOR/DME-1, Amdt. 2; Eff. date, 2 Dec. 67; Sup. Amdt. No. VOR/DME-1, Amdt. 1; Dated, 27 May 67

4. By amending the following instrument landing system procedures prescribed in § 97.17 to read:

ILS STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
SEA VOR	SZ OM	Direct	2600	T-dn#%	200-1	200-1	200-½
PAE VOR	SZ OM (final)	Direct	2000	C-dn	500-1	500-1	500-1½
Burton VHF Int	SZ LOM	Direct	2600	S-dn-16###	200-½	200-½	200-½
Lodall VHF Int	SZ LOM	Direct	3000	A-dn	600-2	600-2	600-2

Radar available.
Procedure turn W side of crs, 323° Outbnd, 155° Inbnd, 2000' within 10 miles.
Final approach from holding pattern at SZ LOM not authorized, procedure turn required.
Minimum altitude at glide slope intercept Inbnd, 1600'.
Altitude of glide slope and distance to approach end of runway at OM, 1732'—4.2 miles*; at MM, 632'—0.6 mile*.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished climb to 1700' direct to SE LOM or, when directed by ATC, turn right, climb southwestbound to 2000' on R 227° SEA VOR within 10 miles.
NOTE: Back crs unusable.
#400-1 required when glide slope not utilized. 400-½ authorized, with operative high-intensity runway lights, except for 4-engine turbojets. 400-½ authorized, with operative ALS, except for 4-engine turbojets.
*Distance indicated is to the displaced threshold.
##RVR 2400'. Descent below 628' not authorized unless approach lights are visible.
###RVR 2400' authorized Runway 16.
%Takeoff all runways: Climb on SEA VOR R 265° within 10 miles to cross SEA VOR at or above: Northeastbound V2N 4300'; eastbound V2 2000'; southeastbound V28/V4 4000'; southbound V48 4000'.
MSA within 25 miles of facility: 000°-090°—6200'; 090°-180°—5400'; 180°-360°—4500'.

City, Seattle; State, Wash.; Airport name, Seattle-Tacoma International; Elev., 428'; Fac. Class., ILS; Ident., I-SZI; Procedure No. ILS Runway 16, Amdt. 8; Eff. date, 2 Dec. 67; Sup. Amdt. No. ILS-16, Amdt. 7; Dated, 24 Dec. 66

TCM RBn	SE OM (final)	Via crs 020° and S crs of SEA LCLZR.	2000	T-dn#%	300-1	300-1	200-½
				C-dn	500-1	500-1	500-1½
				S-dn-34###	200-½	200-½	200-½
SEA VOR	SE OM	Direct	2600	A-dn	600-2	600-2	600-2
Burton VHF Int	SE LOM	Direct	3600				

Radar available.
Procedure turn E side of crs, 155° Outbnd, 335° Inbnd, 1700' within 10 miles.
Minimum altitude at glide slope intercept Inbnd, 1600'.
Altitude of glide slope and distance to approach end of runway at OM, 1598'—4 miles; at MM, 560'—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished climb to 2000' direct to SZ LOM or, when directed by ATC, turn left, climb southwest bound to 2000' on R 227° SEA VOR within 10 miles.
NOTE: Back crs unusable.
#400-1 required when glide slope not utilized. 400-½ authorized, with operative high-intensity runway lights except for 4-engine turbojets. 400-½ authorized, with operative ALS, except for 4-engine turbojets.
##RVR 2400'. Descent below 628' not authorized unless approach lights are visible.
###RVR 2400' authorized Runway 34.
%Takeoff all runways: Climb on SEA VOR R 265° within 10 miles to cross SEA VOR at or above: Northeastbound V2N 4300'; eastbound V2 2000'; southeastbound V28/V4 4000'; southbound V48 4000'.
MSA within 25 miles of facility: 090°-090°—6200'; 090°-180°—7100'; 180°-360°—2800'.

City, Seattle; State, Wash.; Airport name, Seattle-Tacoma International; Elev., 428'; Fac. Class., ILS; Ident., I-SEA; Procedure No. ILS Runway 34, Amdt. 28; Eff. date, 2 Dec. 67; Sup. Amdt. No. ILS-34, Amdt. 27; Dated, 24 Dec. 66

5. By amending the following radar procedures prescribed in § 97.19 to read:

RADAR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet, MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If a radar instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below. Positive identification must be established with the radar controller. From initial contact with radar to final authorized landing minimums, or (B) at pilot's discretion if it appears desirable to discontinue (A) visual contact is established on final approach at or before descent to the authorized landing minimums, or (B) at pilot's discretion if it appears desirable to discontinue the approach, except when the radar controller may direct otherwise prior to final approach, a missed approach shall be executed as provided below when (A) communication on final approach is lost for more than 5 seconds during a precision approach, or for more than 20 seconds during a surveillance approach; (B) directed by radar controller; (C) visual contact is not established upon descent to authorized landing minimums; or (D) if landing is not accomplished.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
As established by Seattle ASR minimum altitude vectoring chart.				Precision approach:			
				T-dn#	300-1	300-1	200-½
				C-dn	500-1	500-1	500-1½
				S-dn-16/34##	200-½	200-½	200-½
				A-dn	600-2	600-2	600-2
				Surveillance approach:			
				T-dn	300-1	300-1	200-½
				C-dn	500-1	500-1	500-1½
				S-dn-16/34#	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished: Runway 34—Climb to 2000' direct to SZ LOM or, when directed by ATC, turn left, climb southwestbound to 2000' on R 227° of Seattle VOR within 10 miles. Runway 16—Climb to 2000' direct to SE LOM or, when directed by ATC, turn right, climb southwestbound to 2000' on R 227° SEA VOR within 10 miles.
#RVR 2400'. Descent below 628' not authorized unless approach lights are visible.
##RVR 2400' authorized Runways 16 and 34.
#RVR 2400' authorized Runways 16 and 34.
%400-½ authorized, with operative high-intensity runway lights, except for 4-engine turbojets. 400-½ authorized, with operative ALS, except for 4-engine turbojets.
MSA within 25 miles of facility: 000°-180°—6200'; 180°-360°—2900'.

City, Seattle; State, Wash.; Airport name, Seattle-Tacoma International; Elev., 429'; Fac. Class., and Ident., Seattle-Tacoma Radar; Procedure No. 1, Amdt. 14; Eff. date, 2 Dec. 67; Sup. Amdt. No. 1, Amdt. 13; Dated, 24 Dec. 66

These procedures shall become effective on the dates specified therein.

(Secs. 307(c), 313(a), 601, Federal Aviation Act of 1958; 49 U.S.C. 1348(c), 1354(a), 1421; 72 Stat. 749, 752, 775)

Issued in Washington, D.C., on October 25, 1967.

W. E. ROGERS,
Acting Director, Flight Standards Service.

[F.R. Doc. 67-12854; Filed, Nov 8, 1967; 8:45 a.m.]

SUBCHAPTER H—SCHOOLS AND OTHER CERTIFICATED AGENCIES

[Docket No. 8235; Amdt. 141-5]

PART 141—PILOT SCHOOLS

Chief Flight Instructor Experience Requirements

The purpose of this amendment to Part 141 of the Federal Aviation Regulations is to establish equivalent but more practical levels of experience for chief flight instructors.

This amendment was proposed by notice of proposed rule making 67-23 published in the FEDERAL REGISTER on June 27, 1967 (32 F.R. 9102). Interested persons have been afforded an opportunity to participate in the making of this amendment, and all public comments have been considered. A substantial majority of the comments favored the adoption of the rule as proposed. Therefore, for the reasons set forth in Notice 67-23, the amendment is adopted herein without change.

One adverse comment was registered by a chief flight instructor who felt that the proposal would lower the standards for designation as a chief flight instructor. The FAA does not agree that this amendment lowers the standards. It establishes more practical requirements that will permit the designation of persons who are as well-qualified as those presently eligible but have been precluded by the restrictive provisions of the regulations before this amendment. The other adverse comment was filed by another flight instructor who felt that the regulations should require an instrument rating for the chief flight instructor of a primary flying school, and that effectiveness as an instructor, as shown by the rate of student success, should be considered. However, the limited objectives of the proposed rule do not allow consideration of these matters since they would require substantive changes on which the public has not been given an opportunity to comment.

This amendment provides for the acceptance of additional kinds of flight instruction experience for designation as a chief flight instructor and relieves an undue burden on flying schools and flight instructors. Therefore, I find that good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, Part 141 of the Federal Aviation Regulations is amended as follows, effective November 9, 1967.

1. By amending § 141.59 to read as follows:

§ 141.59 Chief flight instructor requirements.

(a) Each flight course must be under the direct supervision of a chief flight instructor designated by the school. A person may serve as chief flight instructor for each course for which he is qualified. A chief flight instructor must be at least 21 years of age, must have a good record as a pilot and flight instructor, and must meet the applicable requirements of paragraph (b), (c), or (d) of this section. However, a chief flight instructor of a flight course for gliders is only required to have 40 percent of the hours in paragraphs (b) and (c) of this section.

(b) For a primary flying school, a chief flight instructor must have—

(1) At least a commercial pilot certificate and a flight instructor certificate, each with a rating for the category of aircraft used in the course;

(2) At least 1,000 hours as pilot in command;

(3) Primary flight instruction experience, acquired as either a certificated flight instructor or an instructor in a military pilot primary flight training program, or a combination thereof, consisting of at least—

(i) Two years and a total of 500 flight hours; or

(ii) 1,000 flight hours; and

(4) Within the year preceding designation, at least 100 hours of primary flight instruction as a certificated flight instructor in the category of aircraft used in the course.

(c) For a commercial flying school or a flight instructor flying school, a chief flight instructor must have—

(1) At least a commercial pilot certificate and a flight instructor certificate, each with a rating for the category of aircraft used in the course and, for a course using airplanes, each with an instrument rating;

(2) At least 2,000 hours as pilot in command;

(3) Flight instruction experience, acquired as either a certificated flight instructor or an instructor in a military pilot primary or basic flight training program, or a combination thereof, consisting of at least—

(i) Three years and a total of 1,000 flight hours; or

(ii) 1,500 flight hours; and

(4) Within the year preceding designation, at least—

(i) 100 hours of pilot instruction as a certificated flight instructor in the category of aircraft used in the course;

(ii) One year of active service as chief flight instructor of an approved primary flight course; or

(iii) One year of active service as an FAA designated pilot examiner.

(d) For an instrument flying school, a chief flight instructor must have—

(1) At least a commercial pilot certificate and a flight instructor certificate, each with an instrument rating;

(2) At least 100 hours of flight time under actual or simulated instrument conditions;

(3) At least 1,000 hours as pilot in command;

(4) Instrument flight instruction experience, acquired as either a certificated flight instructor or an instructor in a military pilot basic or instrument flight training program, or a combination thereof, consisting of at least—

(i) Two years and a total of 250 flight hours; or

(ii) 400 flight hours; and

(5) Within the year preceding designation, at least—

(i) 100 hours of instrument flight instruction as a certificated instrument flight instructor; or

(ii) One year of active service as an FAA designated instrument rating examiner.

(e) The school shall notify the supervising FAA district office in writing prior to any change in designation of a chief flight instructor.

2. By adding the following new section after § 141.59:

§ 141.60 Chief flight instructor duties.

(a) A chief flight instructor shall perform the following duties:

(1) Certify training reports, graduation certificates, and official recommendations of the school.

(2) Maintain adequate instructional standards.

(3) Assure effective scheduling of aircraft, instructors, and students.

(4) Assure the maintenance of student progress and accomplishment records.

(5) Conduct competency and standardization checks of instructors.

(6) Assure the proper conduct of student proficiency stage checks.

(7) Maintain liaison with the FAA in applying the techniques, procedures, and standards of the school.

(b) Each flying school shall assign these duties in writing and the chief flight instructor shall accept them in writing.

(Secs. 313(a), 601, 607, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1427)

Issued in Washington, D.C., on November 3, 1967.

D. D. THOMAS,
Acting Administrator.

[F.R. Doc. 67-13248; Filed, Nov. 8, 1967; 8:48 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

SUBCHAPTER D—TRADE REGULATION RULES

PART 412—DISCRIMINATORY PRACTICES IN MEN'S AND BOYS' TAILORED CLOTHING INDUSTRY

The Federal Trade Commission, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41, et seq., and the Clayton Act, as amended, 15 U.S.C. 12, et seq., and the provisions of Part 1, Subpart F of the Commission's procedures and rules of practice, 16 CFR 1.61, et seq. (amended June 13, 1967, as Subpart B, Part 1, 32 F.R. 8444), has conducted a proceeding for the promulgation of a Trade Regulation Rule regarding the granting or furnishing of advertising payments or promotional allowances, services or facilities, by sellers of men's, youths' and boys' suits, coats, overcoats, topcoats, jackets, dress trousers, and uniforms (hereinafter referred to as products), to buyers engaged in the resale of such products. Notice of this proceeding, including a proposed rule, was published in the FEDERAL REGISTER, on November 9, 1966 (31 F.R. 14416). Interested parties were thereafter afforded opportunity to participate in the rulemaking proceeding through the submission of written data, views and arguments by January 11, and to appear at a hearing on January 18, 1967.

The Commission has now considered all matters of fact, law, policy and discretion, including the data, views and arguments presented by interested or affected parties in the proceeding, and, having concluded that it has rulemaking authority concerning the practices involved, has determined that the Trade Regulation Rule set forth herein is in the public interest and should be adopted.

STATEMENT OF BASIS AND PURPOSE

Sec.
412.1 Basis of the proceeding.
412.2 The Trade Regulation Rule proceeding.
412.3 Conclusions.
412.4 Purpose.

THE RULE

412.5 Definitions.
412.6 The Rule.

AUTHORITY: The provisions of this Part 412 issued under 38 Stat. 717, as amended; 15 U.S.C. 41–58; 49 Stat. 1526; 15 U.S.C. 12, et seq.

STATEMENT OF BASIS AND PURPOSE

§ 412.1 Basis of the proceeding.

(a) The Commission focused its attention on the wearing apparel industry after having received numerous complaints from small apparel retailers, small manufacturers and apparel salesmen. These complainants asserted that many manufacturers of apparel, particularly in the outerwear categories of women's and misses' dresses, suits, coats, sweaters and blouses, and men's and boys' suits, coats, slacks, shirts and sweaters, had discriminated in the granting of advertising allowances to their competing customers, in violation of section 2(d) of the Clayton Act, as amended. In order to obtain further information concerning the practices alleged in these complaints, the Commission in 1961 issued orders requiring approximately 230 of the leading buying offices, including the large department store chains, to file special reports, pursuant to section 6(b) of the Federal Trade Commission Act. Subsequently, additional orders were issued requiring over 400 sellers or suppliers of apparel, including approximately 35 suppliers of men's and boys' tailored clothing, to file similar reports. An examination of the data furnished in these reports indicated that violations of section 2(d) of the amended Clayton Act were widespread in the wearing apparel industry.[1] Moreover, it appeared that such violations usually occurred in situations where sellers failed to furnish competing customers with written promotional plans.

(b) On the basis of the information developed by this inquiry, the Commission afforded those manufacturers or suppliers which it had reason to believe were engaged in practices violative of section 2(d) of the amended Clayton Act opportunity to enter into consent agreements which included orders to cease and desist from engaging in such unlawful practices.[2] Of the more than 300 manufacturers or suppliers of apparel which were the subject of cease and desist orders subsequently issued, approximately 25 were manufacturers of men's and boys' tailored clothing.

(c) The Men's and Boys' Tailored Clothing Industry, a sizable segment of the apparel trade, comprised some 635 establishments according to the 1963 Census of Manufacturers published by the Bureau of the Census. In 1964 the net value of shipments by manufacturers amounted to almost two billion dollars. Representatives of this industry petitioned the Commission to initiate an informal enforcement program for obtaining industrywide compliance with section 2 (d) and (e) of the amended Clayton Act.[3] In connection with this petition a preliminary inquiry into industry practices was conducted in the course of which interviews were had with knowledgeable sources, including other government agencies, trade associations and retail organizations. After giving consideration to the industry petition in the light of the information developed in this inquiry, together with that obtained in the earlier investigations, the Commission initiated a Trade Regulation Rule proceeding in the Men's and Boys' Tailored Clothing Industry. Before deciding upon this course of action, the Commission considered alternative methods of obtaining correction of the practices in question, including the case-by-case approach. It was concluded, however, that this purpose could be accomplished most expeditiously and equitably through the initiation of a Trade Regulation Rule proceeding.

[1] Rabiner & Jontow, Inc., Docket No. 8629 (Sept. 19, 1966) p. 2.

[2] Abby Kent Co., Inc., et al., Docket No. C-328 et al. (Aug. 9, 1967).

[3] Subsecs. (d) and (e) of sec. 2 of the Clayton Act, as amended, are set forth in an appendix to the rule.

§ 412.2 The Trade Regulation Rule proceeding.

(a) A notice of proposed rule making, including a proposed rule, was published in the FEDERAL REGISTER on November 9, 1966, affording all interested or affected parties an opportunity to submit data, views or arguments concerning the proposed rule, in writing or orally at a public hearing which was held on January 18, 1967. The proposed rule provided in substance that the granting or furnishing of advertising allowances or special services or facilities would be presumed to be unlawful unless made pursuant to a written plan furnished by the supplier to all of his competing customers.

(b) In the course of the public hearing, industry representatives asserted that violations of section 2 (d) and (e) of the amended Clayton Act were widespread in the industry and attributed this primarily to the absence of written promotional plans. In support of this assertion a representative of a men's and boys' clothing manufacturers association who estimated that considerably more than 60 percent of this industry's production is covered by cooperative advertising plans, introduced a summary of a survey conducted among some of its members representing a cross-section of the industry. This survey showed that out of 48 manufacturers, 36 believed that their competitors deviated from their oral plans and granted discriminatory allowances, whereas significantly fewer manufacturers felt that their competitors discriminated when written plans were involved. Of the manufacturers polled, approximately 77 percent were of the opinion that retailers pressured manufacturers to deviate from their plans.

(c) Another association representing retail establishments selling men's wear referred to a survey made among its members which showed that of approximately 100 retailers of apparel polled, half believed that their suppliers discriminated among their customers in granting advertising allowances. Thirty expressed no opinion and 20 did not believe that manufacturers discriminated. It was stated that the ratio—50 believed yes and 20 no—fairly reflected the opinion of the entire membership of more than 3,000 members of the retail organization.

(d) According to both written and oral statements received in the proceeding many retailers, especially the larger ones, exert pressure on their suppliers for special treatment and even in the absence of such pressure oral arrangements by their nature are subject to deviations in an industry where many salesmen serve numerous customers. Industry representatives also expressed the opinion that the use of written plans supplied to all competing customers would enable a manufacturer to resist more successfully pressures for preferred treatment brought by retailers, and thus better assure lawful treatment to all of the seller's competing customers.

(e) In summary, information received during the proceeding from attorneys, businessmen and association executives representing the manufacturing segment of the Men's and Boys' Tailored Clothing Industry fully supports the conclusion that the granting or furnishing of discriminatory advertising allowances or services in violation of section 2(d) of the amended Clayton Act is widespread in the Men's and Boys' Tailored Clothing Industry, and the further conclusion that such violations have occurred usually when sellers have failed to furnish their competing customers with written promotional plans.

(f) The information developed in this Trade Regulation Rule proceeding accords with the Commission's experience in the enforcement of section 2 (d) and (e) of the Clayton Act, as amended, particularly in the application of these statutory provisions to practices in the wearing apparel industry. It is not by coincidence that oral plans were involved in all of the litigated cases arising out of the 1961 investigation of the apparel industry[4] and in all but one of the cases in the Men's and Boys' Tailored Clothing Industry disposed of by consent orders. On the basis of this information and experience, the Commission believes that written notification of promotional plans appears to be the most—and perhaps the only—completely reliable and fair method of assuring compliance with the law.[5]

§ 412.3 Conclusions.

In view of the foregoing the Commission concludes that:

(a) The practice of granting or furnishing discriminatory advertising allowances or services in violation of section 2 (d) and (e) of the amended Clayton Act is widespread in the Men's and Boys' Tailored Clothing Industry;

(b) These violations usually occur when sellers fail to supply written promotional plans to their customers who compete in the resale of their products;

(c) A reasonable relationship exists between the facts shown and the presumption stated in the rule; and

(d) The rule affords the most expeditious and equitable means of eliminating and preventing such violations.

[4] Rabiner & Jontow, Inc., Docket No. 8629 (Sept. 19, 1966), Gladstone-Aroni, Inc., Initial Decision, Docket No. 8664 (Feb. 10, 1967), House of Lord's, Inc., Docket No. 8631 (Jan. 13, 1966), and Best & Co., Inc., Docket No. 8660 (Sept. 7, 1967).

[5] House of Lord's, Inc., supra at p. 18; see also: Vanity Fair Paper Mills, Inc. v. Federal Trade Commission, 311 F. 2d 480, 486–486 (2d Cir. 1962).

§ 412.4 Purpose.

The purpose of this rule is to inform all interested or affected parties of the Commission's position with respect to the practices in question and to aid the Commission in the prevention of practices violative of section 2 (d) and (e) of the Clayton Act, as amended, in the Men's and Boys' Tailored Clothing Industry, on an equitable and industrywide basis.

THE RULE

§ 412.5 Definitions.

For the purpose of this rule the following definitions apply:

(a) *Products.* Men's youths' and boys' suits, coats, overcoats, topcoats, jackets, dress trousers and uniforms.

(b) *Seller.* Any person, firm, corporation or organization engaged in the sale of products for resale with or without further processing.

(c) *Customer or purchaser.* Persons, firms, corporations or organizations engaged in the purchase of products for resale.

(d) *Customers competing in the resale and competing customers.* Mean those customers who compete with each other in the distribution of a seller's products.

§ 412.6 The Rule.

The Commission hereby promulgates as a Trade Regulation Rule its conclusions and determination that the granting or furnishing, in whole or in part, of any advertising payment or promotional allowance, service or facility, by any seller of men's, youths' and boys' suits, coats, overcoats, topcoats, jackets, dress trousers and uniforms to a customer engaged in the resale of such products, will be presumed not to have been made available on proportionally equal terms to all the seller's customers competing in the resale of such products within the purview of section 2 (d) and (e) of the amended Clayton Act, unless such payments or allowances, services or facilities, have been made available pursuant to and in accordance with all the terms and conditions of a written plan supplied to all such competing customers.

Effective date of the rule. The rule will become effective on April 1, 1968.

Adopted: October 18, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

APPENDIX

Set forth below are subsections (d) and (e) of section 2 of the Clayton Act, as amended:

"(d) That it shall be unlawful for any person engaged in commerce to pay or contract for the payment of anything of value to or for the benefit of a customer of such person in the course of such commerce as compensation or in consideration for any

services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such person, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

"(c) That it shall be unlawful for any person to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms."

[F.R. Doc. 67-13196; Filed, Nov. 8, 1967; 8:45 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Chapter II—Federal Housing Administration, Department of Housing and Urban Development

SUBCHAPTER A—GENERAL

PART 200—INTRODUCTION

Subpart C—Organization and Management

Subpart D—Delegations of Basic Authority and Functions

MISCELLANEOUS AMENDMENTS

Section 200.41 is amended to read as follows:

§ 200.41 Administrative staff.

The principal administrative staff of the FHA includes the Deputy Assistant Secretary, the Executive Assistant Commissioner, the General Counsel, and Assistant Commissioners, whose respective duties and areas of authority are indicated by their titles.

In Part 200 in the Table of Contents § 200.58e is deleted, and § 200.52 is amended to read as follows:

Sec.
200.52 Deputy Assistant Secretary.
200.58e [Deleted]

Section 200.51 is amended to read as follows:

§ 200.51 Acting Commissioner.

The Deputy Assistant Secretary, the Executive Assistant Commissioner, the Assistant Commissioner for Field Operations, the General Counsel, the Assistant Commissioner for Programs, the Assistant Commissioner for Administration, and the Assistant Commissioner-Comptroller, in the order named, are designated by the Assistant Secretary-Commissioner to act in his place and stead in the event of his absence or inability to act, having the title of "Acting Commissioner" with all the powers, duties, and rights delegated to the Assistant Secretary-Commissioner by the Secretary of Housing and Urban Development.

Section 200.52 is amended to read as follows:

§ 200.52 Deputy Assistant Secretary.

To the position of Deputy Assistant Secretary there is delegated the basic authority and functions and to act with and for the Assistant Secretary-Commissioner in the general administration of the Federal Housing Administration, in the determination of basic policy and in the general supervision, direction and coordination of all operations, activities and functions of the Federal Housing Administration, with full authority at all times to make any decision which the Assistant Secretary-Commissioner is authorized to make and to issue any order which the Assistant Secretary-Commissioner is authorized to issue.

In § 200.52a, paragraph (d) is revoked as follows:

§ 200.52a Assistant Commissioner for Field Operations and Deputy.

* * * * *

(d) [Revoked]

* * * * *

In § 200.57, a new paragraph (g) is added to read as follows:

§ 200.57 Assistant Commissioner for Multifamily Housing and Deputy.

* * * * *

(g) To approve or disapprove the noncollection or refund of fees, to extend the period within which a mortgagee or lender is required to take action in order to prevent the expiration of a multifamily housing commitment or in order to reopen an expired multifamily housing commitment, and to approve or disapprove the retroactive reinstatement or reopening of an expired multifamily housing commitment.

Section 200.58a is amended to read as follows:

§ 200.58a Chief of the Rental Housing Branch.

To the position of Chief of the Rental Housing Branch there is delegated the authority to develop and recommend policies and establish operating plans and procedures for the insurance of all multifamily housing project mortgages under sections 207 and 220, 221(d)(4), title VIII, and the insurance of equity investments in multifamily housing under title VII.

Section 200.58c is amended to read as follows:

§ 200.58c Chief of the Low and Moderate Income Housing Branch.

To the position of Chief of the Low and Moderate Income Housing Branch there is delegated the following basic authority and functions:

(a) To develop and recommend policies and establish operating plans and procedures for the insurance of mortgages under section 221, exclusive of 221(d)(4) and 221(h).

(b) To develop and recommend policies and establish operating plans and procedures for the administration of the rent supplement program, including, but not limited to:

(1) The reservation of contract authority.

(2) The negotiation of rent supplement contracts.

(3) Tenant eligibility requirements.

(c) To direct and control the reservation of rent supplement contract authority.

Section 200.58e is revoked as follows:

§ 200.58e Chief of the Rent Supplement Branch. [Revoked]

(Sec. 2, 48 Stat. 1246, as amended; sec. 211, 52 Stat. 23, as amended; sec. 607, 55 Stat. 61, as amended; sec. 712, 62 Stat. 1231, as amended; sec. 907, 65 Stat. 301, as amended; sec. 807, 69 Stat. 651, as amended; 12 U.S.C. 1703, 1715b, 1742, 1747k, 1748f, 1750f)

Issued at Washington, D.C., November 3, 1967.

PHILIP N. BROWNSTEIN,
Federal Housing Commissioner.

[F.R. Doc. 67-12367; Filed, Nov. 8, 1967; 8:49 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

SUBCHAPTER C—THE NATIONAL WILDLIFE REFUGE SYSTEM

PART 32—HUNTING

Alamosa National Wildlife Refuge, Colo.

On page 13933 of the FEDERAL REGISTER of October 6, 1967, there was published a notice of a proposed amendment to § 32.11 of Title 50, Code of Federal Regulations. The purpose of this amendment is to provide public hunting of migratory game birds on the Alamosa National Wildlife Refuge, Colo., as legislatively permitted.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections with respect to the proposed amendment. No comments, suggestions, or objections have been received. The proposed amendment is hereby adopted without change.

Since this amendment benefits the public by relieving existing restrictions on hunting, it shall become effective upon publication in the FEDERAL REGISTER.

(Sec. 10, 45 Stat. 1224; 16 U.S.C. 715i; sec. 4, 80 Stat. 927; 16 U.S.C. 668dd)

Section 32.11 is amended by the addition of the following area as one where hunting of migratory game birds is authorized.

§ 32.11 List of open areas; migratory game birds.

* * * * *

COLORADO

Alamosa National Wildlife Refuge.

* * * * *

JOHN S. GOTTSCHALK,
Director, Bureau of Sport Fisheries and Wildlife.

NOVEMBER 7, 1967.

[F.R. Doc. 67-13290; Filed, Nov. 8, 1967; 8:50 a.m.]

PART 32—HUNTING

Alamosa National Wildlife Refuge, Colo.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER. The limited time ensuing from the date of the adoption of the Federal migratory game bird regulations to and including the establishment of State hunting seasons makes it impracticable to give public notice of proposed rule making.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

COLORADO

ALAMOSA NATIONAL WILDLIFE REFUGE

Public hunting of ducks and coots on the Alamosa National Wildlife Refuge, Colo., is permitted from date of this publication through December 26, 1967, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 2,805 acres, is delineated on maps available at refuge headquarters, Alamosa, Colo., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks and coots subject to the following special condition:

(1) Dogs—Not to exceed two dogs per hunter may be used only to retrieve wounded or dead ducks.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 26, 1967.

WILLIAM T. KRUMMES,
Regional Director, Albuquerque, N. Mex.

NOVEMBER 7, 1967.

[F.R. Doc. 67-13289; Filed, Nov. 8, 1967; 8:50 a.m.]

PART 32—HUNTING

Kern National Wildlife Refuge, Calif.

The following regulations are issued and are effective on date of publication in the FEDERAL REGISTER. These regulations apply to public hunting on portions of the Kern National Wildlife Refuge in California.

General conditions: Hunting shall be in accordance with applicable State regulations. Portions of the refuge which are open to hunting are designated by signs and/or delineated on maps. Special conditions are listed on the reverse side of the refuge hunting map and/or included herein. Maps are available at refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 730 Northeast Pacific Street, Portland, Oreg. 97208.

§ 32.22 Special regulations; upland game birds.

Pheasants may be hunted on the following refuge:

Kern National Wildlife Refuge, Post Office Box 210, Delano, Calif. 93215.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in 50 CFR Part 32, and are effective through December 3, 1967.

JOHN D. FINDLAY,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

OCTOBER 27, 1967.

[F.R. Doc. 67-13227; Filed, Nov. 8, 1967; 8:46 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 131—FIRST CLASS

Postal and Post Cards; Correction

In F.R. Doc. 67-12788 appearing at page 15021 in the issue for Tuesday, October 31, 1967, § 131.2(b)(4)(i) should read as follows:

§ 131.2 Classification.

* * * * *

(b) *Postal and post cards.*

* * *

(4) *Additions, attachments and other alterations to single and double postal and post cards.*

* * *

(i) The face of the card may be divided by a vertical line, the left half to be used for the message and the right half for the address only.

* * * * *

NOTE: The corresponding Postal Manual section is 131.224a.

(5 U.S.C. 301, 39 U.S.C. 501)

TIMOTHY J. MAY,
General Counsel.

NOVEMBER 3, 1967.

[F.R. Doc. 67-13225; Filed, Nov. 8, 1967; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 1131]

[Docket No. AO 271–A12]

MILK IN CENTRAL ARIZONA MARKETING AREA

Notice of Extension of Time for Filing Exceptions to Recommended Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given that the time for filing exceptions to the recommended decision with respect to the proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Central Arizona marketing area, which was issued October 9, 1967 (32 F.R. 14232), which was previously extended to November 6, 1967, is hereby further extended to November 30, 1967.

Signed at Washington, D.C., on November 3, 1967.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 67–13242; Filed, Nov. 8, 1967; 8:47 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Airworthiness Docket No. 67–WE–22–AD]

AIRWORTHINESS DIRECTIVES

General Dynamics Models 340, 440, and C–131E Airplanes Including Those Using Turbo Propeller Power

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an Airworthiness Directive (AD) applicable to General Dynamics Models 340, 440, and C–131E airplanes, including those using turbo propeller power.

There have been numerous reports of cracks developing in the Pilot and Co-Pilot Direct Vision Window Frame Casting P/N 340–3110314. The presence of cracks affects the structural integrity of the Casting and in some cases, has resulted in a loss of cabin pressurization in the affected airplane. Since this condition is likely to exist or develop in other airplanes of the same type design, an Airworthiness Directive is being proposed that would (1) require initial and repetitive inspections of all Pilot and Co-Pilot Direct Vision Window Castings P/N 340–3110314 with 4500 or more hours time in service and (2) require replacement of cracked Castings before further flight, although in certain cases the affected airplane could be operated at a cabin pressure differential of zero p.s.i. for a period of 200 hours time in service.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rules Docket, Post Office Box 90007, Airport Station, Los Angeles, Calif. 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Airworthiness Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new Airworthiness Directive:

GENERAL DYNAMICS. Applies to Models 340, 440, and C–131E, airplanes including those using turbo propeller power. Compliance required as indicated.

Due to numerous reports of cracks developing in the Pilot and Co-Pilot Direct Vision Window Frame Casting P/N 340–3110314 (hereinafter referred to as the Casting) which affects the structural integrity of the Casting and in some cases, has resulted in the loss of cabin pressurization in the affected airplane, accomplish the following:

(a) Inspect each Casting with 4,500 or more hours' time in service on the effective date of this AD in accordance with paragraph (c) within the next 100 hours' time in service after the effective date of this AD and thereafter at intervals not to exceed 100 hours' time in service from the last inspection.

(b) Inspect each Casting with less than 4,500 hours' time in service on the effective date of this AD in accordance with paragraph (c) prior to the accumulation of 4,600 hours' time in service and thereafter at intervals not to exceed 100 hours' time in service from the last inspection.

(c) Inspect all visible areas of the main body of each Casting for cracks with the aid of an eight power glass or by means of a dye penetrant method or by a method approved by the Chief, Aircraft Engineering Division, FAA Western Region.

NOTE: In performing the inspection specified in paragraph (c), special attention should be given to the lower left and right hand corner of the Casting.

NOTE: For purposes of complying with this AD, the main body of the Casting includes only that part of the Casting which outlines the Direct View Window and does not include the attach flanges.

(d) Except as provided in paragraph (e) of this AD, replace each Casting found cracked with a new part of the same part number prior to further flight (except that the airplane may be flown at a cabin pressure differential of zero p.s.i. in accordance with FAR 21.197 to a base where the replacement can be accomplished).

(e) Airplanes having a Casting(s) with one crack may be operated at a cabin pressure differential of zero p.s.i. for not more than 200 hours' time in service after discovery of the crack. If operation under this paragraph is elected:

(1) Prior to the initial takeoff after discovery of the cracked Casting(s), place an operating limitation in the form of a placard in clear view of the pilot stating: "Operating Limitation. Pressurized Flight Prohibited."

(2) Within 200 hours' time in service after discovery of the crack, replace each cracked Casting with a new part of the same part number (except that the airplane may continue to be flown at a cabin pressure differential of zero p.s.i. to a base where the replacement can be accomplished but only in accordance with FAR 21.197). Upon replacement of the cracked Casting(s), the placard installed in accordance with subparagraph (1) of this paragraph may be removed.

(f) Operators who have not kept records of hours time in service of individual Castings shall substitute hours time in service of the airplane in lieu thereof.

(g) Upon request of the operator, an FAA Maintenance Inspector, subject to prior approval of the Regional Director, FAA Western Region, may adjust the compliance times herein if the request contains substantiating data to justify the increase for that operator.

Issued in Los Angeles, Calif., on October 31, 1967.

ARVIN O. BASNIGHT,
Regional Director,
FAA Western Region.

[F.R. Doc. 67–13249; Filed, Nov. 8, 1967; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67–CE–96]

FEDERAL AIRWAY

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations which would alter VOR Federal airway No. 9 by adding an east alternate from Iron Mountain, Mich., via Menominee, Mich., to Green Bay, Wis.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief Air Traffic Division, Federal Building, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The Federal Aviation Administration proposes to designate the east alternate to V–9 from Iron Mountain via Menominee to Green Bay. This airway segment would provide controlled airspace for scheduled air carriers for the entire route from Iron Mountain to Green Bay.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on November 2, 1967.

T. MCCORMACK,
Acting Chief, Airspace and
Air Traffic Rules Division.

[F.R. Doc. 67–13251; Filed, Nov. 8, 1967; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67–CE–99]

FEDERAL AIRWAY

Proposed Extension

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would extend VOR Federal airway No. 159 from Sioux City, Iowa, to Yankton, S. Dak.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Building, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue, SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

This proposed extension of V–159 would provide a designated route and controlled airspace for scheduled air traffic operating from Omaha, Nebr., to Yankton, S. Dak.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on November 2, 1967.

T. MCCORMACK,
Acting Chief, Airspace and
Air Traffic Rules Division.

[F.R. Doc. 67–13252; Filed, Nov. 8, 1967; 8:46 a.m.]

[14 CFR Part 93]

[Docket No. 8823; Notice No. 67–48]

VALPARAISO, FLA., TERMINAL AREA

Communication Requirement

The FAA is considering an amendment to Part 93 of the Federal Aviation Regulations that would place the communication requirement now existing for the Valparaiso Florida Terminal Area on a continuous basis.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket GC–24, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before January 8, 1968, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Recognizing that a potentially hazardous condition existed in the airspace separating Restricted Areas R–2914 and R–2915 due to high speed USAF test flights operating between these areas, the FAA proposed in Notice No. 64–19 issued on March 30, 1964, that Part 93 be amended by setting forth a special air traffic regulation for flight in that airspace. Subsequently, Amendment 93–5, effective December 10, 1964, was adopted which added Subpart F—Valparaiso, Fla., Terminal Area.

Substantively, the regulation requires that unless otherwise authorized, flights may not be conducted in the airspace between Restricted Areas R–2914 and and R–2915 A and B during daylight hours Monday through Saturday unless communication with air traffic control (ATC) has been established for purposes of receiving ATC advisories concerning operations being conducted in the area.

The U.S. Air Force (USAF) contends that, due to an increase in general testing programs in the Eglin Complex, it is no longer feasible to schedule military crossings of the corridor between the restricted areas only during periods between sunrise and sunset, Monday through Saturday. The USAF advises that on a single night in the month of July 1967, 30 crossings were made and 12 crossings were made on a single Sunday. The speed of the aircraft making the crossings varies but some speeds are in the supersonic range.

The matter has been investigated and it was found that:

a. A high volume of test activities are being conducted at the Eglin Air Force Base complex;

b. Current tests requirements necessitate the rescheduling of some testing operations from daylight hours to night;

c. High priority daytime tests often require night scheduling of lower priority test activity.

d. Unpredictable defense requirements necessitate Sunday and night testing and it is expected that such unpredictable scheduling will continue;

e. The Eglin radar approach control and the Crestview flight service station are capable of providing advisory service to aircraft using the corridor 24 hours a day, 7 days per week;

f. General aviation interests in the area who were contacted approved of the proposed rule change.

In consideration of the foregoing, it is proposed to amend § 93.81 of the Federal Aviation Regulations by deleting the phrase "between sunrise and sunset, Monday through Saturday."

This amendment is proposed under the authority of section 307 of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on November 3, 1967.

WILLIAM E. MORGAN,
Acting Director, Air Traffic Service.

[F.R. Doc. 67–13283; Filed, Nov. 8, 1967; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 288]

[Ex Parte MC–1 (Sub No. 1 and 2)]

MOTOR CARRIERS OF HOUSEHOLD GOODS

Payment of Rates and Charges; Credit

NOVEMBER 2, 1967.

In accordance with the Commission's report and order decided August 10, 1967, published in the August 25 issue of the

FEDERAL REGISTER (32 F.R. 12407), all interested parties were requested to notify the Commission of their intentions to file verified statements, replies or other pleadings thereto.

Upon the Commission's own motion, the date for the filing of verified statements by all parties, the filing of reply statements, and the request for a hearing for the purpose of cross-examination in the above-entitled proceeding are further postponed as follows:

(1) The date for filing verified statements by all parties is postponed to December 13, 1967;

(2) The date for filing reply statements is postponed to January 15, 1968;

(3) The date for requesting a hearing for the purpose of cross-examining any witness submitting a verified statement is postponed to February 15, 1968.

A list of all known parties participating in this proceeding is set forth below.

[SEAL] H. NEIL GARSON, *Secretary.*

Mrs. Andrews, Aero Space Industries Association, 1725 De Sales St. NW., Washington, D.C. 20036.
Baker Oil Tools, Inc., Houston, Tex.
Russel S. Bernhard, 1625 K St. NW., Washington, D.C. 20006.
Elmer R. Bubb, Abbott Laboratories, North Chicago, Ill. 60064.
Burrough Corp., 6071 Second Ave., Detroit, Mich. 48232.
Walter K. Cabot, Johnson & Johnson, 500 George St., New Brunswick, N.J. 08906.
John H. Caldwell, 914 Washington Bldg., 15th St. and New York Ave. NW., Washington, D.C. 20005.
M. J. Cavanagh, Otis Elevator Co., 260 11th Ave., New York, N.Y. 10001.
J. K. Christensen, Traffic Manager, Mattel, Inc., Toymakers, 5150 Rosecrans Ave., Hawthorne, Calif. 90250.
John M. Cleary, 914 Washington Bldg., 15th St. and New York Ave. NW., Washington, D.C. 20005.
Robert H. Cooke, Traffic Manager, Lockheed-California Co., Burbank, Calif. 91503.
Charles T. Coy, Eli Lilly & Co., Indianapolis, Ind. 46206.
C. A. Daniel, Director of Field Services, Lincoln Liberty Life Insurance Co., Houston, Tex.
Homer O. Darnall, Ampex Corp., 401 Broadway, Redwood, Calif. 94063.
G. C. Dixon, Altamil Corp., 2859 Meridian St., Indianapolis, Ind. 46206.
John F. Donelan, 914 Washington Bldg., 15th St. and New York Ave. NW., Washington, D.C. 20005.
Ed Drake, Traffic Manager, Scientific Data Systems, 1649 17th St., Santa Monica, Calif. 90404.
Carroll F. Genovese, Executive Secretary, Movers' & Warehousemen's Association of America, Inc., 1101 Warner Bldg., Washington D.C. 20004.
G. Zan Golden, North American Van Lines, Fort Wayne, Ind. 46801.
D. B. Goodwin, Manager of Traffic, Urroughs Corp., 6071 Second Ave., Detroit, Mich. 48232.
T. S. Harling, Brunswick Corp., 69 West Washington St., Chicago, Ill. 60602.
Leo P. Horner, Traffic Manager, Spacecraft Department, Valley Forge Space Technical Center, Goddard Blvd., King of Prussia, Pa.
Mr. T. R. Kingsley, General Manager, American Movers Conference, 1616 P St. NW., Washington, D.C. 20006.
Harry A. Knobelock, Traffic Manager, Ralston Purina Co., Checkerboard Sq., St. Louis, Mo. 63199.
R. D. Langer, Control Data Corp., 8100 34th Ave. South, Minneapolis, Minn. 55440.
J. E. Lewis, Reynolds Metals Co., Reynolds Metals Bldg., Richmond, Va. 23218.
Wayne Love, Expediter, Martin K. Eby Construction Co., Inc., Post Office Box 1679, 610 North Main St., Wichita, Kans. 67201.
Cecil Provine, Executive Vice President, Rowan Drilling Co., Inc., Houston, Tex.
John G. Reid, Traffic Manager, Northrop Corp., 3901 West Broadway, Hawthorne, Calif. 90250.
R. V. Rogers, Purchasing Agent, General Precision System Link Group, Houston, Tex.
L. E. Roller, Traffic Manager, ITT Federal Laboratories, 3700 East Pontiac St., Fort Wayne, Ind. 46803.
J. A. Royal, Middle Atlantic Conference, Post Office Box 10213, Washington, D.C. 20018.
M. H. Savard, Hughes Aircraft Co., Van Nuys, Calif.
B. H. Smith, Senior Air Transport Analyst, Commercial Rates Section, Civil Aeronautics Board, Washington, D.C. 20428.
Clarence D. Smith, American Home Products Corp., 685 Third Ave., New York, N.Y. 10017.
G. L. Tideman, Al Johnson Construction Co., 580 Pillsbury Bldg., Minneapolis, Minn. 55402.
Hugo Waninger, Anheuser Busch, Inc., St. Louis, Mo. 63118.
E. S. Wheaton, Wheaton Van Lines, Inc., 2525 East 56th St., Post Office Box 55191, Indianapolis, Ind. 46205.
Clarence Wilson, Traffic Manager, FMC Corp., 2075 12th St., Box 562, Riverside, Calif. 92502.
Alan F. Wohlstetter, 1 Farragut Sq. South, Washington, D.C. 20006.
Mr. F. L. Wyché, Executive Secretary, Household Goods Carriers' Bureau, 1424 16th St. NW., Washington, D.C. 20006.

[F.R. Doc. 67-13260; Filed, Nov. 8, 1967; 8:49 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A 1099]

ARIZONA

Notice of Classification of Public Lands for Multiple-Use Management

In F.R. Doc. 67-12499, appearing on page 14711 of the issue of October 24, 1967, the following change should be made: Under T. 4 N., R. 12 W., "Sec. 5, S½SW¼" should read "Sec. 5, S½ NW¼."

FRED J. WEILER, *State Director.*

NOVEMBER 2, 1967.

[F.R. Doc. 67-13228; Filed, Nov. 8, 1967; 8:45 a.m.]

[A 1102]

ARIZONA

Notice of Classification of Public Lands for Multiple-Use Management

In F.R. Doc. 67-12502, appearing on page 14716 of the issue of October 24, 1967, the following change should be made: Under T. 5 S., R. 11 W., "Sec. 20" should be "Sec. 30."

FRED J. WEILER, *State Director.*

NOVEMBER 2, 1967.

[F.R. Doc. 67-13229; Filed, Nov. 8, 1967; 8:46 a.m.]

[A-1859]

ARIZONA

Notice of Proposed Classification of Public Lands for Multiple-Use Management

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18) and to the regulations in 43 CFR Parts 2410 and 2411, it is proposed to classify for multiple-use management the public lands within the Hualapai-Aquarius Unit described below, together with any lands therein that may become public lands in the future. Publication of this notice has the effect of segregating the public land in the described unit from appropriation under the agricultural land laws (43 U.S.C. Parts 7 and 9, 26 U.S.C. 334)-and from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171). It also has the effect of further segregating the lands described in paragraph 3b from State exchange (43 U.S.C. 315g(c)). All the described lands shall remain open to all other forms of appropriation, including the mining and mineral leasing laws. As used in this order, the term "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. The public lands proposed for classification in this notice are shown on maps on file and available for inspection in the District Office, Bureau of Land Management, and Land Office, Bureau of Land Management, Federal Building, Phoenix, Ariz.

3. The lands involved are located in Mohave and Yavapai Counties and are described as follows:

GILA AND SALT RIVER MERIDIAN, ARIZONA

a. As provided in paragraph 1 above, the following public lands are segregated from entry under the agricultural land laws and from public sale under R.S. 2455.

T. 14 N., R. 10 W.,
Secs. 1 to 12, inclusive, secs. 14 to 23, inclusive and secs. 27 to 30, inclusive.
T. 15 N., R. 10 W.,
Sec. 1, lots 1 to 4, inclusive, S½N½, and SW¼;
Secs. 2 to 11, inclusive;
Sec. 14, N½ and SW¼;
Secs. 15 to 22, inclusive, and secs. 25 to 36, inclusive.
T. 16 N., R. 10 W.,
Secs. 1 to 36, inclusive.
T. 16½ N., R. 10 W.,
Secs. 30 to 32, inclusive;
Sec. 33, S½.
T. 14 N., R. 11 W.,
Secs. 1 to 18, inclusive.
T. 15 N., R. 11 W.,
Secs. 1 to 36, inclusive.
T. 16 N., R. 11 W.,
Secs. 1 to 36, inclusive.
T. 16½ N., R. 11 W.,
Secs. 19 to 36, inclusive.
T. 17 N., R. 11 W.,
Secs. 22 to 27, inclusive, and secs. 34 to 36, inclusive.
T. 14 N., R. 12 W.,
Secs. 1 to 18, inclusive.
T. 15 N., R. 12 W.,
Secs. 1 to 36, inclusive.
T. 16 N., R. 12 W.,
Secs. 1 to 36, inclusive.
T. 16½ N., R. 12 W.,
Secs. 19 to 36, inclusive.
T. 14 N., R. 13 W.,
Secs. 1 to 6, inclusive.
T. 15 N., R. 13 W.,
Secs. 1 to 36, inclusive.
T. 16 N., R. 13 W.,
Secs. 1 to 36, inclusive.
T. 16½ N., R. 13 W.,
Secs. 19 to 36, inclusive.
T. 17 N., R. 13 W.,
Sec. 3, lots 3 and 4, S½NW¼, and SW¼;
Secs. 4 to 9, inclusive;
Sec. 10, W½ and W½E½;
Sec. 15, W½ and W½E½;
Secs. 16 to 21, inclusive;
Sec. 28, SW¼SW¼;
Sec. 26, W½W½;
Secs. 27 to 34, inclusive;
Sec. 35, W½.
T. 18 N., R. 13 W.,
Sec. 26, NW¼ and W½SW¼;
Secs. 33 and 34;
Sec. 35, W½NW¼.
T. 13 N., R. 14 W.,
Secs. 1 to 5, inclusive.
T. 14 N., R. 14 W.,
Secs. 1 to 36, inclusive.
T. 15 N., R. 14 W.,
Secs. 1 to 36, inclusive.
T. 16 N., R. 14 W.,
Secs. 1 to 36, inclusive.
T. 16½ N., R. 14 W.,
Secs. 19 to 36, inclusive.
T. 17 N., R. 14 W.,
Secs. 4 to 10, inclusive, and secs. 12 to 36, inclusive.
T. 18 N., R. 14 W.,
Secs. 4 to 10, inclusive, secs. 14 to 23, inclusive, and secs. 26 to 34, inclusive.
T. 19 N., R. 14 W.,
Secs. 4 to 10, inclusive, secs. 14 to 34, inclusive, and secs. 26 to 34, inclusive.
T. 13 N., R. 15 W.,
Secs. 6 and 7.
T. 14 N., R. 15 W.,
Secs. 1 to 36, inclusive.
T. 15 N., R. 15 W.,
Secs. 1 to 36, inclusive.
T. 21 N., R. 15 W.,
Sec. 35, SE¼ and E½SW¼.
T. 13 N., R. 16 W.,
Secs. 1 to 12, inclusive.
T. 14 N., R. 16 W.,
Secs. 1 to 36, inclusive.
T. 15 N., R. 16 W.,
Secs. 1 to 36, inclusive.
T. 16 N., R. 16 W.,
Secs. 1 to 36, inclusive.
T. 16½ N., R. 16 W.,
Secs. 19 to 21, inclusive, and secs. 28 and 33, inclusive.
T. 17 N., R. 16 W.,
Secs. 1 to 36, inclusive.
T. 14 N., R. 17 W.,
Secs. 1 to 36, inclusive.
T. 15 N., R. 17 W.,
Secs. 1 to 36, inclusive.
T. 16 N., R. 17 W.,
Secs. 1 to 36, inclusive.
T. 16½ N., R. 17 W.,
Secs. 19 to 36, inclusive.
T. 17 N., R. 17 W.,
Secs. 1 to 5, inclusive, secs. 8 to 17, inclusive, secs. 20 to 29, inclusive, and secs. 32 to 36, inclusive.
T. 18 N., R. 17 W.,
Secs. 1 to 30, inclusive, and secs. 32 to 36, inclusive.
T. 19 N., R. 17 W.,
Secs. 1 to 36, inclusive.
T. 20 N., R. 17 W.,
Sec. 6, E½;
Secs. 9 to 17, inclusive, secs. 20 to 29, inclusive, and secs. 32 to 36, inclusive.

The lands described aggregate 454,925.70 acres of public lands.

b. As provided in paragraph 1 above, the following public lands are segregated from entry under the agricultural land laws, from public sale under R.S. 2455, and are further segregated from state exchange:

T. 20 N., R. 14 W.,
Sec. 7, lots 1 to 4, inclusive;
Secs. 18 to 20, inclusive, and secs. 28 to 33, inclusive.
T. 16 N., R. 15 W.,
Secs. 1 to 36, inclusive.

T. 16½ N., R. 15 W.,
Secs. 19 to 36, inclusive.
T. 17 N., R. 15 W.,
Secs. 1 to 36, inclusive.
T. 18 N., R. 15 W.,
Secs. 1 to 36, inclusive.
T. 19 N., R. 15 W.,
Secs. 1 to 36, inclusive.
T. 20 N., R. 15 W.,
Secs. 1 to 36, inclusive.
T. 16½ N., R. 16 W.,
Secs. 22 to 27, inclusive, and secs. 34 to 36, inclusive.
T. 18 N., R. 16 W.,
Secs. 1 to 36, inclusive.
T. 19 N., R. 16 W.,
Secs. 1 to 36, inclusive.
T. 20 N., R. 16 W.,
Secs. 4 to 11, inclusive;
Sec. 12, W½ and SE¼;
Secs. 13 to 36, inclusive.

The lands described aggregate 128,696.62 acres of public lands.

The lands described in paragraphs (a) and (b) above aggregate 583,622.32 acres of public land.

4. For a period of 60 days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the District Manager, Bureau of Land Management, Federal Building, Phoenix, Ariz. 85025.

5. A public hearing on the proposed classification will be held at 2 p.m. on December 11, 1967, at the Holiday Inn, Kingman, Ariz.

FRED J. WEILER,
State Director.

NOVEMBER 2, 1967.

[F.R. Doc. 67-13230; Filed, Nov. 8, 1967; 8:46 a.m.]

[A-1360]

ARIZONA

Notice of Proposed Classification of Public Lands for Multiple-Use Management

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18) and to the regulations in 43 CFR Parts 2410 and 2411, it is proposed to classify for multiple-use management the public lands within the Mohave Mountains Unit described below, together with any lands therein that may become public lands in the future. Publication of this notice has the effect of segregating the public land in the described unit from appropriation under the agricultural land laws (43 U.S.C. Parts 7 and 9, 25 U.S.C. 334) and from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171). All the described lands shall remain open to all other forms of appropriation, including the mining and mineral leasing laws. As used in this order, the term "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. The public lands proposed for classification in this notice are shown on maps on file and available for inspection in the District Office, Bureau of Land Management, and Land Office, Bureau of Land Management, Federal Building, Phoenix, Ariz.

3. The lands involved are located in Mohave County and are described as follows:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 12 N., R. 10 W.,
Secs. 6, 7, and 18.
T. 13 N., R. 10 W.,
Secs. 6, 7, 18, 19, 30, and 31.
T. 14 N., R. 10 W.,
Sec. 31.
T. 12 N., R. 11 W.,
Secs. 1 to 18, inclusive.
T. 13 N., R. 11 W.,
Secs. 1 to 36, inclusive.
T. 14 N., R. 11 W.,
Secs. 19 to 36, inclusive.
T. 12 N., R. 12 W.,
Secs. 1 to 16, inclusive;
Sec. 17, E½, E½W½, and NW¼NW¼;
Sec. 20, E½ and E½W½;
Secs. 21 to 27, inclusive;
Sec. 28, N½SE¼, and E½SW¼;
Sec. 29, NE¼;
Sec. 33, E½E½;
Secs. 34 and 35.
T. 13 N., R. 12 W.,
Secs. 1 to 36, inclusive.
T. 14 N., R. 12 W.,
Secs. 19 to 36, inclusive.
T. 12 N., R. 13 W.,
Sec. 1;
Sec. 2, lot 4, N½SW¼, and SW¼SW¼;
Secs. 3 to 10, inclusive;
Sec. 11, NE¼NE¼;
Sec. 12, N½, N½SE¼, and SE¼SE¼;
Sec. 13, SW¼NW¼, SW¼, and S½SE¼;
Secs. 14 to 18, inclusive.
T. 13 N., R. 13 W.,
Secs. 1 to 35, inclusive.
T. 14 N., R. 13 W.,
Secs. 7 to 36, inclusive.
T. 12 N., R. 14 W.,
Secs. 1 to 36, inclusive.
T. 13 N., R. 14 W.,
Secs. 6 to 36, inclusive.
T. 12 N., R. 15 W.,
Secs. 1 to 5, inclusive, and secs. 9 to 12, inclusive.
T. 13 N., R. 15 W.,
Secs. 1 to 5, inclusive, and secs. 8 to 36, inclusive.
T. 13 N., R. 16 W.,
Sec. 13;
Sec. 14, E½;
Sec. 23, E½;
Secs. 24 and 25;
Sec. 26, E½.
T. 12 N., R. 17 W.,
Secs. 29 to 31, inclusive.
T. 13 N., R. 17 W.,
Sec. 6.
T. 12 N., R. 18 W.,
Secs. 2, 3, 10, and 11;
Secs. 13 to 15, inclusive, secs. 22 to 27, inclusive, and secs. 34 to 36, inclusive.
T. 13 N., R. 18 W.,
Secs. 1 to 5, inclusive, and secs. 8 to 10, inclusive;
Secs. 15, 16, 21, and 22;
Secs. 26 to 28, inclusive;
Secs. 34 and 35.
T. 14 N., R. 18 W.,
Secs. 1 to 36, inclusive.
T. 15 N., R. 18 W.,
Secs. 1 to 36, inclusive.
T. 16 N., R. 18 W.,
Secs. 1 to 36, inclusive.
T. 16½ N., R. 18 W.,
Secs. 31 to 36, inclusive, and secs. 31 to 36, inclusive.
T. 14 N., R. 19 W.,
Secs. 1 to 28, inclusive;
Sec. 29, N½ and SE¼;
Sec. 30, NE¼, E½NW¼, and lots 1 and 2;
Secs. 34 to 36, inclusive.
T. 15 N., R. 19 W.,
Secs. 1 to 36, inclusive.
T. 16 N., R. 19 W.,
Secs. 13 to 36, inclusive.
T. 14 N., R. 20 W.,
Secs. 1 and 2;
Secs. 11 to 14, inclusive;
Secs. 24 and 25.
T. 15 N., R. 20 W.,
Secs. 1 to 3, inclusive, secs. 10 to 15, inclusive, secs. 22 to 27, inclusive, and secs. 34 to 36, inclusive.
T. 16 N., R. 20 W.,
Secs. 13 to 36, inclusive.

The lands described aggregate approximately 334,830 acres.

4. For a period of 60 days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the District Manager, Bureau of Land Management, Federal Building, Phoenix, Ariz. 85025.

5. A public hearing on the proposed classification will be held at 2 p.m. on December 11, 1967, at the Holiday Inn, Kingman, Ariz.

FRED J. WEILER,
State Director.

NOVEMBER 2, 1967.

[F.R. Doc. 67-13231; Filed, Nov. 8, 1967; 8:46 a.m.]

[A-01361]

ARIZONA

Notice of Proposed Classification of Public Lands for Multiple-Use Management

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18) and to the regulations in 43 CFR Parts 2410 and 2411, it is proposed to classify for multiple-use management the public lands within the Music Mountains Unit described below, together with any lands therein that may become public lands in the future. Publication of this notice has the effect of segregating the public land in the described unit from appropriation under the agricultural land laws (43 U.S.C. Parts 7 and 9, 25 U.S.C. 334) and from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171), and from state exchange (43 U.S.C. 315g(c)). All the described lands shall remain open to all other forms of appropriation, including the mining and mineral leasing laws. As used in this order, the term "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. The public lands proposed for classification in this notice are shown on maps on file and available for inspection in the District Office, Bureau of Land Management, and Land Office, Bureau of Land Management, Federal Building, Phoenix, Ariz.

3. The lands involved are located in Mohave County and are described as follows:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 23 N., R. 11 W.,
Secs. 3 to 9, inclusive, secs. 16 to 21, inclusive, and secs. 28 to 33, inclusive.
T. 24 N., R. 11 W.,
Secs. 1 to 35, inclusive, outside Hualapai Indian Reservation.
T. 23 N., R. 12 W.,
Secs. 1 to 30, inclusive;
Sec. 31, lots 2 to 7 inclusive, E½SW¼, SE¼NW¼, SW¼NE¼, and W½SE¼;
Secs. 33 to 36, inclusive.
T. 24 N., R. 12 W.,
Secs. 1 to 36, inclusive, outside Hualapai Indian Reservation.
T. 23 N., R. 13 W.,
Secs. 1 to 18, inclusive, outside Hualapai Indian Reservation;
Sec. 19, NE¼NW¼, N½NE¼, and SE¼NE¼;
Secs. 20 to 28, inclusive, and secs. 34 to 36, inclusive.
T. 24 N., R. 13 W.,
Secs. 1 to 36, inclusive, outside Hualapai Indian Reservation.
T. 25 N., R. 13 W.,
Secs. 1 to 36, inclusive, outside Hualapai Indian Reservation.
T. 23 N., R. 14 W.,
Secs. 1, 2, and 12.
T. 24 N., R. 14 W.,
Secs. 1 to 4, inclusive, secs. 9 to 16, inclusive, and secs. 22 to 26, inclusive;
Secs. 35 and 36.
T. 25 N., R. 14 W.,
Secs. 1 to 18, inclusive, secs. 20 to 28, inclusive, and secs. 34 to 36, inclusive.
T. 26 N., R. 14 W.,
Secs. 1 to 36, inclusive, outside Hualapai Indian Reservation.
T. 27 N., R. 14 W.,
Secs. 30, 31, and 32, outside Hualapai Indian Reservation.
T. 25 N., R. 15 W.,
Secs. 1, 2, and 12.
T. 26 N., R. 15 W.,
Secs. 1 to 18, inclusive, secs. 20 to 28, inclusive, and secs. 34 to 36, inclusive.
T. 27 N., R. 15 W.,
Secs. 1 to 36, inclusive, outside Hualapai Indian Reservation.
T. 28 N., R. 15 W.,
Secs. 1 to 36, inclusive, outside Hualapai Indian Reservation.
T. 26 N., R. 16 W.,
Secs. 1 to 4, inclusive, and secs. 10 to 14, inclusive.
T. 27 N., R. 16 W.,
Secs. 1 to 30, inclusive, and secs. 32 to 36, inclusive.
T. 28 N., R. 16 W.,
Secs. 1 to 36, inclusive.

The lands described aggregate approximately 194,518.95 acres.

4. For a period of 60 days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the District Manager, Bureau of Land Management, Federal Building, Phoenix, Ariz. 85025.

5. A public hearing on the proposed classification will be held at 2 p.m. on December 11, 1967, at the Holiday Inn, Kingman, Ariz.

FRED J. WEILER,
State Director.

NOVEMBER 2, 1967.

[F.R. Doc. 67-13232; Filed, Nov. 8, 1967; 8:46 a.m.]

[Montana 5887]

MONTANA

Proposed Classification of Public Lands for Multiple-Use Management

NOVEMBER 1, 1967.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18) and to the regulations in 43 CFR Parts 2410 and 2411, it is proposed to classify for multiple-use management the unreserved public lands within the areas described below, together with any lands therein which may become public lands in the future. Publication of this notice has the effect of segregating the described lands from appropriation only under the agricultural land laws (43 U.S.C. Parts 7 and 9; 25 U.S.C. sec. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171) and the lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. For a period of sixty (60) days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the District Manager, Bureau of Land Management, Miles City, Mont. 59301.

3. A public hearing on the proposed classification will be held on January 17, 1968, at 2 p.m., in the Montana Cafe, Broadus, Mont.

4. The public lands proposed for classification are located within the following described areas and are shown on maps on file in the Miles City District Office, Bureau of Land Management, Miles City, Mont., and on plats in the Land Office, Bureau of Land Management, Federal Building, Billings, Mont.

PRINCIPAL MERIDIAN, MONTANA

POWDER RIVER COUNTY

T. 8 S., R. 45 E.,
Sec. 1;
Secs. 12 and 13;
Secs. 24 to 26, inclusive;
Secs. 35 and 36.
T. 9 S., R. 45 E.,
Secs. 1 and 2;
Secs. 11 to 14, inclusive;
Secs. 23 to 26, inclusive;
Secs. 35 and 36.
T. 8 S., R. 46 E.,
Sec. 6, N½, SW¼;
Sec. 7, W½;
Sec. 18, W½;
Sec. 19, W½.
T. 9 S., R. 46 E.,
Secs. 6 and 7;
Secs. 18 and 19;
Secs. 25 to 27, inclusive;
Secs. 30 to 36, inclusive.
T. 8 S., R. 47 E.,
Sec. 11, E½;
Secs. 12 and 13;
Secs. 25 and 26;
Secs. 35 and 36.
T. 9 S., R. 47 E.
T. 5 S., R. 48 E.,
Sec. 13.
T. 7 S., R. 48 E.,
Sec. 1;
Secs. 12 and 13;
Secs. 24 and 25;
Sec. 36.
T. 8 S., R. 48 E.
T. 9 S., R. 48 E.,
Secs. 1 to 4, inclusive;
Sec. 5, NE¼, S½;
Sec. 6, W½NE¼, W½, SE¼;
Secs. 7 to 24, inclusive;
Sec. 25, N½;
Sec. 26, N½;
Secs. 27 to 34, inclusive.
T. 5 S., R. 49 E.,
Sec. 7, E½;
Secs. 8 to 10, inclusive;
Secs. 13 to 36, inclusive.
T. 6 S., R. 49 E.,
Secs. 1 to 4, inclusive;
Secs. 9 to 16, inclusive;
Secs. 21 to 28, inclusive;
Secs. 33 to 36, inclusive.
T. 7 S., R. 49 E.,
Secs. 1 to 11, inclusive;
Secs. 14 to 33, inclusive;
Sec. 36.
T. 7 S., R. 49 E.,
Sec. 1;
Sec. 2, E½E½;
Secs. 4 to 9, inclusive;
Sec. 12, N½;
Sec. 13, SW¼;
Sec. 14, S½;
Secs. 15 to 23, inclusive;
Sec. 24, W½;
Sec. 25, NW¼, S½;
Secs. 26 to 28, inclusive;
Secs. 30 and 31;
Sec. 32, W½;
Secs. 34 to 36, inclusive.
T. 9 S., R. 49 E.,
Secs. 1 and 2;
Sec. 4, W½W½;
Secs. 5 and 6;
Sec. 8;
Sec. 9, W½W½;
Sec. 11 N½N½;
Sec. 12, N½N½;
Sec. 18, W½;
Secs. 19 and 20;
Secs. 29 to 31, inclusive;
Sec. 32, W½.
T. 4 S., R. 50 E.,
Secs. 25 to 27, inclusive;
Secs. 34 to 36, inclusive.
T. 5 S., R. 50 E.,
Secs. 1 to 3, inclusive;
Sec. 4, S½;
Sec. 7, E½;
Secs. 8 to 36, inclusive.
T. 6 S., R. 50 E.,
Secs. 1 to 12, inclusive;
Secs. 15 to 22, inclusive;
Secs. 27 to 34, inclusive;
Sec. 35, W½.

T. 7 S., R. 50 E.,
Secs. 2 and 4;
Sec. 6;
Sec. 10;
Sec. 11, W½W½;
T. 8 S., R. 50 E.,
Sec. 3;
Secs. 8 to 10, inclusive;
Sec. 14, W½;
Secs. 15 and 16;
Secs. 21 and 22;
Sec. 23, S½SW¼;
Sec. 26, W½;
Sec. 27 and 28;
Sec. 29, SE¼;
Sec. 30, SW¼;
Sec. 31, NW¼;
Sec. 32, E½;
Secs. 33 to 36, inclusive.
T. 9 S., R. 50 E.,
Secs. 1 to 3, inclusive;
Sec. 12;
Sec. 13, N½.
T. 4 S., R. 51 E.,
Sec. 25;
Sec. 26, S½;
Sec. 35, N½.
T. 5 S., R. 51 E.,
Secs. 7 and 18.
T. 6 S., R. 51 E.,
Sec. 6.
T. 8 S., R. 51 E.,
Sec. 31, S½S½.
T. 9 S., R. 51 E.,
Sec. 5, W½W½;
Secs. 6 to 8, inclusive;
Sec. 17, N½;
Sec. 18, N.½.
T. 3 S., R. 52 E.,
Sec. 10, SE¼;
Secs. 13 and 14;
Sec. 15, N½NE¼;
Secs. 23 to 26, inclusive;
Sec. 32, NE¼SE¼, S½SE¼;
Secs. 35 and 36.
T. 4 S., R. 52 E.,
Sec. 1, N½N½;
Sec. 5;
Secs. 8 and 9;
Secs. 16 to 21, inclusive;
Sec. 22, S½S½;
Secs. 25 to 28, inclusive;
Sec. 34, N½;
Secs. 35 and 36.
T. 5 S., R. 52 E.,
Secs. 1 and 2;
Secs. 11 to 14, inclusive;
Sec. 15, E½E½;
Sec. 22, E½E½;
Secs. 23 to 26, inclusive;
Sec. 27, E½E½;
Sec. 33, SE¼SE¼;
Sec. 34, SW¼SW¼;
Sec. 36.
T. 6 S., R. 52 E.,
Secs. 1 and 12.
T. 7 S., R. 52 E.,
Sec. 12, S½S½;
Sec. 13;
Sec. 14, SE¼SE¼;
Sec. 24.
T. 8 S., R. 52 E.,
Sec. 24, S½S½;
Sec. 25;
Sec. 36.
T. 9 S., R. 52 E.,
Secs. 1 and 2;
Sec. 3, E½SE¼;
Secs. 11 to 14, inclusive;
Sec. 22, E½NE¼;
Secs. 23 and 26, inclusive;
Secs. 35 and 36.
T. 1 S., R. 53 E.,
Secs. 34 to 36, South of river;
Secs. 34 to 36, South of river.
T. 2 S., R. 53 E.,
Secs. 1 to 3, inclusive;
Secs. 4 to 6, South of river;
Secs. 8 to 17, inclusive;
Secs. 20 to 36, inclusive.
T. 3 S., R. 53 E.
T. 4 S., R. 53 E.
T. 5 S., R. 53 E.,
Secs. 1 to 31, inclusive;
Secs. 33 to 33, inclusive.
T. 6 S., R. 53 E.,
Secs. 5 to 8, inclusive;
Secs. 13 to 18, inclusive;
Secs. 21 to 27, inclusive;
Secs. 33 to 36, inclusive.
T. 7 S., R. 53 E.,
Secs. 2 to 10, inclusive;
Sec. 11, N½, N½S½;
Secs. 15 to 22, inclusive;
Secs. 27 to 30, inclusive;
Sec. 31, N½;
Sec. 32, N½;
Secs. 33 and 34.
T. 8 S., R. 53 E.,
Sec. 4, Lot 4;
Sec. 5, Lot 1;
Sec. 30, W½;
Sec. 31.
T. 9 S., R. 53 E.,
Sec. 18, S½S½;
Sec. 19;
Secs. 30 to 32, inclusive;
Sec. 33, W½.
T. 1 S., R. 54 E.,
South of river.
T. 2 S., R. 54 E.
T. 3 S., R. 54 E.
T. 4 S., R. 54 E.
T. 5 S., R. 54 E.,
Sec. 2, N½;
Sec. 3, N½;
Sec. 18, W½NW¼.
T. 6 S., R. 54 E.,
Secs. 30 to 32, inclusive.
T. 7 S., R. 54 E.,
Secs. 3 to 6, inclusive;
Secs. 8 to 10, inclusive;
Secs. 15 to 17, inclusive;
Secs. 20 to 22, inclusive;
Secs. 27 to 30, inclusive.
T. 1 S., R. 54½ E.

5. The public land in the areas described aggregates approximately 204,483 acres.

HAROLD TYER,
State Director.

[F.R. Doc. 67-13233; Filed, Nov. 8, 1967; 8:46 a.m.]

ADMINISTRATIVE OFFICER AND ASSISTANT ADMINISTRATIVE OFFICER, FT. VANNOY JOB CORPS CONSERVATION CENTER

Delegation of Authority Regarding Contracts and Leases

NOVEMBER 1, 1967.

Pursuant to section 2(a) of Bureau Order No. 698, as amended (30 F.R. 1879), the Administrative Officer and Assistant Administrative Officer, Ft. Vannoy Job Corps Conservation Center, Grants Pass, Oreg., are authorized to enter into contracts and leases as set forth in section 1(b)(5), Amendments No. 6 and 9 of said order.

The above delegation shall become effective upon publication in the FEDERAL REGISTER.

JAMES H. STOOP,
Center Director.

[F.R. Doc. 67-13244; Filed, Nov. 8, 1967; 8:47 a.m.]

Office of the Secretary

CARROL M. BENNETT

Report of Appointment and Statement of Financial Interests

SEPTEMBER 7, 1967.

Pursuant to section 302(a) of Executive Order 10647, the following information on a WOC appointee in the Department of the Interior is furnished for publication in the FEDERAL REGISTER.

Name of appointee: Carrol M. Bennett.

Name of employing agency: Office of Oil and Gas—Emergency Petroleum and Gas Administration, Denton, Tex.

The title of the appointee's position: Regional Administrator, Region 5.

The name of the appointee's private employer or employers: Texas Pacific Oil Co., a subsidiary of Joseph E. Seagram & Sons, Inc.

The statement of "financial interests" for the above appointee is set forth below.

DAVID S. BLACK,
Under Secretary of the Interior.

APPOINTEE'S STATEMENT OF FINANCIAL INTERESTS

In accordance with the requirements of section 302(b) of Executive Order 10647, I am filing the following statement for publication in the FEDERAL REGISTER:

(1) Names of any corporations of which I am, or had been within 60 days preceding my appointment, on September 25, 1967, as President, Texas Pacific Oil Co., an officer or director:

Director—Distillers Corp.-Seagrams, Ltd.
Director—Middleton, Inc.
Director—Gas Marine.

(2) Names of any corporations in which I own, or did own within 60 days preceding my appointment, any stocks, bonds, or other financial interests:

Acme Brick.
APCO.
Allied Chemical.
American Chain & Cable.
Celanese.
Capital Southwest.
Capital Wire & Cable.
Dallas Country Club.
Delhi-Australian Petroleum, Ltd.
Distillers Corp.-Seagrams, Ltd.
Fort Worth Steel & Machinery Co.
GAZOCEAN.
International Telephone & Telegraph.
Lenox, Inc.
Middleton, Inc.
McWood Corp.
Overhead Door.
Philadelphia & Reading Corp.
Rockwell Standard.
Southwest Gas Producing Co.
Sovereign Investment Corp.
Southwestern Electric Service.
Southwestern Public Service Co.
State Street Investment Corp.
Southwest Gas Producing Co., Inc.
Texas Capital Corp.

(3) Names of any partnerships in which I am associated, or had been associated within 60 days preceding my appointment:

Thurber Cattle Co.

(4) Names of any other businesses which I own, or owned within 60 days preceding my appointment:

Thurber Ranch.

CARROL M. BENNETT.

OCTOBER 11, 1967.

[F.R. Doc. 67-13234; Filed, Nov. 8, 1967; 8:47 a.m.]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Antidumping—ATS 643.2-7]

REFRIGERATION COMPRESSORS FROM DENMARK

Determination of Sales at Not Less Than Fair Value

OCTOBER 31, 1967.

On August 30, 1967, there was published in the FEDERAL REGISTER a "Notice of Tentative Determination" that refrigeration compressors manufactured by Danfoss Manufacturing Co. (Danfoss Denmark), Nordborg, Denmark, are not being, nor likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)).

The statement of reasons for the tentative determination was published in the above-mentioned notice, and interested parties were afforded until September 30, 1967, to make written submissions or to request in writing an opportunity to present views in connection with the tentative determination.

No written submissions or requests having been received, I hereby determine that for the reasons stated in the tentative determination refrigeration compressors manufactured by Danfoss Manufacturing Co. (Danfoss Denmark), Nordborg, Denmark, are not being, nor likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)).

This determination is published pursuant to section 201(c) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)).

[SEAL] TRUE DAVIS,
Assistant Secretary of the Treasury.

[F.R. Doc. 67-13261; Filed, Nov. 8, 1967; 8:49 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

SUGAR BEETS

Notice of Hearings on Wages and Prices and Designation of Presiding Officers

Pursuant to the authority contained in subsections (c)(1) and (c)(2) of section 301 of the Sugar Act of 1948, as amended (61 Stat. 929; 7 U.S.C. 1131), and in accordance with the rules of practice and procedure applicable to wage and price proceedings (7 CFR 802.1 et seq.) notice is hereby given that public hearings will be held as follows:

At Detroit, Mich., on November 27, in the Sky Room, Pick-Fort Shelby Hotel, beginning at 9:30 a.m.;

At Fargo, N. Dak., on November 29, in the Oak Manor Motor Lodge, Restaurant and Lounge, Highway 94 and South University Drive, beginning at 1:30 p.m.;

At San Francisco, Calif., on December 1, in Room 15018, 15th Floor, Federal Building, 450 Golden Gate Avenue, beginning at 1 p.m.;

At Lubbock, Tex., on December 4, in the Conference Room, South Plains Electric Co-op Building, 110 North Amarillo Road, beginning at 9:30 a.m.;

At San Antonio, Tex., on December 6, in the Assembly Room, Gunter Hotel, beginning at 9:30 a.m.;

At Cheyenne, Wyo., on December 8, in the Little America Motel, beginning at 9:30 a.m.;

At Presque Isle, Maine, on December 12, in the Ballroom, Northeastland Hotel, beginning at 10 a.m.

The purpose of these hearings is to receive evidence likely to be of assistance to the Secretary of Agriculture in determining (1) pursuant to the provisions of section 301(c)(1) of the act, whether the wage rates established for sugar beet fieldworkers in the wage determination which became effective April 17, 1967 (32 F.R. 5458), continue to be fair under existing circumstances, or whether such determination should be amended, and (2) pursuant to the provisions of section 301(c)(2) of the act, fair and reasonable prices for the 1968 crop of sugarbeets to be paid, under purchase or toll agreements, by producers who process sugarbeets grown by other producers and who apply for payments under the act.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

The hearings after being called to order at the times and places mentioned herein, may be continued from day to day within the discretion of the presiding officers and may be adjourned to a later day or to a different place without notice other than the announcement thereof at the hearings by the presiding officers.

T. O. Murphy, A. A. Greenwood, C. F. Denny, W. S. Stevenson, G. E. Rippel, and the Chairman of the ASC State Committee, or the State Executive Director of the ASCS State office of the State in which the hearing is held, are hereby designated as presiding officers to conduct either jointly or severally the foregoing hearings.

Signed at Washington, D.C., on November 3, 1967.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 67-13273; Filed, Nov. 8, 1967; 8:50 a.m.]

DEPARTMENT OF COMMERCE

Bureau of the Census

ANNUAL SURVEYS IN MANUFACTURING AREA

Notice of Determination

In conformity with the Act of Congress, Title 13, United States Code, sections 181, 224, and 225 and due notice having been published (32 F.R. 13420, Sept. 23, 1967) pursuant to said act, I have determined that annual data to be derived from the surveys listed below are needed to aid the efficient performance of essential governmental functions and have significant application to the needs of the public and industry and are not publicly available from nongovernmental or other government sources.

Report forms in most instances furnishing data on shipments and/or production and in some instances on stocks, unfilled orders, orders booked, consumption, etc., will be required of all or a sample of establishments engaged in the production of the items covered by the following list of surveys. The surveys have been arranged under major group headings shown in the revised Standard Industrial Classification Manual (1967 edition) promulgated by the Bureau of the Budget for the use of Federal statistical agencies.

MAJOR GROUP 22—TEXTILE MILL PRODUCTS

Stocks of wool.
Cotton and synthetic woven goods finished.
Narrow fabrics.
Knit cloth.
Woolen and worsted machinery activity.
Yarn production.
Rugs, carpets, and carpeting.

MAJOR GROUP 23—APPAREL AND OTHER FINISHED PRODUCTS MADE FROM FABRICS AND SIMILAR MATERIALS

Gloves and mittens.
Apparel.
Brassieres, corsets, and allied garments.
Sheets, pillowcases, and towels.

MAJOR GROUP 24—LUMBER AND WOOD PRODUCTS, EXCEPT FURNITURE

Hardwood plywood.
Softwood plywood.
Lumber.

MAJOR GROUP 26—PAPER AND ALLIED PRODUCTS

Pulp, and detailed grades of paper and board.

MAJOR GROUP 28—CHEMICALS AND ALLIED PRODUCTS

Sulfuric acid.
Industrial gases.
Inorganic chemicals.
Pharmaceutical preparations, except biologicals.

MAJOR GROUP 30—RUBBER AND MISCELLANEOUS PLASTICS PRODUCTS

Plastics products.

MAJOR GROUP 31—LEATHER AND LEATHER PRODUCTS

Shoes and slippers (by method of construction).

MAJOR GROUP 32—STONE, CLAY, AND GLASS

Consumer, scientific, technical, and industrial glassware.
Fibrous glass.

MAJOR GROUP 33—PRIMARY METAL INDUSTRIES

Commercial steel forgings.
Steel mill products.
Insulated wire and cable.
Magnesium mill products.

MAJOR GROUP 34—FABRICATED METAL PRODUCTS EXCEPT ORDNANCE, MACHINERY, AND TRANSPORTATION EQUIPMENT

Steel power boilers.
Heating and cooking equipment.

MAJOR GROUP 35—MACHINERY, EXCEPT ELECTRICAL

Fans, blowers, and unit heaters.
Internal combustion engines.
Tractors.
Farm machines and equipment.
Mining machinery and equipment.
Air-conditioning and refrigeration equipment.
Office, computing, and accounting machines.
Pumps and compressors.

MAJOR GROUP 36—ELECTRICAL MACHINERY, EQUIPMENT, AND SUPPLIES

Radios, television, and phonographs.
Motors and generators.
Wiring devices and supplies.
Switchgear, switchboard apparatus, relays, and industrial controls.
Selected electronic and associated products.
Electric housewares and fans.
Electric lighting fixtures.

MAJOR GROUP 37—TRANSPORTATION EQUIPMENT

Aircraft propellers.

MAJOR GROUP 38—PROFESSIONAL, SCIENTIFIC, AND CONTROLLING INSTRUMENTS; PHOTOGRAPHIC AND OPTICAL GOODS; WATCHES AND CLOCKS

Selected instruments and related products.
Atomic energy products and services.

The following list of surveys represents annual counterparts of monthly, quarterly, and semiannual surveys and will cover only those establishments which are not canvassed or do not report in the more frequent survey. Accordingly, there will be no duplication in reporting. The content of these annual reports will be identical with that of the monthly, quarterly, and semiannual reports except for construction machinery which will additionally call for data on shipments of power cranes and shovels, concrete mixers, and attachments for contractors' off-highway type tractors. Also, reports on manmade fiber, silk, woolen, and worsted fabrics, on finishing plants, and on piece goods inventories listed below will call for information relating to the monthly fluctuations of stocks and unfilled orders for woven fabrics in addition to the annual production data.

MAJOR GROUP 20—FOOD AND KINDRED PRODUCTS

Flour milling products.
Confectionery products.

MAJOR GROUP 22—TEXTILE MILL PRODUCTS

Manmade fiber, silk, woolen, and worsted fabrics.
Finishing plant report—broad woven fabrics.
Piece goods inventories and orders.
Broad woven goods (cotton, wool, silk, and synthetic).
Consumption of wool and other fibers, and production of tops and noils.

MAJOR GROUP 25—FURNITURE AND FIXTURES

Mattresses and bedsprings.

MAJOR GROUP 26—PAPER AND ALLIED PRODUCTS

Consumers of wood pulp.
Converted flexible packaging products.

MAJOR GROUP 28—CHEMICALS AND ALLIED PRODUCTS

Superphosphates.
Paint, varnish, and lacquer.

MAJOR GROUP 29—PETROLEUM REFINING AND RELATED INDUSTRIES

Asphalt and tar roofing and siding products.

MAJOR GROUP 30—RUBBER AND MISCELLANEOUS PLASTICS PRODUCTS

Plastics bottles.
Rubber.

MAJOR GROUP 31—LEATHER AND LEATHER PRODUCTS

Shoes and slippers.

MAJOR GROUP 32—STONE, CLAY, AND GLASS

Flat glass.
Glass containers.
Refractories.
Clay construction products.

MAJOR GROUP 33—PRIMARY METAL INDUSTRIES

Nonferrous castings.
Iron and steel foundries.

MAJOR GROUP 34—FABRICATED METAL PRODUCTS, EXCEPT ORDNANCE, MACHINERY, AND TRANSPORTATION EQUIPMENT

Plumbing fixtures.
Steel shipping barrels, drums, and pails.
Closures for containers.
Metal cans.

MAJOR GROUP 35—MACHINERY, EXCEPT ELECTRICAL

Construction machinery.
Metalworking machinery.
Typewriters.

MAJOR GROUP 36—ELECTRICAL MACHINERY, EQUIPMENT, AND SUPPLIES

Electric lamps.
Fluorescent lamp ballasts.

MAJOR GROUP 37—TRANSPORTATION EQUIPMENT

Aircraft engines.
Complete aircraft.
Backlog of orders for aircraft, space vehicles, missiles, engines, and selected parts.
Truck trailers.

The Annual Survey of Manufactures and those surveys listed above which furnish data substitutable for data usually collected in the Census of Manufactures are additionally considered a part of the 1967 Census of Manufactures as provided for by Title 13, United States Code, section 131. The 1967 Census of Manufactures report forms have been modified to recognize those annual reports as the source for these Census data.

A survey of research and development costs will be conducted also. The data to be obtained will be limited to total research and development costs of work performed by the company, total cost of research and development work performed for the Federal Government, and, for comparative purposes, total net sales and receipts, and total employment of the company.

In addition, a survey on shipments to, or receipts for work done for, Federal Government agencies and their contractors and suppliers is planned. This survey was conducted for the year 1963, 1965, and 1966. It is designed to provide information on the impact of Federal procurement on selected industries and on the economy of States, standard metropolitan statistical areas, and geographic regions.

The report forms will be furnished to firms included in these surveys and additional copies are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed that annual surveys be conducted for the purpose of collecting the data hereinabove described.

Dated: October 27, 1967.

A. ROSS ECKLER,
Director, Bureau of the Census.

[F.R. Doc. 67-13264; Filed, Nov. 8, 1967; 8:48 a.m.]

Business and Defense Services Administration

STANFORD UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00004-00-46040. Applicant: Stanford University, Controller's Office, Post Office Box 4409, Stanford, Calif. 94305. Article: Shutter for Siemens Electron Microscope, Type No. 171 460. Manufacturer: Siemens Aktiengesellschaft, West Germany. Intended use of article: Applicant states: "Accurate preset exposure of photoplates in the Siemens Elmiskop." Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purpose for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is an accessory to a Siemens Elmiskop electron microscope which is designed specifically for use with the foreign electron microscope. We know of no domestic manufacturer that produces a comparable accessory which will fit the Siemens electron microscope.

For the foregoing reasons, we find that no instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-13218; Filed, Nov. 8, 1967; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 19176]

TRANSAMERICA CORP. AND TRANS INTERNATIONAL AIRLINES CORP.

Notice of Prehearing Conference

Application for transfer of certificates to a new corporation pursuant to section 401(h) of the Act, for a disclaimer of jurisdiction, or approval of the acquisition of control of an air carrier under section 408 of the Act.

Notice is hereby given that a prehearing conference on the above-entitled docket is assigned to be held on November 16, 1967, at 10 a.m., e.s.t., in Room 211, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C. before Examiner Walter W. Bryan.

Dated at Washington, D.C., November 3, 1967.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 67-13255; Filed, Nov. 8, 1967; 8:48 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

OFFICE OF EDUCATION

Statement of Organization, Functions, and Delegations of Authority

Part 6 (Office of Education) of the Statement of Organization, Functions and Delegations of Authority of the Department of Health, Education, and Welfare (32 F.R. 10476, at 10477, dated July 15, 1967), is hereby amended to reassign some of the functions and to change the organizational designations of three of the divisions of the National Center for Educational Statistics. The organization and functions of the Center now read as follows:

NATIONAL CENTER FOR EDUCATIONAL STATISTICS

The Center which includes the Office of the Assistant Commissioner and the following four divisions is responsible for developing and carrying out the statistical program of the Office of Education, and for coordinating the collection of statistics by the Center and other elements of OE, and assisting other units in headquarters and the field in applying and using data processing systems and services. It also develops comprehensive analytical models for investigating the operation and structures of American education.

DIVISION OF OPERATIONS ANALYSIS

Responsible for developing and maintaining quantitative analytical models of the educational enterprise by integrating statistical information into comprehensive structures, the principal function of which is to aid in appraising probable outcomes of significant policy or operational changes in American education. Analyzes the role of education in the life of the Nation insofar as this can be done in quantitative terms.

DIVISION OF STATISTICAL OPERATIONS

Responsible for the design and execution of the OE general educational statistical program. Develops and maintains communications with sources of educational statistics and provides leadership in development of standard terminology and reporting procedures. Provides data validation and editing for the Center's surveys. Maintains universes and associated basic data files. Responsible for ensuring compliance with the Federal Reports Act and for administering the forms management program. Develops sampling plans for all Office of Education surveys and provides statistical consultation to all elements of the Office of Education.

DIVISION OF AUTOMATIC DATA PROCESSING

Provides technical assistance in survey and other research activities conducted by the Office of Education. Services to all elements of the Office include computer systems analysis, computer programming, special software development, query system operation, and application of data input technology.

DIVISION OF DATA ANALYSIS AND DISSEMINATION

Provides, and as necessary, develops methods and procedures of statistical analysis required by or appropriate to the programs of the Office. Furnishes references, estimates and projections services for all aspects of educational statistical information, calculates allotment tables used in development and implementation of legislation. Publishes reports based on analyses of data gathered by other elements of the Center and the Office of Education.

Dated: November 6, 1967.

DONALD F. SIMPSON,
Assistant Secretary for Administration.

[F.R. Doc. 67-13269; Filed, Nov. 8, 1967; 8:50 a.m.]

PUBLIC HEALTH SERVICE

Statement of Organization and Functions and Delegations of Authority

Part 4 (Public Health Service) of the Statement of Organization and Functions and Delegations of Authority for the Department of Health, Education, and Welfare (32 F.R. 9739 et seq., July 4, 1967), as amended, is hereby amended with regard to Section 4-B, Organization and Functions, as follows:

In the first paragraph of the section on the Bureau of Health Services (2700), delete item (8) on community services to the mentally retarded and renumber the next two items as item (8) and item (9) respectively.

The paragraph entitled "Division of Mental Retardation (2769)" is deleted.

DONALD F. SIMPSON,
Assistant Secretary for Administration.

NOVEMBER 6, 1967.

[F.R. Doc. 67-13271; Filed, Nov. 8, 1967; 8:50 a.m.]

INTERSTATE AIR POLLUTION IN NATIONAL CAPITAL METROPOLITAN AREA

Notice of Conference of Air Pollution Control Agencies

Whereas, on the basis of reports, surveys or studies, I have reason to believe that interstate air pollution originating in the District of Columbia and the States of Maryland and Virginia (National Capital Metropolitan Area) is endangering the health or welfare of persons in the District of Columbia and the States of Maryland and Virginia, respectively, and

Whereas, officials of the District of Columbia and the States of Maryland and Virginia have been consulted pursuant to section 105(c)(1)(C) of the Clean Air Act (42 U.S.C. 1857d(c)(1)(C)).

Now, therefore, pursuant to section 105(c)(1)(C) of the Clean Air Act, I hereby give formal notification of the air pollution described above to, and call a conference of, the air pollution control agencies of the following:

District of Columbia (District of Columbia Department of Public Health).
State of Maryland (Maryland State Department of Health).
State of Virginia (Virginia State Air Pollution Control Board).
City of Alexandria, Va.
City of Falls Church, Va.
City of Fairfax, Va.
Arlington County, Va.
Fairfax County, Va.
Loudoun County, Va.
Prince William County, Va.
Montgomery County, Md.
Prince Georges County, Md.

All municipalities as defined in section 302(f) of the Clean Air Act (42 U.S.C. 1857h(f)) located in the following named counties:

In the State of Maryland: Montgomery County and Prince Georges County;
In the State of Virginia: Fairfax County, Loudoun County, and Prince William County.

The Director, National Center for Air Pollution Control, will fix the date, time and place for convening the conference after consultation with representatives of the air pollution control agencies of the District of Columbia and the States of Maryland and Virginia.

Any municipality desiring to make a formal presentation at the conference should file three copies of a notice of such intention with Dr. John T. Middleton, Director, National Center for Air Pollution Control, Room 2062, South Building, Department of Health, Education, and Welfare, Washington, D.C. 20201, not later than 30 days after the publication of this notice.

The agencies called to attend such conference may bring such persons as they desire to the conference. Those persons who wish to appear for the record should contact the appropriate agency.

Dated: November 6, 1967.

[SEAL] JOHN W. GARDNER,
Secretary.

[F.R. Doc. 67-13268; Filed, Nov. 8, 1967; 8:50 a.m.]

ATOMIC ENERGY COMMISSION

URANIUM SUPPLY POLICIES AND RELATED ACTIVITIES

Proposed Statement

Notice is hereby given that the U.S. Atomic Energy Commission is publishing for public comments, prior to action thereon, a proposed statement clarifying its policies relating to uranium supply and describing its plans for related research and development, and for compilation and evaluation of information on uranium resources. The proposed statement is set forth below in an appendix to this notice. All interested persons desiring to submit comments and suggestions for the consideration of the Commission in connection with the proposed statement should send them, in triplicate, to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, within 90 days after initial publication in the FEDERAL REGISTER. The Commission staff is also prepared to discuss this proposed statement with any interested person within this 90-day period.

Dated at Germantown, Md., this 31st day of October 1967.

For the U.S. Atomic Energy Commission.

W. B. McCOOL,
Secretary.

APPENDIX

Background. 1. In 1948 the AEC faced a critical shortage of uranium to meet the growing defense requirements for nuclear weapons. The principal sources of supply at that time, as during the war, were a single mine in the Belgian Congo and another on the Arctic Circle in Canada. Efforts were made to broaden the supply base to the maximum extent feasible. Exploration in Canada, undertaken in response to the defense requirement, subsequently turned up extensive deposits in northern Saskatchewan and southern Ontario, resulting in Canada becoming one of the world's leading uranium producers. Important production was also developed in South Africa which, under long-term contracts, delivered uranium to the United States through calendar year 1966. Lesser quantities of uranium were obtained from Portugal and Australia. One part of the AEC effort initiated in 1948 was to develop a domestic source of supply; toward this end, AEC established guaranteed price schedules and other incentives to stimulate private exploration. The stimulus so provided resulted in substantial uranium discoveries which were not only sufficient to make this country independent of foreign sources of supply, but raised the possibility of an overcommitment under the program. Therefore, in November 1958 the AEC limited its new purchase commitments to quantities based on domestic ore reserves developed prior to that date. The effect of this was to provide the domestic uranium industry with a substantial continuing market, but it extended only through 1966.

2. As late as 1962 deliveries under existing contracts were projected to exceed current requirements, yet it seemed probable that a large-scale civilian requirement for uranium would not develop for a number of years after 1966. Therefore, in November 1962, the Commission embarked on a stretch-out program providing for deferral until after 1966 of some of the deliveries under its procurement contracts, together with some additional purchases at a reduced price through 1970. As a result, deliveries in 1967–70 will be at a level of about 8,000 tons per year.

3. Although a reasonable balance between uranium purchases and requirements had been expected to result from the stretch-out program, decisions in 1964 and 1965 to reduce the rate of production of materials for nuclear weapons, together with the adoption of legislation permitting private ownership of special nuclear material and the commencement in 1969 of enrichment services to private owners of uranium, have resulted in a projected surplus of AEC-owned uranium over forecast Government requirements. On the other hand, the rapid growth in the rate of orders for civilian nuclear power facilities has resulted in a rapidly growing commercial market for uranium. Sales already concluded for delivery in 1968–70, exclusive of AEC purchases, total about 5,000–6,000 tons per year.

4. During the past 18 months, orders for nuclear power plants in the United States have continued at a more rapid rate than had been predicted. The AEC 1962 Report to the President[1] foresaw a U.S. nuclear generating capacity of 40,000 MWE by 1980. Since that time, successive estimates have reflected increasing confidence in the ability of nuclear power plants to provide cheaper electric power in many areas of the country. Earlier this year, AEC projected installed domestic capacity by 1980 in the range of 120,000 to 170,000 MWE. If the midpoint of this range is taken as a basis, there is projected to be a cumulative U.S. U_3O_8 requirement for civilian power through 1980 of approximately 250,000 tons. The attached tabulation shows the latest AEC projection of nuclear growth and U_3O_8 requirements by years through 1980, as well as commercial sales of uranium concentrate reported to September 1, 1967.

5. As a result of sales to the AEC under the stretch-out program and orders from commercial buyers, it appears that most of the domestic uranium producers will be operating at or near capacity through 1970. Under the impetus of increasing demand, the domestic market price of U_3O_8 has risen significantly over the past 2 years. Except for some remaining uncertainty as to the size of the commercial market in the first 2 or 3 years following expiration of AEC purchase contracts in 1970, a relatively smooth transition from a Government to a private market now seems reasonably certain.

6. These developments are resulting in a rapid expansion in the level of exploration for additional reserves, which is essential to the evolution of a stable nuclear fuel market. Although some additions to reserves are anticipated in the near future, it may be a few years before the full effect of this effort on U.S. reserves can be assessed. Meanwhile, the substantial demand and rising prices have resulted in increased interest by consumers in the possible purchase of enriched uranium from the AEC.

Previously announced AEC policies on supply of uranium. 7. The Commission has given careful consideration over an extended period to its uranium supply policies. Extensive hearings were held before the Joint Committee on Atomic Energy during consideration of the Private Ownership of Special Nuclear Materials legislation in 1964 and of the Uranium Enrichment Services Criteria in 1966. The policies were again reviewed in the AEC Authorization Hearings in 1967. The present restatement and clarification of these policies is believed desirable in the light of the rapidly changing uranium supply and demand situation.

8. The major objectives of the Commission's supply policies as announced on July 25, 1966, and in the Uranium Enrichment Services Criteria established on December 23, 1966 (31 F.R. 16479), were: (1) To establish toll enrichment as the preferred means for obtaining enriched uranium from the AEC, (2) to help assure a viable domestic uranium mining and milling industry, and (3) to provide incentives to private industry to undertake the early expansion of exploration and development of the large uranium ore reserves and production capability required to supply the expected demand for nuclear fuel for civilian power reactors.

9. The outstanding policies were:

(a) The natural uranium component of the AEC schedule of charges for lease and sale of enriched uranium would continue to be based upon a price of $8 per pound of U_3O_8 at least through June 30, 1973.

(b) Sales of enriched uranium would be limited to single transactions, rather than long-term contracts except where provisions for long-term sales are included in Agreements for Cooperation with foreign nations. A further exception would be made in the case of distributions to domestic customers of enriched uranium to be used in a research and development program involving production of U^{233} when lease is not available and during the period when a guaranteed purchase price is in effect for U^{233}. In Agreements for Cooperation providing for supply of enriched uranium via toll enriching, the AEC would also agree to furnish, for an appropriate charge, the natural uranium for a toll enrichment transaction where the foreign party has determined that the required natural uranium is not reasonably available to him.

(c) While quantitative criteria could not be specified, the disposal of AEC's available feed stocks would not be undertaken until it could be done in a manner which would not adversely affect the general viability of the domestic uranium industry.

(d) Beginning January 1, 1971, enriched uranium on lease may be converted to private ownership by a mechanism, called "in situ" toll enriching, under which the lessee would furnish to the AEC specified amounts of uranium feed and dollars and would thereby acquire ownership of the leased material.

(e) The transition to private ownership of all material held or being procured by licensees for power reactor use would be accomplished by AEC's terminating distributions of such material by lease on December 31, 1970, and terminating outstanding leases for such material on June 30, 1973. These are the same dates which are already applicable under the Atomic Energy Act of 1954, as amended, to distribution of such material to power reactor operators. However, AEC would, on a case-by-case basis, consider requests by U.S. fabricators for deferred payment of enriching service charges on toll enriched material—at an interest charge on the unpaid balance equal to the then-current use charge rate—during a fabrication period of up to 1 year.

In addition, and as stated in the Uranium Enrichment Services Criteria (pursuant to sec. 161v of the Atomic Energy Act of 1954, as amended), in order to assure the maintenance of a viable domestic uranium industry, AEC would not agree to enrich foreign uranium intended for use in domestic facilities. AEC would, from time to time, review the status of the domestic mining and milling industry to determine the need to continue this restriction.

Proposed procedures for implementing policies on sale of enriched and natural uranium. 10. The Commission reaffirms its willingness to sell enriched uranium on a single transaction basis. AEC will contract for the sale, with future delivery, of enriched uranium for an initial core or a single replacement region of core (including allowances for spare elements, losses in processing and fabrication, etc.), for a specified reactor project. Sales contracts normally would not be executed more than 18 months in advance of deliveries. It is believed that, under the enrichment approach, an 18-month time interval will normally be sufficient for the purchase of uranium concentrate, conversion to uranium hexafluoride, and toll enrichment in AEC diffusion plants. However, consideration will be given to executing sales contracts providing for a longer interval if the purchaser is in a position to justify the necessity for such longer interval. The charge for enriched uranium sold will be that in effect on the date of delivery. The natural uranium feed component in the schedule of charges for lease or sale of enriched uranium will continue to be based on $8 per pound of U_3O_8 at least through June 30, 1973. As stated in the Uranium Enrichment Services Criteria, the separative work component in the schedule of charges for lease or sale will be the same as the charge per unit of separative work concurrently in effect for enriching services.

11. Consistent with its policy on the sale of enriched uranium on the basis of single transactions, and upon request of the holder of a toll enrichment contract who has insufficient uranium available to meet his immediate requirements under such contract, the Commission will, at its option, either: (a) Supply natural uranium as required to meet the needs for feed material for a single transaction under the toll enrichment contract, or (b) supply the necessary enriched uranium on a sale basis and make an appropriate adjustment in the toll enrichment contract. In either case, the Commission will enter into such contractual arrangements only within a limited period prior to the date when delivery of the enriched uranium is required.

12. With respect to requests to purchase either natural or enriched uranium, the Commission would expect the purchaser to have made a reasonable effort to secure natural uranium from commercial sources for toll enrichment. Sales of both natural and enriched uranium, as discussed in the preceding paragraphs, will be subject to the availability of AEC-owned uranium. The amount available from AEC will depend on the quantities needed to meet Government requirements and on the extent to which it is considered desirable to maintain a Government reserve. Disposition of enriched and natural uranium by the means stated herein is not expected to be of major significance either in terms of tonnage removed from stocks or of competition with the domestic uranium industry. The quantity of uranium which would be available, therefore, appears ample at this time to meet the expected demand.

13. Foreign as well as domestic customers may purchase enriched or natural uranium on the basis outlined above. Existing foreign sales policies and arrangements pursuant to Agreements for Cooperation are not affected by these policies.

Removal of restrictions on enrichment of foreign uranium for domestic use. 14. No date has been established for removal of restrictions on the enrichment of foreign uranium for domestic use, but in the 1966 review it was generally considered that this might be done by the mid-1970's. The Commission is reviewing these restrictions in the light of recent developments and will propose their removal at the earliest date consistent with reasonable assurance of the viability of the domestic uranium industry as a whole. It will announce this proposed date as early as possible.

15. The Commission does not believe it is feasible to define quantitatively in advance the criteria which in its judgment would characterize a viable industry. Although the size of the market is an important element, a number of other factors must also be considered, such as the price of uranium at the time restrictions are removed, the size of domestic ore reserves, the rate of development of new reserves, the probable penetration of the domestic market by foreign imports, and the size of the export market. The Commission is considering June 30, 1973, as well as alternative dates, for removal of this restriction. The Commission is also considering the possibility of removing the restriction on a graduated schedule. A decision that the restriction can be removed on a specified date or schedule would constitute a proposed amendment to the Uranium Enrichment Services Criteria which, before being established, would be submitted for Congressional review in accordance with Section 161v of the Atomic Energy Act.

Long-term availability of uranium. 16. In addition to its responsibility to see that its uranium supply policies adequately meet the needs of the various segments of the nuclear energy industry in the near term, the Commission is charged with assisting in the effective long-term development of nuclear energy. The availability of adequate fuel supplies is critical to the continued development of this important energy source. The Commission believes, therefore, that it should help assure adequate fuel resources through a program of resource evaluation and technical support to private exploration and through a vigorous reactor development program aimed at extending the supply of low-cost nuclear fuel resources through more efficient use.

17. A reevaluation of the long-term supply picture makes it apparent that the effort required by the uranium mining industry to meet the projected demand will be even greater than foreseen two years ago. The uranium industry faces potential domestic commercial requirements for delivery through 1980 approaching 250,000 tons of U_3O_8 (exclusive of AEC purchases), although this demand would be reduced to the extent of AEC sales of uranium to industry. An 8-year ore reserve in 1980, which is considered to be the minimum to support the continued expansion of production required, would be about 400,000 tons. Thus, during the period through 1980 production plus reserves would be about 650,000 tons of U_3O_8, which will require new discoveries exceeding 500,000 tons (presently known reserves at prices up to $8 per pound are about 140,000 tons).

18. Mining and milling capacities will have to be expanded to a production capability of nearly 40,000 tons per year by 1980 if U.S. requirements are to be met from domestic sources. The total investment in exploration and production facilities required is estimated in excess of $1 billion. This would represent an investment requirement of more than $2 per pound of U_3O_8 sold during the 1967–80 period. If consumers wish to negotiate long-term supply contracts committing reserves 8 to 10 years or more in the future, larger ore reserves would be needed and the exploration investment would be greater.

19. The Commission considers it important that information on uranium availability resulting from uranium exploration by private industry be collected and evaluated on a continuing basis. Such information on uranium reserves and resources is required for sound long-range planning of nuclear power development by both Government and industry. The Commission also believes that, in view of the large quantities of uranium that must be found and produced in the years ahead and the great potential savings in the cost of power if low uranium costs can be maintained, it is important that there be an adequate program of research and development to achieve an improved understanding of the occurrence, characteristics, and distribution of uranium ore deposits, the underlying ore-forming processes, and the technology of discovery and exploitation. AEC-sponsored projects of a type not undertaken by industry and appropriate effort by other agencies, particularly mapping of areas favorable for uranium by the U.S. Geological Survey, are believed essential to this end.

20. Means of extending low-cost nuclear fuel resources are being actively pursued. The primary approach, and the ultimate solution, to the problem of extending fuel resources is the development of breeder reactors which make more fissionable material than they burn. An efficient fast breeder reactor would make it possible to utilize most of the energy latent in uranium and permit the economic use of higher priced fuel. Pending availability of fast breeders, interim measures to conserve available uranium-235 may include advanced converter systems which use fuel more efficiently than the present generation of light water moderated reactors.

PROJECTED NUCLEAR POWER GROWTH COMMERCIAL URANIUM REQUIREMENTS AND SALES BY YEARS

	Installed capacity in net electrical megawatts	Domestic requirements, short tons of U_3O_8[1]	
		Annual	Cumulative
1966	1,800	1,500	1,500
1967	2,800	2,300	3,800
1968	3,900	4,000	7,800
1969	6,600	5,600	13,400
1970	9,800	7,500	20,900
1971	16,500	9,200	30,100
1972	23,000	12,500	42,600
1973	33,000	14,800	57,400
1974	47,000	15,000	72,400
1975	61,000	21,000	93,400
1976	74,000	24,000	117,400
1977	91,000	25,000	142,400
1978	108,000	30,000	172,400
1979	124,000	34,000	207,400
1980	145,000	38,000	245,400

[1] Requirements each year include initial fuel for reactors under construction and makeup fuel for reactors constructed in prior years, the latter varying from about 15 percent of total annual requirements in 1966 to 60 percent in 1980. The computations involve assumptions about fuel-processing times and utilize reactor characteristics supplied by reactor manufacturers. The tails assay in the uranium enrichment plants is taken as 0.2 percent U^{235}. Plutonium recycle in thermal reactors is assumed to start in 1974, resulting in a reduction in annual requirements for U_3O_8 ranging from about 2 percent in 1973 to 12 percent in 1980.

[1] "Civilian Nuclear Power • • • a Report to the President—1962," USAEC.

DOMESTIC SALES AND CONTRACT COMMITMENTS
[Excludes AEC purchases]

	Tons of U_3O_8 by year of delivery	
	Annual	Cumulative
1966–67	800	800
1968	4,900	5,700
1969	5,000	10,700
1970	5,900	16,600
1971	7,200	23,800
1972	7,900	31,700
1973	6,200	37,900
1974	4,400	42,300
1975–77	4,200	46,500

Foreign sales by domestic producers—total, 2,440.

[F.R. Doc. 67–13217; Filed, Nov. 8, 1967; 8:45 a.m.]

FEDERAL MARITIME COMMISSION

AMERICAN PRESIDENT LINES, LTD., AND PACIFIC FAR EAST LINE, INC.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H. Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of modification to an agreement filed for approval by:

D. J. Morris, Manager, Rates and Conferences, American President Lines, Ltd., 601 California Street, San Francisco, Calif. 94108.

Amended agreement designated No. 8454–3 between American President Lines, Ltd., and Pacific Far East Line, Inc., modifies their approved rate agreement in the trade between the United States and Guam, Midway Island, Wake Island, Eniwetok, and Kwajalein, Agreement 8454, to provide that each party may separately maintain its own tariff or American President Lines, Ltd., may concur in the Pacific Far East Line, Inc., tariff publications.

Dated: November 6, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67–13262; Filed, Nov. 8, 1967; 8:49 a.m.]

ITALY, SOUTH FRANCE/U.S. GULF CONFERENCE

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street, NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. G. Ravera, Secretary, Italy, South France/U.S. Gulf Conference, Vico San Luca No. 4, Genoa, Italy.

Agreement No. 9522–7, between the member lines of the Italy, South France/U.S. Gulf Conference, amends Article 4 of the basic agreement to provide that admission fees will be considered nonreimbursable payments to be distributed among all the members forming the Conference at the date of admittance of a new member, in proportion to the expenses incurred by the members from the date of the establishment of the Conference up to the date of admittance of the new member.

Dated: November 3, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67–13263; Filed, Nov. 8, 1967; 8:49 a.m.]

TICA LINE AND GALLEN LINE

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. John A. Katuto, Traffic Manager, Tica Line, 29 Broadway, New York, N.Y. 10006.

Agreement 9668, between Tica Line and Gallen Line establishes a through billing arrangement for movement of cargo from New York to Bluefields, Nicaragua, with transshipment at Puerto Limon, Costa Rica, in accordance with terms and conditions set forth in the agreement.

Dated: November 3, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67–13266; Filed, Nov. 8, 1967; 8:49 a.m.]

TRANS-OCEAN STEAMSHIP CO.

Application for Certificate of Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notices of Application for Certificate (Casualty)

Notice is hereby given that pursuant to the provisions of section 2, Public Law 89–777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, Amdt. 2 (46 CFR Part 540), the following persons have applied to the Federal Maritime Commission for a Certificate of Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages:

N.V. Scheepvaart Maatschappij "Trans-Ocean" (Trans-Ocean Steamship Co.).

Dated: November 6, 1967.

THOMAS LISI,
Secretary.

[F.R. Doc. 67–13264; Filed, Nov. 8, 1967; 8:49 a.m.]

TRANS-OCEAN STEAMSHIP CO.

Indemnification of Passengers for Nonperformance of Transportation; Notice of Application for Certificate (Performance)

Notice is hereby given that pursuant to the provisions of section 3, Public Law 89–777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20 (46 CFR Part 540) the following persons have applied to the Federal Maritime Commission for a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation:

N.V. Scheepvaart Maatschappij "Trans-Ocean" (Trans-Ocean Steamship Co.).

Dated: November 6, 1967.

THOMAS LISI,
Secretary.

[F.R. Doc. 67–13265; Filed, Nov. 8, 1967; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. G–2737, RP64–9]

CONTINENTAL OIL CO. ET AL.

Notice Fixing Oral Argument

NOVEMBER 2, 1967.

Continental Oil Co., Continental Gas Producing Co., Docket No. G–2737; Cities Service Gas Co., Docket No. RP64–9.

The Commission has before it the Presiding Examiner's decision, and the exceptions thereto. Request for oral argument was filed by Commission Staff Counsel.

Take notice that oral argument is scheduled to be heard by the Commission en banc commencing at 10 a.m., e.s.t., December 15, 1967, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C.

All parties desiring to participate in such oral argument shall notify the Secretary of the Commission in writing on or before November 27, 1967, of the amount of time desired for presentation of their respective oral arguments.

By direction of the Commission.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67–13221; Filed, Nov. 8, 1967; 8:45 a.m.]

[Project 1971]

IDAHO POWER CO.

Notice of Application for Approval of Exhibits for Partly Constructed Project

NOVEMBER 2, 1967.

Public notice is hereby given that Idaho Power Co. (correspondence to: James E. Bruce, Secretary, Idaho Power Co., Post Office Box 770, Boise, Idaho 83701) has filed for Commission approval under the Federal Power Act (16 U.S.C. 791a–825r) as part of the license for Project No. 1971, of Exhibits J and K and Exhibits M, N, and O, showing a 69-kv service transmission line extending between the Pine Creek substation at the Oxbow Development and the Hells Canyon Development. The line is within the boundary of Project No. 1971 located on the Snake River in the States of Idaho and Oregon.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is December 20, 1967. The exhibits are on file with the Commission for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67–13223; Filed, Nov. 8, 1967; 8:45 a.m.]

[Docket No. E–7872]

KANSAS CITY POWER & LIGHT CO.

Notice of Application

NOVEMBER 2, 1967.

Take notice that on October 25, 1967, Kansas City Power & Light Co. (Applicant) filed an application pursuant to section 203 of the Federal Power Act seeking authority to sell certain electric facilities to the Missouri Public Service Co., a Missouri corporation.

Applicant is incorporated under the laws of Missouri with its principal business office at Kansas City, Mo., and is engaged in the electric utility business in 11 counties in Missouri and 10 counties in Kansas.

The facilities to be sold consist principally of certain metering station and communications equipment located at various substations of the Missouri Public Service Co. Applicant will receive as consideration for these facilities $100,149.05 which is the estimated depreciated original cost of the properties.

Any person desiring to be heard or to make any protest with reference to the application should, on or before November 27, 1967, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and is available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67–13222; Filed, Nov. 8, 1967; 8:45 a.m.]

[Docket No. CP68–138]

CITY OF LEITCHFIELD, KY., AND TEXAS GAS TRANSMISSION CORP.

Notice of Application

NOVEMBER 2, 1967.

Take notice that on October 23, 1967, the city of Leitchfield, Ky. (Applicant), filed in Docket No. CP68–138 an application pursuant to section 7(a) of the Natural Gas Act for an order of the Commission directing Texas Gas Transmission Corp. (Respondent) to establish physical connection of its transmission facilities with the facilities to be constructed by Applicant and to sell and deliver to Applicant volumes of natural gas for distribution and resale in Applicant and environs, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant has an existing distribution system but proposes to construct a transmission line with which Applicant requests that Respondent be ordered to connect its transmission line in Breckinridge County, Ky., in the vicinity of Respondent's Hardinsburg compressor station.

Applicant also requests that Respondent be ordered to sell and deliver volumes of natural gas estimated for third year peak-day and annual requirements to be 2,072 Mcf and 196,646 Mcf of natural gas, respectively, which gas will be resold and distributed in Applicant and environs.

The estimated cost of Applicant's transmission line is $700,000, which will be financed through the sale of revenue bonds.

Protests or petitions to interverne may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 29, 1967.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67–13220; Filed, Nov. 8, 1967; 8:45 a.m.]

[Docket Nos. G–18313, CP66–172]

MIDWESTERN GAS TRANSMISSION CO.

Notice of Petition To Amend

NOVEMBER 2, 1967.

Take notice that on October 26, 1967, Midwestern Gas Transmission Co. (Petitioner), Post Office Box 774, Chicago, Ill. 60690, filed in Docket Nos. G–18313 issued October 31, 1959, and CP66–172 issued March 25, 1966, said orders both subsequently amended, a petition to amend said orders, as amended, by requesting authorization to continue the importation of certain volumes of natural gas from Canada and continue the sale and delivery of natural gas in certain quantities on an interruptible basis, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the order issued March 25, 1966, in Docket No. CP66–172 et al., Petitioner was authorized to sell up to 25,000 Mcf of natural gas per day to its existing northern system customers on an interruptible basis for a term ending October 31, 1966. That order also, by amending the order issued in Docket No. G–18313, authorized Petitioner to import on an interruptible basis up to 25,000 Mcf of natural gas daily from Trans-Canada Pipe Lines, Ltd. (Trans-Canada) for the term ending October 31, 1966. Subsequently, by the amending order issued in Docket No. CP66–172 on December 12, 1966, Petitioner was authorized to continue this service for another year.

In response to requests for continuation of the aforementioned interruptible service from its northern system customers, Petitioner requests that the aforementioned orders, as amended, be further amended by authorizing the continuation of the said interruptible service of up to 25,000 Mcf of natural gas per day to the northern system customers and the continuation of importation of up to 25,000 Mcf of natural gas

per day from Canada by the purchase of such volumes from Trans-Canada on an interruptible basis.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before November 29, 1967.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13224; Filed, Nov. 8, 1967; 8:45 a.m.]

[Docket No. CP68-140]

NORTHERN NATURAL GAS CO. AND CITIES SERVICE GAS CO.

Notice of Application

NOVEMBER 2, 1967.

Take notice that on October 23, 1967, Peoples Natural Gas Division of Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed an application in Docket No. CP68-140 pursuant to section 7(a) of the Natural Gas Act for an order of the Commission directing Cities Service Gas Co. (Respondent) to establish physical connection of its transmission facilities with facilities to be constructed by Applicant and to sell and deliver to Applicant volumes of natural gas for resale and distribution in the community of Eureka, Mo., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes that Respondent be ordered to construct a branch line extension from transmission facilities which Applicant proposed to be constructed by Respondent in Docket No. CP68-109, construct a gas measuring station, construct any necessary related facilities, establish physical connection of the transmission facilities with distribution facilities to be constructed by Applicant, and to sell and deliver to Applicant volumes of natural gas for resale and distribution in and about the community of Eureka, Mo. Applicant requests further that Respondent's facilities be constructed under its "Sales Lateral Pipeline" policy as set forth in the FPC Gas Tariff, Second Revised Volumes No. 1 of Cities Service Gas Co.

The estimated third year peak-day and annual requirements of Eureka, Mo., are 933 Mcf and 92,614 Mcf of natural gas, respectively.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 29, 1967.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13225; Filed, Nov. 8, 1967; 8:45 a.m.]

[Docket No. CP68-141]

WESTERN TRANSMISSION CORP.

Notice of Application

NOVEMBER 2, 1967.

Take notice that on October 24, 1967, Western Transmission Corp. (Applicant), 1907 Chamber of Commerce Building, Houston, Tex. 77002, filed in Docket No. CP68-141 a "budget-type" application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the regulations under the Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas gathering facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to construct, during the 12-month period subsequent to the issuance of the certificate, and operate certain gas gathering facilities to enable Applicant to take into its transmission system natural gas as it becomes available from various producers within the vicinity of its transmission facilities.

The total estimated cost of the proposed facilities will not exceed $175,000 with no single project exceeding $43,000. The cost of these facilities will be financed from funds available from company operations.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before November 29, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure hergin provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13226; Filed, Nov. 8, 1967; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Mexican Change List 240]

MEXICAN BROADCAST STATIONS

List of Changes, Proposed Changes, and Corrections in Assignments

OCTOBER 4, 1967.

Notifications under the provisions of Part III, section 2 of North American Regional Broadcasting Agreement.

List of changes, proposed changes, and corrections in assignments of Mexican Broadcast Stations Modifying the appendix containing assignments of Mexican Broadcast Stations (Mimeograph No. 4721-6) attached to the recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

Call letters	Location	Power watts	Antenna	Schedule	Class	Expected date of commencement of operation
XEAF (assignment deleted).	Tala, Jalisco	*540 kilocycles* 150	ND	U	IV	10-4-67.
XENE (correction of an omission: In operation since 4-10-56; change in class of daytime service, previously IV).	Culiacan, Sin	*570 kilocycles* 1000-D/250-N	ND	U	*III-D* IV-N	*4-10-68.*
XEACM (change in call letters, previously XEVL).	Villahermosa, Tab	*620 kilocycles* 1000-D/100-N	ND	U	III-D IV-N	
XEFJ (correction of an omission: Operation definitive with 1000 W-D, 100 W-N, ND, since 9-14-67).	Tuxtlan, Pue	*660 kilocycles* 1000-D/100-N	ND	U	II	*6-14-67.*
XEZZ (correction of an omission: In operation with 1000 W, ND, D, since 10-30-66; increase in power; this corrects the class, previously notified III).	Chihuahua, Chih	*780 kilocycles* 5000-D/400-N	ND	U	{III-D IV-N}	10-4-67.
XEII (this cancels the notification included in List 239).	Chihuahua, Chih	*780 kilocycles* 5000-D/400-N	ND	U	{III-D IV-N}	*1-1-68.*
XEBPO (correction of an omission: In operation 700 kcs since 7-1-66).	Morelia, Mich	*870 kilocycles* 1000	ND	D	II	11-4-67 (probable).
XELY (PO: 1450 kc/s).	Morelia, Mich	*870 kilocycles* 500	ND	D	II	*7-30-68.*
XEMM (correction of an omission: In operation since 7-30-56; see 980 kc/s).	Torreon, Coah	*980 kilocycles* 1000-D/250-N	ND	U	*III-D* IV-N	*4-4-67.*
XETAA (temporary operation with 100 W-D, 250 W-N, since 10-4-67; change in Class of daytime service).	Chihuahua, Chih	*940 kilocycles* 600-D/250-N	ND	U	III-D IV-N	
XEFA (change in call letters, previously XEBPE).	Morelia, Mich	*980 kilocycles* 600-D/200-N	ND	U	{III-D IV-N}	11-4-67 (probable).
XEUNO (new)	Guadalajara, Jal	*1180 kilocycles* 500	ND	D	II	11-2-67 (probable).
XERTM (to operation since 4-22-67).	Mexicaltzingo, Tab	*1140 kilocycles* 1000-D/128-N	ND	U	{III-D IV-N}	*4-22-67.*
XEAK (assignment deleted; see 1600 kc/s).	Acambaro, Gto	*1140 kilocycles* 1000	ND	D	II	10-4-67.
XEIW (new)	Uruapan, Mich	*1140 kilocycles* 1000	ND	D	II	11-4-67 (probable).
XEVW (PO: 1600 kc/s).	Acambaro, Gto	*1140 kilocycles* 1000	ND	D	II	11-4-67 (probable).
XEBOL (new)	Cd. Hidalgo, Mich	*1140 kilocycles* 500	ND	D	II	11-4-67 (probable).

Call letters	Location	Power watts	Antenna	Schedule	Class	Expected date of commencement of operation
XETKR (this cancels the notification included in List 238; in operation at Villa de Guadalupe on 1480 kc/s with 1000 W-D, 500 W-N, ND, since 4-10-56; change to 1190 kc/s).	Villa de Guadalupe, N.L.	*1190 kilocycles* 1000-D/500-N	DA-N	U	II	11-15-67 (probable).
XEVI (correction of an omission: In operation since 11-25-62; see 1400 kc/s).	San Juan del Rio, Qro	*1310 kilocycles* 1000	ND	D	III	*11-25-68.*
XEAJ (in operation with 500 W-D, 100 W-N, since 4-4-67).	Saltillo, Coah	*1330 kilocycles* 500-D/100-N	ND	U	{III-D IV-N}	*4-4-67.*
XEPJ (in operation at San Pedro Tlaquepaque since 5-10-67).	San Pedro Tlaquepaque, Jal	*1570 kilocycles* 500	ND	U	III	*5-10-67.*
XELF (assignment deleted).	Nueva Rosita, Coah	*1580 kilocycles* 250	ND	U	IV	10-4-67.
XEGW (in operation with 1000 W-D, 150 W-N, since 8-3-67).	Cd. Victoria, Tams	*1580 kilocycles* 1000-D/150-N	ND	U	{III-D IV-N}	*8-4-67.*
XERUY (in operation at Merida since 1-21-67).	Merida, Yuc	*1,00 kilocycles* 250	ND	U	IV	*1-21-67.*
XEVI (PO: 1310 kc/s).	San Juan del Rio, Qro	*1400 kilocycles* 500-D/500-N	ND	U	IV	11-4-67 (probable).
XERPC (assignment deleted; see 790 kc/s).	Chihuahua, Chih	*1480 kilocycles* 5000-D/150-N	ND	U	{III-D IV-N}	11-4-67.
XELY (PO: 1450 kc/s, 1000 W, ND, D; change to 670 kc/s).	Morelia, Mich	*1450 kilocycles* 1000-D/100-N	ND	U	{III-D IV-N}	11-4-67 (probable).
XEHQ (this corrects the call letters modified in List 238; assignment deleted).	Parras, Coah	*1440 kilocycles* 6000	ND	D	III	2-4-67.
XEPT (correction of an omission: in operation since 4-10-62).	Merida, Yuc	*1440 kilocycles* 250	ND	U	IV	*4-10-68.*
XEDY (assignment deleted).	Merida, Yuc	*1,60 kilocycles* 250	ND	U	IV	10-4-67.
XEZZ (correction of an omission: in operation with 1000 W, ND, D, since 10-30-66; increase in power; this corrects the class, previously notified III).	Chihuahua, Chih	*780 kilocycles* 5000-D/400-N	ND	U	{III-D IV-N}	10-4-67.
XEII (this cancels the notification included in List 239).	Chihuahua, Chih	*780 kilocycles* 5000-D/400-N	ND	U	{III-D IV-N}	*1-1-68.*
XEBPO (correction of an omission: In operation 700 kcs since 7-1-66).	Morelia, Mich	*870 kilocycles* 1000	ND	D	II	11-4-67 (probable).
XELY (PO: 1450 kc/s).	Morelia, Mich	*870 kilocycles* 500	ND	D	II	*7-30-68.*
XEMM (correction of an omission: In operation since 7-30-56; see 980 kc/s).	Torreon, Coah	*980 kilocycles* 1000-D/250-N	ND	U	*III-D* IV-N	*4-4-67.*
XETAA (temporary operation with 100 W-D, 250 W-N, since 10-4-67; change in Class of daytime service).	Chihuahua, Chih	*940 kilocycles* 600-D/250-N	ND	U	III-D IV-N	
XEFA (change in call letters, previously XEBPE).	Morelia, Mich	*980 kilocycles* 600-D/200-N	ND	U	{III-D IV-N}	11-4-67 (probable).
XEUNO (new)	Guadalajara, Jal	*1180 kilocycles* 500	ND	D	II	11-2-67 (probable).
XERTM (to operation since 4-22-67).	Mexicaltzingo, Tab	*1140 kilocycles* 1000-D/128-N	ND	U	{III-D IV-N}	*4-22-67.*
XEAK (assignment deleted; see 1600 kc/s).	Acambaro, Gto	*1140 kilocycles* 1000	ND	D	II	10-4-67.
XEIW (new)	Uruapan, Mich	*1140 kilocycles* 1000	ND	D	II	11-4-67 (probable).
XEVW (PO: 1600 kc/s).	Acambaro, Gto	*1140 kilocycles* 1000	ND	D	II	11-4-67 (probable).
XEBOL (new)	Cd. Hidalgo, Mich	*1140 kilocycles* 500	ND	D	II	11-4-67 (probable).

Call letters	Location	Power in watts	Antenna	Schedule	Class	Expected date of commencement of operation
XEVIP (change in call letters, previously XERMK; provisional operation with 500 W, ND, U, since 9-15-67; see list No. 228).	Cd Satelite, Mex.	1060 kilocycles 1000-D/500-N	ND	U	II	
XEVW (change to 1140 kc/s).	Acambaro, Gto.	1600 kilocycles 500-D/200-N	ND	U	IV	11-4-67 (probable).
XEAK (previously notified on 1140 kc/s).	Acambaro, Gto.	1600 kilocycles 500-D/200-N	ND	U	{III-D IV-N}	5-2-68 (probable).

FCC NOTE: Mexican Change List No. 240 has not been received through official channels.

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,
BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13210; Filed, Nov. 8, 1967; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

INTERAMERICAN INDUSTRIES, LTD.

Order Suspending Trading

NOVEMBER 3, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the capital stock of Interamerican Industries, Ltd., Calgary, Alberta, Canada, being traded in the United States otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in the United States in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 5, 1967 through November 14, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-13236; Filed, Nov. 8, 1967; 8:47 a.m.]

[File No. 1-1277]

PENROSE INDUSTRIES CORP.

Order Suspending Trading

NOVEMBER 3, 1967.

The common stock $2 par value, of Penrose Industries Corp., being listed and registered on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and the 5 percent cumulative convertible preferred stock, $20 par value of Penrose Industries Corp., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the American Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 5, 1967, through November 14, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-13237; Filed, Nov. 8, 1967; 8:47 a.m.]

[812-2194]

SCRIPPS-HOWARD INVESTMENT CO.

Notice of Filing of Application for Order Exempting Transaction Between Affiliates

NOVEMBER 3, 1967.

Notice is hereby given that The Scripps-Howard Investment Co. ("Applicant"), 1100 Central Trust Tower, Cincinnati, Ohio 45202, an Ohio corporation and a registered closed-end nondiversified management investment company, has filed an application pursuant to section 17(b) of the Investment Company Act of 1940, 15 U.S.C. section 80a-1, et seq. ("Act"). Applicant requests an order exempting from the provisions of section 17(a) of the Act the proposed sale by Applicant to Pittsburgh Press Co. ("Pittsburgh"), a Pennsylvania corporation, of 17,450 no par preferred shares of Pittsburgh at a price of $100 per share in cash, pursuant to an invitation for tenders. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below:

Pittsburgh is authorized to issue a total of 500,000 shares of capital stock, of which 100,000 are no par common voting shares and all of which are issued and outstanding, 300,000 Class A no par, common nonvoting shares of which 295,850 are issued and outstanding, and 100,000 preference shares, all of which are issued and outstanding. The holders of the preference shares are entitled to receive dividends at the rate of $6 per share per year when and as declared by the board of directors of the company. Dividends on the preference shares are not cumulative.

Applicant owns 29,800 common voting shares and 44,000 Class A common shares of Pittsburgh, which represents 29.8 percent and 14.87 percent of the issued and outstanding shares of these two classes respectively. Applicant also owns 22,175 preference shares of Pittsburgh. Pittsburgh is therefore an affiliated person of the Applicant within the meaning of the Act. Pursuant to the invitation for tenders, Applicant's board of directors has determined that 17,450 preference shares will be tendered to Pittsburgh on a conditional basis subject to an exemptive order of the Commission.

Section 17(a) of the Act, as here pertinent, makes it unlawful for an affiliate of a registered investment company to purchase from such investment company any security or other property unless the Commission, upon application pursuant to section 17(b), grants an exemption from the provisions of section 17(a) after finding that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of such investment company and with the general purposes of the Act.

Applicant represents that its directors have consistently since December 31, 1937, placed a value of $100 per share on preference shares. The directors have based their valuation on such factors as the amount and consistency of the dividend as well as the redemption price and liquidation and dissolution rights of the preference shares. Since there are only 20 shareholders, there is no established market for the preference shares. Applicant further represents that the price paid in previous sales has always been $100 per share and that such price fairly represents the investment value of such shares in today's market for nonconvertible preferred stock.

Notice is further given that any interested person may, not later than November 21, 1967 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-13238; Filed, Nov. 8, 1967; 8:47 a.m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 641]

CALIFORNIA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of October 1967, because of the effects of certain disasters, damage resulted to residences and business property located in the counties of Los Angeles, Orange, Riverside, and San Diego, in the State of California;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Acting Associate Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the offices below indicated from persons or firms whose property, situated in the aforesaid counties and areas adjacent thereto, suffered damage or destruction resulting from brush fires occurring on or about October 15, 1967, and continuing thereafter.

OFFICES

Small Business Administration Regional Office, 312 West Fifth Street, Los Angeles, Calif. 90013.

Small Business Administration Regional Office, 110 West C Street, San Diego, Calif. 92101.

2. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to May 31, 1968.

Dated: November 2, 1967.

HOWARD W. ROGERSON,
Acting Associate Administrator.

[F.R. Doc. 67-13245; Filed, Nov. 8, 1967; 8:47 a.m.]

[Declaration of Disaster Loan Area 640]

FLORIDA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of October 1967, because of the effects of certain disasters, damage resulted to residences and business property located in Escambia County, in the State of Florida;

Whereas, the Small Business Administration has investigated and received other reports of investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Acting Associate Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the offices below indicated from persons or firms whose property, situated in the aforesaid county and areas adjacent thereto, suffered damage or destruction resulting from tornado occurring on October 30, 1967.

OFFICE

Small Business Administration Regional Office, Federal Office Building, 400 West Bay Street, Jacksonville, Fla. 32202.

2. A temporary office will be established at Pensacola, Fla., address to be announced locally.

3. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to May 31, 1968.

Dated: November 2, 1967.

HOWARD W. ROGERSON,
Acting Associate Administrator.

[F.R. Doc. 67-13246; Filed, Nov. 8, 1967; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 1121]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

NOVEMBER 3, 1967.

The following applications are governed by Special Rule 1.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with § 1.247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of § 1.247(d)(4) of the special rule, and shall include the certification required therein.

Section 1.247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's General Policy Statement Concerning Motor Carrier Licensing Procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will

[1] Copies of Special Rule 1.247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

eliminate any restrictions which are not acceptable to the Commission.

No. MC 200 (Sub-No. 224), filed October 20, 1967. Applicant: RISS & COMPANY, INC., 903 Grand Avenue, Kansas City, Mo. Applicant's representative: Ivan E. Moody (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fibrous glass, fibrous glass products* (except fibrous glass boats) and accessories therefor, from Newark, Ohio, to points in Florida, Georgia, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Cleveland, Ohio.

No. MC 2202 (Sub-No. 334), filed October 19, 1967. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, Ohio 44309. Applicant's representative: William O. Turney, 2001 Massachusetts Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Harrisburg, Pa., and Bristol, Va., from Harrisburg over U.S. Highway 11 to junction Interstate Highway 81, thence over Interstate Highway 81 to junction U.S. Highway 11 south of Harrisonburg, Va., thence over Interstate Highway 81 to Bristol, Va., as an alternate route for operating convenience only, serving no intermediate points, and serving Bristol and junction U.S. Highway 11 and Interstate Highway 81 south of Harrisonburg, Va., for joinder purposes only, and (2) between Harrisburg, Pa., and junction U.S. Highways 11 and 340 near Mountain Springs, Va., over U.S. Highway 11 as an alternate route for operating convenience only, serving no intermediate points, and serving the junctions of (a) U.S. Highways 11 and 211 and (b) junction of U.S. Highways 11 and 340, for joinder purposes only. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 2228 (Sub-No. 52), filed October 9, 1967. Applicant: MERCHANTS FAST MOTOR LINES, INC., East U.S. Highway 80, Post Office Drawer 270, Abilene, Tex. 79604. Applicant's representative: Reagan Sayers, Century Life Building, Post Office Drawer 17007, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between (1) San Antonio, Tex., and the intersection of Interstate Highway 10 with Interstate Highway 20, over Interstate Highway 20; and (2) between San Antonio and Pecos, Tex.; from San Antonio as in (1) above to the intersection of Interstate Highway 10 with U.S. Highway 285, thence over U.S. Highway 285 to Pecos; and return over the same routes, serving no intermediate points, as alternate routes in connection with applicant's existing routes between the termini. NOTE: If a hearing is deemed necessary applicant requests it be held at Dallas or Fort Worth, Tex.

No. MC 10321 (Sub-No. 3), filed October 23, 1967. Applicant: J. A. CARMAN TRUCKING COMPANY, INC., Post Office Box 156, Prattsville, N.Y. Applicant's representative: Martin Werner, 2 West 45th Street, New York, N.Y. 10036. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *Charcoal and charcoal products* (except in bulk, in tank vehicles), *grills, advertising materials, premiums, and displays*, from town of Roxbury (Delaware County) and town of Glenville (Schenectady County), N.Y., to points in Connecticut, Maine, New Hampshire, Vermont, Rhode Island, Massachusetts, New York, New Jersey, and Pennsylvania, and (2) *materials and supplies* used by a charcoal manufacturing plant (except commodities in bulk, in tank vehicles), from points in Connecticut, Maine, New Hampshire, Vermont, Rhode Island, Massachusetts, New York, New Jersey, and Pennsylvania, to town of Roxbury and town of Glenville, N.Y. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 11207 (Sub-No. 267), filed October 23, 1967. Applicant: DEATON, INC., 3409 10th Avenue North, Birmingham, Ala. 35234. Applicant's representative: A. Alvis Layne, Pennsylvania Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Board, building, wall and insulating, and parts, materials and accessories incidental thereto*, and (2) *composition boards, and parts, and materials and accessories incidental thereto*, from the plantsite of the Celotex Corp., located at or near Marrero, La., to points in Mississippi, Alabama (except Birmingham and points within a 65-mile radius thereof), Georgia (except Atlanta and its commercial zone), Tennessee, South Carolina, North Carolina, Kentucky, Virginia, and West Virginia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 12250 (Sub-No. 93) (Amendment), filed October 19, 1967, published in FEDERAL REGISTER issue of November 2, 1967, amended October 26, 1967, and republished as amended, this issue. Applicant: J. H. ROSE TRUCK LINE, INC., 5003 Jensen Drive, Post Office Box 16190, Houston, Tex. 77022. Applicant's representative: Thomas E. James, The 904 Lavaca Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural machinery and implements*, and (2) *parts and accessories* of items named in (1) above, between points in Maricopa County, Ariz., on the one hand, and, on the other, points in Texas, Louisiana, Mississippi, Alabama, Georgia, North Carolina, and South Carolina. NOTE: Applicant states that tacking would take place at points in Maricopa County, Ariz., involving movements between California, on the one hand, and, on the other, Mississippi, Alabama, Georgia, North Carolina, and South Carolina. Applicant also states that no duplicating authority is being sought. The purpose of this republication is to redescribe the commodity description by adding (2) above. If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz., or Washington, D.C.

No. MC 13692 (Sub-No. 10), filed October 26, 1967. Applicant: E. J. SCANNELL, INC., 151 Linwood Street, Somerville, Mass. 02143. Applicant's representative: Francis W. McInerny, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, livestock, commodities requiring special equipment, and those injurious or contaminating to other lading, serving Columbia City, Md., as an off-route point in connection with applicant's presently authorized regular route authority to serve Baltimore, Md. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Baltimore, Md.

No. MC 20092 (Sub-No. 17), filed October 11, 1967. Applicant: DOTSETH TRUCK LINE INC., Knapp, Wis. Applicant's representative: Robert R. Gavic, Spring Valley, Wis. 54767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agriculture machinery, implements and parts* thereof as described in sections B and C of appendix XII to the report in *Descriptions in Motor Carrier Certificates*, as defined by the Commission, from the plant and warehouse sites of Kasten Manufacturing Corp., located at Allenton, Wis., and Menomonie, Wis., to points in Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, North Dakota, South Dakota, Wyoming, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Madison, Wis.

No. MC 22195 (Sub-No. 132), filed October 24, 1967. Applicant: DAN DUGAN TRANSPORT COMPANY, a corporation, 41st and Grange Avenue, Post Office Box 946, Sioux Falls, S. Dak. 57101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, (1) from the Kaneb Pipe Line Co. terminal sites located at or near Le Mars and Milford, Iowa, to points in Iowa, Minnesota, Nebraska, and South Dakota, and (2) from the Williams Bros. Pipe Line Co. terminal site located at or near Milford, Iowa, to points in Iowa, Minnesota, Nebraska, and South Dakota. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Omaha, Nebr.

No. MC 25798 (Sub-No. 163), filed October 23, 1967. Applicant: CLAY HYDER TRUCKING LINES, INC., 502 East Bridgers Avenue, Post Office Box 1186, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Austin, Minn.; Des Moines and Fort Dodge, Iowa; Fremont and Scottsbluff, Nebr.; Huron and Mitchell, S. Dak., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee. Restricted: To traffic originating at the plantsites and/or warehouse facilities of the George A. Hormel & Co. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Tampa or Miami, Fla.

No. MC 27817 (Sub-No. 74), filed October 13, 1967. Applicant: H. C. GABLER, INC., Rural Delivery No. 3, Chambersburg, Pa. 17201. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grass stop*, in rolls, *metal stove shovels, metal roofing and siding, and fabricated metal building products*, from the plantsite of Penn Supply Metal Corp., Inc., located at or near Philadelphia, Pa., to points in Kentucky, Tennessee, and Virginia. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Harrisburg, Pa.

No. MC 29647 (Sub-No. 41), filed October 20, 1967. Applicant: CHARLTON BROS. TRANSPORTATION COMPANY, INC., Box 2097, 552 Jefferson Street, Hagerstown, Md. 21740. Applicant's representative: Spencer T. Money, Park Lane Building, 2025 Eye Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Salt cake*, in bulk, from Front Royal, Va., to Winchester, Va., over U.S. Highway 522, thence over U.S. Highway 50 to the junction of U.S. Highways 50 and 220, thence over U.S. Highway 220 through New Creek, W. Va., to McCoole, Md., and thence over Maryland Highway 135 to Luke, Md., serving no intermediate points, as alternate routes for operating convenience only in connection with carrier's present regular routes operations. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 30022 (Sub-No. 89), filed October 12, 1967. Applicant: PAUL S. CREBS, 277 Ninth Street, Northumberland, Pa. Applicant's representative: Richard V. Zug, 1418 Packard Building, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New furniture*, from Lewisburg, Pa., to points in Wisconsin and Minneapolis, Minn., and *returned or damaged shipments*, on return; and (2) *furniture display materials*, between Lewisburg, Pa., and points in Wisconsin and Minneapolis, Minn. NOTE: If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Washington, D.C.

No. MC 31600 (Sub-No. 624), filed October 23, 1967. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham, Mass. Applicant's representative: Harry C. Ames, Jr., 529 Transportation Building, Washington, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, dry, in bulk, in tank or hopper type vehicles, from Neal, W. Va., to points in Alabama, Arkansas, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio (except points in Ashtabula, Cuyahoga, Lake Summit, Muskingum, Licking, Franklin, and Wayne Counties, Ohio), Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 33641 (Sub-No. 69), filed October 23, 1967. Applicant: IML FREIGHT, INC., Post Office Box 2277, Salt Lake City, Utah 84110. Applicant's representative: Marshall G. Berol, 100 Bush Street, Second Floor, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those requiring armored vehicles or armed guards, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) between Smith Center, Kans., and junction Interstate Highway 70 and Interstate Highway 75 (also junction U.S. Highway 40 and Interstate Highway 75), from Smith Center, Kans., over U.S. Highway 36 to Indianapolis, Ind., thence over Interstate Highway 75 (or over U.S. Highway 40 to junction Interstate Highway 75), and return over the same routes, serving no intermediate points, as an alternate route for operating convenience only, and (2) between Kansas City, Mo., and junction Interstate Highway 70 and Interstate Highway 75 (also junction U.S. Highway 40 and Interstate Highway 75), from Kansas City, Mo., over Interstate Highway 70 to junction U.S. Highway 54 (near Kingdom City, Mo.), thence over U.S. Highway 54 to junction U.S. Highway 36 (near Pittsfield, Ill.), thence over U.S. Highway 36 and the routes above specified to junction Interstate Highway 75, and return over the same routes, serving no intermediate points, as an alternate route for operating convenience only. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant did not specify location.

No. MC 33641 (Sub-No. 70), filed October 25, 1967. Applicant: IML FREIGHT, INC., Post Office Box 2277, Salt Lake City, Utah 84110. Applicant's representative: Marshall G. Berol, 100 Bush Street, 21st Floor, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those requiring armored vehicles or armed guards, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, serving the plantsite of Westinghouse Electric Corp. at or near Sykesville, Md., as an off-route point in connection with applicant's authorized regular route service to and from Baltimore, Md. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 51146 (Sub-No. 66), filed October 23, 1967. Applicant: SCHNEIDER TRANSPORT & STORAGE, INC., 817 McDonald Street, Green Bay, Wis. 54306. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, fom Manitowoc, Wis., to points in Illinois, Indiana, Iowa, and Michigan, and (2) *returned and rejected shipments* of the above-described commodities and *equipment, materials and supplies* (except commodities in bulk in tank or hopper type equipment), used in the manufacture and distribution of the above-described commodities, from the destination area, in (1) above to Manitowoc, Wis. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 59150 (Sub-No. 36), filed October 25, 1967. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Jacksonville, Fla. 32202. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, products produced or distributed by manufacturers and converters of paper and paper products, *materials, equipment and supplies* used in the manufacture and distribution of the above-described commodities, between points in McMinn County, Tenn., on the one hand, and, on the other, points in Louisiana. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., Jacksonville, Fla., or Washington, D.C.

No. MC 67200 (Sub-No. 25), filed October 20, 1967. Applicant: THE FURNITURE TRANSPORT COMPANY, INC., Furniture Row, Milford, Conn. Applicant's representative: Arthur J. Piken, 160-16 Jamaica Avenue, Jamaica, N.Y.

11432. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Turner Falls, Mass., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, and New Jersey, and *returned, refused or rejected merchandise* of the above described commodity, on return. NOTE: If a hearing is deemed necessary, applicant requests it be held at Hartford, Conn.

No. MC 73165 (Sub-No. 239), filed October 23, 1967. Applicant: EAGLE MOTOR LINES, INC., Post Office Box 1348, Birmingham, Ala. 35201. Applicant's representative: Robert M. Pearce, Post Office Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Material handling equipment; winches; compaction and road making equipment, rollers, self-propelled and non-self-propelled; mobile cranes; and highway freight trailers*, and (2) *parts, attachments and accessories for the commodities described in* (1) *above*, between the plantsites of the Hyster Co. located at or near Danville, Kewanee, and Peoria, Ill., on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Louisiana, Mississippi, and Tennessee, restricted to the handling of traffic originating at or destined to the above-named plantsites. NOTE: If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Nashville, Tenn.

No. MC 75830 (Sub-No. 6), filed September 29, 1967. Applicant: INTERCITY TRANSPORT & MOTOR COMPANY, a corporation, Post Office Box 88, Buckhannon, W. Va. 26201. Applicant's representative: James W. Muldoon, 50 West Broad Street, Suite 3210, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by chain retail variety stores, *and materials, equipment, and supplies* used in the conduct of such business houses, between McKeesport, Pa., on the one hand, and on the other, Fond du Lac and Sheboygan, Wis., under contract with G. C. Murphy Co., McKeesport, Pa. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, Pittsburgh, Pa., or Sheboygan, Wis.

No. MC 76032 (Sub-No. 220), filed October 26, 1967. Applicant: NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, Colo. Applicant's representative: William E. Kenworthy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, livestock, explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite of the Browning Arms Co., located approximately one-fourth mile north and 2 miles east of Arnold, Mo., as an off-route point in connection with applicant's regular route operations between St. Louis, Mo., and Kansas City, Mo., over U.S. Highway 40. NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 95540 (Sub-No. 716), filed October 23, 1967. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, Fla. 33802. Applicant's representative: Hoyt Starr (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy, confectionery products and snack foods*, from New Orleans and Ponchatoula, La., and Memphis, Tenn., to points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: Applicant states it intends to interchange traffic. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., Memphis, Tenn., or Washington, D.C.

No. MC 96500 (Sub-No. 2), filed October 23, 1967. Applicant: HARRY'S EXPRESS COMPANY, INC., 545 West 25th Street, New York, N.Y. 10001. Applicant's representative: Martin Werner, 2 West 45th Street, New York, N.Y. 10036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Radios, clock radios and radio parts*, between points in the New York, N.Y., commercial zone, as defined by the Commission, on the one hand, and, on the other, South Hackensack, N.J., under contract with New York Transistor Corp. and York Radio Corp. NOTE: Applicant desires to serve shipper at new location. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Newark, N.J.

No. MC 96619 (Sub-No. 3), filed October 26, 1967. Applicant: FEDERAL TRANSFER COMPANY, INC., 270 South Hanford Street, Seattle, Wash. 98134. Applicant's representative: George H. Hart, 1100 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities*, between Seattle, Wash., on the one hand, and, on the other, points in Washington including Seattle, and (2) *household goods, heavy machinery and building materials* (except cement in bulk in tank or bottom dump vehicles or similar specialized equipment), between points in Washington. NOTE: Common control may be involved. Applicant states the operating authority set forth above is identical in commodity authorization and territorial scope as that held by applicant under certificate of registration No. 96619, Sub 1, canceled September 7, 1967. Applicant further states this application is filed for the purpose of proving that public convenience and necessity require the continuation of such operations by applicant. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 102616 (Sub-No. 821) (Correction), filed October 16, 1967, published FEDERAL REGISTER issue of November 2, 1967, corrected and republished as corrected this issue. Applicant: COASTAL TANK LINES, INC., 501 Grantley Road, York, Pa. 17405. Applicant's representative: Harold G. Hernly, 711 14th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, dry, in bulk, in tank and hopper type vehicles, equipped with pneumatic unloading devices, from Baltimore, Md., to points in Delaware, points in Adams, Bedford, Chester, Cumberland, Dauphin, Franklin, Fulton, Lancaster, Lebanon, Somerset, and York Counties, Pa.; Caroline, Clarke, Culpeper, Essex, Fairfax, Fauquier, Frederick, King and Queen, King George, Lancaster, Loudoun, Middlesex, Northumberland, Orange, Prince William, Rappahannock, Richmond, Spotsylvania, Stafford, Warren, and Westmoreland Counties, Va.; and Berkeley, Grant, Hampshire, Hardy, Jefferson, Mineral, and Morgan Counties, W. Va. NOTE: The purpose of this republication is to add the destination of State of Delaware which was inadvertently omitted. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 103494 (Sub-No. 13), filed October 23, 1967. Applicant: EASLEY HAULING SERVICE, INC., 902 North First Avenue, Yakima, Wash. 98902. Applicant's representative: Earle V. White, 2500 Southwest Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Molded pulp*, nested, from Hood River, Oreg., to points in Washington in and east of Okanogan, Chelan, Kittitas, Yakima, and Klickitat Counties, under contract with Fibre Mold, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 104104 (Sub-No. 6), filed October 24, 1967. Applicant: GEORGE A. FETZER, INC., Rural Delivery No. 1, Augusta, N.J. 07822. Applicant's representative: James J. Farrell, 201 Montague Place, South Orange, N.J. 07079. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles*, expanded (commercially known as polystyrene and/or urethane), in packages, from Netcong and Stanhope, N.J., to points in Connecticut, Delaware, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 105045 (Sub-No. 19), filed October 23, 1967. Applicant: R. L. JEFFRIES TRUCKING CO., INC., 1020 Pennsylvania Street, Evansville, Ind. 47708. Applicant's representative: Robert M. Pearce, Post Office Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Material handling equipment; winches; compaction and roadmaking equipment, rollers*, self-propelled and non-self-propelled; *mobile cranes; and highway freight trailers*, and *parts, attachments and accessories therefor*, between the plantsite of the Hyster Co. located at or near Danville, Kewanee, and Peoria, Ill., on the one hand, and, on the other, points in Alabama, Florida, Kentucky, Michigan, Ohio, Pennsylvania, Tennessee, Texas, Virginia, and West Virginia, restricted to the handling of traffic originating at or destined to the named plantsites. NOTE: If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Nashville, Tenn.

No. MC 105350 (Sub-No. 13) (Clarification), filed October 2, 1967, published FEDERAL REGISTER issue October 19, 1967, and republished as corrected, this issue. Applicant: NORTH PARK TRANSPORTATION CO., a corporation, 1600 Eliot Street, Denver, Colo. 80204. Applicant's representative: Leslie R. Kehl, 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except petroleum and petroleum products in bulk, in tank vehicles), between Parshall, Colo., and a point located 25 miles south of Parshall on Williams Fork Road in Colorado; from Parshall over unnumbered highway known as Williams Fork Road to a point thereon located 25 miles south of Parshall, and return over the same route, serving all intermediate points and all off-route points located within 5 miles of the aforesaid road. NOTE: The purpose of this republication is to more clearly set forth the exceptions in the commodity description. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 107010 (Sub-No. 29), filed October 23, 1967. Applicant: D & R BULK CARRIERS, INC., Box 106, Auburn, Nebr. 68305. Applicant's representative: Leonard A. Jaskiewicz, Madison Building, 1155 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer material*, from Kansas City, Mo., and the Kansas City, Mo., commercial zone thereof, to points in Arkansas, Iowa, Kansas, Minnesota, Missouri, North Dakota, Oklahoma, Nebraska, and South Dakota. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Omaha, Nebr.

No. MC 107376 (Sub-No. 13), filed October 25, 1967. Applicant: TELISCHAK TRUCKING, INC., 12300 Farmington Road, Livonia, Mich. 48150. Applicant's representative: William B. Elmer, 22644 Gratiot Avenue, East Detroit, Mich. 48021. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *High pressure concrete water pipe*, and *equipment, materials, and supplies* used in connection with the installation, construction, maintenance or repair of such pipe, from the site of the International Pipe & Ceramics Corp. plant located at or near Romeo, Mich., to points in New York and Pennsylvania. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lansing, Mich., or New York, N.Y.

No. MC 107839 (Sub-No. 116), filed October 18, 1967. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., 4985 York Street, Denver, Colo. 80216. Applicant's representative: Leslie R. Kehl, 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Los Angeles, Calif., to points in Colorado and New Mexico. NOTE: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 109064 (Sub-No. 18), filed October 26, 1967. Applicant: TEX-O-KA-N TRANSPORTATION COMPANY, INC., Post Office Box 6367, 3301 South East Loop 820, Fort Worth, Tex. 76112. Applicant's representative: Reagan Sayers, Post Office Drawer 17007, Century Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, plastic tubing, plastic conduit, valves, fittings, compounds, joint sealer, bonding cement, primer, coating, thinner, and accessories* used in the installation of such products, from the plantsite of Universal Pipe & Plastic, Inc., located at or near Hillsboro, Tex., to points in Oklahoma, Kansas, New Mexico, Arizona, Colorado, Arkansas, Louisiana, and Mississippi. NOTE: If a hearing is deemed necessary, applicant requests it be held at Fort Worth or Houston, Tex., or Oklahoma City, Okla.

No. MC 109326 (Sub-No. 96), filed October 11, 1967. Applicant: C & D TRANSPORTATION CO., INC., Post Office Drawer 1503, Mobile, Ala. 36601. Applicant's representative: R. E. Keene (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural commodities*, exempt from economic regulation, pursuant to section 203(b)(6) of the Interstate Commerce Act, when transported at the same time and in the same vehicle with commodities subject to full economic regulation (as otherwise authorized), (1) from Gulfport, Miss., to Atlanta, Ga., Louisville, Ky., Kansas City and St. Louis, Mo., Cincinnati, Ohio, Indianapolis, Terre Haute, and Evansville, Ind., and points in Tennessee, and (2) from Gulfport, Miss., to Decatur, Ill., and Indianapolis, Ind. NOTE: Applicant states the authority sought in (1) above is subject to the restriction that operations will be conducted through Mobile, Ala., under its present authority in certificates MC 109326, and Sub "7" thereunder, and in (2) above to operations conducted through New Orleans, La., under its present authority in its Subs 94 and 77. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Mobile, Ala.

No. MC 109638 (Sub-No. 19), filed October 24, 1967. Applicant: WOODROW EVERETTE, doing business as W. EVERETTE TRUCK LINE, Post Office Box 145, Washington, N.C. 27889. Applicant's representative: Edward G. Villalon, 1735 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime, limestone products and masonry cement*, in bags, from points in Warren and Frederick Counties, Va., to points in North Carolina. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., Raleigh, N.C., and Richmond, Va.

No. MC 110525 (Sub-No. 847), filed October 25, 1967. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representatives: Edwin H. van Deusen (same address as applicant), and Leonard A. Jaskiewicz, Madison Building, 1155 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from Wyandotte, Mich., to points in Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Washington, D.C.

No. MC 111138 (Sub-No. 49) (Correction), filed September 25, 1967, published FEDERAL REGISTER issue of October 12, 1967, and republished as corrected, this issue. Applicant: W. J. DIGBY, INC., OF IOWA, Post Office Box 15386, Salt Lake City, Utah 84119. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles* distributed by meat packinghouses (except hides and commodities in bulk, in tank trucks) as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite and/or warehouse facilities of I. D. Packing Co., located at Des Moines, Iowa, to Austin, Minn., and Fremont, Nebr. Restricted to shipments originating at the plantsite and/or storage facilities of the I. D. Packing Co., Des Moines, Iowa, and destined to Austin, Minn., or Fremont, Nebr. NOTE: The purposes of this republication is to indicate the restriction. If a hearing is deemed necessary, applican requests it be held at Des Moines, Iowa.

No. MC 112184 (Sub-No. 28), filed October 23, 1967. Applicant: THE MANFREDI MOTOR TRANSIT COMPANY, a corporation, Route 87, Newbury, Ohio 44065. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Hydrofluoric acid*, in bulk, in shipper owned

tank vehicles, from Cleveland, Ohio, to points in Missouri, Kansas, and Kentucky, under contract with the Harshaw Chemical Co., division of Kewanee Oil Co. NOTE: Applicant holds common carrier authority in MC 128302 and Sub 1, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 113678 (Sub-No. 294), filed October 25, 1967. Applicant: CURTIS, INC., 770 East 51st Avenue, Denver, Colo. 80216. Applicant's representative: Duane W. Acklie, Post Office Box 2028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts* and *articles* distributed by meat packinghouses, as described in sections A and C of appendix I to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 61 M.C.C. 766 (except commodities in bulk in tank vehicles and hides), from the plantsite of Missouri Beef Packers at or near Friona, Tex., to points in Washington, Montana, Idaho, Oregon, Wyoming, California, Nevada, Utah, and Colorado, restricted to traffic originating at the above named plantsite and destined to the states named. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 114045 (Sub-No. 299), filed October 25, 1967. Applicant: TRANS-COLD EXPRESS, INC., Post Office Box 5842, Dallas, Tex. 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay*, in packages, from Wrens, Ga., to points in Virginia, Maryland, Delaware, District of Columbia, New Jersey, New York, Pennsylvania Connecticut, Vermont, Rhode Island, Massachusetts, New Hampshire, Maine, West Virginia, and Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 114284 (Sub-No. 36), filed October 25, 1967. Applicant FOX-SMYTHE TRANSPORTATION CO., INC., Post Office Box 82307, Stockyards Station, Oklahoma City, Okla. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses*, as described in section A and C of appendix I, *Description In Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles and hides), from the plantsite of Missouri Beef Packers located at or near Friona, Tex., to points in South Dakota, California, Nevada, Arizona, New Mexico, Nebraska, Kansas, Oklahoma, Missouri, and Arkansas, restricted to traffic originating at the above named plant site and destined to the states named. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 114301 (Sub-No. 50) (Correction), filed October 11, 1967, published in FEDERAL REGISTER issue of October 26, 1967, and republished as corrected, this issue. Applicant: DELAWARE EXPRESS CO., a corporation, Post Office Box 141, Elkton, Md. 21921. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Feed* and (2) *commodities*, the transportation of which is partially exempt under the provisions of section 203(b)(6) of the Interstate Commerce Act if transported in vehicles not used in carrying any other property, when moving in the same vehicles at the same time with feed, from Manheim, Pa., to points in Kent, and New Castle Counties, Del., and Kent, Cecil, and Queen Anne Counties, Md. NOTE: The purpose of this republication is to show "Cecil county in Maryland," which was erroneously published in Delaware. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114364 (Sub-No. 147), filed October 23, 1967. Applicant: WRIGHT MOTOR LINES, INC., Post Office Box 1191, 1401 North Little Street, Cushing, Okla. 74023. Applicant's representative: Marion F. Jones, 420 Denver Club Building, Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Products used in the agricultural, water treatment, food processing, wholesale grocery and institutional supply industries*, when shipped in mixed truckloads with salt and salt products, from Hutchinson, Kans., to points in Arizona, Colorado, New Mexico, and Texas. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Oklahoma City, Okla.

No. MC 114364 (Sub-No. 148), filed October 23, 1967. Applicant: WRIGHT MOTOR LINES, INC., Post Office Box 1191, 1401 North Little Street, Cushing, Okla. 74023. Applicant's representative: Marion F. Jones, Suite 420, Denver Club Building, Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar*, from Sugarland, Tex., to points in Arkansas, Kansas, Louisiana, Missouri, New Mexico, and Oklahoma. NOTE: If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 114364 (Sub-No. 149), filed October 23, 1967. Applicant: WRIGHT MOTOR LINES, INC., Post Office Box 1191, 1401 North Little Street, Cushing, Okla. 74023. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum and petroleum products*, in containers and packages, (a) from points in Jefferson County, Tex., to points in Colorado, Idaho, Illinois, Iowa, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wisconsin, and Wyoming, and (b) from points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone and points in Madison County, Ill., to points in Arizona, California, Colorado, Idaho, Montana, Nebraska, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming; and (2) *empty containers*, from points in Colorado, Idaho, Illinois, Iowa Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wisconsin, and Wyoming to Minneapolis, Minn., and points in Jefferson County, Tex. NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Louis, or Kansas City, Mo.

No. MC 114364 (Sub-No. 150), filed October 23, 1967. Applicant: WRIGHT MOTOR LINES, INC., Post Office Box 1191, 1401 North Little Street, Cushing, Okla. 74023. Applicant's representative: Rodger Spahr (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (1) from La Junta, Colo., to points in Arkansas, Kansas, Missouri, Nebraska, New Mexico, Oklahoma, and Texas; (2) from Hutchinson, Kans., to points in Arkansas, Colorado, Missouri, Nebraska, New Mexico, Oklahoma, South Dakota, and Texas, and (3) from Wichita, Kans., to points in Utah. NOTE: Applicant indicates tacking possibilities at Delta, Colo., to provide service to Arizona, California, and Nevada. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Kansas City, Mo.

No. MC 114958 (Sub-No. 6), filed October 11, 1967. Applicant: GEORGE H. BROWN, doing business as OCEANWAY TRANSPORT, Post Office Box 747, Florence, Oreg. Applicant's representative: Earle V. White, 2400 Southwest Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber*, from points in Benton, Clackamas, Clatsop, Columbia, Douglas, Hood River, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, and Yamhill Counties, Oreg., to water terminals on the Siuslaw, Umpqua, Coquille, and Rogue Rivers and on Coos Bay, Tillamook Bay, and Yaquina Bay, in Oregon. NOTE: No authority is requested from points in those portions in Lincoln, Lane, and Douglas Counties, Oreg., located west of an imaginary line running north and south through the post office site of Greenleaf, Oreg., to points on Coos Bay, Oreg., which applicant is now authorized to serve, and (2) *paper products, linerboard, fiberboard, hardboard, pulpboard, and particleboard*, from points in Benton, Clackamas, Clatsop, Columbia, Coos, Douglas, Hood River, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, and Yamhill Counties, Oreg., to water terminals of the Siuslaw, Umpqua, Coquille, and Rogue Rivers and Coos Bay, Tillamook Bay, and Yaquina Bay, in Oregon. NOTE: If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 115180 (Sub-No. 44), filed October 25, 1967. Applicant: ONLEY REFRIGERATED TRANSPORTATION, INC., 408 West 14th Street, New York, N.Y. 10011. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* (except hides and commodities in bulk in tank vehicles), as described in sections A and C of appendix I in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766, from Chicago, Ill., to points in New Jersey, New York, Connecticut, Delaware, Maryland, Virginia, West Virginia, and Washington, D.C. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 115491 (Sub-No. 103), filed October 23, 1967. Applicant: COMMERCIAL CARRIER CORPORATION, 502 East Bridgers Avenue, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Powdered milk with additives, canned cream and milk, milk and cream substitutes, dessert preparations, dry beverage preparations, liquid dietary products, flour mixes and powdered milk, without additives*, when moving in the same vehicle and at the same time with commodities, the transportation of which is not exempt from economic regulation, from Cameron, Wis., to points in Tennessee, North Carolina, South Carolina, Mississippi, Alabama, Georgia, Florida, and Louisiana east of the Mississippi River. NOTE: If a hearing is deemed necessary, applicant requests it be held at Tampa or Miami, Fla.

No. MC 115554 (Sub-No. 10), filed October 23, 1967. Applicant: SCOTT'S TRANSPORTATION SERVICE, INCORPORATED, Post Office Box 1136, Cedar Rapids, Iowa 52406. Applicant's representative: William A. Landau, 1451 East Grand Avenue, Des Moines, Iowa 50306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refrigerators, refrigeration, cooling, heating and electrical equipment, appliances, and parts, materials, and supplies* used in the manufacture, repair, and distribution of such commodities between the plantsites and warehouse facilities utilized by Amana Refrigeration, Inc., located at or near Amana and Oxford, Iowa, on the one hand, and, on the other, points in the United States, except Alaska, Hawaii, Illinois, Indiana, Iowa, Minnesota, Michigan, Nebraska, Ohio, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 116273 (Sub-No. 98), filed October 16, 1967. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, Ill. 60650. Applicant's representative: William R. Lavery (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dextrine*, in bulk, in tank or hopper type vehicles, from Chicago, Ill., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, Tennessee, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 116474 (Sub-No. 17), filed October 23, 1967. Applicant: LEAVITTS FREIGHT SERVICE, INC., Route 1, Box 170B, Springfield, Oreg. Applicant's representative: Earle V. White, 2400 Southwest Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Laminated wood products, prefabricated wooden timbers, trusses and beams, and accessories* used in the erection, construction and completion of the foregoing when shipped therewith, (1) from Cottage Grove, Oreg., to points in California, Nevada, and Washington, under contract with Weyerhaeuser Co., and (2) from Springfield, Oreg., to Portland, Oreg., and points in Washington, under contract with Rosboro Lumber Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 116730 (Sub-No. 5), filed October 23, 1967. Applicant: CARL W. STOLTENBERG, doing business as STOLTENBERG TRUCKING, Post Office Box 365, Kimberly, Idaho 83341. Applicant's representative: Donald A. Ericson, 708 Old National Bank Building, Spokane, Wash. 99201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and timbers and beams*, laminated or not laminated, from Lewiston and Jaype, Idaho, to points in Colorado, Iowa, Nebraska, Wisconsin, and Wyoming, under contract with Potlatch Forests, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho, Spokane, Wash., or Portland, Oreg.

No. MC 116159 (Sub-No. 43), filed October 25, 1967. Applicant: EVERETT LOWRANCE, Post Office Box 10216, New Orleans, La. 70121. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles* distributed by meat packinghouses, as described in sections A and C of Appendix I, *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766) (except commodities in bulk, in tank vehicles and hides), from the plantsite of Missouri Beef Packers located at or near Friona, Tex., to points in Kentucky, North Carolina, South Carolina, Alabama, West Virginia, Georgia, Florida, Tennessee (except Memphis, Tenn., and points in its commercial zone). Restriction: Restricted to traffic originating at the above-named plantsite and destined to the States named. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 116159 (Sub-No. 44), filed October 26, 1967. Applicant: EVERETT LOWRANCE, Post Office Box 10216, New Orleans, La. 70121. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I, *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles and hides), from the plantsite of Missouri Beef Packers located at or near Friona, Tex., to points in Ohio, Indiana, Oklahoma, Arkansas, Louisiana, Mississippi, and Memphis, Tenn., restricted to traffic originating at the above named plantsite and destined to the States named. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 119531 (Sub-No. 71), filed October 25, 1967. Applicant: DIECKBRADER EXPRESS, INC., 5391 Wooster Road, Cincinnati, Ohio 45226. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Suite 1625, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, from Fremont, Ohio, to points in Illinois, Indiana, Michigan, and West Virginia and (2) *equipment, materials, and supplies* used in, or incidental to, the manufacture, sale, and distribution of paper and paper products, on return. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Detroit, Mich.

No. MC 119531 (Sub-No. 72), filed October 26, 1967. Applicant: DIECKBRADER EXPRESS, INC., 5391 Wooster Road, Cincinnati, Ohio 45226. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Suite 1625, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metal containers and covers*, from Cleveland and Conneaut, Ohio, to points in Illinois, Indiana, Kentucky, Michigan, New York, Pennsylvania, West Virginia, and Wisconsin; and (2) *materials and supplies* used in, or incidental to, the manufacture, sale, and distribution of metal containers and covers on return. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Detroit, Mich.

No. MC 119702 (Sub-No. 28), filed October 9, 1967. Applicant: STAHLY CARTAGE CO., a corporation, Post Office Box 481, Edwardsville, Ill. 62025. Applicant's representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, Ill. 62707. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from Seneca, Ill., and points within 5 miles thereof, to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 121508 (Sub-No. 2), filed October 23, 1967. Applicant: WESTERN CARTAGE, INC., 1260 Fourth Avenue South, Seattle, Wash. 98134. Applicant's representatives: George H. Hart and Jack R. Davis, 1100 IBM Building, Seattle, Wash. 98101. Authority sought

to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities*, between Seattle, Wash., on the one hand, and, on the other, points in King, Pierce, Snohomish, and Skagit Counties, Wash.; and (2) *household goods, heavy machinery, and building materials* (except cement in bulk, in tank or bottom dump vehicles or similar specialized equipment), between points in Washington. NOTE: Applicant states the operating authority set forth above is identical in commodity authorization and territorial scope as that held by applicant under certificate of registration No. MC 121508 canceled September 6, 1967, due to a Federal Court determination. Applicant further states this application is filed for the purpose of proving that public convenience and necessity require the continuation of such operations by applicant. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 123245 (Sub-No. 3) (Amendment), filed August 3, 1967, published FEDERAL REGISTER issue of August 17, 1967, amended October 23, 1967, and republished as amended, this issue. Applicant: LEESER & STAUFFER TRUCK SERVICE, INC., Taylor, Mo. 63471. Applicant's representative: Leonard A. Jaskiewicz, 1155 15th Street, NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, from the plantsite of American Cyanamid Co. at South River (Marion County), Mo., to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Nebraska, Ohio, South Dakota, and Wisconsin. NOTE: Applicant holds contract carrier authority under MC 113855 and Subs 2 and 9, therefore dual operations may be involved. The purpose of this republication is to add the destination State of Minnesota. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 124692 (Sub-No. 42), filed October 19, 1967. Applicant: SAMMONS TRUCKING, a corporation, Post Office Box 933, Missoula, Mont. 59801. Applicant's representative: Charles E. Nieman, 1160 Northwestern Bank Building, Minneapolis, Minn. 554402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cast iron pipe, fittings, valves and accessories and supplies* used in the installation of pipe, from Savage, Minn., to points in North Dakota, South Dakota, Montana, and Wyoming; and (2) *precast concrete structurally reinforced beams, joists, panels, columns and related parts, materials and supplies*, from Osseo and St. Paul, Minn., to points in North Dakota, South Dakota, Nebraska, Montana, Wyoming, and Colorado. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 124813 (Sub-No. 45), filed October 23, 1967. Applicant: UMTHUN TRUCKING CO., a corporation, 910 South Jackson Street., Eagle Grove, Iowa 50533. Applicant's representative: William A. Landau, 1451 East Grand Avenue, Des Moines, Iowa 50306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed*, except liquids in bulk, from Sioux City, Iowa, to points in Minnesota, Nebraska, North Dakota, and South Dakota. NOTE: Applicant holds contract carrier authority in MC 118468 Sub 16, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 125550 (Sub-No. 3), filed October 27, 1967. Applicant: THE HELLER COMPANY, a corporation, 200 Chestnut Avenue, Altoona, Pa. 16603. Applicant's representative: Arthur J. Diskin, 302 Frick Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electrical fixtures, metal housewares and housewares products, and metal utility buildings*, knocked down, from Altoona, Pa., to Hartford, Conn., Syracuse, N.Y., Youngstown, Cincinnati, and Cleveland, Ohio, Memphis, Tenn., and points in Wisconsin, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Oklahoma, Kansas, Nebraska, South Dakota, North Dakota, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Washington, Oregon and Nevada, and *materials*, used in the manufacture of the above-specified commodities, on return, under contract with Stanley Electric Manufacturing Co. of Altoona, Pa. Restriction: The authority sought herein is restricted against the transportation of such commodities in bulk. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Pittsburgh, Pa.

No. MC 125473 (Sub-No. 6), filed October 27, 1967. Applicant: YAZOO TRUCKING CO., INC., 1633 Highway 49 East, Yazoo City, Miss. 39194. Applicant's representative: Donald B. Morrison, 829 Deposit Guaranty National Bank Building, Post Office Box 961, Jackson, Miss. 39205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Manufactured fertilizer and urea*, dry, in bags, and in packages, from Hattiesburg, Meridian, Pascagoula, and Yazoo City, Miss., to points in Georgia, under continuing contracts with Mississippi Chemical Corp. and Coastal Chemical Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss., or Memphis, Tenn.

No. MC 126045 (Sub-No. 9), filed October 20, 1967. Applicant: ALTER TRUCKING AND TERMINAL CORPORATION, 2033 Rockingham Road, Davenport, Iowa 52808. Applicant's representative: Eugene Anderson, 135 South La Salle Street, Chicago, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, from La Crosse, Wis., to points in Minnesota and *rejected materials*, on return. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 126422 (Sub-No. 4), filed October 27, 1967. Applicant: QUALITY TRANSPORT, INC., Post Office Box 26174, New Orleans, La. 70126. Applicant's representative: Harold R. Ainsworth, 2307 American Bank Building, New Orleans, La. 70130. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement kiln dust*, in bulk, in tank vehicles, from points in Louisiana, to points in Mississippi. NOTE: If a hearing is deemed necessary, applicant requests it be held at New Orleans or Baton Rouge, La.

No. MC 126835 (Sub-No. 17), filed October 23, 1967. Applicant: EDGAR BISCHOFF, doing business as CASKET DISTRIBUTORS, Rural Route 2, West Harrison, Ind. Applicant's representative: Jack B. Josselson, 700 Atlas Bank Building, Cincinnati, Ohio 45202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated caskets, casket displays and funeral supplies, and crated caskets* when moving with uncrated caskets, from (1) Springfield, Ohio, under continuing contracts with the Springfield Metallic Casket Division, Mid-Continent Manufacturing Co., (2) Nashua, N.H., under continuing contracts with Merrivale, Inc., and (3) York, Pa., under continuing contracts with York-Hopper Corp., to points in the United States (except Alaska and Hawaii), and *returned shipments* of the above commodities, from the designated destinations, to the above designated origin points. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 127505 (Sub-No. 12), filed October 25, 1967. Applicant: RALPH H. BOELK, doing business as R. H. BOELK TRUCK LINES, 1201 14th Avenue, Mendota, Ill. 61342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel, iron and steel articles, materials, equipment, and supplies* used in the manufacture and processing of iron and steel and iron and steel articles, between points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone as defined by the Commission, Alton and Carlinville, Ill., and points within 5 miles of Carlinville, Ill., on the one hand, and, on the other, points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 128411 (Sub-No. 1), filed October 24, 1967. Applicant: ROCKVILLE AUTOMOTIVE SERVICE, INC., 324 North Stonestreet Avenue, Rockville, Md. 20850. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, disabled or repossessed vehicles and replacement vehicles* for wrecked, disabled or repossessed vehicles by use of wrecker equipment only, (1) between points in Montgomery, Frederick, Washington, Carroll, Howard, Anne Arundel, Calvert, Charles, and Prince Georges Counties, Md., and the District of Columbia, points in Fairfax, Prince William, Loudoun, and Arlington Counties, Va., and Alexandria, Va., on the one hand, and, on the other, points in Maryland, Virginia, West Virginia, Pennsylvania, Delaware, New Jersey, New York, and the District of Columbia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 128570 (Sub-No. 3), filed October 25, 1967. Applicant: BROOKS ARMORED CAR SERVICE, INC., 13 East 35th Street, Wilmington, Del. 19802. Applicant's representative: L. Agnew Myers, Jr., Suite 1122, Warner Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Accounting, bookkeeping, billing and office records, memorandums, media and documents, and inter office records and memorandums*, between Dover, Del., on the one hand, and, on the other, points in Cecil, Harford, Baltimore, Anne Arundel, Prince Georges, Wicomico, and Howard Counties, Md., Philadelphia, Delaware, Chester, Montgomery, Berks, Bucks, Adams, York, and Lancaster Counties, Pa., Atlantic, Camden, and Burlington Counties, N.J.; and Baltimore, Md. NOTE: Applicant holds contract carrier authority under No. MC 115601 and subs, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Wilmington, Del., or Philadelphia, Pa.

No. MC 128608 (Sub-No. 1), filed October 23, 1967. Applicant: M.D.I. TRUCKING CORP., 228 Oliver Building, Pittsburgh, Pa. 15222. Applicant's representative: Arthur J. Diskin, 302 Frick Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Formed metal building products, coated metals, and materials* used in the manufacture thereof (except commodities in bulk), (1) between the plantsites of Rosewall Industries located at or near junction U.S. Highways 19 and 40 in Washington County, Pa., and at or near Weirton, W. Va., and (2) between the said plantsites in (1) above, on the one hand, and, on the other, points in Ohio, Indiana, Illinois, Michigan, Pennsylvania, West Virginia, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, Maryland, Delaware, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Louisiana, Mississippi, Tennessee, Kentucky, and the District of Columbia, under continuing contract with Rosewall Industries. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Pittsburgh, Pa.

No. MC 128608 (Sub-No. 2), filed October 20, 1967. Applicant: M.D.I. TRUCKING CORP., 228 Oliver Building, Pittsburgh, Pa. 15222. Applicant's representative: Aruthr J. Diskin, 302 Frick Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Formed metal roofing*, from the plantsite of Metal Deck, Inc., located at East Brunswick (New Brunswick), N.J., to points in North Carolina, South Carolina, Georgia, Florida, Kentucky, Tennessee, Alabama, Mississippi, and Louisiana, *and materials used in the manufacture of formed metal roofing*, on return, under contract with Metal Deck, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Pittsburgh, Pa.

No. MC 128800 (Sub-No. 1), filed October 23, 1967. Applicant: HAROLD RYAN, doing business as NORTH PACIFIC REFRIGERATED TRANSPORT, 2054 South 210th Street, Seattle, Wash. 98188. Applicant's representative: Joseph O. Earp, 607 Third Avenue, Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Cheese*, from Spencer, Wyocena, and Amery, Wis., and Beach, N. Dak.; (b) *butter*, from St. Paul, Minn. and Fargo, N. Dak.; (c) *dried and powered milk*, from Fargo, Dickinson, and Beach, N. Dak.; (d) *jams, jellies and preserves*, from Fargo, N. Dak.; (e) *eggs*, from points in Minnesota, North Dakota, and South Dakota; (f) *margarine and shortening*, from Albert Lea, Minn.; to Livingston, Butte, Kalispell, and Ronan, Mont.; Couer d' Alene, Idaho; Centralia, Chehalis, Winlock, and points in King County, Wash., and Portland, Oreg., all under contract with R. L. Stephenson Butter & Egg Co., Seattle, Wash.; and (2) *frozen fruits and berries*, from points in Oregon and Washington to Bismarck and Fargo, N. Dak., under contract with Paul-Mark, Inc., Fargo, N. Dak. NOTE: If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 128931 (Sub-No. 1), filed October 12, 1967. Applicant: GARY F. GOLLOTT, doing business as G & G MOVING & STORAGE OF BILOXI, MISSISSIPPI 1256 Couavas Street, Biloxi, Miss. 39533. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, (1) between points in Mississippi on traffic having a prior or subsequent out-of-State movement, and (2) between points in Mississippi, on the one hand, and, on the other, the ports of New Orleans, La., and Mobile, Ala.; restricted to the transportation of shipments both (1) moving on the through bill of lading of a freight forwarder operating under the exemption provisions of section 402(b)(2) of the Interstate Commerce Act, as amended, and (2) having an immediately prior or subsequent out-of-State line haul movement by rail, motor, water, or air. NOTE: If a hearing is deemed necessary, applicant requests it be held at Biloxi, Miss.

No. MC 129034 (Sub-No. 1) (Amendment), filed June 9, 1967, published in the FEDERAL REGISTER issue of June 29, 1967, amended October 20, 1967, and republished this issue. Applicant: LOOMIS COURIER SERVICE, INC., 55 Battery Street, Seattle, Wash. 98121. Applicant's representative: George H. Hart, 1100 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Interoffice records and memorandums, accounting and billing records, commercial papers, documents, written instruments and business records*, between Portland and Clackamas, Oreg., on the one hand, and, on the other, points in Clark and Cowlitz Counties, Wash., under contract with Safeway Stores, Inc.; Crown Zellebrach Corp.; and J. C. Penney Co. NOTE: The purpose of this republication is to add Clackamas, Oreg., to the origin point. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., or Seattle, Wash.

No. MC 129146 (Sub-No. 1), filed October 25, 1967. Applicant: HORN TRANSFER LINE, INC., 3850 Tucker Avenue, Louisville, Ky. 40216. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cookies*, from bakery and storage facilities of Mothers Cookie Co. located in Jefferson County, Ky., to points in Alabama, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin, under contract with Mothers Cookie Co. NOTE: Applicant is authorized to operate as a common carrier in docket No. MC 9509, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky.

No. MC 129265 (Sub-No. 2), filed October 25, 1967. Applicant: VINCENT P. FONTANELLI AND LOIS A. FONTANELLI, a partnership, doing business as: RAPID TRANSFER, 4 Dewey Street, Albany, N.Y. 12205. Applicant's representative: John J. Brady, Jr., 75 State Street, Albany, N.Y. 12207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Luggage and such personal property usually carried by airline passengers*, between the Albany County Airport in Colonie, NY., on the one hand, and, on the other, points in Rutland, Windsor, Bennington, and Windham Counties, Vt., Berkshire, Franklin, Hampshire, and Hampden Counties, Mass., and Albany, Columbia, Essex, Delaware, Dutchess, Fulton, Greene, Hamilton, Herkimer, Montgomery, Orange, Otsego, Rensselaer, Saratoga Schoharie, Schenectady, Sullivan, Ulster, Warren, and Washington Counties, N.Y., restricted to having a prior or subsequent movement by air. NOTE: If a hearing is deemed necessary, applicant requests it be held at Albany, N.Y.

No. MC 129451, filed October 10, 1967. Applicant: GRAY LINE SIGHTSEEING TOURS, INC., 540 Northwest 10th Street, Miami, Fla. 33136. Applicant's representative: John T. Bond, 1955 Northwest

17th Avenue, Miami, Fla. 33125. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special and charter operations, in sightseeing and pleasure tours, between points in Florida, having a prior or subsequent movement in interstate or foreign commerce. NOTE: If a hearing is deemed necessary, applicant requests it be held at Miami, Fla.

No. MC 129467, filed October 12, 1967. Applicant: BACON TRANSPORT COMPANY, a corporation, Refining and Industrial Road, Post Office Box 1134, Ardmore, Okla. 73401. Applicant's representative: Arthur L. Claussen, 303 New England Building, Topeka, Kans. 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Industrial asphalt*, from Augusta and El Dorado, Kans., to points in the Kansas City, Mo.-Kans., commercial zone, under contract with Trumbull Asphalt Co., Kansas City, Mo. NOTE: If a hearing is deemed necessary, applicant requests it be held at Topeka, Kans., or Kansas City, Mo.

No. MC 129469 (Sub-No. 1), filed October 25, 1967. Applicant: METRO VAN AND STORAGE CO., INC., 5845 Curlew Drive, Norfolk, Va. 23502. Applicant's representative: Alan F. Wohlstetter, 1 Farragut Square South, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Norfolk, Newport News, Hampton, Virginia Beach, Suffolk, Williamsburg, Portsmouth and Chesapeake, Va., and points in York, James City, Gloucester, Matthews, Surry, Isle of Wight, Sussex, Nansemond, Southampton, and Northampton Counties, Va. Restricted to shipments having a prior or subsequent movement beyond said points in containers, and further restricted to pickup and delivery services incidental to and in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such shipments. NOTE: If a hearing is deemed necessary, applicant requests it be held at Norfolk, Va., or Washington, D.C.

No. MC 129485, filed October 23, 1967. Applicant: WESTOVER FUEL AND SUPPLY COMPANY, a corporation, La Jose, Pa. 15753. Applicant's representative: Arthur J. Diskin, 302 Frick Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal and clay*, in bulk in dump vehicles, between points in Clearfield, Jefferson, Indiana, Armstrong, Somerset, Cambria, and Clinton Counties, Pa. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington D.C., or Pittsburgh, Pa.

No. MC 129488, filed October 23, 1967. Applicant: HERCULES EXPRESS, INC., 915 College Street, Beaumont, Tex. Applicant's representative: Austin L. Hatchell, 1102 Perry Brooks Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Master batch rubber*, from Port Neches, Tex., to Findlay, Ohio, and (2) *new tires and tread rubber*, from Findlay, Ohio, to Dallas, Irving, Beaumont, and Sandy Point, Tex. NOTE: If a hearing is deemed necessary, applicant requests it be held at Dallas or Houston, Tex.

No. MC 129489, filed October 23, 1967. Applicant: ALVAREZ SHIPPING CO., INC., 3854 Third Avenue, Bronx, N.Y. 10457. Applicant's representative: Richard S. Pardes, 4027 White Plaines Road, Bronx, N.Y. 10466. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods, furnishings, appliances, personal effects, and automobiles*, between points in the New York, N.Y., commercial zone, wherein transportation may be performed exempt from economic regulation. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 129491, filed October 25, 1967. Applicant: OGRAC CARGO, INC., 526 South Main Street, New Lexington, Ohio 43764. Applicant's representative: James Muldoon, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Vehicular replacement parts; die sets; and diemakers supplies*, from New Lexington, Ohio, to points in the United States (except Alaska and Hawaii), and *damaged or rejected items* on return, under contract with Lempco Industrial, Inc., and Lempco Products, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

MOTOR CARRIERS OF PASSENGERS

No. MC 125066 (Sub-No. 12), filed October 24, 1967. Applicant: M. I. LOKER AND PAULINE LOKER, a partnership, doing business as SEAWAY COACH LINES, 231 State Street, Erie, Pa. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, express, mail and newspapers*, in the same vehicle with passengers, between Lants Corners and Custer City, Pa., over U.S. Highway 219, serving all intermediate points. NOTE: If a hearing is deemed necessary, applicant requests it be held at Erie or Pittsburgh, Pa., or Buffalo, N.Y.

APPLICATIONS FOR BROKERAGE LICENSES

No. MC 12743 (Sub-No. 2), filed October 20, 1967. Applicant: MORGAN THOMAS EDWARDS, doing business as MORG EDWARDS EXCURSIONS, 2843 Schley Street, Erie, Pa. 16506. Applicant's representative: John R. Sims, Jr., 1700 Pennsylvania Avenue NW., Washington, D.C. 20006. For a license (BMC 5) to engage in operations as a *broker* at Erie, Pa., in arranging for the transportation of *passengers and their baggage*, both as individuals and in groups, in special and charter operations, in round-trip, sightseeing, and pleasure tours, beginning and ending at points in Erie County, Pa., and extending to points in the United States including Alaska but excluding Hawaii. NOTE: Applicant states it currently holds authority in MC 12743, Sub 1 which duplicates in part that sought in the instant application, and which would be canceled if the authority sought herein is granted.

No. MC 130043, filed October 2, 1967. Applicant: CHESTER A. RUBIN, 77 Park Street, Brookline, Mass. Applicant's representative: Harold Katz, 73 Tremont Street, Boston, Mass. 02108. For a license (BMC 5) to engage in operations as a *broker* at Brookline, Mass., in arranging for the transportation of *passengers and their baggage*, both as individuals and in groups, in all expense special and chartered round-trip conducted tours, beginning and ending at Brookline, Mass., and extending to points in New York. NOTE: Applicant states it does not hold any motor carrier authority nor does it seek such authority.

APPLICATION FOR WHICH NO HEARING IS REQUESTED

No. MC 70151 (Sub-No. 46), filed October 20, 1967. Applicant: UNITED TRUCKING SERVICE, INC., 3047 Lonyo Road, Detroit, Mich. 48209. Applicant's representative: Archie C. Fraser, 1400 Michigan National Tower, Lansing, Mich. 48933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, and except dangerous explosives, livestock, commodities in special equipment, and those injurious or contaminating to other lading, between junction Michigan Highway 50 and U.S. Highway 127, at or near Jackson, Mich. and Charlotte, Mich., over Michigan Highway 50, as an alternate route for operating convenience only, with no new or intermediate points being served. NOTE: Applicant states it intends to tack the above proposed authority with its existing authority.

APPLICATION OF WATER CARRIER

No. W-1189 (Sub-No. 14) BULK FOOD CARRIER, INC.—Extension—defluorinated phosphate, filed October 24, 1967. Applicant: BULK FOOD CARRIERS, INC., 311 California Street, San Francisco, Calif. 94104. Applicant's representative: J. Raymond Clark (same address as applicant). Application of Bulk Food Carriers, Inc., filed October 24, 1967, for a revised certificate authorizing extension of its operations to include operation as a contract carrier by water in interstate or foreign commerce, by non-self-propelled vessels with the use of separate towing vessels in the transportation of *defluorinated phosphate*, in bulk, between ports in Florida and ports in California.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13191; Filed, Nov. 8, 1967; 8:45 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 6, 1967.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41165—*Fresh meats and packinghouse products from Millard, Nebr.* Filed by Western Trunk Line Committee, agent (No. A-2525), for interested rail carriers. Rates on fresh meats and packinghouse products, in carloads, from Millard, Nebr., to points in southern territory.

Grounds for relief—Market competition.

Tariff—Supplement 9 to Western Trunk Line Committee, agent, tariff ICC A-4660.

FSA No. 41166—*Perchloroethylene to Danville, Ill.* Filed by Southwestern Freight Bureau, agent (No. B-9024), for interested rail carriers. Rates on perchloroethylene, in tank carloads, from Lake Charles, Plaquemine, and West Lake Charles, La., Freeport, Houston, and Port Neches, Tex., to Danville, Ill.

Grounds for relief—Market competition.

Tariffs—Supplements 147 and 84 to Southwestern Freight Bureau, agent, tariffs ICC 4564 and 4668, respectively.

AGGREGATE-OF-INTERMEDIATES

FSA No. 41167—*Perchloroethylene to Danville, Ill.* Filed by Southwestern Freight Bureau, agent (No. B-9023), for interested rail carriers. Rates on perchloroethylene, in tank carloads, from Lake Charles, Plaquemine, West Lake Charles, La., Freeport, Houston, and Port Neches, Tex., to Danville, Ill.

Grounds for relief—Maintenance of depressed rates published to meet market competition without use of such rates as factors in constructing combination rates.

Tariffs—Supplements 147 and 84 to Southwestern Freight Bureau, agent, tariffs ICC 4564 and 4668, respectively.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13236; Filed, Nov. 8, 1967; 8:48 a.m.]

[Notice 489]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 6, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 52110 (Sub-No. 107 TA), filed November 1, 1967. Applicant: BRADY MOTORFRATE, INC., 2150 Grand Avenue, Des Moines, Iowa 50312. Applicant's representative: Homer E. Bradshaw, 11th Floor, Des Moines Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods, frozen vegetables, frozen juice concentrates and frozen potatoes and potato products*, from Mid Continent Storage Caves at or near Loring, Kans., to Fort Wayne, Ind., Des Moines, Ames, and Woodward, Iowa; Minneapolis and St. Paul, Minn. commercial zone; Champaign and Peoria, Ill.; Bismarck and Fargo, N. Dak.; Xenia, Ohio; Sioux Falls, S. Dak.; Green Bay, Wis.; and Lincoln, Nebr., for 180 days. Supporting shipper: National Sales & Marketing Co., Post Office Box 598, Orinda, Calif. 94563. Send protests to: Ellis L. Annett, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 227 Federal Office Building, Des Moines, Iowa 50309.

No. MC 66562 (Sub-No. 2272 TA), filed October 31, 1967. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York, N.Y. 10017. Applicant's representative: Robert C. Boozer, 80 Broad Street NW., Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* moving in express service. (1) Between Gainesville, Fla., and Tampa, Fla., serving the intermediate and/or off-route points of Hawthorne, Edgar, Interlachen, Palatka, Pomona Park, Crescent City, Seville, Pierson, Barberville, De Land, Sanford, Casselberry, Oviedo, Altamonte Springs, Maitland, Winter Park, Orlando, Kissimmee, St. Cloud, Davenport, Haines City, Lake Alfred, Winter Haven, Polk City, Auburndale, Highland City, Lakeland, Plant City, Dover, and Seffner, Fla.; from Gainesville over Florida Highway 20 to Palatka, thence over U.S. Highway 17 to Haines City, thence over U.S. Highway 92 to Tampa, and return over the same route. (2) Between Gainesville, Fla., and Reddick, Fla., serving the intermediate and/or points of Newberry, Trenton, Cross City, Chiefland, Archer, and Williston, Fla.; from Gainesville over Florida Highway 26 to junction U.S. Highway 27A, thence over U.S. Highway 27A to Bronson, thence over Florida Highway 24 to Archer, thence over U.S. Highway 27 to junction Florida Highway 316, thence over Florida Highway 316 to Reddick, and return over the same route. (3) Between Ocala, Fla., and Inverness, Fla., serving the intermediate and/or off-route points of Dunnellon and Crystal River, Fla.; from Ocala over Florida Highway 200 to junction Florida Highway 484, thence over Florida Highway 484 to Dunnellon, thence over Florida Highway 488 to junction Florida Highway 495, thence over Florida Highway 495 to Crystal River, thence over Florida Highway 44 to Inverness, and return over the same route.

(4) Between Haines City, Fla., and Miami, Fla., serving the intermediate and/or off-route points of Dundee, Waverly, Lake Wales, West Lake Wales, Frostproof, Avon Park, Sebring, Lake Placid, Okeechobee, Indiantown, West Palm Beach, and Deerfield Beach, Fla.; from Haines City over U.S. Highway 27/27A to junction U.S. Highway 98 (south of Sebring), thence over U.S. Highway 98 to Okeechobee, thence over Florida Highway 70 to junction Florida Highway 710, thence over Florida Highway 710 to West Palm Beach, thence over U.S. Highway 1/Interstate Highway 95 to Miami, and return over the same route. (5) Between Tallahassee, Fla., and Bainbridge, Ga., serving the intermediate point of Havana, Fla.; from Tallahassee over U.S. Highway 27 to Bainbridge, and return over the same route. (6) Between Venice, Fla., and Boca Grande, Fla., serving no intermediate points, from Venice over U.S. Highway 41 to junction Florida Highway 775, thence over Florida Highway 775 to Placida, thence over Florida Highway 771 to Boca Grande, and return over the same route. (7) Between Tallahassee, Fla., and Panama City, Fla., serving the intermediate point of Blountstown, Fla.; from Tallahassee, over Florida Highway 20 to junction U.S. Highway 231, thence over U.S. Highway 231 to Panama City, and return over the same route. (8) Between Eglin AFB, Fla., and Crestview, Fla., serving no intermediate points; from Eglin AFB over Florida Highway 85 to Crestview, and return over the same route.

(9) Between Jacksonville, Fla., and Tampa, Fla., serving the intermediate and/or off-route points of Lawtey, Starke, Waldo, Hawthorne, Citra, Ocala, Belleview, Wildwood, Inverness, Bushnell, Center Hill, Dade City, Zephyrhills, and Plant City, Fla.; from Jacksonville over Interstate Highway 10 to junction U.S. Highway 301, thence over U.S. Highway 301 to junction Interstate Highway 4, thence over Interstate Highway 4 to Tampa, and return over the same route. (10) Between Jacksonville, Fla., and Tampa, Fla., serving no intermediate points, as an alternate route for operating convenience only, in conjunction with the route requested immediately above between Jacksonville and Tampa, and also in conjunction with applicant's authorized regular-route authority between

Jacksonville and Palatka (MC 66562 Sub 1708) plus the authority requested in (1) above between Palatka and Tampa; from Jacksonville over Interstate Highway 95 to junction Interstate Highway 4, thence over Interstate Highway 4 to Tampa, and return over the same route. (11) Between Jacksonville, Fla., and Miami, Fla., serving no intermediate points, as an alternate route for operating convenience only, in conjunction with applicant's authorized regular-route operations between Jacksonville and Miami (MC 66562 Sub 1708 and R-247); from Jacksonville over Interstate Highway 95 to junction Interstate Highway 4, thence over Interstate Highway 4 to junction Sunshine State Parkway, thence over Sunshine State Parkway to junction Interstate Highway 95, thence over Interstate Highway 95 to Miami, and return over the same route. (12) Between junction Sunshine State Parkway and Interstate Highway 75 (for purposes of joinder only) and Cocoa, Fla., serving the intermediate point of Orlando, Fla.; from junction Sunshine State Parkway and Interstate Highway 75, over Sunshine State Parkway to junction Interstate Highway 4, thence over Interstate Highway 4 to junction Florida Highway 528, thence over Florida Highway 528 to junction Florida Highway 520, thence over Florida Highway 520 to Cocoa, and return over the same route.

(13) Between Jacksonville, Fla., and Jacksonville, Fla., serving the intermediate and/or off-routes points of Callahan, Fla., and Folkston, Nahunta, Woodbine, Kingsland, and St. Marys, Ga.; from Jacksonville over U.S. Highway 1 to Folkston, thence over U.S. Highway 301 to Nahunta, thence U.S. Highway 84 to Atkinson, Ga., thence over Georgia Highway 110 to Waverly, Ga., thence over U.S. Highway 17/Interstate Highway 95 to Jacksonville, and return over the same route. Restrictions: The service to be performed shall be limited to that which is auxiliary to or supplemental of express service of the Railway Express Agency. Shipments transported by applicant shall be limited to those moving on through bills of lading or express receipts, for 150 days. Applicant states it does intend to tack the authority here applied for to other authority held by it under Docket No. MC 66562 and Sub-numbers thereunder. Supporting shippers: There are approximately 45 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Stephen P. Tomany, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 346 Broadway, New York, N.Y. 10013.

No. MC 116111 (Sub-No. 5 TA), filed November 1, 1967. Applicant: NORTH KANSAS CITY TOW SERVICE, INC., 901 East 13th Avenue, North Kansas City, Mo. 64106. Applicant's representative: C. S. Reavis (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, disabled or repossessed motor vehicles*, by use of wrecker equipment only, and *replacement vehicles* for wrecked or disabled motor vehicles, in secondary movements, in truckaway service; between Kansas City, Mo., on the one hand, and, on the other, points in Colorado, Indiana, Kentucky, New Mexico, Ohio, Tennessee, and Texas, for 180 days. Supporting shippers: Consolidated Freightways, 175 Linfield Drive, Menlo Park, Calif.; White Trucks Division, White Motor Corp., 522 Locust Street, Kansas City, Mo. 64106; Navajo Freight Lines, Inc., 1205 South Platte River Drive, Denver, Colo. 80223; Mack Trucks, Inc., 3738 Gardner, Kansas City, Mo. 64120; Triangle Leasing, Inc., 901 East 13th Street, North Kansas City, Mo. 64116. Send protests to: H. J. Simmons, District Supervisor, Interstate Commerce Commission, 1100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 123508 (Sub-No. 2 TA) (Correction), filed October 19, 1967, published FEDERAL REGISTER issue of October 26, 1967, and republished this issue. Applicant: M. AND W. CORPORATION, 301 West Commercial Street, Lowell, Ind. 46356. Applicant's representative: Warren C. Moberly, 1212 Fletcher Trust Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractory materials*, packaged and palletized, and in bulk, from Schneider, Ind., to those points in the Chicago commercial zone in the State of Illinois, for 180 days. NOTE: The purpose of this republication is to show the correct origin point and shippers address as Schneider, Ind., in lieu of Schneider Industries as was printed erroneously in the FEDERAL REGISTER. Supporting shipper: Carb-Rite Co., Schneider, Ind. Send protests to: District Supervisor, J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 208 Federal Building, Fort Wayne, Ind. 46802.

No. MC 125417 (Sub-No. 12 TA), filed November 11, 1967. Applicant: BULK FREIGHTWAYS, 8332 Wilcox Avenue, South Gate, Calif. 90280. Applicant's representative: Warren N. Grossman, 825 City National Bank Building, 606 South Olive Street, Los Angeles, Calif. 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, between points in California, for 180 days. Supporting shipper: The Richardson Co., 2700 Lake Street, Melrose Park, Ill. 60160. Send protests to: John E. Nance, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-12257; Filed, Nov. 8, 1967; 8:46 a.m.]

[Notice 49]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 6, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-35412. By order of October 25, 1967, the Transfer Board approved the lease, for a period of 1 year, of the operating rights in certificate No. MC-126123 (Sub-No. 1) to the corporation, Felton & Tenny, Ltd., Kodiak, Alaska, issued September 15, 1965, to Harry Felton doing business as Felton & Tenny, Kodiak, Alaska, authorizing the transportation of: General commodities, with certain exceptions; namely, commodities of unusual value, household goods, and classes A and B explosives, between points on Kodiak Island, Alaska. Donald P. Nelles, Ernst & Ernst, Lathrop Building, Post Office Box 1079, Anchorage, Alaska 99501, attorney for applicants.

No. MC-FC-69942. By order of October 25, 1967, the Transfer Board approved the transfer to Arnold E. Wade, doing business as Wade's Charter Coaches, Schenectady, N.Y., of that portion of the operating rights in certificate No. MC-95375, issued October 18, 1949, to West Point Tours, Inc., Highland Falls, N.Y., authorizing the transportation of passengers and their baggage, restricted to traffic originating at the points indicated, in charter operations, from points in Saratoga and Washington Counties, N.Y., to points in Pennsylvania, New York, New Jersey, Connecticut, Vermont, New Hampshire, and the District of Columbia, and return, traversing Maryland for operating convenience only. Arthur J. Piker, 160-16 Jamaica Avenue, Jamaica, N.Y. 11432, and James H. Glavin III, 69 Second Street, Post Office Box 40, Waterford, N.Y. 12188, attorneys for applicants.

No. MC-FC-69956. By order of October 25, 1967, the Transfer Board approved the transfer to Nuel L. Wallace Co., Inc., Roanoke, Va., of the operating rights of certificate No. MC-123656, issued June 7, 1962, to Nuel Leonard Wallace, Roanoke, Va., authorizing the transportation of disabled or wrecked motor vehicles and replacement vehicles therefor (except trailers designed to be drawn by passenger automobiles and commodities moving on Government bills of lading), by use of wrecker equipment only, between points in Virginia, on the one hand, and, on the other, points in North Carolina, West Virginia, Maryland, and the District of Columbia. Nuel L. Wallace, 1320 Williamson Road NE., Roanoke, Va. 24012, representative for applicants.

No. MC-FC-69970. By order of October 25, 1967, the Transfer Board approved the transfer to Holiday Horse Pullman, Inc., Warrenton, Va., of a portion of the operating rights in certificate No. MC-127579, issued April 22, 1966, to Penn-Mar-Va Transportation Corp., Wilmington, Del., authorizing the transportation of: Horses (other than ordinary livestock), and equipment and paraphernalia incidental to the transportation, care and display of such horses, between points in Connecticut, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia, between points in the above-specified states and the boundary of the United States and Canada, through port of entry at Rouse's Point, N.Y. Richard A. Reid, Campbell Building, Towson, Md. 21204, David A. Sutherland, 1120 Connecticut Avenue, Washington, D.C. 20036, attorneys for applicants.

No. MC-FC-69971. By order of October 25, 1967, the Transfer Board approved the transfer to Mobile Home Movers, Inc., Oklahoma City, Okla., of certificates of registration No. MC-120929 (Sub-No. 1), issued January 12, 1965, to Jack L. Griffin, Oklahoma City, Okla., authorizing the transportation of: House trailers between points in Oklahoma. Charles D. Dudley, 419 Northwest Sixth Street, Oklahoma City, Okla. 73102, attorneys for applicants.

No. MC-FC-69972. By order of October 25, 1967, the Transfer Board approved the transfer to Curran Express, Inc., New Bedford, Mass., of the operating rights in certificate No. MC-2149 issued April 2, 1964, to Matthew J. Curran, Jr., doing business as M. J. Curran, New Bedford, Mass., authorizing the transportation of: General commodities, with the usual exceptions, between specified points in Massachusetts and Rhode Island. Louis A. Perras, Jr., Acushnet Avenue, New Bedford, Mass. 02740, attorney for applicants.

No. MC-FC-69973. By order of October 25, 1967, the Transfer Board approved the transfer to G. H. Bemis Freight Service, Inc., Quincy, Ill., of certificate of registration No. MC-96696 issued December 10, 1963, to Glenn H. Bemis, doing business as G. H. Bemis Freight Service, Quincy, Ill., authorizing transportation of general commodities, within Illinois. Robert T. Lawley, 308 Reisch Building, Springfield, Ill. 62701, attorney for applicants.

No. MC-FC-69974. By order of October 25, 1967, the Transfer Board approved the transfer to Vincent J. Herzog, Honesdale, Pa., of the operating rights in certificate No. MC-29871 issued March 9, 1953, to Wayne C. Tiel and Francis L. Tiel, doing business as Tiel Brothers, Honesdale, Pa., authorizing the transportation of: Plumbing supplies, heating equipment, silos, farm supplies, pianos, household goods, and feed, between points in New York, New Jersey, and Pennsylvania. John M. Zachara, Post Office Box Z, Paterson, N.J. 07509, representative for applicants.

No. MC-FC-69975. By order of October 25, 1967, the Transfer Board approved the transfer to Ralph R. Lanciano, doing business as Charles J. Lanciano, Philadelphia, Pa., of the operating rights in certificate No. MC-5987 issued August 31, 1967, to Ralph Lanciano and Charles J. Lanciano, doing business as Charles J. Lanciano, Philadelphia, Pa., authorizing the transportation of: Electric switchboards, motors, transformers, and rigging and tools used in the installation thereof, between Philadelphia, Pa., on the one hand, and, on the other, Wilmington, Del., and Conowingo and Baltimore, Md. M. Mark Mendel, 1440 P.S.F. Building, Philadelphia, Pa. 19143, attorney for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-12258; Filed, Nov. 8, 1967; 8:49 a.m.]

[Notice 49-A]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 3, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-69636. By order of September 28, 1967, Division 3, acting as an Appellate Division, approved the transfer to Amelia Gerace, Mary Capitani, Ernest Capitani, and Ernest A. Capitani, Jr., of control of passenger broker license No. MC-12379 issued December 12, 1947, to Parker Tours, Inc., both of New York, N.Y., authorizing the holder thereof to engage in operations as a broker at New York, N.Y., in arranging for the transportation of: Passengers and their baggage, between points in the United States. S. S. Eisen, 140 Cedar Street, New York, N.Y. 10006, attorney for applicant.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-12259; Filed, Nov. 8, 1967; 8:49 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during November.

3 CFR

Page

PROCLAMATIONS:
3694 (terminated in part by Proc. 3818) 15467
3712 (terminated in part by Proc. 3818) 15467
3744 (terminated in part by Proc. 3818) 15467
3818 15467

EXECUTIVE ORDERS:
2295 (modified by PLO 4313) 15429
4702 (revoked in part by PLO 4315) 15482
8652 (revoked in part by PLO 4317) 15482
10530 (see EO 11378) 15237
10682 (see EO 11378) 15237
11378 15237

7 CFR

51 15066, 15673
319 15577
729 15149
730 15076
910 15430, 15524
912 15430
913 15430
945 15577
984 15388
1001 15076
1015 15090
1067 15093
1120 15388
1126 15388
1133 15389
1137 15431

PROPOSED RULES:
51 15435
723 15546
822 15393
891 15393
892 15393
905 15116
906 15394
907 15488
908 15394
912 15436
913 15395
959 15177
989 15488
1049 15489
1064 15490
1090 15437
1125 15178
1131 15588

8 CFR

103 15469
212 15469
238 15469

9 CFR

76 15240
78 15577
131 15469

10 CFR

PROPOSED RULES:
20 15432

12 CFR

Page

1 15544
219 15389

13 CFR

108 15065
108 15149

PROPOSED RULES:
107 15390
121 15184

14 CFR

21 15472
39 15094, 15153, 15154, 15390, 15421, 15472, 15523, 15579.
71 15094, 15096, 15154, 15523, 15524, 15579.
73 15096
91 15422
97 15423, 15473, 15580
141 15583
207 15096
208 15097
241 15098

PROPOSED RULES:
39 15490, 15491, 15588
71 15117–15121, 15491–15493, 15546–15548, 15588, 15589.
93 15589

15 CFR

0 15222
70 16154
204 15104, 15391
230 15105

16 CFR

13 15105–15107, 15470
14 15525
15 15470
17 15540
226 15525
229 15529
230 15531
231 15532
232 15533
233 15534
234 15536
235 15538
236 15538
237 15539
238 15540
239 15541
240 15542
412 15584
413 15424

PROPOSED RULES:
300 15180

17 CFR

200 15470

18 CFR

3 15239

PROPOSED RULES:
141 15434
260 15434

19 CFR

Page

4 15390
10 15424
14 15155
16 15390

20 CFR

396 15471
401 15544

21 CFR

120 15107, 15120, 15424, 15578
121 15108, 15109, 15155, 15545
123 15109
148c 15425
166 15390

PROPOSED RULES:
28 15116

22 CFR

PROPOSED RULES:
201 15116

24 CFR

200 15425, 15586

25 CFR

41 15471

26 CFR

1 15421
301 15241, 15483

PROPOSED RULES:
1 15167, 15393

28 CFR

0 15425

29 CFR

526 15425
786 15425
1500 15478, 15479

PROPOSED RULES:
5 15396
6 15396
7 15396

32 CFR

66 15111
127 15112
536 15113
552 15115
710 15115

36 CFR

7 15391

39 CFR

131 15587
821 15480
822 15480, 15481
823 15099

41 CFR

6–75 15427

42 CFR

Page

PROPOSED RULES:
73 15178

43 CFR

PUBLIC LAND ORDERS:
1583 (see PLO 4307) 15428
1630 (see PLO 4315) 15482
3263 (revoked in part by PLO 4307) 15428
3634 (revoked in part by PLO 4302) 15427
4236 (see PLO 4317) 15482
4266 (see PLO 4317) 15482
4270 (amended by PLO 4312) 15429
4301 15098
4302 15427
4303 15427
4304 15427
4305 15428
4306 15428
4307 15428
4308 15428
4309 15428
4310 15429
4311 15429
4312 15429
4313 15429
4314 15482
4315 15482
4316 15482
4317 15482
4318 15483

PROPOSED RULES:
1720 15546

45 CFR

81 15156

46 CFR

PROPOSED RULES:
Ch. IV 15438

47 CFR

Page

0 15472
73 15161, 15162, 15545

PROPOSED RULES:
2 15180
89 15180
91 15180
93 15180

49 CFR

103 15484
114 15484

PROPOSED RULES:
288 15589

50 CFR

32 15166, 15586, 15587
33 15168

PUBLIC PAPERS OF THE PRESIDENTS OF THE UNITED STATES

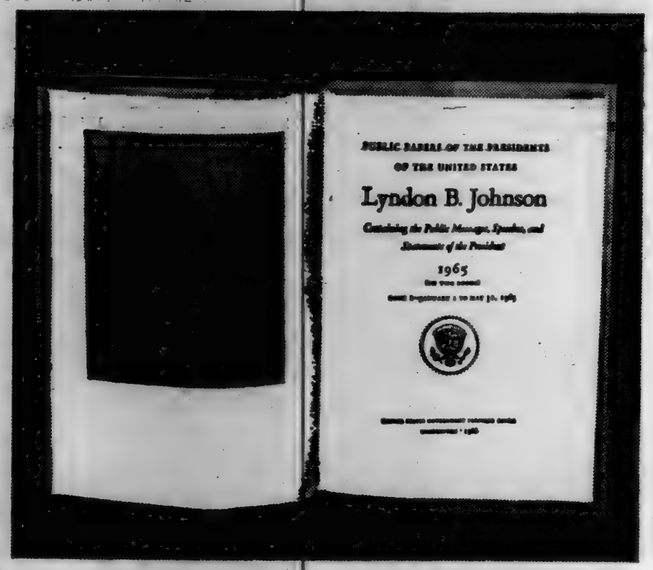

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219

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Pages 15621–15662

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Food and Drug Administration
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International Commerce Bureau
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National Bureau of Standards
Panama Canal
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Detailed list of Contents appears inside.

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2

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Contents

THE PRESIDENT

EXECUTIVE ORDERS

Designating officials to act as Commissioner of the District of Columbia 15625
Amending prior Executive Orders relating to mutual educational and cultural exchange and to allowances and benefits for Government personnel on overseas duty 15627
Amending Executive Order No. 10807 of March 13, 1959, relating to the Federal Council for Science and Technology 15629

EXECUTIVE AGENCIES

AGRICULTURE DEPARTMENT

See Commodity Credit Corporation; Consumer and Marketing Service.

CIVIL AERONAUTICS BOARD

Notices

Hearings, etc.:
B. C. Air Lines, Ltd 15648
Northwest Airlines, Inc 15648
Staron Flight, Ltd 15648
Western Air Lines, Inc 15649

CIVIL SERVICE COMMISSION

Rules and Regulations

Equal opportunity; miscellaneous amendments 15631

COMMERCE DEPARTMENT

See International Commerce Bureau; National Bureau of Standards.

COMMODITY CREDIT CORPORATION

Rules and Regulations

Grains and similarly handled commodities; reseal loan program; eligibility requirements 15632
Tobacco, certain types; loan program, 1967 crop 15633

CONSUMER AND MARKETING SERVICE

Rules and Regulations

Handling limitations:
Grapefruit grown in Indian River District in Florida 15632
Lemons grown in California and Arizona 15631

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations

Airworthiness directives:
British Aircraft Corporation Model BAC 1-11 400 Series airplanes 15635
Hawker Siddeley Model DH-125 Series 1A and 1A-522 airplanes 15635
Federal airways; alteration 15635
Jet routes and reporting points; alteration 15636

FEDERAL COMMUNICATIONS COMMISSION

Notices

Hearings, etc.:
Akron Telerama, Inc., et al 15649
Durham-Raleigh Telecasters, Inc., et al 15650
S R C, Inc., and San Angelo Independent School 15650
Wichrowski, Stephen A., Jr 15650

FEDERAL HOME LOAN BANK BOARD

Rules and Regulations

Federal Savings and Loan Insurance Corporation; sale of participating interests otherwise than to insured institutions 15634

FEDERAL HOUSING ADMINISTRATION

Rules and Regulations

Miscellaneous amendments to chapter 15636

FEDERAL MARITIME COMMISSION

Notices

American West African Freight Conference; notice of agreement filed for approval 15651

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:
Ashland Oil & Refining Co., et al 15651
Lone Star Gas Co., et al 15652
Manufacturers Light & Heat Co., et al 15654
Texas Gas Transmission Corp 15654

FISH AND WILDLIFE SERVICE

Rules and Regulations

Bosque del Apache National Wildlife Refuge, N. Mex.; hunting 15642

FOOD AND DRUG ADMINISTRATION

Notices

Petitions regarding food additives or pesticides:
American Cyanamid Co 15647
Dow Corning Co 15647
Elanco Products Co 15647
Geigy Chemical Corp 15647
Gulf Oil Corp 15647
Merck Sharp & Dohme Research Laboratories 15647
Pfizer, Chas. & Co., Inc 15647

FOREIGN CLAIMS SETTLEMENT COMMISSION

Rules and Regulations

Filing of claims and procedures therefor; time of filing 15641

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Food and Drug Administration.

Notices

Air pollution control: interstate air pollution in National Capital Metropolitan Area; conference date, time and place 15648

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Federal Housing Administration.

INDIAN AFFAIRS BUREAU

Notices

Area Director, Phoenix Area Office; delegation of authority 15645

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Indian Affairs Bureau.

Notices

Lower Colorado River Land Use program 15645

INTERNATIONAL COMMERCE BUREAU

Notices

Related party determinations:
Expert Electronics Products, Ltd., et al 15646
Instrument Maintenance Services 15646
Savoy International Ltd 15646

INTERSTATE COMMERCE COMMISSION

Notices

Motor carrier temporary authority applications 15659

(*Continued on next page*)

CONTENTS

LABOR DEPARTMENT
See Public Contracts Division; Wage and Hour Division.

NATIONAL BUREAU OF STANDARDS
Rules and Regulations
Standard reference materials; miscellaneous rules and regulations 15636

PANAMA CANAL
Rules and Regulations
Hospitalization of the mentally ill; performance of surgical operations on legally incompetent patients 15641

POST OFFICE DEPARTMENT
Proposed Rule Making
Uniform allowance payments by Postal Data Centers directly to vendors 15643

PUBLIC CONTRACTS DIVISION
Rules and Regulations
Safety and health standards for Federal supply contracts; radiation standards for mining 15641

SECURITIES AND EXCHANGE COMMISSION
Notices
Hearings, etc.:
Delta Airlines, Inc., et al. (3 documents) 15655
Middle South Utilities, Inc., and Louisiana Power & Light Co. 15655
North American Research & Development Corp. 15656

SMALL BUSINESS ADMINISTRATION
Rules and Regulations
Business loans; maturities 15635
Loan policy; terms and conditions of financial assistance 15634

TRANSPORTATION DEPARTMENT
See Federal Aviation Administration.

WAGE AND HOUR DIVISION
Notices
Certificates authorizing employment of full-time students working outside of school hours at special minimum wages in retail or service establishments or in agriculture 15656

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

3 CFR
EXECUTIVE ORDERS:
10807 (amended by EO 11381) 15629
10903 (amended by EO 11380) 15627
11034 (amended by EO 11380) 15627
11379 15625
11380 15627
11381 15629

5 CFR
713 15631

7 CFR
910 15631
912 15632
1421 15632
1464 15633

12 CFR
563 15634

13 CFR
120 15634
122 15635

14 CFR
39 (2 documents) 15635
71 (2 documents) 15635, 15636
75 15636

15 CFR
230 15636

24 CFR
200 15636
203 15639
207 15640
220 15640
222 15640
309 15640

35 CFR
61 15641

39 CFR
PROPOSED RULES:
Ch. I 15643

41 CFR
50–204 15641

45 CFR
531 15641

50 CFR
32 15642

Presidential Documents

Title 3—THE PRESIDENT

Executive Order 11379

DESIGNATING OFFICIALS TO ACT AS COMMISSIONER OF THE DISTRICT OF COLUMBIA

By virtue of the authority vested in me by section 301(d) of Reorganization Plan No. 3 of 1967 (32 F.R. 11671), it is ordered that the following-designated officials of the District of Columbia shall, in the order of succession indicated, act as Commissioner of the District of Columbia during the absence from duty or disability of the Commissioner of the District of Columbia or in the event of a vacancy in the office of Commissioner:

(1) The Assistant to the Commissioner of the District of Columbia provided for in section 302 of Reorganization Plan No. 3 of 1967.

(2) The Corporation Counsel of the District of Columbia.

Lyndon B. Johnson

THE WHITE HOUSE,
November 8, 1967.

[F.R. Doc. 67-13369; Filed, Nov. 9, 1967; 9:54 a.m.]

Executive Order 11380

AMENDING PRIOR EXECUTIVE ORDERS RELATING TO MUTUAL EDUCATIONAL AND CULTURAL EXCHANGE AND TO ALLOWANCES AND BENEFITS FOR GOVERNMENT PERSONNEL ON OVERSEAS DUTY

By virtue of the authority vested in me by the Mutual Educational and Cultural Exchange Act of 1961 (75 Stat. 527; 22 U.S.C. 2451 et seq.) and section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

PART I. MUTUAL EDUCATIONAL AND CULTURAL EXCHANGE

SECTION 101. Executive Order No. 11034 of June 25, 1962, is hereby amended as follows:

(1) By changing the period at the end of section 1(b) to a comma and by inserting after that comma the following: "excluding, however, the reports for which the Director of the United States Information Agency is responsible under section 2(b) of this order.".

(2) By substituting for the paragraph designations (a), (b), (c), and (d) in section 2 new paragraph designations (1), (2), (3), and (4), respectively; by inserting the subsection designation (a) after the catchline of section 2; and by adding a new subsection (b) of section 2, reading as follows:

"(b) The Director of the United States Information Agency shall prepare and transmit to the President the reports which the President is required to submit to the Congress by section 108(b) of the Act to the extent that they are with respect to activities carried out by the United States Information Agency pursuant to section 102(a)(2)(iii) and section 102(a)(3) of the Act."

(3) By adding a new paragraph at the end of section 8(a), reading as follows:

"(15) Any provision of law or limitation of authority to the extent that such provision or limitation would limit or prohibit (i) receipt of admission fees or payments under contracts through advances or otherwise, for concessions, services, space, or other consideration, and the credit of such receipts to the applicable appropriation, and (ii) rental or lease for periods not exceeding ten years of buildings and grounds."

(4) By adding a new paragraph at the end of section 10, reading as follows:

"(c) References in this order to this order shall be deemed to include references thereto as amended from time to time."

SEC. 2. It is hereby determined that the performance by any department or other executive agency of functions authorized by sections 102(a)(2) and 102(a)(3) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2452(a) (2) and (3)) without regard to the provisions and limitations referred to in section (8)(a)(15) of Executive Order No. 11034 of June 25, 1962 (to the extent set forth in the latter section) is in furtherance of the purposes of that Act.

PART II. APPROVAL OF CERTAIN REGULATIONS RELATING TO LIVING QUARTERS

SEC. 201. Executive Order No. 10903 of January 9, 1961, as amended, is hereby further amended by inserting at the end of section 1 thereof a new paragraph (g), reading as follows:

"(g) The authority vested in the President by section 5912 of title 5 of the United States Code to approve regulations prescribed by heads of agencies (under which employees who are citizens of the United States permanently stationed in foreign countries may be furnished, without cost to them, living quarters, including heat, fuel, and light, in government-owned or rented buildings)."

THE WHITE HOUSE,
November 8, 1967.

[F.R. Doc. 67-13371; Filed, Nov. 9, 1967; 9:54 a.m.]

Executive Order 11381

AMENDING EXECUTIVE ORDER NO. 10807 OF MARCH 13, 1959, RELATING TO THE FEDERAL COUNCIL FOR SCIENCE AND TECHNOLOGY

By virtue of the authority vested in me as President of the United States, it is ordered that Executive Order No. 10807 [1] of March 13, 1959, entitled "Federal Council for Science and Technology," be, and it is hereby, amended by substituting for subsection (b) of section 1 thereof the following:

"(b) The Council shall be composed of the Special Assistant to the President for Science and Technology and one representative of each of the following: Department of Agriculture, Department of Commerce, Department of Defense, Department of Health, Education, and Welfare, Department of Housing and Urban Development, Department of the Interior, Department of State, Department of Transportation, Atomic Energy Commission, National Aeronautics and Space Administration, and National Science Foundation. Each such representative shall be an official of policy rank designated by the head of the Federal agency concerned, and, in the case of the Atomic Energy Commission, shall be its Chairman or another member of the Commission designated by the Chairman of the Commission. A representative of the Director of the Bureau of the Budget designated by the Director may attend meetings of the Council as an observer."

THE WHITE HOUSE,
November 8, 1967.

[F.R. Doc. 67-13370; Filed, Nov. 9, 1967; 9:54 a.m.]

[1] 24 F.R. 1897; 3 CFR, 1959–1963 Comp., p. 329.

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 713—EQUAL OPPORTUNITY

Miscellaneous Amendments

Part 713 is amended in several respects to implement Executive Order 11375 and include prohibitions against sex discrimination in the regulations relating to equal opportunity in employment. The amendments set forth below are effective November 12, 1967.

The authority for §§ 713.200 to 713.40 is amended to read as follows:

AUTHORITY: Secs. 713.201 to 713.401 issued under 5 U.S.C. 1301, 3301, 3302, 7151–7154, 7301; E.O. 10577, 19 F.R. 7521, 3 CFR 1954–58 Comp., p. 218; E.O. 11222, 30 F.R. 6469, 3 CFR, 1965 Supp., p. 130; E.O. 11246, 30 F.R. 12319, 3 CFR, 1965 Supp., p. 167; E.O. 11375, 32 F.R. 14303.

The heading for Subpart B is amended to read:

Subpart B—Equal Opportunity Without Regard to Race, Color, Religion, Sex, or National Origin

Section 713.201(a) is amended to read as follows:

§ 713.201 Purpose and applicability.

(a) *Purpose.* This subpart sets forth the regulations under which an agency shall establish a program for equal opportunity in employment and personnel operations without regard to race, color, religion, sex, or national origin and under which the Commission will review an agency's program and entertain an appeal from a person dissatisfied with an agency's processing of his complaint of discrimination on grounds of race, color, religion, sex, or national origin.

* * * * *

Section 713.202 is amended to read as follows:

§ 713.202 General policy.

It is the policy of the Government of the United States and of the government of the District of Columbia to provide equal opportunity in employment for all qualified persons, to prohibit discrimination in employment because of race, color, religion, sex, or national origin, and to promote the full realization of equal employment opportunity through a positive, continuing program in each agency.

Section 713.203 (a), (b), (c) and (g) are amended to read as follows:

§ 713.203 Agency program.

The head of an agency shall exercise personal leadership in establishing, maintaining, and carrying out a positive, continuing program designed to promote equal opportunity in every aspect of agency employment policy and practice. Under the terms of its program, an agency shall:

(a) Conduct a continuing campaign to eradicate every form of prejudice or discrimination based upon race, color, religion, sex or national origin from the agency's personnel policies and practices and working conditions;

(b) Reappraise job structure and employment practices and adopt positive and special recruitment, training, job design, and other measures needed in order to insure genuine equality of opportunity to participate fully in all organizational units, occupations, and levels of responsibility in the agency;

(c) Communicate the agency's equal employment opportunity policy and program and its employment needs to sources of qualified applicants without regard to race, color, religion, sex, or national origin, and solicit their recruitment assistance on a continuing basis;

* * * * *

(g) Provide for careful consideration and a just and expeditious disposition of complaints involving issues of discrimination on grounds of race, color, religion, sex, or national origin.

Sections 713.211, 713.212, 713.217 and 713.225 are amended to read as follows:

§ 713.211 General.

An agency shall insure that its regulations governing the processing of complaints of discrimination on grounds of race, color, religion, sex, or national origin comply with the principles and requirements in §§ 713.212 through 713.220.

§ 713.212 Coverage.

The agency shall provide in its regulations for the acceptance of a complaint from any aggrieved employee or qualified applicant for employment who believes that he has been discriminated against because of race, color, religion, sex, or national origin. A complaint may also be filed by an organization for the aggrieved employee or applicant and with his consent.

§ 713.217 Relationship to other agency appellate procedures.

When a complainant makes a written allegation of discrimination on grounds of race, color, religion, sex, or national origin in connection with an action that would otherwise be processed under the agency's grievance or other internal appeal procedure, the agency may process the allegation of discrimination under its grievance or other internal appeal procedure when that procedure meets the principles and requirements in sections 713.212 through 713.218 and the head of the agency, or his designee, makes the final decision on the issue of discrimination. That decision on the issue of discrimination shall be incorporated in and become a part of the decision on the grievance or other internal appeal.

§ 713.225 Relationship to other appeals.

When the basis of the complaint of discrimination because of race, color, religion, sex, or national origin involves an action which is otherwise appealable to the Commission, the case, including the issue of discrimination, will be processed under the regulations appropriate to that appeal when the complainant makes a timely appeal in accordance with those regulations.

The heading for Subpart D is amended to read:

Subpart D—Equal Opportunity Without Regard to Politics, Marital Status, or Physical Handicap

§ 713.402 [Revoked]

Section 713.402 is revoked.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67–13346; Filed, Nov. 9, 1967; 8:49 a.m.]

Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Lemon Reg. 294]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.594 Lemon Regulation 294.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is

hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 7, 1967.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period November 12, 1967, through November 18, 1967, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 46,500 cartons;

(iii) District 3: 139,500 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 8, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-13269; Filed, Nov. 9, 1967; 8:49 a.m.]

[Grapefruit Reg. 47]

PART 912—GRAPEFRUIT GROWN IN INDIAN RIVER DISTRICT IN FLORIDA

Limitation of Handling

§ 912.347 Grapefruit Regulation 47.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 912, as amended (7 CFR Part 912), regulating the handling of grapefruit grown in the Indian River District in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation and information submitted by the Indian River Grapefruit Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Indian River grapefruit, and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Indian River grapefruit; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 7, 1967.

(b) *Order.* (1) The quantity of grapefruit grown in the Indian River District which may be handled during the period November 13, 1967, through November 19, 1967, is hereby fixed at 160,000 standard packed boxes.

(2) As used in this section, "handled," "Indian River District," "grapefruit," and "standard packed box" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 8, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-13340; Filed, Nov. 9, 1967; 8:49 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Reseal Loan Regs., 1965 and Subsequent Storage Periods, Amdt. 5]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—Reseal Loan Program

ELIGIBILITY REQUIREMENTS

The regulations issued by CCC and published in 30 F.R. 2853 and 32 F.R. 5767 are hereby further amended as follows:

In § 1421.3483, paragraphs (c) and (d) are amended to provide that a new loan must be requested prior to the loan maturity date for the commodity and disbursed not later than 2 months following such maturity date, unless a later date is authorized by the county committee. The amended paragraphs will now read:

§ 1421.3483 Eligibility requirements.

* * * * *

(c) *New loans.* A producer who has a farm-stored commodity eligible for price support must place such commodity under loan in order for it to be eligible for reseal. A producer must request such reseal loan by the maturity date for loans on the commodity unless a later date is authorized by the county committee.

(d) *Disbursement of loans.* Disbursement of a new loan referred to in paragraph (c) of this section will be made to a producer by ASCS county offices by means of a draft drawn on CCC or by credit to the producer's account. The new loan for reseal purposes must be disbursed not later than 2 calendar months after the original maturity date for the commodity unless a later date is authorized by the county committee. The producer shall not present the loan documents for disbursement unless the commodity covered by the mortgage is in existence. If the commodity was not in existence at the time of disbursement, the total amount disbursed under the loan shall be refunded promptly by the producer.

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on November 6, 1967.

RAY FITZGERALD,
Acting Executive Vice President, Commodity Credit Corporation.

[F.R. Doc. 67-13321; Filed, Nov. 9, 1967; 8:49 a.m.]

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1464—TOBACCO

Set forth below is a schedule of advance rates, by grades, for the 1967 crop of types 21, 22, 23, 31, 35, 36, and 37 tobacco, under the tobacco loan program published July 16, 1966 (31 F.R. 9679, 32 F.R. 10249, 32 F.R. 11416 and 32 F.R. 14203).

Sec.
1464.1766 1967 Crop—Virginia Fire-cured Tobacco, Type 21.
1464.1767 1967 Crop—Kentucky-Tennessee Fire-cured Tobacco, Types 22 and 23.
1464.1768 1967 Crop—Burley Tobacco, Type 31.
1464.1769 1967 Crop—Dark Air-cured Tobacco, Types 35 and 36.
1464.1770 1967 Crop—Virginia Sun-cured Tobacco, Type 37.

AUTHORITY: The provisions of this Part 1464 issued under sec. 4, 62 Stat. 1070, as amended, sec. 5, 62 Stat. 1072, secs. 101, 106, 401, 403, 63 Stat. 1051 as amended, 1054, sec. 125, 70 Stat. 199, 74 Stat. 6; 7 U.S.C. 1441, 1445, 1421, 1423, 7 U.S.C. 1813, 15 U.S.C. 714b, 714c.

§ 1464.1766 1967 Crop—Virginia Fire-cured Tobacco, Type 21, Advance Schedule.[1]

[Dollars per hundred pounds, farm sales weight]

Grade	Length 45	Length 43	Length 41	Length 39
A1F	68.25	68.25		
A2F	67.25	66.25		
A1D	62.25	62.25		
A2D	57.25	56.25		
B1F	60.25	60.25		
B2F	56.25	56.25	49.25	
B3F	47.25	49.25	45.25	38.25
B4F	44.25	44.25	42.25	33.25
B5F	38.25	37.25	34.25	33.25
B1D	60.25	60.25		
B2D	56.25	56.25	49.25	
B3D	47.25	48.25	45.25	38.25
B4D	39.25	41.25	39.25	36.25
B5D	35.25	34.25	33.25	32.25
B3M	40.25	41.25	39.25	36.25
B4M	37.25	39.25	37.25	34.25
B5M	33.25	34.25	34.25	33.25
B3G	38.25	40.25	39.25	36.25
B4G	37.25	38.25	37.25	34.25
B5G	34.25	35.25	34.25	32.25
C1L	60.25	60.25		
C2L	56.25	56.25	54.25	
C3L	52.25	52.25	49.25	
C4L	43.25	44.25	43.25	
C5L	38.25	40.25	39.25	
C1F	60.25	60.25		
C2F	56.25	56.25	54.25	
C3F	52.25	52.25	49.25	
C4F	43.25	44.25	44.25	
C5F	38.25	41.25	39.25	
C2D	57.25	56.25	54.25	
C3D	54.25	52.25	54.25	
C4D	52.25	53.25	51.25	
C5D	48.25	48.25	48.25	
C3M	40.25	42.25	41.25	
C4M	37.25	39.25	39.25	
C5M	34.25	36.25	36.25	
C3G	38.25	39.25	34.25	
C4G	37.25	38.25	37.25	
C5G	34.25	35.25	35.25	

Grade		Grade	
X1L	48.25	X2M	45.25
X2L	44.25	X4M	45.25
X3L	42.25	X5M	42.25
X4L	39.25	X3G	45.25
X5L	36.25	X4G	45.25
X1F	47.25	X5G	45.25
X2F	45.25	X1D	38.25
X3F	43.25	X2D	38.25
X4F	40.25	X3D	38.25
X5F	36.25	X4D	38.25
X1D	41.25	X5D	38.25
X2D	38.25	N1L	38.25
X3D	38.25	N2D	38.25
X4D	38.25	N1G	38.25
X5D	38.25	N2	16.25
X3M	37.25		

§ 1464.1767 1967 Crop—Kentucky-Tennessee Fire-cured Tobacco, Types 22 and 23, Advance Schedule.[1]

[Dollars per hundred pounds, farm sales weight]

Grade	Length 45	Length 43	Length 41	Length 39
A1F	65	65		
A2F	61	61		
A3F	52	52		
A1D	63	61		
A2D	52	52		
A3D	52	52		
B1F	55	55	51	
B2F	51	52	49	
B3F	46	47	46	39
B4F	43	44	42	35
B5F	39	39	37	34
B3VF	44	45	43	34
B4VF	42	42	41	33
B5VF	37	37	35	27
B1D	55	55	51	
B2D	51	52	49	
B3D	46	46	46	41
B4D	43	44	43	35
B5D	39	39	38	30
B3M	44	45	42	36
B4M	40	41	39	30
B5M	36	36	36	34
B3G	45	45	44	35
B4G	40	41	39	30
B5G	36	36	32	28
C1L	55	56	52	
C2L	51	52	50	
C3L	46	50	47	41
C4L	46	47	45	39
C5L	44	44	43	36
C1F	55	46	52	
C2F	51	46	50	
C3F	46	46	46	41
C4F	43	43	44	36
C5F	39	43	45	39
C3VF	45	45	44	36
C4VF	42	43	41	33
C5VF	41	42	40	32
C1D	55	55	51	
C2D	51	52	49	
C3D	46	46	46	41
C4D	43	43	44	36
C5D	39	43	45	39
C3M	45	45	44	36
C4M	42	43	41	33
C5M	41	42	40	32
C3G	45	45	45	36
C4G	42	43	41	33
C5G	41	42	40	32

Grade		Grade	
X1L	47	X2D	42
X2L	45	X3D	39
X3L	44	X4D	36
X4L	41	X5D	33
X5L	39	X3M	39
X1F	46	X4M	37
X2F	44	X5M	33
X3F	43	X3G	37
X4F	40	X4G	33
X5F	38	X5G	30
X3VF	42	N1L	33
X4VF	39	N1D	36
X5VF	35	N1G	27
X1D	44	N2	22

§ 1464.1768 1967 Crop—Burley Tobacco, Type 31, Advance Schedule.[1]

[Dollars per hundred pounds, farm sales weight]

Grade	Advance rate	Grade	Advance rate	Grade	Advance rate
B1F	74.25	B4VF	69.25	B4FR	60.25
B2F	72.25	B5VF	68.25	B5FR	57.25
B3F	70.25	B2K	69.25	C3K	64.25
B4F	68.25	B4K	65.25	C4K	62.25
B5F	66.25	B5K	64.25	C5K	59.25
B1R	69.25	T3FR	69.25	C3R	66.25
B2R	68.25	T4FR	68.25	C4R	65.25
B3R	65.25	T5FR	66.25	C5R	61.25
B4R	63.25	T3R	68.25	C3M	67.25
B5R	60.25	T4R	65.25	C4M	64.25
B3VR	66.25	T5R	63.25	C5M	60.25
B4VR	67.25	T4FD	68.25	C4G	61.25
B5VR	63.25	T4D	68.25	C5G	45.25
B4D	61.25	T5D	66.25	X2L	76.25
B5D	58.25	T4K	66.25	X3L	75.25
B3M	61.25	T5K	63.25	X4L	72.25
B4M	59.25	T4GF	63.25	X5L	69.25
B5M	56.25	T5GF	60.25	X1F	77.25
B3GF	62.25	T4GR	63.25	X2F	76.25
B4GF	60.25	T5GR	62.25	X3F	75.25
B5GF	44.25	C1L	77.25	X4F	73.25
B3GR	61.25	C2L	76.25	X5F	69.25
B4GR	59.25	C3L	75.25	X1R	68.25
B5GR	56.25	C4L	74.25	X4R	62.25
M3F	62.25	C5L	71.25	X5R	55.25
M4F	60.25	C1F	77.25	X4M	62.25
M5F	58.25	C2F	76.25	X5M	51.25
M3R	61.25	C3F	75.25	X4G	60.25
M4R	59.25	C4F	74.25	X5G	43.25
M5R	56.25	C5F	71.25	N1L	57.25
T3F	62.25	C3V	70.25	N1F	60.25
T4F	60.25	C4V	67.25	N1R	54.25
T5F	55.25	C5V	61.25	N1G	51.25
T4VF	60.25	B1FR	67.25	N2L	44.25
T5VF	46.25	B2FR	66.25	N2R	32.25
B3VF	64.25	B3FR	62.25	N2G	27.25

§ 1464.1769 1967 Crop—Dark Air-cured Tobacco, Types 35 and 36, Advance Schedule.[1]

[Dollars per hundred pounds, farm sales weight]

Grade	Length 45	Length 43	Length 41
A1F	54	54	
A2F	50	50	
A3F	45	46	
A1R	54	54	
A2R	50	50	
A3R	46	46	
B1F	50	50	47
B2F	47	47	43
B3F	45	45	41
B4F	42	42	37
B5F	38	38	37
B1R	50	50	47
B2R	46	46	43
B3R	43	43	41
B4R	41	41	36
B5R	37	37	37
B1D	49	49	46
B2D	46	46	43
B3D	43	43	41
B4D	42	42	36
B5D	37	37	36
B3M	42	42	41
B4M	39	39	34
B5M	34	34	34
B3G	41	41	40
B4G	39	39	34
B5G	34	34	32
C1L	49	49	46
C2L	46	46	43
C3L	43	43	41
C4L	41	41	36
C5L	36	36	36
C1F	49	49	46
C2F	46	46	43
C3F	43	43	41
C4F	41	41	36
C5F	36	36	36
C1R	49	49	46
C2R	46	46	43
C3R	43	43	41
C4R	41	41	36
C5R	36	36	36
C3M	41	41	41
C4M	37	37	37
C5M	32	32	32
C3G	41	41	41
C4G	37	37	37
C5G	32	32	32

Grade		Grade		Grade	
T3F	38	X1L	45	X3D	39
T4F	34	X2L	42	X4D	34
T5F	30	X3L	42	X5D	31
T3R	38	X4L	40	X3M	36
T4R	34	X5L	37	X4M	33
T5R	30	X1F	45	X5M	33
T3D	37	X2F	43	X3G	36
T4D	34	X3F	41	X4G	33
T5D	30	X4F	40	X5G	28
T3M	37	X5F	37	N1L	30
T4M	32	X1R	46	N2L	28
T5M	30	X2R	43	N1G	28
T3G	37	X3R	39	N2R	24
T4G	32	X4R	35	N2G	22
T5G	25	X5R	33	N3G	23

§ 1464.1770 1967 Crop—Virginia Sun-cured Tobacco, Type 37, Advance Schedule.[1]

[Dollars per hundred pounds, farm sales weight]

Grade	Length 46	Length 45	Length 44
A1F	63.25	62.25	60.25
A2F	58.25	58.25	55.25
A3F	55.25	55.25	52.25
A1R	63.25	63.25	60.25
A2R	59.25	59.25	56.25
A3R	56.25	56.25	53.25
B1F	61.25	61.25	54.25
B2F	59.25	59.25	55.25
B3F	50.25	51.25	49.25
B4F	44.25	47.25	45.25
B5F	40.25	41.25	40.25
B1R	61.25	61.25	54.25
B2R	59.25	59.25	55.25
B3R	51.25	53.25	50.25
B4R	44.25	46.25	44.25
B5R	40.25	41.25	40.25
B1D	59.25	59.25	54.25
B2D	58.25	58.25	54.25
B3D	49.25	51.25	48.25
B4D	43.25	44.25	43.25
B5D	39.25	40.25	39.25
B3M	42.25	44.25	42.25
B4M	40.25	43.25	42.25
B5M	36.25	37.25	36.25
B3G	42.25	43.25	42.25
B4G	40.25	41.25	40.25
B5G	36.25	37.25	36.25
C1L	60.25	60.25	53.25
C2L	54.25	54.25	50.25
C3L	51.25	51.25	47.25
C4L	42.25	45.25	43.25
C5L	38.25	38.25	38.25
C1F	60.25	60.25	53.25
C2F	54.25	54.25	50.25
C3F	50.25	51.25	47.25
C4F	42.25	46.25	42.25
C5F	37.25	40.25	38.25
C1R	57.25	57.25	51.25
C2R	51.25	51.25	47.25
C3R	46.25	46.25	43.25
C4R	39.25	40.25	38.25
C5R	35.25	36.25	35.25
C3M	36.25	41.25	40.25
C4M	37.25	38.25	38.25
C5M	33.25	36.25	35.25
C3G	34.25	37.25	34.25
C4G	33.25	36.25	34.25
C5G	28.25	28.25	28.25

Grade		Grade		Grade	
T3F	42.25	X1L	44.25	X3D	38.25
T4F	40.25	X2L	42.25	X4D	34.25
T5F	34.25	X3L	40.25	X5D	28.25
T3R	42.25	X4L	38.25	X3M	38.25
T4R	40.25	X5L	32.25	X4M	38.25
T5R	34.25	X1F	46.25	X5M	33.25
T3D	40.25	X2F	44.25	X3G	36.25
T4D	36.25	X3F	42.25	X4G	34.25
T5D	32.25	X4F	39.25	X5G	30.25
T3M	40.25	X5F	34.25	N1L	22.25
T4M	37.25	X1R	46.25	N1R	22.25
T5M	31.25	X2R	42.25	N1G	22.25
T3G	39.25	X3R	38.25	N2L	15.25
T4G	37.25	X4R	37.25	N2R	15.25
T5G	31.25	X5R	30.25	N2G	14.25

[1] Only the original producer is eligible to receive advances. Tobacco graded "U" (unsound), "No-G" (no grade), or scrap will not be accepted. Cooperatives for types 21, 31, and 37 are authorized to deduct 25 cents per hundred pounds to apply against overhead costs. Tobacco of types 22, 23, 35, and 36 graded "W" (doubtful keeping order) will be accepted at advance rates 20 percent below the advance rates otherwise applicable. Tobacco of types 21, 31, and 37 graded "W" (doubtful keeping order) will not be accepted. Type 35 grades marked with the special factor "BL" shall have an advance rate 20 percent below the advance rate otherwise applicable without such special factor. Types 35 and 36 grades marked with the special factor "BH" shall have an advance rate 20 percent below the advance rate otherwise applicable without such special factor. Types 21, 22, and 23 grades of 47 length and types 35 and 36 grades of 47 length, except grades A1F, A1R, A2F, and A2R, shall have an advance rate 5 percent below the advance rate otherwise applicable for 46 lengths of each grade. The advance rates for grades A1F, A1R, A2F, and A2R of types 35 and 36 in 47 length shall be the same as those for such grades in 46 length.

Effective date: Date of filing with Office of Federal Register.

Signed at Washington, D.C., on November 3, 1967.

H. D. GODFREY,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 67-12315; Filed, Nov. 9, 1967; 8:45 a.m.]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[No. 21,001]

PART 563—OPERATIONS

Sale of Participating Interests Otherwise Than to Insured Institutions

NOVEMBER 2, 1967.

Resolved that, notice and public procedure having been duly afforded (32 F.R. 12922) and all relevant material presented or available having been considered by it, the Federal Home Loan Bank Board, upon the basis of such consideration and for the purpose of permitting the sale of certain participating interests to noninsured savings and loan associations without approval of the Corporation, hereby amends § 563.9–2 of the rules and regulations for insurance of accounts (12 CFR § 563.9–2) to read as follows, effective December 13, 1967:

§ 563.9–2 Sale of participating interests otherwise than to insured institutions.

Unless with the prior written approval of the Corporation, a sale by an insured institution, otherwise than to an insured institution or other building and loan, savings and loan, or homestead association or cooperative bank, of a participating interest in any loan on the security of real estate located more than 50 miles from its principal office and outside the territory in which the institution was operating on June 27, 1934, is hereby prohibited, except that the foregoing provision of this sentence shall not be applicable if the purchaser has the exemption from taxation provided by subsection (a) of section 501 of the Internal Revenue Code as now or hereafter in effect or if there is with respect to any of the shares, deposits, or investments in the purchaser, any insurance or guaranty by an institution which has said exemption. An insured institution shall be entitled to rely on a written statement of the purchaser that the purchaser has such exemption or that such insurance or guaranty exists, provided such institution has received such written statement within 2 years prior to the sale. No sale shall be made pursuant to the exception in the first sentence of this section unless the seller, at the close of the sale, has a participation of at least 50 percent in such loan, and any sale so made shall be regarded as a sale of a loan within the meaning of the first sentence of § 563.23 and shall be subject to the limitation contained in said sentence, but the dollar amount of the participating interest sold shall be deemed to constitute, for the purposes of said sentence of § 563.23, the dollar amount of the loan sold. An insured institution which has sold a participating interest in a loan pursuant to the exception in the first sentence of this section shall not, without the prior written approval of the Corporation, sell or dispose of its participating interest or any part thereof (except to a Federal Home Loan Bank by way of security only) unless, at the close of such sale or other disposition, it has a participation of at least 50 percent in such loan. The last sentence of § 563.23 shall not be applicable to a sale of a participating interest in any loan pursuant to the exception in the first sentence of this section, but any sale by an insured institution of a participating interest in a loan pursuant to said exception shall be without recourse, and the term "without recourse" as used in this sentence shall have the meaning set forth in § 561.8 of this chapter.

(Secs. 403, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1726, 1726. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–1949 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] HARRY W. CAULSEN,
Secretary.

[F.R. Doc. 67-12297; Filed, Nov. 9, 1967; 8:46 a.m.]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Rev. 3, Amdt. 1]

PART 120—LOAN POLICY

Terms and Conditions of Financial Assistance

Section 120.3 of Part 120 of Title 13 of the Code of Federal Regulations is hereby amended by revising paragraph (a) thereof to read as follows:

§ 120.3 Terms and conditions of financial assistance.

(a) *Maturities.* The maturity of business loans made under the Small Business Act shall be restricted to the minimum consistent with sound business practice. The maturity may not exceed 10 years, except that such portion of a loan made for the purpose of constructing facilities may have a maturity not in excess of 15 years.

* * * * *

Effective date: October 11, 1967.

ROBERT C. MOOT,
Administrator.

[F.R. Doc. 67-13309; Filed, Nov. 9, 1967; 8:48 a.m.]

[Rev. 3, Amdt. 1]

PART 122—BUSINESS LOANS

Maturities

Part 122 of Title 13 of the Code of Federal Regulations is hereby amended by revising § 122.17 thereof to read as follows:

§ 122.17 Maturities.

The maturity of each loan (except as specifically provided herein) is limited to not more than 10 years, except that such portion of a loan made for the purpose of constructing facilities may have a maturity of not in excess of 15 years. Maturities shall be restricted to the minimum consistent with sound business practice. Loans are generally repayable monthly with payments to include both principal and interest. Special repayment plans may be arranged to meet those situations where income is seasonal.

Effective date: October 11, 1967.

ROBERT C. MOOT,
Administrator.

[F.R. Doc. 67-13310; Filed, Nov. 9, 1967; 8:48 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 8386; Amdt. 39-510]

PART 39—AIRWORTHINESS DIRECTIVES

British Aircraft Corp. Model BAC 1–11, 400 Series Airplanes

A proposal to amend Part 39 of the Federal Aviation regulations to include an airworthiness directive requiring periodic inspection for failures or signs of frettage of the flap secondary transmission shafts located between the Nos. 1 and 2 screw jacks on BAC 1–11, 400 Series airplanes was published in 32 F.R. 12920.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation regulations is amended by adding the following new airworthiness directive:

BRITISH AIRCRAFT. Applies to Model BAC 1–11, 400 Series airplanes.

Compliance required as indicated unless already accomplished.

To prevent the failure of the flap secondary transmission shaft, Hobson P/N CHA 561–067, located between the No. 1 and No. 2 screw jacks, accomplish the following:

(a) Within the next 350 landings after the effective date of this AD or before the accumulation of 1,500 landings, whichever occurs later, visually inspect the flap secondary transmission shafts, Hobson P/N CHA 561–067, located between the No. 1 and No. 2 screw jack positions, for failure or signs of frettage deposit around each end fitting and each fairlead sleeve, in accordance with British Aircraft Corp. BAC 1–11 Alert Service Bulletin No. 27–A–PM 3084, Issue 1, dated June 5, 1967, or later ARB-approved issue, or an equivalent approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region.

(b) If a frettage deposit is detected during the inspection required by paragraph (a), repeat the inspection required by paragraph (a) at intervals not to exceed 70 landings from the last inspection.

(c) If a frettage deposit is not detected during the inspection required by paragraph (a), repeat the inspection required by paragraph (a) at intervals not to exceed 350 landings from the last inspection.

(d) Replace failed flap secondary transmission shafts, Hobson P/N CHA 561–067, before further flight with a new shaft of the same part number or with a shaft repaired in accordance with BAC 1–11 Alert Service Bulletin No. 27–A–PM 3084, Issue 1, dated June 5, 1967, or later ARB-approved issue, or an equivalent repair approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region. Continue the inspections required by paragraphs (a), (b), and (c) for the replacement or repaired shafts.

(e) The inspections required by paragraphs (a), (b), and (c) may be discontinued when the airplanes are modified in accordance with BAC 1–11 Service Bulletin 27 PM 3084, Part (a), or later ARB-approved issue, or an equivalent approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region.

(f) For the purpose of complying with this AD, subject to acceptance by the assigned FAA maintenance inspector, the number of landings may be determined by dividing each airplane's hours' time in service by the operator's fleet average time from takeoff to landing for the airplane type.

This amendment becomes effective December 11, 1967.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on November 6, 1967.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[F.R. Doc. 67-13311; Filed, Nov. 9, 1967; 8:48 a.m.]

[Docket No. 8383; Amdt. 39-511]

PART 39—AIRWORTHINESS DIRECTIVES

Hawker Siddeley Model DH–125 Series 1A and 1A–522 Airplanes, Serial Nos. 25013 Through 25104

A proposal to amend Part 39 of the Federal Aviation regulations to include an airworthiness directive requiring the engine mount beam which lies across the fuselage in the rear equipment bay of Hawker Siddeley Model DH–125 Series 1A and 1A–522 airplanes, Serial Nos. 25013 through 25104, to be strengthened by stabilizing the flanges at the outboard ends and the replacement of the foam filler with aluminum guard plates was published in 32 F.R. 12921.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation regulations is amended by adding the following new airworthiness directive:

HAWKER SIDDELEY. Applies to Model DH–125 Series 1A and 1A–522 airplanes, Serial Nos. 25013 through 25104.

Compliance required within the next 500 hours' time in service after the effective date of this AD, unless already accomplished.

To preclude the possibility of engine mount beam failure, modify the engine mount beam by removing the foam filler, reinforcing the lower flanges at the outboard ends with bar inserts and installing aluminum guard plates, in accordance with Hawker Siddeley Service Bulletin 88–32–(1723), Revision 1, dated April 10, 1967, or later ARB-approved revision or an equivalent approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region.

This amendment becomes effective December 11, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on November 6, 1967.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[F.R. Doc. 67-13319; Filed, Nov. 9, 1967; 8:49 a.m.]

[Airspace Docket No. 67-WA-17]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airways

On August 15, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 10450) in response to a Canadian Department of Transport proposal that would designate the U.S. portion of a west alternate segment to VOR Federal airway No. 317.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No comments were received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., January 4, 1968, as hereinafter set forth.

Section 71.125 (32 F.R. 2058, 13760) is amended as follows: In V–317, "From Ethelda Bay, British Columbia RBN via Annette Island, Alaska;" is deleted and "From Ethelda Bay, British Columbia RBN; Annette Island, Alaska, including a west alternate from Ethelda Bay, British Columbia RBN to Annette Island, Alaska, via the INT of Sandspit, British Columbia 039° and Annette Island, Alaska, 167° radials;" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on November 3, 1967.

T. McCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67–13286; Filed, Nov. 9, 1967; 8:46 a.m.]

[Airspace Docket No. 67–SW–39]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

PART 75—ESTABLISHMENT OF JET ROUTES

Alteration of Jet Routes and Reporting Point

On July 4, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 9708) stating that the Federal Aviation Administration was considering amendments to Parts 71 and 75 of the Federal Aviation Regulations that would relocate Jet Route Nos. 4, 21, 25, 42, 52, 58, 66, 72, 74, 76, 87, and 105 from the Dallas, Tex., VORTAC to the Greater Southwest, Tex., VORTAC and substitute the Greater Southwest VOR TAC for the Dallas VORTAC as a designated high altitude reporting point.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission comments. All comments received were favorable.

In consideration of the foregoing, Parts 71 and 75 of the Federal Aviation regulations are amended, effective 0001 e.s.t., January 4, 1968, as hereinafter set forth.

1. In §71.207 (32 F.R. 2282) "Dallas, Tex." is deleted and "Greater Southwest, Tex." is substituted therefor.

2. Section 75.100 (32 F.R. 2341, 7820) is amended as follows:

a. In J–4, 42, 52, 58, 72, 74, 76, and 105, "Dallas" is deleted wherever it appears and "Greater Southwest" is substituted therefor.

b. In J–21 "Dallas, Tex.; Oklahoma City, Okla.;" is deleted and "INT Austin 016° and Greater Southwest, Tex., 190° radials; Greater Southwest; INT Greater Southwest 356° and Oklahoma City, Okla., 159° radials; Oklahoma City;" is substituted therefor.

c. In J–35 "Dallas, Tex.;" is deleted and "INT Austin 016° and Greater Southwest, Tex.; 190° radials; Greater Southwest;" is substituted therefor.

d. J–66 is amended to read as follows:

J–66 (GREATER SOUTHWEST, TEX., TO LITTLE ROCK, ARK.)

From Greater Southwest, Tex.; to Little Rock, Ark.

e. In J–87 all before "Butler, Mo.;" is deleted and "From Houston, Tex., via Greater Southwest, Tex.; Tulsa, Okla.;" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C. on November 3, 1967.

T. McCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67–13287; Filed, Nov. 9, 1967; 8:46 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter II—National Bureau of Standards, Department of Commerce

PART 230—STANDARD REFERENCE MATERIALS

Bio-Medical Chemicals; Microcopy Resolution Test Chart

Under the provisions of 15 U.S.C. 275a and 277, the following amendment to Part 230 of Title 15 of the Code of Federal Regulations, relating to standard reference materials issued by the National Bureau of Standards, is effective upon publication in the FEDERAL REGISTER.

Subpart C of Part 230 is amended by adding a new § 230.7–24 *Bio-medical chemicals.*

Subpart D of Part 230 is amended by revising § 230.8–17 *Microcopy Resolution Test Chart* to renew standard reference material 1010, and renumber the material as 1010a and to change the price thereof, and to change the column heading from Sample No. to SRM No.

Accordingly, the following amends 15 CFR Part 230:

Subpart C—Standards of Certified Chemical Composition

§ 230.7–24 Bio-medical chemicals.

This standard reference material is intended to be used in clinical and pathological laboratories in their calibration of apparatus and methods, and to assist manufacturing of clinical products in meeting the clinical and physical specifications required for clinical chemicals.

SRM No.	Kind	Purity (percent)	Approximate weight in grams	Price
911	Cholesterol.....	99.4	0.5	$25

Subpart D—Standards of Certified Properties and Purity

§ 230.8–17 Microcopy Resolution Test Chart.

* * * * *

SRM No.	Kind	Unit of issue (minimum)	Price per chart
1010a	Resolution chart for testing the resolving power of micro copying cameras.	Charts 5..	$1.75

(Sec. 9, 31 Stat. 1450, as amended; 15 U.S.C. 277. Interprets or applies sec. 7, 70 Stat. 959; 15 U.S.C. 275a)

Dated: October 25, 1967.

A. V. ASTIN,
Director.

[F.R. Doc. 67–13296; Filed, Nov. 9, 1967; 8:46 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Chapter II—Federal Housing Administration, Department of Housing and Urban Development

MISCELLANEOUS AMENDMENTS TO CHAPTER

The following miscellaneous amendments have been made to this chapter:

SUBCHAPTER A—GENERAL

PART 200—INTRODUCTION

In Part 200 §§ 200.16, 200.22, 200.23, 200.24, and 200.35 are redesignated as §§ 200.19, 200.25, 200.24, 200.29, and 200.38, respectively; new §§ 200.7, 200.22, 200.26, 200.27, 200.28, 200.35, and 200.39 are added; new center headings preceding §§ 200.33 and 200.35 are added; §§ 200.185 and 200.186 are deleted; and appropriate section headings are amended so that the Table of Contents amended and revised as aforesaid, reads as follows:

Sec.
200.5 Scope and nature of programs.
200.7 Forms for mortgage and loan insurance.
200.14 Homes for veterans.
200.15 Housing for civilian employees of Armed Services, NASA, and AEC.
200.19 Other home mortgage assistance.
200.21 Housing for the elderly.
200.22 Nursing homes.
200.24 Investment insurance.
200.25 Armed services housing—impacted areas.
200.26 Condominium ownership.
200.27 Land development.
200.28 Group practice facilities.
200.29 Other project mortgage assistance.

LOW AND MODERATE INCOME HOUSING

200.33 Low cost homes and moderate income projects.

EXPERIMENTAL HOUSING INSURANCE

200.35 Experimental housing.
200.38 Title I improvement loans.
200.39 Other improvement loans.

Subpart B—Functions and Programs

Section 200.5 is amended to read as follows:

§ 200.5 Scope and nature of programs.

The Federal Housing Administration does not make loans or build housing but operates insurance programs under the provisions of the National Housing Act. The FHA provides insurance for private lenders against loss on mortgages financing homes, multifamily projects, land development projects, and group practice facilities projects and against loss on loans for property improvements. It also provides insurance of yields on investments in rental housing projects. All mortgage and loan transactions must be acceptable to the Commissioner. The various insurance programs are outlined in §§ 200.10 through 200.39, and more particularly described in other parts of this chapter.

In Part 200 a new § 200.7 is added to read as follows:

§ 200.7 Forms for mortgage and loan insurance.

Forms and instructions for obtaining assistance under each of the various FHA mortgage and loan insurance programs may be obtained from any FHA insuring office. When fully executed, forms are submitted to the insuring office having jurisdiction of the area where the property is located and for which insurance assistance is requested.

In § 200.10 paragraph (a) is amended to read as follows:

§ 200.10 One- to four-family homes.

(a) The FHA insures mortgages on one- to four-family dwellings. The maximum mortgage cannot exceed the lesser of a dollar amount (which varies depending upon whether the residence is one-, two-, three- or four-family) and an amount computed under a statutory formula based on the ratio the loan bears to the appraised value of the property.

* * * * *

In § 200.11 paragraph (a) is amended to read as follows:

§ 200.11 Disaster damage to homes.

(a) The FHA insures mortgages given to finance the replacement of homes destroyed or extensively damaged by major disasters. The maximum mortgage cannot exceed the lesser of a dollar amount and an amount computed under a statutory formula based on the ratio the loan bears to the appraised value of the property.

* * * * *

In § 200.12 paragraph (a) is amended to read as follows:

§ 200.12 Suburban and farm homes.

(a) The FHA insures mortgages on single-family owner-occupied homes located in sparsely populated nonurban areas and farm areas. The land on which the house is located must be adjacent to a public highway. The maximum mortgage cannot exceed the lesser of a dollar amount and an amount computed under a statutory formula based on the ratio the loan bears to the appraised value of the property.

* * * * *

In § 200.13 paragraph (a) is amended to read as follows:

§ 200.13 Homes for servicemen.

(a) The FHA insures mortgages on single-family dwellings owned and occupied by servicemen on active duty with the Armed Forces or the Coast Guard. The maximum mortgage cannot exceed the lesser of a dollar amount and an amount computed under a statutory formula based on the ratio the loan bears to the appraised value of the property. Certification by the Secretary of Defense (or the Secretary of Transportation for Coast Guard personnel) is required to the effect that the serviceman requires housing and that he is and has been for more than 2 years on active military duty.

* * * * *

Section 200.14 is amended to read as follows:

§ 200.14 Homes for veterans.

(a) The FHA insures mortgages on single-family dwellings owned and occupied by veterans. To qualify as a veteran, the mortgagor must have served 90 days or more on active duty in the armed forces of the United States and have been discharged or released therefrom under conditions other than dishonorable. Extra hazardous duty for a period of less than 90 days will also qualify a mortgagor as a veteran. The maximum mortgage cannot exceed the lesser of a dollar amount and an amount computed under a statutory formula based on the ratio the loan bears to the appraised value of the property. The program offers lower downpayment mortgage financing for the veteran than is available under the regular home mortgage insurance program described in § 200.10.

(b) This program is authorized under title II, sections 203 and 220 of the National Housing Act and title VIII, section 809 of such Act. The applicable regulations are contained in Parts 203, 220, and 809 of this chapter.

Section 200.15 is amended to read as follows:

§ 200.15 Housing for civilian employees of the Armed Services, NASA, and AEC.

(a) The FHA insures mortgages covering purchases of one- to four-family homes by civilian employees of an Armed Services or National Aeronautics and Space Administration research and development installation and by civilian and military personnel employed or assigned to duty at an Atomic Energy Commission research and development installation. The maximum mortgage cannot exceed the lesser of a dollar amount and an amount computed under a statutory formula based on the ratio the loan bears to the appraised value of the property. Certification by the Secretary of Defense, the Administrator of the NASA or the Chairman of the AEC, as appropriate, is required regarding the status of the mortgagor as an employee at the installation (civilian employee or person on military duty), the mortgagor's need for housing, the general need for housing accommodations at the installation, and the permanency of the personnel assigned to the installation. The Secretary of Defense, the Administrator of the NASA or the Chairman of the AEC, as appropriate, may be required to guarantee the insured mortgages, if the Commissioner determines that the housing is not an acceptable risk.

(b) This program is authorized by section 809 of the National Housing Act and governed by the regulations contained in Part 809 of this chapter.

Section 200.19 is amended to read as follows:

§ 200.19 Other home mortgage assistance.

The FHA offers other types of home mortgage insurance assistance in connection with programs under other titles of the National Housing Act as indicated by §§ 200.25, 200.26, 200.30, and 200.32 through 200.35 of this subpart.

In § 200.20 paragraph (a) is amended to read as follows:

§ 200.20 Rental projects.

(a) The FHA insures mortgages, including advances made during construction, on rental projects of eight or more units developed either by a private or public mortgagor. The statute prescribes a maximum mortgage determined by a dollar amount, an amount computed under a formula based on the ratio the loan bears to the appraised value of the property, and a varying amount depending upon the number of bedrooms in each dwelling unit.

* * * * *

Section 200.21 is amended to read as follows:

§ 200.21 Housing for the elderly.

(a) The FHA insures mortgages, including advances made during construction, on housing projects for the elderly developed by a private, profit-making mortgagor or a nonprofit organization, a Federal or State instrumentality, a municipal corporation, or a nonprofit development or housing corporation. Preference for occupancy in such projects is required for elderly persons 62 years of age or over and for the physically handicapped. The statute prescribes a maximum mortgage determined by a dollar amount, an amount computed under a formula based on a ratio the loan bears to the replacement cost of the property, and a varying amount depending upon the number of bedrooms in each dwelling unit.

(b) This program is authorized under section 231 of the National Housing Act and governed by the regulations contained in Part 231 of this chapter.

Section 200.22 is amended to read as follows:

§ 200.23 Nursing homes.

(a) The FHA insures mortgages, including advances made during construction, on nursing homes either of the proprietary or nonprofit type. The statute prescribes a maximum mortgage determined by a dollar amount and an amount computed under a formula based on a ratio the loan bears to the estimated value of the property.

(b) This program is authorized under section 232 of the National Housing Act and governed by the regulations contained in Part 232 of this chapter.

In § 200.24 paragraph (b) is amended to read as follows:

§ 200.24 Investment insurance.

* * * * *

(b) This program is authorized under title VII of the National Housing Act and governed by Part 702 of this chapter.

Section 200.25 is amended to read as follows:

§ 200.25 Armed services housing—impacted areas.

(a) The FHA insures mortgages on rental and sales housing projects developed for military personnel and essential civilian employees of the armed services or Coast Guard, employees of contractors for the armed services or Coast Guard, and essential personnel employed or assigned to duty at a research or development installation of the National Aeronautics and Space Administration or the Atomic Energy Commission or employees of a contractor of NASA or AEC who are employed at a research or development installation. The statute prescribes a maximum mortgage determined by a dollar amount and an amount computed under formulas, which differ for the rental and sales projects, based on the ratio the loan bears to the appraised value of the property. In rental projects, there is an additional limitation based on the number of bedrooms in each dwelling unit. Provision is included for the insurance of the mortgages financing the purchase of the individual dwelling units in a sales project.

(b) This program is authorized under title VIII, section 810 of the National Housing Act and governed by regulations contained in Part 810 of this chapter.

In Part 200 new §§ 200.26, 200.27, and 200.28 are added to read as follows:

§ 200.26 Condominium ownership.

(a) The FHA insures mortgages, including construction advances, on multifamily housing projects developed with the intention of converting, upon construction, to a plan of apartment ownership under which the family units in the project are sold to individual owners. In addition, insurance is provided for mortgages financing the purchase of the individually owned apartment units.

(b) The maximum mortgage is computed as follows:

(1) Multifamily housing project mortgages are limited to the lesser of a dollar amount, an amount computed under a statutory formula based on the ratio the loan bears to the replacement cost of the project, or an amount based on the number of bedrooms in each dwelling unit.

(2) Individual mortgages on the apartment units are limited to the lesser of a dollar amount and an amount computed under a statutory formula based on the ratio the loan bears to the appraised value of the apartment unit.

(c) This program is authorized under section 234 of the National Housing Act. The applicable regulations are contained in Part 234 of this chapter.

§ 200.27 Land development.

(a) The FHA insures mortgages for land development in connection with subdivisions and new communities. This authorization is designed to assist private enterprise by enabling private developers to purchase raw land and develop it to provide a steady supply of improved building sites in an orderly and economical manner. The type of improvements to be installed by the developer and which may be financed with the mortgage proceeds includes installations for water lines, water supply, sewage disposal; for complete water or sewerage systems; roads, streets, curbs, gutters, sidewalks, and storm drains. The total outstanding principal of mortgages, involving a single land development undertaking, shall at no time exceed a dollar amount prescribed by statute. The statute further prescribes a maximum mortgage determined by the ratio the loan bears either to the value of the property after completion of the land development or the value before proposed development plus the cost of such development. The mortgage has a fixed maturity which may be extended where the financing of a water or sewerage system or of a new community is involved.

(b) This program is authorized under title X of the National Housing Act and governed by regulations contained in Part 1000 of this chapter.

§ 200.28 Group practice facilities.

(a) The FHA insures mortgages to make credit available on reasonable terms to finance construction and equipment of medical, dental and optometric group practice facilities. The sponsoring group or organization may be either profit motivated or nonprofit, but the mortgagor entity must be nonprofit. It may operate the proposed facility or lease it to a professional group, either profit or nonprofit. The professional group, of not less than five physicians or not less than three dentists and optometrists, all on a full-time schedule, shall have the intention and capability of providing preventive and diagnostic treatment services of a comprehensive nature under a coordinated program with payment for such services on either a prepayment or fee-for-service basis. The 25-year mortgage shall not exceed the lesser of a dollar amount or an amount computed under a statutory formula based on a ratio the loan bears to the estimated value of the property, including equipment.

(b) The program is authorized under title XI of the National Housing Act and governed by regulations contained in Part 1100 of this chapter.

Section 200.29 is amended to read as follows:

§ 200.29 Other project mortgage assistance.

The FHA offers other types of project mortgage insurance in connection with programs under other titles of the National Housing Act as indicated by §§ 200.30 through 200.35 of this subpart.

In § 200.30 paragraphs (a) and (b) are amended to read as follows:

§ 200.30 Cooperative projects.

(a) The FHA insures mortgages, including construction advances, on cooperative housing projects. The mortgagor may be a nonprofit cooperative ownership housing corporation or trust, the permanent occupancy of the dwellings being restricted to members of the corporation or beneficiaries of the trust (management type project), or a nonprofit corporation or trust organized for the purpose of building homes for members (sales type project) or a corporate investor that certifies to the FHA its intention of selling the project to a cooperative group within 2 years after completion (investor-sponsor project). In addition, the FHA insures supplementary cooperative loans to a nonprofit cooperative project for improvements or repairs to property which is already covered by an FHA-insured project mortgage or for community facilities necessary to serve the occupants of such projects or to finance cooperative purchases and resales of membership.

(b) The maximum mortgage on project type housing cannot exceed the lesser of a dollar amount or an amount computed under a statutory formula based on a ratio the loan bears to the replacement cost of the property. In the case of sales type projects, provision is made for the release of the individual properties from the blanket project mortgage, and the insurance of the individual mortgage covering the individual dwelling with the principal amount limited to the unpaid balance of the blanket mortgage allocable to the individual property as of the date of the release. In the case of a supplementary cooperative loan, the loan is basically limited to an amount which when added to the outstanding mortgage indebtedness creates a total indebtedness which does not exceed the original principal obligation of the mortgage. The total indebtedness created by the supplementary cooperative loan may exceed the original principal obligation where improvements or additional community facilities are involved, provided such total does not exceed the mortgage amount which would be eligible for insurance if the original mortgage were to be replaced with a new insured mortgage refinancing the existing indebtedness and financing the improvements.

* * * * *

In § 200.32 paragraphs (a) and (b) are amended to read as follows:

§ 200.32 Residential rehabilitation.

(a) In urban renewal areas, the FHA insures mortgages on dwellings designed principally for residential use by not more than 11 families and on multifamily rental projects. The mortgages may be for financing the rehabilitation of existing salvable housing (including the refinancing of existing indebtedness) or for the replacement of slums with new housing. Insurance on multifamily project mortgages may include coverage of construction advances.

(b) The determination of maximum mortgage is governed by the following:

(1) On a 1- to 11-family dwelling the mortgage is limited to the lesser of a dollar limitation, governed by the number of residences in the dwelling, or a ratio of loan to the estimated replacement cost established under a statutory formula. Where rehabilitation is involved, an additional adjustment in the maximum mortgage is made on the basis of the estimated cost of rehabilitation and the estimated value of the property prior to rehabilitation. Where refinancing is involved, a further adjustment is made on the basis of the amount required to pay off the outstanding indebtedness.

(2) On a multifamily project, the mortgage is limited to the lesser of:

(i) A dollar amount.

(ii) An amount computed under a statutory formula based on a ratio the loan bears to the replacement cost of the property with an additional adjustment made where the project involves rehabilitation and/or refinancing. Where rehabilitation is involved, the mortgage is adjusted on the basis of the estimated cost of rehabilitation and the estimated value of the property prior to rehabilitation. Where refinancing is involved, a further adjustment is made on the basis of the amount required to pay off the outstanding indebtedness.

(iii) An amount based on the number of bedrooms in each dwelling unit.

* * * * *

Section 200.33 is amended and preceded by a new center heading to read as follows:

Low and Moderate Income Housing

§ 200.33 Low cost homes and moderate income projects.

(a) The FHA insures mortgages on low cost homes for low and moderate income families with special terms available to families displaced from an urban renewal area, or as a result of governmental action, or as a result of a disaster determined by the President to be a major disaster. Also, mortgages are insured by the FHA, including construction advances, on projects for moderate income families involving profit, nonprofit, public, limited distribution and cooperative mortgagors. Projects must be located in a community which the Secretary of Housing and Urban Development has approved and certified to the FHA as having a workable program designed to eliminate slums and prevent the spread of urban blight. Projects meeting special criteria may be insured at a below market interest rate. Eligibility for occupancy of a project financed with a below market interest rate mortgage is limited to families and elderly or handicapped individuals having an income below the income ceiling established by the Commissioner for the area in which the project is located.

(b) The maximum mortgage on a low cost home is limited to the lesser of the value of the property or a dollar amount which depends on whether a one-, two-, three- or four-family residence is involved. Where rehabilitation is involved, an additional adjustment in the maximum mortgage is made on the basis of the estimated cost of rehabilitation and the estimated value of the property prior to rehabilitation. The maximum mortgage on a multifamily project is limited to the lesser of:

(1) A dollar amount.

(2) An amount computed under a statutory formula based on a ratio the loan bears to the replacement cost of the property with an additional adjustment made where the project involves rehabilitation. In such instances, the mortgage is limited to the estimated cost of rehabilitation plus the estimated value of the property prior to rehabilitation.

(3) An amount based on the number of bedrooms in each dwelling unit.

(c) This program is authorized under title II, section 221 of the National Housing Act and governed by regulations contained in Part 221 of this chapter.

In Part 200 a new § 200.35 preceded by a new center heading is added to read as follows:

Experimental Housing Insurance

§ 200.35 Experimental housing.

(a) The FHA insures mortgages on home and multifamily properties that incorporate new or untried construction concepts aimed at reducing housing costs, raising living standards, quality, livability or durability, or improving neighborhood design. The program contemplates the utilization and testing of advanced technology in housing design, materials, or products so as to contribute to the foregoing objectives. Mortgages or improvement loans that meet the eligibility requirements for insurance under any of the various FHA title II home or project mortgage programs may be eligible for insurance under the experimental housing section of the Act, provided the proposed construction meets applicable eligibility and property standards for the section of the Act under which it is to be processed. The maximum mortgage cannot exceed an amount computed under a statutory formula based on a ratio the loan bears to the estimated cost of replacing the property using comparable conventional design, materials and construction.

(b) This program is authorized under section 233 of the National Housing Act and governed by the regulations contained in Part 233 of this chapter.

Section 200.38 is amended to read as follows:

§ 200.38 Title I improvement loans.

(a) The FHA insures financial institutions against loss on short term loans (5 to 7 years) made to finance alterations, repairs and improvements to existing structures and the building of small new structures for nonresidential use. To be eligible, the existing structures must have been completed at least 90 days prior to the loan application.

(b) This program is authorized under title I, section 2 of the National Housing Act and governed by regulations contained in Part 201 of this chapter.

In Part 200 a new § 200.39 is added to read as follows:

§ 200.39 Other improvement loans.

(a) The FHA insurers financial institutions against loss on long-term (20-year) loans made to finance the repair, restoration, rehabilitation, conversion, alteration, enlargement or remodeling of individual homes or multifamily structures. To be eligible, the structures must be not than 10 years old, except where the loan is to be used for major structural improvements or to correct defects not known at the time of completion of the structure or where the structure has been damaged by fire, flood, windstorm, or other casualty. The loans may also be used by a borrower to pay municipal assessments for public improvements adjacent to or in the vicinity of the borrower's property. The loan amount is basically limited to the estimated cost of the improvements or a dollar maximum amount per family unit. There is an additional limitation on the loan amount based on the lesser of the following:

(1) The amount of the improvement loan added to the outstanding indebtedness.

(2) The maximum insurable loan for refinancing the existing indebtedness and financing the cost of improvements.

(b) This program is authorized under title II, sections 203(k) and 220(h) of the National Housing Act and governed by regulations contained in Parts 203 and 220 of this chapter.

Subpart G—Official Records

In Part 200 §§ 200.185 and 200.186 are revoked as follows:

§ 200.185 Availability of official records. [Revoked]

§ 200.186 Confidential official records. [Revoked]

(Sec. 2, 48 Stat. 1246, as amended; sec. 211, 52 Stat. 23, as amended; sec. 907, 65 Stat. 61, as amended; sec. 712, 63 Stat. 1281, as amended; sec. 907, 65 Stat. 301, as amended; 12 U.S.C. 1708, 1715b, 1742, 1747k, 1748f, 1750f)

SUBCHAPTER C—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Subpart A—Eligibility Requirements

In § 203.19 paragraph (b) is amended to read as follows:

§ 203.19 Mortgagor's minimum investment.

* * * * *

(b) A mortgagor who is 62 years of age or older, as of the date the mortgage is accepted for insurance, or who meets the requirements of § 203.18(a), or who is purchasing a single-family home under a low income housing demonstration project which is being assisted by the Secretary of Housing and Urban Development pursuant to section 207 of the Housing Act of 1961, may obtain a loan to meet the payment required by paragraph (a) of this section and to pay settlement costs. Such loan shall be from a corporation or person satisfactory to the Commissioner. The settlement costs paid with the loan may include initial payments for taxes, hazard insurance premium, mortgage insurance premium, and other prepaid expenses, as determined by the Commissioner. As security for the loan, the mortgagor may give a note or other evidence of indebtedness bearing interest at a rate not in excess of that permitted in the insured mortgage. The aggregate amount of the insured mortgage and the loan referred to in this section shall not exceed an amount equal to the Commissioner's estimate of the appraised value of the property, plus an amount equal to the initial payments for taxes, hazard insurance premium, mortgage insurance premium, and other prepaid expenses, as determined by the Commissioner.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 203, 52 Stat. 10, as amended; 12 U.S.C. 1709)

SUBCHAPTER D—RENTAL HOUSING INSURANCE

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

Subpart B—Contract Rights and Obligations

In § 207.261 the introductory text of paragraph (e) (3) is amended to read as follows:

§ 207.261 Assignment of insured mortgages.

* * * * *

(e) *Transfer of partial interest under participation agreement.* * * *

(3) A participation or partial interest in an insured mortgage shall be issued to and held only by a holder meeting one of the following qualifications:

* * * * *

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 207, 52 Stat. 16, as amended; 12 U.S.C. 1713)

SUBCHAPTER F—URBAN RENEWAL HOUSING INSURANCE AND INSURED IMPROVEMENT LOANS

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

In Part 220 in the Table of Contents the appropriate section headings are amended to read as follows:

Sec.
220.10 Certificate by Secretary to Commissioner.
220.503 Certificate by Secretary to Commissioner.

Subpart A—Eligibility Requirements—Homes

In § 220.5 paragraph (b) is amended to read as follows:

§ 220.5 Location of property.

* * * * *

(b) An urban renewal area in a community which has a workable program to eliminate and prevent the spread of slums and urban blight and respecting which the Secretary of Housing and Urban Development has made the findings prescribed in title I of the Housing Act of 1949, as amended, or

* * * * *

In § 220.10 the heading thereof and the introductory text are amended to read as follows:

§ 220.10 Certificate by Secretary to Commissioner.

No mortgage may be insured until a redevelopment or urban renewal plan has been approved for the area by the governing body of the locality involved and by the Secretary of Housing and Urban Development and the Secretary has certified to the Commissioner that:

* * * * *

Section 220.20 is amended to read as follows:

§ 220.20 Dwelling units on property.

At the time the mortgage is insured, there shall be located on the mortgaged property a dwelling designed principally for residential use of not more than 11 families. Such dwellings may be connected with other dwellings by a party wall or otherwise. Any such dwelling shall be constructed or rehabilitated pursuant to an urban renewal plan approved by the Secretary as provided in section 220(d)(1)(A) of the National Housing Act, as amended.

Subpart C—Eligibility Requirements—Projects

In § 220.502 paragraph (b) is amended to read as follows:

§ 220.502 Location of property.

* * * * *

(b) An urban renewal area in a community which has a workable program to eliminate and prevent the spread of slums and urban blight, and respecting which the Secretary of Housing and Urban Development has made the findings prescribed in title I of the Housing Act of 1949, as amended, or

* * * * *

In § 220.503 the heading thereof and the introductory text are amended to read as follows:

§ 220.503 Certificate by Secretary to Commissioner.

No mortgage shall be insured until a redevelopment or urban renewal plan has been approved for the area by the governing body of the locality involved and by the Secretary of Housing and Urban Development and the Secretary has certified to the Commissioner that:

* * * * *

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply sec. 220, 68 Stat. 596, as amended; 12 U.S.C. 1715k)

SUBCHAPTER H—MORTGAGE INSURANCE FOR SERVICEMEN

PART 222—SERVICEMEN'S MORTGAGE INSURANCE

Subpart A—Eligibility Requirements

In § 222.2 paragraph (a) is amended to read as follows:

§ 222.2 Definition of terms.

(a) "Secretary" shall mean the Secretary of Defense or, in the case of the U.S. Coast Guard, the Secretary of Transportation and any officer or employee designated by either of such Secretaries to issue certificates of eligibility and certificates of termination.

* * * * *

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 222, 68 Stat. 603; 12 U.S.C. 1715m)

SUBCHAPTER I—MILITARY AND ARMED SERVICES HOUSING MORTGAGE INSURANCE

PART 809—ARMED SERVICES HOUSING—CIVILIAN EMPLOYEES

Subpart A—Eligibility Requirements

Section 809.5 is amended to read as follows:

§ 809.5 Maximum mortgage amount; loan-to-value limitation.

(a) In addition to meeting the dollar limitation set forth in § 809.4, the mortgage shall be in an amount not exceeding the following:

(1) *Approval prior to construction.* If the mortgage covers a dwelling approved for mortgage insurance (or for guaranty, insurance, or a direct loan by the Administrator of Veterans Affairs) prior to the beginning of construction or a dwelling which was completed more than 1 year preceding the date of the application for mortgage insurance, the sum of the following percentages of the Commissioner's appraised value of the property, as of the date the mortgage is accepted for insurance:

(i) 97 percent of the first $15,000 of such value (100 percent of $15,000 of such value or the sum of such value not in excess of $15,000 and the items of prepaid expense approved by the Commissioner minus $200, whichever appraisal amount or sum is the lesser, in the case of a mortgagor qualifying as a veteran).

(ii) 90 percent of such value in excess of $15,000, but not in excess of $20,000.

(iii) 80 percent (85 percent in the case of a mortgagor qualifying as a veteran) of such value in excess of $20,000.

(2) *No prior approval.* A loan-to-value limitation of 80 percent of $20,000 of the appraised value of the property, as of the date the mortgage is accepted for insurance, and 60 percent (85 percent in the case of a mortgagor qualifying as a veteran) of such value in excess of $20,000, if the dwelling does not meet the requirements in the introductory text of subparagraph (1) of this paragraph.

(b) Veteran qualifications: The special veteran terms provided in paragraph (a) shall only be applicable to a mortgage covering a single family dwelling executed by a mortgagor who submits to the Commissioner one of the following certifications:

(1) A Certificate of Veteran Status from the Veterans Administration establishing that he has served 90 days or more on active duty in the armed forces (U.S. Army, Navy, Marine Corps, Air Force, Coast Guard, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air Force Reserve, the Coast Guard Reserve, the National Guard of the United States, and the Air National Guard of the United States) of the United States and was discharged or released therefrom under conditions other than dishonorable.

(2) A certificate issued by the Secretary of Defense establishing that the mortgagor performed extra hazardous service while serving in the armed forces for a period of less than 90 days.

(Sec. 807, 69 Stat. 651; 12 U.S.C. 1748f. Interprets or applies sec. 809, 70 Stat. 278; 12 U.S.C. 1748h–1)

Issued at Washington, D.C., November 6, 1967.

PHILIP N. BROWNSTEIN,
Federal Housing Commissioner.

[F.R. Doc. 67–13308; Filed, Nov. 9, 1967; 8:47 a.m.]

Title 35—PANAMA CANAL

Chapter I—Canal Zone Regulations

PART 61—HEALTH, SANITATION, AND QUARANTINE

Performance of Surgical Operations on Legally Incompetent Patients

Effective upon publication in the FEDERAL REGISTER, Chapter 1 of Title 35, Code of Federal Regulations, is amended by adding thereto a new Subpart J to Part 61, comprising § 61.401, and reading as follows:

Subpart J—Hospitalization of the Mentally Ill

§ 61.401 Performance of surgical operations on legally incompetent patients.

In the event it is determined by the Director, Gorgas Hospital, or the Director, Coco Solo Hospital, that the performance of a surgical operation on a legally incompetent patient is necessary to preserve or restore the health of such patient, and no guardian of the person of such person has been appointed, such surgical operation may be performed upon the consent of one of the following in the order of precedence stated:

(a) The incompetent's spouse;
(b) A parent of the incompetent;
(c) An adult child of the incompetent;
(d) A sibling of the incompetent; and
(e) The Director, Corozal Hospital.

(5 C.Z.C sec. 1684)

Dated: November 1, 1967.

[SEAL] H. HASKELL ZIPPERMAN,
Health Director,
Canal Zone Government.

[F.R. Doc. 67–13280; Filed, Nov. 9, 1967; 8:49 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 50—Public Contracts, Department of Labor

PART 50–204—SAFETY AND HEALTH STANDARDS FOR FEDERAL SUPPLY CONTRACTS

Radiation Standards for Mining

On August 26, 1967, notice of proposed rule making regarding an amendment to the radiation standards for mining was published in the FEDERAL REGISTER (32 F.R. 12449). After consideration of all matters presented in response, the proposed amendment is adopted together with appropriate revision of the record-keeping requirements. The amended regulation will be effective December 14, 1967.

As amended, the title of 41 CFR 50–204.321 and its paragraphs (b), (c), and (d) read as follows:

§ 50–204.321 Radiation standards for mining.

* * * * *

(b) Occupational exposure to radon daughters in mines shall be controlled so that no individual will receive an exposure of more than 1.6 working level months in any consecutive 3-month period and no more than 3.6 working level months in any consecutive 12-month period. Actual exposures shall be kept as far below these values as practicable: *Provided, however,* That mines with conditions that would result in an exposure of more than 3.6 working level months but not more than 12 working level months in any 12 consecutive months will be considered in compliance up to January 1, 1969, if an effective program is established and carried out to (1) protect the health and safety of employees exposed to these conditions, and (2) reduce the concentration to the 3.6 working level months standard by January 1, 1969.

(c) (1) For uranium mines, records of environmental concentrations in the occupied parts of the mine, and of the time spent in each area by each person involved in underground work shall be established and maintained. These records shall be in sufficient detail to permit calculations of the exposures, in units of working level months, of the individuals and shall be available for inspection by the Secretary of Labor or his authorized agents.

(2) For other than uranium mines and for surface workers in all mines, subparagraph (1) of this paragraph will be applicable: *Provided, however,* That if no environmental sample shows a concentration greater than 0.3 working level in any occupied part of the mine, the maintenance of individual occupancy records and the calculation of individual exposures will not be required.

(d) (1) At the request of an employee (or former employee) a report of the employee's exposure to radiation as shown in records maintained by the employer pursuant to paragraph (c) of this section, shall be furnished to him. The report shall be in writing and contain the following statement:

This report is furnished to you under the provisions of the U.S. Department of Labor, Radiation Safety and Health Standards (41 CFR Part 50–204, section 221(d)). You should preserve this report for future reference.

(2) The former employee's request should include appropriate identifying data, such as social security number and dates and locations of employment.

(Sec. 4, 49 Stat. 2036, 2038; 41 U.S.C. 35; sec. 7, 80 Stat. 241; 5 U.S.C. 556(d))

Signed at Washington, D.C., this 7th day of November 1967.

W. WILLARD WIRTZ,
Secretary of Labor.

[F.R. Doc. 67–13330; Filed, Nov. 9, 1967; 8:49 a.m.]

Title 45—PUBLIC WELFARE

Chapter V—Foreign Claims Settlement Commission of the United States

SUBCHAPTER C—RECEIPT, ADMINISTRATION, AND PAYMENT OF CLAIMS UNDER THE INTERNATIONAL CLAIMS SETTLEMENT ACT OF 1949, AS AMENDED

PART 531—FILING OF CLAIMS AND PROCEDURES THEREFOR

Time for Filing

Paragraph (e) of § 531.1 is hereby amended to read as follows:

§ 531.1 Time for filing.

* * * * *

(e) Claims under Title I of the Act pursuant to the Yugoslav Claims Agreement of November 5, 1964, shall be filed with the Commission on or before January 15, 1968.

This amendment shall become effective on the date of publication in the FEDERAL REGISTER.

Dated: November 7, 1967.

EDWARD D. RE,
Chairman.

[F.R. Doc. 67–13295; Filed, Nov. 9, 1967; 8:46 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Bosque del Apache National Wildlife Refuge, N. Mex.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

NEW MEXICO

BOSQUE DEL APACHE NATIONAL WILDLIFE REFUGE

The public hunting of quail and rabbits on the Bosque del Apache National Wildlife Refuge, N. Mex., is permitted from November 25, 1967, through January 7, 1968, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 27,200 acres, includes all refuge lands east of the Bureau of Reclamation Channelization Project, and is delineated on maps available at refuge headquarters, San Antonio, N. Mex., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of quail and rabbits subject to the following conditions:

(1) Hunting with rifles and handguns is prohibited.

(2) Hunters must register in and check out at the registration booth at the refuge entrance east of U.S. 85 opposite Refuge Headquarters. Entry from any other access point is prohibited.

(3) Vehicles are restricted to the access road and the road along the east side of the Bureau of Reclamation Channelization Project.

(4) No more than two dogs may be used by a hunter.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in 50 CFR Part 32, and are effective through January 7, 1968.

RICHARD W. RUBY,
Refuge Manager, Bosque del Apache National Wildlife Refuge, San Antonio, N. Mex.

NOVEMBER 7, 1967.

[F.R. Doc. 67-13201; Filed, Nov. 9, 1967; 8:46 a.m.]

Proposed Rule Making

POST OFFICE DEPARTMENT

[39 CFR Ch. I]

UNIFORM ALLOWANCE PAYMENTS BY POSTAL DATA CENTERS DIRECTLY TO VENDORS

Notice of Proposed Rule Making

Pursuant to section 407(a) of Public Law 89-504, the Federal Salary and Fringe Benefits Act of 1966, the Department has decided to make direct payments to vendors who sell approved uniform items to eligible postal employees.

To avoid confusion or misunderstanding regarding the rights and duties of uniform vendors, the Department proposes that vendors be licensed and comply with a Code of Ethics. Licensed vendors will receive direct payments for the uniform items from the Postal Data Center. Vendors who are not licensed will not receive direct payment from the Department. The Department will not reimburse postal employees who make purchases of uniform items from vendors who are not licensed.

A copy of the proposed Code of Ethics and a copy of the Department's proposed procedures for making direct payments as well as a copy of proposed license are published herein. Interested persons are invited to submit written data, views, and arguments concerning the proposed standards within 30 days following the publication of this notice in the FEDERAL REGISTER. Such written comments should be directed to the Employee Benefits and Services Division, Bureau of Personnel, Post Office Department, Washington, D.C. 20260.

Accordingly, the proposed Code of Ethics, the direct payment procedure and the license regulations read as follows:

I. *Vendors license.* Qualified vendors will be licensed by the Bureau of Personnel. A listing of licensed vendors will be furnished all post offices involved. A copy of the listing will be furnished each Postal Data Center. Amendments to listings will be furnished to post offices and postal data centers.

II. *Actions on procurement.* A. Post Office Department employees will procure authorized uniform items from licensed vendors.

B. Whether authorized uniform items are purchased locally or by mail order, the procedure will be the same. Vendors will enter post office finance number, social security number, employee designation number, employee anniversary date and their license number on the original invoice or purchase order.

C. Licensed vendors will:

1. Deliver the authorized uniform items to the employee. A shipment chargeable to an employee's new anniversary year will not be invoiced or shipped by vendor prior to the new anniversary date.

2. Sign, date, and enter the charge on all copies of invoice. Vendors may imprint or stamp the signature of their authorized officer or his cosignee on the invoice; however, under this condition, the initials of the employee responsible for the issuance of the invoice shall be affixed thereon.

3. Submit the original and a copy of the invoice to employee with the shipment.

4. Retain a copy of invoice for their files.

5. Be reimbursed only for authorized uniform items furnished employees who have served the required 90 days.

D. The employee will deliver the vendor's original invoice to the postmaster within 10 working days after receipt of the authorized uniform items.

E. The Postmaster will:

1. Verify the vendor's original invoice includes the employee social security number, employee designation number, employee anniversary date, post office finance number and license number of the vendor.

2. Ascertain that the employee accepts the uniform items as being proper and in good condition and obtain his signature on the original invoice attesting to these facts.

3. Sign the original invoice and mail to the postal data center on Friday of the 1st and 3d week of each 4-week accounting period.

4. Make payment in cash to employees for purchase of uniform caps made before the expiration of the prescribed 90 days of service.

III. *Actions by Postal Data Center(s)*—A. *Actual date for applying payments.* For purpose of applying payment to an employee anniversary year balance, Postal Data Center(s) shall use the date of the vendor invoice as the actual date of the purchase.

B. *Master records.* 1. Postal Data Center(s) will maintain employee master tape records showing maximum uniform allowance, current or zero account balance and the anniversary date, and

2. Master record of licensed vendors.

C. *Payments.* 1. Postal Data Center(s) process vendor invoices for payment in the order in which received, i.e., first received—first processed basis,

2. Review vendor invoices to determine that information is complete (see section II, E, 1) and that the invoice has been approved by the Postmaster,

3. Batch signed vendor invoices submitted by the postmaster and keypunch applicable data into punch cards, including vendor invoice number,

4. Sort the punched cards by social security number and post office finance number within licensed vendor number, and prepare a schedule of payments. Process payments on Wednesday of the 2d and 4th week of each 4-week accounting period.

5. Issue one check every 2 weeks to each licensed vendor for the total amount of the vendor invoices covering the cost of the uniform items, plus State sales tax when applicable, and less the service charge,

6. Prepare listing for each licensed vendor showing amount paid for purchases by each employee and the related vendor invoice number. When amount paid for an employee is less than shown on original of the vendor invoice, print explanation on listing to advise the vendor that payment includes all of the remaining balance in the employee's account. Return to vendors their invoices when no balance remains in the employee's account with an appropriate explanation. Employee is responsible for payments for uniform purchases in excess of his uniform allowance balance. Also, if employee makes purchases from nonlicensed vendor the employee may not be reimbursed by the Department and the employee is responsible for paying any just debts from his own funds.

7. Mail check with payment identification listing to each licensed vendor,

8. Prepare POD Form 1961, Employees Uniform Allowance Statement (Revised) and mail to applicable postmasters for distribution to employees. POD Form 1961 (Revised) provides employees with information showing previous account balance, date of last payment to vendor, amount of payment and the current or zero account balance, and a detachable stub showing employee name, social security number, employee pay location number, employee designation number, and employee anniversary date,

9. Return to vendors their invoices for uniform items furnished employees who have not served the required 90 days in a uniform category with an appropriate explanation.

D. *Postal Data Center(s) Computer Controls.* 1. Postal Data Center(s) will provide controls in processing of pay ments for rejection of input punched card for any unlicensed vendor. Related invoice will be returned to vendor with an appropriate explanation.

2. Controls will be established to process payment only in the amount of the employee's current account balance when the balance is less than the amount of the vendor invoice.

3. Controls will be established for the rejection of input punched cards for employees who have not served a full 90 days after appointment.

IV. *Uniform items returned.* The following requirements will be observed when uniform items are returned to the licensed vendor:

A. When an employee returns all uniform items received in a single shipment, the original and duplicate of the vendor invoice must be returned to the licensed vendor with the returned uniform items. The expense of returning the uniform items must be borne by the employee.

B. When an employee returns a part of the uniform items received in a single shipment, the postmaster must be advised of the cost of the uniform items returned. The postmaster will adjust the amount of the original and copy of the vendor invoice by the amount(s) of the uniform items returned prior to his approval of the original vendor invoice. The employee must return the adjusted vendor invoice with the rejected uniform items to the licensed vendor.

C. A licensed vendor shall not make a cash reimbursement to an employee for returned uniform items.

V. *Cost of processing payments direct to vendors.* A service charge not to exceed 4% or such other percent fixed by the Congress shall be deducted from the total amount of the approved vendor invoices to defray the administrative cost by the Post Office Department for direct reimbursement to licensed vendors. The effective rate of the service charge for the administrative costs shall be determined annually and applied to payments made on and after July 1 of each fiscal year.

* * * * *

B. *Proposed license for uniform vendors.*

The Post Office Department of the United States of America grants to the ---------- its subsidiaries, employees, agents, and retail outlets this

License No. ------- to sell uniform items in accordance with approved specifications to Postal employees required by Post Office Department regulations to wear uniform items. This license continues until either the vendor notifies the Department in writing it does not wish to be further bound thereby or the Department revokes it.

In consideration of the Department's granting this license, the above named vendor agrees for itself, and on behalf of its subsidiaries, employees, agents, and retail outlets that:

1. Reimbursement will be claimed by licensed vendors only for sales made to postal employees, of uniform items which are specifically authorized by the Department's regulations, and which are in accordance with specifications issued by, or on behalf of, the Post Office Department.

2. Individual invoices will be submitted for each individual sale of such uniform items and will specify in detail the exact items sold, delivered, or shipped to the postal employee, and will also show the exact date of such sale, shipment, or delivery, and this license number. The Post Office Department will not make payment until it has been notified by the employees that the uniform items have been received, are as ordered, and are satisfactory. Time of payment will be specified by the Post Office Department.

3. Payment of approved invoices will be made in the order in which received if they are proper. Payment will not be made in an amount in excess of the ballance remaining in the employee's account. Any excess purchases by the employee beyond his account balance will be the responsibility of the licensed vendor to effect collection from the employee. Approval of the invoice by the postmaster for purchases made by the employee is not a representation of certification that there is sufficient balance in the employee's account for the anniversary year to pay all or part of the invoice. For purpose of applying payment to an employee's anniversary year balance, the Department will use the date of the vendor's invoice as the governing date.

4. Licensed vendors shall not make a cash reimbursement for uniform items returned by an employee.

5. The Department will not reimburse any vendor who either does not have a license or whose license has been revoked.

6. The submission of invoices is to be deemed a certification that only officially authorized uniform items manufactured in accordance with officially authorized specifications have been sold and in the quantity, description, and prices therein stated.

7. No free gifts, rebates, gratuities, or any inducements to sales have been, or will be, given to Postal employees or to their families on account of the sale of the uniform items.

8. The regulations of the Post Office Department concerning uniform items will be strictly complied with.

9. In consideration of the Department's making direct payments to licensed vendors for approved invoices, the Department shall deduct as a service charge its annually determined administrative costs of making such direct payments. However, the deduction may not exceed 4 percent or such other percent fixed by law. Payment of the approved invoices as so reduced, subject to the provisions of section 3 of this license, is full payment.

10. This license is subject to revocation if the Postmaster General finds that any of the above conditions have been violated.

THE POST OFFICE DEPARTMENT OF THE UNITED STATES OF AMERICA,

By:----------

VENDOR.

By:----------

Dated: ----------

(5 U.S.C. 301, 39 U.S.C. 501)

TIMOTHY J. MAY,
General Counsel.

NOVEMBER 10, 1967.

[F.R. Doc. 67-13283; Filed, Nov. 9, 1967; 8:36 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Bureau Order 551, Amdt. 113]

PHOENIX AREA OFFICE DIRECTOR

Delegation of Authority With Respect to Forestry Matters

Paragraph (b) of section 230 Bureau Order 551 (an order by which the Commissioner of Indian Affairs delegates authority to Bureau Area Directors) is amended by revision of subparagraph (4). The revision will confer upon the Area Director of the Bureau's Phoenix Area Office, approval authority for timber sale contracts involving an estimated stumpage volume not in excess of 30 million feet, board measure.

As so amended, the relevant portion of section 230 reads as follows:

SEC. 230 *Forest Management.* * * *

(b) The authority granted in paragraph (a) of this section shall not include authority to:

* * * * *

(4) Issue advertisements and approve timber sale contracts on approved forms, involving an estimated stumpage volume in excess of 15 million feet, board measure; except in the Portland Area where the stumpage volume limit is set at 50 million feet, board measure; and in the Phoenix Area where the stumpage volume limit is set at 30 million feet, board measure, pursuant to 25 CFR 141.8, 141.9, and 141.13.

T. W. TAYLOR,
Acting Commissioner.

[F.R. Doc. 67-13278; Filed, Nov. 9, 1967; 8:45 a.m.]

Office of the Secretary

[Order 2901]

LOWER COLORADO RIVER LAND USE PROGRAM

Order Relating to Administration of Functions and Programs

NOVEMBER 3, 1967.

SECTION 1 *Applicability.* This order shall apply to the administration of functions and programs of the Lower Colorado River Land Use Plan, approved by the Secretary of the Interior in January 1964 ("the Plan"), with respect to the lands (exclusive of refuges administered by the Fish and Wildlife Service and project operation, protection, and security zones around dams and reclamation construction areas administered by the Bureau of Reclamation as outlined in the Plan or as further designated by the Secretary) bordering on the Lower Colorado River from Davis Dam to the international boundary which have been acquired or withdrawn for reclamation purposes under reclamation law ("Reclamation lands") or otherwise fall within the area encompassed by the Plan. This order shall also apply to those plans, programs, or activities of bureaus and offices that relate to or affect the Plan, but does not apply to grazing and mineral exploration or extraction permits, leases or activities, except for purposes of recreational coordination under the Land Use Plan.

SEC. 2 *Purpose.* The purpose of this order is to assign responsibility for the implementation of the Plan including negotiation, execution and administration of leases, the administration of recreation activities prior to leasing, the special permit program on the lands and for coordination with plans, programs, or activities of bureaus and offices that relate to or affect the Plan.

SEC. 3 *Lower Colorado River Land Use Office.* (a) *General Functions.* The Lower Colorado River Land Use Office, located at Yuma, Ariz., shall perform such work in the field under the immediate supervision of the Administrator, Lower Colorado River Land Use Office ("Administrator"), as is necessary to (i) be responsible for, and direct the conduct of all recreational planning in collaboration with affected agencies with respect to lands under the Plan, (ii) administer Reclamation lands for the purpose of the issuance of special permits for temporary use, for recreational purposes prior to leasing, and for other purposes incidental thereto; (iii) conduct leasing negotiations and propose other arrangements for administration of Reclamation lands for recreational and other purposes in accordance with the Plan; (iv) after Secretarial approval of 50-year leases for recreational and other purposes on Reclamation lands in accordance with the Plan, execute and administer such leases; (v) provide overall field coordination and implementation of the Plan working in cooperation with bureaus and offices of the Department; (vi) develop plans for recreational facilities at Reclamation projects within the Plan subject to coordination of such plans with the Bureau of Reclamation so as to assure that the development of such facilities is consistent with the authorities under which that Bureau administers such project areas; (vii) develop and implement plans for recreational facilities on other Reclamation lands within the Plan in consultation with the Bureau of Reclamation or other affected agency to assure that such facilities can be constructed, operated, and maintained in a manner consistent with authorized project functions of that agency; (viii) assume responsibility for the development and issuance of recreation reports dealing with the Lower Colorado River; and (ix) issue, administer and terminate with respect to Reclamation lands within the Plan and to coordinate so far as recreation is concerned, the issuance of leases by other bureaus or offices with respect to lands they administer within the Plan: *Provided*, That the use of water by the holder of any lease issued by the Lower Colorado River Land Use Office shall continue to be subject to restriction or termination in event that the United States determines that Colorado River water is limited or not available. The Administrator shall serve as the contracting or administering officer for each lease or permit for whatever time period (including a special land use permit), concession, right-of-way, license, easement, or other land use authorization (herein called lease) issued or to be issued in connection with the Plan on Reclamation lands, subject to coordination with the Bureau of Reclamation on projects and activities administered by that Bureau; and shall administer existing leases consistent with this order and upon issuance, amendment or reissuance of a lease or at any other feasible point, cause such lease to embody the provisions of this sentence. The Administrator's authority, as set forth in this order, shall include but is not limited to the authority to negotiate, execute, and administer leases on Reclamation lands within the Plan where such leases are not in conflict with authorized project purposes administered by the Bureau of Reclamation.

(b) *Administrative Services.* As determined by the Administrator, subject to such approval as the Director, Program Support Staff, may require, all administrative services including budget programming, finance, audit, personnel, procurement, and property management shall be furnished to the Lower Colorado River Land Use Office by the Office of the Secretary.

SEC. 4 *Office of the Secretary.* The Lower Colorado River Land Use Office shall be under the general supervision of the Director, Program Support Staff, in the conduct of its functions. A Special Consultant to the Secretary shall assist the Director, as necessary, in the conduct of the functions assigned to the Director by this order. The responsibility of the Director, Program Support Staff, shall include review of proposals coming from the Administrator or others for action by the Secretary or other Washington officials, in consultation with the headquarters offices of the bureaus and offices of the Department having responsibilities for plans, programs, or activities that relate to or affect the Plan; consultation with members of the Secretariat on the status and progress of the work of the office; and development of recommendations for resolution of issues of program policy and priorities.

SEC. 5 *Coordination by Bureaus and Offices.* Bureaus and offices having responsibilities for plans, programs, or activities that relate to or affect the Plan shall coordinate such plans, programs, and activities in the field with the Administrator and in Washington with the Director, Program Support Staff. The Administrator in the field and the Director, Program Support Staff in Washington shall, in turn, coordinate plans, programs, and activities incident to the Plan with the affected Bureaus and offices.

SEC. 6 *Disposal of Lands.* All disposition of the lands and interests in the lands shall be in accordance with the Plan and shall be carried out in accordance with applicable regulations. Execution of disposal actions shall be the responsibility of the bureau or office having delegated authority to make such disposals, following agreement as to the desirability of the disposal between the bureau or office concerned and the Director, Program Support Staff.

SEC. 7 *Delegation of Authority.* The Administrator and Assistant Administrator, Lower Colorado River Land Use Office, are delegated the authority of the Secretary to issue special permits for use of the lands, to execute other leases for recreational and other land use purposes and to administer existing and future leases, on Reclamation lands in accordance with the Plan and this order. Except as modified by this order, all other delegations to heads of bureaus remain unchanged.

SEC. 8 *Revocation.* Secretary's Order No. 2882 dated April 21, 1965 (30 F.R. 5910), is hereby revoked.

SEC. 9 *Transfer.* Incidental transfers shall be made pursuant to the authority of the Secretary of the Interior under Reorganization Plan No. 3 of 1950 (5 U.S.C. 133z-15, 15 F.R. 3174, 64 Stat. 1262) and specifically paragraph 5. Such transfers shall be effected as soon as possible, but not later than 30 days following the date of the signing of this order.

STEWART L. UDALL,
Secretary of the Interior.

[F.R. Doc. 67-13279; Filed, Nov. 9, 1967; 8:45 a.m.]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[File No. 22(66)-4]

EXPERT ELECTRONIC PRODUCTS, LTD., ET AL.

Notice of Related Party Determination

In the matter of Expert Electronic Products, Ltd., and Kathleen P. Gunter, 169 Queen's Gate, London, Southwest 7, England; and ERES, Etablissement De Recherches Scientifiques et Expertises, Vaduz, Liechtenstein, and Rue Petitot 2, Geneva, Switzerland; File No. 22(66)-4.

By order dated July 22, 1960, the Bureau of Foreign Commerce, predecessor of the Bureau of International Commerce, U.S. Department of Commerce, entered an order against Alexander Botes and other parties denying them for the duration of export controls, all privileges of participating in any manner or capacity in exportations from the United States of commodities or technical data. A similar order was entered against Dr. Alois Vogt on September 12, 1961. These orders were published in the FEDERAL REGISTER on July 28, 1960 (25 F.R. 7163), and February 1, 1962 (27 F.R. 954), respectively.

Section 382.1(b) of the Export Regulations provides in part that, to the extent necessary to prevent evasion of any order denying export privileges, said order may be made applicable to parties other than those named in the order with whom said named parties may then or thereafter be related by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or related services. It has been determined by the Office of Export Control that within the purview of said section the firm ERES, Etablissement De Recherches Scientifiques et Expertises, Vaduz, Liechtenstein and Geneva, Switzerland, is a related party to said Alexander Botes and Dr. Alois Vogt. It has also been determined by the Office of Export Control that Expert Electronic Products, Ltd., and Kathleen P. Gunter, located at the above address, are related parties to said Alexander Botes. Under this determination the terms and restrictions of the respective denial orders are effective against said related parties.

The said related parties have been notified of these determinations and have been advised that if they contend that the rulings are not justified or if at some future time they contend that they are no longer related parties to said Dr. Alois Vogt and/or Alexander Botes they may make application to have the applicable ruling reconsidered or terminated. Due notice will be given of any termination or change in these related party determinations.

Dated November 2, 1967.

RAUER H. MEYER,
Director,
Office of Export Control.

[F.R. Doc. 67-13292; Filed, Nov. 9, 1967; 8:46 a.m.]

[File No. 22(67)-6]

INSTRUMENT MAINTENANCE SERVICES

Notice of Related Party Determination

In the matter of Patrick Hughes, doing business as Instrument Maintenance Services, 9 Glenwood Close, Maidstone, Kent, England; File No. 22(67)-6.

By order dated February 8, 1965 the Bureau of International Commerce, U.S. Department of Commerce, entered an order against Dukerswell Engineers, Ltd., 9 Glenwood Close, Maidstone, Kent, England, denying it all privileges of participating in any manner or capacity in exportations from the United States of commodities or technical data for an indefinite period. This order was published in the FEDERAL REGISTER on March 2, 1965 (30 F.R. 2667).

Section 382.1(b) of the Export Regulations provides in part that, to the extent necessary to prevent evasion of any order denying export privileges, said order may be made applicable to parties other than those named in the order with whom said named parties may then or thereafter be related by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or related services. It has been determined by the Office of Export Control that within the purview of said section Patrick Hughes, doing business as Instrument Maintenance Services, located at the above address, is a related party to said Dukerswell Engineers, Ltd. Under this determination the terms and restrictions of the order of February 8, 1965, are effective against said related party.

The said related party has been notified of this determination and has been advised that if he contends that the ruling is not justified he may make application to have the ruling reconsidered or terminated. Due notice will be given of any termination or change in this related party determination.

Dated: November 2, 1967.

RAUER H. MEYER,
Director,
Office of Export Control.

[F.R. Doc. 67-13293; Filed, Nov. 9, 1967; 8:46 a.m.]

[File No. 23(66)-38]

SAVOY INTERNATIONAL LTD.

Notice of Related Party Determination

In the matter of Savoy International, Ltd., Via Alessandro Fleming 110, Rome, Italy; File No. 23(66)-38.

By order dated August 18, 1967, the Bureau of International Commerce, U.S. Department of Commerce, entered an order against Chris F. Ring, also known as Chris Ring, Christopher Ring, and Christian Ring, of Rome, Italy, denying him all privileges of participating in any manner or capacity in exportations from the United States of commodities or technical data until further notice. This order was published in the FEDERAL REGISTER on August 25, 1967 (32 F.R. 12408).

Section 382.1(b) of the Export Regulations provides in part that, to the extent necessary to prevent evasion of any order denying export privileges, said order may be made applicable to parties other than those named in the order with whom said named parties may then or thereafter be related by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or related services. It has been determined by the Office of Export Control that within the purview of said section the firm, Savoy International, Ltd., located at the above address is a related party to said Chris F. Ring. Under this determination the terms and restriction of the order of August 18, 1967, are effective against said related party.

The said related party has been notified of this determination and has been advised that if it contends that the ruling is not justified, it may make application to have the ruling reconsidered or terminated. Due notice will be given of any termination or change in this related party determination.

Dated: November 2, 1967.

RAUER H. MEYER,
Director,
Office of Export Control.

[F.R. Doc. 67-13294; Filed, Nov. 9, 1967; 8:46 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

AMERICAN CYANAMID CO.

Notice of Filing of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 8F0655) has been filed by the American Cyanamid Co., Post Office Box 400, Princeton, N.J. 08540, proposing the establishment of tolerances for residues of the fungicide dodine (n-dodecylguanidine acetate) in or on the raw agricultural commodities: Black walnuts and pecans at 0.5 part per million; and peanuts at 0.3 part per million.

The analytical method proposed for determining residues of the fungicide is the method of Steller et al., "Journal of Agricultural and Food Chemistry," vol. 8, pp. 460-64 (1960).

Dated: November 3, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-13311; Filed, Nov. 9, 1967; 8:48 a.m.]

DOW CORNING CORP.

Notice of Withdrawal of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Dow Corning Corp., Midland, Mich. 48640, has withdrawn its petition (FAP 7B2173), notice of which was published in the FEDERAL REGISTER of May 13, 1967 (32 F.R. 7224), proposing an amendment to § 121.2514 *Resinous and polymeric coatings* to provide for the safe use of di(n-octyl)tin *S,S'*-bis(isooctylmercaptoacetate) as a curing catalyst for methylphenylpolysiloxane used in resinous and polymeric food-contact coatings.

Dated: November 3, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-13312; Filed, Nov. 9, 1967; 8:48 a.m.]

ELANCO PRODUCTS CO.

Notice of Filing of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 8F0658) has been filed by the Elanco Products Co., a division of Eli Lilly and Co., Indianapolis, Ind. 46206, on behalf of themselves and Amdal Co., North Chicago, Ill. 60064, Merck & Co., Rahway, N.J. 07065, and Charles Pfizer & Co., Inc., New York, N.Y. 10040, proposing the establishment of tolerances for residues of the plant regulator gibberellic acid in or on the raw agricultural commodities artichokes, citrus fruits, leafy vegetables, hops, and stone fruits at 0.15 part per million.

The analytical methods proposed for determining residues of gibberellic acid consist of solvent extraction followed by thin layer chromatography which separates gibberellin A3 from other extractable interfering impurities. The gibberellin A3 is then reacted with concentrated sulfuric acid to develop fluorescence. By comparison with a known standard, the amount of gibberellic acid present in the crop is determined.

Dated: November 3, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-13313; Filed, Nov. 9, 1967; 8:48 a.m.]

GEIGY CHEMICAL CORP.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 8B2216) has been filed by Geigy Chemical Corp., Ardsley, N.Y. 10502, proposing an amendment § 121.2507 *Cellophane* to provide for the safe use of *N*-acyl sarcosines that have lauroyl or stearoyl acyl group, as release agents in coatings for cellophane used for packaging food.

Dated: November 3, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-13314; Filed, Nov. 9, 1967; 8:48 a.m.]

GULF OIL CORP.

Notice of Filing of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 8F0656) has been filed by the Gulf Oil Corp., Chemical Department, Dwight Building, Kansas City, Mo. 64105, proposing the establishment of a tolerance of 0.1 part per million for residues of the herbicide benzamidooxyacetic acid in or on the raw agricultural commodity sugar beets.

The analytical method proposed for determining residues of the herbicide consists of extraction with isopropyl alcohol, separation on ion-exchange resin, elution of the residue from the resin with a solution of acetic acid and methanol, and removal of a natural contaminant by thin layer chromatography. The herbicide is then hydrolyzed to benzoic acid. The benzoic acid is esterized with diazomethane producing methyl benzoate which is determined by gas-liquid chromatography. The amount of residue is calculated from the amount of methyl benzoate present.

Dated: November 3, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-13315; Filed, Nov. 9, 1967; 8:48 a.m.]

MERCK SHARP & DOHME RESEARCH LABORATORIES

Notice of Filing of Petition for Food Additive Amprolium

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition has been filed by Merck Sharp & Dohme Research Laboratories, division of Merck and Co., Inc., Rahway, N.J. 07065, proposing that the food additive regulations be amended to provide for the safe use of amprolium in feed for replacement chickens at a level of 113.5-227 grams per ton of feed (0.0125%-0.025%) for prevention of coccidiosis where active immunity is not desired.

Dated: November 2, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-13316; Filed, Nov. 9, 1967; 8:48 a.m.]

CHAS. PFIZER & CO., INC.

Notice of Filing of Petition for Food Additive Oxytetracycline

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition

has been filed by Chas. Pfizer & Co., Inc., 235 East 42d Street, New York, N.Y. 10017, proposing the issuance of a food additive regulation to provide for the safe use of oxytetracycline, as the monoalkyl (C_7–C_{20}) trimethyl ammonium salt of oxytetracycline, in fish food for control of ulcer disease, columnaris disease, furunculosis, and bacterial hemorrhagic septicemia caused by *Pseudomonas* species and *Aeromonas liquefaciens* in trout, catfish, and salmon.

Dated: November 3, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-13317; Filed, Nov. 9, 1967; 8:45 a.m.]

Office of the Secretary

AIR POLLUTION CONTROL: INTERSTATE AIR POLLUTION IN THE NATIONAL CAPITAL METROPOLITAN AREA

Conference of Air Pollution Control Agencies; Notice of Date, Time and Place

Pursuant to the Notice of the Secretary of Health, Education, and Welfare calling a conference of air pollution control agencies concerning interstate air pollution in the National Capital Metropolitan Area (32 F.R. 15597, Nov. 9, 1967), and after consultation with the air pollution control officials of the District of Columbia and the States of Maryland and Virginia, such conference will be convened on Monday, December 11, 1967, beginning at 10 a.m., e.s.t., in the auditorium of the Pan American Health Organization, 525 23d Street NW., Washington, D.C., and notice thereof is hereby given to the air pollution control agencies of the following:

District of Columbia (District of Columbia Department of Public Health).
State of Maryland (Maryland State Department of Health).
State of Virginia (Virginia State Air Pollution Control Board).
City of Alexandria, Va.
City of Falls Church, Va.
City of Fairfax, Va.
Arlington County, Va.
Fairfax County, Va.
Loudoun County, Va.
Prince William County, Va.
Montgomery County, Md.
Prince Georges County, Md.

All municipalities as defined in section 302(f) of the Clean Air Act (42 U.S.C. 1857h(f)) located in the following named counties:

In the State of Maryland: Montgomery County and Prince Georges County;
In the State of Virginia: Fairfax County, Loudoun County, and Prince William County.

Mr. S. Smith Griswold is hereby designated as Presiding Officer for the conference, and Mr. William H. Megonnell is hereby designated as the official conference participant for the Department of Health, Education, and Welfare.

A technical report concerning interstate air pollution in the National Capital Metropolitan Area entitled "Washington, D.C., Metropolitan Area Air Pollution Abatement Activity" and prepared for the Interstate Air Pollution Conference by the National Center for Air Pollution Control, is available from the Office of the Presiding Officer, Room 2432 South Building, Department of Health, Education, and Welfare, Washington, D.C. 20201.

Dated: November 9, 1967.

JOHN T. MIDDLETON,
Director, National Center for Air Pollution Control.

[F.R. Doc. 67-13396; Filed, Nov. 9, 1967; 11:47 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 19213]

B. C. AIR LINES, LTD.

Notice of Hearing

Application for a foreign air carrier permit, issued pursuant to section 402 of the Federal Aviation Act of 1958, as amended, to perform operations of a casual, occasional or infrequent nature, in common carriage, into the United States from Canada.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing on the above-entitled docket is assigned to be held on November 15, 1967, at 11 a.m., Room 701, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Joseph L. Fitzmaurice.

Dated at Washington, D.C., November 7, 1967.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 67-13304; Filed, Nov. 9, 1967; 8:47 a.m.]

[Docket No. 19226; Order No. E-25635]

NORTHWEST AIRLINES, INC.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the seventh day of November 1967.

By tariff revisions[1] filed October 20, 1967, and marked to become effective November 19, 1967, Northwest Airlines, Inc. (Northwest), jointly with other participating carriers proposes to increase the first-class and coach fares between Homer, Kenai, King Salmon, and Kodiak, on the one hand, and Portland and Seattle, on the other, by amounts ranging from $1 to $27.20.

Upon consideration of all matters of record, the Board finds that the proposed fares set forth in Appendix A hereto[2] may be unjust and unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and has determined to investigate these proposed fares and to suspend their effectiveness pending such investigation.

Northwest has filed 27 increases, 13 joint jet first-class and 14 joint jet coach fares, in eight markets involving Portland/Seattle and four Alaskan points. No justification has been submitted by the carrier, except that the filing is made to reflect construction by use of normal fares rather than on the basis of night coach fares. Such basis is not a justification for initiating fare increases unless revenue needs have been demonstrated.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That:

1. An investigation be instituted to determine whether the fares and provisions described in Appendix A attached hereto, and rules, regulations, and practices affecting such fares and provisions, are or will be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fares and provisions, and rules, regulations, or practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in Appendix A hereto are suspended and their use deferred to and including February 16, 1968, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The proceeding ordered herein be assigned for hearing before an Examiner of the Board at a time and place hereafter to be designated; and

4. Copies of this order be filed with the aforesaid tariff and be served upon Northwest Airlines, Inc., which is hereby made a party to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-13305; Filed, Nov. 9, 1967; 8:47 a.m.]

[Docket No. 19214]

STARON FLIGHT LTD.

Notice of Hearing

Application for renewal of a foreign air carrier permit, issued pursuant to section 402 of the Federal Aviation Act of 1958, as amended, to perform operations of a casual, occasional or infrequent nature, in common carriage, from Canada into the United States.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing on the above-entitled docket is assigned to be held on November 15, 1967, at 10 a.m., Room 701, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Joseph L. Fitzmaurice.

Dated at Washington, D.C., November 7, 1967.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 67-13306; Filed, Nov. 9, 1967; 8:47 a.m.]

[Docket No. 19227; Order No. E-25634]

WESTERN AIR LINES, INC.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 7th day of November 1967.

By tariff revisions[1] filed October 9, 1967, and marked to become effective November 8, 1967, Western Air Lines, Inc. (Western), jointly with Western Alaska Airlines, Inc., and Northern Consolidated Airlines, Inc., proposes to increase the jet coach fares between Dillingham and Seattle/Tacoma from $125 one-way and $250 round-trip, to $137.20 one-way and $274.40 round-trip.

The carrier offers no reason for the proposed fare increases other than to state that it desires to restore the fares which were in effect in this market prior to May 4, 1967. The carrier alleges, however, that the expiration date of September 30, 1967, originally placed on these fares, was inadvertently omitted from the revisions of the applicable tariff page which became effective on September 30, and another revision which has since become effective.

Upon consideration of all matters of record, the Board finds that the proposed fares may be unjust and unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and has determined to investigate these proposed fares and to suspend their effectiveness pending such investigation.

No factual justification for its proposal has been submitted by Western, except that the filing was made to increase its fare level in the market. The present fares between Dillingham and Seattle/Tacoma were based on the availability of a one-way night coach fare of $75 between Seattle-Anchorage offered by the carriers operating in that market.[2] The availability of the $75 night coach fare has been extended to September 30, 1968,[3] but no evidence has been supplied to justify the proposed increased fares, or the necessity to discontinue the present fares.

The Board finds that its action herein is necessary and appropriate in order to carry out the provisions and objectives of the Federal Aviation Act of 1958, as amended, and particularly sections 204(a), 403, 404, and 1002 thereof.

Accordingly, it is ordered, That:

1. An investigation be instituted to determine whether the jet coach fares between Dillingham and Seattle/Tacoma, Wash., on 21st and 22d revised pages 17 of CAB No. 69 (Pacific Northern Airlines, Inc., series) issued by Western Air Lines, Inc., and rules, regulations, and practices affecting such fares, are or will be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fares and rules, regulations, or practices affecting such fares;

2. Pending hearing and decision by the Board, the jet coach fares between Dillingham and Seattle/Tacoma, Wash., on 21st and 22d revised pages 17 of CAB No. 69 (Pacific Northern Airlines, Inc., series) issued by Western Air Lines, Inc., are suspended and their use deferred to and including February 5, 1968, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The proceeding ordered herein be assigned for hearing before an Examiner of the Board at a time and place hereafter to be designated; and

4. Copies of this order be filed with the aforesaid tariff and be served upon Western Air Lines, Inc., which is hereby made a party to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-13307; Filed, Nov. 9, 1967; 8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 17357-17359; FCC 67-1197]

AKRON TELERAMA, INC., ET AL.

Memorandum Opinion and Order Enlarging Issues

In re petitions by Akron Telerama, Inc., Akron, Ohio, Docket No. 17357, File No. CATV 100-16; Lorain Cable TV, Inc., Lorain, Ohio, Docket No. 17358, File No. CATV 100-128; Telerama, Inc., Cleveland Heights, Richmond Heights, South Euclid, Beachwood, Oakwood, East Cleveland, Garfield Heights, Euclid, Highland Heights, University Heights, Bedford Heights, Maple Heights, Lyndhurst, Bedford, and North Randall; also Shaker Heights, Warrensville Heights, and Warrensville Township, Ohio, Docket No. 17359, File No. CATV 100-146; for authority pursuant to § 74.1107 of the rules to operate CATV systems in the Cleveland television markets.

1. We have before us for consideration the application of Telerama, Inc., for review of the Review Board's Memorandum Opinion and Order, 67R-362, released August 29, 1967, which denied a motion by Telerama, Inc., to enlarge the issues designated for hearing.[1] The background of this proceeding is set forth in the Commission's orders designating Telerama's waiver requests for hearing[2] and disposing of the petitions for reconsideration thereof.[3]

2. The Review Board decision here under consideration denied Telerama's petition for enlargement of issues to include the following issue:

To determine the nature and extent of the efforts and expenditures made by Telerama to provide CATV service to the eastern suburbs of Cleveland, the dates when such efforts occurred, the extent to which additional areas and populations need to be authorized to receive service in order to permit maintenance of a viable operation in the public interest, and the extent to which the public interest would be harmed by the deletion of the present service now being rendered by Telerama.

3. In support of its petition for enlargement, Telerama asserts that it made expenditures and incurred contractual obligations prior to February 16, 1966, with the expectation that CATV services would be extended to suburban communities in the Cleveland, Ohio, television market in addition to its three grandfathered CATV systems;[4] that it will sustain severe economic harm unless it is permitted to so extend its services; and that the likelihood of such economic harm creates equities in its favor which must be considered in connection with its waiver applications. Telerama further contends that denial of its waiver applications may so jeopardize its financial condition as to require the deletion of its existing services on the grandfathered CATV systems, and that the deletion of such services would be inconsistent with the public interest. The Review Board denied the petition on the grounds that it was not timely filed and that the contentions therein were not substantiated by specific factual allegations as required by § 1.229(c) of the rules.

4. We are granting review because we believe that under the particular circumstances of this case an enlargement of issues is appropriate. In connection with litigation pending before the U.S. Court of Appeals for the Sixth Circuit[5] con-

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[1] Revisions to Northwest Airlines, Inc., Tariff CAB No. 241.
[2] Filed as part of the original document.

[1] Western Air Lines, Inc., Tariff CAB No. 69.
[2] Orders E-24696, Jan. 30, 1967; and E-24716, Feb. 3, 1967.
[3] Order E-25734, Sept. 26, 1967.

[1] The following pleadings are now before the Commission: (1) Telerama, Inc.'s application for review filed Sept. 6, 1967; (b) Storer Broadcasting Co.'s response, filed Sept. 18, 1967; (c) United Artists Broadcasting, Inc.'s response, filed Sept. 18, 1967; (d) Summit Radio Corp.'s comments, filed Sept. 18, 1967; (e) Broadcast Bureau's petition to accept late filing, filed Sept. 20, 1967; (f) Broadcast Bureau's comments filed Sept. 20, 1967; and (g) Telerama, Inc.'s reply filed Sept. 25, 1967.
[2] FCC 67-422, 7 FCC 2d 209, released Apr. 11, 1967.
[3] FCC 67-990, released Sept. 7, 1967.
[4] Telerama has operated CATV systems in Shaker Heights, Warrensville Heights, and Warrensville Township, Ohio, since prior to Feb. 16, 1966, and these systems are therefore entitled to the benefits of the "grandfather" provisions of sec. 74.1107(d) of the Commission's rules.
[5] Telerama, Inc. v. United States of America, et al., Case No. 17311.

cerning Telerama's CATV operations, the court was advised in a letter dated October 24, 1966, that in acting on an application by Telerama for a waiver, the Commission "will consider the * * * petitioner's due process and equitable claims."

5. In view of the foregoing and the status of this case on judicial review, we believe it would now be inappropriate to hold that Telerama's factual allegations are deficient. We shall therefore enlarge the issues to permit Telerama to develop its claimed equities at the hearing.

6. Our order herein should not be construed as a holding that expenditures by the CATV operator on or before February 15, 1966, provide a sufficient factual basis for a grant of the waivers requested. Telerama must establish that in making expenditures or incurring obligations, it acted in good faith. Moreover, the public interest is the paramount consideration in determining whether waivers are warranted and any equities established in favor of Telerama must be weighed in the light of all the evidence developed at the hearing in arriving at a determination of what will best serve the public interest.

7. *Accordingly, it is ordered,* That the final public interest issue is renumbered Issue 8, and the issues designated for hearing are enlarged to include the following issues:

9. To determine the nature and extent of Telerama's efforts to provide CATV service in the Cleveland market; the expenditures incurred and contractual obligations assumed by Telerama; and the dates when such efforts and expenditures occurred and the contractual obligations were assumed.

6. To determine whether Telerama's efforts and expenditures were made and its obligations were assumed in good faith reliance on being able to institute all of its proposals in the Cleveland market.

7. To determine, in light of the evidence adduced under Issues 5 and 6, if denial of Telerama's proposals would result in such severe economic harm as to force deletion of existing CATV service, and if so, the effect of such deletion on the public interest.

8. *It is further ordered,* That the application for review filed on September 6, 1967, by Telerama, Inc., is granted to the extent set forth herein and in all other respects is denied; and that the Broadcast Bureau's motion for leave to file a late pleading, filed September 29, 1967, is granted.

Adopted: November 3, 1967.

Released: November 7, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[6]

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13399; Filed, Nov. 9, 1967; 8:47 a.m.]

[6] Commissioner Bartley absent.

[Docket Nos. 17670-17673; FCC 67M-1867]

DURHAM-RALEIGH TELECASTERS, INC., ET AL.

Order Continuing Hearing

In re applications of Durham-Raleigh Telecasters, Inc., Durham, N.C., Docket No. 17670, File No. BPCT-3882; Triangle Telecasters, Inc., Durham, N.C., Docket No. 17671, File No. BPCT-3883; WTVY, Inc., Durham, N.C., Docket No. 17672, File No. BPCT-3886; for construction permit for new television broadcast station (Channel 28).

The Hearing Examiner having under consideration motion filed November 1, 1967, on behalf of Durham-Raleigh Telecasters, Inc., requesting the postponement of certain procedural dates heretofore established, as well as the date for the evidentiary hearing;

It appearing, that good cause exists why said motion should be granted and movant pleads that counsel for all other parties have agreed to the grant of the instant motion;

Accordingly, it is ordered, That the motion is granted, and the date for the exchange of exhibits shall be on or before November 29 in lieu of November 15, 1967, and the date for the notification of witnesses desired for cross-examination shall be December 6 in lieu of November 22, 1967, and

It is further ordered, That the hearing now scheduled for December 11 be and the same is hereby rescheduled for December 18, 1967, 10 a.m., in the Commission's offices, Washington, D.C.

Issued: November 3, 1967.

Released: November 6, 1967.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13300; Filed, Nov. 9, 1967; 8:47 a.m.]

[Docket Nos. 17541, 17542; FCC 67M-1883]

S R C, INC., AND SAN ANGELO INDEPENDENT SCHOOL

Order Continuing Hearing

In re applications of S R C, Inc., San Angelo, Tex., Docket No. 17541, File No. BPCT-3764; San Angelo Independent School, District No. 226-903, San Angelo, Tex., Docket No. 17542, File No. BPCT-3783; for construction permit for new television broadcast station (Channel 6).

Pursuant to agreements of counsel arrived at during the prehearing conference in the above-styled proceeding held on November 6, 1967: *It is ordered,* That the evidentiary hearing in this proceeding will begin on Wednesday, January 3, 1968, beginning at 10 a.m., in the offices of the Commission, Washington, D.C.

Issued: November 6, 1967.

Released: November 7, 1967.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13301; Filed, Nov. 9, 1967; 8:47 a.m.]

[Docket No. 17831]

STEPHEN A. WICHROWSKI, JR.

Order Designating Matter of Suspension for Hearing on Stated Issues

In the matter of Stephen A. Wichrowski, Jr., 370 Converse Street, Longmeadow, Mass. 01106, Docket No. 17831; suspension of radiotelephone first-class operator license.

The Commission, by the Chief of its Field Engineering Bureau, has under consideration the suspension of the Radiotelephone First-Class Operator License, P1-7-4936, issued to Stephen A. Wichrowski, Jr.

In accordance with the provisions of section 303(m)(2) of the Communications Act of 1934, as amended, Wichrowski filed with the Commission a timely request for hearing on the Commission's order released September 28, 1967, suspending for 3 months his Radiotelephone First-Class Operator License (captioned Stephen A. Wichrowski in the order of suspension released Sept. 28, 1967).

Under the provisions of section 303(m)(2) of the Communications Act of 1934, as amended, Stephen A. Wichrowski, Jr., is entitled to a hearing in this matter and by filing a timely request for a hearing, the Commission's order of suspension is held in abeyance until the conclusion of the proceedings in this matter.

It is ordered, Under authority contained in section 303(m)(2) of the Communications Act of 1934, as amended, and § 0.311(a)(5) of the Commission's rules, that the matter of the suspension of the Radiotelephone First-Class Operator License of Stephen A. Wichrowski, Jr., is hereby designated for hearing at a time and place before a hearing examiner to be specified by further order of the Commission, upon the following issues:

1. To determine whether Stephen A. Wichrowski, Jr., on or about April 16, 1967, while employed at radio station WEHW, Windsor, Conn., willfully and/or maliciously interfered with radio communications in violation of § 13.69 of the Commission's rules.

2. To determine in the light of evidence adduced in the preceding issue whether the terms of the original order of suspension should be made final, rescinded, or modified.

It is further ordered, That the Secretary shall send a copy of this order by Certified Mail-Return Receipt Requested to Stephen A. Wichrowski, Jr., at the address given above.

Adopted: October 26, 1967.

Released: November 1, 1967.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13302; Filed, Nov. 9, 1967; 8:47 a.m.]

FEDERAL MARITIME COMMISSION

AMERICAN WEST AFRICAN FREIGHT CONFERENCE

Notice of a Petition Filed for Approval

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 814).

Interested parties may inspect a copy of the proposed contract form and of the petition at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to the proposed contract form and the petition including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 15 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the proposed contract form and of the petition (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of application to institute a dual rate system filed by:

Mr. John K. Cunningham, Chairman, American West African Freight Conference, 67 Broad Street, Suite 2400, New York, N.Y. 10004.

Notice is hereby given that the member lines of the American West African Freight Conference have filed with the Commission pursuant to section 14b of the Shipping Act, 1916, an application for permission to institute a dual rate system for the carriage of coffee, cocoa and bulk vegetable oils in less than full shipload lots in the trade from West African ports (South of the southerly border of Rio de Oro, Spanish Sahara and north of the northerly border of Southwest Africa) including the Atlantic Islands of the Azores, Madeira, Canary, and Cape Verde, also the islands of Fernando Po, Principe and Sao Tome in the Gulf of Guinea to U.S. Atlantic and Gulf ports and Canadian Atlantic and St. Lawrence River ports not west of Montreal. The application provides that non-contract rates will be 15 percent lower than the ordinary rates as set forth in the conference tariffs under terms and conditions as further described in the contract.

Dated: November 9, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-13367; Filed, Nov. 9, 1967; 10:58 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-2913, etc.]

ASHLAND OIL & REFINING CO. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

NOVEMBER 2, 1967.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service heretofore authorized as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 27, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no protest or petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given: *Provided, however,* That pursuant to 18 CFR 2.56, as amended, all permanent certificates of public convenience and necessity granting applications, filed after July 1, 1967, without further notice, will contain a condition precluding any filing of an increased rate at a price in excess of that designated for the particular area of production for the period prescribed therein unless at the time of filing such certificate application, or within the time fixed herein for the filing of protests or petitions to intervene the Applicant indicates in writing that it is unwilling to accept such a condition. In the event Applicant is unwilling to accept such condition the application will be set for formal hearing.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein, nor should it be so construed.

Docket No. and Date filed	Applicant	Purchaser, field, and Location	Price per Mcf	Pressure base
G-2913 D 10-26-67	Ashland Oil & Refining Co., Post Office Box 18695, Oklahoma City, Okla. 73118	Consolidated Gas Supply Corp., Old Field, Kanawha County, W. Va.	(2)	
G-10915 E 10-12-67	Moran Pipe & Supply Co., Inc. (successor to Phillips Petroleum Co.), Enterprise Bldg., Tulsa, Okla. 73105.	Wunderlich Development Co., Autwine Field, Kay County, Okla.	7.2	14.65
G-15062	do	do	7.2	14.65
CI62-188 (G-14245) F 8-14-61	Camerina Petroleum Corp. (successor to Mobil Oil Corp.), 906 American Bldg., Houston, Tex. 77002.	El Paso Natural Gas Co., Aneth Field, San Juan County, Utah	17.7	15.025
CI63-69 A 7-10-62	Roy L. Cook, Post Office Box 606, Albuquerque, N. Mex. 87103.	El Paso Natural Gas Co., Basin Dakota Field, San Juan County, N. Mex.	[3] 13.0	15.025
CI64-552 C 10-18-67	Hunt Oil Co. (Operator) et al., 1401 Elm St., Dallas, Tex. 75202.	Texas Gas Transmission Corp., Cotton Valley Field, Webster Parish, La.	13.75	15.025
CI66-784 C 10-24-67	Sun Oil Co., 1608 Walnut St., Philadelphia, Pa. 19103.	The Manufacturers Light & Heat Co., Wharton Township, Fayette County, Pa.	16.0	15.325
CI66-1310 D 10-16-67 [3]	Getty Oil Co. (Operator) et al. (formerly Tidewater Oil Co.), Post Office Box 1404, Houston, Tex. 77001.	Northern Natural Gas Co., Anadarko Basin Area, Woodward County, Okla.	Assigned	
CI67-1311 A 9-15-67 10-26-67 [4]	Astra Oil & Gas Corp., Post Office Box 250, Bradford, Pa. 16701.	The Manufacturers Light & Heat Co., Benezette Township, Elk County, Union and Huston Townships, Clearfield County and Driftwood Township, Cameron County, Pa.	27.5	15.025
CI68-193 A 9-22-67	Penn Co.,[5] El Paso Natural Gas Bldg., El Paso, Tex. 79999.	El Paso Natural Gas Co., Wilshire Gasoline Plant, Upton County, Tex.	[3] 13.5	14.65
CI68-555 B 10-13-67	George H. Doggett et al., Post Office Box 362, Bradford, Pa. 16701.	Consolidated Gas Supply Corp., Benezette Township, Elk County, Pa.	Depleted	
CI68-556 B 10-16-67	Getty Oil Co. (Operator) et al. (formerly Tidewater Oil Co. (Operator) et al.), Post Office Box 1404, Houston, Tex. 77001.	Arkansas Louisiana Gas Co., South Marlow Field, Stephens County, Okla.	Depleted	

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and Date filed	Applicant	Purchaser, field, and Location	Price per Mcf	Pressure base
C168-560, A 10-26-67	Texaco, Inc. (Operator) et al., Post Office Box 52332, Houston, Tex. 77052.	El Paso Natural Gas Co., Tunacosa Unit, Lincoln and Sweetwater Counties, Wyo.	15.0	14.65
C168-561, A 10-26-67	Warren Wm. Vs. Jr., Box 268, Kingwood, W. Va. 26537.	Consolidated Gas Supply Corp., Kingwood District, Preston County, W. Va.	24.0	15.325
C168-562, (C160-36) F 10-25-67	Ohio Oil Co., et al. (successor to Shell Oil Co.).	Panhandle Eastern Pipe Line Co., North Bexter Field, Meade County, Kans.	17.0	14.65
C168-563, (G-9730) F 10-25-67	do	Panhandle Eastern Pipe Line Co., Guymon-Hugoton Field, Texas County, Okla.	10.5	14.65
C168-564, (C166-190) F 10-26-67	do	Otis Service Gas Co., North Central Otis Field, Harper County, Okla.	17.0	14.65
C168-565, A 10-26-67	Sarkeys, Inc., 4400 North Lincoln Blvd., Oklahoma City, Okla. 73105.	Panhandle Eastern Pipe Line Co., Putnam Area, Dewey County, Okla.	14.0	14.65
C168-566 (G-13684) (G-13778) (G-14767) A 10-27-67	Kingwood Oil Co. (successor to Sunray DX Oil Co. Payne, Leon, et al. (successor to Cabot Corp.).	Northern Natural Gas Co., area in Beaver County, Okla. do do	15.5 [2] 17.5 [2] 17.5	14.65 14.65 14.65
C168-567, A 10-26-67	W. O. Pickens, 2009 Fidelity Union Life Tower, Dallas, Tex. 75201.	Panhandle Eastern Pipe Line Co., Putnam (Upper Red), Dewey County, Okla.	[3] 17.5 [3] 14.0	14.65

[1] Deletes from contract the Newburg formation. Buyer does not have the pipeline capacity nor facilities to take or transport additional gas from subject acreage.
[2] Includes 1 cent per Mcf minimum gravities for liquids; 14 cents rate presently in effect subject to refund in Docket No. R164-778.
[3] Deletes acreage assigned to Apache Corp.
[4] Filing completed.
[5] By letter filed Oct. 20, 1967, Applicant agreed to accept permanent certificate containing conditions similar to those imposed by Opinion No. 468, as modified by Opinion No. 468-A.
[6] Subject to upward and downward B.t.u. adjustment.
[7] Includes 1.7 cents upward B.t.u. adjustment, subject to upward and downward B.t.u. adjustment.
[8] Rate in effect subject to refund in Docket No. R165-475.
[9] Rate in effect subject to refund in Docket No. R165-483.
[10] Successor in interest to Big Chief Drilling Co.
[11] Rate in effect subject to refund in Docket No. R164-738. Previous rate of 16.5 cents also in effect subject to refund in Docket No. R161-46.
[12] Rate in effect subject to refund in Docket No. R164-162.
[13] Gas-well gas.
[14] Casinghead gas.

[F.R. Doc. 67-13210; Filed, Nov. 9, 1967; 8:45 a.m.]

[Docket No. CP66-118]

LONE STAR GAS CO., ET AL.

Order Further Consolidating Proceedings, Vacating Certificates Issued by the Order Accompanying Opinion No. 505, and Permitting and Approving Abandonment of Service and Facilities

SEPTEMBER 18, 1967.

Lone Star Gas Co., Lone Star Gathering Co., and United Gas Pipe Line Co., Docket No. CP66-118; Lone Star Gathering Co., Docket Nos. CP62-179, CP67-371; United Gas Pipe Line Co., Docket No. CP62-193.

On August 22, 1966, the Commission issued Opinion No. 505 and the order accompanying that opinion in Lone Star Gas Company et al., Dockets Nos. CP66-118 et al., 36 FPC granting certificates of public convenience and necessity authorizing (1) Lone Star Gathering Co. (Gathering) to construct a pipeline in South Texas to deliver gas to United Gas Pipe Line Co. (United), (2) Lone Star Gas Co. (Lone Star) to acquire certain facilities owned and operated by United, (3) Lone Star and United to make certain sales to each other, (4) United to acquire the pipeline constructed by Gathering, and (5) United to construct a purchase meter station to receive gas from Gathering. Additionally,

United was permitted to abandon the facilities to be acquired by Lone Star and Gathering was permitted to abandon the facilities to be acquired by United.

On October 14, 1966, the Commission issued an order granting the application for rehearing of Opinion No. 505 and accompanying order which had been filed by the Public Service Commission of the State of New York (New York Commission). The order granting rehearing specified the types of evidence which the applicants should present in order to answer the questions raised by the New York Commission's application for rehearing. Instead of presenting evidence in support of the project which they had originally sponsored, the applicants filed on January 20, 1967, as supplemented on March 20, 1967, a joint motion asking for reconsideration and modification of the order granting rehearing. In their motion applicants sought to be relieved of complying with the provisions of the order granting rehearing on the ground that the gas reserves committed to Gathering's original pipeline project in Docket No. CP62-179 had drastically fallen short of the productive capabilities expected when the project was initiated. The reserve statement accompanying the motion alleged that production history in the Kawitt-Speary, Cuero, and Smith Creek Fields (Exhibit B, p. 2):

> • • • was greatly disappointing. In the above three fields, the reservoir pressures dropped at excessively fast rates compared to the rate of gas withdrawal while in other cases edge water encroached towards the relatively low pressure areas created in the reservoir, around the wells, causing a flooding of the well and its premature abandonment.

The applicants concluded that the decline in deliverability of the wells connected to Gathering's pipeline would prevent their being able to prove the economic feasibility of Gathering's project which would, in turn, make it futile for them to present the other data required by the Commission's order granting rehearing. In light of these considerations, the applicants mutually agreed to terminate their contracts to acquire certain pipeline facilities from each other and to make the sales of gas related to such transfers of property. In short, the applicants seek to have all the certificates issued by the order accompanying Opinion No. 505 vacated except for the certificates which authorized Gathering to construct its South Texas pipeline and United to construct a purchase meter station to receive gas from Gathering. Gathering requests permission and approval to abandon the pipeline facilities it was authorized to construct in South Texas. Gathering states that it plans to utilise these facilities in place, after some rearrangement and construction, to deliver whatever gas is available to intrastate markets. United seeks permission and approval to abandon the purchase meter station authorized in Docket No. CP62-193 for the purpose of receiving gas from Gathering.

On June 9, 1967, Gathering filed an application in Docket No. CP67-371 seeking permission and approval to abandon service from eight of the 32 producers who supply gas to its South Texas pipeline. Gathering alleged that it was forced to take this action because eight of the producers had failed to execute intrastate sales contracts with Gathering and file applications with the Commission for abandonment of interstate sales to Gathering. Subsequent to the filing of Gathering's application in Docket No. CP67-371, all but two of the producers who had been selling gas to Gathering either filed formal applications to abandon or submitted letters stating that deliveries of gas to Gathering had been terminated because of the inability of their wells to continue production of natural gas. The producers' abandonment applications serve as support for the granting of Gathering's application in Docket No. CP67-371, regarding which a notice of application was issued on June 19, 1967, and published in the FEDERAL REGISTER on June 24, 1967, 32 F.R. 9048. On July 12, 1967, the New York Commission filed a notice of intervention in Docket No. CP67-371.

The New York Commission's application for rehearing was granted primarily because Gathering's 1965 Form No. 2 revealed facts showing that the granting of the applications in this proceeding might not be in the public interest as the joint applicants had represented at the hearing and in their briefs. One of the most serious questions raised by the New York Commission was its inquiry as to why Gathering's annual deliveries to United had declined from 15,236,119 Mcf in 1964 to 12,515,029 Mcf in 1965. The New York Commission correctly noted that Gathering's fixed and operating costs would not decline in proportion to the reduction in delivery volumes. The decline in annual deliveries would necessarily have had the effect of increasing United's unit cost of transporting the gathered gas to its main transmission system if United had been authorized to acquire Gathering's facilities. Gathering gas filed its Form No. 2 for 1966 since the issuance of the Commission's order granting rehearing. The 1966 Form No. 2 shows that deliveries to United have continued to decline. The New York Commission's application for rehearing noted that United's fixed costs for operating the facilities to be acquired from Gathering would be approximately $572,000 annually and that about $140,000 of operating and maintenance expenses should be added to these fixed costs, thereby increasing to $712,000 the annual cost of service on the facilities which United sought authorization to acquire from Gathering. The following tabulation shows the continual decline in Gathering's annual deliveries along with a calculation showing how United's unit cost of service would continue to increase as delivery volumes are reduced:

Year	Annual volumes delivered (Mcf)	Unit cost of service (cents per Mcf)
1964	15,236,119	4.67
1965	12,515,029	5.69
1966	13,133,657	5.57

Gathering's Forms No. 2 for 1964, 1965, and 1966 reflect an average cost of purchased gas of 17.40 cents, 16.89 cents, and 16.19 cents per Mcf, respectively. If these average costs of purchased gas are added to the unit costs given above, the average unit cost to United for delivering gas into its main transmission line would be 22.07 cents, 22.58 cents, and 22.06 cents per Mcf for the years 1964, 1965, and 1966. Thus, if United were to have been permitted to acquire Gathering's facilities, the consumer, as the New York Commission contended in its application for rehearing, would have had to pay from one half to 1 cent more per Mcf for gas than the 21.5 cents per Mcf United is now paying Gathering.

United's witness claimed that United's cost of operating the facilities United proposed to acquire from Gathering would be approximately the same as Gathering's cost. Although the New York Commission contended that Gathering's 21.5-cent charge to United was "already grossly excessive," there is at least some doubt that United would be able to continue purchasing gas from Gathering at the existing 21.5-cent rate, if the abandonment application were to be denied, in view of the claim in the abandonment application that Gathering might have to seek a rate increase if the gas reserves committed to its system continue to decline.

The other principal objection of the New York Commission to the granting of Gathering's application was that United did not show a need for Gathering's gas particularly at a price of 21.5 cents per Mcf. The New York Commission's argument on this point was supported by the fact that United's 1965 Form No. 2 indicated that United's sales for 1965 were lower than they had been since 1956, except for the years 1961 and 1962. United's 1966 Form No. 2, which has become available since the filing of the New York Commission's application for rehearing, shows that United's sales for 1966 were 1,333 billion cubic feet, or the highest they have ever been except for the years 1963 and 1964. United's sales have averaged 1,321 billion cubic feet per year since 1959, and despite the decline in average sales volumes for the years 1961, 1962, and 1965, United's sales have shown a growth rate of about 1 percent over the 8-year period from 1959 to 1966. There can be little doubt that a company with average sales of 1,321 billion cubic feet each year needs to maintain an active gas procurement program, but United has now decided that it does not need Gathering's gas at the high unit cost it would be forced to pay if it were to acquire Gathering's facilities and operate them for the purpose of transporting constantly diminishing volumes of gas to its main line. Instead, United's flow diagram in the motion to abandon service shows that United would prefer to obtain volumes of gas comparable to those now being delivered to it by Gathering from suppliers in the Mustang Island area.

In short, the facts which first became available to the Commission when Gathering filed its 1965 Form No. 2 show that

Gathering's project is economically infeasible when evaluated on the basis of the reduced gas supplies available to its system at the present time. If the applicants had not elected to seek abandonment of their interrelated projects, there is little doubt but that the evidence requested in the Commission's order granting rehearing would have shown that their proposals are not required by the public convenience and necessity. There is no essential difference between granting the applicants' requests to abandon service and denying their applications as originally filed. Since the primary reason for the applicants' inability to present evidence on rehearing to demonstrate that their proposals are in the public interest sprang from the unexpected failure of the gas reserves committed to Gathering's project, the granting of the request to abandon service appears to be the appropriate means to terminate this proceeding.

The applicants have agreed to flow through to their customers any refunds in rates which may ultimately result upon completion of the remanded proceeding in Public Service Commission of N.Y. v. F.P.C., 373 F. 2d 316 (CADC). The Commission's order accompanying Opinion No. 505 provided that these refunds should be made; this order will continue such refund obligations and provide that issuance of this order will be without prejudice to the positions which the New York Commission or other parties may wish to take with respect to the related remanded court proceeding cited above.

The Commission finds:

(1) Applicant United Gas Pipe Line Co., a Delaware corporation, having its principal place of business in Shreveport, La., is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of November 10, 1942, in Docket No. G-232, 2 FPC 263.

(2) Applicants Lone Star Gas Co. and Lone Star Gathering Co., Texas corporations, having their principal place of business in Dallas, Tex., are "natural-gas companies" within the meaning of the Natural Gas Act as heretofore found by the Commission in its orders of April 11, 1944, and August 22, 1966, in Docket No. G-442, 4 FPC 565, and Docket Nos. CP65-118, et al., 36 FPC ——, respectively.

(3) The facilities to be abandoned, as heretofore described in Opinion No. 505 and the applications in this proceeding, are used in the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission, and abandonment of such facilities is subject to the requirements of subsection (b) of section 7 of the Natural Gas Act.

(4) The abandonment by Gathering and United of the facilities hereinbefore described is permitted by reason of the depletion of the supply of natural gas available to Gathering to the extent that continuance of service is unwarranted and an order approving the abandonment should be issued as hereinafter ordered and conditioned.

(5) It is appropriate in the administration of the Natural Gas Act that the certificates issued to United and Lone Star by the order accompanying Opinion No. 505 be vacated to the extent that such certificates authorized United and Lone Star to acquire and operate facilities and make sales of natural gas to each other.

(6) The order accompanying Opinion No. 505 should be rescinded insofar as it permitted and approved the abandonment by United of its facilities extending to Dallas and Fort Worth, Tex., as therein described.

The Commission orders:

(A) Permission for and approval of the abandonment by Gathering of the South Texas facilities hereinbefore described, as more fully described in its application in Docket No. CP62-179, are granted subject to the agreement contained in Gathering's letter filed September 19, 1963, in Docket No. CP62-179, providing that Gathering will pass on to United any reduction in its weighted average cost of purchased gas which may result from the Commission's order accompanying Opinion No. 476 issued in Sinclair Oil & Gas Co., 34 FPC 930, and the subsequent remand of such order in Public Service Commission of N.Y. v. F.P.C., 373 F. 2d 816 (CADC).

(B) Permission for and approval of the abandonment by United of the purchase meter station hereinbefore described, as more fully described in its application in Docket No. CP62-193, are granted subject to United's obligation to flow through to its customers any refunds which it may receive from Gathering as provided for in the Commission's order approving United's rate settlement issued in United Gas Pipe Line Co., 32 FPC 1515.

(C) The certificate issued to United by paragraph (B) of the order accompanying Opinion No. 505 is vacated to the extent that it authorized United to construct facilities to make sales to Lone Star or acquire and operate the facilities which Gathering is permitted to abandon by paragraph (A) above.

(D) The certificate issued to Lone Star by paragraph (C) of the order accompanying Opinion No. 505 is vacated.

(E) Paragraph (G) of the order accompanying Opinion No. 505, authorizing United to abandon the facilities extending to Dallas and Fort Worth as therein described and as more fully described in the application in Docket No. CP65-118, is rescinded.

(F) The date of the abandonment of facilities authorized in paragraphs (A) and (B) above shall be within 90 days from the date of this order and Gathering and United shall advise the Commission within 10 days of such abandonment.

(G) After Gathering has abandoned the facilities for which authorization is granted herein, Gathering shall file with the Commission a notice of cancellation of its service agreement with United and of its FPC gas Tariff Original Volume No. 1.

(H) The action taken herein is without prejudice to the positions of the parties to the remanded proceeding in the Sinclair case, supra.

(I) The application filed by Gathering in Docket No. CP67-371 is consolidated with the interrelated applications in Docket Nos. CP65-118 et al. for disposition as hereinbefore provided.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-13274; Filed, Nov. 9, 1967; 8:45 a.m.]

[Docket Nos. RP68-5-RP68-10]

MANUFACTURERS LIGHT & HEAT CO. ET AL.

Notice of Proposed Changes in Tariff Provisions

NOVEMBER 6, 1967.

The Manufacturers Light & Heat Co., RP68-5; United Fuel Gas Co., RP68-6; Atlantic Seaboard Corp., RP68-7; Kentucky Gas Transmission Corp., RP68-8; The Ohio Fuel Gas Co., RP68-9; Home Gas Co., RP68-10.

Take notice that each of the following companies of the Columbia Gas System on the dates indicated tendered for filing proposed changes in the general terms and conditions in volume No. 1 of their respective FPC gas tariffs: The Manufacturers Light & Heat Co. (Oct. 25, 1967), United Fuel Gas Co. (Oct 25, 1967), Atlantic Seaboard Corp. (Oct. 25, 1967), Kentucky Gas Transmission Corp. (Oct. 26, 1967), The Ohio Fuel Gas Co. (Oct. 30, 1967), and Home Gas Co. (Nov. 3, 1967).

The changes proposed by each Respondent, which are substantially similar in language and effect, would delete tariff provisions whereunder a Buyer could elect to decrease its effective contract demand and maximum daily quantity by not more than 5 percent per year and 10 percent overall.

Copies of the proposed changes were served upon each jurisdictional customer and interested State commission.

Comments on the aforementioned filings and changes may be filed with the Commission on or before November 20, 1967.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-13275; Filed, Nov. 9, 1967; 8:45 a.m.]

[Docket No. CP67-341]

TEXAS GAS TRANSMISSION CORP.

Notice of Petition To Amend

NOVEMBER 3, 1967.

Take notice that on October 24, 1967, Texas Gas Transmission Corp. (Petitioner), Post Office Box 1160, Owensboro, Ky. 42301, filed in Docket No. CP67-341 a petition to amend the order issued in said docket on July 25, 1967, by requesting authorization to increase the Contract Demand to be delivered to one of its resale customers, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the order issued July 25, 1967, Petitioner was authorized to increase the Contract Demand of its existing customer, Western Kentucky Gas Co., to 68,300 Mcf for the 1967-68 winter heating season in Petitioner's Zone 3. By letter dated October 12, 1967, Western Kentucky advised Petitioner that it desires to increase its Contract Demand by 3,000 Md., effective November 1, 1967. Accordingly, Petitioner requests that it be authorized to increase the Contract Demand of Western Kentucky to 71,300 Mcf, beginning with the 1967-68 winter heating season.

Petitioner states that no new facilities are needed to effectuate the proposed increase in deliveries.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before November 29, 1967.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-13276; Filed, Nov. 9, 1967; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File Nos. 7-2767—7-2769]

DELTA AIRLINES, INC. ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 6, 1967.

In the matter of applications for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Delta Airlines, Inc. (Delaware)	7-2767
Foremost-McKesson, Inc.	7-2768
Gulf & Western Industries, Inc. (Delaware)	7-2769

Upon receipt of a request, on or before November 20, 1967, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13281; Filed, Nov. 9, 1967; 8:45 a.m.]

[File Nos. 7-2770—7-2772]

DELTA AIRLINES, INC. ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 6, 1967.

In the matter of applications of the Detroit Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Delta Airlines, Inc. (Delaware)	7-2770
Foremost-McKesson, Inc.	7-2771
Gulf & Western Industries, Inc. (Delaware)	7-2772

Upon receipt of a request, on or before November 20, 1967, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13282; Filed, Nov. 9, 1967; 8:45 a.m.]

[File Nos. 7-2773, 7-2774]

DELTA AIRLINES, INC. ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 6, 1967.

In the matter of applications of the Midwest Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Delta Airlines Inc. (Delaware)	7-2773
Gulf & Western Industries, Inc. (Delaware)	7-2774

Upon receipt of a request, on or before November 20, 1967, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13283; Filed, Nov. 9, 1967; 8:45 a.m.]

[70-4553]

MIDDLE SOUTH UTILITIES, INC., AND LOUISIANA POWER & LIGHT CO.

Notice of Proposed Issue and Sale

NOVEMBER 6, 1967.

Notice of proposed issue and sale of notes by holding company to banks, increase in authorized shares of common stock of subsidiary company; intrasystem issue and sale of common stock; and transfer of earned surplus to common capital stock account.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South") 280 Park Avenue, New York, N.Y. 10017,

a registered holding company, and Louisiana Power & Light Co. ("Louisiana"), 142 Delaronde Street, New Orleans, La. 70114, also a registered holding company and a public-utility subsidiary company of Middle South, have filed with this Commission a joint application-declaration, pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7, 9(a), 10, and 12(f) of the Act and Rules 23 and 43 as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Middle South has entered into agreements with The Chase Manhattan Bank and Manufacturers Hanover Trust Co., both of New York City, under which it proposes to borrow $15,500,000 from each bank or an aggregate of $31 million. Such borrowings will be evidenced by unsecured promissory notes bearing interest at the prime rate prevailing at each bank from time to time, presently 5½ percent per annum at both banks. The notes will mature 2 years from the date of the initial pro rata borrowings, scheduled to be made on or about December 29, 1967, and may be prepaid at any time, in whole or in part, without premium. Middle South intends, subject to authorization by the Commission, to sell additional common stock within the next 2 years and to use the funds derived therefrom to pay such notes at or before maturity.

Louisiana proposes to amend its certificate of incorporation by increasing the 15 million authorized shares of its no par value common stock to 20 million shares. Thereupon, Louisiana proposes to issue and sell, and Middle South proposes to acquire, 2,500,000 additional shares of Louisiana's common stock for a cash consideration of $15 million. Concurrently with such sale, Louisiana proposes to transfer $2,172,921 from its earned surplus account to its common capital stock account. Upon completion on these transactions Louisiana will have 15,368,000 shares of common stock outstanding with a stated value of $6 per share. As of August 31, 1967, the earned surplus of Louisiana on a pro forma basis giving effect to the proposed transfer amounted to $21,185,452. During the 12 months ended on that date dividends paid on Louisiana's preferred stock, all publicly held, amounted to $1,591,400, and dividends paid on its common stock amounted to $8,171,189.

Middle South will use the proceeds derived from the sale of the proposed notes for the following purposes—$15 million for the common stock purchase described above; $8 million for a similar purchase from another subsidiary company, which will be the subject of a future filing, and $8 million to pay short-term notes held by banks and maturing on April 25, 1968. Louisiana will use the proceeds derived from the sale of its common stock to pay short-term notes issued, pursuant to the exemptive provisions of the first sentence of section 6(b) of the Act, for the purpose of providing funds for its 1967 construction program, estimated at $69,900,000. Any of such proceeds remaining will be used by Louisiana to reimburse its treasury for monies expended for construction purposes.

The application-declaration states that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. It is also stated that no special and separate expenses are anticipated in connection with the proposed transactions except for taxes and minor incidental expenses to be paid by Louisiana in connection with the amendment of its certificate of incorporation.

Notice is further given that any interested person may, not later than December 6, 1967, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-12386; Filed, Nov. 9, 1967; 8:45 a.m.]

NORTH AMERICAN RESEARCH & DEVELOPMENT CORP.

Order Suspending Trading

NOVEMBER 6, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of North American Research & Development Corp., 1935 South Main Street, Salt Lake City, Utah, and all other securities of North American Research & Development Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 7, 1967, through November 16, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-13285; Filed, Nov. 9, 1967; 8:45 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATES AUTHORIZING EMPLOYMENT OF FULL-TIME STUDENTS WORKING OUTSIDE OF SCHOOL HOURS AT SPECIAL MINIMUM WAGES IN RETAIL OR SERVICE ESTABLISHMENTS OR IN AGRICULTURE

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 20 U.S.C. 201 *et seq.*), the regulation on employment of full-time students (29 CFR Part 519), and Administrative Order No. 595 (31 F.R. 12981), the establishments listed in this notice have been issued special certificates authorizing the employment of full-time students working outside of school hours at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. The effective and expiration dates are as indicated below. The minimum certificate rates are not less than 85 percent of the applicable statutory minimum.

The following certificates provide for an allowance not to exceed the proportion of the total hours worked by full-time students at rates below $1 an hour to the total number of hours worked by all employees in the establishment during the base period in occupations of the same general classes in which the establishment employed full-time students at wages below $1 an hour in the base period.

Adams Drug Co., Inc., drug stores from 9-3-67 to 9-3-68: No. 19, Wakefield, R.I.; No. 7, Warren, R.I.

Angell's Super Valu, food store; 318 West Adams Street, Iron River, Mich.; 9-9-67 to 9-2-68.

Ann & Hope Factory Outlet, Inc., department store; Mill Street, Cumberland R.I.; 9-18-67 to 9-17-68.

Archer Avenue Big Store, Inc., department store; 4157 South Archer Avenue, Chicago, Ill.; 9-7-67 to 9-6-68.

Ball Stores, Inc., department store; 400 South Walnut Street, Muncie, Ind.; 9-9-67 to 9-2-68.

The Barr Co., variety store; 116 South Main Street, Celina, Ohio; 9-26-67 to 9-25-68.

Buy Rite, Inc., food store; 906 South Silver, Paola, Kans.; 9-9-67 to 9-2-68.

Carrollton Foods, Inc., food store; 905 South Main, Carrollton, Mo.; 9-3-67 to 9-2-68.

Cook's, Inc., hardware store; 1100 Washington Street, Grand Haven, Mich.; 9-26-67 to 9-25-68.

Diskay Discount Mart, variety store; No. 3064, Greenville, S.C.; 9-20-67 to 9-19-68.

Eagle Stores Co., Inc., variety store; 222 Sunset Avenue, Asheboro, N.C.; 9-15-67 to 9-14-68.

Goldblatt Brothers, Inc., department store; 1505 West King, Decatur, Ill.; 9-27-67 to 9-26-68.

W. T. Grant Co., variety stores: No. 450, Decatur, Ga. (9-19-67 to 9-18-68); No. 44, Macon, Ga. (9-19-67 to 9-18-68); No. 851, Warner Robins, Ga. (9-18-67 to 9-17-68); No. 683, Zion, Ill. (9-18-67 to 9-17-68); No. 3066, Gary, Ind. (9-3-67 to 9-2-68); No. 464, Louisville, Ky. (9-21-67 to 9-20-68); No. 57, Baltimore, Md. (9-29-67 to 9-28-68); No. 18, Kalamazoo, Mich. (9-3-67 to 9-2-68); No. 253, Dover, N.J. (9-1-67 to 8-31-68); 8 Airport Plaza, Haslet, N.J. (9-14-67 to 9-13-68); No. 853, Middlesex, N.J. (9-1-67 to 8-31-68); No. 724, Parsippany, N.J. (9-1-67 to 8-31-68); No. 173, Paterson, N.J. (9-3-67 to 9-2-68); No. 868, Pennsville, N.J. (9-1-67 to 8-31-68); No. 393, Roselle, N.J. (9-1-67 to 8-31-68); 418 Market Street, Steubenville, Ohio (9-24-67 to 9-23-68); No. 187, Lansdale, Pa. (9-18-67 to 9-17-68); No. 458, Pittsburgh, Pa. (9-30-67 to 9-29-68); No. 240, Williamsport, Pa. (9-8-67 to 9-7-68); No. 484, Cayce, S.C. (9-3-67 to 9-2-68).

Autry Greer & Sons, Inc., food stores from 9-11-67 to 9-10-68: Bay Minette, Ala.; Bayou La Batre, Ala.; Citronelle, Ala.; Fairhope, Ala.; Jackson, Ala.; 2216 Dauphin Island Parkway, Mobile, Ala.; 3211 Dauphin Island Parkway, Mobile, Ala.; Monroeville, Ala.; Saraland, Ala.; Thomasville, Ala.; Lucedale, Miss.

Jetts Department Store, Inc., department store; 300 South Main, Pratt, Kans.; 7-3-67 to 7-2-68.

Keeling's Kountry Key Market, food store; 830 Lyndon Lane, Louisville, Ky.; 9-28-67 to 9-27-68.

Thomas Kilpatrick & Co., department store from 9-3-67 to 9-2-68; 154th and Douglas Street, Omaha, Nebr.; 42d and Center Street, Omaha, Nebr.

S. S. Kresge Co., variety stores from 9-3-67 to 9-2-68 except as otherwise indicated: No. 305, Chicago, Ill. (9-20-67 to 9-28-68); Nos. 258, 490, 594 and 4424, Chicago, Ill.; No. 80, Deerfield, Ill.; No. 177, Elgin, Ill.; No. 220, Evanston, Ill. (9-20-67 to 9-19-68); No. 4612, Freeport, Ill.; No. 207, Harrisburg, Ill.; No. 130, Joliet, Ill.; No. 463, Oaklawn, Ill. (9-21-67 to 9-20-68); No. 630, Park Forest, Ill.; No. 666, Skokie, Ill.; No. 4587, Bloomington, Ind.; Nos. 556 and 647, Evansville, Ind.; No. 618, Gary, Ind.; Nos. 7 and 586, Indianapolis, Ind.; No. 304, Layfayette, Ind.; No. 142, Marion, Ind.; No. 251, Newcastle, Ind.; No. 71, Des Moines, Iowa; No. 160, Dubuque, Iowa; No. 559, Iowa City, Iowa; No. 210, Marshalltown, Iowa; No. 576, Baltimore, Md. (9-18-67 to 9-17-68); No. 691, Rockville, Md. (9-7-67 to 9-6-68); No. 390, Detroit, Mich. (9-23-67 to 9-22-68); No. 214, Flint, Mich. (9-16-67 to 9-15-68); No. 664, Pontiac, Mich.; No. 176, Minneapolis, Minn.; No. 663, St. Paul, Minn.; No. 82, Kansas City, Mo.; No. 197, Salina, Kans.; No. 58, St. Joseph, Mo.; No. 4619, Springfield, Mo. (7-14-67 to 7-13-68); No. 109, Lincoln, Nebr.; No. 4615, Bayonne, N.J.; No. 562, Bloomfield, N.J.; No. 245, East Brunswick, N.J.; No. 573, Haddonfield, N.J.; No. 4621, Jersey City, N.J.; No. 292, Montclair, N.J.; No. 606, Morristown, N.J.; No. 466, North Eatontown, N.J.; No. 80, Paramus, N.J.; No. 221, Parlin, N.J.; No. 260, Passaic, N.J.; No. 75, Plainfield, N.J.; No 25, Princeton, N.J.; No. 65, Trenton, N.J.; No. 567, Woodbury, N.J.; No. 240, Cleveland, Ohio (9-19-67 to 9-18-68); No. 570, Cleveland, Ohio (9-22-67 to 9-27-68); No. 4567, Cleveland, Ohio (9-16-67 to 9-15-68); No. 694, Columbus, Ohio (9-12-67 to 9-11-68); No. 644, Dayton, Ohio (9-21-67 to 9-20-68); No. 4590, Johnstown, Pa. (9-5-67 to 9-4-68); No. 200, Morrisville, Pa. (9-12-67 to 9-11-68); No. 4640, Charleston, W. Va. (9-12-67 to 9-13-68); No. 607, Eau Claire, Wis.; No. 4579, Kenosha, Wis. (9-27-67 to 9-26-68); No. 268, Madison, Wis. (9-19-67 to 9-18-68); No. 617, Milwaukee, Wis.; No. 4618, Sheboygan, Wis. (9-1-67 to 7-31-68).

S. H. Kress and Co., variety stores from 9-3-67 to 9-2-68: 7 South Jefferson Street, Iola, Kans.; 224 East Douglas Avenue, Wichita, Kans.; 106 West Center Street, Provo, Utah.

The Mart, Inc., apparel store; 160 Main Street, Paterson, N.J.; 9-1-67 to 8-31-68.

McCrory-McLellan-Green Stores, variety stores from 9-3-67 to 9-2-68 except as otherwise indicated: No. 444, Bessemer, Ala.; Nos. 1106 and 1128, Birmingham, Ala.; No. 442, Gadsden, Ala.; No. 500, Huntsville, Ala.; No. 1109, Montgomery, Ala.; Nos. 548, 580, and 599, Tucson, Ariz.; No. 574, Tucson, Ariz. (9-24-67 to 9-23-68); No. 239, Fort Smith, Ark.; No. 509, Little Rock, Ark.; No. 1114, Wilmington, Del. (9-5-67 to 9-4-68); No. 157, Lake City, Fla.; No. 97, Lakeland, Fla.; No. 1113, Augusta, Ga.; No. 1219, Columbus, Ga.; No. 428, Dalton, Ga. (9-19-67 to 9-18-68); No. 412, Gainesville, Ga.; No. 1121, Macon, Ga.; No. 178, Savannah, Ga.; No. 1305, Savannah, Ga. (9-19-67 to 9-18-68); No. 567, Thomson, Ga. (9-20-67 to 9-19-68); No. 676, Pekin, Ill.; No. 589, Fort Dodge, Iowa; No. 1061, Keokuk, Iowa; No. 560, Mason City, Iowa; No. 470, Topeka, Kans.; No. 315, Baton Rouge, La.; No. 298, Lafayette, La.; Nos. 229 and 1312, New Orleans, La.; No. 1126, Shreveport, La.; No. 620, Waterville, Maine; No. 1111, Baltimore, Md. (9-5-67 to 9-4-68); No. 1202, Baltimore, Md. (9-16-67 to 9-15-68); No. 1138, Silver Spring, Md. (9-5-67 to 9-4-68); No. 661, Boston, Mass.; No. 668, Lynn, Mass.; No. 556, Alpena, Mich.; No. 668, Grand Haven, Mich.; No. 541, Petoskey, Mich.; No. 506, Ypsilanti, Mich. (9-6-67 to 9-5-68); No. 616, Columbia, Miss. (9-27-67 to 9-26-68); No. 575, Columbus, Miss.; No. 202, Gulfport, Miss. (9-6-67 to 9-5-68); No. 1019, Jackson, Miss.; No. 275, McComb, Miss.; No. 646, Pascagoula, Miss.; No. 1032, Asbury Park, N.J. (9-6-67 to 9-5-68); No. 91, Burlington, N.J. (9-20-67 to 9-19-68); No. 168, Camden, N.J.; No. 308, Clifton, N.J.; No. 1025, Elizabeth, N.J.; No. 1152, Irvington, N.J. (9-6-67 to 9-5-68); No. 272, Jersey City, N.J.; No. 1084, Manasquan, N.J. (9-7-67 to 9-6-68); No. 251, Newark, N.J.; No. 1095, Newark, N.J. (9-6-67 to 9-5-68); No. 240, Orange, N.J.; No. 131, Passaic, N.J.; No. 1073, Trenton, N.J. (9-24-67 to 9-23-68); No. 301, Union, N.J.; No. 556, Farmington, N. Mex. (9-20-67 to 9-19-68); No. 1123, Durham, N.C.; No. 306, Fort Bragg, N.C.; No. 1140, Kinston, N.C.; No. 410, Wilson, N.C.; No. 1127, Winston-Salem, N.C.; No. 1040, Columbus, Ohio (9-22-67 to 9-21-68); No. 1116, Chester, Pa. (9-5-67 to 9-4-68); No. 325, Fairless Hills, Pa. (9-14-67 to 9-13-68); No. 1122, Hollidaysburg, Pa. (9-5-67 to 9-4-68); No. 1056, Lancaster, Pa. (9-5-67 to 9-4-68); No. 1046, Lebanon, Pa. (9-5-67 to 9-4-68); No. 1029, McKeesport, Pa. (9-5-67 to 9-4-68); Nos. 1012 and 1052, Philadelphia, Pa. (9-5-67 to 9-4-68); No. 58, Pittsburgh, Pa. (9-5-67 to 9-4-68); No. 1037, Pottsville, Pa. (9-5-67 to 9-4-68); No. 7, Reading, Pa. (9-20-67 to 9-19-68); No. 1108, Charleston, S.C.; No. 161, Chester, S.C. (9-16-67 to 9-17-68); No. 1126, Spartanburg, S.C.; No. 415, Sumter, S.C.; No. 1209, Houston, Tex. (9-22-67 to 9-23-68); No. 82, Martinsburg, W. Va.; No. 451, La Crosse, Wis. (9-8-67 to 9-7-68); No. 454, Marshfield, Wis. (9-8-67 to 9-7-68); No. 570, Monroe, Wis.

Meyer Brothers, department store; 181 Main Street, Paterson, N.J.; 9-1-67 to 8-31-68.

Neisner Brothers, Inc., variety stores from 9-3-67 to 9-2-68 except as otherwise indicated: Nos. 30, 31, 49, 92, 54, 57, 65, 75, and 97, Chicago, Ill.; No. 68, Evanston, Ill.; No. 50, Joliet, Ill.; No. 186, Melrose Park, Ill.; No. 57, Waukegan, Ill.; No. 26, Evansville, Ind.; No. 42, Detroit, Mich. (9-27-67 to 9-26-68); Nos. 18, 32, 43, 66, and 92, Detroit, Mich.; No. 58, Escanaba, Mich.; No. 62, Highland Park, Mich.; No. 101, Lincoln Park, Mich. (9-14-67 to 9-13-68); No. 17, Pontiac, Mich.; No. 107, Royal Oak, Mich.; No. 73, Wyandotte, Mich.; No. 127, East Paterson, N.J.; No. 149, Middletown, N.J.; No. 168, Paramus, N.J.

J. J. Newberry Co., variety stores from 9-3-67 to 9-2-68 except as otherwise indicated: 230 North Sam Fernando Road, Burbank, Calif. (9-28-67 to 9-27-68); 87 Whitehall Street, SW., Atlanta, Ga. (9-22-67 to 9-22-68); No. 270, Martinsville, Ind.; 113-119 Main Street, Calais, Maine; 148 Main Street, Ellsworth, Maine; 45-47 Main Street, Farmington, Maine; Main Street and 112th Avenue, Madawaska, Maine; 216 Penobscot Avenue, Millinocket, Maine; No. 251, Norway, Maine; No. 238, Rockland, Maine; 73 North Street, Pittsfield, Mass. (9-18-67 to 9-17-68); No. 260, Alma, Mich. (9-12-67 to 9-11-68); No. 394, Columbia, Mo. (9-18-67 to 9-12-68); 691 Main Street, Laconia, N.H.; No. 182, Littleton, N.H. (9-18-67 to 9-17-68); No. 136, Portsmouth, N.H.; No. 104, Asbury Park, N.J.; No. 26, Dover, N.J.; No. 107, Freehold, N.J.; 71-79 Broad Street, Red Bank, N.J.; No. 190, Springfield, N.J. (9-17-67 to 9-16-68); No. 187, Vineland, N.J.; 924-930 Wheeling Avenue, Cambridge, Ohio; No. 14, Ephrata, Pa. (9-23-67 to 9-21-68); No. 226, Kennett Square, Pa. (9-13-67 to 9-12-68); No. 33, Newport, R.I.; 201-209 Westminster Mall, Providence, R.I.; 37-41 Washington Street, West Warwick, R.I.; No. 479, Aberdeen, S. Dak.; No. 278, Huron, S. Dak.; Main Street, Barre, Vt.; South Main Street, White River Junction, Vt.

Norby's of Grand Forks, Inc., department store; 402 DeMers Avenue, Grand Forks, N. Dak.; 9-3-67 to 9-2-68.

Olson Supermarket, food stores from 9-3-67 to 9-2-68; 1406 West Main Street, Chanute, Kans.; 525 West State Street, Erie, Kans.; 3209 Main Street, Parsons, Kans.

The Outlet Co., department store; 176 Weybosset Street, Providence, R.I.; 9-3-67 to 9-2-68.

Piggly Wiggly, Inc., food store; No. 1, DeRidder, La.; 9-3-67 to 9-2-68.

Bayless Department Store, department store; 9 and 11 West Fourth Street, Winston-Salem, N.C.; 9-14-67 to 9-13-68.

Richards Brothers, food store; Mountain Grove, Mo.; 9-30-67 to 9-29-68.

Roth's Department Store, department store; Third and Locust Streets, Boonville, Ind.; 9-20-67 to 9-19-68.

W. A. Rowe Floral Co., agriculture; Kirkwood, Mo.; 7-27-67 to 7-26-68.

Roxier Marcantile Co., department store; 2 East Ste. Maries, Perryville, Mo.; 8-16-67 to 8-15-68.

L. R. Samuels Co., apparel store; 2457 Washington Boulevard, Ogden, Utah; 9-3-67 to 9-2-68.

Sansing's Super Market, food store; 320 East Milam, Wharton, Tex.; 9-22-67 to 9-21-68.

Lee Sidney Corp., variety store; No. 752, Sidney, Nebr.; 9-3-67 to 9-2-68.

Spurgeons, department store; 116 West Main Street, Washington, Iowa; 9-3-67 to 9-2-68.

T. G. & Y. Stores Co., variety store; No. 168, Jefferson City, Mo.; 9-3-67 to 9-2-68.

Weeks, Inc., food store; 506 South Santa Fe, Salina, Kans.; 9-3-67 to 9-2-68.

F. W. Woolworth Co., variety store; No. 28, Newark, N.J.; 9-1-67 to 8-31-68.

Younker Brothers, Inc., department stores from 9-3-67 to 9-2-68: 223 Main Street, Ames, Iowa; 500 Merle Hay Plaza, Des Moines,

Iowa; Seventh and Walnut Street, Des Moines, Iowa; 217–239 South 25th Street, Fort Dodge, Iowa; 111 East Washington, Iowa City, Iowa; 23–24 Main Street, East, Marshalltown, Iowa; 101 South Federal, Mason City, Iowa; 118 High Street West, Oskaloosa, Iowa; 120 East Main Street, Ottumwa, Iowa; Fourth and Nebraska, and Fourth and Pierce, Sioux City, Iowa.

The following certificates were issued to retail or service establishments relying on the base-year employment experience of other establishments, either because they came into existence after the beginning of the applicable base year or because they did not have available base-year records. The certificates permit the employment of full-time students at rates of not less than 85 percent of the statutory minimum in the classes of occupations listed, and provide for the indicated monthly limitations on the percentage of full-time student hours of employment at rates below the applicable statutory minimum to total hours of employment of all employees.

Ann & Hope Factory Outlet, Inc., department store; 1699 Post Road, Warwick, R.I.; bagger; between 1.5 percent and 3.4 percent; 9–18–67 to 9–17–68.

Blue Hills Super Market, food store; 2809 North Third Street, Manhattan, Kans.; carryout, checker, stock clerk, bottle clerk, cleanup; between 6.1 percent and 18.4 percent; 9–19–67 to 9–18–68.

Boonville Foods, Inc., food store; 1004 Main Street, Boonville, Mo.; carryout; between 8 percent and 10 percent; 9–8–67 to 9–2–68.

Community Hospital of Roanoke Valley, hospital; 101 Elm Avenue, Southeast, Roanoke, Va.; nurse; 1 percent; 5–2–67 to 4–30–68.

W. T. Grant Co., variety stores for the occupations of salesclerk, office clerk, stock clerk, cashier except as otherwise indicated: No. 977, Northridge, Calif. (between 4.2 percent and 17.7 percent, 9–11–67 to 9–10–68); No. 143, Oxnard, Calif. (salesclerk, between 4.4 percent and 7.2 percent, 9–22–67 to 9–22–68); No. 1062, Jacksonville, Fla. (salesclerk, 10 percent; 9–19–67 to 9–18–68); No. 599, Mableton, Ga. (between 0.2 percent and 10 percent, 9–14–67 to 9–13–68); No. 1157, Evansville, Ind. (between 4.8 percent and 23.7 percent, 9–3–67 to 9–2–68); No. 139, Baltimore, Md. (between 7.4 percent and 10 percent, 9–8–67 to 9–7–68); No. 878, Minneapolis, Minn. (between 1.7 percent and 17.8 percent, 9–3–67 to 9–2–68); No. 963, Hammonton, N.J. (between 3.2 percent and 10 percent, 9–1–67 to 8–31–68); No. 974, West Caldwell, N.J. (between 6 percent and 10 percent, 9–1–67 to 8–31–68); No. 1078, Lima, Ohio (between 0 percent and 10 percent, 9–27–67 to 9–26–68); No. 1071, Southampton, Pa. (salesclerk, stock clerk, between 0 percent and 9.2 percent, 9–8–67 to 9–7–68); No. 1087, Lynchburg, Va. (between 1.7 percent and 12.6 percent, 9–18–67 to 9–17–68); No. 564, Milwaukee, Wis. (salesclerk, office clerk, between 8.4 percent and 10 percent, 9–18–67 to 9–17–68).

Autry Grear & Sons, Inc., food stores from 9–11–67 to 9–10–68, bagger, 10 percent: 6 South McGregor Avenue, Mobile, Ala.; Foley, Ala.

Home Town Super Market, food store; 6850 West Bank Expressway, Marrero, La.; bottle clerk, janitor, packer; between 15.8 percent and 32.4 percent; 8–19–67 to 8–18–68.

S. S. Kresge Co., variety stores from 9–3–67 to 9–2–68 except as otherwise indicated; salesclerk except as otherwise indicated: No. 772, Birmingham, Ala. (between 3 percent and 11.2 percent, 9–1–67 to 8–31–68); No. 4185, Augusta, Ga. (maintenance, stock clerk, checker-cashier, office clerk, between 3.5 percent and 10 percent, 9–19–67 to 9–18–68); No. 429, Des Plaines, Ill. (salesclerk, stock clerk, office clerk, checker-cashier, 10 percent); No. 554, Moline, Ill. (salesclerk, stock clerk, office clerk, checker-cashier, between 9.8 percent and 21.2 percent, 9–22–67 to 9–22–68); No. 602, Mount Prospect, Ill. (checker-cashier, salesclerk, stock clerk, office clerk, between 11.8 percent and 20.2 percent, 9–22–67 to 9–21–68); No. 187, Palestine, Ill. (salesclerk, stock clerk, office clerk, checker-cashier, between 17.8 percent and 26.1 percent, 9–21–67 to 9–20–68); No. 455, Springfield, Ill. (salesclerk, stock clerk, office clerk, checker-cashier, between 4.4 percent and 8.7 percent, 9–21–67 to 9–20–68); No. 4014, Kokomo, Ind. (10 percent); No. 4008, LaFayette, Ind. (between 7.4 percent and 10 percent); No. 466, Mishawaka, Ind. (10 percent, 9–7–67 to 9–6–68); No. 597, Richmond, Ind. (10 percent); No. 170, Cedar Rapids, Iowa (salesclerk, stock clerk, checker-cashier, office clerk, between 4.4 percent and 10 percent); No. 4584, Clinton, Iowa (between 0.7 percent and 10 percent, 8–31–67 to 8–30–68); No. 465, Grosse Pointe, Mich. (10 percent); 21 Village Square Road, Hazelwood, Mo. (10 percent, 7–28–67 to 7–27–68); No. 132, Cherry Hill, N.J. (10 percent); No. 274, Wayne, N.J. (10 percent); No. 4544, Minot, N. Dak. (salesclerk, stock clerk, checker-cashier, office clerk, between 7.6 percent and 10 percent); No. 4153, Cincinnati, Ohio (between 6.6 percent and 22 percent, 9–3–67 to 8–1–68); No. 758, Alcoa, Tenn. (maintenance, stock clerk, checker-cashier, office clerk, salesclerk, between 2.1 percent and 10 percent, 9–24–67 to 9–23–68); No. 701, Abilene, Tex. (between 7.2 percent and 10 percent, 9–24–67 to 9–23–68); No. 706, Houston, Tex. (between 3.1 percent and 10 percent, 9–27–67 to 9–26–68); No. 749, Pasadena, Tex. (between 5.8 percent and 10 percent, 9–27–67 to 9–26–68); No. 196, Alexandria, Va. (maintenance, stock clerk, office clerk, salesclerk, checker-cashier, 10 percent, 9–1–67 to 8–31–68); No. 4104, Roanoke, Va. (salesclerk, maintenance, stock clerk office clerk, checker-cashier, between 14.2 percent and 24.7 percent, 9–18–67 to 9–17–68).

McCrory-McLellan-Green Stores, variety stores from 9–3–67 to 9–2–68 except as otherwise indicated, salesclerk, stock clerk, office clerk except as otherwise indicated: No. 7503, Decatur, Ala. (between 2.2 percent and 20.6 percent); No. 3501, Northport, Ala. (between 6.6 percent and 23.9 percent, 9–20–67 to 9–19–68); No. 375, Phoenix, Ariz. (between 9.2 percent and 20 percent, 9–6–67 to 9–5–68); No. 379, Phoenix, Ariz. (between 4.9 percent and 15.9 percent); No. 709, Sierra Vista, Ariz. (between 4.2 percent and 17.1 percent, 9–14–67 to 9–13–68); No. 250, Deerfield Beach, Fla. (between 13 percent and 26.5 percent); No. 347, Leesburg, Fla. (between 6.8 percent and 20.5 percent); No. 365, Melbourne, Fla. (between 10.3 percent and 30.3 percent); No. 344, Mount Dora, Fla. (between 6.8 percent and 23.5 percent); No. 366, Pensacola, Fla. (between 2 percent and 19.1 percent, 9–27–67 to 9–26–68); No. 340, Tarpon Springs, Fla. (between 5.8 percent and 33.5 percent, 9–22–67 to 9–22–68); No. 359, Dalton, Ga. (between 6.6 percent and 23.8 percent, 9–19–67 to 9–18–68); No. 360, East Alton, Ill. (between 11 percent and 19.4 percent); No. 391, Mattoon, Ill. (between 7.4 percent and 21.7 percent, 9–23–67 to 9–22–68); No. 390, Morton Grove, Ill. (between 7.4 percent and 21.7 percent, 9–23–67 to 9–22–68); No. 1301, Baltimore, Md. (between 27 percent and 36 percent, 9–29–67 to 9–28–68); No. 343, Hadley, Mass. (between 6.6 percent and 15.1 percent); No. 447, Lapeer, Mich. (between 10.4 percent and 26.5 percent, salesclerk, stock clerk); No. 679, Sturgis, Mich. (between 10.4 percent and 26.5 percent); No. 7506, Jersey City, N.J. (between 9 percent and 19.6 percent); No. 372, Troy, Ohio (between 6.1 percent and 20.1 percent, 9–8–67 to 9–7–68); No. 90, Bristol, Pa. (between 14.2 percent and 29.7 percent, 9–30–67 to 9–19–68); No. 364, Scranton, Pa. (salesclerk, stock clerk, between 6 percent and 19 percent, 9–23–67 to 9–22–68); No. 333, Wyoming, Pa. (between 0 percent and 31.3 percent, 9–23–67 to 9–22–68).

Minimax Supermarket, food stores from 9–26–67 to 9–27–68, package clerk, sacker, bottle clerk, 10 percent; 718 West 29th Street, Austin, Tex.; 6113 Burnet Road, Austin, Tex.; 5306 Cameron Road, Austin, Tex.; 3813 East Avenue, Austin, Tex.; 5026 Fairview, Austin, Tex.; 208 East Oltorf, Austin, Tex.

G. C. Murphy Co., variety stores for the occupations of salesclerk, stock clerk, office clerk, janitor, replacement certificates except as otherwise indicated: No. 296, Decatur, Ala. (between 9 percent and 14.7 percent, 8–30–67 to 8–1–68); No. 297, Gadsen, Ala. (between 9 percent and 14.7 percent, 8–30–67 to 8–1–68); No. 306, Huntsville, Ala. (between 9 percent and 14.7 percent, 8–30–67 to 8–1–68); No. 289, Gainsville, Fla. (between 9.4 percent and 27.4 percent, 9–18–67 to 4–25–68); No. 287, Panama City, Fla. (between 13.4 percent and 24.3 percent, 9–19–67 to 4–25–68); No. 292, Pensacola, Fla. (between 13.4 percent and 24.3 percent, 9–19–67 to 4–25–68); No. 290, West Hollywood, Fla. (between 10.5 percent and 15.9 percent, 9–18–67 to 4–25–68); No. 277, Mount Prospect, Ill. (between 14.5 percent and 31.6 percent, 9–28–67 to 4–24–68); No. 282, Shreveport, La. (between 12.4 percent and 24.6 percent, 8–30–67 to 5–11–68); No. 161, Minneapolis, Minn. (between 14.1 percent and 21.9 percent, 9–26–67 to 4–24–68); No. 291, Cleveland, Ohio (between 2.2 percent and 15.0 percent, 9–22–67 to 5–8–68); No. 286, Lubbock, Tex. (between 10.5 percent and 28.2 percent, 9–6–67 to 9–5–68, no replacement).

Neisner Brothers, Inc., variety stores for the occupations of salesclerk, stock clerk, office clerk except as otherwise indicated: No. 135, Arcadia, Fla. (between 9.7 percent and 29.2 percent, 9–16–67 to 9–16–68); No. 80, Deltona, Fla. (between 7.6 percent and 16.6 percent, 9–19–67 to 9–18–68); No. 79, South Miami, Fla. (between 16.6 percent and 28.9 percent, 9–19–67 to 9–18–68); No. 202, Crystal Lake, Ill. (between 6 percent and 22 percent, 9–3–67 to 9–2–68); No. 142, Trenton, N.J. (salesclerk, stock clerk, between 13 percent and 23.6 percent, 9–3–67 to 9–2–68).

J. J. Newberry Co., variety stores from 9–3–67 to 9–2–68 except as otherwise indicated, office clerk, stock clerk, salesclerk, marker, janitor, window trimmer except as otherwise indicated: Ellsworth Shopping Center, Ellsworth, Maine (between 0 percent and 10 percent); Brick Plaza, Bricktown, N.J. (between 8.8 percent and 10 percent); Route 9, Freehold, N.J. (between 8.8 percent and 10 percent); No. 428, Newton, N.J. (between 8.8 percent and 10 percent); No. 25, Pottstown, Pa. (salesclerk, stock clerk, between 1.8 percent and 10 percent, 9–28–67 to 9–27–68); 400 North Main Street, Mitchell, S. Dak. (salesclerk, stock clerk, display clerk, office clerk, between 6.1 percent and 10 percent).

Piggly Wiggly, Inc., food store; No. 2, De Ridder, La.; bagger; between 2.8 percent and 10 percent; 9–8–67 to 9–2–68.

Raylass Department Store, department store; 119–121 Main Street, High Point, N.C.; office clerk, salesclerk, stock clerk, marker, janitor; between 8.6 percent and 20.6 percent; 9–12–67 to 9–11–68.

Sansing's Super Market, food store; No. 2, Wharton, Tex.; stock clerk, carryout; between 9.3 percent and 10 percent; 9–22–67 to 9–21–68.

Seifert's Inc., apparel store; 10 South Clinton, Iowa City, Iowa; cleanup, merchandising, salesclerk; between 2.8 percent and 9 percent; 9–22–67 to 9–21–68.

T. G. & Y. Stores Co., variety stores for the occupations of salesclerk, stock clerk, office clerk: No. 159, Columbia, Mo. (between 8 percent and 24 percent, 9–3–67 to 9–2–68); No. 151, Gladstone, Mo. (between 22 percent and 30 percent, 8–24–67 to 8–23–68); No. 494, Hannibal, Mo. (between 14 percent and 30 percent, 9–3–67 to 9–2–68); No. 126, Kansas City, Mo. (between 22 percent and 31 percent, 9–21–67 to 9–20–68); No. 458, Claremore, Okla. (between 24 percent and 30 percent, 9–27–67 to 9–26–68); No. 447, El Reno, Okla. (between 6 percent and 19 percent, 9–21–67 to 9–20–68); No. 514, Austin, Tex. (30 percent, 9–27–67 to 9–26–68); No. 406, Plainview, Tex. (between 12.4 percent and 28 percent, 9–21–67 to 9–20–68).

Tonner Brothers, Inc., food store; 801 West Broadway, Chesterton, Ind.; carryout; between 35 percent and 40 percent; 9–26–67 to 9–25–68.

F. W. Woolworth Co., variety stores for the occupation of salesclerk: No. 871, Evansville, Ind. (between 2.8 percent and 10.8 percent, 9–26–67 to 9–27–68); No. 2602, Hays, Kans. (between 2.2 percent and 12.6 percent, 9–20–67 to 9–19–68).

Younker Brothers, Inc., department stores from 9–3–67 to 9–2–68, stock clerk, office clerk, salesclerk, messenger, wrapper, marker, delivery clerk, cleanup, porter work: Middle and Kimberley Roads, Bettendorf, Iowa (between 8.9 percent and 10 percent); 4444 First Avenue NE., Cedar Rapids, Iowa (between 2.3 percent and 9 percent); 1550 East Douglas, Des Moines, Iowa (between 5 percent and 10 percent); 1501 First Avenue East, Newton, Iowa (between 0.7 percent and 8.2 percent); 1950 Grand Avenue North, Spencer, Iowa (between 0 percent and 7.9 percent).

Each certificate has been issued upon the representations of the employer which, among other things, were that employment of full-time students at special minimum rates is necessary to prevent curtailment of opportunities for employment, and the hiring of full-time students at special minimum rates will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under a certificate. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 30 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 519.9.

Signed at Washington, D.C., this 2d day of November 1967

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[F.R. Doc. 67-13308; Filed, Nov. 9, 1967; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 490]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 7, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted

MOTOR CARRIERS OF PROPERTY

No. MC 52861 (Sub-No. 12 TA), filed November 2, 1967. Applicant: HAROLD W. STEWART, INC., 2535 Center Street, Cleveland, Ohio 44113. Applicant's representative: Paul F. Beery, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, in specialized dump equipment, from the plantsite of Scioto Lime & Stone Co., Inc., Scioto Township, Delaware County, Ohio, to points in Kentucky, for 180 days. Supporting shipper: Scioto Lime & Stone Co., Inc., Post Office Box 338, Delaware, Ohio 43015. Send protests to: District Supervisor, G. J. Baccei, Interstate Commerce Commission, Bureau of Operations, 435 Federal Building, 215 Superior Avenue, Cleveland, Ohio 44114.

No. MC 114364 (Sub-No. 152 TA), filed November 2, 1967. Applicant: WRIGHT MOTOR LINES, INC., 1401 North Little Street, Post Office Box 1191, Cushing, Okla. 74023. Applicant's representative: Rodger Spahr (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beet pulp pellets*, from Rocky Ford, Colo., to the Panhandle Area of Texas on and north of U.S. Highway 380 and on and west of U.S. Highway 283, for 180 days. Supporting shipper: Robert F. Taylor, vice president, North American Dehydrating Corp., Post Office Box 217, Dixon, Calif. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 350, American General Building, 210 Northwest Sixth, Oklahoma City, Okla. 73102.

No. MC 128375 (Sub-No. 14 TA), filed November 1, 1967. Applicant: CRETE CARRIER CORPORATION, 15th and Main, Post Office Box 249, Crete, Nebr. 68333. Applicant's representative: Duane W. Acklie, Post Office Box 2028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned pet food and supplies, ingredients, and materials used in the manufacture of pet food* (except commodities in bulk, in tank and hopper type vehicles) for the account of Allen Products Co.: (1) Between Crete, Nebr., on the one hand, and on the other, points in Pennsylvania (except Allentown, Pa.); (2) between Allentown, Pa., and Crete, Nebr., on the one hand, and on the other, points in North Carolina, South Carolina, Virginia, Louisiana, Mississippi, Florida, Maryland, and Buffalo, New York; and (3) from Allentown, Pa., to points in Kentucky, Tennessee, and West Virginia, for 180 days. Supporting shipper: Allen Products Co., Inc., Allentown, Pa. Send protests to: Max H. Johnston, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 315 Post Office Building, Lincoln, Nebr. 68508.

No. MC 129496 TA, filed October 30, 1967. Applicant: EARL HALLENBECK, doing business as HALLENBECK FEED & GRAIN, Rural Route No. 1, Linwood, Kans. 66052. Applicant's representative: Clyde N. Christey, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid fertilizer and liquid fertilizer ingredients;* from the warehouse and/or plant facilities of Vistron Chemical Co., at or near a point about 6 six miles east of Webb City, Mo., also; from the warehouse and/or plant facilities of Phillips Chemical Co. at or near Hogue, Nebr., also; from the warehouse and/or plant facilities of Allied Chemical Co. at or near La Platte, Nebr., also; from the barge facilities of the Tennessee Valley Authority at or near Nebraska City, Nebr., and, also; from the warehouse and/or plant facilities of FelTex, Inc., located on U.S. Highway 77 at a point about 3 miles north of Fremont, Nebr.; to the plant and/or warehouse facilities of Agricultural Business Co., Inc., located at a point about 7 miles west of Lawrence, Kans., on U.S. Highway 24 and also, at a point about 2 miles south of Lansing, Kans., on U.S. Highway 73 and also at a point about 3 miles south of Effingham, Kans., on an unnumbered county road, and also at a point about one-half mile north of Easton, Kans., on an unnumbered county road. (2) *Liquid fertilizer and liquid fertilizer ingredients;* from the plant and/or warehouse facilities of Agricultural Business Co., Inc., located at a point about 7 miles west of Lawrence, Kans., on U.S. Highway 24; to points in Nebraska located on and south of U.S. Highway 34 and on and east of U.S. Highway 81, also; to points in Iowa on and south of U.S. Highway 34 and west of U.S. Highway 71 and also; to points in Missouri, located on and west of U.S. Highway 65 on and north of U.S. Highway 54, for 180 days. Supporting shipper: Agricultural Business Co., Inc., Lawrence, Kans. Send protests to: H. J. Simmons, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 129497 TA, filed October 30, 1967. Applicant: GERALD HILL, doing

business as HILL TRUCKING, Rural Route No. 1, Hudson, Ill. 61748. Applicant's representative: W. K. Kidwell, Okaw Building, Mattoon, Ill. 61938. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Bread, packages rolls, donuts, and individually packaged units of bakery produce*, from Normal, Ill., to Boswell, Ind., from Normal over U.S. Highway 51 to Clinton, Ill., thence over Illinois Highways 10, 48, and 47 to Monticello, Ill., thence over Illinois Highway 105 and U.S. Highway 36 to Atwood, Ill., thence over unumbered highway to Arthur, thence over Illinois Highway 133 to Arthur, thence over U.S. Highway 45 to Tuscola, thence over U.S. Highway 36 and Illinois Highway 130 to Villa Grove, Ill., thence return to U.S. Highway 36 over Illinois Highway 130 to Chrisman, thence over U.S. Highway 150 to Danville, Ill., thence over U.S. Highway 136 and U.S. Highway 41 to Attica, Ind., thence over Indiana Highway 55 and U.S. Highway 52 to Fowler, Ind., thence over Indiana Highway 18 and U.S. Highway 41 to Boswell, serving the intermediate points of Clinton, Monticello, Atwood, Arthur, Arcola, Tuscola, Villa Grove, Chrisman, and Danville, Ill., and Covington, Attica, and Fowler, Ind., for 180 days. Supporting shipper: Freshway Baking Co., Inc., 127 Beaufort Street, Normal, Ill. Send protests to: Raymond E. Mauk, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1086 U.S. Courthouse and Federal Office Building, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 129506 TA, filed November 2, 1967. Applicant: GENE BAILEY, doing business as AMERICAN BROKERAGE COMPANY, 20 Peters Street, Bristol, Va. 24201. Applicant's representative: R. Roy Rush, Shenandoah Building, Roanoke, Va. 24011. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Shell containers*, from Washington and Alpha, N.J., to Baldwin Electronics Co., Camden, Ark., McAlester Air Force Base, McAlester, Okla., Pine Bluff Arsenal, Pine Bluff, Ark., Remington Rand, Doyline, La., and Louisiana Ordnance Plant, Shreveport, La., for 180 days. Supporting shipper: M. C. Ricciardi Co., Park Avenue, Alpha, N.J. 08865. Send protests to: George S. Hales, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 215 Campbell Avenue SW., Roanoke, Va. 24011.

No. MC 129507 TA, filed November 2, 1967. Applicant: ALBERT HAYDON, doing business as K & T TRUCKING COMPANY, Post Office Box 70, Bardstown, Ky. 40004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Crushed stone and agricultural limestone*, in bulk, in dump vehicles, from the plant of Jellico Stone Co., Inc., near Jellico, Tenn., to points in Whitley County, Ky., for 180 days. Supporting shipper: Sam Nally, President, Jellico Stone Co., Inc., Post Office Box 388, Jellico, Tenn. 37762. Send protests to: Wayne L. Merilatt, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 426 Post Office Building, Louisville, Ky. 40202.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13296; Filed, Nov. 9, 1967; 8:46 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during November.

3 CFR

Page

PROCLAMATIONS:
3694 (terminated in part by Proc. 3818) 15467
3712 (terminated in part by Proc. 3818) 15467
3744 (terminated in part by Proc. 3818) 15467
3818 15467

EXECUTIVE ORDERS:
2295 (modified by PLO 4313) 15429
4702 (revoked in part by PLO 4315) 15482
8652 (revoked in part by PLO 4317) 15482
10530 (see EO 11378) 15237
10682 (see EO 11378) 15237
11378 15237
10807 (amended by EO 11381) 15629
10903 (amended by EO 11380) 15627
11034 (amended by EO 11380) 15627
11379 15625
11380 15627
11381 15629

5 CFR

713 15631

7 CFR

51 15066, 15073
319 15577
729 15149
730 15076
910 15430, 15524, 15631
912 15430, 15632
913 15430
945 15577
984 15388
1001 15076
1015 15090
1067 15093
1120 15388
1126 15388
1132 15389
1137 15431
1421 15632
1464 15633

PROPOSED RULES:
51 15435
723 15546
822 15393
891 15393
892 15393
905 15116
906 15394
907 15488
908 15394
912 15436
913 15395
959 15177
989 15488
1049 15489
1064 15490
1090 15437
1125 15178
1131 15588

8 CFR

103 15469
212 15469
238 15469

9 CFR

76 15240
78 15577
131 15469

10 CFR

PROPOSED RULES:
20 15432

12 CFR

1 15544
219 15389
563 15634

13 CFR

108 15065
108 15149
120 15634
122 15635

PROPOSED RULES:
107 15399
121 15184

14 CFR

21 15472
39 15094, 15153, 15154, 15390, 15421, 15472, 15523, 15579, 15635.
71 15094, 15095, 15154, 15523, 15524, 15579, 15635, 15636.
73 15096
75 15636
91 15422
97 15423, 15473, 15580
141 15583
207 15096
208 15097
241 15098

PROPOSED RULES:
39 15490, 15491, 15588
71 15117–15121, 15491–15493, 15546–15548, 15588, 15589.
93 15589

15 CFR

0 15222
70 15154
204 15104, 15391
230 15105, 15636

16 CFR

13 15105–15107, 15470
14 15525
15 15470
17 15540
228 15525
229 15529
230 15531
231 15532
232 15533

16 CFR—Continued

Page

233 15534
234 15536
235 15538
236 15538
237 15539
238 15540
239 15541
240 15542
412 15564
413 15424

PROPOSED RULES:
300 15180

17 CFR

200 15470

18 CFR

3 15239

PROPOSED RULES:
141 15434
260 15434

19 CFR

4 15390
10 15424
14 15155
16 15390

20 CFR

396 15471
401 15544

21 CFR

120 15107, 15120, 15424, 15578
121 15108, 15109, 15155, 15545
133 15109
148c 15425
166 15390

PROPOSED RULES:
28 15116

22 CFR

PROPOSED RULES:
201 15116

24 CFR

200 15425, 15586, 15636
203 15639
207 15640
220 15640
222 15640
809 15640

25 CFR

41 15471

26 CFR

1 15421
301 15241, 15483

PROPOSED RULES:
1 15167, 15393

28 CFR

0 15425

29 CFR Page

526 ... 15425
786 ... 15425
1500 ... 15478, 15479

PROPOSED RULES:

5 ... 15396
6 ... 15396
7 ... 15396

32 CFR

66 ... 15111
127 ... 15112
536 ... 15113
552 ... 15115
710 ... 15115

35 CFR

61 ... 15641

36 CFR

7 ... 15391

39 CFR

131 ... 15587
821 ... 15480
822 ... 15480, 15481
823 ... 15099

PROPOSED RULES:

Ch. I ... 15643

41 CFR

6-75 ... 15427
50-204 ... 15641

42 CFR Page

PROPOSED RULES:

73 ... 15178

43 CFR

PUBLIC LAND ORDERS:

1583 (see PLO 4307) ... 15428
1630 (see PLO 4315) ... 15482
3263 (revoked in part by PLO 4307) ... 15428
3634 (revoked in part by PLO 4302) ... 15427
4236 (see PLO 4317) ... 15482
4266 (see PLO 4317) ... 15482
4270 (amended by PLO 4312) ... 15429
4301 ... 15098
4302 ... 15427
4303 ... 15427
4304 ... 15427
4305 ... 15428
4306 ... 15428
4307 ... 15428
4308 ... 15428
4309 ... 15428
4310 ... 15429
4311 ... 15429
4312 ... 15429
4313 ... 15429
4314 ... 15482
4315 ... 15482
4316 ... 15482
4317 ... 15482
4318 ... 15483

43 CFR—Continued Page

PROPOSED RULES:

1720 ... 15546

45 CFR

81 ... 15156
531 ... 15641

46 CFR

PROPOSED RULES:

Ch. IV ... 15438

47 CFR

0 ... 15472
73 ... 15161, 15162, 15545

PROPOSED RULES:

2 ... 15180
89 ... 15180
91 ... 15180
93 ... 15180

49 CFR

103 ... 15484
114 ... 15484

PROPOSED RULES:

288 ... 15589

50 CFR

32 ... 15166, 15586, 15587, 15642
33 ... 15166

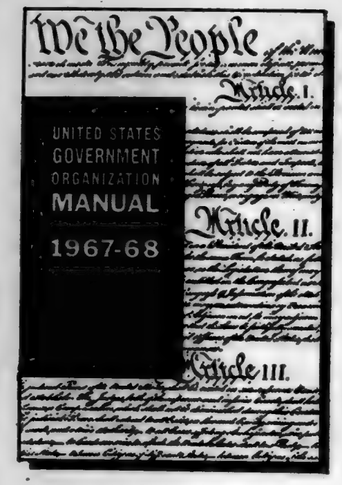

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The President
Agricultural Stabilization and Conservation Service
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Federal Communications Commission
Federal Power Commission
Federal Trade Commission
Fiscal Service
Fish and Wildlife Service
General Services Administration
Internal Revenue Service
Interstate Commerce Commission
Land Management Bureau
National Park Service
Securities and Exchange Commission

Detailed list of Contents appears inside.

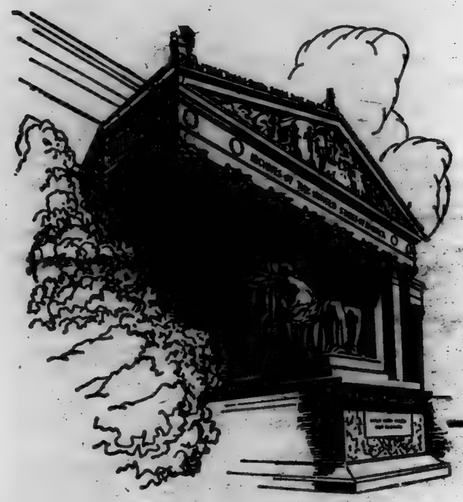

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Contents

THE PRESIDENT

Proclamation
Thanksgiving Day, 1967 15667

EXECUTIVE AGENCIES

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Notices
Sugar; importation into continental U.S. for refining and storage .. 15683

AGRICULTURE DEPARTMENT

See Agricultural Stabilization and Conservation Service; Consumer and Marketing Service.

ARMY DEPARTMENT

See Engineers Corps.

ATOMIC ENERGY COMMISSION

Notices
Consumers Public Power District; dismantling of facility 15684
Dairyland Power Cooperative; application for transfer of facility operating authorization 15684
Duke Power Co.; issuance of provisional construction permits 15684
Public Service Electric and Gas Co.; application for construction permit and facility license 15684

CIVIL AERONAUTICS BOARD

Proposed Rule Making
Interstate, overseas route, and foreign air transportation; certificates of public convenience and necessity 15676

Notices
Hearings, etc.:
Cassels in the Air, Inc 15685
Reopened Aerovias Sud Americana case 15685
St. Louis limited supplemental air service investigation 15685

CONSUMER AND MARKETING SERVICE

Rules and Regulations
Avocados grown in Florida; containers 15669
Filberts grown in Oregon and Washington; free and restricted percentages for 1967–68 fiscal year 15669
Hops, domestic; expenses and rate of assessment 15670

DEFENSE DEPARTMENT

See Engineers Corps.

ENGINEERS CORPS

Rules and Regulations
Danger zone regulations; Chesapeake Bay, Md 15673

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations
Repair stations; changes in personnel 15670

Proposed Rule Making
Flight following requirements, revision; extension of comment period 15676
Normal and transport category rotorcraft; dual locking devices for fasteners 15676

FEDERAL COMMUNICATIONS COMMISSION

Rules and Regulations
Organization; delegation of authority to Chief, Broadcast Bureau 15675

Proposed Rule Making
FM broadcast stations; table of assignments; Seneca Falls, N.Y., etc 15679
Radiolocation stations; availability of certain frequency bands and establishment of requirements for type acceptance of transmitters 15680

Notices
Standard broadcast application ready and available and processing 15686
Hearings, etc.:
St. Anthony Television Corp. (KHMA–TV) and Delta Teleradio Corp 15686
Simpson, Perry H. (2 documents) 15686

FEDERAL POWER COMMISSION

Rules and Regulations
Annual reports and uniform system of accounts; pumped storage projects 15670

Notices
Hearings, etc.:
California-Pacific Utilities Co ... 15687
Continental Oil Co 15688
French, L. R., Jr 15688
Lake Superior District Power Co. 15688
Lone Star Gas Co 15689
Transcontinental Gas Pipe Line Corp. and South Texas Natural Gas Gathering Co 15689
Whiting, Fred M., et al 15687

FEDERAL TRADE COMMISSION

Proposed Rule Making
Use of word "free" in connection with sale of photographic film and film processing service; guide against deception 15681

FISCAL SERVICE

Rules and Regulations
U.S. securities; book-entry procedure 15672

FISH AND WILDLIFE SERVICE

Rules and Regulations
Hunting; Washita National Wildlife Refuge, Okla.; correction ... 15675

GENERAL SERVICES ADMINISTRATION

Rules and Regulations
Procurement; contractor use of GSA supply sources 15674

INTERIOR DEPARTMENT

See Fish and Wildlife Service; Land Management Bureau; National Park Service.

INTERNAL REVENUE SERVICE

Rules and Regulations
Income tax; identification of book-entry Treasury securities .. 15671

INTERSTATE COMMERCE COMMISSION

Notices
Motor carrier temporary authority applications 15690

LAND MANAGEMENT BUREAU

Notices
California; proposed classification of public lands for multiple-use management; correction 15683
Colorado; opening of public lands .. 15683
Montana; closing of Billings District Office for moving 15683
Oregon; proposed classification of public lands for multiple-use management; correction 15683

NATIONAL PARK SERVICE

Notices
National Capital Region; concession contract 15683

SECURITIES AND EXCHANGE COMMISSION

Notices
Hearings, etc.:
Arkansas Power & Light Co 15689
Collins Radio Co. et al 15690
Roto American Corp 15690

TRANSPORTATION DEPARTMENT

See Federal Aviation Administration.

TREASURY DEPARTMENT

See Fiscal Service; Internal Revenue Service.

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

3 CFR

PROCLAMATION:
3819 15667

7 CFR

915 15669
982 15669
991 15670

14 CFR

145 15670

PROPOSED RULES:
27 15676
29 15676
121 15676
202 15676
203 15676

16 CFR

PROPOSED RULES:
242 15681

18 CFR

101 15670
141 15670

26 CFR

1 15671

31 CFR

306 15672

33 CFR

204 15673

41 CFR

1–5 15674

47 CFR

0 15675

PROPOSED RULES:
73 15679
89 15680
93 15680

50 CFR

32 15675

Presidential Documents

Title 3—THE PRESIDENT

Proclamation 3819

THANKSGIVING DAY, 1967

By the President of the United States of America

A Proclamation

The first American tradition grew out of gratitude for survival.

It began—long before independence was a dream—with families responding to an even deeper human impulse. They had suffered the rigors of winter in a new world—and they had endured. They put aside their plows and thanked God for the harvest's bounty.

Over the years, we have made Thanksgiving a unique national occasion. Thanking God for His goodness, we thank Him as well for the promise and the achievement of America.

Our reasons for gratitude are almost without number. We are grateful for the endurance of our government for one hundred and eighty years. We are grateful that the founding fathers planned so wisely for the generations that followed them. We are grateful for a material abundance beyond any mankind has ever known. In our land, the harvests have been good.

Much as we are grateful for these material and spiritual blessings, we are conscious, in this year, of special sorrows and disappointments. We are engaged in a painful conflict in Asia, which was not of our choosing, and in which we are involved in fidelity to a sacred promise to help a nation which has been the victim of aggression. We are proud of the spirit of our men who are risking their lives on Asian soil. We pray that their sacrifice will be redeemed in an honorable peace and the restoration of a land long torn by war.

We are grateful for the tremendous advances which have been made in our generation in social justice and in equality of opportunity, regardless of racial background. But we are saddened by the civil strife which has occurred in our great cities.

Recognizing the trials we have endured and are enduring, I have turned to the Thanksgiving Proclamation of President Abraham Lincoln in 1863. President Lincoln faced, with equal emphasis, both the blessings and the sorrows of the people.

He recommended to his fellow citizens that, "while offering up the ascriptions justly due to Him for such singular deliverances and blessings, they do also, with humble penitence for our national perverseness and disobedience, commend to His tender care all those who have become widows, orphans, mourners, or sufferers in the lamentable civil strife in which we are unavoidably engaged."

In a similar spirit I ask my fellow citizens to join their thankfulness with penitence and humility. Let us implore Almighty God that, to all our other blessings, He may add the blessings of wisdom and perseverance that will lead us to both peace and justice, in the family of nations and in our beloved homeland.

NOW, THEREFORE, I, LYNDON B. JOHNSON, President of the United States of America, in consonance with Section 6103 of Title 5 of the United States Code designating the fourth Thursday of November in each year as Thanksgiving Day, do hereby proclaim Thursday, November 23, 1967 as a day of national thanksgiving.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of November in the year of our Lord nineteen hundred and sixty-seven, and of the Independence of the United States of America the one hundred and ninety-second.

Lyndon B. Johnson

[F.R. Doc. 67-13441; Filed, Nov. 9, 1967; 4:53 p.m.]

Rules and Regulations

Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Avocado Order 5, Amdt. 5]

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

Containers

On October 21, 1967, notice of rule making was published in the FEDERAL REGISTER (32 F.R. 14665) with respect to a proposed amendment of the avocado container regulation (Avocado Order 5, 7 CFR 915.305, 32 F.R. 7171, 13180, 14548), effective under the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in south Florida. This is a regulatory marketing program issued pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The amendment provides that (1) all avocados must be packed in only two layers in the containers affected; (2) all avocados other than Booth 1, Fuchs, and Trapp varieties must be packed to a net weight of 27 pounds with a lot tolerance of 5 percent, by count, for containers failing to meet this weight requirement, and (3) that avocados of the Booth 1, Fuchs, and Trapp varieties must be packed to a net weight of 26 pounds with the aforesaid lot tolerance.

After consideration of all relevant matter presented, including that in the proposal set forth in the aforesaid notice which was submitted by the Avocado Administrative Committee (established pursuant to the amended marketing agreement and order), it is hereby found and determined that the amendment of said container regulation, as hereinafter set forth, is in accordance with the provisions of the said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for making this amendment effective as hereinafter provided and for not postponing the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) customarily avocados have been shipped in containers with inside dimensions of 13½ x 16½ and depth varying from 6½ to 8 inches and it has been found that, in accordance with good commercial practice, avocados in such containers should be packed in two layers with a minimum net weight per container of 26 or 27 pounds, depending upon the variety; (2) in order to assure the use of such containers in the aforesaid manner, to preclude the handling of underweight containers of avocados, and to effect orderly marketing of such avocados, the container requirements in this amendment should be made effective as soon as possible; (3) the specifications of the amendment were unanimously recommended by the Avocado Administrative Committee and handlers have been notified of such recommendation; (4) a substantial portion of the current crop of avocados remains to be shipped and such specifications should be made applicable to such avocados; and (5) compliance with this amendment will not require of handlers any preparation which cannot be completed by the effective time hereof.

§ 915.305 Avocado Order 5.

(a) *Order.* (1) * * *

(x) With respect to the containers prescribed in subdivision (vi) of this subparagraph, all avocados packed in such containers shall be placed in two layers only and the net weight of the avocados in any such container shall be not less than 27 pounds, except that the net weight of Booth 1, Fuchs, and Trapp varieties packed in any such container shall be not less than 26 pounds: *Provided*, That not to exceed 5 percent, by count, of such containers in any lot may fail to meet the applicable weight requirement.

* * * * *

Dated November 8, 1967, to become effective upon publication in the FEDERAL REGISTER.

PAUL A. NICHOLSON,
Deputy Director,
Fruit and Vegetable Division.

[F.R. Doc. 67-13367; Filed, Nov. 13, 1967; 8:49 a.m.]

PART 982—FILBERTS GROWN IN OREGON AND WASHINGTON

Modification of Free and Restricted Percentages for 1967–68 Fiscal Year

The Filbert Control Board has unanimously recommended that the free and restricted percentages applicable to merchantable filberts acquired by handlers during the 1967–68 fiscal year (§ 982.217, 32 F.R. 13933) be modified. The modification would reduce the restricted percentage from the present 39 percent to 29 percent, and increase the free percentage from the present 61 percent to 71 percent. The Board is established under, and its recommendations are made pursuant to, the marketing agreement, as amended, and Order No. 982, as amended (7 CFR Part 982), regulating the handling of filberts grown in Oregon and Washington, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

A free percentage of 61 percent and a restricted percentage of 39 percent were issued based on an estimated 9,400 ton filbert crop, an estimated trade demand of 5,250 tons and a 13 percent disappearance allowance for culls, blows, and farm use. Current estimates of the 1967 filbert crop indicate a 2,000 ton reduction and is now estimated at 7,400 tons. The lateness of the crop has resulted in lost sales and the Board has revised its estimated trade demand downward from 5,250 tons to 4,500 tons. Due also to the late maturity of the crop and adverse weather conditions, a 20 percent disappearance allowance for culls, blows, and farm use has been recommended.

After consideration of all relevant matter presented including that in the notice issued in connection with the designation of the free and restricted percentages for the 1967–68 fiscal year, the information and recommendation submitted by the Board, and other available information, it is found that to revise § 982.217 (32 F.R. 13933) so as to modify the free and restricted percentages, as set forth below, will tend to effectuate the declared policy of the act.

§ 982.217 Free and restricted percentages for merchantable filberts during the 1967–68 fiscal year.

The following percentages are established for merchantable filberts for the fiscal year beginning August 1, 1967:

Free percentage	71
Restricted percentage	29

It is further found that it is impracticable, unnecessary, or contrary to the public interest to give preliminary notice of this specific action and engage in public rule making procedure, and that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) Under this marketing program, the percentages designated for a particular fiscal year, and any modifications thereof, apply to all merchantable filberts handled from the beginning of the fiscal year; (2) the current fiscal year began August 1, 1967, and the modified percentages herein designated will automatically apply to such merchantable filberts handled on or after that date; (3) this action must be taken promptly to achieve its purpose by providing a firm basis for pricing filberts during the remainder of the fiscal year; (4) handlers are aware of this action as recommended by the Board and require no advance notice to comply with this regulation; and (5) this action relieves restrictions on the handling of filberts.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 7, 1967.

PAUL A. NICHOLSON,
Deputy director,
Fruit and Vegetable Division.

[F.R. Doc. 67-13343; Filed, Nov. 13, 1967; 8:46 a.m.]

PART 991—HOPS OF DOMESTIC PRODUCTION

Expenses of Hop Administrative Committee and Rate of Assessment for 1967–68 Marketing Year

Notice was published in the October 27, 1967, issue of the FEDERAL REGISTER (32 F.R. 14898) regarding proposed expenses of the Hop Administrative Committee for the 1967–68 marketing year and rate of assessment for that marketing year, pursuant to §§ 991.55 and 991.56 of the Marketing Order No. 991 (7 CFR Part 991) regulating the handling of hops of domestic production effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons an opportunity to submit written data, views, or arguments with respect to the proposal. None were submitted within the prescribed time.

After consideration of all relevant matter presented, including that in the notice, the information and the unanimous recommendations submitted by the Hop Administrative Committee and other available information, it is found that the expenses of the Hop Administrative Committee and rate of assessment for the marketing year beginning August 1, 1967, shall be as follows:

§ 991.302 Expenses of the Hop Administrative Committee and rate of assessment for the 1967–68 marketing year.

(a) *Expenses.* Expenses in the amount of $156,000 are reasonable and likely to be incurred by the Hop Administrative Committee during the marketing year beginning August 1, 1967, for its maintenance and functioning and for such purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for said marketing year, payable by each handler in accordance with § 991.56, is fixed at 0.2 cent per pound of salable hops.

It is found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of the marketing order require that the rate of assessment fixed for a particular marketing year shall be applicable to all salable hops handled during such year; and (2) the current marketing year began on August 1, 1967, and the rate of assessment herein fixed will automatically apply to all such hops beginning with that date.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 8, 1967.

PAUL A. NICHOLSON,
Deputy Director,
Fruit and Vegetable Division.

[F.R. Doc. 67-13348; Filed, Nov. 13, 1967; 8:46 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 8536; Amdt. 145-8]

PART 145—REPAIR STATIONS

Changes in Personnel

The purpose of this amendment to Part 145 of the Federal Aviation Regulations is to allow holders of repair station certificates to make certain personnel changes with respect to their repair station operation without the necessity of applying for a certificate change.

Section 145.15 requires the holder of a repair station certificate to apply for a change in that certificate when, among other things, there is a change in the officials responsible for overall management of the station or in the persons responsible for releasing items from it or there is a change in authorized signatures. On the other hand, the repair station is also required, under § 145.43, to maintain a roster of the officials of the station that are responsible for its management and the inspection personnel who make final airworthiness determinations before releasing an article to service and to change the roster as necessary to reflect changes in the duties, assignment or employment status of such personnel.

Since the adoption of the foregoing requirements, there has been a rapid growth in repair station activities. This has resulted in a substantial increase in personnel and personnel changes. For this reason, the FAA has been requested to provide some relief from the burden of filing for a change in their certificates each time there is a change in supervisory or inspection personnel.

The records required to be maintained by the repair stations under § 145.43 concerning changes with respect to supervisory and inspection personnel provide substantially the same information as is required to be furnished to the FAA under § 145.15 for such personnel. Therefore, since the records required under § 145.43 must be submitted to the Administrator for his evaluation and kept subject to his inspection, the FAA now considers that it is unnecessary to require the repair stations to also apply for a change in their certificates each time there is a change in supervisory or inspection personnel. Moreover, the FAA has determined that a record of the authorized signatures of the supervisory and inspection personnel no longer serves any useful purpose and the requirement concerning such a record in § 145.15 should be deleted.

Since the amendment set forth herein involves FAA procedure and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and it may be made effective on less than 30 days notice.

In consideration of the foregoing, Part 145 of the Federal Aviation Regulations is amended by revising paragraph (a) of § 145.15 to read as follows, effective December 11, 1967.

§ 145.15 Change or renewal of certificates.

(a) Each of the following requires the certificate holder to apply for a change in a repair station certificate, on a form and in the manner prescribed by the Administrator:

(1) A change in the location or housing and facilities of the station.

(2) A request to revise or amend a rating.

* * * * *

(Secs. 313(a), 601, 607, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1427)

Issued in Washington, D.C., on November 6, 1967.

D. D. THOMAS,
Acting Administrator.

[F.R. Doc. 67-13389; Filed, Nov. 13, 1967; 8:45 a.m.]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

[Docket No. R-327; Order 354]

PART 101—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR CLASS A AND CLASS B PUBLIC UTILITIES AND LICENSEES

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

Pumped Storage Projects

NOVEMBER 7, 1967.

On June 26, 1967, the Commission issued a notice of proposed rule making in this proceeding (32 F.R. 9709, July 4, 1967) proposing to amend General Instruction 16 of its Uniform System of Accounts prescribed for Public Utilities and Licensees, and certain schedules of FPC Form No. 1 used by licensees for the annual detailed reporting of data relating to pumped storage projects.

Pursuant to the invitation contained in the notice herein, 10 responses were received from or on behalf of 23 entities which either own pumped storage facilities or are concerned with the reporting of information with respect thereto.[1] In addition, we have had the benefit of the extremely detailed consideration given to the proposed schedules by the Pumped Storage Working Group of the Public Utility Advisory Committee to the Bureau of the Budget.[2] Most of the suggestions made by the several respondents were of a clarifying nature and the schedules here prescribed have been revised accordingly.

All the respondents voiced their serious objection to two of our proposed requirements: first, that if a plant is equipped with a combination of conventional and pumped storage equipment, each should be reported as a separate plant[3] and, second, the requirement for reporting "Pumping Expenses".[4] We recognize the merit of both of these objections arising, as they do, out of the conviction that the data which could reasonably be expected to be furnished under these proposed requirements would be neither meaningful nor particularly reliable. Furthermore, because of the differences in the use or planned use of pumped storage equipment by the several respondents the data reported would not be uniform and, thus, subject to misinterpretation.

We are therefore deleting, at least for the present, the requirement that the plants combining both conventional and pumped storage equipment be reported separately. Though we are retaining the requirement to "Pumping Expenses," we are revising instruction 7 (on page 433d) so that the reporting company which may be unable to compute the item accurately shall, instead, report the principal sources of power used for pumping and the estimated amounts of energy from each source. This will, at least, give the Commission and interested members of the public some general data with respect to the extent to which this comparatively recent development in power generation is being utilized.

The Commission finds:

(1) The amendment of the Uniform System of Accounts and the revision or prescription of the several schedules in Form No. 1, herein ordered, are necessary and appropriate to the administration of the Federal Power Act.

(2) Since these schedules are being prescribed for inclusion in FPC Form No. 1 for the reporting year 1967, good cause exists for making the amendments effective forthwith.

The Commission, acting pursuant to the authority granted by the Federal Power Act, as amended, particularly sections 4(a), 301, 304, 309, and 311 thereof (41 Stat. 1065; 49 Stat. 839, 854, 855, 858, 859; 16 U.S.C. 797(a), 825, 825c, 825h, 825j), orders:

(A) Effective upon the issuance of this order, the Uniform System of Accounts prescribed for public utilities and licensees by Part 101, Chapter I, Title 18 of the Code of Federal Regulations, is amended by revising the introductory clause of General Instruction 16 to read as follows:

16. *Separate Accounts or Records for Each Licensed Project.*

The accounts or records of each licensee shall be so kept as to show for each project (including pumped storage) under license: * * *

(B) Effective for the reporting year 1967, and thereafter, the following schedules in FPC Form No. 1, prescribed by § 141.1 of the said Title 18 are revised:

Accumulated Provisions for Depreciation of Electric Plant, page 408.

Summary of Electric Operation and Maintenance Expenses, page 420.

Depreciation and Amortization of Electric Plant, page 429.

Electric Energy Account, page 431.

Hydroelectric Generating Plant Statistics (Large Plants), 433a–433b.

Generating Plant Statistics (Small Plants), page 434.

to read as set out in Attachment A hereto.[5]

(C) Effective for the reporting year 1967 and thereafter, the following new schedules are added to the said FPC Form No. 1:

Pumped Storage Generating Plant Statistics (Large Plants), pages 433c–433d.

Pumped Storage Generating Plants, pages 439a–439c.

as set out in Attachment B,[5] hereto.

(D) Effective upon the issuance of this order, paragraph (d) of the said § 141.1 is revised by adding new schedule titles as follows:

1. Insert "Pumped Storage Generating Plant Statistics (Large Plants)" to precede the line "Generating Plant Statistics (Small Plants)" and

2. Insert "Pumped Storage Generating Plants" to follow the line "Hydroelectric Generating Plants (continued)".

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13351; Filed, Nov. 13, 1967; 8:46 a.m.]

[1] American Electric Power Service Corp. for itself and in behalf of Appalachian Electric Power Co., Indiana & Michigan Electric Co., Kentucky Power Co., Kingsport Power Co., Ohio Power Co., and Wheeling Electric Co.; Consolidated Edison Company of New York, Inc.; Consumers Power Co.; Department of the Army, Office of the Chief of Engineers; General Public Utilities Corp. for itself and Jersey Central Power & Light Co., Metropolitan Edison Co., New Jersey Power & Light Co., and Pennsylvania Electric Co.; Georgia Power Co.; Northeast Utilities Service Co. in behalf of Connecticut Light and Power Co., The Hartford Electric Light Co. and Western Massachusetts Electric Co.; Philadelphia Electric Co.; Public Service Electric and Gas Co.; and Union Electric Co.

[2] The Committee advises the Bureau with respect to the clearance of forms pursuant to the Federal Reports Act of 1942 (44 U.S.C. 421 et seq.).

[3] Instruction 7 on the schedule "Hydroelectric Generating Plant Statistics (Large Plants)", pp. 443a–433b, and Instruction 8 on the schedule "Generating Plant Statistics (Small Plants)", p. 434.

[4] Instruction 7 on the schedule "Pumped Storage Generating Plant Statistics (Large Plants)", p. 433.

[5] Attachments A and B filed as part of the original document.

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D.6984]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Identification of Book-Entry Treasury Securities

In order to modify the identification rules for purposes of determining basis and holding period of property in the case of certain Treasury securities, paragraph (c) of § 1.1012–1 of the Income Tax regulations (26 CFR Part 1) is amended by adding a new subparagraph (7) to read as follows:

§ 1.1012–1 Basis of property.

* * * * *

(c) *Sale of stock.* * * *

(7) *Book-entry Treasury securities.* (i) In applying the provisions of subparagraph (3) (i) (b) of this paragraph in the case of a sale or transfer of a book-entry Treasury security which is made pursuant to a written instruction by the seller or transferor, the serially-numbered advice of transaction prescribed by the Fiscal Service of the Department of the Treasury and furnished by a Reserve Bank shall constitute confirmation as required by such subparagraph.

(ii) For purposes of this subparagraph:

(a) The term "book-entry Treasury security" means a transferable Treasury bond, note, certificate of indebtedness, or bill issued under the Second Liberty Bond Act (31 U.S.C. 774 (2)), as amended, in the form of an entry made as prescribed in 31 CFR Part 306, Subpart O, on the records of a Reserve Bank which is deposited in an account with a Reserve Bank (1) as collateral pledged to a Reserve Bank (in its individual capacity) for advances by it, (2) as collateral pledged to the United States under Treasury Department Circular No. 92 or 187, both as revised and amended, and (3) by a member bank of the Federal Reserve System for its sole account for safekeeping by a Reserve Bank in its individual capacity;

(b) The term "serially-numbered advice of transaction" means the confirmation (prescribed in 31 CFR 306.116) issued by the Reserve Bank which is identifiable by a unique number and indicates that a particular written instruction to the Reserve Bank with respect to the deposit or withdrawal of a specified book-entry Treasury security (or securities) has been executed; and

(c) The term "Reserve Bank" means a Federal Reserve Bank and its branches acting as Fiscal Agent of the United States.

* * * * *

Because this Treasury decision merely liberalizes the identification rules for purposes of determining basis and holding period in the case of certain securities, it is found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b), or subject to the effective date limitation of 5 U.S.C. 553(d).

(Sec. 7805, Internal Revenue Code of 1954; 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

Approved: November 7, 1967.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

[F.R. Doc. 67-13244; Filed, Nov. 13, 1967; 8:47 a.m.]

Title 31—MONEY AND FINANCE: TREASURY

Chapter II—Fiscal Service, Department of the Treasury

SUBCHAPTER B—BUREAU OF THE PUBLIC DEBT

PART 306—GENERAL REGULATIONS WITH RESPECT TO UNITED STATES SECURITIES

Subpart O—Book-Entry Procedure

On August 2, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 11216) with respect to Treasury Department Circular No. 300. After consideration of such relevant matter as was presented by interested parties, the effective date has been changed from September 5, 1967, to January 1, 1968. Certain other changes not affecting substantive rights were also made.

The amended regulations read:

Department Circular No. 300, Third Revision, dated December 23, 1964, as amended, is hereby further amended effective January 1, 1968 by redesignating Subpart O (entitled "Miscellaneous Provisions") as Subpart P, and renumbering §§ 306.118 through 306.126 as §§ 306.123 through 306.126, respectively, and by inserting a new Subpart O as follows:

Subpart O—Book-Entry Procedure

Sec.
306.115 Definition of terms.
306.116 Authority of Reserve Banks.
306.117 Scope of book-entry procedure.
306.118 Pledges.
306.119 Limitations on transfers or pledges.
306.120 Withdrawals and transfers.
306.121 Registered bonds and notes.
306.122 Servicing book-entry Treasury securities; payment of interest, payment at maturity or upon call.

AUTHORITY: The provisions of this Subpart O issued under R.S. 3706, 40 Stat. 288, 290, 1309, 48 Stat. 342, 50 Stat. 481; 31 U.S.C. 738a, 739, 752, 752a, 753, 754, 754a, 754b.

§ 306.115 Definition of terms.

In this subpart, unless the context otherwise requires or indicates:

(a) "Reserve Bank" means a Federal Reserve Bank and its branches acting as Fiscal Agent of the United States.

(b) "Treasury security" means a transferable Treasury bond, note, certificate of indebtedness, or bill issued under the Second Liberty Bond Act, as amended, in the form of a definitive Treasury security or a book-entry Treasury security.

(c) "Definitive Treasury security" means a transferable Treasury bond, note, certificate of indebtedness, or bill issued under the Second Liberty Bond Act, as amended, in engraved or printed form.

(d) "Book-entry Treasury security" means a transferable Treasury bond, note, certificate of indebtedness, or bill issued under the Second Liberty Bond Act, as amended, in the form of an entry made as prescribed in this subpart on the records of a Reserve Bank.

(e) "Serially-numbered advice of transaction" means the confirmation (prescribed in § 306.116) issued by a Reserve Bank which is identifiable by a unique number and indicates that a particular written instruction to the Reserve Bank with respect to the deposit or withdrawal of a specified book-entry Treasury security (or securities) has been executed.

§ 306.116 Authority of Reserve Banks.

Each Reserve Bank is hereby authorized and directed, in accordance with the provisions of this subpart, to (a) issue book-entry Treasury securities by means of entries on its records which shall include the name of the depositor, the amount, the title of the loan (or the series) and the maturity date; (b) effect conversions between book-entry Treasury securities and definitive Treasury securities; (c) otherwise service and maintain book-entry Treasury securities; and (d) issue serially numbered advices of transactions with respect to each instruction relating to the deposit or withdrawal of a book-entry Treasury security (or securities) which has been executed. Each such advice shall confirm that book-entry Treasury securities of the amount, loan title (or series) and maturity date specified in the depositor's instruction have been deposited or withdrawn.

§ 306.117 Scope of book-entry procedure.

(a) The book-entry procedure shall apply to Treasury securities now on deposit or hereafter deposited in accounts with any Reserve Bank (1) as collateral pledged to a Reserve Bank (in its individual capacity) for advances by it, (2) as collateral pledged to the United States under Treasury Department Circulars No. 92 or 176, both as revised and amended, and (3) by a member bank of the Federal Reserve System for its sole account and in lieu of the safekeeping of definitive Treasury securities by a Reserve Bank in its individual capacity. Any depositor which on the effective date of this subpart has definitive Treasury securities on deposit with a Reserve Bank (in either its individual capacity or as Fiscal Agent) for any purpose specified above or which thereafter deposits such securities for any such purpose shall be deemed to have consented to their conversion to book-entry Treasury securities pursuant to the provisions of this subpart, and in the manner and under the procedures prescribed by the Reserve Bank.

(b) The book-entry procedure may be applied to any Treasury securities now on deposit or hereafter deposited with any Reserve Bank for any other purposes under such terms and conditions as may be prescribed by the Reserve Bank with the approval of the Secretary of the Treasury.

(c) No deposits shall be accepted under this section on or after the date of maturity or call of the securities.[1]

§ 306.118 Pledges.

A pledge of book-entry Treasury securities, or of any interest therein, in favor of a Reserve Bank in its own right as pledgee or in favor of the United States as pledgee, is effected, notwithstanding any provision of law to the contrary, by the making of an appropriate entry under paragraph (a) (1) or (2) of § 306.117, of the amount of the securities pledged. The making of such entry shall have the effect of a delivery of definitive Treasury securities in bearer form representing the amount of the obligations pledged and shall effect a perfected security interest therein in favor of the pledgee, who shall be a holder. No filing or recording with a public recording office or officer shall be necessary to perfect the pledge or security interest in book-entry Treasury securities under this section. Pledges of definitive Treasury securities, or of any security interest therein, to a Reserve Bank in its own right or to the United States at the time of their conversion to book-entry Treasury securities shall be fully effective with respect to such book-entry Treasury securities. A Reserve Bank, when requested by the pledge, shall convert book-entry Treasury securities into definitive Treasury securities and deliver them to the pledgee for disposition under the applicable pledge arrangement; and the pledge or security interest of the pledgee in the book-entry Treasury securities prior to conversion shall continue to be fully effective with respect to such definitive Treasury securities.

§ 306.119 Limitations on transfers or pledges.

Except as provided in this subpart, book-entry Treasury securities may not be assigned, transferred, hypothecated, pledged as collateral, or used as security for the performance of an obligation, and the Treasury Department will not recognize any such assignment, transfer, hypothecation, pledge or use.

[1] The date of call as defined in the regulations in this part (§ 306.3) is "the date fixed in the official notice of call published in the FEDERAL REGISTER • • • on which the obligor will make payment of the security before maturity in accordance with its terms."

§ 306.120 Withdrawals and transfers.

Withdrawals and transfers of book-entry Treasury securities may be made upon a depositor requesting (a) delivery of like definitive Treasury securities to itself or on its order to a transferee, or (b) transfer to any transferee eligible under § 306.117. The making of any book-entry transfer by a Reserve Bank shall have the same effect as a delivery to the transferee of definitive Treasury securities in bearer form. The transfer of book-entry Treasury securities within a Reserve Bank will be made in accordance with procedures established by the latter not inconsistent with this subpart. The transfer of book-entry Treasury securities between Reserve Banks will be made through a telegraphic transfer procedure. All requests for withdrawal or for transfer must be made prior to the maturity or date of call of the securities. Treasury bonds and notes which are actually to be delivered upon withdrawal or transfer may be issued either in registered[2] or in bearer form.

§ 306.121 Registered bonds and notes.

No formal assignment shall be required for the conversion to book-entry Treasury securities of registered Treasury securities held by a Reserve Bank (in either its individual capacity or as Fiscal Agent) on the effective date of this subpart for any purpose specified in § 306.117(a). Registered Treasury securities deposited thereafter with a Reserve Bank for any purpose specified in § 306.117 shall be assigned for conversion to book-entry Treasury securities. The assignment, which shall be executed in accordance with the provisions of Subpart F of this part, so far as applicable, shall be to "Federal Reserve Bank of ----------, as Fiscal Agent of the United States, for conversion to book-entry Treasury securities."

§ 306.122 Servicing book-entry Treasury securities; payment of interest, payment at maturity or upon call.

Interest becoming due on book-entry Treasury securities shall be charged in the Treasurer's account on the interest due date and remitted or credited in accordance with the depositor's instructions. Such securities shall be redeemed and charged in the Treasurer's account on the date of maturity, call or advance refunding, and the redemption proceeds, principal and interest, shall be disposed of in accordance with the depositor's instructions.

Dated: November 7, 1967.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[F.R. Doc. 67-13245; Filed, Nov. 13, 1967; 8:47 a.m.]

[2] Except for Treasury notes, EA and EO Series.

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 204—DANGER ZONE REGULATIONS

Chesapeake Bay, Md.

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), and chapter XIX of the Army Appropriations Act of July 9, 1918 (40 Stat. 892; 33 U.S.C. 3), § 204.30 governing the use and navigation of a danger zone in Chesapeake Bay at Aberdeen Proving Ground, Md., is hereby revised, with the exception of paragraph (a), effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 204.30 Chesapeake Bay; U.S. Army Proving Ground Reservation, Aberdeen, Md.

• • • • •

(b) *Authority delegated Commanding Officer.* The Commanding Officer, Aberdeen Proving Ground, has been delegated the authority by the Secretary of the Army to designate from time to time by suitably posted bulletins or announcements, the conditions under which the public, including food fishermen and crabbers, may enter restricted waters of the Aberdeen Proving Ground.

(c) *Penalty.* All persons who enter the restricted waters, except as authorized in this section, without the authority of the Commanding Officer, Aberdeen Proving Ground, Md., are under the terms of the information given above, guilty of a misdemeanor and upon conviction thereon are punishable by a fine not exceeding $500 or by imprisonment not exceeding 6 months.

(d) *Entrance into restricted waters by the public.* The restricted areas will normally be open for navigation during the following hours:

(1) Monday through Thursday, 5 p.m. to 7:30 a.m.

(2) Saturdays and Sundays, 5 p.m. Friday to 7:30 a.m. Monday.

(3) National (not State) holidays, 5 p.m. the day preceding the holiday to 7:30 a.m. the day following the holiday. When urgent requirements of tests in the interest of national defense necessitate closing the restricted area during the aforementioned times and days, the Commanding Officer, Aberdeen Proving Ground, will publish appropriate circulars or cause to be broadcast over local radio stations notices informing the public of the time and days in which entrance into the restricted waters of Aberdeen Proving Ground by the general public will be prohibited.

(e) *No limitations on firing to be conducted over land.* There are no limitations on firing over land belonging to Aberdeen Proving Ground.

(f) *Permits required from the Commanding Officer to set fixed nets in restricted waters.* (1) Fishermen and crabbers desiring to set fixed nets within the restricted waters of Aberdeen Proving Ground Reservation are required in every instance to have a written permit. A fixed net for the purpose of this paragraph is defined as a pound net, staked gill net, hedge like net, hoop net, eel pot, crab pot, and all other types of nets fastened by means of poles, stakes, weights, or anchors. Permits to fish and crab within the restricted waters of Aberdeen Proving Ground may be obtained by written application to the Commanding Officer, Department of the Army, Aberdeen Proving Ground, Attention: Provost Marshall Division, Aberdeen Proving Ground, Md. Applicants for permits must state the location at which they desire to set fixed nets and state the period of time for which they desire the permit to cover. Nets placed in the restricted waters are subject to damage by gunfire and bombing, and the risk of such damage will be assumed by the holder of the permit.

(2) Holders of permits for setting fixed nets must comply with the provisions of this part and also with § 206.50(d) of this chapter.

(g) *Identification signs required at each location of fixed nets.* Fishermen and crabbers who have been granted permits to fish or crab within the restricted waters of Aberdeen Proving Ground Reservation with fixed nets must at each location have a stake securely driven at the outer end of the line of nets on which is mounted a sign board which contains their name and permit number. All stakes set within the restricted area established by this regulation will project at least three (3) feet above the surface of the water at all ordinary high stages of the tide. Nets and other fishing and crabbing structures erected will be marked by stakes set at intervals not greater than fifty (50) feet. Fishing and crabbing structures erected in Aberdeen Proving Ground waters will be plainly marked on both ends, and will be lighted with a white light between sunset and sunrise, by and at the expense of the owner.

(h) *Removal of pound net poles and or stakes.* At the end of the fishing and crabbing season, fishermen and crabbers must remove and haul away from the location all pound nets, pots, poles or stakes used in their operation. Pound net poles or stakes must not be cast adrift after removal.

(i) *Restrictions on fishermen and crabbers.* It must be distinctly understood that holders of permits to fish or crab are not authorized to enter the restricted waters of Aberdeen Proving Ground Reservation outside the hours as announced by the Commanding Officer, Aberdeen Proving Ground. In addition, the privileges granted in this paragraph include no right to land nor to cut or procure pound net poles or stakes on the Aberdeen Proving Ground Reservation.

(j) *Fishing and crabbing with any type of net prohibited in all creeks.* Fishing and crabbing with any type of net is prohibited in all creeks of the Aberdeen Proving Ground Reservation.

(k) *Compliance with Federal, State and county laws required.* The taking of fish and crabs in the waters of Aberdeen Proving Ground Reservation and the setting of and location of nets, in a manner not in compliance with Federal, State, and county laws is prohibited.

[Regs., Oct. 16, 1967, 1507-32 (Chesapeake Bay, Md.)—ENGCW-OR] (Sec. 7, 40 Stat. 266, Chap. XIX, 40 Stat. 892; 33 U.S.C. 1, 3)

For the Adjutant General.

DONALD L. GEER,
Colonel, AGC,
Executive Officer.

[F.R. Doc. 67-13320; Filed, Nov. 13, 1967; 8:45 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 1—Federal Procurement Regulations

PART 1-5—SPECIAL AND DIRECTED SOURCES OF SUPPLY

Contractor Use of GSA Supply Sources

This amendment revises the policies and procedures prescribed in Subpart 1-5.9 of the Federal Procurement Regulations regarding contractor use of GSA supply sources in order to promote greater economy and efficiency in Government procurement programs. Subject to the limitations and conditions contained in agency authorizations, it provides for the use of referenced GSA supply sources by contractors and subcontractors performing Government cost-reimbursement type contracts and other types of negotiated contracts where the agency determines that a substantial dollar portion of the contractor's contracts are of a Government cost-reimbursement nature.

The table of contents for Part 1-5 is amended to revise the entries for Subpart 1-5.9. As amended, the entries are as follows:

Subpart 1-5.9—Use of GSA Supply Sources by Contractors Performing Cost-Reimbursement Type Contracts

Sec.
1-5.900 Scope of subpart.
1-5.901 Policy.
1-5.902 Authorization to contractors.
1-5.903 Procedure for placing orders.
1-5.903-1 Orders under Federal Supply Schedule contracts.
1-5.903-2 Orders for GSA stores stock.
1-5.904 Furnishing information to contractors.
1-5.905 Payment for GSA stores stock.

AUTHORITY: The provisions of this Subpart 1-5.9 issued under sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 1-5.9 is revised to read as follows:

Subpart 1-5.9—Use of GSA Supply Sources by Contractors Performing Cost-Reimbursement Type Contracts

§ 1-5.900 Scope of subpart.

This subpart prescribes policies and procedures for Federal agencies regarding the use of General Services Administration (GSA) supply sources (i.e., items available through Federal Supply Schedule contracts and from GSA stores stock) by contractors in performing certain Government contracts. The term "contractor" as used in this subpart, unless the context otherwise requires, includes subcontractors who qualify in accordance with the provisions of § 1-5.902(b). (With respect to the use by grantees of these and other GSA sources of supply and services, see GSA Bulletin FPMR A-17, dated November 7, 1967.)

§ 1-5.901 Policy.

(a) It is the policy of the General Services Administration to make GSA supply sources available to all eligible users in order to promote greater economy and efficiency in Government procurement programs.

(b) To the extent provided in this subpart, the policy is applicable to contractors working wholly or substantially on cost-reimbursement contracts.

§ 1-5.902 Authorization to contractors.

(a) When an agency determines that it is in the best interest of the Government to do so, the agency shall authorize in writing its prime contractors and, where appropriate, their subcontractors, to utilize GSA supply sources in performing Government contracts. Authorizations to subcontractors shall be issued through, and subject to the approval of, the prime contractor. Each authorization (prime or sub) shall be supported by a written finding of the facts which are the basis for the determination to issue the authorization. Such findings shall be retained in agency contract files.

(b) Except as provided in § 101-26.407 of this title regarding the procurement of security cabinets by fixed-price contractors, such authorization may be issued only where an agency deems it advisable for a contractor to utilize GSA supply sources in performing:

(1) Government cost-reimbursement contracts; and

(2) Other types of negotiated contracts where the agency determines that a substantial dollar portion of the contractor's contracts are of a Government cost-reimbursement nature.

(c) Subject to the criteria set forth in paragraph (b) of this section, the agency may include in its written authorizations such limitations or conditions as it deems necessary in the public interest. For example, it may choose to:

(1) Authorize purchases from GSA supply sources of any overhead supplies, but no production supplies; or

(2) Limit any authorization requirement to use GSA sources to a specific dollar amount, leaving the contractor free to make smaller purchases from any source he chooses; or

(3) Restrict the authorization to certain plants or facilities or to specific contracts; or

(4) Provide that title vest in or be retained by the Government when determined to be in the best interest of the Government.

The terms and conditions which the agency may impose are not limited to the foregoing examples.

(d) In determining whether to issue such an authorization, consideration should be given, but not necessarily limited to, the following factors:

(1) The administrative cost of placing orders with Government sources, and the program impact of delay factors, if any.

(2) Lower cost of purchased items.

(3) Suitability of items available through GSA supply sources.

(4) Delivery factors such as cost and time.

(5) Recommendations of prime contractors.

(e) Each authorization issued under this subpart shall:

(1) Cite the number of the contract or contracts involved.

(2) Specify that the Federal Standard Requisitioning and Issue Procedure (FEDSTRIP) shall be utilized when ordering GSA stock items, as required by Subpart 101-26.2 of this title, and include an address and billing code identifying the ordering contractor. Such codes may be obtained from the Federal Supply Service of the appropriate GSA regional office.

(3) Whenever practicable, contain a limit upon the period of effectiveness of the authorization.

(f) Copies of each authorization shall be forwarded to the General Services Administration, Federal Supply Service, Office of Supply Management-FF, Washington, D.C. 20405, and to the Federal Supply Service of the GSA regional office serving the geographical area in which the facilities of the authorized contractor are located.

(g) The authorizing agency shall promptly notify the offices named in paragraph (f) of this section whenever an authorization is withdrawn prior to the expiration of the established period of effectiveness or upon termination of a contract for which an authorization has been granted without limitation. The notification shall be in writing and shall:

(1) Cite the number of the contract involved.

(2) Contain the effective date of withdrawal of the authorization which, in the case of the termination of a contract for which an indefinite authorization was previously granted, shall be not later than the date of the termination of the contract.

(h) The authorizing agency shall be responsible for insuring that prime contractors and subcontractors comply with the terms of their authorizations and for insuring that supplies and services obtained from GSA sources of supply are properly used.

§ 1-5.903 Procedure for placing orders.

§ 1-5.903-1 Orders under Federal Supply Schedule contracts.

(a) Orders placed by Government contractors under Federal Supply Schedule contracts shall be placed in accordance with the provisions of the applicable Federal Supply Schedule and the authorization issued to the contractor. Each order shall be accompanied by a copy of the authorization (unless a copy was previously furnished to the Federal Supply Schedule contractor) and shall contain a statement as follows:

This order is placed pursuant to written authorization from _____, [1] dated _____, [1]. In the event of any inconsistency between the terms and conditions of this order and those of your Federal Supply Schedule contract, the latter will govern.

(b) In the event a Federal Supply Schedule contractor refuses to honor an order placed by a Government contractor in accordance with agency authorization pursuant to this Subpart 1-5.9, the contracting agency shall promptly report the facts and circumstances to the General Services Administration, Federal Supply Service, Office of Supply Management-FF, Washington, D.C. 20405.

§ 1-5.903-2 Orders for GSA stores stock.

(a) Orders placed by Government contractors for GSA stores stock shall be placed in accordance with the authorization, using the FEDSTRIP format in accordance with the provisions of Subpart 101-26.2. Each requisition shall include the address and billing codes indicated in the authorization. When orders are placed on GSA Form 1348m, Single Line Item Requisition System Document (MECHANICAL) (see § 101-26.203-1(a) of this title), this statement of authorization required by paragraph (b) of this section shall be placed on the contractor's letterhead and used as a wrapper in submitting the mechanically prepared requisition cards.

(b) The statement of authorization which accompanies the contractor's order or requisition shall be substantially as follows:

This order is placed pursuant to written authorization from _____, dated _____.

[1] Insert "a copy of which is attached," or "a copy of which you have on file," or other suitable language, as appropriate.

§ 1-5.904 Furnishing information to contractors.

Agencies shall assist the contractors which they have authorized to use GSA supply sources to obtain pertinent Federal Supply Schedules and the GSA Stock Catalogs, and shall furnish them with any other desired information. Such schedules and catalogs may be obtained from any GSA regional office.

§ 1-5.905 Payment for GSA stores stock.

Bills for GSA stores stock are not rendered by GSA until after shipment has been made. Receipt of billing is construed as sufficient evidence of delivery to establish liability and make payment. Accordingly, agencies should direct their contractors to make payments promptly upon receipt of billings (see § 101-26.103 (d) (2) of this title).

Effective date. This amendment is effective upon publication in the FEDERAL REGISTER.

Dated: November 7, 1967.

LAWSON B. KNOTT, JR.,
Administrator of General Services.

[F.R. Doc. 67-13357; Filed, Nov. 13, 1967; 8:48 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 67-1211]

PART 0—COMMISSION ORGANIZATION

Delegation of Authority to Chief, Broadcast Bureau

Order. 1. The Commission has received a number of requests by noncommercial educational television broadcast stations for waivers of § 73.651(c) of the Commission's rules to permit these stations to broadcast music to accompany slides, films or other visual images during breaks in the programming schedules during the broadcast day. The Commission has determined that the efficient dispatch of the Commission's business would be promoted by delegating to the Chief, Broadcast Bureau, authority to act on such requests and grant them where such requests do not exceed five hours per week.

2. Since this matter is procedural, the the notice and effective date requirements of the Administrative Procedure Act do not apply. Authority for the adoption of this amendment is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

3. *Accordingly it is ordered,* That, effective November 14, 1967, a new paragraph (ll) is added to § 0.281 of the Commission's rules and regulations as follows:

§ 0.281 Authority delegated.

* * * * * *

(ll) To act on requests for waiver of § 73.651(c) of this chapter, where operation under such requests will not exceed five hours per week, to permit operation by a noncommercial educational television broadcast station of its aural transmitter to broadcast music accompanied by slides, films or other visual transmissions.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Adopted: November 3, 1967.

Released: November 8, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13359; Filed, Nov. 13, 1967; 8:48 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Washita National Wildlife Refuge, Okla.; Correction

In F.R. Doc. 67-9813, Vol. 32, No. 162 of the issue for Tuesday, August 22, 1967, Item (2) under special conditions should be deleted and Item (1) under special conditions should read as follows:

(1) Rabbits may be hunted only on those days when quail hunting is permitted by State regulations.

LESLIE F. BEATY,
Refuge Manager,
Washita National Wildlife Refuge, Butler, Okla.

NOVEMBER 8, 1967.

[F.R. Doc. 67-13329; Filed, Nov. 13, 1967; 8:45 a.m.]

[1] Commissioner Bartley absent.

Proposed Rule Making

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 27, 29]

[Docket No. 9827; Notice 67-49]

NORMAL AND TRANSPORT CATEGORY ROTORCRAFT

Dual Locking Devices for Fasteners

The Federal Aviation Administration is considering amending Parts 27 and 29 of the Federal Aviation Regulations containing the airworthiness standards for normal and transport category rotorcraft to require two separate locking devices on certain bolts, screws, pins and other fasteners installed on those aircraft.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before February 13, 1968 will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

At the present time it is common practice in the manufacture of aircraft to secure fasteners (i.e., bolts, screws, and pins) with a single locking device. While this has proven adequate for most aircraft, there have been a number of instances of loss of fastener integrity involving fasteners installed on rotorcraft and secured with a single locking device. This adverse service experience is attributed in large part to the fact that fasteners used on rotorcraft are subject to greater than normal vibration. In addition, the FAA is aware that the locking devices can be adversely affected by the environmental conditions existing at the particular installation.

In view of the foregoing, the FAA believes that the regulations should be amended to require two separate locking devices on all removable fasteners in any installation in which the loss of the fastener could jeopardize the safe operation of the rotorcraft. Moreover, it is proposed to require that consideration must be given to the environmental conditions associated with a particular fastener in determining the appropriate locking device for that fastener.

In addition to the foregoing, the prohibition against the use of self-locking nuts on bolts subject to rotation in operation as currently set forth in §§ 27.607 and 29.607 would no longer be necessary under the proposed requirement for two separate locking devices on critical fasteners. In this connection, the proposal places no specific restriction on the types or combinations of locking devices that may be used.

In consideration of the foregoing, it is proposed to amend §§ 27.607 and 29.607 of Parts 27 and 29, respectively, of the Federal Aviation Regulations to read as follows:

§ ----.607 Fasteners.

Each removable bolt, screw, pin or other fastener whose loss could jeopardize the safe operation of the rotorcraft, must incorporate two separate locking devices. The fastener and its locking devices may not be adversely affected by the environmental conditions associated with the particular installation.

These amendments are proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354, 1421, and 1423).

Issued in Washington, D.C., on November 7, 1967.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[F.R. Doc. 67-13337; Filed, Nov. 13, 1967; 8:46 a.m.]

[14 CFR Part 121]

[Docket No. 8351; Notice 67-58A]

FLIGHT FOLLOWING REQUIREMENTS

Revision; Extension of Comment Period

The Federal Aviation Administration proposed in Notice 67-38, published in the FEDERAL REGISTER on August 26, 1967 (32 F.R. 12405), to amend Part 121 of the Federal Aviation Regulations by revising the flight following rules applicable to supplemental air carriers and commercial operators. The notice stated that consideration would be given to all comments received on or before November 6, 1967.

The National Air Carriers Association (NACA) of Washington, D.C., has requested on behalf of its members, a 90-day extension of time for submission of comments. NACA asserts that additional time is necessary in order that its members may have an opportunity to meet, study the proposal, and prepare detailed and constructive comments. While it appears that an extension of time is justified, petitioner has not shown that a 90-day period is essential, and the FAA has determined that a shorter period should be adequate.

In consideration of the foregoing, I find that the NACA has a substantive interest in the proposed rule, that good cause exists for an extension of time, and that the extension is consistent with the public interest.

Therefore, pursuant to the authority delegated to me by the Administrator (14 CFR 11.45), the time within which comments on Notice 67-38 will be received for consideration is extended to December 11, 1967.

Issued in Washington, D.C., on November 7, 1967.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[F.R. Doc. 67-13338; Filed, Nov. 13, 1967; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 202, 203]

[Docket No. 19334; EDR-126]

INTERSTATE, OVERSEAS ROUTE, AND FOREIGN AIR TRANSPORTATION

Terms, Conditions, and Limitations of Certificates of Public Convenience and Necessity

NOVEMBER 8, 1967.

Notice is hereby given that the Civil Aeronautics Board has under consideration certain amendments to Parts 202 and 203 of the Economic Regulations providing for automatic revocation of an airport authorization upon nonuse of the airport and conforming the initial authorization procedures in these parts.

The principal features of the proposed amendments to Parts 202 and 203 are further described in the explanatory statement and the proposed amendments are set forth in the proposed rule. They are proposed under the authority of sections 204 and 401 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 754; 49 U.S.C. 1324, 1371).

Interested persons may participate in the proposed rule making through submission of ten (10) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant matter in communications received on or before December 14, 1967, will be considered by the Board before taking final action on the proposed rules. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 710, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

Explanatory statement. Sections 202.3 and 203.5 of the Board's Economic Regulations provide procedures whereby air carriers can obtain authorizations to regularly serve a point through an airport not then regularly used or authorized to be used in interstate and overseas route air transportation and foreign air transportation, respectively. The procedures provided in the two sections differ and neither section deals with termination of service through an airport.

The Board believes that if a carrier ceases to provide regular service through an airport, its airport authorization should be revoked, and that it should be required to obtain a new authorization prior to resumption of regular use. The proposed amendments provide, therefore, that a lapse of regular service for 30 days shall automatically revoke a carrier's authority to regularly use an airport. Certain specific periods for nonuse are excluded from the computation of the 30 days, and the carriers are required to notify the Board when they discontinue use of an airport.

The Board also believes that there is no justification for the existing differences between the airport authorization procedures in Parts 202 and 203, and that they should be conformed. Unlike § 202.3(a), § 203.5(a) provides for an order to show cause why use of an airport should not be disapproved, followed by a public hearing. We believe that these more cumbersome and time-consuming procedures are neither necessary nor desirable. Thus, it is proposed that the Part 202 airport authorization procedures be adopted for Part 203.

Proposed rules. It is proposed to amend Parts 202 and 203 of the Economic Regulations (14 CFR Parts 202 and 203) as follows:

1. Amend § 202.3 by adding a new paragraph (d) to read as follows:

§ 202.3 Airport authorization.

* * * * *

(d) *Automatic revocation.* A certificate holder's failure to provide regularly scheduled air transportation through an airport for 30 days shall automatically revoke any authorization to regularly serve that airport. Regular service to the airport may be resumed only upon compliance with and pursuant to the procedures set forth in paragraph (a) of this section: *Provided, however,* That the following shall not be included in the 30-day period: (1) Interruptions of service pursuant to a provision in the carrier's certificate authorizing such interruptions on a seasonal basis; and (2) periods during which a carrier has failed to regularly serve an airport as a result of any of the conditions listed in § 205.8 (a) of this chapter. Within 30 days after the day a carrier's airport authorization is automatically revoked by the terms of this section, the carrier shall file with the Board a notice conspicuously entitled Termination of Service Notice, setting forth, as a minimum amount of information, the name of the airport and date of cessation of regular service. A recommended format of the Termination of Service Notice is set forth as Appendix B to this part.

2. Amend § 203.5(a) to read as follows:

§ 202.5 Filing and service of airport notices and applications for change in service pattern and permission to use an airport; procedure thereon.

(a) *Number of copies and certificate of service.* An original and three copies of each Airport Notice and Termination of Service Notice and an original and 19 copies of each Application for Change in Service Pattern and application for permission to use an airport shall be filed with the Board, each setting forth the names and addresses of the persons required to be served and stating that service has been made on all such persons by personal service or by registered or certified mail, and the date of such service. In the case of service by mail, the date of mailing shall be considered the date of service. Each copy of a notice or application served pursuant to this part shall state that such service is made pursuant to this part.

* * * * *

3. Amend § 203.5, by (i) modifying existing paragraph (a), (ii) adopting new paragraphs (b) and (c), and (iii) designating existing paragraph (b) as (d). As amended § 203.5 (a), (b), and (c) will read as follows:

§ 203.5 Airport notices.

(a) *Airport notice.* An airport notice is required to be filed with the Board if the holder of a certificate desires to serve regularly a point named in such certificate, or a point which the holder is otherwise authorized to serve regularly, through an airport not then regularly used or authorized to be used by the holder to serve such point: *Provided, however,* That if the holder of a certificate desires to serve a point through an airport through which it already serves another point on its route, and to retain both points in its certificate, the holder is required to file with the Board an application for permission to use an airport; and such holder shall not file an airport notice. Such application shall conform in all respects to the procedures set forth in paragraph (b) of this section and §§ 203.7 and 203.8. When an airport notice is required hereunder, the certificate holder shall file it with the Board at least 30 days prior to the proposed date of inauguration of the use of the airport. Such notice shall be conspicuously entitled Airport Notice; shall, as a minimum amount of information, describe such airport by name and, if it is not an airport already being used by an air carrier subject to the provisions of this part, state its location; shall state the date of intended inauguration of service and whether a waiver of the 30-day notice provision is requested; and shall contain a notice to the persons served that they may, within 15 days of the date the notice was filed, file and serve memoranda in support of, or in opposition to, the notice. A recommended format of the Airport Notice is set forth below as Appendix A. The use of such airport may be inaugurated 30 days after the filing of such notice, unless the Board notifies the holder within said 30-day period that it appears to the Board that such use may adversely affect the public interest, in which event such use shall not thereafter be inaugurated (except as may be expressly permitted by such notification from the Board) unless and until the Board finds, upon application filed by the holder, pursuant to paragraph (b) of this section, that the public interest would not be adversely affected by such use. The Board may permit the use of an airport at any time after the filing of the airport notice whenever the circumstances warrant such action. In no event shall the provisions of this section be construed as authorizing an air carrier to receive at one airport and discharge at any other airport serving the same point passengers or property moving locally between the two airports, or passengers or property moving as part of a through journey to or from some other point which such carrier receives from, or transfers to, another air carrier at one of the two airports. This prohibition does not apply to the carriage between airports of through traffic which the air carrier performing the interairport service receive from, or transfers to, one of its own flights.

(b) *Application for permission to use an airport.* (1) Where an air carrier seeks to serve a point through an airport through which it already serves another point on its route and to retain both points in its certificate, it shall file with the Board an application for permission to use an airport.

(2) Following notification by the Board that the use of an airport proposed in an airport notice filed pursuant to paragraph (a) of this section may adversely affect the public interest, the air carrier may file an application for permission to use such airport. An application filed pursuant to either subparagraph (1) or this subparagraph (2) of this paragraph shall be conspicuously entitled "Application for Permission to Use the ------- Airport for Serving ------- ---------" and shall set forth the information required in the airport notice as well as any other facts relied upon to establish that the proposed airport use is in the public interest, a statement of economic data or other matters which it is desired that the Board officially notice, and shall contain a notice to the persons served that they may, within 20 days of the date the application was filed, file and serve memoranda in support of, or in opposition to, the application.

(c) *Automatic revocation.* A certificate holder's failure to provide regularly scheduled air transportation through an airport for 30 days shall automatically revoke any authorization to regularly serve that airport. Regular service to the airport may be resumed only upon compliance with and pursuant to the procedures set forth in paragraph (a) of this section: *Provided, however,* That the following shall not be included in the

30-day period: (1) Interruptions of service pursuant to a provision in the carrier's certificate authorizing such interruptions on a seasonal basis; and (2) periods during which a carrier has failed to regularly serve an airport as a result of any of the conditions listed in § 205.5 (a) of this chapter. Within 30 days after the day carrier's airport authorization is automatically revoked by the terms of this section, the carrier shall file with the Board a notice conspicuously entitled Termination of Service Notice, setting forth, as a minimum amount of information, the name of the airport and the date of cessation of regular service. A recommended format of the Termination of Service Notice is set forth below as Appendix B to this part.

* * * * *

4. Amend the introductory text of § 203.7 and (d) to read as follows:

§ 203.7 Persons upon whom notice must be served.

A copy of each Application for Change in Approved Service Plan—Foreign Air Transportation, Notice of Nonstop Service in Foreign Air Transportation, Airport Notice—Foreign Air Transportation, Notice of Nonstop Service Required by Foreign Country, Notice of Additional Stop Required by Foreign Country, Notice of Terminal Change Required by Foreign Country, or application for permission to use an airport, as the case may be, filed with the Board pursuant to this part by the holder of a certificate of public convenience and necessity, shall be served upon the following:

* * * * *

(d) In the case of an Airport Notice—Foreign Air Transportation or application for permission to use an airport, each scheduled air carrier which regularly renders service to or from the point intended to be served through the proposed airport involved;

* * * * *

5. Amend § 203.8 to read as follows:

§ 203.8 Filing and service of documents; procedures thereon; petitions for reconsideration.

(a) *Number of copies and certificate of service.* An original and three copies of each Approved Service Plan—Foreign Air Transportation, Notice of Nonstop Service Required by Foreign Air Transportation, Notice of Additional Stop Required by Foreign Country, Notice of Terminal Change Required by Foreign Country, and Airport Notice—Foreign Air Transportation, and an original and nineteen copies of each application, or Notice of Nonstop Service in Foreign Air Transportation shall be filed with the Board, each setting forth the names and addresses of the persons required to be served and stating that service has been made on all such persons by personal service or by registered or certified mail, and the date of such service. In the case of service by mail, the date of mailing shall be considered the date of service. Each copy of a notice or application served pursuant to this part shall state that such service is made pursuant to this part.

(b) *Pleadings by interested persons.* Any interested person may file and serve upon the air carrier, and those persons required by § 203.7 to be served with an airport notice or application for permission to use an airport, a memorandum in opposition to, or in support of, such notice or application within 15 days of the filing of the notice or within 30 days of the filing of the application. Such memoranda shall set forth in detail the reasons for the position taken therein, with a statement of economic data and other matters which it is desired that the Board shall officially notice. An executed original and three copies in the case of notices, and nineteen copies in the case of applications, shall be filed with the Docket Section of the Board. In the case of airport and termination of service notices, such memoranda shall be marked for the attention of the Director, Bureau of Operating Rights. Unless ordered by the Board, upon application or upon its own motion, further pleadings will not be entertained.

(c) *Petitions for reconsideration.* A petition for reconsideration of the Board's determination on an application for permission to use an airport may be filed by any interested person within 10 days after the date thereof. Except for the date of filing, such petitions shall conform to Rule 37 of the rules of practice (§ 302.37 of this chapter). Any interested person may file an answer in opposition to, or in support of, the petition within 10 days after it is filed. An executed original and nineteen copies of such petition for reconsideration or memorandum shall be filed with the Docket Section, and copies thereof shall be served upon the relevant persons described in § 203.7. Unless ordered by the Board upon application or upon its own motion, further pleadings will not be entertained.

6. Add the following "Appendix B" to Part 202:

APPENDIX B—RECOMMENDED TERMINATION OF SERVICE NOTICE

Date .....

To: Director, Bureau of Operating Rights, Civil Aeronautics Board, Washington, D.C. 20428.

Re: Termination of Service Notice filed pursuant to Part 203 of Economic Regulations.

DEAR SIR: Transmitted herewith are an original and three copies of this notice to advise that ..... (air carrier) will cease to provide regular service on ..... (date) to the following points through the following airports:

Point ..... Airport .....

.....
(Signature)

.....
(Title)

7. Add the following "Appendix A" to Part 203:

APPENDIX A—RECOMMENDED AIRPORT NOTICE; FOREIGN AIR TRANSPORTATION

Date.....

To: Director, Bureau of Operating Rights, Civil Aeronautics Board, Washington, D.C. 20428.

Re: Airport Notice filed pursuant to Part 203 of Economic Regulations.

DEAR SIR: Transmitted herewith are an original and three copies of this notice to advise that .....
(air carrier) intends to inaugurate service to the following points through the following airports:

Point ..... Airport .....

Service to be inaugurated on or after.....

Give exact longitude and latitude of the airport to be served (applicable only if airport is not already being used by an air carrier pursuant to this part).....

Indicate whether waiver of 30-day provision is requested.....

NOTICE: The regulations of the Civil Aeronautics Board provide that memoranda in support of or in opposition to this airport notice may be filed with the addressee above within 15 days of the date of filing hereof. Such memoranda shall be served on the applicant carrier and the persons on whom this notice has been served.

.....
(Signature)

.....
(Title)

CERTIFICATE OF SERVICE

I hereby certify that I have this day served (state manner of service) copies of this airport notice on the Postmaster General marked for the attention of the Assistant Postmaster General, Bureau of Transportation (if the holder's certificate authorized the transportation of mail); the Secretary of State, marked for the attention of Chief, Aviation Division; and the following scheduled air carriers: .....
..... (name and address).

.....
(Signature)

.....
(Title)

8. Add the following "Appendix B" to Part 203:

APPENDIX B—RECOMMENDED TERMINATION OF SERVICE NOTICE; FOREIGN AIR TRANSPORTATION

Date.....

To: Director, Bureau of Operating Rights, Civil Aeronautics Board, Washington, D.C. 20428.

Re: Termination of Service Notice filed pursuant to Part 203 of Economic Regulations.

DEAR SIR: Transmitted herewith are an original and three copies of this notice to advise that .....
(air carrier) will cease to provide service on ..... (date) to the following points through the following airports:

Point ..... Airport .....

.....
(Signature)

.....
(Title)

[F.R. Doc. 67-12347; Filed, Nov. 13, 1967; 8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 17850; FCC 67-1212]

FM BROADCAST STATIONS

Table of Assignments; Seneca Falls, N.Y., etc.

In the matter of amendment of § 73.202, *Table of assignments*, FM broadcast stations (Seneca Falls, N.Y. Cayey, P.R., Westerville, Ohio, Gainesville, Fla., Brookings, S. Dak., Mena, Ark., and Soda Springs, Idaho), Docket No. 17850, RM-1195, RM-1205, RM-1194, RM-1199, RM-1200.

1. Notice is hereby given of proposed rule making in the above-entitled matters, concerning amendments of the FM Table of Assignments contained in § 73.202 of the Commission's rules. All proposed assignments are alleged and appear to meet the required minimum spacings of the rules. All assignments proposed within 250 miles of the United States-Canadian border require coordination with the Canadian Government, under the terms of the Canadian-United States FM Agreement of 1947 and the Working Arrangement of 1963. Except as noted, all channels proposed for shift or deletion are unoccupied and not applied for, and all population figures are taken from the 1960 U.S. Census.

2. *RM-1195, Seneca Falls, N.Y. (Water-Falls Broadcasting Corp.); RM-1205, Cayey, P.R. (Ponce Broadcasting Corp.).* In these two cases, interested parties seek the assignment of a first Class A channel in a community, without requiring any other changes in the Table. The communities have populations of 7,439 and 19,738 persons. The proposed assignments appear to be merited and therefore we invite comments on the following additions to the FM Table of Assignments:

City	Channel No.
Seneca Falls, N.Y.	287A
Cayey, P.R.	249A

3. *RM-1194, Westerville, Ohio.* On August 30, 1967, William R. Bates, prospective applicant for a new FM station at Westerville, Ohio, filed a petition requesting rule making to assign Channel 280A as a first assignment to Westerville. This community, which has a population of 7,011 persons, is located about 11.5 miles north of Columbus and is in its Standard Metropolitan Statistical Area but not in its Urbanized Area. It has no AM or FM assignments and Mr. Bates contends that no AM frequency is available to the community in conformance with the rules. With respect to FM, he submits that only Channel 280A can be assigned and that this would require a site over 7 miles from the community in order to meet the minimum required spacings.

4. Since Westerville is located in a SMSA (although near its outermost boundary), petitioner includes the preclusion area showing required by our Public Notice of May 12, 1967, Policy to Govern Requests for Additional FM Assignments. This showing reveals that no areas would be precluded by the requested assignment on all the six adjacent channels due to existing stations in the general area. On Channel 280A, there is an area to the east of Westerville which would be precluded from the use of this channel, but there are no sizeable communities located therein. As a result of this study, petitioner urges that the proposal would have no adverse effect on future needed assignments while at the same time providing a local outlet for Westerville. Finally, he points out that the community is an important retail, educational (home of Otterbein College), and recreational center.

5. Channel 280A was previously assigned to another small community in Franklin County (New Albany), but was deleted due to the problem of finding a site which would meet the required spacings and from which a station could cover the community with the required signal. While petitioner makes a showing of a theoretical location at which the rules can be met, such a site would be over 7 miles from Westerville. We are therefore reluctant to adopt such a proposal without further assurance that sites are available which conform to all the rules. However, since this channel appears to be the only one available as a local outlet for the community, we are inviting comments on the petitioner's proposal.

6. *RM-1199, Gainesville, Fla.* In a petition filed on September 11, 1967, Edward A. Slimak, prospective applicant for a new FM station in Gainesville, Fla., requests the addition of Channel 288A to Gainesville as follows:

City	Channel No.	
	Present	Proposed
Gainesville, Fla.	270	270, 288A

Gainesville has a population of 29,701 and is the county seat and largest community of Alachua County, population 74,074.[1] It has four AM stations, one unlimited time, one Class IV, and two daytime-only stations. The sole Class C FM channel is operated by the University of Florida.[2] Petitioner urges that Gainesville needs a second FM outlet since the two unlimited time AM stations have limited coverage at night, and the proposed station would help meet the needs of the area for emergency and national defense communications and for a diversified primary time radio service. It is urged that the proposal conforms to all the rules.

7. We are of the view that the proposal for a second FM assignment in Gainesville merits rule making and so we invite comments on the request. Comments are also invited on the resultant mixture of a Class C and A assignment in the same community, a situation we have tried to avoid as far as possible in the past. We are also requesting the showing called for in our May 12, 1967 public notice regarding additional FM assignments in view of the fact that the request is for a second assignment.

8. *RM-1200, Brookings, S. Dak.* Brookings Broadcasting Co. now holds a construction permit for Station KBRK-FM on Channel 269A in Brookings, S. Dak. In a petition for rule making filed on September 14, 1967, Brookings requests the substitution of Channel 232A for 269A in Brookings, and a modification of its authorization to specify operation on the new channel. The stated purpose of the requst is to avoid serious problems of interference to the television reception of Station KELO-TV operating on Channel 11 at Sioux Falls, S. Dak., and to the proposed CATV system at Brookings in its carriage of KELO-TV. Channel 269A is the sole FM assignment in Brookings.

9. Petitioner submits that it proposes to side-mount its FM antenna on the KBRK(AM) tower, which is located in a residential area although the area was not built up at the time the AM station was constructed. It is further pointed out that many of the residents in Brookings have invested appreciably in high gain TV antennas and high supporting towers in order to receive KELO-TV which is about 60 miles away but puts a Grade B signal over Brookings. Since the second harmonic of KBRK-FM falls within the KELO-TV channel, petitioner urges that the resulting interference could not be eliminated either to direct reception in the area or to the proposed CATV headend. Based upon a detailed study of the areas which would be precluded by the use of Channel 232A and those so precluded by the present Channel 269A assignment, petitioner concludes that there will be an overall gain in the areas which will have channels available for future use in other communities. Proposed Channel 232A would not interfere with the reception of any TV station receivable in the Brookings area.

10. A review of the subject request reveals that it could eliminate the prospect of a serious TV interference problem without any loss of FM channel availability. It thus appears to conform to our policy of making channel changes to avoid this type of interference. See Public Notice of February 3, 1966, Policy to Govern the Change of FM Channels to Avoid Interference to Television Reception. The area in question is also one in which there is relatively no scarcity of available FM assignments. In view of the above we invite comments on the petitioner's proposal to substitute Channel 232A for 269A at Brookings, S. Dak., and we shall take whatever action is needed with respect to the authorization of Brookings Broadcasting Co. for Station KBRK-FM, in light of the decision made on the request.

11. *Mena, Ark., and Soda Springs, Idaho.* In addition to the above proposals

[1] Petitioner claims that these populations are 82,000 and 92,500, respectively "as shown in the latest U.S. Civil Census" but does not further identify the source of this information.

[2] This station, WRUF-FM, operates on a commercial basis.

made by interested parties, we wish to make additional changes in the Table in order to permit a move in transmitter site for KMYO–FM on Channel 239 at Little Rock, Ark., and to eliminate the short-spaced assignment of Channel 228A at Soda Springs, Idaho. Comments are therefore also invited on the following substitutions of one Class A assignment for another:

City	Channel No.	
	Present	Proposed
Mena, Ark.	240A	269A
Soda Springs, Idaho	228A	261A

12. Authority for the adoption of the amendments proposed herein is contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

13. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules, interested persons may file comments on or before December 4, 1967, and reply comments on or before December 18, 1967. All submissions by parties to this proceeding or persons acting in behalf of such parties must be made in written comments, reply comments or other appropriate pleadings.

14. In accordance with the provisions of § 1.419 of the rules, an original and 14 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission.

Adopted: November 3, 1967.

Released: November 8, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[3]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67–13361; Filed, Nov. 13, 1967; 8:49 a.m.]

[47 CFR Parts 89, 93]

[Docket No. 17847; FCC 67–1200]

RADIOLOCATION STATIONS

Availability of Certain Frequency Bands and Establishment of Requirements for Type Acceptance of Transmitters

In the matter of amendment of Parts 89 and 93 of the Commission's rules to make certain frequency bands between 2.9 and 10.5 Gc/s available for radiolocation and to establish requirements for type acceptance of transmitters in radiolocation stations, Docket No. 17847.

1. Notice of proposed rule making is hereby given in the above-entitled matter.

2. The Commission proposes to amend Parts 89 and 93 of the rules so as to conform the availability of frequency bands above 2.9 Gc/s for radiolocation stations with those bands listed in Parts 2 and 91 of the rules. Frequency bands between 2.9 and 10.5 Gc/s with appropriate use limitations would be added to the rules. The amendment would give persons eligible to hold station authorizations under Parts 89 or 93 direct access to all of the frequency bands above 2.9 Gc/s available for radiolocation use, whereas the rules now permit such operation in only two bands of frequencies.

3. In addition, Parts 89 and 93 would be amended to require that transmitters in radiolocation stations be type accepted to be eligible for licensing beginning January 1, 1972. An engineering standard for frequency tolerance for radiolocation stations using pulse modulation similar to that included in Part 91 would be added to each of the rule parts.

4. The proposed amendments of the rules, as set forth below, are issued pursuant to the authority contained in sections 4(i) and 303 (c) and (f) of the Communications Act of 1934, as amended. Pursuant to the applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before December 12, 1967, and reply comments on or before January 2, 1968. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken. The Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

5. In accordance with the provisions of § 1.419(b) of the Commission's rules, an original and fourteen copies of all statements, briefs, and comments filed shall be furnished the Commission.

Adopted: November 3, 1967.

Released: November 8, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

I. Part 89 is amended as follows:

1. In § 89.101, the frequency table in paragraph (h) is amended by adding the following entries in proper numerical order, and paragraph (i) is amended by revising subparagraphs (4) and (9) and adding subparagraphs (10) through (15) to read as follows:

§ 89.101 Frequencies.

• • • • • •

(h) • • •

Frequency band (Mc/s)	Class of station(s)	Limitations
• • •	• • •	• • •
2900–3100	Radiolocation	8, 10
5350–5460	do	10, 14
5460–5470	do	10, 12
5470–5600	do	10, 9
5600–5650	do	10, 11
• • •	• • •	• • •
9000–9200	Radiolocation	10, 14
9300–9500	do	10, 12, 15
10,000–10,500	do	11, 13
• • •	• • •	• • •

(i) • • •

(4) Radiolocation land stations and radiolocation mobile stations, including speed measuring devices, may be authorized to use frequencies in the band 2450–2500 Mc/s on the condition that harmful interference will not be caused to the fixed and mobile services.

• • • • • •

(9) The non-Government radiolocation service in this band is secondary to the maritime radionavigation service and to the Government radiolocation service.

(10) Speed measuring devices will not be authorized in this band.

(11) This band is allocated to the radiolocation service on a secondary basis to those services having primary status as shown in the Commission's table of frequency allocations contained in § 2.106 of this chapter.

(12) The non-Government radiolocation service in this band is secondary to the radionavigation service and to the Government radiolocation service.

(13) The non-Government radiolocation service is limited to survey operations using transmitters with a power not to exceed 1 watt into the antenna. Pulsed emissions are prohibited.

(14) The non-Government radiolocation service in this band is secondary to the aeronautical radio navigation service and to the Government radiolocation service.

(15) Radiolocation installations will be coordinated with the meteorological aids service, and, insofar as practicable, will be adjusted to meet the needs of the meteorological aids service.

• • • • • •

§ 89.103 [Amended]

2. In § 89.103 *Frequency stability*, footnote 2 to the table in paragraph (a) is amended to read:

[2] Radiolocation equipment using pulse modulation shall meet the following frequency tolerance: The frequency at which maximum emission occurs shall be within the authorized frequency band and shall not be closer than 1.5/T Mc/s to the upper and lower limits of the authorized frequency band where T is the pulse duration in microseconds. For other equipment, tolerances will be specified in the station authorization. See also § 89.121.

3. Section 89.117(b) is amended to read:

§ 89.117 Acceptability of transmitters for licensing.

• • • • • •

(b) Except for transmitters used in developmental stations, transmitters authorized as of January 1, 1965, in police zone and intercity stations, and transmitters in radiolocation stations during the term of any license issued prior to January 1, 1973, each transmitter utilized by a station authorized for operation under this part must be of a type which is included on the Commission's current radio equipment list and is designated for use under this part or be of a type which has been type accepted by the Commission for use under this part.

• • • • • •

[3] Commissioner Bartley absent and Commissioner Cox abstaining from voting on Brookings, S. Dak.

[1] Commissioner Bartley absent.

II. Part 93 is amended as follows:

§ 93.102 [Amended]

1. In § 93.102 *Frequency stability*, footnote 3 to the table in paragraph (a) is amended to read:

[3] Radiolocation equipment using pulse modulation shall meet the following frequency tolerance: The frequency at which maximum emission occurs shall be within the authorized frequency band and shall not be closer than 1.5/T Mc/s to the upper and lower limits of the authorized frequency band where T is the pulse duration in microseconds. For other equipment, tolerances will be specified in the station authorization. See also § 93.111.

2. Section 93.109(b) is amended to read:

§ 93.109 Acceptability of transmitters for licensing.

• • • • • •

(b) Except for transmitters used in developmental stations, transmitters authorized as of January 1, 1965, in police zone and intercity stations, and transmitters in radiolocation stations during the term of any license issued prior to January 1, 1973, each transmitter utilized by a station authorized for operation under this part must be of a type which is included on the Commission's current radio equipment list and is designated for use under this part or be of a type which has been type accepted by the Commission for use under this part.

• • • • • •

3. In § 93.112, the frequency table in paragraph (a) is amended by adding the following entries in proper numerical order, and paragraph (b) is amended by adding subparagraphs (8) through (14) to read as follows:

§ 93.112 Availability of microwave frequencies.

(a) • • •

Frequency band (Mc/s)	Class of station(s)	Limitations
• • •	• • •	• • •
2900–3100	Radiolocation	8, 14
5350–5460	do	8, 13
5460–5470	do	8, 10
5470–5600	do	8, 14
5600–5650	do	8, 9
• • •	• • •	• • •
9000–9200	Radiolocation	8, 12
9300–9500	do	8, 10, 13
10,000–10,500	do	9, 11
• • •	• • •	• • •

(b) • • •

(8) Speed measuring devices will not be authorized in this band.

(9) This band is allocated to the radiolocation service on a secondary basis to those services having primary status as shown in the Commission's table of frequency allocations contained in § 2.106 of this chapter.

(10) The non-Government radiolocation service in this band is secondary to the radionavigation service and to the Government radiolocation service.

(11) The non-Government radiolocation service is limited to survey operations using transmitters with a power not to exceed one watt into the antenna. Pulsed emissions are prohibited.

(12) The non-Government radiolocation service in this band is secondary to the aeronautical radionavigation service and to the Government radiolocation service.

(13) Radiolocation installations will be coordinated with the meteorological aids service, and, insofar as practicable, will be adjusted to meet the needs of the meteorological aids service.

(14) The non-Government radiolocation service in this band is secondary to the maritime radionavigation service and to the Government radiolocation service.

• • • • • •

[F.R. Doc. 67–13360; Filed, Nov. 13, 1967; 8:48 a.m.]

FEDERAL TRADE COMMISSION

[16 CFR Part 242]

USE OF WORD "FREE" IN CONNECTION WITH SALE OF PHOTOGRAPHIC FILM AND FILM PROCESSING SERVICE

Proposed Guide Against Deception

A proposed Guide Against Deceptive Use of the Word "Free" in Connection with the Sale of Photographic Film and Film Processing Service is hereinafter set forth and is today made public by the Commission for consideration by industry members and other interested or affected parties pursuant to the Federal Trade Commisison Act, as amended, 15 U.S.C., secs. 41–58, and the provisions of Part 1, Subpart A, of the Commission's Procedures and Rules of Practice, 32 F.R. 8444 (June 13, 1967).

Notice of opportunity to present written views, suggestions or objections. Opportunity is hereby extended by the Federal Trade Commission to any and all persons, firms, corporations, organizations, or other parties affected by or having an interest in the proposed Guide Against Deceptive Use of the Word "Free" in Connection with the Sale of Photographic Film and Film Processing Service, to present to the Commission their views concering the Guide, including such pertinent information, suggestions, or objections as they may desire to submit. For this purpose, copies of the proposed Guide, which is advisory in nature as to the applicability of legal requirements, may be obtained upon request to the Commission. Such data, views, information, or suggestions may be submitted by letter, memorandum, brief, or other written communication not later than January 15, 1968, to the Chief, Division of Industry Guides, Bureau of Industry Guidance, Federal Trade Commission, Pennsylvania Avenue and Sixth Street NW., Washington, D.C. 20580. Written comments received in the proceeding will be available for examination by interested parties at the Commission's Washington address and will be fully considered by the Commission.

NOTE: This Guide has not been approved by the Federal Trade Commission. This is a draft of a proposed Guide which is made available to all interested or affected parties for their consideration and for submission of such views, suggestions, or objections as they may care to present, due consideration to which will be given by the Commission before proceeding to final action on the proposed Guide.

This Guide, if and when finally approved and adopted by the Commission, will be designed to assist those engaged in the sale of photographic film and film processing service in avoiding violations of the Federal Trade Commission Act, as amended (15 U.S.C., secs. 41–58), in advertising their product and service. The purpose of the Guide will be to encourage voluntary compliance with the Act which makes illegal unfair methods of competition and unfair or deceptive acts or practices in commerce. Proceedings to enforce the requirements of law set forth in the Guide may be brought under the Federal Trade Commission Act.

Text of the proposed Guide follows:

§ 242.1 The Guide.

(a) A common form of bargain advertising used to promote the sale of photographic film processing services is the offer of a roll of film, represented as being free to consumers who purchase a particular advertiser's service.

(b) Film processors should avoid representing film as "free" when their quoted price for processing is not their regular price for such service, or, when the price charged for processing in connection with the "free" film representation is in excess of the price regularly charged by them for processing alone. A regular price is the price at which an article or service is openly and actively sold by the advertiser to the public on a regular basis for a reasonably substantial period of time in the recent and regular course of business. A price which is not (1) the advertiser's actual selling price, (2) is a price which was not used in the recent past but at some remote period in the past, or (3) is a price which has been used only for a short period of time, is not a regular price. Consequently, use of any of the foregoing, other than the advertiser's own bona fide regular price, in connection with a "free" film representation is deceptive.

(c) "Free" film offers are understood by consumers to mean that the price charged by the advertiser is for processing alone and does not include any part of the cost of the film. In other words, they understand that the film, in fact, is a gift to the consumer given by the advertiser in return for the processing business he receives. In such circumstances, if any portion of the represented price charged for processing includes all or part of the cost of film to the processor, the "free" film offer is deceptive and consumers are misled.

(d) Where a processor has not established a regular price for processing service by itself, he has no basis upon which to make a "free" film representation. Likewise, a processor may not justify "free" film offers, whether advertised with or without qualification, on the ground that his price for processing and film is equal to or less than the price charged by local developers for processing alone, in a given trade area. Only

the industry member's own regular processing price may be used as a basis for determining whether film is actually "free".

(e) Continuous free film offers or the repetition of such offers with great frequency should be avoided. Continuous or frequent offers of free film made in connection with the sale of processing service are false and misleading since the processor's price for his service alone will, by lapse of time, become his regular price for processing service and film in combination. The film, in such circumstances, would therefore no longer be "free".

(f) Introductory (temporary) offers of "free" film should not be advertised where processors do not, in good faith, expect to discontinue the offer after a limited time and commence selling processing service separately.

(g) The Guide does not preclude the use of nondeceptive "combination" offers in which film and processing are offered for sale as a single unit at a single stated price, and where no representation is made that the price is being paid for one item and the other is "free". Similarly, film processors are not precluded from setting a price for processing which also includes furnishing the purchaser with a replacement role of film at one inclusive price—again, where no representation is made that the latter is "free".

NOTE: On December 2, 1963, the Commission approved a Trade Practice Rule on Use of the Word "Free". The provisions of the Guide set forth above are advisory in nature and are not to be construed as replacing or modifying any of the provisions of the aforementioned Trade Practice Rule.

(38 Stat. 717, as amended; 15 U.S.C. 41–58)

Approved: November 2, 1967.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67–13356; Filed, Nov. 13, 1967; 8:48 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA

Notice of Proposed Classification of Public Lands for Multiple-Use Management; Correction

NOVEMBER 6, 1967.

In F.R. Doc. 67–12329, appearing at pages 14405–06 of the issue for Wednesday, October, 18, 1967, the following change should be made: Under Clear Creek Planning Unit (S 581), Block III, T. 32 N., R. 5 W., Section 15, "S½NW¼ SW¼" should be "S½NW¼SW¼".

For State Director.

RICHARD L. THOMPSON, *District Manager.*

[F.R. Doc. 67–13330; Filed, Nov. 13, 1967; 8:45 a.m.]

[Colorado 241]

COLORADO

Order Opening Public Lands

An order of the Assistant Secretary of the Interior partially revoked the departmental order of December 3, 1908, which withdrew lands for the Grand Valley Reclamation Project, but made no provisions for the opening to disposition under the public land laws of the following described lands:

SIXTH PRINCIPAL MERIDIAN

T. 5 S., R. 82 W.,
Sec. 12, NE¼NE¼.

Containing 40 acres in Eagle County.

At 10 a.m. on December 12, 1967, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on December 12, 1967, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The lands will be open to location under the U.S. mining laws at 10 a.m. on December 12, 1967. They have been open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Denver, Colo.

IRVING SENZEL, *Assistant Director, Lands and Minerals.*

NOVEMBER 3, 1967.

[F.R. Doc. 67–13331; Filed, Nov. 13, 1967; 8:45 a.m.]

MONTANA

Notice of Billings District Office Closure for Moving

OCTOBER 31, 1967.

The Billings District Office, Bureau of Land Management, 3310 Fourth Avenue North, Billings, Mont., will be closed for moving on Friday, November 24, 1967.

The District Office will reopen for business at 8 a.m. Monday, November 27, 1967, at 3021 Sixth Avenue North, Billings, Mont.

Grazing application to lease filings or payments due by November 24, 1967, will be accepted as timely if received by November 27, 1967.

D. DEAN BIBLES, *District Manager.*

[F.R. Doc. 67–13332; Filed, Nov. 13, 1967; 8:46 a.m.]

[OR 1566]

OREGON

Notice of Proposed Classification of Public Lands for Multiple Use Management

Correction

In F.R. Doc. 67–5254 appearing in the issue for Thursday, May 11, 1967, at page 7136, make the following changes:

1. In the first column on page 7137 under "T. 25 S., R. 37 E.," the line "Secs. 1 to 36 inclusive." should be deleted.

2. In the third column on page 7137, "T. 30½ S., R. 38 E.," appears as two lines. The second line should be deleted and "Secs. 31 to 36 inclusive." substituted therefor.

National Park Service

NATIONAL CAPITAL REGION

Notice of Intention To Extend Concession Contract

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20) notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to extend the concession contract with S. G. Leoffler Co., authorizing it to provide golfing facilities and services for the public in the Washington metropolitan area of the National Capital Region, Washington, D.C., for a period of 1 year from January 1, 1968, to December 31, 1968.

The foregoing concessioner has performed its obligations under the contract to the satisfaction of the National Park Service, and, therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice.

Interested parties should contact the Chief of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

EDWARD A. HUMMEL, *Assistant Director, National Park Service.*

NOVEMBER, 7, 1967.

[F.R. Doc. 67–13333; Filed, Nov. 13, 1967; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[Notice 1]

SUGAR IN CONTINENTAL UNITED STATES

Importation for Refining and Storage

Pursuant to provisions of paragraph (d) of § 817.8 (32 F.R. 14363) and on the basis of information before me, I do hereby determine and give public notice that during November and December 1967 the importation of raw sugar into the United States for refining and storage at locations north of Hatteras without charge to a quota at the time of importation will not interfere with the effective administration of the Sugar Act of 1948, as amended (60 Stat. 922, as amended).

While supplies of raw sugar within quotas appear adequate, refiners north of Hatteras have had some difficulty in purchasing their requirements. Refiners south of Hatteras and in the gulf have large quantities of mainland produced raw sugar within next year's quota available for refining under bond to cover a portion of their inventory needs. This action will tend to place north of Hatteras refiners in a similar situation.

Accordingly notice is hereby given that during the period November 6, 1967, through the close of business December 31, 1967, raw sugar may be authorized for release for importation by or delivery to a refiner for the sole purpose of refining and storage at north of Hatteras locations without effect on a quota at the time of importation. The total quantity of sugar which may be imported under bond shall be limited to 100,000 short tons raw value. Any such sugar shall be charged to 1968 quotas when released by the Secretary, subject to any quarterly quota limitations which may be imposed under section 202(g) of the Sugar Act of 1948, as amended.

Authorizations for the release of sugar pursuant to this notice may be issued only to cover raw sugar to be imported by or delivered to a refiner who is the principal on a bond accepted pursuant to § 817.9 of this Part 817 under which the principal is obligated to hold at the refinery at which such sugar is received the raw value equivalent of such sugar until release of such sugar from inventory is authorized by the Secretary within a quota or a quarterly limitation of a quota for the calendar year 1968, pursuant to section 202 of the Sugar Act.

For the purpose of this notice, sugar held in inventory under the control of a refiner in warehouse facilities within 2 miles of the refinery where such sugar was received shall be deemed to be held at that refinery.

Signed at Washington, D.C., this 6th day of November 1967.

JOHN A. SCHNITTKER,
Acting Secretary.

[F.R. Doc. 67-13341; Filed, Nov. 13, 1967; 8:45 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 115-3]

CONSUMERS PUBLIC POWER DISTRICT

Notice of Issuance of Order Authorizing Dismantling of Facility

The Atomic Energy Commission has issued an order, set forth below, authorizing the Consumers Public Power District, Columbus, Nebr., to dismantle the Hallam Nuclear Power Facility, located in Hallam, Nebr., and covered by AEC Operating Authorization No. DPRA-1, as amended.

Copies of the application dated November 14, 1966, with supplements thereto dated June 2, and June 7, 1967, and the related staff safety evaluation are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the staff safety evaluation may be obtained at the Public Document Room or upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md. this 3d day of November 1967.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

ORDER AUTHORIZING DISMANTLING OF FACILITY

By application dated November 14, 1966, the Consumers Public Power District (CPPD) requested authorization to dismantle and decontaminate the Hallam Nuclear Power Facility (HNPF), located in Hallam, Neb., in accordance with the HNPF Retirement Plan, Revision 4, enclosed with the application. A revised HNPF Retirement Plan was submitted by letter dated June 2, 1967, and Supplement 5 to the Final Summary Safeguards Report was submitted by letter dated June 7, 1967.

Operation of the HNPF has been discontinued and it is being deactivated by removing all the fuel and the sodium coolant used in operation of the reactor from the site.

We have reviewed the application in accordance with the provisions of the Commission's regulations and have found that the dismantling of the facility and its decontamination will be accomplished in accordance with the regulations in this chapter and will not be inimical to the common defense and security or to the health and safety of the public.

Accordingly, it is hereby ordered that CPPD may proceed with dismantling of the HNPF covered by Operating Authorization No. DPRA-1, as amended, in accordance with its application dated November 14, 1966, and supplements dated June 2, and June 7, 1967.

After the completion of dismantling and decontamination of the facility, the submission of a report describing the condition of the remaining structures, and an inspection by representatives of the Commission, consideration will be given to whether a further order should be issued terminating Operating Authorization No. DPRA-1.

Dated: November 3, 1967.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[F.R. Doc. 67-13322; Filed, Nov. 13, 1967; 8:45 a.m.]

[Docket No. 115-5]

DAIRYLAND POWER COOPERATIVE

Notice of Application for Transfer of Facility Operating Authorization

Notice is hereby given that Dairyland Power Cooperative of La Crosse, Wis., pursuant to Part 115 of the Commission's regulations, has filed an application for transfer to it from Allis-Chalmers Manufacturing Co. Provisional Operating Authorization No. DPRA-5 to operate the La Crosse Boiling Water Reactor (LACBWR). The reactor is located approximately one mile south of Genoa and 19 miles south of La Crosse, in Vernon County, Wis. The reactor was designed and constructed by Allis-Chalmers Manufacturing Co. and has been operated by that company since July 1967.

A copy of the application, dated October 4, 1967, is available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 2d day of November 1967.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[F.R. Doc. 67-13323; Filed, Nov. 13, 1967; 8:45 a.m.]

[Docket No. 50-269, etc.]

DUKE POWER CO.

Notice of Issuance of Provisional Construction Permits

Docket Nos. 50-269, 50-270, and 50-287.

Notice is hereby given that, pursuant to the initial decision of the Atomic Safety and Licensing Board, dated November 3, 1967, the Director of the Division of Reactor Licensing has issued Provisional Construction Permits Nos. CPPR-33, CPPR-34, and CPPR-35 to Duke Power Co. for the construction of three pressurized water nuclear reactors, designated respectively as Oconee Nuclear Station Units 1, 2, and 3 to be located at Duke Power Co.'s site, about 8 miles northeast of Seneca, S.C.

A copy of the initial decision is on file in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 6th day of November 1967.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[F.R. Doc. 67-13324; Filed, Nov. 13, 1967; 8:45 a.m.]

[Docket Nos. 50-272, 50-311]

PUBLIC SERVICE ELECTRIC AND GAS CO.

Notice of Receipt of Application for Construction Permit and Facility License

In an application dated December 13, 1966, Public Service Electric and Gas Co., 80 Park Place, Newark, N.J. 07101, filed an application for a construction permit and facility license to authorize construction and operation of a pressurized water nuclear reactor at the applicant's site on the east bank of the Delaware River on the boundary between Burlington City and Burlington Township, Burlington County, N.J. A notice of receipt of the application was published in the FEDERAL REGISTER on January 13, 1967, 32 F.R. 394.

By letter dated August 14, 1967, Public Service Electric and Gas Co. advised the Commission that thay had decided to relocate the nuclear power plant originally proposed for the Burlington, N.J., site and would amend their application dated December 13, 1966, accordingly. The new site has not yet been selected.

Please take notice that Public Service Electric and Gas Co., pursuant to section 104(b) of the Atomic Energy Act of 1954, as amended, has filed an application amendment dated October 23, 1967, requesting authorization to construct and operate a second pressurized water nuclear reactor which will be located at the new site. The proposed reactors will each have a net electrical capacity of approximately 1,050 megawatts derived from a thermal capacity of approximately 3,250 megawatts.

Copies of the original application and the amendment are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 6th day of November 1967.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[F.R. Doc. 67-13325; Filed, Nov. 13, 1967; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 19083; Order E-25948]

CASSELS IN THE AIR, INC.

Order To Show Cause

NOVEMBER 8, 1967.

Issued under delegated authority.

By petition filed September 27, 1967, Cassels In The Air, Inc., requests the Board to establish a final service mail rate for the air transportation of mail between Jacksonville, Orlando, Panama City, Pensacola, and Tallahassee, Fla. Petitioner will provide this service in Piper Cherokee 6, Piper Aztec, and Beech 18 type aircraft, and proposes that a final service mail rate of 17.75 cents per aircraft mile for the Cherokee, 23.75 cents per aircraft mile for the Aztec, and 35 cents per aircraft mile for the Beech 18 be established as the fair and reasonable final service mail rate for these services.

Under the proposed services, flights will be operated 6 days per week except that eastbound flights will not be operated on days before holidays and Saturdays and westbound flights will not be operated on holidays and Sundays. Petitioner agrees to provide backup aircraft of the same capacity for the entire operation, and will operate extra trips whenever necessary. Petitioner will load and unload all mail at each point. In all cities except Jacksonville, mail will be transported to and from the airport by contract mail messenger service. At Jacksonville exchanges will be made at the Airport Mail Facility. The petitioner will be responsible for transferring mail between petitioner's flights at Tallahassee. All classes of mail will be transported.

Petitioner believes the rates proposed constitute a fair and reasonable final service mail rate for these services. In its answer, filed October 6, 1967, the Post Office supported the petition, and stated it believes the proposed rates represent fair and reasonable rates for the services which petitioner will perform.

By Order E-25927, November 6, 1967, in this docket, the Board determined to permit petitioner to provide the proposed air transportation of mail for the period terminating December 31, 1968. Since no mail rate is presently in effect for this carrier in these markets it is necessary to fix and determine the fair and reasonable rate of compensation to be paid to petitioner by the Postmaster General for the air transportation of mail.

Under the circumstances the Board finds it in the public interest to fix and determine the fair and reasonable rates of compensation to be paid to Cassels In The Air, Inc., by the Postmaster General for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the petition and other matters officially noticed, the Board proposes to issue an order[1] to include the following findings and conclusions:

1. That the fair and reasonable final service mail rate to be paid to Cassels In The Air, Inc., pursuant to section 406 of the Federal Aviation Act of 1958 for the transportation of mail by aircraft, as authorized by Order E-25927, November 6, 1967, the facilities used and useful therefor, and the services connected therewith, shall be 17.75 cents per aircraft mile for Piper Cherokee 6 type aircraft, 23.75 cents per aircraft mile for Piper Aztec type aircraft, and 35 cents per aircraft mile for Beechcraft D-18 type aircraft; and

2. The final service mail rate here fixed and determined is to be paid in its entirety by the Postmaster General.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, the regulations promulgated in 14 CFR Part 302, and the authority delegated by the Board in 14 CFR 385.14(f):

It is ordered, That:

1. All interested persons, and particularly Cassels In The Air, Inc., the Postmaster General, Eastern Air Lines, Inc., and National Airlines, Inc., are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above as the fair and reasonable rate of compensation to be paid to Cassels In The Air, Inc., for the transportation of mail by aircraft, the facilities used and useful therefor and the services connected therewith as specified above;

2. Further procedures herein shall be in accordance with 14 CFR Part 302; and, if there is any objection to the rates or to the other findings and conclusions proposed herein, notice thereof shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after the date of service of this order;

3. If notice of objection is not filed within 10 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Cassels In The Air, Inc., the Postmaster General, Eastern Air Lines, Inc., and National Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-13348; Filed, Nov. 13, 1967; 8:47 a.m.]

[1] As this order to show cause does not constitute a final action and merely affords interested persons an opportunity to be heard on the matters herein proposed, it is not regarded as subject to the review provisions of Part 385 (14 CFR Part 385). The provisions of that part dealing with petitions for Board review will be applicable to any final action which may be taken by the staff in this matter under authority delegated in § 385.14(g).

[Docket No. 15874]

REOPENED AEROVIAS SUD AMERICANA CASE

Notice of Hearing

Notice is hereby given, pursuant to provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceeding is assigned to be held on December 4, 1967, at 10 a.m., e.s.t., in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned Examiner.

Dated at Washington, D.C., November 8, 1967.

[SEAL] THOMAS L. WRENN,
Associate Chief Examiner.

[F.R. Doc. 67-13349; Filed, Nov. 13, 1967; 8:47 a.m.]

[Docket No. 18923]

ST. LOUIS LIMITED SUPPLEMENTAL AIR SERVICE INVESTIGATION

Notice of Hearing

Notice is hereby given pursuant to the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled proceeding will commence on Tuesday, December 12, 1967, at 10 a.m. (local time), in the Hearing Room of the St. Louis Board of Public Service, St. Louis City Hall, St. Louis, Mo., before Examiner Merritt Ruhlen.

For information concerning the issues involved and other details of this proceeding, interested persons are referred to the prehearing conference report and all other documents which are in the docket of this case on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., November 8, 1967.

[SEAL] MERRITT RUHLEN,
Hearing Examiner.

[F.R. Doc. 67-13350; Filed, Nov. 13, 1967; 8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 67-1207]

STANDARD BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING

The application listed below is mutually exclusive with the application, File No. BR-4399, of licensee of Station WKYF, Greenville, Ky., for renewal of license. Accordingly, and since the application is otherwise acceptable for filing, we have this date accepted the application. Similarly, we will accept any other applications for consolidation which meet the requirements of the Commission's prohibited overlap rules except with respect to WKYF.

New, Hartford, Ky.
Hayward F. Spinks.
Req: 1600 kc, 500 w, Day, Class III.

Accordingly, notice is hereby given that the above application is accepted for filing and that on December 14, 1967, the application, will be considered as ready and available for processing, and pursuant to §§ 1.227(b)(1) and 1.591(b) of the Commission's rules, an application in order to be considered with this application, or with any other application on file by the close of business on December 13, 1967, which involves a conflict necessitating a hearing with either this application, or the WKYF renewal application must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by whichever date is earlier: (a) The close of business on December 13, 1967, or (b) the earlier effective cutoff date which this application or any other conflicting application may have by virtue of conflicts necessitating a hearing with applications appearing on previous lists.

The attention of any party in interest desiring to file pleadings concerning the above application pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for the provisions governing the time of filing and other requirements relating to such pleadings.

Adopted: November 3, 1967.

Released: November 8, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13362; Filed, Nov. 13, 1967; 8:49 a.m.]

[1] Commissioner Bartley absent.

[Docket Nos. 17448, 17446; FCC 67M-1677]

ST. ANTHONY TELEVISION CORP. (KHMA-TV) AND DELTA TELE-RADIO CORP.

Order Regarding Procedural Dates

In re applications of St. Anthony Television Corp. (KHMA-TV), Houma, La., Docket No. 17448, File No. BMPCT-6125, for extension of time within which to construct; St. Anthony Television Corp. (KHMA-TV), Houma, La., Docket No. 17447, File No. BMPCT-6196, for modification of construction permit; St. Anthony Television Corp. (KHMA-TV) (Assignor), Houma, La., and Delta Tele-radio Corp., Panama City, Fla. (Assignee), Docket No. 17448, File No. BAPCT-375, for assignment of construction permit.

The Hearing Examiner having under consideration the "Petition for Continuance" filed by the above-named applicants on November 1, 1967, requesting that the procedural dates heretofore established in the instant proceeding be continued;

It appearing, that the two above-named applicants have decided not to prosecute BAPCT-375 (Docket No. 17448); and

It further appearing, that St. Anthony Television Corp. has decided not to prosecute BMPCT-6196 (Docket No. 17447); and

It further appearing, that the decision of St. Anthony to continue its prosecution of BMPCT-6125 as a low-powered Houma television station will, in all likelihood, eliminate the necessity for a hearing, or at least limit extensively the scope of any hearing which may be held; and

It further appearing, that the Broadcast Bureau interposes no objection to a grant of the requested continuance, and that good cause has been shown therefor:

It is ordered, That the aforesaid "Petition for Continuance", be, and the same is, hereby granted, and that the heretofore established procedural dates, including the hearing date of November 27, 1967, are continued to dates that will be set by subsequent order.

Issued: November 3, 1967.

Released: November 7, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13363; Filed, Nov. 13, 1967; 8:49 a.m.]

[Docket No. 17832]

PERRY H. SIMPSON

Order Designating Matter of Suspension for Hearing on Stated Issues

In the matter of Perry H. Simpson, 4410 Northeast 28th Terrace, Lighthouse Point, Pompano Beach, Fla. 33064, Docket No. 17832, suspension of restricted radiotelephone operator permit.

The Commission, by the Chief of its Field Engineering Bureau, has under consideration the suspension of the Restricted Radiotelephone Operator Permit issued to Perry H. Simpson.

In accordance with the provisions of section 303(m)(2) of the Communications Act of 1934, as amended, Simpson filed with the Commission a timely request for hearing on the Commission's order released August 8, 1967, suspending for 6 months his Restricted Radiotelephone Operator Permit.

Under the provisions of section 303(m)(2) of the Communications Act of 1934, as amended, Perry H. Simpson is entitled to a hearing in this matter and by filing a timely request for a hearing, the Commission's order of suspension is held in abeyance until the conclusion of the proceedings in this matter.

It is ordered, Under authority contained in section 303(m)(2) of the Communications Act of 1934, as amended, and § 0.311(a)(5) of the Commission's rules, that the matter of the suspension of the Restricted Radiotelephone Operator Permit of Perry H. Simpson is hereby designated for hearing at a time and place before a hearing examiner to be specified by further order of the Commission upon the following issues:

1. To determine whether on March 19, 1966, October 11, 1966, and December 28, 1966, while serving as a licensed radio operator on board the vessel MALOLO, Simpson communicated with other vessels by radio without identifying the transmissions by announcing the station's call sign and thus repeatedly violated § 83.364 of the Commission's rules.

2. To determine in the light of the evidence adduced in the preceding issue whether the terms of the original order of suspension should be made final, rescinded, or modified.

It is further ordered, That the Secretary shall send a copy of this order by Certified Mail-Return Receipt Requested to Perry H. Simpson at the address given above.

Adopted: October 26, 1967.

Released: November 3, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13364; Filed, Nov. 13, 1967; 8:49 a.m.]

[Docket No. 17832; FCC 67M-1695]

PERRY H. SIMPSON

Order Scheduling Hearing

In the matter of Perry H. Simpson, 4410 Northeast 28th Terrace, Lighthouse Point, Pompano Beach, Fla. 33064, Docket No. 17832, suspension of restricted radiotelephone operator permit.

It is ordered, That Herbert Sharfman shall serve as Presiding Officer in the above-entitled proceeding; and that the hearing therein shall be convened in the offices of the Commission, Washington, D.C., on December 20, 1967, at 10 a.m.

Issued: November 7, 1967.

Released: November 8, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13365; Filed, Nov. 13, 1967; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-2717, etc.]

FRED M. WHITING ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

NOVEMBER 3, 1967.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service heretofore authorized as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 27, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no protest or petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given: *Provided, however*, That pursuant to §2.56, Part 2, Statement of General Policy and Interpretations, Chapter I of Title 18 of the Code of Federal Regulations, as amended, all permanent certificates of public convenience and necessity granting applications, filed after April 15, 1965, without further notice, will contain a condition precluding any filing of an increased rate at a price in excess of that designated for the particular area of production for the period prescribed therein unless at the time of filing such certificate application, or within the time fixed herein for the filing of protests or petitions to intervene the Applicant indicates in writing that it is unwilling to accept such a condition. In the event Applicant is unwilling to accept such condition the application will be set for formal hearing.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
G-2717 E 8-25-67	Fred M. Whiting, agent (successor to Glenville Gas Production Co.), Glenville, W. Va. 26351.	Carnegie Natural Gas Co., Glenville District, Gilmer County, W. Va.	20.0	15.025
G-6883 E 8-16-67	William H. Putnam et al. (successor to B. H. Putnam, Operator), Post Office Box 647, Marietta, Ohio 45750.	Ohio Fuel Gas Co., acreage in Meigs County, Ohio.	22.0	15.025
G-11034 C 8-25-67	Atlantic Richfield Co., Post Office Box 2819, Dallas, Tex. 75221.	Tennessee Gas Pipeline Co., a division of Tenneco, Inc., East and West Cameron Areas, Offshore Cameron Parish, La.	20.5	15.025
CI62-623 E 8-22-67	E. E. Hubbard, Jr. (Operator), et al. (successor to Shell Oil Co.), c/o Jacob Goldberg, attorney, 810 Pennsylvania Bldg., Washington, D.C. 20004.	Tennessee Gas Pipeline Co., a division of Tenneco, Inc., LeBlanc Field, Allen Parish, La.	[1] 21.3	15.025
CI64-175 C 8-24-67	Pan American Petroleum Corp. (Operator) et al., Post Office Box 591, Tulsa, Okla. 74102.	El Paso Natural Gas Co., Basin Dakota Field, San Juan and Rio Arriba Counties, N. Mex.	13.0	15.025
CI67-1154 A 2-23-67	Gulf Oil Corp.,[2] Post Office Box 1589, Tulsa, Okla. 74102.	Transwestern Pipeline Co., Hailey Field, Winkler County, Tex.	14.5	14.65
CI67-1856 A 6-30-67	Sunray DX Oil Co.,[2] Post Office Box 2039, Tulsa, Okla. 74102.	do	14.5	14.65
CI68-89 A 7-21-67 8-24-67 [4]	Haynes & V. T. Drilling Co., Operator, 516 Commercial Bank Bldg., Midland, Tex. 79701.	Trunkline Gas Co., Bullhead Creek Field, Bee County, Tex.	14.25	14.65
CI68-195 A 8-23-67	Sinclair Oil & Gas Co., Post Office Box 521, Tulsa, Okla. 74102.	Southern Natural Gas Co., Iberia Field, Iberia Parish, La.	21.25	15.025
CI68-196 A 8-23-67	do	Southern Natural Gas Co., Bully Camp Field, Lafourche Parish, La.	21.25	15.025
CI68-197 A 8-23-67	do	Southern Natural Gas Co., Bayou Gentilly Field, Plaquemines Parish, La.	21.25	15.025
CI68-201 A 8-23-67	Sun Oil Co. (Gulf Coast Division), 1608 Walnut St., Philadelphia, Pa. 19103.	United Fuel Gas Co., Midland-Esther-wood Field, Acadia Parish, La.	21.1	15.025
CI68-202 A 8-24-67	The Ballard & Cordell Corp. (Operator) et al., c/o John M. Shuey, attorney, 624 Johnson Bldg., Shreveport, La. 71101.	Transcontinental Gas Pipe Line Corp., Chagby Field, Lafourche Parish, La.	19.0	15.025
CI68-205 A 8-25-67	Anadarko Production Co., Post Office Box 9817, Fort Worth, Tex. 76107.	Cities Service Gas Co., Avard Area, Woods County, Okla.	15.0	14.65
CI68-206 A 8-25-67	Pan American Petroleum Corp.	Michigan Wisconsin Pipe Line Co., East Campbell Field, Major and Woods Counties, Okla.	[3] 15.0	14.65
CI68-217 B 8-25-67	Mobil Oil Corp., Post Office Box 2444, Houston, Tex. 77001.	Skelly Oil Co., Velma Field, Stephens County, Okla.	(5)	
CI68-224 A 8-25-67	Milton F. Shaffer (Operator) et al., 507 Amarillo Petroleum Bldg., Amarillo, Tex. 79101.	Colorado Interstate Gas Co., acreage in Hutchinson County, Tex.	16.5	14.65

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

[1] Rate in effect subject to refund in Docket No. RI68-217.
[2] By letter filed July 10, 1967, Applicant agreed to accept permanent certificate containing conditions similar to those imposed by Opinion No. 468, as modified by Opinion No. 468-A.
[3] By letter filed Aug. 28, 1967, Applicant agreed to accept permanent certificate containing conditions similar to those imposed by Opinion No. 468, as modified by Opinion No. 468-A.
[4] Amended application filed to reflect a total initial price of 15.25 cents per Mcf in lieu of the original proposed price of 15 cents per Mcf, shown in the notice of applications issued Aug. 3, 1967 in Docket No. G-4804 et al.
[5] Subject to upward and downward B.t.u. adjustment.
[6] Applicant has entered into a percentage-type contract covering subject sale.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein, nor should it be so construed.

[F.R. Doc. 67-13277; Filed, Nov. 13, 1967; 8:45 a.m.]

[Project 1987]

CALIFORNIA-PACIFIC UTILITIES CO.

Notice of Application for Surrender of License for Constructed Project

NOVEMBER 7, 1967.

Public notice is hereby given that application has been filed for surrender of license under the Federal Power Act (16 U.S.C. 791a-825r) by California-Pacific Utilities Co. (correspondence to: E. K. Albert, President, California-Pacific Utilities Co., 550 California Street, San Francisco, Calif. 94104) for constructed Project No. 1987, known as the Fremont Project, located on Lake, Upper Lake, North Fork of Desolation, and Lost Creek and North Fork of Congo Creek in Baker and Grant Counties, Oreg., and affecting lands of the United States within the Umatilla and Whitman National Forests.

The constructed Fremont (Olive Lake) project consists of: (1) A dam on Lake Creek which forms Olive Lake with a surface area of 172 acres and a storage capacity of about 5,591 acre-feet; (2) a low dam on North Fork of Desolation Creek diverting water through a ditch about 7,060 feet long to Olive Lake; (3) a pipeline from Olive Lake to the powerhouse; (4) a low dam on Lost Creek and a conduit about 1,690 feet long diverting additional water to the pipeline; (5) a powerhouse on the North Fork of Congo Creek containing two 900 horsepower water wheels connected to two 550 kilowatt generators; (6) a 22,000-volt, 16.25 mile-long transmission line from the powerhouse to Bourne; (7) a 2,300-volt transmission line about 5.5 miles long from the powerhouse to Olive Lake; and (8) appurtenant facilities.

According to the application, the 22,000-volt line will be changed to 12 miles of 22,000-volt and 6.25 miles of 2,400-volt line, and will be continued to be used by the company. The latter states that in recent years the Fremont hydro plant has become uneconomical to operate and to restore the project to a state of efficient operation would require considerable expenditure. The U.S. Forest Service proposes to take over the remaining project area and such facilities as may be useful in establishing a recreational area.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is December 26, 1967. The application is on file with the Commission for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13352; Filed, Nov. 13, 1967; 8:48 a.m.]

[Docket No. G-19919]

CONTINENTAL OIL CO.

Order Accepting Notice of Change in Rate and Contract Amendment, Severing and Terminating Proceeding

NOVEMBER 6, 1967.

Continental Oil Co. (Continental) on October 6, 1967, submitted for filing a contract amendment (designated Supplement No. 8 to Continental's FPC Gas Rate Schedule No. 3) and a notice of change in rate (designated Supplement No. 9 to Continental's FPC Gas Rate Schedule No. 3) involving its jurisdictional sale of natural gas to Tennessee Gas Pipeline Co., a division of Tenneco, Inc., from the Carthage Field, Panola County, Tex., Railroad Commission District No. 6.

Continental, in making such submittals, proposed to settle its rate proceeding in Docket No. G-19919 under its Rate Schedule No. 3 in accordance with the provision of the second and ninth amendments to the Commission's statement of general policy No. 61-1 (18 CFR 2.56). Said supplement No. 8 among other things, extended the contract term for an additional 5-year period, provides for a 15-cent per Mcf price for the remaining term of the contract, and deletes all other pricing provisions from the contract except for tax reimbursement based on new or additional taxes. In said supplement No. 9, Continental proposes an increase in rate from 14.4248 cents to 15 cents per Mcf at 14.65 p.s.i.a., subject to a downward B.t.u. adjustment, and requests a waiver of the 30-day notice requirements and a retroactive effective date as of June 1, 1967.

Since the instant proposal, with the exception of the requested effective date, is in substantial compliance of the provisions of the aforementioned amendments, the said supplements should be accepted for filing. We do not believe, however, that good cause has been shown for waiving the 30-day notice requirements or for granting a retroactive effective date and such request is denied. Accordingly, the effective date for said supplement Nos. 8 and 9 should be November 6, 1967, the first day after expiration of the statutory notice period.

Our action should not be construed as constituting approval of any future rate increase, if any, that may be filed under the subject rate schedule in accordance with Continental's reservation of the right to file for future tax increases, and is without prejudice to any findings or orders of the Commission in any pending or future rate proceedings, including area rate proceedings, or similar proceedings, involving Continental's rates and rate schedules.

The Commission finds: For the foregoing reasons, Supplement Nos. 8 and 9 to Continental's FPC Gas Rate Schedule No. 3 should be accepted for filing as hereafter provided and the proceeding in Docket No. G-19919 should be terminated.

The Commission orders: Supplement Nos. 8 and 9 to Continental's FPC Gas Rate Schedule No. 3 are accepted for filing to be effective as of November 6, 1967, and the proceeding in Docket No. G-19919 is severed from the proceeding in Docket Nos. AR67-1 et al. and terminated.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13327; Filed, Nov. 13, 1967; 8:45 a.m.]

[Docket No. CS67-105]

L. R. FRENCH, JR.

Notice of Application for "Small Producer" Certificate

NOVEMBER 6, 1967.

Take notice that on June 28, 1967, L. R. French, Jr., c/o Joseph Connally, Attorney, 701 First National Bank Building, Odessa, Tex. 79760 filed an application, as supplemented October 30, 1967, pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce from the Permian Basin area of Texas and New Mexico, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 30, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on the application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter believes that a grant of the certificate is required by the public convenience and necessity. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13328; Filed, Nov. 13, 1967; 8:45 a.m.]

[Docket No. E-7373]

LAKE SUPERIOR DISTRICT POWER CO.

Notice of Application

NOVEMBER 7, 1967.

Take notice that on October 31, 1967, Lake Superior District Power Co. (Applicant), filed an application seeking an order pursuant to section 204 of the Federal Power Act authorizing the issuance in the aggregate of $3 million in short-term unsecured promissory notes.

Applicant is incorporated under the laws of the State of Wisconsin with its principal business office at Ashland, Wis., and is engaged in the electric utility business in the States of Wisconsin and Michigan.

The notes are to be issued from time to time to the First National Bank of Chicago and will mature within 1 year from their dates of issuance and in any event not later than December 31, 1968.

The proceeds for the borrowing would be used to renew outstanding notes and provide interim financing for the company's current construction program. The expenditures for this program for 1967 and 1968 are estimated at about $4,911,000. Major items are $2,476,000 for electric generating station at Park Falls, Wis., and $1,310,000 for additions to its gas distribution system.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 21, 1967, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13353; Filed, Nov. 13, 1967; 8:48 a.m.]

[Docket No. CP68-127]

LONE STAR GAS CO.

Notice of Application

NOVEMBER 7, 1967.

Take notice that on October 20, 1967, Lone Star Gas Co. (Applicant), 301 South Harwood Street, Dallas, Tex. 75201, filed in Docket No. CP68-127 a "budget-type" application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the regulations under the Act for a certificate of public convenience and necessity authorizing the construction and operation of certain gas-purchase facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to construct during the calendar year 1968 and to operate various gas-purchase facilities for the purpose of connecting new supplies of natural gas to be purchased from producers thereof to Applicant's existing certificated pipeline system.

The total estimated cost of the proposed facilities will not exceed $1 million, and the cost of any single project will be limited to $250,000. The facilities will be financed out of funds currently on hand.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before November 29, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13354; Filed, Nov. 13, 1967; 8:48 a.m.]

[Docket No. CP64-283]

TRANSCONTINENTAL GAS PIPE LINE CORP. AND SOUTH TEXAS NATURAL GAS GATHERING CO.

Notice of Petition To Amend

NOVEMBER 7, 1967.

Take notice that on October 26, 1967, Transcontinental Gas Pipe Line Corp. (Petitioner Transco), Post Office Box 1396, Houston, Tex. 77001, and South Texas Natural Gas Gathering Co. (Petitioner South Texas), Post Office Drawer 521, Corpus Christi, Tex. 78403, jointly filed in Docket No. CP64-283 a petition to amend the order issued in said docket on May 22, 1964, by requesting authorization to construct and operate two additional connections for the exchange and delivery of natural gas between Petitioners, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the order issued October 26, 1964, Petitioners were authorized to construct and operate certain facilities and to exchange and deliver volumes of natural gas under the terms of an exchange agreement between the Petitioners dated May 22, 1964.

By the instant petition to amend, Petitioners seek authorization for the construction and operation of two additional points of connection to be located as follows:

(1) At a mutually agreeable point on Petitioner Transco's 6-inch Thomaston lateral within 300 feet downstream of Petitioner Transco's Mission Valley Meter Station, said point located in Victoria County, Tex.

(2) At a mutually agreeable point on Petitioner Transco's 26-inch main line, said point located approximately 17,900 feet southwest of the northeast corner of the Desiderio Garcia Survey, Victoria County, Tex.

Petitioner Transco will own, operate, and maintain the delivery point on the Thomaston lateral and Petitioner South Texas will own, operate, and maintain the delivery point at Petitioner Transco's 26-inch main line.

The total estimated cost of the proposed facilities is $23,918, of which $7,650 will be reimbursed to Petitioner Transco by Petitioner South Texas for the cost of tapping the aforesaid 26-inch main line.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before November 29, 1967.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13355; Filed, Nov. 13, 1967; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[70-4551]

ARKANSAS POWER & LIGHT CO.

Notice of Proposed Indenture Amendment, Charter Amendment, and Increase of Permissible Bond Indebtedness

NOVEMBER 7, 1967.

Notice is hereby given that Arkansas Power & Light Co. ("AP&L"), Ninth and Louisiana Streets, Little Rock, Ark. 72203, an electric utility subsidiary company of Middle South Utilities, Inc. ("Middle South"), a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), proposing to amend both its mortage and deed of trust ("Indenture") and its agreement of consolidation or merger ("Charter") and to increase its permissible bond indebtedness. AP&L has designated sections 6(a) (2), 7, and 12(e) of the Act and Rules 62 and 68 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed amendments.

AP&L proposes to amend its Indenture dated October 1, 1944, as supplemented, to Morgan Guaranty Trust Company of New York and Grainger S. Greene as trustees, to remove the $250 million limitation on the aggregate principal amount of bonds, of all series, which may be outstanding at any one time. The aggregate principal amount of all bonds of AP&L now outstanding under the Indenture is $216,700,000, and management expects that within 2 years the present limit will be reached. No other limitation on the issuance of new bonds will be altered.

The proposed amendment of the Indenture requires the affirmative vote of the holders of 70 percent or more, in principal amount, of the outstanding bonds. To effect this vote AP&L proposes to call a meeting, to be held on or about March 14, 1968, of all of its bondholders except those holding the 5¾ percent series due 1996 and the 5⅞ percent series due 1997. The indentures under which the 5¾ percent series due 1996 and the 5⅞ percent series due 1997 were issued reserved to AP&L the right to make such an amendment without obtaining the consent of the holders of those bonds. In connection with the meeting, AP&L proposes to solicit proxies from its bondholders through the use of solicitation material which will set forth the proposed amendments in detail.

AP&L also proposes to obtain the consent of its stockholders to (1) increase the permissible bond indebtedness to $1 billion and (2) amend its charter to increase its authorized common stock from 10 million to 20 million shares. A special meeting of AP&L's common and preferred stockholders, to be held on or about February 22, 1968, is to be called to consider these proposals, which under the constitution of the State of Arkansas, require the consent of the holders of the larger amount in value of all the outstanding capital stock, voting as a single class. Under the Arkansas Business Corporation Act and AP&L's charter, the increase in the authorized common stock requires the consent of the holders of at least two-thirds of the outstanding shares of common stock. It is stated that Middle South, the holder of 100 percent of AP&L's common stock, intends to vote its shares in favor of both of the above proposals. It is further stated that such an affirmative vote would constitute the consent of the holders of the larger amount in value of all the outstanding capital stock as required for both proposals by the Arkansas constitution, as well as the consent of at least two-thirds of the outstanding shares of common stock required by the charter and the Business Corporation Act. AP&L does not propose to solicit proxies for the meeting from the holders of either its common or preferred stock, but does propose to send to holders of its preferred stock an information statement with respect to matters to be acted on at the meeting.

The Arkansas Public Service Commission has asserted jurisdiction over the proposed transactions. AP&L has applied for approval by such Commission of both the modification of the Indenture and the increases of authorized bonds and common stock. The declaration states that no other State commission and no Federal commission other than this Commission has jurisdiction over the proposed transactions. The declaration further states that a copy of the order of the Arkansas Public Service Commission authorizing the proposed transactions, and a statement of the fees, commissions, and expenses incurred in connection with the transactions are to be filed by amendment.

Notice is further given that any interested person may, not later than November 29, 1967, request in writing that a hearing be held with respect to the proposed amendments, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13334; Filed, Nov. 13, 1967; 8:46 a.m.]

[File Nos. 7-2758—7-2765]

COLLINS RADIO CO. ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 7, 1967.

In the matter of applications of the Midwest Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Collins Radio Co.	7-2758
Fresser Industries, Inc.	7-2759
Dynamics Corp. of America	7-2760
Great Western Financial Corp.	7-2761
Itek Corp.	7-2762
Pan American Sulphur Co.	7-2763
Seaboard World Airlines	7-2764
Western Airlines, Inc.	7-2765

Upon receipt of a request, on or before November 21, 1967, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13335; Filed, Nov. 13, 1967; 8:46 a.m.]

ROTO AMERICAN CORP.

Order Suspending Trading

NOVEMBER 7, 1967.

The common stock, $1 par value, of Roto American Corp., being listed and registered on the National Stock Exchange pursuant to the provisions of the Securities Exchange Act of 1934 and the 7 percent cumulative preferred, $10 par value, being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the National Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 8, 1967, through November 17, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13336; Filed, Nov. 13, 1967; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 491]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 8, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 109689 (Sub-No. 186 TA), filed November 3, 1967. Applicant: W. S. HATCH CO., 643 South 800 West Street, Woods Cross, Utah 84087, Post Office Box 1825, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid gilsonite asphalt sealer*, in bulk, from Denver, Colo., to points in New Mexico, for 180 days. Supporting shipper: As-Tec Products Co., 1505 East 17th Street, Santa Ana, Calif. Send protests to: John T. Vaughan, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2224 Federal Building, Salt Lake City, Utah 84111.

No. MC 111069 (Sub-No. 54 TA), filed November 3, 1967. Applicant: COLDWAY CARRIERS, INC., Post Office Box 38, State Highway 131, Clarksville, Ind. 47130. Applicant's representative: Paul M. Daniell, Suite 1600, First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned citrus products, canned drinks and beverages and canned drink preparations*, from Bradenton, Fla., to points in West Virginia, Virginia, Maryland, and the District of Columbia, for 180 days. Supporting shipper: Tropicana Products Sales, Inc., Post Office Box 338, Bradenton, Fla. 33505. Send protests to: Bureau of Operations, Interstate Commerce Commission, 802 Century Building, 36 South Pennsylvania Street, Indianapolis, Ind. 46204.

No. MC 114848 (Sub-No. 37 TA), filed November 6, 1967. Applicant: WHARTON TRANSPORT CORPORATION, 1498 Channel Avenue, Memphis, Tenn. Applicant's representative: James N. Clay III, 2700 Sterick Building, Memphis, Tenn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furfural residue*, from Memphis, Tenn., to points in Alabama, Arkansas, Mississippi, Georgia, Louisiana, Kentucky, Tennessee, and Missouri, for 180 days. Supporting shipper: Dehyco Co., 3939 Washington, Kansas City, Mo. 64111, Fred R. Harris, manager. Send protests to: W. W. Garland, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 390 Federal Office Building, 167 North Main Street, Memphis, Tenn. 38103.

No. MC 115379 (Sub-No. 31 TA), filed November 6, 1967. Applicant: JOHN D. BOHR, INC., Post Office Box 217, Annville, Pa. 17003. Applicant's representative: C. V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Poultry feed*, in bulk, from Palmyra, Pa., to Urbana, Middlesex County, Va., for 150 days. Supporting shipper: Hales & Hunter Co., Palmyra, Pa. Send protests to: Robert W. Ritenour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 218 Central Industrial Bldg., 100 North Cameron Street, Harrisburg, Pa. 17101.

No. MC 117190 (Sub-No. 3 TA), filed November 6, 1967. Applicant: WILLIAM LUSTBERG, doing business as WILCO GARMENT DELIVERY, 812 79th Street, North Bergen, N.J. 07047. Applicant's representative: Herman B. J. Weckstein, 1060 Broad Street, Newark, N.J. 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials and supplies* used in the manufacture of wearing apparel, between New York, N.Y., on the one hand, and, on the other, Red Hook, N.Y., for 150 days. Supporting shipper: Reb-Mar Inc., 9 South Broadway, Red Hook, N.Y. Send protests to: District Supervisor, Walter J. Grossmann, Interstate Commerce Commission, 1060 Broad Street, Room 363, Newark, N.J. 07102.

No. MC 119934 (Sub-No. 144 TA), filed November 6, 1967. Applicant: ECOFF TRUCKING, INC., 625 East Broadway, Fortville, Ind. 46040. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphate of alumina dry*, in bulk, in hopper type vehicles, from Chattanooga, Tenn., to Coosa Pines, Ala., for 180 days. Supporting shipper: American Cyanamid Co., Wayne, N.J. 07470. Send protests to: Bureau of Operations, Interstate Commerce Commission, 802 Century Bldg., 36 South Pennsylvania Street, Indianapolis, Ind. 46204.

No. MC 127253 (Sub-No. 42 TA), filed November 3, 1967. Applicant: R. A. CORBETT TRANSPORT, INC., 111 West Laurel Street, Lufkin, Tex. 75901. Applicant's representative: C. WADE SHEMWELL, Post Office Box 447, Waskom, Tex. 75692. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed grade molasses*, in bulk, in tank vehicles, from Sorrell, La., to points in Arkansas, Mississippi, Oklahoma, and Texas, for 180 days. Supporting shipper: Red Barn Chemicals, Inc. (Mr. C. D. Owen, Traffic Coordinator), Post Office Box 1800, Shreveport, La. 71120. Send protests to: District Supervisor, John C. Redus, Bureau of Operations, Interstate Commerce Commission, Post Office Box 61212, Houston, Tex. 77061.

No. MC 129511 TA, filed November 3, 1967. Applicant: MARVIN L. SMITH, Estelline, Rural Route, S. Dak. 57234. Applicant's representative: Gordon J. Mydland, 316 Fourth Street, Brookings, S. Dak. 57006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feeds*, from Minneapolis, Minn., to points in Pennington, Butte, and Meade Counties, S. Dak., for 180 days. Supporting shipper: Farmers Feed & Seed, Gordon Maney, manager, Sturgis, S. Dak. 57785. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

MOTOR CARRIER OF PASSENGERS

No. MC 129514 TA, filed November 6, 1967. Applicant: CHAPPAQUA TRANSPORTATION, INC., 130 Hunts Lane, Chappaqua, N.Y. 10514. Applicant's representative: Seth M. Corwin (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers* in special operations, between Danbury, Conn., and Readers Digest on Route 117 near Chappaqua, N.Y., for 180 days. Supporting shipper: The Readers Digest, Attention: Donald Vogel, Transportation Manager, Pleasantville, N.Y. Send protests to: Stephen P. Tomany, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 346 Broadway, New York, N.Y. 10013.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13338; Filed, Nov. 13, 1967; 8:48 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during November.

3 CFR

Page

PROCLAMATIONS:
3694 (terminated in part by Proc. 3818) 15467
3712 (terminated in part by Proc. 3818) 15467
3744 (terminated in part by Proc. 3818) 15467
3818 15467
3819 15667

EXECUTIVE ORDERS:
2296 (modified by PLO 4313) 15429
4702 (revoked in part by PLO 4315) 15482
8652 (revoked in part by PLO 4317) 15482
10530 (see EO 11378) 15237
10682 (see EO 11378) 15237
11378 15237
10807 (amended by EO 11381) 15629
10903 (amended by EO 11380) 15627
11034 (amended by EO 11380) 15627
11379 15625
11380 15627
11381 15629

5 CFR

713 15631

7 CFR

51 ..... 15066, 15073
319 15577
729 15149
730 15076
910 ..... 15430, 15524, 15631
912 ..... 15430, 15632
913 15430
915 15669
945 15577
982 15669
984 15388
991 15670
1001 15076
1015 15090
1067 15093
1120 15388
1126 15388
1132 15389
1137 15431
1421 15632
1464 15633

PROPOSED RULES:
51 15435
723 15546
822 15393
891 15393
892 15393
905 15116
906 15394
907 15488
908 15394
912 15436
913 15395
959 15177
989 15488
1049 15489
1064 15490
1090 15437
1125 15178
1131 15588

8 CFR

Page

103 15469
212 15469
238 15469

9 CFR

76 15240
78 15677
131 15469

10 CFR

PROPOSED RULES:
20 15432

12 CFR

1 15544
219 15389
563 15634

13 CFR

106 15065
108 15149
120 15634
122 15635

PROPOSED RULES:
107 15399
121 15184

14 CFR

21 15472
39 ..... 15094, 15153, 15154, 15390, 15421, 15472, 15523, 15579, 15635.
71 ..... 15094, 15095, 15154, 15523, 15524, 15579, 15635, 15636.
73 15096
75 15636
91 15422
97 ..... 15423, 15473, 15580
141 15583
145 15670
207 15096
208 15097
241 15096

PROPOSED RULES:
27 15676
29 15676
39 ..... 15490, 15491, 15588
71 ..... 15117–15121, 15491–15493, 15546–15548, 15588, 15589.
93 15589
121 15676
202 15676
203 15676

15 CFR

0 15222
70 15154
204 ..... 15104, 15391
230 ..... 15105, 15636

16 CFR

13 ..... 15105–15107, 15470
14 15525
15 15470
17 15540
228 15525
229 15529
230 15531

16 CFR—Continued

Page

231 15532
232 15533
233 15534
234 15536
235 15538
236 15538
237 15539
238 15540
239 15541
240 15543
412 15584
413 15424

PROPOSED RULES:
242 15681
300 15180

17 CFR

200 15470

18 CFR

3 15239
101 15670
141 15670

PROPOSED RULES:
141 15434
260 15434

19 CFR

4 15390
10 15424
14 15155
16 15390

20 CFR

396 15471
401 15544

21 CFR

120 ..... 15107, 15120, 15424, 15578
121 ..... 15108, 15109, 15155, 15545
133 15109
148c 15425
166 15390

PROPOSED RULES:
28 15116

22 CFR

PROPOSED RULES:
201 15116

24 CFR

200 ..... 15425, 15586, 15636
203 15639
207 15640
220 15640
222 15640
809 15640

25 CFR

41 15471

26 CFR

1 ..... 15421, 15671
301 ..... 15241, 15483

PROPOSED RULES:
1 ..... 15167, 15393

28 CFR

0 15425

29 CFR

Page

526 15425
786 15425
1500 ..... 15478, 15479

PROPOSED RULES:
5 15396
6 15396
7 15396

31 CFR

306 15672

32 CFR

66 15111
127 15112
536 15113
552 15115
710 15115

33 CFR

204 15673

35 CFR

61 15641

36 CFR

7 15391

39 CFR

131 15587
821 15480
822 ..... 15480, 15481
823 15099

PROPOSED RULES:
Ch. I 15643

41 CFR

Page

1–5 15674
6–75 15427
50–204 15641

42 CFR

PROPOSED RULES:
73 15178

43 CFR

PUBLIC LAND ORDERS:
1583 (see PLO 4307) 15428
1630 (see PLO 4315) 15482
3263 (revoked in part by PLO 4307) 15428
3634 (revoked in part by PLO 4303) 15427
4236 (see PLO 4317) 15482
4266 (see PLO 4317) 15482
4270 (amended by PLO 4312) 15429
4301 15098
4302 15427
4303 15427
4304 15427
4305 15428
4306 15428
4307 15428
4308 15428
4309 15428
4310 15429
4311 15429
4312 15429
4313 15429
4314 15482
4315 15482

43 CFR—Continued

Page

PUBLIC LAND ORDERS—Continued
4316 15482
4317 15482
4318 15483

PROPOSED RULES:
1720 15546

45 CFR

81 15156
631 15641

46 CFR

PROPOSED RULES:
Ch. IV 15438

47 CFR

0 ..... 15472, 15675
73 ..... 15161, 15162, 15545

PROPOSED RULES:
2 15180
73 15679
89 ..... 15180, 15680
91 15180
93 ..... 15180, 15680

49 CFR

106 15484
114 15484

PROPOSED RULES:
238 15589

50 CFR

32 ..... 15166, 15586, 15587, 15642, 15675
33 15166

PUBLIC PAPERS OF THE PRESIDENTS OF THE UNITED STATES

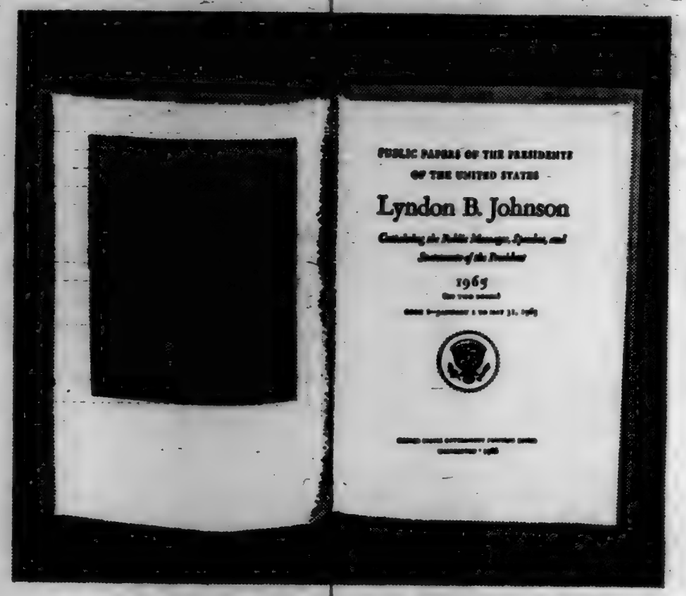

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221

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Agencies in this issue—

The President
Agricultural Research Service
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Business and Defense Services Administration
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Federal Aviation Administration
Federal Communications Commission
Federal Crop Insurance Corporation
Federal Home Loan Bank Board
Federal Maritime Commission
Federal Power Commission
Federal Reserve System
Federal Trade Commission
Fish and Wildlife Service
Food and Drug Administration
Health, Education, and Welfare Department
Housing and Urban Development Department
International Commerce Bureau
Interstate Commerce Commission
Land Management Bureau
Maritime Administration
National Park Service
Packers and Stockyards Administration
Railroad Retirement Board
Securities and Exchange Commission
Tariff Commission
Transportation Department
Wage and Hour Division

Detailed list of Contents appears inside.

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Contents

THE PRESIDENT

PROCLAMATION

Modification of Proclamation 3279 adjusting imports of petroleum and petroleum products 15701

EXECUTIVE AGENCIES

AGRICULTURAL RESEARCH SERVICE

Rules and Regulations

Certain means of conveyance and containers brought into U.S.; inspection and other requirements 15707

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Rules and Regulations

Marketing quota review regulations; miscellaneous amendments 15704

Market quotas; holding of referenda; issuing ballots to voters 15705

AGRICULTURE DEPARTMENT

See also Agricultural Research Service; Agricultural Stabilization and Conservation Service; Commodity Credit Corporation; Consumer and Marketing Service; Federal Crop Insurance Corporation; Packers and Stockyards Administration.

Notices

Federal Crop Insurance Corporation; organization, functions and procedures 15716

ATOMIC ENERGY COMMISSION

Notices

Armed Forces Radiobiology Research Institute; issuance of facility amendment 15724

Honeywell, Inc.; filing of petition for rule making 15724

BUSINESS AND DEFENSE SERVICES ADMINISTRATION

Rules and Regulations

Copper and copper-base alloys; set-aside percentages 15710

CIVIL AERONAUTICS BOARD

Notices

Hearings, etc.:

City of Palm Springs et al 15724

Nonpriority mail rate case 15726

Service to Albuquerque case 15727

CIVIL SERVICE COMMISSION

Rules and Regulations

Entire executive civil service et al.; exempted service 15703

COMMERCE DEPARTMENT

See Business and Defense Services Administration; International Commerce Bureau; Maritime Administration.

COMMODITY CREDIT CORPORATION

Rules and Regulations

Corn loan and purchase program: 1966 and subsequent crops 15706

1967 crop 15706

CONSUMER AND MARKETING SERVICE

Rules and Regulations

Hops of domestic production; handling 15705

Irish potatoes grown in Modoc and Siskiyou Counties, Calif., and in all counties in Oregon except Malheur County; expenses and rate of assessment 15705

Milk in Puget Sound, Wash., marketing area; order suspending certain provision 15706

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations

General operating and flight rules; aircraft speed 15708

Proposed Rule Making

Transition area; proposed designation 15712

FEDERAL COMMUNICATIONS COMMISSION

Rules and Regulations

Certain FM broadcast stations; table of assignments; correction 15711

Proposed Rule Making

High frequency channels; use for flight test purposes and in support of off-shore drilling operations 15712

Notices

Moratorium on filing of pleadings in cases designed for hearing 15727

Hearings, etc.:

Cape Fear Broadcasting Co. (WFNC) 15727

Tri-State Television Translators, Inc., and Wellersburg TV, Inc 15727

Wichrowski, Stephen A., Jr 15727

FEDERAL CROP INSURANCE CORPORATION

Rules and Regulations

Federal crop insurance:

Canning and freezing pea endorsement (Utah) 15703

Canning and processing tomatoes 15704

Sugarbeets 15703

FEDERAL HOME LOAN BANK BOARD

Rules and Regulations

Statements of policy; mergers:

Federal Savings and Loan Insurance Corporation 15708

Federal Savings and Loan System 15707

FEDERAL MARITIME COMMISSION

Notices

Agreements filed for approval:

AB August Leffler & Son et al 15727

Sunlane Hydrofoils, Inc., and Rodriquez Co 15728

FEDERAL POWER COMMISSION

Proposed Rule Making

Hydroelectric project licenses; calculation of "net investment" 15714

Notices

Hearings, etc.:

Kansas-Nebraska Natural Gas Co., Inc 15728

Northern Natural Gas Co 15729

FEDERAL RESERVE SYSTEM

Notices

Bancstock Corporation of America; notice of application for approval of acquisition of shares of bank 15729

FEDERAL TRADE COMMISSION

Proposed Rule Making

Dog and cat food industry, proposed guides; extension of time for comments 15715

FISH AND WILDLIFE SERVICE

Rules and Regulations

Necedah National Wildlife Refuge, Wis.; sport fishing 15711

FOOD AND DRUG ADMINISTRATION

Rules and Regulations

Official records and information; disclosure 15709

Notices

Petitions regarding food additives and pesticides:

American Cyanamid Co 15720

Celanese Plastics Co 15721

Johnson, S. C., and Son, Inc 15721

Monsanto Co 15721

Rohm and Haas Co 15721

(*Continued on next page*)

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Food and Drug Administration.

Notices

Statement of organization, functions, and delegations of authority 15721

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Notices

Authority delegations:
- Assistant Secretary and Deputy Assistant Secretary for Renewal and Housing Assistance 15723
- Deputy Assistant Secretary for Housing Assistance et al. 15723

INTERNATIONAL COMMERCE BUREAU

Notices

Vanderveken, Louis; order denying export privileges 15717

INTERIOR DEPARTMENT

See Fish and Wildlife Service; Land Management Bureau; National Park Service.

INTERSTATE COMMERCE COMMISSION

Notices

Motor carrier:
- Alternate route deviation notices 15731
- Applications and certain other proceedings 15732
- Temporary authority applications 15737

LABOR DEPARTMENT

See Wage and Hour Division.

LAND MANAGEMENT BUREAU

Notices

Alaska:
- Partial termination of proposed withdrawal and reservation of lands 15716
- Termination of proposed withdrawal and reservation of lands 15716

Proposed classification of public lands for multiple use management:
- Colorado (2 documents) 15716
- Oregon 15716

MARITIME ADMINISTRATION

Notices

List of free world and Polish flag vessels arriving in Cuba since Jan. 1, 1963 15718

NATIONAL PARK SERVICE

Rules and Regulations

Hot Springs National Park, Ark.; speed 15710

PACKERS AND STOCKYARDS ADMINISTRATION

Notices

Oakdale Livestock Auction Yard et al.; changes in names of posted stockyards 15717

RAILROAD RETIREMENT BOARD

Notices

Railroad unemployment insurance account; notice of deficit 15729

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:
- Continental Vending Machine Corp 15730
- Massachusetts Investors Trust 15730
- Pakco Companies, Inc 15730
- Westec Corp 15730

TARIFF COMMISSION

Notices

Borg-Warner Corp.; workers' petition for determination of eligibility to apply for adjustment assistance 15731

TRANSPORTATION DEPARTMENT

See also Federal Aviation Administration.

Rules and Regulations

Federal Highway Administration; limitation on reservation of authority 15710

WAGE AND HOUR DIVISION

Proposed Rule Making

Nursery stock storing and packing industry; industry of seasonal nature 15712

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

3 CFR

PROCLAMATIONS:
- 3279 (modified by Proc. 3820) 15701
- 3290 (see Proc. 3820) 15701
- 3328 (see Proc. 3820) 15701
- 3386 (see Proc. 3820) 15701
- 3389 (see Proc. 3820) 15701
- 3509 (see Proc. 3820) 15701
- 3531 (see Proc. 3820) 15701
- 3541 (see Proc. 3820) 15701
- 3693 (see Proc. 3820) 15701
- 3779 (see Proc. 3820) 15701
- 3794 (see Proc. 3820) 15701
- 3820 15701

5 CFR

- 213 15703

7 CFR

- 401 (3 documents) 15703, 15704
- 711 15704
- 717 15705
- 947 15705
- 991 15705
- 1125 15706
- 1421 (2 documents) 15706

9 CFR

- 52 15707

12 CFR

- 556 15707
- 571 15708

14 CFR

- 91 15708

PROPOSED RULES:
- 71 15712

16 CFR

PROPOSED RULES:
- 241 15715

18 CFR

PROPOSED RULES:
- 2 15714
- 14 15714

21 CFR

- 4 15709

29 CFR

PROPOSED RULES:
- 526 15712

32A CFR

BDSA (Ch. VI):
- M–11A 15710

36 CFR

- 7 15710

47 CFR

- 73 15711

PROPOSED RULES:
- 2 15712
- 87 15712

49 CFR

- 1 15710

50 CFR

- 33 15711

Presidential Documents

Title 3—THE PRESIDENT

Proclamation 3820

MODIFYING PROCLAMATION 3279 ADJUSTING IMPORTS OF PETROLEUM AND PETROLEUM PRODUCTS

By the President of the United States of America

A Proclamation

WHERAS, pursuant to section 2 of the act of July 1, 1954, as amended (72 Stat. 678), and section 232 of the Trade Expansion Act of 1962 (76 Stat. 877), findings and determinations have been made that adjustments in the imports of crude oil, unfinished oils, and finished products were necessary so that such imports would not threaten to impair the national security, such adjustments have been made by Proclamation 3279 [1] (24 F.R. 1781) and modified by Proclamation 3290 (24 F.R. 3527), Proclamation 3328 (24 F.R. 10133), Proclamation 3386 (25 F.R. 13945), Proclamation 3389 (26 F.R. 507, 811), Proclamation 3509 (27 F.R. 11985), Proclamation 3531 (28 F.R. 4077), Proclamation 3541 (28 F.R. 5931), Proclamation 3693 (30 F.R. 15459), Proclamation 3779 (32 F.R. 5919), and Proclamation 3794 (32 F.R. 10547); and

WHEREAS, it appears that, as represented by the Virgin Islands Government, the development of petrochemical facilities in the Virgin Islands will provide a much needed increase in opportunities for employment of its citizens at job levels which will upgrade the standard of living in the Islands and will make available revenues for the control of air and water pollution, urban beautification, and conservation projects on the Islands, I find and determine that provision should be made to assist the development of petrochemical facilities in the Virgin Islands without impairment of the objectives of Proclamation 3279, as amended:

NOW, THEREFORE, I, LYNDON B. JOHNSON, President of the United States of America, acting under and by virtue of the authority vested in me by the Constitution and the statutes, including section 232 of the Trade Expansion Act of 1962, do hereby proclaim that:

1. The last sentence of subparagraph (1) of paragraph (a) of section 2 of Proclamation 3279, as amended, is amended to read as follows:

Within such maximum level, imports of unfinished oils shall not exceed such percentum of the permissible imports of crude oil and unfinished oils as the Secretary may determine and imports of finished products (other than residual fuel oil to be used as fuel) shall not exceed the level of imports of such products into these districts during the year 1957 except as the Secretary may find it necessary to adjust the 1957 level to accommodate an allocation made pursuant to the last sentence of subparagraph (4) of paragraph (b) of section 3, as amended.

2. A new sentence, reading as follows, is added to subparagraph (4) of paragraph (b) of section 3 of Proclamation 3279, as amended:

[1] 3 CFR 1959–1963 Comp., p. 11.

In addition the Secretary may make an allocation of imports, not in excess of 15,000 average barrels per day in any particular allocation period, into Districts I–IV of finished products other than residual fuel oil to be used as fuel if the Secretary determines that such action would not impair the accomplishment of the objectives of this proclamation and that such action would serve substantially to promote employment or substantially to upgrade opportunities for employment of Virgin Islanders or substantially to increase revenues received by the Virgin Islands, and the Secretary shall impose such conditions and restrictions upon such allocation as he may deem necessary to assure that the holder of the allocation fulfills commitments made in connection with the making of the allocation.

3. This amendatory proclamation shall take effect as of its date.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of November in the year of our Lord nineteen hundred and sixty-seven, and of the Independence of the United States of America the one hundred and ninety-second.

Lyndon B. Johnson

[F.R. Doc. 67-13487; Filed, Nov. 13, 1967; 4:29 p.m.]

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Entire Executive Civil Service, Department of Defense, Department of Health, Education, and Welfare, and National Advisory Commission on Health Manpower

Effective on publication in the FEDERAL REGISTER the following paragraphs having expired by their own terms are revoked: Paragraph (y) of § 213.3102, paragraph (b) (6) of § 213.3106 and paragraph (c) (2) of § 213.3116. Section 213.3188 is revoked in its entirety.

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67-13399; Filed, Nov. 14, 1967; 8:47 a.m.]

Title 7—AGRICULTURE

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture

[Amdt. 98]

PART 401—FEDERAL CROP INSURANCE

Subpart; Regulations for the 1961 and Succeeding Crop Years

CANNING AND FREEZING PEA ENDORSEMENT (UTAH)

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended, the above-identified regulations are amended effective beginning with the 1968 crop year in the following respects.

1. The table following paragraph (a) of § 401.3 of this chapter is amended effective beginning with the 1968 crop year by deleting the following lines:

Canning Peas	
Utah	March 31

2. The portion of the table following paragraph (a) of § 401.3 of this chapter under the heading "Canning and Freezing Peas" is amended effective beginning with the 1968 crop year to read as follows:

(Closing Dates)

Canning and Freezing Peas	
Minnesota and Wisconsin	Apr. 15
Utah	Mar. 31
All other States	Mar. 1

3. The heading and that portion of § 401.46 preceding section 1 of the canning pea endorsement is amended effective beginning with the 1968 crop year to read as follows:

§ 401.46 The canning and freezing pea endorsement (applicable only in Utah).

The canning and freezing pea endorsement (applicable only in Utah) for the 1968 and succeeding crop years is as follows:

4. The first sentence of section 2 of the canning pea endorsement shown in § 401.46 of this chapter is amended effective beginning with the 1968 crop year to read as follows:

The insured crop shall be canning and freezing peas grown under a contract with a processor executed by the time the acreage to be insured is reported.

5. Section 4 of the canning pea endorsement shown in § 401.46 of this chapter is amended effective beginning with the 1968 crop year to read as follows:

4. *Insurance period.* Insurance on any insured acreage shall attach at the time the insured crop is planted and shall cease upon the earlier of vining, combining, removal from the field, determination by the processor for any reason other than an insured cause of loss that the production from any acreage will not be harvested for canning or freezing, final adjustment of loss, or July 31 of the crop year.

6. That portion of section 7 preceding subsection (a) of the canning pea endorsement shown in § 401.46 of this chapter is amended effective beginning with the 1968 crop year to read as follows:

7. *Meaning of terms.* For the purpose of insurance on canning and freezing peas the terms:

7. The first sentence of section 7(b) of the canning pea endorsement shown in § 401.46 of this chapter is amended effective beginning with the 1968 crop year to read as follows:

(b) "Harvest" or "harvested" means the cutting of the vines for vining or combining the green peas for canning or freezing.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

Adopted by the Board of Directors on November 8, 1967.

[SEAL] EARLL H. NIKKEL,
Secretary,
Federal Crop Insurance Corporation.

Approved on November 9, 1967.

JOHN A. SCHNITTKER,
Acting Secretary.

[F.R. Doc. 67-13437; Filed, Nov. 14, 1967; 8:50 a.m.]

[Amdt. 99]

PART 401—FEDERAL CROP INSURANCE

Subpart; Regulations for the 1961 and Succeeding Crop Years

SUGAR BEETS

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended, the above-identified regulations are amended effective beginning with the 1968 crop year in the following respects.

1. The portion of the table following paragraph (a) of § 401.3 of this chapter under the heading "Sugar Beets" is amended effective beginning with the 1968 crop year to read as follows:

(Closing Dates)

California	Aug. 31
All other States	Apr. 15

2. Section 2 of the sugar beet endorsement shown in § 401.43 of this chapter is amended effective beginning with the 1968 crop year to read as follows:

2. *Insured crop.* The insured crop shall be sugar beets grown under a contract with a processor for processing as sugar. Insurance shall not be considered to have attached on any acreage of sugar beets excluded from such contract for, or during, the crop year. In addition, unless otherwise provided on the actuarial table, insurance shall not be considered to have attached on any acreage planted to sugar beets for the 2 preceding years in all States except Michigan and Ohio, where insurance shall not be considered to have attached on any acreage on which sugar beets were planted the preceding crop year.

3. In section 4 of the sugar beet endorsement shown in § 401.43 of this chapter, the table at the end thereof is amended effective beginning with the 1968 crop year to read as follows:

California	July 15
Michigan, Minnesota, Montana, and North Dakota	Nov. 10
Ohio	Nov. 25
All other States	Nov. 15

4. The last sentence of section 6 of the sugar beet endorsement shown in § 401.43 of this chapter is amended effective beginning with the 1968 crop year by changing the period at the end thereof to a comma and by adding the following thereto: "except that consent of the Corporation shall be deemed to have been given if the abandoned acreage is bona fide abandoned acreage under the Sugar Act of 1948, as amended, and under regulations issued pursuant thereto".

5. In section 8 of the sugar beet endorsement shown in § 401.43 of this chapter, the table at the end thereof is amended effective beginning with the 1968 crop year to read as follows:

State	Cancellation date	Termination date for indebtedness
California	June 30	Aug. 31
All other States	Dec. 31	Apr. 15

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

Adopted by the Board of Directors on November 8, 1967.

[SEAL] EARLL H. NIKKEL,
Secretary,
Federal Crop Insurance Corporation.

Approved on November 9, 1967.

JOHN A. SCHNITTKER,
Acting Secretary.

[F.R. Doc. 67-13438; Filed, Nov. 14, 1967; 8:50 a.m.]

[Amdt. 100]

PART 401—FEDERAL CROP INSURANCE

Subpart; Regulations for the 1961 and Succeeding Crop Years

CANNING AND PROCESSING TOMATOES

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended, the above-identified regulations are amended effective beginning with the 1968 crop year in the following respects:

1. The portion of the table following paragraph (a) of § 401.3 of this chapter under the heading "Canning and Processing Tomatoes" is amended effective beginning with the 1968 crop year to read as follows:

(Closing Dates)

Ohio	May 10
Utah	Apr. 15

2. Section 3 of the canning and processing tomato endorsement shown in § 401.40 of this chapter is amended effective beginning with the 1968 crop year to read as follows:

3. *Production guarantee, premium rates, and price per ton.* (a) The provisions of section 3 of the policy shall not be applicable under this endorsement. For each crop year of the contract the premium rates, the production guarantees, and the prices per ton at which indemnities shall be computed shall be those established by the Corporation and shown on the county actuarial table (hereinafter called "the actuarial table"). The production guarantees per acre are progressive by periods as shown on the actuarial table with such production guarantees increasing on specified dates up to the maximum production guarantee which applies where tomatoes are harvested.

(b) At the time the application for insurance is made the applicant shall elect a price per ton for computing indemnities from among those shown on the actuarial table. Any insured with a contract in force prior to the 1968 crop year may elect the price per ton to be in effect beginning with the 1968 crop year. If for the 1968 or any succeeding crop year any applicant, or insured, has not elected such a price or has elected a price per ton not shown on the actuarial table for that crop year, the price election which shall be applicable under the contract, and which the insured is deemed to have elected, shall be the price provided on the actuarial table for such purposes.

For any crop year, any insured may change the price which was in effect for a prior crop year and make a new election by notifying the office for the county in writing of such election before contracts are terminated for indebtedness for the crop year for which the election is to become effective.

(c) Notwithstanding the provisions of section 9(a) of the policy, any acreage on which the tomato crop is damaged, as determined by the Corporation, to the extent that growers generally in the area would not further care for the crop shall be deemed to have been destroyed at the time of such damage even though the tomato crop is further cared for by the insured. The production guarantee applicable to any acreage shall be that established for the period in which such destruction occurs, as determined by the Corporation, and the production guarantee for the final period shall apply only to harvested acreage.

3. Section 4 of the canning and processing tomato endorsement shown in § 401.40 of this chapter is amended effective beginning with the 1968 crop year to read as follows:

4. *Insurance period.* For each crop year of the contract insurance on any insured acreage shall attach at the time the insured crop is planted thereon. Insurance shall cease upon removal of the insured crop from the field, harvest, final adjustment of loss, and when the crop is deemed destroyed and it is not practical to replant by the date shown on the actuarial table, or October 10 of the crop year whichever occurs first: *Provided, however,* That insurance shall not attach to any acreage initially planted later than the date shown on the actuarial table.

4. Section 6(b) of the canning and processing tomato endorsement shown in § 401.40 of this chapter is amended effective beginning with the 1968 crop year to read as follows:

(b) In lieu of section 11(c) of the policy, the following shall apply: Losses shall be determined separately for each insurance unit (hereinafter called "unit"). The amount of loss with respect to any unit shall be determined by (1) multiplying the insured acreage of tomatoes on the unit by the applicable guarantee per acre, which product shall be the guarantee for the unit, (2) subtracting therefrom the total production to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result by the insured interest: *Provided,* That, if for the unit the insured fails to report all of his interest or insurable acreage, the amount of loss shall be determined with respect to all of his interest and insurable acreage, but in such cases or otherwise, if the premium computed on the basis of the insurable acreage and interest exceeds the premium on the reported acreage and interest, or the acreage and interest when determined by the Corporation under section 2 of the policy, the amount of loss shall be reduced proportionately. The total production to be counted for any unit shall be determined by the Corporation and shall include all production marketed and any appraisals made by the Corporation for potential production, poor farming practices, uninsured causes of loss, acreage abandoned or put to another use without the consent of the Corporation or for production which would have met the quality requirements of the processor contract referred to in section 2 of this endorsement if such tomatoes had been timely marketed: *Provided,* That, the total production to be counted for any acreage not eligible for the production guarantee provided for the final period shall be the amount by which the total appraised production exceeds the difference between the production guarantee applicable to such acreage and the production guarantee applicable to the final period: *Provided, further,* That, the production guarantee for any acreage which is abandoned or put to another use without the consent of the Corporation shall be the production guarantee provided for the final period and the production to be counted therefrom shall not be less than such production guarantee.

5. The second sentence of section 7(a) of the canning and processing tomato endorsement shown in § 401.40 of this chapter is amended effective beginning with the 1968 crop year to read as follows:

However, for the purpose of determining the applicable production guarantee per acre, acreage from which no tomatoes are accepted by the canner or processor shall not be deemed to have been harvested.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

Adopted by the Board of Directors on November 8, 1967.

[SEAL] EARLL H. NIKKEL,
Secretary,
Federal Crop Insurance Corporation.

Approved on November 9, 1967.

JOHN A. SCHNITTKER,
Acting Secretary.

[F.R. Doc. 67-13439; Filed, Nov. 14, 1967; 8:50 a.m.]

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 6]

PART 711—MARKETING QUOTA REVIEW REGULATIONS

Miscellaneous Amendments

Basis and purpose. The amendments herein are issued under and in accordance with the provisions of the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.), and 5 U.S.C. 552.

The purpose of these amendments is to bring the regulations in this part into conformity with the regulations in Part 798 of this chapter, Availability of Information to the Public.

Since the only purpose of these amendments is to bring the regulations in this part into conformity with the regulations in Part 798 of this chapter, it is hereby found to be unnecessary to comply with the notice, public procedure, and effective date requirements of 5 U.S.C. 553 and these amendments shall become effective as provided herein.

1. Section 711.4 is amended by changin the last sentence thereof to read as follows:

§ 711.4 Availability of records.

• • • Such records shall be available for public inspection and copying at the office of the clerk in accordance with Part 798 of this chapter, Availability of Information to the Public.

§ 711.26 [Amended]

2. Section 711.26 is amended by deleting the last sentence thereof.

(Secs. 363, 375, 52 Stat. 63, as amended, 66, as amended, 7 U.S.C. 1363, 1375; sec. 1, 81 Stat. 54, 5 U.S.C. 552)

Effective date. Date of filing with the Director, Office of the Federal Register.

Signed at Washington, D.C., on November 7, 1967.

RAY FITZGERALD,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 67-13395; Filed, Nov. 14, 1967; 8:46 a.m.]

[Amdt. 17]

PART 717—HOLDING OF REFERENDA ON MARKETING QUOTAS

Subpart—Regulations Governing the Holding of Referenda on Marketing Quotas

ISSUING BALLOTS TO VOTERS

Basis and purpose. The amendment herein is issued under and in accordance with the provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.).

The purpose of this amendment is to delete specific reference to the column headed "Ballot Cast" on the register of voters which is no longer carried as a separate column on the form currently used.

Since the only purpose of this amendment is to modify the procedure in the light of the form of register currently used, it is found that compliance with the notice, public procedure, and effective date requirements of 5 U.S.C. 553 is unnecessary and this amendment shall become effective as provided herein.

Section 717.9 is amended to read as follows:

§ 717.9 Issuing ballots to voters.

The community referendum committee shall open the polling place for the issuance of ballot forms and the casting of ballots at the time designated and shall thereafter until the time when the polls are required to be closed and the casting of ballots discontinued issue a ballot to each person who is eligible to vote and applies for a ballot and to each person who claims to be eligible to vote and insists upon voting even though his eligibility to vote is challenged by a member of the committee. The community referendum committeeman who issued the ballot form shall immediately enter on the register of voters opposite the name and address of the person voting a record of the issuance of the ballot, the casting of the ballot, and any challenge of the eligibility of the person casting the ballot. Ballot forms shall be issued and ballots placed in the ballot box while at least two members serving on the community referendum committee are physically present in the polling place and in position to see each ballot form as it is issued and each ballot as it is placed in the ballot box.

(Secs. 312, 317, 336, 342, 344a, 354, 358, 375, 377, 52 Stat. 45, 55, 56, 61, 66, as amended, 55 Stat. 88, 70 Stat. 206, as amended, 79 Stat. 66, secs. 106, 112, 70 Stat. 191, 195, 79 Stat. 1197; 7 U.S.C. 1312, 1314c, 1336, 1342, 1344a, 1354, 1358, 1376, 1377, 1824, 1836)

Effective date. Date of filing with the Director, Office of the Federal Register.

Signed at Washington, D.C., on November 7, 1967.

RAY FITZGERALD,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 67-13394; Filed, Nov. 14, 1967; 8:46 a.m.]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 947—IRISH POTATOES GROWN IN MODOC AND SISKIYOU COUNTIES, CALIF., AND IN ALL COUNTIES IN OREGON, EXCEPT MALHEUR COUNTY

Expenses and Rate of Assessment

Notice of rule making regarding the proposed expenses and rate of assessment to be effective under Marketing Agreement No. 114, as amended, and Order No. 947, as amended (7 CFR Part 947), regulating the handling of Irish potatoes grown in Modoc and Siskiyou Counties in California and all counties in Oregon except Malheur County, was published in the October 19, 1967, FEDERAL REGISTER (32 F.R. 14560). This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.). The notice afforded interested persons an opportunity to submit data, views, or arguments pertaining thereto not later than 15 days following publication in the FEDERAL REGISTER. None was filed.

After consideration of all relevant matters, including the proposals set forth in the aforesaid notice which were recommended by the Oregon-California Potato Committee, established pursuant to the said marketing agreement and order, it is hereby found and determined that:

§ 947.220 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period beginning July 1, 1967, and ending June 30, 1968, by the Oregon-California Potato Committee for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate, will amount to $23,450.

(b) The rate of assessment to be paid by each handler in accordance with the Marketing Agreement and this part shall be three-tenths of one cent ($0.003) per hundredweight of potatoes handled by him as the first handler thereof during said fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period ending June 30, 1968, may be carried over as a reserve.

(d) Terms used in this section have the same meaning as when used in the said marketing agreement and this part.

It is hereby found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), in that: (1) The relevant provisions of said marketing agreement and this part require that rates of assessment fixed for a particular fiscal period shall be applicable to all assessable potatoes from the beginning of such period, and (2) the current fiscal period began July 1, 1967, and the rate of assessment herein fixed will automatically apply to all assessable potatoes beginning with such date.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: November 9, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-13432; Filed, Nov. 14, 1967; 8:50 a.m.]

PART 991—HOPS OF DOMESTIC PRODUCTION

Subpart—Administrative Rules and Regulations

WAIVER OF REQUIREMENT AS TO PRODUCTION OF ANNUAL ALLOTMENT AND ADVANCE PAYMENTS BY EQUITY HOLDERS OF POOLED RESERVE HOPS

Notice was published in the October 28, 1967, issue of the FEDERAL REGISTER (32 F.R. 14966) of a proposal, based upon the unanimous recommendations of the Hop Administrative Committee, to extend to each producer, for the 1969 and 1970 crop, permission to retain his allotment base without making a bona fide effort to produce the annual allotment referable thereto, and to prescribe requirements whereby the Committee may require advances by equity holders of pooled reserve hops. The subpart is operative pursuant to Marketing Order No. 991 (7 CFR Part 991), regulating the handling of hops of domestic production effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The notice afforded interested persons opportunity to submit written data, views, or arguments with respect to the proposal. None were received within the prescribed time.

After consideration of all relevant matter presented, including that in the notice, the information and recommendations submitted by the Committee and

other available information, it is hereby found that the issuance, as hereinafter set forth, of the Subpart—Administrative Rules and Regulations, is in accordance with this part and will tend to effectuate the declared policy of the act.

Therefore, Subpart—Administrative Rules and Regulations (32 F.R. 6551, 13569) is amended in the following respects:

1. Section 991.138a is revised to read as follows:

§ 991.138a Waiver of requirement as to production of annual allotment—1968–70 crops.

Pursuant to § 991.38(a)(5) the requirements therein for a producer to make a bona fide effort to produce the annual allotment referable to his allotment base is waived for the 1968, 1969, and 1970 crops for all producers.

2. A new § 991.205 is added reading as follows:

§ 991.205 Advance payments by equity holders of pooled reserve hops.

As a condition of accepting and including the reserve hops of any producer-handler in the reserve pool, the Committee may require advance payments from equity holders of pooled reserve hops. Such advances shall be in an amount, as determined by the Committee, as will be necessary to meet all charges attributable to reserve pooling but shall not exceed $1.50 per bale.

It is found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) This action should become effective promptly so that producers may plan future cultural practices accordingly; (2) producer-handlers' are in the process of beginning to deliver reserve hops to the reserve pool; (3) should advances be required, equity holders should be informed as soon as possible; and (4) no useful purpose would be served by delaying the effective time hereof.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 8, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-13433; Filed, Nov. 14, 1967; 8:50 a.m.]

Chapter X—Consumer and Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order 125]

PART 1125—MILK IN PUGET SOUND, WASH., MARKETING AREA

Order Suspending Certain Provision

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Puget Sound, Wash., marketing area (7 CFR Part 1125), it is hereby found and determined that:

(a) The following provision of the order no longer tends to effectuate the declared policy of the Act for the month of October 1967 and is hereby suspended:

In paragraph (b)(2) of § 1125.8 (pool plant provisions) the word "distributing" where it appears in the introductory text of subparagraph (2), immediately preceding subdivision (i). The provision relates to the standards required to qualify a supply plant for pool status.

(b) Thirty days notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(1) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date.

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderely marketing conditions in the marketing area.

(3) This suspension will permit the volume of Grade A milk moved from a supply plant to another pool supply plant as well as to a pool distributing plant to be counted for purpoces of meeting the shipping requirements of a pool supply plant for October 1967. The order presently provides that at least 50 percent of a supply plant's Grade A receipts must be moved to a pool distributing plant during the month if it is to obtain pool plant status.

This suspension, therefore, will remove for the month of October 1967 the provision which otherwise would preclude the pooling of a supply plant located at Ellensburg, Wash., which has long been associated with this market.

(4) The need for this suspension resulted from excessive shipments of receipts at the Ellensburg plant during October to other pool supply plants instead of to pool distributing plants. Information on this matter became available to this handler too late in the month to permit the plant to qualify.

This suspension will assure that producers associated with the supply plant will not be forced to incur a financial burden in view of the particular circumstances which resulted in the failure of the supply plant to meet the prescribed pooling requirements for the month.

(5) Interested parties were afforded opportunity to file written data, views, or arguments concerning this suspension (32 F.R. 15178). None was filed in opposition to the proposed suspension.

Therefore, good cause exists for making this order effective on publication in the FEDERAL REGISTER.

It is therefore ordered, That the aforesaid provision of the order is hereby suspended for the month of October 1967.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: On publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on November 9, 1967.

RODNEY E. LEONARD,
Deputy Assistant Secretary.

[F.R. Doc. 67-13485; Filed, Nov. 14, 1967; 8:50 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., 1966 and Subsequent Crops Corn Supp. Amdt. 2]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1966 and Subsequent Crops Corn Loan and Purchase Program

ELIGIBLE CORN

The regulations issued by the Commodity Credit Corporation published in 31 F.R. 10464 and 32 F.R. 13444, containing provisions for price support loans and purchases applicable to the 1966 and subsequent crops of corn are amended as follows:

In § 1421.2364, paragraph (c)(1) is amended to make corn of the 1967 and subsequent crops which grades No. 4 on the factor of test weight only but otherwise grades No. 3 or better eligible for a warehouse-storage loan. The amended subparagraph reads as follows:

§ 1421.2364 Eligible corn.

* * * * *

(c) *Warehouse stored loan grade requirements.* * * *

(1) The corn must, except for moisture, grade No. 3 or better, or No. 4 or better on the factor of test weight only but otherwise No. 3 or better.

* * * * *

(Sec. 4, 62 Stat. 1070 as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 106, 401, 68 Stat. 1051 as amended; 15 U.S.C. 714c, 7 U.S.C. 1421, 1441)

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on November 7, 1967.

RAY FITZGERALD,
Acting Executive Vice President, Commodity Credit Corporation.

[F.R. Doc. 67-13396; Filed, Nov. 14, 1967; 8:47 a.m.]

[CCC Grain Price Support Regs., 1967-Crop Corn Supp., Amdt. 1]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1967-Crop Corn Loan and Purchase Program

SUPPORT RATES, PREMIUMS AND DISCOUNTS

The regulations issued by the Commodity Credit Corporation published in 32 F.R. 13046, 13806 and containing provisions applicable to the 1967-crop corn loan and purchase program are amended as follows:

In § 1421.2391, paragraph (d)(2) is amended to provide discounts for corn grading No. 4 on the factor of test weight. The amended subparagraph reads as follows:

§ 1421.2391 Support rates, premiums, and discounts.

* * * * *

(d) *Discounts.* * * *

(2) *Test weight per bushel.*

Pounds	Cents per bushel
53.0 through 53.9	−1
52.0 through 52.9	−2
51.0 through 51.9	−3
50.0 through 50.9	−4
49.0 through 49.9	−5

(Sec. 4, 62 Stat. 1070 as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 105, 401, 68 Stat. 1051 as amended; 15 U.S.C. 714c, 7 U.S.C. 1421, 1441)

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on November 7, 1967.

RAY FITZGERALD,
Acting Executive Vice President, Commodity Credit Corporation.

[F.R. Doc. 67-13397; Filed, Nov. 14, 1967; 8:47 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS AND ANIMAL PRODUCTS

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Inspection and Other Requirements for Certain Means of Conveyance and Containers Brought Into the United States

Pursuant to the provisions of section 2 of the Act of February 2, 1903, as amended, sections 3 and 11 of the Act of July 2, 1962, and section 306 of the Tariff Act of 1930, as amended (21 U.S.C. 111, 134d, 134f; 19 U.S.C. 1306), the provisions of Part 92 in Title 9, Code of Federal Regulations are hereby amended in the following respects:

1. The title of Part 92 is amended to read as shown above.

2. A new § 92.2a is added reading as follows:

§ 92.2a Inspection of certain aircraft and other means of conveyance and shipping containers thereon; unloading, cleaning, and disinfection requirements.

(a) Inspection: All aircraft and other means of conveyance (including shipping containers thereon) moving into the United States from any foreign country are subject to inspection without a warrant by properly identified and designated inspectors of the Division to determine whether they are carrying any animal, carcass, product or article regulated or subject to disposal under any law or regulation administered by the Secretary of Agriculture for prevention of the introduction or dissemination of any communicable animal disease. (21 U.S.C. 134d)

(b) Unloading requirements: Whenever in the course of any such inspection at any port in the United States the inspector has reason to believe that the means of conveyance or container is contaminated with material of animal (including poultry) origin, such as, but not limited to, meat, organs, glands, extracts, secretions, fat, bones, blood, lymph, urine, or manure, so as to present a danger of the spread of any communicable animal disease, the inspector may require the unloading of the means of conveyance and the emptying of the container if he deems it necessary to enable him to determine whether the means of conveyance or container is in fact so contaminated. The principal operator of the means of conveyance and his agent in charge of the means of conveyance shall comply with any such requirement under the immediate supervision of, and in the time and manner prescribed by, the inspector.

(c) Cleaning and disinfection: Whenever, upon inspection under this section, an inspector determines that a means of conveyance or shipping container is contaminated with material of animal origin so as to present a danger of the spread of any communicable animal disease, he shall notify the principal operator of the means of conveyance or his agent in charge, of such determination and the requirements under this section. The person so notified shall cause the cleaning and disinfection of such means of conveyance and container under the immediate supervision of, and in the time and manner prescribed by, the inspector.

(d) For purposes of this section, the term "shipping container" means any container of a type specially adapted for use in transporting any article on the means of conveyance involved.

(Sec. 2, 32 Stat. 792, as amended, secs. 3 and 11, 76 Stat. 130, 132, sec. 306, 46 Stat. 689, as amended; 21 U.S.C. 111, 134d, 134f, 19 U.S.C. 1306; 29 F.R. 16210, as amended, 30 F.R. 5799, as amended)

Recently the Department has found numerous airplanes coming to the United States from foot-and-mouth disease or rinderpest infected countries that have been contaminated with animal material which could be the means of introducing these diseases into the United States. In several instances this contamination was not discovered at the port of first arrival in the United States due to the fact that the airplanes were not unloaded or were only partially unloaded at such port. Airplanes coming from other countries also present hazards because they frequently stop in such infected countries before coming to the United States. Such contamination also presents a hazard of spread of other communicable diseases of animals (including poultry). Other means of conveyance present similar risks.

The purpose of the amendments is to require that aircraft or other means of conveyance and specified types of shipping containers brought into the United States from any foreign country be cleaned and disinfected when they are found to be contaminated with animal (including poultry) material that could be the means of introducing animal (including poultry) disease of foreign origin into the United States. The amendment gives inspectors of the Department the authority to require that such means of conveyance or containers be unloaded if this is necessary for the inspectors to make a determination as to whether there is contamination.

The protection of the livestock and poultry of the United States requires that the amendments be made effective as soon as possible. Accordingly, pursuant to the administrative prepedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure concerning the amendments are impracticable and contrary to the public interest, and good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

Effective date. The amendments shall become effective upon publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 9th day of November 1967.

GEORGE W. IRVING, JR.,
Administrator, Agricultural Research Service.

[F.R. Doc. 67-13431; Filed, Nov. 14, 1967; 8:50 a.m.]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 21,005]

PART 556—STATEMENTS OF POLICY

Mergers

NOVEMBER 6, 1967.

Resolved that the Federal Home Loan Bank Board, upon the basis of consideration by it of the advisability of amending § 556.2 of the rules and regulations for the Federal Savings and Loan System (12 CFR 556.2) for the purpose of adding an additional item to the list of factors considered in evaluating the economic impact of a proposed merger and for the purpose of clarifying the factors considered in evaluating the fairness of a proposed merger plan, hereby amends § 556.2 as follows:

Subparagraph (2) of paragraph (d) of § 556.2 is hereby amended by adding a

new subdivision (v), immediately following subdivision (iv) and subparagraph (2) of paragraph (f) is hereby revised to read as follows:

(f) • • •

§ 556.2 Mergers.

• • • • • •

(d) • • •
(2) • • •

• • • • • •

(v) The Board will usually not favor a merger which would result in the elimination of the only independent local insured institution in a community, if that institution has the ability to continue its service to the community as an independent organization.

(2) *Considerations to Directors, Officers, Attorneys, Consultants, and Employees.* The Board, in evaluating mergers, will review the considerations to be given by the resulting institution to the directors, officers, attorneys, and employees of the disappearing institution and particularly to those who are to be retained as directors, officers, consultants, or members of an advisory committee. The retention by the resulting institution of any such persons who have had an executive role in a disappearing institution with clearly less-than-average performance will normally not be approved.

(i) *Retention as Directors, Officers, Attorneys, Consultants, or Employees.* (a) The retention of directors or officers must be consistent with the size and functions and the earning capacity of the resulting institution.

(b) The compensation to directors, officers, attorneys, consultants, and employees of the disappearing institution who are to be retained in any capacity by the resulting institution must be commensurate with the duties to be performed and in line with the resulting institution's compensation schedule. Provision for payments to these persons other than for service to be performed following the merger will raise serious question as to favorable consideration of the proposed merger.

(ii) *Advisory Boards or Committees.* (a) Merger proposals containing provisions for advisory boards or committees of persons from the disappearing institution will not be approved unless full explanations are furnished, as part of the merger agreement or otherwise, in justification of such board or committee. If such board or committee is justified, its membership usually should not exceed the lesser of five in number or 50 percent of the membership of the board of directors (to the next whole number) of the disappearing institution.

(b) Fees to be paid to members of the advisory board or committee should not exceed the lesser of the directors' fees of the disappearing and the resulting institution.

(iii) *Term of Office or Employment.* The term of office or employment of any person from the disappearing institution who is retained by the resulting institution shall be on a year-to-year, or a lesser, basis.

• • • • • •

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] HARRY W. CAULSEN, *Secretary.*

[F.R. Doc. 67-13400; Filed, Nov. 14, 1967; 8:47 a.m.]

[No. 21,007]

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 571—STATEMENTS OF POLICY

Mergers

NOVEMBER 6, 1967.

Resolved that the Federal Home Loan Bank Board, upon the basis of consideration by it of the advisability of amending § 571.5 of the rules and regulations for Insurance of Accounts (12 CFR 571.5) for the purpose of adding an additional item to the list of factors considered in evaluating the economic impact of a proposed merger and for the purpose of clarifying the factors considered in evaluating the fairness of a proposed merger plan, hereby amends § 571.5 as follows:

Subparagraph (2) of paragraph (d) of § 571.5 is hereby amended by adding a new subdivision (v), immediately following subdivision (iv), and subparagraph (2) of paragraph (f) is hereby revised to read as follows:

§ 571.5 Mergers.

• • • • • •

(d) • • •
(2) • • •

(v) The Board will usually not favor a merger which would result in the elimination of the only independent local insured institution in a community, if that institution has the ability to continue its service to the community as an independent organization.

• • • • • •

(f) • • •

(2) *Considerations to Directors, Officers, Attorneys, Consultants, and Employees.* The Board, in evaluating mergers, will review the considerations to be given by the resulting institution to the directors, officers, attorneys, and employees of the disappearing institution and particularly to those who are to be retained as directors, officers, consultants, or members of an advisory committee. The retention by the resulting institution of any such persons who have had an executive role in a disappearing institution with clearly less-than-average performance will normally not be approved.

(i) *Retention as Directors, Officers, Attorneys, Consultants, or Employees.* (a) The retention of directors or officers must be consistent with the size and functions and the earning capacity of the resulting institution.

(b) The compensation to directors, officers, attorneys, consultants, and employees of the disappearing institution who are to be retained in any capacity by the resulting institution must be commensurate with the duties to be performed and in line with the resulting institution's compensation schedule. Provision for payments to these persons other than for service to be performed following the merger will raise serious question as to favorable consideration of the proposed merger.

(ii) *Advisory Boards or Committees.* (a) Merger proposals containing provisions for advisory boards or committees of persons from the disappearing institution will not be approved unless full explanations are furnished, as part of the merger agreement or otherwise, in justification of such board or committee. If such board or committee is justified, its membership usually should not exceed the lesser of five in number or 50 percent of the membership of the board of directors (to the next whole number) of the disappearing institution.

(b) Fees to be paid to members of the advisory board or committee should not exceed the lesser of the directors' fees of the disappearing and the resulting institution.

(iii) *Term of Office or Employment.* The term of office or employment of any person from the disappearing institution who is retained by the resulting institution shall be on a year-to-year, or a lesser, basis.

• • • • • •

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] HARRY W. CAULSEN, *Secretary.*

[F.R. Doc. 67-13401; Filed, Nov. 14, 1967; 8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 8367; Amdt. 91-47]

PART 91—GENERAL OPERATING AND FLIGHT RULES

Aircraft Speed

The purpose of this amendment is to prescribe a maximum permissible indicated airspeed of 250 knots for all aircraft operating below 10,000 feet mean sea level (MSL).

The substance of this amendment was published as a notice of proposed rule making in the FEDERAL REGISTER on September 2, 1967 (32 F.R. 12724), and circulated as Notice 67-39. Many comments were received in response to the notice. Generally, the comments were favorable and recommended adoption of the amendment as proposed.

The Air Line Pilots Association (ALPA) and the Air Transport Association (ATA), while recognizing the merit of speed control in a see and avoid environment, question whether the proposed rule will make a significant contribution to safety. These comments generally favored an increase in positive air traffic control services and reduced reliance on the see and avoid concept. They also encouraged increased efforts in the development of a feasible collision warning system. In addition, ATA urged that the speed limits, if adopted, be applied only below 5,000 feet MSL or 5,000 feet above the surface, whichever is higher.

The agency is engaged in continuing efforts to develop a workable collision warning system, and to improve the capability of air traffic control to provide additional separation service. These objectives will be realized as rapidly as technological and budgetary limitations will permit. However, air safety consideration cannot await future developments. Speed controls will provide an additional level of safety needed now. The 10,000-foot maximum level, for applicability of the rule, was selected as a level which includes nearly all Visual Flight Rules traffic and approximately half of the Instrument Flight Rules traffic. Dropping the level of applicability to 5,000 feet would seriously weaken the rule since nearly half of the traffic in the lower airspace strata would be exposed to aircraft operating at unlimited airspeeds.

Concern regarding the inconvenience to flight test activities was expressed in several comments received from aircraft manufacturers who expressed the view that more specific provision for flight test activities should be included in the rule itself. The agency does not consider it appropriate to include specific regulation of these activities in the body of the Federal Aviation regulations since flight test activities will vary in the multiple and diverse situations involved. Each flight test activity would more properly be a matter for individual consideration by the Administrator. The rule adopted herein has been modified to require compliance with the speed limit "unless otherwise authorized by the Administrator." All operators having a need to flight test aircraft at speeds in excess of those prescribed by the regulation should contact the appropriate Federal Aviation Administration (FAA) Area Office as soon as practicable so that suitable authorization may be issued.

The comments to Notice 67-39 also contained several recommendations regarding the development of climb and descent corridors for high performance aircraft operations at major terminals. This concept, now in use at many military bases, is being studied and will be made the subject of a future regulatory proposal.

Various alternative methods of providing the extra margin of safety needed in today's airspace operations were suggested in the comments received. These suggestions generally involved programs already in progress, such as "develop a low-cost transponder for general aviation aircraft"; "provide a more efficient low-altitude radar system"; "encourage development of a low-cost proximity warning device," etc. Efforts in these and other areas, of course, will continue since it is realized that speed control is only a partial answer to the problem of air safety.

The economic impact which this regulation will have on operators of high speed aircraft was given detailed consideration during the development of Notice 67-39. The agency feels that the safety factors involved far outweigh the economic considerations and that it is in the public interest that the rule be adopted as proposed.

Interested persons have been afforded an opportunity to participate in the making of these amendments, and due consideration has been given to all matter presented.

In consideration of the foregoing, Part 91 of the Federal Aviation regulations is amended, effective December 15, 1967, as hereinafter set forth:

§ 91.85 [Amended]

1. Paragraph (c) of § 91.85, and the flush paragraph following thereafter, is revoked.

2. The following new section is added following § 91.69:

§ 91.70 Aircraft speed.

(a) Unless otherwise authorized by the Administrator, no person may operate an aircraft below 10,000 feet MSL at an indicated airspeed of more than 250 knots (288 m.p.h.).

(b) Unless otherwise authorized or required by ATC, no person may operate an aircraft within an airport traffic area at an indicated airspeed of more than—

(1) In the case of a reciprocating engine aircraft, 156 knots (180 m.p.h.); or

(2) In the case of a turbine-powered aircraft, 200 knots (230 m.p.h.).

However, if the minimum safe airspeed for any particular operation is greater than the maximum speed prescribed in this section, the aircraft may be operated at that minimum speed.

(Secs. 307, 313, Federal Aviation Act of 1958; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on November 7, 1967.

D. D. THOMAS, *Acting Administrator.*

[F.R. Doc. 67-13392; Filed, Nov. 14, 1967; 8:46 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER A—GENERAL

PART 4—OFFICIAL RECORDS AND INFORMATION

Disclosure

Pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a)), the Fair Packaging and Labeling Act (sec. 5, 80 Stat. 1298; 15 U.S.C. 1453), the Federal Caustic Poison Act (sec. 9, 44 Stat. 1409, as amended; 15 U.S.C. 409), the Federal Hazardous Substances Act (sec. 10, 74 Stat. 378; 15 U.S.C. 1269), the Federal Import Milk Act (sec. 3, 44 Stat. 1102; 21 U.S.C. 143), the Filled Milk Act (sec. 4, 49 Stat. 885; 21 U.S.C. 64), and the Tea Importation Act (sec. 10, 29 Stat. 607, as amended; 21 U.S.C. 50), and delegated by him to the Commissioner of Food and Drugs (21 CFR 2.120), § 4.1 is updated by revising it to read as follows:

§ 4.1 Disclosure of official records and information.

(a) No officer or employee of the Food and Drug Administration or of any other office or establishment in the Department of Health, Education, and Welfare, except as authorized by the Commissioner of Food and Drugs, and in the discharge of his official duties under the laws administered by the Food and Drug Administration, shall give any testimony before any tribunal pertaining to any function of the Food and Drug Administration or with respect to any information acquired from any record or otherwise acquired in the discharge of his official duties.

(b) Whenever a subpoena or a subpoena duces tecum, in appropriate form, has been lawfully served upon an officer or employee of the Food and Drug Administration commanding the production of any record or the giving of any testimony, such officer or employee will, unless otherwise authorized by the Commissioner of Food and Drugs, appear in response thereto and respectfully decline to produce the record or testify respecting the information specified therein, on the ground that disclosure of such record or information is prohibited by this section.

(c) A person who desires testimony from any employee, or the disclosure of information not specifically available under the Public Information Act (Public Law 90-23) and the Department of Health, Education, and Welfare's regulations thereunder (45 CFR Part 5), may make written request therefor, verified by oath, directed to the Commissioner of Food and Drugs, setting forth his interest in the matter sought to be disclosed and designating the use to which such information or testimony will be put in the event of compliance with such request: *Provided*, That a written request therefor made by a health, food, or drug officer, prosecuting attorney, or member of the judiciary of any State, Territory, or political subdivision thereof, acting in his official capacity, need not be verified by oath. If it is determined by the Commissioner, or any other officer or employee of the Food and Drug Administration whom he may designate to act on his behalf for the purpose, that such disclosure will not be incompatible with the public interest and with obligations of confidentiality and administrative necessity, the request may be granted. Where a request for testimony is granted, one

or more employees of the Food and Drug Administration may be designated to appear, in response to a subpoena or a subpoena duces tecum, and testify with respect thereto.

(d) A person who desires the disclosure of any record may make request therefor in accordance with the procedures set forth in 45 CFR Part 5.

(e) Requests for the disclosure of any record will be granted in accordance with the rules and principles set forth in 45 CFR Part 5.

Notice and public procedure and delayed effective date are unnecessary prerequisites to this promulgation since this is a regulation involving agency procedure.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 10, 20 Stat. 607, as amended, sec. 3, 44 Stat. 1102, sec. 9, 44 Stat. 1400, as amended, sec. 4, 49 Stat. 866, sec. 701(a), 52 Stat. 1055, sec. 10, 74 Stat. 378, sec. 5, 80 Stat. 1236; 15 U.S.C. 409, 1269, 1453, 21 U.S.C. 50, 64, 143, 371(a))

Dated: November 7, 1967.

JAMES L. GODDARD,
Commissioner of Food and Drugs.

[F.R. Doc. 67-13411; Filed, Nov. 14, 1967; 8:48 a.m.]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter VI—Business and Defense Services Administration, Department of Commerce

[BDSA Order M-11A, Revised Schedule A of Nov. 15, 1967]

M-11A—COPPER AND COPPER-BASE ALLOYS

Revision of Schedule A—Set-Aside Percentages

This amendment of Schedule A to BDSA Order M-11A is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950, as amended. In the formulation of this order, there was consultation with industry representatives, including trade association representatives, and consideration was given to their recommendations.

This amendment further changes Revised Schedule A of May 15, 1967, to BDSA Order M-11A, as amended October 28, 1966, by decreasing the set-aside percentage for unalloyed plate, sheet, strip, and rolls from 10 to 8 percent, for unalloyed seamless tube and pipe from 5 to 3 percent, and for copper foundry products from 8 to 6 percent, and by increasing the set-aside percentage for alloyed rod, bar, shapes, and wire from 10 to 16 percent, and for alloyed sheet, plate, and strip from 12 to 13 percent. No reserve space is provided for alloyed seamless tube and pipe, but producers of this product are required to accept ACM orders in accordance with DMS regulations. This amendment applies to authorized controlled material orders calling for delivery after December 31, 1967.

Schedule A to BDSA Order M-11A is hereby further amended to read as follows:

SCHEDULE A TO BDSA ORDER M-11A

Set-Aside Percentages
(See sec. 6(f) of BDSA Order M-11A)

Base period—Calendar Year 1965
(See sec. 2(O) of BDSA Order M-11A)

Product	*Percentage for orders calling for delivery after Dec. 31, 1967* [1]
Brass mill products:	
Unalloyed:	
Plate, sheet, strip, and rolls	8
Rod, bar, shapes, and wire	7
Seamless tube and pipe	3
Alloyed:	
Plate, sheet, strip, and rolls	13
Rod, bar, shapes, and wire	16
Seamless tube and pipe	(2)
Military ammunition cups and discs	(2)
Copper wire mill products:	
Copper wire and cable:	
Bare and tinned	10
Weatherproof	10
Magnet wire	10
Insulated building wire	10
Paper and lead power cable	10
Paper and lead telephone cable	10
Asbestos cable	10
Portable and flexible cord	10
Communications wire and cable	10
Shipboard cable	(2)
Automotive and aircraft wire and cable	10
Insulated power cable	10
Signal and control cable	10
Coaxial cable	10
Copper-clad steel wire containing over 20 percent copper by weight regardless of end use	10
Copper foundry products	6
Unalloyed copper powder mill products	(2)
Copper-base alloy powder mill products	(2)

[1] Schedule A revised as of May 15, 1967, to BDSA Order M-11A, as amended Oct. 28, 1966, applies to orders calling for delivery prior to Jan. 1, 1968.

[2] No reserve space provided. Producers of these products are nevertheless required to accept authorized controlled material orders for such products in accordance with the provisions of DMS Regulation No. 1 and this order. However, sec. 6(f) of Order M-11A does not apply to such authorized controlled material orders.

This revised schedule shall take effect November 15, 1967.

(Sec. 704, 64 Stat. 816, as amended, 50 U.S.C. App. 2154; sec. 1, Pub. Law 89-482, 80 Stat. 235)

BUSINESS AND DEFENSE SERVICES ADMINISTRATION,
RODNEY L. BORUM,
Administrator.

[F.R. Doc. 67-13273; Filed, Nov. 14, 1967; 8:45 a.m.]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 7—SPECIAL REGULATIONS

Hot Springs National Park, Ark.—Speed

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 3), 245 DM-1 (27 F.R. 6395), National Park Service Order No. 34 (31 F.R. 4255), Regional Director, Southeast Region Order No. 4 (31 F.R. 8135), as amended, Part 7 of Title 36 of the Code of Federal Regulations is amended as set forth below. The purpose of this amendment is to revoke a regulation which is no longer necessary because it is duplicated by a regulation contained in Part 4 of this chapter.

Since this amendment will not impose any additional restrictions on the public, public comment thereon is deemed to be unnecessary and this amendment shall take effect upon publication in the FEDERAL REGISTER.

(5 U.S.C. 553; 39 Stat. 535; 16 U.S.C. 3)

Section 7.18 of Part 7 of Title 36 of the Code of Federal Regulations is hereby amended by revoking paragraph (a) *Speed.*

FOSTER R. FREEMAN,
Acting Superintendent, Hot Springs National Park.

OCTOBER 12, 1967.

[F.R. Doc. 67-13385; Filed, Nov. 14, 1967; 8:46 a.m.]

Title 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation

[OST Docket No. 1; Amdt. 1-6]

PART 1—FUNCTIONS, POWERS, AND DUTIES IN THE DEPARTMENT OF TRANSPORTATION

Limitation on Reservation of Authority; Federal Highway Administration

The purpose of this amendment is to further limit the reservation imposed in § 1.5(j)(1)(ii) of Part 1 as amended (32 F.R. 14277) on the authority delegated to the Federal Highway Administrator with respect to pneumatic tires standards and standards for tire selection and rims for passenger cars. As amended, that section authorizes the Administrator to issue notices of proposed rule making only.

Under this amendment, authority is delegated to the Administrator to issue final rules with respect to these tire and rim standards.

This action is taken under the authority of §§ 6(a)(6)(A) and 9 of the Department of Transportation Act (P.L. 89-670, 80 Stat. 931). Since this amendment involves a delegation of authority and relates to the internal management of the Department, notice and public procedure thereon are not required and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, effective November 8, 1967, § 1.5(j)(1)(ii) of Part 1 of the Regulations of the Secretary of Transportation is amended to read as follows:

§ 1.5 Reservations of authority.

* * * * * *

(j) * * *

(1) * * *

(ii) Notices of proposed rule making, and final rules, relating to standards of new pneumatic tires for passenger cars and standards for tire selection and rims for passenger cars (15 U.S.C. 1392, 1407); and

* * * * * *

Issued in Washington, D.C., on November 8, 1967.

ALAN S. BOYD,
Secretary of Transportation.

[F.R. Doc. 67-13275; Filed, Nov. 14, 1967; 8:45 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 73—RADIO BROADCAST SERVICES

Table of Assignments; Tazewell, Va., etc.

Correction

In F.R. Doc. 67-13209 appearing in the issue for Wednesday, November 8, 1967, at page 15545, the table should read as follows:

City	*Channel No.*
Washington, N.C.	227, 249A

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Necedah National Wildlife Refuge, Wis.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

WISCONSIN

NECEDAH NATIONAL WILDLIFE REFUGE

Sport fishing on the Necedah National Wildlife Refuge, Wis., is permitted only on the area designated by signs as open to fishing. This open area, comprising 500 acres, is delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn. 55408. Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Open season: Daylight hours December 15, 1967, through March 15, 1968.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through March 15, 1968.

DAVID J. BROWN,
Refuge Manager, Necedah National Wildlife Refuge, Necedah, Wis. 54646.

NOVEMBER 7, 1967.

[F.R. Doc. 67-13381; Filed, Nov. 14, 1967; 8:48 a.m.]

Proposed Rule Making

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Part 526]

INDUSTRIES OF A SEASONAL NATURE

Nursery Stock Storing and Packing Industry

I propose to find that the nursery stock storing and packing industry, as defined below, is an industry of a seasonal nature within the meaning, and under the authority, of section 7(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(c)) as amended by the Fair Labor Standards Amendments of 1966 (P.L. 89–601). I further propose to find that this industry is engaged in the handling, packing, storing, preparing, first processing or canning of perishable agricultural or horticultural commodities in their raw or natural state within the meaning and under the authority of section 7(d) of the same Act and Amendments. This proposal is made under the further authority of Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp. p. 1004) and Secretary's Order No. 19–67 (32 F.R. 12980).

For the purpose of this proposal, the nursery stock storing and packing industry is defined to include the handling, packing, storing, and preparing of nursery stock, and any operations necessary or incidental thereto.

Adoption of this proposal would result in listing the industry in § 526.12 of 29 CFR Part 526 and would provide the exemptions described in detail in that section.

Any person interested in this proposal may present written data, views, or argument to the Administrator of the Wage and Hour and Public Contracts Divisions, U.S. Department of Labor, 14th Street and Constitution Avenue NW., Washington, D.C. 20210, within 30 days after it appears in the FEDERAL REGISTER.

Signed at Washington, D.C., this 8th day of November 1967.

CLARENCE T. LUNDQUIST,
Administrator, Wage and Hour and Public Contracts Divisions, U.S. Department of Labor.

[F.R. Doc. 67–13440; Filed, Nov. 14, 1967; 8:51 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 67–CE–125]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Elkhart, Ind.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

Presently there are two public use instrument approach procedures for the Elkhart, Ind., Municipal Airport utilizing the South Bend, Ind., Compass Locator and VORTAC as navigational aids, which are not adequately protected by controlled airspace. Consequently, it is necessary to designate a 700-foot floor transition area at Elkhart, Ind., in order to protect aircraft executing these approach procedures.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (32 F.R. 2148), the following transition area is added:

ELKHART, IND.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Elkhart Municipal Airport (latitude 41°43'00" N., longitude 85°59'00" W.); and within 2 miles each side of the South Bend, Ind., VORTAC 101° radial, extending eastward from the 5-mile radius area to 23 miles east of the VORTAC, excluding the portion which overlies the South Bend, Ind., 700-foot floor transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued at Kansas City, Mo., on October 26, 1967.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 67–13393; Filed, Nov. 14, 1967; 8:46 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2, 87]

[Docket No. 17858; FCC 67–1227]

HIGH FREQUENCY CHANNELS

Use for Flight Test Purposes and in Support of Offshore Drilling Operations

In the matter of amendment of Parts 2 and 87 of the Commission's rules to permit use of high frequency (HF) channels for flight test purposes and in support of offshore drilling operations, Docket No. 17858, RM 1000.

1. Notice of proposed rule making in the above-entitled matter is hereby given.

2. This notice is directed to two separate matters. The first is the petition (RM 1000) filed by Aerospace and Flight Test Radio Coordinating Council (AFTRCC) which requests the allocation of high frequency channels for flight test purposes where the test aircraft is out of VHF range. The second, concerns the need, previously stated by Aeronautical Radio, Inc. (ARINC), for high frequency channels to communicate with helicopters serving offshore drilling operations when they are operating out of VHF range. The use of HF for these purposes must be viewed in light of previous Commission policy expressed in Docket 14524.

3. The Commission, in Docket 14524, provided for discontinuance of the regular use of HF for aeronautical mobile (R) communications in the domestic service within the continental United States (excluding Alaska) as of January 1, 1965. The question of whether a limited number of high frequencies should be retained for domestic use was left for subsequent determination with the proviso that if certain frequencies were determined necessary their use would not be on a regular basis but would be available on an emergency or backup basis. The flight test and helicopter HF needs may be considered to be of a backup nature because the primary service is to be rendered on VHF with a switch to HF when the range of the aircraft over water exceeds VHF limits. It is concluded, therefore, that the proposed uses do not conflict with our policy expressed in Docket 14524 and the note to § 87.293(f).

4. The AFTRCC petition states that test procedures for new aircraft involve complex and extended programs designed to test every portion of the aircraft. Only through such testing can the vehicle be delivered to the user with confidence that it can meet all the demands of safety and reliability. The Douglas Aircraft Co., in testing the DC–8, established an average experimental flight as 6 hours duration at an average speed of 500 miles per hour, or a total of 3,000 miles per flight which requires a large test area over sparsely inhabited areas. These flights are currently accomplished in test areas and routes over the Pacific Ocean off the Southern California coast. In the future, testing of the supersonic transport (SST) is expected to require flights of 10,000 to 12,000 miles at speeds of 2,000 miles per hour. This will require further enlargement of flight test areas which are already so large that VHF communications with the test base station is not possible for an appreciable period of the test flight. For example, in 1966 the Douglas Aircraft Co. estimated that 600 to 800 of the 2,946 flight test hours for the DC–8, DC–9, and A–4 aircraft were out of range of VHF with the test base stations. These examples are not isolated instances. Douglas Aircraft Co. alone reports a daily average of 10 experimental or production flight tests. Flight test operational and safety requirements demand that all possible arrangements be made to maintain essential communications at all times between flight test vehicles and base stations for safety requirements, control and separation of aircraft on multiple flights. To meet these requirements AFTRCC has petitioned that HF frequencies be made available for flight testing which must be conducted beyond the propagation range of VHF.

5. Flight test and support of offshore drilling operations are not primarily concerned with safety and regularity of flight along national or international civil air routes and is in derogation of the Table of Frequency Allocations, however, these operations will not cause harmful interference to services operating in accordance with the Table of Frequency Allocations.

6. The need for HF, under the circumstances described above, for flight test operations is recognized by the Commission. This notice proposes, therefore, that the frequencies set forth in the attached appendix be made available for flight test operations, using single sideband emission to supplement the existing frequencies when satisfactory communications are not possible on VHF.

7. Aeronautical enroute stations have been authorized to serve helicopters participating in offshore drilling operations in the Gulf of Mexico under the backup provisions in the note to § 87.293(f). In this type of operation helicopters are used to provide personnel and supplies to offshore drilling rigs in the Gulf of Mexico. Because of the distance and the low altitude of the helicopters satisfactory communication by VHF is not possible; it is necessary to employ HF. The instant notice has for one of its purposes the recognizing of such a need by inclusion in the rules of a specific frequency for such operation. The use of such frequency would be to supplement the existing VHF facilities when satisfactory communication is not possible on VHF.

8. The proposed amendments to the rules, as set forth in the appendix, are issued pursuant to the authority contained in sections 4(i) and 303 (c), (h), and (r) of the Communications Act of 1934, as amended.

9. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before December 18, 1967, and reply comments on or before December 28, 1967. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

10. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all statements, briefs, or comments filed shall be furnished the Commission.

Adopted: November 8, 1967.

Released: November 9, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[1] Commissioner Bartley absent.

§ 2.106 [Amended]

1. Within Part 2 of the rules and regulations, § 2.106 would be amended to add new footnote NG..... in Column 7 for the aeronautical mobile (R) band containing the frequency adopted in new § 87.295(a):

NG..... Frequencies in this band may be authorized for communication with helicopters in support of offshore drilling operations on the condition that harmful interference will not be caused to services operating in accordance with the Table of Frequency Allocations.

2. Within Part 2 of the rules and regulations, § 2.106 would be amended to add new footnote NG..... in Column 7 for each of the aeronautical mobile (R) bands containing frequencies adopted in § 87.331(c) of Part 87 of the rules and regulations:

NG..... Frequencies in this band may be authorized for flight test purposes on the condition that harmful interference will not be caused to services operating in accordance with the Table of Frequency Allocations.

§ 87.293 [Amended]

3. In § 87.293, delete the last phrase "after January 1, 1965" from paragraph (f), and delete the note following paragraph (f).

4. Section 87.295 is amended to read as follows:

§ 87.295 Continental United States (excluding Alaska).

(a) The following frequency is available for assignment for emergency and backup to serve aircraft operating in support of offshore drilling operations in open water areas beyond the range of VHF propagation on the condition that harmful interference will not be caused to services operating in accordance with the Table of Frequency Allocations.

Prior to September 17, 1970.
4654.5 [1] kc/s.
After 0001 GMT September 17, 1970.
4654 [2] kc/s.

[1] When A3A, A3H, or A3J emission is used, the assigned frequency will be 4666 kc/s (4654.5 kc/s carrier frequency).

[2] When A3A, A3H, or A3J emission is used, the assigned frequency will be 4655.5 kc/s (4654 kc/s carrier frequency).

(b) Frequencies available to serve domestic routes in the continental United States (excluding Alaska), are as follows:

Mc/s	Mc/s	Mc/s	Mc/s
128.85	129.65	130.45	131.25
128.90	129.70	130.50	131.30
128.95	129.75	130.55	
129.00	129.80	130.60	131.40
129.05	129.85	130.65	131.45
129.10	129.90	130.70	131.50
129.15	129.95	130.75	131.55
129.20	130.00	130.80	131.60
129.25	130.05	130.85	131.65
129.30	130.10	130.90	131.70
129.35	130.15	130.95	131.75
129.40	130.20	131.00	131.80
129.45	130.25	131.05	131.85
129.50	130.30	131.10	131.90
129.55	130.35	131.15	131.95
129.60	130.40	131.20	132.00

5. In § 87.331, the present paragraphs (b), (c), and (d) are redesignated (d), (e), and (f); paragraph (a) is amended and new paragraphs (b) and (c) are added to read as follows:

§ 87.331 Frequencies available.

(a) The following frequencies are available for assignment to ground and aircraft flight test stations.

3281 kc/s[1]	123.2 Mc/s	123.4 Mc/s
123.1 Mc/s[2]	123.3 Mc/s[2]	123.5 Mc/s[2]

[1] When A3A, A3H, or A3J emission is used, the assigned frequency will be 3282.5 kc/s (3281 kc/s carrier frequency).

[2] Available for assignment to ground and aircraft instructional stations on the basis that interference is not caused to flight test stations.

(b) The following additional frequencies are available for assignment to flight test stations of aircraft manufacturers.

Mc/s	Mc/s	Mc/s
123.15	123.35	123.55
123.25	123.45	

(c) The following frequencies are available for assignment to flight test stations for emergency and backup use only for communication with aircraft operating over open water areas beyond the range of VHF propagation on the condition that harmful interference will not be caused to services operating in accordance with the Table of Frequency Allocations. Types A3A, A3H, and A3J emission shall be employed. The carrier frequency in parentheses is 1.5 kc/s below the assigned frequency.

Prior to September 17, 1970.

kc/s	kc/s
2897.5 (2896)	8946.5 (8945)
2995.5 (2994)	10010.5 (10009)
3490 (3488.5)	10094.5 (10093)
4362.5 (4361)	11282 (11280.5)
4677 (4675.5)	11376.5 (11375)
5455.5 (5454)	13358.5 (13357)
5598 (5596.5)	13357.5 (13356)
6527.5 (6526)	17902.5 (17901)
6660.5 (6659)	17966.5 (17965)
8890.5 (8889)	

After 2001 GMT September 17, 1970.

kc/s	kc/s
2869.5 (2868)	8918.5 (8917)
2995.5 (2994)	10010.5 (10009)
3475.5 (3474)	10094.5 (10093)
4676.5 (4675)	11288.5 (11287)
4363.5 (4362)	11376.5 (11375)
5470.5 (5469)	13358.5 (13357)
5597.5 (5596)	13357.5 (13356)
6527.5 (6526)	17902.5 (17901)
6660.5 (6659)	17966.5 (17965)
8890.5 (8889)	

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[F.R. Doc. 67-13422; Filed, Nov. 14, 1967; 8:49 a.m.]

FEDERAL POWER COMMISSION

[18 CFR Parts 2, 14]

[Docket No. R-297]

HYDROELECTRIC PROJECT LICENSES; CALCULATION OF "NET INVESTMENT"

Freedom of Information Act—Disclosure of Memoranda; Order Ruling on Motions, Directing Submission of Staff Memorandum, Deferring Date of Oral Argument, and Prescribing Procedures

NOVEMBER 7, 1967.

By notice of September 21, 1967, oral argument was set in the above-captioned matter and certain additions and modifications were made to our notice of proposed rulemaking instituting proceeding issued January 20, 1966 (31 F.R. 1079). In response to our September 21, 1967 notice, we received numerous requests for time to participate in oral argument and three motions for other relief. In this order we are directing staff counsel to submit within 3 weeks of this order's issuance date a memorandum covering certain issues hereinafter detailed. We are also providing for deferral of the date of oral argument herein from November 17, 1967, to December 18, 1967. In addition, we are deferring action on a motion to sever certain issues relating to "industrial organizations" and are denying a motion for disclosure of staff memoranda or in the alternative for access by all interested parties to all staff and Commission papers which preceded our September 21, 1967 notice.

On October 12, 1967, counsel for a number of "industrial organizations" filed a motion asking the Commission to sever all issues relating to the "net investment in licensed projects owned directly and indirectly by industrial corporations". Paragraph 8 of the notice of proposed rulemaking instituting this proceeding was addressed to industrial licensees. We realize that special problems are due to arise in the case of industrial licensees. However, such licenses do not fall into clear cut generic types as indicated by the motion of October 12, 1967, and staff counsel's response thereto submitted on October 27, 1967. We have, therefore, decided to defer ruling on the motion of counsel for a number of industrial organizations until after we have heard oral argument in this matter.

On October 13, 1967, counsel for Duke Power Co. filed a letter, in the nature of a motion, requesting "a staff or other memorandum showing in reasonable detail the principal reasons, arguments and special facts, if any, upon which the proposed definition (of net investment) is based, or, in the alternative, to permit all parties to review any interoffice memoranda, analysis or other material bearing on the subject-matter of Docket No. R-297". Counsel for Duke predicates this request upon the Administrative Procedure Act and the more recently enacted Freedom of Information Act. But neither of these Acts, nor anything in the Commission's rules of practice and procedure, including § 1.36(c)(14) thereof, the Federal Power Act, the Commission's regulations thereunder, or the Commission's Uniform System of Accounts for Public Utilities and Licensees supports the request. We have most recently focused on the issues raised by the passage of the Freedom of Information Act in International Paper Co., Docket No. CP63-62, Order Denying Request for Production of Interoffice Memoranda, issued October 9, 1967. Duke's motion is denied for the reasons set forth in our order in International Paper Co. and for the further reason that this is a rulemaking proceeding, of a quasi-legislative character, in which discovery of the nature requested is even less appropriate. We believe that the notice of proposed rulemaking as supplemented and modified by our notice of September 21, 1967, provided counsel with adequate narrative explanation of the Commission proposal and as to how it proposes to define the term "net investment" as it appears in section 3(13). However, the motion of Duke Power Co. suggests that a further and more detailed exposition would assist counsel in the presentation of their oral arguments. Accordingly, we are hereby directing staff counsel to file a memorandum discussing the proposed rule (including the alternative allocations included therein) and responding to the legal and policy questions raised in the comments. In order to afford all participants an opportunity to study the staff memorandum before oral argument, we are postponing the argument.

On October 18, 1967, counsel for 43 companies (Alabama Power Company, et al.) and for two other named utilities filed a motion to amend our September 21, 1967 notice so as to provide for 2 days of oral argument. That motion is granted hereinafter to the extent that a new later single day for oral argument is provided; it is denied in all other respects since it appears that adequate oral argument can be had on the one day hereinafter provided.

Not later than 3 weeks from the date of issuance of this order, staff counsel shall file with the Commission not less than 100 copies of a memorandum for use by the Commission and for service by the Secretary on counsel who have filed written comments or who have requested time to participate in the oral argument in this docket.

The Commission finds: For the purposes of the Federal Power Act and the Commission's regulations thereunder, it is necessary and appropriate that the Commission make the determinations and directions hereinafter provided for.

The Commission orders:

(A) Commission action on the motion of counsel for a number of industrial organizations filed herein on October 12, 1967, is hereby deferred until an appropriate time following the oral argument in this docket.

(B) The motion of counsel for Duke Power Co. filed on October 13, 1967, is hereby denied for the reasons hereinbefore set forth.

(C) The motion of counsel for 43 utilities and for two additional utilities, filed October 18, 1967, is hereby denied for the reasons hereinbefore stated.

(D) Not later than 3 weeks from the date of issuance of this order, staff counsel shall file with the Secretary the indicated number of memoranda covering the issues hereinbefore listed.

(E) The oral argument in this proceeding is hereby rescheduled to be held on December 18, 1967.

(F) No additional requests for time to participate in oral argument will be accepted by the Secretary in this proceeding.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-13377; Filed, Nov. 14, 1967; 8:45 a.m.]

FEDERAL TRADE COMMISSION

[16 CFR Part 241]

PROPOSED GUIDES FOR DOG AND CAT FOOD INDUSTRY

Extension of Time for Comments

Proposed Guides for the Dog and Cat Food Industry were published in the FEDERAL REGISTER, issued September 26, 1967, 32 F.R. 13461.

Notice is hereby given that the Commission has extended the closing date for submission of written views concerning the proposed guides until January 31, 1968.

Approved: November 6, 1967.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-13410; Filed, Nov. 14, 1967; 8:48 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[C-2834]

COLORADO

Notice of Proposed Classification of Public Lands for Multiple-Use Management

NOVEMBER 6, 1967.

The notice of proposed classification appearing as F.R. Doc. 67-10378, pages 12760 and 12761 of the issue for Wednesday, September 6, 1967, is hereby amended to include the following lands:

SIXTH PRINCIPAL MERIDIAN, COLORADO

JACKSON COUNTY

Block E

T. 6 N., R. 79 W.,
Sec. 5 and 6.
T. 6 N., R. 80 W.,
Sec. 1, Lots 1 and 2.

Block G

T. 6 N., R. 80 W.,
Sec. 20.
T. 7 N., R. 80 W.,
Sec. 32.

Block J

T. 6 N., R. 79 W.,
Sec. 29.

ALLEN E. ARNOLD,
Acting State Director.

[F.R. Doc. 67-13382; Filed, Nov. 14, 1967; 8:45 a.m.]

[C-2859]

COLORADO

Notice of Proposed Classification of Public Lands for Multiple-Use Management

NOVEMBER 7, 1967.

The notice of proposed classification appearing as F.R. Doc. 67-8714, page 10992 of the issue for Thursday, July 27, 1967, is hereby amended to include the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

DOLORES AND MCHLMO COUNTIES

T. 39 N., R. 19 W.,
Secs. 18 and 19.

ALLAN E. ARNOLD,
Acting State Director.

[F.R. Doc. 67-13388; Filed, Nov. 14, 1967; 8:45 a.m.]

[OR 1566]

OREGON

Notice of Proposed Classification of Public Lands for Multiple-Use Management

NOVEMBER 7, 1967.

The notice of proposed classification appearing as F.R. Doc. 67-5254 on pages 7136 to 7138 of the issue for Thursday, May 11, 1967, is hereby amended as follows:

WILLAMETTE MERIDIAN

GRANT COUNTY

T. 17 S., R. 30 E.,
Secs. 1, 2, secs. 11 to 24, inclusive, and secs. 28 to 36, inclusive,

is amended to read:

Secs. 1, 2, secs. 11 to 14, inclusive, and secs. 23 to 36, inclusive.

ARCHIE D. CRAFT,
State Director.

[F.R. Doc. 67-13384; Filed, Nov. 14, 1967; 8:45 a.m.]

Bureau of Land Management

ALASKA

Notice of Partial Termination of Proposed Withdrawal and Reservation of Lands

NOVEMBER 3, 1967.

Notice of an Environmental Science Services Administration application, Fairbanks 532, for withdrawal and reservation of lands for use by the Coast and Geodetic Survey to improve and accelerate the geophysical observation program in Alaska, was published as F.R. Doc. No. 67-9815, on page 12067 of the issue for August 22, 1967. The applicant agency has canceled its application insofar as it affects the following described lands:

FAIRBANKS MERIDIAN

T. 1 S., R. 1 E.,
Sec. 16, lots 1, 2, 3, 7, 8, and SE¼NE¼, E½SW¼, SE¼.
T. 1 N., R. 1 E.,
Sec. 33, all.

The above area totals 1,052.54 acres.

Therefore, pursuant to the regulations contained in 43 CFR Part 2311, such lands at 10 a.m., on November 24, 1967, will be relieved of the segregative effect of the above-mentioned application.

JOHN W. MCCORMICK,
Acting State Director.

[F.R. Doc. 67-13429; Filed, Nov. 14, 1967; 8:49 a.m.]

ALASKA

Notice of Termination of Proposed Withdrawal and Reservation of Lands

NOVEMBER 3, 1967.

Notice of a Bureau of Indian Affairs application, F-455, for withdrawal and reservation of lands for an addition to an existing school facility, was published as F.R. Doc. No. 67-2893, on page 4142 of the issue for March 16, 1967. The applicant agency has canceled its application involving the lands described in the FEDERAL REGISTER publication referred to above. Therefore, pursuant to the regulations contained in 43 CFR, Part 2311, such lands, at 10 a.m., on November 24, 1967, will be relieved of the segregative effect of the above-mentioned application.

The lands involved in this notice of termination are:

NOATAK, ALASKA

Beginning at corner No. 1, U.S. Survey 3778; thence N. 68°46' W., 224.554 feet to corner No. 16, U.S. Survey 3778; N. 22°14' E., 30 feet to corner No. 3 this tract; S. 68°46' E., 224.554 feet to corner No. 4 this tract; S. 22°14' W., 30 feet to corner No. 1, U.S. Survey 3778, the point of beginning.

The area described aggregates approximately 0.22 acre.

JOHN W. MCCORMICK,
Acting State Director.

[F.R. Doc. 67-13430; Filed, Nov. 14, 1967; 8:50 a.m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[Amdt. 6]

FEDERAL CROP INSURANCE CORPORATION

Organization, Functions, and Procedures

Former Part 400, Chapter IV, Title 7 (7 CFR 1946 Supp. 400; 7 CFR 1947 Supp. 400) as amended (32 F.R. 8774), is hereby amended as follows:

1. Section 5(b) is amended by deleting from the third sentence "cancels or adjusts debts under existing authorities,".

2. Section 7 is hereby amended by adding the following subsection: (c) *Delegation to Director, National Service Office.* The Director of the National Service Office is authorized to compromise, adjust, cancel, or terminate or suspend collection action with respect to, claims for premiums under Public Law 518 (12 U.S.C. 1150 and 1151) and the Federal Claims Collection Act of 1966 (31 U.S.C. 951-953).

Approved by the Board of Directors on November 8, 1967.

[SEAL] EARLL H. NIKKEL,
Secretary,
Federal Crop Insurance Corporation.

Issued this 9th day of November 1967.

JOHN A. SCHNITTKER,
Acting Secretary.

[F.R. Doc. 67-13436; Filed, Nov. 14, 1967; 8:50 a.m.]

Packers and Stockyards Administration

OAKDALE LIVESTOCK AUCTION YARD ET AL.

Notice of Changes in Names of Posted Stockyards

It has been ascertained, and notice is hereby given, that the names of the livestock markets referred to herein, which were posted on the respective dates specified below as being subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), have been changed as indicated below.

Original name of stockyard, location, and date of posting	*Current name of stockyard and date of change in name*
CALIFORNIA	
Oakdale Livestock Auction Yard, Oakdale, Oct. 22, 1959.	Oakdale Livestock Auction Company, August 31, 1967.
ILLINOIS	
Arnold Livestock Company, Gibson City, Nov. 19, 1960.	Decker's Gibson City Sales & Commission Co., Apr. 1, 1967.
IOWA	
Aplington Sales Pavilion, Aplington, Mar. 11, 1957.	Aplington Livestock Auction, Inc., September 27, 1967.
Wisconsin Dairy Herd Replacement & Livestock Marketing Cooperative, A Division of Wisconsin Feeder Pig Marketing Cooperative, Francis Creek, Wis., Grundy Center, June 24, 1966.	Keith E. Myers, Inc., September 23, 1967.
Stuart Sales Company, Stuart, June 2, 1959.	Stuart Sales Co., Inc., May 10, 1967.
KANSAS	
Salina Livestock Commission Co., Inc., Salina, Jan. 21, 1936.	Beverly Stockyards Company, Oct. 9, 1967.
Newton Livestock and Commission Company, Inc., Newton, Dec. 9, 1959.	The Newton Livestock & Commission Company, July 15, 1967.
MISSOURI	
Rich Hill Livestock Pavilion, Inc., Rich Hill, Aug. 7, 1964.	Nevada Sales Company, Inc., Sept. 20, 1967.
NEBRASKA	
Beaver Valley Livestock Commission Co., Beaver City, May 25, 1960.	Beaver Valley Livestock Commission Co., Inc., June 15, 1967.
OKLAHOMA	
Lawton Stockyards Company, Lawton, Dec. 20, 1940.	Lawton Stockyards, June 26, 1967.

Done at Washington, D.C., this 6th day of November 1967.

G. H. HOPPER,
Acting Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[F.R. Doc. 67-13434; Filed, Nov. 14, 1967; 8:50 a.m.]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

LOUIS VANDERVEKEN

Order Denying Export Privileges

In the matter of Louis Vanderveken, E.M.M. (Equipment et Materiaux Modernes), Volhardingstraat 27, Antwerp, Belgium, Respondents, Case No. 375.

By charging letter dated July 10, 1967, the Director, Investigations Division, Office of Export Control, charged the above-named respondents with violations of the Export Control Act of 1949, as amended, and the regulations issued thereunder and also with violations of the terms of an indefinite denial order that had been entered against them. The charging letter was duly served on the respondents.

The charging letter alleges in substance that on October 9, 1962, an indefinite denial order was entered against the respondents for failure to furnish responsive answers to interrogatories; that the denial order, among other restrictions, prohibited respondents from participating, directly or indirectly, in any exportation of any commodity from the United States to any foreign destination; that such participation included ordering or buying any commodity exported or to be exported from the United States; that in contravention of the provisions of said denial order respondents ordered and attempted to obtain, through a foreign intermediary, an agricultural machine from a U.S. supplier.

The respondents failed to answer the charging letter and are held in default. In accordance with the usual practice the case was referred to the Compliance Commissioner and he held an informal hearing on September 29, 1967, at which time evidence in support of the charges was presented.

The Compliance Commissioner has considered the evidence which was submitted and has reported the facts. He has recommended that an order be issued against the respondents denying them all U.S. export privileges for the duration of export controls. On consideration of the record in the case I hereby adopt the Compliance Commissioner's findings of fact and his recommendations.

FINDINGS OF FACT

1. The respondent Louis Vanderveken is engaged in the import-export business and has a place of business in Antwerp, Belgium. He owns or controls the firm known as E.M.M., sometimes called Equipement et Materiaux Modernes, also of Antwerp. In the transaction hereinafter set forth said Vanderveken carried on negotiations in the name of E.M.M.

2. On October 9, 1962, pursuant to § 382.15 of the Export Regulations, an order was issued against Louis Vanderveken and E.M.M. (Equipement et Materiaux Modernes) and also against Minerl, under which firm name it was found that Vanderveken did business, denying them export privileges for an indefinite period because of the failure of Vanderveken to furnish responsive answers to interrogatories without showing good cause for such failure. The said order was published in the FEDERAL REGISTER on October 11, 1962 (27 F.R. 10005), was duly served on the parties named therein, and has been in effect to the present time.

3. The said indefinite denial order, among other restrictions, prohibited the respondents from participating, directly or indirectly, in any manner or capacity in any transaction involving commodities or technical data exported or to be exported from the United States. The activities prohibited by the denial order included participation in any such transaction, either directly or indirectly, in the ordering or buying of any commodities exported or to be exported from the United States.

4. By letter dated April 15, 1964, Vanderveken inquired of an engineer in Munich, West Germany (hereinafter referred to as the intermediary), if he, the intermediary, would be interested in ordering certain items of farm machinery from a supplier in the United States, paying for them, and selling them to Vanderveken on their arrival in Antwerp. Vanderveken offered to pay the intermediary a small profit. Vanderveken told the intermediary that the U.S. supplier refused to sell him the machines, but Vanderveken did not tell the intermediary that he, Vanderveken, was subject to an order denying him U.S. export privileges.

5. The intermediary agreed to participate in the transaction as requested. Pursuant to instructions from Vanderveken the intermediary wrote to the U.S. supplier and obtained quotations for a specified agricultural machine with spare parts in the amount of approximately $6,700. The quotation was transmitted by the intermediary to Vanderveken and on his instructions the intermediary placed an order for the commodities. It was Vanderveken's intention to open a letter of credit in favor of the intermediary to pay for the commodities and to take delivery on their arrival at a European port.

6. Before the machinery and parts were exported from the United States, Vanderveken's participation in the transaction was discovered and exportation of the commodities was prevented.

7. Vanderveken did not obtain authorization from the Office of Export Control to participate in this transaction and he tried to conceal his interest in the transaction from the U.S. supplier and from the U.S. authorities.

Based on the foregoing, I have concluded that the respondents violated §§ 381.3(a) and 381.4 of the Export Regulations in that they ordered and attempted to purchase and obtain commodities which were to be exported from the United States with knowledge that such conduct was in violation of the Export Regulations and of the denial order dated October 9, 1962, issued by the U.S. Department of Commerce.

In connection with the indefinite denial order above mentioned, a finding has been made that the respondent Vanderveken has at times used the names L. DeGraeve and E. Van Eeckhoven. In connection with said order determinations have been made, pursuant to § 382.1 (b) of the Export Regulations, that by reason of Vanderveken's ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or related services, the following are related parties to him, and to prevent evasion of said denial order it was made applicable to said parties:

Minerl, Volhardingstraat 27, Antwerp, Belgium.
Societe Commerciale d'Afrique (SOCODA), Volhardingstraat 27, Antwerp, Belgium.
Allimex, 40 Berendrechtstraat, Antwerp, Belgium.
Thuis and Hollander (THV), G. Thuis, J. G. Vermeulen, E. S. Hollander, 3 Kanstraat, Baarn, The Netherlands.

The above finding and determinations are hereby confirmed. If any of said named related parties contends that he is no longer a related party to said Vanderveken, he may apply to have the related party determination reconsidered. Such application should be directed to the undersigned and should be accompanied by evidence in support of the applicant's contentions. Such evidence should contain sufficient factual information to permit a fair and complete determination. The undersigned may, if he considers it desirable or necessary, refer the application to the Compliance Commissioner for consideration and recommendation. The applicant may request an oral hearing before the Compliance Commissioner to be held in Washington, D.C., at which his contentions may be presented in person or by counsel.

After considering the record in the case and the recommendation of the Compliance Commissioner, and being of the opinion that his recommendation as to the sanction that should be imposed is calculated to achieve effective enforcement of the law: *It is hereby ordered:*

I. This order supersedes the order denying export privileges for an indefinite period which was entered against the above respondents on October 9, 1962 (27 F.R. 10005).

II. So long as export controls are in effect the respondents and other parties within the scope of this order are hereby denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or which are otherwise subject to the Export Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction either in the United States or abroad shall include participation: (a) As a party or as a representative of a party to any validated export license application; (b) in the preparation or filing of any export license application or reexportation authorization, or document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control documents; (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data; (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondents but also to their agents, employees, representatives, and partners, and to any other person, firm, corporation, or business or other organization with which they now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith. The determinations heretofore made that the following firms and individuals are related parties to the respondent Louis Vanderveken are hereby confirmed:

Minerl, Volhardingstraat 27, Antwerp, Belgium.
Societe Commerciale d'Afrique (SOCODA), Volhardingstraat 27, Antwerp, Belgium.
Allimex, 40 Berendrechtstraat, Antwerp, Belgium.
Thuis and Hollander (THV), G. Thuis, J. G. Vermeulen, E. S. Hollander, 3 Kanstraat, Baarn, The Netherlands.

IV. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Bureau of International Commerce, shall do any of the following acts, directly or indirectly, in any manner or capacity, on behalf of or in any association with said respondents or other person denied export privileges within the scope of this order, or whereby such respondents or such other person may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for any such respondents or other person denied export privileges within the scope of this order; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. A copy of this order shall be served on respondents and the related parties named herein.

Dated: November 7, 1967.

RAUER H. MEYER,
Director,
Office of Export Control.

[F.R. Doc. 67-13406; Filed, Nov. 14, 1967; 8:46 a.m.]

Maritime Administration

[Report No. 84]

LIST OF FREE WORLD AND POLISH FLAG VESSELS ARRIVING IN CUBA SINCE JANUARY 1, 1963

SECTION 1. The Maritime Administration is making available to the appropriate Departments the following list of vessels which have arrived in Cuba since January 1, 1963, based on information received through November 1, 1967, exclusive of those vessels that called at Cuba on U.S. Government-approved noncommercial voyages and those listed in section 2. Pursuant to established U.S. Government policy, the listed vessels are ineligible to carry U.S. Government-financed cargoes from the United States.

FLAG OF REGISTRY AND NAME OF SHIP	*Gross tonnage*
Total, all flags (216 ships)	1,558,872
British (58 ships)	449,565
Antarctica	8,785
Arctic Ocean	6,791
Ardrosmore	5,820
Ardrowan	7,300
Athelcrown (tanker)	11,149
Athelmere (tanker)	7,524
Athelmonarch (tanker)	11,182
Avisfaith	7,868
Baxtergate	6,813
Cheung Chau	8,506
*East Sea	9,679
Eastfortune	8,789
Eastglory	8,995
Fortune Enterprise	7,284
Glenmoor	7,792
Hazelmoor	7,907
Hemisphere	8,718
Ho Fung	7,121
Huntsfield	9,488
Huntsland	9,253
Huntsmore	5,678
Huntsville	9,486
Inchstuart	7,043
**Jeb Lee (trip to Cuba under ex-name Garthdale—British)	7,542
Jollity	8,000
Kali Elpis (trips to Cuba under ex-name Ardmore—British)	4,364
**Kelso (trips to Cuba under ex-name Ardgem—British)	6,981
Kinross	5,388
La Hortensia	9,496
Linkmoor	8,236
Magister	2,339
Nancy Dee	6,597
**Nankwang (trip to Cuba under ex-name Inchstaffa—British)	5,255
Nebula	8,924
Newglade	7,368
Newheath	7,643
Newhill	7,855
Newlane	7,043
Newmoat	7,151
Oceantramp	6,185
Oceantravel	10,477
Peony	9,037
Red Sea (previous trip to Cuba under ex-name Grosvenor Mariner—British	7,026
**Rosetta Maud (trips to Cuba under ex-name Ardtara—British)	5,795
Ruthy Ann	7,361
Sandsend	7,236
Santa Granda	7,220
Sea Amber	10,421
Sea Coral	10,421
Sea Empress	8,941
Seasage	4,380
Shienfoon	7,127
Southgate (previous trips to Cuba under ex-name Arlington Court—British)	9,662
Venice	8,611
Verchairmian	7,365
Vergmont	7,361
Yungfutary	5,388
Yunglutaton	5,414
Cypriot (31 ships)	219,804
Acme	7,159
Agenor	7,139
**Aiolos II (trips to Cuba—Lebanese)	7,256
Akamas (previous trips to Cuba—Lebanese)	7,285
Akastos (previous trip to Cuba—Greek)	7,331
Amfiali	7,110
Amfithea (previous trip to Cuba under ex-name Antonia—Greek)	5,171
**Amfitriti (trip to Cuba under ex-name Marigo—Greek)	7,147
Amon	7,229
Angeliki	8,422
Antonia II (previous trip to Cuba under ex-name Stylianos N. Vassopulos—Greek)	7,303
Apollonia	7,284
Apostolos Andreas	5,357
Areti (previous trips to Cuba—Lebanese)	7,176
Artemida	7,247
**Clair (trips to Cuba—Lebanese)	5,411
Dorine Papillos (previous trips to Cuba under ex-name Formentor—British)	8,494
E. D. Papallos	9,431
El Toro	5,949
Free Enterprise (previous trips to Cuba—British)	6,807
Free Navigator (previous trips to Cuba under ex-name Newdene—British)	7,121
Free Trader (previous trips to Cuba—Lebanese)	7,067
**Marika (trip to Cuba—Lebanese)	7,258
Mparmpamarcos	7,289
Newforest (previous trips to Cuba—British)	7,185
Newgate (previous trips to Cuba—British)	6,743
Newmoor (previous trips to Cuba—British)	7,168
*Protoklitos	6,154
Sunrise (previous trips to Cuba under ex-name Anatoli—Greek)	7,187
Vassiliki (previous trips to Cuba—Lebanese)	7,192
Zela M. (previous trips to Cuba—British)	7,237
Lebanese (26 ships)	185,398
Alaska	6,989
Antonis	6,259
Astir	5,324
*Atticos	7,257
Cris	6,032
Giannis	5,270
Giorgos Tsakiroglou	7,240
Granikos	7,282
Ilena	5,925
Ioannis Aspiotis	7,297
Katerina	9,357
Mantrio	7,255
Marichristina	7,124
Mousse	9,307
Nictric	7,296
Noelle	7,251
Panagos	7,133
Rio	7,194
San Spyridon	7,260
Stevo	7,066
Tertrio	7,045
Tony	7,176
Toula	6,426
Troyan	7,348
Vergolivada	6,339
Yanxilas	10,051
Greek (23 ships)	171,414
Agios Therapon	7,206
**Aliartos (trip to Cuba under ex-name Loradore—British)	8,078
Alice	7,189
Andromachi (previous trips to Cuba under ex-name Penelope—Greek)	6,712
**Anna Maria (trips to Cuba under ex-name Heika—British)	2,111
Apollon	9,744
Athanassios K	7,216
Barbarino	7,084
Calliopi Michalos	7,249
**E. Evangelia (trips to Cuba under ex-name Redbrook—British)	7,388
Efthia	10,665
Eretria	7,169
Irena	7,232
**Lambros M. Patsis (trip to Cuba under ex-name Western Trader—Greek)	9,308
Mery	7,258
Nicolaos F. (previous trip to Cuba under ex-name Nikolaos Evangelistas—Greek)	7,199
Nikolis M	7,176
Olga (previous trips to Cuba—Lebanese)	7,199
Pantanassa	7,121
Rodostos	5,911
Roula Maria (tanker)	10,808
Sophia	7,030
Tina	7,362
Polish (20 ships)	143,460
Baltyk	6,963
Bialystok	7,173
Bytom	5,967
Chopin	9,148
Chorzow	7,237
Energetyk	10,643
Grodziec	8,879
Huta Florian	7,258
Huta Labedy	7,221
Huta Ostrowiec	7,175
Huta Zgoda	6,840
Hutnik	10,897
Kopalnia Bobrek	7,221
Kopalnia Ciladz	7,252
Kopalnia Miechowice	7,223
Kopalnia Siemianowice	7,165
Kopalnia Wujek	7,033
Piast	8,184
Rejowiec	8,401
Transportowiec	10,880
Italian (12 ships)	107,784
Achille	6,950
Agostino Bertani	8,369
Aixia (tanker)	13,845
Caprera	7,189
Elia (tanker)	11,877
Geremia (previous trips to Cuba under ex-name Mariasusanna—Italian)	2,479
Giuseppe Giulietti (tanker)	17,519
**Graziella Zeta (trips to Cuba under ex-name Montiron—Italian)	1,595
Nino Bixio	8,427
San Francesco	9,284
San Nicola (tanker)	12,461
Santa Lucia	2,278
Finnish (8 ships)	60,249
**Aleksi (trip to Cuba under ex-name Amfred—Swedish)	2,828
Atlas	3,916
Augusta Paulin	7,686
*Isomeri	3,576
Jytte Paulin	7,010
Margrethe Paulin	7,251
Ragni Paulin	6,823
Sword (tanker)	11,749
Panamanian (8 ships)	49,302
**Agate (trips to Cuba under ex-name Dairen—British)	4,939
**Avranchoise (trips to Cuba under ex-name Avranches—French)	7,282
**Cathay Trader (trips to cuba under ex-name Suva Breeze—British)	4,870
**Chung Thai (trip to Cuba under ex-name Somalia—Italian)	3,353
**Thalie (trip to Cuba under ex-name Maroudio—Greek)	7,369
**Tung Yih (trip to Cuba under ex-name Aristeh—Lebanese)	6,995
**Tynlas (trip to Cuba under ex-name Ardenode—British)	7,036
**White Daisy (trips to Cuba under ex-name Rose—French)	7,259
French (7 ships)	38,975
**Atlanta (trip to Cuba under ex-name Rose—French)	1,282
Circe	2,874

See footnotes at end of table.

See footnotes at end of table.

	Gross tonnage
Foulaya	3,780
Mungo	4,820
Neiea	3,874
Penja	3,777
Semanque (tanker)	14,060
Yugoslav (7 ships)	49,250
Cetinje	7,300
Kolasin	7,317
Mojkovac	7,125
Piva	7,519
Plod	3,657
Subicevac	9,033
Tara	7,499
Maltese (4 ships)	27,084
Amalia (previous trips to Cuba—British)	7,304
Ispahan	7,156
Soclyve (previous trips to Cuba—British)	7,291
Timios Stavros (previous trips to Cuba—British and Greek)	5,333
Moroccan (4 ships)	32,746
Atlas	10,392
Marrakech	3,214
Mauritanie	10,392
Toubkal	8,748
Netherlands (2 ships)	999
Meike	500
Tempo	499
Pakistani (2 ships)	15,762
**Haringhata (trip to Cuba under ex-name Ardpatrick—British)	7,054
**Maulabaksh (trip to Cuba under ex-name Phoenician Dawn and East Breese—British)	8,708
South African (2 ships)	14,527
**Ingrid Anne (trip to Cuba under ex-name Maria Theresa—Greek)	7,345
**Wendy H. (trip to Cuba under ex-name Mastro-Stelios II—Greek)	7,282
Guinean (1 ship)	852
**Drame Oumar (trip to Cuba under ex-name Neve—French)	852
Somali (1 ship)	7,201
*Aragon	7,201

SEC. 2. In accordance with approved procedures, the vessels listed below which called at Cuba after January 1, 1963, have reacquired eligibility to carry U.S. Government-financed cargoes from the United States by virtue of the persons who control the vessels having given satisfactory certification and assurance:

(a) That such vessels will not, thenceforth, be employed in the Cuba trade so long as it remains the policy of the U.S. Government to discourage such trade; and

(b) That no other vessel under their control will thenceforth be employed in the Cuba trade, except as provided in paragraph (c); and

(c) That vessels under their control which are covered by contractual obligations, including charters, entered into prior to December 16, 1963, requiring their employment in the Cuba trade shall be withdrawn from such trade at the earliest opportunity consistent with such contractual obligations.

Flag of Registry / Name of Ship	Number of ships
a. Since Last Report: None.	
b. Previous Reports:	
Flag of Registry (total)	105
British	41
Cypriot	2
Danish	1
Finnish	2
French	1
German (West)	1
Greek	27
Israeli	1
Italian	5
Japanese	1
Kuwaiti	1
Lebanese	9
Norwegian	5
Spanish	6
Swedish	1
Yugoslav	1

SEC. 3. The following number of vessels have been removed from this list, since they have been broken up, sunk, etc.

Flag of Registry:	Broken up, sunk or wrecked
British	9
Cypriot	6
French	1
Greek	10
Italian	3
Lebanese	20
Maltese	1
Monaco	1
Moroccan	1
Norwegian	1
Swedish	1
Yugoslav	4
Total	58

SEC. 4. The ships listed in sections 1 and 2 have made the following number of trips to Cuba since January 1, 1963, based on information received through November 1, 1967.

Flag of registry	Number of trips									
	1963	1964	1965	1966	1967					Total
					Jan.–June	July	Aug.	Sept.	Oct.	
British	138	160	126	101	44	6	2	3	6	601
Lebanese	64	91	58	25	9	1	2	1		251
Greek	90	27	23	27	19	2	1	1	1	200
Italian	16	20	24	11	6	1	1	2	1	82
Cypriot		1	17	27	17	7	3	4	4	80
Yugoslav	12	11	15	10	6	1	1	2		58
French	8	9	9	10	1		4	1		42
Finnish	1	4	5	11	6	1	2	1		31
Spanish	3	17								25
Norwegian	14	10								24
Moroccan	9	13	1							23
Maltese		2	6	1	3					12
Netherlands		4	2							6
Swedish	3	3								6
Kuwaiti		2	1							3
Israeli			2							2
Danish	1									1
German (West)	1									1
Haitian			1							1
Japanese	1									1
Monaco				1						1
Somali								1		1
Subtotal	370	394	290	224	111	19	16	16	12	1,452
Polish	18	16	12	10	5	2		1		64
Grant total	388	410	302	234	116	21	16	17	12	1,516

NOTE: Trip totals in this section exceed ship totals in secs. 1 and 2 because some of the ships made more than 1 trip to Cuba. Monthly totals subject to revision as additional data become available.

*Added to Report No. 33, appearing in the FEDERAL REGISTER issue of Sept. 12, 1967.

**Ships appearing on the list which have made no trips to Cuba under the present registry.

Dated: November 8, 1967.

By order of the Acting Maritime Administrator.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 67-13409; Filed, Nov. 14, 1967; 8:48 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

AMERICAN CYANAMID CO.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 8B2232) has been filed by American Cyanamid Co., Wayne, N.J. 07470, proposing an amendment to § 121.2526 *Components of paper and paperboard in contact with aqueous and fatty foods* to provide for the safe use of 2-hydroxy-4-n-octoxybenzophenone as an adjuvant in petroleum wax used as a component of paper and paperboard for use in contact with aqueous and fatty foods.

Dated: November 7, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-13412; Filed, Nov. 14, 1967; 8:48 a.m.]

CELANESE PLASTICS CO.

Notice of Filing of Petition for Food Additives

Pursuant to the provision of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a portion (FAP 8B2233) has been filed by Celanese Plastics Co., Division of Celanese Corp., 160 Terminal Avenue, Clark, N.J. 07066, proposing an amendment to § 121.2511 *Plasticizers in polymeric substances* to provide for the safe use of 2,2,4-trimethylpentane-1,3-diisobutyrate as a plasticizer in cellulosic food-contact articles.

Dated: November 7, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-13413; Filed, Nov. 14, 1967; 8:48 a.m.]

S. C. JOHNSON AND SON, INC.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 8B2236) has been filed by S. C. Johnson and Son, Inc., Racine, Wis. 53401, proposing an amendment to § 121.2520 *Adhesives* to provide for the safe use of dipentaerythritol pentastearate as a component of food-packaging adhesives.

Dated: November 7, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-13414; Filed, Nov. 14, 1967; 8:48 a.m.]

MONSANTO CO.

Notice of Filing of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 8F0654) has been filed by the Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166, proposing the establishment of a tolerance of 0.5 part per million for residues of the herbicide trichlorobenzyl chloride in or on the raw agricultural commodity corn (field, sweet, and popcorn).

The analytical methods proposed for determining residues of the herbicide are: (1) A colorimetric technique consisting of reaction of the extracted herbicide first with dilute alkali and pyridine, then with acetic acid and benzidine to produce a colored complex, the absorbance of which is measured at 515 millimicrons; and (2) a chlorine determination which involves reaction of the extracted residue with sodium biphenyl, destruction of excess reagent, acidification, and potentiometric titration with silver nitrate.

Dated: November 6, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-13415; Filed, Nov. 14, 1967; 8:48 a.m.]

ROHM AND HAAS CO.

Notice of Withdrawal of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), the following notice is issued:

In accordance with § 120.8 *Withdrawal of petitions without prejudice* of the pesticide regulations (21 CFR 120.8), Rohm and Haas Co., Independence Mall West, Philadelphia, Pa. 19105, has withdrawn its petition (PP 7F0609), notice of which was published in the FEDERAL REGISTER of June 20, 1967 (32 F.R. 8776), proposing the establishment of a tolerance of 7 parts per million for residues of a fungicide that is a coordination product of zinc ion and maneb (manganous ethylenebisdithiocarbamate) containing 20 percent manganese, 2.5 percent zinc, and 77.5 percent ethylenebisdithiocarbamate (the whole product calculated as zinc ethylenebisdithiocarbamate) in or on the raw agricultural commodities citrus fruits.

Dated: November 7, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-13416; Filed, Nov. 14, 1967; 8:48 a.m.]

Office of the Secretary

STATEMENT OF ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

Part 10 (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (32 F.R. 10908-9) is hereby amended as follows:

In section 10-B Organization and Functions, the statement for the Bureau of Medicine has been revised as follows:

Bureau of Medicine. Develops medical policy of the Food and Drug Administration with respect to efficacy and safety for man of drugs and devices. Establishes medical policy and furnishes the Commissioner with medical evaluation of substances found, or proposed for use, in foods, drugs, cosmetics, and hazardous household substances. Coordinates and evaluates New Drug Applications and claims for investigational drugs. Operates an adverse drug reaction reporting program. Conducts through contract, a program of clinical studies of drugs and devices. Coordinates medical aspects of FDA's inspectional and investigational programs, new drug hearings, and court cases. Determines those drugs having a potential for abuse; develops recommendations and explanatory data for review by committee established to advise the Commissioner in this area of responsibility. Analyses data on drugs subject to abuse and makes appropriate recommendations for action by FDA. In response to Bureau of Drug Abuse Control requirements, conducts and contracts for studies on the medical aspects of drug abuse control.

Office of Marketed Drugs. Evaluates the safety and efficacy data and proposed labeling in supplements to new drug applications and makes appropriate recommendations to the Bureau Director with respect to approval. Makes decisions on the completeness of supplements. Conducts continuing surveillance and medical evaluation of the labeling, clinical experience, and reports submitted by an applicant under the records and reports requirements, of all drugs for which a new drug approval is in effect. Determines whether there is a need for revised labeling and requests submission from the manufacturer. Makes medical recommendations concerning withdrawal of approval of the new drug application. Consults with medical experts to ascertain the consensus of informed medical opinion regarding individual or classes of drugs. Reviews inspection and other findings designed to reveal whether new drugs are being marketed in accordance with commitments contained in new drug applications.

Division of Cardiopulmonary-Renal Drug Surveillance. Performs all of the functions outlined in the overall functions for the Office of Marketed Drugs with regard to drugs that will be classified cardiopulmonary-renal drugs.

Division of Metabolic-Endocrine Drug Surveillance. Performs all of the functions outlined in the overall functions for the Office of Marketed Drugs with regard to drugs that will be classified metabolic, endocrine and anti-infective drugs.

Division of Neuropharmacological Drug Surveillance. Performs all of the functions outlined in the overall functions for the Office of Marketed Drugs with regard to drugs that will be classified neuropharmacologic drugs.

Division of Surgical-Dental Drug Surveillance. Performs all of the functions

outlined in the overall functions for the Office of Marketed Drugs with regard to drugs that will be classified surgical adjuncts, dental, oncology, and radiopharmaceutical drugs.

Office of Medical Review. Provides expert medical guidance to Agency and Department officials in preparation and presentation of Administrative Hearings and Court Cases, on proposed regulatory actions. Provides the Post Office Department with technical reviews, opinions, testimony, and medical guidance necessary for preparing and presenting medical fraud cases. Reviews from a medical standpoint field reports, consumer reports, adverse reaction reports and labeling for OTC drugs, therapeutic devices, clinical devices, cosmetics, special dietary foods, food additives, foods and hazardous substances, and recommends actions to correct potential danger to health violations, false claims, inadequate directions for use, and inadequate warning and cautionary information. Develops "in-house" and industry labeling standards for nonprescription and "not new" prescription drugs. Maintains surveillance of drugs marketed without a New Drug Application.

Division of Case Review. Reviews medical content of proposed legal actions, excluding those regarding medical advertising and hazardous substances, on drugs, cosmetics and foods involving medical issues. Recommends field investigations of nonprescription and "not new" prescription drug problems and when indicated, assists the field in making these investigations. Directs, designs, and monitors FDA sponsored clinical studies to obtain the medical and other scientific facts necessary for final determination of medical policy and to support regulatory action on violative drugs, cosmetics and special dietary foods with medical implications. Collaborates with Bureau of Regulatory Compliance, Office of General Counsel and the District Offices to develop medical evidence, procure expert medical witnesses and provide medical support in Administrative Hearings and Court Cases, including preparing and answering interrogatories, depositions, and attends courts with Government attorneys to advise on direct and cross-examination of witnesses. Provides medical guidance, background, and opinion for FEDERAL REGISTER statements, policy, legislation, regulations, press releases, films, exhibits, speeches, publications, compliance seminars and conferences, responses to industry and consumer inquiries pertaining to nonprescription drugs, "not new" prescription drugs, and medical aspects of special dietary foods, cosmetics and food additives. Researches precedent policy, medical literature, and current medical opinion, and prepares proposed "in-house" and industry standards for nonprescription and "not new" prescription drugs.

Division of Clinical Devices. Serves as the principal advisor to the Director, Office of Medical Support and the Bureau Director in the field of clinical devices. Reviews new and marketed clinical devices intended for use in hospitals, clinics, and physicians' offices to determine those that should (1) be exempt from any controls, (2) be subject to manufacturing standards and (3) be reviewed to determine safety and efficacy prior to marketing. Develops standards for the manufacture of clinical devices to insure safety, reliability, and effectiveness. Develops systems, in cooperation with the Division of Data Processing to computerize standards, manufacturing, and statistical data on all clinical devices. Collects and evaluates data on significant hazards to the public health caused by use of clinical devices and proposes necessary laws and regulations to protect the public.

Division of Hazardous Substances. Provides medical guidance in developing warning and first aid statements for hazardous household chemicals. Collects and evaluates human injury and toxicological data on household products in order to alert the Agency to hazards of hitherto unsuspected household products and special hazards of known hazardous household products. Consults with outside experts to develop Bureau position on medical aspects of the Hazardous Substances Act. Advises administrative and legal officers on medical feasibility of recommended regulatory action involving hazardous substances. Collaborates with Bureau of Regulatory Compliance, General Counsel, and the District Offices to develop medical evidence, procure expert medical witnesses and provide medical support in Administrative Hearings and Court Cases. Develops programs for solving problems on a group basis rather than individual product basis. Provides medical guidance for Federal Register statements, policy, legislation, regulations, press releases, films, exhibits, speeches, publications, compliance seminars and conferences, responses to industry and consumer inquiries pertaining to hazardous household substances. Evaluates medical significance of animal laboratory data with clinical experience data.

Division of Medical Devices. Designs, directs, and monitors investigations and physical testing of marketed therapeutic devices to obtain scientific and medical facts necessary to support medical policy for regulatory action on violative devices. Reviews medical content of proposed legal actions on marketed therapeutic devices. Recommends field investigations of marketed therapeutic devices and, when indicated, assists the field in making these investigations. Collaborates with Bureau of Regulatory Compliance, Office of General Counsel and the District Offices to develop medical evidence, procure expert medical witnesses and provide medical support in Administrative Hearings and Court Cases, including preparing and answering interrogatories, depositions, and sitting with Government attorneys in Court Cases to advise on direct and cross-examination of medical and scientific witnesses. Provides medical and scientific guidance, background, and opinion for Federal Register statements, policy, legislation, regulations, press releases, films, exhibits, speeches, publications, compliance seminars and conferences, responses to industry, and consumer inquiries on therapeutic devices.

Office of Medical Support. Maintains a system to obtain and evaluate reports of adverse reactions from the use of drugs. Monitors and evaluates professional journal advertising, promotional and related labeling to determine whether claims are false and misleading; and provides medical support for related regulatory actions. Coordinates and monitors the review of the professional performance of research contracts. Conducts reviews of scientific investigators and clinical investigations in the IND and NDA areas. Provides medical literature services to the Bureaus and Staff Offices of the Food and Drug Administration. Provides supporting statistical services and drug indexing services for Bureau activities.

Division of Drug Experience. Develops methods, procedures and systems to collect and evaluate adverse drug experiences. Develops anud tests operational systems for the comprehensive processing of adverse reaction information. Coordinates the input of medical information for the automated information system in the field of drug experience. Serves as the Bureau's contact with the NLM, FMA, AMA, pharmaceutical firms, and other Government agencies on adverse drug experience matters. Conducts continuous review and revision of the dictionaries (nomenclatures and classifications) used in the computer system. Disseminates a semimonthly Alert Report to achieve a valid and meaningful "Early Warning System". Develops information "feed-back" to Bureau users and appropriate extramural sources of drug experience data. Monitors the performance of the currently contracted non-Federal reporting hospitals and maintains liaison with all Federal reporting hospitals. Actively participates in the design of Bureau of Medicine research contracts providing adverse drug experience data. Monitors the Food and Drug Administration medical participation in World Health Organization's program to implement an international drug monitoring system. Develops plans for hospitals participating in the Adverse Drug Experience Reporting System.

Division of Medical Advertising. Carries out the responsibility of the Bureau in providing medical evaluations of prescription drug advertisements, promotional and related labeling. Acquires, monitors and evaluates drug promotional material, enlisting the aid of medical specialists in the Offices of Marketed Drugs. Medical Review and New Drugs as required. Formulates expert medical opinion which is used as a basis for regulatory actions to deal with false or misleading promotions or those otherwise inconsistent with the provisions of the Act and regulations. Cooperates and collaborates with other agency Offices and Bureaus such as Bureau of Regulatory Compliance and the District Offices in

furnishing support in regulatory proceedings involving promotional advertising. Represents the Bureau in meetings with industrial, academic and other representatives from outside the agency as required. Collaborates directly with Offices of Marketed Drugs, Medical Support and New Drugs in matters relating to medical advertisement.

Division of Research and Liaison. Reviews the professional performance of research contracts through Project Officers appointed to monitor progress reports on specific research contracts. Prepares consolidated reports for use by the Director of the Bureau. Arranges for consultants, scientific committees, panels and executive secretaries for committees; coordinates services of Bureau of Medicine regularly employed consultants, who maintain offices with the Bureau. Recommends the participation of Bureau personnel in professional meetings; develops the Bureau's professional career program. Provides medical literature services to the Bureaus and Staff Offices of the Food and Drug Administration. Provides leadership for the Bureau's Research Committee that determines need for and arranges for extramural clinical and scientific studies with universities or private organizations. Arranges schedules for and assists in orientation of distinguished visitors to the Bureau, such as foreign scientists or government administrators.

Division of Scientific Investigations. Conducts special, field, and record reviews of clinical investigators and investigations in the NDA and IND areas. Recommends appropriate actions to the Bureau Director on the basis of the review of investigators and investigations. Contacts clinical and academic sources to encourage standards for the conduct of clinical investigations. Coordinates with Bureau of Regulatory Compliance for appropriate followup on reviews of clinical investigators.

Division of Statistics. Provides biostatistical services in support of the operating and administrative programs of the Bureau. Abstracts, summarizes, codes, stores and retrieves medical, scientific and technical data contained in drug applications and other scientific reports received by the Bureau.

Office of New Drugs. Determines whether preclinical pharmacologic tests and other toxicological evaluations performed on new drug articles are adequate to support proposed clinical uses. Determines whether clinical trials of new drugs on man are soundly conceived and are supported by prior animal testing and other controls adequate to justify the test of man. Determines whether applications by manufacturers for permission to market new drugs for general use should be approved on the basis of an evaluation of the evidence of safety and effectiveness. Evaluates the truthfulness of claims for safety and effectiveness, and the adequacy of directions for uses, and warnings against misuses, appearing in proposed labeling; the adequacy of animal, clinical, and chemical tests performed on the new drug and the suitability of manufacturing and laboratory methods, facilities and controls exercised in factories producing new drugs. Interprets new drug regulations and takes appropriate action to implement these regulations as applicable to new drug activities.

Division of Anti-Infective Drugs. The Division of Anti-Infective Drugs performs all of the functions outlined in the overall functions for the Office of New Drugs with regard to drugs that will be classified anti-infective drugs.

Division of Cardiopulmonary and Renal Drugs. The Division of Cardiopulmonary and Renal Drugs performs all of the functions outlined in the overall functions for the Office of New Drugs with regard to drugs that will be classified cardiopulmonary renal drugs.

Division of Dental and Surgical Adjuncts. The Division of Dental and Surgical Adjuncts performs all of the functions outlined in the overall functions for the Office of New Drugs with regard to drugs that will be classified dental and surgical adjuncts.

Division of Metabolism and Endocrine Drugs. The Division of Metabolism and Endocrine Drugs performs all of the functions outlined in the overall functions for the Office of New Drugs with regard to drugs that will be classified metabolism and endocrine drugs.

Division of Neuropharmacological Drugs. The Division of Neurophamacological Drugs performs all of the functions outlined in the overall functions for the Office of New Drugs with regard to drugs that will be classified neuropharmacological drugs.

Division of Oncology and Radiopharmaceuticals. The Division of Oncology and Radiopharmaceuticals performs all of the functions outlined in the overall functions for the Office of New Drugs with regard to drugs that will be classified oncology and radiopharmaceutical drugs.

Dated: November 9, 1967.

DONALD F. SIMPSON,
Assistant Secretary for Administration.

[F.R. Doc. 67-13417; Filed, Nov. 14, 1967; 8:48 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANT SECRETARY AND DEPUTY ASSISTANT SECRETARY FOR RENEWAL AND HOUSING ASSISTANCE

Delegations of Authority Regarding Low-Rent Public Housing

The delegations of authority by the Secretary of Housing and Urban Development to the Assistant Secretary and Deputy Assistant Secretary for Renewal and Housing Assistance effective July 1, 1966 (31 F.R. 8967-8968, June 29, 1966), as amended effective August 19, 1966 (31 F.R. 11624, Sept. 2, 1966), are further amended in the following respects:

(a) Under section A, paragraph 5 is amended to read:

5. Power and authority

a. (i) To redelegate to Regional Administrators, Deputy Regional Administrators, and other Regional Office officials and employees any of the powers and authorities delegated in paragraph 1 of this section A, and (ii) to authorize further redelegations by Regional Administrators and by Deputy Regional Administrators to other Regional Office officials and employees of any of such powers and authorities redelegated to them.

b. To redelegate to Regional Administrators the power and authority delegated in paragraph 2 of this section A to approve the undertaking of any preliminary loan or any contract for a preliminary loan.

(b) In sections B and C, the word "subsections" is changed to "paragraphs".

(Sec. 7(d) of Department of HUD Act, 42 U.S.C. 3535(d))

Effective date. These amendments shall be effective as of November 15, 1967.

ROBERT C. WEAVER,
Secretary of Housing and Urban Development.

[F.R. Doc. 67-13403; Filed, Nov. 14, 1967; 8:47 a.m.]

DEPUTY ASSISTANT SECRETARY FOR HOUSING ASSISTANCE ET AL.

Redelegations of Authority Regarding Low-Rent Public Housing

The redelegations of authority by the Assistant Secretary for Renewal and Housing Assistance to the Deputy Assistant Secretary for Housing Assistance, the General Deputy and other officials in the Housing Assistance Administration, and Regional Administrators and Deputy Regional Administrators effective July 1, 1966 (31 F.R. 8968, June 29, 1966), as amended under section C thereof effective August 19, 1966 (31 F.R. 11624, Sept. 2, 1966), are further amended in the following respects:

(a) The following language immediately preceding section A is deleted: "Deputy Assistant Secretary for Housing Assistance and Other Officials in Housing Assistance Administration."

(b) Section D is added as follows:

SEC. D. Each Regional Administrator is hereby authorized to approve the undertaking of any preliminary loan or any contract for a preliminary loan.

(Secretary's delegations of authority to Assistant Secretary for Renewal and Housing Assistance, 31 F.R. 8967-8968, June 29, 1966, as amended at 31 F.R. 11624, Sept. 2, 1966, and 32 F.R., Nov. 15, 1967)

Effective date. These amendments shall be effective as of November 15, 1967.

DON HUMMEL,
Assistant Secretary for Renewal and Housing Assistance.

[F.R. Doc. 67-13404; Filed, Nov. 14, 1967; 8:47 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-170]

ARMED FORCES RADIOBIOLOGY RESEARCH INSTITUTE

Notice of Issuance of Facility License Amendment

The Commission has issued Amendment No. 12, effective as of the date of issuance and as set forth below, to Facility License No. R-84. The license authorizes Armed Forces Radiobiology Research Institute (AFRRI) to operate its TRIGA Mark F nuclear reactor located on the National Naval Medical Center site in Bethesda, Md.

The amendment authorizes AFRRI to install and use a hollow beam tube in the reactor pool in accordance with procedures described in its application for amendment dated July 17, 1967.

Within fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing, and any person whose interest may be affected by the issuance of this amendment may file a petition for leave to intervene. A request for a hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's rules of practice, 10 CFR, Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, a notice of hearing or an appropriate order will be issued.

For further details with respect to this license amendment, see (1) the application for amendment dated July 17, 1967, and, (2) the related Safety Evaluation prepared by the Division of Reactor Licensing, both of which are available for public inspection at the Commission's Public Document Room 1717 H Street NW., Washington, D.C. A copy of item (2) above may be obtained at the Commission's Public Document Room, or upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 6th day of November 1967.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[License No. R-84, Amdt. 12]

The Atomic Energy Commission (hereinafter "the Commission") having found that:

a. The application for license amendment dated July 17, 1967, complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter 1, CFR;

b. The issuance of this amendment and the licensee's engaging in the activities authorized thereunder will not be inimical to the common defense and security or to the health and safety of the public; and

c. Prior public notice of proposed issuance of this amendment is not required since the amendment does not involve significant hazard considerations different from those previously evaluated;

License No. R-84, as amended, issued to Armed Forces Radiobiology Research Institute, is hereby amended in the following respect:

1. In addition to the activities previously authorized by the Commission in License No. R-84, as amended, Armed Forces Radiobiology Research Institute is authorized to install and use a hollow beam tube in the reactor pool as described in its application for license amendment dated July 17, 1967.

This amendment is effective as of the date of issuance.

Date of issuance: November 6, 1967.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[F.R. Doc. 67-13373; Filed, Nov. 14, 1967; 8:45 a.m.]

[Docket No. PRM-30-39]

HONEYWELL, INC.

Notice of Filing of Petition for Rule Making

Notice is hereby given that Honeywell, Inc., by letter dated October 27, 1967, has filed with the Commission a petition for rule making to amend the Commission's regulations pertaining to the licensing of byproduct material.

The petitioner requests that the Commission amend its regulation "Rules of General Applicability to Licensing of Byproduct Material," 10 CFR Part 30, so as to exempt from licensing requirements products of combustion detectors, each containing not more than 1,000 microcuries of nickel 63 electrodeposited on a metal pin. The detector is a device designed to give a fire warning by detecting the presence of visible and invisible matter produced through combustion. The petition states that the detector for which an exemption from licensing requirements is requested is intended for installation in all buildings, public, commercial, and private residential.

A copy of the petition for rule making is available for public inspection in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

Dated at Germantown, Md., this eighth day of November 1967.

For the Atomic Energy Commission.

W. B. MCCOOL,
Secretary.

[F.R. Doc. 67-13374; Filed, Nov. 14, 1967; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 18882 etc.; Order E-26051]

CITY OF PALM SPRINGS AND AMERICAN AIRLINES, INC.

Order Granting Exemption and Setting Application for Hearing

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 9th day of November 1967.

Application of the city of Palm Springs, Docket No. 18882, for an exemption or show cause order enabling American Airlines, Inc., to serve Palm Springs, Calif.; Application of American Airlines, Inc., Docket No. 18925, for an exemption or show cause order enabling American Airlines, Inc., to serve Palm Springs, Calif.; Application of American Airlines, Inc., Docket No. 18924, under section 401 of the Federal Aviation Act of 1958, as amended.

On August 7, 1967, the city of Palm Springs, Calif., filed an application, Docket No. 18882, requesting that American Airlines, Inc., be given authority either by exemption or show cause order to serve Palm Springs on its Route 4 as an intermediate point between Phoenix and San Diego. On August 17, 1967, American filed an application, Docket No. 18925, requesting exemption authority or a show cause order enabling American to serve Palm Springs.[1]

In support of their applications, American and Palm Springs allege, in pertinent part, that Palm Springs is a leading winter resort which needs and can support single-plane service to Chicago and the east; that between 1960 and 1966 traffic at Palm Springs has increased by 152 percent; that much traffic from eastern points finds it necessary to travel to Los Angeles and backhaul to Palm Springs, with a resultant time and fare penalty; that American is prepared, given sufficient lead time, to provide through-plane service between Palm Springs and Chicago and New York this winter; that American proposes a single daily flight in each direction between Palm Springs and the east; that Chicago and New York rank among Palm Springs' 10 largest markets and are the only markets among Palm Springs' top 10 without one-carrier service; and that American's proposed Palm Springs service will have minimal impact on other carriers because Western and Bonanza, the carriers now serving Palm Springs, are minor participants in the traffic flows American will serve.

The Division of Aeronautics of the State of California and the Department of the Interior, Bureau of Indian Affairs, filed documents supporting the Palm Springs application. In addition, numerous letters were received supporting the application. Answers opposing the applications of Palm Springs and American were filed by Bonanza Air Lines, Inc., and Western Air Lines, Inc. Bonanza alleges, in pertinent part, that American would divert 76 percent of Bonanza's historic Palm Springs-Phoenix traffic and about 58 percent of its Palm Springs-Los Angeles passengers. Bonanza forecasts that American would divert close to $300,000 of Bonanza's

[1] On the same date, American filed an application, Docket No. 18924, requesting amendment of its certificate for Route 4 to add Palm Springs. In addition, American moved that its two applications be consolidated for decision with the application of the city of Palm Springs.

Palm Springs revenues if it operated two daily jet nonstop round trips. Western alleges, in pertinent part, that it has a certificate application on file, Docket No. 18878, in which it seeks unrestricted authority between Los Angeles/Long Beach and Chicago via Palm Springs, Denver, and Omaha, and that it should not be deprived of a chance to present its case for this authority at a hearing. Replies were filed by American and Palm Springs. American notes that United Air Lines, Inc., Trans World Airlines, Inc., and Continental Air Lines, Inc., the leading participants in Palm Springs traffic, other than American, do not oppose the applications, and that Western does not allege diversion. American states that it would be willing to serve Palm Springs, under the exemption sought for the coming season, subject to a restriction prohibiting the carriage of Phoenix-Palm Springs and Los Angeles-Palm Springs local traffic; according to American, this would eliminate 65 percent of the diversion claimed by Bonanza. Palm Springs challenges Bonanza's diversion estimates, contending in part that Bonanza's claim that American would divert 75 percent of its traffic in the Palm Springs market is unrealistic, since Bonanza would operate two round trips as opposed to one by American.

Upon consideration of the pleadings and all the relevant facts, we have decided to grant American a temporary exemption limited to the provision of one daily round trip and subject to certain restrictions as more fully detailed below. We find that award of such authority will benefit the traveling public and is in the public interest. No carrier has authority to provide service between Palm Springs and Chicago or points in the northeast. Other far west resorts, such as Phoenix and Tucson, have a variety of through-plane services in their primary midwestern and northeastern markets, yet most Palm Springs passengers from these areas now travel through Los Angeles, which involves not only a connection but a 108-mile backhaul. Although, as American points out, Chicago and New York are the only markets among Palm Springs' top 10 without one-carrier service, these cities exchanged 3,490 and 2,650 passengers, respectively, with Palm Springs in the first quarter of 1967. We think that single-plane service will stimulate these markets, and that it is clear that Palm Springs can support through-plane service to both Chicago and New York. To deny American this limited authority would serve only to inconvenience further those Palm Springs-east passengers who now connect at Los Angeles and backhaul to Palm Springs.

We also find that our award will not result in any meaningful diversion of revenues from any other carrier. Western has not alleged any diversion of revenues and we find that any diversion from Western would be minimal.[2] With respect to Bonanza, the restrictions we are imposing on the award to American will effectively insulate Bonanza from any meaningful diversion. Thus, we will restrict American from carrying local (true O&D) traffic in the Palm Springs-Phoenix, Palm Springs-Los Angeles, and Palm Springs-San Diego markets. In addition, we will limit American to the provision of one round trip, as the carrier has proposed; and we will require Palm Springs flights to originate or terminate at Chicago or New York in order to insure that American will concentrate on the services which it proposes. With these restrictions, we find that American's estimate of approximately $14,000 diversion from Bonanza is reasonable, and we find that the benefits to the traveling public from the award to American outweigh this small diversion from Bonanza.

The exemption granted herein is of temporary duration,[3] is limited to one daily round trip, and is subject to the additional restrictions described above. American will be able to serve Palm Springs with virtually no circuity on flights presently operated between Los Angeles and Phoenix. The cost of a certificate proceeding to acquire this limited authority (as opposed to the broader authority sought by American in its application in Docket No. 18924) would be disproportionate to the modest increase in net revenues American can hope to achieve through provision of this limited service, and the time required to complete such a proceeding would preclude provision of the service during the forthcoming winter tourist season and quite possibly the next season as well, thus inconveniencing the traveling public. Accordingly, we find that enforcement of section 401 of the Federal Aviation Act of 1958, as amended, and the terms, conditions, and limitations of American's certificate with respect to the service described above would be an undue burden on the carrier by reason of the limited extent of and unusual circumstances affecting its operations, and is not in the public interest.

The same public-interest considerations described above which lead us to grant American's exemption application also impel us to set for hearing American's related certificate application, Docket No. 18924, in a proceeding to be known as the American Airlines Palm Springs Service Case. We intend that the proceeding shall be strictly focused on the needs of Palm Springs for new or improved single-plane and single-carrier service to its major points of interest east of Phoenix. For this reason, and in order to avoid rehearing issues already being heard in the Salt Lake City-Las Vegas-Southern California Service Case, Docket No. 17376,[4] we will at a minimum impose a long-haul restriction requiring that flights serving Palm Springs under any authority granted herein shall originate or terminate at a point east of Phoenix or Salt Lake City. One of the issues of the proceeding will be what, if any, further restrictions are required in the public interest to prevent or minimize unwarranted diversion from the existing Palm Springs carriers, particularly Bonanza.[5] Furthermore, we do not intend to consolidate applications seeking new or improved traffic rights in markets other than Palm Springs markets. To illustrate, although the grant of American's application would permit it to provide a New York-Chicago-Palm Springs-Los Angeles service, we will not on that account entertain in this proceeding applications for authority to serve the New York-Los Angeles or Chicago-Los Angeles markets, even via Palm Springs, on the part of carriers not now certificated in those markets; nor will we consider the removal or modification of certificate restrictions on carriers already serving those markets in a manner which would improve their authority therein. We consider this restriction indispensable in order to keep the case focused on Palm Springs' needs, and to avoid having the proceeding balloon into a major transcontinental route case. As we have said many times, each applicant carrier goes into each new route proceeding with whatever advantages or disadvantages inhere in its existing route structure and restrictions, and we cannot undertake to tailor the scope of the proceeding so as to equalize these advantages and disadvantages.

Accordingly, it is ordered, That:

1. American Airlines, Inc., be and it hereby is temporarily exempted from the provisions of section 401 of the Act, and

[2] We find that Western's contention, that American's exemption application should be denied because Western has a certificate application on file, is without merit. Western has made no showing that this limited award to American will in any manner prejudice Western's much broader certificate application, and we find that there would be none. In any event, we will of course adhere to our customary rule that services under an interim exemption are not a decisional factor in selecting a carrier for permanent certificated authority in the proceeding we are instituting.

[3] It will expire upon the conclusion of the certificate proceeding we are instituting.

[4] The issues in that case include (a) new authority between Palm Springs and San Diego, Las Vegas, and Salt Lake City, and (b) improved authority for Bonanza between Palm Springs and Los Angeles.

[5] In view of the probability that Palm Springs can feasibility receive service to its eastern points of interest only as an intermediate point on long-haul flights originating or terminating at Los Angeles or San Diego and possibly serving other intermediate points (such as Phoenix) as well, we consider it would be premature to exclude from the case any possibility of allowing traffic rights between Palm Springs and Los Angeles, San Diego, Phoenix, or similar points on such flights. The parties are nevertheless at liberty to show why such traffic rights should not be granted.

the terms, conditions, and limitations of its certificate of public convenience and necessity for Route 4, until 60 days after final Board action on American's certificate application in Docket No. 18924, to the extent that they would otherwise prevent American from serving Palm Springs on one daily round trip as an intermediate point on Route 4 between Phoenix and San Diego, subject to the following restrictions: (a) American shall not carry local O&D traffic between Palm Springs, on the one hand, and Los Angeles, San Diego, and Phoenix, on the other hand; and (b) All flights serving Palm Springs shall originate or terminate at Chicago or New York;

2. Paragraph 1 of this order may be amended or revoked at any time in the discretion of the Board without hearing;

3. Except to the extent granted herein, the applications of Palm Springs, Docket No. 18882, and American, Docket No. 18925, and the motion of American for consolidation, be and they are hereby denied;

4. The application of American Airlines, Inc., for amendment of its certificate of public convenience and necessity for Route 4, Docket No. 18924, be and it hereby is set for hearing, in a proceeding to be known as the American Airlines Palm Springs Service Case before an examiner of the Board at a time and place to be hereafter designated;

5. Any services operated pursuant to an award in this proceeding shall be subject, at a minimum, to a restriction requiring that flights serving Palm Springs shall originate or terminate at a point east of Phoenix or Salt Lake City;

6. Further applications, motions to consolidate, petitions for reconsideration or modification of this order, and petitions for leave to intervene shall be filed within 20 days from the service date of this order, and answers to such pleadings shall be filed within 10 days thereafter;

7. A copy of this order shall be served upon American Airlines, Inc., Bonanza Air Lines, Inc., and Western Air Lines, Inc., who are hereby made parties to the proceeding, as well as on the city of Palm Springs, Calif., the Division of Aeronautics of the State of California, and the U.S. Department of the Interior, Bureau of Indian Affairs.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[*]

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-13405; Filed, Nov. 14, 1967; 8:47 a.m.]

[Docket No. 10920; Order E-25856]

NONPRIORITY MAIL RATE CASE

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 9th day of November 1967.

On September 29, 1967, the Postmaster General petitioned the Board to amend Order E-17255, July 31, 1961, as amended by Order E-24247, September 30, 1966, to include Wake Island as an offshore point and permit service between Wake Island and points within the 48 contiguous States at the existing multielement rate for the transportation by air of nonpriority, first-class mail on a voluntary, space-available basis. No objections have been filed to the inclusion of Wake Island as an offshore point for this purpose.

In support of its petition the Postmaster General alleges that analysis of the ship reports of dispatch of mail during the 3 months of April, May, and June 1967 revealed the infrequency of service and the minimal volume of mail involved.[1] He further states that there are now 14 flights a week between San Francisco and Wake Island, via Honolulu. In view of the number of flights available, and the small volume of mail to be transported, he asserts that sufficient capacity exists to accommodate the anticipated volume of mail. The Postmaster General also alleges that the authority to move first-class mail by air will expedite the movement of mail, improve service to the public and increase flexibility in the transportation and handling of mail by the Department. Further, he states that the present multielement rate represents fair and reasonable compensation for the transportation set forth above, the facilities used and useful therefor and the services connected therewith.

Sailing date	Dispatched by	First-class mail weight (lbs.)
4/14	Honolulu	25
4/29	do	22
5/12	San Francisco	192
5/12	Honolulu	26
5/20	do	16
5/29	do	18
6/13	San Francisco	125
6/20	Honolulu	22
6/26	do	12

In view of the representations of the Postmaster General, and the failure of any person to object to the inclusion of Wake Island as an offshore point, it has been concluded that the Board should propose amendment of nonpriority mail rate, Order E-17255, July 31, 1961 (34 CAB 143), so as to extend the application of the existing multielement rate for nonpriority mail to services between the 48 contiguous states and Wake Island and between Honolulu and Wake Island.[2]

It will also propose to classify Wake Island as a Class D station under the existing station classification criteria of Order E-25789.

In view of the foregoing, the Board has tentatively found and concluded that:

(1) Paragraph B of Order E-17255, July 31, 1961, should be amended as follows:

B. The rates fixed and determined herein shall be applicable only to the transportation by air of nonpriority mail, i.e. such first-class mail, other than air mail and air parcel post, which may be tendered from time to time by the Post Office Department and carried on a voluntary, space-available basis, between any points within the 48 contiguous States and between any point within them and Agana, Anchorage, Cordova, Fairbanks, Honolulu, Juneau, Ketchikan, Kodiak, San Juan, Wake Island, or Yakutat and between Honolulu, Hawaii on the one hand, and Agana, Guam, and Wake Island on the other.

(2) Appendix 2 to Order E-25789, October 6, 1967, shall be amended to add Wake Island among the Class D stations there listed for nonpriority mail service only.

(3) There is presently in effect an open service mail rate for the transportation of nonpriority mail which was established by Order E-17255, as amended by Order E-24247.

(4) The fair and reasonable temporary rate of compensation to be paid for the transportation set forth above, the facilities used and useful therefor and the services connected therewith, is the service mail rate established by Order E-17255, as amended by Order E-24247.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204(a) and 406 thereof, and pursuant to the Regulations promulgated in 14 CFR, Part 302,

It is ordered, That:

1. All interested persons and particularly Airlift International, Inc., Alaska Airlines, Inc., Allegheny Airlines, Inc., American Airlines, Inc., Bonanza Air Lines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., The Flying Tiger Line, Inc., Frontier Airlines, Inc., Lake Central Airlines, Inc., Mohawk Airlines, Inc., National Airlines, Inc., North Central Airlines, Inc., Northeast Airlines, Inc., Northwest Airlines, Inc., Ozark Air Lines, Inc., Pacific Air Lines, Inc., Pan American World Airways, Inc., Piedmont Aviation, Inc., The Slick Corp., Southern Airways, Inc., Trans Caribbean Airways, Inc., Trans-Texas Airways, Inc., Trans World Airlines, Inc., United Air Lines, Inc., West Coast Airlines, Inc., Western Air Lines, Inc., and the Postmaster General are directed to show cause why the Board should not amend Orders E-17255, July 31, 1961, as amended by E-24247, September 30, 1966 and E-25789, October 6, 1967, as proposed above;

2. Further procedures herein shall be in accordance with 14 CFR, Part 302; and, if there is any objection to the rates or to the other findings and conclusions proposed herein, notice thereof shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after the date of service of this order;

3. If notice of objection is not filed within 10 days, or if notice is filed and if answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the temporary rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable rate herein shall be limited to those specifically raised by such answers except as otherwise provided in 14 CFR 302.307;

5. Notwithstanding the fixing and determining of the temporary rate as set forth above, this proceeding shall remain open as to such rates pending the entry of an order fixing the final rate in Docket No. 18381; and

6. This order shall be served upon the parties enumerated in paragraph 1 above.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-13406; Filed, Nov. 14, 1967; 8:47 a.m.]

[Docket No. 18586]

SERVICE TO ALBUQUERQUE CASE

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on December 12, 1967, at 10 a.m. e.s.t., in Room 726, Universal Building, 1825 Connecticut Avenue NW., D.C., before Examiner William J. Madden.

In order to facilitate the conduct of the conference, parties are instructed to submit to the examiner and other parties (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statements of positions of parties; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before November 27, 1967, and other parties on or before December 4, 1967.

Dated at Washington, D.C., November 8, 1967.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 67-13407; Filed, Nov. 14, 1967; 8:48 a.m.]

[*] Dissenting opinion of Member Adams filed as part of the original document.

[1] Tabulation by Post Office Department is as follows:

[2] Order E-17255 of July 31, 1961, (34 CAB 143) established service rates for the transportation by air of nonpriority mail consisting of a line haul charge of 15.085 cents per mail ton mile plus terminal charges which vary depending upon the classification of the stations involved. By Order E-24247, Sept. 30, 1966, the Board modified the line-haul charge for first-class mail. Terminal charges were not altered. Although these rates were opened by the Postmaster General's petition of Apr. 6, 1967 (Docket No. 18381), the carriers are currently being paid for the transportation of this class mail subject to such retroactive change as the Board may ultimately require in that Docket.

FEDERAL COMMUNICATIONS COMMISSION

[FCC 67-1226]

MORATORIUM ON FILING OF PLEADINGS IN CASES DESIGNATED FOR HEARING

Because of the removal of Commission offices from the New Post Office Building to the Commission's new headquarters at 20th and M Streets NW., a moratorium is hereby declared on the filing of all initial and responsive pleadings (e.g., all petitions, motions, proposed findings and conclusions, exceptions, applications for review, etc.) in cases designated for hearing.

The time for filing any pleading which would otherwise be due during the period of November 17, 1967, through November 30, 1967, is hereby extended for a period of 2 calendar weeks. This extension of time does not, of course, preclude any person from filing a pleading during that period if he chooses to do so.

Adopted: November 8, 1967.

Released: November 9, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13423; Filed, Nov. 14, 1967; 8:49 a.m.]

[Docket No. 17633; FCC 67M-1893]

CAPE FEAR BROADCASTING CO. (WFNC)

Order Scheduling Further Prehearing Conference

In re application of Cape Fear Broadcasting Co. (WFNC), Fayetteville, N.C., Docket No. 17633, File No. BP-17017, for construction permit.

It is ordered, That a further prehearing conference will be held in the above-entitled proceeding on November 17, 1967, at 9 a.m., in the offices of the Commission, Washington, D.C.

Issued: November 7, 1967.

Released: November 8, 1967.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13424; Filed, Nov. 14, 1967; 8:49 a.m.]

[Docket Nos. 17654, 17655; FCC 67M-1896]

TRI-STATE TELEVISION TRANSLATORS, INC., AND WELLERSBURG TV, INC.

Order Scheduling Further Prehearing Conference

In re Tri-State Television Translators, Inc., (W92AO, W94AQ, W95AI, W98AU, W12AO), Cumberland, Md., Docket No. 17654, petitions for issuance of order to show cause; Wellersburg TV, Inc., W97AL, W99AI, W13AP), Wellersburg, Pa., Docket No. 17655, order to show cause.

Upon the Examiner's own motion: *It is ordered*, That the hearing heretofore scheduled for November 21, 1967, is postponed to December 21, 1967, at 10 a.m., in Cumberland, Md., pending interim efforts by the parties to resolve the matters involved in this proceeding without the necessity for an evidentiary hearing;

It is further ordered, Pursuant to arrangement made at the further prehearing conference held on November 7, 1967, that a further prehearing conference will be held on November 21, 1967 at 9 a.m. in the offices of the Commission in Washington, D.C.

Issued: November 7, 1967.

Released: November 8, 1967.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13426; Filed, Nov. 14, 1967; 8:49 a.m.]

[Docket No. 17831; FCC 67M-1894]

STEPHEN A. WICHROWSKI, JR.

Order Scheduling Hearing

In the matter of Stephen A. Wichrowski, Jr., 370 Converse Street, Longmeadow, Mass. 01106, Docket No. 17831, suspension of Radiotelephone First-Class Operator license.

It is ordered, That Chester F. Naumowicz, Jr., shall serve as Presiding Officer in the above-entitled proceeding; and that the hearing therein shall be convened in Springfield, Mass., on January 17, 1968.

Issued: November 7, 1967.

Released: November 8, 1967.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13429; Filed, Nov. 14, 1967; 8:49 a.m.]

FEDERAL MARITIME COMMISSION

AB AUGUST LEFFLER & SON ET AL.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW.,

[1] Commissioner Bartley absent.

Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. George F. Galland, Galland, Kharasch, Calkins & Lippman, 1824 R Street NW., Washington, D.C. 20009.

Agreement No. 9670, between AB August Leffler & Son, Swedish American Line (SAL), and Swedish Transatlantic Line (TRANS), three Swedish corporations, has been filed for section 15 approval. The agreement recites that each of the parties is a common carrier by water in the trades between Europe and U.S. East Coast ports, that SAL and TRANS are parties to an approved joint service Agreement No. 8348 which will be canceled upon approval of Agreement No. 9670, and that the parties hereto will institute a jointly owned service.

The parties agree to form a corporation to be called initially Baltic American Line AB which will (1) charter vessels from the parties or on the open market and operate them between ports in the Scandinavia/Baltic range and U.S. East Coast ports; (2) file its own tariffs or participate in existing tariffs on file with the Commission, and (3) each hold one-third of the capital stock of the new corporation. The corporation so formed may subcharter the whole or any portion of the chartered vessels to any person in accordance with the terms and conditions set forth in the agreement.

Dated: November 9, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-13457; Filed, Nov. 14, 1967; 8:49 a.m.]

SUNLANE HYDROFOILS, INC., AND RODRIQUEZ CO.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Richard W. Kurrus, Attorney, Kurrus and Jacobi, 3000 K Street NW., Washington, D.C. 20008.

Agreement No. DC-32 filed with the Commission November 3, 1967, between Sunlane Hydrofoils, Inc., a wholly owned subsidiary of American Export Isbrandtsen Lines, Inc., and a U.S. Virgin Islands corporation (Rodriques) which is a wholly owned subsidiary of Cantiere Navale Leopoldo Rodriques, an Italian company proposes formation of a joint venture Golden Arrow Hydrofoil C. The joint venturers plan to operate a hydrofoil service between ports in Puerto Rico and ports in the U.S. Virgin Islands for the carriage of passengers and their baggage.

Agreement No. DC-32 provides (1) the principal place of business of Golden Arrow Hydrofoil Co. shall be St. Thomas, U.S. Virgin Islands; (2) Golden Arrow Hydrofoil Co. shall enter a time charter party agreement of about 5 months with Societa Navigazione Alta Velocita (a related company of Rodriques) for the chartering of a hydrofoil vessel; (3) Sunlane Hydrofoils, Inc., and Rodriques shall each own 50 percent of Golden Arrow Hydrofoil Co. and will share equally in profits and losses and each will contribute $50,000 to the working capital requirements of the joint venture; (4) the management of Golden Arrow Hydrofoil Co. shall be in a Management Committee of two persons, one named by Sunlane Hydrofoils, Inc., and the other by Rodriques. They in turn shall appoint a General Manager who shall exercise general supervision over the business and serve at the will of the Management Committee; (5) Golden Arrow Hydrofoil Co. may open bank accounts in its own name and wherever convenient. The books of account of the joint venture shall be kept separately and shall be available for inspection by either Sunlane Hydrofoils, Inc., or Rodriques at any reasonable time; (6) matters which cannot be solved by either the Management Committee or the presidents of Sunlane Hydrofoils, Inc., and Rodriques because of deadlock will be submitted to arbitration and the award will be binding on both parties; (7) neither party can bind the other except through action of the Management Committee and then only during the duration of the time charter; (8) no interest of either joint venturer is assignable without the written consent of the other party and; (9) if the operation shows a loss for the first 2 months either party, within 30 days, may notify Societa Navigazione Alta Velocita on behalf of Golden Arrow Hydrofoil Co. terminating the time charter. Thereafter the time charter may be canceled only by the Management Committee.

Dated: November 9, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-13458; Filed, Nov. 14, 1967; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP68-143]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Notice of Application

NOVEMBER 8, 1967.

Take notice that on October 30, 1967, Kansas-Nebraska Natural Gas Co., Inc. (Applicant), Hastings, Nebr. 68901, filed in Docket No. CP68-143 a "budget-type" application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the regulations under the Act for a certificate of public convenience and necessity authorizing the construction and operation of various gas-purchase facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to construct during the calendar year 1968 and operate various and routine facilities to enable it to take into its transmission system natural gas produced from new sources in areas adjacent to its present pipeline system as such natural gas becomes available.

The total estimated cost of the proposed facilities is $1 million, which cost will be met out of current working capital. The cost of any single facility will not exceed $200,000.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (§ 157.10) on or before December 1, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13378; Filed, Nov. 14, 1967; 8:45 a.m.]

[Docket No. CP68-57]

NORTHERN NATURAL GAS CO.

Notice of Amendment to Application

NOVEMBER 8, 1967.

Take notice that on September 15, 1967, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed an amendment to its application filed August 21, 1967, in Docket No. CP68-57 by requesting authorization to make increased deliveries to certain of its resale and industrial customers and to construct and operate certain natural gas facilities for the transportation and sale of natural gas in interstate commerce, all as more fully set forth in the amendment-to-application which is on file with the Commission and open to public inspection.

By the application of August 21, 1967, Applicant sought to increase its system capacity by 28,180 Mcf of natural gas per day of which 10,000 Mcf was requested for unallocated capacity.

Two of Applicant's resale customers, Iowa Public Service Co., and the city of Hutchinson, Minn., have requested an increase in gas sold and delivered to them of 4,000 Mcf per day and 250 Mcf per day, respectively, for resale to certain of their industrial customers. Applicant requests authorization to meet these requests out of the 10,000 Mcf unallocated capacity hereinbefore described.

In the application of August 21, 1967, Applicant requested authorization to sell 75 Mcf per day of firm gas to Schuyler Packing Co. near Schuyler, Nebr., but did nit request authorization to construct and operate measuring facilities to effectuate this direct industrial sale. The total estimated cost of the proposed facilities is $4,495.

Applicant further states that, since filing the original application in this docket, its Peoples Division has requested 350 Mcf of firm gas per day for Hormel Packing Co. located at Austin, Minn., which service Peoples Division proposes to provide from its existing contract demand.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules and practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 1, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application, as amended, if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13379; Filed, Nov. 14, 1967; 8:45 a.m.]

FEDERAL RESERVE SYSTEM

BANCSTOCK CORPORATION OF AMERICA

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made to the Board of Governors of the Federal Reserve System pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)), by Bancstock Corporation of America, which is a bank holding company located in Riviera Beach, Fla., for the prior approval of the Board of the acquisition by Applicant of 11,337 (51.53 percent) of the voting shares of First Commercial Bank of Live Oak, Live Oak, Fla.

Section 3(c) of the Act provides that the Board shall not approve (1) any acquisition or merger or consolidation under this section which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or (2) any other proposed acquisition or merger or consolidation under this section whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

Dated at Washington, D.C., this 7th day of November 1967.

By order of the Board of Governors.

[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 67-13380; Filed, Nov. 14, 1967; 8:45 a.m.]

RAILROAD RETIREMENT BOARD

PROCLAMATION REGARDING RAILROAD UNEMPLOYMENT INSURANCE ACCOUNT

Pursuant to section 8(a) of the Railroad Unmployment Insurance Act, as amended, the Railroad Retirement Board had determined, and hereby proclaims, that as of the close of business on September 30, 1967, there was a deficit of $164,788,410.16 in the railroad unemployment insurance account. The underlying figures relating to the computation of this deficit follow:

Unexpended amount in the railroad unemployment insurance account	$3,060,092.87	
Deduct:		
Amounts borrowed from the Railroad Retirement Account which have not been repaid	−172,782,000.00	
Accrued interest on such borrowed amounts	−1,821,971.94	
Deficit in railroad unemployment insurance account proper		171,514,879.57 (D)
Add:		
Balance in railroad unemployment insurance administration fund	+6,726,469.41	
Deficit in railroad unemployment insurance account	$164,788,410.16	(D)

In witness whereof the members of the Railroad Retirement Board have hereunto set their hands and caused its seal to be affixed.

Done at Chicago, Ill., this 6th day of November 1967.

HOWARD W. HABERMEYER,
Chairman.
THOMAS M. HEALY,
Member.
A. E. LYON,
Member.

By the Railroad Retirement Board:

LAWRENCE GARLAND,
Secretary of the Board.

[F.R. Doc. 67-13386; Filed, Nov. 14, 1967; 8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-3421]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

NOVEMBER 8, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 9, 1967, through November 18, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13388; Filed, Nov. 14, 1967; 8:46 a.m.]

[812-2195]

MASSACHUSETTS INVESTORS TRUST

Notice of Filing of Application for Order Exempting Sale

NOVEMBER 8, 1967.

Notice is hereby given that Massachusetts Investors Trust ("Applicant"), 200 Berkeley Street, Boston, Mass., a Massachusetts common law trust registered under the Investment Company Act of 1940, 15 U.S.C. section 80a-1, et seq. ("Act"), as an open-end diversified investment company, has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission exempting from the provisions of section 22(d) of the Act a transaction in which Applicant's redeemable securities will be issued at a price other than the current public offering price described in the prospectus in exchange for the assets of Nela Alpha Investing Co. ("Nela Alpha"). All interested persons are referred to the application on file with the Commission for a statement of Applicant's representations which are summarized below.

Nela Alpha, a Maine corporation, is a personal holding company all of whose outstanding common stock is held by eight individuals and 12 trusts. Its outstanding preferred stock is held by 33 individuals, seven trusts, and three estates. It is excepted from the Act by reason of the provisions of section 3(c)(1) thereof. Pursuant to an agreement between Applicant and Nela Alpha substantially all of the cash and securities owned by Nela Alpha, with a value of approximately $6,375,297 as of June 30, 1967, will be transferred to Applicant in exchange for shares of beneficial interest in Applicant.

The number of shares of beneficial interest to Applicant to be issued to Nela Alpha is to be determined by dividing the aggregate market value (with certain adjustments set forth in the application) of the assets of Nela Alpha to be transfered to Applicant, by the net asset value per share of Applicant, both to be determined as of the valuation time, as defined in the agreement. If the valuation under the agreement had taken place on June 30, 1967, Nela Alpha would have received 385,214 of Applicant's shares. The exchange contemplated by the agreement would be prohibited by section 22(d) as being a sale of a redeemable security by a registered investment company at a price other than a current offering price described in the prospectus, unless exempted by an order under section 6(c) of the Act.

When received by Nela Alpha, the shares of Applicant are to be distributed to the stockholders of Nela Alpha on the liquidation of Nela Alpha. Applicant has been advised by the management of Nela Alpha that the stockholders of Nela Alpha do not have any present intention of redeeming or otherwise transferring the shares of Applicant to be received on such liquidation.

There is no connection between Applicant and Nela Alpha and no officer or shareholder of Nela Alpha is an affiliated person of Applicant. The agreement was negotiated at arm's length by the two companies. The management of Applicant approved the agreement as being beneficial to its shareholders, taking all relevant considerations into account including, among others, the fact that the resulting increase in assets will tend to reduce per share expenses.

Section 6(c) of the Act provides, among other things, that the Commission, by order upon application, may conditionally or unconditionally exempt any transaction from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 29, 1967, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant, at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13389; Filed, Nov. 14, 1967; 8:46 a.m.]

[File No. 0-502]

PAKCO COMPANIES, INC.

Order Suspending Trading

NOVEMBER 8, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Pakco Companies, Inc., and all other securities of Pakco Companies, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 9, 1967, through November 18, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13390; Filed, Nov. 14, 1967; 8:46 a.m.]

[File No. 1-4371]

WESTEC CORP.

Order Suspending Trading

NOVEMBER 8, 1967.

The common stock, 10 cents par value, of Westec Corp., being listed and registered on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Westec Corp., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the American Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 9, 1967, through November 18, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13391; Filed, Nov. 14, 1967; 8:46 a.m.]

TARIFF COMMISSION

[APTA-W-19]

BORG-WARNER CORP., DETROIT, MICH.

Workers' Petition for Determination of Eligibility To Apply for Adjustment Assistance; Notice of Investigation

Upon receipt on November 7, 1967, of a request therefor from the Automotive Agreement Adjustment Assistance Board, the Tariff Commission instituted an investigation pursuant to section 302(e), Automotive Products Trade Act of 1965, with respect to a petition filed with the Board by the International Union, United Automobile Workers, and its Local 314, on behalf of a group of workers at the Long Manufacturing Division of the Borg-Warner Corp., Detroit, Mich., which manufactures condensers (multiple-tube heat exchangers used in cooling motor vehicle engine oil or automatic transmission fluid). The petition alleges that dislocation of a group of workers has occurred, and that the operation of the United States-Canadian Automotive Agreement has been the primary factor in causing such dislocation. The Commission is conducting the investigation to provide a factual record on the basis of which the Board may make the determinations required by section 302 of the Act.

No hearing has been scheduled. A hearing will be held on request of any party showing a proper interest in the subject matter of the investigation, provided the request is filed with the Secretary of the Tariff Commission within 10 days after this notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 at the Customhouse.

Issued: November 9, 1967.

By order of the Commission.

[SEAL] DONN N. BENT, *Secretary.*

[F.R. Doc. 67-13402; Filed, Nov. 14, 1967; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 473]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

NOVEMBER 9, 1967.

The following letter-notices of proposals to operate over deviation routes for oprating convenience only have been filed with the Interstate Commerce Commission, under the Commission's Deviation Rules Revised, 1957 (49 CFR 211.1(c)(8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1(d)(4).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1(e)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 1124 (Deviation No. 26) (second correction), HERRIN TRANSPORTATION COMPANY, Post Office Box 1140, Houston, Tex. 77001, filed September 5, 1967, amended September 25, 1967. Previous corrected notice published in the FEDERAL REGISTER on November 1, 1967, was in error in describing the proposed deviation route. The correct deviation route as proposed is as follows: From Memphis, Tenn., over U.S. Highway 72 to junction Alternate U.S. Highway 72, thence over Alternate U.S. Highway 72 to junction Alabama Highway 67 at or near Decatur, Ala., thence over Alabama Highway 67 to junction U.S. Highway 278, thence over U.S. Highway 278 to Atlanta, Ga., thence over U.S. Highway 23 to Jackson, Ga., thence over Georgia Highway 87 to Macon, Ga., and return over the same route, for operating convenience only.

No. MC 59194 (Deviation No. 3), EASTERN FREIGHT WAYS, INC., Moonachi Avenue, Carlstadt, N.J. 07072, filed November 6, 1967. Carrier's representative: Maxwell A. Howell, 1511 K Street NW., Washington, D.C. 20005. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Philadelphia, Pa., over the Northeast Extension of the Pennsylvania Turnpike to junction Interstate Highway 81, thence over Interstate Highway 81 to Binghamton, N.Y., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Philadelphia, Pa., over U.S. Highway 611 to Easton, Pa., thence over Pennsylvania Highway 115 to Stockertown, Pa., thence over Pennsylvania Highway 12 to Bartonsville, Pa., thence over U.S. Highway 611 to Scranton, Pa., thence over U.S. Highway 11 to Binghamton, N.Y., and return over the same route.

No. MC 1515 (Deviation No. 413) (Cancels Deviation No. 322), GREYHOUND LINES, INC. (Southern Division), 219 East Short Street, Lexington, Ky. 40507, filed November 3, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From Meridian, Miss., over Interstate Highway 59 to junction U.S. Highway 11, east of Toomsuba, Miss., (2) from junction U.S. Highway 11 and Mississippi Highway 513 over Mississippi Highway 513 to junction Interstate Highway 59 at Enterprise, Miss., thence over Interstate Highway 59 to junction Interstate Highways 10 and 12, northeast of Slidell, La., with the following access routes: (a) from junction Interstate Highway 59 and U.S. Highway 49 over U.S. Highway 49 to Hattiesburg, Miss., (b) from junction Interstate Highway 59 and U.S. Highway 98 over U.S. Highway 98 to Hattiesburg, Miss., (c) from junction Interstate Highway 59 and unnumbered highway, over unnumbered highway to Purvis, Miss., (d) from junction Interstate Highway 59 and Mississippi Highway 13 over Mississippi Highway 13 to Lumberton, Miss., (e) from junction Interstate Highway 59 and Mississippi Highway 26, over Mississippi Highway 26 to Poplarville, Miss., (f) from junction Interstate Highway 59 and Mississippi Highway 53 over Mississippi Highway 53 to Poplarville, Miss., and (g) from junction Interstate Highway 59 and Mississippi Highway 43 over Mississippi Highway 43 to Picayune, Miss., and (3) from junction Interstate Highway 59, Interstate Highway 10 and Interstate Highway 12, over Interstate Highway 10 to New Orleans, La., with the following access routes: (a) From junction Interstate Highway 10 and U.S. Highway 190 over U.S. Highway 190 to junction U.S. Highway 11, and (b) from junction Interstate Highway 10 and Louisiana Highway 433 over Louisiana Highway 433 to Slidell, La., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Birmingham, Ala., over U.S. Highway 11 via Bucksville and Box Springs, Ala., to New Orleans, La., and return over the same route.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13419; Filed, Nov. 14, 1967; 8:48 a.m.]

[Notice 1128]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

NOVEMBER 9, 1967.

The following publications are governed by Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER issue of April 20, 1966, which became effective May 20, 1966.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 65626 (Sub-No. 19), filed November 2, 1967. Applicant: FREDONIA EXPRESS, INC., Post Office Box 222, 316 Eagle Street, Fredonia, N.Y. Applicant's representative: E. Stephen Heisley, 529 Transportation Building, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Fredonia, N.Y., to points in Michigan, Ohio, Illinois, Indiana, Kentucky, and Tennessee.

HEARING: December 5, 1967, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Henry C. Winters.

No. MC 117815 (Sub-No. 128) (Republication), filed October 9, 1967. Issues published in FEDERAL REGISTER of October 26, 1967, and republished this issue to reflect hearing information. Applicant: FULLEY FREIGHT LINES, INC., 405 South East 20th Street, Des Moines, Iowa 50317. Applicant's representative: William A. Landau, 1451 East Grand Avenue, Des Moines, Iowa 50306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and commodities distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from the plantsite and storage facilities of I. D. Packing Co., Des Moines, Iowa, to Austin, Minn., and Fremont, Nebr. Restricted: To the transportation of traffic originating at and destined to the points named above. NOTE: The purpose of this republication is to reflect the hearing information.

HEARING: November 30, 1967, in Room 401, Federal Office Building, Fifth and Court Avenues, Des Moines, Iowa, before Joint Board No. 182, or if Joint Board waives its right to participate, before Examiner Richard H. Roberts.

No. MC 129500, filed October 30, 1967. Applicant: BRENNAN TRUCK LINES, INCORPORATED, 1645 Stewart Street, Des Moines, Iowa 50316. Applicant's representative: Russell H. Wilson, 3839 Merle Hay Road, Suite 200, Des Moines, Iowa 50310. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as defined in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 except commodities in bulk, in tank vehicles, from the plantsite and storage facilities of I. D. Packing Co., located at Des Moines, Iowa, to Austin, Minn., and Fremont, Nebr., restricted to the transportation of traffic originating at and destined to the points named. NOTE: Applicant is also authorized to conduct operations as a contract carrier in MC 123600, therefore dual operations may be involved.

HEARING: November 30, 1967, in Room 401, Federal Office Building, Fifth and Court Avenues, Des Moines, Iowa, before Joint Board No. 182, or, if the Joint Board waives its right to participate, before Examiner Richard H. Roberts.

No. MC 1222 (Sub-No. 30) (Republication), filed July 31, 1967, published FEDERAL REGISTER issue of August 17, 1967, and republished this issue. Applicant: THE REINHARDT TRANSFER COMPANY, a corporation, 1410 10th Street, Portsmouth, Ohio 45662. Applicant's representative: Robert H. Kinker, 711 McClure Building, Frankfort, Ky. 40601. By application filed July 31, 1967, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of knocked down fiberboard cartons, not corrugated, nested solid, from Portsmouth, Ohio, to points in Indiana and Kentucky. An order of the Commission, Operating Rights Board, dated October 31, 1967, and served November 6, 1967, as amended, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of fiberboard partitions, not corrugated, knocked down, from Portsmouth, Ohio, to points in Indiana and Kentucky, that applicant, is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Commission Act and the Commissions' rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 46286 (Sub-No. 63) (Republication), filed February 6, 1967, published FEDERAL REGISTER issue of March 23, 1967, and republished this issue. Applicant: DARLING FREIGHT, INC., 4000 Division Avenue South, Grand Rapids, Mich. 49508. Applicant's representative: Robert A. Sullivan, 1800 Buhl Building, Detroit, Mich. 48226. By application filed February 6, 1967, applicant seeks a certificate of public convesdence and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle over irregular routes, of frozen bakery goods, from and to the points indicated below. An order of the Commission, Operating Rights Board dated October 27, 1967, and served November 6, 1967, as amended, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of frozen foods, from the plantsites and facilities of the Michigan Lloyd J. Harris Pie Co., Inc., Saugatuck, Mich., to points in Ohio, Kentucky, points in Illinois south of U.S. Highway 36 from the Indiana-Illinois State line to Springfield, Ill., thence along Illinois Highway 125 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction Illinois Highway 103, thence along Illinois Highway 103 to junction U.S. Highway 24, thence along U.S. Highway 24 to the Illinois-Missouri State line, and to points in Indiana south of U.S. Highway 40; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication during which period any proper party in interest may, file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 52729 (Sub-No. 20) (Republication), filed February 20, 1967, published FEDERAL REGISTER issue of March 9, 1967, and republished this issue. Applicant: FIOROT TRUCKING, INC., West Main Street, Post Office Box 43, Pen Argyl, Pa. 18072. Applicant's representative: Morris Mindlin, 146 East Broad Street, Bethlehem, Pa. 18018. In the above-entitled proceeding, the examiner recommended the granting to applicant a certificate of public convenience and necessity, authorizing operation in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of (1) vinyl shingles, vinyl siding, and vinyl panels, and materials and supplies used in the installation of such vinyl commodities, when moving therewith, except commodities in bulk, from the sites of the plants and warehouse facilities of the Supradur Manufacturing Corp., at Fall River, Mass., to the sites of the plants and warehouse facilities of the said corporation, at or near Wind Gap, Pa.; (2) vinyl shingles, vinyl siding, and vinyl panels, and materials and supplies used in the installation of such vinyl commodities, when moving therewith, except commodities in bulk, from Wind Gap, Pa., to points in Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia.

(3) Materials and supplies used in the installation of asbestos cement roofing shingles, asbestos cement siding, asbestos cement sheets, asbestos cement pressure pipes, and asphalt shingles, except commodities in bulk, from points in Michigan, Ohio, North Carolina, and Vermont, to Wind Gap, Pa.; (4) materials and supplies used in the production and manufacture of asbestos cement roofing shingles, asbestos cement siding, asbestos cement sheets, asbestos cement pressure pipes, asphalt shingles, vinyl shingles, vinyl siding, and vinyl panels, except commodities in bulk, on return movements, (a) from points in Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia, to Wind Gap, Pa.; and (b) from the sites of the plants and warehouse facilities of Supradur Manufacturing Corp., at or near Wind Gap, Pa., to the sites of the plants and warehouse facilities of the said corporation, at Fall River, Mass.; (5) sand, in bulk, in pneumatic type tank vehicles, from Millville, Newport, and Old Bridge, N.J., and points within 10 miles of each of the said communities, to Pen Argyl, Pa., and points within 5 miles of Pen Argyl; and

(6) Asphalt shingles, and materials and supplies used in the installation of such asphalt shingles, when moving therewith, from Kearney, N.J., to the sites of the plants and warehouse facilities of the Supradur Manufacturing Corp., at or near Wind Gap, Pa., subject to the restriction that the service authorized in part (6) above is limited to the transportation of shipments which originate at and are destined to the points named therein. A decision and order of the Commission, Review Board Number 1, dated September 29, 1967, and served October 4, 1967, as modified, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of (1) *vinyl shingles, vinyl siding, and vinyl panels, and materials and supplies* used in the installation of such vinyl commodities, when moving therewith (except commodities in bulk), from the sites of the plants and warehouse facilities of the Supradur Manufacturing Corp. located at or near Fall River, Mass., to the sites of the plants and warehouse facilities of the said corporation located at or near Wind Gap, Pa., (2) *vinyl shingles, vinyl siding, and vinyl panels, and materials and supplies* used in the installation of such vinyl commodities, when moving therewith (except commodities in bulk), from Wind Gap, Pa., to points in Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia.

(3) *Materials and supplies* used in the installation of asbestos cement roofing shingles, asbestos cement siding, asbestos cement sheets, asbestos cement pressure pipes, and asphalt shingles (except commodities in bulk), from points in Michigan, Ohio, North Carolina, and Vermont, to Wind Gap, Pa., (4) *materials and supplies* used in the production and manufacture of asbestos cement roofing shingles, asbestos cement siding, asbestos cement sheets, asbestos cement pressure pipes, asphalt shingles, vinyl shingles, vinyl siding, and vinyl panels (except commodities in bulk), on return movements, (a) from points in Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia, to Wind Gap, Pa., and (b) from the sites of the plants and warehouse facilities of Supradur Manufacturing Corp. located at or near Wind Gap, Pa. to the sites of the plants and warehouse facilities of the said corporation located at or near Fall River, Mass., (5) *sand*, in bulk, in tank vehicles, from Millville, Newport, and Old Bridge, N.J., and points within 10 miles of each of the said communities, to Pen Argyl, Pa., and points within 5 miles of Pen Argyl and

(6) *Asphalt shingles and materials and supplies* used in the installation of such asphalt shingles, when moving therewith, from Kearney, N.J., to the sites of the plants and warehouse facilities of the Supradur Manufacturing Corp. located at or near Wind Gap, Pa., subject to the restriction that the service authorized in part (6) above the limited to the transportation of shipments which originate at and are destined to the points named therein; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 111729 (Sub-No. 243) (Republication), filed June 1, 1967, published FEDERAL REGISTER issues of June 29, 1967, and July 20, 1967, and republished this issue. Applicant: AMERICAN COURIER CORPORATION, 222–17 Northern Boulevard, Bayside, N.Y. 11361. Applicant's representative: Russell S. Bernhard, Commonwealth Building, 1625 K Street NW., Washington, D.C. By application filed June 1, 1967, applicant seeks a certificate of public convenience and necessity authorizing operation in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of (1) business papers, records, and audit and accounting media of all kinds (excluding plant removals); (a) between points in Hartford County, Conn., on the one hand, and, on the other, points in Atlantic, Cumberland, and Camden Counties, N.J.; (b) between points in Middlesex County, Conn., on the one hand, and, on the other, points in Middlesex County, N.J., Onondago and Erie Counties, N.Y., Middlesex County, Mass., and New York, N.Y.; (c) between Braintree, Mass., on the one hand, and, on the other, Plainfield, Toms River, Wayne, Cedar Grove, and New Brunswick, N.J., and New York, N.Y.; (d) between Jackson, Mich., on the one hand, and, on the other, Van Wert and Youngstown, Ohio; (e) between Cleveland, Ohio, on the one hand, and, on the other, Buffalo and Rochester, N.Y.; (f) between Waterville, Maine, on the one hand, and, on the other, Lowell, Mass.; (g) between Braintree, Mass., on the one hand, and, on the other, South Plainfield, N.J.; (2) cotton piece goods, limited to shipments not to exceed 45 pounds per shipment, between points in Hartford County, Conn., on the one hand, and, on the other, points in Atlantic, Cumberland, and Camden Counties, N.J.

(3) Payroll checks, (a) between points in Middlesex County, Conn., on the one hand, and, on the other, points in Middlesex County, N.J., Onondaga and Erie Counties, N.Y., New York, N.Y., and Middlesex County, Mass.; (b) between Jackson, Mich., on the one hand, and, on the other, Van Wert and Youngstown, Ohio; (c) between Waterville, Maine, on the one hand, and, on the other, Lowell, Mass.; (4) small parts, limited to shipments not to exceed 75 pounds per shipment, between Jackson, Mich., on the one hand, and, on the other, Van Wert and Youngstown, Ohio; (5) exposed and processed microfilm and facsimiles of all kinds, between Cleveland, Ohio, on the one hand, and, on the other, Buffalo and Rochester, N.Y.; (6) exposed and processed film and prints,

complimentary replacement film, incidental dealer handling supplies and advertising literature moving therewith (excluding motion picture film used primarily for commercial theater and television exhibition) between Cincinnati, Ohio, on the one hand, and, on the other, points in Indiana and Kentucky; (7) garments and swatches of cloth for testing and research purposes moving at the same time with business papers, records, and audit and accounting media of all kinds (excluding plant removals), between Waterville, Maine, on the one hand, and, on the other, Lowell, Mass.; (8) cut flowers and decorative greens, between points in Illinois, having prior or subsequent movement by air; (9) ophthalmic goods and commercial papers (except cash letters and excluding plant removals), between Columbus, Ohio, on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Maryland, Michigan, Pennsylvania, and West Virginia. An order of the Commission, Operating Rights Board dated October 27, 1967, and served November 3, 1967, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of (1) *business papers, records, and audit and accounting media* of all kinds, (except cash letters).

(a) Between points in Hartford County, Conn., on the one hand, and, on the other, points in Atlantic, Cumberland, and Camden Counties, N.J.; (b) between points in Middlesex County, Conn., on the one hand, and, on the other, points in Middlesex County, N.J., Onondago and Erie Counties, N.Y., and Middlesex County, Mass., and New York, N.Y.; (c) between Braintree, Mass., on the one hand, and on the other, Plainfield, Toms River, Wayne, Cedar Grove, and New Brunswick, N.J., and New York, N.Y.; (d) between Jackson, Mich., on the one hand, and, on the other, Van Wert and Youngstown, Ohio; (e) between Cleveland, Ohio, on the one hand, and, on the other, Buffalo and Rochester, N.Y.; (f) between Waterville, Maine, on the one hand, and, on the other, Lowell, Mass.; (g) between Braintree, Mass., on the one hand, and, on the other, South Plainfield, N.J.; (2) *cotton piece goods*, between points in Hartford County, Conn., on the one hand, and, on the other, points in Atlantic, Cumberland and Camden Counties, N.J., restricted against the transportation of packages or articles weighing in the aggregate more than 45 pounds from one consignor to one consignee on any one day; (3) *payroll checks*, (a) between points in Middlesex County, Conn., on the one hand, and, on the other, points in Middlesex County, N.J., Onondaga and Erie Counties, N.Y., New York, N.Y., and Middlesex County, Mass.; (b) between Jackson, Mich., on the one hand, and, on the other, Van Wert and Youngstown, Ohio; (c) between Waterville, Maine, on the one hand, and, on the other, Lowell, Mass.; (4) *exposed and processed microfilm and facsimiles* between Cleveland, Ohio, on the one hand, and, on the other, Buffalo and Rochester, N.Y.

(5) *Exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies and advertising literature* moving therewith (excluding motion picture film used primarily for commercial theater and television exhibition) between Cincinnati, Ohio, on the one hand, and on the other, points in Indiana and Kentucky; (6) *garments and swatches of cloth* for testing and research purposes moving at the same time and in the same vehicles with business papers, records, audit and accounting media (except cash letters), otherwise authorized, between Waterville, Maine, on the one hand, and on the other, Lowell, Mass., (7) *cut flowers and decorative greens*, between points in Illinois, restricted to the transportation of traffic having prior or subsequent movement by air; (8) *ophthalmic goods and commercial papers* (except cash letters), between Columbus, Ohio, on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Maryland, Michigan, Pennsylvania, and West Virginia; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder; and that the holding by applicant of the certificate authorized to be issued in this proceeding and of the permits issued or authorized to be issued in No. MC 112750 and subs thereunder, will be consistent with the public interest and national transportation policy. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the common carrier authority for which a need is found in this order will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 127316 (Sub-No. 4) (Republication), filed June 29, 1967, published FEDERAL REGISTER issue of July 13, 1967, and republished this issue. Applicant: BRUCE ETTER, Rural Route 3, Charlton, Iowa 50049. Applicant's representative: William L. Fairbank, 610 Hubbell Building, Des Moines, Iowa 50309. By application filed June 29, 1967, applicant seeks a permit authorizing operations, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of cattle hides, in bulk, in tank vehicles, from Mason City, Iowa, to Kansas City, Mo. An order of the Commission Operating Rights Board dated October 16, 1967, and served November 3, 1967, finds that operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of *hides*, from Mason City, Iowa, to Kansas City, Mo., under a continuing contract with Bert Lyon and Co. will be consistent with the public interest and the national transportation policy; that applicant is fit, willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

NOTICE OF FILING OF PETITIONS

No. MC 49387 (Sub-No. 27) (Notice of filing for clarification or revision of certificate), filed October 25, 1967. Petitioner: ORSCHELN BROS. TRUCK LINES, INC., Highway 24 East, Box 658, Moberly, Mo. 65270. Petitioner's representative: Gregory M. Rebman, 314 North Broadway, St. Louis, Mo. 63102. Petitioner holds authority in No. MC 49387 (Sub-No. 27), to conduct operations as a motor common carrier, the part here pertinent, transporting, over regular routes, general commodities, with the usual exceptions, between Kansas City, Kans., and Jefferson City, Mo., serving Kansas City, Mo., intermediate points between Pittsville, Mo., and Sedalia, Mo., and the off-route point of Whiteman Air Force Base: From Kansas City, Kans., over U.S. Highway 50 to Jefferson City, and return over the same route. By the instant petition, petitioner prays that the Commission clarify, revise, and correct Certificate MC 49387 Sub 27, in part, so as to authorize, among other provisions thereof the transportation of general commodities, with exceptions as therein stated, as follows: "Between Kansas City, Kans., and Jefferson City, Mo., serving Kansas City, Mo., the intermediate points of Pittsville and Sedalia, Mo., and intermediate points between Pittsville, Mo., and Sedalia, Mo., and the off-route point of Whiteman Air Force Base, from Kansas City, Kans., over U.S. Highway 50 to Jefferson City, and return over the same route." Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 64828 (Notice of filing of petition for removal of restrictions), filed October 23, 1967. Petitioner: CHARLES H. WALDREN, doing business as GARTLAND MOTOR LINES, 44 Tulip Street, Poughkeepsie, N.Y. 12601. Petitioner's representative: John M. Zachara, Post Office Box Z, Paterson, N.J. 07509. Petitioner is authorized in No. MC 64828 to transport general commodities, with certain exceptions, between Poughkeepsie and Barrytown, N.Y., and between Poughkeepsie and Garrison, N.Y., over specified regular routes, serving the intermediate points of New Hamburg, Chelsea, Beacon, Cold Spring, Hyde Park, Staatsburgh, and Rhinecliff, N.Y., and the off-route point of Peekskill, N.Y., subject to the following conditions: "The service performed by said carrier shall be limited to service which is auxiliary to or supplemental of, rail service of the New York Central Railroad, hereinafter called the Railroad. Said carrier shall not render any service to or from any point not a station on the rail line of the Railroad. Shipments transported by said carrier shall be limited to those which he received from or delivers to the railroad under a through bill of lading covering, in addition to movement by said carrier, a prior or subsequent movement by rail. All contractual arrangements between said carrier and the Railroad shall be reported to the Commission and shall be subject to revision if and as, as Commission finds it to be necessary in order that such arrangements shall be fair and equitable to the parties. Such further specific conditions or limitations as the Commission in the future may find it necessary to impose in order to restrict said carrier's operations by motor vehicle to service which is auxiliary to, or supplemental of, the rail service." By the instant petition, petitioner prays that in lieu of the above restriction, that the following restriction be imposed: "Restriction: The service herein is subject to the following condition: The service to be performed by said carrier shall be limited to that which had prior or subsequent movement in interstate or foreign commerce." Any interested person desiring to participate, may file an original and six copies of his written representations, views, or argument in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-9928. Authority sought for purchase by RED STAR EXPRESS LINES OF AUBURN, INCORPORATED, doing business as RED STAR EXPRESS LINES, 24-50 Wright Avenue, Auburn, N.Y., of a portion of the operating rights of ARROW CARRIER CORPORATION, 50 Moonachie Avenue, Carlstadt, N.J., and for acquisition by JOHN BISGROVE, 264 East Genesee Street, Auburn, N.Y., of control of such rights through the purchase. Applicants' attorneys: Leonard A. Jaskiewicz, 1155 15th Street NW., Washington, D.C. 20005, and Robert H. Griswold, 100 Pine Street, Harrisburg, Pa. 17108. Operating rights sought to be transferred: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Alexandria, Va., and Philadelphia, Pa., serving the intermediate and off-route points of Chester and Marcus Hook, Pa., Wilmington, Del., Elkton and Baltimore, Md., Washington, D.C., and points within 5 miles of Baltimore, Md., and those within 5 miles of the District of Columbia. Vendee is authorized to operate as a *common carrier* in New York, Pennsylvania, Connecticut, New Jersey, Massachusetts, Vermont, and Rhode Island. Application has been filed for temporary authority under section 210a(b).

No. MC-F-9929. Authority sought for control and merger by PITTSBURGH & NEW ENGLAND TRUCKING CO., 211 Washington Avenue, Dravosburg 24, Pa., of the operating rights and property of FARINACCI TRUCKING CO., Ford Road, Madison, Ohio, and for acquisition by FREDERICK T. HILLER, also of Dravosburg, Pa., of control of such rights and property through the transaction. Applicants' attorney: Jon Howard Marple, 100 East Broad Street, Columbus, Ohio 43215. Operating rights sought to be controlled and merged: Under a certificate of registration, in Docket No. MC 121239 Sub 1, covering the transportation of property, in intrastate commerce, as a common carrier within the State of Ohio. PITTSBURGH & NEW ENGLAND TRUCKING CO. is authorized to operate as a *common carrier* in New York, Massachusetts, New Jersey, Rhode Island, Connecticut, Pennsylvania, Ohio, West Virginia, Maine, New Hampshire, Vermont, North Carolina, Delaware, Maryland, South Carolina, Virginia, and the District of Columbia. Application has been filed for temporary authority under section 210a(b). NOTE: MC 113974 Sub 25 is a matter directly related.

No. MC-F-9930. Authority sought for control by PAULSON TRUCK LINES, INC., 2008 Northeast Airport Road, Roseburg, Oreg., of CANADIAN AMERICAN TRUCKING, INC., 19009 Highway 99, Lynnwood, Wash., and for acquisition by ALVIN W. PAULSON and ALLIE M. PAULSON, both also of Roseburg, Oreg., of control of CANADIAN AMERICAN TRUCKING, INC., through the acquisition by PAULSON TRUCK LINES, INC. Applicants' attorneys: George H. Hart and Jack R. Davis, 1100 IBM Building, Seattle, Wash. 98101. Operating rights sought to be controlled: *Waterwork pipe and supplies, contractors' equipment, and heavy machinery*, in truckload lots, as a *common carrier*, over irregular routes, between ports in Washington, on the one hand, and, on the other, points in Washington; *cast iron and pressure pipe, valves*, and *fittings*, incidental to or used in the construction, maintenance, and operation of waterworks, between Seattle, Wash., on the one hand, and, on the other, points in Idaho and Oregon; and *heavy machinery*, between points in Washington, on the one hand, and, on the other, points in Idaho and Oregon. PAULSON TRUCK LINES, INC. is authorized to operate as a *common carrier* in Oregon, and California. Application has been filed for temporary authority under section 210a(b).

No. MC-F-9931. Authority sought for control and merger by CENTRALIA CARTAGE CO., 650 West Noleman Street, Centralia, Ill. 62801, of the operating rights and property of EVANSVILLE EXPRESS CO., Post Office Box 132, Grayville, Ill., and for acquisition by RALPH H. SPREHE and FORREST D. SPREHE, both also of Centralia, Ill., of control of such rights and property through the transaction. Applicants' attorney: Charles W. Singer, 33 North Dearborn Street, Chicago, Ill. 60602. Operating rights sought to be controlled and merged: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Evansville, Ind., and Grayville, Ill., serving the intermediate points located between Calvin, Ill., and Grayville, Ill., including Calvin, and the off-route points of Cowling and Keensburg, Ill. CENTRALIA CARTAGE CO. is authorized to operate as a common carrier in Illinois, Indiana, and Missouri. Application has been filed for temporary authority under section 210a(b).

No. MC-F-9932. Authority sought for control by BURGGRABE TRUCK LINES, INC., Old Highway 40, Warrenton, Mo., of O'FALLON GAS CO. OF ST. CHARLES COUNTY, No. 8 Progress Parkway, Maryland Heights, Mo. 63142. (Issuance of a permit in MC 127841 is contingent upon approval of this section 5 application). Applicants' attorney: B. W. La Tourette, Jr., 611 Olive Street, St. Louis, Mo. 63101. Operating rights sought to be controlled: Authority applied for in pending Docket No. MC 127841, covering the transportation of liquefied petroleum gas, as a common carrier, over irregular routes, from wholesaler's plants in East St. Louis, Ill., and points in Madison County, Ill., to the plants of O'Fallon Gas Service in St. Charles, Lincoln, and Warren Counties, Mo., and to the plants of Guttermuth Gas & Appliance Service in St. Charles County, Mo. BURGGRABE TRUCK LINES, INC. is authorized to operate as a *common carrier* in Missouri, and Illinois. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-9933. Authority sought for purchase by CLEMANS TRUCK LINE, INC., 815 West Sample Street, South Bend, Ind. 46621, of a portion of the operating rights of GEORGE DRUMMEY CARTAGE CORPORATION, Oak and Harrison Streets, Michigan City, Ind. 46360, and for acquisition by ARTHUR C. CLEMANS, also of South Bend, Ind., of control of such rights through the purchase. Applicants' attorney: Ferdinand Born, 601 Chamber of Commerce Building, Indianapolis, Ind. 46204. Operating rights sought to be

transferred: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Michigan City, and South Bend, Ind., serving all intermediate points, and the off-route points of Roseland, Holy Cross, Notre Dame, and Mishawaka, Ind., over U.S. Highway 20 between Michigan City, and South Bend, and from Michigan City, Ind., over U.S. Highway 35 to Junction U.S. Highway 20, thence over U.S. Highway 20 to Junction Indiana Highway 2, thence over Indiana Highway 2 to South Bend. Vendee is authorized to operate as a *common carrier* in Michigan, Indiana, and Kentucky. Application has been filed for temporary authority under section 210a(b).

No. MC-F-9934. Authority sought for control and merger by W. J. DIGBY, INC. OF IOWA, 2922 South Main, Salt Lake City, Utah, of the operating rights and property of BONANZA, INC., 4030 East Magnolia, Phoenix, Ariz., and for acquisition by DONALD R. DIGBY, also of Salt Lake City, Utah, and W. J. DIGBY, 6027 East Cholla, Scottsdale, Ariz., of control of such rights and property through the transaction. Applicants' attorney: Donald E. Leonard, Box 2028, Lincoln, Nebr. Operating rights sought to be controlled and merged: *Oleomargarine and shortening*, as a *common carrier*, over irregular routes, from Los Angeles, Calif., to Amarillo, Tex., from Wilmington, Calif., to Lubbock, Tex.; *eggs*, from Enid, Okla. and Dallas and Houston, Tex., to Albuquerque, N. Mex., Phoenix, Ariz., and points in California, from certain specified points in Oklahoma, New Mexico, and Fort Worth, Tex., to Phoenix, Ariz.; *fresh fruits and vegetables*, from points in Arizona, California, and Colorado to certain specified points in Texas; *frozen fruits and vegetables*, from Loveland, Colo., to Amarillo and El Paso, Tex., Albuquerque, N. Mex., and Phoenix, Ariz., from Delta, Colo., to Oklahoma City and Tulsa, Okla., Albuquerque, N. Mex., Phoenix, Ariz., and certain specified points in Texas, from Denver, Colo., to Tulsa, Okla., and certain specified points in Texas, from Brownsville and Harlingen, Tex., to Albuquerque, N. Mex., Phoenix, Ariz., and Los Angeles, Calif., from Los Angeles, Calif., to Longview and Wichita Falls, Tex.; *fresh and frozen poultry*, from Oklahoma City, Okla., to Albuquerque and Santa Fe, N. Mex.

Frozen foods, from Denver, Colo., to Amarillo, Tex., between Denver, Colo., and Oklahoma City, Okla., between Amarillo, Tex., and Albuquerque, N. Mex., from Okmulgee, Okla., to points in Oregon and Washington; *fresh and frozen meats, fish, eggs, butter, fruits, and vegetables, frozen and dressed poultry, and processed eggs*, between points within 100 miles of Lubbock, Tex., including Lubbock, on the one hand, and, on the other, points in Arizona, California, Colorado, New Mexico, and Texas; *frozen eggs and oleomargarine*, in vehicles equipped with mechanical refrigeration, from Wichita, Kans., and Enid, Okla., to Las Vegas and Reno, Nev.; from Enid, Okla., to points in Idaho, Oregon, and Washington, with restriction; *oleomargarine*, in vehicles equipped with mechanical refrigeration, from Lubbock, Tex., to points in New Mexico, Arizona, and California, with restriction; *frozen foods*, in vehicles equipped with mechanical refrigeration, from points in Idaho, Oregon, and Washington, to Oklahoma City and Tulsa, Okla.; *frozen eggs*, in vehicles equipped with mechanical refrigeration, from Fort Smith, Ark., to points in Idaho, Oregon, and Washington, with restriction; *groceries and packinghouse products*, from Joplin, Mo., and points within 100 miles thereof, to points in Oklahoma; *frozen vegetables*, from Stanwood and Arlington, Wash., to certain specified points in Louisiana, from Boise, Idaho, to points in Oklahoma (except Oklahoma City and Tulsa); *frozen fruits and frozen vegetables*, from points in Oregon, to points in Texas; *frozen fruits, frozen vegetables, and frozen berries*, from points in California, to Oklahoma City and Tulsa, Okla., Fort Smith and Little Rock, Ark., and points in Texas (excluding the transportation of frozen fruits and frozen vegetables from Los Angeles, Calif., to Longview and Wichita Falls, Tex., and from points in California, to Lubbock, Tex., and points in Texas within 100 miles of Lubbock), from points in Washington to points in Texas, from points in Oregon, Washington, and certain specified points in California, to certain specified points in Idaho, with restriction.

Oleomargarine, from Enid, Okla., to points in Arizona, California, Montana, New Mexico, and Utah, from the plant-site and storage warehouses of Standard Brands, Inc., at Dallas, Tex., to points in Idaho, Montana, Utah, Oregon, and Washington; *fish* (including shellfish), when transported in the same vehicles equipped with mechanical refrigeration with shipments of frozen foods, from Auburn, Wash., and Caldwell, Idaho, to Oklahoma City and Tulsa, Okla.; *agricultural commodities* (not including manufactured products thereof) including horticultural commodities, as defined under section 303(b)(6) of the Interstate Commerce Act, as amended, when transported in the same vehicles equipped with mechanical refrigeration with shipments of frozen eggs and oleomargarine, from Enid, Okla., to points in Idaho, Oregon, and Washington, and Las Vegas and Reno, Nev.; *agricultural commodities* (not including manufactured products thereof) including horticultural commodities, as defined under section 303(b)(6) of the Interstate Commerce Act, as amended, when transported in the same vehicles equipped with mechanical refrigeration with shipments of oleomargarine, from Enid, Okla., to points in Arizona, California, New Mexico, and Utah; *frozen cooked foods and frozen seafoods*, from Oklahoma City and Tulsa, Okla., to Salt Lake City, Utah, Boise, Idaho, Seattle, Wash., and Portland, Oreg.; *frozen vegetables and frozen potato products*, from certain specified points in Idaho, to points in Arkansas, Kansas, New Mexico, Oklahoma, and Texas; *potato products and frozen vegetables*, from points in Idaho, to points in Texas, New Mexico, Kansas, Louisiana, and Arkansas.

frozen fruits, frozen berries, frozen vegetables, and frozen potato products, from Washington and Oregon, to points in Texas, New Mexico, Kansas, Louisiana, and Arkansas; *glass and glass products*, from Sepulpa, Okla., to points in Idaho, Montana, Nevada, Oregon, Utah, Washington, Wyoming, and certain specified points in California; *frozen fruits and frozen berries*, from certain specified points in Idaho, to points in New Mexico, Kansas, Oklahoma, Texas, Arkansas, and Louisiana; *dairy products, chilled and frozen bakery products, frozen fruits, frozen vegetables, frozen berries, frozen french fries, frozen pizza and pizza pie ingredients*, from Denver, Colo., to points in Oklahoma, New Mexico (except those points in New Mexico on U.S. Highway 85), and Texas (except El Paso, Tex.); *frozen bakery products and pizza pie ingredients*, from Julesburg, Colo., to points in Oklahoma, New Mexico (except those points in New Mexico on U.S. Highway 85), and Texas (except El Paso, Tex.); and *potato products, frozen, frozen foods, juice and juice concentrate, and potato products, unfrozen*, in mixed shipments with the commodities described above, from points in Washington, Oregon, and Idaho, to points in Kansas, Missouri, Mississippi, and Memphis, Tenn. W. J. DIGBY, INC., OF IOWA is authorized to operate as a *common carrier* in Iowa, Montana, California, Washington, Oregon, Idaho, Utah, Wisconsin, Illinois, Tennessee, Alabama, Pennsylvania, New York, Massachusetts, Connecticut, Rhode Island, Kansas, Missouri, Indiana, Nebraska, Michigan, Minnesota, North Dakota, Arizona, New Mexico, Colorado, Nevada, Wyoming, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-9935. Authority sought for purchase by PARCEL DISPATCH, INC., 305 North Senate, Indianapolis, Ind., of a portion of the operating rights of PACKAGE DELIVERY, INC. (JAMES F. KELLEY, RECEIVER), 2409 Central Avenue, Indianapolis, Ind. Applicants' representative: Keith C. Reese, 708 Union Federal Building, 45 North Pennsylvania, Indianapolis, Ind. Operating rights sought to be transferred: Under a certificate of registration, in No. MC 120612 Sub-1, covering the transportation of property, as a common carrier, in intrastate commerce, within the State of Indiana. Vendee is authorized to operate as a *common carrier* in the State of Indiana. Application has been filed for temporary authority under section 210a(b).

No MC-F-9936. Authority sought for purchase by SCOTT TRANSPORTATION CO., 705 South Lugo Avenue, San Bernardino, Calif. 92402, of the operating rights of ROBERT C. NAPIER TRUCKING, INC., 2727 De Anza Road, San Diego, Calif. 92109, and for acquisition by KELLER WATERS, JR., and JAMES R. CUNNINGHAM, SR., both also of San Bernardino, Calif., of control of such rights through the purchase. Applicants' attorney: R. Y. Schureman, 1010 Wilshire Boulevard, Los Angeles, Calif. 90017. Operating rights sought to be transferred: Under a certificate of registration, in No. MC 121160 Sub-1, covering the transportation of general commodities, as a common carrier, in intrastate commerce, within the State of California. Vendee is authorized to operate in intrastate commerce as a common carrier within the State of California. Application has been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13420; Filed, Nov. 14, 1967; 8:48 a.m.]

[Notice 492]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 9, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2461 (Sub-No. 40 TA), filed November 7, 1967. Applicant: MOTOR FREIGHT CORPORATION, 2345 South 13th Street, Post Office Box 2057, Idaho Station, Terre Haute, Ind. 47802. Applicant's representative: Paul F. Beery, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, dangerous explosives, household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467, commodities in bulk, and those requiring special equipment), serving Beaver Dam and Greenville, Ky., and the River Queen Mine site of Peabody Coal Co., near Greenville as off-route points in connection with applicant's authorized regular route operations to and from Evansville, Ind., and Louisville, Ky. (Applicant proposes to tack at Evansville, Ind., and Louisville, Ky., with existing regular route operations), for 180 days. Supporting shippers: J. Zinsmeister Co., Post Office Box 427, Greenville, Ky.; Peabody Coal Co., Post Office Box 289, Greenville, Ky.; Cowden Manufacturing Co., 300 New Circle Road NW., Lexington, Ky. 40501. Send protests to: District Supervisor, Interstate Commerce Commission, Bureau of Operations, Eighth Floor, Century Building, 36 South Pennsylvania Street, Indianapolis, Ind. 46204.

No. MC 42487 (Sub-No. 680 TA), filed November 3, 1967. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. 94025. Applicant's representative: V. S. Tyler (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Petroleum oil* in bulk, in tank vehicles, from points in Powder River and Carter Counties, Mont., to receiving points in Campbell, Crook, and Weston Counties, Wyo., for 120 days. Supporting shipper: Western Crude Oil, Inc., 2900 Security Life Building, Denver, Colo. 80202. Send protests to: Wm. R. Murdoch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 52579 (Sub-No. 92 TA), filed November 6, 1967. Applicant: GILBERT CARRIER CORP., One Gilbert Drive, Secaucus, N.J. 07094. Applicant's representative: Aaron Hoffman (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials and supplies* used in the manufacture of wearing apparel, between Hialeah, Fla., on the one hand, and, on the other, Passaic, N.J., and points in the New York, N.Y., commercial zone, as defined by the Commission, for 150 days. Supporting shipper: Country Club Casuals Inc., 1050 East 16th Street, Hialeah, Fla. 33010. Send protests to: District Supervisor, Walter J. Grossmann, Interstate Commerce Commission, Bureau of Operations, 1060 Broad Street, Room 363, Newark, N.J. 07102.

No. MC 102911 (Sub-No. 2 TA), filed November 6, 1967. Applicant: DONALD GOETZ, Defiance, Iowa 51527. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer* in bags, and in bulk, from South Sioux City, Nebr., to points in Monona, Crawford, Carroll, Greene, Boone, Story, Polk, Mills, Ringgold, Dallas, Guthrie, Audubon, Shelby, Harrison, Pottawattamie, Cass, Fremont, Page, Decatur, Adair, Madison, Warren, Clarke, Union, Adams, Montgomery, and Taylor Counties, Iowa, for 150 days. Supporting shipper: American Cyanamid Co., West Central Iowa Hub Office, Box 527, Carroll, Iowa 51401. Send protests to: K. P. Kohrs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 705 Federal Office Building, Omaha, Nebr. 68102.

No. MC 103993 (Sub-No. 306 TA), filed November 6, 1967. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, Ind. 46514. Applicant's representative: Robert G. Tessar (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, from South Hill, Va., to points in Maryland, West Virginia, North Carolina, South Carolina, Ohio, Pennsylvania, New York, New Jersey, Michigan, and Wisconsin, for 180 days. Supporting shipper: Magnolia Mobile Homes, Inc., South Hill, Va. 23970. Send protests to: District Supervisor, J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 308 Federal Building, Fort Wayne, Ind. 46802.

No. MC 106398 (Sub-No. 351 TA), filed November 6, 1967. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Box 8096, Dawson Street, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings* in sections, transported on wheeled undercarriages with hitchball connector, from Winona (Carroll County), Miss., to points in Alabama, Arkansas, Louisiana, Mississippi, and Tennessee, for 180 days. Supporting shipper: Anel Engineering Industries, Chase B. Read, Jr., Vice President and General Manager, Winona, Miss. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 350, American General Building, 210 Northwest Sixth, Oklahoma City, Okla. 73102.

No. MC 107496 (Sub-No. 597 TA), filed November 3, 1967. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua 50309, Post Office Box 855, Des Moines, Iowa 50304. Applicant's representative: H. L. Fabritz (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand and sand with additives*, in bulk and bags, in tank and flatbed vehicles, from Troy Grove, Ill., to points in Alabama, Arkansas, Florida, Colorado, Georgia, Louisiana, and Minnesota, for 180 days. Supporting shipper: The Arrowhead Silica Corp., 128 South 15th Street, Post Office Box 67, Chesterton, Ind. 46304. Send protests to: Ellis L. Annett, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 227 Federal Office Building, Des Moines, Iowa 50309.

No. MC 115311 (Sub-No. 76 TA), filed November 3, 1967. Applicant: J & M TRANSPORTATION CO. INC., Post Office Box 488, Milledgeville, Ga. 31061. Applicant's representative: Bill E. Davis, Suite 1600, First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor

vehicle, over irregular routes, transporting: *Polypropylene resins, sodium phosphate, and soda ash*, dry, in bulk, restricted to traffic having a prior movement by rail, from Atlanta, Ga., to points in Georgia and South Carolina, for 180 days. Supporting shippers: Novamont Corp., Neal Works, Post Office Box 189, Kenova, W. Va. 25530, Olin Chemicals, 745 Fifth Avenue, New York, N.Y. 10022, and FMC Corp., 633 Third Avenue, New York, N.Y. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 115669 (Sub-No. 79), filed November 3, 1967. Applicant: HOWARD N. DAHLSTEN, doing business as DAHLSTEN TRUCK LINE, Post Office Box 95, Clay Center, Nebr. 68933. Applicant's representative: Howard Dahlsten, Post Office Box 95, Clay Center, Nebr. 68933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alfalfa products*, in bulk, from Fairbury, Falls City, and Milligan, Nebr., to points in Missouri located on and North of U.S. Highway 24, for 180 days. Supporting shipper: O'Brien, McDowell & Co., 107 West 14th Street, Crete, Nebr. 68333. Send protests to: District Supervisor, Max H. Johnston, Interstate Commerce Commission, Bureau of Operations, 315 Post Office Building, Lincoln, Nebr. 68508.

No. MC 116077 (Sub-No. 221 TA), filed November 7, 1967. Applicant: ROBERTSON TANK LINES, INC., 5700 Polk Avenue 77023, Post Office Box 9527, Houston, Tex. 77011. Applicant's representative: Mr. B. A. Ditta (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tequila*, in bulk, in tank vehicles from Laredo, Tex., to Houston, Tex., for 180 days. Supporting shipper: Heublein, Inc. (Mr. Henry J. Rogers, Director of Traffic), 330 New Park Avenue, Hartford, Conn. 06101. Send protests to: District Supervisor, John C. Redus, Bureau of Operations, Interstate Commerce Commission, Post Office Box 61212, Houston, Tex. 77061.

No. MC 117883 (Sub-No. 104 TA), filed November 3, 1967. Applicant: SUBLER TRANSFER, INC., Post Office Box 62, East Main Street, Versailles, Ohio 45380. Applicant's representative: (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Frozen foods*, from Cleveland and Solon Ohio, to points in Connecticut, Delaware, Maine, New Hampshire, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, West Virginia, and Washington, D.C. Restriction: Restricted to traffic originating at the facilities of the Stouffer Food Corp. located at Solon and Cleveland, Ohio, and destined to points in the States named above for 180 days. Supporting shipper: Stouffer Foods Corp., 1375 Euclid Avenue, Cleveland, Ohio 44115. Send protests to: Emil P. Schwab, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1010 Federal Building, 550 Main Street, Cincinnati, Ohio 45202.

No. MC 120634 (Sub-No. 14 TA), filed November 7, 1967. Applicant: JOE HODGES TRANSPORTATION CORPORATION, 107 Southwest Seventh Street, Post Office Box 62397, Oklahoma City, Okla. 73108. Applicant's representative: (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, (1) Between Dallas, Tex., and the Texas-Oklahoma State line north of Ringgold, Tex., serving no intermediate points, serving the Texas-Oklahoma State line as a point of joinder only with carriers present authority, and serving the intersection of Texas State Highway 114 and U.S. Highway 287 (U.S. Highway 81) as a point of joinder only: From Dallas over Texas State Highway 114 to its junction with U.S. Highway 81 (U.S. Highway 287), thence over U.S. Highway 81 to Texas-Oklahoma State line and return over the same route. (2) Between Dallas, Tex., and Wichita Falls, Tex., serving the intermediate point of Fort Worth, Tex., and serving the intersection of U.S. Highway 287 (U.S. Highway 81) and Texas State Highway 114 as a point of joinder only and serving Wichita Falls, Tex., as a point of joinder with carriers present authority only; from Dallas over the Dallas-Fort Worth Turnpike to Fort Worth, thence over U.S. Highway 287 (also U.S. Highway 81) to Wichita Falls, and return over the same route. The routes described above are subject to the following restrictions: (1) Restricted against the handling of shipments between Dallas and Fort Worth, Tex., and their commercial zones, on the one hand, and Oklahoma City, Okla., and its commercial zone, on the other hand. (2) Restricted to the handling of shipments moving between Dallas and Fort Worth, Tex., and their commercial zones, on the one hand, and, on the other, points on carriers presently certificated routes in the State of Oklahoma, except Oklahoma City, Okla., for 180 days. NOTE: Applicant will join this authority, with present authority. Supporting shippers: There are approximately (170) statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 350, American General Building, 210 Northwest Sixth, Oklahoma City, Okla. 73102.

No. MC 123314 (Sub-No. 10 TA), filed November 6, 1967. Applicant: JOHN F. WALTER, Post Office Box 175, Newville, Pa. 17241. Applicant's representative: John A. Piller, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the warehouse of Anchor Hocking Glass Corp. in Franklin Township (near Export), Westmoreland County, Pa., to Allen Park, Ann Arbor, Bay City, Carrollton, Detroit, Flint, Grand Rapids, Holland, Kalamazoo, Jackson, Lansing, Muskegon, Niles, Pontiac, Port Huron, and Saginaw, Mich., for 180 days. Supporting shipper: Anchor Hocking Glass Corp., Lancaster, Ohio 43130. Send protests to: Robert W. Ritenour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 218 Central Industrial Building, 100 North Cameron Street, Harrisburg, Pa. 17101.

No. MC 129498 (Sub-No. 1 TA), filed November 7, 1967. Applicant: BERNIE'S EXPRESS, INC., 404 West 15 Street, New York, N.Y. 10011. Applicant's representative: Edward Bowes, 744 Broad Street, Newark, N.J. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, loose in hampers and on hangers, and *materials and supplies* used in the manufacture thereof, between Bridgeport, Conn., on the one hand, and on the other, New York, N.Y., and Pelham Manor, N.Y. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Exquisite Form Industries of New York, N.Y., and its subsidiaries, for 150 days. Supporting shipper: Exquisite Form Industries, Inc., 14 Pelham Parkway, Pelham Manor, N.Y. Send protests to: Paul W. Assenza, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 346 Broadway, New York, N.Y. 10013.

No. MC 129499 (Sub-No. 1 TA), filed November 6, 1967. Applicant: ROBERT V. MARKT, 1409 Rifle Street, St. Joseph, Mo. 64506. Applicant's representative: Carll V. Kretsinger, 450 Professional Building, Kansas City, Mo. 64106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed*, in bags, and in bulk, from St. Joseph, Mo., to points in Kansas, Nebraska, and in Iowa, on and west of U.S. Highway 65, for 150 days. Supporting shipper: Quaker Oats Co., Merchandise Mart Plaza, Chicago, Ill. 60654. Send protests to: H. J. Simmons, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 129510 TA, filed November 3, 1967. Applicant: CHESTER W. ENGLUND, doing business as W. ENGLUND CO., 740 Old Stage Road, Salinas, Calif. 93901. Applicant's representative: Stuart J. Shoob, 1510 Arizona Title Building, 111 West Monroe Street, Phoenix, Ariz. 85003. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a) *Used automobile bumpers*, to and from plantsites of Electro Chemical Industries in San Diego, Ontario, and North Hollywood, Calif., Las Vegas, Nev., St. Louis, Mo., Chicago, Ill., Cleveland, Ohio, Minneapolis, Minn., Newark and Palmyra, N.J., Allentown, Pa., and Baltimore, Md.; (b) *stone and finished stone products, steel products, finished wood products, and finished epoxy resin products;* from Nashua, N.H.; Hicksville, Long Island; Schuyler, Va.; Elkins, W. Va.; Monroe, N.C.; McDermott, Ohio; Dayton, Ohio, to construction jobsites in the western States of New Mexico, Arizona, Colorado, Wyoming, Utah, Idaho, Montana, points of origin named to the plantsite of Permalab-Metalab Equipment Corp. in Los Angeles, Calif., for 180 days. Supporting shippers: Electro Chemical Industries, 700 East Bonita Avenue, Pomona, Calif. 91767; Permalab-Metalab Equipment Corp., 1717 North Main Street, Los Angeles, Calif. 90012. Send protests to: Wm. R. Murdoch, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 129512 (Sub-No. 1 TA), filed November 6, 1967. Applicant: ALJAY TRUCKING CORP., 1500 Hudson Street, Hoboken, N.J. 07030. Applicant's representative: Charles J. Williams, 47 Lincoln Park, Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Materials and supplies* used in the manufacture and sale of drugs, medicines and toilet preparations, except in bulk, from Jamaica, Springfield Gardens, Garden City, Long Island City, and Brooklyn, N.Y., to Metuchen, N.J.; (2) *drugs, medicines and toilet preparations*, except in bulk, from Metuchen, N.J., to Jamaica, Springfield Garden City, Long Island City, and Brooklyn, N.Y.; (3) *shoe dressing and store display racks* from Newark, N.J., to Springfield Gardens, N.Y.; Restriction: Service sought herein is restricted to a service to be performed under a continuing contract or contracts with Thayer-Knomark, Inc., for 150 days. Supporting shipper: Thayer-Knomark, Inc., 132-20 Merrick Boulevard, Jamaica, N.Y. 11434. Send protests to: District Supervisor, Walter J. Grossmann, Interstate Commerce Commission, Bureau of Operations, 1060 Broad Street, Room 363, Newark, N.J. 07102.

No. MC 129515 TA, filed November 7, 1967. Applicant: TORRANCE VAN & STORAGE COMPANY, doing business as S & M TRANSFER & STORAGE COMPANY, 1916 Border Avenue, Torrance, Calif. 90501. Applicant's representative: Carl H. Fritze, 1010 Wilshire Boulevard, Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission, between points in Los Angeles, Orange, San Diego, and Ventura Counties, Calif., for 180 days. Supporting shippers: Garrett Forwarding Co., Post Office Box 4048, Pocatello, Idaho 83201; Interstate System, 134 Grandville Avenue SW., Grand Rapids 2, Mich. Send protests to: District Supervisor, W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13421; Filed, Nov. 14, 1967; 8:49 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during November.

3 CFR

Page

PROCLAMATIONS:
- 3279 (modified by Proc. 3820) — 15701
- 3290 (see Proc. 3820) — 15701
- 3328 (see Proc. 3820) — 15701
- 3386 (see Proc. 3820) — 15701
- 3389 (see Proc. 3820) — 15701
- 3509 (see Proc. 3820) — 15701
- 3531 (see Proc. 3820) — 15701
- 3541 (see Proc. 3820) — 15701
- 3693 (see Proc. 3820) — 15701
- 3694 (terminated in part by Proc. 3818) — 15467
- 3712 (terminated in part by Proc. 3818) — 15467
- 3744 (terminated in part by Proc. 3818) — 15467
- 3779 (see Proc. 3820) — 15701
- 3794 (see Proc. 3820) — 15701
- 3818 — 15467
- 3819 — 15667
- 3820 — 15701

EXECUTIVE ORDERS:
- 2296 (modified by PLO 4313) — 15429
- 4702 (revoked in part by PLO 4315) — 15482
- 8652 (revoked in part by PLO 4317) — 15482
- 10530 (see EO 11378) — 15237
- 10682 (see EO 11378) — 15237
- 11378 — 15237
- 10807 (amended by EO 11381) — 15629
- 10903 (amended by EO 11380) — 15627
- 11034 (amended by EO 11380) — 15627
- 11379 — 15625
- 11380 — 15627
- 11381 — 15629

5 CFR

- 213 — 15703
- 713 — 15631

7 CFR

- 51 — 15066, 15073
- 319 — 15577
- 401 — 15703, 15704
- 711 — 15704
- 717 — 15705
- 729 — 15149
- 730 — 15076
- 910 — 15430, 15524, 15631
- 912 — 15430, 15632
- 913 — 15430
- 915 — 15669
- 945 — 15577
- 947 — 15705
- 982 — 15669
- 984 — 15388
- 991 — 15670, 15705
- 1001 — 15076
- 1015 — 15090
- 1067 — 15093
- 1120 — 15388
- 1125 — 15706
- 1126 — 15388
- 1132 — 15389
- 1137 — 15431
- 1421 — 15632, 15706
- 1464 — 15633

3 CFR—Continued

Page

PROPOSED RULES:
- 51 — 15435
- 723 — 15546
- 822 — 15393
- 891 — 15393
- 892 — 15393
- 905 — 15116
- 906 — 15394
- 907 — 15488
- 908 — 15394
- 912 — 15436
- 913 — 15395
- 959 — 15177
- 989 — 15488
- 1049 — 15489
- 1064 — 15490
- 1090 — 15437
- 1125 — 15178
- 1131 — 15568

8 CFR

- 103 — 15469
- 212 — 15469
- 238 — 15469

9 CFR

- 52 — 15707
- 76 — 15240
- 78 — 15577
- 131 — 15469

10 CFR

PROPOSED RULES:
- 20 — 15432

12 CFR

- 1 — 15544
- 219 — 15389
- 556 — 15707
- 563 — 15634
- 571 — 15708

13 CFR

- 106 — 15065
- 108 — 15149
- 120 — 15634
- 122 — 15635

PROPOSED RULES:
- 107 — 15399
- 121 — 15184

14 CFR

- 21 — 15472
- 39 — 15094, 15153, 15154, 15390, 15421, 15472, 15523, 15579, 15635.
- 71 — 15094, 15095, 15154, 15523, 15524, 15579, 15635, 15636.
- 73 — 15096
- 75 — 15636
- 91 — 15422, 15708
- 97 — 15423, 15473, 15580
- 141 — 15583
- 145 — 15670
- 207 — 15096
- 208 — 15097
- 241 — 15096

14 CFR—Continued

Page

PROPOSED RULES:
- 27 — 15676
- 29 — 15676
- 39 — 15490, 15491, 15588
- 71 — 15117–15121, 15491–15493, 15546–15548, 15588, 15589, 15712.
- 93 — 15589
- 121 — 15676
- 202 — 15676
- 203 — 15676

15 CFR

- 0 — 15222
- 70 — 15154
- 204 — 15104, 15391
- 230 — 15105, 15636

16 CFR

- 13 — 15105–15107, 15470
- 14 — 15525
- 15 — 15470
- 17 — 15540
- 228 — 15525
- 229 — 15529
- 230 — 15531
- 231 — 15532
- 232 — 15533
- 233 — 15534
- 234 — 15536
- 235 — 15538
- 236 — 15538
- 237 — 15539
- 238 — 15540
- 239 — 15541
- 240 — 15542
- 412 — 15584
- 413 — 15424

PROPOSED RULES:
- 241 — 15715
- 242 — 15681
- 300 — 15180

17 CFR

- 200 — 15470

18 CFR

- 3 — 15239
- 101 — 15670
- 141 — 15670

PROPOSED RULES:
- 2 — 15714
- 14 — 15714
- 141 — 15434
- 260 — 15434

19 CFR

- 4 — 15390
- 10 — 15424
- 14 — 15155
- 16 — 15390

20 CFR

- 396 — 15471
- 401 — 15544

21 CFR

Page

- 4 — 15709
- 120 — 15107, 15120, 15424, 15578
- 121 — 15108, 15109, 15155, 15545
- 133 — 15109
- 148c — 15425
- 166 — 15390

PROPOSED RULES:
- 28 — 15116

22 CFR

PROPOSED RULES:
- 201 — 15116

24 CFR

- 200 — 15425, 15586, 15636
- 203 — 15639
- 207 — 15640
- 220 — 15640
- 222 — 15640
- 809 — 15640

25 CFR

- 41 — 15471

26 CFR

- 1 — 15421, 15671
- 301 — 15241, 15483

PROPOSED RULES:
- 1 — 15167, 15393

28 CFR

- 0 — 15425

29 CFR

- 526 — 15425
- 786 — 15425
- 1500 — 15478, 15479

PROPOSED RULES:
- 5 — 15396
- 6 — 15396
- 7 — 15396
- 526 — 15712

31 CFR

- 306 — 15672

32 CFR

- 66 — 15111
- 127 — 15112

32 CFR—Continued

Page

- 536 — 15113
- 552 — 15115
- 710 — 15115

32A CFR

BDSA (Ch. VI):
- M–11A — 15710

33 CFR

- 204 — 15673

35 CFR

- 61 — 15641

36 CFR

- 7 — 15391, 15710

39 CFR

- 131 — 15587
- 821 — 15480
- 822 — 15480, 15481
- 823 — 15099

PROPOSED RULES:
- Ch. I — 15643

41 CFR

Page

- 1–5 — 15674
- 6–75 — 15427
- 50–204 — 15641

42 CFR

PROPOSED RULES:
- 73 — 15178

43 CFR

PUBLIC LAND ORDERS:
- 1583 (see PLO 4307) — 15428
- 1630 (see PLO 4315) — 15482
- 3263 (revoked in part by PLO 4307) — 15428
- 3634 (revoked in part by PLO 4302) — 15427
- 4236 (see PLO 4317) — 15482
- 4266 (see PLO 4317) — 15482
- 4270 (amended by PLO 4312) — 15429
- 4301 — 15098
- 4302 — 15427
- 4303 — 15427

43 CFR—Continued

Page

PUBLIC LAND ORDERS—Continued
- 4304 — 15427
- 4305 — 15428
- 4306 — 15428
- 4307 — 15428
- 4308 — 15428
- 4309 — 15428
- 4310 — 15429
- 4311 — 15429
- 4312 — 15429
- 4313 — 15429
- 4314 — 15482
- 4315 — 15482
- 4316 — 15482
- 4317 — 15482
- 4318 — 15483

PROPOSED RULES:
- 1720 — 15546

45 CFR

- 81 — 15156
- 531 — 15641

46 CFR

PROPOSED RULES:
- Ch. IV — 15438

47 CFR

- 0 — 15472, 15675
- 73 — 15161, 15162, 15545, 15711

PROPOSED RULES:
- 2 — 15180, 15712
- 73 — 15679
- 87 — 15712
- 89 — 15180, 15680
- 91 — 15180
- 93 — 15180, 15680

49 CFR

- 1 — 15710
- 103 — 15484
- 114 — 15484

PROPOSED RULES:
- 288 — 15589

50 CFR

- 32 — 15166, 15586, 15587, 15642, 15675
- 33 — 15711

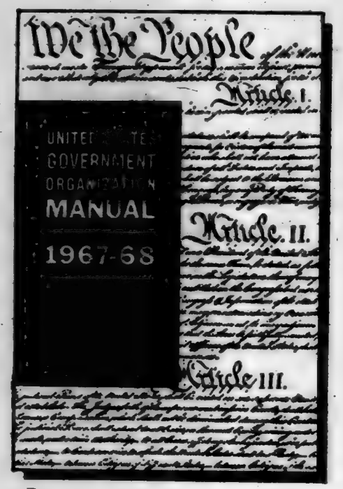

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(Part II begins on page 15791)

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Agencies in this issue—

Atomic Energy Commission
Civil Aeronautics Board
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General Services Administration
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Internal Revenue Service
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Maritime Administration
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Detailed list of Contents appears inside.

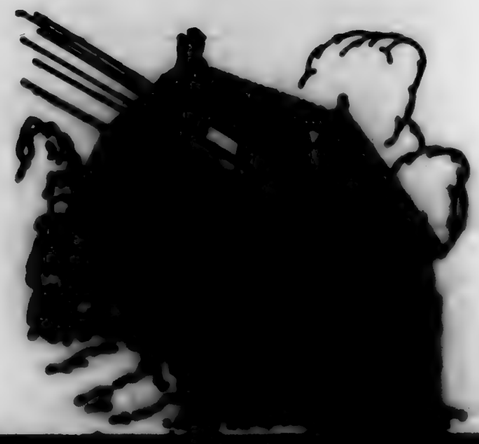

222

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15743 - 15799

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Atomic Energy Commission
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Federal Power Commission
Federal Trade Commission
Fish and Wildlife Service
General Services Administration
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Maritime Administration
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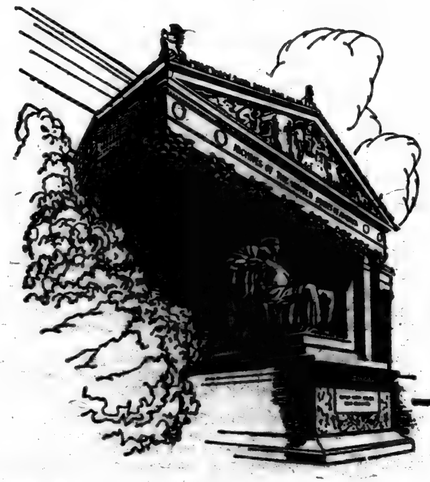

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Contents

ATOMIC ENERGY COMMISSION

Proposed Rule Making

Standards for protection against radiation; reporting and record keeping requirements 15762

Notices

United Nuclear Corp.; proposed issuance of facility license 15770

CIVIL AERONAUTICS BOARD

Notices

Anchorage-Fairbanks service case; hearing 15771

COAST GUARD

Rules and Regulations

Licensing; deck licenses as master and mate of freight and towing vessels of not more than 1,000 gross tons 15754

COMMERCE DEPARTMENT

See Maritime Administration.

FEDERAL COMMUNICATIONS COMMISSION

Notices

Carriage and program exclusivity on CATV systems; extension of time for filing responses 15772

Hearings, etc.:

Aljir Broadcasting Co., Inc., and South Kane-Kendall Broadcasting Corp 15771

American Television Co., Inc 15771

Great Southern Broadcasting Co 15772

Wichrowski, Stephen A 15772

FEDERAL HIGHWAY ADMINISTRATION

Rules and Regulations

Initial Federal motor vehicle safety standards; new pneumatic tires and tire selection and rims 15792

FEDERAL HOME LOAN BANK BOARD

Rules and Regulations

Federal Savings and Loan System policy statement; service corporations 15747

Proposed Rule Making

Federal Savings and Loan System operations; service corporations 15763

FEDERAL MARITIME COMMISSION

Notices

Agreements filed for approval:

Atlantic Container Line, Ltd., and Hamburg-Amerika Linie 15772

Atlantic Container Line, Ltd., and Norddeutscher Lloyd 15772

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:

El Paso Natural Gas Co 15773

Kansas-Nebraska Natural Gas Co., Inc 15773

St. Croix Paper Co 15773

United Gas Pipe Line Co 15774

FEDERAL TRADE COMMISSION

Rules and Regulations

Prohibited trade practices:

Hoffman-Morton Co. et al 15748

Pan American Cigar Co. et al 15749

Ross, William I., and Derby of San Francisco 15750

FISH AND WILDLIFE SERVICE

Rules and Regulations

Sport fishing in certain North Dakota wildlife refuges:

Lake Ilo 15756

Tewaukon 15756

Notices

Loan applications:

Raymond, William A. and Joan A 15769

Vinson, Jay J. and Janet J 15769

GENERAL SERVICES ADMINISTRATION

Rules and Regulations

Procurement sources and programs; Federal supply schedules 15754

INDIAN AFFAIRS BUREAU

Notices

Redelegations of authority to Assistant Area Directors et al.:

Albuquerque Area 15764

Navajo Area 15765

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; National Park Service.

Notices

Administrator, Lower Colorado River Land Use Office; authority delegation 15769

INTERNAL REVENUE SERVICE

Proposed Rule Making

Income tax; constructive ownership of stock 15758

INTERSTATE COMMERCE COMMISSION

Notices

Fourth section applications for relief (2 documents) 15785, 15786

Motor carrier, broker, water carrier, and freight forwarder applications 15777

Motor carriers:

Temporary authority applications 15786

Transfer proceedings (2 documents) 15787, 15788

LAND MANAGEMENT BUREAU

Notices

Classifications and proposed classifications of public lands for multiple-use management:

Arizona (2 documents) 15766

Idaho (2 documents) 15766, 15767

Nevada 15768

MARITIME ADMINISTRATION

Notices

U.S. Government-sponsored commodities; voyage charter rate guidelines 15769

NATIONAL PARK SERVICE

Rules and Regulations

Lake Mead National Recreation Area, Nev.; special regulations 15750

Proposed Rule Making

Fort Jefferson National Monument, Fla.; special regulations 15761

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:

Arizona City Development Corp 15774

Coditron Corp 15775

Fastline, Inc 15775

Jodmar Industries, Inc 15775

Missouri-Kansas-Texas Railroad Co. et al 15775

STATE DEPARTMENT

Rules and Regulations

Contract appeal regulations 15751

TRANSPORTATION DEPARTMENT

See Coast Guard; Federal Highway Administration.

TREASURY DEPARTMENT

See Internal Revenue Service.

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

10 CFR

PROPOSED RULES:
20 15762

12 CFR

556 15747

PROPOSED RULES:
545 15763

16 CFR

13 (3 documents) 15748–15750

23 CFR

255 15792

26 CFR

PROPOSED RULES:
1 15758

36 CFR

7 15750

PROPOSED RULES:
7 15761

41 CFR

6–60 15751
101–26 15754

46 CFR

10 15754

50 CFR

33 (2 documents) 15756

Rules and Regulations

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 21,081]

PART 556—STATEMENTS OF POLICY

Service Corporations

NOVEMBER 8, 1967.

Resolved that the Federal Home Loan Bank Board, upon the basis of consideration by it of the advisability of adopting and codifying a statement of policy setting forth activities of a service corporation that are permissible under paragraph (a) of § 545.9–1 of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.9–1) and certain activities that would be appropriate for approval for service corporations under the provisions of paragraph (b) of § 545.9–1 and for that purpose, hereby amends Part 556 of the rules and regulations for the Federal Savings and Loan System (12 CFR Part 556) by adding, immediately after § 556.2, a new section, § 556.3, to read as follows:

§ 556.3 Service corporations.

(a) *Introduction.* (1) Section 545.9–1 of this chapter permits Federal savings and loan associations to participate in service corporations and provides two approaches to such participation.

(2) A Federal association is permitted, without further action by the Federal Home Loan Bank Board, to invest in a statewide service corporation if certain tests are met to assure that the service corporation is open to all savings and loan associations in the same State on equal terms. Subparagraph (4) of § 545.9–1(a) of this chapter requires that "Substantially all of the activities of such service corporation consist of originating, purchasing, selling and servicing loans upon real estate and participating interests therein, and/or clerical, bookkeeping, accounting, statistical, or similar functions performed primarily for savings and loan associations, plus such other activities as the Board may approve."

(3) Prior specific approval of the Federal Home Loan Bank Board is required, under § 545.9–1(b) of this chapter, where a Federal association proposes to form a service corporation or invest in the capital stock, obligations, or other securities of a service corporation other than as provided under paragraph (a) of that section.

(4) Recent developments and trends in the creation of service corporations make it desirable that the Federal Home Loan Bank Board make a statement as to activities that are permissible under paragraph (a) of § 545.9–1 of this chapter, and as to certain activities that would be appropriate for approval for service corporations under the provisions of paragraph (b) of § 545.9–1 of this chapter.

(b) *Paragraph (a) of § 545.9–1 of this chapter.* (1) Subparagraph (4) of paragraph (a) of § 545.9–1 of this chapter permits service corporations meeting the requirements of paragraph (a) to originate, purchase, sell and service loans upon real estate and participating interests therein. This includes the brokering and warehousing of such real estate loans.

(2) The phrase "clerical, bookkeeping, accounting, statistical, or similar functions" (performed primarily for savings and loan associations) includes:

(i) Data processing services;
(ii) Accounting services;
(iii) Auditing services;
(iv) Bulk buying of office supplies, furniture and equipment;
(v) Development and operation of disaster storage facilities of microfilm or other duplicate records.

(3) Under the last clause of subparagraph (4) of § 545.9–1(a) of this chapter—"such other activities as the Board may approve"—the Board hereby approves the following services to be performed for members of the service corporations and for other savings and loan associations in the same State, District, Commonwealth, territory, or possession:

(i) Credit information, appraisal, and construction loan inspection services, and abstracting;
(ii) Services to facilitate the flow of large accounts from new sources into savings and loan associations;
(iii) Administration of personnel benefit programs, including life and health insurance, and health and pension plans;
(iv) Tax consulting services;
(v) Appropriate research, studies, and surveys; and
(vi) Cooperative or institutional advertising.

(4) Under the last clause of subparagraph (4) of § 545.9–1(a) of this chapter, the Board also approves the making, purchasing, and selling of educational loans by service corporations, and investments of the type specified in § 545.9 of this chapter.

(5) The approvals of "other activities" for paragraph (a) service corporations contained in this statement of policy are subject to revocation and revision from time to time by the Board.

(c) *Paragraph (b) of § 545.9–1 of this chapter.* (1) Under § 545.9–1(b) of this chapter, the Board will consider for approval investment in a service corporation whose activities are permitted under § 545.9–1(a) of this chapter and are otherwise limited to those which a Federal savings and loan association is authorized to perform within the limitations of law and regulation. However, in no event will approval be given where provision is made for use of the service corporation to exercise voting rights in the association itself. In addition to those activities which a Federal association is authorized to perform, the Board will consider for approval applications in which the service corporation, or a subsidiary, has authority to act as an insurance agent, escrow agent, or trustee under deeds of trust, primarily for the benefit of the service corporation members. This does not preclude the formation of service corporations for other purposes, as provided in § 545.9–1(b) of this chapter, with prior specific approval of the Board. Where any operating business engaged in the activities referred to in this paragraph is to be acquired by a service corporation, it will be necessary to establish to the satisfaction of the Board the fairness of the purchase price and the terms of the transaction. Subsequent acquisitions by service corporations must be approved by the Board and are subject to the same standards and conditions as herein provided.

(2) This policy makes inappropriate open-end provisions in charters, articles of incorporation, bylaws, or other governing instruments. In any case where prior specific Board approval is required, it is incumbent upon the applicants to provide for Board consideration, in detail and with the utmost clarity and precision, a statement of contemplated activities. It should be borne in mind that neither the regulations nor Board policy contemplates the use of the service corporation vehicle as a means to improve the appearance of mismanaged or problem institutions (for example, through the purchase of "scheduled items"). Accordingly, it will be inappropriate for a service corporation to purchase, or otherwise acquire, from its member institutions, or parent, "scheduled items" as that term is defined in § 561.15 of this chapter.

(d) *General.* (1) There will be no exception to the examination and audit requirements of paragraph (d) of § 545.9–1 of this chapter. The applicable requirement also applies to all service corporation "subsidiaries" and "affiliates." In this connection, the corporate powers of the service corporations may not provide for ownership of subsidiaries other than on a wholly owned basis. Further, the powers and authorities of a subsidiary of a service corporation may not exceed those of its parent.

(2) The Board, concurrently with the issuance of this policy statement, is proposing a new paragraph (e) to be added to § 545.9–1 of this chapter requiring Federal associations to dispose of investments in service corporations engaging in activities not permitted under the Federal regulations. The requirement will be applicable to investments in both paragraph (a) and paragraph (b) service

corporations of this section. Such disposal will not be required if the impermissible activity is discontinued within 90 days after notice.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] HARRY W. CAULSEN, *Secretary.*

[F.R. Doc. 67-13480; Filed, Nov. 15, 1967; 8:49 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-1264]

PART 13—PROHIBITED TRADE PRACTICES

Hoffman-Morton Co. et al.

Subpart—Advertising falsely or misleadingly: § 13.30 *Composition of goods:* 13.30–30 Fur Products Labeling Act; § 13.73 *Formal regulatory and statutory requirements:* 13.73–10 Fur Products Labeling Act. Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely;* 13.1108–45 Fur Products Labeling Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185–30 Fur Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212–30 Fur Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition:* 13.1845–30 Fur Products Labeling Act; § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–35 Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 3, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Hoffman-Morton Co., trading as Hoffman-Morton Furriers et al., Chicago, Ill., Docket C-1264, Oct. 26, 1967]

In the Matter of Hoffman-Morton Co., a Partnership, Trading Under Its Own Name and as Hoffman-Morton Furriers, and Morton H. Hoffman, Mabel Hoffman, Ida Hoffman, and David Veitman, Individually and as Copartners Trading as Hoffman-Morton Co.

Consent order requiring a Chicago, Ill., furrier to cease misbranding, falsely advertising and deceptively invoicing its fur products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Hoffman-Morton Co., a partnership, trading under its own name or as Hoffman-Morton Furriers or any other name or names, and Morton H. Hoffman, Mabel Hoffman, Ida Hoffman, and David Veitman, individually and as copartners trading as Hoffman-Morton Co., and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as the terms "commerce," "fur," and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding any fur product by:

1. Falsely or deceptively labeling or otherwise identifying any such fur product as to the country of origin of furs contained in such fur product.

2. Falsely or deceptively labeling or otherwise identifying such fur product as to the name or designation of the animal or animals that produced the fur contained in the fur product.

3. Failing to affix a label to such fur product showing in words and in figures plainly legible all of the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act.

4. Setting forth on a label attached to such fur product the name or names of any animal or animals other than the name of the animal producing the fur contained in the fur product as specified in the Fur Products Name Guide, and as prescribed by the rules and regulations.

5. Failing to set forth the term "Persian-broadtail Lamb" on a label in the manner required where an election is made to use that term instead of the word "Lamb."

6. Failing to set forth the term "Dyed Broadtail-processed Lamb" on a label in the manner required where an election is made to use that term in lieu of the term "Dyed Lamb."

7. Setting forth information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in handwriting on a label affixed to such fur product.

8. Failing to set forth information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder on a label in the sequence required by Rule 30 of the aforesaid rules and regulations.

B. Falsely or deceptively invoicing any fur product by:

1. Failing to furnish an invoice, as the term "invoice" is defined in the Fur Products Labeling Act, showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of section 5(b)(1) of the Fur Products Labeling Act.

2. Failing to set forth the term "Persian Lamb" in the manner required where an election is made to use that term instead of the word "Lamb."

3. Failing to set forth the term "Persian-broadtail Lamb" in the manner required where an election is made to use that term instead of the word "Lamb."

4. Failing to set forth the term "Dyed Broadtail-processed Lamb" in the manner required where an election is made to use that term instead of the words "Dyed Lamb."

5. Failing to set forth the term "natural" as part of the information required to be disclosed on an invoice under the Fur Products Labeling Act and rules and regulations promulgated thereunder to describe such fur product which is not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

C. Falsely or deceptively advertising any fur product through the use of any advertisement, representation, public announcement or notice which is intended to aid, promote, or assist, directly or indirectly, in the sale, or offering for sale of any fur product, and which:

1. Fails to set forth in words and figures plainly legible all the information required to be disclosed by each of the subsections of section 5(a) of the Fur Products Labeling Act.

2. Fails to set forth the term "Persian Lamb" in the manner required where an election is made to use that term instead of the word "Lamb."

3. Fails to set forth the term "Broadtail Lamb" in the manner required where an election is made to use that term instead of the word "Lamb."

4. Fails to set forth the term "Persian-broadtail Lamb" in the manner required where an election is made to use that term instead of the word "Lamb."

5. Fails to set forth the term "natural" as part of the information required to be disclosed in advertisements under the Fur Products Labeling Act and the rules and regulations promulgated thereunder to describe any such fur product which is not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

6. Fails to set forth all parts of the information required under section 5(a) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in type of equal size and conspicuousness and in close proximity with each other.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: October 25, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-13448; Filed, Nov. 15, 1967; 8:45 a.m.]

[Docket No. C-1261]

PART 13—PROHIBITED TRADE PRACTICES

Pan American Cigar Co. et al.

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections:* 13.15–235 Producer status of dealer or seller: 13.15–235(m) Manufacturer; § 13.70 *Fictitious or misleading guarantees;* § 13.155 *Prices:* 13.155–100 Usual as reduced, special, etc.; § 13.235 *Source or origin:* 13.235–60 Place: 13.235–60(a) Domestic products as imported. Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception.* Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1475 *Location.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1665 *Indorsements:* § 13.1715 *Quality.* Subpart—Misrepresenting oneself and goods—Prices: § 13.1825 *Usual as reduced or to be increased.* Subpart—Using misleading name—Goods: § 13.2330 *Quality;* § 13.2345 *Source or origin:* 13.2345–65 Place: 13.2345–65(a) Domestic product as imported. Subpart—Using misleading name—Vendor: § 13.2375 *Foreign status.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Pan American Cigar Co. et al., Hoboken, N.J., Docket C-1261, Oct. 5, 1967]

In the Matter of Pan American Cigar Co., a Corporation, and Samuel B. Jacobs and Mitchell B. Jacobs, Individually and as Officers of Said Corporation, and Trading as Havana Florida Cigar Co. and Globe, Inc.

Consent order requiring a Hoboken, N.J., distributor of cigars to cease misrepresenting its business status and the origin, price, quality, and guarantee of its cigars.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Pan American Cigar Co., a corporation, and its officers, and Samuel B. Jacobs and Mitchell B. Jacobs, individually and as officers of said corporation, and trading as Havana Florida Cigar Co. and Globe, Inc., or under any other trade name or names, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of cigars or other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the words "Havana Florida Company" in or as part of respondents' trade name or corporate name unless respondents' address is disclosed in immediate conjunction therewith in a clear and conspicuous manner; or misrepresenting, in any other manner, the place or location of any of respondents' business operations or place or places of business.

2. Using the term "Havana" or any other term or terms indicative of tobacco grown on the island of Cuba, either alone or in conjunction with any other terms, to describe, designate or in any way refer to cigars not made entirely from tobacco grown on the island of Cuba; except that cigars containing a substantial amount of tobacco grown on the island of Cuba may be described, designated or referred to as "blended with Havana," or by any term of similar import or meaning: *Provided,* That the words "blended with," or other qualifying word or words, are set out in immediate connection or conjunction with the word "Havana," or other term indicative of tobacco grown on the island of Cuba, in letters of equal size and conspicuousness.

3. Using the term "import blend" or any other term or terms indicative of tobacco grown outside of the United States, either alone or in conjunction with any other terms to describe or designate or in any way refer to cigars not made entirely from tobacco grown outside of the United States; except that cigars containing a substantial amount of tobacco grown outside the United States may be described, designated, or referred to as "blended with," or by any term of similar import or meaning: *Provided,* That the words "blended with" or other qualifying word or words, are set out in immediate conjunction with the word "import," "imported," or other similar terms indicative of tobacco grown outside the United States, in letters of equal size and conspicuousness.

4. Misrepresenting, in any manner, the origin or source of respondents' products or any part or portion thereof.

5. Representing, directly or by implication, that they own, operate, or control a factory in which merchandise sold by them is manufactured; or misrepresenting, in any manner, the kind or character of respondents' business.

6. Using the terms "special," "special sale price," "reclassified," "contract purchase," or other words or terms of similar import or meaning to refer to any price amount which is not substantially less than the price at which substantial sales of said products were made in the trade area or areas where the representations are made.

7. Representing, in any manner, that by purchasing any of said merchandise, customers are afforded savings amounting to the difference between respondents' stated price and any other price used for comparison with that price:

a. Unless respondents have offered such merchandise for sale at the compared price in good faith for a reasonably substantial period of time in the recent regular course of business; or

b. Unless substantial sales of said merchandise are being made in the trade area at the compared price, or at a higher price; or

c. Unless a substantial number of the principal retail or mail order outlets in the trade area regularly offer the merchandise for sale at the compared price or some higher price; or

d. When a value comparison representation with comparable merchandise is used, unless substantial sales of merchandise of like grade and quality are being made in the trade area at the compared price and it is clearly and conspicuously disclosed that the comparison is with merchandise of like grade and quality.

8. Falsely advertising, in any manner, that savings are available to purchasers or prospective purchasers of respondents' merchandise, or misrepresenting, in any manner, the amount of savings available to purchasers of respondents' merchandise at retail.

9. Representing, directly or by implication, that any of respondents' merchandise is guaranteed unless the nature and extent of the guarantee, the identity of the guarantor and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed and any represented guarantee is in fact provided and fully and completely performed to the extent and in the manner represented.

10. Representing, directly or by implication, that respondents' cigars are of an undisclosed prestige or name brand: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that said products were of the represented brand, grade, or quality.

11. Representing, directly or by implication, that cigars classified as seconds or which are otherwise functionally defective are equal in performance to cigars without such defects; or otherwise misrepresenting the grade or quality of respondents' merchandise.

12. Representing, directly or by implication, that merchandise has been approved or endorsed by an independent organization engaged in protecting the interests of consumers or in determining objectively the merits of such merchandise: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that such representation is truthful in every material respect.

13. Placing in the hands of retailers, dealers or others, the means or instrumentalities by or through which they may mislead or deceive the public in the manner or as to the things hereinabove prohibited.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: October 5, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-13449; Filed, Nov. 15, 1967; 8:46 a.m.]

[Docket No. C-1263]

PART 13—PROHIBITED TRADE PRACTICES

William I. Ross and Derby of San Francisco

Subpart—Furnishing false guaranties: § 13.1053 *Furnishing false guaranties:* 13.1053–80 Textile Fiber Products Identification Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185–80 Textile Fiber Products Identification Act; 13.1185–90 Wool Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212–80 Textile Fiber Products Identification Act; 13.1212–90 Wool Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition:* 13.1845–70 Textile Fiber Products Identification Act; 13.1845–80 Wool Products Labeling Act; § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–70 Textile Fiber Products Identification Act; 13.1852–80 Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; secs. 2–5, 54 Stat. 1128–1130; 72 Stat. 1717; 15 U.S.C. 45, 68, 70) [Cease and desist order, William I. Ross trading as Derby of San Francisco, San Francisco, Calif., Docket C–1263, Oct. 12, 1967]

Consent order requiring a San Francisco, Calif., manufacturer of men's sportswear to cease misbranding his wool and textile fiber products, failing to maintain required records, and furnishing false guaranties.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent William I. Ross, an individual trading as Derby of San Francisco or any other name, and respondent's representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction; manufacture for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding such products by:

1. Failing to affix a stamp, tag, label, or other means of identification to each such product showing in a clear, legible and conspicuous manner each element of information required to be disclosed by section 4(b) of the Textile Fiber Products Identification Act.

2. Failing to label textile fiber products so that the generic names and percentages by weight of the constituent fibers present therein, exclusive of permissive ornamentation, in amounts of 5 per centum or more and fibers disclosed in accordance with paragraph (b) of Rule 3 of the aforementioned rules and regulations, appear in order of predominance by weight.

3. Using a fiber trademark in conjunction with the required information on labels affixed to said textile fiber products without the generic name of the fiber appearing on said labels in immediate conjunction therewith and in type or lettering of equal size and conspicuousness.

B. Failing to maintain and preserve proper records showing the fiber content of the textile fiber products manufactured by said respondent, as required by section 6 of the Textile Fiber Products Identification Act and Rule 39 of the regulations promulgated thereunder.

It is further ordered, That respondent William I. Ross, an individual trading as Derby of San Francisco or any other name, and respondent's representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment or shipment, in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

1. Falsely or deceptively stamping, tagging, labeling, or otherwise identifying such products as to the character or amount of the constituent fibers contained therein.

2. Failing to securely affix to, or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

3. Failing to label said wool products so that items or parts of the required information are set forth on the stamp, tag, label or other mark of identification of the product, consecutively and separately on the outer surface of the label in immediate conjunction with each other, in type or lettering plainly legible and conspicuous, as required by Rule 10(a) of the said rules and regulations.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

Issued: October 12, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67–13450; Filed, Nov. 15, 1967; 8:45 a.m.]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 7—SPECIAL REGULATIONS RELATING TO PARKS AND MONUMENTS

Lake Mead National Recreation Area, Nev.

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535), 245 DM–1 (27 F.R. 6395), National Park Service Order No. 34 (31 F.R. 4255), Regional Director, Southwest Region Order No. 4 (31 F.R. 8134), as amended, § 7.48 of Title 36 of the Code of Federal Regulations is revised as set forth below.

The effect of this revision is to designate areas which are authorized for landing aircraft, as provided for under § 2.2 (a) of this chapter, among which are two new facilities which are available for this use by the public. Davis Dam landing strip which was previously listed has been deleted since it is not any longer within the boundary of the national recreation area. The revision will also delete regulations concerning speed limits which are no longer needed in view of the provisions of Part 4 of this chapter. The regulation prohibiting fishing from or within 200 feet of any public boat dock or public raft or float which has been designated for water sports is also deleted as this is now covered under the provisions of Part 2 of this chapter. The revision will also provide for the parking of vehicle-boat trailer combinations in parking areas adjacent to designated launching sites for periods up to 72 hours. This provision relaxes a portion of the requirements of § 2.2(a) of this chapter.

Inasmuch as this revision provides for the use of additional facilities by the public deletes regulations which are covered in other parts of this chapter, and relaxes requirements of portions of the general regulations, and otherwise imposes no additional restrictions upon the public, advance publication of this notice of rule making is deemed to be unnecessary, impractical, and not in the public interest. In order that the public may have the benefit of the additional facilities and exemptions as soon as possible, this revision shall take effect immediately upon publication in the FEDERAL REGISTER.

CHARLES A. RICHEY, *Superintendent, Lake Mead National Recreation Area.*

OCTOBER 25, 1967.

Section 7.48 of Title 36 of the Code of Federal Regulations is revised to read as follows:

§ 7.48 Lake Mead National Recreation Area.

(a) *Aircraft, designated airstrips.* (1) The entire surface of Lakes Mead and Mohave, except as provided in § 2.2(a) of this chapter.

(2) Temple Bar landing strip, located at approximate latitude 36°01′ N., approximate longitude 114°20′ W.

(3) Pierce Ferry landing strip, located at approximate latitude 36°05′ N., approximate longitude 114°03′ W.

(4) Cottonwood landing strip located at approximate latitude 35°29′ N., approximate longitude 114°40′ W.

(5) Callville Bay landing strip located at approximate latitude 36°08′ N., approximate longitude 114°43′ W.

(b) *Alcoholic beverages.* (1) Sales or gifts of alcoholic beverages to persons under 21 years of age is prohibited.

(2) Possession of alcoholic beverages by persons under 21 years of age is prohibited.

(c) *Parking.* Vehicle-boat trailer combinations may be left unattended for periods up to 72 hours when parked in parking areas adjacent to designated launching sites without written permission obtained in advance from the Superintendent. Vehicles or boat trailers, when separated, may not be left unattended for periods in excess of 24 hours without written permission obtained in advance from the Superintendent and vehicles or boat trailers left unattended in violation of this paragraph may be impounded by the Superintendent.

(5 U.S.C. 553; 39 Stat. 535; 16 U.S.C. 3)

[F.R. Doc. 67–13461; Filed, Nov. 15, 1967; 8:46 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 6—Department of State

[Dept. Reg. 108.570]

PART 6–60—CONTRACT APPEAL REGULATIONS

Part 6–60 of Chapter 6 is revised to read as follows:

Sec.
6–60.0 Scope of part.
6–60.1 Designation.
6–60.2 Applicability.
6–60.3 Department support.
6–60.4 Rules.

AUTHORITY: The provisions of this Part 6–60 issued under sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); sec. 4, 63 Stat. 111, 22 U.S.C. 2656.

§ 6–60.0 Scope of part.

This part relates to disputes arising under Department of State contracts (which shall for the purpose of this part include grants) and to the transfer of certain appellate and review functions of the Department of State to the Armed Services Board of Contract Appeals (referred to in this part as the "ASBCA") and the delegation of authority to ASBCA to hear and decide appeals of contractors from final decisions of contracting officers arising under disputes provisions of contracts awarded by the Department of State.

§ 6–60.1 Designation.

The Armed Services Board of Contract Appeals is designated the authorized representative of the Secretary of State and the Deputy Under Secretary of State for Administration to hear and determine appeals by contractors from final decisions of Contracting Officers on disputed questions arising under Department of State contracts pursuant to provisions of contracts requiring the determination of such appeals by either official or their duly authorized representative.

§ 6–60.2 Applicability.

This designation shall apply to appeals, notice of which is received, after publication in the FEDERAL REGISTER of this revision.

§ 6–60.3 Department support.

The Supply and Transportation Services Division shall ensure support by officers and employees of the Department of State in processing appeals, and ascertaining information to the extent required for that purpose, before the ASBCA and is hereby authorized to require such officers and employees to cooperate for this purpose.

§ 6–60.4 Rules.

(a) In acting under this designation, the ASBCA will follow the rules in 32 CFR 30.1 (Appendix A) Part 2, which are hereby adopted and set forth in paragraph (b) of this section, except as amended. Rule 31 is superseded by the date of effectiveness of this part upon publication. Part 1 of Appendix A, containing the Charter of the ASBCA, is not included in this paragraph. References to military departments and Secretaries thereof are amended to refer to the Department of State and either the Secretary of State or the Deputy Under Secretary of State for Administration, or their duly authorized representative or Board, as appropriate. Amendments, applicable only to appeals arising from Department of State contracts, concerning other provisions of the Rules are identified by the caption (*STATE*).

(b) Part 2—Rules:

PREFACE TO RULES OF THE ARMED SERVICES BOARD OF CONTRACT APPEALS

I. SUMMARY OF PERTINENT CHARTER PROVISIONS

The Armed Services Board of Contract Appeals is the authorized representative of the Secretary of State, the Deputy Under Secretary of State for Administration, in hearing, considering, and determining as fully and finally as might either official:

(a) Appeals by contractors from decisions of contracting officers or their authorized representatives or other authorities on disputed questions, taken pursuant to the provision of contracts requiring the determination of such appeals by the Secretary of State or the Deputy Under Secretary of State for Administration or their duly authorized representative or board; or

(b) Appeals by contractors taken pursuant to the provisions of any directive whereby the Secretary of State or the Deputy Under Secretary of State for Administration has granted a right of appeal not contained in the contract.

When an appeal is taken pursuant to a Disputes clause in a contract which limits appeals to disputes concerning questions of fact, the Board may in its discretion hear, consider, and decide all questions of law necessary for the complete adjudication of the issue. In the consideration of an appeal, should it appear that a claim is involved which is not cognizable under the terms of the contract, the Board may make findings of fact with respect to such a claim without expressing an opinion on the question of liability.

When a contract requires the Secretary of State or the Deputy Under Secretary of State for Administration, personally to render a decision on the matter in dispute, the Armed Services Board of Contract Appeals makes and submits findings and recommendations to the appropriate official with respect thereto.

There are a number of divisions of the Armed Services Board of Contract Appeals established by the Chairman of the Board in such manner as to provide for the most effective and expeditious handling of appeals. Appeals are assigned to the divisions for decision without regard to the procuring authority which entered into the contract involved. Hearing may be held by a designated member, or by a duly authorized examiner. The decision of a majority of a division constitutes the decision of the Board provided that the Chairman and two Vice Chairmen jointly signify their approval of the decision. If a majority of the members of a division is unable to agree on a decision, or if the Chairman or one or more of the Vice Chairmen does not signify approval of the decision, determination of the appeal is by the Chairman and Vice Chairmen. A decision by a majority of those individuals then constitutes the decision of the Board.

On request of the appellant, an appeal involving $5,000 or less is decided as provided in the Optional Accelerated Procedure set forth in Rule 12 of the Board.

II. STATEMENT OF PURPOSE

Emphasis is placed upon the sound administration of these rules in specific cases, because it is impracticable to articulate a rule to fit every possible circumstance which may be encountered. These rules will be interpreted so as to secure just and inexpensive determination of appeals without unnecessary delay.

Preliminary procedures are available to encourage full disclosure of relevant and material facts and to discourage unwarranted surprise.

All time limitations specified for various procedural actions are computed as maximums, and are not to be fully exhausted if the action described can be accomplished in a lesser period. These time limitations are similarly eligible for extension in appropriate circumstances, on good cause shown.

Whenever reference is made to contractor, appellant, contracting officer, respondent and parties, this shall include respective counsel

for the parties, as soon as appropriate Notices of Appearance have been filed with the Board.

PRELIMINARY PROCEDURES

1. *Appeals, how taken.* Notice of an appeal must be in writing, and the original, together with two copies, may be filed with the contracting officer from whose decision the appeal is taken. The notice of appeal must be mailed or otherwise filed within the time specified therefor in the contract or allowed by applicable provision of directive or law.

2. *Notice of appeal, contents of.* A notice of appeal should indicate that an appeal is thereby intended and should identify the contract (by number), the department and agency or bureau cognizant of the dispute, and the decision from which the appeal is taken. The notice of appeal should be signed personally by the appellant (the contractor making the appeal), or by an officer of the appellant corporation or member of the appellant firm, or by the contractor's duly authorized representative or attorney. The complaint referred to in Rule 6 may be filed with the notice of appeal, or the appellant may designate the notice of appeal as a complaint, if it otherwise fulfills the requirements of a complaint.

3. *Forwarding of appeals (STATE).* When a notice of appeal in any form has been received by the contracting officer, he shall endorse thereon the date of mailing (or date of receipt, if otherwise conveyed) and within 10 days shall forward said notice of appeal to the Board, with copies to the Supply and Transportation Services Division and the Legal Adviser of the Department of State. Following receipt by the Board of the original notice of an appeal (whether through the contracting officer or otherwise), the contractor, the contracting officer, the Supply and Transportation Services Division and the Legal Adviser of the Department of State will promptly be advised of its receipt, and the contractor will be furnished a copy of these rules.

4. *Duties of the contracting officer (STATE).* Following receipt of a notice of appeal, or advice that an appeal has been filed, the contracting officer shall promptly, and in any event within 30 days, compile and transmit to the Supply and Transportation Services Division copies of all documents pertinent to the appeal, including the following:

(a) The findings of fact and the decision from which the appeal is taken, and the letter or letters or other documents of claim in response to which the decision was issued;

(b) The contract, and pertinent plans, specifications, amendments, and change orders;

(c) Correspondence between the parties and other data pertinent to the appeal;

(d) Transcripts of any testimony taken during the course of proceedings, and affidavits or statements of any witnesses on the matter in dispute made prior to the filing of the notice of appeal with the Board;

(e) Such additional information as may be considered material.

The Supply and Transportation Services Division shall compile an appeal file from such documents, which file must contain the items enumerated in paragraphs (a)–(e) of this rule, and shall promptly, and in any event within 65 days after the appeal is docketed by the Board (except that this period shall not exceed 40 days if the contracting officer is located, and necessary documentation is substantially available, within the United States) transmit the appeal file to the Board. The Supply and Transportation Services Division shall notify the appellant when it has transmitted the appeal file to the Board, will provide him with a listing of its contents, and will afford him an opportunity to examine the complete file at the office of the contracting officer or at the office of the Board for the purpose of satisfying himself as to the contents, and furnishing or suggesting any additional documentation deemed pertinent to the appeal. Following receipt of the foregoing file, as it may be augmented at the time of receipt, the Board will promptly advise the parties.

5. *Dismissal for lack of jurisdiction.* Any motion addressed to the jurisdiction of the Board shall be promptly filed. Hearing on the motion shall be afforded on application of either party, unless the Board determines that its decision on the motion will be deferred pending hearing on both the merits and the motion. The Board shall have the right at any time and on its own motion to raise the issue of its jurisdiction to proceed with a particular case, and shall do so by an appropriate order, affording the parties an opportunity to be heard thereon.

6. *Pleadings.* (a) Within 30 days after receipt of notice of docketing of the appeal, the appellant shall file with the Board an original and two copies of a complaint setting forth simple, concise, and direct statements of each of his claims, alleging the basis, with appropriate reference to contract provisions, for each claim, and the dollar amount claimed. This pleading shall fulfill the generally recognized requirements of a complaint, although no particular form or formality is required. Upon receipt thereof, the Recorder of the Board shall serve a copy upon the respondent. Should the complaint not be received within 30 days, appellant's claim and appeal may, if in the opinion of the Board the issues before the Board are sufficiently defined, be deemed to set forth his complaint and the respondent shall be so notified.

(b) Within 30 days from receipt of said complaint, or the aforesaid notice from the Recorder of the Board, respondent shall prepare and file with the Board an original and two copies of an answer thereto, setting forth simple, concise, and direct statements of respondent's defenses to each claim asserted by appellant. This pleading shall fulfill the generally recognized requirements of an answer, and shall set forth any affirmative defenses or counterclaims, as appropriate. Upon receipt thereof, the Recorder shall serve a copy upon the appellant. Should the answer not be received within 30 days, the Board may, in its discretion, enter a general denial on behalf of the Government, and the appellant shall so be notified.

7. *Amendments of pleadings or record.* The Board upon its own initiative or upon application by a party may, in its discretion, order a party to make a more definite statement of the complaint or answer, or to reply to an answer. The Board may, in its discretion, and within the proper scope of the appeal, permit either party to amend his pleading upon conditions just to both parties. When issues within the proper scope of the appeal, but not raised by the pleadings or the documentation described in Rule 4, are tried by express or implied consent of the parties, or by permission of the Board, they shall be treated in all respects as if they had been raised therein. In such instances, motions to amend the pleadings to conform to the proof may be entered, but are not required. If evidence is objected to at a hearing on the ground that it is not within the issues raised by the pleadings or the Rule 4 documentation (which shall be deemed part of the pleadings for this purpose), it may be admitted within the proper scope of the appeal: *Provided, however,* That the objecting party may be granted a continuance if necessary to enable him to meet such evidence.

8. Upon receipt of respondent's answer or the notice referred to in the last sentence of Rule 6(b), above, appellant shall advise whether he desires a hearing, as prescribed in Rules 17 through 25, or whether in the alternative he elects to submit his case on the record without a hearing, as prescribed in Rule 11. In appropriate cases, the appellant shall also elect whether he desires the optional accelerated procedure prescribed in Rule 12.

9. *Prehearing briefs.* Based on an examination of the documentation described in Rule 4, the pleadings, and a determination of whether the arguments and authorities addressed to the issues are adequately set forth therein, the Board may in its discretion require the parties to submit prehearing briefs in any case in which a hearing has been elected pursuant to Rule 8. In the absence of a Board requirement therefor, either party may in its discretion, and upon appropriate and sufficient notice to the other party, furnish a prehearing brief to the Board. In any case where a prehearing brief is submitted, it shall be furnished so as to be received by the Board at least 15 days prior to the date set for hearing, and a copy shall simultaneously be furnished to the other party as previously arranged.

10. *Prehearing or presubmission conference.* Whether the case is to be submitted pursuant to Rule 11, or heard pursuant to Rules 17 through 25, the Board may upon its own initiative or upon the application of either party, call upon the parties to appear before a member or examiner of the Board for a conference to consider:

(a) The simplification or clarification of the issues;

(b) The possibility of obtaining stipulations, admissions, agreements on documents, understandings on matters already of record, or similar agreements which will avoid unnecessary proof;

(c) The limitation of the number of expert witnesses, or avoidance of similar cumulative evidence, if the case is to be heard;

(d) The possibility of agreement disposing of all or any of the issues in dispute;

(e) Such other matters as may aid in the disposition of the appeal.

The results of the conference shall be reduced to writing by the Board member or examiner in the presence of the parties, and this writing shall thereafter constitute part of the record.

11. *Submission without a hearing.* Either party may elect to waive a hearing and to submit his case upon the Board record, as settled pursuant to Rule 13. In the event of such election to submit, the submission may be supplemented by oral argument (transcribed if requested), and/or by briefs, arranged in accordance with Rules 16 and 23.

12. *Optional accelerated procedure.* Should an appeal involve $5,000 in amount or less, it may at the option of appellant be processed under this rule. In the event of such election, the Board will undertake to issue a decision on the appeal on an expedited basis, without regard to its normal position on the docket. Under this accelerated procedure, the case will be further expedited if the parties elect to waive pleadings and/or elect to waive the hearing and submit on the record. In all other respects, these rules will apply.

13. *Settling of the record.* A case submitted on the record pursuant to Rule 11 shall be ready for decision when the parties are so notified by the Board. A case which is heard shall be ready for decision upon receipt of transcript, or upon receipt of briefs when briefs are to be submitted. At any time prior to the date that a case is ready for decision, either party upon notice to the other, may supplement the record with documents and exhibits deemed relevant and material by the Board. The Board upon its own initiative may call upon either party, with appropriate notice to the other, for evidence deemed by it to be relevant and material. The weight to be attached to any evidence of record will rest within the sound discretion of the Board. Either party may at any stage of the proceeding, on notice to the other party, raise objection to material in the record or offered into the record, on the grounds of relevancy and materiality.

The Board record shall consist of documentation described in Rule 4, and any additional material, pleadings, prehearing briefs, record of prehearing or presubmission conferences, depositions, interrogatories, admissions, transcripts of hearing, hearing exhibits, and posthearing briefs, as may thereafter be developed pursuant to these rules.

This record will at all times be available for inspection by the parties at the office of the Board. In the interest of convenience, prior arrangements for inspection of the file should be made with the Recorder of the Board. Copies of material in the record may, if practicable, be furnished to appellant at the cost of reproduction.

14. *Depositions*—(a) *When depositions may be taken.* After an appeal has been docketed, the Board may, upon application of either party or upon agreement by the parties, permit the taking of the testimony of any person, by deposition upon oral examination or written interrogatories for use as evidence in the appeal proceedings. Leave to take a deposition will not ordinarily be granted unless it appears that it is impracticable to present the deponent's testimony at the hearing of the appeal, or unless a hearing has been waived and the case submitted pursuant to Rule 11.

(b) *Before whom taken.* Depositions to be offered in evidence before the Board may be taken before and authenticated by any person authorized by the laws of the United States, or by the laws of the place where the deposition is taken, to administer oaths.

(c) *By oral examinations.* When either party desires to take the testimony of any person by deposition upon oral examination, the moving party shall give the opposite party at least 15 days written notice of the time and place where such deposition is proposed to be taken; the name, address, and title of the person before whom it is proposed to be taken; and the name and address of the witness. This notice is unnecessary in any case where the deposition has been scheduled by mutual agreement. If the party so served finds it impracticable to appear at the taking of the deposition, in person or by counsel, he shall promptly so notify the moving party who shall make available to him a copy of the evidence given at the deposition. Within 15 days after receipt of such copy, the party so served may serve cross-interrogatories upon the moving party, and proceedings shall be had thereon as provided in the next succeeding subparagraph (d) herein.

(d) *By written interrogatories.* When either party desires to take the testimony of any person by deposition upon written interrogatories, the moving party shall serve them upon the opposite party with a notice stating the name and address of the person who is to answer them and the name, address, and title of the person before whom the deposition is to be taken. Within 15 days thereafter, the party so served may serve cross-interrogatories upon the moving party. A copy of the notice and copies of all interrogatories served shall be delivered by the moving party to the person before whom the deposition is to be taken, and the latter shall proceed promptly to take the testimony of the witness in response to the interrogatories.

(e) *Form and return of deposition.* Each deposition should show the docket number and the caption of the proceedings, the place and date of taking, the name of the witness, and the names of all persons present. The person taking the deposition shall certify thereon that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness, and he shall enclose the original deposition and exhibits in a sealed prepaid package and forward same to the Recorder, Armed Services Board of Contract Appeals.

(f) *Introduction in evidence.* No testimony taken by deposition shall be considered as part of the evidence in the hearing of an appeal unless and until such testimony is offered and received in evidence at the hearing. It will not ordinarily be received in evidence if the deponent is present and can testify personally at the hearing. In such case it can, however, be utilized to contradict or impeach the testimony of the deponent as a witness. If the opportunity to be heard has been waived and the case submitted pursuant to Rule 11, the deposition shall be deemed to be part of the record before the Board.

15. *Interrogatories to parties; inspection of documents; admission of facts.* Under appropriate circumstances, but not as a matter of course, the Board will entertain applications for permission to serve written interrogatories upon the opposing party, applications for an order to produce and permit the inspection of designated documents, and applications for permission to serve upon the opposing party a request for the admission of specified facts. Such applications shall be reviewed and approved only to the extent and upon such terms as the Board in its discretion considers to be consistent with the objective of securing just and inexpensive determination of appeals without unnecessary delay, and essential to the proper pursuit of that objective in the particular case.

16. *Service of papers.* Service of papers in all proceedings pending before the Board may be made personally, or by mailing the same in a sealed envelope registered, or certified, postage prepaid, addressed to the party upon whom service shall be made and the date of delivery as shown by return receipt shall be the date of service. Waiver of the service of any papers may be noted thereon or on a copy thereof or on a separate paper, signed by the parties and filed with the Board.

HEARINGS

17. *Where and when held.* Hearings will ordinarily be held in Washington, D.C., except that upon request reasonably made and upon good cause shown, the Board may in its discretion set the hearing at another location. Hearings will be scheduled at the discretion of the Board with due consideration to the regular order of appeals and other pertinent factors. On request or motion by either party and upon good cause shown, the Board may in its discretion advance a hearing.

18. *Notice of hearings.* The parties shall be given at least 15 days notice of the time and place set for hearings. In scheduling hearings, the Board will give due regard to the desires of the parties, and to the requirement for just and inexpensive determination of appeals without unnecessary delay. Notices of hearing shall be promptly acknowledged by the parties. A party failing to acknowledge a notice of hearing shall be deemed to have submitted his case upon the Board record as provided in Rule 11.

19. *Unexcused absence of a party.* The unexcused absence of a party at the time and place set for hearing will not be occasion for delay. In the event of such absence, the hearing will proceed and the case will be regarded as submitted by the absent party as provided in Rule 11.

20. *Nature of hearings.* Hearings shall be as informal as may be reasonable and appropriate under the circumstances. Appellant and respondent may offer at a hearing on the merits such relevant evidence as they deem appropriate and as would be admissible under the generally accepted rules of evidence applied in the courts of the United States in nonjury trials, subject, however, to the sound discretion of the presiding member or examiner in supervising the extent and manner of presentation of such evidence. In general, admissibility will hinge on relevancy and materiality. Letters or copies thereof, affidavits, or other evidence not ordinarily admissible under the generally accepted rules of evidence, may be admitted in the discretion of the presiding member or examiner. The weight to be attached to evidence presented in any particular form will be within the discretion of the Board, taking into consideration all the circumstances of the particular case. Stipulations of fact agreed upon by the parties may be regarded and used as evidence at the hearing. The parties may stipulate the testimony that would be given by a witness if the witness were present. The Board may in any case require evidence in addition to that offered by the parties.

21. *Examination of witnesses.* Witnesses before the Board will be examined orally under oath or affirmation, unless the facts are stipulated, or the Board member or examiner shall otherwise order. If the testimony of a witness is not given under oath the Board may, if it seems expedient, warn the witness that his statements may be subject to the provisions of Title 18, United States Code, Sections 287 and 1001, and any other provisions of law imposing penalties for knowingly making false representations in connection with claims against the United States or in any matter within the jurisdiction of any department or agency thereof.

22. *Copies of papers.* When books, records, papers, or documents have been received in evidence, a true copy thereof or of such part thereof as may be material or relevant may be substituted therefor, during the hearing or at the conclusion thereof.

23. *Posthearing briefs.* Posthearing briefs may be submitted upon such terms as may be agreed upon by the parties and the presiding member or examiner at the conclusion of the hearing. Ordinarily they will be simultaneous briefs, exchanged within 20 days after receipt of transcript.

24. *Transcript of proceedings.* Testimony and argument at hearings shall be reported verbatim, unless the Board otherwise orders. Transcripts of the proceedings shall be supplied to the parties at such rates as may be fixed by contract between the Board and the reporter. If the proceedings are reported by an employee of the Government, the appellant may receive transcripts upon payment to the Government at the same rates as those set by contract between the Board and the independent reporter.

25. *Withdrawal of exhibits.* After a decision has become final the Board may, upon request and after notice to the other party, in its discretion permit the withdrawal of original exhibits, or any part thereof, by the party entitled thereto. The substitution of true copies of exhibits or any part thereof may be required by the Board in its discretion as a condition of granting permission for such withdrawal.

REPRESENTATION

26. *The appellant.* An individual appellant may appear before the Board in person, a corporation by an officer thereof, a partnership or joint venture by a member thereof, or any of these by an attorney at law duly licensed in any State, Commonwealth, Territory, or in the District of Columbia.

27. *The respondent.* Government counsel designated by the various departments to represent the departments, agencies, directorates, and bureaus cognizant of the disputes brought before the Board, may in

accordance with their authority represent the interests of the Government before the Board. They shall file notices of appearance with the Board, and notice thereof will be given appellant or his attorney in the form specified by the Board from time to time. Whenever at any time it appears that appellant and Government counsel are in agreement as to disposition of the controversy, the Board may suspend further processing of the appeal in order to permit reconsideration by the contracting officer: *Provided, however,* That if the Board is advised thereafter by either party that the controversy has not been disposed of by agreement, the case shall be restored to the Board's calendar without loss of position.

DECISIONS

28. Decisions of the Board will be made in writing and authenticated copies thereof will be forwarded simultaneously to both parties. The rules of the Board and all final orders and decisions (except those required for good cause to be held confidential and not cited as precedents) shall be open for public inspection at the offices of the Board in Washington, D.C. In accordance with paragraph 3 of the Charter, decisions of the Board will be made upon the record, as described in Rule 13.

MOTIONS FOR RECONSIDERATION

29. A motion for reconsideration, if filed by either party, shall set forth specifically the ground or grounds relied upon to sustain the motion, and shall be filed within 30 days from the date of the receipt of a copy of the decision of the Board by the party filing the motion.

DISMISSAL WITHOUT PREJUDICE

30. In certain cases, appeals docketed before the Board are required to be placed in a suspense status and the Board is unable to proceed with disposition thereof for reasons not within the control of the Board. In any such case where the suspension has continued, or it appears that it will continue, for an inordinate length of time, the Board may in its discretion dismiss such appeals from its docket without prejudice to their restoration when the cause of suspension has been removed.

IDAR RIMESTAD,
Deputy Under Secretary for Administration.

NOVEMBER 3, 1967.

[F.R. Doc. 67-13442; Filed, Nov. 15, 1967; 8:45 a.m.]

Chapter 101—Federal Property Management Regulations

SUBCHAPTER B—SUPPLY AND PROCUREMENT

PART 101-26—PROCUREMENT SOURCES AND PROGRAMS

Federal Supply Schedules

Part 101-26 is amended to appropriately reflect the change in title of the GSA publication "Guide to Sources of Supply and Service" (formerly Customer's Guide to Sources of Supply and Service) and to reference illustration of GSA Form 1424, Supplemental Provisions (Supply Contracts).

The table of contents for Part 101-26 is amended to provide a revised entry for § 101-26.402-4 and a new § 101-26.4902-1424, as follows:

Sec.
101-26.402-4 Guide to Sources of Supply and Service.
101-26.4902-1424 GSA Form 1424, Supplemental Provisions (Supply Contracts).

Subpart 101-26.4—Purchase of Items From Federal Supply Schedule Contracts

Section 101-26.401 is amended and §§ 101-26.401-1, 101-26.402-4, and 101-26.402-5 are revised to read as follows:

§ 101-26.401 Applicability.

* * * * *

(b) The Guide to Sources of Supply and Service (see § 101-26.402-4), issued by the Commissioner, Federal Supply Service, GSA, is a ready reference for information on the availability of items from a Federal Supply Schedule.

§ 101-26.401-1 Mandatory use of schedules.

Federal Supply Schedules are mandatory to the extent specified in each schedule. The Guide to Sources of Supply and Service provides summary information as to mandatory coverage of each schedule. In event of any apparent conflict, the provisions of the schedule are governing. Newly developed schedules and some other schedules may be mandatory to only one or a small number of agencies. One schedule is entirely optional, and is the only exception to mandatory coverage; it is the schedule covering Motor Vehicle Parts and Accessories (FSC Groups 25, 28, 29, 38, and 39).

§ 101-26.402-4 Guide to Sources of Supply and Service.

The Guide to Sources of Supply and Service contains a listing of all current schedules and information pertinent thereto, together with the distribution code number for each schedule and catalog. Accordingly, agency offices should consult the latest edition of the Guide before submitting requests for schedules and catalogs as provided in § 101-26.402-3.

§ 101-26.402-5 Contract provisions.

(a) Each Federal Supply Schedule provides information as to the contractual provisions with which agencies should be familiar in order to properly administer orders with contractors.

(b) Standard Form 32, General Provisions (Supply Contract) (illustrated at § 1-16.901-32 of this title), and GSA Form 1424, Supplemental Provisions (Supply Contract) (illustrated at § 101-26.4902-1424), are incorporated by reference in Federal Supply Schedule contracts. A "Scope of Contract" statement, special provisions pertinent to a particular schedule, and any necessary exceptions to the general provisions are printed in the schedule.

Subpart 101-26.49—Illustrations of Forms

Subpart 101-26.49 is amended by revising §§ 101-26.4901 and 101-26.4902(b) and adding new § 101-26.4902-1424 as follows:

§ 101-26.4901 Standard forms.

(a) The Standard forms are illustrated in this section to show their text, format, and arrangement and to provide a ready source of reference. The subsection numbers in this section correspond with the Standard form numbers.

(b) The Standard forms illustrated in this § 101-26.4901 may be obtained from the nearest GSA supply depot, unless otherwise provided in the section prescribing the form(s).

§ 101-26.4902 GSA forms.

* * * * *

(b) GSA forms illustrated in this § 101-26.4902 may be obtained by Federal agencies from General Services Administration Region 3, Office of Administration, Administrative Services Division—3 BRD, Washington, D.C. 20407, unless otherwise provided in the section prescribing the form(s).

§ 101-26.4902-1424 GSA Form 1424, Supplemental Provisions (Supply Contracts).

(a) Page 1 of GSA Form 1424: (prescribed at § 101-26.402-5(b)).

(b) Page 2 of GSA Form 1424: (prescribed at § 101-26.402-5(b)).

(c) Page 3 of GSA Form 1424: (prescribed at § 101-26.402-5(b)).

(d) Page 4 of GSA Form 1424: (prescribed at § 101-26.402-5(b)).

NOTE: The form in § 101-26.4902-1424 is filed as part of the original document. Copies may be obtained from the General Services Administration Region 3, Office of Administration, Administrative Services Division, 3 BRD, Washington, D.C. 20407.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This amendment is effective upon publication in the FEDERAL REGISTER.

Dated: November 8, 1967.

LAWSON B. KNOTT, Jr.,
Administrator of General Services.

[F.R. Doc. 67-13480; Filed, Nov. 15, 1967; 8:48 a.m.]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER B—MERCHANT MARINE OFFICERS AND SEAMEN

[CGFR 67-75]

PART 10—LICENSING OF OFFICERS AND MOTORBOAT OPERATORS AND REGISTRATION OF STAFF OFFICERS

Deck Licenses as Master and Mate of Freight and Towing Vessels of Not More Than 1,000 Gross Tons

1. The establishment of qualifications and issuance of licenses as masters and mates of freight and towing vessels of not more than 1,000 gross tons, which also allow the holders while serving as masters or mates of such vessels to serve as "pilots" within conditions and terms endorsed on such licenses, are provided for in the new regulations set forth below in this document. In the FEDERAL REGISTER of February 25, 1966 (31 F.R. 3122-3123), a notice of proposed rule making was published on this subject, and a supplement to the Merchant Marine Council Public Hearing Agenda dated March 21, 1966 (CG-249), giving the details as "Item XIb—Deck Licenses as Master and Pilot and as Mate and Pilot of Freight and Towing Vessels of not more than 1,000 Gross Tons" was distributed to all persons known to be interested in this subject. Item XIb was considered at a Merchant Marine Council Public Hearing on March 21, 1966. The Merchant Marine Council, after extensive review and consideration of this subject, including informal consultations with affected unions, management, and operators of small freight and towing vessels, recommended authorization of holders of licenses as masters and mates of freight and towing vessels of not more than 1,000 gross tons while employed as masters or mates of such vessels to serve as "pilots" within the conditions and terms endorsed on their respective licenses. The proposals, as revised, are approved and set forth in this document. The actions of the Merchant Marine Council with respect to comments received regarding these proposals are approved. As reflected by the regulations in this document, these actions are:

a. The licenses of "master of freight and towing vessels of not more than 1,000 gross tons" and "mate of freight and towing vessels of not more than 1,000 gross tons" are established and issuance authorized to applicants who qualify therefor under the regulations in this document.

b. Within the conditions and qualifications endorsed on their respective licenses, the persons holding licenses as master or mate of freight and towing vessels of not more than 1,000 gross tons may serve as master or mate, as well as the navigator of such vessels, and when prescribing the minimum manning of such inspected vessels in the certificates of inspection, the Officer in Charge, Marine Inspection, will permit such persons to serve in the dual capacity of master or mate and pilot of such vessels.

c. The regulations for the new licenses as master or mate of freight and towing vessels of not more than 1,000 tons are added to 46 CFR Part 10 governing the licensing of merchant marine officers, and shall be effective January 1, 1968: *Provided,* That the requirements in this document may be complied with during the period prior to the effective date specified in lieu of existing requirements, and these licenses may be issued to qualified applicants on and after date of publication in the FEDERAL REGISTER.

2. By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by section 632 of Title 14, United States Code, and Department of Transportation Order 1100.1, dated March 31, 1967 (49 CFR 1.4(a)(2), 32 F.R. 5606), to promulgate regulations in accordance with the laws cited with the regulations below, the following amendments are prescribed:

3. The authority for Part 10 is amended to read as follows:

AUTHORITY: The provisions of this Part 10 issued under R.S. 4405, as amended, 4462, as amended, sec. 6(b)(1), 80 Stat. 938; 46 U.S.C. 375, 416, 49 U.S.C. 1655(b); Department of Transportation Order 1100.1, Mar. 31, 1967, 49 CFR 1.4(a)(2), 33 F.R. 5606; except as otherwise noted.

Subpart 10.05—Professional Requirements for Officer's Licenses (Inspected Vessels)

4. Subpart 10.05 is amended by inserting after § 10.05-5 a new § 10.05-6 reading as follows:

§ 10.05-6 Master of freight and towing vessels not more than 1,000 gross tons.

(a) *General.* (1) This section shall apply to every applicant for a license as "master of freight and towing vessels of not more than 1,000 gross tons" who also desires to serve as pilot within the limitations of his license, on those vessels to which he is assigned as master. A license acquired under the provisions of this section shall authorize the holder to serve as master, and as pilot, within the class, route, tonnage and other limitations of his license, if any, upon vessels to which he is assigned as master or mate, without the necessity of holding an endorsement as pilot.

(2) At least one-third of the experience required must have been acquired on vessels of more than 100 gross tons. Experience on vessels of less than 15 gross tons will not be considered as qualifying.

(3) Six months of the experience required shall have been acquired in the area for which application is made; 3 months of which must have been acquired within the year preceding the application.

(4) Any holder of a deck license of equal or superior grade may be considered eligible for license as master upon presentation of evidence of service required by subparagraph (3) of this paragraph and satisfactory completion of examination on subjects in § 10.05-52 (a) (1) and (14) and (b).

(5) Tonnage limitations commensurate with the experience of the applicant will be established by the Officer in Charge, Marine Inspection. To be eligible for the maximum limitation of 1,000 gross tons, the applicant must have acquired at least 50 percent of his qualifying experience on vessels of more than 200 gross tons.

(6) The Officer in Charge, Marine Inspection, will determine the geographical limitations of each license commensurate with the experience and qualifications of the applicant.

(b) *Experience requirements.* The minimum service required to qualify an applicant for license as master of freight and towing vessels of not more than 1,000 gross tons is 4 years on deck including:

(1) One year's service as licensed mate; or,

(2) Two years' service as unlicensed master; or,

(3) Two years' service as quartermaster or wheelsman while holding a license as mate or first class pilot; or,

(4) Two years' service as unlicensed mate while holding a license as operator of small passenger vessels valid within the area for which application is made; or,

(5) Three years' service as unlicensed mate.

(c) *Endorsements.* In lieu of the word "pilot", a master's license may be given a simple endorsement to include, when properly qualified, waters additional to those for which he was originally licensed as master.

5. Subpart 10.05 is amended by inserting after § 10.05-35 a new § 10.05-36 reading as follows:

§ 10.05-36 Mate of freight and towing vessels not more than 1,000 gross tons.

(a) *General.* (1) This section shall apply to every applicant for a license as "mate of freight and towing vessels of not more than 1,000 gross tons" who also desires to serve as pilot, within the limitation of his license, on those vessels to which he is assigned as mate. A license acquired under the provisions of this section shall authorize the holder to serve as mate, and as pilot, within the class, route, tonnage, and other limitations of his license, if any, upon vessels to which he is assigned as mate, without the necessity of holding an endorsement as pilot.

(2) At least one-third of the experience required must have been acquired on vessels of more than 100 gross tons. Experience on vessels of less than 15 gross tons will not be considered as qualifying.

(3) Six months of the experience required shall have been acquired in the area for which application is made, 3 months of which must have been acquired within 1 year preceding the application.

(4) Any holder of a deck license of equal or superior grade may be considered eligible for license as mate upon presentation of evidence of service required by subparagraph (3) of this paragraph and satisfactory completion of examination on subjects in § 10.05-58 (a) (1) and (11) and (b).

(5) Tonnage limitations commensurate with the experience of the applicant will be established by the Officer in Charge, Marine Inspection. To be eligible for the maximum limitation of 1,000 gross tons, the applicant must have acquired at least 50 percent of his qualifying experience on vessels of more than 200 gross tons.

(6) The Officer in Charge, Marine Inspection, will determine the geographical limitations of each license commensurate with the experience and qualifications of the applicant.

(b) *Experience requirements.* The minimum service required to qualify an applicant for license as mate of freight and towing vessels of not more than 1,000 gross tons is 2 years on deck including:

(1) One year's service in a watchstanding capacity while holding a license as operator of small passenger vessels valid within the area for which application is made; or,

(2) One year's service as unlicensed mate; or,

(3) Eighteen months' service as quartermaster or wheelsman.

(c) *Endorsements.* In lieu of the word "pilot" a mate's license may be given a simple endorsement to include, when properly qualified, waters additional to those for which he was originally licensed as mate.

6. Subpart 10.05 is amended by inserting after § 10.05–51 a new § 10.05–52 reading as follows:

§ 10.05–52 Examination as master of freight and towing vessels not more than 1,000 gross tons.

(a) An applicant for license as master shall pass a satisfactory written examination as to his knowledge of the subjects listed in this paragraph.

(1) Rules of the road.
(2) Practical use of the magnetic compass.
(3) Instruments and accessories.
(4) Chart navigation.
(5) Aids to navigation.
(6) Special signals.
(7) Stability and ship construction.
(8) Cargo handling and stowage.
(9) Seamanship.
(10) Lifesaving and firefighting.
(11) Ship sanitation.
(12) Rules and regulations.
(13) Ship's business.
(14) Such further examination as the Officer in Charge, Marine Inspection, may consider necessary to establish the applicant's proficiency.

(b) The applicant shall demonstrate by written examination a practical knowledge of the area for which he has made application as master, using local charts including:

(1) General geographical description of the area, indicating location of ports and harbors, general configuration of waterways, and the general tidal effects within the area.

(2) General traffic patterns in the area and general type of traffic to be encountered.

(3) More apparent hazards to navigation with their general descriptions and locations.

(4) General description of major aids to navigation including topographical aids.

(5) General description of winds and currents in the area, especially those of peculiar force or effect.

(6) Special and peculiar hazards to navigation.

(7) Special rules, signals, and customs of the area.

(8) Methods of determining courses, distances, and positions using the chart.

(c) The applicant shall demonstrate a satisfactory ability to navigate a vessel within the area for which he has made application using such methods as are commonly used.

(d) An applicant for extension of route shall be examined in subjects in subparagraphs (1) and (14) of paragraph (a) and paragraph (b) of this section.

(e) The District Commander may authorize an oral examination in lieu of a written examination. When an oral examination is authorized, the Officer in Charge, Marine Inspection, shall maintain a written record of the examination for reference.

7. Subpart 10.05 is amended by inserting after § 10.05–57 a new § 10.05–58 reading as follows:

§ 10.05–58 Examination as mate of freight and towing vessels not more than 1,000 gross tons.

(a) An applicant for license as mate shall pass a satisfactory written examination as to his knowledge of the subjects listed in this paragraph:

(1) Rules of the road.
(2) Practical use of the magnetic compass.
(3) Instruments and accessories.
(4) Chart navigation.
(5) Aids to navigation.
(6) Special signals.
(7) Cargo stowage and handling.
(8) Seamanship.
(9) Lifesaving and firefighting.
(10) Rules and regulations.
(11) Such other examination as the Officer in Charge, Marine Inspection, may consider necessary to establish the applicant's proficiency.

(b) The applicant shall demonstrate by written examination a practical knowledge of the area for which he has made application as mate, using local charts, including those subjects described in § 10.05–52(b).

(c) The applicant shall demonstrate a satisfactory ability to navigate a vessel within the area for which he has made application using such methods as are commonly used.

(d) An applicant for extension of route shall be examined in subjects in subparagraphs (1) and (11) in paragraph (a) and paragraph (b) of this section.

(e) The District Commander may authorise an oral examination in lieu of a written examination. When an oral examination is authorized, the Officer in Charge, Marine Inspection, shall maintain a written record of the examination for reference.

(R.S. 4417a, as amended, 4426, as amended, 4427, as amended, 4438, as amended, 4438a, as amended, 4439, as amended, 4440, as amended, 4442, as amended, 4443, as amended, 4445, as amended, sec. 1, 24 Stat. 1411, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 3, 70 Stat. 152, and sec. 3, 68 Stat. 675; 46 U.S.C. 391a, 404, 405, 224, 234a, 226, 228, 214, 220, 231, 237, 367, 390b, 50 U.S.C. 198; Department of Transportation Order 1100.1, Mar. 31, 1967, 49 CFR 1.4(a)(3), 32 F.R. 5606)

Dated: November 8, 1967.

W. J. SMITH,
Admiral, U.S. Coast Guard, Commandant.

[F.R. Doc. 67–13469; Filed, Nov. 15, 1967; 8:47 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Tewaukon National Wildlife Refuge, N. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

NORTH DAKOTA

TEWAUKON NATIONAL WILDLIFE REFUGE

Sport fishing on the Tewaukon National Wildlife Refuge, N. Dak., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 1,514 acres, are delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn. 55408. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from December 15, 1967, through March 28, 1968, daylight hours only.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33, and are effective through March 28, 1968.

HERBERT G. TROESTER,
Refuge Manager, Tewaukon National Wildlife Refuge, Cayuga, N. Dak.

NOVEMBER 9, 1967.

[F.R. Doc. 67–13451; Filed, Nov. 15, 1967; 8:45 a.m.]

PART 33—SPORT FISHING

Lake Ilo National Wildlife Refuge, N. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

NORTH DAKOTA

LAKE ILO NATIONAL WILDLIFE REFUGE

Sport fishing on the Lake Ilo National Wildlife Refuge, Dunn Center, N. Dak., is permitted only on the area designated by signs as open to fishing. This open area comprising 1,300 acres is delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn. 55408. Sport fishing shall be in accordance with applicable State regulations subject to the following special conditions:

(1) The open season for Sport Fishing on the refuge extends from December 15, 1967, through March 24, 1968, daylight hours only.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally are set forth in Title 50, Part 33, and are effective through March 24, 1968.

HOMER L. BRADLEY,
Refuge Manager, Lake Ilo National Wildlife Refuge, Dunn Center, N. Dak.

NOVEMBER 9, 1967.

[F.R. Doc. 67–13470; Filed, Nov. 15, 1967; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Constructive Ownership of Stock

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

In order to conform the Income TAX Regulations (26 CFR Part 1) under sections 302, 304, 306, 318, 382, 856, and 6038 of the Internal Revenue Code of 1954 to section 4 of the Act of August 31, 1964 (Public Law 88-554, 78 Stat. 762), such regulations are amended as follows:

PARAGRAPH 1. Paragraph (f) of § 1.302-4 is amended to read as follows:

§ 1.302-4 Termination of shareholder's interest.

* * * * *

(f) In determining whether an entire interest in the corporation has been terminated under section 302(b)(3), under all circumstances paragraphs (2), (3), (4), and (5) of section 318(a) (relating to constructive ownership of stock) shall be applicable.

* * * * *

PAR. 2. Section 1.304 is amended by revising section 304 (b)(1) and (c)(2), and by adding a historical note. These revised and added provisions read as follows:

§ 1.304 Statutory provisions; redemption through use of related corporations.

SEC. 304. *Redemption through use of related corporations.* * * *

(b) *Special rules for application of subsection (a)—(1) Rule for determinations under section 302(b).* In the case of any acquisition of stock to which subsection (a) of this section applies, determinations as to whether the acquisition is, by reason of section 302(b), to be treated as a distribution in part or full payment in exchange for the stock shall be made by reference to the stock of the issuing corporation. In applying section 318(a) (relating to constructive ownership of stock) with respect to section 302(b) for purposes of this paragraph, sections 318(a)(2)(C) and 318(a)(3)(C) shall be applied without regard to the 50-percent limitation contained therein.

* * * * *

(c) *Control.* * * *

(2) *Constructive ownership.* Section 318(a) (relating to the constructive ownership of stock) shall apply for purposes of determining control under paragraph (1). For purposes of the preceding sentence, sections 318(a)(2)(C) and 318(a)(3)(C) shall be applied without regard to the 50-percent limitation contained therein.

[Sec. 304 as amended by sec. 4, Act of Aug. 31, 1964 (Pub. Law 88-554, 78 Stat. 762)]

PAR. 3. Paragraphs (a) and (c) of § 1.304-2 are amended to read as follows:

§ 1.304-2 Acquisition by related corporation (other than subsidiary).

(a) If a corporation, in return for property, acquires stock of another corporation from one or more persons, and the person or persons from whom the stock was acquired were in control of both such corporations before the acquisition, then such property shall be treated as received in redemption of stock of the acquiring corporation. The stock received by the acquiring corporation shall be treated as a contribution to the capital of such corporation. See section 362(a) for determination of the basis of such stock. The transferor's basis for his stock in the acquiring corporation shall be increased by the basis of the stock surrendered by him. (But see below in this paragraph for subsequent reductions of basis in certain cases.) As to each person transferring stock, the amount received shall be treated as a distribution of property under section 302(d), unless as to such person such amount is to be treated as received in exchange for the stock under the terms of section 302(a) or section 303. In applying section 303(b), reference shall be had to the shareholder's ownership of stock in the issuing corporation and not to his ownership of stock in the acquiring corporation (except for purposes of applying section 318(a)). In determining control and applying section 302(b), section 318(a) (relating to the constructive ownership of stock) shall be applied without regard to the 50-percent limitation contained in section 318(a)(2)(C) and (3)(C). A series of redemptions referred to in section 302(b)(2)(D) shall include acquisitions by either of the corporations of stock of the other and stock redemptions by both corporations. If section 302(d) applies to the surrender of stock by a shareholder, his basis for his stock in the acquiring corporation after the transaction (increased as stated above in this paragraph) shall not be decreased except as provided in section 301. If section 302(d) does not apply, the property received shall be treated as received in a distribution in payment in exchange for stock of the acquiring corporation under section 302(a), which stock has a basis equal to the amount by which the shareholder's basis for his stock in the acquiring corporation was increased on account of the contribution to capital as provided for above in this paragraph. Accordingly, such amount shall be applied in reduction of the shareholder's basis for his stock in the acquiring corporation. Thus, the basis of each share of the shareholder's stock in the acquiring corporation will be the same as the basis of such share before the entire transaction. The holding period of the stock which is considered to have been redeemed shall be the same as the holding period of the stock actually surrendered.

* * * * *

(c) The application of section 304(a)(1) may be illustrated by the following examples:

Example (1). Corporation X and corporation Y each have outstanding 200 shares of common stock. One-half of the stock of each corporation is owned by an individual, A, and one-half by another individual, B, who is unrelated to A. On or after August 31, 1964, A sells 30 shares of corporation X stock to corporation Y for $50,000, such stock having an adjusted basis of $10,000 to A. After the sale, A is considered as owning corporation X stock as follows: (i) 70 shares directly, and (ii) 15 shares constructively, since by virtue of his 50-percent ownership of Y he constructively owns 50 percent of the 30 shares owned directly by Y. Since A's percentage of ownership of X's voting stock after the sale (85 out of 200 shares, or 42.5%) is not less than 80 percent of his percentage of ownership of X's voting stock before the sale (100 out of 200 shares, or 50%), the transfer is not "substantially disproportionate" as to him as provided in section 302(b)(2). Under these facts, and assuming that section 302(b)(1) is not applicable, the entire $50,000 is treated as a dividend to A to the extent of the earnings and profits of corporation Y. The basis of the corporation X stock to corporation Y is $10,000, its adjusted basis to A. The amount of $10,000 is added to the basis of the stock of corporation Y in the hands of A.

Example (2). The facts are the same as in example (1) except that A sells 80 shares of corporation X stock to corporation Y, and the sale occurs before August 31, 1964. After the sale, A is considered as owning corporation X stock as follows: (i) 20 shares directly, and (ii) 90 shares indirectly, since by virtue of his 50-percent ownership of Y he constructively owns 50 percent of the 80 shares owned directly by Y and 50 percent of the 100 shares attributed to Y because they are owned by Y's stockholder, B. Since after the sale A owns a total of more than 60 percent of the voting power of all of the outstanding stock of X (110 out of 200 shares, or 55%), the transfer is not "substantially disproportionate" as to him as provided in section 302(b)(2).

Example (3). Corporation X and corporation Y each have outstanding 100 shares of common stock. A, an individual, owns one-half the stock of each corporation, B owns one-half the stock of corporation X, and C owns one-half the stock of corporation Y. A, B, and C are unrelated. A sells 30 shares of the stock of corporation X to corporation Y for $50,000, such stock having an adjusted basis of $10,000 to him. After the sale, A is considered as owning 35 shares of the stock of corporation X (20 shares directly and 15 constructively because one-half of the 30 shares owned by corporation Y are attributed to him). Since before the sale he owned 50 percent of the stock of corporation X and after the sale he owned directly and constructively only 35 percent of such stock, the redemption is substantially disproportionate as to him pursuant to the provisions of section 302(b)(2). He, therefore, realizes a gain of $40,000 ($50,000 minus $10,000). If the stock surrendered is a capital asset, such gain is long-term or short-term capital gain depending on the period of time that such stock was held. The basis to A for the stock of corporation Y is not changed as a result of the entire transaction. The basis to corporation Y for the stock of corporation X is $50,000, i.e., the basis of the transferor ($10,000), increased in the amount of gain recognized to the transferor ($40,000) on the transfer.

Example (4). Corporation X and corporation Y each have outstanding 100 shares of common stock. H, an individual, W, his wife, S, his son, and G, his grandson, each own 25 shares of stock of each corporation. H sells all of his 25 shares of stock of corporation X to corporation Y. Since both before and after the transaction H owned directly and constructively 100 percent of the stock of corporation X, and assuming that section 302(b)(1) is not applicable, the amount received by him for his stock of corporation X is treated as a dividend to him to the extent of the earnings and profits of corporation Y.

PAR. 4. Paragraph (a) of § 1.306-2 is amended to read as follows:

§ 1.306-2 Exception.

(a) If a shareholder terminates his entire stock interest in a corporation—

(1) By a sale or other disposition within the requirements of section 306(b)(1)(A), or

(2) By redemption under section 302(b)(3) (through the application of section 306(b)(1)(B)),

the amount received from such disposition shall be treated as an amount received in part or full payment for the stock sold or redeemed. In the case of a sale, only the stock interest need be terminated. In determining whether an entire stock interest has been terminated under section 306(b)(1)(A), all of the provisions of section 318(a) (relating to constructive ownership of stock) shall be applicable. In determining whether a shareholder has terminated his entire interest in a corporation by a redemption of his stock under section 302(b)(3), all of the provisions of section 318(a) shall be applicable unless the shareholder meets the requirements of section 302(c)(2) (relating to termination of all interest in the corporation). If the requirements of section 302(c)(2) are met, section 318(a)(1) (relating to members of a family) shall be inapplicable. Under all circumstances subparagraphs (2), (3), (4), and (5) of section 318(a) shall be applicable.

* * * * *

PAR. 5. Section 1.318 is amended to read as follows:

§ 1.318 Statutory provisions; constructive ownership of stock.

SEC. 318. *Constructive ownership of stock—(a) General rule.* For purposes of those provisions of this subchapter to which the rules contained in this section are expressly made applicable—

(1) *Members of family—(A) In general.* An individual shall be considered as owning the stock owned, directly or indirectly, by or for—

(i) His spouse (other than a spouse who is legally separated from the individual under a decree of divorce or separate maintenance), and

(ii) His children, grandchildren and parents.

(B) *Effect of adoption.* For purposes of subparagraph (A)(ii), a legally adopted child of an individual shall be treated as a child of such individual by blood.

(2) *Attribution from partnerships, estates, trusts, and corporations—(A) From partnerships and estates.* Stock owned, directly or indirectly, by or for a partnership or estate shall be considered as owned proportionately by its partners or beneficiaries.

(B) *From trusts.* (i) Stock owned, directly or indirectly, by or for a trust (other than an employees' trust described in section 401(a) which is exempt from tax under section 501(a)) shall be considered as owned by its beneficiaries in proportion to the actuarial interest of such beneficiaries in such trust.

(ii) Stock owned, directly or indirectly, by or for any portion of a trust of which a person is considered the owner under subpart E of part I of subchapter J (relating to grantors and others treated as substantial owners) shall be considered as owned by such person.

(C) *From corporations.* If 50 percent or more in value of the stock in a corporation is owned, directly or indirectly, by or for any person, such person shall be considered as owning the stock owned, directly or indirectly, by or for such corporation, in that proportion which the value of the stock which such persons so owns bears to the value of all the stock in such corporation.

(3) *Attribution to partnerships, estates, trusts, and corporations—(A) To partnerships and estates.* Stock owned, directly or indirectly, by or for a partner or a beneficiary of an estate shall be considered as owned by the partnership or estate.

(B) *To trust.* (i) Stock owned, directly or indirectly, by or for a beneficiary of a trust (other than an employees' trust described in section 401(a) which is exempt from tax under section 501(a)) shall be considered as owned by the trust, unless such beneficiary's interest in the trust is a remote contingent interest. For purposes of this clause, a contingent interest of a beneficiary in a trust shall be considered remote if, under the maximum exercise of discretion by the trustee in favor of such beneficiary, the value of such interest, computed actuarially, is 5 percent or less of the value of the trust property.

(ii) Stock owned, directly or indirectly, by or for a person who is considered the owner of any portion of a trust under subpart E of part I of subchapter J (relating to grantors and others treated as substantial owners) shall be considered as owned by the trust.

(C) *To corporations.* If 50 percent or more in value of the stock in a corporation is owned, directly or indirectly, by or for any person, such corporation shall be considered as owning the stock owned, directly or indirectly, by or for such person.

(4) *Options.* If any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

(5) *Operating rules—(A) In general.* Except as provided in subparagraphs (B) and (C), stock constructively owned by a person by reason of the application of paragraph (1), (2), (3), or (4), shall, for purposes of applying paragraphs (1), (2), (3), and (4), be considered as actually owned by such person.

(B) *Members of family.* Stock constructively owned by an individual by reason of the application of paragraph (1) shall not be considered as owned by him for purposes of again applying paragraph (1) in order to make another the constructive owner of such stock.

(C) *Partnerships, estates, trusts, and corporations.* Stock constructively owned by a partnership, estate, trust, or corporation by reason of the application of paragraph (3) shall not be considered as owned by it for purposes of applying paragraph (3) in order to make another the constructive owner of such stock.

(D) *Option rule in lieu of family rule.* For purposes of this paragraph, if stock may be considered as owned by an individual under paragraph (1) or (4), it shall be considered as owned by him under paragraph (4).

(b) *Cross references.* For provisions to which the rules contained in subsection (a) apply, see—

(1) Section 302 (relating to redemption of stock);

(2) Section 304 (relating to redemption by related corporations);

(3) Section 306(b)(1)(A) (relating to disposition of section 306 stock);

(4) Section 336(b)(2)(C) (relating to basis of property received in certain liquidations of subsidiaries);

(5) Section 382(a)(3) (relating to special limitations on net operating loss carryovers);

(6) Section 856(d) (relating to definition of rents from real property in the case of real estate investment trusts);

(7) Section 958(b) (relating to constructive ownership rules with respect to controlled foreign corporations); and

(8) Section 6038(d)(1) (relating to information with respect to certain foreign corporations).

[Sec. 318 as amended by sec. 10(h), Act of Sept. 14, 1960 (Pub. Law 86-779, 74 Stat. 1009); sec. 20(d), Rev. Act 1962 (76 Stat. 1063); sec. 4, Act of Aug. 31, 1964 (Pub. Law 88-554, 78 Stat. 762)]

PAR. 6. Section 1.318-1 is amended to read as follows:

§ 1.318–1 Constructive ownership of stock; introduction.

(a) For the purposes of certain provisions of chapter 1 of the Code, section 318(a) provides that stock owned by a taxpayer includes stock constructively owned by such taxpayer under the rules set forth in such section. An individual is considered to own the stock owned, directly or indirectly, by or for his spouse (other than a spouse who is legally separated from the individual under a decree of divorce or separate maintenance), and by or for his children, grandchildren, and parents. Under section 318(a)(2) and (3), constructive ownership rules are established for partnerships and partners, estates and beneficiaries, trusts and beneficiaries, and corporations and stockholders. If any person has an option to acquire stock, such stock is considered as owned by such person. The term "option" includes an option to acquire such an option and each of a series of such options.

(b) In applying section 318(a) to determine the stock ownership of any person for any one purpose—

(1) A corporation shall not be considered to own its own stock by reason of section 318(a)(3)(C);

(2) In any case in which an amount of stock owned by any person may be included in the computation more than one time, such stock shall be included only once, in the manner in which it will impute to the person concerned the largest total stock ownership; and

(3) In determining the 50-percent requirement of section 318(a)(2)(C) and (3)(C), all of the stock owned actually and constructively by the person concerned shall be aggregated.

PAR. 7. Section 1.318–2 is amended by revising paragraph (a), by revising that part of paragraph (c) which precedes example (1), and by revising example (5) of paragraph (c). These amended provisions read as follows:

§ 1.318–2 Application of general rules.

(a) The application of paragraph (b) of § 1.318–1 may be illustrated by the following examples:

Example (1). H, an individual, owns all of the stock of corporation A. Corporation A is not considered to own the stock owned by H in corporation A.

Example (2). H, an individual, his wife, W, and his son, S, each own one-third of the stock of the Green Corporation. For purposes of determining the amount of stock owned by H, W, or S for purposes of section 318(a)(2)(C) and (3)(C), the amount of stock held by the other members of the family shall be added pursuant to paragraph (b)(3) of § 1.318–1 in applying the 50-percent requirement of such section. H, W, or S, as the case may be, is for this purpose deemed to own 100 percent of the stock of the Green Corporation.

* * * * *

(c) The application of section 318(a)(2) and (3), relating to partnerships, trusts and corporations, may be illustrated by the following examples:

Example (5). A and B, unrelated individuals, own 70 percent and 30 percent, respectively, of the stock of corporation M. A, B, and corporation M all own stock of corporation O. Since B owns less than 50 percent in value of the stock of corporation M, neither B nor corporation M constructively owns the stock of corporation O owned by the other. However, for the purposes of sections 304(b)(1), 304(c)(2), and 382(a)(3), section 318(a)(2)(C) and (3)(C) are applied without regard to the 50-percent limitation contained therein, and for such purposes, B constructively owns his proportionate share of the stock of corporation O owned directly by corporation M, and corporation M constructively owns the stock of corporation O owned by B.

PAR. 8. Section 1.318–3 is amended by revising example (1) in paragraph (a) to read as follows:

§ 1.318–3 Estates, trusts, and options.

(a) * * *

Example (1). (a) A decedent's estate owns 50 of the 100 outstanding shares of stock of corporation X. The remaining shares are owned by three unrelated individuals, A, B, and C, who together own the entire interest in the estate. A owns 12 shares of stock of corporation X directly and is entitled to 50 percent of the estate. B owns 18 shares directly and has a life estate in the remaining 50 percent of the estate. C owns 20 shares directly and also owns the remainder interest after B's life estate.

(b) If section 318(a)(5)(C) applies (see paragraph (c)(3) of § 1.318–4), the stock of corporation X is considered to be owned as follows: the estate is considered as owning 30 shares, 50 shares directly, 12 shares constructively through A, and 18 shares constructively through B; A is considered as owning 37 shares, 12 shares directly, and 25 shares constructively (50 percent of the 50 shares owned directly by the estate); B is considered as owning 43 shares, 18 shares directly and 25 shares constructively (50 percent of the 50 shares owned directly by the estate); C is considered as owning 20 shares directly and no shares constructively. C is not considered a beneficiary of the estate under section 318(a) since he has no direct present interest in the property held by the estate nor in the income produced by such property.

(c) If section 318(a)(5)(C) does not apply, A is considered as owning nine additional shares (50 percent of the 18 shares owned constructively by the estate through B), and B is considered as owning six additional shares (50 percent of the 12 shares owned constructively by the estate through A).

* * * * *

PAR. 9. Section 1.318–4 is amended to read as follows:

§ 1.318–4 Constructive ownership as actual ownership; exceptions.

(a) *In general.* Section 318(a)(5)(A) provides that, except as provided in section 318(a)(5)(B) and (C), stock constructively owned by a person by reason of the application of section 318(a)(1), (2), (3), or (4) shall be considered as actually owned by such person for purposes of applying section 318(a)(1), (2), (3), and (4). For example, if a trust owns 50 percent of the stock of corporation X, stock of corporation Y owned by corporation X which is attributed to the trust may be further attributed to the beneficiaries of the trust.

(b) *Constructive family ownership.* Section 318(a)(5)(B) provides that stock constructively owned by an individual by reason of ownership by a member of his family shall not be considered as owned by him for purposes of making another family member the constructive owner of such stock under section 318(a)(1). For example, if F and his two sons, A and B, each own one-third of the stock of a corporation, under section 318(a)(1), A is treated as owning constructively the stock owned by his father but is not treated as owning the stock owned by B. Section 318(a)(5)(B) prevents the attribution of the stock of one brother through the father to the other brother, an attribution beyond the scope of section 318(a)(1) directly.

(c) *Reattribution.* (1) Section 318(a)(5)(C) provides that stock constructively owned by a partnership, estate, trust, or corporation by reason of the application of section 318(a)(3) shall not be considered as owned by it for purposes of applying section 318(a)(2) in order to make another the constructive owner of such stock. For example, if two unrelated individuals are beneficiaries of the same trust, stock held by one which is attributed to the trust under section 318(a)(3) is not reattributed from the trust to the other beneficiary. However, stock constructively owned by reason of section 318(a)(2) may be reattributed under section 318(a)(3). Thus, for example, if all the stock of corporations X and Y is owned by A, stock of corporation Z held by X is attributed to Y through A.

(2) Section 318(a)(5)(C) does not prevent reattribution under section 318(a)(2) of stock constructively owned by an entity under section 318(a)(3) if the stock is also constructively owned by the entity under section 318(a)(4). For example, if individuals A and B are beneficiaries of a trust and the trust has an option to buy stock from A, B is considered under section 318(a)(2)(B) as owning a proportionate part of such stock.

(3) Section 318(a)(5)(C) is effective on and after August 31, 1964, except that for purposes of sections 302 and 304 it does not apply with respect to distributions in payment for stock acquisitions or redemptions if such acquisitions or redemptions occurred before August 31, 1964.

PAR. 10. Section 1.382(a) is amended by revising section 382(a)(3) and by adding an historical note. These amended and added provisions read as follows:

§ 1.382(a) Statutory provisions; special limitations on net operating loss carryovers; purchase of a corporation and change in its trade or business.

SEC. 382. *Special limitations on net operating loss carryovers*—(a) *Purchase of a corporation and change in its trade or business.* * * *

(3) *Attribution of ownership.* Section 318 (relating to constructive ownership of stock) shall apply in determining the ownership of stock, except that sections 318(a)(2)(C) and 318(a)(3)(C) shall be applied without regard to the 50-percent limitation contained therein.

* * * * *

[Sec. 382(a) as amended by sec. 4, Act of Aug. 31, 1964 (Pub. Law 88–554, 78 Stat. 762)]

PAR. 11. Section 1.382(a)–1(a)(2) is amended to read as follows:

§ 1.382(a)–1 Purchase of a corporation and change in its trade or business.

(a) *In general.* * * *

(2) For purposes of this section, (i) section 318(a) shall apply in determining ownership of stock, except that section 318(a)(2)(C) and (3)(C) shall be applied without regard to the 50-percent limitation contained therein, and (ii) stock acquired by the exercise of an option shall be considered as having been acquired on the date the option was acquired. Thus, if A acquires on December 15, 1959, an option to purchase 50 percent of the outstanding stock of X Corporation and if A acquires the stock by exercising the option on January 15, 1961, A will be considered as having purchased the stock on December 15, 1959.

* * * * *

PAR. 12. Section 1.856 is amended by revising section 856(d) and by revising the historical note. These amended provisions read as follows:

§ 1.856 Statutory provisions; definition of real estate investment trust.

SEC. 856. *Definition of real estate investment trust.* * * *

(d) *Rents from real property defined.* For purposes of paragraphs (2) and (3) of subsection (c), the term "rents from real property" includes rents from interests in real property but does not include—

(1) Any amount received or accrued, directly or indirectly, with respect to any real property, if the determination of such amount depends in whole or in part on the income or profits derived by any person from such property (except that any amount so received or accrued shall not be excluded from the term "rents from real property" solely by reason of being based on a fixed percentage or percentages of receipts or sales);

(2) Any amount received or accrued directly or indirectly from any person if the real estate investment trust owns, directly or indirectly—

(A) In the case of any person which is a corporation, stock of such person possessing 10 percent or more of the total combined voting power of all classes of stock entitled to vote, or 10 percent or more of the total number of shares of all classes of stocks of such person; or

(B) In the case of any person which is not a corporation, an interest of 10 percent or more in the assets or net profits of such person; and

(3) Any amount received or accrued, directly or indirectly, with respect to any real property, if the real estate investment trust furnishes or renders services to the tenants of such property, or manages or operates such property, other than through an independent contractor from whom the trust itself does not derive or receive any income. For purposes of this paragraph, the term "independent contractor" means—

(A) A person who does not own, directly or indirectly, more than 35 percent of the shares, or certificates of beneficial interest, in the real estate investment trust, or

(B) A person, if a corporation, not more than 35 percent of the total combined voting power of whose stock (or 35 percent of the total shares of all classes of whose stock), or, if not a corporation, not more than 35 percent of the interest in whose assets or net profits is owned, directly or indirectly, by one or more persons owning 35 percent or more of the shares or certificates of beneficial interest in the trust.

For purposes of paragraphs (2) and (3), the rules prescribed by section 318(a) for determining the ownership of stock shall apply in determining the ownership of stock, assets, or net profits of any person; except that "10 percent" shall be substituted for "50 percent" in subparagraph (C) of sections 318(a)(2) and 318(a)(3).

[Sec. 856 as added by sec. 10(a), Act of Sept. 14, 1960 (Pub. Law 86–779, 74 Stat. 1004); amended by sec. 4, Act of Aug. 31, 1964 (Pub. Law 88–554, 78 Stat. 762)]

PAR. 13. Paragraph (b)(4) of § 1.856–4 is amended to read as follows:

§ 1.856–4 Rents from real property.

* * * * *

(b) *Amounts not includible as rent.* * * *

(4) *Attribution rules.* Paragraphs (2) and (3) of section 856(d) relate to direct or indirect ownership of stock, assets, or net profits by the persons described therein. For purposes of determining such direct or indirect ownership, the rules prescribed by section 318(a) (for determining the ownership of stock) shall apply except that "10 percent" shall be substituted for "50 percent" in section 318(a)(2)(C) and (3)(C).

PAR. 14. Section 1.6038 is amended by revising section 6038(d)(1), and by revising the historical note. These amended provisions read as follows:

§ 1.6038 Statutory provisions; information with respect to certain foreign corporations.

SEC. 6038. *Information with respect to certain foreign corporations.* * * *

(d) *Definitions.* For purposes of this section—

(1) *Control.* A person is in control of a corporation if such person owns stock possessing more than 50 percent of the total combined voting power of all classes of stock entitled to vote, or more than 50 percent of the total value of shares of all classes of stock, of a corporation. If a person is in control (within the meaning of the preceding sentence) of a corporation which in turn owns more than 50 percent of the total combined voting power of all classes of stock entitled to vote of another corporation, or owns more than 50 percent of the total value of the shares of all classes of stock of another corporation, then such person shall be treated as in control of such other corporation. For purposes of this paragraph, the rules prescribed by section 318(a) for determining ownership of stock shall apply; except that—

(A) Subparagraphs (A), (B), and (C) of section 318(a)(3) shall not be applied so as to consider a U.S. person as owning stock which is owned by a person who is not a U.S. person, and

(B) In applying subparagraph (C) of section 318(a)(2), the phrase "10 percent" shall be substituted for the phrase "50 percent" used in subparagraph (C).

* * * * *

[Sec. 6038 as added by sec. 6, Act of Sept. 14, 1960 (Pub. Law 86–780, 74 Stat. 1014); amended by sec. 20(a), Rev. Act 1962 (76 Stat. 1069); sec. 4, Act of Aug. 31, 1964 (Pub. Law 88–554, 78 Stat. 762)]

PAR. 15. Paragraph (c)(3) of § 1.6038–2 is amended to read as follows:

§ 1.6038–2 Information returns required of U.S. persons with respect to annual accounting periods of certain foreign corporations beginning after December 31, 1962.

* * * * *

(c) *Attribution rules.* * * *

(3) If 10 percent or more in value of the stock in a corporation is owned, directly or indirectly, by or for any person, section 318(a)(2)(C) shall apply.

* * * * *

[F.R. Doc. 67–13473; Filed, Nov. 15, 1967; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Part 7]

FORT JEFFERSON NATIONAL MONUMENT, FLA.

Special Regulations

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535), 245 DM–I (27 F.R. 6395), National Park Service Order No. 34 (31 F.R. 4255), Regional Director, Southeast Region Order No. 4 (31 F.R. 8135), as amended, it is proposed to amend § 7.27 of Title 36 of the Code of Federal Regulations as is set forth below. The purpose of this amendment is to delete existing special regulations relating to the applicability of State fishing laws and regulations, since these matters are provided for in Part 2 of this title; to delete the special regulation relating to dumping of refuse in monument waters or on monument lands, since this matter is also adequately covered under Parts 2 and 3 of this title; to delete the regulation relating to protection of wildlife since this matter also is covered by regulations appearing in Parts 2 and 3 of this title; to designate areas authorized for the landing of aircraft, as required under § 2.2 of this chapter; and to prohibit fishing and the disturbance of marine life within the moat, within 500 feet of the moat wall at Garden Key, and in the shallow waters between Garden, Bush, and Long Keys except that sport fishing in deep water channels and from the piers within that area will be permitted. The restriction against the taking of fish and other marine life from the moat is currently in effect. The additional restrictions are necessary in order to protect persons using the newly established underwater trails in the locations described and to enable such persons to enjoy a better view of the marine life. A minor change is made in paragraph (a) by correcting the cross-reference to other provisions of the regulation.

The provisions of the regulation designating authorized landing areas for aircraft are nearly identical to the provisions of the former regulation on this.

matter and its publication in these special regulations is made necessary by the reorganization of the general regulations which now appear in Part 2 of this title. However, seaplanes may no longer be brought up on land between the main dock and the south coaling dock, since that area is being used by small boats and picnickers.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections, with respect to the proposed amendments, to the Superintendent, Everglades National Park, Post Office Box 279, Homestead, Fla. 33030, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

(5 U.S.C. 558; 39 Stat. 535; 16 U.S.C. 3)

Paragraph (a) of § 7.27, Title 36, Code of Federal Regulations, is amended by revising subdivision (2) (i) and subparagraph (6) thereof as set forth below, and by revoking subparagraph (8), and amending the number (8) in the last clause of paragraph (a) to read (7). Paragraph (c) is revised and paragraph (d) is revoked.

§ 7.27 Fort Jefferson National Monument.

(a) *Fishing.* • • •

(2) Crawfish (Panulirus argus), Florida Lobster, Langouste:

(i) The limit of catch of crawfish shall be two (2) per person per day, except that the total for any one vessel having more than 12 persons aboard shall not exceed twenty-five (25) crawfish.

• • • • •

(6) Closed waters: Marine life shall not be disturbed or taken from the moat or from waters within 500 feet of the moat wall at Garden Key, or from the cove bounded by Garden, Bush and Long Keys north of the five foot channel, except that sport fishing in deep water channels and from any pier within that area is permitted.

• • • • •

(8) [Revoked]

• • • • •

(c) *Aircraft.* Designated landing areas. Aircraft may be landed in the waters within a radius of 1 nautical mile of the Fort situated on Garden Key, but approaches, landings, and takeoffs shall not be made within 300 yards of Bush Key. Seaplanes may be moored or brought up on land only on the beach north of the main pier at Garden Key. Helicopters may land at the helipads on the coaling docks.

(d) [Revoked]

ROGER W. ALLIN,
Superintendent,
Fort Jefferson National Monument.

OCTOBER 25, 1967.

[F.R. Doc. 67-13463; Filed, Nov. 15, 1967; 8:49 a.m.]

ATOMIC ENERGY COMMISSION

[10 CFR Part 20]

STANDARDS FOR PROTECTION AGAINST RADIATION

Reporting and Record Keeping Requirements

In December 1965, the Atomic Energy Commission announced its intention to develop an employer-State-Federal cooperative record and reports system for radiation workers.

An initial draft of a proposed system was disseminated for public comment in April 1966; and, on the basis of comments received, was modified in September 1966. In August and September 1966, the Joint Committee on Atomic Energy of the Congress held hearings on the subject.

After taking into consideration the testimony presented at those hearings and the comments and suggestions received from interested organizations and individuals, the Commission has further revised the proposed records and reports system. It proposes at this time to implement the revised system with respect to its own facilities and its licensees.

Provisions applicable to licensees of the Commission are contained in proposed amendments to 10 CFR Part 20. A proposed revision of § 20.401 is designed to indicate more specifically the radiation exposure records required for purposes of the Commission's records and reports system.

A proposed new § 20.407 would require licensees to report, annually, for the previous calendar year, the following identification and exposure information to be preserved in a records center:

1. Individual's quarterly exposures to radiation from sources external to the body which exceed certain specified levels;

2. Individual's exposures to concentrations of radioactive materials which exceed applicable exposure limits; and

3. Identification information (name, social security number, and date of birth) for those individuals who were required to be monitored for exposure to radiation from sources external to the body but whose exposures did not exceed specified levels and for those individuals for whom evaluations of exposure to concentrations of radioactive material were required but whose exposures did not exceed any applicable limit. The licensee would be permitted to include in this list individuals who incurred reportable exposures and individuals whose exposures were determined for the convenience of the licensee rather than to meet regulatory requirements.

The proposed central records repository would provide an index of monitored individuals. It would also make available in one place exposure information for individuals who work for more than one AEC licensee or contractor or in more than one State.

Pursuant to the Atomic Energy Act of 1954, as amended, and the Administrative Procedure Act of 1946, as amended, notice is hereby given that adoption of the following amendments to 10 CFR Part 20 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendments should send them to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, within 45 days after publication of this notice in the FEDERAL REGISTER. Comments received after that period will be considered if it is practicable to do so, but assurance of consideration cannot be given except as to comments filed within the period specified. Copies of comments may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

1. In § 20.401 of Part 20, the section heading is amended, paragraph (b) is redesignated paragraph (a), the reference in paragraph (c) to paragraph (a) is revised to refer to paragraph (b), paragraph (a) is redesignated paragraph (b) and is revised, and a new paragraph (d) is added to read as follows:

§ 20.401 Records of surveys, disposals, radiation monitoring, and exposures.

• • • • •

(b) Each licensee shall maintain records showing the exposures to radiation from sources external to the body, and the methods by which the exposures were determined, of all individuals for whom personnel monitoring is required under the regulations in this part. The records showing the exposures shall be kept on Form AEC-5, in accordance with the instructions contained in that form or on clear and legible records containing the information required by Form AEC-5. Each measurement of dose entered on the forms or records shall be for periods of time not exceeding one calendar quarter.

• • • • •

(d) Each licensee shall maintain records showing:

(1) For each weekly exposure of an individual to concentrations of radioactive material in excess of any applicable limit established in § 20.103 or § 20.104(b), an estimate of the exposure incurred, and the basis for the estimate; and

(2) For each individual exposed to concentrations of radioactive material not in excess of any applicable limit established in § 20.103 or § 20.104(b), a summary of the information developed under the provisions of § 20.201(b) and the basis for the conclusion that such exposure was within prescribed limits.

§§ 20.404, 20.406 [Amended]

2. The references in §§ 20.404 and 20.406 to "§ 20.401(a)" are revised to refer to "§ 20.401(b)."

3. A new § 20.407 is added to 10 CFR Part 20 to read as follows:

§ 20.407 Personnel exposure and monitoring reports.

Each licensee shall, within the first quarter of each calendar year, submit to the Director of Regulation, U.S. Atomic Energy Commission, Washington, D.C. 20545, the following reports covering the preceding calendar years:[1]

(a) For each adult whose radiation dose in any quarter exceeded 25 percent of any applicable level specified in § 20.101(a); and, for each individual under 18 years of age whose radiation dose in any quarter exceeded 5 percent of any applicable level specified in § 20.101(a), a report of each quarterly dose of radiation from sources external to the body, in excess of these levels. In addition to the name and address of the licensee, and the name, social security number, and date of birth of the individual exposed, the report shall specify for each such dose:

(1) The calendar quarter during which the exposure was incurred;

(2) The type(s) of radiation involved (e.g., X-, gamma or beta rays, neutrons, high energy protons);

(3) The part(s) of the body involved (e.g., whole body, skin of whole body, hands, and forearms);

(4) The estimated dose(s), expressed in rems; and

(5) The location (address or other description) at which exposure was incurred.

(b) A report of each weekly exposure to concentrations of radioactive materials that exceeded any applicable exposure limit established by § 20.103(a) or § 20.104(b). In addition to the name and address of the licensee, and the name, social security number, and date of birth of individual exposed, the report shall specify for each such exposure:

(1) The week during which the exposure was incurred;

(2) The radionuclide(s) involved;

(3) An estimate of the exposure in terms of the concentration of the nuclide(s) in inhaled air, averaged over a period of 40 hours, or body or organ dose equivalent, or average burdens expressed as amount of radioactive material present in the whole body or in the organ involved, or radiation dose to the whole body or to the organ involved; and

(4) The location (address or other description) at which exposure was incurred.

(c) A report listing (1) each individual for whom personnel monitoring of exposure to radiation from sources external to the body was required under the provisions of § 20.202(a) or § 34.33(a) of this chapter but whose exposure did not exceed levels at which reports of quarterly exposure are required under paragraph (a) of this section, and (2) each individual for whom an individual estimate of possible exposure to radioactive materials was required under the provisions of § 20.108, but whose exposure did not exceed levels at which reports are required under paragraph (b) of this section. The report required by this paragraph may include individuals whose names appear in the reports required under paragraphs (a) and (b) of this section, as well as individuals for whom such measurements or determinations were not required by the regulations in this part but were made. Individuals falling within the latter category shall be identified by use of asterisks. In addition to the name and address of the licensee, the report shall include the name, social security number, and date of birth of each individual listed.

(Secs. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Washington, D.C., this 13th day of November 1967.

For the Atomic Energy Commission.

W. B. MCCOOL,
Secretary.

[F.R. Doc. 67-13491; Filed, Nov. 15, 1967; 8:49 a.m.]

[1] A licensee whose license expires or terminates prior to, or on the last day of the calendar year shall submit reports at the expiration or termination of the license, covering that part of the year during which the license was in effect.

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 545]

[No. 21,022]

FEDERAL SAVINGS AND LOAN SYSTEM

Service Corporations

NOVEMBER 8, 1967.

Resolved that, for the purpose of requiring a Federal association to dispose of its investment in a service corporation whenever the service corporation fails to discontinue an impermissible activity, it is hereby proposed that § 545.9-1 of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.9-1) be amended by adding a new paragraph, paragraph (e), immediately after paragraph (d), to read as follows:

§ 545.9-1 Service corporations.

• • • • •

(e) *Disposal of investment.* Whenever a service corporation engages in an activity which is not permissible under this section for a service corporation in which a Federal association may invest, a Federal association having an investment in such service corporation shall dispose of such investment promptly unless, within 90 days following notice to such investing Federal association, the impermissible activity is discontinued.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

Resolved further that interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, D.C. 20552, by December 15, 1967, as to whether this proposal should be adopted, rejected or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

By the Federal Home Loan Bank Board.

[SEAL] HARRY W. CAULSEN,
Secretary.

[F.R. Doc. 67-13490; Filed, Nov. 15, 1967; 8:49 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Albuquerque Area Redelgation Order 1]

ASSISTANT AREA DIRECTORS ET AL., ALBUQUERQUE AREA

Redelegations of Authority

PART 1—GENERAL

SECTION 1.1 *Appeals.* Any action taken by any Superintendent or other officer pursuant to Part 2 of this order shall be subject to the right of appeal. An appeal may be taken from the decision of such Superintendent or other officer to the Area Director, Albuquerque Area Office. An appeal must be filed in writing with such Superintendent or other officer and shall be promptly transmitted by him with the record of the case to the Area Director, Albuquerque Area Office. Any action taken by the Area Director pursuant to this order shall be subject to the right of appeal to the Commissioner of Indian Affairs, pursuant to section 1 of Order 551, as amended, of the Bureau of Indian Affairs. Any action taken by the Commissioner of Indian Affairs pursuant to this order shall be subject to the right of appeal to the Secretary of the Interior, pursuant to section 1(a), Order 2508, as amended, of the Secretary of the Interior.

SEC. 1.2 *Limitations.* Delegations of authority made by this order are not to be construed as depriving the Area Director of the authority conferred upon him by the Commissioner of Indian Affairs. The authority delegated to an employee is limited to those matters which are normally under his jurisdiction and for which he is responsible.

SEC. 1.3 *Authority of Assistant Area Directors.* The Assistant Area Directors, and persons authorized to act in their stead during their absences may severally exercise any and all authority conferred upon the Area Director by the Commissioner of Indian Affairs.

PART 2—AUTHORITY OF AGENCY SUPERINTENDENTS AND SCHOOL SUPERINTENDENT

Subject to the provisions of Part 1, Agency Superintendents, and School Superintendent and those persons acting in their stead may exercise the authority of the Area Director as indicated in this part.

FUNCTIONS RELATING TO LANDS AND MINERALS

SEC. 2.12 *Leases and permits.* All those matters set forth in 25 CFR Part 131 except the approval of leases which provide for a duration in excess of 65 years, inclusive of any provisions for extensions or renewals thereof at the option of the lessee. This authority does not extend to the waiver of any requirements for advertising of leases or permits.

SEC. 2.15 *Allotment applications.* The approval and certification of applications for allotments on public domain under authority of the Act of February 8, 1887 (25 U.S.C., 1946 ed., sec. 336) and in the national forests, pursuant to the Act of June 25, 1910 (25 U.S.C., 1946 ed., sec. 337).

SEC. 2.16 *Mineral leases and permits.* (a) The granting of permission to negotiate permits and leases of tribal and individually owned trust or restricted lands for coal, sand, gravel, pumice, and building stone, and the approval of permits and leases for coal, sand, gravel, pumice, and building stone. The authority conferred by (a) of this section extends to and includes the approval or other appropriate administrative action required on all subleases, assignments of mining permits or mineral leases now or hereafter in force on tribal and restricted allotted lands, bonds, and other instruments required in connection with such leases, subleases, permits or assignments, the acceptance of voluntary surrender of leases by lessees, cancellation of leases for violation of terms thereof, and approval of agreements for settlement of claims for damages to Indian lands resulting from mineral operations.

(b) The approval of oil and gas leases, on forms approved by the Commissioner of Indian Affairs, of tribal lands and of trust or restricted individually owned lands in accordance with advertisements soliciting bids therefor and pursuant to 25 CFR Parts 171 and 172.

(c) The approval of tribal and allotted prospecting permits including those with a preferential right to a lease, tribal mining leases and allotted mining leases, on forms approved by the Commissioner of Indian Affairs, for minerals other than those specified in (a) and (b), covering tribal land and trust or restricted individually owned land, pursuant to 25 CFR Parts 171 and 172, provided that the royalty rates have been approved by the Commissioner of Indian Affairs.

(d) The authority conferred by (b) and (c) of this section extends to and includes the approval or other appropriate administrative action required on all subleases, assignments of mining permits or mineral leases now or hereafter in force or tribal and restricted allotted lands, bonds, and other instruments required in connection with such leases, subleases, permits or assignments, the acceptance of voluntary surrender of leases by lessees, cancellation of leases for violation of terms thereof, approval of agreements for settlement of claims for damages to Indian lands resulting from oil and gas or other mineral operations, and unit and communitization agreements.

(e) The authority delegated in this section does not include:

(1) The approval of leases of ceded or surplus lands unless title thereto has been restored to the tribe, or the leasing of such lands is authorized by a specific statute.

(2) Approval of leases on lands purchased or reserved for agency or school purposes.

(3) Approval of leases, assignments and bonds on any forms except those approved by the Commission of Indian Affairs.

(4) Modification of any forms approved by the Commissioner of Indian Affairs.

(5) Approval of amendments to oil and gas and other mining leases or to assignments.

(6) Extension of time for drilling.

(7) Approval of instruments providing for the payment of overriding royalty.

(8) Assignment of separate horizons.

(f) The authority delegated in (b) and (c) of this section applies only to Consolidated Ute Agency, Jicarilla Agency and United Pueblos Agency and does not apply to the Mescalero Agency and Zuni Agency.

SEC. 2.18. *Release of mortgages.* The approval of releases of mortgages given as security for loans made from the restricted funds of individual Indians, upon proof of payment of the loan.

SEC. 2.24 *Archeological permits.* The approval of permits for the excavation of ruins and archeological sites and the gathering of objects of antiquity on Indian reservations pursuant to 25 CFR Part 132.

SEC. 2.31 *Soil and moisture conservation.* Soil and moisture conservation operations on Indian lands, pursuant to President's Reorganization Plan Number IV of 1940 (54 Stat. 1235), and the Soil Conservation Act of April 27, 1935 (16 U.S.C. sec. 590a).

FUNCTIONS RELATING TO CREDIT MATTERS

SEC. 2.120 *Loan agreements and modifications.* The approval of applications for and modifications of loan agreements to individuals, pursuant to declarations of policy and plans of operations approved by the Commissioner or his authorized representative; provided that the amounts and conditions of loans shall be consistent with and shall not exceed the limitations as set forth in sections 120 and 121 of Bureau Order 551, as amended.

SEC. 2.122 *Enforcement terms, loan agreements.* The taking of necessary steps upon failure of individual borrowers or cooperative associations to conform to the terms of their loan agreements from tribes, bands, credit associations or the United States, pursuant to 25 CFR 91.10 and 91.12(d).

SEC. 2.123 *Assignments.* Consent to assignments of loan agreements and interests therein by borrowers from the United States, corporations, tribes, bands, and credit associations, pursuant to 25 CFR 91.11.

SEC. 2.126 *Assignments of trust property.* The approval of assignments of any trust property of an Indian, except land, and authority to act as the Indian's attorney-in-fact to execute leases on any trust land in which the Indian borrower may have an interest and to apply the rentals on the Indian's indebtedness, for a loan made pursuant to 25 CFR Part 91.

SEC. 2.127 *Loan security.* The approval of mortgages of trust chattels and crops on trust or restricted land of an Indian and assignments of income from trust or restricted land of an Indian as security for a loan by any lender.

SEC. 2.128 *Release of the U.S. interests.* The release of interests of the United States in any trust or restricted property of an Indian, except land.

FUNCTIONS RELATING TO LAW AND ORDER

SEC. 2.151 *Deputy special officer's commissions.* The issuance of deputy special officer's commissions to persons working in law enforcement for the maintenance of law and order on Indian reservations.

SEC. 2.152 *Indian court sentences.* The approval of sentences imposed on Indian employees of the Bureau of Indian Affairs by Courts of Indian Offenses as provided in 25 CFR 11.2(d), and by tribal courts as provided by any law and order code.

FUNCTIONS RELATING TO TRADING WITH THE INDIANS

SEC. 2.170 *Trader's licenses.* The issuance of licenses to traders with the Indian tribes and the removal and revocation of licenses pursuant to the provisions of 25 CFR Parts 251 and 252.

FUNCTIONS RELATING TO INDIAN IRRIGATION PROJECTS

SEC. 2.200 *Operation and maintenance orders.* The issuance of irrigation operation and maintenance orders fixing per acre assessments against lands included in Indian irrigation projects to which water can be delivered, under authority of the Acts of August 1, 1914 (38 Stat. 583, 25 U.S.C. 385) and March 7, 1928 (45 Stat. 210, 25 U.S.C. 387).

FUNCTIONS RELATING TO FOREST AND RANGE MANAGEMENT

SEC. 2.230 *Forest management.* (a) Issue advertisements and approve timber sale contracts on approved forms involving an estimated stumpage volume of not to exceed 50,000 feet, board measure, pursuant to 25 CFR 141.8 and 25 CFR 141.13.

(b) Approve contracts, pursuant to 25 CFR 141.13, for the sale of timber from individual allotments, without regard to estimated volumes, on approved forms executed under authority of an approved general contract; with such provisions incorporated therein as the approving officer of the general contract shall stipulate.

(c) Issue timber cutting permits on approved forms pursuant to 25 CFR 141.19, paragraphs (a) and (b) but not including paragraph (c).

(d) Hire temporary labor, rent equipment, purchase tools and supplies, and pay for their transportation to extinguish forest or range fires pursuant to 25 CFR 141.21.

SEC. 2.241 *Advertisement of grazing privileges.* The issuance of advertisements for grazing privileges, including advertisements for periods of 30 days or less, pursuant to 25 CFR Part 151. The authority does not extend to the waiver of advertising in any case.

SEC. 2.242 *Negotiation of sale of grazing privileges, subsequent to advertisement.* The negotiation, within one year after the date of advertisement and pursuant to the provisions of 25 CFR Part 151, of the sale of grazing privileges on range units for which no acceptable bid was received, on terms not less favorable than those stipulated in the advertisement offering such grazing privileges for sale.

SEC. 2.243 *Waiver of technical defects in advertisements and proposals for grazing privileges.* Exercise of the right reserved in Form 5-510, Sale of Grazing Privileges, to waive technical defects in the advertisements and proposals received in response thereto.

SEC. 2.244 *Approval, modification, and cancellation of grazing permits.* The approval, modification, and cancellation of grazing permits, pursuant to 25 CFR Part 151.

SEC. 2.245 *Advertisement and sale of forest products.* Advertisement and sale of lumber and other forest products produced from forests on Indian reservations, by Indian tribal enterprises operated under the supervision of the Bureau of Indian Affairs, pursuant to 25 CFR Part 142.

FUNCTIONS RELATING TO FUNDS AND FISCAL MATTERS

SEC. 2.264 *Individual Indian moneys.* All those matters set forth in 25 CFR Part 104.

FUNCTIONS RELATING TO GENERAL MATTERS

SEC. 2.353 *Fire agreements and emergency assistance.* The rendering of emergency assistance in extinguishing fires or preserving life and property from fire, and the entering into of reciprocal agreements with fire organizations, pursuant to the Act of May 27, 1908 (69 Stat. 66; 42 U.S.C. 1952 ed., Supp. III, Sec. 1856); and Secretarial Order 2815, dated August 1, 1956. Such authority shall be subject to regulations prescribed by the Secretary.

WALTER O. OLSON,
Area Director.

Approved: November 8, 1967.

ROBERT L. BENNETT,
Commissioner.

[F.R. Doc. 67-13439; Filed, Nov. 15, 1967; 8:46 a.m.]

[Navajo Order 1]

ASSISTANT AREA DIRECTORS ET AL., NAVAJO AREA

Redelegations of Authority

PART 1—GENERAL

SECTION 1.1 *Appeals.* Any action taken by any Agency Superintendent, or other officer pursuant to this order shall be subject to the right of appeal. An appeal may be taken from the decision of such Agency Superintendent, or other officer to the Area Director, Navajo Area Office. An appeal must be filed in writing with such Agency Superintendent, or other officer and shall be promptly transmitted by him with the record in the case to the Area Director, Navajo Area Office. Any action taken by the Area Director pursuant to the order shall be subject to the right of appeal to the Commissioner of Indian Affairs, pursuant to section 1 of Order 551, as amended, of the Bureau of Indian Affairs. Any action taken by the Commissioner of Indian Affairs pursuant to this order shall be subject to the right of appeal to the Secretary of the Interior, pursuant to section 1(a) of Order 2508, as amended, of the Secretary of the Interior.

SEC. 1.2 *Limitations.* Delegations of authority made by this order are not to be construed as depriving the Area Director of the authority conferred upon him by the Commissioner of Indian Affairs.

SEC. 1.3 *Authority of Assistant Area Directors.* The Assistant Area Directors and those persons authorized to act in their stead during their absence from the respective offices may exercise any and all authority conferred upon the Area Director by the Commissioner of Indian Affairs.

PART 2—AUTHORITY OF AGENCY SUPERINTENDENTS

Subject to the provisions of Part 1, Agency Superintendents and those persons acting in their stead may exercise the authority of the Area Director as indicated in this part.

FUNCTIONS RELATING TO LAW AND ORDER

SEC. 2.152 *Indian court sentences.* The approval of sentences imposed on Indian employees of the Bureau of Indian Affairs by Courts of Indian Offenses as provided in 25 CFR 11.2(d), Title 25, Code of Federal Regulations, and by Tribal Courts as provided by any Law and Order Code.

FUNCTIONS RELATING TO TRADING WITH INDIANS

SEC. 2.170(a) *Peddlers permits.* The issuance of permits to peddlers on the Navajo Reservation pursuant to the provisions in 25 CFR Part 252, provided each such permit is limited to lands under the jurisdiction of the Agency Superintendent issuing the permit.

SEC. 2.170(b) *Permits for purchase of livestock and livestock products.* The issuance of permits to purchasers of livestock and livestock products pursuant to

the stock of the Green Corporation. For purposes of determining the amount of stock owned by H, W, or S for purposes of section 318(a) (2)(C) and (3)(C), the amount of stock held by the other members of the family shall be added pursuant to paragraph (b)(3) of § 1.318-1 in applying the 50-percent requirement of such section. H, W, or S, as the case may be, is for this purpose deemed to own 100 percent of the stock of the Green Corporation.

• • • • •

(e) The application of section 318 (a) (2) and (3), relating to partnerships, trusts and corporations, may be illustrated by the following examples:

• • • • •

(a) *In general.* Section 318 (a) (5) (A) provides that, except as provided in section 318(a) (5) (B) and (C), stock constructively owned by a person by reason of the application of section 318(a) (1), (2), (3), or (4) shall be considered as actually owned by such person for purposes of applying section 318(a) (1), (2), (3), and (4). For example, if a trust owns 50 percent of the stock of corporation X, stock of corporation Y owned by corporation X which is attributed to the trust may be further attributed to the beneficiaries of the trust.

ing an incorrect term. These amended and added provisions read as follows:

§ 1.382(a) Statutory provisions; special limitations on net operating loss carryovers; purchase of a corporation and change in its trade or business.

SEC. 382. *Special limitations on net operating loss carryovers*—(a) *Purchase of a corporation and change in its trade or business.* • • •

(3) *Attribution of ownership.* Section 318 (relating to constructive ownership of stock) shall apply in determining the ownership of stock, except that sections 318(a) (2) (C) and 318(a) (3) (C) shall be applied without regard to the 50-percent limitation contained therein.

• • • • •

(3) Any amount received or accrued, directly or indirectly, with respect to any real property, if the real estate investment trust furnishes or renders services to the tenants of such property, or manages or operates such property, other than through an independent contractor from whom the trust itself does not derive or receive any income. For purposes of this paragraph, the term "independent contractor" means—

(A) A person who does not own, directly or indirectly, more than 35 percent of the shares, or combinations of beneficial interest, in the real estate investment trust; or

(B) A person, if 3 or fewer persons, each more than 35 percent of the stock, constituted voting power of voting stock (or 35 percent of the total shares of all classes of stock

persons; and

(3) Any amount received or accrued, directly or indirectly, with respect to any real property, if the real estate investment trust furnishes or renders services to the tenants of such property, or manages or operates such property, other than through an independent contractor from whom the trust itself does not derive or receive any income. For purposes of this paragraph, the term "independent contractor" means—

(A) A person who does not own, directly or indirectly, more than 35 percent of the shares, or combinations of beneficial interest, in the real estate investment trust; or

(B) A person, if 3 or fewer persons, each more than 35 percent of the stock, constituted voting power of voting stock (or 35 percent of the total shares of all classes of stock

matter and its publication in these special regulations is made necessary by the superimposition of the general regulations which now appear in Part 9 of this

ATOMIC ENERGY COMMISSION

[10 CFR Part 20]

notice is hereby given that adoption of the following amendments to 10 CFR Part 20 is contemplated. All interested persons who desire to submit written

ton, D.C. 20545, the following reports covering the preceding calendar years:

(a) For each adult whose radiation dose in any quarter exceeded 25 percent

(d) The location (address or other description) at which exposure was incurred.

(e) A report listing (1) each individual

of its investment in a service corporation whenever the service corporation fails to discontinue an impermissible activity, it is hereby proposed that § 845.9-

against the killing of fish and other marine life from the most is currently in effect. The additional restrictions are necessary in order to protect persons using the newly established underwater trails in the locations described, and to enable such persons to enjoy a better view of the marine life. A minor change is made in paragraph (a) by correcting the cross-reference to other provisions of the regulation.

The provisions of the regulation designating authorized landing areas for aircraft are nearly identical to the provisions of the former regulation on this

matter and its publication in these special regulations is made necessary by the reorganization of the general regulations which now appear in Part 5 of this title. However, emphasis may no longer be brought up on land between the main dock and the south sailing dock, since that area is being used by small boats and pleasure.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections, with respect to the proposed amendments, to the Superintendent, Everglades National Park, Post Office Box 279, Homestead, Fla. 33030, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

(5 U.S.C. 552; 80 Stat. 238; 16 U.S.C. 3)

Paragraph (a) of § 7.27, Title 36, Code of Federal Regulations, is amended by revising subdivision (2) (i) and subparagraph (6) thereof as set forth below, and by revoking subparagraph (8), and amending the number (6) in the last clause of paragraph (a) to read (7). Paragraph (c) is revised and paragraph (d) is revoked.

§ 7.27 Fort Jefferson National Monument.

(a) *Fishing.* * * *

(2) Crawfish (Panulirus argus), Florida Lobster, Langouste:

(i) The limit of catch of crawfish shall be two (2) per person per day, except that the total for any one vessel having more than 12 persons aboard shall not exceed twenty-five (25) crawfish.

* * * * *

(6) Closed waters: Marine life shall not be disturbed or taken from the moat or from waters within 500 feet of the moat wall at Garden Key, or from the cove bounded by Garden, Bush and Long Keys north of the five foot channel, except that sport fishing in deep water channels and from any pier within that area is permitted.

* * * * *

(8) [Revoked]

* * * * *

(c) *Aircraft.* Designated landing areas. Aircraft may be landed in the waters within a radius of 1 nautical mile of the Fort situated on Garden Key, but approaches, landings, and takeoffs shall not be made within 300 yards of Bush Key. Seaplanes may be moored or brought up on land only on the beach north of the main pier at Garden Key. Helicopters may land at the helipads on the coaling docks.

(d) [Revoked]

ROGER W. ALLIN,
Superintendent,
Fort Jefferson National Monument.

OCTOBER 26, 1967.

[F.R. Doc. 67-12462; Filed, Nov. 15, 1967; 8:46 a.m.]

ATOMIC ENERGY COMMISSION

[10 CFR Part 20]

STANDARDS FOR PROTECTION AGAINST RADIATION

Reporting and Record Keeping Requirements

In December 1965, the Atomic Energy Commission announced its intention to develop an employer-State-Federal cooperative record and reports system for radiation workers.

An initial draft of a proposed system was disseminated for public comment in April 1966; and, on the basis of comments received, was modified in September 1966. In August and September 1966, the Joint Committee on Atomic Energy of the Congress held hearings on the subject.

After taking into consideration the testimony presented at those hearings and the comments and suggestions received from interested organizations and individuals, the Commission has further revised the proposed records and reports system. It proposes at this time to implement the revised system with respect to its own facilities and its licensees.

Provisions applicable to licensees of the Commission are contained in proposed amendments to 10 CFR Part 20. A proposed revision of § 20.401 is designed to indicate more specifically the radiation exposure records required for purposes of the Commission's records and reports system.

A proposed new § 20.407 would require licensees to report, annually, for the previous calendar year, the following identification and exposure information to be preserved in a records center:

1. Individual's quarterly exposures to radiation from sources external to the body which exceed certain specified levels;

2. Individual's exposures to concentrations of radioactive materials which exceed applicable exposure limits; and

3. Identification information (name, social security number, and date of birth) for those individuals who were required to be monitored for exposure to radiation from sources external to the body but whose exposures did not exceed specified levels and for those individuals for whom evaluations of exposure to concentrations of radioactive material were required but whose exposures did not exceed any applicable limit. The licensee would be permitted to include in this list individuals who incurred reportable exposures and individuals whose exposures were determined for the convenience of the licensee rather than to meet regulatory requirements.

The proposed central records repository would provide an index of monitored individuals. It would also make available in one place exposure information for individuals who work for more than one AEC licensee or contractor or in more than one State.

Pursuant to the Atomic Energy Act of 1954, as amended, and the Administrative Procedure Act of 1946, as amended, notice is hereby given that adoption of the following amendments to 10 CFR Part 20 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendments should send them to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, within 45 days after publication of this notice in the FEDERAL REGISTER. Comments received after that period will be considered if it is practicable to do so, but assurance of consideration cannot be given except as to comments filed within the period specified. Copies of comments may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

1. In § 20.401 of Part 20, the section heading is amended, paragraph (b) is redesignated paragraph (a), the reference in paragraph (c) to paragraph (a) is revised to refer to paragraph (b), paragraph (a) is redesignated paragraph (b) and is revised, and a new paragraph (d) is added to read as follows:

§ 20.401 Records of surveys, disposals, radiation monitoring, and exposures.

* * * * *

(b) Each licensee shall maintain records showing the exposures to radiation from sources external to the body, and the methods by which the exposures were determined, of all individuals for whom personnel monitoring is required under the regulations in this part. The records showing the exposures shall be kept on Form AEC–5, in accordance with the instructions contained in that form or on clear and legible records containing the information required by Form AEC–5. Each measurement of dose entered on the forms or records shall be for periods of time not exceeding one calendar quarter.

* * * * *

(d) Each licensee shall maintain records showing:

(1) For each weekly exposure of an individual to concentrations of radioactive material in excess of any applicable limit established in § 20.103 or § 20.104(b), an estimate of the exposure incurred, and the basis for the estimate; and

(2) For each individual exposed to concentrations of radioactive material not in excess of any applicable limit established in § 20.103 or § 20.104(b), a summary of the information developed under the provisions of § 20.201(b) and the basis for the conclusion that such exposure was within prescribed limits.

§§ 20.404, 20.406 [Amended]

2. The references in §§ 20.404 and 20.406 to "§ 20.401(a)" are revised to refer to "§ 20.401(b)."

3. A new § 20.407 is added to 10 CFR Part 20 to read as follows:

§ 20.407 Personnel exposure and monitoring reports.

Each licensee shall, within the first quarter of each calendar year, submit to the Director of Regulation, U.S. Atomic Energy Commission, Washington, D.C. 20545, the following reports covering the preceding calendar year:[1]

(a) For each adult whose radiation dose in any quarter exceeded 25 percent of any applicable level specified in § 20.101(a), and, for each individual under 18 years of age whose radiation dose in any quarter exceeded 5 percent of any applicable level specified in § 20.101(a), a report of each quarterly dose of radiation from sources external to the body, in excess of these levels. In addition to the name and address of the licensee, and the name, social security number, and date of birth of the individual exposed, the report shall specify for each such dose:

(1) The calendar quarter during which the exposure was incurred;

(2) The type(s) of radiation involved (e.g., X-, gamma or beta rays, neutrons, high energy protons);

(3) The part(s) of the body involved (e.g., whole body, skin of whole body, hands, and forearms);

(4) The estimated dose(s), expressed in rems; and

(5) The location (address or other description) at which exposure was incurred.

(b) A report of each weekly exposure to concentrations of radioactive materials that exceeded any applicable exposure limit established by § 20.103(a) or § 20.104(b). In addition to the name and address of the licensee, and the name, social security number, and date of birth of individual exposed, the report shall specify for each such exposure:

(1) The week during which the exposure was incurred;

(2) The radionuclide(s) involved;

(3) An estimate of the exposure in terms of the concentration of the nuclide(s) in inhaled air, averaged over a period of 40 hours, or body or organ dose equivalent, or average burdens expressed as amount of radioactive material present in the whole body or in the organ involved, or radiation dose to the whole body or to the organ involved; and

(4) The location (address or other description) at which exposure was incurred.

(c) A report listing (1) each individual for whom personnel monitoring of exposure to radiation from sources external to the body was required under the provisions of § 20.202(a) or § 34.33(a) of this chapter but whose exposure did not exceed levels at which reports of quarterly exposure are required under paragraph (a) of this section, and, (2) each individual for whom an individual estimate of possible exposure to radioactive materials was required under the provisions of § 20.103, but whose exposure did not exceed levels at which reports are required under paragraph (b) of this section. The report required by this paragraph may include individuals whose names appear in the reports required under paragraphs (a) and (b) of this section, as well as individuals for whom such measurements or determinations were not required by the regulations in this part but were made. Individuals falling within the latter category shall be identified by use of asterisks. In addition to the name and address of the licensee, the report shall include the name, social security number, and date of birth of each individual listed.

(Secs. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Washington, D.C., this 13th day of November 1967.

For the Atomic Energy Commission.

W. B. MCCOOL,
Secretary.

[F.R. Doc. 67-12491; Filed, Nov. 15, 1967; 8:49 a.m.]

[1] A licensee whose license expires or terminates prior to, or on the last day of the calendar year shall submit reports at the expiration or termination of the license, covering that part of the year during which the license was in effect.

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 545]

[No. 21,022]

FEDERAL SAVINGS AND LOAN SYSTEM

Service Corporations

NOVEMBER 8, 1967.

Resolved that, for the purpose of requiring a Federal association to dispose of its investment in a service corporation whenever the service corporation fails to discontinue an impermissible activity, it is hereby proposed that § 545.9–1 of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.9–1) be amended by adding a new paragraph, paragraph (e), immediately after paragraph (d), to read as follows:

§ 545.9–1 Service corporations.

* * * * *

(e) *Disposal of investment.* Whenever a service corporation engages in an activity which is not permissible under this section for a service corporation in which a Federal association may invest, a Federal association having an investment in such service corporation shall dispose of such investment promptly unless, within 90 days following notice to such investing Federal association, the impermissible activity is discontinued.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

Resolved further that interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, D.C. 20552, by December 15, 1967, as to whether this proposal should be adopted, rejected or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

By the Federal Home Loan Bank Board.

[SEAL] HARRY W. CAULSEN,
Secretary.

[F.R. Doc. 67-12490; Filed, Nov. 15, 1967; 8:49 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Albuquerque Area Redelegation Order 1]

ASSISTANT AREA DIRECTORS ET AL., ALBUQUERQUE AREA

Redelegations of Authority

PART 1—GENERAL

SECTION 1.1 *Appeals.* Any action taken by any Superintendent or other officer pursuant to Part 2 of this order shall be subject to the right of appeal. An appeal may be taken from the decision of such Superintendent or other officer to the Area Director, Albuquerque Area Office. An appeal must be filed in writing with such Superintendent or other officer and shall be promptly transmitted by him with the record of the case to the Area Director, Albuquerque Area Office. Any action taken by the Area Director pursuant to this order shall be subject to the right of appeal to the Commissioner of Indian Affairs, pursuant to section 1 of Order 551, as amended, of the Bureau of Indian Affairs. Any action taken by the Commissioner of Indian Affairs pursuant to this order shall be subject to the right of appeal to the Secretary of the Interior, pursuant to section 1(a), Order 2508, as amended, of the Secretary of the Interior.

SEC. 1.2 *Limitations.* Delegations of authority made by this order are not to be construed as depriving the Area Director of the authority conferred upon him by the Commissioner of Indian Affairs. The authority delegated to an employee is limited to those matters which are normally under his jurisdiction and for which he is responsible.

SEC. 1.3 *Authority of Assistant Area Directors.* The Assistant Area Directors and persons authorized to act in their stead during their absences may severally exercise any and all authority conferred upon the Area Director by the Commissioner of Indian Affairs.

PART 2—AUTHORITY OF AGENCY SUPERINTENDENTS AND SCHOOL SUPERINTENDENT

Subject to the provisions of Part 1, Agency Superintendents, and School Superintendent and those persons acting in their stead may exercise the authority of the Area Director as indicated in this part.

FUNCTIONS RELATING TO LANDS AND MINERALS

SEC. 2.12 *Leases and permits.* All those matters set forth in 25 CFR Part 131 except the approval of leases which provide for a duration in excess of 65 years, inclusive of any provisions for extensions or renewals thereof at the option of the lessee. This authority does not extend to the waiver of any requirements for advertising of leases or permits.

SEC. 2.15 *Allotment applications.* The approval and certification of applications for allotments on public domain under authority of the Act of February 8, 1887 (25 U.S.C., 1946 ed., sec. 336) and in the national forests, pursuant to the Act of June 25, 1910 (25 U.S.C., 1946 ed., sec. 337).

SEC. 2.16 *Mineral leases and permits.* (a) The granting of permission to negotiate permits and leases of tribal and individually owned trust or restricted lands for coal, sand, gravel, pumice, and building stone, and the approval of permits and leases for coal, sand, gravel, pumice, and building stone. The authority conferred by (a) of this section extends to and includes the approval or other appropriate administrative action required on all subleases, assignments of mining permits or mineral leases now or hereafter in force on tribal and restricted allotted lands, bonds, and other instruments required in connection with such leases, subleases, permits or assignments, the acceptance of voluntary surrender of leases by lessees, cancellation of leases for violation of terms thereof, and approval of agreements for settlement of claims for damages to Indian lands resulting from mineral operations.

(b) The approval of oil and gas leases, on forms approved by the Commissioner of Indian Affairs, of tribal lands and of trust or restricted individually owned lands in accordance with advertisements soliciting bids therefor and pursuant to 25 CFR Parts 171 and 172.

(c) The approval of tribal and allotted prospecting permits including those with a preferential right to a lease, tribal mining leases and allotted mining leases, on forms approved by the Commissioner of Indian Affairs, for minerals other than those specified in (a) and (b), covering tribal land and trust or restricted individually owned land, pursuant to 25 CFR Parts 171 and 172, provided that the royalty rates have been approved by the Commissioner of Indian Affairs.

(d) The authority conferred by (b) and (c) of this section extends to and includes the approval or other appropriate administrative action required on all subleases, assignments of mining permits or mineral leases now or hereafter in force or tribal and restricted allotted lands, bonds, and other instruments required in connection with such leases, subleases, permits or assignments, the acceptance of voluntary surrender of leases by lessees, cancellation of leases for violation of terms thereof, approval of agreements for settlement of claims for damages to Indian lands resulting from oil and gas or other mineral operations, and unit and communitization agreements.

(e) The authority delegated in this section does not include:

(1) The approval of leases of ceded or surplus lands unless title thereto has been restored to the tribe, or the leasing of such lands is authorized by a specific statute.

(2) Approval of leases on lands purchased or reserved for agency or school purposes.

(3) Approval of leases, assignments and bonds on any forms except those approved by the Commission of Indian Affairs.

(4) Modification of any forms approved by the Commissioner of Indian Affairs.

(5) Approval of amendments to oil and gas and other mining leases or to assignments.

(6) Extension of time for drilling.

(7) Approval of instruments providing for the payment of overriding royalty.

(8) Assignment of separate horizons.

(f) The authority delegated in (b) and (c) of this section applies only to Consolidated Ute Agency, Jicarilla Agency and United Pueblos Agency and does not apply to the Mescalero Agency and Zuni Agency.

SEC. 2.18. *Release of mortgages.* The approval of releases of mortgages given as security for loans made from the restricted funds of individual Indians, upon proof of payment of the loan.

SEC. 2.24 *Archeological permits.* The approval of permits for the excavation of ruins and archeological sites and the gathering of objects of antiquity on Indian reservations pursuant to 25 CFR Part 132.

SEC. 2.31 *Soil and moisture conservation.* Soil and moisture conservation operations on Indian lands, pursuant to President's Reorganization Plan Number IV of 1940 (54 Stat. 1235), and the Soil Conservation Act of April 27, 1935 (16 U.S.C. sec. 590a).

FUNCTIONS RELATING TO CREDIT MATTERS

SEC. 2.120 *Loan agreements and modifications.* The approval of applications for and modifications of loan agreements to individuals, pursuant to declarations of policy and plans of operations approved by the Commissioner or his authorized representative; provided that the amounts and conditions of loans shall be consistent with and shall not exceed the limitations as set forth in sections 120 and 121 of Bureau Order 551, as amended.

SEC. 2.122 *Enforcement terms, loan agreements.* The taking of necessary steps upon failure of individual borrowers or cooperative associations to conform to the terms of their loan agreements from tribes, bands, credit associations or the United States, pursuant to 25 CFR 91.10 and 91.12(d).

SEC. 2.123 *Assignments.* Consent to assignments of loan agreements and interests therein by borrowers from the United States, corporations, tribes, bands, and credit associations, pursuant to 25 CFR 91.11.

SEC. 2.126 *Assignments of trust property.* The approval of assignments of any trust property of an Indian, except land, and authority to act as the Indian's attorney-in-fact to execute leases on any trust land in which the Indian borrower may have an interest and to apply the rentals on the Indian's indebtedness, for a loan made pursuant to 25 CFR Part 91.

SEC. 2.127 *Loan security.* The approval of mortgages of trust chattels and crops on trust or restricted land of an Indian and assignments of income from trust or restricted land of an Indian as security for a loan by any lender.

SEC. 2.128 *Release of the U.S. interests.* The release of interests of the United States in any trust or restricted property of an Indian, except land.

FUNCTIONS RELATING TO LAW AND ORDER

SEC. 2.151 *Deputy special officer's commissions.* The issuance of deputy special officer's commissions to persons working in law enforcement for the maintenance of law and order on Indian reservations.

SEC. 2.152 *Indian court sentences.* The approval of sentences imposed on Indian employees of the Bureau of Indian Affairs by Courts of Indian Offenses as provided in 25 CFR 11.2(d), and by tribal courts as provided by any law and order code.

FUNCTIONS RELATING TO TRADING WITH THE INDIANS

SEC. 2.170 *Trader's licenses.* The issuance of licenses to traders with the Indian tribes and the removal and revocation of licenses pursuant to the provisions of 25 CFR Parts 251 and 252.

FUNCTIONS RELATING TO INDIAN IRRIGATION PROJECTS

SEC. 2.200 *Operation and maintenance orders.* The issuance of irrigation operation and maintenance orders fixing per acre assessments against lands included in Indian irrigation projects to which water can be delivered, under authority of the Acts of August 1, 1914 (38 Stat. 583, 25 U.S.C. 385) and March 7, 1928 (45 Stat. 210, 25 U.S.C. 387).

FUNCTIONS RELATING TO FOREST AND RANGE MANAGEMENT

SEC. 2.220 *Forest management.* (a) Issue advertisements and approve timber sale contracts on approved forms involving an estimated stumpage volume of not to exceed 50,000 feet, board measure, pursuant to 25 CFR 141.2 and 25 CFR 141.13.

(b) Approve contracts, pursuant to 25 CFR 141.13, for the sale of timber from individual allotments, without regard to estimated volumes, on approved forms executed under authority of an approved general contract; with such provisions incorporated therein as the approving officer of the general contract shall stipulate.

(c) Issue timber cutting permits on approved forms pursuant to 25 CFR 141.19, paragraphs (a) and (b) but not including paragraph (c).

(d) Hire temporary labor, rent equipment, purchase tools and supplies, and pay for their transportation to extinguish forest or range fires pursuant to 25 CFR 141.21.

SEC. 2.241 *Advertisement of grazing privileges.* The issuance of advertisements for grazing privileges, including advertisements for periods of 10 days or less, pursuant to 25 CFR Part 151. The authority does not extend to the waiver of advertising in any case.

SEC. 2.242 *Negotiation of sale of grazing privileges, subsequent to advertisement.* The negotiation, within one year after the date of advertisement and pursuant to the provisions of 25 CFR Part 151, of the sale of grazing privileges on range units for which no acceptable bid was received, on terms not less favorable than those stipulated in the advertisement offering such grazing privileges for sale.

SEC. 2.243 *Waiver of technical defects in advertisements and proposals for grazing privileges.* Exercise of the right reserved in Form 5–510, Sale of Grazing Privileges, to waive technical defects in the advertisements and proposals received in response thereto.

SEC. 2.244 *Approval, modification, and cancellation of grazing permits.* The approval, modification, and cancellation of grazing permits, pursuant to 25 CFR Part 151.

SEC. 2.245 *Advertisement and sale of forest products.* Advertisement and sale of lumber and other forest products produced from forests on Indian reservations, by Indian tribal enterprises operated under the supervision of the Bureau of Indian Affairs, pursuant to 25 CFR Part 142.

FUNCTIONS RELATING TO FUNDS AND FISCAL MATTERS

SEC. 2.264 *Individual Indian moneys.* All those matters set forth in 25 CFR Part 104.

FUNCTIONS RELATING TO GENERAL MATTERS

SEC. 2.353 *Fire agreements and emergency assistance.* The rendering of emergency assistance in extinguishing fires or preserving life and property from fire, and the entering into of reciprocal agreements with fire organizations, pursuant to the Act of May 27, 1955 (69 Stat. 66; 42 U.S.C. 1855 ed., Supp. III, Sec. 1856); and Secretarial Order 2815, dated August 1, 1956. Such authority shall be subject to regulations prescribed by the Secretary.

WALTER O. CHOATE,
Area Director.

Approved: November 8, 1967.

ROBERT L. BENNETT,
Commissioner.

[F.R. Doc. 67-13050; Filed, Nov. 15, 1967; 8:46 a.m.]

[Navajo Order 1]

ASSISTANT AREA DIRECTORS ET AL., NAVAJO AREA

Redelegations of Authority

PART 1—GENERAL

SECTION 1.1 *Appeals.* Any action taken by any Agency Superintendent, or other officer pursuant to this order shall be subject to the right of appeal. An appeal may be taken from the decision of such Agency Superintendent, or other officer to the Area Director, Navajo Area Office. An appeal must be filed in writing with such Agency Superintendent, or other officer and shall be promptly transmitted by him with the record in the case to the Area Director, Navajo Area Office. Any action taken by the Area Director pursuant to the order shall be subject to the right of appeal to the Commissioner of Indian Affairs, pursuant to section 1 of Order 551, as amended, of the Bureau of Indian Affairs. Any action taken by the Commissioner of Indian Affairs pursuant to this order shall be subject to the right of appeal to the Secretary of the Interior, pursuant to section 1(a) of Order 2508, as amended, of the Secretary of the Interior.

SEC. 1.2 *Limitations.* Delegations of authority made by this order are not to be construed as depriving the Area Director of the authority conferred upon him by the Commissioner of Indian Affairs.

SEC. 1.3 *Authority of Assistant Area Directors.* The Assistant Area Directors and those persons authorized to act in their stead during their absence from the respective offices may exercise any and all authority conferred upon the Area Director by the Commissioner of Indian Affairs.

PART 2—AUTHORITY OF AGENCY SUPERINTENDENTS

Subject to the provisions of Part 1, Agency Superintendents and those persons acting in their stead may exercise the authority of the Area Director as indicated in this part.

FUNCTIONS RELATING TO LAW AND ORDER

SEC. 2.152 *Indian court sentences.* The approval of sentences imposed on Indian employees of the Bureau of Indian Affairs by Courts of Indian Offenses as provided in § 11.2(d), Title 25, Code of Federal Regulations, and by Tribal Courts as provided by any Law and Order Code.

FUNCTIONS RELATING TO TRADING WITH INDIANS

SEC. 2.170(a) *Peddlers permits.* The issuance of permits to peddlers on the Navajo Reservation pursuant to the provisions in 25 CFR Part 252, provided each such permit is limited to lands under the jurisdiction of the Agency Superintendent issuing the permit.

SEC. 2.170(b) *Permits for purchase of livestock and livestock products.* The issuance of permits to purchasers of livestock and livestock products pursuant to

the provisions of 25 CFR 252.13, provided each such permit is limited to lands under the jurisdiction of the Agency Superintendent issuing the permit.

FUNCTIONS RELATING TO FOREST AND RANGE MANAGEMENT

Sec. 2.246 *Grazing Navajo.* The taking of action with respect to those matters set forth in 25 CFR Part 152. The authority delegated by this section does not include those matters set forth in 25 CFR 152.1, 152.2, 152.5, and 152.6.

FUNCTIONS RELATING TO FUNDS AND FISCAL MATTERS

Sec. 2.264 *Individual Indian moneys.* All those matters set forth in 25 CFR Part 104.

GRAHAM E. HOLMES,
Area Director.

Approved: November 8, 1967.

ROBERT L. BENNETT,
Commissioner.

[F.R. Doc. 67-13460; Filed, Nov. 15, 1967; 8:48 a.m.]

Bureau of Land Management

[A 918]

ARIZONA

Notice of Classification of Public Lands for Multiple-Use Management

1. Pursuant to section 2 of the Act of September 19, 1964 (78 Stat. 986; 43 U.S.C. 1411–18) and to the regulations in 43 CFR Parts 2410 and 2411, the public lands described below are hereby classified for multiple-use management. Principal public resource values to be protected by this classification are conservation of important watershed, grazing, and wildlife habitat, conservation of outstanding natural beauty, and present and long-range future use for outdoor recreational activities near an expanding urban area. Publication of this notice has the effect of segregating the land from appropriation under the agricultural land laws (43 U.S.C., Chs. 7 and 9; 25 U.S.C. 334); from private exchange (43 U.S.C. 315g(b)); from State exchange (43 U.S.C. 315g(c)); from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171); from appropriation under section 2477 of the Revised Statutes (43 U.S.C. 932); from State selection (43 U.S.C. 851, 852); and from sale under the Act of September 19, 1964 (43 U.S.C. 1421–27). The lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws. As used herein "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. The land is located approximately 40 miles southwest of Tucson, Ariz., and constitutes a scenic desert mountain range at elevations between 3,000 and 6,000 feet in an undisturbed natural condition.

3. The site is receiving moderate public recreational use by hunters, photographers, artists, hikers, horseback riders, rock hounds, artifact hunters, picnickers, and Boy Scout groups.

4. Local planning, zoning and recreation officials, and representatives of the Bureau of Land Management have agreed after study and analysis that the best use for this public land is for outdoor recreational purposes. The site will be known as the Coyote Mountain Natural Area.

5. The public lands affected by this classification are shown on maps on file and available for inspection in the District Office and at the Land Office, Bureau of Land Management, Federal Building, Phoenix, Ariz.

6. The land involved is in Pima County and is described as follows:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 16 S., R. 8 E.,
Sec. 25, lots 1 to 12, inclusive, and NE¼;
Sec. 26, lots 1 to 4, inclusive, S½N½ and S½;
Sec. 27, lots 1 to 4, inclusive, S½N½ and S½;
Sec. 28, lots 1 to 4, inclusive, E½W½ and E½;
Sec. 33, lots 1 to 7, inclusive, NE¼, E½NW¼, NE¼SW¼, and N½SE¼;
Sec. 34, lots 1 to 4, inclusive, N½ and N½S½.
T. 17 S., R. 8 E.,
Sec. 3, lots 1 to 4, inclusive, S½N½ and SW¼;
Sec. 4, lots 1 and 2, S½NE¼ and SE¼;
Sec. 9, NE¼;
Sec. 10, NW¼.

The areas described aggregate 5,082.28 acres of public land.

7. For a period of 30 days, interested parties may submit comments to the Secretary of the Interior, LLM. 721, Washington, D.C. 20240 (43 CFR 2411.12(d)).

FRED J. WEILER,
State Director.

NOVEMBER 8, 1967.

[F.R. Doc. 67-13454; Filed, Nov. 15, 1967; 8:46 a.m.]

[A 1082]

ARIZONA

Notice of Classification of Public Lands for Multiple-Use Management

1. Pursuant to section 2 of the Act of September 19, 1964 (43 U.S.C., 1411–18) and to the regulations in 43 CFR Part 2410 and 2411, the public lands in the township described in paragraph 5 are hereby classified for multiple-use management, together with any lands therein that may become public lands in the future. Publication of this notice has the effect of segregating all the public land in the described area from appropriation under the agricultural land laws (43 U.S.C. Parts 7 and 9, 25 U.S.C. 334); from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171); from private exchange (43 U.S.C. 315g(b)); from State exchange (43 U.S.C. 315g(c)); and from State selection (43 U.S.C. 851, 852). The lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws. As used in this order, the term "public lands" means any lands (1) withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or (2) within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. The lands are located approximately 35 road miles southeast of Phoenix, Ariz., and comprise a scenic desert mountain range between 1,500 to 2,450 feet above sea level.

3. Principal public values attributable to the lands are outstanding botanical features in the saguaro forest growth, outdoor recreation provided to urban Phoenix as well as winter visitors to the area, wildlife habitat, watershed, domestic livestock grazing, and mineral potential.

4. This classification has been discussed with local and State government planning and recreation authorities, and they concur with this proposal.

5. The lands lie in Pinal County and are within T. 3 S., R. 7 E., GSR Mer., Arizona. The area described aggregates approximately 10,020.37 acres of public land.

6. For a period of 30 days, interested parties may submit comments to the Secretary of the Interior, LLM. 721, Washington, D.C. 20240 (43 CFR 2411.12(d)).

FRED J. WEILER,
State Director.

NOVEMBER 8, 1967.

[F.R. Doc. 67-13455; Filed, Nov. 15, 1967; 8:46 a.m.]

[Serial No. I-1639]

IDAHO

Notice of Termination of Proposed Classification of Lands

NOVEMBER 9, 1967.

Notice of proposed classification of lands, Serial No. I-1639, published as F.R. Doc. No. 67-9648 on pages 11892–11894 of the issue for Thursday, August 17, 1967, is hereby canceled so far as it affects the following described lands. The segregative effect thereof will terminate upon publication of this notice in the FEDERAL REGISTER, as provided by the regulations in 43 CFR 2411.2e(2)(ii):

BOISE MERIDIAN, LEMHI COUNTY, IDAHO

T. 19 N., R. 21 E.,
Sec. 28, SE¼SE¼.
T. 21 N., R. 22 E.,
Sec. 21, W½W½.
T. 23 N., R. 22 E.,
Sec. 17, NE¼NE¼.
T. 14 N., R. 27 E.,
Sec. 35, NW¼NW¼.

The area described contains approximately 280 acres of public land.

JOE T. FALLINI,
State Director.

[F.R. Doc. 67-13456; Filed, Nov. 15, 1967; 8:46 a.m.]

[Serial No. I-1639]

IDAHO

Notice of Classification of Public Lands for Multiple-Use Management

NOVEMBER 9, 1967.

1. Pursuant to the Act of September 19, 1964 (78 Stat. 986; 43 U.S.C. 1411–18) and to the regulations in 43 CFR Parts 2410 and 2411, the public lands in the area described below, together with any lands therein that may become public lands in the future, are hereby classified for multiple use management. Publication of this notice (a) segregates all the public land in the described area below from appropriation under the agricultural land laws (43 U.S.C. Parts 7 and 9; 25 U.S.C. sec. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171) and (b) further segregates the lands described in paragraph 3 of this notice from the operation of the general mining laws (30 U.S.C. Ch. 2). Except as provided in (a) and (b) above, the lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. The public lands affected are located within the following described area in Lemhi County, Idaho, and are shown on maps on file in the Salmon District Office, Bureau of Land Management, Salmon, Idaho, and the Land Office, Bureau of Land Management, Federal Building, Boise, Idaho.

BOISE MERIDIAN, LEMHI COUNTY, IDAHO, ADMINISTERED BY THE SALMON DISTRICT I-4

T. 16 N., R. 19 E.,
Sec. 1, that portion in Lemhi County.
T. 16 N., R. 20 E.,
Secs. 1 to 8, inclusive, those portions in Lemhi County;
Secs. 11 to 14, inclusive, those portions in Lemhi County.
T. 17 N., R. 20 E., all public lands outside the National Forest boundary.
T. 18 N., R. 20 E.,
Secs. 1, 12, 13, 24, 25, and 36.
T. 15 N., R. 21 E.,
Secs. 1 to 4, inclusive;
Secs. 10 to 15, inclusive.
T. 16 N., R. 21 E.,
Sec. 3, W½;
Secs. 4 to 9, inclusive;
Sec. 10, NW¼;
Secs. 16 to 21, inclusive;
Sec. 22, NW¼;
Secs. 28 to 30, inclusive;
Secs. 32 to 36, inclusive.
T. 17 N., R. 21 E., all public lands outside the National Forest boundary.
T. 18 N., R. 21 E., all public lands outside the National Forest boundary.
T. 19 N., R. 21 E., all the public lands outside the National Forest boundary except sec. 28, SE¼SE¼.
T. 20 N., R. 21 E., all public lands outside the National Forest boundary.
T. 21 N., R. 21 E.,
Sec. 35.
T. 23 N., R. 21 E.,
Sec. 12, lot 6.
T. 12 N., R. 23 E.,
Secs. 1 and 2, those portions in Lemhi County.
T. 14 N., R. 23 E.,
Secs. 1 to 4, inclusive;
Sec. 5, E½;
Sec. 9, E½;
Secs. 10 to 13, inclusive;
Sec. 14, N½, SE¼;
Secs. 24, 25, and 36.
T. 15 N., R. 22 E.,
Secs. 6 and 7;
Secs. 16 to 18, inclusive;
Sec. 19, E½, E½W½;
Secs. 20 to 22, inclusive;
Secs. 26 to 28, inclusive;
Sec. 29, E½;
Sec. 32, E½;
Secs. 33 to 36, inclusive.
T. 16 N., R. 22 E.,
Sec. 31.
T. 17 N., R. 22 E.,
Sec. 1, E½.
T. 18 N., R. 22 E., all public lands outside the National Forest boundary.
T. 19 N., R. 22 E., all public lands outside the National Forest boundary.
T. 20 N., R. 22 E.,
Secs. 1 to 5, inclusive;
Sec. 8;
Sec. 11, E½;
Secs. 12 and 13;
Secs. 17 to 19, inclusive;
Sec. 23, E½;
Secs. 24 and 30;
Sec. 31, N½;
Sec. 32, N½.
T. 21 N., R. 22 E.,
Sec. 21, E½, E½W½;
Sec. 22;
Sec. 23, SW¼;
Secs. 26 to 28, inclusive;
Secs. 33 to 36, inclusive.
T. 22 N., R. 22 E.,
Sec. 1;
Sec. 2, SE¼;
Sec. 3, NW¼;
Sec. 4;
Sec. 10, SE¼;
Secs. 11 to 15, inclusive;
Secs. 21 to 28, inclusive;
Secs. 33 to 36, inclusive.
T. 23 N., R. 22 E.,
Secs. 4 to 9, inclusive;
Sec. 10, NW¼NW¼, S½NW¼, SW¼;
Sec. 13, SW¼;
Secs. 14 to 16, inclusive;
Sec. 17, NW¼NE¼, S½NE¼, NW¼, S½;
Sec. 18, lot 1;
Sec. 19, lots 4 and 6;
Secs. 20 to 28, inclusive;
Sec. 30, W½;
Secs. 27 and 28;
Secs. 33 and 34.
T. 24 N., R. 22 E., all public lands outside the National Forest boundary.
T. 13 N., R. 23 E.,
Secs. 1 to 6, inclusive, those portions in Lemhi County.
Secs. 8 to 12, inclusive, those portions in Lemhi County.
T. 14 N., R. 23 E., all public land outside the National Forest boundary.
T. 15 N., R. 23 E.,
Sec. 31.
T. 17 N., R. 23 E.,
Sec. 1, NW¼;
Secs. 2 to 6, inclusive;
Sec. 7, N½;
Secs. 8 to 11, inclusive;
Secs. 13 to 16, inclusive;
Sec. 17, N½;
Sec. 21, NE¼;
Sec. 22, N½, SE¼;
Secs. 23 and 24;
Sec. 25, N½, SW¼;
Sec. 26, E½.
T. 18 N., R. 23 E.
T. 19 N., R. 23 E., all public land outside the National Forest boundary.
T. 20 N., R. 23 E.,
Secs. 6 to 8, inclusive;
Secs. 16 to 22, inclusive;
Secs. 26 to 28, inclusive;
Sec. 29, N½, SE¼;
Sec. 30, NE¼;
Sec. 33, NE¼;
Secs. 34 and 35.
T. 21 N., R. 23 E.,
Sec. 1;
Sec. 4, NW¼, N½SW¼;
Secs. 5 to 8, inclusive;
Secs. 12 and 13;
Sec. 14, E½;
Sec. 17, NW¼;
Sec. 18, N½;
Secs. 23 and 24;
Sec. 26;
Sec. 27, E½;
Sec. 31, W½.
T. 22 N., R. 23 E.,
Secs. 3 to 32, inclusive;
Sec. 33, W½, W½E½;
Secs. 35 and 36.
T. 23 N., R. 23 E.,
Sec. 29;
Sec. 32, E½;
Sec. 33.
T. 13 N., R. 24 E.,
Secs. 6 to 8, inclusive;
Secs. 16, 17, 18, and 21, those portions in Lemhi County.
T. 14 N., R. 24 E.,
Sec. 30, W½;
Sec. 31.
T. 16 N., R. 24 E.,
Sec. 10, E½, SE¼NW¼, E½SW¼;
Sec. 11;
Sec. 13, S½S½;
Sec. 14;
Sec. 15, N½, SE¼;
Sec. 23, N½, SE¼;
Secs. 24 and 25;
Sec. 26, NE¼.
T. 17 N., R. 24 E.,
Secs. 1 and 2;
Secs. 5 and 8;
Sec. 9, W½, SE¼;
Sec. 11, N½;
Sec. 12;
Secs. 16 to 20, inclusive;
Sec. 21, N½, SW¼;
Sec. 28, NW¼;
Sec. 29, N½.
T. 18 N., R. 24 E.,
Secs. 1 to 3, inclusive;
Sec. 4, E½;
Sec. 6, S½;
Sec. 7;
Sec. 9, E½;
Secs. 10 to 15, inclusive;
Sec. 16, E½;
Sec. 18;
Sec. 21, E½;
Secs. 22 to 27, inclusive;
Sec. 28, E½;
Sec. 33, lots 1 and 2, S½NE¼;
Sec. 34, lots 1, 2, 3, 4, 5, 6, 7, 8, S½N½;
Secs. 35 and 36.
T. 19 N., R. 24 E.,
Sec. 1, S½;
Secs. 2 to 4, inclusive;
Secs. 9 to 16, inclusive;
Sec. 21, E½;
Secs. 22 to 27, inclusive;
Sec. 28, E½;
Sec. 33, E½;
Secs. 34 to 36, inclusive.
T. 20 N., R. 24 E.,
Sec. 3;
Sec. 4, N½;
Sec. 5, N½;
Sec. 10;
Sec. 11, SW¼;
Sec. 15;
Secs. 20 to 22, inclusive;
Sec. 23, S½;
Sec. 25, N½, SW¼;
Secs. 26 to 29, inclusive;
Secs. 32 to 35, inclusive.

T. 21 N., R. 24 E.,
Secs. 6 to 8, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 30, inclusive;
Sec. 31, N½;
Secs. 32 and 33.
T. 22 N., R. 24 E.,
Secs. 30 and 31.
T. 15 N., R. 25 E.,
Secs. 1 and 2;
Secs. 11 to 13, inclusive;
Secs. 24 and 25.
T. 16 N., R. 25 E.,
Sec. 1;
Sec. 12, SW¼;
Sec. 14, W½, W½NE¼, SE¼;
Sec. 15, E½;
Sec. 18, S½SW¼, SW¼SE¼;
Sec. 19, W½, W½E½;
Sec. 22, NE¼;
Sec. 23, N½;
Sec. 30, W½, W½E½.
T. 17 N., R. 25 E.,
Secs. 3 to 10, inclusive;
Secs. 15 to 18, inclusive;
Sec. 19, N½;
Secs. 20 to 22, inclusive;
Secs. 26 to 28, inclusive;
Secs. 34 and 35.
T. 18 N., R. 25 E.
T. 19 N., R. 26 E., all public lands outside the National Forest boundary.
T. 14 N., R. 26 E.,
Sec. 1;
Secs. 12 to 14, inclusive;
Sec. 15, E½;
Sec. 22, E½;
Secs. 23 to 25, inclusive;
Sec. 26, E½;
Sec. 36, E½.
T. 15 N., R. 26 E.,
Sec. 5, W½, N½NE¼;
Secs. 6 and 7;
Sec. 8, NW¼;
Sec. 13, E½;
Secs. 18 to 20, inclusive;
Sec. 21, W½;
Secs. 24 and 25;
Sec. 26, W½W½;
Secs. 29 and 30;
Sec. 36.
T. 16 N., R. 26 E.,
Secs. 7 and 16;
Sec. 22, N½, N½S½;
Sec. 23, N½, N½S½;
Secs. 24 and 25;
Secs. 31 and 32.
T. 18 N., R. 26 E.,
Sec. 31.
T. 13 N., R. 27 E., all public land outside the National Forest boundary.
T. 13 N., R. 27 E., all public land outside the National Forest boundary.
T. 14 N., R. 27 E., all of the township except sec. 35, NW¼NW¼.
T. 15 N., R. 27 E., all public lands outside the National Forest boundary.
T. 16 N., R. 27 E., all public lands outside the National Forest boundary.
T. 17 N., R. 27 E., all public lands outside the National Forest boundary.
T. 11 N., R. 28 E., all public lands outside the National Forest boundary.
Tps. 12, 13, and 14 N., R. 28 E.
T. 15 N., R. 28 E.,
Secs. 30 to 34, inclusive.
T. 11 N., R. 29 E.
T. 12 N., R. 29 E., all public lands outside the National Forest boundary.
T. 13 N., R. 29 E., unsurveyed, all public lands outside the National Forest boundary.
T. 14 N., R. 29 E., unsurveyed, all public lands outside the National Forest boundary.
T. 11 N., R. 30 E., all public lands outside the National Forest boundary.

The area described contains approximately 531,160 acres of public land.

BOISE MERIDIAN, LEMHI COUNTY, IDAHO, AS SURVEYED BY IDAHO FALLS DISTRICT I-8

T. 11 N., R. 26 E.,
Secs. 3, 11, 14, 23, 24, 25, 26, 35, and 36, all public lands within Lemhi County and outside the National Forest boundary.

T. 11 N., R. 27 E.,
Sec. 30, W½;
Sec. 31.

The area described contains approximately 3,810 acres of public land.

3. As provided in paragraph 1 above, the following lands are further segregated from appropriation under the general mining laws:

BOISE MERIDIAN, LEMHI COUNTY, IDAHO

LITTLE MORGAN CREEK SITE

T. 15 N., R. 21 E.,
Sec. 1, SW¼NW¼, W½SW¼;
Sec. 2, SE¼NE¼, E½SE¼;
Sec. 11, NE¼NE¼.

COW CREEK SITE

T. 16 N., R. 21 E.,
Sec. 8, lots 4 and 5.

CRONKS CANYON CAMPGROUND

T. 16 N., R. 21 E.,
Sec. 8, lot 8;
Sec. 17, lot 1.

SHEA CREEK RECREATION SITE

T. 17 N., R. 21 E.,
Sec. 9, lots 1 and 4.

MC KIM CREEK SITE

T. 17 N., R. 21 E.,
Sec. 17, lot 2.

LIME CREEK SITE

T. 18 N., R. 21 E.,
Sec. 3, lot 6.

SHEA CREEK CAMP SITE

T. 18 N., R. 21 E.,
Sec. 31, NE¼SW¼.

RINGLE CREEK SITE

T. 18 N., R. 21 E.,
Sec. 33, lots 1, 4, and 5.

DUMMY CREEK SITE

T. 19 N., R. 21 E.,
Sec. 14, lots 1 and 4.

BRUSH CREEK SITE

T. 19 N., R. 21 E.,
Sec. 22, lots 1 and 3, NE¼NW¼.

WASHINGTON CREEK SITE

T. 19 N., R. 21 E.,
Sec. 34, lot 4.

WILLIAMS CREEK SITE

T. 20 N., R. 21 E.,
Sec. 10, N½;
Sec. 11, W½NW¼.

TWELVE MILE SITE

T. 20 N., R. 21 E.,
Sec. 35, lot 1.

BOYLE CREEK (TOWER CREEK) SITE

T. 23 N., R. 21 E.,
Sec. 12, lot 6.
T. 23 N., R. 22 E.,
Sec. 7, lots 4 and 5.
Sec. 18, lot 1.

MC DEVITT RIDGE CAMPSITE

T. 19 N., R. 22 E.,
Sec. 24, NE¼NE¼.

WILKINSON'S RANCH SITE

T. 23 N., R. 22 E.,
Sec. 19, lots 4 and 5.

HAYDEN CREEK CAMPSITE

T. 19 N., R. 23 E.,
Sec. 2, SE¼NW¼, NE¼SW¼.

WALBY RIDGE CAMPSITE

T. 19 N., R. 23 E.,
Sec. 19, NE¼SE¼.

COW CREEK CAMPGROUND

T. 18 N., R. 24 E.,
Sec. 12, SW¼NE¼.

CHEESEBOROUGH CAMPGROUND

T. 19 N., R. 24 E.,
Sec. 1, SW¼.

AGENCY CREEK CAMPGROUND

T. 19 N., R. 24 E.,
Sec. 25, SE¼NW¼.

CHIEF TENDOY CAMPGROUND

T. 19 N., R. 26 E.,
Sec. 17, SE¼NE¼, NE¼SE¼, E½SW¼NE¼, E½NW¼SE¼.

WARNER CREEK CAMPGROUND

T. 19 N., R. 26 E.,
Sec. 18, W½SE¼SE¼, NE¼SE¼NE¼.

"HOCKEY COVE" SITE

T. 16 N., R. 26 E.,
Sec. 24, S½NE¼, N½SE¼.
T. 16 N., R. 27 E.,
Sec. 19, SW¼NW¼, NW¼SW¼.

The total area of these sites is approximately 2,201 acres.

4. For a period of thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2411.2c.

JOE T. FALLINI,
State Director.

[F.R. Doc. 67-13458; Filed, Nov. 15, 1967; 8:46 a.m.]

[Serial No. N-1279]

NEVADA

Notice of Proposed Classification of Public Lands for Multiple-Use Management

NOVEMBER 8, 1967.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18) and to the regulations in 43 CFR Parts 2410 and 2411, it is proposed to classify for multiple-use management, the public lands described in paragraph 3 below, together with any lands therein that may become public lands in the future.

2. Publication of this notice has the effect of segregating the described lands from appropriation only under the agricultural land laws (43 U.S.C. Chs. 7 and 9; 25 U.S.C. sec. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171) and the lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing or material sale laws, with the exception contained in paragraph 4. As used in this order, the term "public lands" means any lands (1) withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or (2) within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

3. The public lands proposed to be classified are shown on Map No. N-1279 on file in the Winnemucca District Office, Bureau of Land Management, Winnemucca, Nev., and the Nevada Land Office, Bureau of Land Management, Reno, Nev.

All of the public lands are located in Humboldt County, Nev., and are generally described as follows:

The Mahogany Creek—Soldier Meadows area, located in northwestern Nevada in the northwest portion of Humboldt County. The area is bounded on the north by the Charles Sheldon Game Antelope Refuge; on the east by the range line which varies between Rs. 25 and 26, 26 and 27 E.; on the south by the township line between Tps. 36 and 37 N; and on the west by the Washoe County line.

The area described above aggregates approximately 409,351 acres of public land.

4. The public lands listed below are further segregated from all forms of appropriation under the public land laws, including the general mining laws, but not the Recreation and Public Purposes Act (44 Stat. 741, 68 Stat. 173; 43 U.S.C. 869) or the mineral leasing and material sale laws:

MOUNT DIABLO MERIDIAN, NEVADA

T. 41 N., R. 26 E.,
Sec. 1, lots 1, 2, 3, 6, SW¼SE¼, SW¼SW¼, NE¼SW¼, SE¼NW¼;
Sec. 2, lots 1, 4, S½NE¼, SE¼, W½SW¼, SW¼NW¼;
Sec. 3, all;
Sec. 4, lots 1, 7, 16, SE¼NE¼;
Sec. 11, all;
Sec. 12, lots 1 to 4, inclusive, N½NE¼, SE¼NE¼, SW¼SE¼, SW¼, SE¼NW¼, W½NW¼.
T. 42 N., R. 26 E.,
Sec. 14, lots 5 to 8, inclusive, SW¼;
Sec. 15, lots 7 to 12, inclusive;
Sec. 22, N½, NW¼SE¼, NE¼SW¼;
Sec. 23, all;
Sec. 24, all;
Sec. 25, all;
Sec. 26, all;
Sec. 27, W½NE¼, S½, SE¼NW¼, W½NW¼;
Sec. 28, E½;
Sec. 33, E½E½;
Sec. 34, all;
Sec. 35, lots 5 to 20, inclusive;
Sec. 36, all.

UNSURVEYED

T. 41 N., R. 27 E.,
Sec. 6, N½, SW¼.
T. 42 N., R. 27 E.,
Sec. 19, W½;
Sec. 29, W½SW¼;
Sec. 30, SE¼, W½;
Sec. 31, all;
Sec. 32, W½W½.

The area described above aggregates approximately 12,316 acres of public land.

5. For a period of 60 days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification, may present their views in writing to the Winnemucca District Manager, Bureau of Land Management, Winnemucca, Nev. 89445.

6. A public hearing on the proposed classification will be held on Wednesday, November 29, 1967, at 1 p.m. in the Winnemucca District Office, East Highway 40, Winnemucca, Nev.

For the State Director.

ROLLA E. CHANDLER,
Manager, Nevada Land Office.

[F.R. Doc. 67-13457; Filed, Nov. 15, 1967; 8:46 a.m.]

Fish and Wildlife Service

[Docket No. S-412]

WILLIAM A. AND JOAN A. RAYMOND

Notice of Loan Application

William A. Raymond and Joan A. Raymond, 212 West Eighth, Port Angeles, Wash. 98362, have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 44.9-foot registered length wood vessel to engage in the fishery for salmon and albacore.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised Aug. 11, 1965) that the above-entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic hardship or injury.

J. L. MCHUGH,
Acting Director,
Bureau of Commercial Fisheries.

NOVEMBER 9, 1967.

[F.R. Doc. 67-13452; Filed, Nov. 15, 1967; 8:45 a.m.]

[Docket No. S-411]

JAY J. AND JANET J. VINSON

Notice of Loan Application

Jay J. Vinson and Janet J. Vinson, Post Office Box 1165, Grayland, Wash. 98547, have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 51-foot registered length wood vessel to engage in the fishery for salmon, albacore, and Dungeness crab.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised Aug. 11, 1965) that the above-entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic hardship or injury.

J. L. MCHUGH,
Acting Director,
Bureau of Commercial Fisheries.

NOVEMBER 9, 1967.

[F.R. Doc. 67-13463; Filed, Nov. 15, 1967; 8:46 a.m.]

Office of the Secretary

ADMINISTRATOR, LOWER COLORADO RIVER LAND USE OFFICE

Delegation of Authority Regarding Negotiated Contracts for Purchase of Equipment and Supplies

1. The Administrator, Lower Colorado River Land Use Office is authorized, subject to the provisions of 2 below, to exercise the authority delegated by the Secretary of the Interior to the Director of Management Operations (27 F.R. 9359) to enter into contracts for the purchase of equipment and supplies.

2. The above delegation is limited to contracts for the purchase of equipment and supplies not to exceed $10,000.

3. The authority granted in 1 above may not be redelegated.

N. O. WOOD, Jr.,
Director of
Management Operations.

NOVEMBER 9, 1967.

[F.R. Doc. 67-13463; Filed, Nov. 15, 1967; 8:46 a.m.]

DEPARTMENT OF COMMERCE

Maritime Administration

U.S. GOVERNMENT-SPONSORED COMMODITIES

Voyage Charter Rate Guidelines

Notice is hereby given that the Acting Maritime Administrator has determined that the following temporary adjustments in voyage charter rate guidelines applicable to the carriage of Government-sponsored commodities moving in full shipload lots in privately-owned

U.S.-flag vessels shall be effective on the date of publication of this notice in the FEDERAL REGISTER and for a period of ninety (90) days thereafter.

(a) The present base rates, excluding incremental allowances, for small ships (10,000 through 15,599 TDWT) will be increased by ten (10) percent and the resultant rates will herein be referred to as "adjusted small ship rates."

(b) Rates for intermediate ships (15,600 through 29,999 TDWT):

(1) Will be twenty-five (25) percent under the adjusted small ship rates, and

(2) When lightening of the cargo by use of other ocean-going vessel(s) is required for discharge at the ultimate port of destination, the rate for cargo so lightened will be the adjusted small ship rate applicable to such port minus five (5) percent.

Rates for ships 30,000 TDWT and over will continue to require special rate determinations.

The rates so determined represent fair and reasonable voyage charter rates for the transportation of full cargo lots of U.S. Government-sponsored commodities on U.S.-flag vessels and do not apply to shipments for private account. Said rates contain no allowance for delays due to port congestion, strikes, labor disputes, etc. It is, therefore, incumbent upon shipowners and operators to protect themselves from the consequences of such delays by the use of appropriate fair and reasonable charter terms.

The foregoing temporary adjustments are in effect across-the-board increased in the basic guideline rates. Certain individual rates may require further adjustments, increases or decreases, as deemed warranted by the Maritime Administration. Listings of the rates heretofore in effect may be obtained from the Office of Ship Operations. Rate advices showing the adjusted small ship rates determined in accordance with this notice will be issued from time to time by that Office.

Dated: November 9, 1967.

By order of the Acting Maritime Administrator.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 67-13567; Filed, Nov. 15, 1967; 9:24 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-220]

UNITED NUCLEAR CORP.

Notice of Proposed Issuance of Facility License

The Atomic Energy Commission is considering the issuance of a facility license, in the form set forth below, to United Nuclear Corp. The license would authorize possession, use and operation of a critical experiment facility, designated the Proof Test Facility, which is being constructed on the Corporation's Remote Experimental Station site near Pawling, N.Y., under Construction Permit No. CPCX-37. The Proof Test Facility will be used to perform physics tests on fuel of the type used in central station nuclear power reactors.

Prior to issuance of the license, the Proof Test Facility will be inspected by Commission representatives to determine whether it has been constructed in accordance with the provisions of Construction Permit No. CPCX-37.

Within fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for hearing, and any person whose interest may be affected by the issuance of this license may file a petition for leave to intervene. Requests for hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's rules of practice, 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, a notice of hearing or an appropriate order will be issued.

For further details with respect to this proposed license, see (1) the application dated April 28, 1967, and amendments thereto, and (2) a related Safety Evaluation prepared by the Division of Reactor Licensing, all of which are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the Safety Evaluation may be obtained at the Commission's Public Document Room or upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 8th day of November 1967.

For the Atomic Energy Commission.

ROBERT J. SCHEMEL,
Acting Assistant Director for Reactor Operations, Division of Reactor Licensing.

PROPOSED FACILITY LICENSE

[License No. CX-.....]

The Atomic Energy Commission (hereinafter "the Commission") having found that:

a. The application for license complies with the requirements of the Atomic Energy Act of 1954 as amended (the "Act"), and the Commission's regulations set forth in Title 10, Chapter I, CFR;

b. The PTF has been constructed in conformity with Construction Permit No. CPCX-37 and will operate in conformity with the application and in conformity with the Act and the rules and regulations of the Commission;

c. There is reasonable assurance that (i) the activities authorized by this license can be conducted at the designated location without endangering the health and safety of the public, and (ii) such activities will be conducted in compliance with the rules and regulations of the Commission;

d. United Nuclear Corp. is technically and financially qualified to engage in the proposed activities in accordance with the Commission's regulations;

e. The possession and operation of the PTF and the receipt, possession and use of the special nuclear material, in the manner proposed in the application, will not be inimical to the common defense and security or to the health and safety of the public; and

f. United Nuclear Corp. has submitted proof of financial protection which satisfies the requirements of Commission regulations currently in effect and will execute an indemnity agreement as required by section 170 of the Act and 10 CFR Part 140;

Facility License No. CX-....., effective as of the date of issuance, is issued as follows:

1. This license applies to the critical experiment facility referred to as the Proof Test Facility (hereinafter "PTF") which is owned by United Nuclear Corp. (hereinafter "the licensee") and located on the licensee's Remote Experimental Station site near Pawling, N.Y., and is described in the licensee's application dated April 28, 1967, and amendments thereto dated June 9, 1967, September 25, 1967, and October 30, 1967 (herein referred to as "the application").

2. Subject to the conditions and requirements incorporated herein, the Commission hereby licenses the United Nuclear Corp.:

A. Pursuant to section 104c of the Act and Title 10, CFR, Chapter I, Part 50, "Licensing of Production and Utilization Facilities" to possess, use and operate the PTF in accordance with the procedures and limitations described in the application and in this license;

B. Pursuant to the Act and Title 10, CFR, Chapter I, Part 70, "Special Nuclear Material" to receive, possess and use up to 150 kilograms of contained Uranium-235 and to use a 5-curie Pu-Be neutron source, all in connection with operation of the PTF; and

C. Pursuant to the Act and Title 10, CFR, Chapter I, Part 30, "Rules of General Applicability to Licensing of Byproduct Material", to possess, but not to separate, such byproduct material as may be produced by operation of the PTF.

3. This license shall be deemed to contain and is subject to the conditions specified in Part 20, § 30.34 of Part 30, §§ 50.54 and 50.59 of Part 50 and § 70.32 of Part 70 of the Commission's regulations; is subject to all applicable provisions of the Act and rules, regulations and orders of the Commission now or hereafter in effect; and is subject to the additional conditions specified below:

A. *Maximum power level.* The licensee is authorized to operate the PTF at steady state power levels up to a maximum of 100 watts (thermal).

B. *Technical specifications.* Technical Specifications contained in Appendix A to this license[1] (hereinafter "the Technical Specifications") are hereby incorporated in the license. The licensee shall operate the PTF in accordance with the Technical Specifications unless authorized by the Commission as provided in § 50.59 of 10 CFR Part 50.

C. *Records.* In addition to those otherwise required under this license and applicable regulations, the licensee shall keep the following records:

(1) PTF operating records, including power levels.

(2) Records showing radioactivity released or discharged into the air or water beyond the effective control of the licensee as measured at or prior to the point of such release or discharge.

(3) Records of emergency shutdowns and inadvertent scrams, including reasons for emergency shutdowns.

(4) Records of maintenance operations involving substitution or replacement of PTF equipment or components.

(5) Records of any experiments performed including description, reactivity worths, and any unusual events involved in their performance and in their handling.

(6) Records of tests and measurements performed pursuant to the Technical Specification.

D. *Reports.* In addition to reports otherwise required under this license and applicable regulations:

(1) The licensee shall inform the Commission of any incident or condition relating to the operation of the PTF which prevented a nuclear system from performing its safety function as described in the Technical Specifications. For each such occurrence, the licensee shall promptly notify, by telephone or telegraph, the Director of the appropriate Atomic Energy Commission Regional Compliance Office listed in Appendix D of 10 CFR 20 and shall submit within ten (10) days a report in writing to the Director, Division of Reactor Licensing (hereinafter, Director, DRL) with a copy to the Regional Compliance Office.

(2) The licensee shall report to the Director, DRL, in writing within thirty days of its observed occurrence any substantial variance disclosed by operation of the PTF from performance specifications contained in the Safety Analysis Report or the Technical Specifications.

(3) The licensee shall report to the Director, DRL, in writing within thirty (30) days of its occurrence any significant changes in transient or accident analysis as described in the Safety Analysis Report.

4. This license shall expire at midnight, August 4, 1977.

Date of issuance:

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[F.R. Doc. 67-13539; Filed, Nov. 15, 1967; 8:49 a.m.]

[1] This item was not filed with the Office of the Federal Register but is available for inspection in the Public Document Room of the Atomic Energy Commission.

CIVIL AERONAUTICS BOARD

[Docket No. 18552]

ANCHORAGE-FAIRBANKS SERVICE CASE

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceeding will begin on Tuesday, December 12, 1967, at 10 a.m. local time, in Room 114, U.S. Post Office and Courthouse, 605 Fourth Avenue, Anchorage, Alaska. At the completion of the session in Anchorage, the hearing will be adjourned to reconvene on December 15, 1967, at 10 a.m. local time, in the Commissioners Courtroom, Room 205, U.S. Post Office and Courthouse, Second and Cushman Street, Fairbanks, Alaska.

Dated at Washington, D.C., November 9, 1967.

[SEAL] JOSEPH L. FITZMAURICE,
Hearing Examiner.

[F.R. Doc. 67-13481; Filed, Nov. 15, 1967; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 17407, 17408; FCC 67M-1906]

ALJIR BROADCASTING CO., INC., AND SOUTH KANE-KENDALL BROADCASTING CORP.

Order Continuing Hearing

In re applications of Aljir Broadcasting Co., Inc., Aurora, Ill., Docket No. 17407, File No. BPCT-3818; South Kane-Kendall Broadcasting Corp., Aurora, Ill., Docket No. 17408, File No. BPCT-3896; for construction permit for new television broadcast station.

It is ordered, That the further hearing in the above-entitled proceeding, which heretofore was scheduled for November 13, 1967, is hereby continued to December 6, 1967, and will be convened on the latter date in the offices of the Commission, Washington, D.C., at 10 a.m.

Issued: November 9, 1967.

Released: November 9, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13482; Filed, Nov. 15, 1967; 8:48 a.m.]

[Docket No. 17849; FCC 67-1210]

AMERICAN TELEVISION CO., INC.

Order Designating Application for Hearing on Stated Issues

In re applications of American Television Co., Inc., Fort Smith, Ark., Req: 93.7 mcs, No. 229; 100 kw (H&V); 205.5 ft., Docket No. 17849, File No. BPH-5831, for construction permit.

1. The Commission has under consideration the above-captioned and described application.

2. According to the information available to the Commission, Donald W. Reynolds, sole stockholder in the applicant, owns or controls Fort Smith's only television station, its only daily and Sunday Newspapers, one of its four standard broadcast stations, its major outdoor advertising company, and is here seeking the community's third FM station. This information also indicates that there are no other daily or weekly newspapers in Sebastian County where Fort Smith is located and no television station located elsewhere places a Grade B signal over Fort Smith, a community of 52,991.

3. Considering the extent of Reynold's interests, we are unable to conclude that effective competition is provided by the other FM and standard broadcast stations in the community. Therefore, we have determined that a hearing on the issue of local concentration of control is required. Because of the nature of the questions involved, we believe it is appropriate to hold the proceeding in Fort Smith in order to give local citizens an opportunity to participate in the proceeding in accordance with § 1.325 of our rules.

4. In making a determination as to whether a grant of the application would serve the public interest, convenience, and necessity, it is pertinent to consider such relevant factors as the number of other broadcast services and newspapers reaching Fort Smith and the audience and circulation of such other programs and news sources; the extent to which such outside sources deal with local problems of Fort Smith and such other factors as would tend to demonstrate that a grant of the applications would or would not result in a local concentration of control of mass communications media to an undue degree.

5. Except as indicated below, the applicant is qualified to construct and operate as proposed. However, because of the above question regarding local concentration of control, the Commission is unable to make the statutory finding that a grant of the application would serve the public interest, convenience and necessity, and is of the opinion that the application must be designated for hearing on the issues set forth below.

It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the application is designated for hearing at a time and at a location in Fort Smith, Ark., to be specified in a subsequent order, upon the following issues:

1. To determine whether a grant of the application would tend to create an undue concentration of control over the media of mass communications in Fort Smith, Ark.

2. To determine, in the light of the evidence adduced pursuant to the foregoing issue, whether a grant of the application would serve the public interest, convenience, and necessity.

It is further ordered, That to avail itself of the opportunity to be heard, the applicant, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney shall, within twenty (20) days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the applicant herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: November 3, 1967.

Released: November 13, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13483; Filed, Nov. 15, 1967; 8:48 a.m.]

[1] Commissioner Bartley absent; Commissioner Wadsworth dissenting.

[Docket No. 17385; FCC 67M-1008]

GREAT SOUTHERN BROADCASTING CO.

Order Regarding Procedural Dates

In re application of William O. Barry trading as Great Southern Broadcasting Co., Donelson, Tenn., Docket No. 17385, File No. BP-16707, for construction permit.

The Hearing Examiner having under consideration a "Motion for Extension of Time" filed by the above-named applicant on November 7, 1967, requesting changes in the procedural dates heretofore established:

It appearing, that the Broadcast Bureau has informally stated that they would interpose no objection to a grant of said motion; and

It further appearing, that good cause has been shown:

It is ordered, That the following dates shall supersede those that were heretofore established:

Final exchange of exhibits presently scheduled for November 8, 1967, is continued to November 27, 1967;

Notification of witnesses presently scheduled for November 15, 1967, is continued to December 4, 1967; and

Hearing presently scheduled for November 20, 1967, is continued to December 12, 1967.

Issued: November 8, 1967.

Released: November 9, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13464; Filed, Nov. 15, 1967; 8:48 a.m.]

[Docket No. 17831; FCC 67M-1004]

STEPHEN A. WICHROWSKI, JR.

Order Continuing Hearing

In the matter of Stephen A. Wichrowski, Jr., 370 Converse Street, Longmeadow, Mass. 01106, Docket No. 17831, suspension of Radiotelephone First Class Operator License.

On the Hearing Examiner's own motion, the date for commencement of hearing is continued to January 24, 1968, at 10 a.m. at a location in Springfield, Mass. to be specified in a later order.

Issued: November 9, 1967.

Released: November 9, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13465; Filed, Nov. 15, 1967; 8:48 a.m.]

[Docket No. 17505]

CARRIAGE AND PROGRAM EXCLUSIVITY ON CATV SYSTEMS

Order Extending Time for Filing Responses

In regard to: Inquiry into operation and effect of present Commission policies regarding carriage and program exclusivity on CATV systems, Docket No. 17505.

1. The Commission has for consideration a "Notice of Inquiry" released September 8, 1967 (FCC 67-974), in the above-captioned proceeding, to which responses are required to be filed on or before November 8, 1967.

2. We have learned that copies of the Notice of Inquiry were not promptly sent to all affected parties. Consequently, we believe it appropriate to extend the response date.

Accordingly, it is ordered, Pursuant to § 0.289 of the Commission's statement of delegations of authority, that the time within which to file responses in the above-captioned proceeding is extended to and including January 2, 1968.

Adopted: November 6, 1967.

Released: November 13, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13466; Filed, Nov. 15, 1967; 8:48 a.m.]

FEDERAL MARITIME COMMISSION

[Docket No. 17506]

ATLANTIC CONTAINER LINE, LTD., AND HAMBURG-AMERIKA LINIE

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. F. J. Barry, General Traffic Department, United States Navigation Co., Inc., 17 Battery Place, New York, N.Y. 10004.

Agreement 9672, between Atlantic Container Line, Ltd. and Hamburg-Amerika Linie, which operate regular services in the trades between U.S. Ports and ports in the United Kingdom and Europe and elsewhere, provides for the interchange of cargo containers and/or related equipment in accordance with the terms and conditions set forth therein.

Dated: November 13, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-13478; Filed, Nov. 15, 1967; 8:48 a.m.]

ATLANTIC CONTAINER LINE, LTD., AND NORDDEUTSCHER LLOYD

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. F. J. Barry, General Traffic Department, United States Navigation Co., Inc., 17 Battery Place, New York, N.Y. 10004.

Agreement 9671, between Atlantic Container Line, Ltd., and Norddeutscher Lloyd, which operate regular services in the trades between U.S. ports and ports in the United Kingdom and Europe and elsewhere, provides for the interchange of cargo containers and/or related equipment in accordance with the terms and conditions set forth therein.

Dated: November 13, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-13479; Filed, Nov. 15, 1967; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP68-145]

EL PASO NATURAL GAS CO.

Notice of Application

NOVEMBER 9, 1967.

Take notice that on November 1, 1967, El Paso Natural Gas Co. (Applicant), Post Office Box 1492, El Paso, Tex. 79999, filed in Docket No. CP68-145 an application pursuant to subsections (b) and (c) of section 7 of the Natural Gas Act for permission and approval to abandon certain facilities and for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities for the direct sale and delivery of natural gas to Tucson Gas & Electric Co. (Tucson Gas), an existing customer of Applicant, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Tucson Gas has installed an additional 175 MW generating unit at the Tucson Power Plant No. 4 and has requested Applicant to supply the fuel requirements of the unit. In order to comply with the aforementioned request, Applicant deems it necessary that 5.1 miles of 6⅝-inch O.D. pipeline presently utilized to provide service to Tucson Gas' Power Plant No. 4 be abandoned in accordance with the Commission's permission and approval pursuant to section 7(b) of the Natural Gas Act.

In order to supply Tucson Gas with its new requirements of natural gas to fuel the aforementioned generator, Applicant requests a certificate of public convenience and necessity authorizing the construction and operation of approximately 5.2 miles of 10¾-inch O.D. pipeline, 2 sales meter stations, 2 check meter stations, and a pressure regulating station.

The estimated cost of removal and salvage of the aforementioned 6⅝-inch pipeline is $19,216.

The total estimated cost of the proposed new facilities is $286,479, which cost will be financed from working funds.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 4, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13444; Filed, Nov. 15, 1967; 8:45 a.m.]

[Docket No. CP68-144]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Notice of Application

NOVEMBER 9, 1967.

Take notice that on October 30, 1967, Kansas-Nebraska Natural Gas Co., Inc. (Applicant), Hastings, Nebr. 68901, filed in Docket No. CP68-144 a "budget-type" application pursuant to section 7(c) of the Natural Gas Act and § 157.7(c) of the regulations under the Act for a certificate of public convenience and necessity authorizing the construction and operation of gas sales or transportation facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to construct during the calendar year 1968 and operate facilities to be used for the transportation and sale of natural gas previously authorized under existing certificates to be made to existing distributors at rates on file with the Commission and for direct sales of natural gas to customers located in areas outside the franchise area of any local distributor. Miscellaneous rearrangements not resulting in any change of service rendered by means of the facilities involved when required by highway construction, dam construction, or other similar reasons are also contemplated by the proposal.

Deliveries to any one distributor or consumer will not exceed 100,000 Mcf annually and will not be used for boiler fuel purposes as defined by § 157.7(c)(9) of the regulations under the Act.

The total estimated cost of the proposed facilities will not exceed $100,000, which cost will be financed from current working funds.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 1, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13445; Filed, Nov. 15, 1967; 8:45 a.m.]

[Project 2060]

ST. CROIX PAPER CO.

Notice of Application for License for Proposed Project

NOVEMBER 9, 1967.

Public notice is hereby given that application for license has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by St. Croix Paper Co. (correspondence to: E. G. Wilson, General Manager, St. Croix Paper Co., Woodland, Maine 04694) for proposed Project No. 2060, known as the Forest City Dam, to be located on the East Branch of the St. Croix River, an international boundary stream, in the region of the town of Forest City, in Washington County, Maine.

The new Forest City Dam and reservoir (a replacement of a former dam) would consist of a 500-foot long earth dam 16 feet high having a 41-foot long spillway and fishway section extending across the outlet of East Grand Lake between Forest City, Maine and Forest City, New Brunswick and a reservoir that would store 105,300 acre-feet of water at 7 feet of head (elevation 434.8 feet m.s.l.). The parts of the development for which a license is sought would consist of the portion of the dam and reservoir located wholly within the United States, and appurtenant facilities. Water impounded by the dam would be used for the generation of electric power in Applicant's downstream Grand Falls and Woodland hydroelectric developments. Applicant is seeking authorization of the International Joint Commission for construction of the project facilities to be located in Canada.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedures of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is January 9, 1968. The application is on file with the Commission for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13446; Filed, Nov. 15, 1967; 8:45 a.m.]

[Docket No. CP68-248]

UNITED GAS PIPE LINE CO.

Notice of Application

NOVEMBER 9, 1967.

Take notice that on October 30, 1967, United Gas Pipe Line Co. (Applicant), Post Office Box 1407, Shreveport, La. 71163, filed in Docket No. CP68-248 a "budget-type" application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the regulations under the Act for a certificate of public convenience and necessity authorizing the construction and operation of routine gas-purchase facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to construct during the calendar year 1968 and operate various gas purchase and gathering facilities to enable Applicant with reasonable dispatch to take into its certificated main pipeline system natural gas which it will purchase from producers in the general area of its system.

The total estimated cost of the proposed facilities is $5 million, the total cost of any one connection being limited to $500,000. The construction will be financed through funds on hand.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 1, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13457; Filed, Nov. 15, 1967; 8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[812-2095]

ARIZONA CITY DEVELOPMENT CORP.

Notice of Filing of Application

NOVEMBER 9, 1967.

Notice is hereby given that Arizona City Development Corp. ("applicant"), 301 North Sunland Gin Road, Arizona City, Ariz. 85223, an Arizona corporation controlled by Business Funds, Inc. ("BFI"), a nondiversified management investment company registered under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to sections 17(b) and 17(d) of the Act and Rule 17d-1 thereunder for an order exempting from the prohibition of section 17(a) and permitting under section 17(d), the transaction whereby a contract for the financing, construction of facilities and furnishing of water ("water contract") between applicant and Arizona City Utilities, Inc. ("Utilities"), an Arizona corporation, in which Howard L. Terry, a director of BFI has a 25-percent interest, will be terminated. All interested persons are referred to the application on file with the Commission for a statement of applicant's representations which are summarized below.

Applicant is engaged in the business of owning, developing, and selling real estate in Arizona. Under the water contract dated March 25, 1960, Utilities agreed to construct, operate, and maintain a public water system and furnish domestic and commercial water service in the area being developed by applicant. Pursuant to the water contract, applicant assigned to Utilities a certain portion of the monies received and to be received in the future from the sale of lots. These monies were held in trust and the portion assigned to Utilities was designated as the water installation and development funds.

In constructing a water system Utilities incurred costs in the amount of $262,330. Utilities has received an aggregate of approximately $130,233, from the water installation and developments funds towards reimbursement of such costs.

Applicant and Utilities subsequently agreed to terminate the water contract. Utilities agreed to transfer the properties and assets comprising the water system to Arizona Water Co. ("Arizona Water"), a nominee of applicant, in consideration of the payment by applicant to Utilities of the sum of $80,000 out of the water installation and developments funds as further reimbursement of Utilities' costs. In addition, Utilities and applicant agreed to release each other from any further obligations under the water contract. In consideration of the transfer of the water system, by Utilities to Arizona Water, Arizona Water agreed to pay applicant $5,000, and at the request of applicant, to make various extensions to the existing water system at a cost not to exceed $67,000, and to install additional main extensions at a cost not to exceed $363,000 on the condition that applicant guarantee that Arizona Water will receive certain revenue from all lots and parcels fronting on such additional main extensions. Applicant represents that no affiliated person of applicant or BFI has any interest in Arizona Water.

Section 17(a) of the Act, as here pertinent prohibits Utilities, an affiliate of Terry, who is himself an affiliate of BFI, from selling to or purchasing property from applicant, which is a company controlled by BFI, unless the Commission upon application grants an exemption from such prohibition pursuant to section 17(b) of the Act after finding that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of the registered investment company and with the general purposes of the Act.

Section 17(d) and Rule 17d-1 thereunder, as here pertinent, prohibits Utilities, an affiliated person of an affiliated person of BFI, from effecting any transaction in connection with, any joint enterprise or other joint arrangement or profit-sharing plan in which applicant, a company controlled by BFI, is a participant unless the Commission, upon application pursuant to Rule 17d-1, permits such transaction. In passing upon such application the Commission will consider whether the participation of applicant in such joint enterprise, joint arrangement or profit-sharing plan on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Applicant represents that the proposed transaction is most advantageous to applicant, that it is fair to all parties and does not involve overreaching on the part of any person, that it is consistent with the provisions, policies and purposes of the Act and the rules and regulations thereunder, and that to the extent applicant's participation is on a different basis from the other participants in the proposed transaction, such participation is not less advantageous to applicant.

Notice is further given that any interested person may, not later than November 28, 1967, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-13458; Filed, Nov. 15, 1967; 8:47 a.m.]

CODITRON CORP.

Order Suspending Trading

NOVEMBER 9, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $3 par value, of Coditron Corp., New York, N.Y., otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 12, 1967, through November 21, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-13459; Filed, Nov. 15, 1967; 8:47 a.m.]

FASTLINE, INC.

Order Suspending Trading

NOVEMBER 9, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Fastline, Inc., New York, N.Y., otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 9, 1967, through November 18, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-13460; Filed, Nov. 15, 1967; 8:47 a.m.]

JODMAR INDUSTRIES, INC.

Order Suspending Trading

NOVEMBER 9, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Jodmar Industries, Inc., 1780 East 93d Street, Brooklyn, N.Y., and all other securities of Jodmar Industries, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 13, 1967, through November 19, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-13461; Filed, Nov. 15, 1967; 8:47 a.m.]

[812-2095]

MISSOURI-KANSAS-TEXAS RAILROAD CO. ET AL.

Notice of Filing of Application for Order Exempting Proposed Transactions

NOVEMBER 9, 1967.

In the matter of Missouri-Kansas-Texas Railroad Co., Katy Industries, Inc., 701 Commerce Street, Dallas, Tex. 75202; Madison Fund, Inc., 660 Madison Avenue, New York, N.Y. 10021; Axe-Houghton Fund A, Inc., Axe-Houghton Fund B, Inc., Axe-Houghton Stock Fund, Inc., Axe Science Corp., 400 Benedict Avenue, Tarrytown, N.Y.

Notice is hereby given that Missouri-Kansas-Texas Railroad Co. ("Katy"), Katy Industries, Inc. ("Industries"), both Delaware corporations, Madison Fund, Inc. ("Madison"), a registered closed-end management investment company, Axe-Houghton Fund A, Inc., Axe-Houghton Fund B, Inc., Axe-Houghton Stock Fund, Inc., and Axe Science Corp. (sometimes collectively referred to as "Axe Funds"), registered open-end diversified management investment companies (collectively referred to as "applicants") have filed a joint application for an order pursuant to section 17(b) of the Investment Company Act of 1940 ("Act"), exempting from the provisions of section 17(a) of the Act (1) the call for redemption by Katy of all of its 7 percent convertible collateral trust bonds, due January 1, 1977 ("convertible bonds"), and the conversion of such convertible bonds into common stock of Katy by certain of the holders thereof, and (2) the issuance of common stock of Industries to Katy stockholders in exchange for their Katy stock in the transactions hereinafter described. Applicants also request an order pursuant to Rule 17d-1 promulgated under section 17(d) of the Act granting an application to effect a plan whereby: (a) Madison, Axe Funds, St. Louis and Kansas City Land Co. (a subsidiary of the Chicago, Burlington & Quincy Railroad Co.), Banque de Paris et des Pays-Bas Succursale Geneve, and Banca della Svizzera Italiana will, pursuant to contracts, sell a portion of their holdings of common stock of Katy to Bangor Punta Operations, Inc. ("Bangor Punta"), a subsidiary of Bangor Punta Corp., (b) Industries, pursuant to an option contract, will sell shares of its common stock to Bangor Punta, (c) Madison, Axe-Houghton Fund B, and St. Louis and Kansas City Land Co. will convert their Katy convertible bonds and (d) Katy stockholders (including some of the named applicants) will be offered the opportunity to exchange their Katy common stock for common stock of Industries. All interested persons are referred to the application on file with the Commission, for a statement of the representations therein which are summarized below.

Katy operates a railroad in the States of Missouri, Kansas, Oklahoma, and Texas, and is subject to regulations by the Interstate Commerce Commission. In addition to long-term debt of about $111 million, Katy also had $3,728,000 principal amount of convertible bonds outstanding at October 2, 1967, and 1,538,190 shares of common stock, $5 par value, outstanding. The convertible bonds are convertible into common stock at the rate of $9 per share, for which 414,226 shares of Katy common stock are reserved for issuance upon such conversion.

Madison is the record owner of 200,800 shares of Katy common stock constituting approximately 13 percent of the total number of shares outstanding, and Katy is therefore an "affiliated person" of Madison as defined in section 2(a)(3) of the Act. In addition, Madison owns $1,158,300 principal amount of convertible bonds which are convertible into 128,700 shares of Katy common stock. Mr. Edward A. Merkle, president and a director of Madison, chairman of the board and a director of Katy, owns beneficially 20,710 shares of Katy common stock. Merkle will exchange all of his 20,710 shares of Katy common stock for a like number of shares of Industries. Merkle has agreed that so long as he remains an officer or director of Madison he will give 30 days notice to the Securities and Exchange Commission prior to any sale of his Katy or Industries common stock; furthermore, if an application under the Act with regard to such sale is deemed necessary by the staff, Merkle will not sell such holdings until

he has received an order from the Commission.

In addition to Madison's 200,000 shares of Katy common stock and its $1,158,300 principal amount of Katy convertible bonds, Madison also owns $3,513,000 principal amount of subordinated income debentures of Katy. As of October 2, 1967, Madison owned approximately 3 percent of the total voting securities of Bangor Punta Corp.

The Axe Funds own the following amounts of common stock of Katy:

Fund	Shares of common stock	Percent of total outstanding
Fund A	73,000	4.7
Fund B		
Stock Fund	74,000	4.8
Science Fund	74,000	4.8

In addition, Fund B owns $342,000 principal amount of Katy convertible bonds, which are convertible into 38,000 shares of common stock of Katy. Fund A also owns $440,000 principal amount of Katy's subordinated income debentures. Although Katy is not an "affiliated person" of any of the Axe Funds, if one or more of the common officers of the Axe Funds is considered to control or hold with power to vote the Katy common stock owned by two or more of the Axe Funds, Katy would be an "affiliated person" of an "affiliated person" of each of the Axe Funds.

The Axe Funds own 4.1 percent of the total voting securities of Bangor Punta Corp.

Banque de Paris et des Pays-Bas Succursale Geneve is a Switzerland branch of the Banque de Paris et des Pays-Bas, a French banking institution. Katy is informed that Banque de Paris et des Pays-Bas Succursale Geneve owns beneficially 132,500 shares of common stock of Katy, constituting approximately 8.6 percent of the total amount of the shares outstanding. Mr. Serge Varangot, executive vice president of Banque de Paris et des Pays-Bas, was, until his resignation on October 11, 1967, a director of Madison.

Banca della Svizzera Italiana, a Swiss bank, owns beneficially, 40,000 shares of common stock of Katy, constituting approximately 2.6 percent of the total amount of such shares outstanding.

St. Louis and Kansas City Land Co. as of October 2, 1967, owned $1,775,000 principal amount of Katy convertible bonds. In addition, St. Louis and Kansas City Land Co. owns $8,748,000 principal amount of subordinated income debentures of Katy.

Bangor Punta Corp., a diversified holding company, is the successor to Punta Alegre Sugar Corp., which was engaged in the sugar business in Cuba prior to expropriation of its Cuban assets by the Cuban government in 1959 and 1960, and Bangor & Aroostook Corp., a corporation formed as a holding company for the Bangor & Aroostook Railroad Co. Bangor Punta Corp. owns no securities of Katy.

Katy has for some time been considering a program of diversification through the acquisition of nonrailroad businesses. Since Katy's debt severely hampered its ability to finance acquisitions and since no equity securities of Katy could be used for acquisitions because of Interstate Commerce Commission limitations and not more than 20 percent of the total voting securities of a subsidiary could be so used because of Federal income tax provisions, it was concluded that the vehicle for conducting this program should be a new parent corporation which would own the stock of Katy and would not be burdened by the debt of Katy or Interstate Commerce Commission prohibitions.

The new parent corporation, Industries, Incorporated on August 24, 1967, would offer to exchange shares of its common stock on a share-for-share basis with the holders of Katy common stock. The offer of exchange would be subject to the condition, required by the consolidated return provisions of the Internal Revenue Code of 1954, as amended, that at least 80 percent of the Katy stock be obtained. An application has been filed with the Interstate Commerce Commission to permit Industries to acquire the common stock of Katy.

The exchange offer would be made pursuant to a registration statement filed with the Commission under the provisions of the Securities Act of 1933.

To assist Industries to carry out the proposed diversification program Katy entered into a contract with Bangor Punta. This contract, in essence, grants Bangor Punta an option for a period of 10 years to purchase 10 percent of the common stock of Industries at a price of $12 per share. The right to exercise this option is dependent upon the generation of earnings of new businesses acquired by Industries.

In addition to this conditional option, in order to secure Bangor Punta's agreement to assist Industries in carrying out this diversification-acquisition program, it was necessary to provide Bangor Punta with the present right to acquire approximately 90,000 shares of common stock of Katy. Since Katy stockholders have preemptive rights, and since Katy had no authorized or unissued stock available for issuance for any purpose (other than shares reserved for conversion of its convertible bonds and for exercise of outstanding stock options), the largest stockholders of Katy, namely, Madison, the three Axe Funds, Banque de Paris et des Pays-Bas Succursale Geneve, and Banca della Svizzera Italiana each agreed to sell approximately 15 percent of their Katy holdings of common stock to Bangor Punta at $12 per share, the approximate market value in May 1967, the time of the initial discussions in regard to the proposed transactions.

If the diversification-acquisition program cannot be carried out through a holding company, Katy proposes to carry it out through a noncarrier, wholly owned subsidiary. To take into account this possibility, it was necessary to grant Bangor Punta an alternative option on the shares of the subsidiary which provides in general for the grant to Bangor Punta of an option for a period of 10 years to purchase 15 percent of the common stock of such subsidiary for $1,500,000, the right to exercise such option in full to be dependent upon the generation of a total of $20 million of pretax earnings of new businesses acquired by such subsidiary.

Katy states that in December of 1966 Katy issued $4,041,000 principal amount of its convertible bonds to provide funds to pay a maturing mortgage bond issue.

If the convertible bonds are retired, Katy is freed from the 7 percent interest obligation, and Katy will have the right to withdraw Katy prior lien mortgage bonds pledged as collateral security for the convertible bonds. Such prior lien mortgage bonds will then be available as collateral for other borrowings required by Katy to meet obligations becoming due in November and December 1967.

The conversion into common stock rather than redemption of the convertible bonds is essential since Katy cannot raise the necessary funds with which to meet the total redemption price. Madison, Axe-Houghton Fund B, Inc., and St. Louis and Kansas City Land Co. have expressed their intention to convert their convertible bonds if called for redemption.

Section 17(a) of the Act, as here pertinent, may be deemed to prohibit (i) Katy from redeeming its convertible bonds and from issuing its common stock to Madison, Axe-Houghton Fund B, Inc., and St. Louis and Kansas City Land Co. upon conversion of the convertible bonds and (ii) Industries from issuing its common stock to Madison and the Axe Funds in exchange for their Katy stock unless the Commission upon application pursuant to section 17(b) grants an exemption from the provisions of section 17(a) after finding that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, that the proposed transaction is consistent with the policy of each registered investment company concerned, and that it is consistent with the general purposes of the Act.

The proposed transactions may be deemed to constitute transactions in which Madison and Axe Funds are, together with other persons described in this application who may be deemed to be "affiliated persons" of such investment companies or "affiliated persons of such persons," participants in a "joint enterprise" or other joint arrangement within the meaning of section 17(d) of the Act and Rule 17d-1 thereunder. Section 17(d) and Rule 17d-1 prohibit an affiliated person of a registered investment company or an affiliated person of such a person acting as principal to effect any transaction in which such registered company is a joint or joint and several participant with such affiliated person unless the Commission, upon application under Rule 17d-1, grants such application. Rule 17d-1 provides that the Commission shall consider, when passing upon such application, whether the participation of such registered investment company in such joint enterprise on the basis proposed is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction from any provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants submit that the proposed transactions meet the standards set forth in section 17(b), Rule 17d-1, and section 6(c), as the exchange offer and subsequent diversification-acquisition program can in no case be deemed disadvantageous to Katy. None of Katy's business, assets, or liabilities will be changed as part of such program, and if the diversification-acquisition program is successful, funds will thereby be generated and be available for use by the consolidated enterprise. As applied to applicants which are stockholders of Katy, such diversification-acquisition program offers the only feasible opportunity to improve their investment in a presently dismal financial picture; furthermore, since the exchange offer is made to all Katy shareholders there can be no complaint of treatment on "a different or less advantageous basis." Finally, a redemption by Katy of the entire issue of convertible bonds and the conversion by Madison, Axe-Houghton Fund B, Inc., and St. Louis and Kansas City Land Co. of their convertible bonds into Katy common stock is fair to the holders of such convertible bonds, since the market value of the common stock is substantially above the conversion price, and by conversion and exchange for Industries stock the holders will be able to participate in the earnings of Industries.

Notice is further given that any interested person may, not later than November 30, 1967, at 5:30 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicants at the address stated above. Proof of such service (by affidavit or in case of any attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 6-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in such application, unless an order for hearing shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13429; Filed, Nov. 15, 1967; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 1128]

MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER APPLICATIONS

NOVEMBER 9, 1967.

The following applications are governed by Special Rule 1.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with § 1.247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of § 1.247(d)(4) of the special rule, and shall include the certification required therein.

Section 1.247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's General Policy Statement Concerning Motor Carrier Licensing Procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 2202 (Sub-No. 235), filed October 26, 1967. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, Ohio 44309. Applicant's representative: William O. Turney, 2001 Massachusetts Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, serving Columbia City, Md., as an off-route point in connection with applicant's regular route authority to and from Baltimore and Laurel, Md. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 4405 (Sub-No. 453), filed October 26, 1967. Applicant: DEALERS TRANSIT, INC., 13101 South Torrence Avenue, Chicago, Ill. 60633. Applicant's representative: James W. Wrape, 2111 Sterick Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers, trailer chassis, semitrailers, and semitrailer chassis*, other than those designed to be drawn by passenger automobiles, in initial truckaway and driveaway service, from points in St. Clair County, Ala., to points in the United States, including Alaska but excluding Hawaii, and (2) *tractors*, in secondary driveaway service only when drawing trailers or trailer chassis (other than those designed to be

[1] Copies of Special Rule 1.247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

drawn by passenger automobiles) moving in initial driveaway service, from points in St. Clair County, Ala., to points in Arizona, Nevada, Oregon, Vermont, and Alaska. NOTE: If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or Atlanta, Ga.

No. MC 4405 (Sub-No. 454), filed October 30, 1967. Applicant: DEALERS TRANSIT, INC., 13101 South Torrence Avenue, Chicago, Ill. 60633. Applicant's representative: James W. Wrape, 2111 Sterick Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers, trailer chassis, semitrailers, and semitrailer chassis*, other than those designed to be drawn by passenger automobiles, (a) in initial truckaway service from Reading, Pa., and 5 miles thereof to points in Alaska, Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, and (b) in initial driveaway service, from Reading, Pa., and 5 miles thereof, to points in Alaska, Arizona, Nevada, Oregon, and Vermont, (2) *tractors*, in secondary driveaway service only when drawing trailers or trailer chassis (other than those designed to be drawn by passenger automobiles) moving in initial driveaway service from Reading, Pa., and 5 miles thereof to points in Arizona, Nevada, Oregon, Vermont, and Alaska; (3) *containers*, except containers having a capacity of 5 gallons or less of 9 cubic feet or less, (a) from Reading, Pa., and 5 miles thereof, to points in the United States, including Alaska, but excluding Hawaii, and (b) from points in the United States, including Alaska, but excluding Hawaii, to Reading, Pa., and 5 miles thereof, and (4) *materials, supplies, and parts* used in the manufacture, assembly, or servicing of the commodities described in paragraphs (1) and (3) above, when moving in mixed loads with such commodities, from Reading, Pa., and 5 miles thereof, to points in the United States, including Alaska, but excluding Hawaii. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 9325 (Sub-No. 36) (Clarification), filed September 29, 1967, published in the FEDERAL REGISTER issue of October 19, 1967, clarified November 3, 1967, and republished as clarified this issue. Applicant: K LINES, INC., Post Office Box 216, Lebanon, Oreg. Applicant's representative: Norman E. Sutherland, 1200 Jackson Tower, Portland, Oreg. 97205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, in bulk, from Portland, Oreg., to points in California in and north of Sonoma, Napa, Yolo, Sacramento, and El Dorado Counties, Calif. NOTE: The purpose of this republication is to (1) clarify the commodity description, and (2) show the correct spelling of *Sonoma County* in lieu of *Samoa*. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 25798 (Sub-No. 163), filed October 30, 1967. Applicant: CLAY HYDER TRUCKING LINES, INC., 502 East Bridgers Avenue, Post Office Box 1186, Auburndale, Fla. 33823. Applicant's representative: Paul M. Daniell, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I, *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 61 M.C.C. 766, except commodities in bulk, in tank vehicles and hides, from the plantsite of Missouri Beef Packers at or near Friona, Tex., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Maryland, Massachusetts, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Virginia, Tennessee (except Memphis and points in its commercial zone), and the District of Columbia, restricted to traffic originating at the above-named plantsite and destined to the States named. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., Dallas, or Amarillo, Tex.

No. MC 25798 (Sub-No. 164), filed October 30, 1967. Applicant: CLAY HYDER TRUCKING LINES, INC., 502 East Bridgers Avenue, Post Office Box 1186, Auburndale, Fla. 33823. Applicant's representative: Paul M. Daniell, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses*, as described in section A and C of appendix I, to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles and hides), from the plantsite of Missouri Beef Packers at or near Friona, Tex., to points in Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin, and Memphis, Tenn., restricted to traffic originating at the above-named plantsite and destined to the above-named States. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Dallas, or Amarillo, Tex.

No. MC 30204 (Sub-No. 26), filed October 29, 1967. Applicant: HEMINGWAY TRANSPORT INC., 438 Dartmouth Street, New Bedford, Mass. 02740. Applicant's representative: Carroll B. Jackson, 1301 North Boulevard, Richmond, Va. 23230. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, serving the plantsite of Grinnell Corp., located at or near Hampton, Pa., as an off-route point in connection with applicant's present authority over U.S. Highway 30 between Chambersburg, Pa., and Philadelphia, Pa., and over U.S. Highway 15 between Frederick, Md., and Gettysburg, Pa. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 31600 (Sub-No. 622) (Correction), filed October 16, 1967, published FEDERAL REGISTER issue of November 2, 1967, corrected and republished as corrected this issue. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham, Mass. 02154. Applicant's representative: Harry C. Ames, Jr., 529 Transportation Building, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Edible flour*, in bulk, from Jamaica, N.Y., to Portsmouth, N.H., (2) *flour*, in bulk from Englewood, N.J., to points in Connecticut, Delaware, Maryland, Pennsylvania, and New York, (3) *liquid paint*, in bulk, in tank vehicles, from Elizabeth, N.J., to Roxboro, N.C., (4) *whiskey*, in bulk, in tank vehicles from port of entry on the international boundary line between the United States and Canada located at Niagara Falls, N.Y., to Hartford, Conn., and (5) *aviation gasoline*, in bulk, moving on Government bills of lading, from Newington, N.H., to Plattsburgh, N.Y. NOTE: The purpose of this republication is to show the correct origin point in (5) as Newington, N.H., in lieu of Newington, N.J. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 35320 (Sub-No. 99), filed October 31, 1967. Applicant: T.I.M.E. FREIGHT, INC., 2598 74th Street, Post Office Box 1120, Lubbock, Tex. 79408. Applicant's representative: William O. Turney, 2001 Massachusetts Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the Columbia, Md., as an off-route point in connection with carrier's authorized regular route to serve Baltimore, Md. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 35320 (Sub-No. 100), filed October 31, 1967. Applicant: T.I.M.E. FREIGHT, INC., 2598 74th Street, Post Office Box 1120, Lubbock, Tex. 79408. Applicant's representative: William O. Turney, 2001 Massachusetts Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the plantsite of Westinghouse Electric Corp., located at or near Sykesville, Md., as an off-route point in connection with carrier's authorized regular route to and from Baltimore, Md. NOTE: If a hearing

is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 35334 (Sub-No. 67), filed October 27, 1967. Applicant: COOPER-JARRETT, INC., 22 South Essex Avenue, Orange, N.J. 07051. Applicant's representative: Irving Klein, 280 Broadway, New York, N.Y. 10007. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Illinois, Ohio, Kentucky, West Virginia, and Kansas City, Mo., on the one hand, and, on the other, points in Maine, Vermont, and New Hampshire. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests that it commence at Columbus, Ohio, continued at Chicago, Ill., and concluded at Boston, Mass.

No. MC 36536 (Sub-No. 20), filed October 30, 1967. Applicant: FAB TRANSPORTATION, INC., 15 Warren Street, Jersey City, N.J. 07303. Applicant's representative: Charles H. Trayford, 137 East 36th Street, New York, N.Y. 10016. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* (except hides and commodities in bulk in tank vehicles), as described in sections A and C of appendix I in *Descriptions in Motor Carrier Certificates* 67 M.C.C. 209 and 766, from carrier's terminal located at Hoboken, N.J., and rail terminals, located at Secaucus, Kearny, North Bergen, and Newark, N.J., to points in Bergen, Essex, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, Union, and Warren Counties, N.J. NOTE: Applicant states that the above proposed authority is restricted to a distribution service that has had prior interstate movement via rail boxcar, rail piggyback, and over the road motor carrier. If a hearing is deemed necessary, applicant requests it be held at New York.

No. MC 42261 (Sub-No. 95), filed October 26, 1967. Applicant: LANGER TRANSPORT CORP., Box 305, Route 1 and Foot of Danforth Avenue, Jersey City, N.J. 07303. Applicant's representative: W. C. Mitchell, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, from Burlington, N.J., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 42368 (Sub-No. 11), filed October 26, 1967. Applicant: GRAVER TRUCKING, INC., 1007 North Ninth Street, Stroudsburg, Pa. Applicant's representative: Herman B. J. Weckstein, 1060 Broad Street, Newark, N.J., 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Luzerne, Carbon, Schuylkill, Lackawanna, and Wayne Counties, Pa. (except Old Forge, Pa., and points within 20 miles of Old Forge), to New York, N.Y., and points within 20 miles of New York, N.Y. NOTE: If a hearing is deemed necessary, applicant requests it be held at Allentown, Philadelphia, Pa., or New York, N.Y.

No. MC 43533 (Sub-No. 11), filed October 30, 1967. Applicant: A. L. ROOT TRANSPORTATION, INC., 12 Fairground Road, Brattleboro, Vt. 05302. Applicant's representatives: Arthur M. Marshall and David M. Marshall, 135 State Street, Suite 200, Springfield, Mass. 01103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips, edgings, and debarked wooden slabs*, (1) from Winchester and Madison, N.H., to Westbrook and Rumford, Maine; Boston, Canton, and Lawrence, Mass.; Albany, Schenectady, and Ticonderoga, N.Y.; and Philipsdale and Providence, R.I.; and, (2) from Westfield and Chester, Mass., to Winchester and Milford, N.H.; and Mechanicville, N.Y. NOTE: If a hearing is deemed necessary, applicant requests it be held at Brattleboro, Vt., or Greenfield or Springfield, Mass.

No. MC 59080 (Sub-No. 390), filed October 30, 1967. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 930 North York Road, Hinsdale, Ill. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acetic acid*, in bulk, in tank vehicles, from Elkhart, Ind., to Toledo, Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 62110 (Sub-No. 166), filed October 26, 1967. Applicant: BRADY MOTORFRATE, INC., 2150 Grand Avenue, Des Moines, Iowa 50312. Applicant's representative: Homer E. Bradshaw, 11th Floor, Des Moines Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods, including frozen fruits, vegetables, potatoes, potato products, and juice concentrates*, (1) from Mid Continent Underground Storage Caves located at or near Loring, Kans., to Lincoln, Omaha, and Norfolk, Nebr.; Fargo and Bismarck, N. Dak.; Sioux Falls, S. Dak.; Green Bay, Madison, Milwaukee, and Sheboygan, Wis.; and points in Illinois, Indiana, Iowa, the Lower Peninsula of Michigan, Minnesota, and Ohio; (2) from Kansas City, Mo., to Norfolk, Nebr.; Fargo and Bismarck, N. Dak.; Green Bay, Madison, and Milwaukee, Wis.; and points in Illinois, Indiana, the Lower Peninsula of Michigan, Minnesota, and Ohio; and (3) from Fort Dodge, Iowa, to points in Indiana, the Lower Peninsula of Michigan, Nebraska, and Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at San Francisco or Los Angeles, Calif.

No. MC 61396 (Sub-No. 191), filed October 17, 1967. Applicant: HERMAN BROS. INC., 2501 North 11th Street, Omaha, Nebr. 68110. Applicant's representatives: Dale G. Herman, Post Office Box 189, Omaha, Nebr. 68101, and Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. 68183. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk and in bags, from points in Lancaster County, Nebr., to points in Colorado, Iowa, Kansas, Missouri, Nebraska, South Dakota, and Wyoming. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., Sioux City, Iowa, or Lincoln, Nebr.

No. MC 66562 (Sub-No. 2066) (Correction), filed May 18, 1965, published in the FEDERAL REGISTER issue of September 8, 1967, corrected and republished as corrected this issue. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York, N.Y. 10017. Applicant's representative: William H. Marx (address same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, moving in express service, serving Dayton, Ohio, as an intermediate point in connection with applicant's authorized regular route operations between Cincinnati, Ohio, and Detroit, Mich., under certificate MC 66562 Sub 1503. NOTE: The purpose of this republication is to show the Sub No. of the applicant's authorized operations as Sub 1562, in lieu of Sub 503. If a hearing is deemed necessary, applicant requests it be held at Dayton, Ohio.

No. MC 66746 (Sub-No. 9), filed October 27, 1967. Applicant: JOHN L. KERR AND G. O. KERR, JR., a partnership, doing business as SHIPPERS EXPRESS, 1651 Kerr Drive, Post Office Box 8665, Jackson, Miss. 39205. Applicant's representative: Harold D. Miller, Jr., 700 Petroleum Building, Post Office Box 22567, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), (1) between Memphis, Tenn., and Natchez, Miss., over U.S. Highway 61, serving all intermediate points on U.S. Highway 61 between Vicksburg, Miss., and Natchez, including Vicksburg and Natchez, and (2) between New Orleans, La., and Vicksburg, Miss., over U.S. Highway 61, serving all intermediate points on U.S. Highway 61 between Natchez and Vicksburg, Miss., including Natchez and Vicksburg. Restriction: Restricted against the joinder of the routes herein, and

restricted against the joinder of either route sought herein with applicants' existing authority: NOTE: If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss.

No. MC 95540 (Sub-No. 717), filed October 31, 1967. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, Fla. 33802. Applicant's representative: Hoyt Starr (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Common window, glass*, not bent, from Shreveport, La., to points in Arkansas, Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, Oklahoma, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., Cleveland, Ohio, or Memphis, Tenn.

No. MC 98676 (Sub-No. 76), filed October 26, 1967. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. Applicant's representative: Donald A. Morken, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Material handling equipment, winches, compaction and road making equipment, rollers, self-propelled and non-self-propelled, mobile cranes, and highway freight trailers*, (2) *parts, attachments and accessories* for the commodities described in (1) above, between the plantsite of the Hyster Co. located at or near Danville, Kewanee, and Peoria, Ill., on the one hand, and, on the other, points in Minnesota. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 99090 (Sub-No. 7), filed November 1, 1967. Applicant: YATES TRUCK LINES, INC., Maud, Ky. 40042. Applicant's representative: Robert M. Pearce, Post Office Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer, fertilizer materials and ingredients, and insecticides, pesticides, fungicides, herbicides and related advertising materials*, when moving in mixed shipments with fertilizer, fertilizer materials and ingredients (except in bulk, in tank vehicles), from the plantsite of Armour Agricultural Chemical Co. at Jeffersonville, Ind., to points in Kentucky, Ohio, Tennessee, and West Virginia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky.

No. MC 100666 (Sub-No. 110), filed October 27, 1967. Applicant: MELTON TRUCK LINES, INC., Post Office Box 7295, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 450 American National Building, Oklahoma City, Okla. 73102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition roofing and building slabs and materials* used in the installation thereof, from Terry, Miss., to points in Kansas, Nebraska, Iowa, Missouri, Illinois, Wisconsin, Indiana, Ohio, Michigan, Virginia, West Virginia, North Carolina, South Carolina, and Pennsylvania. NOTE: If a hearing is deemed necessary, applicant requests it be held at Shreveport, La., Jackson, Miss., or Little Rock, Ark.

No. MC 100666 (Sub-No. 111), filed October 31, 1967. Applicant: MELTON TRUCK LINES, INC., Post Office Box 7295, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 450 American National Building, Oklahoma City, Okla. 73102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition, boards, and materials, supplies, and accessories* incidental to the installation thereof, from Marrero, La., to points in Texas. NOTE: If a hearing is deemed necessary, applicant requests it be held at Shreveport, La., Oklahoma City, Okla., or Little Rock, Ark.

No. MC 103378 (Sub-No. 328), filed October 30, 1967. Applicant: PETROLEUM CARRIER CORPORATION, 611 South 28th Street, Milwaukee, Wis. 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crude tall oil*, in bulk, in tank vehicles, from Macon and Augusta, Ga., to Charleston, S.C. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 103378 (Sub-No. 329), filed October 31, 1967. Applicant: PETROLEUM CARRIER CORPORATION, 611 South 28 Street, Milwaukee, Wis. 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, in bulk, from Dothan, Ala., to points in Georgia and Florida. NOTE: Applicant states it could tack at points in Colquitt County, Ga. (except Moultrie and points within 3 miles thereof), to its Sub 276, wherein it is authorized to conduct operations in Alabama, Florida, and South Carolina. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or Birmingham, Ala.

No. MC 103654 (Sub-No. 129), filed, October 26, 1967. Applicant: SCHIRMER TRANSPORTATION COMPANY, INCORPORATED, 1145 Homer Street, St. Paul, Minn. 55116. Applicant's representative: Donald A. Morken, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, and in bags, from the plantsite of, or storage facilities utilized by the Dewey Portland Cement Co., at or near Davenport, Iowa, to points in Illinois, Iowa, Minnesota, Missouri, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 105375 (Sub-No. 34), filed October 30, 1967. Applicant: DAHLEN TRANSPORT OF IOWA, INC., 875 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Leonard A. Jaskiewicz, Madison Building, 1155 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid animal food and liquid animal food supplements*, in bulk, in tank vehicles, from Dubuque, Iowa, to points in Illinois, Iowa, Indiana, Kansas, Missouri, Minnesota, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 106914 (Sub-No. 21), filed October 27, 1967. Applicant: HORN TRANSPORTATION, INC., 1119 West 24th Street, Kansas City, Mo. 64108. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, between points in Pueblo County, Colo., and points in Wyoming. NOTE: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 106194 (Sub-No. 22), filed October 27, 1967. Applicant: HORN TRANSPORTATION, INC., 1119 West 24th Street, Kansas City, Mo. 64108. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery and related parts*, from Denver and Colorado Springs, Colo., to points in the United States (except Alaska, Hawaii, Kansas, Colorado, and the Kansas City, Mo., commercial zone). NOTE: Applicant states that it does not seek any duplicating authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 106644 (Sub-No. 84), filed October 23, 1967. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road, NW., Atlanta, Ga. 30321. Applicant's representative: Otis E. Stovall, Post Office Box 17050, Chattahoochee Station, Atlanta, Ga. 30321. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Material handling equipment; winches; compaction and roadmaking equipment, rollers, self-propelled and non-self-propelled; mobile cranes; and highway freight trailers*; and (2) *parts, attachments, and accessories* for the commodities described in (1) above, between the plantsites of the Hyster Co., located at or near Danville, Kewanee, and Peoria, Ill., on the one hand, and, on the other, points in Florida. NOTE: Applicant states that the above-proposed authority is restricted to traffic originating at or destined to the named plantsites. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Nashville, Tenn.

No. MC 107002 (Sub-No. 341), filed November 1, 1967. Applicant: HEARIN-MILLER TRANSPORTERS, INC., Post Office Box 1123, U.S. Highway 80 West, Jackson, Miss. 39205. Applicant's representatives: Harold D. Miller, Jr., Post Office Box 22567, Jackson, Miss. 39205, and John J. Borth (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from Eufaula, Ala., and points within 40 miles thereof, to points in Alabama, Florida, and Georgia. NOTE: Applicant states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala.

No. MC 107107 (Sub-No. 387), filed October 30, 1967. Applicant: ALTERMAN TRANSPORT LINES, INC., 2424 Northwest 46th Street, Post Office Box 458, Miami, Fla. 33142. Applicant's representative: Paul M. Daniell, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I, *Description in Motor Carrier Certificates*, 61 M.C.C. 209 (272–273) and 61 M.C.C. 766 (except commodities in bulk in tank vehicles, and hides), from the plantsite of Missouri Beef Packers at or near Friona, Tex., to points in Alabama, Georgia, South Carolina, Florida, North Carolina, Virginia, Kentucky, West Virginia, Maryland, Delaware, New Jersey, New York, Connecticut, Massachusetts, Rhode Island, District of Columbia, and Pennsylvania, restricted to traffic originating at the above-named plantsite and destined to the States named. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Dallas or Amarillo, Tex.

No. MC 107403 (Sub-No. 733), filed October 30, 1967. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, from Burlington, N.J., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107515 (Sub-No. 594), filed October 30, 1967. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 10779, Station A, Atlanta, Ga. 30310. Applicant's representative: Paul M. Daniell, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I, *Description in Motor Carrier Certificates*, 61 M.C.C. 209 (272–273) and 61 M.C.C. 766, except commodities in bulk in tank vehicles and hides, from the plantsite of Missouri Beef Packers at or near Friona, Tex., to points in Alabama, Georgia, Florida, South Carolina, North Carolina, Kentucky, Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Massachusetts, Rhode Island, Tennessee (except Memphis, and points in its commercial zone), and the District of Columbia, restricted to traffic originating at the above-named plantsite and destined to the States named. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., Dallas or Amarillo, Tex.

No. MC 107871 (Sub-No. 54), filed October 26, 1967. Applicant: BONDED FREIGHTWAYS, INC., 441 Kirkpatrick Street West, Syracuse, N.Y. 13201. Applicant's representatives: Norman M. Pinsky and Herbert M. Canter, 345 South Warren Street, Syracuse, N.Y. 13202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals* (except calcium chloride) in bulk, in tank or hopper-type vehicles, from Solvay, N.Y., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont. NOTE: No duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 108207 (Sub-No. 283), filed October 30, 1967. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz Street, Post Office Box 5888, Dallas, Tex. 75222. Applicant's representative: J. B. Ham (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Resin-impregnated broadgoods and rovings*, from points in California to points in Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Texas, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles or San Francisco, Calif.

No. MC 109595 (Sub-No. 11) (Amendment), filed September 29, 1967, published in the FEDERAL REGISTER issue of October 12, 1967, amended October 20, 1967, and republished this issue. Applicant: REX TRANSPORTATION CO., a corporation, 34360 Goodard Road, Romulus, Mich. 48174. Applicant's representative: Robert A. Sullivan, 1500 Buhl Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, (1) from the plantsite of Aetna Portland Cement Co. located at Esserville, Mich., to points in Indiana, Illinois, and Ohio and (2) from Detroit, Mich., to points in New York and Illinois. NOTE: The purpose of this republication is to delete "in bulk, in tank vehicles", from the commodity description. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., Chicago, Ill., or Washington, D.C.

No. MC 110168 (Sub-No. 18), filed October 30, 1967. Applicant: TENNESSEE CAROLINA TRANSPORTATION, INC., Nance Lane, Post Office Box 7398, Nashville, Tenn. 37210. Applicant's representative: J. C. Hutcheson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between McMinnville and Manchester, Tenn., over Tennessee Highway 55, serving Morrison, Tenn., and the plantsite of Carrier Air Conditioning Co. at or near Morrison, as intermediate points between McMinnville and Manchester, and serving Manchester for joinder only with applicant's regular route authority between Nashville and Chattanooga, Tenn. NOTE: If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 110525 (Sub-No. 348), filed October 30, 1967. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Edwin H. van Deusen (same address as applicant), and Leonard A. Jaskiewicz, Madison Building, 1155 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, from Burlington, N.J., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, New Jersey, and the District of Columbia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 112822 (Sub-No. 242) (Correction), filed September 26, 1967, published in FEDERAL REGISTER issue of October 12, 1967, and republished as corrected this issue. Applicant: KAMPO TRANSIT, INC., 200 West Cecil Street, Neenah, Wis. Applicant's representative: E. Stephen Heisley, 529 Transportation Building, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid liquor*, in bulk, in tank vehicles, from Oconto Falls, Wis., to points in Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, New York, North Dakota, Ohio, Pennsylvania, South Dakota, and Wisconsin. NOTE: The purpose of this republication is to include points in the States of Illinois, Indiana, Iowa, Kansas, Michigan, and Minnesota in the destination territory, which States were inadvertently omitted in the previous publication. If a hearing is deemed necessary, applicant requests it be held at Madison, Wis.

No. MC 112908 (Sub-No. 45), filed October 26, 1967. Applicant: HARVEY R. SHIPLEY & SONS, INC., Route U.S. 140, Finksburg, Md. 21048. Applicant's representative: Donald E. Freeman, 172 East

Green Street, Post Office Box No. 806, Westminster, Md. 21157. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, from Whiteford, Md., to points in Delaware, those in Pennsylvania east of the Susquehanna River from the Maryland-Pennsylvania State line to Wilkes-Barre and east of Interstate Highway 81 from Wilkes-Barre to the New York-Pennsylvania State line, those in Adams, Cumberland, Franklin, Perry, and York Counties, Pa., and those in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem Counties, N.J. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Baltimore, Md.

No. MC 113678 (Sub-No. 295), filed October 27, 1967. Applicant: CURTIS, INC., 770 East 51st Avenue, Denver, Colo. 80216. Applicant's representative: Duane W. Acklie, Post Office Box 2028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from points in Maricopa County, Ariz., to points in Georgia, South Carolina, North Carolina, Virginia, Maryland, Tennessee, Kentucky, West Virginia, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, and Maine. NOTE: If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz.

No. MC 113678 (Sub-No. 296), filed October 30, 1967. Applicant: CURTIS, INC., 770 East 51st Avenue, Denver, Colo. 80216. Applicant's representative: Duane W. Acklie, Post Office Box 2028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, from Sioux City, Fort Dodge, and Denison, Iowa, to points in North Carolina and South Carolina. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Des Moines, Iowa.

No. MC 113974 (Sub-No. 24), filed October 30, 1967. Applicant: PITTSBURGH & NEW ENGLAND TRUCKING CO., a corporation, 211 Washington Avenue, Dravosburg, Pa. 15034. Applicant's representative: W. H. Schlottman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, and iron and steel products*, from Weirton, W. Va., and Steubenville, Ohio, to points in Florida, Georgia, North Carolina, and South Carolina. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114045 (Sub-No. 294) (Correction), filed October 2, 1967, published FEDERAL REGISTER issue of November 2, 1967, and republished as corrected, this issue. Applicant: TRANS-COLD EXPRESS, INC., Post Office Box 5842, Dallas, Tex. 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Foods, food preparations, foodstuffs, and items used and dealt in by ice cream and confectionery stores or stands*, from Chicago, Ill., and points in its commercial zone as defined by the Commission and points in Kane, Cook, Du Page, Kendall and Will Counties, Ill., and points in Lake and Porter Counties, Ind., to points in Oklahoma, Texas, Louisiana, Kansas, New Mexico, and California. NOTE: Applicant states the proposed authority herein can or will be joined with its presently authorized authority in MC 114045 Subs 85, 278, and 280, wherein it is authorized to operate in the States of Colorado, Oregon, Washington, Nevada, Utah, Idaho, Montana, and Wyoming. The purpose of this republication is to reflect California as a destination State, erroneously shown as Colorado in the previous publication. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114045 (Sub-No. 297) (Clarification), filed October 19, 1967, published FEDERAL REGISTER issue of November 2, 1967, and republished as clarified, this issue. Applicant: TRANS-COLD EXPRESS, INC., Post Office Box 5842, Dallas, Tex. 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pet foods, pet supplies, pet accessories and tonics, animal feed supplements and insecticides* (except in bulk) (1) from New York, N.Y., and points in Essex, Hudson, and Bergen Counties, N.J., to New Orleans, La., Phoenix and Tucson, Ariz., Los Angeles, Calif., and points in the Los Angeles, Calif., commercial zone; (2) from points in Morris, Somerset, Monmouth, and Middlesex Counties, N.J., to points in Texas, Oklahoma, Louisiana, New Mexico, Arizona, and California; and (3) from New York, N.Y., and points in Essex, Hudson, Bergen, Morris, Somerset, Monmouth, and Middlesex Counties, N.J., to points in Alabama, Florida, Georgia, Missouri, Kansas, Colorado, Nebraska, Iowa, Illinois, Oregon, and Washington. NOTE: The purpose of this republication is to more clearly define the origin points in (2) and (3) above. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 114045 (Sub-No. 298), filed October 25, 1967. Applicant: TRANS-COLD EXPRESS, INC., Post Office Box 5842, Dallas, Tex. 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen prepared foods*, from Red Hook, N.Y., to points in West Virginia, Ohio, Missouri, Illinois, Indiana, Georgia, Tennessee, Kentucky, Kansas, Texas, Oklahoma, California, Arizona, New Mexico, Colorado, Nebraska, Virginia, North Carolina, South Carolina, Florida, Alabama, Louisiana, Mississippi, Iowa, and Arkansas. NOTE: Applicant states this proposed authority could be tacked with other presently held authorized and pending authority at Evansville, Ind., and Carrollton, Mo., serving points in Oregon, Washington, Utah, Idaho, and Nevada. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 114364 (Sub-No. 151), filed October 30, 1967. Applicant: WRIGHT MOTOR LINES, INC., Post Office Box 1191, 1401 North Little Street, Cushing, Okla. 74023. Applicant's representative: Rodger Spahr (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products; products produced or distributed by manufacturers and converters of paper and paper products; materials, equipment, and supplies* used in the manufacture and distribution of the above described commodities, between points in McMinn County, Tenn., on the one hand, and, on the other, points in Arkansas, Arizona, Colorado, Kansas, Missouri, New Mexico, Oklahoma, Texas, and Utah. NOTE: If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark.

No. MC 115491 (Sub-No. 104), filed October 30, 1967. Applicant: COMMERCIAL CARRIER CORPORATION, 502 East Bridgers Avenue, Post Office Box 67, Auburndale, Fla. 33823. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), (1) from Sioux City, Iowa, to points in Georgia, North Carolina, and South Carolina, (2) from Fort Dodge and Denison, Iowa, to points in North Carolina and South Carolina, and (3) from Luverne, Minn., to points in Florida, Georgia, North Carolina, and South Carolina. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Tampa or Miami, Fla.

No. MC 115826 (Sub-No. 178), filed October 26, 1967. Applicant: W. J. DIGBY, INC., Post Office Box 5088, Terminal Annex, Denver, Colo. 80217. Applicant's representative: James F. Digby (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, dairy products, and articles distributed by meat packinghouses*, as described in sections A, B, and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Ogden, Utah, to points in Arizona. NOTE: If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah.

No. MC 116024 (Sub-No. 10), filed October 30, 1967. Applicant: MILLER TRUCK LINES, INC., 901 Northeast 28th, Fort Worth, Tex. 76106. Applicant's representative: Thomas E. James, The 904 Lavaca Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I, to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from the plantsite of Missouri Beef Packers at or near Friona, Tex., to points in Oklahoma, Louisiana, Arkansas, Mississippi, New Mexico, and Memphis, Tenn., restricted to traffic originating at the above-named plantsite and destined to the States named. NOTE: Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Dallas or Amarillo, Tex.

No. MC 116196 (Sub-No. 98), filed October 26, 1967. Applicant: RAYE & COMPANY TRANSPORTS, INC., Highway 71 North, Post Office Box 613, Carthage, Mo. 64836. Applicant's representative: James E. Raye (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy cream and milk solids; powdered milk containing animal fat or vegetable fat ingredients; dessert materials, bakery, cake, and pancake mixes; beverage preparations and confectionaries; dietary products; milk and cream substitute and milk and cream, liquid*, in hermetically sealed containers, from points in Minnesota and Wisconsin to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Washington, D.C.

No. MC 116196 (Sub-No. 99), filed October 26, 1967. Applicant: RAYE & COMPANY TRANSPORTS, INC., Highway 71 North, Post Office Box 613, Carthage, Mo. 64836. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products* from Logan, Smithfield, and Wellsville, Utah, to points in Nevada, Idaho, and Montana. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 119241 (Sub-No. 5), filed October 30, 1967. Applicant: PCP TRANSPORTATION COMPANY, a corporation, 9500 Norwalk Boulevard, Santa Fe Springs, Calif. 90670. Applicant's representative: Warren N. Grossman, 625 City National Bank Building, 606 South Olive Street., Los Angeles, Calif. 90014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Return shipments of clay pipe having a maximum length of 6 feet and clay pipe fittings, brick and flue lining, and sacked fire clay*, from Phoenix, Ariz., to Santa Fe Springs, Corona, Stockton, and Alberhill, Calif., under contract with Pacific Clay Products Co. NOTE: Applicant states it presently holds authority on outbound shipments to Phoenix, Ariz. from the above-named points. Applicant is also authorized to conduct operations as a common carrier in certificate No. MC 127786, therefor, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 119774 (Sub-No. 10), filed October 26, 1967. Applicant: MARY ELLEN STIDHAM, N. M. STIDHAM, A. E. MANKINS (INEZ MANKINS, EXECUTRIX) AND JAMES E. MANKINS, SR., a partnership, doing business as EAGLE TRUCKING COMPANY, Post Office Box 471, Kilgore, Tex. 75662. Applicant's representative: Harold R. Ainsworth, 2307 American Bank Building, New Orleans, La. 70130. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper mill rolls*, between Ruston, La., on the one hand, and, on the other, points in Alabama, Mississippi, Arkansas, Texas, Oklahoma, Tennessee, and Louisiana. NOTE: If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 119789 (Sub-No. 23), filed October 30, 1967. Applicant: CARAVAN REFRIGERATED CARGO, INC., Post Office Box 6, Opelousas, La. Applicant's representative: Paul M. Daniell, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses*, as described in section A and C of appendix I, *Description in Motor Carrier Certificates*, 61 M.C.C. 209 (272–273) and 61 M.C.C. 766 (except commodities in bulk, in tank vehicles, and hides), from the plantsite of Missouri Beef Packers at or near Friona, Tex., to points in Alabama, Florida, Georgia, Tennessee (except Memphis, Tenn., and points in its commercial zone), restricted to traffic originating at the above named plantsite and destined to the States named. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., Dallas, or Amarillo, Tex.

No. MC 119789 (Sub-No. 24), filed October 30, 1967. Applicant: CARAVAN REFRIGERATED CARGO, INC., Post Office Box 6, Opelousas, La. Applicant's representative: Paul M. Daniell, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I, *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from the plantsite of Missouri Beef Packers located at or near Friona, Tex., to points in Louisiana, Mississippi, Minnesota, Wisconsin, Michigan, Ohio, Indiana, Illinois, and Memphis, Tenn., restricted to traffic originating at the above-named plantsite and destined to the States named. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Dallas or Amarillo, Tex.

No. MC 120606 (Sub-No. 2), filed September 20, 1967. Applicant: JAMES C. KINDBETTER, SR., doing business as DELAWARE MOTOR EXPRESS, 22 Alfred Avenue, Elsmere, Del. 19805. Applicant's representative: Frederick Knecht, Jr. 920 King Street, Wilmington, Del. 19801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between points in that part of Delaware bounded on the east by the Delaware River, on the north by the Delaware-Pennsylvania State line, on the west by the Delaware-Maryland State line, and on the south by the Chesapeake and Delaware Canal. NOTE: If a hearing is deemed necessary, applicant does not specify a location.

No. MC 124078 (Sub-No. 302), filed October 27, 1967. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, Wis. 53246. Applicant's representative: James R. Ziperski (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals* (except calcium chloride), in bulk, in tank or hopper-type vehicles, from Solvay, N.Y., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 124078 (Sub-No. 303), filed October 30, 1967. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, Wis. 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt*, in bulk, in tank vehicles, from Milwaukee, Wis., to Chicago, Ill.; Evansville, Fort Wayne, Lawrenceburg, and South Bend, Ind.; Lawrenceburg, Louisville, Newport, and Owensboro, Ky.; Battle Creek and Detroit, Mich.; St. Louis, Mo.; Cincinnati, Cleveland, Columbus, and Toledo, Ohio; and Pittsburgh, Pa. NOTE: If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis.

No. MC 124078 (Sub-No. 304), filed October 31, 1967. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, Wis. 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid animal food and liquid animal food supplements*, in bulk, in tank vehicles, from Dubuque, Iowa, to points in Illinois, Iowa, Indiana, Kansas, Missouri, Minnesota, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 124111 (Sub-No. 16), filed October 30, 1967. Applicant: OHIO EASTERN EXPRESS, INC., Post Office

Box 2297, 300 West Perkins Avenue, Sandusky, Ohio 44870. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts*, frozen or not frozen as described in list A of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite and storage facilities of Agar Packing Co. in Chicago, Ill., Momence, Ill., and Monmouth, Ill., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the Washington, D.C., commercial zone, as defined by the Commission, restricted to shipments originating at the plantsite or storage facilities of the Agar Packing Company, located at Chicago, Ill., Momence, Ill., and Monmouth, Ill. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 124129 (Sub-No. 2), filed October 27, 1967. Applicant: S. M. S. TRUCKING CO., a corporation, Box 572, Valley, Nebr. 68064. Applicant's representative: Marshall D. Becker, 630 City National Bank Building, Omaha, Nebr. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Crushed stone, riprap stone, agricultural lime, limestone products, sand and gravel*, from points in Nebraska to points in Iowa, under contract with Kerford Limestone Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha or Lincoln, Nebr. or Des Moines, Iowa.

No. MC 124813 (Sub-No. 46), filed October 30, 1967. Applicant: UMTHUN TRUCKING CO., a corporation, 910 South Jackson Street, Eagle Grove, Iowa 50533. Applicant's representative: William A. Landau, 1451 East Grand Avenue, Des Moines, Iowa 50306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fertilizer*, from Rock Island, Ill., to points in Iowa, Minnesota, Missouri and Wisconsin, and (2) *animal and poultry feed ingredients* (except liquids in bulk), from Rock Island, Ill., to points in Iowa, Ohio, and Michigan. NOTE: Applicant has contract carrier authority in MC 118468 Sub 16 and other subs, therefore, dual operations may be involved. Applicant states that no duplicating rights are held or being sought. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 125717 (Sub-No. 11), filed October 26, 1967. Applicant: NORMAN JOSEPH CHOPLIN, doing business as JOE CHOPLIN, 1301 North Spring, Independence, Mo. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, Mo. 64105. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy replacement products including mocha mix, desert whip, affair, baker's topping, cater-blend, cater-8, and other specialty products*, from the facilities of Presto Food Products, Inc., in Kansas City, Mo., to its distributors located at points in Nebraska and Colorado, under contract with Presto Foods Products, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 126822 (Sub-No. 21), filed October 30, 1967. Applicant: PASSAIC GRAIN AND WHOLESALE COMPANY, INC., Post Office Box 23, Passaic, Mo. 64777. Applicant's representative: Tom B. Kretsinger, 450 Professional Building, 1103 Grand Avenue, Kansas City, Mo. 64106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides and pelts*, processed and partially processed, from points in the commercial zones of Joplin and Springfield, Mo., and Kansas City, Mo.-Kans., as defined by the Commission, to points in Illinois, Michigan, Minnesota, and Wisconsin for export only; to points in Maine, Massachusetts, New Hampshire, Gloversville, N.Y., and Wilmington, Del. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 127639 (Sub-No. 10), filed October 30, 1967. Applicant: PASCAGOULA DRAYAGE COMPANY, INC., 705 East Pine Street, Hattiesburg, Miss. 39401. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Composition boards (including wallboard, insulation board, fiberboard, pulpboard, ceiling tile), and parts, materials, and accessories* incidental to the installation thereof, from the plantsite of the Flintkote Co., located at Meridian, Miss., to points in Alabama, Arkansas, Louisiana, and Tennessee. NOTE: If a hearing is deemed necessary, applicant requests it be held at Meridian or Jackson, Miss.

No. MC 127965 (Sub-No. 3), filed October 27, 1967. Applicant: LEONARD DIXON, doing business as D & D EXPRESS, 89 Seeley Street, Brooklyn, N.Y. 11218. Applicant's representative: Edward M. Alfano, 2 West 45th Street, New York, N.Y. 10036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Copying and photographic machines, materials, and supplies* uncrated and crated, except in bulk, in tank vehicles, from the warehouse of 3 M Business Products Sales, Inc., located at Teaneck, N.J., to points in Nassau and Suffolk Counties, N.Y., and (2) *returned shipments* on return, under contract with 3 M Business Products Sales Corp. NOTE: Applicant indicates it is presently serving the supporting shipper under its permit MC 127965. Purpose of application is to provide shipper with a complete service. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 128133 (Sub-No. 4), filed October 31, 1967. Applicant: H. HERSCHEL OMPS, doing business as H. H. OMPS, Route No. 5 Winchester, Va. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Monongalia, Preston, Taylor, Barbour, Tucker, Randolph, Marion, Harrison, and Upshur Counties, W. Va., to points in Frederick and Warren Counties, Va. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 128294 (Sub-No. 5), filed October 24, 1967. Applicant: NITEHAWK EXPRESS, INC., 2334 University Avenue, St. Paul, Minn. 55114. Applicant's representative: Robert E. Swanson, 1211 South Sixth Street, Stillwater, Minn. 55082. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed*, in bulk, from Davenport, Iowa, to Eden Valley, Minn., under contract with Ralston Purina Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 129372 (Sub-No. 1), filed October 30, 1967. Applicant: RICHARD W. GRAHAM, doing business as C. R. GRAHAM AND SONS TRANSFER, 6771 Elvas Avenue, Sacramento, Calif. 95819. Applicant's representative: Allan F. Wohlstetter, 1 Farragut Square South, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Sacramento, Solano, San Joaquin, Calaveras, Amador, El Doranda, Placer, Nevada, Yuba, Sutter, Yolo, Napa, Sonoma, Marin, San Francisco, Contra Costa, Alameda, Sierra, Butte, Glenn, Lake, and Colusa Counties, Calif., restricted to shipments having a prior or subsequent movement beyond said points in containers. NOTE: If a hearing is deemed necessary, applicant requests it be held at Sacramento, Calif.

No. MC 129453, filed October 11, 1967. Applicant: STARCK VAN LINES OF COLUMBUS, INC., 425 Goshen Lane, Gahanna, Ohio 43020. Applicant's representative: Clarence G. Bowser, Sr., 9616 Woodside Drive, Pataskala, Ohio 43062. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, moving on a through bill of lading of freight forwarders operating under the exemption of section 402(b) (2) of the Interstate Commerce Act, and having an immediate prior or subsequent out-of-State line-haul movement by rail, motor, water, or air, between points in Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 129465 (Sub-No. 1), filed October 25, 1967. Applicant: D & W REFRIGERATED LTL SERVICE, INC., 875 Reynolds Avenue, Columbus, Ohio 43201. Applicant's representative: Earl J. Thomas, Thomas Building, Post Office Drawer 70, Worthington, Ohio 43085. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products and meat byproducts*, frozen, or not frozen, as described in section A of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), (a) from points in the New York, N.Y., commercial zone, as defined by the Commission and points in Bergen, Essex, Hudson, Passaic, and Union Counties, N.J., to points in Illinois, on and south of U.S. Highway 136; Indiana, Kentucky, Missouri, Ohio, Pennsylvania, and West Virginia; (b) from points in the Philadelphia, Pa., commercial zone, as described by the Commission to Cincinnati, Ohio, (c) from Cincinnati, Ohio, to Evansville, Ind.; Louisville, Ky.; Pittsburgh, Pa.; points in the New York, N.Y., and Philadelphia, Pa., commercial zones, as described by the Commission, and (d) from Louisville, Ky., to points in Delaware, New Jersey, Pennsylvania, West Virginia on and west of U.S. Highway 219; points in the New York, N.Y., commercial zone, as defined by the Commission, and Canton, Columbus, and Barnesville, Ohio, and (2) *foods*, frozen or not frozen, from Louisville, Ky., to Philadelphia and Pittsburgh, Pa., Baltimore, Md., and points in the Washington, D.C., commercial zone, as defined by the Commission. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 129470 (Sub-No. 1), filed October 27, 1967. Applicant: MONROE TRANSFER & STORAGE CO., INC., 402 Rotary Street, Hampton, Va. Applicant's representative: Alan F. Wohlstetter, 1 Farragut Square South, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in the independent cities of Norfolk, Newport News, Hampton, Virginia Beach, Suffolk, Williamsburg, Portsmouth, and Chesapeake, Va., and points in York, James City, Gloucester, Matthews, Surry, Isle of Wight, Sussex, Nansemond, Southhampton, and Northhampton Counties, Va., restricted to shipments having a prior or subsequent movement beyond said points in containers, and further restricted to pickup and delivery services incidental to and in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such shipments. NOTE: If a hearing is deemed necessary, applicant requests it be held at Hampton and Norfolk, Va.

No. MC 129499, filed October 30, 1967. Applicant: ROBERT V. MARET, 1409 Rifle Street, St. Joseph, Mo. Applicant's representative: Carl V. Kretsinger, 450 Professional Building, Kansas City, Mo. 64106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feed*, between St. Joseph, Mo., on the one hand, and, on the other, points in Kansas, Nebraska, Oklahoma, and those in Iowa, located on and west of U.S. Highway 65, under a continuing contract with the Quaker Oats Co., Chicago, Ill. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Chicago, Ill.

No. MC 129501, filed October 26, 1967. Applicant: DIMAS RIVERA, doing business as EL SOL DE MAYO EXPRESS FURNITURE, 937 East Tremont Avenue, Bronx, N.Y. 10460. Applicant's representative: Murray Leicher, 1664 Madison Avenue, New York, N.Y. 10029. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods, household furnishings and appliances, and personal effects*, between points in the New York, N.Y., commercial zone, wherein in transportation may be performed exempt from economic regulation. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 129502, filed October 30, 1967. Applicant: CHAS. H. CYR, INC., 205 East Seventh Street, Hoquiam, Wash. 98550. Applicant's representative: Joseph O. Earp, 607 Third Avenue, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips and wood residuals*, from points in Grays Harbor and Pacific Counties, Wash., to Aberdeen, Wash., restricted to shipments having a subsequent movement beyond Aberdeen, Wash., by way of ocean vessel. NOTE: If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash., or Portland, Oreg.

No. MC 129503, filed October 30, 1967. Applicant: DOBSON HEAVY HAUL, INC., 3660 North Euclid, Bay City, Mich. 48706. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Contractors' equipment;* (2) *commodities*, which because of size or weight require the use of special equipment or special handling, and *related parts, equipment, materials, and supplies*, moving in connection therewith; and (3) *self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies*, moving in connection therewith. Restricted to self-propelled articles which are transported on trailers, in (3) above, between points in Michigan. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Detroit or Lansing, Mich.

MOTOR CARRIER OF PASSENGERS

No. MC 44770 (Sub-No. 11), filed October 25, 1967. Applicant: ZEPHYR LINES, INCORPORATED, 501 North Seventh Street, Minneapolis, Minn. 55405. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, and express and newspapers*, in the same vehicle with passengers, between Minneapolis and Hutchinson, Minn., from Minneapolis over U.S. Highway 12 to Wayzata, Minn., thence over Hennepin County Highway 15 to Mound, Minn., thence over Hennepin County Highway 15 and Carver County Highways to Watertown, Minn., thence south on Minnesota Highway 25 to junction Minnesota Highway 7, thence over Minnesota Highway 7 to junction unnumbered highway, thence over unnumbered highway to Lester Prairie, Minn., thence return over unnumbered highway to junction Minnesota Highway 7, thence over Minnesota Highway 7 to Hutchinson, and return over the same route, serving all intermediate points. NOTE: Duplicating authority is to be eliminated. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

APPLICATION FOR WHICH NO HEARING IS REQUESTED

No. MC 33641 (Sub-No. 71), filed October 26, 1967. Applicant: IML FREIGHT, INC., Post Office Box 2277, Salt Lake City, Utah 84110. Applicant's representative: Marshall G. Berol, 100 Bush Street, 21st Floor, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those requiring armored vehicles or armed guards, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between St. Louis, Mo., and Chicago, Ill., over Interstate Highway 55 (or U.S. Highway 66), serving no intermediate points, as an alternate route for operating convenience only, restricted to shipments moving to or from Denver, Colo., or Cheyenne, Wyo., or points west thereof. NOTE: Common control may be involved.

No. MC 117339 (Sub-No. 5), filed October 27, 1967. Applicant: WILLARD SHEWMAKER, 206 South Park Road, Fairdale, Ky. 40118. Applicant's representative: Ollie L. Merchant, Suite 202, 140 South Fifth Street, Louisville, Ky. 40202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick, tile, and cinder blocks*, from Evansville, Ind., to points in Alexander, Clark, Clay, Clinton, Crawford, Cumberland, Edwards, Effingham, Fayette, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jasper, Jefferson, Johnson, Lawrence, Marion, Massac, Monroe, Perry, Pope, Pulaski, Randolph, Richland, St. Clair, Saline, Union, Wabash, Washington, Wayne, White, and Williamson Counties, Ill., and Kentucky, under contract with General Shale Products of Indiana.

No. MC 124078 (Sub-No. 301), filed October 27, 1967. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, Wis. 53246. Applicant's representative: James R. Ziperski (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Des Moines, Iowa, to points in Illinois, Kansas, South Dakota, Wisconsin, and that part of Missouri located south of the Missouri River, and that part of North Dakota west of U.S. Highway 281.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13418; Filed, Nov. 15, 1967; 8:45 a.m.]

FOURTH SECTION APPLICATION FOR RELIEF

NOVEMBER 9, 1967.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice

(49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41168—*Phthalic anhydride to Kingsport, Tenn.* Filed by Southwestern Freight Bureau, agent (No. B-6920), for interested rail carriers. Rates on phthalic anhydride, in tank carloads, subject to Rule 35 of the uniform freight classification but not less than 160,000 pounds per car, from Chocolate Bayou, Tex., to Kingsport, Tenn.

Grounds for relief—Market competition.

Tariff—Supplement 178 to Southwestern Freight Bureau, agent, tariff ICC 4534.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13475; Filed, Nov. 15, 1967; 8:47 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 13, 1967.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41167—*Liquid caustic soda from Calvert, Ky.* Filed by O. W. South, Jr., agent (No. A5067), for interested rail carriers. Rates on liquid caustic soda, in tank carloads, from Calvert, Ky., to Fairfax, Lanett, Opelika, and Pepperell, Ala.

Grounds for relief—Market competition.

Tariff—Supplement 169 to Southern Freight Association, agent, tariff ICC S-494.

FSA No. 41170—*Livestock from and to Points in Western Trunk Line territory.* Filed by Western Trunk Line Committee, agent (No. A-3526), for interested rail carriers. Rates on feeder or stocker livestock, in carloads, from points in Colorado, Idaho, Montana, Nevada, Oregon, Utah, and Wyoming, on the Union Pacific Railroad Co., to points in Western Trunk Line territory.

Grounds for relief—Modified short-line distance formula and grouping.

Tariffs—Supplement 23 to Western Trunk Line Committee, agent, tariff ICC A-4579, and other tariffs named in the application.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13476; Filed, Nov. 15, 1967; 8:47 a.m.]

[Notice 488]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 13, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIER OF PROPERTY

No. MC 75276 (Sub-No. 2 TA) (Republication), filed October 2, 1967, published FEDERAL REGISTER issue of October 10, 1967, and republished this issue. Applicant: MAZZEO & SONS EXPRESS, 173 Wortendyke Avenue, Emerson, N.J. 07630. Applicant's representative: Herman B. J. Weckstein, 1060 Broad Street, Newark, N.J. 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing Apparel*, on hangers, between the plantsite of Gilbert Carrier Corp. of Secaucus, N.J., on the one hand, and, on the other, points in Bergen, Essex, Hudson, Morris, Passaic, and Union Counties, N.J., and Rockland County, N.Y., for 180 days. NOTE: The above grant will authorize the carrier to interline with Gilbert Carrier Corp., Secaucus, N.J. The purpose of this republication is to include interlining information. Supporting shipper: Gilbert Carrier Corp., 1 Gilbert Drive, Secaucus, N.J. 07094. Send protests to: District Supervisor, Joel Morrows, Bureau of Operations, Interstate Commerce Commission, 1060 Broad Street, Newark, N.J. 07102.

No. MC 112092 (Sub-No. 3 TA), filed November 7, 1967. Applicant: ATLANTIC TRUCK LINES, INC., 179 Ellison Street, Paterson, N.J. 07505. Applicant's representative: Priest & Carson, 71-20 Austin Street, Forest Hills, N.Y. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a) *Manufactured sheet metal roofing components such as gutter, leader, edging, elbows, mitres, hangers, hooks and other related fittings and component parts, roofing material accessories such as roofing paper, gutter seal, roofing cement, mastic caulking compounds, roofing paints, and sealers, nails, screws, and related component materials, sheet metal working and roofing tools* (other than power) such as riveting guns, caulking guns, tinner's snips, tinner's fire pots, and related hand tools, and working supplies used in connection with the erection of buildings, homes, etc., at jobsites, *metal manufactured ventilating, air conditioning and heating components* such as ducts, pipes, elbows, draft regulating dampers, "T"s, diverters, vents, dryer vents, duct fittings, and other related fittings and component parts; ferrous and nonferrous metals in the form of sheets, coils, tubing, wire, bars, forgings, castings, and extrusions, *metal structural and ornamental building elements, accessories and materials* such as wall corner beads, wall ties, joint bridging, joint supports, building studs, brackets, louvers and vents, shutters, area walls, corrugated sheeting, reflecting and other insulating materials as well as other related components, from the plantsite of L. Bieler & Sons, Inc., National Elbow and Fitting Corp., Bieler International Corp., and Southern Diversified Industries, Inc., located at Hauppauge, Suffolk County, N.Y., to points in Minnesota, New Mexico, Utah, Colorado, North Dakota, South Dakota, Montana, Wyoming, Idaho, Nevada, California, Arizona, Oregon, and Washington; and

Returned shipments of the commodities specified above, from points in the destination States named above, to the plantsite of L. Bieler & Sons, Inc., National Elbow and Fitting Corp., Bieler International Corp., and Southern Diversified Industries, Inc., located at Hauppauge, Suffolk County, N.Y. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with L. Bieler & Sons, Inc., National Elbow and Fitting Corp., Bieler International Corp., and Southern Diversified Industries, Inc., all of Hauppauge, Suffolk County, N.Y. (b) raw materials and related products used in the manufacturing, fabricating, distribution and sales of the commodities listed in (a) above by L. Bieler & Sons, Inc., National Elbow and Fitting Corp., Bieler International Corp., and Southern Diversified Industries, Inc., from the points in the destination States named in (a) to the plantsite of L. Bieler & Sons, Inc., National Elbow and Fitting Corp., Bieler International Corp., and Southern Diversified Industries, Inc., located at Hauppauge, Suffolk County, N.Y. Restriction: The operations authorized herein are limited to a transportation service to be performed, under contract or contracts, with L. Bieler & Sons, Inc., National Elbow and Fitting Corp., Bieler International Corp., and Southern Diversified Industries, Inc., all of Hauppauge, Suffolk County, N.Y., for 180 days. Supporting shipper: L. Bieler & Sons, Inc., National Elbow and Fitting Corp., Bieler International Corp., Southern Diversified Industries, Inc., Cardinal Industrial Park, Hauppauge, N.Y. 11788. Send protests to: District Supervisor, Joel Morrows, Bureau of Operations, Interstate Commerce Commission, 1060 Broad Street, Newark, N.J. 07102.

No. MC 129230 (Sub-No. 1 TA), filed November 8, 1967. Applicant: WALTER E. RIPKO, Box 354, Republic, Pa. 15475. Applicant's representative: Arthur J. Diskin, 302 Frick Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sugar*, in bags, bales, and boxes, from Cincinnati, Ohio, to Pittsburgh, Belle Vernon, Washington, and Republic, Pa., for 180 days. Supporting shipper: Colonial Sugars Co., Gramercy Refinery, Gramercy, La. 70052. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2109 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 29423 (Sub-No. 1 TA), filed November 8, 1967. Applicant: ADBY CONSTRUCTION & TRANSPORT CO. LTD., 7204 18th Avenue, Edmonton, Alberta, Canada. Applicant's representative: Howard C. Burton, 504 Strain Building, Great Falls, Mont. 59401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, in bags from ports of entry at or near Roosville, Mont.; Eastport, Idaho, and Porthill, Idaho, and Montana; and *lumber* from Laurier, Wash., on the international boundary line between the United States and Canada to points in Washington, Idaho, and Montana; and *lumber* from points in Flathead and Lincoln Counties, Mont., to the port of entry at or near Roosville, Mont., on the international boundary line between the United States and Canada, for 180 days. Supporting shippers: Cooper-Widman, Ltd., Post Office Box 2069, Vancouver 3, Canada, Summit Lime Works, Ltd., Post Office Box 700, Lethbridge, Alberta, Canada. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 251 U.S. Post Office Building, Billings, Mont. 59101.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13475; Filed, Nov. 15, 1967; 8:48 a.m.]

[Notice 50]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 9, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pendings its disposition. The matters relied upon by petitioners must be specified in their positions with particularity.

No. MC-FC-69810. By order of October 30, 1967, the Transfer Board approved the transfer to Cowboy Van Lines, Inc., 1785 Chester Street, Aurora, Colo. 80101, of the operating rights of K. P. Moving & Storage, Inc., 3722 Chestnut Place, Denver, Colo. 80216, in certificates Nos. MC-126749 (Sub-No. 2) and MC-126749 (Sub-No. 9), and a portion of the operating rights in certificate No. MC-126749 (Sub-No. 8), issued December 13, 1965, December 20, 1966, and October 4, 1966, respectively, authorizing the transportation, over irregular routes, of general commodities, except commodities in bulk, household goods, and other specified commodities, between Denver, Co., on the one hand, and, on the other, points within 15 miles of Denver, with specified exceptions, of household goods, between Boulder, Colo., on the one hand, and, on the other, points in Iowa, Kansas, Missouri, Nebraska, Illinois, Indiana, and Wisconsin, and of household goods, as defined, between points in Montrose, Delta, and Gunnison Counties, Colo., on the one hand, and on the other, points in Utah on and east of U.S. Highway 91, and those in Colorado on and west of U.S. Highway 85.

No. MC-FC-69848 (Republication). By order entered October 31, 1967, the Transfer Board, on reconsideration, approved the transfer to Bonita Motor Line, Inc., Kansas City, Mo., of an additional portion of the operating rights in certificate No. MC-79619 issued July 13, 1967, to Eagle Express, Inc., Kansas City Mo., supplementing the previous order entered herein on September 8, 1967. The operating rights transferred, as modified are as follows: General commodities, with usual exceptions, over regular routes, between Kansas City, Kans., and Rich Hill, Mo., serving the intermediate points of Kansas City, Passaic, and Butler, Mo.; and between Kansas City, Kans., and Walker, Mo., serving the intermediate and off-route points of Kansas City, Prairie City, Papinsville, Rockville, Schell City, Taberville, Fair Haven, and Harwood, Mo., those within 5 miles of the intermediate and off-route points named; Lumber, cement, sheet metal, brick, meat scraps, and tankage, over a regular route, from Kansas City, Kans., to Schell City, Mo., serving no intermediate points; livestock, oil in drums and packages, tires, batteries, packinghouse products as defined by the Commission, feed, tankage, and cheese boxes, over a regular route, from Kansas City, Kans., to Rockville, Mo., serving the intermediate and off-route points within 8 miles of Rockville for delivery only; livestock, cheese, and empty oil drums, over regular routes, from Rockville, Mo., to Kansas City, Kans., serving the intermediate and off-route points within 8 miles of Rockville for pickup only, and from Rockville over the route specified next above to Kansas City, Kans.; brick and machinery, over irregular routes, from Parsons and Weir, Kans., to Schell City, Mo.; and threshing machines, over irregular routes, from Des Moines, Iowa, to Schell City, Mo. Tom B. Kretsinger, 450 Professional Building, Kansas City, Mo., attorney for applicants.

No. MC-FC-69941. By order of October 31, 1967, the Transfer Board approved the transfer to East Side Cartage, Inc., Toledo, Ohio, of the corrected certificate of registration in No. MC-120128 (Sub-No. 1) issued June 18, 1965, to Glenn O. Tonjes, doing business as East Side Cartage, Toledo, Ohio, and evidencing a rights of the holder to engage in interstate or foreign commerce corresponding in scope to the grant of authority in certificate of public convenience and necessity No. 3276-I, dated September 22, 1958, issued by the Public Utilities Commission of Ohio. Charles R. Barefoot, Jr., 640 Spitzer Building, Toledo, Ohio 43604, attorney for applicants.

No. MC-FC-69955. By order of October 31, 1967, the Transfer Board approved the transfer to Providence-Springfield Despatch, Inc., Providence, R.I., of the operating rights in certificate No. MC-59666 issued March 3, 1942, to Philip A. Wheeler, doing business as Providence-Springfield Despatch, Providence, R.I., authorizing the transportation of general commodities, with exceptions, over regular routes, between Providence, R.I., and Holyoke, Mass. Henry E. Laliberte, 49 Westminster Street, Providence, R.I. 02903, attorney for applicants.

No. MC-FC-69981. By order of October 30, 1967, the Transfer Board approved the transfer to Wagner Tours, Inc., North Haledon, N.J., of the operating rights in certificate No. MC-44252 issued May 17, 1955, to Herman Wagner and Clara Wagner, doing business as Wagner Tours, North Haledon, N.J., authorizing the transportation of: Passengers and their their baggage, restricted to traffic originating at the points and in the territory indicated, in charter operations, from Paterson, N.J., and points in New York and New Jersey within 15 miles of Paterson, to points in New Jersey and New York, and those in Pennsylvania on and east of U.S. Highway 11, and return. Samuel A. Wiener, 115 Market Street, Paterson, N.J. 07508, attorney for applicants.

No. MC-FC-69984. By order of October 31, 1967, the Transfer Board approved the transfer to Lucien Bisson, Inc., a corporation, Bath, Maine, of certificate of registration No. MC-99625 (Sub-No. 1) issued December 22, 1965, to Lincoln's Motor Express, a corporation, South Portland, Maine, authorizing the transportation, in interstate or foreign commerce of: Freight or merchandise, between points in Maine. David R. Hastings, LL, 8 Portland Street, Fryeburg, Maine 04037, attorney for applicants.

No. MC-FC-69985. By order of October 30, 1967, the Transfer Board approved the transfer to Gearharts Moving

& Storage, Inc., Altoona, Pa., of the operating rights in certificate No. MC-97681 issued January 13, 1966, to William Gearhart and Patricia Louise Gearhart, doing business as Dinges Transfer, Altoona, Pa., authorizing the transportation of household goods between Altoona, Pa., and points within 25 miles thereof, on the one hand, and on the other, points in Delaware, Maryland, Michigan, New York, New Jersey, Ohio, Virginia, West Virginia, and the District of Columbia; electric refrigerators in crates, from Connersville, Ind., to Altoona and Johnstown, Pa.; and electric ranges and ironers, in crates, from Mount Clemens, Mich., to Altoona and Johnstown, Pa. Leo C. Mullen, 1311 12th Street, Altoona, Pa. 16601, attorney for applicants.

No. MC-FC-69686. By order of October 31, 1967, the Transfer Board approved the transfer to French, Lt., of Houston, Inc., Houston, Tex., of Certificate of registration No. MC-120677 (Sub-No. 1) issued January 22, 1965, to Coastal Vacuum Trucks, Inc., authorizing the transportation of commodities in interstate or foreign commerce, between points in Texas. Austin L. Hatchell, Perry-Brooks Building, Austin, Tex. 78701, attorney for applicants.

No. MC-FC-70002. By order of October 30, 1967, the Transfer Board approved the transfer to Willis Hash and Walter Meadows, Jr., doing business as Jarrell Transfer, Midway, W. Va., of the operating rights in certificate No. MC-91281 issued March 22, 1961, to Charley Clarence Jarrell, doing business as Jarrell Transfer, Clear Creek, W. Va., authorizing the transportation of: Household goods, over irregular routes, between points and places in Raleigh, Mercer, and Wyoming Counties, W. Va., on the one hand, and, on the other, points and places in Virginia, North Carolina, and Kentucky. Kermit A. Locke, 100 Heber Street, Beckley, W. Va. 25801, attorney for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13479; Filed, Nov. 13, 1967; 8:46 a.m.]

[Notice 81]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 9, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-70002. By order of November 9, 1967, the Transfer Board approved the transfer to B & G Transport, Inc., St. Pauls, N.C., of certificate Nos. MC-15242, MC-15242 (Sub-No. 1), and MC-15242 (Sub-No. 2), issued March 26, 1947, August 21, 1961, and June 3, 1955, respectively, to Thurman Cary Dowless, doing business as T. C. Dowless Transfer, Bladenboro, N.C., and authorizing the transportation of: Peanuts, from Bladenboro, N.C., and points in South Carolina within 15 miles of Bladenboro, to Franklin and Suffolk, Va., and places in North Carolina; tobacco, from Mullins and Lake City, S.C., and points in South Carolina within 25 miles of those points, and Bladenboro, N.C., to Danville, Lynchburg, Richmond, and Norfolk, Va.; agricultural implements from Lynchburg, Va., Charlotte, Hickory, Wilson, and Winston-Salem, N.C., to Bladenboro, N.C., and points in North Carolina within 50 miles of Bladenboro; and various other commodities between specified points in North Carolina, Virginia, Maryland, Pennsylvania, Delaware, New York, New Jersey, the District of Columbia, and South Carolina. W. Osborne Lee, Jr., 208 East Fifth Street, Lumberton, N.C. 28358, attorney for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13477; Filed, Nov. 13, 1967; 8:45 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during November.

3 CFR

Page

PROCLAMATIONS:
3279 (modified by Proc. 3820) 15701
3290 (see Proc. 3820) 15701
3328 (see Proc. 3820) 15701
3386 (see Proc. 3820) 15701
3389 (see Proc. 3820) 15701
3500 (see Proc. 3820) 15701
3531 (see Proc. 3820) 15701
3541 (see Proc. 3820) 15701
3693 (see Proc. 3820) 15701
3694 (terminated in part by Proc. 3818) 15467
3712 (terminated in part by Proc. 3818) 15467
3744 (terminated in part by Proc. 3818) 15467
3779 (see Proc. 3820) 15701
3794 (see Proc. 3820) 15701
3818 15467
3819 15667
3820 15701

EXECUTIVE ORDERS:
2295 (modified by PLO 4313) 15429
4702 (revoked in part by PLO 4315) 15482
8652 (revoked in part by PLO 4317) 15482
10530 (see EO 11378) 15237
10682 (see EO 11378) 15237
10807 (amended by EO 11381) 15629
10903 (amended by EO 11380) 15627
11034 (amended by EO 11380) 15627
11378 15237
11379 15625
11380 15627
11381 15629

5 CFR

213 15703
713 15631

7 CFR

51 15066, 15073
319 15577
401 15703, 15704
711 15704
717 15705
729 15149
730 15076
910 15430, 15524, 15631
912 15430, 15632
913 15430
915 15669
945 15577
947 15705
982 15669
984 15388
991 15670, 15705
1001 15076
1015 15090
1067 15093
1120 15388
1125 15706
1126 15388
1132 15389
1137 15431
1421 15632, 15706
1464 15633

7 CFR—Continued

Page

PROPOSED RULES:
51 15435
723 15546
822 15393
891 15393
892 15393
905 15116
906 15394
907 15488
908 15394
912 15436
913 15395
959 15177
989 15488
1049 15489
1064 15490
1090 15437
1125 15178
1131 15588

8 CFR

103 15469
212 15469
238 15469

9 CFR

76 15240
78 15577
92 15707
131 15469

10 CFR

PROPOSED RULES:
20 15432, 15762

12 CFR

1 15544
219 15389
556 15707, 15747
563 15634
571 15706

PROPOSED RULES:
545 15763

13 CFR

106 15065
108 15149
120 15634
122 15635

PROPOSED RULES:
107 15399
121 15184

14 CFR

21 15472
39 15094, 15153, 15154, 15390, 15421, 15472, 15523, 15579, 15635.
71 15094, 15095, 15154, 15523, 15524, 15579, 15635, 15636.
73 15096
75 15636
91 15422, 15708
97 15423, 15473, 15580
141 15583
145 15670
207 15096
208 15097
241 15098

14 CFR—Continued

Page

PROPOSED RULES:
27 15676
29 15676
39 15490, 15491, 15688
71 15117–15121, 15491–15493, 15546–15548, 15588, 15589, 15712.
93 15589
121 15676
202 15676
203 15676

15 CFR

0 15222
70 15154
204 15104, 15391
230 15105, 15636

16 CFR

13 15105–15107, 15470, 15748–15750
14 15525
15 15470
17 15540
226 15525
229 15529
230 15531
231 15532
232 15533
233 15534
234 15536
235 15538
236 15538
237 15539
238 15540
239 15541
240 15542
412 15584
413 15424

PROPOSED RULES:
241 15715
242 15681
300 15189

17 CFR

200 15470

18 CFR

3 15239
101 15670
141 15670

PROPOSED RULES:
2 15714
14 15714
141 15434
260 15434

19 CFR

4 15390
10 15424
14 15155
16 15390

20 CFR

396 15471
401 15544

21 CFR

4 15709
120 15107, 15120, 15424, 15578
121 15108, 15109, 15155, 15545

21 CFR—Continued

	Page
133	15169
148c	15427
166	15669
PROPOSED RULES:	
26	15116

22 CFR

PROPOSED RULES:	
202	15116

23 CFR

255	15792

24 CFR

200	15425, 15586, 15636
203	15429
207	15640
220	15642
222	15640
232	15642

25 CFR

41	15471

26 CFR

1	15421, 15671
301	15241, 15469
PROPOSED RULES:	
1	15197, 15309, 15760

28 CFR

0	15425

29 CFR

526	15425
786	15425
1910	15472, 15473
PROPOSED RULES:	
5	15306
6	15306
7	15306
526	15712

31 CFR

306	15672

32 CFR

66	15111
127	15112
536	15113
562	15113
710	15113

32A CFR

BDSA (Ch. VI):	
M-11A	15719

33 CFR

204	15673

35 CFR

61	15641

36 CFR

7	15391, 15719, 15750
PROPOSED RULES:	
7	15761

39 CFR

121	15587
822	15480
862	15480, 15481
873	15099
PROPOSED RULES:	
Ch. I	15682

41 CFR

1-5	15674
6-60	15741
6-76	15429
50-204	15641
101-26	15754

42 CFR

PROPOSED RULES:	
73	15178

43 CFR

PUBLIC LAND ORDERS:	
1563 (see PLO 4307)	15428
1636 (see PLO 4315)	15482
2363 (revoked in part by PLO 4307)	15428
3534 (revoked in part by PLO 4302)	15427
4236 (see PLO 4317)	15482
4266 (see PLO 4317)	15482
4270 (amended by PLO 4312)	15429
4301	15080
4302	15427

43 CFR—Continued

PUBLIC LAND ORDERS—Continued	
4303	15427
4304	15427
4305	15428
4306	15428
4307	15428
4308	15428
4309	15428
4310	15429
4311	15429
4312	15429
4313	15429
4314	15482
4315	15482
4316	15482
4317	15482
4318	15483
PROPOSED RULES:	
1720	15546

45 CFR

81	15156
531	15641

46 CFR

10	15754
PROPOSED RULES:	
Ch. IV	15438

47 CFR

0	15422, 15675
73	15161, 15162, 15545, 15711
PROPOSED RULES:	
2	15389, 15712
73	15679
87	15712
89	15389, 15680
91	15180
93	15389, 15680

49 CFR

1	15710
103	15484
114	15484
PROPOSED RULES:	
200	15689

50 CFR

32	15166, 15566, 15567, 15642, 15675
33	15711, 15756

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PART II

Department of Transportation
Federal Highway Administration

Initial Federal Motor Vehicle Safety Standards

New Pneumatic Tires and Tire Selection and Rims

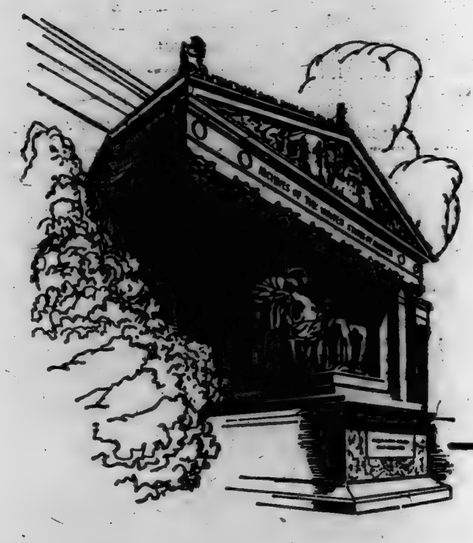

Title 23—HIGHWAYS AND VEHICLES

Chapter II—Vehicle and Highway Safety

[Docket No. 18]

PART 255—INITIAL FEDERAL MOTOR VEHICLE SAFETY STANDARDS

New Pneumatic Tires and Tire Selection and Rims

A proposal to amend § 255.21 of Part 255, Initial Federal Motor Vehicle Safety Standards, by adding Standard No. 109, New Pneumatic Tires—Passenger Cars; and Standard No. 110, Tire Selection and Rims—Passenger Cars; was published in the FEDERAL REGISTER on July 22, 1967 (32 F.R. 10812).

Interested persons have been afforded an opportunity to participate in the making of the amendment.

Compliance with the labeling requirements of Standard No. 109, established in accordance with section 201 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1421), and the tread wear indicator requirements found in the standard may necessitate the modification of tire molds. Several tire manufacturers requested that additional time be allowed to modify these tire molds. After evaluation of all data received, it was determined that an effective date of August 1, 1968, for paragraphs S4.2.1 and S4.3 would provide a reasonable amount of time to accomplish the necessary mold modifications.

Many comments stated that no practical way is known to permanently affix a label onto the tire sidewall, as would have been required by proposed paragraph S4.3.1 until such time as a label is molded into or onto the tire. Accordingly, S4.3.1 of Standard No. 109 has been modified to permit, until August 1, 1968, the use of a label or tag containing the required labeling information not permanently molded into or onto the tire.

Many comments objected to the limitations imposed by the maximum tire section width dimensions specified in the tables of the notice. The Administrator has determined that additional dimensional latitude is necessary, and therefore Standard No. 109 specifies that to provide for tire growth, protective side ribs, ornamentation, manufacturing tolerances, and design differences for each tire size designation actual tire section width and overall tire width may exceed the section width specified in Table I of the Standard by 7 percent.

In response to requests, additional tire size designations and load/inflation schedules were added when necessary information was available. In addition, Table I of Standard No. 109 and Table II of Standard No. 110 have been combined to collate related information.

Persons desiring an amendment to Standard No. 109 adding tires not presently listed, should submit sufficient pertinent information relative to these tires in 10 copies to the Secretary of Transportation; Attention: Motor Vehicle Safety Performance Service, National Highway Safety Bureau, Federal Highway Administration, U.S. Department of Transportation, Washington, D.C. 20591.

Data received have shown that the rim references indicated in the proposed Standards were inadequate in coverage. Therefore, a more comprehensive list of foreign and domestic trade association publications containing appropriate rim standards or practices has been referenced in the Standards.

Data received demonstrated that the bead unseating and tire strength requirements were inappropriate for certain groups of small tires. Accordingly, tires were regrouped and the test values revised to provide requirements for these small tires that are porportional to the requirements for other sizes of tires.

Although Standard No. 109 applies to tires for use on passenger cars manufactured after 1948, some of the tires covered by the Standard may also be used on earlier model vehicles.

The testing procedures set forth in the Standard, size designations, and related data are based upon existing standards or practices using information furnished by such organizations as the Society of Automotive Engineers, Federal Trade Commission, Tire and Rim Association, European Tire and Rim Technical Organization, Japanese Standards Association, Japan Automobile Tire Manufacturers Association, Rubber Manufacturers Association, Tyre Manufacturers Conference, Ltd., and the Society of Motor Manufacturers and Traders, Ltd.

To permit production of sufficient quantities of tires complying with the requirements of Standard No. 109 after its effective date of January 1, 1968, Standard No. 110 applies to passenger cars manufactured on or after April 1, 1968.

A single table of load/pressure values for radial ply tires was included in the notice and this was supported by many comments. Other comments stressed the importance of including different load/pressure values for optimum tire deflections. Although a single table of load/pressure schedules combining these values for these radial ply tires would be desirable, it was not considered advisable to include such a table in the standard promulgated under the present notice.

In accordance with section 201 of the Act, S4.3 of Standard No. 109 requires that each tire be labeled with the name of the manufacturer or his brand name and an approved code mark to permit the tire seller to identify the tire manufacturer upon the purchaser's request. Any tire manufacturer desiring an approved code mark should apply for his code number assignment to the Secretary of Transportation; Attention: Motor Vehicle Safety Performance Service, National Highway Safety Bureau, Federal Highway Administration, U.S. Department of Transportation, Washington, D.C. 20591.

Several comments, including the suggested use of a "load range" system, will be considered for future rule making. (See 32 F.R. 14279.)

Since it was clearly the intent of the Congress that, to enhance the safety of the general public, Federal Motor Vehicle Safety Standards for tires become effective as soon as practicable, and since no adverse comments were received pertinent to the proposed effective date presented in the advance notice of proposed rule making (32 F.R. 2417), at a Government-industry technical meeting, and in the notice of proposed rule making (32 F.R. 10812), and no undue burden was demonstrated, good cause is shown that an effective date earlier than 180 days after issuance is in the public interest.

In consideration of the foregoing, § 255.21 of Part 255, Initial Federal Motor Vehicle Safety Standards, is amended by adding the standards set forth below. Standard No. 109 becomes effective January 1, 1968, and Standard No. 110 becomes effective April 1, 1968.

(Secs. 103, 119, National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1407); delegation of authority of Mar. 31, 1967 (32 F.R. 5606), as amended Apr. 6, 1967 (32 F.R. 6495), July 27, 1967 (32 F.R. 11276), Oct. 11, 1967 (32 F.R. 14277), Nov. 8, 1967)

Issued in Washington, D.C., on November 8, 1967.

LOWELL K. BRIDWELL,
Federal Highway Administrator.

MOTOR VEHICLE SAFETY STANDARD No. 109

NEW PNEUMATIC TIRES—PASSENGER CARS

S1. *Purpose and scope.* This standard specifies tire dimensions and laboratory test requirements for bead unseating resistance, strength, endurance, and high speed performance; defines tire load ratings; and specifies labeling requirements.

S2. *Application.* This standard applies to new pneumatic tires for use on passenger cars manufactured after 1948.

S3. *Definitions.*

"Bead" means that part of the tire made of steel wires, wrapped or reinforced by ply cords, that is shaped to fit the rim.

"Bead separation" means a breakdown of bond between components in the bead area.

"Bias ply tire" means a pneumatic tire in which the ply cords that extend to the beads are laid at alternate angles substantially less than 90° to the centerline of the tread.

"Carcass" means the tire structure, except tread and sidewall rubber.

"Chunking" means the breaking away of pieces of the tread.

"Cord" means the strands forming the plies in the tire.

"Cord separation" means cords parting away from adjacent rubber compounds.

"Groove" means the space between two adjacent tread ribs.

"Load rating" means the maximum load a tire is rated to carry for a given inflation pressure.

"Maximum permissible inflation pressure" means the maximum cold inflation pressure to which a tire may be inflated.

"Maximum load rating" means the load rating at the maximum permissible inflation pressure for that tire.

"Overall width" means the linear distance between the exteriors of the sidewalls of an inflated tire, including elevations due to labeling, decorations, or protective bands or ribs.

"Ply" means a layer of rubber-coated parallel cords.

"Ply separation" means a parting of rubber compound between adjacent plies.

"Pneumatic tire" means a mechanical device made of rubber, chemicals, fabric and steel or other materials, which, when mounted on an automotive wheel, provides the traction and contains the gas or fluid that sustains the load.

"Radial ply tire" means a pneumatic tire in which the ply cords which extend to the beads are laid at substantially 90° to the centerline of the tread.

"Rim" means a metal support for a tire or a tire and tube assembly upon which the tire beads are seated.

"Section width" means the linear distance between the exteriors of the sidewalls of an inflated tire, excluding elevations due to labeling, decoration, or protective bands.

"Sidewall" means that portion of a tire between the tread and the bead.

"Size factor" means the sum of the section width and the outer diameter of a tire determined on the test rim.

"Test rim" means any rim of the applicable rim width specified in Table I for a particular tire size designation with the rim dimensions shown in the 1967 Tire and Rim Association Year Book, the 1967 Tire and Rim Association Supplementary Service Data Book, the Tyre and Wheel Engineering Data Book dated 1965/1966 of the Society of Motor Manufacturers and Traders Limited (SMMT), the Japan Automobile Tire Manufacturers Association, 1966 edition, the Japanese Industrial Standards (JIS–D4202) dated 1966, the European Tire and Rim Technical Organization practices (E.T.R.T.O.), the Deutsche Industrie Norm (DIN) 7818 dated June 1959, or Deutsche Industrie Norm (DIN) 7817 dated August 1962 or an approved equivalent rim.

"Tread" means that portion of a tire that comes into contact with the road.

"Tread rib" means a tread section running circumferentially around a tire.

"Tread separation" means pulling away of the tread from the tire carcass.

S4. *Requirements.*

S4.1 *Size and Construction.* Each tire shall be designed to fit each rim specified for its size designation in each reference cited in the definition of "test rim" in S3.

S4.2 *Performance Requirements.*

S4.2.1 *General.* Each tire shall conform to each of the following:

(a) It shall meet the requirements specified in S4.2.2 for its tire size designation, type, and maximum permissible inflation pressure.

(b) Its maximum permissible inflation pressure shall be either 32, 36, or 40 p.s.i.

(c) Its load rating shall be that specified in Table I for its size designation, type, and each appropriate inflation pressure.

(d) If manufactured on or after August 1, 1968, it shall incorporate a tread wear indicator that will provide a visual indication that the tire has worn to a tread depth of 1/16 inch.

S4.2.2 *Test requirements.*

S4.2.2.1 *Test sample.* For each test sample use—

(a) One tire for physical dimensions, resistance to bead unseating, and strength, in sequence;

(b) Another tire for tire endurance; and

(c) A third tire for high speed performance.

S4.2.2.2 *Physical Dimensions.* Each tire, when measured in accordance with S5.1, shall conform to each of the following:

(a) Its actual section width and overall width shall not exceed by more than 7 percent the section width specified in Table I for its size designation and type; and

(b) Its size factor shall be at least as large as that specified in Table I for its size designation and type.

S4.2.2.3 *Tubeless tire resistance to bead unseating.* When tested in accordance with S5.2, the applied force required to unseat the tire bead at the point of contact shall not be less than:

(a) 1,500 pounds for tires with a designated section width of less than six (6) inches;

(b) 2,000 pounds for tires with a designated section width of six (6) inches or more but less than eight (8) inches;

(c) 2,500 pounds for tires with a designated section width of eight (8) inches or more, using the section width specified in Table I for the applicable tire size designation and type.

S4.2.2.4 *Tire strength.* Each tire shall meet the requirements for minimum breaking energy specified in Table II when tested in accordance with S5.3.

S4.2.2.5 *Tire endurance.* After completion of the laboratory test wheel endurance test specified in S5.4, no tire shall have tread, ply, cord, or bead separation; chunking; or broken cords.

S4.2.2.6 *High speed performance.* After completion of the laboratory high speed performance test specified in S5.5, no tire shall have tread, ply, cord, or bead separation; chunking; or broken cords.

S4.3 *Labeling requirements.* Except as provided in S4.3.1, each tire shall be conspicuously labeled on both sidewalls with each of the following permanently molded into or onto the tire:

(a) Size designation.

(b) Maximum permissible inflation pressure.

(c) Maximum load rating.

(d) Identification of manufacturer by—

(1) Name; or

(2) Brand name and an approved code mark.

(e) Composition of the material used in the ply cord.

(f) Actual number of plies in the sidewall and the actual number of plies in the tread area, if different.

(g) The word "tubeless" or "tube type", as applicable.

(h) The word "radial", if a radial ply tire.

(i) An approved rectial (or the symbol specified in Figure 1) that the tire conforms to applicable Federal Motor Vehicle Safety Standards.

S4.3.1 Until August 1, 1968, the labeling requirements of S4.3 may be met by affixing to each tire a label or tag that incorporates all specified information not molded into or onto the tire.

S5. *Test procedures.*

S5.1 *Physical Dimensions.* Determine tire physical dimensions under uniform ambient conditions as follows:

(a) Mount the tire on a test rim and inflate it to the applicable pressure specified in Table III.

(b) Condition it at ambient room temperature for at least 24 hours.

(c) Readjust pressure to that specified in (a).

(d) Caliper the section width and overall width at six points approximately equally spaced around the tire circumference.

(e) Record the average of these measurements as the section width and overall width, respectively.

(f) Determine tire outer diameter by measuring the maximum circumference of the tire and dividing this dimension by pi (3.14).

S5.2 *Tubeless tire bead unseating resistance.*

S5.2.1 *Preparation of tire-wheel assembly.*

S5.2.1.1 Wash the tire, dry it at the beads, and mount it without lubrication or adhesives on a clean, painted test rim.

S5.2.1.2 Inflate it to the applicable pressure specified in Table III at ambient room temperature.

S5.2.1.3 Mount the wheel and tire in the fixture shown in Figure 2, and force the standard block shown in Figure 2 against the tire sidewall as required by the geometry of the fixture.

S5.2.2 *Test procedure.*

S5.2.2.1 Apply a load through the block to the tire outer sidewall at the distance specified in Figure 2 for the applicable wheel size at a rate of 2 inches per minute, with the load arm substantially parallel to the tire and rim assembly at the time of engagement.

S5.2.2.2 Increase the load until the bead unseats or the applicable value specified in S4.2.2.3 is reached.

S5.2.2.3 Repeat the test at least four places equally spaced around the tire circumference.

S5.3 *Tire strength.*

S5.3.1 *Preparation of tire.*

S5.3.1.1 Mount the tire on a test rim and inflate it to the applicable pressure specified in Table III;

S5.3.1.2 Condition it at room temperature for at least 3 hours; and

S5.3.1.3 Readjust its pressure to that specified in S5.3.1.1.

S5.3.2 *Test procedure.*

S5.3.2.1 Force a ¾-inch diameter cylindrical steel plunger with a hemispherical end perpendicularly into the tread rib as near to the centerline as possible, avoiding penetration into the

tread groove, at the rate of 2 inches per minute.

S5.3.2.3 Record the force and penetration at five test points equally spaced around the circumference of the tire. If the tire fails to break before the plunger is stopped by reaching the rim, record the force and penetration as the rim is reached and use these values in S5.3.2.3.

S5.3.2.2 Compute the breaking energy for each test point by means of the following formula:

$$W = \frac{F \times P}{2}$$

where

W = Energy, inch-pounds;
F = Force, pounds; and
P = Penetration, inches.

S5.3.2.4 Determine the breaking energy value for the tire by computing the average of the five values obtained in accordance with S5.3.2.3.

S5.4 *Tire endurance.*

S5.4.1 *Preparation of tire.*

S5.4.1.1 Mount a new tire on a test rim and inflate it to the applicable pressure specified in Table III.

S5.4.1.2 Condition the tire assembly to 100±5° F. for at least three hours.

S5.4.1.3 Readjust tire pressure to that specified in S5.4.1.1 immediately before testing.

S5.4.2 *Test procedure.*

S5.4.2.1 Mount the tire and wheel assembly on a test axle and press it against a flat-faced steel test wheel 67.23 inches in diameter and at least as wide as the section width of the tire to be tested or an approved equivalent test wheel, with the applicable test load specified in Table I for the tire's size designation, type, and maximum permissible inflation pressure.

S5.4.2.2 During the test, the air surrounding the test area shall be 100±5° F.

S5.4.2.3 Conduct the test at 50 miles per hour in accordance with the following schedule without interruption:

Maximum permissible inflation pressure (p.s.i.)	Load (from table I)—		
	For 4 hours	For 6 hours	For 24 hours
32	34 p.s.i. column.	28 p.s.i. column.	32 p.s.i. column.
36	28 p.s.i. column.	32 p.s.i. column.	36 p.s.i. column.
40	32 p.s.i. column.	36 p.s.i. column.	40 p.s.i. column.

S5.5 *High speed performance.*

S5.5.1 After preparing the tire in accordance with S5.4.1, mount the tire and wheel assembly in accordance with S5.4.2.1, and press it against the test wheel with the load specified in Table I for the tire's size designation and the applicable pressure specified in Column B of the following table:

A *Maximum permissible inflation pressure (p.s.i.)*	B *Load from Table I*
32	34 p.s.i. column.
36	28 p.s.i. column.
40	32 p.s.i. column.

S5.5.2 Break in the tire by running it for 2 hours at 50 m.p.h.

S5.5.3 Allow it to cool to 100±5° F. and readjust the inflation pressure to the applicable pressure specified in Table III.

S5.5.4 Without readjusting inflation pressure, test at 75 m.p.h. for 30 minutes, 80 m.p.h. for 30 minutes, and (except deep-tread, winter-type tires) 85 m.p.h. for 30 minutes.

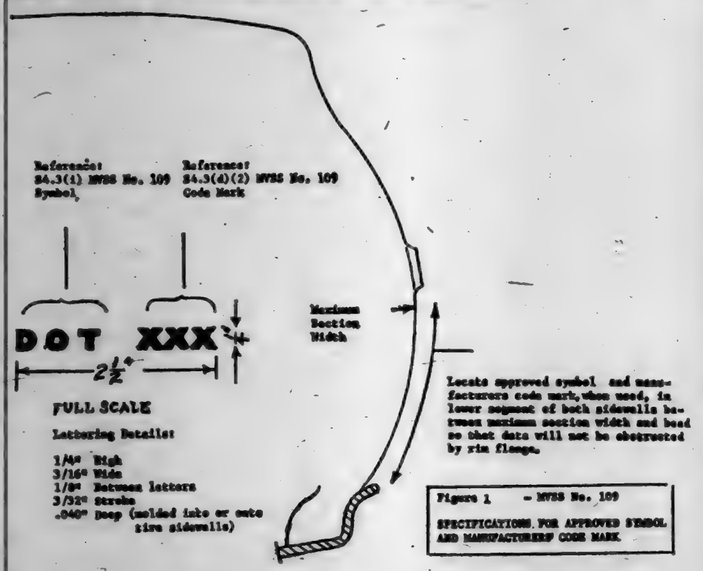

Figure 1 — MVSS No. 109

SPECIFICATIONS FOR APPROVED SYMBOL AND MANUFACTURERS' CODE MARK.

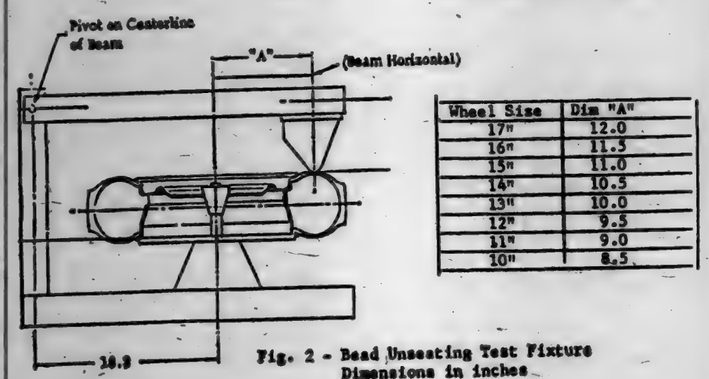

Wheel Size	Dim "A"
17"	12.0
16"	11.5
15"	11.0
14"	10.5
13"	10.0
12"	9.5
11"	9.0
10"	8.5

Fig. 2 - Bead Unseating Test Fixture Dimensions in inches

Figure 3. Diagram of Bead Unseating Block.

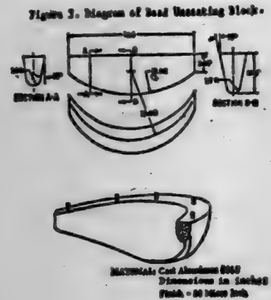

TABLE I-A

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR CONVENTIONAL AND LOW SECTION HEIGHT BIAS PLY TIRES

Tire size designation	Maximum tire loads (pounds) at various cold inflation pressures (p.s.i.)													Test rim width (inches)	Minimum size factor (inches)	Section width [1] (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
6.00-13			770	820	860	900	930	970	1,010	1,040	1,080	1,110	1,140	4	28.37	6.00
6.50-13			860	920	980	1,030	1,070	1,110	1,150	1,190	1,220	1,270	1,300	4½	30.75	6.60
7.00-13			980	1,080	1,080	1,130	1,180	1,230	1,270	1,310	1,360	1,400	1,440	5	31.88	7.10
6.00-14			840	900	930	980	1,020	1,060	1,100	1,130	1,170	1,210	1,240	4	30.64	6.10
6.50-14			930	990	1,030	1,080	1,130	1,170	1,210	1,250	1,300	1,330	1,370	4½	31.75	6.60
7.00-14			1,030	1,100	1,140	1,190	1,240	1,290	1,340	1,380	1,430	1,470	1,520	5	32.86	7.10
7.50-14			1,150	1,220	1,280	1,340	1,390	1,450	1,500	1,550	1,600	1,650	1,700	5½	34.19	7.65
8.00-14			1,240	1,320	1,380	1,440	1,500	1,560	1,620	1,670	1,730	1,780	1,830	6	35.17	8.10
8.50-14			1,330	1,420	1,480	1,550	1,610	1,670	1,740	1,790	1,850	1,910	1,960	6	36.21	8.55
9.00-14			1,430	1,510	1,580	1,660	1,730	1,790	1,860	1,920	1,990	2,050	2,100	6½	36.21	8.80
6.45-14			880	910	960	1,000	1,040	1,080	1,120	1,160	1,200	1,240	1,270	4½	30.92	6.60
6.95-14			950	1,000	1,050	1,100	1,140	1,190	1,230	1,270	1,310	1,350	1,390	5	31.96	7.00
7.35-14			1,040	1,100	1,150	1,210	1,260	1,310	1,360	1,400	1,450	1,490	1,540	5	32.92	7.20
7.75-14			1,150	1,210	1,270	1,330	1,380	1,440	1,500	1,550	1,600	1,650	1,690	5½	34.09	7.75
8.25-14			1,250	1,310	1,380	1,440	1,500	1,560	1,620	1,670	1,730	1,780	1,830	6	35.11	8.30
8.55-14			1,360	1,430	1,510	1,580	1,640	1,710	1,770	1,830	1,890	1,950	2,000	6	36.08	8.60
8.85-14			1,430	1,510	1,580	1,660	1,730	1,790	1,860	1,920	1,990	2,050	2,100	6½	36.82	8.85
9.50-14			1,540	1,640	1,700	1,780	1,850	1,930	2,000	2,060	2,130	2,200	2,260	6½	37.74	9.05
6.00-15			890	940	980	1,030	1,070	1,110	1,150	1,190	1,230	1,270	1,300	4	31.64	6.10
6.50-15			980	1,040	1,080	1,130	1,180	1,230	1,270	1,320	1,360	1,400	1,440	4½	32.75	6.60
6.70-15			1,110	1,190	1,230	1,290	1,340	1,400	1,450	1,500	1,550	1,590	1,640	4½	33.96	7.00
6.85-15			950	1,000	1,050	1,100	1,140	1,190	1,230	1,270	1,320	1,360	1,390	5	32.45	6.90
7.35-15			1,300	1,370	1,320	1,380	1,440	1,500	1,550	1,600	1,660	1,710	1,760	5	34.09	7.40
7.35-15			1,070	1,130	1,180	1,240	1,290	1,340	1,390	1,440	1,490	1,530	1,570	5½	33.86	7.50
7.60-15			1,310	1,400	1,450	1,520	1,580	1,640	1,710	1,760	1,820	1,880	1,930	5½	35.05	7.90
7.75-15			1,150	1,210	1,270	1,330	1,380	1,440	1,490	1,540	1,590	1,640	1,690	5½	34.53	7.65
8.00-15			1,380	1,470	1,530	1,600	1,670	1,730	1,800	1,860	1,920	1,980	2,040	6	36.84	8.30
8.15-15			1,240	1,300	1,370	1,430	1,490	1,550	1,610	1,660	1,720	1,770	1,820	6	35.50	8.15
8.20-15			1,470	1,570	1,630	1,710	1,780	1,850	1,920	1,980	2,050	2,110	2,170	6	37.50	8.50
8.45-15			1,340	1,410	1,480	1,550	1,620	1,690	1,740	1,800	1,860	1,920	1,970	6	36.37	8.35
8.55-15			1,430	1,510	1,580	1,650	1,720	1,790	1,860	1,920	1,980	2,040	2,100	6½	37.29	8.80
9.00-15			1,700	1,810	1,880	1,970	2,050	2,130	2,210	2,290	2,360	2,430	2,500	6½	39.54	9.20
9.00-15			1,490	1,540	1,620	1,690	1,760	1,830	1,900	1,970	2,030	2,090	2,150	6	37.45	8.80
9.15-15			1,510	1,600	1,680	1,750	1,830	1,900	1,970	2,030	2,100	2,100	2,230	6½	37.92	8.95
6.00-16			1,075	1,135	1,196	1,250	1,300	1,350	1,400	1,450	1,500			4	34.17	6.25
6.50-16	1,000	1,180	1,215	1,280	1,345	1,405	1,465	1,525	1,580	1,635	1,690	1,740	1,790	4½	35.39	6.80
6.70-16		1,165	1,240	1,300	1,365	1,410	1,465	1,525	1,580	1,635	1,690	1,740	1,795	4½	35.60	7.40
7.00-16			1,365	1,440	1,515	1,585	1,650	1,715	1,780	1,840	1,900			5	37.02	7.35
7.50-16			1,565	1,650	1,735	1,810	1,890	1,960	2,035	2,105	2,175			6½	39.02	8.40
8.50-17		1,215	1,275	1,320	1,390	1,450	1,500	1,560	1,620	1,680	1,740	1,795	1,850	6	37.60	7.60

[1] Actual section width and overall width shall not exceed the specified section width by more than 7 percent.

TABLE I-B

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR "70 SERIES" BIAS PLY TIRES

Tire size designation	Maximum tire loads (pounds) at various cold inflation pressures (p.s.i.)													Test rim width (inches)	Minimum size factor (inches)	Section width [1] (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
D70-14			1,010	1,070	1,120	1,170	1,220	1,270	1,320	1,360	1,410	1,450	1,490	5½	32.67	7.85
E70-14			1,070	1,130	1,190	1,240	1,300	1,350	1,400	1,440	1,490	1,540	1,580	5½	33.45	8.05
F70-14			1,160	1,220	1,280	1,340	1,400	1,450	1,500	1,550	1,610	1,650	1,700	5½	34.13	8.20
G70-14			1,250	1,310	1,380	1,440	1,500	1,560	1,620	1,680	1,730	1,780	1,830	6	35.14	8.75
H70-14			1,360	1,440	1,510	1,580	1,650	1,710	1,770	1,830	1,890	1,950	2,010	6	36.19	9.10
J70-14			1,430	1,500	1,580	1,650	1,720	1,790	1,860	1,920	1,980	2,040	2,100	6½	36.91	9.50
E70-15			1,070	1,130	1,190	1,240	1,300	1,350	1,400	1,440	1,490	1,540	1,580	6	34.17	8.10
F70-15			1,160	1,220	1,280	1,340	1,400	1,450	1,500	1,550	1,610	1,650	1,700	6	34.91	8.35
G70-15			1,250	1,310	1,380	1,440	1,500	1,560	1,620	1,680	1,730	1,780	1,830	6	35.88	8.60
H70-15			1,360	1,440	1,510	1,580	1,650	1,710	1,770	1,830	1,890	1,950	2,010	6	36.66	8.95
J70-15			1,430	1,500	1,580	1,650	1,720	1,790	1,860	1,920	1,980	2,040	2,100	6½	37.34	9.35
K70-15			1,460	1,540	1,620	1,690	1,770	1,830	1,900	1,970	2,030	2,090	2,150	6½	37.62	9.40
L70-15			1,520	1,600	1,680	1,750	1,830	1,900	1,970	2,040	2,100	2,170	2,220	6½	38.09	9.60
D70-15			1,010	1,070	1,120	1,170	1,220	1,270	1,320	1,360	1,410	1,450	1,490	6½	33.34	7.75
L70-14			1,520	1,600	1,680	1,750	1,830	1,900	1,970	2,040	2,100	2,170	2,220	6½	37.39	9.60

[1] Actual section width and overall width shall not exceed the specified section width by more than 7 percent.

TABLE I-C

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS, FOR BIAS PLY TIRES

Tire size designation	Maximum tire loads (pounds) at various cold inflation pressures (p.s.i.)													Test rim width (inches)	Minimum size factor (inches)	Section width [1] (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
"SUPER BALLOON" SIZES																
5.20-10	360	395	440	480	530	555	575	605	625	650	670	695	715	3½	24.84	5.20
5.90-10	385	420	475	515	550	580	605	630	650	675	700			4	24.00	5.38
5.20-12	395	445	495	540	595	625	655	685	710	735	760	785	810	3½	26.79	5.20
5.60-12	460	520	575	625	670	715	760	795	825	855	885	915	940	4	27.83	5.71
5.90-12	480	535	595	650	705	735	775	805	835	865	895			4½	28.00	5.96
6.20-12	505	555	605	665	720	760	795	825	855	885	915	940	965	4½	27.00	6.20
5.20-13	430	495	540	595	640	670	710	740	765	795	820	850	875	3½	27.72	5.20
5.60-13	495	560	620	675	725	770	810	850	880	910	945	975	1005	4	28.93	5.71
5.90-13	555	625	695	755	815	860	905	945	970	1,005	1,040	1,075	1,105	4	29.74	5.91
6.20-13	530	600	660	720	780	830	880	920	960	1,000	1,030	1,060	1,090	4½	28.00	6.20
6.40-13	580	705	785	845	915	965	1,025	1,065	1,100	1,140	1,175	1,210		4½	31.26	6.42
6.70-13	630	705	785	845	915	965	1,025	1,065	1,100	1,140	1,175	1,210	1,240	4½	32.14	6.66
6.70-13	690	775	860	925	1,000	1,055	1,115	1,175	1,220	1,260	1,305	1,340		5	30.00	7.20
6.90-13	695	745	795	845	915	955	1,005	1,045	1,085	1,120	1,160			3½	28.80	5.20
6.20-14	575	635	695	745	805	845	885	925	955	985	1,020	1,050	1,080	4	29.94	5.71
6.60-14	630	695	760	815	880	925	970	1,005	1,040	1,080	1,115	1,145		4	30.76	5.91
6.90-14	685	755	820	880	925	970	1,005	1,040	1,080	1,120	1,155	1,190		4½	32.19	6.42
6.40-14	660	745	825	880	960	1,000	1,050	1,090	1,130	1,170	1,210	1,250	1,290	4½	30.92	
6.45H14			860	910	960	1,000	1,040	1,080	1,120					3½	29.75	5.20
5.20-15	505	570	630	695	740	780	820	870	900	935	965	1,000	1,030	4	30.87	5.71
5.60-15	555	625	695	775	815	860	905	935	970	1,005	1,040	1,075	1,105	4	31.77	5.91
5.90-15	615	695	770	850	890	935	980	1,015	1,050	1,090	1,120	1,165	1,200	4		
"LOW SECTION" SIZES																
5.00-12	370	420	465	505	540	565	590	605	625	650	670	695	715	3½	25.62	5.04
5.50-12	415	470	520	570	605	635	665	695	720	745	770	800	820	4½	26.93	5.59
5.60-12	435	495	555	605	645	705	735	765	815	845	875	905	935	4½	26.33	6.14
5.00-13	410	465	510	560	595	625	660	685	710	735	755	780		3½	26.64	5.04
5.50-13	445	505	555	605	640	670	710	740	765	795	820	850	875	4	27.95	5.59
7.25-13	720	825	915	990	1,070	1,110	1,160	1,200	1,245	1,290	1,335	1,380	1,420	5	32.51	7.24
7.50-13	775	875	970	1,040	1,120	1,180	1,225	1,270	1,315	1,365	1,410	1,460	1,500	4½	33.22	7.48
5.20-15	505	570	630	675	725	760	800	840	870	900	935	965		4	29.97	5.89
5.50-15L	595	665	740	800	860	900	930	970	1,005	1,040	1,080	1,115	1,145	4½	31.39	6.14
6.00-15L	595	665	740	800	860	900	930	970	1,005	1,040	1,080	1,115	1,145	4½	32.68	6.54
6.50-15L	675	755	840	900	970	1,010	1,060	1,105	1,145	1,185	1,220	1,270	1,305	4½	33.86	7.01
7.00-15L	760	855	960	1,035	1,100	1,145	1,190	1,235	1,280	1,325	1,375	1,420	1,460	5		
"SUPER LOW SECTION" SIZES																
145-10/5.90-10	380	430	475	515	550	580	605	630	650	675	700	725	745	4	24.76	5.79
125-12/5.35-12	335	380	420	460	495	515	550	570	590	605	630	650	670	3½	24.06	5.09
135-12/5.66-12	370	420	465	505	540	570	600	620	640	665	690	710	730	4	25.53	5.39
145-12/5.96-12	440	495	550	595	640	675	700	730	755	785	810	840	865	4	26.69	5.79
155-12/6.15-12	485	545	605	655	705	735	775	805	835	865	895	925	950	4½	27.36	6.13
135-13/5.66-13	415	470	520	565	605	635	665	685	710	735	760	785	810	4	26.83	5.39
145-13/5.96-13	470	525	585	630	670	705	745	770	800	825	855	885	910	4	27.61	5.79
155-13/6.15-13	515	575	640	690	730	780	820	850	880	910	940	965	995	4½	28.52	6.57
165-13/6.45-13	575	645	715	770	825	865	905	935	970	1,005	1,040	1,075	1,105	5	30.34	7.01
175-13/6.95-13	635	715	795	855	915	965	1,005	1,045	1,085	1,120	1,160	1,200	1,235	5½	31.41	7.40
185-13/7.35-13	695	785	870	935	1,010	1,060	1,115	1,160	1,205	1,245	1,290	1,335	1,370	6	32.48	7.80
135-14/5.66-14	440	495	550	595	640	665	700	730	755	785	810	840	865	4	27.54	5.39
145-14/5.96-14	495	560	620	665	715	750	785	815	845	875	905	935	965	4	28.84	5.79
155-14/6.15-14	540	610	675	730	780	825	865	895	925	960	995	1,025	1,060	4½	29.45	6.13
165-14/6.45-14	605	680	755	810	870	915	960	995	1,030	1,065	1,100	1,135	1,165	4½	30.24	6.57
175-14/6.95-14	670	755	840	905	970	1,020	1,070	1,110	1,150	1,190	1,230	1,270	1,305	5	31.41	7.40
185-14/7.35-14	735	830	920	990	1,065	1,120	1,175	1,225	1,270	1,315	1,360	1,405	1,445	5½	32.48	7.80
125-15/5.35-15	370	420	465	505	540	570	600	620	640	665	690	710	730	4	25.53	5.39
135-15/5.66-15	415	470	520	565	605	635	665	685	710	735	760	785	810	4	26.83	5.79
145-15/5.96-15	485	545	605	655	705	735	775	805	835	865	895	925	950	4½	27.36	6.13
155-15/6.15-15	540	610	675	730	780	825	865	895	925	960	995	1,025	1,060	4½	28.17	6.57
165-15/6.45-15	605	680	755	810	870	915	960	995	1,030	1,065	1,100	1,135	1,165	5	29.74	7.01
175-15/6.95-15	670	755	840	905	970	1,020	1,070	1,110	1,150	1,190	1,230	1,270	1,305	5½	30.91	7.40
185-15/7.35-15	735	830	920	990	1,065	1,120	1,175	1,225	1,270	1,315	1,360	1,405	1,445	6	31.98	7.80
175-15/7.15-15	1,180	1,295	1,435	1,545	1,660	1,735	1,825	1,895	1,965	2,035	2,110	2,180	2,245	6½	38.26	9.37
235-15																

[1] Actual section width and overall width shall not exceed the specified section width by more than 7 percent.

TABLE I-D

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR DASH (-) RADIAL TIRES

Tire size designation	Maximum tire loads (pounds) at various cold inflation pressures (p.s.i.)													Test rim width (inches)	Minimum size factor (inches)	Section width [1] (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
175-13			810	860	920	980	1,040	1,100	1,150	1,200	1,240	1,300	1,350	4½	29.26	6.40
185-13			870	940	1,010	1,080	1,140	1,210	1,270	1,320	1,360	1,450	1,510	5	31.42	7.25
195-13			870	1,040	1,110	1,180	1,250	1,320	1,400	1,450	1,520	1,580	1,640	5½	32.36	7.70
175-14			780	860	920	980	1,040	1,100	1,150	1,200	1,250	1,300	1,350	4½	31.63	7.00
185-14			920	1,000	1,070	1,140	1,220	1,290	1,360	1,420	1,500	1,560	1,640	5	32.39	7.30
195-14			1,020	1,100	1,180	1,270	1,340	1,420	1,500	1,570	1,650	1,720	1,800	5½	33.69	7.80
205-14			1,100	1,180	1,270	1,380	1,450	1,540	1,620	1,700	1,770	1,860	1,940	6	34.82	8.30
215-14			1,200	1,300	1,390	1,510	1,580	1,670	1,770	1,850	1,920	2,010	2,100	6	35.79	8.80
225-14			1,320	1,420	1,510	1,610	1,710	1,800	1,900	1,970	2,060	2,150	2,220	6½	36.44	9.25
185-15			1,000	1,070	1,140	1,210	1,280	1,350	1,420	1,480	1,540	1,600	1,660	5½	33.23	7.45
195-15			1,060	1,140	1,220	1,320	1,400	1,470	1,550	1,620	1,680	1,760	1,820	5½	34.22	7.85
205-15			1,190	1,280	1,370	1,480	1,560	1,650	1,740	1,820	1,890	1,980	2,050	6	35.20	8.10
215-15			1,280	1,380	1,480	1,570	1,680	1,780	1,880	1,960	2,040	2,130	2,200	6	36.00	8.50
225-15			1,370	1,470	1,580	1,670	1,780	1,880	1,980	2,080	2,150	2,240	2,340	6½	36.94	8.90
235-15			1,430	1,540	1,640	1,750	1,850	1,960	2,060	2,160	2,250	2,350	2,450	6½	37.75	9.05
145-10	495	525	545	565	585	605	625	640	675	670	695	700	710	4	24.76	5.79
125-12	405	430	445	465	480	495	505	525	535	550	560	570	580	3½	24.06	5.09
135-12	480	510	530	550	565	585	600	620	635	650	665	675	695	4	25.53	5.39
145-12	570	605	635	655	675	695	715	740	760	775	790	805	815	4	26.69	5.79
155-12	630	670	705	745	770	795	820	840	860	875	890	905	915	4½	27.36	6.13
135-13	515	545	565	590	610	630	650	670	690	705	715	730	740	4	26.53	5.39
145-13	605	640	665	685	720	740	765	790	815	830	845	855	870	4	27.61	5.79
155-13	670	710	735	765	790	815	840	870	895	910	925	940	955	4½	28.44	6.18
135-14	555	585	610	635	655	675	695	720	740	750	765	780	790	4	27.54	5.39
145-14	645	680	710	735	760	785	810	840	865	885	905	920	935	4	28.54	5.79
155-14	695	735	765	795	825	855	885	915	940	965	985	1,005	1,020	4½	29.45	6.18
165-14	755	795	830	860	895	925	960	990	1,015	1,045	1,070	1,095	1,115	5	30.24	6.57
175-14	820	865	905	940	975	1,010	1,045	1,075	1,105	1,135	1,160	1,185	1,205	5½	31.41	7.00
185-14	880	930	970	1,010	1,050	1,085	1,120	1,155	1,185	1,215	1,245	1,270	1,295	6	32.48	7.40
195-14	940	990	1,035	1,075	1,120	1,160	1,195	1,230	1,265	1,295	1,325	1,355	1,380	6	33.46	7.80
205-14	1,000	1,055	1,100	1,145	1,190	1,230	1,270	1,310	1,345	1,380	1,410	1,440	1,470	6½	34.34	8.30
215-14	1,060	1,120	1,165	1,215	1,260	1,305	1,345	1,385	1,425	1,460	1,495	1,525	1,555	6½	35.22	8.80
225-14	1,120	1,180	1,230	1,280	1,330	1,375	1,420	1,460	1,505	1,540	1,575	1,610	1,640	7	36.00	9.25
185-15	880	930	970	1,010	1,050	1,085	1,120	1,155	1,185	1,215	1,245	1,270	1,295	6	33.23	7.45
195-15	940	990	1,035	1,075	1,120	1,160	1,195	1,230	1,265	1,295	1,325	1,355	1,380	6	34.22	7.85
205-15	1,000	1,055	1,100	1,145	1,190	1,230	1,270	1,310	1,345	1,380	1,410	1,440	1,470	6½	35.20	8.10
215-15	1,060	1,120	1,165	1,215	1,260	1,305	1,345	1,385	1,425	1,460	1,495	1,525	1,555	6½	36.00	8.50
225-15	1,120	1,180	1,230	1,280	1,330	1,375	1,420	1,460	1,505	1,540	1,575	1,610	1,640	7	36.94	8.90
235-15	1,180	1,245	1,295	1,345	1,395	1,445	1,490	1,535	1,580	1,620	1,655	1,690	1,720	7	37.75	9.05

[1] Actual section width and overall width shall not exceed the specified section width by more than 7 percent.

TABLE I-E

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR ZY'S G-77 BIAS PLY TIRES

Tire size designation	Maximum tire loads (pounds) at various cold inflation pressures (p.s.i.)													Test rim width (inches)	Minimum size factor (inches)	Section width [1] (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
G77-14			1,260	1,310	1,360	1,440	1,500	1,560	1,620	1,680	1,770	1,780	1,820	6	35.04	8.45

[1] Actual section width and overall width shall not exceed the specified section width by more than 7 percent.

TABLE I-F

TIRE LOAD RATINGS, RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR DASH (-) RADIAL TIRES

Tire size designation	Maximum tire loads (pounds) at various cold inflation pressures (p.s.i.)													Test rim width (inches)	Minimum size factor (inches)	Section width [1] (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
5.20-10	435	460	485	510	535	560	585	615	635	660	685	710	735	3½	23.94	5.20
5.00-12	490	495	515	535	555	575	595	615	635	650	670	690	710	3½	25.02	5.04
5.20-12	515	540	565	590	615	640	665	695	715	740	765	790	815	3½	25.79	5.20
5.50-12	520	545	570	595	620	650	670	705	725	750	775	800	825	4	26.93	5.59
5.60-12	400	690	695	695	715	740	770	800	825	850	875	905	930	4	27.83	5.71
5.00-13	535	555	575	595	615	630	650	670	690	705	725	745	765	3½	26.64	5.04
5.20-13	570	595	620	645	670	695	720	750	770	795	820	845	870	3½	27.72	5.20
5.50-13	575	600	625	650	675	695	725	750	775	795	825	850	875	4	27.95	5.59
5.60-13	655	685	710	740	765	795	825	855	880	905	935	960		4	28.93	5.71
6.00-13	675	705	735	760	790	815	845	875	900	925	950	975	1,005	4	29.37	6.00
5.90-13	705	730	805	830	860	885	915	940	965	990	1,015	1,065	1,070	4	29.74	5.90
6.40-13	810	840	870	905	940	970	1,005	1,040	1,070	1,100	1,135	1,165	1,200	4½	31.26	6.42
6.50-13	800	830	860	890	925	960	995	1,030	1,060	1,090	1,120	1,150	1,180	4½	31.75	6.60
7.00-13	870	910	950	985	1,025	1,060	1,100	1,145	1,175	1,215	1,255	1,295	1,335	5	31.26	7.10
7.25-13	960	995	1,020	1,060	1,100	1,135	1,175	1,215	1,255	1,290	1,330	1,370	1,410	5	32.51	7.24
5.20-14	695	640	670	700	730	760	795	820	855	885	915	950	980	3½	28.89	5.20
5.90-14	750	785	815	845	875	905	935	970	995	1,025	1,055	1,085	1,115	4	30.70	5.91
7.00-14	925	960	1,000	1,040	1,075	1,115	1,155	1,195	1,235	1,270	1,320	1,350	1,380	5	32.86	7.10
7.35-14	1,005	1,100	1,140	1,180	1,220	1,260	1,300	1,340	1,380	1,415	1,460	1,500	1,540	5½	34.10	7.65
5.60-15	705	780	805	830	860	885	915	940	965	990	1,015	1,045	1,070	4	29.57	5.71
6.40-15	885	925	965	1,005	1,040	1,080	1,120	1,160	1,200	1,235	1,275	1,310	1,350	4½	33.26	6.42
6.70-15	975	1,015	1,055	1,095	1,130	1,170	1,215	1,255	1,295	1,335	1,365	1,405	1,445	4½	33.95	6.70
7.60-15	1,180	1,220	1,245	1,285	1,325	1,370	1,415	1,465	1,500	1,535	1,575	1,610	1,655	6½	35.00	7.90
6.70-13	690	775	860	935	1,000	1,045	1,090	1,135	1,175	1,220	1,260	1,305	1,340	4½	32.14	6.60

TABLE I–G

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR "70 SERIES" TYPE "E" RADIAL TIRES

Tire size designation	Maximum tire loads (pounds) at various cold inflation pressures (p.s.i.)													Test rim width (inches)	Minimum size factor (inches)	Section width [1] (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
DR70–14			1,610	1,070	1,120	1,170	1,220	1,270	1,320	1,360	1,410	1,450	1,490	5½	33.76	7.90
ER70–14			1,070	1,120	1,190	1,240	1,300	1,360	1,400	1,440	1,490	1,540	1,590	6½	33.42	8.12
FR70–14			1,160	1,220	1,280	1,340	1,400	1,460	1,500	1,550	1,610	1,660	1,700	6	34.94	8.55
GR70–14			1,260	1,310	1,380	1,440	1,500	1,560	1,620	1,670	1,730	1,780	1,830	6	35.12	8.55
HR70–14			1,360	1,440	1,510	1,580	1,650	1,710	1,770	1,830	1,890	1,950	2,010	6½	36.31	8.49
JR70–14			1,430	1,500	1,580	1,650	1,720	1,790	1,850	1,920	1,980	2,040	2,100	6½	36.86	8.55
LR70–14			1,520	1,600	1,680	1,750	1,830	1,900	1,970	2,040	2,100	2,170	2,220	6½	37.59	8.99
DR70–15			1,610	1,070	1,120	1,170	1,220	1,270	1,320	1,360	1,410	1,450	1,490	6½	33.34	7.73
ER70–15			1,070	1,120	1,190	1,240	1,300	1,350	1,400	1,440	1,490	1,540	1,590	6½	33.91	7.96
FR70–15			1,160	1,220	1,280	1,340	1,400	1,450	1,500	1,550	1,610	1,660	1,700	6	34.87	8.49
GR70–15			1,260	1,310	1,380	1,440	1,500	1,560	1,620	1,670	1,730	1,780	1,830	6	35.05	8.55
HR70–15			1,360	1,440	1,510	1,580	1,650	1,710	1,770	1,830	1,890	1,950	2,010	6½	36.23	8.49
JR70–15			1,430	1,500	1,580	1,650	1,720	1,790	1,850	1,920	1,980	2,040	2,100	6½	37.31	8.49
KR70–15			1,490	1,540	1,620	1,690	1,770	1,836	1,900	1,970	2,030	2,090	2,150	6½	37.62	8.99
LR70–15			1,520	1,600	1,680	1,750	1,830	1,900	1,970	2,040	2,100	2,170	2,220	6½	36.06	8.05

[1] Actual section width and overall width shall not exceed the specified section width by more than 7 percent.

TABLE I–H

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR TYPE "E" RADIAL TIRES

Tire size designation	Maximum tire loads (pounds) at various cold inflation pressures (p.s.i.)													Test rim width (inches)	Minimum size factor (inches)	Section width [1] (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
165R13			770	820	860	900	930	970	1,010	1,040	1,080	1,110	1,140	4½	29.18	6.46
175R13			860	920	960	1,010	1,070	1,110	1,150	1,190	1,220	1,270	1,300	4½	30.20	6.71
185R13			980	1,050	1,090	1,150	1,200	1,250	1,270	1,310	1,360	1,400	1,440	5	31.42	7.36
196R13			1,060	1,110	1,170	1,220	1,280	1,320	1,370	1,420	1,470	1,510	1,550	5½	32.38	7.78
165R14			760	820	860	900	940	970	1,010	1,040	1,080	1,110	1,140	4	29.51	6.05
175R14			860	910	960	1,000	1,040	1,080	1,120	1,160	1,200	1,240	1,270	4½	30.65	6.55
185R14			960	1,000	1,050	1,100	1,140	1,190	1,230	1,270	1,310	1,350	1,390	5	31.63	7.09
195R14			1,040	1,100	1,160	1,210	1,260	1,310	1,360	1,400	1,450	1,490	1,540	5	32.59	7.39
205R14			1,150	1,210	1,270	1,330	1,390	1,440	1,500	1,550	1,600	1,650	1,690	5½	33.69	7.89
196R14			1,250	1,310	1,380	1,440	1,500	1,560	1,620	1,670	1,730	1,780	1,830	6	34.83	8.49
205R14			1,250	1,310	1,380	1,440	1,500	1,560	1,620	1,670	1,730	1,780	1,830	6	35.79	8.55
215R14			1,340	1,430	1,510	1,580	1,640	1,710	1,770	1,830	1,890	1,950	2,000	6	36.44	8.55
225R14			1,430	1,510	1,610	1,680	1,750	1,790	1,850	1,920	1,980	2,040	2,100	6½	37.15	8.99
165R15			570	910	960	1,000	1,050	1,090	1,130	1,170	1,200	1,240	1,270	4½	30.65	6.49
175R15			960	1,000	1,050	1,100	1,140	1,190	1,230	1,270	1,320	1,360	1,390	5	32.20	6.99
185R15			1,070	1,120	1,180	1,240	1,290	1,340	1,390	1,440	1,480	1,530	1,570	5½	33.58	7.46
195R15			1,150	1,210	1,270	1,330	1,380	1,440	1,490	1,540	1,590	1,640	1,690	5½	34.22	7.85
205R15			1,240	1,300	1,370	1,430	1,490	1,550	1,610	1,660	1,720	1,770	1,820	6	35.20	8.39
215R15			1,340	1,410	1,480	1,550	1,620	1,680	1,740	1,800	1,860	1,920	1,970	6	36.00	8.35
225R15			1,430	1,510	1,580	1,650	1,720	1,790	1,860	1,920	1,980	2,040	2,100	6½	36.94	8.89
235R15			1,510	1,600	1,680	1,750	1,830	1,900	1,970	2,040	2,100	2,160	2,220	6½	37.75	9.05

[1] Actual section width and overall width shall not exceed the specified section width by more than 7 percent.

TABLE II—MINIMUM BREAKING ENERGY VALUES (INCH-POUNDS)

TABLE II–A—FOR BIAS PLY TIRES WITH SIZE DESIGNATION OF 6.00 (OR 155 MILLIMETERS) AND ABOVE AND 70 SERIES TIRES

Cord material	Maximum permissible inflation pressure		
	32 p.s.i.	36 p.s.i.	40 p.s.i.
Rayon	1,600 in.-lbs.	2,475 in.-lbs.	3,300 in.-lbs.
Nylon or polyester	2,600 in.-lbs.	3,900 in.-lbs.	5,200 in.-lbs.

TABLE II–B—FOR BIAS PLY TIRES WITH SIZE DESIGNATION BELOW 6.00 INCHES (OR 155 MILLIMETERS)

Cord material	Maximum permissible inflation pressure		
	32 p.s.i.	36 p.s.i.	40 p.s.i.
Rayon	1,000 in.-lbs.	1,575 in.-lbs.	2,200 in.-lbs.
Nylon or polyester	1,960 in.-lbs.	2,925 in.-lbs.	3,900 in.-lbs.

TABLE II–C—FOR RADIAL PLY TIRES

Size designation	Maximum permissible inflation pressure		
	32 p.s.i.	36 p.s.i.	40 p.s.i.
Below 160 millimeters	1,050 in.-lbs.	2,025 in.-lbs.	3,000 in.-lbs.
160 millimeters or above	2,600 in.-lbs.	3,900 in.-lbs.	5,200 in.-lbs.

TABLE III

TEST INFLATION PRESSURES

Maximum permissible inflation pressure (in p.s.i.)	32	36	40
Pressure (in p.s.i.) to be used in tests for physical dimensions, bead unseating, tire strength, and tire endurance	24	28	32
Pressure (in p.s.i.) to be used in test or high speed performance	30	34	38

MOTOR VEHICLE SAFETY STANDARD No. 110

TIRE SELECTION AND RIMS—PASSENGER CARS

S1. *Purpose and scope.* This standard specifies requirements for tire selection to prevent tire overloading.

S2. *Application.* This standard applies to passenger cars.

S3. *Definitions.*

"Accessory weight" means the combined weight (in excess of those standard items which may be replaced) of automatic transmission, power steering, power brakes, power windows, power seats, radio, and heater, to the extent that these items are available as factory-installed equipment (whether installed or not).

"Curb weight" means the weight of a motor vehicle with standard equipment including the maximum capacity of fuel, oil, and coolant, and, if so equipped, air conditioning and additional weight optional engine.

"Maximum loaded vehicle weight" means the sum of—

(a) Curb weight;

(b) Accessory weight;

(c) Vehicle capacity weight; and

(d) Production options weight.

"Normal occupant weight" means 150 pounds times the number of occupants specified in the second column of Table I.

"Occupant distribution" means distribution of occupants in a vehicle as specified in the third column of Table I.

"Production options weight" means the combined weight of those installed regular production options weighing over 5 pounds in excess of those standard items which they replace, not previously considered in curb weight or accessory weight, including heavy duty brakes, ride levelers, roof rack, heavy duty battery, and special trim.

"Vehicle capacity weight" means the rated cargo and luggage load plus 150 pounds times the vehicles designated seating capacity.

TABLE I

OCCUPANT LOADING AND DISTRIBUTION FOR VEHICLE NORMAL LOAD FOR VARIOUS DESIGNATED SEATING CAPACITIES

Designated seating capacity, number of occupants	Vehicle normal load, number of occupants	Occupant distribution in a normally loaded vehicle
2 through 4	2	2 in front.
5 through 10	3	2 in front, 1 in second seat.

"Vehicle maximum load on the tire" means that load on an individual tire that is determined by distributing to each axle its share of the maximum loaded vehicle weight and dividing by two.

"Vehicle normal load on the tire" means that load on an individual tire that is determined by distributing to each axle its share of the curb weight, accessory weight, and normal occupant weight (distributed in accordance with Table I) and dividing by two.

S4. *Requirements.*

S4.1 *General.* Passenger Cars shall be equipped with tires that meet the requirements of Motor Vehicle Safety Standard No. 109, "New Pneumatic Tires—Passenger Cars."

S4.2 *Tire load limits.*

S4.2.1 The vehicle maximum load on the tire shall not be greater than the applicable maximum load rating specified in Table I of Motor Vehicle Safety Standard No. 109 for the tire's size designation and type.

S4.2.2 The vehicle normal load on the tire shall not be greater than the test load used in the high speed performance test specified in S5.5 of Motor Vehicle Safety Standard No. 109 for that tire.

S4.3 *Placard.* A placard, permanently affixed to the glove compartment door or an equally accessible location, shall display the—

(a) Vehicle capacity weight;

(b) Designated seating capacity (expressed in terms of total number of occupants and in terms of occupants for each seat location);

(c) Vehicle manufacturer's recommended cold tire inflation pressure for maximum loaded vehicle weight and, subject to the limitations of S4.3.1, for any other manufacturer-specified vehicle loading condition; and

(d) Vehicle manufacturer's recommended tire size designation.

S4.3.1 No inflation pressure other than the maximum permissible inflation pressure may be specified unless—

(a) It is less than the maximum permissible inflation pressure;

(b) The vehicle loading condition for that pressure is specified; and

(c) The tire load rating from Table I of Motor Vehicle Safety Standard No. 109 for the tire at that pressure is not less than the vehicle load on the tire for that vehicle loading condition.

S4.4 *Rims.*

S4.4.1 *Requirements.* Each rim shall:

(a) Be constructed to the dimensions of a rim specified for the applicable tire's size designation in a reference cited in the definition of test rim in S3. of Motor Vehicle Safety Standard No. 109.

(b) In the event of rapid loss of inflation pressure with the vehicle traveling in a straight line at a speed of 60 miles per hour, retain the deflated tire until the vehicle can be stopped with a controlled braking application.

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223

FEDERAL REGISTER

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Agricultural Stabilization and Conservation Service
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Detailed list of Contents appears inside.

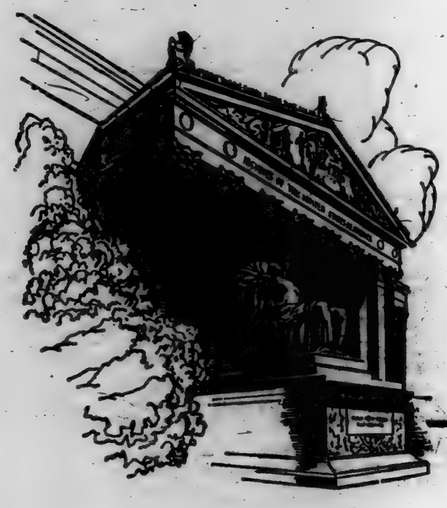

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Contents

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Proposed Rule Making

Mainland cane sugar area; 1968 sugar quota 15835

AGRICULTURE DEPARTMENT

See also Agricultural Stabilization and Conservation Service; Consumer and Marketing Service.

Notices

Designation of areas for emergency loans:
Indiana 15840
Texas 15840

ATOMIC ENERGY COMMISSION

Notices

Niagara Mohawk Power Corp.; issuance of order extending latest completion date of provisional construction permit 15849

BUSINESS AND DEFENSE SERVICES ADMINISTRATION

Notices

Notice of decision on applications for duty-free entry of scientific articles:
Ames Research Center (NASA) .. 15842
Baylor University Medical Center 15841
Children's Hospital Research Foundation 15846
Cornell University 15845
Duke University Medical Center 15841
Florida State University et al ... 15845
Fresno State College 15841
Margaret Sanger Research Bureau 15842
Ohio State University 15846
Purdue University 15847
Research Foundation of State University of New York 15842
State University of New York at Buffalo 15843
University of California et al ... 15844
University of Chicago 15843
University of Massachusetts ... 15847
University of Texas Southwestern Medical School at Dallas .. 15843
University of Washington Medical School et al 15844

CIVIL AERONAUTICS BOARD

Notices

Hearings, etc.:
Americana de Aviacion, S.A 15849
Deutsche Lufthansa Aktiengesellschaft 15849
Reading Aviation Service, Inc ... 15849
Scandinavian Airlines System Enforcement Proceeding 15850

CIVIL SERVICE COMMISSION

Rules and Regulations

Executive assignment system; adverse actions by the Commission 15805
Special revocation of exceptions ... 15805

Notices

Notice of grant of authority to make noncareer executive assignments 15850

COAST GUARD

Proposed Rule Making

Personnel exposure protection in lifesaving equipment and emergency electrical power for radiotelephone to be provided on Great Lakes tank and cargo vessels 15835

COMMERCE DEPARTMENT

See also Business and Defense Services Administration; Maritime Administration.

Rules and Regulations

Assistant Secretary for Domestic and International Business; change in nomenclature 15831
Procedures relating to reviews by the Secretaries of Commerce and Interior of actions taken under Public Law 89–805 15818

CONSUMER AND MARKETING SERVICE

Rules and Regulations

Grapefruit grown in the Indian River District in Florida; handling limitations 15806
Navel oranges grown in Arizona and designated part of California; handling 15805

CUSTOMS BUREAU

Notices

United Air Lines; notice of application for recordation of trade name 15839

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations

Airworthiness directives; Continental Models IO–470 and TSIO–470 engines 15808
Control zone; alteration 15809
Control zone and transition area:
Alteration 15809
Alteration and designation 15810
Notice of construction, alteration, activation and deactivation of airports; revision of notice form 15818
Standard instrument approach procedures; miscellaneous amendments 15811

Proposed Rule Making

Control zone and transition area:
Proposed alteration 15837
Proposed alteration and revocation 15838

FEDERAL HIGHWAY ADMINISTRATION

Rules and Regulations

Rule making procedures; motor vehicle safety standards 15818

FEDERAL MARITIME COMMISSION

Notices

Agreements filed for approval:
American West African Freight Conference 15850
Holland-America Line and Norwegian-America Line 15850
Niagara Frontier Port Authority and Buffalo Overseas Terminals, Inc 15851
South Atlantic & Caribbean Line, Inc 15851

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:
Bravo Oil Co., et al 15851
French, L. R., Jr., et al 15855
Juarez Gas Transmission Co., Inc. 15856
Kadiak Fisheries Co 15856
Kansas-Nebraska Natural Gas Co., Inc 15856
Shell Oil Co., et al 15856

FISH AND WILDLIFE SERVICE

Rules and Regulations

Waterfowl, coots and Wilson's Snipe; seasons and limits 15834

FOOD AND DRUG ADMINISTRATION

Notices

Petitions regarding food additives and pesticides:
Allied Chemical Corp 15848
American Cyanamid Co 15848
Chemargo Corp 15849
du Pont, E. I. de Nemours & Co ... 15849

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Food and Drug Administration.

Rules and Regulations

Delegations of authority 15833

INTERIOR DEPARTMENT

See also Fish and Wildlife Service.

Notices

Statements of changes in financial interests:
Bovier, Ralph F 15839
Davis, William Angus 15840
Fehr, Franklin Stuart 15840
Gregg, Donald B 15840
Porter, William C., Jr 15840
Wilkins, George Lester 15840
Witts, Seth N 15840

INTERNAL REVENUE SERVICE

Rules and Regulations

Income tax; nontaxable exchanges of certain U.S. obligations 15820

(Continued on next page)

INTERSTATE COMMERCE COMMISSION

Notices

Applications under sections 5 and 201a(b) 15861
Fourth section application for relief 15861
Motor carrier transfer proceedings 15861
Texas; transportation of hay and grain at reduced prices 15862

LABOR DEPARTMENT

See Wage and Hour Division.

MARITIME ADMINISTRATION

Notices

C4 troopships; notice of availability for conversion and restoration for commercial operation 15848

NATIONAL MEDIATION BOARD

Rules and Regulations

Minimum standards of conduct for employees of the National Mediation Board 15827
Rules of procedure; applications for service; availability of information 15831

PANAMA CANAL

Rules and Regulations

Employee responsibilities and conduct; miscellaneous amendments 15831

POST OFFICE DEPARTMENT

Notices

Permit imprints; preparation during pendency of postage rate bill 15839
Uniform quality control program; notice of new surcoat and culotes for female letter carriers and female special delivery messengers 15839

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:
Central Power and Light Co. 15857
Standard Shares, Inc., and Pittsburgh Railways Co. 15857

SMALL BUSINESS ADMINISTRATION

Rules and Regulations

Administration; miscellaneous amendments 15806

TRANSPORTATION DEPARTMENT

See Coast Guard; Federal Aviation Administration; Federal Highway Administration.

TREASURY DEPARTMENT

See Customs Bureau; Internal Revenue Service.

WAGE AND HOUR DIVISION

Notices

Certificates authorizing employment of learners at special minimum wages 15858

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

5 CFR

213 15805
305 15805
754 15805

7 CFR

907 15805
912 15806
PROPOSED RULES:
814 15835

13 CFR

101 15806

14 CFR

39 15808
71 (3 documents) 15809, 15810
97 15811
157 15818
PROPOSED RULES:
71 (2 documents) 15837, 15838

15 CFR

13 15818

23 CFR

216 15818

26 CFR

1 15820

29 CFR

1200 15827
1202 15831
1203 15831
1208 15831

32A CFR

Ch. VII 15831

35 CFR

255 15831

41 CFR

3-75 15833

46 CFR

PROPOSED RULES:
33 15835
94 15835
112 15835

50 CFR

10 15834

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Removal of Certain Positions From Schedule C

Part 213 is amended by adding a new § 213.3301a to remove from Schedule C those positions in grades GS–16, GS–17, and GS–18 in the executive branch which are covered by Civil Service Rule IX. Specific amendments to Schedule C identifying the positions that are no longer excepted under that Schedule will be issued in the near future. Effective November 17, 1967, § 213.3301a is added as follows:

§ 213.3301a Special revocation of exceptions.

The exception from the competitive service for each position in the executive branch listed in Schedule C which is classified in grade GS–16, GS–17, or GS–18, and is covered by Civil Service Rule IX (§ 9.1 of Subchapter A of this chapter) is revoked effective November 17, 1967. Each such position is removed from Schedule C effective November 17, 1967.

(5 U.S.C. 3301, 3302; E.O. 11315, 31 F.R., 3 CFR 1966 Comp., p. 165)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67-13607; Filed, Nov. 16, 1967; 8:51 a.m.]

PART 305—EXECUTIVE ASSIGNMENT SYSTEM

PART 754—ADVERSE ACTIONS BY THE COMMISSION

Limited Executive Assignments; Scope

Parts 305 and 754 are amended to provide that employees serving under limited executive assignments are eligible for within-grade increases and to extend to them the right of appeal from adverse actions by the Commission.

1. Effective November 17, 1967, § 305.509(e) is amended as set out below.

§ 305.509 Limited executive assignments.

* * * * *

(e) *Eligibility for within-grade increases.* An employee serving under a limited executive assignment is eligible for within-grade increases in accordance with Subpart D of Part 531 of this chapter.

(5 U.S.C. 3301, 3302; E.O. 10577, 19 F.R. 7521, 3 CFR 1954–58 Comp., p. 218; E.O. 11315, 31 F.R. 14729, 3 CFR, 1966 Supp., p. 165)

2. Effective November 17, 1967, § 754.101 is amended as set out below.

§ 754.101 Scope.

This part sets forth the procedures to be followed when the Director of the Commission's Bureau of Personnel Investigations or his designee (referred to in this part as the Director), acting under authority of § 5.4 or § 731.302(b) of this chapter, instructs an agency to remove or take other disciplinary action against an employee in the competitive service who was appointed subject to investigation under § 731.301 of this chapter and who has served more than one year under his current career, career-conditional, overseas limited, indefinite, or term appointment or under his current career or limited executive assignment.

(5 U.S.C. 1302, 3301, 3302, 7701; E.O. 10577, 19 F.R. 7521, 3 CFR 1954–58 Comp., p. 218; E.O. 10987, 27 F.R. 550, 3 CFR 1959–1963 Comp., p. 519)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67-13543; Filed, Nov. 16, 1967; 8:49 a.m.]

Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Amendment of Rules and Regulations

Notice was published in the FEDERAL REGISTER issue of November 7, 1967 (32 F.R. 15488), that the Department was giving consideration to a proposed amendment of the rules and regulations (Subpart—Rules and Regulations 7 CFR 907.100 et seq.; 32 F.R. 7839) currently in effect pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was submitted by the Navel Orange Administrative Committee, established pursuant to the amended marketing agreement and order as the agency to administer the provisions thereof.

During the time provided in said notice for written data, views, or arguments in connection with said proposal, the Navel Orange Administrative Committee submitted its recommendations, and considerations with respect thereto concerning an additional proposal. The committee recommended that the rules and regulations be further amended, concurrent with the original proposal, to (1) change § 907.112 thereof to provide that handlers shall report the date of delivery of oranges (to a purchaser or consignee) rather than the date of the applicable weekly regulation period as currently required, and (2) delete entirely the provisions of paragraph (c) of § 907.111 so that lending handlers will be enabled to receive repayment of loaned allotment at the times specified in their allotment loan agreements rather than at the time the allotment loans become immediately repayable under the current provisions.

After consideration of all relevant matter presented, including that in the notice, the recommendations, considerations, and information submitted by the committee, and other available information, it is hereby found that the amendment, as hereinafter set forth, of said rules and regulations is in accordance with said amended marketing agreement and order and will tend to effectuate the declared policy of the act in that it would facilitate more efficient scheduling of shipments of Navel oranges by handlers and contribute to more effective operations under said marketing agreement and order.

Therefore, said rules and regulations (Subpart—Rules and Regulations, 7 CFR 907.100 et seq.; 32 F.R. 7839) are hereby amended as follows:

1. The provisions of § 907.100 *Definitions* are amended by adding a new paragraph (f) reading as follows:

§ 907.100 Definitions.

* * * * *

(f) Whenever the term "week" or "weekly" appears in Part 907 it shall mean the period from Friday through the following Thursday.

2. Paragraph (c) *all oranges moved prior to payback date* of § 907.111 is deleted therefrom.

3. Paragraph (d) of § 907.111 is amended to read as follows:

§ 907.111 Allotment loans.

* * * * *

(d) *Confirmation.* All allotment loans made on Saturday shall be confirmed as required by § 907.57 but not later than 5 p.m. of the following Monday.

4. The provisions of § 907.112 are amended by deleting the language in paragraph (a) and substituting therefor the following:

§ 907.112 Assignment of allotment certificates.

(a) Date oranges delivered;

* * * * *

§ 907.113 [Amended]

5. Paragraph (b) of § 907.113 is amended by deleting the word "Monday" wherever it appears and substituting therefor the word "Friday."

§ 907.120 [Amended]

6. Paragraph (a) of § 907.120 is amended by deleting the word "Friday" wherever it appears and substituting therefor the word "Wednesday."

§ 907.140 [Amended]

7. Section 907.140 is amended by deleting the word "Monday" wherever it appears and substituting therefor the word "Friday."

8. Section 907.142 (32 F.R. 7839) is amended by designating the present provisions thereof as paragraph (a) and adding a new paragraph (b) reading as follows:

§ 907.142 Other reports.

* * * * *

(b) Upon request, each handler shall submit to the committee a completed N.O.A.C. Form No. 29—Inventory Report of Navel Oranges Controlled, showing therein: The specified inventory date; variety; field boxes of oranges picked to date; estimated number of field boxes remaining to be picked; field boxes of oranges in the packinghouse; cartons of oranges loaded on trucks and rail cars for Friday shipment; number of cartons of oranges in storage; number of cartons of oranges on the packinghouse floor; loose oranges on hand (converted to cartons); oranges on hand for products (converted to cartons); and the date when the handler plans to complete his orange picking operations. The report shall be signed by the handler or by his authorized representative.

It is hereby found that good cause exists for fixing the effective date hereof as November 17, 1967—the date specified in said notice—and for not postponing the effective date of this amendment (including the provisions thereof relative to § 907.111(c) and § 907.112) until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) such amendment should be made applicable for the entire season, which is expected to begin November 17, and be available for use by the time when weekly volume regulation may become effective for the season so as to avoid disruption of handler operations and to assure continuity, on a weekly basis, of regulations; (2) the procedures established by the amendments will provide more flexibility and contribute to more efficient operations by handlers and the committee; (3) to be of maximum benefit to handlers and the committee the amendment should be made effective at the time specified; and (4) the amendment will require, of handlers, no special preparations to comply therewith which cannot be completed by such effective time.

With regard to amendment of § 907.111 (c) and § 907.112 of said rules and regulations it is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in public rule-making procedure in that (1) the amendment of § 907.111(c) will relieve restrictions on handlers by enabling a lending handler to receive repayment of loaned allotment at the time specified in his agreement rather than at the time the allotment loan becomes immediately repayable under the current provisions, and (2) the amendment of § 907.112 will enable the committee to obtain more accurate and timely information as to the respective dates of orange deliveries for its records and deliberations relative to the need for volume regulation. Therefore, to be of maximum benefit these amendments should also be effective on November 17, 1967, and such effective date will require, of handlers, no preparations that cannot be completed by the effective time hereof.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 15, 1967, to become effective November 17, 1967.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-13616; Filed, Nov. 16, 1967; 8:51 a.m.]

[Grapefruit Reg. 47, Terminated]

PART 912—GRAPEFRUIT GROWN IN INDIAN RIVER DISTRICT IN FLORIDA

Limitation of Handling

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 912, as amended (7 CFR Part 912), regulating the handling of grapefruit grown in the Indian River District in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of other available information, it is hereby found that the limitation, as provided in Grapefruit Regulation 47 (32 F.R. 15632), of the handling of such grapefruit during the effective time thereof no longer tends to effectuate the order and the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective time of this termination action until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this action is based became available and the time when this action must become effective is insufficient, and this action relieves restrictions on the handling of grapefruit grown in the Indian River District in Florida.

It is, therefore, ordered, That Grapefruit Regulation 47 (§ 912.347, 32 F.R. 15632) is hereby terminated.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 13, 1967.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-13443; Filed, Nov. 16, 1967; 8:45 a.m.]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Amdt. 9]

PART 101—ADMINISTRATION

List of Public-Use SBA Forms

Part 101 of Title 13 of the Code of Federal Regulations is hereby amended by revising § 101.4 thereof to read as follows:

§ 101.4 List of public-use SBA forms.

Number	Date	Reference [1]	Title	Code [2]
1	7-67	ND 126-6	Purchase Order	P
1A	1-68	ND 126-6	Purchase Order (Continuation Sheet)	P
4(I)	10-66	ND 510-1	Application for Loan	P
4(II)	11-65	ND 510-1	Application for Loan (Statement of Personal History)	P
4	8-66	ND 510-1	Schedule A—Summary of Collateral Offered by Applicant as Security for Loan and SBA Appraiser's Evaluation Report.	P
4A	2-67	ND 510-1	Instruction Sheet (Form 4, Part 1 and Schedule A)	P
4B	4-66	ND 510-1	Essential Information Required for Loans to Producers of Minerals, Metals, Fuel Except Oil, and Gas (Mining Loans).	P

See footnotes at end of table.

Number	Date	Reference [1]	Title	Code [2]
2	10-67	ND 510-1	SBA Listing of Field Office Addresses	
2	12-66	ND 510-1	Authorization (Direct Loan Participation)	
2A	1-68	ND 510-1	Authorization (Loan Guaranty Plan)	
2(B)	8-66	ND 510-1	Part One Notice—Participation Loan	
2(C)	11-66	ND 400-1	Application for Small Business Site Determination	
2(D)	12-66	ND 510-1	Financial Statement	
2A	1-68	ND 510-1	Data to Support Balance Sheet	
2A	12-66	ND 615-1A	SBA Monthly Report of Collections	D
2A	12-66	ND 615-1A	Deferred Participation Loans Outstanding—Disaster Loans	D
2A			SBA Monthly Report of Loans	
2A			Representative Index	
2A	1-68	ND 1100-1	Quarterly Report on Deferred Participation or Guaranteed Loans	
2B	2-67	600-M-505	Qualification Inquiry	
2C	2-67	ND 1100-1	SBA Policy and Regulations Concerning Representatives and Their Fees	
3	8-66	ND 660-1	Note (Disaster—Direct Loan)	D
4	8-66		Authorization—Immediate Participation—Small Loan	
4	12-66		Authorization—Direct Loan—SOL Program	
4	11-66		Authorization—Loan Guaranty Plan—Small Loan	
4A	12-66	ND 510-1	Authorization—Immediate Participation—SOL Program	
4B	8-67	ND 510-1	Authorization—Direct Loan—SOL Program	
4C	8-67	ND 510-1	Authorization—Immediate Participation—SOL Program	
4(I)—Part I	12-66	ND 510-1	Application for Loan—Loan Guaranty Plan—SOL Program	
4(I)—Part II	1-67	ND 520-1	Personal Financial Statement	
4(I)—Part II	*10-66	ND 900-1	Form to Operate a Small Business Investment Company	
4(I)A	10-65	ND 900-1	Statement of Personal History and Qualification of Management	
4(I)A	4-66		Amendments to Proposal to Operate a Small Business Investment Company Under the Small Business Investment Act of 1958, as Amended.	
4(II)—Part I	2-61	Part-107	License Application (SBIC)	
4(II)	12-66	Part-107	Application for Loan and Extention	
4(II)A	12-66		Application for Membership in Small Business Production or Research and Development Pool	P,O
4(II)B	8-66		Small Business Administration License (SBIC)	P,O
4(II)B	8-66		(Copy)	
4(II)C	12-66		Subordinated Debenture	D
4(II)D	1-67	Part-107	Financial Report	
4(II)E	12-66	Part-107	Instructions for Preparation of the Financial Report	
4(II)F	1-68	Part-107	Compliance Examination Report	
4(II)G	1-68		Size Status Declaration	
4(II)H	1-68	ND 652-1	Application for Personal Property Sales Assistance Register	
4(II)H	3-68	ND 652-1	Application for Personal Property Sales Assistance	
4(II)I	1-68		Unified Order—Publications	
4(II)J	2-67	ND 652-1	Analysis and Recomputation of Repayments	
4(II)K	11-66	ND 652-1	Application for Loan (652)	
4(II)L	11-66	ND 652-1	Addendum to SBA Form 652	
4(II)M	11-66	ND 652-1	Information to be Submitted by the Small Business Concern to be Assisted by a Development Company Which is Applying for Section 502 Loan.	
5	1-67	ND 505-1	Statement of Personal History	
5	12-66	ND 505-1	Exhibit — to SBA Form 505	
5	1-67	ND 505-1	Exhibit — to SBA Form 505	
5A	12-66	600-M-505	Note (Timber Access Road Loan Program)	
5B	12-66	600-M-505	Note (Timber Access Road Loan Program)	
5C	1-67	600-M-505	Assignment of Rights Under Timber Sale Contract	
5D	1-67	600-M-505	Assignment of Rights Under Contract for Sale of Timber.	
6	12-66		Direct Loan Note	
6A	1-67		Questionnaire—Investment and Extension	
6A	8-67		Questionnaire—Small Business Administration Loans to Local Development Companies.	
7	8-67	ND 510-1	Bank Request for Loan Guaranty or Immediate Participation (SBLP-SEMP).	
8	8-66	ND 510-1	Applicant's Statement	
9	8-67	ND 510-1	Authorization Approving Bank's Request for SBA Participation.	
10	8-64		Essential Information for Substantial Economic Injury Disaster Loans.	
10A	7-66	ND 660-1	Occupancy Agreement Nursing Home	
10B	7-66	ND 660-1	Application for Disaster Loan—Business	
10C	7-66	ND 660-1	Application for Disaster Loan of $2,500 or Less	
10D	7-66	ND 660-1	Application for Disaster Loan—Home	
10E	7-66	ND 660-1	Application for Loan	
10F	8-66	ND 615-1A	Application for Certificate of Competency	
10G	8-66	ND 615-1A	Instructions for the Preparation of SBA Form 74	
10H	8-67	ND 615-1A	Biographic Outline—Proposed Members of SBA Advisory Committee	
11	8-67		Mailing Application—Free Management Assistance Publications	
11(MT)	8-67		Participation Agreement (Immediate—Serviced by Bank)	
12	2-66	ND 510-1	Simplified Early Maturities Participation Agreement	
12(S)	12-66	ND 510-1	Participation Agreement (Immediate—Serviced by SBA)	
13	1-68	ND 510-1	Disaster Participation Agreement Program (Immediate)	
13A	1-67	ND 660-1	Standby Agreement	
13(S)	12-66	ND 660-1	Request for Credit Information	
14	8-67	ND 660-1	Note (Direct Disaster in Excess of $1,000)	
15	8-67	ND 660-1	Note—Direct and SBA Serviced Immediate Participation Loans—Over $25,000.	
15A	8-67	600-M-505	Guaranty	
15B	8-67	600-M-505	Guaranty (Loan Guaranty Plan)	
15C	1-68	600-M-505	Participation Certificate	
15D	1-68	600-M-505	Guaranty (Loan Guaranty Plan)	
15E	1-68	600-M-505	Participation Certificate	
15F	12-66	600-M-505	Loan Agreement	
15G	12-66	600-M-505	Loan Agreement (Loan Guaranty Plan)	
15H	1-68	600-M-505	Note (Participation)	
15I	7-66	600-M-505	Note—Bank Serviced Immediate Participation Loans—Over $25,000.	
15J	8-67	600-M-505	Standby Agreement (Participation Loan)	
15K	8-67	ND 660-1	Certificate of Interest	
15L	8-67	600-M-505	Certificate of Interest	
15M	8-67	600-M-505	Certificate of Interest	
15N	8-67	600-M-505	Participation Certificate	
15O	8-67	ND 510-	Compensation Agreement—Loan Services in Connection with Small Business Administration.	
15P	8-67	ND 660-1	Resolution of Board of Directors of (Applicant)	
15Q	8-67	ND 660-1	Certificate as to Partner	
15R	8-67	ND 660-1	Loan Agreement	
15S	10-66	ND 660-1	Registration of Manufacturing Facilities for Small Business Concerns	
15T	8-66	ND 660-1	Subcontracting Plan (Construction—General Contractor or Servicing Plan for Small Business Concerns.	
15U	8-66	ND 660-1	Registration of Small Business Research and Development Concerns.	
15V	1-68	ND 660-1	Report of Transactions on Loans Serviced by Banks	
15W	1-68	600-M-505	Report of Transactions on Loan Serviced by Bank (EMP-SEMP).	
16	1-68	ND 660-1	Notice of Assignment (Original)	
16A	1-68	ND 660-1	Notice of Loan Payment Due	
16B	1-68	ND 660-1	Subordination of Assigned Accounts Receivable	
16C	1-68	ND 660-1	Notice of Loan Payment Due	
16D	1-68	ND 660-1	Receipt for Payment	
17	1-68	ND 660-1	Confidential Bank Credit Report	
17(D)	1-68	ND 660-1	Authorization (Disaster-Residential-Direct)	
17A	1-68	ND 660-1	Authorization (Disaster Business Loans-Direct)	
17B	1-68	ND 660-1	Blanket Bond—Assignment of Loan	
17C	1-68	ND 660-1	Report of Loan Closing	
17D	1-68	ND 660-1	Questionnaire—Small Business Loans Not Over $25,000	
17E	1-68	ND 660-1	Note (Direct Loan Not Over $25,000)	
17F	1-68	ND 660-1	Note—Bank Serviced Immediate Participation Loans—$25,000 or Less.	
17G	1-68	ND 660-1	Computation and Transmittal Notice (Bank's Share)	
18	8-67	ND 615-1	Application for Surety Bond Guarantee	
18A	8-67	ND 615-1	Application for Surety Bond Guarantee (Individual Surety)	
19	8-67	ND 615-1	Agreement of Indemnity	
19A	8-67	ND 615-1	Agreement of Indemnity (Individual Surety)	
20	8-67	ND 615-1	Power of Attorney	
20A	8-67	ND 615-1	Power of Attorney (Individual Surety)	
20B	8-67	ND 615-1	Power of Attorney (Substitute)	
20C	8-67	ND 615-1	Power of Attorney (Substitute—Individual Surety)	
21	8-67	ND 615-1	Consent of Surety	
21A	8-67	ND 615-1	Consent of Surety (Individual Surety)	
22	8-67	ND 615-1	Consent of Surety (Substitute)	
22A	8-67	ND 615-1	Consent of Surety (Substitute—Individual Surety)	
23(S)	8-67	ND 615-1	Bond Guarantee Agreement	
23A	8-67	ND 615-1	Bond Guarantee Agreement (Individual Surety)	
23B	8-67	ND 615-1	Bond Guarantee Agreement (Substitute)	
23C	8-67	ND 615-1	Bond Guarantee Agreement (Substitute—Individual Surety)	
24	8-67	ND 615-1	Indemnity Agreement	
24A	8-67	ND 615-1	Indemnity Agreement (Individual Surety)	
25	8-67	ND 615-1	Indemnity Agreement (Substitute)	
25A	8-67	ND 615-1	Indemnity Agreement (Substitute—Individual Surety)	
25B	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans)	
25C	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Individual Surety)	
25D	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute)	
25E	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
26	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
26A	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
27	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
27A	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
28	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
28A	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
29	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
29A	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
29B	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
29C	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
29D	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
30	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
30A	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
30B	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
30C	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
30D	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
30E	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
30F	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
30G	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
30H	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
30I	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
30J	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
30K	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
30L	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
30M	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
30N	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
30O	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
30P	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
30Q	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
30R	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
30S	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
30T	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
30U	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
30V	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
30W	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
30X	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
30Y	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	
30Z	8-67	ND 615-1	Bond Guarantee Agreement (Immediate Participation Loans—Substitute—Individual Surety)	

See footnotes at end of table.

Number	Date	Reference [1]	Title	Code
529A	12-66	ND 510-1	Authorization Approving Bank's Request for SBA Participation (SEMP).	P
529B	8-66	ND 510-1	Authorization Approving Bank's Request for SBA Guaranty.	P
530	9-61	ND 510-1	Note (SBLP)	P
530A	7-65	ND 510-1	Note (SEMP)	P
530B	7-65	ND 510-1	Note (SBLP—Immediate Participation Only)	P
532	12-65	Part-107	Condensed Financial Statement	P
543	1-67	ND 625-1	Sales Assistance Register—Information	P
546	1-62		Note (Bank Disbursed Loan)	P
548	3-62		Assignment Agreement	P
554	3-67	ND 535-1	Contents of Portfolio	P
557	4-63		Contractor's Proposal of Costs	PC
558	4-62		Invoice—Claim for Reimbursement	PC
558A	4-62		Itemization of Direct Costs—Salaries	PC
558B	4-62		Itemization of Direct Costs—Transportation and Communications.	PC
558C	4-62		Itemization of Direct Costs—Supplies and Equipment.	PC
559	4-62	ND 620-1	Facilities Inventory Registration (Post Card)	P
563	5-62		Conference ID Card	P
574	3-63	ND 535-1	Certificate of Incorporation for Local Development Companies.	P
578A	8-63	ND 1030-1	Subpoena Duces Tecum	P
579A	8-63	ND 1030-1	Subpoena	P
591	3-65	ND 510-1	Certification of Fees Paid in Connection with SBLP or SEMP Loan.	P
592	11-65	ND 650-1	Starting a New Business	P
593	5-63	ND 650-1	Workshop for Prospective Small Business Owners—Worksheets.	P
596	7-65	ND 650-1	Laundry and Cleaning Plants and Agencies	P
597	2-67	ND 510-1	Guaranty Agreement (Deferred Participation)	P
598	5-67	ND 320-1	Application for Liquidity Privilege	P
601	9-65	ND 1500-2A	Applicant's Agreement of Compliance	P
601A	3-64	ND 1500-2A	Agreement of Amendment of Contract to Conform with Requirements of SBA Form 601.	P
608	12-66	ND 535-1	Information for Inquiries on Section 502 Applications for Guarantee or Loan.	P
610	10-66	ND 630-1	Application for Registration as a Score Volunteer and Request for Counseling Assignment.	P
613	6-67		SBA Business Inquiry	P
639	6-67	ND 630-1	SCORE Case Report	P
641	10-65	ND 630-1	Request for Counseling	P
650	1-67	ND 150-2A	Communication Acknowledgm (Post Card)	P
652	2-66	ND 1500-3A	Applicant's Assurance of Compliance	P
652A	2-66	ND 1500-3A	Applicant Licensee's Assurance of Compliance	P
652B	7-67	ND 1500-3A	Assurance of Compliance	P
652C	4-67	ND 1500-3A	Applicant's Contingent Assurance of Compliance	P
652D	8-67	ND 1500-3A	Assurance of Compliance	P
654	2-66		Control Report	P
662	3-66		Agreement	P
663	3-66		Guaranty Agreement	P
666	11-65	ND 1030-1	Portfolio Confirmation Request	R
667	6-67	ND 1030-1	Custodian Confirmation Request	R
668	11-65		Bank and Savings Institution Confirmation Request	R
670	11-65		Participation Purchased Confirmation Request	R
671	11-65		Participations Sold Confirmation	R
672	11-65		SBC Confirmation Request	R
674	11-65		Confirmation Request for Amount Due	R
680	6-66	ND 510-1	SBDC Client Interview Form	R
684	3-66		Program Evaluation Report	R
685	10-65		Notice—Mailing List Revision for Aids	P
696	11-65		Liability Certificate	R
702	1-66		"Thank You"	P
714	9-66	ND 560-1	Letter for DBL Notification	P
722	9-66	ND 1500-6	Equal Employment Opportunity Poster	P
723	9-66	ND 625-1	Small Business Certification Required on All Preferential Sales of Set-Aside Timber.	P
727		ND 630-1	SCORE Identification Card	P
729	9-67	ND 510-1	SBA Special Conditions for RAA Nonresidential Rehabilitation Loans.	P
740	12-66	500-M-500	Certification and Receipt	P
750	6-67		Blanket Loan Guaranty Agreement Between and SBA.	P
751	6-67	ND 510	Application for Loan Under Blanket Guaranty	P
770	5-67		Financial Statement of Debtor	P
774	6-67	ND 1250-2	Request for SBA Forms, Documents, Records and Other Information.	P
775	7-67		Form Letter—Status of Indebtedness	PC
778	7-67	ND 1250-2	Request for Agency Information or Records	P
779	7-67		Interest Paid During the Calendar Year	PC
782	6-67		Report of Bank Contact	PC
786	7-67		Form Letter re Voluntary Deductions	PC
787	9-67		Form Letter to CPAs re Bank's Participation	PC
788	8-67	ND 205-1	SBA Returned Unpaid Remittance	P
798	9-67	ND 1500-10	Notice to New SBA Borrowers	P

[1] Explanation of reference symbols:
ND—SBA National Directive, e.g., ND 125-8.
M—SBA Manual, e.g., 500-M-503.
Part—Part of 13 CFR (SBA Rules and Regulations), e.g., Part 107.

[2] Explantion of code symbols:
P&PC—SBA forms used by the public when applying for or obtaining SBA assistance or when providing services for SBA.
Forms available in both the Washington and field offices—P
Forms available only in the Washington Office—PC
R&RC—SBA forms used by SBA or under SBA sponsorship to solicit information from 10 or more persons (other than Federal employees). These forms have Bureau of the Budget approval, as required by the Federal Reports Act of 1942.
Forms available in both the Washington and field offices—R
Forms available only in the Washington Office—RC

Effective date: September 29, 1967.

R. C. Moor,
Administrator.

[F.R. Doc. 67-13530; Filed, Nov. 20, 1967; 8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

Subchapter C—Aircraft

[Docket No. 67-CE-6-AD; Amdt. 39-509]

PART 39—AIRWORTHINESS DIRECTIVES

Continental Models IO-470 and TSIO-470 Engines

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive with respect to Continental Models IO-470 and TSIO-470 engines was published in the FEDERAL REGISTER (32 F.R. 7598) on May 24, 1967. The proposal required retirement within the next 200 hours' time in service after the effective date of the AD of those reground or chrome plated cylinder assemblies, Part No. 626820, installed on the aforementioned Continental Model engines which are not impression stamped with the letter "H" on the top edge of the rocker box flange over the exhaust valve. These cylinders are commonly referred to as "Non-H" cylinders while those impression stamped with the letter "H" are referred to as "H" cylinders.

On August 25, 1967, a supplemental notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 12405) which modified the original proposal by proposing the prevention of further installation of the reground or chrome plated "Non-H" cylinders, but permitting engines in which these cylinders were already installed to be operated until the next overhaul provided that inspections were conducted at intervals of 25 hours of operation. The supplemental notice also advised the public that the agency was conducting a study concerning the service experience with both "H" and "Non-H" cylinders whether unmodified, reground, or chrome plated and was soliciting comments from the industry in these respects in order to determine if the original proposal should be further modified.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Numerous comments were received, a few of which supported the amendment while the majority felt that compliance with the proposal and supplemental proposal were too severe. After analyzing both the comments received and the results of the agency study, the evidence indicates that fatigue cracks are as likely to occur on the unmodified "Non-H" cylinders as on the reground or chrome plated "Non-H" cylinders. The information now available discloses that a majority of these cracks were detected during inspections to locate the source of an oil leak or to establish the reason for some abnormal operating condition. Therefore the agency has determined it can further modify the amendment so as to be less burdensome to the user and at the same time still achieve the desired level of safety. Accordingly, the agency is issuing an AD which will require inspection of all "Non-H" Part No. 626820 cylinders at 25 hour intervals for any indication of fatigue cracks. These inspections may be accomplished by the holder of a pilot's certificate issued under Part 61 of the Federal Aviation Regulations on any aircraft owned or operated by him that is not used in air carrier services. If indications of cracks are noted, a certificated power plant mechanic must determine the cause of these indications and correct any unairworthy condition discovered prior to return to service.

Since this amendment further modifies the original and supplemental proposals, and imposes no additional burden on any person, further notice and public procedure hereon are unnecessary.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), section 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

CONTINENTAL. Applies to Models IO-470-D, IO-470-E, IO-470-F, IO-470-H, IO-470-L, IO-470-M, IO-470-N, IO-470-S, IO-470-U, IO-470-V, and TSIO-470-B, TSIO-470-C, TSIO-470-D engines which have "Non-H" cylinder assemblies installed.

Compliance required as indicated, unless already accomplished.

To detect initial failure of Part No. 626820 cylinder assemblies, not having the letter "H" impression stamped on the top edge of the rocker box flange over the exhaust valve, installed on the above referred to Continental Model engines, within the next 25 hours' time in service after the effective date of this AD, and thereafter at intervals of not to exceed 25 hours' time in service from the last inspection, accomplish the following:

(a) Visually inspect the circumference of the cylinder assembly at the junction of the aluminum head and steel barrel for oil leaks and/or combustion product stains. Engine permanent maintenance record entry must be made to reflect AD compliance.

NOTE: In order to perform the inspection required by paragraph (a) of this AD, it may be necessary to remove engine cowling or access doors to permit visual examination with mirrors or other visual aids of the prescribed area of the cylinder. If the engine is clean and free of oil in the area to be inspected, the inspection required by paragraph (a) may be performed without further cleaning of the engine. If oil leakage from an unknown source has caused a generally oily condition, the engine should be washed down and run up to normal operating conditions prior to the inspection required by paragraph (a). During the inspection it may also be helpful to rotate the propellar to detect significant differences in compression between cylinders or audible compression leakage through a crack in the cylinder barrel.

(b) The inspection(s) required by paragraph (a) must be performed by those persons authorized to perform inspections under Federal Aviation Regulation 43.3 except that on aircraft not utilized in air carrier services the inspection(s) may be performed by the holder of a pilot's certificate issued under Part 61 of the Federal Aviation Regulations on any aircraft owned or operated by him.

(c) If oil leaks and/or combustion product stains are found at the junction of the cylinder head and barrel during an inspection required by paragraph (a), before further flight, a certificated power plant mechanic shall investigate and establish the source of these conditions. If a cylinder barrel crack is found, the cracked cylinder must be replaced with an airworthy part.

(d) Defective cylinders found during the inspections required by this AD shall be reported on a completed FAA Form 1236 and the form forwarded to Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Central Region.

This amendment becomes effective December 17, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Kansas City, Mo., on November 8, 1967.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 67-13531; Filed, Nov. 16, 1967; 8:46 a.m.]

Subchapter E—Airspace

[Airspace Docket No. 67-WE-69]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone Description

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to amend the description of Sacramento County Metropolitan Airport, Sacramento, Calif., control zone. The name of Sacramento County Metropolitan Airport has recently been changed to "Sacramento Metropolitan Airport." Action herein is necessary to reflect the name change.

In § 71.171 (32 F.R. 11632) the Sacramento, Calif. (Sacramento County Metropolitan Airport), control zone is amended by deleting "• • • County • • •" wherever it appears in the title or description of the control zone.

Since this change is editorial in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary, and good cause exists for making this amendment effective in less than 30 days.

Issued in Los Angeles, Calif., on October 26, 1967.

Effective date. This amendment is effective upon publication in the FEDERAL REGISTER.

ARVIN O. BASNIGHT,
Director, Western Region.

[F.R. Doc. 67-13532; Filed, Nov. 16, 1967; 8:46 a.m.]

[Airspace Docket No. 67-SO-105]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

The purpose of these amendments to Part 71 of the Federal Aviation Regulations is to alter the Huntsville, Ala., control zone and transition area.

The Huntsville control zone is described in § 71.171 (32 F.R. 2071 and 11631).

The Huntsville transition area is described in § 71.181 (32 F.R. 2148 and 11631).

The requirement for controlled airspace protection at the old Huntsville-Madison County Airport no longer exists and the operators at this airport have requested that it be excluded from the control zone to eliminate an unnecessary burden on VFR flight activities. Accordingly, it is necessary to alter the control zone and transition area by revoking the designated airspace for the old Huntsville-Madison County Airport and altering the control zone to exclude the airspace within a 1-mile radius of the old Huntsville-Madison County Airport.

Since these amendments are less restrictive in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.171 (32 F.R. 2071), the Huntsville, Ala., control zone (32 F.R. 11631) is amended as follows: "• • • within a 5-mile radius of the old Huntsville-Madison County Airport (lat. 34°41'18" N., long. 86°35'20" W.); within 2 miles each side of the Huntsville VOR 160° radial, extending from the 5-mile radius zone to the VOR; within 2 miles each side of the old Huntsville ILS localizer north course, extending from the 5-mile radius zone to 6 miles north of the airport; and within 3 miles north and 2 miles south of the extended centerline of runway 5, extending from the 5-mile radius zone to a point 8.5 miles northeast of the airport • • •" is deleted and "• • • excluding the airspace within a 1-mile radius of the old Huntsville-Madison County Airport (lat. 34°41'18" N., long. 86°35'20" W.) • • •" is substituted therefor.

In § 71.181 (32 F.R. 2148), the Huntsville, Ala., transition area (32 F.R. 11631) is amended as follows: "• • • within a 15-mile radius of lat. 34°40'00" N., long. 86°37'30" W. • • •" is deleted.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348(a))

Issued in East Point, Ga., on November 6, 1967.

JAMES S. ROGERS,
Director, Southern Region.

[F.R. Doc. 67-13533; Filed, Nov. 16, 1967; 8:46 a.m.]

[Airspace Docket No. 67-SO-66]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Designation of Transition Area

On September 27, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 13526), stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the Dothan, Ala., control zone and designate the Dothan, Ala., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable except those submitted by the U.S. Army.

The U.S. Army objected to the proposal on the basis that the 700-foot transition area would place additional limitations upon aeronautical activity at the uncharted Goldberg AHP (lat. 31°24'57" N., long. 85°27'47" W.). They requested, due to increased traffic and the assigned mission of Goldberg AHP, the airspace within a 1.5-mile radius of Goldberg AHP be excluded from the 700-foot transition area. They also advised that immediate action would be initiated to have Goldberg AHP published on Sectional Aeronautical Charts.

Further review of terminal airspace requirements for Dothan Airport was conducted in light of the comments submitted by the U.S. Army. This review disclosed that AL-123-VOR/DME-RWY-12 instrument approach procedure could be adjusted to eliminate the proposed northwest arrival extension to the control zone and permit excluding the airspace within a 1.5-mile radius of Goldberg AHP from the transition area. Since these adjustments would have no adverse effect upon the instrument approach procedure nor the controlled airspace requirements, it is necessary to alter the control zone and transition area accordingly.

Subsequent to the publication of the notice, the geographic coordinate (lat. 31°19'10" N., long. 85°27'30" W.) for Dothan Airport (lat. 31°21'45" N., long. 85°18'30" W.) for Headland Municipal Airport, and (lat. 31°11'55" N., long. 85°20'55" W.) for Baker's Skytel Airport, was obtained from Coast and Geodetic Survey.

Since these alterations and the adding of airport coordinates are either editorial or less restrictive in nature, they are incorporated in this rule.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., January 4, 1968, as hereinafter set forth.

In § 71.171 (32 F.R. 2071), the Dothan, Ala., control zone (32 F.R. 3438) is amended to read:

DOTHAN, ALA.

Within a 5-mile radius of Dothan Airport (lat. 31°19'10" N., long. 85°27'30" W.); within 2 miles each side of the Dothan VORTAC 156° radial, extending from the 5-mile radius zone to 8 miles southeast of the VORTAC; and within a 1.5-mile radius of the Baker's Skytel Airport (lat. 31°11'55" N., long. 85°20'55" W.).

In § 71.181 (32 F.R. 2148), the following transition area is added:

DOTHAN, ALA.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Dothan Airport (lat. 31°19'10" N., long. 85°27'30" W.), excluding the portion which coincides with the Fort Rucker, Ala., transition area, the airspace within a 1.5-mile radius of Headland Municipal Airport (lat. 31°21'45" N., long. 85°18'30" W.) and the airspace within a 1.5-mile radius of Goldberg AHP (lat. 31°24'57" N., long. 85°27'47" W.).

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348(a))

Issued in East Point, Ga., on November 2, 1967.

JAMES S. ROGERS,
Director, Southern Region.

[F.R. Doc. 67-13334; Filed, Nov. 16, 1967; 8:48 a.m.]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 8519; Amdt. 568]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

The amendments to the standard instrument approach procedures contained herein are adopted to become effective when indicated in order to promote safety. The amended procedures supersede the existing procedures of the same classification now in effect for the airports specified therein. For the convenience of the users, the complete procedure is republished in this amendment indicating the changes to the existing procedures.

As a situation exists which demands immediate action in the interests of safety in air commerce, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In view of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 97 (14 CFR Part 97) is amended as follows:

1. By amending the following automatic direction finding procedures prescribed in § 97.11(b) to read:

ADF STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for an route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Racine Int	LOM	Direct	2500	T-dn	300-1	300-1	200-½
MKE VOR	LOM	Direct	2500	C-dn	500-1	500-1	500-1½
Cardinal Int	LOM	Direct	2700	S-dn-1	500-1	500-1	500-1
Wind Lake Int	LOM	Direct	2500	A-dn	900-2	900-2	900-2
Horlick Int	LOM	Direct	2500				
Big Bend Int	LOM	Direct	2500				
Oakwood Int	LOM (final)	Direct	2509				

Radar available.
Procedure turn E side of crs, 186° Outbnd, 006° Inbnd, 2500' within 10 miles.
Minimum altitude over facility on final approach crs, 2509'.
Crs and distance, facility to airport, 006°—5.5 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.5 miles after passing LOM, climb to 2700' on 006° bearing from LOM, proceed direct to Cardinal Int or, when directed by ATC, climb to 2600' and proceed to MKE VOR via MKE R 110°.
NOTE: Runway 1 LOM named METRO.
MSA within 25 miles of facility: 090°-270°—2200'; 270°-090°—2800'.

City, Milwaukee; State, Wis.; Airport name, General Mitchell Field; Elev., 722'; Fac. Class., LOM; Ident., MK; Procedure No. NDB(ADF) Runway 1, Amdt. 22; Eff. date, 9 Dec. 67; Sup. Amdt. No. ADF 1, Amdt. 21; Dated, 3 Dec. 66

LBF VOR	LED NDB	Direct	4600	T-dn	300-1	300-1	200-½
				C-dn	500-1	500-1	500-1½
				S-dn-30	400-1	400-1	400-1
				A-dn	900-2	900-2	900-2

Procedure turn E side of crs, 120° Outbnd, 300° Inbnd, 4600' within 10 miles.
Minimum altitude over Bignell Int on final approach crs, 3479'; over facility, 3179'.
Crs and distance, facility to airport, 300°—0.8 mile; Bignell Int to facility, 300°—3.5 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile after passing LED NDB, make right-climbing turn to 4600' on 120° bearing from LED NDB within 10 miles, make left turn and return to LED NDB.
NOTES: (1) Final approach from holding pattern at NDB not authorized. Procedure turn required. (2) ADF/VOR receivers required.
CAUTION: When departing N and NW plan flight to avoid 3627' tower, 4.5 miles NNW of airport.
MSA within 25 miles of facility: 270°-090°—4700'; 090°-180°—4200'; 180°-270°—5400'.

City, North Platte; State, Nebr.; Airport name, Lee Bird Field (Municipal); Elev., 2779'; Fac. Class., NDB; Ident., LED; Procedure No. NDB(ADF)-1 Runway 30, Amdt. 1; Eff. date, 9 Dec. 67; Sup. Amdt. No. NDB(ADF)-1 Runway 30 Orig.; Dated, 30 Sept. 67

North Platte VOR	LBF RBn	Direct	4700	T-dn	300-1	300-1	200-½
				C-dn	500-1	500-1	500-1½
				A-dn	900-2	900-2	900-2

Procedure turn E side crs, 175° Outbnd, 355° Inbnd, 4700' within 10 miles.
Minimum altitude over facility on final approach crs, 3600'.
Crs and distance, facility to airport, 355°—1.9 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 1.9 miles after passing LBF RBn, make right turn, climbing to 4700' on 175° bearing from LBF RBn within 15 miles, make right turn and return to LBF RBn.
NOTE: Final approach from holding pattern at RBn not authorized. Procedure turn required.
CAUTION: Aircraft departing northbound or northwestbound should plan flight to avoid 3627' tower 4.5 miles NNW of airport.
MSA within 25 miles of facility: 270°-090°—4700'; 090°-180°—4200'; 180°-270°—5400'.

City, North Platte; State, Nebr.; Airport name, Lee Bird Field (Municipal); Elev., 2779'; Fac. Class., H-SAB; Ident., LBF; Procedure No. NDB(ADF)-1, Runway 35, Amdt. 3; Eff. date, 9 Dec. 67; Sup. Amdt. No. ADF1, Amdt. 2; Dated, 6 Oct. 66

ADF STANDARD INSTRUMENT APPROACH PROCEDURES—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
North Platte VOR	LBF RBn	Direct	4700	T-dn	200-1	200-1	200-½
				C-dn	600-1	600-1	600-1½
				S-dn-36	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Procedure turn E side of crs, 176° Outbnd, 356° Inbnd, 4700' within 10 miles.
Minimum altitude over Morsa Int on final approach crs 3000'; over LBF RBn, 2200'.
Crs and distance, facility to airport 356°—1.9 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 1.9 miles after passing LBF RBn, make right turn, climbing to 4700' on 176° bearing from LBF RBn within 15 miles, make right turn and return to LBF RBn.
NOTES: (1) Final approach from holding pattern at RBn not authorized. Procedure turn required. (2) ADF/VOR receivers required.
CAUTION: Aircraft departing northbound or northwestbound should plan flight to avoid 3627' tower, 4.5 miles NNW of airport.
MSA within 25 miles of facility: 270°-090°—4700'; 090°-180°—4200'; 180°-270°—5400'.

City, North Platte; State, Nebr.; Airport name, Lee Bird Field (Municipal); Elev., 2779'; Fac. Class., H-SAB; Ident., LBF; Procedure No. NDB(ADF)-3, Runway 31, Amdt. 2; Eff. date, 9 Dec. 67; Sup. Amdt. No. ADF 2, Amdt. 1; Dated, 8 Oct. 66

Cardinal Int	LM LOM	Direct	2000	T-dn	200-1	200-1	200-½
St. Paul Int	LM LOM (final)	Direct	2000	C-dn	500-1	500-1	500-1½
STL VOR	LM LOM	Direct	2000	S-dn-12R◎	400-1	400-1	400-1
Lake RBn	LM LOM	Direct	2000	A-dn	800-2	800-2	800-2
ST LOM	LM LOM	Direct	2000				
Staunton Int	LM LOM	Direct	2000				
Barracks Int	LM LOM	Direct	2600				
Maryland Heights VOR	LM LOM	Direct	2200				
Imperial Int	LM LOM	Direct	2600				
Mounds Int	LM LOM	Direct	2100				

Radar available.
Procedure turn N side of crs, 297° Outbnd, 117° Inbnd, 2000' within 10 miles.
Minimum altitude over facility on final approach crs 2000'.
Crs and distance facility to airport 117°—5.3 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.3 miles after passing LM LOM, proceed to MTA VOR via Cardinal Int climbing to 2400' or, when directed by ATC, proceed to ST LOM via Cardinal Int climbing to 1900'.
CAUTION: Vehicular traffic crossing perpendicular to approach crs and extending above ALS 900' from threshold Runway 12R.
◎Sliding scale not authorized.
MSA within 25 miles of facility: 000°-090°—2160'; 090°-180°—2700'; 180°-270°—2200'; 270°-360°—2200'.

City, St. Louis; State, Mo.; Airport name, Lambert-St. Louis Municipal; Elev., 571'; Fac. Class., LOM; Ident., LM; Procedure No. NDB(ADF) Runway 12R, Amdt. 2; Eff. date, 9 Dec. 67; Sup. Amdt. No. ADF 3, Amdt. 1; Dated, 17 Sept. 66

San Lorenzo Int	SJP RBn	Direct	3000	T-dn	200-1	200-1	200-½
SJU-VOR	SJP RBn	Direct	1600	C-dn	600-1	600-1	600-1½
SJU RBn	SJP RBn	Direct	1600	S-dn-7R	600-1	600-1	600-1
Greenwater Int	SJP RBn	Direct	2000	A-dn	800-2	800-2	800-2
Coral Int	SJP RBn	Direct	1600				
Mangrove Int	SJP RBn	Direct	2000				
Caribbean Int	SJP RBn	Direct	2000				
Guaynabo Int	SJP RBn	Direct	3200				

Radar available.
Procedure turn* N side of crs, 286° Outbnd, 106° Inbnd, 1600' within 10 miles.
Minimum altitude over facility on final approach crs, 1000'.
Crs and distance, facility to airport, 075°—4.6 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.6 miles after passing SJP RBn, climb to 1100' on crs of 075° within 20 miles of SJP RBn.
*Nonstandard due to high terrain on S side of crs.
‡Reduction in landing visibility not authorized.
MSA within 25 miles of facility: 000°-090°—1300'; 090°-180°—5100'; 180°-270°—5100'; 270°-360°—1900'.

City, San Juan; State, P.R.; Airport name, Puerto Rico International; Elev., 9'; Fac. Class., MHW; Ident., SJP; Procedure No. NDB(ADF) Runway 7, Amdt. 9; Eff. date, 9 Dec. 67; Sup. Amdt. No. ADF 1, Amdt. 8; Dated, 14 May 66

PROCEDURE CANCELED, EFFECTIVE 9 DEC. 1967.

City, Shemya; State, Alaska; Airport name, Shemya AFS; Elev., 86'; Fac. Class., HW; Ident., SYA; Procedure No. 1, Amdt. 2; Eff. date, 4 Sept. 65; Sup. Amdt. No. 1; Dated, 20 June 64

Thornhurst VOR	LOM	Direct	3600	T-dn*	600-1	600-1	600-1
Hazleton VOR	LOM	Direct	3600	C-dn**	1000-1¼	1000-1¼	1000-1
Crystal Lake RBn	LOM (final)	Direct	3109	S-dn			
				A-dn	1200-2	1200-2	1200-2

Radar available.
Procedure turn W side of crs, 228° Outbnd, 048° Inbnd, 3600' within 10 miles of LOM.
Minimum altitude over facility on final approach crs, 3100'.
Crs and distance, facility to airport, 048°—3.9 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.9 miles after passing AV LOM, climb to 3600' on crs 063° from the AV LOM, climbing right turn to 4000' direct to Lake Henry VOR. Hold E, 1-minute right turns, Inbnd crs 265° or, when directed by ATC, climb to 3600' on crs 063° from the LOM, left turn direct AV LOM. Hold SW, 1-minute left turns, Inbnd crs, 060°.
NOTES: (1) High terrain to 1520' E, SE, and S of airport within 3.2 miles. (2) **Circling approaches are prohibited in that area SE of Runways 4/22 centerline extended. (3) *Takeoff Runways 10 and 16, day 600-2, night 800-2. (4) Reduction not authorized.
MSA within 25 miles of facility: 000°-090°—3600'; 090°-180°—3600'; 180°-270°—3600'; 270°-360°—3700'.

City, Wilkes-Barre-Scranton; State, Pa.; Airport name, Wilkes-Barre-Scranton; Elev., 956'; Fac. Class., LOM; Ident., AV; Procedure No. NDB(ADF) Runway 4, Amdt. 8; Eff. date, 7 Dec. 67; Sup. Amdt. No. NDB(ADF) Runway, Amdt. 8; Dated, 15 July 67

2. By amending the following very high frequency omnirange (VOR) procedures prescribed in § 97.11(c) to read:

VOR STANDARD INSTRUMENT APPROACH PROCEDURES

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
				T-d	300-1		
				C-d	500-1		
				S-d-4	500-1		
				A-d	NA	NA	NA

Procedure turn E side of crs, 196° Outbnd, 013° Inbnd, 1600' within 10 miles.
Minimum altitude over facility on final approach crs, 1600'; Atco Int, 1000'.
Crs and distance, facility to airport, 013°—14.2 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 14.2 miles after passing MIV VOR or 5 miles after passing Atco Int/9-mile DME Fix, make right-climbing turn to 1600' direct to MIV VOR, hold S, 1-minute right turns, Inbnd crs 013°.
NOTE: Use Millville altimeter setting.
MSA within 25 miles of facility: 000°-090°—1600'; 090°-180°—1600'; 180°-270°—1600'; 270°-360°—2100'.

City, Albion; State, N.J.; Airport name, Albion Airstrip; Elev., 150'; Fac. Class., L-BVORTAC; Ident., MIV; Procedure No. VOR Runway 4, Amdt. Orig.; Eff. date, 9 Dec. 67

PROCEDURE CANCELED, EFFECTIVE 7 DEC. 1967, OR UPON COMMISSIONING OF RELOCATED FACILITY.

City, Beaumont; State, Tex.; Airport name, Jefferson County; Elev., 16'; Fac. Class., BVOR; Ident., BPT; Procedure No. 1, Amdt. 7; Eff. date, 16 July 66; Sup. Amdt. No. 6; Dated, 16 May 64

				T-dn	300-1	300-1	200-½
				C-dn	500-1	500-1	600-1½
				S-dn-34	500-1	500-1	500-1
				A-dn	800-2	800-2	800-2

Procedure turn E side of crs, 187° Outbnd, 007° Inbnd, 1600' within 10 miles.
Minimum altitude over facility on final approach crs, 516'.
Facility on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile of BPT VOR, make climbing right turn and proceed to Waterway Int via BPT R 009°.
MSA within 25 miles of facility: 000°-090°—2100'; 090°-180°—2000'; 180°-270°—1400'; 270°-360°—1700'.

City, Beaumont; State, Tex.; Airport name, Jefferson County; Elev., 16'; Fac. Class., L-BVOR; Ident., BPT; Procedure No. VOR Runway 34, Amdt. Orig.; Eff. date, 7 Dec. 67 or upon commissioning of relocated facility.

R 200°, counterclockwise	R 120°	Via 8-mile DME Arc.	1700	T-d	300-1	300-1	NA
				C-d	600-1	600-1	NA
R 091°, clockwise	R 120°	Via 8-mile DME Arc.	1700	S-d-21‡	600-1	600-1	NA
8-mile arc, R 120°	CTY VORTAC (final)	Via R 120°	700	A-dn*	NA	NA	NA

Procedure turn N side of crs, 126° Outbnd, 306° Inbnd, 1700' within 10 miles.
Minimum altitude over facility on final approach crs, 700'.
Crs and distance, facility to airport, 306°—3.2 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.2 miles after passing CTY VORTAC, climb to 1700' on R 300° within 15 miles.
NOTE: Use Gainesville altimeter setting.
*Weather not available to the public.
‡Reduction not authorized.
MSA within 25 miles of facility: 000°-360°—1400'.

City, Cross City; State, Fla.; Airport name, Cross City; Elev., 42'; Fac. Class., L-BVORTAC; Ident., CTY; Procedure No. VOR Runway 31, Amdt. 11; Eff. date, 9 Dec. 67; Sup. Amdt. No. VOR Runway 31, Amdt. 10; Dated, 27 May 67

AOO VOR	CLN VORTAC	Via CLN, R 120°	4500	T-dn	300-1	300-1	
JST VORTAC	CLN VORTAC	Direct	4500	C-dn	800-1½	800-1½	
R 130°, CLN VORTAC counterclockwise	R 020°, CLN VORTAC	Via 10-mile DME Arc.	4500	A-dn	NA	NA	
				DME minimums:			
R 282°, CLN VORTAC clockwise	R 020°, CLN VORTAC	Via 10-mile DME Arc.	4500	C-dn	700-1	700-1	
10-mile DME Fix, R 020°, CLN VORTAC	CLN VORTAC (final)	Direct	3500				

Procedure turn E side of crs, 020° Outbnd, 200° Inbnd, 4000' within 10 miles.
Minimum altitude over facility on final approach crs, 3500'; over 3-mile DME Fix, R 200°, 2900'.
Crs and distance, facility to airport, 200°—5.3 miles; 3-mile DME Fix to airport, 200°—2.3 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.3 miles after passing CLN VOR, make a left-climbing turn to 4000'; return to CLN VORTAC, hold N, 1-minute right turns, 200° Inbnd.
NOTE: Use Altoona, Pa., altimeter setting.
MSA within 25 miles of facility: 000°-090°—3900'; 090°-180°—4200'; 180°-270°—4100'; 270°-360°—3500'.

City, Ebensburg; State, Pa.; Airport name, Ebensburg; Elev., 2098'; Fac. Class., L-BVORTAC; Ident., CLN; Procedure No. VOR-1, Amdt. Orig.; Eff. date, 9 Dec. 67

VOR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
10-mile DME Fix, R 060°, counterclockwise	10-mile DME Fix, R 022°	Via 10-mile DME Arc.	3500	T-dn%	300-1	300-1	200-½
				C-dn	800-2	800-2	800-2
10-mile DME Fix, R 022°	EPH VOR (final)	Direct	2800	S-dn-30	400-1	400-1	400-1
				A-dn	1000-3	1000-3	1000-3

Procedure turn N side of crs, 022° Outbnd, 202° Inbnd, 3500' within 10 miles.
Minimum altitude over facility on final approach crs, 2800'.
Crs and distance, facility to airport, 202°—4.9 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.9 miles after passing EPH VOR, turn left, climb direct to EPH VOR. Continue climb to 4000' on R 060° within 10 miles.
%Takeoffs all runways: Climb direct to EPH VOR, thence continue climb on R 060° EPH VOR within 10 miles so as to cross EPH VOR at or above: Southwestbound V-2 and V-448, 2800'; Westbound, V-2N, 2800'; all turns N side R 060°.
MSA within 25 miles of facility: 000°–090°—3600'; 090°–180°—2800'; 180°–360°—4700'.

City, Ephrata; State, Wash.; Airport name, Ephrata Municipal; Elev., 1272'; Fac. Class., H-BVORTAC; Ident., EPH; Procedure No. VOR Runway 20, Amdt. 10; Eff. date, 7 Dec. 67; Sup. Amdt. No. VOR 1, Amdt. 9; Dated, 27 Aug. 66

Wilton Int	JEF VOR	Direct	2900	T-d	500-1	500-1	500-1
Algoa Int	JEF VOR	Direct	2400	T-n	500-2	500-2	500-2
CBI VOR	Scott Int	Direct	2400	C-dn&&	700-1	700-1	700-1¼
Scott Int	Cole Int (final)	Direct	1800	S-dn-12&&@	700-1	700-1	700-1
Guthrie Int	JEF VOR	Direct	3000	A-dn&&	1000-2	1000-2	1000-2
Jamestown Int	Scott Int	Direct	2400				

Procedure turn S side of crs, 301° Outbnd, 121° Inbnd, 2400' within 10 miles.
Minimum altitude over facility on final approach crs, *1347' (*1347' when control zone not effective).
Facility on airport. Crs and distance, Cole Int to airport, 121°—5.8 miles breakoff point to Runway 12, 116°—0.9 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile after passing JEF VOR, climb to 2500' on JEF VOR, R 113° within 10 miles, make right turn and return to JEF VOR. Hold SE on JEF VOR, R 112°, 292° Inbnd, left turns.
NOTES: (1) Use Columbia, Mo., altimeter setting when control zone not effective. (2) If weather is below 1200–3, climb to 1200' on runway heading before departing to NE.
CAUTION: 986' tower located 1.3 miles W of airport. 1000' tower located 2.7 miles SE of airport. 1151' tower located 3.9 miles NE of airport. 1784' tower located 6.2 miles NE of airport.
&Circling and straight-in ceiling minimums are raised 100' and alternate minimums not authorized when control zone not effective.
&These minimums apply at all times for air carriers with approved weather reporting service.
@Reduction not authorized for nonstandard REIL.
MSA within 25 miles of facility: 000°–090°—2800'; 090°–180°—2300'; 180°–270°—2200'; 270°–360°—2700'.

City, Jefferson City; State, Mo.; Airport name, Jefferson City Municipal; Elev., 547'; Fac. Class., L-BVOR; Ident., JEF; Procedure No. VOR Runway, Amdt. 6; Eff. date, 7 Dec. 67; Sup. Amdt. No. VOR Runway 12, Amdt. 4; Dated, 20 July 67

Wilton Int	JEF VOR	Direct	2900	T-d	500-1	500-1	500-1
Algoa Int	JEF VOR	Direct	2400	T-n	500-2	500-2	500-2
CBI VOR	Scott Int	Direct	2400	C-dn&&	900-1	900-1	900-1¼
Scott Int	JEF VOR	Direct	2400	S-dn-30&&	900-1	900-1	900-1
Guthrie Int	JEF VOR	Direct	3000	A-dn&&	1000-2	1000-2	1000-2
Jamestown Int	Scott Int	Direct	2400				

Procedure turn S side of crs, 112° Outbnd, 292° Inbnd, 2400' within 10 miles.
Minimum altitude over facility on final approach crs, *1347' (*1447' when control zone not effective).
Facility on airport. Crs and distance, breakoff point to Runway 30, 296°—0.9 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile after passing JEF VOR, make right turn, climbing to 2500' on JEF VOR R 112° within 10 miles, make right turn and return to JEF VOR.
NOTES: (1) If weather is below 1200–2, climb to 1200' on runway heading before departing to NE. (2) Use Columbia, Mo., altimeter setting when control zone not effective.
CAUTION: 986' tower located 1.3 miles W of airport. 1000' tower located 2.7 miles SE of airport. 1151' tower located 3.9 miles NE of airport. 1784' tower located 6.2 miles NE of airport.
&These minimums apply at all times for air carriers with approved weather reporting service.
$Circling and straight-in ceiling minimums are raised 100' and alternate minimums not authorized when control zone not effective.
MSA within 25 miles of facility: 000°–090°—2800'; 090°–180°—2300'; 180°–270°—2200'; 270°–360°—2700'.

City, Jefferson City; State, Mo.; Airport name, Jefferson City Memorial; Elev., 547'; Fac. Class., L-BVOR; Ident., JEF; Procedure No. VOR Runway 30, Amdt. 4; Eff. date, 7 Dec. 67; Sup. Amdt. No. VOR Runway 30, Amdt. 3; Dated, 20 July 67

R 261°, LBF VOR counterclockwise	R 198°, LBF VOR	Via 7-mile DME Arc.	4700	T-dn	300-1	300-1	200-½
				C-dn	800-1	800-1	800-1¼
R 062°, LBF VOR clockwise	R 198°, LBF VOR	Via 7-mile DME Arc.	4700	A-dn	800-2	800-2	800-2
				Minimums with DME:			
7-mile DME Fix, R 198°	LBF VOR (final)	Direct	4100	C-dn	800-1	800-1	800-1¼

Procedure turn E side of crs, 198° Outbnd, 018° Inbnd, 4700' within 10 miles.
Minimum altitude over facility on final approach crs, 4100'; over 2.5-mile DME Fix (R 018°) 3629'.
Crs and distance, facility to airport 018°—5 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5 miles after passing LBF VOR, climb to 4700' on R 018° within 15 miles, make right turn and return to LBF VOR.
NOTE: Final approach from holding pattern at VOR not authorized. Procedure turn required.
CAUTION: Aircraft departing northbound or northwestbound should plan flight to avoid 3627' tower, 4.5 miles NNW of airport.
MSA within 25 miles of facility: 270°–090°—4700'; 090°–180°—4200'; 180°–270°—5400'.

City, North Platte; State, Nebr.; Airport name, Lee Bird Field (Municipal); Elev., 2779'; Fac. Class., L-BVORTAC; Ident., LBF; Procedure No. VOR Runway 18, Amdt. 11; Eff. date, 7 Dec. 67; Sup. Amdt. No. VOR 1, Amdt. 10; Dated, 6 Oct. 66

VOR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
R 161°, DAB VOR clockwise	R 256°	Via 8-mile DME Arc.	1500	T-dn	300-1	300-1	200-½
				C-dn	500-1	500-1	500-1¼
R 360°, DAB VOR counterclockwise	R 256°	Via 8-mile DME Arc.	1500	S-dn-09	500-1	500-1	500-1
				A-dn	NA	NA	NA
8-mile DME Fix, R 256°, DAB VOR	Korona VHF/LF/DME Fix (final)	Via R 256°	520	LF/DME minimums:			
				S-dn-8	400-1	400-1	400-1

Procedure turn N side of crs, 256° Outbnd, 076° Inbnd, 1500' within 10 miles.
Minimum altitude over Korona VHF/LF/DME Fix on final approach crs, 520'.
Crs and distance, Korona VHF/LF/DME Fix to airport, 076°—3 miles. Breakoff point to runway, 079°—0.7 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile o Daytona Beach VORTAC, make left-climbing turn to 1500' on R 360° of DAB VORTAC within 15 miles.
NOTE: Use Daytona Beach altimeter setting.
#Reduction below ¾ mile not authorized.
MSA within 25 miles of facility: 000°–090°—1300'; 090°–180°—1500'; 180°–270°—2100'; 270°–360°—1400'.

City, Ormond Beach; State, Fla.; Airport name, Municipal; Elev., 29'; Fac. Class., H-BVORTAC; Ident., DAB; Procedure No. VOR Runway 8, Amdt. 1; Eff. date, 9 Dec. 67; Sup. Amdt. No. VOR Runway 8, Orig.; Dated, 20 July 67

PROCEDURE CANCELED, EFFECTIVE 9 DEC. 1967.

City, Roswell; State, N. Mex.; Airport name, Roswell Municipal; Elev., 3628'; Fac. Class., H-BVORTAC; Ident., ROW; Procedure No. VOR Runway 3, Amdt. 7; Eff. date, 30 Mar. 67; Sup. Amdt. No. VOR 1, Amdt. 6; Dated, 17 July 65

3. By amending the following very high frequency omnirange—distance measuring equipment (VOR/DME) procedures prescribed in § 97.15 to read:

VOR–DME STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Pine Bluff VORTAC, R 000° clockwise	Pine Bluff VORTAC, R 180°	Via 12-mile DME Arc.	1800	T-dn	300-1	300-1	300-½
				C-dn	400-1	400-1	400-1¼
Pine Bluff VORTAC, R 276° counterclockwise.	Pine Bluff VORTAC, R 180°	Via 12-mile DME Arc.	1800	S-dn-35	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2
12-mile DME Fix, R 180°	9-mile DME Fix, R 180° (final)	Direct	1200				

Procedure turn W side of crs, 180° Outbnd, 360° Inbnd, 180' within 10 miles of 9-mile DME Fix PBF, R 180°.
Minimum altitude over 9-mile DME Fix on final approach crs, 1200'.
Crs and distance, 9-mile DME Fix to airport, 360°—4.3 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.3 miles after passing the 9-mile DME Fix, climb to 1500' direct to PBF VORTAC.
MSA within 25 miles of facility: 000°–270°—1700'; 270°–360°—2300'.

City, Pine Bluff; State, Ark.; Airport name, Grider Field; Elev., 205'; Fac. Class., L-BVORTAC; Ident., PBF; Procedure No. VOR/DME Runway 35, Amdt. Orig.; Eff. date, 7 Dec. 67

4. By amending the following instrument landing system procedures prescribed in § 97.17 to read:

ILS STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

From—	To—	Course and distance	Minimum altitude (feet)	Condition	Ceiling and visibility minimums: 2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots
MKE VOR	LOM	Direct	2500	T-dn**	300-1	300-1	300-1
Big Bend Int	LOM	Direct	2500	C-dn	800-1	800-1	600-1¼
Racine Int	LOM	Direct	2500	S-dn-1*§	300-1¼	300-1¼	300-1¼
Cardinal Int	LOM	Direct	2700	A-dn	600-2	600-2	600-2
Wind Lake Int	LOM	Direct	2500				
Horlick Int	LOM	Direct	2500				
Oakwood Int	LOM (final)	Direct	2500				

Radar available.
Procedure turn E side S crs, 126° Outbnd, 006° Inbnd, 2500′ within 10 miles.
Minimum altitude at glide slope intercept Inbnd, 2500′.
Altitude of glide slope and distance to approach end of runway at OM, 2370′—5.5 miles; at MM, 910′—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished climb to 2700′ on N crs of ILS and proceed direct to the Cardinal Int or, when directed by ATC, climb to 2800′ and intercept R 110° MKE VOR and proceed to MKE VOR.
NOTE: Runway 1 LOM named METRO.
*RVR (2400′). Descent below 927′ not authorized unless approach lights are visible.
**RVR (2400′) authorized Runway (1).
§400-¾ required when glide slope not utilized and 400-½ authorized with operative ALS except for 4-engine turbojets.
MSA within 25 miles of LOM: 090°–270°—2200′; 270°–090°—2500′.

City, Milwaukee; State, Wis.; Airport name, General Mitchell Field; Elev., 722′; Fac. Class., ILS; Ident., I-MKE; Procedure No. ILS Runway 1, Amdt. 28; Eff. date, 9 Dec. 67; Sup. Amdt. No. ILS-1, Amdt. 23; Dated, 5 Dec. 66

Cardinal Int	LM LOM	Direct	2600	T-dn§*	200-1	200-1	200-½
St. Paul Int	LM LOM (final)	Via STL, R 277 and NW crs LMR ILS.	----	C-dn	800-1	800-1	800-1¼
			2000	S-dn-12RG	400-1	400-1	400-1
STL VOR	LM LOM	Direct	2000	A-dn	600-2	600-2	600-2
Lake ERn	LM LOM	Direct	2000				
ST LOM	LM LOM	Direct	2000				
Staunton Int	LM LOM	Direct	2000				
Barnesboro Int	LM LOM	Direct	2600				
Maryland Heights VOR	LM LOM	Direct	2200				
Imperial Int	LM LOM	Direct	2600				
Mounds Int	LM LOM	Direct	2100				

Radar available.
Procedure turn N side of crs, 307° Outbnd, 127° Inbnd, 2000′ within 10 miles.
Minimum altitude over LOM on final approach crs, 2000′.
Crs and distance, LOM to airport, 127°—5.4 miles.
No glide slope.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.3 miles after passing LM LOM, proceed to MTS VOR via Cardinal Int, climbing to 2400′ or, when directed by ATC, proceed to ST LOM via Cardinal Int climbing to 1900′.
CAUTION: Vehicular traffic crossing perpendicular to approach crs and extending above ALS 980′ from threshold Runway 12R.
§RVR 2600′ authorized Runway 24.
GReduction not authorized.
MSA within 25 miles of LM LOM: 090°–090°—2100′; 090°–180°—2700′; 180°–270°—2200′; 270°–360°—2200′.

City, St. Louis; State, Mo.; Airport name, Lambert-St. Louis Municipal; Elev., 571′; Fac. Class., ILS; Ident., I-LMR; Procedure No. ILS Runway 12R, Amdt. 4; Eff. date 9 Dec. 67; Sup. Amdt. No. ILS-12R, Amdt. 3; Dated, 17 Sept. 66

Sweet Valley Int	CYE RBn	Direct	3800	T-dn§	600-1	600-1	600-1
Thornhurst VOR	CYE RBn	Direct	3800	C-dn*	1000-1½	1000-1½	1000-2
Effort Int	CYE RBn	Direct	3800	S-dn-4	600-1	600-1	600-1
Pocono Int	CYE RBn	Direct	3800	A-dn	1200-2	1200-2	1200-2
Scranton Int	CYE RBn	Direct	4000	With glide slope inoperative:			
Lopes Int	CYE RBn	Direct	3800	S-dn-4**	1000-1½	1000-1½	1000-2
Hazleton VOR	CYE RBn	Direct	3800				

Radar available.
Procedure turn W side SW crs, 223° Outbnd, 043° Inbnd, 3800′ within 10 miles of Crystal Lake RBn.
Minimum altitude at glide slope interception Inbnd final, 3775′ over Crystal Lake RBn.
Altitude of glide slope intercept and distance to approach end of runway at CYE RBn, 3775′—8.6 miles; at OM, 2229′—3.9 miles; at MM, 1177′—0.6.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.9 miles after passing AV LOM or 8.6 miles after passing Crystal Lake RBn, climb to 3800′ on crs 043° from the AV LOM, climbing right turn to 4000′ direct to Lake Henry VOR. Hold E, 1-minute right turns, Inbnd crs 226° or, when directed by ATC, climb to 3800′ on crs 043° from the LOM, left turn direct Crystal Lake RBn, hold SW, 1-minute left turns, Inbnd crs, 043°.
NOTES: (1) This approach is authorized only when Crystal Lake Radio Beacon is operating, or when Radar is utilized. (2) High terrain to 1820′ E, SE, and S of airport within 2.3 miles. (3) *Circling approaches are prohibited in that area SE of Runways 4/22 centerline extended. (4) Back crs unusable. (5) Glide slope unusable below 1556′. (6) Reduction not authorized.
§Takeoff minimums for Runways 10 and 16: Day—600-2, night—600-2.
**Maintain 2600′ until past LOM.
MSA within 25 miles of AV LOM: 090°–090°—2600′; 090°–180°—3200′; 180°–270°—3000′; 270°–360°—3700′.

City, Wilkes-Barre-Scranton; State, Pa.; Airport name, Wilkes-Barre-Scranton; Elev., 956′; Fac. Class., ILS; Ident., I-AVP; Procedure No. ILS Runway 4, Amdt. 21; Eff. date, 7 Dec. 67; Sup. Amdt. No. ILS Runway 4, Amdt. 20; Dated, 15 July 67

5. By amending the following radar procedures prescribed in § 97.19 to read:

RADAR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet, MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If a radar instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below. Positive identification must be established with the radar controller. From initial contact with radar to final authorized landing minimums, the instructions of the radar controller are mandatory except when (A) visual contact is established on final approach at or before descent to the authorized landing minimums, or (B) at pilot's discretion if it appears desirable to discontinue the approach, except when the radar controller may direct otherwise prior to final approach, a missed approach shall be executed as provided below when (A) communication on final approach is lost for more than 5 seconds during a precision approach, or for more than 30 seconds during a surveillance approach; (B) directed by radar controller; (C) visual contact is not established upon descent to authorized landing minimums; or (D) if landing is not accomplished.

From—	To—	Course and distance	Minimum altitude (feet)	Condition	Ceiling and visibility minimums: 2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots

PROCEDURE CANCELED, EFFECTIVE 9 DEC. 1967.

City, Shemya; State, Alaska; Airport name, Shemya AFS; Elev., 86′; Fac. Class. and Ident., Shemya Radar; Procedure No. 1, Amdt. 1; Eff. date, 14 Oct. 67; Sup. Amdt. No. 1, Orig.; Dated, 26 Feb. 67.

RADAR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet, MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If a radar instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below. Positive identification must be established with the radar controller. From initial contact with radar to final authorized landing minimums, the instructions of the radar controller are mandatory except when (A) visual contact is established on final approach at or before descent to the authorized landing minimums, or (B) at pilot's discretion if it appears desirable to discontinue the approach, except when the radar controller may direct otherwise prior to final approach, a missed approach shall be executed as provided below when (A) communication on final approach is lost for more than 5 seconds during a precision approach, or for more than 30 seconds during a surveillance approach; (B) directed by radar controller; (C) visual contact is not established upon descent to authorized landing minimums; or (D) if landing is not accomplished.

From	To	Radar terminal area maneuvering sectors and altitudes: Dist.	Alt.	Dist.	Alt.	Dist.	Alt.	Dist.	Alt.	Dist.	Alt.	Dist.	Alt.	Dist.	Alt.	Condition	Ceiling and visibility minimums: 2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots
																	Surveillance approach		
070°	210°	20	7800	15	7100											T-dn	600-1	600-1	NA
210°	350°	20	4100	15	3700											C-dn	1200-1½	1200-2	NA
350°	070°	20	5500	15	4800											S-dn			
All quadrants								10	3800							A-dn	NA	NA	NA
090°	220°									5	3200								
220°	090°									5	3800								

Radar site located on Wilkes-Barre-Scranton Airport.
Minimum altitude over 19-mile Radar Fix on final approach crs, 4200′; over 6-mile Radar Fix, 3400′.
Crs and distance, 6-mile Radar Fix to airport, 043°—6 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, make right-climbing turn intercept LHY VOR R 245°, proceed to LHY VOR climbing to 4000′, Hold E, 1-minute right turns, Inbnd crs, 226°.
CAUTION: 1700′ terrain within 3 miles of airport to W, NW, and N.

City, Wilkes-Barre; State, Pa.; Airport name, Wilkes-Barre-Wyoming Valley; Elev., 946′; Fac. Class. and Ident., Wilkes-Barre Radar; Procedure No. 1, Amdt. Orig.; Eff. date, 7 Dec. 67

																	Surveillance approach		
070°	210°	20	7800	15	7100											T-dn§	600-1	600-1	600-1
210°	350°	20	4100	15	3700											O-dn*	1000-1½	1000-1½	1000-1½
350°	070°	20	5100	15	4600											S-dn-4	1000-1½	1000-1½	1000-1½
All quadrants						30	3600									S-dn 10-22	900-1	900-1	900-1½
																A-dn	1200-2	1200-2	1200-2
090°	220°							5	3500										
220°	090°							5	3600										

Runway 22—Climb to 3600′ direct to Crystal Lake RBn. Hold SW, 1-minute left turns, Inbnd crs, 043°.
Runway 4—Climb to 3600′ on crs 043° from AV LOM, climbing right turn to 4000′ direct to Lake Henry VOR. Hold E, 1-minute right turns, Inbnd crs, 226°.
Runway 10—Immediate climbing left turn intercept a crs of 043°, from AV LOM climb to 3600′ on crs 043°, climbing, right turn to 4000′ direct to Lake Henry VOR. Hold E, 1-minute right turns, Inbnd crs, 226°.
NOTES: (1) High terrain to 1820′, E, SE, and S of airport within 2.3 miles. (2) *Circling approaches are prohibited in that area SE of Runways 4/22 centerlines extended. (3) §Takeoff minimums for Runways 10 and 16, 600-2 day, 600-2 night. (4) Reduction not authorized.

City, Wilkes-Barre-Scranton; State, Pa.; Airport name, Wilkes-Barre-Scranton; Elev., 956′; Fac. Class. and Ident., Wilkes-Barre Radar; Procedure No. 1, Amdt. 4; Eff. date, 7 Dec. 67; Sup. Amdt. No. 1, Amdt. 3; Dated, 5 Feb. 66

These procedures shall become effective on the dates specified therein.

(Secs. 307(c), 313(a) 601 of the Federal Aviation Act of 1958; (49 U.S.C. 1348(c), 1354(a), 1421; 72 Stat. 749, 753, 775)

Issued in Washington, D.C., on November 1, 1967.

JAMES F. RUDOLPH,
Director, Flight Standards Service.

[F.R. Doc. 67-13186; Filed, Nov. 16, 1967; 8:51 a.m.]

Subchapter I—Airports

[Docket No. 8536; Amdt. 157-1]

PART 157—NOTICE OF CONSTRUCTION, ALTERATION, ACTIVATION, AND DEACTIVATION OF AIRPORTS

Revision of Notice Form

The purpose of this amendment is to revise the references to the form on which notices of proposed landing areas are filed to reflect the new form number that has been adopted.

The FAA adopted Form 7480-1 entitled Notice of Landing Area Proposal to replace Form 2681. This new form more adequately reflects informational requirements concerning proposed landing areas. Reference is made to Form FAA 2681 in several places throughout § 157.5, therefore an amendment is required to revise the references to this notice form.

Since this amendment involves procedural information, notice and public procedure thereon are unnecessary, and it may be made effective in less than 30 days.

In consideration thereof, § 157.5 of the Federal Aviation Regulations is amended, effective November 17, 1967, by deleting "Form FAA 2681", wherever it appears and substituting therefor "FAA Form 7480-1."

(Secs. 309, 313(a), Federal Aviation Act of 1958; 49 U.S.C. 1350, 1354)

Issued in Washington, D.C., on November 13, 1967.

WILLIAM F. MCKEE,
Administrator.

[F.R. Doc. 67-13535; Filed, Nov. 16, 1967; 8:48 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Subtitle A—Office of the Secretary of Commerce

PART 13—PROCEDURES RELATING TO REVIEWS BY THE SECRETARY OF COMMERCE

Subtitle A of Title 15 of the Code of Federal Regulations is amended by adding a new Part 13, reading as follows:

Sec.
13.1 Purpose.
13.2 Provisions of law.
13.3 Petition for issuance or review of a rule.
13.4 Petition procedures.
13.5 Hearing on petition.
13.6 Notice of action taken on petition.

AUTHORITY: The provisions of this Part 13 issued under 80 Stat. 1521, 19 U.S.C. 1202, as amended.

§ 13.1 Purpose.

The purpose of this part is to set forth review procedures for rules of general applicability issued jointly by the Secretaries of Commerce and the Interior under Public Law 89-805, 19 U.S.C. 1202, which established a limitation on the number of watches and watch movements containing foreign components which may be imported duty-free from insular possessions of the United States.

§ 13.2 Provisions of law.

Title 19, U.S.C. § 1202, as amended, provides in part that,

> The Secretary of the Interior and the Secretary of Commerce, acting jointly, shall allocate on a fair and equitable basis among producers of watches and watch movements located in the Virgin Islands, Guam, and American Samoa the quotas for each calendar year * * * for articles which are the product of the Virgin Islands, Guam, and American Samoa, respectively. Allocations made by the Secretaries shall be final. The Secretaries are authorized to issue such regulations as they determine necessary to carry out their duties under this paragraph.

§ 13.3 Petition for issuance or review of a rule.

Any interested party has the right to petition for the issuance of a rule, or the amendment or repeal of a rule issued by the Departments of Commerce and the Interior, which is of general application to watch producers located in the insular possessions of the United States.

§ 13.4 Petition procedures.

(a) All petitions shall be addressed to the two Secretaries and filed in two originals and four copies with the Business and Defense Services Administration, U.S. Department of Commerce, Washington, D.C. 20230, Attention: Scientific, Photographic and Business Equipment Division.

(b) All papers presented to the Secretaries shall bear on the cover the name and post office address of the petitioner and the name and address of the principal attorney, or authorized representative (if any) for the party concerned. Such papers shall contain the following in the order here indicated:

(1) A reference to the general rule which is the subject of the petition.

(2) A concise statement of the interest of the party submitting the petition.

(3) A listing of each of the grounds relied upon by the party submitting the petition.

(4) The argument generally amplifying the material in subparagraph (3) of this paragraph and exhibiting clearly the points of law, policy and fact being presented. In cases where policy error is contended, it should be pointed out what policy of the Secretaries is alleged to be wrong, what is wrong with it and what policy the submitting party advocates as the correct one.

(5) A conclusion specifying with particularity the action which the submitting party believes the Secretaries should take.

§ 13.5 Hearing on petition.

The Secretaries may in their discretion schedule a hearing and may invite the participation of other interested parties when they deem it desirable.

§ 13.6 Notice of action taken on petition.

Prompt notice of action on a petition will be communicated to the party by registered mail, together with a statement of the grounds therefor.

Effective date: November 13, 1967.

LAWRENCE C. MCQUADE,
Assistant Secretary for Domestic and International Business.

[F.R. Doc. 67-13540; Filed, Nov. 16, 1967; 8:48 a.m.]

Title 23—HIGHWAYS AND VEHICLES

Chapter II—Vehicle and Highway Safety

SUBCHAPTER B—PROCEDURAL RULES

PART 216—RULE-MAKING PROCEDURES: MOTOR VEHICLE SAFETY STANDARDS

This amendment revokes "Part 215—Rule-Making; Initial Safety Standards," 31 F.R. 13127, as amended, in 31 F.R. 15197, 32 F.R. 976, 32 F.R. 5832, and 32 F.R. 13000, and adds a new Part 216—"Rule-Making Procedures: Motor Vehicle Safety Standards" to the regulations of the Federal Highway Administration.

The purpose of this part is to describe the procedures applicable to the Federal Highway Administration in prescribing public rules for motor vehicle safety standards and to provide for appropriate participation by interested persons.

The new part provides for general notices of proposed rule making, to be published in the FEDERAL REGISTER, except in cases where the Administration finds that notice is impractical, unnecessary or contrary to the public interest. The new part also provides for petitions for extension of time to comment on notices of proposed rule making, petitions for reconsideration, and petitions for proposed rule making.

Sections 556 and 557 of Title 5, United States Code (formerly sections 7 and 8 of the Administrative Procedure Act), do not apply to rule making under this part. Consequently, hearings are not a required part of the rule-making procedure. However, hearings may be held, whenever it is considered necessary and desirable. Unless otherwise specified, any hearing held would be nonadversary, with no formal pleadings and no adverse party. A rule issued after such hearing would not necessarily be based exclusively on the record of the hearing.

All final rules will be published in the FEDERAL REGISTER, unless, in accordance with section 552(a) of Title 5, United States Code, actual and timely notice has been given to all persons subject to it.

Since this amendment relates to Federal Highway Administration organization, procedures, and practices, notice and public procedure hereon is not necessary and it may be made effective in less than thirty (30) days after publication in the FEDERAL REGISTER.

This amendment is made under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1407), and the delegation of authority of October 14, 1967 (32 F.R. 14277).

In consideration of the foregoing, Title 23 of the Code of Federal Regulations is amended by deleting Part 215 and adding the following new Part 216—"Rule-Making Procedures: Motor Vehicle Safety Standards" effective November 17, 1967.

Issued in Washington, D.C., on November 9, 1967.

LOWELL K. BRIDWELL,
Federal Highway Administrator.

Subpart A—General

Sec.
216.1 Applicability.
216.3 Definitions.
216.5 Regulatory docket.
216.7 Records.

Subpart B—Procedures for Adoption of Rules Under Sections 103 and 119 of the Act

216.11 General.
216.13 Initiation of rule making.
216.15 Contents of notices of proposed rule making.
216.17 Participation of interested persons.
216.19 Petitions for extension of time to comment.
216.21 Contents of written comments.
216.23 Consideration of comments received.
216.25 Additional rule-making proceedings.
216.27 Hearings.
216.29 Adoption of final rules.
216.31 Petitions for rule making.
216.33 Processing of petitions.
216.35 Petitions for reconsideration.
216.37 Proceedings on petitions for reconsideration.

AUTHORITY: The provisions of this Part 216 issued under secs. 103 and 119, National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1407; and the delegation of authority of Oct. 14, 1967 (32 F.R. 14277).

Subpart A—General

§ 216.1 Applicability.

The part prescribes rule-making procedures that apply to the issue, amendment, and revocation of rules under sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966.

§ 216.3 Definitions.

"Act" means the National Traffic and Motor Vehicle Safety Act of 1966, P.L. 89-563, 15 U.S.C. 1391, et seq.

"Administrator" means the Administrator of the Federal Highway Administration or a person to whom he has delegated final authority in the matter concerned.

"Rule" includes any order, regulation, or Federal motor vehicle safety standard issued under the Act.

§ 216.5 Regulatory docket.

(a) Information and data deemed relevant by the Administrator of the Federal Highway Administration relating to rule-making actions, including notices of proposed rule making; comments received in response to notices; petitions for rule making and reconsideration; denials of petitions for rule making and reconsideration; records of additional rule-making proceedings under § 216.25; and final rules are maintained in the Central File Room—Room 401, Federal Highway Administration, Donohoe Building, Sixth and D Streets SW., Washington, D.C. 20591.

(b) Any person may examine any docketed material at the Central File Room at any time during regular business hours after the docket is established, except material ordered withheld from the public under sections 112 and 113 of the Act (15 U.S.C. 1401, 1402) and section 552(b) of Title 5 of the United States Code, and may obtain a copy of it upon payment of a fee.

§ 216.7 Records.

Records of the Federal Highway Administration relating to rule-making proceedings are available for inspection as provided in section 552(b) of Title 5 of the United States Code and Part 7 of the Regulations of the Secretary of Transportation (49 CFR Part 7; 32 F.R. 9284, et seq.).

Subpart B—Procedures for Adoption of Rules Under Sections 103 and 119 of the Act

§ 216.11 General.

Unless the Administrator, for good cause, finds that notice is impracticable, unnecessary, or contrary to the public interest, and incorporates that finding and a brief statement of the reasons for it in the rule, a notice of proposed rule making is issued and interested persons are invited to participate in the rule-making proceedings involving rules under sections 103 and 119 of the Act.

§ 216.13 Initiation of rule making.

The Administrator initiates rule making on his own motion. However, in so doing, he may, in his discretion, consider the recommendations of other agencies of the United States or of other interested persons.

§ 216.15 Contents of notices of proposed rule making.

(a) Each notice of proposed rule making is published in the FEDERAL REGISTER, unless all persons subject to it are named and are personally served with a copy of it.

(b) Each notice, whether published in the FEDERAL REGISTER or personally served, includes—

(1) A statement of the time, place, and nature of the proposed rule-making proceeding;

(2) A reference to the authority under which it is issued;

(3) A description of the subjects and issues involved or the substance and terms of the proposed rule;

(4) A statement of the time within which written comments must be submitted; and

(5) A statement of how and to what extent interested persons may participate in the proceeding.

§ 216.17 Participation by interested persons.

(a) Any interested person may participate in rule-making proceeding by submitting comments in writing containing information, views or arguments.

(b) In his discretion, the Administrator may invite any interested person to participate in the rule-making procedures described in § 216.25.

§ 216.19 Petitions for extension of time to comment.

A petition for extension of the time to submit comments must be received in duplicate not later than three (3) days before expiration of the time stated in the notice. The filing of the petition does not automatically extend the time for petitioner's comments. Such a petition is granted only if the petitioner shows good cause for the extension, and if the extension is consistent with the public interest. If an extension is granted, it is granted to all persons, and it is published in the FEDERAL REGISTER.

§ 216.21 Contents of written comments.

All written comments must be in English and submitted in twenty (20) legible copies, unless fewer copies are specified in the notice. Any interested person must submit as part of his written comments all the material that he considers relevant to any statement of fact made by him. Incorporation of material by reference is to be avoided. However, if such incorporation is necessary, the incorporated material shall be identified with respect to document and page.

§ 216.23 Consideration of comments received.

All timely comments are considered before final action is taken on a rule-making proposal. Late filed comments may be considered as far as practicable.

§ 216.25 Additional rule-making proceedings.

The Administrator may initiate any further rule-making proceedings that he finds necessary or desirable. For example, interested persons may be invited to make oral arguments, to participate in conferences between the Administrator or his representative and interested persons at which minutes of the conference are kept, to appear at informal hearings presided over by officials designated by the Administrator at which a transcript or minutes are kept, or participate in any other proceeding to assure informed administrative action and to protect the public interest.

§ 216.27 Hearings.

(a) Sections 556 and 557 of Title 5, United States Code, do not apply to hearings held under this part. Unless otherwise specified, hearings held under this part are informal, nonadversary, fact finding proceedings, at which there are no formal pleadings or adverse parties. Any rule issued in a case in which an informal hearing is held is not necessarily based exclusively on the record of the hearing.

(b) The Administrator designates a representative to conduct any hearing held under this part. The Chief Counsel of the Federal Highway Administration designates a member of his staff to serve as legal officer at the hearing.

§ 216.29 Adoption of final rules.

Final rules are prepared by representatives of the office concerned and the Office of the Chief Counsel. The rule is then submitted to the Administrator for his consideration. If the Administrator adopts the rule, it is published in the FEDERAL REGISTER, unless all persons subject to it are named and are personally served with a copy of it.

§ 216.31 Petitions for rule making.

(a) Any interested person may petition the Administrator to establish, amend, or repeal a rule.

(b) Each petition filed under this section must—

(1) Be submitted in duplicate to the Docket Clerk, Central File Room—Room 401, Federal Highway Administration, Donohoe Building, Sixth and D Streets SW., Washington, D.C. 20591;

(2) Set forth the text or substance of the rule or amendment proposed, or specify the rule that the petitioner seeks to have repealed, as the case may be;

(3) Explain the interest of the petitioner in the action requested;

(4) Contain any information and arguments available to the petitioner to support the action sought.

§ 216.33 Processing of petition.

(a) *General.* Each petition received under § 216.31 is referred to the Director of the Bureau. Unless the Administrator otherwise specifies, no public hearing, argument, or other proceeding is held directly on a petition before its disposition under this section.

(b) *Grants.* If the Administrator determines that the petition contains adequate justification, he initiates rule-making action under this Subpart B.

(c) *Denials.* If the Administrator determines that the petition does not justify rule making, he denies the petition.

(d) *Notification.* Whenever the Administrator determines that a petition should be granted or denied, the Office of the Chief Counsel prepares a notice of that grant or denial for issuance to the petitioner, and the Administrator issues it to the petitioner.

§ 216.35 Petitions for reconsideration.

(a) Any interested person may petition the Administrator for reconsideration of any rule issued under this part. The petition must be submitted in twenty (20) legible copies to the Docket Clerk, Central File Room—Room 401, Federal Highway Administration, Donohoe Building, Sixth and D Streets SW., Washington, D.C. 20591, and received not later than thirty (30) days after publication of the rule in the FEDERAL REGISTER. Petitions filed after that time will be considered as petitions filed under § 216.31. The petition must contain a brief statement of the complaint and an explanation as to why compliance with the rule is not practicable, is unreasonable, or is not in the public interest.

(b) If the petitioner requests the consideration of additional facts, he must state the reason they were not presented to the Administrator within the prescribed time.

(c) The Administrator does not consider repetitious petitions.

(d) Unless the Administrator otherwise provides, the filing of a petition under this section does not stay the effectiveness of the rule.

§ 216.37 Proceedings on petitions for reconsideration.

The Administrator may grant or deny, in whole or in part, any petition for reconsideration without further proceedings. In the event he determines to reconsider any rule, he may issue a final decision on reconsideration without further proceedings, or he may provide such opportunity to submit comment or information and data as he deems appropriate. Whenever the Administrator determines that a petition should be granted or denied, he prepares a notice of the grant or denial of a petition for reconsideration, for issuance to the petitioner, and issues it to the petitioner. The Administrator may consolidate petitions relating to the same rule.

[F.R. Doc. 67-13542; Filed, Nov. 16, 1967; 8:48 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6935]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Nontaxable Exchanges of Certain U.S. Obligations

On August 24, 1967, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) in order to conform the regulations to sections 102 and 201 of the Act of September 22, 1959 (Public Law 86-346, 73 Stat. 621, 622), relating to certain exchanges with the United States of obligations of the United States issued under the Second Liberty Bond Act, was published in the FEDERAL REGISTER (32 F.R. 12182). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is hereby adopted.

(Sec. 7805 of the Internal Revenue Code of 1954; 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

Approved: November 13, 1967.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) to sections 102 and 201 of the Act of September 22, 1959 (Public Law 86-346, 73 Stat. 621, 622), relating to certain exchanges with the United States of obligations of the United States issued under the Second Liberty Bond Act, such regulations are amended as follows, effective for taxable years ending after September 22, 1959:

PARAGRAPH 1. Section 1.454 is amended by revising section 454(c) and by adding an historical note as follows:

§ 1.454 Statutory provisions; obligations issued at discount.

SEC. 454. *Obligations issued at discount.*

* * *

(c) *Matured U.S. savings bonds.* In the case of a taxpayer who—

(1) Holds a series E U.S. savings bond at the date of maturity, and

(2) Pursuant to regulations prescribed under the Second Liberty Bond Act (A) retains his investment in such series E bond in an obligation of the United States, other than a current income obligation, or (B) exchanges such series E bond for another nontransferable obligation of the United States in an exchange upon which gain or loss is not recognized because of section 1037 (or so much of section 1031 as relates to section 1037), the increase in redemption value (to the extent not previously includible in gross income) in excess of the amount paid for such series E bond shall be includible in gross income in the taxable year in which the obligation is finally redeemed or in the taxable year of final maturity, whichever is earlier. This subsection shall not apply to a corporation, and shall not apply in the case of any taxable year for which the taxpayer's taxable income is computed under an accrual method of accounting or for which an election made by the taxpayer under subsection (a) applies.

[Sec. 454 as amended by sec. 102, Act of Sept. 22, 1959 (Pub. Law 86-346, 73 Stat. 621)]

PAR. 2. Section 1.454-1 is amended by revising paragraphs (a) and (c) to read as follows:

§ 1.454-1 Obligations issued at discount.

(a) *Non-interest-bearing obligations issued at discount*—(1) *Election to include increase in income currently.* If a taxpayer owns—

(i) A non-interest-bearing obligation issued at a discount and redeemable for fixed amounts increasing at stated intervals, or

(ii) An obligation of the United States, other than a current income obligation, in which he retains his investment in a matured series E U.S. savings bond, or

(iii) A nontransferable obligation (whether or not a current income obligation) of the United States for which a series E U.S. savings bond was exchanged (whether or not at final maturity) in an exchange upon which gain is not recognized because of section 1037 (a) (or so much of section 1031(b) as relates to section 1037),

and if the increase, if any, in redemption price of such obligation described in subdivision (i), (ii), or (iii) of this subparagraph during the taxable year (as described in subparagraph (2) of this paragraph) does not constitute income for such year under the method of accounting used in computing his taxable income, then the taxpayer may, at his election, treat the increase as constituting income for the year in which such increase occurs. If the election is not made and section 1037 (or so much of section 1031 as relates to section 1037) does not apply, the taxpayer shall treat the increase as constituting income for the year in which the obligation is redeemed or disposed of, or finally matures, whichever is earlier. Any such election must be made in the taxpayer's return and may be made for any taxable year. If an election is made with respect to any such obligation described in subdivision (i), (ii), or (iii) of this subparagraph, it shall apply also to all other obligations of the type described in such subdivisions owned by the taxpayer at the beginning of the first taxable year to which the election applies, and to those thereafter acquired by him, and shall be binding for the taxable year for which the return is filed and for all subsequent taxable years, unless the Commissioner permits the taxpayer to change to a different method of reporting income from such obligations. See section 446(e) and paragraph (e) of § 1.446-1, relating to requirement respecting a change of accounting method. Although the election once made is binding upon the taxpayer, it does not apply to a transferee of the taxpayer.

(2) *Amount of increase in case of non-interest-bearing obligations.* In any case in which an election is made under section 454, the amount which accrues in any taxable year to which the election applies is measured by the actual increase in the redemption price occurring in that year. This amount does not accrue ratably between the dates on which the redemption price changes. For example, if two dates on which the redemption price increases (February 1 and August 1) fall within a taxable year and if the redemption price increases in the amount of 50 cents on each such date, the amount accruing in that year would be $1 ($0.50 on February 1 and $0.50 on August 1). If the taxpayer owns a non-interest-bearing obligation of the character described in subdivision (i), (ii), or (iii) of subparagraph (1) of this paragraph acquired prior to the first taxable year to which his election applies, he must also include in gross income for such first taxable year (i) the increase in the redemption price of such obligation occurring between the date of acquisition of the obligation and the first day of such first taxable year and (ii), in a case where a series E bond was exchanged for such obligation, the increase in the redemption price of such series E bond occurring between the date of acquisition of such series E bond and the date of the exchange.

(3) *Amount of increase in case of current income obligations.* If an election is made under section 454 and the taxpayer owns, at the beginning of the first taxable year to which the election applies, a current income obligation of the character described in subparagraph (1)(iii) of this paragraph acquired prior to such taxable year, he must also include in gross income for such first taxable year the increase in the redemption price of the series E bond which was surrendered to the United States in exchange for such current income obligation; the amount of the increase is that occurring between the date of acquisition of the series E bond and the date of the exchange.

(4) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). Throughout the calendar year 1954, a taxpayer who uses the cash receipts and disbursements method of accounting holds series E U.S. savings bonds having a maturity value of $5,000 and a redemption value at the beginning of the year 1954 of $4,050 and at the end of the year 1954 of $4,160. He purchased the bonds on January 1, 1949, for $3,750, and holds no other obligation of the type described in this section. If the taxpayer exercises the election in his return for the calendar year 1954, he is required to include $400 in taxable income with respect to such bonds. Of this amount, $300 represents the increase in the redemption price before 1954 and $100 represents the increase in the redemption price in 1954. The increases in redemption value occurring in subsequent taxable years are includible in gross income for such taxable years.

Example (2). In 1958 B, a taxpayer who uses the cash receipts and disbursements method of accounting and the calendar year as his taxable year, purchased for $7,500 a series E United States savings bond with a face value of $10,000. In 1965, when the stated redemption value of the series E bond is $9,760, B surrenders it to the United States in exchange solely for a $10,000 series H U.S. current income savings bond in an exchange qualifying under section 1037(a), after paying $240 additional consideration. On the exchange of the series E bond for the series H bond in 1965, B realizes a gain of $2,260 ($9,760 less $7,500), none of which is recognized for that year by reason of section 1037(a). B retains the series H bond and redeems it at maturity in 1975 for $10,000, but in 1966 he exercises the election under section 454(a) in his return for that year with respect to five series E bonds he purchased in 1960. B is required to include in gross income for 1966 the increase in redemption price occurring before 1966 and in 1966 with respect to the series E bonds purchased in 1960; he is also required to include in gross income for 1966 the $2,260 increase in redemption price of the series E bond which was exchanged in 1965 for the series H bond.

* * * * *

(c) *Matured U.S. savings bonds*—(1) *Inclusion of increase in income upon redemption or final maturity.* If a taxpayer (other than a corporation) holds—

(i) A matured series E U.S. savings bond,

(ii) An obligation of the United States, other than a current income obligation, in which he retains his investment in a matured series E U.S. savings bond, or

(iii) A nontransferable obligation (whether or not a current income obligation) of the United States for which a series E U.S. savings bond was exchanged (whether or not at final maturity) in an exchange upon which gain is not recognized because of section 1037(a) (or so much of section 1031(b) as relates to section 1037(a)),

the increase in redemption price of the series E bond in excess of the amount paid for such series E bond shall be included in the gross income of such taxpayer for the taxable year in which the obligation described in subdivision (i), (ii), or (iii) of this subparagraph is redeemed or disposed of, or finally matures, whichever is earlier, but only to the extent such increase has not previously been includible in the gross income of such taxpayer or any other taxpayer. If such obligation is partially redeemed before final maturity, or partially disposed of by being partially reissued to another owner, such increase in redemption price shall be included in the gross income of such taxpayer for such taxable year on a basis proportional to the total denomination of obligations redeemed or disposed of. The provisions of section 454 (c) and of this subparagraph shall not apply in the case of any taxable year for which the taxpayer's taxable income is computed under an accrual method of accounting or for a taxable year for which an election made by the taxpayer under section 454(a) and paragraph (a) of this section applies. For rules respecting the character of the gain realized upon the disposition or redemption of an obligation described in subdivision (iii) of this subparagraph, see paragraph (b) of § 1.1037-1.

(2) *Illustrations.* The application of this paragraph may be illustrated by the following examples, in which it is assumed that the taxpayer uses the cash receipts and disbursements method of accounting and the calendar year as his taxable year:

Example (1). On June 1, 1941, A purchased for $375 a series E U.S. savings bond which was redeemable at maturity (10 years from issue date) for $500. At maturity of the bond, A exercised the option of retaining the matured series E bond for the 10-year extended maturity period. On June 2, 1961, A redeemed the series E bond, at which time the stated redemption value was $674.80. A never elected under section 454(a) to include the annual increase in redemption price in gross income currently. Under section 454(c), A is required to include $299.80 ($674.80 less $375) in gross income for 1961 by reason of his redemption of the bond.

Example (2). The facts are the same as in example (2) in paragraph (a)(4) of this section. On redemption of the series H bond received in the exchange qualifying under section 1037(a), B realizes a gain of $2,260, determined as provided in example (5) in paragraph (b)(4) of § 1.1037-1. None of this amount is includible in B's gross income for 1975, such amount having already been includible in his gross income for 1966 because of his election under section 454(a).

Example (3). C, who had elected under section 454(a) to include the annual increase in the redemption price of his non-interest-bearing obligations in gross income currently, owned a $1,000 series E U.S. savings bond, which was purchased on October 1, 1949, for $750. C died on February 1, 1955, when the redemption value of the bond was $820. The bond was immediately reissued to D, his only heir, who has not made an election under section 454(a). On January 15, 1960, when the redemption value of the bond is $1,000, D surrenders it to the United States in exchange solely for a $1,000 series H U.S. savings bond in an exchange qualifying under the provisions of section 1037(a). For 1960 D properly does not return any income from the exchange of bonds, although he returns the interest payments on the series H bond for the taxable years in which they are received. On September 1, 1964, prior to maturity of the series H bond, D redeems it for $1,000. For 1964, D must include $180 in

gross income under section 454(c) from the redemption of the series H bond, that is, the amount of the increase in the redemption price of the series E bond ($1,000 less $820) occurring between February 1, 1955, and January 15, 1960, the period during which he owned the series E bond.

PAR. 3. Section 1.1031(a)–1 is amended by revising paragraph (d) to read as follows:

§ 1.1031(a)–1 Property held for productive use in trade or business or for investment.

* * * * *

(d) Gain or loss is recognized if, for instance, a taxpayer exchanges (1) Treasury bonds maturing March 15, 1956, for Treasury bonds maturing December 15, 1968, unless section 1037(a) (or so much of section 1031 as relates to section 1037(a)) applies to such exchange, or (2) a real estate mortgage for consolidated farm loan bonds.

PAR. 4. Section 1.1031(b) is amended to read as follows:

§ 1.1031(b) Statutory provisions; exchange of property held for productive use or investment; gain from exchanges not solely in kind.

SEC. 1031. *Exchange of property held for productive use or investment.* * * *

(b) *Gain from exchanges not solely in kind.* If an exchange would be within the provisions of subsection (a), of section 1035(a), or of section 1036(a), or of section 1037(a), if it were not for the fact that the property received in exchange consists not only of property permitted by such provisions to be received without the recognition of gain, but also of other property or money, then the gain, if any, to the recipient shall be recognised, but in an amount not in excess of the sum of such money and the fair market value of such other property.

[Sec. 1031 (b) as amended by sec. 201(c), Act of Sept. 22, 1959 (Pub. Law 86-346, 73 Stat. 624)]

PAR. 5. Section 1.1031(b)–1 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1.1031(b)–1 Receipt of other property or money in tax-free exchange.

(a) If the taxpayer receives other property (in addition to property permitted to be received without recognition of gain) or money—

(1) In an exchange described in section 1031(a) of property held for investment or productive use in trade or business for property of like kind to be held either for productive use or for investment,

(2) In an exchange described in section 1035(a) of insurance policies or annuity contracts,

(3) In an exchange described in section 1036(a) of common stock for common stock, or preferred stock for preferred stock, in the same corporation and not in connection with a corporate reorganization, or

(4) In an exchange described in section 1037(a) of obligations of the United States, issued under the Second Liberty Bond Act (31 U.S.C. 774 (2)), solely for other obligations issued under such Act, the gain, if any, to the taxpayer will be recognised under section 1031(b) in an amount not in excess of the sum of the money and the fair market value of the other property, but the loss, if any, to the taxpayer from such an exchange will not be recognised under section 1031(c) to any extent.

(b) The application of this section may be illustrated by the following examples:

Example (1). A, who is not a dealer in real estate, in 1954 exchanges real estate held for investment, which he purchased in 1940 for $5,000, for other real estate (to be held for productive use in trade or business) which has a fair market value of $6,000, and $2,000 in cash. The gain from the transaction is $3,000, but is recognised only to the extent of the cash received of $2,000.

Example (2). (a) B, who uses the cash receipts and disbursements method of accounting and the calendar year as his taxable year, has never elected under section 454(a) to include in gross income currently the annual increase in the redemption price of non-interest-bearing obligations issued at a discount. In 1943, for $750 each, B purchased four $1,000 series E U.S. savings bonds bearing an issue date of March 1, 1943.

(b) On October 1, 1963, the redemption value of each such bond was $1,396, and the total redemption value of the four bonds was $5,584. On that date B submitted the four $1,000 series E bonds to the United States in a transaction in which one of such $1,000 bonds was reissued by issuing four $100 series E U.S. savings bonds bearing an issue date of March 1, 1943, and by considering six $100 series E bonds bearing an issue date of March 1, 1943, to have been issued. The redemption value of each such $100 series E bond was $139.60 on October 1, 1963. Then, as part of the transaction, the six $100 series E bonds so considered to have been issued and the three $1,000 series E bonds were exchanged, in an exchange qualifying under section 1037(a), for five $1,000 series H U.S. savings bonds plus $25.60 in cash.

(c) The gain realised on the exchange qualifying under section 1037(a) is $2,325.60, determined as follows:

Amount realised:	
Par value of five series H bonds	$5,000.00
Cash received	25.60
Total realised	5,025.60
Less: Adjusted basis of series E bonds surrendered in the exchange:	
Three $1,000 series E bonds	2,250.00
Six $100 series E bonds at $75 each	450.00
	2,700.00
Gain realised	2,325.60

(d) Pursuant to section 1031(b), only $25.60 (the money received) of the total gain of $2,325.60 realised on the exchange is recognised at the time of exchange and must be included in B's gross income for 1963. The $2,300 balance of the gain ($2,325.60 less $25.60) must be included in B's gross income for the taxable year in which the series H bonds are redeemed or disposed of, or reach final maturity, whichever is earlier, as provided in paragraph (c) of § 1.454–1.

(e) The gain on the four $100 series E bonds, determined by using $75 as a basis for each such bond, must be included in B's gross income for the taxable year in which such bonds are redeemed or disposed of, or reach final maturity, whichever is earlier.

Example (3). (a) The facts are the same as in example (2), except that, as part of the transaction, the $1,000 series E bond is reissued by considering ten $100 series E bonds bearing an issue date of March 1, 1943, to have been issued. Six of the $100 series E bonds so considered to have been issued are surrendered to the United States as part of the exchange qualifying under section 1037(a) and the other four are immediately redeemed.

(b) Pursuant to section 1031(b), only $25.60 (the money received) of the total gain of $2,325.60 realised on the exchange qualifying under section 1037(a) is recognised at the time of the exchange and must be included in B's gross income for 1963. The $2,300 balance of the gain ($2,325.60 less $25.60) realised on such exchange must be included in B's gross income for the taxable year in which the series H bonds are redeemed or disposed of, or reach final maturity, whichever is earlier, as provided in paragraph (c) of § 1.454–1.

(c) The redemption on October 1, 1963, of the four $100 series E bonds considered to have been issued at such time results in gain of $258.40, which is then recognised and must be included in B's gross income for 1963. This gain of $258.40 is the difference between the $558.40 redemption value of such bonds on the date of the exchange and the $300 (4×$75) paid for such series E bonds in 1943.

Example (4). On November 1, 1963, C purchased for $91 a marketable U.S. bond which was originally issued at its par value of $100 under the Second Liberty Bond Act. On February 1, 1964, in an exchange qualifying under section 1037(a), C surrendered the bond to the United States for another marketable U.S. bond, which then had a fair market value of $92, and $1.85 in cash, $0.85 of which was interest. The $0.85 interest received is includible in gross income for the taxable year of the exchange, but the $2 gain ($93 less $91) realised on the exchange is recognised for such year under section 1031(b) to the extent of $1 (the money received). Under section 1031(d), C's basis in the bond received in exchange is $91 (his basis of $91 in the bond surrendered, reduced by the $1 money received and increased by the $1 gain recognised).

* * * * *

PAR. 6. Section 1.1031(c) is amended to read as follows:

§ 1.1031(c) Statutory provisions; exchange of property held for productive use or investment; loss from exchanges not solely in kind.

SEC. 1031. *Exchange of property held for productive use or investment.* * * *

(c) *Loss from exchanges not solely in kind.* If an exchange would be within the provisions of subsection (a), of section 1035(a), of section 1036(a), or of section 1037(a), if it were not for the fact that the property received in exchange consists not only of property permitted by such provisions to be received without the recognition of gain or loss, but also of other property or money, then no loss from the exchange shall be recognised.

[Sec. 1031(c) as amended by sec. 201(d), Act of Sept. 22, 1959 (Pub. Law 86-346, 73 Stat. 624)]

PAR. 7. Section 1.1031(c)–1 is amended to read as follows:

§ 1.1031(c)–1 Nonrecognition of loss.

Section 1031(c) provides that a loss shall not be recognised from an exchange of property described in section 1031(a), 1035(a), 1036(a), or 1037(a) where there is received in the exchange other property or money in addition to property permitted to be received without recognition of gain or loss. See example (4) of paragraph (a) (3) of § 1.1037–1 for an illustration of the application of this section in the case of an exchange of U.S. obligations described in section 1037(a).

PAR. 8. Section 1.1031(d) is amended to read as follows:

§ 1.1031(d) Statutory provisions; exchange of property held for productive use or investment; basis.

SEC. 1031. *Exchange of property held for productive use or investment.* * * *

(d) *Basis.* If property was acquired on an exchange described in this section, section 1035(a), section 1036(a), or section 1037(a), then the basis shall be the same as that of the property exchanged, decreased in the amount of any money received by the taxpayer and increased in the amount of gain or decreased in the amount of loss to the taxpayer that was recognised on such exchange. If the property so acquired consisted in part of the type of property permitted by this section, section 1035(a), section 1036(a), or section 1037(a), to be received without the recognition of gain or loss, and in part of other property, the basis provided in this subsection shall be allocated between the properties (other than money) received, and for the purpose of the allocation there shall be assigned to such other property an amount equivalent to its fair market value at the date of the exchange. For purposes of this section, section 1035(a), and section 1036(a), where as part of the consideration to the taxpayer another party to the exchange assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability, such assumption or acquisition (in the amount of the liability) shall be considered as money received by the taxpayer on the exchange.

[Sec. 1031(d) as amended by sec. 44, Technical Amendments Act 1958 (72 Stat. 1641); sec. 201(e), Act of Sept. 22, 1959 (Pub. Law 86-346, 73 Stat. 624)]

PAR. 9. Section 1.1031(d)–1 is amended by revising paragraph (a), the text of paragraph (b) preceding the example, the text of paragraph (c) preceding the example, paragraph (d), and the text of paragraph (e) preceding the example, to read as follows:

§ 1.1031(d)–1 Property acquired upon a tax-free exchange.

(a) If, in an exchange of property solely of the type described in section 1031, section 1035(a), section 1036(a), or section 1037(a), no part of the gain or loss was recognised under the law applicable to the year in which the exchange was made, the basis of the property acquired is the same as the basis of the property transferred by the taxpayer with proper adjustments to the date of the exchange. If additional consideration is given by the taxpayer in the exchange, the basis of the property acquired shall be the same as the property transferred increased by the amount of additional consideration given (see section 1016 and the regulations thereunder).

(b) If, in an exchange of properties of the type indicated in section 1031, section 1035(a), section 1036(a), or section 1037(a), gain to the taxpayer was recognised under the provisions of section 1031(b) or a similar provision of a prior revenue law, on account of the receipt of money in the transaction, the basis of the property acquired is the basis of the property transferred (adjusted to the date of the exchange), decreased by the amount of money received and increased by the amount of gain recognised on the exchange. The application of this paragraph may be illustrated by the following example:

* * * * *

(c) If, upon an exchange of properties of the type described in section 1031, section 1035(a), section 1036(a), or section 1037(a), the taxpayer received other property (not permitted to be received without the recognition of gain) and gain from the transaction was recognised as required under section 1031(b), or a similar provision of a prior revenue law, the basis (adjusted to the date of the exchange) of the property transferred by the taxpayer, decreased by the amount of any money received and increased by the amount of gain recognised, must be allocated to and is the basis of the properties (other than money) received on the exchange. For the purpose of the allocation of the basis of the properties received, there must be assigned to such other property an amount equivalent to its fair market value at the date of the exchange. The application of this paragraph may be illustrated by the following example:

* * * * *

(d) Section 1031(c) and, with respect to section 1031 and section 1036(a), similar provisions of prior revenue laws provide that no loss may be recognised on an exchange of properties of a type described in section 1031, section 1035(a), section 1036(a), or section 1037(a), although the taxpayer receives other property or money from the transaction. However, the basis of the property or properties (other than money) received by the taxpayer is the basis (adjusted to the date of the exchange) of the property transferred, decreased by the amount of money received. This basis must be allocated to the properties received, and for this purpose there must be allocated to such other property an amount of such basis equivalent to its fair market value at the date of the exchange.

(e) If, upon an exchange of properties of the type described in section 1031, section 1035(a), section 1036(a), or section 1037(a), the taxpayer also exchanged other property (not permitted to be transferred without the recognition of gain or loss) and gain or loss from the transaction is recognised under section 1002 or a similar provision of a prior revenue law, the basis of the property acquired is the total basis of the properties transferred (adjusted to the date of the exchange) increased by the amount of gain and decreased by the amount of loss recognised on the other property. For purposes of this rule, the taxpayer is deemed to have received in exchange for such other property an amount equal to its fair market value on the date of the exchange. The application of this paragraph may be illustrated by the following example:

* * * * *

PAR. 10. There are inserted immediately after § 1.1036–1 the following new sections:

§ 1.1037 Statutory provisions; certain exchanges of United States obligations.

SEC. 1037. *Certain exchanges of United States obligations.*—(a) *General rule.* When so provided by regulations prescribed by the Secretary in connection with the issue of obligations of the United States, no gain or loss shall be recognised on the surrender to the United States of obligations of the United States issued under the Second Liberty Bond Act in exchange solely for other obligations issued under such Act.

(b) *Application of section 1232*—(1) *Exchanges involving obligations issued at a discount.* In any case in which gain has been realised but not recognised because of the provisions of subsection (a) (or so much of section 1031(b) as relates to subsection (a) of this section), to the extent such gain is later recognised by reason of a disposition or redemption of an obligation received in an exchange subject to such provisions, the first sentence of section 1232(a)(2)(A) shall apply to such gain as though the obligation disposed of or redeemed were the obligation surrendered to the Government in the exchange rather than the obligation actually disposed of or redeemed. For purposes of this paragraph and section 1232, if the obligation surrendered in the exchange is a nontransferable obligation described in subsection (a) or (c) of section 454—

(A) The aggregate amount considered, with respect to the obligation surrendered, as gain from the sale or exchange of property which is not a capital asset shall not exceed the difference between the issue price and the stated redemption price which applies at the time of the exchange, and

(B) The issue price of the obligation received in the exchange shall be considered to be the stated redemption price of the obligation surrendered in the exchange, increased by the amount of other consideration (if any) paid to the United States as a part of the exchange.

(2) *Exchanges of transferable obligations issued at not less than par.* In any case in which subsection (a) (or so much of section 1031 (b) or (c) as relates to subsection (a) of this section) has applied to the exchange of a transferable obligation which was issued at not less than par for another transferable obligation, the issue price of the obligation received from the Government in the exchange shall be considered for purposes of applying section 1232 to be the same as the issue price of the obligation surrendered to the Government in the exchange, increased by the amount of other consideration (if any) paid to the United States as a part of the exchange.

(c) *Cross references.* (1) For rules relating to the recognition of gain or loss in a case where subsection (a) would apply except for the fact that the exchange was not made solely for other obligations of the United States, see subsections (b) and (c) of section 1031.

(2) For rules relating to the basis of obligations of the United States acquired in an exchange for other obligations described in subsection (a), see subsection (d) of section 1031.

[Sec. 1037 as added by sec. 201(a), Act of Sept. 22, 1959 (Public Law 86-346, 73 Stat. 622)]

§ 1.1037–1 Certain exchanges of United States obligations.

(a) *Nonrecognition of gain or loss*—(1) *In general.* Section 1037(a) provides for the nonrecognition of gain or loss on the surrender to the United States of obligations of the United States issued under the Second Liberty Bond Act (31 U.S.C. 774(2)) when such obligations are exchanged solely for other obligations issued under that Act and the Secretary provides by regulations promulgated in connection with the issue of such other obligations that gain or loss is not to be recognized on such exchange. It is not necessary that at the time of the exchange the obligation which is surrendered to the United States be a capital asset in the hands of the taxpayer. For purposes of section 1037(a) and this subparagraph, a circular of the Treasury Department which offers to exchange obligations of the United States issued under the Second Liberty Bond Act for other obligations issued under that Act shall constitute regulations promulgated by the Secretary in connection with the issue of the obligations offered to be exchanged if such circular contains a declaration by the Secretary that no gain or loss shall be recognized for Federal income tax purposes on the exchange or grants the privilege of continuing to defer the reporting of the income on the bonds exchanged until such time as the bonds received in the exchange are redeemed or disposed of, or have reached final maturity, whichever is earlier. See, for example, regulations of the Bureau of the Public Debt, 31 CFR Part 339, or Treasury Department Circular 1066, 26 F.R. 8647. The application of section 1037(a) and this subparagraph will not be precluded merely because the taxpayer is required to pay money on the exchange. See section 1031 and the regulations thereunder if the taxpayer receives money on the exchange.

(2) *Recognition of gain or loss postponed.* Gain or loss which has been realized but not recognized on the exchange of a U.S. obligation for another such obligation because of the provisions of section 1037(a) (or so much of section 1031 (b) or (c) as relates to section 1037(a)) shall be recognized at such time as the obligation received in the exchange is disposed of, or redeemed, in a transaction other than an exchange described in section 1037(a) (or so much of section 1031 (b) or (c) as relates to section 1037(a)) or reaches final maturity, whichever is earlier, to the extent gain or loss is realized on such later transaction.

(3) *Illustrations.* The application of this paragraph may be illustrated by the following examples, in which it is assumed that the taxpayer uses the cash receipts and disbursements method of accounting and has never elected under section 454(a) to include in gross income currently the annual increase in the redemption price of non-interest-bearing obligations issued at a discount. In addition, it is assumed that the old obligations exchanged are capital assets transferred in an exchange in respect of which regulations are promulgated pursuant to section 1037(a):

Example (1). A, the owner of a $1,000 series H U.S. savings bond purchased for $750 and bearing an issue date of May 1, 1945, surrenders the bond to the United States in exchange solely for series H U.S. savings bonds on February 1, 1964, when the series H bond has a redemption value of $1,304.80. In the exchange A pays an additional $195.20 and obtains three $500 series H bonds. None of the $554.80 gain ($1,304.80 less $750) realized by A on the series H bond is recognized at the time of the exchange.

Example (2). In 1963, B purchased for $97 a marketable U.S. bond which was originally issued at its par value of $100. In 1964 he surrenders the bond to the United States in exchange solely for another marketable U.S. bond which then has a fair market value of $95. B's loss of $2 on the old bond is not recognized at the time of the exchange, and his basis for the new bond is $97 under section 1031(d). If it had been necessary for B to pay $1 additional consideration in the exchange, his basis in the new bond would be $98.

Example (3). The facts are the same as in example (2) except that B also receives $1 interest on the old bond for the period which has elapsed since the last interest payment date and that B does not pay any additional consideration on the exchange. As in example (2), B has a loss of $2 which is not recognized at the time of the exchange and his basis in the new bond is $97. In addition, the $1 of interest received on the old bond is includible in gross income. B holds the new bond 1 year and sells it in the market for $99 plus interest. At this time he has a gain of $2, the difference between his basis of $97 in the new bond and the sales price of such bond. In addition, the interest received on the new bond is includible in gross income.

Example (4). The facts are the same as in example (2), except that in addition to the new bond B also receives $1.85 in cash, $0.85 of which is interest. The $0.85 interest received is includible in gross income. B's loss of $1 ($97 less $96) on the old bond is not recognized at the time of the exchange by reason of section 1031(c). Under section 1031(d) B's basis in the new bond is $96 (his basis of $97 in the old bond, reduced by the $1 cash received in the exchange).

Example (5). (a) For $975 D subscribes to a marketable U.S. obligation which has a face value of $1,000. Thereafter, he surrenders this obligation to the United States in exchange solely for a 10-year marketable $1,000 obligation which at the time of exchange has a fair market value of $930, at which price such obligation is initially offered to the public. At the time of issue of the new obligation there was no intention to call it before maturity. Five years after the exchange D sells the new obligation for $960.

(b) On the exchange of the old obligation for the new obligation D sustains a loss of $45 ($975 less $930), none of which is recognized pursuant to section 1037(a).

(c) The basis of the new obligation in D's hands, determined under section 1031(d), is $975 (the same basis as that of the old obligation).

(d) On the sale of the new obligation D sustains a loss of $15 ($975 less $960), all of which is recognized by reason of section 1002.

Example (6). (a) The facts are the same as in example (5), except that five years after the exchange D sells the new obligation for $1,020.

(b) On the exchange of the old obligation for the new obligation D sustains a loss of $45 ($975 less $930), none of which is recognized pursuant to section 1037(a).

(c) The basis of the new obligation in D's hands, determined under section 1031(d), is $975 (the same basis as that of the old obligation). The issue price of the new obligation under section 1232(b)(2) is $930.

(d) On the sale of the new obligation D realizes a gain of $45 ($1,020 less $975), all of which is recognized by reason of section 1002. Of this gain of $45, the amount of $35 is treated as ordinary income and $10 is treated as long-term capital gain, determined as follows:

(1) Ordinary income under first sentence of sec. 1232(a)(2)(A) on sale of new obligation:	
Stated redemption price of new obligation at maturity	$1,000
Less: Issue price of new obligation under sec. 1232(b)(2)	930
Original issue discount on new obligation	70
Proration under sec. 1232(a)(2)(A)(ii): ($70×60 months/120 months)	35
(2) Long-term capital gain ($45 less $35)	10

Example (7). (a) The facts are the same as in example (5), except that D retains the new obligation and redeems it at maturity for $1,000.

(b) On the exchange of the old obligation for the new obligation D sustains a loss of $45 ($975 less $930), none of which is recognized pursuant to section 1037(a).

(c) The basis of the new obligation in D's hands, determined under section 1031(d), is $975 (the same basis as that of the old obligation). The issue price of the new obligation is $930 under section 1232(b)(2).

(d) On the redemption of the new obligation D realizes a gain of $25 ($1,000 less $975), all of which is recognized by reason of section 1002. Of this gain of $25, the entire amount is treated as ordinary income, determined as follows:

Ordinary income under first sentence of sec. 1232(a)(2)(A) on redemption of new obligation:	
Stated redemption price of new obligation at maturity	$1,000
Less: Issue price of new obligation under sec. 1232(b)(2)	930
Original issue discount on new obligation	70
Proration under sec. 1232(a)(2)(A)(ii), but such amount not to exceed the $25 gain recognized on redemption	$25

(b) *Application of section 1232 upon disposition or redemption of new obligation*—(1) *Exchanges involving nonrecognition of gain on obligations issued at a discount.* If an obligation, the gain on which is subject to the first sentence of section 1232(a)(2)(A) because the obligation was originally issued at a discount, is surrendered to the United States in exchange for another obligation and any part of the gain realized on the exchange is not then recognized because of the provisions of section 1037(a) (or because of so much of section 1031(b) as relates to section 1037(a)), the first sentence of section 1232(a)(2)(A) shall apply to so much of such unrecognized gain as is later recognized upon the disposition or redemption of the obligation which is received in the exchange as though the obligation so disposed of or redeemed were the obligation surrendered, rather than the obligation received, in such exchange. See the first sentence of section 1037(b)(1). Thus, in effect that portion of the gain which is unrecognized on the exchange but is recognized upon the later disposition or redemption of the obligation received from the United States in the exchange shall be considered as ordinary income in an amount which is equal to the gain which, by applying the first sentence of section 1232(a)(2)(A) upon the earlier surrender of the old obligation to the United States, would have been considered as ordinary income if the gain had been recognized upon such earlier exchange. Any portion of the gain which is recognized under section 1031(b) upon the earlier exchange and is treated at such time as ordinary income shall be deducted from the gain which is treated as ordinary income by applying the first sentence of section 1232(a)(2)(A) pursuant to this subparagraph upon the disposition or redemption of the obligation which is received in the earlier exchange. This subparagraph shall apply only in a case where on the exchange of United States obligations there was some gain not recognized by reason of section 1037(a) (or so much of section 1031(b) as relates to section 1037(a)); it shall not apply where only loss was unrecognized by reason of section 1037(a).

(2) *Rules to apply when a nontransferable obligation is surrendered in the exchange.* For purposes of applying both section 1232(a)(2)(A) and subparagraph (1) of this paragraph to the total gain realized on the obligation which is later disposed of or redeemed, if the obligation surrendered to the United States in the earlier exchange is a nontransferable obligation described in section 454 (a) or (c)—

(i) The aggregate amount considered, with respect to the obligation so surrendered in the earlier exchange, as ordinary income shall not exceed the difference between the issue price of the surrendered obligation and the stated redemption price of the surrendered obligation which applied at the time of the earlier exchange, and

(ii) The issue price of the obligation which is received from the United States in the earlier exchange shall be considered to be the stated redemption price of the surrendered obligation which applied at the time of the earlier exchange, increased by the amount of other consideration (if any) paid to the United States as part of the earlier exchange.

If the obligation received in the earlier exchange is a nontransferable obligation described in section 454(c) and such obligation is partially redeemed before final maturity, or partially disposed of by being partially reissued to another owner, the amount determined by applying subdivision (i) of this subparagraph shall be determined on a basis proportional to the total denomination of obligations redeemed or disposed of. See paragraph (c) of § 1.454–1.

(3) *Long-term capital gain.* If, in a case where both subparagraphs (1) and (2) of this paragraph are applied, the total gain realized on the redemption or disposition of the obligation which is received from the United States in the exchange to which section 1037(a) (or so much of section 1031(b) as relates to section 1037(a)) applies exceeds the amount of gain which, by applying such subparagraphs, is treated as ordinary income, the gain in excess of such amount shall be treated as long-term capital gain.

(4) *Illustrations.* The application of this paragraph may be illustrated by the following examples, in which it is assumed that the taxpayer uses the cash receipts and disbursements method of accounting and has never elected under section 454(a) to include in gross income currently the annual increase in the redemption price of non-interest-bearing obligations issued at a discount. In addition, it is assumed that the old obligations exchanged are capital assets transferred in an exchange in respect of which regulations are promulgated pursuant to section 1037(a):

Example (1). (a) A purchased a non-interest-bearing nontransferable U.S. bond for $74 which was issued after December 31, 1954, and redeemable in 10 years for $100. Several years later, when the stated redemption value of such bond is $94.50, A surrenders it to the United States in exchange for $1 in cash and a 10-year marketable bond having a face value of $100. On the date of exchange the bond received in the exchange has a fair market value of $96. Less than one month after the exchange, A sells the new bond for $96.

(b) On the exchange of the old bond for the new bond A realizes a gain of $23, determined as follows:

Amount realized (a new bond worth $96 plus $1 cash)	$97
Less: Adjusted basis of old bond	74
Gain realized	23

Pursuant to so much of section 1031(b) as applies to section 1037(a), the amount of such gain which is recognized is $1 (the money received). Such recognized gain of $1 is treated as ordinary income. On the exchange of the old bond a gain of $22 ($23 less $1) is not recognized.

(c) The basis of the new bond in A's hands, determined under section 1031(d), is $74 (the basis of the old bond, decreased by the $1 received in cash and increased by the $1 gain recognized on the exchange).

(d) On the sale of the new bond A realizes a gain of $22 ($96 less $74), all of which is recognized by reason of section 1002. Of this gain of $22, the amount of $19.50 is treated as ordinary income and $2.50 is treated as long-term capital gain, determined as follows:

(1) Ordinary income, treating sale of new bond as though a sale of old bond and applying sec. 1037(b)(1)(A):	
Stated redemption price of old bond	$94.50
Less: Issue price of old bond	74.00
Aggregate gain under sec. 1037(b)(1)(A) (not to exceed $23 not recognized at time of exchange)	20.50
Less: Amount of such gain recognized at time of exchange	1.00
Ordinary income	19.50
(2) Ordinary income under first sentence of sec. 1232(a)(2)(A), applying sec. 1037(b)(1)(B) to sale of new bond:	
Stated redemption price of new bond at maturity	100.00
Less: Issue price of new bond under sec. 1037(b)(1)(B) ($94.50 plus $0 additional consideration paid on exchange)	94.50
Original issue discount on new bond	5.50
Proration under sec. 1232(a)(2)(A)(ii): ($5.50×0 months/120 months)	0
(3) Total ordinary income (sum of subparagraphs (1) and (2))	19.50
(4) Long-term capital gain ($23 less $19.50)	2.50

Example (2). (a) The facts are the same as in example (1), except that, less than one month after the exchange of the old bond, the new bond is sold for $92.

(b) On the sale of the new bond A realizes a gain of $18 ($92 less $74), all of which is recognized by reason of section 1002. Of this gain, the entire amount of $18 is treated as ordinary income. This amount is determined as provided in paragraph (d)(1) of example (1) except that the ordinary income of $19.50 is limited to the $18 recognized on the sale of the new bond.

Example (3). (a) The facts are the same as in example (1), except that 2 years after the exchange of the old bond A sells the new bond for $98.

(b) On the sale of the new bond A realizes a gain of $24 ($98 less $74), all of which is recognized by reason of section 1002. Of this gain of $24, the amount of $20.60 is treated as ordinary income and $3.40 is treated as long-term capital gain, determined as follows:

(1) Ordinary income applicable to old bond (determined as provided in paragraph (d)(1) of example (1))	$19.50
(2) Ordinary income applicable to new bond (determined as provided in paragraph (d)(2) of example (1), except that the proration of the original issue discount under sec. 1232(a)(2)(A)(ii) amounts to $1.10 ($5.50×24 months/120 months))	1.10
(3) Total ordinary income (sum of subparagraphs (1) and (2))	20.60
(4) Long-term capital gain ($24 less $20.60)	3.40

Example (4). (a) The facts are the same as in example (1), except that less than one month after the exchange of the old bond, the new bond is redeemed at maturity for $100.

(b) On the redemption of the new bond A realizes a gain of $26 ($100 less $74), all of which is recognized by reason of section 1002. Of this gain of $26, the amount of $25 is treated as ordinary income and $1 is treated as long-term capital gain, determined as follows:

(1) Ordinary income applicable to old bond (determined as provided in paragraph (d)(1) of example (1))	$19.50

(2) Ordinary income applicable to new bond (determined as provided in paragraph (d)(2) of example (1), except that the proration of the original issue discount under sec. 1232(a)(2)(A)(ii) amounts to $5.50 ($5.50×120 months/120 months))	5.50
(3) Total ordinary income (sum of subparagraphs (1) and (2))	25.00
(4) Long-term capital gain ($26 less $25)	1.00

Example (5). (a) In 1958 B purchased for $7,500 a series E United States savings bond having a face value of $10,000. In 1965 when the stated redemption value of the series E bond is $9,760, B surrenders it to the United States in exchange solely for a $10,000 series H U.S. savings bond, after paying $240 additional consideration. B retains the series H bond and redeems it at maturity in 1975 for $10,000, after receiving all the semiannual interest payments thereon.

(b) On the exchange of the series E bond for the series H bond, B realizes a gain of $2,260 ($9,760 less $7,500), none of which is recognized at such time by reason of section 1037(a).

(c) The basis of the series H bond in B's hands, determined under section 1031(d), is $7,740 (the $7,500 basis of the series E bond, plus $240 additional consideration paid for the series H bond).

(d) On the redemption of the series H bond, B realizes a gain of $2,260 ($10,000 less $7,740), all of which is recognized by reason of section 1002. This entire gain is treated as ordinary income by treating the redemption of the series H bond as though it were a redemption of the series E bond and by applying section 1037(b)(1)(A).

(e) Under section 1037(b)(1)(B) the issue price of the series H bond is $10,000 ($9,760 stated redemption price of the series E bond at time of exchange, plus $240 additional consideration paid). Thus, with respect to the series H bond, there is no original issue discount to which section 1232(a)(2)(A) might apply.

Example (6). (a) The facts are the same as in example (5), except that in 1970 B submits the $10,000 series H bond to the United States for partial redemption in the amount of $5,000 and for reissuance of the remainder in $1,000 series H savings bonds registered in his name. On this transaction B receives $5,000 cash and seven $1,000 series H bonds bearing the original issue date of the $10,000 bond which is partially redeemed. The $1,000 series H bonds are redeemed at maturity in 1975 for $7,000.

(b) On the partial redemption of the $10,000 series H bond in 1970 B realizes a gain of $678 ($3,000 less $2,322 [$7,740×$3,000/$10,000]), all of which is recognized at such time by reason of section 1002 and paragraph (c) of § 1.454–1. This entire gain is treated as ordinary income, by treating the partial redemption of the series H bond as though it were a redemption of the relevant denominational portion of the series E bond and by applying section 1037(b)(1)(A).

(c) On the redemption at maturity in 1975 of the seven $1,000 series H bonds B realizes a gain of $1,582 ($7,000 less $5,418 [$7,740×$7,000/$10,000]), all of which is recognized at such time by reason of section 1002 and paragraph (c) of § 1.454–1. This entire gain is treated as ordinary income, determined in the manner described in paragraph (b) of this example.

Example (7). (a) The facts are the same as in example (6), except that in 1970 B requests the United States to reissue the $10,000 series H bond by issuing two $5,000 series H bonds bearing the original issue date of such $10,000 bond. One of such $5,000 bonds is registered in B's name, and the other is registered in the name of C, who is B's son. Each $5,000 series H bond is reissued at maturity in 1975 for $5,000.

(b) On the issuing in 1970 of the $5,000 series H bond to C, B realizes a gain of $1,130 ($5,000 less $3,870 [$7,740×$5,000/$10,000]), all of which is recognized at such time by reason of section 1002 and paragraph (c) of § 1.454–1. This entire gain is treated as ordinary income by treating the transaction as though it were a redemption of the relevant denominational portion of the series E bond and by applying section 1037(b)(1)(A).

(c) On the redemption at maturity in 1975 of the $5,000 series H bond registered in his name B realizes a gain of $1,130 ($5,000 less $3,870 [$7,740×$5,000/$10,000]), all of which is recognized at such time by reason of section 1002 and paragraph (c) of § 1.454–1. This entire gain is treated as ordinary income, determined in the manner described in paragraph (b) of this example.

(d) On the redemption at maturity in 1975 of the $5,000 series H bond registered in his name C does not realize any gain, since the amount realized on redemption does not exceed his basis in the property, determined as provided in section 1015.

(5) *Exchanges involving nonrecognition of gain or loss on transferable obligations issued at not less than par—(i) In general.* If a transferable obligation of the United States which was originally issued at not less than par is surrendered to the United States for another transferable obligation in an exchange to which the provisions of section 1037(a) (or so much of section 1031 (b) or (c) as relates to section 1037(a)) apply, the issue price of the obligation received from the United States in the exchange shall be considered for purposes of applying section 1232 to gain realized on the disposition or redemption of the obligation so received, to be the same as the issue price of the obligation which is surrendered to the United States in the exchange, increased by the amount of other consideration, if any, paid to the United States as part of the exchange. This subparagraph shall apply irrespective of whether there is gain or loss unrecognized on the exchange and irrespective of the fair market value, at the time of the exchange, of either the obligation surrendered to, or the obligation received from, the United States in the exchange.

(ii) *Illustrations.* The application of this subparagraph may be illustrated by the following examples, in which it is assumed that the taxpayer uses the cash receipts and disbursements method of accounting and that the old obligations exchanged are capital assets transferred in an exchange in respect of which regulations are promulgated pursuant to section 1037(a):

Example (1). (a) A purchases in the market for $98 a marketable U.S. bond which was originally issued at its par value of $100. Three months later, A surrenders this bond to the United States in exchange solely for another $100 marketable U.S. bond which then has a fair market value of $98. He holds the new bond for 8 months and then sells it on the market for $92.

(b) On the exchange of the old bond for the new bond A realizes a gain of $2 ($98 less $96), none of which is recognized by reason of section 1037(a).

(c) The basis of the new bond in A's hands, determined under section 1031(d), is $95 (the same as that of the old bond). The issue price of the new bond for purposes of section 1232(a)(2)(A) is considered under section 1067(b)(2) to be $100 (the same issue price as that of the old bond).

(d) On the sale of the new bond A realizes a gain of $7 ($92 less $85), all of which is recognized by reason of section 1002. Of this gain of $7, the entire amount is treated as long-term capital gain, determined as follows:

(1) Ordinary income under first sentence of sec. 1232(a)(2)(A), applicable to old bond:	
Stated redemption price of old bond at maturity	$100
Less: Issue price of old bond	100
Original issue discount on old bond	0
(2) Ordinary income under first sentence of sec. 1232(a)(2)(A), applying sec. 1037(b)(2) to sale of new bond:	
Stated redemption price of new bond at maturity	$100
Less: Issue price of new bond under sec. 1037(b)(2)	100
Original issue discount on new bond	0
(3) Long-term capital gain ($7 less sum of subparagraphs (1) and (2))	$7

Example (2). The facts are the same as in example (1), except that A retains the new bond and redeems it at maturity for $100. On the redemption of the new bond, A realizes a gain of $15 ($100 less $85), all of which is recognized under section 1002. This entire gain is treated as long-term capital gain, determined in the same manner as provided in paragraph (d) of example (1).

Example (3). (a) For $1,000 B subscribes to a marketable U.S. bond which has a face value of $1,000. Thereafter, he surrenders this bond to the United States in exchange solely for a 10-year marketable $1,000 bond which at the time of exchange has a fair market value of $930, at which price such bond is initially offered to the public. Five years after the exchange, B sells the new bond for $950.

(b) On the exchange of the old bond for the new bond, B sustains a loss of $70 ($1,000 less $930), none of which is recognized pursuant to section 1037(a).

(c) The basis of the new bond in A's hands, determined under section 1031(d), is $1,000 (the same basis as that of the old bond).

(d) On the sale of the new bond B sustains a loss of $50 ($1,000 less $950), all of which is recognized by reason of section 1002.

Example (4). (a) The facts are the same as in example (3), except that 5 years after the exchange B sells the new bond for $1,020.

(b) On the exchange of the old bond for the new bond B sustains a loss of $70 ($1,000 less $930), none of which is recognized pursuant to section 1037(a).

(c) The basis of the new bond in B's hands, determined under section 1031(d), is $1,000 (the same basis as that of the old bond). The issue price of the new bond for purposes of section 1232(a)(2)(A) is considered under section 1037(b)(2) to be $1,000 (the same issue price as that of the old bond).

(d) On the sale of the new bond B realizes a gain of $20 ($1,020 less $1,000), all of which is recognized by reason of section 1002. This entire gain is treated as long-term capital gain, determined in the same manner as provided in paragraph (d) of example (1).

(6) *Other rules for applying section 1232.* To the extent not specifically affected by the provisions of section 1037 (b) and subparagraphs (1) through (5) of this paragraph, any gain realized on the disposition or redemption of any obligation received from the United States in an exchange to which section 1037(a) (or so much of section 1031 (b) or (c) as relates to section 1037(a)) applies shall be treated in the manner provided by section 1232 if the facts and circumstances relating to the acquisition and disposition or redemption of such obligation require the application of section 1232.

(c) *Holding period of obligation received in the exchange.* The holding period of an obligation received from the United States in an exchange to which the provisions of section 1037(a) (or so much of section 1031 (b) or (c) as relates to section 1037(a)) apply shall include the period for which the obligation which was surrendered to the United States in the exchange was held by the taxpayer, but only if the obligation so surrendered was at the time of the exchange a capital asset in the hands of the taxpayer. See section 1223 and the regulations thereunder.

(d) *Basis.* The basis of an obligation received from the United States in an exchange to which the provisions of section 1037(a) (or so much of section 1031 (b) or (c) as relates to section 1037(a)) apply shall be determined as provided in section 1031(d) and the regulations thereunder.

(e) *Effective date.* Section 1.1037 and this section shall apply only for taxable years ending after September 22, 1959.

PAR. 11. Section 1.1232–3 is amended by revising paragraphs (a)(2) and (f) to read as follows:

§ 1.1232–3 Gain upon sale or exchange of obligations issued at a discount after December 31, 1954.

(a) *General rule.* * * *

(2) *Sale or exchange after December 31, 1957.* In the case of gain realized upon the sale or exchange after December 31, 1957, of an obligation issued at a discount after December 31, 1954, and held by the taxpayer for more than 6 months, section 1232(a)(2)(A) provides that such gain shall be considered ordinary income to the extent it does not exceed—

(i) An amount equal to the entire "original issue discount", or

(ii) If at the time of original issue there was no intention to call the bond or other evidence of indebtedness before maturity, a portion of the "original issue discount" determined in accordance with paragraph (c) of this section, and the balance, if any, of the gain shall be considered as long-term capital gain. The terms "original issue discount" and "intention to call the bond or other evidence of indebtedness before maturity" are defined in paragraph (b) of this section. See section 1037(b) and paragraph (b) of § 1.1037–1 for special rules which are applicable in applying section 1232(a)(2)(A) and this subparagraph to gain realized on the disposition or redemption of obligations of the United States which were received from the United States in an exchange upon which gain or loss is not recognized because of section 1037(a) (or so much of section 1031 (b) or (c) as relates to section 1037(a)).

* * * * *

(f) *Record keeping requirements.* In the case of any obligation held by a taxpayer which was issued at an original issue discount after December 31, 1954, the taxpayer shall keep a record of the issue price and issue date upon or with each such obligation (if known to or reasonably ascertainable by him). If the obligation held by the taxpayer is an obligation of the United States received from the United States in an exchange upon which gain or loss is not recognized because of section 1037(a) (or so much of section 1031 (b) or (c) as relates to section 1037(a)), the taxpayer shall keep sufficient records to determine the issue price of such obligation for purposes of applying section 1037(b) and paragraphs (a) and (b) of § 1.1037–1 upon the disposition or redemption of such obligation. The issuer (or in the case of obligations first sold to the public through an underwriter or wholesaler, the underwriter or wholesaler) shall mark the issue price and issue date upon every obligation which is issued at an original issue discount after September 26, 1957.

[F.R. Doc. 67–13471; Filed, Nov. 16, 1967; 8:45 a.m.]

Title 29—LABOR

Chapter X—National Mediation Board

PART 1200—MINIMUM STANDARDS OF CONDUCT FOR EMPLOYEES OF THE NATIONAL MEDIATION BOARD

Pursuant to and in conformity with sections 201 through 209 of Title 18 of the United States Code, Executive Order 11222 of May 8, 1965 (20 F.R. 6469), and Title 5, Chapter I, Part 735 of the Code of Federal Regulations, Part 1200 is amended in the following respects:

1. Present §§ 1200.735–20 through 1200.735–28 are renumbered as §§ 1200.735–21 through 1200.735–29 and a new § 1200.735–20 is added which includes the provisions in renumbered § 1200.735–21(c) to indicate that this provision applies to all the following applicable material.

2. Renumbered § 1200.735–21(c) is deleted.

3. Renumbered § 1200.735–21(d) is amended to indicate the circumstances under which a voluntary gift to an official superior may be allowed.

4. Renumbered § 1200.735–21(e) is amended to correct statutory references.

5. Renumbered § 1200.735–21 is amended by addendum of paragraph (f). The provisions of this section formerly appeared in renumbered § 1200.735–22(d)(1). The amendment was made to show the exception does not allow non-Government reimbursement for travel on official business under agency orders.

6. Renumbered § 1200.735–22(d)(1) has been deleted.

7. Renumbered § 1200.735–22 and the heading have been amended for clarity.

8. Renumbered § 1200.735–22(e) is amended to correct statutory reference.

9. Renumbered § 1200.735–29 is amended in paragraphs (d), (g), (h), and (j) to correct statutory references made obsolete by the codification of 5 U.S.C.

10. Renumbered § 1200.735–29 has had added paragraph (p) dealing with certain proscribed political activities and paragraph (q) dealing with the prohibition against acting as an agent of a foreign principal.

11. Section 1200.735–32 has been amended to reflect renumbering of reference § 1200.735–22(c).

12. Section 1200.735–35(b) has been amended to reflect renumbering of reference § 1200.735–21(b).

13. Section 1200.735–41 has been amended to indicate what employee must now file financial statements.

14. Section 1200.735–41(a) has been added to indicate what an employee may do who protests his inclusion under the filing requirement.

15. Section 1200.735–42 has been amended to delineate who does not have to file a financial record.

16. Section 1200.735–44 has been amended to eliminate the quarterly submission of supplementary statements of employment and financial interests.

17. Section 1200.735–48 is amended to insure the confidentiality of statements of financial and employment interests.

As amended Part 1200 is revised to read as follows:

Subpart A—Introduction

Sec.	
1200.735–1	General.
1200.735–2	Interpretation and advisory service.
1200.735–3	Reviewing statements and reporting conflicts of interest.
1200.735–4	Disciplinary and other remedial action.

Subpart B—Ethical Conduct and Responsibilities of Employees

1200.735–20	Proscribed actions.
1200.735–21	Gifts, entertainment, and favors.
1200.735–22	Outside employment and other activity.
1200.735–23	Financial interests.
1200.735–24	Use of Government property.
1200.735–25	Misuse of information.
1200.735–26	Indebtedness.
1200.735–27	Gambling, betting, and lotteries.
1200.735–28	General conduct prejudicial to the Government.
1200.735–29	Miscellaneous statutory provisions.

Subpart C—Board Regulations Governing Ethical and Other Conduct and Responsibilities of Special Government Employees

1200.735–30	Special provisions of Board regulations.
1200.735–31	Use of Government employment.
1200.735–32	Outside activities of special Government employees.

Sec.
1200.735–33 Use of inside information.
1200.735–34 Coercion.
1200.735–35 Gifts, entertainment, and favors.

Subpart D—Board Regulations Governing Statements of Employment and Financial Interests

1200.735–40 Form and content of statements.
1200.735–41 Employees required to submit statements.
1200.735–41a Employee's complaint on filing requirement.
1200.735–42 Employees not required to submit statements.
1200.735–43 Time and place for submission of employees' statements.
1200.735–44 Supplementary statements.
1200.735–45 Interests of employees' relatives.
1200.735–46 Information not known by employees.
1200.735–47 Information prohibited.
1200.735–48 Confidentiality of employees' statements.
1200.735–49 Effect of employees' statements on other requirements.
1200.735–50 Specific provisions of Board regulations for special Government employees.

AUTHORITY: The provisions of this Part 1200 issued under E.O. 11222 of May 8, 1965, 30 F.R. 6469, 3 CFR, 1965 Supp.; 5 CFR 735.104.

Subpart A—Introduction

§ 1200.735–1 General.

(a) The promulgation of these minimum standards of ethical conduct for employees and special Government employees of the National Mediation Board has as its objective the maintaining and reaffirming of the public's confidence in the activities of their Government. The regulations in this part are intended to act as the broad moral and ethical guideposts for employees of the Board and to supplement and verbalize the individual ethic and integrity of the employees affected. The avoidance of misconduct and conflict of interest on the part of Government employees and special Government employees through informed judgment is indispensable to the maintenance of these standards.

(b) The elimination of conflicts of interests in the Federal service is one of the most important objectives in establishing general standards of conduct. A conflict-of-interest situation may be defined as one in which a Federal employee's private interest, usually of an economic nature, conflicts or raises a reasonable question of conflict with his public duties and responsibilities. The potential conflict is of concern whether it is real or only apparent.

(c) The failure of an employee to observe the basic principles of good conduct, ethics, and integrity will result in immediate adverse or disciplinary action of a severity in keeping with the offense committed and in accordance with equitable administrative practice.

(d) These standards are established in conformity with Part 735 of Title 5 of the Code of Federal Regulations.

§ 1200.735–2 Interpretation and advisory service.

It shall be the practice of the National Mediation Board to appoint as counselor for the agency one of the members of the Board itself. Based upon the experience, usually legal, and position of such individual, employees of the Board will more naturally express complete personal confidence in such a counselor. This individual shall coordinate the Board's counseling services, which services shall be brought to the attention of the Board's employees and special Government employees within 90 days after the approval of the agency's regulations by the Commission. In the case of new employees, notification of the availability of counseling services shall be effected upon their entrance on duty.

§ 1200.735–3 Reviewing statements and reporting conflicts interest.

(a) When a statement submitted or information from other sources indicates a conflict between the interests of an employee or special Government employee and the performance of his services for the Government, and when the conflict or appearance of conflict is not resolved at a lower level, the information concerning the conflict or appearance of the conflict shall be reported to the Board through the counselor for the Board.

(b) The employee or special Government employee concerned shall be provided an opportunity to explain the conflict or appearance of conflict.

§ 1200.735–4 Disciplinary and other remedial action.

(a) A violation of the regulations in this part by an employee or special Government employee may be cause for appropriate disciplinary action which may be in addition to any penalty prescribed by law.

(b) When after consideration of the explanation of the employee or special Government employee the Board decides that remedial action is required, immediate action shall be taken to end the conflicts or appearance of conflicts of interest. Remedial action may include, but is not limited to:

(1) Change in assigned duties;

(2) Divestment by the employee or special Government employee of his conflicting interest;

(3) Disciplinary action; or

(4) Disqualification for a particular assignment.

(c) Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws, Executive orders, and regulations.

Subpart B—Ethical Conduct and Responsibilities of Employees

§ 1200.735–20 Proscribed actions.

(a) An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in or create the appearance of:

(1) Using public office for private gain;

(2) Giving preferential treatment to any person;

(3) Impeding Government efficiency or economy;

(4) Losing complete independence or impartiality;

(5) Making a Government decision outside of official channels; or

(6) Affecting adversely the confidence of the public in the integrity of the Government.

§ 1200.735–21 Gifts, entertainment, and favors.

(a) An employee shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value from a person who:

(1) Has, or is seeking to obtain, contractual or other business of financial relations with the Board;

(2) Conducts operations or activities that are regulated by the Board; or

(3) Has interests that may be substantially affected by the performance or nonperformance of his official duty.

(b) The restrictions set forth in paragraph (a) of this section do not apply to:

(1) Obvious family or personal relationships when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors;

(2) The acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting or during an investigation where an employee may be properly in attendance;

(3) The acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans; and

(4) The acceptance of unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value.

(c) [Deleted]

(d) An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(e) An employee shall not accept a gift, present, decoration, or other things from a foreign government unless authorized by Congress as provided by the Constitution and in Public Law 89–673, 80 Stat. 952.

(f) Neither this section nor § 1200.735–22 precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this part for which no Government payment or reimbursement is made. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his behalf, for excessive personal living expenses, gifts, entertainment or other personal benefits, nor does it allow an employee to be reimbursed by a person for travel on official business under Board orders when reimbursement is proscribed by Decision B–128527 of the Comptroller General dated March 7, 1967.

§ 1200.735–22 Outside employment and other activity.

(a) An employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of his Government employment. Incompatible activities include but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, conflicts of interest; or

(2) Outside employment which tends to impair his mental or physical capacity to perform his Government duties and responsibilities in an acceptable manner.

(b) An employee shall not receive any salary or anything of monetary value from a private source as compensation for his services to the Government.

(c) Employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law, the Executive order, or the Board regulations in this part. However, an employee shall not, either for or without compensation, engage in teaching, lecturing, or writing that is dependent on information obtained as a result of his Government employment, except when that information has been made available to the general public or will be made available on request, or when the Board gives written authorization for the use of nonpublic information on the basis that the use is in the public interest. In addition, an employee who is a Presidential appointee covered by section 401(a) of Executive Order 11222 shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance, the subject matter of which is devoted substantially to the responsibilities, programs, or operations of his agency, or which draws substantially on official data or ideas which have not become part of the body of public information.

(d) An employee is not precluded from:

(1) [Deleted]

(2) Participation in the activities of National or State political parties not prescribed by law;

(3) Participation in the affairs of or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational and recreational, public service, or civic organization.

§ 1200.735–23 Financial interests.

(a) An employee shall not:

(1) Have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his Governmental duties and responsibilities; or

(2) Engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through his Government employment.

(b) An employee is not precluded from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government so long as it is not prohibited by law, the Executive order or the Board regulations in this part.

§ 1200.735–24 Use of Government property.

An employee shall not directly or indirectly use, or allow the use of, Government property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to him.

§ 1200.735–25 Misuse of information.

For the purpose of furthering a private interest, an employee shall not, directly or indirectly use, or allow the use of, official information obtained through or in connection with his Government employment which has not been made available to the general public.

§ 1200.735–26 Indebtedness.

An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. A "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court, and "in a proper and timely manner" means in a manner which the Board determines does not, under the circumstances, reflect adversely on the Government as his employer. In the event of dispute between an employee and an alleged creditor, the Board is not required to determine the validity or amount of the disputed debt.

§ 1200.735–27 Gambling, betting, and lotteries.

An employee shall not participate, while on Government owned or leased property or while on duty for the Government, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket.

§ 1200.735–28 General conduct prejudicial to the Government.

An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government.

§ 1200.735–29 Miscellaneous statutory provisions.

Each employee shall acquaint himself with each statute that relates to his ethical and other conduct as an employee of the Board and of the Government. The following statutory provisions are to be noted:

(a) House Concurrent Resolution 175, 85th Congress, 2d session, 72 Stat. B12, the "Code of Ethics for Government Service."

(b) Chapter 11 of title 18, U.S.C., relating to bribery, graft, and conflicts of interest, as appropriate to the employees concerned.

(c) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(d) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).

(e) The prohibition against the employment of a member of a Communist organization (50 U.S.C. 784).

(f) The prohibitions against:

(1) The disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783), and

(2) The disclosure of confidential information (18 U.S.C. 1905).

(g) The provisions relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(h) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a(c)).

(i) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).

(j) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(k) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(l) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

(m) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(n) The prohibitions against:

(1) Embezzlement of Government money or property (18 U.S.C. 641);

(2) Failing to account for public money (18 U.S.C. 643); and

(3) Embezzlement of the money or property of another person in the possession of an employee by reason of his employment (18 U.S.C. 654).

(o) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(p) The prohibition against prescribed political activities in Subchapter III of Chapter 73 of Title 5, United States Code and 18 U.S.C. 602, 603, 607, and 608.

(q) The prohibition against an employee acting as an agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

Subpart C—Board of Regulations Governing Ethical and Other Conduct and Responsibilities of Special Government Employees

§ 1200.735–30 Special provisions of Board regulations.

Special Government employees, including those individuals categorized as WAE (When as employed), shall be put on actual notice regarding section 5, Third (a), and 7, Third (d) of the Railway Labor Act, 45 U.S.C. Chapter 8, which provide that arbitrators appointed by the Board shall be impartial without

bias and disinterested. These Board appointed arbitrators or neutrals shall be further notified of the intent of Executive Order 11222 governing conflict of interests and ethical standards of Government employees.

§ 1200.735–31 Use of Government employment.

A special Government employee shall not use his Government employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for himself or another person, particularly one with whom he has family, business, or financial ties.

§ 1200.735–32 Outside activities of special Government employees.

Special Government employees may teach, lecture, or write in a manner not inconsistent with § 1200.735–22(c) governing other employees.

§ 1200.735–33 Use of inside information.

A special Government employee shall not use inside information obtained as a result of his Government employment for private gain for himself or another person whether by direct action on his part or by counsel, recommendation, or suggestion to another person, particularly one with whom he has family, business, or financial ties. For the purpose of this section, "inside information" means information obtained under Government authority which has not become part of the body of public information.

§ 1200.735–34 Coercion.

A special Government employee shall not use his Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to himself or another person, particularly one with whom he has family, business, or financial ties.

§ 1200.735–35 Gifts, entertainment, and favors.

(a) A special Government employee, while so employed or in connection with his employment, shall not receive or solicit from a person having business with the Board anything of value as a gift, gratuity, loan, entertainment, or favor for himself or another person, particularly one with whom he has family, business or financial ties.

(b) The exceptions enumerated under § 1200.735–21(b) are applicable to special Government employees.

Subpart D—Board Regulations Governing Statements of Employment and Financial Interests

§ 1200.735–40 Form and content of statements.

The statements of employment and financial interests required for use by employees and special Government employees shall contain, as a minimum, the information required by the formats prescribed by the Commission in the Federal Personnel Manual.

§ 1200.735–41 Employees required to submit statements.

The Board shall require statements of employment and financial interests from the following employees: Board's Executive Secretary.

§ 1200.735–41a Employee's complaint on filing requirement.

Any employee required to submit statements pursuant to § 1200.735–41, who believes his inclusion under Board regulations is improper, may file a complaint directed to the Ethical Conduct Counselor of the National Mediation Board.

§ 1200.735–42 Employees not required to submit statements.

A statement of employment and financial interests is not required of Board members. These Board members are subject to separate reporting requirements under section 401 of Executive Order 11222.

§ 1200.735–43 Time and place for submission of employees' statements.

An employee required to submit a statement of employment and financial interests under the regulations in this part shall submit that statement to the Counselor of Ethical Standards not later than:

(a) Ninety days after the effective date of the Board regulations in this part if employed on or before that effective date; or

(b) Thirty days after his entrance on duty, but not earlier than 90 days after the effective date, if appointed after that effective date.

§ 1200.735–44 Supplementary statements.

Changes in, or additions to, the information contained in an employee's statement of employment and financial interests shall be reported in a supplementary statement as of June 30 each year, except when the Civil Service Commission authorizes a different date on a showing by the Board of necessity therefor. If no changes or additions occur, a negative report is required. Notwithstanding the filing of the annual report required by this section, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflicts-of-interest provisions of section 208 of title 18, United States Code, or Subpart B of this part.

§ 1200.735–45 Interests of employees' relatives.

The interest of a spouse, minor child, or other member of an employee's immediate household is considered to be an interest of the employee. For the purpose of this section, "member of an employee's immediate household" means those blood relations who are residents of the employee's household.

§ 1200.735–46 Information not known by employees.

If any information required to be included on a statement of employment and financial interests or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information in his behalf.

§ 1200.735–47 Information prohibited.

This section does not require an employee to submit on a statement of employment and financial interests or supplementary statement any information relating to the employee's connection with or interest in, professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise. For the purpose of this section, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement of employment and financial interests.

§ 1200.735–48 Confidentiality of employees' statements.

The Board shall hold each statement of employment and financial interests, and each supplementary statement, in confidence. To insure this confidentiality, the Board shall designate which employees are authorized to review and retain the statements. Employees so designated are responsible for maintaining the statements in confidence and shall not allow access to, or allow information to be disclosed from, a statement except to carry out the purpose of this part. The Board shall not disclose information from a statement except as the Civil Service Commission or the Board may determine for good cause shown.

§ 1200.735–49 Effect of employees' statements on other requirements.

The statements of employment and financial interests and supplementary statements required of employees are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a statement or supplementary statement by an employee does not permit him or any other person to participate in a matter in which his or the other person's participation is prohibited by law, order, or regulation.

§ 1200.735–50 Specific provisions of Board regulations for special Government employees.

(a) Each special Government employee appointed by the National Mediation Board shall file a statement of employment and financial interests on a form to be furnished by the Board. However, the following special Government employees are not required to file a statement of employment and financial interests: Neutrals, referees, and arbitrators, who are exempted due to the fact that the duties of the positions held by these employees are of such a nature and at such a level of responsibility that the submission of such a statement is not necessary to protect the integrity of the Government.

(b) It shall be the duty of the National Mediation Board to notify each of its special Government employees of the specific requirements of the Railway Labor Act and Executive Order 11222 concerning impartiality, integrity, and conflicts of interest.

(c) The statement of employment and financial interests required in this section shall be submitted not later than the time of employment of the special Government employee as provided in the Board's regulations in this part. Each special Government employee shall keep his statement current throughout his employment with the Board by the submission of supplementary statements.

These amendments were approved by the Civil Service Commission on October 19, 1967, and are effective upon publication in the FEDERAL REGISTER.

[SEAL] THOMAS A. TRACY,
Executive Secretary.

[F.R. Doc. 67–13524; Filed, Nov. 16, 1967; 8:47 a.m.]

PART 1202—RULES OF PROCEDURE

PART 1203—APPLICATIONS FOR SERVICE

PART 1208—AVAILABILITY OF INFORMATION

Miscellaneous Amendments

Chapter X of Title 29 is amended as follows:

§ 1202.15 [Deleted]

1. Section 1202.15 is hereby deleted.

§ 1203.2 [Amended]

2. The words "at least a majority of the" appearing in the second sentence of § 1203.2 are deleted.

3. Part 1208 is added to read as follows:

Sec.
1208.1 Purpose.
1208.2 Place at which information may be obtained.
1208.3 General policy.
1208.4 Material relating to representation function.
1208.5 Material relating to mediation function—confidential.
1208.6 Compliance with subpoenas.

AUTHORITY: The provisions of Part 1208 are issued under Stat. 577, as amended: 45 U.S.C. 151–163.

§ 1208.1 Purpose.

The purpose of this section is to set forth the basic policies of the NMB in regard to the availability and disclosure of information in the possession of the NMB.

§ 1208.2 Place at which information may be obtained.

Any individual, carrier, or labor organization desiring information regarding the operations of the NMB should communicate directly with the Executive Secretary of the NMB. General inquiries for information concerning the Board should also be addressed to the Executive Secretary, National Mediation Board, Washington, D.C. 20572.

§ 1208.3 General policy.

(a) Public policy and the successful effectuation of the NMB's mission require that Board members and the employees of the NMB maintain a reputation for impartiality and integrity. Labor and management and other interested parties participating in mediation efforts must have assurance, as must labor organizations and individuals involved in questions of representation, that confidential information disclosed to Board members and employees of the NMB will not be divulged, voluntarily or by compulsion.

(b) Notwithstanding this general policy, the Board will under all circumstances endeavor to make public as much information as can be allowed.

§ 1208.4 Material relating to representation function.

(a) The documents constituting the record of a case, such as the notices of hearing, motions, rulings, orders, stenographic reports of the hearing, briefs, exhibits, findings upon investigation, determinations of craft or class, interpretations, dismissals, withdrawals, and certifications, are matters of official record and are available for inspection and examination during the usual business hours at the Board's offices in Washington.

(b) This part notwithstanding, the Board will treat as confidential the evidence submitted in connection with a representation dispute and the investigatory file pertaining to the representation function.

§ 1208.5 Material relating to mediation function—confidential.

(a) All files, reports, letters, memoranda, documents, and papers (hereinafter referred to as confidential documents) relating to the mediation function of the NMB, in the custody of the NMB or its employees relating to or acquired in their mediatory capacity under any applicable section of the Railway Labor Act of 1926, as amended, are hereby declared to be confidential. No such confidential documents or the material contained therein shall be disclosed to any unauthorized person, or be taken or withdrawn, copied or removed from the custody of the NMB or its employees by any person or by any agent of such person or his representative without the explicit consent of the NMB.

(b) However, the following specific documents: Invocation or proffer of mediation, the reply or replies of the parties, the proffer of arbitration and replies thereto, and the notice of failure of mediatory efforts in cases under section 5, First, of the Railway Labor Act, as amended, are matters of official record and are available for inspection and examination.

(c) Interpretations of mediation agreements by the NMB, arising out of section 5, Second, of the Railway Labor Act, as amended, are public records and are therefore open for public inspection and examination.

§ 1208.6 Compliance with subpoenas.

(a) No person connected in any official way with the NMB shall produce or present any confidential records of the Board or testify on behalf of any party to any cause pending in any court, or before any board, commission, committee, tribunal, investigatory body, or administrative agency of the U.S. Government, or any State or Territory of the United States, or the District of Columbia, or any municipality with respect to matters coming to his knowledge in his official capacity or with respect to any information contained in confidential documents of the NMB, whether in answer to any order, subpoena, subpoena duces tecum, or otherwise without the express written consent of the Board.

(b) Whenever any subpoena or subpoena duces tecum calling for confidential documents, or the information contained therein, or testimony as described above shall have been served on any such person, he will appear in answer thereto, and unless otherwise expressly permitted by the Board, respectfully decline, by reason of this section, to produce or present such confidential documents or to give such testimony.

THOMAS A. TRACY,
Executive Secretary.

[F.R. Doc. 67–13525; Filed, Nov. 16, 1967; 8:47 a.m.]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter VII—Assistant Secretary of Commerce for Domestic and International Business

CHANGE IN NOMENCLATURE

The title of Chapter VII is changed to read as above.

Wherever the title "Under Secretary for Transportation" appears in Chapter VII, substitute the title "Assistant Secretary for Domestic and International Business."

Dated this 14th day of November, 1967.

LAWRENCE C. MCQUADE,
Assistant Secretary for Domestic and International Business.

[F.R. Doc. 67–13541; Filed, Nov. 16, 1967; 8:48 a.m.]

Title 35—PANAMA CANAL

Chapter I—Canal Zone Regulations

SUBCHAPTER E—EMPLOYMENT AND COMPENSATION IN THE CANAL ZONE

PART 255—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Miscellaneous Amendments

Effective upon publication in the FEDERAL REGISTER, Part 255 of Title 35,

Code of Federal Regulations, is amended as follows:

1. Section 255.735–2(h) is amended by deleting the date "October 1, 1965" and the reference "30 F.R. 12259;".

2. Section 255.735–31(c) is deleted and its provisions set forth as a new § 255.735–30 reading as follows:

§ 255.735–30 Prescribed actions.

An employee shall avoid any action, whether or not specifically prohibited by the regulations in this part, which might result in, or create the appearance of:

(a) Using public office for private gain;

(b) Giving preferential treatment to any person;

(c) Impeding Government efficiency or economy;

(d) Losing complete independence or impartiality;

(e) Making a Government decision outside official channels; or

(f) Affecting adversely the confidence of the public in the integrity of the Government.

3. Section 255.735–31 is amended as follows: The introductory clause of paragraph (a) is amended, paragraph (c) is deleted, paragraphs (d) and (e) are revised, and the provisions of § 255.735–32(g)(1) are amended and transferred to this section as a new paragraph (f), as follows:

§ 255.735–31 Gifts, entertainment, and favors.

(a) Except as provided in paragraphs (b) and (f) of this section, an employee shall not solicit or accept, directly, or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from a person who:

* * * * *

(c) [Deleted]

(d) An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(e) An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in 5 U.S.C. 7342.

(f) Neither this section nor § 255.735–32 precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with the regulations in this part for which no Government payment or reimbursement is made. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits, nor does it allow an employee to be reimbursed by a person for travel on official business under Panama Canal agency orders when reimbursement is proscribed by Decision B–128527 of the Comptroller General dated March 7, 1967.

4. The heading of § 255.735–32 is revised and paragraph (g)(1) of this section is deleted, as follows:

§ 255.735–32 Outside employment and other activity.

* * * * *

(g) * * *

(1) [Deleted]

* * * * *

5. Section 255.735–39 is amended by revising paragraph (a)(1) to read as follows:

§ 255.735–39 Publication of articles; public statements.

(a) * * * (1) is inconsistent with the provisions of § 255.735–32(c) or § 255.735–35;

* * * * *

6. Section 255.735–40 is amended by revising paragraphs (d), (g), (h), (j), and (p), and by adding a new paragraph (p–1), as follows:

§ 255.735–40 Miscellaneous statutory provisions.

* * * * *

(d) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).

* * * * *

(g) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(h) The prohibition against misuse of a Government vehicle (31 U.S.C. 638a(c)).

* * * * *

(j) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

* * * * *

(p) The prohibitions against political activities in Subchapter III of Chapter 73 of Title 5, United States Code and 18 U.S.C. 602, 603, 607, and 608

(p–1) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

* * * * *

7. Section 255.735–56 is amended by revising paragraphs (d), (g), (h), (j), and (p) and by adding a new paragraph (p–1), as follows:

§ 255.735–56 Miscellaneous statutory provisions.

* * * * *

(d) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).

* * * * *

(g) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(h) The prohibition against misuse of a Government vehicle (31 U.S.C. 638a(c)).

* * * * *

(j) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

* * * * *

(p) The prohibitions against political activities in Subchapter III of Chapter 73 of Title 5, United States Code and 18 U.S.C. 602, 603, 607, and 608.

(p–1) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

* * * * *

8. Section 255.735–72 is revised to read as follows:

§ 255.735–72 Employees required to submit statements.

(a) In accordance with § 735.403(b) of the Commission's regulations (5 CFR 735.403(b)), employees in the following positions shall submit statements of employment and financial interests:

Lieutenant Governor.
Secretary, Panama Canal Company.
Comptroller.
Deputy Comptroller.
Executive Secretary.
Deputy Executive Secretary.
General Counsel.
Assistant General Counsels.
Chief, Executive Planning Staff.
Assistant Chief, Executive Planning Staff.
Marine Director.
Chief, Navigation Division.
Chief, Industrial Division.
Transportation and Terminals Director.
Assistant Transportation and Terminals Director.
Superintendent, Terminals Division.
Engineering and Construction Director.
Assistant Engineering and Construction Director.
Chief, Construction Division.
Designing Engineer.
Assistant Designing Engineer.
Chief, Specifications and Estimating Branch.
Supply and Community Service Director.
Deputy Supply and Community Service Director.
Chief, Community Services Division.
General Manager, Supply Division.
Assistant General Manager, Supply Division.
General Merchandise Manager, Supply Division.
Superintendent, Marketing Branch.
Chief, Division of Storehouse.
Chief, Procurement Division, New Orleans.
Chief, Claims Branch.
Chief, Rates and Analysis Branch.
Chief, Division of Veterinary Medicine.

(b) In accordance with §735.403(c) of the Commission's regulations (5 CFR 735.403(c)), employees in the following positions shall submit statements of employment and financial interests:

Personnel Director.
Deputy Personnel Directors.
Civil Affairs Director.
Assistant Civil Affairs Director.
Chief, Customs Division.
Chief, Police Division.
Chief, Internal Security Office.
Panama Canal Information Officer.
Health Director.

(c) Additions to, deletions from, and other amendments of the lists of positions in paragraphs (a) and (b) of this section are effective upon approval by the Governor and actual notification of incumbents. Amendments of paragraphs (a) and (b) shall be submitted annually for publication in the FEDERAL REGISTER.

9. A new § 255.735–72a is added as follows:

§ 255.735–72a Employee's complaint on filing requirement.

An employee may file a complaint that his position has been improperly included as one requiring the submission of a statement of employment and financial interests by utilizing the final state of the grievance procedure provided for employees of the Panama Canal agencies. An employee may request that his complaint be reviewed without the convening of the Grievance Advisory Committee.

10. Section 255.735–74 is revised to read as follows:

§ 255.735–74 Supplementary statements.

Changes in, or additions to, the information contained in an employee's statement of employment and financial interests shall be reported in a supplementary statement as of June 30 each year. If no changes or additions occur, a negative report is required. Notwithstanding the filing of the annual report required by this section, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflicts-of-interest provisions of section 208 of title 18, United States Code, or Subpart B of this part.

11. Section 255.735–78 is revised to read as follows:

§ 255.735–78 Confidentiality of employees' statements.

Each statement of employment and financial interests submitted in accordance with the regulations in this part shall be held in confidence. The Counselor shall be responsible for reviewing and retaining the statements. Access to these statements shall be limited to the Governor, Lieutenant Governor, and the Counselor, who shall not allow access to, or allow information to be disclosed from, a statement except to carry out the purpose of the regulations in this part. Information from a statement may not be disclosed except as the U.S. Civil Service Commission or the Governor may determine for good cause shown.

12. Section 255.735–80 is amended by revising paragraph (a)(2) to read as follows:

§ 255.735–80 Statements required from special Government employees.

(a) * * *

(2) The financial interests of the special Government employee which the Counselor determines are relevant in the light of the duties he is to perform.

* * * * *

These amendments were approved by the Civil Service Commission on October 4, 1967.

Dated: November 8, 1967.

W. P. LEHMAN,
Governor of the Canal Zone,
President, Panama Canal Company.

[F.R. Doc. 67–12327; Filed, Nov. 16, 1967; 8:47 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 3—Department of Health, Education, and Welfare

PART 3–75—DELEGATIONS OF AUTHORITY

Part 3–75 of Chapter 3 of Title 41 of the Code of Federal Regulations is revised to read as follows:

Sec.
3–75.000 Scope of part.
3–75.001 Redelegations.

Subpart 3–75.1—Procurement Authority

3–75.100 Scope of subpart.
3–75.101 Head of the procuring activity.
3–75.102 Authority delegated.
3–75.103 Redelegation.
3–75.104 Limitations.
3–75.104–1 Determination and findings.
3–75.104–2 Fixed fee.
3–75.104–3 Review and approval of contracts.
3–75.104–4 Consolidated procurement.
3–75.104–5 Mistakes in bids.

Subpart 3–75.2—Sale of Government-Owned Surplus Property

3–75.200 Scope of subpart.
3–75.201 Authority delegated.
3–75.202 Redelegation.

Subpart 3–75.3—Publication of Advertisements, Notices or Proposals

3–75.300 Scope of subpart.
3–75.301 Authority delegated.
3–75.302 Redelegation.

Subpart 3–75.4—Authority To Sign Applications To Procure Tax-Free and Specially Denatured Alcohol and To Sign Treasury Department Forms for Purchase of Narcotics

3–75.400 Scope of subpart.
3–75.401 Authority delegated.
3–75.402 Redelegation.

Subpart 3–75.5—Establishment of Blood Donation Compensation Rates

3–75.500 Scope of subpart.
3–75.501 Authority delegated.
3–75.502 Redelegation.

AUTHORITY: The authority of this Part 3–75 issued under Reorganization Plan No. 1 of 1953, 3 CFR 1949–53 Comp., p. 1022.

§ 3–75.000 Scope of part.

This part delegates the authority of the Secretary to make purchases and contracts for property and services and to perform other actions relating to procurement.

§ 3–75.001 Redelegations.

Redelegations of the authority conferred by this part, as well as revisions thereof, shall be in writing over the signature of the person vested with redelegation authority and shall specify the authority delegated.

Subpart 3–75.1—Procurement Authority

§ 3–75.100 Scope of subpart.

This subpart delegates the authority of the Secretary to make purchases and contracts for property and services and to appoint contracting officers.

§ 3–75.101 Head of the procuring activity.

The following officials of the Department are designated "Head of the Procuring Activity," as defined in FPR 1–1.306:

(a) Commissioner of Education.

(b) Commissioner of Food and Drugs.

(c) Surgeon General of the Public Health Service.

(d) Administrator, Social and Rehabilitation Service.

(e) Commissioner of Social Security.

(f) Directors, DHEW Regional Offices.

(g) Executive Officer, Office of the Secretary.

(h) Director of General Services, Office of the Secretary.

§ 3–75.102 Authority delegated.

Heads of the Procuring Activity are authorized hereby to: (a) Enter into, modify, administer, and terminate contracts for property and services and to make related determination and findings; (b) settle terminations claims; (c) appoint contracting officers; and (d) establish procurement policy and publish procurement regulations in conformance with: (1) Title III, Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 251 et seq.); (2) implementing regulations of the Administrator, General Services Administration; (3) regulations of this Department; and (4) other applicable law.

§ 3–75.103 Redelegation.

(a) Heads of the Procuring Activity may redelegate, with or without power of redelegation, the authority delegated by § 3–75.102 subject to limitations stipulated in the Federal Procurement Regulations, and regulations of this Department; but, authority to make determinations required by 10 U.S.C. 2353 may not be redelegated.

(b) Personnel delegated responsibility for procurement functions must possess a level of experience, training and ability commensurate with the complexity and magnitude of procurement actions involved.

§ 3–75.104 Limitations.

§ 3–75.104–1 Determinations and findings.

(a) Determinations and findings required by FPR 1–3.211 for contracts in excess of $25,000 and by FPR 1–3.212 and 1–3.213 shall be made by the Secretary.

(b) Determinations which justify construction or installation of nonseverable property on land not owned by the United States shall be made by the Assistant Secretary for Administration whenever the proposed contract contains a provision pursuant to 10 U.S.C. 2353(b)(3).

(c) Determinations and findings required by FPR 1–3.302(d) for advance payments shall be made by the Assistant Secretary for Administration.

(d) Determinations which justify an exception to the restrictions of the Buy American Act (41 U.S.C. 10a–d) shall be made in conformance with Part 1–6 of the Federal Procurement Regulations (41 CFR Part 1–6) as implemented by Subpart 3–6.1 of the HEW Procurement Regulations.

§ 3–75.104–2 Fixed fee.

(a) Proposed fees under cost-plus-a-fixed-fee contracts which exceed the following shall be approved only by the Head of the Procuring Activity or his designee:

(1) 10 percent of the estimated cost, exclusive of fee, of any cost-plus-a-fixed-fee contract for experimental, development or research work.

(2) 7 percent of the estimated cost, exclusive of fee, of any other cost-plus-a-fixed-fee contract.

§ 3–75.104–3 Review and approval of contracts. [Reserved]

§ 3–75.104–4 Consolidated procurement.

(a) Office of the Secretary Support.

(1) Except for the National Institutes of Health, the National Library of Medicine, the National Center for Radiological Health, out-patient clinics of the Public Health Service, field activities of the Social Security Administration, and St. Elizabeths Hospital, offices of operating agencies located within the metropolitan area of Washington, D.C., shall submit all requests for procurement of the following property and services to the Supply Operations Branch, Office of the Executive Officer, Office of the Secretary:

(i) Administrative supplies, equipment, or services; i.e., general use office items or related services, as distinguished from functional or program requirements.

(ii) Automatic Data Processing or Digital Computer Services or Equipment.

(iii) Motion Pictures.

(iv) Stenographic Reporting Services.

(v) Visual Arts, Graphics, and Supplementary Services.

(vi) Press Clipping Services.

§ 3–75.104–5 Mistakes in bids.

(a) Authority is delegated to the Director, Procurement and Supply Management Division, Office of General Services to make the determinations specified in §§ 1–2.406–3 and 1–2.406–4 of the Federal Procurement Regulations (41 CFR Part 1–2) in connection with mistakes in bids.

(b) This delegation of authority cannot be redelegated.

(c) Each proposed determination shall be approved by the Assistant General Counsel, Division of Business and Administrative Law, Office of General Counsel.

Subpart 3–75.2—Sale of Government-Owned Property

§ 3–75.200 Scope of subpart.

This subpart authorizes Heads of the Procuring Activity designated in § 3–75.101 to sell Government-owned surplus property when authorized by law or regulation.

§ 3–75.201 Authority delegated.

Heads of the Procuring Activity designated in § 3–75.101 are authorized hereby to sell Government-owned surplus property in accordance with the requirements and conditions stipulated in section 203, Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484); implementing regulations of the Administrator, General Services Administration; and the procurement and property regulations of this Department.

§ 3–75.202 Redelegation.

Heads of the Procuring Activity may redelegate the authority conferred in § 3–75.201.

Subpart 3–75.3—Publication of Advertisements, Notices or Proposals

§ 3–75.300 Scope of subpart.

This subpart authorizes Heads of the Procuring Activity designated in § 3–75.101 to publish advertising, notices, and contract proposals in newspapers and periodicals.

§ 3–75.301 Authority delegated.

Heads of the Procuring Activity designated in § 3–75.101 are authorized hereby to publish advertisements, notices and contract proposals in newspapers and periodicals in accordance with the requirements and conditions stipulated in 44 U.S.C., 321, 322, and 324; Title 7, Chapter 5200, General Accounting Office Policy and Procedure Manual for Guidance of Federal Agencies and HEWPR 3–4.51.

§ 3–75.302 Redelegation.

Heads of the Procuring Activity may redelegate the authority conferred by § 3–75.301.

Subpart 3–75.4—Authority To Sign Applications To Procure Tax-Free and Specially Denatured Alcohol and To Sign Treasury Department Forms for Purchase of Narcotics

§ 3–75.400 Scope of subpart.

This subpart authorizes Heads of Procuring Activities designated in § 3–75.101 (b), (c), and (h) to sign applications to procure tax-free and specially denatured alcohol and to appoint accredited individuals to order narcotics in accordance with regulations of the Treasury Department and the Internal Revenue Service.

§ 3–75.401 Authority delegated.

Heads of Procuring Activities are authorized to (a) sign applications to procure tax-free and specially denatured alcohol and (b) to appoint accredited officials to order narcotics in accordance with regulations of the Treasury Department, the Internal Revenue Service, and the requirements and conditions contained in HEWPR 3–5.56.

§ 3–75.402 Redelegation.

Heads of Procuring Activities may redelegate the authority conferred by § 3–75.401. Redelegation should be made only to responsible officials whose functions require the procurement of alcohol or narcotics.

Subpart 3–75.5—Establishment of Blood Donation Compensation Rates

§ 3–75.500 Scope of subpart.

This subpart authorizes the Surgeon General, PHS, to establish compensation rates for blood donations for the Department.

§ 3–75.501 Authority delegated.

The authority to establish compensation rates for blood donations under the Act of February 9, 1927, 44 Stat. 1066, as amended (24 U.S.C. 30) is delegated to the Surgeon General, Public Health Service.

§ 3–75.502 Redelegation.

The authority delegated by § 3–75.501 may be redelegated as deemed appropriate.

Effective date: Revised Part 3–75 shall become effective 90 days following publication in the FEDERAL REGISTER or upon the date officials designated in § 3–75.101 redelegate the authorities delegated by Part 3–75, whichever occurs first.

Dated: November 14, 1967.

DONALD F. SIMPSON,
Assistant Secretary for Administration.

[F.R. Doc. 67–13564; Filed, Nov. 16, 1967; 8:50 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

SUBCHAPTER B—HUNTING AND POSSESSION OF WILDLIFE

PART 10—MIGRATORY BIRDS

Open Seasons, Bag Limits, and Possession of Certain Migratory Game Birds

In § 10.53 *Seasons and Limits on Waterfowl, Coots, and Wilson's Snipe.* The table in paragraph (c)(1), as published in the FEDERAL REGISTER of Friday, August 11, 1967, is amended by extending the closing date for hunting Canada geese in the Horicon Zone to December 10, 1967.

The table in § 10.53(c)(2) is amended by adding the figure "7" to the column headed "Period No."; and the dates "Nov. 20–Dec. 10" to the column headed "Valid Dates"; and the figures "7,500" under the column headed "Number of Permits and Tags Issued" and the figures "21" under the column headed "Days Valid."

Paragraph (c)(3) is amended to read:

(3) (i) Applications will be made available to the public at various locations selected by the Wisconsin Department of Conservation including their office located at 2158 Atwood Avenue, Madison, Wis. 53701 and also their Division headquarters located at Horicon, Wis., as well as the National Wildlife Refuge Headquarters, Route 2, Mayville, Wis. Permits will be issued by the Wisconsin Conservation Department on a first come first served basis.

(ii) Any person possessing a valid Wisconsin hunting license is eligible to apply for one of the 7,500 permits herein provided for except those persons who have already taken their limit of Canada geese in Wisconsin. Persons previously issued permits, but who did not take their season limit of Canada geese in either the Horicon Zone or the remainder of the State may also apply, but must have returned their unused tag and questionnaire.

(iii) The taking of Canada geese in the Horicon Zone is presently not permitted after November 19. Since this amendment relieves an existing restriction it shall become effective upon the date of filing for publication in the FEDERAL REGISTER.

ARRAM V. TUNISON,
Acting Director, Bureau of Sport Fisheries and Wildlife.

NOVEMBER 14, 1967.

[F.R. Doc. 67–13566; Filed, Nov. 16, 1967; 8:51 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 814]

MAINLAND CANE SUGAR AREA

1968 Sugar Quota; Notice of Hearing on Proposed Allotment

Pursuant to the authority contained in the Sugar Act of 1948, as amended (61 Stat. 922), and in accordance with the applicable rules of practice and procedure (7 CFR 801.1 et seq.) and on the basis of information before me, I do hereby find that the allotment of the 1968 sugar quota for the Mainland Cane Sugar Area is necessary to prevent disorderly marketing and to afford all interested persons an equitable opportunity to market sugar, and hereby give notice that a public hearing will be held at Washington, D.C., in Room 6451, South Building, U.S. Department of Agriculture, on November 27, 1967, at 9:30 a.m., e.s.t.

The preliminary finding made above is based on the best information now available. It will be appropriate to present evidence at the hearing on the basis of which the Secretary of Agriculture may affirm, modify, or revoke such preliminary finding.

The purpose of such hearing is to receive evidence to enable the Secretary of Agriculture to establish fair, efficient, and equitable allotments of a portion of the quota for the Mainland Cane Sugar Area which will enable persons who process sugar and liquid sugar from sugarcane grown in the continental United States to market such sugar and liquid sugar in an orderly manner during the period January 1, 1968, to the date the Secretary prescribes a method for allotting the entire 1968 quota for the area on the basis of the record of another hearing to be held subsequently.

To avoid disorderly marketing by any allottee who might market early in 1968 a quantity of sugar larger than its allotment of the entire 1968 sugar quota for the area, it is necessary to make allotments effective on January 1, 1968. Part of the evidence necessary to provide an adequate basis for establishing allotments of the entire 1968 quota for the area for the full calendar year cannot be adduced on the date for which the hearing is called. Therefore, the testimony on that date will be limited to data, views, and arguments regarding the identity of the allottees and consideration of the factors cited in section 205(a) of the Act pertinent to establishing allotments of a portion of the quota for the area to be in effect from January 1, 1968, until an order establishing the method for allotting the entire quota for the area for the calendar year 1968 is made effective.

Upon notice hereafter to be given in accordance with applicable rules of practice and procedure, a public hearing for the area will be held early in 1968 for the purpose of receiving evidence to enable the Secretary to establish allotments of the entire 1968 quota for the area for the calendar year 1968 under the provisions of the Sugar Act of 1948, as amended.

Signed at Washington, D.C., this 16th day of November 1967.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 67–13622; Filed, Nov. 16, 1967; 9:57 a.m.]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Parts 33, 94, 112]

[CGFR 67–81]

PERSONNEL EXPOSURE PROTECTION IN LIFESAVING EQUIPMENT AND EMERGENCY ELECTRICAL POWER FOR RADIOTELEPHONE TO BE PROVIDED ON GREAT LAKES TANK AND CARGO VESSELS

Notice of Proposed Rule Making and Public Hearing

1. Following a recent disaster on the Great Lakes, where a cargo vessel sank in a storm and all but one seaman was lost, a review of the marine safety regulations revealed two areas of weakness in the present requirements. One of these deficiency areas concerns the electrical power for the radiotelephone. The severance of radiotelephone power when the vessel broke in two whereby the ability to call for help or to notify others of a disaster by a timely means was eliminated. The other deficiency area was the apparent inadequate protection from exposure to the elements when and if seamen embark in lifeboats, liferafts, or lifefloats. Because these deficiencies were found after a serious casualty had occurred, it is considered necessary that immediate actions be undertaken to provide corrective actions to remove these deficiency areas and to prescribe changes in the marine safety regulations.

2. The Merchant Marine Council will hold a public hearing on Monday, December 4, 1967, commencing at 9:30 a.m. in the Departmental Auditorium, between 12th and 14th Streets on Constitution Avenue NW., Washington, D.C., for the purpose of receiving comments, views, and data on proposed changes in the navigation and vessel inspection rules and regulations. The first 12 items, designated Items PH 30–67 to PH 31–67, inclusive, are described in detail in the Merchant Marine Council Public Hearing Agenda (CG–249), dated December 4, 1967, and described in general terms in a notice of proposed rule making designated CGFR 67–38 dated September 5, 1967, and published in the FEDERAL REGISTER. The 13th item designated Item PH 32–67, is described in detail in the Merchant Marine Council Public Hearing Agenda (CG–249), Volume II, regarding "Great Lakes Pilotage Regulations and Uniform System of Accounts," and in a notice of proposed rule making designated CGFR 67–80 dated September 25, 1967, and published in the FEDERAL REGISTER (32 F.R. 13668).

3. Comments on the proposed regulations set forth herein are invited. Written comments containing constructive criticisms, suggestions, or views are welcomed. However, acknowledgment of the comments received or reasons why the suggested changes were or were not adopted cannot be furnished since personnel are not available to handle the necessary correspondence involved. The public hearing held by the Merchant Marine Council is informal and intended to obtain views and information from those who will be directly affected by the proposals under consideration. Each oral or written comment is considered and evaluated. The items are normally considered in the sequence placed on the agenda, and as comments are completed on one item, the Council then considers the next item. Written comments received prior to the public hearing are made a part of the public hearing record, and will not be read at the public hearing since the Merchant Marine Council Public Hearing is not an adversary proceeding. If it is believed the comment, view, or suggestion clarifies or improves a proposed regulation or amendment, such proposal is changed accordingly and, after adoption by the Commandant, U.S. Coast Guard, the regulations as revised are published in the FEDERAL REGISTER. If a proposal under consideration is not accepted by the Commandant, the proposal is rejected or withdrawn.

4. Each person or organization who desires to submit comments, data, or views in connection with the proposed regulations set forth herein should submit them in triplicate so that they will be received by the Commandant (CMC), U.S. Coast Guard Headquarters, Washington, D.C. 20591, prior to December 2, 1967. Comments, data, or views may be presented orally or in writing at the public hearing before the Merchant Marine Council on December 4, 1967. In order to insure consideration of written

comments and to facilitate checking and recording, it is essential that each comment regarding a section or paragraph of the proposed regulations be submitted on Form CG–3287, showing the section number (if any), the subject, the proposed change, the reason or basis, and the name, business firm or organization (if any), and the address of the submitter. A small quantity of Form CG–3287 is attached to the printed copies of this document, which will be mailed direct to interested parties. Additional copies of Form CG–3287 may be reproduced by typewriter or otherwise.

ITEM PH 33–67—PERSONNEL EXPOSURE PROTECTION IN LIFESAVING EQUIPMENT ON GREAT LAKES TANK AND CARGO VESSELS

5. Provisions for providing personnel exposure protection in lifesaving equipment on Great Lakes tank and cargo vessels is considered to be of great assistance to a person who must abandon ship, especially in the wintertime. On the Great Lakes during this season of the year the temperature often drops below zero Fahrenheit. Under normal winter conditions a man on a liferaft or in a lifeboat cannot survive in cold weather for any length of time without some type of protection from the elements. The purpose of the following proposed regulations changes to 46 CFR 33.05–20 (c) and (d) for tank vessels and to Table 94.10–40(a) in 46 CFR 94.10–40(a) for cargo vessels is to eliminate the rigid type liferafts on certain Great Lakes vessels, as well as to require inflatable liferafts having built-in protective covers for personnel protection from the elements. It is intended to have these proposals apply to both existing and new Great Lakes tank and cargo vessels, and to permit compliance with the proposals in lieu of present requirements as soon as these proposals are published as regulations; however, the proposed effective date for full compliance with these proposals is March 1, 1968, or the date the vessel starts operation in its 1968 season, whichever occurs first.

SUBCHAPTER D—TANK VESSELS

PART 33—LIFESAVING EQUIPMENT

Subpart 33.05—Lifeboats, Liferafts, and Buoyant Apparatus Required

6. It is proposed to amend § 33.05–20 (c) and (d) to read as follows:

§ 33.05–20 Lifeboats and liferafts for tank vessels; Great Lakes—TB/L.

* * * * *

(c) All tankships of 300 gross tons and over, operating on the waters of the Great Lakes, shall carry in addition to the lifeboats required by paragraph (a) of this section, approved inflatable liferafts of such aggregate capacity to accommodate all of the persons on board: *Provided*, That such tankships, which are equipped with lifeboats in accordance with § 33.05–1, shall carry additional approved inflatable liferafts for not less than 50 percent of the persons carried. Such tankship, when it has crew, berthing and/or working spaces which are widely separated, shall have at least two approved inflatable liferafts. The capacity and location shall be to the satisfaction of the Officer in Charge, Marine Inspection.

(d) Inflatable liferafts may be substituted for lifeboats on certain vessels in accordance with Subpart 33.07.

(R.S. 4405, as amended, 4417a, as amended, 4462, as amended; 46 U.S.C. 375, 391a, 416. Interpret or apply R.S. 4488, as amended, sec. 3, 68 Stat. 675, sec. 6(b)(1), 80 Stat. 938; 46 U.S.C. 481, 50 U.S.C. 198, 49 U.S.C. 1655(b)(1); E.O. 11230, July 31, 1965, 30 F.R. 9671, 3 CFR, 1965 Supp. Department of Transportation Order 1100.1, Mar. 31, 1967, 49 CFR 1.4(a)(2), 32 F.R. 5606)

SUBCHAPTER I—CARGO AND MISCELLANEOUS VESSELS

PART 94—LIFESAVING EQUIPMENT

Subpart 94.10—Lifeboats, Liferafts, Buoyant Apparatus, and Rescue Boats

7. It is proposed to amend Table 94.10–40(a) in § 94.10–40(a) (repeated for informational purposes) to read as follows:

§ 94.10–40 Requirements for vessels in Great Lakes; lakes, bays, and sounds; or river service other than fireboats, wrecking and fishing vessels, pilot boats, and yachts.

(a) All vessels, except those on an international voyage, shall be provided with lifeboats and liferafts as required by Table 94.10–40(a).

TABLE 94.10–40(a)—LIFEBOATS AND LIFERAFTS REQUIRED ON VESSELS IN GREAT LAKES; LAKES, BAYS, AND SOUNDS, AND RIVER SERVICE OTHER THAN FIREBOATS, WRECKING AND FISHING VESSELS, PILOT BOATS, AND YACHTS

	Great Lakes			Lakes, bays, and sounds		Rivers	
	Vessels carrying cargo and other vessels of 300 gross tons and over	Other vessels					
		50 gross tons and over, but less than 300 gross tons	Under 50 gross tons	50 gross tons and over	Under 50 gross tons	50 gross tons and over	Under 50 gross tons
Percentage of persons to be accommodated.	200	100	100	100	100	At least one suitable boat with lines attached and supplied with oars. [1]	Only lifeboats or liferafts as in the judgment of Officer in Charge, Marine Inspection, are necessary. [1]
Percentage of required equipment in lifeboats.	[1] 100	[1] 50	Either lifeboats or liferafts. [1]	50 [1]	Either lifeboats or liferafts. [1]	do	Do.
Percentage of required equipment which may be in Type A or Type B liferafts.	None	None	do	50 in either Type A, B, or inflatable liferafts.	do	None	None.
Percentage of required equipment in inflatable liferafts.	[1] 100	50	do	do	do	do	Do.

[1] Vessels navigating waters where the average depth of the channel does not exceed 3 feet shall not be required to be equipped with boats.

[2] Harbor towing vessels of less than 150 gross tons may substitute one or more liferafts of Type A or Type B for the lifeboats required if the lifeboats interfere with the practical operation of the vessel and the substitution may be made with safety in the opinion of the Officer in Charge, Marine Inspection.

[3] Every vessel of 300 gross tons and over, when having crew, berthing and/or working spaces widely separated, shall have at least two approved inflatable liferafts. The capacity and location shall be to the satisfaction of the Officer in Charge, Marine Inspection.

(R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Interpret or apply R.S. 4417, as amended, 4418, as amended, 4426, as amended, 4488, as amended, 4491, as amended, sec. 10, 35 Stat. 428, as amended, 41 Stat. 305, as amended, sects. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 3, 68 Stat. 675, sec. 6(b)(1), 80 Stat. 938; 46 U.S.C. 391, 392, 404, 481, 489, 395, 363, 367, 50 U.S.C. 198, 49 U.S.C. 1655(b)(1); E.O. 11230, July 31, 1965, 30 F.R. 9671, 3 CFR, 1965 Supp. Department of Transportation Order 1100.1, Mar. 31, 1967, 49 CFR 1.4(a)(2), 32 F.R. 5606)

ITEM PH 34–67—EMERGENCY ELECTRICAL POWER FOR RADIOTELEPHONE ON GREAT LAKES TANK AND CARGO VESSELS

8. With respect to emergency electrical power on Great Lakes tank and cargo vessels, the recent casualty on the Great Lakes highlighted the fact that, if a vessel breaks in two, the electrical source of power may be disrupted and therefore the radiotelephone no longer may be available for use in calling for help or notifying others that a serious disaster had occurred. It is felt that an emergency source of power should be provided in the vicinity of the radiotelephone. Then, if a vessel is involved in a casualty, such as breaking in two, or a collision involving the amidship area, or a fire amidships, it may be reasonably assured that power will be available for personnel to use the radiotelephone. This proposal has been informally discussed with the appropriate Canadian authorities and the Federal Communications Commission. The purpose of the proposed regulation below

designated 46 CFR 112.05–7 is to require a separate source of power for the radio installation in the vicinity of the pilothouse on Great Lakes tank and cargo vessels of 500 gross tons and over. It is intended to have this proposal effective on publication and applicable to both existing and new Great Lakes tank and cargo vessels on and after March 1, 1968, or the date the vessel starts operation in its 1968 season.

SUBCHAPTER J—ELECTRICAL ENGINEERING

PART 112—EMERGENCY LIGHTING AND POWER SYSTEM

Subpart 112.05—General Requirements

9. It is proposed to insert in the electrical engineering regulations a new § 112.05–7 reading as follows:

§ 112.05–7 Emergency source of power for radiotelephone.

(a) For the purpose of paragraph (b) of this section, the phrase "Great Lakes agreement," means "The Agreement for the Promotion of Safety on the Great Lakes by Means of Radio" and the regulations referred to therein, made by and between the Governments of the United States and Canada, which came into force on November 13, 1954.

(b) Great Lakes freight vessels of 500 gross tons and over and tankships of 500 gross tons and over, having the pilothouse widely separated from the machinery spaces, shall have an emergency source of power in the vicinity of the pilothouse to operate the radiotelephone required by the Great Lakes agreement. This source of emergency power shall be independent of any other source of electrical power on the vessel and shall be located on the level of the main pilothouse or at least one deck above the vessel's main deck. The emergency power supply shall also be used as the source of energy for the electric light which illuminates the operating controls of the radiotelephone installation at the principal operating position so that the radiotelephone may be effectively used in time of emergency or distress.

(c) If storage batteries are used to provide the emergency power supply, such batteries shall have sufficient capacity to operate the transmitter and receiver for at least 4 hours continuously under normal working conditions. Means shall be provided for adequately charging such batteries.

(d) In any case where it is shown to the satisfaction of the Commandant that the use of alternate equipment, apparatus, or arrangement will insure a degree of safety consistent with the minimum standards set forth in this section, the Commandant may permit the use of such equipment, apparatus, or arrangement.

(R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Interpret or apply R.S. 4399, as amended, 4400, as amended, 4417, as amended, 4417a, as amended, 4418, as amended, 4431, as amended, 4426, as amended, 4427, as amended, 4428, as amended, 4488, as amended, 4491, as amended, sec. 14, 29 Stat. 696, as amended, sec. 10, 35 Stat. 428, as amended, 41 Stat. 305, as amended, sec. 5, 49 Stat. 1384, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 3, 54 Stat. 247, as amended, sec. 3, 70 Stat. 153, sec. 3, 68 Stat. 675, sec. 6(b)(1), 80 Stat. 938; 46 U.S.C. 361, 362, 391, 391a, 392, 299, 404, 405, 411, 435, 481, 489, 366, 395, 363, 367, 1333, 1333b, 50 U.S.C. 198, 49 U.S.C. 1655(b)(1); E.O. 11229, July 31, 1965, 30 F.R. 9671, 3 CFR, 1965 Supp. Department of Transportation Order 1100.1, Mar. 31, 1967, 49 CFR 1.4(a)(2), 32 F.R. 5606)

Dated: November 15, 1967.

P. E. TRIMBLE,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[F.R. Doc. 67–13616; Filed, Nov. 16, 1967; 8:51 a.m.]

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket 67–EA–84]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Windsor Locks, Conn., and East Hartford, Conn., control zones and Hartford, Conn., transition area.

Recent changes to the VOR and ADF instrument approach procedures to Rentschler Field require alteration of the East Hartford, Conn., control zone and Hartford Conn., transition area. A further review of the terminal area of Hartford, Conn., also establishes a need to revise and refine the description of the Windsor Locks, Conn., control zone.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, J. F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Standards Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Hartford, Conn., proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete in the East Hartford, Conn., control zone description "41°45'08" N., 72°-37'21" W." and insert in lieu thereof "41°45'10" N., 72°37'25" W."; delete the phrase "line bearing 191°" and insert in lieu thereof "182° bearing"; following the phrase "7 miles south of the RBN" delete the period and add the phrase "and within 2 miles each side of the Hartford VOR 327° radial extending from the 5-mile radius zone to the VOR."

2. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete in the Windsor Locks, Conn., control zone description "41°56'24" N., 72°-41'10" W." and "41°54'56" N., 72°46'39" W." and substitute in lieu thereof "41°-56'25" N., 72°41'05" W." and "41°55'00" N., 72°46'35" W." respectively; delete the phrase "6 miles south of the OM;" and insert in lieu thereof "6 miles southwest of the OM;" delete all after and including the phrase "within 2 miles each side of the airport ILS localiser northeast" and insert in lieu thereof "within 2 miles each side of the centerline of Runway 6 extended from the 5-mile radius zone to 5 miles from the end of the runway; within 2 miles each side of the centerline of Runway 1 extended from the 5-mile radius zone to 6 miles from the end of the runway."

3. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the 700-foot floor description of the Hartford, Conn., transition area and insert in lieu thereof the following: "That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, 41°56'25" N., 72°41'05" W., of Bradley International Airport, Windsor Locks, Conn.; within 2 miles each side of the Bradley International Airport ILS localizer southwest course extending from the 9-mile radius area to 12 miles southwest of the OM; within a 9-mile radius of the center, 41°45'10" N., 72°37'25" W., of Rentschler Field, East Hartford, Conn.; within 2 miles each side of a 130° bearing from the Hartford RBN extending from the RBN to 8 miles southeast of the RBN; within 2 miles each side of the centerline of Runway 4 extended 10 miles from the end of the runway; within 2 miles each side of the centerline of Runway 22 extended 10 miles from the end of the runway; within 2 miles each side of the Hartford VOR 154° radial extending from the 9-mile radius area to 8 miles southeast of the VOR; within 2 miles each side of the Hartford VOR 130° and 310° radials extending from the 9-mile radius area to 6 miles southeast of the VOR; and within 5 miles northwest and 5 miles southeast of the Hartford VOR

223° radial extending from the VOR to a point 15 miles southwest."

(Sec. 307(a) of the Federal Aviation Act of 1958; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Jamaica, N.Y., on November 1, 1967.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 67-13587; Filed, Nov. 16, 1967; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-SO-104]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration and Revocation

The Federal Aviation Administration is considering amendments to Part 71 of the Federal Aviation Regulations that would alter the Charleston, S.C., control zone and transition area, and revoke the John's Island, S.C., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Area Manager, Atlanta Area Office, Attention: Chief, Air Traffic Branch, Federal Aviation Administration, Post Office Box 20636, Atlanta, Ga. 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The Charleston control zone, described in § 71.171 (32 F.R. 2071), would be altered by deleting "• • • within 2 miles each side of the Charleston VORTAC 140° radial, extending from the 5-mile radius zone to 6 miles southeast of the VORTAC • • •"

The Charleston transition area, described in § 71.181 (32 F.R. 2148), would be altered by redesignating the 700-foot portion as:

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Charleston AFB/Municipal Airport (lat. 32°53'55" N., long. 80°02'20" W.); within an 8-mile radius of John's Island Airport (lat. 32°42'00" N., long. 80°00'00" W.); within 8 miles southwest and 5 miles northeast of the Charleston ILS localizer northwest course, extending from the 8-mile radius area to 12 miles northwest of the LOM; within 8 miles southwest and 5 miles northeast of the Charleston VORTAC 332° radial, extending from the 8-mile radius area to 12 miles northwest of the VORTAC; within 2 miles each side of the Charleston VORTAC 140° radial, extending from the 8-mile radius area to 10.5 miles southeast of the VORTAC.

The John's Island transition area, described in § 71.181 (32 F.R. 2148 and 3766), would be revoked and incorporated into the Charleston transition area.

The U.S. Air Force has proposed changes to their instrument approach procedures for Charleston AFB/Municipal Airport to conform with the new standards applicable to terminal instrument procedures. These changes will permit revocation of the control zone extension predicated on the Charleston VORTAC 140° radial, but will require the designation of a transition area extension with a floor of 700 feet above the surface along the Charleston VORTAC 140° radial. Additionally, a review of IFR aircraft operations, which includes the larger type turbojet aircraft, shows there is a requirement to increase the basic 700-foot transition area radius to 8 miles.

These proposed amendments take into account the foregoing items and would provide the controlled airspace required for the protection of IFR operations in the Charleston terminal area.

The incorporating of John's Island transition area into the Charleston transition area is proposed in the interest of chart clarity and economy.

The official docket will be available for examination by interested persons at the Southern Regional Office, Federal Aviation Administration, Room 724, 3400 Whipple Street, East Point, Ga.

(Sec. 307(a) of the Federal Aviation Act of 1958; 49 U.S.C. 1348(a))

Issued in East Point, Ga., on November 7, 1967.

JAMES S. ROGERS,
Director, Southern Region.

[F.R. Doc. 67-13538; Filed, Nov. 16, 1967; 8:48 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[REM 364.12]

UNITED AIR LINES

Notice of Application for Recordation of Trade Name

NOVEMBER 8, 1967.

Application has been filed pursuant to § 11.16, Customs Regulations (19 CFR 11.16), for recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124) of the trade name United Air Lines used by United Air Lines, Inc., a Delaware corporation, Post Office Box 66100, O'Hare International Airport, Chicago, Ill. 60666.

The application states that the trade name is applied to flight bags, utility bags, tote bags, coin purses, garment valets, and other accessory bags and novelty items used in connection with, and connotative of, air travel. The application states further that no foreign person, partnership, association, or corporation is now authorized to use the trade name sought to be recorded. Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Any such submission should be addressed to the Commissioner of Customs, Washington, D.C. 20226, in time to be received not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER. No hearing will be held.

Notice of the action taken on the application for recordation of the trade name will be published in the FEDERAL REGISTER.

[SEAL] LESTER D. JOHNSON,
Commissioner of Customs.

[F.R. Doc. 67-13565; Filed, Nov. 16, 1967; 8:50 a.m.]

POST OFFICE DEPARTMENT

PERMIT IMPRINTS

Preparation During Pendency of Postage Rate Bill

Mailers who are finding it necessary to order envelopes bearing permit imprints, have inquired concerning the amount of postage to show in view of pending postage rate legislation.

For a temporary period until final action is taken on this legislation, the requirement in § 144.4 of Title 39, Code of Federal Regulations, for showing specific per piece amounts of postage in first- and third-class permit imprints being printed are waived.

For first-class and bulk third-class mailing pieces, the imprints may be printed as shown in § 144.4 (a), (c), and (d) of Title 39, Code of Federal Regulations with the amounts omitted. For third-class single piece rate mail, in lieu of the amount as illustrated in § 144.4(b) of Title 39, Code of Federal Regulations, the words "Third-Class Piece Rate" may be substituted.

These exceptions are only effective until final action is taken on the pending postage rate legislation. Imprints prepared during this time will be accepted until used but mailers should limit the quantities printed during this temporary period.

(5 U.S.C. 301, 39 U.S.C. 501)

TIMOTHY J. MAY,
General Counsel.

NOVEMBER 14, 1967.

[F.R. Doc. 67-13548; Filed, Nov. 16, 1967; 8:49 a.m.]

UNIFORM QUALITY CONTROL PROGRAM

Notice of New Surcoat and Culottes for Female Letter Carriers and Female Special Delivery Messengers

The Post Office Uniform Quality Control Office, U.S. Army Natick Laboratories, has developed and designed a new surcoat and culottes for female letter carriers and female special delivery messengers. Requirements covering these items and the effective date for wear and reimbursement are specified below:

I. *Uniform items.* Only authorized and specified fabrics in color Post Office Blue 5000 shall be used in the manufacture of the new surcoat and culottes.

A. *Surcoat.* PODUQC—No. 41.

1. *Sleeve Braid.* The color of sleeve braid shall be Post Office Maroon 5004.

2. *Length.* The surcoat shall be three-quarter length and shall be worn as the winter uniform garment.

3. *Insignia.* The approved Post Office Department embroidered circular insignia shall be worn on the upper part of the outer half of the left sleeve, 1½ inches below top of shoulder sleeve seam, above which will be an embroidered arc tab designating craft of the wearer. The arc tab will be worn closely abutting the top of the circular insignia.

B. *Culottes.* PODUQC—No. 40.

1. *Length.* This garment shall be skirt length, in accordance with local standards.

2. *Braid.* Shall have an approved nylon flat braid extending the full length of each side seam in the Post Office Maroon 5004.

II. Effective December 1, 1967, items manufactured in accordance with the above specifications are authorized for wear. Reimbursement is authorized for purchases made on and after December 1, 1967.

III. *Quality control provisions.* Employees are reminded that the quality control certificate number must be used on a label attached to each garment indicating that the garment has been manufactured in accordance with the above specifications.

IV. *Trousers.* Effective immediately hip reinforcement patches shall not be used on the front and back of Carrier and Special Delivery Messenger summer trousers made of the following authorized fabrics:

a. 8.5–9 oz., polyester/cotton, tropical, fabric.

b. 8.5–9 oz., polyester/acrylic, tropical, fabric.

c. 8.5–9 oz., polyester/acrylic/mohair, tropical, fabric.

Carrier and Messenger trousers made of all other authorized fabrics shall have hip reinforcement patches as specified in Specification Post Office Department Uniform Quality Control—No. 30.

(5 U.S.C. 301, 31 U.S.C. 686, 39 U.S.C. 501, 3116)

TIMOTHY J. MAY,
General Counsel.

NOVEMBER 14, 1967.

[F.R. Doc. 67-13549; Filed, Nov. 16, 1967; 8:49 a.m.]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

RALPH F. BOVIER

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 20, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) Add United States National Bank, Johnstown, Pa.
(3) No change.
(4) No change.

This statement is made as of November 1, 1967.

Dated: November 1, 1967.

RALPH F. BOVIER.

[F.R. Doc. 67-13517; Filed, Nov. 16, 1967; 8:47 a.m.]

WILLIAM ANGUS DAVIS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of November 7, 1967.

Dated: November 7, 1967.

WILLIAM ANGUS DAVIS.

[F.R. Doc. 67-13516; Filed, Nov. 16, 1967; 8:47 a.m.]

FRANKLIN STUART FEHR

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) Metropolitan Edison Co.—3.8 percent—Preferred—3 Shares, First National Bank of Bernville—Common—4 Shares, N.Y. State Electric & Gas Corp.—Common—8 Shares, General Public Utilities Corp.—Common—88 Shares.
(3) No change.
(4) No change.

This statement is made as of November 3, 1967.

Dated: November 3, 1967.

F. STUART FEHR.

[F.R. Doc. 67-13519; Filed, Nov. 16, 1967; 8:47 a.m.]

DONALD B. GREGG

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change. (3) No change.
(2) No change. (4) No change.

This statement is made as of October 14, 1967.

Dated: November 1, 1967.

DONALD B. GREGG.

[F.R. Doc. 67-13520; Filed, Nov. 16, 1967; 8:47 a.m.]

WILLIAM C. PORTER, JR.

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) Add Public Service Co. of Colorado, Pacific Power & Light Co., Black Hills Power & Light Co., Montana Power Co.
(3) No change.
(4) No change.

This statement is made as of November 1, 1967.

Dated: November 7, 1967.

W. C. PORTER, JR.

[F.R. Doc. 67-13521; Filed, Nov. 16, 1967; 8:47 a.m.]

GEORGE LESTER WILKINS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of November 3, 1967.

Dated: November 3, 1967.

GEO. L. WILKINS.

[F.R. Doc. 67-13522; Filed, Nov. 16, 1967; 8:47 a.m.]

SETH N. WITTS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) (a) Deletions: Harley-Davidson Motor Co., (b) Additions: none.
(3) No change.
(4) No change.

This statement is made as of November 7, 1967.

Dated: November 7, 1967.

SETH N. WITTS.

[F.R. Doc. 67-13523; Filed, Nov. 16, 1967; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

INDIANA

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the State of Indiana a natural disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

INDIANA

Carroll.	Madison.
Clinton.	Randolph.
Delaware.	Shelby.
Hancock.	White.
Johnson.	

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1968, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 14th day of November 1967.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 67-13554; Filed, Nov. 16, 1967; 8:50 a.m.]

TEXAS

Designation of Area for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named county in the State of Texas natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

TEXAS

Ellis.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named county after June 30, 1968, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 14th day of November 1967.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 67-13555; Filed, Nov. 16, 1967; 8:50 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

BAYLOR UNIVERSITY MEDICAL CENTER

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00025-33-46040. Applicant: Baylor University Medical Center, 3500 Gaston Avenue, Dallas, Tex. 75246. Article: Electron Microscope Philips Model EM 75-C with sensitimer. Manufacturer: Philips Electronics Corp., The Netherlands. Intended use of article: Applicant states:

Teaching and research in the area of Electron Microscopy in Surgical Pathology and especially in kidney and muscle biopsy and tumor diagnoses.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: Applicant requires an electron microscope which incorporates characteristics that make it suitable for initial orientation of students into the field of electron microscopy. The foreign article is air-cooled and can be operated on the conventional 110-volt circuit. This allows the foreign article to be easily transferred from one laboratory to another, as required in a particular course of instruction. The only known domestic electron microscope is the Model EMU-4 manufactured by the Radio Corporation of America (RCA), which is a complex instrument that requires a fixed installation for its operation. The foreign article employs a simple design and has a viewing screen with multiple ports for simultaneous viewing by several persons. This characteristic is not provided in the domestic instrument.

For the foregoing reasons, we find that the RCA Model EMU-4 is not of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-13494; Filed, Nov. 16, 1967; 8:45 a.m.]

DUKE UNIVERSITY MEDICAL CENTER

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 67-00146-33-46040. Applicant: Duke University Medical Center, Durham, N.C. 27706. Article: Electron Microscope, Model EM-300. Manufacturer: N. V. Philips, Holland. Intended use of article: Applicant states:

Highest possible resolution electron microscopic studies of thin sections of nerve tissue, negative stained preparations of cell membrane fractions and macromolecules.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article has a guaranteed resolution of 5 Angstroms. The only known comparable domestic instrument, the Model EMU-4 electron microscope manufactured by the Radio Corporation of America (RCA), has a guaranteed resolution of 8 Angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolution.) For the purposes for which the foreign article is intended to be used, we find the difference in resolution to be pertinent. (2) The foreign article provides five accelerating voltages, 20, 40, 60, 80, and 100 kilovolts, whereas the Model EMU-4 provides only two accelerating voltages, 50 and 100 kilovolts. It has been experimentally established that the lower accelerating voltage of the foreign article affords optimum contrast for unstained specimens and that the voltages intermediate between 50 and 100 kilovolts afford the optimum contrast for negatively stained specimens.

For the foregoing reasons, we find that the EMU-4 is not of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment; Business and Defense Services Administration.

[F.R. Doc. 67-13495; Filed, Nov. 16, 1967; 8:45 a.m.]

FRESNO STATE COLLEGE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 67-00105-01-77030. Applicant: Fresno State College, Department of Chemistry, Cedar and Shaw, Fresno, Calif. 93726. Article: Nuclear Magnetic Resonance Spectrograph, Model R-20. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: Applicant states:

• • • the instrument will be used primarily as a teaching tool in such courses as instrumental methods of analysis, qualitative organic analysis and the undergraduate course called independent study which represents an introduction to chemical research. Basically, the research in the Chemistry Department is at the Master's level and the use of the instrument for research purposes will be incidental to its use for classroom instruction.

Comments: Comments were received from one domestic manufacturer, Varian Associates, which states inter alia that "a NMR spectrometer of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States." (Letter from Varian dated July 18, 1967.) Decision: Application denied. An instrument of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: Comparisons of the pertinent characteristics and pertinent specifications of the foreign instrument with the similar pertinent characteristics and pertinent specifications of the domestic instrument show that at least one domestic instrument (the Varian Model HA-60IL) possesses all of the pertinent characteristics and pertinent specifications of the foreign instrument. It has been found, furthermore, that the domestic instrument is being used in

the United States for purposes similar to those of the intended uses of the foreign instrument.

While it is true that the foreign article neither requires as many utility connections nor consumes as much power for the magnet component as the domestic article, these factors are operating characteristics that do not relate to performance, and, therefore, are regarded as conveniences rather than pertinent characteristics as the term is defined in applicable regulations (15 CFR 602.1 (b)(7)). The domestic article does, however, meet in all respects the requirements set forth in the applicant's original purchase specifications. (See attachment to letter from applicant dated June 19, 1967.) Moreover, the National Bureau of Standards concurs in this finding, stating that "The applicant's written requirements can be met in every particular by the domestic article." (See Memorandum dated Aug. 4, 1967.)

Accordingly, we find that the domestic instrument, which is being manufactured in the United States, is of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-13496; Filed, Nov. 16, 1967; 8:45 a.m.]

MARGARET SANGER RESEARCH BUREAU

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No.: 67-00157-33-90000. Applicant: Margaret Sanger Research Bureau, 17 West 16th Street, New York, N.Y. 10011. Article: Beolocator, Type SW 64 complete with probe, probe cable, and nonmetallic wound retractors. Manufacturer: Simonsen & Weels Eftf., Denmark. Intended use of article: Applicant states: "Studies of the intrauterine contraceptive device." Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is a small battery-operated portable unit that is designed to locate stones in kidneys or choledocus according to sonic principles. The unit must have sufficiently delicate sound amplifying and distinguishing capabilities to permit differentiating between sounds which characterize stones in the kidneys or choledocus from other sounds.

The Department of Commerce knows of no instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-13497; Filed, Nov. 16, 1967; 8:45 a.m.]

AMES RESEARCH CENTER (NASA)

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00009-33-46040. Applicant: National Aeronautics and Space Administration (NASA), Ames Research Center LVX-N-236-3, Moffett Field, Calif. 94035. Article: Electron Microscope EM-300-3, Type PW-6001/00; Anticontamination Device Type PW 6526/00; 70-mm. film holder. Manufacturer: N. V. Philips, The Netherlands. Intended use of article: Applicant states: "This laboratory has been designated to do the ultrastructure research on the Lunar return samples * * *" The applicant states further that the limited amount of material must be examined quickly to obtain the maximum amount of information retrieval from the specimens and make further measurements in a spectrometer to obtain X-ray data on the organic and inorganic constituents. The structure of Bioadhesives will be examined. Better methods for detecting iron in the blood to prevent edema and other degradations will be investigated. Knowledge of the radiation effects on the fractioned myelin components of nerves will be studied. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article provides a guaranteed resolution of 5 Angstroms. The Model EMU-4 electron microscope manufactured by Radio Corporation of America (RCA), provides a guaranteed resolution of 8 Angstroms. (The lower the numerical rating in terms of Angstroms, the better the resolving power.) For the purposes for which the foreign article is intended to be used, we find the difference in resolving power to be significant. (2) The foreign article provides five accelerating voltages, 20, 40, 60, 80, and 100 kilovolts, whereas the Model EMU-4 provides only two accelerating voltages, 50 and 100 kilovolts. It has been experimentally established that the lower accelerating voltage (20 kilovolts) provides optimum contrast for unstained ultrathin specimens and that the voltages intermediate between 50 and 100 kilovolts provide optimum contrast for negatively stained specimens. We therefore find that the additional accelerating voltages provided by the foreign article are pertinent to the purposes for which the foreign article is intended to be used.

For the foregoing reasons we find that the RCA Model EMU-4 is not of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-13498; Filed, Nov. 16, 1967; 8:45 a.m.]

RESEARCH FOUNDATION OF THE STATE UNIVERSITY OF NEW YORK

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00049-33-46040. Applicant: Research Foundation of the State University of New York, 3435 Main Street, Buffalo, N.Y. 14214. Article: Ultra High Resolution Electron Microscope. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The instrument is to be used in current research projects in three areas: (1) Macromolecular and biological specimen staining, developmental methodology; (2) determination of organization of macromolecules in supramacromolecular assemblies and paracrystalline arrays; and (3) study of ultrastructure of cells and cellular organelles. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article has a guaranteed resolution of 5 Angstroms. The only known comparable domestic instrument, the Model EMU-4 electron microscope manufactured by the Radio Corporation of America (RCA), has a guaranteed resolution of 8 Angstroms. (The lower the numerical rating in terms of Angstroms, the better the resolution.) The difference in the resolving capabilities of the foreign article and the RCA Model EMU-4 is pertinent to the purposes for which the foreign article is intended to be used. (2) The foreign article provides four accelerating voltages, 25, 50, 75, and 100 kilovolts, whereas the RCA Model EMU-4 provides only two accelerating voltages, 50 and 100 kilovolts. It has been experimentally established that the lower accelerating voltage (25 kilovolts) provides optimum contrast for unstained specimens and that the accelerating voltage intermediate between 50 and 100 kilovolts provides optimum contrast for negatively stained specimens.

For the foregoing reasons, we find that the RCA Model EMU-4 is not of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-13499; Filed, Nov. 16, 1967; 8:45 a.m.]

STATE UNIVERSITY OF NEW YORK AT BUFFALO

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00089-33-46040. Applicant: State University of New York at Buffalo, 3435 Main Street, Buffalo, N.Y. 14214. Article: Electron Microscope, Model HU 11-C, and component parts. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be employed in the following research programs: Fine structure and cytochemistry of pollen tubes; differentiation of choloroplasts; supramolecular organization of cells; and protein biosynthesis. Comments: Comments were received from one domestic manufacturer, Radio Corporation of America (RCA). These were received after the period for comments on this application had expired. Therefore, pursuant to § 602.5(a) of the regulations cited above, these comments have been treated as an offer to provide additional information to the extent that they contain factual information, as contrasted with arguments, explanations, or recommendations. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reason: The foreign article offers a guaranteed resolution of 5 Angstroms by the Fresnel fringe test (specifications for Hitachi Model HU 11-C Electron Microscope, attached to application), whereas the RCA Model EMU-4 offers a guaranteed resolution of 8 Angstroms (specifications for RCA Model EMU-4 Electron Microscope, attached to comments of RCA cited above). (The smaller the numerical rating in terms of Angstroms, the better the resolution.) The National Bureau of Standards (NBS) (memorandum dated Aug. 10, 1967) advises that the difference between 5 Angstroms and 8 Angstroms is very significant in connection with the purpose of the applicant to compare euchromatic and heterochromatic chromosome sets and, therefore, the 5-Angstrom resolution of the foreign article is a pertinent characteristic. The Department of Health, Education, and Welfare (HEW) (memorandum dated July 27, 1967) also advises that the purposes for which the applicant intends to use the article "requires an electron microscope of the highest available resolution."

For the foregoing reasons, we find that the RCA Model EMU-4 is not of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-13500; Filed, Nov. 16, 1967; 8:45 a.m.]

UNIVERSITY OF CHICAGO

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 67-00118-00-46040. Applicant: The University of Chicago, 5801 South Ellis Avenue, Chicago, Ill. 60637. Article: Special objective lens power supply and control panel for HU-200 objective lens and special HU-200 (200KV) objective-intermediate lens assembly, objective and field limiting aperture assembly, objective stigmator specimen stage control aims and etc. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: Applicant states: "They are necessary for experimentation with biological specimens, perfecting high resolution techniques, at cryogenic temperatures." Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The application relates to specially designed accessories for use with a Model HU-200 electron microscope which was manufactured in Japan. The only known source for such accessories is the manufacturer of the HU-200 electron microscope. The Department of Commerce knows of no comparable accessories that will fit the HU-200 electron microscope, which are being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-13501; Filed, Nov. 16, 1967; 8:45 a.m.]

UNIVERSITY OF TEXAS SOUTHWESTERN MEDICAL SCHOOL AT DALLAS

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 67-00094-33-46000. Applicant: University of Texas Southwestern Medical School at Dallas, 5323 Harry Hines Boulevard, Dallas, Tex. 75235. Article: Micromanipulator, Eccles-Type, Model ME-7; Stereotaxic Instrument, Eccles-Type, Model SE-4 and Ball Joint B-2 Type 12 mm. Manufacturer: Narishigo Scientific Instrument Laboratory, Japan. Intended use of article: Applicant states:

The article will be used for neurophysiological investigations of the mammalian spinal cord. The micromanipulator will be employed to introduce fine microelectrodes into the spinal cord to record the electrical activities of single neurons. The animal frame will be used to mount the animal in a manner which maximizes the stability of the animal to permit such records to be made.

Comments: Comments were received from one domestic manufacturer, Brinkmann Instruments, Inc. (Brinkmann). However, these did not conform to § 602.-4(c) of cited regulations in the following respects: (1) The comments did not identify the domestic instrument or apparatus considered to be of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used; (2) the comments failed to explain why one or more of the instruments manufactured by Brinkmann is scientifically equivalent to the foreign article for the purposes for which such article is intended to be used; and (3) Brinkmann did not furnish the applicant with a copy of the comments, as provided for in headnote to the Notice of Applications for Duty-Free Entry of Scientific Articles (32 F.R. 8391). (See letter from applicant dated Sept. 19, 1967.) Therefore such comments will not be considered in connection with this decision even as additional knowledge because they do not contain factual information as contrasted with arguments or recommendations. (§ 602.5(a) of cited regulations.) Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: We are advised by the Department of Health, Education, and Welfare (HEW) that integrated design, rugged construction for stability, and the capability for complete micro-manipulation flexibility are pertinent characteristics within the context of the purposes for which the foreign article is intended to be used. HEW further advises that the closest comparable domestic apparatus is less suited for the work planned by the applicant. (Memorandum from HEW dated Aug. 2, 1967.)

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-13502; Filed, Nov. 16, 1967; 8:45 a.m.]

UNIVERSITY OF WASHINGTON MEDICAL SCHOOL ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C.

A copy of each comment filed with the Director of the Office of Scientific and Technical Equipment must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 68-00169-33-46040. Applicant: University of Washington Medical School, Department of Pathology, Seattle, Wash. 98105. Article: Electron Microscope, Model EM6-B, and Anticontamination Device. Manufacturer: Associated Electrical Industries, Ltd., United Kingdom. Intended use of article: The article will be used in research projects that include studies of amyloid fibers, morphologic variations of elementary particles of mitochondrial membranes renal ultrastructure, various disease tissue and experimentally altered tissues. Application received by Commissioner of Customs: October 6, 1967.

Docket No. 68-00170-70-46040. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, Mass. 02139. Article: Norelco Electron Microscope EM100 C. Manufacturer: N. V. Philips Electronics, The Netherlands. Intended use of article: This instrument will be used to teach students the use and principles of electron microscopy. Application received by Commissioner of Customs: October 6, 1967.

Docket No. 68-00171-01-77030. Applicant: University of Massachusetts, Department of Chemistry, Amherst, Mass. 01002. Article: Nuclear Magnetic Resonance Spectrometer, Model R20, with proton-proton spin decoupler, variable temperature accessory. Manufacturer: Hitachi, Ltd., Japan. Intended use of Article: (1) Teaching laboratory instrumental analysis to undergraduate and graduate students. (2) Research in structure of organic materials via their proton resonance and in polymer studies. Application received by Commissioner of Customs: October 6, 1967.

Docket No. 68-00172-33-46040. Applicant: Holy Cross Hospital, 2701 West 68th Street, Chicago, Ill. 60629. Article: Electron Miscroscope EM 9A with accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: Research projects of pathology staff, teaching medical students, interns, and residents in oncology. Application received by Commissioner of Customs: October 9, 1967.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-13503; Filed, Nov. 16, 1967; 8:46 a.m.]

UNIVERSITY OF CALIFORNIA ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6 (c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C.

A copy of each comment filed with the Director of the Office of Scientific and Technical Equipment must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 68-00173-75-65600. Applicant: University of California, Los Alamos Scientific Laboratory, Post Office Box 990, Los Alamos, N. Mex. 87544. Article: 750-Kilovolt High Voltage Power Supply. Manufacturer: Emile Haefely Company, Ltd., Switzerland. Intended use of article: Applicant states:

The direct current high voltage power supply will be used as the preinjector which will provide 750 kev particles (protons) available to a 200 mev linear accelerator. This accelerator will accelerate these particles and inject them into a 30 bev synchrotron ring.

Application received by Commissioner of Customs: October 9, 1967.

Docket No. 68-00174-33-46040. Applicant: University of California, Department of Bacteriology, 405 Hilgard Avenue, Los Angeles, Calif. 90024. Article: Electron Microscope, Elmiskop IA with accessories. Manufacturer: Siemens and Halske Aktiengesellschaft, West Germany. Intended use of article: Examination of biological specimens, particularly bacteria and viruses, in following areas:

1. Bacteriophage structure and its genetic control.
2. Chlorophyll syntheses and formation of chromatophore structures.
3. Formation of bacterial flagella.
4. Structure and purification of Bacillus subtilis bacteriophages.

Application received by Commissioner of Customs: October 9, 1967.

Docket No. 68-00176-33-46040. Applicant: University of Virginia, School of Medicine, Charlottesville, Va. 22903. Article: Electron Microscope, EM-300 with accessories. Manufacturer: N. V. Philips Gloeilampenfabrieken, The Netherlands. Intended use of article: The instrument will be used to study structural alterations of unit membranes surrounding rat liver cells, that have been altered for investigation. Application received by Commissioner of Customs: October 9, 1967.

Docket No. 68-00175-33-46040. Applicant: University of Alabama, Purchasing Department, University, Ala. 35486. Article: Electron Microscope EM 9A and accessories. Manufacturer: Carl Zeiss, Inc., West Germany. Intended use of article: The instrument is to be used for both teaching and research of morphogenesis in algae and bacteria. Application received by Commissioner of Customs: October 9, 1967.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-13504; Filed, Nov. 16, 1967; 8:46 a.m.]

FLORIDA STATE UNIVERSITY ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C.

A copy of each comment filed with the Director of the Office of Scientific and Technical Equipment must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 68-00065-80-43600. Applicant: Florida State University, Purchasing Department, Tallahassee, Fla. 32306. Article: Harmonic Analyzer, Mader-Ott, Model No. 212 A PETEX. Manufacturer: A. Ott Instrument Co., West Germany. Intended use of article: The article will be used for instruction of graduate and senior undergraduate students of the University. Application received by Commissioner of Customs: August 9, 1967.

Docket No. 68-00168-65-46040. Applicant: Georgia Institute of Technology, 225 North Avenue NW., Atlanta, Ga. 30332. Article: Electron Microscope, model Elmiskop IA. Manufacturer: Siemens AG, West Germany. Intended use of article: Applicant states:

The electron microscope with its accessories will be used by the applicant primarily for scientific research and to a limited degree for teaching purposes. The instrument will be applied for investigations in the fields of metallurgy, mineralogy and plastic chemistry.

Application received by Commissioner of Customs: October 6, 1967.

Docket No. 68-00166-75-65600. Applicant: Brookhaven National Laboratory, Associated Universities, Inc., Upton, Long Island, N.Y. 11973. Article: 800-Kilovolt Direct Current High Voltage Power Supply. Manufacturer: Emile Haefely Co., Ltd., Switzerland. Intended use of article: Applicant states:

The direct current high voltage power supply will be used as the preinjector which will provide 750 kev particles (protons) available to a 200 mev linear accelerator. This accelerator will accelerate these particles and inject them into a 30 bev synchrotron ring.

Application received by Commissioner of Customs: October 4, 1967.

Docket No. 68-00167-33-46040. Applicant: University of Colorado Medical Center, 200 East Ninth Avenue, Denver, Colo. 80220. Article: Electron Microscope Norelco EM-300 and specimen decontamination device. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article:

1. Basic research in following areas:
   a. Fine structure and function of photoreceptors.
   b. Fine structure of contractile proteins of muscle.
   c. Fine structure of pigments.
   d. Viral replication studies.
2. Teaching and training of medical and graduate students, graduate student dissertation-research.

Application received by Commissioner of Customs: October 5, 1967.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-13505; Filed, Nov. 16, 1967; 8:46 a.m.]

CORNELL UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 67-00112-33-46040. Applicant: Cornell University, Ithaca, N.Y. 14850. Article: Norelco Electron Microscope, Model EM 300. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: Applicant states:

The instrument is to be used for several purposes. The primary one being biological research • • • The research involves (1) developing and applying techniques for ultrahigh resolution autoradiography; (2) the ultrastructure of biomolecular materials at ultimate resolution; and (3) using the instrument in conjunction with a program to develop new electron microscopes of even higher resolution than now commercially available.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article provides a guaran-

teed resolution of 5 Angstroms (Specification sheet for Norelco EM 300 Electron Microscope attached to application), whereas the only domestic instrument, the Radio Corporation of America (RCA) Model EMU-4, provides a guaranteed resolution of 8 Angstroms. (The lower the numerical rating in terms of Angstroms, the better the resolving power). The National Bureau of Standards (NBS) advised in a related comparative review of electron microscopes intended for a similar application (Docket No. 67-00036-33-46040) (memorandum dated July 10, 1967), that the difference between 5 and 8 Angstroms is very significant in view of the purposes for which the foreign article is intended to be used. (2) The internal configuration of the foreign instrument with respect to objective lense focal length and resultant spherical aberration coefficient as well as the chromatic aberration coefficient are pertinent characteristics to development of higher resolution. (3) The Department of Health, Education, and Welfare (HEW) advised in a memorandum dated August 14, 1967, that "the planned biological research studies at Cornell University involving ultrahigh resolution autoradiography, the ultrastructure of biomolecular materials at ultimate resolution and a program to advance the state of the art with regard to resolution beyond existing practice, establishes resolution and all design features that promote resolution and contrast as pertinent characteristics."

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-13506; Filed, Nov. 16, 1967; 8:46 a.m.]

CHILDREN'S HOSPITAL RESEARCH FOUNDATION

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 67-00152-33-46040. Applicant: Children's Hospital Research Foundation, Eland and Bethesda Avenues, Cincinnati, Ohio 45229. Article: Norelco Electron Microscope, Model EM 300. Manufacturer: Philips Electronics and Pharmaceutical Industries Corp., The Netherlands. Intended use of article: This instrument will be used in biological research and teaching. Specific research projects include the following:

(a) The nature of the structural lesion in the glycogen storage disease;

(b) Studies on the structure of the kidney glomerular basement membrane;

(c) Development of methods of tracing albumin in intestinal tissues; and

(d) Research of negatively stained viral suspensions.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article offers a guaranteed resolution of 5 Angstroms (Specifications for Norelco EM 300, attached to application), whereas the only known domestic electron microscope, the Model EMU-4 manufactured by Radio Corporation of America (RCA) offers a guaranteed resolution of 8 Angstroms (Specifications for RCA Model EMU-4, attached to application). (The lower the numerical rating in terms of Angstroms, the better the resolution.) The Department of Health, Education, and Welfare (HEW) (memorandum dated Aug. 17, 1967) advised that maximum attainable resolution is a pertinent characteristic, in view of the purposes for which the foreign article is intended to be used. (2) The foreign article offers five accelerating voltages, 20, 40, 60, 80, and 100 kilovolts, whereas the RCA Model EMU-4 offers only two accelerating voltages, 50 and 100 kilovolts. In this regard, HEW advised that operation below 50 kilovolt acceleration voltage is necessary for good contrast at both low and high magnification. Moreover, HEW advised that the difference between the foreign article and RCA Model EMU-4 with respect to magnification range (300-600,000 times for the foreign article and 400-70,000 times for the RCA Model EMU-4 without breaking the vacuum), is also pertinent to the purposes for which the foreign article is intended to be used.

For the foregoing reasons, we find that the RCA Model EMU-4 is not of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-13507; Filed, Nov. 16, 1967; 8:46 a.m.]

OHIO STATE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 67-00101-33-46500. Applicant: The Ohio State University, 190 North Oval Drive, Columbus, Ohio 43210. Article: Ultramicrotome Reichert Model Om U2. Manufacturer: C. Reichert Optische Werke A.G., Austria. Intended use of article: Applicant states:

The Reichert Om U2 Ultramicrotome will be used as an integral part of a biological-medical research program involving electron microscopy of blood and blood-forming organs in health and disease * * *. Research projects in which this instrument will become immediately involved include:

A. Electron microscopy and electron microscopic histochemistry of the cytoplasmic lysosomal granules in cells of the bone marrow in man, rabbit and cat.

B. Electron microscopy of the lymphocytic cells of the lymph nodes during embryonic-fetal development.

C. Submicroscopic studies of the developing erythrocytic cells as related to their cellular origin and specialization during maturation.

D. Electron microscopy of the embryonic thymus.

E. A study of unusual plasma cells in a patient with plasma cell leukemia.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article provides a thermal feed for ultrathin sections as well as a mechanical feed for thicker sections. (See specifications for Reichert Ultra Microtome "Om U2" attached to application.) The only known comparable domestic instrument is the Model MT-2 ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall), which provides a mechanical feed only for cutting sections of all thicknesses. (See catalogue (1966) for Sorvall "Porter-Blum" MT-1 and MT-2 Ultra Microtomes, Ivan Sorvall, Inc., Norwalk, Conn.) In the case of Docket No. 67-00024-33-46500, which is related to a similar foreign article, we were advised by the Department of Health, Education, and Welfare (HEW) that both theoretically and in actual practice, the thermal advance mechanism gives superior performance over the mechanical advance method of cutting thin sections. Inherent in a mechanical advance which incorporates a system of gears is backlash and slippage no matter how slight. Thus, there is bound to be greater variation in section thickness with mechanical advance when both are functioning at their best. (See memorandum from HEW dated June 26, 1967, contained in record of Docket No. 67-00024-33-46500.) In another case (Docket No. 67-00052-33-46500) which also relates to a similar foreign article, HEW advised that reproducibility of thickness of each section cut for examination under an electron microscope is substantially greater when thermal advance microtomes are used than when the advance is achieved through purely mechanical devices. (See memorandum from HEW dated July 26, 1967, contained in record of Docket No. 67-00052-33-46500.) The capability of an ultramicrotome to reproduce consecutive sections with consistent accuracy and uniformity is pertinent to the purposes for which the foreign article is intended to be used. (2) The thin-sectioning capability of an ultramicrotome is expressed in terms of the thinnest section that it can produce. This capability is pertinent because the thinner the section, the more it is possible to take full advantage of the resolving power and other capabilities of the electron microscpe for which the specimen is being prepared. The foreign article has a specified thin-sectioning capability of at least 1 Angstrom. (See catalogue (1966) for Reichert Model "Om U2" Ultra Microtome, C. Reichert Optische Werke A.G., Austria.) The specified thin-sectioning capability for the Sorvall Model MT-2 is 100 Angstroms (page 11 of catalogue for Sorvall Model MT-2 cited above).

For the foregoing reasons, we find that the Sorvall Model MT-2 is not of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-13508; Filed, Nov. 16, 1967; 8:46 a.m.]

PURDUE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00030-33-77040. Applicant: Purdue University, Purchasing Department, Lafayette, Ind. 47907. Article: Mass Spectrometer, Hitachi Perkin-Elmer Model RM H2 with ancillary equipment. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: Applicant states: "This instrument will be used for advanced research and analysis of complex organic compounds. * * * Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: the foreign article provides a resolving power of 100,000 at a 10 percent valley definition when a mass range of 30 to 900 mass units is scanned in 120 seconds. We know of no domestic instruments which provide a resolving power higher than 30,000 at a 10 percent valley definition at any scan speed. We are advised by the Department of Health, Education, and Welfare (memorandum dated Sept. 28, 1967) that the foreign article represents an advance in the state of the art of mass spectrometry and that the additional resolving capability of the foreign article at the specified scanning speed is pertinent to the purposes for which such article is intended to be used. We note that none of the domestic manufacturers contacted offered to furnish an instrument which met these specifications (applicant's reply to Question 10). We therefore find that none of these domestic manufacturers had available at the time the applicant placed its order for the foreign article, an instrument or apparatus of equivalent scientific value to such article for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-13509; Filed, Nov. 16, 1967; 8:46 a.m.]

UNIVERSITY OF MASSACHUSETTS

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 67-00102-33-46500. Applicant: University of Massachusetts, Amherst, Mass. 01002. Article: Microtome, Reichert Thermal Advance Ultra Microtome, Model SIDEA ("Om U2"). Manufacturer: C. Reichert Optische Werke A.G. Austria. Intended use of article: Applicant states: "Prepare ultrathin sections of plant tissues for electron microscopy—as part of a study of embryogenesis." Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article provides a thermal feed for ultrathin sections as well as a mechanical feed for thicker sections. (See specifications for Reichert Ultra Microtome "Om U2" attached to application.) The only known comparable domestic instrument is the Model MT-2 ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall), which provides a mechanical feed only for cutting sections of all thicknesses. (See catalogue (1966) for Sorvall "Porter-Blum" MT-1 and MT-2 Ultra Microtomes, Ivan Sorvall, Inc., Norwalk, Conn.) In the case of Docket No. 67-00024-33-46500, which is related to a similar foreign article, we were advised by the Department of Health, Education, and Welfare (HEW) that both theoretically and in actual practice, the thermal advance mechanism gives superior performance over the mechanical advance method of cutting thin sections. Inherent in a mechanical advance which incorporates a system of gears is backlash and slippage no matter how slight. Thus, there is bound to be greater variation in section thickness with mechanical advance when both are functioning at their best. (See memorandum from HEW dated June 26, 1967, contained in record of Docket No. 67-00024-33-46500.) In another case (Docket No. 67-00052-33-46500) which also relates to a similar foreign article, HEW advised that reproducibility of thickness of each section cut for examination under an electron microscope is substantially greater when thermal advance microtomes are used than when the advance is achieved through purely mechanical devices. (See memorandum from HEW dated July 26, 1967, contained in record of Docket No. 67-00052-33-46500.) The capability of an ultramicrotome to reproduce consecutive sections with consistent accuracy and uniformity is pertinent to the purposes for which the foreign article is intended to be used. (2) The thin-sectioning capability of an ultramicrotome is expressed in terms of the thinnest section that it can produce. This capability is pertinent because the thinner the section, the more it is pos-

sible to take full advantage of the resolving power and other capabilities of the electron microscope for which the specimen is being prepared. The foreign article has a specified thin-sectioning capability of at least 1 Angstrom. (See catalogue (1966) for Reichert Model "Om U2" Ultra Microtome, C. Reichert Optische Werke A.G., Austria.) The specified thin-sectioning capability for the Sorvall Model MT-2 is 100 Angstroms (page 11 of catalogue for Sorvall Model MT-2 cited above).

For the foregoing reasons, we find that the Sorvall Model MT-2 is not of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-13510; Filed, Nov. 16, 1967; 8:46 a.m.]

Maritime Administration

C4 TROOPSHIPS

Notice of Availability for Conversion and Restoration for Commercial Operation

Pursuant to the Ship Exchange Act (section 510(1) of the Merchant Marine Act, 1936), as added by Public Law 86-575 and amended by Public Law 89-254, 46 U.S.C. 1160(1), four C4 troopships owned by the United States of America, represented by the Secretary of Commerce, acting through the Maritime Administrator, are available to unsubsidized American steamship operators in exchange for their older and less efficient ships in accordance with the terms herein stated. Other disposition: This notice of availability of the ships for exchange under the Ship Exchange Act shall not preclude the Maritime Administrator from pursuing such other disposition of the ships as he may deem to be in the best interest of the United States. As required by the Ship Exchange Act, approval of the Defense Department has been received for trade-out of these ships.

(a) *Basis for assignment.* Exchange of these ships will be made in accordance with the provisions of the Ship Exchange Act and of General Order 92 (46 CFR Part 375) as published in the FEDERAL REGISTER issue of March 1, 1962 (27 F.R. 2011). However, for the purpose of making assignments of the ships among the applicants, applications will be closely evaluated to determine the type of conversion and resulting efficiency of the ships, including suitability of the ship for military or national defense use and the extent of upgrading of the American Merchant Marine; the applicant's operating ability; the applicant's financial responsibility; and other factors having a bearing on the intent of the Ship Exchange Act. Preference will be given to those operators which file applications to acquire the ships for conversion to general purpose cargo ships, containerships and tankers.

(b) *Valuation.* The basis for valuation of the traded-in-and traded-out vessels will be the same as previously used in the case of the C4 troopships as announced in the FEDERAL REGISTER issues of February 1, 1964 (29 F.R. 1665, 1667), April 14, 1964 (29 F.R. 5092), June 11, 1964 (29 F.R. 7620), and August 3, 1966 (31 F.R. 10425).

(c) *Applications.* Applications for the exchange of ships shall be submitted to the Chief, Office of Property and Supply, Maritime Administration, Washington, D.C. 20235, on Form MA-152. To assist the Maritime Administration in arriving at a proper determination of the ship assignments, applicants shall furnish with their applications the following information in the order listed:

(1) A statement of the applicant's ship operating ability and experience, including the number and types of American flag ships presently owned and operated by the applicant and the trades in which operated.

(2) Names, official numbers, and types of ships to be traded-in.

(3) Financial resources available to the applicant and proposed method of financing.

(4) Outline plans and description of the proposed ship conversions and, in the case of a containership, the dimensions of the containers to be used and the number to be carried. There shall also be included a description of the ship's cargo handling capability.

(5) Bale cubic and deadweight capacity after conversion.

(6) Estimated speed in knots after conversion.

(7) Proposed manning schedule.

(8) Estimated costs of proposed conversion and restoration for commercial operation.

(9) Description of proposed commercial trade of traded-out ship.

(10) Pro forma statement of anticipated operating results for operation in proposed commercial trade.

Applications must be received on or before December 8, 1967.

(d) *Ships available.* The C4's available for assignment are:

Name	Reserve fleet
GENERAL C. C. BALLOU	Beaumont.
GENERAL STEWART HEINTZELMAN	Do.
GENERAL W. G. HAAN	Do.
GENERAL W. C. LANGFITT	James River.

The principal characteristics of the C4 troopships are:

Length overall—523'10";
Beam—71'6";
Speed—17 knots;
Deadweight tonnage—approximately 15,000.

The notice of availability of twenty-five C4 troopships published in the FEDERAL REGISTER of August 3, 1966 (21 F.R. 10425), is canceled and superseded by this notice as to the four C4 troopships named above.

The Notice of Allocation of fifteen C4 Troopships published in the FEDERAL REGISTER of November 30, 1966 (31 F.R. 15027), is amended by deleting therefrom the allocations therein shown of the C4 troopships named above, as those allocations have heretofore been canceled.

By Order of the Acting Maritime Administrator.

Dated: November 10, 1967.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 67-13488, Filed, Nov. 16, 1967; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

ALLIED CHEMICAL CORP.

Notice of Filing of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 8F0659) has been filed by the Allied Chemical Corp., Agricultural Division, 40 Rector Street, New York, N.Y. 10006, proposing an exemption from the requirements of a tolerance for residues of the insecticide dodecachlorooctahydro - 1,3,4-metheno-2H-cyclobuta [cd]pentalene in or on raw agricultural commodities.

The analytical method proposed for determining residues of the insecticide is a microcoulometric gas chromatographic technique.

Dated: November 8, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-13556; Filed, Nov. 16, 1967; 8:50 a.m.]

AMERICAN CYANAMID CO.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 8B2231) has been filed by American Cyanamid Co., Wayne, N.J. 07470, proposing an amendment to § 121.2526 *Components of paper and paperboard in contact with aqueous and fatty foods* to provide for the safe use of disodium *N*-octadecylsulfosuccinamate as an emulsifier in resin latex coatings for paper and paperboard for use in contact with aqueous and fatty foods.

Dated: November 8, 1967.

J. K. KIRK,
Acting Commissioner for Compliance.

[F.R. Doc. 67-13557; Filed, Nov. 16, 1967; 8:50 a.m.]

CHEMAGRO CORP.

Notice of Filing of Pesticide and Food Additive Petitions

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 409(b)(5), 68 Stat. 512, 72 Stat. 1786; 21 U.S.C. 346a(d)(1), 348(b)(5)), notice is given that a petition (PP 8F0653) has been filed by the Chemagro Corp., Post Office Box 4913, Hawthorn Road, Kansas City, Mo. 64120, proposing the establishment of tolerances for residues of the insecticide *O,O*-diethyl *S*-[4-oxo-1,2,3-benzotriazin-3(4H)-ylmethyl] phosphorodithioate in or on the raw agricultural commodities cottonseed and potatoes at 0.1 part per million and soybeans at 0.02 part per million.

Notice is also given that the Chemagro Corp. has filed a related petition (FAP 8H2229) proposing the establishment of a food additive tolerance of 0.1 part per million for residues of the insecticide in soybean oil.

The analytical methods proposed for determining residues of the insecticide are: (1) A colorimetric technique based on alkaline hydrolysis of residues to anthranilic acid which acid is then determined colorimetrically by diazotization and coupling with *N*-(1-naphthyl) ethylenediamine dihydrochloride; and (2) a gas chromatographic technique with a thermionic emission flame detector.

Dated: November 8, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-13558; Filed, Nov. 16, 1967; 8:50 a.m.]

E. I. DU PONT DE NEMOURS & CO.

Notice of Filing of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 8F0657) has been filed by E. I. du Pont de Nemours and Co., Wilmington, Del. 19898, proposing the establishment of tolerances for total residues of the fungicide chloroneb (1,4-dichloro-2,5-dimethoxybenzene) and its metabolite 2,5-dichloro-4-methoxyphenol, calculated as chloroneb, in or on the raw agricultural commodities: Cotton forage and vines (forage) of beans and soybeans at 2 parts per million; and beans, cottonseed, soybeans, and sugar beets (roots and tops) at 0.1 part per million.

The analytical method proposed for determining total residues of the fungicide and its metabolite is the microcoulometric gas chromatographic technique of H. L. Pease, "Journal of Agricultural and Food Chemistry," vol. 15, pp. 917-19 (1967).

Dated: November 8, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-13559; Filed, Nov. 16, 1967; 8:50 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-220]

NIAGARA MOHAWK POWER CORP.

Notice of Issuance of Order Extending Latest Completion Date of Provisional Construction Permit

Notice is hereby given that the Atomic Energy Commission (the Commission) has issued an order extending to August 1, 1968, the latest completion date specified in Provisional Construction Permit No. CPPR-16 which authorizes Niagara Mohawk Power Corp. to construct a boiling water nuclear reactor on the applicant's site at Nine Mile Point on the shore of Lake Ontario in the town of Scriba, N.Y.

Copies of the Commission's order and the application for extension filed by Niagara Mohawk Power Corp. are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 9th day of November 1967.

For the Atomic Energy Commission.

MARVIN M. MANN,
Acting Director, Division of Reactor Licensing.

[F.R. Doc. 67-13486; Filed, Nov. 16, 1967; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 19803]

AMERICANA DE AVIACION, S.A.

Notice of Prehearing Conference

Application for a foreign air carrier permit to engage in the transportation of property and mail between the terminal point of Guayaquil in Ecuador, intermediate points at Quito, Ecuador, and Panama City, Panama, and the terminal point Miami, Fla.

Notice is hereby given that a prehearing conference on the above-entitled application is assigned to be held on November 30, 1967, at 10 a.m., e.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Leslie G. Donahue.

Dated at Washington, D.C., November 13, 1967.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 67-13560; Filed, Nov. 16, 1967; 8:49 a.m.]

[Docket No. 19063]

DEUTSCHE LUFTHANSA AKTIENGESELLSCHAFT (LUFTHANSA GERMAN AIRLINES)

Notice of Hearing

Notice is hereby given, pursuant to provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceeding is assigned to be held on December 4, 1967, at 10 a.m., e.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned Examiner.

Dated at Washington, D.C., November 13, 1967.

[SEAL] LESLIE G. DONAHUE,
Hearing Examiner.

[F.R. Doc. 67-13551; Filed, Nov. 16, 1967; 8:49 a.m.]

[Docket No. 19066; Order E-25950]

READING AVIATION SERVICE, INC.

Order To Show Cause

Issued under delegated authority November 13, 1967.

By petition, filed on September 29, 1967, Reading Aviation Service, Inc., requests the Board to establish a final service mail rate of 55 cents per aircraft mile for the transportation of mail by aircraft between Scranton, Pa., and Philadelphia.

Petitioner is currently engaged in business as an air taxi under Part 298 of the Board's economic regulations. Petitioner will utilize Twin Beech and deHaviland Dove type aircraft in the proposed service, and believes the rate proposed constitutes a fair and reasonable final service mail rate for this service. In its answer, filed October 9, 1967, the Post Office supported Reading Aviation's petition, and stated it believed the proposed rate represents a fair and reasonable rate for the services which petitioner will perform.

By Order E-25950, November 9, 1967, in this Docket, the Board determined to permit petitioner to provide the proposed air transportation of mail for the period terminating June 30, 1969. Since no mail rate is presently in effect for this carrier in these markets, it is necessary to fix and determine the fair and reasonable rate of compensation to be paid to Reading Aviation Service, Inc., by the Postmaster General for the air transportation of mail.

Under the circumstances, the Board finds it in the public interest to fix and determine the fair and reasonable rate of compensation to be paid to Reading Aviation Service, Inc., by the Postmaster General for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the petition and other matters officially noticed, the Board

proposes to issue an order[1] to include the following findings and conclusions:

1. That the fair and reasonable final service mail rate to be paid to Reading Aviation Service, Inc., pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith between Scranton, Pa., and Philadelphia, Pa., shall be 55 cents per aircraft mile;

2. The final service mail rate here fixed and determined is to be paid in its entirety by the Postmaster General.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302 and 14 CFR 385.14(f):

It is ordered, That:

1. All interested persons and particularly Reading Aviation Service, Inc., the Postmaster General, Allegheny Airlines, Inc., Eastern Air Lines, Inc., and Trans World Airlines, Inc., are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above, as the fair and reasonable rate of compensation to be paid to Reading Aviation Service, Inc., for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and if there is any objection to the rate or to the other findings and conclusions proposed herein, notice thereof shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after the date of service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and an answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Reading Aviation Service, Inc., the Postmaster General, Allegheny Airlines, Inc., Eastern Air Lines, Inc., and Trans World Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-13552; Filed, Nov. 16, 1967; 8:49 a.m.]

[1] As this Order To Show Cause does not constitute a final action and merely affords interested persons an opportunity to be heard on the matters herein proposed, it is not regarded as subject to the review provisions of Part 385 (14 CFR, Part 385). The provisions of that part dealing with petitions for Board review will be applicable to any final action which may be taken by the staff in this matter under authority delegated in § 385.14(g).

[Docket No. 18141]

SCANDINAVIAN AIRLINES SYSTEM ENFORCEMENT PROCEEDING

Notice of Postponement of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the public hearing in the above-entitled proceeding heretofore assigned to be held on December 5, 1967, is hereby postponed and is now assigned to be held before the undersigned Examiner on January 23, 1968, at 10 a.m., e.s.t., in Room 211, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., November 13, 1967.

[SEAL] RICHARD A. WALSH,
Hearing Examiner.

[F.R. Doc. 67-13553; Filed, Nov. 16, 1967; 8:49 a.m.]

CIVIL SERVICE COMMISSION

NOTICE OF GRANT OF AUTHORITY TO MAKE NONCAREER EXECUTIVE ASSIGNMENTS

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the departments and agencies in the executive branch to fill by noncareer executive assignment those excepted positions in grades GS-16, GS-17, and GS-18 removed from Schedule C of Civil Service Rule VI (5 CFR 6.2) by 5 CFR 213.3301a effective November 17, 1967.[1]

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67-13606; Filed, Nov. 16, 1967; 8:51 a.m.]

[1] See F.R. Doc. 67-13607, in Rules and Regulations Section, *supra*.

FEDERAL MARITIME COMMISSION

AMERICAN WEST AFRICAN FREIGHT CONFERENCE

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. John K. Cunningham, Chairman, American West African Freight Conference, 67 Broad Street, New York, N.Y. 10004.

Agreement 7680-23, among the member lines to the American West African Freight Conference, amends the basic agreement by deleting Article 2 thereof and substituting therefor a new article which sets forth the rights and obligations of the member lines in their representation directly or indirectly of nonconference vessels transporting cargo in the conference trade and stipulates the conditions under which the member lines may bareboat or time-charter vessels to wholly independent companies.

Dated: November 14, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-13560; Filed, Nov. 16, 1967; 8:50 a.m.]

HOLLAND-AMERICA LINE AND NORWEGIAN-AMERICA LINE

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. A. A. van L. Maas, General Manager, Holland-America Line, Pier 40 North River, New York, N.Y. 10014.

Agreement No. T-2096 between Holland-America Line (Holland-America) and Norwegian-America Line (Norwegian-America) provides for a 5-year sublease of space by Norwegian-America at Pier 40, North River, New York, N.Y. Norwegian-America agrees to use Pier 40 for all of its passenger vessels and to use Holland-America's stevedore-designee. Charges for use of the pier are set forth in the agreement.

Dated: November 14, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-13561; Filed, Nov. 16, 1967; 8:50 a.m.]

NIAGARA FRONTIER PORT AUTHORITY AND BUFFALO OVERSEAS TERMINALS, INC.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. James R. Kelly, General Counsel, Niagara Frontier Port Authority, 1700 City Hall, Buffalo, N.Y. 14203.

Agreement No. T-2095 between the Niagara Frontier Port Authority (Authority) and Buffalo Overseas Terminals, Inc. (Terminals) is a 5-year lease of certain warehouse and dock facilities to be operated as a public marine terminal. Terminals will furnish all labor and services, including stevedoring. Authority will receive all dockage, demurrage and storage charges and, in addition, Terminals will pay $1.25 per ton top wharfage with a guaranteed minimum payment on 30,000 tons. Rates to be charged by Terminals are subject to approval by the Authority.

Dated: November 14, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-13562; Filed, Nov. 16, 1967; 8:50 a.m.]

SOUTH ATLANTIC & CARIBBEAN LINE, INC., AND SACAL, V.I., INC.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. John Mason, Regan & Mason, 900 17th Street NW., Washington, D.C. 20006.

Agreement 9673, between South Atlantic & Caribbean Line, Inc., and Sacal, V.I., Inc., establishes a through billing arrangement between ports in Florida and ports in the Greater and Lesser Antilles and on the North Coast of South America with transshipment at San Juan or other ports in Puerto Rico in accordance with terms and conditions set forth in the agreement.

Dated: November 14, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-13563; Filed, Nov. 16, 1967; 8:50 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-9686, etc.]

BRAVO OIL CO.

Findings and Order

NOVEMBER 7, 1967.

Findings and order after statutory hearing issuing certificates of public convenience and necessity, dismissing applications, cancelling docket numbers, permitting and approving abandonment of service, terminating certificates, substituting respondents, redesignating proceedings, accepting agreement and undertaking for filing and accepting related rate schedules and supplements for filing.

Each of the Applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce, for permission and approval to abandon service, or a petition to amend an existing certificate authorization, all as more fully described in the respective applications and petitions (and any supplements or amendments thereto) which are on file with the Commission.

The Applicants herein have filed related FPC gas rate schedules and propose to initiate or abandon, add or deplete natural gas service in interstate commerce as indicated by the tabulation herein. All sales certificated herein are at rates either equal to or below the ceiling prices established by the Commission's statement of general policy No. 61-1, as amended, or involve sales for which permanent certificates have been previously issued.

Coastal States Gas Producing Co., Applicant in Docket No. G-18041, proposes to continue the sales of natural gas heretofore authorized in said docket to be made pursuant to Peake Petroleum Co. FPC Gas Rate Schedule Nos. 1 and 2. The presently effective rates under said rate schedules are in effect subject to refund in Docket No. RI65-615. Prior increased rates were collected under said rate schedules for locked-in periods subject to refund in Docket Nos. RI65-94, RI64-117, and RI62-406. Applicant has filed a motion to be substituted as respondent in said proceedings together with an agreement and undertaking to assure the refund of all amounts collected in excess of the amounts determined to be just and reasonable in said proceedings. Therefore, Applicant will be substituted in lieu of Peake Petroleum Co. as respondent, the proceedings will be redesignated accordingly, and the agreement and undertaking will be accepted for filing.

Occidental Petroleum Corp. (Operator) et al., Applicant in Docket No. CI61-259, proposes to continue the sale of natural gas heretofore authorized in said docket to be made pursuant to McWood Corp. (Operator) et al., FPC Gas Rate Schedule No. 1. Said rate schedule will be redesignated as that of Applicant. McWood Corp. has filed for an increase in rate under said rate schedule which increase has been suspended and has not been made effective. Therefore, Applicant will be substituted as respondent in said proceeding and the proceeding will be redesignated accordingly.

The Commission's staff has reviewed each application and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

After due notice, a petition to intervene by Long Island Lighting Co. and a notice of intervention by The Public Service Commission of the State of New York were filed in Docket No. CI63–1388, in the matter of the application filed on February 21, 1966, in said docket. The petition to intervene and the notice of intervention have been withdrawn, and no other petitions to intervene, notices of intervention, or protests to the granting of any of the respective applications or petitions in this order have been received.

At a hearing held on November 2, 1967, the Commission on its own motion received and made a part of the record in these proceedings all evidence, including the applications, amendments and exhibits thereto submitted in support of the respective authorizations sought herein, and upon consideration of the record.

The Commission finds:

(1) Each Applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and will, therefore, be a "natural-gas company" within the meaning of said Act upon the commencement of the service under the respective authorizations granted hereinafter.

(2) The sales of natural gas hereinbefore described, as more fully described in the respective applications, amendments and/or supplements herein, will be made in interstate commerce, subject to the jurisdiction of the Commission and such sales by the respective Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) The respective Applicants are able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The sales of natural gas by the respective Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity and certificates therefore should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the applications filed in Docket Nos. G–13943 and G–14225 on January 10, 1967 and June 7, 1967, respectively, should be dismissed as moot.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Docket Nos. CI61–655, CI61–929, CI62–487, and CI68–151 should be cancelled and that the applications filed herein should be processed as petitions to amend the certificates heretofore issued in Docket Nos. G–17851, CI60–181, CI61–1704, and CI62–909, respectively.

(7) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the certificate authorizations heretofore issued by the Commission in Docket Nos. G–3685, G–3686, G–3687, G–3688, G–15800, G–17851, G–18041, CI60–181, CI60–648, CI61–259, CI61–1704, CI62–249, CI62–909, CI63–548, CI63–1128, CI65–617, and CI66–1297 should be amended as hereinafter ordered and conditioned.

(8) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificate heretofore issued in Docket No. CI63–1388 should be amended to authorize the sale of natural gas from acreage acquired from Applicant in Docket No. CI63–1526, and that the certificate in Docket No. CI63–1526 should be terminated.

(9) The sales of natural gas proposed to be abandoned by the respective Applicants, as hereinbefore described, all as more fully described in the respective applications and in the tabulation herein, are subject to the requirements of subsection (b) of section 7 of the Natural Gas Act, and such abandonments should be permitted and approved as hereinafter ordered.

(10) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates of public convenience and necessity heretofore issued to the respective Applicants relating to the abandonments hereinafter permitted and approved should be terminated.

(11) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the name of the respondent in the proceeding pending in Docket No. RI66–122 should be changed from Rio Bravo Oil Co. to Bravo Oil Co., and that the proceeding should be redesignated accordingly.

(12) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Coastal States Gas Producing Co. should be substituted in lieu of Peake Petroleum Co. as respondent in the proceedings pending in Docket Nos. RI62–406, RI64–117, RI65–94, and RI65–615, that said proceedings should be redesignated accordingly, and that the agreement and undertaking submitted by Coastal States Gas Producing Co. in said proceedings should be accepted for filing.

(13) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Occidental Petroleum Corp. (Operator) et al., should be substituted in lieu of McWood Corp. (Operator) et al., as respondent in the proceeding pending in Docket No. RI66–374 and that said proceeding should be redesignated accordingly.

(14) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the respective related rate schedules and supplements as designated in the tabulation herein should be accepted for filing as hereinafter ordered.

(A) Certificates of public convenience and necessity are issued upon the terms and conditions of this order, authorizing the sales by the respective Applicants herein of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary for such sales, all as hereinbefore described and as more fully described in the respective applications, amendments, supplements, and exhibits in this proceeding.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as Applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 4 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's regulations thereunder, and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against the respective Applicants. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. Nor shall the grant of the certificates aforesaid for service to the particular customers involved imply approval of all of the terms of the respective contracts particularly as to the cessation of service upon termination of said contracts, as provided by section 7(b) of the Natural Gas Act. Nor shall the grant of the certificates aforesaid be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) The grant of the certificates issued herein on all applications filed after July 1, 1967, is upon the condition that no increase in rate which would exceed the ceiling prescribed for the given area by paragraph (d)(3) of the Commission's statement of general policy No. 61–1, as amended, shall be filed prior to the applicable date as indicated by footnote 23 in the attached tabulation.

(E) A certificate is issued herein in Docket No. CI68–161 authorizing Applicant to continue the sale of natural gas which was initiated without prior Commission authorization.

(F) The certificate issued herein in Docket No. CI68–62 is subject to the following conditions:

(1) The initial rate shall not exceed 15 cents per Mcf at 14.65 p.s.i.a., including tax reimbursement, plus B.t.u. adjustment; however,

(2) In the event the Commission, by amendment of its policy statement No. 61–1, adjusts the boundary between the Panhandle area and the "Other" Oklahoma area so as to increase the initial wellhead price for new gas in the area

of the sale involved herein, Applicant may thereupon substitute the new rate reflecting the amount of such increase, and thereafter collect the new rate prospectively in lieu of the initial rate herein required.

(G) The applications filed in Docket Nos. G–13943 and G–14225, on January 10, 1967 and June 7, 1967, respectively, are dismissed as moot.

(H) Docket Nos. CI61–655, CI61–929, CI62–487, and CI68–151 are canceled.

(I) The certificates heretofore issued in Docket Nos. G–17851, CI60–181, CI61–1704, CI63–548, and CI66–1297 are amended by adding thereto or deleting therefrom authorization to sell natural gas to the same purchasers and in the same areas as covered by the original authorizations pursuant to the rate schedule supplements as indicated in the tabulation herein.

(J) The certificate heretofore issued in Docket No. G–15800 is amended by deleting therefrom authorization to sell natural gas from acreage assigned to Applicant in Docket No. CI66–1297.

(K) Applicant in Docket No. CI66–1297 shall file a supplement to its FPC Gas Rate Schedule No. 6, waiving the 1 cent per Mcf minimum guarantee for liquids as was required of the predecessor in the Sunray DX Oil Co. settlement order issued January 29, 1965, in Docket Nos. G–6332 et al.

(L) The certificate heretofore issued in Docket No. CI63–1388 is amended to authorize the sale of natural gas from acreage acquired from Applicant in Docket No. CI63–1526, and the certificate in Docket No. CI63–1526 is terminated.

(M) The certificates heretofore issued in Docket Nos. G–18041, CI60–648, CI61–259, CI62–249, CI62–909, CI63–1128, and CI65–617 are amended by changing the certificate holders to the respective successors in interest as indicated in the tabulation herein.

(N) The acceptance for filing of the related rate filing in Docket No. CI65–617 is contingent upon Applicant's filing three copies of a revised billing statement reflecting the price of 13.5 cents per Mcf at 15.025 p.s.i.a. as required by the regulations under the Natural Gas Act.

(O) The certificates heretofore issued in Docket Nos. G–3685, G–3686, G–3687, and G–3688 are amended to reflect the change in corporate name from Rio Bravo Oil Co. to Bravo Oil Co., and the related rate schedules and the proceeding pending in Docket No. RI66–122 are redesignated accordingly. Applicant shall charge and collect rates of 8.290883 and 14 cents per Mcf at 14.65 p.s.i.a. pursuant to its FPC Gas Rate Schedule Nos. 1[1] and 3,[2] respectively, and shall file billing statements reflecting such rates as required by the regulations under the Natural Gas Act.

(P) The acceptance for filing of the related rate filings in Docket Nos. G–3687 and G–3688 is contingent upon Applicant's filing three copies of a billing statement for each rate schedule as required by the regulations under the Natural Gas Act.

(Q) Permission for and approval of the abandonment of service by the respective Applicants, as hereinbefore described, all as more fully described in the respective applications and in the tabulation herein are granted.

(R) The certificates heretofore issued in Docket Nos. CI63–99 and CI65–744 are terminated.

(S) Coastal States Gas Producing Co. is substituted in lieu of Peake Petroleum Co. as respondent in the proceedings pending in Docket Nos. RI62–406, RI64–117, RI65–94, and RI65–615; said proceedings are redesignated accordingly;[3] and the agreement and undertaking submitted by Coastal States Gas Producing Co. in said proceedings is accepted for filing.

(T) Coastal States Gas Producing Co. shall comply with the refunding and reporting procedure required by the Natural Gas Act and section 154.102 of the regulations thereunder, and the agreement and undertaking filed by it in Docket Nos. RI62–406, RI64–117, RI65–94, and RI65–615 shall remain in full force and effect until discharged by the Commission.

(U) Occidental Petroleum Corp. (Operator) et al., is substituted in lieu of McWood Corp. (Operator) et al., as respondent in the proceeding pending in Docket No. RI66–374 and said proceeding is redesignated accordingly.[4]

(V) The respective related rate schedules and supplements as indicated in the tabulation herein are accepted for filing; further, the rate schedules relating to the successions herein are accepted and redesignated, subject to the applicable Commission regulations under the Natural Gas Act to be effective on the dates as indicated in the tabulation herein.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[3] Coastal States Gas Producing Co.

[4] Occidental Petroleum Corp. (Operator) et al.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted: Description and date of document	No.	Supp.
G–3685, 8–28–67 [6]	do	Transcontinental Gas Pipe Line Corp., La Gloria Field, Jim Wells County, Tex.	Rio Bravo Oil Co., FPC GRS No. 1	1	
			Supplement Nos. 1–12	1	1–13
			Notice of name change 8–10–67.[5]		
			Effective date: 8–11–67		
G–3686, 8–28–67 [6]	do	United Gas Pipe Line Co., North Pettus, et al. Fields, Bee and Goliad Counties, Tex.	Rio Bravo Oil Co., FPC GRS No. 2	3	
			Supplement Nos. 1–12	3	1–13
			Notice of name change 8–10–67.[5]		
			Effective date: 8–11–67		
G–3687, 8–28–67 [6]	do	Natural Gas Pipeline Co. of America, La Gloria Field, Jim Wells County, Tex.	Rio Bravo Oil Co., FPC GRS No. 4	4	
			Supplement Nos. 1–6	4	1–6
			Notice of name change 8–10–67.[5]		
			Effective date: 8–11–67		
G–3688, 8–28–67 [6]	do	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Edinburg Field, Hidalgo County, Tex.	Rio Bravo Oil Co., FPC GRS No. 2	2	
			Supplement Nos. 1–5	2	1–5
			Notice of name change 8–10–67.[5]		
			Effective date: 8–11–67		
G–13943, D 1–10–67 [6]	Mobil Oil Corp.	United Gas Pipe Line Co., North Indian Hill, Montgomery County, Tex.	Notice of partial cancellation 1–5–67.[7]	(7)	
G–14225 [8] D 6–7–67	do	United Fuel Gas Co., Thornwell Field, Jefferson Davis Parish, La.	Assignment 8–19–67 [9]	142	9
			Effective date: 7–6–67		
G–15800, E 8–28–67	Coastal States Gas Producing Co. (successor to Peake Petroleum Co.).[3]	Consolidated Gas Supply Corp., Various Districts in Boone, Raleigh, and Wyoming Counties, W. Va.	Peake Petroleum Co., FPC GRS No. 1	65	
			Supplement Nos. 1–12	65	1–13
			Notice of succession 4–12–67.		
			Assignment 8–20–67 [9]	65	13
			Effective date: 3–1–67		
		Consolidated Gas Supply Corp., Various Districts in Logan and Wyoming Counties, W. Va.	Peake Petroleum Co., FPC GRS No. 2	66	
			Supplement Nos. 1–9	66	1–9
			Notice of succession 4–12–67.		
			Assignment 8–20–67 [9]	66	10
			Effective date: 3–1–67		

[1] Applicant erroneously stated that its presently effective rate is 9.110288 cents per Mcf at 14.65 p.s.i.a.

[2] Applicant erroneously stated that its presently effective rate is 15.435 cents per Mcf at 14.65 p.s.i.a. This rate is suspended in Docket No. RI66–122. If Applicant desires to charge and collect the 15.435-cent rate, it should file a motion to this effect as required by section 4 of the Natural Gas Act and the regulations thereunder.

Filing code: A—Initial service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Succession. F—Partial succession.

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted: Description and date of document	No.	Supp.
		Columbian Fuel Corp., Jefferson District, Nicolas County, W. Va.	Peake Petroleum Co., FPC GRS No. 8.	70	.....
			Supplement Nos. 1-2	70	1-2
			Notice of succession 4-13-67.	.....	.....
			Assignment 3-20-67 [10]	70	3
			Effective date: 3-1-67	.....	.....
		United Fuel Gas Co., Scott District, Putnam County, W. Va.	Peake Petroleum Co., FPC GRS No. 8.	71	.....
			Supplement Nos. 1-6	71	1-5
			Notice of succession 4-13-67.	.....	.....
			Assignment 3-20-67 [10]	71	6
			Effective date: 3-1-67	.....	.....
CI60-102 (G-4556) [11] A 1-20-60	C. E. Ridenour d.b.a. Ridenour Oil & Gas Co. (Operator), et al. (successor to Nell C. Mathews, et al.).	The Ohio Fuel Gas Co., Chester Township, Meigs County, Ohio.	Nell C. Mathews et al., FPC GRS No. 3.	1	.....
			Supplement Nos. 1-2	1	1-2
			Notice of succession (undated).	.....	.....
			Notice of change 1-28-60	1	3
			Assignment 11-20-62	1	4
			Supplemental agreement 4-5-60 [12]	1	5
CI60-946 B 7-26-67	Dresser Industries, Inc. (successor to Magnet Cove Barium Corp.	El Paso Natural Gas Co., acreage in San Juan County, N. Mex. [13]	Magnet Cove Barium Corp., FPC GRS No. 1.	1	.....
			Supplement Nos. 1-3	1	1-3
			Notice of succession 7-26-67.	.....	.....
			Certificate 10-2-62 [14]	1	4
			Effective date: 11-1-66	.....	.....
CI61-239 B 6-30-67	Occidental Petroleum Corp. (Operator), et al. (successor to McWood Corp. (Operator), et al.).	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Laguna Madre Field, Kenedy County, Tex.	McWood Corporation (Operator) et al., FPC GRS No. 1.	12	.....
			Supplement Nos. 1-3	12	1-3
			Notice of succession (undated).	.....	.....
			Assignment 3-1-67 [15]	12	4
			Effective date 3-1-67	.....	.....
CI-61-665 (G-17851) C 10-27-60 [16]	Graham-Michaelis Drilling Co. (Operator) et al.	Colorado Interstate Gas Co., Hugoton Field, Stanton and Hamilton Counties, Kans.	Supplemental agreement 9-14-60.	30	1
CI61-665 A 12-5-60	Anadarko Production Co.	Northern Natural Gas Co., Perryton (Lower Morrow) Field, Ochiltree County, Tex.	Contract 9-26-60	33	.....
CI61-920 (CI60-151) [17] C 12-19-60	Rock Island Oil & Refining Co., Inc.	Cities Service Gas Co., Hugoton Field, Seward County, Kans.	Supplemental agreement 12-2-60.	9	1
CI62-240 E 8-28-67	Coastal States Gas Producing Co. (successor to Peake Petroleum Co.).	United Fuel Gas Co., Stafford District, Mingo County, W. Va.	Peake Petroleum Co., FPC GRS No. 7.	72	.....
			Notice of succession 4-13-67.	.....	.....
			Assignment 3-20-67 [10]	.....	.....
			Effective date: 3-1-67	72	1
CI62-457 (CI61-1704) C 11-6-61 [18]	N. Bruce and Curtis E. Calder, Jr., d. b. a. Horizon Oil & Gas Co.	Northern Natural Gas Co., Hansford Field, Hansford and Ochiltree Counties, Tex.	Supplemental agreement 10-20-61.	16	1
CI62-648 D 8-29-67	Phillips Petroleum Co. (Operator) et al. (partial abandonment).	Northern Natural Gas Co., Amsterdam Basin Area, Beaver County, Okla.	Notice of partial cancellation 8-26-67. [19] [20]	289	8
CI62-1126 E 8-28-67	Coastal States Gas Producing Co. (successor to Peake Petroleum Co.).	Consolidated Gas Supply Corp., Crook District, Boone County, W. Va.	Peake Petroleum Co., FPC GRS No. 9.	73	.....
			Notice of succession 4-13-67.	.....	.....
			Assignment 3-20-67 [10]	73	1
			Effective date: 3-1-67	.....	.....
CI62-1286 (CI62-1526) C 2-21-66	La Gloria Oil and Gas Co.	United Fuel Gas Co., Valentine Field, Lafourche Parish, La.	Assignment 1-1-64 [21] [22]	17	1
			Effective date: 1-1-64	.....	.....
CI65-617 E 6-20-67	Occidental Petroleum Corp. (successor to McWood Corp. (Operator) et al.).	Texas Eastern Transmission Corp., Spider Field, De Soto Parish, La.	McWood Corp. (Operator) et al., FPC GRS No. 6.	14	.....
			Supplement Nos. 1-3	14	1-3
			Notice of succession (undated).	.....	.....
			Assignment 3-17-67 [10]	14	4
			Effective date: 3-1-67	.....	.....
F CI66-1267 (G-18800) C 8-14-67	Thomas A. Dugan (successor to Sunray DX Oil Co.).	El Paso Natural Gas Co., Twin Mounds Area, San Juan County, N. Mex. [23]	Assignment 2-15-67 [24]	6	4
			Effective date: 2-1-67	.....	.....
CI66-62 A 7-19-67 [25]	Humble Oil & Refining Co.	Panhandle Eastern Pipe Line Co., North Greensburg Field, Woods County, Okla.	Contract 7-3-67	431	.....
			Compliance 8-17-67 [26] [27]	431	1
CI66-108 A 7-31-67 [28]	C. C. Harter, Jr., et al.	Humble Gas Transmission Co., Hatch Bend Field and North Richland Area, Richland Parish, La.	Contract 7-20-67	1	.....
			Letter agreement 8-7-67. [29]	1	1
CI66-133 A 8-7-67 [28]	Graham-Michaelis Drilling Co. (Operator) et al.	Northern Natural Gas Co., Chunn Upper Morrow Field, Ochiltree County, Tex.	Contract 7-7-67 [30]	32	.....
CI66-139 A 8-7-67 [28]	Crystal Oil & Land Co. (Operator) et al.	Texas Eastern Transmission Corp., Ruston Field, Lincoln Parish, La.	Contract 7-21-67 [31]	31	.....
CI66-151 (CI62-909) E 8-10-67 [28]	Bradley H. Keyes et al. (successor to George E. Willett).	El Paso Natural Gas Co., Aztec Pictured-Cliffs Field, San Juan County, N. Mex.	George E. Willett, FPC GRS No. 1.	4	.....
			Supplement No. 1	4	1
			Notice of succession 8-8-67.	.....	.....
			Assignment 9-1-67 [28]	4	2
			Effective date: 6-20-67	.....	.....
CI66-161 A 8-21-67 [28] [32]	Claude R. Lambe	El Paso Natural Gas Co., Basin Dakota Field, San Juan County, N. Mex.	Contract 4-5-65 [33]	2	.....
CI66-211 (CI65-744) B 8-28-67	Monroe Gas System, Inc. (Agent and Operator) et al.	Southern Natural Gas Co., Monroe Field, Morehouse and Ouachita Parishes, La.	Notice of cancellation 8-22-67. [34] [35]	1	3
CI66-235 (CI62-99) B 8-30-67	Southern Triangle Oil Co., Inc.	Consolidated Gas Supply Corp., New Milton District, Doddridge County, W. Va.	Notice of cancellation 8-26-67 [34] [35]	7	1
CI66-227 A 8-31-67 [28]	Continental Oil Co.	El Paso Natural Gas Co., Blanco Field, San Juan County, N. Mex.	Contract 8-21-67 [36]	334	.....
CI66-231 A 9-1-67 [28]	Beard Oil Company	Northern Natural Gas Co., acreage in Harper County, Okla.	Contract 7-28-67 [36]	6	.....
CI66-232 A 9-1-67 [28]	Thomas C. Buchanan	Trunkline Gas Co., West Ollla Field, La Salle Parish, La.	Contract 8-1-67 [36]	1	.....
CI66-235 A 8-28-67 [28]	Joseph B. Gould	El Paso Natural Gas Co., Otero Chacra Field, Rio Arriba County, N. Mex.	Contract 8-15-67 [36] [37]	2	.....

See footnotes at end of table.

[1] Omitted
[2] Omitted.
[3] Omitted.
[4] Amendment to the certificate filed to reflect the change in corporate name.
[5] Reflects change in corporate name from Rio Bravo Oil Co. to Bravo Oil Co.
[6] Application to amend certificate to reflect deletion of acreage assigned by instrument dated Oct. 21, 1966, to CRA, Inc., by Commission orders issued May 16, 1967, in Docket Nos. G-10630 et al. and Aug. 22, 1967, in Docket Nos. G-6362 et al., Mobil's certificate was amended to reflect deletion of this acreage. Filing previously returned to Mobil as being unnecessary, however, Mobil has returned it requesting that it be retained in the Commission files; therefore the application to amend will be dismissed as moot.
[7] Assignment dated Oct. 21, 1966 accepted as Supp. No. 5 to Mobil Oil Corp. FPC GRS No. 139 by Commission order issued Aug. 22, 1967, in Docket Nos. G-5362 et al. Notice of partial cancellation made an exhibit to this supplement.
[8] The order issuing a certificate to Edgewater Oil Co., Inc., in Docket No. CI67-1765 amended Mobil's certificate in Docket No. G-14628; therefore, only the rate filing is being accepted for filing by this order and the application to amend filed on June 7, 1967 will be dismissed as moot.
[9] Transfers acreage from Mobil Oil Corp. to Edgewater, except for the Main Marginulina Howel Sand in The Marginulina Howel Sand Unit "B" and The Miogypsinoides Sand in The Miogypsinoids Reservoir "C" Sand Unit "A". Mobile has retained a one-eighth overrida in assigned acreage except for the second Marg. Sand Unit "W" in which it retained a one thirty-second overrida. (Contains notice of partial cancellation of rate schedule dated June 6, 1967, as exhibit).
[10] From Peake Petroleum Co. to Coastal States Gas Producing Co.
[11] Predecessor's certificate in Docket No. G-4556 was dismissed.
[12] Provides for acreage dedicated under contract comprising Nell C. Mathews et al. FPC GRS No. 3 to be redesignated to contract comprising C. E. Ridenour d.b.a. Ridenour Oil & Gas Co. (Operator), et al., FPC GRS No. 1, previously accepted for filing.
[13] Gas produced from formations down to and including the Pictured Cliffs Formation only.
[14] Instrument effecting merger of Magnet Cove Barium Corp. into Dresser Industries, Inc.
[15] Assigns acreage from McWood Corp. to Occidental Petroleum Corp.
[16] Application erroneously assigned Docket No. CI61-665 will be treated as a petition to amend the certificate in Docket No. G-17851 and Docket No. CI61-665 will be canceled.
[17] Applications erroneously assigned Docket Nos. CI61-920 and CI62-457 will be treated as petitions to amend the certificates issued in Docket Nos. CI60-151 and CI61-1704, respectively, and Docket Nos. CI61-920 and CI62-457 will be canceled.
[18] Includes amendatory agreements between Applicant and buyer deleting all of Applicant's interest in S½NW¼, N½SW¼ sec. 13 T. 1 N., R. 25 E. and sec. 24 T. 2 N., R. 25 E.
[19] Wells are no longer capable of delivering gas against buyer's prevailing line pressure.
[20] Effective date: Date of this order.
[21] Conveys interest from Callery Properties, Inc., in Docket No. CI62-1526 to La Gloria Oil & Gas Co. The certificate in Docket No. CI62-1526 will be terminated.
[22] Supersedes Callery Properties, Inc., FPC GRS No. 10. Contract identical to Callery's FPC GRS No. 10 which covers assigned acreage only.
[23] Jan. 1, 1970, moratorium pursuant to the Commission's statement of general policy No. 61-1, as amended.
[24] Effective date: Date of initial delivery (Applicant shall advise the Commission as to such date).
[25] Production from formations below the base of the Pictured Cliffs down to the base of the Dakota Formation.
[26] Partial assignment from Sunray DX Oil Co. to Thomas A. Dugan; adds acreage previously dedicated to Sunray's FPC GRS No. 161.
[27] Complies with temporary certificate issued Aug. 15, 1967, Basic contract provides for 17 cents, but Applicant has indicated a willingness to accept a permanent certificate at 15 cents.
[28] Application erroneously assigned Docket No. CI66-151 will be treated as a petition to amend the certificate issued in Docket No. CI62-909 and Docket No. CI66-151 will be canceled.
[29] Instrument filed Sept. 12, 1967, to correct original assignment filed Aug. 10, 1967, which transfers property from Willett to Keyes et al. (Production from formations down to and including the Pictured Cliffs).
[30] Sale being rendered without prior Commission authorization.
[31] Source of gas depleted.
[32] Production of gas no longer economically feasible.
[33] Covers the interval from the base of the Pictured Cliffs Formation to a depth of 3,560 feet.

[F.R. Doc. 67-13376; Filed, Nov. 16, 1967; 8:45 a.m.]

[Docket No. RI60-9, etc.]

L. R. FRENCH, JR. ET AL.

Order Making Successors Co-respondents, Redesignating Proceedings, and Requiring Filing of Agreements and Undertakings

NOVEMBER 9, 1967.

L. R. French, Jr. (Operator) et al., and MWJ Producing Co. (Operator) Agent, Docket No. RI60-9; Van Norman Oil Co. and American Petrofina Company of Texas, Docket No. RI61-384; Graham-Michaelis Drilling Co. and Etchieson & Gross Associates (Operator) et al., Docket No. RI66-104.

By order issued September 12, 1967, in Docket No. G-4804 et al., the Commission amended the orders issuing certificates of public convenience and necessity in Docket Nos. G-15113 and CI64-1351 by authorizing Etchieson & Gross Associates (Operator) et al., and American Petrofina Company of Texas, respectively, to continue sales of natural gas theretofore authorized in said dockets to be made pursuant to Graham-Michaelis Drilling Co. FPC Gas Rate Schedule No. 21 and Van Norman Oil Co. FPC Gas Rate Schedule No. 1, respectively. By order issued September 19, 1967, in Docket No. G-5170 et al., the Commission amended the order issuing a certificate of public convenience and necessity in Docket No. G-15992 by authorizing MWJ Producing Co. (Operator) Agent, to continue the sale of natural gas theretofore authorized in said docket to be made pursuant to L. R. French, Jr. (Operator) et al., FPC Gas Rate Schedule No. 3. In each case the predecessor's FPC gas rate schedule was redesignated as that of the successor. The presently effective rates under said rate schedules are in effect subject to refund. Therefore, the successors will be made co-respondents in their predecessors' rate proceedings; said proceedings will be redesignated accordingly; and the successors will be required to file agreements and undertaking to assure the refunds of any amounts collected by them in excess of the amounts determined to be just and reasonable in said proceedings.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the successors should be made co-respondents in their predecessors rate proceedings, that said proceedings should be redesignated accordingly, and that the successors should be required to file agreements and undertakings.

The Commission orders:

(A) The successors are made co-respondents in their predecessors' rate proceedings and the proceedings are redesignated accordingly:

Rate Docket No.	Certificate Docket No.	Successor's FPC gas rate schedule	Predecessor's FPC gas rate schedule
RI60-9	G-15892	MWJ Producing Co. (Operator) agent, FPC Gas Rate Schedule No. 12.	L. R. French, Jr. (Operator) et al., FPC Gas Rate Schedule No. 3.
RI61-384	CI64-1351	American Petrofina Co. of Texas, FPC Gas Rate Schedule No. 70.	Van Norman Oil Co., FPC Gas Rate Schedule No. 1.
RI66-104	G-15113	Etchieson & Gross Associates (Operator) et al., FPC Gas Rate Schedule No. 2.	Graham-Michaelis Drilling Co., FPC Gas Rate Schedule No. 21.

(B) Within 30 days from the issuance of this order, each successor shall execute, in the form set out below, and shall file with the Secretary of the Commission an acceptable agreement and undertaking in its predecessor's rate proceeding to assure the refund of any amounts collected by the successor, together with interest at the rate of seven percent per annum, in excess of the amounts determined to be just and reasonable in said proceedings. Unless notified to the contrary by the Secretary of the Commission within 30 days from the date of submission, such agreements and undertakings shall be deemed to have been accepted for filing.

(C) Each successor in interest shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, and the agreements and undertakings filed by the successors shall remain in full force and effect until discharged by the Commission.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

Suggested agreement and undertaking:

(Name of Respondent .....)

[Docket No. .....]

AGREEMENT AND UNDERTAKING OF (NAME OF RESPONDENT) TO COMPLY WITH REFUNDING AND REPORTING PROVISIONS OF § 154.102 OF COMMISSION'S REGULATIONS UNDER THE NATURAL GAS ACT

(Name of Respondent) hereby agrees and undertakes to comply with the refunding and reporting provisions of § 154.102 of the Commission's regulations under the Natural Gas Act insofar as they are applicable to the proceeding in Docket No. ____, and has caused this agreement and undertaking to be executed and sealed in its name by a duly authorized officer this ..... day of ....., 196__.

(Name of Respondent)

By .....

Attest:

.....

[F.R. Doc. 67-13513; Filed, Nov. 16, 1967; 8:48 a.m.]

[Docket Nos. CP68-130—CP68-133]

JUAREZ GAS TRANSPORTATION CO., INC.

Notice of Application; Correction

NOVEMBER 8, 1967.

In the notice of application issued October 23, 1967, and published in the FEDERAL REGISTER October 27, 1967 (F.R. Doc. 67-12696, 32 F.R. 14909), Docket Nos. CP68-130 et al., page 14909, paragraph 2, line 1 should read as follows: "The proposal in the above-listed applications is submitted as a mutually exclusive * * *".

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13512; Filed, Nov. 16, 1967; 8:46 a.m.]

[Project 1432]

KADIAK FISHERIES CO.

Notice of Application for License for Constructed Project

NOVEMBER 9, 1967.

Public notice is hereby given that application for license has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by Kadiak Fisheries Co. (correspondence to: Kadiak Fisheries Co., 1826 Exchange Building, Seattle, Wash. 98104) for a license for constructed Project No. 1432, located on an unnamed creek, a tributary to Dry Spruce Bay in Kodiak Recording District, Alaska, affecting lands of the United States within Kodiak National Wildlife Refuge.

The existing project consists: (1) A 12-acre reservoir and a 2-acre forebay formed by raising natural ponds about 6 feet by means of two 12-foot high timber dams; (2) two ditches, one 850 feet long and the other 950 feet long diverting water to the reservoirs; (3) a 12-inch pipe line 6,762 feet long; (4) a powerhouse at Applicant's cannery, containing a 24-inch water wheel of 100 horsepower connected to a 75 kw generator; and (5) appurtenant facilities.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is December 26, 1967. The application is on file with the Commission for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13513; Filed, Nov. 16, 1967; 8:46 a.m.]

[Docket No. CP68-143]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Notice of Application

NOVEMBER 8, 1967.

Take notice that on October 30, 1967, Kansas-Nebraska Natural Gas Co., Inc. (Applicant), Hastings, Nebr. 68901, filed in Docket No. CP68-143 a "budget-type" application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the regulations under the Act for a certificate of public convenience and necessity authorizing the construction and operation of various gas-purchase facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to construct during the calendar year 1968 and operate various and routine facilities to enable it to take into its transmission system natural gas produced from new sources in areas adjacent to its present pipeline system as such natural gas becomes available.

The total estimated cost of the proposed facilities is $1 million, which cost will be met out of current working capital. The cost of any single facility will not exceed $250,000.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 1, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13514; Filed, Nov. 16, 1967; 8:46 a.m.]

[Docket Nos. CI61-1143, RI65-475]

SHELL OIL CO. ET AL.

Order Amending Order

NOVEMBER 9, 1967.

Shell Oil Co. (Operator) et al., Docket No. CI61-1143; Shell Oil Co. (Operator) et al., Cabot Corp. (SW) (Operator) et al., Herman Geo. Kaiser (Operator) et al., Phillips Petroleum Co., V. F. Neuhaus and R. E. Hubbard (Operator) et al., Docket No. RI65-475.

Order amending order issuing certificate of public convenience and necessity, amending order instituting rate proceeding, redesignating FPC gas rate schedule, and redesignating proceeding.

One June 21, 1966, Shell Oil Co. (Petitioner) filed in Docket No. CI61-1143 a petition to amend the order issuing a certificate of public convenience and necessity in said docket pursuant to section 7(c) of the Natural Gas Act by authorizing Petitioner to sell natural gas from the interests of certain nonoperator coowners[1] of the Jarratt "R" Sand Unit, Siloam Field, Clay County, Miss., to Texas Eastern Transmission Corp., at a total initial rate of 21.6186 cents per Mcf[2] at 15.025 p.s.i.a., all as more fully set forth in the petition to amend.

Petitioner proposes to sell gas from the interests of its co-owners pursuant to its FPC Gas Rate Schedule No. 246. Petitioner has submitted letters from its coowners authorizing Petitioner to make the subject filing, and the letters have been made an exhibit to the rate schedule. The presently effective rate under the subject rate schedule is in effect subject to the refund in Docket No. RI65-475,[3] and sales by Petitioner from the interests of its coowners will be subject to said proceedings.

The Commission's staff has reveiwed the petition to amend and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

After due notice a petition for leave to intervene was filed by Long Island Lighting Co. Long Island Lighting Co. has advised the Commission that it does not object to the authorization of the subject sales at the rate in effect subject to refund in Petitioner's rate proceeding. No protests, notices of intervention or further petitions for leave to intervene have been received.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the order issuing a certificate in Docket No. CI61-1143 should be amended as hereinafter ordered and that the related FPC gas rate schedule and rate proceeding should be redesignated accordingly.

The Commission orders:

(A) The order issuing a certificate of public convenience and necessity in Docket No. CI61-1143 to Petitioner is amended by authorizing Petitioner to sell and deliver natural gas from the interests of co-owners as proposed herein, and in all other respects said order shall remain in full force and effect.

(B) Shell Oil Co. FPC Gas Rate Schedule No. 246 is redesignated as Shell Oil Co. (Operator) et al., FPC Gas Rate Schedule No. 246.

(C) The sales from the interests of coowners authorized in paragraph (A) above are subject to the proceedings in Docket No. RI65-475, and the proceeding in said docket is redesignated accordingly.

By the Commission.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13515; Filed, Nov. 16, 1967; 8:47 a.m.]

[1] Texaco, Inc., R. J. Whelan Estate, Wilbur H. Knight, J. Clyde Tomlinson, and W. Ridley Wheeler Estate.

[2] Including 0.6186 cent per Mcf tax reimbursement and subject to 1 cent per Mcf deduction by the buyer until the cost of the buyer's lateral facilities are recouped.

[3] Consolidated in the proceeding in Docket No. AR67-1 et al.

SECURITIES AND EXCHANGE COMMISSION

[70-4555]

CENTRAL POWER AND LIGHT CO.

Notice of Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding

NOVEMBER 13, 1967.

Notice is hereby given that Central Power and Light Co. ("CP&L"), 120 North Chaparral Street, Corpus Christi, Tex. 78403, an electric utility subsidiary company of Central and South West Corp., a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 of the Act and Rules 23 and 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

CP&L proposes to issue and sell, pursuant to the competitive bidding requirements of Rule 50, $28 million principal amount of first mortgage bonds, Series J, ------ percent, due January 1, 1998. The interest rate (which shall be a multiple of one-eighth of 1 percent and the price, exclusive of accrued interest, to be paid to CP&L for the bonds (which shall be not less than 99 percent nor more than 102¾ percent of the principal amount of the bonds) will be determined by the competitive bidding. The bonds will be issued under the first mortgage dated November 1, 1943, between CP&L and The First National Bank of Chicago and Robert L. Grinnell, as trustees, as heretofore supplemented and as to be further supplemented by a supplemental indenture to be dated January 1, 1968.

The net proceeds from the sale of the bonds will be used to finance the construction program of CP&L (including repayment of $7,400,000 of bank loans incurred therefor). Construction expenditures for the calendar year 1968 are presently estimated at $33 million.

It is stated that the fees and expenses to be incurred in connection with the issue and sale of the bonds are estimated at $56,000, including accountants' fees of $3,000 and counsel fees of $10,000. The fees of counsel for the underwriters, to be paid by the successful bidders, are estimated at not to exceed $9,000. It is further stated that no State commission, and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 8, 1967, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-13516; Filed, Nov. 16, 1967; 8:48 a.m.]

[812-2201]

STANDARD SHARES, INC., AND PITTSBURGH RAILWAYS CO.

Notice of Filing of Application for Order Exempting Proposed Transactions

NOVEMBER 13, 1967.

Notice is hereby given that Standard Shares, Inc. ("Standard"), 60 Broad Street, New York, N.Y. 10004, a registered closed-end, nondiversified management investment company, and its subsidiary, Pittsburgh Railways Co. ("Pittsburgh"), 121 Seventh Street, Pittsburgh 30, Pa., a diversified operating company, engaged in the businesses of aerosol and other contract packaging, the manufacture of aerosol valves and of burglar and fire alarm devices, and the publication of industrial magazines (hereinafter collectively called "Applicants") have filed an application pursuant to sections 6(c), 17(b) and Rule 17d-1 of the Investment Company Act of 1940 ("Act") for an order exempting proposed transactions from the provisions of section 17(a)(2) and 17(d) of the Act and Rule 17d-1 promulgated thereunder. All interested persons are referred to the application on file with the Commission for a full statement of the representations made therein, which are summarized below.

Section 17(a)(2) of the Act, as here pertinent, provides that it shall be unlawful for an affiliated person (Pittsburgh) of a registered investment company knowingly to purchase from such registered company, any security or other property (except securities of which the seller is the issuer), unless the Commission upon application grants an exemption from such prohibitions pursuant to section 17(b) of the Act after finding that the terms of the proposed transaction are reasonable and fair and do not involve overreaching and that the proposed tranaction is consistent with the policy of the registered investment company and with the general purposes of the Act.

Pittsburgh proposes to split its common stock two-for-one resulting in approximately 2,505,732 common shares at 50 cents par value. In addition, Pittsburgh proposes to create a Class B common stock for issuance of up to 1,200,000 shares in exchange for the new common shares. Pittsburgh's stockholders will have the opportunity to exchange all or part of their common for B common on a share-for-share basis. The two classes of stock will be identical except that: (a) The common will have a cash dividend preference of $1.25 per share annually, and the Class B common will share equally in any cash dividend paid in excess of that amount; (b) in lieu of the cash dividend preference, the Class B common will be convertible into the common at increasing rates over a period of 15 years, at the end of which the conversion right will entitle the Class B common to be converted into 1.60 shares of common; and (c) in any year when less than $1.25 cash dividend is paid, that year's conversion right will be proportionately reduced.

Standard proposes to tender all of its common stock holdings of Pittsburgh, approximately 41 percent of the outstanding common, for Class B common stock. In 1966, Standard received an amount equal to 16.8 percent of its total income from Pittsburgh.

Four directors of Standard, who by virtue of such office are affiliates of Standard, also own Pittsburgh common stock and propose to exchange all or a portion of it for Class B common stock. Section 17(d) of the Act and Rule 17d-1 thereunder, as here pertinent, prohibit an affiliated person of a registered investment company from effecting any transaction in which such registered company is a joint or joint and several participant unless an application regarding such joint participation has been granted by the Commission. Rule 17d-1 provides that in passing upon an application, the Commission will consider whether the participation of the registered company in the joint enterprise on the basis proposed is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

The application states that Pittsburgh plans to expand its existing facilities and operations and to acquire new businesses

in related and unrelated fields. It further states that Pittsburgh believes that because of its future plans, it would not be advisable to pay cash dividends on its common stock commensurate with its earnings. The proposed transaction allows the Pittsburgh stockholders who desire to do so to obtain a substantial cash dividend preference and at the same time allows other Pittsburgh stockholders to hold a Class B common stock, convertible back into common stock, which in lieu of the cash dividend preference, will have an annual increasing conversion right, within stated limitations.

The application states that Standard believes that the proposed exchange will be beneficial to Standard and its stockholders in that it will enable Standard to participate in the anticipated growth of Pittsburgh under that company's contemplated program for expansion. It also states that the exchange is expected to have advantageous tax effects for Standard, since the reduction in future cash income from Pittsburgh will, it is believed, minimize corporate income taxes to Standard; and, in addition, will extend possibly by 2 years the period for utilization by Standard of an unrealized loss on Duquesne Light Co. common stock owned by it. This would enable Standard to extend the period during which it may make distributions of capital to its common stockholders. The application also states that the proposed exchange is consistent with Standard's investment policy which permits investments for long-term capital gain.

Section 6(c) of the Act provides that the Commission, by order upon application, may exempt any person, security or transaction from any provision of the Act or from any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 30, 1967, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the addresses stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13529; Filed, Nov. 16, 1967; 8:48 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATES AUTHORIZING EMPLOYMENT OF LEARNERS AT SPECIAL MINIMUM WAGES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended; 29 U.S.C. 201 et seq.) and Administrative Order No. 595 (31 F.R. 12981) the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. For each certificate, the effective and expiration dates, number or proportion of learners and the principal product manufactured by the establishment are as indicated. Conditions on occupations, wage rates, and learning periods which are provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations; such conditions in certificates not issued under the supplemental industry regulations are as indicated.

Apparel industry learner regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.20 to 522.25, as amended).

The following normal labor turnover certificates authorise 10 percent of the total number of factory production workers except as otherwise indicated.

Anderson Brothers, Inc., Danville, Va.; 10-31-67 to 10-30-68; 10 learners (coveralls, pants, and shirts).

Auburntown Industries, Auburntown, Tenn.; 10-31-67 to 10-30-68 (men's and boys' pants).

Blue Ridge Shirt Manufacturing Co., Fayetteville, Tenn.; 10-31-67 to 10-30-68 (men's and boys' sport shirts).

Boonville Manufacturing Corp., Boonville, Ind.; 11-1-67 to 10-31-68 (men's woven pajamas).

Burgaw Manufacturing Co., Burgaw, N.C.; 10-27-67 to 10-26-68 (women's dresses).

Carbondale Children's Dress Co., Carbondale, Pa.; 11-1-67 to 10-31-68 (children's and girls' dresses and play suits).

The Carthage Corp., Carthage, Miss.; 11-1-67 to 10-31-68 (men's and boys' pants).

Carthage Shirt Corp., Carthage, Tenn.; 11-3-67 to 11-2-68 (men's and boys' sport and dress shirts).

Connellsville Sportswear Co., Connellsville, Pa.; 11-3-67 to 11-1-68 (men's and boys' trousers).

Cowden-Mount Sterling Co., Mount Sterling, Ky.; 10-26-67 to 10-25-68 (men's work clothing).

The Dantan Co., Inc., Dumas, Ark.; 10-18-67 to 10-17-68 (house dresses and jamaicas).

Daut Manufacturing Co., Red Hill, Pa.; 11-3-67 to 11-2-68 (children's dresses).

Dover Mills, Inc., Pisgah, Ala.; 10-30-67 to 10-29-68 (children's knit shirts).

Elder Manufacturing Co., Webb City, Mo.; 10-31-67 to 10-30-68 (boys' shirts).

E-Town Sportswear Corp., Elizabethtown, Ky.; 10-27-67 to 10-26-68 (men's slacks).

Freeland Shirt Co., Inc., Freeland, Pa.; 11-4-67 to 11-3-68 (men's outerwear jackets).

Key Work Clothes, Inc., Fort Scott, Kans.; 10-31-67 to 10-30-68 (work clothing).

Key Work Clothes of Missouri, Nevada, Mo.; 11-1-67 to 10-31-68 (men's work pants and shirts).

Knickerbocker Manufacturing Corp., West Point, Miss.; 11-9-67 to 11-8-68 (men's woven sleepwear).

Lansford Apparel Co., Lansford, Pa.; 10-31-67 to 10-30-68 (children's dresses).

Luverne Slacks Co., Inc., Luverne, Ala.; 11-1-67 to 10-31-68 (men's slacks).

Macon Garment Co., Red Boiling Springs, Tenn.; 10-30-67 to 10-29-68 (men's and boys' pants).

Milan Shirt Manufacturing Co., Milan, Tenn.; 11-4-67 to 11-3-68 (work shirts).

Nino Sportswear, Inc., Scranton, Pa.; 10-24-67 to 10-23-68 (boys' trousers).

Penn Children's Dress Co., Mayfield, Pa.; 10-26-67 to 10-25-68 (children's and girls' dresses).

Ringer Co., Staples, Minn.; 10-30-67 to 10-29-68 (men's shirts).

Rob Roy Co., Inc., Cambridge, Md.; 11-1-67 to 10-31-68 (boys' shirts).

Sagamore Manufacturing Co., Fall River, Mass.; 10-18-67 to 10-17-68 (men's dress shirts).

Salant & Salant, Inc., Lexington, Tenn.; 11-9-67 to 11-8-68 (boys' sport shirts).

Salant & Salant, Inc., Lexington, Tenn.; 11-6-67 to 11-5-68 (men's and boys' slacks).

Salant & Salant, Inc., Parsons, Tenn.; 11-3-67 to 11-7-68 (men's work pants and boys' cotton pants).

Shane Uniform Co., Inc., Evansville, Ind.; 11-6-67 to 11-5-68 (washable service apparel).

Shelburne Shirt Co., Inc., Fall River, Mass.; 11-1-67 to 10-31-68 (men's dress shirts).

W. E. Stephens Manufacturing Co., Inc., Carthage, Tenn.; 10-27-67 to 10-26-68; 10 learners (men's and boys' dungarees).

Levi Strauss & Co., San Angelo, Tex.; 10-17-67 to 10-16-68 (men's casual slacks).

Levi Strauss & Co., Blackstone, Va.; 10-31-67 to 10-30-68 (men's and boys' pants).

Sustan Garments, Inc., Winnsboro, La.; 11-1-67 to 10-31-68 (men's and boys' trousers).

Thorngate, Ltd., Rector, Ark.; 10-28-67 to 10-27-68 (men's trousers).

Tracy City Manufacturing Co., Tracy City, Tenn.; 10-17-67 to 10-16-68 (men's and boys' shirts).

Triple A Trouser Manufacturing Co., Inc., Scranton, Pa.; 11-1-67 to 10-31-68 (boys' trousers).

Washington Overall Manufacturing Co., Scottsville, Ky.; 10-26-67 to 10-25-68 (men's and boys' trousers).

The following plant expansion certificates were issued authorizing the number of learners indicated.

Bowie Manufacturing Co., Bowie, Tex.; 10-22-67 to 4-22-68; 50 learners (men's and boys' trousers).

Ringer Co., Staples, Minn.; 10-30-67 to 4-29-68; 85 learners (men's shirts).

Glove industry learner regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.60 to 522.65, as amended).

Mountain City Glove Co., Inc., Mountain City, Tenn.; 10-28-67 to 10-27-68; 10 percent of the total number of machine stitchers for normal labor turnover purposes (work gloves).

Mountain City Glove Co., Inc., Mountain City, Tenn.; 10-28-67 to 4-27-68; 10 learners for plant expansion purposes (work gloves).

Hosiery industry learner regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.40 to 522.43, as amended).

Kosciusko Hosiery Mills, Kosciusko, Miss.; 10-26-67 to 10-25-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Union Manufacturing Co., Union Point, Ga.; 10-27-67 to 10-26-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

V. I. Prewett & Son, Inc., Fort Payne, Ala.; 10-24-67 to 10-23-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Wayne Knitting Mills, Humboldt, Tenn.; 10-31-67 to 10-30-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (full-fashioned, seamless).

Wyatt Knitting Co., Sanford, N.C.; 11-1-67 to 10-31-68; 5 learners for normal labor turnover purposes (full-fashioned, seamless).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.30 to 522.35 as amended).

Boonville Manufacturing Corp., Boonville, Ind.; 11-1-67 to 10-31-68; 5 learners for normal labor turnover purposes in the manufacture of men's woven underwear (men's woven underwear).

Cullman Lingerie Corp., Cullman, Ala.; 10-31-67 to 10-30-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (ladies' lingerie and sleepwear).

Dri-Set, Inc., Graysville, Tenn.; 11-9-67 to 11-8-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (infants' sleeping wear).

Haleyville Textile Mills, Inc., Haleyville, Ala.; 10-31-67 to 10-30-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (ladies' lingerie and sleepwear).

Knickerbocker Manufacturing Corp., West Point, Miss.; 11-9-67 to 11-8-68; 5 percent of the total number of factory production workers engaged in the production of men's woven underwear for normal labor turnover purposes (men's woven underwear).

Sherman Underwear Mills, Inc., Hawley, Pa.; 11-5-67 to 11-4-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (ladies' and children's panties).

Union Underwear Co., Inc., Campbellsville, Ky.; 10-31-67 to 10-30-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (men's and boys' underwear).

Regulations applicable to the employment of learners (29 CFR 522.1 to 522.9, as amended).

The following learner certificates were issued in Puerto Rico and the Virgin Islands to the companies hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods, and the number of learners authorized to be employed, are indicated.

Casa Savoia, Inc., Lajas, P.R.; 10-20-67 to 10-19-68; 13 learners for normal labor turnover purposes in the occupation of sewing machine operating—machine embroidery, for a learning period of 320 hours at the rate of 84 cents an hour (machine embroidery on ladies' underwear).

Coamo Glove Corp., Coamo, P.R.; 9-15-67 to 3-14-68; 41 learners for plant expansion purposes in the occupation of sewing machine operating, for a learning period of 480 hours at the rates of 90 cents an hour for the first 240 hours and $1.03 an hour for the remaining 240 hours (ladies' nylon dress gloves).

Guantes de Ponce, Inc., Ponce, P.R.; 10-9-67 to 10-8-68; 12 learners for normal labor turnover purposes in the occupation of machine stitching, for a learning period of 480 hours at the rates of 90 cents an hour for the first 240 hours and $1.03 an hour for the remaining 240 hours (fabric and leather gloves).

Mayaguez Contracting Corp., Mayaguez, P.R.; 10-6-67 to 4-5-68; 57 learners for plant expansion purposes in the occupation of sewing machine operating, for a learning period of 320 hours at the rate of $1.03 an hour (girdles).

Perfect Bra Co. of P.R., Inc., Plant No. 1, Caguas, P.R.; 10-8-67 to 10-8-68; 27 learners for normal labor turnover purposes in the occupation of sewing machine operating, for a learning period of 320 hours at the rate of $1.03 an hour (brassieres).

Perfect Bra Co. of P.R., Inc., Plant No. 2, Aguas Buenas, P.R.; 10-17-67 to 4-16-68; 50 learners for plant expansion purposes in the occupation of sewing machine operating, for a learning period of 320 hours at the rate of $1.03 an hour (brassieres).

Puritana Manufacturing Corp., Aguas Buenas, P.R.; 10-20-67 to 4-19-68; 65 learners for plant expansion purposes in the occupations of: (1) Knitting, for a learning period of 480 hours at the rates of 98 cents an hour for the first 240 hours and $1.15 an hour for the remaining 240 hours, and (2) machine stitching, pressing, each for a learning period of 320 hours at the rates of 98 cents an hour for the first 160 hours and $1.15 an hour for the remaining 160 hours (full-fashioned sweaters and shirts).

Quality Products Co., Inc., St. Thomas, V.I.; 7-17-67 to 7-16-68; 10 learners for normal labor turnover purposes in the occupation of watch assembling, for a learning period of 480 hours at the rates of $1.23 an hour for the first 240 hours and $1.29 an hour for the remaining 240 hours.

The following student-worker certificates were issued pursuant to the regulations applicable to the employment of student-workers (29 CFR 527.1 to 527.9). The effective and expiration dates, occupations, wage rates (these rates increase by 15 cents per hour effective February 1, 1968), number of student-workers, and learning periods for the certificates issued under Part 527 are as indicated below:

Adelphian Academy, Holly, Mich.; 9-1-67 to 8-31-68; authorising the employment of 60 student-workers in the woodworking industry, (manufacturing trellises, picnic tables, bird houses, etc.) in the occupations of woodworking machine operator, assembler, and related skilled and semiskilled occupations including incidental clerical work in the shop, for a learning period of 240 hours at the rates of $1.25 an hour for the first 120 hours and $1.30 an hour for the remaining 120 hours.

Andrew University, Berrien Springs, Mich.; 9-1-67 to 8-31-68; authorising the employment of: (1) 70 student-workers in the bookbinding industry in the occupations of bookbinder, bindery worker, and related skilled and semiskilled occupations, for a learning period of 600 hours at the rates of $1.25 an hour for the first 300 hours and $1.30 an hour for the remaining 300 hours; (2) 20 student-workers in the printing industry in the occupations of compositor, pressman, and related skilled and semiskilled occupations, for a learning period of 1,000 hours at the rates of $1.25 an hour for the first 500 hours and $1.30 an hour for the remaining 500 hours; (3) 105 student-workers in the furniture manufacturing industry in the occupations of woodworking machine operator, assembler, finisher, and related skilled and semiskilled occupations, for a learning period of 600 hours at the rates of $1.25 an hour for the first 300 hours and $1.30 an hour for the remaining 300 hours; and (4) 12 student-workers in the clerical occupations of bookkeeper, stenographer, and related skilled and semiskilled occupations, for a learning period of 480 hours at the rates of $1.25 an hour for the first 240 hours and $1.30 an hour for the remaining 240 hours.

Atlantic Union College, South Lancaster, Mass.; 9-1-67 to 8-31-68; authorising the employment of: (1) 15 student-workers in the printing industry in the occupations of compositor, pressman, and related skilled and semiskilled occupations, for a learning period of 1,000 hours at the rates of $1.25 an hour for the first 500 hours and $1.30 an hour for the remaining 500 hours; (2) 45 student-workers in the bookbinding industry in the occupations of bookbinder, bindery worker, and related skilled and semiskilled occupations, for a learning period of 600 hours at the rates of $1.25 an hour for the first 300 hours and $1.30 an hour for the remaining 300 hours; and (3) 40 student-workers in the broom manufacturing industry in the occupations of broommaker, stitcher, sorter, winder, and related skilled and semiskilled occupations, for a learning period of 360 hours at the rates of $1.25 an hour for the first 180 hours and $1.30 an hour for the remaining 180 hours.

Campion Academy, Loveland, Colo.; 9-1-67 to 8-31-68; authorising the employment of 35 student-workers in the broom manufacturing industry in the occupations of broommaker, stitcher, sorter, mopmaker and related skilled and semiskilled occupations, for a learning period of 360 hours at the rates of $1.25 an hour for the first 180 hours and $1.30 an hour for the remaining 180 hours.

Cedar Lake Academy, Cedar Lake, Mich.; 9-1-67 to 8-31-68; authorising the employment of 30 student-workers in the furniture manufacturing industry (redwood-outdoor) in the occupations of woodworking machine operator, assembler, and related skilled and semiskilled occupations including incidental clerical work in the shop, for a learning period of 600 hours at the rates of $1.25 an hour for the first 300 hours and $1.30 an hour for the remaining 300 hours.

Enterprise Academy, Enterprise, Kans.; 9-1-67 to 8-31-68; authorising the employment of 12 student-workers in the printing industry in the occupations of compositor, pressman, linotype operator, bindery worker and related skilled and semiskilled occupations, for a learning period of 1,000 hours at the rates of $1.25 an hour for the first 500 hours and $1.30 an hour for the remaining 500 hours.

Forest Lake Academy, Maitland, Fla.; 9-1-67 to 8-31-68; authorising the employment of 60 student-workers in the bookbindery industry in the occupations of bookbinder, bindery worker, sewer, trimmer, backer, cutter, casemaker and related skilled

and semiskilled occupations including incidental clerical work in the shop, for a learning period of 600 hours at the rates of $1.25 an hour for the first 300 hours and $1.30 an hour for the remaining 300 hours.

Hawaiian Mission Academy, Honolulu, Hawaii; 9–1–67 to 8–31–68; authorizing the employment of: (1) 5 student-workers in the printing industry in the occupations of compositor, pressman, bindery worker and related skilled and semiskilled occupations, for a learning period of 1,000 hours at the rates of $1.25 an hour for the first 500 hours and $1.30 an hour for the remaining 500 hours; and (2) 1 student-worker in the clerical occupations of typist, bookkeeper, and related skilled and semiskilled occupations, for a learning period of 480 hours at the rates of $1.25 an hour for the first 240 hours and $1.30 an hour for the remaining 240 hours.

Maplewood Academy, Hutchinson, Minn.; 9–1–67 to 8–31–68; authorizing the employment of: (1) 45 student-workers in the bookbindery industry in the occupations of bookbinder, bindery worker and related skilled and semiskilled occupations, for a learning period of 600 hours at the rates of $1.25 an hour for the first 300 hours and $1.30 an hour for the remaining 300 hours; (2) 45 student-workers in the furniture manufacturing industry in the occupations of woodworking machine operator, assembler, finisher and related skilled and semiskilled occupations, for a learning period of 600 hours at the rates of $1.25 an hour for the first 300 hours and $1.30 an hour for the remaining 300 hours; and (3) 4 student-workers in the clerical occupations of typist, record keeper and related skilled and semiskilled occupations in the office, for a learning period of 480 hours at the rates of $1.25 an hour for the first 240 hours and $1.30 an hour for the remaining 240 hours.

Newbury Park Academy, Newbury Park, Calif.; 9–1–67 to 8–31–68; authorizing the employment of 40 student-workers in the broom manufacturing industry in the occupations of broommaker, sorter, seeder, winder, stitcher, and related skilled and semiskilled occupations, for a learning period of 360 hours at the rates of $1.25 an hour for the first 180 hours and $1.30 an hour for the remaining 180 hours.

Oak Park Academy, Nevada, Iowa; 9–1–67 to 8–31–68; authorizing the employment of: (1) 9 student-workers in the printing industry in the occupations of compositor, pressman, and related skilled and semiskilled occupations including incidental clerical work in the shop, for a learning period of 1,000 hours at the rates of $1.25 an hour for the first 500 hours and $1.30 an hour for the remaining 500 hours; and (2) 10 student-workers in the broom manufacturing industry in the occupations of broommaker, stitcher, and related skilled and semiskilled occupations, for a learning period of 360 hours at the rates of $1.25 an hour for the first 180 hours and $1.30 an hour for the remaining 180 hours.

Rio Lindo Academy, Healdsburg, Calif.; 9–11–67 to 8–31–68; authorizing the employment of 45 student-workers in the broom manufacturing industry in the occupations of broomcorn sorting and other related skilled and semiskilled occupations, for a learning period of 360 hours at the rates of $1.25 an hour for the first 180 hours and $1.30 an hour for the remaining 180 hours.

Sandia View Academy, Sandoval, N. Mex.; 9–1–67 to 8–31–68; authorizing the employment of 35 student-workers in the furniture manufacturing industry in the occupations of woodworking machine operator, assembler, finisher, and related skilled and semiskilled occupations including incidental clerical work in shop, for a learning period of 600 hours at the rates of $1.25 an hour for the first 300 hours and $1.30 an hour for the remaining 300 hours.

Shenandoah Valley Academy, New Market, Va.; 9–1–67 to 8–31–68; authorizing the employment of 20 student-workers in the bookbinding industry in the occupations of bookbinder, bindery worker, sewer, trimmer, backer cutter, casemaker, letterer, and related skilled and semiskilled occupations including incidental clerical work in shop, for a learning period of 600 hours at the rates of $1.25 an hour for the first 300 hours and $1.30 an hour for the remaining 300 hours.

Southern Missionary College, Collegedale, Tenn.; 9–1–67 to 8–31–68; authorizing the employment of: (1) 60 student-workers in the bookbinding industry in the occupations of bookbinder, sewer, casemaker, and related skilled and semiskilled occupations, for a learning period of 600 hours at the rates of $1.25 an hour for the first 300 hours and $1.30 an hour for the remaining 300 hours; (2) 30 student-workers in the broom manufacturing industry in the occupations of winder, sorter, stitcher, and related skilled and semiskilled occupations, for a learning period of 360 hours at the rates of $1.25 an hour for the first 180 hours and $1.30 an hour for the remaining 180 hours; (3) eight student-workers in the clerical occupations of typist, filer, stenographer, and related skilled and semiskilled occupations, for a learning period of 480 hours at the rates of $1.25 an hour for the first 240 hours and $1.30 an hour for the remaining 240 hours; and (4) 35 student-workers in the printing industry in the occupations of compositor, pressman, and related skilled and semiskilled occupations, for a learning period of 1,000 hours at the rates of $1.25 an hour for the first 500 hours and $1.30 an hour for the remaining 500 hours.

Southwestern Union College, Keene, Tex.; 9–1–67 to 8–31–68; authorizing the employment of: (1) Six student-workers in the printing industry in the occupations of compositor, pressman, bindery worker, camera, and plateroom technician and related skilled and semiskilled occupations, for a learning period of 1,000 hours at the rates of $1.25 an hour for the first 500 hours and $1.30 an hour for the remaining 500 hours; and (2) two student-workers in the clerical occupations of typist, filer, bookkeeper, stenographer, timekeeper, and related skilled and semiskilled occupations, for a learning period of 480 hours at the rates of $1.25 an hour for the first 240 hours and $1.30 an hour for the remaining 240 hours.

Sunnydale Academy, Centralia, Mo.; 9–1–67 to 8–31–68; authorizing the employment of nine student-workers in the food manufacturing industry in the occupations of food manufacturing; skilled and semiskilled occupations, for a learning period of 300 hours at the rates of $1.25 an hour for the first 150 hours and $1.30 an hour for the remaining 150 hours.

Thunderbird Academy, Scottsdale, Ariz.; 9–1–67 to 8–31–68; authorizing the employment of 95 student-workers in the woodworking (manufacturing furniture) industry in the occupations of woodworking machine operator, assembler, furniture finisher and related skilled and semiskilled occupations including incidental clerical work in the shop, for a learning period of 600 hours at the rates of $1.25 an hour for the first 300 hours and $1.30 an hour for the remaining 300 hours.

Union College, Lincoln, Nebr.; 9–1–67 to 8–31–68; authorizing the employment of: (1) 8 student-workers in the printing industry in the occupations of compositor, pressman, and related skilled and semiskilled occupations, for a learning period of 1,000 hours at the rates of $1.25 an hour for the first 500 hours and $1.30 an hour for the remaining 500 hours; (2) 15 student-workers in the bookbinding industry in the occupations of bookbinder, bindery worker, and related skilled and semiskilled occupations, for a learning period of 600 hours at the rates of $1.25 an hour for the first 300 hours and $1.30 an hour for the remaining 300 hours; (3) 20 student-workers in the furniture manufacturing industry in the occupations of woodworking machine operator, assembler, finisher, and related skilled and semiskilled occupations, for a learning period of 600 hours at the rates of $1.25 an hour for the first 300 hours and $1.30 an hour for the remaining 300 hours; (4) 10 student-workers in the clerical occupations of bookkeeper, business machine operator, and related skilled and semiskilled occupations, for a learning period of 480 hours at the rates of $1.25 an hour for the first 240 hours and $1.30 an hour for the remaining 240 hours; and (5) 8 student-workers in the broom manufacturing industry in the occupations of broommaker, stitcher, and related skilled and semiskilled occupations, for a learning period of 360 hours at the rates of $1.25 an hour for the first 180 hours and $1.30 an hour for the remaining 180 hours.

Walla Walla College, College Place, Wash; authorizing the employment of: (1) 10 student-workers in the printing industry in the occupations of compositor, pressman and related skilled and semiskilled occupations, for a learning period of 1,000 hours at the rates of $1.25 an hour for the first 500 hours and $1.30 an hour for the remaining 500 hours; and (2) 30 student-workers in the bookbinding industry in the occupations of bookbinding, bindery worker and related skilled and semiskilled occupations, for a learning period of 600 hours at the rates of $1.25 an hour for the first 300 hours and $1.30 an hour for the remaining 300 hours.

The student-worker certificates were issued upon the applicant's representations and supporting material fulfilling the statutory requirements for the issuance of such certificates, as interpreted and applied by Part 527.

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 15 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in 29 CFR Part 528.

Signed at Washington, D.C., this 3d day of November 1967.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[F.R. Doc. 67–13526; Filed, Nov. 16, 1967; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

NOVEMBER 14, 1967.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41171—*Newsprint paper from Sheldon, Tex.* Filed by Southwestern Freight Bureau, agent (No. B–9028), for interested rail carriers. Rates on newsprint paper, in carloads, from Sheldon, Tex., to points in Illinois Freight Association, southern, southwestern, and western trunkline territories.

Grounds for relief—Market competition.

Tariffs—Supplements 16 and 11 to Southwestern Freight Bureau, agent, tariffs ICC 4716 and 4725, respectively.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 67–13544; Filed, Nov. 16, 1967; 8:49 a.m.]

[Notice 1124]

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

NOVEMBER 13, 1967.

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act, and certain other proceedings with respect thereto. (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC–F–9941. Authority sought for merger into MASTEN TRANSPORTATION, INC., Rehoboth Boulevard, Milford, Del., of the operating rights and property of BINGHAMTON WAREHOUSE & TERMINAL, INC., Rehoboth Boulevard, Milford, Del., and for acquisition by L. J. LISHON, JR., EVELYN M. LISHON, both of Andover Road, Newtown Square, Pa., L. J. LISHON, III, Wisseman Avenue, Milford, Del., and DIANE LISHON BIDDLE, Mountain View Road, Berwyn, Pa., of control of such rights and property through the transaction. Applicants' attorney: Jack R. Turney, Jr., 2001 Massachusetts Avenue NW., Washington, D.C. 20036. Operation rights sought to be merged: (A) *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Syracuse, N.Y., and Hanover, Pa., between Endicott, N.Y., and Binghamton, N.Y., between Lancaster, Pa., and Harrisburg, Pa., between Lancaster, Pa., and York, Pa., serving certain intermediate and off-route points; between Syracuse, N.Y., and Chenango Forks, N.Y., between Tunkhannock, Pa., and junction Pennsylvania Highway 92 and U.S. Highway 11, between Manchester, Md., to Reisterstown, Md., serving no intermediate points; between Williamsport, Pa., and New York, N.Y., serving certain intermediate and off-route points; between Sunbury, Pa., and Lewistown, Pa., between Pottsville, Pa., and Millersburg, Pa., between Frackville, Pa., and Hazleton, Pa., serving all intermediate points; between Pottsville, Pa., and Hazleton, Pa., serving all intermediate points, and the off-route points of Weatherly and Freeland, Pa., between Berwick, Pa., and Northumberland, Pa., serving all intermediate points, between Cortland, N.Y., and Binghamton, N.Y., serving no intermediate points, but serving the off-route points of Homer and McGraw, N.Y.; between Harrisburg, Pa., and Baltimore, Md., between Nicholson, Pa., and W. Pittston, Pa., between Endicott, N.Y., and Binghamton, N.Y., between Lemoyne, Pa., and Hershey, Pa., serving no intermediate points; between Baltimore, Md., and Alexandria Va., serving all intermediate points and off-route points in Maryland and Virginia within 5 miles of the District of Columbia, and points within 6 miles of Baltimore, two alternate routes for operating convenience only;

(B) *General commodities*, except those of unusual value, classes A and B explosives, livestock, alcoholic liquors, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Reading, Pa., and Baltimore, Md., serving no intermediate points; *general commodities*, excepting, among others, household goods and commodities in bulk, between New York, N.Y., and Reading, Pa., between Reading, Pa., and Hanover, Pa., between Reading, Pa., and Harrisburg, Pa., serving all intermediate and certain off-route points; between Reading, Pa., and Sunbury, Pa., between Tamaqua, Pa., and Hometown, Pa., between Pottsville, Pa., and Millersburg, Pa., between Lancaster, Pa., and Harrisburg, Pa., between Reading, Pa., and Phoenixville, Pa., between Allentown, Pa., and Mauch Chunk, Pa., between Sunbury, Pa., and Harrisburg, Pa., between Ashland, Pa., and Pottsville, Pa., between Easton, Pa., and Bangor, Pa., between Allentown, Pa., and Souderton, Pa., serving all intermediate points; three alternate routes for operating convenience only; *general commodities*, excepting, among others, household goods and commodities in bulk, over irregular routes, between certain specified points in Pennsylvania, with restriction; (C) *general commodities*, between Butler, N.J., and certain specified points in New Jersey, on the one hand, and, on the other, New York, N.Y.; and *wearing apparel, wearing apparel materials*, and *tablecloths*, between Pottsville, Pa., and points within 30 miles thereof, on the one hand, and, on the other, Baltimore, Md., and Washington, D.C.; with restriction. MASTEN TRANSPORTATION, INC., is authorized to operate as a *common carrier* in Maryland, Delaware, New Jersey, Pennsylvania, New York, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b). NOTE: MASTEN TRANSPORTATION, INC., controls BINGHAMTON WAREHOUSE & TERMINAL, INC., through ownership of capital stock pursuant to authority granted in MC–F–8681, by order, Finance Board No. 1, dated September 1, 1964.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 67–13545; Filed, Nov. 16, 1967; 8:49 a.m.]

[Notice 52]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 14, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–69932. By order of October 30, 1967, the Transfer Board approved the transfer to Warn Bros., Inc., doing business as Crescent Truck Lines, San Leandro, Calif., of certificates Nos. MC–48205 and MC–48205 (Sub-No. 1), and certificate of registration No. MC–48205 (Sub-No. 5), issued October 19, 1966, to West Coast Fast Freight, a corporation, Oakland, Calif., authorizing (1) under the certificates, transportation of general commodities, canned goods, fruit juices, citrus fruit, machinery, fertilizer, gasoline, borax, soda ash, potash, flour, lumber, sheet steel, pipe, pig iron, paper, blacksmith coal, peat moss, piling, coke, conduit, and orange juice; and (2) under the certificate of registration, transportation in interstate and foreign commerce pursuant to certificate of public convenience and necessity granted in Decision No. 58026, dated February 17, 1959, as amended by Decision No. 60611, dated August 23, 1960, and Decision No. 69100, dated May 18, 1965, by the Public Utilities Commission of the State of California. Bertram S. Silver, 140 Montgomery Street, San Francisco, Calif. 94104, attorney for applicants.

No. MC–FC–69944. By order of October 30, 1967, the Transfer Board approved the transfer to Fullington Auto Bus Co., Inc., Clearfield, Pa., of certificate No. MC–110022, issued December 20, 1949, to Ralph B. Potter, Samuel D. Potter,

and Mabel E. Potter, a partnership, doing business as Potter's Bus Line, Mifflintown, Pa., and authorizing the transportation of: Passengers and their baggage, restricted to traffic originating at the point and in the territory indicated, in charter operations, from Lewistown, Pa., and points within 35 miles thereof, to points in Maryland, Washington, D.C., and Mount Vernon, Va., and return. Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101, attorney for applicants.

No. MC–FC–69952. By order of October 30, 1967, the Transfer Board approved the transfer to Bertsch Trucking, Inc., Hillsboro, N. Dak., of the operating rights in permit No. MC–123544 (Sub-No. 1), issued March 10, 1965, to Otto Bertsch, Hillsboro, N. Dak., authorizing the transportation, over irregular routes, of farm machinery and implements and parts thereof, from ports of entry on the United States–Canada boundary lines at Neche and Pembina, N. Dak., and Noyes, Minn., to points in Colorado, Minnesota, Montana, North Dakota, Oklahoma, Oregon, South Dakota, and Wyoming, with certain restrictions. William S. Rosen, 400 Minnesota Building, St. Paul, Minn. 55101, attorney for applicants.

No. MC–FC–69954. By order of October 30, 1967, the Transfer Board approved the transfer to G. W. Conner, doing business as Conner Buslines, Poplar Bluff, Mo., of the operating rights in certificate No. MC–113137, issued October 30, 1956, to Earl L. Kingery, doing business as Poplar Bluff-Willow Springs Bus Line, Poplar Bluff, Mo., authorizing the transportation, over a regular route, of passengers and their baggage, and newspapers in the same vehicle with passengers, between Poplar Bluff, Mo., and Willow Springs, Mo., serving all intermediate points. Thomas P. Rose, Jefferson Building, Jefferson City, Mo. 65101, attorney for applicants.

No. MC–FC–69953. By order of October 30, 1967, the Transfer Board approved the transfer to the Murtha Enterprises, Inc., doing business as W. F. Clark Fuel & Trucking Co., Inc., Naugatuck, Conn., of the certificate of registration in No. MC–97012 (Sub-No. 1), issued November 5, 1964, to W. F. Clark Fuel & Trucking Co., Inc., Naugatuck, Conn., evidencing a right to engage in transportation in interstate or foreign commerce solely within the State of Connecticut, corresponding in scope to the service authorized by motor common carrier certificate C–207, dated May 10, 1948, as transferred August 26, 1948, and as amended and reissued November 30, 1960, by the Public Utilities Commission of the State of Connecticut. Donald J. Zehnder, 276 Church Street, Naugatuck, Conn. 06770, attorney for applicants.

No. MC–FC–69959. By order of October 30, 1967, the Transfer Board approved the transfer to Lyles Trucking Co., Inc., Artesia, Calif., of certificate of registration No. MC–120097 (Sub-No. 1), issued April 29, 1965, to Wilbur C. Winegar and Wilbur C. Winegar, Administrator, Estate of Myrtle P. Winegar, doing business as C. M. Winegar Trucking Co., Bell, Calif., and evidencing a right of the holder to engage in transportation in interstate or foreign commerce corresponding in scope to the grant of authority in Decision No. 56440, dated April 1, 1958, issued by the Public Utilities Commission of California. Carl H. Fritze, 1010 Wilshire Boulevard, Los Angeles, Calif. 90017, Attorney for applicants.

No. MC–FC–69978. By order of October 30, 1967, the Transfer Board approved the transfer to Ronald Dale Smith, doing business as Appleton City Truck Line, 105 East Fourth Street, Appleton City, Mo. 64724, of the operating rights in certificate No. MC–59437, issued April 27, 1965, to Willard Borum, doing business as Appleton City Truck Line (above address), authorizing the transportation of: General commodities, with the usual exceptions, between specified points in Missouri, and Kansas, and, household goods, between points in Missouri, Kansas, and Iowa.

No. MC–FC–69979. By order of October 30, 1967, the Transfer Board approved the transfer to Reay-Marshall Transfer & Storage, Inc., Douglas, Ariz., of certificate of registration No. MC–97484 (Sub-No. 1), issued June 1, 1965, to W. Reay and A. B. Crenshaw, doing business as Reay Transfer & Storage, Douglas, Ariz., authorizing the transportation in interstate or foreign commerce, of: Freight and baggage in Douglas, Ariz., and vicinity, and livestock, within the State. Daniel E. Moore, 125 Bisbee Road, Bisbee, Ariz. 85603, attorney for applicants.

No. MC–FC–69983. By order of October 30, 1967, the Transfer Board approved the transfer to Torrey Delivery, Inc., Silver Creek, N.Y., of certificate of registration No. MC–56641 (Sub-No. 1), issued October 30, 1963, to Raymond C. Torrey, doing business as Torrey Delivery, Silver Creek, N.Y., authorizing the transportation, in interstate or foreign commerce, of: General commodities between points in New York, Stephen Heisley, 529 Transportation Building, Washington, D.C. 20006, attorney for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67–13546; Filed, Nov. 16, 1967; 8:49 a.m.]

[Disaster Order 12]

TEXAS

Transportation of Hay at Reduced Prices

In the matter of relief under sections 20(11) and 22 of the Interstate Commerce Act.

Present: Paul J. Tierney, Vice Chairman, to whom the above-entitled matter has been assigned for action thereon.

It appearing, that by reason of conditions existing due to extensive damage to feed supplies recently caused by Hurricane Beulah in certain portions of the State of Texas, herein referred to as the disaster area, the Secretary of the U.S. Department of Agriculture has requested the Commission to enter an order under sections 20(11) and 22 of the Interstate Commerce Act, authorizing railroads subject to the Commission's jurisdiction to transport hay to the disaster area at reduced rates which are also subject to carriers' limitation of liability:

It is ordered, That carriers by railroad participating in the transportation of hay to the counties of Cameron and Hidalgo, located in the State of Texas, referred to herein as the disaster area, be, and they are hereby authorized under section 22 of the Interstate Commerce Act to establish and maintain until March 31, 1968, reduced rates for such transportation, the rates to be published and filed in the manner prescribed in section 6 of the Interstate Commerce Act except that they may be effective 1 day after publication and filing instead of thirty.

It is further ordered, That, subject to the conditions in the succeeding paragraphs hereof, the use of reduced rates established by authority of this order may be conditioned upon the release by the shipper of the value of the commodity, which released value, in its relation to the invoice value of the property at time of shipment, shall be the same percentage relation which the reduced rates bear to the rates which otherwise would apply.

It is further ordered, That, tariffs containing released rates filed under authority of this order shall show in connection with such rates the following notation:

The released value must be entered on shipping order and bill of lading in the following form:

The agreed or declared value of the property is hereby specifically stated by the shipper to be not in excess of _____ of the invoice value of the property herein described.

If the shipper fails or declines to execute the above statement, shipments will not be accepted for transportation at the rates subject hereto. Rates published elsewhere in other tariffs lawfully filed with the Interstate Commerce Commission will apply in such a case. Rates herein published on released value have been authorized by the Interstate Commerce Commission in Disaster Order No. 12 of November 9, 1967.

It is further ordered, That, during the period in which any reduced rates authorized by this order are effective the carriers may, not withstanding the provisions of section 4 of the Interstate Commerce Act, maintain higher rates to directly intermediate points and maintain through rates in excess of the aggregate of intermediate rates over the same routes if one or more of the factors of such aggregate of intermediate rates is a reduced rate established under the authority of this order.

It is further ordered, That the class of persons entitled to such reduced rates is hereby defined as persons designated as being in distress and in need of relief by the U.S. Department of Agriculture or by such State agents or agencies as may in turn be designated by the U.S. Department of Agriculture to assist in relieving the distress caused by the hurricane.

And it is further ordered, That notice to the affected railroads and the general public shall be given by depositing a copy of this order in the Office of the Secretary of the Commission and by filing a copy with the Director, Office of the Federal Register; and that copies be mailed to the Chairman of the Traffic Executive Association—Eastern Railroads, New York, N.Y., the Chairman of the Southern Freight Association, Atlanta, Ga., the Chairman of the Executive Committee, Western Railroad Traffic Association, Chicago, Ill., the Vice President and Director, Bureau of Railway Economics, Association of American Railroads, Washington, D.C., and to the President of the American Short Line Railroad Association, Washington, D.C.

This order does not constitute authority for the establishment of rates or charges on any description of traffic other than as herein specifically indicated.

Dated at Washington, D.C., this 9th day of November, A.D. 1967.

By the Commission, Vice Chairman Paul J. Tierney.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67–13547; Filed, Nov. 16, 1967; 8:49 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during November.

3 CFR

	Page
PROCLAMATIONS:	
3279 (modified by Proc. 3820)	15701
3290 (see Proc. 3820)	15701
3328 (see Proc. 3820)	15701
3386 (see Proc. 3820)	15701
3389 (see Proc. 3820)	15701
3509 (see Proc. 3820)	15701
3531 (see Proc. 3820)	15701
3541 (see Proc. 3820)	15701
3693 (see Proc. 3820)	15701
3694 (terminated in part by Proc. 3818)	15467
3712 (terminated in part by Proc. 3818)	15467
3744 (terminated in part by Proc. 3818)	15467
3779 (see Proc. 3820)	15701
3794 (see Proc. 3820)	15701
3818	15467
3819	15667
3820	15701
EXECUTIVE ORDERS:	
2295 (modified by PLO 4313)	15429
4702 (revoked in part by PLO 4315)	15482
8652 (revoked in part by PLO 4317)	15482
10530 (see EO 11378)	15237
10682 (see EO 11378)	15237
10807 (amended by EO 11381)	15629
10903 (amended by EO 11380)	15627
11034 (amended by EO 11380)	15627
11378	15237
11379	15625
11380	15627
11381	15629

5 CFR

213	15703, 15805
305	15805
713	15631
754	15805

7 CFR

51	15066, 15073
319	15577
401	15703, 15704
711	15704
717	15705
729	15149
730	15076
907	15805
910	15430, 15524, 15631
912	15430, 15632, 15806
913	15430

7 CFR—Continued

	Page
915	15669
945	15577
947	15705
982	15669
984	15388
991	15670, 15705
1001	15076
1015	15090
1067	15093
1120	15388
1125	15706
1126	15388
1132	15389
1137	15431
1421	15632, 15706
1464	15633
PROPOSED RULES:	
51	15435
723	15546
814	15835
822	15393
891	15393
892	15393
905	15116
906	15394
907	15488
908	15394
912	15436
913	15395
959	15177
989	15488
1049	15489
1064	15490
1090	15437
1125	15178
1131	15588

8 CFR

103	15469
212	15469
238	15469

9 CFR

76	15240
78	15577
92	15707
131	15469

10 CFR

PROPOSED RULES:	
20	15432, 15762

12 CFR

1	15544
219	15389
556	15707, 15747
563	15634
571	15708

12 CFR—Continued

	Page
PROPOSED RULES:	
545	15763

13 CFR

101	15806
106	15065
108	15149
120	15634
122	15635
PROPOSED RULES:	
107	15399
121	15184

14 CFR

21	15472
39	15094, 15153, 15154, 15390, 15421, 15472, 15523, 15579, 15635, 15808
71	15094, 15095, 15154, 15523, 15524, 15579, 15635, 15636, 15809, 15810
73	15096
75	15636
91	15422, 15708
97	15423, 15473, 15580, 15811
141	15583
145	15670
157	15818
207	15096
208	15097
241	15098
PROPOSED RULES:	
27	15676
29	15676
39	15490, 15491, 15588
71	15117–15121, 15491–15493, 15546–15548, 15588, 15580, 15712, 15837, 15838
93	15589
121	15676
202	15676
203	15676

15 CFR

0	15222
13	15818
70	15154
204	15104, 15391
230	15105, 15636

16 CFR

13	15105–15107, 15470, 15748–15750
14	15525
15	15470
17	15540
228	15525
229	15529

16 CFR—Continued Page

230 15531
231 15532
232 15533
233 15534
234 15536
235 15538
236 15538
237 15539
238 15540
239 15541
240 15542
412 15584
413 15424

PROPOSED RULES:

241 15715
242 15681
300 15180

17 CFR

200 15470

18 CFR

3 15239
101 15670
141 15670

PROPOSED RULES:

2 15714
14 15714
141 15434
260 15434

19 CFR

4 15390
10 15424
14 15155
16 15390

20 CFR

396 15471
401 15544

21 CFR

4 15709
120 15167, 15120, 15424, 15578
121 15168, 15169, 15155, 15545
133 15109
148c 15425
166 15390

PROPOSED RULES:

28 15116

22 CFR

PROPOSED RULES:

201 15116

23 CFR

216 15818
255 15792

24 CFR

200 15425, 15586, 15636
203 15639
207 15640
220 15640
222 15640
809 15640

25 CFR

41 15471

26 CFR Page

1 15421, 15671, 15830
301 15241, 15483

PROPOSED RULES:

1 15167, 15393, 15758

28 CFR

0 15425

29 CFR

526 15425
706 15425
1200 15827
1202 15831
1203 15831
1208 15831
1500 15478, 15479

PROPOSED RULES:

5 15396
6 15396
7 15396
526 15712

31 CFR

306 15672

32 CFR

66 15111
127 15112
536 15113
552 15115
710 15115

32A CFR

BDSA (Ch. VI):
M–11A 15710
Ch. VII 15831

33 CFR

204 15673

35 CFR

61 15641
295 15831

36 CFR

7 15391, 15710, 15750

PROPOSED RULES:

7 15761

39 CFR

131 15587
821 15480
822 15480, 15481
823 15089

PROPOSED RULES:

Ch. I 15643

41 CFR

1–5 15674
3–75 15633
6–60 15751
6–75 15427
50–204 15641
101–26 15754

42 CFR

PROPOSED RULES:

73 15178

43 CFR

PUBLIC LAND ORDERS:

1583 (see PLO 4307) 15[illegible]
1630 (see PLO 4315) 15[illegible]
3263 (revoked in part by PLO 4307) 15[illegible]
3624 (revoked in part by PLO 4302) 15[illegible]
4236 (see PLO 4317) 15[illegible]
4266 (see PLO 4317) 15[illegible]
4270 (amended by PLO 4312) 15[illegible]
4301 15[illegible]
4302 15[illegible]
4303 15[illegible]
4304 15[illegible]
4305 15[illegible]
4306 15[illegible]
4307 15[illegible]
4308 15[illegible]
4309 15[illegible]
4310 15[illegible]
4311 15[illegible]
4312 15[illegible]
4313 15[illegible]
4314 15[illegible]
4315 15[illegible]
4316 15[illegible]
4317 15[illegible]
4318 15[illegible]

PROPOSED RULES:

1720 15548

45 CFR

81 15156
531 15641

46 CFR

10 15754

PROPOSED RULES:

Ch. IV 15438
33 15835
94 15835
112 15837

47 CFR

0 15472, 15678
73 15161, 15162, 15545, 15711

PROPOSED RULES:

2 15180, 15712
73 15678
87 15712
89 15180, 15680
91 15180
93 15180, 15680

49 CFR

1 15710
103 15484
114 15484

PROPOSED RULES:

296 15580

50 CFR

10 15834
32 15166, 15586, 15587, 15642, 15675
33 15711, 15756

FEDERAL REGISTER

VOLUME 32 • NUMBER 224

Saturday, November 18, 1967 • Washington, D.C.

Pages 15865–15905

THE UNIVERSITY OF MICHIGAN
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MAIN READING ROOM

Agencies in this issue—

Atomic Energy Commission
Business and Defense Services Administration
Civil Aeronautics Board
Civil Service Commission
Coast Guard
Commerce Department
Commodity Credit Corporation
Consumer and Marketing Service
Federal Aviation Administration
Federal Power Commission
Federal Reserve System
Federal Trade Commission
Fish and Wildlife Service
Food and Drug Administration
Internal Revenue Service
Interstate Commerce Commission
Land Management Bureau
Oil Import Administration
Securities and Exchange Commission
Small Business Administration
Veterans Administration

Detailed list of Contents appears inside.

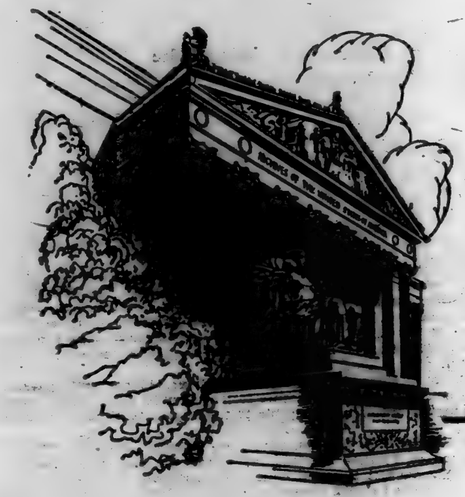

224

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Contents

AGRICULTURE DEPARTMENT
See Commodity Credit Corporation; Consumer and Marketing Service.

ATOMIC ENERGY COMMISSION
Rules and Regulations
Licensing of source material; exemption of certain aircraft engine parts containing nickel-thoria alloy ... 15872
Notices
National Bureau of Standards; issuance of provisional operating license ... 15895
Pennsylvania State University; order of termination of interest ... 15896

BUSINESS AND DEFENSE SERVICES ADMINISTRATION
Notices
Decisions on applications for duty-free entry of scientific articles:
Florida State University ... 15889
Forsyth Dental Center ... 15889
Health Research, Inc. ... 15889
Ohio State University ... 15890

CIVIL AERONAUTICS BOARD
Notices
Ozark Air Lines, Inc.; hearing, etc ... 15896

CIVIL SERVICE COMMISSION
Rules and Regulations
Excepted service; Department of Housing and Urban Development ... 15869
Notices
Social Administration Advisor et al.; prescribed minimum educational requirements ... 15900

COAST GUARD
Notices
Delaware River; notice of closure to navigation during launching of the "Ponce de Leon" ... 15895

COMMERCE DEPARTMENT
See also Business and Defense Services Administration.
Notices
Contracts and grants; patent policy ... 15890

COMMODITY CREDIT CORPORATION
Rules and Regulations
Rice; 1967 crop loan and purchase program; basic support rates ... 15872

CONSUMER AND MARKETING SERVICE
Rules and Regulations
Avocados grown in South Florida; containers ... 15871
Expenses, rate of assessment, etc.:
Grapefruit grown in Arizona and California ... 15870
Oranges and grapefruit grown in Texas ... 15869
Raisins from grapes grown in California ... 15871
Handling limitations:
Grapefruit grown in Florida ... 15870
Lemons grown in California and Arizona ... 15870
Tangerines grown in Florida; shipments limitation ... 15869
Proposed Rule Making
Onions grown in South Texas; expenses and rate of assessment ... 15884
Tomatoes grown in Florida; hearing regarding proposed amendments to marketing agreement and order ... 15884
Notices
National school lunch program; reporting of free and reduced price lunches ... 15888

FEDERAL AVIATION ADMINISTRATION
Rules and Regulations
Airworthiness directives:
British Aircraft Corp. Model BAC 1-11 203/AE, 204/AF and 212/AR airplanes ... 15873
Hawker Siddeley, de Havilland Model 104 Dove Series airplanes ... 15873
Reporting point; revocation ... 15874
Proposed Rule Making
Federal airway; designation ... 15885
Federal airway segments; alteration and designation ... 15885

FEDERAL POWER COMMISSION
Notices
Hearings, etc:
Colorado Interstate Gas Co. ... 15900
Marathon Oil Co. et al ... 15898
Northern States Power Co. (Minnesota) ... 15900
Texaco, Inc. ... 15899

FEDERAL RESERVE SYSTEM
Notices
Federal Open Market Committee; current economic policy directive ... 15901

FEDERAL TRADE COMMISSION
Rules and Regulations
Prohibited trade practices:
Gladstone-Arcuni, Inc. ... 15874
Wendy Coat Co., Inc., and Myles Rose ... 15874
Werts Novelty Co., Inc., and O. Norman Wilner ... 15875

FISH AND WILDLIFE SERVICE
Rules and Regulations
William L. Finley National Wildlife Refuge, Oreg.; hunting ... 15878

FOOD AND DRUG ADMINISTRATION
Rules and Regulations
Hazardous substances; labeling of ethylene glycol-base radiator antifreeze ... 15875

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
See Food and Drug Administration.

INTERIOR DEPARTMENT
See Fish and Wildlife Service; Land Management Bureau; Oil Import Administration.

INTERNAL REVENUE SERVICE
Rules and Regulations
Income tax; identification of book-entry Treasury securities; correction ... 15876
Proposed Rule Making
Deposit of certain taxes ... 15879

INTERSTATE COMMERCE COMMISSION
Notices
Motor carrier temporary authority applications ... 15902

LAND MANAGEMENT BUREAU
Rules and Regulations
Public land order; Oregon and Washington; withdrawal for national forest administrative sites and recreation area ... 15878
Proposed Rule Making
Public domain leasing under 1920 act; qualifications for associations ... 15883
Notices
California; proposed classification of public lands for multiple-use management ... 15887
North Dakota; proposed withdrawal and reservation of lands ... 15887
Oregon; offering of land for sale ... 15888

OIL IMPORT ADMINISTRATION
Rules and Regulations
Rules for proceedings for suspension or revocation of allocations and licenses ... 15876

(*Continued on next page*)

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:
- Delta Air Lines, Inc. (Delaware), et al. 15901
- Interamerican Industries, Ltd. 15901
- Jersey Central Power & Light Co. 15901
- Jodmar Industries, Inc. 15902
- Penrose Industries Corp. 15902
- Warner Bros.-Seven Arts, Ltd. 15902

SMALL BUSINESS ADMINISTRATION

Rules and Regulations

Administration; list of public-use SBA forms; correction 15873

TRANSPORTATION DEPARTMENT

See Coast Guard; Federal Aviation Administration.

TREASURY DEPARTMENT

See Internal Revenue Service.

VETERANS ADMINISTRATION

Rules and Regulations

Adjudication; special monthly compensation ratings 15878

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

5 CFR
- 213 15869

7 CFR
- 906 15869
- 906 15869
- 909 15870
- 910 15870
- 912 15870
- 915 15871
- 989 15871
- 1421 15872

PROPOSED RULES:
- 959 15884
- 966 15884

10 CFR
- 40 15872

13 CFR
- 101 15873

14 CFR
- 39 (2 documents) 15873
- 71 15874

PROPOSED RULES:
- 71 (2 documents) 15885

16 CFR
- 13 (3 documents) 15874, 15875

21 CFR
- 191 15875

26 CFR
- 1 15876

PROPOSED RULES:
- 1 15879
- 31 15879
- 46 15879
- 48 15879
- 49 15879

32A CFR
- OIA (Ch. X): OI Reg. 2 15876

38 CFR
- 3 15878

43 CFR

PUBLIC LAND ORDER:
- 4319 15878

PROPOSED RULES:
- 3100 15883
- 3120 15883

50 CFR
- 32 15878

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

Section 213.3384 is amended to show that the position of Deputy Director, Division of International Affairs, is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (25) is added under paragraph (a) of § 213.3384 as set out below.

§ 213.3384 Department of Housing and Urban Development.

(a) *Office of the Secretary.* • • •

(25) One Deputy Director, Division of International Affairs.

• • • • • •

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67-13605; Filed, Nov. 17, 1967; 8:46 a.m.]

Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Tangerine Reg. 33, Amdt. 1]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of tangerines grown in Florida.

Order. The provisions of § 905.502 (Tangerine Regulation 33, 32 F.R. 14923) are amended in the following respects:

The following provisions are added as subparagraph (2) immediately after paragraph (a) (1) (ii) and paragraph (b) is amended to read as follows:

§ 905.502 Tangerine Regulation 33.

(a) • • •

(2) During any week of the period November 20, 1967, through July 31, 1968, any handler may ship a quantity of tangerines which are smaller than the size prescribed in subparagraph (1) (ii) of this paragraph if (i) the number of standard packed boxes of such smaller tangerines does not exceed 15 percent of the total standard packed boxes of all sizes of tangerines shipped by such handler during the same week; and (ii) such smaller tangerines are of a size not smaller than 2 2/16 inches in diameter, except that a tolerance of 10 percent, by count, of tangerines smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in said United States Standards for Tangerines.

(b) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; the term "week" shall mean the 7-day period beginning at 12:01 a.m., local time, on Monday of one calendar week and ending at 12:01 a.m., local time, on Monday of the following calendar week; and terms relating to grade, diameter, and standard pack, as used herein, shall have the same meaning as is given to the respective term in the U.S. Standards for Florida Tangerines (§§ 51.1810–51.1834 of this title).

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated, November 16, 1967, to become effective November 20, 1967.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-13690; Filed, Nov. 17, 1967; 11:19 a.m.]

PART 906—ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

Expenses and Rate of Assessment and Carryover of Unexpended Funds

Notice was published in the November 3, 1967, issue of the FEDERAL REGISTER (32 F.R. 15395) that consideration was being given to proposals regarding the expenses and the fixing of the rate of assessment for the fiscal period beginning August 1, 1967, and ending July 31, 1968, under the amended marketing agreement and Order No. 906 (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas, effective under the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in the aforesaid notice which were submitted by the Texas Valley Citrus Committee (established pursuant to the said amended marketing agreement and order), it is hereby found and determined that:

§ 906.207 Expenses and rate of assessment and carryover of unexpended funds.

(a) *Expenses.* The expenses that are reasonable and likely to be incurred by the Texas Valley Citrus Committee during the period August 1, 1967, through July 31, 1968, will amount to $170,000.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 906.34, is fixed at four and one-half cents ($0.045) per 7/10-bushel carton, or equivalent quantity of oranges and grapefruit.

(c) *Reserve.* Unexpended assessment funds, in excess of expenses incurred during the fiscal period ended July 31, 1967, shall be carried over as a reserve in accordance with the applicable provisions of § 906.35(a)(2) of said marketing agreement and order.

It is hereby found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of oranges and grapefruit are now being made; (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment fixed for a particular fiscal period shall be applicable to all assessable fruit from the beginning of such period; and (3) the current fiscal period began on August 1, 1967, and the rate of assessment herein fixed will automatically apply to all assessable oranges and grapefruit beginning with such date.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 14, 1967.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67–13068; Filed, Nov. 17, 1967; 8:48 a.m.]

PART 909—GRAPEFRUIT GROWN IN ARIZONA; IMPERIAL COUNTY, CALIF.; AND IN THAT PART OF RIVERSIDE COUNTY, CALIF., SITUATED SOUTH AND EAST OF WHITE WATER, CALIF.

Expenses, Rate of Assessment, and Carryover of Unexpended Funds

On October 31, 1967, notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 15029) regarding proposed expenses, the proposed rate of assessment, and the proposed carryover of unexpended assessment funds, for the fiscal period August 1, 1967, through July 31, 1968, pursuant to the marketing agreement, as amended, and Order No. 909, as amended (7 CFR Part 909), regulating the handling of grapefruit grown in the State of Arizona; in Imperial County, Calif.; and in that part of Riverside County, Calif., situated south and east of White Water, Calif. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Administrative Committee (established pursuant to the said amended marketing agreement and order), it is hereby found and determined that:

§ 909.306 Expenses, rate of assessment, and carryover of unexpended funds.

(a) *Expenses.* The expenses that are reasonable and necessary to be incurred by the Administrative Committee during the period August 1, 1967, through July 31, 1968, will amount to $136,500.

(b) *Rate of assessment.* The rate of assessment for such period, payable by each handler in accordance with § 909.41, is hereby fixed at three cents ($0.03) per carton, or equivalent quantity of grapefruit.

(c) *Operating reserve.* Unexpended assessment funds, in excess of expenses incurred during such period, shall be carried over as a reserve in accordance with the applicable provisions of § 909.42.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of the current crop of grapefruit grown in the designated production area are now being made; (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable grapefruit handled during the aforesaid period; and (3) such period began on August 1, 1967, and said rate of assessment will automatically apply to all such grapefruit beginning with such date.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 15, 1967.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67–13020; Filed, Nov. 17, 1967; 8:48 a.m.]

[Lemon Reg. 295]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.595 Lemon Regulation 295.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 14, 1967.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period November 19, 1967, through November 25, 1967, are hereby fixed as follows:

(i) District 1: Unlimited movement;
(ii) District 2: 46,500 cartons;
(iii) District 3: 139,500 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 16, 1967.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67–13089; Filed, Nov. 17, 1967; 8:49 a.m.]

[Grapefruit Reg. 48]

PART 912—GRAPEFRUIT GROWN IN THE INDIAN RIVER DISTRICT IN FLORIDA

Limitation of Handling

§ 912.348 Grapefruit Regulation 48.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 912, as amended (7 CFR Part 912), regulating the handling of grapefruit grown in the Indian River District in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Indian River Grapefruit Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Indian River grapefruit, and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such grapefruit; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 16, 1967.

(b) *Order.* (1) The quantity of grapefruit grown in the Indian River District which may be handled during the period November 20, 1967, through November 26, 1967, is hereby fixed at 137,000 standard packed boxes.

(2) As used in this section, "handled," "Indian River District," "grapefruit," and "standard packed box" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 16, 1967.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67–13089; Filed, Nov. 17, 1967; 11:19 a.m.]

[Avocado Order 5, Amdt. 6]

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

Containers

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in south Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the Avocado Administrative Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of avocados, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of avocados.

(a) *Order.* (1) The provisions in paragraph (a)(1)(x) of § 915.305 (Avocado Order 5; 29 F.R. 8463; 30 F.R. 4666, 32 F.R. 7171, 14548, 15669) are hereby amended to read as follows:

§ 915.305 Avocado Order 5.

(a) *Order.* (1) * * *

(x) With respect to the containers prescribed in subdivision (vi) of this subparagraph, all avocados packed in such containers shall be placed in two layers only and the net weight of the avocados in any such container shall be not less than 27 pounds, except that the net weight of Booth 1, Fuchs, Trapp, and unnamed varieties packed in any such container shall be not less than 26 pounds: *Provided,* That not to exceed 5 percent, by count, of such containers in any lot may fall to meet the applicable weight requirement: *Provided further,* That the requirement as to placing avocados in two layers only shall not apply to such a container if each of the avocados therein weighs less than 8 ounces.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated, November 15, 1967, to become effective November 16, 1967.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67–13019; Filed, Nov. 17, 1967; 8:49 a.m.]

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Expenses of Raisin Administrative Committee and Rate of Assessment for 1967–68 Crop Year

Notice was published in the October 27, 1967, issue of the FEDERAL REGISTER (32 F.R. 14897) regarding proposed expenses of the Raisin Administrative Committee for the 1967–68 crop year and rate of assessment for that crop year, pursuant to §§ 989.79 and 989.80 of the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989; 32 F.R. 12157, 12555, 12710), regulating the handling of raisins produced from grapes grown in California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons opportunity to submit written data, views, or arguments with respect to the proposal. None were received within the prescribed time.

After consideration of all relevant matter presented, including that in the notice, the information and recommendations submitted by the Raisin Administrative Committee, and other available information, it is found that the expenses of the Raisin Administrative Committee and the rate of assessment for the crop year beginning September 1, 1967, shall be as follows:

§ 989.318 Expenses of the Raisin Administrative Committee and rate of assessment for the 1967–68 crop year.

(a) *Expenses.* Expenses (other than those specified in § 989.82) in the amount of $126,800 are reasonable and likely to be incurred by the Raisin Administrative Committee during the crop year beginning September 1, 1967, for the maintenance and functioning of the Committee and the Raisin Advisory Board and for such purposes as the Secretary may, in accordance with § 989.79, determine to be appropriate.

(b) *Rate of assessment.* The rate of assesament for that crop year which each handler is required, pursuant to § 989.80, to pay to the Raisin Administrative Committee as his pro rata share of the expenses is fixed at 80 cents per ton applicable to each of the following:

(1) Free tonnage raisins acquired by the handlers during the crop year, exclusive of such quantity thereof as represents the assessable portions of other handlers' raisins pursuant to subparagraph (3) of this paragraph;

(2) Reserve tonnage raisins released or sold to the handler for use as free tonnage, during the crop year; and

(3) Standard raisins (which he does not acquire) recovered by the handler by the reconditioning of off-grade raisins but only to the extent of the aggregate quantity of the free tonnage portions of these standard raisins that are acquired by other handlers during the crop year.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said amended marketing agreement and order require that the rate of assessment fixed for a particular crop year which handlers are required to pay shall be applicable to all free tonnage raisins of the crop year and to all reserve tonnage raisins released or sold to handlers, during the crop year; and (2) the current crop year began on September 1, 1967, and the rate of assessment fixed herein will automatically apply to all such raisins beginning with that date.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 14, 1967.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67–13008; Filed, Nov. 17, 1967; 8:46 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., 1967-Crop Rice Supp., Amdt. 1]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1967 Crop Price Loan and Purchase Program

BASIC SUPPORT RATES

The regulations issued by the Commodity Credit Corporation, published in 32 F.R. 8629 and setting forth requirements with respect to price support for 1967-crop rice, are amended as follows:

Section 1421.2783(a) is amended to add the variety Dawn to Group II of the value factors for head and broken rice and reads as follows:

§ 1421.2783 Support rates.

* * * * *

(a) *Basic rates.* * * *

VALUE FACTORS FOR HEAD AND BROKEN RICE

Group	Rough rice class or variety	Head rice	Broken rice
		Cents per pound	
I	Patna (except Bells Patna, and Century Patna) and Rexora (except Rexark).	8.89	3.81
II	Bluebelle, Blue Bonnet, Bells Patna, Vegold, Hira, Rexark, and Dawn.	8.39	3.81
III	Century Patna, Toro, Fortuna, Rex Nira, and Edith.	7.33	3.81
IV	Blue Rose (including Improved Blue Rose, Greater Blue Rose, Kamrose, and Arkrose), Calrose, Gulfrose, Northrose, Lamrose, Magnolia, Nato, Nova, Zenith (including Gold Zenith and Golden Rose), Prelude, Lady Wright, and Saturn.	6.89	3.81
V	Pearl, Early Prolific, Calady, and other varieties.	6.79	3.81

* * * * *

(Sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 401, 62 Stat. 1051, as amended, 1054, sec. 302, 72 Stat. 968; 15 U.S.C. 714c, 7 U.S.C. 1421, 1441)

Effective upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on November 13, 1967.

H. D. GODFREY,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 67-13509; Filed, Nov. 17, 1967; 8:45 a.m.]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 40—LICENSING OF SOURCE MATERIAL

Exemption of Certain Aircraft Engine Parts Containing Nickel-Thoria Alloy

On August 7, 1963, the Atomic Energy Commission published in the FEDERAL REGISTER (28 F.R. 8043) a proposed amendment of § 40.13(c)(4), 10 CFR Part 40, which would have exempted finished products or parts fabricated of, or containing any thorium-metal alloy in which the thorium content in the alloy does not exceed 4 percent by weight. The notice of proposed rule making was published in response to a petition filed by E. I. du Pont de Nemours and Co., Inc., Wilmington, Del., requesting an exemption from licensing requirements for nickel-thorium alloys containing up to 4 percent thorium by weight. Interested persons were invited to submit written comments or suggestions for consideration in connection with the proposed amendment within 30 days after publication of the notice of proposed rule making in the FEDERAL REGISTER.

Subsequent to publication of the proposed exemption for comment, the Commission considered whether this exemption could ultimately result in contamination by thorium of materials used in construction of nuclear reactors, as a result of discarded nickel-thoria parts being incorporated as scrap in the melting of alloys containing nickel. If significant thorium impurities were to be present in materials used in constructing nuclear reactor plants, such impurities could result in additional radioactive fission products in the reactor coolant and potentially in the atmosphere surrounding the reactor plant and in discharged wastes. Among the information considered was the experimental evidence provided by the petitioner on the removal of thoria in slag during metal processing. The petitioner has reported the results of a laboratory experiment that followed commercial melt practices for scrap and fluxing agent additions. These results have shown that essentially all of the thoria introduced into stainless steel and Inconel melting furnaces is separated with the slag. The petitioner also has reported the results of a full-scale melt of Hastelloy alloy X to which a large quantity of nickel-thoria scrap was added. These results also have shown that more than 99 percent of the thoria was removed in the slag and the thorium content in the finished Hastelloy alloy X was substantially below the limits of concern with respect to reactor construction material contamination.

On the basis of currently available data, the Commission has concluded that the thoria (thorium dioxide) covered by this exemption would normally be removed with slag in melting steel and nickel base alloys. Therefore, the Commission considers it unlikely that carryover of thorium during melting of metal scrap, generated in the use of nickel-thoria alloys in jet aircraft engine parts, will contaminate nuclear reactor construction materials to a level which would increase reactor plant radioactivity levels. It is noted, however, that the data on removal of thorium in the metal processing are directly applicable only to thorium dispersed in nickel-thoria alloys in the form of finely divided thoria (thorium dioxide) and the exemption has been limited accordingly.

In order to continue verification that contamination of reactor construction materials by thorium or other similar impurities does not occur or build up over an extended period of time, the Commission will arrange periodically to sample reactor construction materials for thorium and other contaminants. If this periodic sampling shows an increasing thorium level in such materials, the regulation set forth below may be amended from time to time to effect licensing controls to prevent the thorium contained in discarded nickel-thoria aircraft engine parts from contaminating materials used for construction of nuclear reactors.

The Commission will also apply, if determined necessary, specification limits on the amount of thorium and other similar materials allowed as trace contaminants in materials used for construction of nuclear reactors. These limits would differ for different contaminants and for varying reactor uses.

The amendment published below differs from the proposed rule published in the FEDERAL REGISTER (28 F.R. 8043) in the following respects:

1. The exemption has been restricted to thorium contained in any finished aircraft engine part containing nickel-thoria alloy: *Provided*, That: (a) The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide); and (b) the thorium content in the nickel-thoria alloy does not exceed 4 percent by weight.

2. The exemption is in the form of a new § 40.13(c)(8) rather than an amendment of § 40.13(c)(4) as proposed. No change is being made at this time in the exemption for thorium in tungsten-thorium and magnesium-thorium alloys presently provided in § 40.13(c)(4).

3. The exemption adopted permits the conduct of activities such as repair of finished aircraft engine parts containing nickel-thoria alloy, and the handling and processing of nickel-thoria scrap by scrap dealers and processors. An analysis of the potential health hazards shows that it is highly unlikely that the small number of workers carrying out such operations involving nickel-thoria alloys will be exposed to radiation or airborne concentrations of radioactive material in excess of limits recommended by the International Commission on Radiological Protection for individuals in the general public when averaged over a period of 1 year.

4. Present subparagraph (8) of § 40.13(c) has been redesignated subparagraph (9).

5. Present paragraph (d) of § 40.23 has been redesignated paragraph (e) and a new paragraph (d) has been added to § 40.23 to provide a general license for the export to countries or destinations other than those listed in § 40.90, Southern Rhodesia and Cuba, of thorium contained in finished aircraft engine parts containing nickel-thoria alloy, provided that: (a) The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide); and (b) the thorium content in the nickel-thoria alloy does not exceed 4 percent by weight.

The foregoing revisions reflect further Commission consideration of the proposed amendment, including additional information and data received after the notice of proposed rule making was published on August 7, 1963.

The Commission has found that the receipt, possession, use, transfer, and import into the United States of thorium contained in any finished aircraft engine part containing nickel-thoria alloy, pursuant to the exemption in § 40.13(c)(8) published below, involve unimportant quantities of source material within the meaning of section 62 of the Atomic Energy Act of 1954, as amended, which are not of significance to the common defense and security, and that such activities can be conducted without unreasonable hazard to life or property. The Commission has also found that the export of thorium in finished aircraft engine parts, pursuant to the general license in § 40.23(d) published below, will not be inimical to the interests of the United States.

The Commission considers that finished aircraft engine parts containing nickel-thoria alloy are not products intended for use by the general public within the purview of § 150.15(a)(6) of 10 CFR Part 150, "Exemptions and Continued Regulatory Authority in Agreement States Under Section 274". Accordingly, the transfer of possession or control of such finished aircraft engine parts in agreement States[1] by the manufacturer, processor, or producer would not be regulated by the Commission.

Pursuant to the Atomic Energy Act of 1954, as amended, and the Administrative Procedure Act of 1946, as amended, the following amendments of 10 CFR Part 40 are published as a document subject to codification, to be effective thirty (30) days after publication in the FEDERAL REGISTER.

1. Subparagraph (8) of § 40.13(c) of 10 CFR Part 40 is redesignated subparagraph (9).

2. Paragraph (c) of § 40.13 of 10 CFR Part 40 is amended by adding a new subparagraph (8) to read as follows:

§ 40.13 Unimportant quantities of source material.

* * * * *

(c) Any person is exempt from the regulations in this part and from the requirements for a license set forth in section 62 of the Act to the extent that such person receives, possesses, uses, transfers, or imports into the United States:

* * * * *

(8) Thorium contained in any finished aircraft engine part containing nickel-thoria alloy, provided that:

(i) The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide); and

(ii) The thorium content in the nickel-thoria alloy does not exceed 4 percent by weight.

* * * * *

3. Paragraph (d) of § 40.23 of 10 CFR Part 40 is redesignated paragraph (e) and the following new paragraph (d) is added to § 40.23 to read as follows:

§ 40.23 General licenses to export.

* * * * *

(d) A general license designated AEC-GRO-SMD is hereby issued authorizing the export from the United States to any foreign country or destination, except Southern Rhodesia, Cuba or countries or destinations listed in § 40.90, of thorium contained in finished aircraft engine parts containing nickel-thoria alloy, provided that:

(1) The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide); and

(2) The thorium content in the nickel-thoria alloy does not exceed 4 percent by weight.

* * * * *

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201. Interpret or apply secs. 62, 64, 68 Stat. 932, 933; 42 U.S.C. 2092, 2094)

Dated at Germantown, Md., this fourteenth day of November 1967.

For the Atomic Energy Commission.

W. B. MCCOOL,
Secretary.

[F.R. Doc. 67-13683; Filed, Nov. 17, 1967; 8:49 a.m.]

[1] States to which the Commission has transferred certain regulatory authority over radioactive material by formal agreement, pursuant to section 274 of the Atomic Energy Act of 1954, as amended.

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Amdt. 9]

PART 101—ADMINISTRATION

List of Public-Use SBA Forms

Correction

In F.R. Doc. 67-13530 appearing at page 15806 in the issue of Friday, November 17, 1967, the date "Nov. 20, 1967" in the file line on page 15806 should read "Nov. 16, 1967".

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

SUBCHAPTER C—AIRCRAFT

[Docket No. 8844; Amdt. 39-512]

PART 39—AIRWORTHINESS DIRECTIVES

British Aircraft Corp. Model BAC 1-11 203/AE, 204/AF, and 212/AR Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring the relocation of the fuel line couplings at Station 630 on British Aircraft Corp. Model BAC 1-11 203/AE, 204/AF, and 212/AR airplanes was published in 32 F.R. 12065.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BRITISH AIRCRAFT. Applies to Model BAC 1-11 203/AE, 204/AF, and 212/AR airplanes.

Compliance required within the next 3,000 hours' time in service after the effective date of this AD, unless already accomplished. To avoid the possibility of a fuel leak within the pressurized area, relocate the left and right fuel line couplings from Station 630 to a point 3 inches forward, in accordance with British Aircraft Corp. BAC 1-11 Service Bulletin No. 28-PM 2914, dated May 12, 1967, or later ARB-approved issue, or an equivalent approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region.

This amendment becomes effective December 18, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on November 9, 1967.

JAMES F. RUDOLPH,
Director, Flight Standards Service.

[F.R. Doc. 67-13594; Filed, Nov. 17, 1967; 8:47 a.m.]

[Docket No. 8364; Amdt. 39-513]

PART 39—AIRWORTHINESS DIRECTIVES

Hawker Siddeley, de Havilland Model 104 Dove Series Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring the periodic inspection of the wing root joint fittings of Hawker Siddeley de Havilland

Model 104 Dove Series airplanes for cracks and the repair or replacement of defective parts was published in 32 F.R. 12921.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

HAWKER SIDDELEY. Applies to de Havilland Model 104 Dove Series airplanes.

Compliance required as indicated.

To prevent possible fatigue failure of the wing main lower root joint fitting, accomplish the following, unless already accomplished:

(a) Within the next 300 hours' time in service after the effective date of this AD, or 5 years from the production date of the airplane, or 5 years from any identical previous inspection, whichever occurs latest, and thereafter at intervals not to exceed 5,400 hours' time in service or 6 years, whichever occurs first, from the last inspection, inspect the wing main lower root joint assembly in accordance with Hawker Siddeley Technical News Sheet, CT (104) No. 168, Issue 3, Amendment 2, dated February 13, 1967, or later ARB-approved issue, or an equivalent approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region.

(b) If deficiencies are detected during the inspection required by paragraph (a) which cannot be corrected in the manner specified in Hawker Siddeley Technical News Sheet, CT (104) No. 168, Issue 3, Amendment 2, dated February 13, 1967, or an equivalent approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region, before further flight replace defective parts with serviceable parts of the same part number or an equivalent approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region.

(c) Magnetic particle and dye penetrant methods of inspection may be used in lieu of the crack testing methods set forth in Hawker Siddeley Technical News Sheet, CT (104) No. 168, Issue 3, Amendment 2, dated February 13, 1967.

(d) Jointing, antifretting and anticorrosion, and sealing compounds which are equivalent to the commercially designated compounds in Hawker Siddeley Technical News Sheet, CT (104) No. 168, Issue 3, Amendment 2, dated February 13, 1967, may be used.

This supersedes Amendment 168 (26 F.R. 4869), AD 60-13-3.

This amendment becomes effective December 18, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on November 9, 1967.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[F.R. Doc. 67-13506; Filed, Nov. 17, 1967; 8:47 a.m.]

RULES AND REGULATIONS

SUBCHAPTER E—AIRSPACE

[Airspace Docket No. 67-WA-94]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Revocation of Reporting Point

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to revoke the Shuyak, Alaska, low-altitude reporting point.

In a separate amendment to Part 71 of the Federal Aviation Regulations, (32 F.R. 14590) Red 40 Federal airway was redesignated in part from the Kodiak, Alaska, radio range, direct to the Homer, Alaska, radio range, to become effective December 7, 1967. This realignment of Red 40 obviated the need for the Shuyak low-altitude reporting point. Accordingly, action is taken herein to revoke this reporting point.

Since this amendment is minor in nature and involves a subject in which the public is not particularly interested, notice and public procedure are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., December 7, 1967, as hereinafter set forth:

Section 71.211 (32 F.R. 2287) is amended by deleting "Shuyak, Alaska, RBN."

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on November 13, 1967.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-13505; Filed, Nov. 17, 1967; 8:47 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 8664 c.]

PART 13—PROHIBITED TRADE PRACTICES

Gladstone-Arcuni, Inc.

Subpart—Discriminating in price under section 2, Clayton Act—Payment for services or facilities for processing or sale under 2(d): § 13.824 *Advertising expenses;* § 13.825 *Allowances for services or facilities.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 2, 49 Stat. 1526; 15 U.S.C. 13) [Cease and desist order, Gladstone-Arcuni, Inc., New York, N.Y., Docket 8664, Nov. 2, 1967]

Order requiring a New York City manufacturer of women's dresses to cease discriminating among its customers in the payment of promotional allowances.

The order to cease and desist is as follows:

It is ordered, That respondent Gladstone-Arcuni, Inc., a corporation, its officers, directors, agents, representatives, and employees, directly or through any corporate or other device, in the course and conduct of its business in commerce, as "commerce" is defined in the Clayton Act, as amended, do forthwith cease and desist from: Paying or contracting for the payment of anything of value to, or for the benefit of, any customer of the respondent as compensation for or in consideration of advertising or promotional services, or any other service or facility furnished by or through such customer in connection with the handling, sale, or offering for sale of wearing apparel products manufactured, sold, or offered for sale by respondent, unless such payment or consideration is made available on proportionally equal terms to all other customers competing with such favored customer in the distribution or resale of such products.

By "Final Order" further order requiring report of compliance is as follows:

It is further ordered, That respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with the order to cease and desist.

Issued: November 2, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 67-13508; Filed, Nov. 17, 1967; 8:46 a.m.]

[Docket No. C-1265]

PART 13—PROHIBITED TRADE PRACTICES

Wendy Coat Co., Inc., and Myles Rose

Subpart—Misbranding or misiabeling: § 13.1185 *Composition:* 13.1185-90 Wool Products Labeling Act; § 13.212 *Formal regulatory and statutory requirements:* 13.1212-90 Wool Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition:* 13.1845-90 Wool Products Labeling Act; § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-90 Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; secs. 2-5, 54 Stat. 1128-1130; 15 U.S.C. 45, 68) [Cease and desist order, Wendy Coat Co., Inc., et al., New York, N.Y., Docket C-1265, Nov. 3, 1967]

Consent order requiring a New York City manufacturer of ladies' coats to cease misbranding its wool products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Wendy Coat Co., Inc., a corporation, and its officers, and Myles Rose, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment, or shipment in commerce, of ladies' woolen coats, or other wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from:

A. Misbranding such products by:

1. Falsely and deceptively stamping, tagging, labeling, or otherwise identifying such products as to the character or amount of the constituent fibers contained therein.

2. Failing to securely affix to, or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

3. Failing to affix labels or other markings to samples, swatches, and specimens of wool products used to promote or effect sales of such wool products in commerce, showing in words and figures plainly legible all of the information required to be disclosed by each of the subsections of section 4(a)(2) of the Wool Products Labeling Act of 1939.

4. Failing to set forth the fiber content of linings, composed of pile fabrics or of fabrics incorporated into woolen garments or articles of wearing apparel for warmth, separately and distinctly, in the stamp, tag, label, or other mark of identification of such wool products.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: November 3, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 67-13581; Filed, Nov. 17, 1967; 8:46 a.m.]

[Docket No. C-1266]

PART 13—PROHIBITED TRADE PRACTICES

Werts Novelty Co., Inc., and O. Norman Wilner

Subpart—Using, selling, or supplying lottery devices: § 13.2475 *Devices for lottery selling.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Werts Novelty Co., Inc., et al., Muncie, Ind., Docket C-1266, Nov. 3, 1967]

Consent order requiring a Muncie, Ind., corporation to cease using punchboards and other such devices to sell its merchandise by games of chance, gift enterprise, or lottery scheme.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That the respondents Werts Novelty Co., Inc., a corporation, and its officers, and O. Norman Wilner, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, do forthwith cease and desist from: Selling or distributing in commerce, as "commerce" is defined in the Federal Trade Commission Act, punchboards or other devices, which are designed or intended to be used in the sale or distribution of merchandise to the public by means of a game of chance, gift enterprise, or lottery scheme.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: November 3, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 67-13582; Filed, Nov. 17, 1967; 8:46 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER D—HAZARDOUS SUBSTANCES

PART 191—HAZARDOUS SUBSTANCES; DEFINITIONS AND PROCEDURAL AND INTERPRETATIVE REGULATIONS

Labeling of Ethylene Glycol-Base Radiator Antifreeze

The Commissioner of Food and Drugs has received a request that the hazardous substances regulations (21 CFR Part 191) be amended to provide a satisfactory warning statement for containers of ethylene glycol-base radiator antifreeze and ethylene glycol-base radiator antifreeze with added sodium arsenite. Having considered this request, and other relevant information, the Commissioner has concluded that Part 191 should be amended to provide interested persons an acceptable warning statement for such antifreeze.

Therefore, pursuant to the provisions of the Federal Hazardous Substances Act (sec. 10(a), 74 Stat. 378; 15 U.S.C. 1269) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), Part 191 is amended by adding thereto the following new section:

§ 191.112 Ethylene glycol-base radiator antifreeze; labeling.

(a) Ethylene glycol-base radiator antifreeze distributed in containers intended or suitable for household use may be misbranded under the act if the containers fail to bear a warning statement adequate for the protection of the public health and safety, except as otherwise provided pursuant to section 3 of the act.

(b) The following warning statements will be considered as meeting the requirements of section 2(p)(1) of the act and § 191.7(b)(4) with respect to ethylene glycol-base radiator antifreeze, with and without added sodium arsenite of over 0.01 percent by weight, when the only hazard foreseeable is that caused by the ethylene glycol and (if present) the added sodium arsenite:

(1) Ethylene glycol antifreeze containing less than 0.01 percent by weight of sodium arsenite.

WARNING—HARMFUL OR FATAL IF SWALLOWED

Do not drink antifreeze or solution. If swallowed, induce vomiting immediately. Call a physician. Ethylene glycol base. Do not store in open or unlabeled containers. Keep out of reach of children.

(2) Ethylene glycol antifreeze containing 0.01 percent but no more than 1 percent by weight of sodium arsenite.

WARNING—HARMFUL OR FATAL IF SWALLOWED

Do not drink antifreeze or solution. If swallowed, induce vomiting immediately. Call a physician. Ethylene glycol base containing sodium arsenite (less than 1%).

Antidote for sodium arsenite: Dimercaprol (BAL) to be administered only by a physician.

Do not store in open or unlabeled containers. Keep out of reach of children.

(c) The words that are in capital letters in the warning statements set forth in paragraph (b) of this section should be printed on the main (front) panel or panels of the container in capital letters of the type size specified in § 191.101(c). The balance of the cautionary statements may appear together on another panel provided the front panel bears a statement such as "Read carefully other cautions on ---------- panel."

Notice and public procedure are unnecessary prerequisites to the promulgation of this order, and I so find, since this amendment provides interested persons uniform labeling for the subject article and will not cause labeling changes for articles that bear labeling equivalent to that provided herein.

Effective date. This order shall become effective 90 days from its date of publication in the FEDERAL REGISTER.

(Sec. 10(a), 74 Stat. 378; 15 U.S.C. 1269)

Dated: November 13, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-13612; Filed, Nov. 17, 1967; 8:48 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6934]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Identification of Bookentry Treasury Securities; Correction

T.D. 6934, as published in the FEDERAL REGISTER for November 14, 1967 (32 F.R. 15671), refers to Treasury Department Circular No. 137 and should have referred to Treasury Department Circular No. 176. Accordingly, subdivision (ii) (a) (2) of § 1.1012-1(c)(7) of the Income Tax Regulations (26 CFR Part 1), as prescribed by T.D. 6934, is corrected to read as follows: "(2) as collateral pledged to the United States under Treasury Department Circular No. 92 or 176, both as revised and amended, and".

JAMES F. DRING,
Director, Legislation and Regulations Division.

[F.R. Doc. 67-13668; Filed, Nov. 17, 1967; 10:26 a.m.]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter X—Oil Import Administration, Department of the Interior

OI REG. 2—RULES FOR PROCEEDINGS FOR THE SUSPENSION OR REVOCATION OF ALLOCATIONS AND LICENSES

Sec.
1 Purpose.

PROCEEDINGS PRIOR TO HEARING

2 Notice of hearing or opportunity for hearing.
3 Answer to notice.
4 Request for hearing.
5 Failure to request a hearing; failure both to request a hearing and to answer.
6 Who presides.
7 Authority of presiding officer.
8 Testimony and cross-examination.
9 Exhibits.
10 Affidavits.
11 Depositions.
12 Admissions as to facts and documents.
13 Evidence.
14 Offer of proof.
15 Briefs; proposed findings and conclusions.

THE RECORD

16 Official transcript.
17 Record for decision; record to be public.

DECISIONS

18 Decisions by the Administrator.
19 Decisions by Hearing Examiner.

GENERAL PROVISIONS

Sec.
20 Service—how made.
21 Date of service.
22 Certificate of service.
23 Service on all parties.
24 Extension of time or postponement.
25 Computation of time.
26 Parties.
27 Suspension of rules.

AUTHORITY: Sections 1 to 26 issued under Proclamation 3279, 24 F.R. 1781.

Section 1 Purpose.

Section 20 of Oil Import Regulation 1 provides for a formal proceeding looking to the suspension or revocation of any allocation or license to import crude oil, unfinished oils, or finished products issued under that regulation on grounds relating to the national security, or for violation of the terms of Proclamation 3279, Oil Import Regulation 1, or allocations and licenses issued pursuant thereto. This Oil Import Regulation 2 comprises rules of procedure for such proceedings. The definitions set forth in section 22 of Oil Import Regulation 1 apply also to this Oil Import Regulation 2.

PROCEEDINGS PRIOR TO HEARING

Sec. 2 Notice of hearing or opportunity for hearing.

A proceeding is initiated by mailing to an allocation holder a notice of hearing fixing a date therefor or a notice of an opportunity for a hearing. Such a notice advises him of the action proposed to be taken, the specific provision of Oil Import Regulation 1 under which the proposed action is to be taken, and the matters of fact or law asserted as the basis of the action.

Sec. 3 Answer to notice.

The allocation holder may file an answer to the notice within 20 days after service thereof. The answer shall admit or deny specifically and in detail each allegation of the notice, unless the allocation holder is without knowledge, in which case his answer should so state, and the statement will be deemed a denial. Allegations of fact in the notice not denied or controverted by answer shall be deemed admitted. Matters alleged as affirmative defenses shall be separately stated and numbered. Failure of the allocation holder to file an answer within the 20-day period following service of the notice may be deemed a confession of all matters of fact recited in the notice.

Sec. 4 Request for hearing.

Within 20 days after service of a notice of opportunity for hearing which does not fix a date for hearing, the respondent, either in his answer or in a separate document, may request a hearing.

Sec. 5 Failure to request a hearing; failure both to request a hearing and to answer.

The failure of the allocation holder to request a hearing shall be deemed a waiver of hearing and consent to submission of the case to the presiding officer for decision on the written record. The failure of an allocation holder to file an answer and to request a hearing shall be deemed a waiver of all right to participate in the proceeding and to constitute his consent to the making of a decision on the basis of such information as is available.

PRESIDING OFFICER

Sec. 6 Who presides.

Either a hearing examiner or the Administrator will be the presiding officer in each proceeding.

Sec. 7 Authority of presiding officer.

The presiding officer may:

(a) Arrange and issue notice of the date, time, and place of hearings, or, upon due notice to the parties, change the date, time, or place of hearings previously set;

(b) Hold conferences to settle, simplify, or fix the issues in a proceeding or to consider other matters that may aid in the expeditious disposition of the proceeding;

(c) Require parties to state their position with respect to the various issues in the proceeding;

(d) Administer oaths and affirmations;

(e) Rule on motions, including motions to intervene, and other procedural matters;

(f) Regulate the course of the hearing and the conduct of persons therein;

(g) Examine witnesses and direct witnesses to testify;

(h) Receive, rule on, exclude or limit evidence;

(i) Fix the time for filing motions, briefs, or other matters; and

(j) Take any action authorized by this regulation.

HEARING PROCEDURES

Sec. 8 Testimony and cross-examination.

Testimony at a hearing shall be given under oath or affirmation. The presiding officer may require or permit that the direct testimony of any witness be prepared in writing and be submitted in advance of the hearing. Such testimony may be adopted by the witness at the hearing and filed as part of the record thereof. Unless authorized by the presiding officer, a witness will not be permitted to read prepared testimony into the record. A witness may be cross-examined on any matter material to the proceeding without regard to the scope of his direct examination.

Sec. 9 Exhibits.

Each exhibit should have a brief title endorsed upon it or attached to it stating what it purports to show. Exhibits comprising statistical compilations and calculations should show the sources of the information used and the statistical methods employed.

Sec. 10 Affidavits.

An affidavit is not inadmissible as such. Unless the presiding officer fixes another time, affidavits shall be filed not later than 15 days prior to the hearing.

Sec. 11 Depositions.

The presiding officer may authorize the testimony of any witness to be taken by deposition.

Sec. 12 Admissions as to facts and documents.

Not later than 15 days prior to the scheduled date of the hearing, any party may serve upon an opposing party a written request for the admission of the genuineness and authenticity of any relevant documents described in and exhibited with the request, or for the admission of the truth of any relevant matters of fact stated in the request. Each of the matters in respect of which an admission is requested shall be deemed admitted, unless, within a period designated in the request (not less than 10 days after service thereof) or within such further time as the presiding officer may allow upon motion and notice, the party to whom the request is directed serves upon the requesting party a sworn statement either denying specifically the matters in respect of which an admission is requested or setting forth in detail the reasons why he cannot truthfully either admit or deny such matters. Copies of requests for admission and answers thereto shall be served on all parties. Any admission made by a party to such request is only for the purposes of the pending proceeding or any proceeding or action instituted for the enforcement of any order entered in the pending proceeding and shall not constitute an admission by him for any other purpose or be used against him in any other proceeding or action.

Sec. 13 Evidence.

Technical rules of evidence shall not apply to a hearing, but the presiding officer shall seek to obtain the production of the most credible evidence available and may exclude irrelevant, immaterial, or repetitious evidence. Objections to evidence shall be timely and briefly state the ground relied upon.

Sec. 14 Offer of proof.

If the presiding officer sustains an objection to the admission of evidence, the party affected may submit for the record as an offer of proof a summary written statement of the substance of the excluded evidence, and the objecting party may make an offer of proof in rebuttal.

Sec. 15 Briefs; proposed findings and conclusions.

At the conclusion of a hearing, the presiding officer shall fix the time for filing briefs, which may contain proposed findings of fact and conclusions of law, and if reply briefs are permitted, he shall fix the time for filing such briefs.

THE RECORD

Sec. 16 Official transcript.

A transcript shall be made of the oral evidence given in a hearing. Transcripts of testimony in hearings will be supplied by the official reporter to the parties and to the public at rates not to exceed the maximum rates fixed by contract between the Department and the reporter. Upon notice to all parties, the presiding officer may authorize corrections to the transcript which involve matters of substance.

Sec. 17 Record for decision; record to be public.

The transcript of testimony, exhibits, and all papers and requests filed in the proceedings, shall constitute the exclusive record for decision and may be inspected and copied.

DECISIONS

Sec. 18 Decisions by the Administrator.

(a) The Administrator, having afforded the parties a reasonable time to submit briefs or other written statements of their contentions, shall make a decision in each proceeding in which he is the presiding officer or in which a recommended decision is made by a hearing examiner.

(b) In an instance in which a hearing examiner has made an initial decision, the Administrator may, within 30 days after the issuance of the initial decision, require that the record be certified to him for review. Upon such review, the Administrator, having afforded the parties a reasonable time to submit briefs or other written statements of their contentions, may affirm, modify, or set aside the decision of the hearing examiner.

(c) A decision of the Administrator may be appealed to the Oil Import Appeals Board in accordance with the rules and procedures of that Board (32A CFR Chapter XI).

Sec. 19 Decisions by Hearing Examiner.

In an instance in which a hearing examiner is the presiding officer, the examiner, having afforded the parties a reasonable time to submit briefs or other written statements of their contentions, shall make either an initial decision or a recommended decision, as directed by the Administrator. Unless the Administrator requires that the record be certified to him for review pursuant to paragraph (b) of section 17, an initial decision of the hearing examiner shall constitute the final decision of the Administrator and may be appealed to the Oil Import Appeals Board.

GENERAL PROVISIONS

Sec. 20 Service—how made.

Service shall be made by personal delivery of one copy to each person to be served or by mailing by first-class mail, properly addressed with postage prepaid. When a party has appeared by attorney or other representative, service upon such attorney or representative will be deemed service upon the party.

Sec. 21 Date of service.

The date of service shall be the day when the matter is deposited in the U.S. mail or is delivered in person.

Sec. 22 Certificate of service.

The original of every document filed and required to be served upon parties to a proceeding shall be endorsed with a certificate of service signed by the party making service or by his attorney or representatives, stating that such service has been made, the date of service, and the manner of service, whether by mail or personal delivery.

Sec. 23 Service on all parties.

A hearing examiner and the Administrator shall file and serve on all parties copies of any notices that he may issue and copies of any correspondence that he may have with a party. Each party shall serve on all other parties copies of all documents (such as pleadings, motions, briefs) which the party files with the hearing examiner or the Administrator.

Sec. 24 Extension of time or postponement.

A request for extension of time should be made to a hearing examiner or the Administrator with respect to matters pending before him. Such a request shall be served on all parties and set forth the reasons for the request. Extensions may be granted upon a showing of good cause by the applicant. From the designation of a hearing examiner as presiding officer until the issuance of his decision, such requests should be addressed to him.

Sec. 25 Computation of time.

In computing any period of time under the rules in this part, the period begins with the day following the act or event and includes the last day of the period unless it is a Saturday, Sunday, or Federal legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or Federal legal holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and Federal legal holidays shall be excluded from the computation.

Sec. 26 Parties.

An allocation holder to whom a notice of hearing or a notice of an opportunity for hearing has been mailed shall be a party to the proceeding, as shall the Oil Import Administration. A party may appear in person or by counsel in any proceeding. Individuals may appear in a representative capacity as provided in the regulations on Practice Before the Department of the Interior in 43 CFR Part 1.

Sec. 27 Suspension of rules.

Upon notice to all parties, the Administrator or a hearing examiner may, with respect to matters pending before him, modify or waive any provision of this regulation if he determines that no party will be unduly prejudiced and the ends of justice will thereby be served.

This regulation shall become effective upon publication in the FEDERAL REGISTER.

STEWART L. UDALL,
Secretary of the Interior.

NOVEMBER 15, 1967.

[F.R. Doc. 67-13091; Filed, Nov. 17, 1967; 11:19 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

SPECIAL MONTHLY COMPENSATION RATINGS

In § 3.350(f), subparagraph (3) is amended to read as follows:

§ 3.350 Special monthly compensation ratings.

* * * * *

(f) Intermediate or next higher rate; 38 U.S.C. 314(p). * * *

(3) *Additional independent 50 percent disabilities.* In addition to the statutory rates payable under 38 U.S.C. 314 (l) through (n) and the intermediate or next higher rate provisions outlined above, additional single permanent disability or combinations of permanent disabilities independently ratable at 50 percent or more will afford entitlement to the next higher intermediate rate or if already entitled to an intermediate rate to the next higher statutory rate under 38 U.S.C. 314, but not above the (o) rate. In the application of this subparagraph the disability or disabilities independently ratable at 50 percent or more must be separate and distinct and involve different anatomical segments or bodily systems from the conditions establishing entitlement under 38 U.S.C. 314 (l) through (n) or the intermediate rate provisions outlined above. The graduated ratings for arrested tuberculosis (38 U.S.C. 356) will not be utilized in this connection, but the permanent residuals of tuberculosis may be utilized.

* * * * *

(72 Stat. 1114; 38 U.S.C. 210)

This VA regulation is effective October 1, 1967.

By direction of the Administrator.

Approved: November 13, 1967.

[SEAL] A. H. MOSE,
Acting Deputy Administrator.

[F.R. Doc. 67-13089; Filed, Nov. 17, 1967; 8:48 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4819]

[Oregon 598; 1329; 1298 (Wash.)]

OREGON AND WASHINGTON

Withdrawal for National Forest Administrative Sites and Recreation Area

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

WILLAMETTE MERIDIAN, OREGON

[Oregon 598]

SIUSLAW NATIONAL FOREST

Waldo Seed Production Area

T. 41 S., R. 8 W.,
Sec. 4, S½ of lot 4, N½SW¼NW¼;
Sec. 5, E½NE¼SE¼NE¼.

[Oregon 1329]

UMATILLA NATIONAL FOREST

Frazier Guard Station Administrative Site

T. 5 S., R. 33½ E.,
Sec. 2, SE¼SW¼SE¼.

WILLAMETTE MERIDIAN, WASHINGTON

[Oregon 1298 (Wash.)]

KAMIAKEN NATIONAL FOREST

Pioneer Park Campground

T. 31 N., R. 43 E.,
Sec. 1, lot 8.

The areas described aggregate 93.63 acres in Josephine, Umatilla, and Pend Oreille Counties.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

NOVEMBER 14, 1967.

[F.R. Doc. 67-13088; Filed, Nov. 17, 1967; 8:48 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

William L. Finley National Wildlife Refuge, Oreg.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER. The limited time ensuing from the date of adoption of the Federal migratory game bird regulations to and including the establishment of State hunting seasons makes it impracticable to give public notice of proposed rule making.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

OREGON

WILLIAM L. FINLEY NATIONAL WILDLIFE REFUGE

Public hunting of ducks, geese, coots, and gallinules on the William L. Finley National Wildlife Refuge, Oreg., is permitted only on the area designated by signs as open to hunting. This open area, consisting of 436 acres, is delineated on maps available at refuge headquarters, William L. Finley National Wildlife Refuge, Corvallis, Oreg. 97330, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 730 Northeast Pacific Street, Portland, Oreg. 97208.

Hunting shall be in accordance with all applicable State and Federal regulations subject to the following special conditions:

(1) The public hunting area will be open to hunting Wednesdays, Saturdays, and Sundays from December 6, 1967, through January 7, 1968. Hunting will be permitted from opening shooting time each day until 12 noon.

(2) A Federal permit is required to enter the public hunting area. Permits will be issued on a reservation basis. Applications for advance reservations will be accepted by mail only, and must be received in the refuge office at least 3 days prior to the date applied for. Hunters may hold only one reservation at any one time. Hunters must check in and out of the hunting area through the manned check station.

(4) Dogs may be used for retrieving.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in 50 CFR Part 32 and are effective through January 7, 1968.

HENRY BAETKEY,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife, Portland, Oreg.

NOVEMBER 8, 1967.

[F.R. Doc. 67-13810; Filed, Nov. 17, 1967; 8:48 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1, 31, 46, 48, 49]

DEPOSIT OF CERTAIN TAXES

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing in duplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 15 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. The proposed regulations are to be issued under the Authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

In order to revise the rules for the deposit of certain income, employment, and excise taxes, the following regulations are amended as follows:

PARAGRAPH 1. Paragraph (a)(1) of § 1.1461-3 is amended to read as follows:

§ 1.1461-3 Payment of withheld tax.

(a) *Payments of tax—(1) Quarterly payments.* Every withholding agent who, pursuant to chapter 3 of the Code, withholds tax during any calendar quarter beginning after December 31, 1966, shall, to the extent such amounts have not been deposited pursuant to § 1.6302-2 with a Federal Reserve bank or an authorized commercial bank, pay such withheld tax to the Director of International Operations, Internal Revenue Service, Washington, D.C. 20225, on or before the last day of the first calendar month following the close of the calendar quarter. Any amounts required to be paid to the Director of International Operations pursuant to this subparagraph shall be made with quarterly transmittal Form 4277, even though the withholding agent has made no deposits pursuant to paragraph (a) of § 1.6302-2 and has no validated depositary receipts to accompany that transmittal form.

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PAR. 2. Paragraph (a) of § 1.6302-1 is amended to read as follows:

§ 1.6302-1 Use of Government depositaries in connection with corporation income and estimated income taxes.

(a) *Requirement.* For taxable years ending on or after December 31, 1967, a corporation (other than a nonresident foreign corporation and, for taxable years ending before Dec. 31, 1969, other than a resident foreign corporation) shall deposit with a Federal Reserve bank all payments of tax imposed by Chapter 1 of the Code (including any payments of estimated tax) on or before the date otherwise prescribed for paying such tax.

* * * * *

PAR. 3. Section 1.6302-2 is amended by revising subparagraphs (1) and (2) of paragraph (a) and by revising paragraphs (b), (c), and (g) to read as follows:

§ 1.6302-2 Use of Government depositaries for payment of tax withheld on nonresident aliens and foreign corporations.

(a) *Time for making deposits*—(1) *Monthly deposits.* Except as provided in subparagraph (2) of this paragraph, every withholding agent who, pursuant to chapter 3 of the Code, withholds during any calendar month other than the last month of a calendar quarter more than $100 in the aggregate shall deposit such aggregate amount with a Federal Reserve bank within 15 days after the close of such calendar month, and who so withholds during the last calendar month of any calendar quarter occurring in a year after 1967 more than $100 in the aggregate shall so deposit such aggregate amount on or before the last day of the first calendar month following the close of the calendar quarter.

(2) *Semimonthly deposits.* Every withholding agent, who, pursuant to chapter 3 of the Code, withholds during any calendar month of a calendar quarter more than $2,500 in the aggregate shall deposit any tax, which is required to be withheld under such chapter during any semimonthly period of the next succeeding calendar quarter, in a Federal Reserve bank within 3 banking days after the close of the semimonthly period during which the amounts to which such withholding relates are paid. For purposes of this subparagraph, the term "semimonthly period" means the first 15 days of a calendar month or the part of a calendar month following the 15th day of such month. A withholding agent will be considered to have complied with the deposit requirements of this subparagraph in respect of any semimonthly period if (i) his deposit for such semimonthly period is made within the time otherwise prescribed, (ii) is not less than 90 percent of the aggregate amount of the tax required to be withheld under chapter 3 of the Code during such semimonthly period, and (iii), if such semimonthly period occurs in a calendar month other than the last month in a calendar quarter, he deposits, within 3 banking days after the 15th day of the month following such calendar month, the balance of any amount withheld during such calendar month and not previously deposited, or if such semimonthly period occurs in the last calendar month in a calendar quarter occurring in a year after 1967, he deposits, on or before the last day of the first calendar month following the close of the calendar quarter, the balance of any amount withheld during such calendar month and not previously deposited. In a case where an adjustment in the amount of a deposit for a semimonthly period is allowed pursuant to paragraph (b) of § 1.1461-4, the 90-percent requirement of subdivision (ii) of this subparagraph will be considered met if the deposit for such period is not less than 90 percent of the aggregate amount of tax required to be withheld during such semimonthly period (determined without regard to such adjustment), reduced by the amount of such adjustment. See paragraph (b) of § 1.1461-4 and example (2) thereunder. For determining the amount of tax required to be withheld under chapter 3 of the Code where there has been a reimbursement of overwithheld tax, see paragraph (a)(2) of § 1.1461-4.

* * * * *

(b) *Depositary forms—(1) Remittances—(i) Deposits for 1967.* Each remittance of amounts required to be deposited by paragraph (a) of this section for 1967 only, shall be accompanied by a Federal Depositary Receipt (Form 450) which shall be prepared in accordance with the instructions applicable thereto. The withholding agent shall forward such remittance, together with such depositary receipt, to a Federal Reserve bank or, at his election to a commercial bank authorized in accordance with Treasury Department Circular No. 848, 31 CFR Part 213, to accept remittances of the taxes for transmission to a Federal Reserve bank. After the Federal Reserve bank has validated the depositary receipt, such depositary receipt will be returned to the withholding agent. For purposes of this subparagraph Form 450 and Treasury Department Circular No. 848 shall be deemed to apply to the tax required to be withheld under chapter 3 of the Code.

(ii) *Deposits for 1968 and subsequent years.* Each remittance of amounts required to be deposited by paragraph (a) of this section for years subsequent to 1967 shall be accompanied by a Federal Tax Deposit, TAX WITHheld at Source on Nonresident Aliens, Foreign Corporations, Tax-Free Covenant Bonds, form (Form 512) which shall be prepared in

accordance with the instructions applicable thereto. The remittance, together with Form 512, shall be forwarded to a Federal Reserve bank, or at the election of the withholding agent to a commercial bank authorized in accordance with Treasury Department Circular No. 1079, 31 CFR Part 214, to accept remittances of the tax for transmission to a Federal Reserve bank. The timeliness of the deposit will be determined by the date of receipt by a Federal Reserve bank or by the authorized commercial bank, whichever is earlier. Each withholding agent making deposits pursuant to this section shall report on the return for the period with respect to which such deposits are made information regarding such deposits in accordance with the instructions applicable to such return.

(2) *Quarterly transmission of depositary receipts for 1967.* For deposits for the year 1967 only, every withholding agent making deposits pursuant to subparagraph (1) (i) of this paragraph shall forward the validated depositary receipts (Form 450) to the Director of International Operations, Internal Revenue Service, Washington, D.C. 20225, on or before the last day of the first calendar month following the close of the calendar quarter during which the tax was withheld to which such receipts apply. The depositary receipts shall be forwarded with quarterly transmittal Form 4277, which shall be prepared in accordance with the instructions applicable thereto and shall identify the withholding agent for whose account such transmittal form is made. In order to secure a proper crediting of deposits or payments of tax for the account of a withholding agent against the tax liability of such withholding agent, the identification of the withholding agent on the quarterly transmittal Form 4277 must conform to the identification of the withholding agent on the annual return of tax on Form 1042 required by paragraph (b) of § 1.1461–2.

(3) *Voluntary deposits.* An amount of tax which is not required to be deposited may nevertheless be deposited if the withholding agent so desires. If such a voluntary deposit is made for 1967, the withholding agent shall make it in ample time to enable the Federal Reserve bank to return the validated receipt to the withholding agent so that it can be transmitted to the Internal Revenue Service in accordance with subparagraph (2) of this paragraph.

(4) *Separation of deposits.* A deposit required by paragraph (a) of this section for any period occurring in 1 calendar year shall be made separately from any deposit for any period occurring in another calendar year. In addition, a deposit required to be made by paragraph (a) of this section shall be made separately from a deposit required by any other section.

(5) *Multiple remittances.* A withholding agent may make one, or more than one, remittance of the amount required to be deposited if each remittance is accompanied by the applicable deposit form.

(6) *Time deemed paid.* In general, amounts deposited under this section shall be considered as paid on the last day prescribed for filing the return (Form 1042) in respect of such tax (determined without regard to any extension of time for filing such return), or at the time deposited, whichever is later. For purposes of section 6511 and the regulations thereunder, relating to period of limitation on credit or refund, if an amount is so deposited prior to April 15th of a calendar year immediately succeeding the calendar year in which occurs the period for which such amount was so deposited, such amount shall be considered as paid on such April 15th.

(c) *Procurement of prescribed forms.* Copies of the applicable deposit form will so far as possible be furnished withholding agents. A withholding agent will not be excused from making a deposit, however, by the fact that no form has been furnished to it. A withholding agent not supplied with the proper form should make application therefor in ample time to make the required deposits within the time prescribed. The withholding agent may secure the form or additional forms by applying therefor and supplying its name, identification number, address, and the taxable period to which the deposits will relate. Copies of Form 450, for deposits for 1967 only, may be secured by application to the district director or to a Federal Reserve bank. The address of the withholding agent as entered on such form should be the address to which the receipt should be returned following validation by the Federal Reserve bank. Copies of Form 512, for deposits only for years subsequent to 1967, may be secured by application therefor to the district director or director of a service center.

* * * * *

(g) *Effective date.* Except as otherwise provided, this section shall apply to tax required to be withheld under chapter 3 of the Code after 1966.

PAR. 4. Paragraph (a) (1) of § 31.6071 (a)–1 is amended to read as follows:

§ 31.6071(a)–1 Time for filing returns and other documents.

(a) *Federal Insurance Contributions Act and income tax withheld from wages*—(1) *Quarterly or annual returns.* Except as provided in subparagraph (4) of this paragraph each return required to be made under § 31.6011(a)–1, in respect of the taxes imposed by the Federal Insurance Contributions Act, or required to be made under § 31.6011(a)–4, in respect of income tax withheld, shall be filed on or before the last day of the first calendar month following the period for which it is made. However, a return may be filed on or before the 10th day of the second calendar month following such period if timely deposits under section 6302(c) of the Code and the regulations thereunder have been made in full payment of such taxes due for the period. For the purpose of the preceding sentence, a deposit which is not required by such regulations in respect of the return period may be made on or before the last day of the first calendar month following the close of such period, and the timeliness of any deposit will be determined by the earliest date stamped on the applicable deposit form by an authorized commercial bank or by a Federal Reserve bank.

* * * * *

PAR. 5. Paragraph (a) of § 31.6302(c)–1 is amended by revising subparagraphs (3) and (4) thereof to read as follows:

§ 31.6302(c)–1 Use of Government depositaries in connection with taxes under Federal Insurance Contributions Act and income tax withheld.

(a) *Requirement.* * * *

(3) *Depositary forms*—(i) *In general.* A deposit required to be made by an employer under subparagraph (1) of this paragraph shall be made separately from any deposit required to be made by him under subparagraph (2) of this paragraph. Similarly, a deposit required to be made by this section shall be made separately from a deposit required by any other section. An employer may make one, or more than one, remittance of the amount required to be deposited. However, a deposit for a period in one calendar quarter shall be made separately from any deposit for a period in another calendar quarter. An amount of tax which is not required to be deposited may nevertheless be deposited if the employer so desires.

(ii) *Deposits for 1967 and prior years.* Each remittance of amounts required to be deposited for periods prior to 1968 shall be accompanied by a Federal Depositary Receipt (Form 450) which shall be prepared in accordance with the instructions applicable thereto. The employer shall forward such remittance, together with such depositary receipt, to a Federal Reserve bank or, at his election, to a commercial bank authorized in accordance with Treasury Department Circular No. 848, 31 CFR Part 213, to accept remittances of the taxes for transmission to a Federal Reserve bank. After the Federal Reserve bank has validated the depositary receipt, such depositary receipt will be returned to the employer. Every employer making deposits pursuant to this section shall attach to his return for the period with respect to which such deposits are made, in part or in full payment of the taxes shown thereon, depositary receipts so validated, and shall pay the balance, if any, of the taxes due for such period. If a voluntary deposit for a period prior to 1968 is made, the employer shall make it in ample time to enable the Federal Reserve bank to return the validated receipt to the employer so that it can be attached to and filed with the employer's return.

(iii) *Deposits for 1968 and subsequent years.* Each remittance of amounts required to be deposited under subparagraph (1) of this paragraph for periods subsequent to 1967 shall be accompanied by a Federal Tax Deposit, Withheld Income and FICA Taxes, form (Form 501). Each remittance of amounts required to be deposited under subparagraph (2) of this paragraph for years subsequent to 1967 shall be accompanied by a Federal Tax Deposit, FICA Taxes (Employer and Employee Taxes) for Agricultural Workers, form (Form 511). Such forms shall be prepared in accordance with the instructions applicable thereto. The remittance, together with Form 501, or Form 511, as the case may be, shall be forwarded to a Federal Reserve bank or, at the election of the employer, to a commercial bank authorized in accordance with Treasury Department Circular No. 1079, 31 CFR Part 214, to accept remittances of the taxes for transmission to a Federal Reserve bank. The timeliness of the deposit will be determined by the date of receipt by a Federal Reserve bank or by the authorized commercial bank, whichever is earlier. Each employer making deposits pursuant to this section shall report on the return for the period with respect to which such deposits are made information regarding such deposits in accordance with the instructions applicable to such return and pay therewith (or deposit by the due date of such return) the balance, if any, of the taxes due for such period.

(iv) *Time deemed paid.* In general, amounts deposited under subdivision (iii) of this subparagraph shall be considered as paid on the last day prescribed for filing the return in respect of such tax (determined without regard to any extension of time for filing such return), or at the time deposited, whichever is later. For purposes of section 6511 and the regulations thereunder, relating to period of limitation on credit or refund, if an amount is so deposited prior to April 15th of a calendar year immediately succeeding the calendar year which contains the period for which such amount was so deposited, such amount shall be considered as paid on such April 15th.

(4) *Procurement of prescribed forms.* Copies of the applicable deposit form will so far as possible be furnished employers. An employer will not be excused from making a deposit, however, by the fact that no form has been furnished to it. An employer not supplied with the proper form should make application therefor in ample time to make the required deposits within the time prescribed. The employer may secure the form or additional forms by applying therefor and supplying his name, identification number, address, and the taxable period to which the deposits will relate. Copies of Form 450 for deposits for periods prior to 1968 may be secured by application to the district director or to a Federal Reserve bank. The address of the employer as entered on such form should be the address to which the receipt should be returned following validation by the Federal Reserve bank. Copies of Form 501 and Form 511 for deposits for periods subsequent to 1967 may be secured by application therefor to the district director or director of a service center.

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PAR. 6. Section 31.6302(c)–2 is amended by revising paragraphs (b) and (c) thereof to read as follows:

§ 31.6302(c)–2 Use of Government depositaries in connection with employee and employer taxes under Railroad Retirement Tax Act.

* * * * *

(b) *Depositary forms*—(1) *In general.* A deposit required to be made by this section shall be made separately from a deposit required by any other section. An employer may make one, or more than one remittance of the amount required to be deposited. An amount of tax which is not required to be deposited may nevertheless be deposited if the employer so desires. If the aggregate amount of the taxes deposited is in excess of the taxes shown on the return, a credit or refund may be obtained; and in the event the excess is applied as a credit against such taxes for a subsequent return period, the employer shall reduce the amount of one or more of the deposits otherwise required for such subsequent return period by the amount of such credit.

(2) *Deposits for 1967 and prior years.* Each remittance of amounts required to be deposited for periods prior to 1968 shall be accompanied by a Railroad Retirement Depositary Receipt (Form 515) which shall be prepared in accordance with the instructions applicable thereto. The employer shall forward such remittance, together with such depositary receipt, to a Federal Reserve bank or, at his election, to a commercial bank authorized in accordance with Treasury Department Circular No. 848, 31 CFR Part 213, to accept remittances of the taxes for transmission to a Federal Reserve bank. After the Federal Reserve bank has validated the depositary receipt, such depositary receipt will be returned to the employer. Every employer making deposits pursuant to this section shall attach to his return for the period with respect to which such deposits are made, in part or in full payment of the taxes shown thereon, depositary receipts so validated, and shall pay the balance, if any, of the taxes due for such period. If a voluntary deposit for a period prior to 1968 is made, the employer shall make it in ample time to enable the Federal Reserve bank to return the validated receipt to the employer so that it can be attached to and filed with the employer's return.

(3) *Deposits for 1968 and subsequent years.* Each remittance of amounts required to be deposited for periods subsequent to 1967 shall be accompanied by a Federal Tax Deposit, Railroad Retirement Taxes, form (Form 507) which shall be prepared in accordance with the instructions applicable thereto. The remittance, together with Form 507, shall be forwarded to a Federal Reserve bank or, at the election of the employer, to a commercial bank authorized in accordance with Treasury Department Circular No. 1079, 31 CFR Part 214, to accept remittances of the taxes for transmission to a Federal Reserve bank. The timeliness of the deposit will be determined by the date of receipt by a Federal Reserve bank or by the authorized commercial bank, whichever is earlier. Each employer making deposits pursuant to this section shall report on the return for the period with respect to which such deposits are made information regarding such deposits in accordance with the instructions applicable to such return and pay therewith (or deposit by the due date of such return) the balance, if any, of the taxes due for such period.

(4) *Time deemed paid.* In general, amounts deposited under subparagraph (3) of this paragraph shall be considered as paid on the last day prescribed for filing the return in respect of such tax (determined without regard to any extension of time for filing such return), or at the time deposited, whichever is later. For purposes of section 6511 and the regulations thereunder, relating to period of limitation on credit or refund, if an amount is so deposited prior to April 15th of a calendar year immediately succeeding the calendar year in which occurs the period for which such amounts was so deposited, such amount shall be considered as paid on such April 15th.

(c) *Procurement of prescribed forms.* Copies of the applicable deposit form will so far as possible be furnished employers. An employer will not be excused from making a deposit, however, by the fact that no form has been furnished to it. An employer not supplied with the proper form should make application therefor in ample time to make the required deposits within the time prescribed. The employer may secure the form or additional forms by applying therefor and supplying his name, identification number, address, and the taxable period to which the deposits will relate. Copies of Form 515 for periods prior to 1968 may be secured by application to the district director or to a Federal Reserve bank. The address of the employer as entered on such form should be the address to which the receipt should be returned following validation by the Federal Reserve bank. Copies of Form 507 for periods subsequent to 1967 may be secured by application therefor to the district director or director of a service center.

PAR. 7. Paragraph (a) of § 46.6071(a)–1 is amended to read as follows:

§ 46.6071(a)–1 Time for filing returns.

(a) *Quarterly returns.* Each return required to be made under paragraph (a) of § 46.6011(a)–1 for a return period of not less than one calendar quarter shall be filed on or before the last day of the first calendar month following the period for which it is made. However, a return may be filed on or before the 10th day of the second calendar month following such period if timely deposits under section 6302(c) of the Code and the regulations thereunder have been made in full payment of such taxes due for the period. For the purpose of the preceding sentence, a deposit which is not required by such regulations in respect of the return period may be made on or before the last day of the first calendar month following the close of such period, and the timeliness of any deposit will be determined by the earliest date stamped on the applicable deposit form by an authorized commercial bank or by a Federal Reserve bank.

* * * * *

PAR. 8. Section 46.6302(c)–1 is amended by deleting subparagraph (2) of paragraph (a), revising paragraph (c) and by adding at the end thereof a new paragraph (d). The revised and added paragraphs read as follows:

§ 46.6302(c)–1 Use of Government depositaries.

* * * * *

(c) *Depositary forms*—(1) *In general.* A person required to make deposits by paragraph (a) of this section may make one, or more than one, remittance of the amount required to be deposited. An amount of such tax which is not required to be deposited may nevertheless be deposited if the person liable for the tax so desires.

(2) *Deposits for 1967 and prior years.* Each remittance of amounts required to be deposited for periods prior to 1968 shall be accompanied by a Depositary Receipt for Federal Excise Taxes (Form 537) which shall be prepared in accordance with the instructions applicable thereto. The person so required to deposit shall forward such remittance, together with such depositary receipt, to a Federal Reserve bank or, at his election, to a commercial bank authorized in accordance with Treasury Department Circular No. 848, 31 CFR Part 213, to accept remittances of the taxes for transmission to a Federal Reserve bank. After the Federal Reserve bank has validated the depositary receipt, such depositary receipt will be returned to the person. Every person making deposits pursuant to this section shall attach to his return for the period with respect to which such deposits are made, in part or in full payment of the taxes shown thereon, depositary receipts so validated, and shall pay the balance, if any, of the taxes due for such period. If a voluntary deposit for a period prior to 1968 is made, the person liable for the tax shall make it in ample time to enable the Federal Reserve bank to return the validated receipt to the person so that it can be attached to and filed with the person's return.

(3) *Deposits for 1968 and subsequent years.* Each remittance of amounts required to be deposited for periods subsequent to 1967 shall be accompanied by a Federal Tax Deposit, Excise Taxes, form (Form 504) which shall be prepared in accordance with the instructions applicable thereto. The remittance, together with Form 504, shall be forwarded to a Federal Reserve bank or, at the election of the person making the remittance, forwarded to a commercial bank authorized in accordance with Treasury Department Circular No. 1079, 31 CFR Part 214, to accept remittances of the taxes for transmission to a Federal Reserve bank. The timeliness of the deposit will be determined by the date of receipt by a Federal Reserve bank or by the authorized commercial bank, whichever is earlier. Each person making deposits pursuant to this section shall report on the return for the period with respect to which such deposits are made information regarding such deposits in accordance with the instructions applicable to such return and pay therewith (or deposit by the due date of such return) the balance, if any, of the taxes due for such period. If a voluntary deposit for a period prior to 1968 is made, the person liable for the tax shall make it in ample time to enable the Federal Reserve bank to return the validated receipt to the person so that it can be attached to and filed with the person's return.

(4) *Time deemed paid.* Amounts deposited under subparagraph (3) of this paragraph shall be considered as paid on the last day prescribed for filing the return in respect of such tax (determined without regard to any extension of time for filing such return), or at the time deposited, whichever is later.

(d) *Procurement of prescribed forms.* Copies of the applicable deposit form will so far as possible be furnished persons required to deposit. Such a person will not be excused from making a deposit, however, by the fact that no form has been furnished to him. A person not supplied with the proper form should make application therefor in ample time to make the required deposits within the time prescribed. The person may secure the forms or additional forms by applying therefor and supplying his name, identification number, address, and the taxable period to which the deposits will relate. Copies of Form 537 for deposits for periods prior to 1968 may be secured by application to the district director or to a Federal Reserve bank. The address of the person as entered on such form should be the address to which the receipt should be returned following validation by the Federal Reserve bank. Copies of Form 504 for deposits for periods subsequent to 1967 may be secured by application therefor to the district director or director of a service center.

PAR. 9. Paragraph (a) of § 48.6071(a)–1 is amended to read as follows:

§ 48.6071(a)–1 Time for filing returns.

(a) *Quarterly returns.* Each return required to be made under paragraph (a) of § 48.6011(a)–1 for a return period of not less than one calendar quarter shall be filed on or before the last day of the first calendar month following the period for which it is made. However, a return may be filed on or before the 10th day of the second calendar month following such period if timely deposits under section 6302(a) of the Code and the regulations thereunder have been made in full payment of such taxes due for the period. For the purpose of the preceding sentence, a deposit which is not required by such regulations in respect of the return period may be made on or before the last day of the first calendar month following the close of such period, and the timeliness of any deposit will be determined by the earliest date stamped on the applicable deposit form by an authorized commercial bank or by a Federal Reserve bank.

* * * * *

PAR. 10. Section 48.6302(c)–1 is amended by deleting subparagraph (2) of paragraph (a), revising paragraph (c) and adding at the end thereof a new paragraph (d). The revised and added paragraphs read as follows:

§ 48.6302(c)–1 Use of Government depositaries.

* * * * *

(c) *Depositary forms*—(1) *In general.* A person required to make deposits by paragraph (a) of this section may make one, or more than one, remittance of the amount required to be deposited. An amount of such tax which is not required to be deposited may nevertheless be deposited if the person liable for the tax so desires.

(2) *Deposits for 1967 and prior years.* Each remittance of amounts required to be deposited for periods prior to 1968 shall be accompanied by a Depositary Receipt for Federal Excise Taxes (Form 537) which shall be prepared in accordance with the instructions applicable thereto. The person so required to deposit shall forward such remittance, together with such depositary receipt, to a Federal Reserve bank or, at his election, to a commercial bank authorized in accordance with Treasury Department Circular No. 848, 31 CFR Part 213, to accept remittances of the taxes for transmission to a Federal Reserve bank. After the Federal Reserve bank has validated the depositary receipt, such depositary receipt will be returned to the person. Every person making deposits pursuant to this section shall attach to his return for the period with respect to which such deposits are made, in part or in full payment of the taxes shown thereon, depositary receipts so validated, and shall pay the balance, if any, of the taxes due for such period. If a voluntary deposit for a period prior to 1968 is made, the person liable for the tax shall make it in ample time to enable the Federal Reserve bank to return the validated receipt to the person so that it can be attached to and filed with the person's return.

(3) *Deposits for 1968 and subsequent years.* Each remittance of amounts required to be deposited for periods subsequent to 1967 shall be accompanied by a Federal Tax Deposit, Excise Taxes, form (Form 504) which shall be prepared in accordance with the instructions applicable thereto. The remittance, together with Form 504, shall be forwarded to a Federal Reserve bank or, at the election of the person making the remittance, to a commercial bank authorized in accordance with Treasury Department Circular No. 1079, 31 CFR Part 214, to accept remittances of the taxes for transmission to a Federal Reserve bank. The timeliness of the deposit will be determined by the date of receipt by a Federal Reserve bank or by the authorized commercial bank, whichever is earlier. Each person making deposits pursuant to this section shall report on the return for the period with respect to which such deposits are made information regarding such deposits in accordance with the instructions applicable to such return and pay therewith (or deposit by the due date of such return) the balance, if any, of the taxes due for such period.

(4) *Time deemed paid.* Amounts deposited under subparagraph (3) of this paragraph shall be considered as paid on the last day prescribed for filing the return in respect of such tax (determined without regard to any extension of time for filing such return), or at the time deposited, whichever is later.

(d) *Procurement of prescribed forms.* Copies of the applicable deposit form will so far as possible be furnished persons required to deposit. Such a person will not be excused from making a deposit, however, by the fact that no form has been furnished to him. A person not supplied with the proper form should make application therefor in ample time to make the required deposits within the time prescribed. The person may secure the form or additional forms by applying therefor and supplying his name, identification number, address and the taxable period to which the deposits will relate. Copies of Form 537 for deposits for periods prior to 1968 may be secured by application to the district director or to a Federal Reserve bank. The address of the person as entered on such form should be the address to which the receipt should be returned following validation by the Federal Reserve bank. Copies of Form 504 for deposits for periods subsequent to 1967 may be secured by application therefor to the district director or director of a service center.

PAR. 11. Section 49.6302(c)–1 is amended by deleting subparagraph (2) of paragraph (a), and revising paragraph (c). The revised paragraph (c) reads as follows:

§ 49.6302(c)–1 Use of Government depositaries.

* * * * *

(c) *Depositary forms*—(1) *In general.* A person required to make deposits by paragraph (a) of this section may make one, or more than one, remittance of the amount required to be deposited. An amount of such tax which is not required to be deposited may nevertheless be deposited if the person liable for the tax so desires.

(2) *Deposits for 1967 and prior years.* Each remittance of amounts required to be deposited for periods prior to 1968 shall be accompanied by a Depositary Receipt for Federal Excise Taxes (Form 537) which shall be prepared in accordance with the instruction applicable thereto. The person so required to deposit shall forward such remittance, together with such depositary receipt, to a Federal Reserve bank or, at his election, to a commercial bank authorized in accordance with Treasury Department Circular No. 848, 31 CFR Part 213, to accept remittances of the taxes for transmission to a Federal Reserve bank. After the Federal Reserve bank has validated the depositary receipt, such depositary receipt will be returned to the person. Every person making deposits pursuant to this section shall attach to his return for the period with respect to which such deposits are made, in part on in full payment of the taxes shown thereon, depositary receipts so validated, and shall pay the balance, if any, of the taxes due for such period. If a voluntary deposit for a period prior to 1968 is made, the person liable for the tax shall make it in ample time to enable the Federal Reserve bank to return the validated receipt to the person so that it can be attached to and filed with the person's return.

(3) *Deposits for 1968 and subsequent years.* Each remittance of amounts required to be deposited for periods subsequent to 1967 shall be accompanied by a Federal Tax Deposit, Excise Taxes, form (Form 504) which shall be prepared in accordance with the instructions applicable thereto. The remittance, together with Form 504, shall be forwarded to a Federal Reserve bank or, at the election of the person making the remittance to a commercial bank authorized in accordance with Treasury Department Circular No. 1079, 31 CFR Part 214, to accept remittances of the taxes for transmission to a Federal Reserve bank. The timeliness of the deposit will be determined by the date of receipt by a Federal Reserve bank or by the authorized commercial bank, whichever is earlier. Each person making deposits pursuant to this section shall report on the return for the period with respect to which such deposits are made information regarding such deposits in accordance with the instructions applicable to such return and pay therewith (or deposit by the due date of such return) the balance, if any, of the taxes due for such period.

(4) *Time deemed paid.* Amounts deposited under subparagraph (3) of this paragraph shall be considered as paid on the last day prescribed for filing the return in respect of such tax (determined without regard to any extension of time for filing such return), or at the time deposited, whichever is later.

(5) *Procurement of prescribed forms.* Copies of the applicable deposit form will so far as possible be furnished persons required to deposit. Such a person will not be excused from making a deposit, however, by the fact that no form has been furnished to him. A person not supplied with the proper form should make application therefor in ample time to make the required deposits within the time prescribed. The person may secure the form or additional forms by applying therefor and supplying his name, identification number, address and the taxable period to which the deposits will relate. Copies of Form 537 for deposits for periods prior to 1968 may be secured by application to the district director or to a Federal Reserve bank. The address of the person as entered on such form should be the address to which the receipt should be returned following validation by the Federal Reserve bank. Copies of Form 504 for deposits for periods subsequent to 1967 may be secured by application therefor to the district director or director of a service center.

[F.R. Doc. 67–13618; Filed, Nov. 17, 1967; 8:46 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Parts 3100, 3120]

PUBLIC DOMAIN LEASING UNDER 1920 ACT

Qualifications for Associations

Basis and purpose. Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by section 32 of the Act of February 25, 1920 (41 Stat. 450, 30 U.S.C. 189) and section 2478 of the Revised Statutes (43 U.S.C. 1201), it is proposed to amend 43 CFR Part 3100 as set forth below. The purpose of these amendments is to state in the regulations the fact that associations, including partnerships, which meet certain requirements may hold a lease or permit under the Mineral Leasing Act, and that such associations may furnish qualifications in a manner similar to that permitted to be followed by corporations.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendments to the Bureau of Land Management, Washington, D.C. 20240, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

Subpart 3101—Lessees

Section 3101.1 is amended to read as follows:

§ 3101.1 Who may hold leases and permits.

Mineral prospecting permits and mineral leases may be issued only to (a) citizens of the United States; (b) associations of such citizens organized under the laws of the United States or of any State thereof, which are authorized to hold such interests by the statute under which organized and by the instrument establishing the association; (c) corporations organized under the laws of the United States or of any State thereof; or (d), in the case of coal, oil, oil shale, or gas, municipalities. A mineral lease or permit will not be issued to a minor, but oil and gas leases may be issued to legal guardians or trustees of minors in their behalf. As used in this group, "association" includes "partnership."

Subpart 3123—Noncompetitive Leases

In § 3123.2 paragraphs (c)(1) and (f) are amended to read as follows:

§ 3123.2 What should accompany offer.

* * * * *

(c) (1) Except in the case where a member or a partner signs an offer on behalf of an association (as to which, see paragraph (f)(1) of this section), or where an officer of a corporation signs an

offer on behalf of the corporation (as to which, see paragraph (g) of this section), evidence of the authority of the attorney-in-fact or agent to sign the offer and lease, if the offer is signed by such attorney or agent on behalf of the offeror. Where such evidence has previously been filed in the same land office where the offer is filed, a reference to the serial number of the record in which it has been filed, together with a statement by the attorney-in-fact or agent that such authority is still in effect will be accepted.

* * * * *

(f) (1) If the offeror is an association which meets the requirement of § 3101.1 of this chapter, the offer shall be accompanied by a certified copy of its articles of association or partnership, together with a statement showing (i) that it is authorized to hold oil and gas leases; (ii) that the member or partner executing the lease is authorized to act on behalf of the association in such matters; and (iii) the names and addresses of all members owning or controlling more than 10 percent of the association. A separate statement from each person owning or controlling more than 10 percent of the association, setting forth his citizenship and holdings, shall also be furnished. Where such material has previously been filed, a reference by serial number to the record in which it has been filed, together with a statement as to any amendments, will be accepted.

(2) If the offer is made by an association which does not meet the requirements of § 3101.1 of this chapter, the same showing as to citizenship and holdings of its members shall be made as is required of an individual.

* * * * *

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

NOVEMBER 14, 1967.

[F.R. Doc. 67-13586; Filed, Nov. 17, 1967; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 959]

ONIONS GROWN IN SOUTH TEXAS

Expenses and Rate of Assessment

Consideration is being given to the approval of the expenses and rate of assessment, hereinafter set forth, which were recommended by the South Texas Onion Committee, established pursuant to Marketing Agreement No. 143 and Marketing Order No. 959, both as amended (7 CFR Part 959). This marketing program regulates the handling of onions grown in designated counties in South Texas, and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

All persons who desire to submit written data, views, or arguments in connection with these proposals may file the same in quadruplicate with the Hearing Clerk, Room 112, U.S. Department of Agriculture, Washington, D.C. 20250, not later than the 30th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

§ 959.208 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period beginning August 1, 1967, through July 31, 1968, by the South Texas Onion Committee for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate, will amount to $35,500.

(b) The rate of assessment to be paid by each handler in accordance with the Marketing Agreement and this part shall be one-half cent ($0.005) per 50-pound sack of onions, or equivalent quantity, handled by him as the first handler thereof during said fiscal period.

(c) Terms used in this section have the same meaning as when used in the said marketing agreement and this part.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: November 14, 1967.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-13604; Filed, Nov. 17, 1967; 8:48 a.m.]

[7 CFR Part 966]

[Docket No. AO-286-A1]

TOMATOES GROWN IN FLORIDA

Notice of Hearing Regarding Proposed Amendments to Marketing Agreement and Order

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674), and in accordance with the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders, as amended (7 CFR Part 900), notice is hereby given of a public hearing to be held in the Auditorium of the Florida Fruit and Vegetable Association, 4401 East Colonial Drive, Orlando, Fla., beginning at 9:30 a.m., local time, December 1, 1967, with respect to proposed amendments to Marketing Agreement No. 125 and Order No. 966 (7 CFR Part 966), hereinafter referred to as the "marketing agreement" and "order," respectively, regulating the handling of tomatoes grown in the State of Florida production area. The proposed amendments have not received the approval of the Secretary of Agriculture.

The public hearing is for the purpose of receiving evidence with respect to the economic, marketing, and other conditions relating to the proposed amendments, hereinafter set forth, and to any appropriate modifications thereof.

The proposed amendments to the marketing agreement and order were submitted by the Florida Tomato Committee, the administrative agency established pursuant to the marketing agreement and order, with a request for a hearing thereon. The proposals are as follows:

1. Delete § 966.4, *Production area*, and in lieu thereof insert a new § 966.4 as follows:

§ 966.4 Production area and regulation area.

(a) "Production area" means the Counties of Pinellas, Hillsborough, Polk, Osceola, and Brevard in the State of Florida, and all the counties of that State situated south of such counties.

(b) "Regulation area" means that portion of the State of Florida which is bounded by the Suwannee River, the Georgia border, the Atlantic Ocean, and the Gulf of Mexico.

2. Delete § 966.6, *Handler*, and in lieu thereof insert a new § 966.6 as follows:

§ 966.6 Handler.

"Handler" is synonymous with "shipper" and means any person (except a common or contract carrier transporting tomatoes for another person) who, as owner, agent, or otherwise, handles fresh tomatoes or causes fresh tomatoes to be handled.

3. Delete § 966.7, *Handle*, and in lieu thereof insert a new § 966.7 as follows:

§ 966.7 Handle.

"Handle" or "ship" means to sell, transport or in any other way to place fresh tomatoes, produced in the production area, in the current of commerce between the regulation area and any point outside thereof in the United States, Canada, or Mexico.

4. Amend § 966.22, *Establishment and membership*, to read as follows:

§ 966.22 Establishment and membership.

(a) The Florida Tomato Committee, consisting of 13 producer members, is hereby established. For each member of the committee there shall be an alternate who shall have the same qualifications as the member.

(b) Each person selected as a committee member or alternate shall be an individual who is a producer, or an officer or an employee of a corporate producer, in the district for which selected and a resident of the production area.

5. Amend § 966.24, *Districts*, by deleting District No. 5, to read as follows:

§ 966.24 Districts.

For the purpose of determining the basis for selecting committee members the following districts of the production area are hereby initially established:

District No. 1. The counties of Broward and Dade in the State of Florida;

District No. 2. The counties of Brevard, Glades, Indian River, Martin, Osceola, Okeechobee, Palm Beach, and St. Lucie in the State of Florida;

District No. 3. The counties of Charlotte, Collier, Hendry, Lee, and Monroe in the State of Florida; and

District No. 4. The counties of De Soto, Hardee, Highlands, Hillsborough, Manatee, Pinellas, Polk, and Sarasota in the State of Florida.

6. In § 966.27, *Nomination*, amend paragraphs (a), (b), and (c) to read as follows:

§ 966.27 Nomination.

* * * * *

(a) A meeting or meetings of producers shall be held in each district to nominate members and alternates for the committee. The committee shall hold such meetings or cause them to be held prior to June 15 of each year or by such other date as may be approved by the Secretary pursuant to recommendation of the committee.

(b) At each such meeting at least one nominee shall be designated for each position as member and for each position as alternate on the committee.

(c) Nominations for committee members and alternates shall be supplied to the Secretary in such manner and form as he may prescribe, not later than July 15 of each year, or by such other date as may be approved by the Secretary pursuant to recommendation of the committee.

* * * * *

7. In § 966.32, *Procedure*, amend paragraph (a) to read as follows:

§ 966.32 Procedure.

(a) Eight members of the committee shall be necessary to constitute a quorum and the same number of concurring votes shall be required to pass any motion or approve any committee action.

* * * * *

8. Delete § 966.44, *Refunds*, and in lieu thereof insert a new § 966.44 as follows:

§ 966.44 Excess funds.

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:

(1) If such excess is not retained in a reserve, as provided in subparagraph (2) of this paragraph, to the extent practical it shall be refunded proportionately to the persons from whom it was collected.

(2) The committee, with the approval of the Secretary, may establish an operating monetary reserve and may carry over to subsequent fiscal periods such excess in a reserve so established: *Provided*, That funds in the reserve shall not exceed approximately one fiscal period's expenses. Such reserve funds may be used (i) to defray expenses, during any fiscal period, prior to the time assessment income is sufficient to cover such expenses, (ii) to cover deficits incurred during any fiscal period when assessment income is less than expenses, (iii) to defray expenses incurred during any period when any or all provisions of this part are suspended or are inoperative, (iv) to cover necessary expenses of liquidation in the event of termination of this part. Upon such termination any funds not required to defray the necessary expenses of liquidation; and after reasonable effort by the committee, it is found impracticable to return such remaining funds to handlers, such funds shall be disposed of in such manner as the Secretary may determine to be appropriate.

9. In § 966.52, *Issuance of regulations*, amend paragraph (a) by adding the word "maturities" so as to read as follows:

§ 966.52 Issuance of regulations.

* * * * *

(a) Limit, in any or all portions of the production area, the handling of particular grades, sizes, qualities, maturities, or packs of any or all varieties of tomatoes, during any period; or

* * * * *

Copies of this notice may be obtained from the Vegetable Branch, Fruit and Vegetable Division, C&MS, U.S. Department of Agriculture, Washington, D.C. 20250, or from M. F. Miller, Field Representative, Fruit and Vegetable Division, Consumer and Marketing Service, P.O. Box 9, Lakeland, Fla. 33802.

Dated: November 15, 1967.

ALEXANDER SWANTE,
Acting Deputy Administrator, Regulatory Programs.

[F.R. Doc. 67-13621; Filed, Nov. 17, 1967; 8:49 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 67-SO-4]

FEDERAL AIRWAY SEGMENTS

Proposed Alteration and Designation

The Federal Aviation Administration is considering amendments to Part 71 of the Federal Aviation Regulations that would realign the segment of VOR Federal airway No. 115 between Crestview, Fla., and Montgomery, Ala., and designate VOR Federal airway No. 329.

The FAA proposes to realign V-115 airway segment from Crestview to Montgomery via the intersection of the Crestview 001° T (358° M) and the Montgomery 204° T (201° M) radials, and designate VOR Federal airway No. 329 from the intersection of the Crestview, Fla., 091° T (088° M) and the Eglin, Fla., VOR 003° (360° M) radials to Montgomery, Ala., via the intersection of the Eglin 003° (360° M) and the Montgomery 188° (185° M) radials.

The existing airway structure over Crestview is inadequate to handle the large volume of air traffic generated by the Eglin Air Force Base and the Navy Pensacola complexes. In addition, the presence of Restricted Areas R-2914, R-2915A, and R-2915B, the Navy Pensacola training activities and the Army Fort Rucker training activities adjacent to the airway structure in the Crestview area tends to constrict the flow of en route traffic to the airway system over Crestview. The alignment of V-115 and the designation of V-329 proposed herein will provide additional route structure to facilitate the movement of the large volume of traffic into and from the Eglin and Pensacola complexes.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 20636, Atlanta, Ga. 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

These amendments are made under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on November 13, 1967.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-13597; Filed, Nov. 17, 1967; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-EA-102]

FEDERAL AIRWAY

Proposed Designation

The Federal Aviation Administration is considering amendments to Part 71 of the Federal Aviation Regulations that would establish a VOR Federal airway from Whitesburg, Ky., to Newcombe, Ky., with a 1,200-foot AGL floor, and designate Newcombe as a compulsory reporting point.

The proposed airway and reporting point would provide a direct route between Whitesburg and Newcombe and would permit improved traffic handling in the Huntington, W. Va., terminal area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention:

Chief, Air Traffic Division, Federal Aviation Administration, JFK International Airport, N.Y. 11430. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the Office of the Regional Air Traffic Division Chief.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on November 13, 1967.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-13586; Filed, Nov. 17, 1967; 8:47 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[S 573; R 596]

CALIFORNIA

Notice of Proposed Classification of Public Lands for Multiple-Use Management

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18) and to the regulations in 43 CFR Parts 2410 and 2411, it is proposed to classify for multiple-use management the public lands described in paragraph 3, together with any lands in the areas described in paragraph 3 that may become public lands in the future. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal purpose.

2. Publication of this notice segregates (a) all public lands described below from appropriation only under the agricultural land laws (43 U.S.C., Chs. 7 and 9; 25 U.S.C., sec. 334) and from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171) and (b) the lands described in paragraph 4 from appropriation under the mining laws (30 U.S.C., Ch. 2).

The public lands are located within Kern County in the vicinity of Lake Isabella. For the purposes of this proposed classification, the lands have been divided into three blocks and each has been studied in detail and described on documents and maps available for inspection at the Bakersfield District Office, Room 311, Federal Building, 800 Truxtun Avenue; at the Riverside Land Office, 1414 University Avenue, Riverside, Calif., and at the Land Office, 650 Capitol Mall, Sacramento, Calif.

The overall descriptions of the areas are as follows:

MOUNT DIABLO MERIDIAN, CALIFORNIA

BLOCK NO. 1

All public lands in:
T. 25 S., R. 32 E.,
Secs. 25, 35, and 36.
T. 26 S., R. 32 E.,
Secs. 1 and 2;
Secs. 10 to 15, inclusive;
Secs. 22 to 27, inclusive;
Secs. 34, 35, and 36.
T. 27 S., R. 32 E.,
Secs. 1 and 2;
Secs. 12 and 13;
Secs. 23 to 28, inclusive;
Secs. 33 to 36, inclusive.
T. 25 S., R. 33 E.,
Sec. 15, SW¼;
Sec. 19, S½;
Secs. 21, 22, 23, 25, 26, 28, 29, and 30;
Sec. 34, SE¼;
Secs. 35 and 36.
T. 26 S., R. 33 E.,
Secs. 1, 2, 3, and 7;
Sec. 8, SW¼;
Secs. 10, 11, and 12;
Secs. 17 to 21, inclusive;
Sec. 22, W½;
Secs. 28 to 34, inclusive;
Sec. 36.
T. 27 S., R. 33 E.,
Secs. 1 to 4, inclusive;
Sec. 5, N½;
Sec. 7, NW¼;
Secs. 9 to 17, inclusive;
Secs. 19 to 24, inclusive.
T. 25 S., R. 34 E.,
Secs. 30 and 31.
T. 26 S., R. 34 E.,
Secs. 6, 7, and 20;
Secs. 23 to 29, inclusive;
Secs. 31 to 36, inclusive.

Except the public lands within the following descriptions:

T. 25 S., R. 32 E.,
Sec. 35, E½SW¼, SE¼.
T. 26 S., R. 32 E.,
Sec. 12, S½SW¼, SE¼;
Sec. 13, lots 2, 4, 5, and 6;
Sec. 15, W½W½.
T. 25 S., R. 33 E.,
Sec. 21, N½NW¼, NW¼NE¼, NE¼SE¼.
T. 26 S., R. 33 E.,
Sec. 21, W½SE¼, SE¼SE¼.
T. 26 E., R. 34 E.,
Sec. 24, S½SW¼, SW¼SE¼.

BLOCK NO. 2

All public lands in:
T. 25 S., R. 34 E.,
Sec. 36, W½.
T. 26 S., R. 34 E.,
Secs. 1 and 12.
T. 25 S., R. 35 E.,
Secs. 24, 25, 34, 35, and 36.
T. 26 E., R. 35 E.,
Secs. 1 to 6, inclusive;
Secs. 9, 10, and 11;
Secs. 14 to 17, inclusive;
Secs. 20 to 23, inclusive;
Secs. 26 to 29, inclusive;
Secs. 31 to 35, inclusive.
T. 27 S., R. 35 E.,
Secs. 2 to 11, inclusive;
Secs. 14 to 18, inclusive.
T. 25 S., R. 36 E.,
Secs. 1 to 36, inclusive.
T. 26 S., R. 36 E.,
Sec. 1, NE¼;
Sec. 6.
Except the following public lands:
T. 26 S., R. 34 E.,
sec. 1, lots 6, 11, 13, 14, 16 to 19, inclusive, and SW¼NW¼.

BLOCK NO. 3

All public lands in:
T. 25 S., R. 33 E.,
Sec. 15, E½NE¼.
T. 26 S., R. 33 E.,
Sec. 6, NW¼NE¼, and lot 1.
T. 26 S., R. 34 E.,
Sec. 2, NE¼SE¼;
Sec. 9, S½SE¼.

The Public Lands proposed to be classified aggregate approximately 24,821.68 acres.

4. The following public lands are further segregated from appropriation under the mining laws (totaling approximately 1,486.66 acres):

MOUNT DIABLO MERIDIAN, KERN COUNTY

T. 26 E., R. 32 E.,
Sec. 15, E½ and E½W½;
Sec. 22, N½;
Sec. 26, SE¼;
Sec. 36, N½NE¼, SW¼NW¼, and SE¼.
T. 26 S., R. 33 E.,
Sec. 15, E½NE¼.
T. 25 S., R. 36 E., and all public lands within 300 feet on either side of the centerline of the following road: (1) BLM Road Project No. 104, Canebrake Creek Extension of Lamont Meadows Road No. 1619, extending from the Kern County line in secs. 1 through 3, 11, 12, 14, and 15.

5. For a period of sixty (60) days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the Bakersfield District Manager, Bureau of Land Management, Room 311, Federal Building, 800 Truxtun Avenue, Bakersfield, Calif. 93301 or at the public hearing.

6. A public hearing on this proposed classification will be held at 2 p.m., Tuesday, December 5, 1967, at Kern River Veterans' Hall, Highway 178, Lake Isabella, Calif.

JAMES B. GARNER,
Acting State Director.

[F.R. Doc. 67-13584; Filed, Nov. 17, 1967; 8:46 a.m.]

[Montana 3843 (ND)]

NORTH DAKOTA

Notice of Proposed Withdrawal and Reservation of Lands

NOVEMBER 13, 1967.

The Corps of Engineers, on behalf of the Department of the Army, has filed application, Montana 3843 (ND), for the withdrawal of the lands described below, from all forms of appropriation, including the mining and mineral leasing laws, except for oil and gas, subject to existing valid claims.

The applicant desires the land for use in connection with the construction, operation, and maintenance of the Oahe Dam and Reservoir Project, N. Dak.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 316 North 26th Street, Billings, Mont. 59101.

The Department's regulations (43 CFR 2311.1–3(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant

agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for the purpose other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

FIFTH PRINCIPAL MERIDIAN, NORTH DAKOTA

T. 120 N., R. 79 W.,
Sec. 4, lots 4, 5, and 6;
Sec. 5, lots 1, 2, and 3.
T. 120 N., R. 79 W.,
Sec. 18, lot 1;
Sec. 33, lot 4.
T. 133 N., R. 79 W.,
Sec. 13, lots 1, 2, 3, and 4.
T. 134 N., R. 79 W.,
Sec. 3, lot 7 and E½SE¼.
T. 136 N., R. 79 W.,
Sec. 11, lots 5, 6, 7, 8, and 9;
Sec. 12, lots 9 and 10;
Sec. 13, lots 7 and 8, SW¼NE¼, and SE¼NW¼;
Sec. 14, lot 1;
Sec. 23, NE¼NE¼.
T. 137 N., R. 79 W.,
Sec. 19, lots 6 and 8;
Sec. 30, lot 1, NW¼NE¼, and NE¼NW¼.
T. 137 N., R. 80 W.,
Sec. 9, lots 7 and 8, and SE¼SE¼;
Sec. 10, lots 2, 4, 5, 6, and 7.

The areas described aggregate 1,310.74 acres.

KENNETH J. SIER,
Acting Land Office Manager.

[F.R. Doc. 67-13567; Filed, Nov. 17, 1967; 8:46 a.m.]

[OR 3600]

OREGON

Amendment of Notice of Offering of Land for Sale

NOVEMBER 13, 1967.

The Notice of Offering of Land for Sale appearing as F.R. Doc. 67-12617 on page 14718 of the issue for Tuesday, October 24, 1967, is hereby amended to include the following land:

WILLAMETTE MERIDIAN
OREGON
Tract No. 34

T. 5 N., R. 27 E.,
Sec. 30, NE¼SE¼.

DANIEL P. BAKER,
Acting State Director.

[F.R. Doc. 67-13568; Filed, Nov. 17, 1967; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

NATIONAL SCHOOL LUNCH PROGRAM

Reporting of Free and Reduced Price Lunches

The following notice is issued in connection with the reporting requirements for the National School Lunch Program Regulations (7 CFR Part 210):

I. *Purpose.* This notice prescribes the lunches that should be reported on the monthly claims as served free or at less than full price and on the Monthly Report of School Lunch Operations as served free or at reduced price.

II. *General.* In accordance with § 210.8(d) of the regulations, schools participating in the National School Lunch Program must supply lunches without cost or at a reduced price to all children who are determined by local school authorities to be unable to pay the full price thereof because of their economic need. Accurate reporting of such lunches is needed for program administrative purposes and for use in the apportionment of funds provided for special assistance to needy schools under section 11 of the Act.

III. *To be reported as free or reduced price lunches—A. Lunches exchanged for labor by economically needy children.* The fact that a needy child renders an essential service for his lunch or a token service, does not modify or change the character of the lunch as a free lunch. Neither does the fact that a needy child may be paid cash for his services and uses the cash thus earned to pay for his lunch. The controlling factor is that the local school officials have made a determination that in one way or another the child should be given a free lunch because he cannot afford to buy one.

B. *Lunches financed by school boards and outside organizations.* Lunches paid for by school boards, outside charitable or civic organizations, public or private welfare agencies, labor unions, city governments, the Bureau of Indian Affairs, Office of Education (Title I, ESE Act), OEO, or other agencies or organizations, that are served to economically needy children should be reported as free or reduced price lunches.

C. *Lunches financed out of program operations.* Lunches financed by program operations which are served free or at reduced price to economically needy children should be reported as free or reduced price lunches.

D. *Family rates for economically needy families.* Lunches sold at "family rates" should be counted as free or reduced price lunches when such rates are extended only to the children of families that qualify as economically needy. Such arrangements may provide that one or more of the children of a needy family pay the full lunch price while the remaining children of a family pay a reduced price (at least 10 cents below the established lunch price) or receive their lunches free. Lunches served to all children of a family that qualifies for the family rate because of economic need should be reported as free or reduced price lunches.

E. *Credit lunches.* Lunches served on credit may be paid for later as expected or the recipient may not be able to pay later although originally he intended to pay. Also, a school may term free lunches as "credit lunches" to prevent identification of free lunch recipients. (In this latter case the school does not expect payment nor does the recipient intend to pay). All lunches served on credit which are not paid for by the end of the reporting period should be reported by the school as free or reduced price lunches. If, subsequently, they are paid for, an adjustment can be made in the number of free or reduced price lunches reported for the period during which payment was received.

F. Lunches served by needy schools which follow maximum price reduction policies. Schools which draw attendance from poor economic areas, which need additional financial help to provide additional free or reduced price lunches, are eligible for special assistance under either section 4 or section 11 of the Act. Such schools may also receive special assistance from State or local funds.

These needy schools may choose to use the special financial assistance to provide free lunches to the highest possible proportion of program participants and at the same time maintain the lunch price at the usual level for the paying children.

Alternatively, the special financial assistance received may be used to effect an across-the-board reduction in the lunch price to all children. This permits a greater proportion of the participants to pay for their lunches; it helps increase participation; it increases program income and helps the school to sustain the financial burden of providing lunches at no charge to children who cannot pay anything.

Where a general reduction of the lunch price is made in such needy schools, as a result of the special assistance, all the lunches served should be reported as free or reduced price lunches provided that the price reduction made is at least 10 cents below the price charged prior to the granting of the special financial assistance.

G. *Lunches served by needy schools receiving combination reimbursement (section 4 and section 11 funds).* Needy schools may receive reimbursement from section 4 funds for all lunches served and additional reimbursement from section 11 funds for the free or reduced price lunches served, resulting in total reimbursement of up to 24 cents per lunch for the free or reduced price lunches (up to 9 cents from section 4 funds and additional reimbursement of up to 15 cents from section 11 funds). In such schools only the lunches receiving the additional reimbursement from section 11 funds should be reported as free or reduced price lunches.

IV. *Not to be reported as free or reduced price lunches—A. Lunches exchanged for labor by children who are not needy.* Lunches served without charge or at reduced cost to nonneedy children who render a service to the school or the lunch program should not be reported as free or reduced price lunches.

B. *Family rates for nonneedy.* Lunches sold at "family rates" (two or more in the family) should not be reported as free or reduced price lunches when such rates are extended to all families having children in attendance at the school and the "family rate" plan is a part of the established price structure, based on the number of children in the family attending the school rather than on economic need. Likewise, lunches sold at small reductions in price as a result of the sale of weekly or monthly lunch tickets should not be reported as free or reduced price lunches.

V. *Effective date.* This notice shall be effective upon publication.

Dated: November 14, 1967.

ROBERT E. LEONARD,
Deputy Assistant Secretary.

[F.R. Doc. 67-13601; Filed, Nov. 17, 1967; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

FLORIDA STATE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 67-00135-33-46040. Applicant: Florida State University, Tallahassee, Fla. 32306. Article: Electron Microscope, Model HU-11C. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used in the following research programs currently in progress: (a) Interpretation of the arrangement of nucleoprotein fibrils of meiotic chromosomes in relation to the mechanisms of synapsis and division; (b) determination of nerve synaptic organization by interpretation of the membrane systems within a synaptic region; (c) visualization of the sequence of purine and pyrimidine bases in DNA (Deoxyribonucleic Acid), using the base analog, 5-iodouridine, to allow more precise localization of the thymidine analog without uranyl salt staining; (d) study in vitro protein synthesis through investigation of the role of template DNA, messenger RNA (Ribonucleic Acid) and DNA associated histones that have been negatively stained; and (e) studies of smaller size nuclei on evaporated gold film. Comments: Comments have been received from the Radio Corporation of America (RCA), which alleged inter alia that the "RCA Type EMU-4 Electron Microscope is of equivalent scientific value to the instrument for which duty-free entry has been requested for the purposes stated in the application for which the instrument is intended to be used." (RCA's comments dated July 24, 1967.) Decision: Application approved. No instrument of equivalent scientific value to the foreign article, for the purpose for which such article is intended, is being manufactured in the United States. Reasons: (1) The foreign article offers a guaranteed resolution of 5 Angstroms whereas the RCA Model EMU-4 guarantees 8 Angstrom resolution. The National Bureau of Standards (NBS) advises that the above difference in resolution is very significant in connection with the purpose of the applicant to extend his observations to achieve the finest observable structure. (See NBS memorandum dated Aug. 10, 1967.) (2) The foreign article provides an accelerating voltage of 25 kilovolts whereas the RCA Model EMU-4 provides accelerating voltages of 50 and 100 kilovolts. In this regard, NBS advises that it is essential to the applicant's research objectives to have lower accelerating voltage capability to obtain improved contrast. (See NBS memorandum cited above.) The availability of the lower accelerating voltage of 25 kilovolts is, therefore, considered pertinent.

For the foregoing reasons, we find that the RCA Type EMU-4 Electron Microscope is not of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-13570; Filed, Nov. 17, 1967; 8:45 a.m.]

FORSYTH DENTAL CENTER

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 67-00126-33-46500. Applicant: Forsyth Dental Center, 140 The Fenway, Boston, Mass. 02115. Article: Diamond Knife for ultrathin sectioning, Microtome, Model, Polyester III. Manufacturer: Walter Rawyler, Switzerland. Intended use of article: Applicant states: "For preparing ultrathin sections of calcified tissues for study with the electron microscope." Comments: No comments have been received with respect to this application. Decision: Application denied. There are domestically manufactured instruments or apparatus of equivalent scientific value to the foreign article for the purposes of the states' intended use. Reasons: The pertinent characteristics and pertinent specifications of the foreign instrument, when compared with the pertinent characteristics and pertinent specifications of domestic instruments, show that scientific equivalency exists. The Department of Health, Education, and Welfare (HEW) reports that it cannot recommend duty-free entry of the foreign article, and that it is unable to reveal "Experience to support the applicant's contention that there is a demonstrable difference between the knives made by Rawyler and those from duPont [a domestic manufacturer]." (See HEW memorandum dated Sept. 6, 1967)

For the foregoing reasons, we find that an instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-13571; Filed, Nov. 17, 1967; 8:45 a.m.]

HEALTH RESEARCH, INC.

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 67-00121-00-46040. Applicant: Health Research, Inc., 666 Elm Street, Buffalo, N.Y. 14203. Article: Electron Microscope Accessory Model 171460, Shutter for applicant's foreign made Electron Microscope. Manufacturer: Siemens Aktiengesellschaft, West

Germany. Intended use of article: Applicant states: "The article will be used to expose photoplates during operation of the electron microscope." Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is an accessory which is intended to be used with a Siemens electron microscope which is manufactured in West Germany. The accessory must be specially designed to work with the Siemens electron microscope. The only known source for such accessory is the manufacturer of the Siemens electron microscope. The Department of Commerce knows of no comparable accessory which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-13572; Filed, Nov. 17, 1967; 8:45 a.m.]

OHIO STATE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 67-00158-65-46040. Applicant: The Ohio State University, Department of Metallurgical Engineering, 190 North Oval Drive, Columbus, Ohio 43210. Article: Norelco Electron Microscope Model EM 300 with ancillary equipment. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: Applicant states:

1. Examination of thin foils of pure metals, alloys, and other solids such as crystalline and amorphous reaction products, and minerals.
2. Examination of metal foils under special conditions of low and high temperature and dynamic straining as well as under conditions where dynamic solid state reactions are occurring. These dynamic solid state reactions include precipitation, diffusion, and oxidation.
3. Examination of surface replicas of metal surfaces.
4. Determination of crystalline structure of solids with maximum possible accuracy.

Comments: No comments were received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article provides a guaranteed resolution of 5 Angstroms (specification sheet for the Norelco EM 300 Electron Microscope attached to application), whereas the only domestic instrument, the Model EMU-4 manufactured by Radio Corporation of America (RCA), provides a guaranteed resolution of 8 Angstroms (specifications for Model EMU-4 attached to application). (The lower the numerical rating in terms of Angstroms, the better the resolution.) The Department of Health, Education, and Welfare (memorandum dated Aug. 17, 1967) advised that the planned uses of the Philips EM 300 electron microscope will require the ultimate in resolutions. (2) The foreign article has a variable accelerating voltage of 20, 40, 80, and 100 kilovolts, whereas the domestic article has 50 and 100 kilovolts. In an application for duty-free entry of another electron microscope for similar intended uses the National Bureau of Standards (see memorandum dated July 17, 1967 with Docket No. 67-00038-65-46040) has noted that it is essential to the applicant's research objectives that the applicant have the capability to attempt to obtain improved contrast through the use of the lower accelerating voltage. The availability of the lower accelerating voltage of 20 kilovolts is, therefore, considered pertinent.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-13573; Filed, Nov. 17, 1967; 8:45 a.m.]

Office of the Secretary

[Administrative Order 206-14]

CONTRACTS AND GRANTS

Patent Policy

The following order was issued by the Secretary of Commerce.

SECTION 1. *Purpose.* .01 The President of the United States issued a Memorandum and Statement on Government Patent Policy on October 10, 1963 (28 F.R. 10943, Oct. 12, 1963) to establish common criteria and guidelines for use by the Federal departments and agencies, to the extent consistent with their statutory responsibilities, on the disposition of rights to inventions resulting from federally financed research and development. This order implements the Presidential Memorandum and Statement, and sets forth the Department of Commerce policies and procedures pertaining to the disposition of rights to inventions resulting from contracted or granted research and development supported by the Department of Commerce including its operating units.

.02 Among the most important objectives of this order are those which (a) foster the widest practicable dissemination of new technology and the fullest commercial exploitation for the public benefit of inventions made under Government-supported research and development, (b) consider the equities of the Government's contractors and grantees, and (c) protect the interests of the general public.

SEC. 2. *Definitions.* As used in this order, the stated terms are defined as follows:

a. Invention means any art, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the patent laws of the United States of America or any foreign country.

b. Subject invention means any invention or discovery conceived or first actually reduced to practice in the course of or under the contract, and includes any art, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the patent laws of the United States of America or any foreign country.

c. Contractor means any individual, partnership, public or private corporation, association, institution, or other entity which is a party to the contract or a subcontract thereunder.

d. Contract means any contract, subcontract, grant, or other agreement where there is an understanding in writing that such a contract, subcontract, grant, or agreement would be awarded, entered into with or for the benefit of the Government, where a purpose of the contract is the conduct of experimental, developmental, or research work.

e. Made when used in relation to any invention means the conception or first actual reduction to practice of such invention in the course of or under the contract.

f. Governmental purpose means the right of the Government of the United States, any agency thereof, State, or domestic municipal government to practice and have practiced, make or have made, use or have used, sell, or have sold throughout the world by or on behalf of the Government of the United States and by or on behalf of any State or domestic municipal government.

g. To the point of practical application means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine and under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

SEC. 3. *Patent clauses and their application.*—.01 *Policy.* a. It is the policy of the Department of Commerce to allocate

rights to inventions resulting from research and development contracts and grants supported by the Department in accordance with the guidance and criteria established by the President's October 10, 1963, Memorandum and Statement of Government Patent Policy. The Presidential Memorandum and Statement prescribed three basic methods of allocation of invention rights, under normal contracting situations, described below in subparagraphs .01b, .01c, and .01d of this section.

b. The first method (described in paragraph .02 of this section) applies to contracts in which the principal or exclusive rights should normally be acquired by the Government at the time of contracting.

c. When the criteria of paragraph .02 of this section are not applicable to a contract, the second method (described in paragraph .03 of this section) applies if the situation is one in which the principal or exclusive rights to inventions are normally acquired by the contractor at the time of contracting.

d. The third method (described in paragraph .04 of this section) applies to contract situations which do not appear to fall within either of the methods described in subparagraphs .01b and .01c of this section. In these situations, the allocation of invention rights is deferred until after the inventions have been identified.

e. Because the mission responsibilities of the Department vary, research supported by the Department is likely to come within each of the three categories of contract situations set forth in subparagraphs .01b, .01c, and .01d of this section, and for this reason a patent rights clause to be used for each of these categories is indicated in paragraphs .02, .03, and .04 of this section. It is the responsibility of the contracting officer to determine which of these three clauses should be included in any particular contract, and to fully document the contract file to support the determination.

.02 *Principal or exclusive rights acquired by the Government.* a. Principal or exclusive rights throughout the world shall normally be acquired by the Government and a nonexclusive license by the contractor at the time of contracting in and to any inventions made in the course of or under any contract where:

1. A principal purpose of the contract is to create, develop, or improve products, processes, or methods which are intended for commercial use (or which are otherwise intended to be made available for use) by the general public at home or abroad, or which will be required for such use by governmental regulation; or

2. A principal purpose of the contract is for exploration into fields which directly concern the public health and public welfare; or

3. The contract is in a field of science or technology in which there has been little significant experience outside of work funded by the Government, or where the Government has been the principal developer of the field, and acquisition of exclusive rights at the time of contracting might confer on the contractor a preferred or dominant position; or

4. The services of the contractor are for the operation of a Government-owned research or production facility; or

5. The services of the contractor are for coordinating and directing the work of others.

b. In exceptional circumstances the contractor may acquire greater rights than a nonexclusive license at the time of contracting even though the contract falls within the criteria of subparagraph .02a of this section, where the Assistant Secretary for Science and Technology certifies such action will best serve the public interest. (See subparagraph 4.01a.1 of this order.)

c. The contractor may also acquire greater rights than a nonexclusive license to inventions made in the course of or under contracts falling within the criteria of subparagraph .02a of this section after an invention has been identified, where the invention is not a primary object of the contract, and where the acquisition of such greater rights is consistent with the intent of the policy set forth in these procedures and is a necessary incentive to call forth private risk capital and expense to bring the invention to the point of practical application.

d. When it is determined that principal or exclusive rights throughout the world in and to any inventions made in the course of or under a contract should be acquired by the Government at the time of contracting, the clause set forth in Appendix A to this order shall be included in the contract.

.03 *Principal or exclusive rights acquired by contractor.* a. Principal or exclusive rights throughout the world shall normally be acquired by the contractor at the time of contracting in and to any inventions made in the course of or under any contract where:

1. The contract is not of the type defined in subparagraph .02a of this section; and

2. The purpose of the contract is to build upon existing knowledge or technology, and to develop information, products, or processes for use by the Government; and

3. The work called for by the contract is in a field of technology in which the contractor has acquired technical competence, as demonstrated by factors such as know-how, experience, and patent position; and

4. The contractor has an established nongovernmental commercial position in an area of his business which is directly related to this same field of technology.

b. Where the contractor's commercial interests are not sufficiently established to meet the criterion of subparagraph .03a.4 of this section, although all other criteria of subparagraph .03a of this section are met, principal or exclusive rights throughout the world may be acquired by the contractor at the time of contracting in and to any inventions made in the course of or under the contract in special situations designated by the Assistant Secretary for Science and Technology where it appears that the public interest in the availability of the inventions would best be served thereby. (See subparagraph 4.01a.4 of this order.)

c. When it is determined that the criteria of subparagraphs .03a or .03b of this section have been met, and that the contractor should be permitted to retain principal or exclusive rights throughout the world in and to any invention made in the course of or under a contract at the time of contracting, the clause set forth in Appendix B to this order shall be included in the contract.

.04 *Allocation of rights deferred.* a. Where the contracting situation is not of the type falling within paragraph .02 of this section and the commercial interests of the contractor are not sufficiently established to be covered by the criteria specified in subparagraphs .03a or .03b of this section, allocation of rights between the Government and the contractor in and to any invention made in the course of or under the contract shall be made after the invention has been identified, in a manner deemed most likely to serve the public interest, provided the contractor requests rights in any such invention greater than the nonexclusive license normally reserved in the contract. Otherwise, principal or exclusive rights throughout the world shall be acquired by the Government.

b. When it is determined that the allocation of rights between the Government and the contractor in and to any invention made in the course of or under the contract shall be deferred until after the invention has been identified, the clause set forth in Appendix C of this order shall be included in the contract.

.05 *Patent rights clause in subcontracts.* The patent rights clause that is applicable to a prime contractor under a specific contracting situation will not necessarily be applicable to a subcontractor who is performing a portion of the work for the prime contractor. For this reason, and because the volume of contracted research, development, and experimental work supported by the Department of Commerce is sufficiently small to permit review on a case-by-case basis, the contracting officer shall determine, in accordance with this policy and other guidance established hereunder, the patent rights clause that shall be included in each subcontract where a purpose of the subcontract is the conduct of research, development, or experimental work.

.06 *Foreign rights.* In any case where principal or exclusive rights to an invention is acquired by the Government, and the Government does not elect to secure a patent in a foreign country, the contractor shall have the right to acquire, upon written notice furnished to the contracting officer, full right, title, and interest in and to the invention in any country where the Government does not elect to secure patent protection. In such cases, the Government shall retain an irrevocable, nonexclusive, nontransferable, royalty-free license to practice the invention in such countries for all governmental purposes, with the right to

grant sublicenses of similar scope to any foreign country pursuant to any existing or future treaty or agreement with the United States.

Sec. 4. Coordination of Department of Commerce Policy.—.01 *Responsibilities of the Assistant Secretary for Science and Technology.* a. In order to insure consistent application of this policy throughout the Department, the Assistant Secretary for Science and Technology, hereinafter called the Assistant Secretary, shall:

1. Determine on a case-by-case basis, upon request by the contracting officer, those circumstances that may be considered as exceptional under subparagraph 3.02b of this order.

2. Determine those areas of research and development supported by the Department which meet the criteria of subparagraphs 3.02a 1, 2, and 3 of this order;

3. Determine, upon request by the contractor through the contracting officer, whether greater rights may be granted to the contractor by the contracting officer to identified inventions pursuant to the criteria of subparagraph 3.02c of this order;

4. Determine those situations which may be considered as being special under subparagraph 3.03b of this order;

5. Determine upon request by the contractor through the contracting officer, and in accordance with subparagraph 3.04a of this order, the allocation of rights between the Government and the contractor in and to any identified invention made in the course of or under a contract containing the Patent Rights Contract Clause (Deferred);

6. Provide, upon request by the contracting officer, advisory opinions on the appropriate patent rights clause to be used in any particular contracting situation;

7. Review for approval any modified patent rights clause drafted to meet a particular contracting situation;

8. Determine whether and to what extent that an invention is required for contractor to grant licenses either (a) on a nonexclusive royalty-free basis for failure to take effective steps within 3 years after a patent issued to bring an invention to the point of practical application or to make the invention available for licensing royalty-free or on terms that are reasonable in the circumstances, or (b) on a nonexclusive royalty-free basis or on terms that are reasonable in the circumstances when and to the extent than an invention is required for public use by governmental regulation or as may be necessary to fulfill health needs, or for other public purposes stipulated in the contract;

9. Establish procedures for the disposition of contractors' requests made through the contracting officer for allocation of rights under subparagraphs .01a.3 and .01a.5 of this section, and for determinations to require the granting of licenses under subparagraph .01a.8 of this section. The procedures may provide the contractor an opportunity to present his position in any such matter either in writing or in person, and in the case of requirements to grant licenses under subparagraph .01a.8 of this section, the contractor shall be afforded the opportunity to show cause why such requirements should not be made;

10. Obtain such data as may be necessary to reflect the overall operation of the Department of Commerce under this order;

11. Recommend to the Secretary of Commerce such revisions or modifications of this order as in the opinion of the Assistant Secretary are deemed advisable;

12. Issue additional guidelines and recommend related procurement or other appropriate regulations implementing this order; and

13. Consistent with Department Order 54, make available to the public the recommendations which have been approved by the Secretary of Commerce, determinations, approvals, and advisory opinions made under the provisions of this section.

b. Before carrying out the above responsibilities in a particular contracting situation, the Assistant Secretary shall obtain the written opinion and recommendation of the Department of Commerce Contract Inventions Committee established under paragraph .02 of this section, unless he determines that an emergency situation exists, requiring his immediate action. In nonemergency contracting situations, he shall consider the opinion of the Committee before acting, and may act by adopting or modifying its recommendation. His actions in carrying out the above responsibilities shall be based upon the criteria of this order and such guidelines as may from time to time be recommended by the Patent Advisory Panel of the Federal Council for Science and Technology.

c. The determinations made by the Assistant Secretary pursuant to subparagraphs .01a.3, .01a.5, and .01a.8 of this section shall be the final action for the Department and shall not be considered as disputes under a contract containing a Disputes Clause (Standard Form 32, as revised, clause 12, entitled "Disputes", 41 CFR 1–16.901–32).

.02 *Department of Commerce Contract Inventions Committee.* a. There shall be established a Department of Commerce Contract Inventions Committee for the purpose of assisting and advising the Assistant Secretary in the performance of the specific duties outlined in paragraph .01 of this section. The members appointed by the Assistant Secretary shall include one or more persons representing the following:

(1) Environmental Science Services Administration;

(2) Maritime Administration;

(3) National Bureau of Standards;

(4) Economic Development Administration; and

(5) Office of Administrative Services, Office of the Secretary.

b. Each member shall be selected in consultation with the head of the particular organization he represents. Insofar as possible, members should have a technical background and be knowledgeable of contract practices, specifically with regard to the patent aspects thereof. The Assistant Secretary shall designate one of the members to serve as the Committee's Chairman. The Committee may adopt such rules and procedures as it deems appropriate, with the approval of the Assistant Secretary.

.03 *Responsibilities of the General Counsel.* a. To secure and protect the rights of the Government in Subject Inventions made under contracts with the Department, the General Counsel shall:

1. Take all suitable and necessary steps to protect any Subject Invention, title to which has been granted to the Government under this order;

2. Secure and properly record all instruments confirmatory of the rights reserved to the Government in any Subject Invention, title to which is retained by the contractor;

3. Take all other steps which he shall deem appropriate to secure, protect, and enforce the rights of the Government in Subject Inventions under this order; and

4. Determine whether the contractor shall be required to forfeit any rights he may have under a contract to any Subject Invention pursuant to the criteria of section D, Appendix A or section D, Appendix B of this order.

b. Any determination made by the General Counsel of the Department pursuant to subparagraph .03a.4 of this section shall be the final action of the Department and shall not be considered a dispute under a contract containing a Disputes Clause (Standard Form 32, as revised, clause 12, entitled "Disputes", 41 CFR 1–16.901–32). Before such a determination is made, the contractor shall be afforded an opportunity to show cause why he should not forfeit any rights he may have under the contract in any Subject Invention.

c. The Patent Advisor, National Bureau of Standards, under the supervision of the General Counsel and on behalf of the Department, shall maintain a docket of all Subject Inventions, advise the Department of Commerce Contract Inventions Committee and take other appropriate steps to secure and protect the rights of the Government in Subject Inventions, as may be designated by the General Counsel.

.04 *Responsibilities of the Contracting Officer.* The contracting officer shall furnish the Patent Advisor, National Bureau of Standards, promptly upon the receipt thereof:

a. The written disclosure of each Subject Invention made under a contract;

b. Information of any past or contemplated public use, sale, or publication of any Subject Invention;

c. Each final report from a contractor listing all Subject Inventions or certifying that no Subject Inventions were made under the contract;

d. Each instrument confirmatory of rights of the Government in Subject Inventions;

e. Each notice received from a contractor that he elects to file a patent application on a Subject Invention in any foreign country; and

f. All other reports and papers (other than documents addressed to the Assistant Secretary) which may be submitted under the Patent Rights Clause.

Effective date: October 18, 1967.

DAVID R. BALDWIN,
Assistant Secretary for Administration.

APPENDIX A

PATENT RIGHTS CONTRACT CLAUSE (TITLE)

A. *Definitions.* As used in this clause, the following terms shall have the meanings set forth below:

1. Subject invention means any invention or discovery conceived or first actually reduced to practice in the course of or under this contract, and includes any art, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the patent laws of the United States of America or any foreign country.

2. Subcontract means any contract of the Contractor or lower-tier subcontract under this contract entered into with or for the benefit of the Government where a purpose of the contract or subcontract is the conduct of experimental, developmental, or research work.

3. Governmental purpose means the right of the Government of the United States, any agency thereof, State or domestic municipal government to practice or have practiced, make or have made, use or have used, sell or have sold throughout the world by or on behalf of the Government of the United States, and by or on behalf of any State or domestic municipal government.

4. To the point of practical application means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine and under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

B. *Invention disclosures and reports.* With respect to Subject Inventions made by the Contractor, the Contractor shall furnish the following to the Contracting Officer:

1. A written disclosure of each Subject Invention within six (6) months after conception or first actual reduction to practice, whichever occurs first under this contract, sufficiently complete as to technical detail to convey a clear understanding of the nature, purpose, operation, and the physical, chemical, or electrical characteristics of the invention.

2. Information in writing, with the invention disclosure or as soon as it is known to the Contractor, on any past or contemplated public use, sale, or publication of any Subject Inventions.

3. Within one (1) month after all deliverable items have been delivered to and accepted by the Contracting Officer, a final report listing all Subject Inventions, or certifying that no Subject Inventions were made under the contract.

C. *Examination of records relating to inventions.* The Contracting Officer, or his authorized representative shall, until the expiration of three (3) years after final payment under this contract, have the right to examine any books, records, documents, and other supporting data of the Contractor which the Contracting Officer or his authorized representative shall deem pertinent to the discovery or identification of Subject Inventions or to compliance by the Contractor with the requirements of this clause.

D. *Allocation of rights to Subject Inventions.* Right to Subject Inventions are allocated as follows:

1. The Contractor agrees that he shall forfeit, upon request by the General Counsel of the Department of Commerce, any rights which the Contractor may have under the contract to any Subject Invention with respect to which he has failed either to:

a. Submit at or prior to the time he files or causes to be filed an application for a patent, or submits the final report required by paragraph E.2 of this clause, whichever is later, a written disclosure; or

b. Deliver to the Contracting Officer prior to the issuance of a patent on said Subject Invention an instrument confirmatory of the rights reserved to the Government under this clause when the Contractor, pursuant to paragraph 2 of this section, has been granted greater rights than the license reserved to the Contractor in paragraph 5 of this section;

Provided, however, That the Contractor will not be required to forfeit these rights if he establishes that the failure to submit the disclosure or deliver the confirmatory instrument was due entirely to conditions beyond his control and without his fault or negligence.

2. The Contractor agrees to and does hereby grant to the Government full right, title, and interest in and to each Subject Invention made by the Contractor, except to any Subject Invention:

a. Specifically identified and listed in the contract schedule to which the Contractor has been granted at the time of contracting greater rights than the license reserved to the Contractor in paragraph 5 of this section; or

b. To which the Contractor, pursuant to paragraph 3 of this section, has been granted after the Invention has been identified greater rights than the license reserved to the Contractor in paragraph 5 of this section.

3. The Contractor, when disclosing a Subject Invention but not later than three (3) months thereafter, may submit to the Contracting Officer a written request, addressed to the Assistant Secretary for Science and Technology, for greater rights than the license reserved to the Contractor in paragraph 5 of this section. Such a request should set forth information and facts tending to show that:

a. The Subject Invention, or any specified use thereof, is not the primary object of this contract; and

b. The acquisition of such greater rights is necessary to call forth private risk capital and expense to bring the Invention to the point of practical application, and is otherwise consistent with the Department of Commerce patent policy.

4. The Contractor shall have the right to acquire, upon written notice submitted to the Contracting Officer and addressed to the Assistant Secretary for Science and Technology, the entire right, title, and interest in and to any Subject Invention (to which the Government acquires title) in any foreign country where the Government makes a determination not to file or where the Government does not elect within seven (7) months from the date of filing a U.S. patent application to secure patent protection.

5. There shall be reserved in the Contractor a nonexclusive and royalty-free license to practice any Subject Invention to which the Government acquires title. The license shall extend to existing and future associated and affiliated companies, if any, within the corporate structure of which the Contractor is a part and shall be assignable to the successor of that part of the Contractor's business to which the Invention pertains.

6. Where the Contractor acquires greater rights than the license reserved to the Contractor in paragraph 5 of this section to Subject Inventions, such rights shall be subject to the following rights reserved by the Government:

a. An irrevocable, nonexclusive, nontransferable, royalty-free license to practice the Invention throughout the world for all governmental purposes;

b. The right of the Government to require the granting of licenses to applicants on a nonexclusive, royalty-free basis when the Contractor, his licensee, or his assignee has failed to take effective steps within three (3) years after a patent issued on the Invention, to bring the Invention to the point of practical application or to make the Invention available for licensing royalty free or on terms that are reasonable in the circumstances, unless the Contractor can show cause why the granting of such licenses should not be required by the Government for a further period of time;

c. The right of the Government to require the granting of nonexclusive licenses within the United States to applicants royalty free or on terms that are reasonable in the circumstances, when and to the extent that the Invention is required for public use by governmental regulation or as may be necessary to fulfill health needs, or for other public purposes stipulated in this contract; and

d. The right of the Government to acquire full right, title, and interest in the Invention in each foreign country in which the Contractor does not file a patent application within seven (7) months from the filing of a corresponding U.S. patent application, subject to the license in the Contractor specified in paragraph 5, of this section.

7. Where the Contractor acquires title to Subject Inventions in selected foreign countries where the Government elected not to secure patent protection, the Contractor's rights shall be subject to the retention by the Government of an irrevocable, nonexclusive, nontransferable, royalty-free license to practice the Invention within such countries for all governmental purposes, with the right to grant sublicenses of similar scope to any foreign government pursuant to any existing or future treaty or agreement with the United States.

8. Upon receipt of the notices provided in subparagraphs E.2 (f) or (g) of this clause, the Government shall be entitled to all rights, title, and interest in the Invention subject to the reservation to the Contractor of the license specified in paragraph 5 of this section.

9. The following decisions and determinations of the Department of Commerce shall be final and shall not be considered as disputes under the Disputes Clause:

a. Determinations made on requests for greater rights under paragraph 3 of this section; and

b. Decisions to require the granting of licenses under subparagraphs 6(b) and 6(c) of this section.

10. The decision of the General Counsel of the Department under paragraph 1 of this section to require the Contractor to forfeit any rights which he may have under the contract to any Subject Invention shall be the final action of the Department of Commerce and shall not be considered a dispute under the Disputes Clause.

11. In making the determinations and decisions under paragraphs 9 and 10 of this section, notice shall be given the Contractor to show cause why he should not be required to grant licenses or why he should not forfeit any rights he may have under the contract to any Subject Invention.

12. Nothing contained in this Patent Rights Clause shall be deemed to grant any rights to the Government with respect to any inventions other than Subject Inventions.

E. Duties of the Contractor. 1. When the Government acquires title to Subject Inventions, the Contractor shall, upon request, furnish such full and complete technical and other information, and execute or secure the execution of all documents and instruments, as are deemed necessary to vest in the Government the rights granted it under this clause and to enable the Government to apply for and prosecute a patent application in any country covering such Invention.

2. When the Contractor acquires title to Subject Inventions within the United States, the Contractor shall:

a. Promptly file an application for U.S. Letters Patent on each Invention, and, as soon as identifying information is known, deliver to the Contracting Officer an instrument confirmatory of the rights reserved to the Government under this clause, identifying the application by serial number and filing date;

b. Include as the first paragraph of the application specification a statement that the Invention was made under contract with the U.S. Government, identifying the contract by agency and number, and stating that the Government is licensed under the patent and has reserved the rights set forth in sections 1(f) and 1(g) of the October 10, 1963, Presidential Statement of Government Patent Policy;

c. Furnish, upon request, an irrevocable power of attorney to inspect and make copies of each application covering any such Invention;

d. Furnish reports at reasonable intervals, upon request, on the commercial use that is being made or is intended to be made of such Invention, and on the steps taken by the Contractor to bring the Invention to the point of practical application, or to make the Invention available for licensing;

e. Notify the Contracting Officer, within seven (7) months from the filing of the U.S. patent application of the countries in which corresponding foreign patent applications have been filed, and furnish, upon request, to enable the Government to seek protection the information, documents, and instruments required in paragraph 1 of this section necessary for the filing and prosecution of patent applications in those countries in which the Contractor has not sought patent protection;

f. Notify the Contracting Officer promptly, or in any event not later than six (6) months after first publication, public use or sale of the Invention, of a decision not to file a U.S. patent application, and furnish, upon request, to enable the Government to seek protection, the information, documents, and instruments required in paragraph 1 of this section; and

g. Notify the Contracting Officer not less than thirty (30) days before the expiration of a response period of an election not to continue prosecution of any application, domestic or foreign covering the Invention, and furnish, upon request, the information, documents, and instruments required in paragraph 1 of this section.

3. When the Contractor submits written notice and acquires title to Subject Inventions in selected foreign countries where the Government elected not to secure patent protection, the Contractor shall promptly file an application for patent in each selected country, and deliver to the Contracting Officer an instrument confirmatory of the rights reserved to the Government under this clause, identifying the application.

F. Subcontracts. The Contractor shall notify the Contracting Officer of all subcontracts hereunder where a purpose of the subcontract is the conduct of experimental, developmental, or research work, providing information concerning the subcontract and subcontractor, and requesting a determination on which Patent Rights Clause should be included in the subcontract. The Contractor shall include the Patent Rights Clause identified by the Contracting Officer in the subcontract.

APPENDIX B

PATENT RIGHTS CONTRACT CLAUSE (LICENSE)

A. Definitions. As used in this clause, the following terms shall have the meanings set forth below:

1. Subject Invention means any invention or discovery conceived or first actually reduced to practice in the course of or under this contract, and includes any art, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the patent laws of the United States of America or any foreign country.

2. Subcontract means any contract of the Contractor or lower-tier subcontract under this contract entered into with or for the benefit of the Government where a purpose of the contract or subcontract is the conduct of experimental, developmental, or research work.

3. Governmental purpose means the right of the Government of the United States, any agency thereof, State or domestic municipal government to practice or have practiced, make or have made, use or have used, sell or have sold throughout the world by or on behalf of the Government of the United States, and by or on behalf of any State or domestic municipal government.

4. To the point of practical application means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine and under such conditions as to establish that the Invention is being worked and that its benefits are reasonably accessible to the public.

B. Invention disclosures and reports. With respect to Subject Inventions made by the Contractor, the Contractor shall furnish the following to the Contracting Officer:

1. A written disclosure of each Subject Invention within six (6) months after conception or first actual reduction to practice, whichever occurs first under this contract, sufficiently complete as to technical detail to convey a clear understanding of the nature, purpose, operation, and the physical, chemical, or electrical characteristics of the invention. With each disclosure, the Contractor shall make a written statement on whether he elects to file a U.S. patent application claiming the Invention.

2. Information in writing, with the invention disclosure or as soon as it is known to the Contractor, of any past or contemplated public use, sale, or publication of any Subject Inventions.

3. Within one (1) month after all deliverable items have been delivered to and accepted by the Contracting Officer, a final report listing all Subject Inventions, or certifying that no Subject Inventions were made under the contract.

C. Examination of records relating to inventions. The Contracting Officer, or his authorized representative shall, until the expiration of three (3) years after final payment under this contract, have the right to examine any books, records, documents, and other supporting data of the Contractor which the Contracting Officer or his authorized representative shall deem pertinent to the discovery or identification of Subject Inventions or to compliance by the Contractor with the requirements of this clause.

D. Allocation of rights to Subject Inventions. Rights to Subject Inventions are allocated as follows:

1. The Contractor shall retain full right, title, and interest in and to each Subject Invention made by the Contractor, except that, the Contractor agrees to grant to the Government, upon request by the General Counsel of the Department of Commerce, full right, title, and interest in and to any Subject Invention with respect to which the Contractor has failed either to:

a. Submit at or prior to the time he files or causes to be filed an application for patent or submits the final report required by paragraph B.3 of this clause, whichever is later, a written disclosure together with an election to file; or

b. Deliver to the Contracting Officer prior to the issuance of a patent on said Subject Invention an instrument confirmatory of the rights reserved to the Government under this clause;

Provided, however, That the Contractor shall not be required to convey to the Government the full right, title, and interest in and to a Subject Invention, if the Contractor establishes that the failure to submit the disclosure or deliver the confirmatory instrument was due entirely to conditions beyond his control and without his fault or negligence.

2. Where the Contractor acquires full right, title, and interest in and to Subject Inventions, such rights shall be subject to the following rights reserved by the Government:

a. An irrevocable, nonexclusive, nontransferable, royalty-free license to practice the Invention throughout the world for all governmental purposes;

b. The right of the Government to require the granting of licenses to applicants on a nonexclusive, royalty-free basis when the Contractor, his licensee, or his assignee has failed to take effective steps within three (3) years after a patent issues on the Invention, to bring the Invention to the point of practical application or to make the Invention available for licensing royalty free or on terms that are reasonable in the circumstances, unless the Contractor can show cause why the granting of such licenses should not be required by the Government for a further period of time;

c. The right of the Government to require the granting of nonexclusive licenses to applicants royalty free or on terms that are reasonable in the circumstances, when and to the extent that the Invention is required for public use by governmental regulation or as may be necessary to fulfill health needs, or for other public purposes stipulated in this contract; and

d. The right of the Government to acquire full right, title, and interest in the Invention in each foreign country in which the Contractor does not file a patent application within seven (7) months from the filing of a corresponding U.S. patent application, subject to the license in the Contractor specified in paragraph 2 of this section.

3. There shall be reserved to the Contractor a nonexclusive and royalty-free license to practice any Subject Invention to which the Government acquires title. The license shall extend to existing and future associated and affiliated companies, if any, within the corporate structure of which the Contractor is a part and shall be assignable to the successor of that part of the Contractor's business to which the Invention pertains.

4. The decisions of the Department of Commerce to require the granting of licenses under subparagraphs 2(b) and 2(c) of this section shall be final and shall not be considered as disputes under the Disputes Clause.

5. The decision of the General Counsel of the Department under paragraph 1 of this section to require the Contractor to grant to the Government full right, title and interest in and to any Subject Invention shall be the final action of the Department of Commerce and shall not be considered a dispute under the Disputes Clause.

6. In making the determinations and decisions under paragraphs 4 and 5 of this section, notice shall be given the Contractor to show cause why he should not be required to grant licenses or why he should not grant to the Government full right, title, and interest in and to any Subject Invention.

7. Upon receipt of the notices provided in subparagraphs E.2 (f) or (g) or subparagraph E.3 of this clause, the Government shall be entitled to all rights, title, and interest in the Invention subject to the reservation to the Contractor of the license specified in paragraph 3 of this section.

8. Nothing contained in this Patent Rights Clause shall be deemed to grant any rights to the Government with respect to any inventions other than Subject Inventions.

E. Duties of the contractor. 1. When the Government acquires title to Subject Inventions, the Contractor shall, upon request, furnish such full and complete technical and other information, and execute or secure the execution of all documents and instruments, as are deemed necessary to vest in the Government the rights granted it under this clause and to enable the Government to apply for and prosecute a patent application in any country covering such Inventions.

2. When the Contractor acquires title to Subject Inventions within the United States, the Contractor shall:

a. Promptly file an application for U.S. Letters Patent on each Invention, and, as soon as identifying information is known, deliver to the Contracting Officer an instrument confirmatory of the rights reserved to the Government under this clause, identifying the application by serial number and filing date;

b. Include as the first paragraph of the application specification a statement that the Invention was made under contract with the U.S. Government, identifying the contract by agency and number, and stating that the Government is licensed under the patent and has reserved the rights set forth in sections 1(f) and 1(g) of the October 10, 1963, Presidential Statement of Government Patent Policy;

c. Furnish, upon request, an irrevocable power of attorney to inspect and make copies of each application covering any such Invention;

d. Furnish reports at reasonable intervals, upon request, on the commercial use that is being made or is intended to be made of such Invention, and on the steps taken by the Contractor to bring the Invention to the point of practical application, or to make the Invention available for licensing;

e. Notify the Contracting Officer, within seven (7) months from the filing of the U.S. patent application, of the countries in which corresponding foreign patent applications have been filed, and furnish, upon request, to enable the Government to seek protection, the information, documents, and instruments required in paragraph 1 of this section, necessary for the filing and prosecution of patent applications in those countries in which the Contractor has not sought patent protection;

f. Notify the Contracting Officer promptly, or in any event not later than six (6) months after first publication, public use or sale of the Invention, of a decision not to file a U.S. patent application, and furnish, upon request, to enable the Government to seek protection the information, documents, and instruments required in paragraph 1 of this section; and

g. Notify the Contracting Officer not less than thirty (30) days before the expiration of a response period of an election not to continue prosecution of any application, domestic or foreign, and furnish, upon request, the information, documents, and instruments required in paragraph 1 of this section.

3. When the Contractor elects to file a U.S. patent application claiming the Invention, and subsequently decides not to file, he shall notify the Contracting Officer promptly, or in any event not later than six (6) months after first publication, public use, or sale of the Invention, of such decision, and furnish, upon request, the information, documents, and instruments required in paragraph 1 of this section.

F. Subcontracts. The Contractor shall notify the Contracting Officer of all subcontracts hereunder where a purpose of the subcontract is the conduct of experimental, developmental, or research work, providing information concerning the subcontract and subcontractor, and requesting a determination on which Patent Rights Clause should be included in the subcontract. The Contractor shall include the Patent Rights Clause identified by the Contracting Officer in the subcontract.

APPENDIX C

PATENT RIGHTS CONTRACT CLAUSE (DEFERRED)

This clause will be the same as the Patent Rights Contract Clause (Title) set forth in Appendix A to this order, except that the following paragraph 3 will be substituted for paragraph 3 of section D of Appendix A and the name of the clause will be changed to "Patent Rights (Deferred)".

3. The Contractor, when disclosing a Subject Invention but not later than three (3) months thereafter, may submit to the Contracting Officer a written request addressed to the Assistant Secretary for Science and Technology for greater rights than the license reserved to the Contractor in paragraph 5 of this section. Such a request should include a statement of the Contractor's intentions to bring the Invention to the point of practical application as well as other information and facts concerning the Contractor's business tending to show his capability to promote the utilization of the Invention either directly through his own commercial use or indirectly through his licensing program.

[F.R. Doc. 67-13574; Filed, Nov. 17, 1967; 8:45 a.m.]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 67-80]

LAUNCHING OF "PONCE DE LEON"

Closing of Delaware River to Navigation

By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by 49 CFR 1.4 (32 F.R. 5606) and Executive Order 10173 as amended by Executive Orders 10277, 10352, and 11249, I hereby affirm for publication in the FEDERAL REGISTER the order of A. J. Carpenter, Rear Admiral, U.S. Coast Guard, Commander, 3d Coast Guard District, who has exercised authority as District Commander, such order reading as follows:

SPECIAL NOTICE DELAWARE RIVER

Under the authority of Title II of the Espionage Act of June 15, 1917, 40 Stat. 220, 50 U.S.C. 191 and Executive Order 10173 as amended, I declare that from 12 p.m. e.s.t., on Thursday, November 16, 1967, the following area is a security zone and I order that it be closed to any person or vessel due to the launching of Hull No. 647, the "Ponce De Leon":

The waters of the Delaware River, Chester, Pa., within the coordinates of latitude 39°-50'55" N., longitude 75°20'46" W., at the shoreline of Chester, Pa., thence southeasterly to latitude 39°50'24" N., longitude 75°-20'33" W., thence northeasterly to latitude 39°50'45" N., longitude 75°19'29" W., thence north to latitude 39°51'32" N., longitude 75°19'32" W.

No person or vessel may remain in or enter this security zone.

The Captain of the Port, Philadelphia, Pa., shall enforce this order.

The Captain of the Port may be assisted by employees and facilities of any State or political subdivision thereof or any Federal agency.

For violation of this order Title II of the Espionage Act of June 15, 1917 (40 Stat. 220 as amended, 50 U.S.C. 192), provides:

"If any owner, agent, master, officer, or person in charge, or any member of the crew of any such vessel fails to comply with any regulation or rule issued or order given under the provisions of this chapter, or obstructs or interferes with the exercise of any power conferred by this chapter, the vessel, together with her tackle, apparel, furniture, and equipment, shall be subject to seizure and forfeiture to the United States in the same manner as merchandise is forfeited for violation of the customs revenue laws; and the person guilty of such failure, obstruction, or interference shall be punished by imprisonment for not more than 10 years and may, in the discretion of the court, be fined not more than $10,000.

"If any other person knowingly fails to comply with any regulation or rule issued or order given under the provisions of this chapter, or knowingly obstructs or interferes with the exercise of any power conferred by this chapter, he shall be punished by imprisonment for not more than 10 years and may, at the discretion of the court, be fined not more than $10,000."

Dated: November 15, 1967.

P. E. TRIMBLE,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[F.R. Doc. 67-13614; Filed, Nov. 17, 1967; 8:48 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-184]

NATIONAL BUREAU OF STANDARDS

Notice of Issuance of Provisional Operating License

Please take notice that no request for a hearing having been filed following publication of the notice of proposed action in the FEDERAL REGISTER, the Atomic Energy Commission has issued Provisional Operating License No. TR-5 authorizing the National Bureau of Standards (NBS) to possess, use and operate the National Bureau of Standards Reactor (NBSR) located on the NBS site

approximately 1 mile southwest of Gaithersburg in Montgomery County, Md. The license authorizes operation of the reactor at power levels up to 10 megawatts thermal, and incorporates Technical Specifications.

The Commission has inspected the facility and determined that it has been constructed in accordance with the provisions of Provisional Construction Permit No. CPTR-5.

The provisional operating license, as issued, is as set forth in the Notice of Proposed Issuance of Provisional Operating License published in the FEDERAL REGISTER on August 25, 1967, 32 F.R. 12411.

Dated at Bethesda, Md., this 13th day of November 1967.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[F.R. Doc. 67-13568; Filed, Nov. 17, 1967; 8:45 a.m.]

[Docket No. 50-174]

PENNSYLVANIA STATE UNIVERSITY

Order of Termination of Interest

The Atomic Energy Commission has found that the transfer of Facility License No. R-72 to the Department of Forests and Waters of the Commonwealth of Pennsylvania to possess legal title to the Curtiss-Wright Nuclear Research Laboratory located at Quehanna, Pa., and to the Nuclear Materials and Equipment Corp. to possess, but not to operate, the facility is in accordance with the provisions of the Atomic Energy Act of 1954, as amended, and has given its consent.

Therefore, the interest of the Pennsylvania State University in License No. R-72 is hereby terminated effective as of this date, and Docket No. 50-174 is closed.

Dated: November 9, 1967.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[F.R. Doc. 67-13569; Filed, Nov. 17, 1967; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 18577; Order E-26971]

OZARK AIR LINES, INC.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 14th day of November 1967.

Application of Ozark Air Lines, Inc., Docket 18577, for amendment of its certificate of public convenience and necessity.

On May 22, 1967, Ozark Air Lines, Inc. (Ozark), filed an application requesting that its certificate for Route 107 be amended by the addition, subject to certain conditions,[1] of two new segments which would extend (1) between the coterminal points Peoria, Springfield, and Champaign/Urbana, Ill., and the coterminal points Washington, D.C., and New York, N.Y., and (2) between the coterminal points Peoria, Springfield, and Champaign/Urbana, Ill., and the terminal point Waterloo, Iowa. Thereafter, on May 29, 1967, Ozark petitioned the Board for issuance of an order to show cause why the above application should not be granted, and, in the alternative, moved that the Board set the application down for an expedited hearing.

In support of its petition and motion Ozark stated, inter alia, that: The grant of the application would permit Ozark to inaugurate first single-plane service between Sioux Falls, S. Dak., Sioux City, Iowa, Waterloo, Iowa, and Peoria, Ill., on the one hand, and Washington, D.C., and New York, N.Y.,[2] on the other, in addition to providing on-line connecting service to Washington and New York for 13 other of its system cities; the requested authority would permit Ozark to offer at a later date single-plane service between Champaign/Urbana[3] and Springfield, Ill., on the one hand, and Washington and New York, on the other; 73,607 passengers, which includes 28,465 self-diverted passengers, would be benefited; the award of this authority would permit a subsidy reduction of $159,452, and Ozark would accept an ad hoc subsidy reduction in this amount; this proposal would have no adverse impact on any other carrier; and, the application filed herein is identical in principle to that filed by Piedmont Aviation in Docket 16456, which the Board disposed of by a show cause order, and identical to Central Airlines' application in Docket 18127, which the Board has set down for an expedited hearing.

The city of Sioux City, Iowa, the Sioux City Chamber of Commerce, the city of Waterloo, Iowa, and the Waterloo Airport Commission filed statements in support of Ozark's petition and motion. The Peoria, Ill., Association of Commerce filed a letter in support of Ozark's application and requested to be named as a party to the proceeding. The city of Sioux Falls, S. Dak., and the Sioux Falls Chamber of Commerce filed a petition for intervention and a motion for an expedited hearing.

Answers requesting the denial or dismissal of Ozark's petition and motion were filed by American Airlines, Inc. (American), and United Air Lines, Inc. (United). In their answers both American and United stated that the complex and controversial issues presented by this application could only be resolved through the hearing process. Moreover, stating that Ozark's proposal involved a great outlay of expenses for the carrier and that only a slight reduction in Ozark's traffic forecast, which was greatly overestimated, would convert Ozark's prediction of a subsidy reduction into a subsidy need, both American and United pointed out that this proposal presented a great risk for Ozark. In this connection, both American and United assert that Ozark's traffic forecast is overstated by reason of excessive growth, stimulation and participation factors. American also stated that Ozark's expense estimate was too low and there was no public need for the proposal. United added that the proposal would lead to the injury of other carriers, that few public benefits would flow from the proposal, and that, while a hearing was necessary in this case, Ozark had presented no sound reasons for proceeding on an expedited basis.[4]

We have decided to process Ozark's application by show cause procedure; and we tentatively find and conclude that Ozark's certificate of public convenience and necessity for Route 107 should be amended by adding a new segment between the terminal point Waterloo, Iowa, the intermediate points Peoria, Springfield, and Champaign/Urbana, Ill., and Washington, D.C. (to be served through Dulles International Airport), and the terminal point New York, N.Y., subject to the following restrictions: (1) Flights over the new segment shall serve both (a) Washington or New York, and (b) Peoria, Springfield, Champaign/Urbana, or Waterloo, Iowa; (2) single-plane service shall not be scheduled between Washington or New York, on the one hand, and Chicago, St. Louis, Tulsa, Kansas City, Omaha, or Minneapolis/St. Paul, on the other; and (3) Washington and New York will not be deemed "stations" for subsidy purposes, and flights serving those points will be ineligible for subsidy in their entirety as operated, regardless of their points of origin or termination.[5] Conditions (3), (4), and (5) of Ozark's present certificate will not be made applicable to the new segment, thus relieving the carrier of any compulsory-stop requirements other than those specified in (1) above.

We tentatively find that the service improvements resulting from Ozark's proposal will substantially benefit the traveling public.[6] As Ozark points out, this proposal will provide first single-plane service between Sioux Falls, Sioux City, Waterloo, and Peoria, on the one hand, and Washington and New York, on the other. On-line connecting service to Washington and New York will be made available for 13 other Ozark cities; and the authority granted herein will permit the inauguration of single-plane service at a later date between Champaign/Urbana and Springfield, on the one hand, and Washington and New York, on the other. Moreover, this service will enable many passengers now moving on Ozark's system via connections at Chicago to Washington and New York to bypass Chicago. The main Chicago airport, O'Hare International, is the busiest in the nation and, in our judgment, Ozark's proposal to provide an alternative service to Washington and New York which bypasses O'Hare will result in improved service for these passengers. Although we agree with United that the comparison of existing reported elapsed times for connecting services at Chicago with the elapsed times of Ozark's proposal should be done selectively, nevertheless, we believe that Ozark, on the whole, will be able to provide schedules, particularly to Washington, with elapsed times significantly shorter than those which will be generally available via connecting service.

We also tentatively find that Ozark's proposal will be profitable, and that it holds out the strong prospect of a subsidy reduction, if not in the first year of operation, within a short time thereafter.[7] In this connection we have considered the contentions of both American and United that Ozark's traffic forecast is overstated and its expense estimate is understated, and we find that these contentions are without substantial merit.[8] United in particular, but also American, contend that the stimulation and participation factors used by Ozark are for a variety of reasons too high, among them being the fact that Ozark proposes to offer service at first-class fares while there are connecting services available at coach fares either all or part of the way. Additionally, United alleges that Ozark's growth rates for certain markets, which ranged between 11 percent and 32 percent, are overstated. It may be, for the reasons cited by American and United, that Ozark's forecast of traffic in the Peoria-New York market, among others, is overstated. Although Ozark's forecast should be somewhat downgraded, as American and United contend, we nonetheless find that this adjustment does not alter the basic economic soundness of the proposal.[9] In any event, certain compensating factors reinforce our confidence in the economic soundness of the requests made herein. Once the Champaign/Urbana airport becomes capable of handling DC-9 aircraft, the provision of service by Ozark between this point and Washington and New York should provide the carrier with a substantial additional amount of traffic.

We also tentatively find and conclude that this award to Ozark will have only a minimal, if any, adverse effect on other carriers. American does not allege that the grant of this request would result in diversion of its revenues, and although United claims that the carriers presently in the relevant markets would be injured, it does not provide any factual basis in support of this allegation. To a large extent the restrictions discussed below will serve to eliminate the adverse impact on any carrier. Moreover, much of the traffic Ozark will be carrying will be newly stimulated traffic, and as such will not be existing traffic now carried by American or United. Besides, the amount of traffic Ozark may be diverting from American or United will be comparatively so minute as to have no significant impact upon their overall financial positions.

We tentatively find and conclude that flights operated pursuant to the authority proposed to be granted herein should be ineligible for subsidy in their entirety, and that the certificate restrictions described above are required by the public convenience and necessity. The first restriction eliminates the possibility of Washington-New York turnaround service by Ozark, which would obviously be uneconomic; and requires that flights over the new segment serve Peoria, Springfield, Champaign-Urbana, or Waterloo, Iowa. It serves, therefore, to limit the new authority granted to Ozark's actual proposal and to the service needs it has shown. Similarly, the second restriction eliminates the possibility of single-plane service by Ozark between Washington and New York, on the one hand, and Chicago, St. Louis, Tulsa, Kansas City, Omaha, and Minneapolis/St. Paul—all major trunkline markets where no need for Ozark's service has been shown, and whose inclusion could only provoke controversy, lead the proceeding afield, and magnify possible diversion from other carriers.[10] Requiring Ozark to serve Washington exclusively through Dulles International Airport will avoid adding to the present congestion at Washington National Airport, and will help assure greater and more efficient utilization of Dulles. Lastly, we agree with Ozark that conditions (4) and (5) of its existing certificate should not apply to the new segment, since they would unnecessarily hinder the carrier's operating flexibility; the only stop requirements should be those of the first restriction described above.

Interested persons will be given 20 days from the service date of this order to show cause why the foregoing tentative findings and conclusions should not be made final. In affording this opportunity, we expect such persons to direct their objections, if any, to specific markets and to support such objections with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis.

Accordingly, it is ordered, That:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein and amending Ozark's certificate of public convenience and necessity for Route 107 so as to authorize service over a new segment described as follows:

Between the terminal point Waterloo, Iowa, the intermediate points Peoria, Springfield, and Champaign/Urbana, Ill., and Washington, D.C. (to be served through Dulles International Airport), and the terminal point New York, N.Y.

subject to the following conditions:

a. Flights over the new segment shall serve both (a) Washington, D.C., or New York, N.Y., and (b) Peoria, Springfield, Champaign-Urbana, Ill., or Waterloo, Iowa;

b. The holder shall not schedule single-plane service between Washington, D.C., or New York, N.Y., on the one hand, and Chicago, Ill., St. Louis, Mo., Tulsa, Okla., Kansas City, Mo., Omaha, Nebr., or Minneapolis/St. Paul, Minn., on the other;

c. Washington, D.C., and New York, N.Y., will not be deemed "stations" for subsidy computation purposes, and flights serving either or both of those points will be ineligible for subsidy in their entirety as operated, regardless of their points of origination or termination; and

d. Conditions (3), (4), and (5) of Ozark's existing certificate will not be made applicable to the new segment;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments set forth herein shall, within 20 days after service of this order, file with the Board and serve upon all persons made parties to this proceeding a statement of objec-

[1] Ozark suggested conditions (a) prohibiting single-plane service between New York or Washington, on the one hand, and Chicago, St. Louis, Tulsa, Kansas City, Omaha, or Minneapolis/St. Paul, on the other; (b) imposing a long-haul restriction on Washington-New York flights; and (c) making conditions (4) and (5) of its existing certificate inapplicable to the new segments.

[2] In its petition, Ozark expressed its willingness to serve Washington exclusively through Dulles International Airport and New York exclusively through LaGuardia Airport.

[3] According to Ozark, at the present time the Champaign airport cannot accommodate jet aircraft without restrictions which are unacceptable to Ozark.

[4] Ozark filed a reply which is an unauthorized document under our rules of practice. Ozark has not filed a motion to accept the reply and we will not entertain it.

[5] Compare Order E-23897, July 5, 1966.

[6] Ozark forecasts that over 78,600 passengers would benefit (including over 28,400 self-diverted passengers). Although, as discussed below, we find this forecast to be somewhat overstated, nevertheless, a substantial number of passengers will unquestionably be benefited.

[7] Ozark forecasts that its proposal would earn a subsidy reduction of $159,452. Although we find this estimate to be too high, we think that Ozark will earn an operating profit in the first year of operation and that this proposal will lead to a subsidy reduction in the second year or not too distant future.

[8] As appropriately adjusted to accord with the downward adjustment of Ozark's forecast we are making, we find that Ozark's forecast of expenses is substantially correct.

[9] Ozark forecasts 45,143 new passengers and 28,465 self-diverted passengers.

[10] There is no need to prohibit Denver-Washington/New York single-plane service; the required number of stops would render wholly uncompetitive any service Ozark might provide in these markets. Backhaul similarly eliminates the possibility of competitive Washington/New York service to Indianapolis, Louisville, or Nashville.

tions together with a summary of testimony, statistical data and other evidence expected to be relied upon to support the stated objections;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board; [1]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. A copy of this order shall be served upon the Peoria, Ill., Association of Commerce; the city of Sioux City, Iowa, and Sioux City Chamber of Commerce; the city of Sioux Falls, S. Dak., and Sioux Falls Chamber of Commerce; the city of Waterloo, Iowa, and Waterloo Airport Commission; American Airlines, Inc.; Ozark Air Lines, Inc.; and United Air Lines, Inc., who are hereby made parties to this case.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 67-12817; Filed, Nov. 17, 1967; 8:49 a.m.]

[1] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections, and no further such motions, requests, or petitions for reconsideration of this order will be entertained.

FEDERAL POWER COMMISSION

[Docket No. RI68-217, etc.]

MARATHON OIL CO. ET AL.

Order Accepting Contract Amendments, Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

NOVEMBER 9, 1967.

The above-named Respondents have tendered for filing proposed changes in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are designated as follows:

[1] Does not consolidate for hearing or dispose of the several matters herein.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI68-217	Marathon Oil Co. (Operator) et al., 539 South Main St., Findlay, Ohio 45840, Attn: Jack Farin, Esq.	14 14	[2] 20 21	United Gas Pipe Line Co. (Phoenix Lake Field, Calcasieu Parish, La.) (South Louisiana).	$7,149	10-16-67 10-16-67	[3] 11-16-67 [7] 11-16-67	(Accepted) 4-16-68	[4] 16.804	[5] [6] 16.883	RI66-19.
	Marathon Oil Co. (Operator) et al.	22 22	[2] 7 8	United Gas Pipe Line Co. (Phoenix Lake Field (Gasoline Plant, Calcasieu Parish, La.) (South Louisiana).	862	10-16-67 10-16-67	[3] 11-16-67 [7] 11-16-67	(Accepted) 4-16-68	[4] 16.804	[5] [6] 16.857	RI66-19.
RI68-218	Centaur Petroleum Corp., 1750 First National Bank Bldg., Fort Worth, Tex. 76102, Attn: Burford King, President.	1	3	Texas Eastern Transmission Corp. (Clayton Field, Live Oak County, Tex.) (R.R. District No. 2).	1,015	10-19-67	[7] 12-1-67	[8] 5-1-68	[9] [12] 8733	[10] [13] 14.8733	
RI68-219	Prenalta Corp. (Operator) et al., Post Office Box 2514, Casper, Wyo. 82601, Attn: Mr. James A. Masterson.	1	4	Colorado Interstate Gas Co. (East Desert Spring Area, Sweetwater County, Wyo.).	1,800	10-18-67	[7] 1-1-68	[8] 1-1-68	[11] 17.25	[6] [13] 18.25	RI67-478.
RI68-220	H. L. Hunt (Operator) et al., 1401 Elm St., Dallas, Tex. 75202.	80	7	Michigan Wisconsin Pipe Line Co. (Woodward Area, Woodward County, Okla.) (Panhandle Area).	10,000	10-16-67	[7] 12-1-67	[8] 5-1-68	[9] 19.06	[6] [13] 20.875	RI67-303.
RI68-221	Tunco, Inc., Post Office Box 52332, Houston, Tex. 77052.	140	5	Cities Service Gas Co. (Waterloo North Field, Logan County, Okla.) (Oklahoma "Other" Area).	72	10-13-67	[7] 12-22-67	[8] 5-25-68	[9] 15.0	[6] [13] 15.0	RI66-220.
RI68-222	Marathon Oil Co., 539 South Main St., Findlay, Ohio 45840.	60	13	Texas Eastern Transmission Corp. (Greenwood-Waskom Field, Caddo Parish, La.) (North Louisiana).	98	10-16-67	[7] 11-16-67	4-16-68	[9] 17.4417	[6] [13] 17.9417	RI67-121.
RI68-223	Humble Oil & Refining Co., Post Office Box 2180, Houston, Tex. 77001.	332	6	Arkansas Louisiana Gas Co. (Lacey Area, Kingfisher County, Okla.) (Oklahoma "Other" Area).	16,455	10-19-67	[7] 12-14-67	5-14-68	15.0	[6] 17.0	
RI68-224	Frederic C. and Ferris F. Hamilton d.b.a. Hamilton Brothers, Ltd., 1627 Denver Club Bldg., Denver, Colo. 80202.	2	4	Northern Natural Gas Co. (Perryton Field, Ochiltree County, Tex.) (R.R. District No. 10).	2,901	10-18-67	[7] 12-1-67	[8] 5-1-68	[6] [11] 17.5	[6] [13] 18.5	RI63-207.

[2] Letter agreement dated Sept. 26, 1967, amends basic contract by providing for the redetermined rate proposed herein for the 5-year period commencing Oct. 1, 1967.
[3] The stated effective date is the first day after expiration of the statutory notice.
[4] Redetermined rate increase.
[5] Pressure base is 15.025 p.s.i.a.
[6] Inclusive of 1.0 cents tax reimbursement.
[7] The stated effective date is the effective date requested by Respondent.
[8] Periodic rate increase.
[9] Pressure base is 14.65 p.s.i.a.
[10] Equivalent to 14.8733 cents when a standard differential of 0.5 cent maintained by Texas Eastern for delivery of dehydrated gas at a central point is taken into consideration.
[11] Settlement rate accepted by the Commission by letter order issued Mar. 16, 1966.
[12] Includes 2.25 cents per Mcf upward B.t.u. adjustment, which is the maximum adjustment allowed under the terms of the contract, as amended.
[13] Includes base rate of 19.5 cents before increase and base rate of 23 cents after increase plus 0.40 cent upward B.t.u. adjustment. Base rate subject to upward and downward B.t.u. adjustment.
[14] Subject to a downward B.t.u. adjustment.
[15] Includes 1.75 cents tax reimbursement.
[16] "Fractured" rate increase. Contractual rate is 17.5 cents per Mcf.
[17] Includes 1 cent per Mcf paid to seller for relinquishing right to process gas.

Humble Oil & Refining Co. (Humble) requests that should the Commission suspend its rate filing that the suspension period be shortened to a maximum of 1 day, or as short a period as possible. Good cause has not been shown for granting Humble's request for limiting to 1 day the suspension period with respect to its rate filing and such request is denied. We conclude that Humble's proposed rate increase should be suspended for 5 months from December 14, 1967, the proposed effective date.

Concurrently with the filing of their proposed rate increases, Marathon Oil Co. (Operator) et al. (Marathon), submitted two letter agreements dated September 26, 1967, which amend the basic contracts by providing for the redetermined rates proposed herein for the 5-year period commencing October 1, 1967. Such amendments have been designated as Supplement Nos. 20 and 7 to Marathon's FPC Gas Rate Schedule Nos. 14 and 32, respectively. We believe that it would be in the public interest to accept for filing Marathon's aforementioned contract amendments to become effective on November 16, 1967, the date of expiration of the statutory notice, but not the proposed rates contained therein which are suspended as hereinafter ordered.

The proposed increased rate of 18.25 cents per Mcf filed by Prenalta Corp. (Operator) et al. (Prenalta), involves a sale to Colorado Interstate Gas Co. from the East Desert Springs Area, Sweetwater County, Wyo. The proposed 18.25 cents rate is composed of a 16 cents base rate and 2.25 cents per Mcf upward B.t.u. adjustment which is the maximum B.t.u. adjustment permitted under the contract. Since the proposed rate exceeds the 17.7 cents per Mcf increased rate ceiling for Wyoming as announced in the Commission's statement of general policy No. 61-1, as amended, it should be suspended for 5 months from January 1, 1968, the proposed effective date.

Centaur Petroleum Corp's. (Centaur) proposed increase relates to gas produced in the Wilcox Trend Area, Texas Railroad District No. 2. The subject rate schedule provides for delivery of non-dehydrated gas at the outlet of the producer's facilities at or near each of the producing gas wells located on the leases covered by such rate schedule. Texas Eastern Transmission Corp. (Texas Eastern), the buyer, gathers the subject gas, together with gas purchased from other producers in this area, and transports such gas to the Goliad Plant, operated by Mobil Oil Corp., where it is then processed for the extraction of liquid components, dehydrated and redelivered to Texas Eastern at the outlet of such plant. Texas Eastern maintains a standard contract differential of 0.5 cent for delivery of dehydrated gas at a central point in this area. The actual cost incurred by Texas Eastern for dehydration and central point delivery of the subject gas is not ascertainable at this time but the Commission has applied the standard 0.5 cent differential for these costs in determining whether the proposed rate exceeds the applicable area increased rate ceiling. The addition of this 0.5 cent differential to the rate proposed herein, since Texas Eastern must gather and dehydrate the subject gas, would cause such rate to exceed the area increased ceiling level of 14.6 cents (applicable to rate schedules settled pursuant to the provisions of the Second Amendment to the Commission's statement of general policy No. 61-1) established by the Commission for pipeline quality gas. Pipeline quality gas in this area is understood to apply to sales of dehydrated gas delivered at a central point in the field. Consistent with prior Commission action taken on similar increases, Centaur's proposed rate increase, equivalent to 14.8733 cents when the cost incurred by the buyer for dehydrating and gathering is taken into consideration, should be suspended for 5 months from December 1, 1967, the proposed effective date.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56).

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential or otherwise unlawful.

The Commission finds:

(1) Good cause has been shown for accepting for filing Marathon's proposed contract amendments dated September 26, 1967, designated as Supplement Nos. 20 and 7 to Marathon's FPC Gas Rate Schedule Nos. 14 and 32, respectively, and for permitting such supplements to become effective on November 16, 1967, the date of expiration of the statutory notice.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the proposed changes and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered (except for the supplements set forth in paragraph (1) above).

The Commission orders:

(A) Marathon's contract amendments dated September 26, 1967, designated as Supplement Nos. 20 and 7 to Marathon's FPC Gas Rate Schedule Nos. 14 and 32, respectively, are accepted for filing and permitted to become effective on November 16, 1967, the date of expiration of the statutory notice.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings shall be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in the above-designated supplements (except the supplements set forth in paragraph (A) above).

(C) Pending hearings and decisions thereon, the above-designated supplements are hereby suspended and the use thereof deferred until the date indicated in the above "Date Suspended Until" column, and thereafter until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(D) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(E) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before December 27, 1967.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-13516; Filed, Nov. 17, 1967; 8:45 a.m.]

[Docket No. RI68-225]

TEXACO, INC.

Order Providing for Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject to Refund

NOVEMBER 13, 1967.

Respondent named herein has filed a proposed change in rate and charge of a currently effective rate schedule for the sale of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplement to the rate schedule filed by Respondent shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order Respondent shall execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure require by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of a copy thereof upon the purchaser under the rate schedule involved. Unless Respondent is advised

to the contrary within 15 days after the filing of its agreement and undertaking, such agreement and undertaking shall be deemed to have been accepted.

(C) Until otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37 (f)) on or before December 27, 1967.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI68-228..	Texaco Inc., Post Office Box 52332, Houston, Tex. 77052.	[1] 303	3	Panhandle Eastern Pipe Line Co. (South Kinnet Field, Seward County, Kans.).	$3,005	10-30-67	[2] 1-1-68	[3] 1-2-68	[4] [7] 14.6500	[5] [6] [7] 15.0028	RI67-212.

[1] Basis contract dated after Sept. 28, 1960, the date of issuance of general policy statement No. 61-1, and the proposed rate does not exceed the 16 cents initial rate ceiling for Kansas Area.

[2] The stated effective date is the effective date proposed by Respondent.

[3] The suspension period is limited to 1 day.

[4] Periodic rate increase.

[5] Pressure base is 14.65 p.s.i.a.

[6] Subject to a downward B.t.u. adjustment.

[7] Associated gas.

The contract related to the rate filing of Texaco, Inc. (Texaco) was executed subsequent to September 28, 1960, the date of issuance of the Commission's statement of general policy No. 61-1, as amended, and the proposed increased rate of 15.0028 cents per Mcf exceeds the area increased rate ceiling for Kansas but does not exceed the initial service ceiling of 16 cents per Mcf established for Kansas. We believe, in this situation, Texaco's proposed rate filing should be suspended for 1 day from January 1, 1968, the proposed effective date.

[F.R. Doc. 67-13575; Filed, Nov. 17, 1967; 8:49 a.m.]

[Docket No. RP68-11]

COLORADO INTERSTATE GAS CO.

Notice of Petition for Waiver of Provisions of Uniform System of Accounts

NOVEMBER 13, 1967.

Take notice that on November 2, 1967, Colorado Interstate Gas Co. (Colorado Interstate) filed a Petition for Waiver of Provisions of Paragraph A of Account 282 in the Uniform System of Accounts. The company seeks authority to discontinue the application of said paragraph as of January 1, 1967. It also seeks authority to maintain intact the December 31, 1966, balance of $7,546,660 until disposed of by further Commission action.

In its Petition, Colorado Interstate reaffirms its obligation to flow through producer refunds consistent with the Commission's order issued August 31, 1966, in Docket No. RP67-8 and states that it will file a reduction in rates to reflect an amount equal to the annual effect of purchase gas price decreases ordered by the Commission below those in effect on January 1, 1967, net of any price increases made effective on or after that date, with such reduction to be effective as of April 1 and October 1 of each year beginning April 1, 1968.

Comments may be filed with the Commission on or before December 1, 1967.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-13577; Filed, Nov. 17, 1967; 8:45 a.m.]

[Docket No. E-7374]

NORTHERN STATES POWER CO. (MINNESOTA)

Notice of Application

NOVEMBER 13, 1967.

Take notice that on November 2, 1967, Northern States Power Co. (Applicant) of Minneapolis, Minn., filed an application pursuant to section 203 of the Federal Power Act seeking authority to acquire the electric system of the village of Maseppa, Minn. (Maseppa).

Maseppa operates a municipal electric system in the village of Maseppa in Wabasha County, Minn.

The facilities which are to be acquired by applicant for a base purchase price of $250,000, consist of four diesel powered generators (net capacity 1955 kw), one-fourth mile of 69 kv transmission line and various distribution facilities.

Applicant represents that after the acquisition there will be no change in the use of the acquired facilities except that the Maseppa generating plant will be maintained only for emergencies and as a peaking plant.

Upon acquisition applicant will introduce its applicable rates which in general are lower than the present rates of Maseppa.

Any person desiring to be heard or to make any protest with reference to said application should, on or before December 4, 1967, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-13576; Filed, Nov. 17, 1967; 8:46 a.m.]

CIVIL SERVICE COMMISSION

SOCIAL ADMINISTRATION ADVISOR ET AL.

Prescribed Minimum Educational Requirements

The notice setting forth the minimum education requirement for positions in the Social Administration Series, GS-102-9/15, previously appearing in 5 CFR 24.146 (published originally in 24 F.R. 7805, Sept. 29, 1959, pursuant to 5 U.S.C. 854 (1958 ed.)) is hereby canceled. The notice published in 29 F.R. 11609, August 12, 1964, for positions in the Social Work Series, GS-185-7/15, provides suitable coverage for these positions. The reasons for this decision are set forth below.

The series code (GS-102) previously used for Social Administration Advisor and Social Administration Specialist (Public Assistance) (Child Welfare), and (Medical Social Work) positions has been abolished. These positions are now included in the Social Work Series, GS-185, and the title Social Work Program Specialist has been established for them.

The minimum education requirement of a master's degree in social work for these positions remains unchanged. The notice setting forth the minimum education requirement of a master's degree in social work for positions in the Social Work Series, GS-185-7/15 (29 F.R. 11609, Aug. 13, 1964), applies to all positions having this same minimum education requirement for social work.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67-13608; Filed, Nov. 17, 1967; 8:48 a.m.]

FEDERAL RESERVE SYSTEM

FEDERAL OPEN MARKET COMMITTEE

Current Economic Policy Directive

In accordance with § 271.5 of its Rules Regarding Availability of Information, there is set forth below the Committee's Current Economic Policy Directive issued at its meeting held on August 15, 1967.[1]

The economic and financial developments reviewed at this meeting indicate that economic activity has been expanding more rapidly in recent weeks. With strengthening of private demands for final products and further curtailment of inventory investment, a better balance between inventories and sales is emerging. Upward pressures on costs persist and the overall indexes of both wholesale and consumer prices have risen further. The balance of payments deficit has remained substantial and is a serious national problem. Bank credit expansion has continued large, while most short- and long-term interest rates have fluctuated close to their highs of the year, under the combined pressure of heavy private security market financing and of current and prospective Federal financing. A new fiscal program has been proposed by the President, including a sizable increase in income taxes, which would make a substantial contribution to a balanced economic growth. In this situation, it is the policy of the Federal Open Market Committee to foster financial conditions, including bank credit growth, conducive to continuing economic expansion, while recognizing the need for reasonable price stability for both domestic and balance of payments purposes.

To implement this policy, while taking account of expected Treasury financing activity, System open market operations until the next meeting of the Committee shall be conducted with a view to maintaining about the prevailing conditions in the money market; but operations shall be modified, insofar as Treasury financing permits, to moderate any apparent tendency for bank credit to expand more than currently expected.

Dated at Washington, D.C., the 9th day of November 1967.

By order of the Federal Open Market Committee.

ROBERT C. HOLLAND, *Secretary.*

[F.R. Doc. 67-13579; Filed, Nov. 17, 1967; 8:46 a.m.]

[1] The Record of Policy Actions of the Committee for the meeting of Aug. 15, 1967, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SECURITIES AND EXCHANGE COMMISSION

[File Nos. 7-2776—7-2778]

DELTA AIR LINES, INC. (DELAWARE) ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 14, 1967.

In the matter of applications of the Philadelphia-Baltimore-Washington Stock Exchange, for unlisted trading privileges in certain securities.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one more other national securities exchanges:

	File No.
Delta Air Lines, Inc. (Delaware)	7-2776
Callahan Mining Corp	7-2777
Kennametal, Inc	7-2778

Upon receipt of a request, on or before November 28, 1967, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13568; Filed, Nov. 17, 1967; 8:46 a.m.]

INTERAMERICAN INDUSTRIES, LTD.

Order Suspending Trading

NOVEMBER 14, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the capital stock of Interamerican Industries, Ltd., Calgary, Alberta, Canada, being traded in the United States otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in the United States in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 15, 1967, through November 24, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13569; Filed, Nov. 17, 1967; 8:47 a.m.]

[70-4556]

JERSEY CENTRAL POWER & LIGHT CO.

Notice of Proposed Issue and Sale of Short-Term Promissory Notes

NOVEMBER 14, 1967.

Notice is hereby given that Jersey Central Power & Light Co. ("JCP&L"), Madison Avenue at Punch Bowl Road, Morristown, N.J. 07960, an electric utility subsidiary company of General Public Utilities Corp. ("GPU"), a registered holding company, has filed an application with this Commission, pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 6(b) thereof as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

JCP&L requests that, for the period commencing on the granting of this application and ending on December 31, 1968, the exemption from the provisions of section 6(a) of the Act afforded to it by the first sentence of section 6(b) of the Act relating to the issue and sale of short-term notes be increased from 5 percent to 10 percent of the principal amount and par value of other securities of JCP&L at the time outstanding. Based upon the securities of JCP&L outstanding at October 31, 1967, the proposed increase in such exempt borrowing authority would permit JCP&L to have outstanding at any one time an aggregate of $33,800,000 of short-term notes to banks. The filing states that JCP&L had $3,500,000 principal amount of such notes outstanding at the date of this application.

The notes will bear interest at the prime rate for commercial borrowings at the date of issue of the note from the bank from which such borrowing is made, will mature not later than 9 months from the date of issue, will be prepayable at any time without premium, and will not be issued as a part of a public offering.

Although no commitments or agreements for such borrowings have been made, if this application is granted by the Commission, JCP&L expects that, as and to the extent that its cash needs require, borrowings will be effected from among the following banks, the maximum to be borrowed and outstanding from each such bank being as follows:

Banks	Amounts
Irving Trust Co., New York, N.Y.	$8,000,000
Chemical Bank New York Trust Co., New York, N.Y.	5,000,000
The Chase Manhattan Bank (N.A.), New York, N.Y.	3,500,000
Bankers Trust Co., New York, N.Y.	3,500,000
Fidelity Union Trust Co., Newark, N.J.	3,500,000
First National State Bank of New Jersey, Newark, N.J.	1,500,000
National Newark & Essex Bank, Newark, N.J.	1,500,000
The First National Bank of Jersey City, N.J.	1,000,000
The National State Bank, Elizabeth, N.J.	1,000,000
Trust Company National Bank, Morristown, N.J.	900,000
Summit & Elizabeth Trust Co., Summit, N.J.	800,000

Banks	Amounts
The Monmouth County National Bank, Red Bank, N.J.	700,000
New Jersey National Bank & Trust Co., Asbury Park, N.J.	700,000
The First National Iron Bank of New Jersey, Morristown, N.J.	700,000
First Merchants National Bank, Asbury Park, N.J.	500,000
The National Union Bank of Dover, Del.	400,000
Total	33,800,000

JCP&L proposes to utilize the proceeds of the contemplated borrowings for the purpose of financing its business as a public-utility company, including provisions for construction expenditures, repayment of other short-term borrowings, and the temporary reimbursement of its treasury for construction expenditures provided therefrom. JCP&L will apply the net proceeds from any permanent debt financing effected prior to the maturity of all notes issued and outstanding under this application in reduction of, or in total payment of, such outstanding notes, and the maximum amount of indebtedness which may be incurred by JCP&L under this application will be reduced by the amount of the net proceeds of any such permanent debt financing.

The application states that JCP&L's expenses incident to the proposed issuance of notes will be approximately $3,000, including legal fees of $2,650; and that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. However, it is also stated that approval by the Board of Public Utility Commissioners of the State of New Jersey will be required for a renewal, extension, or replacement of any notes issued by JCP&L, if, as a result thereof, the loan evidenced thereby is not repaid within 12 months of the original date of the note or notes.

Notice is further given that any interested person may, not later than December 4, 1967, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified should the Commission order a hearing in respect thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service thereof (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13590; Filed, Nov. 17, 1967; 8:47 a.m.]

[File No. 1-1277]

PENROSE INDUSTRIES CORP.

Order Suspending Trading

NOVEMBER 14, 1967.

The common stock $2 par value, of Penrose Industries Corp., being listed and registered on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and the 5 percent cumulative convertible preferred stock, $20 par value of Penrose Industries Corp., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the American Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 15, 1967, through November 24, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13591; Filed, Nov. 17, 1967; 8:47 a.m.]

[File No. 7-2775]

WARNER BROS.-SEVEN ARTS, LTD.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 14, 1967.

In the matter of application of the Pacific Coast Stock Exchange for unlisted trading privileges in a certain security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Warner Bros.-Seven Arts Ltd.—File No. 7-2775

Upon receipt of a request, on or before November 28, 1967, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13593; Filed, Nov. 17, 1967; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 464]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 15, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 33500 (Sub-No. 17 TA), filed November 9, 1967. Applicant: PYRAMID VAN LINES, INC., 479 South Airport Boulevard, South San Francisco, Calif. 94080. Applicant's representative: Daniel W. Baker, 405 Montgomery Street, Suite 1401, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fine arts, paintings, antiques, and oriental rugs of high values;* Between Carmel, Calif., Scottsdale, Ariz., Dallas, Tex., Albuquerque, N. Mex., Denver, Colo., and Oklahoma City, Okla., for 180 days. Supporting shipper: Fine Arts Gallery of Scottsdale, Inc., 108 West Main Street, Scottsdale, Ariz. 85251. NOTE: Applicant indicates it intends to tack with its other authority (not specified) in MC 33500 and to interline with Pyramid Van Lines, Western Division, Inc., MC 72729. Send protests to: Wm. R. Murdoch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 106760 (Sub-No. 87 TA), filed November 9, 1967. Applicant: WHITEHOUSE TRUCKING, INC., 2905 Airport Highway, Toledo, Ohio 43614. Applicant's representative: (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building panels, sections, wallboard, building board and accessories*, from Chesapeake, Va., to points in Florida, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont, for 180 days. Supporting shipper: The Evans Products Co., Chesapeake, Va. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5234 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 107496 (Sub-No. 598 TA), filed November 9, 1967. Applicant: RUAN TRANSPORT CORPORATION, Third & Keosauqua Way 50309, Post Office Box 855, Des Moines, Iowa 50304. Applicant's representative: H. L. Fabritz (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crude oil*, in bulk, in tank vehicles, from Bell Creek Oil Field, located in Carter and Powder River Counties, Mont., to receiving points in Campbell, Weston, and Crook Counties, Wyo., for 150 days. Supporting shipper: The Permian Corp., Post Office Box 704, Sterling, Colo. 80751. Send protests to: Ellis L. Annett, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 227 Federal Office Building, Des Moines, Iowa 50309.

No. MC 119493 (Sub-No. 37 TA), filed November 9, 1967. Applicant: MONKEM COMPANY, INC., West 20th Street Road, Post Office Box 1196, Joplin, Mo. 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Manufactured animal and poultry feed, and ingredients used in the manufacture of animal and poultry feed*, between Joplin, Mo., and points in Minnesota, for 180 days. Supporting shipper: Doane Feed Products Co., Post Office Box 879, Joplin, Mo. 64801. Send protests to: H. J. Simmons, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 124813 (Sub-No. 47 TA), filed November 9, 1967. Applicant: UMTHUN TRUCKING CO., a corporation, 910 South Jackson Street, Eagle Grove, Iowa 50533. Applicant's representative: William A. Landau, 1451 East Grand Avenue, Des Moines, Iowa 50306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed*, except liquids in bulk, from Sioux City, Iowa, to points in Minnesota, Nebraska, North Dakota, and South Dakota for 180 days. Supporting shipper: Custom Products, Inc., Post Office Box 3063, Sioux City, Iowa 51105. Send protests to: Ellis L. Annett, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 227 Federal Office Building, Des Moines, Iowa 50309.

No. MC 127706 (Sub-No. 1 TA), filed November 9, 1967. Applicant: LESTER D. CLINGERMAN, Rural Delivery 4, Duck Creek Road, Salem, Ohio 44460. Applicant's representative: Robert T. Fitzsimons, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise (except drugs) sold in discount drug stores, and fixtures, equipment, and supplies* used by drug stores; between the warehouse of Whitecross Stores, Inc., at Austin Township, Mahoning County, Ohio, on the one hand, and, on the other, Whitecross Stores, Inc.'s retail outlets in Hazelton, Scranton, and Wilkes-Barre, Pa., for 180 days. Supporting shipper: White Cross Stores, Inc., 399 Haymarket Road, Monroeville, Pa. 15146, C. William Moffitt, Secretary. Send protests to: Joseph A. Niggemyer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 531 Hawley Building, Wheeling, W. Va. 26003.

No. MC 128105 (Sub-No. 3 TA), filed November 9, 1967. Applicant: FRANK R. GIVIGLIANO, 301 Willow Street, Trinidad, Colo. 81082. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned and frozen food products*, from Mesa, Ariz., to points in Colorado and New Mexico, for 180 days. Supporting shipper: Rosarita Mexican Foods Co., Box 1010, 310 South Extension Road, Mesa, Ariz. 85201. Send protests to: District Supervisor, Herbert C. Ruoff, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 129520 TA, filed November 9, 1967. Applicant: D & E ENTERPRISES, INC., 90 South Dearborn Street, Seattle, Wash. 98134. Applicant's representative: Glenn W. Toomey, Hoge Building, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture* (uncrated and in pads) (1) from points in Washington to points in Oregon and California; and (2) from points in California to points in Oregon and Washington, for 180 days. Supporting shippers: White Swan Industries, Inc., Wapato, Wash. 98951; Classic Furniture Manufacturing, 542 First Avenue South, Seattle, Wash. 98104. Send protests to: E. J. Casey, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6130 Arcade Building, Seattle, Wash. 98101.

By the Commission.

[SEAL] NEIL H. GARSON, *Secretary.*

[F.R. Doc. 67-13611; Filed, Nov. 17, 1967; 8:48 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during November.

3 CFR

Page

PROCLAMATIONS:
3279 (modified by Proc. 3820) 15701
3290 (see Proc. 3820) 15701
3328 (see Proc. 3820) 15701
3386 (see Proc. 3820) 15701
3389 (see Proc. 3820) 15701
3509 (see Proc. 3820) 15701
3531 (see Proc. 3820) 15701
3541 (see Proc. 3820) 15701
3693 (see Proc. 3820) 15701
3694 (terminated in part by Proc. 3818) 15467
3712 (terminated in part by Proc. 3818) 15467
3744 (terminated in part by Proc. 3818) 15467
3779 (see Proc. 3820) 15701
3794 (see Proc. 3820) 15701
3818 15467
3819 15667
3820 15701

EXECUTIVE ORDERS:
2296 (modified by PLO 4313) 15429
4702 (revoked in part by PLO 4315) 15482
8652 (revoked in part by PLO 4317) 15482
10530 (see EO 11378) 15237
10682 (see EO 11378) 15237
10807 (amended by EO 11381) 15629
10903 (amended by EO 11380) 15627
11034 (amended by EO 11380) 15627
11378 15237
11379 15625
11380 15627
11381 15629

5 CFR

213 15703, 15805, 15869
305 15805
713 15631
754 15805

7 CFR

51 15066, 15073
319 15577
401 15703, 15704
711 15704
717 15705
729 15149
730 15076
905 15869
906 15869
907 15805
909 15869
910 15430, 15524, 15631, 15870
912 15430, 15632, 15806, 15870
913 15430
915 15669, 15871
945 15577
947 15705
982 15669
984 15385
989 15871
991 15670, 15705
1001 15076
1015 15090
1067 15093
1120 15388
1125 15706
1126 15388
1132 15389
1137 15431
1421 15632, 15706, 15872
1464 15633

PROPOSED RULES:
51 15435
723 15546
814 15835
822 15393
891 15393
892 15393
905 15116
906 15394
907 15488
908 15394
912 15436
913 15395
959 15177, 15884
966 15884
989 15488
1049 15489
1064 15490
1090 15437
1125 15178
1131 15588

8 CFR

103 15469
212 15469
238 15469

9 CFR

76 15240
78 15577
92 15707
131 15469

10 CFR

40 15872

PROPOSED RULES:
20 15432, 15762

12 CFR

1 15544
219 15389
556 15707, 15747
563 15634
571 15708

PROPOSED RULES:
545 15763

13 CFR

101 15806, 15873
106 15065
108 15149
120 15634
122 15635

PROPOSED RULES:
107 15399
121 15184

14 CFR

21 15472
39 15094, 15153, 15154, 15390, 15421, 15472, 15523, 15579, 15635, 15808, 15873.
71 15094, 15095, 15154, 15523, 15524, 15579, 15635, 15636, 15809, 15810, 15874.
73 15096
75 15636
91 15422, 15706
97 15423, 15473, 15580, 15811
141 15583
145 15670
157 15818
207 15096
208 15097
241 15098

PROPOSED RULES:
27 15676
29 15676
39 15490, 15491, 15588
71 15117–15121, 15491–15493, 15546–15548, 15588, 15589, 15712, 15837, 15838, 15885.
93 15589
121 15676
202 15676
203 15676

15 CFR

0 15222
13 15818
70 15154
204 15104, 15391
230 15105, 15636

16 CFR

13 15105–15107, 15470, 15748–15750, 15874, 15875.
14 15525
15 15470
17 15540
228 15525
229 15529
230 15531
231 15532
232 15533
233 15534
234 15536
235 15538
236 15538
237 15539
238 15540
239 15541
240 15542
412 15584
413 15424

PROPOSED RULES:
241 15715
242 15681
300 15180

17 CFR

200 15470

18 CFR

3 15239
101 15670
141 15670

PROPOSED RULES:
2 15714
14 15714
141 15434
260 15434

19 CFR

4 15390
10 15424
14 15155
16 15390

20 CFR

Page

396 15471
401 15544

21 CFR

4 15709
120 15107, 15120, 15424, 15578
121 15108, 15109, 15155, 15545
133 15109
148c 15425
166 15390
191 15875

PROPOSED RULES:
28 15116

22 CFR

PROPOSED RULES:
201 15116

23 CFR

215 15818
216 15818
255 15792

24 CFR

200 15425, 15586, 15636
203 15639
207 15640
220 15640
222 15640
809 15640

25 CFR

41 15471

26 CFR

1 15421, 15671, 15820, 15876
301 15241, 15483

PROPOSED RULES:
1 15167, 15393, 15758, 15879
31 15879
46 15879
48 15879
49 15879

28 CFR

0 15425

29 CFR

526 15425
786 15425
1200 15827
1202 15831
1203 15831
1208 15831
1500 15478, 15479

PROPOSED RULES:
5 15396
6 15396
7 15396
526 15712

31 CFR

306 15672

32 CFR

Page

66 15111
127 15112
536 15113
552 15115
710 15115

32A CFR

BDSA (Ch. VI):
M–11A 15710
ASCDIB (Ch. VII) 15831
OIA (Ch. X):
OI Reg. 2 15876

33 CFR

204 15673

35 CFR

61 15641
255 15831

36 CFR

7 15391, 15710, 15750

PROPOSED RULES:
7 15761

38 CFR

3 15878

39 CFR

131 15587
821 15480
822 15480, 15481
823 15099

PROPOSED RULES:
Ch. I 15643

41 CFR

1–5 15674
3–75 15833
6–60 15751
6–75 15427
50–204 15641
101–26 15754

42 CFR

PROPOSED RULES:
73 15178

43 CFR

PUBLIC LAND ORDERS:
1583 (see PLO 4307) 15428
1630 (see PLO 4315) 15482
3263 (revoked in part by PLO 4307) 15428
3634 (revoked in part by PLO 4302) 15427
4236 (see PLO 4317) 15482
4266 (see PLO 4317) 15482
4270 (amended by PLO 4312) 15429
4301 15098

43 CFR—Continued

Page

PUBLIC LAND ORDERS—Continued
4302 15427
4303 15427
4304 15427
4305 15428
4306 15428
4307 15428
4308 15428
4309 15428
4310 15429
4311 15429
4312 15429
4313 15429
4314 15482
4315 15482
4316 15482
4317 15482
4318 15483
4319 15878

PROPOSED RULES:
1720 15546
3100 15883
3120 15883

45 CFR

81 15156
531 15641

46 CFR

10 15754

PROPOSED RULES:
33 15835
94 15835
112 15835
Ch. IV 15438

47 CFR

0 15472, 15675
73 15161, 15162, 15545, 15711

PROPOSED RULES:
2 15180, 15712
73 15679
87 15712
89 15180, 15680
91 15180
93 15180, 15680

49 CFR

1 15710
103 15484
114 15484

PROPOSED RULES:
288 15589

50 CFR

10 15834
32 15166, 15586, 15587, 15642, 15675, 15878.
33 15711, 15756

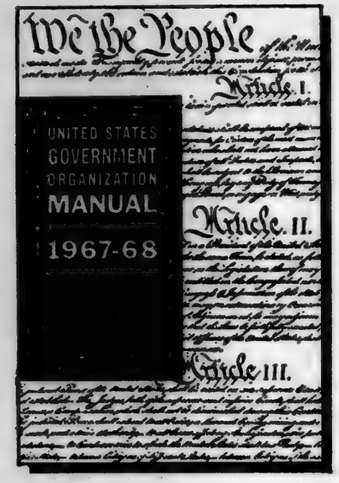

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225

FEDERAL REGISTER

VOLUME 32 • NUMBER 225

Tuesday, November 21, 1967 • Washington, D.C.

Pages 15907–15981

(Part II begins on page 15947)

(Part III begins on page 15951)

THE UNIVERSITY OF MICHIGAN
NOV 29 1967
MAIN READING ROOM

Agencies in this issue—

Air Force Department
Atomic Energy Commission
Automotive Agreement Adjustment Assistance Board
Business and Defense Services Administration
Census Bureau
Civil Aeronautics Board
Civil Service Commission
Comptroller of the Currency
Consumer and Marketing Service
Federal Aviation Administration
Federal Communications Commission
Federal Crop Insurance Corporation
Federal Maritime Commission
Federal Power Commission
Federal Trade Commission
Fiscal Service
Fish and Wildlife Service
International Joint Commission—United States and Canada
Interstate Commerce Commission
Land Management Bureau
National Transportation Safety Board
Securities and Exchange Commission
Tariff Commission

Detailed list of Contents appears inside.

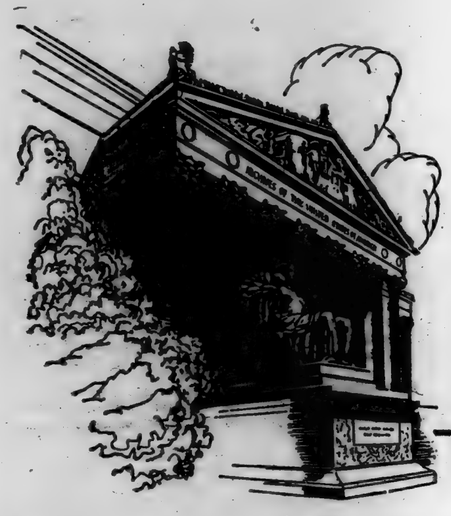

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No. 225—Pt. I——1

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This weekly service includes an Index of Contents preceding the text and a Cumulative Index to Prior Issues at the end. Cumulation of this index terminates at the end of each quarter and begins anew with the following issue. Semiannual and annual indexes are published separately.

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Contents

AGRICULTURE DEPARTMENT
See Consumer and Marketing Service; Federal Crop Insurance Corporation.

AIR FORCE DEPARTMENT
Rules and Regulations
Miscellaneous amendments to chapter 15920

ATOMIC ENERGY COMMISSION
Rules and Regulations
General policy for avoidance of organizational conflict of interest 15922
Notices
Pennsylvania State University, et al.; issuance of facility license amendment 15932

AUTOMOTIVE AGREEMENT ADJUSTMENT ASSISTANCE BOARD
Notices
Borg-Warner Corp.; petition by certain workers for determination of eligibility to apply for adjustment assistance 15933

BUSINESS AND DEFENSE SERVICES ADMINISTRATION
Notices
State University of New York et al.; applications for duty free entry of scientific articles 15931

CENSUS BUREAU
Notices
Survey of distributors stocks of canned foods; determination 15930

CIVIL AERONAUTICS BOARD
Proposed Rule Making
Exemption of air carriers for military charters and substitute service 15926

CIVIL SERVICE COMMISSION
Rules and Regulations
Excepted service:
Housing and Urban Development Department 15911
Interagency Committee on Civil Disorders 15911
Justice Department 15911
National Capital Transportation Agency 15911

COMMERCE DEPARTMENT
See Business and Defense Services Administration; Census Bureau.

COMPTROLLER OF THE CURRENCY
Rules and Regulations
Investment securities regulation:
Parking Authority of the City of Upland (California) Parking Revenue Bonds 15918
Upland Civic Center Building Authority Revenue Bonds (California) 15918

CONSUMER AND MARKETING SERVICE
Rules and Regulations
Financial assistance for distribution of federally donated commodities 15948
Raisins produced from grapes in California; miscellaneous amendments 15915
Proposed Rule Making
Milk in Northeastern Ohio, and Greater Youngstown-Warren and Greater Wheeling marketing areas; recommended decision 15952

DEFENSE DEPARTMENT
See Air Force Department.

FEDERAL AVIATION ADMINISTRATION
Rules and Regulations
Certain airman certificates issued to persons other than U.S. citizens; duration limitation 15918
Proposed Rule Making
Control zone; alteration 15926

FEDERAL COMMUNICATIONS COMMISSION
Notices
Hearings, etc.:
American Television Co., Inc. 15934
Bettervision Systems, Inc. 15934
Laurel Cablevision Co. et al 15934
Mel-Lin, Inc. (WOBS) 15935
Minshall Broadcasting Co., Inc., and University City Television Cable Co., Inc. (2 documents) 15935, 15937
Video Service Co 15937

FEDERAL CROP INSURANCE CORPORATION
Rules and Regulations
Regulations for 1969 and succeeding years 15911

FEDERAL MARITIME COMMISSION
Notices
Alaska Steamship Co.; cancellation of port-to-port rates, West Coast/Alaska Trade; suspension and expansion of investigation 15937

FEDERAL POWER COMMISSION
Proposed Rule Making
Uniform system of accounts for public utilities, licensees and natural gas companies; accounting requirements for clearing, grading and damage costs related to construction on land and rights-of-way 15927
Notices
Hearings, etc.:
Cities Service Oil Co. et al 15938
Southern California Edison Co. 15939
Transwestern Pipeline Co 15939

FEDERAL TRADE COMMISSION
Rules and Regulations
Administrative opinions and rulings:
Payment for recruiting new students 15919
Trade association publication of advertisements for use by members featuring range of prices to be charged consumers 15919

FISCAL SERVICE
Rules and Regulations
United States securities; book-entry procedure; correction 15920

FISH AND WILDLIFE SERVICE
Rules and Regulations
Hunting; Noxubee National Wildlife Refuge, Miss 15924
Sport fishing; Upper Souris National Wildlife Refuge, N. Dak. 15924

INTERIOR DEPARTMENT
See Fish and Wildlife Service; Land Management Bureau.

INTERNATIONAL JOINT COMMISSION—UNITED STATES AND CANADA
Notices
Niagara River area; water pollution 15940

INTERSTATE COMMERCE COMMISSION
Notices
Motor carrier temporary authority applications 15942

LAND MANAGEMENT BUREAU
Notices
Arizona; proposed classification of public lands for exchange 15931
Oregon; opening of public lands 15931

(*Continued on next page*)

NATIONAL TRANSPORTATION SAFETY BOARD

Notices

Investigation of accident occurring near Blossburg, Pa.; hearing 15932

SECURITIES AND EXCHANGE COMMISSION

Rules and Regulations

Contents of prospectus used after nine months 15920

Notices

Central Indiana Gas Co. Inc. and American Natural Gas Co.; acquisition of assets and assumption of liabilities 15941

TARIFF COMMISSION

Notices

Workers' petition for determination of eligibility to apply for adjustment assistance; investigation (2 documents) 15942

TRANSPORTATION DEPARTMENT

See Federal Aviation Administration; National Transportation Safety Board.

TREASURY DEPARTMENT

See Comptroller of the Currency; Fiscal Service.

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

5 CFR

213 (4 documents) 15911

7 CFR

251 15948
401 15911
989 15915

PROPOSED RULES:

1008 15952
1036 15952
1048 15952

12 CFR

1 (2 documents) 15918

14 CFR

61 15918
63 15918
65 15918

PROPOSED RULES:

71 15926
288 15926

16 CFR

15 (2 documents) 15919

17 CFR

230 15920

18 CFR

PROPOSED RULES:

101 15927
104 15927
105 15927
141 15927
201 15927
204 15927
205 15927

31 CFR

306 15920

32 CFR

844 15920
855 15920
882 15921
901 15922

41 CFR

9–1 15922
9–12 15922

50 CFR

32 15924
33 15924

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Justice

Section 213.3310 is amended to show that one position of Private Secretary (interdepartmental activities) in the Civil Division, Department of Justice, is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (14) is added to paragraph (e) of § 213.3310 as set out below.

§ 213.3310 Department of Justice.

* * * * *

(e) *Civil Division.* * * *

(14) One Private Secretary (interdepartmental activities).

* * * * *

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67–13643; Filed, Nov. 20, 1967; 8:46 a.m.]

PART 213—EXCEPTED SERVICE

Interagency Committee on Civil Disorders

Section 213.3197 is added to show that positions on the staff of the Committee are excepted under Schedule A until September 30, 1968. Effective on publication in the FEDERAL REGISTER, § 213.3197 is added as set out below.

§ 213.3197 Interagency Committee on Civil Disorders.

(a) Until September 30, 1968, all positions on the Committee staff.

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67–13644; Filed, Nov. 20, 1967; 8:46 a.m.]

PART 213—EXCEPTED SERVICE

National Capital Transportation Agency

Because the National Capital Transportation Agency was abolished on September 30, 1967, § 213.3359 of Schedule C is revoked. Effective on publication in the FEDERAL REGISTER, § 213.3359 is revoked in its entirety.

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67–13645; Filed, Nov. 20, 1967; 8:46 a.m.]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

Section 213.3384 is amended to show that the position of Special Assistant to the Under Secretary is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (13) of paragraph (a) of § 213.3384 is amended as set out below.

§ 213.3384 Department of Housing and Urban Development.

(a) *Office of the Secretary.* * * *

(13) Two Special Assistants to the Under Secretary.

* * * * *

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67–13642; Filed, Nov. 20, 1967; 8:46 a.m.]

Title 7—AGRICULTURE

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501–1518), the "Federal Crop Insurance Regulations for the 1961 and Succeeding Crop Years", as amended, which shall remain in full force and effect for the 1968 crop year, are hereby superseded for the 1969 and succeeding crop years by the regulations set forth below and the regulations to be hereafter published providing for the application and the various crop endorsements. The provisions of this subpart shall apply, until amended or superseded, to all continuous barley, dry bean, corn, corn-grain silage, cotton, flax, grain sorghum, oat, canning and freezing pea, dry pea, peanut, potato, rice, rye, soybean, sugar beet, sugarcane, tobacco, canning and processing tomato, and wheat insurance contracts and all continuous combined crop insurance contracts as they relate to the 1969 and succeeding crop years, and to other continuous contracts for which endorsements are added from time to time.

Sec.
401.101 Availability of Federal Crop Insurance.
401.102 Premium rates, production guarantees or amounts of insurance, and prices at which indemnities shall be computed and insurable crops.
401.103 Application for insurance.
401.104 Public notice of indemnities paid.
401.105 Creditors.
401.106 The contract.
401.111 The policy.

AUTHORITY: The provisions of this subpart issued under secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516.

§ 401.101 Availability of Federal Crop Insurance.

Insurance shall be offered under the provisions of this subpart on the crops and in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The crops and counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this section the name of the county and the crops on which insurance will be offered.

§ 401.102 Premium rates, production guarantees or amounts of insurance, and prices at which indemnities shall be computed and insurable crops.

(a) The Manager shall establish (1) premium rates, (2) production guarantees or amounts of insurance, and (3) when applicable, prices at which indemnities shall be computed for each crop which is insurable in a county, and for combined crop insurance. Such premium rates, production guarantees or amounts of insurance, prices at which indemnities shall be computed, and insurable crops shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) The following shall apply to the transfer of any premium reduction earned under the provisions of section 6 of the policy set forth in § 401.111 if the insured is a partnership, corporation, or any other joint enterprise and there is no break in continuity of participation. Upon dissolution of such enterprise, such premium reduction may be credited to the contract of any member or stockholder thereof if the Corporation determines such person is operating only land

formerly operated by the dissolved enterprise. Upon formation of a joint enterprise, the smallest premium reduction (zero if none), which the Corporation determines would have been applicable to any insurable acreage brought into the enterprise if the enterprise had not been formed, may be credited to the joint enterprise contract.

§ 401.103 Application for insurance.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in an insurable crop as landlord, owner-operator, tenant, or sharecropper. The application shall be submitted to the Corporation at the office for the county on or before the applicable closing date set forth below preceding the first crop year for which insurance is to be in effect, except that (1) in all counties in Washington, and in any county in Oregon and Idaho with an October 31 closing date, in which barley is an insurable crop, an application for insurance on barley may be filed until the April 15 following the closing date, provided that in such cases winter barley will not be insured for the first barley crop year of the contract, and (2) in counties where wheat is an insurable crop, an application for insurance on wheat may be filed until the April 15 following the closing date in all counties in Montana, in any county in North Dakota and South Dakota in which insurance is not limited to spring wheat only on the county actuarial table, and in any county in Idaho, Oregon, Utah, and Washington in which insurance is not limited to spring wheat only on the county actuarial table and a premium rate has been established on an irrigated basis, in Klamath and Linn Counties, Oreg., and in Modoc and Siskiyou Counties, Calif., but in any such case for the first wheat crop year of the contract, winter wheat in all of such countries and spring wheat planted on land which is nonirrigated in any of the counties decribed above which are located in the States of Idaho, Oregon (except Linn County), Utah, and Washington will not be insured, except that the closing date for combined crop insurance in any county shall be the earliest closing date for that county shown below for any of the crops for which production guarantees and premium rates are shown on the actuarial table for that county for combined crop insurance: *Provided, however*, That in counties in North Dakota and South Dakota where rye is an insurable crop under combined crop insurance, the closing date for rye shall be disregarded in determining the closing date for combined crop insurance.

(CLOSING DATES)

BARLEY

Arizona and Washington	Oct. 31
California:	
Modoc and Siskiyou Counties	Apr. 15
All other California counties	Aug. 31
Colorado and Wyoming	Mar. 31
Delaware, Maryland, and Pennsylvania	Sept. 30
Idaho:	
Idaho County and all Idaho counties lying north thereof	Oct. 31
All other Idaho counties	Apr. 15
Oregon:	
Klamath and Malheur Counties	Do.
All other Oregon counties	Oct. 31
All other States	Apr. 15

DRY BEANS

Michigan	May 31
All other States	May 15

CORN

Delaware, Illinois, Indiana, Iowa, Maryland, Michigan, Minnesota, Nebraska, Ohio, Pennsylvania, and Wisconsin	May 10
North Dakota	Apr. 15
All other States	Apr. 30

COTTON

Alabama:	
Randolph, Clay, Talladega, Shelby, Tuscaloosa and Pickens Counties, and all Alabama counties lying south thereof	Apr. 10
All other Alabama counties	Apr. 20
Arizona and California	Mar. 31
Arkansas and South Carolina	Apr. 20
Florida and Louisiana	Apr. 10
Georgia:	
Burke, Jefferson, Washington, Baldwin, Jones, Monroe, Lamar, Pike, Meriwether, and Troup Counties, and all Georgia counties lying south thereof	Do.
All other Georgia counties	Apr. 20
Kentucky, Missouri, and Tennessee	Apr. 25
Mississippi:	
Hinds, Jefferson Davis, and Madison Counties	Apr. 10
All other Mississippi counties	Apr. 20
New Mexico	Apr. 15
North Carolina:	
Robeson, Hoke, Cumberland, Iredell, Lincoln, Mecklenberg, Cleveland, and Rutherford Counties	Do.
All other North Carolina counties	Apr. 30
Oklahoma and Virginia	Do.
Texas:	
Childress, Cottle, King, Stonewall, Fisher, Scurry, Borden, Dawson, and Gaines Counties, and all Texas counties lying north and west thereof	Do.
Aransas, Refugio, Bee, Live Oak, McMullen, La Salle, and Dimmit Counties, and all Texas counties lying south thereof	Jan. 31
Goliad, Calhoun, Victoria, and Jackson Counties	Feb. 28
Reeves, Ward, Pecos, and Terrell Counties, and all Texas counties lying south and west thereof	Apr. 15
All other Texas counties	Mar. 31

FLAX

All States	Apr. 15

GRAIN SORGHUM

Nebraska	May 10
Texas:	
Childress, Cottle, King, Stonewall, Fisher, Scurry, Borden, Dawson, and Gaines Counties, and all Texas counties lying north and west thereof	Apr. 30
Calhoun and Victoria Counties	Feb. 28
Aransas, Refugio, Bee, Live Oak, McMullen, La Salle, and Dimmit Counties, and all Texas counties lying south thereof	Jan. 31
All other Texas counties	Mar. 31
All other States	Apr. 30

OATS

All States	Apr. 15

CANNING AND FREEZING PEAS

Minnesota and Wisconsin	Do.
Utah	Mar. 31
All other States	Mar. 1

DRY PEAS

All States	Apr. 15

PEANUTS

All States	Apr. 30

POTATOES

All States	May 15

RICE

All States	Apr. 10

RYE

All States	Aug. 31

SOYBEANS

Delaware, Illinois, Indiana, Iowa, Maryland, Michigan, Minnesota, Nebraska, Ohio, and Wisconsin	May 10
North Dakota	Apr. 15
All other States	Apr. 30

SUGAR BEETS

California	Aug. 31
All other States	Apr. 15

SUGARCANE

All States	Aug. 31

TOBACCO

Types of tobacco:	
11b	May 15
12	Apr. 30
13	Apr. 15
14	Apr. 10
11a, 21, 22, 23, 31, 32, 35, 36, 41, 54, and 55	May 31

CANNING AND PROCESSING TOMATOES

Ohio	May 10
Utah	Apr. 15

WHEAT

California:	
Modoc and Siskiyou Counties	Oct. 31
All other California counties	Aug. 31
Colorado, Kansas, New Mexico, Oklahoma, Texas, and Wyoming	Do.
Idaho:	
Idaho County and all Idaho counties lying north thereof	Oct. 31
All other Idaho counties	Sept. 15
Kentucky, North Carolina, South Carolina, and Tennessee	Oct. 15
Minnesota	Apr. 15
Nebraska and Utah	Sept. 15
North Dakota:	
Adams, Bowman, Golden Valley, and Slope Counties	Do.
All other North Dakota counties	Apr. 15
Oregon and Washington	Oct. 31
South Dakota:	
Bennett, Dewey, Faulk, Haakon, Hand, Hughes, Hyde, Jones, Lyman, Mellette, Potter, Stanley, Sully, Tripp, and Walworth Counties	Sept. 15
All other South Dakota counties	Apr. 15
All other States	Sept. 30

(b) In counties where cotton, peanuts, or tobacco are insurable crops, application for insurance may be made by any owner-operator or tenant-operator on a form prescribed by the Corporation to cover the share which a share tenant or sharecropper has in a cotton, peanut, or tobacco crop in which such farm operator has an interest. The share covered shall be that share which the share tenant or sharecropper has at the time of planting and any share allocated to such person after planting pursuant to an understanding existing at the time of planting. As to such share tenant's or sharecropper's share, notwithstanding any provision of the contract to the contrary, (1) the applicant shall be considered the insured and the share insured shall be considered as his share, (2) premiums and losses shall be computed in the same manner and under the same terms and conditions as if the share tenant or sharecropper had signed (and the Corporation accepted) an individual application for insurance, except that each share tenant or sharecropper shall have only one unit unless more than one type of tobacco is insured, (3) the applicant shall designate on the acreage report the name of the share tenants or sharecroppers and the acreage allocated to each such person, (4) transfers of shares in insured acreage made before the beginning of harvest and the time of loss will be recognized when indemnities are computed, (5) any indemnity shall be for the benefit of the share tenant or sharecropper (or transferee) allocated the insurance unit on which the loss occurred and payment shall be made by joint check payable to the insured and said share tenant or sharecropper (or transferee), (6) collateral assignments shall not be honored but the insured shall from the proceeds of the joint check be entitled to any amounts owed sueh insured for advances to finance the current cotton, peanut, or tobacco crop on the insurance unit, and (7) the Corporation shall not deduct from any indemnity any amount except the current premium on the share tenant's or sharecropper's interest and any amount owed the Corporation by the share tenant or sharecropper (or transferee). For each crop year of the contract, the contract shall not cover the share of any share tenant or sharecropper who is insured with the Corporation under an individual contract.

(c) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for acceptance of applications in any county, by publishing a notice in the FEDERAL REGISTER, upon his determination that no adverse selectivity will result during the period of such extension: *Provided, however*, That if adverse conditions should develop during such period the Corporation will immediately discontinue the acceptance of applications.

(d) A contract under this subpart, without the filing of a new application, as a continuation of a continuous contract issued under Federal Crop Insurance Regulations for the 1961 and Succeeding Crop Years, shall be put into effect in accordance with the provisions governing changes in the contract, of the applicable policies issued under said 1961 regulations.

§ 401.104 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at the county courthouse a listing of the indemnities paid in the county.

§ 401.105 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or any involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in sections 14 and 15 of the policy set forth in § 401.111.

§ 401.106 The contract.

The insurance contract shall become effective upon compliance with the provisions of § 401.103(d) or upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the crops which are "insured crops" as provided in the policy and are covered by endorsements to the policy either when the policy is issued pursuant to the provisions of § 401.103 (d), or when insurance is accepted on the crops by the Corporation pursuant to a duly filed application. The contract shall consist of the policy and the endorsements for the crops covered by the contract, the county actuarial tables as defined in the policy, and the application. Any changes made in the contract shall not affect the continuity from year to year.

§ 401.111 The policy.

The provisions of the Federal Crop Insurance Policy for the 1969 and succeeding crop years are as follows:

Subject to the regulations of the Federal Crop Insurance Corporation (herein called "Corporation") and in accordance with the terms and conditions set forth in this policy, the Corporation upon acceptance of a person's application does insure such person against unavoidable loss of production of his insured crops due to causes of loss insured against that are specified in this policy. No term or condition of the contract shall be waived or changed on behalf of the Corporation except in writing by a duly authorized representative of the Corporation.

TERMS AND CONDITIONS

Subject to the provisions in the applicable endorsement:

1. *Causes of loss*—(a) *Causes of loss insured against.* The insurance provided is against unavoidable loss of production resulting from drought, earthquake, excessive rain, fire, flood, freeze, frost, hail, hurricane, insect infestation, lightning, plant disease, poleburn, snow, tornado, wildlife, wind, winterkill, and any other unavoidable cause of loss due to adverse weather conditions occurring within the insurance period, subject however, to any exceptions, exclusions, or limitations with respect to such causes of loss that are set forth in the applicable endorsement or in the county actuarial table (hereinafter referred to as the "actuarial table").

(b) *Causes of loss not insured against.* The contract shall not cover any loss due to the neglect or malfeasance of the insured, any member of his household, his tenants, sharecroppers, or employees, or failure to follow recognized good farming practices, or to damage resulting from the backing up of the water by any governmental or public utilities dam or reservoir project or due to any cause not specified as an insured cause in this policy as limited by the applicable endorsement or actuarial table.

2. *Crop, share, and acreage insured.* (a) An insured crop is a crop for which the insured has applied for insurance, for which the actuarial table shows a production guarantee or an amount of insurance per acre and a premium rate, for which an endorsement to this policy is in force and which is grown on insured acreage.

(b) The share insured shall be the share of the insured as landlord, owner-operator, tenant, or sharecropper, in the insured crop at the time of planting as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other interest in such corp shall be deemed to be insurable: *Provided*, That for the purpose of determining the amount of loss, the insured share shall not exceed the insured's share in the crop at the time of loss or the beginning of harvest, whichever occurs first.

(c) The acreage insured for a crop for each crop year shall be that acreage in the county planted to the crop on insurable acreage, as shown on the actuarial table, as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided*, That in counties where a premium rate is established by farming practice, the farming practice carried out, as determined by the Corporation, on such acreage is one for which a premium rate is established on the actuarial table. Insurance shall not attach or be considered to have attached on any acreage that the Corporation determines was (1) not reported for insurance within the period specified in section 3 if such acreage is irrigated and an irrigated practice is not provided for such acreage, (2) destroyed and after such destruction it was practical to replant to the insured crop and such acreage was not replanted to such crop, (3) initially planted after the date fixed by the Corporation and placed on file in the office for the county, as being too late to initially plant and expect a normal crop to be produced, (4) volunteer, or (5) planted to a type or variety not established as adapted to the area or shown as noninsurable on the actuarial table.

In addition to the rights of the Corporation under section 7 hereof, the Corporation reserves the right to limit the insured acreage of any crop to the allotment, permitted acreage, or any other acreage limitations established under any act of Congress upon so notifying the insured in writing prior to the planting of such crop.

3. *Responsibility of the insured to report acreage and share.* Promptly after planting the insured crop each year, but not later than a date established by the Corporation and on file in the office for the county, the insured shall submit to the office for the county, on a form prescribed by the Corporation, a report showing all acreage in the county planted to the insured crop (including a designation of any acreage of an insurable crop covered by the contract to which insurance does not attach) in which he has a share and his share therein at the time of planting. If both winter and spring crops are insurable in a county, a separate report of acreage planted to winter crops shall be submitted promptly after completion of planting the insured winter crops. If the insured does not have a share in any insured acreage in the county for any year, he shall submit a report so indicating. Any acreage report submitted by the insured shall be binding upon the insured and shall not be subject to change by the insured. If the insured does not file an

acreage report for a crop by the date established by the Corporation, the Corporation may elect to determine by insurance units the insured acreage and the share or declare the insured acreage on any insurance unit(s) to be "zero."

4. *Irrigated acreage.* Where insurance is provided on an irrigated practice, the insured shall report as irrigated acreage only the acreage for which he has facilities and water to carry out a good irrigation practice.

Any reduction in production due to failure to carry out a good irrigation practice, unless due to failure of the water supply from an unavoidable cause occurring after planting, shall be production lost due to an uninsured cause.

Insurance shall not attach on any irrigated acreage planted to an insured crop the first year after a major leveling operation has been carried out, as determined by the Corporation.

5. *Premium rates, production guarantees or amounts of insurance, and prices at which indemnities shall be computed.* For each crop year of the contract the (a) premium rates, (b) production guarantees or amounts of insurance, and (c) when applicable, prices at which indemnities shall be computed shall be those established by the Corporation and shown on the actuarial table. At the time the application for insurance is made the applicant shall elect a price at which indemnities shall be computed from among those shown on the actuarial table. If the insured has not elected a price, or the price elected is a price not shown on the actuarial table for the crop year, the price which shall be applicable under the contract, and which the insured will be deemed to have elected, shall be the price provided on the actuarial table for such purposes. The insured may with the consent of the Corporation make a new price election for any crop year at any time before the closing date for filing applications for that year.

6. *Annual premium.* (a) The annual premium for an insured crop shall be earned and payable when the crop is planted.

(b) The total annual premium for an insured crop on all insurance units shall be reduced as follows for consecutive years of insurance, without a loss for which an indemnity was paid on any insurance unit (hereinafter called "unit") immediately preceding the crop year for which the reduction is applicable (eliminating any year in which a premium was not earned):

Percent premium reduction	*Consecutive years with no loss*
5 percent after	1 year.
5 percent after	2 years.
10 percent after	3 years.
10 percent after	4 years.
15 percent after	5 years.
20 percent after	6 years.
25 percent after	7 years or more.

If an insured has a loss on a crop for which an indemnity is paid, the number of such consecutive years of insurance on such crop without a loss for which an indemnity was paid shall be reduced by 3 years, except, that, where the insured has 7 or more such years, a reduction to four shall be made and where the insured has three or less such years, a reduction to zero shall be made.

If there is no break in continuity of participation, any premium reduction earned hereunder shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of the death of the insured, (2) the contract of the person who succeeds the insured as the insured's transferee in operating only the same farm or farms, if the Corporation finds that such transferee has previously actively participated in the farming operation involved, or (3) the contract of the same insured who crops farming in one county and starts farming in another county, or who changes to a separate crop contract from a combined crop contract.

(c) Any unpaid amount due to Corporation by the insured may be deducted from any indemnity payable to the insured by the Corporation, or from any loan or payment to the insured under any act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

7. *Contract changes.* The Corporation reserves the right to change the insurable crops, premium rates, production guarantees or amounts of insurance per acre, and prices at which indemnities shall be computed, and other terms and provisions of the contract, from year to year. Any changes in the contract, with respect to any crop, shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date for that crop, preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 13.

8. *Notice of loss or substantial damage.* (a) The insured shall promptly give written notice of damage to the Corporation at the office for the county if, during the period before harvest, the insured crop on any unit is damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, or he wants the consent of the Corporation to put the acreage to another use. No acreage of an insured crop shall be put to another use before the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Such consent shall not be given until it is too late to replant to the same crop. The insured shall notify the Corporation when such acreage has been put to another use.

(b) In addition to the notices required in paragraph (a) of this section, if a loss is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county promptly after threshing (harvesting in the case of any crop that is not normally threshed) is completed on the unit, but not later than 15 days after such threshing or harvesting is completed: *Provided, however,* That, if threshing or harvesting is not completed by the calendar date for the end of the insurance period, the notice shall be given by such calendar date.

(c) Any insured acreage which is not to be harvested shall be left intact until the Corporation makes an inspection.

(d) There shall be no abandonment to the Corporation of any insured crop.

(e) The Corporation reserves the right to reject any claim for loss if any of the requirements of this section are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

9. *Acreage appraised to be put to another use.* The appraised potential production for acreage for which consent has been given to be put to another use shall be counted as production in determining the amount of loss under the contract as provided in the applicable endorsement. However, if consent is given and the Corporation determines that any such acreage is not put to another use before harvest of the insured crop becomes general in the county or if the acreage is harvested, or if the Corporation determines that additional damage by an insured cause occurs before the acreage is put to another use, the indemnity with respect to the unit shall be determined without regard to such consent and appraisal.

10. *Payment of indemnity.* Any indemnity will be payable within 30 days after a claim for loss is approved by the Corporation. However, in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation. If the insured is an entity other than an individual and is dissolved or is an individual who dies, disappears, or is judicially declared incompetent and such event occurs after the beginning of planting of any insured crop in any crop year any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

11. *Misrepresentation and fraud.* The Corporation may void the contract with respect to all crops without affecting the insured's liability for premiums or waiving any right or remedy including the right to collect any unpaid premiums if at any time, either before or after any loss, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which any such act or omission occurred.

12. *Other insurance against fire.* If the insured has other insurance, whether valid or not, against damage by fire during the insurance period, the Corporation shall be liable for loss due to fire only for the smaller of either (a) the amount of indemnity determined pursuant to this contract without regard to any other insurance, or (b) the amount as determined by the Corporation by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section the amount of loss from fire shall be the difference between the fair market value of the production on the unit involved before the fire and after the fire, as determined by the Corporation from appraisals made by the Corporation of the production and fair market value.

13. *Life of contract, cancellation, or termination thereof.* (a) The contract as to each insured crop shall be in effect for the first crop year specified on the application for insurance, except for any crop on which the closing date for the filing of applications has passed at the time the application is filed in which case it shall be in effect for the next crop year. Subject to subsections (b), (c), and (d) of this section, the contract shall continue in effect for each succeeding crop year until insurance on all crops is canceled by the insured or by the Corporation. Insurance on any insured crop may not be canceled for the first crop year but thereafter either party may cancel insurance on any insured crop for any crop year by giving a written and signed notice to the other party on or before the cancellation date specified in the applicable endorsement immediately preceding the crop year for which the cancellation is to become effective.

(b) Insurance shall terminate on any insured crop if, by the termination date for indebtedness shown in the applicable endorsement, (1) any premium due the Corporation on that crop remains unpaid, other than the premium due on a crop normally harvested in the calendar year in which the termination date for indebtedness for that crop occurs: *Provided,* That the date of premium payment for a premium deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved and from a loss claim shall be the date the insured signs the claim, or (2) the insured has not complied with a request by the Corporation that arrangements satisfactory to the Corporation be made for the payment of the premium for the following crop year.

(c) Insurance shall terminate on any insured crop if no premium is earned on that crop for 3 consecutive crop years.

(d) If the insured is an entity other than an individual and is dissolved or is an individual who dies or is judicially declared incompetent, the contract shall terminate as of the date of dissolution, death, or judicial declaration, but if such an event occurs after the beginning of planting of any insured crop in any crop year, the contract (1) shall not terminate with respect to any insured crop until the end of the insurance period for that crop, and (2) shall cover any additional acreage of all such crops planted for the insured or his estate for that crop year.

(e) For the purposes of subsection (d) hereof, death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the parties shall dissolve the joint entity.

14. *Collateral assignment.* The original insured may assign his right to an indemnity for a crop for any year under the contract by executing a form prescribed by the Corporation and upon approval thereof by the Corporation the interest of the assignee will be recognized and the assignee shall have the right to submit the loss notices and forms as required by the contract if the insured neglects or refuses to take such action.

15. *Transfer of interest.* If the insured transfers his share in the insured crop in any crop year he may, upon prior approval of the Corporation, transfer his right to an indemnity for such crop year with respect to the transferred share in the insured crop. Any transfer shall be made on a form prescribed by the Corporation and shall be subject to all the terms set forth thereon and to the terms hereof. Any transfer shall be subject to the conditions of the contract including any collateral assignment made by the transferor, and the Corporation shall not be liable for a greater amount of indemnity in connection with the insured crop than if the transfer had not taken place.

16. *Subrogation.* The insured assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment therefor is made by the Corporation, and shall execute all papers required and take such action as may be necessary to secure such rights.

17. *Records and access to farm.* The insured shall keep or cause to be kept, for 3 years after the time of loss, records of the harvesting, storage, shipments, sale, or other disposition of all of the insured crop produced on each unit covered by the contract, and separate records showing the same information for production on any uninsured acreage of the insured crop in the county in which he has an interest. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

18. *Forms.* Copies of forms referred to in the contract are available at the office for the county.

19. *Meaning of terms.* For the purposes of the crop insurance program:

(a) "County" (parish in Louisiana) in addition to the land within a county shall include acreage located in a local producing area bordering on the county as shown on the county actuarial table.

(b) "County actuarial table" means the county actuarial map(s) or lists relating to the classification of insurable and uninsurable acreage, forms and related material approved by the Corporation and on file and open for public inspection in the office for the county, which show the production guarantees or amounts of insurance per acre, premium rates, where applicable, prices at which indemnities will be computed, and related information applicable to acreage or persons with respect to an insurable crop in the county.

(c) "Crop year" means the period within which the insured crop is normally planted and normally harvested, and shall be designated by reference to the calendar year in which the crop is normally harvested.

(d) "Insurable acreage" means either (1) the land classified as insurable by the Corporation and shown as such on the county actuarial map or appropriate land identification list; or (2) the land owned or operated by a person to whom a farm classification is assigned by the Corporation or as otherwise provided on the actuarial table.

(e) "Insurance unit" means all the insurable acreage of the insured crop in the county at the time of planting (1) in which the insured has a 100 percent interest, (2) which is owned by one person and operated by the insured as a tenant, or (3) which is owned by the insured and rented to one tenant. Land rented for cash or for a fixed commodity payment shall be considered as owned by the lessee.

The Corporation and the insured may agree in writing before insurance attaches in any crop year to divide the insured's insurable acreage of the insured crop in the county into two or more units.

The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and reserves the right to consider any acreage and interest reported by or for the insured's spouse, child, or any member of his household, to be the bona fide interest of the insured or any other person having the bona fide interest.

(f) "Office for the County" means the Corporation's office for the county shown on the application for insurance or such other office as may be specified by the Corporation from time to time.

(g) "Person" or "Insured" means an individual, partnership, association, corporation, estate, or trust or other business enterprise or other legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(h) "Tenant" means a person who rents land from another person for a share of the crop or proceeds therefrom.

(i) "Time of loss" means the earlier of the calendar date for the end of the insurance period, or the date the entire crop on the unit is destroyed, as determined by the Corporation.

NOTE: The reporting and recordkeeping requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Adopted by the Board of Directors on November 8, 1967.

[SEAL] EARLL L. NIKKEL,
Secretary, Federal Crop Insurance Corporation.

Approved: November 16, 1967.

JOHN A. SCHNITTKER,
Under Secretary.

[F.R. Doc. 67-13666; Filed, Nov. 20, 1967; 8:48 a.m.]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Miscellaneous Amendments

The Raisin Administrative Committee has unanimously recommended an amendment of Subpart—Administrative Rules and Regulations and of Subpart—Schedule of Payments. The Committee is established under, and these subparts are operative pursuant to, the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989; 32 F.R. 12157, 12555, 12710), regulating the handling of raisins produced from grapes grown in California. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Recent amendment of the amended marketing agreement and order, among others, made the following changes: (a) Deleted the authority for handlers temporarily to defer, under a bonding procedure, their reserve and surplus tonnage obligations; (b) deleted the authority for designating a percentage of the raisins acquired by handlers as surplus tonnage; (c) provided for preliminary, interim, and final reserve tonnage percentages, and for handlers to be paid, for holding for the Committee's account, only the reserve tonnage determined by the final reserve tonnage percentage; and (d) provided for reserve tonnage raisins to be disposed of in certain outlets previously prescribed for surplus tonnage. These changes require conforming changes to be made in the administrative rules and regulations and in the schedule of payments. The necessary conforming changes are made in the amendment of the subparts as hereinafter set forth.

Based on the foregoing, the recommendations of the Committee, the information submitted therewith, and other available information, it is found that the amendment, as hereinafter set forth, of Subpart—Administrative Rules and Regulations and of Subpart—Schedule of Payments, is in accordance with this part and will tend to effectuate the declared policy of the act.

Therefore, Subpart—Administrative Rules and Regulations (7 CFR 989.101 to 989.176) and Subpart—Schedule of Payments (7 CFR 989.401) are hereby amended as follows:

Subpart—Administrative Rules and Regulations

§ 989.158 [Amended]

1. In the sixth sentence of paragraph (c)(4)(i) of § 989.158, the words "and surplus" are deleted and the word "obligations" is changed to "obligation".

2. Sections 989.166 and 989.167 are revised to read:

§ 989.166 Reserve tonnage generally.

(a) *Shrinkage allowance for normal and natural shrinkage in weight.* Each handler shall be entitled to a shrinkage allowance for normal and natural shrinkage in weight of 1 percent of the original natural condition weight of reserve tonnage raisins acquired by him during the crop year and held by him (for the account of the Committee) on the Saturday nearest to May 1 of the same crop year. Handlers shall be entitled to no other allowance for normal and natural shrinkage in weight for any of such raisins acquired during the crop year: *Provided*, That the Committee shall grant an additional allowance for any normal and natural shrinkage in weight of all such raisins held (for the account of the Committee) beyond the end of the crop year of acquisition, upon submission by the handler of satisfactory proof of such shrinkage occurring during the period of holding after the end of the crop year.

(b) *Setaside obligations referable to mixed varietal types.* A handler who acquired any lot of natural condition raisins of mixed varietal types (commingled within their containers) shall meet his reserve tonnage setaside obligation for each varietal type contained in the mixed lot by setting aside raisins of each such varietal type which have not been mixed or commingled with raisins of any other varietal type. The obligation as to each varietal type shall be computed according to the reserve percentage established by the Secretary, and the percentage of the varietal type contained in the mixed lot as shown by the incoming inspection certificate applicable thereto.

(c) *Storage of reserve tonnage raisins—(1) Time limits for setting aside pool tonnage.* Handlers shall be allowed 3 calendar days (exclusive of Saturdays, Sundays, and holidays) after acquiring any reserve tonnage raisins, or after publication in the FEDERAL REGISTER of the applicable reserve percentage established for the crop year, whichever occurs later, to segregate and properly stack each varietal type.

(2) *Conditions.* Each handler shall store reserve tonnage raisins in storage and under conditions which protect them from rain and which reasonably can be expected to maintain the raisins free of any biological or other infestation or contamination. Each handler shall, pursuant to § 989.66(b)(2), store each varietal type of reserve tonnage raisins held by him for the account of the Committee, separate and apart from all other raisins. Reserve tonnage raisins shall be stored in sweat boxes, picking boxes, or other portable containers not exceeding 1 ton capacity: *Provided*, That, in the event reserve tonnage raisins which are held in portable containers other than sweat or picking boxes are to be transferred from the premises of the handler storing them, such raisins at the time of the transfer shall meet the applicable minimum grade requirement except for such normal and natural deterioration and shrinkage as would have occurred if such raisins had been stored in sweat boxes or picking boxes. Storage of such raisins shall be deemed "separate and apart" if the containers are so marked and placed as to be capable of ready and clear identification as to the category in which they are held.

(3) *Substitution of free tonnage.* A handler may, pursuant to § 989.66(b)(3), after giving the Committee reasonable advance notice in writing and under its direction and supervision, substitute free tonnage raisins of like quality (i.e., standard raisins) for reserve tonnage raisins.

(d) *Remedy in the event of failure to deliver reserve tonnage raisins.* A handler who fails to deliver to the Committee, upon request, any reserve tonnage raisins in the quantity and quality for which he has become obligated (after any shrinkage allowances which may then be in effect are applied and allowances for any deterioration due to conditions beyond his control are made) shall compensate the Committee for the amount of the loss resulting from his failure to so deliver. The amount of compensation for any shortage of tonnage shall be determined by multiplying the quantity of reserve raisins not delivered by the latest weighted average price per ton received by producers during the particular crop year for free tonnage raisins of the same varietal type or types, plus any charges already paid or credited to the handler and cost incurred by the Committee on account of the handler's failure to deliver. The weighted average price shall be determined from those sales made during the particular crop year up to the time such cash payment is requested by the Committee, or up to the end of the particular crop year, whichever date may be earlier. The amount which a handler shall compensate the Committee for any reserve raisins which have deteriorated so as to be off-grade in quality during storage for reasons within his control, shall be the latest weighted average price received by the Committee for the applicable varietal type of reserve pool raisins, less the amount actually received by the Committee in the disposition of the deteriorated raisins delivered by the handler (or the salvage value of such raisins as determined by the Committee). Any amounts paid to the Committee in satisfaction of such deficiencies shall accrue to the earnings of the applicable reserve pool. The remedies provided in this paragraph shall be in addition to, and not exclusive of, any or all of the remedies or penalties prescribed in the act for failure on the part of the handler to comply with the applicable provisions of the act or of this part.

(e) *Disposition of reserve tonnage raisins which become off-grade for causes beyond the handler's control.* Any reserve tonnage raisins held by or for the account of the Committee which become off-grade for reasons beyond the handler's control shall, at the Committee's discretion, be reconditioned or disposed of by the Committee, or under the Committee's control, in eligible nonnormal outlets. Any monetary loss sustained in the reconditioning or disposition of such raisins, not covered by insurance carried by the Committee, shall be charged to the applicable reserve pool.

(f) *Offers of reserve tonnage raisins to handlers for sale in export.* Whenever the Committee offers reserve tonnage raisins to handlers for sale in export, it shall specify in addition to the normal quantity, the price and period within contract terms and conditions, the total which each handler will be permitted to purchase his share of the offer. Whenever a handler's share of an offer is less than, or exceeds, his holding of reserve tonnage raisins by not more than 2 tons, the Committee may adjust his share so as to avoid the cost involved in the physical transfer of raisins. If, prior to the expiration of the offer period, a handler desires to obtain reserve tonnage in an amount greater than that represented by his share of the offer, he may negotiate with another handler for any unpurchased portion of the other handler's share of an outstanding offer. No such transaction shall be deemed to reduce the transferring handler's share or to increase the transferee handler's share so as to affect either handler's share privileges in subsequent offers. Transfers to implement such transactions between handlers shall be permitted by the Committee only upon receipt of written authorization, on a form furnished by the Committee, by the transferring handler. All limitations applicable to the transferred tonnage shall continue to apply. Such reserve tonnage raisins will be released by the Committee to the transferee handler upon submission of his completed application and full payment for such raisins, and such transferee handler shall be responsible to the Committee for all documentation required in connection with the transaction. All such transfers shall be made at the expense of the handlers concerned.

§ 989.167 Disposal of reserve raisins.

(a) *Offer of reserve tonnage raisins for use in noncompetitive outlets.* Whenever the Committee proposes to offer to sell standard reserve tonnage raisins in noncompetitive outlets pursuant to § 989.67 (a) and (b), it shall promptly file with the Secretary complete information with respect thereto and the basis therefor. The Secretary shall have the right to disapprove, within seven calendar days, the making of such an offer or sale or any term or conditions thereof.

(b) *Determination of price of reserve tonnage sold for free tonnage use.* Whenever, pursuant to § 989.67(j), the Committee concludes, with respect to any varietal type of raisins, that a downward trend in the price received by producers for free tonnage, or in the prices received by handlers for free tonnage, or in the prices received by handlers for free tonnage, plus pooling costs, the Committee, able to sell reserve tonnage at the average price received by producers for free tonnage, plus pooling costs, the Committee, subject to the requirements of § 989.67 (j), may sell reserve tonnage raisins at the currently prevailing field price for free tonnage raisins of the same varietal type, unless such price is deemed to be unrepresentative of the current f.o.b. price of free tonnage packed raisins. In such an event, or if there is no current field price, the Committee shall make any offer of reserve tonnage at approximately the computed field price obtained by deducting from the current f.o.b. price for free tonnage packed raisins of the varietal type to be offered, the approximate recent packing and handling margin between such packed price and the field price for free tonnage raisins.

(c) *Terms of reserve tonnage offers.* Whenever the Committee offers reserve tonnage raisins to handlers for use in free tonnage outlets, the Committee shall, among other terms and conditions of the offer, specify (1) the period in which each handler shall be given the opportunity to purchase his share of the offer, and (2) the period in which each eligible handler shall be given an opportunity to purchase his respective share of any reoffer. In the event reserve pool raisins are transferred by the Committee, the purchasing handler shall promptly empty the raisins from the containers used in the transfer so that the Committee may return the containers and pallets used in the transfer to the handler from whom the raisins were transferred within 10 business days from the date of transfer. Any handler who refuses to permit the containers in which reserve pool raisins are stored to leave his premises, shall, at his expense, place such raisins in containers supplied by the Committee.

§ 989.168 [Deleted]

3. Section 989.168 is deleted.

4. Paragraphs (a)(2) and (b)(2)(i) and (ii) of § 989.173 are revised to read:

§ 989.173 Reports.

(a) *Inventory reports.* * * *

(2) The quantity of reserve tonnage raisins for the account of the Committee; and

* * * * * *

(b) *Reports of raisins received or acquired.* * * *

(2) *Acquisition of standard raisins.* Each handler shall report:

(i) The total net weight of the standard raisins acquired during the reporting period, segregated when appropriate, as to free tonnage and reserve tonnage;

(ii) The location of the reserve tonnage raisins; and

* * * * * *

Subpart—Schedule of Payments

5. Paragraphs (a), (b), and (d) of § 989.401 are revised to read:

§ 989.401 Payments for services performed with respect to reserve tonnage raisins.

(a) *Payment for crop year of acquisition—(1) Receiving, storing, and handling.* Each handler shall, beginning with the crop year which began September 1, 1967, be compensated at the rate of $6.25 per ton (natural condition weight at the time of acquisition) for receiving, storing, and handling the reserve tonnage raisins, as determined by the final reserve tonnage percentage, acquired during a particular crop year and held by him for the account of the Raisin Administrative Committee during all or any part of the same crop year.

(2) *Inspection.* Each handler shall be reimbursed by the Committee for inspection costs applicable to the reserve tonnage raisins, as determined by the final reserve tonnage percentage, received and held by him for the account of the Committee. Such payment shall be made at the currently applicable rate per ton paid by such handler to the inspection service and on the quantity reported by the handler. The Committee shall pay the cost of any inspection required by it of such reserve tonnage raisins while they are being held for its account: *Provided*, That the cost of inspection of any raisins substituted, pursuant to § 989.66(b)(3), by a handler for such reserve tonnage raisins, or which he received by transfer from another handler by purchasing, as permitted pursuant to § 989.166, a portion or all of such other handler's share of an offer, shall be borne by the handler and shall not be reimbursed to him by the Committee.

(3) *Fumigation.* Each handler shall be paid an allowance for fumigation at the rate of $1.50 per ton of reserve tonnage raisins, as determined by the final reserve tonnage percentage, received during the crop year of acquisition and held by him for the account of the Committee during all or any part of such crop year.

(b) *Additional payment for reserve tonnage raisins held beyond the crop year of acquisition.* Each handler holding reserve tonnage raisins for the account of the Committee on September 1 of any crop year (beginning with Sept. 1, 1967) which were also held by him as such on August 15 of the preceding crop year (but with respect to the 1966–67 crop year, held as surplus tonnage), shall be compensated: (1) For storing and handling such raisins at the rate of $1.20 per ton for the period ending November 30 of the then current crop year or any part thereof, 60 cents per ton for the next 3 months or any part thereof, 20 cents per ton for the next 3 months or any part thereof, and 20 cents per ton for the last 3 months of the crop year or any part thereof; and (2) for fumigation services at the rate of 15 cents per ton for each fumigation reasonably required to maintain such raisins in good condition.

* * * * * *

(d) *Payment for other services—(1) General.* In addition to the payments provided in paragraphs (a), (b), and (c) of this section, handlers shall be compensated for other services performed with respect to reserve tonnage raisins as set forth in this paragraph.

(2) *Transportation.* The Committee may arrange with any handler for transporting reserve tonnage raisins. Payment for such transportation shall be based on then prevailing haulage rates within the production area for the type of transportation required.

(3) *Packing.* A handler who accepts an offer by the Committee to pack reserve tonnage raisins for its account shall be compensated for such packing in an amount determined by or acceptable to the Committee. In considering the amount of compensation to be paid, the Committee shall take into account, among other factors, the particular varietal type of raisins to be packed, the particular pack or package required, and the quantity and quality of the raisins to be packed.

(4) *Redelivery.* In the event the Committee removes reserve tonnage raisins of a previous crop year from a handler upon the request provided for in § 989.66(f) and such handler subsequently desires redelivery to him of reserve tonnage raisins for contract packing, or other purpose, he shall reimburse the Committee in advance of such redelivery for the net costs to it of the removal, storage, and redelivery of such raisins: *Provided*, That the Committee may waive payment by the handler of part or all of such costs if it determines that such waiver is reasonably necessary to the prompt and favorable disposition of the raisins involved.

It is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice of this action and engage in public rule making procedure, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) A recent amendment of the amended raisin marketing agreement and order, among other changes, removed the authority (a) for temporary deferment of reserve and surplus tonnage obligations by handlers and (b) for designating a percentage of handlers' acquisitions as surplus tonnage; (2) this amendment brings the provisions of the subparts involved into conformity with the amended marketing agreement and order; (3) in view of the foregoing, this action should become effective promptly as handlers are in the process of acquiring raisins of the current crop; and (4) handlers are aware of this action as recommended by the Committee and require no advance notice to comply with this regulation.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated November 16, 1967, to become effective upon publication in the FEDERAL REGISTER.

PAUL A. NICHOLSON,
Acting Director,
Fruit and Vegetable Division.

[F.R. Doc. 67-13665; Filed, Nov. 20, 1967; 8:48 a.m.]

Title 12—BANKS AND BANKING

Chapter I—Bureau of the Comptroller of the Currency, Department of the Treasury

PART 1—INVESTMENT SECURITIES REGULATION

Upland Civic Center Building Authority Revenue Bonds (California)

§ 1.199 Upland Civic Center Building Authority Revenue Bonds (California).

(a) *Request.* The Comptroller of the Currency has been requested to rule that the $1,080,000 Upland Civic Center Building Authority Revenue Bonds are eligible for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Upland Civic Center Building Authority is a public entity created under the laws of California by an agreement between the City of Upland and the County of San Bernardino. Under this agreement the Authority is authorized to acquire land, construct and lease public buildings and to issue bonds to finance such projects. The Authority is issuing these bonds for the purpose of constructing a headquarters fire station and a new library which will be leased to the City. This construction represents the first stage of a planned Civic Center development.

(2) Under the lease rental agreement the City has unconditionally promised to pay annual rentals to the Authority in an amount sufficient to meet annual interest and principal payments on these bonds as well as other necessary expenses. The City, which possesses general powers of taxation has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion, therefore, that the $1,080,000 Upland Civic Center Building Authority Revenue Bonds are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and, accordingly, are eligible for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

Dated: November 16, 1967.

[SEAL] WILLIAM B. CAMP,
Comptroller of the Currency.

[F.R. Doc. 67-13646; Filed, Nov. 20, 1967; 8:47 a.m.]

PART 1—INVESTMENT SECURITIES REGULATION

Parking Authority of the City of Upland (California) Parking Revenue Bonds

§ 1.200 Parking Authority of the City of Upland (California) Parking Revenue Bonds.

(a) *Request.* The Comptroller of the Currency has been requested to rule that the $245,000 (1967) Parking Revenue Bonds of the Parking Authority of the City of Upland are eligible for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Parking Authority of the City of Upland is a public body corporate and politic created by the laws of California but authorized to function only upon a finding of need. The City Council has made the appropriate finding and, in accordance with the law, has declared itself to be the parking authority. Under the law a parking authority is authorized to issue revenue bonds to finance public parking facilities and may issue such bonds without obtaining the approval of the electors of the city where the bonds are issued to finance a project which is to be leased to the city and where the principal of and interest on the bonds are to be payable from rentals paid by the city under such lease. The Authority is issuing these bonds to finance the acquisition and construction of parking facilities which will be leased to the City and used to provide free public parking.

(2) Under the lease rental agreement the City has unconditionally promised to pay annual rentals to the Authority in an amount sufficient to meet annual interest and principal payments on these bonds as well as other necessary expenses. The City has also established a new business license tax, authorized under California law for the purpose of providing funds for the improvement of parking and business in specified areas, and proposes to pay a portion of the rentals from the proceeds of this tax. The lease specifically provides however that the City's obligation to pay rentals is a general obligation and is not limited to payment from any specific source. The City which possesses general powers of taxation has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion therefore that the $245,000 (1967) Parking Revenue Bonds of the Parking Authority of the City of Uplandare general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and, accordingly, are eligible for purchase, dealing in, underwriting and unlimited holding by national banks.

Dated: November 15, 1967.

[SEAL] WILLIAM B. CAMP,
Comptroller of the Currency.

[F.R. Doc. 67-13649; Filed, Nov. 20, 1967; 8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 7643; Amdts. 61-38, 63-8, 65-12]

PART 61—CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS

PART 63—CERTIFICATION: FLIGHT CREWMEMBERS OTHER THAN PILOTS

PART 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS

Certain Airman Certificates Issued to Persons Other Than U.S. Citizens; Duration Limitation

The purpose of these amendments is to delete the 12-month duration limitation for certain airman certificates issued to persons who are not U.S. citizens. The certificates affected are airline transport pilot certificates, pilot certificates with a lighter-than-air category rating, flight navigator and flight engineer certificates, and air traffic control tower operator, aircraft dispatcher, mechanic, and parachute rigger certificates and associated ratings.

These amendments were proposed in Notice No. 67-22 and published in the FEDERAL REGISTER on June 6, 1967 (32 F.R. 8094).

The original purpose for the 12-month certificate duration limitation was to provide a means for determining whether certificates issued to citizens of foreign countries should remain in force in the event the current reciprocal granting of airman privileges should be modified or terminated. Since the removal of the reciprocity requirement from the regulations, yearly renewal of these airman certificates serves no purpose, and the FAA has determined that the administrative workload associated with their renewal should be eliminated. The duration limitation has already been removed with respect to private and commercial pilot (heavier-than-air) certificates, which, like ground instructor certificates and ratings issued to persons other than U.S. citizens, have indefinite duration.

The public comments received on the notice, with two exceptions, favored the proposal to eliminate the 12-month duration limitation. One unfavorable comment was concerned with an asserted preferential treatment of foreign nationals in the issuance of certificates. However, the purpose of the proposal, as stated, is to remove a burden upon the FAA and the airmen involved that no longer serves a useful purpose. The other unfavorable comment asserted that privileged status should be given to U.S. citizens, and that a noncitizen who wishes to be treated like a U.S. citizen should go through all the necessary requirements to become a citizen. However, this comment does not take into account the fact that eligibility for airman certificates does not depend upon citizenship.

To protect the interests of airmen holding certificates which, because of the 12-month duration limitation, will expire or have expired, the amendments provide that those airmen may obtain reissuance of the certificates without proof of technical ability. The certificate will be reissued to the holder without an expiration date. Unless the holder of an expired certificate obtains a reissuance, he will be unable to exercise any airman privileges under that certificate.

Interested persons have been afforded an opportunity to participate in the making of these amendments, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, Parts 61, 63, and 65 of the Federal Aviation Regulations are amended, effective December 21, 1967, as follows:

1. By amending Part 61 as follows:

§ 61.9 [Amended]

a. By striking out § 61.9(c).

b. By adding the following new section after § 61.9:

§ 61.9a Reissuance: Expired certificates—airline transport pilot and lighter-than-air category rating.

(a) An airline transport pilot certificate or pilot certificate with a lighter-than-air category rating bearing an expiration date and issued after September 26, 1950, to a person who was not a citizen of the United States may be reissued to that person without an expiration date.

(b) The holder of a certificate with an expiration date may not after that date exercise the privileges of the certificate without obtaining its reissuance.

2. By amending Part 63 as follows:

a. By amending § 63.15(a) to read as follows:

§ 63.15 Duration of certificates.

(a) A certificate issued under this part is effective until it is surrendered, suspended, or revoked.

* * * * *

b. By adding the following new section after § 63.15:

§ 63.15a Reissuance: Expired certificates.

(a) Any certificate covered by this part bearing an expiration date and issued after September 26, 1950 to a person who was not a citizen of the United States may be reissued to that person without an expiration date.

(b) The holder of a certificate with an expiration date may not after that date exercise the privileges of the certificate without obtaining its reissuance.

3. By amending Part 65 as follows:

§ 65.15 [Amended]

a. By striking out the words "to a U.S. citizen" in § 65.15(a) and by striking out § 65.15(b).

b. By adding the following new section after § 65.15:

§ 65.15a Reissuance: Expired certificates.

(a) Any parachute rigger certificate or rating that was issued after September 4, 1950, and any other certificate or rating covered by this part (except a repairman certificate) that was issued after September 26, 1950, bearing an expiration date, to a person who was not a citizen of the United States may be reissued to that person without an expiration date.

(b) The holder of a certificate or rating with an expiration date may not after that date exercise the privileges of the certificate or rating without obtaining its reissuance.

(Secs. 313(a), 601, 607, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1427)

Issued in Washington, D.C., on November 14, 1967.

WILLIAM F. MCKEE,
Administrator.

[F.R. Doc. 67-13637; Filed, Nov. 20, 1967; 8:46 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Payment for Recruiting New Students

§ 15.149 Payment for recruiting new students.

The Commission advised a school that it might properly offer and pay a stated sum of money to present students under the following circumstances: At, or near, the conclusion of a course of instruction students would be supplied with cards recommending the school for distribution to their friends. When and if a recipient of one of the distributed cards contracted for, and paid the fee for, a course of study offered by the school, the student who had distributed that card would be, at his option, paid a stated sum or would have an equal sum credited against the cost of his further studies.

(38 Stat. 717, as amended; 15 U.S.C. 41-58)

Issued: November 20, 1967.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 67-13640; Filed, Nov. 20, 1967; 8:46 a.m.]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Trade Association Publication of Advertisements for Use by Members Featuring Range of Prices To Be Charged Consumers

§ 15.150 Trade association publication of advertisements for use by members featuring range of prices to be charged consumers.

(a) The Commission advised a trade association in the home improvement field that it would probably not be illegal for the association to furnish its members with advertising featuring a range of prices to be charged consumers.

(b) The advertisements in question were to be included in a booklet to be sent to all members and would be suitable for mailing to the members' customers. The advertisements would depict typical home improvement projects, list the specifications for the project and state a range of prices in terms of dollar amounts per month for a specified number of years. The prices would be qualified by stating that they will vary according to labor and material costs in various areas. One page of the booklet would include a schedule of financing charges for 1, 2, 3 years, etc. The advertisements would be marked "Proof" and members purchasing the booklets to send to their customers would have the option of changing any of the suggested project prices if they desire.

(c) The opinion stated that, in general, there could be no objection to the proposal if implemented exactly as outlined above. In this connection, however, the Commission added that all involved should be aware of the dangers of suppressing or eliminating or restraining price competition among individual builders or contractors because of the fact that prices are to be included in the advertisements. Thus, this plan would be rendered unlawful if in practice the suggested prices were used as a subterfuge or pretext for horizontal price agreements, or otherwise restraining competition, between contractors or builders in particular market areas. Special care must therefore be taken to insure that the legality of the plan is not impaired by the manner in which it is implemented. This advisory opinion is expressly predicated on the assumption that the proposal will be implemented in strict

conformity with the representations made to the Commission.

(38 Stat. 717, as amended; 15 U.S.C. 41–58)

Issued: November 20, 1967.

By direction of the Commission.

JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 67-13641; Filed, Nov. 20, 1967; 8:46 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release No. 33-4884]

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

Contents of Prospectus Used After 9 Months

Section 10(a)(3) of the Securities Act of 1933 provides that when a prospectus is used more than 9 months after the effective date of the registration statement, the information contained therein shall be as of a date not more than 16 months prior to such use. Section 10(a)(4) provides that there may be omitted from any prospectus any of the information required under section 10(a) which the Commission may by rules and regulations designate as not being necessary or appropriate in the public interest or for the protection of investors. Rule 427 (17 CFR 230.427) permits the omission from any prospectus used more than 9 months after the effective date of the registration statement of any information previously required to be contained in the prospectus insofar as later information covering the same subjects, as of a date not more than 16 months prior to the use of the prospectus, is contained therein.

Where securities have been registered on Form S–1 (17 CFR 239.11) but at the time of filing a prospectus as a part of a posteffective amendment the registrant would be entitled to register the securities on another form, such as Form S–8 (17 CFR 239.16b) or S–9 (17 CFR 239.22), the Commission has permitted the prospectus to be prepared in accordance with the requirements of such other form. In order that this practice may be generally known to all registrants and may also be applicable to forms, other than Forms S–8 and S–9, which may be adopted from time to time, Rule 427 has been amended to incorporate the current administrative practice in that rule.

Commission action. Section 230.427 of Title 17, Chapter II of the Code of Federal Regulations is amended to read as set forth below.

§ 230.427 Contents of prospectus used after nine months.

(a) There may be omitted from any prospectus used more than 9 months after the effective date of the registration statement any information previously required to be contained in the prospectus insofar as later information covering the same subjects, including the latest available certified financial statements, as of a date not more than 16 months prior to the use of the prospectus is contained therein.

(b) Notwithstanding the foregoing, a prospectus filed as a part of an amendment to an effective registration statement on Form S–1 (§ 239.11 of this chapter) may be prepared in accordance with the requirements of any other form which would then be appropriate for the registration of the securities to which the prospectus relates, provided all of the requirements of such other form (including the filing of any required undertakings) are met. The amendment shall be deemed to relate to the proper form if the Commission declares it effective.

(Secs. 6, 7, 10, 19; 48 Stat. 78, 81, 85, as amended; 15 U.S.C. 77f, 77g, 77j, 77s)

Effective date. Since the above amendment merely incorporates in the rule a long-standing administrative practice of the Commission, the Commission finds that notice and procedure pursuant to the Administrative Procedure Act are unnecessary and that the amendment may be made effective immediately upon publication. Accordingly, the amendment shall become effective November 9, 1967. The foregoing action is taken pursuant to the Securities Act of 1933, particularly sections 6, 7, 10, and 19(a) thereof.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

NOVEMBER 9, 1967.

[F.R. Doc. 67-13635; Filed, Nov. 20, 1967; 8:46 a.m.]

Title 31—MONEY AND FINANCE: TREASURY

Chapter II—Fiscal Service, Department of the Treasury

SUBCHAPTER B—BUREAU OF THE PUBLIC DEBT

PART 306—GENERAL REGULATIONS WITH RESPECT TO UNITED STATES SECURITIES

Subpart O—Book-Entry Procedure

Correction

In F.R. Doc. 67-13345, appearing at page 15672 of the issue for Tuesday, November 14, 1967, the following changes should be made:

1. In the fourth line of § 306.117(b), the word "purposes" is corrected to read "purpose".

2. In the 29th line of § 306.118 the word "pledge" is corrected to read "pledgee".

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

MISCELLANEOUS AMENDMENTS TO CHAPTER

Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

SUBCHAPTER D—CLAIMS AND LITIGATION

PART 844—TAXATION, LEGAL AND ADMINISTRATIVE ACTIONS, AND LEGAL PROCESS

Part 844 is deleted from Subchapter D, Chapter VII, Title 32 of the Code of Federal Regulations.

SUBCHAPTER F—AIRCRAFT

PART 855—USE OF AIR FORCE INSTALLATIONS BY OTHER THAN U.S. DEPARTMENT OF DEFENSE AIRCRAFT

Part 855 is amended by revising §§ 855.5 (g), 855.6, 855.7(a) (1), (2), and (3), 855.9(c)(4), and the introductory paragraph and paragraph (a) of § 855.15. These sections now read as follows.

§ 855.5 Emergency landing at an Air Force installation.

* * * * *

(g) The installation commander will review the completed AF Form 181 (he need not complete the entries to be filled in by the approving authority) and forward the original copy with full details through channels to Hq USAF (AFOAPDA); he will also report the circumstances of the landing to:

(1) The General Aviation District Office of the Federal Aviation Administration, if the installation is in the United States or its possessions.

(2) The appropriate USAF authority, such as an air attaché, if the installation is in a foreign country.

§ 855.6 Actions to take when aircraft land without permission.

Any aircraft operator who lands at an Air Force installation without obtaining prior permission from an approving authority, except in a bona fide emergency as determined by the installation commander or his representative, is in violation of this part. Operators of civil aircraft landing in violation of this part will have to pay the unauthorized landing fee prescribed by § 855.15a and will probably experience delays while authorization for departure is obtained pursuant to this part. When the installation commander or his representative believes the violation was inadvertent due to lack of knowledge of the requirements in this part, and when the operator has complied with paragraphs (b) and (c) of this section and paid the fees assessed pursuant to paragraph (d) of this section, he may authorize the aircraft to depart. When it appears the violation may have been deliberate, e.g., a repeated violation, departure authorization can be granted only by Hq USAF. Before the aircraft is authorized to depart, the installation commander:

(a) Informs the aircraft operator of the restrictions on landing at AF installations (refer to the notice of such restrictions published in the FAA Airman's Information Manual or other source).

(b) Requires the operator to execute AF Forms 180 and 181; in item 7 of AF Form 181 explain in detail the reason and circumstances for the landing.

(c) Requires the operator to submit either an AF Form 203 or show evidence of sufficient insurance, including waiver of any right of subrogation against the United States; and evidence that such insurance applies to the liability assumed by the insured under the AF Form 180.

(d) Assesses the fees required by § 855.15(b), and if applicable § 855.15(c).

(e) Reviews the AF Form 181 (entries to be filled in by the approval authority need not be completed), include a statement within item 7 as follows: "An amount of $_____ has been charged and collected for this unauthorized landing," and submit without delay the original with full details through channels to Hq USAF (AFOAPDA); also, reports the circumstances of the landing to:

(1) The General Aviation District Office of the Federal Aviation Administration, if the installation is in the United States or its possessions.

(2) The appropriate Air Force authority, such as an Air Attaché, if the installation is within a foreign country.

§ 855.7 How to request the use of an Air Force installation.

* * * * *

(a) *Prospective civil aircraft users will.*

(1) Complete, sign, and forward the original (one copy) of AF Form 180 to the approving authority. When the user is other than an individual (i.e., a club, corporation, etc.) the "Certificate" of acknowledgement on the lower half of AF Form 180 must be completed and signed by a second official of the organization. As necessary, the Air Force also may require that the "Certificate" of acknowledgement be authenticated by an appropriately designated third official. Once the completed and signed AF Form 180, "Hold Harmless Agreement," has been accepted by an approving authority, it is valid until obsolete and need not be resubmitted with future requests to the same approving authority.

(2) Prepare and sign a separate set (original and one copy for Hq USAF, or original and four copies for other approving authorities) of the user's portion of AF Form 181 for each type of use requested. The user should insure that all entries conform to the requirements of this part. Once the AF Form 181 has been approved and distributed, no further entries or amendments can be made. New requirements must be submitted on a new set of AF Forms 181, but may include the old listings.

(3) Have the insurer or his authorized agent complete, sign, and forward the original (one copy only) of AF Form 203 to Hq USAF (AFOAPDA), Washington, D.C. 20330. All coverages will be stated in U.S. dollars (see § 855.13 for required minimum coverage). When the approving authority is other than Hq USAF, a signed carbon copy of the original AF Form 203 will be submitted with the AF Forms 181 to that approving authority. Once an AF Form 203 is on file with an approving authority, it is valid until insurance expiration date and may be used by that approving authority as a basis for his action upon any subsequent AF Forms 181 submitted for approval. If necessary, insurance companies may reproduce the AF Form 203; however, reproductions or photostats of the completed form are not acceptable.

* * * * *

§ 855.9 Processing procedure of the approving authority.

* * * * *

(c) * * *

(4) The amount of insurance indicated on the AF Form 203 must be stated in U.S. dollars and must be adequate for the type of use requested and for the passenger capacity and gross takeoff weight of the aircraft being operated. When item 11 of the AF Form 181 includes the notation "All aircraft of the above model(s) owned (and/or operated) by the Blank Corporation" the approving authority will enter the additional statement "not to exceed (blank) passenger capacity" when the model aircraft indicated, in another configuration, could have a passenger capacity whereby the amounts of passenger liability insurance would become inadequate.

* * * * *

§ 855.15 Landing, parking, and storage fees.

The base operations officer, acting for the installation commander, will collect fees from all users (see exemptions in paragraph (d) of this section) and will remit all fees, with supporting documentation, to the base accounting and finance officer each workday. All fees due will be collected at the time of use unless a prior agreement between the user and the installation commander specifies otherwise. Fees collected in accordance with paragraph (a) of this section will be deposited to suspense fund account 57X6875 for a period of 60 days. After 60 days, these fees should be withdrawn and redeposited into the Treasury as miscellaneous receipts. All other fees collected in accordance with this part will be deposited into the Treasury as miscellaneous receipts.

(a) *Fee for unauthorized landing.* If an aircraft lands at an Air Force installation without obtaining prior permission (except for a bona fide emergency), a landing fee in excess of the normal landing fee will be charged to cover the additional expenses incurred due to special handling and processing. The fee for an unauthorized landing will be as follows:

(1) For aircraft weighing 12,500 pounds or less: $100.

(2) For aircraft weighing more than 12,500 pounds, but less than 40,000 pounds: $250.

(3) For aircraft weighting 40,000 pounds and above: $500.

* * * * *

(Sec. 8012, 70A Stat. 488, secs. 1107, 1108, 72 Stat. 798; 10 U.S.C. 8012, 49 U.S.C. 1507, 1508) [AFR 55–20, Change 1, Oct. 13, 1967]

SUBCHAPTER I—MILITARY PERSONNEL

PART 882—DECORATIONS AND AWARDS

F.R. Doc. 67-12619, published at page 14824 in the issue of October 26, 1967, is corrected by revising § 882.54a to read as follows:

§ 882.54a Combat Readiness Medal.

(a) *Description.* Encircling a ring of stylized cloud forms, a border of concentric rays, its rim concave between 12 points, charged with six arrowheads, alternating with the points of two triangular flight symbols, having centerlines ridged conversely. One is pointed south and overlapping, and the other pointing north whose apex extends beyond the rim, becoming the point of suspension of the medal. The ribbon is predominantly old glory red and banded in blue, with a narrow dark blue stripe separated by two wider stripes of light blue.

(b) *Requirements for awards.* Completion of an aggregate of four years of sustained professional performance as a USAF combat ready aircrew or missile launch crew member assigned to an operational unit subject to the Combat Readiness Rating System under the provisions of AFM 55–11 (Air Force Operational Reporting System RCS: AF–V–21). During this period, the aircrew or missile launch crew member must have been:

(1) Certified as combat ready in accordance with USAF and major command qualification criteria by the appropriate wing commander or commander of a group not reporting to a wing; and

(2) Serving in a missile launch crew position, or in a rated AFSC position as an aircrew member.

NOTE: A written recommendation to justify award of the CRM, or a citation, certificate, and special orders on approved awards of this medal, are no longer required. Aircrew members on special duty with another U.S. military service may be credited with such service for award of the CRM provided they are designated or certified, while so serving, as combat ready in accordance with that service's criteria (if such criteria closely correlates to USAF and parent command criteria) and provided that other requirements stated in this section are met. A break in combat ready status (requalification, PCS, sickness, or other cause not attributed to any instance of nonprofessionalism) will be considered as qualifying service for award of the CRM, provided the break is not more than 120 days and the individual returns to combat ready status.

(c) *Initial awards.* All qualifying service from August 1, 1960.

(d) *Subsequent awards.* A bronze oak leaf cluster for each additional 4 years of qualifying service. A silver oak leaf cluster is worn in lieu of five bronze oak leaf clusters.

SUBCHAPTER K—MILITARY TRAINING AND SCHOOLS

PART 901—APPOINTMENT TO THE U.S. AIR FORCE ACADEMY

§ 901.6 [Corrected]

F.R. Doc. 67-12527, published at page 14762 in the issue of October 25, 1967, is corrected by changing the word "Appointment" in the second line of the introduction of § 901.6 to read "Academy."

By order of the Secretary of the Air Force.

LUCIAN M. FERGUSON,
Colonel, U.S. Air Force, Chief, Special Activities Group, Office of The Judge Advocate General.

[F.R. Doc. 67-13627; Filed, Nov. 20, 1967; 8:45 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 9—Atomic Energy Commission

PART 9-1—GENERAL
PART 9-12—LABOR

General Policy for Avoidance of Organizational Conflicts of Interest

On February 12, 1966, the Atomic Energy Commission published for public comment a proposed statement of general policy for the avoidance of organizational conflicts of interest. The statement described examples of various organizational conflict of interest which might come into being and methods for avoidance of such conflicts. It stated that the two paramount principles to be considered in avoiding organizational conflicts of interest are: (1) Preventing conflicting roles which might bias a contractor's judgment in relation to its work for AEC, and (2) preventing unfair competitive advantage. The published notice indicated the Commission was considering additional provisions concerning the use by a contractor in his private activities of information acquired by the contractor during the course of the contract when such information is not available to other interested firms.

The only comments received were from the Atomic Industrial Forum and the Council of Defense and Space Industry Associations.

After consideration of all relevant matters as presented in these comments, the statement as proposed has been revised. For the most part the comments were addressed to the draft additional provisions referred to above. These provisions have been replaced by the § 9-1.5408 below, "Commercial or other use of information and data obtained under AEC cost-type contracts." This section is a revised version of AECPR 9-12.5408 "Participation of employee working under AEC contract in related private activities of employer" which has been in effect for a number of years. Section 9-12.5408 is being deleted by this publication. Under § 9-1.5408, information developed or acquired in the performance of the contract, and which is required by the terms of the contract to be reported to AEC, could be authorized for use in the contractor's private activities if it has been reported to the AEC. Where AEC furnishes information to the contractor for the performance of the contract, it could not be used in the contractor's private activities unless such information is generally available to others. AEC would disseminate the information to other interested parties.

Section 9-1.5408 shall be implemented by including in cost-type contracts, where appropriate, a provision requiring the approval of the Contracting Officer for the private use of information or data developed or acquired by employees of such contractor in the performance of the contract.

Section 9-1.5407 covers situations which may involve restrictions on a contractor's participation in other related procurements. It should be noted that if a Contracting Officer determines that a proposed procurement does involve such a situation, all prospective contractors shall be advised of the extent of restrictions on follow-on or other work by notice in solicitations and by a clause in resulting contracts. Such notice and contract clause shall spell out the specific extent of any future restrictions on the contractor which are imposed by the contract.

The statement also provides that Managers of Field Offices and appropriate Headquarters Division Directors may waive applicability of the rules, if they determine that the waiver will not be prejudicial to the best interests of the Government.

Chapter 9 of Title 41 of the Code of Federal Regulations is amended as follows:

1. Section 9-1.104 is amended as follows by adding to the listing in paragraph (c) the following item:

§ 9-1.104 Applicability.

* * * * * * *

(c) * * *

* * * * * * *

9-1.54— General Policy for the Avoidance of Organizational Conflicts of Interest.

2. The following subpart is added to Part 9-1—General:

Subpart 9-1.54—General Policy for the Avoidance of Organizational Conflicts of Interest

Sec.
9-1.5401 Purpose.
9-1.5402 Scope and applicability.
9-1.5403 Applicability to cost-type contractor procurement.
9-1.5404 Waiver.
9-1.5405 Definition.
9-1.5406 General policy.
9-1.5407 Guides applicable prior to selection of contractor and execution of contract.
9-1.5408 Commercial or other use of information and data obtained under AEC cost-type contracts.

AUTHORITY: The provisions of this Subpart 9-1.54 issued under sec. 161 of the Atomic Energy Act of 1954, as amended, 68 Stat. 948, 42 U.S.C. 2201; sec. 205 of the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390, 40 U.S.C. 486.

Subpart 9-1.54—General Policy for the Avoidance of Organizational Conflicts of Interest

§ 9-1.5401 Purpose.

This subpart sets forth AEC general policy with respect to the avoidance of organizational conflicts of interest. This subpart is in addition to and not in lieu of other requirements in the AECPR concerning AEC policies for avoiding conflicts of interest. (See AECPR §§ 9-1.355; 9-3.951; and 9-56.401(a)(2)). The Report to the President on Government Contracting for Research and Development (generally known as the Bell Report) proposed that each department and agency head develop a "Code of Conduct" for organizations in the research and development field. This subpart has been developed in accordance with that instruction.

§ 9-1.5402 Scope and applicability.

(a) (1) This subpart identifies various organizational conflicts of interest which might come into being and methods for avoidance of such conflicts. It provides that action must be taken to avoid placing a contractor in a position where his judgment might be biased or where he would have an unfair competitive advantage within the scope and intent of this subpart.

(2) If a Contracting Officer determines that a proposed procurement does involve a situation covered in § 9-1.5407, all prospective contractors shall be advised of the extent of restrictions on follow-on or other work by notice in solicitations and by a clause in resulting contracts. Such notice and contract clause shall spell out the specific extent of any future restrictions on the contractor which are imposed by the contract. This, of course, does not require contract awards in circumstances that demonstrate a clear conflict of interests of a kind not specifically enumerated herein. Section 9-1.5408 shall be implemented by including in cost-type contracts, where appropriate, a provision requiring the approval of the Contracting Officer for the private use of information or data developed or obtained by employees of such contractor in the performance of cost-type contracts. A standard form of notice for use in solicitations or contract clause is not prescribed in this subpart since such notices and clauses must be especially adapted to apply the principle of these rules to the specific facts of each contractual situation.

(b) Except in unusual or specific situations identified by contracting officers, those parts of the rules which pertain to unfair competitive advantage are not applicable to contracts with educational institutions, or with not-for-profit organizations which conduct education and training activities, or whose facilities are used in joint programs with educational institutions for such purpose.

§ 9-1.5403 Applicability to cost-type contractor procurement.

This subpart shall be followed by Managers of Field Offices in reviewing and approving procurement policies and procurement actions of cost-type contractors that construct or operate AEC plants and laboratories or perform research and development services for AEC.

§ 9-1.5404 Waiver.

A Field Office Manager, or Headquarters Division Director, may waive the applicability of this subpart in specific cases if he determines that such waiver will not be prejudicial to the best interests of the Government.

§ 9-1.5405 Definition.

The term "organizational conflict of interest" means a situation where a contractor, normally a corporation, has interests, either due to its other activities or its relationships with other organizations, which place it in a position that may be unsatisfactory or unfavorable (a) from the Government's standpoint in being able to secure impartial, technically sound, objective assistance and advice from the contractor, or in securing the advantages of adequate competition in its procurement; or (b) from industry's standpoint in that unfair competitive advantage may accrue to the contractor in question.

§ 9-1.5406 General policy.

(a) In order to assist in deciding what, if any, steps should be applied to avoid organizational conflicts of interest, there are two paramount principles to be considered. These are: (1) Preventing conflicting roles which might bias a contractor's judgment in relation to its work for AEC, and (2) preventing unfair competitive advantage. The ultimate test should always be: Is the contractor placed in a position where his judgment may be biased, or where he has an unfair competitive advantage?

(b) Final program decisions, such as the determination of projects or programs and their scope, which are required to meet AEC missions and objectives, are of course the responsibility of Government personnel and cannot therefore be delegated to contractor personnel. Program decisions must be based on impartial, disinterested, and the best available technical and other judgments. The effective and formal power to make such decisions must remain in the hands of full-time AEC officials. Outside technical and other advice may be weighed and used selectively to assist in developing the bases on which program decisions will be made.

(c) It is difficult to identify, and to prescribe in advance a specific method for avoiding, all of the various situations which might involve potential organizational conflicts of interest. Basically, potential conflicts of interest become acute when AEC's quest for objectivity is paramount, such as for advice, evaluations, technical and analytical services and similar assistance that lay direct groundwork for program decisions on large future procurements, research and development programs, and production. The general policy in paragraph (a) of this section cannot be automatically or routinely implemented; the application of considered judgment is necessary if that policy is to be applied in an effective, workable manner. The following sections provide guides for the application of the general policy in specific situations. However, contracting and program officials should be alert to other situations which may warrant application of the general policy.

§ 9-1.5407 Guides applicable prior to selection of contractor and execution of contract.

(a) A contractor who in connection with the performance of a study contract will be given information by AEC regarding AEC's plans or programs which is not available to interested industrial firms, should not be permitted to compete with such firms for work relating to such plans or programs.

(b) Development contractors generally should not be prohibited from consideration as a supplier for a product which they develop and design. In development work it is normal to select firms which have done the most advanced work and which are the most experienced in the field. It is to be expected that these firms will develop and design around their own prior knowledge. Also, a contractor who participates in an early stage of development is not precluded from getting a contract for a later stage of development or production. As part of AEC's overall planning for the development, design and the production stages, consideration should be given to the likelihood of competitive solicitations for procuring parts of the design or product effort. The arrangement for such procurement should provide for the maximum competition consistent with satisfying AEC requirements. Where the designer and developer is permitted to compete with others for the furnishing of the final product, Field Office Managers should take appropriate steps to see that the information furnished AEC under the design and development contract is available to other potential bidders, on a timely basis.

(c) If a single contractor, other than a company which has participated in the development referred to in paragraph (b) of this section undertakes a contract which essentially is to assist the AEC or a contractor of AEC in preparation of a statement of work, or to provide material leading directly and predictably to a statement of work, to be used in the competitive procurement of a product or service, that contractor should not be allowed to supply the service, or the product or major components thereof either as a prime or subcontractor or vendor, except when it is determined and justified in accordance with established criteria that such contractor is a sole source for the required product or service. The content of a statement of work is not considered predictable if two or more contractors, unaffiliated with each other, are involved substantially in the preparation of material leading to it. Generally, feasibility studies which do not propose in detail the characteristics of a possible final product, are not work statements and a company should not be barred from bidding subsequently on the product.

(d) If a contractor agrees to prepare and furnish essentially complete specifications to be used in competitive procurement, that contractor should not be allowed to compete either as a prime or subcontractor or vendor, for a reasonable period including, at least, the initial procurement. This prohibition should not be applied to:

(1) Contractors who have furnished at AEC request specifications or data with respect to a product sold to AEC, even though the specifications or data may have been paid for separately or in the price of the product.

(2) Contractors acting as industry representatives who assist AEC in preparing, refining or coordinating specifications, if such assistance is supervised and controlled by AEC representatives.

(3) Contracts for a developmental or prototype item. However, the principle in the concluding sentence of paragraph (b) of this section should be applied.

(4) Purchases from divisions of or companies affiliated with the performing contractor, provided such purchases are supervised and controlled by AEC representatives.

(e) A contractor performing evaluation or consulting services for AEC in connection with a competitive procurement should not be allowed to evaluate or give other consulting services: (1) On a product or service which the contractor provides; (2) on the product or services of any company with which the contractor has a consulting relationship; or (3) on his own product or on similar services which he has performed for others. Such a contractor should not be allowed to give consulting services to prospective bidders on a procurement item for which he has performed or will perform evaluation services for AEC. It is recognized that under AEC management contracts for the operation of AEC facilities and certain research and development contracts, the performing contractor may solicit proposals and advise AEC concerning proposed purchases from competitors as well as from its own affiliated divisions or companies not directly engaged in the performance of the AEC management contract. In such cases the contracting officer should assure by appropriate review and supervision that the action taken is sound.

(f) A contractor's judgment may be tionships of its officers or employees with other organizations and because of organizational relationships (e.g., interlocking directorships). In selecting a contractor to develop technical specifications in connection with competitive procurement or to perform evaluation services on technical proposals, consideration should be given to present and past relationships of the contractor's organization and personnel to the companies whose proposals are

to be evaluated. In order to avoid or minimize organizational conflicts of interest and to avoid assignments of work which would create unavoidable conflicts of interest, these relationships may require that an organization be eliminated from consideration for selection, or that a reasonable period of restraint, for example 1 year, be imposed on the organization or on the use of certain employees in the performance of contract work.

(g) Combinations of contracts for architect-engineering and construction services, which may result in self-inspection of construction work, tend to prevent a contractor from rendering unbiased decisions, or create difficulties in segregating costs between contracts, and should be avoided. However, it is recognized that sometimes it is advantageous under carefully circumscribed conditions for AEC to obligate a single firm to perform both architect-engineer and construction work, or for AEC to enter into a contract for architect-engineer and construction management services which may include performance of a segment of the construction work with the contractor's own forces. (See AECPR § 9-1.355 which requires approval of Headquarters Director, Division of Contracts, for combined architect-engineer/construction contracts).

§ 9-1.5408 Commercial or other use of information and data obtained under AEC cost-type contracts.

(a) Cost-type contractors may be permitted to use, in their private activities, information and data developed or obtained in the performance of such contracts as provided in this section.

(b) The contractor shall be required to inform the Contracting Officer of all situations in which such information or data is proposed to be used. To assure that no unfair competitive advantage results to the contractor, the Contracting Officer shall be guided by the following principles in permitting the use of such information or data for private purposes:

(1) No part of the plans, specifications, cost estimates, technical information, or other data which are developed or acquired in the performance of the contract and which are required by the terms of the contract to be reported to AEC shall be used in the contractor's private activities, unless such information has been reported to AEC. Where AEC furnishes such information to the contractor for the performance of contract work, it shall not be used in the contractor's private activities, unless such information is generally available to others.

(2) Information which is reported to AEC by AEC contractors will normally be disseminated by AEC to others.

(3) Employees of management contractors operating AEC facilities may not be used to assist in the preparation of a proposal or bid for the performance of private commercial services similar or related to those being performed under the AEC contract unless such employee has been separated, with AEC approval, from performance of work under the AEC contract for such period as the Contracting Officer shall direct consistent with the purpose of this section.

(4) AEC management contractors operating AEC facilities, and performing services, as a part of their contract work, for other Government agencies or private organizations, should not be permitted to utilize information which is furnished by such customers, for their own private activities, unless it is generally available to others, or unless the customer authorizes such use.

(c) As used in this section, the term "cost-type contractor" shall include affiliated companies, parent organizations, or wholly owned subsidiaries.

§ 9-12.5408 [Deleted]

9. In Part 9-12—Labor, § 9-12.5408 is deleted from the Code of Federal Regulations.

(Sec. 161, Atomic Energy Act of 1954, as amended, 68 Stat. 948, 42 U.S.C. 2201; Sec. 205, Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390, 40 U.S.C. 486)

Effective date. These amendments are effective 30 days after publication in the FEDERAL REGISTER.

Dated at Germantown, Md., this 14th day of November 1967.

For the U.S. Atomic Energy Commission.

JOSEPH L. SMITH,
Director, Division of Contracts.

[F.R. Doc. 67-13623; Filed, Nov. 20, 1967; 8:45 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Noxubee National Wildlife Refuge, Miss.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

MISSISSIPPI

NOXUBEE NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer on the Noxubee National Wildlife Refuge, Miss., is permitted only on the areas designated by signs as open to hunting. This open area, comprising 42,000 acres, is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 809 Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State regulations covering the hunting of white-tailed deer except for the special conditions indicated:

(1) The open season for hunting white-tailed deer on the refuge is from November 18 through November 26, 1967, Sundays excluded, and from December 26, through December 30, 1967, and from January 1 through January 6, 1968.

(2) Bag limits: November 18 through 26, bucks only; December 26 through December 30 and January 1 through January 6, 1968, one deer of either sex until 400 antlerless deer have been taken, after which, bucks only may be taken. Any antlerless deer killed shall be included in the bag limit on deer and not in addition thereto. A total kill quota of 800 deer has been established. If this quota is reached during the above open season, the refuge hunt will be terminated.

(3) Weapons: Any type gun may be used except 22 caliber rifles and shotguns smaller than 20 gauge. Shells with buckshot smaller than No. 1 prohibited. Long bows permitted.

(4) Dogs: The use of dogs is not permitted.

(5) Fires: Fires and the cutting of trees are not permitted.

(6) Check-out: All deer killed must be tagged as required by State Regulation and must be checked out at one of the designated refuge check stations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 6, 1968.

W. L. TOWNS,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

NOVEMBER 15, 1967.

[F.R. Doc. 67-13646; Filed, Nov. 20, 1967; 8:47 a.m.]

PART 33—SPORT FISHING

Upper Souris National Wildlife Refuge, N. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

NORTH DAKOTA

UPPER SOURIS NATIONAL WILDLIFE REFUGE

Sport fishing on the Upper Souris National Wildlife Refuge, N.D., is permitted only on the areas designated by signs as open to fishing. These open areas comprise 7,000 acres and are delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn. 55408. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The refuge shall be open to the taking of all fish from January 1 to March 24. The refuge shall then be closed to all fishing from March 25 to May 3. It shall then be open to the taking of all fish from May 4 to September 15. The refuge shall then be closed to fishing from September 16 to December 14 and open to fishing from December 15 to December 31. Shore fishing will be permitted at those roads and areas designated by the Refuge Manager for the period September 15 to December 14, 1968.

(2) The use of once frozen smelt and perch eyes will be permitted on open parts of the refuge. The use of minnows, fish or parts of fish (except perch eyes and frozen smelt), is prohibited north of the Lake Darling dam. The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33, and are effective through December 31, 1968.

JOHN M. DAHL,
Refuge Manager, Upper Souris National Wildlife Refuge, Foxholm, N. Dak.

NOVEMBER 14, 1967.

[F.R. Doc. 67-13631; Filed, Nov. 20, 1967; 8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 67-SW-74]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter the Alice, Tex., control zone.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All Communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal Docket will also be available for examination at the Office of the Chief, Air Traffic Division.

The Alice, Tex., control zone is presently designated as that airspace within a 5-mile radius of the Alice International Airport (lat. 27°44'30" N., long. 98° 01'40" W.); within 2 miles each side of the Alice VOR 153° radial, extending from the 5-mile radius zone to 8 miles southeast of the VOR; within 2 miles each side of the Alice VOR 270° radial, extending from the 5-mile radius zone to 8 miles west of the VOR; and within 2 miles each side of the 154° bearing from lat. 27°44'22" N., long. 98°01'49" W., extending from the 5-mile radius zone to 8 miles southeast of lat. 27°44'22" N., long. 98°01'49" W.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.171 (32 F.R. 2072) the Alice, Tex., control zone is amended to read:

ALICE, TEX.

That airspace within a 5-mile radius of the Alice International Airport (lat. 27° 44'30" N., long. 98°01'40" W.); within 2 miles each side of the Alice VOR 153° (144° magnetic) radial, extending from the 5-mile radius zone to 8 miles southeast of the VOR; within 2 miles each side of the Alice VOR 270° (261° magnetic) radial, extending from the 5-mile radius zone to 8 miles west of the VOR; and within 2 miles each side of the 134° (125° magnetic) bearing from lat. 27°44'20" N., long. 98°01'46" W., extending from the 5-mile radius zone to 8 miles southeast of lat. 27°44'20" N., long. 98°01'46" W.

Alteration of the Alice control zone is necessary due to revision of an approach procedure at this location and to correct coordinates.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Forth Worth, Tex., on November 8, 1967.

HENRY L. NEWMAN,
Director, Southwest Region.

[F.R. Doc. 67-13638; Filed, Nov. 20, 1967; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 288]

[Docket No. 19253; EDR-127]

EXEMPTION OF AIR CARRIERS FOR MILITARY CHARTERS AND SUBSTITUTE SERVICE

Notice of Proposed Rule Making

NOVEMBER 16, 1967.

Notice is hereby given that the Civil Aeronautics Board is considering amendment of Part 288 of the Economic Regulations with respect to the purchase by the military of return legs of commercial charters at rates lower than the minimums prescribed in Part 288. A statement explaining the proposal is attached. The amendment is proposed under the authority of sections 204, 403, and 416 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 758, and 771, as amended; 49 U.S.C. 1324, 1373, and 1386).

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Reply comments may be filed ten (10) days after receipt of initial comments. Copies of all comments will be served on the Military Airlift Command and on the carriers listed in Appendix A as set forth below. All relevant matter in initial comments received on or before December 11, 1967, and in reply comments received on or before December 26, 1967, will be considered by the Board before taking final action. Upon receipt by the Board, copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 710 Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

Explanatory statement. During the Board's last review of minimum rates for military charters, the Department of Defense (DoD) requested that Part 288 of the regulations be amended to permit DoD to purchase backhaul legs of one-way commercial charters at any tariff rate that might be lower than the minimum rates prescribed by the Board. DoD noted that § 208.101 of the regulations, which conditions the operating authority of supplemental air carriers, precludes those carriers from performing military airlift services at rates less than the Part 288 minimums. DoD expressed the opinion that this prohibition worked a hardship on both DoD and the supplemental carriers and that the effect of the regulation appeared inequitable. DoD therefore proposed that an exception to the Part 288 minimum rates be adopted in the form of the following proviso:

And provided further that if either a scheduled or supplemental carrier performs a one-way charter flight for a nonmilitary user, the DoD may purchase by MAC airlift contract a flight of that aircraft in the opposite direction at a rate which is equal to any lower rate available in a tariff published by the carrier with the Board.

In response to the DoD proposal, we said in ER-494 (32 F.R. 7901), adopted May 25, 1967, "Since there is inherent in the proposal the possibility of undercutting the minimum rates by the filing of tariffs that could by their terms be used only by DoD, we will not adopt the proposal at this time but will treat it as a petition for rule making in order that further study may be given to its implications and the views of other interested persons."

Upon consideration of the foregoing, DoD filed a petition for rule making on July 17, 1967, seeking amendment of Part 288 to permit DoD to purchase the opposite legs of one-way flights flown as part of commercial charters at the minimum rates prescribed in Part 288 for round-trip passenger or cargo charters. DoD proposed the following proviso:

And provided further that if either a scheduled or supplemental carrier performs a one-way flight as part of a charter contract for a nonmilitary user, the DoD may purchase by MAC airlift contract a flight of that aircraft in the opposite direction at the minimum round-trip rates prescribed in this Part 288.7 for passengers or cargo.

DoD stated its belief that such an amendment would avoid the possibility of undercutting the minimum rates inherent in the previous proposal.

In our opinion, both of DoD's suggestions present dangers of undermining the minimum rates, which are prescribed on the basis of detailed cost submissions and after consideration of all related questions of policy raised by DoD and the carriers. Under the latest DoD proposal, DoD could pay the round-trip rate for one-way outbound charters whenever a carrier flew an inbound charter for a "nonmilitary user." Some of the carriers have obtained a substantial number of charters at low tariff rates on backhaul flights of outbound military charters, and the revenue from such charters is taken into consideration to reduce the one-way military charter minimum rates. Combination of the round-trip minimum rate with those low tariff rates might result in the carriers operating at a loss.

On the other hand, the use of tariff rates by DoD raises troublesome problems. As we indicated in ER-494, some carriers have undercut the minimum rates by publishing charter tariffs that are by their terms available only to the military and not to the general public, such as charters to or from military bases in the United States and foreign countries. At present, the route carriers have the authority to publish such tariffs while, as pointed out by DoD, the supplemental carriers who file such tariffs may be violating the rate condition attached to their certificates and stated in Part 208.[1]

In view of the foregoing, we wish to obtain the views of all interested persons before taking action on either of DoD's proposals. In particular, we expect the carriers and DoD to indicate the commercial charter tariffs that could be used by DoD under the tariff proposal, and we request that DoD furnish data as to the extent it would anticipate making use of commercial one-way charter rates. Although at this time we believe DoD has supplied insufficient support for adoption of its second proposed amendment, we will also consider comments with respect to that proposal.

APPENDIX A

Airlift International, Inc.
Alaska Airlines, Inc.
American Airlines, Inc.
Braniff Airways, Inc.
Capitol International Airways, Inc.
Continental Air Lines, Inc.
Delta Air Lines, Inc.
Eastern Air Lines, Inc.
The Flying Tiger Line Inc.
National Airlines, Inc.
Northwest Airlines, Inc.
Overseas National Airways, Inc.
Pan American World Airways, Inc.
Saturn Airways, Inc.
Seaboard World Airlines, Inc.
Southern Air Transport, Inc.
Standard Airways, Inc.
Trans Caribbean Airways, Inc.
Trans International Airlines Corp.
Trans World Airlines, Inc.
United Air Lines, Inc.
Universal Airlines, Inc.
World Airways, Inc.

[1] The Board presently has before it in Docket 19092 a complaint and request to cancel these tariffs.

[F.R. Doc. 67-13653; Filed, Nov. 20, 1967; 8:47 a.m.]

FEDERAL POWER COMMISSION

[18 CFR Parts 101, 104, 105, 141, 201, 204, 205]

[Docket No. R-334]

UNIFORM SYSTEM OF ACCOUNTS FOR PUBLIC UTILITIES, LICENSEES AND NATURAL GAS COMPANIES (CLASSES A, B, C, AND D)

Proposed Change in Accounting Requirements for Clearing, Grading and Damage Costs Related to Construction on Land and Rights-of-Way

NOVEMBER 14, 1967.

1. Notice is given pursuant to 5 U.S.C. 553 that the Commission is considering amendments to the Uniform System of Accounts which, in general effect, will require that the costs associated with the first clearing and grading of lands and rights-of-way, and damages resulting therefrom, be included in the accounts for the structures to which such costs are related rather than as currently provided by Electric Plant Instructions 7I and 8H and Gas Plant Instructions 7I and 8G. Instruction 7I requires that the first cost of clearing and the cost of grading the land (except when directly occasioned by the building of a structure) be included in the accounts for land rights and rights-of-way. Instructions 8H and 8G of the respective systems currently require that damages to abutting property during construction and grading and clearing costs when directly occasioned by the building of a structure be included in the accounts for structures and improvements. It will be seen from the foregoing that the change proposed, though seemingly complicated in detail, will do no more than require that the first clearing and grading costs be included in the plant accounts to which such costs are related. The instructions already require that the damages to abutting property be similarly charged.

2. The changes here proposed, while not suggested specifically by any of the companies required to comply with the Uniform System of Accounts, are prompted by questions that have been raised regarding the theory behind the present instructions and the practicality of their application. The changes would promote consistency in accounting practices. Furthermore, the Accounting Committee of the National Association of Railroad and Utility Commissioners (NARUC) issued an accounting interpretation in 1965 permitting natural gas pipeline companies to include the subject costs in the transmission mains plant account. Subsequently, the NARUC Committee voted to apply that interpretation equally to both natural gas and electric companies and agreed, also, that the system of accounts should be modified accordingly.

3. These amendments are proposed to be issued under the authority granted to the Federal Power Commission by sections 301, 304, and 309 of the Federal Power Act (49 Stat. 854, 855, 858; 16 U.S.C. 825, 825c, 825h) and sections 8, 10, and 16 of the Natural Gas Act (52 Stat. 825, 827, 830; 15 U.S.C. 717g, 717i, 717o).

4. Accordingly, it is proposed to amend Parts 101, 104, 105, 201, 204, and 205, Chapter I, Title 18 of the Code of Federal Regulations as follows:

a. In Part 101, the Uniform System of Accounts for Class A and B Public Utilities and Licensees, the Electric Plant Instructions are revised as follows: Two sentences are added to Instruction 7A; the first sentence of Instruction 7C is revised; items 3. and 8. of Instruction 7I are deleted; a sentence is added to Instruction 8A; a sentence is added to Instruction 9A; and Electric Plant Account No. 351 is deleted. As thus amended, the affected portions of Part 101 will read as follows:

Electric Plant Instructions

* * * * *

7. *Land and Land Rights.*

A. The accounts for land and land rights shall include the cost of land owned in fee by the utility and rights, interests, and privileges held by the utility in land owned by others, such as leaseholds, easements, water and water power rights, diversion rights, submersion rights, rights-of-way, and other like interests in land. Do not include in the accounts for land and land rights and rights-of-way costs incurred in connection with first clearing and grading of land and rights-of-way and the damage costs associated with the construction and installation of plant. Such costs shall be included in the appropriate plant accounts directly benefited.

* * * * *

C. The net profit from the sale of timber, cord wood, or other property acquired with rights-of-way or other lands shall be credited to the appropriate plant account to which related. Where land is held for a considerable period of time and timber on the land at the time of purchase increases in value, the net profit (after giving effect to the cost of the timber) from the sales of timber or its products shall be credited to account 421, Miscellaneous Nonoperating Income.

* * * * *

I. The items of cost to be included in the accounts for land and land rights are as follows:

* * * * *

3. [Revoked and reserved]

8. [Revoked and reserved]

8. *Structures and Improvements.*

A. The accounts for structures and improvements shall include the cost of all buildings and facilities to house, support, or safeguard property or persons, including all fixtures permanently attached to and made a part of buildings and which cannot be removed therefrom without cutting into the walls, ceilings, or floors, or without in some way impairing the buildings, and improvements of a permanent character on or to land. Also include those costs incurred in connection with the first clearing and grading of land and rights-of-way, and the damage costs associated with construction and installation of plant.

9. *Equipment.*

A. The cost of equipment chargeable to the electric plant accounts, unless otherwise indicated in the text of an equipment account, includes the net purchase price thereof, sales taxes, investigation and inspection expenses necessary to such purchase, expenses of transportation when borne by the utility, labor employed, materials and supplies consumed, and expenses incurred by the utility in unloading and placing the equipment in readiness to operate. Also include those costs incurred in connection with the first clearing and grading of land and rights-of-way and the damage costs associated with contruction and installation of plant.

Electric Plant Accounts

3. TRANSMISSION PLANT

351 [Revoked and reserved]

b. In Part 104, the Uniform System of Accounts for Class C Public Utilities and Licensees, the Electric Plant Instructions are revised as follows: Two sentences are added to Instruction 6A; the first sentence of 6C is revised; items 3 and 8 of Instruction 6I are deleted; a sentence is added to Instruction 7A; a sentence is added to Instruction 8A; and Electric Plant Account No. 351 is deleted. As thus amended, the affected portions of Part 104 read as follows:

Electric Plant Instructions

6. *Land and Land Rights.*

A. The accounts for land and land rights shall include the cost of land owned in fee by the utility and rights, interests, and privileges held by the utility in land owned by others, such as leaseholds, easements, water and water power rights, diversion rights, submersion rights, rights-of-way, and other like interests in land. Do not include in the accounts for land and land rights and rights-of-way costs incurred in connection with first clearing and grading of land and rights-of-way and the damage costs associated with construction and installation of plant. Such costs shall be included in the appropriate plant accounts directly benefited.

C. The net profit from the sale of timber, cord wood, or other property acquired with rights-of-way or other lands shall be credited to the appropriate plant account to which related. Where land is held for a considerable period of time and timber on the land at the time of purchase increases in value, the net profit (after giving effect to the cost of the timber) from the sales of timber or its products shall be credited to account 421, Miscellaneous Nonoperating Income.

I. The items of cost to be included in the accounts for land and land rights are as follows:

3. [Revoked and reserved]

8. [Revoked and reserved]

7. *Structures and Improvements.*

A. The accounts for structures and improvements shall include the cost of all buildings and facilities to house, support, or safeguard property or persons, including all fixtures permanently attached to and made a part of buildings and which cannot be removed therefrom without cutting into the walls, ceilings, or floors, or without in some way impairing the buildings, and improvements of a permanent character on or to land. Also include those costs incurred in connection with the first clearing and grading of land and rights-of-way, and the damage costs associated with construction and installation of plant.

8. *Equipment.*

A. The cost of equipment chargeable to the electric plant accounts, unless otherwise indicated in the text of an equipment account, includes the net purchase price thereof, sales taxes, investigation and inspection expenses necessary to such purchase, expenses of transportation when borne by the utility, labor employed, materials and supplies consumed, and expenses incurred by the utility in unloading and placing the equipment in readiness to operate. Also include those costs incurred in connection with the first clearing and grading of land and rights-of-way and the damage costs associated with construction and installation of plant.

Electric Plant Accounts

3. TRANSMISSION PLANT

351 [Revoked and reserved]

c. In Part 105, the Uniform System of Accounts for Class D Public Utilities and Licensees, the Electric Plant Instructions are revised as follows: Two sentences are added to Instruction 3A; a sentence is added to Instruction 4A; and a sentence is added to Instruction 5A. As thus amended, the affected portions of Part 105 will read as follows:

Electric Plant Instructions

3. *Land and Land Rights.*

A. The accounts for land and land rights shall include the cost of land owned in fee by the utility and rights, interests, and privileges held by the utility in land owned by others, such as leaseholds, easements, water and water power rights, diversion rights, submersion rights, rights-of-way, and other like interests in land. Do not include in the accounts for land and land rights and rights-of-way costs incurred in connection with first clearing and grading of land and rights-of-way and the damage costs associated with the construction and installation of plant. Such costs shall be included in the appropriate plant accounts directly benefited.

4. *Structures and Improvements.*

A. The accounts for structures and improvements shall include the cost of all buildings and facilities to house, support, or safeguard property or persons, including all fixtures permanently attached to and made a part of buildings and which cannot be removed therefrom without cutting into the walls, ceilings, or floors, or without in some way impairing the buildings, and improvements of a permanent character on or to land. Also include those costs incurred in connection with the first clearing and grading of land and rights-of-way, and the damage costs associated with construction and installation of plant.

5. *Equipment.*

A. The cost of equipment chargeable to the electric plant accounts, unless otherwise indicated in the text of an equipment account, includes the net purchase price thereof, sales taxes, investigation and inspection expenses necessary to such purchase, expenses of transportation when borne by the utility, labor employed, materials and supplies consumed, and expenses incurred by the utility in unloading and placing the equipment in readiness to operate. Also include those costs incurred in connection with the first clearing and grading of land and rights-of-way and the damage costs associated with construction and installation of plant.

d. In Part 201, the Uniform System of Accounts for Class A and B Natural Gas Companies, the Gas Plant Instructions are revised as follows: Two sentences are added to Instruction 7A; the first sentence of Instruction 7C is revised; items 3. and 8. of Instruction 7I are deleted; a sentence is added to Instruction 8A; a sentence is added to Instruction 9A; and parenthetical cross-references are added to Gas Plant Accounts Nos. 325.4, 325.5, and 350.4. As thus amended, the affected portions of Part 201 will read as follows:

Gas Plant Instructions

7. *Land and land rights.* A. The accounts for land and land rights shall include the cost of land owned in fee by the utility and rights, interests, and privileges held by the utility in land owned by others, such as leaseholds, easements, rights-of-way, natural gas rights, and other like interests in land. Do not include in the accounts for land and land rights and rights-of-way costs incurred in connection with first clearing and grading of land and rights-of-way and the damage costs associated with the construction and installation of plant. Such costs shall be included in the appropriate plant accounts directly benefited.

C. The net profit from the sale of timber, cord wood, or other property acquired with rights-of-way or other lands shall be credited to the appropriate plant account to which related. Where land is held for a considerable period of time and timber on the land at the time of purchase increases in value, the net profit (after giving effect to the cost of the timber) from the sales of timber or its products shall be credited to account 421, Miscellaneous Nonoperating Income.

I. The items of cost to be included in the accounts for land and land rights are as follows:

3. [Revoked and reserved]

8. [Revoked and reserved]

8. *Structures and improvements.* A. The accounts for structures and improvements shall include the cost of all buildings and facilities to house, support, or safeguard property or persons, including all fixtures permanently attached to and made a part of buildings and which cannot be removed therefrom without cutting into the walls, ceilings, or floors, or without in some way impairing the buildings, and improvements of a permanent character on or to land. Also include those costs incurred in connection with the first clearing and grading of land and rights-of-way, and the damage costs associated with construction and installation of plant.

9. *Equipment.* A. The cost of equipment chargeable to the gas plant accounts, unless otherwise indicated in the text of an equipment account, includes the net purchase price thereof, sales taxes, investigation and inspection expenses necessary to such purchase, expenses of transportation when borne by the utility, labor employed, materials and supplies consumed, and expenses incurred by the utility in unloading and placing the equipment in readiness to operate. Also include those costs incurred in connection with the first clearing and grading of land and rights-of-way and the damage costs associated with construction and installation of plant.

Gas Plant Accounts

2. PRODUCTION PLANT

B. NATURAL GAS PRODUCTION PLANT

B. 1 Natural Gas Production and Gathering Plant

325.4 Rights-of-way.

This account shall include the cost of all interests in land which terminate more than 1 year after they become effective and on which are located gathering pipelines, telephone pole lines, and like property used in connection with the production of natural gas. (See gas plant instruction 7.)

325.5 Other land and land rights.

This account shall include the cost of land and land rights used in connection with the production of natural gas, when not properly assignable to any of the foregoing accounts. (See gas plant instruction 7.)

3. STORAGE PLANT

A. UNDERGROUND STORAGE PLANT

350.4 Rights-of-way.

This account shall include the cost of all interests in land which do not terminate until more than 1 year after they become effective and on which are located underground storage lines, telephone poles lines, and like property used in connection with underground gas storage operations. (See gas plant instruction 7.)

(e) In Part 204, the Uniform System of Accounts for Class C Natural Gas Companies, the Gas Plant Instructions are revised as follows: Two sentences are added to Instruction 6A; the first sentence of Instruction 6C is revised; items 3. and 8. of Instruction 6I are deleted; a sentence is added to Instruction 7A; a sentence is added to Instruction 8A; and parenthetical cross-references are added to Gas Plant Accounts Nos. 325.4, 325.5, and 350.4. As thus amended, the affected portions of Part 204 read as follows:

Gas Plant Instructions

6. *Land and Land Rights.*

A. The accounts for land and land rights shall include the cost of land owned in fee by the utility and rights, interests, and privileges held by the utility in land owned by others, such as leaseholds, easements, rights-of-way, natural gas rights, and other like interests in land. Do not include in the accounts for land and land rights and rights-of-way costs incurred in connection with first clearing and grading of land and rights-of-way and the damage costs associated with construction and installation of plant. Such costs shall be included in the appropriate plant accounts directly benefited.

C. The net profit from the sale of timber, cord wood, or other property acquired with rights-of-way or other lands shall be credited to the appropriate plant account to which related. Where land is held for a considerable period of time and timber on the land at the time of purchase increases in value, the net profit (after giving effect to the cost of the timber) from the sales of timber or its products shall be credited to account 421, Miscellaneous Nonoperating Income.

I. The items of cost to be included in the accounts for land and land rights are as follows:

3. [Revoked and reserved]

8. [Revoked and reserved]

7. *Structures and Improvements.*

A. The accounts for structures and improvements shall include the cost of all buildings and facilities to house, support, or safeguard property or persons, including all fixtures permanently attached to and made a part of buildings and which cannot be removed therefrom without cutting into the walls, ceilings, or floors, or without in some way impairing the buildings, and improvements of a permanent character on or to land. Also include those costs incurred in connection with the first clearing and grading of land and rights-of-way, and the damage costs associated with construction and installation of plant.

8. *Equipment.*

A. The cost of equipment chargeable to the gas plant accounts, unless otherwise indicated in the text of an equipment account, includes the net purchase price thereof, sales taxes, investigation and inspection expenses necessary to such purchase, expenses of transportation when borne by the utility, labor employed, materials and supplies consumed, and expenses incurred by the utility in unloading and placing the equipment in readiness to operate. Also include those costs incurred in connection with the first clearing and grading of land and rights-of-way and the damage costs associated with construction and installation of plant.

Gas Plant Accounts

2. PRODUCTION PLANT

B. NATURAL GAS PRODUCTION PLANT

B. 1 Natural Gas Production and Gathering Plant

325.4 Rights-of-way.

This account shall include the cost of all interests in land which terminate more than 1 year after they become effective and on which are located gathering pipelines, telephone pole lines, and like property used in connection with the production of natural gas. (See gas plant instruction 6.)

325.5 Other land and land rights.

This account shall include the cost of land and land rights used in connection with the production of natural gas, when not properly assignable to any of the foregoing accounts. (See gas plant instruction 6.)

* * * * *

3. STORAGE PLANT

A. UNDERGROUND STORAGE PLANT

* * * * *

350.4 Rights-of-way.

This account shall include the cost of all interests in land which do not terminate until more than 1 year after they become effective and on which are located underground storage lines, telephone pole lines, and like property used in connection with underground gas storage operations. (See gas plant instruction 6.)

2. In Part 205, the Uniform System of Accounts for Class D Natural Gas Companies, the Gas Plant Instructions are revised as follows: Two sentences are added to Instruction 3A; a sentence is added to Instruction 4A; and a sentence is added to Instruction 5A. As thus amended, the affected portions of Part 205 will read as follows:

Gas Plant Instructions

* * * * *

3. *Land and Land Rights.*

A. The accounts for land and land rights shall include the cost of land owned in fee by the utility and rights, interests, and privileges held by the utility in land owned by others, such as leaseholds, easements, rights of way, natural gas rights, and other like interests in land. Do not include in the accounts for land and land rights and rights-of-way costs incurred in connection with first clearing and grading of land and rights-of-way and the damage costs associated with the construction and installation of plant. Such costs shall be included in the appropriate plant accounts directly benefited.

* * * * *

4. *Structures and Improvements.*

A. The accounts for structures and improvements shall include the cost of all buildings and facilities to house, support, or safeguard property or persons, including all fixtures permanently attached to and made a part of buildings and which cannot be removed therefrom without cutting into the walls, ceilings, or floors, or without in some way impairing the buildings, and improvements of a permanent character on or to land. Also include those costs incurred in connection with the first clearing and grading of land and rights-of-way, and the damage costs associated with construction and installation of plant.

* * * * *

5. *Equipment.*

A. The cost of equipment chargeable to the gas plant accounts, unless otherwise indicated in the text of an equipment account, includes the net purchase price thereof, sales taxes, investigation and inspection expenses necessary to such purchase, expenses of transportation when borne by the utility, labor employed, materials and supplies consumed, and expenses incurred by the utility in unloading and placing the equipment in readiness to operate. Also include those costs incurred in connection with the first clearing and grading of land and rights-of-way and the damage costs associated with construction and installation of plant.

* * * * *

2. Although we recognize that adoption of the foregoing proposal to delete Electric Plant Account No. 351 will necessitate several technical conforming revisions to portions of Parts 101 and 104 and also in FPC Form No. 1, prescribed by § 141.1, and FPC Form No. 6, prescribed by § 141.11, we deem it unnecessary to detail those revisions here. They will, of course, be included in any order which may issue in this proceeding.

3. Any person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than December 18, 1967, data, views, comments, and suggestions in writing concerning the proposal herein. An original and 14 conformed copies of any such submittals should be filed. The Commission will consider any such written submittals before acting on the amendments.

By the Commission.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13630; Filed, Nov. 20, 1967; 8:45 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A 1382]

ARIZONA

Notice of Proposed Classification of Public Lands for Exchange

In F.R. Doc. 67-12633, appearing on pages 14860 and 14861 of the issue of October 26, 1967, the following changes should be made:

Under T. 7 S., R. 11 W., "sec. 7, E¼ NW¼ should read sec. 7, E½NW¼.".

Under T. 7 S., R. 12 W., "sec. 21, NE¼" and "sec. 22, NW¼," are added.

RILEY E. FOSSMAN,
Acting State Director.

NOVEMBER 13, 1967.

[F.R. Doc. 67-13632; Filed, Nov. 20, 1967; 8:45 a.m.]

[Oregon 017967]

OREGON

Order Providing for Opening of Public Lands

NOVEMBER 14, 1967.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1272), as amended June 26, 1936 (49 Stat. 1976; 43 U.S.C. 315g), the following lands have been reconveyed to the United States:

WILLAMETTE MERIDIAN

T. 9 S., R. 46 E.,
Sec. 7, lot 3, E½SW¼.

The areas described aggregate 120.95 acres.

2. The lands are located in Baker County. They are semiarid in character and are not suitable for farming.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands are hereby open to application, petition, location, and selection. All valid applications received at or prior to 10 a.m., December 20, 1967, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. Inquiries concerning the lands should be addressed to the Chief, Division of Lands and Minerals Program Management and Land Office, P.O. Box 2965, Portland, Oregon 97208.

VIRGIL O. SEIBEL,
Chief, Branch of Lands.

[F.R. Doc. 67-13633; Filed, Nov. 20, 1967; 8:46 a.m.]

DEPARTMENT OF COMMERCE

Bureau of the Census

SURVEY OF DISTRIBUTORS STOCKS OF CANNED FOODS

Notice of Determination

In conformity with Title 13, United States Code, sections 181, 224, and 225, and due notice of consideration having been published October 20, 1967 (32 F.R. 14610), I have determined that yearend data on stocks of 30 canned and bottled products, including vegetables, fruits, juices, and fish, are needed to aid the efficient performance of essential governmental functions, and have significant application to the needs of the public and industry and are not publicly available from nongovernmental or other governmental sources. This is a continuation of the survey conducted in previous years.

All respondents will be required to submit information covering their December 31, 1967, inventories of 30 canned and bottled vegetables, fruits, juices, and fish. Reports will not be required from all firms but will be limited to a scientifically selected sample of wholesalers and retail multiunit organizations handling canned foods, in order to provide yearend inventories of the specified canned food items with measurable reliability. These stocks will be measured in terms of actual cases with separate data requested for "all sizes smaller than No. 10" and for "sizes No. 10 or larger." (In addition, multiunit firms reporting separately by establishment will be requested to update the list of their establishments maintaining canned food stocks.)

Report forms will be furnished to firms covered by the survey. Additional copies of the forms are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed that this annual survey be conducted for the purpose of collecting these data.

A. ROSS ECKLER,
Director, Bureau of the Census.

NOVEMBER 8, 1967.

[F.R. Doc. 67-13625; Filed, Nov. 20, 1967; 8:45 a.m.]

Business and Defense Services Administration

STATE UNIVERSITY OF NEW YORK ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C.

A copy of each comment filed with the Director of the Office of Scientific and Technical Equipment must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 68-00140-33-46500. Applicant: State University of New York, Downstate Medical Center, 450 Clarkson Avenue, Brooklyn, N.Y. 11203. Article: Ultramicrotome, Model LKB 8800A, Ultrotome III. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to prepare ultrathin sections of cartilage, calcifying cartilage and bone induced in mouse thigh by cultured human cells for observation in an electron microscope. Equal thickness serial sections between the values of 50 Angstroms and 2 microns will be cut. Application received by Commissioner of Customs: September 18, 1967.

Docket No. 68-00142-33-46500. Applicant: The University of Mississippi, Medical Center, 2500 North State Street, Jackson, Miss. 39216. Article: Ultramicrotome, Model LKB 8800A, Ultrotome III. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to prepare ultrathin sections of various tissue for observation in an electron microscope. Equal thickness serial sections between values of 50 Angstroms and 2 microns will be cut. Application received by Commissioner of Customs: September 18, 1967.

Docket No. 68-00139-33-46500. Applicant: Albert Einstein College of Medicine, 1300 Morris Park Avenue, Bronx, N.Y. 10461. Article: Ultramicrotome, Model LKB 8800A, Ultrotome III. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to prepare ultrathin sections of kidney tissue for observation in an electron microscope. Various equal thickness serial sections will be cut in long series of thicknesses between the values of 50 Angstroms and 2 microns. Application received by Commissioner of Customs: September 18, 1967.

Docket No. 68-00138-33-46500. Applicant: Albert Einstein College of Medicine, 1300 Morris Park Avenue, Bronx, N.Y. 10461. Article: Ultramicrotome, Model LKB 8800A, Ultrotome III. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to prepare ultrathin sections of kidney tissue for observation in an electron microscope. Various equal thickness serial sections will be cut in long series of thicknesses between the values of 50 Angstroms and 2 microns. Application received by Commissioner of Customs: September 18, 1967.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-13626; Filed, Nov. 20, 1967; 8:45 a.m.]

DEPARTMENT OF TRANSPORTATION

National Transportation Safety Board

[Docket No. SA-390]

ACCIDENT OCCURRING NEAR BLOSSBURG, PA.

Notice of Hearing

In the matter of investigation of accident involving aircraft of U.S. Registry N1116J, which occurred near Blossburg, Pa., June 23, 1967.

Notice is hereby given that an Accident Investigation Hearing on the above matter will be held commencing at 9 a.m. (local time) on December 12, 1967, in the Conference Room, second floor, Federal Building No. 7, 17th and H Streets NW., Washington, D.C.

Dated this 16th day of November 1967.

[SEAL] JOHN M. STUHLDREHER,
Hearing Officer.

[F.R. Doc. 67-13657; Filed, Nov. 20, 1967; 8:47 a.m.]

ATOMIC ENERGY COMMISSION

[Docket Nos. 50-17, 50-310]

PENNSYLVANIA STATE UNIVERSITY ET AL.

Notice of Issuance of Facility License Amendment

The Atomic Energy Commission has issued Amendment No. 3, set forth below, to Facility License No. R-72. The license authorized the Pennsylvania State University (PSU) to possess, but not to operate, the nuclear research reactor facility located at the Curtiss-Wright Nuclear Research Laboratory of the Pennsylvania State University at Quehanna, Pa. The amendment, effective as of the date of issuance, transfers said license to the Department of Forests and Waters of the Commonwealth of Pennsylvania and to the Nuclear Materials and Equipment Corp. (NUMEC).

By application dated October 4, 1967, and supplement thereto dated October 24, 1967, NUMEC applied for authority to possess, but not to operate, and the Department of Forests and Waters of the Commonwealth of Pennsylvania applied for legal title to the reactor facility located at Quehanna, Pa. PSU has notified the Commission of its consent to the transfer. There will be no changes to the facility and NUMEC has technically qualified persons, including health physicists, at the site to maintain the facility in the same conditon as by PSU. Consequently, the issuance of Amendment No. 3 does not involve safety considerations not previously evaluated. For administrative convenience the license has been assigned a new Docket No. 50-310.

The Commission has found that the transfer of the license to the Commonwealth of Pennsylvania and to NUMEC is in accordance with the provisions of the Atomic Energy Act of 1954, as amended, and has consented thereto, pursuant to the provisions of § 50.80 of 10 CFR Part 50.

Within fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER, the licensee may file a request for a hearing, and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's rules of practice (10 CFR Part 2). If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details see the application for license amendment, dated October 4, 1967, and supplement dated October 24, 1967, on file at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 9th day of November 1967.

For the Atomic Energy Commission.
DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[License No. R-72; Amdt. 3]

The Atomic Energy Commission ("the Commission") has found in accordance with the provisions of the regulations in Parts 2 and 50, particularly § 50.80, that:

1. The application for transfer of the license dated October 4, 1967, and the supplement thereto dated October 24, 1967, comply with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter I, CFR;

2. Commonwealth of Pennsylvania, acting through its Department of Forests and Waters, and Nuclear Materials and Equipment Corp. (NUMEC) are qualified to be holders of the license;

3. The transfer of the license is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto;

4. Commonwealth of Pennsylvania is financially qualified and, through its contractual relationship with NUMEC, is technically qualified to possess title to the facility;

5. NUMEC is technically and financially qualified to possess, but not to operate, the facility and to engage in the proposed activities authorized by this license in accordance with the Commission's regulations;

6. The transfer of this license from the Pennsylvania State University to the Commonwealth of Pennsylvania and NUMEC will not be inimical to the common defense and security or to the health and safety of the public;

7. NUMEC has furnished proof of financial protection which satisfies the requirements of Commission regulations currently in effect, and will execute an indemnity agreement as required by section 170 of the Act and 10 CFR Part 140; and

8. Prior public notice of proposed issuance of this amendment is not required since possession of the facility in accordance with the license, as amended, does not involve significant hazard considerations different from those previously evaluated.

Accordingly, Facility License No. R-72, previously issued to the Pennsylvania State University is hereby transferred to the Commonwealth of Pennsylvania and NUMEC and amended in its entirety to read as follows:

1. This license applies to the light water-moderated and water-cooled swimming pool-type nuclear reactor facility (hereinafter referred to as "the facility") which is located at Quehanna, Pa., and which has heretofore been owned and operated by the Curtiss-Wright Corp. under License No. R-36, and possessed, but not operated, by the Pennsylvania State University under this license. The facility is described in the Pennsylvania State University's application dated September 29, 1960, amendment thereto dated November 2, 1960, and the joint application of the Commonwealth of Pennsylvania and NUMEC dated October 4, 1967 and supplement dated October 24, 1967 (hereinafter together referred to as "the application").

2. Subject to the conditions and requirements incorporated herein, the Commission hereby licenses:

A. Pursuant to Section 104c of the Act and Title 10, CFR, Chapter 1, Part 50, "Licensing of Production and Utilization Facilities", the Department of Forests and Waters of the Commonwealth of Pennsylvania, to possess title to the facility and NUMEC to possess, but not to operate, the facility as a utilization facility at the designated location at Quehanna, Pa., in accordance with the procedures and limitations described in the application and this license;

B. Pursuant to the Act and Title 10, CFR, Chapter I, Part 70, "Special Nuclear Material", NUMEC to receive and possess up to 5.3 kilograms of contained uranium-235, and 14.99 grams of plutonium contained in a plutonium-beryllium source, for use in connection with future operation of the facility; and

C. Pursuant to the Act and Title 10, CFR, Chapter 1, Part 30, "Licensing of Byproduct Material", the Department of Forests and Waters of the Commonwealth of Pennsylvania to possess title to, and NUMEC to possess, but not to separate, such byproduct material as was produced by previous operation of the reactor.

3. This license shall be deemed to contain and be subject to the conditions specified in Part 20, § 30.34 of Part 30, §§ 50.54 and 50.59 of Part 50 and § 70.32 of Part 70, Title 10, Chapter I, CFR, and to be subject to all applicable provisions of the Act, and to the rules and regulations and orders of the Commission, now or hereafter in effect, and to the additional conditions specified below:

A. The reactor shall not be operated without prior authorization of the Commission.

B. The fuel elements shall not be moved from their present location unless procedures for transferring these elements have been reviewed and approved by the Commission.

C. In addition to those otherwise required under this license and applicable regulations, NUMEC shall keep the following records:

1. Records showing radioactivity released or discharged into the air or water beyond the effective control of NUMEC as measured at the point of such release or discharge.

D. NUMEC shall immediately report to the Commission in writing any indication or occurrence of a possible unsafe condition relating to the possession of the reactor.

4. NUMEC shall, so long as this license shall be in force with respect to NUMEC, be responsible for assuring that the provisions of this license and Commission regulations for protection of health and safety from radiation hazards are observed with respect to the facility and materials covered by this license. NUMEC shall also be responsible for maintaining the facility in a safe condition. In the event of any expiration, modification, cancellation, or termination of the lease between the Commonwealth of Pennsylvania and NUMEC, either party may apply to the Commission for an appropriate amendment to this license to terminate this license in so far as its granted to NUMEC. Until such amendment is issued, the Commonwealth of Pennsylvania shall in no way prevent NUMEC from observing the requirements set forth in this condition. A copy of any notice of intent to terminate to modify the agreement submitted by either party to the other shall be furnished simultaneously to the Commission.

5. This license, as amended, is effective as of the date of issuance and shall expire at midnight December 12, 1972.

Date of issuance: November 9, 1967.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[F.R. Doc. 67-13634; Filed, Nov. 20, 1967; 8:45 a.m.]

AUTOMOTIVE AGREEMENT ADJUSTMENT ASSISTANCE BOARD

[APTA No. 7-010]

BORG-WARNER CORP.

Certain Workers' Petition for Determination of Eligibility To Apply for Adjustment Assistance; Summary of Final Determinations and Notice of Certification

Determinations of the Board. Pursuant to the Automotive Products Trade Act of 1965 (Public Law 89-283; 79 Stat. 1016) the Automotive Agreement Adjustment Assistance Board determines that:

There has been no significant dislocation of workers from the radiator or clutch subassembly departments of the plant.

Dislocation of workers in the oil cooler department of the Long Manufacturing Division, Borg-Warner Corp. plant at Detroit, Mich., has occurred.

U.S. production of the automotive product concerned—oil coolers—has decreased appreciably (sec. 302(b)(2), Act), and U.S. imports from Canada of the automotive product concerned have increased appreciably (sec. 302(b)(3)(A), Act).

No factor other than the operation of the United States-Canadian Automotive Products Agreement has been the primary factor in causing the dislocation of the group of workers specified in the Board's following certification.

Certification. The Board hereby certifies that those workers in the oil cooler department of the Long Manufacturing Division plant, Borg-Warner Corp., Detroit, Mich., who were laid off for an indefinite period in August 1967 are eligible to apply for adjustment assistance.

Background. A petition for a determination of eligibility to apply for adjustment assistance under the Automotive Products Trade Act of 1965 was filed with the Automotive Agreement Adjustment Assistance Board on August 2, 1967, by the International Union, United Automobile, Aerospace & Agricultural Implement Workers of America (U.A.W.) and its Local 314 on behalf of a group of workers at the Detroit plant of the Long Manufacturing Division of Borg-Warner.

The petitioner alleged that a cutback in production of oil coolers and radiators was due to the transfer of production of such products to the plants of Long Manufacturing Division, Borg-Warner (Canada), Ltd., in Preston and Oakville, Ontario. It was further alleged that this action would affect other employees at the plant including those engaged in the production of clutches. The layoffs of 26 workers and the threatened layoff of 23 others were attributed in the petition to the Automotive Products Trade Act of 1965.

On August 2, 1967, the Automotive Assistance Committee of the Board requested the U.S. Tariff Commission to investigate and report on the facts relating to this petition (32 F.R. 11718, Aug. 12, 1967). Neither the petitioners nor any other party requested a hearing and none was held.

The Commission submitted its report on September 21, 1967 (APTA-W-17). The Commission stated that only certain sections of the report could be made public since much of the information it contains was received in confidence (32 F.R. 13545, Sept. 27, 1967). On October 6, 1967, in accordance with section 302(f)(2) of the Act, the Automotive Assistance Committee of the Board requested the Commission to furnish additional information on certain specified matters. A supplemental confidential report was submitted to the Board on October 31, 1967.

The Board, in addition, obtained advice from the Departments of the Treasury, Commerce, Labor, and the Small Business Administration under section 302(f)(1) of the Act.

Long Manufacturing Production. The Long Manufacturing Division's Detroit plant (Long/Detroit) produces a number of automotive parts including oil coolers, radiators, and clutch subassemblies primarily for use as original equipment. Production operations are organized largely along departmental lines corresponding to the major products.

The Long Manufacturing Division also produces oil coolers at Preston, Ontario, and radiators and clutches at Oakville, Ontario.

In model year 1964, prior to the United States-Canadian Automotive Products Agreement, oil coolers were not produced by Long in Canada. Long/Detroit supplied oil coolers for both United States and Canadian customers. In model year 1965, Long transferred certain American and Canadian accounts to its Preston, Ontario, plant. Between model years 1965 and 1967, Preston output of oil coolers increased by more than a million units. Approximately 60 percent of the increase was for export to the United States. During the same period, production of these coolers at Detroit fell by approximately 30 percent and exports to Canada from Long/Detroit practically ceased.

Oil coolers imported into the United States are dutiable at the rate of 8.5 percent ad valorem, unless they are Canadian products for use as original motor-vehicle equipment which are duty free pursuant to the United States-Canadian Automotive Products Agreement.

Conclusions and determinations—Automotive product. The Board concludes that the petitioners were employed in a plant of Borg-Warner Corp. manufacturing automotive products as defined by the Act: oil coolers, radiators, and clutch subassemblies for use as original equipment.

Dislocation. Dislocation in the case of a group of workers means actual or threatened unemployment or underemployment of a significant number or proportion of the workers of a firm or an appropriate subdivision thereof.

There was no significant dislocation in either the radiator or clutch subassembly departments. Therefore, the Board makes no further determinations with respect to these two subdivisions.

Approximately one-fifth of the workers in the oil cooler department were indefinitely laid off in August 1967 as a result of cutbacks in orders for oil coolers.

The Board determines that the oil cooler department, Long Manufacturing Division, Detroit, is an appropriate subdivision and that a significant number or proportion of the workers thereof have been dislocated (sec. 302(b)(1), Act; sec. 501.2(i)(2), Board Regulations).

Role of the operation of the agreement. Under section 302(c) of the Act, if there is an appreciable decrease in U.S. production and an appreciable increase

in imports from Canada, or an appreciable decrease in exports to Canada, of the automotive product concerned (sec. 302(b), Act), the appropriate group of workers must be certified as eligible to apply for adjustment assistance unless the Board determines that the operation of the Agreement has not been the primary factor in causing or threatening to cause the dislocation.

The Tariff Commission obtained data covering U.S. oil cooler production and trade with Canada. In the 4-month period, February-May, 1967, U.S. production was appreciably lower than production during the corresponding months in 1964. The data on U.S. imports of oil coolers from Canada show that there have been appreciable imports in these 4 months of model year 1967 and that there were no such imports from Canada in model year 1964. During this period exports of oil coolers to Canada decreased appreciably.[1]

The Board, therefore, determines that the economic criteria in section 302(b) of the Act are met.

Conclusions. The Board finds that the elimination of the duty on oil coolers imported from Canada enabled Long's Preston, Ontario, plant to compete successfully in the U.S. market.

The Board, therefore, determines that no factor other than the operation of the United States-Canadian Automotive Products Agreement has been the primary factor in causing the layoffs from the oil cooler department of the Long Manufacturing Division plant at Detroit during August 1967.

(Sec. 302, Automotive Products Trade Act of 1965, 79 Stat. 1018, E.O. 11264, 30 F.R. 13569, the Automotive Agreement Adjustment Assistance Board Regs., 48 CFR Part 501; 31 F.R. 827; Board Order 1, 31 F.R. 853)

EDGAR I. EATON,
Executive Secretary, Automotive Agreement Adjustment Assistance Board.

NOVEMBER 10, 1967.

[F.R. Doc. 67-13634; Filed, Nov. 20, 1967; 8:46 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 17849; FCC 67M-1938]

AMERICAN TELEVISION CO., INC.

Order Scheduling Hearing

In re applications of American Television Co., Inc., Fort Smith, Ark., Docket No. 17849, File No. BPH-5831, for construction permit.

It is ordered, That Charles J. Frederick shall serve as Presiding Officer in the above-entitled proceeding; that the hearings therein shall be convened on February 1, 1968, in Fort Smith, Ark., at 10 a.m.; and that a prehearing conference shall be held on December 7, 1967, commencing at 9 a.m., in the offices of the Commission, Washington, D.C.

Issued: November 14, 1967.

Released: November 15, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13658; Filed, Nov. 20, 1967; 8:47 a.m.]

[Docket No. 17884; FCC 67M-1919]

BETTERVISION SYSTEMS, INC.

Order Canceling Hearing

In re cease and desist order to be directed against: Bettervision Systems, Inc., Owner and Operator of a CATV System at Buckhannon, W. Va., Docket No. 17834.

Before the Hearing Examiner is a petition by the respondent in the above-entitled proceeding, filed November 7, 1967, requesting that the prehearing conference and hearing both be postponed,[1] accompanied by a copy of a November 6 letter to counsel for the intervenor, Northern West Virginia Television Broadcasting Co., confirming telephone conversation to the effect that intervenor would not object to the granting of the requested postponements provided the Bureau and the Hearing Examiner would acquiesce. The November 6 letter also recites the intention of the petitioner herein and the intervenor to confer together prior to the prehearing date for the purpose of resolving their differences. The petition states that respondent's attorney has previously scheduled commitments for the remainder of November and the first part of December but that he would be available for a prehearing conference on December 6 through 8, or on the 12th or 13th of that month. Postponement of the hearing until early January is suggested. Counsel for the Commission's Broadcast Bureau has advised the Examiner orally that he does not object to the cancellation of the presently scheduled date (December 6) for convening the hearing with the understanding that the prehearing conference will be held on December 6 at 9 a.m., and a new hearing date established at that time.

The Hearing Examiner has a previously scheduled hearing on December 4 which is likely to consume at least a week. Consequently it would be a convenience to the Examiner's own schedule to postpone the hearing in this proceeding for a few days. Inasmuch as all parties have indicated their lack of objection, the relief requested will be granted, subject to the understanding, however, that the hearing will be reset during the prehearing conference, if at all feasible, for a date within a week or two of the prehearing conference, which will be rescheduled to convene at 9 a.m. on December 6.

It is so ordered, And the prehearing conference presently scheduled for November 15 is hereby rescheduled and will convene at 9 a.m., December 6, 1967, at the Commission's offices, Washington, D.C.; and

It is ordered further, That the presently scheduled hearing date (December 6) is hereby canceled.[2]

Issued: November 14, 1967.

Released: November 15, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13660; Filed, Nov. 20, 1967; 8:48 a.m.]

[Docket Nos. 17538, 17539; FCC 67M-1925]

LAUREL CABLEVISION CO. ET AL.

Postponement of Further Prehearing Conference

In re petitions by Laurel Cablevision Co., Somerset, Pa., Docket No. 17538, File No. CATV 100-24; Punxsutawney TV Cable Co., Inc., Punxsutawney, Pa., Docket No. 17539, File No. CATV 100-155, for authority pursuant to § 74.1107 of the rules to operate CATV systems in the Johnstown-Altoona Television Market; and in re application of New York-Penn Microwave Corp., Brockport, Pa., Docket No. 17540, File No. 7792-C1-P-66, for construction permit for new Point-to-Point Microwave Radio Stations.

Pending Commission disposition of the Petition for Reconsideration filed by Punxsutawney TV Cable Co., Inc., in this proceeding: *It is ordered*, On the Hearing Examiner's own motion, that the further prehearing conference heretofore scheduled for November 17, 1967, is postponed to November 30, 1967 at 9 a.m., in the offices of the Commission, in Washington, D.C.

Issued: November 14, 1967.

Released: November 15, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13659; Filed, Nov. 20, 1967; 8:48 a.m.]

[1] February-May was selected to compare the most recent representative 4-month period with the corresponding period of 1964 model year, in order to avoid the effect of a difference in the changeover periods between the model years.

[1] The petitioner did not comply with Rule 1.292 which prescribes the number of copies of such interlocutory pleadings to be filed. For that reason, the Examiner did not receive the documents until today.

[2] This is a cease and desist proceeding which must be expedited. The parties are enjoined to utilize the extra time herein provided to get ready for an early trial. If the respondent has defenses or extenuating matters to plead it should be prepared beforehand to submit them at an early date. On the other hand, as indicated in the Show Cause Order, it may elect to waive the hearing entirety and submit a written statement.

[Docket No. 17474; FCC 67M-1926]

MEL-LIN, INC. (WOBS)

Memorandum Opinion and Order Continuing Hearing

In re application of Mel-Lin, Inc. (WOBS), Jacksonville, Fla., Docket No. 17474, File No. BP-14323, for construction permit.

On November 7, 1967, Station WRHC, Inc., respondent herein, filed a petition requesting an extension of all procedural dates heretofore established on October 24, 1967. Mel-Lin, Inc. (WOBS), filed on November 8, 1967, an opposition to the petition for continuance and a reply thereto was filed by WRHC, Inc., on November 9, 1967. In the meantime counsel for the Broadcast Bureau informally advised the Hearing Examiner that the Bureau interposed no objection to the grant of the petition for continuance.

2. The petitioner pleads that when agreeing to the procedural dates heretofore established, counsel stated on the record that it might be necessary to request an extension of time. The petitioner further pleads that its consulting engineer, after returning to Jacksonville, Fla., determined that there was not ample time for him to prepare the rebuttal exhibits in order to meet the exchange dates heretofore established. The petitioner further pleads that at the time of filing its petition for continuance on November 7, 1967, it had not received all of the applicant's engineering exhibits.

3. It is deemed appropriate and reasonable in light of the circumstances pleaded by the petitioner that the petition should be granted.

Accordingly, it is ordered, That the petition for continuance is granted and the date of the exchange of rebuttal exhibits shall be November 27, 1967, and the notification of witnesses shall be December 4, 1967; and

It is further ordered, That the hearing heretofore scheduled for November 20 be and the same is hereby rescheduled for December 11, 1967, 10 a.m., in the Commission's offices, Washington, D.C.

Issued: November 14, 1967.

Released: November 15, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13661; Filed, Nov. 20, 1967; 8:48 a.m.]

[Docket Nos. 17609, 17610; FCC 67R-479]

MINSHALL BROADCASTING CO., INC., AND UNIVERSITY CITY TELEVISION CABLE CO., INC.

Memorandum Opinion and Order Amending and Enlarging Issues

In re applications of Minshall Broadcasting Co., Inc., Gainesville, Fla., Docket No. 17609, File No. BPCT-3879; University City Television Cable Co., Inc., Gainesville, Fla., Docket No. 17610, File No. BPCT-3939; for construction permit.

1. This proceeding involves the applications of Minshall Broadcasting Co., Inc. (Minshall), and University City Television Cable Co., Inc. (University City), each seeking an authorization to construct a new television broadcast station to operate on Channel 20, Gainesville, Fla. By Order, FCC 67-853, released August 1, 1967, the Commission designated these applications for hearing to determine whether three of University City's four principal stockholders could meet their respective $70,000 loan commitments to this applicant, and to determine, under a standard comparative issue, which of the applicants would better serve the public interest. In addition, the Commission noted that the principals of University City own CATV systems and therefore specified a condition to the effect that any grant to University City would be without prejudice to whatever action the Commission may deem appropriate as a result of the pending proceeding in Docket No. 17371.[1] Now before the Review Board is a petition to enlarge issues, filed by Minshall in August 21, 1967, requesting that the Board expand the inquiry under the financial issue, and add issues to determine whether University City failed to comply with section 1.65 of the rules, the efforts made by University to ascertain the needs and interest of the area proposed to be served and the manner in which it proposes to meet those needs and interests (Suburban issue), and whether cross-ownership of the applicant's CATV interests and the proposed television station would be contrary to the public interest.[2] The requests will be treated seriatim.

Financial issue. 2. Minshall seeks to expand the financial issue already specified (see par. 1, supra) to encompass a determination of whether University City's fourth principal stockholder, J. D. Cutlip, can meet his $70,000 loan commitment. In support of this request, Minshall points out that Cutlip's financial statement, dated March 31, 1967, discloses current and liquid assets of $121,500; however, Minshall contends, it also shows liabilities of $118,265, including $98,265 in notes payable, and does not delineate what portion of the notes are payable within 1 year. In addition, Minshall notes, Cutlip is also jointly and severally liable on a bank loan to the applicant for $650,000, payable in quarterly installments of $31,250. In its opposition, University City concedes that Cutlip does not have sufficient liquid assets to meet his commitment, and states that it has "no objection * * * to the financial issue being enlarged to include Mr. Cutlip." The allegations in the subject petition raise a substantial question as to Cutlip's ability to meet his commitment. In view of University City's failure to resolve this question in its responsive pleading, the Board will expand the financial inquiry as requested.

Section 1.65 issue. 3. To support this request, Minshall alleges that University City's application is incomplete because it fails to disclose (a) the business and financial interests of C. W. Thornley (one of the principal stockholders), who holds ownership interests in various CATV systems; (b) that the remaining stockholders in University City each have a 10 percent interest in Waycross Cable Co. and two are officers of that company; (c) that relatives (presumably the wives) of two of University City's principals are officers and stockholders of that company; and (d) that one of the principals is the Mayor of Elkins, W. Va. Minshall also contends that University City's application contains the following inconsistencies: in one part of the application it is stated that the corporation is comprised of five stockholders holding 1,000 shares of issued stock, whereas in another part these five stockholders are represented as holding only 948 shares of stock collectively; and the corporate bylaws provide for one vice president, whereas the application lists two of the stockholders as vice presidents of the corporation.

4. In response, University City concedes that its opponent's allegations in this regard are accurate. However, University City contends, the application was prepared by its president without the benefit of legal counsel; the omissions were the result of inadvertent errors or misinterpretations of the application form; and they were not made with any intent to mislead the Commission. Moreover, University City submits, most of the information omitted was included in an amendment to its application, filed on May 2, 1967. "To further prove that [it] is not trying to conceal any information from the Commission," University City sets forth certain other past and present interests of its principals in CATV and other businesses, which were omitted from the application, but contained in a recently filed amendment. Finally, University City states that the inconsistency in stock ownership resulted from a typographical error; and that while two vice presidents were mentioned in the application, in fact one had replaced the other and, through oversight, the Commission was not notified of the change.

5. University City's representation that the omissions and inconsistencies in its application resulted from inadvertent errors and misunderstandings of the application form (and not from an intent to mislead), is supported by the fact that most of the information originally omitted from the application was contained in an amendment filed several months prior to the subject petition to enlarge; and there is no reason for suspecting the veracity of this representation. On the other hand, it is clear that University City did not submit complete and accurate information; the omissions

[1] Inquiry Into Developing Patterns of Ownership in the CATV Industry, FCC 67-460, 7 FCC 2d 853.

[2] Also before the Board are the following related pleadings: (1) Reply to petition, filed on Sept. 18, 1967, by University City; (b) opposition of Broadcast Bureau, filed on Sept. 18, 1967; and (c) reply, filed on Sept. 26, 1967, by Minshall.

here were numerous; and, in some instances, they related to matters which could be of decisional significance in this proceeding (see par. 11, infra). Under these circumstances, we are of the opinion that, although a disqualifying issue is not appropriate, an issue inquiring into this matter and its effect on the applicant's comparative qualifications is warranted. Cf. Adirondack Television Corp., FCC 66R–507, 6 FCC 2d 156; Jones T. Sudbury, FCC 66R–374, 5 FCC 2d 158; and Ultravision Broadcasting Co., FCC 66R–108, 3 FCC 2d 66.

Suburban issue. 6. In support of this request, Minshall first points out that University City's four principal stockholders (owning 95 percent of the stock) are not residents of the Gainesville area; that in its application, University City (to show how it ascertained programing needs), relied on the fact that it has engaged in CATV distribution in Gainesville and that its president resides in Gainesville and has contacted various organizations in the area; that the application also reflects that University City will, if its application is granted, form a local advisory board of community leaders to assist in programing manners; and that, on April 14, 1967, the Commission requested from the applicant more specific information concerning its efforts to ascertain program needs, noting that it had failed to indicate any suggestions made by community leaders and whether those suggestions were adopted. University City's response to the Commission's letter did not, petitioner contends, set forth specific efforts; and while it did show contact with a number of community leaders who provided program suggestions, the applicant failed to amend its program proposal to accommodate most of those suggestions. In addition, Minshall alleges, University City failed to elicit suggestions regarding religious and agricultural programs, both of which it intends to broadcast; nor does there appear to be any basis for its proposed educational programs.

7. Opposing this request, University City reiterates that it gained considerable knowledge of the area through its CATV operation and that its president has had numerous contacts with community leaders in the area. Its program proposal, University City urges, is a reflection of these various contacts which were made over a long period of time. The persons contacted, University City states, were advised that a network affiliation would be obtained, and their recommendations were therefore limited to programs of local origin. Finally, University states that it solicited "broad program needs such as local news, calendar of events, etc. * * * but specific programs were not solicited as it was felt that those decisions could best be made" at a later date.

8. To show the methods used to ascertain community needs and interests, University City, in its application as originally filed, relied on its experience as a CATV distribution service in Gainesville and contacts made by its president, a resident of Gainesville, during the preceding 2 years. Four community leaders are listed as examples of these contacts. The application also sets forth, as illustrative of programs designed to meet the ascertained needs and interests, descriptions of 15 offerings covering a wide variety of various types of programs. No effort was made, however, to relate these programs to the results of the efforts made by the applicant. The April 4, 1967 Commission inquiry requested further information regarding specific efforts made and notes that although there was an indication that various community leaders were contacted, "you have failed to indicate any suggestions they made * * * and whether your programing will reflect those suggestions." In a letter filed with a May 2, 1967, amendment to its application, the president of University City states that he recontacted the persons and organizations originally contacted and elaborates on discussions held with 10 community leaders, including the nature of the suggestions made by several of those contacted. These suggestions reflect a desire for various general types of programs, i.e., news, public affairs, educational, etc., as well as certain more specific suggestions, i.e., job opportunities and situations wanted, calendar of events, etc.

9. We do not agree with petitioner's contention that the foregoing facts reveal that the program proposal was designed before any efforts were made and that subsequently obtained suggestions were not incorporated into the program proposal. On the contrary, University City has shown, based on the experience of its president and contacts made by him with community leaders, that it had an adequate basis on which to formulate its program proposal. While it appears to be true, as Minshall contends, that the illustrative programs set forth in University City's application were not initially shown to have been based on suggestions, and that its application was not amended to reflect the more particular program suggestions, University City has stated that its efforts were directed toward obtaining suggestions regarding broad program needs; these broad needs (as indicated in its amendment) are adequately reflected in the program proposal, which includes 21 hours per week of local programing; and its proposal appears to be sufficiently flexible to provide for the more specific suggestions in the future. In sum, where, as here, an applicant has elicited needs for various types of programs, and its proposal is sufficiently flexible and diversified to meet those needs, "a reasonable basis exists for concluding that the programing proposal meets the needs of the area to be served," and no further inquiry is warranted. Saul M. Miller, FCC 66–551, 4 FCC 2d 150. The request for a Suburban issue will therefore be denied.

Cross interest issue. 10. Minshall alleges that University City or its principals have interests in seven CATV systems serving approximately 22,000 subscribers in 17 Florida, Ohio, and West Virginia communities; and that this constitutes one of the largest combined CATV holdings in the country. The cross ownership, Minshall asserts, has far-reaching implications concerning competition, incentive to improve television signals, program origination, and pay television; and evidence should be adduced concerning the present CATV holdings of University City's principals, the potential growth of their existing interests, their plans for local program origination, and their plans for the establishment of pay television. The adduction of such evidence is both desirable and necessary, Minshall contends, for the following purposes: (a) if the Commission ultimately adopts a rule which would bar cross ownership of CATV and other communications interests, University City's application could be summarily denied on the basis of the condition already imposed; (b) if the Commission adopts a rule which makes disqualification turn on the degree of cross ownership, a disqualifying issue would be necessary to explore this matter; and (c) even if the Commission concludes that no degree of cross interest is disqualifying, the evidence adduced would be relevant under the comparative criterion of diversification of ownership of mass communications media.

11. The Review Board agrees with the Broadcast Bureau and University City that the addition of a disqualifying cross ownership issue would be inappropriate and serve no useful purpose at this time. Petitioner does not contend that the holdings of University City might violate any existing rules or policies under which this applicant could be disqualified.[2] Rather, it appears to seek information, much of which is the subject of the Commission's inquiry (see par. 1, supra), in anticipation of the possible outcome of that inquiry. In our opinion, a more orderly and expeditious procedure is to await the results of the inquiry, and, in the event that any new policy or rules may be applicable to University City, take whatever steps are then necessary to apply that policy. The condition already attached to any grant to University City is adequate to accomplish this end. Moreover, as pointed out by the Bureau, the pertinent facts concerning the CATV holdings of University City and its principals can be explored under the diversification criterion encompassed within the existing standard comparative issue. Under these circumstances, the requested issue will be denied.

Accordingly, it is ordered, That the petition to enlarge issues, filed on August 21, 1967, by Minshall Broadcasting Co., Inc., is granted to the extent indicated below, and denied in all other respects; and

It is further ordered, That Issue 1(a) specified in the designation order herein (FCC 67–853) is amended to read as follows:

(a) Whether Ralph Shepler, Harry H. Harkins, C. W. Thornley, and J. D. Cutlip have liquid and current assets (as defined in section III, paragraph 4(d), FCC Form 301) in excess of current liabilities in sufficient amounts to meet their respective commitments to loan $70,000 each to the applicant.

It is further ordered, That the issues in this proceeding are enlarged by the addition of the following issue:

To determine whether University City Cable Co., Inc. (or its principals), failed to provide accurate and complete information in its pending application, as required by section I, Form 301; whether it failed to keep its application up-to-date, as required by § 1.65 of the rules; and, if so, whether the failures reflect adversely on the applicant's comparative qualifications.

Adopted: November 8, 1967.

Released: November 16, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67–13662; Filed, Nov. 20, 1967; 8:48 a.m.]

[Docket Nos. 17609, 17610; FCC 67M–1911]

MINSHALL BROADCASTING CO., INC., AND UNIVERSITY CITY TELEVISION CABLE CO., INC.

Order Scheduling Further Hearing Conference

In re applications of Minshall Broadcasting Co., Inc., Gainesville, Fla., Docket No. 17609, File No. BPCT–3879; University City Television Cable Co., Inc., Gainesville, Fla., Docket No. 17610, File No. BPCT–3939; for construction permit for new television broadcast station.

Pursuant to a prehearing conference as of this date: *It is ordered,* That there will be a further hearing conference herein on January 5, 1968, 9 a.m., in the Commission's offices, Washington, D.C.

Issued: November 9, 1967.

Released: November 13, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67–13663; Filed, Nov. 20, 1967; 8:48 a.m.]

[Docket No. 16865; FCC 67M–1913]

VIDEO SERVICE CO.

Order Continuing Hearing

In re applications of Video Service Co., Atlanta, Ga., Docket No. 16865, File Nos. 1816/17–C1–P–66, CATV 100–101, for construction permits for new fixed (Video) radio stations at Lafayette and Waynetown, Ind. (KSQ–36 and KSQ–37).

The Chief Hearing Examiner having under consideration a petition in behalf of Danville Community Antenna System, Inc., filed November 9, 1967, requesting suspension of the procedural dates heretofore prescribed in the above-entitled proceeding;

It appearing that the petition states good cause and that all other parties to the proceeding consent to the granting thereof;

It is ordered, That the petition is granted, and that the dates for exchanging exhibits (Nov. 20, 1967) and for hearing (Dec. 11, 1967) in this proceeding are hereby suspended, pending the convening of a hearing conference by the presiding Examiner.

Issued: November 13, 1967.

Released: November 14, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67–13664; Filed, Nov. 20, 1967; 8:48 a.m.]

FEDERAL MARITIME COMMISSION

[Docket No. 67–59, Supp. 1]

ALASKA STEAMSHIP CO.

Cancellation of FMC Port-to-Port Rates, West Coast/Alaska Trade; Order of Suspension and Expansion of Investigation

There have been filed with the Federal Maritime Commission by Alaska Steamship Co., respondent in this proceeding, publications designated Supplement No. 2 and Supplement No. 3 to FMC–F No. 144. Supplement No. 2 proposes to cancel tariff FMC–F No. 144 effective January 3, 1968, and Supplement No. 3 advances such cancellation effective date to December 11, 1967.

These tariff cancellations would cancel the ocean carrier's rates now on file with the Federal Maritime Commission (FMC) with minor exceptions[1] between Seattle, Wash., and Seward, Alaska. The cancellations refer to future application of recently filed rates with the Interstate Commerce Commission (ICC) in tariff ICC No. 99 covering movements to or from the involved ports.

All of the rates subject to the cancellation notice are presently under investigation by the FMC in proceedings titled Alaska Steamship Co.—General Increase in Rates in the Southeastern Area of Alaska, FMC Docket 66–23, and Alaska Steamship Co.—General Increase in the Peninsula & Bering Sea Areas of Alaska, FMC Docket 66–22.

The cancellation of the above tariffs now on file with the FMC may result in Alaska Steamship Co.'s providing port-to-port service between the named ports without having rates on file with the FMC, in apparent violation of section 18(a) of the Shipping Act, 1916, and section 2 of the Intercoastal Shipping Act, 1933.

The proposed tariff cancellation applies to movements between Seattle, Wash. and Seward, Alaska. At the Seattle terminus of the movement, shippers deliver or receive their cargoes at a vanning station removed from the pier. This cargo is then carried from this vanning station to Alaska Steam's piers by AAA Transfer Inc., a company owned by Alaska Steam and operating as a motor carrier certificated by the ICC.

The issues raised herein require a prompt determination by the Commission and do not appear to present any issues that are not already part of the proceeding in Docket No. 67–52. Should any of the parties to this proceeding consider that there are additional facts or issues which are relevant, such facts or issues shall be specified with particularity by means of affidavits and memoranda setting forth such matters together with the statement of their relevance to this proceeding submitted on or before November 24, 1967. Should any other parties dispute these facts or issues, response by affidavits and memoranda shall be made before date of oral argument.

Therefore, it is ordered, That pursuant to the authority of section 22, Shipping Act, 1916, and section 3, Intercoastal Shipping Act, 1933, the investigation in this proceeding is hereby expanded to include the rates intended to be canceled by the aforementioned tariff filings to the same extent as those presently placed under investigation in this proceeding by the original order of investigation served October 20, 1967;

It is further ordered, That inasmuch as operating this service without a rate on file with the FMC may result in a violation of section 18(a) of the Shipping Act, 1916, and section 2 of the Intercoastal Shipping Act, 1933, pursuant to section 3, Intercoastal Shipping Act, 1933, the operation of the said Supplement No. 2 and Supplement No. 3 to FMC–F No. 144 is suspended and the use thereof deferred to and including April 10, 1968, unless otherwise ordered by this Commission;

It is further ordered, That there shall be filed immediately with the Commission by Alaska Steamship Co. a consecutively numbered supplement to the aforesaid schedule which supplement shall bear no effective date, shall reproduce the portion of this order wherein the suspension matter is described and shall state that the aforesaid matter is suspended and may not be used until April 11, 1968, unless otherwise authorized by the Commission; and the rates, charges, and provisions which were to be removed from FMC jurisdiction by the suspended matter shall remain under FMC jurisdiction during the period of suspension, and the matter suspended may not be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise authorized by this Commission;

[1] Automobiles, motor trucks, and chassis; trailers; boats, canoes and skiffs; wood houses or buildings, set up; cans and can ends or tops; fish; fish bait; livestock; crossarms, ties, timbers; fruits and vegetables, fresh or green; powder, dynamite, high explosives and blasting caps.

[2] Compare General Electric Cablevision Corp., FCC 67–1102, released Oct. 2, 1967; and Citizens TV Protest Committee, et al. v. FCC, 348 F. 2d 86, 5 RR 2d 2016 (D.C. Cir. 1965), wherein questions of concentration of control were raised.

[3] Board Member Nelson not participating.

It is further ordered, That copies of this order shall be filed with the said tariff schedules in the Bureau of Domestic Regulation of the Federal Maritime Commission;

It is further ordered, That (1) a copy of this order shall forthwith be served on the respondent and intervenor herein; and (2) this order be published in the FEDERAL REGISTER.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 5(1) (46 CFR 502.72) with a copy to all parties to this proceeding.

By the Commission, November 15, 1967.

[SEAL] THOMAS LIST, *Secretary.*

[F.R. Doc. 67-13654; Filed, Nov. 20, 1967; 8:47 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-4579 etc.]

CITIES SERVICE OIL CO. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

NOVEMBER 13, 1967.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service heretofore authorized as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 4, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no protest or petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given: Provided, however, that pursuant to 18 CFR 2.56, as amended, all permanent certificates of public convenience and necessity granting applications, filed after April 15, 1965, without further notice, will contain a condition precluding any filing of an increased rate at a price in excess of that designated for the particular area of production for the period prescribed therein unless at the time of filing such certificate application, or within the time fixed herein for the filing of protests or petitions to intervene the Applicant indicates in writing that it is unwilling to accept such a condition. In the event Applicant is unwilling to accept such condition the application will be set for formal hearing.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

GORDON M. GRANT, *Secretary.*

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
G-4579 C 10-30-67	Cities Service Oil Co., Cities Service Bldg., Bartlesville, Okla. 74003.	Northern Natural Gas Co., acreage in Texas County, Okla.	12.0	14.65
C160-487 C 10-31-67	Murphy Oil Corp. et al., 200 Jefferson Ave., El Dorado, Ark. 71730.	Arkansas Louisiana Gas Co., Calhoun Field, Ouachita Parish, La.	18.75	15.025
C161-691 C 10-30-67	Sinclair Oil & Gas Co. (Operator) et al., Post Office Box 521, Tulsa, Okla. 74102.	Michigan Wisconsin Pipe Line Co., Northeast Cedardale Field, Major County, Okla.	[3] 17.0	14.65
C163-877 C 10-30-67	Sarkeys, Inc. (Operator) et al., 4400 North Lincoln Blvd., Oklahoma City, Okla. 73105.	Natural Gas Pipeline Co. of America, acreage in Dewey County, Okla.	[3] 15.0	14.65
CI-G-951 C 11-1-67	W. H. Hildreth et al., c/o H. F. Young, partner, Box 494, Spencer, W. Va. 25276.	Consolidated Gas Supply Corp., Spencer District, Roane County, W. Va.	35.0	15.325
C164-1506 C 10-26-67	Pan American Petroleum Corp. (Operator) et al., Post Office Box 591, Tulsa, Okla. 74102.	El Paso Natural Gas Co., Gallup Field, San Juan County, N. Mex.	[4] 13.0	15.025
C165-741 C 11-1-67	Roy G. Hildreth, Sr. et al., d.b.a., Roy G. Hildreth, Jr. et al., Route No. 3, Spencer, W. Va. 25276.	Consolidated Gas Supply Corp., Spencer District, Roane County, W. Va.	35.0	15.325
C165-1145 C 10-27-67	Pan American Petroleum Corp.	Arkansas Louisiana Gas Co., Various Fields, Latimer and Haskell Counties, Okla.	[3] 15.0	14.65
C166-73 C 11-1-67	Joseph H. Hager et al., d.b.a., Little Swiss Oil & Gas Co., Post Office Box 1834, Huntington, W. Va. 26719.	Consolidated Gas Supply Corp., Collins Settlement District, Lewis County, W. Va.	[3] 27.0	15.325
C166-533 C 10-27-67	B. E. Talkington et al., c/o Troy A. Brady, Jr., Post Office Box 371, Buckhannon, W. Va. 26201.	Equitable Gas Co., Meade District, Upshur County, W. Va.	35.0	15.325
C167-224 C 10-23-67	Midwest Oil Corp., 1700 Broadway, Denver, Colo. 80202.	Panhandle Eastern Pipe Line Co., South Peek Field, Ellis County, Okla.	[3] 17.0	14.65
C167-964 A 9-1-67	Perry R. Bass (Operator) et al., [7] 1216 Fort Worth National Bank Bldg., Fort Worth, Tex. 76102.	Transwestern Pipeline Co., Hansen-Ellenburger Field, Reeves County, Tex.	16.5	14.65
C167-994 A 9-3-67	Sun Oil Co.[7] (Southwest Division), 1608 Walnut St., Philadelphia, Pa. 19103.	do	18.5	14.65
C167-1445 A 9-10-67	Victor Oil & Gas Co., Post Office Box 315, Rogersville, Pa. 15359.	The Manufacturers Light & Heat Co., Richhill Township, Greene County, Pa.	22.5	15.325
C168-588 A 10-26-67	Mosey Johnson, Garrett, Ky. 41630.	United Fuel Gas Co., acreage in Knott County, Ky.	28.0	15.325
C168-589 (G-10686) P 10-26-67	Jerome P. McHugh and Vincent E. Shryack (successors to Northwest Production Corp.), 930 Petroleum Club Bldg., Denver, Colo. 80202.	El Paso Natural Gas Co., San Juan Basin, Rio Arriba County, N. Mex.	[8] 14.05775	15.025
C168-590 A 10-26-67	Frank A. Morrison, 1216 Vaughn Plaza Bldg., Corpus Christi, Tex. 78401.	Banqueto Gas Co., a division of Crestmont Oil & Gas Co., Odem Field, San Patricio County, Tex.	[3] 12.0	14.65
C168-591 A 10-26-67	E. C. Ware et al. (Jesse M. Cordle Lease) c/o John T. Diederich, Attorney at Law, 500 Prichard Bldg., Ashland, Ky. 41101.	Kentucky-West Virginia Gas Co., acreage in Lawrence County, Ky.	17.0	15.325
C168-592 B 10-27-67	Killam & Hurd (Operator) et al., Post Office Box 490, Laredo, Tex. 78040.	South Texas Natural Gas Gathering Co., West Mirando City Field, Webb County, Tex.	Depleted	
C168-593 A 10-27-67	Cities Service Oil Co.	Panhandle Eastern Pipe Line Co., acreage in Morton County, Kans.	16.0	14.65
C168-594 B 10-30-67	Humble Oil & Refining Co., Post Office Box 2180, Houston, Tex. 77001.	Mississippi River Transmission Corp., Dubach Field, Lincoln Parish, La.	[10]	
C168-595 A 10-27-67	Mobil Oil Corp., Post Office Box 2444, Houston, Tex. 77001.	Cities Service Gas Co., Northwest Quinlan Field, Woodward County, Okla.	[3] 17.0	14.65
C168-596 A 10-30-67	Charles R. Walbert and Mackellar Oil Co., c/o Ferrill H. Rogers, attorney, 1415 Liberty Bank Bldg., Oklahoma City, Okla. 73102.	Lone Star Gas Co., Thirteen Field, McClain County, Okla.	15.0	14.65

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein, nor should it be so construed.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
CI68-597 F 10-18-67	Harry W. Brennan, Jr. (successor to International Helium, Inc.), 808 Petroleum Bldg., Longview, Tex. 75601.	Lone Star Gas Co., North Henderson Area, Rusk County, Tex.	14.65	14.65
CI68-598 F 10-18-67	do	Arkansas Louisiana Gas Co., Carthage Field, Panola County, Tex.	[11] 11.3040	14.65
CI68-599 F 10-22-67	Phil W. Phillips (successor to Gas Futures, Ltd. (1966), et al.), Perryton, Tex. 79070.	Michigan Wisconsin Pipe Line Co., Laverne Area, Harper County, Okla.	17.0	14.65
CI68-601 (G-11832) F 10-20-67	Carl M. Archer (successor to Pan American Petroleum Corp.), Box 488, Spearman, Tex. 79081.	Northern Natural Gas Co., Hansford (Upper Morrow) Field, Hansford County, Tex.	[3] 17.0	14.65
CI68-602 (G-16139) F 10-20-67	Carl M. Archer (successor to Gulf Oil Corp.).	Transwestern Pipeline Co., Hansford (Upper Morrow) Field, Hansford County, Tex.	17.0	14.65
CI68-603 (CS66-121) F 10-22-67	MAPCO Production Co. (successor to Neish Gas & Oil Corp.), 801 Oil Center Bldg., Tulsa, Okla. 74119.	Northern Natural Gas Co., Various Fields, Crane, Pecos and Crockett Counties, Tex.	14.5	14.65
CI68-604 (G-16139) F 10-26-67	Yucca Petroleum Co. (successor to Gulf Oil Corp.), c/o Jerry F. Lyons, attorney, Post Office Box 598, Amarillo, Tex. 79105.	Transwestern Pipeline Co., Southeast Share (Upper Morrow) Field, Ochiltree County, Tex.	17.0	14.65
CI68-605 A 10-30-67	Southwestern Natural Gas, Inc., Suite 1109, National Bank of Commerce Bldg., San Antonio, Tex. 78205.	West Lake Natural Gasoline Co. & Sinclair Oil & Gas Co., Nena Lucia (Strawn Reef) Field, Nolan County, Tex.	12.0	14.65
CI68-606 A 10-30-67	H. L. Hawkins & H. L. Hawkins, Jr., c/o Ollie D. Brown, Jr., attorney, Suite 2705, 225 Baronne St., New Orleans, La. 70112.	Trunkline Gas Co., Lawson Field, Acadia Parish, La.	20.5	15.025 [2]
CI68-607 A 10-30-67	General American Oil Co., of Texas (Operator), Meadows Bldg., Dallas, Tex. 75206.	do	20.5	15.025
CI68-608 A 10-31-67	Mobil Oil Corp.	Michigan Wisconsin Pipe Line Co., Northwest Quinlan Field, Woodward County, Okla.	[3] 17.5	14.65
CI68-609 A 11-1-67	Pan American Petroleum Corp.	Oklahoma Natural Gas Gathering Co.,[14] Ringwood Field, Major County, Okla.	12.0	14.65
CI68-610 A 11-1-67	do	Texas Eastern Transmission Corp., Bigen Field Area, Wilacy County, Tex.	16.0	14.65

[1] Rate in effect subject to refund in Docket No. RI67-310.
[2] Subject to upward and downward B.t.u. adjustment.
[3] Plus tax adjustment.
[4] Applicant will receive payment for gasoline content and for additional liquid products if recovered on a sliding scale percentage of the value of the liquids.
[5] Subject to deduction for compression and/or treating costs should Buyer compress or treat gas.
[6] Includes 2 cents per Mcf gathering and transportation charge.
[7] By letter filed Sept. 28, 1967, Applicant agreed to accept permanent certificate containing conditions similar to those imposed by Opinion No. 468, as modified by Opinion No. 468-A.
[8] Rate in effect subject to refund in Docket No. RI64-308.
[9] Subject to 1.5 cents deduction for compression should Buyer compress gas.
[10] The last producing well ceased to produce; in addition all leases covered by subject contract have expired by their own terms.
[11] Includes 0.1440 cent per Mcf tax reimbursement.
[12] Includes 1 cent per Mcf for liquids.
[13] Includes 0.5 cent per Mcf upward B.t.u. adjustment. Subject to upward and downward B.t.u. adjustment.
[14] National Fuels Corp. purchases liquids extracted from Applicant's gas at the Ringwood Plant.

[F.R. Doc. 67-13675; Filed, Nov. 20, 1967; 8:45 a.m.]

[Project 120]

SOUTHERN CALIFORNIA EDISON CO.

Notice of Application for Amendment of License for Constructed Project

NOVEMBER 14, 1967.

Public notice is hereby given that application for amendment of license has been filed under the Federal Power Act (16 U.S.C. 791a–825r) by Southern California Edison Co. (correspondence to: John R. Bury, Attorney, Southern California Edison Co., Post Office Box 351, Los Angeles, Calif. 90053) for constructed Projected No. 120, located on the San Joaquin River in the vicinity of Los Angeles, Fresno, and Modera Counties, Calif., and affecting lands within the Cold Springs Indian Rancheria and other lands of the United States.

The application asks the Commission (1) to redesignate in the license a portion of the NE¼SW¼ and NW¼SE¼ sec. 14, T. 11 S., R. 24 E., M.D.B. & M. within the project boundary as occupying lands of the Cold Springs Indian Rancheria rather than as presently designated in the license as occupying public lands of the United States only, and (2) to redetermine the annual land charges to show the occupancy by the project of Indian lands as well as public lands of the United States.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is January 3, 1968. The application is on file with the Commission for public inspection.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-13638; Filed, Nov. 20, 1967; 8:45 a.m.]

[Docket No. RP67-3]

TRANSWESTERN PIPELINE CO.

Order Accepting Revised Tariff Sheets for Filing, Waiving Notice Requirements, Approving Stipulation and Agreement and Requiring Refunds

NOVEMBER 14, 1967.

On August 28, 1967, Transwestern tendered for filing revised tariff sheets, to become effective May 1, 1967, and a "Stipulation and Agreement". The proposed tariff revisions reflect a reduction of Transwestern's jurisdictional rate for sales to California by 0.25 cent per Mcf which will reduce the annual jurisdictional revenues attributable to these sales by $584,000, based on deliveries of 640,000 Mcf per day.[1]

Transwestern's stipulation and agreement contains provisions whereby the company proposes to (1) adopt the principles set forth in Opinion No. 417, Alabama-Tennessee Natural Gas Co.,[2] relating to the flow-through of the benefits derived from taking tax deductions based on the use of liberalized depreciation, and (2) undertake specific rate reduction and refund obligations, as set forth more fully below.

In Opinion No. 500,[3] we granted to Transwestern Pipeline Co. (Transwestern) a certificate of public convenience and necessity and required the company to effect certain rate reductions in connection therewith. We also noted in that opinion that further proceedings would be initiated regarding the applicability of the Alabama-Tennessee principles to Transwestern.

Accordingly, on August 30, 1966, we issued an order in this docket directing Transwestern to show cause why its rates should not be reduced to that level resulting from the flow-through of the actual liberalized depreciation tax reductions in 1965 and the reduction of rate base by the accumulated reserve balance in Account 282 ("Accumulated Deferred Income Taxes—Liberalized Depreciation") as of December 31, 1965.

Transwestern filed a study, based on the year 1965 and another based on the year 1966, adjusted for the 640,000 Mcf per day delivery to California, in answer to this order. Thereafter, a series of conferences were held among the parties (Commission staff, Pacific Lighting Service and Supply Co., San Diego Gas and Electric Co., and the staff of the Public Utilities Commission of the State of California). Upon the completion of

[1] This reduction is in addition to the reduction made by Transwestern effective May 1, 1967, from 41.8 cents per Mcf to 32 cents per Mcf pursuant to Commission order in Docket Nos. CP62-204 et al. (Opinion No. 500).

[2] 31 FPC 208 (1964), aff'd., 359 F. 2d 318 (5th Cir. 1966), cert. denied, 385 U.S. 847 (1966).

[3] Transwestern Pipeline Co. et al., Docket Nos. CP62-204 et al., issued July 26, 1966.

these discussions, Transwestern submitted the instant proposals to comply with our show cause order. In addition to the immediate rate reductions described above, totaling $584,000, Transwestern's stipulation and agreement sets forth terms which may be summarized in principal part as follows:

(i) *Liberalized depreciation (Article II).* As of May 1, 1967, Transwestern shall discontinue the use of deferred tax accounting for liberalized depreciation and shall adopt "flow-through" accounting. In this connection, Transwestern has submitted a plan for disposition of the balance in Account 282 in accordance with Opinion No. 417 under which it will be permitted to amortize the balance in Account 282 as of December 31, 1966 ($13,865,000) over a period of 13½ years by crediting Account 411 ("Income Taxes Deferred in Prior Years—Credit") and debiting Account 282. In any rate or certificate proceeding involving Transwestern, its rate base shall be reduced by the then average balance in Account 282. Transwestern reserves the right to take advantage of any changes which may occur with respect to the principles set forth in the Alabama-Tennessee and Midwestern[1] cases, whether through legislation, court decision, change in Commission policy or otherwise.

(ii) *Contingent refunds—suppliers' rates (Article III).* Transwestern shall flow through the jurisdictional positions of any refunds it receives attributable to gas purchases prior to May 1, 1967, for which Transwestern presently has no obligation to pass on to its jurisdictional customers. Transwestern shall flow through the jurisdictional portions of any refunds it receives attributable to gas purchased on or after May 1, 1967, which result from reductions in gas supplier rates below the levels in effect on April 30, 1967. This provision shall not apply to refunds resulting from increases in gas suppliers' rates becoming effective on or after May 1, 1967, nor shall it apply to refunds resulting for costs of gas from sources of supply connected to Transwestern's system on or after May 1, 1967, unless such refunds relate to increases or new gas supplies utilized to offset reductions in rates pursuant to the contingent rate reduction provisions set forth below. The disposition of those refunds which Transwestern has no express obligation to flow-through, however, shall be governed by the applicability of such principle as may be finally established in the proceeding now before the Commission in Docket No. RP66–12.

(iii) *Contingent rate reductions—suppliers' rates (Article IV).* Transwestern agrees that if, during the period commencing May 1, 1967, and ending on the first date on which a rate increase filed by Transwestern becomes effective, a reduction is made in any supplier's rate in effect on April 30, 1967, Transwestern shall file appropriate changes in its CDQ–1 and CDQ–2 rate schedules to reflect the effect of the jurisdictional portion of the reduction. Such reductions may be offset to the extent of any increase in the cost of gas supplied to Transwestern which may become effective on or after May 1, 1967.

(iv) *Rate reduction filings (Article V).* The revised tariff sheets tendered for filing with Transwestern's stipulation and agreement shall be filed and made effective May 1, 1967, upon the issuance by the Commission of an order approving the stipulation and agreement. Any amounts collected for Transwestern's jurisdictional customers after May 1, 1967, in excess of the reduced rates set forth in the revised tariff sheets will be refunded without interest 30 days after the issuance of said order.

After due notice of the proposed settlement, no comments or objections were received by the Commission. Our review of the documents and data submitted in support of the proposed stipulation and agreement, including the cost of service data utilized for such purposes, indicates that Transwestern has fully complied with the requirements of the show cause order proceeding in Docket No. RP67–8. The proposed settlement is proper and in the public interest.

The Commission finds:

(1) The settlement of this proceeding on the basis of the stipulation and agreement filed by Transwestern on August 28, 1967, is proper and in the public interest and should be approved and made effective subject to the terms and conditions hereinafter ordered.

(2) Good cause exists for waiving the requirements of Part 154 of the Commission's regulations under the Natural Gas Act in order that the revised tariff sheets to be filed by Transwestern in accordance with its stipulation and agreement may become effective as of May 1, 1967, as hereinafter provided.

The Commission orders:

(A) The provisions of Part 154 of the Commission's regulations under the Natural Gas Act are hereby waived subject to the terms and conditions of this order and the revised tariff sheets tendered for filing with the above-mentioned stipulation and agreement are accepted for filing to become effective as of May 1, 1967.

(B) The stipulation and agreement filed by Transwestern on August 28, 1967 (incorporated herein by reference and made a part of this order) is approved and made effective, subject to the terms and conditions of this order.

(C) Transwestern shall comply fully with each of the obligations it has assumed in the stipulation and agreement approved in paragraph (B) above.

(D) Within 30 days after the effective date of this order, Transwestern shall refund to its jurisdictional customers any amounts collected from said customers on and after May 1, 1967, in excess of the amounts which it would have collected had the revised tariffs accepted in paragraph (A) above been in effect at all times from and after May 1, 1967. Such refunds shall be made without interest, in accordance with the terms of Article V of Transwestern's stipulation and agreement.

(E) Within 15 days after making the refunds prescribed in paragraph (D) above, Transwestern shall report to the Commission, in writing and under oath, the amount of the refund made to each of its customers, and shall serve a copy of such report upon each of the customers receiving a refund. Concurrently, Transwestern shall file with the Commission releases from its customers showing receipt of the appropriate amounts.

(F) Within 15 days after any date upon which Transwestern makes further refund payments (accompanied by reports to recipient customers and to the Commission) pursuant to Article III of its stipulation and agreement, Transwestern shall file with the Commission copies of releases, signed by those customers to whom it has made such payments, acknowledging receipt of the amount refunded.

(G) In the event Transwestern does not file a reduction or reductions in its CDQ–1 and CDQ–2 rates on any of the four dates specified in section 5 of Article IV of its stipulation and agreement approved herein, it shall submit a report to the Commission, within 15 days after each of the specified dates, setting forth the dollar amount of reductions in purchased gas cost (computed in accordance with the terms of said Article IV) which, but for the fact that the unit reduction determined does not equal or exceed one tenth of 1 cent per Mcf, would have been reflected in a reduction of its CDQ–1 and CDQ–2 rates.

(H) This order is without prejudice to any findings or orders which have been made or may hereafter be made by the Commission, and is without prejudice to any claims which may be made by the Commission, by the respondent, by the Commission staff, or by any other party affected by this order, in any proceeding now pending or hereafter instituted by or against Transwestern or any other persons or parties affected by this order.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67–13629; Filed, Nov. 20, 1967; 8:45 a.m.]

[1] Midwestern Gas Transmission Co. et al., Docket Nos. RP61–19 et al., July 15, 1966 (Opinion No. 457).

INTERNATIONAL JOINT COMMISSION—UNITED STATES AND CANADA

NIAGARA RIVER AREA WATER POLLUTION

Public Notice

Notice is hereby given that the International Joint Commission will convene a public International Meeting on January 16, 1968, at 9 a.m., in the Council Chambers, City Hall, Niagara Falls, N.Y., to inquire into the adequacy and effectiveness of the United States and Canadian abatement programs referred to in the Summary Report on Pollution of the Niagara River. This report was prepared for the Commission by its Lakes Erie-Ontario Advisory Board and was released on October 24, 1967.

At the meeting, the Commission will invite water pollution control agencies and enforcement authorities in both countries to describe the abatement programs they have underway and the timetables they foresee for achievement of the established water quality objectives in the Niagara River. The Commission will also receive written statements from others who may wish to submit them, and will entertain requests for time for oral presentation of these statements. Such requests, together with twelve (12) copies of the written statement, should be submitted to either of the Commission's Secretaries no later than January 3, 1968, so that time can be allotted and persons notified. If possible, an additional thirty (30) copies of the written statements should be brought to the meeting and deposited with the Secretaries.

Statements should be addressed to the adequacy and effectiveness of the pollution control measures and programs referred to in the Summary Report and any additional measures that might be taken to:

(1) Assure the successful implementation of those programs;

(2) Accelerate or improve the corrective measures contemplated; and

(3) Minimize the extent of pollution in the interim period before the corrective measures take full effect.

Copies of the Summary Report on Pollution of the Niagara River may be obtained free of charge from the Secretaries of the Commission at either of the addresses noted below.

W. A. BULLARD,
Secretary, U.S. Section, International Joint Commission, Washington, D.C. 20440, Stop 36.

D. G. CHANCE,
Secretary, Canadian Section, International Joint Commission, 151 Slater Street, Suite 850, Ottawa, Ontario, Canada.

NOVEMBER 15, 1967.

[F.R. Doc. 67–13647; Filed, Nov. 20, 1967; 8:47 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[70–4564]

CENTRAL INDIANA GAS CO., INC., AND AMERICAN NATURAL GAS CO.

Notice of Proposed Acquisition of Assets and Assumption of Liabilities

NOVEMBER 15, 1967.

Notice is hereby given that American Natural Gas Co. ("American Natural"), 30 Rockefeller Plaza, Suite 4950, New York, N.Y. 10020, a registered holding company, and its gas utility subsidiary company, Central Indiana Gas Co., Inc. ("Central Indiana"), have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7, 9, 10, 12(f), and 12(g) thereof and Rule 43 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

American Natural and Central Indiana have entered into an agreement and plan of reorganization with Greenfield Gas Co., Inc. ("Greenfield"), a nonassociate Indiana corporation, under which Greenfield is to convey substantially all of its assets to Central Indiana. In consideration therefor, American Natural will issue and deliver to Greenfield 34,375 shares of American Natural $10 par value common stock. Central Indiana, in turn, will issue and deliver 1,075 shares of its common stock, $100 par value, to American Natural and will assume all of Greenfield's liabilities. Greenfield is to liquidate and dissolve and upon such liquidation will distribute the American Natural common stock to its stockholders.

Greenfield is a public-utility company which distributes natural gas in Greenfield and certain other communities located principally in Hancock County, Ind., adjacent to and immediately south of the service area of Central Indiana. It is stated that by combining such activities as customer billing and accounting, engineering and design, sales, dispatching, maintenance, operations, and certain administrative functions, operation of the Greenfield properties by Central Indiana can be accomplished more efficiently and at less cost than would be possible by Greenfield alone. It is further stated that by combining Greenfield's gas purchases with those of Central Indiana annual savings of approximately $70,000 in purchased gas costs can be made. It is also asserted that Greenfield requires the assistance of a larger system with greater resources of capital, personnel, and equipment to meet the expanding needs of its service area.

Greenfield's operating revenues for the 12 months ended June 30, 1967, amounted to $1,031,687; gross income was $66,391; and net income was $29,771. As of June 30, 1967, liabilities to be assumed by Central Indiana included $651,000 of first mortgage bonds and $168,757 of current liabilities. Reserves for deferred Federal income taxes and investment credit, in the amount of $127,602, will also be taken over and recorded on the books of Central Indiana. As of the above date, gross utility plant of Greenfield was recorded at $1,918,656, with related reserves for depreciation of $395,679.

American Natural will record its additional investment in the common stock of Central Indiana at the underlying book value of the net assets transferred to Central Indiana and will record in its Capital Stock account the par value of its stock issued ($343,750), and the excess over the par value ($506,672) will be credited to the Other Paid-In Capital account. Greenfield's assets and liabilities will be transferred to Central Indiana in the same amounts as carried on the books of Greenfield, since for accounting purposes the transactions are to represent a pooling of interests. The 1,075 shares of Central Indiana's common stock, $100 par value, to be issued to American Natural will have an aggregate par value of $107,500 which is equal to Greenfield's Common Stock account. Greenfield's earned surplus, amounting to $742,922, will be recorded as additional earned surplus on the books of Central Indiana.

The application-declaration states that the Public Service Commission of Indiana has jurisdiction over the acquisition and operation of the properties and assets of Greenfield and the issuance of securities by Central Indiana and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. The order of said State commission, when entered, is to be filed by amendment. Fees and expenses related to the proposed transactions are also to be supplied by amendment.

Notice is further given that any interested person may, not later than December 14, 1967, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67–13636; Filed, Nov. 20, 1967; 8:46 a.m.]

TARIFF COMMISSION

[APTA-W-20]

WORKERS' PETITION FOR DETERMINATION OF ELIGIBILITY TO APPLY FOR ADJUSTMENT ASSISTANCE

Notice of Investigation

Upon receipt on November 14, 1967, of a request therefor from the Automotive Agreement Adjustment Assistance Board, the Tariff Commission instituted an investigation pursuant to section 302(c), Automotive Products Trade Act of 1965, with respect to a petition filed with the Board by Local 14 of the United Glass and Ceramic Workers of North America, on behalf of a group of workers at the Pittsburgh Plate Glass Co., Works No. 4, Ford City, Pa., which manufactures tempered glass components for automobiles. The petition alleges that dislocation of a group of workers has occurred, and that the operation of the United States-Canadian Automotive Agreement has been the primary factor in causing such dislocation. The Commission is conducting the investigation to provide a factual record on the basis of which the Board may make the determinations required by section 302 of the Act.

No hearing has been scheduled. A hearing will be held on request of any party showing a proper interest in the subject matter of the investigation, provided the request is filed with the Secretary of the Tariff Commission within 10 days after this notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 at the Customhouse.

Issued: November 16, 1967.

By order of the Commission.

[SEAL] DONN N. BENT, *Secretary.*

[F.R. Doc. 67-13655; Filed, Nov. 20, 1967; 8:47 a.m.]

[APTA-W-21]

WORKERS' PETITION FOR DETERMINATION OF ELIGIBILITY TO APPLY FOR ADJUSTMENT ASSISTANCE

Notice of Investigation

Upon receipt on November 14, 1967, of a request therefor from the Automotive Agreement Adjustment Assistance Board, the Tariff Commission instituted an investigation pursuant to section 302(c), Automotive Products Trade Act of 1965, with respect to a petition filed with the Board by Local 12 of the United Glass and Ceramic Workers of North America, on behalf of a group of workers at the Pittsburgh Plate Glass Co., Works No. 1, Creighton, Pa., which manufactures laminated glass components for automobiles. The petition alleges that dislocation of a group of workers has occurred, and that the operation of the United States-Canadian Automotive Agreement has been the primary factor in causing such dislocation. The Commission is conducting the investigation to provide a factual record on the basis of which the Board may make the determinations required by section 302 of the Act.

No hearing has been scheduled. A hearing will be held on request of any party showing a proper interest in the subject matter of the investigation, provided the request is filed with the Secretary of the Tariff Commission within 10 days after this notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 at the Customhouse.

Issued: November 16, 1967.

By order of the Commission.

[SEAL] DONN N. BENT, *Secretary.*

[F.R. Doc. 67-13656; Filed, Nov. 20, 1967; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 495]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 16, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 52579 (Sub-No. 93 TA), filed November 13, 1967. Applicant: GILBERT CARRIER CORP., 1 Gilbert Drive, Secaucus, N.J. 07094. Applicant's representative: Aaron Hoffman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, loose, on hangers, and *materials and supplies used in the manufacture thereof*, between Knoxville, Tenn., and points in the New York, N.Y., commercial zone, as defined by the Commission, for 150 days. NOTE: Applicant states it intends to interline with other carriers at points in the New York, N.Y., commercial zone. Supporting shipper: Terry-Ann, 1350 Broadway, New York, N.Y. 10018. Send protests to: District Supervisor, Walter J. Grossmann, Interstate Commerce Commission, Bureau of Operations, 1060 Broad Street, Room 363, Newark, N.J. 07102.

No. MC 113784 (Sub-No. 27 TA, filed November 13, 1967. Applicant: CANAL CARTAGE LIMITED, Post Office Box 368, Station C, Hamilton, Ontario, Canada. Applicant's representative: William J. Hirsch, 43 Niagara Street, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urea*, in bulk, in pneumatic tank trailers, from ports of entry on the international boundary line between the United States and Canada on the St. Lawrence River, to points in Delaware, New Jersey, New York, and Pennsylvania, for 150 days. Supporting shipper: H. J. Baker & Bro. Inc., 733 Third Avenue, New York, N.Y. 10017. Send protests to: George M. Parker, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 121 Ellicott Street, Room 518, Buffalo, N.Y. 14203.

No. MC 120800 (Sub-No. 8 TA), filed November 13, 1967. Applicant: CAPITOL TRUCK LINE, INC., 2500 North Alameda Street, Compton, Calif. 90222. Applicant's representative: Warren N. Grossman, 825 City National Bank Building, 606 South Olive Street, Los Angeles, Calif. 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid methane*, in bulk, from San Diego and Ontario, Calif., to West Palm Beach, Fla., for 150 days. Supporting shipper: Pratt & Whitney Aircraft, Division of United Aircraft Corp., Florida Research and Development Center, West Palm Beach, Fla. Send protests to: John E. Nance, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Federal Building, Room 7708, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 126822 (Sub-No. 20 TA) (Correction), filed October 25, 1967, published FEDERAL REGISTER November 4, 1967, corrected and republished as corrected, this issue. Applicant: PASSAIC GRAIN AND WHOLESALE COMPANY, INC., Post Office Box 23, Passaic, Mo. 64777. Applicant's representative: Warren H. Sapp, 450 Professional Building, Kansas City, Mo. 64106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides and pelts*, processed and partially processed; from Joplin, Mo., points in the Kansas City, Mo.-Kans., commercial

zone, and Springfield, Mo.; to Wilmington, Del.; Berwick, Dover-Foxcroft, Hartland, South Paris, and Saco, Maine; Danversport, Peabody, Salem, and Woburn, Mass.; Dover, Lebanon, Manchester, Merrimack, Nashua, and Pennacook, N.H.; and Gloversville, N.Y.; for 150 days. Supporting shipper: Bert Lyon & Co., 100 West 12th Street, Kansas City, Mo. 64101; H. Elkan and Co., Chicago, Ill. NOTE: The purpose of this republication is (1) to show the destinations points of Lebanon, Manchester, Merrimack, Nashua, and Pennacook as being located in *New Hampshire* in lieu of New Jersey as published in previous publication and (2) to include an additional shipper which was inadvertently omitted. Send protests to: H. J. Simmons, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 110 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 127418 (Sub-No. 2 TA), filed November 13, 1967. Applicant: TROPARTIC REFRIGERATED SERIVCE, INC., 1410 Brown Bridge Road, Gainesville, Ga. 30501. Applicant's representative: Virgil H. Smith, Suite 431, Title Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cotton knit fabric*, in tubular form, in rolls, in temperature controlled equipment, from the plantsite of E-Z Mills, Inc., Cartersville, Ga., to Flagstaff, Ariz., for 180 days. Supporting shipper: E-Z Mills, Inc., Cartersville, Ga. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 127705 (Sub-No. 13 TA), filed November 13, 1967. Applicant: KREVDA BROS. EXPRESS, INC., Post Office Box 68, Gas City, Ind. 46933. Applicant's representative: Donald W. Smith, Suite 511, Fidelity Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass and plastic containers*, from Dunkirk, Ind., to points in Maryland, New York, New Jersey, Pennsylvania, Ohio, for 180 days. Supporting shipper: Armstrong Cork Co., Lancaster, Pa. 17604. Send protests to: District Supervisor, J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 308 Federal Building, Fort Wayne, Ind. 46802.

No. MC 127834 (Sub-No. 14 TA), filed November 13, 1967. Applicant: CHEROKEE HAULING & RIGGING, INC., 540-42 Merritt Avenue, Nashville, Tenn. 37203. Applicant's representative: M. Bryan Stanley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum*, in coils, sheets, or plate, from the plantsites of the International Anodizing Corp. and the Production Steel Co., Inc., located at Nashville, Tenn., to Galesburg, Ill., and Shelbina, Mo., for 180 days. Supporting shipper: International Anodizing Corp., 1417 Poplar Lane, Nashville, Tenn. Send protests to: J. E. Gamble, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 706 U.S. Courthouse, Nashville, Tenn.

No. MC 129429 (Sub-No. 1 TA), filed November 13, 1967. Applicant: CHARLES J. GREGORY, 805 Rochards, Box 392, Gillette, Wyo. 82716. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand and Gravel*, from points in Campbell, Crook, and Johnson Counties, Wyo., and Butte County, S. Dak., to Powder River and Carter Counties, Mont., for 180 days. Supporting shipper: McGee and McCue Ready Mix Concrete, 601 Douglas Highway, Gillette, Wyo. 82716. Send protests to: Interstate Commerce Commission, Bureau of Operations, District Supervisor, Paul A. Naughton, D&S Building, 255 North Center, Casper, Wyo. 82601.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13650; Filed, Nov. 20, 1967; 8:47 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during November.

3 CFR

Page

PROCLAMATIONS:
3279 (modified by Proc. 3820) .. 15701
3290 (see Proc. 3820) .. 15701
3328 (see Proc. 3820) .. 15701
3386 (see Proc. 3820) .. 15701
3389 (see Proc. 3820) .. 15701
3509 (see Proc. 3820) .. 15701
3531 (see Proc. 3820) .. 15701
3541 (see Proc. 3820) .. 15701
3693 (see Proc. 3820) .. 15701
3694 (terminated in part by Proc. 3818) .. 15467
3712 (terminated in part by Proc. 3818) .. 15467
3744 (terminated in part by Proc. 3818) .. 15467
3779 (see Proc. 3820) .. 15701
3794 (see Proc. 3820) .. 15701
3818 .. 15467
3819 .. 15667
3820 .. 15701

EXECUTIVE ORDERS:
2295 (modified by PLO 4313) .. 15429
4702 (revoked in part by PLO 4315) .. 15482
9652 (revoked in part by PLO 4317) .. 15482
10530 (see EO 11378) .. 15237
10682 (see EO 11378) .. 15237
10807 (amended by EO 11381) .. 15629
10903 (amended by EO 11380) .. 15627
11034 (amended by EO 11380) .. 15627
11378 .. 15237
11379 .. 15625
11380 .. 15627
11381 .. 15629

5 CFR

213 .. 15703, 15805, 15869, 15911
305 .. 15805
713 .. 15631
754 .. 15805

7 CFR

51 .. 15066, 15073
251 .. 15948
319 .. 15577
401 .. 15703, 15704, 15911
711 .. 15704
717 .. 15705
729 .. 15149
730 .. 15076
905 .. 15869
906 .. 15869
907 .. 15805
909 .. 15870
910 .. 15430, 15524, 15631, 15870
912 .. 15430, 15632, 15806, 15870
913 .. 15430
915 .. 15669, 15671
945 .. 15577
947 .. 15705
982 .. 15669
984 .. 15388
989 .. 15871, 15915
991 .. 15670, 15705
1001 .. 15076
1015 .. 15090
1067 .. 15093
1120 .. 15388
1125 .. 15706
1126 .. 15388
1132 .. 15389
1137 .. 15431
1421 .. 15632, 15706, 15872
1464 .. 15633

PROPOSED RULES:
51 .. 15435
723 .. 15546
814 .. 15835
822 .. 15393
891 .. 15393
892 .. 15393
905 .. 15116
906 .. 15394
907 .. 15488
908 .. 15394
912 .. 15436
913 .. 15395
959 .. 15177, 15884
966 .. 15884
989 .. 15488
1006 .. 15952
1036 .. 15952
1048 .. 15952
1049 .. 15489
1064 .. 15490
1090 .. 15437
1125 .. 15178
1131 .. 15588

8 CFR

103 .. 15469
212 .. 15469
238 .. 15469

9 CFR

76 .. 15240
78 .. 15577
92 .. 15707
131 .. 15469

10 CFR

40 .. 15872

PROPOSED RULES:
20 .. 15432, 15762

12 CFR

1 .. 15544, 15918
219 .. 15389
556 .. 15707, 15747
563 .. 15634
571 .. 15708

PROPOSED RULES:
545 .. 15763

13 CFR

101 .. 15806, 15873
106 .. 15065
108 .. 15149
120 .. 15634
122 .. 15635

PROPOSED RULES:
107 .. 15399
121 .. 15184

14 CFR

21 .. 15472
39 .. 15094, 15153, 15154, 15390, 15421, 15472, 15523, 15579, 15635, 15808, 15873.
61 .. 15918
63 .. 15918
65 .. 15918
71 .. 15094, 15095, 15154, 15523, 15524, 15579, 15635, 15636, 15809, 15810, 15874.
73 .. 15096
75 .. 15636
91 .. 15422, 15708
97 .. 15423, 15473, 15580, 15811
141 .. 15583
145 .. 15670
157 .. 15818
207 .. 15096
208 .. 15097
241 .. 15098

PROPOSED RULES:
27 .. 15676
29 .. 15676
39 .. 15490, 15491, 15588
71 .. 15117–15121, 15491–15493, 15546–15548, 15588, 15589, 15712, 15837, 15838, 15885, 15926.
93 .. 15589
121 .. 15676
202 .. 15676
203 .. 15676
288 .. 15926

15 CFR

0 .. 15222
13 .. 15818
70 .. 15154
204 .. 15104, 15391
230 .. 15105, 15636

16 CFR

13 .. 15105–15107, 15470, 15748–15750, 15874, 15875.
14 .. 15525
15 .. 15470, 15919
17 .. 15540
228 .. 15525
229 .. 15529
230 .. 15531
231 .. 15532
232 .. 15533
233 .. 15534
234 .. 15536
235 .. 15538
236 .. 15538
237 .. 15539
238 .. 15540
239 .. 15541
240 .. 15542
412 .. 15584
413 .. 15424

PROPOSED RULES:
241 .. 15715
242 .. 15681
300 .. 15180

17 CFR

200 .. 15470
230 .. 15920

18 CFR

3 .. 15239
101 .. 15670
141 .. 15670

18 CFR—Continued

Page

PROPOSED RULES:
2 .. 15714
14 .. 15714
101 .. 15927
104 .. 15927
105 .. 15927
141 .. 15434, 15927
201 .. 15927
204 .. 15927
205 .. 15927
260 .. 15434

19 CFR

4 .. 15390
10 .. 15424
14 .. 15155
16 .. 15390

20 CFR

396 .. 15471
401 .. 15544

21 CFR

4 .. 15709
120 .. 15107, 15120, 15424, 15578
121 .. 15108, 15109, 15155, 15545
133 .. 15109
148c .. 15425
166 .. 15390
191 .. 15875

PROPOSED RULES:
28 .. 15116

22 CFR

PROPOSED RULES:
201 .. 15116

23 CFR

215 .. 15818
216 .. 15818
255 .. 15792

24 CFR

200 .. 15425, 15586, 15636
203 .. 15639
207 .. 15640
220 .. 15640
222 .. 15640
809 .. 15640

25 CFR

41 .. 15471

26 CFR

1 .. 15421, 15671, 15820, 15876
301 .. 15241, 15483

PROPOSED RULES:
1 .. 15167, 15393, 15758, 15879
31 .. 15879
46 .. 15879
48 .. 15879
49 .. 15879

28 CFR

0 .. 15425

29 CFR

526 .. 15425
786 .. 15425
1200 .. 15827
1202 .. 15831
1203 .. 15831
1208 .. 15831
1500 .. 15478, 15479

29 CFR—Continued

Page

PROPOSED RULES:
5 .. 15396
6 .. 15396
7 .. 15396
526 .. 15712

31 CFR

306 .. 15672, 15920

32 CFR

66 .. 15111
127 .. 15112
536 .. 15113
552 .. 15115
710 .. 15115
844 .. 15920
855 .. 15920
882 .. 15921
901 .. 15922

32A CFR

BDSA (Ch. VI):
M–11A .. 15710
ASCDIB (Ch. VII) .. 15831
OIA (Ch. X):
OI Reg. 2 .. 15876

33 CFR

204 .. 15673

35 CFR

61 .. 15641
255 .. 15831

36 CFR

7 .. 15391, 15710, 15750

PROPOSED RULES:
7 .. 15761

38 CFR

3 .. 15878

39 CFR

131 .. 15587
821 .. 15480
822 .. 15480, 15481
823 .. 15099

PROPOSED RULES:
Ch. I .. 15643

41 CFR

1–5 .. 15674
3–75 .. 15833
6–60 .. 15751
6–75 .. 15427
9–1 .. 15922
9–12 .. 15922
50–204 .. 15641
101–26 .. 15754

42 CFR

PROPOSED RULES:
73 .. 15178

43 CFR

PUBLIC LAND ORDERS:
1583 (see PLO 4307) .. 15428
1630 (see PLO 4315) .. 15482
3263 (revoked in part by PLO 4307) .. 15428

43 CFR—Continued

Page

PUBLIC LAND ORDERS—Continued
3634 (revoked in part by PLO 4302) .. 15427
4236 (see PLO 4317) .. 15482
4266 (see PLO 4317) .. 15482
4270 (amended by PLO 4312) .. 15429
4301 .. 15098
4302 .. 15427
4303 .. 15427
4304 .. 15427
4305 .. 15428
4306 .. 15428
4307 .. 15428
4308 .. 15428
4309 .. 15428
4310 .. 15429
4311 .. 15429
4312 .. 15429
4313 .. 15429
4314 .. 15482
4315 .. 15482
4316 .. 15482
4317 .. 15482
4318 .. 15483
4319 .. 15878

PROPOSED RULES:
1720 .. 15546
3100 .. 15883
3120 .. 15883

45 CFR

81 .. 15156
531 .. 15641

46 CFR

10 .. 15754

PROPOSED RULES:
33 .. 15835
94 .. 15835
112 .. 15835
Ch. IV .. 15438

47 CFR

0 .. 15472, 15675
73 .. 15161, 15162, 15545, 15711

PROPOSED RULES:
2 .. 15180, 15712
73 .. 15679
87 .. 15712
89 .. 15180, 15680
91 .. 15180
93 .. 15180, 15680

49 CFR

1 .. 15710
103 .. 15484
114 .. 15484

PROPOSED RULES:
288 .. 15589

50 CFR

10 .. 15834
32 .. 15166, 15586, 15587, 15642, 15675, 15878, 15924.
33 .. 15711, 15756, 15924

FEDERAL REGISTER

VOLUME 32 • NUMBER 225

Tuesday, November 21, 1967 • Washington, D.C.

PART II

Department of Agriculture

Consumer and Marketing Service

Financial Assistance for Distribution of Federally Donated Commodities

Title 7—AGRICULTURE

Chapter II—Consumer and Marketing Service (Consumer Food Programs), Department of Agriculture

SUBCHAPTER B—GENERAL REGULATIONS AND POLICIES—COMMODITY DISTRIBUTION

PART 251—FINANCIAL ASSISTANCE FOR DISTRIBUTION OF FEDERALLY DONATED COMMODITIES

Sec.

251.1 General purpose and scope.
251.2 Definitions.
251.3 Administration.
251.4 Eligible participants.
251.5 Agreements.
251.6 Program Plan.
251.7 Submission of Program Plans.
251.8 Payments.
251.9 Records and audits.
251.10 Miscellaneous provisions.

AUTHORITY: The provisions of this Part 251 issued under sec. 32, 49 Stat. 774; sec. 301, 80 Stat. 370; 5 U.S.C. 301, 7 U.S.C. 612c.

§ 251.1 General purpose and scope.

This part contains the regulations prescribing the terms and conditions of a program under which the Department offers financial assistance to States, counties, and other political subdivisions to enable them to effect distribution of food commodities donated by the Department pursuant to the provisions of Part 250 of this chapter for use by needy persons in households. A limited amount of the funds appropriated under section 32 of Public Law 320, 74th Congress, is available for the purpose of this part. Within the limitation of available funds, financial assistance will be given on the basis of economic need in the State and local area.

§ 251.2 Definitions.

For the purpose of this part:

(a) The terms used in this part that are defined in Part 250 of this chapter shall have the meanings ascribed to them therein.

(b) "C&MS" means the Consumer and Marketing Service of the Department.

(c) "Distribution expenses" means expenses incurred in the certification of eligible recipients and the distribution of commodities to needy persons in households under Part 250 of this chapter, and directly related expenses, including expenses of educational assistance for maximum utilization of commodities by recipients but not including State administrative expenses.

(d) "Program" means the program of financial assistance set forth in this part.

(e) "State agency" means the agency of a State which administers or participates directly in the Program within the State.

(f) "Unit" means a county, or a political subdivision, or any combination of two or more counties or political subdivisions.

§ 251.3 Administration.

(a) *C&MS.* Within the Department, C&MS shall act on behalf of the Department in the administration of the Program.

(b) *State agency.* Within the States, responsibility for the administration of the Program in participating Units or for participation in the Program as a recipient of financial assistance shall, whenever practicable, be in the State distributing agency which has entered into an agreement under Part 250 of this chapter. If it is not practicable for the State distributing agency to accept such responsibility, the agency administering federally aided public assistance programs in the State shall have such responsibility. If no such agency of a State accepts responsibility for the administration of the Program in Units, C&MS shall be responsible for administering the Program in Units within the State.

§ 251.4 Eligible participants.

(a) Those Units which are designated by C&MS, or selected by the State agency and approved by C&MS, as requiring monetary assistance in meeting distribution expenses shall be eligible to participate in the Program upon the terms and conditions set forth in this part.

(b) State agencies approved by C&MS shall also be eligible to participate in the Program, upon the terms and conditions set forth in this part, as recipients of financial assistance in (1) meeting State administrative expenses if such expenses were formerly financed by the Office of Economic Opportunity to enable a State to conduct a food distribution program for needy persons in households under Part 250 of this chapter; (2) meeting distribution expenses within local areas where Units do not distribute commodities to needy persons in households under Part 250 of this chapter; and (3) meeting expenses of local distribution functions which are performed by the State for participating Units for reasons of economy or effectiveness.

§ 251.5 Agreements.

(a) *With the Department.* The Department shall enter into a written agreement with each State agency covering its responsibility for the administration of the Program in participating Units or its responsibility for participation in the Program as a recipient of financial assistance, or both. No agreement for participation of a State agency in the Program will be executed until a Program Plan, when required by C&MS, has been approved. The Department shall also enter into written agreement with each Unit whose Program Plan has been approved by C&MS where C&MS administers the Program. The agreements entered into under this paragraph shall incorporate by reference or otherwise the provisions set forth in this part, and shall include such other provisions as may be required by law or may be determined to be appropriate for the conduct of the Program within the State. When requested by C&MS, State agencies and Units shall present evidence of their authority to enter into such agreements.

(b) *Between State agencies and Units.* Each State agency shall enter into written agreements with Units whose Program Plans it has approved. Such agreements shall contain such terms and conditions as will insure that (1) the funds provided by C&MS are used in accordance with this part, (2) Units account to the State agency for all funds paid to them, (3) Units return any unobligated funds upon termination of participation in the Program, and (4) participation in the Program may be terminated immediately for failure to comply with provisions of the Program or on 30 days written notice by either party to the agreement. Such agreements shall contain such additional terms and conditions as required by the State agency's agreement with the Department and may contain such terms and conditions, not inconsistent with this part, as the State agency deems desirable to carry out the Program.

(c) *Term of agreements.* Agreements entered into under this part shall not extend financial assistance beyond the Federal fiscal year in which executed but the Department may renew agreements for each fiscal year thereafter by giving notice in writing. Provisions for termination upon written notice shall be included in the agreements.

(d) *State agencies and Units now under agreement.* Notwithstanding any other provision of this part, State agencies and Units, which prior to the effective date of this part have executed an Agreement for Financing Distribution of Donated Commodities during the Federal fiscal year 1968, may continue to operate under such Agreement until it is expressly terminated according to the terms thereof or until the end of the Federal fiscal year 1968, whichever is earlier. Such State agencies and Units shall be eligible to enter into new agreements under this part upon the termination of the existing agreements without obtaining further designation or approval under section 251.4.

§ 251.6 Program Plan.

Each Unit, and each State agency desiring financial assistance under this part shall formulate and set forth on Form CFP 109 a Program Plan consisting of three parts:

(a) Part 1: General information of a nature which will enable C&MS to evaluate applicant's eligibility for participation, including a statement of applicant's need for financial assistance and a justification of the level of assistance requested from C&MS.

(b) Part 2: A plan of operation setting forth the procedures and methods to be used in certifying households as in need of food assistance and in making distribution of commodities to them, and including the requirements set forth in paragraph 250.6(e) of Part 250 of this chapter which are relevant to the Program under this part.

(c) Part 3: A budget showing the items of expense and the amount of expenses to be incurred, the contribution to be made by the State agency or the Unit, or both, or from any source within the State, in cash or in kind, to the proposed budget, and the maximum amount of expenditures in connection therewith for which C&MS is requested to make payment.

§ 251.7 Submission of Program Plans.

(a) *By State agency.* Each eligible State agency desiring financial assistance shall submit its proposed Program Plan to C&MS for approval. A State agency's Program Plan may be amended or a new Program Plan adopted with the written approval of C&MS. A Program Plan shall be amended or a new Program Plan adopted at the direction of C&MS.

(b) *By Units.* Each eligible Unit shall submit to the State agency, or to C&MS where C&MS administers the Program, its proposed Program Plan. The State agency shall submit the Unit Program Plans approved by it to C&MS for approval. A Unit Program Plan may be amended or a new plan adopted with the written approval of C&MS where C&MS administers the Program, or with the written approval of both the State agency and C&MS. A Unit Program Plan shall be amended or a new Program Plan adopted at the direction of C&MS.

§ 251.8 Payments.

(a) *Maximum obligation.* The maximum amount which C&MS shall be obligated to pay to any State or Unit is the smaller of (1) its approved budgeted expenses or (2) the expenses actually incurred by it in connection with approved budgeted items.

(b) *To State agencies.* For use in each Federal fiscal quarter year, C&MS shall advance funds to each State agency, for its use and for payment to participating Units, in an amount equal to the sum of the approved monthly expenses to be incurred by the State agency and Units during such quarter year, as set forth in the respective approved budgets. If the amount so advanced to the State agency by C&MS for any quarterly period exceeds the expenses actually incurred in connection with approved budgeted items for such period, the amount to be advanced by C&MS to the State agency for a subsequent quarterly period shall be reduced by the amount of such excess.

(c) *To Units.* State agencies, and C&MS where C&MS administers the Program, shall, on a monthly basis, (1) pay to each participating Unit an amount equal to the distribution expenses actually incurred by it in connection with approved budgeted items, or (2) advance funds to each participating Unit in an amount equal to its approved budgeted monthly distribution expenses, if need for an advance is shown in the Program Plan. If the amount advanced by C&MS or by the State agency to a participating Unit for any month exceeds the expenses actually incurred in connection with the approved budgeted items, the amount to be advanced by C&MS or by the State agency to the participating Unit for a subsequent month shall be reduced by the amount of such excess.

(d) *Unused funds.* State agencies shall require each Unit to return to them for transmittal to C&MS any Federal funds paid to such Unit under the Program which are unobligated upon termination of the Program in the Unit. State agencies, and Units where C&MS administers the Program, shall return to C&MS any Federal funds paid to them under the Program which are unobligated at the termination of the Program in the State or Unit. Such return shall be made as soon as practicable but in any event no later than 30 days following demand made by C&MS. State agencies, and Units where C&MS administers the Program, shall also pay C&MS any interest paid or credited on Federal funds paid to them under the Program.

§ 251.9 Records and audits.

State agencies and Units shall (a) maintain, and retain for 3 years from the close of the Federal fiscal year to which they pertain, complete and accurate records of all amounts received from C&MS and of all amounts disbursed under the Program, and (b) permit representatives of the Department and of the General Accounting Office of the United States to inspect, audit, and copy such records at any reasonable time. Each participating Unit shall furnish to the State agency, or to C&MS where C&MS administers the Program, on Form CFP 110, a certified record of the monthly expenses incurred by such Unit under its approved Program Plan. Each State agency shall submit to C&MS, on a quarterly basis, on a form approved by C&MS, a certified record of all disbursements made under the Program and of the balance of funds on hand, and unobligated, at the end of each quarter.

§ 251.10 Miscellaneous provisions.

(a) *Defaults.* Any State agency or any Unit may be disqualified from future participation in the Program if it fails to comply with the provisions of this part and of its agreement with the Department or the State agency. If any part of the money received by a State agency or by a Unit where C&MS administers the Program, by any improper or negligent action is diminished, lost, misapplied, or diverted from the Program by the State agency or by the Unit, repayment shall be made to C&MS promptly upon demand. If any part of the money received by a Unit where a State agency administers the Program, by any improper or negligent action is diminished, lost, misapplied or diverted from the Program by the Unit, the State agency shall promptly take action to obtain restitution and shall pay to C&MS all money recovered. Until the money is repaid, no subsequent payment under the Program shall be made to the State agency or the Unit. The State agency or the Unit shall have full opportunity to submit evidence, explanation, or information concerning instances of diversion of funds before a final determination is made in such cases. Disqualification from participation or repayment of a claim does not preclude the possibility of other action being taken through other means available where necessary, including prosecution for fraud under applicable Federal statutes. No provision of this part shall be construed as making the State agency liable in any respect for any default of any Unit if there exists no fault or negligence on the part of the State agency.

(b) *Amendments.* Any and all provisions of this part may be withdrawn or amended at any time by the Department, but no withdrawal or amendment shall be made without 30 days' prior written notice to State agencies, or to Units where C&MS administers the Program.

NOTE: The reporting and/or recordkeeping requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Effective date. This part shall be effective on publication in the FEDERAL REGISTER.

Dated: November 15, 1967.

RODNEY E. LEONARD,
Deputy Assistant Secretary.

[F.R. Doc. 67-13600; Filed, Nov. 20, 1967; 8:45 a.m.]

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PART III

Department of Agriculture

Consumer and Marketing Service

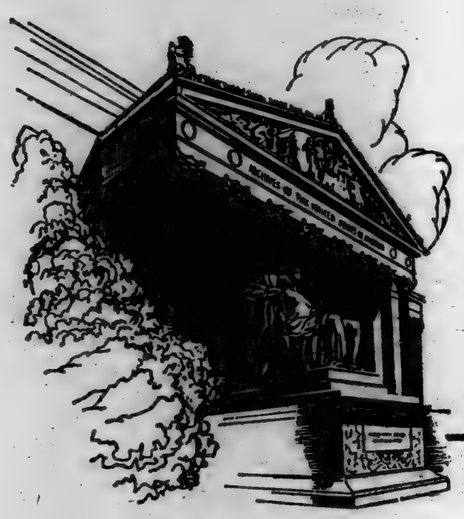

Milk in Northeastern Ohio, and Greater Youngstown-Warren and Greater Wheeling Marketing Areas

Recommended Decision

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Parts 1008, 1036, 1048]

[Docket Nos. AO 179–A38, AO 326–A8, AO 269–A12]

MILK IN NORTHEASTERN OHIO, GREATER YOUNGSTOWN-WARREN AND GREATER WHEELING MARKETING AREAS

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the Northeastern Ohio, Greater Youngstown-Warren, and Greater Wheeling marketing areas.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 20th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quintuplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreements and to the orders as amended, were formulated, was conducted at Cleveland, Ohio, on March 14–16, 1967, at Pittsburgh, Pa., on March 20–23, 29, 30, and 31 and April 3–7, 19, and 20, 1967, and at Erie, Pa., on March 28, 1967, pursuant to notice thereof which was issued February 17, 1967 (32 F.R. 3156).

The material issues on the record of the hearing relate to:

1. Whether the handling of milk produced for sale in the proposed merged and expanded marketing area is in the current of interstate commerce, or directly burdens, obstructs, or affects interstate commerce in milk or its products;

2. Whether the marketing areas of the present Northeastern Ohio, Greater Youngstown-Warren, and Greater Wheeling orders and other specified territory in Ohio and Pennsylvania should be included under one order; and

3. If an order is issued for one milk marketing area in the manner proposed, what its provisions should be with respect to:

(a) Milk to be priced and pooled;
(b) Classification;
(c) Class prices, butterfat differentials, and location differentials;
(d) Distribution of proceeds to producers; and
(e) Administrative provisions.

1. *Character of commerce.* The handling of milk in the proposed merged and expanded marketing area is in the current of interstate commerce and directly burdens, obstructs, and affects interstate commerce in milk and milk products.

The marketing area specified in the proposed order, hereinafter referred to as the "Eastern Ohio-Western Pennsylvania marketing area", includes contiguous territory in 20 Ohio counties, 14 Pennsylvania counties and four West Virginia counties. The principal cities in this marketing area are Cleveland, Akron, Canton, and Youngstown in Ohio, Pittsburgh and Erie in Pennsylvania, and Wheeling, W. Va. The specific territory in the proposed marketing area is set forth in the marketing area discussion.

Handlers in the proposed area receive milk from dairy farms located in several States. Of the 14.4 million pounds of producer milk received by Wheeling order handlers in May 1967, 75 percent was delivered by Ohio producers, 19 percent by West Virginia producers, and 6 percent by producers in Pennsylvania. (Official notice is taken of the "Market Administrator's Report" for the Wheeling market for July 1967.) In December 1966, 46 percent of the 20.1 million pounds of producer milk under the Youngstown-Warren order came from Ohio farms, 52 percent from Pennsylvania farms, and 2 percent from New York farms. In the Northeastern Ohio area in December 1966, Ohio producers supplied 81 percent of the total producer milk supply of 139.7 million pounds. In addition, 13 percent of the total came from Indiana producers, 4 percent from Pennsylvania producers, and 2 percent from Michigan producers.

In 1966, 20 percent of the 1,108 million pounds of bulk milk received by Pittsburgh area fluid milk dealers came from outside Pennsylvania. Receipts in the Erie area from out-of-State sources in 1965 were 7.5 percent of the 186 million pounds of bulk milk received by fluid milk dealers in that area. At least four Ohio plants are regular sources of milk for Western Pennsylvania dealers.

Packaged milk also moves in interstate commerce within the proposed marketing area. Such movements include sales in Pennsylvania and West Virginia by Ohio handlers and in Ohio by Pennsylvania and West Virginia dealers.

Manufactured milk products likewise are involved in interstate commerce in the proposed area. Representative of this is the distribution throughout Western Pennsylvania of cottage cheese and sour cream from an Ohio plant specializing in the manufacture of these products.

2. *Need for merger and expansion of the marketing areas.* Marketing conditions in the Ohio, Pennsylvania, and West Virginia territory under consideration justify the issuance of a single merged order regulating the handling of milk in this territory.

The marketing area of the proposed order should include all the territory in the presently designated marketing areas of the Northeastern Ohio, Youngstown-Warren, and Wheeling orders and certain other territory in Ohio and Pennsylvania. The additional areas in Ohio are Carroll, Geauga, and Tuscarawas Counties and those parts of Ashtabula, Columbiana, Mahoning, and Portage Counties not now included in any Federal order marketing area. In Pennsylvania, the territory to be included is that in Areas 2 and 7 as defined by the Pennsylvania Milk Control Commission (PMCC). These two Pennsylvania areas encompass Allegheny, Armstrong, Beaver, Butler, Crawford, Erie, Fayette, Greene, Lawrence, Mercer, Venango, and Washington Counties; in Clarion County, the townships of Ashland, Beaver, Licking, Madison, Perry, Piney, Richland, Salem, and Toby; and all of Westmoreland County except the boroughs of Bolivar, Donegal, Ligonier, New Florence, and Seward and the townships of Cook, Donegal, Fairfield, Ligonier, and St. Clair.

The merger of the three orders and extension of Federal regulation into certain Western Pennsylvania areas was proposed by four cooperative associations. One cooperative is a principal producer group in the Pittsburgh area, represents a majority of the producers under the Youngstown-Warren and Wheeling orders, and also markets the milk of producer-members under the Northeastern Ohio order. Another major cooperative sells 41 percent of its member milk to Youngstown-Warren handlers, 26 percent to Pittsburgh area handlers, 26 percent to Erie area handlers, and 7 percent to Northeastern Ohio handlers. Another of the producer groups represents nearly half of the producers whose milk is pooled under the Northeastern Ohio order. The fourth proponent cooperative also has a number of members delivering milk to Northeastern Ohio order plants.

On the basis of the cooperatives' proposal, other cooperatives and handlers made various proposals to include in the marketing area of a single order certain additional territory in Ohio and Pennsylvania. Collectively, all proposals under consideration would encompass, in addition to the marketing area proposed herein, the remainder of Westmoreland County, Pa., and in Ohio those parts of Medina and Wayne Counties not now included in any marketing area. It was proposed also that the PMCC Areas 2 and 7 be regulated under a separate order.

Regulation of Western Pennsylvania. The market uncertainty facing Pennsylvania dairy farmers who supply milk to distributors in Western Pennsylvania is largely the result of marketing conditions that can be remedied best by the application of Federal order regulation to the area.

The Western Pennsylvania area under consideration includes all or parts of 14 counties that are nearest the bordering States of Ohio and West Virginia. Of this area, Erie County and Venango Township and the boroughs of Cambridge Springs and Venango in Crawford County make up Area 7 under the PMCC regulations. Area 2 consists of the remainder of the Western Pennsylvania territory. In 1960, the population of Western Pennsylvania was 3,435,000, with nearly half of the people being in the Pittsburgh metropolitan area. This may be compared with the population of 4,140,000 for the remainder of the marketing area proposed herein.

About 140 fluid milk dealers were operating in Western Pennsylvania during the 1965–66 licensing year. Of these, 114 were Area 2 dealers and 26 were in Area 7. In addition, there were 76 dealers in the two areas whose sources of supply are primarily their own production. About 1,108 million pounds of milk were handled by Area 2 fluid milk dealers in 1966 and over 186 million pounds by Area 7 dealers in 1965 (Area 7 data for 1966 are not available in the record). Approximately 3,600 dairy farmers were delivering milk in 1966 to Area 2 plants. Area 7 dealers received milk from about 630 dairymen in 1965.

The PMCC regulations for Areas 2 and 7 prescribed minimum prices that Pennsylvania handlers must pay for milk received from producers at Pennsylvania plants. The PMCC does not, however, regulate the price of milk received from sources outside the State. The inability of the State to price milk involved in interstate commerce provides an incentive for Western Pennsylvania handlers to secure milk supplies from out-of-State sources at prices that are lower than those required to be paid for milk received from Pennsylvania producers.

In 1965, 125.4 million pounds of milk were so obtained by Area 2 handlers at an average of 49 cents per hundredweight less than the PMCC's minimum prices. Of this amount, 31.6 million pounds were obtained from receiving stations at prices averaging 63 cents per hundredweight under PMCC prices. As indicated previously, 20 percent of the 1,108 million pounds of milk received by Pittsburgh area fluid milk dealers in 1966 came from outside Pennsylvania. Receipts in the Erie area from out-of-State sources in 1965 were 7.5 percent of the 186 million pounds of milk received by Area 7 fluid milk dealers.

The imported supplies cited above do not include movements of packaged milk into Western Pennsylvania from out-of-State plants. Such sales, to which PMCC prices do not apply, are becoming an increasingly significant factor in the market.

Not only do Western Pennsylvania handlers have an incentive to seek outside supplies but their procurement of such supplies is facilitated because they are desirable outlets for unregulated out-of-State plants and their producers. Milk otherwise destined for manufacturing use can be sold for Class I purposes at prices above the manufacturing milk price but below the PMCC's Class I price. As a practical matter, such prices need to be only high enough to provide these out-of-State producers with total returns that are comparable with those obtainable from alternative outlets. Witnesses testified that Class I milk is purchased by Pennsylvania handlers from Ohio producers at approximately the Ohio Federal order blend prices.

Because of the geographical location of Western Pennsylvania handlers, milk supplies in other States are reasonably accessible to such handlers. Additionally, improvements in roads and transportation equipment have facilitated the acquisition of such supplies. At least four Ohio plants (receiving stations and supply plants) located at Andover, Dorset, Newcomerstown, and Beloit are regular sources of milk for Western Pennsylvania handlers.

The lack of effective price control on interstate milk movements has caused both producers and handlers to take various actions that have tended to create a condition of uncertainty and instability in the market. Handlers have exploited this situation by obtaining milk from out-of-State sources at less than PMCC prices applicable to Pennsylvania produced milk. Faced with the actual or potential loss of Class I outlets to cheaper out-of-State supplies, Pennsylvania cooperatives have supplied Pennsylvania handlers with Ohio produced milk at prices below those established by the PMCC for milk produced in Pennsylvania. Also, cooperatives have avoided PMCC producer price regulations by shipping Pennsylvania produced milk into Ohio and then back to Pennsylvania handlers. In an attempt to gain a more secure market, some Western Pennsylvania producers have shifted from Pennsylvania based plants to various Ohio Federal order plants.

During recent years, the PMCC established Class I prices which witnesses described as unrealistically high relative to the prices existing in the nearby Ohio markets. In 1964, for example, the PMCC Class I price for Area 2 averaged $1.11, and in one month was as much as $1.57, above the average Class I price in the Northeastern Ohio market. During that time, Western Pennsylvania producers faced intense competition from Ohio milk and resorted to rebates to Western Pennsylvania dealers to hold their Class I outlets. Price decreases in April and August 1964 lowered the Area 2 price by a total of 77 cents per hundredweight, thereby relieving some of the competitive pressure. While rebates are reportedly nonexistent today, there is no assurance under an inadequate classified pricing system that the pressures for lower prices will not again be manifested in this or some other disruptive manner.

Under the State's regulatory program, producers supplying Western Pennsylvania handlers have limited assurance that the returns for their milk will be commensurate with its full economic value. The PMCC orders for Areas 2 and 7 provide for a lower Class I price to be applicable to milk sold by a handler outside his area. In 1966, these prices ranged from 10 to 20 cents per hundredweight below the stated Class I prices in the Pittsburgh and Erie areas. In addition, handlers meeting certain requirements may pay their producers on an "optional" basis. The minimum prices under this plan are about 10 cents below the stated Class I prices. Also, sales of "distressed" fluid milk may be made by handlers for use in certain manufactured products at prices less than the PMCC Class II price. Returns to producers for distressed milk reflect whatever price the handler obtains for the milk less his transportation and handling charges.

The inability of Western Pennsylvania producers to compete equally with out-of-State milk supplies for fluid outlets tends to create instability in the market. The availability of cheaper milk weakens producers' bargaining position and lessens their ability to compete effectively for a Class I market for their milk. Producers in this situation cannot plan their future production program with the certainty of marketing conditions needed for sound management decisions. The proponent cooperatives contend that only a device such as a Federal milk order can provide the marketing environment in which producers may obtain the full economic value of their milk under orderly marketing conditions.

As long as all milk supplies for Western Pennsylvania are not subject to a fully effective classified pricing system, the uncertainty for Western Pennsylvania producers can be expected to continue. This could discourage the continuation of the necessary production resources and thereby threaten the maintenance of an adequate supply of milk for Western Pennsylvania. The application of Federal order regulation to Western Pennsylvania will provide the needed market stability.

All territory in the PMCC Areas 2 and 7 should be included in the marketing area of the proposed Eastern Ohio-Western Pennsylvania order. These areas are the basic sales areas within Pennsylvania of most Pennsylvania handlers who would be regulated under the order. Many of the handlers have distribution routes extending throughout each of the areas and compete with one another for Class I sales. Fluid sales by these handlers in other parts of Pennsylvania are not significant. Similarly, sales in Areas 2 and 7 by handlers operating primarily in other Pennsylvania areas are also insignificant. Western Pennsylvania handlers, while opposing any extension of Federal regulation to that part of the State, indicated that if an order does apply present distribution patterns warrant the inclusion in the marketing area of Areas 2 and 7 in their entirety. On the basis of these factors, it would be inappropriate to exclude from the proposed marketing area any part of Areas 2 and 7.

The Westmoreland County townships of Cook, Donegal, Fairfield, Ligonier, and St. Clair and the boroughs of Bolivar, Donegal, Ligonier, New Florence, and

Seward should not be included in the proposed marketing area. Such areas are included in Area 9 under the PMCC's regulatory program. Some of the sales in this part of Area 9 are made by one or more Area 9 handlers who would not be regulated under the order as proposed herein. Other sales are made by a Pittsburgh handler who advocated the exclusion of these Westmoreland County areas. Evidence does not indicate that the inclusion of such areas in the proposed marketing area is necessary at this time to achieve orderly marketing conditions in Western Pennsylvania.

Regulation of certain Ohio, Pennsylvania, and West Virginia markets under one order. Regulation of the Northeastern Ohio, Youngstown-Warren, and Wheeling marketing areas and PMCC Areas 2 (Pittsburgh) and 7 (Erie) under a single order is the most appropriate means of effectuating the declared policy of the Act. A single Federal order establishing uniform class prices at reasonable levels with a marketwide pool for distributing returns to the producers supplying the market will provide a regulatory program for milk marketing consistent with current marketing conditions and practices.

When the Northeastern Ohio, Youngstown-Warren, and Wheeling orders were issued, they regulated areas that were generally distinguishable as separate markets for particular groups of producers. Similarly, the Pennsylvania Areas 2 and 7 have been considered as separate markets and regulated under separate State marketing orders. Changes in marketing practices during recent years, however, have caused these areas to become generally interrelated in both the procurement and distribution of milk. In view of the marketing trends prevailing throughout these areas, it may reasonably be expected that the interrelationship of the several areas will become even more pronounced in the future.

Sales areas of handlers are no longer confined to local areas. Better highways, improved transportation and refrigeration facilities, and the advent of single-service containers have made it feasible to move packaged milk over long distances. As local health department requirements have become less of an impeding factor, handlers have extended their distribution routes into other areas. The potential sales outlets in the various populated centers, and particularly the increasingly important supermarket business, have encouraged the widespread distribution patterns now prevailing.

Handlers, in attempting to achieve better economies of scale, have concentrated their processing and packaging operations in larger plants that contain the specialized equipment necessary to package milk in the many sizes and types of containers in use today. This has resulted in an increasingly wider geographic distribution from fewer and larger plants. The areas under consideration either adjoin each other or are relatively close to one another. Because distributing plants are scattered widely throughout these areas, only short distances are involved in many cases for operators of these plants to extend their distribution routes into another marketing area.

Some intermarket route distribution patterns in the proposed marketing area were cited in the record. A plant located in the Northeastern Ohio marketing area that is regulated under the Youngstown-Western Pennsylvania stores are supplied 48 stores in Western Pennsylvania. These stores were formerly served by a Pittsburgh handler. A number of Western Pennsylvania stores are supplied by a Northeastern Ohio order plant and two Youngstown-Warren order plants, one of which is located in Pennsylvania. Another Pennsylvania plant is regulated by the Youngstown-Warren order by virtue of its Ohio sales in the Youngstown-Warren marketing area. One handler closed his bottling plants in Erie and Youngstown and is now supplying these areas from his Pittsburgh and Cleveland plants. The handler's sales from his Pittsburgh plant are a significant share of the Class I sales in the Erie area. Some Erie handlers have packaged milk sales in parts of the Pittsburgh marketing area.

Approximately one-third of the total Class I sales in the Youngstown-Warren marketing area are made by four or more Northeastern Ohio handlers. In 1966, Youngstown-Warren handlers sold 8 percent of their total Class I milk in the Northeastern Ohio and Wheeling marketing areas. Packaged milk is sold in the Wheeling marketing area by at least two Youngstown-Warren, three Northeastern Ohio, and two Western Pennsylvania handlers. A Wheeling handler sells milk in Western Pennsylvania.

Such distribution patterns are indicative of the general trend of expanding sales areas of handlers. From a practical standpoint, separate markets within the proposed marketing area for particular groups of producers no longer exist. The cooperatives proposing the single order contend that under this circumstance all producers supplying milk to the several parts of the proposed marketing area should share uniformly the total proceeds of the Class I sales in the area and the burden of the reserve and surplus supplies normally associated with such sales.

The desirability of a single order to achieve greater stability and a more equitable distribution of returns to producers is accentuated by the effect on particular producer groups of shifts of Class I sales and supplies among the several regulated areas. In the smaller Youngstown-Warren, Wheeling, and Erie markets, particularly, a major loss of Class I sales to another regulated area can have a significantly adverse effect on the returns to producers supplying the area. Instances were cited where sales had shifted because of plant closings or other changes in handlers' operations. Handlers operating more than one plant, particularly, represent a potential cause of intermarket shifts of sales. At least eight multiple-plant handlers operate in the several areas that would be regulated by the proposed Eastern Ohio-Western Pennsylvania order. Shifts among handlers of large sales accounts, such as chain stores, also can have a major effect on producer returns in any one regulated area.

A relatively large plant specializing in the manufacture of cottage cheese and sour cream products recently became a pool plant under the Northeastern Ohio order. Products from this plant, which was previously associated with the Pittsburgh marketing area, are distributed in many parts of the proposed marketing area. Northeastern Ohio producers alone, however, rather than producers in the several areas supplied by the plant have this lower-valued Class II milk reflected in their returns.

The five areas under consideration are characterized by a substantial overlapping of milksheds. Northeastern Ohio handlers obtain milk from producers located as far east as the Pennsylvania counties of Clarion and Jefferson, which are also part of the Western Pennsylvania milkshed. Western Pennsylvania handlers, on the other hand, receive milk produced as far west as Tuscarawas, Guernsey, and Noble Counties in Ohio, areas that are also sources of milk for Northeastern Ohio and Wheeling handlers. Other Wheeling sources include Washington and Greene Counties in Pennsylvania, areas from which producers also ship to Western Pennsylvania handlers. Handlers in the Youngstown-Warren area purchase milk from producers in a number of Ohio and Pennsylvania counties from which milk is also delivered to Northeastern Ohio and Western Pennsylvania handlers.

While the sanitary inspection standards vary slightly in various parts of the proposed marketing area, there apparently have been no practical limitations on the movement of milk throughout this area. The States of Ohio and West Virginia reciprocate on health approvals. The State of Pennsylvania and the Pennsylvania county of Allegheny, which utilize different inspection standards, have no reciprocity arrangements on inspection requirements with Ohio and West Virginia. However, many Ohio producers and a number of Ohio plants have Allegheny and/or Pennsylvania health permits. It must be concluded that the health requirements throughout the proposed marketing area are not so different as to be an impeding factor in the adoption of a single regulation for the area.

Regulation of additional Ohio territory. Certain territory in Ohio not now included in any Federal order marketing area should be a part of the proposed Eastern Ohio-Western Pennsylvania marketing area. The additional areas are Carroll, Geauga, and Tuscarawas Counties and the presently unregulated parts of Ashtabula, Columbiana, Mahoning, and Portage Counties.

All Class I sales in Geauga and Portage Counties are made by regulated handlers. Sales in Ashtabula, Carroll, and Columbiana Counties are primarily by Northeastern Ohio, Youngstown-Warren, and Wheeling handlers. A producer-distributor type of operation is located in Carroll County and another in Ashtabula County. Four similar operations are in Columbiana County. It is expected that these producer-distributors would be exempt from the pooling and pricing provisions of the proposed order. A few sales are also made in Carroll County by a presently unregulated Tuscarawas County handler who would be regulated under the proposed order. The record does not indicate any sales in the very small unregulated part of Mahoning County by unregulated handlers. By including these areas, the Eastern Ohio-Western Pennsylvania marketing area will more appropriately represent the basic sales areas of the handlers who would be subject to the proposed order. Not to regulate these areas could provide a competitive advantage for any unregulated handler making Class I sales in the areas.

On the basis of his present sales, the addition of Tuscarawas County will result in the regulation of a handler at New Philadelphia, Ohio. The sales of this handler in Tuscarawas County are approximately half of the total fluid milk sales in the county. About 2 percent of the total sales in the county is also made by a producer-distributor. The remaining sales in Tuscarawas County are by Northeastern Ohio handlers and to a very limited extent by a Columbus order handler.

Regulated handlers selling milk in Tuscarawas County are now at a competitive disadvantage relative to the unregulated New Philadelphia handler on the cost of milk obtained from dairy farmers. Such handlers are required under the order to pay minimum Class I prices for all fluid milk distributed on routes while the unregulated handler may pay only whatever price is necessary to attract a sufficient supply. The New Philadelphia dealer is purchasing milk at the Northeastern Ohio blend price, plus whatever premiums Northeastern Ohio handlers are paying. The difference between the Northeastern Ohio Class I and blend prices in 1966 was 51 cents. The dealer indicated his Class I utilization was about 10 percentage points higher than the Northeastern Ohio market's utilization.

A large proportion of the New Philadelphia dealer's fluid milk sales are in Tuscarawas County. Other Ohio counties in which he has sales include Stark, Harrison, and Carroll. These are counties in which regulated handlers make the majority of the Class I sales. By far the greater portion of the New Philadelphia dealer's sales are therefore in competition with sales of regulated handlers. Regulation of this dealer will merely make his procurement costs comparable to those of handlers with whom he competes.

The presently unregulated part (Litchfield, Spencer, Chatham, Homer, Harrisville, Westfield, and Guilford Townships) of Medina County should not be included in the proposed marketing area. Two relatively small unregulated handlers, one at Oberlin and the other at Ashland, have 7 percent and 5 percent, respectively, of their total sales in this area. Sales are also made there by three Northeastern Ohio handlers, although the extent of such sales is not in the record. The record does not indicate, either, the proportion of total sales in these townships by regulated and unregulated handlers.

The inclusion of this area in the proposed marketing area was not shown to be necessary for the maintenance of orderly marketing. Regulated handlers distributing in these townships presented no testimony for or against extending the marketing area to include the additional territory. In the absence of any compelling need for regulation of these townships, their inclusion in the proposed marketing area is denied.

The proposal to include all of Wayne County in the marketing area is similarly denied. Presently, Sections 1, 2, 3, 10, 11, and 12 of Sugar Creek Township in Wayne County are a part of the Northeastern Ohio marketing area. There was no evidence on the need for extending regulation to the rest of the county.

All producer milk received at regulated plants must be subject to classified pricing under the order regardless of whether it is disposed of within or outside the marketing area. Otherwise, the effect of the order would be nullified and the orderly marketing process would be jeopardized.

If only a pool handler's "in-area" sales were subject to classification, pricing, and pooling, a regulated handler with Class I sales both inside and outside the marketing area could assign any value he chose to his outside sales. He thereby could reduce the average cost of all his Class I milk below that of other regulated handlers having all, or substantially all, of their Class I sales within the marketing area. Unless all milk of such a handler were fully regulated under the order, he in effect would not be subject to effective price regulation. The absence of effective classification, pricing and pooling of such milk would disrupt orderly marketing conditions within the regulated marketing area and could lead to a complete breakdown of the order. If a pool handler were free to value a portion of his milk at any price he chooses, it would be impossible to enforce uniform prices to all fully regulated handlers or a uniform basis of payment to the producers who supply the market. It is essential, therefore, that the order price all the producer milk received at a pool plant regardless of the point of disposition.

In the course of the operation of the order, the question may arise as to whether waterfront facilities or any territory within the boundaries of the designated marketing area which is occupied by Government (municipal, State, or Federal) reservations, installations, institutions, or other establishments shall be considered as within the marketing area. So that there will be no doubt as to the meaning or the intent of the application of the marketing area definition in the order, it should be indicated that the marketing area shall include all waterfront facilities connected with the designated geographical units and any territory wholly or partly within the area which is occupied by Government (municipal, State, or Federal) reservations, installations, institutions, or other establishments.

3. (a) *Milk to be priced and pooled.* It is necessary to designate clearly what milk and which persons would be subject to the order. This is accomplished by providing definitions to describe the category of persons, plants, and milk products to which the applicable provisions of the order relate.

The proposed amended order continues in a substantial manner the Northeastern Ohio order provisions which have been appropriate in achieving the ends sought by the regulations. The record shows that they will be no less suitable in achieving these ends under the proposed order for the enlarged marketing area. In those instances in which specific provisions of the amended order are substantively different from the Northeastern Ohio order, the justification therefor is set forth in the findings of this decision.

Definition of plants. Essential to the operation of a marketwide pool is the establishment of minimum performance requirements to distinguish between those plants substantially engaged in serving the fluid needs of the order market and those plants which do not serve the market in a way, or to a degree, that warrants their sharing (by being included in the market pool) in the market average utilization of Class I milk. Such distinction is necessary; otherwise, the proceeds of the higher Class I price would be dissipated by including in the market pool additional quantities of milk which were acquired by handlers primarily for manufacturing purposes. Such dissipated proceeds could accrue to the benefit of producers supplying milk to handlers who do not regularly or dependably furnish the fluid milk needs of consumers in the marketing area. Unless adequate standards of marketing performance are provided to determine which milk and plants will participate fully in the market pool funds, the uniform price of the market could be depressed to the point that it would not serve its function of attracting an adequate supply of milk for the fluid needs of the market without a Class I price higher than otherwise would be necessary.

Since Class I price increases are generally passed on to the public, such price increases necessitated solely because of inadequate performance standards for regulation would be contrary to the public interest. Therefore, in order to share in market pool funds, it is essential that plant operators perform marketing functions (i.e., deliver milk to market in specified amounts or proportions) which contribute to providing adequate and dependable market supplies. The marketing performance standards are essential provisions of a milk order if it is to attain the statutory purpose of assuring adequate supplies of milk in the most economical manner and in a way that best serves the public interest. The marketing

performance standards also minimize the effects of regulation on handlers who have only a minor proportion of their distribution in the regulated market. They do this by exempting such handlers from full regulation.

Any plant, wherever located, may become a pool plant if it meets the marketing performance standards for regulation which are equal for all plants performing the same function. The performance standards for regulation of a plant are an essential means of assuring the regulated market of adequate and dependable supplies of milk. It should be emphasized that these performance standards do not impede the shipment of milk to regulated markets. Quite the contrary. Because they require milk to be shipped to the market in order to share in the market pool funds, they encourage milk shipments for Class I use which otherwise might not be made. This incentive is achieved by preventing plants which do not ship milk in accordance with the prescribed standards from sharing in the pool fund. The performance standards are thus the opposite of a barrier to the shipment of milk to the market.

Because of the difference in marketing practices and functions between distributing plants and supply plants, separate performance standards have been provided for them.

A "distributing plant" would be defined as a plant in which milk approved by a duly constituted health authority for fluid consumption is processed or packaged and which has some route disposition in the marketing area during the month.

To qualify as a pool plant, a distributing plant would be required to meet performance standards as to the proportion of its supply used in route disposition, including such disposition in the marketing area. Thus, pool distributing plants would include only those plants primarily engaged in the distribution of fluid milk products. The plant's total route disposition, both inside and outside the marketing area, should be at least 50 percent (40 percent monthly in April through August) of its receipts from all sources of fluid milk products that are approved by a duly constituted health authority for fluid consumption and that are physically received at such plant or diverted as producer milk to a nonpool plant. The route disposition in the marketing area of such a plant should be at least 15 percent of its total receipts.

A plant from which Class I milk is distributed regularly in the marketing area may under normal circumstances be expected to dispose of its milk in such a way as to exceed by a reasonable margin the minimum performance standards necessary to qualify as a pool plant. At least three plants having some distribution in the proposed marketing area would not qualify for pool status under the proposed order or any other Federal order. Less than 15 percent of their receipts is disposed of as Class I in the marketing area; their major distribution is in areas that are unregulated by Federal orders. Also, there may be from time to time other plants supplying milk to the marketing area which would not qualify for pool status. Such plants should be required to file reports, make available their records for audit by the market administrator, and be subject to payment on terms hereinafter discussed if they are not fully subject to regulation under the order.

In their initial proposal, producers did not propose that a minimum percentage of a plant's receipts be disposed of in the marketing area to qualify a distributing plant for pooling. To qualify for pooling under that proposal, a plant with total route disposition of at least 50 percent (40 percent in some months) of its total receipts on routes both inside and outside the marketing area would qualify as a pool plant. This would enable a distributing plant having no association with the market to pool its total dairy farmer receipts by a token sale in the marketing area. At the hearing, however, producers took the position that a reasonable minimum in-area disposition requirement to qualify a distributing plant for pooling was necessary under current conditions in the proposed marketing area.

The operator of a plant outside the marketing area who has some distribution in the area proposed that the in-area Class I disposition of a distributing plant be at least 15 percent of its receipts to qualify it as a pool plant. This provision, which has been applicable and found to be appropriate in a number of orders, was supported by others at the hearing.

Essentially all, if not all, of the distributing plants that are pool plants under the Northeastern Ohio, Youngstown-Warren, and Wheeling orders have the preponderance of their route distribution in the Eastern Ohio-Western Pennsylvania marketing area. This is equally true with respect to the many distributing plants in Pennsylvania that would be regulated by the proposed order. The requirement that a distributing plant have 15 percent of its receipts disposed of in the marketing area would in no way change the status of these plants for pooling under the proposed order.

The principal purpose of a minimum in-area distribution requirement to qualify a distributing plant for pooling is to assure that it is associated with the market in a significant and regular manner. Otherwise, dairy farmers and handlers who ordinarily have no affiliation with the market could casually or incidentally associate themselves with the market when it was to their advantage to share unwarrantedly in the monthly Class I proceeds of the market. The pooling requirement that 15 percent of a plant's receipts be route disposition in the marketing area will not only provide a safeguard against such an exploitation of the pool but will also provide an appropriate measure of a plant's association with the market.

The in-area route disposition requirement for pooling would not restrict any milk plant operator from disposing of any fluid milk products in the marketing area. Any plant having more than a minor, or accidental, association with the fluid milk market could be eligible for pooling. On the other hand, the operator of any plant only marginally associated with a fluid milk market has a reasonable opportunity to make a choice of full or partial regulation, whichever might better serve his interest.

The requirement that a distributing plant's total route disposition be at least 50 percent (40 percent monthly in April–August) of its receipts to qualify for pooling is similar to that now provided in the Northeastern Ohio order and proposed by producers for the new order. These minimum percentages of a plant's receipts that must be disposed of on routes to qualify distributing plants for pooling have been satisfactory under the Northeastern Ohio order and, in conjunction with the minimum in-area sales requirement herein provided, should be equally appropriate under the conditions in the proposed marketing area. They are also similar to the comparable provisions in nearby orders. As such, they will facilitate the coordination in the marketing of milk from common supply areas.

The lower percentage requirement of route sales to qualify for pooling in the April–August period recognizes that some distributing plants handle reserve supplies of milk for the market during these months of seasonally high production and that sales to schools, which are closed in July and August, are a significant portion of the Class I sales from some plants. Requiring minimum route distribution from a plant of 40 percent instead of 50 percent of its receipts during these months will facilitate the handling of milk at such plants without endangering their pooling status or forcing them to drop producers.

Limited quantities (as provided in the attached order) of Class I milk may be sold within the regulated marketing area from plants not under any Federal order. There is, of course, no way to treat such unregulated milk uniformly with regulated milk other than to regulate it fully. Nevertheless, it is concluded that in present circumstances the application of "partial" regulation to plants having less association than required for marketwide pooling will not jeopardize marketing conditions within the regulated marketing area. Official notice was taken at the hearing of the Assistant Secretary's June 19, 1964, decision (29 F.R. 9002) supporting amendments to 76 orders, including the Northeastern Ohio, Youngstown-Warren, and Wheeling orders, in which the matter of partial regulation was discussed. That decision as it relates to an unregulated plant having some Class I distribution in the marketing area is appropriate under current conditions in the proposed marketing area and is adopted in its entirety.

The operator of any partially regulated plant would be afforded the options of: (1) Paying an amount equal to the difference between the Class I price and the uniform price with respect to all Class I sales made in the marketing area; (2) purchasing at the Class I price under any Federal order sufficient Class I milk to cover his limited disposition within the marketing area; or (3) paying his dairy farmers not less than the value of all their milk computed on the basis of the classification and pricing provisions of the order (the latter representing an amount equal to the order obligation for milk which is imposed on fully regulated handlers).

While all fluid milk sales of the partially regulated plant would not necessarily be priced on the same basis as fully regulated milk, the provisions described are, however, adequate under most circumstances to prevent sales of milk not fully regulated (pooled) from adversely affecting the operation of the order. They should be adopted in this order to complement the pooling requirements on fully regulated plants adopted herein.

"Supply plant" is the other plant category for which standards for pooling must be provided. A supply plant would be defined to mean a plant from which a fluid milk product acceptable to a duly constituted health authority is shipped during the month to a pool plant.

The proposed standards by which supply plants would qualify for pooling as presented at the hearing vary from as "liberal as possible" to as "tight as possible." The tightest shipping standards proposed would require a supply plant to ship at least 60 percent of its receipts to pool distributing plants to qualify as a pool plant in each month of July through February and 55 percent during the month to qualify in March–June. Under this proposal, a supply plant would be required to establish its qualification as a pool plant each month. No provision would be made for automatic pooling in months of heavy production on the basis of having qualified as a pool plant in specified preceding months.

The most liberal qualifying provisions would enable a plant to qualify as a pool plant in August–January on the basis of monthly shipments of 10 percent of its receipts. No shipments would be required for qualification in February–July if during the preceding August–January the plant had shipped at least 20 percent of its receipts during the total period and not less than 10 percent monthly. These requirements would be reduced further by enabling two or more supply plants to be considered as one plant for the purpose of determining their pool plant qualifications.

As proposed by major producer associations in the market, any supply plant could qualify as a pool plant in any month by shipping at least 50 percent of its receipts to pool distributing plants. However, a supply plant would be allowed to retain its pool plant status in the following February–August without making any shipments if it shipped during September–January at least 30 percent monthly and 30 percent for the entire period. After a plant had once qualified in this manner, it could continue to pool in the following September–January period with minimum shipments to pool plants of 30 percent monthly.

Under the Northeastern Ohio order, a supply plant may qualify for pooling in any individual month by shipping 30 percent of its receipts. A supply plant that had shipped 10 percent of its receipts monthly in August–January and 30 percent of its total receipts during that period to pool distributing plants would not be required to make any shipments in the following February–July to qualify as a pool plant in those months. In addition, once a plant had thus qualified it would be required to ship only 10 percent of its receipts monthly to a pool distributing plant in the following August–January to qualify for pooling in those months.

Under the Northeastern Ohio order, a plant operated by a cooperative may be designated a pool plant if during the immediately preceding 6 months at least half the milk of its producer-members was received at the pool plants of other handlers. That order also provides that two or more supply plants operated by the same handler may be considered as one plant in qualifying the plants for pooling.

Under the Youngstown-Warren order, a supply plant must ship at least 50 percent of its receipts to pool distributing plants to qualify for pooling in any individual month. A supply plant thus qualified for each month of September–January would be accorded pool plant status for the following February–August without being required to ship.

The Wheeling order requires monthly shipments of 55 percent of receipts to qualify a supply plant for pooling in an individual month and accords pool plant status in the following February–August to a plant that was a pool plant in September–January.

Pooling standards for supply plants should not be so high that they force uneconomic shipments of milk from supply plants to qualify such plants when such milk is not needed for Class I purposes in the market. At the same time, an appropriate minimum standard is needed to avoid the possibility that plants will refrain or refuse to supply the market when milk is needed for the Class I needs of consumers in the market.

It is inappropriate to include in the pool to receive the benefit of the uniform price those plants which are not a regular or dependable part of the market supply. Such plants, in which the principal operation is the utilization of milk in the manufacture of dairy products (which utilization returns to producers the Class II price), may be attracted to the pool only to participate in the higher valued Class I utilization of the fluid market without supplying the Class I fluid milk needs of consumers in the market.

A major function of the supply plant pooling standards is to insure that handlers who are processing milk and distributing it for sale primarily to consumers in the marketing area can regularly and dependably obtain milk from supply plants to meet their fluid milk requirements. Without such standards, supply plants would tend to keep milk at their plants for manufacture when it was to their advantage to do so.

To qualify for pool plant status, a supply plant should ship to distributing plants which are pool plants a specified percentage of its receipts of milk from dairy farmers whether received directly from them or from a cooperative in its capacity as a handler on farm tank milk. Such shipments should be at least 50 percent in each of the months of September, October, and November and 40 percent in other months. A plant meeting these qualifications is making a substantial contribution toward providing an adequate supply for the market and may reasonably be considered an integral part of the fluid milk supply for the market. A supply plant from which a proportionately lesser quantity of milk is disposed of in this manner, without otherwise having established a continuing association with the market, should not under present conditions be considered as contributing sufficiently to the market supply to share in the pool funds.

The demand for supply plant milk is less during the flush production months than during other months of the year. Requiring qualifying shipments to distributing plants during such flush production months would result in the uneconomical movement of milk. It is appropriate, therefore, that the shipping requirements in such months for a plant that has demonstrated an association with the market be less than in other months. It is thus provided that a supply plant that was a pool plant in each of the immediately preceding months of September through February shall be a pool plant for the months of March through August irrespective of its shipments, unless the operator of such a plant elects nonpool status for the plant or the milk received at the plant does not continue to meet the requirements of a duly constituted health authority.

Providing pool status to a plant in March through August on the basis of shipments in the preceding months will provide producer status for dairy farmers shipping to plants which are thus recognized as regular suppliers to the market. A plant should be permitted to withdraw from pool status, however, at the operator's option in any of the months of August through March in which it has not otherwise qualified as a pool plant. In such case, it would not acquire pool status until it again met a minimum shipping requirement.

The pooling standards for supply plants herein proposed are reasonable and appropriate under current conditions in the proposed marketing area. In conjunction with other provisions of the proposed order, they will enable the dairy farmers associated with qualified supply plant to keep their milk pooled under the order throughout the year and will insure orderly and stable marketing conditions.

A significant portion of the milk utilized at plants that would be pool dis-

tributing plants under the proposed order is received from supply plants. Of the 143 million pounds of producer milk pooled under the Northeastern Ohio order in 1966, 34.5 percent was received at regulated supply plants. There are no supply plants under the Youngstown-Warren and Wheeling orders. Although federally unregulated distributing plants that would be pooled by the proposed order receive milk from supply plants, the total quantity of milk received at such supply plants from dairy farmers was not available on the record.

The recent experience under the Northeastern Ohio order shows that supply plants are shipping increasing proportions of their dairy farmer receipts to pool distributing plants in the marketing area. The 11.6 million pounds of milk moved from pool supply plants under the Northeastern Ohio order to marketing area plants in 1962 was but 26 percent of their producer milk receipts. By comparison, in 1966 the 26.6 million pounds shipped was 55 percent of the producer receipts at regulated supply plants. The trend of supply plants shipping increasing proportions of their dairy farmer receipts to the marketing area is further indicated by the percentage of such shipments in the intervening years of 1963, 1964, and 1965 of 35, 45, and 54 percent, respectively.

In the 3 years of 1964, 1965, and 1966, the lowest monthly percentage shipments of producer receipts from Northeastern Ohio supply plants were in the months of March through August. These are the months, as herein proposed, during which a supply plant that had established an association with the market by qualifying as a pool plant in the immediately preceding 6 months, would not be required to make any shipments to pool. The lowest percentage of total shipments from supply plants to the marketing area in this 36-month period was 31 percent in the months of May and June 1964. Subsequent to July 1964, the percentage of shipments from regulated supply plants to the marketing area was not less than 40 percent in any month. The highest proportion of milk was shipped from supply plants to the marketing area in the months of September, October, and November, the months under the proposed order that a supply plant must ship at least 50 percent of its receipts to qualify. In 1966, shipments from Northeastern Ohio order supply plants to pool distributing plants were 62 percent of their producer receipts in September, 64 percent in October, and 65 percent in November.

Although the percentage shipments from regulated supply plants to the marketing area under the Northeastern Ohio order as cited above are based on the combined receipts and shipments of all plants, there is no indication that they are not representative of individual plants or that any supply plant whose dairy farmer deliveries are now pooled under the Northeastern Ohio order would be unable to meet the standards under the proposed order.

If they are an integral part of the Class I supply of the distributing plants, it may reasonably be expected that those federally unregulated supply plants now shipping to distributing plants that would be regulated by the proposed order would qualify as pool plants. If some such plants are only incidental or irregular sources of supply of fluid milk for marketing area plants, they should not be included in the marketwide pool. To do so would unwarrantedly dilute the pool returns to the producers on whom the market depends for an adequate and regular supply of Class I milk.

Any plant that would have been a pool plant under the proposed order (had it been in effect) in any month subsequent to August 1967 should be considered to have been a pool plant for such month for the purpose of determining its pool plant status. Such a provision is necessary to insure that all plants under the order would be accorded equitable treatment in qualifying as pool plants, irrespective of the effective date of the order. Should the proposed order become effective in March 1968, for example, a supply plant that would have been a pool plant under the order in the preceding months of September through February would thereby qualify as a pool plant for the months of March through August 1968.

Elsewhere in this decision, a cooperative is accorded handler status with respect to milk of member-producers which it causes to be diverted to a nonpool plant for its account. Milk so diverted is deemed to have been received by the cooperative at the pool plant from which diverted. For the purpose of determining the pool status of a plant, milk so diverted (as well as milk diverted for the account of the plant operator) would be considered as a receipt from dairy farmers at such plant to the extent that it would not result in nonpool status for such plant. Otherwise, it would be possible for a cooperative to pool limitless quantities of milk that have no association with the market and that are intended for and used solely for manufacturing purposes at an unregulated plant.

The proposal to designate as a pool plant a plant that is within a specified area and is operated by a cooperative whose producer-members deliver at least two-thirds of their combined monthly production to pool plants of other handlers should be denied. This proposal, which was opposed by various producer associations and handlers as "special class legislation", would accord pool plant status to a specified plant and would otherwise have no application under the order. The witness for the cooperative proposing pool status for the plant stated that this plant could otherwise qualify as a pool plant and that the particular provision they proposed was presently unnecessary. A similar provision is now contained in the Northeastern Ohio order and has apparently performed a useful purpose in the past in enabling the cooperative plant to serve as a balancing plant for the market. Under curent marketing conditions, however, the provision is not necessary or warranted under the proposed order.

The Northeastern Ohio order now exempts from the provisions of the order (except for reporting) any distributing plant located outside the marketing area that distributes in the marketing area not more than 300 points (one point being defined as one half-pint of cream or one quart of any other fluid milk product) of Class I milk per day on routes operated wholly or partly within the marketing area and is not otherwise qualified as a pool plant. Testimony at the hearing indicated that exempting this type of operation from the provisions of the proposed order is not desirable or justifiable under current marketing conditions.

It is not expected that this provision would result in exempting from the order any handler now operating in the proposed marketing area. The value this provision may have had in the Northeastern Ohio order in the past is not equally applicable under the proposed order, especially since the in-area sales standards for pooling in the proposed order are significantly different from those in Northeastern Ohio.

The Northeastern Ohio order now provides that a distributing plant be a pool plant in any month in which it has any route disposition in the marketing area. The 300-point exemption is complementary to the present pooling standard in that a distributing plant located outside the marketing area with only minor or irregular, or perhaps even accidental, sales in the marketing area would not be subject to full regulation. Such limited sales have not been considered sufficient to justify imposing the burden of full regulation on a plant that has so little association with the regulated market.

The proposed order provides that a distributing plant must have route disposition in the marketing area of at least 15 percent of its receipts to qualify for pooling. A plant with lesser in-area route disposition would not be subject to full regulation. In this circumstance, the 300-point exemption provision in unnecessary to relieve the plant from the burden of full regulation where only limited sales in the marketing area are involved.

In view of the above, the proposal to exempt a handler from the provisions of the order because of the location of his plant and/or a minimum route distribution in the marketing area should be denied.

The establishment of bulk tank units to form the basis for pooling and pricing milk should be denied. As proposed, a handler receiving milk from farmers in tank trucks would be permitted to designate one or more bulk tank units consisting of the production of one or more farmers as a "pool bulk tank unit" or a "nonpool bulk tank unit". A provision for bulk tank units is contained in the New York-New Jersey order but not in any other Federal milk order. It was not established that its use would have any value under the proposed order. Neither was it shown that there existed inadequacies or deficiencies in the type of

pool plant provisions herein proposed that would be rectified by the adoption of a bulk tank unit provision in the Eastern Ohio-Western Pennsylvania order.

The proposal that a handler may qualify as pool plants a distributing plant and a supply plant by considering them as one plant and by meeting pooling standards for a distributing plant on the basis of their combined receipts and route distribution should be denied.

The standards by which distributing plants and supply plants may qualify for pooling are significantly different. A distributing plant, to obtain pool status, must have established its function as a distributing plant and an association with the market on the basis of its route distribution in the marketing area. A supply plant's requirements to pool are based solely on its shipments to pool distributing plants. A supply plant, whether or not affiliated or controlled by the operator of a distributing plant to which it ships, should appropriately establish its association with the market by its shipments to pool distributing plants.

Under the handler's proposal, pool plant status could be obtained by a supply plant solely because it was operated by, or under some control of, the operator of a pool distributing plant. Hence, such a supply plant, devoted exclusively to the utilization of milk for manufacturing purposes and/or having no association with the market, could be pooled under the order. This could have the effect not only of diluting the pool at the expense of producers regularly supplying the fluid market but also of impairing the maintenance of an adequate supply of milk for the market.

The same proposal would enable the combined operation of two or more distributing plants to be considered as one plant to qualify such plants as pool plants. The performance standards herein provided for distributing plants determine a plant's association with the market on the basis of the route distribution from that plant. To allow individual distributing plants to qualify as pool plants on the basis of a combined operation could result in pooling distributing plants that have no real association with the market. In effect, it would enable a distributing plant with a token distribution in the marketing area to be pooled under the order on the basis of an indicated affiliation with a pool distributing plant. It was not shown at the hearing that such a provision in the order was desirable or would contribute to orderly marketing. Moreover, such a proposal would tend to depreciate and be inconsistent with the minimum pooling standards for distributing plants provided in the attached order, which standards are found by this decision to be appropriate and necessary to effectuate the intent of the Act.

The proposal whereby a handler may qualify two or more supply plants as pool plants by considering the combined operation as one plant should be denied.

The principal argument advanced by proponents for incorporating such a pooling provision in the proposed order is that it is provided for in some orders. It was not established, however, that the basis on which such a provision was incorporated in such orders is applicable under the conditions in the proposed marketing area.

No testimony was presented to show that the proposed provision is necessary to qualify any supply plant that may reasonably be considered an integral part of the market supply of Class I milk. Neither was it shown that it would be to the benefit of producers regularly supplying the market. Proponents of the joint plant pooling, and the lower pool plant standards resulting therefrom, emphasized that they should be permitted to pool under the order the milk deemed necessary to maintain manufacturing operations considered by them to be incidental to or a part of their fluid milk business. Accordingly, a handler would be free to pool under the order the total dairy farmer receipts at a plant having no association with the fluid market and utilizing its total receipts for manufacturing purposes.

The pooling standards herein provided for supply plants is based on their performance in supplying Class I needs of the market. It is not the purpose of the order to include in the pool the milk received from dairy farmers at plants that are primarily engaged in manufacturing dairy products and that are not a part of the dependable supply of milk for the fluid market. The record evidence does not indicate that system pooling, under current conditions in the proposed marketing area, would contribute to orderly marketing or would otherwise tend to effectuate the intent of the Act.

Fluid milk products are distributed in the marketing area from plants that are fully subject to the classification and pricing provisions of other Federal milk orders. Full regulation under the proposed order should not be extended to such plants disposing of a major portion of their receipts in another regulated market. To do so would subject milk handled at such plants to duplicate regulation. The market administrator should, however, be apprised of the continuing status of such a plant. Accordingly, the operator thereof should submit to the market administrator reports of the total receipts and utilization or disposition of skim milk and butterfat at the plant at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

The operator of a plant from which milk is disposed of in this and another marketing area should be able to determine definitively and on a current basis the order under which the milk handled at his plant will be priced and pooled. A distributing plant that qualifies as a pool plant under this and other order in the same month should appropriately be pooled under this order if a greater volume of fluid milk products is disposed of from the plant in this marketing area on routes and to pool distributing plants than is so disposed of from such plant in the marketing area of the other order. This method of determining the status of a plant that qualifies as a pool plant under this and another order in the same month is reasonable and equitable and should be incorporated in the Eastern Ohio-Western Pennsylvania order.

Under some conditions, route dispositions from a plant regulated by the New York-New Jersey Federal order outside the marketing area of that order or to a nonpool plant may be exempt from the pricing and pooling provisions of that order. The record does not indicate whether any fluid milk products from New York-New Jersey order plants are now disposed of on routes in the proposed marketing area or to handlers who would be regulated by the proposed order. The record does indicate, however, that milk is available from New York-New Jersey order plants to handlers under the proposed order.

In the event that milk is moved from a New York-New Jersey order plant without being subject to the pricing and pooling provisions of that order, it should be handled under the proposed order in the same manner as any other route disposition in the marketing area from an unregulated distributing plant or receipt of fluid milk products at a pool plant from an unregulated supply plant. Actually, such milk is in the same category as unpriced milk received from an unregulated plant and it would be inappropriate to handle in any manner defferent from milk received from an unregulated plant.

In view of the above, the order should provide, with respect to fluid milk products which are not priced and pooled pursuant to any order issued pursuant to the Act and which are disposed of from an other order plant on routes in the marketing area or to a pool plant, that an other order plant would be considered a partially regulated distributing plant with respect to the route disposition and an unregulated supply plant for the deliveries to pool plants.

A definition of "nonpool plant" is provided to facilitate formulation of the various order provisions as they apply to such a plant. A nonpool plant would mean a plant (except a pool plant) which receives milk from dairy farmers or is a milk manufacturing, processing or bottling plant. Specific categories of nonpool plants would be defined as follows:

(1) "An other order plant" is a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act unless such plant is qualified as a pool plant under this order and a greater volume of fluid milk products is disposed of from such plant in this marketing area as route dispositions and to pool distributing plants than is so disposed of from such plant in the marketing area regulated pursuant to such other order;

(2) "Producer-handler plant" is a plant operated by a producer-handler as defined in any order (including this order) issued pursuant to the Act;

(3) "Partially regulated distributing plant" is a nonpool plant that is a distributing plant and is not an other order

plant or a producer-handler plant. A partially regulated distributing plant would also include an other order plant with respect to route dispositions from such plant in the Eastern Ohio-Western Pennsylvania marketing area which are not priced and pooled pursuant to any order issued pursuant to the Act; and

(4) "Unregulated supply plant" is a nonpool plant that is a supply plant and is not an other order plant or a producer-handler plant. Unregulated supply plant would also include an other order plant with respect to fluid milk products which were received at a pool plant from such other order plant and which are not priced and pooled pursuant to any order issued pursuant to the Act.

Handler. The primary impact of regulation under an order is on handlers. A handler definition is necessary to identify those individuals from whom the market administrator must receive reports, or who have financial responsibility for payment for milk in accordance with its classified use value. As herein provided, the definition includes (a) persons operating pool plants; (b) a person operating a partially regulated distributing plant; (c) a cooperative association with respect to producer milk diverted from a pool plant to a nonpool plant for its account; (d) a cooperative association with respect to its members' milk delivered in a tank truck under its control from the farm to a pool plant; (e) a person in his capacity as the operator of an other order plant; and (f) a producer-handler.

Designating as handlers the operators of the various types of plants that may be associated with the market is necessary so that the market administrator may require of them the reports to determine the regulatory status of the plants.

The principal cooperatives in the market assume the responsibility of balancing supplies among various handlers. Milk not needed for fluid uses generally can be most economically handled by diversion directly to manufacturing plants. To facilitate such handling, a cooperative is accorded handler status for milk which it causes to be diverted to nonpool plants for its account.

Requiring a cooperative to be a handler for milk delivered from the farm to a pool plant in a tank truck owned and operated by or under contract to the cooperative will afford a practicable basis of accounting for such milk. In addition, it will provide added flexibility to a cooperative's operations in allocating its members' milk among handlers and will facilitate the diversion of such milk to nonpool plants when it is not needed at regulated plants.

Once milk from a producer has been commingled with milk of other producers in a tank truck, there is no further opportunity to measure, sample, or reject the milk of any individual producer whose milk is included in the load. A similar situation prevails when the milk of an individual producer is delivered in a tank truck to two or more plants. The operator of a pool plant to which bulk tank milk is delivered has an opportunity to determine only the weight and butterfat test of the total load.

If a tank truck picking up milk at the farm is operated under the supervision of a cooperative association, it is the association that determines the weight and butterfat content of each producer's milk. Handlers have no control and generally take no part in determining the weight and butterfat tests of milk at the farm. In some instances, handlers may not even know from which farms their milk is shipped.

The milk delivered by the cooperative as a bulk tank handler would be considered as a receipt of producer milk by the operator of the pool plant at which it was physically received. The pool plant operator's obligation for such milk to the producer-settlement fund, to the administration fund and to the cooperative would be the same as for producer milk received directly from the farm of an individual producer.

In some instances, as discussed elsewhere in this decision, differences between the quantities of producer milk determined at the farm and ascertained as physically received by the operator of the pool plant would be considered a receipt of producer milk by the cooperative at the location of the pool plant. For such differences the cooperative (instead of the pool plant operator) would be required to settle with the producer-settlement and administration funds.

Producer-handler. "Producer-handler" should be defined as any person who:

(a) Operates a dairy farm and a distributing plant and who received no fluid milk products from other dairy farmers or from sources other than pool plants; and

(b) Provides proof satisfactory to the market administrator that the care and management of all the dairy animals and other resources necessary to produce the entire volume of fluid milk products handled (excluding receipts from pool plants) and the operation of the processing and packaging business are his personal enterprise and risk.

The order is not intended to establish minimum prices for producer-handlers but they should be required to make reports to the market administrator. Such reports are necessary to determine whether the operator continues to meet the producer-handler definition.

The producer-handler definition herein provided was proposed by producers and is essentially the same as that contained in a number of orders, including the Youngstown-Warren order. The various handler proposals, however, would provide more restrictive qualifications than herein proposed, including provisions that a producer-handler (1) receive no fluid milk products from sources other than his own farm production, (2) distribute on routes not in excess of a specified average daily amount (e.g., 300 quarts), (3) purchase not in excess of a limited quantity of fluid milk products from pool plants and (4) sell no milk to other handlers.

The exemption of a producer-handler from the pricing and pooling provisions of the order should be limited to bona fide producer-handlers. It is appropriate, therefore, to provide that to maintain producer-handler status, the maintenance, care and management of the dairy animals and other resources necessary to produce milk and the processing, packaging and disposition of milk shall be the personal enterprise and risk of the person involved. The term producer-handler is not intended to include any person who does not accept responsibility and risk for the operation of the plant in which the milk of his own production is processed and packaged for sale.

A producer-handler is in a position to adjust his farm production closely to the needs of his fluid milk business. It was not established that exempting from the order the handlers with own farm production who qualify as producer-handlers would affect adversely the competitive position of regulated handlers. Those who proposed more restrictive qualifications for producer-handlers did not show that producer-handlers have an advantage in their Class I sales or are a disruptive factor in the market.

As herein proposed, a producer-handler would be required to handle his own surplus. Any milk disposed of by him to a regulated plant would necessarily be surplus to his operation. Accordingly, the milk received at a pool plant from a producer-handler would be classified and priced as Class II milk in computing the pool plant operator's obligation to the producer-settlement fund. In this manner, no advantage would accrue to the producer-handler or the pool plant operator at the expense of other regulated handlers and producers supplying the market.

A producer-handler should be permitted to purchase fluid milk products from pool plants but from no other source without losing his producer-handler status. Such purchases should be classified as Class I. This will insure that any fluid milk products purchased by a producer-handler will not represent a lower priced source of supply, as might be the case if he were permitted to purchase fluid milk products from nonpool sources.

To permit producer-handlers to purchase fluid milk products from sources other than pool plants without becoming fully regulated would give them an unwarranted competitive advantage over other handlers in the market. This is so because they would be able to obtain the full value of their Class I sales for themselves without assuming the burden of their own surplus. However, as long as their Class I needs are obtained from their own production and from pool plants and they handle their own excess production, producer-handlers will not have any significant advantage over regulated handlers under present marketing conditions.

Producer. "Producer" should mean any person except a producer-handler as defined in this or any other order issued pursuant to the Act who produces milk in compliance with the inspection requirements of a duly constituted health authority, which milk is received at a pool plant or diverted to another plant under certain conditions. The producer definition will provide the necessary distinction between the production of those farmers whose milk will be priced and pooled each month under the order and the receipts at handlers' plants from all other sources.

"Producer" should not include a person with respect to milk that is physically received at a pool plant as diverted milk from an other order plant if a Class II classification under this order is designated for such milk and it is subject to the pricing and pooling provisions of another Federal order. Such a provision will contribute to orderly marketing by facilitating the movement of milk for manufacturing purposes from an other order plant to a pool plant.

Producer milk. "Producer milk" is intended to include all milk that is fully regulated by the order. Accordingly, it should be defined as all skim milk and butterfat contained in milk received at a pool plant directly from dairy farmers and milk diverted from a pool plant to other plants under certain conditions. As provided elsewhere in this decision, milk delivered by a cooperative as a bulk tank handler would be considered as a receipt of producer milk by the pool plant operator at the pool plant at which it was physically received.

When producer milk is not needed in the fluid market because of seasonal or day-to-day variations in demand, it may be more economical to deliver it directly to a nonpool plant for manufacturing instead of receiving it at a pool plant before transferring it to such manufacturing facilities. The testimony presented at the hearing emphasized the need for maintaining reasonable diversion provisions to accommodate the efficient handling of producer milk under the proposed order.

Under the Northeastern Ohio order, milk may be diverted to a nonpool plant without limit in April through July. In other months, at least 6 days' production of the producer must be delivered to a pool plant during the month to qualify his production for diversion during the remaining days of the month. Diversion between pool plants is allowed under the Northeastern Ohio order in any month if at least 6 days' production of the producer is delivered to the plant from which diverted during the month.

The Youngstown-Warren and Wheeling orders provide for unlimited diversions to nonpool plants in March through July. In other months, not more than 10 days' production of a producer may be diverted to a nonpool plant during the month. Unlimited diversions to other pool plants are allowed under the Wheeling order. The Youngstown-Warren order does not provide for such diversions.

Under all three orders, diverted milk is priced at the location of the plant from which diverted. None provides for diversions to other order plants.

The diversion provisions for the proposed order, as proposed by the principal producer associations in the market, would provide for unlimited diversions to nonpool plants in April through July, as now provided in the Northeastern Ohio order. For other months, they proposed that at least 15 days' production of a producer during the month be delivered to a pool plant to qualify any of that diversions to other order plants be allowed under certain conditions, and that diverted milk be priced at the location of the plant from which diverted.

Except for pricing some milk at the plant to which diverted under certain conditions, the diversion provisions in the attached order are substantially those proposed by producers. They are appropriate under conditions in the Eastern Ohio-Western Pennsylvania market. The requirements herein adopted whereby the milk of a producer may be physically moved to another plant as diverted milk without losing its identity as producer milk are sufficient to establish a producer's association with the fluid market and at the same time permit the necessary flexibility in diverting milk not needed for fluid use.

The producer proposal that at least 15 days of the monthly production of a producer in August through March be delivered to a pool plant to qualify his deliveries to nonpool plants as producer milk is equitable and appropriate to the extent that it qualifies as producer milk diversions to nonpool plants equal to the quantities delivered to pool plants in the same month. It is inappropriate, however, as proposed by producers, to provide that no milk of a producer diverted to a nonpool plant in August through March may be considered as producer milk unless at least 15 days' production of the producer was delivered to pool plants in the same month. Such a provision is not necessary to insure the integrity of the regulation and would tend to work inequities on producers. The intent of the Act would more appropriately be effectuated by providing for August through March that a producer may divert to a nonpool plant as producer milk as much of his monthly production as was delivered to pool plants in the same month, irrespective of the number of days his milk was delivered to a pool plant. Such a qualification is reasonable, will be equitable to all producers, and will tend to insure that only the milk of dairy farmers having a bona fide association with the market would be eligible to be diverted as producer milk to nonpool plants.

Milk diverted to nonpool plants in excess of the limitations provided should not be considered producer milk. Hence, eligibility for pricing and pooling under the order would be forfeited on a quantity of milk equal to such excess. It would be the responsibility of the diverting handler to specify which milk is ineligible as producer milk. If the handler fails to make such designation and the market administrator is unable to determine which milk was overdiverted, all milk diverted to nonpool plants by such handler would be ineligible as producer milk.

Unless it is diverted for manufacturing purposes, producer milk should not include any milk moved from a farm directly to an other order plant. Such milk's eligibility to be included under a Federal order would more appropriately be determined at the other order plant where received. In fact, diversion to such plants, if permitted unconditionally, could result in the pricing and pooling of the same milk under two orders.

Providing for the diversion of producer milk to an other order plant for manufacturing purposes will contribute to orderly marketing by facilitating the movement of milk for manufacturing from a pool plant to an other order plant. In some instances, a pool plant operator may find that his nearest outlet for unneeded supplies may be an other order plant. Specifying under the order that such milk may be diverted if a Class II classification is designated for such milk pursuant to the other order will tend to insure the integrity of the regulation under both orders.

Diversions to pool plants are to be distinguished from diversions to nonpool plants in that when milk is diverted to another pool plant there is no question as to whether the milk should be pooled. Substantial quantities of milk under the proposed order are diverted between pool plants. Providing for such diversions under the proposed order recognizes an established practice in the market that is helpful in obtaining the optimum utilization of producer milk.

Some proposals would price all or a portion of the milk diverted from a pool plant at the location of the plant where it is physically received. Otherwise, it was argued, an incentive would be provided to attach to the pool as diverted milk unneeded supplies of milk delivered to nonpool plants at distant locations from the market. Under this circumstance, the producer milk thus diverted would have the advantage not only of receiving the f.o.b. marketing area price but also of the lower hauling cost incurred in moving the producer milk to the nonpool plant instead of to a pool plant in or nearer the marketing area.

Proponents of pricing diverted milk at the plant from which diverted emphasized primarily its administrative feasibility, especially since producers are accustomed to receiving payment for their milk based on the location of the plant to which it is usually delivered. They stated that confusion would be created among producers if a portion of their deliveries were paid for at prices applicable at other locations when such prices are different from the prices applicable at the location of the pool plant to which their milk is customarily delivered.

If permitted without any safeguards, pricing diverted milk at the location of the pool plant from which diverted could provide an incentive to pool unneeded supplies having no real association with the Class I market. This, it was argued, would make it possible to exploit the pool by diverting milk to manufactur-

ing plants and thereby negate the incentive to make milk available for the market's Class I needs. Moreover, it could result in producers in the market paying (through the pool) a transportation cost to the market on milk which is not moved to the market and on which an equivalent transportation charge is not incurred.

The physical delivery to a pool plant during the month of at least half of the pooled milk of a producer is a reasonable standard to establish that producer's association with a pool plant. If less than half of a producer's deliveries during the month is delivered to a pool plant, it would be more appropriate to price the milk moved as diverted milk to another pool plant at the location of the plant at which it was physically received.

An equivalent standard would be equally appropriate for milk diverted to nonpool plants in August through March, when the quantity of milk of any producer diverted to nonpool plants as producer milk may not exceed that delivered to pool plants. Hence, during these months, the milk of a producer diverted to a nonpool plant would be priced at the location of the pool plant from which diverted. Similarly, in April through July, when milk of a producer may be diverted to nonpool plants without limit during the month, the quantity of milk of any producer diverted to nonpool equal to that physically received at pool plants equal to that physically received at pool plants would be priced at the location of the pool plant from which diverted. However, the quantity of milk of any producer diverted to nonpool plants that exceeds that physically received at pool plants would be deemed to have been received by the diverting handler at the location of the nonpool plant to which diverted.

The standards herein provided for determining the location for pricing producer milk is economically sound under present conditions in the proposed marketing area and will safeguard the purpose for which the diversion provisions are intended.

Other source milk. "Other source milk" should be defined in detail in the order to facilitate the application of the order to the various categories of receipts at a regulated plant.

Other source milk. "Other source skim milk and butterfat contained in or represented by (a) fluid milk products from any source (except producer milk, fluid milk products from pool plants, and fluid milk products in inventory at the beginning of the month), (b) all manufactured dairy products from any source (including those produced at the plant) which are reprocessed or converted into another product during the month, and (c) any disappearance of nonfluid milk products in a form in which they may be converted into Class I products and which are not otherwise accounted for under the order.

In order to verify the utilization of milk received from producers, it is necessary that the market administrator be in a position to reconcile all receipts of milk and dairy products with the disposition records of the plant. If such records cannot be reconciled, the handler must be held responsible for the shrinkage or the overrun which occurs as a result of the discrepancy between the records of receipts and disposition. Otherwise, the handler with improper records would be in a position to gain an advantage over his competitors who properly account for all milk and dairy products received. It is equally necessary that the handler be required to account for all nonfluid dairy products in a form in which they can be converted into Class I products. Otherwise, a handler, by failing to keep records of the nonfat dry milk and similar products which can be reconstituted into skim milk or other fluid milk products, would gain a competitive advantage over other handlers in the market.

Route disposition. The term "route disposition" would mean a delivery (except to a plant); either directly or through any distribution facility (including disposition from a plant store, vendor, or vending machine), of a fluid milk product classified as Class I.

Fluid milk products may be moved from a milk plant to a distribution facility such as a warehouse, loading station or storage plant. The distribution from such latter point would be considered a route disposition from the milk plant. To do otherwise would be inappropriate because it would consider the disposition of fluid milk products to have been made at the temporary storage facility instead of at the location at which such products are received by retail and wholesale purchasers.

Reload point. A "reload point" should be defined as a location at which milk moved from a farm in a tank truck is transferred to another tank truck and commingled with other milk before entering the plant. A reload operation on the premises of a plant, however, would be considered a part of the plant operations and not a reload point under the order.

Pricing producer milk at the location of a reload point was proposed by the major producer associations in the market. They claim that establishing the reload point as a point of pricing would reduce the incentive for handlers to move distant milk to the market at producers' expense for manufacturing use.

A number of handlers opposed pricing producer milk at the location of the reload point instead of at the pool plant where it is first received. Such reload point pricing, they claimed, could result in less opportunity for distant milk to compete for market outlets in the Eastern Ohio-Western Pennsylvania marketing area. They also argued that providing for reload point pricing under the proposed order is unnecessary since reload points are not a significant factor at this time.

If there are any reload points in operation under the proposed order, it was not established on the record. Neither was it indicated that an extensive utilization of reload points in the market is contemplated in the immediate future.

Any provision for reload point pricing in this market should take into account the actual or contemplated reload point operations in the market. Without such data, it cannot be concluded that there is sufficient need for differentiating the pricing of milk at reload points based on their location. The proposal, therefore, is denied.

(b) *Classification of milk.* Milk and milk products received by handlers should be classified on the basis of skim milk and butterfat according to the form in which, or the purpose for which, such skim milk and butterfat was used or disposed of as Class I or Class II milk.

Milk is received by handlers directly from dairy farmers, from other handlers, and from other sources. Milk from all these sources is commingled in handlers' plants. It is necessary, therefore, to have a plan for allocating the uses of milk to each source of supply in order to afford a means to establish the classification of producer milk and to apply the classified pricing plan.

The products included in Class I milk are required by health authorities in the proposed marketing area to be produced in compliance with the inspection requirements of a duly constituted health authority. The extra cost of getting quality milk produced and delivered to the market in the condition and quantities required makes it necessary to provide a price for milk used in Class I products considerably above the manufacturing milk price. The higher price should be at a level which will yield a blend price to farmers that will encourage production of enough milk to meet market needs.

In accordance with these standards, Class I milk should include all skim milk and butterfat disposed of in the form of milk, skim milk, buttermilk, flavored milk, flavored milk drinks, condensed milk, cream (except sour cream), and mixtures of such cream or milk and skim milk. These Class I products would be designated in the order as "fluid milk products". Class I, however, should not include any of the above products which are sterilized and in hermetically sealed glass or metal containers. Fluid milk products to which extra skim milk solids have been added or frozen or concentrated milk disposed of for fluid use likewise would be included as Class I milk. Any skim milk and butterfat not accounted for in Class II would be included in Class I.

Some nonfat milk solids are utilized through reconstitution or fortification in the preparation of Class I products distributed in the marketing area. For purposes of accounting for this skim milk required to produce the product, the added nonfat milk solids should include the normal quantity of water originally associated with the solids. The volume of the reconstituted or fortified product classified in Class I would be the quantity equal to the volume of the same product made without the addition of nonfat milk solids. The remaining volume of the product, which represents the skim milk equivalent of added nonfat milk solids, should be classified as Class II.

As now provided in the Northeastern Ohio, Youngstown-Warren, and Wheeling orders, skim milk and butterfat unaccounted for in a Class II utilization by a handler must be classified in Class I. Such a provision is no less necessary in the proposed order to insure the integrity of the regulation. Otherwise, a handler could gain an advantage by not fully accounting for the disposition of the milk handled in his plant. In view of this, it is necessary that the utilizations at a plant which are included in the Class II category be explicitly set forth in the order.

Class II should be all skim milk and butterfat used to produce frozen deserts (e.g., ice cream, ice cream mix), sour cream, eggnog, yougurt, aerated cream products, butter, cheese (including cottage cheese), evaporated or condensed milk (plain or sweetened), nonfat dry milk, dry whole milk, dry whey, condensed or dry buttermilk, milk shake mix containing not less than 14 percent total milk solids and sterilized products in hermetically sealed glass or metal containers.

Inventories of fluid milk products at the end of each month enter into the accounting for a handler's current receipts and utilization. To facilitate the accounting procedure, the month-end inventory of fluid milk products should be classified in Class II. They would, however, be subtracted, under the allocation procedures, from any available Class II in the following month. The higher use value of any such skim milk and butter fat allocated to Class I in the following month would be reflected in returns to producers.

Inventories would include only the skim milk and butterfat in bulk and packaged fluid milk products on hand at the end of the month. Since the disposition of skim milk and butterfat in nonfluid milk products has been accounted for when used to produce a manufactured dairy product (and classified as Class II milk), such skim milk and butterfat would not be included in inventories.

Inventories of fluid milk products on hand at a plant at the beginning of the first month in which the proposed order becomes effective or during any month in which a plant becomes regulated for the first time should be allocated to the available Class II utilization of the plant during the month. At plants that were fully regulated by an order in the immediately preceding month, this method of pricing will be consistent with that provided in the orders. At plants that were previously unregulated, the allocation of their unpriced milk on hand at the beginning of their first month under the order to the available Class II utilization would be consistent with the treatment accorded regulated handlers and would preserve the priority of assignment of current fluid milk receipts to current Class I utilization.

The proposed method of handling inventories, which is the same as that provided in the Northeastern Ohio, Youngstown-Warren, and Wheeling orders, is similarly provided for under the regulations of the Pennsylvania Milk Control Commission. Its inclusion in the proposed order was urged at the hearing and no testimony was presented in support of any other method of handling inventories.

Skim milk and butterfat in fluid milk products dumped or disposed of by a handler for livestock feed should be classified as Class II milk. Such outlets often represent the most efficient means of disposing of surplus skim milk. Transportation and handling costs are such that it is uneconomical to ship relatively small quantities of unneeded skim milk to trade outlets for surplus disposal. In the case of route returns of such products as homogenized milk and chocolate milk it is difficult or impracticable to salvage the butterfat for further use. Such butterfat which is not salvageable should be classified as Class II when dumped or disposed of for livestock feed.

It would not be practicable to permit in an unlimited manner the dumping of skim milk and butterfat by pool plant handlers. Neither would it be appropriate to classify such skim milk and butterfat for which no better outlet is available in other than Class II. Accordingly, the order should clearly specify a Class II classification for the skim milk and butterfat in fluid milk products dumped, provided that the market administrator is notified in advance and afforded the opportunity to verify the dumping.

Skim milk and butterfat in fluid milk products delivered in bulk form to and used at a commercial food processing establishment (other than a milk plant) in the manufacture of packaged food products for consumption off the premises should be classified in Class II. Such commercial food establishments usually can readily substitute concentrated milk products (e.g., condensed milk, butter, nonfat dry milk) in place of fluid milk products in their operations. To provide other than a Class II classification for the skim milk and butterfat in fluid milk products moved to commercial food establishments could result in losing for local producers these established outlets for Class II milk.

Some handlers proposed that fluid cream (for which a Class I classification is herein provided) be classified in Class II. In support of their position, they cited particularly the declining sales of fluid cream, which they attributed to pricing it in Class I. The decline in fluid cream sales in Northeastern Ohio and other order markets in recent years may be attributed to a number of factors besides price, however, including the demand for fluid milk products of lower butterfat content, the competition from other foods and the substitutes for fluid cream.

There is no apparent distinction between fluid cream and all other Class I products which must come from inspected sources. Producers are relied upon for the market's fluid cream requirements and they must incur the additional costs involved in the production of milk of acceptable quality for such product. If fluid cream were classified in Class II (instead of Class I) under the proposed order, it would tend to have the effect of dairy farmers subsidizing consumers who purchase this product or providing handlers an additional margin on producer milk utilized for such fluid cream sales. The handler proposal for classifying fluid cream in Class II is denied.

Frozen cream is most generally used to produce frozen desserts or other Class II products. Under some conditions, however, frozen cream may be ultimately disposed of as fresh fluid cream or used in the production of other Class I products such as flavored milk drinks. The classification of skim milk and butterfat used to produce frozen cream should, therefore, be based on the actual disposition of such cream. Frozen cream placed in storage should be considered as a Class II classification in the same manner as any fluid milk product in a handler's inventory at the end of the month. Its Class II classification would be definitively established in any month in which it was used to produce a Class II product or qualified as a Class II transfer to another plant. Frozen cream that was not accounted for in a Class II disposition would necessarily be classified in Class I.

The health inspection requirements for milk used for sour cream manufacture vary within the proposed marketing area. Such products need not meet the same inspection requirements as milk for fluid consumption. There are substantial imports into the marketing area of sour cream and sour cream products from areas where milk used to produce sour cream is priced at a level approximating the Class II price under the proposed order.

Under these conditions, regulated handlers under the proposed order would be at a competitive disadvantage in competing for sales of these products in their principal sales areas. It would be inappropriate, therefore, under conditions in the proposed marketing area, to provide other than a Class II classification (as is now provided in the Northeastern Ohio order) for milk used to produce sour cream.

Under the Northeastern Ohio order, a Class II classification is provided for milk shake mix. This product, which is in the same category as ice cream mix, is not defined by statute in any of the States in the proposed marketing area. In proposing that milk shake mix be included in the Class II classification, handlers proposed that it be described more explicitly in the order. The statutory minimum of total milk solids in frozen dessert mixtures is 14 percent in Pennsylvania and somewhat higher in Ohio and West Virginia. It would be appropriate in specifying a Class II outlet for milk shake mix that it be a product of not less than 14 percent milk solids. Such a product containing a lesser quantity of milk solids would not, under the

statutory standards in the marketing area, be a frozen dessert mixture and should be appropriately classified as Class I.

Waste and loss of skim milk and butterfat experienced in plant operations are referred to as "shrinkage". Since shrinkage represents disappearance of milk for which the handler must account but for which no direct return is realized, it should be considered as Class II milk to the extent that the amount is reasonable and is not the result of inadequate or faulty records.

The maximum shrinkage allowance in Class II at each pool plant should be 2 percent of producer milk, plus 1.5 percent of producer milk from a cooperative as a handler and bulk fluid milk products from other pool plants, and less 1.5 percent of bulk fluid milk products transferred or diverted to other plants. The 1.5 percent shrinkage allowance would be allowed on bulk fluid milk products received from other order plants and unregulated supply plants exclusive of the quantity of such receipts for which a Class II utilization is expressly requested by a handler.

The proposed 2 percent maximum shrinkage allowance of producer milk in Class II is substantially the same as provided in the Northwestern Ohio, Youngstown-Warren, Wheeling, and most other Federal orders. Its inclusion in the order was proposed by producers. A handler spokesman at the hearing urged a 3 percent maximum shrinkage allowance of producer milk in Class II for manufacturing operations. The basis for this request was the claim that manufacturing operations incur larger plant losses than other operations. No testimony was presented, however, of any specific experience of handlers under the proposed order to substantiate quantitatively the handler claim. Neither was it otherwise shown that conditions in the proposed marketing area justify a maximum shrinkage allowance in Class II that is 50 percent above that found to be reasonable and adequate in the Northeastern Ohio, Youngstown-Warren, Wheeling, and most other Federal order markets.

Plants which are operated in a reasonably efficient manner and for which acceptable records of receipts and utilization are maintained should not have plant losses in excess of the maximums provided. Any shrinkage in excess of the maximums should be classified as Class I milk. This is reasonable and necessary to strengthen the classified pricing plan and will tend to encourage the maintenance of adequate records and the efficient handling of milk.

The maximum shrinkage allowance in Class II herein provided is based on the experience of the pool plant at which the milk classified is received. If a handler operates more than one plant, he would compute his shrinkage allowance for each plant separately. To provide otherwise would establish different standards for single and multiple plant operators and accord an unwarranted advantage to the latter. Combining the receipts and utilization figures of two or more plants for determining shrinkage would have the effect of allowing a Class II classification for shrinkage in excess of the limits herein found to be appropriate. This is because the excess shrinkage at a plant (which is subject to a Class I classification) would be eligible to be classified in Class II if combined with the classification of another plant of a handler.

As provided elsewhere in this decision, a cooperative would be the handler for milk delivered from producers' farms to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative. When a cooperative is a handler under such conditions, the operator of a pool plant receiving this bulk tank milk directly from the farm would settle with the pool and the cooperative for such milk in the same manner as a receipt from producers. However, the full 2 percent allowance for shrinkage would be permitted the handler only if he is purchasing the milk on the basis of farm weights and has so notified the market administrator. Otherwise, the maximum Class II shrinkage allowed the handler on such milk would be 1.5 percent and the cooperative would be responsible for any difference between the gross weight of producer milk received in the tank truck at the farms and that delivered to pool plants. This procedure is followed in a number of Federal orders, including the Northeastern Ohio, Youngstown-Warren, and Wheeling orders. It provides a reasonable basis for the allocation of the shrinkage allowance in those instances wherein the cooperative is the responsible handler with respect to milk picked up at producers' farms in bulk tank trucks.

In those instances in which a pool plant operator is not purchasing farm tank milk (from a cooperative as a handler) on the basis of farm weights, any difference between the quantities of producer milk determined at the farm and ascertained as physically received by the operator of the pool plant would be considered a receipt of producer milk by the cooperative at the location of the pool plant. The cooperative would report such differences, which may reasonably be expected to be within 0.5 percent of the quantity of the producer milk determined on the basis of farm weights during the month, to the market administrator for inclusion in the monthly pool computation. Up to 0.5 percent of the producer farm tank milk involved would be reported in the pool as Class II; any such difference in excess of the maximum allowable Class II shrinkage of 0.5 percent would be Class I. The cooperative would be responsible for settling with the producer-settlement fund for the total quanity of shrinkage as reported. If the quantity of bulk tank milk physically received at a pool plant from a cooperative during the month is the same as the farm weights, the cooperative would have no settlement to make with the producer-settlement fund on such milk.

It is appropriate to limit the volume of unregulated supply plant milk and other order milk that may be classified in Class II as shrinkage since these types of receipts are allocated pro rata to class uses along with quantities received from pool plants and producers. Under the allocation system provided, such other source milk will share with producer milk in any shrinkage allocated to Class I when the specified Class II shrinkage limitations are exceeded. No specific shrinkage limit is necessary on unregulated or other order milk that does not share a pro rata assignment and thus is allocated first to Class II uses, since the allocation procedure insures assignment of such milk to Class II in an amount at least equal to the shrinkage that may be associated therewith.

To insure an equitable assignment of total shrinkage to the two categories of receipts (i.e., receipts for which there is a percentage limitation for Class II shrinkage assignment and receipts for which there is no such limitation), the total shrinkage should be prorated to these two categories.

Skim milk and butterfat are not used in most products in the same proportions as contained in the milk received from farmers and, therefore, should be classified according to their separate uses. The skim milk and butterfat content of milk products received and disposed of by a handler can be determined through certain testing procedures. Some products such as ice cream and condensed products present a difficult problem of testing in that some of the water contained in the milk has been removed. It is desirable in the case of such products to provide an appropriate means of ascertaining the amount of skim milk and butterfat used to produce such products. The accounting procedure to be used in the case of concentrated milk products, such as condensed milk or nonfat dry milk, should be based on the pounds of milk or skim milk required to produce such product.

Skim milk and butterfat used to produce Class II products should be considered to be disposed of when the Class II product is produced. Handlers will need to maintain stock records on such products, however, to permit audit of their utilization records by the market administrator so that verification of such Class II uses may be made. If a handler fails to keep the necessary records for verification purposes, the skim milk and butterfat will be reclassified as Class I milk.

Each handler must be held responsible for a full accounting of all his receipts of skim milk or butterfat in any form. A handler who first receives milk from dairy farmers should be held responsible for establishing the classification of and making payment for such milk. Fixing responsibilities in this manner is necessary to effectively administer the provisions of the order.

Except for the quantities of shrinkage that may be classified in Class II, all skim milk and butterfat for which the handler cannot establish utilization should be classified as Class I milk. This provision is necessary to remove any advantage that might accrue to handlers who fail to keep complete and accurate records and to assure that dairy farmers receive payment for their milk on the basis of its use. Accordingly, the burden of proof should be on the handler to establish the utilization of any milk as other than Class I.

Transfers. The transfer provisions in the attached order, which were proposed by producers, are basically the same as those in the Northeastern Ohio, Youngstown-Warren, and Wheeling orders with but one exception. Under these orders, milk or skim milk moved from a pool plant to a nonpool plant may be classified as Class II if transferred or diverted to a nonpool plant within a specified distance from a designated location in the marketing area (e.g., 265 miles from Cleveland in the Northeastern Ohio order). Transfers or diversions of milk and skim milk to nonpool plants beyond the specified distances are classified as Class I.

Producers proposed that milk and skim milk transferred or diverted to nonpool plants be eligible for a Class II classification irrespective of the location of the nonpool plant. Although there may have been some justification in the past under the existing orders to specify a Class I classification for transfers and diversions to nonpool plants beyond a specified distance from a marketing area location, there is no need under current marketing conditions for such a limitation under the proposed order. On the contrary, such a limitation would tend to impede rather than facilitate the marketing of unneeded supplies of producer milk.

With the removal of the mileage limitation, the transfer provisions in the attached order, which have been appropriate in achieving the ends sought by regulation under the existing orders, should be equally satisfactory in achieving these ends under the proposed order.

Allocation. The system of allocating handlers' receipts to the various classes should be similar to that adopted in the Assistant Secretary's June 19, 1964, decision for 76 milk orders (including the Northeastern Ohio, Youngstown-Warren, and Wheeling orders) for integrating into the regulatory plan of each of the orders milk which is not subject to classified pricing under any order and receipts at a pool plant from other order plants. That decision provides a procedure for allocating over a handler's total utilization his receipts from all nonpool sources and for making payment into the producer-settlement fund on unregulated milk allocated to Class I.

Inasmuch as the aforesaid decision sets forth the standards for dealing with unregulated milk under Federal orders generally, it is appropriate and necessary that the same system of allocation be included in this order. Likewise, the treatment of other order milk received at pool plants should conform with the plan included in that decision so as to coordinate the applicable regulations on all movements of milk between Federal order markets. Producers and handlers recognized the necessity for such coordination and proposed allocation provisions that would be basically unchanged from those now provided in the Northeastern Ohio order.

The findings and conclusions of the June 19, 1964, decision (29 F.R. 8902) as they relate to a handler's receipts from all nonpool sources are equally applicable under current conditions in the proposed marketing area and are adopted in their entirety.

(c) *Class prices—Class I price.* The Class I price must be established at a level which, in conjunction with the other class prices, will result in returns to producers high enough to maintain an adequate, but not excessive, supply of quality milk to meet the requirements of consumers, including the necessary market reserves. In addition, it is important that the Class I price not be at a level which exceeds the cost of obtaining milk of acceptable quality and regular availability from alternative sources. Such a price will, of course, be in alignment with those prevailing in nearby Federal order markets.

The Class I price proposals considered at the hearing follow closely the Class I price provisions of the Northeastern Ohio order. In that order, the Class I price is determined by adding a differential of $1.67 to the basic formula price (Minnesota–Wisconsin price series) for the preceding month and adding or subtracting a supply–demand adjustment of not more than 25 cents that is based on the relationship of producer deliveries to handlers' Class I sales. The order also provides that in determining the Class I price through April 1968, the basic formula price shall be not less than $4.05 and the Class I differential shall be $1.67 instead of $1.67.

The Youngstown-Warren Class I price is determined by adding 10 cents to the Northeastern Ohio Class I price.

The Wheeling order Class I price is the basic formula price (Minnesota-Wisconsin series) for the preceding month plus $1.73, subject to a supply-demand adjustment that may not differ by more than 15 cents from the Northeastern Ohio supply-demand adjustor for the preceding month. Through April 1968, the applicable basic formula price may not be less than $4.05 and the Class I differential is $1.93 instead of $1.73.

Official notice is taken of the findings in the April 25, 1967, decision (32 F.R. 6501) supporting amendments to various orders, including Northeastern Ohio and Wheeling, which became effective May 1, 1967 (32 F.R. 6606). These amendments provide that in determining the Class I price through April 1968, the basic formula will be not less than $4.05 and the average annual Class I differentials will be increased 20 cents. The amendments also provide for replacing seasonal Class I differentials in Northeastern Ohio (and other orders) with a single monthly differential equal to the annual average of the seasonal differentials. Prior to May 1, 1967, the Northeastern Ohio Class I price differentials were $1.40 in April through July and $1.80 in the other months.

The Class I prices in the Youngstown-Warren and Wheeling markets have been at about the same level. During the period 1963–66, the Wheeling Class I price averaged $4.92; the Youngstown-Warren price averaged $4.93. In most of these years, the Wheeling price exceeded the Youngstown-Warren price by from 3 to 7 cents per hundredweight. However, in 1966, the Wheeling price was about 17 cents less than the Youngstown-Warren price.

There is no indication that the pricing provisions of the Northeastern Ohio, Youngstown-Warren, and Wheeling orders are not obtaining an adequate supply of milk for the market, or that basically these price provisions will be inappropriate under the proposed amended order. Of the 2.112 billion pounds of producer milk pooled under the three orders in 1966, 70 percent was Class I.

The Class I price level proposed for milk received at plants in the Pittsburgh area ranged from the same as to 25 cents above the Class I price that would be applicable in the Cleveland area. The proposal for the same Class I price in the Cleveland and Pittsburgh areas would also provide for the same Class I price throughout the entire marketing area. Various witnesses emphasized that the Class I price in the Pittsburgh area should be equivalent to the Cleveland area Class I price plus the cost of moving milk between the two locations.

The actual prices paid by Western Pennsylvania handlers (except the several presently subject to Federal orders) for all milk disposed of in the Class I category is not clearly established on the record. This is because a substantial portion of their aggregate Class I disposition is not subject to prescribed minimum prices. As previously indicated, the Pennsylvania Milk Control Commission (PMCC) fixes minimum prices that Pennsylvania handlers purchasing milk from producers must pay for such milk received at their plants in Pennsylvania. Such handlers, however, are not required by PMCC to pay any prescribed price for milk received from outside the State. Substantial quantities of milk are received by Pennsylvania handlers from producers and country plants outside Pennsylvania.

In 1966, Pittsburgh area (PMCC Area 2) fluid milk dealers received 883 million pounds of milk from producers either at their plants in Pennsylvania or at country receiving stations in the State. In addition, they received the same year 225 million pounds of milk from out-of-State sources. The quantity of milk handled by fluid milk dealers in the Erie marketing area (PMCC Area 7) is significantly less than that handled by those in the Pittsburgh area. Data for 1966 were not available for the Erie area. For 1965, of the 186 million pounds of milk received by fluid milk dealers in the Erie area, 14 million were from out-of-State sources.

The PMCC Class I price for Area 2 (Pittsburgh) has historically been about

11 cents higher than the Area 7 (Erie) price. Except for some abnormal variations in 1964 and 1965, the PMCC Pittsburgh area Class I price for the period 1961 through 1966 averaged 11 cents above the Erie area price. (From August 1964 through July 1965, the PMCC Pittsburgh Class I price was reduced substantially but the Erie Class I price was not. During this period, consequently, an atypical relationship existed between the Class I prices for the two areas.) In addition, for the period January through September 1967, the Pittsburgh price likewise averaged 11 cents above the Erie price. (Official notice is here taken of the PMCC monthly Class I price announcements for Areas 2 and 7 for January 1961 to date.)

The PMCC orders provide for a lower Class I price applicable to milk sold by a handler outside his area. These prices in 1966 ranged monthly from 10 to 20 cents below the stated Class I prices in the Pittsburgh and Erie areas. In addition, handlers who comply with certain conditions may pay their producers on an "optional" basis. Under the optional purchase plan, the prescribed minimum prices that a handler must pay his producers are about 10 cents below the stated Class I prices.

Of the 883 million pounds of milk received by Area 2 fluid milk plants by direct delivery from producers and from receiving stations in Pennsylvania, 542 million or 61 percent was classified as Class I. These Class I sales are apparently subject to PMCC's Class I pricing provisions. The remainder of the receipts at these plants, the 225 million pounds from out-of-State sources, are not priced by PMCC.

Since a Pittsburgh based handler may obtain all or a part of his milk from sources in or outside the State, the PMCC Class I prices often have limited applicability. They have no applicability to a handler who receives all his milk from sources outside the State. To a handler who receives his supply from sources both inside and outside the State, the proportion in which his in-State and out-of-State supplies are allocated to his Class I uses actually determines his Class I costs. The PMCC Class I price may have little, or not any, effect in determining a price applicable to his total Class I disposition. This situation is equally as true in the Erie portion of the proposed marketing area as well as in the Pittsburgh area.

The extent to which Pennsylvania milk, to which the PMCC Class I price is applicable, is allocated to Class I vis-a-vis milk received from out-of-State sources is indicated by the relative utilizations of milk in these categories for 1965 (complete 1966 data were not available on the record). Of the 1.294 billion pounds of milk received from all sources by 107 Area 2 fluid milk dealers in 1965, 63 percent was classified in Class I. Included in that total were 167 million pounds of milk received from out-of-State sources, 91 percent of which was classified as Class I.

It is apparent that Area 2 handlers receiving milk from out-of-State receiving stations are able to obtain such milk at prices lower than they would be required to pay for milk received from producers in Pennsylvania. For 31.6 million pounds of milk received from out-of-State receiving stations in 1965, Area 2 handlers paid $198,000 less than the PMCC's minimum prices, an average of 63 cents per hundredweight of milk.

Except for the proposal for the same Class I price at all locations in the proposed marketing area, there was no testimony at the hearing in support of a lower Class I price level at plants in the present Youngstown-Warren and Wheeling marketing areas relative to the Class I price that is now applicable in the Northeastern Ohio marketing area. Instead, it was urged that the present relationship of Class I prices that now exists for milk received at plants located in these various marketing areas be retained. Those proposing the same Class I price throughout the marketing area tended to overlook the historic relationship of prices at the various locations, which prices had been deemed appropriate to obtain adequate supplies of milk from producers at plants in these areas. It was not shown that the conditions that would prevail under an order as proposed would justify a reduction in the Class I price for producer milk delivered to plants now subject to the Youngstown-Warren and Wheeling orders.

Accordingly, the price in the Youngstown - Warren - Steubenville - Wheeling area (essentially the territory covered by the previous Youngstown-Warren and Wheeling marketing areas) should be established at 10 cents per hundredweight over the Cleveland Class I price. This will maintain the historical relationship between the Youngstown-Warren and Wheeling prices and also the historical relationship between the Cleveland price on the one hand and the Youngstown-Warren and Wheeling prices on the other.

The price in the Pittsburgh area should also be established at the same level as that for Youngstown-Warren and Wheeling and 10 cents higher than for Cleveland. The principal distribution in the Pennsylvania portion of the proposed marketing area is from plants in Allegheny County, the county in which Pittsburgh is located. Milk is received at plants in the Pittsburgh area from dairy farmers as much as 150 miles away. Since the production areas from which Pittsburgh area handlers receive their supplies overlap substantially the production areas for the Youngstown-Warren and Wheeling markets, Pittsburgh handlers would be disadvantaged under the proposed order in maintaining a supply of milk at Class I prices lower than for milk delivered to regulated plants at Youngstown and Wheeling. On the other hand, there is no justification for establishing a higher Class I price for milk delivered to plants in the Pittsburgh area than for milk delivered to the Youngstown-Warren and Wheeling areas. This is because there is no indication that the comparable Class I prices paid by Pittsburgh handlers for their total Class I utilization are even as much as the Youngstown-Warren and Wheeling order Class I prices.

Providing for the same Class I price in the Pittsburgh area as in the Youngstown-Warren and Wheeling areas would also tend to insure an appropriate relationship of the Class I prices between the Cleveland and Pittsburgh areas. The PMCC Class I price for the Pittsburgh area of $5.73 for 1966 is not the actual average price paid for all Class I milk disposed of from Pittsburgh area fluid milk plants. The $5.73 price and its equivalent in other specified periods were the prices emphasized at the hearing by the various proponents for a higher Class I price in the Pittsburgh area than at other locations in the proposed marketing area. What portion of the Class I milk disposed of from Pittsburgh area fluid milk plants is paid for at the various PMCC Class I prices was not established on the record. The record does state, however, that milk received from out-of-State sources and not subject to the PMCC prices was paid for at less than the PMCC prices.

The cited PMCC prices as a basis for a Class I price that should be applicable under the proposed order would need to be further reduced since Class I milk as defined by PMCC and under the proposed order, although similar, are not the same. A greater quantity of the milk disposed of by Western Pennsylvania handlers would be classified as Class I under the proposed order than under PMCC regulations. For example, cream which is Class I under the Northeastern Ohio, Youngstown-Warren and Wheeling orders, as well as under the proposed order, is Class II under the PMCC regulations. Because of the differences between Class I classification under the proposed order and the PMCC regulations, it may reasonably be concluded that the actual Class I price that is now obtaining an adequate supply of milk for the Pittsburgh area is nearer that provided in the Youngstown-Warren and Wheeling orders than is the stated PMCC Class I price. This is because the latter price is pricing only a part of the Class I disposition of Pittsburgh fluid milk dealers.

The Class I price under the proposed order for milk received at plants in the presently designated Youngstown-Warren and Wheeling marketing areas and at Pittsburgh area plants should be established 10 cents above the Class I price for milk received at other locations in the marketing area. To effectuate this, the territory in the marketing area within 80 miles (by the shortest highway distance as determined by the market administrator) of the Pittsburgh City Hall would be designated the "Pittsburgh district". The remainder of the marketing area would be designated the "Cleveland-Erie district".

Included within the Pittsburgh district would be the presently regulated Youngstown-Warren and Wheeling order plants and all but several plants in the PMCC Pittsburgh milk marketing area. In the remaining portion of the marketing area provided by this decision are principally those plants whose milk is now priced by the Northeastern Ohio order, plants

now included in the Erie marketing area and a plant in Ohio that would become regulated for the first time under a Federal order.

The several plants in the present Pittsburgh milk marketing area that would not be included in the proposed Pittsburgh district are those which are more closely associated competitively with handlers at other locations in the proposed marketing area in both procurement and sales than with Pittsburgh area handlers. Typical of these are the handlers in the vicinity of Meadville, Pa., which is but 37 miles from Erie and 95 miles from Pittsburgh. The handlers whose plants are in the proposed Pittsburgh district are those whose principal distribution is within the major cities of the present Pittsburgh marketing area and the Wheeling and Youngstown areas. There is substantial competition among these handlers in both procurement and in sales.

There is no basis for establishing a price level in the Erie area above that provided presently and now proposed for the territory in the Northeastern Ohio marketing area. Likewise, it would be inappropriate to provide for a Class I price level in the Erie area equal to that provided for the Pittsburgh district. To do this would remove the incentive for the many producers in and near Erie County, who ship to Pittsburgh handlers, to continue to make such shipments. Presently, substantial quantities of milk are shipped from the Erie area to Pittsburgh district handlers. A Pittsburgh district Class I price that is 10 cents above that at Erie plants recognizes the historical relationship of prices at these locations and will insure that milk from the farms in the Erie area now supplying Pittsburgh district plants will continue to ship needed supplies to Pittsburgh.

The Class I price under the proposed order for milk received at plants in the Cleveland-Erie district would be the same as that now provided in the Northeastern Ohio order, i.e., adding $1.67 to the basic formula price (Minnesota-Wisconsin price series) for the preceding month and adding or subtracting a supply-demand adjustment of not more than 25 cents. In addition, in computing the Class I price through April 1968 the basic formula used would be not less than $4.05 and the Class I differential would be $1.187 instead of $1.67. The April 25, 1967, decision (32 F.R. 6501), which provides for the latter in a number of orders, including Northeastern Ohio and Wheeling, is adopted in its entirety with respect to justification for a basic formula of not less than $4.05 and a Class I differential of $.187 through April 1968. The findings set forth in that decision are equally appropriate under current conditions in the proposed marketing area.

The April 25, 1967, decision also provides for the removal of seasonal pricing in the various orders, including the Northeastern Ohio order. The conclusion in that decision that removal of seasonal pricing would contribute substantially to price alignment among all markets is equally applicable under current conditions in the proposed marketing area.

The Class I price for milk received at plants in the Pittsburgh district would be determined by adding 10 cents to the Cleveland-Erie district Class I price. At plants outside the marketing area the Class I price would be the same as the Class I price applicable at the nearest of several designated cities in the marketing area. For this purpose, Cleveland and Canton, Ohio, and Pittsburgh, Erie, and Uniontown, Pa., would be appropriate locations from which to make such determinations. It is reasonable to expect, for example, that competition in procurement and/or sales of a plant that is nearer the Cleveland-Erie district than to the Pittsburgh district would be with handlers in the Cleveland-Erie district than with Pittsburgh district handlers.

Until production and sales data under the proposed order have been accumulated for a reasonable period of time, the same supply-demand provisions now in the Northeastern Ohio order should be retained. They are the most suitable means currently available for measuring the supply of milk available for the market relative to its needs. There is no indication that the overall utilization of milk received from dairy farmers at plants which are presently federally unregulated and which would be subject to the proposed order are substantially different from the utilization at the presently regulated Federal order plants.

In 1966, of the 2.112 billion pounds of milk received from dairy farmers at plants subject to regulation under the Northeastern Ohio, Youngstown-Warren, and Wheeling orders, 70 percent was Class I. The most recent comparable utilization data available for the Pittsburgh marketing area is for the 12 months ending November 30, 1966. In that period, 68 percent of the 1.26 billion pounds of milk received by fluid milk dealers in the Pittsburgh milk marketing area was designated Class I by PMCC. For the Erie marketing area, the year 1965 is the most recent 12 months for which comparable data are available. In that year, 71 percent of the 173 million pounds of milk received from Pennsylvania producers was PMCC Class I. No information was available on the record of the utilization of 14 million pounds of milk received in 1966 by Erie area handlers from out-of-State sources.

Since the Class I utilization percentage of the aggregate producer deliveries to plants that would be regulated under the proposed order approximates that under the present Northeastern Ohio order, the present supply-demand provisions of the Northeastern Ohio order should be appropriate under the proposed order for the limited period herein provided. (Elsewhere in this decision, it is found that the Eastern Ohio-Western Pennsylvania Class I price, including the supply-demand provisions, should be effective only for the first 18 months of the order.) It is also appropriate that the supply-demand provisions under the proposed order be computed on the basis of producer receipts and Class I sales of all regulated plants instead of being limited to plants now subject to the Northeastern Ohio order. Using only supplies and sales of presently regulated Northeastern Ohio plants in computing the supply-demand adjustment for the enlarged order could tend to incorrectly reflect the actual supply-demand conditions for the whole market. There is no assurance, for example, that all plants now regulated under the Northeastern Ohio order will be continuously in operation in the first 18 months of the new order or that some plants now regulated will become nonpool plants in that period. On the other hand, the effect on the supply-demand adjustment of some plants discontinuing their association with the market would be minimized under the proposed order since consideration would be given to the receipts and sales of plants coming on the market for the first time as well as those which have discontinued their operations or have become nonpool plants.

It is proposed that the Eastern Ohio-Western Pennsylvania Class I price be effective only for the first 18 months in which the order is in effect. It is appropriate that the Class I price structure be reexamined at a public hearing after the accumulation of at least 1 year's data on milk supplies and sales. At that time, sufficient experience under the new order would be available to determine whether the Class I price level herein proposed should be changed. Also, sufficient data would then be available to determine whether any changes in the supply-demand provisions should be made.

Class II price. The Class II price should be the same as the Northeastern Ohio order Class II price: the basic formula price (Minnesota-Wisconsin price series) for the month or a butter-powder formula price plus 10 cents, whichever is lower. In 1966, when the Northeastern Ohio Class II price averaged $3.76, the Minnesota-Wisconsin price was the Class II price in only 1 month. In that year, the Minnesota-Wisconsin price series averaged $3.92 and the butter-powder formula price, $3.66.

The Class II price herein provided was proposed by the principal producer associations in the market and was supported by some handlers. It is used not only in the Northeastern Ohio, Youngstown-Warren, and Wheeling orders in establishing a Class II price, but also in a number of other Federal orders, including the nearby Northwestern Ohio, Columbus, Cincinnati, Miami Valley, and Clarksburg orders.

In the Pennsylvania portion of the proposed marketing area, milk received by fluid milk dealers from Pennsylvania producers is now subject to PMCC prices. The PMCC Class II price, which is the higher of the Minnesota-Wisconsin price or a butter-powder formula price, averaged $3.94 in 1966. The PMCC "Subclass II" price which is its butter-powder formula price, averaged $3.65 in 1966. Sub-class II includes milk used in the manufacture of cheese (except cottage cheese), butter and nonfat dry milk. The PMCC Class II includes other Class

II dispositions (as provided in the proposed order) and dispositions such as fluid cream and mixtures of milk and cream, which are Class I in the proposed order. Of the 1.26 billion pounds of milk handled by Pittsburgh area fluid milk dealers in the year ending November 30, 1966, 27 percent was classified in Class II and 6 percent in Sub-class II by PMCC.

Two producer associations (neither of which maintains manufacturing operations or is extensively involved in marketing Class II milk) proposed as a Class II price the higher of the Minnesota-Wisconsin price or the present butter-powder formula price. For 1966, such price would have averaged $3.92, 16 cents above the Class II price provided by this decision.

A handler urged that the Class II price be the lower of the Northeastern Ohio order butter-powder formula price or the U.S. manufacturing milk price series used in the Federal order markets in the northeast. The average 1966 Class II (Class III in the New York-New Jersey order) price in these northeastern orders was $3.84 for New York-New Jersey and Massachusetts-Rhode Island, $3.89 for Connecticut, $3.92 for Delaware Valley, and $3.86 for Washington and Upper Chesapeake Bay. The handlers' proposed butter-powder formula price, which would have been the effective Class II price in every 1966 month, averaged $3.66, 18 to 26 cents below the northeastern order Class II prices and 10 cents below the Class II price provided by this decision.

The Class II price level in the northeastern Federal orders using the U.S. manufacturing milk price series is higher than that herein proposed. The handler spokesman stated that the U.S. manufacturing price series as a basis for determining the Class II price under the proposed order is more appropriate (because it is used in six northeastern orders) than any Midwest pay price, such as the Minnesota-Wisconsin price. He did not, however, explain why the butter-powder formula price proposed by him as an alternative Class II price (and not so utilized in any northeastern Federal order) should be included in the proposed order.

The principal argument of the handlers proposing the lower Class II price is that Pennsylvania is one of the leading States in ice cream manufacture, and Pennsylvania ice cream manufacturers must compete for sales outside the State with handlers who have lower raw material costs. This, according to handlers, is because the milk and milk products used in the manufacture of ice cream in Pittsburgh and other parts of Western Pennsylvania must be approved by a duly constituted health authority, in the same manner as milk for Class I purposes. The out-of-State handlers with whom they compete, handlers claim, may use milk and milk products from uninspected sources and are able thereby to utilize imported butterfat, presumably obtainable at a relatively low price, in their ice cream manufacturing operations.

The purpose of an order is to insure an adequate supply of pure and wholesome milk for the market's Class I needs. Since the quantities of producer milk required on different days of the week will vary substantially, the quantity of producer milk associated with the market must necessarily include a reasonable reserve above the market's actual Class I sales. That reserve must be disposed of by producers through their cooperatives or by handlers as Class II milk.

The Class II price should be at a level at which producer milk that is not needed for Class I purposes may be marketed. It should not, however, be at a price so low that it would encourage a handler to associate milk with the pool solely for manufacturing purposes. Neither should it be at a price that would return to producers less than the obtainable market value for such milk.

In establishing a Class II price, consideration must be given to the outlets that are available for Class II milk and the prices at which such outlets, including both regulated and unregulated plants, may obtain supplies from other sources. Consideration likewise must be given to the Class II prices in adjacent Federal order markets. If the proposed Class II price were higher than Class II prices in the nearby order markets, local producers may encounter difficulties in marketing reserve supplies, particularly in the months of seasonally high production.

There is no indication that the Northeastern Ohio, Youngstown-Warren, and Wheeling order producers and handlers have been unable to market reserve supplies at the proposed Class II price. Neither is there any indication that producers and handlers in the Pennsylvania portion of the proposed marketing area have been unable to market milk for Class II uses at prices comparable to that herein proposed.

The proposed Class II price, by obtaining for producers a price the same as that in the nearby order markets, will tend to insure the orderly marketing of the market's reserve supplies. A higher Class II price than what prevails generally in the area could tend to lose for producers their most accessible and desirable Class II outlets, since some such outlets may be the same as those for the reserve supplies of nearby order markets. On the other hand, there is no justification for providing a lower price than herein proposed. The record does not show that skim milk and butterfat needed by handlers for their Class II operations are available from other sources at prices lower than the proposed Class II price.

Butterfat differentials. The Class I butterfat differential should be 12 percent of the Chicago butter price for the preceding month and the Class II butterfat differential should be 11.5 percent of the Chicago butter price for the current month. For 1966, this would have resulted in Class I and Class II differentials averaging 8 cents and 7.6 cents, respectively.

The Northeastern Ohio, Youngstown-Warren, and Wheeling order Class I and Class II differentials are 13 percent and 11.5 percent, respectively, of the Chicago butter price. These resulted in average differentials in 1966 of 8.6 cents for Class I and 7.6 cents for Class II.

Under the PMCC regulations, the average Class I butterfat differential equivalent in Western Pennsylvania in 1966 was 10.4 cents, or 15.5 percent of the Chicago butter price. The PMCC Class II butterfat differential in Western Pennsylvania is 11.5 percent of the Chicago butter price, the same as provided in the Northeastern Ohio and other Federal orders and as herein proposed.

The butterfat differentials herein provided were proposed by the principal producer associations in the market. They have wide acceptance in the industry and are the Class I and Class II butterfat differentials most applicable in Federal orders.

The spokesman of one producer association proposed the same butterfat differential (12 percent of the Chicago butter price) for Class I and Class II. He stated that this has worked well in some Federal orders and would simplify the accounting procedures under the proposed order. Of the 73 Federal orders currently in effect, four have the same butterfat differential for Class I and Class II milk. The conditions in these markets that justify the same butterfat differential for Class I and Class II were not set forth in the record of this hearing. Because several orders use the same butterfat differentials for Class I and Class II is not sufficient justification per se to provide one butterfat differential for the two classes under this order.

A handler spokesman for the same Class I and Class II differential proposed a rate of 11.3 percent of the Chicago butter price. His principal argument for a lower Class I butterfat differential is that the demand in Class I products is increasingly greater for the nonfat solids and the demand for butterfat is declining. A lower Class II butterfat differential is desirable, he stated, to better enable cream to compete with cream substitutes. The handler's proposal would have the effect of increasing the cost of the skim milk portion of Class I and Class II milk and reducing substantially the cost of butterfat, especially in Class I milk.

The only testimony in support of a Class I differential higher than 12 percent of the Chicago butter price was presented by a handler who proposed retaining the Northeastern Ohio Class I differential of 13 percent of the Chicago butter price. He cited the continually increasing consumer demand for nonfat and low fat fluid milk products and the decreasing demand for butterfat. Lowering the Class I butterfat differential, and thereby increasing the cost of the skim milk portion of Class I milk, he argued, would tend to impede the increasing demand for the nonfat and low fat Class I products.

The proposed Class I butterfat differential will allocate less value to the butterfat in Class I milk and more value to the skim milk portion than is now provided in the Northeastern Ohio, Youngstown-Warren, and Wheeling orders and by the PMCC regulations applicable in Western Pennsylvania. In 1966, when the Northeastern Ohio Class I price averaged $5.47, the value of 3.5 pounds of butterfat in a hundred pounds of milk was $3.01 (35×8.6 cents). The skim milk portion of such hundred pounds of milk was valued at $2.46.

The proposed butterfat differential of 12 percent of the Chicago butter price would have valued the butterfat in a hundred pounds of milk under the Northeastern Ohio order in 1966 at $2.80 (35×8 cents). This is 21 cents less than the value of the 3.5 pounds of butterfat in a hundred pounds of Class I milk under the Northeastern Ohio order in 1966. Had such a differential been in effect, the value of the skim milk portion of the milk would have been increased by 21 cents.

A number of fluid milk products on the market have a proportionately higher percentage of solids-not-fat (e.g., fortified or modified skim milk). With a relatively high Class I butterfat differential, producers do not receive their appropriate share of the Class I sales value represented by the solids-not-fat portion of Class I products.

Except for the handler who proposed 11.3 percent of the Chicago butter price for a Class I and Class II differential, there was no opposition at the hearing to the Class II differential of 11.5 percent of the Chicago butter price. Any reduction below 11.5 percent of the Chicago butter price as a Class II differential would tend to price butterfat below that which widely prevails in other Federal order markets and in unregulated markets. Likewise, it would be inappropriate to price the butterfat in Class I milk at this lower manufacturing value, when it is sold by handlers in higher valued Class I products.

The proposed Class I and Class II butterfat differentials, by pricing butterfat in producer milk competitively with butterfat for comparable uses from alternative sources of supply, will facilitate the orderly marketing of producer milk under the proposed order.

The butterfat differential to producers should be calculated at the average of the Class I and Class II butterfat differentials weighted by the proportion of butterfat in producer milk classified in each class during the month. This procedure for determining the producer butterfat differential is commonly provided in Federal orders, including the Northeastern Ohio, Youngstown-Warren, and Wheeling orders. Its inclusion in the proposed order will assure returns to producers that reflect the actual value of their butterfat at the class prices provided by the order.

Location adjustments. Location adjustments should be incorporated into the order to provide an appropriate adjustment of the Class I and uniform prices. Such adjustments should be based on the location of any plant at which producer milk or other source milk is received.

For milk received at plants 85–100 miles from the nearest of the five designated cities (Canton and Cleveland, Ohio, and Erie, Pittsburgh, and Uniontown, Pa.), the Class I price should be reduced 15 cents. For plants beyond the 100-mile limit, the Class I price should be reduced 15 cents plus an additional 1.5 cents for each 10 miles or fraction thereof that such plants are more than 100 miles from the nearest of the city halls in the designated cities. The applicable mileage (from the nearest designated city to a plant) for determining the location adjustment would be measured by the shortest hard-surfaced highway distance as determined by the market administrator.

The five measuring point cities proposed for determining the location adjustment are the same measuring points used for determining whether the Pittsburgh district or Cleveland-Erie district Class I price would be applicable at a plant located outside the marketing area. These cities are so situated geographically in relation to the supplies for the market to serve most equitably as representative measuring points from which to determine location adjustment mileages.

In addition to the five cities herein proposed as measuring points for applying location differentials, five other cities (Akron, Ashtabula, Youngstown, Warren, and Wheeling) were proposed by producers for the same purpose. Since no practical purpose would be accomplished by designating as measuring points any of the additional cities proposed (i.e., obtaining significantly different applicable location adjustments at any location from which milk may be shipped to the marketing area), they are not so used.

The Northeastern Ohio, Youngstown-Warren, and Wheeling orders provide for location adjustments in the manner herein proposed. PMCC regulations for Western Pennsylvania do not provide for any such adjustments.

Under the Northeastern Ohio order, location differentials are applicable at plants that are 40 miles or more from the public square in Cleveland and also 27.5 miles or more from city halls in Akron, Canton, and Ashtabula. The Youngstown-Warren order location adjustments are applicable at plants 50 miles or more from the county courthouses in Youngstown and Warren, Ohio. Under the Wheeling order, location adjustments apply at plants 60 miles or more from the city halls in Wheeling, East Liverpool, and Steubenville.

The Northeastern Ohio location adjustment rate is 13 cents at plants 40–60 miles from Cleveland plus one cent for each 10 miles or fraction thereof in excess of 60 miles. The Youngstown-Warren location differential for plants 50–60 miles from the nearer of Youngstown or Warren is 10 cents plus 1.5 cents for each additional 10 miles or fraction thereof. The Wheeling location adjustment is 15 cents at plants 60–70 miles from the nearest of Wheeling, East Liverpool or Steubenville, 16.5 cents at 70–80 miles, 18 cents at 80–90 miles and plus one cent for each additional 10 miles or fraction thereof.

The minimum distances from their respective measuring points for which location adjustments apply under the Northeastern Ohio, Youngstown-Warren, and Wheeling orders have been appropriate for those respective orders since they were first established or amended 5 or more years ago. Providing location adjustment credits only at plants 85 miles or more from designated measuring points as herein proposed recognizes the rapidly changing and continuing technological improvements in moving milk greater distances from farms to milk plants. Farms within an 85-mile radius of the designated measuring points are preponderantly those delivering directly to plants in the marketing area. There would be no economic justification to provide that a handler should pay a lesser price (by receiving a location adjustment credit) for producer milk delivered to plants within such a radius. The 85-mile distance from the designated measuring point is a reasonable and appropriate standard under current conditions in the proposed enlarged marketing area as a minimum distance for establishing location adjustments.

Class I products, because of their bulky, perishable nature, incur a relatively high transportation cost if such products or the milk used to produce them are moved considerable distances. Milk delivered directly by farmers to plants in or near the marketing area, therefore, is worth more to a handler than milk received from farmers at a plant many miles from the marketing area. This is so because in the latter instances the handler must incur the additional cost of moving that milk to the marketing area. Under these conditions, the value of producer milk delivered to plants located some distance from the marketing area is reduced in proportion to the distance (and the cost of transporting such milk) from the point of receipt to the marketing area. Providing location differentials based on the cost of moving milk to marketing area plants will insure uniform prices to all handlers regardless of the location where the milk is procured.

Location differentials applicable to the various plants should reflect the efficiency resulting from technological changes in the marketing of milk in recent years. Such technological improvements, as better roads and larger tank trucks, have tended to reduce unit hauling costs for both producers and handlers.

The location adjustment rates proposed at the hearing range from one cent to more than two cents per hundredweight for each 10 miles. The 1.5-cent rate proposed herein appropriately reflects the cost of moving milk efficiently under present economic conditions in the Eastern Ohio-Western Pennsylvania market. It is the rate most applicable in Federal orders throughout the United States and is recognized as an appropriate and representative rate for transporting milk to the market. Because of its wide applicability, it will insure a

reasonable alignment of prices between this and other orders at the various locations at which handlers under the different orders compete.

It is not intended that the Class I price should be dependent on the type of plant receiving the milk. To the extent that milk is received at a plant from producers at a considerable distance from the marketing area and brought to the marketing area by the handler, he has assumed a transportation cost which might otherwise be borne by producers. Transportation costs are incurred whether milk is moved in tank trucks from distant plants to the marketing area or whether packaged fluid milk products from processing plants at the same or a similar location are distributed on routes in the marketing area.

It was suggested that a location adjustment credit or a similar allowance apply to all pool supply plants wherever located to compensate the supply plant operators for costs incurred in operating such plants and moving milk from such plants to distributing plants. It is not the purpose of the order to either promote or discourage the operation of supply plants. The operator of a pool distributing plant may elect to obtain his supply from producers delivering directly to his plant or from a supply plant. The handler operating the supply plant does so because he deems it economically advantageous to him. A location adjustment credit or similar allowance for all pool supply plants as was suggested would be tantamount to a payment from the pool to supply plant operators. Incorporating such a provision in the proposed order would be inappropriate since it would, in effect, subsidize supply plants at the expense of all producers under the order.

Because of the variations in daily demand, some milk that is moved to the market and intended for use as Class I milk cannot be so utilized and must be processed into manufactured products. Under the Northeastern Ohio order, a location adjustment is applicable, under certain conditions, to milk in the Class II classification which was moved from another pool plant.

The maximum quantity of such milk to which an adjustment may apply at a transferee plant is 8 percent of its Class I utilization. Such a margin should be sufficient for handlers under the proposed order in balancing the receipts from supply plants with day-to-day bottling requirements. The attached order gives consideration to this by providing that any remainder of Class I milk in excess of 92.5 percent of the sum of the producer milk receipts and that assigned as Class I to receipts from other order plants and unregulated supply plants may be assigned to receipts from other pool plants. However, to assure that milk will not be moved at the expense of producers, such assignment should be made first to receipts from plants at which no location adjustment is applicable and then in sequence beginning with the plant with the lowest applicable location adjustment. This sequential assignment of milk is commonly provided in Federal orders, including the Northeastern Ohio, Youngstown-Warren, and Wheeling orders, and will provide an equitable basis for facilitating the movement of milk between pool plants for Class I purposes. Likewise, it will tend to discourage the unnecessary moving of milk from pool plants at the expense of producers.

Uniform prices paid to producers supplying plants at which location differentials apply should likewise be adjusted to reflect the value of milk f.o.b. the point at which delivered. The producer assumes responsibility of delivering his milk to the plant at which it is customarily received. The cost of such delivery is borne by the producer. This is commonly recognized in Federal orders, including those incorporated in the proposed order. It would not be economically feasible or otherwise justifiable in this market to price the milk of a producer other than at the location to which it is delivered.

One producer association spokesman proposed that milk be priced f.o.b. the farm. This would transfer the cost of moving milk from the farm to a plant from the producer to the plant operator. Under the existing Federal orders, under the PMCC regulations and otherwise in the proposed marketing area, the expense involved in moving milk from the farm to a milk plant has been the responsibility of the producers. The proponent of this provision represents relatively few producers on the market. There was no support for his proposal by the major producer associations in the market or by handlers. The testimony presented at the hearing cited the New York-New Jersey order provision which provides for such farm point pricing. It did not show, however, why such pricing would be appropriate under the proposed order, or that the present method of pricing milk f.o.b. the plant to which delivered would be inappropriate. The proposal to include such a provision in the order is denied.

(d) *Distribution of the proceeds to producers.* A marketwide equalization pool should be included in the proposed order as a means of distributing to producers the proceeds from the sale of their milk. Such a pool will assure a producer supplying the order market a return based on his pro rata share of the total Class I sales of such market. The "blend" that a producer receives for each month's deliveries will be a price based on the overall utilization of all producer milk received at the pool plants of all regulated handlers during such month.

The uniformity of payments to producers provided under a marketwide pool permits a handler either to maintain a manufacturing operation in his plant to handle the seasonal and daily reserve supplies of milk or to limit the operation at his plant to the handling of milk for Class I purposes only, without affecting the blended prices payable to his producers as against other producers in the market.

The facilities in the various plants in the area for handling producer milk in excess of that needed for Class I purposes vary considerably. While a number of plants in the market are exclusively Class I operations and handle little or no surplus milk, others utilize varying proportions of their supplies for manufacturing purposes. Under these conditions, a marketwide pool in the Eastern Ohio-Western Pennsylvania marketing area will facilitate the marketing of producer milk. A marketwide pool will make it possible for producer associations to assist in diverting seasonal reserve milk and thus keep producers on the market who are needed to fulfill the year-round requirements of the market. It will assist also in apportioning among all producers the lower returns from reserve milk where otherwise this burden would be placed on individual groups of producers. A marketwide pool will thereby contribute to market stability and the attainment of an adequate and dependable supply of producer milk.

Two Pennsylvania handlers and a spokesman for some Pennsylvania producers urged that a separate order be provided for Western Pennsylvania (instead of one order as provided by this decision) and that it provide for a handler pool. The facilities in the Pennsylvania plants in the proposed marketing area for handling producer milk in excess of that needed for Class I purposes vary considerably, as they do in the other portions of the proposed marketing area. The uneven distribution of the handling of the reserve supplies in the market that has in the past justified, and now justifies, marketwide pooling in the Northeastern Ohio, Youngstown-Warren, and Wheeling orders is no less prevalent in Western Pennsylvania than in other portions of the proposed marketing area. In view of these considerations, the proposal for a handler pool for distributing returns to producers under the proposed order is denied.

One handler proposed that a "Louisville plan" of fall production incentive payments be utilized in distributing returns to producers. Such a plan provides for setting aside a portion of the payments made by handlers for producer milk in the spring months of flush production for distribution to producers on the basis of their deliveries during the fall months of low production.

Louisville plans, also referred to as take-out and pay-back plans, are provided for in a number of Federal order markets, including the nearby markets of Columbus, Cincinnati, and Miami Valley. Louisville plans are not used in either the Northeastern Ohio, Youngstown-Warren, or Wheeling orders or elsewhere in the proposed marketing area.

Louisville plans are concerned only with distributing to producers the payments made by handlers for milk. Such plans do not affect the prices paid by a handler for producer deliveries. The principal producer associations in the market neither proposed nor supported the inclusion of a Louisville plan in the proposed order. It would be inappropriate to include in the order such a provision for distributing returns to producers that did not have their support. The proposal, therefore, is denied.

A proposal listed in the hearing notice would provide for payment from the pool to qualified cooperative associations for marketwide services rendered by such cooperatives. No testimony was presented at the hearing on this proposal, which was abandoned by its proponent. Accordingly, no action is taken on it in this decision.

Payments for producer milk. The Northeastern Ohio order provisions for paying producers are equally appropriate for the proposed marketing area and should be incorporated in the proposed order.

The Northeastern Ohio order provides that handlers must pay for producer milk at not less than the monthly uniform price by the 18th of the following month if paid directly to the producer and by the 16th if paid to a cooperative. It was proposed by one cooperative that these dates be advanced to the 15th and 13th. To attain this, the cooperative further proposed that the market administrator be required to complete the pool and announce the uniform price not later than the 12th of the month (instead of the 14th as now provided in the Northeastern Ohio order) and change the dates for payments to and from the producer-settlement fund from the 16th and 17th, respectively, to the 14th and 15th of the month.

As now provided in the Northeastern Ohio order, proposed at the hearing, and specified in the attached order, handlers must submit reports to the market administrator not later than the eighth day of the following month. There was no support at the hearing either by the proponent of advancing the dates for computing the pool and paying producers or by any other party for requiring handlers to submit their reports by an earlier date. To the contrary, it was testified that it would be impractical under the proposed order to provide an earlier date than the eighth day of the month by which handlers must file their reports.

The number of handler reports that would be included in the pool computation under the proposed order is vastly greater than the number now included in the Northeastern Ohio order. Moreover, such reports would be obtained from handlers over a much wider geographical area. These factors argue for more rather than less time to be allowed the market administrator to process handlers' reports and compute the pool.

On the basis of testimony presented at the hearing, it would be impractical to advance the dates by which the pool must be completed and producers paid without allowing a correspondingly greater time between the filing of reports and the pool computation. The cooperative proposal for advancing these dates is therefore denied.

Another cooperative proposed that handlers be required to pay the market administrator at the applicable class prices for all producer milk delivered to their plants. The market administrator in turn would distribute such monies to producers through payments at the uniform price. The payments could be made either directly to producers or to cooperatives authorized to collect for their members.

Under the provisions commonly provided in Federal orders, a handler is required to pay at least the uniform price to all producers (or their cooperatives) from whom he purchases milk. The difference between what the handler pays producers and the utilization value of his milk at the class prices is paid to or received from an "equalization fund". Handlers with higher-than-average utilization pay the difference into this fund. The money is then paid out to the handlers with a lower-than-average utilization.

The proponent cooperative stated that under its proposal, the market administrator would know more promptly than "under an equalization pool" when a handler is delinquent in his payments for producer milk. This, the cooperative claimed, would permit the market administrator to institute action more promptly in the collection of delinquent payments.

Other supporting reasons cited by the cooperative were that (1) handlers would be relieved of the work and expense in preparing producer payrolls and writing checks to producers, (2) handlers' accounting to the pool would be simplified, and (3) any misunderstanding or confusion which may attend payments by handlers into, and their withdrawal of monies from the equalization fund would tend to be dispelled.

Except for the cooperative making the proposal, there was no support at the hearing for it by producers or handlers. The reasons cited by the cooperative as to why its proposal should be adopted in this market are those which might well be presented by handlers. However, handlers opposed this system of payment despite the advantages the cooperative alleges it would have for them. In fact, handlers countered that the advantages indicated by producers were illusory in that no real functions would be eliminated and no actual efficiencies realized.

There is no indication that the method of paying producers now used in the Northeastern Ohio, Youngstown-Warren, Wheeling, and other orders is not working satisfactorily and would not work satisfactorily under the proposed order. Moreover, it was not shown what marketing conditions under the proposed order the proposal was intended to correct or that it would provide any advantages for producers and handlers in the market. Accordingly, the proposal that the handlers pay the market administrator directly for producer milk and the market administrator in turn pay producers is denied.

(e) *Administrative provisions.* Producer-settlement, administrative expense and marketing service funds should be provided under the proposed Eastern Ohio-Western Pennsylvania order in the same manner as under the present Northeastern Ohio, Youngstown-Warren, and Wheeling orders. Such funds of the present orders are equally necessary and appropriate for the proposed order.

The maximum rate of deduction for administration expense should be 3 cents per hundredweight and for marketing services, 5 cents. These are the maximum rates provided by the present Northeastern Ohio order. The same maximum rates for marketing services are provided also by the other two orders. However, these orders set maximum rates of 4 cents per hundredweight for administration expenses. No need was shown for maximum rates different from those in the Northeastern Ohio order. If experience indicates that administration of the order and marketing services can be performed at lesser rates, provision is made in the proposed order whereby the Secretary may adjust the rates downward without the necessity of a hearing.

To accomplish the merger of the Northeastern Ohio, Youngstown-Warren, and Wheeling orders effectively and equitably, the assets in the administrative and marketing service funds which have accrued under the separate orders should be combined. Similar procedure should be carried out with respect to the producer-settlement fund reserves. Any liabilities of such funds under the individual orders should be paid from the new funds so created. Similarly, obligations which are due and owing to the funds under the separate orders should remain and be paid to the combined funds under the merged order. This procedure would assure and maintain the continuity of the regulatory program in these areas. No opposition was voiced at the hearing to the proposed merger of the funds.

The money paid to the administrative expense fund is each handler's proportionate share of the cost of administering the order. All currently regulated handlers who have contributed to the administrative funds of the separate orders will continue to be regulated under the merged order. Because the liabilities of each of the present funds would be paid from the consolidated fund, it is equitable to use accumulated monies to pay such liabilities and to carry over any minor balances for use in administering the merged order.

The money accumulated in the marketing service funds of the separate orders is that paid by producers for whom the market administrator has performed such services as verifying the tests and weights of producer milk and furnishing market information. The producers who have contributed to the marketing service fund of each order are expected to continue to supply milk for the expanded market. The consolidation of the assets in the three separate marketing service funds will allow the continuation of the marketing service program under the merged order.

The producer-settlement funds under the three present orders facilitate the payment by handlers for milk received from producers. A handler whose obligation for producer milk received during the month is greater than the amount he is required to pay producers at the applicable uniform price pays the difference

into the producer-settlement fund. Each handler whose obligation for producer milk is less than the applicable uniform price receives payment of the difference from the fund. For the efficient functioning of the fund, a reasonable reserve is set aside at the end of each month.

Most of the producers for the Eastern Ohio-Western Pennsylvania market currently supply milk to one or the other of the present Federal order markets. The major part of the monies in the separate funds will be reflected in the uniform prices of the producers whose money will be in the merged fund reserves. These combined funds would also serve the function of contingency reserve funds from which money would be available for obligations (resulting from audit adjustments and otherwise) for which the funds of one or more of the present orders were responsible. It would be impractical to distribute the existing producer-settlement fund reserves to producers and to accumulate anew the required reserve for the consolidated order. To do so would increase administrative expenses without realizing any significant additional returns to producers under the presently existing orders.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

The presiding officer's rulings have been reviewed in the light of the briefs filed by interested parties. These rulings, for the reasons stated by the presiding officer on the record, are hereby affirmed.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein:

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing areas, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, the marketing agreements upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Orders

The following order amending and consolidating the orders as amended regulating the handling of milk in the Northeastern Ohio, Greater Youngstown-Warren, and Greater Wheeling marketing areas is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed:

PART 1036—MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

Subpart—Order Regulating Handling

Definitions

Sec.
1036.1 Act.
1036.2 Secretary.
1036.3 Department.
1036.4 Person.
1036.5 Cooperative association.
1036.6 Eastern Ohio-Western Pennsylvania marketing area.
1036.7 Fluid milk product.
1036.8 Route disposition.
1036.9 Distributing plant.
1036.10 Supply plant.
1036.11 Pool plant.
1036.12 Nonpool plant.
1036.13 Handler.
1036.14 Producer-handler.
1036.15 Producer.
1036.16 Producer milk.
1036.17 Other source milk.
1036.18 Reload point.
1036.19 Butter price.
1036.20 Pittsburgh district.
1036.21 Cleveland-Erie district.

Market Administrator

1036.25 Designation.
1036.26 Powers.
1036.27 Duties.

Reports, Records and Facilities

1036.30 Reports of receipts and utilization.
1036.31 Producer payroll reports.
1036.32 Other reports.
1036.33 Records and facilities.
1036.34 Retention of records.

Classification

1036.40 Skim milk and butterfat to be classified.
1036.41 Classes of utilization.
1036.42 Shrinkage.
1036.43 Transfers.
1036.44 Computation of skim milk and butterfat in each class.
1036.45 Allocation of skim milk and butterfat classified.

Minimum Prices

Sec.
1036.50 Basic formula price.
1036.51 Class prices.
1036.52 Butterfat differentials to handlers.
1036.53 Location adjustments to handlers.
1036.54 Use of equivalent prices.

Application of Prices

1036.60 Computation of the net pool obligation of each handler.
1036.61 Computation of the uniform price.
1036.62 Obligations of handler operating a partially regulated distributing plant.
1036.63 Notification.

Payments

1036.70 Time and method of payment.
1036.71 Butterfat differential to producers.
1036.72 Location differentials to producers and on nonpool milk.
1036.73 Producer-settlement fund.
1036.74 Payments to the producer-settlement fund.
1036.75 Payments from the producer-settlement fund.
1036.76 Marketing services.
1036.77 Expense of administration.
1036.78 Adjustment of accounts.
1036.79 Termination of obligations.

Effective Time, Suspension or Termination

1036.90 Effective time.
1036.91 Suspension or termination.
1036.92 Continuing power and duty of the market administrator.
1036.93 Liquidation after suspension or termination.

Miscellaneous Provisions

1036.100 Separability of provisions.
1036.101 Agents.

Definitions

§ 1036.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended and reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 1036.2 Secretary.

"Secretary" means the Secretary of Agriculture or such other officer or employee of the United States authorized to exercise the powers or to perform the duties of the Secretary of Agriculture.

§ 1036.3 Department.

"Department" means the U.S. Department of Agriculture.

§ 1036.4 Person.

"Person" means any individual, partnership, corporation, association, or other business unit.

§ 1036.5 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sale or marketing milk or its products for its members; and

(c) To have all of its activities under the control of its members.

§ 1036.6 Eastern Ohio-Western Pennsylvania marketing area.

The "Eastern Ohio-Western Pennsylvania marketing area", hereinafter called the "marketing area", means all the territory within the boundaries of the following geographical units, including all waterfront facilities connected therewith and all territory wholly or partly therein occupied by Government (municipal, State, or Federal) reservations, installations, institutions or other similar establishments:

(a) In Ohio:

(1) The following counties in their entirety:

Ashtabula.	Jefferson.
Belmont.	Mahoning.
Carroll.	Monroe.
Columbiana.	Portage.
Cuyahoga.	Summit.
Geauga	Trumbull.
Harrison.	Tuscarawas.

(2) All of Stark County except Paris and Sugar Creek Townships;

(3) Willoughby, Mentor, and Kirtland Townships and the city of Painesville in Lake County;

(4) Black River, Sheffield, Avon Lake, Avon, Amherst, Elyria, Ridgeville, Carlisle, Eaton, Columbia, and Grafton Townships in Lorain County;

(5) Liverpool, Brunswick, Hinckley, York, Granger, Medina, Lafayette, Montville, Sharon, and Wadsworth Townships in Medina County;

(6) Sections 1, 2, 3, 10, 11, and 12 of Sugar Creek Township in Wayne County; and

(7) Londonderry, Oxford, and Millwood Townships in Guernsey County.

(b) In Pennsylvania:

(1) The following counties in their entirety:

Allegheny.	Fayette.
Armstrong.	Greene.
Beaver.	Lawrence.
Butler.	Mercer.
Crawford.	Venango.
Erie.	Washington.

(2) In Clarion County, the townships of Ashland, Beaver, Licking, Madison, Perry, Piney, Richland, Salem, and Toby; and

(3) All of Westmoreland County except (i) the boroughts of Bolivar, Donegal, Ligonier, New Florence, and Seward and (ii) the townships of Cook, Donegal, Fairfield, Ligonier, and St. Clair.

(c) In West Virginia, the following counties in their entirety:

Brooke.	Marshall.
Hancock.	Ohio.

§ 1036.7 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, flavored milk, flavored milk drinks, concentrated milk, cream (except sour cream), and mixtures of such cream or milk and skim milk. "Fluid milk product" shall not include sour cream, milk shake milk mix containing not less than 14 percent total milk solids, and sterilized products in hermetically sealed glass or metal containers.

§ 1036.8 Route disposition.

"Route disposition" means a delivery (except to a plant) either direct or through any distribution facility (including disposition from a plant store, vendor or vending machine) of a fluid milk product classified as Class I pursuant to § 1036.41(a)(1).

§ 1036.9 Distributing plant.

"Distributing plant" means a plant in which milk approved by a duly constituted health authority for fluid consumption is processed or packaged and which has route disposition in the marketing area during the month.

§ 1036.10 Supply plant.

"Supply plant" means a plant from which a fluid milk product acceptable to a duly constituted health authority is shipped during the month to a pool plant.

§ 1036.11 Pool plant.

"Pool plant" means a plant specified in paragraph (a) or (b) of this section that is not an other order plant or a producer-handler plant: *Provided*, That any plant that would have been a pool plant pursuant to this order had it been in effect in any month subsequent to August 1967 shall be considered to have been a pool plant for such month for the purpose of this section.

(a) A distributing plant that has route disposition during the month of not less than 50 percent (40 percent for each month of April through August) of the total receipts of fluid milk products that are approved by a duly constituted health authority for fluid consumption and that are physically received at such plant or diverted as producer milk to a nonpool plant pursuant to § 1036.16 and that has route disposition in the marketing area during the month of not less than 15 percent of such receipts.

(b) A supply plant from which during the months of September, October, and November not less than 50 percent, and in all other months not less than 40 percent, of the milk approved by a duly constituted health authority for fluid consumption received at such plant from dairy farmers and handlers pursuant to § 1036.13(d) or diverted as producer milk to a nonpool plant pursuant to § 1036.16 is shipped to and physically received in the form of fluid milk products at pool plants pursuant to paragraph (a) of this section. A plant that was a pool plant pursuant to this paragraph in each of the immediately preceding months of September through February shall be a pool plant for the months of March through August unless the milk received at the plant does not continue to meet the requirements of a duly constituted health authority or a written application is filed by the plant operator with the market administrator on or before the first day of any such month requesting that the plant be designated as a nonpool plant for such month and each subsequent month through August during which it would not otherwise qualify as a pool plant.

§ 1036.12 Nonpool plant.

"Nonpool plant" means a plant (except a pool plant) which receives milk from dairy farmers or is a milk manufacturing, processing or bottling plant. The following categories of nonpool plants are further defined as follows:

(a) Except as provided in paragraphs (c)(2) and (d)(2) of this section, "other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant pursuant to § 1036.11 and a greater volume of fluid milk products is disposed of from such plant in this marketing area as route disposition and to pool plants qualified on the basis of route disposition in this marketing area than is so disposed of from such plant in the marketing area regulated pursuant to such other order.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means:

(1) A nonpool plant that is a distributing plant and is not an other order plant or a producer-handler plant; and

(2) An other order plant with respect to its route disposition in the marketing area that is not priced and pooled pursuant to any order issued pursuant to the Act.

(d) "Unregulated supply plant" means:

(1) A nonpool plant that is a supply plant and is not an other order plant or a producer-handler plant; and

(2) An other order plant with respect to fluid milk products which were received at a pool plant from such a plant and which are not priced and pooled pursuant to any order issued pursuant to the Act.

§ 1036.13 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) Any person in his capacity as the operator of a partially regulated distributing plant;

(c) Any cooperative association with respect to producer milk which it causes to be diverted from a pool plant to a nonpool plant for the account of such cooperative association;

(d) A cooperative association with respect to milk of its producer-members which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association. The milk for which a cooperative association is the handler pursuant to this paragraph shall be deemed to have been received at the location of the pool plant to which it was delivered;

(e) Any person in his capacity as the operator of an other order plant that is

either a distributing plant or a supply plant; and

(f) A producer-handler.

§ 1036.14 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a distributing plant and who received no fluid milk products from other dairy farmers or from sources other than pool plants: *Provided*, That such person provides proof satisfactory to the market administrator that the care and management of all the dairy animals and other resources necessary to produce the entire volume of fluid milk products handled (excluding receipts from pool plants) and the operation of the processing and packaging business are the personal enterprise and risk of such person.

§ 1036.15 Producer.

"Producer" means any person except a producer-handler as defined in any order (including this part) issued pursuant to the Act who produces milk for fluid consumption in compliance with the inspection requirements of a duly constituted health authority, which milk is received at a pool plant or diverted pursuant to § 1036.16 from a pool plant to a nonpool plant or another pool plant. "Producer" shall not include a person with respect to milk that is physically received at a pool plant as diverted milk from an other order plant if a Class II classification under this order is designated for such milk and it is subject to the pricing and pooling provisions of another order issued pursuant to the Act.

§ 1036.16 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk:

(a) Received at a pool plant directly from a producer or a handler pursuant to § 1036.13(d): *Provided*, That:

(1) If the milk received at a pool plant from a handler pursuant to § 1036.13(d) is purchased on a basis other than farm weights, the amount by which the total farm weights of such milk exceed the weights on which the pool plant's purchases are based shall be producer milk received by the handler pursuant to § 1036.13(d) at the location of the pool plant; and

(2) "Producer milk" shall not include milk that is physically received at a pool plant as diverted milk from an other order plant if a Class II designation under this order is designated for such milk and it is subject to the pricing and pooling provisions of another order issued pursuant to the Act;

(b) Diverted from a pool plant to a nonpool plant other than an other order plant or a producer-handler plant: *Provided*, That:

(1) Except as provided in subparagraph (4) of this paragraph, such milk shall be deemed to have been received by the diverting handler at the location of the plant from which diverted;

(2) To the extent that it would result in nonpool plant status for the pool plant from which diverted, milk diverted for the account of a cooperative association from the pool plant of another handler shall not be deemed to have been received at such pool plant and shall not be producer milk;

(3) In any month of August through March, the quantity of milk of any producer diverted to nonpool plants that exceeds that delivered to pool plants shall not be deemed to have been received by the diverting handler and shall not be producer milk;

(4) In any month of April through July, the quantity of milk of any producer diverted to nonpool plants that exceeds that physically received at pool plants shall be deemed to have been received by the diverting handler at the location of the nonpool plant to which diverted; and

(5) The diverting handler shall designate the dairy farmers' deliveries that are not producer milk pursuant to this paragraph. If the handler fails to make such designation, no milk diverted by him to a nonpool plant shall be producer milk;

(c) Diverted from a pool plant to an other order plant if a Class II classification (or its equivalent) is designated for such milk pursuant to the provisions of another order issued pursuant to the Act and such milk is not subject to the pricing and pooling provisions of such order. The provisos in paragraph (b) of this section shall apply to this paragraph as if set forth fully herein; or

(d) Diverted from a pool plant to another pool plant for the account of a handler operating the pool plant from which diverted. Milk so diverted shall be deemed to have been received by the diverting handler at the location of the pool plant from which diverted, if at least half of the producer's milk pooled under this order during the month is physically received at such plant.

§ 1036.17 Other source milk.

"Other source milk" means the skim milk and butterfat contained in or represented by:

(a) Fluid milk products from any source except (1) producer milk, (2) fluid milk products from pool plants, and (3) fluid milk products in inventory at the beginning of the month;

(b) Products other than fluid milk products from any source (including those produced at the plant) which are reprocessed, converted into or combined with another product in the plant during the month; and

(c) Any disappearance of nonfluid products in a form in which they may be converted into a Class I product and which are not otherwise accounted for pursuant to § 1036.33.

§ 1036.18 Reload point.

"Reload point" means a location at which milk moved from a farm in a tank truck is transferred to another tank truck and commingled with other milk before entering a plant. A reload operation on the premises of a plant shall be considered a part of the plant operation.

§ 1036.19 Chicago butter price.

"Chicago butter price" means the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of 92-score bulk creamery butter at Chicago as reported for the month by the Department.

§ 1036.20 Pittsburgh district.

"Pittsburgh district" means all the territory in the marketing area within 80 miles (by the shortest hard-surfaced highway distance as determined by the market administrator) of the Pittsburgh, Pa., city hall.

§ 1036.21 Cleveland-Erie district.

"Cleveland-Erie district" means all the territory in the marketing area that is not within the Pittsburgh district.

MARKET ADMINISTRATOR

§ 1036.25 Designation.

The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by and shall be subject to removal at the discretion of, the Secretary.

§ 1036.26 Powers.

The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To make rules and regulations to effectuate its terms and provisions;

(c) To receive, investigate, and report to the Secretary complaints of violations; and

(d) To recommend amendments to the Secretary.

§ 1036.27 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including, but not limited to, the following:

(a) Within 30 days following the date on which he enters upon his duties or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay, out of funds provided by § 1036.77:

(1) The cost of his bond and of the bonds of his employees;

(2) His own compensation; and

(3) All other expenses, except those incurred under § 1036.76, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and upon request by the Secretary surrender the same to such other person as the Secretary may designate;

(f) Publicly announce at his discretion unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, after the date upon which he is required to perform such acts, has not made reports pursuant to §§ 1036.30 through 1036.32, or payments pursuant to §§ 1036.70, 1036.74, 1036.76, 1036.77, and 1036.78;

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(h) On or before the 20th day of each month, report to each cooperative association that so requests the class utilization of milk received during the preceding month by each handler from producers who are members of such association, prorating to such receipts the class utilization of all producer receipts of such handler;

(i) Audit all reports and payments by each handler by inspection of such handler's records and of the records of any other handler or nonhandler upon whose utilization the classification of skim milk and butterfat for such handler depends;

(j) On or before the dates specified herein, publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate, the following:

(1) The sixth day of each month, the Class I price and the Class I butterfat differential, both for the current month; and the Class II price and the Class II butterfat differential, both for the preceding month; and

(2) The 14th day of each month the uniform price computed pursuant to § 1036.61 and the butterfat differential computed pursuant to § 1036.71;

(k) Prepare and disseminate to the public such statistics and information as he deems advisable and as do not reveal confidential information;

(l) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1036.45(a)(8) and the corresponding step of § 1036.45(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1036.45 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in the verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

REPORTS, RECORDS, AND FACILITIES

§ 1036.30 Reports of receipts and utilization.

On or before the eighth day after the end of each month, each handler (except a handler pursuant to § 1036.13 (e) or (f)) shall report to the market administrator for such month with respect to each plant at which milk is received, reporting in detail and on forms prescribed by the market administrator:

(a) The quantities of skim milk and butterfat contained in or represented by:

(1) Producer milk (or, in the case of handlers pursuant to § 1036.13(b), milk received from qualified dairy farmers);

(2) Fluid milk products received from other pool plants;

(3) Other source milk;

(4) Milk diverted pursuant to § 1036.16; and

(5) Inventories of fluid milk products and Class II products at the beginning and end of the month;

(b) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement showing the respective amounts of skim milk and butterfat in route disposition in the marketing area; and

(c) Such other information with respect to the receipts and utilization of skim milk and butterfat as the market administrator may prescribe.

§ 1036.31 Producer payroll reports.

(a) Each handler pursuant to § 1036.13 (a), (c), and (d) shall report to the market administrator in detail and on forms prescribed by the market administrator on or before the 25th day after the end of the month his producer payroll for such month which shall show for each producer:

(1) His identity;

(2) The quantity of milk received from such producer and the number of days, if less than the entire month, on which milk was received from such producer;

(3) The average butterfat content of such milk; and

(4) The net amount of such handler's payment, together with the price paid and the amount and nature of any deductions.

(b) Each handler operating a partially regulated distributing plant who does not elect to make payments pursuant to § 1036.62(b) shall report to the market administrator on or before the 25th day after the end of the month the same information required of handlers pursuant to paragraph (a) of this section. In such report, payments to dairy farmers delivering milk that is approved by a duly constituted health authority for fluid consumption shall be reported in lieu of payments to producers.

§ 1036.32 Other reports.

(a) Each producer-handler shall report to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler who operates an other order plant shall report total receipts and utilization or disposition of skim milk and butterfat at the plant at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(c) Each handler pursuant to § 1036.13 (d) shall report to the market administrator in detail and on forms prescribed by the market administrator on or before the eighth day after the end of the month the quantities of skim milk and butterfat in producer milk delivered to each pool plant in such month.

§ 1036.33 Records and facilities.

Each handler shall maintain and make available to the market administrator during the usual hours of business such accounts and records of his operations together with such facilities as are necessary for the market administrator to verify or establish the correct data for each month, with respect to:

(a) The receipt and utilization of all skim milk and butterfat handled in any form during the month;

(b) The weights and butterfat and other content of all milk and milk products handled during the month;

(c) The pounds of skim milk and butterfat contained in or represented by all milk products in inventory at the beginning and end of each month; and

(d) Payments to dairy farmers and cooperative associations, including the amount and nature of any deductions and the disbursement of money so deducted.

§ 1036.34 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the calendar month to which such books and records pertain: *Provided*, That if, within such 3-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1036.40 Skim milk and butterfat to be classified.

The skim milk and butterfat required to be reported pursuant to § 1036.30 shall be classified each month pursuant to the provisions of §§ 1036.41 through 1036.45: *Provided*, That such skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise.

§ 1036.41 Classes of utilization.

Subject to the conditions set forth in § 1036.43, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as provided in paragraphs (b) (2), (3), and (4) of this section; and

(2) Not accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be:

(1) Skim milk and butterfat used to produce frozen desserts (e.g., ice cream, ice cream mix), sour cream, eggnog, yogurt, aerated cream products, butter, cheese (including cottage cheese), evaporated and condensed milk (plain or sweetened), nonfat dry milk, dry whole milk, dry whey, condensed or dry buttermilk, milk shake mix containing not less than 14 percent total milk solids, and sterilized products in hermetically sealed glass or metal containers;

(2) Skim milk and butterfat in fluid milk products delivered in bulk form to and used at a commercial food processing establishment (other than a milk plant) in the manufacture of packaged food products (other than milk products) for consumption off the premises;

(3) Skim milk and butterfat in fluid milk products disposed of by a handler for livestock feed;

(4) Skim milk and butterfat in fluid milk products dumped by a handler after notification to, and opportunity for verification by, the market administrator;

(5) Skim milk and butterfat in inventory of fluid milk products at the end of the month;

(6) Skim milk represented by the nonfat solids added to a fluid milk product which is in excess of an equivalent volume of such product prior to the addition;

(7) Skim milk and butterfat, respectively, in shrinkage at each pool plant but not in excess of:

(i) Two percent of producer milk (except that received from a handler pursuant to § 1036.13(d)); *Provided*, That if the handler receiving such milk files notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentage pursuant to this subdivision shall be 2 percent;

(ii) Plus 1.5 percent of bulk fluid milk products received from other pool plants;

(iv) Plus 1.5 percent of bulk fluid milk products received from other order plants exclusive of the quantity for which Class II utilization was requested by the operators of both plants;

(v) Plus 1.5 percent of bulk fluid milk products received from unregulated supply plants exclusive of the quantity for which Class II utilization is requested by the handler; and

(vi) Less 1.5 percent of bulk fluid milk products transferred or diverted to other plants; and

(8) Skim milk and butterfat in shrinkage of other source milk assigned pursuant to § 1036.42(b)(2).

§ 1036.42 Shrinkage.

The market administrator shall allocate shrinkage over each pool plant's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each pool plant; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat, respectively, in:

(1) The net quantity of producer milk and other fluid milk products specified in § 1036.41(b)(7); and

(2) Other source milk exclusive of that specified in § 1036.41(b)(7).

§ 1036.43 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred or diverted from a pool plant to the pool plant of another handler, subject to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after the computations pursuant to § 1036.45(a)(3) and the corresponding step of § 1036.45(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1036.45(a)(3) and the corresponding step of § 1036.45(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1036.45(a)(7) or (8) and the corresponding steps of § 1036.45(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification in Class II in his report submitted pursuant to § 1036.30;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any route disposition in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(ii) Any route disposition in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk; and

(d) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraphs (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph); and

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, movements in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1036.41.

§ 1036.44 Computation of skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and other obvious errors all reports submitted pursuant to § 1036.30 and compute for each handler the total pounds of skim milk and butterfat in each class: *Provided*, That the skim milk contained in any product utilized, produced or disposed of by the handler during the month shall be considered to be an amount equivalent to the nonfat milk solids contained in such product plus all the water originally associated with such solids.

§ 1036.45 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1036.44, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1036.41(b)(7);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or the quantity associated with such receipts and classified as Class II pursuant to § 1036.41(b)(6) plus 2 percent of the remainder of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which appropriate health approval is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant:

(*a*) For which the handler requests Class II utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool handlers, and receipts in bulk from other order plants; and

(ii) Receipts of fluid milk products in bulk from another order plant, in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant that are in excess of similar transfers to the same plant and that were not subtracted pursuant to subparagraph (4)(ii) of this paragraph:

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1036.27(l) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received from pool plants of other handlers according to the classification of such products pursuant to § 1036.43(a); and

(10) If the pounds of skim milk remaining exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

MINIMUM PRICES

§ 1036.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential (rounded to the nearest one-tenth cent) at the rate of the Chicago butter price times 0.12 and rounded to the nearest cent. For the purpose of computing Class I prices from the effective date hereof through April 1968, the basic formula price shall not be less than $4.05.

§ 1036.51 Class prices.

Subject to the provisions of §§ 1036.52 and 1036.53, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* For the first 18 months from the effective date of this order, the Class I price shall be the basic formula price for the preceding month adjusted as follows:

(1) Add $1.67 for plants in the Cleveland-Erie district and $1.77 for plants in the Pittsburgh district, plus 20 cents for each district through April 1968. At a plant outside the marketing area, add the amount applicable pursuant to this paragraph at the location of the city hall of the following cities that is nearest (by the shortest hard-surfaced highway distance as determined by the market administrator) such plant: Canton and Cleveland, Ohio; and Erie, Pittsburgh, and Uniontown, Pa.

(2) Add or subtract a supply-demand adjustment computed as follows:

(i) Determine the total hundredweight of producer milk classified in the second and third preceding months;

(ii) Determine the total hundredweight of milk classified in Class I by all handlers pursuant to § 1036.13 (a), (c), and (d) (adjusted to eliminate duplications due to Class I transfers between such handlers) in the second and third preceding months;

(iii) Determine the "current utilization percentage" by calculating the percentage, rounded to the nearest full percentage, that the amount obtained in subdivision (i) of this subparagraph is of the amount obtained in subdivision (ii) of this subparagraph;

(iv) Compute a "deviation percentage" by subtracting from the current utilization percentage, the designated "standard utilization percentage" for the month, as follows:

Month	Standard utilization percentage
January	120
February	120
March	120
April	130
May	131
June	132
July	141
August	140
September	142
October	126
November	126
December	126

(v) Determine the amount of the supply-demand adjustment from the following table: *Provided*, That if the deviation percentage does not fall within a listed bracket, the amount of the adjustment shall be determined by the adjacent bracket that is the same as or nearest to the bracket used in the preceding month:

Deviation percentage:	Amount of supply-demand adjustment (cents)
+13 or over	−35
+10 or +11	−19
+7 or +8	−13
+4 or +5	−7
+2 or −2	0
−4 or −5	+7
−7 or −8	+13
−10 or −11	+19
−13 or below	+35

(b) *Class II price.* The Class II price shall be the basic formula price for the month: *Provided*, That such Class II price shall not be more than the sum of subparagraphs (1) and (2) of this paragraph plus 10 cents, rounded to the nearest cent:

(1) From the Chicago butter price for the month, subtract 3 cents, add 20 percent of the resulting amount and multiply by 3.5; and

(2) From the weighted average of the carlot prices per pound of spray process nonfat dry milk solids for human consumption, f.o.b. manufacturing plants the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department, deduct 5.5 cents, multiply by 8.5 and then multiply by 0.965.

§ 1036.52 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices calculated pursuant to § 1036.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the appropriate rate, rounded to the nearest one-tenth cent, determined as follows:

(a) *Class I price.* Multiply the Chicago butter price for the preceding month by 0.12; and

(b) *Class II price.* Multiply the Chicago butter price for the month by 0.115.

§ 1036.53 Location adjustments to handlers.

(a) The Class I price for producer milk and other source milk (for which a location adjustment is applicable) at a plant more than 35 miles (by the shortest hard-surfaced highway distance as determined by the market administrator) from all the cities listed in § 1036.51(a)(1) shall be reduced 15 cents and an additional 1.5 cents for each 10 miles or fraction thereof in excess of 100 miles (by the shortest hard-surfaced highway distance as determined by the market administrator) that such plant is from the city hall of the nearest of the cities listed in § 1036.51 (a)(1).

(b) For the purpose of computing location adjustments, receipts of fluid milk products from pool plants at a pool plant shall be assigned any remainder of Class I milk at such plant that is in excess of 92.5 percent of the sum of producer milk receipts at the plant and that assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment shall be made first to receipts from plants at which no location adjustment is applicable pursuant to this section and then in sequence beginning with receipts from the plant with the lowest applicable location adjustment.

§ 1036.54 Use of equivalent prices.

If for any reason a price quotation required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price that is required.

APPLICATION OF PRICES

§ 1036.60 Computation of the net pool obligation of each handler.

The net pool obligation of each handler pursuant to § 1036.13 (a), (c), and (d) during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class as computed pursuant to § 1036.45(c) by the applicable class price;

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1036.45(a)(10) and the corresponding step of § 1036.45 (b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1036.45(a)(5) and the corresponding step of § 1036.45(b);

(d) Add an amount equal to the difference between the Class I and Class II price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1036.45(a)(3) and the corresponding step of § 1036.45(b);

(e) Add the value at the Class I price adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, of the skim milk and butterfat subtracted from Class I pursuant to § 1036.45(a)(7) and the corresponding step of § 1036.45(b).

§ 1036.61 Computation of uniform price.

For each month, the market administrator shall compute a uniform price as follows:

(a) Combine into one total the values computed pursuant to § 1036.60 for all handlers who filed the reports pursuant to § 1036.30 for the month, except those in default of payments required pursuant to § 1036.74 for the preceding month;

(b) Add or subtract for each one-tenth percent that the average butterfat content of milk represented by the values specified in paragraph (a) of this section is less or more, respectively, than 3.5 percent, the amount obtained by multiplying such difference by the butterfat differential pursuant to § 1036.71 and multiply the result by the total hundredweight of such milk;

(c) Add an amount equal to the total value of the minus location differentials computed pursuant to § 1036.72(a);

(d) Subtract an amount equal to the total value of the plus location differential computed pursuant to § 1036.72(a);

(e) Add an amount equal to one-half the unobligated balance in the producer-settlement fund;

(f) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1036.60(e); and

(g) Subtract not less than 4 cents nor more than 5 cents per hundredweight.

§ 1036.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1036.30 and 1036.31(b) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) The obligation that would have been computed pursuant to § 1036.60 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1036.60(e) and a credit in the amount specified in § 1036.74(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph. If the operator of the partially regulated distributing plant so requests, and provides with his report pursuant to § 1036.30 a similar report for each nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1036.11(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation, deduct the sum of:

(i) The gross payments made by such handler for milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph; and

(ii) Payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat in the plant's route disposition in the marketing area;

(2) Deduct (except that deducted under a similar provision of another order issued pursuant to the Act) the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location or at the Class II price, whichever is higher.

§ 1036.63 Notification.

On or before the 14th day of each month the market administrator shall notify each handler who submitted a report for the preceding month pursuant to § 1036.30 of:

(a) The classification pursuant to § 1036.45 of skim milk and butterfat in producer milk received by such handler during the month and the value of such milk pursuant to § 1036.60;

(b) The uniform price for the month pursuant to § 1036.61; and

(c) The amount due such handler pursuant to § 1036.75 and the amount to be paid by such handler pursuant to §§ 1036.74, 1036.76, and 1036.77.

PAYMENTS

§ 1036.70 Time and method of payment.

(a) Except as provided in paragraph (b) of this section, each handler shall make payment for producer milk as follows:

(1) To each producer, on or before the 18th day of the following month, the uniform price per hundredweight for his deliveries of producer milk during the month adjusted pursuant to §§ 1036.71, 1036.73, and 1036.76, subject to the following:

(i) Minus payments made pursuant to paragraph (c) of this section;

(ii) Less proper deductions authorized in writing by the producer; and

(iii) If by such date the handler has not received full payment from the market administrator pursuant to § 1036.75 for such month, he may reduce pro rata his payments to producers by not more than the amount of such under payment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after receipt of the balance due from the market administrator;

(b)(1) Upon receipt of a written request from a cooperative association which the Secretary determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the association, each handler shall pay to the cooperative association for producer milk on or before the 16th day of each month, in lieu of payments pursuant to paragraph (a) of this section, an amount equal to the gross sum due for all milk received from certified members, less amounts owing by each member-producer to the handler for supplies purchased from him on prior written order or as evidenced by a delivery ticket signed by the producer, and submit to the cooperative association written information which shows for each such member-producer (i) the total pounds of milk received from him during the preceding month, (ii) the total pounds of butterfat contained in such milk, (iii) the number of days on which milk was received, and (iv) the amounts withheld by the handler in payment for supplies sold. The foregoing payment and submission of information shall be made with respect to milk of each producer whom the cooperative association certifies is a member, which is received on and after the first day of the calendar month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the association;

(2) A copy of each such request, promise to reimburse and certified list of members shall be filed simultaneously with the market administrator by the association and shall be subject to verification at his discretion, through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler shall be made by written notice to the market administrator, and shall be subject to his determination;

(c) Upon written request filed with him on or before the 15th day of the month by a producer, or by a cooperative association which collects payments pursuant to paragraph (b) of this section, each handler shall make payment as follows:

(1) On or before the last day of the month, to each such producer who has not discontinued delivery of milk to such handler, an amount not less than the value of milk received from such producer during the first 15 days of such month computed at the Class II price for the preceding month for milk of 3.5 percent butterfat content, without deduction for hauling; and

(2) On or before the 27th day of the month, to the cooperative association, for milk received during the first 15 days of the month from certified members specified in the request for payment, an amount not less than the aggregate value of such milk at the Class II price for the preceding month for milk of 3.5 percent butterfat content, without deduction for hauling; and

(d) On or before the 15th day after the end of each month, each handler shall pay a cooperative association which is a handler, for milk received by him from a pool plant operated by such cooperative association, at not less than the prices applicable pursuant to § 1036.51.

§ 1036.71 Butterfat differential to producers.

The uniform price shall be increased or decreased for each one-tenth percent that the butterfat content of such milk, is above or below 3.5 percent, respectively, at the rate (rounded to the nearest one-tenth cent) determined by multiplying the pounds of butterfat in producer milk allocated to each class pursuant to § 1036.45 by the respective butterfat differential for each class and dividing the sum of the resulting amounts by the total pounds of butterfat in producer milk.

§ 1036.72 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk shall be adjusted as follows:

(1) At all plants, reduced according to the location of the pool plant at the rates set forth in § 1036.53; and

(2) Additionally, at plants at which the Pittsburgh district Class I price is applicable, increased 10 cents.

(b) For the purpose of computations pursuant to § 1036.74(b), adjustments pursuant to this section shall be computed according to the location of the nonpool plant from which other source milk was received.

§ 1036.73 Producer-settlement fund.

The market administrator shall maintain a separate fund known as the "pro-

ducer-settlement fund" into which he shall deposit all payments pursuant to §§ 1036.62 and 1036.74 and out of which he shall make all payments pursuant to § 1036.75: *Provided*, That the market administrator shall offset the payment due to a handler against payments due from such handler.

§ 1036.74 Payments to the producer-settlement fund.

On or before the 16th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The net pool obligation pursuant to § 1036.60 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform price; and

(2) The value at the uniform price applicable at the location of the plant(s) from which received (not to be less than the value at the Class II price) of other source milk for which a value is computed pursuant to § 1036.60(e).

§ 1036.75 Payments from the producer-settlement fund.

On or before the 17th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1036.74(b) exceeds the amount computed pursuant to § 1036.74(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1036.76 Marketing services.

(a) Except as provided in paragraph (b) of this section, each handler in making payments for producer milk received during the month shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe (except on such handler's own farm production) and shall pay such deductions to the market administrator not later than the 16th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples and tests of producer milk and to provide producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 16th day after the end of each month, pay over such deductions to the association rendering such services.

§ 1036.77 Expense of administration.

As his pro rata share of the expense of administration of this part, each handler shall pay to the market administrator on or before the 16th day after the end of the month 3 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1036.45(a) (3) and (7) and the corresponding steps of § 1036.45(b); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

§ 1036.78 Adjustment of accounts.

(a) *Payments.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses adjustments to be made, for any reason, which result in monies due (1) the market administrator from such handler, (2) such handler from the market administrator, or (3) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any such amount due, and payment thereof shall be made on or before the next date for making payment set forth in the provision under which such error occurred, following the fifth day after such notice.

(b) *Overdue accounts.* Any unpaid obligation of a handler or of the market administrator pursuant to §§ 1036.74, 1036.75, 1036.76, 1036.77, or paragraph (a) of this section shall be increased one-half of 1 percent on the first day of the calendar month next following the due date of such obligation and, on the first day of each calendar month thereafter until such obligation is paid.

§ 1036.79 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate 2 years after the last day of the calendar month during which the market administrator receives the handlers' utilization report on the milk involved in such obligation, unless within such 2-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers; the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the months during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate 2 years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or 2 years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c(15)(A) of the Act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION, OR TERMINATION

§ 1036.90 Effective time.

The provisions of this part or any amendment thereto shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 1036.91 Suspension or termination.

The Secretary shall suspend or terminate any or all provisions of this part whenever he finds that they obstruct or do not tend to effectuate the declared policy of the Act. This part shall, in any event, terminate whenever the provisions of the Act authorizing it cease to be in effect.

§ 1036.92 Continuing power and duty of the market administrator.

(a) If, upon the suspension or termination of any or all of the provisions of this part, there are any obligations arising hereunder, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided*, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons or agency as the Secretary may designate.

(b) The market administrator or such other person as the Secretary may designate shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all funds or property on hand together with the books and records of the market administrator, or such other person, to such person as the Secretary shall direct; and (3) if so directed by the Secretary, execute such assignment or other instruments necessary or appropriate to vest in such person full title to all funds, property and claims vested in the market administrator or such other person pursuant thereto.

§ 1036.93 Liquidation after suspension or termination.

Upon the suspension or termination of any or all provisions of this part, the market administrator, or such person as the Secretary may designate shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amounts necessary to meet the outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1036.100 Separability of provisions.

If any provision of this part, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

§ 1036.101 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

Signed at Washington, D.C., on November 16, 1967.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 67-13667; Filed, Nov. 20, 1967; 8:48 a.m.]

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(Part II begins on page 16083)

Agencies in this issue—

Agricultural Stabilization and Conservation Service
Air Force Department
Atomic Energy Commission
Business and Defense Services Administration
Civil Aeronautics Board
Consumer and Marketing Service
Engineers Corps
Federal Aviation Administration
Federal Communications Commission
Federal Maritime Commission
Federal Reserve System
Fish and Wildlife Service
Food and Drug Administration
Hazardous Materials Regulations Board
Interior Department
Internal Revenue Service
International Commerce Bureau
Interstate Commerce Commission
Land Management Bureau
Securities and Exchange Commission

Detailed list of Contents appears inside.

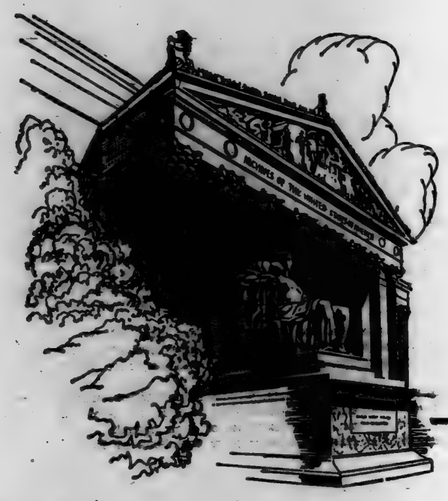

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Contents

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Rules and Regulations

Cotton; 1968 crop; State reserve and county allotment 15987

Proposed Rule Making

Sugar; determination for calendar year 1968 16045

Tobacco; determinations regarding marketing quotas for 1968–69, 1969–70, and 1970–71 marketing years 16043

AGRICULTURE DEPARTMENT

See Agricultural Stabilization and Conservation Service; Consumer and Marketing Service.

AIR FORCE DEPARTMENT

Rules and Regulations

Procurement instruction; miscellaneous amendments to subchapter 16036

Sales and services; user charges 16035

ARMY DEPARTMENT

See Engineers Corps.

ATOMIC ENERGY COMMISSION

Proposed Rule Making

Licensing of production and utilization facilities 16050

Notices

Carolinas Virginia Nuclear Power Associates, Inc.; change in license expiration date 16061

BUSINESS AND DEFENSE SERVICES ADMINISTRATION

Notices

Applications for duty-free entry of scientific articles:

Michigan State University et al. 16059

Utah State University et al. 16059

Yeshiva University et al. 16060

CIVIL AERONAUTICS BOARD

Notices

Hearings, etc.:

Airlines mutual aid agreement 16064

American Airlines, Inc. 16061

Combs-Pickens 16063

East Coast points-Europe service investigation 16061

International Air Transport Association 16063

Transamerica Corp. and Trans International Airlines Corp. 16063

COMMERCE DEPARTMENT

See Business and Defense Services Administration; International Commerce Bureau.

CONSUMER AND MARKETING SERVICE

Rules and Regulations

Grapefruit grown in Florida; expenses and rate of assessment 15987

DEFENSE DEPARTMENT

See Air Force Department; Engineers Corps.

ENGINEERS CORPS

Rules and Regulations

J. Percy Priest Reservoir Area, Tenn.; public use 15989

FEDERAL AVIATION ADMINISTRATION

Proposed Rule Making

Restricted area, continental control area, and transition area; alteration 16050

Transition areas:

Alterations (2 documents) 16049

Designation 16049

FEDERAL COMMUNICATIONS COMMISSION

Proposed Rule Making

Aviation services; eligibility of licensee 16055

Microwave and other fixed stations; filing of annual reports; extension of time for filing comments 16056

Standard broadcast stations operated by remote control; transmission of telemetry signals 16054

Television broadcast stations; table of assignments, Bluefield, Va., etc. 16053

Notices

Unlimited-time standard broadcast stations; operation during hours before local sunrise 16064

Hearings, etc.:

Cosmos Cablevision Corp. 16066

El Camino Broadcasting Corp. and South Coast Broadcasting Co. 16066

Triple C Broadcasting Corp. and Collins Broadcasting Co. 16066

FEDERAL MARITIME COMMISSION

Notices

Agreements filed for approval:

Pacific Far East Line, Inc., and Mitsui O.S.K. Lines, Ltd. 16066

States Steamship Co. and Knutsen Line 16067

FEDERAL RESERVE SYSTEM

Notices

Charter New York Corp.; approval of applications under Bank Holding Company Act (2 documents) 16067

Franklin County Trust Co.; approval of merger of banks 16068

FISH AND WILDLIFE SERVICE

Notices

Master hull policies; intent to request proposals 16058

FOOD AND DRUG ADMINISTRATION

Rules and Regulations

Drugs:

Amphotericin 15988

Gramicidin and paromomycin 15989

Tetracycline-nystatin for oral suspension 15988

Food additives; nickel sulfate 15988

Proposed Rule Making

Depressant and stimulant drugs; additional drug subject to control 16048

Neomycin sulfate; modification of identity method 16048

Nordihydroguaiaretic acid; removal from list of substances safe for food use 16048

Notices

Labeling of drug preparations containing aspirin; notice inviting submission of scientific data regarding maximum dose 16060

HAZARDOUS MATERIALS REGULATIONS BOARD

Rules and Regulations

Carriers by pipeline 16040

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Food and Drug Administration.

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Land Management Bureau.

Notices

Directors, National Park Service and Bureau of Outdoor Recreation; authority delegation 16059

Secretary of the Interior or delegate; reservation of authority 16058

INTERNAL REVENUE SERVICE

Rules and Regulations

Statement of procedural rules 15990

(*Continued on next page*)

CONTENTS

INTERNATIONAL COMMERCE BUREAU

Rules and Regulations

Export clearance and destination control; general requirements ... 15988

INTERSTATE COMMERCE COMMISSION

Notices

Motor carriers:
- Alternate route deviation notices ... 16070
- Applications and certain other proceedings ... 16071
- Intrastate applications ... 16077
- Operating rights; guide to restrictions and descriptions ... 16084
- Transfer proceedings ... 16078

LAND MANAGEMENT BUREAU

Notices

Classification and proposed classification of public lands for multiple-use management:
- Alaska ... 16057
- Utah ... 16057
- Wyoming ... 16057

Opening of public lands; Arizona ... 16057

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:
- American Republic Assurance Company Separate Account B and American Republic Assurance Co ... 16068
- Glen Alden Corp ... 16069
- North American Research & Development Corp ... 16070

TRANSPORTATION DEPARTMENT

See Federal Aviation Administration; Hazardous Materials Regulations Board.

TREASURY DEPARTMENT

See Internal Revenue Service.

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

7 CFR

722 ... 15987
912 ... 15987

PROPOSED RULES:

723 ... 16043
724 ... 16043
811 ... 16045

10 CFR

PROPOSED RULES:

2 ... 16050
50 ... 16050
115 ... 16050

14 CFR

PROPOSED RULES:

71 (4 documents) ... 16049, 16050
73 ... 16050

15 CFR

379 ... 15988

21 CFR

121 ... 15988
146c ... 15988
148b ... 15988
148f ... 15989
148o ... 15989

PROPOSED RULES:

121 ... 16048
148i ... 16048
166 ... 16048

26 CFR

601 ... 15990

32 CFR

812 ... 16035
1001 ... 16036
1006 ... 16036
1007 ... 16039
1018 ... 16039

36 CFR

311 ... 15989

47 CFR

PROPOSED RULES:

73 (2 documents) ... 16053, 16054
87 (2 documents) ... 16055, 16056
89 ... 16056
91 ... 16056
93 ... 16056

49 CFR

180 ... 16040

Rules and Regulations

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 722—COTTON

Subpart—1968 Crop of Extra Long Staple Cotton; Acreage Allotments and Marketing Quotas

STATE RESERVE AND COUNTY ALLOTMENT

Basis and purpose. Section 722.562 is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended, 7 U.S.C. 1281 et seq.). This section establishes the State reserves and allocation thereof among uses for the 1968 crop of extra long staple cotton. It also establishes the county allotments. Such determinations were made initially by the respective State committees and are hereby approved and made effective by the Administrator, ASCS, pursuant to delegated authority (28 F.R. 4368, 29 F.R. 16210, 30 F.R. 8756, 32 F.R. 11895).

Notice that the Secretary was preparing to establish State and county allotments was published in the FEDERAL REGISTER on August 9, 1967 (32 F.R. 11475), in accordance with 5 U.S.C. 553. No written submissions were received in response to such notice.

Since the allocations under this section require immediate action by the Agricultural Stabilization and Conservation State and county committees, it is essential that § 722.562 be made effective as soon as possible. Accordingly, it is hereby determined and found that compliance with the 30-day effective date requirement of 5 U.S.C. 553 is impracticable and contrary to the public interest, and § 722.562 shall be effective upon filing this document with the Director, Office of the Federal Register.

§ 722.562 State reserves and county allotments for the 1968 crop of extra long staple cotton.

(a) *State reserve.* The State reserve for each State shall be established and allocated among uses as shown in the following table for the 1968 crop of extra long staple cotton pursuant to § 722.508 of the Regulations for Acreage Allotments for 1966 and Succeeding Crops of Extra Long Staple Cotton (31 F.R. 6247, as amended). It is hereby determined that no State reserve for trends, abnormal conditions, small farms or new farms is required. The allocation of State reserve for inequity and hardship cases to counties in New Mexico is required primarily to adjust allotments for certain farms in order that they may receive allotments that are equitable as compared with those for other farms.

State	Total State reserve	Allocations from State reserve for	
		Inequity and hardship cases	Set-aside
Arizona	10		10
California			
Florida	15		15
Georgia			
New Mexico	150	140	10
Texas			
Puerto Rico	2		2

(b) *County allotments.* The county allotments are established for the 1968 crop of extra long staple cotton in accordance with § 722.509 of the Regulations for Acreage Allotments for 1966 and Succeeding Crops of Extra Long Staple Cotton (31 F.R. 6247, as amended). The following table sets forth the county allotments and allocations from the State reserve:

ARIZONA

County	County allotment (1)	Allocations from State reserve for inequity and hardship cases (2)
	Acres	*Acres*
Cochise	173	0
Gila	11	0
Graham	8,500	0
Maricopa	12,788	0
Pima	2,424	0
Pinal	6,335	0
Yuma	300	0
State	30,000	0

CALIFORNIA

Imperial	95	0
Riverside	379	0
State	474	0

FLORIDA

Alachua	38	0
Hamilton	4	0
Jefferson	1	0
Lake	13	0
Madison	19	0
Marion	44	0
Sumter	10	0
Suwanee	2	0
Union	32	0
State	163	0

GEORGIA

Berrien	77	0
Cook	20	0
State	97	0

NEW MEXICO

County	County allotment (1)	Allocations from State reserve for inequity and hardship cases (2)
	Acres	*Acres*
Chaves	26.0	13.0
Dona Ana	13,674.0	84.1
Eddy	112.0	3.0
Hidalgo	14.0	6.2
Luna	67.0	21.0
Otero	28.0	5.7
Sierra	173.0	7.0
State	14,114.0	140.0

TEXAS

Brewster	10	0
Culberson	215	0
El Paso	17,427	0
Hudspeth	2,169	0
Loving	8	0
Pecos	456	0
Presidio	87	0
Reeves	4,352	0
Ward	127	0
State	24,851	0

PUERTO RICO

North area	21.0	0
State	21.0	0

(Secs. 344, 347, 375, 63 Stat. 670, as amended, 675, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1344, 1347, 1375)

Effective date: Date of filing this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on November 15, 1967.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 67-13692; Filed, Nov. 17, 1967; 12:48 p.m.]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 912—GRAPEFRUIT GROWN IN INDIAN RIVER DISTRICT IN FLORIDA

Expenses and Rate of Assessment

On November 4, 1967, notice of rule making was published in the FEDERAL REGISTER (32 F.R. 15436) regarding proposed expenses and the related rate of assessment for the period beginning August 1, 1967, and ending July 31, 1968, pursuant to the marketing agreement, as amended, and Order No. 912, as amended (7 CFR Part 912), regulating the handling of grapefruit grown in the Indian

River District in Florida. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Indian River Grapefruit Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

§ 912.207 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Indian River Grapefruit Committee during the period August 1, 1967, through July 31, 1968, will amount to $25,000.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 912.41, is fixed at $0.005 per standard packed box of grapefruit.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of grapefruit are now being made, (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable grapefruit handled during the aforesaid period, and (3) such period began on August 1, 1967, and said rate of assessment will automatically apply to all such grapefruit beginning with such date.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 17, 1967.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67–13693; Filed, Nov. 21, 1967; 8:46 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of International Commerce, Department of Commerce

SUBCHAPTER B—EXPORT REGULATIONS

[10th Gen. Rev. of Export Regs., Amdt. 41]

PART 379—EXPORT CLEARANCE AND DESTINATION CONTROL

General Requirements

Part 379 of the Code of Federal Regulations is amended as set forth below:

Section 379.1(a)(3) is revised to read as follows:

§ 379.1 General export clearance requirements.

(a) *Exports by water or air carrier.*

• •

(3) A shipment to Canada or to Country Group S, T, or V does not require the submission of a Shipper's Export Declaration if the shipment is valued at less than $100 and is not made under the provisions of General License GLV or a validated export license.[2] As used in this subparagraph (3), a "shipment" is defined as all of the commodities classified under a single seven-digit Schedule B Number that are shipped on the same exporting carrier from one exporter to one importer.

• • • • • •

(Sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959–63 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959–63 Comp.)

Effective date: November 16, 1967.

RAUER H. MEYER,
Director, Office of Export Control.

[F.R. Doc. 67–13674; Filed, Nov. 21, 1967; 8:45 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

Subpart D—Food Additives Permitted in Food for Human Consumption

NICKEL SULFATE

Sections 121.242 *Nickel sulfate* and 121.1122 *Nickel sulfate* are hereby deleted. These regulations, which established tolerances for residues of nickel sulfate in the bran of wheat and oats to be ingested as or converted to food or feed, are obsolete since the U.S. Department of Agriculture's experimental permit under which in part they were issued expired February 15, 1967.

(Secs. 409, 701(a), 52 Stat. 1055, 72 Stat. 1785; 21 U.S.C. 348, 371(a))

Dated: November 15, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67–13709; Filed, Nov. 21, 1967; 8:47 a.m.]

SUBCHAPTER C—DRUGS

PART 148c—CERTIFICATION OF CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-) CONTAINING DRUGS

Tetracycline-Nystatin for Oral Suspension

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357), and delegated by him to the Commissioner of Food and Drugs (21 CFR 2.120), § 146c.236(c) is revised to read as follows to provide for an extension of the maximum expiration date for the subject antibiotic drug:

§ 146c.236 Tetracycline-nystatin for oral suspension.

• • • • • •

(c) It shall be labeled in accordance with the requirements of § 148.3 of this chapter. Its expiration date is 12 months.

• • • • • •

Notice and public procedure and delayed effective date are unnecessary prerequisites to the promulgation of this order, and I so find, since the change provided for by this amendment cannot be applied to any specific product unless its manufacturer has supplied adequate data regarding that article.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: November 16, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67–13710; Filed, Nov. 21, 1967; 8:47 a.m.]

PART 148b—AMPHOTERICIN

Amphotericin B; Amphotericin B Cream

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and delegated by him to the Commissioner of Food and Drugs (21 CFR 2.120), Part 148b is amended to effect a technical change in the assay procedure for amphotericin B and a cross-reference change in the regulation for amphotericin B cream. Accordingly, §§ 148b.1(b)(2)(i) and (ii) and 148b.5(b) are revised to read as follows:

§ 148b.1 Amphotericin B.

• • • • • •

(b) • • •

(2) *Amphotericin A content*—(i) *Amphotericin A.* Dry approximately 20 milligrams of the amphotericin A working standard as described in § 141a.5(a) of this chapter. Accurately weigh the dried working standard and quantitatively transfer into a 200-milliliter volumetric flask. Add exactly 20.0 milliliters of dimethyl sulfoxide and dissolve. Make to mark with methyl alcohol and mix thoroughly. Pipette 4.0 milliliters of this solution into a 50-milliliter volumetric flask. Add methyl alcohol to mark and mix thoroughly.

(ii) *Amphotericin B.* Dry approximately 50 milligrams of the amphotericin B working standard as described in § 141a.5(a) of this chapter. Accurately weigh the dried working standard and quantitatively transfer into a 50-milliliter volumetric flask and proceed as directed in subdivision (i) of this subparagraph.

• • • • • •

§ 148b.5 Amphotericin B cream.

• • • • • •

(b) *Tests and methods of assay; potency.* Proceed as directed in § 148b.4(b)(1). The amphotericin B content is satisfactory if it contains not less than 90 percent and not more than 125 percent of the number of milligrams of amphotericin B per gram that it is represented to contain.

This order merely provides a technical change in the assay procedure for amphotericin B and a cross-reference change in the regulation for amphotericin B cream and raises no points of controversy; therefore, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: November 16, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67–13711; Filed, Nov. 21, 1967; 8:48 a.m.]

PART 148f—GRAMICIDIN

PART 148o—PAROMOMYCIN

Miscellaneous Amendments

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and delegated by him to the Commissioner of Food and Drugs (21 CFR 2.120), Parts 148f and 148o of the antibiotic-drug regulations are amended as follows to effect miscellaneous editorial and technical changes:

§ 148f.1 [Amended]

1. In § 148f.1 *Gramicidin*, paragraph (b)(6) is amended by changing "0.02" to "0.05" in the first and second sentences.

2. Section 148o.1(b)(6) is revised to read as follows:

§ 148o.1 Paromomycin sulfate.

• • • • • •

(b) • • •

(6) *Residue on ignition.* Proceed as directed in § 141e.401(g) of this chapter.

3. Section 148o.2(b)(1) is revised to read as follows:

§ 148o.2 Paromomycin sulfate capsules.

• • • • • •

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 148o.1(b)(1), except prepare a stock solution of convenient concentration by pooling the entire contents of a representative number of capsules in an appropriate-sized volumetric flask and dissolve with 0.1*M* potassium phosphate buffer, pH 8.0. The paromomycin content is satisfactory if it contains not less than 90 percent and not more than 125 percent of the number of milligrams of paromomycin that each capsule is represented to contain.

• • • • • •

4. Section 148o.3(a)(1) is revised to read as follows:

§ 148o.3 Paromomycin sulfate syrup.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Paromomycin sulfate syrup contains the equivalent of 25 milligrams of paromomycin per milliliter. It may contain one or more suitable and harmless solvents, flavorings, colorings, preservatives, and buffers in water. Its pH is not less than 7.5 and not more than 8.5. The paromomycin sulfate used conforms to the requirements of § 148o.1(a)(1)(i), (ii), (iv), (v), and (vi). Each other substance used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

• • • • • •

Since the amendments herein are merely of a minor technical or editorial nature and raise no points of controversy, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: November 16, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67–13712; Filed, Nov. 21, 1967; 8:48 a.m.]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter III—Corps of Engineers, Department of the Army

PART 311—PUBLIC USE OF CERTAIN RESERVOIR AREAS

J. Percy Priest Reservoir Area, Tenn.

The Secretary of the Army having determined that the use of J. Percy Priest Reservoir Area, Stones River, Tenn., by the general public for boating, swimming, bathing, fishing, and other recreational purposes will not be contrary to the public interest and will not be inconsistent with the operation and maintenance of the reservoir for its primary purposes, hereby prescribes rules and regulations for its public use, pursuant to the provisions of section 4 of the Flood Control Act of 1944, as amended (76 Stat. 1195), adding the reservoir to the list in § 311.1, as follows:

§ 311.1 Areas covered.

• • • • • •

TENNESSEE

• • • • • •

J. Percy Priest Reservoir Area, Stones River.

• • • • • •

[Regs., Oct. 27, 1967, ENGCW–OM] (Sec. 4, 58 Stat. 889, as amended; 16 U.S.C. 460d)

For the Adjutant General.

J. W. HURD,
Colonel, AGC, Comptroller, TAGO.

[F.R. Doc. 67–13677; Filed, Nov. 21, 1967; 8:45 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER B—INTERNAL REVENUE PRACTICE

PART 601—STATEMENT OF PROCEDURAL RULES

Republication

In order to facilitate its distribution and use, Part 601 of Chapter I of Title 26, Code of Federal Regulations is hereby republished. This republication is a compilation reflecting amendments to such part subsequent to January 1, 1961 and includes the latest amendment to the part dated September 14, 1967 (32 F.R. 13053).

The compilation as set forth below contains no substantive changes.

SHELDON S. COHEN,
Commissioner of Internal Revenue.

Subpart A—General Procedural Rules

Sec.
601.101 Introduction.
601.102 Classification of taxes collected by the Internal Revenue Service.
601.103 Summary of general tax procedure.
601.104 Collection functions.
601.105 Examination of returns and claims for refund, credit or abatement; determination of correct tax liability.
601.106 Appellate functions.
601.107 Excess Profits Tax Council; appellate functions and procedures under section 732 of the Internal Revenue Code of 1939.
601.108 Review of overpayments exceeding $100,000.
601.109 Bankruptcy and receivership cases.

Subpart B—Rulings and Other Specific Matters

601.201 Rulings and determination letters.
601.202 Closing agreements.
601.203 Offers in compromise.
601.204 Changes in accounting periods and in methods of accounting.
601.205 Tort claims.

Subpart C—Provisions Relating to Distilled Spirits, Wines, Beer, Cigars, Cigarettes, and Cigarette Papers and Tubes and Certain Firearms

DISTILLED SPIRITS, WINES, AND BEER

601.301 Imposition of taxes, qualification requirements, and regulations.
601.302 Taxes.
601.303 Claims.
601.304 Preparation and filing of claims.
601.305 Offers in compromise.
601.306 Application for approval of interlocking directors and officers under section 8 of the Federal Alcohol Administration Act.
601.307 Rulings.
601.308 Conferences.
601.309 Representatives.
601.310 Forms.

CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES

601.311 Imposition of taxes; regulations.
601.312 Qualification and bonding requirements.
601.313 Collection of taxes.
601.314 Assessments.
601.315 Claims.
601.316 Offers in compromise.
601.317 Rulings.
601.318 Forms.

FIREARMS

601.319 Applicable laws.
601.320 Taxes relating to machine guns and certain other firearms.
601.321 Interstate traffic in firearms and ammunition.
601.322 Rulings.
601.323 Assessments.
601.324 Claims.
601.325 Offers in compromise.

SEIZED PROPERTY

601.326 Seizure and forfeiture of personal property.

OFFERS IN COMPROMISE

601.327 Offers in compromise.

RULINGS

601.328 Rulings.

Subpart D—Provisions Special to Certain Employment and Excise Taxes

601.401 Employment taxes.
601.402 Sales taxes collected by return.
601.403 Miscellaneous excise taxes collected by return.
601.404 Miscellaneous excise taxes collected by sale of revenue stamps.

Subpart E—Conference and Practice Requirements

601.501 Scope of conference and practice requirements; definitions.

GENERAL REQUIREMENTS

601.502 Requirements for conference—recognition to practice and, in certain cases, power of attorney or tax information authorization.
601.503 Requirements for filing evidence of recognition, power of attorney, and tax information authorization.
601.504 Requirements for execution, attestation, acknowledgment or witnessing, and certification of copies of power of attorney and tax information authorization.
601.505 Requirements for changing representation.
601.506 Notices to be given to recognized representatives; delivery of refund checks to recognized representatives.
601.507 Evidence required to substantiate facts alleged in conferences.
601.508 Contest between representatives of a taxpayer.
601.509 Power of attorney or tax information authorization not required in cases docketed in the Tax Court of the United States.

REQUIREMENTS FOR ALCOHOL AND TOBACCO TAX ACTIVITIES

601.521 Requirements for conference and representation in conference.
601.522 Power of attorney.
601.523 Tax information authorization.
601.524 Execution and filing powers of attorney and tax information authorizations.
601.525 Certification of copies of documents.
601.526 Revocation of powers of attorney and tax information authorizations.
601.527 Other provisions applied to representation in alcohol and tobacco tax activities.

Subpart F—Rules, Regulations, and Forms

601.601 Rules and regulations.
601.602 Forms and instructions.

Subpart G—Records

601.701 Publicity of information.
601.702 Publication and public inspection.

AUTHORITY: The provisions of this Part 601 issued under 5 U.S.C. 301 and 552.

Subpart A—General Procedural Rules

§ 601.101 Introduction.

(a) *General.* The Internal Revenue Service is a branch of the Treasury Department under the immediate direction of the Commissioner of Internal Revenue. The Commissioner has general superintendence of the assessment and collection of all taxes imposed by any law providing internal revenue and also of other functions relating to the administration and enforcement of laws applicable to alcohol and certain firearms which are in addition to those related to taxes. The Internal Revenue Service is the agency by which these functions are performed. Within an internal revenue district the internal revenue laws are administered by a district director of internal revenue. The Director of International Operations administers the internal revenue laws applicable to taxpayers residing or doing business aboard, foreign taxpayers deriving income from sources within the United States and taxpayers who are required to withhold tax on certain payments to nonresident aliens and foreign corporations. For purposes of these procedural rules any reference to a district director or a district office includes the Director of International Operations or the Office of International Operations, if appropriate. Generally, the procedural rules of the Service are based on the Internal Revenue Code of 1939 and the Internal Revenue Code of 1954, and the procedural rules in this part apply to the taxes imposed by both Codes except to the extent specifically stated or where the procedure under one Code is incompatible with the procedure under the other Code. Reference to sections of the Code are references to the Internal Revenue Code of 1954, unless otherwise expressly indicated.

(b) *Scope.* This part sets forth the procedural rules of the Internal Revenue Service respecting all taxes administered by the Service, and supersedes the previously published statement (26 CFR (1949 ed., Part 300–End) Parts 600 and 601) with respect to such procedural rules. Subpart A provides a descriptive statement of the general course and method by which the Service's functions are channeled and determined, insofar as such functions relate generally to the assessment and collection of internal revenue taxes. Certain provisions special to particular taxes are separately described in Subpart D of this part. Conference and practice requirements of the Internal Revenue Service are contained in Subpart E of this part. Specific matters not generally involved in the assessment and collection functions are separately described in Subpart B of this part. A description of the rulemaking functions of the Treasury Department with respect to internal revenue tax matters is contained in Subpart F of this part. The procedural rules of the Service with respect to distilled spirits, wines, beer, cigars, cigarettes, and cigarette papers and tubes, and certain firearms are described in Subpart C of this part. Subpart G of this part relates to matters of official record in the Internal Revenue Service and the extent to which records and documents are subject to publication or open to public inspection. This part does not contain a detailed discussion of the substantive provisions pertaining to any particular tax or the procedures relating thereto, and for such information it is necessary that reference be made to the applicable provisions of law and the regulations promulgated thereunder. The regulations relating to the taxes administered by the Service are contained in Titles 26 and 27 of the Code of Federal Regulations.

§ 601.102 Classification of taxes collected by the Internal Revenue Service.

(a) *Principal divisions.* Internal revenue taxes fall generally into the following principal divisions:

(1) Taxes collected by assessment.

(2) Taxes collected by means of revenue stamps.

(b) *Assessed taxes.* Taxes collected principally by assessment fall into the following two main classes:

(1) Taxes within the jurisdiction of the Tax Court of the United States. These include:

(i) Income and profits taxes imposed by chapters 1 and 2 of the 1939 Code and taxes imposed by subtitle A of the 1954 Code, relating to income taxes.

(ii) Estate taxes imposed by chapter 3 of the 1939 Code and chapter 11 of the 1954 Code.

(iii) Gift tax imposed by chapter 4 of the 1939 Code and chapter 12 of the 1954 Code.

(2) Taxes not within the jurisdiction of the Tax Court of the United States. Taxes not imposed by chapter 1, 2, 3, or 4 of the 1939 Code or subtitle A or chapter 11 or 12 of the 1954 Code are within this class, such as:

(i) Employment taxes,

(ii) Various sales taxes collected by return,

(iii) Miscellaneous excise taxes collected by return, and

(iv) Miscellaneous excise taxes collected by sale of revenue stamps.

(3) The difference between these two main classes is that only taxes described in subparagraph (1) of this paragraph, i. e., those within the jurisdiction of the Tax Court, may be contested before an independent tribunal prior to payment. Taxes of both classes may be contested by first making payment, filing claim for refund, and then bringing suit to recover if the claim is disallowed or no decision is rendered thereon within six months.

(c) *Stamp taxes.* Taxes collected by means of revenue stamps may in special circumstances be collected by assessment, but references hereinafter to the assessment process do not contemplate taxes ordinarily collectible by means of stamps, except as specially stated. For provisions special to taxes collected by means of revenue stamps, see § 601.404.

Taxes collectible by assessment may be collected by suit without assessment, but this is seldom done.

§ 601.103 Summary of general tax procedure.

(a) *Collection procedure. The* Federal tax system is basically one of self-assessment. In general each taxpayer (or person required to collect and pay over the tax) is required to file a prescribed form of return which shows the facts upon which tax liability may be determined and assessed. Generally, the taxpayer must compute the tax due on the return and make payment thereof on or before the due date for filing the return. If the taxpayer fails to pay the tax when due, the district director of internal revenue or the director of the regional service center after assessment issues a notice and demands payment within 10 days from the date of the notice. In the case of wage earners and nonresident aliens, the income tax is collected in large part through withholding at the source. Another means of collecting the income tax is through payments on declarations of estimated tax which are required by law to be filed by certain individual and corporate taxpayers. Neither withholding nor a declaration of estimated tax relieves a taxpayer from the duty of filing a return otherwise required. Certain excise taxes are collected by the sale of internal revenue stamps.

(b) *Examination and determination of tax liability.* After the returns are filed in the office of the district director of internal revenue or in the office of the director of a regional service center, they are sorted, classified, and processed. Many of these returns are selected for examination. If adjustments are proposed with which the taxpayer does not agree, he is ordinarily afforded certain appeal rights, including an opportunity to discuss the proposed adjustments (except mathematical errors) in a conference in the district director's office. If this conference results in agreement on the proposed adjustments, the taxpayer is requested to execute an agreement form. If the tax involved is an income, profits, estate, or gift tax, and if the taxpayer waives restrictions on the assessment and collection of the tax (see § 601.105(b)), the deficiency will be immediately assessed.

(c) *Disputed liability*—(1) *General.* If the conference on the proposed adjustments does not result in agreement, the taxpayer is given an opportunity to request that his case be considered by the regional Appellate Division, provided that Division has jurisdiction (see § 601.106(a)(3)). If the taxpayer requests such consideration, the case will be referred to the regional Appellate Division where the taxpayer may have another conference. The determination of tax liability by the Appellate Division is final insofar as the taxpayer's appellate rights within the Service are concerned. Upon protest of cases under the jurisdiction of the Director of International Operations exclusive settlement authority is vested in the regional Appellate Division having jurisdiction of the place where the taxpayer requests the Appellate Division conference. If the taxpayer does not specify a location for the conference, or if the location specified is outside the territorial limits of the regional Appellate Divisions, the Washington, D.C., branch office of the Appellate Division for the Mid-Atlantic region assumes jurisdiction. The fact that conferences were held by the Office of International Operations either before or after the receipt of a protest does not foreclose a taxpayer from having the Appellate Division consider his case.

(2) *Petition to the Tax Court of the United States.* In the case of income, profits, estate, and gift taxes, before a deficiency may be assessed a statutory notice of deficiency (commonly called a "90-day letter") must be sent to the taxpayer by certified mail or registered mail unless the taxpayer waives this restriction on assessment. See, however, § 601.105(h) and § 601.109 for exceptions. The taxpayer may then file a petition for a redetermination of the proposed deficiency with the Tax Court of the United States within 90 days from the date of the mailing of the statutory notice. If the notice is addressed to a person outside the States of the Union and the District of Columbia, the period within which a petition may be filed in the Tax Court is 150 days in lieu of 90 days. In other words, the taxpayer has the right in respect of these taxes to contest any proposed deficiency before an independent tribunal prior to assessment or payment of the deficiency. Unless the taxpayer waives the restrictions on assessment and collection after the date of the mailing of the statutory notice, no assessment or collection of a deficiency (not including the correction of a mathematical error) may be made in respect of these taxes until the expiration of the applicable period, or, if a petition is filed with the Tax Court, until the decision of the Court has become final. If, however, the taxpayer makes a payment with respect to a deficiency, the amount of such payment may be assessed. See, however, § 601.105(h). If the taxpayer fails to file a petition with the Tax Court within the applicable period, the deficiency will be assessed upon the expiration of such period and notice and demand for payment of the amount thereof will be mailed to the taxpayer. If the taxpayer files a petition with the Tax Court, the entire amount redetermined as the deficiency by a final decision of the Tax Court will be assessed and is payable upon notice and demand. There are no restrictions on the timely assessment and collection of the amount of any deficiency determined by the Tax Court, and a petition for review of the Court's decision will not stay the assessment and collection of the deficiency so determined, unless on or before the time the petition for review is filed the taxpayer files with the Tax Court a bond in a sum fixed by the Court not exceeding twice the portion of the deficiency in respect of which the

petition for review is filed. No part of an amount determined as a deficiency but disallowed as such by a decision of the Tax Court which has become final may be assessed or collected by levy or by proceeding in court with or without assessment.

(3) *Claims for refund.* After payment of the tax a taxpayer may, within the applicable period of limitations, contest the assessment by filing with the district director a claim for refund of all or any part of the amount paid, except with respect to certain taxes determined by the Tax Court, the decision of which has become final. If the claim is allowed, the overpayment of tax and allowable interest thereon will be credited against other liabilities of the taxpayer, or will be refunded to the taxpayer. Generally, if the claim for refund is rejected in whole or in part, the taxpayer is notified of the rejection by certified mail or registered mail. He may then bring suit in the United States District Court or in the United States Court of Claims for recovery of the tax. Suit may not be commenced before the expiration of six months from the date of filing of the claim for refund, unless a decision is rendered thereon within that time, nor after the expiration of two years from the date of mailing by certified mail or registered mail to the taxpayer of a notice of the disallowance of the part of the claim to which the suit relates. Under the 1954 Code, the 2-year period of limitation for bringing suit may be extended for such period as may be agreed upon in a properly executed Form 907. Also, under the 1954 Code, if the taxpayer files a written waiver of the requirement that he be sent a notice of disallowance, the 2-year period for bringing suit begins to run on the date such waiver is filed. See section 6532(a) of the Code.

§ 601.104 Collection functions.

(a) *Collection methods*—(1) *Returns.* Generally, an internal revenue tax assessment is based upon a return required by law or regulations to be filed by the taxpayer upon which he, himself computes the tax in the manner indicated by the return. If a taxpayer fails to make a return it may be made for him by a district director or other duly authorized officer or employee. See section 6020 of the Code and the regulations thereunder. Returns must be made on the forms prescribed by the Internal Revenue Service. Forms are obtainable at the principal and branch offices of district directors of internal revenue. Forms are generally mailed to persons whom the Service has reason to believe may be required to file returns, but failure to receive a form does not excuse failure to comply with the law or regulations requiring a return. Returns, supplementary returns, statements or schedules, and the time for filing them, may sometimes be prescribed by regulations issued under authority of law by the Commissioner with the approval of the Secretary of the Treasury or his delegate. In the case of certain individual income taxpayers having gross income from specified sources of less than $10,000, a special form (Form 1040A) is prescribed upon which the taxpayer may set forth the information necessary to a determination of his tax liability. A taxpayer filing a return on Form 1040A shall compute the tax and transmit with the return any unpaid balance of tax, except that if his income was less than $5,000 he may elect to have the Internal Revenue Service compute the tax and mail him a notice stating the amount of tax due. A husband and wife may make a single income tax return jointly. Certain affiliated groups of corporations may file consolidated income tax returns. See section 1501 of the Code and the regulations thereunder.

(2) *Withholding of tax at source.* Withholding at the source of income payments is an important method used in collecting taxes. For example, in the case of wage earners, the income tax is collected in large part through the withholding by employers of taxes on wages paid to their employees. The tax withheld at the source on wages is applied as a credit in payment of the individual's income tax liability for the taxable year. In no case does withholding of the tax relieve an individual from the duty of filing a return otherwise required by law. The chief means of collecting the income tax due from nonresident alien individuals and foreign corporations not engaged in trade or business within the United States is the withholding of the tax by persons paying or remitting the income to the recipients. The tax withheld is allowed as a credit in payment of the tax imposed on such nonresident alien individuals and foreign corporations.

(3) *Declarations of estimated tax.* Any individual who may reasonably expect to receive gross income for the taxable year from wages or from sources other than wages, in excess of amounts specified by law, or who can reasonably expect his estimated tax to be $40 or more, is required to file a declaration of estimated income tax. Payments of estimated tax are applied in payment of the tax for the taxable year. A husband and wife may make a single declaration jointly, and the amount of the estimated tax paid on the declaration may be applied in payment of the income tax liability of either spouse in any proportion they may specify. For taxable years ending on or after December 31, 1955, the law requires a declaration of estimated tax by certain corporations. See section 6016 of the Code.

(4) *Collection by sale of revenue stamps.* Certain taxes are collected by sale of revenue stamps. These taxes fall into three general classes: Documentary stamp taxes, commodity stamp taxes, and occupational stamp taxes. The documentary and commodity stamp taxes are paid by having affixed to the document, package, container, etc., in respect to which the tax is imposed, internal revenue stamps in the amount equal to the tax due and by canceling such stamps in the manner prescribed. Payment of occupational taxes is evidenced by posting or displaying a special occupational tax stamp on the premises where the business is operated. In certain situations where it is not practicable to collect the tax by stamp, for example, where the instrument or commodity subject to stamp tax is no longer in existence or for other reasons cannot be stamped or where it is discovered that an occupational stamp tax was due for a prior taxable year, the tax may be collected by assessment. For special provisions applicable to stamp taxes, see § 601.404.

(5) *Collection of tax by another person.* Certain miscellaneous excise taxes are imposed on the person making the payment for telephone service, air transportation, and other facilities or services. Such taxes are required to be collected by the telephone company, airline, or other person receiving the payment. All taxes collected in this manner are held by the collecting agent in trust for the United States until paid over to the district director of internal revenue. If the person from whom the tax is required to be collected refuses to pay it, or if for any reason it is impossible for the collecting agency to collect the tax from such person, the collecting agency is required to report the facts to the district director of internal revenue, and the tax will then be collected by direct assessment against the person failing or refusing to pay the tax to the collecting agent. For special provisions applicable to excise taxes collected by another person, see § 601.403.

(b) *Extension of time for filing returns.* Under certain circumstances the Commissioner is authorized to grant a reasonable extension of time for filing a return or declaration. This authority has been delegated to the several district directors of internal revenue. The maximum period for extensions cannot be in excess of six months, except in the case of taxpayers who are abroad. With an exception in the case of estate tax returns, written application for extension must be received by the district director on or before the date prescribed by law for filing the return or declaration. On or before the last date prescribed by law for filing its income tax return, a corporation may obtain an automatic three-month extension of time for filing the income tax return by filing Form 7004 and paying an estimated amount not less than would be required as the first installment of tax due should the corporation elect to pay the tax in installments. An extension of time for filing a declaration of estimated tax (generally limited to a period of not more than 15 days) automatically extends the time for paying the estimated tax (without interest) for the same period.

(c) *Enforcement procedure*—(1) *General.* Taxes shown to be due on returns, deficiencies in taxes, additional or delinquent taxes to be assessed, and penalties, interest, and additions to taxes, are recorded by the district director or the director of the regional service center as "assessments." Under the law an assessment is prima facie correct for

all purposes. Generally, the taxpayer bears the burden of disproving the correctness of an assessment. Upon assessment, the district director is required to effect collection of any amounts which remain due and unpaid. Generally, payment within 10 days from the date of the notice and demand for payment is requested; however, payment may be required in a shorter period if collection of the tax is considered to be in jeopardy.

(2) *Levy.* If a taxpayer neglects or refuses to pay any tax within the period provided for its payment, it is lawful for the district director to make collection by levy on the taxpayer's property. See section 6331 of the Code. No suit for the purpose of restraining the assessment or collection of an internal revenue tax may be maintained in any court, except to restrain the assessment or collection of income, estate, or gift taxes during the period within which the assessment or collection of deficiencies in such taxes is prohibited. See section 7421 of the Code. Property taken under authority of any revenue law of the United States is irrepleviable. 28 U.S.C. 2463.

(3) *Liens.* The United States' claim for taxes is a lien on the taxpayer's property at the time of assessment. Such lien is not valid as against any purchaser, holder of a security interest, mechanic's lienor, or judgment lien creditor until notice has been filed by the district director. Despite such filing, the lien is not valid with respect to certain securities as against any purchaser of such security who, at the time of purchase, did not have actual notice or knowledge of the existence of such lien and as against a holder of a security interest in such security who, at the time such interest came into existence, did not have actual notice or knowledge of the existence of such lien. Certain motor vehicle purchases are similarly protected. Even though a notice of lien has been filed, certain other categories are afforded additional protection. These categories are: Retail purchases, casual sales, possessory liens, real property taxes and property assessments, small repairs and improvements, attorneys' liens, certain insurance contracts and passbook loans. A valid lien generally continues until the liability is satisfied, becomes unenforceable by reason of lapse of time or is discharged in bankruptcy. A certificate of release of lien may be issued upon the taxpayer's furnishing proper bond in lieu of the lien, or when the liability is satisfied, becomes unenforceable by reason of lapse of time or discharged in bankruptcy. The Code also contains additional provisions with respect to the discharge of specific property from the effect of the lien. Also, under certain conditions, a lien may be subordinated. The Code also contains additional provisions with respect to liens in the case of estate and gift taxes. For the specific rules with respect to liens, see subchapter C of chapter 64 of the Code and the regulations thereunder.

(4) *Penalties.* In the case of failure to file a return within the prescribed time, a certain percentage of the amount of tax is, pursuant to statute, added to the tax unless the failure to file the return within the prescribed time is shown to the satisfaction of the district director or the director of the regional service center to be due to reasonable cause and not neglect. Civil penalties are also imposed for fraudulent returns; in the case of income and gift taxes, for intentional disregard of rules and regulations or negligence; and additions to the tax are imposed for the failure to comply with the requirements of law with respect to the estimated income tax. See chapter 68 of the Code. A 50 percent penalty, in addition to the personal liability incurred, is imposed upon any person who fails or refuses without reasonable cause to honor a levy. Civil penalties may also be imposed for failure to pay the tax on liquors, cigars, cigarettes, and cigarette papers and tubes within the time prescribed. See chapters 51 and 52 of the Code. Criminal penalties are imposed for willful failure to make returns, keep records, supply information, etc. See chapter 75 of the Code.

(5) *Informants' rewards.* Payments to informers are authorized for detecting and bringing to trial and punishment persons guilty of violating the internal revenue laws. See section 7623 of the Code and the regulations thereunder. Claims for rewards should be made on Form 211. Relevant facts should be stated on the form, which after execution should be forwarded to the district director of internal revenue for the district in which the informer resides, or to the Commissioner of Internal Revenue, Washington, D.C. 20224.

§ 601.105 Examination of returns and claims for refund, credit or abatement; determination of correct tax liability.

(a) *Processing of returns.* When the returns are filed in the office of the district director of internal revenue or the office of the director of a regional service center, they are checked first for form, execution, and mathematical accuracy. Mathematical errors are corrected and a correction notice of any such error is sent to the taxpayer. Notice and demand is made for the payment of any additional tax so resulting, or refund is made of any overpayment. All returns are then sorted according to such classifications and subclassifications as are prescribed by the uniform management directive of the Commissioner. The purpose of these classifications is to facilitate prompt processing of returns showing refunds due and returns received with insufficient or no remittance, the selection of refunds for audit, and the compilation of income and other statistics.

(b) *Examination of returns*—(1) *General.* The original examination of income, profits, estate, gift, excise, and employment tax returns is a primary function of internal revenue agents in the Audit Division of the office of each district director of internal revenue. Such internal revenue agents are organized in groups, each of which is under the immediate supervision of a group supervisor designated by the district director. Revenue agents (and such other officers or employees of the Internal Revenue Service as may be designated for this purpose by the Commissioner) are authorized to examine any books, papers, records, or memoranda bearing upon matters required to be included in Federal tax returns and to take testimony relative thereto and to administer oaths. See section 7602 of the Code and the regulations thereunder. There are two general types of audit. These are commonly called "office audit" and "field audit". During the audit of a return a taxpayer may be represented before the examining officer by an attorney, certified public accountant, or other representative. See Subpart E of this part for conference and practice requirements.

(2) *Office audit.* Certain returns are examined by office audit. These are returns susceptible to office audit techniques and include certain business returns in addition to the full range of nonbusiness individual income tax returns. Office audits are conducted either by correspondence or by office interview. The method employed normally depends upon the complexity of the items questioned. When an examination can be conducted by either method, the convenience of the taxpayer generally will be the principal consideration. In a correspondence audit, the taxpayer is asked to supply explanations or supporting evidence by mail. In an office interview audit the taxpayer is asked to come to the district director's office for a personal interview and to bring certain records with him in support of his return. During the audit the taxpayer has the right, of course, to bring to the attention of the examining officer any amounts included in his return which are not taxable or any deductions which he failed to claim on his return. If it develops that a field audit is necessary, an appropriate transfer will be made.

(3) *Field audit.* Certain returns are examined by field audit which involves an examination by an internal revenue agent of the taxpayer's books and records on the taxpayer's premises. The revenue agent will check the entire return filed by the taxpayer and will examine all books, papers, records, and memoranda dealing with matters required to be included in the return. If the return presents an engineering or appraisal problem (e.g., depreciation or depletion deductions, gains or losses upon the sale or exchange of property, or losses on account of abandonment, exhaustion, or obsolescence), it may be investigated by an engineer agent who makes a separate report.

(4) *Conclusion of audit.* At the conclusion of an office or field audit, the taxpayer is given an opportunity to agree with the findings of the examining officer. If the taxpayer does not agree, the examining officer will inform the taxpayer of his appeal rights. See paragraph (c) of this section for district conference procedure. If the taxpayer does agree with the proposed changes, the examining officer will invite him to execute either Form 870 or another appropriate agreement form. When the

taxpayer agrees with the proposed changes but does not offer to pay any deficiency or additional tax which may be due, the examining officer will also invite payment (by check or money order), together with any applicable interest or penalty. If the agreed case involves income, profits, estate, or gifts taxes, the agreement is evidenced by a waiver by the taxpayer of restrictions on assessment and collection of the deficiency, or an acceptance of a proposed overassessment. If the case involves excise or employment taxes or 100 percent penalty, the agreement is evidenced in the form of a consent to assessment and collection of additional tax or penalty and waiver of right to file claim for abatement, or the acceptance of the proposed overassessment. Even though the taxpayer signs an acceptance of a proposed overassessment the district director or the director of the regional service center remains free to assess a deficiency. On the other hand, the taxpayer who has given a waiver may still claim a refund of any part of the deficiency assessed against him and paid by him, or any part of the tax originally assessed and paid by him. The taxpayer's acceptance of an agreed overassessment does not prevent his filing a claim and bringing a suit for an additional sum, nor does it preclude the Government from maintaining suit to recover an erroneous refund. As a matter of practice, however, waivers or acceptances ordinarily result in the closing of a case insofar as the Government is concerned.

(5) *Technical advice from the National Office*—(i) *Definition and nature of technical advice.* (*a*) As used in this subparagraph, "technical advice" means advice or guidance as to the interpretation and proper application of internal revenue laws, related statutes, and regulations, to a specific set of facts, furnished by the National Office upon request of a district office in connection with the examination or consideration of a taxpayer's return or claim for refund or credit. It is furnished as a means of assisting Service personnel in closing cases and establishing and maintaining consistent positions in the several districts. It does not include memorandums on matters of general technical application furnished to district offices where the issues are not raised in connection with the examination of the return of a specific taxpayer.

(*b*) The consideration or examination of the facts relating to a request for a determination letter is considered to be in connection with the examination or consideration of a return of the taxpayer. Thus, a district director may, in his discretion, request technical advice with respect to the consideration of a request for a determination letter.

(*c*) If a district director is of the opinion that a ruling letter previously issued to a taxpayer should be modified or revoked, and he requests the National Office to reconsider the ruling, the reference of the matter to the National Office is treated as a request for technical advice and the procedures set out in this subparagraph will be followed. (For procedures relating to a request for a ruling, see § 601.201.)

(*d*) The provisions of this subparagraph apply only to a case under the jurisdiction of a district director. They do not apply to a case under the jurisdiction of the Alcohol and Tobacco Tax Division or of the Appellate Division.

(*e*) The Assistant Commissioner (Technical), acting under a delegation of authority from the Commissioner, is exclusively responsible for providing technical advice in any issue involving the establishment of basic principles or policies for the uniform interpretation and application of substantive tax laws other than those which are under the jurisdiction of the Alcohol and Tobacco Tax Division. This authority has been largely redelegated to subordinate officials.

(ii) *Areas in which technical advice may be requested.* (*a*) District directors may request technical advice or assistance on any technical or procedural question which develops during the audit or examination of a return, or claim for refund or credit, of a taxpayer. These procedures are applicable as provided in subdivision (i) of this subparagraph.

(*b*) District directors are encouraged to request technical advice on any technical or procedural question arising in connection with any case of the type described in subdivision (i) of this subparagraph, at any stage of the proceedings in the district office, which cannot be resolved on the basis of law, regulations, or a clearly applicable Revenue Ruling or other precedent issued by the National Office.

(iii) *Requesting technical advice.* (*a*) It is the responsibility of the district office to determine whether technical advice is to be requested on any issue before that office. However, during the course of an examination or a conference in a district office, a taxpayer or his representative may request that an issue be referred to the National Office for technical advice on the grounds that a lack of uniformity exists as to the disposition of the issue, or that the issue is so unusual or complex as to warrant consideration by the National Office. While taxpayers are encouraged to make written requests setting forth the facts, law, and argument with respect to the issue, and reasons for requesting National Office advice, a taxpayer may make the request orally. If, after considering the taxpayer's request, the examining officer or conferee is of the opinion that the circumstances do not warrant referral of the case to the National Office, he will so advise the taxpayer.

(*b*) The taxpayer may appeal the decision of the examining officer or conferee not to request technical advice by submitting to that official, within 10 days (or such longer period as may be agreed upon), a statement of the facts, law, and arguments with respect to the issue, and the reasons why he believes the matter should be referred to the National Office for advice.

(*c*) The examining officer or conferee will submit the statement of the taxpayer through channels to the Chief, Audit Division, accompanied by a statement of his reasons why the issue should not be referred to the National Office. The Chief, Audit Division, will determine, on the basis of the statements submitted, whether technical advice will be requested. If he determines that technical advice is not warranted, he will inform the taxpayer in writing that he proposes to deny the request. In the letter to the taxpayer the Chief, Audit Division, will (except in unusual situations where such action would be prejudicial to the best interests of the Government) state specifically the reasons for the proposed denial. The taxpayer may not appeal the decision of the Chief, Audit Division, not to request technical advice from the National Office. However, he will have 15 days in which to notify the Chief, Audit Division, whether he agrees with the proposed denial. If he does not agree, all data relating to the issue for which technical advice has been sought, including taxpayer's written request and statements will be submitted to the National Office, Attention: Director, Audit Division, for review. After review in the National Office, the district office will be notified as to whether the proposed denial is approved or disapproved.

(*d*) While the matter is being reviewed in the National Office, the district office will suspend action on the issue (except where the delay would prejudice the Government's interests) until it is notified of the National Office decision. This notification will be made within 30 days after receipt of the data in the National Office. The review will be solely on the basis of the written record and no conference will be held in the National Office.

(*e*) When technical advice is to be requested, whether or not upon the request of the taxpayer, the taxpayer will be so advised, except as noted in (*j*) of this subdivision. If the examining officer or the conferee initiates the action, the taxpayer will be furnished a copy of the statement of the pertinent facts and the question or questions proposed for submission to the National Office. The request for advice submitted by the district director should be so worded as to avoid possible misunderstanding, in the National Office, of the facts or of the specific point or points at issue.

(*f*) The taxpayer will be given 10 days (or such longer period as may be agreed upon) in which to indicate in writing the extent, if any, to which he may not be in complete agreement with the statement of facts and specific questions presented to him by the district office. Every effort should be made to reach agreement as to the facts and the specific point at issue. If agreement cannot be reached, the taxpayer may submit a statement of his understanding as to the specific point or points at issue which will be forwarded to the National Office with the request for advice.

(*g*) If the taxpayer initiates the action to request advice, and his statement of the facts and point or points at issue are not wholly acceptable to the district officials, the taxpayer will be advised in writing as to the areas of disagreement. If agreement cannot be reached, both the statements of the taxpayer and the district official will be forwarded to the National Office.

(*h*) If the taxpayer has not already done so, he may submit a statement explaining his position on the issues, citing precedents which he believes will bear on the case. This statement will be forwarded to the National Office with the request for advice. If it is received at a later date, it will be forwarded for association with the case file.

(*i*) At the time the taxpayer is informed that the matter is being referred to the National Office, he will also be informed of his right to a conference in the National Office in the event an adverse decision is indicated, and will be asked to indicate whether he desires such a conference.

(*j*) The provisions of (*a*) through (*i*) of this subdivision, relating to the referral of issues upon request of taxpayer, advising taxpayers of the referral of issues, and the granting of conferences in the National Office, are not applicable to matters primarily of internal concern or in instances where it would be prejudicial to the interests of the Internal Revenue Service (as for example in cases involving fraud or jeopardy assessments).

(iv) *Preparation of technical advice memorandum by the National Office.* (*a*) Immediately upon receipt in the National Office, the technical assistant to whom the case is assigned will analyze the file to ascertain whether it meets all requirements of subdivision (iii) of this subparagraph. If the case is not complete, appropriate steps will be taken to complete the file.

(*b*) If the taxpayer has requested a conference in the National Office, the procedures in subdivision (vi) of this subparagraph will be followed.

(*c*) Replies to requests for technical advice will be addressed to the district director and will be drafted in two parts. Each part will identify the taxpayer by name, address, identification number, and year or years involved. The first part (hereafter called the "Technical Memorandum") will contain (*1*) a recitation of the pertinent facts having a bearing on the issue; (*2*) a discussion of the facts, precedents, and reasoning of the National Office; and (*3*) the conclusions of the National Office. The conclusions will give direct answers, whenever possible, to the specific questions of the district office. The discussion of the issues will be in such detail that the district officials are apprised of the reasoning underlying the conclusion.

(*d*) The second part of the reply will consist of a transmittal memorandum. In the unusual cases it will serve as a vehicle for providing the district office administrative information or other information which, under the nondisclosure statutes, or for other reasons, may not be discussed with the taxpayer.

(*e*) It is the general practice of the Service to furnish a copy of the technical memorandum to the taxpayer, upon his request, after it has been adopted by the district director. See (*c*) of this subdivision. However, where no definitive answer is given to the specific question presented, where the factual submission is such as to indicate that the issue should be decided by the district office, or where it would not be in the interest of wise administration of the tax laws, a copy of the technical memorandum will not be furnished the taxpayer. The National Office will specifically advise the district director in those cases where it is determined that a copy of the technical memorandum is not to be made available to the taxpayer.

(v) *Action on technical advice in district offices.* (*a*) Upon adoption of the technical advice by a district director, the district office will proceed to process the taxpayer's case on the basis of the conclusions expressed in the technical advice memorandum. Except as provided in (*b*) of this subdivision, a copy of the technical memorandum will be furnished to the taxpayer, upon his request, for his information as to the position of the Service on the issue.

(*b*) In those cases in which the National Office advises the district director that he should not furnish a copy of the technical memorandum to the taxpayer, the district director will so inform the taxpayer, if he requests such a copy.

(vi) *Conference in the National Office.* (*a*) If, after a comprehensive study of the case file, it appears that advice which is adverse to the taxpayer should be given and a conference has been requested, the taxpayer will be notified of the time and place of the conference. If conferences are being arranged with respect to more than one request for advice involving the same taxpayer, they will be so scheduled as to cause the least inconvenience to the taxpayer.

(*b*) A taxpayer is entitled, as a matter of right, to only one conference in the National Office unless one of the circumstances discussed in (*a*) through (*c*) of this subdivision exists. This conference will usually be held at the branch level in the appropriate division in the office of the Assistant Commissioner (Technical) and will usually be attended by a person who has authority to act for the branch chief. (See § 601.201(a)(2) for the divisions involved.) If more than one subject is discussed at the conference, the discussion constitutes a conference with respect to each subject. At the request of the taxpayer or his representative, the conference may be held at an earlier stage in the consideration of the case than the Service would ordinarily designate. A taxpayer has no "right" of appeal from an action of a branch to the director of a division or to any other National Office official.

(*c*) In the process of consideration, in the National Office, of a position proposed by a branch, it may appear that the position of the Service will involve a reversal of the position proposed by the branch with a result that will be less favorable to the taxpayer or it may appear that an adverse position proposed by a branch will be sustained and become the position of the Service, but on a new or different issue or on substantially different grounds than those on which the branch turned the case. Under either of these circumstances, the taxpayer or his representative will be invited to another conference. The provisions of this subparagraph limiting the number of conferences to which a taxpayer is entitled will not foreclose inviting a taxpayer to attend further conferences when, in the opinion of responsible National Office personnel, such need arises. All additional conferences of the type discussed in this subdivision are held only at the invitation of the Service.

(*d*) It is the responsibility of the taxpayer to furnish to the National Office, for addition to the case file, a written record of any additional data, lines of reasoning, precedents, etc., which are proposed by the taxpayer and discussed at the conference but which were not previously or adequately presented in writing. This additional record should be addressed to the National Office, but it should be sent to the appropriate district director who will forward it for association with the case file. The district director may verify the additional facts and data presented and comment upon it, to the extent he deems it appropriate, when he forwards it to the National Office.

(*e*) A taxpayer or his representative desiring to obtain information as to the status of his case may do so by contacting the appropriate division in the office of the Assistant Commissioner (Technical). (See § 601.201(a)(2) for the divisions involved.)

(vii) *Effect of technical advice.* (*a*) A technical advice memorandum represents an expression of the views of the Service as to the application of law, regulations, and precedents to the facts of a specific case, and is issued primarily as a means of assisting district officials in the examination and closing of the case involved.

(*b*) A technical memorandum given a taxpayer will, in general, be afforded the same effect as a ruling to the taxpayer on a closed and completed transaction. In this connection see paragraph (1) of § 601.201. Since technical advice, in connection with cases of the type described in subdivision (1)(*a*) of this subparagraph will always be issued with respect to a closed transaction, the taxpayer may not expect a modification or revocation of the position stated in the technical memorandum to be applied nonretroactively, except under circumstances of the type described in paragraph (1) (7) and (8) of § 601.201, relating to continuing transactions.

(*c*) A district director may raise an issue in any taxable period, even though he may have asked for and been furnished, technical advice with regard to the same or a similar issue in any other taxable period.

(*c*) *District conference procedure*—(1) *Office audit.* (i) In a correspondence audit the taxpayer is informed of the examining officer's proposed findings by

a form letter. He is asked to sign and return an agreement if he accepts the findings. The letter also informs the taxpayer of several courses of appeal available to him, including a district conference and consideration of his case by the regional Appellate Division. A conference in the district director's office will be granted the taxpayer upon request without submission of a written protest. If no agreement is reached at the conference, the taxpayer will be furnished a report of the findings and a 30-day letter describing his further appeal rights.

(ii) In an office interview audit the taxpayer will usually be informed of the examining officer's findings at the interview. If no agreement is reached at the conference, the taxpayer is given an opportunity to request a district conference at the end of the interview or is invited in a 15-day letter to arrange for such a conference. The balance of the procedure in a correspondence audit is also applicable in an office interview audit.

(2) *Field audit.* (i) If, at the conclusion of an examination, the taxpayer does not agree with the adjustments proposed by the examining officer, a complete examination report will be prepared fully explaining all proposed adjustments. Before the report or any invitation to a district Audit Division conference is sent to the taxpayer, the case file will be submitted to the district Review Staff for a thorough technical and procedural review. Following such review, the taxpayer will receive a copy of the examination report under cover of a transmittal letter (30-day letter) providing him with a detailed explanation of the available appeal procedure and requesting the taxpayer to inform the district director of his choice of action.

(ii) If the total amount of proposed additional tax, proposed overassessment, or claimed refund does not exceed $1,000 for any taxable year, the taxpayer will be granted a district Audit Division conference on request. A written protest is not required.

(iii) If the amount of proposed additional tax, proposed overassessment, or claimed refund exceeds $1,000 for any taxable year, the taxpayer, on request will be granted a district Audit Division conference, provided a written protest is filed setting forth the facts, law, and arguments upon which the taxpayer relies.

(iv) If the issues involved are such that there appears to be little possibility of disposing of them in a district Audit Division conference, the taxpayer will be encouraged to bypass the district conference in favor of prompt consideration of his case by the regional Appellate Division. In such a case, unless the taxpayer expressly requests a district conference, the taxpayer's protest and case file, after preliminary screening by the Chief, Conference Staff, will be forwarded to the regional Appellate Division.

(v) Ordinarily, the examining officer will not attend the district Audit Division conferences.

(vi) Changes made by the Conference Staff in the proposals set forth in the examining officer's examination report will be reflected in a Conference Audit Statement which will be forwarded to the taxpayer to inform him of changes made and to serve as a supplement to the examination report.

(vii) The determination of the Conference Staff will not be submitted to the district Review Staff for review.

(3) *Scope of district conference procedure.* The conference procedure described in this paragraph is applicable in the determination of any liability in respect of income, profits, estate, gift, excise, or employment taxes. This procedure, however, is not applicable in the determination of liability for any excise tax imposed by subtitle E of the Internal Revenue Code (relating to alcohol, tobacco, machineguns, and certain other firearms), or by subchapter D of chapter 78 (relating to certain import taxes) insofar as it relates to alcohol and tobacco. The procedure described in this paragraph does not apply in any case where criminal prosecution is under consideration, or in any case in which, in the discretion of the district director of internal revenue, the Government's interest would be prejudiced thereby. Nor does this procedure preclude the taking of appropriate action where the assessment or collection of the tax is in jeopardy. See paragraph (h) of this section.

(4) *Rules governing district conferences.* The objective of the district conference procedure is to give taxpayers a greater oportunity to reach an early agreement with respect to disputed items arising from office and field audits. If the taxpayer is represented at a district conference, see the conference and practice requirements of Subpart E. In conduct of conferences, it is the duty of the conferee (i) to conduct the conference in accordance with the objectives of the conference procedure, (ii) to provide the taxpayer a fair and courteous hearing at which the taxpayer may discuss the issues, (iii) to make certain that all pertinent facts are included in the record and are considered in arriving at the proposed recommendation, (iv) to make certain that the pertinent provisions of the Internal Revenue Code are applied in arriving at the proposed recommendation and that the proposed recommendation is in accord with the interpretations of the Internal Revenue Service as expressed in regulations and rulings, and (v) to explain fully to the taxpayer the conclusions reached and the reasons therefor. If an agreement with the taxpayer is reached at the conference, the taxpayer will be requested to execute Form 870 or another appropriate agreement form. Any deficiency in tax or additional tax proposed will then be assessed, or any overpayment will be credited or refunded.

(5) *Settlement authority.* The authority of the Chief, Conference Staff, may be extended to include the settlement of selected issues on a basis reflecting an evaluation of litigating hazards, provided a substantially identical issue has been previously so disposed of by a regional Appellate Division. This procedure applies only if the total amount of proposed additional tax, proposed overassessment, or claimed refund does not exceed $1,000 for any year.

(d) *Thirty-day letters and protests.*—(1) *General.* The report of the examining officer, as approved after review, recommends one of four determinations:

(i) Acceptance of the return as filed and closing of the case;

(ii) Assertion of a given deficiency or additional tax;

(iii) Allowance of a given overassessment, with or without a claim for refund, credit, or abatement;

(iv) Denial of a claim for refund, credit, or abatement which has been filed and is found wholly lacking in merit.

In an unagreed case, the district director sends to the taxpayer a preliminary or "30-day letter" if any one of the last three determinations is made (except a full allowance of a claim in respect of any tax). The 30-day letter is a form letter which states the determination proposed to be made. It is accompanied by a copy of the examining officer's report explaining the basis of the proposed determination. It suggests to the taxpayer that if he concurs in the recommendation, he indicate his agreement by executing and returning a waiver or acceptance. The preliminary letter also advises the taxpayer that if he disagrees with the proposed determination he may file a written protest (see §§ 601.103(c)(1) and 601.509) within 30 days (60 days if taxpayer is outside of the country) from the date of the letter stating the grounds for his disagreement, and he may have a conference in the Appellate Division of the region if requested and if that Division has jurisdiction (see § 601.105(a)(3)). If the taxpayer does not respond to the letter within 30 days a statutory notice of deficiency will be issued or other appropriate action taken, such as the issuance of a notice of adjustment, the denial of a claim in income, profits, estate, and gift tax cases, or an appropriate adjustment of the tax liability or denial of a claim in excise and employment tax cases.

(2) *Protests.* (i) No written protest is required to obtain a district Audit Division conference in an office audit case. However, in a field audit case a written protest is required to obtain a district conference if the total amount of proposed additional tax, proposed overassessment or claimed refund exceeds $1,000 for any taxable year. A written protest is required in every case in which the taxpayer requests Appellate Division consideration. Instructions for the preparation of protests are sent with the preliminary letter.

(ii) Protests against proposed determinations of excise taxes imposed by chapter 35 of the Code (relating to wagering), and subchapter A of chapter 39 (relating to narcotic drugs and marihuana), which are excluded from Appellate Division jurisdiction, are reviewed in the Audit Division of the district director's office. In the event that an agreement with the taxpayer is reached, he will be requested to execute an appropriate agreement form. If consideration of the protest does not result in closing the case on an agreed basis, the taxpayer is notified of the conclusions reached. Any additional tax will then be assessed or any overpayment will be credited or refunded.

(e) *Claims for refund or credit.* (1) After payment of the tax a taxpayer may (unless he has executed an agreement to the contrary) contest the assessment by filing a claim for refund or credit for all or any part of the amount paid, except as provided in section 6512 of the Code with respect to certain taxes determined by the Tax Court, the decision of which has become final. A claim for refund or credit is made on Form 843, which is obtainable from the district director. Generally, the claim, together with appropriate supporting evidence, must be filed in the office of the district director for the district in which the tax was paid. A claim for refund or credit must be filed within the applicable statutory period of limitation. In the case of individuals a properly executed income tax return may, if the taxpayer elects, operate as a claim for refund or credit of the amount of the overpayment disclosed by such return. If an individual income taxpayer files Form 1040A as a return and properly elects to have the tax computed by the district director or the director of the regional service center, such return operates automatically as a claim for refund for the amount of any overpayment disclosed by such computation.

(2) Generally, claims for refund or credit are investigated and considered by the Audit Division of the district director's office. The procedure applicable to the determination of correct tax liability upon the basis of a claim for refund or credit filed by the taxpayer is substantially the same as the procedure applicable to the original determination of tax liability upon the basis of a return filed by a taxpayer. See § 601.108 for procedure for review of proposed overpayment exceeding $100,000 of income, estate, and gift taxes.

(3) As to suits for refund, see § 601.103(c).

(4) A special procedure is applicable to claims for excess profits tax relief (including credit or refund) under section 722 of the Internal Revenue Code of 1939. See § 601.107 for a description of the applicable procedure.

(5) There is also a special procedure applicable to applications for tentative carryback adjustments under section 6411 of the Code (consult Forms 1045 and 1139).

(6) For special procedure applicable to claims for payment or credit in respect of gasoline used on a farm for farming purposes, for certain nonhighway purposes, or by local transit systems, see sections 39, 6420, and 6421 of the Code and § 601.402(c)(3). For special procedure applicable to claims for payment or credit in respect of lubricating oil used otherwise than in a highway motor vehicle, see sections 39 and 6424 of the Code and § 601.402(c)(3).

(f) *Interruption of audit and conference procedure.* The process of field audits and the course of the administrative procedure described in this section and in the following section may be interrupted in some cases by the imminent expiration of the statutory period of limitations for assessment of the tax. In this event, the district director of internal revenue or other appropriate officer concerned must dispatch a statutory notice of deficiency (income, profits, estate or gift tax cases) or take other appropriate action with a view to assessment, even though the audit or conferences may then be going forward. In order to avoid interruption of the established procedure (except in estate tax cases), it is suggested to the taxpayer that he execute an agreement on Form 872 (or such other form as may be prescribed for this purpose). To be effective this agreement must be entered into by the taxpayer and the district director or other appropriate officer concerned prior to the expiration of the time otherwise provided for assessment. Such a consent extends the period for assessment of any deficiency, or any additional or delinquent tax, and extends the period during which the taxpayer may claim a refund or credit to a date 6 months after the agreed time of extension of the assessment period.

(g) *Fraud.* The procedure described in this section does not apply in any case in which criminal prosecution is under consideration. Such procedure does obtain, however, in cases involving the assertion of the civil fraud penalty after the criminal aspects of the case have been closed.

(h) *Jeopardy assessments.* If the district director believes that the assessment or collection of a tax will be jeopardized by delay, he is authorized and required to assess the tax immediately, together with interest and other additional amounts provided by law, notwithstanding the restrictions on assessment or collection of income, estate and gift taxes contained in section 6213(a) of the Code. A jeopardy assessment does not deprive the taxpayer of his right to file a petition with the Tax Court. Collection of a tax in jeopardy may be immediately enforced by the district director upon notice and demand. To stay collection the taxpayer may file with the district director a bond equal to the amount for which the stay is desired.

(i) *Regional post review of examined cases.* Regional commissioners review samples of the examined cases closed in their district offices to assure uniformity throughout their districts in the application of the provisions of the Code, regulations, and rulings, as well as the general policies of the Service. The Audit Division of the National Office in a similar manner reviews samples of the examined cases closed in the Office of International Operations. In certain circumstances, such as where substantial errors are found or where there is evidence of fraud or collusion, the regional commissioner has authority to reopen the case. When a reexamination of books and records is necessary, Form 2756, notice of reexamination, will be delivered to the taxpayer at the time the reexamination is begun.

§ 601.106 Appellate functions.

(a) *General.* (1) There is provided in each region an Appellate Division with office facilities within the region. Unless they otherwise specify, taxpayers residing outside the territorial limits of the regional Appellate Divisions use the facilities of the Washington, D.C., branch office of the Appellate Division of the Mid-Atlantic Region. Subject to the limitations set forth in subparagraphs (2) and (3) of this paragraph, the Commissioner has delegated to certain officers of the Appellate Division of each region authority to represent the regional commissioner in his exclusive and final authority for the determination of Federal income, profits, estate, or gift tax liability (whether before or after the issuance of a statutory notice of deficiency) and for the determination of employment or certain Federal excise tax liability in any case originating in the office of any district director situated in the region, or in any case in which jurisdiction has been transferred to the region in which the taxpayer has protested the determination of liability made by that officer and no agreement has been reached. The Appellate Division has complete jurisdiction of every income, profits, estate, or gift tax case after the issuance of the statutory notice of deficiency, subject to the limitations provided in subparagraph (2) of this paragraph. If the statutory notice of deficiency was issued by a district director or the Director of International Operations, the Appellate Division may waive jurisdiction to the director who issued the statutory notice during the 90-day (or 150-day) period for filing petition with the Tax Court, except where criminal prosecution has been recommended and not finally disposed of or the statutory notice includes the ad valorem fraud penalty. After the filing of a petition in the Tax Court the Appellate Division continues to have exclusive jurisdiction of the case, subject to the provisions of subparagraph (2) of this paragraph. Subject to the exceptions and limitations set forth in subparagraph (2) of this paragraph, there is also vested in the Appellate Division of the region authority to represent the regional commissioner in his exclusive authority to settle (i) all cases docketed in the Tax Court of the United States and designated for trial at any place within the territory comprising the region and (ii) all docketed cases originating in the office of any district director situated within the region or in which jurisdiction has been transferred to the region, which are designated for trial at Washington, D.C., unless the petitioner resides in and his books and records are located (or can be made available) in the region which includes Washington, D.C.

(2) The authority described in subparagraph (1) of this paragraph does not include the authority to:

(i) Negotiate or make a settlement in any case docketed in the Tax Court on and after the opening date of the session at which the case is calendared for trial, or of any pre-trial hearing of or report session thereon, otherwise referred to as "session" cases;

(ii) Make or approve a settlement in presession cases docketed in the Tax Court, except with the concurrence of regional counsel;

(iii) Eliminate the ad valorem fraud penalty in any income, profits, estate or gift tax case in which the penalty has been determined by the district office in connection with a tax year or period, or which is related to or affects such year or period, for which criminal prosecution against the taxpayer (or a related taxpayer involving the same transaction) has been recommended to the Department of Justice for willful attempt to evade or defeat tax, or for willful failure to file a return, except upon the recommendation or concurrence of the Regional Counsel;

(iv) Act in any case in which a recommendation for criminal prosecution is pending, except with the concurrence of regional counsel; nor

(v) Modify any decision of the Excess Profits Tax Council with respect to any issue arising under section 722 of the Internal Revenue Code of 1939, except with the concurrence of the Director of the Appellate Division.

Authority to negotiate and make a settlement or concession in a case docketed in the Tax Court in a session status referred to in subdivision (i) of this subparagraph is delegated to the regional counsel.

(3) The authority vested in the Appellate Division does not extend to the determination of liability for any excise tax imposed by the following chapters of the Internal Revenue Code (and the corresponding provisions of the 1939 Code): chapter 35 (relating to wagering); subchapter A of chapter 39 (relating to narcotic drugs and marihuana); subtitle E (relating to alcohol, tobacco, machine guns and certain other firearms); and subchapter D of chapter 78 (relating to certain import taxes) insofar as it relates to alcohol and tobacco.

(b) *Initiation of proceedings before the Appellate Division.* In any case in which the district director has issued a preliminary or "30-day letter" and the taxpayer files a written protest (see paragraph (c)(1) of § 601.103 and § 601.509) against the proposed determination of tax liability, except as to those taxes described in paragraph (a)(3) of this section, the taxpayer has the right (and will be so advised by the district director) of administrative appeal to the regional office of the Appellate Division. Organization such as labor unions and trade associations which have been examined by the district director to determine the amounts expended by the organization for purposes of lobbying, promotion or defeat of legislation, political campaigns, or propaganda related to those purposes are treated as "taxpayers" for the purpose of this right of administrative appeal. Thus, upon filing a protest to the district director's findings that a portion of member dues is to be disallowed as a deduction to each member because expended for such purposes, the organization will be afforded full rights of administrative appeal to the Appellate Division of the region similar to those rights afforded to taxpayers generally. After review of any protest by the district director, the case and its administrative record are referred to the Appellate Division. No taxpayer is required to submit his case to the Appellate Division for consideration. Appeal is at the option of the taxpayer. A request for administrative appeal to the Appellate Division will not be denied because no district conference was held in the district director's office. After the issuance by the district director of a statutory notice of deficiency, upon the taxpayer's request, the Appellate Division may take up the case for settlement and may grant the taxpayer a conference thereon. Except in unusual circumstances, however, no conference will be granted prior to the filing of a petition in the Tax Court for a redetermination of the deficiency proposed in the statutory notice.

(c) *Nature of proceedings before the Appellate Division.* Proceedings before the Appellate Division are informal. Testimony under oath is not taken, although matters alleged as facts may be required to be submitted in the form of affidavits, or declared to be true under the penalties of perjury. Taxpayers may represent themselves or designate a qualified representative to act for them. See Subpart E of this part for conference and practice requirements. At any conference granted by the Appellate Division on a nondocketed case, the district director will be represented if he and the Appellate Division official having settlement authority deem it advisable. At any such conference on a case involving the ad valorem fraud penalty for which criminal prosecution against the taxpayer (or a related taxpayer involving the same transaction) has been recommended to the Department of Justice for willful attempt to evade or defeat tax, or for willful failure to file a return, the Regional Counsel will be represented if he so desires.

(d) *Disposition and settlement of cases before the Appellate Division—(1) Cases not docketed in the Tax Court.* (i) If after consideration of the case by the Appellate Division of the region a satisfactory settlement of the issues is reached with the taxpayer, he will be requested to sign Form 870–AD or other appropriate agreement form waiving restrictions on the assessment and collection of any deficiency and accepting any overassessment resulting under the agreed settlement.

(ii) If after consideration of the case by the Appellate Division of the region it is determined that there is a deficiency in income, profits, estate, or gift tax, to which the taxpayer does not agree, a statutory notice of deficiency will be prepared and issued by the Appellate Division after consideration by the regional counsel of the memorandum recommending the issuance of such statutory notice. Officers of the Appellate Division having authority for the administrative determination of tax liabilities referred to in paragraph (a) of this section are also authorized to prepare, sign on behalf of the Commissioner, and send to the taxpayer by registered or certified mail any statutory notice of deficiency prescribed in sections 6212 and 6861 of the Code, and in corresponding provisions of the Internal Revenue Code of 1939. Within 90 days, or 150 days if the notice is addressed to a person outside of the States of the Union and the District of Columbia, after such a statutory notice of deficiency is mailed (not counting Saturday, Sunday, or a legal holiday in the District of Columbia as the last day), the taxpayer may file a petition with the Tax Court of the United States for a redetermination of the deficiency. In any other unagreed case, the case and its administrative file will be forwarded to the service center director or returned to the district director with directions to take such action with respect to the tax liability determined in the Appellate Division as may be appropriate, such as the issuance of a statutory notice of disallowance of a claim for refund or credit in whole or in part, the preparation of a notice of adjustment or other appropriate action, or the collection of any additional tax (excise and employment tax cases).

(2) *Cases docketed in the Tax Court.* (i) If the case under consideration in the Appellate Division is docketed in the Tax Court and agreement is reached with the taxpayer with respect to the issues involved, the disposition of the case is effected by a stipulation of agreed deficiency or overpayment to be filed with the Tax Court and in conformity with which the Court will enter its order.

(ii) If the case under consideration in the Appellate Division is docketed in the Tax Court and the issues remain unsettled after consideration and conference in the Appellate Division, the case will be referred to the regional counsel for the region for defense of the tax liability determined.

(iii) If the deficiency notice in a case docketed in the Tax Court was not issued by the Appellate Division and no recommendation for criminal prosecution is pending, the case will be referred by the regional counsel to the Appellate Division for settlement as soon as it is at issue in the Tax Court. The settlement procedure shall be governed by the following rules:

(*a*) The Appellate Division will arrange a conference for settlement purposes promptly after receipt of the file. Except in unusual circumstances, the regional counsel will be represented at the conference and will actively participate in it.

(*b*) If a settlement is agreed upon by the Appellate Division and the regional counsel as a result of a conference with the taxpayer, the stipulation of settlement will be prepared and filed with the Tax Court without delay.

(*c*) If no settlement is reached at a conference with the taxpayer, the file will be returned promptly to the regional counsel for preparation for trial and the taxpayer will be so advised by appropriate letter by the Appellate Division.

(*d*) In the event of disagreement between the Appellate Division and the regional counsel as to the settlement of the case, any issue in the case, or with respect to the amount of a counter offer which should be made, efforts will be made to resolve the matter quickly. If agreement cannot be reached the case will promptly be referred in writing to the Chief Counsel for decision.

(*e*) During the period between receipt of the Tax Court's "Trial Status Order" (usually issued from 60 to 90 days in advance of the issuance of the trial calendar) and the receipt of the trial calendar (usually issued about 90 days in advance of the opening date of the trial calendar) the Appellate Division will conclude settlement negotiations on any case not previously settled or referred to the regional counsel.

(*f*) In order to enable the regional counsel to prepare the case for trial and stipulate the undisputed facts in any case on the trial calendar which has not been settled, the Appellate Division will ordinarily, upon receipt of the trial calendar, return to the regional counsel any file still in its possession in any case on the calendar. Concurrent with any such return of the file, the Appellate Division will advise the taxpayer by letter that, since settlement negotiations have not been productive, the case is being referred to the regional counsel for preparation for trial.

(*g*) Upon receipt of the trial calendar, the regional counsel will address an appropriate letter to the taxpayer in each case on the calendar which has not been settled, or where the file has been retained by the Appellate Division, or in which the parties are not then negotiating a stipulation of facts. This letter will arrange or suggest a conference at an early date for the purpose of stipulating facts, as required by Rule 31(b) of the Tax Court, to clarify and, if possible, limit the issues.

(*h*) Any request for conferences received after receipt of the trial calendar will be referred to the regional counsel.

(e) *Transfer and centralization of cases.* (1) If a case is docketed in the Tax Court of the United States and the place designated by the Court for trial is within one region, and such case originated in the office of a district director situated within another region, the Commissioner has the authority to confer all or any part of the jurisdiction, authority, and duties vested in the Appellate Division of the region in which the case originated upon the Appellate Division of the region within which the place designated for trial is located. Except in unusual cases, jurisdiction will not be transferred to the Appellate Division of the region which includes Washington, D.C., in any docketed case designated for trial at Washington, D.C., which did not originate within such region, unless the taxpayer currently resides within that region and can produce all required books and records there. Likewise, the Chief Counsel has corresponding authority to transfer the jurisdiction, authority, and duties of the regional counsel for any region to the regional counsel of another region within which the case has been designated for trial before the Tax Court.

(2) Should a regional commissioner determine that it would better serve the interests of the Government, he may, by order in writing, withdraw any case not docketed before the Tax Court from the jurisdiction of the Appellate Division of the region, and provide for its disposition under his personal direction.

(f) *Conference and practice requirements.* Practice and conference procedure before the Appellate Division is governed by Treasury Department Circular 230 as amended (31 CFR Part 10), and the requirements of Subpart E of this part. In addition to such rules but not in modification of them, the following rules are also applicable to practice before the Appellate Division:

(1) *Rule I.* The Appellate Division conferee shall bear in mind that an exaction by the U.S. Government which is not based upon law, statutory or otherwise, is a taking of property without due process of law, in violation of the Fifth Amendment to the United States Constitution. The conferee, in his conclusions of fact or application of the law, shall hew to the law and the recognized standards of legal construction. It shall be the duty of the conferee to determine the correct amount of the tax, with strict impartiality as between the taxpayer and the Government, and without favoritism or discrimination as between taxpayers.

(2) *Rule II.* In recognition of the difference between abstract theory and practical administration, where substantial uncertainties exist either in law or in fact, or both, as to the correct application of the law to the whole record of a controversy, the Appellate Division will give serious consideration to an offer of settlement of the disput on a basis which fairly reflects the strength or weakness of the opposing views. However, no settlement will be countenanced based upon nuisance value of the case to either party.

(3) *Rule III.* Where the Appellate Division conferee recommends acceptance of the taxpayer's proposal of settlement, or, in the absence of a proposal, recommends action favorable to the taxpayer, and said recommendation is disapproved in whole or in part by a reviewing officer in the Appellate Division, the taxpayer shall be so advised and upon written request shall be accorded a conference with such reviewing officer. The Appellate Division may disregard this rule where the interest of the Government would be injured by delay, as for example, in a case involving the imminent expiration of the period of limitations or the dissipation of assets.

(4) *Rule IV.* Where the Appellate Division official having settlement authority and the district director deem it advisable, the district director may be represented at any Appellate Division conferences on a nondocketed case. This rule is also applicable to the Director of International Operations in the event his office issued the preliminary or "30-day letter".

(5) *Rule V.* In order to bring before the Appellate Division an unagreed income, estate, or gift tax case in prestatutory notice status, an unagreed employment or excise tax case, or an offer in compromise, the taxpayer or his representative must first file with the district director a written protest setting forth specifically the reasons for his refusal to accept the district director's findings. If the protest includes a statement of facts upon which the taxpayer relies, such statement must be declared to be true under the penalties of perjury (see paragraph (c)(1) of § 601.103 and § 601.509). The protest and any new facts, law, or arguments presented therewith will be reviewed by the district director for the purpose of deciding whether further development or action is required prior to referring the case to the Appellate Division. Where the Appellate Division has an issue under consideration as a result of the filing of a protest or Tax Court petition, it may, with the concurrence of the taxpayer, assume jurisdiction in a related case without the necessity of an additional protest, after the district director has completed any necessary action. The Director, Appellate Division, may authorize the regional Appellate Division to accept jurisdiction (after any necessary action by the district director) in specified classes of cases without a written protest, provided a written request for Appellate Division consideration is submitted by or on behalf of each taxpayer.

(6) *Rule VI.* A taxpayer cannot withhold evidence from the district director of internal revenue and expect to introduce it for the first time before the Appellate Division, at a conference in nondocketed status, without being subject to having the case returned to the district director for reconsideration. Where newly discovered evidence is submitted for the first time to the Appellate Division, in a case pending in nondocketed status, that office, in the reasonable exercise of its discretion, may transmit same to the district director for his consideration and comment.

(7) *Rule VII.* Where the taxpayer has had the benefit of a conference either before the office of the district director of internal revenue or before the Appellate Division, as the case may be, in the prestatutory notice status, or where the opportunity for such a conference was accorded but not availed of, there will be no conference granted before the Appellate Division in the 90-day status after the mailing of the statutory notice of deficiency, in the absence of unusual circumstances.

(8) *Rule VIII.* In any case docketed in the Tax Court of the United States on

which a conference is being conducted by the Appellate Division, the regional counsel will be invited to participate in the conference. In cases not docketed in the Tax Court of the United States on which a conference is being conducted by the Appellate Division, the regional counsel may be requested to attend and to give legal advice in the more difficult cases, or on matters of legal or litigating policy.

(9) *Rule IX.* Prior to the receipt of the Tax Court trial calendar on which a docketed case is listed for trial, the taxpayer may request a conference for the purpose of reopening or resuming settlement negotiations before the Appellate Division. If the taxpayer requests reopening or resumption of settlement negotiations subsequent to the issuance of the trial calendar and prior to the opening date of the session of the Tax Court, the request for such a conference shall be referred to regional counsel. (See paragraph (d)(2)(iii)(*h*) of this section.)

(g) *Limitation on the jurisdiction and functions of the Appellate Division*—(1) *Overpayments of more than $100,000.* If the Appellate Division of a region determines in any case that there is an overpayment of income, war profits, excess profits, estate or gift tax, including penalties and interest, in excess of $100,000, such determination will be considered by the Joint Committee on Internal Revenue Taxation. See § 601.108.

(2) *Offers in compromise.* For jurisdiction of the Appellate Division with respect to offers in compromise of tax liabilities, see § 601.203.

(3) *Closing agreements.* For jurisdiction of the Appellate Division with respect to closing agreements under section 7121 of the code relating to any internal revenue tax liability, see § 601.202.

(4) *Bankruptcy and receivership.* For limitations on the authority and functions of the Appellate Division in bankruptcy and receivership cases, see § 601.109.

§ 601.107 Excess Profits Tax Council; appellate functions and procedures under section 722 of the Internal Revenue Code of 1939.

(a) *General.* (1) Subchapter E of chapter 2 of the Internal Revenue Code of 1939 imposed on corporations an excess profits tax based on their "adjusted excess profits net income" as defined in section 711 of such Code. This tax was effective as to taxable years beginning after December 31, 1939, and was repealed by the Revenue Act of 1945, with respect to taxable years beginning after December 31, 1945. Section 722 of the 1939 Code provides that, if the taxpayer, pursuant to certain rules and standards in such section, establishes that the tax computed under subchapter E is excessive and discriminatory, relief under limitations contained in section 722 will be granted. The appellate functions of the Excess Profits Tax Council, which is under technical supervision and administrative control of the Director of the Appellate Division, Washington, D.C., relate to the consideration and the determination of issues arising under section 722 of the 1939 Code.

(2) The rules bearing upon the procedure applicable with respect to section 722 of the 1939 Code are found in Regulations 109 (26 CFR, 1938 Ed., and Supps., Part 30) and Regulations 112 (26 CFR, 1938 Ed. and Supps., Part 35). There has also been published "Bulletin on Section 722 of the Internal Revenue Code", copies of which may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Practice and conference procedure before the Council is also governed by the requirements of Subpart E of this part.

(b) *Procedure.* (1) To secure excess profits tax relief under section 722 of the 1939 Code an application therefor must be filed within the applicable period of time prescribed by section 322 of such Code. The application is required to be filed in duplicate on Form 991, copies of which are obtainable at district directors' offices. The regulations promulgated under section 722 (see paragraph (a)(2) of this section) provide that an application must be filed for each year for which the benefits of section 722 are claimed and that only one section 722 application for any year may be filed. Such applications are required to be so framed as to adequately disclose the essential facts and issues involved.

(2) Applications for relief under section 722 are referred for investigation and consideration to section 722 field committees established at the offices of district directors of internal revenue. After completion of investigation and consideration of an application for relief by a section 722 field committee, the taxpayer is afforded opportunity for a conference for the consideration of the committee's findings. After field committee consideration and conference with the taxpayer, the recommendations of the field committee are certified to the Excess Profits Tax Council for review. In the event that the taxpayer and the field committee cannot reach an agreement on the application or where an agreement between the taxpayer and the field committee is not approved by the Council, the taxpayer will be afforded an adequate opportunity to have its case heard before the Council. The Director of the Appellate Division is authorized exclusively to exercise final authority in all issues under section 722 of the 1939 Code in cases not docketed in the Tax Court.

(3) Determinations of the Director, Appellate Division are subject to appeal to the Tax Court of the United States under the provisions of section 732 of the 1939 Code.

(4) With respect to all issues under section 722 of the 1939 Code docketed with the Tax Court, the Director of the Appellate Division represents the Commissioner in functions comparable to those delegated to the Regional Appellate Divisions in standard issue docketed cases. See § 601.106(d)(2).

§ 601.108 Review of overpayments exceeding $100,000.

(a) *General.* Section 6405(a) of the Code provides that no refund or credit of income, profits, estate, or gift taxes in excess of $100,000 may be made until 30 days after a report has been made to the Joint Committee on Internal Revenue Taxation. Taxpayers in cases requiring review by the Joint Committee are afforded the same district conference and appeal rights as other taxpayers. In general, these cases follow regular procedures, except for preparation of reports to and review by the Joint Committee.

(b) *Reports to Joint Committee.* In any case in which no protest is made to the Appellate Division and no petition docketed in the Tax Court, the report to the Joint Committee is prepared by a Joint Committee Coordinator, who is an Audit Division regional specialist. In cases in which such a protest has been made or such a petition docketed, the report to the Joint Committee is prepared by an Appellate Division conferee.

(c) *Procedure after report to Joint Committee.* After compliance with section 6405 of the Code, the case is processed for issuance of a certificate of overassessment, and payment or credit of any overpayment. If the final determination involves a rejection of a claimed overpayment in whole or in part, a statutory notice of disallowance will be sent by certified or registered mail to the taxpayer, except where the taxpayer has filed a written waiver of such notice of disallowance.

§ 601.109 Bankruptcy and receivership cases.

(a) *General.* (1) Upon the adjudication of bankruptcy of any taxpayer in any liquidating proceeding, the filing or (where approval is required by the Bankruptcy Act) the approval of a petition of, or the approval of a petition against, any taxpayer in any other proceeding under the Bankruptcy Act or the appointment of a receiver for any taxpayer in any receivership proceeding before a court of the United States or of any State or Territory or of the District of Columbia, the assessment of any deficiency in income, profits, estate, or gift tax (together with all interests, additional amounts, or additions to the tax provided for by law) shall be made immediately. See section 6871 of the Code. In such cases the restrictions imposed by section 6213(a) of the Code upon assessments are not applicable. (In the case of an assignment for the benefit of creditors, the assessment will be made under section 6861, relating to jeopardy assessments. See § 601.105(h).) Cases in which immediate assessment will be made include those of taxpayers in receivership or in bankruptcy, agricultural composition, reorganization, arrangement, or wage earner proceedings under chapters I to VII, sections 75, 77, chapters X, XI, XII, and XIII of the Bankruptcy Act. The term "approval of a petition in any other proceeding under the Bankruptcy Act" includes the filing of a petition under section 75 or chapters XI to XIII of the Bankruptcy Act with a court of competent jurisdiction. A fiduciary in any proceeding under the Bankruptcy Act (including a trustee, receiver, debtor in possession, or other person designated by the court as in control of the assets or affairs of a debtor) or a receiver in any receivership proceeding may be required, as provided in regulations prescribed under section 6036 of the Code, to give notice in writing to the district director of his qualification as such. Failure on the part of such fiduciary in a receivership proceeding or a proceeding under the Bankruptcy Act to give such notice, when required, results in the suspension of the running of the period of limitations on the making of assessments from the date of the institution of the proceeding to the date upon which such notice is received by the district director, and for an additional 30 days thereafter. However, in no case where the required notice is not given shall the suspension of the running of the period of limitations on assessment exceed 2 years. See section 6872 of the Code.

(2) Except in cases where departmental instructions direct otherwise, the district director will, promptly after ascertaining the existence of any outstanding Federal tax liability against a taxpayer in any proceeding under the Bankruptcy Act or receivership proceeding, and in any event within the time limited by appropriate provisions of law or the appropriate orders of the court in which such proceeding is pending, file a proof of claim covering such liability in the court in which the proceeding is pending. Such a claim may be filed regardless of whether the unpaid taxes involved have been assessed. Whenever an immediate assessment is made of any income, estate, or gift tax after the commencement of a proceeding, the district director will send to the taxpayer notice and demand for payment together with a copy of such claim.

(b) *Procedure in office of district director.* (1) While the district director is required by section 6871 of the Code to make immediate assessment of any deficiency in income, estate, or gift taxes, such assessment is not made as a jeopardy assessment (see paragraph (h) of § 601.105), and the provisions of section 6861 of the Code do not apply to any assessment made under section 6871. Therefore, the notice of deficiency provided for in section 6861 (b) will not be mailed to the taxpayer. Nevertheless, a letter (Form 7900) will be prepared and addressed in the name of the taxpayer, immediately followed by the name of the trustee, receiver, debtor in possession, or other person designated to be in control of the assets or affairs of the debtor by the court in which the bankruptcy or receivership proceeding is pending. Such letter will state how the deficiency was computed, advise that within 30 days a written protest under penalties of perjury may be filed with the district director showing wherein the deficiency is claimed to be incorrect, and advise that upon request a district conference will be granted with respect to such deficiency. If, after protest is filed and a district conference is held, adjustment appears necessary in the deficiency, appropriate action will be taken. Except where the interests of the Government require otherwise, Form 7900 letters are issued by the office of the district director. If at the time of the adjudication of bankruptcy in a liquidating proceeding, the approval of a petition in any other proceeding under the Bankruptcy Act, or appointment of a receiver, a case was pending before the Tax Court, the prescribed Form 7900 letter will not advise the addressee of any right to request a conference in the office of the district director. Protests must be filed in triplicate. The district conference procedures described in paragraph (c) of § 601.105 are generally applicable to a district conference held after the issuance of a Form 7900 letter.

(2) The immediate assessment required by section 6871 of the Code represents an exception to the usual restrictions on the assessment of Federal income, estate, and gift taxes. Since there are no restrictions on the assessment of Federal excise or employment taxes, immediate assessment of such taxes will be made in any case where section 6871 of the Code would require immediate assessment of income, estate, or gift taxes.

(3) If after such assessment a claim for abatement is filed and such claim is accompanied by a request in writing for a conference, a district conference in the office of the district director of internal revenue will be granted. Ordinarily, only one conference will be held, unless it develops that additional information can be furnished which has a material bearing upon the tax liability, in which event the conference will be continued to a later date.

(c) *Procedure before the Appellate Division restricted.* (1) Except as provided in subparagraph (2) of this paragraph, a case involving an immediate assessment under section 6871 of the Code or an assessment of excise or employment taxes will not be referred by a district director to a field office of the Appellate Division after (i) the adjudication of bankruptcy of any taxpayer in any liquidating proceeding; (ii) the filing with a court of competent jurisdiction or (where approval is required by the Bankruptcy Act) the approval of a petition of, or the approval of a petition against, any taxpayer in any other proceeding under the Bankruptcy Act; or (iii) the appointment of any receiver. Therefore, the taxpayer, or the trustee, receiver, or debtor in possession or other person designated by the court as in control of the assets or affairs of the debtor, may not request consideration of the case by the Appellate Division. If at the time of the adjudication of bankruptcy, or the filing of the approval of a petition or the appointment of a receiver, an income, estate, or gift tax case is under consideration by a field office of the Appellate Division, whether before or after issuance of a statutory notice of deficiency, the case will be returned to the district director for assessment (if not previously made), and for issuance of the Form 7900 letter, and filing proof of claim in the proceeding. Excise and employment tax cases pending in the Appellate Division at such time will likewise be returned to the district director for assessment (if not previously made) and for filing proof of claim in the proceeding. Thereafter, such cases will not be referred by the district director to the Appellate Division except as provided in subparagraph (2) of this paragraph. A petition for redetermination of a deficiency may not be filed in the Tax Court after the adjudication of bankruptcy, the filing or (where approval is required by the Bankruptcy Act) the approval of a petition of, or the approval of a petition against, any taxpayer in any other bankruptcy proceeding, or the appointment of a receiver. See section 6871(b) of the Code. However, the Tax Court is not deprived of jurisdiction where the adjudication of bankruptcy, the filing or (where approval is required by the Bankruptcy Act) the approval of a petition of, or the approval of a petition against, any taxpayer in any other bankruptcy proceeding, or the appointment of a receiver, occurred after the filing of the petition. In such a case, the jurisdiction of the bankruptcy or receivership court and the Tax Court is concurrent.

(2) If a petition for redetermination of the deficiency has been filed in the Tax Court prior to the adjudication of bankruptcy or the filing or (where approval is required by the Bankruptcy Act) the approval of a petition of, or the approval of a petition against, the taxpayer in any other bankruptcy proceeding, or the appointment of a receiver, the proceeding may be prosecuted in the Tax Court. All such docketed cases will be referred to the Appellate Division promptly after issuance of the Form 7900 letter. If a case not docketed in the Tax Court is under Appellate Division consideration at the time that circumstances require the issuance of a Form 7900 letter, that Division may request return of the file in order to continue its consideration and arrive at a determination.

(d) *Priority of claims.* Under section 3466 of the Revised Statutes and section 3467 of the Revised Statutes, as amended, and section 64 of the Bankruptcy Act, taxes are entitled to the priority over other claims therein stated and the trustee, receiver, debtor in possession or other person designated as in control of the assets or affairs of the debtor by the court in which the bankruptcy or receivership proceeding is pending may be held personally liable for failure on his part to protect the priority of the Government respecting taxes of which he has notice. Sections 75 (1), 77 (e), 199, 337 (2), 455 and 659 (6) of the Bankruptcy Act also contain provisions with respect to the rights of the United States relative to priority of payment. Bankruptcy courts have jurisdiction under the Bankruptcy Act to determine all dis-

putes regarding the amount and the validity of tax claims against a bankrupt or a debtor in a proceeding under the Bankruptcy Act. A bankruptcy or receivership proceeding or an assignment for the benefit of creditors does not discharge any portion of a claim of the United States for taxes except in the case of a proceeding under section 77 or chapter X of the Bankruptcy Act; and any portion of a claim of the United States for taxes which has been allowed by the court in which the bankruptcy or receivership is pending and which remains unsatisfied after the termination of the proceeding shall be collected with interest in accordance with law.

Subpart B—Rulings and Other Specific Matters

§ 601.201 Rulings and determination letters.

(a) *General practice and definitions.* (1) It is the practice of the Internal Revenue Service to answer inquiries of individuals and organizations, whenever appropriate in the interest of sound tax administration, as to their status for tax purposes and as to the tax effects of their acts or transactions. One of the functions of the National Office of the Internal Revenue Service is to issue rulings in such matters. District directors apply the statutes, regulations, Revenue Rulings, and other precedents published in the Internal Revenue Bulletin in the determination of tax liability, the collection of taxes, and the issuance of determination letters in answer to taxpayers' inquiries or request. For purposes of this section any reference to district director or district office also includes, where appropriate, the office of the Director, Office of International Operations.

(2) A "ruling" is a written statement issued to a taxpayer or his authorized representative by the National Office which interprets and applies the tax laws to a specific set of facts. Rulings are issued only by the National Office. The issuance of rulings is under the general supervision of the Assistant Commissioner (Technical) and has been largely redelegated to the Directors of three divisions: Director, Income Tax Division; Director, Exempt Organization and Pension Trust Division; and, Director, Miscellaneous Tax Division.

(3) A "determination letter" is a written statement issued by a district director in response to an inquiry by an individual or an organization, which applies to the particular facts involved, the principles, and precedents previously announced by the National Office. Determination letters are issued only where a determination can be made on the basis of clearly established rules as set forth in the statutes, Treasury decisions or regulations, or by rulings, opinions, or court decisions published in the Internal Revenue Bulletin. Where such a determination cannot be made, such as where the question presented involves a novel issue, or the matter is excluded from the jurisdiction of a district director by the provisions of paragraph (c) of this section, a determination letter will not be issued.

(4) An "information letter" is a statement issued either by the National Office or by a district director which does no more than call attention to a well-established interpretation or principle of tax law, without applying it to a specific set of facts. An information letter may be issued when the nature of the request from the individual or the organization suggests that it is seeking general information, or where the request does not meet all the requirements of paragraph (e) of this section, and it is believed that such general information will assist the individual or organization.

(5) A "Revenue Ruling" is an official interpretation by the Service which has been published in the Internal Revenue Bulletin. Revenue Rulings are issued only by the National Office and are published for the information and guidance of taxpayers, Internal Revenue Service officials, and others concerned.

(6) A "closing agreement," as the term is used herein, is an agreement between the Commissioner of Internal Revenue or his delegate and a taxpayer with respect to a specific issue or issues entered into pursuant to the authority contained in section 7121 of the Internal Revenue Code. Such a closing agreement is based on a ruling which has been signed by the Commissioner or his delegate and in which it is indicated that a closing agreement will be entered into on the basis of the holding of the ruling letter. Closing agreements are final and conclusive except upon a showing of fraud, malfeasance, or misrepresentation of material fact. They may be entered into where it is advantageous to have the matter permanently and conclusively closed, or where a taxpayer can show good and sufficient reasons for an agreement and the Government will sustain no disadvantage by its consummation. See § 601.202 for closing agreements of the type not covered in this section.

(b) *Rulings issued by the National Office.* (1) In income and gift tax matters, the National Office issues rulings on prospective transactions and on completed transactions before the return is filed. However, rulings will not ordinarily be issued if the identical issue is also involved in a return of the taxpayer already filed for a taxable period with respect to which the statutory period of limitations on assessment or refund of tax has not expired. The National Office issues rulings involving qualifications of plans under section 401 of the Code or the exempt status of organizations under section 501 or 521 of the Code, only to the extent provided in paragraphs (o) and (n), respectively, of this section. The National Office will not issue rulings with respect to the replacement of involuntarily converted property, even though replacement has not been made, if the taxpayer has filed a return for the taxable year in which the property was converted. However, see paragraph (c) (6) of this section as to the authority of district directors to issue determination letters in this connection.

(2) In estate tax matters, the National Office issues rulings with respect to transactions affecting the estate tax of a decedent before the estate tax return is filed. It will not rule with respect to such matters after the estate tax return has been filed, nor will it rule on matters relating to the application of the estate tax to property or the estate of a living person.

(3) In employment and excise tax matters, the National Office issues rulings with respect to prospective transactions and to completed transactions either before or after the return is filed. However, the National Office will not ordinarily rule with respect to an issue, whether related to a prospective or a completed transaction, if it knows or has reason to believe that the same or an identical issue is before any field office (or any branch office of the Appellate Division) in connection with an examination or audit of the liability of the same taxpayer for the same or a prior period.

(4) Ordinarily, the Service will not issue rulings to business, trade, or industrial associations or to other similar groups relating to the application of the tax laws to members of the group. However, rulings may be issued to such groups or associations relating to their own tax status or liability provided such tax status or liability is not an issue before any field office (or any branch office of the Appellate Division) in connection with an examination or audit of the liability of the same taxpayer for the same or a prior period.

(c) *Determination letters issued by district directors.* (1) In income and gift tax matters, district directors issue determination letters in response to taxpayers' requests submitted to their offices involving completed transactions which affect returns required to be filed in their districts, but only if the question presented is covered specifically by statute, Treasury decision or regulation, or specifically by a ruling, opinion, or court decision published in the Internal Revenue Bulletin. A determination letter will not usually be issued with respect to a question which involves a return to be filed by the taxpayer if the identical question is involved in a return or returns already filed by the taxpayer. District directors may not issue determination letters as to the tax consequence of prospective or proposed transactions, except as provided in subparagraphs (5) and (6) of this paragraph.

(2) In estate tax matters, district directors issue determination letters in response to requests submitted to their offices affecting the estate tax returns of decedents which will be filed in their districts, but only if the questions presented are specifically covered by statute, Treasury decision or regulation, or specifically by a ruling, opinion, or court decision published in the Internal Revenue Bulletin. District directors may not issue determination letters relating to matters involving the application of the estate tax to property or the estate of a living person.

(3) In employment and excise tax matters, district directors issue determination letters in response to requests from taxpayers who have filed or who are required to file returns in their districts, but only if the questions presented are covered specifically by statute, Treasury decision or regulation, or specifically by a ruling, opinion, or court decision published in the Internal Revenue Bulletin. Because of the impact of these taxes upon the business operation of the taxpayer and because of special problems of administration both to the Service and to the taxpayer, district directors may take appropriate action in regard to such requests, whether they relate to completed or prospective transactions or returns previously filed or to be filed.

(4) Notwithstanding the provisions of subparagraphs (1), (2), (3), (5), and (6) of this paragraph, a district director may not issue a determination letter in response to an inquiry, although the inquiry presents a question covered specifically by statute, regulations, rulings, etc., published in the Internal Revenue Bulletin, where (i) it appears that the taxpayer has directed a similar inquiry to the National Office, (ii) the identical issue involving the same taxpayer is pending in a case before the Appellate Division, (iii) the determination letter is requested by an industry, trade association, or similar group, or (iv) the request involves an industry-wide problem. Under no circumstances will a district director issue a determination letter unless it is clearly indicated that the inquiry is with regard to a taxpayer or taxpayers who have filed or are required to file returns in the district under his supervision. Nothwithstanding the provisions of subparagraph (3) of this paragraph, a district director may not issue a determination letter on an employment tax question when the specific question involved has been or is being considered by the national office of the Social Security Administration. Nor may district directors issue determination letters on excise tax questions if a request is for a determination of a constructive sales price under sections 4216(b) and 4218 of the Code. However, the National Office will issue rulings in this area. See paragraph (d) (3) of this section.

(5) District directors issue determination letters as to the qualification of plans under section 401 of the Code, and as to the exempt status of related trusts under section 501 of the Code, to the extent provided in paragraph (o) of this section. They also issue determination letters as to the qualification of certain organizations for exemption from Federal income tax under sections 501 and 521 of the Code, to the extent provided in paragraph (n) of this section.

(6) District directors issue determination letters with regard to the replacement of involuntarily converted property under section 1033 of the Code even though the replacement has not been made, if the taxpayer has filed his income tax return for the year in which the property was involuntarily converted.

(7) A request received by a district director with respect to a question involved in an income, estate, or gift tax return already filed will, in general, be considered in connection with the examination of the return. If response is made to such inquiry prior to an examination or audit, it will be considered a tentative finding in any subsequent examination or audit of the return.

(d) *Discretionary authority to issue rulings and determination letters.* (1) It is the practice of the Service to answer inquiries of individuals and organizations, whenever appropriate in the interest of sound tax administration, as to their status for tax purposes and the tax effect of their acts or transactions.

(2) There are, however, certain areas where, because of the inherently factual nature of the problem involved, or for other reasons, the Service will not issue rulings or determination letters. A specific area or a list of these areas is published from time to time in the Internal Revenue Bulletin. Such list is not all inclusive since the Service may decline to issue rulings or determination letters on other questions whenever warranted by the facts or circumstances of a particular case. The National Office and district directors may, when it is deemed appropriate and in the best interest of the Service, issue information letters calling attention to well-established principles of tax law.

(3) The National Office will issue rulings in all cases on prospective or future transactions when the law or regulations require a determination of the effect of a proposed transaction for tax purposes, as in the case of a transfer coming within the provisions of sections 1491 and 1492 of the Code, or an exchange coming within the provisions of section 367 of the Code. The National Office will issue rulings in all cases involving the determination of a constructive sales price under section 4216(b) or 4218 of the Code.

(e) *Instructions to taxpayers.* (1) A request for a determination letter or a ruling is to be submitted in duplicate if (i) it is a request for exemption under section 501(c) or 501(d) of the Code; (ii) more than one issue is presented in the request; or (iii) a closing agreement is requested with respect to the issue presented. It is not necessary to present requests in duplicate under other circumstances including requests for exemption from tax under section 521 of the Code or with respect to the qualification of plans under section 401 of the Code. Requests relating to prospective transactions may not contain alternative plans.

(2) Each request for a determination letter or a ruling must contain a complete statement of facts relating to the transaction. This includes, but is not necessarily limited to, the names, addresses, and taxpayer identifying numbers of all interested parties; the district office where each files or will file its return or report; a full and precise statement of the business reasons for the transaction; and true copies of all contracts, wills, deeds, agreements, or other documents involved in the transaction. (The term "all interested parties" is not to be construed as requiring a list of all shareholders of a widely held corporation requesting a ruling relating to a reorganization, or a list of employees where a large number may be involved in a plan.) The request must contain a statement whether, to the best of the knowledge of the taxpayer or his representative, the identical issue is being considered by any field office of the Service in connection with an examination or audit of a tax return of the taxpayer already filed. Where the request pertains to only one step of a larger integrated transaction, the facts, circumstances, etc., must be submitted with respect to the entire transaction. As documents and exhibits become a part of the Internal Revenue Service file and cannot be returned, the original documents should not be submitted. When documents and exhibits are submitted, they must be accompanied by an analysis of their bearing on the issue or issues, specifying the pertinent provisions. If the request is with respect to a corporate distribution, reorganization, or other similar or related transaction, the corporate balance sheet nearest the date of the transaction should be submitted. (If the request relates to a prospective transaction, the most recent balance sheet should be submitted.)

(3) If the taxpayer is contending for a particular determination, he must furnish an explanation of the grounds for his contentions, together with a statement of relevant authorities in support of his views. Even though the taxpayer is urging no particular determination with regard to a proposed or prospective transaction, he must state his views as to the tax results of the proposed action and furnish a statement of relevant authorities to support such views.

(4) If the request is with respect to the qualification of a plan under section 401(a) of the Code, see paragraph (o) of this section. If the request is with respect to the qualification of an organization for exemption from Federal income tax under section 501 or 521 of the Code, see paragraph (n) of this section.

(5) A request by or for a taxpayer must be signed by the taxpayer or his authorized representative. If the request is signed by a representative of the taxpayer, or if the representative is to appear before the Internal Revenue Service in connection with the request, he must either be:

(i) An attorney who is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth, or the District of Columbia, and who files with the Service a written declaration that he is currently qualified as an attorney and he is authorized to represent the principal,

(ii) A certified public accountant who is duly qualified to practice in any State, possession, territory, Commonwealth, or the District of Columbia, and who files with the Service a written declaration that he is currently qualified as a cer-

tified public accountant and he is authorized to represent the principal, or

(iii) A person, other than an attorney or certified public accountant, enrolled to practice before the Service. (See Treasury Department Circular No. 230, as amended, C.B. 1966-2, 1171.)

The above requirements do not apply to an individual representing his full-time employer, or to a bona fide officer, administrator, trustee, etc., representing a corporation, trust, estate, association, or organized group. An unenrolled preparer of a return (other than an attorney or certified public accountant referred to in subdivisions (i) and (ii) of this subparagraph (5)) who is not a full-time officer, administrator, trustee, etc., may not represent a taxpayer with respect to a ruling or a determination letter. Any authorized representative, whether or not he is enrolled to practice, must also comply with the conference and practice requirements of Subpart E of this part.

(6) A request for a ruling by the National Office should be addressed to the Commissioner of Internal Revenue, Washington, D.C. 20224. A request for a determination letter should be addressed to the district director of internal revenue for the district with which the tax return of the taxpayer has been filed or is required to be filed. See also paragraphs (n) and (o) of this section.

(7) Any request for a ruling or a determination letter which does not comply with all the provisions of this section will be acknowledged, pointing out the requirements which have not been met. See Subpart E for power of attorney requirements.

(8) A taxpayer or his representative who desires an oral discussion of the issue or issues involved should indicate such desire in writing when filing the request or soon thereafter in order that the conference may be arranged at that stage of consideration when it will be most helpful.

(9) It is the practice of the Service to process requests for rulings or determination letters in regular order and as expeditiously as possible. Compliance with a request for consideration of a particular matter ahead of its regular order, or by a specified time, tends to delay the disposition of other matters. Requests for processing ahead of the regular order, made in writing and showing clear need for such treatment, will be given consideration as the particular circumstances warrant. However, no assurance can be given that any ruling or determination letter will be processed by the time requested. Requests by telegram will be treated in the same manner as requests by letter. Rulings and determination letters ordinarily will not be issued by telegram. A taxpayer or his representative desiring to obtain information as to the status of his case may do so by contacting the appropriate division in the office of the Assistant Commissioner (Technical).

(10) Where a taxpayer receives a determination letter or a ruling prior to the filing of his return he should attach to his return the determination letter or ruling (or a copy thereof) with respect to any transaction which has been consummated and which is relevant to the return being filed.

(f) *Conferences in the National Office.* (1) If a conference has been requested, the taxpayer will be notified of the time and place of the conference. In order to promote a free and open discussion of the vital issues, the conference will usually be held after the branch has had an opportunity to thoroughly study the issue. If conferences are being arranged with respect to more than one request for a ruling involving the same taxpayer, they will be so scheduled as to cause the least inconvenience to the taxpayer.

(2) A taxpayer is entitled as a matter of right, to only one conference in the National Office unless one of the circumstances discussed in this paragraph exists. This conference will usually be held at the branch level of the appropriate division in the office of the Assistant Commissioner (Technical) and will usually be attended by a person who has authority to act for the branch chief. (See § 601.201(a)(2) for the divisions involved.) If more than one subject is to be discussed at the conference, the discussion will constitute a conference with respect to each subject. At the request of the taxpayer or his representative, the conference may be held at an earlier stage in the consideration of the case than the Service would ordinarily designate. No taxpayer has a "right" to appeal the action of a branch to a Division Director or to any other official of the Service.

(3) In the process of consideration, in the National Office, of a position proposed by a branch, it may appear that the position of the Service will involve a reversal of the position proposed by the branch with a result that will be less favorable to the taxpayer. Or it may appear that an adverse position proposed by a branch will be sustained and become the position of the Service, but on a new or different issue or on substantially different grounds than that on which the branch turned the case. Under either of these circumstances, the taxpayer or his representative will be invited to another conference. The provisions of this section limiting the number of conferences to which a taxpayer is entitled will not foreclose the invitation of a taxpayer to attend further conferences when, in the opinion of responsible National Office personnel, such need arises. All additional conferences of the type discussed in this subparagraph are held only at the invitation of the Service.

(4) It is the responsibility of the taxpayer to add to the case file a written record of any additional data, lines of reasoning, precedents, etc., which are proposed by the taxpayer and discussed at the conference but which were not previously or adequately presented in writing.

(g) *Reference of matters to the National Office.* (1) Requests for determination letters received by district directors which, in accordance with the provisions of paragraph (c) of this section may not be acted upon by a district office shall be forwarded to the National Office for reply and the taxpayer advised accordingly. District directors also may refer to the National Office any request for a determination letter which in their judgment warrants the attention of the National Office. See also the provisions of paragraph (o) of this section, with respect to requests relating to qualification of a plan under section 401 of the Code and paragraph (n) of this section, with respect to the applications for exemption from tax under sections 501 and 521 of the Code.

(2) If the request is with regard to an issue or an area with respect to which the Service will not issue a ruling or a determination letter, such request will not be forwarded to the National Office, but the district office will advise the taxpayer that the Service will not issue a ruling or a determination letter on the issue. See paragraph (d)(2) of this section.

(h) *Reference of matters to district offices.* Requests for rulings received in the National Office which, pursuant to the provisions of paragraph (b) of this section, may not be acted upon by the National Office, but which, under the authorities set out in paragraph (c) of this section, may be acted upon by a district office will be forwarded for appropriate action to the district office in which the return has been or will be filed. If the request is with respect to an issue or an area of the type discussed in paragraph (d)(2) of this section, the taxpayer will be so advised and the request may be forwarded to the appropriate district office for association with the proper return or report of the taxpayer.

(i) *Review of determination letters.* (1) Determination letters issued with respect to the types of inquiries authorized by paragraph (c) (1), (2), and (3) of this section are not generally reviewed by the National Office as they merely inform a taxpayer of a position of the Service which has been previously established either in the regulations or in a ruling, opinion, or court decision published in the Internal Revenue Bulletin. If a taxpayer believes that a determination letter of this type is in error, he may ask the district director to reconsider the matter. He may also ask the district director to request advice from the National Office. If the district director, in his discretion, decides to request such advice, the procedure in paragraph (b)(5) of § 601.105 will be followed.

(2) The procedures for review of determination letters relating to the qualification of employers' plans under section 401(a) of the Code are provided in paragraph (o) of this section.

(3) The procedures for review of determination letters relating to the exemption from Federal income tax of certain organizations under sections 501 and 521 of the Code are provided in paragraph (n) of this section.

(j) *Withdrawal of requests.* The taxpayer's request for a ruling or a determination letter may be withdrawn at any time prior to the signing of the letter of

reply. However, in such a case, the National Office may furnish its views to the district director in whose office the return has been or will be filed. The information submitted will be considered by the district director in a subsequent audit or examination of the taxpayer's return. Even though a request is withdrawn, all correspondence and exhibits will be retained in the Service and may not be returned to the taxpayer.

(k) *Oral advice to taxpayers.* (1) The Service does not issue rulings or determination letters upon oral requests. Furthermore, National Office officials and employees ordinarily will not discuss a substantive tax issue with a taxpayer or his representative prior to the receipt of a request for a ruling, since oral opinions or advice are not binding on the Service. This should not be construed as preventing a taxpayer or his representative from inquiring whether the Service will rule on a particular question, or from discussing questions relating to procedural matters with regard to submitting a request for a ruling.

(2) A taxpayer may, of course, seek oral technical assistance from a district office in the preparation of his return or report, pursuant to other established procedures. Such oral advice is advisory only and the Service is not bound to recognize it in the examination of the taxpayer's return.

(l) *Effect of rulings.* (1) A ruling, except to the extent incorporated in a closing agreement, may be revoked or modified at any time in the wise administration of the taxing statutes. See paragraph (a)(6) of this section for the effect of a closing agreement. If a ruling is revoked or modified, the revocation or modification applies to all open years under the statutes, unless the Commissioner or his delegate exercises the discretionary power under section 7805(b) of the Code to limit the retroactive effect of the ruling. The manner in which the Commissioner or his delegate generally will exercise this power is set forth in this paragraph. With reference to rulings relating to the sale or lease of articles subject to the manufacturers excise tax, see specifically subparagraph (8) of this paragraph.

(2) As part of the determination of a taxpayer's liability, it is the responsibility of the district director to ascertain whether any ruling previously issued to the taxpayer has been properly applied. It should be determined whether the representations upon which the ruling was based reflected an accurate statement of the material facts and whether the transaction actually was carried out substantially as proposed. If, in the course of the determination of the tax liability, it is the view of the district director that a ruling previously issued to the taxpayer should be modified or revoked, the findings and recommendations of that office will be forwarded to the National Office for consideration prior to further action. Such reference to the National Office will be treated as a request for technical advice and the procedures of paragraph (b)(5) of § 601.105 will be followed. Otherwise, the ruling is to be applied by the district office in its determination of the taxpayer's liability.

(3) Appropriate coordination with the National Office shall be undertaken in the event that any other field official having jurisdiction of a return or other matter proposes to reach a conclusion contrary to a ruling previously issued to the taxpayer.

(4) A ruling found to be in error or no longer in accord with the position of the Service may be modified or revoked. Modification or revocation may be effected by a notice to the taxpayer to whom the ruling originally was issued, or by a Revenue Ruling or other statement published in the Internal Revenue Bulletin.

(5) Except in rare or unusual circumstances, the revocation or modification of a ruling will not be applied retroactively with respect to the taxpayer to whom the ruling was originally issued or to a taxpayer whose tax liability was directly involved in such ruling if (i) there has been no misstatement or omission of material facts, (ii) the facts subsequently developed are not materially different from the facts on which the ruling was based, (iii) there has been no change in the applicable law, (iv) the ruling was originally issued with respect to a prospective or proposed transaction, and (v) the taxpayer directly involved in the ruling acted in good faith in reliance upon the ruling and the retroactive revocation would be to his detriment. To illustrate, the tax liability of each employee covered by a ruling relating to a pension plan of an employer is directly involved in such ruling. Also, the tax liability of each shareholder is directly involved in a ruling related to the reorganization of a corporation. However, the tax liability of members of an industry is not directly involved in a ruling issued to one of the members, and the position taken in a revocation or modification of ruling to one member of an industry may be retroactively applied to other members of that industry. By the same reasoning, a tax practitioner may not obtain the nonretroactive application to one client of a modification or revocation of a ruling previously issued to another client.

(6) A ruling issued to a taxpayer on a particular transaction applies to that transaction only. If the ruling is later found to be in error or no longer in accord with the position of the Service, it will afford the taxpayer no protection with respect to a like transaction in the same or subsequent year, except to the extent provided in subparagraphs (7) and (8) of this paragraph.

(7) If a ruling is issued covering a continuing action or a series of actions and it is determined that the ruling was in error or no longer in accord with the position of the Service, the Assistant Commissioner (Technical) ordinarily will limit the retroactivity of the revocation or modification to a date not earlier than that on which the original ruling was modified or revoked. To illustrate, if a taxpayer rendered service or provided a facility which is subject to the excise tax on services or facilities, and in reliance on a ruling issued to the same taxpayer did not pass the tax on to the user of the service or the facility, the Assistant Commissioner (Technical) ordinarily will restrict the retroactive application of the revocation or modification of the ruling.

(8) A ruling holding that the sale or lease of a particular article is subject to the manufacturers excise tax or the retailers excise tax may not revoke or modify retroactively a prior ruling holding that the sale or lease of such article was not taxable, if the taxpayer to whom the ruling was issued, in reliance upon such prior ruling, parted with possession or ownership of the article without passing the tax on to his customer. Section 1108(b), Revenue Act of 1926.

(9) With respect to Revenue Rulings published in the Internal Revenue Bulletin, taxpayers generally may rely upon such rulings in determining the rule applicable to their own transactions and need not request a specific ruling applying the principles of a published Revenue Ruling to the facts of their particular cases where otherwise applicable. However, see subparagraph (10) of this paragraph. Revenue Rulings published in the Internal Revenue Bulletin ordinarily are not revoked or modified retroactively.

(10) Since each Revenue Ruling represents the conclusion of the Service as to the application of the law to the entire state of facts involved, taxpayers, Service personnel, and others concerned are cautioned against reaching the same conclusion in other cases unless the facts and circumstances are substantially the same. Furthermore, they should consider the effect of subsequent legislation, regulations, court decisions, and Revenue Rulings.

(m) *Effect of determination letters.* A determination letter issued by a district director, in accordance with this section, shall be given the same effect upon examination of the return of the taxpayer to whom the determination letter was issued as is described in paragraph (l) of this section, in the case of a ruling issued to a taxpayer, except that reference to the National Office is not necessary where, upon examination of the return, it is the opinion of the district director that a conclusion contrary to that expressed in the determination letter is indicated. A district director may not limit the modification or revocation of a determination letter but may refer the matter to the National Office for exercise by the Commissioner or his delegate of the authority to limit the modification or revocation.

(n) *Organization claiming exemption under section 501 or 521 of the Code—*(1) *Filing applications for exemption.* (i) An organization seeking a ruling or determination letter of exemption under section 501 or section 521 of the Code is required to file an application (in duplicate, if under section 501) with the district director of internal revenue for the district where it would otherwise be required to file a tax return. Any applica-

tion received by the National Office or by a district director other than as provided above will be forwarded, without any action thereon, to the appropriate district director.

(ii) An exemption ruling or determination letter will be issued to an organization, provided its application and supporting documents establish that it meets the particular requirements of the section under which exemption is claimed. Exempt status will be recognized in advance of operations if proposed operations can be described in sufficient detail to permit a conclusion that the organization clearly will be exempt. A mere restatement of purpose or a statement that proposed activities will be in furtherance of such purposes will not satisfy the requirements for an advance ruling. Where the Service considers it warranted, a record of actual operations may be required before a ruling or determination letter will be issued.

(iii) Requests for rulings or determination letters other than in the form of applications for exemption are governed by the procedures outlined in paragraphs (a) through (m) of this section.

(2) *Processing applications.* (i) Under the general procedures outlined in paragraphs (a) through (m) of this section, district directors are authorized to issue determination letters involving applications for exemption under sections 501 and 521 of the Code.

(ii) A district director will refer applications which present questions not covered by established precedents to the National Office for ruling. The National Office will consider each such application, issue a ruling directly to the organization, and send a copy of the ruling to the district director. In the event of a conclusion unfavorable to the applicant, it will be informed of the basis for the conclusion and of its rights to file a protest and to a conference in the National Office. If a conference is requested, the conference procedures outlined in subdivision (vi) of paragraph (b)(5) of § 601.105 will be followed. After reconsideration of the application in the light of the protest and any information developed in conference, the National Office will affirm, modify, or reverse the original conclusion, issue a ruling to the organization, and send a copy of the ruling to the district director.

(iii) An exemption application which does not contain the required information will be classified as an "incomplete application case." The applicant will be advised in writing why a determination will not be made.

(3) *Effect of exemption rulings or determination letters.* (i) An exemption ruling or determination letter is usually effective as of the date of formation of an organization if its purposes and activities during the period prior to the date of the ruling or determination letter were consistent with the requirements for exemption. If the organization is required to alter its activities or to make substantive amendments to its enabling instruments in order to qualify for exemption, the exemption ruling or determination letter will be effective only for the period specified therein.

(ii) An exemption ruling or determination letter may not be relied upon if there is a material change inconsistent with exemption in the character, the purposes, or the method of operation of the organization.

(4) *National Office review of determination letters.* The National Office will review determination letters to assure uniformity in the application of the established principles and precedents of the Service. Where the National Office takes exception to a determination letter, the district director will be advised. If the organization protests the exception taken, the file and protest will be returned to the National Office. The referral will be treated as a request for technical advice and the procedures of paragraph (b)(5) of § 601.105 will be followed.

(5) *Protest of adverse determination letters.* (i) Upon the issuance of a determination letter adverse to the applicant the district director will advise the organization of its right to protest the determination by submitting a statement of the facts, law, and arguments in support of its application for exemption, and of its right to a district office conference.

(ii) The organization may waive its right to a district office conference and request referral of the matter directly to the National Office. The district director will advise the organization in writing that the matter will be referred to the National Office in accordance with its request only after a statement is filed setting forth the facts, law, and arguments in support of its application for exemption. In addition, the organization will be requested to specify whether it desires a conference in the National Office in the event an adverse decision is indicated.

(iii) If, after considering the organization's protest and any information developed in conference, the district director maintains his position and the organization does not agree, the case will be referred to the National Office. The referral will be considered a request for technical advice and the procedures of paragraph (b)(5) of § 601.105 will be followed.

(iv) The adverse determination letter will serve to inform the organization of the pertinent facts and the question or questions proposed for submission to the National Office, and will be deemed to satisfy the requirements of subdivision (iii)(*e*) of paragraph (b)(5) of § 601.105.

(v) The organization will not be afforded protest and conference rights if the determination letter is based on technical advice.

(6) *Revocation or modification of exemption rulings or determination letters.* (i) An exemption ruling or determination letter may be revoked or modified by a ruling or determination letter addressed to the organization, or by a Revenue Ruling or other statement published in the Internal Revenue Bulletin. The revocation or modification may be retroactive if the organization omitted or misstated a material fact, operated in a manner materially different from that originally represented, or engaged in a prohibited transaction of the type described in subdivision (vii) of this subparagraph.

(ii) If a district director concludes, as a result of examining an information return or considering information from any other source, that a ruling or determination letter should be revoked or modified, the organization will be advised in writing of the proposed action and the reasons therefor. The district director will also advise the organization of its right to protest the proposed action by submitting a statement of the facts, law, and arguments in support of its continued exemption, and of its right to a district office conference.

(iii) The organization may waive its right to a district office conference and request referral of the matter directly to the National Office. The district director will advise the organization in writing that the matter will be referred to the National Office in accordance with its request only after it files a statement setting forth the facts, law, and arguments in support of continued exemption. In addition, the organization shall be requested to specify whether it desires a conference in the National Office in the event an adverse decision is indicated.

(iv) If the organization agrees with the proposed action, either before or after a district office conference, or if no protest is filed, the district director will issue a determination letter revoking or modifying the organization's exemption.

(v) If, after considering the organization's protest and any information developed in conference, the district director maintains his position and the organization does not agree, the file and protest will be referred to the National Office. The referral will be considered a request for technical advice and the procedures of paragraph (b)(5) of § 601.105 will be followed.

(vi) The letter advising the organization of the proposed revocation or modification action will serve to inform the organization of the pertinent facts and the question or questions proposed for submission to the National Office, and will be deemed to satisfy the requirements of subdivision (iii)(*e*) of paragraph (b)(5) of § 601.105.

(vii) If it is concluded that an organization entered into a prohibited transaction for the purpose of diverting corpus or income from its exempt purpose and if the transaction involved a substantial part of the corpus or income of the organization, its exemption is revoked effective as of the beginning of the taxable year during which the prohibited transaction was commenced. An organization is ordinarily notified of such revocation of exemption by regular mail.

(viii) In all other prohibited transaction cases, the exemption is revoked effective as of the beginning of the first taxable year after the date of the revocation letter. In these cases the organization will be notified of the revocation of exemption by registered or certified mail, sent to its last known address.

(ix) While the organization, in a prohibited transaction case, will usually be permitted to submit its brief and to be heard in conference before the revocation notice is issued, the Service may, at its discretion, issue the revocation notice by registered or certified mail, prior to the receipt of the brief or prior to granting a conference. If it is later determined that the revocation was in error, it will be rescinded as of the date it was issued.

(x) The provisions of this section relating to protests and conference before a revocation notice is issued are not applicable to matters where delay would be prejudicial to the interests of the Internal Revenue Service (such as in cases involving fraud, jeopardy, the imminence of the expiration of the period of limitations, or where immediate action is necessary to protect the interests of the Government).

(7) *Prohibited transactions.* (i) Section 503 of the Code denies exemption to certain organizations which engage in transactions of the type described therein. The National Office may issue a ruling as to whether an organization has entered into, or proposed to enter into, a prohibited transaction; but, except as provided in subdivision (ii) of this subparagraph, a ruling will not be issued where the determination is primarily one of fact, e.g., market value of property, reasonableness of compensation, etc. Also no ruling will be issued with respect to such transactions as sales and leasebacks, gifts and leasebacks, and other rental transactions of real or personal property directly or indirectly with the creator or a related or controlled interest.

(ii) Where the adequacy of the security of a loan is involved, a ruling may be issued, but only if there is a clear indication of value which can be established by reference to recognized sources without requiring physical valuation or appraisal. The following are examples of transactions where the adequacy of security can be established by reference to recognized sources:

(*a*) A surety bond issued by a recognized surety company doing a surety bond business under applicable state law;

(*b*) An assignment of an insurance contract having a cash surrender value sufficient to cover the loan, interest, and possible costs of collection;

(*c*) A first mortgage on real property in an amount not in excess of 50 percent of its assessed value for local tax purposes; or,

(*d*) Collateral represented by securities listed on a recognized exchange of an aggregate value equal to twice the amount of the loan.

(iii) An organization whose exemption is revoked by reason of section 503 of the Code may file a new application in any taxable year following the taxable year in which the notice of revocation was issued. But the exempt status of an organization may not be renewed before the beginning of the first taxable year following the year in which its new application is filed. Thus, if a revocation notice was issued in 1966, the organization may not file a new application for exemption until 1967, and the new exemption may not be granted for a taxable year prior to 1968. If the organization does not file a new application until 1968, the new exemption may not be recognized for a year prior to 1969.

(8) *Employees' trusts or plans.*—(i) *Determination letters.* (i) Determination letters authorized in paragraph (c)(5) of this section are limited to the qualification of plans or trusts under section 401(a) of the Code and bond purchase plans under section 405(a), and to the exempt status of trusts under section 501 (a). This includes consummated and proposed transactions relating to the following:

(*a*) The initial qualification of a plan and, if trusteed, the status for exemption of a trust;

(*b*) Compliance with the applicable requirements of foreign situs trusts as to taxability of beneficiaries (section 402(c)) and deductions for employer contributions (section 404(a)(4));

(*c*) Amendments to plans and trusts;

(*d*) Curtailment of plans;

(*e*) Termination of plans and trusts; and

(*f*) The effect on the qualification of the plan, and status for exemption of the trust, of an investment of trust funds in the stock or securities of the employer or controlled corporation (ownership of 50 percent or more of all voting stock or 50 percent or more of the total value of shares of all classes of stock).

(ii) Determination letters authorized by subdivision (i) of this subparagraph do not include determinations or opinions relating to other inquiries with respect to plans or trusts. Thus, except as provided in subdivision (i)(*b*) of this subparagraph, district directors may not issue determination letters relating to issues under other sections of the Code, such as sections 72, 402 through 404, 502, 503, and 511 through 515, unless such determination letters are otherwise authorized under paragraph (c) of this section.

(iii) Employees' trusts must be maintained and operated for the exclusive benefit of the employees or their beneficiaries, and investments by such trusts must be consistent with that purpose. District directors are authorized to issue determination letters with respect to the investments of such trusts in the stocks or securities of corporations of the type described in subdivision (i)(*f*) of this subparagraph, relating to the compliance with these requirements. However, they may not issue determination letters with regard to the fair market value of the investment or with respect to the adequacy of security behind a loan. These issues are within the prohibited transactions area. In this connection see subparagraph (3) of this paragraph.

(*2*) *Instructions to taxpayers.* (i) All of the provisions of paragraph (e) of this section are applicable to requests for determination letters of the type discussed in this paragraph. In addition, the information required by subdivisions (ii) through (vi) of this subparagraph, together with the identification number of a participating trust, must also be furnished in requesting a determination letter on the qualification of an employees' plan or trust.

(ii) If the request relates to the initial qualification of a plan or the compliance with the requirements for a foreign situs trust, the following information must be submitted:

(*a*) The information required by § 1.404(a)-2 of this chapter (Income Tax Regulations);

(*b*) Type of organization of employer;

(*c*) Date incorporated, if a corporation, or date business commenced, if other type of organization;

(*d*) Nature of business of employer; and

(*e*) Name of predecessor business, if any, type of organization of predecessor, and when transfer took place; and

(*f*) Date on which the accounting year of the trust ends.

(iii) If the request relates to an amendment to a plan, the following information must be submitted:

(*a*) A copy of the amendment;

(*b*) The information required by § 1.404(a)-2 of this chapter (Income Tax Regulations) unless it was furnished with a request for a determination letter for the same year for which the amendment is to become effective. (However, if the amendment changes the requirements for coverage, contributions, or benefits, the information must be submitted even though previously submitted with a prior request.);

(*c*) The information required by subdivision (ii) (*b*) through (*f*) of this subparagraph, unless it was previously furnished with a request for a determination letter.

(iv) If the request relates to a curtailment or termination of the plan, the following information must be submitted:

(*a*) The date the plan was, or is proposed to be, terminated or curtailed;

(*b*) A statement of the reasons and circumstances for the termination or curtailment;

(*c*) A statement whether any of the funds under the plan will revert to or become available to the employer; if so, details must be furnished;

(*d*) A statement, with full particulars, as to any funds under the plan which at any time were contributed in the form of, or invested in, obligations or property of the employer or related companies;

(*e*) The information specified in this subdivision, in columnar form, with respect to each of the 25 highest paid employees covered by the plan at the time of termination or curtailment (the most recent anniversary date of the plan if the action is proposed), listed in the order of their compensation, and with respect to all other employees covered by the plan (as a group) and showing the number in the group:

(*1*) Name and whether an officer or supervisor;

(*2*) Percentage of each class of stock owned directly or indirectly by the employee or members of his family;

(3) Data, separately for the year of termination or curtailment and for each of the 5 preceding years of the plan's operation (if more are required they will be requested) with respect to (i) total compensation other than deferred compensation, (ii) employer's contribution, (iii) employee's contribution, and (iv) employee's share of forfeitures;

(4) Totals for each of the columns under (3) of this subdivision for each year;

(5) Summary columns aggregating for all years (totaled horizontally) with respect to each employee listed and for all others, data similar to that required by (3) of this subdivision; and

(6) Total value of benefits distributed or to be distributed to each employee listed, and to all others;

(f) A schedule showing separately for the year of termination or curtailment and for each of the 5 preceding years of the plan (if more are required they will be requested):

(1) Number of participants at beginning of year;

(2) Number of participants added in year;

(3) Number of participants dropped in year; and

(4) Number of participants remaining at end of year.

(v) If the request relates to an investment of trust funds in the stock or securities of the employer, the following information, without duplicating information previously furnished, must be submitted:

(a) Balance sheets of the employer (and controlled corporation, if involved) as of the close of the last 2 taxable years;

(b) Comparative statements of income and profit and loss for the last 5 taxable years;

(c) Analysis of surplus for the last 5 years, specifically showing the amount and rate of dividends paid on each class of stock;

(d) A statement accounting for all material changes from the latest dates of the information in (a), (b), and (c) of this subdivision to the date of filing the information;

(e) A schedule showing the nature and amounts of the various assets in trust fund; and

(f) A statement setting forth the amount to be invested in the stock or securities of the employer or a controlled corporation (or both), the nature of the investment, the present rate of return, collateral or type of security for the loan, if any, and the reasons for the investment.

(The information called for under (a), (b), and (f) of this subdivision, and related data, may be submitted in composite form.) A full disclosure must be made where trust funds are invested in stock or securities of, or loaned to, the employer, whether or not a determination letter is requested. This information must in all cases be furnished to the appropriate district director. See subdivision (vii) of this subparagraph.

(vi) When in connection with the request for a determination on the qualification of the plan, it is necessary to determine whether an organization is an association taxable as a corporation as defined in section 7701(a)(3) of the Code, and that an employer-employee relationship exists between it and its associates, the district director will make such determination. The request, in such case shall also be accompanied by copies of the articles of association or agreement establishing the organization, bylaws, and all other data relevant to the formation and operation of the association, and should show all pertinent dates. The organization should also support its request by furnishing copies of applicable local law relating to its status, copies of contracts of employment with its associates, and a brief of its position on its status for taxation and its relationship with its associates.

(vii) Requests for determination letters with respect to matters authorized by subparagraph (1)(i) of this paragraph and the necessary supporting data, are to be addressed to the district director specified in this subdivision:

(a) A single employer will address his request to the district director for the district in which its principal place of business is located.

(b) If a parent company and its subsidiaries have a single plan, the request will be addressed to the district director for the district in which the principal place of business of the parent company is located, whether separate or consolidated returns are filed.

(c) If the plan is established or proposed for an industry by all subscribing employers, whose principal places of business are located within the jurisdiction of more than one district director, the request will be addressed to the district director for the district in which is located the principal place of business of the trustee, or if more than one trustee, the usual meeting place of the trustees.

(d) In the case of a pooled fund arrangement (individual trusts under separate plans pooling their funds for investment purposes through a master trust), the request on behalf of the master trust will be addressed to the district director for the district where the principal place of business of such trust is located. Requests on behalf of the participating trusts and related plans will be addressed as otherwise provided in (a) through (c) of this subdivision.

(e) In the case of a plan of multiple employers not otherwise provided for in (a) through (f) of this subdivision, the request will be addressed to the district director for the district in which is located the principal place of business of the trustee, or if not trusteed, or if more than one trustee, the principal or usual meeting place of the trustees or plan supervisors.

(f) If the plan is with respect to an organization of the type described in subdivision (vi) of this subparagraph, the association will address its request to the district director with whom it is required to file its tax returns.

(3) *Prohibited transactions.* (i) Section 503 of the Code denies exemption to certain organizations which engage in transactions of the type described in such section. The National Office may issue a ruling as to whether a trust has entered into, or proposes to enter into, a prohibited transaction, but, except as provided in subdivision (ii) of this subparagraph, a ruling will not be issued where the determination is primarily one of fact, e.g., market value of property, reasonableness of compensation, etc. Also, no rulings or determination letters will be issued with respect to such transactions as sales and leasebacks, gifts and leasebacks, and other rental transactions of real or personal property directly or indirectly with the creator, or a related or controlled interest.

(ii) Where the adequacy of the security of a loan is involved, a ruling may be issued, but only if there is a clear indication of value which can be established by reference to recognized sources without requiring physical valuation or appraisal. The following are examples of transactions where the adequacy of security can be established by reference to recognized sources:

(a) A surety bond issued by a recognized surety company doing a surety bond business under applicable State law;

(b) An assignment of an insurance contract having a cash surrender value sufficient to cover the loan, interest, and possible costs of collection;

(c) A first mortgage on real property in an amount not in excess of 50 percent of its assessed value for local tax purposes; or

(d) Collateral represented by securities listed on a recognized exchange of an aggregate value equal to twice the amount of the loan.

Such rulings may be issued only with respect to proposed transactions and with respect to completed transactions where the return for the first year for which the transaction is effective has not been filed or the filing date has not passed. This subparagraph does not preclude the National Office from ruling as to whether a transaction is within the purview of section 503 (c), (h), or (i) of the Code.

(iii) If, upon examination of the return or returns of a trust, or from other sources, a district director is of the opinion that a trust has entered into a prohibited transaction, the trust will be advised in writing that it is proposed to revoke its exemption, and the reasons for such proposed action. The district office will also advise the trust of its rights to protest the proposed action by submitting a statement of the facts, law, and arguments in support of its continued exemption, and of its rights to a conference in the district office.

(iv) If the trust agrees with the proposed action, either before or after an informal conference, or if no protest is filed, the district director will advise the organization in writing of the revocation of the exempt status.

(v) If, after considering the information submitted by the trust, both in writing and in conference, the district office is still of the opinion that the exemption should be revoked, and the trust does not agree, the findings of the district office will be forwarded to the National Office for consideration prior to further action. Such reference to the National Office will be considered a request for technical advice and the procedures in paragraph (b)(5) of § 601.105 will be followed.

(vi) If it is concluded that a prohibited transaction was entered into for the purpose of diverting corpus or income from its exempt purpose and if the transaction involved a substantial part of the corpus or income of the trust, its exemption is revoked, effective as of the beginning of the taxable year during which the prohibited transaction was commenced. No notification to the trust of the loss of its exemption is required under these circumstances. In all other cases, however, its exemption is revoked, effective as of the beginning of the first taxable year after the date of the revocation letter. Under these circumstances, a revocation letter is sent by registered or certified mail to the last known address of the organization.

(vii) The trust will usually be permitted to submit its brief and to be heard in conference before final action is taken. However, the Service may, at its discretion, issue the revocation letter prior to the receipt of the brief or prior to granting a conference. If it is later determined that the revocation was in error, it will be rescinded as of the date it was issued.

(viii) A trust which is denied exemption under section 503 of the Code may file a new claim for exemption in any taxable year following the taxable year in which the notice of denial was issued. But it may not be granted a new exemption before the beginning of the first taxable year following the year in which its new claim is filed. Thus, if a revocation notice is issued in 1961, the trust may not file a new claim for exemption until 1962, and the new exemption may not be granted for a taxable year prior to 1963. If the trust does not file a new claim until 1963, the new exemption may not be granted for a year prior to 1964.

(ix) District directors have the authority to determine that a trust will not knowingly again engage in a prohibited transaction and that the trust also satisfies all other requirements under section 401(a) of the Code, and to notify such trust of the reestablishment of its exemption.

(4) *Reference of matters to the National Office.* (i) Technical advice is defined in paragraph (b)(5) of § 601.105 as advice or guidance furnished upon request of a field official in connection with the examination or consideration of a return of a taxpayer. Although a taxpayer may request a determination letter with respect to the qualification of its plan or trust under section 401(a) of the Code, prior to the filing of any return affected by the plan or trust, the consideration or examination of the facts relating to the qualification, amendment, curtailment, or termination of the plan or relating to the exempt status of the trust will be considered to be in connection with the examination or consideration of a return of the taxpayer. Thus, a district director may request technical advice with respect to issues which arise as the result of requests for determination letters of the type discussed in this paragraph.

(ii) Where issues arise in a district director's office with respect to matters within the contemplation of subparagraph (1)(i) of this paragraph, and the district office does not request technical advice from the National Office, the organization may notify the district director that it intends to request National Office consideration. The notice will consist of a copy of the request which the organization intends to file with the National Office. See subdivision (iv) of this subparagraph. Should the district director make an adverse determination, or should no action be taken within 30 days after the notice is filed with the district director, the request may be filed with the National Office.

(iii) Requests for National Office consideration will be entertained upon a clear showing—

(a) That the position of the district office is contrary to the law or regulations on the points at issue;

(b) That the position of the district office is contrary to the position of the Service as set forth in a Revenue Ruling currently in effect;

(c) That the position of the district office is contrary to a court decision which is followed by the Service, i.e., acquiescence in an adverse Tax Court decision;

(d) That the contemplated district office action is in conflict with a determination made in a similar case in the same or another district; or

(e) That the issues arise because of unique or novel facts which had not previously been passed upon, in any published Revenue Ruling or announcement.

(iv) The request to the National Office must show the following:

(a) Date of request;

(b) Name and address of taxpayer (employer), and name and address of representative, if any, who has been authorized to represent taxpayer (see paragraph (e)(5) of this section);

(c) District office in which the case is pending;

(d) Type of plan (pension, annuity, profit sharing, stock bonus) and type of action involved (initial qualification, amendment, curtailment, termination, or investment);

(e) Date of filing a copy of this request with the district director and the date and symbols of determination letter, if any;

(f) A concise statement of the issues without presentation of the facts or argumentation (e.g., whether a limitation may be imposed on employer contributions used to provide benefits for stockholder-employees);

(g) Grounds for requesting National Office consideration, e.g., action of the district office contrary to law or regulations (cite sections involved), contrary to published precedent (cite), conflict between districts or in same district (give name and district of case in conflict), unique or novel facts (describe briefly);

(h) Whether the applicable information required by subparagraph (2) of this paragraph has been filed with the district director;

(i) Whether a conference is desired in the National Office.

(v) Upon receipt of the request in the National Office, a determination will be made as to whether the case is to be considered at the National Office, and the taxpayer will be advised as to this determination. If the National Office determines that it will consider the case, the file will be called in from the district office and the taxpayer will be afforded an opportunity to furnish a statement on the points at issue and to a conference in Washington, if such a conference was requested. Copies of all written submissions are to be furnished the district director. The district director will have an opportunity to make such comments to the National Office as he deems appropriate. After full consideration of the entire file, including any conference discussion, the National Office will notify the taxpayer of its determination, and the case file will be returned to the district office for appropriate disposition in accordance with the National Office determination. The procedures in paragraphs (a) through (m) of this section will control to the extent they are not inconsistent with the provisions of this subparagraph.

(vi) Should a district director determine that an organization of the type described in subparagraph (2)(vi) of this paragraph is not an association taxable as a corporation or that the proper employer-employee relationship does not exist between the organization and its associates, the district director will so advise the organization. Inasmuch as the primary issue here is not the qualification of the plan under section 401(a) of the Code, the appeals procedures of subdivision (ii) through (v) of this subparagraph are not applicable.

(5) *Review of determination letters.* All determination letters issued by district directors under the procedures in this paragraph are subject to post review in the National Office under the jurisdiction of the Assistant Commissioner (Technical). If, during the course of review, a determination letter does not appear to conform to the interpretations and policies of the Service, the district director will be advised of the exceptions noted. If the taxpayer protests the exceptions taken by the National Office, the matter will be returned to the National Office. The determination letter and the protest will be treated as a request for technical advice. The procedures in paragraph (b)(5) of § 601.105 will be followed.

(6) *Oral advice to taxpayers.* (i) In conformity with the general principle announced in paragraph (k) of this section, district officials will not ordinarily confer with taxpayers or their representatives on matters regarding the formation or qualification of pension or similar plans, or related matters, including

amendments or curtailments to approved plans, prior to the submission of a plan, amendment, or curtailment for a determination.

(ii) A district director may grant such a conference upon written request from a taxpayer or his representative, provided the request shows that a substantive plan, amendment, etc., has been developed for submission to the Service, but that special problems or issues are involved, and the district director concludes that such a conference would be warranted in the interest of facilitating review and determination when the plan, etc., is formally submitted.

(iii) The furnishing of advice or assistance, whether requested by personal appearance, telephone, or correspondence, except as otherwise provided in subdivision (ii) of this subparagraph, will be limited to general procedures, or will direct the inquirer to source material, such as pertinent Code provisions, regulations, Revenue Procedures, and Revenue Rulings which may aid the inquirer in resolving his question or problem.

(f) *Effect of pension trust determination letters.* Determination letters issued pursuant to the provisions of this paragraph have the effect, generally, of any other determination letter as provided in paragraph (l) of this section. Determination letters issued under provisions of this paragraph contain only opinions as to the qualification of plans under section 401(a) of the Code and the status of related trusts under section 501(a). While favorable determination letter may serve as a basis for determining deductions for employer contributions thereunder, it is not to be taken as an indication that contributions are necessarily deductible as made. Such determinations can be made only upon an examination of the employer's tax return, in accordance with the limitations and subject to the conditions of section 404 of the Code.

§ 601.202 Closing agreements.

(a) *General.* (1) Under section 7121 of the Code and the regulations and delegations thereunder, the Commissioner, or any officer or employee of the Internal Revenue Service authorized in writing by the Commissioner, may enter into and approve a written agreement with a person relating to the liability of such person (or of the person or estate for whom he acts) in respect of any internal revenue tax for any taxable period. Such agreement, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact, shall be final and conclusive.

(2) Closing agreements under section 7121 of the Code may relate to any taxable period ending prior or subsequent to the date of the agreement. With respect to taxable periods ended prior to the date of the agreement, the matter agreed upon may relate to the total tax liability of the taxpayer or it may relate to one or more separate items affecting the tax liability of the taxpayer. A closing agreement may also be entered into in order to provide a "determination", as defined in section 1313 of the Code, and for the purpose of allowing a deficiency dividend deduction under section 547 of the Code. But see also sections 547(c)(3) and 1313(a)(4) of the Code and the regulations thereunder as to other types of "determination" agreements. With respect to taxable periods ending subsequent to the date of the agreement, the matter agreed upon may relate to one or more separate items affecting the tax liability of the taxpayer. A closing agreement with respect to any taxable period ending subsequent to the date of the agreement is subject to any change in or modification of the law enacted subsequent to the date of the agreement and applicable to such taxable period, and each closing agreement shall so recite. Closing agreements may be entered into even though under the agreement the taxpayer is not liable for any tax for the period to which the agreement relates. There may be a series of agreements relating to the tax liability for a single period. A closing agreement may be entered into in any case in which there appears to be an advantage in having the case permanently and conclusively closed, or where good and sufficient reasons are shown by the taxpayer for desiring a closing agreement and it is determined by the Commissioner or his representatives that the Government will sustain no disadvantage through consummation of such an agreement.

(b) *Use of prescribed forms.* In cases in which it is proposed to close conclusively the total tax liability for a taxable period ending prior to the date of the agreement Form 866, Agreement as to Final Determination of Tax Liability, will be used. In cases in which agreement has been reached as to the disposition of one or more issues and a closing agreement is considered necessary to insure consistent treatment of such issues in any other taxable period Form 906, Closing Agreement as to Final Determination Covering Specific Matters, generally will be used. A request for a closing agreement which determines tax liability may be submitted at any time before the determination of such liability becomes a matter within the province of a court of competent jurisdiction. The request should be submitted to the district director of internal revenue with whom the return for the period involved was filed. However, if the matter to which the request relates is pending before an office of the Appellate Division, the request should be submitted to that office. A request for a closing agreement which relates only to a subsequent period should be submitted to the Commissioner of Internal Revenue, Washington, D.C. 20224.

(c) *Approval.* (1) Closing agreements relating to alcohol, tobacco, and firearms taxes (other than the manufacturers excise tax on firearms arising from application of secs. 4181 and 4182 of the Internal Revenue Code of 1954) in respect of any prospective transactions or completed transactions affecting returns to be filed may be entered into and approved by the Assistant Commissioner (Compliance).

(2) Closing agreements relating to taxes other than those taxes covered by delegation to the Assistant Commissioner (Compliance) in subparagraph (1) of this paragraph in respect of any prospective transactions or completed transactions affecting returns to be filed may be entered into and approved by the Assistant Commissioner (Technical).

(3) Closing agreements for a taxable period or periods ended prior to the date of agreement and related specific items affecting other taxable periods may be entered into and approved by the Assistant Commissioner (Compliance).

(4) Closing agreements in cases under the jurisdiction of regional commissioners, assistant regional commissioners (appellate), and chiefs and associate chiefs of appellate branch offices and also in cases in which a closing agreement has been recommended for approval by the office of a district director (but excluding cases docketed before the Tax Court of the United States) for a taxable period or periods ended prior to the date of agreement and related specific items affecting other taxable periods may be entered into and approved by such regional commissioners, assistant regional comissioners (appellate), and chiefs and associate chiefs of appellate branch offices.

(5) Closing agreements in cases under the jurisdiction of regional commissioners, assistant regional commissioners (appellate), and chiefs and associate chiefs of appellate branch offices docketed in the Tax Court of the United States but only in respect to related specific items affecting other taxable periods may be entered into and approved by such regional commissioners, assistant regional commissioners (appellate), and chiefs and associate chiefs of appellate branch offices.

(6) Closing agreements providing for the mitigation of economic double taxation under section 3 of Revenue Procedure 64-54, C.B. 1964-2, 1008, or for such mitigation and relief under Revenue Procedure 65-17, C.B. 1965-1, 833, may be entered into and approved by the Director of International Operations. The Director of International Operations may also enter into and approve closing agreements for a taxable period or periods ended prior to the date of agreement and related specific items affecting other taxable periods, as the competent authority in the administration of the operating provisions of the tax conventions of the United States.

(7) Closing agreements in cases under the jurisdiction of a district director providing that the taxibility of earnings from a deposit or account of the type described in Revenue Procedure 64-24, C.B. 1964-1 (Part 1), 693, opened prior to November 15, 1962, will be determined on the basis that earnings on such deposits or accounts are not includible in gross income until maturity or termination, whichever occurs earlier, and that the full amount of earnings on the deposit or account will constitute gross income in the year the plan matures, is

assigned, or is terminated, whichever occurs first, may be entered into and approved by such district director.

(d) *Applicability of ruling requirements.* The requirements relating to requests for rulings (see § 601.201) shall be applicable with respect to requests for closing agreements pertaining to future periods only (see paragraph (b) of § 601.202).

§ 601.203 Offers in compromise.

(a) *General.* (1) The Commissioner may compromise, in accordance with the provisions of section 7122 of the Code, any civil or criminal case arising under the internal revenue laws prior to reference to the Department of Justice for prosecution or defense. Certain functions of the Commissioner with respect to compromise of civil cases involving liability under $100,000, and of certain specific penalties involving only the regulatory provisions of the Code and related statutes, have been delegated to district directors. In civil cases involving liability of $500 or over and in criminal cases the functions of the General Counsel are performed by the Chief Counsel for the Internal Revenue Service. In certain cases these functions are performed in the National Office and in other cases by Regional Counsel. (See also paragraph (c) of this section.)

(2) An offer in compromise of taxes, interest, ad valorem penalties, or specific penalties may be based on either inability to pay or doubt as to liability. Offers in compromise arise usually when payments of assessed liabilities are demanded, ad valorem penalties for delinquency in filing returns are asserted, or specific civil or criminal penalties are incurred by taxpayers. A criminal liability will not be compromised unless it involves only the regulatory provisions of the Internal Revenue Code and related statutes. However, if the violations involving the regulatory provisions are deliberate and with intent to defraud, the criminal liabilities will not be compromised.

(b) *Use of prescribed form.* Offers in compromise are required to be submitted on Forms 656 (Rev. 7-57), properly executed, and accompanied by a financial statement on Form 433 (if based on inability to pay). Form 656 is used in all cases regardless of whether the amount of the offer is tendered in full at the time the offer is filed or the amount of the offer is to be paid by deferred payment or payments. Copies of Form 656 may be obtained from district directors. An offer in compromise should be filed with the district director charged with the duty of collecting the tax sought to be compromised.

(c) *Consideration of offer.* (1) An offer in compromise is first considered by the district director with whom the offer is filed. An examining officer, after investigation of the financial condition of the taxpayer, makes a written recommendation for acceptance or rejection of the offer. If the district director has jurisdiction over the processing of the offer he will:

(i) Reject the offer, or

(ii) Accept the offer if it involves a civil liability under $500, or

(iii) Accept the offer if it involves a civil liability of $500 or more, but less than $100,000, or involves a specific penalty (including in the case of narcotics, smoking opium, and marihuana taxes only those specific penalties which involve delinquency in registration or delinquency in payment), and the Regional Counsel concurs in the acceptance of the offer, or

(iv) Recommend to the National Office the acceptance of the offer if it involves a civil liability of $100,000 or over.

(2) (i) If the district director does not have jurisdiction over the entire processing of the offer, the offer is transmitted to the appropriate Regional Counsel if the case is one in which:

(*a*) Recommendations for prosecution are pending in the Office of the Chief Counsel, the Department of Justice, or in an office of a United States attorney, including cases in which criminal proceedings have been instituted but not disposed of and related cases in which offers in compromise have been submitted or are pending;

(*b*) The taxpayer is in receivership or is involved in a proceeding under any provision of the Bankruptcy Act;

(*c*) The taxpayer is deceased (without regard to the class of tax involved);

(*d*) A proposal is made to discharge property from the effect of a tax lien or liens;

(*e*) An insolvent bank is involved;

(*f*) An assignment for the benefit of creditors is involved;

(*g*) A liquidation proceeding is involved; or

(*h*) Court proceedings are pending, except Tax Court cases.

(ii) The Regional Counsel considers and processes offers submitted in cases described in subdivisions (*a*) through (*h*) of subdivision (i) of this subparagraph with the exception of offers submitted in those cases being handled in the Office of the Chief Counsel in Washington. Where a case described in (*a*) through (*h*) of subdivision (i) of this subparagraph is being handled in the Office of the Chief Counsel in Washington, consideration and processing of the offer is accomplished in Washington, D.C.

(iii) In those cases described in (*a*) of subdivision (i) of this subparagraph no investigation will be made unless specifically requested by the office having jurisdiction of the criminal case.

(iv) In those cases described in (*b*) through (*h*) of subdivision (i) of this subparagraph the district director retains the duplicate copy of the offer and the financial statement for investigation. After investigation, the district director transmits to the appropriate regional counsel for consideration and processing his recommendation for acceptance or rejection of the offer together with the examining officer's report of his investigation.

(v) An offer under the processing jurisdiction of the Regional Counsel which is considered acceptable is either referred to the district director or to the Office of the Chief Counsel in Washington for approval, depending upon the amount of civil liability involved.

(3) The district directors are authorized to reject any offer in compromise referred for their consideration. Unacceptable offers considered by the Chief Counsel, regional counsel, or the Appellate Division are also rejected by district directors. If an offer is not acceptable, the taxpayer is promptly notified of the rejection of that offer. If an offer is rejected, the sum submitted with the offer is returned by the district director to the proponent, unless the taxpayer, in submitting the offer, authorized the district director to retain the sum submitted with the offer. A selective post review of offers rejected by a district director involving liabilities totaling $5,000 or more is made by each regional commissioner. A selected post review of offers rejected by the Director of International Operations involving liabilities totaling $5,000 or more is made by the Audit Division of the National Office.

(4) If an offer involving unpaid liability of $100,000 or more is considered acceptable by the office having jurisdiction over the offer, a recommendation for acceptance is forwarded to the National Office for review. If the recommendation for acceptance is approved, the offer is forwarded to the Office of the Chief Counsel for approval. After approval by the Office of the Chief Counsel, it is forwarded to the Commissioner for acceptance. The taxpayer is notified of the acceptance of the offer in accordance with its terms. Acceptance of an offer in compromise of civil liabilities does not remit criminal liabilities, nor does acceptance of an offer in compromise of criminal liabilities remit civil liabilities.

(d) *Conferences.* Before filing a formal offer in compromise, a taxpayer may request a conference in the office which would have jurisdiction of the offer filed by him for the purpose of exploring the possibilities of compromising the unpaid tax liability. A conference may also be requested by the taxpayer in the office which has jurisdiction of the offer filed by him after all investigations have been made for the purpose of determining the amount which may be accepted as a compromise. If the offer is one with respect to which the district director has processing jurisdiction and the proponent does not agree with the rejection or proposed rejection, and neither the examining officer nor the conferee of the district director's office has been able to convince the proponent of the correctness of the conclusion reached, the proponent will be apprised of his privilege of submitting a request in writing, accompanied by a protest, for a district conference. If the controversial issues cannot be resolved at the district conference level, the taxpayer may appeal the case to the appropriate appellate branch office for a conference provided the required protest has been filed. The procedure outlined in the preceding sentence will not be followed if the offer relates to a tax over which the Appellate Division has no authority

(see paragraph (a)(3) of § 601.106). Taxpayers and their representatives are required to fulfill and comply with the applicable conference and practice requirements. See Subpart E of this part.

§ 601.204 Changes in accounting periods and in methods of accounting.

(a) *Accounting periods.* A taxpayer who changes his accounting period shall, before using the new period for income tax purposes, comply with the provisions of the income tax regulations relating to changes in accounting periods. In cases where the regulations require the taxpayer to secure the consent of the Commissioner to the change, the application for permission to change the accounting period shall be made on Form 1128 and shall be submitted to the Commissioner of Internal Revenue, Washington, D.C. 20224, within the period of time prescribed in such regulations. See section 442 and the regulations thereunder (under the 1939 Code, § 39.46–1 of Regulations 118) (26 CFR Rev. 1953, Parts 1–79, 39.46–1). If the change is approved by the Commissioner, the taxpayer shall thereafter make his returns and compute his net income upon the basis of the new accounting period. A request for permission to change the accounting period will be considered by the Income Tax Division.

(b) *Methods of accounting.* A taxpayer who changes the method of accounting employed in keeping his books shall, before computing his income upon such method for purposes of income taxation, comply with the provisions of the income tax regulations relating to changes in accounting methods. The regulations require that, in the ordinary case, the taxpayer secure the consent of the Commissioner to the change. See section 446 of the Code and the regulations thereunder. Application for permission to change the method of accounting employed shall be made on Form 3115 and shall be submitted to the Commissioner of Internal Revenue, Washington, D.C. 20224, within 90 days after the beginning of the taxable year in which it is desired to make the change. Permission to change the method of accounting will not be granted unless the taxpayer and the Commissioner agree to the terms and conditions under which the change will be effected. The request will be considered by the Income Tax Division.

(c) *Verification of changes.* Written permission to a taxpayer by the National Office consenting to a change in his annual accounting period or to a change in his accounting method is a "ruling." Therefore, in the examination of returns involving changes of annual accounting periods and methods of accounting, district directors must determine whether the representations upon which the permission was granted reflect an accurate statement of the material facts, and whether the agreed terms, conditions, and adjustments have been substantially carried out as proposed.

§ 601.205 Tort claims.

Claims for property loss or damage, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the Service, acting within the scope of his office or employment, filed under the Federal Tort Claims Act, as amended, must be prepared and filed in accordance with Treasury Department regulations entitled "Central Office Procedures" and "Claims Regulations" (31 CFR Parts 1 and 3). Such regulations contain the procedural and substantive requirements relative to such claims, and set forth the manner in which they are handled. The claims should be filed with the Commissioner of Internal Revenue, Washington, D.C. 20224, and must be filed within 2 years after the accident or incident occurred.

Subpart C—Provisions Relating to Distilled Spirits, Wines, Beer, Cigars, Cigarettes, and Cigarette Papers and Tubes and Certain Firearms

DISTILLED SPIRITS, WINES, AND BEER

§ 601.301 Imposition of taxes, qualification requirements, and regulations.

(a) *Imposition of taxes.* Subchapter A of Chapter 51 of the Internal Revenue Code of 1954 imposes taxes on distilled spirits (including alcohol), wine, and beer. Except as specifically provided, additional taxes are imposed when distilled spirits and wine are rectified by blending, compounding, etc. Subchapter A of chapter 51 of the Code also imposes taxes on stills and condensers used to produce spirits. Occupational taxes are imposed upon still manufacturers, brewers, rectifiers, dealers in liquors, and as a prerequisite for drawback under section 5134 of the Code, upon manufacturers of nonbeverage products.

(b) *Qualification requirements.* Distillers, winemakers, brewers, warehousemen, rectifiers, bottlers, liquor bottle manufacturers, dealers in specially denatured alcohol, users of tax-free and specially denatured alcohol, and wholesalers and importers of liquors, are required to qualify with the Internal Revenue Service, usually by filing notice or application and bond with, and procuring permit from, the assistant regional commissioner (alcohol and tobacco tax) of the region in which operations are to be conducted. Detailed information respecting such qualification, including the forms to be used and the procedure to be followed, is contained in the respective regulations described in paragraph (c) of this section.

(c) *Regulations.* The procedural requirements with respect to matters relating to distilled spirits, wines, and beer which are within the jurisdiction of the Alcohol and Tobacco Tax Division are published in the regulations described in this paragraph. These regulations contain full information as to the general course and method by which the functions concerning liquors are channeled and determined, including the nature and requirements of formal and informal procedures, the forms, records, reports, and other documents required, and the contents of applications, notices, registrations, permits, bonds, and other documents. Supplies of prescribed forms may be obtained from the office of assistant regional commissioners (alcohol and tobacco tax), except that Forms 52–A, 52–B, 122, 133, 338, 2051, 2056–2060, 2621, and 2637 must be provided by the users at their own expense. Users and commercial printers may procure specimen copies of such forms from such offices. The following is a brief description of the several regulations arranged according to the principal subjects and operations concerned:

(1) *Establishment and operation of distilled spirits plants.* Part 201 of this chapter contains the regulations relating to the location, qualification, construction, arrangement, equipment, and operations (including activities incident thereto) of distilled spirits plants for the production and/or warehousing (including denaturation), rectification, and bottling (including bottling in bond) of distilled spirits.

(2) *Miscellaneous liquor transactions.* Part 170 of this chapter contains miscellaneous regulations relative to:

(i) Restamping of packages of distilled spirits by persons other than proprietors of distilled spirits plants;

(ii) Refunds of tax and duty paid on distilled spirits, wine, rectified products, and beer lost as a result of floods, hurricanes, or other disasters;

(iii) Application of section 6423, Internal Revenue Code of 1954, as amended, to refund or credit of tax on distilled spirits, wines, and beer;

(iv) Regulations in effect on June 30, 1959, which were prescribed on July 1, 1959, as interim regulations;

(v) Manufacture and sale of certain compounds, preparations, and products containing alcohol; and

(vi) Temporary regulations respecting the filing of deferred payment tax returns by proprietors of distilled spirits plants, by proprietors of bonded wine cellars, and by brewers.

(3) *Disposition of substances used in the manufacture of distilled spirits and articles and of containers used for the packaging of distilled spirits.* Part 173 of this chapter contains the regulations relative to the returns and records of the disposition of articles from which distilled spirits may be recovered, of substances of the character used in the manufacture of distilled spirits, and of containers of the character used for the packaging of distilled spirits.

(4) *Manufacture and use of containers of distilled spirits.* Part 175 of this chapter contains the regulations relating to the traffic in containers of distilled spirits of a capacity of not more than 5 wine gallons. The regulations cover the manufacture, sale, and use of liquor bottles for packaging distilled spirits for other than industrial use; use of liquor bottles for purposes other than packaging distilled spirits; labeling of distilled spirits; permits and revocation proceedings; imports and exports of liquor bottles; records, reports, and inventories of liquor bottles; reuse or refilling of liquor bottles (see also Part 194 of this chapter); and the purchase, sale, and possession of refilled or used liquor bottles.

(5) *Gauging of distilled spirits.* Part 186 of this chapter contains the regulations that prescribe the gauging instruments, and methods or techniques to be used in measuring distilled spirits (including denatured spirits). Tables are provided for use in making the necessary computation from gauge data.

(6) *Stills and condensers.* Part 196 of this chapter contains the regulations relative to the manufacture, taxpayment, removal, use, and registration of stills and condensers, and the exportation or transfer to foreign-trade zones of stills and condensers with benefit of drawback of internal revenue tax or without payment of tax.

(7) *Rules of practice in permit proceedings.* Part 200 of this chapter contains the rules governing the procedure and practice in connection with the disapproval of applications for basic permits, and for the issuance of citations for the suspension, revocation and annulment of such permits under sections 3 and 4 of the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.), and disapproval, suspension, revocation of container, industrial use, operating, withdrawal, and tobacco permits under the Code. Such rules also govern, insofar as applicable, any adversary proceeding involving adjudication required by statute to be determined on the record, after opportunity for hearing, under laws administered by the Alcohol and Tobacco Tax Division.

(8) *Basic permit requirements under the Federal Alcohol Administration Act.* Regulations No. 1 (27 CFR Part 1), issued pursuant to the Federal Alcohol Administration Act, as amended, contain the requirements relative to the issuance under that Act of basic permits to producers, rectifiers, blenders, bottlers, warehousemen, importers, and wholesalers of distilled spirits, wine, or beer, and the amendment, duration, revocation, suspension, or annulment of such permits.

(9) *Bulk sales and bottling of distilled spirits.* Regulations No. 3 (27 CFR Part 3), issued under the Federal Alcohol Administration Act, as amended, contain the requirements relative to bulk sales and bottling of distilled spirits under the Federal Alcohol Administration Act, including the terms of warehouse receipts for distilled spirits in bulk.

(10) *Labeling and advertising of distilled spirits.* Regulations No. 5 (27 CFR Part 5), issued under the Federal Alcohol Administration Act, as amended, contain the requirements relative to the labeling and advertising of distilled spirits under the Federal Alcohol Administration Act, including standards of identity for distilled spirits, standards of fill for bottles of distilled spirits, withdrawal of bottled imported distilled spirits from customs custody, and the issuance of certificates of label approval and certificates of exemption from label approval.

(11) *Credit period to be extended to retailers of alcoholic beverages.* Regulations No. 8 (27 CFR Part 8) issued under the Federal Alcohol Administration Act, as amended, contain the requirements relative to the credit period which may be extended by vendors to retailers of alcoholic beverages.

(12) *Production and removal of wine.* Part 240 of this chapter contains the regulations relative to the establishment and operation of bonded wine cellars, including bonded wineries, for the production, cellar treatment, and storage of wines, including amelioration, sweetening, addition of volatile fruit-flavor concentrates, addition of wine spirits (including distillates containing aldehydes), blending, and other cellar treatment; removals; taxpayment; return of unmerchantable taxpaid wine; use of wine for distilling material and manufacture of vinegar; and record and report requirements.

(13) *Bottling or packaging of taxpaid wine.* Part 231 of this chapter contains the regulations relative to the establishment, qualification, and operations of taxpaid wine bottling houses on premises other than those of a plant operated under Part 201 of this chapter, and to the bottling and packaging of taxpaid United States and foreign wines at such premises.

(14) *Nonindustrial use of distilled spirits and wine.* Regulations No. 2 (27 CFR Part 2), issued under the Federal Alcohol Administration Act, as amended, specify what uses of distilled spirits and wine are considered "nonindustrial", as that term is used in section 17 of the Federal Alcohol Administration Act.

(15) *Labeling and advertising of wine.* Regulations No. 4 (27 CFR Part 4), issued under the Federal Alcohol Administration Act, as amended contain the requirements relative to the labeling and advertising of wine under the Federal Alcohol Administration Act, including standards of identity for wine, standards of fill for containers of wine, the withdrawal of imported wine from customs custody, and the issuance of certificates of label approval and certificates of exemption from label approval.

(16) *Establishment and operations of breweries.* Part 245 of this chapter contains the regulations relating to the production (including concentration and reconstitution incident thereto) and removal of beer and cereal beverages. The regulations cover the location, construction, equipment, and operations of breweries; and the qualification of such establishments, including the ownership, control, and management thereof.

(17) *Labeling and advertising of malt beverages.* Regulations No. 7 (27 CFR Part 7), issued under the Federal Alcohol Administration Act, as amended, contain the requirements relative to the labeling and advertising of malt beverages (beer) under the Federal Alcohol Administration Act, including withdrawal of imported malt beverages from customs custody, and the issuance of certificates of label approval.

(18) *Liquor dealers.* Part 194 of this chapter contains the regulations relative to the special (occupational) taxes imposed on wholesale and retail dealers in liquors, wholesale and retail dealers in beer, and limited retail dealers; restrictions on purchases of distilled spirits; reuse or refilling of liquor bottles (see also Part 175 of this chapter); sale or possession of refilled or used liquor bottles; repackaging of alcohol for industrial use; recordkeeping and reporting requirements; and provisions relating to entry of premises and inspection of records by internal revenue officers.

(19) *Production of vinegar by the vaporizing process.* Part 195 of this chapter contains the regulations relating to the production of vinegar by the vaporizing process (fermentation and distillation of alcoholic liquid). The regulations cover the location, construction, equipment, qualification, and operation of vinegar plants.

(20) *Drawback of tax on spirits used in nonbeverage products.* Part 197 of this chapter contains the regulations which relate to obtaining drawback of internal revenue tax on distilled spirits used in the manufacture or production of medicines, medicinal preparations, food products, flavors, or flavoring extracts, which are unfit for beverage purposes.

(21) *Production of volatile fruit-flavor concentrates.* Part 198 of this chapter contains the regulations relating to the manufacture, removal, sale, storage, transfer in bond, transportation, recordkeeping and reporting requirements, and use of volatile fruit-flavor concentrates. It includes provisions regarding the location, qualification, use, and operations of concentrate plants.

(22) *Inducements furnished to retailers.* Regulations No. 6 (27 CFR Part 6), issued under the Federal Alcohol Administration Act, as amended, contain the requirements relative to the furnishing, giving, renting, lending, or selling of equipment, fixtures, signs, supplies, money, services, or other things of value to retailers of distilled spirits, wine, and malt beverages, by other members of the liquor industry (principally vendors), including the furnishing of samples and advertising cuts.

(23) *Distribution and use of denatured spirits.* Part 211 of this chapter contains the regulations relating to the procurement, use, disposition, and recovery of denatured alcohol, specially denatured rum, and articles containing denatured spirits; and includes requirements in respect to industrial use and withdrawal permits; and the packaging, labeling, sale, rebottling, and reprocessing of articles containing specially denatured spirits.

(24) *Formulas for denatured spirits.* Part 212 of this chapter contains the regulations relating to the formulation of completely denatured alcohol, specially denatured alcohol, and specially denatured rum; to the uses of specially denatured spirits; and to the specifications for denaturants. The procedural requirements relative to the production of denatured alcohol and specially denatured rum are prescribed in Part 201 of this chapter, and those relative to the distribution and use of denatured alcohol and specially denatured rum are prescribed in Part 211 of this chapter.

(26) *Distribution and use of tax-free spirits.* Part 213 of this chapter contains the regulations relating to tax-free alcohol and covers the procurement, storage, use, and recovery of such alcohol; and includes requirements in respect to industrial use and withdrawal permits.

(26) *Liquors and articles from Puerto Rico and the Virgin Islands.* Part 260 of this chapter contains the regulations relating to the production, bonded warehousing, and withdrawal of distilled spirits, and denatured spirits, and the manufacture of articles in Puerto Rico and the Virgin Islands to be brought into the United States free of tax and the collection of internal revenue taxes on taxable alcoholic products coming into the United States from Puerto Rico and the Virgin Islands.

(27) *Importation of liquors.* Part 251 of this chapter contains the substantive and procedural requirements relative to the importation of distilled spirits, wines, and beer into the United States from foreign countries including special (occupational) and commodity taxes, permits, marking, branding, and labeling, and stamping of containers and packages.

(28) *Exportation of liquors.* Part 252 of this chapter contains the regulations relating to exportation including, where applicable, lading for use on vessels and aircraft, transfer to a foreign-trade zone, or transfer to a manufacturing bonded warehouse, Class 6, of distilled spirits (including specially denatured spirits), beer (including beer concentrate), and wine, whether without payment of tax, free of tax, or with benefit of drawback. It includes requirements with respect to removal, shipment, lading, deposit, evidence of exportation, losses, claims, and bonds.

§ 601.302 Taxes.

(a) *Collection.* Taxes on distilled spirits, wines, beer, and rectified products are paid by returns. If the person responsible for paying the tax has filed a proper bond with the assistant regional commissioner (alcohol and tobacco tax), he may file semimonthly returns, with proper remittances, to cover the taxes incurred on distilled spirits, wines, beer, and rectified products during such semimonthly period. If the taxpayer is not qualified to defer taxpayment, or has been placed on a prepayment basis by the assistant regional commissioner, he must prepay the tax on the distilled spirits, wines, beer, or rectified products. Distilled spirits and rectification tax returns are filed with an officer designated by the assistant regional commissioner (alcohol and tobacco tax), or with the district director when so directed by the assistant regional commissioner, except that where a remittance is in cash the return must be filed with the district director. Returns of tax on beer and wine are filed with the district director in all cases. The forms for filing these tax returns are furnished to industry members by the assistant regional commissioner (alcohol and tobacco tax). Special tax stamps are issued to denote the payment of special (occupational) taxes by liquor dealers, brewers, rectifiers, still manufacturers, and manufacturers of nonbeverage products; such stamps are required to be posted in the taxpayer's place of business as evidence of taxpayment. Special tax stamps are also issued to denote payment of the commodity tax on stills and condensers, and are required to be cancelled and secured to the article or furnished to the user of the apparatus for retention at the premises where such apparatus is set up, available for inspection by internal revenue officers. Detailed information respecting the payment of tax on liquors and the payment of occupational and commodity taxes, including the forms to be used and the procedure to be followed, is contained in the respective regulations described in § 601.301(c).

(b) *Assessment.* If additional or delinquent tax liability is disclosed by an investigation, or by an examination of records, of a qualified plant or permittee, a notice (except where delay may jeopardize collection of the tax, or where the amount involved is nominal or the result of an evident mathematical error) is sent to the taxpayer advising him of the basis and amount of the liability and affording him an opportunity to submit a protest, with supporting facts, or to request a conference.

§ 601.303 Claims.

(a) *Claims for remission.* When distilled spirits (including distilling material and denatured spirits) or beer on which the tax has not been paid or determined is lost, and the person liable for payment of the tax thereon desires to be relieved from such liability, he may file claim on Form 2635 for remission of tax on the quantity that was lost. The assistant regional commissioner may, in any event, require such a claim to be filed, and will require it if circumstances indicate that the loss was caused by theft or, in the case of distilled spirits (including distilling material), unauthorized voluntary destruction. On receipt of a claim the assistant regional commissioner makes a factual determination, and notifies the claimant of allowance or rejection of his claim. If the claim is rejected, and circumstances so warrant, the assistant regional commissioner will take appropriate steps to collect the tax.

(b) *Claims for abatement.* When the tax on distilled spirits, wines, beer, or the rectification tax is assessed and the taxpayer thinks that the tax is not due under the law, he may file a claim for abatement of the tax on Form 843 with the district director of internal revenue or, where required by regulations, with the assistant regional commissioner (alcohol and tobacco tax). Forms 843 may be procured from the district director or the assistant regional commissioner. The district director forwards the claim to the assistant regional commissioner (alcohol and tobacco tax) for consideration, and the district director may call upon the taxpayer to file a bond in double the amount of the tax in order to insure collection of the tax if the claim is rejected. When the claim is acted upon, both the taxpayer and the district director are notified of the allowance or rejection of the claim. If the claim is rejected, the district director will proceed to collect the tax.

(c) *Claims for refund*—(1) *Taxes illegally, erroneously, or excessively collected.* A claim on Form 843 for refund of taxes illegally, erroneously, or excessively collected may be filed by a taxpayer with the district director of internal revenue to whom the tax was paid. Such claim must be filed within three years (two years under certain circumstances) after the date of payment of the tax. The district director forwards the claim to the assistant regional commissioner (alcohol and tobacco tax) for consideration. If the claim is rejected, the taxpayer is notified of the rejection by registered or certified mail, and he may then bring suit in the United States District Court or the Court of Claims for recovery of the tax. Such suits must be filed generally within two years from the date of mailing of the rejection notice. If the claim is allowed, an appropriate notice of allowance with a check for the amount of the refund and allowable interest is forwarded to the taxpayer; however, if there are other unpaid taxes outstanding against the taxpayer, the overpayment may be applied to the outstanding taxes and the balance, if any, refunded.

(2) *Taxes on liquors lost, destroyed, returned to bond, or taken as samples by the United States.* A taxpayer may, subject to the conditions in the appropriate regulations, file claim on Form 843 with the assistant regional commissioner (alcohol and tobacco tax) for refund of tax paid on (i) spirits returned to bonded premises, lost in rectification or bottling operations, lost by accident or disaster, or taken as samples by the United States, or (ii) wine returned to bond as unmerchantable, or lost by disaster, or (iii) beer removed from the market, or lost by disaster. If the claim is allowed, a notice of allowance with a check for the amount of the refund is forwarded to the claimant; except, that where there are any unpaid taxes outstanding against the claimant, the refund may be applied to the outstanding taxes and a check for the balance, if any, forwarded to the claimant. If the claim is rejected, a notice giving the reasons for rejection is forwarded to the claimant.

(d) *Claims for allowance, credit, or relief.* A qualified permittee, manufacturer, or proprietor may, subject to the conditions in the appropriate regulations, file claim on Form 2635 with the assistant regional commissioner (alcohol and tobacco tax) for allowance of loss, credit of tax, or relief from tax liability, as applicable, on (1) spirits returned to bonded premises, lost or destroyed on bonded premises or in transit thereto, or lost in rectification or bottling operations; (2) wine lost or destroyed on bonded premises or in transit thereto, and unmerchantable domestic wine returned to bond; (3) beer removed from the market, lost (other than by theft), or destroyed by fire, casualty, or act of God; (4) denatured spirits lost or destroyed in bond, or lost on the premises of a qualified dealer or user or in transit to such premises; and (5) tax-free spirits lost on the premises of a qualified user or in transit to such premises.

(e) *Claims for payment—disaster losses.* When distilled spirits, wines, rectified products, or beer held or intended for sale is lost, rendered unmarketable, or condemned by a duly authorized official by reason of a "major disaster" as determined by the President of the United States, the person holding such product for sale at that time may, subject to the conditions in the appropriate regulations, file claim on Form 843 with the assistant regional commissioner (alcohol and tobacco tax) of the region in which the product was lost, rendered unmarketable, or condemned, for payment of an amount equal to the internal revenue taxes paid or determined and any customs duties paid thereon. Claims must be filed within 6 months from the date on which the President makes the determination that the disaster has occurred. The determination date is construed to mean the date the Director, Office of Emergency Planning, identifies the specific disaster area.

§ 601.304 Preparation and filing of claims.

(a) *Distilled spirits at distilled spirits plants.* Procedural instructions in respect of claims for remission, abatement, credit, or refund of tax on spirits (including denatured spirits) lost or destroyed on or lost in transit to, or on spirits returned to, the premises of a distilled spirits plant are contained in Part 201 of this chapter. It is not necessary to file a claim for credit of tax on taxpaid samples taken by internal revenue officers from distilled spirits plants, as the assistant regional commissioner will allow credit, without claim, for tax on such samples.

(b) *Specially denatured spirits.* Procedural instructions in respect of claims for allowance of loss on specially denatured spirits lost on the premises of a bonded dealer or user, or while in transit to such premises, are contained in Part 211 of this chapter.

(c) *Tax-free alcohol.* Procedural instructions in respect of claims for allowance of loss on tax-free alcohol lost on the premises of a qualified user, or while in transit to such premises, are contained in Part 213 of this chapter.

(d) *Wine spirits and wine at bonded wine cellar.* Procedural instructions in respect of claims for (1) remission of tax on wine spirits lost on the premises of a bonded wine cellar or in transit thereto, (2) allowance of losses of wine in bond, and (3) credit or refund of tax paid on unmerchantable domestic wine returned to bond are contained in Part 240 of this chapter.

(e) *Beer.* Procedural instructions in respect of claims for refund or credit of tax which has been paid (or allowance, credit, or relief of tax liability if the tax has not been paid) on domestic beer removed from the market or lost or destroyed by fire, casualty, or act of God are contained in Part 245 of this chapter.

(f) *Distilled spirits, wines, or beer for export.* Procedural instructions in respect of claims for (1) drawback of internal revenue tax on distilled spirits or wines, for export, use as supplies on certain vessels or aircraft, deposit in a foreign-trade zone or customs manufacturing bonded warehouse and on beer removed for export, use as supplies on certain vessels and aircraft, or transfer to a foreign-trade zone, and (2) remission of tax on distilled spirits, specially denatured spirits, wines, or beer, withdrawn without payment of tax and lost during transportation to the port of export, manufacturing bonded warehouse, vessel or aircraft, or foreign-trade zone, are contained in Part 252 of this chapter.

(g) *Miscellaneous.* Procedural instructions are contained in Part 170 of this chapter in respect of claims for—

(1) Refund or credit of tax on distilled spirits, wines, or beer where such refund or credit is claimed on the grounds that tax was assessed or collected erroneously, illegally, without authority, or in any manner wrongfully, or on the grounds that such amount was excessive, and where such refund or credit is subject to the limitations imposed by section 6423 of the Code,

(2) Payment of an amount equal to the internal revenue tax paid or determined and customs duties paid on distilled spirits, wines, rectified products, and beer previously withdrawn, which were lost, rendered unmarketable, or condemned by a duly authorized official by reason of a major disaster occurring in the United States after June 30, 1959, and

(3) Redemption, in Puerto Rico, of unused rectification tax sheet stamps and unused special Puerto Rican rectification stamps.

(h) *Special taxes.* Procedural instructions in respect of claims for abatement of assessments or refund of overpayments of liquor dealers occupational taxes and penalties are contained in Part 194 of this chapter. When claim is filed for refund of an occupational tax for which a stamp was issued, the stamp (or a Certificate in Lieu of Lost or Destroyed Special Tax Stamp, accompanied by affidavits attesting to loss or destruction of the stamp) must be surrendered with the claim. Such claims must be submitted within three years from the date of payment of the tax.

(i) *Low wines at vinegar plants.* Procedural instructions in respect of claims for remission of tax on low wines (distilled spirits) lost at vinegar plants producing vinegar by the vaporizing process are contained in Part 195 of this chapter.

(j) *Stills and condensers.* Procedural instructions in respect of claims for drawback of the internal revenue tax paid on stills and condensers which have been exported or deposited in a foreign-trade zone for exportation, destruction, or storage therein pending exportation, are contained in Part 196 of this chapter.

(k) *Distilled spirits used in nonbeverage products.* Procedural instructions in respect of claims (1) for drawback of tax on distilled spirits used in the manufacture of medicines, medicinal preparations, food products, flavors, or flavoring extracts which are unfit for beverage purposes, and (2) for refund or adjustment of special (occupational) tax, are contained in Part 197 of this chapter.

§ 601.305 Offers in compromise.

Procedure in the case of offers in compromise of liabilities under chapter 51 of the Code and of penalties for violation of the Federal Alcohol Administration Act, is set forth in § 601.327.

§ 601.306 Application for approval of interlocking directors and officers under section 8 of the Federal Alcohol Administration Act.

Any person who is an officer or director of a corporation now engaged in business as a distiller, rectifier, or blender of distilled spirits, or of an affiliate thereof, who desires to take office in other companies similarly engaged, must obtain permission to do so from the Director of the Alcohol and Tobacco Tax Division. Applications for such permission to take office shall be prepared and filed in accordance with instructions available from the assistant regional commissioner (alcohol and tobacco tax) or from the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington, D.C. 20224.

§ 601.307 Rulings.

The procedure for rulings in alcohol tax matters is set forth in § 601.328.

§ 601.308 Conferences.

Any person desiring a conference in the office of the assistant regional commissioner (alcohol and tobacco tax) of his region or of the Director, Alcohol and Tobacco Tax Division, in Washington, relative to any matter arising in connection with his operations, will be accorded such a conference upon request. No formal requirements are prescribed for such conference.

§ 601.309 Representatives.

Subpart E, conference and practice requirements, is applicable to all representatives of the taxpayer before the Service, in the office of the Director Alcohol and Tobacco Tax Division, or in the office of the assistant regional commissioner (alcohol and tobacco tax).

§ 601.310 Forms.

For forms to be used, see § 601.301(c).

CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES

§ 601.311 Imposition of taxes; regulations.

(a) *Taxes.* Subchapter A of chapter 52 of the Internal Revenue Code of 1954, as amended, imposes taxes on cigars, cigarettes, and cigarette papers and tubes manufactured in or imported into the United States. Subchapter D of chapter 78 of the Code imposes a tax (equal to the internal revenue tax im-

posed in the United States upon the like articles of merchandise of domestic manufacture) on cigars, cigarettes, and cigarette papers and tubes of Puerto Rican manufacture brought into the United States and withdrawn for consumption or sale, and on such articles brought into the United States from the Virgin Islands.

(b) *Regulations.* The procedural requirements with respect to matters relating to cigars, cigarettes, and cigarette papers and tubes are contained in the regulations listed below:

(1) Part 200 of this chapter relates to the procedure and practice in connection with the disapproval of applications for permits, and the suspension and revocation of permits, under chapter 52 of the Code.

(2) Part 270 of this chapter relates to the manufacture of cigars and cigarettes; the payment by manufacturers of tobacco products of internal revenue taxes imposed by chapter 52 of the Code; and the qualification of and operations by manufacturers of tobacco products.

(3) Part 275 of this chapter relates to cigars, cigarettes, and cigarette papers, and tubes imported into the United States from a foreign country or brought into the United States from Puerto Rico, the Virgin Islands, or a possession of the United States; the removal of cigars from a customs bonded manufacturing warehouse, Class 6; and the release of such articles from customs custody, without payment of internal revenue tax or customs duty attributable to the internal revenue tax.

(4) Part 285 of this chapter relates to the manufacture of cigarette papers and tubes; the payment by manufacturers of cigarette papers and tubes of internal revenue taxes imposed by chapter 52 of the Code; and the qualification of and operations by manufacturers of such articles.

(5) Part 290 of this chapter relates to the exportation (including supplies for vessels and aircraft and transfers to a foreign-trade zone) of cigars, cigarettes, and cigarette papers and tubes, without payment of tax, or with benefit of drawback of tax, and the qualification of and operations by export warehouse proprietors.

(6) Part 295 of this chapter relates to the removal of cigars, cigarettes, and cigarette papers, and tubes, without payment of tax, for use of the United States.

(7) Part 296 of this chapter relates to the provisions of a miscellaneous nature or not of continuing application. Included are regulations relating to:

(i) Limitations imposed by section 6423 of the Code on the refund or credit of tax paid or collected on cigars, cigarettes, and cigarette papers and tubes;

(ii) Losses of cigars, cigarettes, and cigarette papers and tubes caused by disasters occurring in the United States on or after September 3, 1958;

(iii) Purchase, receipt, possession, offering for sale, or sale or other disposition of cigars and cigarettes by dealers in such products;

(iv) Authorizations to execute bonds and extensions of coverage of bonds on behalf of corporate sureties; and

(v) Periods to be covered by tax returns filed by manufacturers for the deferred payment of taxes on cigars and cigarettes.

§ 601.312 Qualification and bonding requirements.

(a) *Manufacturers of tobacco products and proprietors of export warehouses.* Every person, before commencing business as a manufacturer of tobacco products or as a proprietor of an export warehouse, is required to qualify with the Internal Revenue Service by making application for permit and filing bond and other required documents with, and obtaining a permit from, the assistant regional commissioner (alcohol and tobacco tax) for the region in which operations are to be conducted.

(b) *Manufacturers of cigarette papers and tubes.* Every person, before commencing business as a manufacturer of cigarette papers and tubes, is required to qualify with the Internal Revenue Service by filing bond and other required documents with the assistant regional commissioner (alcohol and tobacco tax) for the region in which operations are to be conducted.

(b-1) *Puerto Rican manufacturers of cigars and cigarettes.* Every manufacturer of cigars and cigarettes in Puerto Rico who desires to defer payment in Puerto Rico of the internal revenue tax imposed by section 7652(a) of the Code on cigars and cigarettes of Puerto Rican manufacture coming into the United States must file a bond with the Director's Representative of the Office of International Operations, in Puerto Rico. Such bond is conditioned on the principal's paying, at the time and in the manner prescribed in the regulations, the full amount of tax computed on the cigars and cigarettes which are released for shipment to the United States. No bond is required if the tax is prepaid.

(c) *Proprietors of customs warehouses.* Every proprietor of a customs bonded manufacturing warehouse, Class 6, who desires to remove under Part 290 tax-exempt cigars for exportation (including supplies for vessels and aircraft), or for delivery for subsequent exportation, is required to file a bond with the assistant regional commissioner (alcohol and tobacco tax) for the region in which the customs warehouse is located. However, removal of cigars for sale or consumption in the United States is subject to customs regulations.

(d) *Drawback of tax.* Taxpaid cigars, cigarettes, and cigarette papers and tubes may be exported with benefit of drawback of tax. Drawback may be allowed only to the person who paid the tax on such articles and who files claim and otherwise complies with the provisions contained in the applicable regulations referred to in § 601.311. As a condition precedent to the allowance of any drawback claim, the claimant is required to file a bond in an amount not less than the amount of tax covered in the claim.

(e) *General.* Detailed information relating to the qualification and bonding requirements, including the forms to be used and the procedure to be followed, is fully set forth in the regulations referred to in § 601.311.

§ 601.313 Collection of taxes.

(a) *Cigars and cigarettes.* Taxes on cigars and cigarettes are paid by the manufacturer on the basis of a return. If the manufacturer has filed a proper bond, he may defer payment at the time of removal and file semimonthly returns to cover the taxes. If the manufacturer has not filed such a bond or if he has defaulted in any way in paying his taxes, he is required to file a prepayment return prior to removal of such products, and to continue so doing until the assistant regional commissioner (alcohol and tobacco tax) finds that the revenue will not be jeopardized by deferred payment. Tax returns, with remittances, are filed by the domestic manufacturer with the appropriate district director of internal revenue. Taxes on cigars produced in a customs bonded manufacturing warehouse, Class 6, are paid on the basis of a return to the collector of customs in accordance with customs procedures and regulations. Taxes on cigars and cigarettes imported or brought into the United States from a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States are paid by the importer to the collector of customs on the basis of a return made on the customs form by which release from customs custody is to be effected. However, taxes on cigars and cigarettes manufactured in Puerto Rico and brought into the United States may be prepaid in Puerto Rico on the basis of a return. If a Puerto Rican manufacturer has filed a proper bond, he may defer payment at the time of release for shipment to the United States and file a semimonthly return to cover the taxes. If the manufacturer has not filed such a bond or if he has defaulted in any way in payment of his taxes, he must file a prepayment return prior to removal of such products for shipment to the United States, and continue to do so until the Director's Representative of the Office of International Operations in Puerto Rico finds that the revenue will not be jeopardized by deferred payment. Tax returns in Puerto Rico, with remittances, are filed with the Director's Representative.

(b) *Cigarette papers and tubes.* Taxes on cigarette papers and tubes are paid by the manufacturer on the basis of a monthly return. Such returns, with remittances, are filed with the district director of internal revenue for the district in which the factory is located. Taxes on cigarette papers and tubes imported or brought into the United States from a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States are paid to the collector of customs before removal on the basis of a return made on the customs form by which release from customs custody is effected. However, taxes on cigarette papers and tubes of Puerto Rican manufacture which are to be shipped to the United States may be prepaid in Puerto Rico on the basis of a return.

(c) *General.* Detailed information about the payment of taxes on cigars, cigarettes, and cigarette papers and tubes, including the forms to be used, records to be kept, and reports and inventories to be filed, is contained in the respective regulations referred to in § 601.311.

§ 601.314 Assessments.

When additional or delinquent tax liability on cigars, cigarettes, and cigarette papers and tubes is disclosed by an investigation or by an examination of the taxpayer's records, a notice (except where delay may jeopardize collection of the tax, or where the amount is nominal or the result of an evident mathematical error) is forwarded to the taxpayer advising him of the basis for, and amount of, the liability and affording him an opportunity to show cause, in writing, against assessment.

§ 601.315 Claims.

(a) *Abatement of assessment.* Abatement of the unpaid portion of an assessment of any tax on cigars, cigarettes, and cigarette papers and tubes, or any liability in respect thereof, may be allowed to the extent that such assessment is excessive in amount, is assessed after expiration of the applicable period of limitation, or is erroneously or illegally assessed. The taxpayer against whom such assessment has been made may file a claim for abatement of the tax on Form 843 with the assistant regional commissioner (alcohol and tobacco tax) for the region in which the tax or liability was assessed.

(b) *Allowance of tax.* Relief from the payment of tax on cigars, cigarettes, and cigarette papers and tubes may be extended to a manufacturer by allowance of the tax, where such articles, after removal from the factory upon determination of tax and prior to the time for payment of such tax, are lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, while in the possession or ownership of the manufacturer who removed such articles, or are withdrawn by him from the market. A claim for allowance is filed with the assistant regional commissioner (alcohol and tobacco tax) for the region in which the cigars, cigarettes, and cigarette papers and tubes were removed from the factory. A manufacturer may not anticipate allowance of his claim by making an adjusting entry in a tax return, pending consideration and action on the claim by the assistant regional commissioner.

(c) *Remission of tax liability.* Remission of tax liability on cigars, cigarettes, and cigarette papers and tubes may be extended to a manufacturer or export warehouse proprietor liable for the tax, where such articles, before removal, or after removal for tax-exempt purposes (including transfers in bond), are lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, while in the possession or ownership of the manufacturer or export warehouse proprietor. Remission of tax liability on shortages of cigars and cigarettes in bond may be extended to manufacturers of these products. A claim for remission of such tax liability is filed with the assistant regional commissioner (alcohol and tobacco tax) for the region in which the factory or warehouse is located.

(d) *Refund of tax.* Taxes paid by return, or otherwise, on cigars, cigarettes, and cigarette papers and tubes lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, while in the possession or ownership of the manufacturer, importer, or export warehouse proprietor, or withdrawn by him from the market, may be refunded. A claim for refund of tax is filed on Form 843 with the assistant regional commissioner (alcohol and tobacco tax) for the region in which the tax was paid. If tax was paid in more than one region, a claim may be filed with the assistant regional commissioner for any one of the regions in which tax was paid.

(e) *Losses caused by disaster.* Payment of an amount equal to the amount of internal revenue taxes paid or determined and customs duties paid on cigars, cigarettes, and cigarette papers and tubes removed from the factory or released from customs custody, which were lost, rendered unmarketable, or condemned by a duly authorized official by reason of a "major disaster" as determined by the President of the United States, may be made only if, at the time of the disaster, such articles were being held for sale by the claimant. A claim for payment of the internal revenue taxes for such losses is filed on Form 843 with the assistant regional commissioner (alcohol and tobacco tax) for the internal revenue region in which the articles were lost, rendered unmarketable, or condemned. A separate claim in respect of customs duties is also filed on Form 843 with the same assistant regional commissioner. Claims must be filed within 6 months from the date on which the President makes the determination that the disaster has occurred. The determination date is construed to mean the date the Director, Office of Emergency Planning, identifies the specific disaster area.

(f) *Drawback of tax.* Drawback may be allowed only to the person who paid the tax on cigars, cigarettes, and cigarette papers and tubes which are shipped to a foreign country, Puerto Rico, and the Virgin Islands, or a possession of the United States. A claim for drawback of tax is filed with the assistant regional commissioner (alcohol and tobacco tax) for the region in which such articles covered by the claim are held by the claimant. See the appropriate regulation listed under § 601.311 for information as to proper form to be used.

(g) *Credit of tax.* Taxes paid on cigars, cigarettes, and cigarette papers and tubes lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, while in the possession or ownership of the manufacturer, or withdrawn by him from the market, may be credited. A claim for credit of tax is filed with the assistant regional commissioner (alcohol and tobacco tax) for the region in which the tax was paid. If the tax was paid in more than one region, a claim may be filed with the assistant regional commissioner for any one of the regions in which tax was paid. See the appropriate regulation listed under § 601.311 for information as to the proper form to be used.

(h) *General.* Detailed information as to the requirements necessary to be complied with and the procedure to be followed in the filing of a claim, the forms to be used, the time within which a claim may be filed, and the supporting documents which must be submitted with a claim, is contained in the applicable regulations referred to in § 601.311.

§ 601.316 Offers in compromise.

Procedure in the case of offers in compromise of liabilities under chapter 52 of the Code is set forth in paragraph (a) of § 601.327.

§ 601.317 Rulings.

The procedure for rulings in tobacco tax matters is set forth in § 601.328.

§ 601.318 Forms.

Detailed information as to all forms prescribed for use in connection with tobacco taxes is contained in the regulations referred to in § 601.311(b). Copies of all necessary forms, and instructions as to their preparation and filing, may be obtained from assistant regional commissioners (alcohol and tobacco tax).

FIREARMS

§ 601.319 Applicable laws.

Chapter 53 of the Internal Revenue Code of 1954 (26 U.S.C. 5801–5862), the provisions of which are chiefly derived from the National Firearms Act, as amended (act of June 26, 1934, 48 Stat. 1236), imposes a tax on the manufacture, and transfer in the United States, of machine guns and certain other types of firearms, and an occupational tax upon every importer and manufacturer of, and dealer and pawnbroker in, such machine guns and firearms. Section 1(b)(2) of the act of August 9, 1939 (53 Stat. 1291; 49 U.S.C. 781–788) makes provision for the seizure and forfeiture of vessels, vehicles, and aircraft which are used to transport, carry, or possess, or to facilitate the same, any firearm with respect to which there has been committed any violation of the National Firearms Act or any regulations issued pursuant thereto. The Federal Firearms Act as amended (52 Stat. 1250; 15 U.S.C. 901–910) makes it unlawful for any manufacturer or dealer (except a manufacturer or dealer having a license issued under the provisions of the act) or any person who is a fugitive from justice or, except as provided in § 177.31 of this chapter, any person who is under indictment for, or has been convicted of, a crime punishable by imprisonment for a term exceeding 1 year, to transport, ship, or receive in interstate or foreign commerce any

firearm or ammunition: *Provided*, That a person who has been convicted of a crime punishable by imprisonment for a term exceeding 1 year (other than a crime involving a firearm or other weapon, or a violation of the Federal Firearms Act or of the National Firearms Act) may make application to the Secretary of the Treasury for relief from the disabilities incurred by reason of such conviction.

§ 601.320 Taxes relating to machine guns and certain other firearms.

Part 179 of this chapter contains the regulations relative to the (a) payment of special (occupational) taxes by manufacturers and importers of, and dealers (including pawnbrokers) in, certain types of firearms, including machine guns and silencers or mufflers, (b) payment of the tax on the making or transfer of such firearms, (c) registration, identification, importation and exportation of such firearms, (d) keeping of books and records and rendering of returns, and (e) the forfeiture and disposition of seized firearms under the provisions of the National Firearms Act.

§ 601.321 Interstate traffic in firearms and ammunition.

Part 177 of this chapter contains the regulations relative to the licensing of manufacturers of, and dealers in, firearms and ammunition, the records required to be kept by the licensees, the interstate traffic in firearms and ammunition, and the forfeiture and disposition of seized firearms or ammunition, under the provisions of the Federal Firearms Act.

§ 601.322 Rulings.

The procedure for rulings in matters in the firearms area is set forth in § 601.328.

§ 601.323 Assessments.

Where the evidence disclosed by investigation establishes that additional or delinquent tax liability has been incurred and not paid, the assistant regional commissioner (alcohol and tobacco tax), will notify the district director to list the tax as an assessment. Notification and demand for payment of assessed taxes will be issued the taxpayer by the district director.

§ 601.324 Claims.

The procedures applicable to the filing of claims under chapter 53 of the Code are set forth below:

(a) Claims for abatement or refund of the making and transfer taxes are prepared and filed in accordance with the procedures set forth in § 601.303 (b) and (c).

(b) Claims for the redemption of "National Firearms Act" stamps are prepared and filed in accordance with the procedure set forth in Part 179 of this chapter.

(c) Claims for the abatement or refund of occupational taxes and penalties erroneously assessed or collected, and claims for redemption of stamps for occupational taxes are prepared and filed in accordance with the procedure set forth in § 601.304(h).

§ 601.325 Offers in compromise.

The procedure in the case of offers in compromise of liability under chapter 53 of the Code is set forth in paragraph (a) of § 601.327.

SEIZED PROPERTY

§ 601.326 Seizure and forfeiture of personal property.

Part 172 of this chapter contains the regulations relative to the personal property seized by officers of the Internal Revenue Service as subject to forfeiture as being used, or intended to be used, to violate certain Federal laws; the remission or mitigation of such forfeitures; and the administrative sale or other disposition, pursuant to forfeiture, of such seized property other than firearms seized under the National or Federal Firearms Act. For disposal of firearms under such Acts, see 26 U.S.C. 5862(b) and 15 U.S.C. 905(h), respectively.

OFFERS IN COMPROMISE

§ 601.327 Offers in compromise.

(a) *Liabilities (other than forfeiture) under Internal Revenue Code.* Persons desiring to submit offers in compromise in order to avoid prosecution proceedings, and taxpayers who disclaim liability in whole or in part for taxes or claim inability to pay the taxes in full, may submit offers in compromise to the district director of internal revenue or to an internal revenue officer for forwarding to the district director. Each assistant regional commissioner (alcohol and tobacco tax) has the authority to accept or reject offers in compromise of (1) tax liabilities arising from (i) the illegal production of untaxpaid distilled spirits, wines, or beer, (ii) the failure to file returns of, or to pay, occupational taxes with respect to distilled spirits, wines, beer, or firearms, and (iii) the failure to pay firearms "making" or transfer taxes; (2) criminal liabilities of retail dealers in liquor arising from violations of the internal revenue laws relating to liquor, including the reuse or refilling of liquor bottles; and (3) liabilities arising under chapter 52 of the Code (cigars, cigarettes, and cigarette papers and tubes). The Director, Alcohol and Tobacco Tax Division, has the authority to accept or reject offers in compromise of civil liability (of less than $100,000) and criminal liability arising under chapters 51 and 53 of the Code in cases not subject to compromise by assistant regional commissioners (alcohol and tobacco tax). The Commissioner accepts or rejects all other offers in compromise except those in compromise of liabilities listed in paragraphs (b) and (c) of this section. (For offers in compromise generally, see § 601.202.) Form 656 is used in all cases arising under this paragraph, regardless of whether the amount of the offer is tendered in full at the time the offer is filed or the amount of the offer is to be paid by deferred payment or payments. Offers received by the district director which come within the purview of the assistant regional commissioner (alcohol and tobacco tax) or the Director, Alcohol and Tobacco Tax Division, are forwarded to such assistant regional commissioner for consideration and appropriate action. When final action has been taken, the district director, the assistant regional commissioner (when applicable), and the proponent are notified of the acceptance or rejection of the offer. If the offer is rejected, the sum submitted with the offer is returned to the proponent, and prosecution or collection proceedings are resumed. If the offer is accepted, the proponent is notified and the case is closed. Acceptance of an offer in compromise of civil liabilities does not remit criminal liabilities, nor does acceptance of an offer in compromise of criminal liabilities remit civil liabilities.

(b) *Violations of Federal Alcohol Administration Act.* The Federal Alcohol Administration Act provides penalties for violations of its provisions. The Director, Alcohol and Tobacco Tax Division, is authorized to compromise such liabilities. Persons desiring to submit offers in compromise may submit such offers on Form 656–D to the assistant regional commissioner (alcohol and tobacco tax) or an internal revenue officer under his jurisdiction. Such offers are considered by such assistant regional commissioner and are forwarded to the Director, Alcohol and Tobacco Tax Division, for final action. When the offer is acted upon, the proponent and the assistant regional commissioner (alcohol and tobacco tax) are notified of the acceptance or rejection of the offer. If the offer is rejected, the sum submitted with the offer in compromise is returned to the proponent. If the offer is accepted, the proponent is notified and the case is closed.

(c) *Forfeiture liabilities.* The assistant regional commissioner (alcohol and tobacco tax) is authorized to compromise liabilities to administrative forfeiture of personal property seized under the laws administered and enforced by the Internal Revenue Service, including liabilities to forfeiture under the internal revenue laws pertaining to wagering. Persons desiring to submit offers in compromise of such liabilities may submit such offers on Form 656–E to the supervisor-in-charge (alcohol and tobacco tax). Such offers are forwarded to the assistant regional commissioner (alcohol and tobacco tax) for final action. When the offer is acted upon, the proponent is notified of the acceptance or rejection of the offer. If the offer is rejected, the sum submitted with the offer in compromise is returned to the proponent. If the offer is accepted, the proponent is notified and the case is closed. Acceptance of an offer in compromise of civil liabilities does not remit criminal liabilities, nor does acceptance of an offer in compromise of criminal liabilities remit civil liabilities.

RULINGS

§ 601.328 Rulings.

(a) *Requests for rulings.* Any person who is in doubt as to any matter arising in connection with (1) operations or transactions in the alcohol tax area or under the Federal Alcohol Administration Act, (2) operations or transactions in the tobacco tax area, or (3) the taxes relating to machine guns and certain other firearms imposed by chapter 53 of the Code; the registration by importers and manufacturers of, and dealers in, such firearms; the registration of such firearms; and the licensing of manufacturers of, and dealers in, firearms or ammunition under sections 901 through 910 of Title 15 of the United States Code, may request a ruling thereon by addressing a letter to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington, D.C. 20224, or to the assistant regional commissioner (alcohol and tobacco tax) of the region in which the inquirer's business is located. Since a ruling as defined in paragraph (a)(2) of § 601.201 can issue only from the National Office, any such request made to an assistant regional commissioner will be referred by him to the Director, Alcohol and Tobacco Tax Division, for reply unless the issues involved are clearly covered by currently effective rulings or come within the plain intent of the statutes or regulations. If a request for a ruling is signed by a representative, or if the representative is to appear before the Internal Revenue Service, such representative must present a tax information authorization or a power of attorney, signed by the taxpayer authorizing him to receive or inspect confidential information in the matter (see Subpart E of this part).

(b) *Routine requests for information.* Routine requests for information should be addressed to the assistant regional commissioner (alcohol and tobacco tax) of the region in which the inquirer is located.

Subpart D—Provisions Special To Certain Employment and Excise Taxes

§ 601.401 Employment taxes.

(a) *General*—(1) Description of taxes. Federal employment taxes are imposed by Subtitle C of the Internal Revenue Code. Chapter 21 (Federal Insurance Contributions Act) imposes a tax on employers of one or more individuals and also a tax on employees, with respect to "wages" paid and received. Chapter 22 (Railroad Retirement Tax Act) imposes a tax on employers and their employees with respect to "compensation" paid and received. It also imposes a tax on employee representatives with respect to "compensation" received. Chapter 23 (Federal Unemployment Tax Act) imposes a tax on employers of four or more individuals with respect to "wages" paid. Chapter 24 (collection of income tax at source on wages) requires every employer making payment of "wages" to deduct and withhold upon such wages the tax computed or determined as provided therein. The tax so deducted and withheld is allowed as a credit against the income tax liability of the employee receiving such wages.

(2) *Applicable regulations.* The descriptive terms used in this section to designate the various classes of taxes are intended only to indicate their general character. Specific information relative to the scope of each tax, the forms used, and the functioning of the Service with respect thereto is contained in the applicable regulations. Copies of all necessary forms, and instructions as to their preparation and filing, may be obtained from the district director of internal revenue.

(3) *Collection methods.* Employment taxes are collected by means of returns and by withholding by employers. Employment tax returns are not required to be filed by employees, but taxes imposed upon them must be deducted and withheld by employers from their wages. Employee representatives (as defined in the Railroad Retirement Tax Act) are required to file returns. All employers who are liable for or who must withhold employment taxes are required to file returns with the district director of internal revenue. The return of the Federal unemployment tax is required to be filed annually on Form 940 with respect to wages paid during the calendar year. All other returns of Federal employment taxes (with the exception of returns filed for agricultural employees) are required to be filed for each calendar quarter except that if pursuant to regulations the district director so notifies the employer, returns on Form 941 are required to be filed on a monthly basis. The employer and employee taxes imposed by chapter 21 (other than the employer and employee taxes on wages paid for agricultural labor) and the tax required to be deducted and withheld upon wages by chapter 24 are combined in a single return on Form 941. In the case of wages paid by employers for domestic service performed in a private home not on a farm operated for profit, the return of both the employee tax and the employer tax imposed by chapter 21 is on Form 942. However, if the employer is required to file a return for the same quarter on Form 941, he may at his election include the taxes with respect to such domestic service on Form 941. The employer and employee taxes imposed by chapter 21 with respect to wages paid for agricultural labor are required to be reported annually on Form 943. Under the Railroad Retirement Tax Act, the return required of the employer is on Form CT–1, and the return required of each employee representative is on Form CT–2.

(4) *Receipts for employees.* Employers are required to furnish each employee a receipt or statement, in duplicate, showing the total wages subject to income tax withholding, the amount of income tax withheld, the amount of wages subject to tax under the Federal Insurance Contributions Act, and the amount of employee tax withheld. See section 6051 of the Code.

(5) *Use of Federal Reserve banks and authorized commercial banks in connection with payment of Federal employment taxes.* Most employers are required to deposit employment taxes either on a monthly basis or a semimonthly basis as follows:

(i) *Semimonthly deposits.* With respect to wages paid during February and March of 1967 or any calendar quarter thereafter, special deposits within 3 banking days after the close of a semimonthly period are required if the employee tax deducted and the employer tax under chapter 21, and income tax withheld at source on wages under chapter 24, exclusive of taxes reportable on Form 942 and Form 943, aggregate more than $2,500 ($4,000 in the case of wages paid after May 1966 and before February 1967) for any month in the preceding calendar quarter. An amount not required to be deposited by this subdivision may nevertheless be directly remitted by the employer with his return, or may be deposited and the validated depositary receipt attached to his return.

(ii) *Monthly deposits.* With respect to employers not required to make deposits under subdivision (i) of this subparagraph, if (a) during any calendar month, other than the last month of a calendar quarter, the aggregate amount of the employee tax deducted and the employer tax under chapter 21 and the income tax withheld at source on wages under chapter 24, exclusive of taxes reportable on Form 942 and Form 943, exceeds $100, or (b) at the end of any month or period of 3 or more months and prior to December 1 of any calendar year, the total amount of undeposited taxes imposed by chapter 21, with respect to wages paid for agricultural labor, exceeds $100, it is the duty of the employer to deposit such amount within 15 days after the close of such calendar month. However, in the case of the last month of any calendar quarter (last month of the calendar year in the case of agricultural employers) the employer may either include with his return direct remittance to the district director for the amount of such taxes or attach to his return a depositary receipt validated by a Federal Reserve bank.

(iii) *Additional rules.* If a deposit is made for the last month of the quarter (last month of the year for agricultural employers), or any other voluntary deposit, it must be made in ample time to enable the Federal Reserve bank to return the validated receipt to the employer so that it can be attached to and filed with the employer's return at the time prescribed for filing such return. Deposits under subdivisions (i) and (ii) of this subparagraph are made with a Federal Reserve bank or a commercial bank authorized in accordance with Treasury Department Circular No. 848, revised, to accept remittances of these taxes for transmission to a Federal Reserve bank. The remittance of such amount must be accompanied by a Federal Depositary Receipt (Form 450). After the Federal Reserve bank has validated the depositary receipt, it will be returned to the

employer. The validated receipts must be attached to the return on Form 941 or Form 943 and the employer shall pay to the district director the balance, if any, of the taxes due for the quarter or the year, as the case may be.

(iv) *Employers under chapter 22 of the Code.* Depositary procedures similar to those prescribed in this subparagraph are prescribed for employers as defined by the Railroad Retirement Tax Act, except that Railroad Retirement taxes are not required to be deposited semimonthly and must be deposited by using Form 515 (Railroad Retirement Depositary Receipt).

(6) *Separate accounting.* If an employer fails to withhold and pay over income, social security, or railroad retirement tax due on wages of employees, he may be required by the district director to collect such taxes and deposit them in a separate banking account in trust for the United States not later than the second banking day after such taxes are collected.

(b) *Provisions special to the Federal Insurance Contributions Act*—(1) *Employers' identification numbers.* For purposes of the Federal Insurance Contributions Act each employer who files Form 941 or Form 943 must have an identification number. Any such employer who does not have an identification number must secure a Form SS–4 from the district director of internal revenue or from a district office of the Social Security Administration and, after executing the for in accordance with the instructions contained thereon, file it with the district director or the district office of the Social Security Administration. At a subsequent date the district director will assign the employer a number which must appear in the appropriate space on each tax return, Form 941 or Form 943, filed thereafter. The requirement to secure an identification number does not apply to an employer who has in his employ only employees who are engaged exclusively in the performance of domestic service in his private home not on a farm operated for profit.

(2) *Employees' account numbers.* Each employee (or individual making a return of net earnings from self-employment) who does not have an account number must file an application on Form SS–5, a copy of which may be obtained from any district office of the Social Security Administration or from a district director of internal revenue. The form, after execution in accordance with the instructions thereon, must be filed with the district office of the Social Security Administration, and at a later date the employee will be furnished an account number. The employee must furnish such number to each employer for whom the employee works, in order that such number may be entered on each tax return filed thereafter by the employer.

(3) *Reporting of wages.* Forms 941, 942, and 943 each require, as a part of the return, that the wages of each employee paid during the period covered by the return be reported thereon. Form 941a is available to employers who need additional space for the listing of employees. Employers who meet the requirements of the Social Security Administration may, with the approval of the Commissioner of Internal Revenue, submit wage information on reels of magnetic tape in lieu of Form 941a. It is necessary at times that employers correct wage information previously reported. A special form, Form 941c, has been adopted for use in correcting erroneous wage information or omissions of such wage information on Form 941, 942, or 943. Instructions on Form 941, 941c, 942, and 943 explain the manner of preparing and filing the forms. Any further instructions should be obtained from the district director for the district in which the returns are filed.

(c) *Adjustments by employers*—(1) *Adjustments with respect to income tax withheld at source on wages.* If an employer for any quarter of a calendar year deducts and withholds more or less than the correct amount of tax upon wages, or pays more or less than the correct amount of tax to the district director, such employer may make proper adjustment without interest in any subsequent quarter in the same calendar year. No adjustment may be made in respect of an underpayment for any quarter after the district director sends notice and demand for payment of the additional tax. In such case the additional tax must be paid in accordance with the notice and demand. Nor may any adjustment be made in respect of an overpayment for any quarter after the employer files a claim for refund of such overpayment. If an employer makes an adjustment on any return in respect of errors in a preceding quarter there must be attached to the return a detailed explanation of the adjustment and a designation of the quarterly return period in which the errors occurred. If an adjustment relates to an excess withholding of tax from an employee, the explanation attached to the return must include the fact that such tax has been repaid to the employee. Errors occurring in any quarterly return period may be corrected in making the return for such period, if such errors are ascertained prior to the filing of the return. For information as to the manner of correcting errors in withholding which cannot be adjusted in a return for a subsequent quarter of the same calendar year, employers should consult the local district director of internal revenue. Refunds or credits with respect to an overpayment of income tax withheld may be made to an employer only to the extent that the amount of the overpayment was not deducted and withheld by the employer.

(2) *Adjustments with respect to employee tax or employer tax under the Federal Insurance Contributions Act or the Railroad Retirement Tax Act.* Errors in withholding during any return period under the Federal Insurance Contributions Act or the Railroad Retirement Tax Act should be corrected in the return for such period, if such errors are ascertained prior to the time the return is required to be filed with the district director. In the case of errors in withholding of employee tax or in payments of employer tax under either the Federal Insurance Contributions Act or the Railroad Retirement Tax Act, where such errors are ascertained subsequent to the time prescribed for filing the return for the period in which they occurred, the regulations relating to such taxes prescribe the conditions under which such errors may be adjusted. If adjustments cannot be made in accordance with the provisions of such regulations, underpayments of both the employer and employee tax will be assessed and collected in the usual manner, and refunds of overpayments must be claimed on Form 843.

(d) *Special refunds of employee social security tax.* (1) In the case of an employee receiving wages from more than one employer during the calendar year, amounts may be deducted and withheld as employee social security tax (that is, employee tax under the Federal Insurance Contributions Act) with respect to wages in excess of $4,800 ($4,200 for certain calendar years prior to 1959). Under certain conditions, the employee may receive a so-called "special refund" of the amount of employee social security tax deducted and withheld from wages in excess of such amount. An employee who is entitled to a special refund of employee tax with respect to wages received during a calendar year, and who is required to file an income tax return for such calendar year (or for his last taxable year beginning in such calendar year), may obtain the benefits of such special refund only by claiming credit for such special refund on such income tax return in the same manner as if such special refund were an amount deducted and withheld as income tax at source on wages.

(2) The amount of the special refund allowed as a credit shall be considered as an amount deducted and withheld as income tax at source on wages. If the amount of such special refund when added to amounts deducted and withheld as income tax under chapter 24 exceeds the income tax imposed by chapter 1, the amount of the excess constitutes an overpayment of income tax, and interest on such overpayment is allowed to the extent provided under section 6611 of the Code upon an overpayment of income tax resulting from a credit for income tax withheld at source on wages.

(3) If an employee entitled to a special refund of employee social security tax is not required to file an income tax return for the year in which such special refund may be claimed as a credit, he may file a claim for refund of the excess social security tax on Form 843. Claims must be filed with the district director of internal revenue for the district in which the employee resides.

§ 601.402 Sales taxes collected by return.

(a) *General.* Sales taxes collected by return include the following:

(1) The retailers excise taxes, imposed by chapter 31 of the Code, with respect to:

Diesel fuel;
Special motor fuels.

(2) The manufacturers excise taxes, imposed by chapter 32 of the Code, with respect to the following items:

(i) Motor vehicles and related items:

Automobiles, trucks, buses, trailers;
Truck parts and accessories;
Tires, tubes, and tread rubber;
Gasoline and lubricating oil.

(ii) Recreational equipment:

Fishing rods, creels, and reels;
Artificial lures, baits, and flies;
Pistols and revolvers;
Other firearms, shells, and cartridges.

(b) *Applicable regulations.* The descriptive terms used in this section to designate the various articles and commodities subject to tax are intended only to indicate their general classes. Specific information relative to the scope of each tax, the forms used, and the functioning of the Service with respect thereto is contained in the applicable regulations. Copies of all necessary forms, and instructions as to their preparation and filing, may be obtained from any district director of internal revenue.

(c) *Returns, refunds, and credits*—(1) *Returns.* The sales taxes referred to in paragraph (a) of this section are collected by means of returns. Any person liable for tax is required to file returns with the district director of internal revenue for the district in which the principal place of business of such person is located. A procedure similar to the Depositary Receipt procedure with respect to the payment of certain Federal employment taxes, described in paragraph (a)(5) of § 601.401, is prescribed with respect to the sales taxes referred to in paragraph (a) of this section. For information relating to the use of depositary receipts for the payment of such taxes, see the applicable regulations and the instructions on Form 720, Quarterly Federal Excise Tax Return.

(2) *Refunds and credits.* After the assessment and collection of a sales tax which the taxpayer claims is not due, the taxpayer may either file a claim for refund of such tax on Form 843 or claim a credit for such amount on a return filed by him for a period subsequent to that in respect of which the alleged erroneous payment has been made. However, no claim for refund may be filed or credit taken on a return after the expiration of the applicable period of limitations on the allowance of refunds and credits. In the case of a credit claimed for an amount of tax alleged to have been erroneously paid, no particular forms for the claiming of such a credit are prescribed. The procedure to be followed in such a case is for the taxpayer to enter on the line provided for credits on the return form the amount claimed to have been erroneously paid and to file with the return a supporting statement which should set out clearly and fully the basis on which the credit is claimed. Notice as to the disallowance of any credit is forwarded to the taxpayer and the amount of the credit is then entered on an assessment list for collection in the usual manner.

(3) *Payments to certain ultimate purchasers of gasoline and lubricating oil.* Sections 6420, 6421, and 6424 of the Code provide for certain payments to ultimate purchasers of gasoline used on a farm for farming purposes, used for certain nonhighway purposes, or used by local transit systems, and of lubricating oil used otherwise than in a highway motor vehicle. Payments allowable under section 6420, 6421, and 6424 of the Code may be claimed by an income taxpayer as a credit under section 39 of the Code against the tax due on his income tax return. Governmental agencies and certain exempt organizations may file claims for allowable payments on Form 2240 or Form 843. In the case of gasoline used for certain nonhighway purposes or used by local transit systems, and in the case of lubricating oil used otherwise than in a highway motor vehicle, the ultimate purchaser may file a claim for payment in lieu of such income tax credit, with respect to any of the first three quarters of his taxable year for which he is entitled to a payment of $1,000 or more. Applicable regulations and instructions accompanying the prescribed forms provide detailed procedures.

(d) *Registration and bonding requirements.* (1) Under temporary regulations effective January 1, 1959, an article may, in general, be sold tax free under chapter 32 of the Code by the manufacturer for certain uses, provided the seller, first purchaser, and second purchaser, as the case may be, have been registered. In the case of State governments, registration is optional. Also, the requirements for registration do not apply to sales or purchases by the United States, or to a purchaser located in a foreign country or a possession of the United States where an article is sold for export. Any person who has been issued a certificate of registry prior to January 1, 1959, which has not been revoked, is registered for purposes of the temporary regulations. Any other person entitled to sell or purchase articles tax free under such regulations who has not previously registered, may register by completing Form 637 setting forth the prescribed information and forwarding it to his district director. Such person shall be considered to be registered for purposes of making such tax-free sales or purchases upon receipt of a validated Form 637 from his district director.

(2) If not previously registered, producers and importers of gasoline and manufacturers of lubricating oil (including wholesale distributors of gasoline who qualify as producers under applicable regulations) must, before incurring any liability for tax under section 4081 or 4091 of the Code, make application for registration on Form 637. Detailed instructions as to the filing of applications for registration by producers and importers of gasoline and manufacturers of lubricating oil are prescribed in applicable regulations.

(3) Every importer of foreign cars, trucks, buses, etc., taxable under chapter 32 of the Code must make application to the district director for the district in which he will file returns of the tax for a determination whether he is required to give bond securing the payment of the tax on his sales of such commodities. Detailed instructions as to the information required to be included in the application and the procedure to be followed by the importer are set forth in the applicable regulations. Form 3006 has been prescribed for the convenience of importers and may be obtained from the district director.

§ 601.403 Miscellaneous excise taxes collected by return.

(a) *General.* Miscellaneous excise taxes collected by return include the following:

(1) *Communications.* Subchapter B of chapter 33 of the Code imposes a tax on amounts paid for local telephone service, toll telephone service, and teletypewriter exchange service.

(2) *Transportation of persons by air.* Subchapter C of chapter 33 of the Code imposes a tax with respect to transportation of persons by air, including seating or sleeping accommodations furnished in connection with such transportation.

(3) *Foreign insurance policies.* Under chapter 34 of the Code a tax is imposed on premiums paid for foreign insurance policies.

(4) *Wagers.* Subchapter A of chapter 35 of the Code imposes a tax on wagers as defined therein.

(5) *Highway motor vehicle use.* Subchapter D of chapter 36 of the Code imposes a tax for each taxable year (commencing after June 30, 1956, and ending before October 1, 1972) upon the use, at any time during the taxable year, on the public highways in the United States of any highway motor vehicle which (together with certain semitrailers and trailers) has a taxable gross weight in excess of 26,000 pounds.

(6) *Sugar.* Chapter 37 of the Code also imposes a tax upon manufactured sugar manufactured in the United States.

(7) *Circulation other than of national banks.* Subchapter E of chapter 39 of the Code imposes a tax with respect to (i) the average circulation outstanding of any bank, association, corporation, company, or person, and (ii) the circulation paid out by every person, firm, association other than national bank associations, and every corporation, State bank, or State banking association.

(8) *Interest equalization.* Chapter 41 of the Code imposes (subject to specified exemptions) a tax on the acquisition by U.S. persons of foreign securities from a foreign person. The tax became effective July 19, 1963.

(9) *Hydraulic mining.* The act entitled "An Act to create the California Debris Commission and regulate hydraulic mining in the State of California",

approved March 1, 1893, as amended (33 U.S.C. 661–687), imposes a tax with respect to certain hydraulic gold mining in the State of California.

(b) *Applicable regulations.* The descriptive terms used in this section to designate the various classes of taxes are intended only to indicate their general character. Specific information relative to the scope of each tax, the forms used, and the functioning of the Service with respect thereto is contained in the applicable regulations. Copies of all necessary forms, and instructions as to their preparation and filing, may be obtained from the district director of internal revenue.

(c) *Collection of tax*—(1) *Imposed taxes.* The tax on the manufacture of sugar and the tax on the issuance of foreign insurance policies are collected in the same manner as manufacturers' sales taxes. See § 601.402. Returns of the tax on wagers are required to be filed monthly; returns of interest equalization tax and of tax on foreign insurance premiums are required to be filed quarterly; returns of the tax on circulation other than of national banks are required to be filed on June 1 and December 1 each year; and returns of the taxes on hydraulic mining and on the use of highway motor vehicles are required to be filed annually.

(2) *Collected taxes.* The other miscellaneous excise taxes referred to in this section are imposed on the person making the payment for the telephone, air transportation, or other service involved. These taxes are required to be collected by the telephone company, airline, or other person receiving the payment. All taxes collected in this manner are held by the collecting agent in trust for the United States until deposited in accordance with the Depositary Receipt procedure or paid over to the district director of internal revenue. The collecting agencies are required to file returns and the tax is payable, without notice from the district director, at the time fixed for filing the returns. If the person from whom the tax is required to be collected refuses to pay it or, if for any reason it is impossible for the collecting agency to collect the tax from such person, the collecting agency is required to report to the district director of internal revenue for the district in which its returns are required to be filed the name and address of such person, the nature of the service or facility rendered, the amount paid therefor, and the date on which paid. Upon receipt of this information the district director will proceed against the person to whom the facilities were provided or the services rendered to assert the amount of tax due, affording such person the same district conference, protest and appellate rights as are available to other excise taxpayers. In addition, when a field or office audit of a collecting agency's records, or of a taxpayer's records, discloses that the collecting agency failed during prior reporting periods to collect taxes due, the district director may assert such taxes directly against the person to whom the facilities were provided or the services rendered, whether or not the collecting agency had attempted collection or the person liable for the tax had refused payment thereof.

(3) *Depositary receipts.* A procedure similar to the Depositary Receipt procedure with respect to the payment of certain Federal employment taxes, described in § 601.401 (a) (5), is prescribed with respect to the miscellaneous excise taxes (except the taxes on the use of highway motor vehicles, wagers, hydraulic mining, and circulation other than of national banks) referred to in paragraph (a) of this section. For information relating to the use of depositary receipts for the payment of such taxes, see the applicable regulations and the instructions on Form 720, Quarterly Federal Excise Tax Return.

(4) *Separate accounting.* Collecting agents who fail to collect and pay over the excise taxes on facilities or services may be required by the district director to collect such taxes and deposit them in a separate banking account in trust for the United States not later than the second banking day after such taxes are collected.

(d) *Refunds and credits.* The procedure in § 601.402 (c) (2) regarding refunds and credits in respect of sales taxes collected by return is, in general, applicable with respect to the miscellaneous excise taxes collected by return, except that in the case of the collected taxes referred to in paragraph (c) (2) of this section, the person upon whom the tax is imposed may file a claim on Form 843 for refund of erroneous or illegal payment of tax, but cannot take a credit since he is not required to file a return with respect to such taxes.

(e) *Licensing and registration*—(1) *Hydraulic mining.* Every person who desires to engage in hydraulic mining operations in the State of California within the scope of the Act (see paragraph (a) (9) of this section) must procure a license to operate the mine from the California Debris Commission before beginning operations, in accordance with the rules and regulations promulgated by that Commission.

(2) *Wagering.* For the occupational tax upon any person liable for the tax on wagers or engaged in receiving wagers for or on behalf of any person so liable, see § 601.404(d) (1).

§ 601.404 Miscellaneous excise taxes collected by sale of revenue stamps.

(a) *General.* Miscellaneous excise taxes collected by sale of revenue stamps may be grouped into 3 general classes. A brief description of each class is set forth in the 3 paragraphs immediately following.

(b) *Documentary stamp taxes*—(1) *Deeds of conveyance.* Chapter 34 of the Internal Revenue Code imposes a tax on deeds of conveyance of realty sold.

(2) *Cotton futures.* Subchapter D of chapter 39 of the Code imposes a tax on each contract of sale of any cotton for future delivery unless the contract complies with certain specified conditions.

(c) *Commodity stamp taxes*—(1) *Oleomargarine.* Subchapter F of chapter 38 of the Code imposes a tax with respect to all oleomargarine imported from foreign countries.

(2) *Adulterated and process or renovated butter.* Part I of subchapter C of chapter 39 of the Code imposes taxes with respect to adulterated and process or renovated butter and also imposes an occupational tax on manufacturers of adulterated and process or renovated butter and on wholesale and retail dealers in adulterated butter.

(3) *Filled cheese.* Part II of subchapter C of chapter 39 imposes a tax with respect to filled cheese and also imposes an occupational tax on manufacturers of, and wholesale and retail dealers in, filled cheese.

(4) *Opium, isonipecaine, opiates, and coca leaves.* Part I of subchapter A of chapter 39 of the Code imposes a tax upon narcotic drugs produced in or imported into the United States, and sold, or removed for consumption or sale and also imposes an occupational tax on (i) importers, manufacturers, producers or compounders of such drugs; (ii) wholesale or retail dealers in such drugs; (iii) physicians, dentists, veterinary surgeons or other practitioners dispensing such drugs; (iv) persons engaged in research, instruction or analysis using such drugs; and (v) persons not otherwise taxed dispensing preparations containing such drugs. The responsibility for the administration and enforcement of these taxes is jointly shared by the Internal Revenue Service and the Bureau of Narcotics.

(5) *Opium for smoking purposes.* Subpart B of part I of subchapter A of chapter 39 of the Code imposes a tax upon all opium manufactured in the United States for smoking purposes. The responsibility for the administration and enforcement of this tax is jointly shared by the Internal Revenue Service and the Bureau of Narcotics.

(6) *Marihuana.* Part II of subchapter A of chapter 39 of the Code imposes a tax upon all transfers of marihuana and also imposes an occupational tax with respect to marihuana on similar classes of persons as those enumerated in subparagraph (4) of this paragraph and in addition imposes a tax on millers of marihuana. The responsibility for the administration and enforcement of this tax is jointly shared by the Internal Revenue Service and the Bureau of Narcotics.

(7) *White phosphorous matches.* Subchapter B of chapter 39 of the Code imposes a tax upon white phosphorous matches.

(d) *Occupational stamp taxes*—(1) *Wagers.* Subchapter A of chapter 35 of the Code imposes a tax on wagers. Subchapter B of chapter 35 of the Code imposes an occupational tax upon each person who is liable for the tax on wagers or who is engaged in receiving wagers for or on behalf of any person so liable.

(2) *Coin-operated gaming devices.* Subchapter B of chapter 36 of the Code imposes an occupational tax with respect to coin-operated gaming devices, or similar devices operated without a coin.

(e) *Applicable regulations.* The descriptive terms used in this section to designate the various classes of taxes are intended only to indicate their general character. Specific information relative to the scope of each tax, the forms used, and the functioning of the Service with respect thereto is contained in the applicable regulations. Copies of all necessary forms, and instructions as to their preparation and filing, may be obtained from the district director of internal revenue.

(f) *General procedure.* (1) The documentary and commodity stamp taxes are paid by having affixed to the document, package, container, etc., an internal revenue adhesive stamp or stamps, in an amount equal to the tax due and by thereafter canceling such stamps in the manner prescribed. In addition, documentary stamp taxes may be paid by stamps produced by authorized documentary stamp meter machines. Payment of occupational taxes is evidenced by the posting or displaying of a special occupational tax stamp on the premises where the business is operated. If the taxpayer required to display the special occupational tax stamp has no fixed place of business, the stamp must be kept on his person. The stamps used for such purposes are prepared by the Internal Revenue Service and distributed through the district director of internal revenue.

(2) Documentary stamp taxes are payable with respect to every transfer of real property. Commodity stamp taxes are payable with respect to the manufacture, importation, or transfer, as the case may be, of the contents of each package or container. Occupational taxes are payable annually for the privilege of doing business beginning with July 1 of each year, when the taxpayer is in business on that date, or from the beginning of the month in which the business is commenced on a pro rata basis.

(3) Documentary stamps may be purchased from (i) district directors of internal revenue and duly authorized internal revenue employees; (ii) postmasters in all post offices of the first and second classes and such post offices of the third and fourth classes as are located in county seats; (iii) designated depositaries of the United States; and (iv) designated agents of any State. Commodity and occupational tax stamps may be purchased only from district directors and duly authorized internal revenue agents. Such purchases may be made only upon the filing of the prescribed requisition, application, or other form and from an official authorized by law to sell such stamps.

(4) Payments for such stamps may be made by means of cash, post office money order, or certified check, or by personal check to the extent provided by regulations. In situations (i) where the documents, commodities, etc., subject to stamp tax are no longer in existence or (ii) where, for other reasons, such documents, etc., cannot be stamped, or (iii) where it is discovered that occupational tax stamps are due for prior taxable years, or (iv) where a taxpayer, after being advised of his liability, refuses to affix stamps, the tax is collected by assessment.

(5) Detailed information as to the person liable for tax, the forms of stamps, the prescribed application or requisitions, and all other forms required in connection with miscellaneous excise taxes payable by revenue stamps is contained in the applicable regulations. Copies of all necessary forms, and instructions as to their preparation and filing, may be obtained from the district director of internal revenue.

(g) *Liability for delinquent tax.* When liability for delinquent tax is disclosed by the taxpayer or is discovered as a result of an examination of the taxpayer's books and records, the delinquent tax may be collected by assessment.

(h) *Administrative remedies available to taxpayers after purchase of documentary, commodity, or occupational tax stamps or after assessment or payment of tax*—(1) *Redemption of unused stamps.* Where stamps have been rendered useless by gumming or sticking together in transit or otherwise without fault of the purchaser, they may be exchanged by a district director of internal revenue for other stamps of the same quantity and denomination. Unused stamps which have been spoiled, destroyed, or rendered useless, or unfit for the purpose intended, or for which the owner may have no use, may be redeemed upon proper claim filed with the district director. Such claims must be prepared on Form 843 and must be filed with the district director for the district in which is located the principal office of the claimant, or if he has no such office, with the district director for the district in which he resides. The claim for redemption of unused stamps must be filed within 3 years after the date of purchase of the stamps from the Government. The unused stamps for which redemption is claimed shall be submitted with the claim. If the stamps have been destroyed or damaged to the extent that they cannot be presented for redemption, then proof satisfactory to the district director of such destruction or damage must accompany the claim. Where the actual date of purchase of the stamps from the Government cannot be given, it must be definitely shown in the claim that they were so purchased within 3 years prior to the date of the filing of the claim. Once filed, a claim for redemption follows generally the same channels as do claims for refund. See §§ 601.103 to 601.106.

(2) *Claims for abatement or refund.* In case of any tax payable by a stamp, a claim for credit or refund of an overpayment of such tax must be filed by the taxpayer within 3 years from the time the tax was paid or the stamps affixed. This includes the situation where stamps through mistake have been improperly or unnecessarily used, or have been used in excess of the amount of tax actually due. The used stamps either must actually be submitted with the claim, or if it is impracticable to remove them from the instruments, documents, etc., to which they are attached, the words "Claim for refund of $_____ filed.", with the appropriate amount inserted, shall be written across the face of the stamp by the claimant or the person having custody of the instruments or documents to which the stamps are affixed. The claimant must make a statement in his claim that the stamps have been so marked and by whom. Where a stamp tax is not paid by stamp but the amount thereof is assessed, the person against whom the assessment is made may file a claim for abatement of the tax or a claim for refund for any part of the assessment which has been paid. In either case the procedure to be followed by the claimant generally is the same as set forth in the case of claims for abatement or refund of other taxes. See §§ 601.103 to 601.106. All claims for refund of stamp tax paid pursuant to an assessment must be filed within 3 years next after payment of the tax.

(3) *Instructions.* Detailed instructions as to the manner in which claims for redemption of stamps and for abatement and refund of stamp taxes should be prepared and filed are contained in the applicable regulations.

(i) [Reserved]

(j) *Provisions special to commodity stamp taxes.* (1) Provision is made for the withdrawal of filled cheese from factories, free of tax, for the use of the United States. The procedure to be followed and the form of exemption certificate to be used in the case of such withdrawals are prescribed in the applicable regulations. Provision is also made for the exportation without payment of tax on adulterated butter. The procedure to be followed in the case of such exportation is prescribed in the applicable regulations.

(2) Every manufacturer of opium manufactured in the United States for smoking purposes—must, before commencing business, furnish to the district director of the district in which his place of manufacture is located a notice on Form 268 and a bond on Form 269 with sureties satisfactory to the district director and in a penal sum of not less than $100,000. There shall be not less than 2 personal sureties, each of whom shall qualify in the full amount of the bond. The district director on approving the bond will issue to the manufacturer a certificate on Form 270 which will specify the penal sum of the bond furnished. This certificate shall contain a transcript from the manufacturer's notice, Form 268, giving an accurate description of the factory premises. This certificate must be posted by the manufacturer in a conspicuous place within his manufactory.

(3) Every manufacturer of adulterated and process or renovated butter, filled cheese, or white phosphorous matches must also give notice and register with the district director on Form 213 before engaging in the business and furnish a satisfactory bond on Form 214. Persons required to register with the district director or furnish bond should consult the applicable regulations and the appropriate forms.

(k) *Provisions applicable to special or occupational stamp taxes.* Every person liable to pay any occupational tax imposed under subtitle D of the Code is required to register with the district director of internal revenue his name or style, place of residence, trade or business, and the place where such trade or business is carried on. In the case of a partnership the names of the partners and their place of residence must be so registered. See section 7011 of the Code. The following forms are prescribed for registration: Form 678 (relating to occupational taxes with respect to narcotics and marihuana), Form 11 (relating to adulterated and process or renovated butter and filled cheese), Form 11–B (relating to the occupational tax for coin-operated gaming devices), Form 11–C (relating to occupational tax with respect to wagering).

Subpart E—Conference and Practice Requirements

AUTHORITY: The provisions of this Subpart E issued under sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805); 5 U.S.C. 301.

§ 601.501 Scope of conference and practice requirements; definitions.

(a) *Scope.* The conference and practice requirements prescribed in this subpart apply to all offices of the Internal Revenue Service, including the Office of the Chief Counsel. Such requirements are applicable to practice (including conferences) with respect to any matter involving any internal revenue tax, but do not extend to the mere signing of a tax return, claim, or election, since such an act, of itself, does not constitute practice before the Revenue Service. The signing of a tax return, claim, or election is governed by other rules or instructions relating to such matters. For special provisions relating to alcohol and tobacco tax activities, see §§ 601.521 through 601.527.

(b) *Definitions for purposes of this subpart.*—(1) *Matter.* The application of each tax imposed by the Internal Revenue Code for each taxable period constitutes a separate matter.

(2) *Office of the Internal Revenue Service.* The office of each district director of Internal Revenue, the office of each regional commissioner, and the office of each regional counsel constitutes a separate office of the Internal Revenue Service.

(3) *Tax information authorization.* A document signed by the taxpayer authorizing his representative to receive or inspect confidential tax information in a specified matter constitutes a tax information authorization. For rules relating to the requirements of a tax information authorization, see paragraph (c)(2) of § 601.502.

General Requirements

§ 601.502 Requirements for conference—recognition to practice and, in certain cases, power of attorney or tax information authorization.

(a) *General.* It is the policy of the Revenue Service to encourage the discussion of disputed tax liability or any other matter in connection with an internal revenue tax which affects the taxpayer's interest. Conferences, of course, may be accorded only to taxpayers or their duly authorized representatives. As a general rule, conferences with taxpayers or their representatives will not be held without previous arrangement. However, upon a proper showing, a request for an immediate conference without previous arrangement will be given consideration, and Revenue Service officials responsible for the arrangement of conferences may, in their discretion, make an exception to the general rule. Every protest, brief, or other statement in writing which the taxpayer or his representative desires to be considered at any conference should be submitted or filed at least 5 days prior to the date of the conference. If the taxpayer or his representative is unable to file such protest, brief, or other statement in writing at least 5 days prior to the date of the scheduled conference, the taxpayer or his representative should arrange with the appropriate Revenue Service official for a postponement of the conference to a date mutually agreeable to the parties. The taxpayer or his representative remains free, of course, to submit additional or supporting facts or evidence within a reasonable time after the conference.

(b) *Requirements to be met by taxpayer's representative in order to be recognized.*—(1) *Explanation of recognition to practice.* Except as otherwise provided in this section, no person may appear in a representative capacity on behalf of any taxpayer or of a transferee or fiduciary unless such person is recognized to practice before the Revenue Service. A person will be recognized to practice before the Revenue Service if he meets the requirements set forth in Treasury Department Circular No. 230, as amended (31 CFR Part 10) (hereinafter referred to in this subpart as Circular No. 230), which circular contains rules governing practice before the Revenue Service. Circular No. 230 includes, among other things, the requirements of the Act of November 8, 1965 (Public Law 89–332, 79 Stat. 1281), which law governs the recognition of attorneys and certified public accountants. In general, the following persons will be recognized to practice before the Revenue Service—

(i) Any person who is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth, or the District of Columbia, and who is not currently under suspension or disbarment from practice before the Revenue Service, and who files with the Revenue Service a written declaration that he is so currently qualified and is authorized to represent the particular party on whose behalf he acts (hereinafter referred to in this subpart as a qualified attorney);

(ii) Any person who is duly qualified to practice as a certified public accountant in any State, possession, territory, Commonwealth, or the District of Columbia, and who is not currently under suspension or disbarment from practice before the Revenue Service, and who files with the Revenue Service a written declaration that he is so currently qualified and is authorized to represent the particular party on whose behalf he acts (hereinafter referred to in this subpart as a qualified certified public accountant);

(iii) Any person currently enrolled as an agent pursuant to the requirements of Circular No. 230; and

(iv) Any person qualified under § 10.5(c) (relating to temporary recognition of an applicant for enrollment) or § 10.7 (relating to limited practice without enrollment in the case of a full-time employee, or a bona fide officer of a corporation, trust, estate, association, or organized group, and certain others) of Circular No. 230.

The appearance of such person and his representation of taxpayers in every respect must be in strict compliance with the requirements of all pertinent statutes, Circular No. 230, and this subpart.

(2) *Enrollment not required for certain persons.* (i) The persons described in subparagraph (1)(iv) of this paragraph (see § 10.5(c) and § 10.7 of Circular No. 230) are authorized by Circular No. 230 to appear without enrollment under the circumstances and conditions described therein. However, such persons must present satisfactory identification and, if required by paragraph (c) of this section, submit a power of attorney or a tax information authorization. The formal requirements concerning identification and authority of a person acting in a fiduciary capacity are the same as those related to the execution by a fiduciary of powers of attorney or tax information authorizations (see § 601.504). Persons described in subparagraph (1)(iv) of this paragraph who without enrollment may appear on behalf of any person with respect to the tax liability of such person, may also without enrollment appear with respect to the liability of such person as a transferee of property of a taxpayer and with respect to the liability of a fiduciary under Revised Statute § 3467, as amended (31 U.S.C. 192).

(ii) A representative (who would have to be enrolled in order to practice before the Revenue Service) will not be required to become enrolled if such representative is only authorized to inspect or receive copies of returns filed by the taxpayer where an Executive order or regulations permit such action by a representative. The Commissioner reserves the right to withhold applying the above exception in any specific case.

(3) *Employees of persons recognized to practice.* Employees of persons recognized to practice before the Revenue Service, who themselves are not so recognized, will not be recognized by offices of the Revenue Service except for the purpose of filing papers or securing information as to the status of tax cases. Recognition of such employees for the purpose of securing information as to the status of tax cases will be given only when the employee presents, with reference to a particular case, written authority from his employer to request such information, and a power of attorney or tax information authorization, if appropriate, in such matter has previously been filed by his employer and has not been revoked by the person who granted it.

(c) *Requirement of a power of attorney or a tax information authorization.*—(1) *Requirement of power of attorney.* Except as otherwise provided in subparagraphs (3)(iii) and (4) of this paragraph, a power of attorney in proper form, or a copy thereof (for rules relating to copies, see paragraph (e) of § 601.504), executed by the taxpayer, will be required in a matter by the Revenue Service when the taxpayer's representative desires to perform one or more of the following acts on behalf of the taxpayer:

(i) Receipt (but not endorsement and collection) of a check in payment of any refund of internal revenue taxes, penalties, or interest. The endorsement and payment of a check drawn on the Treasurer of the United States after delivery to the taxpayer or his representative are governed by Treasury Department Circular No. 21, as amended (31 CFR Part 360). If the refund check is not to be endorsed by the payee personally, it should be endorsed under authority evidenced by one of the special types of powers of attorney prescribed by Circular No. 21. (For restrictions on the assignment of claims, see Revised Statute § 3477, as amended (31 U.S.C. 203). For rules relating to delivery of checks in payment of refunds, see paragraph (b) of § 601.506.)

(ii) Execution of a waiver of restriction on assessment or collection of a deficiency in tax, or a waiver of notice of disallowance of a claim for credit or refund.

(iii) Execution of a consent to extend the statutory period for assessment or collection of a tax.

(iv) Execution of a closing agreement under section 7121 of the Internal Revenue Code.

The power of attorney must specify which of the acts the representative is authorized to perform and no representative will be permitted to perform any of such acts without a proper power of attorney. Except as provided in paragraph (c)(2) of § 601.505, only one power of attorney is to be in effect in an office of the Revenue Service with respect to any of the acts enumerated in this subparagraph, and there must be included in such power of attorney the names and addresses of all representatives to whom the taxpayer has delegated authority to represent him with respect to any of the acts.

(2) *Requirement of a tax information authorization.* (i) Except as otherwise provided in subdivision (ii) of this subparagraph and subparagraphs (3) and (4) of this paragraph, in order that a taxpayer's representative may receive or inspect confidential tax information in a matter, a tax information authorization, or a copy thereof (for rules relating to copies, see paragraph (e) of § 601.504), will be required by the Revenue Service. The tax information authorization must be signed by the taxpayer and must specify the matter covered. Examples of the receipt or inspection of confidential information for which a tax information authorization is required are the inspection of the taxpayer's tax returns (see section 6103 and the regulations thereunder), the receipt from Revenue Service officials at a conference of information disclosing the position of the Revenue Service with respect to the taxpayer's liability, the discussion with Revenue Service officials on the substance or merits of a taxpayer's request for a ruling or determination letter, and the receipt of certain notices and other communications, such as a notice of deficiency under section 6212 of the Code or a "30-day letter" and examining officer's report under § 601.105(d), given to a taxpayer with respect to his tax affairs. A tax information authorization will not be required for receipt of notices and other communications which do not involve the disclosure of confidential information. For rules relating to the receipt of notices and other communications, see § 601.506.

(ii) Although the Revenue Service requires the taxpayer's representative to file a tax information authorization in order for such representative to receive or inspect confidential information in a matter, if such representative in connection with a matter has filed a power of attorney in order to perform one or more of the acts specified in subparagraph (1) of this paragraph he will be entitled to receive or inspect confidential information in the same matter without being required to file a separate tax information authorization.

(3) *Exceptions to requirement of power of attorney or tax information authorization in certain cases.* (i) A tax information authorization is not required of a taxpayer's representative at a conference which is also attended by the taxpayer. Unless the Revenue Service officials are advised to the contrary, in such a case, it will be presumed that the taxpayer in whose behalf the representative appears places no limitations upon the authority of his representative to receive confidential information at the conference.

(ii) A tax information authorization is not required at a conference concerning an estate tax case, even though the executor or administrator is not present at the conference, if the representative presents satisfactory evidence to the Revenue Service officials that he:

(a) Is recognized to practice before the Revenue Service within the meaning of paragraph (b)(1) of this section,

(b) Prepared the estate tax return on behalf of the executor or administrator, and

(c) Is the attorney of record for the executor or administrator before the court where the will is probated or the estate is administered.

(iii) A power of attorney or a tax information authorization is not required in the case of a trustee, receiver, or an attorney (designated to represent a trustee, receiver, or debtor in possession), appointed by a court having jurisdiction over a debtor. In such a case, Revenue Service officials may require the submission of a certificate from the court having jurisdiction over the debtor showing the appointment and qualification of the trustee, receiver, or attorney and that his authority has not been terminated. In cases pending before a district court of the United States, an authenticated copy of the order approving the bond of the trustee, receiver, or attorney will meet this requirement.

(4) *Commissioner's authority to substitute other requirements for power of attorney or tax information authorization.* The Commissioner may, with respect to the performance of a specific act, substitute a requirement other than a power of attorney or a tax information authorization for appropriate evidence of the authority of the taxpayer's representative.

§ 601.503 Requirements for filing evidence of recognition, power of attorney, and tax information authorization.

(a) *Filing evidence of recognition.* Evidence of recognition must be submitted when a representative presents himself for the initial meeting in the first office of the Revenue Service in which he represents the party on whose behalf he acts in connection with the matter under consideration. Once evidence of recognition has been submitted, it will not be necessary to submit it again either in the same office or in other offices of the Revenue Service which subsequently have the same matter under consideration, unless specifically requested. In the case of a qualified attorney or a qualified certified public accountant, the filing of the applicable written declaration described in paragraph (b)(1)(i) and (ii) of § 601.502 constitutes evidence of recognition. A standard written declaration form is available in Revenue Service offices. In the case of a person currently enrolled as an agent, the demonstration by such person that he is the holder of a valid enrollment card constitutes evidence of recognition.

(b) *Filing power of attorney and tax information authorization.* Except as otherwise provided in this paragraph, one copy of a power of attorney must be filed in each office of the Revenue Service in which the representative, in connection with the matter under consideration, desires to perform one or more of the acts enumerated in paragraph (c)(1) of § 601.502. If a power of attorney with respect to the matter has not been filed with the Revenue Service, one copy of a tax information authorization must be filed in each office of the Revenue Service in which the representative, in connection with the matter under consideration, receives or inspects confidential information. For rules relating to the filing of a power of attorney alone, see paragraph (c)(2)(ii) of § 601.502. One additional copy of a power of attorney or tax information authorization also must be filed for each tax matter covered by the power of attorney or tax information authorization. If, in addition to a past or present matter, a pre-

viously filed power of attorney or tax information authorization relates to a tax matter not presently under consideration, or for which tax returns are not yet due, copies of the power of attorney or tax information authorization will be required to be filed subsequently with respect to those matters. These copies of the power of attorney or tax information authorization may be submitted with the subsequent returns or when the matter is under consideration by the Revenue Service. Where a copy of a power of attorney or tax information authorization is filed with the office of a district director which has the matter under consideration, it is not necessary to file another such copy with the office of a regional commissioner or regional counsel which subsequently has the matter under consideration, unless such office specifically requests the additional copy. In case of a request for a ruling or other matter to be considered in the National Office, a copy of a power of attorney or a tax information authorization should be submitted with each request if the representative wishes to represent the taxpayer at a conference in the National Office or receive a copy of the ruling. Standard power of attorney and tax information authorization forms are available in Revenue Service offices. For rules relating to the receipt of the original of the ruling by a representative, see paragraph (a) of § 601.506.

(c) *Practice by correspondence.* If a representative desires to represent a taxpayer through correspondence with the Revenue Service, the requirements of recognition (see paragraph (b) of § 601.502) and submission of evidence thereof and, if applicable, of submission of a power of attorney or a tax information authorization (see paragraph (c) of § 601.502) must be met even though no actual appearance is made. In the case of a qualified attorney or certified public accountant, evidence of recognition shall be in the form of the written declaration referred to in paragraph (b) (1) (i) or (ii) of § 601.502. In the case of an enrollee, evidence of recognition shall be in the form of a statement that he is enrolled and either his enrollment number or the expiration date of his enrollment card.

§ 601.504 Requirement for execution, attestation, acknowledgment or witnessing, and certification of copies, of power of attorney and tax information authorization.

(a) *Formal requirements.* The use of technical language in the preparation of a power of attorney or a tax information authorization is not necessary, but the instrument should clearly express the taxpayer's intention as to the scope of the authority of the representative, and specify the tax matter to which the authority relates. A power of attorney or tax information authorization may relate to more than one matter as, for example, a tax information authorization which relates to a taxpayer's income taxes for several different taxable years. If the taxpayer wishes to authorize his representative to perform one or more of the acts set forth in paragraph (c) (1) of § 601.502 for which a power of attorney is required by the Revenue Service, the power must clearly specify which act or acts the representative is authorized to perform. Furthermore, if the taxpayer wishes to authorize his representative to make substitution of representatives or delegate authority to other representatives, the power of attorney must state this intention. The power of attorney need not specify the names of the representatives who may be substituted or to whom authority may be delegated, although such substitution or delegation, when it occurs, must be evidenced by a statement signed by the representative named in the power of attorney. The power of attorney or tax information authorization should also contain the mailing address of the representative and, if more than one person is to represent the taxpayer in the matter, a designation as to which representative is to receive notices and other written communications. Standard power of attorney and tax information authorization forms are available in Revenue Service offices. For rules relating to the mailing of notices or other written communications to a representative, see § 601.506.

(b) *Execution of a power of attorney or a tax information authorization*—(1) *Ordinary cases.* A power of attorney or a tax information authorization must be executed as follows:

(i) *Individual.* In the case of an individual taxpayer, by such individual.

(ii) *Husband and wife.* In the case of any taxable year for which a joint return was made by husband and wife, by both husband and wife except that either spouse may sign for the other if such signature is duly authorized in writing by the other spouse.

(iii) *Partnership.* In the case of a partnership, by all members, or if executed in the name of the partnership, by one of the partners duly authorized to act for the partnership.

(iv) *Corporation.* In the case of a corporation, by an officer of the corporation having authority to bind the corporation, who shall certify that he has such authority.

(v) *Association.* In the case of an association, the same requirements shall be applied as in the case of a corporation.

(2) *Special cases.* A power of attorney or a tax information authorization in the special cases set forth in subdivisions (i) through (vi) of this subparagraph must be executed by the party or parties having authority to act in the matter under consideration. In this connection, Revenue Service officials may require the submission of appropriate supplementary evidence of the authority of the party or parties. Such powers of attorney or tax information authorizations must be executed as follows:

(i) *Dissolved partnership.* In the case of a dissolved partnership, by each of the former partners. If one or more of the partners are dead, their legal representatives must sign in their stead (see subdivision (iv) of this subparagraph), unless, under the laws of the particular State, the surviving partners at the time of execution of the power of attorney or tax information authorization have exclusive right to control and possession of the firm's assets for the purpose of winding up its affairs, in which case their signatures alone will be sufficient. If only the surviving partners sign the power of attorney or tax information authorization, the Revenue Service officials may require the submission of a copy of or a citation to the pertinent provisions of the State law under which the surviving partners claim authority without legal representatives of the deceased partners.

(ii) *Dissolved corporation.* In the case of a dissolved corporation, by the liquidating trustee or trustees under dissolution, if one or more have been appointed, or by a trustee deriving authority under a statute of the State in which the corporation was organized. If there is more than one trustee, all must join unless it is established that less than all have authority to act in the matter under consideration. The Revenue Service officials may require the submission of a properly authenticated copy of the instrument under which the trustee derives his authority. If the trustee's authority is derived under a State statute, the Revenue Service officials may require the submission of a copy of or a citation to the pertinent provisions of such statute, together with a statement made under penalties of perjury setting forth the facts required by the statute as a condition precedent to the vesting of authority in said trustee and stating that in the case of any trustee, his authority has not been terminated. If there is no trustee, the power of attorney or tax information authorization must be signed by a sufficient number of individuals to constitute a majority of the voting stock of the corporation as of the date of dissolution. The Revenue Service officials may require submission of a statement showing the total number of outstanding shares of voting stock as of the date of dissolution, the number of shares held by each signatory to the power of attorney or tax information authorization, the date of dissolution, and positive averments as to the nonexistence of any trustee.

(iii) *Insolvent taxpayer.* In the case of an insolvent taxpayer, by the trustee, receiver, or attorney appointed by the court. The Revenue Service officials may require the submission of a certificate from the court having jurisdiction over the insolvent showing the appointment and qualification of the trustee, receiver, or attorney and that his authority has not been terminated. In cases pending before a district court of the United States, an authenticated copy of the order approving the bond of the trustee, receiver, or attorney will meet this requirement.

(iv) *Deceased taxpayers.* In the case of a deceased taxpayer, by the executor or administrator if one has been appointed and is acting and responsible for disposition of the matter under consideration. The Revenue Service officials may require the submission of a short-form certificate (or authenticated copies of letters testamentary or letters of administration) showing that the authority of the executor or administrator is in full force and effect at the time the power of attorney or tax information authorization is submitted. In the event that a trustee under the will is acting, the power of attorney or tax information authorization should be executed by the trustee, unless the executor has not been discharged and is responsible for disposition of the matter. The Revenue Service officials may require the submission of evidence of the discharge of the executor and appointment of the trustee, or other appropriate evidence of the authority of the trustee to act. If no executor, administrator, or trustee under the will is acting or responsible for disposition of the matter and the estate has been distributed to the residuary legatee or legatees, the power of attorney or tax information authorization should be executed by the residuary legatee or legatees. The Revenue Service officials may require the submission of a statement from the court certifying that no executor, administrator, or trustee under the will is acting or responsible for disposition of the matter, and naming the residuary legatees and indicating the proper share to which each is entitled. In the event that the decedent died intestate and the administrator has been discharged and is not responsible for disposition of the matter, or none was ever appointed, the power of attorney or tax information authorization must be executed by the distributees. The Revenue Service officials may require the submission of evidence of the discharge of the administrator if one had been appointed and evidence that the administrator is not responsible for disposition of the matter, and statements made under penalties of perjury and such other appropriate evidence as can be produced tending to show the relationship to the deceased of the signatories to the power of attorney or tax information authorization and the right of each of them to the respective shares claimed under the law of the domicile of the deceased.

(v) *Guardians and other fiduciaries appointed by a court of record.* In the case of a taxpayer for whom a guardian or other fiduciary has been appointed by a court of record, by the fiduciary. The Revenue Service officials may require the submission of a court certificate or court order showing that such fiduciary has been appointed and that his appointment has not been terminated.

(vi) *Trustee under agreement or declaration.* In the case of a taxpayer who has appointed a trustee, by the trustee. If there is more than one trustee appointed, all should join unless it is shown that less than all have authority to act. The Revenue Service officials may require the submission of documentary evidence of the authority of the trustee to act. Such evidence may be either a copy of the trust instrument, properly certified, or a certified copy of extracts from the trust instruments, showing:

(a) The date of the instrument,

(b) That it is or is not of record in any court,

(c) The beneficiaries,

(d) The appointment of the trustee, the authority granted, and such other information as may be necessary to show that such authority extends to Federal tax matters, and

(e) That the trust has not been terminated and the trustee appointed therein is still acting.

In the event that the trustee appointed in the original trust instrument is no longer acting and has been replaced by another trustee, documentary evidence of the appointment of the new trustee should be submitted.

(c) *Attestation and corporate seal.* It is not necessary that a power of attorney or a tax information authorization granted by a corporation be attested or that the corporate seal be affixed. Spaces provided on power of attorney or tax information authorization forms for affixing the corporate seal are for the convenience of corporations required by charter, or by the law of the jurisdiction in which they are incorporated, to affix their corporate seals in the execution of instruments. See paragraph (a) (1) of § 1.6062-1 of this chapter (Income Tax Regulations).

(d) *Acknowledgment or witnessing*—(1) *General rule.* Except as provided in subparagraph (2) of this paragraph, a power of attorney must be acknowledged before a notary public, or in lieu thereof, witnessed by two disinterested individuals. The notarial seal must be affixed unless such seal is not required under the laws of the State in which the power of attorney is executed. A tax information authorization requires no acknowledgment or witnessing.

(2) *Exception.* If the power of attorney is granted to a representative who is recognized to practice before the Revenue Service under paragraph (b) (1) (i), (ii), or (iii) of § 601.502, and such representative executes a declaration on the power of attorney that he is so recognized, the acknowledgment or witnessing under subparagraph (1) of this paragraph will not be required.

(e) *Certification of copies.* A copy of a power of attorney or a tax information authorization, or a paper or document filed therewith, which is reproduced by photographic processes, need not be certified as a true and correct copy of the original. When such a copy is reproduced by other methods, it will be acceptable if its authenticity is certified either by a representative who is recognized to practice before the Revenue Service under paragraph (b) (1) (i), (ii), or (iii) of § 601.502, or by a notary public or other proper official who states that he has personally compared the copy with the original and finds it to be a true and correct copy.

§ 601.505 Requirements for changing representation.

(a) *No distinction between types of powers of attorney.* A power of attorney is only required by the Revenue Service for the performance of one or more of the acts enumerated in paragraph (c) (1) of § 601.502. Accordingly, for purposes of the rules relating to change in representation set forth in paragraph (c) of this section, no distinction will be made by the Revenue Service between a general and a limited power of attorney.

(b) *Prohibition against unreasonable delay in Circular No. 230.* See section 10.23 of Circular No. 230 for the rule prohibiting a recognized representative from unreasonably delaying the prompt disposition of any matter before the Revenue Service.

(c) *Change in representation*—(1) *New power of attorney or tax information authorization required.* In any case in which there has been filed a power of attorney with respect to one or more of the acts enumerated in paragraph (c) (1) of § 601.502, or a tax information authorization, and thereafter, with respect to the same matter, the taxpayer desires:

(i) To add or to reduce the number of representatives authorized to perform one or more of such acts, or to receive confidential information,

(ii) To revoke the authority granted to a representative and to authorize a new representative to perform one or more of such acts, or to receive such confidential information, or

(iii) To change the authority granted to a representative,

a new power of attorney or a new tax information authorization, whichever is appropriate, must be filed.

(2) *Rules of revocation of power of attorney and tax information authorization.* (i) Except as provided in the next sentence, a new power of attorney filed with respect to one or more of the acts enumerated in paragraph (c) (1) of § 601.502 will be deemed as revoking a prior power of attorney (regardless of whether the act or acts enumerated in the prior power are the same as or different from the act or acts enumerated in the new power) or tax information authorization granted by the taxpayer to another representative with respect to the same matter. A new power of attorney will not be deemed as revoking a prior power of attorney or tax information authorization if it contains a clause specifically stating that it does not revoke such prior power of attorney or tax information authorization, and there is attached to the new power of attorney a copy of the unrevoked prior power of attorney or tax information authorization or a statement signed by the taxpayer listing the names and addresses of all representatives authorised under the prior power of attorney or tax information authorization. This procedure permits a taxpayer to authorize additional representatives to perform one or more of the acts enumerated in paragraph (c) (1) of § 601.502, or to receive confidential information, without revoking the authority of representatives under a prior power of attorney or tax information authorization with respect to the matter referred to in the prior power of attorney or tax information authorization. For rules relating to the practice of the Revenue Service in giving no-

tices and other written communications in cases in which a taxpayer has more than one authorized representative, see paragraph (a) of § 601.506.

(ii) Except as provided in the next sentence, a new tax information authorization will be deemed as revoking a prior tax information authorization filed with respect to the same matter. A new tax information authorization will not be deemed as revoking a prior tax information authorization with respect to the same matter if it contains a clause specifically stating that it does not revoke such prior tax information authorization, and if there is attached to the new tax information authorization a copy of the unrevoked prior tax information authorization or a statement signed by the taxpayer listing the names and addresses of all representatives authorized under the prior tax information authorization. This procedure permits a taxpayer to authorize additional representatives to receive confidential information, without revoking the authority of representatives under a prior tax information authorization with respect to the matter referred to in the prior tax information authorization. For rules relating to the practice of the Revenue Service in giving notices and other written communications in cases in which a taxpayer has more than one authorized representative, see paragraph (a) of § 601.506.

(iii) Except as provided in the next sentence, a new tax information authorization will not be deemed as revoking a prior power of attorney filed with respect to the same matter. A new tax information authorization will be deemed as revoking a prior power of attorney with respect to the same matter if there is attached to the new tax information authorization a statement signed by the taxpayer listing the names and addresses of all representatives under the prior power of attorney whose authority is revoked. This procedure permits a taxpayer to authorize additional representatives to receive confidential information, and, at the same time, revoke the authority of representatives under a prior power of attorney with respect to the matter referred to in the prior power of attorney. For rules relating to the practice of the Revenue Service in giving notices and other written communications in cases in which a taxpayer has more than one authorized representative, see paragraph (a) of § 601.506.

(iv) A taxpayer may revoke a power of attorney or a tax information authorization granted to a representative without authorizing a new representative to act for him. Upon revocation of a power of attorney or a tax information authorization when no new power of attorney or tax information authorization is executed, the taxpayer must send a signed statement to those offices of the Revenue Service where he has filed copies of the power of attorney or tax information authorization which is to be revoked listing the names and addresses of the representatives whose authority is revoked.

§ 601.506 Notices to be given to recognized representatives; delivery of refund checks to recognized representatives.

(a) *Notices.* Any notice or other written communication (or a copy thereof) required or permitted to be given to a taxpayer in any matter before the Revenue Service shall be given to the taxpayer's recognized representative. However, if such notice or communication contains confidential information with respect to the taxpayer, the notice or communication will be given to the representative only if there is on file with the Revenue Service a power of attorney or a tax information authorization in the matter signed by the taxpayer. For general rules relating to the requirement of a tax information authorization, see paragraph (c)(2) of § 601.502. Except as otherwise provided in this paragraph, if a taxpayer has more than one recognized representative in a matter, service upon any one shall be sufficient. To the extent feasible, it will be the practice of the Revenue Service to give copies of notices and other written communications to whichever of the representatives is designated by the taxpayer to receive such communications in the power of attorney or tax information authorization, whichever instrument reflects the latest date. If, in such instrument, the taxpayer designates more than one representative to receive notices and other written communications, it will be the practice of the Revenue Service to give copies of such communications to two, but not more than two, representatives so designated, but only if the two representatives have different mailing addresses. In a case in which the taxpayer does not designate which representative is to receive notices, it will be the practice of the Revenue Service to give notices to the representative first named on the instrument which reflects the latest date. In no event will failure to give notice or other written communication to a taxpayer's representative affect its validity which is to be determined solely under the provisions of the Internal Revenue Code. In the case of a request for a ruling, if it is desired that the original of the ruling (or of any correspondence in connection therewith) be addressed to the taxpayer's recognized representative, the power of attorney or tax information authorization should contain a statement to that effect and designate the mailing address of such representative.

(b) *Delivery of checks in payment of refunds—(1) In general.* The Revenue Service is not bound to deliver any check in payment of refund of internal revenue taxes, penalties, or interest to a representative of any taxpayer acting under authority evidenced by a power of attorney. However, it will be the general policy of the Revenue Service to mail such a check in care of a recognized representative who has filed a power of attorney from the taxpayer, specifically authorizing him to receive but not to endorse such check (see paragraph (c)(1)(i) of § 601.502), provided that such power of attorney has been filed in sufficient time for the section or division preparing the certificate of overassessment, or other appropriate notice, to show thereon the mailing address as "care of" the representative. When a representative has more than one address, a request to mail the check to an address other than that shown in the power of attorney will not be granted unless the address shown in the power of attorney is no longer that of the representative. In the event that a power of attorney is filed specifically authorizing more than one representative to receive checks on the taxpayer's behalf, and such representatives have different addresses, the Revenue Service will mail the check directly to the taxpayer, unless a statement is furnished, signed by all of the representatives named in the power of attorney, requesting that the check be mailed in care of one of their number. Furthermore, it will be the policy of the Revenue Service not to mail checks in payment of refunds to a representative who holds authority to receive such checks by reason of a substitute power of attorney obtained from the representative designated by the taxpayer.

(2) *Cases in litigation.* Checks in payment of claims which have either been reduced to judgment or settled in the course or as a result of litigation will be drawn in the name of the person or persons entitled to the money. In an action arising in a U.S. district court, the check will be sent to the appropriate U.S. Attorney for delivery to the taxpayer or the counsel of record in the court proceeding. In an action arising in the U.S. Court of Claims, the check will be sent to the Assistant Attorney General, Tax Division, Department of Justice, for such delivery.

§ 601.507 Evidence required to substantiate facts alleged in conferences.

All evidence, except that of a supplementary or incidental character, may be required to be submitted over the signed declaration of the taxpayer, made under penalties of perjury, that such evidence is true. Thus, in the case of any matter pending before the Revenue Service in respect of which the taxpayer submits a protest or other similar statement, such protest or statement should contain a recitation of the facts on which the taxpayer relies, made under the penalties of perjury, and should meet all the issues raised by the Revenue Service which the taxpayer desires to contest. In lieu of a declaration of the taxpayer made under penalties of perjury, every claim, written argument, brief, or recitation of the facts, prepared or filed by the taxpayer's representative in any matter pending before the Revenue Service, should have endorsed thereon a declaration signed by such representative as to whether or not he prepared such document and whether or not he knows of his own knowledge that the facts contained therein are true and correct. In any

case in which the taxpayer's representative is unable or unwilling to declare of his own knowledge that the facts are true and correct, the Revenue Service may request the taxpayer to make such a declaration under penalties of perjury.

§ 601.508 Contest between representatives of a taxpayer.

Where there is a contest between members of a dissolved firm or between two or more representatives as to which is entitled to represent a client in a matter pending before the Revenue Service, or to receive a check, thereafter the taxpayer only shall be recognized, unless the members or survivors of the dissolved firm, or the contesting representatives, file an agreement signed by all designating which of them shall be entitled to represent the taxpayer in such matter or to receive any check. In no case shall the delivery of a check to the taxpayer be delayed more than 60 days by reason of failure to file such agreement.

§ 601.509 Power of attorney or tax information authorization not required in cases docketed in the Tax Court of the United States.

In a case docketed in the Tax Court of the United States, the petitioner and the Commissioner stand in the position of parties litigant before a judicial body. The Tax Court has its own rules of practice and procedure and its own rules respecting admission to practice before it. Accordingly, a power of attorney or a tax information authorization is not required by the Revenue Service in cases docketed in the Tax Court. Correspondence in connection with cases docketed in the Tax Court will be addressed to counsel of record before the Court. In all cases pending in the Appellate Division, other than cases docketed in the Tax Court, the customary power of attorney or tax information authorization is required.

REQUIREMENTS FOR ALCOHOL AND TOBACCO TAX ACTIVITIES

§ 601.521 Requirements for conference and representation in conference.

The requirements for conference in the office of an assistant regional commissioner, alcohol and tobacco tax, or the Office of the Director, Alcohol and Tobacco Tax Division, are contained in § 601.308 of this part. Where an industry member or other person is to be represented in conference, the representative must be recognized to practice as provided in paragraph (b) of § 601.502. When a representative presents himself on behalf of an industry member or other person for the initial meeting in the office of an assistant regional commissioner, alcohol and tobacco tax, or of the Director, Alcohol and Tobacco Tax Division, he must submit evidence of recognition; or he should state in his first letter or other written communication with such office whether he is recognized to practice, and should enclose evidence of such recognition. In the case of a qualified attorney or a qualified certified public accountant, the filing of the applicable written declaration described in paragraph (b)(1)(i) and (ii) of § 601.502 shall constitute evidence of recognition. In the case of an enrollee, the filing of a notification, stating that he is enrolled to practice and giving his enrollment number or the expiration date of his enrollment card, shall constitute evidence of recognition.

§ 601.522 Power of attorney.

Except as otherwise provided in this section, a power of attorney, or copy thereof, will be required for a representative of a principal (a) to perform the acts specified in paragraph (c)(1) of § 601.502; or (b) to sign any application, bond, notice, return, report, or other document required by, or provided for in, regulations issued pursuant to chapter 51 (Distilled Spirits, Wines, and Beer), chapter 52 (Cigars, Cigarettes, and Cigarette Papers and Tubes), and chapter 53 (Machine Guns and Certain Other Firearms), Internal Revenue Code, the Federal Alcohol Administration Act, or the Federal Firearms Act, which is filed with or acted on by (1) the office of an assistant regional commissioner, alcohol and tobacco tax, or (2) the Director, Alcohol and Tobacco Tax Division. The power of attorney may be executed on Form 1534, copies of which may be obtained from the assistant regional commissioner (alcohol and tobacco tax). A power of attorney will not be required for a person authorized to sign on behalf of the principal by articles of incorporation, by-laws, or a board of directors, where an acceptable copy of such authorization is on file in the office of the assistant regional commissioner or of the Director. A power of attorney filed under the provisions of this section may cover one or more acts for which a power of attorney is required and will continue in effect with respect to such acts until revoked as provided in § 601.526. The exceptions to the requirements for a power of attorney contained in paragraph (c)(3) and (4) of § 601.502 are applicable to powers of attorney under this section.

§ 601.523 Tax information authorization.

Where any of the acts specified in paragraph (c)(2)(i) of § 601.502 are to be performed by a representative, and a power of attorney for such representative has not been filed, a tax information authorization, or copy thereof, will be required. The authorization may be executed on Form 1534-A, copies of which may be obtained from the assistant regional commissioner (alcohol and tobacco tax). Such authorization may cover one or more of the acts for which a tax information authorization is required and will continue in effect with respect to such acts until revoked as provided in § 601.526. The exceptions to the requirements for a tax information authorization, provided in paragraph (c)(3) and (4) of § 601.502, are applicable to such authorizations under this section.

§ 601.524 Execution and filing powers of attorney and tax information authorizations.

(a) *Time of filing.* A copy of the power of attorney must be filed in each office (that is, office of an assistant regional commissioner and Office of the Director, Alcohol and Tobacco Tax Division) in which a document specified in § 601.522, covered by the power of attorney, is required to be filed, or in which the representative desires to perform one or more of the acts enumerated in paragraph (c)(1) of § 601.502. If a power of attorney covering an act otherwise requiring the filing of a tax information authorization has not been filed, a copy of the tax information authorization must be filed in each office in which the representative inspects or receives confidential information, or, where acts requiring a power of attorney or a tax information authorization are handled by correspondence, the representative should enclose a copy of the power or authorization with the initial correspondence. However, where a power of attorney or tax information authorization is on file with the assistant regional commissioner, alcohol and tobacco tax, an additional copy thereof will not be required in the office of the regional counsel of the same region.

(b) *Execution.* The power of attorney required by § 601.522, or tax information authorization required by § 601.523, shall be executed in the manner prescribed in paragraph (b) of § 601.504; shall indicate all acts to which it relates; should contain the mailing address of the representative; and, if more than one representative is authorized to perform the same acts on behalf of the industry member or other person, a designation as to which representative is to receive notices and other written communications. For rules relating to the mailing of notices or other written communications to a representative, see § 601.506.

(c) *Attestation and corporate seal.* In the case of a corporation, a power of attorney filed with an officer of the Alcohol and Tobacco Tax Division must be attested by the secretary and the corporate seal must be affixed. If the officer who signs the power of attorney is also the secretary, another officer of the corporation, preferably the president, vice president, or treasurer, must also sign the power of attorney so that two different individuals' signatures appear thereon. If the corporation has no seal, a certified copy of a resolution duly passed on by the board of directors of the corporation authorizing the execution of powers of attorney should be attached.

(d) *Acknowledgment.* A power of attorney filed with an office of the Alcohol and Tobacco Tax Division must be acknowledged, witnessed, or certified as provided in paragraph (d) of § 601.504.

§ 601.525 Certification of copies of documents.

The provisions of paragraph (e) of § 601.504 with respect to certification of

copies are applicable to a power of attorney or a tax information authorization required to be filed under § 601.522 or § 601.523.

§ 601.526 Revocation of powers of attorney and tax information authorizations.

The revocation of the authority of a representative covered by a power of attorney or tax information authorization filed in an office of the Alcohol and Tobacco Tax Division shall in no case be effective prior to the giving of written notice to the proper official that the authority of such representative has been revoked.

§ 601.527 Other provisions applied to representation in alcohol and tobacco tax activities.

The provisions of paragraph (b) of § 601.505, and of §§ 601.506 through 601.508 of this subpart, as applicable, shall be followed in offices of the Alcohol and Tobacco Tax Division.

Subpart F—Rules, Regulations, and Forms

§ 601.601 Rules and regulations.

(a) *Formulation.* (1) Internal revenue rules take various forms. The most important rules are issued as regulations and Treasury decisions, prescribed by the Commissioner and approved by the Secretary or his delegate. Other rules may be issued over the signature of the Commissioner or the signature of any other official to whom authority has been delegated. The channeling of rules varies with the circumstances. Regulations and Treasury decisions, except those relating to alcohol, tobacco, and certain firearms, are prepared in the Office of the Chief Counsel. Alcohol, tobacco, and certain firearms regulations and Treasury decisions are prepared in the Office of the Assistant Commissioner (Compliance) and reviewed in the Office of the Chief Counsel. After approval by the Commissioner (and, in the case of regulations relating to narcotics and certain regulations relating to alcohol and tobacco taxes, the approval of the Commissioner of Narcotics or the Commissioner of Customs, as the case may be), regulations and Treasury decisions are forwarded to the Secretary or his delegate for further consideration and final approval.

(2) Where required by section 4 of the Administrative Procedure Act (60 Stat. 237) and in such other instances as may be desirable, the Commissioner publishes in the FEDERAL REGISTER general notice of proposed rules (unless all persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law). This notice includes (i) a statement of the time, place, and nature of public rule-making proceedings; (ii) reference to the authority under which the rule is proposed; and (iii) either the terms or substance of the proposed rule or a description of the subjects and issues involved. Also, pursuant to section 5 of the Federal Alcohol Administration Act (27 U. S. C. 205 (f)) public notice and opportunity for hearing is given prior to the adoption of regulations under that section.

(b) *Comments on proposed rules.* Interested persons are privileged to submit any data, views, or arguments with respect to proposed rules. Any person submitting comments in response to a notice of proposed rule making published pursuant to 5 U.S.C. 553 shall specifically designate that portion, if any, of his comments which in his opinion contains confidential information or data. Any comments or any portion thereof not specifically designated as confidential will be made available pursuant to paragraph (c) of § 601.702 upon request. Any comments or any portion thereof specifically designated as confidential will not be disclosed to the public. The name of the person submitting the comments will not be treated as confidential unless such person requests that his name be so treated. Any portion of a comment which is designated as confidential shall be set forth on pages separate from the balance of the comment. The disclosure by the Internal Revenue Service of any name, or of any comments or any portion thereof, not specifically designated as confidential by the person submitting the comments will be a disclosure authorized by law within the meaning of any statute governing the disclosure of information. The name of any person requesting a public hearing and the issues which may be discussed at the hearing are not confidential. This paragraph applies only to comments submitted on or after August 2, 1967.

(c) *Petition to change rules.* Interested persons are privileged to petition for the issuance, amendment, or repeal of a rule. A petition for the issuance of a rule should identify the section or sections of law involved; and a petition for the amendment or repeal of a rule should set forth the section or sections of the regulations involved. The petition should also set forth the reasons for the requested action. Such petitions will be given careful consideration and the petitioner will be advised of the action taken thereon. Petitions should be addressed to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

(d) *Publication of rules and regulations.* All internal revenue regulations and Treasury decisions are published in the FEDERAL REGISTER and in the Code of Federal Regulations. See paragraph (a) of § 601.702. The Treasury decisions are also published in the weekly Internal Revenue Bulletin and the semiannual Cumulative Bulletin. The Internal Revenue Bulletin is the authoritative instrument of the Commissioner for the announcement of official rulings, decisions, opinions, and procedures, and for the publication of Treasury decisions, Executive orders, tax conventions, legislation, court decisions, and other items pertaining to internal revenue matters. It is the policy of the Internal Revenue Service to publish in the bulletin all substantive and procedural rulings of importance or general interest, the publication of which is considered necessary to promote a uniform application of the laws administered by the Service. It is also the policy to publish in the bulletin all rulings which revoke, modify, amend, or affect any published ruling. Rules relating solely to matters of internal practices and procedures are not published; however, statements of internal practices and procedures affecting rights or duties of taxpayers, or industry regulation, which appear in internal management documents, are published in the bulletin. No unpublished ruling or decision will be relied on, used, or cited by any officer or employee of the Internal Revenue Service as a precedent in the disposition of other cases.

§ 601.602 Forms and instructions.

(a) *Tax return forms and instructions.* Forms and instructions are developed by the Internal Revenue Service to explain the requirements of the internal revenue laws and regulations and are issued for the assistance of taxpayers in exercising their rights and discharging their duties under the internal revenue laws. All internal revenue taxes which are not collected by stamps are assessed and collected through the self-determination and self-application of the law and the regulations by taxpayers. The tax return forms are the instruments through which this is accomplished.

(b) *Other forms and instructions.* In addition to the forms and instructions for the return of internal revenue taxes, the Internal Revenue Service provides other necessary or appropriate forms for assisting the public in complying with the technical requirements of the internal revenue laws and regulations. The material contained in the forms and instructions, and the arrangement thereof is carefully considered in the Internal Revenue Service and is designed to lead the taxpayer step-by-step through an orderly accumulation of data to an accurate report of the information required.

(c) *Procurement of forms and instructions.* Copies of all necessary forms, and instructions as to their preparation and filing, may be obtained from district directors or, where appropriate, from assistant regional commissioners (alcohol and tobacco tax). Descriptions of many of the forms and publications of the Internal Revenue Service for public use are contained in Publication No. 480, *Description of Available Forms Relating to Alcohol and Tobacco Tax Division Activities*, and Publication No. 481, *Description of Principal Federal Tax Returns, Related Forms, and Publications.* Publication No. 480 and Publication No. 481 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Subpart G—Records

§ 601.701 Publicity of information.

(a) *General.* Effective July 4, 1967, section 552 of title 5 of the United States Code is amended to prescribe revised

provisions regarding the publicizing of information by Federal agencies. Generally, such section divides agency information into three major categories and provides methods by which each category is to be made available to the public. The three major categories, for which the disclosure requirements of the Internal Revenue Service are set forth in § 601.702, are as follows:

(1) Information required to be published in the FEDERAL REGISTER;

(2) Information required to be made available for public inspection and copying or, in the alternative, to be published and offered for sale; and

(3) Information required to be made available to any member of the public upon specific request.

The revised provisions of section 552 are intended to protect, subject to specified safeguards, the right of the public to information. Section 552 is not authority to withhold information from Congress.

(b) *Exemptions*—(1) *In general.* Under 5 U.S.C. 552(b), the disclosure requirements of section 552 do not apply to certain matters described in nine specific exemptions, as follows:

(i) Matters specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy;

(ii) Matters related solely to the internal personnel rules and practices of an agency, such as staff manuals or instructions, or parts thereof, which set forth guidelines, operating rules, or other criteria for officers or employees in auditing or inspection procedures, or in the selection or handling of cases, such as operational tactics, allowable tolerances, or criteria for the defense, prosecution, or settlement of cases;

(iii) Matters specifically exempted from disclosure by statute, as described in subparagraph (2) of this paragraph;

(iv) (*a*) Trade secrets and (*b*) commercial, financial, or other information, which is privileged or confidential and thus would not customarily be made public by the person from whom it is obtained, such as business sales statistics, inventories, customer lists, scientific or manufacturing processes or developments, personal correspondence, or matter which the agency has obligated itself in good faith not to disclose;

(v) Interagency or intraagency memorandums or letters which would not be available by law to a party in litigation with an agency, including communications (such as internal drafts, memorandums between officials or agencies, opinions and interpretations prepared by agency staff personnel or consultants for the use of the agency, and records of the deliberations of the agency or staff groups) which the agency has received from another agency, or which the agency generates, in the process of issuing an order, decision, ruling, or regulation, drafting proposed legislation, or otherwise carrying out its functions and responsibilities, if such communications would not routinely be available to such party through use of the discovery process;

(vi) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of the personal privacy of any officer or employee of an agency or of any other person;

(vii) Investigatory files compiled for any law enforcement purpose, including files prepared in connection with related Government litigation and adjudicative proceedings, except to the extent available by law to a party other than an agency;

(viii) Matters contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(ix) Geological and geophysical information and data, including maps, concerning wells, such as seismic reports and other exploratory findings of oil companies.

(2) *Matters specifically exempted from disclosure by statute.* For purposes of subparagraph (1)(iii) of this paragraph, statutory provisions which either specifically exempt certain matters from disclosure by officers or employees of the Internal Revenue Service or specifically provide for disclosure under appropriate circumstances include the following sections of the Code and the regulations thereunder:

(i) Section 4102, relating to inspection by certain State or local government officers of records with respect to taxes on petroleum products;

(ii) Section 4773, relating to inspection by certain Government officials of records with respect to narcotic drugs and marihuana;

(iii) Section 4775, relating to requests for names of persons listed as special taxpayers under the provisions of the Code dealing with narcotic drugs and marihuana;

(iv) Section 6103, relating to publicity of certain returns and disclosure of information as to persons filing income tax returns;

(v) Section 6104, relating to publicity of information required from certain exempt organizations and certain trusts;

(vi) Section 6105, relating to publication in the FEDERAL REGISTER of compilation of relief from excess profits tax cases;

(vii) Section 6106, relating to publicity of unemployment tax returns;

(viii) Section 6107, relating to the keeping of lists of special taxpayers for public inspection;

(ix) Section 6108, relating to the publication of statistics of income;

(x) Section 7213, relating to penalties for unauthorized disclosure of information by Federal officers or employees or other persons; and

(xi) Section 7237(e), relating to penalties for unlawful disclosure of information on returns or order forms pertaining to narcotic drugs or marihuana.

A reference in this subparagraph to a provision of the Code will be considered to be a reference also to any corresponding provisions of prior law and the regulations promulgated thereunder. See also 18 U.S.C. 1905, which provides penalties for the unlawful disclosure by Federal officers or employees of certain information coming to them in the course of their employment. See paragraph (d) of § 601.702 for special rules pertaining to the disclosure of information in the case of certain specified matters.

(3) *Application of exemptions.* Even though an exemption described in subparagraph (1) of this paragraph may be fully applicable to a matter in a particular case, the Internal Revenue Service may, if not precluded by law, elect under the circumstances of that case not to apply the exemption to such matter. The fact that the exemption is not applied by the Service in that particular case has no precedential significance as to the application of the exemption to such matter in other cases but is merely an indication that in the particular case involved the Service finds no compelling necessity for applying the exemption to such matter.

§ 601.702 Publication and public inspection.

(a) *Publication in the Federal Register*—(1) *Requirement.* Subject to the application of the exemptions described in paragraph (b) of § 601.701 and subject to the limitations provided in subparagraph (2) of this paragraph, the Internal Revenue Service is required under 5 U.S.C. 552(a)(1) to separately state and currently publish in the FEDERAL REGISTER for the guidance of the public the following information:

(i) Descriptions of its central and field organization and the established places at which, the persons from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions, from the Service;

(ii) Statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures which are available;

(iii) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(iv) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the Service; and

(v) Each amendment, revision, or repeal of matters referred to in subdivisions (i) through (iv) of this subparagraph.

Pursuant to the foregoing requirements, the Commissioner publishes in the FEDERAL REGISTER from time to time a statement, which is not codified in this chapter, on the organization and functions of the Internal Revenue Service, and such amendments as are needed to keep the statement on a current basis. In addition, there are published in the FEDERAL REGISTER the rules set forth in this

part (Statement of Procedural Rules), such as those in subpart E, relating to conference and practice requirements of the Internal Revenue Service; the regulations in Part 177 of this chapter (Interstate Traffic in Firearms and Ammunition); the regulations in Part 200 of this chapter (Rules of Practice in Permit Proceedings); the regulations in Part 301 of this chapter (Procedure and Administration Regulations); the various substantive regulations under the Internal Revenue Code of 1954, such as the regulations in Part 1 of this chapter (Income Tax Regulations), in Part 20 of this chapter (Estate Tax Regulations), in Part 31 of this chapter (Employment Tax Regulations), in Part 47 of this chapter (Documentary Stamp Tax Regulations), or Part 201 of this chapter (Distilled Spirits Plants Regulations); and the substantive regulations under the Federal Alcohol Administration Act (49 Stat. 977, as amended, 27 U.S.C. 201 et seq.), such as 27 CFR Part 1 (Basic Permit Regulations), 27 CFR Part 4 (Wine Labeling and Advertising Regulations), or 27 CFR Part 5 (Distilled Spirits Labeling and Advertising Regulations).

(2) *Limitations*—(i) *Incorporation by reference in the Federal Register.* Matter which is reasonably available to the class of persons affected thereby, whether in a private or public publication, will be deemed published in the FEDERAL REGISTER for purposes of subparagraph (1) of this paragraph when it is incorporated by reference therein with the approval of the Director of the Federal Register. The matter which is incorporated by reference must be set forth in the private or public publication substantially in its entirety and not merely summarized or printed as a synopsis. Matter the location and scope of which are familiar to only a few persons having a special working knowledge of the activities of the Internal Revenue Service may not be incorporated in the FEDERAL REGISTER by reference. Matter may be incorporated by reference in the FEDERAL REGISTER only pursuant to the provisions of 5 U.S.C. 552(a)(1) and 1 CFR Part 20.

(ii) *Effect of failure to publish.* Except to the extent that a person has actual and timely notice of the terms of any matter referred to in subparagraph (1) of this paragraph which is required to be published in the FEDERAL REGISTER, such person is not required in any manner to resort to, or be adversely affected by, such matter if it is not so published or is not incorporated by reference therein pursuant to subdivision (i) of this subparagraph. Thus, for example, any such matter which imposes an obligation and which is not so published or incorporated by reference will not adversely change or affect a person's rights.

(b) *Public inspection and copying*—(1) *In general.* Subject to the application of the exemptions described in paragraph (b) of § 601.701, the Internal Revenue Service is required under 5 U.S.C. 552(a)(2) to make available for public inspection and copying or, in the alternative, to promptly publish and offer for sale the following information:

(i) Final opinions, including concurring and dissenting opinions, and orders, if such opinions and orders are made in the adjudication of cases, such as opinions and orders by the Alcohol and Tobacco Tax Division pursuant to § 200.116 of this chapter in administrative procedures on applications for, or to suspend, revoke, or annul, permits under the alcohol, alcoholic beverages, and tobacco permit systems;

(ii) Those statements of policy and interpretations which have been adopted by the Internal Revenue Service but are not published in the FEDERAL REGISTER; and

(iii) Its administrative staff manuals and instructions to staff that affect a member of the public.

The Internal Revenue Service is also required by 5 U.S.C. 552(a)(2) to maintain and make available for public inspection and copying current indexes identifying any matter described in subdivisions (i) through (iii) of this subparagraph which is issued, adopted, or promulgated after July 4, 1967, and which is required to be made available for public inspection or published. No matter described in subdivisions (i) through (iii) of this subparagraph which is required by this subparagraph to be made available for public inspection or published may be relied upon, used, or cited as precedent by the Internal Revenue Service against a party other than an agency unless such party has actual and timely notice of the terms of such matter or unless the matter has been indexed and either made available for inspection, or published, as provided by this subparagraph. This subparagraph applies only to matters which have precedential significance. It does not apply, for example, to administrative manuals on property or fiscal accounting, vehicle maintenance, personnel administration, and similar proprietary functions of the Internal Revenue Service. Nor does it apply to any ruling or advisory interpretation which is issued to a taxpayer on a particular transaction or set of facts and applied only to that transaction or set of facts. This subparagraph does not apply to matters which have been made available pursuant to paragraph (a) of this section.

(2) *Deletion of identifying details.* To prevent a clearly unwarranted invasion of personal privacy, the Internal Revenue Service will, in accordance with 5 U.S.C. 552(a)(2), delete identifying details contained in any matter described in subparagraph (1) (i) through (iii) of this paragraph before making such matter available for inspection or publishing it. However, in every case where identifying details are so deleted, the justification for the deletion must be explained in writing. The written justification for deletion will be placed as a preamble to the document from which the identifying details have been deleted, except in the case of any matter which is published in the Internal Revenue Bulletin. An introductory statement will be placed in each Internal Revenue Bulletin providing that identifying details, including the names and addresses of persons involved, and information of a confidential nature are deleted to prevent unwarranted invasions of personal privacy and to comply with statutory provisions, such as section 7213 and 18 U.S.C. 1905, dealing with disclosure of information obtained from members of the public.

(3) *Public reading rooms*—(i) *In general.* The National Office and each regional office of the Internal Revenue Service will provide a reading room or reading area where the matters described in subparagraph (1) (i) through (iii) of this paragraph which are required by such subparagraph to be made available for public inspection or published, and the current indexes to such matters, will be made available to the public for inspection and copying. In addition, the reading rooms will contain other matters determined to be helpful for the guidance of the public, including a complete set of the rules and regulations contained in this title and title 27, any internal revenue matters which may be incorporated by reference in the FEDERAL REGISTER pursuant to paragraph (a)(2)(i) of this section, a set of Cumulative Bulletins, and copies of various Internal Revenue Service publications, such as the description of forms or publications contained in Publication No. 480 and Publication No. 481. Fees will not be charged for the use of the materials in the reading rooms, but fees will be charged for copying and certification services, as provided in subdivision (iii) of this subparagraph. The public will not be allowed to remove any record from a reading room.

(ii) *Addresses of public reading rooms.* The addresses of the reading rooms are as follows:

NATIONAL OFFICE

Mail address: Director, Public Information Division, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224.
Location: Same as mail address.

NORTH ATLANTIC REGION

Mail address: Regional Public Information Officer, Room 1102, 90 Church Street, New York, N.Y. 10007.
Location: Same as mail address.

MID-ATLANTIC REGION

Mail address: Regional Public Information Officer, Post Office Box 12805, Philadelphia, Pa. 19108.
Location: 401 North Broad Street.

SOUTHEAST REGION

Mail address: Regional Public Information Officer, Post Office Box 926, Atlanta, Ga. 30301.
Location: Federal Office Building, 275 Peachtree Street.

MIDWEST REGION

Mail address: Regional Public Information Officer, 17 North Dearborn Street, Chicago, Ill. 60602.
Location: Same as mail address.

CENTRAL REGION

Mail address: Regional Public Information Officer, Room 7106, Federal Office Building, 550 Main Street, Cincinnati, Ohio 45202.
Location: Same as mail address.

SOUTHWEST REGION

Mail address: Regional Public Information Officer, 1114 Commerce Street, Dallas, Tex. 75202.
Location: Same as mail address.

WESTERN REGION

Mail address: Regional Public Information Officer, Flood Building, 870 Market Street, San Francisco, Calif. 94102.
Location: Same as mail address.

(iii) *Copying facilities.* The National Office and each regional office will provide facilities whereby a person may obtain copies of material which is on the shelves of the reading room. Certification services with respect to copies will also be provided. The fees in respect of material on the shelves of the reading rooms are as follows:

Photocopies; each page	$0.25
Certification of photocopies by appropriate official; each certification	1.00
Sale of unpriced printed material; each 25 pages or fraction thereof	.25
Minimum charge applicable when one or more of the above charges is assessed	1.00

Generally, forms and instructions described in § 601.602 which may be obtained from district directors or from assistant regional commissioners (alcohol and tobacco tax) will not be available in the reading rooms. However, where such forms or instructions are available for distribution in the reading rooms, the fee listed in this subdivision for the sale of unpriced printed material will not apply. While certain relevant publications which are available for sale through the Government Printing Office will be placed on the shelves of the reading rooms, such publications will not be available for sale in the reading rooms. Persons desiring to purchase such publications, for example, Internal Revenue Bulletins and Cumulative Bulletins, should contact the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. However, copies of pages of such publications on the reading room shelves may be obtained at the reading rooms in accordance with the schedule of fees set forth in this subdivision.

(iv) *Inability to use public reading rooms.* If a person is unable or unwilling to visit a reading room in person but wishes to inspect identifiable reading room material, he may request permission to inspect such material at any office of the Internal Revenue Service. To the extent that requested material is available for inspection at the reading rooms and is also readily available for inspection at the office where the request is made, such material will promptly be made available for inspection at such office to the person making the request for inspection and, where facilities are available, for copying in accordance with the schedule of fees prescribed by subdivision (iii) of this subparagraph. Copies of the requested material may also be mailed to such person by such office upon request. If the requested reading room material is not readily available for inspection at the office where the request is made, then the request will be referred by such office to one of the reading rooms of the Internal Revenue Service. If the copies are to be transmitted by mail, the person making the request will promptly be advised of the cost of copying the requested material in accordance with the prescribed schedule of fees. Upon receipt of such fees, the requested material will be copied and mailed to the person making the request. Prepayment of fees is not required where the total fees with respect to the request are $5 or less and the request is filled by mail.

(c) *Specific requests for other identifiable records*—(1) *In general.* Subject to the application of the exemptions described in paragraph (b) of § 601.701, the Internal Revenue Service is required under 5 U.S.C. 552(a)(3) to make identifiable records, other than those made available pursuant to paragraphs (a) and (b) of this section, promptly available to any person upon request. The request for records under section 552(a)(3) must be made in accordance with the rules set forth in this paragraph. This paragraph applies only to records in being which are in the possession or control of the Internal Revenue Service. Where a record in the possession or control of the Internal Revenue Service is the paramount or exclusive concern of another agency, the request for such record will be transferred to that agency, and the requester notified to that effect, to insure that the determination to disclose or withhold the record will be made by that agency. In applying this paragraph, the Internal Revenue Service will not compile a record pursuant to a request, or procure a record from sources outside the Service.

(2) *Form of request.* The request for records must be in writing and signed by the person making the request. The request is required to identify the requested records in accordance with subparagraph (4) of this paragraph. The request must set forth the address where the person making the request desires to be notified of the determination by the Internal Revenue Service as to whether the request will be granted. If the requester desires to make the inspection in an office other than the office to which the request is delivered or mailed, the request should designate the office of the Internal Revenue Service where inspection is desired. Where the person making the request desires to have a copy of the requested records sent to him without first inspecting such records, his request should so state.

(3) *Time and place for making request.* The request for records may be made at any office of the Internal Revenue Service. A request delivered to an office in person must be delivered during the regular office hours of that office. The person making the request should allow a reasonable period of time for processing the request.

(4) *Identification of records.* The request for records must describe the records in reasonably sufficient detail to enable personnel of the Internal Revenue Service to locate the records. While no specific formula for adequate identification of a record may be established, it will generally suffice if the requester gives the name, subject matter, and, if known, the date and location of the requested record. However, the person making the request is advised to furnish the Internal Revenue Service with any additional information which will more clearly identify the requested records, since he has the burden of properly identifying them. The identification requirement will not be used by officers or employees of the Internal Revenue Service as a device for improperly withholding records from the public.

(5) *Fees.* A schedule of fees for the services and costs required of the Internal Revenue Service in locating, making available, copying, and certifying records pursuant to this paragraph is as follows:

Records search; each hour or fraction thereof	$6.80
Photocopies; each page	.25
Certification of photocopies by appropriate official; each certification	1.00
Minimum charge with respect to photocopies	1.00

Such fees are intended to make any services performed with respect to the request self-sustaining to the extent possible. See title V, Act of August 31, 1951 (65 Stat. 290, 31 U.S.C. (Supp. II) 483a). If the Internal Revenue Service estimates that the total fees for costs incurred in complying with the request will amount to $50 or more, the person making the request may be required to enter into a contract for the payment of actual fees with respect to the request before the Service will undertake actions necessary to comply with the request.

(6) *Processing a request*—(i) *In general.* The person making a request will be promptly advised in writing that the request has been received, that action is being taken thereon, and that he will be notified in writing of the determination as to whether the request is granted. If the request does not sufficiently identify a record, the person making the request will be promptly advised of such fact and notified that a more detailed description of the record is required by the Internal Revenue Service in order to proceed with the request.

(ii) *Determination by National Office.* Except in a case described in subdivision (iii) of this subparagraph, a request sufficiently identifying records will be immediately transmitted to the Assistant Commissioner (Compliance), Attention: CP:C:D, for prompt consideration. A copy of the requested records or a description thereof will also be transmitted to the Assistant Commissioner (Compliance) for consideration in connection with the request. The Assistant Commissioner (Compliance) will notify the requester in writing of his determination with respect to the request.

(iii) *Determination by a field office.* Where disclosure authorization with respect to the requested records has been delegated to an officer or employee of the Internal Revenue Service other than the Assistant Commissioner (Compli-

ance), such other officer or employee will make the determination as to whether the request for records should be granted or denied and will notify the requester in writing of his determination with respect to the request.

(7) *Granting of request.* If it is determined that the request is to be granted, the person making the request will be notified in writing of the determination, of the fees involved in complying with the request, and of the locations where such fees are payable. Upon receipt by the Internal Revenue Service of the fees stated in its reply, the person making the request will be promptly advised, in writing, of the time and place where inspection may be made; or, if he has requested that a copy of the records be sent to him without first inspecting the records or if it has been necessary to reproduce the records in order to provide for inspection, a copy of the records will be mailed to him for his retention. In the usual case, the records will be made available for inspection at the office of the Internal Revenue Service where the request was made. However, if the person making the request has expressed a desire to inspect the records at an office of the Service other than the office where the request was made, every reasonable effort will be made to comply with the request. Records will be made available for inspection at such reasonable and proper times as not to interfere with their use by the Internal Revenue Service or to exclude other persons from making inspections. In addition, reasonable limitations may be placed on the number of records which may be inspected by a person on any given date. The person making the request will not be allowed to remove the records from the office where inspection is made. If, after making inspection, the person making the request desires copies of all or a portion of the requested records, copies will be furnished to him upon payment of the established fees prescribed by subparagraph (5) of this paragraph. Prepayment of fees is not required where the total fees with respect to the request are $5 or less and the request is filled by mail.

(8) *Denial of request.* If it is determined that the request for records should be denied, the person making the request will be notified of such determination by mail. The letter of notification will specify the city or other location where the requested records are situated, contain a brief statement of the grounds for denial, and advise the requester of his right to appeal to the Commissioner in accordance with subparagraph (9) of this paragraph.

(9) *Administrative appeal.* At any time within 30 days after the date of the letter of notification described in subparagraph (8) of this paragraph, the person making the request may file an appeal to the Commissioner. The appeal must be in the form of a statement signed by the appellant and mailed to the Commissioner of Internal Revenue, 1111 Constitution Avenue NW., Washington, D.C. 20224. The statement must contain the following information:

(i) The appellant's name and address,

(ii) The identification of the records requested,

(iii) The date of the request and the date of the letter denying the request, and

(iv) A request that the Commissioner consider the denial.

The appeal will be promptly considered by the Commissioner and the request either granted or denied by the Commissioner or referred by him to the Secretary for determination. The appellant will be notified of the determination by mail, and such determination shall be final.

(10) *Judicial review.* If the request is denied upon appeal pursuant to subparagraph (9) of this paragraph, or if no determination is made on the appeal within 30 days after filing, the appellant may commence an action in a U.S. district court pursuant to 5 U.S.C. 552(a)(3). The statute authorizes an action only against the agency. With respect to records of the Internal Revenue Service, the agency is the Internal Revenue Service, not an officer or employee thereof. Service of process in such an action shall be in accordance with the Federal Rules of Civil Procedure (28 U.S.C. App.) applicable to actions against an agency of the United States. Where provided in such Rules, delivery of process upon the Internal Revenue Service must be directed to the Commissioner of Internal Revenue: Attention: CC:OP: OS, 1111 Constitution Avenue NW., Washington, D.C. 20224. The district court will determine the matter de novo, and the burden will be upon the Internal Revenue Service to sustain its action in not making the requested records available.

(d) *Rules for disclosure of certain specified matters.*—(1) *Inspection of certain tax returns.* The inspection of certain returns is governed by the provisions of the internal revenue laws and rules promulgated by the President or by the Secretary of the Treasury and approved by the President pursuant to such provisions. See section 6103 and the regulations thereunder in Part 301 of this chapter (Procedure and Administration Regulations).

(2) *Information as to persons filing income tax returns.* Information as to whether any person has filed an income tax return for a particular taxable year will be furnished to an inquirer as provided in § 301.6103(f)–1 of this chapter. See section 6103(f).

(3) *Public lists of persons paying special taxes.* Lists of persons paying special taxes under subtitle D (relating to miscellaneous excise taxes) or subtitle E (relating to alcohol, tobacco, and certain other excise taxes) of the Code are available for public inspection in the offices of district directors pursuant to the provisions and limitations of section 6107. See § 301.6107–1 of this chapter. For rules relating to the inspection of Record 10, see § 151.477 of this chapter (Regulatory Taxes on Narcotic Drugs) and § 152.131 of this chapter (Regulatory Taxes on Marihuana).

(4) *Record of seizure and sale of real estate.* Record 21, "Record of seizure and sale of real estate", is open for public inspection in offices of district directors and copies are furnished upon application, as provided in § 301.9000–1(e) of this chapter. However, Record 21 does not list real estate seized for forfeiture under the internal revenue laws (see sec. 7302).

(5) *Public lists of employers making returns under the Federal Unemployment Tax Act.* Information as to whether an employer has made an annual return on Form 940 under the Federal Unemployment Tax Act (chapter 23 of the Code) will be furnished to an inquirer as provided in §§ 301.6103(f)–1 and 301.6106–1 of this chapter. See sections 6103(f) and 6106.

(6) *Information returns of certain tax-exempt organizations and certain trusts.* Information furnished on the public portion of Form 990–A and information furnished pursuant to section 6034 (relating to annual information required of trusts claiming deduction under sec. 642(c)) on Form 1041–A is available for public inspection. The public inspection portion of Form 990–A is, however, only retained for a 4-year period. Information furnished on Form 1041–A for years ending before December 31, 1962, will be available for public inspection in the office of the district director with whom Form 1041–A was filed. Information furnished for years ending on or after December 31, 1962, will be available for public inspection in the Office of the Director, Public Information Division, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, as well as in the office of the district director with whom Form 990–A or Form 1041–A was filed. See section 6104(b) and § 301.6104–2 of this chapter.

(7) *Applications of certain organizations for tax exemption.* Applications, and certain papers submitted in support of such applications, filed by organizations described in section 501 (c) or (d) and determined to be exempt from taxation under section 501(a) are open to public inspection in the Office of the Director, Public Information Division, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224. Copies of such applications filed after September 2, 1958, are open to public inspection in the offices of district directors. See section 6104(a) and § 301.6104–1 of this chapter.

(8) *Accepted offers in compromise.*—(i) *Income, profits, estate, or gift tax.* For a period of 1 year, a copy of the Abstract and Statement for each accepted offer in compromise in respect of income, profits, capital stock, estate, or gift tax liability is made available for inspection (*a*) in the Office of the Director, Public Information Division, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, when the offer covers a liability of $5,000 and over, and (*b*) in the office of the appropriate district director when the offer covers a liability of less than $5,000. See 26 CFR (1939) 458.313 (17 F.R. 7688); § 301.6103(a)–1(j) of this chapter; and section 10 of Rev. Proc. 64-44 (C.B. 1964–2, 974, 979).

(ii) *Liquors.* For each offer in compromise submitted and accepted pursuant to section 7122 in any case arising under Chapter 51 of the Code (relating to distilled spirits, wine, and beer), or pursuant to section 7 of the Federal Alcohol Administration Act (27 U.S.C. 207) in any case arising under that Act, a copy of the Abstract and Statement relating to the offer will be available for public inspection, for a period of 1 year from the date of acceptance, in—

(*a*) The office of the assistant regional commissioner (alcohol and tobacco tax) who received the offer, or the office of the district director for the internal revenue district in which the offer was submitted, in the case of offers accepted pursuant to the Code, or

(*b*) The office of the assistant regional commissioner (alcohol and tobacco tax) who received the offer, in the case of offers accepted pursuant to that Act.

Information will not be disclosed, however, concerning any trade secrets, processes, operations, style of work, or apparatus, or confidential data or any other matter within the prohibition of 18 U.S.C. 1905.

(9) *Information regarding liquor permits.*—(i) *Applications for permits.* Information with respect to the handling of applications for basic permits under the Federal Alcohol Administration Act (27 U.S.C. 204), operating permits under section 5171, and industrial use permits under section 5271 is maintained for public inspection in the offices of assistant regional commissioners (alcohol and tobacco tax) until the expiration of 1 year following final action on such applications. See 27 CFR 1.59.

(ii) *Card index record of permits.* A current card index record for—

(*a*) All persons to whom industrial use permits have been issued pursuant to section 5271,

(*b*) All proprietors of distilled spirits plants to whom operating permits have been issued pursuant to section 5171 to cover distilling for industrial use, bonded warehousing of spirits for industrial use, or denaturing of spirits, and

(*c*) All applicants for such industrial use and operating permits,

is available for public inspection in the offices of assistant regional commissioners (alcohol and tobacco tax).

(10) *List of plants and permittees.* Upon request, the assistant regional commissioner (alcohol and tobacco tax) will furnish a list of any type of qualified proprietor or permittee located in his region.

(11) *Information relating to certificates of label approval for distilled spirits, wine, and malt beverages.* Upon written request, the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 will furnish information as to the issuance, pursuant to section 5(e) of the Federal Alcohol Administration Act (27 U.S.C. 205(e)) and 27 CFR Part 4, 5, or 7, of certificates of label approval, or of exemption from label approval, for distilled spirits, wine, or malt beverages. The request must identify the class and type and brand name of the product and the name and address of the bottler or importer thereof or of the person to whom the certificate was issued. The person making the request may obtain reproductions or certified copies of such certificates upon payment of the established fees prescribed by paragraph (c)(5) of this section. Information will not be disclosed, however, concerning any trade secrets, processes, operations, style of work, or apparatus, or confidential data or any other matter within the prohibition of 18 U.S.C. 1905.

(12) *State liquor cases or State firearms cases.* Assistant regional commissioners (alcohol and tobacco tax) may, in the interest of Federal and State law enforcement, upon receipt of demands or requests of State authorities, and at the expense of the State, authorize investigators and other employees under their supervision to attend trials and administrative hearings in liquor cases or firearms cases in which the State is a party, produce records, and testify as to facts coming to their knowledge in their official capacities, provided that information will not be divulged contrary to section 7213 by such production or testimony. See also § 301.9000–1(f) of this chapter.

(13) *Excess profits tax relief; publication of allowances.* There is published from time to time in the FEDERAL REGISTER the information specified in section 6105 relative to excess profits tax relief allowed particular taxpayers. See § 301.6105–1 of this chapter.

(14) *Publication of statistics of income.* Statistics with respect to the operation of the income tax laws are published annually in accordance with section 6108 and § 301.6108–1 of this chapter.

(e) *Other disclosure procedures.* For procedure to be followed by officers and employees of the Internal Revenue Service upon receipt of a request or demand for certain internal revenue records or information the disclosure procedure for which is not covered by this section, see § 301.9000–1 of this chapter.

[F.R. Doc. 67–13651; Filed, Nov. 21, 1967; 8:45 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

SUBCHAPTER B—SALES AND SERVICES

PART 812—USER CHARGES

Subchapter B of Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

Part 812 is revised to read as follows:

Sec.
812.1 Purpose.
812.2 General policy.
812.3 Determining costs and fees for special services.
812.4 Determining charges for lease or sale.

AUTHORITY: The provisions of this Part 812 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: AFR 177–8, June 13, 1967.

§ 812.1 Purpose.

This part prescribes general policy for developing an equitable and uniform system of charges for certain Government services and property.

§ 812.2 General policy.

Air Force activities should not compete with available commercial facilities in providing services or in lease or sale of property to non-Government recipients. However, when authorized services are provided, or a lease or sale is made, the recipient of this benefit pays a reasonable charge as determined from instructions in §§ 812.3 and 812.4.

§ 812.3 Determining costs and fees for special services.

(a) *Determining costs.* Costs are determined or estimated from the best available records in the activity; cost accounting systems must not be established solely for this purpose. The cost computation covers the direct and indirect costs incurred by the activity performing the service. This includes but is not limited to:

(1) Civilian salaries (gross holiday, annual, and sick leave entitlements) and Air Force share of retirement and insurance.

(2) Military pay and allowances at standard rates.

(3) Travel expense.

(4) Cost of fee collection and postage.

(5) Material and supplies used.

(6) Maintenance and operation of buildings and equipment (including depreciation).

(7) A pro rata share of the management and supervisory costs of the activity performing the service.

(8) The costs of research, establishing standards, enforcement and regulation to the extent they are determined by the activity to be properly chargeable to the services performed.

(b) *Establishing fees to recover costs.* Unless otherwise prescribed by Air Force directives, fees are established under the policies and procedures of this part. The fee for a special service is governed by the total cost or fair market value, whichever is higher. Fees and rates must be reviewed at least once a year, and the fees adjusted as needed.

§ 812.4 Determining charges for lease or sale.

Where federally owned resources or property are leased or sold, obtain a fair market value. Determine charges, so far as practicable and feasible, in accordance with comparable commercial practices. Charges need not be limited to the recovery of costs—they may produce net revenues to the Government. In the absence of a known market value, a fair value for sale of material is determined on the basis of the inventory standard price or a reduced price when authorized for sale within DoD, plus accessorial and administrative costs.

By order of the Secretary of the Air Force.

LUCIAN M. FERGUSON,
Colonel, U.S. Air Force, Chief, Special Activities Group, Office of The Judge Advocate General.

[F.R. Doc. 67-13675; Filed, Nov. 21, 1967; 8:45 a.m.]

SUBCHAPTER W—AIR FORCE PROCUREMENT INSTRUCTION

MISCELLANEOUS AMENDMENTS TO SUBCHAPTER

Subchapter W of Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

PART 1001—GENERAL PROVISIONS

Subpart D—Procurement Responsibility and Authority

1. Section 1001.461 and the introduction of paragraph (c) of § 1001.750–4 are revised. These sections now read as follows:

§ 1001.461 Contracts for public utility services extending beyond current fiscal year.

(a) *Contracts for power, gas, and water.* (1) The Commander, AFLC, has been authorized to enter into contracts for public utility services (power, gas, water) for periods extending beyond the current fiscal year but not exceeding 10 years, under one or more of the following circumstances:

(i) Where there are obtained lower rates, larger discounts, or more favorable conditions of service than those available under contracts the firm term of which would not extend beyond a current fiscal year.

(ii) Where connection or special facility charges payable under contracts the firm term of which would extend beyond a current fiscal year are eliminated or reduced.

(iii) The utility refuses to render the desired service except under a contract the firm term of which extends beyond a current fiscal year. The authority will be exercised according to the applicable provisions of the "Statement of Areas of Understanding Between the Department of Defense and General Services Administration—Procurement of Utility Services" (AF Bulletin 53, Dec. 19, 1950, sec. III). The authority is also subject to the administrative procedures for review of contracts contained in AFR 91–5 (Utility Services).

(2) The authority of the Commander, AFLC, as described in subparagraph (1) of this paragraph has been delegated to the persons listed below:

(i) The Director and Deputy Director of Procurement and Production, HQ AFLC, with power of redelegation.

(ii) The Commander-in-Chief, U.S. Air Forces in Europe, with power of redelegation to the Director of Procurement and Production, without power of redelegation.

(3) The statute authorizing definite term utility service contracts for periods not exceeding 10 years is 40 U.S.C. 481 (a) (3). The statute as well as 10 U.S.C. 2304 (a) (10) will be cited on all definite term utility service contracts extending beyond the current fiscal year.

NOTE: Indefinite term utility service contracts as contemplated in Subpart KK, Part 1007 of this chapter (which are in effect until terminated) do not impose any obligation on the Government except as the service is actually used therefore, do not come within the purview of this paragraph. Such contracts will be approved pursuant to § 1001.455 and § 1007.3706 of this chapter and will cite only 10 U.S.C. 2304(a)(10) as statutory authority.

(b) *Contracts for communication services.* (1) The Commander, AFLC, has been authorized to enter into contracts for communication services for periods extending beyond the current fiscal year but not to exceed 10 years, under one or more of the following circumstances:

(i) When services are obtained from communication common carrier whose rates are regulated by a Federal, State, or other public regulatory body;

(ii) Where the services are obtained by competitive means from other than communication carriers and;

(a) Where there are obtained lower rates, larger discounts, or more favorable conditions of service than those available under contracts the firm term of which would not extend beyond a current fiscal year.

(b) Where nonrecurring or termination charges payable under contracts the firm term of which would not extend beyond a current fiscal year are eliminated or reduced.

(iii) The termination liability incurred by the contract, when added to the cumulative termination liabilities of existing contracts does not exceed the termination liability ceilings imposed by public law or departmental administrative procedures.

(2) The authority of the Commander, AFLC, as described in subparagraph (1) of this paragraph has been delegated to the persons listed below:

(i) The Director and Deputy Director of Procurement and Production, HQ AFLC, with power of redelegation.

(ii) Commanders Air Force Communication Service and Air Procurement Region, European and Commander-in-Chief, U.S. Air Forces in Europe, with respect to leased private line services and leased tactical on-base communication services, with power of redelegation.

(iii) Commanders of major commands and commanders of air materiel areas, with respect to miscellaneous base services and facilities, may redelegate to contracting officers of subordinate functions that portion of the above authority involving the procurement of miscellaneous base services and facilities under indefinite delivery contracts issued by AMAs or GSA.

(iv) Commanders of air materiel areas with respect to (a) initial installations and major modification of base support leased facilities, and (b) miscellaneous base services and facilities in support of the responsibilities and mission of GEEIA in accordance with AFLCR 23-17, with power of redelegation to directors of procurement and production of such air materiel areas, but without power of redelegation to GEEIA.

(v) Commander, Ground Electronics Engineering Installation Agency (GEEIA), with respect to issuing Communication Service Authorizations (CSA) only, with power of redelegation to the commanders of GEEIA regions.

* * * * *

§ 1001.705–4 Certificates of competency.

* * * * *

(c) When a matter is referred to SBA, the contracting officer will furnish two copies of his determination pursuant to § 1.904–1 of this title and two copies of the preaward survey through channels to AFLC (MCP) or AFSC (SCK), as appropriate. MCP or SCK will, after review, forward the matter to Hq USAF (AFSPPBB).

* * * * *

PART 1006—FOREIGN PURCHASES

2. Section 1006.552 and Subpart H are revised to read as follows:

Subpart E—Canadian Purchases

§ 1006.552 Basic agreement.

The Air Force has in effect a Cost Reimbursement type basic agreement with the Canadian Commercial Corporation. Required copies of the current basic agreement may be obtained from the Aeronautical Systems Division (ASKBB-10), Wright-Patterson AFB, OH 45433.

Subpart H—Balance of Payments Program—Offshore Procurement

Sec.
1006.850 Scope of subpart.
1006.850–1 Purpose.
1006.850–2 Definitions.
1006.850–3 Method of procurement.
1006.850–4 General policy.
1006.850–5 BUSH contract pricing, competition and reporting.
1006.850–6 Format for BUSH contract.
1006.850–7 Format for BUSH authorized price list (APL).

AUTHORITY: The provisions of this Subpart H issued under secs. 8012, 2301, 70A Stat. 488, 127; 10 U.S.C. 8012, 2301–3314.

Subpart H—Balance of Payments Program—Offshore Procurement

§ 1006.850 Scope of subpart.

Procurement procedures of special application to BUSH (Buy U.S. Here) contracts and their resulting Authorized Price List (APL) are set forth in this subpart, and in certain instances other portions of this instruction having particular significance to BUSH contracts are cross-referenced herein.

§ 1006.850–1 Purpose.

The purpose of the BUSH program is to establish and maintain a comprehensive procurement support program. The program will be directed at making the maximum number of commercial U.S. end products available for use by overseas Government agencies under advantageous conditions. The objectives of the BUSH program are to (a) assist in carrying out the full intent and purpose of the DoD Balance of Payments Program through the purchase of U.S. end products, (b) reduce administrative costs by centralization of contract placement where practicable, (c) effect cost savings through favorable prices and lower cost for delivery to an oversea destination, and (d) provide a readily available source of supply in oversea areas for U.S. end products.

§ 1006.850–2 Definitions.

As used in this subpart, the following terms have the meaning set forth below:

(a) *BUSH.* An acronym formed from using the first letters of the words "Buy United States Here." BUSH is a program for award of contracts by an overseas Procurement Activity for delivery of U.S. end products and services to overseas activities.

(b) *BUSH contractor.* A business concern, domestic or foreign, having a BUSH contract.

(c) *BUSH contract.* A contract, usually an indefinite delivery type, awarded under the BUSH Program.

(d) *BUSH delivery point.* An oversea delivery point that is either the final destination, a central point used for acceptance and redistribution, or a foreign Port of Entry (POE) for U.S. Government acceptance and transshipment to final destination.

(e) *Oversea, delivered cost(s).* The total cost, including purchase price, packing, crating, handling, shipping, and delivery costs of an item delivered to an oversea destination.

(f) *Authorized Price List (APL).* A price list of the products and/or services covered in the BUSH contract which contains minimum essential information needed by procuring activities for placing orders.

§ 1006.850–3 Method of procurement.

BUSH contract requirements will be negotiated pursuant to 10 U.S.C. 2304 (a) (5).

§ 1006.850–4 General policy.

(a) BUSH programs will be managed and controlled by the oversea Major Commands responsible for the respective oversea areas.

(b) BUSH contracting offices will:

(1) Be centrally located to the maximum practicable extent. This is intended to minimize the points of contact necessary to industry.

(2) Coordinate with other services in the respective oversea area so as to achieve the greatest degree of unified action.

(c) To qualify for BUSH contract coverage all of the following criteria must be met.

(1) The supplies covered will be U.S. end products.

(2) The contractor shall be responsible for making delivery to an overseas delivery point (§ 1006.850–2(d)).

(3) There must be a positive advantage when compared to other methods of procuring the same or similar U.S. end product for oversea delivery. Price comparisons will, at the minimum, involve oversea delivered costs (§ 1006.850–2(e)).

(d) BUSH contracts will:

(1) Be solicited from all possible qualified sources to insure maximum number of items available for oversea Government ordering activities use.

(2) Be executed and used to the maximum extent possible for:

(i) Small dollar items.

(ii) Equipment where periodic maintenance and servicing is available in the oversea area and/or where the delivered costs include such things as a warranty, maintenance for a stated period, installation and checkout, and operator orientation, instruction or training.

(3) Be governed by the provisions of § 5.106 of this title in the case of multiple awards of like items.

(4) Normally extend for a 1-year period.

(5) Be centrally administered by the BUSH office awarding the contract. All BUSH contracts and resulting APLs will require one copy of all delivery orders issued pursuant thereto to be furnished the administering office. One copy of all delivery order delinquent followup actions, when required, will be furnished the administering office for recording purposes.

(6) Require all shipments (direct and transshipments) to be consigned to the transportation officer at the first oversea delivery destination point for acceptance and foreign customs clearance. The shipment will be marked for delivery to the ordering activity at final destination for inspection.

(7) Be publicized through advance notices for the reasons set forth in § 1.1003–4 of this title and similar in format to § 1.1003–9(d) (1) of this title.

(8) Provide for use by any U.S. Government oversea ordering authority.

(9) Provide for distribution of an Authorized Price List (APL) to all oversea U.S. Government ordering activities.

§ 1006.850–5 BUSH contract pricing, competition and reporting.

(a) The following BUSH pricing techniques will be applied in developing BUSH procedures. They are categorized into two general supply item areas.

(1) *Prices based upon Federal Supply Schedule items.* The competitive nature of the Federal Supply Schedule pricing is unquestioned because the FSS prices as increased by the additional oversea delivered costs are the actual costs the Government will pay in the absence of a BUSH contract.

(2) *Prices based upon Non-Federal Supply Schedule items.* The prices and competitive nature for these items are influenced by the number of sources available for competition among oversea sources (e.g., multiple oversea subsidiaries and single oversea subsidiaries).

(b) Indefinite delivery BUSH contracts for non-FSS items from oversea and CONUS sources:

(1) *Multiple sources in same commodity area.* Contracts should be negotiated with each offeror for individual item requirements or all the product line, using § 3.807–1(b) (2) of this title in determining reasonableness of price only. Ordering activities will utilize § 5.106 of this title in selecting the contractor with whom to place delivery orders.

(2) *Single source for non-FSS items.* When multiple sources are not available, the contract may be negotiated on a sole source basis for individual items or product line. Section 3.807–1(b) (2) of this title will be used to determine reasonableness if applicable in accordance with the criteria listed under subparagraphs (i) through (iv) thereunder. If these criteria do not apply, then price reasonableness will be determined in accordance with §§ 3.807–2 and 3.807–3 of this title.

§ 1006.850–6 Format for BUSH contract.

BUSH contracts will consist of a cover page (Standard Form 26), Schedule, General Provisions for Fixed Price Supply Contract, additional General Provisions, when applicable, and BUSH Authorized Price List (§ 1006.850–7) in the format set forth in this section.

(a) Cover page (Standard Form 26).

(b) Schedule provisions.

(1) *Scope of contract.* (August 1967)

(i) The Contractor shall furnish and deliver in implementation of the Balance of Payments Program, U.S. end products as specified in the attached BUSH Authorized Price List at the unit price stated therein, when ordered by an authorized ordering activity in compliance with all terms and conditions of this contract.

(ii) The attached BUSH Authorized Price List is incorporated herein and shall be hereinafter referred to as the "APL."

(2) *Contractual period.*

Performance period of this contract will be effective _____ and ending _____ (August 1967)

(3) *Office of Administration.*

(i) The following office is assigned overall administrative responsibility for this contract:

(Insert BUSH Office Indigenous Address)

(ii) All correspondence written to U.S. Government activities concerning this contract shall be in the English language and all cost incident thereto is the responsibility of and shall be borne by the Contractor.

(4) *Printing and distribution of APLs.* (August 1967)

The Contractor, at no cost to the U.S. Government, shall print, package and deliver to the Procurement Office using this contract _____ copies of the APL. Packaging shall be in accordance with instructions issued by the Contracting Office. In the event additional copies of the APL are requested by ordering activities, the Contractor will furnish them at no cost to the U.S. Government.

(5) *Special marking instructions.* (August 1967)

Notwithstanding any other provisions of this contract concerning markings for shipment, the Contractor shall prepare a DD Form 1387, Military Shipment Label, and attach this label to the outside shipping container of all items delivered to (Insert First Destination delivery point), for subsequent transshipment by the Government as otherwise provided for under the terms of this contract. Copies of these forms and preparation instructions may be obtained by contacting the office having overall administrative responsibility for this contract.

§ 1006.850–7 Format for BUSH Authorized Price List (APL).

The APL is a contractor publication similar to the Contractors' Catalog published pursuant to a GSA Federal Supply Schedule. The cover of the APL is designed by the BUSH Contractor and will contain but is not limited to the following minimum essential information: BUSH office indigenous address awarding the contract; Procurement Instrument Identification Number (PIIN); Contractor's name and indigenous address; Federal Supply Group or Classes of the products covered in the APL; and the list of countries authorized to use the APL. The APL will be published by the contractor using the below prescribed minimum APL format, as applicable. The published APL will become an appendage to and form a part of the BUSH Contract by reference. The APL normally contains three sections. Section I, "Terms and Conditions," contains general ordering information. Section II, "Items, Description and Prices" contains photographic illustrations, purchases descriptions, stock numbers, and prices. Section III, "Foreign Sales and Services Offices," lists the contractors sales and service offices address where service capability exists for the products offered in the APL. The following prescribed format shall be used for all APLs authorized for issuance in a BUSH contract. The following provisions will appear in the APL in the sequence shown below when applicable. Nonapplicable provisions will be deleted and the next applicable provision in sequence will be used.

SECTION I—TERMS AND CONDITIONS

A. *General conditions.* (August 1967)

(a) This Authorized Price List is subject to the terms and conditions of BUSH contract (insert number), which contains the following provisions:

(Identify Major Command Form No. (When Applicable), General Provisions, Fixed Price Supply Contracts, (Date)).

(Identify Major Command Form No. (When Applicable), BUSH Fixed Price Supply Contract. Additional General Provisions, (Date)). Insert when applicable.

B. *Authorized ordering activities.* (August 1967)

Any duly appointed U.S. Government contracting officer or otherwise authorized ordering officer assigned in the countries listed below may place delivery orders against this Authorized Price List. Foreign Source Procurement Determination is not required.

(Identify countries covered by BUSH contract.)

C. *Pricing.* (August 1967)

(a) All prices quoted within this Authorized Price List are net f.o.b. delivered to the various destinations as set forth below. In accordance with the tax clause of the General Provisions of this contract, the contractor warrants that such prices do not include any tax, duty, customs fees, or other foreign government costs, assessments, or similar charges from which the U.S. Government is exempt. Contractor further warrants that any applicable taxes, duties, customs fees, other governmental costs, assessments, or similar charges, from which the U.S. Government is not exempt are included in the prices quoted within this APL, and that such prices are not subject to additions or increases for any such charges.

(b) Standard commercial packing, packaging, preservation, marking and installation are included in the unit prices of all items listed herein.

D. *Discounts.* (August 1967)

NOTE: Enter the following if the contractor proposes prompt payment discounts.

(a) Pursuant to the clause of the General Provisions entitled "Discounts," a ---------- prompt payment discount is granted on all orders against this APL if payment is made within ------- days after the date of delivery and acceptance, or after receipt of a correct invoice, whichever is later.

(b) Enter here any quantity discounts the contractor wishes to offer.

E. F.O.B. points—direct and transshipments. (August 1967)

(a) Direct shipments.

The Contractor shall deliver all equipment ordered directly to cited destinations within the following countries:

(Identify only those countries to which the contractor proposes to deliver directly by his own means.)

All direct deliveries will be consigned to the Traffic Management Officer or Transportation Officer at the f.o.b. delivery points.

NOTE: Include the following paragraph only if Government transshipments are proposed.

(b) Transshipments.

(1) The contractor shall consign all goods ordered, destined for countries other than shown above, to the following f.o.b. address:

(Fill in applicable Port Transportation Officers or insert Transportation Officer at central f.o.b. points.)

(2) Each transshipment delivery will be indelibly marked as follows:

(i) Traffic management or transportation officer at final destination.

(ii) Ordering supply account number.

(iii) Contract number.

(iv) Order number.

(v) Federal stock number or manufacturer's serial number.

(vi) Nomenclature.

(vii) Quantity.

(viii) Box number ------- of ------- boxes.

(ix) Weight ------- Cubic feet -------

(x) Transshipment priority -------

(c) In addition to the above, the contractor shall prepare a DD Form 1387, Military Shipment Label, and attach this label to the outside shipping container of all items delivered to the central f.o.b. point for subsequent transshipment by the Government as otherwise provided for under the terms of this contract. Copies of these forms and preparation instructions may be obtained by contacting the office having overall administrative responsibility for this contract.

F. *Delivery schedule.* (August 1967)

(a) *Routine delivery.* Except as provided in paragraph (b) below, delivery of items ordered hereunder shall be accomplished within (insert maximum delivery time to f.o.b. point), after receipt of a correct order. Immediately upon receipt of each order issued against this APL, the Contractor shall acknowledge receipt thereof to the Contracting or Ordering Officer, in writing, and shall indicate the probable date of delivery of the items ordered.

(b) *Accelerated delivery.* The majority of the items contained herein are available for delivery within (insert delivery time that normally can be met) days. The Contracting or Ordering Officer issuing a delivery order against this APL may, prior to the issuance of an order, contact the Contractor for the purpose of negotiating a delivery schedule of less than (insert time specified in (a) above) at no change in unit price. The agreed accelerated delivery schedule shall be set forth in the order. The Contractor shall immediately acknowledge receipt of the order, in writing, and verify the delivery date set forth therein. Upon such verification by the Contractor, the accelerated delivery schedule shall become the firm delivery requirement of the order.

G. *Availability.* (August 1967)

The contractor shall not be required to accept orders for any item specified in this Authorized Price List if such item has been withdrawn from general sale in the United States at the time orders therefor are received.

H. *Warranty.* (August 1967)

(Insert standard commercial warranty)

I. *Installation, services, and training.* (August 1967)

(Insert installation, operator training, special schooling, or other services included in item price.)

J. *Electrical requirements.* (August 1967)

(Identify, if applicable, the variations of electrical possibilities available for contractor equipment.)

K. *Ordering instructions.* (August 1967)

(a) Issue all delivery orders to: (Insert complete mailing address, telephone number, telex call sign, and cable address if applicable.)

(b) All delivery orders must contain the following information (if applicable) to insure prompt processing and delivery of your requirements:

(1) Basic contract number.

(2) Delivery order number.

(3) Federal stock number where available; manufacturer's model, item or part number for each item being ordered.

(4) Description of nomenclature of item.

(5) Electrical requirements, when applicable.

(6) Quantity, unit and total price of each item.

(7) Marking requirements. (Shipments will be consigned to the traffic management or transportation officer at the first destination delivery point, marked for the ordering supply account, of the final delivery destination.)

(c) In addition to the number of copies of delivery orders required by each ordering activity for local distribution, the following minimum additional copies will be forwarded to:

(1) Contractor (Insert name and address).	2 copies
(2) The applicable traffic management officer at final destination.	2 copies
(3) The BUSH office awarding and administering the contract.	1 copy
(4) The port transportation officer or traffic management officer through which transshipment will be made (if applicable).	2 copies

L. *Instructions regarding administration of orders.* (August 1967)

Each ordering activity will deal directly with the Contractor and shall be responsible for the administration of orders placed by that activity. Such responsibility includes the placement and followup of orders and acceptance inspection of supplies and services, modification of orders, and termination and settlement of orders within the termination authority of the ordering officer. Ordering activities will not issue final decisions pursuant to the clause of the General Provisions entitled "Disputes." In the event an ordering activity is unable to resolve a dispute with the Contractor, and it appears to the ordering activity that a final decision under the Disputes clause, nor will the Contractor accept the same.

M. *Customs clearance.* (August 1967)

The traffic management officer (TM) or transportation officer (TO) at the first destination delivery point will issue proper customs declaration or clearance forms when required.

N. *Inspection and acceptance.* (August 1967)

(a) *Direct shipments.* Inspection and acceptance shall be made at final destination by an authorized U.S. Government representative. Equipment which will be installed and checked out (see Installation and Warranty) will be inspected and accepted after such installation and check-out.

(b) *Transshipments.* (NOTE: Delete if Government transshipments are not applicable.)

(1) Acceptance will be made by the transportation officer or the appropriate port transportation officer, under the "Certificate of Conformance" provisions.

(2) Inspection will be made at the final destination by an authorized U.S. Government representative. Equipment to be installed and checked out will be inspected and accepted after such installation and checkout.

NOTE: If contractor proposes direct shipments only, delete all reference to transshipments.

O. *Certificate of conformance (COC).*

Insert clause in § 1007.4014.

P. *Finance office, invoices and payment.* (August 1967)

(a) The Finance and Accounting Office cited on the cover sheet of each delivery order is responsible for making payments for delivery orders issued against this contract.

(b) All payments for delivery orders against this contract will be made in U.S. dollar checks to: (Insert name and address to which payments should be made.)

(c) Invoices shall be prepared and submitted in ------- copies unless otherwise specified, and shall contain: Contract number, contract description of supplies, sizes, quantities, unit prices (exclusive of taxes or duties for which relief is available), and extended totals.

(d) This contract is subject to the clause entitled "Identification of Expenditures in the United States (October 1966)," copies of which may be obtained from the local procurement office.

(e) The Contractor shall be paid in accordance with the clause entitled Payments. (Reference General Provisions Number (insert paragraph number).)

SECTION II—ITEM DESCRIPTION AND PRICES

Q. *Item(s) description and prices.* (August 1967)

Identify items offered in the Authorized Price List.

(a) Pictures of items offered are encouraged.

(b) Include Federal stock numbers where possible.

(c) Item pricing should be shown with the item identification.

SECTION III—FOREIGN SALES AND SERVICE OFFICES

R. *Foreign sales and service offices.* (August 1967).

Identify all the contractors' sales and service offices by country which will be capable of servicing items delivered from the APL. This listing is normally included in the last page(s) of the APL.

PART 1007—CONTRACT CLAUSES

3. New §§ 1007.106–50, 1007.602–9, and 1007.6001–3 are added as follows:

Subpart A—Clauses for Fixed-Price Supply Contracts

§ 1007.106–50 Escalation clause for platinum.

The following price escalation clause is authorized for use in advertised or negotiated fixed-price supply contracts for platinum.

PRICE ESCALATION (AUGUST 1967)

(a) The Contractor represents that the unit prices set forth in this contract do not include any contingency allowance to cover the possibility of increased costs of performance resulting from increases in the prices which the Contractor is charged for the platinum required in the performance of this contract.

(b) Each contract unit price shall be subject to revision, pursuant to the provisions of this clause, to reflect changes in the cost of platinum.

(c) The platinum price set forth elsewhere in the schedule of this contract shall be used by the contractor in computing his unit price for each item for which the contractor is required to furnish platinum. Within 60 days after completion of deliveries under the contract, the contractor shall submit to the Government a certified statement setting forth the number of troy ounces of platinum which the contractor has furnished in the performance of the contract and the price paid per troy ounce. This statement shall be supported by invoices showing payment to the supplier of the material; provided however, that written concurrance of the contracting officer will be obtained prior to purchase of any platinum subject to price revision under this clause, the price of which exceeds 110 percent of the price per troy ounce set forth in the contract.

(d) Upon receipt of the contractor's statement and invoices showing the amount of platinum which the contractor has furnished in performance of the contract, the difference between the price per troy ounce set forth in the contract for computation of unit prices and the price per troy ounce actually paid by the contractor shall be computed and multiplied by the number of troy ounces of platinum which the contractor has furnished in the performance of the contract. Any difference between the price per troy ounce allowed for computation of unit price in the contract and the price per troy ounce actually paid by the contractor shall be adjusted by a "Change Order" to the contract either increasing or decreasing the unit price per item and the total amount of the contract.

(e) In the event of any total or partial termination of any item of this contract for the convenience of the Government, the month in which notice of such termination is received by the contractor, if prior to the month in which delivery is required by this contract, shall be considered the month in which delivery of such terminated or partially terminated item is required for the purpose of determining the current materials prices under paragraph: (c) and (d) hereof: *Provided, however,* That as to the quantity of such items which are not terminated for convenience, the month in which delivery is required by this contract shall continue to apply for determining said prices. In the case of termination of any item for default on the part of the contractor, any price revision shall be limited to the quantity of each item which has been delivered by the contractor and accepted by the Government prior to receipt by the contractor of notice of termination for default.

(f) As used in this clause the phrase "the month in which delivery of supplies is required to be made in accordance with the terms of this contract" shall mean any month in which under the terms of this contract a specific quantity of units of the supplies called for by this contract is required to be delivered: *Provided, however,* That in case of the failure of the contractor to make delivery of such quantity shall have arisen out of causes beyond the control and without the fault or negligence of the contractor, within the meaning of paragraph (c) of the clause of this contract entitled "Default," the quantity not delivered shall be required to be delivered as promptly as possible after the cessation of the cause of such failure, and the delivery schedule set forth in this contract shall be amended accordingly.

(g) Failure to agree upon any platinum prices under this clause shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

Subpart F—Clauses for Construction and Architect-Engineer Contracts

§ 1007.602–9 Preparation of material approval submittals.

The following clause will be included in all contracts for construction where it is contemplated that material approval submittals will be required.

PREPARATION OF MATERIAL APPROVAL SUBMITTALS (AUGUST 1967)

The submittals contemplated by the clause herein entitled "Material and Workmanship" shall be accomplished on and in accordance with instructions pertaining to AFPI Form 1, Material Approval Submitted.

Subpart HHH—Clauses and Special Provisions for Certain Contracts Not Listed in Subchapter A, Chapter I of This Title or Other Subparts of This Part

§ 1007.6001–3 Clauses and schedule provisions covering contracts for contractor plant services (CPS), contractor field services (CFS), and field service representatives (FSR).

The clauses and schedule provisions covering the above requirements pursuant to AFM 66–18 (Engineering and Technical Services Management and Control) will be issued, according to § 1001.108 of this Chapter only by EWPT, Wright-Patterson AFB, OH.

PART 1018—PROCUREMENT OF CONSTRUCTION AND CONTRACTING FOR ARCHITECT-ENGINEER SERVICES

Subpart A—General Provisions

4. Subpart A is amended by adding a new § 1018.150 as follows:

§ 1018.150 Material Approval Submittal Form (AFPI Form 1).

(a) Material Approval Submittal for Construction Contracts Clause 9, Material and Workmanship, General Provisions, Construction Contract, Standard Form 23A (required by § 7.602–9 of this title) requires construction contractors when required by the contracting officer to furnish the contracting officer for approval full information concerning the

materials or articles which the contractor contemplates incorporating in the work. Within 10 days after commencement of work or within such time as established by the contracting officer, the contractor will submit for approval all materials or articles which the contractor will incorporate into the work. The contracting officer will establish a suspense date on action to be taken on submittals and retain the fourth copy for necessary followup action.

(1) Instructions to the contractor for preparation of AFPI Form 1 are contained on the reverse side thereof.

(2) Approvals or disapprovals will be entered by the construction activity by initials and a check mark as considered appropriate on the face of the submittal designated "For Government Use Only."

(3) Any controversial item which has been disapproved and which may lead to difficulties should be explained by separate correspondence.

(4) Insofar as practicable and prior to the commencement of work, the contracting officer with advance information from the construction activity will inform the contractor of the materials or articles requiring approval. See § 7.602–9 of this title.

(b) No implementation.

(Sec. 8012, 70A Stat. 488, secs. 2301–2314, 127–133; 10 U.S.C. 8012, 2301–2314) [AFPI Rev. No. 61, Aug. 29, 1967; AF Procurement Circulars No. 17, Aug. 30, 1967; No. 18, Sept. 19, 1967]

By order of the Secretary of the Air Force.

LUCIAN M. FERGUSON,
Colonel, U.S. Air Force, Chief, Special Activities Group, Office of The Judge Advocate General.

[F.R. Doc. 67–13876; Filed, Nov. 21, 1967; 8:45 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission and Department of Transportation

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Docket No. 34650; Amdt. 1]

PART 180—CARRIERS BY PIPELINE

In Order No. 1, dated June 16, 1967 (32 F.R. 9228–9230, June 29, 1967), a final rule was issued amending the regulations governing the transportation of hazardous materials contained in Title 49, Code of Federal Regulations, Parts 171–179, by adding Part 180—Carriers by Pipeline. This rule was to have become effective on September 6, 1967, but its effective date was postponed by the timely filing of a petition for reconsideration by the Central Committee on Pipe Line Transportation of the American Petroleum Institute. Notice of this postponement was published in the FEDERAL REGISTER (32 F.R. 12851, Sept. 8, 1967).

Although the petition recognizes the Administration's authority to regulate the transportation of hazardous materials under the Explosives and Other Dangerous Articles Act (18 U.S.C. 831–835), it asserts that the Administration lacks authority under this statute to prohibit their transportation by pipeline or to require pipeline carriers to obtain prior permission through the special permit system prescribed in § 180.6 (49 CFR 180.6).

Regulations providing for the issuance of special permits to modes other than pipelines have been in effect and extensively utilized since 1945. See 49 CFR 173.22(a). Special permits are waivers of existing regulations, or are temporary regulations authorizing the transportation of hazardous materials, under specific conditions prescribed to assure safety.

Pipeline carriers were made subject to the Explosives and Other Dangerous Articles Act by Public Law 89–95, approved July 27, 1965. This law merely deleted the words "other than pipelines" from the definition of "carrier" in section 831 of that Act. This amendment was introduced at the request of and was strongly supported by major segments of the petroleum industry. Representatives of the industry stated at Congressional hearings that the industry preferred Federal regulations to a potential myriad of conflicting State regulations.

When it enacted Public Law 89–95, Congress neither prohibited the establishment of a similar special permit procedure for pipelines nor did it express its disapproval of the long-established special permit procedure applicable to other modes.

Accordingly, the petition's contention that the Administration lacks statutory authority to prohibit transportation of hazardous materials by pipeline or to require pipeline carriers to obtain permission prior to such transportation in accordance with the special permit procedure contained in § 180.6, is hereby rejected.

However, upon further consideration, it is hereby determined that the special permit procedure prescribed in § 180.6 is not required at this time to effectively regulate the safe transportation of hazardous materials by pipeline. Section 180.6 is therefore being amended.

As amended, § 180.6 will require pipeline carriers to give written notice to the Administration at least 90 days before the transportation is to begin. This notice must identify the hazardous materials and describe their properties and characteristics including their hazard classification. It must also contain the pipeline design specifications including maximum operating pressures. If the Administration determines that the transportation of hazardous materials by pipeline as described in the notice would be unduly hazardous, it will prior to the expiration of the 90-day period order the carrier in writing not to transport them until further notice and will initiate appropriate action as soon as practicable to determine a manner in which the hazardous materials may be transported by pipeline without undue hazard.

In view of the recently issued Departmental regulations concerning the public availability of information (32 F.R. 9284–9292, June 29, 1967), § 180.27 *Accident reports confidential* is deleted in its entirety.

In addition, a number of minor changes of an editorial nature have been made throughout Part 180.

In consideration of the foregoing, the Hazardous Materials Regulations of the Department of Transportation (49 CFR Parts 171–179) are hereby amended by revising the following Part 180 at the end thereof, effective December 31, 1967.

This part is issued under the authority of section 831–835 of title 18, United States Code, and section 6(e)(4) and (f)(3)(A) of the Department of Transportation Act 49 U.S.C. 1655 (e)(4) and (f)(3)(A).

Issued in Washington, D.C., on November 9, 1967.

A. SCHEFFER LANG,
Administrator,
Federal Railroad Administration.

Sec.

180.1 Purpose of this part.
180.2 Scope of the regulations in this part.
180.3 Exemptions from the regulations in this part.
180.4 Definitions.
180.5 Acceptable commodities for transportation by pipeline.
180.6 Transportation of dangerous goods not provided for in § 180.5.

Subpart A—Accident Reporting

180.25 Purpose of accident reporting.
180.26 Reportable accident.
180.28 Accident reporting.
180.29 Instructions for preparing DOT Form 7000–1.
180.30 Filing of accident report.
180.31 Changes in or additions to accident report.
180.32 Immediate notice of fatal accidents.
180.33 Deaths occurring before filing report.
180.34 Notice of death occurring after filing report.
180.35 Carrier to assist in investigation.
180.36 Supplies of accident report DOT Form 7000–1.

AUTHORITY: The provisions of this Part 180 issued under secs. 831–835, 18 U.S.C.; sec. 6(e)(4), (f)(3)(A), Department of Transportation Act (49 U.S.C. 1655 (e)(4), (f)(3)(A)).

§ 180.1 Purpose of this part.

(a) To promote the uniform enforcement of law and to minimize the dangers to life and property incident to the transportation of dangerous goods (other than natural or artificial gas and water) by pipeline carrier in interstate or foreign commerce. This part prescribes the general rules under which pipeline carriers must design, construct, test, maintain, and operate pipeline systems to provide for safety to the public and to the carrier's personnel. It is the duty of each carrier to thoroughly instruct employees concerning the requirements of this part.

§ 180.2 Scope of the regulations in this part.

(a) Except as provided in § 180.3, all pipeline carriers subject to sections 831–835 of Title 18, U.S.C., which at any time transport dangerous goods, through their pipeline system shall be subject to Parts 171, 172, 173, and 180 of this chapter, as applicable.

§ 180.3 Exemptions from the regulations in this part.

(a) Pipelines which operate at a stress level of 20 percent or less of the specified minimum yield strength of line pipe in the system, and pipelines which move commodities from one point to another by gravity rather than by pumping are exempt from this part.

§ 180.4 Definitions.

(a) For the purposes of this part:

(1) "Dangerous goods" means explosives and other dangerous articles as defined in Part 173 of this chapter and petroleum as defined in this section but does not include natural or artificial gas and water.

(2) "Pipeline system" and "pipeline" are synonymous and mean all parts of a carrier's physical facilities through which dangerous goods move including, but not limited to: Line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping units, measurement and delivery stations and fabricated assemblies therein, and carrier-owned breakout tankage.

(3) "Pipe" or "line pipe" means a tube, usually cylindrical, through which a commodity flows from one point to another.

(4) "Specified minimum yield strength" means the minimum yield strength, expressed in pounds per square inch, prescribed by the specification under which the material is purchased from the manufacturer.

(5) "Stress level" means the level of tangential or hoop stress, usually expressed as a percentage of specified minimum yield strength.

(6) "Barrel" means a unit of measurement equal to 42 U.S. gallons at 60° F. used to determine quantity of petroleum.

(7) "Petroleum" means a general term including but not limited to: Crude oil, natural gasoline, liquefied petroleum gas (LPG), and liquid petroleum products.

§ 180.5 Acceptable commodities for transportation by pipeline.

(a) For the purpose of this part, all petroleum can be accepted for transportation by pipeline unless it will damage the pipeline and thereby create an undue safety hazard to persons or property.

§ 180.6 Transportation of dangerous goods not provided for in § 180.5.

(a) Except as provided in § 180.5 no dangerous goods may be transported by pipeline after April 15, 1968, unless the Administrator, Federal Railroad Administration, Department of Transportation, Washington, D.C. 20591, receives written notice thereof from the carrier at least 90 days prior to the date the transportation is to begin. If the Administrator determines that the transportation of the dangerous goods by pipeline would be unduly hazardous in the manner proposed, he will, before expiration of the 90 days, order the carrier in writing not to transport the dangerous goods until further notice. As soon as practicable after issuance of such an order, the Administrator will initiate appropriate action to determine whether and in what manner the dangerous goods may be transported by pipeline without undue hazard.

(b) The notice submitted to the Administrator by the carrier must state the chemical name, common name, hazard classification, properties, and characteristics of the dangerous goods to be transported. It must also include design specifications, including maximum operating pressures, for the pipeline through which dangerous goods are to be transported.

Subpart A—Accident Reporting

§ 180.25 Purpose of accident reporting.

(a) The purpose of accident reporting is to allow the determination of both causes of accidents and remedies to prevent accidents so that appropriate regulations may be formulated for the safe transportation of dangerous goods by pipeline in interstate and foreign commerce.

§ 180.26 Reportable accident.

(a) For the purpose of this part, a reportable accident is any failure in the system of a pipeline carrier transporting dangerous goods under pressure by pumping in which there is a liquid or vapor release of the commodity transported resulting in any of the following:

(1) Explosion or fire not intentionally set by carrier.

(2) Loss of 50 or more barrels of liquid.

(3) Escape to the atmosphere of more than 5 barrels per day of liquefied petroleum gas or other commodity which vaporizes upon release to the atmosphere.

(4) Death of any person.

(5) Bodily harm to any person resulting in one or more of the following:

(i) Loss of consciousness.

(ii) Necessity to carry the person from the scene.

(iii) Necessity for medical treatment.

(iv) Disability which prevents the discharge of normal duties or the pursuit of normal activities beyond the day of the accident.

(6) Property damage of at least $1,000 to other than the carrier's facilities, based upon actual cost or reliable estimates.

§ 180.28 Accident reporting.

(a) Each pipeline carrier subject to this part who experiences a reportable accident in the United States, shall prepare and file an accident report, on DOT Form 7000–1.[1]

[1] DOT Form 7000–1 filed as part of the original document.

§ 180.29 Instructions for preparing DOT Form 7000–1.

(a) Reports of accidents on DOT Form 7000–1 shall be prepared in accordance with the following instructions:

(1) General: Each applicable item must be marked or filled in as fully and as accurately as information accessible to the pipeline carrier at the time of filing the report will permit.

(2) Part A: Enter name as it is filed with the Interstate Commerce Commission. If the carrier's name is not filed with the Commission, enter the complete corporate name of the carrier. Enter the address of the pipeline carrier's principal place of business including zip code.

(3) Part B, Item 1: Enter the date the accident occurred or was discovered. If the accident was not discovered on the date it occurred, state this fact on the back of the form.

(4) Part B, Item 2: Enter the exact time in hours and minutes (i.e., 10:15) if known or a time range (i.e., 10–11) if exact time is not known. If the accident was not discovered on the date it occurred, enter the time it was discovered and state this fact on the back of the form as in Part B, Item 1.

(5) Part B, Item 3: Enter all three names, State, county, city or town, in or near which accident occurred.

(6) Part B, Item 4: Mark the appropriate box. If "other" is marked, state clearly on form what part of the pipeline system.

(7) Part B, Item 5: If the accident occurred in an uninhabited area, such as woods, cultivated field, swamp, etc., so state clearly on the form under Item 5. If not, a sketch shall be attached to the form showing the part of the pipeline system where the accident occurred, and the location of the accident as related to significant landmarks. Each item shown on the sketch must be clearly and distinctly marked to identify it. Approximate distances from accident location to all landmarks shown on the sketch must be indicated.

(8) Part C: Mark the appropriate box or boxes. If applicable, more than one box shall be marked. If "other" is marked, state clearly on form the exact origin of the liquid or vapor release.

(9) Part D: Mark the appropriate box. If "other" is marked, clearly state the cause of the accident.

(10) Part E: Indicate a number under each heading included "0" if none. If any of the numbers change after the form is filed, the revised number or numbers will be filed as a supplement to the report form (see § 180.31).

(11) Part F, Items 1 and 2: Report only material in the pipeline system that was actually damaged such as pipe, valves, or fittings. Do not include cost of commodity which was lost due to the accident or fittings used during repair which became permanently attached to system. The dollar value of damage should be based on replacement at present day costs.

(12) Part F, Items 3 and 4: This is damage to property other than that of the carrier. Dollar value must be actual or the best estimate available.

(13) Part G, Item 1: State the commonly used name of the commodity, such as fuel oil, regular gasoline, liquefied petroleum gas, etc. If the commodity name is one not commonly used, state the name here and give a brief description of it under "Account of Accident by Responsible Official of Carrier."

(14) Part G, Item 3: State the year installed or the best estimate possible. Pipe is excluded as the year of installation is required in Item 4 of Part H.

(15) Part H: Mark appropriate boxes and state information required in all items of this part only if the accident occurred in line pipe. If the accident occurred in any other part of the pipeline system, omit this part.

(16) Part I: Mark appropriate boxes and state information required in all items of this part if the accident was caused by corrosion in any component of the pipeline system. In Item 4, state the length of time between the type of tests, such as pipe-to-soil potential, stated in Item 5.

(17) Part J: Complete all three items only if the accident was caused by equipment rupturing the pipeline. In Item 2, all the information stated on the closest line marker must be shown.

(b) In the space provided after Part J, an account of the accident containing the most reliable information to which the pipeline carrier has access at the time of reporting, sufficiently detailed and complete to convey an understanding of the accident, shall be entered. This account should be continued on an extra sheet of paper if more space is needed.

(c) At the bottom of the back of DOT Form 7000–1, state the name and title of the pipeline official responsible for compiling and filing the report along with the telephone number where this official can be reached, and the date the report was completed.

§ 180.30 Filing of accident report.

(a) Two copies of each report prepared in compliance with § 180.28 shall be filed as soon as practicable, but no later than 15 days after discovery of the accident, with the Administrator, Federal Railroad Administration, Department of Transportation, Washington, D.C. 20591. The carrier shall retain a copy of each accident report.

§ 180.31 Changes in or additions to accident report.

(a) Changes or additions to the original report on DOT Form 7000–1 shall be filed immediately upon receipt of such information by the carrier with the Administrator, Federal Railroad Administration, as shown in § 180.30, as a supplement to the form.

§ 180.32 Immediate notice of fatal accident.

(a) Whenever a reportable accident results in the death of any person at the time of the accident or prior to the filing of DOT Form 7000–1, the pipeline carrier shall immediately transmit notice of such accident by telegraph or telephone to the Administrator, Federal Railroad Administration, as indicated in § 180.30. The notice shall include at least the following information:

(1) Name and address of the pipeline carrier.

(2) Date, time, and exact location of the accident.

(3) The number of persons killed and the number injured.

(4) Brief description of accident.

§ 180.33 Deaths occurring before filing report.

(a) In addition to the requirements of § 180.32, each death shall be reported on DOT Form 7000–1 whether it occurs at the time of the accident or subsequently, if the death occurs before the filing of the accident report form.

§ 180.34 Notice of death occurring after filing report.

(a) Whenever any accident results in the death of any person after filing of DOT Form 7000–1, written notice of that death shall be sent within 24 hours after it becomes known to the pipeline carrier as a supplement to the form and shall be filed with the Administrator, Federal Railroad Administration, as indicated in § 180.30. The filing shall include the following information:

(1) Name and address of the pipeline carrier.

(2) Date and location of the accident.

(3) Name and age of the deceased.

§ 180.35 Carrier to assist in investigation.

(a) If an investigation is made by the Department after a reportable accident, the pipeline carrier involved shall make available to the representative of the Department all records and information which in any way pertain to the accident, and shall afford all reasonable assistance in the investigation of any such accident.

§ 180.36 Supplies of accident report DOT Form 7000–1.

(a) For the purpose of compliance with this part, each pipeline carrier shall provide and maintain an adequate supply of DOT Form 7000–1 to enable prompt reporting of accidents. The Department will, upon request, furnish specimen copies of the form.

[F.R. Doc. 67–13733; Filed, Nov. 21, 1967; 8:49 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Parts 723, 724]

TOBACCO

Notice of Determinations To Be Made Regarding Marketing Quotas for 1968–69, 1969–70, and 1970–71 Marketing Years

Pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended, and as further amended by Public Law 90–106, approved October 12, 1967 (7 U.S.C. 1281 et seq., hereinafter referred to as the "Act"), the Secretary is preparing (1) with respect to burley, Virginia sun-cured, Maryland, and cigar-filler (type 41) tobacco to proclaim national marketing quotas for the 1968–69, 1969–70, and 1970–71 marketing years; to determine and announce the respective national marketing quotas for the 1968–69 marketing year; to convert such 1968–69 marketing quotas into national acreage allotments and announce such allotments; to apportion such national acreage allotments, less a reserve of not to exceed 1 percent thereof through the local committees among farms; to apportion the aforementioned reserve for use in (1) establishing acreage allotments for new farms and (2) making corrections and adjusting inequities in old farm allotments; and to conduct within 30 days after the proclamation an announcement of such national marketing quotas, referenda of farmers engaged in the 1967 production of each of such kinds of tobacco to determine whether they favor or oppose marketing quotas for the 1968–69, 1969–70, and 1970–71 marketing years; and (2) with respect to fire-cured (type 21), fire-cured (types 22, 23, and 24), dark air-cured (types 35 and 36), cigar binder (types 51 and 52), and cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco to determine and announce the respective national marketing quotas for the 1968–69 marketing year; to convert such 1968–69 marketing quotas into national acreage allotments and announce such allotments; to apportion such national acreage allotments, less a reserve of not to exceed 1 percent thereof through the local committees among farms; to apportion the aforementioned reserve for use in (1) establishing acreage allotments for new farms and (2) making corrections and adjusting inequities in old farm allotments.

Burley and Virginia sun-cured tobacco growers approved marketing quotas for the 1965–66, 1966–67, and 1967–68 marketing years (30 F.R. 4313); fire-cured and dark air-cured tobacco growers approved marketing quotas for the 1967–68, 1968–69, and 1969–70 marketing years (32 F.R. 4055); Maryland tobacco growers approved marketing quotas for the 1963–64, 1964–65, and 1965–66 marketing years (28 F.R. 2526); however, marketing quotas were disapproved by Maryland tobacco growers for the 1966–67, 1967–68, and 1968–69 marketing years (31 F.R. 4580) and for the 1967–68, 1968–69, and 1969–70 marketing years (32 F.R. 4305). Cigar-binder and cigar-filler and binder tobacco growers approved marketing quotas for the 1966–67, 1967–68, and 1968–69 marketing years (31 F.R. 4197). Cigar-filler (type 41) tobacco growers disapproved marketing quotas for the 1965–66, 1966–67, and 1967–68 marketing years (30 F.R. 4313).

The Act (7 U.S.C. 1312(a)) provides that the Secretary shall proclaim not later than February 1 of any marketing year, with respect to these kinds of tobacco, a national marketing quota for any of such kinds of tobacco for each of the next 3 succeeding marketing years whenever he determines with respect to such kind of tobacco—

(1) That a national marketing quota has not previously been proclaimed and the total supply as of the beginning of such marketing year exceeds the reserve supply level therefor;

(2) That such marketing year is the last year of 3 consecutive years for which marketing quotas previously proclaimed will be in effect;

(3) That amendments have been made in provisions for establishing farm acreage allotments which will cause material revision of such allotments before the end of the period for which quotas are in effect; or

(4) That a marketing quota previously proclaimed for such marketing year is not in effect because of disapproval by producers: *Provided*, That if such producers have disapproved national marketing quotas for three successive years subsequent to 1952, thereafter a national marketing quota shall not be proclaimed hereunder which would be in effect for any marketing year within the 3-year period for which national marketing quotas previously proclaimed were disapproved by producers, unless prior to November 10 of the marketing year one-fourth or more of the farmers engaged in the production of the crop of tobacco harvested in the calendar year in which such marketing year begins petition the Secretary, in accordance with such regulations as he may prescribe, to proclaim a national marketing quota for each of the next 3 succeeding marketing years.

Since marketing quotas previously proclaimed (31 F.R. 1237; 32 F.R. 1124) for Maryland tobacco for the 1966–67, 1967–68, and 1968–69, and 1967–68, 1968–69, and 1969–70 marketing years were not in effect for Maryland tobacco because of disapproval by growers (32 F.R. 4305) and since neither of such disapprovals was the third successive disapproval subsequent to 1952; since the 1967–68 marketing year is the last of 3 consecutive years for which marketing quotas previously proclaimed will be in effect for burley tobacco and Virginia sun-cured tobacco, respectively; and since the 1967–68 marketing year is the last year of a 3-year period for which national marketing quotas previously proclaimed were disapproved by producers voting in a referendum for cigar-filler (type 41) tobacco and since producers of such kind of tobacco disapproved national marketing quotas on such kind of tobacco in referenda held in 3 successive years subsequent to 1952; proclamations of quotas for the 1968–69, 1969–70, and 1970–71 marketing years, and referenda thereon, are required for these four kinds of tobacco.

Section 301(b)(15) of the Act (7 U.S.C. 1301(b)(15)) defines "tobacco" as each one of the kinds of tobacco listed below comprising the types specified as classified in Service and Regulatory Announcement Numbered 118 (Part 30 of this title) of the former Bureau of Agricultural Economics of the Department:

Flue-cured tobacco, comprising types 11, 12, 13, and 14;
Fire-cured tobacco, comprising type 21;
Fire-cured tobacco, comprising types 22, 23, and 24;
Dark air-cured tobacco, comprising types 35 and 36;
Virginia sun-cured tobacco, comprising type 37;
Burley tobacco, comprising type 31;
Maryland tobacco, comprising type 32;
Cigar-filler and cigar-binder tobacco, comprising types 42, 43, 44, 45, 46, 51, 52, 53, 54, and 55; and
Cigar-filler tobacco, comprising type 41.

Section 301(b)(15) also provides that any one or more of the types comprising any such kind of tobacco shall be treated as a "kind of tobacco" for the purposes of the Act if the Secretary finds that there is a difference in supply and demand conditions as among such types of tobacco which results in a difference in the adjustments needed in the marketings thereof in order to maintain supplies in line with demand. Pursuant to this authority, the Secretary has determined (15 F.R. 8214) that type 46 tobacco shall be treated as a separate kind of tobacco for purposes of marketing quotas and price supports. Pursuant to such authority, the Secretary has also determined (22 F.R. 367) that cigar-binder (types 51 and 52) tobacco, beginning with the 1957–58 marketing year, shall be treated as a separate kind of tobacco for purposes of marketing quotas and price supports.

Section 312(b) of the Act (7 U.S.C. 1312(b)) provides that the Secretary shall determine and announce, not later than the first day of February 1968 with

respect to burley, Virginia sun-cured, fire-cured (type 21), fire-cured (types 22, 23, and 24), dark air-cured, Maryland, cigar-binder (types 51 and 52), cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) and cigar-filler (type 41) tobacco, the amount of the national marketing quota which will be in effect for the 1968–69 marketing year in terms of the total quantity of tobacco which may be marketed which will make available during such marketing year a supply of each kind of tobacco equal to the reserve supply level. Section 312(b) provides further that the amount of the 1968–69 national marketing quota (determined pursuant to such section) may, not later than March 1, 1968, be increased by not more than 20 per centum if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restrictions of marketings in adjusting the total supply to the reserve supply level.

The Act (7 U.S.C. 1301(b)) defines the "total supply" of tobacco for any marketing year as the carryover at the beginning of the marketing year (on January 1 of such marketing year in the case of Maryland tobacco), plus the estimated production in the United States during the calendar year in which such marketing year begins. "Reserve supply level" is defined as the normal supply plus 5 per centum thereof. "Normal supply" is defined as a normal year's domestic consumption and exports, plus 175 per centum of a normal year's domestic consumption and 65 per centum of a normal year's exports. A "normal year's domestic consumption" is defined as the yearly average quantity produced in the United States and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption. A "normal year's exports" is defined as the yearly average quantity produced in the United States which was exported from the United States during the 10 marketing year immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

The Act (7 U.S.C. 1312(c)) requires that within 30 days after a national marketing quota is proclaimed under section 312(a) of the Act for the 1968–69, 1969–70, and 1970–71 marketing years for burley tobacco, Virginia sun-cured tobacco, Maryland tobacco, and cigar-filler (type 41) tobacco, the Secretary shall conduct referenda of farmers engaged in the production of the 1967 crops of burley tobacco, Virginia sun-cured tobacco, Maryland tobacco, and cigar-filler (type 41) tobacco, respectively, to determine whether such farmers are in favor of or opposed to quotas for the next 3 succeeding marketing years. If more than one-third of the farmers voting in a referendum for a kind of tobacco oppose such quota, such results shall be proclaimed by the Secretary and the national marketing quota so proclaimed shall not be in effect but such results shall in no way affect or limit the subsequent proclamation and subsequent submission to a referendum, as otherwise provided in section 312 of the Act (7 U.S.C. 1312), of a national marketing quota.

The Act (7 U.S.C. 1313(a)) provides for the apportionment of the national marketing quota, determined pursuant to section 312(b) of the Act, less the amount to be allotted under subsection (c) of section 313 for small farms and "new" farms, among the several States on the basis of the total production in each State during the 5 calendar years immediately preceding the calendar year in which the quota is proclaimed (plus, in applicable years, the normal production on the acreage diverted under previous agricultural adjustment and conservation programs), with such adjustments as are determined to be necessary to make corrections for abnormal conditions of production, for small farms, and for trends in production, giving due consideration to seed bed and other plant diseases during such 5-year period.

The Act (7 U.S.C. 1313(b)) provides for the apportionment of the State marketing quotas among farms. However, the Act (7 U.S.C. 1313(g)) authorized the Secretary, beginning with the year 1940, in lieu of apportioning the State marketing quota among farms on a poundage basis, to convert the State marketing quotas into State acreage allotments and to apportion the State acreage allotments on an acreage basis among farms. This latter provision has been utilized each year beginning with 1940 to determine farm allotments on an acreage basis for the kinds of tobacco involved herein for which quotas were proclaimed. It is proposed to continue to determine farm allotments on an acreage basis. However, the Act (7 U.S.C. 1313(g)) was further amended by Public Law 90–106, approved October 12, 1967, to eliminate the provision for converting the State marketing quotas into State acreage allotments, and to authorize the Secretary to convert the national marketing quota into a national acreage allotment on the basis of the national average yield for the 5 years immediately preceding the year in which the national marketing quota is proclaimed, and to apportion the national acreage allotment (less a reserve of not to exceed 1 per centum thereof for new farms and for making corrections and adjusting inequities in old farm allotments) among farms. It is proposed to utilize this recent amendment.

The Act (7 U.S.C. 1313(g)) provides that any acreage of tobacco harvested in excess of the farm acreage allotment for the year 1965 or any subsequent crop shall not be taken into account in establishing State and farm acreage allotments.

The Act (7 U.S.C. 1313(l)) provides that notwithstanding any other provision of the Act, whenever after investigation the Secretary determines with respect to any kind of tobacco that a substantial difference exists in the usage or market outlets for any one or more of the types comprising such kind of tobacco and that the quantity of tobacco of such type or types to be produced under marketing quotas and acreage allotments established pursuant to this section would not be sufficient to provide an adequate supply for estimated market demands and carryover requirements for such type or types of tobacco, the Secretary shall increase the marketing quotas and acreage allotments for farms producing such type or types of tobacco in the preceding year to the extent necessary to make available a supply of such type or types of tobacco adequate to meet such demands and carryover requirements; the increases in farm marketing quotas and acreage allotments shall be made on the basis of the production of such type or types of tobacco during the period of years considered in establishing farm marketing quotas and acreage allotments for such kind of tobacco; the additional production authorized by section 313(l) shall be in addition to the national marketing quota established pursuant to section 312 of the Act; and the increase in acreage under section 313(l) shall not be considered in establishing future State or farm acreage allotments.

Section 377 of the Act (7 U.S.C. 1377) reads in part as follows:

> In any case in which, during any year beginning with 1956, the acreage planted to a commodity on any farm is less than the acreage allotment for such farm, the entire acreage allotment for such farm * * * shall, except as provided herein, be considered for the purpose of establishing future State, county, and farm acreage allotments to have been planted to such commodity in such year on such farm, * * *: *Provided*, That beginning with the 1960 crop, except for federally owned land, the current farm acreage allotment established for a commodity shall not be preserved as history acreage pursuant to the provisions of this section unless for the current year or either of the 2 preceding years an acreage equal to 75 percentum or more of the farm acreage allotment for such year was actually planted or devoted to the commodity on the farm (or was regarded as planted under provisions of the Soil Bank or the Great Plains program) * * *.

Section 378 of the Act (7 U.S.C. 1378) provides that allotment acreage pooled under the provisions of such section shall be considered fully planted during the time it is in the pool within the period of eligibility, for purposes of future State and farm acreage allotments.

Acreage allotments for Maryland, cigar-binder (types 51 and 52), and cigar-filler (type 41) tobacco may be leased under the terms and conditions contained in section 316 of the Act. Fire-cured, dark air-cured, and Virginia sun-cured tobacco acreage allotments may be sold or leased by the owner and operator of the farm or transferred by the owner to another farm owned by him under the terms and conditions contained in section 318 of the Act. Acreage allotments for burley tobacco and for cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco may not be leased, sold, or transferred except as provided in 7 U.S.C. 1378.

The Soil Bank Act was repealed by section 601 of the Food and Agriculture Act of 1965, but it remains in effect with respect to contracts entered into prior to such repeal.

Section 602(g) of the Food and Agriculture Act of 1965, approved November 3, 1965, reads as follows:

> Notwithstanding any other provision of law, the Secretary of Agriculture may, to the extent he deems it desirable, provide by appropriate regulations for preservation of cropland, crop acreage, and allotment history applicable to acreage diverted from the production of crops in order to establish or maintain vegetative cover or other approved practices for the purpose of any Federal program under which such history is used as a basis for an allotment or other limitation or for participation in such program. Subsections (b) (3) and (4) and (c) (6) of section 16 of the Soil Conservation and Domestic Allotment Act, as amended, are repealed, except that all rights accruing thereunder to persons who entered into contracts or agreements prior to such repeal shall be preserved.

Under the provisions of section 602(g) of the Food and Agriculture Act of 1965, such preservation of cropland, crop acreage, and allotment history, is provided, subject to the Secretary's regulations, with respect to acreage so diverted under the conservation reserve program, cropland conversion program, cropland adjustment program, agricultural conservation program, regional conservation programs, or vegetative cover established without Federal assistance and unrelated to any program.

The Secretary may, under section 317(c) of the Act, in his discretion, offer acreage-poundage quotas on fire-cured (type 21), fire-cured (types 22, 23, and 24), dark air-cured, cigar-binder (types 51 and 52), and cigar-filler and binder (types 42, 43, 44, 53, 54, and 55), tobacco for the 1968–69 marketing year if he determines that acreage-poundage quotas would result in a more effective marketing quota than the program on an acreage basis. The Secretary has not so determined, and does not contemplate offering acreage-poundage quotas on any of such kinds of tobacco for such marketing years. There is no provision under which acreage-poundage quotas may be offered on burley, Virginia sun-cured, Maryland or cigar-filler (type 41) tobacco for the 1968–69 marketing year.

The subjects and issues involved in the proposed determinations are:

1. The amount of the national marketing quota for each kind of tobacco for the 1968–69 marketing year.
2. The conversion of the national marketing quotas into national acreage allotments and apportionment of same, less reserve of not to exceed 1 percent thereof, among old farms.
3. The amount of the national acreage allotment to be reserved for new farms, and for making corrections and adjusting inequities in old farm allotments.
4. The date(s) or period(s) of the four referenda on quotas for the 1968–69, 1969–70, and 1970–71 marketing years for burley tobacco, Virginia sun-cured tobacco, Maryland tobacco, and cigar-filler (type 41) tobacco, and whether any or all of such referenda should be conducted at polling places rather than by mail ballot (31 F.R. 12011).
5. Whether the Secretary should determine that any one or more of the types comprising a kind of tobacco should be treated as a separate kind of tobacco under section 301(b)(15) of the Act.
6. Whether the Secretary should take any action under section 313(l) of the Act.
7. Whether the Secretary should offer acreage-poundage quotas on fire-cured (type 21), fire-cured (types 22, 23, and 24), dark air-cured, cigar-binder (types 51 and 52), or cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco.

Consideration will be given to data, views, and recommendations pertaining to the proposed determinations covered by this notice which are submitted in writing to the Director, Policy and Program Appraisal Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to the notice will be made available for public inspection at such times and in a manner convenient to the public business (7 CFR 1.27(b)). All submissions must, in order to be considered, be postmarked not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Signed at Washington, D.C., on November 13, 1967.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 67-13731; Filed, Nov. 21, 1967; 8:49 a.m.]

[7 CFR Part 811]

[Sugar Reg. 811]

SUGAR

Proposed Determination for Calendar Year 1968

Notice is hereby given that the Secretary of Agriculture pursuant to authority vested in him by the Sugar Act of 1948, as amended (61 Stat. 922), is considering the determination of the amount of sugar needed to meet the requirements of consumers in the continental United States in 1968 and the establishment of sugar quotas for the calendar year 1968. Such determination is to be made during the last 3 months of this year.

In accordance with the rulemaking requirements of 5 U.S.C. 553 (80 Stat. 378), all persons who desire to submit written data, views, or arguments for consideration in connection with the proposed regulation shall file the same in duplicate with the Director, Sugar Policy Staff, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 15 days after the date of publication of this notice in the FEDERAL REGISTER.

The proposed determination of 1968 sugar requirements for the continental United States and quotas for the calendar year 1968 are set forth essentially in form and language appropriate for issuance, if adopted by the Secretary as follows:

Basis and purpose and bases and considerations. Distribution of refined sugar for consumption in the United States totaled about 10,160,000 short tons, raw value during the 12-month period which ended September 30, 1967. This was about 200,000 tons less than the quantity distributed in the previous 12-month period which ended September 30, 1966. However, it cannot be assumed that the actual consumption of sugar decreased in like degree. Inventories of sugar in the hands of secondary distributors and inventories of sugar and sugar containing products in the hands of food processors were abnormally low on September 30, 1965, and normal or slightly above normal on September 30, 1966. At the end of September 1967, such inventories were again somewhat below normal. After allowances for these factors, it would appear that disappearance of sugar during the 12-month period ending September 30, 1966, was of the order of 10,250,000 tons and for the year ending September 30, 1967, of about the same magnitude.

Absence of year-to-year growth may have resulted largely from the fact that weather during the most recent period was not as conducive to the consumption of sugar as in the earlier period when the weather was unusually favorable.

It appears reasonable to expect that sugar consumption during calendar year 1968 will resume its long-term trend of increasing about in line with population growth. On that basis, consumption of about 10,400,000 tons would be anticipated in 1968.

Sugar requirements for calendar year 1968 will amount to the sum of actual consumption, plus the usual refining loss of about 60,000 tons, as adjusted by any change which users, refiners, and importers may elect to make in their sugar inventories during the year. Those inventories at the beginning of 1968 are now expected to be larger than they had been a year earlier. What they may be at the end of next year cannot now be determined, but it is possible that some reduction could occur during the year. A reduction, should it occur, would have the effect of reducing requirements.

The domestic price of raw sugar increased steadily during the first 10 months of 1967. The average for that period was 7.26 cents per pound or 4 percent higher than the 6.97 cents per pound average for the first 10 months of 1966. In the development of this determination, consideration has been given to the desirability of obtaining generally stable prices that will carry out, over the long term, the price objectives of the act. In recognition of the foregoing and all relevant criteria, the amount of sugar needed to meet the requirements of consumers in the continental United States is herein determined to be 10,400,000 short tons, raw value.

A quota of 1,265,375 short tons, raw value, is established herein for Hawaii pursuant to section 202(a)(2)(B) of the

act. This is the maximum quota permitted Hawaii under that section and will be adjusted downward if necessary pending final data on the production and marketing of sugar by Hawaii in 1967.

It is determined that no reduction is required at this time pursuant to section 202(d) (3) and (4) of the act in the quotas established herein for foreign countries. This action is based on the assumption that each country will fill its 1967 quota within a reasonable tolerance.

The quota established herein for the Bahama Islands will be withdrawn unless the Secretary receives assurance from the Bahama Islands by January 1, 1968, that such quota will be filled with sugar produced in such country. The quota which otherwise would be allocated to Southern Rhodesia has been shown as reserved for possible disposition by the President pursuant to section 202(d) (1) (b) of the act.

In view of the wide differential between the price of domestic raw sugar and the world price, there would be a strong tendency for an excessive quantity of foreign sugar to be shipped to this country early in 1968. This would likely preclude the meeting of the objectives of the act. Accordingly, it is necessary that provision be made for quantitative limitations on the total importation of raw sugar from foreign countries for the first and second quarters of the year.

The total quantity of raw sugar which may be charged to quotas of foreign countries during the first half of 1968 is established at 2,100,000 short tons, raw value. All quantities imported in late 1967 under bond for refining and storage plus additional importations during January, February, and March of 1968 of 700,000 short tons, raw value, may be charged to foreign country quotas during the first quarter of 1968.

To give recognition to the seasonality of production and movement of sugar from the foreign countries, quota allocations to foreign countries during the first quarter and first half of 1968 will primarily be based on average imports from such foreign countries during such periods for the 5-year period 1963 through 1967.

Sec.
811.60 Sugar requirements 1968.
811.61 Quotas for domestic areas.
811.62 [Reserved]
811.63 Quotas for foreign countries.
811.64 Applicability of quotas.
811.65 Restrictions on importations and marketings within quotas.

AUTHORITY: §§ 811.60 to 811.65 issued under sec. 408, 61 Stat. 932, 7 U.S.C. 1158. Interprets or applies to secs. 201, 202, 207, 208, 209, 210; 61 Stat. 928, as amended, 924, as amended, 925, as amended, 927, as amended, and 928, as amended; 7 U.S.C. 1111, 1112, 1117, 1118, and 1119.

§ 811.60 Sugar requirements 1968.

The amount of sugar needed to meet the requirements of consumers in the continental United States for the calendar year 1968 is hereby determined to be 10,460,000 short tons, raw value.

§ 811.61 Quotas for domestic areas.

(a) For the calendar year 1968, domestic area quotas limiting the quantities of sugar which may be brought into or marketed for consumption in the continental United States are established, pursuant to section 202(c) of the act in column (1), and the amounts of such quotas for offshore areas that may be filled by direct-consumption sugar are established, pursuant to section 207 of the act in column (2), as follows:

Area	Quotas (1)	Direct-consumption limits (2)
	(Short tons, raw value)	
Domestic beet sugar	3,026,000	No Limit
Mainland cane sugar	1,100,000	No Limit
Hawaii	1,265,375	25,568
Puerto Rico	1,149,000	156,000
Virgin Islands	15,000	0

(b) Of the quantity established in paragraph (a) of this section for Puerto Rico which may be filled by direct-consumption sugar, 126,033 short tons, raw value, may be filled only by sugar principally of crystalline structure.

§ 811.62 [Reserved]

§ 811.63 Quotas for foreign countries.

(a) The quotas or prorations for foreign countries limiting the quantities of sugar which may be imported into the continental United States during the calendar year 1968 for consumption therein and the amounts of such quotas and prorations that may be filled by direct-consumption sugar are hereby established as set forth in paragraphs (b), (c), (d), and (e) of this section.

(b) For the calendar year 1968, the quota for the Republic of the Philippines is 1,126,020 short tons, raw value, and the quantity of such quota that may be filled by direct-consumption sugar is 59,920 short tons, raw value.

(c) For the calendar year 1968, the prorations or allocations to individual foreign countries other than the Republic of the Philippines pursuant to section 202(c) (3) and (4) and section 202(d) of the act are as follows:

Production area	Basic quotas	Temporary quotas and prorations pursuant to Sec. 202(d)	Total quotas and prorations
	(Short tons, raw value)		
Mexico	209,786	218,653	428,388
Dominican Republic	205,122	213,843	418,965
Brazil	205,122	213,843	418,965
Peru	163,609	170,566	334,175
British West Indies	81,940	72,681	154,621
Ecuador	29,846	31,115	60,961
French West Indies	25,776	22,863	48,639
Argentina	26,223	25,306	51,529
Costa Rica	24,148	25,174	49,322
Nicaragua	24,148	25,174	49,322
Colombia	21,706	23,629	44,335
Guatemala	20,350	21,215	41,565
Panama	15,194	15,840	31,034
El Salvador	14,923	15,558	30,481
Haiti	11,398	11,880	23,278
Venezuela	10,310	10,749	21,059
British Honduras	5,668	5,906	11,574
Bolivia	2,442	2,545	4,987
Honduras	2,442	2,544	4,986
Australia	97,677	86,640	184,317
Republic of China	40,699	36,100	76,799
India	39,071	34,656	73,727
South Africa	28,700	25,510	54,270
Fiji Islands	21,435	19,012	40,447
Thailand	8,954	7,942	16,896
Mauritius	8,954	7,942	16,896
Malagasy Republic	4,612	4,091	8,703
Swaziland	3,527	3,129	6,656
Reserved	3,527	3,129	[1] 6,656
Ireland	5,351		5,351
Bahamas	10,000		[2] 10,000
Total	1,371,978	1,356,627	2,728,605

[1] This quantity which otherwise would be allocated to Southern Rhodesia has been reserved for possible disposition pursuant to section 202(d) (1) (B) of the Act.
[2] Quota established herein subject to the Secretary receiving assurance prior to Jan. 1, 1968, that such quota will be filled.

(d) (1) Of the total quotas and proration for foreign countries established in paragraphs (b) and (c) of this section, an amount not to exceed 2,100,000 short tons, raw value, of raw sugar, which includes quantities imported in late 1967 under bond for refining and storage, may be charged against such 1968 quotas and authorized for importation or release from bond from all such foreign countries in accordance with Part 817 of this chapter during the first 6 months of 1967. Such charges to such 1968 quotas shall be made in the following manner: (i) The quantities imported in late 1967 under bond for refining and storage will be released from bond and charged to such quotas on January 1, 1968; (ii) in addition 700,000 short tons, raw value of sugar will be authorized for importation and charged to such quotas during the first quarter of the year and; (iii) that part of the 2,100,000 short tons, raw value, not charged to such 1968 quotas under subdivisions (i) and (ii) of this subparagraph will be authorized for importation and charged to such quotas during the second quarter of 1968.

(2) (i) The importation of raw sugar within the quarterly limitations specified in subdivisions (ii) and (iii) of subparagraph (1) of this paragraph (d) will be authorized on the basis of applications for "Set Aside of Quota" on Form SU-8A or "Sugar Quota Clearance" on Form SU-3 in accordance with the provisions of Part 817 of this chapter, subject to the priorities for countries as provided in subparagraph (3) of this paragraph for first quarter importations and in subparagraph (4) of this paragraph for second quarter importations and the limitations as provided in subdivision (ii) of this subparagraph. Applications to import raw sugar from the Republic of the Philippines must, before final approval within the quantity reserved for the Republic of the Philippines pursuant to subparagraphs (3) and (4) of this paragraph, be supplemented by certification from the Sugar Quota Administrator for the Government of the Philippines granting the applicant the permission to export sugar to the U.S. market.

(ii) Applications for the importation of sugar during the first quarter received on or before 10 days after the effective date of this subdivision will be considered as having been received at the same time. Applications for the importation of sugar during the second quarter received on or before January 15, 1968, will be considered as having been received at the same time.

(3) (i) Allocations of first quarter importations among countries will be made in the following manner within the limits of applications received.

(ii) First priority shall be given to countries from which sugar was imported during the first quarter of 1963, 1964, 1965, 1966, or 1967, but not to exceed the average of the country's first quarter importations as set forth in subparagraph (5) of this paragraph: *Provided*, That if the quantity of sugar which may be imported during the first quarter is less than the quantity needed to approve all applications for importation in the first quarter, the quantity of sugar which may be imported during the first quarter under this priority shall be prorated among countries on the basis of first quarter importations from countries as set forth in subparagraph (5) of this paragraph.

(iii) Second priority shall be given to countries by making an initial allocation under this priority to countries in order of size of quota, smallest first, limiting such initial allocation to any country to the smaller of 10,000 short tons, raw value, or the quantity which would permit the total importation from the country during the first quarter of up to 20 percent of the country's annual quota. Additional allocations under this priority shall be made to those countries receiving an initial allocation under this priority of 10,000 short tons, raw value, which additional allocation to any such country shall be so limited that the total allocations under priorities in subdivisions (ii) and (iii) of this subparagraph during the first quarter for such country as a percentage of its annual quota will not exceed the percentage similarly calculated for any other such country and shall be further limited so that the total quantity which may be imported from such country during the first quarter shall not exceed 20 percent of the country's annual quota.

(iv) Any quantity not allocated under subdivisions (ii) and (iii) of this subparagraph shall be prorated among countries having priority under subdivision (ii) of this subparagraph that received allocations less than the full amount applied for, and such additional proration shall be made on the basis of the average imports of sugar from the countries during the first quarter as set forth in subparagraph (5) of this paragraph.

(4) (i) Allocations of second quarter importations among countries will be made in the following manner within the limits of applications received.

(ii) First priority shall be given to countries from which sugar was imported during the first half of 1963, 1964, 1965, 1966, or 1967, but not to permit charges to the quotas of such countries by virtue of this subdivision during the first half to exceed the average importations from such country as set forth in subparagraph (5) of this paragraph: *Provided*, That if the quantity of sugar which may be imported during the second quarter is less than the quantity needed to approve all applications for importation in the second quarter, the quantity of sugar which may be imported during the second quarter under this priority shall be prorated among countries on the basis of first half importations from countries as set forth in subparagraph (5) of this paragraph.

(iii) Second priority shall be given to countries by making an initial allocation under this priority to countries in order of size of quota, smallest first, limiting such initial allocation to any country to the smaller of 10,000 short tons, raw value, or the quantity which would permit total charges during the first half of up to 50 percent of the country's annual quota. Additional allocations under this priority shall be made to those countries receiving an initial allocation under this priority of 10,000 short tons, raw value, which additional allocation to any such country shall be so limited that the total quota charges under subparagraph (3) of this paragraph, subdivision (ii) of this subparagraph and this subdivision during the first half for such country as a percentage of its annual quota will not exceed the percentage similarly calculated for any other such country; and shall be further limited so that the total quantity which may be imported from such country during the first half shall not exceed 50 percent of the country's annual quota.

(iv) Any quantity not allocated under subdivisions (ii) and (iii) of this subparagraph shall be prorated among countries having priority under subdivision (ii) of this subparagraph that received allocations less than the full amount applied for, and such proration shall be made on the basis of the average imports of sugar from the countries during the first half as set forth in subparagraph (5) of this paragraph.

(5) Average importations into the continental United States within quotas, during the first quarter and first half of the years 1963, 1964, 1965, 1966, and 1967 are as follows:

Country	First quarter	First half
	(Short tons, raw value)	
Philippines	216,608	338,962
Mexico	121,715	202,751
Dominican Republic	87,289	206,981
Brazil	79,141	129,766
Peru	73,395	132,913
British West Indies	20,353	76,471
Ecuador	9,739	15,561
French West Indies	7,324	20,939
Argentina	8,092	29,206
Costa Rica	7,039	27,830
Nicaragua	7,386	22,049
Columbia	3,348	15,019
Guatemala	14,927	36,965
Panama	3,880	30,980
El Salvador	3,698	16,078
Haiti	2,453	19,206
Venezuela	210	4,347
British Honduras	0	2,979
Bolivia	0	0
Honduras	0	0
Australia	3,549	3,549
Republic of China	5,293	57,478
India	4,780	50,287
South Africa	25,759	28,759
Fiji Islands	312	312
Thailand	146	146
Mauritius	0	0
Malagasy Republic	0	0
Swaziland	1,317	1,317
Total	720,461	1,830,631

(e) For the calendar year 1968, the quantity of each proration established in paragraph (c) of this section that may be filled by direct-consumption sugar pursuant to section 207(e) of the act is as follows:

County	Short tons, raw value
Ireland	5,351
Panama	3,817

(f) For the calendar year 1968, the quota for liquid sugar for foreign countries as a group is 2 million gallons of sirup of cane juice of the type of Barbados molasses, limited to liquid sugar containing soluable nonsugar solids (excluding any foreign substance that may have been added or developed in the product) of more than 5 percent of the total soluable solids, which is not to be used as a component of any direct-consumption sugar but is to be used as molasses without substantial modification of its characteristics after importation.

§ 811.64 Applicability of quotas.

(a) All sugar and liquid sugar marketed or imported into the continental United States is subject to the provisions of Part 816 or Part 817 of this chapter which prescribe the time, manner, and conditions under which quotas and prorations are filled by the marketing and importation of sugar or liquid sugar.

(b) The quantitative limitations established by §§ 811.61 to 811.63, inclusive, do not apply to sugar or liquid sugar marketed or imported pursuant to section 211 and 212 of the act in accordance with the provisions of Part 816 or Part 817 of this chapter.

§ 811.65 Restrictions on importations and marketings within quotas.

Subject to the provisions of Parts 816 and 817 of this chapter, all persons are prohibited from bringing or importing into or marketing in the continental United States any sugar or liquid sugar in excess of or after the applicable quota or quantity set forth in § § 811.61 to 811.63, inclusive, has been filled or any sugar or liquid sugar as direct-consumption sugar after the direct-consumption portion of the applicable quota has been filled.

Signed at Washington, D.C., this 17th day of November 1967.

JOHN A. SCHNITTKER,
Under Secretary.

[F.R. Doc. 67-13696; Filed, Nov. 21, 1967; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

NORDIHYDROGUAIARETIC ACID

Proposed Removal From List of Substances Generally Recognized as Safe for Food Use

Nordihydroguaiaretic acid is listed in § 121.101(d)(2) of the food additive regulations (21 CFR 121.101(d)(2)) as a substance generally recognized as safe for use in food as a preservative. The Commissioner of Food and Drugs has considered the announced action of the Canadian Food and Drug Directorate proposing the banning of the additive for food use, and other relevant information, and concludes that nordihydroguaiaretic acid is no longer entitled to be classed as generally recognized as safe.

Accordingly, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(d), 72 Stat. 1787; 21 U.S.C. 348(d)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), it is proposed that § 121.101 *Substances that are generally recognized as safe* be amended by deleting from paragraph (d)(2) the item "Nordihydroguaiaretic acid."

Any interested person may, within 30 days from the date of publication of this notice in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written comments, preferably in quintuplicate, on this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: November 13, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-13713; Filed, Nov. 21, 1967; 8:48 a.m.]

[21 CFR Part 148i]

NEOMYCIN SULFATE

Proposed Modification of Identity Method

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and delegated by him to the Commissioner of Food and Drugs (21 CFR 2.120), it is proposed that § 148i.1 (a)(1)(vii) and (b)(7) and § 148i.22(a)(1)(v) be revised to read as follows to modify and improve the method of identity for the antibiotic neomycin sulfate:

§ 148i.1 Neomycin sulfate.

(a) • • •

(1) • • •

(vii) It gives a positive identity test for neomycin.

• • • • • •

(b) • • •

(7) *Identity*—(i) *Reagents*—(a) Sulfuric acid solution: Mix concentrated sulfuric acid and distilled water in volumetric proportions of 40:60.

(b) Xylene.

(c) *p*-Bromoaniline: (Prepare and store this reagent in brown, nonactinic glassware.) Place 380 milliliters of thiourea-saturated glacial acetic acid solution in the bottle, add 10 milliliters of 20 percent sodium chloride solution, 5 milliliters of 5 percent oxalic acid solution, and 5 milliliters of 10 percent disodium phosphate solution, and mix well. Add 8.0 grams of *p*-bromoaniline and mix well. Let this reagent stand overnight before use. Prepare the reagent once weekly.

(ii) *Procedure.* Place about 10 milligrams of the sample into a test tube (19 millimeters x 150 millimeters), dissolved with 1 milliliter of water, and then carefully add 5 milliliters of the sulfuric acid solution. Heat in a boiling water bath for 100 minutes. Cool to room temperature. Add 10 milliliters of xylene to the test tube. Stopper the tube and shake vigorously for about 1 minute. Let the two layers separate and then decant the xylene layer into a second test tube. Add 10 milliliters of the *p*-bromoaniline reagent to the xylene solution, shake, and let stand. The development of a vivid pink-red color is a positive identity test for neomycin.

§ 148i.22 Neomycin sulfate for prescription compounding.

(a) • • •

(1) • • •

(v) It gives a positive identity test for neomycin.

• • • • • •

Any interested person may, within 30 days from the date of publication of this notice in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written comments, preferably in quintuplicate, on this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: November 16, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-13714; Filed, Nov. 21, 1967; 8:48 a.m.]

[21 CFR Part 166]

DEPRESSANT AND STIMULANT DRUGS

Proposed Listing of Additional Drug as Subject to Control

The Commissioner of Food and Drugs proposes, on the basis of his investigations and the recommendations of an advisory committee appointed pursuant to section 511(g)(1) of the Federal Food, Drug, and Cosmetic Act, that the drug set forth below be listed as a "depressant or stimulant" drug within the meaning of section 201(v) of the act because of its hallucinogenic effect. Therefore, pursuant to the provisions of the act (secs. 201(v), 511, 701, 52 Stat. 1055, as amended, 79 Stat. 227 et seq.; 21 U.S.C. 321(v), 360a, 371) and under the authority delegated by the Secretary of Health, Education, and Welfare to the Commissioner (21 CFR 2.120), it is proposed that § 166.3(c)(3) be amended by alphabetically inserting in the list of drugs a new item, as follows:

§ 166.3 Listing of drugs defined in section 201(v) of the act.

• • • • • •

(c) • • •

(3) • • •

Established name	*Some trade or other names*
DOM (STP)	4-Methyl-2,5-dimethoxyamphetamine; 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; and "STP".

• • • • • •

All interested persons are invited to submit their views in writing regarding this proposal. Comments concerning any additional trade or other names that may be properly listed for the subject drug are also invited. Views and comments should be submitted, preferably in quintuplicate, addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, within 30 days following the date of publication of this notice in the FEDERAL REGISTER, and may be accompanied by a memorandum or brief in support thereof.

Dated: November 14, 1967.

JAMES L. GODDARD,
Commissioner of Food and Drugs.

[F.R. Doc. 67-13715; Filed, Nov. 21, 1967; 8:48 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 67-WE-70]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter controlled airspace in the Provo, Utah, area.

Interested persons may participate in the proposed rule-making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 90007, Airport Station, Los Angeles, Calif. 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 5651 West Manchester Avenue, Los Angeles, Calif. 90045.

New instrument approach and departure procedures, utilizing the Provo radio beacon, have been developed for the Provo, Utah, Airport. As a result, it is necessary to designate additional 700-foot and 1,200-foot floor transition area to protect aircraft executing the prescribed instrument procedures.

The 700-foot floor portion of the transition area would provide controlled airspace protection for aircraft executing the prescribed instrument approach procedure during descent from 1,500 to 700 feet above the surface. It will also provide controlled airspace protection for departing aircraft during climb from 700 to 1,200 feet above the surface.

The proposed 1,200-foot floor transition area will provide controlled airspace protection during those portions of prescribed instrument approach and departure procedures conducted at or above 1,500 feet above the surface.

In view of the foregoing, the FAA proposes the following airspace action:

In § 71.181 (32 F.R. 2242) the description of the Provo, Utah, transition area is amended to read as follows:

PROVO, UTAH

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Provo Municipal Airport (latitude 40°12'-56" N., longitude 111°43'14" W.), within 2 miles each side of the 218° bearing from the Provo radio beacon (latitude 40°13'10" N., longitude 111°43'26" W.) extending from the 5-mile radius area to 12 miles southwest of the RBN, within 5 miles each side of the 328° bearing from the Provo RBN extending from the 5-mile radius area to 6 miles northwest of the RBN, and within 5 miles northeast and 8 miles southwest of the 328° bearing from the Provo RBN extending from 6 to 20 miles northwest of the RBN; that airspace extending upward from 1,200 feet above the surface bounded on the north by latitude 40°30'00" N., on the southeast by the northwest edge of V-235 and V-21, on the west by the east edge of V-257, and that airspace bounded on the east and south by an arc of a 23-mile radius circle centered on the Provo VORTAC extending clockwise from the south edge of V-300 to the southeast edge of V-21, on the west by a line from the point of intersection of the 23-mile arc and the southeast edge of V-21 direct to latitude 40°30'00" N., longitude 111°49'00" W., and on the northeast by a line from latitude 40°30'00" N., longitude 111°49'00" W., direct to point of beginning.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (72 Stat. 749; 49 U.S.C. 1348).

Issued in Los Angeles, Calif., on November 13, 1967.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 67-13686; Filed, Nov. 21, 1967; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-CE-128]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Coffeyville, Kans.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

The close proximity of airports at Coffeyville, Independence, Parsons, and Chanute, Kans., and Bartlesville, Okla., makes diversity in IFR route assignments essential to the efficient control of air traffic in these areas. To provide this diversity, air traffic control must have the capability to clear aircraft direct between Independence and Oswego, Kans., and between Chanute and Coffeyville, Kans. Therefore, it is necessary to alter the Coffeyville transition area by the inclusion of additional airspace in order to provide this capability.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (32 F.R. 2148), the following transition area is amended to read:

COFFEYVILLE, KANS.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Coffeyville Municipal Airport (latitude 37°05'45" N., longitude 95°34'25" W.); and that airspace extending upward from 1,200 feet above the surface bounded on the northeast by a line 5 miles southwest of and parallel to the Oswego, Kans., VOR 306° radial, on the south by V-516, and on the west by V-131, excluding the portion which overlies the Independence, Kans., and Parsons, Kans., transition areas.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued at Kansas City, Mo., on November 3, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 67-13687; Filed, Nov. 21, 1967; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-WE-73]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the controlled airspace in the Brigham City, Utah, area.

Interested persons may participate in the proposed rule-making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 90007, Airport Station, Los Angeles, Calif. 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered

before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 5651 West Manchester Avenue, Los Angeles, Calif. 90045.

New instrument approach and departure procedures have been developed to serve the Brigham City, Utah, airport. As a result, it is necessary to designate a 700-foot floor transition area to protect aircraft executing the prescribed instrument procedures during descent from 1,500 to 700 feet above the surface and during climb from 700 to 1,200 feet above the surface.

In view of the foregoing, the FAA proposes the following airspace action:

In § 71.181 (32 F.R. 2148) the following transition area is added:

BRIGHAM CITY, UTAH

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Brigham City Airport (latitude 41°32'30" N., longitude 112°03'30" W.), and within 2 miles each side of the 213° bearing from the Brigham City RBN (latitude 41°30'58" N., longitude 112°04'38" W.) extending from the 5-mile radius area to latitude 41°27'00" N.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (72 Stat. 749; 49 U.S.C. 1348).

Issued in Los Angeles, Calif., on November 13, 1967.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 67-13686; Filed, Nov. 21, 1967; 8:46 a.m.]

[14 CFR Parts 71, 73]

[Airspace Docket No. 67-EA-98]

RESTRICTED AREA, CONTINENTAL CONTROL AREA, AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amendments to Parts 71 and 73 of the Federal Aviation Regulations that would alter the boundaries of Restricted Area R-6609, Tangier Island, Va., and Restricted Area R-4006, Patuxent, Md., include R-6609 in the continental control area, and delete reference to R-6609 from the descriptions of the Norfolk, Va., and NAS Patuxent River, Md., transition areas.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposal contained in this notice may be changed in light of the comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The Navy Department has conducted a study of the Tangier Island restricted area usage with special attention directed to the relationship of aircraft types, speeds, altitudes, weather conditions, and radar surveillance of recovery patterns to restricted airspace requirement. The study results indicate a need to expand the present restricted area an average of 3 nautical miles to the south, west, and north. The eastern boundary would be moved approximately 3 miles west, thus leaving Tangier Island outside of the modified restricted area. This modification would allow the establishment of a proposed civil airport on the western edge of Tangier Island.

The Tangier Island target is a grounded Liberty Ship located at lat. 37°48'48" N., long. 76°01'58" W. All runs on the target are made from north to south on a 174° magnetic heading at speeds from 150 knots to 500 knots and at altitudes from just above the surface to 20,000 feet. Recovery from the run is always to the right with many variations depending on speed, type of run, number of planes in the pattern, etc. The target is used under all weather conditions including night and IFR. The Navy advised that radar surveillance by the Patuxent River Naval Air Station RATCC of the actual flight paths of participating aircraft has confirmed the requirement to extend the present boundary of R-6609 further south and west. Expansion to the north is necessary to align the boundary R-6609 to adjoin R-4005 so the target run in is within restricted airspace. High speed, low altitude bomb runs on this target require high pilot and radar operator concentration and attention to cockpit functions with little or no time for visual lookout. As speeds increase the recovery flight path also increases due to radius of turn and the distance traveled beyond bomb release point.

Realignment of the boundary of R-6609 will eliminate the present circular configuration, consequently, the southern and southeastern boundaries of R-4006, which are presently described around an arc of R-6609, would be described as straight lines.

If these actions are taken, the following modifications will be effected:

1. *Section 71.151.* In the text, add "R-6609 Tangier Island, Va."

2. *Section 71.181—Norfolk, Va.* In the text, delete "R-6609".

NAS Patuxent River, Md. In the text, delete "the portions within R-4002 and R-6609 are excluded" and substitute therefor "the portion within R-4002 is excluded."

3. *Section 73.40.* R—4006 Patuxent, Md. Change boundaries to read as follows:

Beginning at lat. 38°41'15" N., long. 75°46'00" W.; to lat. 38°32'30" N., long. 75°43'45" W.; to lat. 38°19'00" N., long. 75°37'00" W.; along Pennsylvania Railroad to lat 38°12'30" N., long. 75°41'30" W.; to lat. 38°02'30" N., long. 75°52'30" W.; to lat. 37°55'00" N., long. 75°52'30" W.; to lat. 37°45'00" N., long. 75°58'45" W.; to lat. 37°45'00" N., long. 76°23'30" W.; to lat. 37°50'30" N., long. 76°32'00" W.; to lat. 38°05'10" N., long. 76°34'15" W.; to lat. 38°11'10" N., long. 76°25'10" W.; to lat. 38°30'00" N., long. 76°04'00" W.; to lat. 38°36'00" N., long. 75°55'30" W.; along the Pennsylvania Railroad to point of beginning, excluding R-4002, R-4005, and R-6609.

4. *Section 73.66.* R-6609 Tangier Island, Va.

Change boundaries to read as follows:

Beginning at lat. 37°58'10" N., long. 76°14'00" W.; to lat. 37°55'15" N., long. 76°02'30" W.; to lat. 37°50'00" N., long. 76°00'52" W.; to lat. 37°41'00" N., long. 76°00'52" W.; to lat. 37°40'00" N., long. 76°01'30" W.; to lat. 37°40'00" N., long. 76°10'00" W.; to lat. 37°45'00" N., long. 76°11'32" W.; to point of beginning.

Change time of designation to read "local time" instead of "e.s.t."

Add: "Controlling agency: Federal Aviation Administration, Washington ARTC Center."

Change using agency to "Commanding Officer, U.S. Naval Air Station, Patuxent River, Md."

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on November, 15, 1967.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-13685; Filed, Nov. 21, 1967; 8:46 a.m.]

ATOMIC ENERGY COMMISSION

[10 CFR Parts 2, 50, 115]

LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Notice of Proposed Rule Making

The Atomic Energy Commission has under consideration several amendments to its rules of practice, 10 CFR Part 2, including amendments to Appendix A of that part, "Statement of General Policy: Conduct of Proceedings for the Issuance of Construction Permits for Production and Utilization Facilities and 10 CFR Hearing Is Required Under section 189a.

of The Atomic Energy Act of 1954, as Amended" (Statement of General Policy) and conforming amendments to 10 CFR Part 50, Licensing of Production and Utilization of Facilities and 10 CFR Part 115, Procedures for Review of Certain Nuclear Reactors Exempted From Licensing Requirements. It is expected that the proposed amendments will expedite the Commission's facility licensing procedures in contested cases and will clarify certain provisions in existing regulations.

The proposed amendments to Part 2 reflect in part the recommendations made by a three-member Regulatory Review Panel appointed by the Commission to study contested proceedings involving applications to construct and operate nuclear facilities. A contested proceeding is a proceeding in which there is a controversy between the AEC regulatory staff and the applicant concerning the issuance of the license or any of its terms and conditions, or in which a petition for leave to intervene in opposition to an application for a license has been granted or is pending before the Commission. The Panel's report was submitted on June 15, 1967.

An earlier panel appointed by the Commission in 1965 to study its facility licensing procedures had made recommendations relating mainly to the conduct of uncontested licensing proceedings. Those recommendations were implemented in large part by the adoption of amendments to Part 2 published on September 30, 1966 (31 F.R. 12774). As the Commission then stated in the Statement of General Policy, that document reflects the Commission's intent that its facility licensing proceedings be conducted informally and expeditiously and its concern that its procedures maintain sufficient flexibility to accommodate that objective. The proposed amendments set out below are a further indication of the Commission's intention to adopt from time to time amendments of its regulations which experience in the operation of atomic safety and licensing boards might indicate as being necessary or desirable.

Section 2.714(a) of Part 2 now requires a petitioner for leave to intervene in a Commission proceeding to set forth, among other things, his contentions. The proposed amendments of § 2.714(a) which follows would require those contentions to be reasonably specific. It would also provide that petitions which set forth contentions relating only to matters outside the jurisdiction of the Commission will be denied. As revised, § 2.714(a) would require the petition to be filed within such time as may be specified in the notice of hearing, or as permitted by the presiding officer, and would continue to provide that a petition which is not timely filed will be dismissed unless the petitioner shows good cause for failure to file it on time.

Section 2.721(b) of Part 2 would be amended to provide for the appointment of alternates for atomic safety and licensing boards who are qualified in the conduct of administrative proceedings. Section 2.721(b) presently provides for the appointment of technically qualified alternates for the boards.

Certain recommendations of the Second Regulatory Review Panel, together with certain other perfecting or clarifying changes, would be reflected in the proposed amendments to the Statement of General Policy which follow. Those which may be of particular interest are: (1) A provision that prehearing conferences will usually be held in the Washington, D.C., area, but that due regard shall be had for the convenience and necessity of the parties or their representatives; (2) a provision recognizing that requests may be made for a separate hearing on the matter of site selection; (3) a provision indicating that it is desirable for the applicant's summary of the application to discuss the evolution of the proposed reactor from reactors which have previously been approved or built; (4) a provision encouraging the submission to the board of the applicant's summary of the application, as well as the regulatory staff's safety analysis, at least 2 weeks prior to the date specified in the notice of hearing for the receipt of petitions for leave to intervene; (5) a provision that the boards, in testing the sufficiency of the information contained in the application and in the record, and the adequacy of the regulatory staff's review, to support the proposals of the Director of Regulation in an uncontested proceeding, should be mindful that the applicant, not the regulatory staff, is the proponent of the license; (6) a provision clarifying the point that in contested proceedings, a board may obtain information from the Chairman or Vice Chairman of the Atomic Safety and Licensing Board Panel for the purpose of identifying relevant decisions or statements of Commission policy; and (7) a provision that two members of a board constitute a quorum if one of those members is the member qualified in the conduct of administrative proceedings.

Pursuant to the Atomic Energy Act of 1954, as amended, and the Administrative Procedure Act of 1946, as amended, notice is hereby given that adoption of the following amendments of 10 CFR Parts 2, 50, and 115 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendments should send them to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, within 60 days after publication of this notice in the FEDERAL REGISTER. Comments received after that time will be considered if it is practicable to do so, but assurance of consideration cannot be given except as to comments filed within the period specified. Copies of comments received may be examined at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

1. The first sentence of § 2.104(a) is amended by inserting "at least" before "thirty (30) days" where it appears. As amended, the first sentence of § 2.104(a) reads as follows:

§ 2.104 Notice of hearing.

(a) In the case of an application on which a hearing is required by the Act or this chapter, or in which the Commission finds that a hearing is required in the public interest, the Secretary will issue a notice of hearing to be published in the FEDERAL REGISTER as required by law at least fifteen (15) days, and in the case of an application concerning a facility, at least thirty (30) days, prior to the date set for hearing in the notice. • • •

2. Paragraph (a) of § 2.714 is amended to read as follows:

§ 2.714 Intervention.

(a) Any person whose interest may be affected by a proceeding and who desires to participate as a party shall file a written petition under oath or affirmation for leave to intervene not later than the time specified in the notice of hearing, or as permitted by the presiding officer. The petition shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by Commission action, and the contentions of the petitioner in reasonably specific detail. A petition which sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied. A petition for leave to intervene which is not timely filed will be dismissed unless the petitioner shows good cause for failure to file it on time.

• • • • •

3. Paragraph (b) of § 2.721 is amended to read as follows:

§ 2.721 Atomic safety and licensing boards.

• • • • •

(b) The Commission may designate a technically qualified alternate or an alternate qualified in the conduct of administrative proceedings, or both, for an atomic safety and licensing board established pursuant to paragraph (a) of this section. If a member of a board becomes unavailable before the hearing commences, the Chairman of the Atomic Safety and Licensing Board Panel may constitute the technically qualified alternate or the alternate qualified in the conduct of administrative proceedings, as appropriate, as a member of the board by notifying the Commission and the alternate who will, as of the date of such notification, serve as a member of the board.

• • • • •

4. Paragraphs (a) and (b) of section I of Appendix A to Part 2 are amended to read as follows:

• • • • •

I. PRELIMINARY MATTERS

(a) A public hearing is announced by the issuance of a notice of hearing signed by the Commission's Secretary, stating the nature of the hearing, its time and place and the issues to be considered. When a hearing is to be held before a board, the notice of hearing will ordinarily designate the chairman and the other members. The time and place of the prehearing conference will ordinarily be stated in the notice of hearing.

Subject to the provisions of paragraph (b) below, the prehearing conference will usually be held in the Washington, D.C., area. It is the Commission's policy and practice to hold the evidentiary hearing in the vicinity of the site of the proposed facility. The notice of hearing is published in the FEDERAL REGISTER at least 30 days prior to the date of hearing. In addition, a public announcement is issued by the Commission regarding the date and place of the hearing. The notice of hearing also states the procedures whereby persons may seek to intervene or make a limited appearance, explains the differences between those forms of participation in the proceeding, and states the times and places of the availability, in an appropriate office near the site of the proposed facility, of the notice of hearing, the report of the Advisory Committee on Reactor Safeguards and the staff safety analysis.

(b) In fixing the time and place of the prehearing conference or of any postponed hearing, due regard shall be had for the convenience and necessity of the parties or their representatives, as well as of the board members.

• • • • •

5. Paragraphs (e) and (f) of section I of Appendix A of Part 2 are redesignated paragraphs (f) and (g), respectively, and a new paragraph (e) is added to read as follows:

I. PRELIMINARY MATTERS

• • • • •

(e) It is possible that a party may request the Commission to consider the matter of the suitability of the proposed site separately from, and prior to, other questions relating to the effect of the construction and operation of the facility upon the public health and safety and the common defense and security. If the Commission should grant such a request, the notice of hearing or an appropriate amendment thereto will state the time and place of the separate hearing on the site question.

• • • • •

6. Paragraphs (b) and (e) of section II of Appendix A of Part 2 are amended and a new paragraph (f) is added to read as follows:

II. PREHEARING CONFERENCE

• • • • •

(b) The prehearing conference is usually held approximately 2 weeks before the opening of the evidentiary hearing. Prehearing conferences are open to the public except under exceptional circumstances involving matters such as those referred to in 10 CFR 2.790 (a) and (b) ("company confidential" information; classified information; and certain privileged information not normally a part of the hearing record).

• • • • •

(e) The applicant, the regulatory staff and other parties will ordinarily provide each other and the board with copies of prepared testimony in advance of the hearing. A schedule may be established at the prehearing conference for exchange of prepared testimony. The applicant ordinarily files a summary of his application, including a summary description of the reactor and his evaluation of the considerations important to safety, and the staff files a safety analysis prior to the hearing. These may constitute the testimony of witnesses sworn at the hearing. It is desirable for the applicant's summary statement to include, as appropriate, a discussion of the evolution of the proposed reactor, including associated safeguards, from reactors which have previously been approved or built. All of these documents and prepared testimony are filed in the Commission's Public Document Room and are available for public inspection.

(f) The conduct of the prehearing conference will be facilitated if the board is provided with the applicant's summary of the application and the staff's safety analysis well in advance of the prehearing conference. Failure of the board to receive those documents at least 2 weeks prior to the date specified in the notice of hearing for the receipt of petitions for leave to intervene may result in a rescheduling of the prehearing conference and the hearing.

7. Subparagraphs (b) (2), (3), and (4) of section III of Appendix A of Part 2 are amended to read as follows:

III. THE HEARING

• • • • •

(b) Intervention and limited appearances.

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(2) The chairman should inquire of those in attendance whether there are any who wish to participate in the hearing by limited appearance.

(3) The board should rule on each request to participate in the hearing on either basis. The Commission's rules require that a petition for intervention be filed not later than the time specified in the notice of hearing. A board has general authority to extend the time for good cause with respect to allowing intervention.

(4) As required by § 2.714 of 10 CFR Part 2, a person who wishes to intervene must set forth, in a petition for leave to intervene, his interest in the proceeding, how the interest may be affected by Commission action, and his contentions in reasonably specific detail. After consideration of any answers, the board will rule on the petition. Petitions which set forth contentions relating only to matters outside the jurisdiction of the Commission will be denied. In any event, the board should not permit enlarging of the issues, or receive evidence from an intervenor, with respect to matters beyond the jurisdiction of the Commission.

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8. Subparagraph (c) (7) of section III of Appendix A of Part 2 is revised to read as follows:

III. THE HEARING

• • • • •

(c) • • •

(7) Objections may be made by counsel to any questions or any line of questioning, and should be ruled upon by the board. The board may admit the testimony, may sustain the objection, or may receive the testimony, reserving for later determination the question of admissibility. In passing on objections, the board, while not bound to view proferred testimony according to its admissibility under strict application of the rules of evidence in judicial proceedings, should exclude testimony that is clearly irrelevant to issues in the case, or that pertains to matters outside the jurisdiction of the board or the Atomic Energy Commission. Examples of matters which are considered irrelevant to the issues in the case or outside the jurisdiction of the board or the Atomic Energy Commission include the thermal effects (as opposed to the radiological effects) of the facility operation on the environment; the effect of the construction of the facility on the recreational, economic or political activities of the area near the site; and matters of aesthetics with respect to the proposed construction. Irrelevant material in prepared testimony submitted in advance under § 2.743(b) may be subject to a motion to strike under the procedures provided in § 2.730.

9. Paragraph (g) of section III of Appendix A of Part 2 is revised to read as follows:

III. THE HEARING

• • • • •

(g) Participation by board members.

(1) Boards are neither required nor expected to duplicate the review already performed by the regulatory staff and the ACRS and they are authorized to rely upon the testimony of the regulatory staff and the applicant, and the conclusions of the ACRS, which have not been controverted by any party. The role of the board is to decide whether the application and the record of the proceeding contain sufficient information, and the review of the application by the Commission's regulatory staff has been adequate, to support the findings proposed to be made by the Director of Regulation and the issuance of the provisional construction permit proposed by the Director of Regulation. The board will not conduct a de novo evaluation of the application, but rather, will test the sufficiency of the information contained in the application and the record of the proceeding and the adequacy of the staff's review to support the proposals of the Director of Regulation. In doing so, the board is expected to be mindful of the fact that it is the applicant, not the regulatory staff, who is the proponent of the provisional construction permit. If the board believes that additional information is required in the technical presentation in such a case, it would be expected to request the applicant or staff to supplement the presentation, again being mindful of the fact that it is the applicant, not the regulatory staff, who is the proponent of the provisional construction permit. If a recess should prove necessary to obtain such additional evidence, the recess should ordinarily be postponed until available evidence on all issues has been received.

• • • • •

10. Paragraphs (a) and (b) of section V of Appendix A of Part 2 are amended to read as follows:

V. GENERAL

(a) Two members, being a majority of the board, constitute a quorum, if one of those members is the member qualified in the conduct of administrative proceedings. The vote of a majority controls in any decision by a board, including rulings during the course of a hearing as well as formal orders and the initial decision. A dissenting member is of course, free to express his dissent and the reasons for it in a separate opinion for the record.

(b) The Commission may designate a technically qualified alternate or an alternate qualified in the conduct of administrative proceedings, or both, for a board. The alternate will be constituted by the Chairman familiar with the application and other documents filed by the parties prior to the start of the hearing. It is expected that an alternate will be constituted by the Chairman of the Atomic Safety and Licensing Board Panel as a member of the board in situations where a technically qualified member of the board, or the member qualified in the conduct of administrative proceedings, becomes unavailable for further service prior to the start of the hearing.

• • • • •

11. Paragraph (b) of section VI of Appendix A of Part 2 is amended as follows:

VI. PROCEDURES APPLICABLE TO CONTESTED PROCEEDINGS

• • • • •

(b) Issues to be decided by board:
The board will, if the proceeding becomes a contested proceeding, make findings on the issues specified in the notice. In a contested proceeding, the board will determine:

• • • • •

In considering those issues, however, the board will, as to matters not in controversy, be neither required nor expected to duplicate the review already performed by the Commission's regulatory staff and the ACRS; the board is authorized to rely upon the testimony of the regulatory staff and the applicant, and the conclusions of the ACRS, which are not controverted by any party.

• • • • •

12. Paragraph (d) of section VI of Appendix A of Part 2 is amended to read as follows:

VI. PROCEDURES APPLICABLE TO CONTESTED PROCEEDINGS

• • • • •

(d) Participation by board members:
In contested proceedings, the board will determine controverted matters as well as decide whether the findings required by the Act and the Commission's regulations should be made. Thus, in such proceedings, the board will determine the matters in controversy and may be called upon to make technical judgments of its own on those matters. As to matters which are not in controversy, boards are neither required nor expected to duplicate the review already performed by the regulatory staff and the ACRS and they are authorized to rely upon the testimony of the regulatory staff and the applicant, and the conclusions of the ACRS, which are not controverted by any party. Thus, the board need not evaluate those matters already evaluated by the staff which are not in controversy.

13. Paragraphs (f) and (g) of section VI of Appendix A of Part 2 are redesignated paragraphs (g) and (h), respectively; a new paragraph (f) is added and redesignated paragraph (h) is amended to read as follows:

VI. PROCEDURES APPLICABLE TO CONTESTED PROCEEDINGS

• • • • •

(f) Briefs and oral argument:
If, at the close of the hearing, the board should have uncertainties with respect to the matters in controversy because of a need for a clearer understanding of the evidence which has already been presented, it is expected that the board would normally invite further argument from the parties—oral or written or both—before issuing its initial decision. If the uncertainties arise from lack of sufficient information in the record, it is expected that the board would normally require further evidence to be submitted in writing with opportunity for the other parties to reply or reopen the hearing for the taking of further evidence, as appropriate; as to either of such courses, it is expected that the applicant would normally be afforded the opportunity to make the final submission.

• • • • •

(h) The intra-agency consultation and communications referred to in section V(c) are not permitted in contested proceedings. A board may, however, obtain information from the Chairman or Vice Chairman of the Atomic Safety and Licensing Board Panel for the purpose of identifying relevant decisions or statements of Commission policy.

14. Paragraph (b) of § 50.58 of Part 50 is amended to read as follows:

§ 50.58 Hearings and report of the Advisory Committee on Reactor Safeguards.

• • • • •

(b) The Commission will hold a hearing after at least 30 days' notice and publication once in the FEDERAL REGISTER on each application for a construction permit for a production or utilization facility which is of a type described in § 50.21(b) or § 50.22 or which is a testing facility. When a construction permit has been issued for such a facility following the holding of a public hearing and an application is made for an operating license or for an amendment to a construction permit or operating license, the Commission may hold a hearing after at least 30 days' notice and publication once in the FEDERAL REGISTER or, in the absence of a request therefor by any person whose interest may be affected, may issue an operating license or an amendment to a construction permit or operating license without a hearing, upon 30 days' notice and publication once in the FEDERAL REGISTER of its intent to do so. If the Commission finds that no significant hazards consideration is presented by an application for an amendment to a construction permit or operating license, it may dispense with such notice and publication and may issue the amendment.

15. Paragraph (b) of § 115.46 of Part 115 is amended to read as follows:

§ 115.46 Hearings and reports of the Advisory Committee on Reactor Safeguards.

• • • • •

(b) The Commission will hold a hearing after at least 30 days' notice and publication once in the FEDERAL REGISTER on each application for authorization to construct a nuclear reactor subject to this part. When a construction authorization has been issued for such a nuclear reactor following the holding of a public hearing and an application is made for an operating authorization or for an amendment to a construction authorization or operating authorization, the Commission may hold a hearing after at least 30 days' notice and publication once in the FEDERAL REGISTER or, in the absence of a request therefor by any person whose interest may be affected, may issue an operating authorization or an amendment to a construction authorization or operating authorization without a hearing, upon 30 days' notice and publication once in the FEDERAL REGISTER of its intent to do so. If the Commission finds that no significant hazards consideration is presented by an application for an amendment of a contruction authorization or operating authorization, it may dispense with such notice and publication and may issue the amendment.

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Washington, D.C., this 13th day of November 1967.

For the Atomic Energy Commission.

W. B. MCCOOL,
Secretary.

[F.R. Doc. 67-13669; Filed, Nov. 21, 1967; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 17184; FCC 67-1261]

TELEVISION BROADCAST STATIONS

Table of Assignments; Bluefield, Va., etc.

Report and order. In the matter of amendment of the Table of Assignments for Television Broadcast Channels in § 73.606(b) of the Commission rules and regulations with respect to educational reservations at Bluefield, West Point, Williamsburg, and Wytheville, Va., Docket No. 17184, RM-866.

1. On October 7, 1965, the Advisory Council on Educational Television of the Commonwealth of Virginia, filed a petition requesting the assignment of television broadcast channels reserved for educational use at Manassas, Williamsburg and Wytheville, Va., in addition to the 17 channels already reserved for educational use in the State of Virginia. In response to the petition, the Commission on February 8, 1967, adopted a notice of proposed rule making which proposed to shift Channel 63 from Bluefield to Wytheville and Channel 46 from West Point to Williamsburg. Wytheville is only 23 miles from Bluefield and West Point is only 18.6 miles from Williamsburg. Assignments spaced so closely in an educational network planned for statewide coverage would appear to be wasteful because of the extensive overlap of service. Therefore, the Commission declined to add the requested channels but proposed to move existing assignments to the newly named places. The Commission was unable to find an assignment for Manassas on channels below Channel 70, which would comply with the required minimum geographical separations.

2. The only comments filed in this proceeding were those of the Advisory Council. In those comments, the Advisory Council opposed the shift of channels proposed by the Commission. In the case of Williamsburg, it was argued that any educational TV station that might be built for operation on the West Point assignment would probably be located some 13 miles northeast of West Point in order to serve the area between the York River, the Potomac River, and Chesapeake Bay. This would put the site approximately 30 miles from Williamsburg and the Advisory Council claims that this would provide no more than Grade B service to Williamsburg. It is

further argued that Williamsburg, as the site of William and Mary College, should have its own channel and that it is contemplated that a low power operation (1 kw transmitter) will be conducted there to serve Williamsburg and the immediately adjacent area. The statement did not indicate the power and antenna height contemplated for the West Point assignment but the estimated 30 miles range of the Grade B contour indicates that it would be substantially below a maximum facility. The Advisory Council requests that, if an additional assignment is not provided at Williamsburg, Channel 46 be left at West Point.

3. With respect to Wytheville-Bluefield, the Advisory Council calls attention to the extremely rugged terrain in that area and argues that even a high powered operation from the most favorable site would be severely terrain-limited. A map accompanying the comments shows the calculated Grade B contour to go out less than 10 miles in some directions. As in the case of Williamsburg-West Point, the comments did not indicate the actual power and antenna height used for estimating the coverage of the station but obviously maximum facilities would be unnecessary because of the terrain limitation. In reply to the Commission's suggestion that TV translators could be used more effectively, the Advisory Council reports that an engineering study shows that two translators at optimally chosen sites could provide line-of-sight transmission to only 5 schools in Tazewell County; that 3 schools would be up to 100 feet below line-of-sight, 18 schools 100 to 500 feet below line-of-sight, and 6 schools more than 500 feet below line-of-sight. The operation of a regular TV station instead of a translator could not alter terrain conditions although the signal would be increased to acceptability levels in marginal areas by the higher power.

4. With respect to the Manassas request, the Advisory Council states that in the light of recent developments in northern Virginia, it expects to submit a new proposal concerning a northern Virginia educational TV station in the near future.

5. The Commission has carefully considered the comments of the Advisory Council and concludes that the assignment of educational TV channels at West Point and Williamsburg is not justified. The terrain in that portion of Virginia is extremely flat and a single station employing reasonably high power and a reasonably high antenna could be located so as to serve Williamsburg, West Point, and all of the surrounding area that the Council estimated would be covered by the two stations. The case for Wytheville is somewhat more persuasive but there are a number of unanswered questions. The engineering data submitted with the comments seems to indicate that some improvement in a difficult situation might be had by making the additional assignment at Wytheville rather than moving the Bluefield assignment. On the other hand, the study of Tazewell County that showed a large percentage of the schools below line-of-sight again placed the emphasis on the use of these broadcast channels for in-school instruction or at best, indicated that an equally high percentage of homes would also be below line-of-sight. This suggests that most of the service will still have to be provided by translators and if that is so; a single TV station in the area could feed the translators. If there were an ample supply of available channels in that area of Virginia, the Commission would have no reluctance about assigning the additional channel. However, available but unassigned channels are scarce. Therefore, the Commission will not, at this time, assign a new channel to Wytheville or move the Bluefield assignment to Wytheville. When the plans of the Advisory Council are more concrete, consideration will be given to a new petition for an additional assignment in southwestern Virginia if it can be justified. The Advisory Council has already indicated that it expects to file a new petition with respect to northern Virginia.

6. In the light of the foregoing: *It is ordered*, That, the petition of the Advisory Council on Educational Television of the Commonwealth of Virginia is denied; the Commission will not amend the Table of Assignments as proposed; and this proceeding is terminated.

Adopted: November 15, 1967.

Released: November 17, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13720; Filed, Nov. 21, 1967; 8:49 a.m.]

[47 CFR Part 73]

[Docket No. 17873; FCC 67-1263]

STANDARD BROADCAST STATIONS OPERATED BY REMOTE CONTROL

Transmission of Telemetry Signals Related to Technical Operation

In the matter of amendment of Part 73 of the Commission rules and regulations to permit standard broadcast stations operated by remote control to transmit telemetry signals directly related to the technical operation of the broadcast station, Docket No. 17873, RM-320.

1. On March 23, 1962, the Commission received a petition from Moseley Associates, Inc., of Santa Barbara, Calif., requesting that the rules be amended so as to permit the transmission of intermittent subsonic tones by standard broadcast stations which are operated by remote control, as a means of providing telemetric information to the remote control point. The use of the broadcast transmitter for this purpose would eliminate the need for wire lines or additional radio facilities operated on other frequency bands.

2. In support of its petition, Moseley states that advances in the art of remote control and telemetry make it possible to produce reliable and economical equipment for the radio control and supervision of a broadcast transmitter from a remote point. While information for this purpose may be transmitted over wire lines, such a physical connection is subject to impairment or destruction by storms, fires, explosions or other accidents or disasters as well as by enemy attack. It is during periods of emergency or disaster that broadcast facilities are most needed to communicate directly with the general public. The use of radio transmissions for control and metering functions offers the dual advantage of reducing the hazard of circuit destruction and permitting prompt remedial action should there be a failure, without having to rely upon action by an independent agent.

3. Under present rules, standard and FM broadcast stations utilizing an aural broadcast STL circuit operating in the 942–952 Mc/s band for program transmission may multiplex transmitter control signals on the program circuit, provided that there is no impairment of the program quality. Also, FM broadcast stations may transmit telemetering signals on the broadcast transmitter under a Subsidiary Communications Authorization (SCA). It would appear reasonable to allow essential metering data to be transmitted on the standard broadcast station carrier if this can be accomplished without impairment of program quality or annoyance to the public. The petitioner proposes to use tones having frequencies between 20 and 36 cycles per second. While such tones are not truly subsonic, the human ear is comparatively insensitive to sounds in this frequency range, and, of more importance, the great majority of AM receivers are incapable of appreciable audio output at such low frequencies. These considerations, and the fact that the tones would be transmitted at a restricted modulation level, all minimize the possibility of objectionable effects on program transmission. Unless there are secondary effects, which are not foreseen, the likelihood appears quite remote that a station employing tones in the manner proposed would cause increased interference to other stations.

4. During a 90-day test period in the spring and summer of 1964, WSM, Nashville, Tenn., pursuant to Commission authority provided information to its remote control point as to meter indications at the transmitter by modulating tones on its broadcast carrier at the 10-percent level. This test was conducted with equipment supplied by the petitioner. Observations by WSM's engineers at various points in the station's service area failed to reveal any deleterious effects on program reception. Throughout the entire period of the test no listener complained of interference of a nature which could be ascribed to the tone transmissions.

5. WSM found, under the conditions which obtained in the test, that tone modulation at a level no greater than 5 percent would provide reliable meter indications at its remote control point. It is, of course, desirable that the amplitude of the tone modulation be restricted to a level no greater than is necessary for its intended function to be satisfactorily performed. Accordingly, although the petitioner has recommended a maximum tone amplitude of 10 percent, and the proposed rule amendment specifies this figure, comment is requested as to whether a lower percentage would, in general, be adequate.

6. WSM further noted that the combined program and tone modulations should not be permitted to exceed 100 percent, or audio distortion and a violation of § 73.55 of the rules may result. In this connection, we would note that paragraph (b) (4) of § 73.50 of the rules, which establishes requirements for type approval for modulation monitors, requires that the frequency characteristic of a monitor be substantially flat over the range of from 30 to 10,000 cycles. Comment is requested, supported by measurements, as to whether modulation monitors presently type approved will accurately indicate total modulation levels when the telemetric tones from 20 to 30 cycles are included in the modulation envelope. Comment is also requested on the effect of automatic gain control amplifiers and peak limiting devices on the ultimate accuracy of remote readings by this method of telemetry.

7. Over the years, the Commission has rejected various proposals which contemplated utilizing AM broadcast station carriers for the transmission of secondary signals for uses unrelated to broadcasting. However, tone transmission for the purpose of providing economical and efficient supervision of the technical performance of the broadcast transmitter is a function sufficiently important to overall broadcast operation as to permit its consideration in this rule making proceeding as a permissible ancillary use of the broadcast carrier. It should be emphasized that the proceeding is concerned only with such use, and will not be broadened to consider proposals for other special uses of the broadcast signal.

8. Accordingly, it is proposed to amend Part 73 of the Commission rules as set forth below. Pursuant to applicable procedures set out in § 1.415 of Commission rules interested parties may submit comments on or before December 26, 1967, and replies to such comments on or before January 5, 1968. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

9. Authority for the adoption of the rules proposed herein is contained in sections 4(i) and 303(b) of the Communications Act of 1934, as amended.

10. In accordance with the provisions of § 1.419 of the rules, an original and 14 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission.

Adopted: November 15, 1967.

Released: November 17, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Secretary.

Section 73.67 is amended by adding a new paragraph (c) to read as follows:

§ 73.67 Remote control operation.

* * * * *

(c) The broadcast transmitter carrier may be modulated with tones for the purpose of transmitting to the remote control point essential meter indications and other data on the operational condition of the broadcast transmitter and associated devices, subject to the following conditions:

(1) No tone shall have a frequency higher than 36 cycles per second.

(2) The maximum modulation amplitude of the broadcast transmitter carrier by the audiofrequency tones shall not exceed 10 percent.

(3) Measures shall be employed to insure that during the periods the telemetric tones are being transmitted the total modulation of the carrier does not exceed 100 percent on negative peaks.

(4) The transmission of data on the operating characteristics of the broadcast transmitter shall not significantly degrade the quality of program transmissions or produce an audible effect that results in public annoyance.

(5) The transmission of data on the operating characteristics of the broadcast transmitter shall not result in emissions that cause harmful interference to other stations greater than that produced by normal program modulation.

[F.R. Doc. 67-13721; Filed, Nov. 21, 1967; 8:49 a.m.]

[47 CFR Part 87]

[Docket No. 17870; FCC 67-1251]

AVIATION SERVICES

Eligibility of Licensee

In the matter of amendment of Part 87 Aviation Services, to broaden the scope of persons eligible for flight test station licenses under § 87.333, Docket No. 17870.

1. Notice of proposed rule making in the above-entitled matter is hereby given.

2. The scope of service provided by flight test stations under § 87.337 of the Commission's rules is restricted in use to the transmission of necessary information or instructions relating directly to test of aircraft or aircraft components. In order to be eligible for a flight test station license under present § 87.333, it is necessary to be either (a) a manufacturer of aircraft or major aircraft components or (b) related to these industries through corporate connections, i.e., parent or subsidiary. Each applicant for a flight test station is expected to submit a statement indicating eligibility under the present rules, or to request waiver thereof in order to obtain necessary flight test radio facilities.

3. Waivers of the eligibility requirements of § 87.333 of the rules have been granted by the Commission where the applicant was (a) engaged in the business of modifying aircraft to the extent that the Federal Aviation Administration required the aircraft to be flight tested prior to its return to operational use, (b) engaged in providing aeronautical engineering expertise to small manufacturers in connection with the design, development, modification, flight test evaluation and FAA certification of their first aircraft or aircraft modification, or (c) a university or other private research and development organization engaged in flight testing of developmental communication systems and other major aircraft components. In addition, the Chief, Safety and Special Radio Services Bureau has granted waivers of this section pursuant to authority delegated under § 0.331(b) (7) of the rules, where such facilities were needed on a temporary basis not in excess of 180 days.

4. Based on information gained from administering flight test stations and the numerous requests for waiver of the eligibility requirements received, it appears that the present scope of persons eligible to hold such licenses is too restrictive. The present proposal takes into account the changed conditions and circumstances affecting the manufacture and flight testing of aircraft or major components thereof to broaden the scope of the present eligibility requirements to permit persons primarily engaged in the design, development, modification and flight test evaluation of aircraft or major aircraft components to qualify as licensees. Under the proposed amendment, the Commission would still be free to refuse to license a flight test station if the applicant failed to submit a statement containing sufficient facts to establish its eligibility under the proposed revised criteria. In addition, the Commission will continue to follow its policy of encouraging cooperative use of such facilities and will still refuse to license multiple test flight stations at an airdrome unless the applicant submits an adequate justification for such additional authorization pursuant to § 87.335(d) of the Commission's rules. The proposed amendment would allow a certain degree of flexibility and should eliminate many of the requests for waiver now directed to the Commission, that have been occasioned by the present rule.

5. The proposed amendments to the rules, as set forth below, are issued pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

6. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before December 26, 1967, and reply comments on or before January 5, 1968. All relevant and timely

[1] Commissioners Bartley and Lee absent.

[1] Commissioners Bartley and Lee absent.

comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

7. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all statements, briefs, or comments filed shall be furnished the Commission.

Adopted: November 15, 1967.

Released: November 17, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

Section 87.333 is amended to read as follows:

§ 87.333 Eligibility of licensee.

(a) A flight test station license may be granted only for use by the following persons:

(1) Manufacturers of aircraft or major aircraft components, or

(2) A parent corporation or its subsidiary if either corporation is a manufacturer of aircraft or major aircraft components, or

(3) Educational institutions engaged in the design, development, modification, and flight test evaluation of aircraft or major aircraft components and persons primarily engaged in the design, development, modification, and flight test evaluation of aircraft or major aircraft components.

(b) Each application shall be accompanied by a statement containing facts sufficient to establish the applicant's eligibility for license under the criteria set forth in paragraph (a) of this section.

[F.R. Doc. 67-13722; Filed, Nov. 21, 1967; 8:49 a.m.]

[1] Commissioners Bartley and Lee absent.

[47 CFR Parts 87, 89, 91, 93]

[Docket No. 17791]

MICROWAVE AND OTHER FIXED STATIONS

Filing of Annual Reports; Extension of Time for Filing Comments

In the matter of adoption of FCC Form 402-A on which to file annual reports by licensees of microwave and other fixed stations when such facilities are shared on a cooperative, cost-sharing basis with others; amendment of §§ 87.467(h), 89.14(h), 91.9(h), and 93.4(h), of the Commission's rules to require the use of FCC Form 402-A in filing the annual report prescribed therein, Docket No. 17791.

1. The Chief, Safety and Special Radio Services Bureau, acting under delegated authority, has under consideration a request filed by the Central Committee on Communication Facilities of the American Petroleum Institute for an extension of time for filing comments in the above-entitled proceeding. The prescribed time for filing comments is scheduled to expire on November 13, 1967, and reply comments on November 29, 1967.

2. In support of the request, the petitioner states that an additional period is needed to study the notice of proposed rule making by the petitioner's Operational Fixed Group and Coordinating Committee.

3. In view of the foregoing: *It is ordered*, Pursuant to §§ 0.331(b)(4) and 1.46 of the Commission's rules, that the above-described request for an extension of time is granted, and that the time for filing comments in the above-entitled proceeding is extended to November 22, 1967, and reply comments to December 1, 1967.

Adopted: November 14, 1967.

Released: November 17, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13723; Filed, Nov. 21, 1967; 8:49 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. AA-818]

ALASKA

Notice of Classification of Public Lands for Multiple-Use Management; Correction

NOVEMBER 9, 1967.

In F.R. Doc. 67-12719, appearing at pages 14971 and 14972 of the issue for Saturday, October 10, 1967, the following changes should be made:

1. Under Chinitna, "T. 4 W., R. 22 W." should read "T. 4 S., R. 22 W."

2. Under Iniskin E., "T. 5 W., R. 24 W." should read "T. 5 S., R. 24 W."

3. Under Pile and Pedro Bays, "T. 5 W., R. 27 W." should read "T. 5 S., R. 27 W."

T. G. BINGHAM,
Acting State Director.

[F.R. Doc. 67-13732; Filed, Nov. 21, 1967; 8:49 a.m.]

[A 1423]

ARIZONA

Order Providing for Opening of Public Lands

In F.R. Doc. 67-12928 appearing on page 15188 of the issue for November 3, 1967, the following change should be made: In item 2, substitute Graham County for Cochise.

RILEY E. FOREMAN,
Acting State Director.

NOVEMBER 16, 1967.

[F.R. Doc. 67-13729; Filed, Nov 21, 1967; 8:49 a.m.]

[Serial No. U-3484]

UTAH

Notice of Proposed Classification of Public Lands for Multiple-Use Management

1. Pursuant to the Act of September 19, 1964 (78 Stat. 986; 43 U.S.C. 1411-18), and to the regulations in Title 43 CFR Parts 2410 and 2411, it is proposed to classify for multiple-use management the public lands within the area described below, together with any lands therein that may become public lands in the future. Publication of this notice has the effect of segregating the described lands from appropriation under the agricultural land laws (43 U.S.C. Parts 7 and 9; 25 U.S.C. sec. 334), and from sales under section 2455 of the Revised Statutes as amended (43 U.S.C. 1771). The lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. The lands proposed to be classified are those lands administered by the Bureau of Land Management, located in south central Wayne County, eastern Garfield County, and the extreme northeastern tip of Kane County, and further described as follows:

Beginning at a point where the Fremont River intersects the Dirty Devil River, said point being located near the west quarter-corner of sec. 2, T. 28 S., R. 11 E., SLM; thence southeasterly following the Dirty Devil River downstream to its confluence with the Colorado River; thence southwesterly following the Colorado River to a point near the southwest corner of sec. 31, T. 38 S., R. 11 E.; thence northwesterly along the Waterpocket Fold, which is the boundary between Richfield and Kanab BLM districts, to the southeast corner of sec. 21, T. 32 S., R. 7 E.; thence west to Dixie National Forest boundary; thence north to the northwest corner of sec. 6, T. 31 S., R. 7 E.; thence east, northerly, and northwesterly following the eastern boundary of Capitol Reef National Monument to a point on the Fremont River, said point being located near the southwest corner of sec. 16, T. 29 S., R. 7 E.; thence following down the Fremont River to point of beginning.

The area described aggregates approximately 1,068,964 acres of public domain land.

3. For a period of 60 days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with this proposed classification may present their views in writing to the District Manager, Bureau of Land Management, 850 North Main Street, Richfield, Utah 84701, or to the State Director, Bureau of Land Management, Post Office Box 11505, Salt Lake City, Utah 84111.

4. Maps depicting these lands are on file and may be reviewed at the Bureau of Land Management's district office at Richfield, and the State Office, Federal Building, Salt Lake City, Utah.

5. A public hearing on the proposed classification will be held on December 14, 1967 at 2 p.m. in the courtroom of the Wayne County Courthouse, Loa, Utah. At this time statements in support of or opposition to the proposal may be presented.

EDWARD J. HOFFMANN,
Acting State Director.

[F.R. Doc. 67-13680; Filed, Nov. 21, 1967; 8:46 a.m.]

[Wyoming 6228]

WYOMING

Notice of Classification of Public Lands for Multiple-Use Management

NOVEMBER 14, 1967.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18) and to the regulations in 43 CFR Parts 2410 and 2411, the public lands within the areas described below, together with any lands therein that may become public lands in the future, are hereby classified for multiple-use management. Publication of this notice segregates: (a) All the described lands from appropriation only under the agricultural land laws (43 U.S.C. Parts 7 and 9; 25 U.S.C. sec. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171); (b) the public lands described in paragraph 4 of this notice from appropriation under the general mining laws (30 U.S.C. 21). Except as provided in (a) and (b) above, the lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. Several comments in response to the notice of proposed classification were received during the 60-day period provided and at the public hearing held on June 27, 1967. All comments submitted, except one, favored the proposed classification. Additional investigations have been conducted concerning the issues raised in the adverse comment. After careful consideration of all comments and the facts disclosed by the investigation of the adverse comments, it is concluded that no change or modifications are necessary. The record containing the comments and statements submitted is on file and can be examined at either the Lander District Office, 431 Main Street, Lander, Wyo., or the Land Office, Federal Building, Cheyenne, Wyo.

3. Public lands located within the following described areas are shown on maps and status plats on file in the Lander District Office, Lander, Wyo., the Fremont County Courthouse, Lander, Wyo., and the Land Office, Cheyenne, Wyo. The overall description of the areas is as follows:

SIXTH PRINCIPAL MERIDIAN

NATRONA COUNTY, WYO.

Beginning at the junction of the Natrona-Fremont-Carbon County lines, which point is the northwest corner of T. 28 N., R. 89 W.; thence east along the Natrona-Carbon County line, which is also the Lander-Rawlins District boundary, to the southeast corner of T. 29 N., R. 86 W; thence north and east along the Lander-Casper District boundary to the notheast corner of T. 33 N., R. 85 W.; thence west along the township line between T. 32 and 33 N., to a point on the Natrona-Fremont County line at the northwest corner of T. 32 N., R. 89 W.; thence south along the Natrona-Fremont County line to the point of beginning.

FREMONT COUNTY, WYO.

Beginning at the junction of the Fremont-Carbon-Sweetwater County lines, which point is the southeast corner of T. 27 N., R. 90 W.; thence north along the Fremont-Carbon County line to the Natrona County line at the northwest corner of T. 28 N., R.

89 W.; thence continuing north along the Fremont-Natrona County line to its junction with the Washakie County line in T. 41 N., R. 89 W.; thence along the Fremont-Washakie County line to the Fremont-Hot Springs County line at a point on the range line between R. 89 and 90 W.; thence along the Fremont-Hot Springs County line to the Wind River Indian Reservation boundary; thence south and west along the Wind River Indian Reservation boundary to its junction with the Little Popo Agie River in T. 34 N., R. 98 W.; thence southwesterly up the Little Popo Agie River to its junction with the Shoshone National Forest boundary in T. 31 N., R. 99 W.; thence south and west along the Shoshone National Forest boundary to the proposed Lander-Rock Springs District boundary; thence southerly along an irregular line through Tps. 30 and 28 N., Rs. 100 and 99 W., which line is the proposed Lander-Rock Springs District boundary, to a point on the west line of sec. 22, T. 28 N., R. 99 W.; thence south along the west section lines of secs. 22, 27, and 34, T. 28 N., R. 99 W., to the township line between Tps. 27 and 28 N., in R. 99 W.; thence east along the township line between Tps. 27 and 28 N., which line is the Lander-Rawlins District boundary, to the range line between Rs. 94 and 95 W.; thence south along the range line between Rs. 94 and 95 W., which line is the Lander-Rawlins District boundary, to the Fremont-Sweetwater County line; thence east along the Fremont-Sweetwater County line, which line is the Lander-Rawlins District boundary, to the place of beginning.

The total area of the public lands included within the purview of this notice of classification aggregates approximately 2,077,702 acres.

4. As provided in paragraph 1 above, the following lands are further segregated from appropriation under the Mining Laws (aggregating approximately 4,128 acres):

SIXTH PRINCIPAL MERIDIAN
FREMONT COUNTY, WYO.

T. 27 N., R. 90 W.,
Sec. 15, S½NW¼ and N½SW¼.
T. 27 N., R. 91 W.,
Sec. 2, NW¼SE¼;
Sec. 3, SE¼SW¼ and SW¼SE¼;
Sec. 4, S½S½SW¼;
Sec. 9, N½N½NW¼;
Sec. 10, NE¼NW¼ and NW¼NE¼;
Sec. 12, S½NE¼, NW¼SE¼, and E½SW¼;
Sec. 13, N½NW¼.
T. 28 N., R. 91 W.,
Sec. 27, SW¼SE¼, NE¼SW¼, and NW¼SE¼;
Sec. 29, NE¼SW¼;
Sec. 34, NW¼NE¼.
T. 28 N., R. 92 W.,
Sec. 25.
T. 28 N., R. 93 W.,
Sec. 7, S½S½SE¼;
Sec. 18, N½NE¼ and NE¼NW¼.
T. 28 N., R. 100 W.,
Sec. 21, SW¼SW¼;
Sec. 28, NW¼NW¼.
T. 29 N., R. 99 W.,
Sec. 6, lots 4 and 5, W½SW¼SE¼NW¼, NW¼NE¼SW¼, and S½NE¼SW¼.
T. 29 N., R. 100 W.,
Sec. 1, lots 1, 8, 9, and 10;
Sec. 3, lots 6, 7, 8, 10, 11, 12, and 13;
Sec. 9, SE¼NE¼SW¼, NE¼SE¼SW¼, SW¼SE¼, SW¼NW¼SE¼, SE¼NE¼, NE¼SE¼, that portion of the NW¼ lying north and west of State Highway 28;
Sec. 10, NW¼SW¼;
Sec. 12, S½SW¼NW¼;
Sec. 17, S½NW¼NE¼, N½SW¼NE¼;
Sec. 19, SW¼SE¼SW¼ and lot 4;
Sec. 30, lots 1, 2, 3, 4, 5, 6, 7, and 8, NW¼NE¼, N½NW¼, SW¼NW¼, and S½S½;
Sec. 21, E½NW¼NE¼SE¼, W½NE¼NE¼SE¼, SE¼NE¼SE¼, and E½NE¼SE¼SE¼;
Sec. 22, W½NW¼SW¼, NW¼SW¼SW¼, E½SW¼SW¼SW¼, and W½SE¼SW¼SW¼;
Sec. 26, S½NE¼;
Sec. 27, NW¼NW¼;
Sec. 28, NE¼NE¼;
Sec. 30, lot 1 and NW¼NE¼NW¼.
T. 30 N., R. 96 W.,
Sec. 10, SE¼NE¼, NE¼SE¼, and N½SE¼SE¼;
Sec. 11, S½NW¼NW¼, SW¼NW¼, and NW¼NW¼SW¼.
T. 30 N., R. 99 W.,
Sec. 29, SW¼SE¼ and S½SW¼;
Sec. 32, N½SE¼NE¼;
Sec. 33, N½SW¼SW¼NW¼.
T. 31 N., R. 97 W.,
Sec. 27, NE¼NE¼.
T. 34 N., R. 90 W.,
Sec. 9, NE¼SE¼;
Sec. 10, NW¼SW¼.
T. 39 N., R. 90 W.,
Sec. 12, SE¼;
Sec. 13, NE¼.

5. For a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided in 43 CFR 2411.2c.

JOHN R. KILLOUGH,
Acting State Director.

[F.R. Doc. 67-13696; Filed, Nov. 21, 1967; 8:46 a.m.]

Fish and Wildlife Service

MASTER HULL POLICIES

Intent To Request Proposals

NOVEMBER 17, 1967.

Under the terms of the mortgages utilized in connection with loans to commercial fishermen authorized in section 4 of the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742c), a mortgagor is required to obtain, among other things hull insurance satisfactory to the Secretary of the Interior. Some of the basic requirements as respects the hull insurance coverage are that (a) the United States of America be the sole loss payee; (b) the vessel be insured for its full commercial value but in no event less than 110 percent of the outstanding balance of the note secured by the mortgage; and (c) the policy contain satisfactory Inchmaree and Breach of Warranty Clauses.

In the past, as a service to our borrowers and to potential borrowers, the Bureau of Commercial Fisheries has notified the interested public that the Commercial Fishermen's Inter-Insurance Exchange had a Master Hull Policy which, both in form and substance, met the requirements of our mortgage. This notice was merely informational and did not require the utilization of said Master Hull Policy. This Master Hull Policy expires on January 1, 1968.

The Bureau of Commercial Fisheries, in fulfilling its obligations under the Fish and Wildlife Act of 1956, as amended, desires to again notify the interested public of the existence of any Master Hull Policies which may be available to commercial fishing vessel owners or operators whose vessels serve as collateral for fisheries loans. The name of any qualifying insurance company submitting a Master Hull Policy, found acceptable for use in connection with the Bureau's lending program, will be placed in an informational release along with the applicable premium charges. While this release will be distributed to the interested public there will be no compulsion that a borrower utilize any Master Hull Policy listed in such release.

Notice is hereby given of the intent to issue a request for such proposals. Interested persons may submit written comments, suggestions, or objections with respect to the proposed request to the Director, Bureau of Commercial Fisheries, Department of the Interior, Washington, D.C. 20240, by December 22, 1967.

J. L. MCHUGH,
Acting Director.

[F.R. Doc. 67-13730; Filed, Nov. 21, 1967; 8:49 a.m.]

Office of the Secretary

[Order 2902]

SECRETARY OF THE INTERIOR OR HIS DELEGATE

Reservation of Authority Regarding Trust Territory

NOVEMBER 15, 1967.

Whereas, pursuant to Articles 6 and 8 of the Trusteeship Agreement between the United States and the Security Council of the United Nations, the United States is obligated to improve and regulate the means of transportation to, from, and within the Trust Territory; and

Whereas, the Congress of the United States has authorized the expenditures of appropriations available for the administration of the Trust Territory for the purchase, charter, maintenance, and operating of aircraft and surface vessels for official and for commercial transportation purposes found by the Secretary of the Interior to be necessary, 43 U.S.C. (1964 Ed.) 1687;

Now, therefore, effective upon the date of publication of this order, the following powers and authorities are hereby reserved to the Secretary of the Interior or his delegate and hereafter may only be exercised by the Secretary or his specifically thereunto authorized delegate:

1. The power and authority, on behalf of the Trust Territory of the Pacific Islands, to enter into contracts for the purchase, charter, maintenance, or operation of aircraft and surface vessels and for services associated therewith, and to grant franchises for such operations and services for both official and commercial transportation purposes found by the Secretary or his delegate to be useful, beneficial, and necessary.

2. The High Commissioner of the Trust Territory of the Pacific Islands is designated as the authorized delegate to exercise the power and authority reserved hereunder.

KENNETH HOLUM,
Acting Secretary of the Interior.

NOVEMBER 15, 1967.

[F.R. Doc. 67-13681; Filed, Nov. 21, 1967; 8:46 a.m.]

DIRECTORS, NATIONAL PARK SERVICE AND BUREAU OF OUTDOOR RECREATION

Delegations of Authority

The following Delegations of Authority are a part of the Departmental Manual and the numbering followed is that of the Manual.

The Delegation of Authority to the Director, National Park Service, published in the FEDERAL REGISTER of July 6, 1962 (27 F.R. 6395), January 31, 1963 (28 F.R. 915), and January 4, 1967 (32 F.R. 336), is amended by a revision to paragraph 245.1.1C and the addition of a paragraph (245.1.1D), as set forth below:

PART 245—NATIONAL PARK SERVICE

CHAPTER 1—GENERAL PROGRAM DELEGATION
DIRECTOR, NATIONAL PARK SERVICE

245.1.1 *Delegation.* * * *

C. Delete the last sentence of this paragraph.

D. The Director, National Park Service, is authorized to cooperate and consult with the Secretary, Department of Transportation in undertaking and coordinating Interior Department participation in the planning of transportation programs and projects which require the use of any land from any historic site to insure that there is no feasible and prudent alternative to the use of such land and that such programs and projects include all possible planning to minimize harm to such lands. In carrying out this delegated authority the Director, National Park Service shall consult and coordinate with the heads of other affected Interior bureaus (section 4(f) of the Act of Oct. 15, 1966 (80 Stat. 931)).

The Delegation of Authority to the Director, Bureau of Outdoor Recreation, appearing in the FEDERAL REGISTER at 30 F.R. 4210, 15598, and 32 F.R. 4030 is amended by deleting from section 248 DM 1.1H the words "or historic site" and by the addition of the following paragraph:

248 DM 1.1I. By serving as the alternate of the Secretary and in his stead on the Advisory Council on Historic Preservation established under Title II of the Act of October 15, 1966, 80 Stat. 915, 917.

STEWART L. UDALL,
Secretary of the Interior.

OCTOBER 25, 1967.

[F.R. Doc. 67-13697; Filed, Nov. 21, 1967; 8:46 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

MICHIGAN STATE UNIVERSITY ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C.

A copy of each comment filed with the Director of the Office of Scientific and Technical Equipment must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 68-00220-33-46500. Applicant: Michigan State University, East Lansing, Mich. 48823. Article: Ultramicrotome, Model LKB 8800A Ultrotome III. Manufacturer: LKB Produkter AB, Stockholm. Intended use of article: Applicant states:

The ultramicrotome is to be used to prepare ultrathin sections for observation in our electron microscope. The types of materials to be sectioned by the ultramicrotome will be variable depending on the needs of the electron microscopist. However, consistent with our general operation in the electron microscopy department, it can be stated that we must have an ultramicrotome which will cut long series of equal thickness serial sections. The thickness of these sections should be easily operator chosen between the values 50 Angstroms to 2 microns and it should be possible to easily and rapidly change the serial section thickness.

Application received by Commissioner of Customs: November 6, 1967.

Docket No. 68-00219-90-34040. Applicant: University of Pennsylvania, 3231 Walnut Street, Philadelphia, Pa. 19104. Article: Backward Wave Oscillator, Model CO 10 Carcinotron Tube, 290-320 GHz at 5-50 mW (Type O BWO). Manufacturer: Compagnie Generale de Telegraphie Sans Fil (CSF), France. Intended use of article: Applicant states: "Graduate research in solid state physics." Application received by Commissioner of Customs: November 6, 1967.

Docket No. 68-00190-33-46040. Applicant: Auburn University, Auburn, Ala. 36830. Article: Electron Microscope EM 300. Manufacturer: N. V. Philips Gloeilampenfabrieken, Netherlands. Intended use of article: Biological research and some metallurgical studies in several areas as listed in the body of the application. Application received by Commissioner of Customs: October 19, 1967.

Docket No. 68-00193-33-46040. Applicant: University of Houston, Department of Biology, Cullen Boulevard, Houston, Tex. 77004. Article: Electron Microscope EM6B. Manufacturer: Associated Electrical Industries International, Ltd., England. Intended use of article: Biological research and student training in visualization of ultrastructural components of ribosomes for structure and function, morphological investigations of single-stranded RNA (Ribonucleic Acid) and DNA (Deoxyribonucleic Acid) viruses, transfer mechanisms of DNA between bacterial cells, etc. Application received by Commissioner of Customs: October 20, 1967.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-13670; Filed, Nov. 21, 1967; 8:45 a.m.]

UTAH STATE UNIVERSITY ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C.

A copy of each comment filed with the Director of the Office of Scientific and

Technical Equipment must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 68–00177–00–77040. Applicant: Utah State University, Department of Chemistry, Logan, Utah 84321. Article: Fox Type Ion Source, Model MS1030, for use with Hitachi RMU–6D Mass Spectrometer. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: To provide electron beam with very narrow electron energy distribution as an accessory to existing Hitachi RMU–6D Mass Spectrometer. Application received by Commissioner of Customs: October 9, 1967.

Docket No. 68–00186–65–46040. Applicant: North Carolina State University, Post Office Box 5935, Raleigh, N.C. 27607. Article: Electron Microscope, Model JEM–120. Manufacturer: Japan Electron Optical Laboratory Co., Ltd., Japan. Intended use of article: Applicant states: "Basic scientific research and instruction of graduate students in material sciences [will be conducted]." Application received by Commissioner of Customs: October 17, 1967.

Docket No. 68–00189–33–46500. Applicant: City of Hope Medical Center, Department of Parthology, Duarte, Calif. 91010. Article: Ultramicrotome, model LKB 8800 Ultrotome III. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The ultramicrotome is to be used to prepare ultrathin sections of subcellular organelles in a search of virus particles. Long series of equal thickness serial sections will be prepared for observation in an electron mircroscope. The thicknesses of these sections are to be between the value of 50 Angstroms to 2 microns as chosen by the operator. Application received by Commissioner of Customs: October 17, 1967.

Docket No. 68–00207–00–61030. Applicant: Columbia University, Department of Civil Engineering and Engineering Mechanics, 120 Street and Amsterdam Avenue, New York, N.Y. 10028. Article: Electronic Dynamometer with Measuring Set Control Unit, Automatic Program Controls and Motor Generator Set. Manufacturer: Carl Schenck Maschinenfabrik, Germany. Intended use of article: These are components that will be used to update the performance of the existing equipment used by the applicant to study fatigue of metals and metal structures. These parts will modify the performance characteristics of present testing appartus to that of a new 60-ton Horizontal Fatigue Testing Constant Amplitude Pulsator manufactured by the Schenck Maschinenfabrik in West Germany. Application received by the Commissioner of Customs: October 26, 1967.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67–13671; Filed, Nov. 21, 1967; 8:45 a.m.]

YESHIVA UNIVERSITY ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C.

A copy of each comment filed with the Director of the Office of Scientific and Technical Equipment must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 68–00221–00–46040. Applicant: Yeshiva University, Albert Einstein College of Medicine, 1300 Morris Park Avenue, Bronx, N.Y. 10461. Article: Shutter for Siemens Electron Microscope, Model 171048. Manufacturer: Siemens AG, West Germany. Intended use of article: Applicant states: "Accurate preset exposure of photoplates in the Siemens Elmiskop." Application received by Commissioner of Customs: November 7, 1967.

Docket No. 68–00222–33–46040. Applicant: San Jose State College, 125 South Seventh Street, San Jose, Calif. 95114. Article: Electron Microscope, Model HS–7S, with Anticontamination Device. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: Applicant states: "Training and instruction for and investigation of biological fine structure." Application received by Commissioner of Customs: November 7, 1967.

Docket No. 68–00218–33–46040. Applicant: University of New Mexico, University Hill NE., Albuquerque, N. Mex. 87106. Article: Electron Microscope, Model EM 300, with Anticontamination Device. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: Applicant states: "Study of biological tissue specimens for medical research." Application received by Commissioner of Customs: November 3, 1967.

Docket No. 68–00192–33–46040. Applicant: Attending Staff Association of the Los Angeles County General Hospital, Department of Pathology, 1200 North State Street, Los Angeles, Calif. 90033. Article: Electron Microscope, Model HS–7S. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: Investigation of ultrastructure of lymphocytes and malignant lymphomas in a hematopathology training program. Application received by Commissioner of Customs: October 20, 1967.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67–13672; Filed, Nov. 21, 1967; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

LABELING OF DRUG PREPARATIONS CONTAINING ASPIRIN

Notice Inviting Submission of Scientific Data Regarding Maximum Dose

The policy currently in effect (as prescribed by § 3.509 *Labeling of drug preparations containing salicylates* (21 CFR 3.509)) regarding the maximum dose of aspirin that may be recommended in the labeling of over-the-counter drugs limits such dose of regular aspirin to not more than 10 grains in a 4-hour period with the total dosage in a 24-hour period not to exceed 60 grains.

The Food and Drug Administration has consulted its Medical Advisory Board and has under consideration a proposed revision of the current policy regarding the amount of aspirin that may be recommended in the labeling of articles available to the layman without a prescription. Such revision would permit a recommendation of a usual dose of 10 grains in a 4-hour period, or if needed a maximum of 20 grains taken as a single dose or divided in any 8-hour period, with the total amount in a 24-hour period not to exceed 60 grains.

The Commissioner of Food and Drugs invites interested persons to submit pertinent scientific data for evaluation in determining whether there are adequate data to support such a change. Unless submitted data establish that this dosage schedule would be generally recognized among qualified experts as safe and effective for its intended use, aspirin products recommending more than 10 grains as a single dose will be regarded as new drugs requiring an approved new-drug application under section 505 of the Federal Food, Drug, and Cosmetic Act for shipment in interstate commerce.

Submissions should be made to the Bureau of Medicine, Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, within 60 days from the date of publication of this notice in the FEDERAL REGISTER.

This notice is issued pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 502(f), 701(a), 52 Stat. 1051, 1055; 21 U.S.C. 352(f), 371(a)) and delegated by him to the Commissioner (21 CFR 2.120).

Dated: November 15, 1967.

JAMES L. GODDARD,
Commissioner of Food and Drugs.

[F.R. Doc. 67–13716; Filed, Nov. 21, 1967; 8:48 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50–144]

CAROLINAS VIRGINIA NUCLEAR POWER ASSOCIATES, INC.

Order Changing License Expiration Date

By Amendment No. 26 dated October 26, 1967, Carolinas Virginia Nuclear Power Associates, Inc., (CVNPA) has filed a request for a change in the expiration date of Facility License No. DPR–8, as amended, which authorizes CVNPA to possess, but not to operate, the nuclear reactor located at Parr, S.C. CVNPA has stated that additional time beyond the present license expiration date of November 27, 1967, is required to complete the decommissioning and disposition of the facility authorized by the Commission's Order dated June 14, 1967.

Accordingly, it is hereby ordered that the date specified in paragraph 6 for expiration of License No. DPR–8, as amended, is changed to December 31, 1968.

Date of issuance: November 13, 1967.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director, Division of Reactor Licensing.

[F.R. Doc. 67–12612; Filed, Nov. 21, 1967; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 19167]

AMERICAN AIRLINES, INC.

Notice of Proposed Approval

Application of American Airlines, Inc., for approval without hearing pursuant to section 408(b) of the Federal Aviation Act or exemption from section 408, relating to the lease of 27 Boeing Model 727–223 aircraft; Docket 19167.

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the undersigned intends to issue the order set forth below under delegated authority. Interested persons are hereby afforded a period of 15 days from the date of service within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., November 16, 1967.

[SEAL] A. M. ANDREWS,
Director, Bureau of Operating Rights.

ORDER OF APPROVAL

Issued under delegated authority.

By application filed October 25, 1967, American Airlines (American) requests approval under, or exemption from, section 408 of the Federal Aviation Act of 1958, as amended (the Act), with respect to the lease of twenty-seven (27) Boeing Model 727–223 aircraft (the aircraft).

American states that its rights under a purchase agreement with The Boeing Co. in relation to the aircraft will be assigned to the Bankers Trust Co., acting as trustee, and that the trustee will pay the purchase price, take title to the aircraft, and lease the aircraft to American for an 18-year term.[1] American will, in turn, pay the trust a quarterly rental of 2.005 percent of the cost of the aircraft or an aggregate rental of 144.360 percent of such cost over the full 18-year term of the lease. According to American approximately 20 percent of the cost of each aircraft will be furnished to the trust by The First National City Bank of New York (the Bank) and the remainder of the cost of each aircraft will be loaned to the trust by thirty-six (36) lending institutions (The Loan Participants). The Bank will have an ownership interest in the aircraft subordinate to the loan participant's loans, which will be payable by the trust over a period of 18 years with interest at 6½ percent per annum. The maximum commitment of the Bank and the Loan Participants will be $5,400,000 for each aircraft and $145,800,000 for all the aircraft.

American asserts that the instant agreement closely parallels other agreements which the Board has either approved under, or exempted from, section 408 of the Act.[2] The carrier also asserts that the instant transaction will enable it to obtain use of the aircraft on a cost basis which reflects the availability to the Bank of the full 7 percent investment credit without reducing the amount of investment credits usable by American pursuant to the Internal Revenue Code. The carrier also states that if approval or exemption is not granted, prior to the delivery date of the first aircraft scheduled for early January 1968, it would be forced to obtain the necessary aircraft on less favorable terms. Such a denial of either approval or exemption, American contends, would cause it an undue burden and would not be in the public interest.

Upon consideration of the proposed transaction, it is found that the lease does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in creating a monopoly, and does not tend to restrain competition. Furthermore, no person disclosing a substantial interest is currently requesting a hearing, and it is concluded that a hearing is not required. It appears that the transaction will permit the carrier to acquire equipment on favorable terms. Consequently, it appears that approval of the transaction without a hearing would not be inconsistent with the public interest.

Notice of intent to dispose of the application, without a hearing, has been published in the FEDERAL REGISTER and a copy of such action has been furnished by the Board to the Attorney General not later than the day following the date of such publication, both in accordance with the requirements of section 408(b) of the Act.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.13, it is found that the above-described transaction should be approved under section 408(b) without a hearing.

Accordingly, it is ordered:

1. That the lease of 27 Boeing Model 727–223 aircraft by American as described above be and it hereby is approved;
2. That this action shall not be deemed a determination for ratemaking purposes of the reasonableness of the transaction;
3. That, except to the extent granted herein, the application in Docket 19167 be and it hereby is denied;
4. That conformed copies of the Lease Agreement, Trust Agreement, Participation Agreement, and the Purchase Agreement Assignment, be filed in Docket 19167 within ten (10) days after execution; and
5. That this order may be amended or revoked at any time in the discretion of the Board without hearing.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 5 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67–13704; Filed, Nov. 21, 1967; 8:47 a.m.]

[Docket No. 19255; Order E–26901]

EAST COAST POINTS-EUROPE SERVICE INVESTIGATION

Order Instituting Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 17th day of November 1967.

Carriers designated by the United States and the United Kingdom will be permitted to commence operations between Miami, Fla., and London, England, on or after January 1, 1970, under the terms of the United States-United Kingdom Bilateral Air Transport Agreement as amended on May 27, 1966, by an Exchange of Notes. British Overseas Airways Corp. has already been designated by the United Kingdom and has applied for an amendment to its foreign air carrier permit in order to be able to conduct services immediately upon the effective date. No U.S. flag carrier has been designated nor does any hold certificate authority to operate directly between Miami and London. To date, Northeast Airlines, Inc. (Northeast), National Airlines, Inc. (National), Braniff Airways, Inc. (Braniff), and Delta Air Lines, Inc. (Delta), have applied for such authority.[3]

[1] The Participation, Trust, and Lease agreements and certain other documents pertaining to the transaction have been filed in draft form pending execution.

[2] Orders E–22442, July 15, 1965, E–23995, July 21, 1966, and E–25251, June 5, 1967.

[3] Northeast's application, Docket 17468, was filed on July 5, 1966; the application of National, Docket 17582, was filed on July 29, 1966; and Delta's application, Docket 19144, was filed on Oct. 20, 1967.

The Board deems it desirable that one or more U.S. flag carriers should be in a position to begin direct service in the Miami-London market on January 1, 1970, contemporaneously with BOAC, if it is found that there is a need for U.S. flag service.

In the Transatlantic Route Renewal Case, Docket 13577, the Board was basically concerned with the question of the renewal of the existing authority of Pan American World Airways, Inc. (Pan American), and Trans World Airlines, Inc. (TWA), across the Atlantic to Europe (including Eastern Europe and the U.S.S.R.), Africa, and points in Asia as far east as India and Ceylon; as well as the U.S.-Europe all-cargo authority of Seaboard World Airlines, Inc. (Seaboard).[1] Based on traffic data for 1962 and the years prior thereto, and the marginal operating results of the U.S. flag carriers serving Europe in that period, the proceeding focused on whether the status quo should be maintained or whether the authority of U.S. flag carriers should be reduced by eliminating point-to-point U.S. flag competition. By and large our basic decision, which was made on January 27, 1965, found for the status quo and the incumbent carriers were authorized to serve only a few additional U.S. coterminals.[2] Because New York serves as the main gateway and coterminal for the three carriers, our decision implicitly involved the finding that New York should continue to be the principal funnel for connecting traffic and through flights originating at or destined to other U.S. points.

The question of the need for Miami-London direct service raises the issue of whether other U.S. cities require improved U.S. flag service to Europe without reference to New York, whose international airport, Kennedy, is rapidly approaching the saturation point. Since 1962, the base year in the Transatlantic Route Renewal Case, a sustained high level of traffic growth in the U.S.-Europe market, the largest intercontinental area market in the world, has been experienced.[3] Much of this overall growth has resulted in the provision of increased schedules at New York. Today over two-thirds of U.S. flag carrier transatlantic schedules originate, terminate, or operate via New York despite the fact that the largest part of the traffic does not originate, terminate, or stop over in New York. Moreover, this situation exists even though present U.S. flag authority between the other East Coast gateways and Europe is not being fully utilized.

[1] Order E-18301, May 4, 1962. Also at issue were the applications of Pan American, TWA, Seaboard, and certain cities for new or improved authority.

[2] See Attachment to Order E-22330. Certain improved authority for the incumbent carriers was awarded. Washington and Baltimore were added as coterminal points for Pan American; Washington-Baltimore was added as a coterminal for TWA; and Boston for Seaboard. On the other hand, we denied Pan American's application to serve Cleveland as a coterminal; and Dallas, Houston, and New Orleans were not named as coterminals. In the Reopened Transatlantic Route Renewal Case, decided Oct. 6, 1966, Los Angeles, Seattle, San Francisco, Portland, Chicago, Detroit, Washington-Baltimore, Philadelphia, New York, and Boston, were made a single group of coterminal points for Pan American with certain stopover privileges at New York (see Order E-24634, served Jan. 12, 1967).

[3] Air Passenger Traffic Between the United States and Europe, 1962–1966:

Year	Carrier		Total	Percent increase	U.S. share percent
	U.S. flag	Foreign flag			
1962	986,962	1,528,313	2,515,275		39.2
1963	1,161,477	1,648,899	2,810,376	11.7	41.3
1964	1,408,681	2,081,855	3,490,536	24.6	40.4
1965	1,630,394	2,354,179	3,984,573	14.1	40.9
1966	1,891,072	2,675,287	4,566,359	14.6	41.4

NOTE: Data include scheduled, nonscheduled, and charter traffic (civilian and military).
SOURCE—Immigration and Naturalization Service statistics.

In addition, existing uncertainties with respect to the legal basis for international inclusive tour charter services by U.S. flag supplemental carriers enhance the need to consider whether additional transatlantic service should be authorized.

These considerations compel the conclusion that the question of improved U.S.-Europe service should be explored beyond the confines of the Miami-London route. Accordingly, we have decided to set down for hearing a route case to be known as the East Coast Points-Europe Service Investigation, which will focus on the need for new and improved service between Miami and London, and between the U.S. East Coast cities of Boston, Hartford,[4] Philadelphia, Baltimore, and Washington, on the one hand, and points in certain countries in Western Europe, on the other hand.[5]

We are excluding New York as a terminus or gateway for proposed new services because of the saturation of its airports, already productive of serious and expensive delays. Exclusion of New York will compel applicants to propose direct services from the named East Coast cities to Europe, and will allow applicants having existing domestic routes behind these East Coast cities to propose single-plane services from interior points via these gateways; the authorization of such new services should result in reducing pro tanto the congestion at New York's airports, and thus indirectly benefit that city's travelers. The existing certificate authority of Pan American and TWA will not be in issue for alteration, amendment, modification, or suspension pursuant to section 401(g) of the Act.

[4] We are including Hartford because of its proximity to New York, which raises the possibility that some part of the traffic now originating at New York might find it convenient to enplane instead at Hartford, thus reducing pro tanto the congestion at New York's airports.

[5] We shall exclude the United Kingdom (other than Miami-London), France, Italy, the Federal Republic of Germany, Spain, Portugal, and Ireland. These are countries where two U.S. combination carriers now hold authority. Also, the following Eastern European countries shall not be in issue: Poland, Rumania, Czechoslovakia, Hungary, Bulgaria, Albania, the U.S.S.R., and the Eastern portion of Germany.

Issues of granting new or amending existing authorizations limited to the carriage of property and mail only will not be considered because of the pendency of the Domestic Coterminal Points-Europe All-Cargo Service Investigation, Docket 18531.

The Board is particularly interested in determining the need for single-plane and single-carrier U.S. flag service, provided through the named East Coast cities, between U.S. and foreign points not now receiving such service; for nonstop service between the East Coast cities and foreign points not now receiving nonstop service; and for first competitive U.S. flag service in certain markets.

Interested applicants will be directed to file motions to consolidate applications consistent with the scope of this proceeding not later than 30 days from the date of service of this order. Petitions for reconsideration of this order shall be filed not later than 40 days from the date of service of this order.

Accordingly, it is ordered, That:

1. There be and hereby is instituted in Docket Number 19255, a proceeding to be known as the East Coast Points-Europe Service Investigation to determine whether the public convenience and necessity require new and improved service in foreign air transportation between Miami and London; and between Boston, Hartford, Philadelphia, Washington, and Baltimore, on the one hand, and points in Norway, Sweden, Denmark, Finland, the Netherlands, Belgium, Luxembourg, Switzerland, Austria, Yugoslavia, Greece, and Turkey, on the other hand;

2. Motions to consolidate applications consistent with the scope of this proceeding shall be filed not later than 30 days from the service date of this order;

3. Petitions for reconsideration of this order shall be filed not later than 40 days from the service date of this order;

4. This proceeding shall be set down for hearing with separate treatment of the Miami-London issues so that, if it becomes necessary, these issues can be severed for separate decision; and

5. A copy of this order shall be served on the cities of Boston, Hartford, Philadelphia, Washington, Baltimore, and Miami; Pan American, TWA, Seaboard, National, Northeast, and Braniff, who are hereby made parties to the proceeding.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 67-13705; Filed, Nov. 21, 1967; 8:47 a.m.]

[Docket No. 17828; Order E-25992]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding North/Central Pacific Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 17th day of November 1967.

Agreement adopted by Joint Conference 3-1 of the International Air Transport Association relating to North/Central Pacific fares; Docket Number 17828; Agreement CAB 19887.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of Joint Conference 3-1 of the International Air Transport Association (IATA), and adopted by mail vote. The agreement has been assigned the above-designated CAB Agreement number.

The agreement specifies fares to apply via the Pacific between United States points and points beyond Bangkok in Burma, Ceylon, Pakistan, and India. In general, the fares are the same as were heretofore applicable.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, does not find the following resolutions, incorporated in Agreement CAB 19887, to be adverse to the public interest or in violation of the Act:

JT31 (Mail 134) 066.
JT31 (Mail 134) 066.
JT31 (Mail 134) 068r.

Accordingly, it is ordered, That:

Agreement CAB 19887 be approved.

Any air carrier party to the agreement, or any interested person, may, within 15 days from the date of service of this order, submit statements in writing containing reasons deemed appropriate, together with supporting data, in support of or in opposition to the Board's action herein. An original and nineteen copies of the statements should be filed with the Board's Docket Section. The Board may, upon consideration of any such statements filed, modify or rescind its action herein by subsequent order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 67-13706; Filed, Nov. 21, 1967; 8:47 a.m.]

[Docket Nos. 19115, 19117; Order E-25986]

COMBS-PICKENS

Order To Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority November 16, 1967.

By petitions filed on October 12 and 13, 1967, Montana Aircraft Co. doing business as Combs-Pickens requests the Board to establish a final service mail rate of 28.75 cents per aircraft mile for the transportation of mail by aircraft between Spokane, Wash., and Helena, Mont., and return, and between Wolf Point, Miles City, and Billings, Mont., and return.

Petitioner is currently engaged in business as an air taxi under Part 298 of the Board's economic regulations. Petitioner will utilize twin engine Beechcraft Baron aircraft in the proposed service, and states that the proposed rate will cover the fully allocated cost of the service. In its answer, filed October 25, 1967, the Post Office Department supported Combs-Pickens' petition, and stated it believed the proposed rate represents a fair and reasonable rate of compensation for the services which the petitioner will perform.

By Order E-25970, November 14, 1967, in these dockets, the Board determined to permit petitioner to provide the proposed air transportation of mail for the period terminating June 30, 1969. Since no mail rate is presently in effect for this carrier in these markets, it is necessary to fix and determine the fair and reasonable rate of compensation to be paid to Combs-Pickens by the Postmaster General for the air transportation of mail.

Under the circumstances, the Board finds it in the public interest to fix and determine the fair and reasonable rate of compensation to be paid to Combs-Pickens by the Postmaster General for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the petition and other matters officially noticed, the Board proposes to issue an order[1] to include the following findings and conclusions:

1. That the fair and reasonable final service mail rate to be paid to Combs-Pickens, pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith between Spokane, Wash., and Helena, Mont., and return, and between Wolf Point, Miles City, and Billings, Mont., and return, shall be 28.75 cents per aircraft mile;

2. The final service mail rate here fixed and determined is to be paid in its entirety by the Postmaster General.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302 and 14 CFR Part 385.14(f):

It is ordered, That:

1. All interested persons and particularly Combs-Pickens, the Postmaster General, Frontier Airlines, Inc., and Northwest Airlines, Inc., are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above, as the fair and reasonable rate of compensation to be paid to Combs-Pickens for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and if there is any objection to the rate or to the other findings and conclusions proposed herein, notice thereof shall be filed within ten days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after the date of service of this order;

3. If notice of objection is not filed within ten days after service of this order, or if notice is filed and if answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Combs-Pickens, the Postmaster General, Frontier Airlines, Inc., and Northwest Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 67-13707; Filed, Nov. 21, 1967; 8:47 a.m.]

[1] As this order to show cause does not constitute a final action and merely affords interested persons an opportunity to be heard on the matters herein proposed, it is not regarded as subject to the review provisions of Part 385 (14 CFR Part 385). The provisions of that part dealing with petitions for Board review will be applicable to any final action which may be taken by the staff in this matter under authority delegated in § 385.14(g).

[Docket No. 19176]

TRANSAMERICA CORP. AND TRANS INTERNATIONAL AIRLINES CORP.

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceeding is assigned to be held on November 28, 1967, at

10 a.m., e.s.t., in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., November 16, 1967.

[SEAL] WALTER W. BRYAN,
Hearing Examiner.

[F.R. Doc. 67-13708; Filed, Nov. 21, 1967; 8:47 a.m.]

[Docket No. 9977; Order No. E-26000]

AIRLINES MUTUAL AID AGREEMENT

Order Instituting Investigation Regarding Renewal

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 17th day of November 1967.

Airlines Mutual Aid Agreement (Renewal), Docket 9977, Agreements CAB 12633A–A8.

By application filed on May 2, 1967, the air carrier parties to the Mutual Aid Agreement (Pact)[1] requested that the Board, without further proceedings, pursuant to section 412 of the Federal Aviation Act of 1958 as amended (the Act), renew its approval of the Pact for an indefinite period. By Order E–21044, July 10, 1964, the Pact was approved for a period of 3 years. On June 14, 1967, joint objections to the application were filed by five employee organizations[2] and separate objections were filed by Air Line Pilots Association, International (ALPA). Objections were filed by Allied Pilots Association (APA), representing American's pilots, on June 21, 1967. All of the objecting parties requested that the Board deny the application for renewal of the Board's approval of the Pact. Alternatively, all of these parties, except APA, requested that the matter be set down for public hearing, while APA requested that American's participation in the Pact be terminated. The air carriers filed a reply to the several objections on August 21, 1967.

In support of their objections the unions allege, in effect, that new questions of fact and policy are posed by the renewal application. The unions state that, in light of developments relating to air carrier-union relations since the matter last came before the Board, the Board should reexamine the Pact; that the future of the institution of collective bargaining in the air transportation industry is likely to be directly affected by the disposition made in this proceeding; and that the occurrence of the IAM five-carrier strike of 1966, alone justifies a complete reexamination of the Pact. In addition, APA contends that, as an independent union, it would be unduly disadvantaged in its dealings with American, since the carrier is a party to multicarrier bargaining arrangements which are fostered by the Pact.

In their joint response to the unions' objections, the carrier parties state that there are no new facts or changed circumstances since the Board's approval of the Pact in 1964, to show that the Pact has in any way operated in a manner inconsistent with the public interest. The carriers state, inter alia, that the unions' contentions are the same as previously presented and rejected by a majority of the Board, and that the Pact played no part in the 1966 IAM strike.

The Board has carefully examined the controverted allegations contained in the pleadings and has determined that the most appropriate action to follow is the institution of a formal investigation. The matters presented pose serious and complex factual and policy issues. On the present record it appears that various disputed questions of fact are present. It is also apparent from the applicants' request for approval of the Pact's renewal for an indefinite period that the principle of mutual aid is intended to become a long-term feature of labor-management relations in the industry, thus giving rise to important policy issues.

In these circumstances, the Board believes that it should have the benefit of a record developed through a full evidentiary hearing in order to resolve the issues presented by the carriers' application. The investigation will furnish a means for a complete reexamination of the issues previously considered by the Board in the light of such new matters as may have developed since 1964.

The seven Pact members will be made parties to the investigation, together with the objecting unions and any other organizations designated as collective bargaining representatives of these carriers which desire to intervene. Because of the importance of the issues and its desire to be fully informed as to the views of other Government agencies, the Board will invite such agencies to participate in the case.[3]

Accordingly, it is ordered:

1. That an investigation be and it hereby is instituted in Docket 9977, pursuant to the provisions of sections 204 (a), 412, and 1002(b) of the Act, to determine whether continued approval of the Pact is not adverse to the public interest and not in violation of the Act, and, what terms, conditions and limitations, if any, should be attached to such approval;

2. That the following persons be and they hereby are made parties to the investigation: American, Braniff, Eastern, Northwest, Pan American, TWA, and United: ALDA, ALPA, APA, BRC, FEIA, IAM, and TWU;

3. That each carrier party shall serve a copy of this order upon each employee organization with which the party bargains collectively as representative of its employees, other than the organizations named as parties by paragraph 2 hereof, and file a report of such service with the Board within 10 days of the date of this order; and

4. That the investigation instituted herein be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-13783; Filed, Nov. 21, 1967; 8:49 a.m.]

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[1] American Airlines, Inc. (American); Braniff Airways, Inc. (Braniff); Eastern Air Lines, Inc. (Eastern); Northwest Airlines, Inc. (Northwest); Pan American World Airways, Inc. (Pan American); Trans World Airlines, Inc. (TWA); and United Air Lines, Inc. (United).

[2] Air Line Dispatchers Association (ALDA); Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees (BRC); Flight Engineers International Association (FEIA); International Association of Machinists and Aerospace Workers (IAM); and Transport Workers Union of America (TWU).

[3] The Board will send a copy of this order to the Commerce, Justice, and Labor Departments, the National Mediation Board, the National Labor Relations Board and the Department of Transportation.

FEDERAL COMMUNICATIONS COMMISSION

[FCC 67-1274]

UNLIMITED-TIME STANDARD BROADCAST STATIONS

Order Regarding Operation During Hours Before Local Sunrise

1. By report and order adopted June 28 and released July 13, 1967,[1] in the "presunrise" rule making proceeding (Docket 14419) the Commission adopted new rules (principally new § 73.99) concerning use before local sunrise of facilities licensed for daytime-only (local sunrise to local sunset) or limited-time use. The new rules apply to Class III (regional) daytime-only stations and unlimited-time stations operating differently day and night, and to certain daytime-only, limited-time, and unlimited time Class II stations. Briefly, such presunrise use of daytime facilities may take place only pursuant to specific Commission authorization (Presunrise Service Authority, or PSA); it is limited in time to 6 a.m. local standard time and after and, for Class II stations, to sunrise at the location of cochannel Class I station(s) to the east and after;[2] and as far as regional and Class I–B channels are concerned, it is limited to either 500 watts power or whatever lesser power level is necessary to protect foreign unlimited-time stations under applicable international agreements, and U.S. I–B stations located west of the Class II station under the conventional nighttime standards of our rules. The new rules became effective October 29, 1967, replacing an earlier "permissive" presunrise rule, § 73.87, which permitted all Class III and some Class II stations to use full daytime facilities starting at 4 a.m., unless and until such operation was ordered terminated because of undue interference to a licensed unlimited-time operation.

2. A number of parties filed petitions for reconsideration of this decision, including Association on Broadcasting Standards, Inc. (ABS), a group of unlimited-time Class II and Class III stations. In a memorandum opinion and order adopted October 11, and released October 17, 1967 (FCC 67-1143, 11 R.R. 2d 1571), the Commission considered these petitions and in general denied them and affirmed the decision and new rules. A number of parties then appealed from the decision to various U.S. Courts of Appeals, ABS filing in the U.S. Court of Appeals for the District of Columbia and later having its appeal transferred to the U.S. Court of Appeals for the Second Circuit (New York City), where another appeal was pending.

3. On October 31, 1967 ABS petitioned the latter Court for a stay of the Commission's decision and the new rules, and on November 13, 1967, that Court granted a stay in part, the pertinent language of its order reading as follows:

> • • • that the Federal Communications Commission be and it hereby is directed to authorize by appropriate means the operation of full time Class II and Class III stations, during the pendency of the appeal herein, with daytime power and antenna as authorized in their respective licenses during presunrise hours, subject only to such limitations in power and hours of operation as may be necessary to conform to international requirements (including the requirement of a 6 a.m. sign-on time) and to court orders on the same subject matter. Such stay is conditioned on petitioner's filing its brief within the period fixed by the rules of this Court.

The hearing on the appeal was ordered expedited, and it is anticipated that decision will come in the fairly near future.

4. The Court's order in substance directs that pending the decision on the merits the Commission authorize "by appropriate means" full-time Class II and Class III stations to use their regular daytime facilities, from 6 a.m. on, subject to the protection requirements of pertinent international agreements. The Commission's construction of the order is that it means that presunrise operation under it shall take place only after and pursuant to authorization by us. Our review, before operation is permitted, is necessary in order to ascertain that foreign protection requirements are met. With respect to Canada, this means the provisions of the new "presunrise" agreement with that country (TIAS 6268, formalized June 12, 1967 and embodied in new § 73.99 and Figure 12 of § 73.190 of the rules); with respect to Mexico and other North American countries it means the provisions of the North American Regional Broadcasting Agreement (NARBA) and the United States-Mexican Agreement concerning protection.

5. In carrying out the Court's mandate, the following procedures will apply:

(a) A number of full-time Class II and Class III stations (approximately 200) have filed PSA requests for use of daytime facilities as contemplated by the June decision and new rules;[3] most of these have been granted (as filed or as modified) and will remain in effect until further authorization by us. The few which are still pending will be processed and go into effect in normal course. These of course are limited to 500 watts (where foreign considerations do not require a lower power level) and these stations may now seek greater power (if foreign considerations permit) and it will be granted on a temporary basis if an appropriate showing as to foreign cochannel stations is made. Such authority will of course apply only after 6 a.m. local standard time, and will be subject to the restrictions mentioned below as to Class II stations and Class III stations on 930 kc/s.

(b) Full-time Class II and Class III stations which have not applied for PSA's may apply for temporary authority to use their daytime modes of operation starting at 6 a.m. local standard time, with whatever power (up to their regularly licensed daytime power) is appropriate taking into account pertinent foreign considerations. A showing in the latter respect must be made. As to Class II stations and Class III stations on 930 kc/s, the authorization will be subject to the restrictions mentioned below.

(c) Presunrise authority issued as provided in this paragraph is not a PSA, and it will be subject to automatic termination 15 days after the U.S. Court of Appeals for the Second Circuit issues its decision in the case of "Association on Broadcasting Standards, Inc. v. FCC," except to the extent that continuance is required by that decision.

6. *930 kc/s.* WBEN, Inc., licensee of fulltime Station WBEN, Buffalo, N.Y., has also appealed our decision, in the same Court, on the grounds of interference which presunrise use of daytime facilities would cause to it. The Court in that case has ordered a stay of authorization of any presunrise operation which would cause that station additional interference under our conventional nighttime rules. The instant stay order in the ABS case states that authorizations by the Commission pursuant to it shall be subject to "court orders on the same subject matter". We assume this qualification includes the stay in the WBEN case. Therefore, fulltime stations on 930 kc/s must show that the operation sought would not increase nighttime interference to WBEN, as well as making the foreign showing generally required.

7. *Class II stations.* Former § 73.87 of the rules, which was broader in terms of permitting presunrise operation than the new rule, precluded presunrise use of daytime facilities by Class II stations in certain circumstances: (1) By any Class II station on a foreign I–A clear channel; (2) by other Class II stations unless they completely protected the 0.5 mv/m groundwave skywave service of cochannel Class I stations or: (i) Were located west of such stations, in which case they could begin at sunrise at the Class I station, or (ii) had an agreement with the Class I station.

8. It is our understanding that it was not the Court's intention to permit presunrise operation which could not have taken place under the former rule. Therefore, with respect to full-time stations in the above situations, the following restrictions will apply in addition to those outlined, in paragraph 5 (the pertinent facts must be shown in the application):

(a) Full-time stations on foreign I–A channels will not be permitted presunrise use of daytime facilities.[4]

(b) Other full-time Class II stations will be permitted to use daytime modes of operation before local sunrise only to the extent that: (1) They protect groundwave and skywave service of all cochannel Class I stations; or (2) with respect to Class I stations located to the east, such operation takes place only after sunrise at the Class I station.

(c) A number of full-time Class II stations on Clear channels are authorized different facilities (usually lesser power) during hours immediately after sunrise and before sunset ("critical hours") than the facilities licensed for regular daytime use during other daytime hours. Former § 73.87 provided that the provision of § 73.187, the "critical hours" rule, applied to presunrise operation. New § 73.99 is to the same effect, providing that the presunrise power of Class II stations shall be no more than "the authorized daytime or critical hours power". As mentioned, we believe the Court did not intend us to permit full-time stations to operate presunrise to a greater extent than they would have been permitted under former § 73.87 in the absence of complaint. Therefore, authority for Class II stations will be limited to the "critical hours" mode of operation (or whatever lesser power is required by foreign considerations), rather than the regular daytime mode where that is different (in many cases this result would also be required

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[1] 6 FCC 2d 666, 10 Pike & Fischer R.R. 2d 1580.

[2] This restriction of course does not apply during months when local sunrise is earlier than 6 a.m., since daytime facilities may be used as a matter of licensed right starting at local sunrise. This is not "presunrise operation".

[3] The new rules of course leave full-time Class II and Class III stations a choice; using their regular nighttime facilities during presunrise hours, or applying for PSA and using daytime facilities, subject to the time and power limitations mentioned. Apparently the majority have elected to do the former. Since the 500-watt limitation, as such, will not apply to full-time stations pending the Court's decision, such stations may now choose to apply for temporary authority with whatever power (up to regular daytime power) can be used consistent with foreign considerations. Such temporary operation is of course limited to 6 a.m. and after, as stated in the stay order and required by the Canadian agreement.

[4] In fact this qualification has very little effect. Presunrise use of daytime facilities by stations on Canadian I–A channels is precluded by the new Agreement, as is such operation on Mexican I–A channels by the United States-Mexican Agreement. Thus the only stations affected are a handful of full-time Class II stations on 1540 kc/s, a Bahamian I–A clear channel, which could not use daytime facilities before local sunrise under earlier 73.87.

by our understanding with Canada concerning "daytime-skywave" protection).

9. *Daytime-only and limited-time stations.* The Court's stay order does not refer to daytime-only or limited-time stations; as to them, § 73.99 and the PSA arrangements prescribed therein remain in effect.

10. *Necessity for specific authority.* As mentioned above, the Court's stay mandate directs us to authorise full-time Class II and Class III stations to use daytime modes of operation "by appropriate means", and such operation is specifically made subject to meeting foreign protection requirements. In our judgment, this language means that we must review all proposals, before authorising such operation, to make sure that they meet foreign protection requirements. Therefore no presunrise use of daytime facilities will be permitted, by full-time stations or daytime stations, except subject to a PSA or temporary authority issued by the Commission. Such operation in the absence of such authority is a serious violation of our rules.

11. In view of the foregoing: *It is ordered*, That, notwithstanding the provisions of § 73.99 of the Commission's rules, unlimited-time Class II and Class III stations may apply for, and if a proper showing is made will receive, temporary presunrise operating authority under the procedures and subject to the qualifications outlined hereinabove.

Approved: November 16, 1967.

Released: November 17, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13724; Filed, Nov. 21, 1967; 8:49 a.m.]

[Docket No. 17817; FCC 67M-1943]

COSMOS CABLEVISION CORP.

Statement and Order After Prehearing Conference

In re petition by Cosmos Cablevision Corp., Darlington, S.C., Docket No. 17817, File No. CATV 100-182; for authority pursuant to § 74.1107 of the rules to serve and operate a CATV system in the Columbia, S.C. television market.

At yesterday's prehearing conference the following schedule was agreed to:

Rovan to furnish any economic studies, list of witnesses and area of their proposed testimony by January 18, 1968.

Receipt of notification of others for cross-examination by January 25, 1968.

Hearing February 1, 1968 (rescheduled from Dec. 13, 1967).

So ordered.

Issued: November 16, 1967.

Released: November 17, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13725; Filed, Nov. 21, 1967; 8:49 a.m.]

[1] Commissioners Bartley, Lee, and Johnson absent.

[Docket Nos. 17648, 17649; FCC 67M-1929]

EL CAMINO BROADCASTING CORP. AND SOUTH COAST BROADCASTING CO.

Order Continuing Hearing

In re applications of El Camino Broadcasting Corp., San Clemente, Calif., Docket No. 17648, File No. BPH-5566; Leon Hynen, Charles W. Jobbins, and Leon F. Westendorf, doing business as South Coast Broadcasting Co., San Clemente, Calif., Docket No. 17649, File No. BPH-5756; for construction permits.

Pursuant to agreements reached at the further prehearing conference held on November 14, 1967: *It is ordered*, That the evidentiary hearing now scheduled for November 20, 1967 is continued to February 27, 1968, beginning at 10 a.m., in the offices of the Commission, Washington, D.C.

Issued: November 14, 1967.

Released: November 16, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13726; Filed, Nov. 21, 1967; 8:49 a.m.]

[Docket Nos. 17853, 17854]

TRIPLE C BROADCASTING CORP. AND COLLINS BROADCASTING CO.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Triple C Broadcasting Corp., Thomasville, Ga., Docket No. 17853, File No. BPH-5739, Requests: 107.1mc, No. 296; 1.55 kw(H); 1.55 kw (V); 389.57 feet; T. O. Collins and Robert P. Singletary, doing business as Collins Broadcasting Co., Thomasville, Ga., Docket No. 17854, File No. BPH-5840, Requests: 107.1mc, No. 296; 3 kw(H), 3 kw(V); 300 feet; for construction permits.

1. The Commission, by the Chief, Broadcast Bureau, under delegated authority considered the above captioned and described applications for construction permits.

2. These applications are mutually exclusive in that operation by the applicants as proposed would cause mutually destructive interference.

3. Each of the applicants is qualified to construct and operate as proposed. However, because of their mutual exclusivity the Commission is unable to make the statutory finding that a grant of the subject applications would serve the public interest, convenience, and necessity, and is of the opinion that they must be designated for hearing in a consolidated proceeding on the issues set forth below.

It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine which of the proposals would better serve the public interest.

2. To determine, in the light of the evidence adduced pursuant to the foregoing issue, which of the applications for construction permit should be granted.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants pursuant to § 1.221 (c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: November 8, 1967.

Released: November 17, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13727; Filed, Nov. 21, 1967; 8:49 a.m.]

FEDERAL MARITIME COMMISSION

PACIFIC FAR EAST LINE, INC., AND MITSUI O.S.K. LINES, LTD.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. Howard C. Adams, Vice President, Atlantic Territory, Pacific Far East Line, Inc., 918 16th Street NW., Washington, D.C. 20006.

Agreement No. 9669 between Pacific Far East Line, Inc. (PFEL), and Mitsui O.S.K. Lines, Ltd. (MOL), provides for the transportation of cargo on through bills of lading between ports of call of PFEL in the Ryukyus Islands and ports of call of MOL in the Great Lakes of the United States with transshipment in Japan under terms and conditions as set forth in the agreement.

Dated: November 17, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-13717; Filed, Nov. 21, 1967; 8:49 a.m.]

STATES STEAMSHIP CO. AND KNUTSEN LINE

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. A. L. Hotlen, States Steamship Co., 320 California Street, San Francisco, Calif. 94104.

Agreement 9675, between States Steamship Co. and Knutsen Line, establishes a through billing arrangement for the movement of Frozen Lobster Tails, Frozen Prawns, and Frozen Shrimp, in boxes, from ports in Western Australia to Honolulu, Hawaii, with transshipment at the port of Hong Kong in accordance with terms and conditions set forth in the agreement.

Dated: November 17, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-13718; Filed, Nov. 21, 1967; 8:49 a.m.]

FEDERAL RESERVE SYSTEM

CHARTER NEW YORK CORP.

Order Approving Application Under Bank Holding Company Act

In the matter of the application of Charter New York Corp., New York, N.Y., for approval of acquisition of all of the outstanding voting shares of Dutchess Bank & Trust Co., Poughkeepsie, N.Y.

There has come before the Board of Governors pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.4(a)(3) of Federal Reserve Regulation Y (12 CFR 222.4(a)(3)), an application by Charter New York Corp., New York, N.Y., for the Board's prior approval of the acquisition of all of the outstanding voting shares of Dutchess Bank & Trust Company, Poughkeepsie, N.Y.

As required by section 3(b) of the Act, the Board notified the New York State Superintendent of Banks of the application and requested his views and recommendation. The New York State Banking Board advised the Board of its action, consistent with a recommendation made to it by the Superintendent, approving an application, filed pursuant to the New York Banking Law, with respect to the same transaction.

Notice of receipt of the application was published in the FEDERAL REGISTER on May 19, 1967 (32 F.R. 7480), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

It is hereby ordered, For the reasons set forth in the Board's statement[1] of this date, that said application be and hereby is approved, provided that the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of New York pursuant to delegated authority.

Dated at Washington, D.C., this 15th day of November 1967.

By order of the Board of Governors.[2]

[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 67-13678; Filed, Nov. 21, 1967; 8:45 a.m.]

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of New York. Dissenting Statement of Governor Robertson also filed as part of the original document and available upon request.

[2] Voting for this action: Chairman Martin, and Governors Mitchell, Daane, Maisel, Brimmer, and Sherrill. Voting against this action: Governor Robertson.

CHARTER NEW YORK CORP.

Order Approving Application Under Bank Holding Company Act

In the matter of the application of Charter New York Corp., New York, N.Y., for approval of acquisition of all of the outstanding voting shares of Endicott Trust Co., Endicott, N.Y.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.4(a)(3) of Federal Reserve Regulation Y (12 CFR 222.4(a)(3)), an application by Charter New York Corp., New York, N.Y., for the Board's prior approval of the acquisition of all of the outstanding voting shares of Endicott Trust Co., Endicott, N.Y.

As required by section 3(b) of the Act, the Board notified the New York State Superintendent of Banks of the application and requested his views and recommendation. The New York State Banking Board advised the Board of its action, consistent with a recommendation made to it by the Superintendent, approving an application, filed pursuant to the New York Banking Law, with respect to the same transaction.

Notice of receipt of the application was published in the FEDERAL REGISTER on May 2, 1967 (32 F.R. 6749), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

It is hereby ordered, For the reasons set forth in the Board's statement[1] of this date, that said application be and hereby is approved, provided that the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of New York pursuant to delegated authority.

Dated at Washington, D.C., this 15th day of November 1967.

By order of the Board of Governors.[2]

[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 67-13679 Filed, Nov. 21, 1967; 8:45 a.m.]

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of New York. Dissenting Statement of Governor Robertson also filed as part of the original document and available upon request.

[2] Voting for this action: Chairman Martin, and Governors Mitchell, Daane, Maisel, Brimmer, and Sherrill. Voting against this action: Governor Robertson.

FRANKLIN COUNTY TRUST CO.

Order Approving Merger of Banks

In the matter of the application of Franklin County Trust Co. for approval of merger with The Orange National Bank.

There has come before the Board of Governors, pursuant to the Bank Merger Act (12 U.S.C. 1828(c)), an application by Franklin County Trust Co., Greenfield, Mass., a State member bank of the Federal Reserve System, for the Board's prior approval of the merger of that bank and The Orange National Bank, Orange, Mass., under the charter and title of Franklin County Trust Co. As an incident to the merger, the sole office of The Orange National Bank would become a branch of the resulting bank. Notice of the proposed merger, in form approved by the Board, has been published pursuant to said Act.

Upon consideration of all relevant material in the light of the factors set forth in said Act, including reports furnished by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Attorney General on the competitive factors involved in the proposed merger:

It is hereby ordered, For the reasons set forth in the Board's statement[1] of this date, that said application be and hereby is approved, provided that said merger shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order.

Dated at Washington, D.C., this 15th day of November 1967.

By order of the Board of Governors.[2]

[SEAL] MERRITT SHERMAN, *Secretary.*

[F.R. Doc. 67-13728; Filed, Nov. 21, 1967; 8:49 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[812-2174]

AMERICAN REPUBLIC ASSURANCE CO. SEPARATE ACCOUNT B AND AMERICAN REPUBLIC ASSURANCE CO.

Notice of Application for Exemption

NOVEMBER 16, 1967.

Notice is hereby given that American Republic Assurance Co. ("Assurance Company"), 6th and Keosauqua Way, Des Moines, Iowa, and American Republic Assurance Co. Separate Account B ("Separate Account") (herein collectively called "Applicants") have filed an application pursuant to section 6(c) of the Investment Company Act of 1940, 15 U.S.C. section 80a-1 et seq. ("Act") for an order exempting Applicants from the provisions of sections 14(a), 15(a) 16(a), 17(f), 22(c), 27(a)(4), 27(c)(1), 27(c)(2), and 32(a) of the Act and Rule 17f-2 thereunder. Separate Account is an open-end diversified management investment company registered under the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Assurance Company established Separate Account in order (1) to offer contracts designed for annuity purchase plans adopted by public school systems and certain tax-exempt organizations which contracts qualify as tax-deferred annuities under section 403(b) of the Internal Revenue Code of 1954, as amended ("Code") and (2) to offer contracts which are to be issued with respect to plans initially qualifying under section 401 of the Code.

Section 14(a)(1) provides, in pertinent part, that no registered investment company shall make a public offering of securities of which such company is the issuer, unless such company has a net worth of at least $100,000.

Applicants state that the contracts which will be offered are tax deferred variable annuity contracts which are to be issued with respect to plans initially qualifying under section 401 of the Code and which initially meet the requirements of section 403(b) of the Code. Applicants declare that since Separate Account will only hold assets of tax deferred contracts, it is not feasible to raise the minimum capital requirement through a nonpublic offering because, among other reasons, the limitations under the Code on tax deferred contributions on behalf of a single participant make it unlikely that $100,000 could be raised from, in any instance, fewer than 40 persons which would involve several hundred offers.

Applicants further state that it is not feasible to raise the minimum capital requirement through the sale of nontax deferred contracts since to combine in a single separate account assets pertaining to tax deferred contracts and assets pertaining to nontax deferred contracts could result in the imposition of tax liabilities which might not otherwise be incurred or in the misallocation of tax benefits.

Finally, Applicants state that under Iowa insurance law Separate Account is an integral part of Assurance Company and under said law Separate Account may not be abandoned by Assurance Company but must be continued until the obligations under the contracts are discharged.

Sections 15(a), 16(a), and 32(a), in substance, require shareholder approval of the investment advisory agreement, the election of directors by shareholders, and shareholder ratification of the selection of an independent public accountant, respectively. Since there will be no contract owners, hence no holders of voting securities, until after the registration statement under the Securities Act of 1933 becomes effective, the requirements of the aforesaid sections cannot be complied with. Applicants represent, however, that the first meeting of contract owners will take place on the first Tuesday of March, 1968. Applicants state that by that time it is expected that some variable annuity contracts will have been sold so that the participants therein can then vote on such matters. The Applicants request a temporary exemption from the requirements of sections 15(a), 16(a), and 32(a) to allow Separate Account to operate until the first annual meeting of contract owners, at which time the requirements of those sections can be met.

Section 17(f)(3) provides, in pertinent part, that a registered management investment company may maintain its securities and investments in its own custody in accordance with such rules, regulations and orders as may be adopted by the Commission in the interests of investors. Rule 17f-2 under the Act requires, among other things, that such assets be placed in a bank subject to the other requirements of the rule. One of such other requirements limits the persons who shall have access to such assets to only certain specified individuals. Applicants request an exemption from the provisions of section 17(f)(3) and Rule 17f-2 to the extent necessary to permit not more than five officers or responsible employees of Assurance Company as well as duly authorized representatives of the Insurance Commissioner of Iowa to have access to the assets of Separate Account. Assurance Company is subject to supervision and inspection by the Insurance Commissioner of Iowa.

Sections 22(e) and 27(c)(1) provide, in pertinent part, respectively that (1) a registered investment company may not suspend the right of redemption or postpone the date of payment upon redemption of any redeemable security in accordance with its terms for more than seven days after the tender of such security for redemption and (2) a registered investment company issuing periodic payment plan certificates may not sell such certificates unless such certificates are redeemable securities. Applicants state that prior to their maturity dates the contracts are redeemable and satisfy the redemption provisions of the Act. However, on their respective maturity dates, the then value of the contracts are determined and applied to provide for lifetime annuity payments of either fixed or variable amounts. Applicants state that because the amount of annuity payments under the variable option are calculated actuarially, based upon the life expectancies of the purchasers of the contracts, if a purchaser were permitted to redeem his contract after the maturity date, it would upset the actuarial computations made with respect to the remaining purchasers. Applicants request exemption from sections 22(e) and 27(c)(1) to the extent that once a purchaser begins to receive annuity payments he cannot redeem the value credited to his contract. Such prohibitions shall only apply after annuity payments to the purchaser commence.

Section 27(a)(4) provides, in pertinent part, that the first payment on a periodic payment plan certificate be not less than $20. In order to minimize the administrative and accounting burdens involved, Applicants request an exemption to permit the first payment to be in an amount of not less than $10 in the case of its group contracts issued with respect to plans initially qualifying under section 401 of the Code.

Section 27(c)(2) prohibits a registered investment company or a depositor or underwriter for such company from selling periodic payment plan certificates unless the proceeds of all payments, other than the sales load, are deposited with a bank trustee or custodian and held under an indenture, or agreement containing, in substance, the provisions required by sections 26(a)(2) and (3) for a unit investment trust. Section 26(a)(2) requires that the trustee or custodian segregate and hold in trust all securities and cash of the trust and places certain restrictions on charges which may be made against the trust income and corpus and excludes from expenses which the trustee or custodian may charge against the trust any payments to the depositor or principal underwriter, other than a fee not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative services delegated to them by the trustee or custodian. Section 26(a)(3) governs the circumstances under which the trustee or custodian may resign.

Applicants state that Assurance Company functions as a regulated insurance company and is subject to extensive and detailed supervision and inspection by the Insurance Commissioner of Iowa in all of its dealings with the contract purchasers. Assurance Company states that such control provides ample assurance against misfeasance and adequately protects the interest of the contract purchasers. Accordingly, Applicants state that such authority and jurisdiction affords the essential protection which the trusteeship or custodianship under section 26(a)(2) is designed to provide. Moreover, in addition to the supervision and inspection by the Insurance Commissioner, Assurance Company states that it will undertake binding commitments to contract owners which it may not legally abrogate. Such supervision, inspection and undertakings will effectively prevent orphanage of Separate Account by Assurance Company which the trusteeship under section 27(c)(2) is designed to protect against.

Applicants have consented to the requested exemption being subject to the condition that the charges under the contracts for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, and that the Commission shall reserve jurisdiction for such purpose.

Section 6(c) authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities, or transactions, from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 4, 1967, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally, or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13682; Filed, Nov. 21, 1967; 8:46 a.m.]

[812-2218]

GLEN ALDEN CORP.

Notice of Filing of Application for Order Exempting Transaction Between Affiliated Persons

NOVEMBER 16, 1967.

Notice is hereby given that Glen Alden Corp. ("applicant"), 1740 Broadway, New York, N.Y. 10005, a Delaware corporation, has filed an application pursuant to section 17(b) of the Investment Company Act of 1940 ("Act") for an order of the Commission exempting from the provisions of section 17(a) of the Act a proposed transaction whereby applicant will purchase 399,800 shares of common stock of Stanley Warner Corp. ("Warner") from The Puritan Fund, Inc. ("Puritan") and 105,700 shares of Warner common stock from The Fidelity Trend Fund, Inc. ("Fidelity"), representing 11.8 percent of the total number of shares of Warner outstanding. Puritan and Fidelity are open-end investment companies registered under the Act. The proposed purchase will be at a price of $51 per share. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein which are summarized below.

For the purposes of the application, applicant has assumed that it is an affiliated person of an affiliated person of both Puritan and Fidelity under section 2(a)(3). Applicant owns approximately 17.5 percent and Puritan owns 9.5 percent of the voting securities of Warner. Fidelity has identical directors, officers and investment advisers to that of Puritan although the stockholders of the two investment companies are not identical. Two directors of applicant are directors of Warner.

Applicant and Warner have agreed, subject to requisite approvals of the stockholders of each corporation, to a merger of Warner into applicant pursuant to a Plan and Agreement of Merger dated as of August 18, 1967. Under the terms of the proposed merger each share of Warner common stock will be converted into not less than 0.50 and not more than 0.55 shares of a new $3 Cumulative Convertible Preference Stock of applicant, the exact ratio to depend upon the average market price of applicant's common stock for the 5 business days immediately preceding the meeting of stockholders of Warner and applicant. Adoption of the Agreement of Merger will require the affirmative vote of the holders of at least two-thirds of the shares of Warner stock outstanding.

It is stated in the application that the purchase price for the proposed sale of Warner Common Stock was negotiated in arms-length bargaining between applicant, on the one hand, and Puritan and Fidelity, on the other. During October 1967, the market price of the Warner stock on the New York Stock Exchange ranged between 50⅝ and 45¾. The purchase price will be payable in cash against delivery of the stock. No brokers are involved in the transaction.

It is further stated in the application that Puritan and Fidelity have advised applicant that the proposed transaction is consistent with the policies of both of them as recited in their registration statements and reports filed under the Act, and applicant represents that the terms of the proposed transaction, including the consideration to be paid to Puritan and Fidelity, are reasonable and fair, and do not involve overreaching on the part of any person concerned and that the transaction is consistent with the general purposes of the Act.

Section 17(a), as here pertinent, makes it unlawful for an affiliated person of a registered investment company, or an affiliated person of such a person, to buy

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551 or to the Federal Reserve Bank of Boston.

[2] Voting for this action: Chairman Martin, and Governors Robertson, Mitchell, Maisel, Brimmer, and Sherrill. Absent and not voting: Governor Daane.

from such company any security or property unless the Commission upon application grants an exemption from such prohibition, after finding that the terms of the proposed transaction are reasonable and fair and do not involve overreaching and that the proposed transaction is consistent with the policy of the registered investment company and the general purposes of the Act.

Notice is further given that any interested person may, not later than December 8, 1967 at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or in the case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67–13662; Filed, Nov. 21, 1967; 8:46 a.m.]

NORTH AMERICAN RESEARCH & DEVELOPMENT CORP.

Order Suspending Trading

NOVEMBER 16, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of North American Research & Development Corp., 1935 South Main Street, Salt Lake City, Utah, and all other securities of North American Research & Development Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15 (c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 17, 1967, through November 26, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67–13664; Filed, Nov. 21, 1967; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 473]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

NOVEMBER 17, 1967.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission, under the Commission's Deviation Rules Revised, 1957 (49 CFR 211.1(c)(8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1 (d)(4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1(e)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 2202 (Deviation No. 99) (Cancels Deviation No. 87), ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, Ohio 44309, filed November 7, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Nashville, Tenn., over Interstate Highway 65 to junction Tennessee Highway 7, thence over Tennessee Highway 7 to the Tennessee-Alabama State line, thence over Alabama Highway 53 to Huntsville, Ala., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Nashville, Tenn., over U.S. Highway 31 to junction U.S. Highway 72, thence over U.S. Highway 72 to Huntsville, Ala., and return over the same route.

No. MC 22214 (Deviation No. 7), ACCELERATED TRANSPORT-PONY EXPRESS, INC., Fifth and Vine Streets, Post Office Box 110, Sunbury, Pa. 17801, filed November 9, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction U.S. Highway 15 and the Pennsylvania Turnpike (Interchange No. 17), over the Pennsylvania Turnpike to junction Interstate Highway 70 at or near New Stanton, Pa., thence over Interstate Highway 70 to Wheeling, W. Va., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Harrisburg, Pa., over U.S. Highway 15 to Gettysburg, Pa., thence over Pennsylvania Highway 116 to Zora, Pa., thence over Pennsylvania Highway 16 to Waynesboro, Pa., (2) from Waynesboro, Pa., over Pennsylvania Highway 316 to the Pennsylvania-Maryland State line, thence over Maryland Highway 60 to Hagerstown, Md., (3) from Hagerstown, Md., over U.S. Highway 40 to the Potomac River, thence across the Potomac River to junction U.S. Highway 522, thence over U.S. Highway 522 to Berkeley Springs, W. Va., and (4) from Hancock, Md., over U.S. Highway 40 to Wheeling, W. Va., and return over the same routes.

No. MC 29647 (Deviation No. 3), CHARLTON BROS. TRANSPORTATION CO., INC., Post Office Box 2097, Hagerstown, Md. 21740, filed November 7, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Hancock, Md., over Interstate Highway 70 to the Maryland-Pennsylvania State line, (2) from Breezewood, Pa., over Interstate Highway 70 to junction with the Pennsylvania Turnpike, thence over the Pennsylvania Turnpike to junction U.S. Highway 119, thence over U.S. Highway 119 to Greensburg, Pa., and (3) from Baltimore, Md., over Interstate Highway 83 to Harrisburg, Pa., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Hancock, Md., over U.S. Highway 522 to the Maryland-Pennsylvania State line, thence over Interstate Highway 70 to Breezewood, Pa., (2) from Hancock, Md., over the above-described route to Breezewood, Pa., thence over U.S. Highway 30 to Everett, Pa., (3) from Everett, Pa., over U.S. Highway 30 to Bedford, Pa., (4) from Bedford, Pa., over U.S. Highway 30 to Greensburg, Pa., (5) from junction U.S. Highways 40 and 219 over U.S. Highway 219 to junction U.S. Highway 30, thence over U.S. Highway 30 to Greensburg, Pa., thence over Pennsylvania Highway 130 to Jeannette, Pa., and (6) from Baltimore, Md., over U.S. Highway 140 to junction Maryland Highway 97, thence over Maryland Highway 97 to the Maryland-Pennsylvania State line, thence over Pennsylvania Highway 16 to Greencastle, Pa., thence over U.S. Highway 11 to Harrisburg, Pa. (also from Baltimore over U.S. Highway 140 to Gettysburg, Pa., thence over U.S. Highway 15 to Harrisburg, Pa.), and return over the same routes.

No. MC 66562 (Deviation No. 19), RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York, N.Y. 10017, filed November 7, 1967. Carrier's representative: William H. Marx, same address as applicant. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities* moving in express service, over a deviation route as follows: Between Roanoke, Va., and Bristol, Va., over Interstate Highway 81, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Roanoke, Va., over U.S. Highway 460 to junction Alternate U.S. Highway 460, thence over Alternate U.S. Highway 460 to Salem, Va., thence over U.S. Highway 11 to Bristol, Va., and return over the same route.

No. MC 67646 (Sub-No. 2) (Deviation No. 16), HALL'S MOTOR TRANSIT COMPANY, Fifth and Vine Streets, Sunbury, Pa. 17801 filed November 8, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Baltimore, Md., over Interstate Highway 70 to junction with the Pennsylvania Turnpike at or near Breezewood, Pa., thence over the Pennsylvania Turnpike, to junction with the Ohio Turnpike, thence over the Ohio Turnpike to junction Interstate Highway 71 at or near Ohio Interchange No. 10, thence over Interstate Highway 71 to Cleveland, Ohio, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Baltimore, Md., over U.S. Highway 111 to Harrisburg, Pa., (2) from Harrisburg, Pa., over U.S. Highways 11 and 15 to Amity Hall, Pa., (3) from Amity Hall, Pa., over U.S. Highway 22 to junction U.S. Highway 322, thence over U.S. Highway 322 to Old Fort, Pa., (4) from Duncannon, Pa., over U.S. Highway 11 to junction U.S. Highway 22, thence over U.S. Highway 22 to Lewistown, Pa., (5) from Old Fort, Pa., over Pennsylvania Highway 53 to junction U.S. Highway 322, thence over U.S. Highway 322 to Franklin, Pa., and (6) from Franklin, Pa., over U.S. Highway 62 to Sandy Lake, Pa., thence over Pennsylvania Highway 358 to the Pennsylvania–Ohio State line, thence over Ohio Highway 88 to Parkman, Ohio, thence over U.S. Highway 422 to Chagrin Falls, Ohio, thence over unnumbered highway to Cleveland, Ohio, and return over the same routes.

MOTOR CARRIERS OF PASSENGERS

No. MC 1515 (Deviation No. 410) (Cancels Deviation No. 216 and No. 243) (Correction), GREYHOUND LINES, INC. (Western Division), Market and Fremont Streets, San Francisco, Calif. 94106, filed October 27, 1967, and published in the FEDERAL REGISTER November 8, 1967, should be corrected to No. MC–1515 (Deviation No. 416) (Cancels Deviation No. 216 and No. 243). The purpose of this correction is to show the correct deviation number assigned as Deviation No. 416, erroneously shown as Deviation No. 410 in the issue of the FEDERAL REGISTER of November 8, 1967.

No. MC 1515 (Deviation No. 414) (Cancels Deviation No. 383), GREYHOUND LINES, INC. (Southern Division), 219 East Short Street, Lexington, Ky. 40507, filed November 6, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From junction Interstate Highway 24 and U.S. Highway 41 at Monteagle, Tenn., over Interstate Highway 24 to junction U.S. Highway 41 northwest of Manchester, Tenn., with the following access route: From junction Interstate Highway 24 and Tennessee Highway 50 over Tennessee Highway 50 to Pelham, Tenn., (2) from Haletown, Tenn., over Tennessee Highway 134 to junction Interstate Highway 24, thence over Interstate Highway 24 to junction U.S. Highway 41 at the foot of Monteagle Mountain, and (3) from Chattanooga, Tenn., over Interstate Highway 24 for a distance of 6 miles to junction of Interstate Highway 24 and U.S. Highways 11 and 41, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Murfreesboro, Tenn., over U.S. Highway 41 to Chattanooga, Tenn., thence over U.S. Highway 11 via Attalla and Springville, Ala., to Birmingham, Ala. (also from Attalla over Alternate U.S. Highway 11 to Springville), and return over the same routes.

No. MC 1515 (Deviation No. 415) (Cancels Deviation No. 298), GREYHOUND LINES, INC. (Southern Division), 219 East Short Street, Lexington, Ky. 40507, filed November 6, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers*, in the same vehicle with passengers, over a deviation route as follows: From Nashville, Tenn., over Interstate Highway 40 to junction U.S. Highway 70 (1 mile east of Crab Orchard, Tenn.), with the following access route: From junction Interstate Highway 40 and U.S. Highway 127 over U.S. Highway 127 to Crossville, Tenn., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Nashville, Tenn., over U.S. Highway 41 to Murfreesboro, Tenn., thence over U.S. Highway 70S to Crossville, Tenn., thence over U.S. Highway 70 to Knoxville, Tenn., and return over the same route.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67–13700; Filed, Nov. 21, 1967; 8:47 a.m.]

[Notice 1125]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

NOVEMBER 17, 1967.

The following publications are governed by Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER issue of April 20, 1966, which became effective May 20, 1966.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 77129 (Sub-No. 6), filed November 7, 1967. Applicant: RAYMOND H. PUFFER, INC., Vernon Road, Brattleboro, Vt. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in tank vehicles, from Springfield and Holyoke, Mass., to points in Windsor County, Vt., and points in Cheshire, Sullivan, Hillsborough, and Grafton Counties, N.H.

HEARING: December 8, 1967, in Room 2308, John F. Kennedy Federal Building, Government Center, Boston, Mass., before Joint Board No. 189, or if the Joint Board waives its right to participate, before Examiner Francis A. Welch.

No. MC 3700 (Sub-No. 52) (Republication), filed July 13, 1966, published FEDERAL REGISTER issue of August 18, 1966, and republished this issue. Applicant: MANHATTAN TRANSIT COMPANY, a corporation, Route 46, East Paterson, N.J. 07407. Applicant's representative: Robert E. Goldstein, 8 West 40th Street, New York, N.Y. 10018. In the above-entitled proceeding, the examiner recommended the granting to applicant a certificate of public convenience and necessity, authorizing operating in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of passengers and their baggage, in the same vehicle with passengers, in charter operations, in sightseeing or pleasure tours, from Seattle, Wash., and San Francisco, Calif., to New York, N.Y., restricted to the transportation of passengers and their baggage, who have had an immediately prior movement by air from New York, N.Y. A Decision and Order of the Commission, Review Board Number 2, dated October 31, 1967, and served November 8, 1967, as modified, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular route, of

passengers and their baggage, in the same vehicle with passengers, in charter operations, in sightseeing or pleasure tours, from Seattle, Wash., and San Francisco, Calif., to New York, N.Y., restricted to the transportation of passengers and their baggage, who as members of a charter group, have had an immediately prior movement by air from New York, N.Y.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 25798 (Sub-No. 151) (Republication), filed June 19, 1967, published FEDERAL REGISTER issue of July 7, 1967, and republished this issue. Applicant: CLAY HYDER TRUCKING LINES, INC., 502 East Bridgers Avenue, Post Office Box 1186, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell (same address as applicant). By application filed June 19, 1967, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of frozen foodstuffs, unfit for human consumption (except in bulk, in tank vehicles), from and to the points indicated below. An order of the Commission, Operating Rights Board, dated October 31, 1967, and served November 9, 1967, as amended, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of *frozen carnivorous animal feed*, from points in Alabama, Georgia, Mississippi, North Carolina, and South Carolina, to Golden Meadow and New Orleans, La., restricted to the transportation of traffic originating at said origin points; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 95540 (Sub-No. 702) (Republication), filed June 21, 1967, published FEDERAL REGISTER issue of July 7, 1967, and republished this issue. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, Fla. 33802. Applicant's representative: Bill R. Davis, Suite 1600, First Federal Building, Atlanta, Ga. 30303. By application filed June 21, 1967, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle over irregular routes, of frozen carnivorous animal foodstuffs, unfit for human consumption (except in bulk in tank vehicles) from and to the points substantially as indicated below. By order of the Commission, Operating Rights Board, dated October 31, 1967 and served November 9, 1967, as amended, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of *frozen carnivorous animal feed*, from points in Alabama, Georgia, Mississippi, North Carolina, and South Carolina, to Golden Meadow and New Orleans, La., restricted to the transportation of traffic originating at the said origin points; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 103993 (Sub-No. 284) (Republication), filed May 22, 1967, published FEDERAL REGISTER issue of June 8, 1967, and republished this issue. Applicant: MORGAN DRIVE-AWAY INC., 2800 West Lexington Avenue, Elkhart, Ind. 46514. Applicant's representative: Robert G. Tessar (same address as applicant). By application filed May 22, 1967, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of (1) Trailers, designed to be drawn by passenger vehicles, initial movements, (a) from Wagoner County, Okla., to points in the United States (except Alaska and Hawaii), and (b) from Creek County, Okla., to points in Texas, Missouri, Kansas, Arkansas, Louisiana, Colorado, Wyoming, Arizona, and New Mexico; and (2) vacation campers in initial movements, from Wagoner County, Okla., to points in the United States (except Alaska and Hawaii). An order of the Commission, Operating Rights Board, dated October 31, 1967, and served November 9, 1967, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of (1) *trailers*, designed to be drawn by passenger vehicles, in initial movements, (a) from points in Wagoner County, Okla., to points in the United States (except Alaska and Hawaii), and (b) from points in Creek County, Okla., to points in Texas, Missouri, Kansas, Arkansas, Louisiana, Colorado, Wyoming, Arizona, and New Mexico, and (2) *campers*, designed for installation on pickup trucks, from points in Wagoner County, Okla., to points in the United States (except Alaska and Hawaii); that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 118292 (Sub No. 15) (Republication), filed May 19, 1966, published FEDERAL REGISTER issue of June 23, 1966, and republished this issue. Applicant: BALLANTINE PRODUCE, INC., Alma, Ark. Applicant's representative: Lester M. Bridgeman, Woodward Building, Washington, D.C. 20005. In the above-entitled proceeding, the examiner recommended the granting to applicant a certificate of public convenience and necessity, authorizing operation in interstate of foreign commerce, as a common carrier by motor vehicle, over irregular routes, of frozen cooked and boned poultry meat; frozen cooked chicken rolls; frozen cooked and breaded poultry products; frozen prefried poultry products; frozen rendered chicken fat; and frozen chicken broth; in mixed loads with frozen poultry or ice-packed poultry, from the plantsites and storage facilities of OK Processors, Inc. (OK), at Fort Smith, Ark., and points in the commercial zone of Fort Smith, to points in the States specified in the amended application except Idaho, Iowa, Montana, New Mexico, Utah, and Wyoming. A report of the Commission, Division 1, decided October 30, 1967, and served November 9, 1967, as amended, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of (1) *frozen or ice-packed poultry*, and (2) *frozen poultry products*, in mixed loads with *frozen or ice-packed poultry*, originating at the plantsites and storage facilities of OK Processors, Inc., located at or near Fort Smith, Ark., and points in the Fort Smith, Ark., commercial zone, to points in Arizona, California, Colorado, Illinois, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Washington, and Wisconsin; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder; that a certificate authorizing such operation should be granted, subject to the conditions (1) that applicant's certificated operations shall be conducted separately from its other business activities, and (2) that separate accounts and records for each activity shall be maintained. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 119680 (Sub-No. 21) (republication), filed April 18, 1967, published FEDERAL REGISTER issue of May 4, 1967, and republished this issue. Applicant: DRUM TRANSPORT, INC., Post Office Box 2056, 616 Chicago Street, East Peoria, Ill. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. By application filed April 18, 1967, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of alcohol and alcoholic liquors, in bulk, in tank vehicles, (1) from ports of entry into the United States located in Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia, to Peoria and Pekin, Ill., San Francisco and Union City, Calif., and ports of entry on the international boundary line between the United States and Canada located in Michigan; (2) from Louisville and Lawrenceburg, Ky., and Muscatine, Iowa, to Seattle, Wash., and San Francisco, Calif.; and (3) from Atchison, Kans., to Seattle, Wash.

An order of the Commission, Operating Rights Board, dated October 31, 1967, and served November 9, 1967, as amended, finds that the present and future public convenience and necessity require operation by applicant, as a common carrier by motor vehicle, over irregular routes, of *alcoholic liquors*, in bulk, in tank vehicles, (1) in foreign commerce only, from points in New York, New Jersey, Pennsylvania, and Maryland, to Peoria, Ill., San Francisco, Calif., and Port Huron and Detroit, Mich.; (2) in foreign commerce only, from points in New York, New Jersey, Pennsylvania, Maryland, Virginia, and Delaware, to Pekin, Ill., and Union City, Calif.; (3) in interstate or foreign commerce, from Lawrenceburg, Ky., to Seattle, Wash., and San Francisco, Calif.; and (4) in interstate or foreign commerce, from Atchison, Kans., to Seattle, Wash.; that applicant is fit, willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 127806 (Sub-No. 5) (Republication), filed July 20, 1967 published FEDERAL REGISTER issue of August 3, 1967, and republished this issue. Applicant: BEER TRANSPORT, INC., 130 Steamboat Road, Great Neck, N.Y. Applicant's representative: Edward F. Bowes, 1060 Broad Street, Newark, N.J. 07102. By application filed July 20, 1967, applicant seeks a permit authorizing operation, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of (1) Malt beverages (other than in bulk in tank vehicles) and advertising materials, between Brooklyn, N.Y., and Orange, N.J., plantsites of Rheingold Breweries, Inc., on the one hand, and, on the other, the plantsite of Jacob Ruppert, Inc., at New Bedford, Mass. (2) hops in bales, yeast in barrels, and brewing supplies, including brewing chemicals in fiber barrels or metal drums and ditamatious earth in bags, from Brooklyn, N.Y., and Orange, N.J., to New Bedford, Mass., under contract with Rheingold Breweries, Inc., in (1) and (2) above; and (3) malt beverages (other than in bulk in tank vehicles), and advertising materials from the plantsite of Jacob Ruppert Brewery, Inc., in New Bedford, Mass., to Weathersfield, Willimantic, and Fairfield, Conn., under contract with C. Carbone and Co., Inc. An order of the Commission, Operating Rights Board dated October 31, 1967, and served November 9, 1967, as amended, finds that operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of (1) *malt beverages*, in containers, and *related advertising materials*, between Brooklyn, N.Y., and Orange, N.J., and the plantsites of Rheingold Breweries, Inc., on the one hand, and, on the other, the plantsite of Jacob Ruppert, Inc., located at or near New Bedford, Mass.

(2) *Brewery materials, and supplies* (except in bulk), from Brooklyn, N.Y., and Orange, N.J., to New Bedford, Mass., under a continuing contract with Rheingold Breweries, Inc., in (1) and (2) above; (3) *malt beverages*, in containers, and *related advertising materials*, from the plantsite of Jacob Rupert Brewery, Inc., located at or near New Bedford, Mass., to Weathersfield, Willimantic, and Fairfield, Conn., under a continuing contract with Ramapo Valley Distributors, Inc., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described on the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 128912 (Republication), filed March 1, 1967, published FEDERAL REGISTER issue of May 25, 1967, and republished this issue. Applicant: BERNICE DRESBACH, doing business as DRESBACH TRUCKING COMPANY, Route No. 2, Higby Road, Chillicothe, Ohio 45601. Applicant's representative: David M. Phillips, Room 202 Citizens National Bank, Chillicothe, Ohio. By application filed March 1, 1967, as amended, applicant seeks a certificate of public convenience and necessity authorizing operation in interstate or foreign commerce as a common carrier by motor vehicle, of aggregates, loose, dry, or pliable, in bulk, in dump vehicles, from points in Ross County, Ohio, to points in Michigan, West Virginia, Indiana, and Kentucky, except traffic moving in foreign commerce to points in Canada. The application was referred to an examiner for hearing and recommendation of an appropriate order thereon. Hearing was held on September 13, 1967, at Columbus, Ohio. A Report and Order of the Commission, Division 1, dated October 31, 1967, as amended, served November 7, 1967, finds that the present and future public convenience and necessity require operation by applicant as a common carrier by motor vehicle, in interstate or foreign commerce, of silica sand and silica aggregates, in bulk, in dump vehicles from points in Ross County, Ohio, to points in Michigan, West Virginia, Indiana, and Kentucky, restricted

against the transportation of traffic moving in foreign commerce to points in Canada; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate pleading.

APPLICATION FOR CERTIFICATE OR PERMIT WHICH IS TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 COVERED BY SPECIAL RULE 1.240 TO THE EXTENT APPLICABLE

No. MC 113974 (Sub-No. 25), filed November 3, 1967. Applicant: PITTSBURGH & NEW ENGLAND TRUCKING CO., a corporation, 211 Washington Avenue, Dravosburg, Pa. Applicant's representative: Jon Howard Marple, Suite 1800, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in Ohio. NOTE: This application is directly related to MC-F 9929 published FEDERAL REGISTER issue of November 15, 1967. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Pittsburgh, Pa.

APPLICATION FOR CERTIFICATE OR PERMIT WHICH IS TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 1.240 TO THE EXTENT APPLICABLE

No. MC 121555 (Sub-No. 2), filed November 6, 1967. Applicant: PARCEL DISPATCH, INC., 305 North Senate Avenue, Indianapolis, Ind. Applicant's representative: Keith C. Reese, 708 Union Federal Building, Indianapolis, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities as are dealt in by retail stores and mail order houses*, in retail delivery only, from Indianapolis, Ind., to points in Marion, Boone, Hamilton, Madison, Hancock, Shelby, Johnson, Morgan, and Hendricks Counties, Ind., restricted to traffic originating at warehouses and storage facilities of Sears Roebuck and Co., Spiegel, Inc., and Aldens, Inc., at Chicago, Ill. NOTE: This application is directly related to MC-F-9935, published in the FEDERAL REGISTER issue of November 15, 1967. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-9479 (Republication) MATLACK, INC.—Control—AL ZEFFIRO TRANSFER & STORAGE, INC.), published in the July 27, 1968, and republication September 20, 1967, issues of the FEDERAL REGISTER, on pages 10166 and 13305, respectively. This section 5 application was granted September 1, 1967, by a decision and order, Division 3, and effective October 25, 1967. Petition filed November 8, 1967, by MATLACK, INC., Applicant, MATLACK CORPORATION, a party herein and formerly in control of Applicant, and THE MATLACK CORPORATION, a newly formed corporation which now controls Applicant, seeking to substitute THE MATLACK CORPORATION, in lieu of MATLACK CORPORATION, as the party in control.

No. MC-F-9704 (Republication) MATLACK, INC.—Purchase (Portion)—HEARIN-MILLER TRANSPORTERS, INC. (WESTERN DIVISION), published in the March 29, 1967, issue of the FEDERAL REGISTER, on page 5311. This section 5 application was heard July 31, August 1, and August 2, 1967, at Washington, D.C., before Examiner Collins. Petition filed November 8, 1967, by MATLACK, INC., Applicant, MATLACK CORPORATION, a party herein and formerly in control of Applicant, and THE MATLACK CORPORATION, a newly formed corporation which now controls Applicant, seeking to substitute THE MATLACK CORPORATION, in lieu of MATLACK CORPORATION, as the party in control.

No. MC-F-9937. Authority sought for control by ASSOCIATED TRANSPORT, INC., 380 Madison Avenue, New York, N.Y. 10017, of SCHERER FREIGHT LINES, INC., 424 West Madison Street, Ottawa, Ill. 61350. Applicants' attorneys: Jack R. Turney, Jr., 2001 Massachusetts Avenue NW., Washington, D.C. 20036, and Mortimer A. Sullivan, 530 Walbridge Building, Buffalo 2, N.Y. Operating rights sought to be controlled: *General commodities*, with certain specified exceptions, and numerous other specified commodities, as a *common carrier*, over regular and irregular routes, from, to, and between specified points in the States of Illinois, Missouri, Iowa, Wisconsin, Indiana, Kentucky, Michigan, Minnesota, and Ohio, with certain restrictions, serving various intermediate and off-route points, over numerous alternate routes for operating convenience only, as more specifically described in Docket No. MC-21571 and sub-numbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's *common* operating rights, without stating, in full, the entirety, thereof; and *such commodities* as are dealt in by retain department stores and mail-order houses, as a *contract carrier*, over irregular routes, from Rockford, Ill., to points in Rock, Green, and Walworth Counties, Wis., and *damaged, defective, returned, used, traded-in, or repossessed*, shipments of such commodities as are dealt in by retail department stores and mail-order houses, from points in Rock, Green, and Walworth Counties, Wis., to Rockford, Ill. ASSOCIATED TRANSPORT, INC. is authorized to operate as a *common carrier* in Massachusetts, Connecticut, New Jersey, Rhode Island, North Carolina, Tennessee, Virginia, Georgia, Ohio, Pennsylvania, Maryland, South Carolina, Delaware, West Virginia, Kentucky, Michigan, Indiana, Missouri, New York, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-9938. Authority sought for control and merger by BRALLEY-WILLETT TANK LINES, INC., 200 Stockton Street, Post Office Box 495, Richmond, Va. 23204, of the operating rights and property of TANK LINES, INCORPORATED, Chuckatuck Avenue and Old Midlothian Turnpike, Richmond, Va. 23225, and for acquisition by STEPHEN P. BRALLEY, 200 Stockton Street, Post Office Box 495, Richmond, Va. 23204, of control of such rights and property through the transaction. Applicants' attorneys: Harry C. Ames, Jr., 529 Transportation Building, Washington, D.C. 20006, and Alexander W. Neal, Jr., 1400 Ross Building, Richmond, Va. Operating rights sought to be controlled and merged: *Liquid chemicals*, in bulk, in tank vehicles, as a *common carrier*, over irregular routes, from Hopewell, Va., and points within 5 miles thereof, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the District of Columbia; *inedible animal oils, greases, lard, and tallow*, in bulk, in tank vehicles, from Richmond, Va., to points in North Carolina, Tennessee (except Memphis), Pennsylvania, New Jersey, New York, Maryland (except Baltimore), that part of Delaware within 80 miles of Philadelphia, Pa., and the District of Columbia; *edible animal oils*, in bulk, in tank vehicles, from Richmond, Va., to points in North Carolina, Tennessee (except Memphis), Maryland, Delaware, Pennsylvania, New Jersey, New York, and the District of Columbia; *edible vegetable oils*, in bulk, in tank vehicles, from Richmond and Norfolk, Va., to points in Virginia, from Philadelphia, Pa., to points in Virginia; from Philadelphia, Pa., to points in Georgia, South Carolina, and North Carolina, with restriction; *ammonium nitrate, sodium nitrate, fertilizer, and fertilizer materials*, dry, in bulk, in tank or hopper-type vehicles, from Hopewell, Va., to points in Kentucky, New Jersey, New York (except those in Kings, Queens, Nassau, and Suffolk Counties), Ohio, Pennsylvania, and West Virginia, from Hopewell, Va., to points in Maryland and Delaware.

Edible and inedible animal oils, in bulk, in tank vehicles, from Richmond, Va., to points in Georgia and South Carolina; from points in King George County, Va., to points in Delaware, Georgia, Maryland, North Carolina, South Carolina, Tennessee, Pennsylvania, and the District of Columbia, from Smithfield, Va., to points in Tennessee, Virginia, Delaware, Georgia, Maryland, New York, Pennsylvania, and the District of Columbia, with restrictions; *vegetable oil and vegetable oil shortenings*, in bulk, in tank vehicles, from Chicago, Ill., to Richmond, Va.; *animal oils*, in bulk, in tank vehicles, from Suffolk, Va., to points in North Carolina, South Carolina, Georgia, Tennessee, Maryland, Delaware, Pennsylvania, New Jersey, New York, and the District of Columbia, from points in King George County, Va., to Norfolk, Newport News, Portsmouth, Chesapeake, and Richmond, Va., from points in the District of Columbia to points in Virginia; *dry fertilizer and fertilizer ingredients*, in bulk, in tank vehicles, from points in Virginia (except Alexandria, Chesapeake, and Hopewell and points in Warren, Clarke, Loudoun, and Frederick Counties), to points in North Carolina and West Virginia; *adhesives*, in bulk, in tank vehicles, from Richmond, Va., to points in Delaware, Maryland, North Carolina, Virginia, West Virginia (except points in Brooke, Hampshire, Hancock, Kanawha, Monongalia, Ohio, and Pleasants Counties), and the District of Columbia; and *animal oils* (except hydrolized or stabilized animal oils), in bulk, in tank vehicles, from Crozet, Va., to Philadelphia, Pa. BRALLEY-WILLETT TANK LINES, INC. is authorized to operate as a *common carrier* in Virginia, West Virginia, and North Carolina. Application has been filed for temporary authority under section 210a(b).

No. MC-F-9939. Authority sought for purchase by C & H TRANSPORTATION CO., INC., 1935 West Commerce, Post Office Box 5976, Dallas, Tex. 75222, of the operating rights of SHEA-MATSON TRUCKING CO., 2053 North 30th Street, Milwaukee, Wis. 53245, and for acquisition by SATURN INDUSTRIES, INC., 3100 Southland Center, Dallas, Tex. 75202, of control of such rights through the purchase. Applicants' attorney and representative: W. T. Brunson, 419 Northwest Sixth Street, Oklahoma City, Okla. 73102, and G. Carl Keulthau, 324 East Wisconsin Avenue, Milwaukee, Wis. 78701. Operating rights sought to be transferred: *Unerated airplane engines* mounted on steel shipping stands and *uncrated airplane parts* which because of size or weight require special handling and equipment, as a *common carrier* over irregular routes, between Chicago, Ill., on the one hand, and, on the other, Buffalo, N.Y., certain specified points in Ohio, Louisville, Ky., Knoxville and Nashville, Tenn., and Charleston, W. Va., and points within 50 miles of each; *commodities*, the transportation of which because of size or weight requires the use of special equipment, and *related machinery parts and related contractors' materials and supplies* when their transportation is incidental to the transportation by carrier of commodities the transportation of which by reason of size or weight requires the use of special equipment, except that no service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines, between points in Wisconsin, on the one hand, and, on the other, points in Illinois, between points in Wisconsin and Illinois, on the one hand, and, on the other, points in Indiana, Iowa, Missouri, and the Lower Peninsula of Michigan, between points in Illinois and those in that part of Wisconsin on and south of Wisconsin Highway 33, extending between Port Washington and Portage, Wis., and on and east of U.S. Highway 51 extending between Portage and Beloit, Wis., on the one hand, and on the other, points in Minnesota; and *commodities* (except road construction machinery), the transportation of which because of size or weight requires the use of special equipment, and *related machinery parts and related contractors' materials and supplies* when their transportation is incidental to the transportation by carrier of commodities the transportation of which by reason of size or weight requires the use of special equipment, except that no service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines, between points in that part of Wisconsin on and south of Wisconsin Highway 33 extending between Port Washington and Portage, Wis., and on and east of U.S. Highway 51 extending between Portage and Beloit, Wis., on the one hand, and, on the other, points in the Upper Peninsula of Michigan. Vendee is authorized to operate as a *common carrier* in all points in the United States (except Hawaii). Application has not been filed for temporary authority under section 210a(b).

No. MC-F-9940. Authority sought for purchase by UNIT TRANSPORTATION, INC., 2255 Penobscott Building, Detroit, Mich., of the operating rights of OLEAN HAULING CORP., Center Street, Glenwood, Erie County, N.Y., and for acquisition by ROBERT J. FREY, and MARGARET E. FREY, both of 147 Gregory, Hamilton, Ohio, of control of such rights through the purchase. Applicants' attorney: Albert J. Tener, Bank of Jamestown Building, Jamestown, N.Y. 14701. Operating rights sought to be transferred: *Pontoon-type boats*, assembled or knocked down, not including any one boat weighing in excess of 5,000 pounds, and *boat parts, boat trailers, boat accessories, blocking and shoring materials, and advertising matter*, all related to, and when moving in mixed shipments with pontoon-type boats, as a *common carrier*, over irregular routes, from points in Blue Earth County, Minn., to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia; *pontoon-type boats*, assembled or knocked down, not including any one boat weighing in excess of 5,000 pounds, *boats*, other than pontoon-type boats, assembled or knocked down, not including any one boat weighing in excess of 5,000 pounds or exceeding 22 feet in length, and *boat parts, boat trailers, boat accessories, blocking and shoring materials, and advertising matter*, all related to and when moving in mixed shipments with, boats as authorized in this commodity description, from Branchport,

and Gibsons Landing, N.Y., and points within 10 miles of Branchport, and Gibsons Landing, and points within 10 miles of Pen Yan, N.Y. (not including Pen Yan), to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia; *returned (reshipped) shipments* of the commodities specified herein above, from the above-described destination points to their respective origin points; *boats, boat parts, boat trailers, boat accessories, and advertising materials* relating thereto when moved in mixed loads with boats, from Marathon and Pen Yan, N.Y., to points in the United States (except Alaska and Hawaii); and *boats and accessories therefor, and related advertising materials* when accompanying the boats, between points in Yates County, N.Y., on the one hand, and, on the other, points in New York, between Peekskill, N.Y., on the one hand, and, on the other, points in New York, from Freeport, N.Y., to certain specified points in New York. Vendee is authorized to operate as a *common carirer* in all points in the United States (except Alaska and Hawaii). Application has not been filed for temporary authority under section 210a (b).

No. MC–F–9942. Authority sought for control by LEASEWAY TRANSPORTATION CORP., 21111 Chagrin Boulevard, Cleveland, Ohio 44122, of PEP LINES TRUCKING CO., 15120 Third Street, Highland Park, Mich., and for acquisition by H. M. O'NEILL, F. J. O'NEILL, and W. J. O'NEILL, all also of Cleveland, Ohio, of control of PEP LINES TRUCKING CO., through the acquisition by LEASEWAY TRANSPORTATION CORP. Applicants' attorneys and representative: Roland Rice, 618 Perpetual Building, Washington, D.C. 20004, Robert A. Sullivan, 1800 Buhl Building, Detroit, Mich. 48226, and Ewald E. Kundtz, 1050 Union Commerce Building, Cleveland, Ohio 44115. Operating rights sought to be controlled: *Motion picture, still picture, and sound producing films, and recording, reproducing, and amplifying devices, advertising matter, exhibits, tickets, vending machines, supplies, and materials* used in connection with the operation and maintenance of theaters and places of motion picture exhibition when moving to and from such theaters or places of exhibition, as a *common carrier*, over irregular routes, between points in Michigan, *magazines*, from Detroit, Mich., to points in Michigan (except Port Huron and Mount Clemens), from New Buffalo, Mich., to St. Louis and Westbranch, Mich.; and under a certificate of registration, in No. MC–120184 Sub 2, covering the transportation of property, as a common carrier, in intrastate commerce, within the State of Michigan.

LEASEWAY TRANSPORTATION CORP. holds no authority from this Commission. However, it controls ANCHOR MOTOR FREIGHT, INC., 21111 Chagrin Boulevard, Cleveland, Ohio 44122, which is authorized to operate as a *contract carrier* in all points in the United States (except Alaska and Hawaii), MITCHELL TRANSPORT, INC., 21111 Chagrin Boulevard, Cleveland, Ohio 44122, which is authorized to operate as a *common carrier* in Indiana, Ohio, Kentucky, Illinois, Maryland, Pennsylvania, Rhode Island, Connecticut, Massachusetts, New York, Maine, New Hampshire, Vermont, New Jersey, Alabama, Florida, Georgia, Mississippi, Tennessee, Kansas, Arkansas, Missouri, Oklahoma, Iowa, Minnesota, North Dakota, South Dakota, Wisconsin, Delaware, Virginia, North Carolina, West Virginia, South Carolina, Louisiana, Nebraska, Oklahoma, Texas, Michigan, Washington, Idaho, Montana, Oregon, and the District of Columbia, REFINERS TRANSPORT & TERMINAL CORPORATION, 930 North York Road, Hinsdale, Ill. 60521, which is authorized to operate as a *common carrier* in Ohio, Michigan, Indiana, Illinois, Pennsylvania, West Virginia, Kentucky, Missouri, Wisconsin, New York, Iowa, Minnesota, Connecticut, Delaware, Tennessee, Florida, Georgia, Maryland, Maine, Massachusetts, New Hampshire, New Jersey, North Carolina, Rhode Island, South Carolina, Vermont, Virginia, North Dakota, South Dakota, Nebraska, Kansas, Arkansas, Alabama, Colorado, Louisiana, Mississippi, New Mexico, Oklahoma, Texas, Oregon, and the District of Columbia, SUGAR TRANSPORT, INC., Post Office Box 4063, Fort Wentworth, Ga. 31407, which is authorized to operate as a *contract carrier* in Georgia, Tennessee, Florida, North Carolina, South Carolina, Virginia, Alabama, Kentucky, and West Virginia, and SIGNAL DELIVERY SERVICE, INC., 782 Industrial Drive, Elmhurst, Ill. 60126, which is authorized to operate as a *common carrier* in Virginia, Maryland, and the District of Columbia, and as a *contract carrier* in Illinois, Indiana, Michigan, Ohio, Maryland, Delaware, Virginia, New York, Pennsylvania, West Virginia, Wisconsin, Massachusetts, Vermont, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b). NOTE: MC–120184 Sub 3 is a matter directly related.

No. MC–F–9943. Authority sought for (1) control by ENCINAL TERMINALS, Foot of Jay Street, Post Office Drawer A, Alameda, Calif. 94501, of SHIPPERS EXPRESS COMPANY, 280 Martin Avenue, Santa Clara, Calif. 95050; and (2) purchase by SHIPPERS EXPRESS COMPANY, 280 Martin Avenue, Santa Clara, Calif. 95050, of the operating rights of ENCINAL TERMINALS, Foot of Jay Street, Post Office Drawer A, Alameda, Calif. 94501, and for acquisition by DEL MONTE CORPORATION, 215 Fremont Street, San Francisco, Calif. 94119, of control of SHIPPERS EXPRESS COMPANY, through the acquisition by ENCINAL TERMINALS. Applicants' attorneys and representative: Edward D. Ransom and R. Frederic Fisher, 311 California Street, San Francisco, Calif. 94104, and Sanford A. Berliner, 616 Bank of America Building, 12 South First Street, San Jose, Calif. 95113. Operating rights sought to be (1) controlled and (2) purchased: (1) Under a certificate of registration, in No. MC–99127 Sub 2, covering the transportation of general commodities, as a common carrier, in intrastate commerce, within the State of California; and (2) *General commodities* (except automobiles, trucks or buses, classes A and B explosives, commodities of unusual value, household goods as defined by the Commission, petroleum products in bulk, in tank vehicles, metal cans and parts thereof, and fresh fruits and vegetables when moving in mixed loads with the commodities authorized to be transported herein), as a *common carrier*, over irregular routes, between certain specified points in California. Application has not been filed for temporary authority under section 210a(b). NOTE: MC–99127 Sub 3 is a matter directly related.

No. MC–F–9944. Authority sought for purchase by WILSON FREIGHT COMPANY, 3636 Follett Avenue, Cincinnati, Ohio 45223, of the operating rights and certain property of ABBOTT TRANSFER LINE, INC., Fort Pickens Road, La Grange, Ky. 40031, and for acquisition by LEONARD S. SHORE, DAVID M. GANTZ, S. DAVID SHOR, and JOSEPH M. GANTZ, all also of Cincinnati, Ohio, of control of such rights and property through the purchase. Applicants' attorneys: Harry C. Ames, Transportation Building, Washington, D.C. 20406, and Milton H. Borts, 3636 Follett Avenue, Cincinnati, Ohio 45223. Operating rights sought to be transferred: *General commodities*, excepting, among others, household goods, but not excepting commodities in bulk, as a *common carrier*, over regular routes, between Eminence, Ky., and Louisville, Ky., serving all intermediate points, with restriction, between Eminence, Ky., and Louisville, Ky., serving all intermediate points except those on U.S. Highway 60; and certain off-route points; *general commodities*, excepting, among others, household goods and commodities in bulk, over irregular routes, between Cincinnati, Ohio, on the one hand, and, on the other, La Grange and Eminence, Ky., with restrictions; and *general commodities*, excepting, among others, household goods, but not excepting commodities in bulk, between Cincinnati, Ohio, and Eminence, Ky., with restriction. Vendee is authorized to operate as a *common carrier* in Pennsylvania, Massachusetts, West Virginia, Maryland, North Carolina, Rhode Island, Kentucky, Indiana, Virginia, Wisconsin, Missouri, Iowa, Illinois, Delaware, Michigan, Kansas, Oklahoma, Tennessee, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–9945. Authority sought for purchase by M & M TANK LINES, INC., Post Office Box 4174, North Station, Winston-Salem, N.C., of a portion of the operating rights of BRALLEY-WILLET TANK LINES, INC., 200 Stockton Street, Richmond, Va., and for acquisition by S. H. MITCHELL, Post Office Box 612, Winston-Salem, N.C. 27102, of control of such rights through the purchase. Applicants' attorney and representative: James E. Wilson, 1735 K Street NW., Washington, D.C. 20006, and B. M. Shirley, Post Office Box 612, Winston-Salem, N.C. 27102. Operating rights sought to be transferred: *Liquefied petroleum gas*, in bulk, in tank vehicles, as a *common carrier*, over irregular routes, from the site of the pipeline terminal of the Dixie Pipe Line Co. near Apex, N.C., to points in that part of Virginia on and west of U.S. Highway 29 and south of U.S. Highway 60. Vendee is authorized to operate as a *common carrier* in South Carolina, Virginia, North Carolina, Georgia, Tennessee, New Jersey, Florida, West Virginia, Kentucky, New York, Maryland, Ohio, Pennsylvania, Illinois, Michigan, Missouri, Texas, Alabama, Arkansas, Indiana, Louisiana, Mississippi, Kansas, Minnesota, Nebraska, Oklahoma, Wisconsin, and Iowa. Application has been filed for temporary authority under section 210a(b).

No. MC–F–9946. Authority sought for purchase by MINNESOTA-WISCONSIN TRUCK LINES, INCORPORATED, 965 Eustis Street, St. Paul, Minn. 55114, of the operating rights of LESTER W. FUCHS, doing business as SANDERSON FREIGHT LINE, Benson, Minn. Applicants' attorney: Jack R. Turney, Jr., 2001 Massachusetts Avenue NW., Washington, D.C. 20036. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC–96768 Sub-1, covering the transportation of freight, as a common carrier, in intrastate commerce, within the State of Minnesota. Vendee is authorized to operate as a *common carrier* in Wisconsin, Minnesota, and South Dakota. Application has not been filed for temporary authority under section 210a(b). NOTE: MC–119914 Sub-11 is a matter directly related.

No. MC–F–9947. Authority sought for purchase by PACIFIC NORTHWEST MOTOR FREIGHT LINES, INC., 3635 Dowamish South, Seattle, Wash. 98134, of a portion of the operating rights of DON-PAFFILE, doing business as PAFFILE TRUCK LINES, 2906 29th Street North, Lewiston, Idaho 83501, and for acquisition by L. H. DOOLITTLE and HELEN DOOLITTLE, both also of Seattle, Wash., of control of such rights through the purchase. Applicants' attorney: James T. Johnson, 1610 IBM Building, Seattle, Wash. 98101. Operating rights sought to be transferred: *Mining equipment, supplies, and mine ores*, not including coal, as a *common carrier*, over irregular routes, between points in Idaho, Washington, Oregon, and that part of Montana west of a line extending in a northerly direction from Monida Pass, Mont., to the boundary of the United States and Canada, near Babb, Mont. Vendee is authorized to operate as a *common carrier* in the State of Washington. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–9948. Authority sought for control and merger by BROWNING FREIGHT LINES, INC., 244 South Fourth West, Salt Lake City, Utah 84101, of the operating rights and property of BOISE DELIVERY & TRANSFER, INC., 2523 Ark Street, Boise, Idaho 83706, and for acquisition by GEO. A. BROWNING, SR., THYRA BROWNING, G. ALLEN BROWNING, CLIFTON M. BROWNING, all also of Salt Lake City, Utah, and LOWELL D. BROWNING, 1027 Royal Boulevard, Boise, Idaho, of control of such rights and property through the transaction. Applicants' attorney: Ben D. Browning, Post Office Box 8195, Foothill Station, Salt Lake City, Utah 84108. Operating rights sought to be controlled and merged: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Boise, Idaho, and Lucky Peak Dam Site, Idaho, between Mountain Home, Idaho, and Mountain Home Airbase, Idaho, serving all intermediate points; *general commodities*, except classes A and B explosives, livestock, highly inflammable materials, commodities of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Mountain Home, Idaho, and C. J. Strike Dam Site, Idaho, located approximately 20 miles west of Mountain Home, serving no intermediate points; *general commodities*, except heavy machinery, dangerous explosives, livestock, highly inflammable materials, and commodities of unusual value, in shipments not in excess of 20,000 pounds, between Boise, Idaho, and Rocky Bar, Idaho, serving certain intermediate points; *general commodities*, except dangerous explosives, and articles of unusual value, between Boise, Idaho, and Murphy, Idaho, serving all intermediate points and the off-route points of Bowmont and Melba, Idaho, except no traffic shall be transported from Boise to Meridian to Boise; and under certificates of registration, in No. MC–111167 Subs 7 and 8, covering the transportation of general commodities, as a common carrier, in intrastate commerce, within the State of Idaho. BROWNING FREIGHT LINES, INC. is authorized to operate as a *common carrier* in Utah and Idaho. Application has been filed for temporary authority under section 210a(b).

No. MC–F–9949. Authority sought for purchase by J. J. WILLIS TRUCKING COMPANY, 306 East Second Street, Post Office Box 2112, Odessa, Tex. 79760, of a portion of the operating rights of B. F. WALKER, INC., 650 17th Street, Denver, Colo. 80202, and for acquisition by MARY ADELE WILLIS and JOHN JEROME WILLIS, JR., both also of Odessa, Tex., of control of such rights through the purchase. Applicants' attorneys: J. G. Dail, Jr., Federal Bar Building, 1815 H Street NW., Washington, D.C. 20006, and Jerry Prestridge, Post Office Box 1148, Austin, Tex. 78767. Operating rights sought to be transferred: *Commodities*, the transportation of which because of their size or weight requires the use of special equipment or special handling, and *parts thereof*, as a *common carrier*, over irregular routes, between points in Texas, on the one hand, and, on the other, points in Oklahoma; *machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products; and *machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up of pipe in connection with main pipelines, between points in Texas, on the one hand, and, on the other, points in Colorado. Vendee is authorized to operate as a *common carrier* in Louisiana, Texas, New Mexico, Arizona, Kansas, and Oklahoma. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67–13701; Filed, Nov. 21, 1967; 8:47 a.m.]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

NOVEMBER 17, 1967.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. M–4490, filed November 8, 1967. Applicant: MIDWAY MOTOR FREIGHT LINES, INC., 822 East Sixth Street, Little Rock, Ark. Applicant's representative: C. J. Lincoln/Don F. Hamilton, 1550 Tower Building, Little Rock, Ark. Certificate of public convenience and necessity sought to operate a freight service over regular routes, as follows: *General commodities*, (1) between Lockesburg, Ark., and Ashdown, Ark.: From Lockesburg to Ashdown on U.S. Highway No. 71 and return, service authorized at all intermediate points, (2) between the junction of State Highways No. 355 and No. 27 to the junction of State Highway No. 27 and U.S. Highway No. 71; from the junction of State Highways No. 355 and 27 near

Mineral Springs over State Highway No. 27 to the junction of State Highway No. 27 and U.S. Highway No. 71 and return over the same route; service authorized at all intermediate points, and (3) between the junction of State Highways No. 355 and 32 to the junction of State Highway No. 32 and U.S. Highway No. 71; from the junction of State Highways No. 355 and 32 near Saratoga over State Highway No. 32 to the junction of State Highway No. 32 and U.S. Highway No. 71 and return; service authorized at all intermediate points. Both intrastate and interstate authority is sought.

HEARING: Monday, December 18, 1967, at 10 a.m., Justice Building, Little Rock, Ark. Requests for procedural information, including the time for filing protests, concerning this application, should be addressed to the Arkansas State Commerce Commission, Justice Building, Little Rock, Ark. 72201, and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13702; Filed, Nov. 21, 1967; 8:47 a.m.]

[Notice 54]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 17, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-35410. By order of November 14, 1967, the Transfer Board approved the lease to Gene Lane, doing business as Texas Tank Transport, Houston, Tex.; of certificate of registration in No. MC-120302 (Sub-No. 1), issued June 30, 1965, to Mid-West Transport, Inc.; lessee from Fisher Dorsey, Mable Dorsey Independent Executrix, Houston, Tex.; authorizing the transportation of: A wide variety of specified commodities, between all points in Texas. Albert G. Walker, Jr., 304 Capital National Bank Building, Austin, Tex. 78701, attorney for applicants.

No. MC-FC-69738. By order of October 30, 1967, the Transfer Board approved the transfer to Logan Valley Transfer, Inc., Lyons, Nebr., of certificate in No. MC-223, issued October 12, 1967, to Leslie B. Swanson, doing business as Logan Valley Transfer, Lyons, Nebr., authorizing the transportation of: General commodities, with the usual exceptions including household goods and commodities, in bulk from, to, or between specified points in Nebraska and Iowa. Donald E. Leonard, Box 2028, 605 South 14th, Lincoln, Nebr. 68038, attorney for applicants.

No. MC-FC-69876. By order of October 31, 1967, the Transfer Board approved the transfer to Paramount Movers, Inc., Dallas, Tex., of the operating rights of Gay Hudson Moving and Storage Co., a corporation, St. Louis, Mo., in certificates Nos. MC-93652, MC-93652 (Sub-No. 2), MC-93652 (Sub-No. 3), MC-93652 (Sub-No. 4), MC-93652 (Sub-No. 6), and MC-93652 (Sub-No. 7), issued February 6, 1950, August 31, 1960, February 2, 1961, April 26, 1962, August 10, 1962, and April 12, 1967, respectively, authorizing the transportation, over irregular routes of household goods, between St. Louis, Mo., and East St. Louis, Ill., and points within 50 miles of St. Louis and East St. Louis, respectively, on the one hand, and on the other, points in Illinois and Missouri; between Cairo, Ill., and points within 25 miles of Cairo, on the one hand, and on the other, points in Indiana, Ohio, Kentucky, Tennessee, Arkansas, Mississippi, and Missouri; from Clinton, Ind., to points in Illinois, Kentucky, Ohio, and the lower peninsula of Michigan; from points in Illinois, Kentucky, Ohio, and the Lower Peninsula of Michigan, to points in Indiana; between specified points in Minnesota and Iowa; between points in North Dakota within 200 miles of Williston, N. Dak., on the one hand, and, on the other, points in Montana within 450 miles of Williston; between points in Arkansas, Kansas, Missouri, and Oklahoma, and emigrant movables, between Alden, Minn., and points in Minnesota within 35 miles of Alden, on the one hand, and, on the other, points in Iowa, North Dakota, South Dakota, and Wisconsin. Allen Melton, Rio Grande National Building, Dallas, Tex. 75202, attorney for transferee. Meyer M. Kahn, 915 Olive Street, St. Louis, Mo. 63101, attorney for transferor.

No. MC-FC-69919. By order of October 31, 1967, the Transfer Board approved the transfer to Engel Trucking, Inc., Greenville, Pa., of certificate No. MC-100857, issued August 10, 1967, to Kolb Trucking, Inc., Mount Carmel, Ill., authorizing the transportation of: Machinery, materials, supplies, and equipment used in the drilling of water wells, and in the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum, between points in a specified Indiana, Illinois, and Kentucky territory; and hydraulic pressure and shearing machinery, requiring special equipment, and parts thereof, from Mount Carmel, Ill., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, Minnesota, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia. A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215, attorney for applicants.

No. MC-FC-69923. By order of October 30, 1967, the Transfer Board approved the transfer to Shifflet Bros., Inc., Gridley, Calif. of certificates in Nos. MC-96629 and MC-96629 (Sub-No. 1) each issued September 5, 1963, to Earl F. Anders and Clifton Shifflet, a partnership, doing business as Shifflet Brothers, Gridley, Calif., authorizing the transportation of: Milled rice, rice, and rice products, and canned goods, from and to specified points in California. Bertram S. Silver, 140 Montgomery Street, San Francisco, Calif. 94104, attorney for applicants.

No. MC-FC-69958. By order of October 30, 1967, the Transfer Board approved the transfer to Michael Mesday, doing business as Mesday Trucking Service, Trenton, N.J., of the operating rights set forth in certificates Nos. MC-72464 and MC-72464 (Sub-No. 1), issued June 9, 1960, and April 13, 1960, respectively, to Harry F. McDermott, doing business as Murphy-McDermott Trucking Co., Trenton, N.J., and authorizing the transportation of: General commodities, over irregular routes, between Trenton, N.J., on the one hand, and, on the other, points in the New York, N.Y., commercial zone, as defined by the Commission; and over a regular route from Philadelphia, Pa., to Trenton, N.J.; wire cable, from Trenton, N.J., to points in Pennsylvania; and cotton uniforms, from Trenton, N.J., to Philadelphia, Pa. James J. McLaughlin, 28 West State Street, Trenton, N.J. 08608, attorney for applicants.

No. MC-FC-70003. By order of October 31, 1967, the Transfer Board approved the transfer to Shields Motor Lines, Inc., Pittsburgh, Pa., of the operating rights in certificate No. MC-79984 issued July 6, 1964, to William A. Shields and Robert H. Riley, doing business as Shields Motor Lines, Pittsburgh, Pa., authorizing the transportation of: Petroleum products, water softening compounds, and electrical equipment, from Pittsburgh, Pa., to specified points in West Virginia and Ohio. Edward M. Larkin, 901 Grant Building, Pittsburgh, Pa. 15219, attorney for applicants.

No. MC-FC-70026. By order of November 15, 1967, the Transfer Board approved the transfer to Andreas Truck and Warehouse Corp., doing business as Star Truck & Warehouse Co., Los Angeles, Calif., of certificate No. MC-119286 and certificate of registration No. MC-119286 (Sub-No. 2) issued February 12, 1960, and April 16, 1964, respectively, to Star Truck & Warehouse Co., a corporation, doing business as Star Truck & Transfer Co., and Star Truck & Warehouse Co., and Poineer Truck Co., Los Angeles, Calif., the certificate authorizing the transportation of general commodities, except those of unusual value, explosives or dangerous substances, uncrated household goods or office furniture, liquids in bulk, perishable foodstuffs, livestock, live animals, live poultry, and commodities in bulk, between points in Los Angeles, Calif., harbor; between points in the Los Angeles, Calif., commercial zone, as defined by the Commission; and between points in Los Angeles, Calif., harbor, on the one hand, and on the other, points in the Los Angeles, Calif., commercial zone, as defined by the Commission, and machinery, safes, vaults, and parts thereof, from Los Angeles harbor and Los Angeles, Calif., to points in southern California within 300 miles of Los Angeles; and, the certificate of registration covering the transportation of general commodities between points in the Los Angeles Basin Territory as described in Decision No. 54890 dated April 16, 1960, issued by the California Public Utilities Commission. J. Max Harding, Box 2028, 605 South 14th, Lincoln, Nebr. 68501, attorney for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13708; Filed, Nov. 21, 1967; 8:47 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during November.

3 CFR

	Page
PROCLAMATIONS:	
3279 (modified by Proc. 3820)	15701
3290 (see Proc. 3820)	15701
3328 (see Proc. 3820)	15701
3386 (see Proc. 3820)	15701
3389 (see Proc. 3820)	15701
3509 (see Proc. 3820)	15701
3531 (see Proc. 3820)	15701
3541 (see Proc. 3820)	15701
3693 (see Proc. 3820)	15701
3694 (terminated in part by Proc. 3818)	15467
3712 (terminated in part by Proc. 3818)	15467
3744 (terminated in part by Proc. 3818)	15467
3779 (see Proc. 3820)	15701
3794 (see Proc. 3820)	15701
3818	15467
3819	15667
3820	15701
EXECUTIVE ORDERS:	
2295 (modified by PLO 4313)	15429
4702 (revoked in part by PLO 4315)	15482
8652 (revoked in part by PLO 4317)	15482
10530 (see EO 11378)	15237
10682 (see EO 11378)	15237
10807 (amended by EO 11381)	15629
10903 (amended by EO 11380)	15627
11034 (amended by EO 11380)	15627
11378	15237
11379	15626
11380	15627
11381	15629

5 CFR

213	15703, 15805, 15869, 15911
305	15805
713	15631
754	15805

7 CFR

51	15066, 15073
251	15948
319	15577
401	15703, 15704, 15911
711	15704
717	15705
722	15967
729	15149
730	15076
905	15869
906	15869
907	15805
909	15870
910	15430, 15524, 15831, 15870
912	15430, 15632, 15806, 15870, 15967
913	15430
915	15669, 15871
945	15577
947	15705
962	15669
984	15388
989	15871, 15915
991	15670, 15705
1001	15076
1015	15090
1067	15093
1120	15388
1125	15706
1126	15388
1132	15389
1137	15431
1421	15632, 15706, 15872
1464	15633
PROPOSED RULES:	
51	15435
723	15546, 16043
724	16043
811	16045
814	15835
822	15393
891	15393
892	15393
905	15116
906	15394
907	15488
908	15394
912	15436
913	15395
959	15177, 15884
966	15884
989	15488
1008	15952
1036	15952
1048	15952
1049	15489
1064	15490
1090	15437
1125	15178
1131	15588

8 CFR

103	15469
212	15469
238	15469

9 CFR

76	15240
78	15577
92	15707
131	15469

10 CFR

40	15872
PROPOSED RULES:	
2	16050
20	15432, 15762
50	16050
115	16050

12 CFR

1	15544, 15918
219	15389
556	15707, 15747
563	15634
571	15708
PROPOSED RULES:	
545	15763

13 CFR

101	15806, 15873
106	15065
108	15149
120	15634
122	15635
PROPOSED RULES:	
107	15399
121	15184

14 CFR

21	15472
39	15094, 15153, 15154, 15390, 15421, 15472, 15523, 15579, 15635, 15808, 15873.
61	15918
63	15918
65	15918
71	15094, 15095, 15154, 15523, 15524, 15579, 15635, 15636, 15809, 15810, 15874.
73	15096
75	15636
91	15422, 15708
97	15423, 15473, 15580, 15811
141	15583
145	15670
157	15818
207	15096
208	15097
241	15098
PROPOSED RULES:	
27	15676
29	15676
39	15490, 15491, 15588
71	15117–15121, 15491–15493, 15546–15548, 15588, 15589, 15712, 15837, 15838, 15885, 15926, 16049, 16050.
73	16050
93	15589
121	15676
202	15676
203	15676
288	15926

15 CFR

0	15322
13	15818
70	15154
204	15104, 15391
230	15105, 15636
379	15988

16 CFR

Page
13 ..... 15105–15107, 15470, 15749–15750, 15874, 15875.
14 15525
15 ..... 15470, 15919
17 15540
228 15525
229 15529
230 15531
231 15532
232 15533
233 15534
234 15536
235 15538
236 15538
237 15539
238 15540
239 15541
240 15542
412 15584
413 15424
PROPOSED RULES:
241 15715
242 15681
300 15180

17 CFR

200 15470
230 15920

18 CFR

3 15239
101 15670
141 15670
PROPOSED RULES:
2 15714
14 15714
101 15927
104 15927
105 15927
141 ..... 15434, 15927
201 15927
204 15927
205 15927
260 15434

19 CFR

4 15390
10 15424
14 15155
16 15390

20 CFR

396 15471
401 15544

21 CFR

4 15709
120 ..... 15107, 15120, 15424, 15578
121 ..... 15108, 15109, 15155, 15545, 15988
133 15109
146c 15988
148b 15988
148c 15425
148f 15989
148o 15989
166 15390
191 15875
PROPOSED RULES:
28 15116
121 16048
148l 16048
166 16048

22 CFR

PROPOSED RULES:
201 15116

23 CFR

Page
215 15818
216 15818
255 15792

24 CFR

200 ..... 15425, 15586, 15636
203 15639
207 15640
220 15640
222 15640
909 15640

25 CFR

41 15471

26 CFR

1 ..... 15421, 15671, 15820, 15876
301 ..... 15241, 15483
901 15990
PROPOSED RULES:
1 ..... 15167, 15393, 15758, 15879
31 15879
46 15879
48 15879
49 15879

28 CFR

0 15425

29 CFR

526 15425
786 15425
1200 15827
1202 15831
1203 15831
1208 15831
1500 ..... 15478, 15479
PROPOSED RULES:
5 15396
6 15396
7 15396
526 15712

31 CFR

306 ..... 15672, 15920

32 CFR

66 15111
127 15112
536 15113
552 15115
710 15115
812 16035
844 15920
855 15920
862 15921
901 15922
1001 16036
1006 16036
1007 16039
1018 16039

32A CFR

BDSA (Ch. VI):
M–11A 15710
ASCDIB (Ch. VII) 15831
OIA (Ch. X):
OI Reg. 2 15876

33 CFR

204 15673

35 CFR

61 15641
255 15831

36 CFR

Page
7 ..... 15391, 15710, 15750
311 15989
PROPOSED RULES:
7 15761

38 CFR

3 15878

39 CFR

131 15587
821 15480
822 ..... 15480, 15481
823 15099
PROPOSED RULES:
Ch. I 15643

41 CFR

1–5 15674
3–75 15833
6–60 15751
6–75 15427
9–1 15922
9–12 15922
50–204 15641
101–26 15754

42 CFR

PROPOSED RULES:
73 15178

43 CFR

PUBLIC LAND ORDERS:
1583 (see PLO 4307) 15428
1630 (see PLO 4315) 15482
3263 (revoked in part by PLO 4307) 15428
3634 (revoked in part by PLO 4302) 15427
4236 (see PLO 4317) 15482
4266 (see PLO 4317) 15482
4270 (amended by PLO 4312) 15429
4301 15098
4302 15427
4303 15427
4304 15427
4305 15428
4306 15428
4307 15428
4308 15428
4309 15428
4310 15429
4311 15429
4312 15429
4313 15429
4314 15482
4315 15482
4316 15482
4317 15482
4318 15483
4319 15878
PROPOSED RULES:
1720 15546
3100 15883
3120 15883

45 CFR

81 15156
531 15641

46 CFR

Page
10 15754
PROPOSED RULES:
33 15835
94 15835
112 15835
Ch. IV 15438

47 CFR

0 ..... 15472, 15675
73 ..... 15161, 15162, 15545, 15711
PROPOSED RULES:
2 ..... 15180, 15712
73 ..... 15679, 16053, 16054
87 ..... 15712, 16055, 16056
89 ..... 15180, 15680, 16056
91 ..... 15180, 16056
93 ..... 15180, 15680, 16056

49 CFR

1 15710
103 15484
114 15484
180 16040
PROPOSED RULES:
288 15589

50 CFR

10 15834
32 ..... 15166, 15586, 15587, 15642, 15675, 15878, 15924.
33 ..... 15711, 15756, 15924

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PART II

Interstate Commerce Commission

Guide to Restrictions and Descriptions in Motor Carrier Operating Rights

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

INTERSTATE COMMERCE COMMISSION

GUIDE TO RESTRICTIONS AND DESCRIPTIONS IN MOTOR CARRIER OPERATING RIGHTS

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 23d day of October 1967, a report and order was issued in No. MC–114284 (Sub-No. 29), "Fox-Smythe Transportation Co., Extension—Oklahoma," 106 M.C.C. 1. The report, among other things, (1) summarizes the Commission's policy with respect to the imposition of restrictions and the use of commodity, territorial, and service descriptions in motor carrier authorities, and (2) establishes guidelines for the drafting of proper and workable motor carrier property applications. Appended to that report (Appendix II) was a representative list of proposed limitations and descriptions that have been either modified or eliminated from requested motor carrier operating rights by Commission action. The list is here published so that all interested persons will be informed of the more recent and current trends in this area of regulation.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

Restrictions

The following list of restrictions and descriptions is representative of proposed limitations and descriptions that have been either modified or eliminated from requested motor-carrier operating rights by Commission action. It has been compiled in the belief that it will be of benefit to all persons involved in motor carrier operating rights proceedings before the Commission. In view of the myriad of different types of restrictions considered by us since the inception of Federal regulation of motor carriers, a complete listing of all restrictions rejected or modified in the past would plainly be impractical, if not impossible. We believe, however, that the most common types of proposed restrictions are represented here, and that adherence to the guidelines which these examples connote should simplify and expedite our handling of application proceedings considerably. Although the body of this report categorizes restrictions in a more general vein, it is hoped that the more detailed classification presented here will provide a useful and more practical reference tool for all interested persons.

TABLE OF CONTENTS

A. Commodity descriptions.
1. Implied commodity authority.
a. Containers and other incidental facilities.
b. Mail.
c. Returned, refused, and rejected shipments.
d. Parts, accessories, tools, and equipment.
2. Restrictions serving no useful purpose.
a. Commodities not embraced in basic commodity description.
b. Redundant restrictions.
3. Ambiguous or confusing commodity descriptions or restrictions.
4. Unduly detailed commodity descriptions.
5. Unacceptable "intended use" restrictions.
6. "Related articles," "trade-ins," and trade names.
7. Restrictions relating to motor vehicles.
a. Commodities not considered as "motor vehicles."
b. Miscellaneous motor vehicle restrictions necessitating modification.
B. Equipment restrictions.
1. General.
2. Unacceptable negatively framed vehicle restrictions.
3. Unacceptable positively framed vehicle restrictions.
4. Proposed equipment restrictions necessitating modification.
5. Refrigerated equipment.
6. Vehicle restrictions requiring additional equipment.
C. Weight and load restrictions.
1. General.
2. Truckload and less-than-truckload restrictions.
3. Mixed loads.
a. Percentage allocations.
b. Acceptable mixed-load restrictions.
c. Unacceptable mixed-load restrictions.
4. Weight restrictions.
a. Acceptable weight restrictions.
b. Unacceptable weight restrictions.
D. Restrictions concerning identification of origin and destination points and consignor-consignee limitations.
1. Mileage radii.
2. Plantsite restrictions.
3. Ambiguous restrictions.
4. Class of consignor or consignee.
E. Multiple pickup or delivery and peddle service restrictions.
1. General.
2. Unacceptable pickup and delivery restrictions.
F. Territorial descriptions and restrictions.
1. Territorial descriptions.
2. Tacking.
3. Interchange.
4. Restrictions against both tacking and interchange.
G. Miscellaneous restrictions.
1. Restrictions that serve no useful purpose.
2. Confusing restrictions.
3. Limitations that are unduly restrictive.
4. Restrictions that are impractical or difficult to enforce.
a. Ancillary nontransportation services.
b. Restrictions requiring excessive knowledge on the part of the carrier.
c. Restrictions that serve only to render the operation difficult.

A. COMMODITY DESCRIPTIONS

1. *Implied commodity authority.* No specific authority is required for the movement of the following commodities when moving under the circumstances described below:

a. *Containers and other incidental facilities.* No specific authority is required for the transportation of empty containers, pallets, similar shipping devices, or shipper-owned vehicles used in transporting the basic commodity, on return, 49 CFR 166a.10. Interpretation, Operating Rights—Returned Containers, 82 M.C.C. 677; Maas Transport, Inc., Ext.—North Dakota Missile Sites, 92 M.C.C. 581 (returned cable reels); P. B. Mutrie Motor Transp. Inc., Ext.—Bensyle Chloride, 83 M.C.C. 123; and National Trailer Convoy, Inc., Ext.—Portable Buildings, 91 M.C.C. 301 (returned shipper-owned undercarriages).

b. *Mail.* No specific authority is required for the transportation of mail. Blau Common Carrier Application, 61 M.C.C. 705.

c. *Returned, refused, and rejected shipments.* No specific authority is needed for the return transportation of shipments which have been rejected by consignee because damaged in transit, or for any other reason, provided such service is covered by an appropriate tariff provision. Western Auto Transports, Inc., Ext.—Hydraulic Hammers, 72 M.C.C. 349, 353. Shipments which have been accepted by a consignee and subsequently returned, however, do require specific authorization.

d. *Parts, accessories, tools, and equipment.* No specific authority is required for the transportation of component parts or accessories of an authorized commodity, when shipped in conjunction, and at the same time, with such commodity, in amounts consistent with their being of an incidental nature. East Texas M. Frt. Lines—Interpretation of Certificate, 62 M.C.C. 727.

No specific authority is required for the transportation of couplings, rings, and fittings which are shipped with, and as a part of, the basic equipment (pipe). No. MC–118959 (Sub-No. 14), Jerry Lipps, Inc., Extension—Pipe (not printed), decided November 10, 1964, citing Dallas & Mavis Forwarding Co., Inc., Ext.—South Bend, Ind., 84 M.C.C. 731, 739 (specific authority not required for attachments and replacement parts when shipped with, and as part of, the basic commodity).

Specific authority is not required for the good-faith transportation of shipper-owned parts, attachments, materials, tools, and equipment incidental to the authorized commodity when transported with the authorized commodity. Dealers Transit, Inc., Extension—Missiles, 86 M.C.C. 327.

As stated in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, at page 239, however, authority to transport "automobiles, trucks, and busses" shall specify that it includes authority to transport parts and accessories at the same time and with the vehicle of which they are a part and on which they are to be installed.

2. *Restrictions serving no useful purpose.* The following proposed commodity descriptions or restrictions were eliminated or modified because they serve no useful purpose as drafted:

a. *Commodities not embraced in the basic commodity description.*—"Not including chemicals" deleted following the commodity description "slag and slag aggregates." Dreyer Extension—Slag and Slag Aggregates, 96 M.C.C. 343.

Restriction against the transportation of "sand, stone, gravel and fly ash, in bulk, in tank or hopper vehicles" refused when applied to a grant of authority to transport "plumbing, heating, and electrical supplies." No. MC–125432 (Sub-No. 1), Longstreth Contract Carrier Application (not printed) decided August 31, 1964.

"Except acids and chemicals" deleted from authority to transport "dry animal and poultry feed." Stearns Common Carrier Application, 96 M.C.C. 627.

"Other than those fertilizers which are • • • sulphuric acid" deleted following the commodity description "fertilizer." No. MC–124417, Hinderman Brothers Common Carrier Application (not printed), decided March 15, 1963.

"Other than metals of all types and metal products" deleted following the commodity description "general commodities, except • • • commodities in bulk • • •" inasmuch as the proposed restriction would wrongly imply that the description "commodities in bulk" embraces metals and metal products. No. MC–126118, Christman Common Carrier Application (not printed), decided February 4, 1964.

"Canned goods, except canned, fresh and cured meats" changed to read "canned goods, except cured meats" citing Bird Trucking Co.—Modification of Certificate, 61 M.C.C. 311. No. MC–114045 (Sub-No. 116), Trans-Cold Express, Inc., Extension—Canned Goods (not printed), decided March 31, 1964.

"Except clay and fly ash" deleted from authority to transport "building materials." No. MC–125626 (Sub-No. 1), Williams Trucking, Inc., Extension—Pennsylvania and Four W. Va. Counties (not printed), decided August 11, 1966.

"Except plant removals" deleted from authority to transport "checks, business papers, records, and audit and accounting media." No. MC–111729 (Sub-No. 154), American Courier Corporation Extension—Alexandria, Va. (not printed), decided February 9, 1967.

b. *Redundant restrictions.* "In bulk and in containers" deleted. No. MC–123061 (Sub-No. 27), Leathan Brothers, Inc., Extension—Animal Meals (not printed), decided January 17, 1966.

"In bulk, in bags, and in containers" deleted. No. MC–59117 (Sub-No. 17), Elliott Truck Lines, Inc., Extension—Fertilizer from Texas (not printed), decided September 6, 1963.

"In bags bulk, or packages" deleted. No. MC–117574 (Sub-No. 91), Daily Express, Inc., Extension—Twenty-two States (not printed), decided February 15, 1965.

A proposed restriction against transportation in bags or containers, including "sealbin container" was deleted from the commodity description 'alumina, in bulk." No. MC–116077 (Sub-No. 179), Robertson Tank Lines, Inc., Extension—Alumina (not printed), decided November 30, 1965.

"Palletized and unpalletized" deleted. No. MC–126281, Caub Common Carrier Application (not printed), decided October 14, 1964.

Proposed authority to transport "lumber (except plywood, built-up wood, and veneer)" changed to read "lumber, except plywood and veneer" since the built-up wood referred to was merely thick plywood. No. MC–111545 (Sub-No. 65), Home Transportation Company, Inc., Extension—Lumber, Etc. (not printed), decided May 26, 1965.

"Insulated or not insulated, and either jacketed or not jacketed" deleted from authority to transport "pipe and tubing." No. MC–84737 (Sub-No. 73), Nilson Motor Express Extension—Pipe (not printed), decided February 19, 1964.

"Scrap commodities containing scrap metal, and metal processed therefrom" deleted from authority to transport "scrap metal." No. MC–78042 (Sub-No. 17), Bearoff Brothers, Inc., Extension—Four States (not printed), decided November 21, 1966.

"Including insecticides, herbicides, and fungicides" deleted from authority to transport "agricultural pesticides." No. MC–105424 (Sub-No. 5), Flagge Truck Lines, Inc., Extension—Agricultural Pesticides (not printed), decided August 31, 1966.

"Including motors and parts thereof" deleted from authority to transport "dust collectors and precipitators." No. MC–49567 (Sub-No. 6), Roy R. Golden and Leonard E. Golden, Extension of Contract Carrier Authority—Dust Collectors (not printed), decided December 16, 1965.

"And blends thereof" deleted from authority to transport "corn syrup." No. MC–116063 (Sub-No. 84), Western-Commercial Transport, Inc., Extension—Wichita, Kans. (not printed), decided August 9, 1966.

Commodity description "new furniture, crated, and/or in cartons" modified to "new furniture, crated" inasmuch as the term "crated" includes the right to transport new furniture in cartons. No. MC–64994 (Sub-No. 49), Hennis Freight Lines, Inc., Extension—New Furniture (not printed), decided September 14, 1966.

"Green and/or processed," being all-inclusive, was deleted from the commodity description "salted hides and pelts." No. MC–126622 (Sub-No. 2), Passaic Grain & Wholesale Co., Inc., Common Carrier Application (not printed), decided May 10, 1965.

"Including cast iron pipe and fittings" deleted from authority to transport "plumbing materials and supplies." No. MC–73165 (Sub-No. 228), Eagle Motor Lines, Inc., Extension—Iron and Steel Articles (not printed), decided July 17, 1967.

Enumeration of items "such as refrigerators, washing machines, dryers, dishwashers • • •" found to be unnecessary following the commodity description "household appliances." No. MC–124856, Trio Trucking Corp. Contract Carrier Application (not printed), decided March 29, 1966. See also No. MC–90110 (Sub-No. 5), Messinger Trucking & Warehouse Corp. Extension—Connecticut and New Jersey (not printed), decided March 10, 1964.

"Toilet and drug preparations, drugs, medicines, chemicals, prescription items and ingredients and drug store displays" modified to authorize "toilet and drug preparations, medicines, prescriptions, and ingredients thereof and drug store displays." No. MC–124688, Independent Delivery, Inc., Common Carrier Application (not printed), decided February 12, 1963.

3. *Ambiguous or confusing commodity descriptions or restrictions.* "Mineral mixtures" modified to read "animal and poultry mineral feed mixtures." Monkem Co., Inc., Extension—Mineral Mixtures, Salt, 82 M.C.C. 235.

"Brick and other clay products" modified to read "brick and clay products" in accordance with the evidence of record. No. MC–126650, John B. Joy, Inc., Common Carrier Application (not printed), decided April 24, 1967.

"Liquid stock feed supplement" modified to read "liquid animal feed supplements." No. MC–107496 (Sub-No. 396), Ruan Transport Corporation Extension—Morrill, Nebr., et al. (not printed), decided June 29, 1966.

"Juices, beverages, and drinks (other than citrus juices, citrus beverages, and citrus drinks), not requiring refrigeration" modified to read "unfrozen juices and beverages other than citrus." No. MC–12053 (Sub-No. 43), Florida Refrigerated Service, Inc., Extension—Non-Citrus Beverages (not printed), decided August 31, 1966.

"Boards, composed of wood flakes, adhesive, and preservative, combined" modified to read "composition board." No. MC–100666 (Sub-No. 42), Melton Truck Lines, Inc., Extension—Crossett, Ark. (not printed), decided October 31, 1962.

"Cooked frozen vegetables" modified to read "frozen prepared vegetable foods." No. MC–117766 (Sub-No. 5), Sam Blair Extension—Cooked Frozen Vegetables (not printed), decided January 12, 1965.

"Yeast, compressed, other than dry and not in bulk" modified to read "compressed moist yeast, in containers." No. MC–113267 (Sub-No. 151), Central & Southern Truck Lines, Inc., Extension—Yeast (not printed), decided January 28, 1966.

"Fertilizer, in bulk, except such fertilizer as may be considered petroleum products" modified to read "fertilizer, in bulk, except such fertilizer as may be derived from petroleum." No. MC–119778 (Sub-No. 79), Redwing Carriers, Inc., Extension—Americus, Ga. (not printed), decided August 18, 1965.

"Fertilizer, not liquid" modified to read "dry fertilizer." No. MC–56167 (Sub-No. 5), Hershey Extension—Fertilizer (not printed), decided April 26, 1965.

"Brick, except those loaded and unloaded by dumping" modified by the elimination of the indicated exception. No. MC–102401 (Sub-No. 6), Taylor Heavy Hauling, Inc., Extension—Danville, Ill. (not printed), decided July 1, 1964.

4. *Unduly detailed commodity descriptions.* "Animal and poultry feed consisting of at least 40 percent of grain or grain products and nonanimal products, and mineral mixtures for animal and poultry feed and protein blocks for animal feeding and corn, linseed meal, soybean meal and other basic ingredients, namely, mineral and poultry vitamins, meat scraps, tankage, bone meal, dicalcium phosphate, wheat middling, oat feed, feeding oatmeal, and rolled oats, used in manufacture of animal and poultry feed," modified to read "animal and poultry feed, animal and poultry feed ingredients, and protein blocks for animal feeding." No. MC–126100 (Sub-No. 2), Steward Contract Carrier Application (not printed), decided April 28, 1965.

"With or without emulsifiers, preservatives, coloring, or additives" deleted from authority to transport certain animal and vegetable oils and fats. No. MC–114457 (Sub-No. 24), Dart Transit Company, Extension—Bradley, Ill. (not printed), decided January 20, 1966.

"Clay or sand, granulated or pulverized with not over 3.5 percent other ingredients, admixed but not processed for decolorization, filtering, or water softening," modified to read "filtration clay and filtration sand." No. MC–115523 (Sub-No. 104), Clark Tank Lines Company Extension—Salt Lake City, Utah (not printed), decided October 19, 1962.

"Liquid commodities, in bulk, in tank vehicles (except petroleum and petroleum products, corn syrup, corn products, liquid sugar, edible oils, vegetable oils, tallow, animal oils, animal fats, animal greases and blends of the aforesaid commodities)" modified to read "liquid chemicals (except petrochemicals), in bulk, in tank vehicles." Modification based on the actual need established by the evidence of record. No. MC–118881 (Sub-No. 44), Central Transport, Incorporated, Extension—Liquid Commodities from South Carolina (not printed), decided July 27, 1966.

"Houses, barns, sheds, farms buildings, granaries, storage elevators, tool sheds, boxcars, and buildings (except buildings, in sections, moving on their own or removable carriages with hitch-ball connectors, and commodities not specifically described above which, because of size or weight require the use of special equipment)" modified to read "buildings (except buildings in sections and trailers designed to be drawn by passenger automobiles)." No. MC–128199 (Sub-No. 1), Rolland F. Williams and Gary L. Williams Common Carrier Application (not printed), decided April 28, 1967.

In recent years proposals to restrict general-commodity authority against the transportation of "commodities injurious or contaminating to other lading" have generally been rejected as superfluous. Herr's Motor Exp., Extension—Paulsboro, N.J., 85 M.C.C. 696.

Requested authority to transport "glass container, one (1) gallon or less in capacity" modified to read "glass containers." No. MC–123934 (Sub-No. 5), Krevda Bros. Express, Inc., Extension—Glass Containers (not printed), decided January 6, 1965.

Commodity description "vitamin fortification products used as animal and poultry feed ingredients" changed to "animal and poultry feed ingredients." G. G. Parsons Trucking Co. Ext.—Lumber, Feed Ingredients, 86 M.C.C. 288.

5. *"Intended use" restrictions.*[1] "When shipped as sawmill waste products" elim-

[1] For a discussion of the intended use descriptions generally, see W. T. Mayfield Sons Trucking Co.—Interpretations, 92 M.C.C. 167; and C & H Transp. Co., Inc., Interpretation of Certificate, 62 M.C.C. 586.

inated following the commodity description "debarked wooden slabs and edgings." No. MC–135122 (Sub-No. 1), Gerald W. Davis Common Carrier Application (not printed), decided December 18, 1968.

Except salt intended for use in foodstuffs, or for general sale in grocery stores" deleted following the commodity description "salt." No. MC–124083 (Sub-No. 15), Skinner Motor Express, Inc., Extension—Louisville, Ky. (not printed), decided March 22, 1965.

"When for emergency installations or emergency repairs only * * *" deleted following the commodity description "equipment and materials used in the construction, installation, maintenance, and repair of telephone systems." No. MC–94170 (Sub-No. 4), William F. Madden, Extension—Telephone Equipment (not printed), decided December 10, 1964.

"Used in the manufacture of storm windows and doors" deleted following the commodity description "glass." No. MC–117810 (Sub-No. 4), Frank C. Cicioni, Extension—Mount Carmel, Pa. (not printed), decided December 14, 1966.

"* * * and farm supplies which are used primarily in farm operations (not including household commodities and supplies or appliances)" modified to read "* * * and farm supplies." No. MC–124917, Ralph Chandler Common Carrier Application (not printed), decided August 23, 1965.

6. *"Related articles," "trade-ins," trade names.* "And related articles" deleted following the description "floor tiles." No. MC–125094 (Sub-No. 3), Otto Feldt, Inc., Extension—Floor Tiles (not printed), decided July 27, 1965.

"And related articles" deleted following the description "bituminised fiber pipe and conduit." No. MC–126457, Anthony W. Daulto Contract Carrier Application (not printed), decided February 15, 1965.

"And trade-ins" deleted following the description "such commodities as are sold by mail order houses." No. MC–126978, Robert Dube Contract Carrier Application (not printed), decided May 27, 1965.

Requested authority to transport a product described by trade name "Nisol 80" modified to authorize the transportation on "nitrogen fertiliser solutions." No. MC–114890 (Sub-No. 3), C. E. Reynolds Extension—Fertiliser Solutions embraced in Rogers Cartage Co. Extension—Urea Solutions, 72 M.C.C. 329.

Requested authority to transport products described by trade name "Gradalls" modified to authorize the transportation of "grading and excavating equipment." Curtis Keal Transport Co., Inc., Ext.—New Philadelphia, 73 M.C.C. 249.

Requested authority to transport "such commodities as are manufactured by or dealt in by American Rock Wool Corp. * * *" modified to authorize the transportation of "mineral wool, rock wool, and glass rovings, and products thereof; glass filters; glass reinforcements and materials and supplies used in the installation of such commodities. Central Dispatch, Inc., Extension—Vermont, 79 M.C.C. 97.

Requested authority to transport a product described by trade name "Sonotube" modified to authorize the transportation of "fiber tubes." No. MC–61592 (Sub-No. 67), Jenkins Truck Line, Inc., Extension—Sono Tubes and Plastic Products (not printed), decided November 28, 1966.

7. *Restrictions relating to motor vehicles.* Section 203(a)(13) of the Interstate Commerce Act defines the term "motor vehicle" as "any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof determined by the Commission * * *." In Western Auto Transports, Inc., Extension—Oregon, 49 M.C.C. 1, it was determined that the term "motor vehicles" as used in grants of authority to motor common and contract carriers has the same meaning and is as inclusive as the quoted statutory definition. Restrictions peculiar to the transportation of motor vehicles concern (1) truckaway and driveaway service, and (2) initial and secondary movements:

Truckaway and driveaway service.—Danbury Extension of Operations—Charlotte, N.C., 46 M.C.C. 147, establishes the test of determining whether a movement is by the driveaway or truckaway method: Namely, whether the vehicles being transported are being moved with motive power furnished by one or more of such vehicles. If so, the service is driveaway; otherwise, it is truckaway. This test has been made applicable to the transportation of all motor vehicles, including trailers. See Dealers Transport Co. Extension—Trailer and Truck Bodies, 49 M.C.C. 63.

Initial and secondary movements. Initial movements embrace the transportation of new motor vehicles from a place of manufacture or assembly, specifically authorized to be served as a point of origin by the originating carrier's certificate or permit, to any point upon the authorized route or within the defined territory for delivery to consignees or connecting carriers. Secondary movements include the transportation of motor vehicles, except the transportation of new motor vehicles from a place of manufacture or assembly, by a carrier to, from, and between all points upon its authorized route or routes or within its authorized territory for delivery to consignees or connecting carriers. See Whitehouse Common Carrier Application, 47 M.C.C. 529; and Western Auto Transports, Inc., v. Maughan Transport, Inc., 61 M.C.C. 414, and cases cited therein.

a. *Commodities not considered as motor vehicles.* The following representative list of commodities were found to be motor vehicles because they were neither designed nor intended for use upon the highways in the transportation of passengers or property or any combination thereof (see Western Auto Transport, Inc., Extension—Oregon, 49 M.C.C. 1):

"Automobile and truck bodies." Inasmuch as automobile bodies or truck bodies are in fact only parts of a vehicle to which they will be attached, it is unnecessary to restrict such transportation to initial or secondary movements or to truckaway or driveaway service.[1] Whitehouse Common Carrier Application, 47 M.C.C. 529; Dealer's Transport Co. Extension—Willow Run, 48 M.C.C. 199; and No. MC–60470 (Sub-No. 17), Motorcar Transport Company, Extension—New England (not printed), decided May 28, 1965.

"Trailer bodies." It is unnecessary to restrict to initial or secondary movements or to truckaway or driveaway service for the same reasons as apply to automobile and truck bodies. Dealer's Transport Co. Ext.—Trailer and Truck Bodies, 49 M.C.C. 63.

"Automobile-show equipment and paraphernalia." It is unnecessary to restrict to initial or secondary movements or to truckaway or driveaway service for the same reasons as apply to automobile and truck bodies. Dealer's Transport Co., Extension—Willow Run, 48 M.C.C. 199.

"Farm tractors." Authority to transport farm tractors "restricted to secondary movements, in truckaway service" modified to delete the quoted restriction inasmuch as (a) the initial or secondary movements restrictions are applicable only to grants of authority to transport motor vehicles, and (b) because of the impracticability of transporting farm tractors in driveaway service, no useful purpose would be served by restricting the operation to shipments moving in truckaway service.[2] No. MC–32182 (Sub-No. 16), Nu-Car Carriers, Inc., Extension—Farm Tractors (not printed), decided May 6, 1963. See also No. MC–117206 (Sub-No. 4), National Trucking Company Extension—Tractors (not printed), decided May 6, 1963; and No. MC–112391 (Sub-No. 27), Hadley Auto Transport Extension—Farm Tractors (not printed), decided May 8, 1963, cases which both cite the Nu-Car decision.

"Self-propelled vehicles (self-propelled cranes, excavators, back hoes, power shovels, and crane carriers)." Authority to transport the parenthesized commodities "in initial movements, in driveaway service" modified to exclude the "in initial movements" restriction as such a limitation is inappropriate where the considered commodities are not considered "motor vehicles." Inasmuch as the evidence showed only a need for driveaway service and in order to protect existing carriers against truckaway competition, the driveaway restriction was included in the grant of authority. No. MC–117557 (Sub-No. 13), Matson, Inc., Extension—Waverly, Iowa (not printed), decided January 12, 1967.

"Self-propelled street sweepers." Authority to transport self-propelled street sweepers "in initial driveaway service" modified to read "self-propelled street sweepers, in driveaway service" as "initial movements" limitation is applicable only to grants of authority to transport motor vehicles. No. MC–4405 (Sub-No. 417), Dealers Transit, Inc., Extension—New Holstein, Wis. (not printed), decided June 30, 1966.

"Pickup coaches." Authority to transport pickup coaches in "initial movements, in truckaway service" modified by deleting the quoted restrictions as such commodities are not motor vehicles. No. MC–123845 (Sub-No. 3), Myron H. Curtis and Betty L. Curtis Extension—Montana (not printed), Myron H. Curtis and Betty L. Curtis Extension—Washington (not printed), decided March 30, 1964, which involved the same supporting shippers and the same commodity (pickup coaches).

"Asphalt plants." Authority to transport portable asphalt plants in "secondary movements, in truckaway service" modified by deleting the quoted restrictions as (a) "secondary movements" are applicable only to grants of authority to transport motor vehicles, and (b) because no useful purpose would be served by restricting the operation in shipments moving in truckaway service. No. MC–103191 (Sub-No. 16), The George A. Rhesman Co., Inc., Extension—Asphalt Plants (not printed), decided September 23, 1966.

b. *Miscellaneous motor vehicle restrictions necessitating modification.* In "tow-away" service restriction deleted from authority to transport "trailers * * *, in initial movements, in truckaway service" as such restrictions is redundant and confusing. No. MC–115022 (Sub-No. 8), Chamberlain Mobilehome Transport, Inc., Extension—Alfred, Maine (not printed), decided September 22, 1964, citing Danbury Extension of Operations—Charlotte, N.C., 46 M.C.C. 147 (where it was concluded that both driveaway and truckaway include "tow-away").

"Accessories and equipment therefor" deleted from authority to transport trailers, inasmuch as trailer accessories and equipment when transported with the vehicle in which they are to be installed or in another vehicle being transported at the same time and in the same manner may be transported under the authority to transport "trailers." No. MC–21684 (Sub-No. 19), Charles R. Danbury, Inc., Extension—Montgomery County, Pa. (not printed), decided June 17, 1964.

Proposed commodity descriptions (a) "trailers and mobilehomes designed to be drawn by passenger automobiles, in initial movements, in truckaway service," and (b) "sectionalised buildings, mounted on wheeled undercarriages, equipped with hitchball couplers," modified to read, respectively, (a) "trailers designed to be drawn by passenger automobiles, in initial movements, in truckaway service," and (b) "prefabricate buildings, in sections," inasmuch as the proposed commodity descriptions were unduly detailed and the modified descriptions more accurately and better described the authority requested. No. MC–115023 (Sub-No. 11), Chamberlain Mobilehome Transport, Inc., Extension—Sections (not printed), decided June 28, 1966.

Some difficulty has been encountered recently in clearly describing a new type of portable structure known in the industry as a "double-wide." These commodities cannot be transported by mobile-home carriers. In Morgan Drive-Away, Inc., Extension—Double-Wides, 105 M.C.C. 380, Appellate Division 1 described these commodities as "buildings, in sections mounted on wheeled undercarriages with hitch-ball connector;" and the adoption of this description should resolve some of the semantic problems heretofore found in this area of regulation.

Proposed commodity description "trailers and semitrailers" modified to read "trailers," inasmuch as the commodity description "trailers" includes "semitrailers." No. MC–83539 (Sub-No. 89), C & H Transportation Co., Inc., Extension—Rockwall, Tex. (not printed), decided April 6, 1964.

Commodity description "used passenger automobiles and used station wagons" modified to read "used passengers automobiles" inasmuch as authority to transport "passenger automobiles" includes the right to transport "station wagons." No. MC–125978 (Sub-No. 4), Dependable Car Travel Service, Inc., Extension—Forty-Nine States (not printed), decided August 10, 1966, citing Kenosha Auto Transport Corp. Ext.—Foreign Cars, 76 M.C.C. 38, 47.

Commodity description "* * * motor vehicles, including but not limited to trucks, tractors, trailers, semitrailers, automobiles, and buses * * *" modified to read "* * * motor vehicles * * *" inasmuch as the enumerated commodities are embraced in the term "motor vehicles." No. MC–125388, Popular White Truck, Inc., Common Carrier Application (not printed), decided September 4, 1963, citing Cousino Common Carrier Application, 78 M.C.C. 797.

A limitation which read "restricted to traffic of the General Motor Corp. which has had an immediately prior movement by rail" modified to read "restricted to traffic originating at General Motors Corporation plants which has an immediately prior movement by rail" when applied to a grant of authority to transport new automobiles inasmuch as the deleted restriction contravened the public service obligations of a common carrier by motor vehicle and the same results are achieved by the substituted language. No. MC–3468 (Sub-No. 147), F. J. Boutell Driveaway Co., Inc., Extension—Baltimore, Md. (not printed), decided November 21, 1962.

B. EQUIPMENT RESTRICTIONS

1. *General.* Equipment restrictions may be either positively or negatively framed; suggested restrictions of both types have been rejected depending upon their ultimate result. Acceptable equipment restrictions, as explained more fully in the report to which this is an appendix, usually tend to achieve the positive "purpose" of describing the service authorized, the transportation characteristics of the commodity to be transported, and/or of protecting the legitimate interests of existing carriers.

2. *Unacceptable negatively framed vehicle restrictions.* Dry animal and poultry feed * * * (but not in tank or hopper-type vehicles)" modified to read "dry animal and poultry feed." Stearns Common Carrier Application, 96 M.C.C. 627. This Commission's general policy with respect to this type of equipment restriction is stated on page 628 of that decision, as follows:

Qualifying phrases in operating authorities issued by the Commission ought normally be confined to those which described the service authorized or the transportation characteristics of the commodity to be transported. Limitations which serve these positive purposes are often imposed and include such descriptions as "in bulk, in tank vehicles." Conversely, negative restrictions designed solely to keep a carrier from using a particular kind of equipment to the asserted benefit of existing operators prevent the rendition of needed service with optimum efficiency. The restriction recommended by the joint board which would ban the use of tank or hopper-type vehicles for the transportation of commodities in bulk is of the latter type and is, therefore, unacceptable.

"Restriction against the use of tank or hopper vehicles" not imposed in granting authority to transport "fertilizer." No. MC–123819 (Sub-No. 4), Ace Freight Lines, Inc., Extension—Urea (not psinted), decided March 31, 1965.

Restriction against transportation "in pneumatic trailers" not imposed in granting authority to transport "fertiliser." No. MC–115331 (Sub-No. 104), Truck Transport, Incorporated, Extension—Fertiliser (not printed), decided February 8, 1966.

Restriction against transportation "in bulk, in dump vehicles" not imposed in granting authority to transport "carbon black, ground pitch" and other named related commodities. No. MC–53978 (Sub-No. 1), James E. Depeau Extension—Pennsylvania (not printed), decided May 4, 1966.

Restriction against "the use of dump vehicles or pneumatic trailers" not imposed in granting authority to transport "fertiliser." No. MC–106674 (Sub-No. 11), Osborne Trucking Co., Inc., Extension—Fertiliser (not printed), decided January 28, 1966.

Restriction against transportation "in tank vehicles" not imposed in granting authority to transport "ammonium nitrate fertiliser." No. MC–124632 (Sub-No. 4), Wilkerson Extension—West Virginia (not printed), decided May 10, 1963.

Restriction against transportation "in tank or hopper-type vehicles" not imposed in granting authority to transport general commodities. No. MC–120449 (Sub-No. 2), Peter P. De Gasper, Jr., and Herman De Casper Common Carrier Application (not printed), decided November 30, 1965.

Restriction against transportation in "van-type equipment" not imposed in granting authority to transport "building boards." No. MC–11207 (Sub-No. 228), Deaton Truck Lines, Inc., Extension—Composition Building Boards (not printed), decided August 23, 1965.

3. *Unacceptable positively framed vehicle restrictions.* Restrictions to "on flat-bed trailers" or "on flat-bed equipment" are not ordinarily imposed. See No. MC–114008, Lowther Trucking Company Extension—Hartford, Conn. (not printed), decided February 18, 1963 (lumber products); No. MC–125997 (Sub-No. 1), L. C. Foesch Contract Carrier Application (not printed), decided April 30, 1965 (lumber and lumber products); No. MC–110678 (Sub-No. 8), Argo Trucking Company, Inc., Extension—Shells (not printed), decided April 29, 1963 (oyster shells); No. MC–117165 (Sub-No. 13), C. J. Davis Extension—Wallboard (not printed), decided March 15, 1965 (wallboard and building material); and No. MC–106341 (Sub-No. 5), Moss Trucking Company, Inc., Extension—Plasterco, Va. (not printed), decided March 16, 1965 (building materials).

Proposal to restrict service to "palletised on flatbed trailers only" not accepted in granting authority to transport "glass containers and closures." No. MC–111201 (Sub-No. 4), J. N. Zellner & Son Transfer Company Extension—Glass Containers (not printed), decided October 26, 1966.

Proposal to limit service to "in pneumatic tank motor vehicles" rejected in granting authority to transport fertilizers. No. MC–31600 (Sub-No. 565), P. B. Mutrie Motor Transportation, Inc., Extension—Ontario (not printed), decided February 10, 1965.

Request to restrict service to "in bulk, in dump vehicles and pneumatic tank trailers and in bags on pallets" not accepted in granting authority to transport "dolomite and binding mortar." No. MC–125201, L. Smith Cartage, Inc., Contract Carrier Application (not printed), decided February 4, 1966.

Restriction to "in bulk on flat-bed trailers, in hopper-type containers on flat-bed trailers, and in dump vehicles" not imposed in granting authority to transport various metals, No. MC–119777 (Sub-No. 3), Ligon Specialised Hauler, Inc., Petition to Modify Certificate (not printed), decided February 8, 1965.

Proposal to restrict operations to "in open trailers" found to be an unnecessary limitation on authority to transport specified fertilisers, and not imposed. No. MC–123061 (Sub-No. 27), Leatham Brothers, Inc., Extension—Animal Meals (not printed), decided January 17, 1966.

Restriction to service "in tank or closed-hopper vehicles" not imposed in granting authority to transport fertiliser and fertiliser materials, in bulk. No. MC–124584 (Sub-No. 1), Chemical Carriers Corporation Extension—Chesapeake, Va. (not printed), decided December 12, 1963.

Limitation to movements "in low-bed semitrailers" not imposed in granting authority to transport "boats." No. MC–124494 (Sub-No. 1), C. E. McNeil and Ward Alfred Sherman Common Carrier Application (not printed), decided May 1, 1963.

Limitation to movements on "flat-bed semitrailer equipment" not imposed in granting authority to transport "asphalt roofing" and related named commodities. No. MC–123407 (Sub-No. 22), Sawyer Transport, Inc., Extension—Wisconsin (not printed), decided February 6, 1967.

Limitation "when moving in van-type vehicles" not imposed in granting authority to transport "animal or poultry feed * * *." No. MC–127067 (Sub-No. 1), McLee Trucking Company, Inc., Contract Carrier Application (not printed), decided March 10, 1966.

A proposal to restrict service to "in dump trucks" not accepted in granting authority to transport "pig iron," as such commodity is not a bulk commodity and such a restriction

[1] In Matson, Inc., Ext.—Self-Unloading Material Bodies, 96 M.C.C. 648, those carriers who in the early days of regulation had imposed in their existing authority similar restrictions were invited to file with the Commission a petition for removal from their operating rights of such restrictions pertaining to the transportation of "bodies." Many such filings were made.

[2] Clearly, restrictions to "initial" or "secondary" movements are, by definition, applicable only to grants of authority to transport motor vehicles. Western Auto-Transports, Inc., v. Maughan Transport, Inc., 61 M.C.C. 414. However, restrictions concerning "truckaway" or "driveaway" service may be appropriate even if the considered commodity is not by definition a "motor vehicle" provided such commodity is capable of moving under its own power.

would be meaningless. McFeeley Extension—Coke, 92 M.C.C. 769.

4. *Proposed equipment restrictions necessitating modification.* Authority to transport fertilizer and fertilizer ingredients "except in bulk, in tank and hopper vehicles" modified to restrict against all "bulk" transportation as no specific need had been shown for the transportation of any of the involved commodities in bulk. No. MC–116284 (Sub-No. 51), Chem-Haulers, Inc., Extension—Arizona (not printed), decided January 25, 1966.

Authority to transport paint, paint materials, groceries, and grocery store supplies "restricted against the transportation of commodities in bulk, in tank or dump vehicles" modified to restrict against all "bulk" transportation as considered commodities do not appear to be susceptible to handling in bulk quantities and no need has been shown for bulk transportation. No. MC–2593 (Sub-No. 12), Baumann Bros. Transportation, Inc., Extension—Nebraska (not printed), decided November 23, 1966.

Authority to transport chocolate candy, confectionery, chocolate coating, and ice cream coating restricted against the use "of tank vehicles" modified to restrict against all "bulk" transportation as the modified restriction achieved the same intent and conformed to the evidence. No. MC–906 (Sub-No. 73), Consolidated Forwarding Co., Inc., Extension—Chocolate Coating from Milwaukee, Wis. (not printed), decided April 25, 1967.

Proposed restriction ("except in bulk or tank vehicles)" modified to except "in bulk" inasmuch as the deleted portion is unnecessary. No. MC–115841 (Sub-No. 259), Colonial Refrigerated Transportation, Inc., Extension—Kent County, Del. (not printed), decided May 16, 1966.

Proposed restriction against the transportation of "commodities in bulk, in tank, dump, or hopper-type vehicles" modified to read "against the transportation of commodities in bulk" as the modified restriction on the record achieved the same intent. No. MC–6446 (Sub-No. 2), W. H. Fitzgerald, Inc., Extension—Tittusville, Pa. (not printed), decided January 31, 1967.

Proposal to transport "fertilizer and fertilizer materials (except in dump vehicles)" modified to read "fertilizer and fertilizer materials, in bags, or in bulk, in tank or hopper-type vehicles" as the purpose of the restriction is more appropriately framed in a positive manner. No. MC–110988 (Sub-No. 106), Kampo Transit, Inc., Extension—Fertilizer (not printed), decided June 11, 1965.

Authority to transport certain bulk commodities "in end dump vehicles" modified to "in dump vehicles." No. MC–123299 (Sub-No. 3), J. H. Oldham Concrete Co., Extension—Jackson County, Mo. (not printed), decided February 17, 1964.

Authority to transport petroleum products "in tank trailers" modified to conform with usual practice to describe such service "in tank vehicles." No. MC–104675 (Sub-No. 19), Frontier Delivery, Inc., Extension—Elk (not printed), decided January 18, 1965.

5. *Refrigerated equipment.* Restrictions which propose to limit the transportation to "commodities requiring refrigeration" or limitations to movements in either "refrigerated equipment" or "vehicles equipped for temperature control" are ambiguous and difficult to apply. Such authorizations generally are rephrased so as to limit service to movements in "vehicles equipped with mechanical refrigeration." Houff Transfer, Inc., Extension—Commodity Description, 72 M.C.C. 563, modified on other grounds, 78 M.C.C. 145; Rathbun Cartage Co. Extension—Meats, 64 M.C.C. 550; and Refrigerated Transport Co., Inc., Extension—Foodstuffs, 88 M.C.C. 71.

6. *Vehicle restrictions requiring additional equipment.* "Equipped with automatic hoists" deleted in No. MC–15167 (Sub-No. 39), Paul F. Cullum Extension—Baltimore (not printed), decided May 15, 1963.

"Vehicles equipped with mechanical loading and unloading devices" deleted in M. Pascale Trucking, Inc., Extension—Gray, Maine, 99 M.C.C. 542.

"In vehicles with pneumatic unloaders" deleted in No. MC–123973 (Sub-No. 4), Leo J. Umerley, Inc., Extension—Salt (not printed), decided January 31, 1966.

"Special unloading equipment (except dump trucks)" deleted in No. MC–125247, William G. Beck Contract Carrier Application (not printed), decided March 10, 1964.

"On skids, in vehicles equipped with hydraulic or mechanical loading and unloading devices" deleted in No. MC–126087, Joseph Rose Contract Carrier Application (not printed), decided May 14, 1965.

C. WEIGHT AND LOAD RESTRICTIONS

1. *General.* The Commission has been reluctant to impose load or weight restrictions because such restrictions generally are impractical, difficult to enforce, and administratively undesirable, and because carriers should ordinarily be able to render a complete service for their shippers regardless of the size or weight of the individual load. See, for example, Nowlin Common Carrier Application, 78 M.C.C. 357; and Beatty Motor Exp., Inc., Extension—Medina, Ohio, 79 M.C.C. 1.

2. *Truckload and less-than-truckload restrictions.*[4] Truckload restrictions. In recent years the Commission has refused to impose in motor carrier operating authority "truckload lot" restrictions, as such restrictions permit a carrier to skim off the cream of the traffic, to offer less than a complete service, and are impractical. Navajo Freight Lines, Inc., Alternate Route, 73 M.C.C. 103; No. MC–124983 (Sub-No. 9), H. H. Hocker Contract Carrier Application (not printed), decided February 17, 1964; and No. MC–56167 (Sub-No. 5), David K. Hershey Extension—Fertilizer (not printed), decided April 26, 1965.

Less-than-truckload restrictions. Restrictions limiting service to the handling of less-than-truckload shipments are indefinite and impractical, and would be difficult to enforce, and they will not be imposed by this Commission. For example, in Colonial Refrigerated Transp. Inc., Ext.—Delaware, 74 M.C.C. 13, 22, it was found that even though "the evidence pertains to a substantial extent to the shippers' need for the transportation of less-than-truckload shipments, the imposition upon the service found to be required of a restriction limiting such service to the handling of less-than-truckload shipments would be indefinite, impractical, and difficult to police and would deprive the shippers of a complete service which is not now available." See also Colonial Refrigerated Transp., Inc., Ext.—Bakery Goods, 72 M.C.C. 733.

3. *Mixed loads.* The Commission will not impose a percentage or other quantity limitation on the amount of each commodity which may be hauled in each vehicle, although in appropriate cases grants of authority have been restricted to the movement of specified commodities or classes of commodities in mixed loads.

[4] As of the date of this report there is pending a proceeding in Ex Parte No. MC–68, Removal of Truckload Lot Restrictions, the sole purpose of which is to determine whether the removal of "truckload lot" restrictions from all existing certificates issued pursuant to section 206 or 207 of the Interstate Commerce Act is required by the present or future public convenience and necessity.

a. *Percentage allocations.* In Merscheim and Robertson Extension—Kansas, 49 M.C.C. 689, a suggested 25-percent condition to be used in defining authority to transport "emigrant movables" was not accepted. Percentage allocations were also proposed and rejected in Wm. Herbert & Son Co. Extension—North Carolina, 67 M.C.C. 12 ("subject to the restriction that the weight of the chairs and filing cabinets, in fiberboard cartons, shall not exceed 40 percent of the total weight of any shipment was not imposed"); and in Showalter Common Carrier Application, 81 M.C.C. 68 ("restricted to a service wherein not less than 50 percent by weight of any one shipment consists of personal property such as livestock, live poultry, bees, * * *" was not imposed). See also Barsh Truck Lines, Inc., Extension—Bartow, Fla., 92 M.C.C. 254.

b. *Acceptable mixed-load restrictions.* In Barsh Truck Lines, Inc., Extension—Bartow, Fla., 92 M.C.C. 254, affirmed Refrigerated Transport Co. v. United States, 227 F. Supp. 1021 (N.D. Ga. 1964), the application was premised on a need for a mixed-load service; and in order to protect existing carriers, this Commission granted applicant authority to transport frozen commodities "in mixed loads" with unfrozen commodities and specifically rejected the imposition of an arbitrary quantity or percentage mixing requirement. See also Wilson Bros. Truck Line Ext.—Frozen Food Concentrates, 82 M.C.C. 497; and No. MC–118196 (Sub-No. 23), Raye & Company Transports, Inc., Extension—Green Bay, Wis. (not printed), decided December 22, 1965 (authority to transport "food and foodstuffs * * * not more than 90 percent of the movement under a single bill of lading to consist of cheese was modified to grant a "mixed loads" limitation).

Authority to transport "commodity A in mixed loads with commodity B" authorizes only the transportation of commodity A; if commodities A and B are both sought to be transported in mixed loads with each other, the authority requested should read "commodity A in mixed loads with commodity B and commodity B in mixed loads with commodity A."

c. *Unacceptable mixed-load restrictions.* In No. MC–95540 (Sub-No. 399), Watkins Motor Lines, Inc. Extension—Frozen Foods From Points in Florida to Points in Washington (not printed), decided January 14, 1964, a proposal to restrict authority to the transportation of certain commodity "in mixed shipments" was not imposed where the supporting shipper was found to need a complete service to effect adequate distribution, and the imposition of the restriction would hinder such distribution.

In No. MC–109689 (Sub-No. 138), W. S. Hatch Co., Extension—Ammonium Nitrate (not printed), decided May 9, 1966, a limitation "in mixed shipments" in connection with applicant's present authority to transport ammonium nitrate, in bulk, was not imposed on a grant of authority to transport "ammonium nitrate, in bags or containers," inasmuch as such restriction would prevent applicant from meeting shippers' established transportation requirements. See also No. MC–123440 (Sub-No. 2), Causley Extension—Canned Fruit Juice (not printed), decided April 30, 1963.

4. *Weight Restrictions.*—a. *Acceptable weight restrictions.* A restriction "in packages not to exceed 200 pounds in weight" was retained in applicant's authority, inasmuch as its removal would change the character of applicants' service which was essentially a "package-delivery" service. Flim Transport Co. Ext.—Elimination of Restriction, 71 M.C.C. 734.

A weight restriction has been imposed where the essential nature of the proposed service was the handling of small packages—service restricted to no "article weighing more than 50 pounds or exceeding 108 inches in length and girth combined." United Parcel Service of New York, Inc., Com. Car. Applic., 79 M.C.C. 629, See also Frank Extension—Mail Order, 95 M.C.C. 383; No. MC–99284 (Sub-No. 3), Sullivan's Motor Delivery Inc., Extension—Graphic Arts (not printed), decided December 30, 1965; and No. MC–123788, Package Delivery, Inc., Contract Carrier Application (not printed), decided November 20, 1961.

Where the intent is to confine an operation to a package-delivery service, the weight restriction should be phrased substantially as follows: "restricted against the transportation of packages or articles weighing in the aggregate more than (50) pounds from one consignor to one consignee on any one day." See, for example, No. MC–111729 (Sub-No. 152), American Courier Corporation Extension—Pharmaceuticals (not printed), decided December 29, 1966.

b. *Unacceptable weight restrictions.* A restriction against the transportation of shipments weighing over 7,000 pounds was eliminated as being difficult to police and unnecessary inasmuch as applicant did not desire to transport such shipments and its operating vehicles were adapted to handling only relatively small shipments. Nowlin Common Carrier Application, 78 M.C.C. 357. See also No. MC–124627, G. W. Duke Common Carrier Application (not printed), decided January 30, 1963, where, citing the Nowlin case, "restricted to shipments weighing 1,500 pounds or less each" was deleted.

"In single units not in excess of 15,000 pounds," was deleted from authority to transport "concrete conduits." No. MC–124078 (Sub-No. 8), Schwerman Trucking Co., Extension—Conduit (not printed), decided October 19, 1962.

"No single article exceeding 500 pounds" has been deleted from authority to transport specified agricultural implements, inasmuch as applicant could transport articles in excess of 500 pounds in sections weighing less than 500 pounds and the restriction appeared ambiguous. Kindsvater Extension—Western States, 92 M.C.C. 131.

A restriction which would limit the weight of authorized shipments to 1,000 pounds and which would require service to be conducted in vehicles not larger than 7-ton trucks has been rejected, inasmuch as the evidence failed to establish that the weight limitation would satisfy the supporting shipper's needs since applicant might be called upon to intercept a shipment exceeding that weight. Paschall Extension—Stove Parts and Materials, 96 M.C.C. 652.

"Limited to packages not exceeding 60 pounds" has been eliminated from authority to transport flowers, florist supplies, and other specified commodities, inasmuch as the authority to be granted was limited to specified commodities and such restriction would be unnecessary and administratively undesirable. No. MC–65631 (Sub-No. 8), G. H. Vann Extension—Out Flowers (not printed), decided March 31, 1965.

"Restriction against shipments of soda ash, salt, and ammonium nitrate in quantities of more than 15,000 pounds" was deleted from general-commodity authority as it was difficult to enforce, administratively undesirable, and no specific showing was made that the supporting shippers require the transportation of the above commodities with or without the weight limitation. No. MC–60012 (Sub-No. 72), Rio Grande Motor Way, Inc., Extension—San Juan County, N. Mex. (not printed), decided February 16, 1966.

D. RESTRICTIONS CONCERNING IDENTIFICATION OF ORIGIN AND DESTINATION POINTS AND CONSIGNOR-CONSIGNEE LIMITATIONS

1. *Mileage Radii.* Describing operating authority in terms of mileage radii from central points (within 100 miles of New York, N.Y.) is to be avoided whenever possible, as it may give rise to interpretive problems and future litigation. Glennon Transports, Inc., Extension—New York, N.Y., 78 M.C.C. 157, 159.

Requested authority to serve points in Pennsylvania, Maryland, and Delaware "within 100 miles of Swedesboro" modified to describe the destination territory in terms of named counties. No. MC–126432 (Sub-No. 1), Longstreth Contract Carrier Application (not printed), decided August 31, 1964.

Except "* * * all points within 50 miles of Houston" modified by accepting named counties. No. MC–59117 (Sub-No. 17), Elliot Truck Lines, Inc., Extension—Fertiliser from Texas (not printed), decided September 6, 1963.

"* * * and points in Pennsylvania within 50 miles of Philadelphia" modified by describing certain counties in Pennsylvania. No. MC–124522, Drogo Contract Carrier Application (not printed), decided April 23, 1963.

"To, from, and between points within a 7-mile radius of Jackson, Tenn., including Jackson," modified by describing the particular plantsite which was inteded to be served. No. MC–76632 (Sub-No. 120), Hoover Motor Express, Co., Inc., Extension—Jackson, Tenn. (not printed), decided February 12, 1965.

Service to Chicago "restricted against the pickup or delivery of traffic at points in Indiana within the Chicago, Ill., commercial zone" modified to read "to points in Cook County, Ill." Johnson Extension—Irregular Routes, 66 M.C.C. 437.

2. *Plantsite restrictions.* Plantsite restrictions, for the most part, are included in a grant of authority only where the exact location of a particular plant is not known or where they are shown, or conceded, to be necessary in order properly to protect the established interests of existing carriers.

Plantsite restrictions have been imposed in grants of authority to preclude applicants from serving a vast public far exceeding the limited proof of a need for service shown by a single shipper, and hence to protect the established interests of existing carriers. Kreider Truck Service, Inc., Extension—Lard Oils, 82 M.C.C. 566; M. L. O'Boyle & Son, Inc., Extension—Fluorspar, 88 M.C.C. 550; and No. MC–31600 (Sub-No. 526), P. B. Mutrie Motor Transportation, Inc., Extension—Dry Plastic Materials (not printed), decided December 7, 1963.

A plantsite restriction was imposed where the origin point could not otherwise be identified with certainty. No. MC–119578 (Sub-No. 5), Watkins Trucking, Inc., Extension—Plastic Pipe (not printed), decided December 31, 1963.

Inasmuch as the term "Cockpit Point" appeared to be an unofficial description employed by area residents, a plantsite description was substituted to facilitate more accurate identification of the origin to be served. No. MC–102616 (Sub-No. 806), Coastal Tank Lines, Inc., Extension—Cockpit Point, Va. (not printed), decided July 11, 1967.

3. *Ambiguous restrictions.* The following origin and destination restrictions were modified or eliminated because the proposed limitations were indefinite, ambiguous, and difficult to interpret:

"Airports." No. MC–120624 (Sub-No. 1), Dean's Moving and Delivery, Inc., Common Carrier Application (not printed), decided June 1, 1965 ("sites of all airports" deleted).

"Construction sites." No. MC–994333 (Sub-No. 1), L. S. Griffin and Sons, Inc., Common Carrier Application (not printed), decided April 28, 1964, ("construction sites" deleted).

"Construction Jobsites" No. MC–125124, Thomas E. Beamon Contract Carrier Application (not printed), decided May 27, 1964 ("construction jobsites" deleted).

"Farm Sites." No. MC–125489, Robert Pashen Common Carrier Application (not printed), decided March 5, 1964 ("to Britton, Hecla, and Claremont, S. Dak., including farm sites located in the area of Britton, Hecla, and Claremont, S. Dak." modified to read "to Britton, Hecla, and Claremont, S. Dak.").

"Jobsites" Beal Transfer Co., Extension—Ohio, Ind. & Ky. Points, 68 M.C.C. 14 ("Jobsites" modified by authorizing service to all points in the described destination territory).

"Marine Docks." A. & E. Trucking Company Common Carrier Application (not printed), decided February 16, 1965 ("restricted against the origination of shipments at marine docks" eliminated).

"Natural Gas and Petroleum Drilling and Production Sites." No. MC–117169 (Sub-No. 3), B. Beasley Extension—Five States (not printed), decided September 13, 1963 ("natural gas and petroleum drilling and production sites" modified by authorizing service to all points in the described destination territory).

"Off-rail Points". No. MC–124755 (Sub-No. 4), Homer Hoag Extension—Aggregates (not printed), decided September 19, 1966 (limitation of service to" "off-rail" points eliminated).

"Piers, Wharves * * *." No. MC–127754, Rolinthony Trucking, Inc., Common Carrier Application (not printed), decided October 28, 1966 ("between piers, wharves, freight forwarders and consolidators" modified by authorizing service between all points in the described territory).

"Port Cities". No. MC–113468 (Sub-No. 1), L. H. Sims Extension—Agri-Cultural Chemicals (not printed), decided June 21, 1966, ("port cities in Florida" modified by authorizing service to all points in Florida).

"Rail Heads." Southwestern Transp. Co., Inc., Extension—Colorado, 68 M.C.C. 259, ("restricted to movements which originate or terminate on a rail head" deleted).

"Sawmill Sites." Doty Contract Carrier Application, 71 M.C.C. 787 ("Sawmill sites" modified by authorizing service from all points in the named origin counties).

"Storage Facilities." No. MC–56167 (Sub-No. 6), David K. Hershey Extension—Plant Site (not printed), decided March 28, 1967 ("restricted against transportation of shipments to dealers, warehouses, and storage facilities" deleted).

"Terminals." No. MC–107671 (Sub-No. 38), Bonded Freightways, Inc., Extension—Massachusetts (not printed), decided March 8, 1966 (amendment to limit proposed service "from New York Central Railroad Co. terminals in Massachusetts" not allowed—service authorized from all points in Massachusetts).

4. *Class of consignor or consignee.*—The following restrictions proposing to confine service to a class of shippers or to a specific type of consignor or consignee were modified or eliminated because the proposed restrictions were indefinite, ambiguous, and difficult to interpret.

Limiting the destination area to be served "to all present and future business locations" of two named consignees in Delaware was modified to authorize operations to all points in Delaware, No. MC–119650 (Sub-No. 2), James F. Wood, Jr., Extension—Baltimore, Md. (not printed), decided May 20, 1965.

Authority limiting service to and from "Shop Rite Supermarkets" eliminated. No. MC–128408 (Sub-No. 11), Food Haulers, Inc., Extension—Three States (not printed), decided November 25, 1964.

Restriction to traffic moving to "wholesale and retail newsdealers and agents" eliminated. Exhibitors Film Delivery & Service Co., Inc., Extension, 67 M.C.C. 613.

Restriction "to traffic moving to authorized Watkins Products retail dealers" eliminated. No. MC–124914 (Sub-No 1), Sprecher Brothers Common Carrier Application (not printed), decided December 18, 1963.

Limitation of service "to shipments moving to retail gasoline service stations or to warehouses, and other facilities for distribution to retail gasoline service stations" eliminated. No. MC–105461 (Sub-No. 62), Herr's Motor Express, Inc., Extension—Marcus Hook, Pa. (not printed), decided August 23, 1965.

"When moving to a store, restaurant, bar, institution, hotel, motel, church, bank, military installation, office, or laboratory for installation" deleted. No. MC–126372, Milton M. Rabin Common Carrier Application (not printed), decided October 7, 1965.

"Consigned to or from newspapers, theaters, magazines, periodicals, and monthly publications" eliminated. No. MC–85621 (Sub-No. 3), G. H. Vann Extension—Cut Flowers (not printed), decided March 31, 1965.

E. MULTIPLE PICKUP OR DELIVERY, AND PEDDLE SERVICE RESTRICTIONS

1. *General.* Restrictions confining the proposed service to the partial unloading of shipments having a final destination elsewhere or which require a stop at named points for the completion of loading are difficult to enforce as well as ambiguous and impractical and have been repeatedly rejected by this Commission. Colonial Refrigerated Transp., Inc., Ext.—Partial Del., 86 M.C.C. 601; Alterman Transport Lines, Inc., Ext.—Hastings, Nebr., 94 M.C.C. 421; and No. MC–118196 (Sub-No. 17), Raye & Company Transport, Inc., Extension—Neosho, Mo. (not printed), decided June 25, 1965. But see Trans-Cold Express, Inc., Extension—Prepared Dough, 103 M.C.C. 717. Similarly, limiting a proposed service to such restrictions as in "peddle service" only is unacceptable because of the imprecise meaning of such term and the resultant difficulty of enforcing it. Fox-Smythe Transp. Co. Extension—Peddle Service, 88 M.C.C. 57.

2. *Unacceptable pickup and delivery restrictions.* "That no complete shipment may be fully delivered within the destination States of Illinois, Indiana, and Ohio" eliminated in the Colonial case, supra.

Restricted "(1) on traffic destined to points in Arkansas, Mississippi, and to Memphis, Tenn., to the partial unloading of volume or truckload shipment, the balance of which is delivered elsewhere and (2) on service at Carthage, Mo., to the final loading by the shipper of vehicles which have been partially loaded at origins in Nebraska" eliminated in the Alterman case, supra.

"Restricted to traffic requiring a stop at points in Nebraska or Iowa for completion of loading" eliminated in the Raye case, supra.

"Except that service to points in California, Arizona, and New Mexico shall be restricted to delivery of a part only of aggregate shipments the remainder of which is destined to points in the other destination States" eliminated in No. MC–52709 (Sub-No. 144), Ringsby Truck Lines, Inc., Extension—Banquet, (not printed), decided September 19, 1962.

Restricted "against tacking except on shipments originating at either of two-named plantsites and moving to the other plantsite to complete loading for movement beyond," eliminated in No. MC–88320 (Sub-No. 10), Central Motor Express, Inc., Extension—Bowling Green, Ky. (not printed), decided March 22, 1965.

Limiting service to "shipments involving partial delivery to points in West Virginia, with final delivery to points beyond" eliminated in No. MC–87720 (Sub-No. 29), Bass Transportation Co., Inc., Extension—Hamilton Township, N.J. (not printed), decided August 31, 1965.

Limiting service to other States "when moving in the same vehicle destined to points in Florida" eliminated in No. MC–114569 (Sub-No. 68), Shaffer Trucking Inc., Extension—Parsons, W. Va., and Burnside, Ky. (not printed), decided February 5, 1965.

"That any shipments transported shall be stopoffs for partial unloading, with final destination at a point in Florida" eliminated in No. MC–116491 (Sub-No. 38), Commercial Carrier Corporation Extension—Plastic Pipe (not printed), decided January 18, 1965.

Limiting service to "four or more deliveries from each truck" eliminated in No. MC–112367 (Sub-No. 121), Central & Southern Truck Lines, Inc., Extension—Three States (not printed), decided September 9, 1964.

Limiting service at plantsite origins to "the pickup of partial loads" for handling with other shipments of the shipper transported by applicant eliminated in No. MC–112582 (Sub-No. 24), T. M. Zimmerman Company Extension—Allentown, Pa. (not printed), decided April 12, 1965.

Limiting service to "partial loading with stopoffs to complete loading at the seven Pennsylvania origins" eliminated in No. MC–114019 (Sub-No. 97), Midwest Emery Freight System, Inc., Extension—Rouseville, Pa. (not printed), decided October 29, 1963.

Limiting service "to shipments originating at Buffalo as part loads and completing loads" at designated points was eliminated in No. MC–111812 (Sub-No. 171), Midwest Emery Freight System, Inc., Extension—Rouseville, Pa. (not printed), decided August 23, 1965.

Limiting service to "in peddle service only" eliminated in the Fox-Smythe case, supra. See also No. MC–118561 (Sub-No. 11), Herbert E. Fuller Extension—Georgia (not printed), decided March 27, 1967, where a limitation restricting the service to "peddle distribution service" was not imposed, citing Fox-Smythe. A restriction "against the performance of pool car and pool truck distribution services" was eliminated in a grant of authority to transport general commodities. No. MC–59988 (Sub-No. 2), Cargo Distribution Corporation Extension—Suffolk County, N.Y. (not printed), decided July 5, 1967, citing Robinson Extension—Chippewa County, 52 M.C.C. 155.

F. TERRITORIAL DESCRIPTIONS AND RESTRICTIONS

1. *Territorial descriptions.* For the general distinction between regular- and irregular-route service, see Classification of Motor Carriers of Property, 2 M.C.C. 703; Transportation Activities, Brady Transfer & Storage Co., 47 M.C.C. 23; and Ex Parte MC–55, Motor Common Carriers of Property—Routes and Service, 86 M.C.C. 415. If regular-route authority is sought, the route description should be accurate and complete, the new route should not duplicate any part of any route already authorized for the same service, and the intermediate points sought to be served should be named unless authority is sought to serve all intermediate points in which case that terminology can be used. With respect to irregular-route operating right, the requested authority should be described only by one of the following methods: (1) "from • • • to • • •," (2) "between • • • and • • • (nonradial), or (3) "between • • •, on the one hand, and, on the other, • • • "(radial)." "From and to" movements are self-explanatory in that traffic is authorized to move in only one direction, i.e., from a particular origin or origins to a particular destination or destinations, and operations are not authorized in the reverse direction. Radial operations depict operations between a base point and other points in a described area, as distinguished from an unlimited nonradial operation between described points or all points within described areas. For example, a nonradial description "between points in New York, Ohio, and Pennsylvania" would authorize service in interstate or foreign commerce between any point within the described area; while a radial description "between points in New York, on the one hand, and, on the other, points in Pennsylvania and Ohio" would authorize service only between points in New York (the base territory) and Pennsylvania or between points in New York and Ohio. Operating between points in Pennsylvania and Ohio, even though performed through points in New York are precluded as an illegal "cross-hand." It should be noted that because each of these three irregular-route authorizations has a separate and distinct meaning, they are mutually exclusive and should never be combined in the same request. As, for example, "from • • •, on the one hand, and, on the other, • • •. Regular-route service should, of course, ordinarily be confined to the transportation of general commodities or a wide range of specific commodities. Motor Common Carries of Property—Routes and Service, supra, at page 430.

2. *Tacking restrictions.* Grants of authority will not be encumbered with restrictions against tacking or joinder unless protesting carriers show (or it is conceded) that, absent such restrictions, they would be materially and adversely affected by the unwarranted institution of a new competitive service. Rawlings Extension—Emporia, 78 M.C.C. 636, 637; and No. MC–31367 (Sub-No. 21), H. Cambell & Son, Inc., Extension—Frozen Vegetables (not printed), decided November 7, 1962.

No tacking restrictions on grants of contract carrier authority will be imposed as contract carriers, unlike common carriers, are not permitted to tack or join separate segments of their operating authorities at common service points in order to perform a through service. See Service of Contract Carriers, 49 M.C.C. 108; and T. T. Brooks Trucking Co., Inc., Conversion Application, 81 M.C.C. 561, 572, and cases cited therein.

Even more compelling reasons exist with respect to restrictions against interchange. In order that common carriers may fulfill their public obligation, expressed in section 216(b) of the Interstate Commerce Act, to provide adequate service and facilities for the transportation of property in interstate commerce, the act itself encourages interchange by providing, in section 216(c), a correlative privilege of establishing through routes with other common carriers by motor, rail, and water. Hogan Storage & Transfer Co., Ext.—Williamson, W. Va., 92 M.C.C. 63, 67; and Tompkins Motor Lines, Inc., Extension—Louisville, 95 M.C.C. 472, 481.

In No. MC–59271 (Sub-No. 10), Boston Truck Co., Inc., Extension—Uncrated Furniture (not printed), decided September 19, 1963, a restriction against the tacking or joinder thereof "directly or indirectly with any other authority held by applicant for the purpose of performing through service" was rejected as the evidence failed to show that failure to impose such restriction would have a material adverse effect on opposing carriers.

No. MC–94201 (Sub-No. 51), Bowman Transportation, Inc., Extension—Scottsville, Va. (not printed), decided May 16, 1966 ("restricted against the tacking or joinder with any operating rights held by applicant, which would enable applicant to transport such commodities through Cedartown, Lindale, Mount Berry, Rome, or Summerville, Ga., to points in Alabama, and Tennessee" was eliminated);

In No. MC–94737 (Sub-No. 77), Nilson Motor Express, Extension—Duval County, Fla. (not printed), decided April 20, 1966, a restriction "against tacking or joinder with respect to traffic originating in Baltimore, Md., and Washington, D.C." was eliminated as being difficult to enforce and administratively undesirable when granting authority from Charleston, S.C., and points within 15 miles thereof to points in Duval County, Fla.

No. MC–112696 (Sub-No. 27), Hartmans Incorporated, Extension—Matrinsburg, W. Va. (not printed), decided January 24, 1966 (a restriction "that except for traffic originating at public warehouses in Martinsburg, W. Va., the authority granted herein may not be tacked or joined with any other authority held by applicant for the purpose of providing through service to points in Georgia, North Carolina, and South Carolina" was rejected as being indefinite and was modified to read "subject to the restriction that shipments destined to points in Georgia, North Carolina, and South Carolina are limited to those originating at the plantsite and warehouse of the Casco-Berkeley Corp., at Martinsburg, W. Va."

3. *Interchange restrictions.* In the Tompkins case, supra, an interchange restriction was not imposed where the purpose of such restriction was to protect protestants from a risk of indirect competition from applicant and other unnamed carriers.

In No. MC–124211 (Sub-No. 69), Hilt Truck Lines, Inc., Extension—Inedible Offal (not printed), decided December 30, 1966, the destination proposed "to points in Nebraska (except Crete and Omaha), restricted against the interline of traffic destined to points in Colorado, Utah and Wyoming" was modified to read "to points in Nebraska (except Crete and Omaha), restricted to the transportation of traffic destined to points in Nebraska (except Crete and Omaha)" inasmuch as the partial no-interlining restriction proposed could be difficult to enforce.

4. *Restrictions against both tacking and interchange.* In appropriate circumstances usually involving multiple applications for competing rights, restrictions against interchange (or interline) and tacking at origin and/or destination points have been allowed. These instances evolve when grants of authority are tied closely to applicants' existing operations and when tacking and interchange would result in additional competitive operations which are not contemplated and which would materially and adversely affect other authorized carriers. Rise & Co., Ext.—Dakota County, Nebr., 102 M.C.C. 336, 343. Occasionally, these restrictions are allowed for such compelling reasons as agreement of the parties that protestants would be materially adversely affected by their omission. No. MC–61755 (Sub-No. 20), Northern Haulers Corporation Extension—St. Lawrence County, N.Y. (not printed), decided January 30, 1967. These restrictions should be proposed in the form favored by this Commission, i.e., "from X to Y restricted to the transportation of traffic (without specific reference to named commodities) originating at the named origins" and/or "destined to the indicated destinations." A description which reads "Coal originating at X to Y" not acceptable and ought never be proposed. The following is a list of improperly proposed restrictions of this type and their subsequent modification by this Commission.

"Restricted against tacking or interchange at origin" modified to read "restricted to the transportation of traffic originating at such plant, terminal, or warehouse facilities." No. MC–64112 (Sub-No. 24), Northeastern Trucking Company Extension—Charleston, S.C. (not printed), decided February 18, 1966.

Restriction that reads "This authority shall not be tacked, joined, or interlined, directly or indirectly for performing any through service" modified to read "restricted to the transportation of traffic originating at the indicated origin point and destined to the indicated destination points." No. MC–113908 (Sub-No. 180), Erickson Transport Corporation Extension—Choline Chloride (not printed), decided February 23, 1966.

"Restricted against joinder, interline, transfer or export" modified to read "restricted to traffic originating at" the named origin point "and destined to" the named destination points, No. MC–61755 (Sub-No. 20), Northern Haulers Corporation Extension—St. Lawrence County, N.Y. (not printed), decided January 30, 1967.

"Restricted against traffic requiring tacking of applicant's authority and traffic that would be moving in interline service with other carriers" modified to read "restricted to the transportation of shipments both originating at and destined to points in the above-described territory." No. MC–128885 (Sub-No. 3), C and B Transfer Co., Common Carrier Application (not printed), decided April 27, 1967.

"Restricted against tacking or interlining so as to provide a through service to points west of the Mississippi River" modified to read "restricted to the transportation of traffic originating at the above-indicated plantsites and destined to the above-indicated destination points" inasmuch as the evidence failed to indicate any need for applicant to tack or interline the authority sought. No. MC–64932 (Sub-No. 404), Rogers Cartage Co., Extension—Western, Mich. (not printed), decided April 28, 1967.

Inasmuch as the grants of authority were restricted "to the transportation of traffic originating at or destined to points within the States described above" an additional limitation against the transportation of rubber-tired tractors "which have an immediate prior movement by rail" was considered unnecessary and omitted. No. MC–59150 (Sub-No. 16), Floof Transfer Company, Inc., Extension—Tractors (embracing six other proceedings) (not printed), decided June 30, 1966.

The restriction that "carrier is precluded from interlining traffic with other carriers and from combining or tacking the authority granted herein with any authority now held by carrier for the purpose of providing service from and to points other than those authorized to be served herein" modified to read "restricted, in each instance, to the transportation of shipments originating at the plantsites • • •, and destined to points in the named destination territory." No. MC–10761 (Sub-No. 189), Transamerican Freight Lines, Inc., Extension—Cleveland, Ohio (embracing seven other proceedings) (not printed), decided August 31, 1966.

Inasmuch as the grants of authority were restricted "to the transportation of traffic which originates at the plantsite of • • •, and is destined to the described destination points • • •," an additional limitation that would prevent the authorities "from being tacked or joined indirectly with any other authority held by the respective applicants for the purpose of performing through transportation" was considered superfluous and omitted. No. MC–102616 (Sub-No. 759), Coastal Tank Lines, Inc., Extension—Point Pleasant, W. Va. (embracing nine other proceedings) (not printed), decided January 26, 1966.

"That no service is authorized having an origin or destination in Canada" modified to read "restricted against the transportation of shipments originating at or destined to points in Canada." No. MC–43487 (Sub-No. 329), Consolidated Freightways Corporation of Delaware Extension—Fertilizer (not printed), decided May 11, 1966.

"Restricted to the transportation of vehicles manufactured in Allentown, Pa.," modified to read "restricted to the transportation of shipments originating at Allentown, Pa." No. MC–29886 (Sub-No. 212), Davis & Mavis Forwarding Co., Inc., Extension—Oregon (not printed), decided May 2, 1966.

G. MISCELLANEOUS RESTRICTIONS

1. *Restrictions that serve no useful purpose.* A restriction that "the authority herein granted should not be construed to enlarge other previous grants of authority, nor to diminish restrictions imposed upon such grants" was eliminated from a grant of authority to transport passengers between certain points in New York and New Jersey as it placed no effective limitation on applicant's operation. No. MC–668 (Sub-No. 79), Inter-City Transportation Co., Inc., Extension—Union Avenue (not printed), decided November 9, 1962.

A limitation to traffic having a prior movement by applicant was eliminated from authority to transport wax beans from Meadville to Lewistown, Pa. No. MC–48957 (Sub-No. 23), Crown Motor Freight Co., Extension—Lewistown, Pa. (not printed), decided April 18, 1963.

A limitation to traffic "having a subsequent interstate movement" was eliminated from authority to transport rock and related commodities between six named counties in New Mexico. No. MC–111401 (Sub-No. 169), Groendyke Transport, Inc., Extension—Rock and Ore (not printed), decided July 18, 1966.

2. *Confusing restrictions.* A restriction on the method of operation by a household goods carrier ("goods only when packed in accordance with western—classification packing requirements") was removed because of uncertainty, the requirement being weight to change from time to time. Pacific Motor Trucking Co. Extension—Feedsport, Oreg., 41 M.C.C. 469, 471.

A restriction "having a prior movement by barge" was modified to read "restricted to shipments having a prior for-hire movement by water from points in another State or another country." No. MC–127803 B. Garcia Trucking Co., Common Carrier Application (not printed), decided October 5, 1966.

"In bags when transported in conjunction with a bulk load and as part of the same shipment," modified to read "in bags, when transported in the same vehicle and at the same time as such commodities in bulk." No. MC–80428 (Sub-No. 55), McBride Transportation, Inc., Extension—Feeds (not printed), decided April 28, 1967.

Restrictions limiting the transportation service relating to the stringing of pipe "on feeder lines" or to "projects not exceeding 30 miles in length" or to "stringing pipe for repairs" were not allowed as these restrictions were indefinite, impractical, and unworkable. Dawson and Corbett Extension—Northwest Territory, 44 M.C.C. 293.

3. *Limitations that are unduly restrictive.* Those that prevent rendition of a needed or complete service.

A restriction limiting the grant of authority to the transportation of a particular type of trailer produced by the shipper was deleted. Dealers Transit, Inc., Extension—Fresno, Calif., 79 M.C.C. 26.

A restriction against the "transportation of commodities which because of size or weight require the use of special equipment" was not imposed on a grant of authority to transport farm machinery. Tractor Transport, Inc., Extension—Tractors, 77 M.C.C. 359.

A restriction against the "transportation of trailers and trailer chassis requiring special equipment for loading and unloading" was not imposed inasmuch as the interest of protestant heavy hauler was, at best, one of loss of potential traffic. Dealers Transit, Inc., Extension—Augusta, Kans. 86, M.C.C. 571.

Authority to transport sand and lithium ore from points in Morgan County, W. Va., to points in New York was not impeded by a restriction which reads "except that shipments of sand and lithium ore used in the manufacture of glass products to Buffalo, Corning, Elmira, and Horseheads, N.Y., shall be restricted to transportation in bulk." No. MC-3114 (Sub-No. 21), T. E. Compton Inc., Extension—New York (not printed), decided July 10, 1964.

A restriction which read "and the authority from Onondago and Monroe Counties to Linden and Newark, N.J., shall not include frozen foods except as the same shall be shipped by the shipper from its own stores" was not imposed on a grant of authority to transport such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses. No. MC-59759 (Sub-No. 24), Jones Trucking Co., a Corporation, Contract Carrier Application (not printed), decided March 28, 1966.

4. *Restrictions that are impractical or difficult to enforce.*—a. *Ancillary nontransportation services.* Ancillary nontransportation services have no bearing on the issue of public convenience and necessity and must be disregarded in determining whether a need exists for additional transportation service. Kenosha Auto Transport Corp. Extension—Foreign Cars, 83 M.C.C. 527.

In Sweeton Common Carrier Application, 47 M.C.C. 418, a restriction that limestone and hydrate of lime "shall be unloaded by spreading on the soil" was not imposed, inasmuch as a carrier cannot be compelled to perform any service separate and distinct from that of transportation. See also Clark Common Carrier Application, 78 M.C.C. 121.

In No. MC-127990 (Sub-No. 1), Dun Rite Trucking Service, Inc., Contract Carrier Application (not printed), decided September 26, 1966, a restriction limiting the transportation service "to the transportation of shipments on which applicant performs inside delivery and placement" was not imposed.

In No. MC-2796 (Sub-No. 4), Fullington Auto Bus Company, Inc., Extension—Phillipsburg (not printed), decided June 11, 1965, authority to transport passengers in special operations in round trip, all-expense tours "which include services in addition to transportation" was modified by deletion of the quoted language.

b. Restrictions requiring excessive knowledge on part of the carrier. In Eldon Miller, Inc., Extension—Terre Haute, Inc., 77 M.C.C. 339, a condition which would limit the transportation of alcohol to that used in the production of alcoholic beverages, and to the transportation of alcohol upon which the Federal tax has been paid was rejected.

In No. MC-112631 (Sub-No. 23), Central Transport, Inc., Extension—Cement (not printed), decided July 15, 1963, a restriction which attempted to limit the transportation of cement between points in North Carolina "to shipments moving in a continuous rail-motor movement from Cowan and Nashville, Tenn., Rockmart, Ga., or Security, Md." was modified to read "limited to shipments having an immediately prior movement by rail."

In No. MC-126630, Robert D. Bowen, Extension—Watertown, S. Dak. (not printed), decided February 28, 1967, a restriction which attempted to limit the transportation of commodities to those "manufactured and/or distributed from Watertown, S. Dak." was rejected.

c. *Restrictions that serve only to render the operation difficult.* Lenthe Extension—Livestock and Petroleum Products, 47 M.C.C. 295 (a restriction that each of two commodities must be transported consecutively in the same equipment was eliminated as impracticable).

Belyea Truck Co. Extension—Litchfield Park, Ariz., 86 M.C.C. 101 (a restriction limiting service to movements "requiring special handling, accompanied by escorts and escort vehicles" was not imposed).

No. MC-126283, Bergen—Passaic Air Express, Inc., Contract Carrier Application (not printed), decided December 14, 1964 (a restriction limiting the operation to "in same day service" not imposed).

No. MC-125561, Sunnyside Transfer, Inc., Common Carrier Application (not printed), decided March 19, 1964 (a restriction limiting service "to the transportation of shipments moving in pickup and delivery service for the account of and on the billing of line-haul motor carriers" was not imposed).

[F.R. Doc. 67-13613; Filed, Nov. 21, 1967; 8:45 a.m.]

227

UNIVERSITY OF MICHIGAN
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REFERENCE

FEDERAL REGISTER

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Pages 16093–16140

Agencies in this issue—

Agriculture Department
Civil Aeronautics Board
Civil Service Commission
Consumer and Marketing Service
Federal Aviation Administration
Federal Communications Commission
Federal Maritime Commission
Federal Power Commission
Federal Trade Commission
Fish and Wildlife Service
Health, Education, and Welfare Department
Indian Affairs Bureau
Interstate Commerce Commission
Land Management Bureau
National Transportation Safety Board
Securities and Exchange Commission
State Department
Treasury Department
Veterans Administration

Detailed list of Contents appears inside.

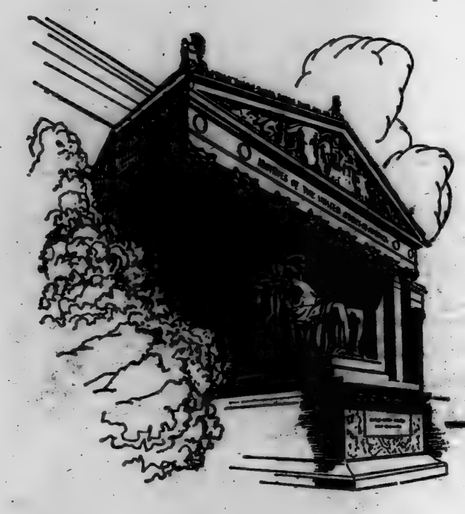

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Contents

AGRICULTURE DEPARTMENT
See also Consumer and Marketing Service.
Notices
North Carolina; designation of areas for emergency loans (2 documents) ---- 16111

CIVIL AERONAUTICS BOARD
Notices
Nonpriority mail and domestic service mail rate cases; show cause order ---- 16112
Hearings, etc.:
Caledonian Airways (Prestwick) Ltd ---- 16112
Denver-Calgary service case ---- 16112

CIVIL SERVICE COMMISSION
Rules and Regulations
Excepted service; President's Council on Youth Opportunity; correction ---- 16097

CONSUMER AND MARKETING SERVICE
Rules and Regulations
Expenses and rate of assessment:
Grapefruit grown in Interior District in Florida ---- 16098
Oranges, grapefruit, tangerines, and tangelos grown in Florida ---- 16097
Oranges, navel, grown in Arizona and California; handling limitation ---- 16097
Proposed Rule Making
Milk in Indianapolis, Indiana, marketing area; decision ---- 16101

FEDERAL AVIATION ADMINISTRATION
Rules and Regulations
Restricted area; designation ---- 16098
Transition area ---- 16098
Proposed Rule Making
Control zone and transition area; proposed designation and alteration ---- 16102

FEDERAL COMMUNICATIONS COMMISSION
Proposed Rule Making
Presunrise operation by Class II stations; extension of time for comments ---- 16107
Type acceptance of equipment; applications, information, measurement data, and test conditions ---- 16103
Notices
Hearings, etc.:
Americana Broadcasting Corp. and Loyola University ---- 16113
Malrite, Inc., and Philip Y. Hahn, Jr. ---- 16113

FEDERAL MARITIME COMMISSION
Notices
Holland-America Line and Pier 40 Corp.; agreement filed for approval ---- 16114

FEDERAL POWER COMMISSION
Notices
Hearings, etc.:
Algonquin Gas Transmission Co. ---- 16114
Champlin Petroleum Co. and Eason Oil Co. ---- 16114
Champlin Petroleum Co. et al. ---- 16115
Electric Plant Board of Paducah, Ky., et al. ---- 16115
Hamilton Brothers, Ltd. ---- 16115
Humble Oil & Refining Co. et al. ---- 16116
Northern Natural Gas Co. (2 documents) ---- 16116
Pacific Gas and Electric Co. ---- 16117
Panhandle Eastern Pipe Line Co. (2 documents) ---- 16117
Public Service Company of Indiana, Inc. ---- 16118
Sinclair Oil & Gas Co. ---- 16118
Southern Natural Gas Co. and Tennessee Gas Pipeline Co. ---- 16118
Superior Oil Co. et al. ---- 16119
Tenneco Oil Co. ---- 16119
Tennessee Gas Pipeline Co. (2 documents) ---- 16120
Texas Gas Transmission Corp. ---- 16120

FEDERAL TRADE COMMISSION
Notices
Directors and Assistant Directors, Bureaus of Restraint of Trade, Deceptive Practices, Textiles and Furs, and Industry Guidance; rescinding delegation of authority regarding closing of certain investigational files ---- 16121

FISH AND WILDLIFE SERVICE
Rules and Regulations
Cabeza Prieta Game Range, Arizona; hunting (2 documents) ---- 16100

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Rules and Regulations
Minimum standards of operation for State agencies for surplus property; temporary suspension ---- 16100

INDIAN AFFAIRS BUREAU
Rules and Regulations
Enrollment; requirements and deadlines for filing applications ---- 16099

INTERIOR DEPARTMENT
See Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau.

INTERSTATE COMMERCE COMMISSION
Notices
Fourth section applications for relief ---- 16138
Motor carrier, broker, water carrier and freight forwarder applications ---- 16124

LAND MANAGEMENT BUREAU
Rules and Regulations
Colorado; public land order ---- 16100
Notices
Alaska; proposed withdrawal and reservation of lands ---- 16108
Idaho; filing of protraction diagrams ---- 16108
Oregon; classification of public lands for multiple-use management ---- 16108

NATIONAL TRANSPORTATION SAFETY BOARD
Notices
Accident occurring at Greater Cincinnati Airport, Erlanger, Ky.; hearing ---- 16112

SECURITIES AND EXCHANGE COMMISSION
Notices
Hearings, etc.:
Aetna Life and Casualty Co. et al. ---- 16121
Connecticut General Insurance Corp. et al. ---- 16122
Continental Vending Machine Corp ---- 16122
Gulf and Western Industries, Inc. (Delaware) ---- 16123
Pakco Companies, Inc. ---- 16123
Roto American Corp. ---- 16123
Westec Corp. ---- 16123
Wheelabrator Corp. et al. ---- 16123

STATE DEPARTMENT
Rules and Regulations
Application for nonimmigrant visas ---- 16098

TRANSPORTATION DEPARTMENT
See Federal Aviation Administration; National Transportation Safety Board.

TREASURY DEPARTMENT
Notices
Ceramic glazed wall tile from Japan; sales; fair value ---- 16108

VETERANS ADMINISTRATION
Rules and Regulations
Vocational rehabilitation and education; miscellaneous amendments ---- 16099

CONTENTS

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

3 CFR

EXECUTIVE ORDER:
Mar. 23, 1912 (revoked in part by PLO 4320) 16100

5 CFR

213 16097

7 CFR

905 16097
907 16097
913 16098

PROPOSED RULES:
1049 16101

14 CFR

71 16098
73 16098

PROPOSED RULES:
71 16102

22 CFR

41 16098

25 CFR

41 16099

38 CFR

21 16099

43 CFR

PUBLIC LAND ORDER:
4320 16100

45 CFR

14 16100

47 CFR

PROPOSED RULES:
2 16103
73 16107

50 CFR

32 (2 documents) 16100

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

President's Council on Youth Opportunity; Correction

In F.R. Doc. 67-12807 appearing in the FEDERAL REGISTER of October 31, 1967 at page 15011, § 213.3375 should be numbered § 213.3385 as set out below:

§ 213.3385 President's Council on Youth Opportunity.

(a) Executive Director.

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67-13779; Filed, Nov. 22, 1967; 8:48 a.m.]

Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Expenses and Rate of Assessment

On November 1, 1967, notice of rule making was published in the FEDERAL REGISTER (32 F.R. 15116) regarding proposed expenses and the related rate of assessment for the period beginning August 1, 1967, and ending July 31, 1968, pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Growers Administrative Committee (established pursuant to said amended marketing agreement and order), it is hereby found and determined that:

§ 905.206 Expenses and rate of assessment.

(a) Expenses: Expenses that are reasonable and likely to be incurred by the Growers Administrative Committee during the period August 1, 1967, through July 31, 1968, will amount to $145,000.

(b) Rate of assessment: The rate of assessment for said period, payable by each handler in accordance with § 905.41, is fixed at $0.005 per standard packed box of fruit.

(c) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of fruit are now being made, (2) the relevant provisions of said amended marketing agreement and this part require that the rate of assessment fixed for a particular fiscal period shall be applicable to all assessable fruit handled from the beginning of such period, and (3) the current fiscal period began on August 1, 1967, and said rate of assessment will automatically apply to all assessable fruit beginning with such date.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 20, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-13798; Filed, Nov. 22, 1967; 8:50 a.m.]

[Navel Orange Reg. 136]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.436 Navel Orange Regulation 136.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the past week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 16, 1967.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period November 24, 1967, through November 30, 1967, are hereby fixed as follows:

(i) District 1: 442,044 cartons;
(ii) District 2: unlimited movement;
(iii) District 3: 166,505 cartons;
(iv) District 4: 68,415 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," "District 4," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 20, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-13799; Filed, Nov. 22, 1967; 8:50 a.m.]

PART 913—GRAPEFRUIT GROWN IN INTERIOR DISTRICT IN FLORIDA

Expenses and Rate of Assessment

On November 3, 1967, notice of rule making was published in the FEDERAL REGISTER (32 F.R. 15395) regarding proposed expenses and the related rate of assessment for the period beginning August 1, 1967, and ending July 31, 1968, pursuant to the marketing agreement and Order No. 913 (7 CFR Part 913) regulating the handling of grapefruit grown in the Interior District in Florida. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Interior Grapefruit Marketing Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

§ 913.203 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Interior Grapefruit Marketing Committee during the period August 1, 1967, through July 31, 1968, will amount to $28,000.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 913.31, is fixed at $0.004 per standard packed box of grapefruit.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of grapefruit are now being made, (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable grapefruit handled during the aforesaid period, and (3) such period began on August 1, 1967, and said rate of assessment will automatically apply to all such grapefruit beginning with such date.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 20, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67–13797; Filed, Nov. 22, 1967; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 67–EA–7]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Transition Area

On page 8976 of the FEDERAL REGISTER for June 23, 1967, the Federal Aviation Administration published a proposed regulation which would designate a transition area over Somerset-Pulaski County Airport, Somerset, Ky.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0001 e.s.t. January 4, 1968.

(Sec. 307(a), Federal Aviation Act of 1958; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Jamaica, N.Y., on November 3, 1967.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

Amend § 71.181 (32 F.R. 2148) of Part 71 of the Federal Aviation regulations by designating a Somerset, Ky., transition area described as follows:

SOMERSET, KY.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 37°05'26" N., 84°36'45" W., of Somerset-Pulaski County Airport, Somerset, Ky.; and within 2 miles each side of the Somerset, Ky., RBN (latitude 37°03'19" N., longitude 84°36'58" W.) 220° bearing extending from the 5-mile radius area to 8 miles southwest of the RBN; within 2 miles each side of the centerline of Runway 4 extended from the 5-mile radius area to 8 miles northeast of the end of the runway; and within 2 miles each side of the centerline of Runway 22 extended from the 5-mile radius area to 5 miles southwest of the end of the runway.

That airspace extending upward from 1,200 feet above the surface bound on the northwest by V493 on the northeast by V310 and on the south by V140 N excluding that portion that coincides with the London, Ky., transition area.

[F.R. Doc. 67–13775; Filed, Nov. 22, 1967; 8:48 a.m.]

[Airspace Docket No. 67–EA–50]

PART 73—SPECIAL USE AIRSPACE

Designation of Restricted Area

On October 21, 1967, F.R. Doc. 67–12449 was published in the FEDERAL REGISTER (32 F.R. 14648) designating Restricted Area R–5605 north of West Sister Island in Lake Erie, Ohio. The Toledo, Ohio, Airport Traffic Control Tower, which was designated as the controlling agency, no longer has interphone connection with the using agency, Grosse Ile Naval Air Station. Release of the restricted area could be obtained more effectively if the controlling agency would have a direct communication capability with the using agency. The Cleveland Air Route Traffic Control Center has this capability; therefore, substitution of that facility for the designated controlling agency would provide a more effective and efficient control, and would have no substantive effect upon the burden on the public.

Since this amendment is editorial in nature, notice and public procedure thereon is unnecessary and it may be made effective immediately.

In consideration of the foregoing, F.R. Doc. 67–12449 (32 F.R. 14648) is amended, effective immediately, as follows:

"Controlling agency: Federal Aviation Administration, Toledo Airport Traffic Control Tower." is deleted and "Controlling agency: Federal Aviation Administration, Cleveland Air Route Traffic Control Center." is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348).

Issued in Washington, D.C., on November 15, 1967.

WILLIAM E. MORGAN,
Acting Director, Air Traffic Service.

[F.R. Doc. 67–13774; Filed, Nov. 22, 1967; 8:48 a.m.]

Title 22—FOREIGN RELATIONS

Chapter I—Department of State

[Dept. Reg. 108.571]

PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Application for Nonimmigrant Visas

Part 41, Chapter I, Title 22 of the Code of Federal Regulations is being amended to permit a consular officer, in lieu of signing a nonimmigrant visa application, to write his initials over or adjacent to his name and title stamp on the Form FS–257 or FS–257a.

Section 41.117 is amended to read as follows:

§ 41.117 Signature.

When personal appearance is required, Form FS–257 shall be signed and verified by or on behalf of the applicant in the presence of the consular officer. If personal appearance is waived, and the submission of an application form by the alien is required, the form shall be signed by the applicant. If the filing of an application form is also waived, the consular officer shall so indicate on the Form FS–257 prepared on behalf of the applicant. The consular officer shall, in every instance, write his initials over or adjacent to his name and title stamp on the Form FS–257 or FS–257a.

Effective date. The amendment to the regulation contained in this order shall become effective upon publication in the FEDERAL REGISTER.

The provisions of section 4 of the Administrative Procedure Act (80 Stat. 383; 5 U.S.C. 553) relative to notice of proposed rule making are inapplicable to this order because the regulation contained herein involves foreign affairs functions of the United States.

(Sec. 104, 66 Stat. 174; 8 U.S.C. 1104)

Dated: November 6, 1967.

BARBARA M. WATSON,
Acting Administrator, Bureau of Security and Consular Affairs.

[F.R. Doc. 67–13780; Filed, Nov. 22, 1967; 8:48 a.m.]

Title 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

SUBCHAPTER F—ENROLLMENT

PART 41—PREPARATION OF ROLLS OF INDIANS

Requirements for Enrollment and Deadlines for Filing Applications

The following amendment is made to Title 25—Indians, Part 41, incident to the preparation of a roll of persons entitled to share in funds appropriated to pay a judgment in favor of the Upper and Lower Chehalis Tribes of Indians as authorized by the Act of October 24, 1967 (81 Stat. 335).

Section 41.3 is amended by adding a new paragraph designated as (j) to establish requirements for enrollment and deadline for filing applications. Paragraph (j) reads as follows:

§ 41.3 Qualifications for enrollment and the deadline for filing applications.

* * * * *

(j) Upper and Lower Chehalis Tribes of Indians. All persons who were alive on October 24, 1967, who establish that they are descendants of members of the Upper and Lower Chehalis Tribes as they existed in 1855 shall be entitled to be enrolled to share in the distribution of the judgment funds awarded the Upper and Lower Chehalis Tribes. Applications for enrollment must be filed with the Superintendent, Western Washington Agency, 3006 Colby Avenue, Everett, Wash. 98201, and must be postmarked no later than August 1, 1968.

No further changes are made in the text of Part 41.

Notice of proposed rule making would cause undue delay in the preparation of the roll and would be contrary to the public interest. Therefore, notice and public procedure imposed by 5 U.S.C. 553 (Supp. II, 1965–66), are dispensed with under the exceptions provided in that section. Accordingly, this amendment shall become effective upon publication in the FEDERAL REGISTER.

ROBERT L. BENNETT,
Commissioner.

NOVEMBER 17, 1967.

[F.R. Doc. 67–13761; Filed, Nov. 22, 1967; 8:47 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Miscellaneous Amendments

1. Section 21.42 is revised to read as follows:

§ 21.42 Dates of eligibility.

Date disability incurred	Date of discharge or release from service	Beginning and ending date of critical period [1] (§21.41)	Basic termination date	Extended termination date
Korean conflict	Before 8-20-54	8-20-39 to 8-20-60	8-20-68	8-20-67.
6-27-50 to 1-31-55	After 8-19-54	4 years and 9 months to 5 years after discharge date.	9 years after discharge date.	13 years after discharge date.
Other service:				
7-26-47 to 6-26-50	Before 10-16-62	7-15-57 to 10-15-67	10-15-71	10-15-75.
or				
After 1-31-55	After 10-15-62	4 years and 9 months to 5 years after discharge date.	9 years after discharge date.	13 years after discharge date.
After 9-15-40:				
Blinded or other seriously disabled veterans, not previously rehabilitated or became blind or seriously disabled since rehabilitation.	After 9-15-40	4 years and 9 months to 5 years after discharge date.	9 years after discharge date.	6-30-75 or 10 years after termination date [2] whichever is later.

[1] Critical period is the 90-day period immediately preceding the date falling exactly 4 years prior to the veteran's basic termination date. It is a 90-day period which permits the veteran time to complete counseling and select an objective which can be reached within the 4-year period immediately following.

[2] Applicable termination date is 9 years after discharge or 13 years if training was extended under § 21.41 (a) through (e).

2. In § 21.700, paragraph (a) is amended to read as follows:

§ 21.700 Counseling disabled veterans.

(a) Counseling will be provided each disabled veteran who has basic eligibility for vocational rehabilitation and applies for training, except for veterans whose disability was incurred between July 26, 1947, and June 26, 1950, both dates inclusive, or after January 31, 1955, who are rated less than 30 percent disabled, and who do not follow up on their applications when they are informed that preliminary review of their work histories indicates that the disabilities do not cause pronounced employment handicap. The principal purpose of counseling will be to assist each veteran who needs vocational rehabilitation training to select a suitable vocational objective and plan for its achievement. Counselors (counseling psychologists and vocational advisers) will apply approved counseling principles and techniques in accordance with professional standards and practices.

* * * * *

3. In § 21.701, that portion of paragraphs (b) and (c) preceding subparagraph (1) are amended to read as follows:

§ 21.701 Need for vocational rehabilitation.

* * * * *

(b) A veteran who has a service-connected disability of compensable degree which resulted from service in the Armed Forces on or after September 16, 1940, will be presumed to be in need of vocational rehabilitation if his disability resulted from Korean conflict service or is rated 30 percent or more based upon service between July 26, 1947, and June 26, 1950, both dates inclusive, or after January 31, 1955. However, a veteran will be held not in need of training, if it is determined through counseling that he is employed or fully qualified for employment in a suitable occupation. An occupation in which a disabled veteran is employed or in which he could obtain and hold employment, will be considered suitable when the following criteria are met:

* * * * *

(c) A veteran whose service-connected disability resulted from service between July 26, 1947, and June 26, 1950, both dates inclusive, or after January 31, 1955, and is rated less than 30 percent, will be presumed not to be in need of vocational rehabilitation. However, if through counseling convincing evidence is developed showing that the disability causes a pronounced employment handicap, need for training will be held to exist. The veteran will be considered to have a pronounced employment handicap when it is determined that he is not employable in occupations appropriate to his qualifications because such employment

is not compatible with his service-connected disability; or that his service-connected disability places him at a substantial disadvantage in competing for appropriate employment with the non-disabled worker similarly qualified as to education, training and experience.

• • • • • •

(72 Stat. 1114; 38 U.S.C. 210)

These VA regulations are effective October 1, 1967.

Approved: November 17, 1967.

By direction of the Administrator.

A. H. MONK,
Acting Deputy Administrator.

[F.R. Doc. 67-13781; Filed, Nov. 22, 1967; 8:45 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4320]

[Colorado 459]

COLORADO

Powersite Restoration No. 664; Partial Revocation of Powersite Reserve No. 253

By virtue of the authority vested in the President by section 1 of the act of June 25, 1910 (36 Stat. 847; 43 U.S.C. 141), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), and by virtue of the authority contained in section 24 of the act of June 10, 1920 (41 Stat. 1075; 16 U.S.C. 818), as amended, and pursuant to the determination of the Federal Power Commission in DA-482-Colorado, it is ordered as follows:

1. The Executive Order of March 23, 1912, creating Powersite Reserve No. 253, is hereby revoked so far as it affects the following described lands:

SIXTH PRINCIPAL MERIDIAN

T. 5 S., R. 81 W.,
Sec. 14, lots 2 and 4.

The areas described aggregate 86.28 acres in Eagle County.

2. Until 10 a.m. on May 18, 1968, the State of Colorado shall have a preferred right of application to select the lands as provided by R.S. 2276, as amended (43 U.S.C. 852). After that time the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on May 18, 1968, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The lands have been open to applications and offers under mineral leasing laws, and to location under the U.S. mining laws subject to provisions of the act of August 11, 1955 (69 Stat. 682; 30 U.S.C. 621).

Inquiries concerning the land should be addressed to the Manager, Land Office, Bureau of Land Management, Denver, Colo.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

NOVEMBER 16, 1967.

[F.R. Doc. 67-13762; Filed, Nov. 22, 1967; 8:47 a.m.]

Title 45—PUBLIC WELFARE

Subtitle A—Department of Health, Education, and Welfare, General Administration

PART 14—MINIMUM STANDARDS OF OPERATION FOR STATE AGENCIES FOR SURPLUS PROPERTY

Temporary Suspension

Part 14 of Title 45 CFR is hereby amended to insert a new § 14.15 to read as follows:

§ 14.15 Temporary suspension.

Compliance with the requirements imposed by the first sentence in each of §§ 14.6(c) and 14.11(a), is temporarily suspended until notice of their effective dates shall hereafter be published. State Plans of Operation shall, nevertheless, contain appropriate provision to meet such suspended requirements.

Dated: November 17, 1967.

[SEAL] WILBUR J. COHEN,
Acting Secretary.

[F.R. Doc. 67-13795; Filed, Nov. 22, 1967; 8:49 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Cabeza Prieta Game Range, Ariz.

On page 14063 of the FEDERAL REGISTER of October 10, 1967, there was published a notice of a proposed amendment to § 32.31 of Title 50, Code of Federal Regulations. The purpose of this amendment is to provide public hunting of big game on the Cabeza Prieta Game Range, Ariz., as legislatively permitted.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections with respect to the proposed amendment. No comments, suggestions, or objections have been received. The proposed amendment is hereby adopted without change.

Since this amendment benefits the public by relieving existing restrictions on hunting, it shall become effective upon publication in the FEDERAL REGISTER.

(Sec. 10, 45 Stat. 1224, 16 U.S.C. 715i; and sec. 4, 80 Stat. 927, 16 U.S.C 668dd)

1. Section 32.31 is amended by the following addition:

§ 32.31 List of open areas; big game.

• • • • •

ARIZONA

CABEZA PRIETA GAME RANGE

• • • • •

ABRAM V. TUNISON,
Acting Director, Bureau of Sport Fisheries and Wildlife.

NOVEMBER 17, 1967.

[F.R. Doc. 67-13760; Filed, Nov. 22, 1967; 8:47 a.m.]

PART 32—HUNTING

Cabeza Prieta Game Range, Ariz.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

ARIZONA

CABEZA PRIETA GAME RANGE

Public hunting of bighorn sheep on the Cabeza Prieta Game Range, Ariz., is permitted from November 25, through December 10, 1967, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 860,000 acres, is delineated on maps available at the game range headquarters, 356 First Street, Yuma, Ariz. 85364, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State regulations governing the hunting of bighorn sheep.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 10, 1967.

CLAUDE F. LARD,
Refuge Manager, Cabeza, Prieta Game Range, Yuma, Ariz.

NOVEMBER 17, 1967.

[F.R. Doc. 67-13759; Filed, Nov. 22, 1967; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 1049]

[Docket No. AO 319-A10]

MILK IN INDIANAPOLIS, IND., MARKETING AREA

Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Indianapolis, Ind., on October 5, 1967, pursuant to notice thereof issued on September 19, 1967 (32 F.R. 13418).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on November 2, 1967 (32 F.R. 15489; F.R. Doc. 67-13158) filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issue on the record of the hearing relates to the elimination of location differentials for plants in Ohio.

Findings and conclusions. The following findings and conclusions on the material issue are based on evidence presented at the hearing and the record thereof:

The location differential provisions should be revised to eliminate minus location adjustments on milk received at plants located in Ohio.

Under the present order, minus location adjustments apply at plants located 70 miles or more in any direction from Monument Circle in Indianapolis. Class I prices and blend (uniform) prices to producers are reduced 10 cents if the plant is 70 miles but less than 80 miles from Indianapolis, plus 1.5 cents for each additional 10 miles or fraction thereof.

Three producer associations, representing about 75 percent of the producers delivering to the market, joined in support of a proposal to eliminate the location differential for any plant located in the State of Ohio. The representative of the cooperatives testified that the higher prices to producers prevailing in Ohio markets causes price misalignment at a distributing plant at Greenville, Ohio, regulated by the Indianapolis order. Such plant presently has a minus location adjustment of 13 cents applicable because of its location in the 90-100-mile zone from Indianapolis. The cooperative operating the plant stated that the relatively low price level at this location has necessitated the payment of "premiums" to its producers over the Indianapolis minimum blend price for the zone to raise the plant's price to about the level of the Miami Valley, Ohio, market (formerly Dayton-Springfield market).

The Indianapolis marketing area includes 34 central Indiana counties, in an area extending from the Ohio-Indiana State line to the Indiana-Illinois boundary. Although the main concentration of Indianapolis regulated plants is in Indianapolis, several are located in 12 widely scattered cities from Greenville, Ohio, to Brazil, Ind., near the Illinois boundary.

The production area for Indianapolis order plants other than Greenville is either within the marketing area or primarily west and north of the marketing area. Such handlers generally draw supplies from more than 60 of the 92 counties in the State of Indiana, five counties in Illinois and about 12 counties in Wisconsin. This is an area where Class I prices and uniform prices tend to be less than in the Ohio markets. There are no location adjustments applicable at any of these plants other than Greenville.

In contrast, Greenville is located in Darke County, Ohio, an area where dairy farmers deliver to plants regulated by the Northwestern Ohio, Miami Valley, Ohio, Columbus, Ohio, and Greater Cincinnati markets, as well as to the Greenville plant. In December 1966, 85 percent of the farms of the 261 producers supplying the Greenville plant were located in the four Ohio counties of Darke, Mercer, Miami, and Shelby. The remaining 39 producers supplying the plant were from two nearby Indiana counties, Jay and Wayne. All such producer farms are located less than 50 miles from Greenville.

This distributing plant is the only one presently under the regulation which would be affected by the proposal although potentially other plants in Ohio might be in similar position. Most of the milk handled by the Greenville plant (over 86 percent in 1966) is used for fluid milk products. It packages milk for sale through outlets in both Indiana and Ohio. At the present time, over 70 percent of the fluid milk products at such plant is distributed within the Indianapolis marketing area, 15 percent in the Miami Valley, Ohio, Federal order market and the remainder in unregulated areas in Ohio.

Class I prices under the Ohio Federal orders generally have exceeded those under the Indianapolis order. For example, in 1966 the nearby Miami Valley, Ohio, order Class I price ($5.32) averaged 9 cents over the Indianapolis "base zone"[1] Class I price ($5.23). Class I prices in 1966 for all other Ohio orders also exceeded the Indianapolis Class I price.

When compared to the price at Greenville the difference is greater. For example, the Miami Valley, Ohio, Class I price for 1966 averaged 22 cents higher than the Indianapolis Class I price for the Greenville location. The Class I price at this location tends to run counter to prices in the Ohio markets east and southeast of Indianapolis since the latter increase gradually with distance from the heavy milk production areas of northern Indiana and Wisconsin.

A closer Class I price alignment with the Ohio markets is desirable. This is because of the competition for Class I sales between the Greenville plant and Miami Valley market plants both inside and outside the Miami Valley marketing area. As previously stated, Class I prices under the Miami Valley order for 1966 averaged 22 cents more than the Indianapolis Class I price at Greenville even though the Greenville plant is only 37 miles from Dayton. Only 9 cents difference will prevail under the provision adopted.

Within this area of Ohio milk can move directly from farms either to the Greenville distributing plant or to plants regulated by other Ohio Federal orders. Since quite comparable farm-to-plant hauling rates prevail for producers delivering to either the Greenville plant or such other plants, minus location adjustments for Ohio locations do not provide appropriate location values under the Indianapolis order for milk delivered to such locations. In 1966 the blend price for the Miami Valley order ($4.97) averaged 21 cents over the Indianapolis zone price at Greenville ($4.76). The average blend prices in 1966 for most other Ohio orders likewise exceeded the Indianapolis blend price.

The change herein adopted will not eliminate all differences in either Class I or blend prices between the Indianapolis order and the several nearby Ohio orders. However, such differences computed at the Greenville location will be reduced by 13 cents and will substantially improve price alignment among competing plants.

No opposition to the proposed amendment was presented. The proposal should be adopted.

Rulings on proposed findings and conclusions. A brief with proposed findings and conclusions was filed on behalf of certain interested parties. This brief, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions

[1] The area in which no location adjustments apply to plants—within 70 miles of Monument Circle, Indianapolis.

are denied for the reasons previously stated in this decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on exceptions. No exceptions were filed on behalf of interested parties.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled respectively, "Marketing Agreement Regulating the Handling of Milk in the Indianapolis, Ind., Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the Indianapolis, Ind., Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

Determination of representative period. The month of September 1967 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order as amended and as hereby proposed to be amended, regulating the handling of milk in the Indianapolis, Ind., marketing area, is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on November 20, 1967.

RODNEY E. LEONARD,
Deputy Assistant Secretary.

Order[1] Amending the Order Regulating the Handling of Milk in the Indianapolis, Ind., Marketing Area

§ 1049.0 **Findings and determinations.**

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Indianapolis, Ind., marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Indianapolis, Ind., marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended and as hereby amended, as follows:

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on November 2, 1967, and published in the FEDERAL REGISTER on November 7, 1967 (32 F.R. 15489; F.R. Doc. 67-13156), shall be and are the terms and provisions of this order, and are set forth in full herein.

Section 1049.53(a) is revised to read as follows:

§ 1049.53 **Location differentials to handlers.**

(a) For producer milk which is received at a pool plant located outside the State of Ohio and 70 miles or more from Monument Circle in Indianapolis, Ind., by the shortest hard-surfaced highway distance as determined by the market administrator and which milk is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, and for other source milk for which a location adjustment credit is applicable, the price specified in § 1049.51(a) shall be reduced at a rate set forth in the following schedule.

	Rate per hundredweight (cents)
Distance (miles):	
70 but less than 80	10.0
For each additional 10 miles or fraction thereof	1.5

* * * * *

[F.R. Doc. 67-13754; Filed, Nov. 22, 1967; 8:46 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 67-CE-136]

CONTROL ZONE AND TRANSITION AREA

Proposed Designation and Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a control zone and alter the transition area at Williston, N. Dak.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

The U.S. Weather Bureau has been providing continuous weather reporting service at the Sloulin International Airport, Williston, N. Dak., for some time. Recently a remote communications facility was installed on this airport which provides air ground communications down to and including the runway surface. Therefore, a Williston control zone can now be designated. In addition, public use and special instrument approach procedures utilizing the Williston VOR and a privately owned radio beacon, respectively, as navigational aids, have been developed for this airport. Since these approach procedures are not adequately protected by controlled airspace, it is necessary to alter the Williston transition area in order to provide this protection.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

1. In § 71.171 (32 F.R. 2071), the following control zone is added:

WILLISTON, N. DAK.

Within a 5-mile radius of Sloulin International Airport (latitude 48°10'35" N., longitude 103°38'15" W.); within 2 miles each side of the Williston VOR 136° radial, extending from the 5-mile radius zone to the VOR; and within 2 miles each side of the 127° bearing from Sloulin International Airport, extending from the 5-mile radius zone to 12 miles southeast of the airport.

2. In § 71.181 (32 F.R. 2148), the following transition area is amended to read:

WILLISTON, N. DAK.

That airspace extending upward from 700 feet above the surface within a 9½-mile radius of Sloulin International Airport (latitude 48°10'35" N., longitude 103°38'15" W.); and within 2 miles each side of the Williston VOR 316° radial, extending from the 9½-mile radius area to 8 miles northwest of the VOR; and that airspace extending upward from 1,200 feet above the surface within 5 miles northeast and 8 miles southwest of the Williston VOR 136° and 316° radials, extending from the 9½-mile radius area to 12 miles northwest of the VOR; and within 8 miles southwest and 8 miles northeast of the 127° bearing from Sloulin International Airport, extending from the 9½-mile radius area to 16 miles southeast of the airport.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued at Kansas City, Mo., on November 3, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 67-13776; Filed, Nov. 22, 1967; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 2]

[Docket No. 17869; RCC 67-1249]

TYPE ACCEPTANCE OF EQUIPMENT

Applications, Information, Measurement Data, and Test Conditions

In the matter of amendment of Part 2 of the Commission's rules and regulations concerning applications, information, measurement data, and test conditions for type acceptance of equipment, Docket No. 17869.

1. Notice of proposed rule making in the above-entitled matter is hereby given.

2. The amendments herein proposed pertain to provisions in Part 2 of the Commission's rules and regulations concerning type acceptance of equipment. In general, they call for certain additional information concerning applicants and equipment in type acceptance applications. Included are certain general limitations on grants of type acceptance applications, additional frequency stability test conditions and test conditions for certain types of transmitters not previously covered specifically, and more detailed requirements concerning identification of transmitters for type acceptance purposes.

3. The proposed rules would elicit information indicating whether the applicant is, (1) the manufacturer, (2) the licensee or prospective licensee, or (3) not either of these. In all cases, the rules would require that the actual manufacturer be identified, and would require a statement of procedures to be used by the applicant for assuring that the equipment will conform to the description and specifications stated in the application. Approval of such procedures as adequate for this purpose would be implicit in, and necessary to, a grant of type acceptance. Such a requirement is considered to be necessary in view of the increasing number of firms applying for type acceptance of equipment which they do not manufacture.

4. We are proposing a rule to clarify the limitations on type acceptance. A proposed new paragraph would specifically limit type acceptance granted in response to an application by a manufacturer to equipment of the type specified in the application, which equipment is finally assembled under the direct supervision and control of this same manufacturer. Type acceptance granted in response to an application by a licensee or prospective licensee would be limited to the individual unit or units of equipment specified in the application. In cases where the applicant is not the manufacturer, licensee or prospective licensee, type acceptance, when granted, would be limited to the equipment of the type specified in the application, produced in accordance with the procedures described in the application, and approved in granting the application (see paragraph 3 supra).

5. Although the type acceptance program for some of the radio services has been in effect for more than 10 years, both the users and the Commission continue to experience difficulty in identification of transmitting equipment. Such identification has been based on the name of the equipment manufacturer and type numbers assigned by the manufacturer. In practice, however, much of the equipment in use bears a considerable amount of nomenclature in addition to the type number specified for the transmitter. This nomenclature, while possibly convenient for the manufacturer, causes confusion for users when they identify transmitters for licensing purposes. We must require that identifying name plates be visible under all conditions, and that nomenclature for type acceptance and licensing be indicated as such and be clearly separated from other identification markings on equipment. In addition, the use of ambiguous identification such as Roman numerals and numbers written out as words has caused difficulty in the processing of station license applications, particularly those processed by computer. Under the proposed rules, this would be discouraged, and use of Roman numerals would be prohibited in identification assigned for type acceptance purposes. In the amended rules, the identification assigned by the applicant for type acceptance purposes will be called the "type acceptance designation." We believe this will indicate more clearly the purpose of this identification.

6. Test conditions are proposed for measurement of occupied bandwidth, power output, and power output limiting capability of single sideband and independent sideband transmitters. We are proposing new measurement procedures for power output and occupied bandwidth of controlled carrier transmitters, and occupied bandwidth of FM broadcast transmitters for stereophonic and SCA operation. In addition, clarifying language has been added to the requirement for field strength measurements of spurious emissions.

7. Modification is proposed for the procedure for obtaining frequency stability data as set forth in § 2.579(f) of the rules. Subparagraph (1) will specify in more detail the procedure for such tests, including revised ambient temperature limits, temperature intervals for frequency measurements, and time required for the tests. This will provide a more realistic picture of equipment frequency

stability under changes of ambient temperature. In addition, a new test procedure is proposed to show the time required for mobile transmitters to stabilize within prescribed frequency tolerances after cold starts. This is in response to allegations by some persons in industry that off-frequency operation in the land mobile services has resulted from transmitter frequency drift during the warmup period. The data received would provide a base for future adoption of standards with respect to warmup time limits for mobile transmitters. Subparagraph (2) has been revised to specify a more suitable lower test limit of primary power supply variation for hand carried, battery powered equipment.

8. Section 2.577(a) would be revised to make it clear that the Commission may use its discretion in accepting or rejecting any data referred to by the applicant when such data are not taken on equipment of the type specified in the application. Also, § 2.577(b)(3) would be revised to recognize the use of solid-state active devices in the final active stage of transmitting equipment.

9. This proposal to amend the Commission's rules is issued under the Authority of sections 4(i), 301, and 303(r) of the Communications Act of 1934, as amended.

10. Comments in support of or in opposition to the proposed amendment may be filed on or before January 25, 1968. Reply comments may be filed on or before February 9, 1968. All relevant and timely comments will be considered before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice. In accordance with the provisions of § 1.419(b) of the Commission's rules an original and 14 copies of all statements, briefs, or comments filed shall be furnished to the Fodeal Communications Commission.

Adopted: November 15, 1967.

Released: November 20, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

1. Section 2.1 is amended to include the following definition in appropriate alphabetical order:

§ 2.1 Definitions.

* * * * *

Person. An individual, partnership, association, joint stock company, trust, or corporation.

* * * * *

2. Section 2.571(a) is amended to read as follows:

§ 2.571 Type acceptance.

(a) Type acceptance of equipment is based on representations and test data submitted to the Commission by the applicant. The applicant is responsible for insuring that all units of the equipment described in each type acceptance application granted by the Commission conform to the description and technical characteristics specified in the application. The information submitted for type acceptance may be subject to check by Commission measurements.

(1) Each application for type acceptance shall include a statement indicating whether the applicant is, (i) the manufacturer, (ii) the licensee or prospective licensee of the equipment, or, (iii) whether the applicant is other than the manufacturer, licensee or prospective licensee.

(2) All applications shall identify the manufacturer and shall include a statement of the procedures to be employed by the applicant for insuring that all units of the equipment described therein will conform to the description and technical characteristics specified.

(3) If the applicant is not the manufacturer, licensee or prospective licensee of the equipment and the procedures described in the statement submitted pursuant to subparagraph (2) of this paragraph are not deemed satisfactory by the Commission for the purpose stated therein, type acceptance will not be granted.

NOTE: For the purpose of type acceptance, the manufacturer is considered to be the person under whose direct supervision and control the final assembly of the equipment takes place. As used herein, final assembly of equipment delivered to users may not necessarily include insertion of tubes or crystals, or interconnection of panels, modules or stages when this is normally done during installation of the equipment at a station.

* * * * *

3. Section 2.573 is amended by addition of new paragraphs (c), (d), and (e) to read as follows:

§ 2.573 Limitation on type acceptance.

* * * * *

(c) Type acceptance granted to the manufacturer is limited to the equipment of the type specified in the application, finally assembled under the direct supervision and control of said manufacturer.

(d) Type acceptance granted to the licensee or prospective licensee is limited to the individual unit or units of equipment tested by the applicant.

(e) Type acceptance granted to a person who is not the manufacturer, licensee, or prospective licensee of the equipment is limited to equipment of the type specified in the application, produced by the same manufacturer specified by the applicant.

4. Section 2.575 is amended by addition of new paragraph (f) to read as follows:

§ 2.575 Withdrawal or refusal of type acceptance.

* * * * *

(f) Applications for type acceptance will not be granted for equipment which has been determined by the Commission to be incapable of compliance with technical standards in applicable rule parts. In making such a determination, the Commission may consider the results of its own tests or examination of the equipment, information obtained during inspection of stations employing the equipment in question, including entries in station logs, or information submitted by the applicant for type acceptance.

5. Section 2.577 is amended by revising paragraphs (a), (b) (1) and (3) to read as follows:

§ 2.577 General information required for type acceptance.

(a) Each application for type acceptance of equipment shall include the information called for in paragraph (b) of this section and in §§ 2.571, 2.579, 2.582, and 2.584. This information is general and is the minimum required for all equipment. In many cases, additional information specific to a particular service is also required. The applicant should carefully read the rules of the service in which the proposed equipment is intended to be operated to make sure that such additional specific information is furnished. The Commission may require additional information, test data, or testing in its own laboratory at Laurel, Md., before determining the acceptability of any specific equipment. If the application for type acceptance includes data obtained by measurements performed on equipment which is not the subject of the application, or refers to data separately filed, acceptance or rejection of such data will be at the discretion of the Commission.

(b) * * *

(1) The type acceptance designation assigned to the equipment and a drawing or photograph of the name plate and the information to be placed thereon, as required by § 2.584(a).

* * * * *

(3) Description of equipment: The description of equipment shall include the following information:

(i) Type or types of emission.

(ii) Frequency range.

(iii) Range of operating power values or specific operating power levels, and description of any means provided for variation of operating power.

(iv) Maximum power rating as defined in the applicable part or parts of the rules.

(v) The d.c. voltages applied to and d.c. currents into the several elements of the final radiofrequency amplifying device for normal operation over the power range.

(vi) Function of each tube or semiconductor.

(vii) Complete circuit diagrams.

(viii) Instruction books (with type acceptance application, or when available).

(ix) Tune-up procedure.

(x) A description of all circuitry and devices provided for determining and stabilizing frequency.

(xi) A description of any circuits or devices employed for suppression of spurious radiation or for limiting modulation or power.

(xii) The information requested in subdivisions (i) to (xi) of this subparagraph shall be sufficiently complete to develop all factors concerning compliance by the equipment with the technical standards of the applicable rule parts as necessary for meeting occupied bandwidth or emission limitations.

* * * * *

6. Section 2.579 is amended to read as follows:

§ 2.579 Measurement data required for type acceptance.

Measurements shall be made to establish the following:

(a) Radiofrequency power output:

(1) For transmitters other than single sideband, independent sideband and controlled carrier radiotelephone, power output shall be measured at the rf output terminals when the transmitter is adjusted in accordance with the tune-up procedure to give the values of current and voltage on the circuit elements specified in § 2.577(b)(3). The electrical characteristics of the radiofrequency load attached to the output terminals when this test is made shall be stated.

(2) For single sideband, independent sideband, and single channel, controlled carrier radiotelephone transmitters the procedure specified in subparagraph (1) of this paragraph shall be employed and, in addition, the transmitter shall be modulated during the test as follows. In all tests, the input level of the modulating signal shall be such as to develop rated peak envelope power or carrier power, as appropriate, for the transmitter.

(i) Single sideband transmitters in the A3A and A3J emission modes—by two tones of frequencies of 700 cps and 2,900 cps, applied simultaneously, the input levels of the tones so adjusted that the two principal frequency components of the radio frequency signal produced are equal in magnitude;

(ii) Single sideband transmitters in the A3H emission mode—by an 1,800 cps tone, the level of which is adjusted to produce a radiofrequency signal component equal in magnitude to the magnitude of the carrier in this mode;

(iii) Independent sideband transmitters having two channels—by 1,800 cps tones applied simultaneously to both channels, the input levels of the tones so adjusted that the two principal frequency components of the radiofrequency signal produced are equal in magnitude;

(iv) Independent sideband transmitters having more than two channels—by an appropriate signal or signals applied to all channels simultaneously. The input signal or signals shall simulate the input signals specified by the manufacturer for normal operation;

(v) Single-channel-controlled-carrier transmitters in the A3 emission mode—by a 2,500 cps tone.

(3) For measurements conducted pursuant to subparagraphs (1) and (2) of this paragraph, all calculations and methods used by the applicant for determining carrier power or peak envelope power, as appropriate, as the basis of measured power in the radiofrequency load attached to the transmitter output terminals shall be shown. Under the test conditions specified, no components of the emission spectrum shall exceed the limits specified in the applicable rule parts as necessary for meeting occupied bandwidth or emission limitations.

(b) Modulation characteristics:

(1) Voice modulated communications equipment: A curve or equivalent data showing the frequency response of the audio modulating circuit over a range of 250 to 5,000 cps shall be submitted. For equipment required to have an audio low-pass filter, a curve showing the frequency response of the filter also shall be submitted.

(2) Equipment which employs modulation limiting: A curve or family of curves showing the percentage of modulation versus the modulation input voltage shall be supplied. The information submitted shall be sufficient to show modulation limiting capability throughout the range of modulating frequencies and input modulating signal levels employed.

(3) Single sideband and independent sideband radiotelephone transmitters which employ a device or circuit to limit peak envelope power: For such equipment, a curve showing the peak envelope power output versus the modulation input voltage shall be supplied. The modulating signals shall be the same in frequency as specified in paragraph (c) of this section for the occupied bandwidth tests.

(c) Occupied bandwidth: The frequency bandwidth such that, below its lower and above its upper frequency limits, the mean powers radiated are each equal to 0.5 percent of the total mean power radiated by a given emission. This shall be measured under the following conditions as applicable:

(1) Radiotelegraph transmitters for manual operation—when keyed at 16 dots per second.

(2) Other keyed transmitters—when keyed at the maximum machine speed.

(3) Radiotelephone transmitters equipped with a device to limit modulation on peak envelope power shall be modulated as follows. For single sideband and independent sideband transmitters, the input level of the modulating signal shall be 10 db greater than that necessary to produce rated peak envelope power.

(i) Other than single sideband or independent sideband transmitters—when modulated by a 2,500 cps tone at an input level 16 db greater than that necessary to produce 50-percent modulation;

(ii) Single sideband transmitters in A3A and A3J emission modes—when modulated by two tones at frequencies of 700 cps and 2,900 cps, applied simultaneously. The input levels of the tones shall be so adjusted that the two principal frequency components of the radio frequency signal produced are equal in magnitude. For the A3H emission mode, an 1,800 cps tone shall be applied.

(iii) Independent sideband transmitters having two channels—when modulated by 1,800 cps tones applied simultaneously to both channels. The input levels of the tones shall be so adjusted that the two principal frequency components of the radiofrequency signal produced are equal in magnitude.

(4) Modulation characteristics:

(i) Voice modulated communications equipment: A curve or equivalent data showing the frequency response of the audio modulating circuit over a range of 250 to 5,000 cps shall be submitted. For equipment required to have an audio low-pass filter, a curve showing the frequency response of the filter also shall be submitted.

(ii) Equipment which employs modulation limiting: A curve or family of curves showing the percentage of modulation versus the modulation input voltage shall be supplied. The information submitted shall be sufficient to show modulation limiting capability throughout the range of modulating frequencies and input modulating signal levels employed.

(iii) Single sideband and independent sideband radiotelephone transmitters which employ a device or circuit to limit peak envelope power: For such equipment, a curve showing the peak envelope power output versus the modulation input voltage shall be supplied. The modulating signals shall be the same in frequency as specified in paragraph (c) of this section for the occupied bandwidth tests.

(c) Occupied bandwidth: The frequency bandwidth such that, below its lower and above its upper frequency limits, the mean powers radiated are each equal to 0.5 percent of the total mean power radiated by a given emission. This shall be measured under the following conditions as applicable:

(1) Radiotelegraph transmitters for manual operation—when keyed at 16 dots per second.

(2) Other keyed transmitters—when keyed at the maximum machine speed.

(3) Radiotelephone transmitters equipped with a device to limit modulation on peak envelope power shall be modulated as follows. For single sideband and independent sideband transmitters, the input level of the modulating signal shall be 10 db greater than that necessary to produce rated peak envelope power.

(i) Other than single sideband or independent sideband transmitters—when modulated by a 2,500 cps tone at an input level 16 db greater than that necessary to produce 50-percent modulation;

(ii) Single sideband transmitters in A3A and A3J emission modes—when modulated by two tones at frequencies of 700 cps and 2,900 cps, applied simultaneously. The input levels of the tones shall be so adjusted that the two principal frequency components of the radio frequency signal produced are equal in magnitude. For the A3H emission mode, an 1,800 cps tone shall be applied.

(iii) Independent sideband transmitters having two channels—when modulated by 1,800 cps tones applied simultaneously to both channels. The input levels of the tones shall be so adjusted that the two principal frequency components of the radiofrequency signal produced are equal in magnitude.

(4) Radiotelephone transmitters without a device to limit modulation or peak envelope power shall be modulated as follows. For single sideband and independent sideband transmitters, the input level of the modulating signal should be that necessary to produce rated peak envelope power.

(i) Other than single sideband or independent sideband transmitters—when modulated by a 2,500 cps tone of sufficient level to produce at least 85-percent modulation;

(ii) Single sideband transmitters in the A3A and A3J emission modes—when modulated by two tones at frequencies of 700 cps and 2,500 cps, applied simultaneously. The input levels of the tones shall be so adjusted that the two principal frequency components of the radiofrequency signal produced are equal in magnitude. For the A3H emission mode an 1,500 cps tone shall be applied.

(iii) Independent sideband transmitters having two channels—when modulated by 1,500 cps tones applied simultaneously to both channels. The input levels of the tones shall be so adjusted that the two principal frequency components of the radiofrequency signal produced are equal in magnitude.

(5) Transmitters for use in the Radio Broadcast Services:

(i) Standard broadcast transmitters—when modulated 85 percent by a 7,500 cps input signal.

(ii) FM broadcast transmitters not used for multiplex operation—when modulated 85 percent by a 15 kc/s input signal.

(iii) FM broadcast transmitters for multiplex operation under Subsidiary Communications Authorization (SCA)—when the carrier is modulated 70 percent by a 15 kc/s main channel input signal, and modulated an additional 15 percent simultaneously by a 67 kc/s subcarrier (unmodulated).

(iv) FM broadcast transmitters for stereophonic operation—when modulated by a 15 kc/s input signal to the main channel, a 15 kc/s input signal to the stereophonic subchannel, and the pilot subcarrier, simultaneously. The input signals to the main channel and stereophonic subchannel each shall produce 45 percent modulation of the carrier. The pilot subcarrier shall produce 10 percent modulation of the carrier.

(v) Television broadcast aural transmitters—when modulated 85 percent by a 15 kc/s input signal.

(6) Transmitters in which the modulating baseband comprises more than three independent channels—when modulated with a test signal consisting of a band of random noise extending continuously from below 30 kc/s to the highest frequency in the baseband. The level of the test signal shall be adjusted to provide rms modulation which is 22.4 percent of the full-rated peak modulation of the transmitter. The test signal shall be applied through any preemphasis networks used in normal service.

(7) Transmitters in which the modulating baseband comprises not more than

[1] Commissioners Bartley and Lee absent.

three independent channels—when modulated by the full complement of signals for which the transmitter is rated. The level of modulation for each channel should be set to that prescribed in rule parts applicable to the services for which the transmitter is intended. If specific modulation levels are not set forth in the rules, the tests should provide the manufacturer's maximum rated condition.

(8) Transmitters designed for other types of modulation—when modulated by an appropriate signal of sufficient amplitude to be representative of the type of service in which used. A description of the input signal should be supplied.

(d) Spurious emissions from the transmitting equipment for the following conditions:

(1) Radiofrequency voltage measurements at the antenna terminals. The radiofrequency voltages generated within the equipment and appearing on a spurious frequency shall be checked at the equipment output terminals when properly loaded with a suitable artificial antenna. Curves or equivalent data shall show the magnitude of each harmonic and other spurious emision that can be detected when the equipment is operated under the conditions specified in paragraph (c) of this section as appropriate. The amplitude of spurious emissions which are more than 20 db below the permissible value need not be shown.

(2) Field strength measurements of spurious radiations. A report of field strength measurements made to detect spurious emissions that may be radiated directly from the cabinet, control circuits, power leads, or intermediate circuit elements under normal conditions of installation and operation shall be made. Curves or equivalent data shall be supplied showing the magnitude of each harmonic and other spurious emission. For this test, single sideband, independent sideband, and controlled carrier transmitters shall be modulated under the conditions specified in paragraph (c) of this section, as appropriate. For equipment operating on frequencies below 890 Mc/s, an open field test is normally required, with the measuring instrument antenna located in the far-field at all test frequencies. Sufficient information shall be included with the test data to permit determination of the relative radiated power of each spurious emission with reference to the radiated mean output power of the transmitter, assuming all emissions are radiated from half-wave dipole antennas. This test shall be made for the following equipments:

(i) Those in which the spurious emissions are required to be 60 db or more below the mean power of the transmitter.

(ii) All equipment operating on frequencies higher than 25 Mc/s.

(iii) Hand carried transmitters, or others, where the antenna is an integral part of, and attached directly to the transmitter.

(iv) Other types of equipment as required, when deemed necessary by the Commission.

(e) In all of the measurements set forth in paragraph (d) of this section, the spectrum shou'd be investigated from the lowest radiofrequency generated in the equipment up to at least the tenth harmonic of the carrier frequency or to the highest frequency possible in the present state of the art of measuring techniques. Particular attention should be paid to harmonics and subharmonics of the carrier frequency as well as to those frequencies removed from the carrier frequency by multiples of the oscillator frequency. Radiation at the frequencies of multiplier stages should also be checked. The amplitude of spurious emissions which are more than 20 db below the permissible value need not be reported.

(f) Frequency stability: The frequency stability of transmitting equipment shall be checked under the following conditions:

(1) Variation in ambient temperature from −20° to +50° C. for all equipment except that to be licensed under Part 73 of this chapter. For equipment to be licensed under Part 73, the limits shall be 0° to +50° C. Only the portion or portions of the transmitter containing the frequency determining and stabilizing circuitry need be subjected to this test. Frequency measurements shall be made at the extremes of the specified temperature range and at intervals of no more than 30° C. throughout the range. A period of at least 4 hours at each temperature extreme and at least 30 minutes at each required intermediate temperature level shall be allowed prior to frequency measurement. Effects on frequency of transmitter keying (except for broadcast transmitters) and any heating element cycling normally occurring at each ambient temperature level also shall be shown.

(i) In addition, the following information is required for equipment to be used in mobile stations, for which type acceptance is first requested after July 1, 1968, except for battery powered, hand carried, portable equipment having less than 3 watts mean output power: Measurement data showing variation in transmitter output frequency from a cold start and also showing the elapsed time necessary for the frequency to stabilize within the applicable tolerance. For the purpose of this requirement, tests shall be made immediately after storage of the equipment for at least 4 hours at each of the ambient temperature levels minus 20° C., 0° C., and plus 30° C., with no primary power applied. Beginning at each of these temperature levels, the frequency shall be measured within 1 minute after application of primary power to the transmitter and at intervals of no more than 1 minute thereafter until 10 minutes have elapsed or until sufficient measurements are obtained to indicate clearly that the frequency has stabilized within the applicable tolerance, whichever time period is greater. During each test, the ambient temperature shall not be allowed to rise more than 30° C. above the respective beginning ambient temperature level. The elapsed time necessary for the frequency to stabilize within the applicable tolerance from each beginning ambient temperature level as determined from the tests above shall be specified in the instruction book for the transmitter furnished to the user. When it is impracticable to subject the complete transmitter to this test because of its physical dimensions or power rating, only its frequency determining and stabilizing portions need be tested.

(2) Variation in primary supply voltage from 85 to 115 percent of the normal value. For hand carried, battery powered equipment, reduce primary supply voltage to a value such that transmitter power output decreases 3 decibels with respect to the rated value, or until all rf oscillation fails, whichever occurs first. The supply voltage shall be measured at the input to the cable normally provided with the equipment, or at the power supply terminals if cables are not normally provided. Effects on frequency of transmitter keying (except for broadcast transmitters) and any heating element cycling at the nominal supply voltage and at each extreme also shall be shown.

(3) Conditions in addition to those specified above, if additional tests are deemed necessary and requested by the Commission to show capability for maintaining required tolerances in normal use. (For example, such additional tests may be appropriate for portable equipment subject to frequency instability when used in proximity to large metal objects, or to equipment when used with various types of antennas.)

7. Section 2.584 is amended by revising paragraphs (a), (b), (d), and (e) to read as follows:

§ 2.584 Identification and changes in type accepted equipment.

(a) Each type of equipment for which type acceptance is requested shall be identified by a type acceptance designation assigned by the applicant. The type acceptance designation shall appear on a nameplate affixed to the equipment in a conspicuous place and shall consist of a series of not more than a total of 17 digits, letters, punctuation marks, and spaces. Roman numerals shall not be used in the type acceptance designation of any equipment for which type acceptance is first requested after July 1, 1968. The applicant shall not assign the same type acceptance designation to more than one type of equipment. In addition to the above requirements, the type acceptance designation, nameplate, and nameplate location shall comply with the following requirements for equipment for which type acceptance is first requested after July 1, 1968:

(1) The name of the applicant and the type acceptance designation shall appear on the nameplate.

(2) The name of the applicant and the type acceptance designation appearing on the nameplate shall conform exactly to those specified by the applicant in the type acceptance application and approved by the Commission. If additional information appears on the nameplate or elsewhere on the equipment, such information shall be shown separately from the name of the applicant and the type acceptance designation and the nameplate shall clearly identify the applicant and type acceptance designation as such.

NOTE: The use of ambiguous characters or information in type acceptance designations should be avoided. Lower case letters and numbers written as words (i.e., seventy-five instead of 75) cause confusion in verbal communications and hamper the identification of equipment when automatic data processing is utilized in processing applications for station licenses.

(3) The nameplate shall be affixed to the equipment in a conspicuous place. For the purpose of this requirement, the applicant for type acceptance shall place the nameplate in a location meeting the following criteria:

(i) The nameplate location shall be visible without total or partial removal of the equipment from any cabinet normally provided by the applicant;

(ii) The nameplate location shall be visible without opening or removing any doors or coverings on the equipment cabinet;

(iii) The nameplate location shall be one which reasonably may be expected to be visible without removal of the equipment from a normal position of installation.

(4) Any indication of type acceptance or other information as may be required in the applicable service rules also shall be shown on the nameplate required by this section.

(b) Equipment of the same type is defined for the purposes of type acceptance as being equipment which is electrically and mechanically interchangeable. In addition, transmitters of the same type will have the same basic tube or semiconductor lineup, frequency multiplication, basic frequency determining and stabilizing circuitry, basic modulater circuit and maximum power rating.

(d) Changes in type accepted equipment, except permissive changes as set forth in paragraph (c) of this section, shall not be made except under prior authorization of the Commission. When such a change is requested, the Commission may authorize the change or require that the modified equipment be assigned a new type acceptance designation and that additional information be submitted for further consideration as to type acceptance.

(e) If the assignment of a different type acceptance designation is required as a result of equipment modification, a new nameplate bearing the new type acceptance designation and meeting other pertinent requirements of this section shall be affixed to the modified equipment.

* * * * *

[F.R. Doc. 67-13709; Filed, Nov. 22, 1967; 8:49 a.m.]

[47 CFR Part 73]

[Docket No. 17562]

PRESUNRISE OPERATION BY CLASS II STATIONS

Order Extending Time for Filing Comments and Reply Comments

In the matter of "Presunrise" operation by Class II stations under presunrise service authorization on U.S. I-A clear channels, Docket No. 17562.

1. Comments and reply comments in the above-entitled proceeding are now due November 20, and November 30, 1967, respectively. In a "Joint Motion for Extension of Time" filed on November 15, 1967, the licensees of three stations on clear channels requested that these dates be extended to either December 20, 1967, and January 10, 1968, or December 4, and December 22, 1967. The reasons advanced include difficulty in completing necessary engineering showings, need for clarification of the "presunrise" situation following the stay order issued by the U.S. Court of Appeals for the 2d Circuit on November 13, 1967, and the delays involved in the Commission's move to new quarters which led to a moratorium on the filing of pleadings in hearing cases. It is also asserted that the 10-day period for reply comments now provided is not sufficient.

2. We believe that an additional time for the filing of the initial comments in this matter is warranted, and accordingly, the date is extended to December 4, 1967, the second of petitioners' alternatives. This should afford adequate time for the preparation of the desired material. A longer extension would unduly delay resolution of this matter, especially since it would mean little staff review of the submissions until after the first of the year. With respect to reply comments, we believe that the appropriate length of time for these will depend on the material submitted in the initial comments, and it is premature to grant a longer period at this time. We are setting the date of December 14, 1967, for reply comments.

3. In view of the foregoing: It is *ordered*, That the time for filing comments and reply comments herein is extended to and including December 4, and December 14, 1967, respectively; and that the "Motion for Extension of Time" filed on November 15, 1967, by Town & Farm Co., Inc., KFAB Broadcasting Co., and Argonaut Broadcasting Co., is granted to the extent indicated and otherwise is denied. Authority for this action is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules.

Adopted: November 17, 1967.

Released: November 20, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13704; Filed, Nov. 22, 1967; 8:49 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Antidumping—ATS 643.2–7]

CERAMIC GLAZED WALL TILE FROM JAPAN

Determination of Sales at Not Less Than Fair Value

NOVEMBER 15, 1967.

On July 13, 1967, there was published in the FEDERAL REGISTER a "Notice of Intent to Discontinue Investigation and to Make Determination That No Sales Exist Below Fair Value" with respect to ceramic glazed wall tile from Japan. That notice was issued because of revisions in the prices of the merchandise and because of unconditional assurances given by the exporters that no future sales of the merchandise will be made to the United States at less than fair value.

Interested parties were afforded until August 12, 1967, to make written submissions or to request in writing an opportunity to present views in connection with the "Notice of Intent."

The complainant submitted a written request for an opportunity to present views in person in opposition to such notice. The opportunity was afforded to the complainant, and all interested parties of record were notified.

After consideration of all written and oral arguments presented, I hereby determine that for the reasons stated above ceramic glazed wall tile imported from Japan is not being, nor likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)).

This determination is published pursuant to section 201(c) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)).

[SEAL] TRUE DAVIS,
Assistant Secretary of the Treasury.

[F.R. Doc. 67-13762; Filed, Nov. 22, 1967; 8:48 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Notice of Proposed Withdrawal and Reservation of Lands

NOVEMBER 17, 1967.

The Alaska Railroad, Department of Transportation, has filed an application, Anchorage Serial No. AA–983, for the withdrawal of the lands described below from all forms of appropriation with the exception of the mineral leasing laws. The applicant agency desires the land for use as a terminal in connection with servicing of the Kenai Peninsula, Alaska oil fields.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

The Department's regulations, 43 CFR 2311.1–3(c), provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

CROWN POINT, ALASKA

SEWARD MERIDIAN (UNSURVEYED)

T. 4 N., R. 1 W., in sec. 24, E½.

Aggregating 81.2 acres, situated at Alaska Railroad milepost 25, north of Seward, Alaska, and lying within the boundaries of the Chugach National Forest.

CURTIS V. MCVEE,
Acting State Director.

[F.R. Doc. 67-13763; Filed, Nov. 22, 1967; 8:47 a.m.]

IDAHO

Notice of Filing of Idaho Protraction Diagrams

NOVEMBER 16, 1967.

Notice is hereby given that effective at and after 10 a.m., on December 21, 1967, the following protraction diagrams are officially filed of record in the Idaho Land Office, Room 390, Federal Building, Boise, Idaho. In accordance with Title 43, Code of Federal Regulations, these protractions will become the basic record for describing the land for all authorized uses. Until this date and time the diagrams have been placed in open files and are available to the public for information only.

IDAHO PROTRACTION DIAGRAMS NOS. 91 AND 93 (REVISED)

BOISE MERIDIAN APPROVED NOV. 2, 1967

No. 91

T. 7 N., Rs. 20 and 21 E.

No. 93

Tps. 5 and 6 N., Rs. 20, 21, and 22 E.

Copies of these diagrams are for sale at one dollar ($1.00) each by the Cadastral Engineering Office, Bureau of Land Management, Post Office Box 2237, Boise, Idaho 83701.

ORVAL G. HADLEY,
Manager, Land Office, Boise, Idaho.

[F.R. Doc. 67-13764; Filed, Nov. 22, 1967; 8:47 a.m.]

[OR 1565]

OREGON

Notice of Classification of Public Lands for Multiple-Use Management

NOVEMBER 16, 1967.

1. Pursuant to the act of September 19, 1964 (43 U.S.C. 1411–18) and to the regulations in 43 CFR Parts 2410 and 2411, the public lands within the areas described in paragraph 2, together with any lands therein that may become public lands in the future, are hereby classified for multiple-use management. Publication of this notice has the effect of segregating the lands described in paragraph 2 from appropriation only under the agricultural land laws (43 U.S.C., Chs. 7 and 9; 25 U.S.C., sec. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171) and the lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws. The lands described in paragraph 3 of this notice are not classified for multiple-use management at this time. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

Comments were received following publication of the notice of proposed classification (32 F.R. 7136) and at the public hearing held on June 15, 1967. All comments concerning the proposed classification were carefully evaluated and warrant determination that the lands described in paragraph 3 should not be classified for multiple-use management at this time. The acreage to be classified as shown in paragraph 3 of the notice of proposed classification is reduced from approximately 4,531,700 acres to approximately 4,524,300 acres. The record showing comments received and other information is on file and can be examined in the Vale District Office.

2. As provided in paragraph 1 above, the public lands affected by this classification are located within the following described areas and are shown on a map designated "Oregon 1565, 2511.2:36–030:," on file in the Vale District Office, Bureau of Land Management, Vale, Oreg., and the Land Office, Bureau of Land Management, 729 Northeast Oregon Street, Portland, Oreg.

WILLAMETTE MERIDIAN

GRANT COUNTY

T. 17 S., R. 36 E.,
Secs. 1, 2, secs. 11 to 14, inclusive, and secs. 23 to 26, inclusive.

MALHEUR COUNTY

T. 13 S., R. 41 E.,
Secs. 13, 24, 25, and 36.
T. 13 S., R. 42 E.,
Secs. 17 to 21, inclusive, and secs. 26 to 32, inclusive.
T. 14 S., R. 41 E.,
Sec. 1.
T. 14 S., R. 42 E.,
Secs. 5 and 6.
T. 15 S., R. 41 E.,
Secs. 24, 25, and 36.
T. 15 S., R. 42 E.,
Secs. 28 to 33, inclusive.
T. 15 S., R. 43 E.,
Secs. 28, 34, and 35.
T. 15 S., R. 44 E.,
Secs. 1 to 4, inclusive, secs. 8 to 29, inclusive, and secs. 32 to 36, inclusive.
T. 15 S., R. 45 E.,
Secs. 5 to 10, inclusive, secs. 15 to 22, inclusive, and secs. 27 to 34, inclusive.
T. 16 S., R. 37 E.,
Secs. 30 to 36, inclusive.
T. 16 S., R. 38 E.,
Secs. 26 to 35, inclusive.
T. 16 S., R. 41 E.,
Secs. 22 to 29, inclusive, and secs. 32 to 36, inclusive.
T. 16 S., R. 42 E.,
Secs. 4 to 9, inclusive, and secs. 16 to 36, inclusive.
T. 16 S., R. 43 E.,
Secs. 19, 20, 21, and secs. 28 to 32, inclusive.
T. 16 S., R. 44 E.,
Secs. 1, 2, secs. 11 to 14, inclusive, and sec. 24.
T. 16 S., R. 45 E.,
Secs. 1 to 36, inclusive.
T. 16 S., R. 46 E.,
Secs. 6, 7, and 18.
T. 17 S., R. 37 E.,
Secs. 1 to 36, inclusive.
T. 17 S., R. 38 E.,
Secs. 1 to 36, inclusive.
T. 17 S., R. 39 E.,
Secs. 1 to 36, inclusive.
T. 17 S., R. 40 E.,
Secs. 1 to 36, inclusive.
T. 17 S., R. 41 E.,
Secs. 1 to 36, inclusive.
T. 17 S., R. 42 E.,
Secs. 1 to 36, inclusive.
T. 17 S., R. 43 E.,
Secs. 6 to 36, inclusive.
T. 17 S., R. 44 E.,
Secs. 19, 30, and 31.
T. 17 S., R. 45 E.,
Secs. 2 to 11, inclusive, secs. 15 to 20, inclusive, and secs. 32 to 36, inclusive.
T. 18 S., R. 37 E.,
Secs. 2 to 15, inclusive, secs. 17 to 23, inclusive, secs. 26 to 27, inclusive, and secs. 30 to 35, inclusive.
T. 18 S., R. 38 E.,
Secs. 1 to 36, inclusive.
T. 18 S., R. 39 E.,
Secs. 1 to 36, inclusive.
T. 18 S., R. 40 E.,
Secs. 1 to 36, inclusive.
T. 18 S., R. 41 E.,
Secs. 1 to 36, inclusive.
T. 18 S., R. 42 E.,
Secs. 1 to 36, inclusive.
T. 18 S., R. 43 E.,
Secs. 4 to 10, inclusive, secs. 14 to 23, inclusive, and secs. 26 to 32, inclusive.
T. 18 S., R. 44 E.,
Sec. 6.
T. 18 S., R. 45 E.,
Secs. 2, 3, 4, secs. 26, 27, 28, 32, 33, and 34.
T. 19 S., R. 37 E.,
Secs. 1 to 36, inclusive.
T. 19 S., R. 38 E.,
Secs. 1 to 36, inclusive.
T. 19 S., R. 39 E.,
Secs. 1 to 36, inclusive.
T. 19 S., R. 40 E.,
Secs. 1 to 36, inclusive.
T. 19 S., R. 41 E.,
Secs. 1 to 35, inclusive.
T. 19 S., R. 42 E.,
Secs. 1, 2, 3, 6, 7, 10, 12, 15, 16, 19, 20, 22, and 30.
T. 19 S., R. 43 E.,
Secs. 4 to 9, inclusive, secs. 15, 16, 17, secs. 20 to 29, inclusive, and secs. 31 to 36, inclusive.
T. 19 S., R. 44 E.,
Secs. 13, 19, 22, 24, 25, 27, 28, and secs. 30 to 34, inclusive.
T. 19 S., R. 45 E.,
Secs. 2 to 12, inclusive;
Sec. 13, W½;
Secs. 14 to 23, inclusive;
Sec. 24, W½;
Secs. 25 to 35, inclusive;
Sec. 36, N½.
T. 19 S., R. 46 E.,
Secs. 17 and 18.
T. 20 S., R. 37 E.,
Secs. 1 to 36, inclusive.
T. 20 S., R. 38 E.,
Secs. 1 to 36, inclusive.
T. 20 S., R. 39 E.,
Secs. 1 to 14, inclusive, secs. 17 to 20, inclusive, and secs. 28 to 35, inclusive.
T. 20 S., R. 40 E.,
Secs. 1 to 36, inclusive.
T. 20 S., R. 41 E.,
Secs. 1 to 11, inclusive, and secs. 14 to 36, inclusive.
T. 20 S., R. 42 E.,
Secs. 1, 2, 3, 5, and secs. 10 to 36, inclusive.
T. 20 S., R. 43 E.,
Secs. 1 to 36, inclusive.
T. 20 S., R. 44 E.,
Secs. 1 to 35, inclusive.
T. 20 S., R. 45 E.,
Sec. 2, W½;
Secs. 3 to 10, inclusive, sec. 11, W½, and secs. 26 to 35, inclusive.
T. 21 S., R. 37 E.,
Secs. 1 to 12, inclusive, and secs. 26 to 35, inclusive.
T. 21 S., R. 38 E.,
Secs. 1 to 5, inclusive, secs. 8 to 15, inclusive, secs. 21 to 28, inclusive, and secs. 33 to 36, inclusive.
T. 21 S., R. 39 E.,
Secs. 1 to 36, inclusive.
T. 21 S., R. 40 E.,
Secs. 1 to 36, inclusive.
T. 21 S., R. 41 E.,
Secs. 1 to 36, inclusive.
T. 21 S., R. 42 E.,
Secs. 1 to 36, inclusive.
T. 21 S., R. 43 E.,
Secs. 1 to 36, inclusive.
T. 21 S., R. 44 E.,
Secs. 1 to 36, inclusive.
T. 21 S., R. 45 E.,
Secs. 2 to 10, inclusive, and secs. 14 to 36, inclusive.
T. 21 S., R. 46 E.,
Secs. 19 to 22, inclusive, and secs. 27 to 33, inclusive.
T. 22 S., R. 37 E.,
Secs. 1 to 36, inclusive.
T. 22 S., R. 38 E.,
Secs. 1 to 36, inclusive.
T. 22 S., R. 39 E.,
Secs. 1 to 36, inclusive.
T. 22 S., R. 40 E.,
Secs. 1 to 36, inclusive.
T. 22 S., R. 41 E.,
Secs. 1 to 36, inclusive.
T. 22 S., R. 42 E.,
Secs. 1 to 36, inclusive.
T. 22 S., R. 43 E.,
Secs. 1 to 36, inclusive.
T. 22 S., R. 44 E.,
Secs. 1 to 36, inclusive.
T. 22 S., R. 45 E.,
Secs. 1 to 36, inclusive.
T. 22 S., R. 46 E.,
Secs. 4 to 9, inclusive, secs. 16 to 22, inclusive, and secs. 27 to 34, inclusive.
T. 23 S., R. 37 E.,
Secs. 1 to 36, inclusive.
T. 23 S., R. 38 E.,
Secs. 1 to 36, inclusive.
T. 23 S., R. 39 E.,
Secs. 1 to 36, inclusive.
T. 23 S., R. 40 E.,
Secs. 1 to 36, inclusive.
T. 23 S., R. 41 E.,
Secs. 1 to 7, inclusive, secs. 12, 13, 18, 19, 24, 25, 26, 30, 31, 35, and 36.
T. 23 S., R. 42 E.,
Secs. 1 to 36, inclusive.
T. 23 S., R. 43 E.,
Secs. 1 to 36, inclusive.
T. 23 S., R. 44 E.,
Secs. 1 to 36, inclusive.
T. 23 S., R. 45 E.,
Secs. 1 to 36, inclusive.
T. 23 S., R. 46 E.,
Secs. 2 to 11, inclusive, and secs. 13 to 36, inclusive.
T. 23 S., R. 47 E.,
Secs. 19, 30, and 31.
T. 24 S., R. 37 E.,
Secs. 1 to 30, inclusive, and secs. 32 to 35, inclusive.
T. 24 S., R. 38 E.,
Secs. 1 to 36, inclusive.
T. 24 S., R. 39 E.,
Secs. 1 to 36, inclusive.
T. 24 S., R. 40 E.,
Secs. 1 to 36, inclusive.
T. 24 S., R. 41 E.,
Secs. 1, 2, 6, 7, 11, 12, 13, 14, and secs. 18 to 36, inclusive.
T. 24 S., R. 42 E.,
Secs. 1 to 36, inclusive.
T. 24 S., R. 43 E.,
Secs. 1 to 36, inclusive.
T. 24 S., R. 44 E.,
Secs. 1 to 36, inclusive.
T. 24 S., R. 45 E.,
Secs. 1 to 36, inclusive.
T. 24 S., R. 46 E.,
Secs. 1 to 36, inclusive.
T. 24 S., R. 47 E.,
Secs. 6, 7, 18, 19, 30, and 31.
T. 25 S., R. 37 E.,
Secs. 1 to 4, inclusive, secs. 10 to 14, inclusive, and sec. 24.
T. 25 S., R. 38 E.,
Secs. 1 to 36, inclusive.
T. 25 S., R. 39 E.,
Secs. 1 to 36, inclusive.

T. 25 S., R. 40 E.,
Secs. 1 to 36, inclusive.
T. 25 S., R. 41 E.,
Secs. 1 to 36, inclusive.
T. 25 S., R. 42 E.,
Secs. 1 to 31, inclusive, and sec. 36.
T. 25 S., R. 43 E.,
Secs. 1 to 36, inclusive.
T. 25 S., R. 44 E.,
Secs. 1 to 36, inclusive.
T. 25 S., R. 45 E.,
Secs. 1 to 36, inclusive.
T. 25 S., R. 46 E.,
Secs. 1 to 36, inclusive.
T. 25 S., R. 47 E.,
Secs. 6, 7, 18, 19, 30, and 31.
T. 26 S., R. 37 E.,
Secs. 1 to 36, inclusive.
T. 26 S., R. 38 E.,
Secs. 1 to 14, inclusive, secs. 18, 19, 20, 24, and secs. 28 to 34, inclusive.
T. 26 S., R. 39 E.,
Secs. 1 to 12, inclusive, secs. 16 to 21, inclusive, and secs. 28 to 33, inclusive.
T. 26 S., R. 40 E.,
Secs. 1 to 17, inclusive, secs. 21 to 27, inclusive, and secs. 32 to 36, inclusive.
T. 26 S., R. 41 E.,
Secs. 1 to 36, inclusive.
T. 26 S., R. 43 E.,
Secs. 1, 6, 7, 8, 12, secs. 17 to 20, inclusive, sec. 25, secs. 29 to 32, inclusive, and sec. 36.
T. 26 S., R. 43 E.,
Secs. 1 to 36, inclusive.
T. 26 S., R. 44 E.,
Secs. 1 to 35, inclusive.
T. 26 S., R. 45 E.,
Secs. 1 to 27, inclusive, secs. 34, 35, and 36.
T. 26 S., R. 46 E.,
Secs. 1 to 36, inclusive.
T. 26 S., R. 47 E.,
Secs. 6, 7, 18, 19, 30, and 31.
T. 27 S., R. 37 E.,
Secs. 1 to 36, inclusive.
T. 27 S., R. 38 E.,
Secs. 1 to 22, inclusive, and secs. 28 to 32, inclusive.
T. 27 S., R. 39 E.,
Secs. 4 to 10, inclusive, secs. 13, 14, secs. 23 to 26, inclusive, and secs. 31 to 36, inclusive.
T. 27 S., R. 40 E.,
Secs. 1 to 3, inclusive, and secs. 10 to 36, inclusive.
T. 27 S., R. 41 E.,
Secs. 1 to 36, inclusive.
T. 27 S., R. 42 E.,
Secs. 1 to 36, inclusive.
T. 27 S., R. 43 E.,
Secs. 1 to 36, inclusive.
T. 27 S., R. 44 E.,
Secs. 2 to 36, inclusive.
T. 27 S., R. 45 E.,
Secs. 1 to 3, inclusive, secs. 10 to 15, inclusive, and secs. 18 to 24, inclusive.
T. 27 S., R. 46 E.,
Secs. 1 to 36, inclusive.
T. 27 S., R. 47 E.,
Secs. 6, 7, 18, 19, 30, and 31.
T. 28 S., R. 37 E.,
Secs. 1 to 36, inclusive.
T. 28 S., R. 38 E.,
Secs. 1, 2, and secs. 8 to 36, inclusive.
T. 28 S., R. 39 E.,
Secs. 1 to 36, inclusive.
T. 28 S., R. 40 E.,
Secs. 1 to 36, inclusive.
T. 28 S., R. 41 E.,
Secs. 1 to 36, inclusive.
T. 28 S., R. 42 E.,
Secs. 1 to 36, inclusive.
T. 28 S., R. 43 E.,
Secs. 1 to 36, inclusive.
T. 28 S., R. 44 E.,
Secs. 1 to 6, inclusive, secs. 11 to 14, inclusive, and secs. 18 to 36, inclusive.
T. 28 S., R. 45 E.,
Secs. 1 to 36, inclusive.

T. 28 S., R. 46 E.,
Secs. 1 to 12, inclusive, secs. 25, 26, and secs. 31 to 36, inclusive.
T. 28 S., R. 47 E.,
Secs. 6, 7, 30, and 31.
T. 29 S., R. 37 E.,
Secs. 1 to 36, inclusive.
T. 29 S., R. 38 E.,
Secs. 1 to 36, inclusive.
T. 29 S., R. 39 E.,
Secs. 1 to 36, inclusive.
T. 29 S., R. 40 E.,
Secs. 1 to 36, inclusive.
T. 29 S., R. 41 E.,
Secs. 1 to 36, inclusive.
T. 29 S., R. 42 E.,
Secs. 1 to 36, inclusive.
T. 29 S., R. 43 E.,
Secs. 1 to 36, inclusive.
T. 29 S., R. 44 E.,
Secs. 1 to 36, inclusive.
T. 29 S., R. 45 E.,
Secs. 1 to 34, inclusive.
T. 29 S., R. 46 E.,
Secs. 1 to 14, inclusive, secs. 17 to 20, inclusive, secs. 23 to 26, inclusive, and sec. 30.
T. 29 S., R. 47 E.,
Secs. 6, 7, 18, 19, and 30.
T. 30 S., R. 37 E.,
Secs. 1 to 36, inclusive.
T. 30 S., R. 38 E.,
Secs. 1 to 36, inclusive.
T. 30 S., R. 39 E.,
Secs. 1 to 36, inclusive.
T. 30 S., R. 40 E.,
Secs. 1 to 36, inclusive.
T. 30 S., R. 40½ E.,
Secs. 12, 13, 24, 25, and 36.
T. 30 S., R. 41 E.,
Secs. 1 to 36, inclusive.
T. 30 S., R. 42 E.,
Secs. 1 to 12, inclusive, secs. 17 to 20, inclusive, and secs. 29 to 32, inclusive.
T. 30 S., R. 43 E.,
Secs. 1 to 11, inclusive.
T. 30 S., R. 44 E.,
Sec. 6, and secs. 23 to 26, inclusive.
T. 30 S., R. 45 E.,
Secs. 13, 14, secs. 23 to 26, inclusive, and secs. 31 to 36, inclusive.
T. 30 S., R. 46 E.,
Secs. 18 to 35, inclusive.
T. 30½ S., R. 37 E.,
Secs. 31 to 36, inclusive.
T. 30½ S., R. 38 E.,
Secs. 31 to 36, inclusive.
T. 30½ S., R. 39 E.,
Secs. 31 to 36, inclusive.
T. 30½ S., R. 40 E.,
Secs. 31 to 36, inclusive.
T. 31 S., R. 37 E.,
Secs. 1 to 36, inclusive.
T. 31 S., R. 38 E.,
Secs. 1 to 36, inclusive.
T. 31 S., R. 39 E.,
Secs. 1 to 36, inclusive.
T. 31 S., R. 40 E.,
Secs. 1 to 36, inclusive.
T. 31 S., R. 41 E.,
Secs. 1 to 6, inclusive, and sec. 12.
T. 31 S., R. 42 E.,
Secs. 5, 6, 13, 14, 15, secs. 20 to 30, inclusive, W½, E½E½ sec. 31, and secs. 32 to 36, inclusive.
T. 31 S., R. 43 E.,
Secs. 6 to 36, inclusive.
T. 31 S., R. 44 E.,
Secs. 1 to 36, inclusive.
T. 31 S., R. 45 E.,
Secs. 1 to 36, inclusive.
T. 31 S., R. 46 E.,
Secs. 2 to 11, inclusive, secs. 15 to 21, inclusive, and secs. 28 to 33, inclusive.
T. 31 S., R. 47 E.,
Secs. 30 and 31.
T. 31½ S., R. 37 E.,
Secs. 31 to 36, inclusive.

T. 31½ S., R. 38 E.,
Secs. 31 to 36, inclusive.
T. 32 S., R. 37 E.,
Secs. 1 to 36, inclusive.
T. 32 S., R. 38 E.,
Secs. 1 to 36, inclusive.
T. 32 S., R. 39 E.,
Secs. 1 to 36, inclusive.
T. 32 S., R. 40 E.,
Secs. 3 to 11, inclusive, secs. 15 to 22, inclusive, and secs. 27 to 34, inclusive.
T. 32 S., R. 41 E.,
Secs. 13 to 15, inclusive, secs. 21 to 28, inclusive, and secs. 33 to 36, inclusive.
T. 33 S., R. 42 E.,
Secs. 1 to 5, inclusive, sec. 6, lots 1 to 5, inclusive, lots 12 to 60, inclusive, SE¼, and secs. 7 to 36, inclusive.
T. 32 S., R. 43 E.,
Secs. 1 to 36, inclusive.
T. 32 S., R. 44 E.,
Secs. 1 to 36, inclusive.
T. 32 S., R. 45 E.,
Secs. 1 to 36, inclusive.
T. 32 S., R. 46 E.,
Secs. 1 to 30, inclusive, and secs. 34, 35, and 36.
T. 33 S., R. 37 E.,
Secs. 1 to 36, inclusive.
T. 33 S., R. 38 E.,
Secs. 1 to 36, inclusive.
T. 33 S., R. 39 E.,
Secs. 1 to 36, inclusive.
T. 33 S., R. 40 E.,
Secs. 3 to 10, inclusive, and secs. 13 to 36, inclusive.
T. 33 S., R. 40½ E.,
Secs. 6, 7, 18, 19, 30, and 31.
T. 33 S., R. 41 E.,
Secs. 1 to 36, inclusive.
T. 33 S., R. 42 E.,
Secs. 1 to 36, inclusive.
T. 33 S., R. 43 E.,
Secs. 1 to 36, inclusive.
T. 33 S., R. 44 E.,
Secs. 1 to 36, inclusive.
T. 33 S., R. 45 E.,
Secs. 1 to 36, inclusive.
T. 33 S., R. 46 E.,
Secs. 1 to 3, inclusive, and secs. 10 to 36, inclusive.
T. 33½ S., R. 39 E.,
Secs. 31 to 36, inclusive.
T. 33½ S., R. 40 E.,
Secs. 31 to 36, inclusive.
T. 34 S., R. 37 E.,
Secs. 1 to 36, inclusive.
T. 34 S., R. 38 E.,
Secs. 1 to 36, inclusive.
T. 34 S., R. 39 E.,
Secs. 1 to 36, inclusive.
T. 34 S., R. 40 E.,
Secs. 1 to 36, inclusive.
T. 34 S., R. 41 E.,
Secs. 1 to 36, inclusive.
T. 34 S., R. 42 E.,
Secs. 1 to 36, inclusive.
T. 34 S., R. 43 E.,
Secs. 1 to 36, inclusive.
T. 34 S., R. 44 E.,
Secs. 1 to 36, inclusive.
T. 34 S., R. 45 E.,
Secs. 1 to 36, inclusive.
T. 34 S., R. 46 E.,
Secs. 5 to 8, inclusive, secs. 17 to 21, inclusive, and secs. 28 to 33, inclusive.
T. 35 S., R. 37 E.,
Secs. 5 to 8, inclusive, secs. 17, 18, 19, 23, 24, 25, 26, and secs. 32 to 36, inclusive.
T. 35 S., R. 38 E.,
Secs. 1 to 36, inclusive.
T. 35 S., R 39 E.,
Secs. 1 to 36, inclusive.
T 35 S., R 40 E.,
Secs. 1 to 36, inclusive.
T. 35 S., R. 41 E.,
Secs. 1 to 36, inclusive.
T. 35 S., R. 42 E.,
Secs. 1 to 36, inclusive.

T 35 S., R. 43 E.,
Secs. 1 to 36, inclusive.
T. 35 S., R. 44 E.,
Secs. 1 to 36, inclusive.
T 35 S., R. 45 E.,
Secs. 1 to 13, inclusive, secs. 17 to 20, inclusive, sec. 24, and secs. 29 to 32, inclusive.
T. 35 S., R. 46 E.,
Secs. 4 to 30, inclusive, and secs. 32 to 36, inclusive.
T. 36 S., R. 37 E.,
Secs. 1 to 36, inclusive.
T. 36 S., R. 40 E.,
Secs. 1 to 36, inclusive.
T. 36 S., R. 41 E.,
Secs. 13 to 36, inclusive.
T. 36 S., R. 42 E.,
Secs. 13 to 36, inclusive.
T. 36 S., R. 43 E.,
Secs. 13 to 36, inclusive.
T. 36 S., R. 44 E.,
Secs. 7 to 36, inclusive.
T. 36 S., R. 45 E.,
Secs. 7 to 36, inclusive.
T. 36 S., R. 46 E.,
Secs. 7 to 36, inclusive.
T. 36 S., R. 47 E.,
Secs. 7, 8, and secs. 14 to 36, inclusive.
T. 36 S., R. 48 E.,
Secs. 9 to 15, inclusive, and secs. 19 to 36, inclusive.
T. 36 S., R. 49 E.,
Secs. 7, 18, 19, 30, and 31.
T. 37 S., R. 37 E.,
Secs. 1 to 36, inclusive.
T. 37 S., R. 40 E.,
Secs. 13 to 36, inclusive.
T. 37 S., R. 41 E.,
Secs. 1 to 36, inclusive.
T. 37 S., R. 42 E.,
Secs. 1 to 36, inclusive.
T. 37 S., R. 43 E.,
Secs. 1 to 36, inclusive.
T. 37 S., R. 44 E.,
Secs. 1 to 36, inclusive.
T. 37 S., R. 45 E.,
Secs. 1 to 36, inclusive.
T. 37 S., R. 46 E.,
Secs. 1 to 36, inclusive.
T. 37 S., R. 47 E.,
Secs. 1 to 36, inclusive.
T. 37 S., R. 48 E.,
Secs. 1 to 36, inclusive.
T. 37 S., R. 49 E.,
Secs. 6, 7, 18, 19, 30, and 31.
T. 38 S., R. 39 E.,
Secs. 13 to 36, inclusive.
T. 38 S., R. 40 E.,
Secs. 1 to 36, inclusive.
T. 38 S., R. 41 E.,
Secs. 1 to 15, inclusive, secs. 17 to 21, inclusive, and secs. 33 to 35, inclusive.
T. 38 S., R. 42 E.,
Secs. 1 to 36, inclusive.
T. 38 S., R. 43 E.,
Secs. 1 to 36, inclusive.
T. 38 S., R. 44 E.,
Secs. 1 to 36, inclusive.
T. 38 S., R. 45 E.,
Secs. 1 to 36, inclusive.
T. 38 S., R. 46 E.,
Secs. 1 to 36, inclusive.
T. 38 S., R. 47 E.,
Secs. 1 to 36, inclusive.
T. 38 S., R. 48 E.,
Secs. 1 to 36, inclusive.
T. 38 S., R. 49 E.,
Secs. 6, 7, 18, 19, 30, and 31.
T. 39 S., R. 39 E.,
Secs. 1 to 36, inclusive.
T. 39 S., R. 40 E.,
Secs. 1 to 36, inclusive.
T. 39 S., R. 41 E.,
Secs. 1 to 36, inclusive.
T. 39 S., R. 42 E.,
Secs. 1 to 36, inclusive.
T. 39 S., R. 43 E.,
Secs. 1 to 36, inclusive.

T. 39 S., R. 44 E.,
Secs. 1 to 36, inclusive.
T. 39 S., R. 45 E.,
Secs. 1 to 36, inclusive.
T. 39 S., R. 46 E.,
Secs. 1 to 36, inclusive.
T. 39 S., R. 47 E.,
Secs. 1 to 36, inclusive.
T. 39 S., R. 48 E.,
Secs. 1 to 36, inclusive.
T. 39 S., R. 49 E.,
Secs. 6, 7, 18, 19, 30, and 31.
T. 40 S., R. 39 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 40 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 41 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 42 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 43 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 44 E.,
Secs. 1 to 35, inclusive, and sec. 30.
T. 40 S., R. 45 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 46 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 47 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 48 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 49 E.,
Secs. 6, 7, 18, 19, 30, and 31.
T. 41 S., R. 39 E.,
Secs. 1 to 24, inclusive.
T. 41 S., R. 40 E.,
Secs. 1 to 24, inclusive.
T. 41 S., R. 41 E.,
Secs. 1 to 24, inclusive.
T. 41 S., R. 42 E.,
Sec. 1, secs. 5 to 8, inclusive, sec. 12, and secs. 17 to 20, inclusive.
T. 41 S., R. 43 E.,
Secs. 1 to 24, inclusive.
T. 41 S., R. 45 E.,
Secs. 1 to 24, inclusive.
T. 41 S., R. 46 E.,
Secs. 1 to 24, inclusive.
T. 41 S., R. 47 E.,
Secs. 1 to 24, inclusive.
T. 41 S., R. 48 E.,
Secs. 1 to 24, inclusive.
T. 41 S., R. 49 E.,
Secs. 6, 7, 18, and 19.

The public lands in the areas described aggregate approximately 4,524,700 acres.

3. As provided in paragraph 1, the following lands by this notice are not classified for multiple-use management. The segregative effect as provided in paragraph 2 of the notice of proposed classification of public lands for multiple-use management as published in the FEDERAL REGISTER on May 11, 1967 (32 F.R. 7136), shall not terminate until further study as to proper classification or as provided by the act of September 19, 1964 (78 Stat. 986; 43 U.S.C. 1411–18):

WILLAMETTE MERIDIAN
MALHEUR COUNTY

T. 19 S., R. 45 E.,
Sec. 13, E½;
Sec. 24, E½;
Sec. 36, E½.
T. 19 S., R. 46 E.,
Secs. 19, 20, and 28 to 33, inclusive.
T. 20 S., R. 45 E.,
Sec. 1;
Sec. 2, E½;
Sec. 11, E½;
Sec. 12.
T. 20 S., R. 46 E.,
Sec. 6.
T. 31 S., R. 42 E.,
Sec. 31, W½E½.
T. 32 S., R. 42 E.,
Sec. 6, lots 6, 7, 8, 9, 10, and 11.

The public lands in the areas described aggregate approximately 7,410 acres.

4. For a period of 30 days from date of publication in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior, as provided for in 43 CFR 2411.2 (c).

IRVING W. ANDERSON,
Acting State Director.

[F.R. Doc. 67-13765; Filed, Nov. 22, 1967; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

NORTH CAROLINA

Designation of Area for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named county in the State of North Carolina, a natural disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

NORTH CAROLINA
Cleveland.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named county after June 30, 1968, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 20th day of November 1967.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 67-13785; Filed, Nov. 22, 1967; 8:46 a.m.]

NORTH CAROLINA

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the State of North Carolina, natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

NORTH CAROLINA
Halifax. Martin.

Pursuant to the authority set forth above, emergency loans will not be made

in the above-named counties after June 30, 1968, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 20th day of November 1967.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 67-13786; Filed, Nov. 22, 1967; 8:46 a.m.]

DEPARTMENT OF TRANSPORTATION

National Transportation Safety Board

[Docket No. SA-401]

ACCIDENT OCCURRING AT GREATER CINCINNATI AIRPORT, ERLANGER, KY.

Investigation; Notice of Hearing

In the matter of investigation of accident involving aircraft of U.S. Registry N7427W, which occurred at The Greater Cincinnati Airport, Erlanger, Ky., November 4, 1967, Docket No. SA-401.

Notice is hereby given that an Accident Investigation Hearing on the above matter will be held commencing at 9 a.m., local time, on December 5, 1967, in Room 2019, Federal Office Building No. 7, 17th and H Streets NW., Washington, D.C.

Dated this 20th day of November 1967.

[SEAL] RICHARD G. RODRIGUES,
Hearing Officer.

[F.R. Doc. 67-13790; Filed, Nov. 22, 1967; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 19252]

CALEDONIAN AIRWAYS (PRESTWICK), LTD.

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference on the above-entitled application is assigned to be held on December 8, 1967, at 10 a.m., e.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner William F. Cusick.

Dated at Washington, D.C., November 17, 1967.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 67-13784; Filed, Nov. 22, 1967; 8:48 a.m.]

[Docket Nos. 18780, 18873]

DENVER-CALGARY SERVICE CASE

Notice of Prehearing Conference

Denver-Calgary service case, Dockets 18780 (Western Air Lines) and 18873 (Frontier Air Lines).

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on December 7, 1967, at 10 a.m., e.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Joseph L. Fitzmaurice.

Dated at Washington, D.C., November 17, 1967.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 67-13785; Filed, Nov. 22, 1967; 8:48 a.m.]

[Docket No. 10920 etc.; Order E-26006]

NONPRIORITY MAIL AND DOMESTIC SERVICE MAIL RATE CASES

Order To Show Cause

Nonpriority Mail rate case, Dockets 10920, 18381; Domestic Service mail rate case, Docket 15726.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 20th day of November 1967.

The Postmaster General, on October 4, 1967, filed a petition to amend Order E-17255, July 31, 1961 (as amended by Order E-24247, Sept. 30, 1967), and Order E-25610, August 28, 1967, so as to extend the application of the domestic and nonpriority service mail rates to services to and from Hilo, Hawaii.

By Order E-25739, September 26, 1967, temporary amended certificates of public convenience and necessity were issued to Northwest Airlines, Inc., Pan American World Airways, Inc., and United Air Lines, Inc., authorizing service between the mainland and Hilo, Hawaii. The Postmaster General's petition requests an amendment of currently effective Board orders so as to apply the presently applicable airmail and nonpriority service mail rates to service to and from that point.

Under these circumstances, the requested amendments are of a ministerial nature and it is proposed that the nonpriority mail rate Order E-17255, July 31, 1961 (34 C.A.B. 143) as amended by E-24247, September 30, 1967, and the domestic service mail rate Order E-25610, August 28, 1967, be amended to extend the application of the rates established therein to services between the mainland and Hilo, Hawaii. It is also proposed that Hilo, Hawaii, be classified as a Class Y station for the transportation of airmail and as a Class A station for the transportation of nonpriority mail, under the existing station classification criteria of Order E-25789, October 6, 1967.

In view of the foregoing, the Board has tentatively found and concluded that:

(1) There is presently in effect a temporary service mail rate for the transportation of nonpriority mail which was established by Order E-17255, as amended by Order E-24247.

(2) The fair and reasonable temporary rate of compensation to be paid for the transportation of nonpriority mail between the mainland and Hilo, Hawaii, the facilities used and useful therefor and the services connected therewith, is the service mail rate established by Order E-17255, as amended by Order E-24247.

(3) The findings and conclusions regarding the nonpriority mail rate shall be implemented by the following amendments to Board orders, effective October 1, 1967:

(A) Paragraph B of Order E-17255, July 31, 1961, shall be amended to read as follows:

B. The rates fixed and determined herein shall be applicable only to the transportation by air of nonpriority mail; i.e. such first-class mail other than airmail and air parcel post, which may be tendered from time to time by the Post Office Department and carried on a voluntary space-available basis, between any points within the 48 contiguous States and between any point within them and Agana, Anchorage, Cordova, Fairbanks, Hilo, Honolulu, Juneau, Ketchikan, Kodiak, San Juna, or Yakutat, and between Honolulu, Hawaii, and Agana, Guam.

(B) Appendix No. 2 to Order E-25789, October 6, 1967, shall be amended by adding "Hilo, Hawaii" to the Class A stations there listed for nonpriority mail service only.

(4) There is presently in effect a final service mail rate for the transportation of mail by aircraft which was established by Order E-25610, August 28, 1967.

(5) The fair and reasonable rate of compensation to be paid for the transportation of mail by aircraft between the mainland and Hilo, Hawaii, the facilities used and useful therefor, and the services connected therewith, is the service mail rate established by Order E-25610.

(6) The findings and conclusions regarding the transportation of mail by aircraft shall be implemented by the following amendments to Board orders, effective October 1, 1967:

(A) Order E-25610, August 28, 1967, shall be amended by adding "Hilo, Hawaii," on page two, line five of the text following "Honolulu, Hawaii,".

(B) Appendix No. 1 to Order E-25789, October 6, 1967, shall be amended by adding "Hilo, Hawaii" to the Class Y stations there listed for airmail service only.

(7) The final and temporary service mail rates here fixed and determined are to be paid in their entirety by the Postmaster General.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and pursuant to the regulations promulgated in 14 CFR Part 302,

It is ordered, That:

1. All interested persons and particularly Airlift International, Inc., Alaska Airlines, Inc., Allegheny Airlines, Inc., American Airlines, Inc., Bonanza Air Lines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., The Flying Tiger Line Inc., Frontier Airlines, Inc., Lake Central Airlines, Inc., Mohawk Airlines, Inc., National Airlines, Inc., North Central Airlines, Inc., Northeast Airlines, Inc., Northwest Airlines, Inc., Ozark Air Lines, Inc., Pacific Air Lines, Inc., Pan American World Airways, Inc., Piedmont Aviation, Inc., The Slick Corp., Southern Airways, Inc., Trans Caribbean Airways, Inc., Trans-Texas Airways, Inc., Trans World Airlines, Inc., United Air Lines, Inc., West Coast Airlines, Inc., Western Air Lines, Inc., and the Postmaster General are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final and temporary rates specified above;

2. Further procedures herein shall be in accordance with 14 CFR, Part 302, and, if there is any objection to the rates or to the other findings and conclusions proposed herein, notice thereof shall be filed within 10 days after the date of service of this order, and if notice is filed, written answer and supporting documents shall be filed within 30 days after date of service of this order;

3. If notice of objection is not filed within 10 days, or if notice is filed and if answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final and temporary rates specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable rates herein shall be limited to those specifically raised by such answers except as otherwise provided in 14 CFR 302.307;

5. Notwithstanding the fixing and determining of the temporary rate for nonpriority mail as set forth above, this proceeding shall remain open as to such rate pending the entry of an order fixing the final rate in Docket 18381;

6. This order shall be served upon the parties enumerated in paragraph 1 above.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-13787; Filed, Nov. 22, 1967; 8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 17607, 17608; FCC 67M-1941]

AMERICANA BROADCASTING CORP. AND LOYOLA UNIVERSITY

Order Extending Procedural Dates

In re applications of Americana Broadcasting Corp., New Orleans, La., Docket No. 17607, File No. BPH-5404; Loyola University, New Orleans, La., Docket No. 17608, File No. BPH-5466; for construction permits.

The Hearing Examiner having under consideration a "Motion for Extension" of the heretofore schdiluled dates for the exchange of applicants' proposed exhibits and for commencement of the hearing, filed jointly by these applicants on November 14, 1967;

It appearing, that the subject motion seeks an extension of the exhibits exchange date from November 14, to November 27, 1967, and requests also that the scheduled hearing date of November 28 be utilized instead for a prehearing conference for the purpose of scheduling new hearing and witness notification dates;

It further appearing, that counsel for the Broadcast Bureau has informally indicated that this party interposes no objection to the motion, and that "good cause" is set forth in the motion for favorable action thereon;

Accordingly, it is ordered, That the "Motion for Extension" filed jointly by the above applicants on November 14, 1967, is granted, nunc pro tunc, and that: (a) The date for exchange of applicants' proposed exhibits is extended from November 14, to November 27, 1967; (b) the hearing heretofore scheduled for November 28, 1967, is postponed to a date to be determined at a further prehearing conference; and (c) a further prehearing conference to fix new notification and hearing dates will be held on November 28, 1967, at 10 a.m., in the offices of the Commission, Washington, D.C.

It is further ordered, On the Examiner's own motion, that the heretofore scheduled notification date of November 21, 1967, is postponed to a new date to be fixed at the further prehearing conference.[1]

Issued: November 16, 1967.

Released: November 17, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13791; Filed, Nov. 22, 1967; 8:49 a.m.]

[Docket Nos. 17706, 17707; FCC 67M-1939]

MALRITE, INC., AND PHILIP Y. HAHN, JR.

Order Continuing Hearing

In re applications of Malrite, Inc., Rochester, N.Y., Docket No. 17706, File No. BPCT-3873; Philip Y. Hahn, Jr., Rochester, N.Y., Docket No. 17707, File No. BPCT-3927; for construction permit for new television broadcast station (Channel 31).

Following a prehearing conference held on October 20, 1967, counsel for the applicants and for the Broadcast Bureau prepared and signed a stipulation covering future procedural steps to be effected in this proceeding. That stipulation was forwarded to the Examiner under a covering letter signed by counsel for Philip Y. Hahn, Jr., dated October 25, 1967. Paragraph 5 of the stipulation reads:

5. The hearing shall commence on December 20, 1967, or such later date as shall meet the convenience of the Hearing Examiner.

Except for the suggested hearing date set forth in paragraph 5, the Examiner approves the stipulation. Agreeable to the language of paragraph 5, the Examiner substitutes a hearing date in consonance with his calendar and with that modification adopts the stipulation.

Accordingly, it is ordered, That the following procedural steps will hereafter be effected on the dates and under the terms and conditions therein specified:

1. The applicants will present their direct cases under the designated comparative issue in writing. An exchange of exhibits relating to the designated comparative issue, including engineering evidence concerning the comparative coverage aspect thereof, will be exchanged in final form under oath, on December 4, 1967. One copy of each exhibit shall be furnished to the Hearing Examiner and to counsel for the Broadcast Bureau, and two copies of each exhibit shall be furnished to counsel for the other applicant.

2. Requests for additional information concerning the comparative cases, if any, designated to eliminate wholly or partially the need for oral cross-examination, shall be served on opposing counsel no later than December 8, 1967.

3. Responses to requests for further information (par. (2)) shall be supplied, under oath, to the counsel requesting such information, on or before December 15, 1967: *Provided, however*, That the applicant of whom such information is requested need not supply such information if in his judgment the information requested lacks relevance or materiality to the hearing issues.

4. Each counsel is to notify counsel for the other parties of the witnesses desired for cross-examination on or before December 18, 1967.

5. The hearing now scheduled for December 1, 1967, will be held on January 15, 1968.

6. In the event that an objection to any exhibit or portion thereof is sustained on the ground of competence, the party offering same shall have the right to reform the stricken material to cure the objectionable defect noted.

Issued: November 16, 1967.

Released: November 17, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13793; Filed, Nov. 22, 1967; 8:49 a.m.]

[1] Counsel for the parties are admonished that those principals of each who may be required to testify in the hearing should make their personal plans so as to permit the rescheduling of the hearing date for some time in the first half of December.

FEDERAL MARITIME COMMISSION

HOLLAND-AMERICA LINE AND PIER 40 CORP.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 7 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. A. A. van L. Rhee, General Manager, Holland-America Line, Pier 40, North River, New York, N.Y. 10044.

Agreement No. T-751-A between Holland-America Line (Holland-America Line) and Pier 40 Corp. (Corporation), is a sublease of Agreement No. T-751 between the city of New York and Holland-America covering the lease of Pier 40, North River. Under the terms of the agreement, Holland-America subleases Pier 40 to the corporation which shall operate the premises as a steamship terminal. The terms and conditions of Agreement No. T-751 are incorporated in Agreement No. T-751-A and are binding upon both parties.

Dated: November 20, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-13780; Filed, Nov. 22, 1967; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP68-140]

ALGONQUIN GAS TRANSMISSION CO.

Notice of Application

NOVEMBER 16, 1967.

Take notice that on November 9, 1967, Algonquin Gas Transmission Co. (Applicant), 1284 Soldiers Field Road, Boston, Mass. 02135, filed in Docket No. CP68-140 an application pursuant to Section 7(a) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas to Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee), for a limited term, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to sell and deliver to Tennessee for the period December 1, 1967, through March 31, 1968, of a maximum daily quantity of 10,000 Mcf a total volume not to exceed 400,000 Mcf for such period. Applicant has agreed to make such sale and delivery, on a best efforts basis, and Tennessee has agreed to purchase and receive, under the provisions of proposed Rate Schedule X-13 of Applicant's FPC Gas Tariff, Original Volume No. 2, a maximum daily quantity of 10,000 Mcf per day and a total quantity not to exceed 400,000 Mcf during the period of such rate schedule, namely, December 1, 1967, through March 31, 1968, inclusive.

Applicant does not propose to construct any facilities in order to make this limited term sale as all proposed deliveries will be made through the existing facilities of Applicant and Tennessee where such facilities are interconnected at Mendon, Worcester County, Mass.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 14, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13785; Filed, Nov. 22, 1967; 8:45 a.m.]

[Docket No. RI63-47]

CHAMPLIN PETROLEUM CO. AND EASON OIL CO.

Order Making Successor Co-Respondent, Redesignating Proceeding, and Requiring Filing of Agreement and Undertaking

NOVEMBER 16, 1967.

By order issued September 12, 1967, in Docket No. G-4804 et al., the Commission issued a certificate of public convenience and necessity in Docket No. CI68-4 pursuant to section 7(a) of the Natural Gas Act authorizing Eason Oil Co. to continue in part the sale of natural gas theretofore authorized in Docket No. G-11150 to be made pursuant to Champlin Petroleum Co. FPC Gas Rate Schedule No. 66. The contract comprising Champlin's rate schedule was also accepted for filing as Eason's FPC Gas Rate Schedule No. 23. The presently effective rate under Champlin's rate schedule is in effect subject to refund. Eason indicates in the certificate application in Docket No. CI68-4 that it intends to be responsible for the refund of all amounts collected in excess of the amount determined to be just and reasonable in Docket No. RI63-47 from the time that the increased rate was made effective subject to refund for sales from the assigned acreage. Therefore, Eason will be made co-respondent in the proceeding pending in Docket No. RI63-47; the proceeding will be redesignated accordingly; and Eason will be required to file an agreement and undertaking to assure refunds.

The Commission finds: It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Eason Oil Co. should be made co-respondent in the proceeding pending in Docket No. RI63-47, that said proceeding should be redesignated accordingly, and that Eason should be required to file an agreement and undertaking.

The Commission orders:

(A) Eason Oil Co. is made a co-respondent in the proceeding pending in Docket No. RI63-47 and the proceeding is redesignated accordingly.

(B) Within 30 days from the issuance of this order Eason Oil Co. shall execute, in the form set out below, and shall file with the Secretary of the Commission an acceptable agreement and undertaking in Docket No. RI63-47 to assure the refund of all amounts collected, together with interest at the rate of seven percent per annum, in excess of the amount determined to be just and reasonable in said proceeding with respect to sales from the acreage acquired by Eason from Champlin Petroleum Co. Unless notified to the contrary within 30 days from the date of submission, such agreement and undertaking shall be deemed to have been accepted for filing.

(C) Eason Oil Co. shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, and the agreement and undertaking filed by Eason in Docket No. RI63-47 shall remain in full force and effect until discharged by the Commission.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13786; Filed, Nov. 22, 1967; 8:45 a.m.]

[Docket Nos. RI62-449, RI68-207]

CHAMPLIN PETROLEUM CO. ET AL.

Order Making Successor Co-respondent, Redesignating Proceeding, and Accepting Agreements and Undertakings for Filing

NOVEMBER 16, 1967.

By order issued September 12, 1967, in Docket No. G-4804, et al., the Commission issued a certificate of public convenience and necessity to May Petroleum, Inc. (May), in Docket No. CI67-1787 authorizing May to continue in part, inter alia, the sale of natural gas theretofore authorized to be made in Docket No. G-18065 by Champlin Petroleum Co. (Operator) et al. (Champlin). The contract on file as Champlin's FPC Gas Rate Schedule No. 65 was submitted by May as its own rate schedule and was accepted for filing as May's FPC Gas Rate Schedule No. 25. The effective rate under Champlin's rate schedule at the time of assignment of the producing properties was an increased rate being collected subject to refund in Docket No. RI62-449. May has filed a motion to be made a co-respondent in said proceeding together with an agreement and undertaking to assure the refund of any amounts collected by it in excess of the amount determined to be just and reasonable in said proceeding. Therefore, May will be made a co-respondent in said proceeding, the proceeding will be redesignated accordingly, and the agreement and undertaking will be accepted for filing.

May has also filed for rate increases from 17.040 cents and 16 cents to 18.106 cents and 17 cents per Mcf, respectively, for sales under its FPC Gas Rate Schedule No. 25. The proposed increases were suspended for one day until November 1, 1967, by order issued October 27, 1967, in Docket No. RI68-207. By that order May was also required to file an agreement and undertaking within twenty days of the issuance of the suspension order. May previously filed an agreement and undertaking on October 2, 1967, pertaining to its proposed increase. The agreement and undertaking filed on October 2 is deemed to constitute satisfactory compliance with the October 27 order in Docket No. RI68-207. May shall therefore collect the proposed increased rates of 18.106 cents and 17 cents subject to refund in Docket No. RI68-207 as of November 1, 1967.

The Commission finds: It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that May should be made a co-respondent in the proceeding pending in Docket No. RI62-449, that said proceeding should be redesignated accordingly, and that the agreement and undertaking submitted by May in said proceeding should be accepted for filing.

The Commission orders:

(A) May Petroleum, Inc., is made a co-respondent in the proceeding pending in Docket No. RI62-449, said proceeding is redesignated accordingly,[*] and the agreements and undertakings submitted by May in Docket Nos. RI62-449 and CI68-207 are accepted for filing.

(B) May Petroleum, Inc., shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, and the agreements and undertakings filed by it in Docket Nos. RI62-449 and RI68-207 shall remain in full force and effect until discharged by the Commission.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13787; Filed, Nov. 22, 1967; 8:45 a.m.]

[Docket No. E-7344]

ELECTRIC PLANT BOARD OF PADUCAH, KY., ET AL.

Order Providing for Hearing

NOVEMBER 17, 1967.

Electric Plant Boards of the cities of Paducah, Hickman, Fulton, and Princeton, Ky. v. Kentucky Utilities Co.

By complaint filed March 15, 1967, the four captioned municipal utilities in Kentucky asked this Commission to order refunds, with interest, of alleged overcharges on wholesale service by the Kentucky Utilities Co. (KU), a public utility subject to the jurisdiction of this Commission. KU also provides wholesale for resale service to 10 other municipals in Kentucky and to its subsidiary in Virginia.

KU has provided bulk power supply for three of the complainant utilities for some time and for the fourth since April 15, 1965, as indicated on attached Appendix A. More recently three of the utilities, Fulton, Princeton, and Paducah have obtained TVA bulk power supply and one, Hickman, is expected to obtain such service on April 15, 1970.

The main question presented by the complaint[1] and answer and the accompanying motion to dismiss[2] and the opposition thereto,[3] is the meaning of the terms of FPC Rate Schedules 29, 32, 33, and 75[4] respectively for Fulton, Paducah, Princeton and Hickman relating to the rate at which bulk power supply service will be provided. Complainants contend that the phrases used were intended to tie the rates to KU's rate for wholesale for resale bulk power service as it might be modified either up or down from time to time as permitted or compelled by this Commission as has in fact occurred.

Kentucky Utilities contends that the phrases were intended to fix the rate at the rate then applicable, but not as subsequently modified, at least for the period of the contract.

Other issues raised by the complaint and answer and the motion to dismiss and opposition go to the jurisdiction of the Commission to try the issues herein for a number of reasons, and raise other legal questions but do not bring into question KU's status as a "public utility" within the meaning of section 201 of the Federal Power Act.

All these issues can best be resolved after hearing and submission of briefs.

The Commission finds: It is necessary and appropriate for the purposes of the Federal Power Act, particularly sections 201, 205, 206, 301, 307, 308, and 309 thereof, that a public hearing be held on the issues raised in the recitals as set forth above.

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act and pursuant to the rules of practice and procedure, a public hearing shall be held at a place and time to be specified by the Presiding Examiner following the prehearing conference hereinafter directed.

(B) A prehearing conference shall be held at the offices of the Commission in Washington, D.C., on December 19, 1967 at 10 a.m., e.s.t.

(C) KU is hereby directed pursuant to the provisions of the Federal Power Act, particularly sections 301, 306, 307, 308, and 309 thereof, to grant to members of the staff of the Federal Power Commission during regular business hours free access to and opportunity to inspect and examine all facilities and properties, and to inspect, examine, and make copies of accounts, memoranda, and other records of that company when requested to do so by the staff for the purposes of the hearing ordered herein.

(D) Notices of intervention and petitions to intervene in this proceeding may be filed with the Federal Power Commission, Washington, D.C. 20426, on or before December 13, 1967, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37).

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13788; Filed, Nov. 22, 1967; 8:45 a.m.]

[Docket No. RI68-115 etc.]

HAMILTON BROTHERS, LTD.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates, Permitting Withdrawal of Rate Supplement, and Terminating Proceedings; Correction

NOVEMBER 9, 1967.

Fredric C. and Ferris F. Hamilton doing business as Hamilton Brothers, Ltd.

In the order providing for hearings on and suspension of proposed changes in

[*] Champlin Petroleum Co. (Operator) et al., and May Petroleum, Inc.

[1] Filed Mar. 15, 1967.

[2] Filed Apr. 17, 1967.

[3] Filed Apr. 26, 1967.

[4] Rate Schedule FPC Nos. 29, 32, and 33 include KU's WPS rate. Rate Schedule FPC No. 75 includes the WPS-5 rate.

rates, permitting withdrawal of rate supplement and terminating proceedings, issued October 25, 1967, and published in the FEDERAL REGISTER November 2, 1967 (F.R. Doc. 67-12825), 32 F.R. 15197, Docket No. RI65-115 et al., page 15197, in the caption, change "RI65-115" to "RI68-115", and under column entitled "Docket No." change "RI68-305" to "RI68-285", page 15198, first column, line 8; change "RI65-115" to "RI68-115".

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13739; Filed, Nov. 22, 1967; 8:45 a.m.]

[Docket Nos. RI66-149, RI66-316]

HUMBLE OIL & REFINING CO. ET AL.

Order Making Successors Co-respondents, Redesignating Proceedings, and Accepting Agreements and Undertakings for Filing

NOVEMBER 16, 1967.

Humble Oil & Refining Co. and Texaco, Inc., Docket No. RI66-149; Union Oil Company of California, and May Petroleum, Inc., Docket No. RI66-316.

By order issued September 13, 1967, in Docket No. G-4804 et al., the Commission issued a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act in Docket No. CI67-1536 authorizing May Petroleum, Inc., to continue in part the sale of natural gas theretofore authorized in Docket No. G-16373 to be made pursuant to Union Oil Company of California FPC Gas Rate Schedule No. 110. The contract comprising said rate schedule was also accepted for filing as May Petroleum, Inc., FPC Gas Rate Schedule No. 28.

By order issued September 19, 1967, in Docket No. G-6170 et al., the Commission issued a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act in Docket No. CI68-102 authorizing Texaco, Inc., to continue in part the sale of natural gas theretofore authorized in Docket No. CI63-120 to be made pursuant to Humble Oil & Refining Co., FPC Gas Rate Schedule No. 282. An instrument of ratification of the contract comprising said rate schedule was accepted for filing as Texaco, Inc., FPC Gas Rate Schedule No. 403.

The presently effective rates under the predecessors' FPC gas rate schedules are in effect subject to refund. The successors have submitted agreements and undertakings to assure the refunds of any amounts collected by them in excess of the amounts determined to be just and reasonable in their predecessors' rate proceedings. Therefore, Texaco, Inc., will be made a co-respondent in the proceeding pending in Docket No. RI 66-149; May Petroleum, Inc., will be made a co-respondent in the proceeding pending in Docket No. RI66-316; the proceedings will be redesignated accordingly; and the agreements and undertakings will be accepted for filing.

The Commission finds: It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the successors in interest should be made co-respondents in their predecessors' rate proceedings, that said proceedings should be redesignated accordingly, and that the agreements and undertakings submitted by the successors should be accepted for filing.

The Commission orders:

(A) Texaco, Inc., is made co-respondent in the proceeding pending in Docket No. RI66-149; May Petroleum, Inc., is made a co-respondent in the proceeding pending in Docket No. RI66-316; said proceedings are redesignated accordingly; and the agreements, and undertakings submitted by Texaco, Inc., and May Petroleum, Inc., are accepted for filing.

(B) Texaco, Inc., and May Petroleum, Inc., shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, and the agreements and undertakings filed by them in Docket Nos. RI66-149 and RI66-316 shall remain in full force and effect until discharged by the Commission.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13740; Filed, Nov. 22, 1967; 8:45 a.m.]

[Docket No. CP68-147]

NORTHERN NATURAL GAS CO.

Notice of Application

NOVEMBER 16, 1967.

Take notice that on November 8, 1967, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP68-147 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing commencement of firm natural gas service to two existing industrial customers, to construct and operate sales measuring facilities to deliver natural gas to an existing distributor for resale, and to change the distributor for Hancock, Minn., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Minnesota Natural Gas Co. has requested 150 Mcf per day of firm gas for the A. C. Ochs Brick and Tile Company of Springfield, Minn. Applicant states that this requirement will be supplied from Applicant's unallocated mainline capacity requested in Docket No. CP68-57.

Metropolitan Utilities District (MUD) has requested 417 Mcf per day of firm gas for Paxton and Vierling Steel Company of Omaha, Nebr. Applicant states that this requirement will be supplied from MUD's existing contract demand.

Applicant further requests authority to construct and operate a sales measuring station for the sale of natural gas on an interruptible basis to Iowa Public Service Co. (IPS) for resale to the National Alfalfa Dehydrating and Milling Co. near Gayville, Yankton County, S. Dak. Annual sales are estimated to be 120,000 Mcf and IPS will reimburse Applicant for the actual cost of constructing the sales measuring station, which amount is estimated to be $5,410.

Applicant also requests authority to change the distributor for the community of Hancock, Minn., from Peoples Division to Minnesota Natural Gas Co.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 14, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13741; Filed, Nov. 22, 1967; 8:45 a.m.]

[Docket No. CP68-151]

NORTHERN NATURAL GAS CO.

Notice of Application

NOVEMBER 17, 1967.

Take notice that on November 9, 1967, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP68-151 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities for the transportation in interstate commerce of natural gas produced in Pecos County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant has entered into an agreement with Humble Oil and Refining Co. (Humble) for the purchase of natural gas from the Northeast Oates Field, Pecos County, Tex., at a cost of 16.5 cents per Mcf. In order that the gas may be brought into its pipeline system, Applicant requests authorization to construct and operate 19.4 miles of 16-inch pipeline from the Northeast Oates Field to connect with Applicant's presently installed 24-inch pipeline extension into the Gomez Field, all in Pecos County, Tex. Applicant also proposes to construct various gathering facilities, measuring facilities, and a treating plant as appurtenant facilities to the aforementioned 16-inch pipeline.

The total estimated cost of the proposed facilities is $6,900,500, which cost will be financed out of cash on hand, reserved accruals, and retained earnings.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 18, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13742; Filed, Nov. 22, 1967; 8:45 a.m.]

[Project 2661]

PACIFIC GAS AND ELECTRIC CO.

Notice of Application for License for Constructed Project

NOVEMBER 16, 1967.

Public notice is hereby given that application for license has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by Pacific Gas and Electric Co. (correspondence to: E. J. Lage, Vice President, Pacific Gas and Electric Co., 245 Market Street, San Francisco, Calif. 94106) for constructed Project No. 2661, known as the Hat Creek Project, located on Hat Creek, a tributary of the Pit River, in the region of Cassell, Burney, and Fall River Mills, in Shasta County, Calif.

The existing Hat Creek Project comprises two developments consisting of: Hat Creek No. 1: (1) A 231-foot long, 12-foot high concrete buttress dam incorporating a 152-foot long spillway with a flashboard crest elevation at 3,188.97 feet (U.S.G.S. datum); (2) a reservoir with a capacity of about 32 acre-feet and a surface area of about 12 acres; (3) an intake structure at the left abutment of the dam diverting water into a 2,270-foot long canal and forebay; (4) a 1,600-foot long steel pipe penstock from the forebay to Hat Creek No. 1 Powerhouse; (5) Hat Creek No. 1 powerhouse containing a 15,000-horsepower turbine direct connected to a 10,000-kilowatt generator; (6) a 6.6/60 kv transformer bank; and (7) two short 60 kv taplines to the Company's interconnected transmission system; and Hat Creek No. 2: (1) A 43-foot long, 29-foot high concrete gravity diversion dam with concrete wing walls and a short earthfill wing section incorporating a siphon spillway and an emergency spillway controlled by flashboards; (2) 39-acre Hat Creek No. 2 (Baum Lake) Reservoir with a gross storage capacity of about 629 acre-feet at elevation 2,975.72 feet; (3) Crystal Lake, a 116-acre natural lake contributing 190 acre-feet of storage to Baum Lake through its uncontrolled outlet; (4) an intake structure at the left end of the dam diverting water to Hat Creek No. 2 Flume; (5) a 4,520-foot long reinforced concrete flume; (6) a penstock intake; (7) an overflow spillway upstream from the penstock intake; (8) a 414-foot steel pipe penstock from the flume to the powerhouse; (9) Hat Creek No. 2 powerhouse containing a 15,000-horsepower turbine connected to a 10,000-kilowatt generator; (10) a 6.6/60 kv step-up transformer bank; (11) a 100-foot long transmission tapline connected to Company's interconnected transmission system; and (12) appurtenant facilities.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is January 10, 1968. The application is on file with the Commission for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13743; Filed, Nov. 22, 1967; 8:45 a.m.]

[Docket No. CP63-32]

PANHANDLE EASTERN PIPE LINE CO.

Notice of Petition To Amend

NOVEMBER 15, 1967.

Take notice that on November 3, 1967, Panhandle Eastern Pipe Line Co. (Applicant), 1 Chase Manhattan Plaza, New York, N.Y. 10008, filed in Docket No. CP63-32 a petition to amend the order issued in said docket on November 8, 1962, so as to extend for a 2-year period, the date for completion of the testing and development of underground storage reservoirs in the State of Indiana, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the order issued in the aforementioned docket on November 8, 1962, Petitioner was authorized to construct and operate the facilities necessary to make an evaluation of prospective underground natural gas storage reservoirs in western Indiana for a period of 3 years. By an amending order issued April 4, 1966, the period of authorization was extended 2 years beyond November 8, 1965.

Petitioner states that natural gas is now being injected into the underground reservoirs, but that an additional 2-year period is needed to complete the testing and development.

Petitioner requests, accordingly, that the order of November 8, 1962, be amended to extend the period of authorization to November 8, 1969, in order that the testing and development of the reservoirs may be completed.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 13, 1967.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13744; Filed, Nov. 22, 1967; 8:45 a.m.]

[Docket No. CP68-157]

PANHANDLE EASTERN PIPE LINE CO.

Notice of Application

NOVEMBER 17, 1967.

Take notice that on November 15, 1967, Panhandle Eastern Pipe Line Co. (Applicant), 1 Chase Manhattan Plaza, New York, N.Y. 10005, filed in Docket No. CP68-157 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of natural gas facilities for the receipt and transportation of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to construct and operate approximately 33.7 miles of 12-inch pipeline from the southeastern end of its Alfalfa County line in Major County, Okla, to a point in Northwest Kingfisher County, Okla., where Applicant proposes to construct and operate a 1,400-horsepower compressor station. Applicant will purchase natural gas at two points along the proposed 12-inch line from Humble Oil and Refining Co. under a contract dated November 1, 1967.

The total estimated cost of the proposed pipeline, together with measuring facilities, compressors, and appurtenances, will be $2,007,000 which will be financed from general sources available to Applicant.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 8, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections

7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13745; Filed, Nov. 22, 1967; 8:45 a.m.]

[Docket No. E-7375]

PUBLIC SERVICE COMPANY OF INDIANA, INC.

Notice of Application

NOVEMBER 17, 1967.

Take notice that on August 28, 1967 Public Service Company of Indiana, Inc. (Applicant), of Plainfield, Ind., filed an application seeking authorization pursuant to section 203 of the Federal Power Act to acquire electric generating and distributions systems owned by the town of Vevay, Ind.

The facilities to be acquired consist of all distribution and generating facilities of the town of Vevay which presently serve 849 residential and commercial customers. The purchase price is $400,000. After the transaction, Applicant proposes to undertake all duties and obligations with respect to such facilities and their operations.

The application further states that the Applicant will place in effect, after approval from the Public Service Commission of Indiana, the rate schedules for the furnishing and supplying of electrical energy by Applicant to all customers receiving energy from the town as of the date of the closing at and for the applicable rates for such service that are on said date charged by the town, if lower than the Applicant, but limiting the availability of all such rate schedules to those customers receiving service at the premises being served with electric energy from the town on the date of closing, otherwise putting into effect the Applicant's rates.

The town board of Vevay at meetings duly held on September 12, 1967, and October 2, 1967, adopted ordinances authorizing the sale, ratifying and confirming the actions of the town board in executing and delivering to Applicant the agreement and authorizing the taking of certain actions in connection therewith.

Applicant submits that the acquisition by company of the town facilities is in the public interest, as service to the town customers and street lighting facilities will be improved. Applicant is presently serving surrounding areas to said town, and it states that it is to the best interest of the town and in the public interest to have applicant serve the entire town. The town, in order to continue service to its customers, would have to expend large sums of money, which it does not now have available. Town feels it would be to the public interest to sell its facilities to applicant.

Any person desiring to be heard or to make any protest with reference to said application should, on or before December 5, 1967, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13746; Filed, Nov. 22, 1967; 8:45 a.m.]

[Docket No. RI68-108, etc.]

SINCLAIR OIL & GAS CO.

Order Accepting Contract Amendment, Providing for Hearings on and Suspension of Proposed Changes in Rates; Correction

NOVEMBER 16, 1967.

In the order accepting contract amendment, providing for hearings on and suspension of proposed changes in rates, issued September 1, 1967, and published in the FEDERAL REGISTER September 13, 1967 (F.R. Doc. 67-10593), 32 F.R. 13031, Docket Nos. RI68-103 et al., under column headed "Rate in Effect", relating to Supplement No. 5 to Sinclair's FPC Gas Rate Schedule No. 169, delete footnote "*" and insert footnote "*" "Subject to proportionate downward B.t.u. adjustment from a base of 950 B.t.u.'s per cubic foot. Present net rate is 9.8 cents for 760 B.t.u. Gas." Delete footnote "*" in its entirety and substitute the following: "Subject to proportionte downward B.t.u. adjustment from a base of 950 B.t.u.'s per cubic foot limited to a net rate of 11.0 cents. Based on present B.t.u. content of gas (760 B.t.u.'s per cubic foot), 11.0 cents net rate is equivalent to 13.75 cents for 950 B.t.u. gas."

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13747; Filed, Nov. 22, 1967; 8:46 a.m.]

[Docket No. G-4715]

SOUTHERN NATURAL GAS CO. AND TENNESSEE GAS PIPELINE CO.

Notice of Petition To Amend

NOVEMBER 15, 1967.

Take notice that on November 6, 1967, Southern Natural Gas Co. (Petitioner Southern), Post Office Box 2563, Birmingham, Ala. 35202, and Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Petitioner Tennessee), Post Office Box 2511, Houston, Tex. 77001, filed in Docket No. G-4715 a petition to amend the order issued in said docket on February 25, 1955, as amended by orders issued June 5, 1962, and July 31, 1963, by requesting authorization to construct and operate facilities for the delivery and exchange of natural gas and for authorization to increase the maximum daily quantity of natural gas to be exchanged between the Petitioners, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the order issued in the above-mentioned docket on February 25, 1955, as subsequently amended, Petitioner Southern was authorized to deliver natural gas to Petitioner Tennessee at two delivery points (the Franklin and High Island delivery points) and Petitioner Tennessee was authorized to deliver natural gas to Petitioner Southern at three delivery points (the Bayou Sale, Eloi Bay, and Bastian Bay delivery points). Petitioners were further authorized to exchange gas at such delivery points and construct and operate facilities required. The maximum quantity gas presently allowed to be delivered by Petitioner Southern to Petitioner Tennessee on any day is 20,000 Mcf.

By the instant petition to amend Petitioner seeks authorization for the delivery of gas by Petitioner Southern to Petitioner Tennessee at five delivery points (the Franklin, High Island, Bay St. Elaine, Lake Washington, and Bayou Sale delivery points), the delivery of gas by Petitioner Tennessee to Petitioner Southern at three delivery points (the Eloi Bay, Bastian Bay, and Patterson delivery points), and construction and operation of appurtenant facilities to effectuate the proposed exchange and delivery. Further, Petitioners request authorization to increase the maximum quantity of gas Petitioner Southern may deliver to Petitioner Tennessee to 53,700 Mcf per day and the maximum quantity of gas Petitioner Tennessee may deliver to Petitioner Southern to 56,000 Mcf per day, each party, however, to deliver gas to the other at as nearly equal daily rates as practicable and to use its best efforts to assure that deliveries will be in balance at the end of each month.

The total estimated cost of the proposed facilities is $370,160 for Petitioner Southern's construction and $68,648 for Petitioner Tennessee's construction.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 13, 1967.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13748; Filed, Nov. 22, 1967; 8:46 a.m.]

[Docket No. G-19934 etc.]

SUPERIOR OIL CO., ET AL.

Order Making Successors Co-respondents, Redesignating Proceedings, and Requiring Filing of Agreements and Undertakings

NOVEMBER 16, 1967.

The Superior Oil Co., Bowers Drilling Co., Inc., and Clarke Oilfield Service, Inc., Docket No. G-19934; Helmerich & Payne, Inc. (Operator) et al., and Pan American Petroleum Corp., Docket No. RI62-546; Livingston Oil Co. (Operator) et al., and Joe N. Champlin, trustee, Docket No. RI66-228.

By order issued September 12, 1967, in Docket No. G-4804 et al., the Commission issued certificates of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act in Docket Nos. CI67-1620, CI68-63, and CI68-68 to Pan American Petroleum Corp., Joe N. Champlin, trustee, and Clarke Oilfield Service, Inc., respectively, authorizing them to continue in part sales of natural gas theretofore authorized in Docket Nos. G-12750, CI61-1557, and G-6906, respectively, to be made pursuant to Helmerich & Payne (Operator) et al., FPC Gas Rate Schedule No. 23, Livingston Oil Co. (Operator) et al., FPC Gas Rate Schedule No. 1, and The Superior Oil Co. FPC Gas Rate Schedule No. 46, respectively. The contracts comprising said rate schedules were also accepted for filing as Pan American Petroleum Corp. FPC Gas Rate Schedule No. 482, Joe N. Champlin, trustee, FPC Gas Rate Schedule No. 3, and Clarke Oilfield Service, Inc., FPC Gas Rate Schedule No. 1, respectively. The presently effective rates under the predecessors' rate schedules are in effect subject to refund in Docket Nos. RI62-546, RI66-228, and G-19934, respectively. Therefore, the successors will be made co-respondents in their predecessors' rate proceedings; the proceedings will be redesignated accordingly; and the successors will be required to file agreements and undertakings to assure the refunds of any amounts collected by them in excess of the amounts determined to be just and reasonable in said proceedings.

The Commissions finds: It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the successors in interest should be made co-respondents in their predecessors' rate proceedings, that said proceedings should be redesignated accordingly, and that the successors should be required to file agreements and undertakings.

The Commission orders:

(A) Clarke Oilfield Service, Inc., Pan American Petroleum Corp., and Joe N. Champlin, trustee, are made co-respondents in the proceedings pending in Docket Nos. G-19934, RI62-546, and RI66-228, respectively; and said proceedings are redesignated accordingly.

(B) Within 30 days from the issuance of this order, the successors in interest shall execute, in the form set out below, and shall file with the Secretary of the Commission acceptable agreements and undertakings in Docket Nos. G-19934, RI62-546, and RI66-228 to assure the refunds of any amounts collected by them, together with interest at the rate of 7 percent per annum, in excess of the amounts determined to be just and reasonable in said proceedings. Unless notified to the contrary by the Secretary of the Commission within 30 days from the date of submission, such agreements and undertakings shall be deemed to have been accepted for filing.

(C) The successors in interest shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.103 of the regulations thereunder, and the agreements and undertakings filed by them shall remain in full force and effect until discharged by the Commission.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13749; Filed, Nov. 22, 1967; 8:46 a.m.]

[Docket No. CI68-621]

TENNECO OIL CO.

Notice of Application

NOVEMBER 17, 1967.

Take notice that on November 6, 1967, Tenneco Oil Co. (Applicant), Post Office Box 2511, Houston, Tex. 77001, filed in Docket No. CI68-621 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant has entered into a "Lease Transfer Agreement" with Tennessee to acquire from that company all of its natural gas production properties, except in the Bastian Bay and Ship Shoal Fields, and has entered into gas sale and purchase contracts with Tennessee for the sale of natural gas from the properties acquired from Tennessee.[1] The application states that the contracts provide that the price to be paid by Tennessee to Applicant for all gas delivered, or if available and not taken by Tennessee, shall be the area price established by the Commission and that the contracts further provide that pending the establishment of the area price, the price to be paid by Tennessee from the date of initial delivery until such time that the Commission establishes an area price shall be the "in-line" price heretofore determined by the Commission. The application further states that in the one instance in which sales would be made from a location for which no "in-line" price has been determined, Tennessee would pay to Applicant "the applicable guide-line price."

The Lease Transfer Agreement provides that as long as the pricing by the Commission of pipeline produced gas is on a basis different from that used by the Commission for pricing independent producer gas, Applicant will maintain segregated and separate records with respect to revenues, investments, and expenses applicable to the subject properties and the operation thereof.

Applicant proposes to sell gas from the following properties at the total initial rates indicated. All rates are subject to downward B.t.u. adjustment with no adjustments anticipated for the initial sales.

Location	Price (cents per Mcf) and Pressure base (p.s.i.a.)
Bethany Field, Panola County, Tex.	14.0 cents at 14.65 p.s.i.a.
Bay City East Field, Matagorda County, Tex.	15.0 cents at 14.65 p.s.i.a.
Deckers Prairie Field, Montgomery County, Tex.	15.0 cents at 14.65 p.s.i.a.
El Ebanito, Hinde, Flores, Borosa, Borosa South, and Borosa Northwest Fields, Starr County, Tex.	15.0 cents at 14.65 p.s.i.a.
Heyser Field, Calhoun and Victoria Counties, Tex.	15.0 cents at 14.65 p.s.i.a.
La Salle Field, Jackson County, Tex.	15.0 cents at 14.65 p.s.i.a.
Tabasco Field, Hildalgo County, Tex.	15.0 cents at 14.65 p.s.i.a.
Trull Field, Matagorda County, Tex.	17.0 cents at 14.65 p.s.i.a.
Chalkley Northwest Field, Calcasieu Parish, La.	20.0 cents at 15.025 p.s.i.a.
East Cameron Block 17 and Block 24 Fields, Offshore Cameron Parish, La.	20.0 cents at 15.025 p.s.i.a.
West Cameron Block 190 Field, Offshore Cameron Parish, La.	18.5 cents at 15.025 p.s.i.a.
South Marsh Island Block 61 Field, Offshore Iberia Parish, La.	18.5 cents at 15.025 p.s.i.a.
South Marsh Island Block 79 Field, Offshore Iberia Parish, La.	18.5 cents at 15.025 p.s.i.a.
Timbalier Bay and Block 2 Fields, Offshore Lafourche Parish, La.	20.0 cents at 15.025 p.s.i.a.
Vermilion Block 191 Field, Offshore Vermilion Parish, La.	18.5 cents at 15.025 p.s.i.a.
Vermilion Block 245 Field, Offshore Vermilion Parish, La.	18.5 cents at 15.025 p.s.i.a.
Vermilion Block 250 Field, Offshore Vermilion Parish, La.	18.5 cents at 15.025 p.s.i.a.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 11, 1967.

Take further notice that, pursuant to the authority contained in and subject to

[1] Concurrently herewith Tennessee has filed an application in Docket No. CP68-146 for permission and approval to abandon and for a certificate of public convenience and necessity to transfer the subject properties.

the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on the subject application if no protest or petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given: *Provided, however,* That pursuant to 18 CFR 2.56 any certificate of public convenience and necessity issued herein will contain, without further notice, a condition precluding the filing prior to January 1, 1970, of any increased rates at prices in excess of those designated for the particular areas of production unless within the time fixed herein for the filing of protests or petitions to intervene, Applicant indicates in writing that it is unwilling to accept such a condition. In the event Applicant is unwilling to accept such condition, the application will be set for formal hearing.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13750; Filed, Nov. 22, 1967; 8:46 a.m.]

[Docket No. CP68-146]

TENNESSEE GAS PIPELINE CO.

Notice of Application

NOVEMBER 17, 1967.

Take notice that on November 6, 1967, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Applicant), Post Office Box 2511, Houston, Tex. 77001, filed in Docket No. CP68-146 an application pursuant to subsections (b) and (c) of section 7 of the Natural Gas Act for permission and approval to abandon Applicant's gas production properties and for a certificate of public convenience and necessity authorizing the transfer of said production properties to Tenneco Oil Co. (Tenneco Oil), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to abandon and transfer to Tenneco Oil properties which include properties which have been connected to Applicant's pipeline, properties on which gas has been discovered and developed but not yet connected, leases on which gas has not yet been discovered or developed, certain small properties which are not delivering into Applicant's system and any related production facilities. The proposed transfer also includes the six offshore leases which were the subject of Commission proceedings in Docket No. CP65-356.

Applicant states that the proposed transfer does not include the Bastian Bay and Ship Shoals properties which are the subject matter of Commission proceedings in Docket Nos. CI66-910, et al., and RI64-128, et al., respectively.

Applicant has entered into gas purchase contracts with Tenneco Oil for the sale to Applicant of all gas produced from those leases now producing gas into Applicant's system or scheduled to produce gas into Applicant's system upon construction of facilities pursuant to authorization granted in Docket No. CP65-356. Tenneco Oil has filed an application in Docket No. CI68-621 for authorization of the Commission to sell gas to Applicant from those leases.

Applicant will transfer to Tenneco Oil the production properties at the net book cost.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 11, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13751; Filed, Nov. 22, 1967; 8:46 a.m.]

[Docket No. CP68-149]

TENNESSEE GAS PIPELINE CO.

Notice of Application

NOVEMBER 16, 1967.

Take notice that on November 9, 1967, Tennessee Gas Pipeline Co., a division of Tenneco (Applicant), Post Office Box 2511, Houston, Tex. 77001, filed in Docket No. CP68-149 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continued rendition of interim natural gas service to certain of Applicant's existing customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to continue to render interim natural gas service for another year, in the same form as the interim natural gas service rendered last year pursuant to authorization granted in Docket Nos. CP66-180, as amended, and CP67-46, to (1) certain of its New England customers who are faced with a natural gas deficiency due to unavoidable delay in commencement of LNG service and (2) to others of its New England customers because of the delay encountered in Phase II of Applicant's application at Docket No. CP67-211.

Applicant states that no new facilities need be constructed to effectuate the continued service.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 14, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13752; Filed, Nov. 22, 1967; 8:46 a.m.]

[Docket No. CP67-341]

TEXAS GAS TRANSMISSION CORP.

Notice of Petition To Amend

NOVEMBER 17, 1967.

Take notice that on November 8, 1967, Texas Gas Transmission Corp. (Petitioner), Post Office Box 1160, Owensboro, Ky. 42301, filed in Docket No. CP67-341, a petition to amend the order issued in said docket on July 25, 1967, by requesting authorization to construct and operate facilities for the establishment of a new delivery point to an existing customer, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the order issued July 25, 1967, in the instant docket, Petitioner was authorized, inter alia, to construct facilities which included peak day capacity of 8,200 Mcf per day. By the instant petition to amend Petitioner requests authorization to construct, install, and operate facilities for the establishment of one new delivery point for an existing customer, the town of Covington, Tenn., and to authorize an increase of 262 Mcf in the contract demand of Covington to be effective December 1, 1967.

The purpose of the new facilities is to establish a delivery point for Covington for resale to a new industrial customer, the E. L. Bruce & Co., adjacent to the town of Covington, Tenn.

The proposed increase in contract demand by Covington will increase its demand to 5,000 Mcf per day which will be fulfilled out of the aforementioned peak day capacity.

The total estimated cost of the proposed facilities is $8,500, which will be financed from cash on hand.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 14, 1967.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13753; Filed, Nov. 22, 1967; 8:46 a.m.]

FEDERAL TRADE COMMISSION

DIRECTORS AND ASSISTANT DIRECTORS OF BUREAUS OF RESTRAINT OF TRADE, DECEPTIVE PRACTICES, TEXTILES AND FURS, AND INDUSTRY GUIDANCE

Rescinding Delegation of Authority Relating to Closing of Certain Investigational Files

Pursuant to the authority provided by the provisions of Reorganization Plan No. 4 of 1961 (26 F.R. 6191), the Federal Trade Commission on October 3, 1967, amended the Delegation of Functions relating to closing of docketed investigational files as follows: Item (2) of the delegation of functions of November 7, 1963 (28 F.R. 12187, Nov. 15, 1963) is amended, item (1) of the delegation of functions of July 25, 1966 (31 F.R. 10856, Aug. 5, 1966) is superseded by this action. As amended, item (2) reads as follows:

(2) In regard: Closing of docketed investigational files. The Commission delegates to the Directors and Assistant Directors of the Bureaus of Restraint of Trade, Deceptive Practices, Textiles and Furs, and Industry Guidance, severally and without power of redelegation, the authority to close docketed investigational files, except those involving violation of section 7 of the Clayton Act: *Provided,* That such delegation does not apply to any matter in which there are conflicting staff recommendations, any matter which has received previous Commission consideration or in which the Commission or any Commissioner has expressed an interest, any matter proposed to be closed by reason of expense of investigation or testing, or any matter involving substantial questions as to the public interest, Commission policy or statutory construction, in each of which type of case a report with recommendation will be made to the Commission.

And provided, further, That the closing of any investigational file under the foregoing delegation shall not be effective until the file has been transmitted to the Secretary and he shall have advised the Commission of the direction to close and no one member, within 5 working days thereafter, shall have objected to the closing. If upon the expiration of such 5-day period no Commissioner shall have objected, the Secretary shall enter upon the records of the Commission the closing of the matter and take such other action as the closing requires.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

NOVEMBER 15, 1967.

[F.R. Doc. 67-13778; Filed, Nov. 22, 1967; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[812-2167]

AETNA LIFE AND CASUALTY CO. ET AL.

Notice of Filing of Application for Order Exempting Proposed Transactions

NOVEMBER 17, 1967.

Notice is hereby given that Aetna Life Insurance Co. ("Aetna Life") and The Aetna Casualty and Surety Co. ("Aetna Casualty"), 151 Farmington Avenue, Hartford, Conn. 06115, both affiliated persons of Insurance Securities Trust Fund ("ISTF"), a registered open-end diversified investment company, together with Aetna Life and Casualty Co. ("Aetna Life and Casualty"), an affiliated person of Aetna Life, have filed a joint application pursuant to section 17(b) of the Investment Company Act of 1940 ("Act") for an order exempting from the provisions of section 17(a) of the Act the issuance by Aetna Life and Casualty of shares of its capital stock to ISTF in exchange for the shares of capital stock of Aetna Life held by ISTF, as part of a plan of exchange pursuant to which it is proposed that Aetna Life and Casualty will issue one share of its capital stock in exchange for each outstanding share of capital stock of Aetna Life, including the beneficial interest in the shares of the capital stock of Aetna Casualty represented thereby. All interested persons are referred to the application on file with the Commission for a statement of applicants' representations, which are summarized below.

Section 17(a) of the Act, as here pertinent, prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, from selling to or purchasing from such registered company any securities or other property unless the Commission, upon application pursuant to section 17(b), grants an exemption from the provisions of section 17(a) after finding that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of such investment company and with the general purposes of the Act.

Aetna Life and Casualty was recently organized by Aetna Life pursuant to a special act of the Connecticut General Assembly and has an authorized capital of 26 million shares of common capital stock, par value $3.50, none of which is issued and outstanding. ISTF owns 1,828,022 shares, or 7.28 percent, of the 25,106,184 outstanding shares of capital stock of Aetna Life, a Connecticut life insurance company. By such ownership, ISTF has a beneficial interest of 7.28 percent of the outstanding shares of Aetna Casualty, a Connecticut fire and casualty insurance company all of the outstanding shares of which are held in trust for the benefit of the shareholders of Aetna Life. None of the applicants has any other connection with ISTF or its investment adviser and underwriter, Insurance Securities, Inc.

ISTF will be treated under the plan of exchange on the same basis as all other shareholders of Aetna Life, being entitled to receive one share of the capital stock of Aetna Life and Casualty for each share of Aetna Life now held by it. Upon completion of the plan of exchange, the trust which holds the shares of Aetna Casualty will be terminated and such shares will be distributed to Aetna Life and Casualty, which will then own all of the stock of Aetna Casualty and all of the stock of Aetna Life.

Aetna Casualty owns 19,994 shares of the 20,000 outstanding shares of capital stock of The Standard Fire and Insurance Co. ("Standard"), a Connecticut fire and casualty company. Under a separate plan of exchange, which would be made effective concurrently with that described above, it is proposed that Aetna Life and Casualty issue 31 of its shares for each share of Standard stock or a total of 620,000 Aetna Life and Casualty shares, all of which would be issued to Aetna Casualty, except 186 shares which would be issued to the holder of the six outstanding minority shares of Standard. All Aetna Life and Casualty shares received by Aetna Casualty will be distributed by it to Aetna Life and Casualty as dividends on Aetna Casualty's own shares as promptly as tax and other considerations will reasonably permit, and such Aetna Life and Casualty shares will not be voted while held by Aetna Casualty.

The plans of exchange have been adopted pursuant to special acts of the Connecticut General Assembly and have been approved by the holders of over two-thirds of the shares of Aetna Life

and of Standard, respectively. Any shareholder who has objected to the plan of exchange for his shares will be entitled to be paid the fair value of his shares in an appraisal proceeding. The Insurance Commissioner of the State of Connecticut has found that the interests of the policyholders and shareholders of the applicants and of Standard are protected and that the terms and conditions of the proposed exchanges of stock are fair and reasonable.

Upon effectuation of the plans of exchange, Aetna Life, Aetna Casualty, and Standard will become wholly owned subsidiaries of Aetna Life and Casualty and will continue to carry on their insurance businesses as at present. The new corporate structure will permit more flexible arrangements for managing the assets and investments of such subsidiaries.

Notice is further given that any interested person may, not later than December 7, 1967, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive a notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67–13766; Filed, Nov. 22, 1967; 8:47 a.m.]

[812–2192]

CONNECTICUT GENERAL INSURANCE CORP. AND AETNA INSURANCE CO.

Notice of Filing of Application Exempting Proposed Transactions

NOVEMBER 17, 1967.

Notice is hereby given that Connecticut General Life Insurance Co. ("CG Life") and Aetna Insurance Co. ("Aetna Insurance"), 900 Cottage Grove Road, Bloomfield, Conn., both affiliated persons of Insurance Securities Trust Fund ("ISTF"), a registered open-end diversified investment company, together with Connecticut General Insurance Corp. ("CGIC"), an affiliated person of CG Life, have filed a joint application pursuant to section 17(b) of the Investment Company Act of 1940 ("Act") for an order exempting from the provisions of section 17(a) of the Act the issuance by CGIC of shares of its capital stock to ISTF in exchange for the shares of capital stock of CG Life held by ISTF (including the beneficial interest in shares of capital stock of Aetna Insurance represented thereby), pursuant to a plan of exchange described below. All interested persons are referred to the application on file with the Commission for a statement of applicants' representations, which are summarized below.

Section 17(a) of the Act, as here pertinent, prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, from selling to or purchasing from such registered company any securities or other property unless the Commission, upon application pursuant to section 17(b), grants an exemption from the provisions of section 17(a) after finding that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of such investment company and with the general purposes of the Act.

CGIC was recently organized pursuant to a special act of the Connecticut General Assembly. It has outstanding 400 shares of capital stock, all of which are owned by CG Life except for directors' qualifying shares. ISTF owns 316,825 shares, or 5.3 percent, of the 5,978,322 outstanding shares of capital stock of CG Life, a Connecticut life insurance company. Aetna Insurance, a Connecticut fire and casualty company, has outstanding 1 million shares of capital stock of which 986,035 shares are held in trust for the benefit of the shareholders of CG Life, 7,387 shares are owned by CG Life, and the remaining 6,578 shares are owned by 138 other shareholders. None of the applicants has any other connection with ISTF or its investment adviser and underwriter, Insurance Securities Inc.

It is proposed, pursuant to a plan of exchange, that CGIC will issue two shares of its capital stock for each outstanding share of capital stock of CG Life, including the beneficial interest in the shares of capital stock of Aetna Insurance represented thereby, and that CGIC will issue 2¼ shares of its capital stock for each of the shares of capital stock of Aetna Insurance which are not held in trust as described above. Cash will be paid in lieu of fractional shares.

The plan of exchange has been adopted pursuant to a special act of the Connecticut General Assembly and has been approved by the holders of over two-thirds of the shares of CG Life and Aetna Insurance, respectively. Any shareholder who has objected to the plan of exchange will be entitled to be paid the fair value of his shares in an appraisal proceeding. The Insurance Commissioner of the State of Connecticut has found that the interests of the policyholders and shareholders of the applicants are protected and that the terms and conditions of the proposed exchange of stock are fair and reasonable.

In connection with the plan of exchange, it is proposed that, pursuant to an amendment of the trust agreement, the shares of Aetna Insurance held in trust will be distributed to CGIC and the trust terminated. Upon completion of the plan of exchange, CG Life and Aetna Insurance will become wholly owned subsidiaries of CGIC and will continue to conduct their business as now conducted. The new corporate structure will permit greater flexibility in the operations and financing of the companies.

Notice is further given that any interested person may, not later than December 7, 1967, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67–13767; Filed, Nov. 22, 1967; 8:47 a.m.]

[File No. 1–9431]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

NOVEMBER 17, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 19, 1967, through November 28, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67–13768; Filed, Nov. 22, 1967; 8:47 a.m.]

[File No. 7–2779]

GULF & WESTERN INDUSTRIES, INC. (DELAWARE)

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 16, 1967.

In the matter of application of the Philadelphia-Baltimore-Washington Stock Exchange, for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Gulf & Western Industries, Inc. (Delaware). File No. 7–2779.

Upon receipt of a request, on or before November 30, 1967, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67–13769; Filed, Nov. 22, 1967; 8:47 a.m.]

[File No. 8–592]

PAKCO COMPANIES, INC.

Order Suspending Trading

NOVEMBER 17, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Pakco Companies, Inc., and all other securities of Pakco Companies, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 19, 1967, through November 28, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67–13770; Filed, Nov. 22, 1967; 8:47 a.m.]

[File No. 1–5215]

ROTO AMERICAN CORP.

Order Suspending Trading

NOVEMBER 17, 1967.

The common stock, $1 par value, of Roto American Corp., being listed and registered on the National Stock Exchange pursuant to the provisions of the Securities Exchange Act of 1934 and the 7 percent cumulative preferred, $10 par value, being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the National Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 19, 1967, through November 27, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67–13771; Filed, Nov. 22, 1967; 8:48 a.m.]

[File No. 1–4871]

WESTEC CORP.

Order Suspending Trading

NOVEMBER 17, 1967.

The common stock, 10 cents par value, of Westec Corp., being listed and registered on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Westec Corp., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the American Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 19, 1967, through November 28, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67–13772; Filed, Nov. 22, 1967; 8:48 a.m.]

[812–2111]

WHEELABRATOR CORP. ET AL.

Notice of Filing of Application for Order Exempting Proposed Transactions Between Affiliates

NOVEMBER 17, 1967.

Notice is hereby given that The Wheelabrator Corp. ("Wheelabrator"), 400 South Byrkit Avenue, Mishawaka, Ind. 46544, Bell Intercontinental Corp. ("Bell"), 26 Broadway, New York, N.Y. 10004, and Real Estate Equities, Inc. ("Real Estate"), 26 Broadway, New York, N.Y. 10004, all Delaware corporations, have filed an application pursuant to section 17(b) of the Investment Company Act of 1940 ("Act") for an order exempting from the provisions of section 17(a) of the Act the purchase by Wheelabrator from Bell and Real Estate of certain land, buildings and equipment ("plants") used by Wheelabrator in connection with its manufacturing operations and now leased by Wheelabrator from Bell and Real Estate.

The Equity Corp. ("Equity"), a registered closed-end nondiversified investment company, owns 51.72 percent of the issued and outstanding common stock of Bell. Bell owns over 80 percent of the issued and outstanding voting stock of Wheelabrator. Real Estate is a wholly owned subsidiary of Equity Financial Corp., a wholly owned subsidiary of Equity.

Section 17 of the Act, as here pertinent, makes it unlawful for any affiliated person of a registered investment company (as defined in section 2(a)(3) of the Act), or any affiliated person of such a person, to sell to or purchase from any company controlled by such registered company any security or other property unless the Commission upon application grants an exemption from such prohibition after finding that the terms of the proposed transaction are reasonable and fair and

do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of the registered investment company and with the general purposes of the Act. All interested persons are referred to the application on file with the Commission for a full statement of the representations made therein, which are summarized below.

Wheelabrator proposes to purchase from Real Estate, as of July 1, 1967, a plant ("Plant No. 1") located in Mishawaka, Ind., for the sum of $1,090,361 in cash.

Wheelabrator proposes to purchase from Bell, as of July 1, 1967, plants located in Mishawaka and South Bend, Ind. ("Wheelabrator Plants"), for $1,546,221, and a plant located in Riverton, N.J. ("Criswell Plant"), for $345,178. Wheelabrator will also pay Bell $52,558 for land improvements made by Bell relating to Plant No. 1. Wheelabrator proposes to pay the total amount of $1,943,957 by issuing to Bell 75,520 shares of Wheelabrator common stock valued at 24⅝, the closing price thereof on the American Stock Exchange upon the date of the filing of the application, April 17, 1967, to equal the sum of $1,859,693 and by assuming a mortgage in the amount of $84,265. The payment to Bell in Wheelabrator stock will assist Bell in maintaining 80 percent voting control of Wheelabrator which is required under the Internal Revenue Code and regulations thereunder relating to the filing of consolidated tax returns.

Under the terms of the leases, Wheelabrator has the option to purchase the properties at prices equal to the fair market value, less the value of improvements, additions, and alterations made by Wheelabrator, as determined by appraisal. The prices proposed to be paid are the values of the properties determined by appraisal of Ebasco Services, Inc., which is not affiliated with any of the applicants.

The purchase prices are subject to adjustment to reflect rental or mortgage payments to the closing date and items accrued or prepaid at that date.

Wheelabrator proposes to purchase the plants to facilitate, by its ownership of the land and the presently existing improvements, the long-term financing of construction of additional plant facilities.

Notice is further given that any interested person may, not later than December 7, 1967, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicants at the addresses stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67–13773; Filed, Nov. 22, 1967; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 1126]

MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER APPLICATIONS

NOVEMBER 17, 1967.

The following applications are governed by Special Rule 1.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with § 1.247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of § 1.247(d)(4) of the special rule, and shall include the certification required therein.

Section 1.247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 409 (Sub-No. 34), filed November 6, 1967. Applicant: O. E. POULSON, INC., Post Office Box 295, Elm Creek, Nebr. 68836. Applicant's representative: J. Max Harding, 605 South 14th Street, Post Office Box 2028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals and fertilizers*, from Lincoln, Nebr., to points in Colorado, Iowa, Kansas, Missouri, South Dakota, and Wyoming. NOTE: Applicant states possibility of tacking with its Sub 23 to provide service from Creston, Iowa, over Lincoln gateway. If a hearing is deemed necessary, applicant requests it be held at Sioux City, Iowa, Omaha, and Lincoln, Nebr.

No. MC 1380 (Sub-No. 12), filed November 6, 1967. Applicant: COLONIAL MOTOR FREIGHT LINE, INC., Uwharrie Road, High Point, N.C. 27262. Applicant's representative: Harry C. Ames, Jr., Transportation Building, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, dangerous explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Columbia City, Md., as an off-route point in connection with applicant's regular route authority serving Baltimore, Md.

[1] Copies of Special Rule 1.247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

NOTE: If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C., or Washington, D.C.

No. MC 2392 (Sub-No. 61), filed November 6, 1967. Applicant: WHEELER TRANSPORT SERVICE, INC., Post Office Box 14248, West Omaha Station, Omaha, Nebr. 68114. Applicant's representatives: Keith D. Wheeler (same address as applicant), and Leonard A. Jaskiewicz, 1155 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizers and fertilizers materials* in bulk, and in bags, from points in Lancaster County, Nebr., to points in Colorado, Iowa, Kansas, Nebraska, Missouri, South Dakota, and Wyoming. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 2860 (Sub-No. 21), filed November 7, 1967. Applicant: NATIONAL FREIGHT, INC., 57 West Park Avenue, Vineland, N.J. 08360. Applicant's representative: Irving Abrams, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass or plastic containers, bottles, jars, pack glasses, and jelly tumblers, with or without caps, covers, stoppers or tops, and corrugated paper boxes or paper containers*, knocked down, when moving in mixed shipments with the above described commodities, between Freehold, N.J., on the one hand, and, on the other, points in Connecticut, Pennsylvania, and Rhode Island. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Newark, N.J.

No. MC 2860 (Sub-No. 22), filed November 7, 1967. Applicant: NATIONAL FREIGHT, INC., 57 West Park Avenue, Vineland, N.J. 08360. Applicant's representatives: Alvin Altman, 1776 Broadway, New York, N.Y., and Irving Abrams 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass and plastic containers, paper containers, and materials and supplies* used in the manufacture thereof, between Clarion, Pa., on the one hand, and, on the other, points in Connecticut, Massachusetts, New Jersey, New York, and Rhode Island. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., Philadelphia, Pa., or Washington, D.C.

No. MC 4963 (Sub-No. 27), filed November 3, 1967. Applicant: JONES MOTOR CO., INC., Bridge Street and Schuylkill Road, Spring City, Pa. 19475. Applicant's representative: Roland Rice, 1111 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron soil pipe and cast iron fittings*, from the plantsite of Charlotte Pipe & Foundry Co., Charlotte, N.C., to points in Ohio, Michigan, Kentucky, New York, Pennsylvania, Delaware, Maryland, Massachusetts, Connecticut, Rhode Island, New Hampshire, Vermont, and Maine. NOTE: Applicant states the authority sought herein could be tacked at points in Ohio within 20 miles of Akron, or 30 miles of Canton to serve points in Illinois, the St. Louis commercial zone, and points on U.S. Highway 20 in Indiana as authorized in its Sub 14 and 22. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C., or Washington, D.C.

No. MC 5152 (Sub-No. 10), filed November 6, 1967. Applicant: VANCOUVER FAST FREIGHT INC., 304 Columbia Street, Vancouver, Wash. Applicant's representative: William J. Lippman, 1624 R Street NW., Washington, D.C. 20009, and Philip F. Hudock. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Bottles, carboys, demijohns or jars*, other than cut, with or without their equipment of caps, covers, stoppers, or tops, 1 gallon or less in capacity, *glasses*, pressed or machine made and *tumblers*, from Vancouver, Wash., to points in King, Pierce, and Thurston Counties, Wash. NOTE: Applicant indicates the authority sought herein will be tacked with its existing authority at Vancouver in the performance of through service from Portland, Oreg., to the Washington counties, specified herein. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 25798 (Sub-No. 165), filed November 3, 1967. Applicant: CLAY HYDER TRUCKING LINES, INC., 502 East Bridgers Avenue, Post Office Box 1186, Auburndale, Fla. 33823. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Coffeyville, Kans., to points in Alabama, Florida, Georgia, Illinois, North Carolina, South Carolina, and Tennessee. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 29120 (Sub-No. 96), filed November 1, 1967. Applicant: ALL-AMERICAN TRANSPORT, INC., 1500 Industrial Avenue, Post Office Box 769, Sioux Falls, S. Dak. 57101. Applicant's representatives: Eugene J. Dwyer (same address as applicant), and Axelrod, Goodman and Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk in tank vehicles), (1) from Madison and Sioux Falls, S. Dak., to points in Indiana, Michigan, and Ohio; and (2) from the plantsite of the Rod Barnes Packing Co. located at or near Huron, S. Dak., to points in Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Sioux Falls, S. Dak., or Chicago, Ill.

No. MC 29886 (Sub-No. 235), filed November 2, 1967. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46621. Applicant's representative: Charles Pieroni, 4000 West Sample Street, South Bend, Ind. 46621. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Material handling equipment; winches; compaction and road making equipment, rollers, self-propelled and non-self-propelled mobile cranes; and highway freight trailers*; and (2) *parts, attachments and accessories* for the commodities described in (1) above, between the plantsites of the Hyster Co., located at or near Danville, Kewanee, and Peoria, Ill., on the one hand, and, on the other, points in Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, Vermont, and West Virginia, restricted to the handling of traffic originating at or destined to the named plantsites. NOTE: If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Nashville, Tenn.

No. MC 29886 (Sub-No. 236), filed November 6, 1967. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46621. Applicant's representative: Charles Pieroni (same address as applicant), Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Motor vehicles* (except passenger automobiles), and *chassis*, in initial movements, in driveaway service, and (2) *bodies, cabs, and parts of, and accessories* for such vehicles, from Portland, Oreg., to points in the United States (including Alaska and excluding Hawaii). NOTE: No duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., Seattle, Wash., or San Francisco or Los Angeles, Calif.

No. MC 30319 (Sub-No. 133), filed July 21, 1967. Applicant: SOUTHERN PACIFIC TRANSPORT CO., a corporation, 733 Poydras, Post Office Box 6187, Dallas, Tex. 75222. Applicant's representative: Edwin N. Bell, 1600 Esperson Building, Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except household goods as defined by the Commission, commodities in bulk and those requiring special equipment), (1) between New Orleans, La., and El Paso, Tex., from New Orleans over U.S. Highway 90 to Van Horn, Tex., thence over U.S. Highway 80 to El Paso, and return over the same route, serving all intermediate points (except Katy, Brookshire, Sealy, Van Horn, Allamore, Crusher, and Eagle Flat, Tex.), (2) between New Orleans, La., and El Paso, Tex., over Interstate Highway 10, serving no intermediate points, (3) between New Orleans and Iowa, La., from New Orleans over U.S. Highway 61 to Baton Rouge, La., thence over U.S. Highway 190 to junction U.S.

Highway 165, thence over U.S. Highway 165 to Iowa, and return over the same route, serving no intermediate points (except Port Barre, Opelousas, and Eunice, La.), (4) between Shreveport, La., and Corpus Christi, Tex., from Shreveport over U.S. Highway 171 to junction Louisiana Highway 5, thence over Louisiana Highway 5 to junction U.S. Highway 84 at Logansport, La., thence over U.S. Highway 84 to junction U.S. Highway 59 at Timpson, Tex., thence over U.S. Highway 59 to junction U.S. Highway 77 near Victoria, Tex., thence over U.S. Highway 77 to junction U.S. Highway 181 at Sinton, Tex., thence over U.S. Highway 181 to Corpus Christi, and return over the same route, serving all intermediate points (except McFaddin, Refugio, and Woodsboro, Tex.).

(5) Between Denison and Brownsville, Tex., from Denison over U.S. Highway 75 to junction Interstate Highway 35E at Dallas, Tex., thence over Interstate Highway 35E to junction Interstate Highway 35, thence over Interstate Highway 35 to junction U.S. Highway 181 at San Antonio, Tex., thence over U.S. Highway 181 to junction Texas Highway 359 at Skidmore, Tex., thence over Texas Highway 359 to Alice, Tex., thence over U.S. Highway 281 to junction Texas Highway 107 at Edinburg, Tex., thence over Texas Highway 107 to junction U.S. Highway 77 at Harlingen, Tex., thence over U.S. Highway 77 to Brownsville, and return over the same route, serving (a) all intermediate points between Denison and Dallas, (b) serving Waxahachie and Austin, Tex., and (c) serving all intermediate points between San Antonio and Brownsville (except San Benito and Olmito, Tex.), (6) between Port Arthur and Fort Worth, Tex., from Port Arthur over U.S. Highway 69 to junction U.S. Highway 175 at Jacksonville, Tex., thence over U.S. Highway 175 to junction U.S. Highway 80 at Dallas, Tex., thence over U.S. Highway 80 to Fort Worth, and return over the same route, serving all intermediate points (except Keltys, Pollok, Wells, and Alto), (7) between Dallas and Galveston, Tex., over U.S. Highway 75 (also Interstate Highway 45), serving all intermediate points between Dallas and Richland, Tex., but serving no intermediate points between Richland and Galveston except Houston and Texas City, Tex., (8) between Kerrville and Wharton, Tex., from Kerrville over Texas Highway 27 to junction U.S. Highway 87 at Comfort, Tex., thence over U.S. Highway 87 to junction Texas Highway 35 at Port Lavaca, Tex., thence over Texas Highway 35 to junction Farm to Market Road 1728, thence over Farm to Market Road 1728 to junction Farm to Market Road 1301 at Boling, Tex., thence over Farm to Market Road 1301 to Wharton, and return over the same route, serving all intermediate points.

(9) Between Fredericksburg and Port Arthur, Tex., from Fredericksburg over U.S. Highway 290 to junction U.S. Highway 183 at Austin, Tex., thence over U.S. Highway 183 to junction U.S. Highway 90A at Gonsales, Tex., thence over U.S. Highway 90A to junction Interstate Highway 10 at Houston, Tex., thence over Interstate Highway 10 to junction Texas Highway 73, thence over Texas Highway 73 to Port Arthur, Tex., and return over the same route, serving all intermediate points (except Mendosa, Lockhart, and Winnie). (10) between Houston and Llano, Tex., from Houston over U.S. Highway 290 to junction U.S. Highway 183 at Austin, Tex., thence over U.S. Highway 183 to junction Texas Highway 29, thence over Texas Highway 29 to Llano, and return over the same route, serving all intermediate points, (11) between Dallas and Paris, Tex., from Dallas over U.S. Highway 67 (also Interstate Highway 30) to junction U.S. Highway 69 at Greenville, Tex., thence over Texas Highway 24 to Paris, and return over the same route, serving all intermediate points (except those between Dallas and Greenville), (12) between Fort Worth and Greenville, Tex., from Fort Worth over U.S. Highway 287 to junction Texas Highway 34 at Ennis, Tex., thence over Texas Highway 34 to Greenville, and return over the same route, serving all intermediate points, (13) between Austin and Llano, Tex., over Texas Highway 71, serving all intermediate points, (14) between junction Texas Highway 71 and U.S. Highway 281 and Burnet, Tex., over U.S. Highway 281, serving all intermediate points, (15) between Marble Falls and Buchanan Dam, Tex., over Farm to Market Road 1431, serving all intermediate points.

(16) Between Buchanan Dam and Llano, Tex., from Buchanan Dam over Texas Highway 261 to junction Texas Farm to Market Road 2241, thence over Texas Farm to Market Road 2241 to Llano, and return over the same route, serving all intermediate points, (17) between Corpus Christi and Alice, Tex., over Texas Highway 44, serving no intermediate points, (18) between Sinton and Skidmore, Tex., over U.S. Highway 181, serving all intermediate points, (19) between Victoria and Beeville, Tex., over U.S. Highway 59, serving all intermediate points, (20) between Goliad and Kenedy, Tex., from Goliad over Texas Highway 239 to junction Texas Highway 72, thence over Texas Highway 72 to Kenedy and return over the same route, serving all intermediate points, (21) between Cuero and Kenedy, Tex., from Cuero over U.S. Highway 183 to junction U.S. Highway 87, thence over U.S. Highway 87 to junction Texas Highway 72, thence over Texas Highway 72 to Kenedy and return over the same route, serving all intermediate points, (22) between Corsicana and Nacogdoches, Tex., from Corsicana over U.S. Highway 287 to junction U.S. Highway 84 at Palestine, Tex., thence over U.S. Highway 84 to junction Texas Highway 204 at Reklaw, thence over Texas Highway 204 to junction U.S. Highway 259, thence over U.S. Highway 259 to junction U.S. Highway 59, thence over U.S. Highway 59 to Nacogdoches, and return over the same route, serving all intermediate points, (23) between Jacksonville, Tex., and site of Texas Power & Light Co. plant, from Jacksonville over U.S. Highway 79, thence over U.S. Highway 79 to junction Texas Highway 204, thence over Texas Highway 204 to junction Farm to Market Road 839, thence over Farm to Market Road 839 to site of Texas Power & Light Co. plant.

(24) Between Athens and Palestine, Tex., over Texas Highway 19, serving all intermediate points, (25) between Montalba and Tennessee Colony, Tex., over Farm to Market Road 321, serving all intermediate points, (26) between Richland and Hempstead, Tex., from Richland over Texas Highway 14 to junction Texas Highway 6 at Bremond, Tex., thence over Texas Highway 6 to junction U.S. Highway 290 at Hempstead, and return over the same route, serving all intermediate points, (27) between Brenham and North Zulch, Tex., from Brenham over Texas Highway 90 to junction Farm to Market Road 1696, thence over Farm to Market Road 1696 to junction Farm to Market Road 39, thence over Farm to Market Road 39 to North Zulch, and return over the same route, serving all intermediate points, (28) between Victoria and La Grange, Tex., over U.S. Highway 77, serving all intermediate points but not serving La Grange except for joinder purposes, (29) between Cuero and Hallettsville, Tex., over U.S. Highway 77A, serving all intermediate points, (30) between Yoakum and Madisonville, Tex., from Yoakum over U.S. Highway 77A to junction Texas Highway 95, thence over Texas Highway 95 to junction Texas Farm to Market Road 609 at Flatonia, Tex., thence over Texas Farm to Market Road 609 to junction Texas Highway 71, thence over Texas Highway 71 to La Grange, Tex., thence over U.S. Highway 77 to junction Texas Highway 21 near Lincoln, Tex., thence over Texas Highway 21 to Madisonville, and return over the same route, serving all intermediate points, except La Grange and not serving Madisonville except for joinder purposes.

(31) Between Flatonia and La Grange, Tex., from Flatonia over Texas Farm to Market Road 154 to junction Texas Highway 71 at West Point, Tex., thence over Texas Highway 71 to La Grange, and return over the same route, serving all intermediate points, but not serving La Grange except for joinder purposes, (32) between Giddings, Tex., and junction Texas Farm to Market Road 153 and U.S. Highway 77 north of La Grange, Tex., from Giddings over Texas Farm to Market Road 448 to junction Texas Farm to Market Road 153 at Winchester, Tex., thence over Texas Farm to Market Road 153 to junction U.S. Highway 77 and return over the same route, serving all intermediate points, (33) between junction U.S. Highway 77 and Texas Highway 21 (near Lincoln, Tex.) and junction U.S. Highway 290 and Texas Highway 21 (near Paige, Tex.), over Texas Highway 21, serving all intermediate points, (34) between Navasota and College Station, Tex., from Navasota over Texas Highway 6 to junction Texas Farm to Market Road 2154, thence over Texas Farm to Market Road 2154 to College Station, and return over the same route, serving all intermediate points, (35) between junction Texas Farm to Market Road 50 and Texas Highway 21 and Hearne, Tex., from junction Texas Farm to Market Road 50 and Texas Highway 21 over Texas Farm to Market Road 50 to junction U.S. Highway 79, thence over U.S. Highway 79 to Hearne, and return over the same route, serving all intermediate points, (36) between Bremond and Kosse, Tex., from Bremond over Texas Highway 6 to junction Texas Highway 7 at Marlin, Tex., thence over Texas Highway 7 to Kosse, and return over the same route, serving all intermediate points.

(37) Between Rockport and Gregory, Tex., over Texas Highway 35, serving all intermediate points, (38) between Aransas Pass and Gregory, Tex., over Texas Farm to Market Road 632, serving all points, (39) between Damon and Wallis, Tex., over Texas Highway 36, serving all intermediate points (except Orchard), (40) between Boling, Tex., and plantsite of Freeport Sulphur Co., from Boling over Texas Highway 442 to Needville, Tex., thence over unnumbered county road to site of Freeport Sulphur Co. plant, and return over the same route, serving all intermediate points, (41) between Texas City and Dayton, Tex., over Texas Highway 146, serving all intermediate points, (42) between Houston, Tex., and junction Texas Highways 225 and 146, over Texas Highway 225, serving all intermediate points, (43) between Zavalla, Tex., and Sam Rayburn Reservoir Spillway, from Zavalla over Texas Highway 63 to junction Farm to Market Road 255, thence over Farm to Market Road 255 to Sam Rayburn Reservoir Spillway, and return over the same route, serving all intermediate points, (44) between Zavalla, Tex., and the north side of Sam Rayburn Reservoir bridge, over Texas Highway 147, serving all intermediate points, (45) between Kurten and Cross, Tex., over unnumbered county road, serving all intermediate points, (46) between Bedias and Madisonville, Tex., over Texas Highway 90, serving all intermediate points, but not serving Madisonville, Tex., except for joinder purposes, (47) between Howe and Tom Bean, Tex., over Farm to Market Road 902, serving all intermediate points, (48) Serving four plantsites of Trunk Line Gas Corp. as follows:

(a) From Cypress, Tex., to such plant near Cypress over unnumbered county road, (b) from Kountze, Tex., over Texas Highway 326 and Farm to Market Road 700 (c) from Beeville, Tex., over Texas Highway 202 and unnumbered county road, and (d) from Fremont, Tex., over U.S. Highway 281 to junction Farm to Market Road 1538, thence over Farm to Market Road 1538 to such plantsite and return over the same routes, respectively, (49) between Wallis and Hungerford, Tex., over Texas Highway 60, serving all intermediate points, (50) between Houston and Eagle Lake, Tex., over Farm to Market Road 1093, serving all intermediate points, (51) between Altair and Columbus, Tex., over Texas Highway 71, serving all intermediate points, (52) between Shepherd and Cold Spring, Tex., over Texas Highway 150, serving all intermediate points, (53) between Edinburg and McAllen, Tex., over Texas Highway 336, serving all intermediate points, (54) (a) between Harlingen and Brownsville, Tex., from Harlingen over U.S. Highway 77 to junction Texas Highway 345, thence over Texas Highway 345 to Lantana, Tex., thence over unnumbered county road to Farm to Market Road 803, thence over Farm to Market Road 803 to junction Farm to Market Road 510, thence over Farm to Market Road 510 to Lacoma, Tex., thence over Farm to Market Road 510 to Farm to Market Road 1847, thence over Farm to Market Road 1847 to Brownsville, and return over the same route, serving all intermediate points.

(b) Between junction U.S. Highway 77 and Farm to Market Road 511 and junction Farm to Market Road 511 and Farm to Market Road 1847, over Farm to Market Road 511, (c) between junction U.S. Highway 77 and Texas Highway 100 and Los Fresnos, Tex., over Texas Highway 100, and (d) between junction U.S. Highway 77 and Farm to Market Road 510 and Lacoma, Tex., over Farm to Market Road 510, and return over the same routes, serving no intermediate points and serving said junctions for joinder purposes only, as alternate routes for operating convenience only in connection with (b), (c), and (d) above, (55) between Ennis and Waxahachie, Tex., from Ennis over unnumbered county road to Garrett, Tex., thence over Texas Farm to Market Road 879 via Boyce to junction Texas Farm to Market Road 878, thence over Texas Farm to Market Road 878 to Waxahachie, and return over the same route, serving all intermediate points, (56) between Brackettville and Eagle Pass, Tex., from Brackettville over Texas Highway 131 to junction U.S. Highway 277, thence over U.S. Highway 277 to Eagle Pass, and return over the same route, serving all intermediate points, (57) between Alpine and Presidio, Tex., from Alpine over Texas Highway 118 to Fort Davis, Tex., thence over Texas Highway 17 to Marfa, Tex., thence over U.S. Highway 67 to Presidio, and return over the same route, serving all intermediate points, (58) between Orange and Echo, Tex., from Orange over Texas Highway 87 to junction Farm to Market Road 1134, thence over Farm to Market Road 1134 to junction unnumbered county road, thence over such unnumbered county road to Echo, and return over the same route, serving all intermediate points.

(59) Between New Iberia and Jeanerette, La., from New Iberia over Louisiana Highway 14 to junction Louisiana Highway 83, thence over Louisiana Highway 83 to junction Louisiana Highway 85, thence over Louisiana Highway 85 to Jeanerette, and return over the same route, serving all intermediate points, (60) between Jeanerette and New Iberia, La., from Jeanerette over Louisiana Highway 673 via Patoutville, La., to junction Louisiana Highway 85, thence over Louisiana Highway 85 to junction Louisiana Highway 674, thence over Louisiana Highway 674 to New Iberia, and return over the same route, serving all intermediate points, (61) between Jeanerette, La., and junction Louisiana Highway 672 and Louisiana Highway 85, over Louisiana Highway 672, serving all intermediate points, (62) between Raceland and Bowie, La., from Raceland over Louisiana Highway 308 to junction Louisiana Highway 651, thence over Louisiana Highway 651 to Bowie, and return over the same route, serving all intermediate points, (63) between Abbeville and Alexandria, La., from Abbeville over U.S. Highway 167 to junction Louisiana Highway 10, thence over Louisiana Highway 10 to junction Louisiana Highway 182, thence over Louisiana Highway 182 to junction Louisiana Highway 29, thence over Louisiana Highway 29 to junction U.S. Highway 71, thence over U.S. Highway 71 to Alexandria, and return over the same route, serving all intermediate points, (64) between Bunkie and Krotz Springs, La., over U.S. Highway 71, not serving any intermediate points, and not serving Krotz Springs except for joinder purpose, (65) between Lebeau and Beggs, La., over Louisiana Highway 10, not serving any intermediate points, and not serving Lebeau except for joinder purposes.

(66) Between New Iberia and Opelousas, La., over Louisiana Highway 31, serving all intermediate points and the off-route point of Cecelia, (67) between Leonville and Port Barre, La., over Louisiana Highway 103, serving all intermediate points, (68) between Lafayette and Henderson Landing, La., from Lafayette over Louisiana Highway 94 to junction Louisiana Highway 347, thence over Louisiana Highway 347 to Henderson Landing, and return over the same route, serving all intermediate points, (69) between New Iberia and Avery Island, La., from New Iberia over Louisiana Highway 14 to junction Louisiana Highway 329, thence over Louisiana Highway 329 to Avery, and return over the same route serving all intermediate points, (70) between Baldwin, La., and junction Louisiana Highways 83 and 85, over Louisiana Highway 83, serving all intermediate points, (71) between Gueydan and Midland, La., over Louisiana Highway 91, serving all intermediate points, (72) between Cade and Maurice, La., over Louisiana Highway 92, serving all intermediate points, (73) between Burke and Lafayette, La., from Burke at junction U.S. Highway 90 and Louisiana Highway 88 over Louisiana Highways 88 and 89 to Lafayette, and return over the same route, serving all intermediate points, (74) between junction Louisiana Highways 14 and 13 (near Kaplan) and Eunice, La., over Louisiana Highway 13, serving all intermediate points, (75) between junction Louisiana Highways 14 and 99 (east of Lake Charles) and Welsh, La., over Louisiana Highway 99, serving all intermediate points, (76) between Lake Charles and De Ridder, La., over U.S. Highway 171, serving all intermediate points, except Ragley.

(77) Between Chacahoula and the plantsite of Shreveport Sulphur Co., over Louisiana Highway 309, serving all intermediate points, (78) between Centerville and Salt Point, La., over Louisiana

Highway 217, serving all intermediate points, (79) between junction Louisiana Highway 14 and unnumbered county road approximately 6 miles west of Lake Arthur and the plantsite of Superior Oil Co., near Lowery, La., over unnumbered county road, serving all intermediate points, (80) between Lake Arthur and Jennings, La., over Louisiana Highway 26, serving all intermediate points, (81) between Boutte, La. (located on U.S. Highway 90 west of New Orleans), and Huey P. Long Bridge, from Boutte over unnumbered highway to Luling, La., thence over Louisiana Highway 18 to Huey P. Long Bridge, and return over the same route, serving all intermediate points, (82) between Grand Isle and Glenwood, La., over Louisiana Highway 1, serving all intermediate points, (83) between Raceland and Jay, La., from Raceland over U.S. Highway 90 to junction Louisiana Highway 308, thence over Louisiana Highway 308 to Jay, and return over the same route, serving all intermediate points, (84) between Thibodeaux and Theriot, La., from Thibodeaux over Louisiana Highway 20 to junction Louisiana Highway 24, thence over Louisiana Highway 24 to Houma, La., thence over Louisiana Highway 315 to Theriot, and return over the same route, serving all intermediate points, (85) between Schriever and Gibson, La., over Louisiana Highway 20, serving all intermediate points, (86) between Houma, La., and junction Louisiana Highways 57 and 56, over Louisiana Highway 56, serving all intermediate points, (87) between Houma and Cocodrie, La., over Louisiana Highway 56, serving all intermediate points, (88) from junction Louisiana Highways 56 and 55 (southeast of Houma), thence over Louisiana Highway 55 to its termini and return over the same route, serving all intermediate points.

(89) Between junction interstate Highway 10 and Louisiana Highway 91 and Eunice, La., over Louisiana Highway 91, serving all intermediate points, (90) between Iota and Maxie, La., over Louisiana Highway 98, serving all intermediate points, (91) between Jacksonville and Palestine, Tex., over U.S. Highway 79, serving no intermediate points, (92) between McAllen and Harlingen, Tex., over U.S. Highway 83, serving no intermediate points, (93) between Dallas and Fort Worth, Tex., over the Toll Road, serving all intermediate points, (94) between Orange and Port Arthur, Tex., over Texas Highway 87, serving no intermediate points, (95) between Fredericksburg and Comfort, Tex., over U.S. Highway 87, serving all intermediate points, (96) between Fredericksburg and Kerrville, Tex., over Texas Highway 16, serving all intermediate points, (97) between junction Texas Farm to Market Road 627 and Texas Highway 80 (approximately 7 miles north of Helena) and the plantsite of Shell Oil Co., over Texas Farm to Market Road 627, serving all intermediate points, (98) between Nixon and Karnes City, Tex., over Texas Highway 80, serving all intermediate points, and the off-route point of Kiletu, (99) between junction U.S. Highway 90 and access road No. 339 (located about 7 miles northwest of Del Rio, Tex.) and the site of the Amistad Dam, over access road No. 339, serving all intermediate points, (100) between Falls City, Tex., and the plantsite of Susquehanna-Western, Inc., from Falls City over Texas Farm to Market Road 791 to junction unnumbered highway, thence over unnumbered highway to the Uranium Plantsite of Susquehanna-Western, Inc., and return over the same route, serving all intermediate points.

(101) Between junction Texas Highway 239 and Texas Farm to Market Road 2443 (approximately 9 miles southeast of Kenedy) and Pettus, Tex., from junction Texas Highway 239 and Texas Farm to Market 2443, over Texas Farm to Market Road 2443 to junction Texas Farm to Market Road 743, thence over Texas Farm to Market Road 743 to junction Texas Farm to Market Road 623, thence over Texas Farm to Market Road 623 to Pettus, and return over the same route, serving all intermediate points, (102) between Kaplan, La., and site of Pan American Warehouse (located approximately 25 miles east of Creole, La.), from Kaplan over Louisiana Highway 35 to junction Louisiana Highway 82, thence over Louisiana Highway 82 to site of Pan American Warehouse, and return over the same route, serving all intermediate points, (103) between Hempstead and Racoon Bend, Tex., from Hempstead over Texas Highway 159 to junction unnumbered highway, thence over unnumbered highway to Racoon Bend (approximately 7 miles from Hempstead), and return over the same route, serving all intermediate points, (104) between Austin, Tex., and site of Nike Missile Base (approximately 6 miles northwest of Austin), from Austin over Texas Farm to Market Road 2244 to junction unnumbered highway, thence over unnumbered highway to the site of the Nike Missile Base, and return over the same route, serving all intermediate points.

(105) Between Austin, Tex., and site of Nike Missile Base (approximately 12 miles southeast of Austin), from Austin over U.S. Highway 183 to junction Texas Farm to Market Road 812, thence over Texas Farm to Market Road 812 to junction unnumbered highway, thence over unnumbered highway to the site of the Nike Missile Base, and return over the same route, serving all intermediate points, (106) between Vidor and Orange, Tex., over Farm to Market Road 105, serving the Gulf States Utilities Co. plantsite and all other intermediate points, (107) between Port Arthur, Tex., and Cameron Meadows, La., from Port Arthur over Texas Farm to Market Road 1906 to the Texas-Louisiana State line, thence over Louisiana Highway 82 to Cameron Meadows, and return over the same route, serving all intermediate points, (108) between Wortham, Tex., and the Gulf Pump Station plantsite (located approximately 5 miles east of Wortham), over Texas Farm to Market Road 27, serving all intermediate points, (109) between Holly Beach, La., and the plantsite of the Magnolia Petroleum Co. at Cameron Meadows, La., over Louisiana Highway 82, serving all intermediate points, (110) between Creole, La., and the site of the Pan American Petroleum Corp. warehouse (approximately 25 miles east of Creole, La.), over Louisiana Highway 82, serving all intermediate points, (111) between Lake Charles, La., and Cameron, La., from Lake Charles over Louisiana Highway 385 to junction Louisiana Highway 384, thence over Louisiana Highway 384 to junction Louisiana Highway 27, thence over Louisiana Highway 27 to Cameron, La., and return over the same route, serving all intermediate points and the off-route points of Sweet Lake, La., Grand Lake, and the warehouse of Stanolind Oil & Gas Co., (112) between Lake Charles and Cameron, La., from Lake Charles over U.S. Highway 90 to junction Louisiana Highway 27, thence over Louisiana Highway 27 to Cameron, and return over the same route, serving all intermediate points.

(113) Between Hockley, Tex., and plantsite of United Salt Corp. (located approximately 4 miles from Hockley, Tex.), over unnumbered county road, serving all intermediate points, (114) between junction Louisiana Highways 27 and 384 and Holmwood, La., over Louisiana Highway 27, serving all intermediate points. NOTE: Common control may be involved. Applicant is a wholly owned subsidiary of Southern Pacific Co., a carrier by railroad. Applicant states it seeks to operate unrestricted over the routes described above. Applicant proposes to coordinate the foregoing routes by tacking them to each other at common points, so as to be able to (1) provide a single-line service between any and all of the points which applicant seeks to serve, and (2) coordinate its services with other modes of transportation, as well as other motor carriers, so as to offer the public joint through routing and rates. For clarification, in addition to serving the intermediate points as hereinabove described, applicant proposes to serve the termini of each route involved, except as otherwise stated. The authority sought in the instant application, if granted, will duplicate in part certain restricted authority now held by applicant in its certificate in MC 30319. Applicant is agreeable to addition of a restriction to any authority granted in this proceeding reading: "The authority granted herein to the extent that it duplicates any authority heretofore granted to or now held by carrier shall not be construed as conferring more than one operating right." If a hearing is deemed necessary, applicant requests it be held at Houston, Dallas, San Antonio, El Paso, and Brownsville, Tex., and New Orleans, La.

No. MC 30844 (Sub-No. 239), filed November 6, 1967. Applicant: KROBLIN REFRIGERATED EXPRESS, INC., 2125 Commercial Street, Waterloo, Iowa 50704. Applicant's representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Common window glass*, not bent, from Shreveport, La., to points in Arkansas, Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, Oklahoma, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Cleveland, Ohio.

No. MC 30844 (Sub-No. 240), filed November 8, 1967. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial, Waterloo, Iowa 50704. Applicant's representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Austin, Minn., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to shipments originating at the plantsite and/or warehouse facilities of the George A. Hormel & Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Minneapolis, Minn.

No. MC 41432 (Sub-No. 101), filed November 1, 1967. Applicant: EAST TEXAS MOTOR FREIGHT LINES, INC., 623 North Washington Avenue, Post Office Box 26040, Dallas, Tex. 75226. Applicant's representative: Rollo E. Kidwell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Ammunition*, explosive, incendiary, or gas, smoke or tear producing, *manufactured ingredients and component parts of ammunition, and general commodities* (except those of unusual value, classes A and B explosives, other than ammunition and manufactured ingredients and component parts of ammunition as specified, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite of Nekoosa-Edwards Paper Co. located in Little River County, Ark., on highway 59 approximately 2 miles southeast of Ashdown, Ark., as an off-route point in connection with applicant's regular route operations from and to Texarkana, Ark. NOTE: If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark.

No. MC 42487 (Sub-No. 681), filed November 9, 1967. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. 94025. Applicant's representative: V. R. Oldenburg, 7101 South Cicero Avenue, Post Office Box 5138, Chicago, Ill. 60680. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those requiring armored vehicles or armed guards, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) serving the plantsite of Westinghouse Electric Corp., located at or near Sykesville, Md., as an off-route point in connection with applicant's regular route operations to and from Baltimore, Md. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Baltimore, Md., or Washington, D.C.

No. MC 51146 (Sub-No. 65), filed October 20, 1967. Applicant: SCHNEIDER TRANSPORT & STORAGE, INC., 817 McDonald Street, Green Bay, Wis. Applicant's representatives: Charles W. Singer, 33 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Returned and rejected shipments of metal containers and metal container ends and equipment, materials, and supplies* used in the manufacturer of metal containers and metal container ends, (1) between Chicago, Ill., and points in Minnesota and Wisconsin, and (2) between Rockford, Ill., and points in Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 51146 (Sub-No. 67), filed November 3, 1967. Applicant: SCHNEIDER TRANSPORT & STORAGE, INC., 817 McDonald Street, Green Bay, Wis. 54306. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Products manufactured or distributed by manufacturers or converters of paper and paper products*, (1) from De Pere, Wis., to points in Illinois, points in Indiana within the Chicago, Ill., commercial zone, and that part of Iowa on and east of U.S. Highway 69, and (2) between Appleton, De Pere, Green Bay, Menasha, Milwaukee, Neenah, Peshtigo, and Port Edwards, Wis. NOTE: Applicant states that the authority sought could be tacked with many of its pending and present authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 52403 (Sub-No. 7), filed November 19, 1967. Applicant: HOWARD E. BLACKMON, doing business as HOWARD BLACKMON TRUCK SERVICE, Post Office Box 186, Somers, Wis. 53171. Applicant's representative: Earle Munger, 520 58th Street, Kenosha, Wis. 53140. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, from Streator, Ill., to points in that part of Wisconsin south and west of a line beginning at Beloit, Wis., and extending northward along Wisconsin State Highway 13 to junction with U.S. Highway 16 near Wisconsin Dells, Wis., thence along U.S. Highway 16 to the Wisconsin-Minnesota State line, with no transportation for compensation on return except as otherwise authorized, under contract with Smith-Douglass Co. NOTE: Applicant is also authorized to conduct operations as a common carrier in Certificate 38556 and subs. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 52657 (Sub-No. 656), filed October 26, 1967. Applicant: ARCO AUTO CARRIERS, INC., 2140 West 79th Street, Chicago, Ill. 60620. Applicant's representative: A. J. Bieberstein, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers, trailer chassis, semitrailers, and semitrailer chassis* (except those designed to be drawn by passenger automobiles), in initial truckaway and driveaway service, between Reading, Pa., and 5 miles thereof, and points in the United States, including Alaska, but excluding Hawaii; (2) *tractors*, in secondary movements, in driveaway service, only when drawing trailers in initial movements, from Reading, Pa., and 5 miles thereof, to points in Alabama, Alaska, Arizona, Arkansas, California, Colorado, Georgia, Idaho, Kansas, Louisiana, Maine, Mississippi, Montana, Nevada, New Hampshire, New Mexico, North Dakota, Oklahoma, Oregon, South Carolina, Tennessee, Texas, Utah, Vermont, Washington, Wyoming, and the District of Columbia; (3) *containers*, except containers having a capacity of 5 gallons or less or of 9 cubic feet or less, between Reading, Pa., and 5 miles thereof, and points in the United States, including Alaska, but excluding Hawaii; and (4) *materials, supplies, and parts* used in the manufacture, assembly, or servicing of the commodities described in paragraphs (1) and (3) above, when moving in mixed loads with such commodities, from Reading, Pa., and 5 miles thereof, to points in the United States, including Alaska, but excluding Hawaii. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 59499 (Sub-No. 11), filed October 27, 1967. Applicant: UNITED MOTOR FREIGHT TERMINAL INC., 3700 First Avenue South, Birmingham, Ala. 35222. Applicant's representative: R. J. Reynolds III, 403 Healey Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Birmingham, Ala., and Sherman, Miss., over U.S. Highway 78, serving the intermediate point of Guin, Ala., for purposes of joinder only, and serving all intermediate and off-route points within 15 air miles of Birmingham, (2) between Tupelo, Miss., and Selmer, Tenn., over U.S. Highway 45, serving all intermediate points, (3) between Guin, Ala., and Tupelo, Miss.; from Guin over U.S. Highway 278 to junction U.S. Highway 45, thence over U.S. Highway 45 to junction Mississippi Highway 41, thence over Mississippi Highway 41 to Okolona, Miss., thence over Mississippi Highway 45W to junction U.S. Highway 45 (near Shannon, Miss.), thence over U.S. Highway 45 to Tupelo, Miss., and return over the same

route, serving Guin for purposes of joinder only; and serving the intermediate and off-route points of Amory and Okolona, Miss., (4) serving points in Lee County, Miss., as intermediate and off-route points in connection with applicant's regular route operations to, from, and through Tupelo, Miss., and (5) serving Buchanan, Ga., as an off-route point in connection with applicant's authorized regular route authority between Atlanta, Ga., and Birmingham, Ala. NOTE: Applicant states service to points proposed on routes (1), (2), (3), and (4) above shall be limited to traffic moving from, to, or through Birmingham, Ala., or points within 15 air miles thereof. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., Atlanta, Ga., and Tupelo, Miss.

No. MC 59640 (Sub-No. 8), filed November 6, 1967. Applicant: PAULS TRUCKING CORPORATION, 633 Flora Street, Elizabeth, N.J. 07201. Applicant's representative: Charles J. Williams, 47 Lincoln Park, Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sugar*, in bags, in shipper-furnished trailers, from Newark, N.J., to points in Albany, Saratoga, and Rensselaer Counties, N.Y.; Hartford County, Conn.; Providence and Kent Counties, R.I., and Suffolk, Hampden, and Worcester Counties, Mass., and *empty shipper-furnished trailers* on return, under a continuing contract or contracts with Czarnikow & Rionda Sugar Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Newark, N.J.

No. MC 61403 (Sub-No. 175), filed November 6, 1967. Applicant: THE MASON AND DIXON TANK LINES, INC., Eastman Road, Kingsport, Tenn. 37662. Applicant's representative: W. C. Mitchell, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, from Burlington, N.J., to points in Alabama, Arkansas, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 64932 (Sub-No. 441), filed November 2, 1967). Applicant: ROGERS CARTAGE CO., a corporation, 1439 West 103d Street, Chicago, Ill. 60643. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid animal food and liquid animal food supplements*, in bulk, in tank vehicles, from Dubuque, Iowa, to points in Illinois, Iowa, Indiana, Kansas, Minnesota, Missouri, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 74416 (Sub-No. 6), filed November 9, 1967. Applicant: LESTER M. PRANGE, INC., Post Office Box 1, Kirkwood, Pa. 17536. Applicant's representative: Bernard N. Gingerich, 110 West State Street, Quarryville, Pa. 17566. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products* (except in bulk, in tank or hopper-type vehicles), between New Holland, Pa., on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Harrisburg, Pa.

No. MC 78040 (Sub-No. 4), filed November 7, 1967. Applicant: BOYD TRANSFER COMPANY, a corporation, 4900 Boston Street, Baltimore, Md. 21224. Applicant's representative: J. G. Dail, Jr., 1815 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture* (except new upholstered furniture), from Baltimore, Md., to Atlantic City, Trenton, Beverly, Vineland, Haddonfield, Woodbury, Lakewood, and Moorestown, N.J., and Montgomery, Paoli, Philadelphia, West Chester, and Willow Grove, Pa. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 82079 (Sub-No. 17), filed November 3, 1967. Applicant: KELLER TRANSFER LINE, INC., 1239 Randolph Avenue SW., Grand Rapids, Mich. 49507. Applicant's representative: J. M. Neath, Jr., 900 One Vandenberg Center, Grand Rapids, Mich. 49502. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bulk flour*, (1) from Augusta, Mich., to Columbus, Ohio; and (2) from Owasso, Mich., to Columbus, Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lansing, Mich., or Columbus, Ohio.

No. MC 82841 (Sub-No. 39), filed November 3, 1967. Applicant: R-D TRANSFER, INC. 801 Livestock Exchange Building, Omaha, Nebr. 68107. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Prefabricated metal buildings knocked down, prefabricated metal building sections knocked down, prefabricated prefinished metal panel sections, component parts thereof, equipment, materials, and supplies* used in the installation, construction, or erection thereof (except metal buildings which are designed to be drawn by passenger vehicles), from Evansville, Wis., to points in Illinois, Indiana, Iowa, Michigan, Missouri, and Nebraska, and (2) *materials, equipment, and supplies* used or useful in the manufacture of the commodities described in (1) above, from points in Illinois, Indiana, Iowa, Michigan, Missouri, and Nebraska to Evansville, Wis. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 87720 (Sub-No. 71), filed November 2, 1967. Applicant: BASS TRANSPORTATION CO., INC., Old Croton Road, Flemington, N.J. 08822. Applicant's representative: Bert Collins, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Limestone*, from Texas City, Md., to Burlington, Flemington, and Trenton, N.J., under contract with Tenneco Chemicals, Inc., and American Biltrite Rubber Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 87720 (Sub-No. 72), filed November 7, 1967. Applicant: BASS TRANSPORTATION CO., INC., Old Croton Road, Flemington, N.J. 08822. Applicant's representative: Bert Collins, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Burlap bags, laminated burlap bags with plastic liners, burlap cloth, and laminated burlap cloth*, from Flemington, N.J., to points in West Virginia, North Carolina, South Carolina, and Virginia, and (2) *paper*, from West Point, Va., to Flemington, N.J., under contract with Bemis Co., Inc. NOTE: Applicant states that no duplicating authority is requested. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 89369 (Sub-No. 15), filed November 1, 1967. Applicant: JOART TRUCKING CO., a corporation, Post Office Box 332, New Brunswick, N.J. 08903. Applicant's representative: William D. Traub, 10 East 40th Street, New York, N.Y. 10016. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, in tank or hopper-type vehicles, from Burlington, N.J., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington D.C.

No. MC 94265 (Sub-No. 205), filed November 6, 1967. Applicant: BONNEY MOTOR EXPRESS, INC., Post Office Box 12388, Thomas Corner Station, Norfolk, Va. 23502. Applicant's representative: Paul M. Daniell, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except commodities in bulk, in tank vehicles, and hides, from the plantsite of Missouri Beef Packers, located at or near Friona, Tex., to points in Maine, Vermont, New Hampshire, New York, Massachusetts, Connecticut, Rhode Island, Pennsylvania, New Jersey, Maryland, Delaware, Virginia, West Virginia, North Carolina, the District of Columbia. Restriction: Restricted to traffic originating at the above-named plantsite and destined to the States named. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., Dallas or Amarillo, Tex.

No. MC 98499 (Sub-No. 6), filed November 6, 1967. Applicant: WHITE TRUCK LINE, INC., Post Office Box 2664, Atlanta, Ga. 30318. Applicant's representative: Paul M. Daniell, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except commodities in bulk, household goods as defined by the Commission, dangerous explosives, commodities requiring special equipment, and articles of unusual value), between Gainesville and Commerce, Ga., from Gainesville, over U.S. Highway 129 to junction Georgia Highway 11, thence over Georgia Highway 11 to Commerce, and return over the same route, serving all intermediate points. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 100666 (Sub-No. 112), filed November 2, 1967. Applicant: MELTON TRUCK LINES, INC., Post Office Box 7295, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 450 American National Building, Oklahoma City, Okla. 73102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, building, and siding materials and materials* used in the installation thereof, from Bardstown, Ky., to points in Alabama, Mississippi, Louisiana, Texas, New Mexico, Colorado, Kansas, Oklahoma, Arkansas, and Missouri. NOTE: Applicant states it could tack with with its Sub-1 at West Memphis, Ark., to serve Memphis, Tenn. If a hearing is deemed necessary, applicant requests it be held at Shreveport, La., or Little Rock, Ark.

No. MC 102401 (Sub-No. 13), filed November 9, 1967. Applicant: TAYLOR HEAVY HAULING, INC., 20601 West Ireland Road, South Bend, Ind. 46613, also Post Office Box 2857, Station A, South Bend, Ind. Applicant's representative: Ferdinand Born, 601 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated steel pipe*, plain, galvanized, or asphalt coated, knocked down or set up, *highway guard rail, tunnel liner plates, piling, and fittings, attachments and accessories*, (1) from the plantsite of Armco Steel Corp., 3202 West Sample Street, South Bend, Ind., to points in Ohio, Wisconsin, Michigan, and Illinois, and (2) between the plantsites of Armco Steel Corp. located in South Bend, Ind., Portage, Wis., Alma, Mich., and Middletown, Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 103276 (Sub-No. 330), filed November 13, 1967. Applicant: PETROLEUM CARRIER CORPORATION, 611 South 28th Street, Milwaukee, Wis. 53246. Applicant's representative: James R. Ziperski (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from points in Richmond County, Ga., to points in North Carolina and South Carolina. NOTE: Applicant states it could tack at points in Richmond County, Ga., with its Sub-No. 232 wherein it is authorized to conduct operations in the States of Alabama, Georgia, Florida, and Tennessee. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 104896 (Sub-No. 25), filed November 7, 1967. Applicant: WOMELDORF, INC., Post Office Box 232, Lewistown, Pa. Applicant's representative: V. Baker Smith, 2107 The Fidelity Building, Philadelphia, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass and plastic containers, closures, boxes, fiberboard or pulpboard, and empty containers*, from Bridgeton, N.J., to points in New York (except the counties of Sullivan, Ulster, Dutchess, Putnam, Westchester, Orange, Rockland, New York, Nassau, and Suffolk), and (2) *refused, rejected, or damaged merchandise*, on return. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 105413 (Sub-No. 30), filed November 8, 1967. Applicant: PETROLEUM TRANSPORT SERVICE, INC., Highway No. 275, Council Bluffs, Iowa 51501. Applicant's representative: Einar Viren, 904 City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal food and animal food supplements*, in bulk, in tank vehicles, from La Platte and Omaha, Nebr., to points in Iowa, Kansas, Minnesota, Missouri, North Dakota, and South Dakota. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Chicago, Ill.

No. MC 105556 (Sub-No. 50), filed October 25, 1967. Applicant: HOUCK TRANSPORT COMPANY, a corporation, Post Office Box 550, Glendive, Mont. 59330. Applicant's representative: John J. Tonnsen, Jr., 319 Securities Building, Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete products*, from Mandan, N. Dak., and points within 10 miles thereof to points in Minnesota, Wyoming, and ports of entry on the international boundary line between the United States and Canada, located in points in Minnesota, Montana, and North Dakota. NOTE: If a hearing is deemed necessary, applicant requests it be held at Bismarck, N. Dak., or Billings, Mont.

No. MC 106207 (Sub-No. 14), filed November 1, 1967. Applicant: FOX TRANSPORT SYSTEM, 21 South Fifth Street, Philadelphia, Pa. 19106. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, requiring transportation under temperature-controlled conditions, and *fruit juices and fruit drinks* (except commodities in bulk, in tank or hopper vehicles), from the plantsite and places of business of the Great Atlantic & Pacific Tea Co., Inc., Fort Washington, Montgomery County, Pa., to points in Delaware south of a line extending through Little Creek, Dover, and Pearson's Corner; points in Maryland on and east of Interstate Highway 81 (except those points north of Baltimore and on and east of U.S. Highway 1 and those points east and north of a line beginning at the Maryland-Pennsylvania State line and extending along the Susquehanna River to the Chesapeake Bay, thence along the Chesapeake Bay Shore line to the Chesapeake and Delaware Canal, thence along the Chesapeake and Delaware Canal to the Maryland-Delaware State line and Maryland-Pennsylvania State lines to the point of beginning); to points in Arlington, Clarke, Fairfax, Frederick, and Loudoun Counties, Va., and points in Berkeley and Jefferson Counties, W. Va. NOTE: Applicant intends tacking at said plantsite and places of business located at Fort Washington, Pa., with its existing authority serving Pennsylvania, New York, New Jersey, Delaware, Maryland, and the District of Columbia. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 106397 (Sub-No. 7), filed November 1, 1967. Applicant: WATSON BROS. VAN LINES AND HEAVY HAULING CO., a corporation, 3514 South 25th Street, Omaha, Nebr. 68105. Applicant's representative: Samuel Zacharia, 711 First National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Material handling equipment, winches, compaction and road making equipment, rollers, self-propelled and non-self-propelled, mobile cranes, and highway freight trailers*, (2) *parts, attachments and accessories* for the commodities described in (1) above, between the plantsites of the Hyster Co. located at or near Danville, Kewanee, and Peoria, Ill., on the one hand, and, on the other, points in Colorado, Iowa, Kansas, Minnesota, Missouri, Nebraska, South Dakota, and Wyoming, restricted to traffic originating at or destined to the named plantsites. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Nashville, Tenn.

No. MC 110264 (Sub-No. 38), filed October 20, 1967. Applicant: ALBUQUERQUE PHOENIX EXPRESS, INC., 4500 McLeod Road NE., Post Office Box 3459, Albuquerque, N. Mex. 87110. Applicant's representative: Paul F. Sullivan, Suite 913, Colorado Building, 1341 G Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Albuquerque, N. Mex., and Show Low, and Springerville, Ariz., as follows: From Albuquerque over U.S. Highway 66 (Interstate Highway 40) to junction New Mexico Highway 53; thence over New Mexico Highway 53 to the Arizona-New Mexico State line; thence over Arizona Highway 61 to junction U.S. Highway 666; thence over U.S. Highway 666 to St. Johns, Ariz.; thence over Arizona Highway 61 to junction U.S. Highway 60, thence over U.S. Highway 60 to Show Low (also from St. Johns to Springerville, Ariz., over U.S. Highway 666), and return over the same routes, serving all intermediate points. NOTE: If a hearing is deemed necessary, applicant requests it be held at Albuquerque, N. Mex.

No. MC 110420 (Sub-No. 555), filed October 27, 1967. Applicant: QUALITY CARRIERS, INC., 100 South Calumet Street, Burlington, Wis. 53105. Applicant's representative: Alan B. Torhorst, Post Office Box 339, Burlington, Wis. 53105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Maple syrup*, pure and blended, in bulk, from points in Pennsylvania, Ohio, New York, Vermont, Michigan, Minnesota, and points of entry along the Michigan-Ontario, along the New York-Ontario and along the New York-Vermont-Quebec international boundary, to points in Shawano County, Wis., and Chicago, Ill. NOTE: If a hearing is deemed necessary, applicant requests it be held at Madison or Milwaukee, Wis., or Chicago, Ill.

No. MC 110988 (Sub-No. 243), filed October 25, 1967. Applicant: KAMPO TRANSIT, INC., 200 West Cecil Street, Neenah, Wis. Applicant's representative: E. Stephen Heisley, 529 Transportation Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids, chemicals, fertilizers, fertilizer ingredients, petroleum and petroleum products*, in bulk, in tank or hopper type vehicles, from points in Wisconsin to points in the Upper Peninsula of Michigan, Minnesota, Iowa, North Dakota, South Dakota, Wisconsin, Illinois, and Nebraska. NOTE: Applicant states it could tack with existing authority at Fremont, Nebr., South Beloit, Ill., and other. Applicant further states that no duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Madison, Wis.

No. MC 111545 (Sub-No. 99), filed November 1, 1967. Applicant: HOME TRANSPORTATION COMPANY, INC., Post Office Box 6426, Station A, Marietta, Ga. 30060. Applicant's representative: Robert E. Born, 1425 Frankline Road SE., Marietta, Ga. 30060. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electric powered motor vehicles* and (2) *parts, attachments, and accessories* for the items specified in (1) above, between Peachtree City, and Atlanta, Ga., on the one hand, and, on the other, points in Alabama, Arkansas, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin. NOTE: Applicant indicates it could tack with its existing authority at Atlanta or Peachtree City, Ga., permitting service at points in Alabama, Georgia, Kentucky, North Carolina, Tennessee, South Carolina, and Virginia. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 113524 (Sub-No. 38), filed November 2, 1967. Applicant: WARD TRANSPORT, INC., Post Office Box 133, Pueblo, Colo. Applicant's representative: Marion F. Jones, 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal tar products*, in bulk, from Pueblo, Colo., to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Missouri, New Mexico, Oklahoma, and Texas. NOTE: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 113678 (Sub-No. 297), filed November 2, 1967. Applicant: CURTIS, INC., 770 East 51st Avenue, Denver, Colo. 80216. Applicant's representative: Duane W. Acklie, Post Office Box 2028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses*, as described in section A and C of appendix I, to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles and hides), from the plantsite of Missouri Beef Packers at or near Friona, Tex., to points in New York, Massachusetts, Connecticut, Rhode Island, Pennsylvania, New Jersey, Maryland, Delaware, West Virginia, Virginia, North Carolina, and the District of Columbia, restricted to traffic originating at the above-named plantsite and destined to the States named. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 113678 (Sub-No. 298), filed November 3, 1967. Applicant: CURTIS, INC., 770 East 51st Avenue, Denver, Colo. 80216. Applicant's representative: Duane W. Acklie, Post Office Box 2028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts* and *articles distributed by meat packinghouses*, from Luverne, Minn., to points in Colorado, Kansas, Nebraska, North Dakota, South Dakota, Iowa, Missouri, Illinois, Wisconsin, Indiana, Michigan, and Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Des Moines, Iowa.

No. MC 114045 (Sub-No. 300), filed November 3, 1967. Applicant: TRANS-COLD EXPRESS, INC., Post Office Box 5842, Dallas, Tex. 75222. Applicant's representative: R. L. Moore (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpet and textile products*, from the plantsite and warehouse facilities of Cherokee Carpet Mills, Inc., at or near Lewisville, Ark., to points in Texas, Louisiana, Oklahoma, New Mexico, Colorado, Kansas, Arizona, California, Nevada, Utah, Wyoming, Nebraska, Iowa, Missouri, Illinois, Wisconsin, Minnesota, Indiana, Ohio, Pennsylvania, Washington, Oregon, Idaho, North Dakota, South Dakota, and Michigan. NOTE: If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Little Rock, Ark.

No. MC 114045 (Sub-No. 301), filed November 6, 1967. Applicant: TRANS-COLD EXPRESS, INC., Post Office Box 5842, Dallas, Tex. 75222. Applicant's representative: R. L. Moore (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Water coolers, water chests, and parts and supplies used in connection therewith*, from Holdenville, Okla., to points in California, New Mexico, Washington, Arizona, Texas, Florida, Georgia, Oklahoma, Mississippi, Louisiana, North Carolina, South Carolina, New York, Illinois, Kansas, Nebraska, Pennsylvania, Massachusetts, Rhode Island, Connecticut, New Jersey, Maryland, Virginia, Tennessee, Utah, Indiana, Ohio, Michigan, Minnesota, Colorado, and Iowa. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114194 (Sub-No. 146), filed November 3, 1967. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, Ill. 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products*, dry, in bulk, from Indianapolis, Ind., to points in Connecticut, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Tennessee, and Missouri. NOTE: Applicant states it will tack with its Sub 1 at St. Louis, Mo., to enable service to points in Illinois, Missouri, Indiana, and Ohio. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., and Chicago, Ill.

No. MC 114725 (Sub-No. 36), filed November 6, 1967. Applicant: WYNNE TRANSPORT SERVICE, INC., 2606 North 11th Street, Omaha, Nebr. 68102. Applicant's representative: J. Max Harding, 605 South 14th Street, Post Office Box 2028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals and fertilizers*, from Lincoln, Nebr., to points in Colorado, Iowa, Kansas, Missouri, South Dakota, and Wyoming. NOTE: Applicant states possibility of tacking with its base docket and in Subs 21, 24, 25, 27, and 29 to provide service from Fort Dodge, Council Bluffs, Creston, and Garner, Iowa, and Niota, Ill., over Lincoln gateway. If a hearing is deemed necessary, applicant requests it be held at Sioux City, Iowa, Omaha or Lincoln, Nebr.

No. MC 114939 (Sub-No. 40), filed November 3, 1967. Applicant: BULK CARRIERS LIMITED, a corporation, Box 10, Cooksville, Ontario, Canada. Applicant's representative: Robert D. Schuler, Suite 1700, 1 Woodward Avenue, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the ports of entry on the international boundary line between the United States and Canada on the St. Clair and Detroit Rivers to points in Illinois, Indiana, and Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lansing or Detroit, Mich.

No. MC 115331 (Sub-No. 236), filed November 3, 1967. Applicant: TRUCK TRANSPORT, INCORPORATED, 707 Market Street, St. Louis, Mo. 63101. Applicant's representative: Thomas F. Kilroy, 913 Colorado Building, 1341 G Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paint and paint products*, in bulk, in tank vehicles, from Fort Madison, Iowa, to points in Illinois, Indiana, Missouri, Kansas, and Minnesota. NOTE: Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 115491 (Sub-No. 105), filed November 2, 1967. Applicant: COMMERCIAL CARRIER CORPORATION, 502 East Bridgers Avenue, Post Office Box 87, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned citrus products, canned beverages, and canned beverage preparations, not frozen*, from points in Florida on and south of a line beginning at Yankeetown, Fla., and extending along Florida Highway 40 through Ocala, Fla., to Barberville, Fla., thence along U.S. Highway 17 to De Land, Fla., and thence along Florida Highway 44 to New Smyrna Beach, Fla., to points in Arkansas and Oklahoma. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Tampa or Miami, Fla.

No. MC 115038 (Sub-No. 27), filed November 2, 1967. Applicant: NORTHERN MOTOR CARRIERS, INC., Route 9, Saratoga Road, Fort Edward, N.Y. 12828. Applicant's representative: Harold G. Hernly, 711 14th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Talc*, in bulk, in tank vehicles, from Johnson, Vt., to Groveton, N.H. NOTE: Applicant holds contract carrier authority in MC 117561, therefore dual operations may be involved. If a hearing is deemed necessary applicant requests it be held at Montpelier, Vt., or Albany, N.Y.

No. MC 116101 (Sub-No. 3), filed November 8, 1967. Applicant: QUICK AIR FREIGHT, INC., Cargo Building, Port Columbus Airport, Columbus, Ohio. Applicant's representative: Herbert Baker, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives), between the Port Columbus Airport, Columbus, Ohio; J. M. Cox Municipal Airport near Dayton, Ohio; Cleveland Hopkins Airport near Cleveland, Ohio; Greater Cincinnati Airport in Kentucky (near Cincinnati, Ohio) on the one hand, and, on the other, O'Hare Airport and Chicago Midway Airport, at or near Chicago, Ill.; Weir-Cook Field, Indianapolis, Ind.; Willow Run Airport and Detroit Metropolitan Airport, at or near Detroit, Mich.; and the Greater Pittsburgh Airport, near Pittsburgh, Pa., restricted to freight moving on an air carrier's bill of lading and received by the same air carrier. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 116725 (Sub-No. 13), filed October 27, 1967. Applicant: INDIAN VALLEY ENTERPRISES, INC., 855 Maple Avenue, Harleysville, Pa. 19438. Applicant's representative: John W. Frame, Box 626, Camp Hill, Pa. 17011. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, except in bulk and except frozen foods, (1) from the plantsite of Keller's Creamery, Inc., located in Franconia Township, Montgomery County, Pa., to points in Delaware, Maryland, New Jersey, New York, Pennsylvania, Virginia, and the District of Columbia, with no transportation for compensation on return except as otherwise authorized; (2) from points in Minnesota and Wisconsin, to the plantsite of Keller's Creamery, Inc., located in Harleysville, Pa., and Franconia Township, Montgomery County, Pa., with no transportation for compensation on return except as otherwise authorized; (3) from points in Connecticut, Delaware, Maryland, New Jersey, New York, Pennsylvania, Virginia, West Virginia, and the District of Columbia, to the plantsites of Keller's Creamery, Inc., located in Harleysville, Pa., and Franconia Township, Montgomery County, Pa., with no transportation for compensation on return except as otherwise authorized; and (4) from the plantsites of Keller's Creamery, Inc., located in Harleysville, Pa., and Franconia Township (Montgomery County, Pa.), to points in Ohio, Indiana, Illinois, Minnesota, and Wisconsin, restricted to the transportation of traffic originating at the plantsites of Keller's Creamery, Inc., located at Harleysville, Pa., and Franconia Township, Pa. Restriction: The operations sought under 1, 2, 3, and 4 above shall not be tacked or joined with any other authority held by carrier for the purpose of performing a through service. NOTE: Applicant states the purpose of this application is to convert the commodity dairy products, presently held in its certificate MC 116725, to foodstuffs. No additional territory is sought. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa.

No. MC 116763 (Sub-No. 122), filed November 6, 1967. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: Carl Subler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal and poultry feed, and animal and poultry feed supplements* (except commodities in bulk), from points in Mississippi, to points in Connecticut, Delaware, Illinois, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, West Virginia, Wisconsin, and the District of Columbia, and (2) *prepared and preserved foodstuffs*, not frozen, from Lafayette, La., to points in Indiana, Michigan, and Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 117190 (Sub-No. 2), filed November 2, 1967. Applicant: WILLIAM LUSTBERG, doing business as WILCO GARMENT DELIVERY, 812 79th Street, North Bergen, N.J. 07047. Applicant's representative: Herman B. J. Weckstein, 1060 Broad Street, Newark, N.J. 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel, and materials and supplies* used in the manufacture of wearing apparel, between New York, N.Y., on the one hand, and, on the other, points in Dutchess County, N.Y. NOTE: If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 117815 (Sub-No. 130), filed November 6, 1967. Applicant: PULLEY FREIGHT LINES, INC., 405 South East 20th Street, Des Moines, Iowa 50317. Applicant's representative: William A. Landau, 1451 East Grand Avenue, Des Moines, Iowa 50306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Fort Dodge, Iowa, to Kansas City, Kans., and points in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 118536 (Sub-No. 35), filed November 6, 1967. Applicant: JIM TIONA, JR., 803 West Ohio Street, Butler, Mo. Applicant's representative: Carll V. Kretsinger, 450 Professional Building, Kansas

City, Mo. 64106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are useful and incidental to and used in connection with the business, operations, and maintenance of farms and ranches*, (1) between points in Bates and Vernon Counties, Mo., on the one hand, and, on the other, points in Alabama, Colorado, Arkansas, Illinois, Indiana, Louisiana, Minnesota, Mississippi, Michigan, North Dakota, New Mexico, Ohio, Oklahoma, Kansas, Kentucky, Nebraska, Iowa, South Dakota, Texas, Wisconsin, and Tennessee; and (2) between ports on and along the Gulf of Mexico extending from Mobile, Ala., to Brownsville, Tex., including Mobile, Ala., and Brownsville, Tex., and the ports of entry on the international boundary line between the United States and Mexico, located in Texas. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 116808 (Sub-No. 7), filed October 13, 1967. Applicant: ABC EXPRESS CO., INC., Fifth Street and Columbia Avenue, Philadelphia, Pa. 19122. Applicant's representative: Anthony C. Vance, 2001 Massachusetts Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by department stores, (1) between Rutherford, N.J., on the one hand, and, on the other, St. Davids, Pa., and points within Berks, Bucks, Delaware, Lehigh, Philadelphia, Chester, Northampton, Montgomery, and Lancaster Counties, Pa., Cecil County, Md., Gloucester, Mercer, Salem, Burlington, Cumberland, Camden, and Hunterdon Counties, N.J., and New Castle County, Del. (2) between St. Davids, Pa., and points in Cecil County, Md., New Castle County, Del., and Gloucester, Mercer, Salem, Burlington, Cumberland, Camden, and Hunterdon Counties, N.J.; restricted to a transportation service to be performed under continuing contract with B. Altman & Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 119400 (Sub-No. 2), filed November 6, 1967. Applicant: TOM SIMANEK, doing business as SIMANEK OIL TRANSPORT, 150 West Seventh Street, Wahoo, Nebr. 68066. Applicant's representative: J. Max Harding, 605 South 14th Street, Post Office Box 2028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals and fertilizers*, from Lincoln, Nebr., to points in Colorado, Iowa, Kansas, Missouri, South Dakota, and Wyoming. NOTE: If a hearing is deemed necessary, applicant requests it be held at Sioux City, Iowa, Omaha or Lincoln, Nebr.

No. MC 119489 (Sub-No. 14), filed November 6, 1967. Applicant: PAUL ABLER, doing business as CENTRAL TRANSPORT COMPANY, Post Office Box 714, Norfolk, Nebr. 68701. Applicant's representative: J. Max Harding, 605 South 14th Street, Post Office Box 2028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals and fertilizers*, from Lincoln, Nebr., to points in Colorado, Iowa, Kansas, Missouri, South Dakota, and Wyoming. NOTE: Common control may be involved. Applicant proposes to tack in conjunction with its authority in MC 119489 Subs 6, 8, and 9 to provide service from Fort Dodge, Council Bluffs, and Garner, Iowa, over Lincoln gateway. If a hearing is deemed necessary, applicant requests it be held at Sioux City, Iowa, or Omaha or Lincoln, Nebr.

No. MC 119777 (Sub-No. 85) (Amendment), September 21, 1967, published in the FEDERAL REGISTER issue of October 5, 1967, amended November 9, 1967, and republished this issue. Applicant: LIGON SPECIALIZED HAULER, INC., Post Office Box L, Madisonville, Ky. 42431. Applicant's representative: Fred F. Bradley, 213 St. Clair Street, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel, and iron and steel articles*, (1) between points in Illinois, Indiana, Portsmouth, Ohio, and Detroit, Mich., on the one hand, and, on the other, Oxford, and Holly Springs, Miss.; and (2) between Detroit, Mich., and Portsmouth, Ohio, on the one hand, and, on the other, points in Washington County, Miss. NOTE: The purpose of this republication is to change the territorial description in (2) to read points in Washington County, Miss., instead of Greenville, Miss. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 121523 (Sub-No. 2), filed November 1, 1967. Applicant: GASOLINE TANK SERVICE CO., INC., 1430 130th NE., Bellevue, Wash. 98004. Applicant's representatives: George H. Hart and Jack R. Davis, 1100 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bulk liquid petroleum products* and (2) *bulk liquid commodities* (except milk and cream and those requiring temperature control), between points in Washington. NOTE: Applicant states that the authority sought above is identical in commodity and territorial scope to its certificate of registration under MC 121523, canceled September 6, 1967. The instant application is for the purpose of proving that public convenience and necessity require the continuation of such operations by applicant. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 123048 (Sub-No. 110), filed November 6, 1967. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, Wis. 53403. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood, wood products, millwork and mill products*, from points in Lauderdale County, Miss., to points in Arkansas, Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, Tennessee, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss., or Memphis, Tenn.

No. MC 123048 (Sub-No. 111), filed November 6, 1967. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, Wis. 53403. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood sawdust, wood shavings, wood chips and wood products*, from points in Lowndes County, Miss., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Ohio, Oklahoma, Tennessee, Texas, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss., or Memphis, Tenn.

No. MC 123048 (Sub-No. 112), filed November 6, 1967. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, Wis. 53403. Applicant's representatives: Paul C. Gartzke, 121 West Doty Street, Madison, Wis. 53703, and C. Ernest Carter, 1919 Hamilton Avenue, Post Office Box A, Racine, Wis. 53401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood, wood products, millwork and mill products*, from points in Montgomery County, Miss., to points in Iowa, Kansas, Michigan, Minnesota, Missouri, Oklahoma, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss., or Memphis, Tenn.

No. MC 123054 (Sub-No. 7), filed October 31, 1967. Applicant: R. & H. CORPORATION, 295 Grand Avenue, Clarion, Pa. 16214, also Post Office Box 208, Clarion, Pa. 16214. Applicant's representative: V. Baker Smith, 123 South Broad Street, Philadelphia, Pa. 19109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass containers caps, covers, disks and tops therefor, and fiberboard boxes*, from Fairmont, W. Va., to New York, N.Y., points in Putnam, Westchester, Dutchess, Rockland, Orange, Ulster, and Sullivan Counties, N.Y., Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire, Maine, and New Jersey, and (2) *returned glass containers, cullet, and empty containers, pallets, and shipping devices* used in the transportation of glass containers, on return. NOTE: Applicant states by tacking authority presently held by applicant at Clarion, Pa., service can be rendered from Fairmont, W. Va., to the entire destination area sought in this proceeding. The purpose of this application is to eliminate the gateway. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 123159 (Sub-No. 2), filed October 27, 1967. Applicant: DE-PEN LINE, INC., 1879 West Marshall Street, Norristown, Pa. 19401. Applicant's representative: Maxwell A. Howell, 1120 Investment Building, 1511 K Street NW., Washington, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: (1) General commodities, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, and commodities in bulk between Wawa, Pa., and points in the New York, N.Y., commercial zone, as follows: (a) Over U.S. Highway 1, and (b) from Wawa, over U.S. Highway 1 to junction U.S. Highway 202, thence over U.S. Highway 202 to junction U.S. Highway 22, thence over U.S. Highway 22 to junction U.S. Highways 1 and 9, thence over U.S. Highways 1 or 9 to the New York, N.Y., commercial zone, and return over the same routes; (2) between Wawa, Pa., and Luke, Md., as follows: (a) From Wawa, over U.S. Highway 1 to junction U.S. Highway 202, thence over U.S. Highway 202 to junction Pennsylvania Turnpike, thence over Pennsylvania Turnpike to junction U.S. Highway 220, thence over U.S. Highway 220 to McCoole, Md., thence over Maryland Highway 135 to Luke, Md., and return over the same route, (b) from Wawa, as specified above to junction Pennsylvania Turnpike and U.S. Highway 11, thence over U.S. Highway 11 to junction U.S. Highway 40, thence over U.S. Highway 40 to Cumberland, Md., thence over U.S. Highway 220 to McCoole, Md., thence over Maryland Highway 130 to Luke, Md., and return over the same route; serving all intermediate points in connection with (1) and (2) above.

(3) *General Commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Philadelphia and Brickerville, Pa., as follows: (a) From Philadelphia, over U.S. Interstate Highway 76 to King of Prussia, Pa., thence over Pennsylvania Highway 23 to Leola, Pa., thence over Pennsylvania Highway 772 to junction Pennsylvania Highway 501, thence over Pennsylvania Highway 501 to Brickerville, Pa., and return over the same route; (b) from Philadelphia, over U.S. Highway 30 to Downingtown, Pa., thence over U.S. Highway 322 to Brickerville, Pa., and return ove rthe same route; (c) from Philadelphia, over U.S. Interstate Highway 76 to junction Pennsylvania Turnpike, thence over Pennsylvania Turnpike to junction U.S. Highway 222, thence over U.S. Highway 222 to Adamstown, Pa., thence over unnumbered Pennsylvania Highway to junction Pennsylvania Highway 897, thence over Pennsylvania 897 to Reinholds, Pa., thence over unnumbered Pennsylvania Highway through Denver, Stevens, Schoeneck, and Hopeland, to Clay, Pa., thence over U.S. Highway 322 to Brickerville, and return over the same route, serving the intermediate and off-route points of Adamstown, Akron, Bareville, Brickerville, Blue Ball, Bridgeport, Brownstown, Brunnerville, Churchtown, Clay, Conshohocken, Denver, Downingtown, East Earl, Everson, Ephrata, Farmersville, Goodville, Groffdale, Guntherswille, Honey Brook, Hopeland, Leola, Lexington, Lincoln, Milway, Morgantown, New Holland, Norristown, Reamstown, Reinholds, Rothsville, Schoeneck, Stevens, and Valley Forge, Pa., in connection with (3) above. NOTE: Applicant states that all of the authority sought in (1) and (2) above is limited to the transportation of shipments moving from, to or through points in the townships of Aston and Middletown, Delaware County, Pa. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 123805 (Sub-No. 3), filed November 3, 1967. Applicant: G. H. LOMAX, Hannibal, Mo. 63401. Applicant's representative: Thomas P. Rose, Jefferson Building, Jefferson City, Mo. 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road construction materials and building supplies*, in bulk, in dump vehicles (except cement originating at points of production), between Quincy, Ill., and points in its commercial zone, on the one hand, and, on the other, points in Clark, Lewis, Marion, Ralls, Pike, Lincoln, Audrain, Monroe, Shelby, Knox, Scotland, Adair, and Macon Counties, Mo., and Lee County, Iowa. NOTE: If a hearing is deemed necessary, applicant requests it be held at Jefferson City or St. Louis, Mo.

No. MC 123807 (Sub-No. 3), filed November 3, 1967. Applicant: RENNOLDS POTTERFIELD, Monroe City, Mo. 63456. Applicant's representative: Thomas P. Rose, Jefferson Building, Jefferson City, Mo. 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road construction materials and building supplies*, in bulk, in dump vehicles, excluding cemet originating at points of production, between Quincy, Ill., and its commercial zone thereof, on the one hand, and, on the other, points in Clark, Lewis, Marion, Ralls, Lincoln, Audrain, Monroe, Shelby, Knox, Scotland, Adair, and Macon Counties, Mo., and Lee County, Iowa. NOTE: If a hearing is deemed necessary, applicant requests it be held at Jefferson City or St. Louis, Mo.

No. MC 123808 (Sub-No. 1), filed November 3, 1967. Applicant: GEORGE C. POTTERFIELD, Monroe City, Mo. 63456. Applicant's representative: Thomas P. Rose, Jefferson Building, Jefferson City, Mo. 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials and building supplies* used in road construction (except cement originating at points of production), in bulk, in dump vehicles, between Quincy, Ill., and its commercial zone, on the one hand, and, on the other, points in Clark, Lewis, Marion, Ralls, Lincoln, Audrain, Monroe, Shelby, Knox, Scotland, Adair, and Macon Counties, Mo., and Lee County, Iowa. NOTE: If a hearing is deemed necessary, applicant requests it be held at Jefferson City or St. Louis, Mo.

No. MC 124632 (Sub-No. 12), filed November 7, 1967. Applicant: M. L. WILKERSON, doing business as WILKERSON TRUCKING COMPANY, Route No. 5, Lenoir City, Tenn. Applicant's representative: Walter Harwood, 515 Nashville Bank & Trust Building, Nashville, Tenn. 37201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, except in bulk, from St. Mary's, W. Va., to Bristol and Norton, Va., and points in Tennessee. NOTE: If a hearing is deemed necessary, applicant requests it be held at Nashville or Knoxville, Tenn.

No. MC 124796 (Sub-No. 31), filed November 1, 1967. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 7236 East Slauson Avenue, Los Angeles, Calif. 90022. Applicant's representative: J. Max Harding, 605 South 14th Street, Post Office Box 2028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Sheet vinyl plastic and shredded vinyl plastic*, from Corinth, Miss., to points in the United States (except Alaska and Hawaii), and (2) *raw materials, supplies and equipment* used in the manufacture of vinyl plastic, and *refused, rejected and/or returned shipments of sheet vinyl plastic and shredded vinyl plastic*, on return, under contract with Southbridge Plastics, a division of W. R. Grace & Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Memphis, Tenn.

No. MC 125140 (Sub-No. 5), filed November 6, 1967. Applicant: RICHARD B. BRUNZLICK, Augusta, Wis. 54722. Applicant's representative: A. R. Fowler, 2288 University Avenue, St. Paul, Minn. 55114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Orange juice*, (a) from Chippewa Falls, Wis., and Columbia, Mo., to points in Indiana, Missouri, Iowa, and Illinois (except points in the Chicago, Ill., commercial zone), and (b) from Columbia, Mo., to Chippewa Falls, Wis., and (2) *dairy products*, from Chippewa Falls, Wis., to points in Minnesota, under contract with Bowman Dairy Sales Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 125649 (Sub-No. 2), filed November 2, 1967. Applicant: LLOYD K. HOOVER, doing business as HOOVER WRECKER SERVICE, Broadway, Va. 22815. Applicant's representative: Elston H. Alt, Post Office Box 81, Winchester, Va. 22601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, disabled, inoperative, repossessed and stolen vehicles, and replacements, accessories, and parts* thereof (except mobile homes or house trailers designed to be drawn by passenger automobiles), by wrecker equipment, between points in Rockingham and Shenandoah Counties, Va., on the one hand, and, on the other, points in Connecticut, Delaware, Indiana, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 127065 (Sub-No. 3), filed November 6, 1967. Applicant: JOSEPH D'AGATA, 3240 South 61st Street, Philadelphia, Pa. 19153. Applicant's representative: G. Donald Bullock, Box 103, Wyncote, Pa. 19095. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from the plantsite of C. Schmidt & Sons, Inc., in Cleveland, Ohio, to points in New York and Pennsylvania, under contract with C. Schmidt & Sons, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 127173 (Sub-No. 2), filed November 6, 1967. Applicant: MARC TRUCK LINES, INC., 9033 Hollyberry Lane, Des Plaines, Ill. 60016. Applicant's representative: George S. Mullins, 4704 West Irving Park Road, Chicago, Ill. 60641. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Camp baggage*, between points in Michigan, Minnesota, and Wisconsin, on the one hand, and, on the other, points in Indiana, Kentucky, Michigan, Missouri, Ohio, and Tennessee. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 127227 (Sub-No. 4), filed November 1, 1967. Applicant: BIRDSALL CONSTRUCTION COMPANY, a corporation, 821 Avenue East, Rivera Beach, Fla. 30404. Applicant's representative: Richard J. Brooks, Post Office Box 1531, Tallahassee, Fla. 32302. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, commodities requiring special equipment, commodities in bulk, and commodities of unusual value), between Palm Beach, Fla., on the one hand, and, on the other, points in Palm Beach, Broward, and Dade Counties, Fla., restricted to traffic having a prior or subsequent movement by water and originating at or destined to points on the island of New Providence, Bahamas. NOTE: If a hearing is deemed necessary, applicant requests it be held at Miami or West Palm Beach, Fla.

No. MC 128273 (Sub-No. 14) (Correction), filed October 17, 1967, published FEDERAL REGISTER issue of November 2, 1967, and republished as corrected, this issue. Applicant: MIDWESTERN EXPRESS, INC., Post Office Box 189, Fort Scott, Kans. 66701. Applicant's representative: Harry Ross, 848 Warner Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper products, products produced or distributed by manufacturers and converters of paper and paper products; and materials, equipment, and supplies used in the manufacture and distribution of the foregoing commodities* (except commodities in bulk, and commodities which, due to size and weight require use of specialized motor vehicle equipment), between points in Little River County, Ark., on the one hand, and, on the other, points in Texas; Oklahoma, Kansas, Nebraska, South Dakota, North Dakota, New Mexico, Colorado, Louisiana, Mississippi, Alabama, Tennessee, Kentucky, Missouri, Iowa, Minnesota, Wisconsin, Illinois, Indiana, Michigan, Ohio, Pennsylvania, and New York. NOTE: The purpose of this republication is to insert the closing parenthesis that was inadvertently omitted from the previous publication. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 128915 (Sub-No. 1), filed October 30, 1967. Applicant: WADE H. EDWARDS, doing business as EDWARDS BROS. VAN & STORAGE CO., 302 F North Russell, Santa Maria, Calif. 93454. Applicant's representative: Ernest D. Salm, 3846 Evans Street, Los Angeles, Calif. 90027. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission in 17 M.C. 467, and 95 M.C.C. 252, between points in Santa Barbara and San Luis Obispo Counties, Calif., on traffic having a prior or subsequent out-of-State movement. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles or San Francisco, Calif.

No. MC 129266 (Sub-No. 2), filed November 1, 1967. Applicant: BALLANTYNE TRUCKING COMPANY, a corporation, 3030 East Fourth Street, Pueblo, Colo. 81001. Applicant's representative: V. Baker Smith, 123 South Broad Street, Philadelphia, Pa. 19109. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, and packinghouse products*, as described in parts A, B, and of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, between Pueblo, Colo., on the one hand, and, on the other, Lincoln and McCool, Nebr., under contract with American Stores Packing Co., Acme Markets Division. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 129413 (Sub-No. 1), filed November 6, 1967. Applicant: C. B. TRANSPORTATION, INC., 1400 Grand Avenue, Post Office Box 3072, Sioux City, Iowa 51102. Applicant's representative: J. Max Harding, 605 South 14th Street, Post Office Box 2028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals and fertilizers*, from Lincoln, Nebr., to points in Colorado, Iowa, Kansas, Missouri, South Dakota, and Wyoming. NOTE: If a hearing is deemed necessary, applicant requests it be held at Sioux City, Iowa, Omaha and Lincoln, Nebr.

No. MC 129445 (Sub-No. 2), filed October 30, 1967. Applicant: DIXIE TRANSPORT CO. OF TEXAS, Post Office Box 5503, Beaumont, Tex. 77706. Applicant's representative: Austin L. Hatchell, 1102 Perry Brooks Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt, asphaltic products, and road oils*, in bulk, in tank vehicles, from points in Jefferson and Orange Counties, Tex., to points in Louisiana. NOTE: All of the stock of applicant is owned by Dixie Carriers, Inc., a water carrier. If a hearing is deemed necessary, applicant requests it be held at Houston or Dallas, Tex.

No. MC 129454, filed October 11, 1967. Applicant: PAUL H. ENGELKE, doing business as ENGELKE FEED SERVICE, Box 135, Chadwick, Ill. 61014. Applicant's representative: Paul H. Engelke (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal and poultry feeds made of mineral mixtures, insecticides, fungicides, herbicides, rodenticides, insect repellent, vermin exterminators, and, related dispensing equipment, advertising materials, and premiums* when shipped with said commodities, (a) from the plantsites and warehouse facilities of the Standard Chemical Manufacturing Co. at Omaha, Nebr., and Malvern, Iowa, destined to points in Wisconsin and Illinois, except to points in the Chicago, Ill., commercial zone, as defined by the Commission, and (b) from Chadwick, Ill., destined to points in Wisconsin and Illinois, except to points in the Chicago, Ill., commercial zone, as defined by the Commission, and (2) *materials, equipment, and supplies* used or useful in the manufacture or distribution of the commodities described above, from points in Wisconsin and Illinois, except from points in the Chicago, Ill., commercial zone, as defined by the Commission, to the plantsites and warehouse facilities of the Standard Chemical Manufacturing Co., located at Omaha, Nebr., and Malvern, Iowa. Restriction: Restricted to a transportation service to be performed under a continuing contract, or contracts, with the Standard Chemical Manufacturing Co., Omaha, Nebr. NOTE: Applicant states it intends to request cancellation of its certificate MC 115365, issued on November 10, 1959, concurrently with the issuance of a permit authorizing the motor contract carrier operating rights here being sought. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Madison, Wis.

No. MC 129486, filed October 18, 1967. Applicant: PAGE TRUCKING COMPANY, INC., Box 14, Hines, Minn. 56647. Applicant's representative: Robert E. Swanson, 1211 South Sixth Street, Stillwater, Minn. 55082. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Groceries*, packaged or canned, including fresh and frozen and perishable foods, with *supplies and materials* usually handled by a wholesale grocery distributing company, from Benton Harbor and Paw Paw, Mich., Denver, Colo., and Chicago, Ill., and points in McHenry, Lake, Du Page, Kendall, and Will Counties, Ill., and Lake County, Ind., to Thief River Falls, Minn., under contract with L. B. Harts Wholesale, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 129493, filed October 27, 1967. Applicant: HENRY G. HARLOW, doing business as HARLOW TRUCKING COMPANY, 4701 Silverwood Drive, Dayton, Ohio 45429. Applicant's representative: William V. Blake, 123 Glencoe Road, Columbus, Ohio 43214. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Buildings, and houses, prefabricated or portable, in sections, including component parts thereof, hardware and other materials, including those necessary for the erection thereof*, from Jamestown, Ohio, to points in Allegheny, Armstrong, Beaver, Bedford, Butler, Clarion, Clearfield, Elk, Erie, Fayette, Forest, Indiana, Jefferson, Lawrence, Somerset, Washington, Westmoreland Counties, Pa.; and to points in Boone, Cabell, Clay, Fayette, Lincoln, Kanawah, and Putnam Counties, W. Va.; and, (2) *section, materials, supplies, and component parts used or useful in the manufacture of prefabricated and portable buildings or houses*, from Lightyfour and Wampum, Pa., sites of Ryan Homes, Inc. (interplant movement), to Jamestown, Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 129504, filed October 24, 1967. Applicant: JOSEPH DUGAS, 172 Maple Avenue, Claremont, N.H. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by retail department stores*, between Claremont, N.H., on the one hand, and, on the other, points in Sullivan County, N.H., and those in Windsor and Windham Counties, Vt., under contract with Montgomery Ward & Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Concord, N.H.

No. MC 129505, filed October 30, 1967. Applicant: SYLVESTER BROWN, ARTHUR RINDFLEISCH, ALBERT GRZESIAK, OTTO RINDFLEISCH, ROBERT VOELTNER, WILBERT FACKLUM, ERVIN AHLES, FRANK RINDFLEISCH, MYRON KOSKEY AND JOHN VOELTNER, a partnership, doing business as ASSOCIATED TRUCKING CO., Route No. 2, Post Office Box 370, Mosinee, Wis. Applicant's representative: John T. Porter, 16 North Carroll Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, in shipments having either an immediately prior or subsequent movement by common motor carrier, railroad, or air, from Mosinee, Wis., to points in Wisconsin and the Minneapolis-St. Paul, Minn. commercial zone. NOTE: If a hearing is deemed necessary, applicant requests it be held at Madison, Wis., or Minneapolis, Minn.

No. MC 129517, filed November 3, 1967. Applicant: UTICA AIR FREIGHT, INC., 2323 West Whiteboro Street, Utica, N.Y. 13502. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between points in Oneida, Lewis, Madison, and Herkimer Counties, and Albany, N.Y., on the one hand, and, on the other, Buffalo, Syracuse, Kennedy International Airport, La Guardia Airport, N.Y., and Newark Airport, N.J., restricted to traffic having a prior or subsequent movement by air. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Syracuse, N.Y.

No. MC 129518, filed November 3, 1967. Applicant: NORWOOD TRANSPORT, INC., 15 West 415 Irving Park Road, Bensenville, Ill. Applicant's representative: Irving Stillerman, 29 South La Salle, Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contractors machinery and equipment, and earthmoving and road building machinery and equipment including tractors, side boom tractors, bulldozers, back hoes, cranes, earth scrapers, and loaders, road graders, road pavers, portable asphalt plants, and portable concrete mixing plants, and parts thereof when moving in connection with said machinery and equipment*, between points in Illinois, Michigan, Indiana, Wisconsin, and Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 129519, filed November 6, 1967. Applicant: CHAMPION TRANSPORTATION, INC., 4120 Floyd Avenue, Sioux City, Iowa 51108. Applicant's representative: J. Max Harding, 605 South 14th Street, Post Office Box 2028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass and glassware*, from Dunkirk, Ind., to points in the United States (except Alaska and Hawaii). NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., Chicago, Ill., or Washington, D.C.

MOTOR CARRIERS OF PASSENGERS

No. MC 3647 (Sub-No. 400), filed November 2, 1967. Applicant: PUBLIC SERVICE COORDINATED TRANSPORT, a corporation, 180 Boyden Avenue, Maplewood, N.J. 07040. Applicant's representative: Richard Fryling (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, and express, and newspapers*, in the same vehicle with passengers, between Edgewater and West New York, N.J., from the Edgewater-North Bergen Municipal line on River Road, thence over River Road to junction of River Road, John F. Kennedy Boulevard East and 60th Street, West New York, N.J., and return over the same route, serving all intermediate points. Restriction: No passenger to be transported over the above-described route whose trip is between midtown New York City, N.Y. (by way of the Lincoln Tunnel) and points in Fort Lee, west of Hoyt Avenue or on Palisade and Lemoine Avenues between Cross Street and New Jersey Highway 5, Fort Lee, N.J. NOTE: Applicant states that the above-described route will be tacked with its existing routes. If a hearing is deemed necessary, applicant requests it be held at Newark, N.J.

No. MC 60325 (Sub-No. 7), filed November 6, 1967. Applicant: JEFFERSON TRANSPORTATION CO., a corporation, 1114 Currie Avenue, Minneapolis, Minn. 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers, express, newspapers, and baggage of passengers*, in the same vehicle with passengers, in the State of Minnesota, (1) between junction U.S. Highway 63 and Interstate Highway 90 and junction U.S. Highway 63 and U.S. Highway 16, over U.S. Highway 63, serving no intermediate points, and (2) between junction U.S. Highway 63 and Interstate Highway 90 and junction Interstate Highway 90 and U.S. Highway 16 near Dexter, Minn., over Interstate Highway 90, serving no intermediate points. NOTE: Applicant states it now holds the operating authority under certificate No. MC 60325, on each side of the short segments subject of this application. This application was found to be necessary so applicant could perfect its present certificate and continue to perform its interstate operations between Austin and Rochester, Minn. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

APPLICATION FOR BROKERAGE LICENSE

No. MC 12645 (Sub-No. 2), filed October 31, 1967. Applicant: PARAGON TRAVEL AGENCY, INC., 678 Pleasant Street, New Bedford, Mass. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. For a license (BMC 5) to engage in operations as a *broker* at Providence, R.I., in arranging for the transportation by motor vehicle in interstate or foreign commerce, of *passengers and their baggage*, in special and charter operations, between points in the United States, including Alaska and Hawaii.

APPLICATIONS OF WATER CARRIERS

No. W-104 (Sub-No. 18) Union Barge Line Corporation Extension-Victoria Channel, filed November 2, 1967. Applicant: UNION BARGE LINE CORPORATION, Dravo Building, Pittsburgh, Pa. 15222. Applicant's representative: Donald Macleay, 1625 K Street NW., Washington, D.C. 20006. Application of Union Barge Line Corp. filed November 2, 1967, for a revised certificate authorizing extension of its operation as a common carrier by water in interstate or foreign commerce, by non-self-propelled vessels with the use of separate towing vessels in the transportation of *general commodities*, and by towing vessels in the performance of general towage, in year round operation between ports on the Victoria Channel, including Victoria, Tex.

No. W-377 (Sub-No. 14) Dixie Carriers, Inc. Extension-Victoria Channel, Filed November 2, 1967. Applicant:

DIXIE CARRIERS, INC., 1616 West Loop South, Houston, Tex. 77207. Applicant's representative: Donald Macleay, Commonwealth Building, 1625 K Street NW., Washington, D.C. 20006. Application of Dixie Carriers, Inc., filed November 2, 1967, for a revised certificate authorizing extension of its operation as a common carrier by water in interstate or foreign commerce, by non-self-propelled vessels with the use of separate towing vessels in the transportation of *general commodities*, and by towing vessels in the performance of general towage, in year round operation between ports on the Victoria Channel, from and including Victoria, Tex., to the Gulf Intracoastal Waterway.

No. W-700 (Sub-No. 20), COYLE LINES INCORPORATED, Extension—VICTORIA CHANNEL, Filed November 2, 1967. Applicant: COYLE LINES INCORPORATED, Post Office Box 6056, New Orleans, La. 70114. Applicant's representative: Donald Macleay, Commonwealth Building, 1625 K Street NW., Washington, D.C. 20006. Application of Coyle Lines Inc., filed November 2, 1967, for a revised certificate authorizing extension of its operation as a common carrier by water in interstate or foreign commerce, by non-self-propelled vessels with the use of separate towing vessels in the transportation of *general commodities*, and by towing vessels in the performance of general towage, in year-round operation between ports on the Victoria Channel, including Victoria, Tex.

Applications for Which No Oral Hearing Is Requested

No. MC 19227 (Sub-No. 125), filed November 6, 1967. Applicant: LEONARD BROS. TRUCKING CO., INC., 2595 Northwest 20th Street, Miami, Fla. 33142. Applicant's representative: William O. Turney, 2001 Massachusetts Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities, except boats, and other than oil field equipment* which, because of size or weight, require the use of special equipment, (a) between points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, Alabama, Georgia, South Carolina, and the District of Columbia, on the one hand, and, on the other, points in Texas; and (b) between points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, on the one hand, and, on the other, points in Alabama, Georgia, and South Carolina; (2) *airplane parts and supplies, materials, parts, and components* used in the construction of aircraft, and supplies, machinery and equipment used in the maintenance, servicing, repair, and operation of aircraft, restricted to commodities requiring special equipment for loading or unloading when performed by shipper or consignee and only ordinary vehicular equipment for over-the-road portion of the transportation, between points in California on the one hand, and, on the other, points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia; and (3) *airplane parts and supplies, materials, parts, and components*, requiring the use of special equipment, and *missile parts and supplies and materials, parts, and components* used in the maintenance, servicing, and repair of missiles, except such commodities which require the use of special equipment and handling or rigging, between points in California, on the one hand, and, on the other, points in Alabama, Georgia, Illinois, Louisiana, Mississippi, South Carolina, Tennessee, and Texas.

No. MC 97394 (Sub-No. 5), filed November 1, 1967. Applicant: MAJORS TRUCK LINE, INC., Post Office Box J, Caneyville, Ky. 42721. Applicant's representative: Robert M. Pearce, Central Building, 1033 State Street, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment) between Louisville and Morgantown, Ky., from Louisville over Interstate Highway 65 to its junction with U.S. Highway 231; thence over U.S. Highway 231 to Morgantown and return over the same route, serving those intermediate points on U.S. Highway 231 located in Butler County, Ky., and serving Morgantown for purposes of joinder only. NOTE: Applicant presently holds authority between Louisville and Morgantown, Ky., over U.S. Highways 31W, 62, and 231. Applicant states that it proposes to tack authority sought with its present authority and with its pending authority in MC 97394 Sub No. 4.

No. MC 116514 (Sub-No. 27), filed November 2, 1967. Applicant: EDWARDS TRUCKING, INC., Drawer 428, Hemingway, S.C. 29554. Applicant's representative: Robert E. Hicks, 310 Fulton Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar*, in bales, bags, and boxes, between Savannah and Port Wentworth, Ga., and points in Virginia.

No. MC 128517 (Sub-No. 3), filed November 8, 1967. Applicant: STANLEY WISHNIA AND SEYMOUR MILLER, a partnership, doing business as MINUTE SERVICE CO., 836 Ninth Avenue, New York, N.Y. 10019. Applicant's representative: Irving Abrams, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Photocopy equipment, machines, and supplies*, from New York, N.Y. to Teaneck, N.J., restricted to operations conducted under a continuing contract or contracts with 3M Business Products Sales, Inc., of Teaneck, N.J.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13699; Filed, Nov. 22, 1967; 8:45 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 20, 1967.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

Long-and-Short Haul

FSA No. 41172—*Fresh meats and packinghouse products from points in Illinois Freight Association and western trunkline territories.* Filed by Western Trunk Line Committee, agent (No. A-2527), for interested rail carriers. Rates on fresh meats and packinghouse products, in straight or mixed carloads, as described in the application, from points in Illinois Freight Association and western trunkline territories, to points in southern territory.

Grounds for relief—Rate relationship.

Tariffs—Supplement 10 to Western Trunk Line Committee, agent, tariff ICC A-4660, and supplement 12 to Illinois Freight Association, agent, tariff ICC 1112.

FSA No. 41173—*Beet or cane sugar from Montana, Transcontinental Freight Bureau and western trunkline territories.* Filed by Western Trunk Line Committee, agent (No. A-2528), for interested rail carriers. Rates on beet or cane sugar, dry, in bulk, in covered hopper cars or self-clearing permanently enclosed cars, in carloads, from points in Montana, transcontinental and western trunkline territories, to points in Illinois, Indiana, Missouri, and Wisconsin.

Grounds for relief—Market competition.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13789; Filed, Nov. 22, 1967; 8:49 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during November.

3 CFR

Page

PROCLAMATIONS:
3279 (modified by Proc. 3820) 15701
3290 (see Proc. 3820) 15701
3328 (see Proc. 3820) 15701
3386 (see Proc. 3820) 15701
3389 (see Proc. 3820) 15701
3509 (see Proc. 3820) 15701
3531 (see Proc. 3820) 15701
3541 (see Proc. 3820) 15701
3693 (see Proc. 3820) 15701
3694 (terminated in part by Proc. 3818) 15467
3712 (terminated in part by Proc. 3818) 15467
3744 (terminated in part by Proc. 3818) 15467
3779 (see Proc. 3820) 15701
3794 (see Proc. 3820) 15701
3818 15467
3819 15667
3820 15701

EXECUTIVE ORDERS:
Mar. 23, 1912 (revoked in part by PLO 4320) 16100
2295 (modified by PLO 4313) 15429
4702 (revoked in part by PLO 4315) 15482
8652 (revoked in part by PLO 4317) 15482
10530 (see EO 11378) 15237
10682 (see EO 11378) 15237
10807 (amended by EO 11381) 15629
10903 (amended by EO 11380) 15627
11034 (amended by EO 11380) 15627
11378 15237
11379 15625
11380 15627
11381 15629

5 CFR

213 15703, 15805, 15869, 15911, 16097
305 15805
713 15631
754 15805

7 CFR

51 15066, 15073
251 15948
319 15577
401 15703, 15704, 15911
711 15704
717 15705
722 15987
729 15149
730 15076
905 15869, 16097
906 15869
907 15805, 16097
909 15870
910 15430, 15524, 15631, 15870
912 15430, 15632, 15806, 15870, 15987
913 15430, 16098
915 15669, 15871
945 15577
947 15705
982 15669
984 15388
989 15871, 15915
991 15670, 15705

7 CFR—Continued

Page

1001 15076
1015 15090
1067 15093
1120 15388
1125 15706
1126 15388
1132 15389
1137 15431
1421 15632, 15706, 15872
1464 15633

PROPOSED RULES:
51 15435
723 15546, 16043
724 16043
811 16045
814 15835
822 15393
891 15393
892 15393
905 15116
906 15394
907 15488
908 15394
912 15436
913 15395
959 15177, 15884
966 15884
989 15488
1008 15952
1036 15952
1048 15952
1049 15489, 16101
1064 15490
1090 15437
1125 15178
1131 15588

8 CFR

103 15469
212 15469
238 15469

9 CFR

76 15240
78 15577
92 15707
131 15469

10 CFR

40 15872

PROPOSED RULES:
2 16050
20 15432, 15762
50 16050
115 16050

12 CFR

1 15544, 15918
219 15389
556 15707, 15747
563 15634
571 15708

PROPOSED RULES:
545 15763

13 CFR

101 15806, 15873
106 15065
108 15149
120 15634
122 15635

13 CFR—Continued

Page

PROPOSED RULES:
107 15390
121 15184

14 CFR

21 15472
39 15094, 15153, 15154, 15390, 15421, 15472, 15523, 15579, 15635, 15806, 15873.
61 15918
63 15918
65 15918
71 15094, 15095, 15154, 15523, 15524, 15579, 15635, 15636, 15809, 15810, 15874, 16096.
73 15096, 16098
75 15636
91 15422, 15708
97 15423, 15473, 15580, 15811
141 15583
145 15670
157 15818
207 15096
208 15097
241 15098

PROPOSED RULES:
27 15676
29 15676
39 15490, 15491, 15588
71 15117-15121, 15491-15493, 15546-15548, 15588, 15589, 15712, 15837, 15838, 15885, 15926, 16049, 16050, 16102.
73 16050
93 15589
121 15676
202 15676
203 15676
288 15926

15 CFR

0 15222
13 15818
70 15154
204 15104, 15391
230 15105, 15636
379 15988

16 CFR

13 15105-15107, 15470, 15748-15750, 15874, 15875.
14 15525
15 15470, 15919
17 15540
228 15525
229 15529
230 15531
231 15532
232 15533
233 15534
234 15536
235 15538
236 15538
237 15539
238 15540
239 15541
240 15542
412 15584
413 15424

16 CFR—Continued

PROPOSED RULES:

241 ... 15715
242 ... 15681
300 ... 15180

17 CFR

200 ... 15470
230 ... 15920

18 CFR

3 ... 15239
101 ... 15670
141 ... 15670

PROPOSED RULES:

2 ... 15714
14 ... 15714
101 ... 15927
104 ... 15927
105 ... 15927
141 ... 15434, 15927
201 ... 15927
204 ... 15927
205 ... 15927
260 ... 15434

19 CFR

4 ... 15390
10 ... 15424
14 ... 15155
16 ... 15390

20 CFR

396 ... 15471
401 ... 15544

21 CFR

4 ... 15709
120 ... 15107, 15120, 15424, 15578
121 ... 15108, 15109, 15155, 15845, 15988
133 ... 15109
148c ... 15988
148b ... 15988
148c ... 15425
148f ... 15989
148o ... 15989
166 ... 15390
191 ... 15875

PROPOSED RULES:

28 ... 15116
121 ... 16048
148l ... 16048
166 ... 16048

22 CFR

41 ... 16098

PROPOSED RULES:

201 ... 15116

23 CFR

215 ... 15818
216 ... 15818
255 ... 15792

24 CFR

200 ... 15425, 15586, 15636
203 ... 15639
207 ... 15640
220 ... 15640
222 ... 15640
809 ... 15640

25 CFR

41 ... 15471, 16099

26 CFR

1 ... 15421, 15671, 15820, 15876
301 ... 15241, 15483
601 ... 15990

26 CFR—Continued

PROPOSED RULES:

1 ... 15167, 15393, 15758, 15879
31 ... 15879
46 ... 15879
48 ... 15879
49 ... 15879

28 CFR

0 ... 15425

29 CFR

526 ... 15425
786 ... 15425
1200 ... 15827
1202 ... 15831
1203 ... 15831
1208 ... 15831
1500 ... 15478, 15479

PROPOSED RULES:

5 ... 15396
6 ... 15396
7 ... 15396
526 ... 15712

31 CFR

306 ... 15672, 15920

32 CFR

68 ... 15111
127 ... 15112
536 ... 15113
552 ... 15115
710 ... 15115
812 ... 16035
844 ... 15920
855 ... 15920
882 ... 15921
901 ... 15922
1001 ... 16036
1006 ... 16036
1007 ... 16039
1018 ... 16039

32A CFR

BDSA (Ch. VI):

M-11A ... 15710

ASCDIB (Ch. VII) ... 15691

OIA (Ch. X):

OI Reg. 2 ... 15876

33 CFR

204 ... 15673

35 CFR

61 ... 15641
255 ... 15831

36 CFR

7 ... 15391, 15710, 15750
311 ... 15989

PROPOSED RULES:

7 ... 15761

38 CFR

3 ... 15678
21 ... 16099

39 CFR

131 ... 15587
821 ... 15480
822 ... 15480, 15481
823 ... 15099

PROPOSED RULES:

Ch. I ... 15643

41 CFR

1-5 ... 15674
2-75 ... 15833
6-60 ... 15751
6-75 ... 15427
9-1 ... 15922
9-12 ... 15922

41 CFR—Continued

50-204 ... 15641
101-26 ... 15784

42 CFR

PROPOSED RULES:

73 ... 15179

43 CFR

PUBLIC LAND ORDERS:

1563 (see PLO 4307) ... 15428
1630 (see PLO 4315) ... 15482
3263 (revoked in part by PLO 4307) ... 15428
3634 (revoked in part by PLO 4302) ... 15427
4236 (see PLO 4317) ... 15483
4266 (see PLO 4317) ... 15483
4270 (amended by PLO 4312) ... 15429
4301 ... 15099
4302 ... 15427
4303 ... 15427
4304 ... 15427
4305 ... 15429
4306 ... 15429
4307 ... 15428
4308 ... 15429
4309 ... 15429
4310 ... 15429
4311 ... 15429
4312 ... 15429
4313 ... 15429
4314 ... 15482
4315 ... 15482
4316 ... 15482
4317 ... 15482
4318 ... 15482
4319 ... 15878
4320 ... 16100

PROPOSED RULES:

1720 ... 15540
3100 ... 15883
3120 ... 15883

45 CFR

14 ... 16100
81 ... 15156
531 ... 15641

46 CFR

10 ... 15784

PROPOSED RULES:

33 ... 15839
94 ... 15839
112 ... 15839
Ch. IV ... 15436

47 CFR

0 ... 15472, 15673
73 ... 15161, 15162, 15545, 15711

PROPOSED RULES:

2 ... 15180, 15712, 16100
73 ... 15679, 16053, 16054, 16100
87 ... 15712, 16055, 16056
89 ... 15180, 15680, 16056
91 ... 15180, 16056
93 ... 15180, 15680, 16056

49 CFR

1 ... 15711
103 ... 15482
114 ... 15482
180 ... 16044

PROPOSED RULES:

288 ... 15500

50 CFR

10 ... 15834
32 ... 15165, 15586, 15587, 15642, 15675, 15876, 15924, 16100.
33 ... 15711, 15756, 15924

228

FEDERAL REGISTER

VOLUME 32 • NUMBER 228

Saturday, November 25, 1967 • Washington, D.C.

Pages 16141–16180

THE UNIVERSITY OF MICHIGAN

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MAIN READING ROOM

Agencies in this issue—

Agricultural Research Service
Agriculture Department
Air Force Department
Atomic Energy Commission
Commodity Credit Corporation
Consumer and Marketing Service
Customs Bureau
Federal Aviation Administration
Federal Communications Commission
Federal Maritime Commission
Federal Power Commission
Federal Reserve System
Federal Water Pollution Control Administration
Food and Drug Administration
General Services Administration
Interior Department
International Commerce Bureau
Interstate Commerce Commission
Land Management Bureau
Maritime Administration
Navy Department
Packers and Stockyards Administration
Securities and Exchange Commission
Transportation Department

Detailed list of Contents appears inside.

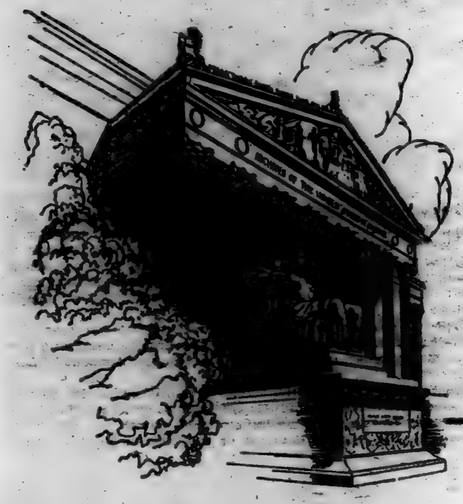

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Contents

AGRICULTURAL RESEARCH SERVICE
Proposed Rule Making
Pesticides containing sodium arsenite and arsenic trioxide compounds intended for use by homeowner; interpretation 16164

AGRICULTURE DEPARTMENT
See also Agricultural Research Service; Commodity Credit Corporation; Consumer and Marketing Service; Packers and Stockyards Administration.
Notices
Massachusetts, New Hampshire, and Rhode Island; designation of areas for emergency loans 16171

AIR FORCE DEPARTMENT
Rules and Regulations
Miscellaneous amendments to chapter 16154

ATOMIC ENERGY COMMISSION
Notices
Issuance of amended facility licenses:
University of Wisconsin 16171
Worcester Polytechnic Institute 16171

COMMERCE DEPARTMENT
See International Commerce Bureau; Maritime Administration.

COMMODITY CREDIT CORPORATION
Rules and Regulations
Tobacco; 1967 crops; correction 16145

CONSUMER AND MARKETING SERVICE
Rules and Regulations
Handling limitations:
Grapefruit grown in Florida 16145
Lemons grown in California and Arizona 16145
Proposed Rule Making
Melons grown in South Texas; hearing regarding proposed marketing agreement and order 16164
Notices
Humanely slaughtered livestock; identification of carcasses; changes in lists of establishments 16170

CUSTOMS BUREAU
Notices
Titanium sponge from U.S.S.R.; antidumping proceeding notice 16170

DEFENSE DEPARTMENT
See Air Force Department; Navy Department.

FEDERAL AVIATION ADMINISTRATION
Rules and Regulations
Control zone and transition area; alteration 16146
Transition area; designation 16146
Proposed Rule Making
Control zone; alteration 16169

FEDERAL COMMUNICATIONS COMMISSION
Rules and Regulations
Amateur radio service; privileges of operator licenses; correction 16162
Aviation services; aeronautical en route stations engaged in international high frequency service 16160
Notices
Hearings, etc.:
Carlisle, Roy E. 16171
General Electric Cablevision Corp. 16172

FEDERAL MARITIME COMMISSION
Notices
Agreements filed for approval:
City of Oakland and Marine Terminals Corp. 16172
Containerships, Ltd., and Lykes Bros. Steamship Co., Inc. 16173
Moore-McCormack Lines, Inc., and Farrell Lines, Inc. 16173
Louis V. De Malio; revocation of independent ocean freight forwarder license 16173

FEDERAL POWER COMMISSION
Notices
Ashland Oil & Refining Co. et al.; hearing, etc. 16173

FEDERAL RESERVE SYSTEM
Notices
Marine Corp.; application for approval of acquisition of shares of bank 16174

FEDERAL WATER POLLUTION CONTROL ADMINISTRATION
Rules and Regulations
Certification of facilities 16151

FOOD AND DRUG ADMINISTRATION
Rules and Regulations
Neomycin sulfate aerosol 16152
Vancomycin and methacycline; miscellaneous amendments 16153

GENERAL SERVICES ADMINISTRATION
Rules and Regulations
Procurement by formal advertising; opening of bids and award of contract; miscellaneous amendments 16160

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
See Food and Drug Administration.

INTERIOR DEPARTMENT
See also Federal Water Pollution Control Administration; Land Management Bureau.
Notices
Kalispel Indian Reservation, Wash.; ordinance legalizing introduction, sale or possession of intoxicants 16170

INTERNATIONAL COMMERCE BUREAU
Rules and Regulations
Denial of export privileges and commodity control list and related matters; miscellaneous amendments 16146

INTERSTATE COMMERCE COMMISSION
Notices
Motor carrier temporary authority applications (2 documents) 16176, 16177

LAND MANAGEMENT BUREAU
Proposed Rule Making
Grazing regulations for public lands; extension of time 16164

MARITIME ADMINISTRATION
Notices
American Export Isbrandtsen Lines, Inc.; application 16171

NAVY DEPARTMENT
Rules and Regulations
Personnel and claims; miscellaneous amendments to chapter 16153

PACKERS AND STOCKYARDS ADMINISTRATION
Notices
Werline & Halbleib et al.; posted stockyards 16171

(Continued on next page)

SECURITIES AND EXCHANGE COMMISSION

Rules and Regulations

Investment Advisers Act of 1940; withdrawal from registration ... 16151

Notices

Hearings, etc.:

Columbia Gas System, Inc., et al ... 16175

Fastline, Inc. ... 16176

TRANSPORTATION DEPARTMENT

See also Federal Aviation Administration.

Rules and Regulations

Standard time zone boundaries; Atlantic standard time zone ... 16162

TREASURY DEPARTMENT

See Customs Bureau.

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

7 CFR

910 ... 16145
912 ... 16145
1464 ... 16145

PROPOSED RULES:

362 ... 16164
Ch. IX ... 16164

14 CFR

71 (2 documents) ... 16146

PROPOSED RULES:

71 ... 16169

15 CFR

382 ... 16146
399 ... 16146

17 CFR

275 ... 16151
279 ... 16151

18 CFR

602 ... 16151

21 CFR

148l ... 16152
148s ... 16153
148y ... 16153

32 CFR

719 ... 16153, 16154
750 ... 16154
751 ... 16154
851 ... 16154
860 ... 16155
906 ... 16159

41 CFR

5-2 ... 16160

43 CFR

PROPOSED RULES:

4120 ... 16164

47 CFR

87 ... 16160
97 ... 16162

49 CFR

239 ... 16162

Rules and Regulations

Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Lemon Reg. 296]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.596 Lemon Regulation 296.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 21, 1967.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period November 26, 1967, through December 2, 1967, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 41,850 cartons;

(iii) District 3: 125,550 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 22, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-13008; Filed, Nov. 24, 1967; 8:45 a.m.]

[Grapefruit Reg. 49]

PART 912—GRAPEFRUIT GROWN IN INDIAN RIVER DISTRICT IN FLORIDA

Limitation of Handling

§ 912.349 Grapefruit Regulation 49.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 912, as amended (7 CFR Part 912), regulating the handling of grapefruit grown in the Indian River District in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Indian River Grapefruit Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Indian River grapefruit, and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Indian River grapefruit; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 22, 1967.

(b) *Order.* (1) The quantity of grapefruit grown in the Indian River District which may be handled during the period November 27, 1967, through December 2, 1967, is hereby fixed at 145,000 standard packed boxes.

(2) As used in this section, "handled," "Indian River District," "grapefruit," and "standard packed box" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 24, 1967.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-13043; Filed, Nov. 24, 1967; 12:05 p.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1464—TOBACCO

1967 Crops; Advance Schedule

Correction

In F.R. Doc. 67-13215 appearing on page 15633 in the issue of Friday, November 10, 1967, the following changes should be made:

1. In § 1464.1767 the entry for Grade C1F, Length 45 now reading "46" should read "56".

2. In § 1464.1769 the entry for Grade T3D now reading "37" should read "38".

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 67-SW-73]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Kingsville, Tex., control zone and transition area.

The Kingsville VOR has been decommissioned and it is therefore necessary to amend the Kingsville, Tex., control zone and transition area by revoking the controlled airspace which was based on the Kingsville VOR.

Since this amendment lessens the burden on the public, notice and public procedures hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.171 (32 F.R. 2107) the Kingsville, Tex., control zone is amended by deleting "and within 2 miles each side of the Kingsville VOR 315° radial, extending from the 5-mile radius zone to the VOR."

In § 71.181 (32 F.R. 2207) the Kingsville, Tex., transition area is amended by deleting "within 2 miles each side of the Kingsville VOR 135° radial, extending from the 7-mile radius area to 12 miles southeast of the VOR."

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Fort Worth, Tex., on November 13, 1967.

HENRY L. NEWMAN,
Director, Southwest Region.

[F.R. Doc. 67-13307; Filed, Nov. 24, 1967; 8:45 a.m.]

[Airspace Docket No. 67-SW-61]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate the Manila, Ark., transition area.

On October 4, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 13821) stating the Federal Aviation Administration proposed to designate the Manila, Ark., transition area.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., February 1, 1968, as herein set forth.

In § 71.181 (32 F.R. 2148) the Manila, Ark., transition area is designated as follows:

MANILA, ARK.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Manila Municipal Airport (lat. 35°53'25" N., long. 90°09'20" W.); and within 2 miles each side of the 175° bearing from the Manila RBN (lat. 35°53'25" N., long. 90°09'20" W.), extending from the 5-mile radius area to 8 miles south of the RBN.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Fort Worth, Tex., on November 13, 1967.

HENRY L. NEWMAN,
Director, Southwest Region.

[F.R. Doc. 67-13306; Filed, Nov. 24, 1967; 8:45 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of International Commerce, Department of Commerce

SUBCHAPTER B—EXPORT REGULATIONS

[10th Gen. Rev. of Export Regs., Amdt. C.C.L. 12]

PART 382—DENIAL OF EXPORT PRIVILEGES

PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

Miscellaneous Amendments

Parts 382 and 399 of the Code of Federal regulations are amended as set forth below:

The Denial and Probation Orders are revised as shown below. Accordingly, § 382.51 of the Export Regulations is amended to read as set forth below:

A. ADDITIONS

Name and address	Effective date	Expiration date	Export privileges affected	FEDERAL REGISTER citation
Ahmad, Mahmud, Jubilee Insurance House, McLeod Rd., Karachi 2, Pakistan.	9-28-67	Indefinite	General and validated licenses, all commodities, any destination, also exports to Canada.	33 F.R. 13820, 10-4-67.
Courtenay, Peter J., 32 Plein St., Johannesburg, South Africa.	10-24-67	do	do	33 F.R. 15126, 11-1-67.
Expert Electronic Products, Ltd., 169 Queen's Gate, London, S.W. 7, England.	10-19-67	Duration	General and validated licenses, all commodities, any destination, also exports to Canada. (Party related to Alexander Botes, which see.)	35 F.R. 7163, 7-28-60.
Gunter, Mrs. Kathleen P., 169 Queens' Gate, London, S.W. 7, England.	10-19-67	do	do	35 F.R. 7163, 7-28-60.
Hughes, Patrick, 9 Glenwood Close, Maidstone, Kent, England.	9-28-67	Indefinite	General and validated licenses, all commodities, any destination, also exports to Canada. (Party related to Dukerswell Engineers, Ltd., which see.)	30 F.R. 2697, 10-14-67.
Instrument Maintenance Services, Ltd., 9 Glenwood Close, Maidstone, Kent, England.	9-28-67	do	do	30 F.R. 2697, 10-14-67.
Maronson, A. H., and Co. (Pty.) Ltd., 101 Juta St., Braamfontain, Post Office Box 5428, Johannesburg, South Africa.	10- 2-67	10-2-70 (on probation from 4-2-69 to 10-2-70).*	General and validated licenses, all commodities, any destination, also exports to Canada.	32 F.R. 13675, 9-29-67.
Maronson, A. H., Textile Industry (Pty.), Ltd., 101 Juta St., Braamfontain, Post Office Box 5428, Johannesburg, South Africa.	10- 2-67	10-2-70 (on probation from 4-2-69 to 10-2-70).*	General and validated licenses, all commodities, any destination, also exports to Canada. (Party related to A. H. Maronson & Co. (Pty.), Ltd., which see.)	32 F.R. 13675, 9-29-67.
National Enterprises, Ltd., Jubilee Insurance House, McLeod Rd., Karachi 2, Pakistan.	9-28-67	Indefinite	General and validated licenses, all commodities, any destination, also exports to Canada.	32 F.R. 13826, 10-4-67.
Rombouts, Petrus J., Rombouts Electrics N. V., 64 Oosteeidijk, Post Office Box 1404, Rotterdam, Netherlands.	9-28-67	12-26-67**	do	32 F.R. 13827, 10-4-67.
Savoy International, Ltd., Alessandro Fleming, 116, Rome, Italy.	10-19-67	Until further notice.	General and validated licenses, all commodities, any destination, also exports to Canada. (Party related to Chris Ring, which see.)	33 F.R. 12408, 9-12-67.
Savoy International, Ltd., 1202 Central Bldg., Pedder St., Hong Kong.	10-27-67	do	do	33 F.R. 12408, 9-12-67.
Tuckey, W. L., & Co. (Pty), Ltd., 32 Plein St., Johannesburg, South Africa.	10-24-67	Indefinite	General and validated licenses, all commodities, any destination, also exports to Canada.	32 F.R. 15126, 11-1-67.

*See footnotes at end of table.

required in support of a license application covering export of tantalum alloys containing 60 percent or more tantalum-niobium in combination to the countries specified in § 373.2.

[3] Effective Jan. 2, 1968, an Import Certificate (or a Hong Kong Import License) will be required in support of a license application covering export of these commodities containing 60 percent or more tantalum but not containing 60 percent or more tantalum-niobium to the countries specified in § 373.2.

[4] Effective Nov. 24, 1967, a validated license is required for export of these commodities to Country Groups T, V, W, and X.

[5] Effective Nov. 24, 1967, a validated license is required for export of magnesium alloy castings and forgings containing 10 percent or more lithium to Country Groups T, V, W, and X; and effective Jan. 2, 1968, an Import and X; and effective Jan. 2, 1968, an Import License (or a Hong Kong Import License) will be required in support of a license application covering their export to the countries specified in § 373.2.

[6] Effective Nov. 24, 1967, a validated license is required for export of these commodities to Country Groups W, X, and Y. A validated license is presently required for export to East Germany.

[7] Three entries are substituted for two entries presently on the Commodity Control List under this Export Control Commodity Number.

[8] Effective Nov. 24, 1967, a validated license is required for export to Country Groups T, V, W, and X of instruments for the semiautomatic casting and sorting of integrated circuits and semiconductor devices and components (other than transistors and crystal diodes); and effective Jan. 2, 1968, an Import Certificate (or a Hong Kong Import License) will be required in support of a license application covering export of these commodities to the countries specified in § 373.2. (Other instruments included in this entry are presently subject to these requirements.)

[9] The commodity description is revised by deleting characteristic (1) which is a duplication of the first 10th entry under Export Control Commodity No. 79984.

[10] The Import Certificate (or Hong Kong Import License) requirement is presently applicable only to instruments for testing the types of electron-tube and semiconductor devices (No. 79980) which are subject to the Import Certificate requirement. Effective Jan. 2, 1968, an Import Certificate (or Hong Kong Import License) will be required in support of a license application covering export of instruments for testing all types of electron tubes, semiconductor devices or their components.

[11] Effective Nov. 24, 1967, a validated license is required for export to Country Groups T, V, and W of the signal generators operating at frequencies under 500 megacycles and of other electrical apparatus included in this entry. Also the GLV Dollar-Value Limit is decreased to Country Group X.

[12] Effective Nov. 24, 1967, the GLV Dollar-Value Limit is decreased to Country Groups T and V for these signal generators operating at frequencies of 500 megacycles or over.

[13] Effective Nov. 24, 1967, a validated license is required for export of these commodities to Country Groups T, V, W, X, and Y.

Department of Commerce export control commodity number and commodity description	Unit	*Processing number	*Validated license required for country groups shown below	*GLV dollar value limits for shipments to country groups				*Special provisions
				S	T	V	X	
Metalliferous ores and metal scrap								
2401 Tantalum bearing slag, (1 and 2).	Lb.	282	STVWXYZ	100	500	100		
2402 Niobium (columbium) bearing slag, (3 and 4).	Lb.	282	STVWXYZ	100	500	100		
Petroleum and petroleum products								
2230 Lubricants which are or which contain as the principal base all of the following characteristics: (a) A pour point of minus 20° F. (minus 29° C.) or lower, (b) a viscosity index (VI) of 75 or greater, and (c) an thermally stable at plus 700° F. (plus 371° C.). (1 and 13).	Bbl.	281	STVWXYZ		500	25	A 5-4	
2230 Lubricants which are or which contain as the principal base all of the following characteristics: (a) A pour point of minus 20° F. (minus 29° C.) or lower, (b) a viscosity index (VI) of 75 or greater, and (c) an thermally stable at plus 700° F. (plus 371° C.). (but have a viscosity index (VI) of less than 75. (2 and 13).	Bbl.	283	STVWXYZ		500	25	B-4	

[14] Effective Jan. 2, 1968, the GLV Dollar-Value Limit is decreased to Country Group V.

[15] The commodity description is revised with no change in controls.

[16] A validated license is no longer required for export to Country Group Y of any commodity included in this entry which previously required a license to this destination.

[17] A validated license is no longer required for export to East Germany of any commodities included in this entry which previously required a license to this destination.

[18] A separate entry is established.

[19] Effective Nov. 24, 1967, a validated license is required for export of these commodities to Country Groups T, V, and W.

[20] Effective Jan. 2, 1968, an Import Certificate (or a Hong Kong Import License) will be required in support of a license application covering export of these commodities to the countries specified in § 373.2.

[21] Effective Nov. 24, 1967, the GLV Dollar-Value Limit is decreased to Country Group V.

[22] Two entries are substituted for an entry presently on the Commodity Control List under this Export Control Commodity Number.

[23] Effective Nov. 24, 1967, a validated license is required for export of these commodities to Country Groups T, V, W, X, and Y. A validated license is presently required for export to East Germany.

[24] The Processing Number is changed.

[25] Effective Nov. 24, 1967, the GLV Dollar-Value Limit is decreased to Country Group S.

[26] These commodities may be exported under the Periodic Requirements Licensing procedure (see § 370.2).

[27] Effective Jan. 2, 1968, an Import Certificate (or a Hong Kong Import License) will be

Department of Commerce export control commodity number and commodity description	Unit	*Processing number	*Validated license required for country groups shown below	*GLV dollar value limits for shipments to country groups S	T	V	X	*Special provisions list
32260 Lubricating oils and greases, synthetic, which contain as the principal ingredients: (a) Esters of saturated aliphatic monohydric alcohols containing more than 6 carbon atoms with 6 carbon atoms with adipic or acetic or suberic acids, (b) esters of trimethylol propane or trimethylol ethane or pentaerythritol with saturated monobasic acids containing more than 6 carbon atoms, (c) fluorocarbon esters, (d) perfluorocarbon ethers or (e) polyphenyl ether containing more than three phenyl groups. (7 and 12) [6]	Bbl.	261	STVWXYZ		500	25		A E-4.
Chemical elements and compounds								
51000 Bulk-medicinal drugs, bulk; and synthetic organic medicinal chemicals, bulk, the following only: Acetophenetidin; acetylsalicylic acid or aspirin; allantoin; allobarbital; amidopyrine; 4-amino-2-nitrophenol; aminodiazine; 5-nitro-2-pyrimidine; aminomethylpyrimidine; 2-aminopyrimidine; aminopyrine; 2-aminothiazole; antipyrine; apiol; apolysin; Arsalen diphosphate; arsterol; Arsthrine dihydrochloride; barbital; barbital sodium; barbituric acid; betaine; betaine hydrochloride; butabarbital acid; butabarbital sodium; chloroquine base; choline chloride; colase; compound N (Conmel) granulation; d-propoxyphene hydrochloride; dehydrocholic acid; diiodotyrosine; diallylbarbituric acid; diethylbarbituric acid; diethylstilbestrol dihydrochloride and USP; 2,4-diethyl-6-methyl-s-, 4-piperidinedione; ethaheptazine; ethoheptazine nitrate; ezol; glycerophosphate; glycerophosphoric acid and salts; guaiacol glyceryl ether; guaiamar; hexestrol NNR; histamine; histamine phosphate; hydrocholic; isobutyl allyl barbituric acid; khellin; menthol crystals; menthol, natural and synthetic; methyl acetanilid; Pamaquine (plasmochin) naphthoate®; nicarbazin; picarbazin, microatomized; nithiazide; pentobarbital, sodium; pentobarbituric acid; pheneturide; phenetsal; phenobarbital; phenobarbital, sodium; phenolate dimine pyridine; phenyl salicylate; phenyldimethylpyrazolmethylamino methane sulfonate; phenylethyl barbituric acid; pontalin granulation; pontalin powder; prominal; propheonpyridamine maleate; pyramidon; pyramisamine maleate; pyridium; pyrilamine maleate (benzal); pyrilamine maleate N.N.R.; salol; sandoptal; scopariol sodium salicylate; stilbestrol; thymol; thymol blue; thymol iodide; trans-dehydroandrosterone-acetate-semicarbazone; uric acid; urine, concentrated; wintodon granulation; and Wyamine sulfate®. (3 and 4) [4]	Lb.	248	Z					B.

*For explanations, see § 399.1.

Department of Commerce export control commodity number and commodity description	Unit	*Processing number	*Validated license required for country groups shown below	*GLV dollar value limits for shipments to country groups S	T	V	X	*Special provisions list
Medicinal and pharmaceutical products								
54150 Isopropyl adrenalin sulfate, bulk. (1) [4]	Lb.	248	YZ				100	B.
54161 Abrin, bulk. (1) [4]	Lb.	248	Z					B.
54162 Organic-therapeutic glands or other organs and their extracts, bulk. (1 and 2) [6]		248	Z					B.
54163 Other bacterial products, antisera, vaccines, toxins, and similar products, all forms. [Report bacteria in No. 58105.] (1 and 3) [6]		248	Z					B.
54170 Medicinal chemicals, bulk, the following only; Iron and arsenic; Neo-silvol®; Padrophyl® (propadrine hydrochloride and theophylline); prenoline and epinephrine; Resipas®; selenium sulfide bentonite; sulfoplix 10 percent polythionate sodium solution; and Trophite® liquid mixture for manufacture of Trophite® (no vitamins included). (1) [4]		248	XZ				100	B.
Medicinal and pharmaceutical products								
54170 Other pharmaceutical preparations and medicinals in dosage form or packed for retail sale, n.e.c., for human or veterinary use. (6 and 7) [4]		248	Z					B.
54191 Bandages, surgical dressings, gauze, wadding, and similar articles, impregnated or coated with pharmaceutical products, or put up for retail sale whether or not coated. (1 and 2) [6]	Lb.	248	Z					B.
54199 Other pharmaceutical goods, n.e.c. (4 and 5) [6]		248	Z					B.
Essential oils and perfume materials; toilet, polishing, and cleansing preparations								
551 Essential oils and resinoids; flavor and perfume materials, including mixtures and flavor oil and perfume oil mixtures and blends. [Report chemicals for flavor or perfumery use in No. 51207.] (1 and 2) [6]	Lb.	248	SZ		500			B.
553 Perfumery and cosmetics, dentifrices, and other toilet preparations, except soap. (1 and 2) [6]		248	SZ		500			B.
55420 Detergents and washing preparations, n.e.c.; and surface-active agents, the following only: Aquarex®; Areskap® 50 and 100; Arlacel®; Aviteg®; BCO; Igepal® CO-430, CO-530, and CO-630; Morpelyet 225; Neutronyx 600 and 834; N8A8 Powder; Sapamine MS and WLG; Sequestrene® A, AA, and NA-2; Span®; and Tween®. (1 and 2) [6]	Lb.	248	SZ		500			B.
55430 Scouring cleansers, shoe polishes and cleaners, leather dressings and finishes, and polishes, n.e.c. (1 and 2) [6]	Lb.	248	SZ		500			B.
Plastic materials, regenerated cellulose, and artificial resins								
58110 Polyimides, polybenzimidazoles, polyimidazopyrrolones, aromatic polyamides, and polyparaxylylenes, unfabricated or semifabricated. (15) [6] [7]	Lb.	221	STVWXYZ		500	25		A E-6.
58110 Polyimide-polyamide resins, unfabricated or semifabricated. (15) [6] [7]	Lb.	222	STVWXYZ		500	25		
58119 Materials designed and manufactured for use as absorbers of electromagnetic waves having frequencies greater than 300 megacycles per second. (12) [6] [7] [8]	Lb.	601	STVWXYZ		500	500		A.

Department of Commerce export control commodity number and commodity description	Unit	*Processing number	*Validated license required for country groups shown below	*GLV dollar value limits for shipments to country groups S	T	V	X	*Special provisions list
Chemical materials and products, n.e.c.								
59999 Hydraulic fluids formulated wholly or in part with fluorinated or chlorinated silicones, fluoro-alcohol esters, or perfluoro-alkyl ethers. (Specify by name.) (4) [6]	Bbl.	261	STVWXYZ		500	500		A E-14.
Textile yarn, fabrics, made-up articles and related products								
60120 Yarn of wool or other animal hair. (1 and 2) [6]	Lb.	218	SZ	500				B.
60130 Cotton yarn, gray (unbleached); and unfinished cotton thread. (1) [6]	Lb.	218	SZ	500				B.
60140 Cotton yarn, carded, combed, finished; and sewing, crochet, darning, and embroidery cotton thread. (1) [6]	Lb.	218	SZ	500				B.
60162 Other noncellulosic man-made fiber monofil, n.e.c. (2) [4]	Lb.	218	SZ	500				B.
60163 Tire cord and tire cord fabric of noncellulosic man-made fiber. (2) [9]	Lb.	218	SYZ	500				B.
60166 Other noncellulosic man-made fiber filament yarn and thread of filament yarn. (2) [9]	Lb.	218	SZ	500				B.
60167 Other noncellulosic man-made fiber spun yarn, and other thread made of such yarn. (2) [9]	Lb.	218	SZ	500				B.
60172 Rayon or acetate monofil. (1) [4]	Lb.	218	SZ	500				B.
60177 Rayon or acetate spun yarn, including staples and plied. (1) [4]	Lb.	218	SZ	500				B.
60180 Yarn of textile fibers, n.e.c., including yarn of vegetable fibers, n.e.c., and paper yarn. (1 and 2) [6]	Lb.	218	SZ	500				B.
60211 Gauze, tobacco cloth, and cheesecloth, unbleached, wholly or in chief weight cotton. (1) [6]	Sq. yd.	218	SZ	500				B.
60212 Terry woven fabrics, unbleached, wholly or in chief weight cotton. (1) [6]	Sq. yd.	218	SZ	500				B.
60213 Broad woven fabrics, unbleached, wholly or in chief weight cotton. (1) [6]	Sq. yd.	218	SZ	500				B.
60223 Gauze, tobacco cloth, and cheesecloth, bleached, dyed, colored, or otherwise finished, wholly or in chief weight cotton. (1) [6]	Sq. yd.	218	SZ	500				B.
60229 Other terry woven fabrics, bleached, dyed, colored, or otherwise finished, wholly or in chief weight cotton. (3) [6]	Sq. yd.	218	SZ	500				B.
60230 Pile and chenille broad woven fabrics and corduroy, bleached, dyed, colored, or otherwise finished, wholly or in chief weight cotton. (1) [6]	Sq. yd.	218	SZ	500				B.
60239 Other broad woven fabrics, bleached, dyed, colored, or otherwise finished, wholly or in chief weight cotton. (3) [6]	Sq. yd.	218	SZ	500				B.
60260 Other broad woven remnants less than 10 yards in length, and fabrics, n.e.c., wholly or in chief weight cotton. (2) [6]	Lb.	218	SZ	500				B.
60301 Broad woven fabrics wholly or in chief weight flax (linen) or jute. (2) [6]	Sq. yd.	218	SZ	500				B.
Nonmetallic mineral manufactures, n.e.c.								
69881 Packing, gaskets, textiles, yarns, and other manufactures of asbestos coated or impregnated with fluorocarbon polymers or copolymers. (See § 399.2, Interpretation 22.) (1) [4] [12] [13] [14]		222	STVWXYZ		500	25		E-2.
69404 Articles designed and manufactured for use as absorbers of electromagnetic waves having frequencies greater than 200 megacycles per second. (6) [6] [7] [11]		601	STVWXYZ		500	500		A.

*For explanations, see § 399.1.

Department of Commerce export control commodity number and commodity description	Unit	*Processing number	*Validated license required for country groups shown below	*GLV dollar value limits for shipments to country groups S	T	V	X	*Special provisions list
Iron and steel								
67444 Carbon steel plates and sheets, gilding metal clad. (2) [6] [7] [8] [16]	Lb.	261	STVWXYZ		500	100		A E-6.
Nonferrous metals								
68941 Tungsten metal or tungsten based alloys, unwrought and wrought, except (a) tungsten powder, (b) pressed-sintered forms weighing less than 20 pounds, (c) press-sintered sheets less than 12 inches in width, (d) wire made from pressed-sintered tungsten, and (e) metal scrap. (1) [6]	Lb.	261	STVWXYZ		500	100		A E-6.
68941 Tungsten or tungsten alloy waste and scrap; and tungsten powder. [Report tungsten carbide powder in No. 51470; mixtures, not agglomerated, in No. 59999; and tool tips, plates, or sticks in No. 69696.] (3 and 4) [6]	Lb.	265	SYZ					B.
68941 Tungsten or tungsten alloy pressed-sintered forms weighing less than 20 pounds; and tungsten or tungsten alloy pressed-sintered sheets less than 12 inches in width. (5) [6]	Lb.	266	SXYZ			100		B.
68943 Tantalum metal or tantalum metal alloys containing 60 percent or more tantalum, or 60 percent or more tantalum-niobium (columbium) in combination, wrought and unwrought, and waste and scrap. (1 and 2) [6]	Lb.	261	STVWXYZ		500	100		A E-6.
Manufactures of metal, n.e.c.								
69857 Tantalum metal or tantalum alloy welding rods, wires, and electrodes, including brazing rods, containing 60 percent or more tantalum or 60 percent or more tantalum-niobium (columbium) in combination. (Specify by name.) (13 and 19) [6]	Lb.	261	STVWXYZ	100	500	100		A E-6.
69901 Articles designed and manufactured for use as absorbers of electromagnetic waves having frequencies greater than 200 megacycles per second. (11) [6] [7] [17]		601	STVWXYZ		500	500		A.
69909 Magnesium alloy castings and forgings containing: (a) 0.4 percent or more zirconium, (b) 1 percent or more of rare earth metals (cerium mish metal), or (c) 10 percent or more lithium. (Specify by name.) (13 and 20) [6]	Lb.	261	STVWXYZ	100	500	100		A E-6.
Machinery, other than electric								
71822 Metal sheet, plate, or strip mills, hot or cold, having automatic work roll adjustment controls for tapering or contouring lengthwise of work piece; and specially designed parts and accessories, except work rolls. (3) [6]		421	STVWXYZ		500	500		A.
71954 Parts, accessories, and attachments specially designed for optical curve generators capable of producing aspherical curves without the use of mating surfaces. (15) [6] [15] [20]		418	SWXYZ				100	B.
71960 Equipment specially designed for the continuous coating of polyester base magnetic tape; and specially designed parts thereof. (Give detailed specifications of magnetic tape to be produced.) (18) [6]		411	STVWXYZ		500			A.

Department of Commerce export control commodity number and commodity description	Unit	*Processing number	*Validated license required for country groups shown below	*GLV dollar value limits for shipments to country groups			*Special provisions list
				S	T	V	X	
Electrical machinery, apparatus, and appliances							
7220 Equipment incorporating triggered spark gaps having an anode delay time of 15 microseconds or less and rated for a peak current of 3000 amperes or more. (10)	No.	611	S*V*W*X*Y*Z	500	50		A.
7230 Semiconductor diodes, as follows: (a) Germanium point contact diodes designed for operation at frequencies below 220 megacycles, germanium junction diodes designed for operation at frequencies of 10 megacycles or less and not designed for switching speeds (repetition frequency) greater than 1 megacycle, (b) silicon junction power diodes and gate controlled rectifier (not including signal or switching diodes) having a rated maximum recurrent reverse voltage of 1,000 volts per junction or less. (Specify by type number.) (11)	No.	613	S*W*X*Y*Z	100	100	100	B.
7240 Equipment incorporating triggered spark gaps having an anode delay time of 15 microseconds or less and rated for a peak current of 3000 amperes or more. (10)	No.	611	S*V*W*X*Y*Z	500	50		A.
Professional, scientific and controlling instruments; photographic and optical goods; watches and clocks							
7310 Instruments specially designed for production testing and sorting of electron tubes, semiconductor devices, integrated circuits, and components; and specially designed parts, n.e.c. (9)	No.	611	S*V*W*X*Y*Z	500	100		A.
7320 Instruments specially designed for production testing and sorting of electron tubes, semiconductor devices, integrated circuits, and components; and specially designed parts, n.e.c. (9)	No.	611	S*V*W*X*Y*Z	500	25	100	A.
7330 Instruments specially designed for production testing and sorting of semiconductor devices, integrated circuits, and components; and specially designed parts, n.e.c. (9)	No.	611	S*V*W*X*Y*Z	500	100		A.
7340 Other instruments specially designed for the automatic testing and sorting of electronic components (including magnetic cores) with respect to their desired characteristics. (Specify by name and model number.) (4, 5, and 9)	No.	612	S*V*W*X*Y*Z	500	100		A.
7350 Cathode ray oscilloscopes (oscillographs) having any of the following characteristics: (a) an amplifier bandwidth greater than 30 megacycles per second (dashed as the band of frequencies over which the deflection on the cathode ray tube is not half below 70.7 percent of that at a constant input voltage to the amplifier); (b) a time base shorter than 30 nanoseconds per centimeter, including calibrated magnified sweep factor; (c) employing accelerating potentials in excess of 7.5 kilovolts; (d) containing or with three or more cathode ray tubes; (e) containing or designed for use of (c) cathode ray sampling tubes; or (f) cathode ray tubes with traveling wave or distributed deflection structure or incorporating other techniques to minimize mismatch of fast phenomena signals to the amplifier interface; (g) rated for operation over a range of ambient temperatures from below minus 15° F. (minus 26° C.) to above plus 131° F. (plus 55° C.); (h) incorporating a calibrated variable sweep delay with an incremental accuracy (measured at the 50 percent delay having a finer than 1 percent; or (i) having a fastest sweep rate faster than 1 second. (Specify by name and model number.) (9)	No.	601	S*V*W*X*Y*Z	500	100	500	A.

*For explanations, see § 399.1 pages 1, 2, and 3.

B. *Saving clause.* Shipments of commodities removed from general license as a result of changes set forth in Part A above which were on dock for lading, on lighter, laden aboard an exporting carrier or, in transit to a port of exit pursuant to actual orders for export prior to 12:01 a.m. November 24, 1967, may be exported under the previous general license provisions up to December 19, 1967. Any such shipment not laden aboard the exporting carrier on or before December 18, 1967, requires a validated license for export.

(Sec. 2, 63 Stat. 7; 50 U.S.C. App. 2022; E.O. 10945, 26 F.R. 4487, 3 CFR 1959–63 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959–63 Comp.)

Effective date: November 16, 1967.

RAUER H. MEYER,
Director,
Office of Export Control.

[F.R. Doc. 67-13073; Filed, Nov. 24, 1967; 8:45 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release No. IA-812]

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

PART 279—FORMS PRESCRIBED UNDER THE INVESTMENT ADVISERS ACT OF 1940

Withdrawal From Investment Adviser Registration

On July 27, 1967, in Investment Advisers Act Release No. 211, and in the FEDERAL REGISTER of August 3, 1967 (32 F.R. 11288), the Securities and Exchange Commission published a proposal to adopt Form ADV–W (17 CFR 279.2) for notice of withdrawal from registration as an investment adviser, together with a proposal to amend Rule 203–2 (17 CFR 275.203–2), to require use of the new form and to provide for a 60-day waiting period between the filing date and the effective date of any notice of withdrawal from registration unless acceleration is ordered or proceedings pursuant to section 203 of the Act are pending or are instituted.

The Commission has considered the comments and suggestions submitted and has adopted the proposals in the form stated below. In order to allow investment advisers adequate time to make arrangements to comply with the new provisions, the amendment to Rule 203–2 (17 CFR 275.203–2) and the new Form ADV–W (17 CFR 279.2) will become effective on January 1, 1968.

Form ADV–W (17 CFR 279.2) requires the investment adviser seeking to withdraw from registration to furnish specified information: (a) Whether he owes any money or securities to any client, and if he does, the amount involved and the arrangements made for payment (in this case he would also have to furnish a current report of financial condition); (b) what disposition has been made of his investment advisory contracts and whether refunds were made to all clients whose contracts were not completed or assigned with their consent; (c) whether he is involved in any legal actions or proceedings and whether there are any unsatisfied judgments or liens against him; (d) the name and address of the person who will have custody or possession of his books and records required to be preserved under Rule 204–2 (17 CFR 275.204–2); and (e) the address where such books and records will be located. This information will help the Commission to determine whether the business is being terminated in compliance with applicable requirements, whether it is necessary to conduct any investigation to determine whether terms and conditions should be imposed on the withdrawal of registration, or whether it is necessary to institute any proceeding authorized by section 203(d) of the Act. Form ADV–W (17 CFR 279.2) also contains an authorization to the custodian of the investment adviser's books and records to make them available to the Commission.

As amended, Rule 203–2 (17 CFR 275.203–2) provides that a notice of withdrawal will become effective on the 60th day after filing unless the Commission accelerates the effectiveness of withdrawal, proceedings to revoke or suspend are pending, or the Commission, within the 60-day period, institutes proceedings to suspend or revoke registration or to impose terms or conditions upon such withdrawal. It has been found that the 30-day period provided for under the previous provisions of the rule were not sufficient to determine whether the business is being terminated in compliance with applicable requirements, to complete an investigation if one was required, or to institute proceedings in appropriate cases.

The rule provides that each notice of withdrawal constitutes a "report" under section 204, thereby subjecting the filing of false information to the penalties provided by sections 207 and 217 of the Act.

It is believed that the amendment will enable the Commission to carry out its responsibilities under the Investment Advisers Act more effectively in the public interest and for the protection of investors. Broker-dealers who propose to withdraw from registration are subject to similar requirements.

Commission action. The Commission, acting pursuant to the provisions of the Investment Advisers Act of 1940, as amended, and particularly sections 203, 204, and 211 thereof, and deeming it necessary for the exercise of the functions and powers vested in it and necessary and appropriate in the public interest and for the protection of investors, hereby amends Parts 275 and 279 of Chapter II of Title 17 of the Code of Federal Regulations by amending Rule 203–2 (17 CFR 275.203–2), and by adopting Form ADV–W (17 CFR 279.2) as set forth below, effective January 1, 1968.

§ 275.203–2 Withdrawal from registration.

(a) Notice of withdrawal from registration as an investment adviser pursuant to section 203(g) shall be filed on Form ADV–W in accordance with the instructions contained therein.

(b) Except as hereinafter provided, a notice to withdraw from registration filed by an investment adviser pursuant to section 203(g) shall become effective on the 60th day after the filing thereof with the Commission or within such shorter period of time as the Commission may determine. If, prior to the effective date of a notice of withdrawal from registration, the Commission has instituted a proceeding pursuant to section 203(d) to suspend or revoke registration, or a proceeding pursuant to section 203(e) to impose terms or conditions upon withdrawal, the notice of withdrawal shall not become effective except at such time and upon such terms and conditions as the Commission deems necessary or appropriate in the public interest or for the protection of investors.

(c) Every notice of withdrawal filed pursuant to this section shall constitute a "report" within the meaning of sections 204 and 207 and other applicable provisions of the Act.

§ 279.2 Form ADV–W, Notice of Withdrawal From Registration as Investment Adviser.

(Copies of this form have been filed with the original of this document. Additional copies will be available at the Commission's headquarters office and its regional and branch offices on and after Dec. 15, 1967.)

(Secs. 203, 204, 211(a), 74 Stat. 885–8, as amended, 15 U.S.C. 80b–3, 80b–4, 80b–11)

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

NOVEMBER 13, 1967.

[F.R. Doc. 67-13815; Filed, Nov. 24, 1967; 8:46 a.m.]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter V—Federal Water Pollution Control Administration, Department of the Interior

PART 602—CERTIFICATION OF FACILITIES

On February 1, 1967, notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 1131) which set forth the text of regulations, proposed to be adopted as Part 602, establishing the procedure for requirements for obtaining the Secretary's certifications pursuant to section 48(h)(12)(C)(ii) of the Internal Revenue Code of 1954, as amended by Public Law 89–800.

Pursuant to the above notice, a number of comments have been received from interested persons, and due consideration has been given to all relevant matter presented. In addition, the enactment of Public Law 90–26 which ended the suspension period for the investment tax credit on March 9, 1967, has rendered unnecessary some of the provisions in the proposed rules.

In light of the above, a number of revisions have been made in the rules as proposed, principally with respect to those criteria which the Secretary will consider in determining whether a facility is in compliance with the general policies of the United States as set forth in § 77.7(a) and with respect to advice on the certifications of proposed facilities.

In accordance with the statement in the notice of proposed rule making, Part 602, as set forth below, is hereby adopted effective on publication.

Sec.
602.1 Applicability.
602.2 Definitions.
602.3 General provisions.
602.4 Applications.
602.5 State certification.
602.6 General policies.
602.7 Requirements for certification.

AUTHORITY: The provisions of this Part 602 issued under sec. 301, 80 Stat. 378; 5 U.S.C. 22.

§ 602.1 Applicability.

The regulations of this part apply to certifications by the Secretary under section 48(h)(12) of the Internal Revenue Code of 1964, as amended.

§ 602.2 Definitions.

As used in this part, the following terms shall have the meaning indicated below:

(a) "Federal Act" means the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.).

(b) "State water pollution control agency" means the State health authority, except that, in the case of any State in which there is a single State agency, other than the State health authority, charged with responsibility for enforcing State laws relating to the abatement of water pollution, it means such other State agency.

(c) "Applicant" means any person who files an application with the Secretary for certification that property is in compliance with the applicable regulations of Federal agencies and the general policies of the United States for cooperation with the States in the prevention and abatement of water pollution under the Federal Act.

(d) "Secretary" means the Secretary of the Interior.

(e) "Facility" means property for which certification is sought under this part.

§ 602.3 General provisions.

(a) Applicants shall file applications in accordance with this part for each facility for which certification is sought.

(b) Applications shall be submitted to the Secretary through the State water pollution control agency.

(c) No certification shall be rendered for any facility prior to the commencement of operation of such facility in accordance with the application.

(d) An amendment to an application shall be submitted in the same manner as the original application and shall be considered a part of the application it amends.

(e) No certification shall be rendered by the Secretary for any facility prior to the certification of such facility by the State water pollution control agency in accordance with this part.

(f) The Secretary shall notify applicants whether or not a certification is issued. If the Secretary determines not to issue a certification he shall advise the applicant of the reasons therefor.

§ 602.4 Applications.

Applications for certification under this part shall be submitted in such manner as the Secretary may prescribe and shall include the following information:

(a) Name and address of the applicant and Internal Revenue Service Identifying Number.

(b) Description of the facility for which certification is sought, (including a copy of schematic or engineering drawings), and a description of the function and operation of such facility;

(c) Address of facility location;

(d) Description of the industrial operation in connection with which such facility is or will be used;

(e) Description of the effect of such facility in terms of quantity and quality of wastes removed, altered, or disposed of by such facility;

(f) Time of construction and operation of such facility;

(g) Such other information as the Secretary deems necessary for certification.

§ 602.5 State certification.

No application shall be considered by the Secretary until it has been submitted to the State water pollution control agency, and unless the application is accompanied by a State certification that the facility described in such application is in conformity with the State program and requirements for control of water pollution. Such certification or statement shall be executed by an agent or officer authorized to act on behalf of the State water pollution control agency and accompanied by evidence of such authority.

§ 602.6 General policies.

The general policies of the United States for cooperation with the States in the prevention and abatement of water pollution under the Federal Act are: To enhance the quality and value of our water resources; to eliminate or reduce the pollution of interstate waters and tributaries thereof; to improve the sanitary condition of surface and underground waters; to conserve such waters for public water supplies, propagation of fish, and aquatic life and wildlife, recreational purposes, and agricultural, industrial, and other legitimate uses; and to recognize, preserve, and protect the primary responsibilities and rights of the States in preventing and controlling water pollution.

§ 602.7 Requirements for certification.

(a) If the Secretary determines that a facility, for which application for certification has been made in accordance with the provisions of this part, is in compliance with the applicable regulations of Federal agencies and the general policies of the United States for cooperation with the States in the prevention and abatement of water pollution under the Federal Act, he shall so certify.

(b) In determining whether a facility complies with applicable regulations of Federal agencies and the general policies of the United States for cooperation with the States in the prevention and abatement of water pollution under the Federal Act, the Secretary shall consider whether such facility is consistent with and meets the requirements of the following factors, insofar as they are applicable to the waters which will be affected by the facility:

(1) Water quality standards and plan of implementation and enforcement established pursuant to section 10(c) of the Federal Act;

(2) Recommendations issued pursuant to section 10 (c) and (f) of the Federal Act;

(3) State water pollution control programs established pursuant to section 7 of the Federal Act and regulations under Subpart A, Part 601 of this chapter;

(4) Comprehensive water pollution control programs established pursuant to section 3 of the Federal Act;

(5) State, interstate, and local standards and requirements for the prevention, control, and abatement of water pollution.

Dated: November 15, 1967.

STEWART L. UDALL,
Secretary of the Interior.

[F.R. Doc. 67-13804; Filed, Nov. 24, 1967; 8:45 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 148i—NEOMYCIN SULFATE

Neomycin Sulfate Aerosol

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and delegated by him to the Commissioner of Food and Drugs (21 CFR 2.120), Part 148i is amended by adding thereto the following new section to provide for the certification of neomycin sulfate aerosol:

§ 148i.49 Neomycin sulfate aerosol.

(a) *Requirements for certification—(1) Standards of identity, strength, quality, and purity.* Neomycin sulfate aerosol is an aqueous solution of neomycin sulfate equivalent to 397 milligrams of neomycin per 10 ounces of aqueous solution, with or without suitable preservatives, packaged in a pressurized container with inert propellants. It may contain a suitable and harmless perfume. The neomycin sulfate used conforms to the standards prescribed by § 148i.1(a)(1)(i), (vi), and (vii). Each other ingredient used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

(2) *Labeling.* In addition to the labeling prescribed by § 148.3 of this chapter, each package shall bear on its label or labeling the following as indicated:

(i) On the label of the immediate container and on the outside wrapper or package, if any:

(a) The batch mark.

(b) The name and quantity of the active ingredient contained in the drug.

(c) An expiration date that is 12 months after the month during which the batch was certified.

(ii) On the label of the immediate container: "Adequate directions under which the layman can use the drug safely and efficaciously."

(3) *Requests for certification; samples.* In addition to the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(a) The neomycin sulfate used in making the batch for potency, pH, and identity.

(b) The batch for potency.

(ii) Samples required:

(a) The neomycin sulfate used in making the batch: 10 packages, each containing 300 milligrams.

(b) The batch: A minimum of 5 immediate containers.

(c) In case of an initial request for certification, each other ingredient used in making the batch: One package of each containing approximately 5 grams.

(4) *Fees.* $4 for each immediate container or package submitted in accordance with subparagraph (3)(ii) of this paragraph.

(b) *Tests and methods of assay; potency.* Proceed as directed in § 148i.1(b)(1), except prepare the sample for assay as follows: Spray the entire contents of the well-shaken sample into a suitable, tared beaker. Place in a vacuum desiccator, evacuate, and allow to stand at room temperature for 16 to 18 hours. After the gas has volatilized, accurately weigh the beaker and contents and determine the weight of the material in the beaker. Prepare the material for assay by either of the following methods:

(1) Blend an accurately weighed representative portion for 3 to 5 minutes in a high-speed glass blender with 1.0 milliliter of polysorbate 80 and sufficient 0.1*M* potassium phosphate buffer, pH 8.0, to give a stock solution of convenient concentration. Further dilute with 0.1*M* potassium phosphate buffer, pH 8.0, to the proper prescribed reference concentration.

(2) Quantitatively transfer either an accurately weighed portion of the contents, or the entire contents, from the beaker into a suitable volumetric flask to give a stock solution of convenient concentration. Dilute to volume with 0.1*M* potassium phosphate buffer, pH 8.0. Further dilute with 0.1*M* potassium phosphate buffer, pH 8.0, to the proper prescribed reference concentration.

The content of neomycin sulfate is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of milligrams of neomycin that it is represented to contain.

Data supplied by the manufacturer concerning the safety and efficacy of neomycin sulfate aerosol have been evaluated. Since the conditions prerequisite to providing for certification of this article have been complied with and since it is in the public interest not to delay in providing for such certification, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: November 17, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-13825; Filed Nov. 24, 1967; 8:47 a.m.]

PART 148s—VANCOMYCIN

PART 148y—METHACYCLINE

Miscellaneous Amendments

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and delegated by him to the Commissioner of Food and Drugs (21 CFR 2.120), Parts 148s and 148y of the antibiotic drug regulations are amended as follows to effect miscellaneous editorial and technical changes:

§ 148s.1 [Amended]

1. Section 148s.1 *Vancomycin hydrochloride* is amended in the following respects:

a. In paragraph (a), the word "crystalline" is deleted from the first sentence of subparagraph (1) and the word "crystallinity" is deleted from subparagraph (4)(i).

b. In paragraph (a)(4)(ii) (*a*)(*1*) and (*b*)(*1*), the number "10" is changed to "12".

c. In paragraph (b), subparagraph (1)(iii) is revised to read as follows:

(iii) *Working standard.* Dry approximately 20 milligrams of the vancomycin working standard as described in § 141a.5(a) of this chapter. Determine the dry weight. Dissolve in sufficient sterile distilled water to give a stock solution of 400 micrograms of vancomycin per milliliter. This stock solution may be used for 1 week if stored under refrigeration.

d. In paragraph (b), subparagraph (8) is revised to read as follows:

(8) *Heavy metals.* Proceed as directed in § 148m.1(b)(9) of this chapter.

2. Section 148y.1(b)(1)(ii) is revised to read as follows:

§ 148y.1 Methacycline hydrochloride.

* * * * *

(b) * * *

(1) * * *

(ii) *Working standard.* Dry a portion of the methacycline working standard as described in § 141a.5(a) of this chapter. Determine the dry weight. Dissolve in sufficient 0.01*N* methanolic hydrochloric acid to give a concentration of 1,000 micrograms of methacycline per milliliter. This stock solution should be stored under refrigeration and may be used for 7 days.

* * * * *

Since the amendments herein are merely of a minor technical or editorial nature and raise no points of controversy, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: November 17, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-13826; Filed, Nov. 24, 1967; 8:47 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VI—Department of the Navy

MISCELLANEOUS AMENDMENTS TO CHAPTER

Scope and purpose. Parts 719, 750, and 751 are amended to conform to recent amendments to the Manual of the Judge Advocate General, distributed through Change 20 to Navy and Marine Corps commands.

SUBCHAPTER C—PERSONNEL

PART 719—NONJUDICIAL PUNISHMENT, NAVAL COURTS, AND CERTAIN FACT FINDING BODIES

1. Section 719.168a is amended by revising paragraph (b)(1)(i) to read as follows:

§ 719.168a Pretrial agreements in general and special courts-martial.

* * * * *

(b) *Action by convening authorities* * * *

(1) *General courts-martial.* (i) The offer to plead guilty must originate with the accused and his counsel and should be submitted to the assigned trial counsel who will conduct all arrangements as to the offer and make recommendations to the convening authority through the staff legal officer with respect thereto. Whether or not the convening authority enters into such a pretrial agreement is a matter within his sound discretion. The agreement, if made, must be in writing and must be personally signed by the convening authority and the accused and witnessed on behalf of the accused by his counsel. A suggested form of such an agreement is set forth in § 719.223, but this form must be modified as appropriate to include all of the agreement made between the accused and the convening authority; and no matters "understood" between the parties should be omitted from the written agreement. The sentence which will ultimately be approved by the convening authority (under various sentences which may be adjudged by the court, if desired) will be set forth clearly and should, under all of the circumstances of the particular case, be appropriate for the offense or offenses.

* * * * *

2. Section 719.116 is amended by changing the heading, inserting a new paragraph (a), and redesignating the present paragraph as (b) as follows:

§ 719.116 Review by staff legal officer.

(a) *Who may act.* Ordinarily the senior law specialist or Marine lawyer attached to the command of an officer exercising general court-martial jurisdiction is the staff legal officer of that command within the meaning of articles 34, 61, and 65(b) of the Code. If, however, more than one law specialist or Marine lawyer is attached to such a command, and if it appears that the senior is or may become disqualified for any reason from acting as staff legal officer in any particular case or for a specified period of time, a convening authority may, in addition to the action authorized by paragraph 85a, MCM 1951, designate, in writing, a junior to act as his staff legal officer in any particular case or for a specified period of time if that junior officer is otherwise qualified.

(b) *Distribution of the staff legal officer's review.* • • •

3. Section 719.117 is amended by revising paragraph (b) as follows:

§ 719.117 Action on courts-martial by convening authority.

• • • • •

(b) *Suspension of sentences.* Convening authorities are encouraged to suspend, for a probationary period, all or any part of a sentence when such action would promote discipline, and when the accused's prospects for rehabilitation would more likely be enhanced by probation than by the execution of all or any part of the sentence adjudged.

• • • • •

4. Section 719.120 is amended by changing the heading and revising paragraph (a) as follows:

§ 719.120 Action on special courts-martial by general court-martial convening authorities.

(a) *Suspension of sentences.* Officers exercising general court-martial jurisdiction are encouraged to suspend, for a probationary period, all or any part of a sentence when such action would promote discipline, and when the accused's prospects for rehabilitation would more likely be enhanced by probation than by the execution of all or any part of the sentence which was adjudged and approved by the convening authority.

• • • • •

5. Section 719.122 is amended by revising paragraph (b) as follows:

§ 719.122 Remission and suspension.

• • • • •

(b) *Probationary period.* All suspensions shall be of the conditional-remission type and shall be for a definite period of time. The running of the period of suspension of a sentence is interrupted either by the unauthorized (and unexcused) absence of the probationer or by commencement of proceedings to vacate suspension of the sentence. The running of the period of suspension of a sentence resumes (1) as of the date the probationer's unauthorized (and unexcused) absence ends or (2) as of the initial date of the interruption if proceedings to vacate suspension of the sentence are concluded without vacation of the suspension. For instructions concerning voluntary extension of enlistment for the purpose of serving probation, see § 719.206.

• • • • •

6. Section 719.261 is amended by revising paragraph (a)(1) as follows:

§ 719.261 The record of proceedings—action by convening and reviewing authorities.

(a) *Review and proceedings* • • •

(1) No precise rule can be laid down as to the identity of appropriate superior authorities in the chain of command. The subject matter of the inquiry and the resolved facts will dictate the routing of the record for review. The record or report should be made available to all superior commanders who have a direct official interest in the recorded facts. District commandants and other area coordinators of shore-based activities and immediate or subarea coordinators are considered to have a direct official interest in records or reports of investigation conducted within the area of their cognisance and relating to a subject matter affecting their area coordination or command responsibility, and should, unless they direct otherwise, be included as reviewing authorities whether or not in the chain of command.

• • • • •

SUBCHAPTER S—CLAIMS

PART 750—NAVY GENERAL CLAIMS

7. Section 750.48 is amended by adding new paragraphs (a)(8) and (c) as follows:

§ 750.48 Single service assignment of responsibility for processing of claims.

(a) *Applicable law.* A Department of Defense notice (32 F.R. 11740) has assigned single service responsibility for the processing of claims under the following law:

• • • • •

(8) 10 U.S.C. 2736, Advance or emergency payments.

• • • • •

(c) *List of countries.* Responsibility for the processing of all claims in favor of the United States cognizable under paragraph (a)(4), (5), or (7) of this section, or against the United States cognizable under paragraph (a) (1) through (4), (6), or (8) of this section, which arise in the following countries is assigned to the military departments designated below:

(1) Department of the Army: Belgium, the Democratic Republic of the Congo, Ethiopia, France, the Federal Republic of Germany, Iran, Korea, Liberia, Mali, Senegal, the Republic of Vietnam, and as the Receiving State Office in the United States under paragraph (a) (3) and (4) of this section.

PART 751—NAVY PERSONNEL CLAIMS

8. Section 751.4 is amended by revising paragraph (c) as follows:

§ 751.4 Claims not payable.

• • • • •

(c) *Easily pilferable articles.* Articles such as jewels and jewelry, including costume jewelry, and other small articles of substantial value usually worn or carried, and easily pilferable, such as cameras and accessories, watches, rings, binoculars, and necklaces when shipped with household goods by ordinary means or as unaccompanied baggage (shipment includes storage). Such articles are allowable when their loss is incident to shipment by expedited mode as defined in Joint Travel Regulations. This prohibition does not apply to baggage in the personal custody of the claimant or properly checked, provided reasonable protection or security measures have been taken. However, if small items of substantial value are lost or destroyed because of fire, flood, hurricane, sinking of vessel, or other unusual occurence in which the mode of shipment is not material to the type of loss, the foregoing is not applicable. (See § 751.6(d).)

9. Section 751.29 is amended as follows:

§ 751.29 Appeals.

Any claimant may appeal to the Secretary of the Navy for a review of the adjustment or determination of his claim. Such appeals shall be made in writing and shall be submitted through official channels to the Secretary of the Navy (Judge Advocate General). Appeals by civilian employees shall be made directly to the Judge Advocate General as the original adjudicating authority. Appeals by Marine Corps and Navy personnel shall be made via the Commandant of the Marine Corps, or the Chief of Naval Personnel, as appropriate. All appeals shall be made within 6 months from the date of claimant received notice of the adjudication of his claim.

(5 U.S.C. 301; 10 U.S.C. 801-940; E.O. 10214; 28 U.S.C. 2671-2680; 31 U.S.C. 240-243)

By direction of the Secretary of the Navy.

[SEAL] WILFRED HEARN,
Rear Admiral, U.S. Navy, Judge Advocate General of the Navy.

NOVEMBER 17, 1967.

[F.R. Doc. 67-13802; Filed, Nov. 24, 1967; 8:45 a.m.]

Chapter VII—Department of the Air Force

MISCELLANEOUS AMENDMENTS TO CHAPTER

Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

SUBCHAPTER S—SECURITY

PART 851—PROTECTION OF USAF RESOURCES

Section 851.7 is amended by revising paragraph (a) to read as follows:

§ 851.7 Warning signs.

(a) *Display.* Warning signs will be displayed at each entrance and around the base perimeter or controlled area so as to be easily read by persons approaching on foot or in vehicles, subject to the following rules:

(1) Controlled areas: The maximum spacing between these signs will not normally exceed 100 yards.

(2) Base perimeters: Commanders may be guided by local statutes which govern the posting of lands. However, at strategic locations such as runway approaches, closed gates, roads, fence corners, roads that dead end on a perimeter fence, etc., will always be posted. For perimeters adjacent to populated areas, the maximum spacing between signs will not normally exceed 100 yards.

(3) When sensitive programs and/or classified material are involved and a restriction on photography applies, signs will be posted in accordance with the criteria in this section for the area(s) concerned. Signs will be worded to indicate that photography is prohibited. Section 21, Internal Security Act of 1950, 50 U.S.C. 797, will be cited as authority.

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(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012, except as otherwise noted) [AFR 126-37B, Feb. 13, 1967]

SUBCHAPTER T—AIRCRAFT

The heading and text of Part 860 are revised to read as follows:

PART 860—CONTRACTORS' FLIGHT OPERATIONS

Sec.
860.1 Purpose.
860.2 Applicability.
860.3 Definitions.
860.4 Requirements for Government-approved contractors' procedures.
860.5 Procedure revision.
860.6 What forms and form letters to use.
860.7 Supply of forms.
860.8 Records the contractor must keep.
860.9 Contractors' flight crews.
860.10 Approval authority.
860.11 Qualification requirements.
860.12 Procedures for obtaining Government approval of flight crew members.
860.13 Effect of contractor operating procedures on approval of flight crews.
860.14 Guidance for flying proficiency requirements of contractor flight crew members.
860.15 Guidance for proficiency requirement of flight personnel (nonrew members).
860.16 Requests for waivers.
860.17 Minimum requirements.

AUTHORITY: The provisions of this Part 860 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: AFR 55-22, Feb. 20, 1967; AFR 55-22, Change 1, Sept. 22, 1967.

§ 860.1 Purpose.

This part establishes procedures to obtain the required Air Force, Army, Navy, and Defense Supply Agency approval of contractors' flight operations procedures and contractors' personnel who operate aircraft for the Government. It also provides for the delegation of authority for such approvals regardless of service affiliation.

§ 860.2 Applicability.

This part applies to all Air Force, Army, Navy, and Defense Supply Agency (DSA) representatives who approve contractors' flight operations procedures and contractors' personnel who operate any aircraft for which the Government, according to contract, is liable for flight and/or operation risk. This part does not apply to contract flight training or to the operation of leased aircraft.

§ 860.3 Definitions.

(a) *Terms relating to Government—*(1) *Cognizant Government agency.* Refers to the Air Force, the Army, the Navy, or the DSA whichever has cognisance over the contractor's facility.

(2) *Approving authority.* The commander or comparable individual of one of the following organizations having the administrative responsibility for a particular contractor facility:

(i) Naval Plant Representative (NAVPLANTREP).

(ii) Air Force Contract Management Division.

(iii) Commander, U.S. Army Aviation Materiel Command (USAAVCOM).

(iv) Director, Defense Contract Administrative Services Region (DCASR).

(v) Oklahoma City Air Materiel Area (OCAMA).

(vi) Air Procurement Region Europe (APRE).

(vii) Air Procurement Region Far East (APRFE).

(3) *Government representative.* The pilot on unconditional flight status to whom the approving authority has delegated authority to approve contractor personnel and procedures for operating aircraft for which the Government, according to contract, is liable for flight risk.

(b) *Terms relating to contractor—*(1) *Contractor.* Any individual, corporation, or other entity, including subcontractors of all tiers, whose personnel may operate aircraft for which the Government assumes liability for flight risk according to contract.

(2) *Requesting official.* The member of the contractors' first level of management (president, vice president) or his appointed designee authorized to sign the form letters "Approval of Contractors' Flight Crew Member," and "Qualification of Contractors' Flight Crew Member."

(3) *Flight crew members.* Pilot, copilot, flight engineer/mechanic, navigator, bombardier-navigator, sensory systems operators, and defensive systems operator when assigned to their respective crew positions to conduct any flight for the contractor.

(4) *Flight personnel (nonrew members).* Those individuals designated by the contractor to perform a function while the aircraft is in flight; for example, technicians, observers, inspectors, systems engineers, boom operators, and photographers.

(5) *Ground personnel.* Those people designated by the contractor to perform taxiing, towing, and engine run-up functions.

(c) *Terms relating to aircraft—*(1) *Test aircraft.* Any aircraft used for research or experimental purposes; the "first flight" of production aircraft; and the "first flight" of those aircraft falling under the meaning of "major alteration" explained in Part 1 of Federal Aviation regulation (14 CFR Part 1), available from the Federal Aviation Agency (FAA).

(2) *Production aircraft.* Any aircraft being manufactured for use in the operational inventory or undergoing depot-level maintenance or contract modification or IRAN (Inspect and Repair as Necessary) before returning to the operational inventory.

(i) *Preaccepted aircraft.* Any aircraft which has not been accepted (DD Form 250, "Materiel Inspection and Receiving Report," has not been appropriately signed) by the Government at the contractor's facility, but for which the Government has assumed flight risk responsibilities.

(ii) *Accepted aircraft.* Any aircraft for which the DD Form 250 has been signed but which has not yet been delivered to the receiving service.

(3) *In-service aircraft.* Any aircraft which has been delivered to the receiving service.

(4) *Bailed aircraft.* May be in any of the categories in this paragraph depending on the purpose for which it was bailed.

(d) *Terms relating to flights—*(1) *Test flights—*(i) *Experimental test flights.* There are three types of these flights:

(a) Initial flight of a new type of model aircraft (e.g., the first flight of the No. 1 C-141, the No. 1 F-111, the No. 1 R-156F, or the No. 1 -15).

(b) Flights to test or check compliance with specifications for structural integrity, spin test, etc.

(c) Flights of experimental and research aircraft (e.g., X-1, X-15, etc.).

(ii) *First flights (before airworthiness is established).* These flights are considered to be test flights only when effected to check requirements regarding airworthiness:

(a) The "first flight" of a production aircraft.

(b) The "first flight" of an aircraft following a major alteration.

(2) *Functional flights—*(i) *Engineering flights.* (a) Subsystem development flights (e.g., autopilot, fire control, bombnav systems, etc.).

(b) Specification compliance for subsystem flights.

(c) Engine and/or propeller development flights.

(d) Flights where the aircraft serves as the vehicle carrying the item to be checked, for example, radar, missiles, etc.

(ii) *Acceptance flights.* (a) Acceptance flights of production aircraft other than "first flights."

(b) Flights following inspection, repair, and modification other than "first flights." (TM 55-405-1 and TO 1-1-300.)

(iii) *Support flights.* (a) Photographic flights.

(b) Chase flights.
(c) Target or target towing.
(d) Ferry flights.
(e) Demonstration flights conducted according to AFRs 55–32 (Aircrew Indoctrination Teams) and 60–6 (Participation in Goodwill Flights, Aerial Reviews and Weapons Demonstrations) and, for the Army, ARs 95–1 and 95–4, and contractor demonstration flights.
(f) Hurricane evacuation flights conducted according to AR 95–87/OPNAV INST 3730.3 Series/AFR 55–4 (Aircraft Hurricane Evacuation).
(g) Administrative flights such as cargo flights, personnel carrier, etc.
(h) Reliability, extended flight checks, training, instrument, or navigational proficiency flights.

§ 860.4 Requirements for Government-approved contractors' procedures.

(a) The contractor is responsible for preparing flight operating procedures as required by the Government covering the area of flight operations at the contractor's facility. The Government representative may help prepare these procedures if requested by the contractor.

AREAS TO BE COVERED BY CONTRACTORS' FLIGHT OPERATIONS PROCEDURES

(1) *General requirements.* (i) Procedures for maintenance of flight crew qualification and training records.
(ii) Procedure for inspection of qualification and training records by Government representatives including inspection personnel.
(2) *Procedures for minimum or required crew (flight crew members) (contractor pilot, copilot and engineer, etc.).* (i) Hiring procedure and prerequisites.
(ii) Establishment of record folder and contents.
(iii) Procedure to comply with "Request for Government Approval of Contractors' Flight Crew Member" (BOB No. 22–R196).
(iv) Procedure to comply with "Qualifications of Contractor's Flight Crew Member" (BOB No. 22–R196).
(v) Flight operations procedures:
(a) Operating procedures.
(1) Certificates, licenses, and permits (instrument rating).
(2) Currency requirements including instrument proficiency.
(3) Requalification requirements.
(4) Standardization to include method of conducting checkouts, rechecks and proficiency checks.
(b) Training.
(1) Flight training.
(2) Periodic physical-physiological training.
(3) Survival training.
(4) Personal equipment training.
(5) Ground School requirements.
(c) Flight regulations.

(NOTE: If the contractor flight activity is physically located at a fully operational airfield that has the following procedures in operation, the contractor will comply with local directives. The contractor will execute a host-tenant agreement with the airfield authority.)

(1) Basic regulations to include flight areas.
(2) Weather minimum—test and functional.
(3) Traffic control tower requirements.
(4) Standard operating procedures to include radio failure, gear malfunction, crosswind landing criteria, and taxiing of aircraft. (If these procedures are included in a flight handbook in the possession of crew members and supervisors, they need not be repeated.)
(5) Emergency procedures to include in-flight and field (fire truck, barriers, etc.) procedures.
(6) Severe weather plans. (Unless covered in other publication.)
(a) Flight safety.
(1) Accident prevention program.
(2) Plan to be followed in case of accident.
(vi) Procedure for designating contractor aircrew instructors and flight examiners.
(vii) Procedure for termination of approvals.
(3) *Procedure for noncrew members.* (i) Procedures to comply with written approval.
(ii) Flight personnel (noncrew members).
(a) Physical examination.
(b) Physiological training.
(c) Systems and emergency procedures training.
(d) Records folder.
(iii) Ground personnel-contractor personnel taxiing/tower aircraft and performing engine run-up and crash/rescue, firefighting, refuel and defuel.
(a) Physical requirements.
(b) Qualification procedures.
(iv) Procedure for approval for passengers.
(v) Procedure for termination of approvals.

(b) The contractor will forward the completed procedures to the Government representative for approval. If the contractor and the Government representative cannot agree on the procedures, the Government representative will forward the matter to the approving authority for resolution.

(c) The Government representative shall take whatever action is necessary and legally permissable to assure that flight operations shall not be conducted until he has approved the contractor's flight operations procedures and to suspend flight operations whenever such procedures fail to provide adequate safety for personnel and property.

(d) Reviews of contractors' operating procedures will be conducted at least every 6 months and whenever the Government representative is changed to assure currency and compliance. A record of the review dates and action taken will be kept by the Government representative. If the procedures are found lacking or outdated, the Government representative will act to assure immediate correction by the contractor. Whenever warranted by the seriousness of a situation or the frequency of a violation, the initial notification to the contractor, if oral, will be followed immediately (as a matter of contract record) by a formal written communication fully outlining the deficiencies.

§ 860.5 Procedure revision.

If the procedures need revising (see § 860.4(d)), the contractor will submit recommended revisions with applicable supporting documents to the Government representative for approval.

§ 860.6 What forms and form letters to use.

(a) *DD Form 1279, "Contractor Crew Member Flight Record."* This form (BOB Approval No. 22–R197) is the contractor crew member's flight experience record. Section I and/or section IV, "Last 12 Months," is prepared annually by the contractor.

(b) *DD Form 1280, "Contractor Crew Member Qualification Record."* This form (BOB Approval No. 22–R198) is the training record prepared by the contractor when a flight crew member completes any phase or portion of required training, indoctrination, qualification, or proficiency checks, etc.

(c) *"Approval of Contractors' Flight Crew Member."* This form letter (BOB Approval No. 22–R195) is prepared by the contractor requesting the Government's approval for flight crew members to operate aircraft for which the Government is liable for flight risk according to contract. After approval by the Government representative this form is the "approval in writing" required by the "flight risk" or "ground and flight risk" clause in the contract. It may be locally reproduced by contractors on their letterhead paper. No changes from the format may be made.

FORMAT FOR "APPROVAL OF CONTRACTORS' FLIGHT CREW MEMBER"

Subject: Request for Government Approval of Contractors' Flight Crew Member.
To: Government Representative (NASC, AFR, USAAVCOM, DCSAR, OCAMA, etc.).
It is requested that Mr. _____ (crew member's name) be approved as a _____ (crew position), for Experimental/First/Functional Flights in (delete ones not appropriate) _____ type aircraft.

_____
Signature of Contractor's Requesting Official and Date

_____
Typed Name of Contractor's Requesting Official

_____
Signature of Government Representative

☐ Approved

_____
Typed Name of Government Representative

☐ Disapproved

_____
Date of Approval/Disapproval

(d) *"Qualification of Contractors' Flight Crew Member."* This form letter (BOB Approval No. 22–R196) is prepared by the contractor requesting Government approval to qualify approved flight crew members in a specific type of model, and if necessary, series of aircraft, and to qualify or designate instructor or flight examiner crew member. It may be locally reproduced by the contractor on his letterhead paper. No changes from the format may be made.

FORMAT FOR "QUALIFICATION OF CONTRACTORS' FLIGHT CREW MEMBER"

Subject: Request for Government Approval of Qualification Training.
To: Government Representative (NASC, AFFR, USAAVCOM, DOSAR, OCAMA, etc.).
This is to request that Mr. _____ (crew member's name) start qualification training on _____ (date) to meet the requirement of the contractor's procedures which were approved by the Government on _____ (date) as a _____ (crew position) in _____ (aircraft)

_____
Signature of Contractor's Requesting Official and Date

_____
Typed Name of Contractor's Requesting Official

_____
Signature of Government Representative

_____
Typed Name of Government Representative

☐ Approved

_____
Date "Request to Qualify" Received

☐ Disapproved

_____
Date Qualification Completed

§ 860.7 Supply of forms.

DD Forms 1279 and 1280 will be requisitioned through publications distribution channels as follows:

(a) *For DSA and Air Force,* Normal channels.

(b) *For Army.* U.S. Army Aviation Materiel Command, Attention: AMSAV–P, Post Office Box 209, Main Office, St. Louis, Mo. 63166.

(c) *For Navy.* As cognizance I material from the Forms and Publications segment of the Navy Supply System in accordance with NAVSANDA Publication 2002.

§ 860.8 Records the contractor must keep.

(a) A records folder for each flight crew member to include:
(1) One copy of the approved "Approval of Contractors' Flight Crew Member" (BOB Approval No. 22–R195).
(2) Completed "Qualification of Contractors' Flight Crew Member" (BOB Approval No. 22–R196).
(3) Completed DD Forms 1279 and 1280.
(4) Completed copies of appropriate questionnaires and emergency procedures forms as required in the approved contractor's operating procedures.
(5) Certification of physical qualifications.
(6) Certification of physiological training.
(7) Certification of ejection seat or escape training and survival training if required.

(b) A records folder for flight personnel (noncrew members) will include:
(1) One copy of the written approval issued by the contractor.
(2) Certification of training and qualifications as required in the contractor's operating procedures.

§ 860.9 Contractors' flight crews.

General: The form letter "Approval of Contractors' Flight Crew Member" (BOB Approval No. 22–R196) is used to approve contractors' personnel as flight crew members who operate aircraft for which the Government is liable for flight risk according to contract. This form letter becomes the flight crew members' "approval in writing" required by either the "flight risk" or "ground and flight risk" clause when the letter is signed by the contractor's requesting official and approved by the Government representative.

§ 860.10 Approval authority.

(a) The commander having administrative responsibility for the contractor's facility is the approving authority (see § 860.3(a)(2)).

(b) Authority to approve the "Approval of Contractors' Flight Crew Member," "Qualification of Contractors' Flight Crew Member," and the contractor's flight operations procedures should be delegated, as required, by the approving authority to a military pilot assigned to the contractor facility. This pilot must be on unconditional flying status of the cognizant Government agency. This delegation will be in writing and may not be redelegated. Whenever the Government representative is changed, the contractor will be notified and the newly appointed Government representative will furnish the contractor a copy of his delegation of authority.

(c) Government representatives, whenever possible, will be qualified in the particular type of aircraft being operated at their facility.

§ 860.11 Qualification requirements.

(a) Minimum qualifications for approval of the "Approval of Contractors' Flight Crew Member" for test and functional flight categories are listed in this section. However, they are only minimums, and such factors as total experience, recency of experience, experience in similar aircraft, type of flying experience and other related factors will be evaluated by the Government representative before approving a contractor flight crew member.

(NOTE: For contractors located in foreign countries the appropriate civil aviation authority or foreign military department ratings; e.g., Department of Transport (Canada), Royal Air Force (Great Britain) may be substituted for FAA in the following subparagraphs.)

The requirements are as follows:

(1) *Test flights.*—(i) *Experimental flights.*—(a) *Pilot.* FAA commercial and instrument rating and current FAA class II physical qualification. Not less than 1,500 hours first pilot to include 100 hours as first pilot during engineering and/or acceptance flights listed under the functional flight category. It is highly desirable that pilots in this category be graduates of an experimental test pilots' school.

(b) *Copilots.* Only a person approved as a pilot for "first flights" may act as copilot on experimental test flights.

(ii) *First flights.*—(a) *Pilot.* FAA commercial and instrument rating and current FAA class II physical qualification. Not less than 1,000 hours first pilot time to include 100 hours of pilot time during engineering and/or acceptance flights listed under the functional flight category.

(b) *Copilots.* FAA commercial and instrument rating and current FAA class II physical qualification. Not less than 750 hours first pilot time.

(2) *Functional flights.*—(i) *Pilot.* FAA commercial and instrument rating and current FAA class II physical qualification. Not less than 1,000 hours first pilot time.

(ii) *Copilot.* FAA commercial and instrument rating and current FAA class II physical qualification. Not less than 500 hours first pilot time.

(b) *Minimum prerequisites required for qualification in any specific type aircraft.*—(1) *Pilots.* See § 860.17. These minimums have been established after considering that some contracts require that pilots operate Government aircraft only during VFR and daylight and within a few miles of the home station. If a contract requires flying under more adverse conditions, the Government representative is expected to require more experience than listed in § 860.17. In all cases, however, Government approval will be dependent upon experience and proficiency on a par with the type flying being contemplated or conducted. Minimums will not be waived in writing by the cognizant Government representative.

(2) *Copilots.* No minimum flying time in specific aircraft is required for initial qualification. However, five dual or supervised landings are required in the type, model, and if necessary, series aircraft for which approval is requested.

(i) A comprehensive questionnaire on the applicable type, model, and if appropriate, series of aircraft must be completed.

(ii) A knowledge of all the aircraft systems, including normal and emergency procedures must be demonstrated to a qualified first pilot approved by the Government. This demonstration may be made while the aircraft is on the ground or during flight.

(c) *Currency requirements.* (1) A minimum of one flight and one landing in each type, model, and series aircraft in which qualified every 45 days will be required to be considered current as either pilot or copilot.

(2) Currency requirements will not be waived except in writing by the cognizant Government representative.

(d) *Physiological training.* All flight crew members shall have received physiological training required by AFR 50–27 (Physiological Training Program) as supplemented or OPNAVINST 3740.3B. This requirement may be waived at the discretion of the Government representative for crew members flying aircraft whose normal flight altitude does not exceed 10,000 feet.

§ 860.12 Procedures for obtaining Government approval of flight crew members.

(a) Only requesting officials will submit requests for approval and for qualification. A list of these officials will be made known in writing to the Government representative. The list will be revised as necessary by the contractor or subcontractor to keep it current.

(b) Request for approval of flight crew members: The requesting official will prepare, sign, and forward to the Government representative for approval

two copies of the form letter, "Approval of Contractors' Flight Crew Member." The Government representative will indicate his action and sign both copies. The original copy will be kept in the Government representative's files; the duplicate copy will be returned to the contractor. The contractor will not fly or initiate qualification training of any crew member before the receipt of Government approval. Flight crew member approvals will remain in effect until terminated by either the requesting official or the Government representative.

NOTE: When flights are to be conducted at installations not under the original approving Government representative, a verified copy of the approved "Approval of Contractors' Flight Crew Member" will be given to the Government representative at the new station by the contractor in order to confirm Government approval.

(1) Completed DD Forms 1278 and evidence of current physical and physiological qualifications will be attached to the "Approval of Contractors' Flight Crew Member" before the request is forwarded to the Government representative.

(2) A minimum of 10 workdays (after receipt of the form letters by the Government representative) should be allowed for processing, analyzing, and approving (or disapproving). However, with the exception of initial flight requests, the "Approval of Contractors' Flight Crew Member" normally will be returned to the contractor within 10 workdays after receipt by the Government representative. If any delay is anticipated, the contractor will be notified in writing.

(c) Requests for training and qualification:

(1) Each contractor flight crew member must have been approved by the Government representative before any training or qualification.

(2) The requesting official will prepare, sign, and forward to the Government representative for approval two copies of the form letter, "Qualification of Contractors' Flight Crew Member." Before the start of any training or qualification the Government representative must indicate his action and sign both copies of the request. The original copy will be kept in the Government representative's files and the duplicate will be returned to the contractor.

(3) Upon completion of training, the contractor will forward to the Government representative a completed copy of DD Form 1280, "Contractor Crew Member Qualification Record."

(4) Formal training offered in accordance with military directives may be requested by the contractor through the Government representative. After approving the need for, and specific type of training requested, the Government representative will forward the request to the Procuring Contracting Officer (PCO) through the Administrative Contracting Officer (ACO). The ACO will indicate and certify that the requested training is or is not an already funded contractual requirement. If it is a funded requirement, he will further indicate that a reasonable adjustment has been made in the contract. The PCO will forward the application with recommended action if appropriate, to the major command supervising the contract.

(d) Requests for aircraft initial flights:

(1) The contractor will submit a written request including both the names of the flight crew with current DD Forms 1279 and 1280 for each crew member and the date of anticipated flight to the Government representative not less than 90 days before the scheduled initial-flight date. For Air Force and Army, the Government representative may approve the flight crew for initial flights. For Navy, forward all requests for approval of flight crews for initial flights to NASC (AIR-510H), Washington, D.C. 20360. Alternate crews may be nominated at NAVPLANTREP's discretion. For DSA, forward all requests to the service agency with primary responsibility for the contract. Before approving, the Government representative may want the advice of the System Program Director (SPD), the members of the System Program Office (SPO) team, Operations and Training AFSC (SCMOO-2) Andrews AFB, Washington, D.C. 20331, or AFLC (MCAOS) Wright-Patterson AFB, Ohio 45433, concerning the qualification of the flight crew or other related data.

(2) The request will be returned by the Government representative to the contractor at least 30 days before initial flight date. For initial flight of Navy aircraft, approval will be obtained directly from the Naval Air Systems Command (AIR-510H). If disapproved the contractor will be notified immediately by the service concerned.

(e) Flight personnel (noncrew members): The contractor's requesting official will grant written approval for each contractor and subcontractor noncrew member required to fly in Government aircraft before the individual's first flight. The contractor's requesting official must insure that each individual is required, and is qualified to serve in a specific capacity while aboard military aircraft. This will constitute final approval. The contractor will keep the written approval on file until the individual is no longer authorized to fly.

(f) Personnel approved shall be limited to those necessary for the contractor to complete the Government contract.

(g) If the Government representative determines that the written approval has been signed without justification, the contractor shall be requested to remove the affected individual from flight status. If the contractor still feels that the individual should be allowed to fly, an appeal may be made by the contractor to the approving authority. Should the contractor fail to honor promptly the foregoing request, the Government representative shall instigate whatever action is necessary and lawfully permissible to bring about prompt compliance with such request. The Government representative shall act similarly to assure that the above-mentioned individual(s) are not allowed to fly pending the results of any appeal.

(f) Contractor instructor flight crew members:

(1) Government approved flight crew members may administer flight checks to other flight crew members employed by the contractor. Military personnel may receive recurrency checks only after deemed appropriate by the approval authority.

(2) Contractor personnel administering such checks must have been qualified as instructors in accordance with the instructor's criteria as outlined in their Government approved operating procedures.

(3) Flight checks to the military will be limited to recurrency checks and proficiency flights as regulated by applicable military directives.

(g) Passengers: No passengers are allowed on test flights (see § 860.3(d)(1)). Any person not approved either as a flight crew member or flight personnel will require written approval by the Government representative before flying in a Government aircraft.

(h) Ground personnel: Ground personnel (personnel taxiing or towing aircraft, or performing engine run-ups) will be qualified as outlined in the contractor's approved operating procedures. Written Government approval except when otherwise specified in the applicable contract, is not required.

(i) Termination of approvals:

(1) Approvals ("Approval of Contractors' Flight Crew Member") are automatically canceled upon termination of employment, physical disqualification, or revocation of FAA rating.

(2) The contractor may, at his discretion, request the Government representative to terminate any approval. This request will be in writing and will be signed by a contractor's requesting official.

(3) The Government representative will revoke approvals of flight crew members and flight personnel who:

(i) Have demonstrated inability to continue to meet the general requirements of normal flight techniques and to exercise sound judgment in test or functional flights.

(ii) Have exhibited evidence of personal instability or similar undesirable tendencies or have conducted themselves contrary to the interests which the Government has in promoting safety and thereby preventing personal injury, loss of life, or damage to property.

(4) The Government representative will promptly notify the contractor when an approval is revoked. A written statement by the Government representative to the contractor will set forth in detail the reasons for the action. If the contractor is of the opinion that the approval should not have been revoked, he may request a review of the matter by the approving authority.

§ 860.13 Effect of contractor's operating procedures on approval of flight crews.

(a) The Government representative will not approve any flight crew member until he has approved the contractor's operating procedures. Particular emphasis will be placed upon ground training, flight training, and checkout requirements for any aircraft in which an individual is not currently qualified.

(b) If the approved procedures specified in paragraph (a) of this section are not being complied with, the Government representative will notify the contractor, giving specific details. He will specify a reasonable period of time for the contractor to correct the discrepancies. If corrective action is not completed within the time specified the Government representative will revoke flight crew approvals.

(c) When an approval has been terminated, the form letter and allied forms will be returned to the Government representative for destruction.

§ 860.14 Guidance for flying proficiency requirements of contractor flight crew members.

The Government representative will approve flight crew members to allow a minimum of 100 hours per year total flying time for each flight crew member. This requirement will apply to the period covered by Government contract. For contracts of less than a year, an average of 8 hours and 20 minutes per month will be flown by each flight crew member. A minimum of 40 hours must be flown in each 6-month period (Jan.-Jun., July-Dec.).

NOTE: This does not mean that the Government will furnish additional flying time for contractor flight crew members. The flying time must be available under the contractor's flying program.

§ 860.15 Guidance for proficiency requirement of flight personnel (noncrew members).

The contractor will approve only as many flight personnel as are required to complete the contractual requirement. The Government representative will review flight personnel each 6 months to insure only those necessary to the mission are on written approval.

§ 860.16 Requests for waivers.

Waivers requested to provisions of this part by the contractor (unless otherwise provided for) will be forwarded to the Government representative for recommendations and submission to the Approval Authority through channels.

§ 860.17 Minimum requirements.

Minimum prerequisites for initial qualification of contractor personnel after satisfactory completion of questionnaire and demonstration of knowledge of systems including normal and emergency systems pertaining to the specific type and model of aircraft to be flown. In addition, the Government representative may require night flying (up to 5 hours) and instrument practice (up to 5 hours) until a satisfactory degree of proficiency is demonstrated, if contractor pilots are to engage in flying under these conditions.

(a) *Reciprocating aircraft.*

Aircraft by group	First pilot time for this group [1]	Dual or supervised time prior to checkout	Dual or supervised landings prior to checkout	Requirements, other	Instructor pilot
	Hours	Hours			
(1) Single engine up to 5,000 pounds gross weight		5	5		
(2) Single engine 5,000 to 12,000 pounds gross weight		5	5		
(3) Twin engine up to 12,000 pounds gross weight		5	5		
(4) Twin engine 12,000 pounds gross weight and above		10	[2] 5	(3)	(3)
(5) Four	75	15	10	(3)	(3)

(b) *Jets and turbo prop.*

	Hours	Hours			
(1) Single	50	5	5		
(2) Twin engine	100	5	5		
(3) Three or four engine	100	15	10	(3)	(3)
(4) Multiengine (more than four)	200	20	10	(3)	(3)

[1] To include checkout time.
[2] For qualification in SA-16/UF-1 aircraft 10 water landings are also required.
[3] Completion of formal ground school course required for type, model, and, if necessary, series of aircraft or a course of instruction as authorized by AFPI (Subchapter W of this chapter).
[4] At the discretion of the Government representative.

(c) *(VTOL) Helicopter/Aircraft.*

Type of aircraft by group and similar aircraft by weight and engine horsepower	Total first pilot rotary wing time	Dual time in type of helicopter prior to checkout	Dual autorotations either full touchdown or power recovers as applicable	Requirements, other	Instructor pilot
	Hours	Hours			
(1) 0-5,000 lbs. H-13E, H-13, H-23, H-UL, H-TL.	50	5	10	Completion of formal ground school course required.	At the discretion of the Government representative.
(2) 5,000-16,000 lbs. H-19 A-B, H-25, H-43A, H-43B (Turbo), H-21, H-34, HUS, HUP, HO4S, HSS, HSS.	100	5	10	Previous completion of a formal ground school course. Completion of specialized or formal ground school course for helicopter concerned.)	Do.
(3) 16,000-40,000 lbs. H-37/HR2S, YHC-1A (Turbo), YHC-B (Turbo), S-60.	200	10	10	(4)	Do.
(4) 40,000 lbs. and over, Turbo Powered Roto Dyne.	200	10	10	(4)	Do.

[1] Minimum dual time shall be increased by 5 hours if transition is from single to tandem rotors, or 3 hours if from conventional to turbo engine.
[2] Qualification in minimum dual time shall be increased by 3 hours if transition is from conventional to turbo engines.

SUBCHAPTER K—MILITARY TRAINING AND SCHOOLS

PART 906—MEDICAL SERVICE EARLY COMMISSIONING PROGRAM

Part 906 is revised to read as follows:

Sec.
906.1 Purpose.
906.2 How the program works.
906.3 Status of participants.
906.4 Eligibility.
906.5 How to apply.
906.6 Selecting students.
906.7 Training programs.
906.8 Supply of forms.

AUTHORITY: The provisions of this Part 906 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: AFR 36-6, Oct. 4, 1967.

§ 906.1 Purpose.

This part explains participation in the Medical Service Early Commissioning Program. It also tells who is eligible for the program.

§ 906.2 How the program works.

(a) When enrolled in medical, dental, or veterinary school, the participant is given a probationary appointment as a second lieutenant in the Reserve of the Air Force, Medical Service Corps (MSC). Upon successful completion of his professional school, the individual is reappointed in the Reserve of the Air Force, Medical Corps (MC), Dental Corps (DC), or Veterinary Corps (VC) as appropriate.

(b) Participation in the plan insures deferment from induction or involuntary call to active duty until completion of professional school. It also provides an early association with the Air Force of future physicians, dentists, and veterinarians.

§ 906.3 Status of participants.

(a) Appointments are probationary and contingent upon successful qualification as a physician, dentist, or veterinarian.

(b) Participants who fail to achieve qualification for reappointment to the MC, DC, or VC, as appropriate or, having qualified, decline to accept appointment, may have their appointment in the MSC terminated. Additionally, participants who change their course of study may have their appointment in the MSC terminated.

(c) Appointments under this program are made only in the grade of second lieutenant, Reserve of the Air Force, MSC. Upon appointment, participants are designated Ready Reservists and assigned to the Obligated Reserve Section (ORS). When necessary, further classification and assignment will be according to AFM 35-3 (Air Reserve Forces Personnel Administration). However, participants will not be assigned to units of the Air Force Reserve or to the Air National Guard for training.

(d) Participants may volunteer for sponsored training programs offered under Part 905 of this subchapter.

(e) Upon completion of requisite professional education, participants are reappointed to the appropriate Corps of the Medical Service and, consistent with active duty requirements, ordered to active duty for not less than 2 years. Physicians may be granted additional deferment beyond internship if selected for residency deferment through participation in the Armed Forces Physicians' Appointment and Residency Consideration Program (Berry Plan). Dental and veterinary participants in the program may be deferred from active duty to permit them to complete postgraduate training.

§ 906.4 Eligibility.

(a) The early commissioning program is limited to students enrolled in an approved school of medicine, dentistry, or veterinary medicine. Only those schools located in the United States, Puerto Rico, or Canada are acceptable for student participation in this program.

(b) Applicants must meet the eligibility criteria for appointment prescribed in Part 881 of this chapter.

§ 906.5 How to apply.

The applicant submits a request direct to USAFMPC (AFMSMB-4), Randolph AFB TX 78148, for an application kit. The application kit will consist of AF Form 433, "Application for the Air Force Medical Service Commissioning Program," and associated forms.

§ 906.6 Selecting students.

Selection of participants is made by the Office of the Surgeon General, USAF.

§ 906.7 Training programs.

Off-term or summer training programs of approximately 90 days' duration appropriate to the professional specialties and/or officer orientation may be established by the Air Force and offered to participants. Programs will be announced to participants during the year preceding their eligibility for such training. Participants receive pay and allowances for such periods.

§ 906.8 Supply of forms.

AF Form 433 will be reproduced locally, head to head.

By order of the Secretary of the Air Force.

LUCIAN M. FERGUSON,
Colonel, U.S. Air Force, Chief, Special Activities Group, Office of The Judge Advocate General.

[F.R. Doc. 67-13734; Filed, Nov. 24, 1967; 8:45 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 5—General Services Administration

PART 5-2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 5-2.4—Opening of Bids and Award of Contract

MISCELLANEOUS AMENDMENTS

The following amendment of the General Services Administration Procurement Regulations establishes procedures to be followed by personnel of General Services Administration in processing protests against contract awards. The procedures implement Government-wide procedures in this regard contained in the Federal Procurement Regulations. The amendment also includes miscellaneous materials concerning the disposition of contract documents and current cross-references and organizational designations.

Subpart 5-2.4 is amended by adding §§ 5-2.407, 5-2.407-1, 5-2.407-8, and 5-2.407-53 and by revising §§ 5-2.407-52 (c) and 5-2.407-54, as follows:

§ 5-2.407 Award.

§ 5-2.407-1 General.

Policy and procedure with respect to advance notices of contract award are contained in § 5-1.350 of this chapter.

§ 5-2.407-8 Protests against award.

(a) *Protests before award.* All decisions on protests before award shall be handled in accordance with § 1-2.407-8 of this title and this section. Each such decision by the contracting officer shall be subject to prior approval (1) by appropriate legal counsel, and (2) when the contracting officer considers it advisable, by other officials (including any contract review committee) who are required by applicable procedure to approve the contract awards which are involved in the protest.

(b) *Protests after award.* Upon the receipt of a protest after award, the contracting officer shall develop the facts in the case and prepare a responsive reply for the signature of the head of the procuring activity. The proposed reply shall be forwarded for signature through the appropriate legal counsel for concurrence.

(c) *Protests received from GAO.* Response to protests received from the General Accounting Office shall be prepared by the Office of General Counsel.

§ 5-2.407-52 Evaluation of f.o.b. prices.

* * * * *

(c) The assistance of traffic management personnel shall be obtained whenever transportation factors are for consideration in evaluating bids.

§ 5-2.407-53 Disposition of contract documents.

The originals of all rejected bids, related correspondence, and a copy of the abstract of bids shall be retained by the procuring activity for a period of one year after which they shall be forwarded to the appropriate administrative activity for handling in accordance with current procedures on retention and disposal of records. These records shall be kept available for inspection by authorized representatives of the General Accounting Office and the Office of Administration and may be forwarded to such offices upon request. Copies of rejected bids which are not needed shall be destroyed after award.

§ 5-2.407-54 Identical bids.

When identical bids are received, reports shall be prepared and transmitted to the Department of Justice in accordance with § 1-1.1603 of this title.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER.

Dated: November 17, 1967.

LAWSON B. KNOTT, JR.,
Administrator of General Services.

[F.R. Doc. 67-13814; Filed, Nov. 24, 1967; 8:48 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 17652; FCC 67-1250]

PART 87—AVIATION SERVICES

Aeronautical En Route Stations Engaged in International High Frequency Service

In the matter of amendment of Part 87 of the Commission's rules to change the frequencies available for assignment to the aeronautical en route stations engaged in international high frequency service, Docket No. 17652.

Report and order. 1. A notice of proposed rule making in the above-captioned matter was released on August 11, 1967, and was published in the FEDERAL REGISTER on August 17, 1967 (32 F.R. 11884). The dates for filing comments and replies thereto have passed.

2. The purpose of the amendment is to provide for the orderly, efficient and timely conversion from the present frequencies, available for assignment to

stations in the aeronautical mobile (R) service, to those frequencies available under the new worldwide plan developed by the International Telecommunication Union (ITU) Extraordinary Administrative Radio Conference (EARC), Geneva, 1966 and coordinated worldwide by the ITU and the International Civil Aviation Organization (ICAO).

3. No comments were received, either during or after the close of the dates for filing comments and replies.

4. In view of the foregoing: *It is ordered*, That, pursuant to the authority contained in sections 4(i) and 303 (c), (h), and (r) of the Communications Act of 1934, as amended, Part 87 of the Commission's rules is amended effective December 26, 1967, as set forth below.

5. *It is further ordered*, That the proceeding in Docket No. 17652 is terminated.

(Secs. 4, 303, 48 Stat., as amended 1066, 1082; 47 U.S.C. 154, 303)

Adopted: November 15, 1967.

Released: November 17, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

Section 87.303 is amended to read as follows:

§ 87.303 International high frequency service.

Frequencies available for assignment by the authority having jurisdiction over the respective international aeronautical en route stations on the Major World Air Route Areas (MWARAs) as defined in the EARC Agreement (Geneva 1951) and revised by the EARC Agreement (Geneva 1966) are as follows:

(a) *Central East Pacific (CEP).*

Frequencies available before conversion date (kc/s)	Frequencies available after conversion date (kc/s)	Conversion date
3432.5	3467	[2] Sept. 19, 1968
3446.5	5584	
3467.5	5603	
3481.5	8831	
5551.5		
5604		
8030.5	8875	[2] Sept. 17, 1970
8812		
8879.5		
10048	13336	[2] Sept. 18, 1969
10084	[3] 17900	
11209.5		
13304.5		
13334.5		

[1] 0001 Greenwich mean time.
[2] Secondary basis.

[1] Commissioners Bartley and Lee absent and Commissioner Johnson concurring in the result.

(b) *Central West Pacific (CWP).*

Frequencies available before conversion date (kc/s)	Frequencies available after conversion date (kc/s)	Conversion date
2966	2966	[1] Sept. 17, 1970
5536.5	8831	
8962.5	8854	[1] Sept. 19, 1968
8936.5	8505	
13354.5	13306	[1] Sept. 18, 1969
17906.5	17900	

[1] 0001 Greenwich mean time.

(c) *North Pacific (NP).*

Frequencies available before conversion date (kc/s)	Frequencies available after conversion date (kc/s)	Conversion date
2967	2910	[1] Sept. 19, 1968
5521.5	5580	
8936	8938	[1] Sept. 17, 1970
13274.5	13294	[1] Sept. 18, 1969
17906.5	17900	

[1] 0001 Greenwich mean time.

(d) *South Pacific (SP).*

Frequencies available before conversion date (kc/s)	Frequencies available after conversion date (kc/s)	Conversion date
2945	[1] 2945	[2] Sept. 17, 1970
5451.5	5486	
8845.5	8847	
13344.5	13304	[2] Sept. 18, 1969
17946.5	17900	

[1] No change.
[2] 0001 Greenwich mean time.

(e) *North Atlantic (NA).*

Frequencies available before conversion date (kc/s)	Frequencies available after conversion date (kc/s)	Conversion date
2968	[1] 2869	
2931	[1] 2881	
2945	[1] 2945	[2] Sept. 19, 1968
2967	[1] 2967	
5511.5	5610	
5526.5	5624	
5571.5	5673	
5541.5	5698	
8862.5	8854	[2] Sept. 17, 1970
8885	8880	
8913.5	8910	
8947.5	8945	
13264.5	13288	[2] Sept. 18, 1969
13284.5	13326	
13324.5		
13354.5	[3] 17905	
17906.5		

[1] No change.
[2] 0001 Greenwich mean time.
[3] Secondary basis.

(f) *Europe (EU).*

Frequencies available before conversion date (kc/s)	Frequencies available after conversion date (kc/s)	Conversion date
2839	[1] 2910	
2910	3467	
3467.5	4680	
3481.5	5554	[2] Sept. 19, 1968
4589.5	[1] 6582	
5551.5	8831	
6582		
8030.5	8566	
8854.5	8875	[2] Sept. 17, 1970
8553		
8871	11388	[2] Sept. 18, 1969
11299.5		
17906.5		

[1] No change.
[2] 0001 Greenwich mean time.

(g) *South America-West (SAM-1).*

Frequencies available before conversion date (kc/s)	Frequencies available after conversion date (kc/s)	Conversion date
2886	[1] 2839	[2] Sept. 19, 1968
4696.5	4696	
6664.5	6656	[2] Sept. 17, 1970
8830	8826	
13314.5	[1] 13345	[2] Sept. 18, 1969
17916.5	[3] 17925	

[1] No change.
[2] 0001 Greenwich mean time.
[3] Secondary basis.

(h) *South America-East (SAM-2).*

Frequencies available before conversion date (kc/s)	Frequencies available after conversion date (kc/s)	Conversion date
2910	[1] 2910	
2966	5682	[2] Sept. 19, 1968
5404.5		
5568.5		
5581.5	8847	
6567		[2] Sept. 17, 1970
8845.5		
8871	11337	
11290	[3] 17925	[2] Sept. 18, 1969
11337.5		
13344.5		
17916.5		

[1] No change.
[2] 0001 Greenwich mean time.
[3] Secondary basis.

(i) *South Atlantic (SA).*

Frequencies available before conversion date (kc/s)	Frequencies available after conversion date (kc/s)	Conversion date
2875 [1]	None	[2] Sept. 19, 1968
6597		
3432.5	2876	
6612	6680	[2] Sept. 17, 1970
6679.5		
8930		
8879.5	10049	
10048	13344	[2] Sept. 18, 1969
13274.5	[3] 17925	
17946.5		

[1] Limited to south of 30° north latitude.
[2] 0001 Greenwich mean time.
[3] Secondary basis.

(j) *South East Asia (SEA).*

Frequencies available before conversion date (kc/s)	Frequencies available after conversion date (kc/s)	Conversion date
2887	2887	[1] Sept. 19, 1968
5671.5	5678	
8537		
8879.5	8886	[1] Sept. 17, 1970
8980.5	8882	
13284.5	13312	[1] Sept. 13, 1969
17966.5	17965	

[1] 0001 Greenwich mean time.

(k) *Far East (FE).*

Frequencies available before conversion date (kc/s)	Frequencies available after conversion date (kc/s)	Conversion date
2868	[1] 2868	[2] Sept. 19, 1968
5611.5	5624	
8571	[2] 8868	[2] Sept. 17, 1970
13284.5	13312	[2] Sept. 13, 1969
17966.5	17965	

[1] No change.
[2] 0001 Greenwich mean time.

(l) *Middle East (ME).*

Frequencies available before conversion date (kc/s)	Frequencies available after conversion date (kc/s)	Conversion date
3404.5	3404	[1] Sept. 19, 1968
3446.5	3446	
5604	5603	
8827	8824	[1] Sept. 17, 1970
8845.5	8847	
10021	10009	
13334.5	13336	[1] Sept. 13, 1969
17926.5	17965	

[1] 0001 Greenwich mean time.

(m) *Africa-West (NSA-1).*

Frequencies available before conversion date (kc/s)	Frequencies available after conversion date (kc/s)	Conversion date
3411.5	3411	[1] Sept. 19, 1968
5521.5	5519	
12290.5	12280	
	13304	
8820	8826	[1] Sept. 17, 1970
17946.5	[2] 17925	[1] Sept. 13, 1969

[1] 0001 Greenwich mean time.
[2] Secondary basis.

(n) *Africa-East (NSA-2).*

Frequencies available before conversion date (kc/s)	Frequencies available after conversion date (kc/s)	Conversion date
2868	2868	[1] Sept. 19, 1968
5505.5	5505	
	12280	
8856	8850	[1] Sept. 17, 1970
13334.5	13336	[1] Sept. 13, 1969
17926.5	[2] 17925	

[1] 0001 Greenwich mean time.
[2] Secondary basis.

Section 87.305 is amended to read as follows:

§ 87.305 Caribbean area.

Frequencies available for assignment to serve international air routes in the Caribbean area.

Caribbean (CAR).

Frequencies available before conversion date (kc/s)	Frequencies available after conversion date (kc/s)	Conversion date
2878		
3462	[2] 2962	
3468	[2] 2968	[1] Sept. 19, 1968
5490	5484	
8419	5566	
8806.5	6540	
8827	8869	[1] Sept. 17, 1970
8871		
10021	10017	
12294.5	11343	
12344.5	11367	[1] Sept. 13, 1969
17926.5	13320	
	[3] 17925	

[1] 0001 Greenwich mean time.
[2] No change.
[3] Secondary basis.

[F.R. Doc. 67-13719; Filed, Nov. 24, 1967; 8:45 a.m.]

[Docket No. 15928]

PART 97—AMATEUR RADIO SERVICE

Privileges of Operator Licenses; Correction

In the matter of amendment of the Amateur Radio Service Rules to provide for incentive licensing and distinctive call signs; Docket No. 15928; RM—378, 455, 470, 474, 480, 481, 499, 516, 517, 538, 577, also 385, 389, 464, 773, 775, 805.

The amendment of § 97.7(d)(2) as set forth in paragraph 1 of the Report and Order (FCC 67-978) in this proceeding which was released August 29, 1967, should read as follows:

§ 97.7 Privileges of operator licenses.

* * * * * *

(d) *Novice class.* * * *

(2) Radiotelegraphy operation in the frequency bands 3700–3750 kc/s, 7150–7200 kc/s, and 21.10–21.25 Mc/s, using only type A–1 emission and 145–147 Mc/s, using radiotelegraphy emissions as set forth in § 97.61, is authorized.

* * * * * *

Released: November 21, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13818; Filed, Nov. 24, 1967; 8:46 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission and Department of Transportation

[OST Docket No. 10, Amdt. 1]

PART 239—STANDARD TIME ZONE BOUNDARIES

Atlantic Standard Time Zone

The purpose of this amendment to Part 239 (formerly Part 139) of Title 49 of the Code of Federal Regulations is to establish a new standard time zone, to be known as the Atlantic standard time zone. The new zone includes all territory of the United States between 52°30' W. longitude and 67°30' W. longitude (Puerto Rico and the Virgin Islands). In addition, the zone includes that portion of the Commonwealth of Puerto Rico lying west of 67°30' W. longitude. It does not include any part of the State of Maine.

This amendment is based on a notice of proposed rule making (Notice No. 6; OST Docket No. 10) issued by the General Counsel of the Department of Transportation and published in the FEDERAL REGISTER on August 9, 1967 (32 F.R. 11480). That proposal was made under the authority of section 4(a) of the Uniform Time Act of 1966, which established the new Atlantic standard time zone based on the 60° of longitude west from Greenwich.

This amendment will not affect the right of Puerto Rico and the Virgin Islands to exempt themselves from advanced time from the last Sunday in April to the last Sunday in October. Any State (or comparable governmental entity) "* * * may by law exempt itself from the provisions of [the Uniform Time Act] providing for the advancement of time * * *." (15 U.S.C. 260a).

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all matters presented. No comments were received opposing the inclusion of Puerto Rico or the Virgin Islands within the new standard time zone. The establishment of the new Atlantic standard time zone will allow Puerto Rico and the Virgin Islands to observe the same time they have historically observed. It will continue present patterns of commercial time observation existing in Puerto Rico and the Virgin Islands, as well as the existing schedules of common carriers.

In consideration of the foregoing, Part 239 of Title 49, Code of Federal Regulations, is amended effective December 23, 1967, as follows:

(1) By amending the first sentence of § 239.1 to read as follows:

§ 239.1 Limits defined; exceptions authorized for operating purposes only.

The limits of the first, second, third, fourth, and fifth standard time zones, created by the Standard Time Act and designated as the Atlantic, eastern, central, mountain, and Pacific zones, respectively, are hereby defined as shown in §§ 239.1A through 239.8. * * *

(2) By adding the following new section after § 239.1:

§ 239.1A Atlantic zone.

The first zone, designated as the U.S. standard Atlantic time zone, includes all territory of the United States between 52°30' W. longitude and 67°30' W. longitude, except that it does not include any part of the State of Maine. In addition, the zone includes that portion of the Commonwealth of Puerto Rico lying west of 67°30' W. longitude.

(3) By amending § 239.2 to read as follows:

§ 239.2 Eastern zone.

The second zone, designated as the U.S. standard eastern time zone, shall include that portion of continental United States lying east of the line described in § 239.3, with the exceptions and inclusions enumerated therein, and west of the lines described in § 239.1A, with the exceptions and inclusions enumerated therein.

(4) By amending § 239.4 to read as follows:

§ 239.4 Central zone.

The third zone, designated as the U.S. standard central time zone, shall include that portion of continental United States lying west of the second zone as described in §§ 239.2 and 239.3, and east of the line described in § 239.5, with the exceptions and inclusions enumerated therein.

(5) By amending § 239.6 to read as follows:

§ 239.6 Mountain zone.

The fourth zone, designated as the U.S. standard mountain time zone, shall include that portion of continental United States lying west of the third zone, as described in §§ 239.4 and 239.5, and east of the line described in § 239.7, with the exceptions and inclusions enumerated therein.

(6) By amending § 239.8 to read as follows:

§ 239.8 Pacific zone.

The fifth zone, designated as the U.S. standard Pacific time zone, shall include that portion of continental United States, not including Alaska, lying west of the fourth zone, as described in §§ 239.6 and 239.7, with the exceptions and inclusions enumerated therein.

(Act of Mar. 19, 1918, ch. 24, as amended by Uniform Time Act of 1966; 15 U.S.C. 260–267; sec. 6(a)(5), Department of Transportation Act; 80 Stat. 939; 49 U.S.C. 1655)

Issued in Washington, D.C., on November 17, 1967.

M. CECIL MACKEY,
Acting Secretary of Transportation.

[F.R. Doc. 67-13810; Filed, Nov. 24, 1967; 8:46 a.m.]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 4120]

GRAZING REGULATIONS FOR PUBLIC LANDS

Notice of Extension of Proposed Rule Making

Basis and purpose. Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Act of June 28, 1934 (48 Stat. 1270; 43 U.S.C. 315a), as amended and supplemented, the period for written comments concerning proposed regulations governing Grazing Administration (Outside Grazing Districts and Exclusive of Alaska) as set forth in the proposed rule making published August 1, 1967, in Volume 32, Number 147 of the FEDERAL REGISTER, will be extended from November 28, 1967, to March 1, 1968.

It is the policy of the Department, whenever practical, to afford the public full opportunity to participate in the rule making process. Accordingly, this notice will serve to extend the time period in which interested persons may submit written comments, suggestions, or objections, with respect to the proposed amendments, to the Bureau of Land Management, Washington, D.C. 20240.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

NOVEMBER 17, 1967.

[F.R. Doc. 67-13805; Filed, Nov. 24, 1967; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

[7 CFR Part 362]

PESTICIDES CONTAINING SODIUM ARSENITE AND ARSENIC TRIOXIDE COMPOUNDS INTENDED FOR USE BY HOMEOWNER

Notice of Proposed Interpretation Under Federal Insecticide, Fungicide, and Rodenticide Act

Products containing sodium arsenite and arsenic trioxide have been involved in numerous accidents involving children and domestic animals. Experience has shown that present labeling requirements for products containing more than 2 percent of sodium arsenite or 1.5 percent arsenic trioxide bearing directions for use around the home have not been adequate to protect the public.

Therefore, notice is hereby given that pursuant to the authority of § 362.3 of the regulations (7 CFR 362.3) under the Federal Insecticide, Fungicide, and Rodenticide Act (61 Stat. 163, as amended; 7 U.S.C. 135–135k) consideration is being given to the issuance of Interpretation 25 to read as follows:

§ 362.123 Interpretation with respect to utilization of sodium arsenite or arsenic trioxide products in or around the home.

(a) *Home use unacceptable.* Labeling for economic poisons submitted in connection with registration under the Act bearing directions for use of products containing more than 2 percent sodium arsenite or more than 1.5 percent arsenic trioxide in or around the home is not acceptable.

(b) *Required warning against home use.* In addition to other warning and caution statements required by § 362.9, labels for such products with acceptable directions for agricultural, commercial, or industrial use must bear the following statements in a prominent position:

(1) "Do Not Use or Store in or Around the Home"

(2) "Do Not Allow Domestic Animals to Graze Treated Area"

All persons who desire to submit written data, views, or arguments in connection with this matter should file the same with the Director, Pesticides Regulation Division, Agricultural Research Service, U.S. Department of Agriculture, Washington, D.C. 20250, within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 20th day of November, 1967.

HARRY W. HAYS,
Director, Pesticides Regulation Division, Agricultural Research Service.

[F.R. Doc. 67-13823; Filed, Nov. 24, 1967; 8:47 a.m.]

Consumer and Marketing Service

[7 CFR Ch. IX]

[Docket No. AO-368]

MELONS GROWN IN SOUTH TEXAS

Notice of Hearing With Respect to Proposed Marketing Agreement and Order

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674), and in accordance with the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders, as amended (7 CFR Part 900), notice is hereby given of a public hearing to be held in the Hidalgo County Courthouse Auditorium, 100 North Closner Street, Edinburg, Tex., beginning at 9:30 a.m., local time, December 19, 1967, with respect to a proposed marketing agreement and order regulating the handling of melons grown in south Texas. The proposed marketing agreement and order have not received the approval of the Secretary of Agriculture.

The public hearing is for the purpose of receiving evidence with respect to the economic, marketing, and other conditions relating to the proposed marketing agreement and order, hereinafter set forth, and to any appropriate modifications thereof.

The proposed marketing agreement and order were submitted with a request for a hearing thereon by the following members of the south Texas melon industry:

Bannworth Bros., Pharr Vegetable, Griffin & Brand, C. E. Duncan, John B. Hardwicke Co., Max Lutz, La Casita Farms, Louisiana Strawberry, McBride Produce, Elmore & Stahl, J. S. McManus Produce, Wallace Fruit Co., and Marvin Schwarz Produce Co.

The provisions of the proposed marketing agreement and order are as follows:

DEFINITIONS

§ _____.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may be hereinafter delegated, to act in his stead.

§ _____.2 Act.

"Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

§ _____.3 Person.

"Person" means an individual, partnership, corporation, association or any other business unit.

§ _____.4 Production area.

"Production area" means the counties of Cameron, Hidalgo, Starr, and Willacy in the State of Texas.

§ _____.5 Melons.

"Melons" means all melons grown within the production area classified as Cucumis melo, commonly known as muskmelons, and including but not limited to varieties reticulatus and inodorus.

§ _____.6 Handler.

"Handler" is synonymous with "shipper" and means any person (except a common or contract carrier of melons owned by another person) who handles melons or causes melons to be handled.

§ _____.7 Handle.

"Handle" or "ship" means to sell, transport, or in any other way to cause to be placed or to place melons in the current of the commerce between the production area and any point outside thereof. The sale or transportation of melons by the producer thereof to a person who is a registered handler is excepted from the aforesaid definition.

§ _____.8 Registered handler.

"Registered handler" means any person with adequate facilities for preparing melons for commercial market, who customarily does so, and who is so recorded by the committee, or any person who has access to such facilities and has recorded with the committee his ability and willingness to assume customary obligations of preparing melons for commerical market.

§ _____.9 Producer.

"Producer" means any person engaged in a proprietary capacity in the production of melons for market.

§ _____.10 Grade, size and maturity.

"Grade," "size" and "maturity" mean, respectively, any of the officially established grade, size or maturity definitions as are set forth in U.S. Standards for Grades of Cantaloups (§§ 51.475–51.497 of this title) or U.S. Standards for Grades of Honey Dew and Honey Ball Type Melons (§§ 51.3740–51.3749 of this title), including amendments, modifications, or variations thereof; or, such other grades, sizes and maturities as may be recommended by the committee and approved by the Secretary.

§ _____.11 Grading.

"Grading" is synonymous with "preparing melons for commercial market" and means sorting or separation of melons into grades, sizes, maturities, or packs, or any combination thereof, for handling.

§ _____.12 Pack.

"Pack" means a quantity of melons specified by grade, size, weight, or count, or by type or conditions of container, or any combination of these recommended by the committee and approved by the Secretary.

§ _____.13 Container.

"Container" means any carton, crate, box, bag, hamper, package, basket, bulk load, or any other type of receptacle used in handling melons.

§ _____.14 Varieties.

"Varieties" means and includes all classifications, subdivisions, or types of melons according to those definitive characteristics now or hereinafter recognized by the U.S. Department of Agriculture or recommended by the committee, and approved by the Secretary.

§ _____.15 Committee.

"Committee" means the South Texas Melon Marketing Board, established pursuant to § _____.20.

§ _____.16 Fiscal period.

"Fiscal period" means the period beginning and ending on such dates as may be approved by the Secretary pursuant to recommendations of the committee.

§ _____.17 Export.

"Export" means shipment of melons to any destination which is not within the 48 contiguous States, or the District of Columbia, of the United States.

§ _____.18 Part and subpart.

"Part" means the order regulating the handling of melons grown in the production area and all rules, regulations and supplementary orders issued thereunder and the aforesaid order shall be a "subpart" of such "part".

COMMITTEE

§ _____.20 Establishment and membership.

(a) The South Texas Melon Marketing Board is hereby established. It shall consist of nine members of whom five shall be producers and four shall be handlers. For each member of the committee there shall be an alternate member who shall have the same qualifications as the member.

(b) Each committee member or alternate shall be an individual who is prior to his selection and during his term of office (1) a resident of the production area, and (2) a producer or a handler, or officer or employee of a producer or handler or of a producers' cooperative marketing organizations: *Provided*, That no person, if he handles melons, shall be eligible for selection as a producer member on said committee unless 51 percent or more of the melons handled by him during that fiscal period immediately preceding his proposed selection to the committee were of his own production, or unless such person is an officer or employee of a producers' cooperative marketing association.

§ _____.21 Selection.

Committee members and alternates shall be selected by the Secretary from the production area at large. Producers and handlers, respectively, shall submit nominees to the Secretary from which members and alternates may be selected.

§ _____.22 Terms of office.

(a) Except as otherwise provided in paragraph (b) of this section the terms of office of committee members and their respective alternates shall be for 2 years and shall begin as of March 1 and end the last day of February, or for such other 2-year period as the committee may recommend and the Secretary approve. The terms shall be so determined that approximately one-half of the total committee membership shall terminate annually. Committee members and alternates shall serve during the terms of office for which they are selected and have qualified, or during that portion thereof beginning on the date(s) on which they qualify during such term(s) of office and continuing until the end thereof, and until their successors are selected and have qualified.

(b) The terms of office of initial members and alternates shall begin on the effective date of this subpart. Approximately one-half the initial committee members and alternates shall serve for a 1-year term.

§ _____.23 Nominations.

Nominations for committee members and alternates may be made as follows:

(a) A meeting or meetings for election of nominees may be held for the production area at large;

(b) For nominations to the initial committee, the meetings may be sponsored by the U.S. Department of Agriculture or by any agency or group requested to do so by such department. For nominations for succeeding members and alternates on the committee, the committee shall hold such meetings or cause them to be held after the effective date of this subpart;

(c) At each such meeting at least one nominee shall be designated for each position as member and for each position as alternate member on the committee and eligible voters at such meetings may ballot to indicate the ranking of their choice for each nominee;

(d) Nominations for committee members and alternates shall be supplied to the Secretary at such time and in such manner and form as he may prescribe;

(e) Only producers may participate in designating producer nominees to committee membership and only handlers may participate in designating handler nominees to committee membership.

(f) Each person, whether producer or handler, is entitled to cast only one vote on behalf of himself, his agents, subsidiaries, affiliates, and representatives in designating nominees for committee members and alternates. An eligible voter's privilege of casting only one vote shall be construed to permit a voter to cast one vote for each position to be filled.

§ _____.24 Failure to nominate.

If nominations are not made within the time and in the manner specified pursuant to § _____.23 the Secretary may, without regard to nominations, select the committee members and alternates, which selections shall be on the basis of the representation provided for in § _____.20 or § _____.26.

§ _____.25 Acceptance.

Each person selected as a committee member or alternate shall qualify by filing a written acceptance with the Secretary within such time as the Secretary may prescribe.

§ _____.26 Vacancies.

To fill committee vacancies, the Secretary may select members or alternates from nominees on the current nominee list, or from nominations made in the manner specified in § _____.23. If the

names of nominees to fill any such vacancy are not made available to and within the time specified by the Secretary, such vacancy may be filled, by the Secretary, without regard to nominations.

§ _____.37 Alternate members.

An alternate member of the committee shall act in the place and stead of the member for whom he is an alternate, during such member's absence or when designated to do so by such member. In the event both a member of the committee and his alternate are unable to attend a committee meeting, the member or his alternate of the committee (in that order) may designate another alternate serving in the same capacity (i.e., producer or handler) to serve in such member's place and stead. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor of such member is selected and has qualified. The committee may request the attendance of alternates at any or all meetings, notwithstanding the expected or actual presence of the respective members.

§ _____.38 Procedure.

(a) Six members of the committee shall be necessary to constitute a quorum. Five concurring votes shall be required to pass any proposed committee action. At assembled meetings all votes shall be cast in person.

(b) The committee may meet by telephone, telegraph, or other means of communication and any vote cast at such a meeting shall be promptly confirmed in writing. On such occasions unanimous vote of all committee members shall be required to approve any proposed action.

§ _____.39 Expenses and compensation.

Committee members and alternates when acting on committee business shall be reimbursed for reasonable expenses necessarily incurred by them in the performance of their duties and in the exercise of committee powers under this subpart. In addition they may receive reasonable compensation at a rate to be determined by the committee and approved by the Secretary.

§ _____.30 Powers.

The committee shall have the following powers:

(a) To administer the provision of this part in accordance with its terms and provisions;

(b) To make rules and regulations to effectuate the terms and provisions of this part;

(c) To receive, investigate, and report to the Secretary complaints of violation of the provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

§ _____.31 Duties.

It shall be, among other things, the duty of the committee:

(a) As soon as practicable after the beginning of each term of office, to meet and organize, to select a chairman and such other officers and select subcommittees as may be necessary;

(b) To adopt bylaws, rules, and regulations for conducting its business as deemed necessary;

(c) To act as intermediary between the Secretary and any producer or handler;

(d) To furnish to the Secretary such available information as he may request;

(e) To appoint such employees, agents, and representatives as it may deem necessary, to determine the compensation and define the duties of each such person, and to protect the handling of committee funds through fidelity bonds;

(f) To investigate and to assemble data on the growing, harvesting, shipping, and marketing conditions with respect to melons;

(g) To notify handlers of each meeting of the committee to consider recommendations for regulations and of all regulatory actions taken which might affect producers or handlers and to provide such notification to producers through appropriate news releases or such other means as may be available to the committee;

(h) To give the Secretary the same notice of meetings of the committee and its subcommittees as is given to its members;

(i) To prepare a marketing policy;

(j) To recommend marketing regulations to the Secretary;

(k) To recommend rules and procedures for, and to make determinations in connection with, appropriate safeguards;

(l) To keep minutes, books, and records which clearly reflect all of the acts and transactions of the committee and such minutes, books, and records shall be subject to examination at any time by the Secretary or by his authorized agent or representative. Minutes of each committee meeting shall be reported promptly to the Secretary;

(m) At the beginning of each fiscal period, to prepare a budget of anticipated expenses for such fiscal period, together with a report thereon;

(n) To prepare periodic statements of the financial operations of the committee and to make copies of each such statement available to producers and handlers for examination at the office of the committee;

(o) To prepare and forward to the Secretary, prior to the last day of each fiscal period, an annual report, and make a copy available to each handler and producer who requests it. This annual report shall contain at least: (1) A complete review of the regulatory operations during the fiscal period; (2) an appraisal of the effect of such regulatory operations upon the melon industry; and (3) any recommendations for changes in the program;

(p) To cause the books of the committee to be audited by a competent accountant at least once each fiscal period, and at such other times as the committee may deem necessary or as the Secretary may request. The report of such audit shall show the receipt and expenditure of funds collected pursuant to this part. A copy of each such report shall be furnished to the Secretary and a copy of each such report shall be made available at the principal office of the committee for inspection by producers and handlers; and

(q) To consult, cooperate, and exchange information with other marketing order committees and other individuals or agencies in connection with all proper committee activities and objectives under this subpart.

EXPENSES AND ASSESSMENTS

§ _____.40 Expenses.

The committee is authorized to incur such expenses as the Secretary may find are reasonable and likely to be incurred during each fiscal period for its maintenance and functioning, and for such purposes as the Secretary, pursuant to § _____.41, determines to be appropriate. Each handler's share of such expense shall be proportionate to the ratio between the total quantity of melons handled by him as the first handler thereof during a fiscal period and the total quantity of melons handled by all handlers as first handlers thereof during such fiscal period.

§ _____.41 Budget.

As soon as practicable after the beginning of each fiscal period and as may be necessary thereafter, the committee shall prepare an estimated budget of income and expenditures necessary for the administration of this part. The committee may recommend a rate of assessment calculated to provide adequate funds to defray its proposed expenditures. The committee shall present such budget to the Secretary with an accompanying report showing the basis for its calculations.

§ _____.42 Assessments.

(a) The funds to cover the committee's expenses shall be acquired by the levying of assessments upon handlers as provided in (b) of this section. Each handler who first handles melons under this part shall pay assessments to the committee upon demand, which assessments shall be in payment of such handler's pro rata share of the committee's expenses.

(b) Assessments shall be levied upon handlers at rates established by the Secretary. Such rates may be established upon the basis of the committee's recommendations and other available information. Such rates may be applied to specified containers used in the production area.

(c) At any time during, or subsequent to, a given fiscal period the committee may recommend the approval of an amended budget and an increase in the rate of assessment. Upon the basis of such recommendation, or other available information, the Secretary may approve an amended budget and increase the rate of assessment. Such increase shall be applicable to all melons which were handled by the first handlers thereof during such fiscal period.

(d) The payments of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect, irrespective of whether particular provisions of this subpart are suspended or become inoperative.

§ _____.43 Accounting.

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:

(1) If such excess is not retained in a reserve, as provided in subparagraph (2) of this paragraph, it shall be refunded proportionately and to the extent practical to the persons from whom it was collected: *Provided*, That each handler may be credited with such refund, for the operations of the following fiscal period, unless he demands payment thereof, in which event such proportionate refund shall be paid to him;

(2) The committee, with the approval of the Secretary, may establish an operating monetary reserve, and may carry over into subsequently fiscal periods such excess in a reserve so established: *Provided*, That funds in the reserve shall not exceed approximately two fiscal period's expenses. Such reserve funds may be used by the committee (i) to defray expenses authorized pursuant to _____.40, (ii) to defray expenses, during any fiscal period, prior to the time assessment income is sufficient to cover such expenses, (iii) to cover deficits incurred during any fiscal period when assessment income is less than expenses, (iv) to defray expenses incurred during any period when any or all provisions of this part are suspended or are inoperative, and (v) to cover necessary expenses of liquidation in the event of termination of this part. Upon such termination, any funds not required to defray the necessary expenses of liquidation and after reasonable effort by the committee it is found impracticable to return such remaining funds to handlers from whom collected, such funds shall be disposed of in such manner as the Secretary may determine to be appropriate.

(b) All funds received by the committee pursuant to the provisions of this subpart shall be used solely for the purpose specified in this subpart and shall be accounted for in the manner provided for in this subpart. The Secretary may at any time require the committee and its members to account for all receipts and disbursements.

(c) Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds in his possession to the committee, and shall execute such assignments and other instruments as may be necessary and appropriate to vest in the committee full title to all of the property, funds, and claims vested in such member pursuant to this subpart.

(d) The committee may make recommendations to the Secretary for one or more of the members thereof, or any other person, to act as a trustee for holding records, funds, or any other committee property during periods of suspension of this subpart, or during any period or periods when regulations are not in effect; and, if the Secretary determines such action appropriate, he may direct that such person or persons shall act as trustee or trustees for the committee.

RESEARCH AND DEVELOPMENT

§ _____.48 Marketing research and development.

The committee, with the approval of the Secretary, may establish or provide for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of melons. The expenses of such projects shall be paid from funds collected pursuant to § _____.42.

REGULATIONS

§ _____.50 Marketing policy.

(a) Prior to or at the same time initial recommendations in any fiscal period are made pursuant to § _____.51, and as the Secretary may require, the committee shall prepare a marketing policy statement. Notice of such marketing policy shall be given to producers, handlers, and other interested parties by bulletins, newspapers, or other appropriate media, and copies thereof shall be submitted to the Secretary and shall be available at the committee office to all interested parties.

(b) Marketing policy statements relating to recommendations for regulations shall give appropriate consideration to melon supplies for the remainder of the season, with special consideration to:

(1) Estimates of total supplies including grade, size, and quality thereof, in the production area;

(2) Estimates of supplies of melons in competing areas;

(3) Estimates of supplies of other competing commodities;

(4) Market prices by grades, sizes, containers, and packs;

(5) Anticipated marketing problems;

(6) Level and trend of consumer income; and

(7) Other relevant factors.

§ _____.51 Recommendations for regulations.

Upon complying with the requirements of § _____.50, the committee may recommend regulations to the Secretary when it finds that such regulations as are authorized in this order will tend to effectuate the declared policy of the Act.

§ _____.52 Issuance of regulations.

(a) The Secretary shall limit by regulation the handling of melons when he finds from the recommendations and information submitted by the committee, or from other available information, that such regulations would tend to effectuate the declared policy of the Act.

(b) Such regulations may:

(1) Limit in any or all portions of the production area the handling of particular grades, sizes, maturities, qualities, or packs, or any combination thereof, of any or all varieties of melons during any period;

(2) Limit the handling of particular grades, sizes, maturities, qualities, or packs of melons differently for different varieties, for different markets, for different containers, or any combination of the foregoing, during any period;

(3) Provide a method to prescribe containers as to type, size, capacity, weight, dimension, or pack of the containers or any combination thereof, used in handling melons, through rules and regulations issued pursuant to this suppart;

(c) The regulations or any portions of such regulations issued hereunder may be amended, modified, suspended, or terminated by the Secretary whenever it is determined:

(1) That such action is warranted upon recommendation of the committee or other available information; or

(2) That such action is essential to provide relief from inspection, assessment or regulation under paragraph (b) of this section for minimum quantities less than such commercial transactions as are prescribed by the committee; or

(3) That regulations issued hereunder obstruct or no longer tend to effectuate the declared policy of the Act.

§ _____.54 Handling for special purposes.

Regulations in effect pursuant to § _____.42, § _____.52, or § _____.60 may be modified, suspended, or terminated by the Secretary, upon recommendation of the committee, to facilitate handling of melons for: (a) Relief or charity, (b) experimental purposes; (c) exports, and (d) other special purposes, which may be recommended by the committee and approved by the Secretary.

§ _____.55 Safeguards.

The committee, with the approval of the Secretary, may establish through rules and regulations, the requirements with respect to proof that shipments made pursuant to § _____.54 were handled and used for the purpose stated.

§ _____.56 Notification of regulation.

The Secretary shall promptly notify the committee of regulations issued and of any modification, suspension, or termination thereof. The committee shall give notice thereof, to all handlers of melons in the production area. In addition the committee shall make the information available to producers through appropriate news releases or such other means as may be available.

INSPECTION

§ _____.60 Inspection and certification.

(a) Whenever the handling of melons is regulated pursuant to § _____.52, or at other times when recommended by the committee and approved by the Secretary, no handler shall handle melons

unless they are inspected by an authorized representative of the Federal-State Inspection Service and are covered by a valid inspection certificate, except when relieved from such requirements pursuant to §_____.52(c) or §_____.54, or paragraph (b) of this section. The cost of such inspection shall be borne by the applicant.

(b) Regrading, resorting, repacking any lot of melons, or breaking any lot (without continuing identification of applicable inspection or subcertification thereof), shall invalidate any applicable inspection certificate insofar as the requirements of this section are concerned. No handler shall handle melons after a lot has been broken, regraded, repacked, or resorted, or in any other way additionally prepared for market, unless such melons are inspected by an authorized representative of the Federal or Federal-State Inspection Service. Such inspection requirements on regraded, resorted, repacked, or broken lots of melons may be modified, suspended or terminated upon recommendation by the committee, and approval of the Secretary.

(c) Upon recommendation of the committee and approval by the Secretary, any or all melons so inspected and certified shall be identified by appropriate seals, stamps, or tags, to be affixed to the melons and/or containers by the handler under the direction and supervision of a Federal or Federal-State inspector or the committee.

(d) Insofar as the requirements of this section are concerned, the length of time for which an inspection certificate is valid may be established by the committee with the approval of the Secretary.

(e) When melons are inspected in accordance with the requirements of this section, a copy of each inspection certificate issued shall be made available to the committee by the inspection service.

(f) The committee may recommend and the Secretary may require that no handler shall transport or cause the transportation of melons by motor vehicle or by other means unless such shipment is accompanied by a copy of the inspection certificate issued thereon, or such other documents as may be required by the committee. Such certificates or documents shall be surrendered to proper authorities at such a time and in such a manner as may be designated by the committee, with the approval of the Secretary.

REPORTS

§_____.80 Reports.

Upon request of the committee, made with the approval of the Secretary, each handler shall furnish to the committee, in such manner and form and at such time as it may prescribe, such reports and other information as may be necessary for the committee to perform its duties under this part.

(a) Such reports may include, but are not necessarily limited to, the following:

(1) The number of acres of melons and the approximate dates planted, for all melons which will be handled by each handler;

(2) The quantities of melons received by a handler;

(3) The quantities disposed of by him segregated as to the respective quantities subject to regulation and not subject to regulation;

(4) The date of each such disposition and the identification of the carrier transporting such melons; and

(5) Identification of the inspection certificates relating to the melons which were handled pursuant to §_____.52 or §_____.54 or both.

(b) All such reports shall be held under appropriate protective classification and custody by the committee, or duly appointed employee thereof, so that the information contained therein which may adversely affect the competitive position of any handler in relation to other handlers shall not be disclosed. Compilations of general reports from data submitted by handlers is authorized, subject to the prohibition of disclosure of individual handlers' identities or operations.

(c) Each handler shall maintain for at least two succeeding years such records and documents on melons received and melons disposed of by him as may be necessary to verify reports submitted to the committee pursuant to this section.

(d) For the purpose of verifying reports filed by handlers, the committee and the Secretary, through their duly authorized representatives, shall have access to any handler's premises during regular business hours, and shall be permitted on any such occasion to inspect such premises and any melons held by such handler, as well as any and all records of the handler pertinent to his acquisition, sales and shipments of melons. Each handler shall furnish all labor and equipment necessary to make such inspections.

COMPLIANCE

§_____.81 Compliance.

Except as provided in this subpart, no handler shall handle melons, the handling of which has been prohibited by the Secretary in accordance with provisions of this subpart, or the rules and regulations thereunder, and no handler shall handle melons except in conformity with the provisions of this part.

MISCELLANEOUS PROVISIONS

§_____.82 Right of the Secretary.

The members of the committee (including successors and alternates), and any agent or employee appointed or employed by the committee shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination or other act of the committee shall be subject to the continuing right of review by the Secretary to approve or disapprove thereof. In the event of such disapproval, the affected action of the said committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§_____.83 Effective time.

The provisions of this subpart, or any amendment thereto, shall become effective at such time as the Secretary may declare and shall continue in force until terminated in one of the ways specified in §_____.84.

§_____.84 Termination.

(a) The Secretary may, at any time, terminate the provisions of this subpart by giving at least 1 day's notice by means of a press release or in any other manner which he may determine.

(b) The Secretary may terminate or suspend the operation of any or all of the provisions of this subpart whenever he finds that such provisions do not tend to effectuate the declared policy of the Act.

(c) The Secretary shall terminate the provisions of this subpart at the end of any fiscal period whenever he finds that such termination is favored by a majority of producers who, during a representative period, have been engaged in the production of melons for market: *Provided*, That such majority has, during such representative period, produced for market more than 50 percent of the volume of such melons produced for market.

(d) The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§_____.85 Proceeding after termination.

(a) Upon the termination of the provisions of this subpart the then functioning members of the committee shall, for the purpose of liquidating the affairs of the committee, continue as joint trustees of all funds and property then in the possession of or under control of the committee, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(b) The said trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such persons as the Secretary may direct; and shall, upon request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such persons full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered by the committee or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of the committee and upon the said trustees.

§_____.86 Effect of termination or amendments.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart, or the issuance of any amendments to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulations issued under this subpart, or (b) release or extinguish any violation of this subpart or of any regulations issued under this subpart, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

§_____.87 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart, except with respect to acts done under and during the existence of this subpart.

§_____.88 Agents.

The Secretary may, by designation in writing, name any officer, employee, or any agency or division of the United States to act as his agent or representative in connection with any of the provisions of this subpart.

§_____.89 Derogation.

Nothing contained in this subpart is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the Act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§_____.90 Personal liability.

No member or alternate of the committee nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, agent, or employee, except for acts of dishonesty, willful misconduct or gross negligence.

§_____.91 Separability.

If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this subpart, or the applicability thereof to any other person, circumstance, or thing, shall not be affected thereby.

§_____.92 Amendments.

Amendments to this subpart may be proposed, from time to time, by the committee or by the Secretary.

§_____.93 Counterparts.[1]

This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original.

§_____.94 Additional parties.[1]

After the effective date hereof, any handler may become a party to this agreement if a counterpart is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.

§_____.95 Order with marketing agreement.[1]

Each signatory handler hereby requests the Secretary to issue, pursuant to the Act, an order providing for regulating the handling of melons in the same manner as is provided for in this agreement.

Copies of this notice of hearing may be obtained from David B. Fitz, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, 2217 North 10th Street, McAllen, Tex. 78501.

Dated: November 22, 1967.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 67-13881; Filed, Nov. 24, 1967; 8:48 a.m.]

[1] These sections apply only to the proposed marketing agreement and not to the proposed order.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 67-SO-109]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Meridian, Miss. (Key Field), control zone.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Area Manager, Memphis Area Office, Attention: Chief, Air Traffic Branch, Federal Aviation Administration, Post Office Box 18097, Memphis, Tenn. 38118. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The Meridian (Key Field) control zone described in § 71.171 (32 F.R. 2071) would be redesignated as:

Within a 5-mile radius of Key Field (latitude 32°19'56" N., longitude 88°45'08" W.); within 2 miles each side of the Meridian ILS localizer south course, extending from the 5-mile radius zone to the Meridian RBN; within 2 miles each side of the Meridian VORTAC 135° radial, extending from the 5-mile radius zone to 13 miles southeast of the VORTAC; within 2 miles each side of the Meridian VORTAC 155° radial, extending from the 5-mile radius zone to 13.5 miles southeast of the VORTAC; within 2 miles each side of the Meridian VORTAC 310° radial, extending from the 5-mile radius zone to 6 miles northwest of the airport.

The proposed additional control zone extension predicated on the Meridian VORTAC 135° radial would provide required controlled airspace protection for IFR aircraft executing the new JAL-354-TACAN standard instrument approach procedure to Key Field during descent below 1,000 feet above the surface.

The official docket will be available for examination by interested persons at the Southern Regional Office, Federal Aviation Administration, Room 724, 3400 Whipple Street, East Point, Ga.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348 (a)).

Issued in East Point, Ga., on November 13, 1967.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 67-13869; Filed, Nov. 24, 1967; 8:45 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[Antidumping—ATS 643.2-m]

TITANIUM SPONGE FROM U.S.S.R.

Antidumping Proceeding Notice

NOVEMBER 20, 1967.

On September 7, 1967, information was received in proper form pursuant to the provisions of § 14.6(b) of the Customs Regulations indicating a possibility that titanium sponge imported from the U.S.S.R. is being, or likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

The information was submitted by Senator Alan Bible, on behalf of Titanium Metals Corporation of America, New York, N.Y.

Ordinarily, merchandise is considered to be sold at less than fair value when the net, f.o.b. factory price for exportation to the United States is less than the net, f.o.b. factory price to purchasers in the home market, or, where appropriate, to purchasers in other countries, after due allowance is made for differences in quantity and circumstances of sale.

Having conducted a summary investigation, and having determined on this basis that there are grounds for so doing, the Bureau of Customs is instituting an inquiry pursuant to the appropriate provisions of the Customs Regulations to determine the validity of the information.

A summary of information received from all sources is as follows:

Information before the Bureau of Customs indicates that titanium sponge from the U.S.S.R. is being sold to the United States at prices which are lower than the prices of the merchandise exported to the United States from countries having a noncontrolled economy.

This notice is published pursuant to § 14.6(d)(1)(i) of the Customs regulations (19 CFR 14.6(d)(1)(i)).

[SEAL] LESTER D. JOHNSON,
Commissioner of Customs.

[F.R. Doc. 67-13812; Filed, Nov. 24, 1967; 8:46 a.m.]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

KALISPEL INDIAN RESERVATION, WASH.

Ordinance Legalizing Introduction, Sale or Possession of Intoxicants

Pursuant to the Act of August 15, 1953 (Public Law 277, 83d Cong., 1st sess.; 67 Stat. 586), I certify that the following ordinance relating to the application of the Federal Indian liquor laws on the Kalispel Indian Reservation was duly enacted by the Kalispel Business Committee which has jurisdiction over the area of Indian country included in the ordinance:

This ordinance duly adopted by Resolution No. 67-31 dated by the Kalispel Business Committee on June 14, 1967, the duly authorized and recognized governing body of the Kalispel Indian Community, an Indian Tribe having accepted the provisions of the Indian Reorganization Act of June 18, 1934 (48 Stat. 988; 25 U.S.C. sec. 478).

WHEREAS, the Kalispel Indian Community is adopting a Law and Order Code and finds that it has never adopted the requisite ordinance to implement its wish to legalize and control the sale and possession of intoxicating beverages on its reservation, now, therefore,

BE IT RESOLVED: That the Kalispel Indian Community, acting by and through its Business Committee, does hereby adopt the following ordinance relating to the application of the Federal Indian liquor laws on the Kalispel Reservation.

WHEREAS, Public Law 277, 83d Congress, approved August 15, 1953, provides that sections 1154, 1156, 3113, 3488, and 3618 of Title 18, United States Code, commonly referred to as the Federal Indian liquor laws, shall not apply to any act or transaction within any area of Indian country provided such act or transaction is in conformity with both the laws of the State in which such act or transaction occurs and with an ordinance duly adopted by the tribe having jurisdiction over such area of Indian country, certified by the Secretary of the Interior, and published in the FEDERAL REGISTER.

THEREFORE, be it resolved that the introduction, sale, or possession of intoxicating beverages shall be lawful within the Indian country under the jurisdiction of the Kalispel Indian Community; *Provided*, That such introduction, sale, or possession is in conformity with the laws of the State of Washington, and with applicable provisions of the Kalispel Law and Order Code and any further tribal rules and regulations which the governing body of the Kalispel Indian Community may enact from time to time.

Be it further resolved that any tribal laws, resolutions or ordinances heretofore enacted which prohibit the sale, introduction, or possession of intoxicating beverages are hereby repealed.

CERTIFICATION

The foregoing ordinance was on June 14, 1967, duly adopted by a vote of 3 for and 0 against, by the Business Committee of the Kalispel Indian Community.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

NOVEMBER 20, 1967.

[F.R. Doc. 67-13806; Filed, Nov. 24, 1967; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

HUMANELY SLAUGHTERED LIVESTOCK

Identification of Carcasses; Changes in Lists of Establishments

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1904), and the statement of policy thereunder in 9 CFR 381.1, the lists (32 F.R. 11943, 13630, 13780, and 15125) of establishments which are operated under Federal inspection pursuant to the Meat Inspection Act (21 U.S.C. 71 et seq.) and which use humane methods of slaughter and incidental handling of livestock are hereby amended as follows:

The reference to cattle and calves with respect to Beeville Packing Co., Establishment 377 is deleted.

The following table lists species at additional establishments and additional species at previously listed establishments that have been reported as being slaughtered and handled humanely.

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses
Parnell Packing Co.	257	(*)					
Texas-Continent Packing Co.	P-668						(*)
Two Toe Packing Co.	2004					(*)	
New establishments reported: 8.							
Cash Bros. Packing Co., Inc.	127				(*)		
Silver Falls Packing Co., Inc.	153			(*)			
D & W Packing Co.	560		(*)				
Western Meat Packers, Inc.	962				(*)		
Walden Packing Co., Inc.	998		(*)	(*)			
Species added: 6.							

Done at Washington, D.C., this 20th day of November 1967.

R. K. SOMERS,
Deputy Administrator, Consumer Protection, Consumer and Marketing Service.

[F.R. Doc. 67-13821; Filed, Nov. 24, 1967; 8:47 a.m.]

Office of the Secretary

MASSACHUSETTS, NEW HAMPSHIRE, AND RHODE ISLAND

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the States of Massachusetts, New Hampshire, and Rhode Island, natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies or other responsible sources.

MASSACHUSETTS

Barnstable.	Nantucket.
Bristol.	Norfolk.
Dukes.	Plymouth.

NEW HAMPSHIRE

Rockingham.	Strafford.

RHODE ISLAND

Bristol.	Providence.
Kent.	Washington.
Newport.	

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1968, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 20th day of November 1967.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 67-13811; Filed, Nov. 24, 1967; 8:46 a.m.]

Packers and Stockyards Administration

WERLINE & HALBLEIB ET AL.

Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), on the respective dates specified below, it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notice at the stockyards as required by said section 302.

Name, location of stockyard, and date of posting

INDIANA

Werline & Halbleib, Bushville, Oct. 5, 1967.

MISSOURI

City Scales, West Plains, Oct. 10, 1967.

SOUTH CAROLINA

Bennettsville Stock Yards, Bennettsville, Oct. 25, 1967.

TEXAS

Angleton Livestock Commission Co., Inc., Angleton, Oct. 11, 1967.

Live Oak Livestock Auction, Three Rivers, Oct. 16, 1967.

Done at Washington, D.C., this 16th day of November 1967.

G. H. HOPPER,
Acting Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[F.R. Doc. 67-13823; Filed, Nov. 24, 1967; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Maritime Administration

AMERICAN EXPORT ISBRANDTSEN LINES, INC.

Notice of Application

Notice is hereby given that by letter dated November 3, 1967, American Export Isbrandtsen Lines, Inc., applied for approval under the provisions of its Operating-Differential Subsidy Agreements, Contracts Nos. FMB-87 and MA/MSB-52, to participate, through a subsidiary, in a joint venture agreement with a wholly owned subsidiary of an Italian company, Cantiere Navale Leopoldo Rodriquez. The joint venture, which will be known as Golden Arrow Hydrofoil Co., will provide daily passenger service by means of a hydrofoil vessel, registered under the Italian flag, between ports in the U.S. Virgin Islands and ports in the Commonwealth of Puerto Rico. The Golden Arrow Hydrofoil Co. will enter into a 5-month Time Charter with Societa Navigazione Alta Velocita (a related company of Cantiere Navale Leopoldo Rodriquez) the owner of the hydrofoil vessel "Freccia Delle Isole."

Any person, firm, or corporation having an interest in this application, who desires to offer views and comments thereon for consideration by the Maritime Administration, should submit same in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C., by the close of business on December 7, 1967. The Maritime Administration will consider these views and comments and take such action with respect thereto as may be deemed appropriate.

Dated: November 21, 1967.

By order of the Acting Maritime Administrator.

JAMES S. DAWSON, JR.,
Secretary.

[F.R. Doc. 67-13830; Filed, Nov. 24, 1967; 8:48 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-156]

UNIVERSITY OF WISCONSIN

Notice of Issuance of Amended Facility License

No request for a hearing or petition for leave to intervene having been filed following publication of the notice of proposed action in the FEDERAL REGISTER on June 15, 1967 (32 F.R. 8627), the Commission has issued, in the form set forth in that notice, Amendment No. 8 to Facility License No. R-74 to the University of Wisconsin.

The amended license authorizes the University to operate the University of Wisconsin Nuclear Reactor, located on the campus at Madison, Wis., at power levels up to 1,000 kilowatts (thermal) with the modified core and control system installed in accordance with Construction Permit No. CPRR-67.

Dated at Bethesda, Md., this 13th day of November 1967.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director of Reactor Operations, Division of Reactor Licensing.

[F.R. Doc. 67-13800; Filed, Nov. 24, 1967; 8:45 a.m.]

[Docket No. 50-134]

WORCESTER POLYTECHNIC INSTITUTE

Notice of Issuance of Amended Facility License

No request for hearing or petition for leave to intervene having been filed following publication of the notice of proposed action in the FEDERAL REGISTER on October 28, 1967 (32 F.R. 14979), the Commission has issued, in the form set forth in that notice, Amendment No. 4 to Facility License No. R-61 to Worcester Polytechnic Institute.

The amended license authorizes the Institute to operate its pool-type research reactor located on the campus at Worcester, Mass., at an increased power level of up to 10 kilowatts (thermal) and to use additional fuel elements and certain types of movable experiments in the reactor. The amended license also incorporates Technical Specifications for operation of the reactor.

Dated at Bethesda, Md., this 14th day of November 1967.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[F.R. Doc. 67-13801; Filed, Nov. 24, 1967; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 17733; FCC 67M-1947]

ROY E. CARLISLE

Order Continuing Hearing

In the matter of Roy E. Carlisle, Portland, Oreg., Docket No. 17733; order to show cause why the license for Radio Station KNC-2637 in the citizens radio service should not be revoked:

It is ordered, That the order of the Chief Hearing Examiner, released October 19, 1967 (FCC 67M-1770), to the

extent that it provides for commencement of the hearing in the above-entitled proceeding on December 13, 1967, is hereby set aside, and the said hearing shall be convened at a time and place to be announced in another order: *And, it is further ordered*, That the ruling on respondent's request of November 9, 1967, for field hearing in the proceeding, is held in abeyance.

Issued: November 17, 1967.

Released: November 20, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13819; Filed, Nov. 24, 1967; 8:46 a.m.]

[Docket No. 17861; FCC 67-1230]

GENERAL ELECTRIC CABLEVISION CORP.

Memorandum Opinion and Order Instituting Hearing

In re petition by General Electric Cablevision Corp., Merced, Calif., Docket No. 17861, File No. CATV 100-62; for authority pursuant to § 74.1107 of the rules to operate a CATV system in the Fresno, Calif., television market (ARB 90).

1. General Electric Cablevision Corp. requests either that a declaratory ruling be issued that the provisions of Rule 74.1107 are not applicable or that a waiver of hearing be granted to permit operation of its proposed CATV system at Merced, Calif.,[1] located in the Fresno, Calif., market (ARB 90). The system would carry: The Grade B or better signals of Channels 24 (NBC), 30 (CBS), 43 (independent, with some NBC–CBS programing), and 47 (ABC), all in Fresno; Channel 11 (ABC), San Jose, and Channel 8 (CBS–NBC), Salinas-Monterey; and the distant signals of Channels 2 (Ind.), 9 (Educ.), 7 (ABC), 5 (CBS), and 4 (NBC), all San Francisco, and Channel 19 (Ind.), Modesto.[2]

2. The Fresno market has a total net weekly circulation of 216,100. Channel assignments in the market and their status are: *18 (application pending), 24 (NBC), 30 (CBS), 47 (ABC), and 53 (Ind.), Fresno; 43 (NBC–CBS), Visalia (Fresno); *27 (idle), Coalinga; 21 (Ind.), Hanford. The city of Merced (20,068) in Merced County (90,446) is located approximately 60 miles from Fresno (133,929), Fresno County (365,945). Channel 30 (CBS), Fresno, is the only station placing a Grade A contour over Merced County. That contour penetrates the city of Merced to a distance of about 2½ miles, and covers an area in which only a cannery is now located. General Electric contends that this area has no dwellings and is not a part of the proposed CATV system. Its CATV system, it argues, would have no adverse impact upon local television, would aid reception, and would provide a choice of programs not presently available.[3]

3. Our top-100 market policy, embodied in § 74.1107 of the rules, is designed to preserve the essential area upon which development of local stations must rely. It appears here that the area involved, the cannery property, is not relevant to UHF operations since it does not presently house an audience. On the other hand, subscribers to the system would gain substantial benefits, as described above, from its proposed operation. In these circumstances, we can see no purpose in an evidentiary hearing and will authorize the proposed operation in part. See Gainesville Cablevision Corporation, 10 RR 2d 252. However, this case is partially distinguishable from Gainesville since there appears to be no physical impediment to future growth in the area which could bring population and subscribers within the critical Grade A area. Consequently, we will not without hearing authorize carriage of the commercial San Francisco stations which could have greatest impact on local UHF growth. But in order to lessen the impact of this decision on the petitioner, we will permit it without further proceedings to carry the remaining Fresno signals should it wish to do so.

Accordingly, it is ordered, That the provisions of § 74.1107 of the Commission's rules are waived to the extent indicated above, and that General Electric Cablevision Corp. is authorized to operate carrying the indicated television signals.

It is further ordered, That with respect to General Electric Cablevision Corp.'s proposal to carry commercial television signals from San Francisco, hearing is ordered pursuant to sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended, and § 74.1107 of the Commission's rules, on the following issues:

1. To determine the present and proposed penetration and extent of CATV service in the Fresno market.

2. To determine the effects of current and proposed CATV service in the Fresno market upon existing, proposed, and potential television broadcast stations in the market.

3. To determine (a) the present policy and proposed future plans of petitioner with respect to the furnishing of any service other than the relay of the signals of broadcast stations; (b) the potential for such services; and (c) the impact of such services upon television broadcast stations in the market.

4. To determine in light of the above whether the proposal is consistent with the public interest.

It is further ordered, That General Electric Cablevision Corp. is made a party to this proceeding and, to participate, must comply with the applicable provisions of § 1.221 of the Commission's rules.

It is further ordered, That the petition of General Electric Cablevision Corp. is granted to the extent indicated, and otherwise is denied.

The burden of proof with respect to issues 1, 2, and 3 is upon General Electric Cablevision Corp. A time and place for the hearing will be specified in another order.

Adopted: November 9, 1967.

Released: November 21, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[4]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13820; Filed, Nov. 24, 1967; 8:47 a.m.]

[1] We do not consider in this memorandum opinion and order petitioner's proposed CATV system at Atwater, Calif.

[2] Two of the Fresno market signals, Channels 21 (Hanford) and 53 (Fresno), both independent, are distant as to Merced, and carriage is not proposed of these stations.

[3] Opposition of McClatchy Newspapers has been withdrawn on condition that General Electric Cablevision Corp. carry the signal of Station KMJ-TV on its system and protect it from duplication consistent with the provisions of § 74.1103 (f) and (g) of the Commission's rules.

[4] Commissioner Bartley absent and Commissioner Loevinger concurring in the result.

FEDERAL MARITIME COMMISSION

CITY OF OAKLAND AND MARINE TERMINALS CORP.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609 or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. J. Kerwin Rooney, Port Attorney, Port of Oakland, 66 Jack London Square, Oakland, Calif. 94607.

Agreements Nos. T-1908-2 and T-1908-3 between the city of Oakland (City) and Marine Terminals Corp. (MTC) modify the basic agreement which provides for the nonexclusive preferential assignment to MTC of certain premises in the "Port Area" of Oakland, Calif. The purpose of the modification is to

(1) Provide for an extension of the term of the agreement;

(2) Provide for financial participation by MTC in the cost of modifications being performed by the City to the shipside dust collection system;

(3) Provide for the maintenance and servicing of a bulk handling facility;

(4) Enlarge the leased premises; and

(5) Add a bulk commodity bagging facility to the assigned area.

Dated: November 21, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-13824; Filed, Nov. 24, 1967; 8:47 a.m.]

CONTAINERSHIPS, LTD., AND LYKES BROS. STEAMSHIP CO., INC.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. W. J. Amoss, Jr., Vice President, Traffic Division, Lykes Bros. Steamship Co., Inc., 821 Gravier Street, New Orleans, La. 70150.

Agreement 9676, between Containerships, Ltd., and Lykes Bros. Steamship Co. Inc., covers the transportation and interchange of cargo in containers and other unit loads moving under through bills of lading between ports in the U.S. Gulf Ports and ports in Sweden, Denmark, and Finland with transshipment at ports in the Le Havre/Hamburg/United Kingdom range in accordance with the terms and conditions set forth therein.

Dated: November 21, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-13825; Filed, Nov. 24, 1967; 8:47 a.m.]

MOORE-McCORMACK LINES, INC., AND FARRELL LINES, INC.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. J. D. Straton, Jr., Moore-McCormack Lines, Inc., 2 Broadway, New York, N.Y. 10004.

Agreement 9454-1, between Moore-McCormack Lines, Inc., and Farrell Lines, Inc., modifies the basic through billing arrangement by including the Republic of Somalia as an additional trade area within the general geographic scope of the approved existing agreement. In addition, cargoes for the ports of Somalia may also be transshipped at ports in Tanzania and Kenya in accordance with the terms and conditions set forth in the agreement.

Dated: November 21, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-13827; Filed, Nov. 24, 1967; 8:47 a.m.]

[Independent Ocean Freight Forwarder License 1125]

LOUIS V. DE MALIO

Order of Revocation

Whereas, Louis V. De Malio, 1420 Avenue R, Brooklyn, N.Y. 11229, has ceased to operate as an Independent Ocean Freight Forwarder; and

Whereas, Louis V. De Malio, has returned his Independent Ocean Freight Forwarder License No. 1125 to the Commission for revocation,

Now, therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (revised), § 6.03:

It is ordered, That the Independent Ocean Freight Forwarder License No. 1125 of Louis V. De Malio, be and is hereby revoked, effective this date.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served on the licensee.

JOHN F. GILSON,
Deputy Director,
Bureau of Domestic Regulation.

[F.R. Doc. 67-13826; Filed, Nov. 24, 1967; 8:47 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-6913, etc.]

ASHLAND OIL & REFINING CO. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

NOVEMBER 16, 1967.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service heretofore authorized as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 11, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no protest or petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given: *Provided, however*, That pursuant to 18 CFR 2.56 as amended, all permanent certificates of public convenience and necessity granting applications, filed after July 2, 1967, without further notice, will contain a condition precluding any filing of an increased rate at a price in excess of that designated for the particular area of production for the period prescribed therein

[1] This notice does not provide for consolidation for hearing of the several matters covered herein, nor should it be so construed.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
CI68-617 A 11-2-67	Texaco, Inc., Box 52332, Houston, Tex. 77052.	Lone Star Gas Co., Willow Springs Field, Gregg County, Tex.	[1] 15.0	14.65
CI68-618 A 11-2-67	Mid-East Oil Co., Oliver Bldg., Pittsburgh, Pa. 15222.	Consolidated Gas Supply Corp., Grabill Township, Jefferson County, Pa.	27.5	15.325
CI68-619 A 11-2-67	Franklin Adkins, 2039 Adams Ave., Huntington, W. Va. 25701.	Consolidated Gas Supply Corp., Glenville District, Gilmer County, W. Va.	26.0	15.325
CI68-620 A 11-2-67	Gulf Oil Corp., Post Office Box 1589, Tulsa, Okla. 74102.	United Gas Pipe Line Co., Mustang Island Area, Offshore Nueces County, Tex.	17.0	14.65
CI68-622 E 11-2-67	Morris Oil & Gas Co., Graniteville, W. Va. 26161.	Consolidated Gas Supply Corp., Lee District, Calhoun County, W. Va.	Uneconomical	
CI68-623 A 11-2-67	Tennessee Oil Co., Post Office Box 2511, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., Putnam Field, Dewey County, Okla.	14.0	14.65
CI68-624 A 11-2-67	Edison J. Parsons et al., Ripley, W. Va. 25271.	Consolidated Gas Supply Corp., Ripley District, Jackson County, and Union District, Mason County, W. Va.	[3] 27.0	15.325
CI68-625 A 11-2-67	Mesa Petroleum Co. (Operator) et al., Post Office Box 2009, Amarillo, Tex. 79105.	Michigan Wisconsin Pipe Line Co., Northeast Sentinel Field, Beaver County, Okla.	(5)	14.65
CI68-627 A 11-2-67	Jamaco Properties, Inc., Post Office Box 660, Alexandria, La. 71301.	Consolidated Gas Supply Corp., Salt Lick District, Braxton County, W. Va.	26.0	15.325
CI68-628 A 11-2-67	Mid American Exploration Co. et al., 624 Ohio Valley Bldg., Spencer, W. Va. 25276.	Consolidated Gas Supply Corp., Cove District, Doddridge County, W. Va.	26.0	15.325
CI68-629 B 10-30-67	Clark Oil & Refining Co., 8530 National Ave., Milwaukee, Wis. 53227.	Kansas-Nebraska Natural Gas Co., Inc., Otis Field, Washington County, Colo.	(6)	----

[1] Buyer does not have the pipeline capacity nor facilities to take or market additional gas from subject acreage. This sale will be considered as a sale from Panhandle to the "et al." parties under Panhandle's FPC GRS No. 3, Docket No. G-8626 (covering resale of the gas to Colorado Interstate Gas Co.).
[2] Panhandle et al. resells the gas under its FPC GRS No. 3 (formerly Ashland's FPC GRS No. 107) to Colorado Interstate.
[3] Deletes acreage assigned to J. P. Morris.
[4] Deletes acreage assigned to Champlin Petroleum Co. et al.
[5] Deletes acreage assigned to Cities Service Gas Co. et al.
[6] Deletes increase per Mcf; compression charge.
[7] Subject to upward and downward B.t.u. adjustment.
[8] Contract rate is 16 cents per Mcf; however, Applicant states its willingness to accept permanent certificate at 15 cents per Mcf.
[9] Includes 2 cents per Mcf gathering and transportation charge.
[10] Contract rate is 19.5 cents per Mcf; however, Applicant states its willingness to accept permanent certificate at 15 cents per Mcf.
[11] Acreage released.

[F.R. Doc. 67-13787; Filed, Nov. 24, 1967; 8:45 a.m.]

FEDERAL RESERVE SYSTEM

MARINE CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made to the Board of Governors of the Federal Reserve System pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)), by The Marine Corp., which is a bank holding company located in Milwaukee, Wis., for the prior approval of the Board of the acquisition by Applicant of 80 percent or more of the voting shares of Germantown State Bank, Germantown, Wis.

Section 3(c) of the Act provides that the Board shall not approve (1) any acquisition or merger or consolidation under this section which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or (2) any other proposed acquisition or merger or consolidation under this section whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Public access to the application may be had at the office of the Board of Governors or the Federal Reserve Bank of Chicago.

Dated at Washington, D.C., this 17th day of November 1967.

By order of the Board of Governors.

[SEAL] MERRITT SHERMAN, *Secretary.*

[F.R. Doc. 67-13803; Filed, Nov. 24, 1967; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[70-4557]

COLUMBIA GAS SYSTEM, INC., ET AL.

Notice of Proposed Open Account Advances and Intrasystem Issuance and Acquisition of Installment Notes

NOVEMBER 20, 1967.

In the matter of The Columbia Gas System, Inc., 120 East 41st Street, New York, N.Y. 10017; United Fuel Gas Co.; Atlantic Seaboard Corp.; Columbia Gas of Kentucky, Inc.; Virginia Gas distribution Corp.; Kentucky Gas Transmission Corp.; Columbia Gas of Ohio, Inc.; The Ohio Fuel Gas Co.; The Ohio Valley Gas Co.; The Manufacturers Light and Heat Co.; Cumberland and Allegheny Gas Co.; Home Gas Co.; Columbia Gas of New York, Inc.; Columbia Gas of Pennsylvania, Inc.; Columbia Gas of Maryland, Inc.; Columbia Gulf Transmission Co.; Columbia Hydrocarbon Corp.; and The Inland Gas Co., Inc.

Notice is hereby given that The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and its wholly owned subsidiary companies listed above have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 6(b), 9, 10, and 12(b) of the act and Rule 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which, is summarized below, for a complete statement of the proposed transactions.

During the winter heating season, certain of Columbia's operating subsidiary companies, particularly the distribution companies, generate substantial cash in excess of current requirements. Formerly, such excess funds were generally invested by these operating subsidiaries in U.S. Government Treasury Bills until such time as the cash was required for construction and other corporate purposes. Since the transmission subsidiaries generate smaller amounts of excess cash during such months than the distribution subsidiaries and their construction expenditures are generally larger, Columbia had been advancing such subsidiaries funds under Commission authorization while other subsidiaries had cash considerably in excess of current requirements. For the past 5 years, however, the Commission has authorized open account advances by Columbia to subsidiary companies and certain related transactions which are designed to alleviate this situation. The present filing requests authorization to continue these transactions during the calendar year 1968, as follows.

It is proposed that the subsidiary companies listed below will, in accordance with the exemptive provisions of Rule 42(b)(2) under the Act, prepay with excess cash, from time to time prior to the end of 1968, a portion of their outstanding installment promissory notes held by Columbia. The notes prepaid will not exceed the following amounts, which represent the maximum excess funds that such companies are expected to accumulate at any one time during the year 1968:

Columbia Gas of Pennsylvania, Inc.	$10,000,000
The Manufacturers Light and Heat Co.	10,000,000
Columbia Gas of New York, Inc.	2,500,000
Columbia Gas of Maryland, Inc.	1,500,000
Cumberland and Allegheny Gas Co.	1,800,000
Home Gas Co.	1,800,000
Atlantic Seaboard Corp.	10,000,000
Columbia Gas of Kentucky, Inc.	3,000,000
United Fuel Gas Co.	40,000,000
Virginia Gas Distribution Corp.	2,000,000
The Ohio Fuel Gas Co.	25,000,000
Columbia Gas of Ohio, Inc.	40,000,000
The Ohio Valley Gas Co.	5,000,000
Columbia Gulf Transmission Corp.	10,000,000
Kentucky Gas Transmission Corp.	3,000,000
Columbia Hydrocarbon Corp.	1,550,000
The Inland Gas Co., Inc.	250,000
Total	166,900,000

The notes prepaid by the individual companies will be those bearing the highest interest rate or rates outstanding at the time of each prepayment. As any of such companies require funds for construction and other corporate purposes after prepayment, it is proposed that advances be made to them on open account by Columbia, provided that at no time will the amount of such advances to any subsidiary exceed the amount of notes theretofore prepaid by it, less any current maturities applicable to such notes which would have matured subsequent to the date of prepayment.

Open account loans to any subsidiary will bear interest at the same rate or rates as borne by the equivalent principal amounts of notes previously prepaid by it during 1968, but in reverse order to that of the prepayments, i.e., working up from the lowest rate payable on the notes previously prepaid to the highest rate. The proposed advances on open account to individual subsidiaries will be increased or decreased from time to time in accordance with variations in the cash flow of the individual subsidiaries. At such time as the advances to any subsidiary equal the aggregate amount of the notes prepaid by it or, in any event, not later than December 31, 1968, such prepaid notes will be reissued to and acquired by Columbia in repayment of the outstanding open account loans.

No financing of any operating subsidiary which may be presently or subsequently authorized by the Commission in connection with the construction or gas storage programs of any such subsidiary will be consummated until such time as advances have been made equal to the amount of notes prepaid. Any subsidiary not requiring financing during 1968 and which has borrowed on open account from Columbia an amount smaller than the amount of notes theretofore prepaid by it, will, on December 31, 1968, reissue its notes to Columbia in an amount sufficient to discharge its open account indebtedness, and the balance of its prepaid notes will be considered to have been permanently prepaid. Such permanent prepayment would be applied against notes bearing the highest interest rates and would be consummated only with respect to notes bearing interest at a rate equal to or in excess of the rate applicable to notes being acquired by Columbia from subsidiary companies as at December 31, 1968. In the event that a permanent prepayment by any subsidiary would be indicated with respect to notes bearing an interest rate less than said rate at December 31, 1968, such notes will be reissued by the subsidiary at or before the end of 1968, in order to preserve the lower interest rate of the notes scheduled for permanent prepayment.

It is stated that the proposed transactions are designed to utilize effectively aggregate system funds and to achieve

the following: (1) Prepayment of inventory loans with commercial banks at an earlier date, (2) deferment of outside financing until aggregate system funds approach a minimum balance, and (3) facilitation of the internal financing of emergency requirements. In addition, operating subsidiaries having excess funds will be able, through the prepayment of installment promissory notes, to decrease their own net corporate interest expense during the period such funds are not required.

The application-declaration states that expenses to be incurred by Columbia and its subsidiaries in connection with the proposed transactions are estimated at $100 and $600, respectively, and that $550 of these aggregate expenses are for services, at cost, to be provided by Columbia Gas System Service Corp.

It is further stated that the State commissions of West Virginia, Kentucky, Virginia, and New York have jurisdiction over various aspects of the proposed transactions; that the requisite orders have been obtained from the Public Service Commission of New York, the Public Service Commission of Kentucky, and the State Corporation Commission of Virginia; that appropriate applications will be filed with the Public Services Commission of West Virginia; and that copies of the applications to and the subsequent orders of the last named State commission will be filed by amendment to the application-declaration.

Notice is further given that any interested person may, not later than December 20, 1967, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed contemporaneously with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13816; Filed, Nov. 24, 1967; 8:46 a.m.]

FASTLINE, INC.

Order Suspending Trading

NOVEMBER 17, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Fastline, Inc., New York, N.Y., otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15 (c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 19, 1967, through November 28, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13817; Filed, Nov. 24, 1967; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 497]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 21, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 95084 (Sub-No. 65 TA), filed November 16, 1967. Applicant: HOVE TRUCK LINE, Stanhope, Iowa 50246. Applicant's representative: Kenneth F. Dudley, 801 Scuth Madison Avenue, Post Office Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and agricultural implements and parts*, from Kewanee, Ill., to points in Alabama, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Virginia, and West Virginia, for 180 days. Supporting Shipper: Kewanee Machinery & Conveyor Co., Kewanee, Ill. Send protests to: Ellis L. Annett, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 227 Federal Office Building, Des Moines, Iowa.

No. MC 107403 (Sub-No. 734 TA), filed November 15, 1967. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferrous sulphate*, in bulk, in dump vehicles, from Piney River, Va., to points in Maryland, Pennsylvania, West Virginia, Kentucky, Tennessee, and North Carolina, for 180 days. Supporting shipper: American Cyanamid Co., Wayne, N.J. Send protests to: Ross A. Davis, District Supervisor, 900 U.S. Customhouse, Second and Chestnut Streets, Philadelphia, Pa. 19106.

No. MC 107403 (Sub-No. 735 TA), filed November 15, 1967. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Decalcium phosphate*, feed grade, in bulk, in dump vehicles, from Trenton, Mich., to Napoleon, Ohio, for 180 days. Supporting shipper: Monsanto Co., St. Louis, Mo. Send protests to: Ross A. Davis, District Supervisor, 900 U.S. Customhouse, Second and Chestnut Streets, Philadelphia, Pa. 19106.

No. MC 107515 (Sub-No. 596 TA), filed November 16, 1967. Applicant: REFRIGERATED TRANSPORT CO., INC., Jonesboro Road SE., Post Office Box 10799, Station A, 3901, Atlanta, Ga. 30310. Applicant's representative: B. L. Gundlach (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Madison, Wis., to Harlan, Ky., for 180 days. Supporting shipper: Oscar Mayer & Co., Inc., Madison, Wis. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 111401 (Sub-No. 288 TA), filed November 15, 1967. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, Post Office Box 632, Enid, Okla. 73701. Applicant's representative: Max E. Barton (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied helium*, in bulk, in shipper-owned trailers, from Amarillo, Tex., to Newark, N.J., for 180 days. Supporting shipper: Union Carbide Corp., E. T. Woods, Traffic Assistant, 270 Park Avenue, New York, N.Y. 10017. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 350, American General Building, 210 Northwest Sixth, Oklahoma City, Okla. 73102.

No. MC 118452 (Sub-No. 4 TA), filed November 15, 1967. Applicant: ARCTIC MOTOR FREIGHT, INC., Box 6243 Annex, Anchorage, Alaska 99502. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drilling mud compounds*, in bulk, from Crown Points, Alaska, to points in Alaska, for 180 days. Supporting shippers: IMC Drilling Mud, 1901 Tidewater Road, Anchorage, Alaska 99501; Baroid Division, National Lead Co., Alaska Aggregate Dock Anchorage, Alaska 99501; Dresser Magcobar, 329 F Street, Anchorage, Alaska 99501. Send protests to: District Supervisor, Hugh H. Chaffee, Interstate Commerce Commission, Bureau of Operations, Box 1532, Anchorage, Alaska 99501.

No. MC 128473 (Sub-No. 7 TA), filed November 16, 1967. Applicant: MONTANA EXPRESS, INC., 207 Behner Building, 2822 Third Avenue North, Billings, Mont. 59101. Applicant's representative: J. F. Meglen, 207 Behner Building, 2822 Third Avenue North, Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat and packinghouse products*, from Great Falls, Mont., to points in California, Colorado, Illinois, Massachusetts, Michigan, Minnesota, Nevada, New York, Ohio, Oregon, Pennsylvania, Washington, and Wisconsin, for 180 days. Supporting shipper: Needham Packing Corp. of Montana, Post Office Box 2381, Great Falls, Mont. 59401. Send protests to: Paul J. Labane, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 251 U.S. Post Office Buildings, Mont. 59101.

No. MC 129502 (Sub-No. 1 TA), filed November 16, 1967. Applicant: CHAS. H. CYR, INC., 205 East Seventh Street, Hoquiam, Wash. 98550. Applicant's, representative: Jos. O. Earp, 411 Lyon Building, 607 Third Avenue, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips and wood residuals*, from Aloha, Wash., to Aberdeen, Wash., for 150 days. Supporting shipper: Weyerhaeuser Co., Tacoma, Wash. 98401, Attention: R. V. Caldwell, Manager—Highway Transportation. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6130 Arcade Building, Seattle, Wash. 98101.

MOTOR CARRIER OF PASSENGERS

No. MC 129525 (Sub-No. 1 TA), filed November 14, 1967. Applicant: STARR TRANSIT CO., INC., 50 North Johnston Avenue, Trenton, N.J. 08609. Applicant's representative: David Milliner, 744 Broad Street, Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers—From* Country Club Shopping Center, Route 1, Levittown (Middletown Township), Pa., Levittown Shopping Center, Route 13, Levittown (Bristol Township), Pa., Fairless Hills Shopping Center, Oxford Valley Road and Olds Boulevard, Fairless, (Falls Township), Pa., and Pennsbury Plaza, Trenton Road (Falls Township), Pa. *To* Educational Testing Center, Princeton, N.J., and return, for 150 days. Supporting shipper: Educational Testing Service, Princeton, N.J. 08540. Send protests to: District Supervisor, Raymond T. Jones, Interstate Commerce Commission, Bureau of Operations, 410 Post Office Building, 402 East State Street., Trenton, N.J. 08608.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13813; Filed, Nov. 24, 1967; 8:46 a.m.]

[Notice 496]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 20, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67, (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 107151 (Sub-No. 23 TA), filed November 13, 1967. Applicant: H. F. JOHNSON, INC., 1524 Lockwood Road, Post Office Box 1435, Billings, Mont. 59103. Applicant's representative: Hugh Sweeney, Suite 301 Medical Arts Building, 2716 Third Avenue North, Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crude oil*, in bulk, in tank vehicles, from Bell Creek Oil Field, located in Carter and Powder River Counties, Mont., to receiving points in Campbell, Weston, and Crook Counties, Wyo., with *rejected or contaminated shipments* on return, for 120 days. Supporting shipper: The Permian Corp., Post Office Box 704, Sterling, Colo. 80751. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 251 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 109265 (Sub-No. 18 TA), filed November 9, 1967. Applicant: W. L. MEAD, INC., Post Office Box 31, Cleveland Road, Norwalk, Ohio 44857. Applicant's representative: R. R. Miller (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, between Toledo, Ohio, and Norwalk, Ohio, from Toledo over Ohio Highway 120 to junction U.S. Highway 20, thence over U.S. Highway 20 to Norwalk, and return over the same route, for 180 days. NOTE: Applicant indicates it will tack with its other authority (not specified) in MC 109265 and Subs, and to interline with other carriers at Toledo, Ohio. Supporting shippers: There are approximately 16 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Keith D. Warner, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5234 Summit Street, Toledo, Ohio 43604.

No. MC 124796 (Sub-No. 32 TA), filed November 13, 1967. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 7236 East Slauson Avenue, Los Angeles, Calif. 90022. Applicant's representative: J. Max Harding, 605 South 14th Street, Lincoln, Nebr. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Sheet vinyl plastic and shredded plastic scrap* from, Corinth, Miss., to points in Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, Kentucky, Ohio, Michigan, Illinois, Minnesota, Wisconsin, Missouri, Arkansas, Texas, and California. (2) *Raw materials, supplies, and equipment* used in the manufacture of sheet vinyl plastic from points in New York, New Jersey, Pennsylvania, Maryland, North Carolina, South Carolina, Georgia, Illinois, and Los Angeles, Calif., to Corinth, Miss., under contract with Southbridge Plastics Co., division of W. R. Grace & Co., for 150 days. Supporting shipper: Southbridge Plastics, Division W. R. Grace & Co., Golding Drive, Corinth, Miss. 38834. Send protests to: John E. Nance, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Federal Building Room 7708, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 126716 (Sub-No. 1 TA), filed November 13, 1967. Applicant: WESTON TRUCKING COMPANY, a corporation, doing business as WESTON TRUCKING, 1436 Hymettus Avenue, Encinitas, Calif. 92024. Applicant's representative: Marvin Handler, 405 Montgomery Street, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities, (including agricultural, horticultural and nursery stock, otherwise exempt)* moving in mixed shipments with general commodities having a prior or subsequent movement by air transportation (1) from points in San Diego County, Calif., to Los Angeles, Calif., International Airports (and Ontario, Calif., airport as alternate when weather requires), and (2) from Los Angeles, Calif., International Airports (Ontario, Calif., airport as alternate when weather requires), to points in San Diego County, Calif., for 150 days. Supporting shippers: United Air Lines, Inc., 5959 Avion Drive, Los Angeles, Calif.; Hughes Aircraft Co., Vacuum Products Division, Oceanside, Calif.; American Airlines Freight System, 5906 Avion Drive, Los Angeles, Calif.; Trans World Airlines, Inc., 7001 World Way, West Los Angeles, Calif.; Flying Tiger Line, Inc., 5720 Avion Drive, Los Angeles, Calif.; Vinson & Fortiner, Post Office Box 27, Vista, Calif.; General Precision, Inc., 1370 Encinitas Road, San Marcos, Calif. 92069; Thornton Growers, Post Office Box 211, Encinitas, Calif. Send protests to: District Supervisor Wm. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 300 North Los Angeles Street, Room 7708 Federal Building, Los Angeles, Calif. 90012.

No. MC 127806 (Sub-No. 7 TA), filed November 13, 1967. Applicant: BEER TRANSPORT, INC., 130 Steamboat Road, Great Neck, N.Y. 11024. Applicant's representative: Bowes and Millner, 744 Broad Street, Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Solid steel beer can ends*, from the plantsite of Sovereign Ltd Co. in Pallsington, Pa., to the plantsites of Rheingold Breweries, Inc., in Brooklyn, N.Y., and Orange, N.J., and the plantsite of Jacob Ruppert Brewery, Inc., in New Bedford, Mass., for the account of Rheingold Breweries, Inc., for 150 days. Supporting shipper: Rheingold Breweries, Inc., 36 Forrest Street, Brooklyn, N.Y. 11206. Send protests to: E. N. Carignan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 346 Broadway, N.Y. 10013.

MOTOR CARRIER OF PASSENGERS

No. MC 125706 (Sub-No. 2 TA), filed November 13, 1967. Applicant: BALTIMORE-SOLOMONS BUS LINES, INC., 512 Sixth Street NW., Washington, D.C. 20001. Applicant's representative: S. Harrison Kahn, 733 Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage and express and newspapers in the same vehicle with passengers*, between Washington, D.C., and points on Maryland Highway 4 between the boundary line between Prince Georges County and Anne Arundel County, Md., and the intersection of Maryland Highway 4 and Maryland Highway 260, including the point of intersection, from Washington, D.C., over city streets to the District of Columbia-Maryland State line, thence over Maryland Highway 4 to junction Maryland Highway 260, and return over the same route, serving all intermediate points, for 180 days. NOTE: Applicant states that the purpose of the instant application is to seek removal, in part, of an existing restriction from its existing regular route service. Supporting shipper: Thirteen statements from members of the user-public (On File with the District Supervisor). Send protests to: District Supervisor Robert D. Caldwell, 1220 Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C. 20423.

No. MC 129524 TA, filed November 13, 1967. Applicant: MALVERN JOHN REID, doing business as REID BUS LINE, 707 Hill Street, Harlan, Iowa 51537. Applicant's representative: John Sewin, Harlan, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, and express, mail, and newspapers*, in the same vehicles with passengers, between Harlan, Iowa, and Omaha, Nebr., from Harlan, to Avoca, Iowa, over U.S. Highway 59, then over Iowa Highway 83 to Junction Iowa Highway 64, then over Highway 64 to Council Bluffs, Iowa, then over U.S. Highway 6 to Omaha, Nebr., and return over the same route, serving all intermediate points, for 180 days. Supporting shipper: There are approximately 25 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Keith P. Kohrs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 706 Federal Office Building, Omaha, Nebr. 68102.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 67-13700; Filed, Nov. 22, 1967; 8:49 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during November.

3 CFR

Page
PROCLAMATIONS:
3279 (modified by Proc. 3820) 15701
3290 (see Proc. 3820) 15701
3328 (see Proc. 3820) 15701
3386 (see Proc. 3820) 15701
3509 (see Proc. 3820) 15701
3531 (see Proc. 3820) 15701
3541 (see Proc. 3820) 15701
3693 (see Proc. 3820) 15701
3694 (terminated in part by Proc. 3818) 15467
3712 (terminated in part by Proc. 3818) 15467
3744 (terminated in part by Proc. 3818) 15467
3779 (see Proc. 3820) 15701
3794 (see Proc. 3820) 15701
3818 15467
3819 15667
3820 15701

3 CFR—Continued

Page
EXECUTIVE ORDERS:
Mar. 23, 1912 (revoked in part by PLO 4320) 16160
2295 (modified by PLO 4313) 15429
4702 (revoked in part by PLO 4315) 15482
8652 (revoked in part by PLO 4317) 15482
10539 (see EO 11378) 15237
10682 (see EO 11378) 15237
10807 (amended by EO 11381) 15629
10903 (amended by EO 11380) 15627
11034 (amended by EO 11380) 15627
11378 15237
11379 15628
11380 15627
11381 15629

5 CFR

Page
213 15703, 15805, 15869, 15911, 16097
305 15805
713 15631
754 15805

7 CFR

Page
51 15066, 15073
251 15948
319 15577
401 15703, 15704, 15911
711 15704
717 15705
722 15967
729 15149
730 15076
905 15869, 16097
906 15869
907 15805, 16097
909 15870
910 15430, 15524, 15631, 15870, 16145
912 15430, 15632, 15805, 15870, 15987, 16145
913 15430, 16096
915 15669, 15871
945 15577
947 15705
982 15669
984 15388
989 15871, 15915
991 15670, 15705
1001 15076
1015 15090
1067 15093
1120 15388
1125 15706
1126 15388
1132 15389
1137 15431
1421 15632, 15706, 15872
1464 15633, 16145
PROPOSED RULES:
Ch. IX 16164
51 15435
362 16164
723 15546, 16043
724 16043
811 16045
814 15835
822 15393
891 15393
893 15393
905 15116
906 15394
907 15488
908 15394
912 15436
913 15395
959 15177, 15884
966 15884
989 15488
1008 15952
1036 15952
1043 15952
1049 15489, 16101
1064 15490
1090 15437
1125 15178
1131 15588

8 CFR

Page
103 15469
212 15469
238 15469

9 CFR

Page
76 15240
78 15577
92 15707
131 15469

10 CFR

Page
40 15672
PROPOSED RULES:
2 16050
20 15432, 15762
50 16050
115 16050

12 CFR

Page
1 15544, 15918
219 15389
556 15707, 15747
563 15634
571 15706
PROPOSED RULES:
545 15763

13 CFR

Page
101 15806, 15873
106 15065
108 15149
120 15634
122 15635
PROPOSED RULES:
107 15399
121 15184

14 CFR

Page
21 15472
39 15094, 15153, 15154, 15390, 15421, 15472, 15523, 15579, 15635, 15808, 15873.
61 15918
63 15918
65 15918
71 15094, 15095, 15154, 15523, 15524, 15579, 15635, 15636, 15809, 15810, 15874, 16096, 16146.
73 15096, 16098
75 15636
91 15422, 15708
97 15423, 15473, 15580, 15811
141 15583
145 15670
157 15818
207 15096
208 15097
241 15098
PROPOSED RULES:
27 15676
29 15676
39 15490, 15491, 15588
71 15117–15121, 15491–15493, 15546–15548, 15588, 15589, 15712, 15837, 15838, 15885, 15926, 16049, 16050, 16102, 16169.
73 16050
93 15589
121 15676
202 15676
203 15676
288 15926

15 CFR

Page
0 15222
13 15818
70 15154
204 15104, 15391
230 15105, 15636
379 15988
382 16146
399 16146

16 CFR

Page
13 15105–15107, 15470, 15748–15750, 15874, 15875.
14 15525
15 15470, 15919
17 15540
228 15525
229 15529
230 15531
231 15532
232 15533
233 15534
234 15536
235 15538
236 15538
237 15539
238 15540
239 15541
240 15543

16 CFR—Continued

Page
412 15584
413 15424
PROPOSED RULES:
241 15715
242 15681
300 15180

17 CFR

Page
200 15470
230 15920
275 16151
279 16151

18 CFR

Page
3 15239
101 15670
141 15670
602 16151
PROPOSED RULES:
2 15714
14 15714
101 15927
104 15927
105 15927
141 15434, 15927
201 15927
204 15927
205 15927
260 15434

19 CFR

Page
4 15390
10 15424
14 15155
16 15390

20 CFR

Page
396 15471
401 15544

21 CFR

Page
4 15709
120 15107, 15120, 15424, 15578
121 15108, 15109, 15155, 15545, 15988
133 15109
146c 15988
148b 15988
148c 15425
148f 15989
148i 16152
148o 15989
148s 16153
148y 16153
166 15390
191 15875
PROPOSED RULES:
28 15116
121 16048
148i 16048
166 16048

22 CFR

Page
41 16098
PROPOSED RULES:
201 15116

23 CFR

Page
215 15818
216 15818
255 15792

24 CFR

Page
200 15425, 15586, 15636
203 15639
207 15640
220 15640

24 CFR—Continued Page

222 ... 15440
809 ... 15440

25 CFR

41 ... 15471, 16099

26 CFR

1 ... 15421, 15671, 15829, 15876
301 ... 15241, 15483
601 ... 15990
PROPOSED RULES:
1 ... 15167, 15393, 15758, 15879
31 ... 15879
46 ... 15879
48 ... 15879
49 ... 15879

28 CFR

0 ... 15425

29 CFR

526 ... 15425
786 ... 15425
1200 ... 15827
1202 ... 15831
1203 ... 15831
1206 ... 15831
1500 ... 15478, 15479
PROPOSED RULES:
5 ... 15396
6 ... 15396
7 ... 15396
526 ... 15712

31 CFR

306 ... 15472, 15920

32 CFR

66 ... 15111
127 ... 15112
536 ... 15113
552 ... 15115
710 ... 15115
719 ... 16153
750 ... 16154
751 ... 16154
812 ... 16035
844 ... 15920
851 ... 16154
855 ... 15920
860 ... 16155
882 ... 15921
901 ... 15922
906 ... 16159
1601 ... 16036
1006 ... 16036
1007 ... 16039
1018 ... 16039

32A CFR

BDSA (Ch. VI):
M-11A ... 15710

32A CFR—Continued Page

ASCDIB (Ch. VII) ... 15831
OIA (Ch. X):
OI Reg. 2 ... 15876

33 CFR

204 ... 15473

35 CFR

61 ... 15641
155 ... 15831

36 CFR

7 ... 15391, 15710, 15750
311 ... 15989
PROPOSED RULES:
7 ... 15761

38 CFR

3 ... 15878
21 ... 16099

39 CFR

131 ... 15587
821 ... 15480
822 ... 15480, 15481
823 ... 15099
PROPOSED RULES:
Ch. I ... 15643

41 CFR

1-5 ... 15674
3-75 ... 15833
5-2 ... 16160
6-60 ... 15751
6-75 ... 15427
9-1 ... 15922
9-12 ... 15922
50-204 ... 15641
101-26 ... 15754

42 CFR

PROPOSED RULES:
73 ... 15178

43 CFR

PUBLIC LAND ORDERS:
1583 (see PLO 4307) ... 15428
1630 (see PLO 4315) ... 15482
3263 (revoked in part by PLO 4307) ... 15428
3634 (revoked in part by PLO 4302) ... 15427
4236 (see PLO 4317) ... 15482
4266 (see PLO 4317) ... 15482
4270 (amended by PLO 4312) ... 15429
4301 ... 15099
4302 ... 15427
4303 ... 15427
4304 ... 15427
4305 ... 15428
4306 ... 15428
4307 ... 15428

43 CFR—Continued Page

PUBLIC LAND ORDERS—Continued
4308 ... 15428
4309 ... 15428
4310 ... 15429
4311 ... 15429
4312 ... 15429
4313 ... 15429
4314 ... 15482
4315 ... 15482
4316 ... 15482
4317 ... 15482
4318 ... 15482
4319 ... 15878
4320 ... 16100
PROPOSED RULES:
1720 ... 15546
3100 ... 15883
3120 ... 15883
4120 ... 16164

45 CFR

14 ... 16100
81 ... 15156
531 ... 15641

46 CFR

10 ... 15754
PROPOSED RULES:
33 ... 15835
94 ... 15835
112 ... 15835
Ch. IV ... 15438

47 CFR

0 ... 15472, 15675
73 ... 15161, 15162, 15845, 15711
87 ... 16160
97 ... 16162
PROPOSED RULES:
2 ... 15186, 15712, 16103
73 ... 15679, 16053, 16054, 16107
87 ... 15712, 16055, 16056
89 ... 15180, 15680, 16056
91 ... 15180, 16056
93 ... 15180, 15680, 16056

49 CFR

1 ... 15710
103 ... 15484
114 ... 15484
180 ... 16040
239 ... 16162
PROPOSED RULES:
238 ... 15589

50 CFR

10 ... 15834
32 ... 15166, 15506, 15507, 15642, 15675, 15678, 15924, 16100.
33 ... 15711, 15756, 15924

229

FEDERAL REGISTER

VOLUME 32 • NUMBER 229

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Pages 16181–16242

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MAIN READING ROOM

Agencies in this issue—

Agricultural Stabilization and Conservation Service
Business and Defense Services Administration
Civil Aeronautics Board
Coast Guard
Consumer and Marketing Service
Customs Bureau
Employment Security Bureau
Federal Aviation Administration
Federal Communications Commission
Federal Home Loan Bank Board
Federal Maritime Commission
Federal Power Commission
Fish and Wildlife Service
Food and Drug Administration
Immigration and Naturalization Service
Indian Affairs Bureau
Interstate Commerce Commission
Land Management Bureau
National Park Service
Public Contracts Division
Renegotiation Board
Securities and Exchange Commission
State Department
Tariff Commission
Transportation Department

Detailed list of Contents appears inside.

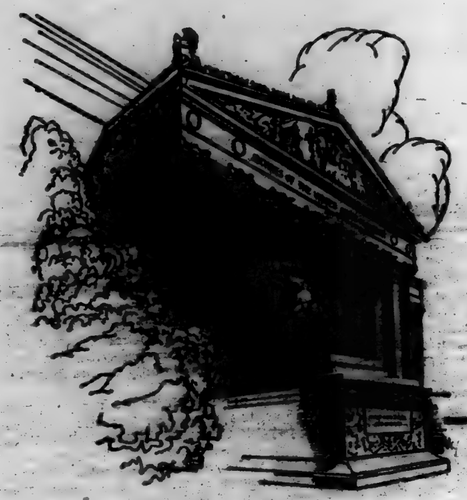

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Contents

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Rules and Regulations

Cotton, Upland, 1968 crop; acreage allotments and marketing quotas:
- County projected yields 16195
- State reserves and county allotments 16185

AGRICULTURE DEPARTMENT

See Agricultural Stabilization and Conservation Service; Consumer and Marketing Service.

BUSINESS AND DEFENSE SERVICES ADMINISTRATION

Notices

Applications and decisions on applications for duty-free entry of scientific articles:
- Duke University et al 16227
- Hawaii Institute of Geophysics et al 16228
- University of California 16228
- University of Kentucky Medical Center et al 16229
- University of Louisville et al 16229
- University of Oregon et al 16230
- State University of New York 16230

CIVIL AERONAUTICS BOARD

Proposed Rule Making

All-cargo carriers; liberalization of volume restrictions 16223
Combination carriers; participation in blocked space service 16225

Notices

Allegheny-Lake Central merger case; hearing 16231

COAST GUARD

Notices

Great Lakes Pilotage; review of pilotage system and rate structure 16231

COMMERCE DEPARTMENT

See Business and Defense Services Administration.

CONSUMER AND MARKETING SERVICE

Rules and Regulations

Potatoes, Irish, grown in Washington; operating reserve 16199
Raisins produced from grapes grown in California; modification of free and reserve percentages for 1967–68 crop year 16199
Shipment limitations:
- Oranges grown in Florida 16198
- Tangerines grown in Florida 16199

Proposed Rule Making

Lemons grown in California and Arizona; approval of expenses and fixing of rate of assessment for 1967–68 fiscal year 16220
Potatoes, Irish, grown in Washington; expenses and rate of assessment 16220

CUSTOMS BUREAU

Notices

Evidence; Customs agents' reports 16227

EMPLOYMENT SECURITY BUREAU

Rules and Regulations

Revocation of parts:
- Regulations to implement Temporary Unemployment Compensation Act of 1958; responsibilities of Puerto Rico, Virgin Islands and State agencies 16211
- Regulations to implement Title IV of Veterans' Readjustment Assistance Act of 1952 16211
- Temporary Extended Unemployment Compensation, 1961 16212

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations

Airworthiness directives:
- Aero Products A6441FN-606 propeller blades; correction 16201
- Grumman Aircraft (2 documents) 16201

Control zone and transition area; revocation 16202
Standard instrument approach procedures; miscellaneous amendments 16203
Transition areas; alteration (2 documents) 16202

Proposed Rule Making

Control area; designation 16221
Restricted area; designation 16222
Restricted areas and controlled airspace; designation and alteration 16221

Notices

Engineering and Manufacturing District Office 41; change of address 16231

FEDERAL COMMUNICATIONS COMMISSION

Notices

Hearings, etc.:
- Bell Telephone Company of Pennsylvania and Conestoga Telephone and Telegraph Co. 16231
- Blansett Broadcasting Co. and Breckinridge Broadcasting Co 16231
- Elim Bible Institute, Inc., et al 16232
- Tri-State Television Translators, Inc., and Wellerburg TV, Inc 16232

FEDERAL HOME LOAN BANK BOARD

Rules and Regulations

Statements of policy; attendance by applicants and their representatives at hearings on applications:
- Insurance of accounts 16200
- Permission to organize Federal associations 16200

FEDERAL MARITIME COMMISSION

Proposed Rule Making

Common carriers of freight by water in the foreign commerce of the U.S.; filing of agreements; re-scheduling of filing dates 16226

Notices

American President Lines, Ltd., and Knutsen Line; agreement filed for approval 16232
Steamship conferences; effects on foreign commerce of U.S.; enlargement of time for filing comments 16232

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:
- Caroline Hunt Trust Estate 16235
- Marathon Oil Co 16236
- Pacific Gas and Electric Co 16235
- Pubco Petroleum Corp. et al 16232

FISH AND WILDLIFE SERVICE

Rules and Regulations

Restoration of game birds, fish, and mammals 16215

FOOD AND DRUG ADMINISTRATION

Rules and Regulations

Oxytetracycline; miscellaneous amendments 16212

Notices

Hess & Clark; withdrawal of petition for certain food additives 16230

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Food and Drug Administration.

IMMIGRATION AND NATURALIZATION SERVICE

Rules and Regulations

Miscellaneous amendments to chapter 16200

INDIAN AFFAIRS BUREAU

Rules and Regulations

Ute Tribes, Utah; disposition of interests in tribal assets by mixed-blood Indians; deletion of part 16213

(*Continued on next page*)

INTERIOR DEPARTMENT

See Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; National Park Service.

INTERSTATE COMMERCE COMMISSION

Notices

Motor carrier temporary authority applications 16238

JUSTICE DEPARTMENT

See Immigration and Naturalization Service.

LABOR DEPARTMENT

See Employment Security Bureau; Public Contracts Division.

LAND MANAGEMENT BUREAU

Rules and Regulations

Public land orders:
California (2 documents) 16214, 16215
New Mexico 16214
Oregon (2 documents) ... 16213, 16214
Washington 16214

Notices

Nevada; classification 16227

NATIONAL PARK SERVICE

Rules and Regulations

Special regulations:
Colonial National Historical Park, Virginia 16213
Fort Caroline National Memorial, Florida 16213
Guilford Courthouse National Military Park 16213

PUBLIC CONTRACTS DIVISION

Proposed Rule Making

Minimum wage determinations; adjustment to wage increases under Fair Labor Standards Act 16220

RENEGOTIATION BOARD

Rules and Regulations

Conduct of renegotiation; filing of information and requests by contractor 16213

Notices

Eastern Regional Renegotiation Board; change of address 16237

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:
Coditron Corp. 16237
Eastern Utilities Associates et al 16237
Midland-Ross Corp. 16238

STATE DEPARTMENT

See also Immigration and Naturalization Service.

Rules and Regulations

Fees for services in United States; schedule 16212

TARIFF COMMISSION

Rules and Regulations

Employee responsibilities and conduct; miscellaneous amendments 16210

TRANSPORTATION DEPARTMENT

See also Coast Guard; Federal Aviation Administration.

Rules and Regulations

Time zones applicable to Nebraska 16215

TREASURY DEPARTMENT

See Customs Bureau.

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

7 CFR

722 (2 documents) 16185, 16195
905 (2 documents) 16198, 16199
946 16199
989 16199

PROPOSED RULES:
910 16220
946 16220

8 CFR

100 16200
238 16200
287 16200

12 CFR

556 16200
571 16200

14 CFR

39 (3 documents) 16201
71 (3 documents) 16202
97 16203

PROPOSED RULES:
71 (2 documents) 16221
73 (2 documents) 16221, 16222
207 16223
399 16225

19 CFR

200 16210

20 CFR

606 16211
607 16211
608 16211
613 16211
615 16212

21 CFR

148n 16212

22 CFR

21 16212

25 CFR

243 16213

32 CFR

1472 16213

36 CFR

7 (3 documents) 16213

41 CFR

PROPOSED RULES:
50–202 16220

43 CFR

PUBLIC LAND ORDERS:
4321 16213
4322 16214
4323 16214
4324 16214
4325 16214
4326 16215

46 CFR

PROPOSED RULES:
Ch. IV 16226

49 CFR

239 16215

50 CFR

80 16215

Rules and Regulations

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment) Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 722—COTTON

Subpart—1968 Crop of Upland Cotton; Acreage Allotments and Marketing Quotas

STATE RESERVES AND COUNTY ALLOTMENTS

Basis and purpose. Section 722.483 is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended, 7 U.S.C. 1281 et seq.) and in accordance with the Regulations for Acreage Allotments for 1966 and Succeeding Crops of Upland Cotton (31 F.R. 5308, as amended). This section establishes the State reserves and allocation thereof among uses for the 1968 crop of upland cotton. It also allocates each State's share of the national reserve among counties and establishes the county allotments. Such determinations were made initially by the respective State committees and are hereby approved and made effective by the Administrator pursuant to delegated authority (28 F.R. 4368, 29 F.R. 16210, 30 F.R. 8756, 32 F.R. 11895).

Notice that the Secretary was preparing to establish State and county allotments was published in the FEDERAL REGISTER on August 9, 1967 (32 F.R. 11475) in accordance with 5 U.S.C. 553. No written submissions were received in response to such notice.

Since the allocations under this section require immediate action by the Agricultural Stabilization and Conservation State and county committees, it is essential that § 722.483 be made effective as soon as possible. Accordingly, it is hereby determined and found that compliance with the 30-day effective date requirement of 5 U.S.C. 553 is impracticable and contrary to the public interest and § 722.483 shall be effective upon the filing of this document with the Director, Office of the Federal Register.

§ 722.483 State reserves and county allotments for the 1968 crop of upland cotton.

(a) *State reserves.* Pursuant to the authority provided in § 722.498 of the regulations for Acreage Allotments for 1966 and Succeeding Crops of Upland Cotton (31 F.R. 11011), the 1968 State acreage reserves for Arkansas, Louisiana, Mississippi, Oklahoma, and South Carolina, have been approved by the Deputy Administrator, State and County Operations, to be in excess of 2 percent of the State allotment available for distribution to counties in the State. The State reserve for each State shall be established and allocated among uses as shown in the following table for the 1968 crop of upland cotton pursuant to § 722.498:

State	Total state reserve	Allocations from State reserve for:			
		Trends	Small farms	Inequity and hardship cases	New farms and set-aside for errors
	Acres	*Acres*	*Acres*	*Acres*	*Acres*
Alabama	100				100
Arizona	20			10	10
Arkansas	78,000	78,000			
California	50				50
Florida	314				314
Georgia	200				200
Illinois	50			40	10
Kansas	136				136
Kentucky	84,421	83,774		647	
Louisiana	163,626	151,989			76
Mississippi	8,800			8,480	320
Missouri					
Nevada	780			780	80
New Mexico	8,662			8,522	100
North Carolina	74,119	73,619			500
Oklahoma	66,084	65,884			200
South Carolina	10,885	10,447			138
Tennessee	13,153	12,189			964
Texas	310		150	150	10
Virginia					
U.S. total	462,729	446,902	150	13,819	2,908

(b) *Explanation of allocations of State reserve among uses.*—(1) *State reserve for minimum farms.* It is hereby determined that each State's share of the national reserve will meet the requirements for additional acreage for establishing minimum farm allotments under section 344(f)(1) of the act, and accordingly, the State committee is not required to establish a State reserve for minimum farm allotments.

(2) *State reserve for abnormal conditions.* It is hereby determined that no State reserve for abnormal conditions is required.

(3) *State reserve for trends.* It is hereby determined that State reserves in substantial amounts are required for trend adjustments in applicable counties of Arkansas, Louisiana, Mississippi, Oklahoma, and South Carolina. Cotton producers in such counties generally plant the entire farm allotment each year and the size of available farm allotments is the limiting factor on the acreage planted to cotton in such counties. Cotton producers in other areas of these States fail to fully utilize farm allotments because of a trend away from cotton production. A relatively small amount of State reserve is required for trend adjustments in applicable counties of Texas to support allotments transferred by sale in 1966 and 1967 which did not have adequate history acreage for the 5-year base available for transfer along with the allotments. Also, a relatively small amount of State reserve is required for trend adjustments in applicable counties in Tennessee so as to achieve equitable allotments in counties where allotments are substantially fully used and in counties trending out of cotton; the amount by which the county total of 1968 farm preliminary bases exceeds the computed county allotment plus the county allocation from the State's share of the national reserve will be the basis of allocation of the reserve for trends. Trend adjustments in county allotments for the following States shall be made as follows:

(i) *Arkansas.* An average decimal ratio shall be computed for each county by dividing the total preliminary county allotments for each of the 5 years, 1963, 1964, 1965, 1966, and 1967 by the preceding year's county allotment. Each county with a ratio of 0.967 or more shall be eligible for a trend adjustment from the State reserve. The trend adjustment for each eligible county shall be determined by factoring the State reserve on the 1962–66 average history acreage for all eligible counties, limiting such adjustment to the acreage determined by subtracting the county computed allotment from the county total of farm preliminary base acreage for the respective counties.

(ii) *Louisiana.* The State reserve shall be allocated on the basis of trends to those parishes that have been substantially planting allotments available. Such adjustment, together with the allocation of the State's share of the national reserve and the State reserve for inequity and hardship cases, shall result in every parish receiving a 1968 allotment at least equal to the sum of the 1968 farm bases.

(iii) *Mississippi.* The State reserve for trends shall be apportioned to counties on the basis of the acreage obtained by subtracting the 1968 computed county allotment from the 1967 county allotment, adjusted for permanent transfers between counties and permanent losses within the county due to adjustments on

transfers. In no case shall the 1968 county allotment, including acreage from the national reserve, be less than 99.5 percent of the 1967 county allotment, adjusted as above described.

(iv) *Oklahoma.* Each county in which cotton acreage is determined not to be trending upward shall be allocated a portion of the acreage available for trend adjustments equal to an acreage determined by subtracting the sum of the 1968 computed allotment and the allocation from the national reserve from the 1967 allotment as adjusted for transfers by sale, owner, reconstitutions, and eminent domain. Each county determined to be trending upward shall be allocated a portion of the acreage available for trends which, together with the computed allotment and allocation from the national reserve, will be a uniform percentage not to exceed 100 percent of the 1967 allotment as adjusted for transfers by sale, owner, reconstitutions, eminent domain, and for farms ineligible for a 1968 allotment. The remaining acreage, if any, shall be allocted to all counties on the basis of the 1968 county base.

(v) *South Carolina.* Counties for which trend adjustments were made during the base period (1962–66) shall receive allocation from the State reserve on the basis of maintaining trend adjustments in county allotments that have been made in the base period in order to prevent reduction in cotton allotments in such counties.

(4) *State reserve to correct inequities and prevent hardship.* It is hereby determined that State reserves are required to correct inequities in farm allotments and to prevent hardships on farms in applicable counties of Arizona, Illinois, Louisiana, Missouri, New Mexico, North Carolina, and Virginia as shown in paragraph (c) of this section. Cotton producers in such counties generally plant the entire farm allotment each year and the size of available farm allotments is the limiting factor on the acreage planted to cotton in such counties. Cotton producers in other areas of these States fail to fully utilize farm allotments. In addition, in certain areas of these States, the reduction of the number of farms eligible for allotments as old cotton farms has resulted in inequitable increases in allotments on the remaining old cotton farms in such areas. Allocation of State reserves for inequities and hardships so as to reduce excessive farm allotments in such areas will also tend to eliminate inequities in farm allotments between areas of these States and between farms within the areas.

(5) *State reserve for new farms and correction of errors.* It is hereby determined that State reserves for new farms shall be established only for Kentucky and Oklahoma. Such reserve is included with the State reserve for set aside for correction of errors.

(6) *State reserve for small farms.* It is hereby determined that a State reserve for small farms is required for adjustment of farm allotments for small farms in applicable counties of Virginia.

(c) *County allotment.* The county allotment is established for the 1968 crop of upland cotton in accordance with § 722.409 of the regulations for Acreage Allotments for 1966 and Succeeding Crops of Upland Cotton (31 F.R. 5300). The county allotment consists of the computed county allotment, allocation from the State's share of the national reserve and allocation from the State reserve for trends. The following table sets forth the county allotment, allocation from the State's share of the national reserve, and allocations from the State reserve. The table also sets forth the allotment in the State productivity pool which shall not be allocated to counties and farms, as required under § 722.409 (a) of the Regulations for Acreage Allotments for 1966 and Succeeding Crops of Upland Cotton (31 F.R. 11011).

ALABAMA

County	Computed county allotment (1)	Allocation from State's share of national reserve (2)	Adjustment from State reserve for trends (3)	County allotment, sum of columns (1), (2), and (3) (4)	Allocation from State reserve for inequity and hardship cases (5)
	Acres	Acres	Acres	Acres	Acres
Autauga	8,804	237	0	9,041	0
Baldwin	2,710	87	0	2,797	0
Barbour	13,699	491	0	14,190	0
Bibb	3,756	83	0	3,839	0
Blount	16,305	297	0	16,602	0
Bullock	8,452	116	0	8,568	0
Butler	9,134	222	0	9,356	0
Calhoun	6,534	128	0	6,662	0
Chambers	8,924	219	0	9,143	0
Cherokee	21,073	954	0	22,027	0
Chilton	9,126	304	0	9,430	0
Choctaw	6,226	186	0	6,412	0
Clarke	5,750	59	0	5,809	0
Clay	2,229	0	0	2,229	0
Cleburne	1,883	0	0	1,883	0
Coffee	17,567	419	0	17,986	0
Colbert	20,691	479	0	21,170	0
Conecuh	11,989	347	0	12,336	0
Coosa	1,229	0	0	1,229	0
Covington	15,372	459	0	15,831	0
Crenshaw	9,466	237	0	9,703	0
Cullman	31,773	986	0	33,759	0
Dale	7,987	207	0	8,194	0
Dallas	25,316	748	0	26,062	0
De Kalb	30,235	1,512	0	31,747	0
Elmore	14,169	346	0	14,515	0
Escambia	10,068	298	0	10,366	0
Etowah	11,429	476	0	11,905	0
Fayette	8,518	249	0	8,767	0
Franklin	12,726	270	0	12,996	0
Geneva	19,370	706	0	20,076	0
Greene	12,427	443	0	12,870	0
Hale	14,490	405	0	14,895	0
Henry	15,057	464	0	15,521	0
Houston	26,281	861	0	27,142	0
Jackson	23,260	974	0	24,234	0
Jefferson	3,510	0	0	3,510	0
Lamar	10,267	253	0	10,520	0
Lauderdale	26,433	608	0	27,041	0
Lawrence	37,306	1,652	0	39,047	0
Lee	8,912	171	0	9,083	0
Limestone	50,027	2,031	0	52,058	0
Lowndes	9,897	227	0	10,124	0
Macon	15,623	540	0	16,163	0
Madison	57,102	1,954	0	59,056	0
Marengo	15,450	286	0	15,736	0
Marion	12,474	314	0	12,788	0
Marshall	28,274	1,133	0	29,407	0
Mobile	3,199	116	0	3,315	0
Monroe	16,975	552	0	17,527	0
Montgomery	10,172	147	0	10,319	0
Morgan	26,880	820	0	27,700	0
Perry	10,401	290	0	10,691	0
Pickens	14,219	333	0	14,552	0
Pike	14,736	336	0	15,072	0
Randolph	6,171	315	0	6,486	0
Russell	9,640	249	0	9,889	0
St. Clair	4,182	0	0	4,182	0
Shelby	5,755	99	0	5,854	0
Sumter	13,313	299	0	13,607	0
Talladega	11,844	399	0	12,243	0
Tallapoosa	6,656	164	0	6,820	0
Tuscaloosa	15,549	323	0	15,872	0
Walker	6,996	0	0	6,996	0
Washington	2,363	95	0	2,458	0
Wilcox	10,972	227	0	11,209	0
Winston	6,936	194	0	7,130	0
Productivity pool	5,949	0	0	0	0

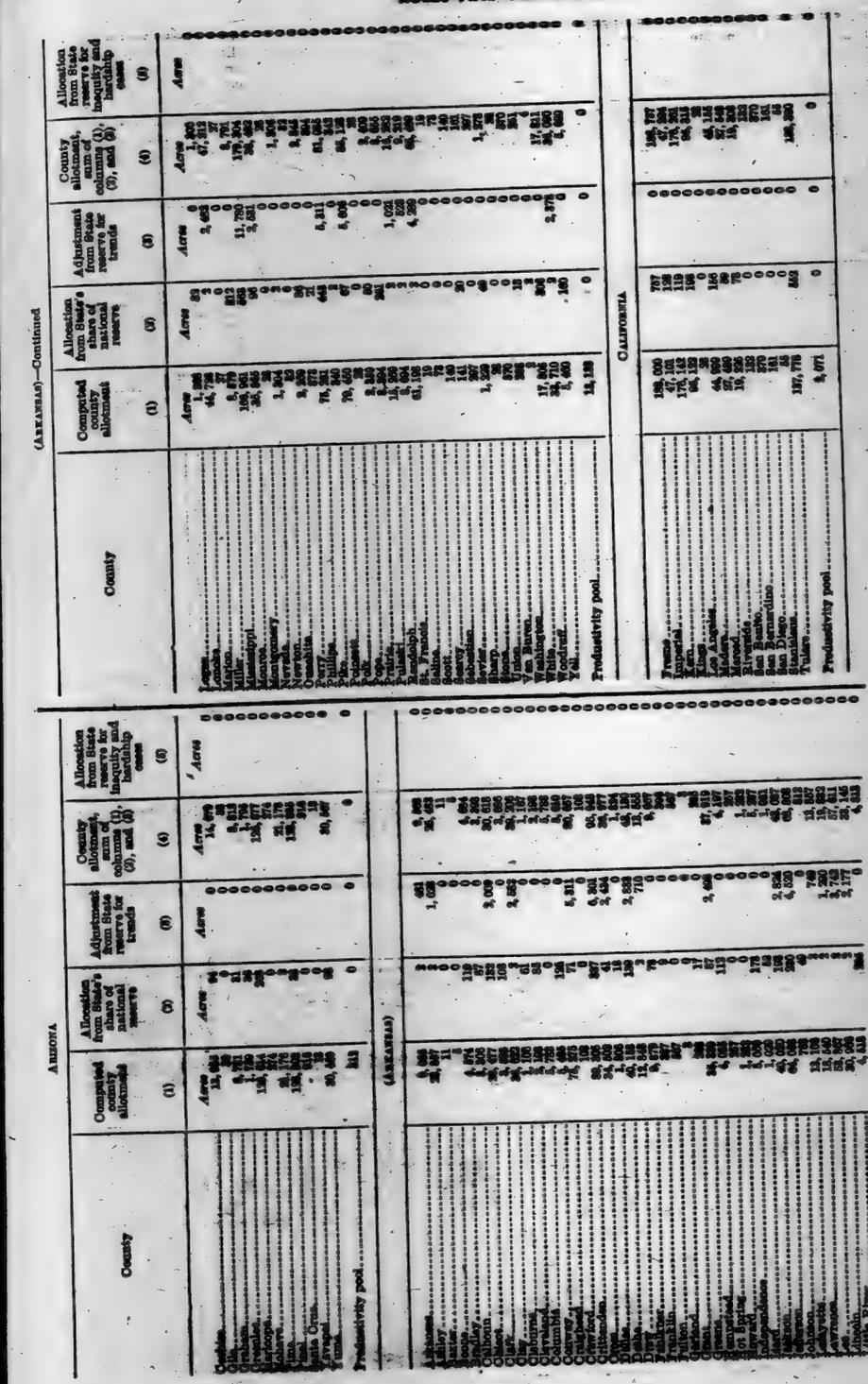

GEORGIA—Continued

County	Computed county allotment (1)	Allocation from State's share of national reserve (2)	Adjustment from State reserve for transfers (3)	County allotment, sum of columns (1), (2), and (3) (4)	Allocation from State reserve for inequity and hardship cases (5)
Meriwether	107	16.0	132.0	0	0
Miller	0	0	0	0	0
Mitchell	46	6.9	63.0	0	0
Monroe	460	69.0	529.0	0	0
Montgomery	0	0	0	0	0
Morgan	210	31.5	241.5	0	0
Murray	0	0	0	0	0
Muscogee	0	0	0	0	0
Newton	0	0	0	0	0
Oconee	0	0	0	0	0
Oglethorpe	0	0	0	0	0
Paulding	0	0	0	0	0
Peach	0	0	0	0	0
Pickens	0	0	0	0	0
Pierce	0	0	0	0	0
Pike	0	0	0	0	0
Polk	0	0	0	0	0
Pulaski	0	0	0	0	0
Putnam	0	0	0	0	0
Quitman	0	0	0	0	0
Rabun	0	0	0	0	0
Randolph	0	0	0	0	0
Richmond	0	0	0	0	0
Rockdale	0	0	0	0	0
Schley	0	0	0	0	0
Screven	0	0	0	0	0
Seminole	0	0	0	0	0
Spalding	0	0	0	0	0
Stephens	0	0	0	0	0
Stewart	0	0	0	0	0
Sumter	0	0	0	0	0
Talbot	0	0	0	0	0
Taliaferro	0	0	0	0	0
Tattnall	0	0	0	0	0
Taylor	0	0	0	0	0
Telfair	0	0	0	0	0
Terrell	0	0	0	0	0
Thomas	0	0	0	0	0
Tift	0	0	0	0	0
Toombs	0	0	0	0	0
Treutlen	0	0	0	0	0
Troup	0	0	0	0	0
Turner	0	0	0	0	0
Twiggs	0	0	0	0	0
Upson	0	0	0	0	0
Walker	0	0	0	0	0
Walton	0	0	0	0	0
Ware	0	0	0	0	0
Warren	0	0	0	0	0
Washington	0	0	0	0	0
Wayne	0	0	0	0	0
Webster	0	0	0	0	0
White	0	0	0	0	0
Whitfield	0	0	0	0	0
Wilcox	0	0	0	0	0
Wilkes	0	0	0	0	0
Wilkinson	0	0	0	0	0
Worth	0	0	0	0	0
Irrigated pool	10,718	0	0	0	0
	18,085	397.9	0	18,482.9	0
	2,238	92.8	0	2,330.8	0
	3,314	67.9	0	3,381.9	0
	10,788	224.8	0	10,961.8	0
	900	0	0	900.0	0
	343	0	0	343	0
	2,230	140.6	0	2,400.6	0
	1,697	43.1	0	1,700.1	0
	2,101	0	0	2,101.0	0
	16,288	318.2	0	16,707.2	0
	10,288	236.6	0	10,661.6	0
	755	0	0	755	0
	18,167	464.3	0	18,631.3	0
	1,642	19.3	0	1,661.3	0
	1,086	0	0	1,086.0	0
	3,300	86.8	0	3,386.8	0
	1,706	40.8	0	1,746.8	0
	7,618	187.7	0	7,805.7	0
	12,468	450.9	0	12,918.9	0
	4,606	132.0	0	4,738.0	0
	7,023	227.9	0	7,250.9	0
	4,626	226.7	0	4,852.7	0
	1,118	0	0	1,118.0	0
	1,264	0	0	1,264.0	0
	10,161	283.1	0	10,444.1	0
	2,745	66.8	0	2,811.8	0
	1,264	0	0	1,264.0	0
	603	17.7	0	620.7	0
	2,264	76.8	0	2,340.8	0
	4,687	99.2	0	4,786.2	0
	18,701	417.7	0	18,178.7	0
	4,225	97.6	0	4,322.6	0
	2,005	81.9	0	2,086.9	0
	2,230	82.1	0	2,312.1	0
	2,873	216.6	0	3,089.6	0
	1,347	0	0	1,347.0	0
	1,169	27.7	0	1,196.7	0
	4,441	164.7	0	4,605.7	0
	2,301	98.8	0	2,399.8	0
	4,330	171.3	0	1,501.3	0
	283	0	0	283	0
	460	69.0	0	529.0	0
	0	0	0	0	0
	16	2.6	0	18.6	0
	2,760	364.1	0	3,124.1	0
	5	0	0	5	0
	2,382	38.9	0	2,827.9	0
	4,716	246.7	0	4,962.7	0
	698	169.5	0	867.5	0
	36	14.0	0	50.0	0
	163	14.0	0	177.0	0
	2,163	132.3	0	2,272.3	0
	448	106.0	0	554.0	0
	46	9	0	0	0

FLORIDA

County	Computed county allotment (1)	Allocation from State's share of national reserve (2)	Adjustment from State reserve for transfers (3)	County allotment, sum of columns (1), (2), and (3) (4)	Allocation from State reserve for inequity and hardship cases (5)
Alachua	Acres 107	Acres 16.0	Acres 132.0	Acres 0	Acres 0
Baker	46	6.9	63.0	0	0
Bay	0	0	0	0	0
Calhoun	460	69.0	529.0	0	0
Clay	6	1.5	8.5	0	0
Dixie	210	31.5	241.5	0	0
Duval	16	87.6	62.6	0	0
Escambia	1,871	69.6	1,440.6	0	0
Gadsden	163	30.0	213.0	0	0
Gilchrist	0	0	0	0	0
Hamilton	1,169	27.7	1,340.7	0	0
Holmes	4,441	164.7	4,605.7	0	0
Jackson	7,301	398.8	8,399.8	0	0
Jefferson	1,530	171.3	1,610.3	0	0
Lafayette	283	0	283.0	0	0
Leon	460	69.0	529.0	0	0
Levy	0	0	0	0	0
Liberty	16	2.6	18.6	0	0
Madison	2,760	364.1	3,124.1	0	0
Nassau	5	0	5.0	0	0
Okaloosa	1,382	38.9	1,827.9	0	0
Santa Rosa	4,716	246.7	4,962.7	0	0
Suwannee	698	169.5	867.5	0	0
Taylor	36	14.0	50.0	0	0
Union	31	14.0	45.0	0	0
Walton	2,163	132.3	2,272.3	0	0
Washington	448	106.0	554.0	0	0
Irrigated pool	46	9	0	0	0
	4,221	28.3	0	4,249.3	0
	926	0	926.0	0	0
	2,011	70.4	2,081.4	0	0
	2,311	72.3	2,384.3	0	0
	1,605	18.8	2,618.8	0	0
	1,198	101.8	1,264.8	0	0
	15,782	760.8	17,681.8	0	0
	3,265	118.0	3,383.0	0	0
	925	0	925.0	0	0
	4,631	346.1	7,067.1	0	0
	8,660	270.6	8,930.6	0	0
	300	0	300.0	0	0
	18,809	642.6	24,382.6	0	0
	4,147	118.6	4,265.6	0	0
	4,345	156.6	5,002.6	0	0
	4,295	380.6	6,681.6	0	0
	6,582	0	6,582.0	0	0
	4,295	380.6	6,681.6	0	0
	6,582	0	6,582.0	0	0
	97	0	97.0	0	0
	49	0	49.0	0	0
	18	0	18.0	0	0
	809	27.6	890.6	0	0
	0	0	0	0	0
	4,280	84.7	4,364.7	0	0
	286	0	286.0	0	0
	1,634	34.9	1,668.9	0	0
	4,271	66.8	4,440.8	0	0
	461	0	461.0	0	0
	4,805	346.0	7,662.0	0	0
	134	67.7	201.7	0	0
	Acres 0	Acres 0	Acres 0	Acres 0	Acres 0
Columbia	1,688	0	0	1,688.0	0
Cook	3,743	164.0	0	3,916.0	0
Crowley	4,911	0	0	4,911.0	0
Crisp	1,618	66.7	0	1,684.7	0
Dade	8,989	288.9	0	10,228.9	0
Dawson	141	0	0	141.0	0
Decatur	3,943	0	0	3,943.0	0
De Kalb	163	0	0	163.0	0
Dodge	12,774	438.4	0	13,212.4	0
Dooly	24,781	1,146.6	0	25,927.6	0
Dougherty	1,988	0	0	1,988.0	0
Douglas	343	0	0	343.0	0
Early	18,064	181.9	0	18,245.9	0
Echols	47	0	0	47.0	0
Effingham	7,861	316.8	0	8,177.8	0
Emanuel	15,923	461.8	0	16,384.8	0
Evans	2,464	110.8	0	2,604.8	0
Floyd	2,323	74.1	0	2,397.1	0
Forsyth	881	0	0	881.0	0
Franklin	7,066	230.9	0	7,296.9	0
Gilmer	1	0	0	1.0	0
Glascock	917	0	0	917.0	0
Grady	4,600	146.3	0	4,743.3	0
Greene	9,368	361.2	0	9,729.2	0
Gwinnett	2,716	90.8	0	2,806.8	0
Habersham	109	0	0	109.0	0
Hall	2,766	0	0	2,766.0	0
Hancock	8,166	166.3	0	8,332.3	0
Haralson	1,472	0	0	1,472.0	0
Harris	1,201	0	0	1,201.0	0
Hart	1,441	0	0	1,441.0	0
Heard	1,442	0	0	1,442.0	0
Henry	10,908	484.3	0	11,392.3	0
Houston	8,498	223.6	0	8,661.6	0
Irwin	8,268	0	0	8,268.0	0
Jackson	6,307	101.1	0	6,408.1	0
Jasper	3,397	101.1	0	3,398.1	0
Jeff Davis	2,187	30.2	0	2,217.2	0
Jefferson	18,478	737.2	0	19,215.2	0
Jenkins	11,373	300.7	0	11,673.7	0
Johnson	14,011	308.3	0	152.0	0
Jones	1,423	0	0	1,423.0	0
Lamar	2,388	78.2	0	2,466.2	0
Lanier	686	26.1	0	712.1	0
Laurens	27,729	636.6	0	28,379.6	0
Lee	1,284	116.6	0	1,400.6	0
Liberty	1,127	0	0	1,127.0	0
Lincoln	1,115	31.0	0	1,767.0	0
Long	1,736	0	0	1,736.0	0
Lowndes	3,191	56.0	0	3,247.0	0
Lumpkin	44	0	0	44.0	0
McDuffie	4,860	228.8	0	4,108.8	0
McIntosh	1	0	0	1.0	0
Macon	11,878	362.1	0	11,737.8	0
Madison	8,808	357.1	0	9,706.1	0
Marion	8,686	91.8	0	8,670.8	0
Meriwether	10,949	172.9	0	11,022.9	0
Miller	6,788	29.9	0	6,222.9	0
Mitchell	11,967	280.6	0	12,247.6	0
Monroe	930	0	0	930.0	0
Montgomery	3,679	136.6	0	3,804.6	0
Morgan	13,679	265.4	0	13,944.4	0
Murray	2,061	0	0	2,061.0	0

GEORGIA

County	Computed county allotment (1)	Allocation from State's share of national reserve (2)	Adjustment from State reserve for transfers (3)	County allotment, sum of columns (1), (2), and (3) (4)	Allocation from State reserve for inequity and hardship cases (5)
Appling	Acres 4,221	Acres 28.3	Acres 0	Acres 4,249.3	Acres 0
Atkinson	926	0	0	926.0	0
Bacon	2,011	70.4	0	2,081.4	0
Baker	2,311	72.3	0	2,384.3	0
Baldwin	1,605	18.8	0	2,618.8	0
Banks	1,198	101.8	0	1,264.8	0
Barrow	15,782	760.8	0	17,681.8	0
Bartow	3,265	118.0	0	3,383.0	0
Ben Hill	925	0	0	925.0	0
Berrien	4,631	346.1	0	7,067.1	0
Bibb	8,660	270.6	0	8,930.6	0
Bleckley	300	0	0	300.0	0
Brantley	18,809	642.6	0	24,382.6	0
Brooks	4,147	118.6	0	4,265.6	0
Bryan	4,345	156.6	0	5,002.6	0
Bulloch	4,295	380.6	0	6,681.6	0
Burke	6,582	0	0	6,582.0	0
Butts	4,295	380.6	0	6,681.6	0
Calhoun	6,582	0	0	6,582.0	0
Candler	97	0	0	97.0	0
Carroll	49	0	0	49.0	0
Catoosa	18	0	0	18.0	0
Charlton	809	27.6	0	890.6	0
Chatham	0	0	0	0	0
Chattahoochee	4,280	84.7	0	4,364.7	0
Chattooga	286	0	0	286.0	0
Cherokee	1,634	34.9	0	1,668.9	0
Clarke	4,271	66.8	0	4,440.8	0
Clay	461	0	0	461.0	0
Clayton	4,805	346.0	0	7,662.0	0
Clinch	134	67.7	0	201.7	0
Cobb	268	0	0	268.0	0
Coffee	6,805	346.0	0	7,662.0	0
Colquitt	20,134	667.7	0	20,811.7	0

GEORGIA—Continued

County	Computed county allotment (1)	Allocation from State's share of national reserve (2)	Adjustment from State reserve for transfers (3)	County allotment, sum of columns (1), (2), and (3) (4)	Allocation from State reserve for inequity and hardship cases (5)
Columbia	Acres 1,688	Acres 0	Acres 0	Acres 1,688.0	Acres 0
Cook	3,743	164.0	0	3,916.0	0
Crowley	4,911	0	0	4,911.0	0
Crisp	1,618	66.7	0	1,684.7	0
Dade	8,989	288.9	0	10,228.9	0
Dawson	141	0	0	141.0	0
Decatur	3,943	0	0	3,943.0	0
De Kalb	163	0	0	163.0	0
Dodge	12,774	438.4	0	13,212.4	0
Dooly	24,781	1,146.6	0	25,927.6	0
Dougherty	1,988	0	0	1,988.0	0
Douglas	343	0	0	343.0	0
Early	18,064	181.9	0	18,245.9	0
Echols	47	0	0	47.0	0
Effingham	7,861	316.8	0	8,177.8	0
Emanuel	15,923	461.8	0	16,384.8	0
Evans	2,464	110.8	0	2,604.8	0
Floyd	2,323	74.1	0	2,397.1	0
Forsyth	881	0	0	881.0	0
Franklin	7,066	230.9	0	7,296.9	0
Gilmer	1	0	0	1.0	0
Glascock	917	0	0	917.0	0
Grady	4,600	146.3	0	4,743.3	0
Greene	9,368	361.2	0	9,729.2	0
Gwinnett	2,716	90.8	0	2,806.8	0
Habersham	109	0	0	109.0	0
Hall	2,766	0	0	2,766.0	0
Hancock	8,166	166.3	0	8,332.3	0
Haralson	1,472	0	0	1,472.0	0
Harris	1,201	0	0	1,201.0	0
Hart	1,441	0	0	1,441.0	0
Heard	1,442	0	0	1,442.0	0
Henry	10,908	484.3	0	11,392.3	0
Houston	8,498	223.6	0	8,661.6	0
Irwin	8,268	0	0	8,268.0	0
Jackson	6,307	101.1	0	6,408.1	0
Jasper	3,397	101.1	0	3,398.1	0
Jeff Davis	2,187	30.2	0	2,217.2	0
Jefferson	18,478	737.2	0	19,215.2	0
Jenkins	11,373	300.7	0	11,673.7	0
Johnson	14,011	308.3	0	152.0	0
Jones	1,423	0	0	1,423.0	0
Lamar	2,388	78.2	0	2,466.2	0
Lanier	686	26.1	0	712.1	0
Laurens	27,729	636.6	0	28,379.6	0
Lee	1,284	116.6	0	1,400.6	0
Liberty	1,127	0	0	1,127.0	0
Lincoln	1,115	31.0	0	1,767.0	0
Long	1,736	0	0	1,736.0	0
Lowndes	3,191	56.0	0	3,247.0	0
Lumpkin	44	0	0	44.0	0
McDuffie	4,860	228.8	0	4,108.8	0
McIntosh	1	0	0	1.0	0
Macon	11,878	362.1	0	11,737.8	0
Madison	8,808	357.1	0	9,706.1	0
Marion	8,686	91.8	0	8,670.8	0
Meriwether	10,949	172.9	0	11,022.9	0
Miller	6,788	29.9	0	6,222.9	0
Mitchell	11,967	280.6	0	12,247.6	0
Monroe	930	0	0	930.0	0
Montgomery	3,679	136.6	0	3,804.6	0
Morgan	13,679	265.4	0	13,944.4	0
Murray	2,061	0	0	2,061.0	0

KANSAS

County or Parish	Computed county allotment (1)	Allocation from State's share of national reserve (2)	Adjustment from State reserve for transfers (3)	County allotment, sum of columns (1), (2), and (3) (4)	Allocation from State reserve for inequity and hardship cases (5)
Montgomery	Acres 13	Acres 3	Acres 0	Acres 14	Acres 0
Prodeductivity pool	0	0	0	0	0

KENTUCKY

Ballard	3	0.3	0	3.3	0
Calloway	42	3.8	0	45.8	0
Carlisle	2,623	198.3	0	2,773.3	0
Fulton	145	0	0	145.0	0
Graves	817	23.8	0	853.8	0
McCracken	4	3.0	0	7.0	0
Marshall	11	1.1	0	12.1	0
Prodeductivity pool	36	0	0	0	0

LOUISIANA

Acadia	9,236	139	0	10,814	0
Allen	201	3	0	204	0
Ascension	111	0	0	111	0
Assumption	4	0	0	4	0
Avoyelles	19,774	288	2,937	22,199	0
Beauregard	1,941	14	0	1,955	0
Bienville	16,160	296	3,001	18,457	0
Bossier	29,378	4	3,403	32,785	0
Caddo	870	0	0	870	0
Calcasieu	146	0	981	1,127	0
Caldwell	43	0	0	43	0
Cameron	10,629	383	1,971	12,983	0
Catahoula	3,099	24	0	3,123	0
Concordia	3,281	242	0	3,523	0
De Soto	6,880	18	1,455	8,353	0
East Baton Rouge	35,720	0	4,374	40,094	0
East Carroll	725	720	0	1,445	0
East Feliciana	13,276	208	1,240	14,824	0
Evangeline	62,196	1,066	6,246	69,508	0
Franklin	4,068	86	610	4,764	0
Grant	613	0	0	613	0
Iberia	247	0	0	247	0
Iberville	818	2	0	820	0
Jackson	183	0	0	183	0
Jefferson Davis	10,789	8	0	10,797	0
Lafayette	406	16	90	610	0
La Salle	1,072	10	0	1,082	0
Lincoln	1,115	0	0	1,115	0
Livingston	719	423	2,674	3,816	0
Madison	4,377	0	0	4,377	0
Morehouse	15,381	361	2,274	22,021	0
Natchitoches	13,267	35	0	7,463	0
Orleans	17,794	264	1,723	19,781	0
Ouachita	9,430	168	947	10,545	0
Pointe Coupee	3,196	0	2,196	5,392	0
Rapides	9,430	168	947	10,545	0
Red River	4,139	10	0	4,149	0
Richland	646	0	0	646	0
Sabine	1,008	0	0	1,008	0
St. Helena	38,287	589	0	23,052	0
St. Landry	6,361	0	0	6,361	0
St. Martin	81	0	0	81	0
St. Tammany	0	0	0	0	0

LOUISIANA—Continued

Parish or County	Computed parish allotment (1)	Allocation from State's share of national reserve (2)	Adjustment from State reserve for trends (3)	Parish allotment, sum of columns (1), (2), and (3) (4)	Allocation from State reserve for inequity and hardship cases (5)
	Acres	*Acres*	*Acres*	*Acres*	*Acres*
Tangipahoa	429	0	0	429	0
Tensas	19,397	453	2,690	22,540	0
Union	2,526	0	0	2,526	0
Vermillion	3,665	0	0	3,665	0
Vernon	429	0	0	429	0
Washington	4,259	4	0	4,263	19
Webster	1,428	0	0	1,428	0
West Baton Rouge	940	4	0	944	25
West Carroll	26,135	894	3,125	28,754	0
West Feliciana	965	12	0	977	69
Winn	786	1	0	787	3
Productivity pool	10,800	0	0	0	0

MISSISSIPPI

County	Computed county allotment (1)	Allocation from State's share of national reserve (2)	Adjustment from State reserve for trends (3)	County allotment, sum of columns (1), (2), and (3) (4)	Allocation from State reserve for inequity and hardship cases (5)
	Acres	*Acres*	*Acres*	*Acres*	*Acres*
Adams	2,084	0	189	2,173	0
Alcorn	11,764	941	1,314	13,709	0
Amite	4,699	0	0	4,699	0
Attala	11,405	330	1,278	13,013	0
Benton	10,498	186	1,484	12,168	0
Bolivar	106,851	1,104	13,162	119,017	0
Calhoun	14,048	791	1,570	16,404	0
Carroll	12,949	226	1,765	14,943	0
Chickasaw	12,130	214	1,677	14,011	0
Choctaw	3,196	0	245	3,441	0
Claiborne	3,825	48	299	4,172	0
Clarke	3,635	52	259	3,957	0
Clay	6,963	477	781	7,850	0
Coahoma	78,726	930	8,913	88,569	0
Copiah	6,689	53	404	7,116	0
Covington	7,385	39	477	7,901	0
De Soto	28,963	511	3,454	32,927	0
Forrest	633	0	38	671	0
Franklin	689	0	143	732	0
George	576	0	0	576	0
Greene	906	0	83	989	0
Grenada	10,236	249	1,146	11,631	0
Hancock	13	0	0	13	0
Hinds	20,801	55	1,677	22,033	0
Holmes	30,987	614	3,658	35,259	0
Humphreys	43,372	943	4,738	47,703	0
Issaquena	9,277	164	1,039	10,480	0
Itawamba	8,979	317	1,004	10,300	0
Jackson	10	0	0	10	0
Jasper	5,268	0	484	5,749	0
Jefferson	3,665	0	233	3,898	0
Jefferson Davis	12,080	89	1,348	13,497	0
Jones	6,268	0	613	6,881	0
Kemper	8,126	183	908	9,135	0
Lafayette	14,800	402	1,599	16,801	0
Lamar	1,383	0	87	1,469	0
Lauderdale	8,264	0	223	8,487	0
Lawrence	4,873	0	391	5,264	0
Leake	13,461	72	1,495	14,998	0
Lee	23,778	565	2,547	28,890	0
Leflore	65,221	813	7,292	73,326	0
Lincoln	3,823	0	204	4,027	0
Lowndes	13,718	340	1,533	15,591	0
Madison	28,289	579	3,197	32,065	0
Marion	7,597	0	522	8,119	0
Marshall	30,711	600	3,736	35,047	0
Monroe	28,616	704	3,853	33,073	0
Montgomery	6,397	113	1,054	7,564	0
Neshoba	11,897	0	788	11,985	0

MISSISSIPPI—Continued

County	Computed county allotment (1)	Allocation from State's share of national reserve (2)	Adjustment from State reserve for trends (3)	County allotment, sum of columns (1), (2), and (3) (4)	Allocation from State reserve for inequity and hardship cases (5)
	Acres	*Acres*	*Acres*	*Acres*	*Acres*
Newton	4,783	0	28	4,815	0
Noxubee	13,915	299	1,709	15,914	0
Oktibbeha	3,478	0	219	3,697	0
Panola	25,097	630	4,618	30,735	0
Pearl River	125	0	0	125	0
Perry	1,456	0	108	1,564	0
Pike	3,042	0	84	3,126	0
Pontotoc	16,951	703	2,367	20,021	0
Prentiss	14,608	328	2,283	17,220	0
Quitman	32,845	701	5,909	39,455	0
Rankin	7,177	0	618	7,795	0
Scott	8,449	0	529	8,978	0
Sharkey	24,808	308	2,773	27,884	0
Simpson	9,477	0	745	10,223	0
Smith	7,761	83	513	8,357	0
Stone	39	0	0	39	0
Sunflower	108,462	1,071	13,126	121,659	0
Tallahatchie	29,906	373	5,525	29,794	0
Tate	21,413	410	2,562	24,385	0
Tippah	13,870	776	1,709	16,055	0
Tishomingo	7,910	140	1,440	9,490	0
Tunica	42,661	427	4,770	47,858	0
Union	15,147	267	2,228	17,643	0
Walthall	8,456	0	979	10,435	0
Warren	5,227	94	811	6,082	0
Washington	74,557	513	8,968	84,288	0
Wayne	4,808	0	898	5,206	0
Webster	7,096	408	968	8,465	0
Wilkinson	1,376	0	100	1,376	0
Winston	9,865	199	1,108	11,188	0
Yalobusha	11,295	484	1,202	13,081	0
Yazoo	38,196	548	4,269	42,966	0
Productivity pool	7,285	0	0	0	0

MISSOURI

Bollinger	138	3	0	141	0
Butler	18,109	566	0	18,675	0
Cape Girardeau	103	0	0	103	0
Carter	10	0	0	10	0
Dunklin	77,820	279	0	78,199	700
Howell	13	0	0	13	0
Mississippi	25,853	49	0	25,902	300
New Madrid	84,472	109	0	84,581	1,080
Oregon	41	0	0	41	0
Pemiscot	80,596	147	0	80,743	1,061
Ripley	2,155	127	0	2,282	0
Scott	15,847	80	0	15,927	186
Stoddard	38,459	414	0	38,873	156
Vernon	4	0	0	4	0
Wayne	9	0	0	9	0
Productivity Pool	264	0	0	0	0

NEVADA

Clark	74	27	0	101	0
Nye	2,448	973	0	3,421	0
Productivity Pool	0	0	0	0	0

NEW MEXICO

County	Computed county allotment (1)	Allocation from State's share of national reserve (2)	Adjustment from State reserve for trends (3)	County allotment, sum of columns (1), (2), and (3) (4)	Allocation from State reserve for inequity and hardship cases (5)
	Acres	*Acres*	*Acres*	*Acres*	*Acres*
Bernalillo	1	0	0	1	0
Chaves	30,361	63	0	30,424	116
Curry	1,484	0	0	1,484	25
De Baca	497	15	0	502	2
Dona Ana	38,097	352	0	38,449	82
Eddy	26,497	5	0	26,502	119
Grant	109	0	0	109	2
Guadalupe	7	0	0	7	0
Harding	1	0	0	1	9
Hidalgo	6,266	0	0	6,266	33
Lea	26,226	18	0	26,244	78
Luna	13,472	0	0	13,472	45
Otero	2,192	0	0	2,192	12
Quay	2,766	0	0	2,766	37
Roosevelt	18,635	40	0	18,679	136
Sierra	2,496	20	0	2,516	32
Socorro	1,982	39	0	2,021	0
Valencia	2	0	0	2	0
Productivity pool	199	0	0	0	0

NORTH CAROLINA

County	Computed county allotment (1)	Allocation from State's share of national reserve (2)	Adjustment from State reserve for trends (3)	County allotment, sum of columns (1), (2), and (3) (4)	Allocation from State reserve for inequity and hardship cases (5)
	Acres	*Acres*	*Acres*	*Acres*	*Acres*
Alamance	32	7.2	0	39.2	1.8
Alexander	433	26.9	0	459.9	6.6
Anson	11,837	80.7	0	11,917.7	19.8
Beaufort	1,053	0	0	1,053.0	0
Bertie	7,014	711.0	0	7,725.0	174.5
Bladen	3,312	0.4	0	3,312.4	0.1
Brunswick	230	2.2	0	232.2	0.5
Buncombe	53	0	0	53.0	0
Burke	3,294	24.5	0	3,318.5	6.0
Cabarrus	13	3.1	0	16.1	0.7
Caldwell	280	0	0	280.0	0
Camden	42	2.6	0	44.6	0.6
Carteret	1,309	0	0	1,309.0	0
Catawba	343	0	0	343.0	0
Chatham	2,518	229.0	0	2,747.0	56.2
Chowan	29,221	581.5	0	29,802.5	142.8
Cleveland	2,464	373.3	0	2,837.3	91.7
Columbus	390	0	0	390.0	0
Craven	11,785	738.8	0	12,523.8	181.3
Cumberland	270	4.7	0	274.7	1.2
Currituck	726	0	0	726.0	0
Davidson	1,384	0	0	1,384.0	0
Davie	3,154	0	0	3,154.0	0
Duplin	109	0.3	0	109.3	0.1
Durham	13,362	792.9	0	14,154.9	194.6
Edgecombe	96	0	0	96.0	0
Forsyth	9,924	1,174.9	0	10,098.9	288.5
Franklin	2,498	0	0	2,498.0	0
Gaston	2,109	62.5	0	2,171.5	15.4
Gates	367	27.5	0	394.5	6.8
Granville	3,881	273.4	0	4,154.4	67.1
Greene	62	0	0	62.0	0
Guilford	24,524	2,093.5	0	28,617.5	1,157.4
Halifax	13,343	685.2	0	13,975.2	155.9
Harnett	5,099	715.2	0	5,804.2	175.6
Hertford	14,999	624.6	0	15,623.6	153.4
Hoke	178	0	0	178.0	0
Hyde	6,882	3.5	0	6,885.5	0.8
Iredell	19,370	1,402.8	0	20,772.8	344.4
Johnston	272	0	0	272.0	0
Jones	996	0	0	996.0	0
Lee	0	0	0	0	0
Lenoir	2,024	0	0	2,024.0	0
Lincoln	6,240	12.7	0	6,252.7	8.1

NORTH CAROLINA—Continued

County	Computed county allotment (1)	Allocation from State's share of national reserve (2)	Adjustment from State reserve for trends (3)	County allotment, sum of columns (1), (2), and (3) (4)	Allocation from State reserve for inequity and hardship cases (5)
	Acres	*Acres*	*Acres*	*Acres*	*Acres*
Martin	2,929	286.6	0	3,214.6	70.3
Mecklenburg	5,076	0	0	5,076.0	0
Montgomery	2,822	497.4	0	3,319.4	121.1
Moore	2,891	126.9	0	2,717.9	31.1
Nash	14,876	1,189.6	0	15,765.6	292.0
New Hanover	2	0	0	2.0	0
Northampton	22,303	2,186.4	0	24,543.4	1,122.5
Onslow	262	0	0	262.0	0
Orange	65	0	0	65.0	0.2
Pamlico	180	1.0	0	181.0	0.9
Pasquotank	196	3.7	0	199.7	0
Pender	273	0	0	273.0	0.2
Perquimans	1,062	0.7	0	1,062.7	0.2
Person	3	0.9	0	3.9	0.2
Pitt	6,829	546.9	0	7,376.9	134.4
Polk	1,167	18.5	0	1,178.5	4.5
Randolph	26	0	0	26.0	18.5
Richmond	6,013	75.2	0	6,088.2	0
Robeson	49,282	2,539.6	0	51,821.6	1,916.5
Rowan	4,774	0	0	4,774.0	0
Rutherford	7,285	86.8	0	7,371.8	21.3
Sampson	24,774	1,842.4	0	26,616.4	452.3
Scotland	17,008	1,336.3	0	18,344.3	774.3
Stanly	330	0	0	330.0	0
Stanly	222	2.4	0	224.4	0.6
Tyrrell	12,984	28.8	0	13,012.8	7.1
Union	3,940	281.6	0	4,221.6	142.8
Vance	4,660	0	0	4,660.0	0
Wake	8,669	220.9	0	8,889.9	34.7
Warren	7,829	0	0	7,829.0	0
Washington	554	0	0	554.0	0
Wayne	10,605	300.3	0	10,905.3	73.7
Wilkes	56	0	0	56.0	0
Wilson	8,341	415.3	0	8,756.3	101.9
Yadkin	30	0.1	0	30.1	0
Productivity pool	901	0	0	0	0

OKLAHOMA

Adair	30	0	17	87	0
Atoka	1,552	11	187	1,731	0
Beaver	42	0	0	42	0
Beckham	54,776	233	6,145	61,154	0
Blaine	11,016	446	1,145	12,607	0
Bryan	14,714	868	1,281	16,863	0
Caddo	41,926	1,596	4,458	47,982	0
Canadian	11,474	267	1,124	12,865	0
Carter	1,371	15	154	1,540	0
Cherokee	6	0	0	6	0
Choctaw	1,528	0	98	1,626	0
Cimarron	58	0	7	65	0
Cleveland	1,331	40	138	1,509	0
Coal	2,926	29	248	3,200	0
Comanche	10,671	307	1,220	12,198	0
Cotton	16,299	341	1,863	18,503	0
Craig	87	0	9	96	0
Creek	1,737	0	74	1,811	0
Custer	21,205	536	1,723	23,464	0
Dewey	7,076	294	815	8,125	0
Ellis	627	33	78	738	0
Garfield	35	0	0	35	0
Garvin	4,862	168	632	5,662	0
Grady	15,291	766	1,608	17,665	0
Grant	38	0	8	46	0
Greer	36,168	193	4,055	40,421	0
Harmon	42,292	122	4,926	47,340	0

OKLAHOMA—Continued

County	Computed county allotment (1)	Allocation from State's share of national reserve (2)	Adjustment from State reserve for trends (3)	County allotment, sum of columns (1), (2), and (3) (4)	Allocation from State reserve for inequity and hardship cases (5)
	Acres	*Acres*	*Acres*	*Acres*	*Acres*
Harper	13	0	2	15	0
Haskell	1,980	71	8	1,769	0
Hughes	2,978	0	377	3,345	0
Jackson	50,407	220	5,835	56,462	0
Jefferson	13,600	204	1,469	17,273	0
Johnston	3,179	75	482	3,736	0
Kay	180	0	0	180	0
Kingfisher	1,016	0	36	1,052	0
Kiowa	46,634	705	5,216	55,555	0
Latimer	72	0	0	72	0
Le Flore	1,972	0	109	2,082	0
Lincoln	960	0	133	993	0
Logan	2,660	114	287	2,961	0
Love	7,442	39	884	8,365	0
McClain	2,301	157	1,240	3,788	0
McCurtain	5,738	51	788	6,577	0
McIntosh	7,444	56	933	8,433	0
Major	1,553	0	150	1,703	0
Marshall	4,993	112	403	4,508	0
Mayes	501	0	42	543	0
Murray	333	0	57	390	0
Muskogee	15,626	461	1,888	17,985	0
Noble	545	0	59	604	0
Nowata	333	0	116	449	0
Okfuskee	3,785	57	341	4,183	0
Oklahoma	400	0	68	468	0
Okmulgee	8,106	200	999	9,305	0
Osage	2,813	0	271	3,083	0
Pawnee	3,777	89	418	3,284	0
Payne	1,831	61	323	2,215	0
Pittsburg	2,761	0	22	2,783	0
Pontotoc	939	0	101	1,040	0
Pottawatomie	466	0	50	516	0
Pushmataha	247	0	28	275	0
Roger Mills	18,819	307	2,295	21,421	0
Rogers	442	0	21	463	0
Seminole	1,096	0	176	1,272	0
Sequoyah	1,234	24	138	1,396	0
Stephens	5,186	113	734	6,035	0
Texas	6	0	3	9	0
Tillman	61,586	206	6,981	68,143	0
Tulsa	1,140	0	81	1,221	0
Wagoner	6,949	0	781	7,673	0
Washington	3	0	0	3	0
Washita	64,896	700	7,205	72,791	0
Woodward	862	9	99	970	0
Productivity pool	3,017	0	0	0	0

SOUTH CAROLINA

Abbeville	6,987	715	0	6,772	0
Aiken	16,811	437	1,860	19,098	0
Allendale	8,653	267	1,235	10,155	0
Anderson	20,241	360	1,369	21,970	0
Bamberg	11,209	371	1,725	13,206	0
Barnwell	12,372	390	1,734	14,496	0
Beaufort	232	0	0	232	0
Berkeley	6,830	39	0	6,969	0
Calhoun	13,620	426	1,964	16,012	0
Charleston	642	0	0	642	0
Cherokee	9,108	184	742	10,034	0
Chester	7,975	159	639	8,773	0
Chesterfield	26,278	547	2,263	29,088	0
Clarendon	30,877	1,015	4,723	36,115	0

SOUTH CAROLINA—Continued

Colleton	7,288	197	0	7,485	0
Darlington	26,851	637	3,778	31,466	0
Dillon	19,080	676	3,166	22,773	0
Dorchester	7,417	129	457	8,003	0
Edgefield	8,210	209	907	9,326	0
Fairfield	3,280	128	0	3,437	0
Florence	27,924	840	3,813	32,577	0
Georgetown	2,080	15	0	2,095	0
Greenville	10,188	437	0	10,625	0
Greenwood	4,042	80	0	5,122	0
Hampton	6,478	191	861	7,530	0
Horry	6,437	231	0	6,668	0
Jasper	1,977	0	0	1,977	0
Kershaw	14,964	396	1,993	17,353	0
Lancaster	6,125	272	0	6,397	0
Laurens	13,052	253	1,005	14,310	0
Lee	25,089	1,089	5,081	26,126	0
Lexington	8,830	211	902	9,943	0
McCormick	2,672	137	0	2,809	0
Marion	10,251	901	1,860	11,912	0
Marlboro	34,995	1,102	5,053	41,060	0
Newberry	5,774	85	290	6,149	0
Oconee	5,149	328	0	5,477	0
Orangeburg	30,806	1,466	6,902	39,174	0
Pickens	3,139	229	0	3,368	0
Richland	4,067	540	0	4,606	0
Saluda	6,267	178	767	7,212	0
Spartanburg	15,890	205	646	16,547	0
Sumter	34,580	1,046	4,781	40,393	0
Union	3,898	55	193	4,147	0
Williamsburg	29,453	1,078	5,103	35,634	0
York	11,954	278	1,148	13,380	0
Productivity pool	2,545	0	0	0	0

TENNESSEE

Bedford	880	0	0	880	0
Benton	2,193	0	0	2,193	0
Bradley	348	0	0	348	0
Cannon	10	0	1	11	0
Carroll	18,407	637	426	19,470	0
Chester	10,425	893	262	11,079	0
Coffee	700	0	0	700	0
Crockett	31,134	1,230	891	33,255	0
Davidson	1	0	0	1	0
Decatur	2,926	0	0	2,926	0
Dyer	20,570	1,123	752	22,445	0
Fayette	40,342	1,475	987	42,804	0
Franklin	4,346	0	0	4,346	0
Gibson	43,013	1,806	1,211	46,030	0
Giles	4,980	0	0	4,980	0
Grundy	79	0	0	79	0
Hamilton	141	0	0	141	0
Hardeman	19,678	870	883	20,627	0
Hardin	7,777	20	19	7,826	0
Haywood	40,504	1,553	1,040	43,097	0
Henderson	16,051	277	186	16,514	0
Henry	4,270	0	0	4,270	0
Hickman	5	0	0	5	0
Humphreys	10	0	0	10	0
Lake	19,947	847	567	21,361	0
Lauderdale	32,660	1,340	897	35,897	0
Lawrence	17,162	176	118	17,456	0
Lewis	91	0	13	104	0

TENNESSEE—Continued

County	Computed county allotment (1)	Allocation from State's share of national reserve (2)	Adjustment from State reserve for trends (3)	County allotment, sum of columns (1), (2), and (3) (4)	Allocation from State reserve for inequity and hardship cases (5)
	Acres	*Acres*	*Acres*	*Acres*	*Acres*
Lincoln	11,909	37	35	11,971	0
Loudon	4	0	0	4	0
McMinn	147	0	0	147	0
McNairy	17,706	254	136	18,096	0
Madison	31,070	1,091	730	32,891	0
Marion	120	0	0	120	0
Marshall	253	0	0	253	0
Maury	120	0	0	120	0
Meigs	194	0	0	194	0
Monroe	62	0	0	62	0
Moore	40	0	0	40	0
Obion	9,035	185	124	9,344	0
Perry	110	0	0	110	0
Polk	312	0	0	312	0
Rhea	6	0	0	6	0
Robertson	1	0	0	1	0
Rutherford	3,806	28	15	3,841	0
Shelby	37,396	334	223	37,953	0
Tipton	43,995	1,035	1,129	46,809	0
Van Buren	7	0	0	7	0
Warren	88	0	0	88	0
Wayne	2,490	0	0	2,490	0
Weakley	9,179	384	367	9,930	0
White	12	0	0	12	0
Williamson	30	0	3	33	0
Wilson	57	0	0	57	0
Productivity pool	1,897	0	0	0	0

TEXAS

Anderson	4,806	0	0	4,806	0
Andrews	4,306	0	100	4,406	0
Angelina	1,540	0	0	1,540	0
Aransas	1,187	0	3	1,190	0
Archer	1,988	0	0	1,953	0
Armstrong	2,078	48	0	2,126	0
Atascosa	9,848	363	0	9,708	0
Austin	18,472	567	7	19,086	0
Bailey	96,008	78	144	96,228	0
Bastrop	11,111	192	0	11,303	0
Baylor	17,694	239	0	17,933	0
Bee	13,714	126	0	13,840	0
Bell	66,902	111	0	67,013	0
Bexar	3,794	0	0	3,794	0
Blanco	119	0	0	119	0
Borden	18,245	28	66	18,339	0
Bosque	10,620	14	0	10,634	0
Bowie	10,547	302	0	10,850	0
Brazoria	7,901	0	10	7,911	0
Brazos	18,571	96	28	18,692	0
Brewster	62	0	0	62	0
Briscoe	26,673	28	30	26,735	0
Brooks	3,201	0	0	3,201	0
Brown	5,453	0	0	5,453	0
Burleson	26,514	273	0	26,787	0
Burnet	3,948	91	0	4,039	0
Caldwell	19,503	0	0	19,503	0
Calhoun	16,920	0	1	16,921	0
Callahan	7,598	247	0	7,845	0
Cameron	184,547	4,962	6	189,515	0
Camp	1,175	0	0	1,175	0
Carson	7,386	781	1	8,168	0
Cass	8,086	0	0	8,086	0
Castro	82,471	107	93	82,671	0
Chambers	15	0	0	15	0

TEXAS—Continued

County	Computed county allotment (1)	Allocation from State's share of national reserve (2)	Adjustment from State reserve for trends (3)	County allotment, sum of columns (1), (2), and (3) (4)	Allocation from State reserve for inequity and hardship cases (5)
	Acres	*Acres*	*Acres*	*Acres*	*Acres*
Cherokee	5,185	0	0	5,185	0
Childress	82,310	120	0	82,430	0
Clay	9,856	0	0	9,856	0
Cochran	73,798	0	123	73,921	0
Coke	6,571	20	0	6,590	0
Coleman	20,971	0	0	20,971	0
Collin	79,859	626	0	80,485	0
Collingsworth	63,247	0	0	63,247	0
Colorado	9,641	143	0	9,784	0
Comal	166	6	0	165	0
Comanche	7,351	0	0	7,351	0
Concho	24,713	35	31	24,784	0
Cooke	6,957	0	0	6,957	0
Coryell	18,448	44	0	18,492	0
Castle	52,367	136	0	52,503	0
Crockett	80	0	0	80	0
Crosby	118,824	310	345	119,479	0
Culberson	4,733	0	0	4,733	0
Dallam	18	0	0	18	0
Dallas	33,435	197	0	33,632	0
Dawson	197,110	485	918	198,513	0
Deaf Smith	10,602	87	24	10,693	0
Delta	30,202	98	6	30,356	0
Denton	20,903	90	0	20,993	0
De Witt	16,309	0	0	16,309	0
Dickens	50,057	197	55	50,309	0
Dimmit	1,776	20	0	1,796	0
Donley	28,444	29	0	28,473	0
Duval	11,176	252	13	11,541	0
Eastland	8,052	208	0	8,235	0
Ector	202	0	0	202	0
Ellis	134,888	451	2	135,341	0
El Paso	24,211	687	0	24,898	0
Erath	6,641	0	0	6,641	0
Falls	74,188	310	0	74,498	0
Fannin	65,626	366	0	65,992	0
Fayette	27,495	681	0	28,176	0
Fisher	79,776	192	95	80,063	0
Floyd	94,850	0	139	94,989	0
Foard	12,235	104	0	12,339	0
Fort Bend	62,680	1,121	368	64,169	0
Franklin	3,024	0	1	3,025	0
Freestone	10,388	606	0	10,994	0
Frio	4,735	95	10	4,840	0
Gaines	89,284	0	3,345	92,629	0
Galveston	4	0	0	4	0
Garza	26,864	92	0	26,456	0
Gillespie	1,220	0	0	1,220	0
Glasscock	12,543	0	512	13,055	0
Goliad	4,244	0	0	4,244	0
Gonzales	11,447	0	0	11,447	0
Gray	3,579	44	0	3,623	0
Grayson	33,011	54	0	33,065	0
Gregg	694	0	0	694	0
Grimes	14,464	80	0	14,544	0
Guadalupe	18,826	0	0	18,826	0
Hale	157,471	62	244	157,777	0
Hall	91,725	183	0	91,908	0
Hamilton	10,260	7	0	10,267	0
Hansford	741	364	2	1,107	0
Hardeman	22,092	76	0	22,078	0
Harden	23	0	0	23	0
Harris	3,396	0	0	3,396	0
Harrison	4,022	0	0	4,022	0
Hartley	11	71	0	82	0
Haskell	114,988	178	12	115,178	0
Hays	7,465	5	0	7,470	0
Hemphill	1,616	38	0	1,654	0

TEXAS—Continued

County	Computed county allotment (1)	Allocation from State's share of national reserve (2)	Adjustment from State reserve for trends (3)	County allotment, sum of columns (1), (2), and (3) (4)	Allocation from State reserve for inequity and hardship cases (5)
	Acres	Acres	Acres	Acres	Acres
Norton	280	0	0	280	0
Nolan	24,240	0	0	24,240	0
Nueces	52,852	0	0	52,852	0
Oldham	1,284	0	0	1,284	0
Palo Pinto	4,000	0	0	4,000	0
Panola	4,000	0	0	4,000	0
Parker	4,000	0	0	4,000	0
Parmer	4,000	0	0	4,000	0
Pecos	4,000	0	0	4,000	0
Polk	4,000	0	0	4,000	0
Potter	4,000	0	0	4,000	0
Presidio	4,000	0	0	4,000	0
Rains	4,000	0	0	4,000	0
Randall	4,000	0	0	4,000	0
Reagan	1,280	0	0	1,280	0
Red River	1,280	0	0	1,280	0
Reeves	1,280	0	0	1,280	0
Refugio	1,280	0	0	1,280	0
Roberts	1,280	0	0	1,280	0
Robertson	1,280	0	0	1,280	0
Rockwall	1,280	0	0	1,280	0
Runnels	1,280	0	0	1,280	0
Rusk	1,280	0	0	1,280	0
Sabine	1,280	0	0	1,280	0
San Augustine	1,280	0	0	1,280	0
San Jacinto	1,280	0	0	1,280	0
San Patricio	1,280	0	0	1,280	0
San Saba	1,280	0	0	1,280	0
Schleicher	1,280	0	0	1,280	0
Scurry	1,280	0	0	1,280	0
Shackelford	1,280	0	0	1,280	0
Shelby	1,280	0	0	1,280	0
Smith	1,280	0	0	1,280	0
Somervell	1,280	0	0	1,280	0
Starr	1,280	0	0	1,280	0
Stephens	1,280	0	0	1,280	0
Sterling	1,280	0	0	1,280	0
Stonewall	1,280	0	0	1,280	0
Sutton	1,280	0	0	1,280	0
Taylor	1,280	0	0	1,280	0
Terry	1,280	0	0	1,280	0
Throckmorton	1,280	0	0	1,280	0
Titus	1,280	0	0	1,280	0
Tom Green	1,280	0	0	1,280	0
Travis	1,280	0	0	1,280	0
Trinity	1,280	0	0	1,280	0
Tyler	1,280	0	0	1,280	0
Upshur	1,280	0	0	1,280	0
Upton	1,280	0	0	1,280	0
Uvalde	1,280	0	0	1,280	0
Val Verde	1,280	0	0	1,280	0
Van Zandt	1,280	0	0	1,280	0
Victoria	1,280	0	0	1,280	0
Walker	1,280	0	0	1,280	0
Ward	1,280	0	0	1,280	0
Washington	1,280	0	0	1,280	0
Webb	1,280	0	0	1,280	0
Wharton	1,280	0	0	1,280	0
Wheeler	1,280	0	0	1,280	0
Wichita	1,280	0	0	1,280	0
Wilbarger	1,280	0	0	1,280	0
Willacy	1,280	0	0	1,280	0
Williamson	1,280	0	0	1,280	0
Wilson	3,916	0	0	3,916	0
Winkler	13	22	0	35	0
Wise	2,255	0	0	2,255	0
Wood	2,085	0	0	2,085	0
Yoakum	36,725	274	741	37,740	0
Young	11,596	0	0	11,596	0
Zapata	1,022	0	0	1,022	0
Zavala	8,556	0	0	8,556	0
Productivity pool	81,065	0	0	0	0

VIRGINIA

County	Computed county allotment (1)	Allocation from State's share of national reserve (2)	Adjustment from State reserve for trends (3)	County allotment sum of columns (1), (2), and (3) (4)	Allocation from State reserve for— Small farms (5)	Allocation from State reserve for— Inequity and hardship cases (6)
	Acres	Acres	Acres	Acres	Acres	Acres
Brunswick	1,805	188.5	0	1,993.5	17.8	17.8
Charlotte	5	4.3	0	9.3	0	0
Chesapeake	10	0	0	10.0	0.1	0.1
Dinwiddie	213	29.2	0	242.2	2.1	2.1
Franklin	2	0	0	2.0	0	0
Greensville	4,040	328.0	0	4,368.0	39.9	39.9
Isle of Wight	227	43.7	0	280.7	2.3	2.3
Lunenburg	175	18.7	0	193.7	1.7	1.7
Mecklenburg	1,692	170.8	0	1,862.8	16.7	16.7
Nansemond	1,357	201.2	0	1,558.2	13.4	13.4
Prince Edward	3	1.6	0	4.6	0	0
Prince George	35	9.8	0	44.8	0.4	0.4
Southampton	4,163	384.6	0	4,549.6	41.1	41.1
Surry	4	1.4	0	5.4	0	0
Sussex	1,405	102.2	0	1,627.2	14.5	14.5
Productivity pool	13	0	0	0	0	0

(Secs. 344, 375, 68 Stat. 670, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1344, 1375)

Effective date: Date of filing this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on November 17, 1967.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 67-13694; Filed, Nov. 17, 1967; 12:56 p.m.]

PART 722—COTTON

Subpart—1968 Crop of Upland Cotton; Acreage Allotments and Marketing Quotas

COUNTY PROJECTED YIELDS

Basis and purpose. This document is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.).

The purpose of § 722.484 is to establish county projected yields under section 301(b)(13)(L) of the act for upland cotton of the 1968 crop.

Notice that the Secretary was preparing to establish county projected yields was published in the FEDERAL REGISTER on August 9, 1967 (32 F.R. 11475) in accordance with 5 U.S.C. 553. No written submissions were received in response to such notice.

Since the yields established under this section require immediate action by the Agricultural Stabilization and Conservation State and county committees, it is essential that § 722.484 be made effective as soon as possible. Accordingly, it is hereby determined and found that compliance with the 30-day effective date requirement of 5 U.S.C. 553 is impracticable and contrary to the public interest and § 722.484 shall be effective upon the filing of this document with the Director, Office of the Federal Register.

§ 722.484 County projected yields for upland cotton of the 1968 crop.

(a) *Method of determining county projected yields.* The county projected yields for the 1968 crop of upland cotton were determined on the basis of the average yield per harvested acre in the counties during 1962, 1963, 1964, 1965, and 1966, adjusted for abnormal weather conditions affecting such yields, for trends in yields and for any significant changes in production practices, as provided under section 301(b)(13)(L) of the Act.

(b) *Adjustments for abnormal weather conditions, trends, and significant changes in production practices.* The harvested yields for each county for the base period (1962–66) were adjusted for abnormal weather conditions, for trends in yields, and for any significant changes in production practices during such period as follows:

(1) For each annual yield in the 5-year period which was less than 80 percent of the 5-year average harvested yield, a yield equal to 80 percent of such 5-year average was substituted. For each annual yield in the 5-year period which was more than 140 percent of the 5-year average harvested yield, a yield equal to 140 percent of such 5-year average was substituted. A simple average of the 5-year yields so adjusted was obtained for each county.

(2) The 5-year average yield for each county as adjusted under subparagraph (1) of this paragraph was further adjusted for trends in yields and significant changes in production practices (referred to as trend adjustments) by obtaining a simple average of (i) the 1962–66 average yield for each county as adjusted under subparagraph (1) of this paragraph, and (ii) the 1965–66 average yield for each county as adjusted under subparagraph (1) of this paragraph, except that if the 5-year average of the harvested yields prior to adjustment under subparagraph (1) of this paragraph exceeded the adjusted annual yield for 1965 or 1966, such 5-year average yield was substituted for the purpose of trend adjustment. For each county for which the trend adjustment exceeded the 5-year average yield as adjusted under subparagraph (1) of this paragraph, the simple average determined under this subparagraph (2) was substituted for the 5-year average yield as adjusted under subparagraph (1) of this paragraph.

(c) *Preliminary county projected yields.* The preliminary county projected yields were determined as follows:

(1) A State weighted average of county adjusted yields determined under paragraph (b) of this section was obtained by dividing (i) the sum of the products of the 1967 county allotments, including allocations from the State reserve for hardships and inequities and for small farms, times the county adjusted yields, under paragraph (b)(2) of this section, by (ii) the State total of 1967 county allotments, including allocations from the State reserve for hardships and inequities and for small farms;

(2) A State yield factor was computed by dividing (i) 98 percent of the product of the 1968 State projected yield determined under § 722.480 (32 F.R. 14268) times the sum of the 1967 county allotments by (ii) the State total of the products of the 1967 county allotments times their respective adjusted yields.

(3) The preliminary county projected yield was obtained by multiplying the county adjusted yield by the State yield factor.

(d) *County projected yields for 1968.* The county projected yields were established as follows:

(1) The preliminary county projected yields for each State established under paragraph (c) of this section were reviewed by the State committee and on the basis of all available data, the State

TEXAS—Continued

County	Computed county allotment (1)	Allocation from State's share of national reserve (2)	Adjustment from State reserve for trends (3)	County allotment, sum of columns (1), (2), and (3) (4)	Allocation from State reserve for inequity and hardship cases (5)
	Acres	Acres	Acres	Acres	Acres
Henderson	4,978	0	0	4,978	0
Hidalgo	126,986	4,243	0	131,229	0
Hill	15,811	0	0	15,811	0
Hockley	2,826	0	0	2,826	0
Hood	11,811	0	0	11,811	0
Hopkins	7,217	0	0	7,217	0
Houston	14,240	0	0	14,240	0
Howard	26,764	0	0	26,764	0
Hunt	1,000	0	0	1,000	0
Hutchinson	1,280	0	0	1,280	0
Irion	1,280	0	0	1,280	0
Jack	1,280	0	0	1,280	0
Jackson	1,280	0	0	1,280	0
Jasper	1,280	0	0	1,280	0
Jeff Davis	1,280	0	0	1,280	0
Jim Hogg	1,280	0	0	1,280	0
Jim Wells	1,280	0	0	1,280	0
Johnson	1,280	0	0	1,280	0
Jones	1,280	0	0	1,280	0
Karnes	1,280	0	0	1,280	0
Kaufman	1,280	0	0	1,280	0
Kendall	1,280	0	0	1,280	0
Kerr	1,280	0	0	1,280	0
Kimble	1,280	0	0	1,280	0
King	1,280	0	0	1,280	0
Kinney	1,280	0	0	1,280	0
Kleberg	1,280	0	0	1,280	0
Knox	1,280	0	0	1,280	0
Lamar	1,280	0	0	1,280	0
Lamb	1,280	0	0	1,280	0
Lampasas	1,280	0	0	1,280	0
La Salle	1,280	0	0	1,280	0
Lavaca	1,280	0	0	1,280	0
Lee	1,280	0	0	1,280	0
Leon	1,280	0	0	1,280	0
Liberty	1,280	0	0	1,280	0
Limestone	1,280	0	0	1,280	0
Live Oak	1,280	0	0	1,280	0
Llano	1,280	0	0	1,280	0
Loving	1,280	0	0	1,280	0
Lubbock	1,280	0	0	1,280	0
Lynn	1,280	0	0	1,280	0
McCulloch	1,280	0	0	1,280	0
McLennan	1,280	0	0	1,280	0
McMullen	1,280	0	0	1,280	0
Madison	1,280	0	0	1,280	0
Marion	1,280	0	0	1,280	0
Martin	1,280	0	0	1,280	0
Mason	1,280	0	0	1,280	0
Matagorda	1,280	0	0	1,280	0
Maverick	1,280	0	0	1,280	0
Medina	1,280	0	0	1,280	0
Midland	1,280	0	0	1,280	0
Milam	1,280	0	0	1,280	0
Mills	1,280	0	0	1,280	0
Mitchell	1,280	0	0	1,280	0
Montague	1,280	0	0	1,280	0
Montgomery	1,280	0	0	1,280	0
Moore	1,280	0	0	1,280	0
Morris	1,280	0	0	1,280	0
Motley	1,280	0	0	1,280	0
Nacogdoches	1,280	0	0	1,280	0
Navarro	1,280	0	0	1,280	0

committee adjusted such preliminary county projected yields, utilizing to the extent necessary the reserve poundage resulting from use of a 90 percentage figure rather than a 100 percentage figure in paragraph (c) (2) (i) of this section to provide comparability and proper relationships between counties in the State. The State total of the products of the resultant recommended county projected yields times the 1967 county allotments is within the State total of (i) the products of the preliminary county projected yields times the 1967 county allotments, plus (ii) the State poundage reserve.

(e) *Tabulation of county projected yields for 1968.* The following county projected yields for upland cotton of the 1968 crop are hereby determined and established:

ALABAMA

County	Projected yield (pounds per acre)	County	Projected yield (pounds per acre)
Autauga	648	Houston	458
Baldwin	448	Jackson	530
Barbour	410	Jefferson	480
Bibb	571	Lamar	453
Blount	487	Lauderdale	587
Bullock	363	Lawrence	658
Butler	455	Lee	454
Calhoun	475	Limestone	617
Chambers	479	Lowndes	488
Cherokee	654	Macon	479
Chilton	478	Madison	613
Choctaw	384	Marengo	398
Clarke	387	Marion	511
Clay	399	Marshall	563
Cleburne	372	Mobile	374
Coffee	401	Monroe	527
Colbert	612	Montgomery	409
Conecuh	411	Morgan	501
Coosa	340	Perry	496
Covington	494	Pickens	479
Crenshaw	441	Pike	364
Cullman	534	Randolph	432
Dale	415	Russell	377
Dallas	483	St. Clair	406
De Kalb	561	Shelby	599
Elmore	567	Sumter	418
Escambia	547	Talladega	418
Etowah	447	Tallapoosa	479
Fayette	596	Tuscaloosa	509
Franklin	453	Walker	494
Geneva	428	Washington	471
Greene	437	Wilcox	411
Hale	507	Winston	450
Henry	432		

ARIZONA

Cochise	912	Pima	941
Gila	891	Pinal	1,204
Graham	899	Santa Cruz	592
Greenlee	807	Yavapai	784
Maricopa	1,104	Yuma	1,639
Mohave	1,984		

ARKANSAS

Arkansas	452	Cross	544
Ashley	704	Dallas	330
Baxter	350	Desha	626
Boone	304	Drew	569
Bradley	314	Faulkner	436
Calhoun	314	Franklin	438
Chicot	646	Fulton	346
Clark	411	Garland	396
Clay	536	Grant	382
Cleburne	337	Greene	529
Cleveland	356	Hempstead	417
Columbia	396	Hot Spring	463
Conway	510	Howard	467
Craighead	573	Independence	468
Crawford	468	Izard	388
Crittenden	690	Jackson	476
Cross	544	Jefferson	647
Dallas	330	Johnson	609
Desha	626	Lafayette	613
Drew	569	Lawrence	517
Faulkner	436	Lee	586
Franklin	438	Lincoln	692
Fulton	346	Little River	524
Garland	396	Logan	458
Grant	382	Lonoke	558
Greene	529	Marion	297
Hempstead	417	Miller	506
Hot Spring	463	Mississippi	626
Howard	467	Monroe	563
Independence	468	Montgomery	280
Izard	388	Nevada	413
Jackson	476	Newton	278
Jefferson	647	Ouachita	368
Johnson	609	Perry	313
Lafayette	613	Phillips	690
Lawrence	517	Pike	429
Lee	586	Poinsett	517
Lincoln	692	Polk	395
Little River	524	Pope	524
Logan	458	Prairie	492
Lonoke	558	Pulaski	529
Marion	297	Randolph	522
Miller	506	St. Francis	561
Mississippi	626	Saline	327
Monroe	563	Scott	336
Montgomery	280	Searcy	317
Nevada	413	Sebastian	328
Newton	278	Sevier	306
Ouachita	368	Sharp	360
Perry	313	Stone	419
Phillips	690	Union	328
Pike	429	Van Buren	291
		Washington	251
		White	356
		Woodruff	559
		Yell	540

CALIFORNIA

Fresno	1,153	Riverside	1,411
Imperial	1,687	San Benito	1,166
Kern	1,240	San Bernardino	753
Kings	1,090	San Diego	1,475
Los Angeles	782	Stanislaus	871
Madera	908	Tulane	963
Merced	923		

FLORIDA

Alachua	275	Lafayette	288
Baker	281	Leon	286
Bay	324	Levy	270
Calhoun	345	Liberty	264
Clay	418	Madison	295
Columbia	239	Nassau	331
Dixie	314	Okaloosa	388
Escambia	495	Santa Rosa	528
Gadsden	369	Suwannee	230
Gilchrist	332	Taylor	222
Hamilton	242	Union	297
Holmes	364	Walton	354
Jackson	354	Washington	317
Jefferson	300		

GEORGIA

Appling	349	Crawford	478
Atkinson	345	Crisp	598
Bacon	332	Dade	298
Baker	369	Dawson	331
Baldwin	377	Decatur	344
Banks	406	De Kalb	351
Barrow	402	Dodge	460
Bartow	585	Dooly	732
Ben Hill	529	Dougherty	359
Berrien	432	Douglas	366
Bibb	480	Early	516
Bleckley	579	Echols	386
Brantley	384	Effingham	335
Brooks	368	Elbert	460
Bryan	356	Emanuel	456
Bulloch	459	Evans	433
Burke	489	Fayette	401
Butts	448	Floyd	476
Calhoun	374	Forsyth	366
Candler	382	Franklin	476
Carroll	408	Fulton	396
Catoosa	393	Gilmer	376
Charlton	363	Glascock	386
Chatham	336	Gordon	409
Chattahoochee	306	Grady	392
Chattooga	424	Greene	327
Cherokee	344	Gwinnett	409
Clarke	315	Habersham	369
Clay	528	Hall	362
Clayton	347	Hancock	335
Clinch	350	Haralson	325
Cobb	356	Harris	429
Coffee	415	Hart	499
Colquitt	510	Heard	401
Columbia	321	Henry	417
Cook	451	Houston	510
Coweta	389	Irwin	444

GEORGIA—Continued

County or Parish	Projected yield (pounds per acre)	County or Parish	Projected yield (pounds per acre)
Jackson	443	Quitman	441
Jasper	361	Randolph	616
Jeff Davis	418	Richmond	441
Jefferson	495	Rockdale	428
Jenkins	452	Schley	459
Johnson	447	Screven	470
Jones	347	Seminole	445
Lamar	336	Spalding	382
Lanier	357	Stephens	412
Laurens	494	Stewart	504
Lee	490	Sumter	636
Liberty	223	Talbot	298
Lincoln	251	Taliaferro	220
Long	294	Tattnall	424
Lowndes	328	Taylor	633
Lumpkin	390	Telfair	354
McDuffie	384	Terrell	636
McIntosh	265	Thomas	421
Macon	586	Tift	422
Madison	406	Toombs	459
Marion	482	Treutlen	418
Meriwether	457	Troup	382
Miller	488	Turner	512
Mitchell	418	Twiggs	505
Monroe	297	Upson	335
Montgomery	372	Walker	323
Morgan	446	Walton	510
Murray	320	Ware	348
Muscogee	344	Warren	420
Newton	398	Washington	481
Oconee	509	Wayne	344
Oglethorpe	406	Webster	408
Paulding	393	Wheeler	427
Peach	596	White	359
Pickens	274	Whitfield	464
Pierce	348	Wilcox	458
Pike	466	Wilkes	341
Polk	442	Wilkinson	303
Pulaski	528	Worth	501
Putnam	331		

ILLINOIS

Alexander	509	Pulaski	465
Massac	465		

KANSAS

Montgomery	204

KENTUCKY

Ballard	411	Graves	417
Calloway	432	Hickman	503
Carlisle	468	McCracken	475
Fulton	659	Marshall	368

LOUISIANA

Acadia	481	Lincoln	312
Allen	420	Livingston	359
Ascension	379	Madison	733
Assumption	38	Morehouse	731
Avoyelles	630	Natchitoches	560
Beauregard	356	Ouachita	677
Bienville	293	Pointe Coupee	520
Bossier	555	Rapides	740
Caddo	615	Red River	560
Calcasieu	38	Richland	574
Caldwell	679	Sabine	352
Cameron	38	St. Helena	335
Catahoula	612	St. Landry	555
Claiborne	242	St. Martin	451
Concordia	634	St. Tammany	264
De Soto	298	Tangipahoa	255
East Baton Rouge	294	Tensas	738
East Carroll	765	Union	347
East Feliciana	381	Vermilion	415
Evangeline	532	Vernon	351
Franklin	574	Washington	362
Grant	562	Webster	349
Iberia	325	West Baton Rouge	473
Iberville	256	West Carroll	574
Jackson	274	West Feliciana	389
Jefferson Davis	407	Winn	265
Lafayette	468		
La Salle	598		

MISSISSIPPI

County	Projected yield (pounds per acre)	County	Projected yield (pounds per acre)
Adams	674	Lafayette	532
Alcorn	606	Lincoln	600
Amite	401	Lowndes	583
Attala	647	Madison	590
Benton	606	Marion	598
Bolivar	745	Marshall	675
Calhoun	699	Monroe	672
Carroll	708	Montgomery	722
Chickasaw	562	Neshoba	490
Choctaw	589	Newton	416
Claiborne	514	Noxubee	560
Clarke	428	Oktibbeha	423
Clay	520	Panola	741
Coahoma	514	Pearl River	340
Copiah	512	Perry	376
Covington	475	Pike	371
De Soto	623	Pontotoc	613
Forrest	452	Prentiss	591
Franklin	545	Quitman	736
George	373	Rankin	575
Greene	408	Scott	518
Grenada	748	Sharkey	560
Hancock	313	Simpson	488
Harrison	366	Smith	495
Hinds	532	Stone	350
Holmes	559	Sunflower	778
Humphreys	669	Tallahatchie	530
Issaquena	955	Tate	740
Itawamba	548	Tippah	656
Jackson	411	Tishomingo	540
Jasper	402	Tunica	734
Jefferson	496	Union	606
Jefferson Davis	422	Walthall	421
Jones	449	Warren	724
Kemper	490	Washington	690
Lafayette	553	Wayne	490
Lamar	541	Webster	668
Lauderdale	415	Wilkinson	419
Lawrence	423	Winston	534
Leake	563	Yalobusha	717
Lee	494	Yazoo	663

MISSOURI

Bollinger	486	New Madrid	573
Butler	529	Oregon	398
Cape Girardeau	526	Pemiscot	615
Carter	419	Ripley	467
Dunklin	655	Scott	517
Howell	426	Stoddard	502
Mississippi	615	Vernon	421
		Wayne	481

NEVADA

Clark	611	Nye	685

NEW MEXICO

Bernalillo	581	Hidalgo	845
Chaves	834	Lea	607
Curry	827	Luna	939
De Baca	804	Otero	729
Dona Ana	787	Quay	902
Eddy	725	Roosevelt	868
Grant	975	Sierra	771
Guadalupe	471	Socorro	689
Harding	400	Valencia	461

NORTH CAROLINA

Alamance	392	Carteret	394
Alexander	340	Catawba	325
Anson	410	Chatham	408
Beaufort	381	Chowan	398
Bertie	399	Cleveland	409
Bladen	333	Columbus	304
Brunswick	303	Craven	374
Burke	327	Cumberland	373
Cabarrus	344	Currituck	350
Caldwell	313	Davidson	307
Camden	363	Davie	315
Carteret	394	Duplin	325
Catawba	325	Durham	320
Chatham	408	Edgecomb	491
Cherokee	398	Forsyth	352
Chowan	398	Franklin	352
Cleveland	409	Gaston	288
Columbus	304	Gates	480
Craven	374	Granville	296
Cumberland	373	Greene	315
Currituck	350	Guilford	294
Davidson	307	Halifax	445
Davie	315	Harnett	391
Duplin	325	Hertford	422
Durham	320	Hoke	412
Edgecomb	491	Hyde	317
Forsyth	352	Iredell	373
Franklin	352	Johnston	346
Gaston	288	Jones	296
Gates	480	Lee	313
Granville	296	Lenoir	308
Greene	315	Lincoln	486
Guilford	294	Martin	397
Halifax	445	Mecklenburg	359
Harnett	391	Montgomery	387
Hertford	422	Moore	368
Hoke	412	Nash	382
Hyde	317	New Hanover	313
Iredell	373	Northampton	462
Johnston	346		
Jones	296		
Lee	313		
Lenoir	308		
Lincoln	486		
Martin	397		
Mecklenburg	359		
Montgomery	387		
Moore	368		
Nash	382		
New Hanover	313		
Northampton	462		

NORTH CAROLINA—Continued

County	Projected yield (pounds per acre)	County	Projected yield (pounds per acre)
Onslow	295	Surry	288
Orange	293	Tyrrell	617
Pamlico	617	Union	320
Pasquotank	320	Vance	281
Pender	281	Wake	313
Perquimans	281	Warren	311
Person	340	Washington	299
Pitt	345	Watauga	308
Polk	400	Wayne	274
Randolph	306	Wilkes	324
Richmond	379	Wilson	325
Robeson	396	Yadkin	290
Rowan	396		
Rutherford	440		
Sampson	358		
Scotland	426		
Stanly	355		
Stokes	428		

OKLAHOMA

Adair	397	Lincoln	370
Atoka	231	Logan	295
Beaver	328	Love	340
Beckham	376	McClain	334
Blaine	285	McCurtain	512
Bryan	379	McIntosh	341
Caddo	337	Major	264
Canadian	383	Marshall	255
Carter	263	Mayes	271
Cherokee	368	Murray	316
Choctaw	307	Muskogee	352
Cimarron	220	Noble	252
Cleveland	396	Nowata	396
Coal	276	Okfuskee	251
Comanche	180	Oklahoma	271
Cotton	177	Okmulgee	266
Craig	271	Osage	345
Creek	228	Pawnee	308
Custer	295	Payne	307
Dewey	266	Pittsburg	292
Ellis	257	Pontotoc	290
Garfield	278		
Garvin	339		
Grady	357	Pushmataha	201
Grant	213	Pushmataha	203
Greer	256	Roger Mills	203
Harmon	350	Rogers	311
Harper	237	Seminole	242
Haskell	307	Sequoyah	337
Hughes	266	Stephens	290
Jackson	361	Texas	410
Jefferson	219	Tillman	276
Johnston	273	Tulsa	294
Kay	274	Wagoner	263
Kingfisher	228	Washington	288
Kiowa	213	Washita	316
Latimer	300	Woodward	283
Le Flore	332		

SOUTH CAROLINA

Abbeville	454	Chesterfield	479
Aiken	508	Clarendon	560
Allendale	540	Colleton	404
Anderson	496	Darlington	560
Bamberg	519	Dillon	494
Barnwell	479	Dorchester	498
Beaufort	296	Edgefield	528
Berkeley	383	Fairfield	526
Calhoun	496	Florence	500
Charleston	328	Georgetown	480
Cherokee	429	Greenville	436
Chester	394	Greenwood	416

SOUTH CAROLINA—Continued

County	Projected yield (pounds per acre)	County	Projected yield (pounds per acre)
Hampton	548	Newberry	401
Horry	282	Oconee	463
Jasper	308	Orangeburg	556
Kershaw	378	Pickens	395
Lancaster	456	Richland	511
Laurens	456	Saluda	534
Lee	380	Spartanburg	381
Lexington	455	Sumter	496
McCormick	423	Union	395
Marion	376	Williamsburg	351
Marlboro	367	York	407

TENNESSEE

Bedford	477	Lewis	408
Benton	406	Lincoln	506
Bradley	396	Loudon	461
Cannon	457	McMinn	340
Carroll	601	McNairy	557
Chester	594	Madison	627
Coffee	420	Marion	444
Crockett	690	Marshall	485
Davidson	408	Maury	387
Decatur	534	Meigs	366
Dyer	616	Monroe	351
Fayette	611	Moore	440
Franklin	540	Obion	608
Gibson	682	Perry	409
Giles	467	Polk	391
Grundy	468	Rhea	406
Hamilton	403	Robertson	494
Hardeman	620	Rutherford	491
Hardin	508	Shelby	568
Haywood	644	Tipton	540
Henderson	587	Van Buren	421
Henry	513	Warren	455
Hickman	416	Wayne	477
Humphreys	506	Weakley	620
Lake	646	White	415
Lauderdale	659	Williamson	406
Lawrence	504	Wilson	547

TEXAS

Anderson	331	Collin	398
Andrews	406	Collingsworth	294
Angelina	314	Colorado	450
Aransas	311	Comal	294
Archer	190	Comanche	167
Armstrong	295	Concho	226
Atascosa	218	Cooke	394
Austin	350	Coryell	321
Bailey	478	Cottle	344
Bastrop	296	Crockett	378
Baylor	218	Crosby	628
Bee	305	Culberson	696
Bell	227	Dallam	507
Bexar	207	Dallas	387
Blanco	148	Dawson	437
Borden	585	Deaf Smith	460
Bosque	188	Delta	317
Bowie	527	Denton	310
Brazoria	606	De Witt	343
Brazos	606	Dickens	370
Brewster	466	Dimmit	450
Briscoe	500	Donley	310
Brooks	188	Duval	111
Brown	119	Eastland	120
Burleson	534	Ector	408
Burnet	150	Ellis	311
Caldwell	300	El Paso	818
Calhoun	459	Erath	186
Callahan	140	Falls	278
Cameron	531	Fannin	357
Camp	294	Fayette	387
Carson	527	Fisher	407
Cass	529	Floyd	654
Castro	625	Foard	203
Chambers	309	Fort Bend	495
Cherokee	341	Franklin	200
Childress	297	Freestone	208
Clay	346	Frio	627
Cochran	525	Gaines	521
Coke	126	Galveston	427
Coleman	198		

TEXAS—Continued

County	Projected yield (pounds per acre)	County	Projected yield (pounds per acre)
Garza	340	Montgomery	286
Gillespie	136	Moore	402
Glasscock	713	Morris	196
Goliad	231	Motley	246
Gonzales	196	Nacogdoches	259
Gray	328	Navarro	207
Grayson	344	Newton	207
Gregg	191	Nolan	373
Grimes	307	Nueces	351
Guadalupe	328	Ochiltree	451
Hale	641	Oldham	320
Hall	336	Palo Pinto	194
Hamilton	178	Panola	201
Hansford	377	Parker	174
Hardeman	357	Parmer	673
Hardin	337	Pecos	749
Harris	304	Polk	344
Harrison	315	Potter	533
Hartley	362	Presidio	883
Haskell	324	Rains	304
Hays	272	Randall	310
Hemphill	367	Reagan	776
Henderson	171	Real	470
Hidalgo	526	Red River	415
Hill	264	Reeves	792
Hockley	521	Refugio	545
Hood	190	Roberts	550
Hopkins	191	Robertson	642
Houston	324	Rockwall	300
Howard	364	Runnels	358
Hudspeth	651	Rusk	291
Hunt	344	Sabine	248
Hutchinson	577	San Augustine	195
Irion	183	San Jacinto	227
Jack	195	San Patricio	461
Jackson	432	San Saba	346
Jasper	348	Schleicher	289
Jeff Davis	710	Scurry	449
Jefferson	254	Shackelford	305
Jim Hogg	116	Shelby	235
Jim Wells	264	Smith	196
Johnson	268	Somervell	227
Jones	518	Starr	278
Karnes	191	Stephens	198
Kaufman	265	Sterling	230
Kendall	296	Stonewall	255
Kent	236	Swisher	611
Kerr	205	Tarrant	256
Kimble	148	Taylor	226
King	216	Terry	574
Kinney	267	Throckmorton	217
Kleberg	293	Titus	234
Knox	295	Tom Green	273
Lamar	328	Travis	240
Lamb	536	Trinity	296
Lampasas	110	Tyler	272
La Salle	183	Upshur	139
Lavaca	229	Upton	504
Lee	193	Uvalde	675
Leon	268	Val Verde	534
Liberty	470	Van Zandt	191
Limestone	171	Victoria	377
Live Oak	237	Walker	314
Llano	163	Waller	349
Loving	345	Ward	456
Lubbock	621	Washington	308
Lynn	459	Webb	618
McCulloch	161	Wharton	484
McLennan	232	Wheeler	287
McMullen	134	Wichita	373
Madison	379	Wilbarger	261
Marion	126	Willacy	385
Martin	409	Williamson	304
Matagorda	472	Wilson	249
Maverick	624	Winkler	373
Medina	556	Wise	162
Menard	149	Wood	213
Midland	394	Yoakum	511
Milam	293	Young	156
Mills	214	Zapata	665
Mitchell	412	Zavala	714
Montague	206		

VIRGINIA

County	Projected yield (pounds per acre)	County	Projected yield (pounds per acre)
Brunswick	291	Nansemond	298
Charlotte	269	Prince Edward	332
Chesapeake	379	Prince George	292
Dinwiddie	330	Southampton	349
Franklin	386	Surry	388
Greensville	435	Sussex	223
Isle of Wight	296		
Lunenburg	246		
Mecklenburg	263		

(Sec. 301(b)(13)(L), 79 Stat. 1197; 7 U.S.C. 1301(b)(13)(L))

Effective date: Date of filing this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on November 17, 1967.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 67-13696; Filed, Nov. 17, 1967; 12:56 p.m.]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Orange Reg. 59, Amdt. 1]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of Temple oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than November 27, 1967. Shipments of Florida oranges, except Temple and Murcott Honey oranges, are currently regulated pursuant to Orange Regulation 59 (32 F.R. 14922) and, unless sooner terminated, will continue to be so regulation until September 8, 1968, determinations as to the need for, and extent of, regulation of Florida Temple orange shipments must await the development of the crop and the availability of information on the demand for such fruit; the recommendations and supporting information for regulation of Temple orange shipments subsequent to November 27, 1967, and in the manner herein provided, were promptly submitted to the Department after an assembled meeting of the Growers Administrative Committee on November 22, 1967, held to consider recommendations for regulation; the provisions of this amendment are identical with the aforesaid recommendations of the committee, and information concerning such provisions has been disseminated among handlers of Florida Temple oranges; it is necessary, in order to effectuate the declared policy of the act, to make this amendment effective as hereinafter set forth; and compliance with this amendment will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

Order. The provisions of paragraph (a)(2) in § 905.500 (Orange Reg. 59, 32 F.R. 14922) are hereby amended in the following respects:

1. The provisions of paragraph (a)(2) immediately preceding subdivision (i) thereof are amended to read as follows:

(2) During the period November 27, 1967, through September 8, 1968, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

2. The following provisions are added immediately after subdivision (ii):

(iii) Any Temple oranges, grown in the production area, which do not grade at least U.S. No. 1 Golden; or

(iv) Any Temple oranges, grown in the production area, which are of a size smaller than 2⅞ inches in diameter, except that a tolerance of 10 percent, by count, of Temple oranges smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the said U.S. Standards for Florida Oranges and Tangelos.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated, November 24, 1967, to become effective November 27, 1967.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-13944; Filed, Nov. 24, 1967; 12:33 p.m.]

[Tangerine Reg. 33, Amdt. 2]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of tangerines grown in Florida.

(a) *Order.* In § 905.502 (Tangerine Reg. 33, 32 F.R. 14923, 15869) the provisions of paragraph (a)(2) are amended by substituting in lieu thereof a new paragraph (a)(2) reading as follows:

§ 905.502 Tangerine Regulation 33.

(a) * * *

(2) During any week of the period November 27, 1967, through July 31, 1968, any handler may ship a quantity of tangerines which are smaller than the size prescribed in subparagraph (1)(ii) of this paragraph if (i) the number of standard packed boxes of such smaller tangerines does not exceed 20 percent of the total standard packed boxes of all sizes of tangerines shipped by such handler during the same week; and (ii) such smaller tangerines are of a size not smaller than 2⅛ inches in diameter, except that a tolerance of 10 percent, by count, of tangerines smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in said U.S. Standards for Tangerines.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated, November 24, 1967, to become effective November 27, 1967.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-13964; Filed, Nov. 27, 1967; 8:50 a.m.]

PART 946—IRISH POTATOES GROWN IN WASHINGTON

Operating Reserve

Notice of rule making regarding the proposed operating reserve to be effective under Marketing Agreement No. 113 and Order No. 946 (7 CFR Part 946), regulating the handling of Irish potatoes grown in the State of Washington, was published in the FEDERAL REGISTER October 20, 1967 (32 F.R. 14605). This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.). The notice afforded interested persons an opportunity to submit data, views, or arguments pertaining thereto not later than 15 days following publication in the FEDERAL REGISTER. None was filed.

After consideration of all relevant matters, including the proposals set forth in the aforesaid notice which were recommended by the Washington Potato Committee, established pursuant to said marketing agreement and order, it is hereby found and determined that:

§ 946.219 Operating reserve.

(a) The committee, with the approval of the Secretary, may carry over excess funds into subsequent fiscal years as an operating reserve: *Provided*, That funds in the operating reserve do not exceed approximately one fiscal year's expenses.

(b) The funds in said operating reserve may be used (1) to defray expenses incurred during any fiscal period prior to the time assessment income is sufficient to cover such expenses, (2) to cover deficits incurred during any fiscal period when assessment income is less than expenses, (3) to defray expenses incurred during any period when assessments are suspended or are inoperative and (4) to cover necessary expenses of liquidation in the event of termination of this part.

(c) Upon termination of this part any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate. To the extent practical, such funds shall be returned pro rata to the handlers from whom they were collected.

(d) Terms used in this section shall have the same meaning as when used in said marketing agreement and this part.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 21, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-13970; Filed, Nov. 27, 1967; 8:48 a.m.]

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Modification of Free and Reserve Percentages for 1967–68 Crop Year

Notice was published in the November 7, 1967, issue of the FEDERAL REGISTER (32 F.R. 15488) regarding a proposal to modify the preliminary free and reserve tonnage percentages applicable to standard (sun-dried) Thompson Seedless raisins acquired by handlers by increasing the preliminary free tonnage percentage from 60 percent to 80 percent and decreasing the preliminary reserve tonnage percentage from 40 percent to 20 percent. Interested persons were afforded an opportunity to submit written data, views, or arguments with respect to the proposal and comments were submitted by three handlers within the prescribed period.

The proposal was based upon a recommendation of the Raisin Administrative Committee and other available information. The Committee is established under, and its recommendations are made in accordance with, the provisions of the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989; 32 F.R. 12157, 12555, 12710), regulating the handling of raisins produced from grapes grown in California. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "act".

After consideration of all relevant matter presented, including that in the notice, comments received pursuant to the notice, the information and recommendation of the Committee, and other available information, it is hereby found that modification of the preliminary free tonnage percentage and the preliminary reserve tonnage percentage, as set forth below, will tend to effectuate the declared policy of the "act".

§ 989.225 Free and reserve percentages for the 1967–68 crop year.

The preliminary percentages of standard (sun-dried) Thompson Seedless raisins acquired by handlers during the crop year beginning September 1, 1967, which shall be free tonnage and reserve tonnage, respectively, are designated as follows: Preliminary free tonnage percentage, 80 percent; and preliminary reserve tonnage percentage, 20 percent.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) This action relaxes restrictions on the quantity of raisins available immediately to handlers for use in free tonnage outlets; (2) under this marketing program, the percentages designated for a crop year, and any modifications thereof, apply to all standard raisins of the applicable varietal type acquired by handlers from the beginning of the crop year; and (3) the current crop year began September 1, 1967, and the modified percentages designated herein will automatically apply

to such raisins acquired on and after that date.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 22, 1967, to become effective upon publication in the FEDERAL REGISTER.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division.

[F.R. Doc. 67-13804; Filed, Nov. 27, 1967; 8:50 a.m.]

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

MISCELLANEOUS AMENDMENTS TO CHAPTER

The following amendments to Chapter I of Title 8 of the Code of Federal Regulations are hereby prescribed:

PART 100—STATEMENT OF ORGANIZATION

Paragraph (d) *Border Patrol Sectors* of § 100.4 *Field Service* is amended in the following respects:

1. Sector No. 22—Miami, Fla., is amended by deleting "Key West, Fla."

2. Sector No. 13—Yuma, Ariz., is amended by adding "Tucna, Ariz.," in alphabetical sequence.

PART 238—CONTRACTS WITH TRANSPORTATION LINES

1. The list of transportation lines in paragraph (b) *Signatory lines* of § 238.3 *Aliens in immediate and continuous transit* is amended by adding the transportation line "West Coast Airlines, Inc.," in alphabetical sequence.

2. The list of transportation lines under "At Victoria" of § 238.4 *Preinspection outside the United States* is amended by adding the transportation line "Northwest Hydrofoil Lines, Inc.," in alphabetical sequence.

PART 287—FIELD OFFICERS; POWERS AND DUTIES

The second sentence of § 287.6 *Proof of official records* is amended to read as follows: "If the office in which the record is kept is in foreign territory, the copy shall be attested by a person authorized to make the attestation and the attested copy shall be accompanied by a certification by any officer in the Foreign Service of the United States stationed in the foreign country where the record is kept as to the genuineness of the signature and official position of the attesting officer or any foreign official whose certification of genuineness of signature and official position relates to the attestation or is in a chain of certificates of genuineness of signature and official position relating to the attestation."

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

This order shall be effective on the date of its publication in the FEDERAL REGISTER. Compliance with the provisions of section 353 of title 5 of the United States Code (Public Law 89–554, 80 Stat. 383), as to notice of proposed rule making and delayed effective date, is unnecessary in this instance because the amendment to § 100.4 relates to agency management; the amendments to §§ 238.3 and 238.4 add transportation lines to the listings, and the amendment to § 287.6 relieves restrictions.

Dated: November 21, 1967.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[F.R. Doc. 67-13873; Filed, Nov. 27, 1967; 8:48 a.m.]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[21,063]

PART 556—STATEMENTS OF POLICY

Attendance by Applicants and Their Representatives at Hearings on Applications for Permission To Organize Federal Associations

NOVEMBER 20, 1967.

Resolved that the Federal Home Loan Bank Board, upon the basis of consideration of the desirability of attendance by applicants and their representatives as witnesses at hearings held upon applications for permission to organize Federal savings and loan associations under § 543.2 of the rules and regulations for the Federal Savings and Loan System, and for the purpose of adopting and publishing a statement of general policy concerning such matter, hereby amends Part 556 of the rules and regulations for the Federal Savings and Loan System (12 CFR Part 556) by adding, immediately after § 556.3, a new section, § 556.4, to read as follows:

§ 556.4 Attendance by applicants and their representatives at hearings on applications for permission to organize Federal associations.

(a) The Federal Home Loan Bank Board finds attendance of applicants and their representatives as witnesses helpful in making proper disposition of applications for permission to organize Federal associations when hearings are held on such applications. Accordingly, the Board:

(1) Expects such attendance in every such case by at least the principal applicant and any person who has prepared a survey report or economic data or whose views are being relied upon in support of the application;

(2) Urges such attendance by at least a majority of applicants in such cases whenever possible; and

(3) Welcomes such attendance by all applicants in such cases whenever feasible.

(b) Every case of nonattendance by an applicant or other person described in paragraph (a) (1) of this section should be explained by a written communication for inclusion in the hearing record.

(Sec. 5, 48 Stat. 133, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] HARRY W. CAULSEN,
Secretary.

[F.R. Doc. 67-13862; Filed, Nov. 27, 1967; 8:49 a.m.]

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[21,064]

PART 571—STATEMENTS OF POLICY

Attendance by Applicants and Their Representatives at Hearings on Applications for Insurance of Accounts

NOVEMBER 20, 1967.

Resolved that the Federal Home Loan Bank Board, upon the basis of consideration of the desirability of attendance by applicants and their representatives as witnesses at hearings held upon applications for insurance of accounts or requests for commitment to insure accounts under Part 562 of the rules and regulations for Insurance of Accounts, and for the purpose of adopting and publishing a statement of general policy concerning such matter, hereby amends Part 571 of the rules and regulations for Insurance of Accounts (12 CFR Part 571) by adding, immediately after § 571.5, a new section, § 571.6, to read as follows:

§ 571.6 Attendance by applicants and their representatives at hearings on applications for insurance of accounts.

(a) The Federal Home Loan Bank Board finds attendance of applicants and their representatives as witnesses helpful in making proper disposition of applications for insurance of accounts or requests for a commitment to insure accounts when hearings are held on such applications. Accordingly, the Board:

(1) Expects such attendance in every such case by at least the president or other chief executive officer of a State-chartered applicant or the principal organizer of an institution in the process of organization and any person who has prepared a survey report or economic data or whose views are being relied on in support of the application;

(2) Urges such attendance by at least a majority of directors or organizers in such cases whenever possible; and

(3) Welcomes such attendance by all directors or organizers in such cases whenever feasible.

(b) Every case of non-attendance by a director, organizer, or other person described in paragraph (a) (1) of this section should be explained by a written communication for inclusion in the hearing record.

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] HARRY W. CAULSEN,
Secretary.

[F.R. Doc. 67-13863; Filed, Nov. 27, 1967; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

SUBCHAPTER C—AIRCRAFT

[Docket No. 6409; Amdt. 39-42]

PART 39—AIRWORTHINESS DIRECTIVES

Aero Products A6441FN-606 Propeller; Correction

Amendment 39-42 (30 F.R. 2761, FAA Washington Docket No. 6409), AD 65-5-1, requires modification and inspection of and establishes service life limitations for Aero Products A6441FN-606 propeller blades with Serial Nos. 3999 or below. After issuing Amendment 39-42 it has been brought to the attention of the agency that the word "blades" was inadvertently left out of the applicability statement of the airworthiness directive. Therefore, the AD is being amended to correct this error.

Since the amendment corrects an error and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than thirty (30) days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-42 (30 F.R. 2761), AD 65-5-1, is amended by revising the applicability statement to read as follows:

ARRO PRODUCTS. Applies to Model A6441FN-606 propeller blades with Serial Nos. 3999 or below.

This amendment becomes effective immediately upon publication in the FEDERAL REGISTER.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Kansas City, Mo., on November 16, 1967.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 67-13865; Filed, Nov. 27, 1967; 8:47 a.m.]

[Docket No. 67-EA-118, Amdt. 39-515]

PART 39—AIRWORTHINESS DIRECTIVES

Grumman Aircraft

The Federal Aviation Administration is amending section 39.13 of Part 39 of the Federal Aviation Regulations so as to change the requirements of and supersede AD 63-21-2 (Amdt. 630, 28 F.R. 10967).

AD 63-21-2 (Amdt. 630) required Grumman G-159 type airplanes to modify and inspect the main landing gear retract cylinder attachment fittings and conduct a visual inspection of the subject fittings both before and after modification, before each flight. After issuing AD 63-21-2 due to service experience the Administrator determined that the visual inspection after modification did not assure a complete absence of cracks. This AD, therefore, will require a dye penetrant inspection every 25 hours' time in service and will essentially supersede AD 63-21-2.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89, 31 F.R. 13697, § 39.13 of Part 39 of the Federal Aviation Regulations is amended as follows:

1. Revoke Amendment 630 (AD 63-21-2).

2. Add the following new airworthiness directive:

GRUMMAN. Applies to Type G-159 airplanes.

Compliance required as indicated.

To detect cracks in the main landing gear retract cylinder attachment fittings P/Ns 159WM10023-1 and -2, accomplish the following:

(a) After the effective date of this AD, unless already accomplished, modify and inspect the attachment fitting in accordance with Grumman Gulfstream Customer Bulletin No. 172 dated September 6, 1963 or later FAA-approved revisions or FAA-approved equivalent modification and inspection.

(b) Inspect the attachment fitting for cracks in the vicinity of the aft end as follows:

(i) Visually before each flight, and

(ii) Within the next 25 hours' time in service after the effective date of this AD, and thereafter at intervals not to exceed 25 hours' time in service from the last inspection using dye penetrant in conjunction with at least a 10-power glass or an FAA-approved equivalent inspection.

(c) If a crack is found, replace the cracked part with a part of the same part number that has been modified and inspected in accordance with (d) or use an FAA-approved equivalent part before further flight except that the airplane may be flown in accordance with FAR 21.197 to a base where the replacement can be performed.

(d) The repetitive inspections specified in (b) may be discontinued on airplanes incorporating main landing gear retract cylinder attachment fittings, Grumman P/Ns 159WM10078-1 and -2, and bell P/N 159WM10077, or FAA-approved equivalent parts.

(e) Equivalent inspections may be approved by an FAA maintenance inspector.

[Docket No. 67-EA-119, Amdt. 39-514]

PART 39—AIRWORTHINESS DIRECTIVES

Grumman Aircraft

The Federal Aviation Administration is amending section 39.13 of Part 39 of the Federal Aviation Regulations so as to change the requirements of and supersede AD 66-16-5 (Amdt. 39-250, 31 F.R. 8746), applying to Grumman G-73 airplanes.

The former AD required dye penetrant inspection of aileron hinge brackets on G-73 airplanes and replacement when necessary. The inspection interval was 200 hours' time in service. After issuance of AD 66-16-5 due to service experience the Administrator has determined that safety permits discrimination between brackets in terms of time in service. A bracket with less than 3,000 hours' time in service will therefore require only a visual inspection whereas brackets with over 3,000 hours will still be required to undergo a dye penetrant inspection at a reduced inspection interval, from 200 hours to 50 hours. AD 66-16-5 therefore is being superseded.

Since a situation exists which required immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89, 31 F.R. 13697, § 39.13 of the Federal Aviation Regulations is amended as follows:

1. Revoke Amendment 39-250, A.D. 66-16-5.

2. Add the following new airworthiness directive:

GRUMMAN. Applies to Type G-73 airplanes.

Compliance required as indicated.

To detect cracks or corrosion in the aileron hinge brackets, P/N 106826 at Wing Station 270 left and right, P/N 106827 at Wing Station 317 left and right, and P/N 106835 at Wing Station 360 left and right (six per airplane), accomplish the following:

(a) Within the next 50 hours' time in service after the effective date of this AD, unless already accomplished within the last 40 hours' time in service, and thereafter at intervals not to exceed 50 hours' time in

Equivalent parts, customer bulletin revisions, and modifications, must be approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

(f) Upon request with substantiating data submitted through an FAA maintenance inspector, the compliance times specified in this AD may be increased by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

This supersedes Amendment 630, AD 63-21-2.

This amendment is effective November 27, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Jamaica, N.Y., on November 16, 1967.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 67-13861; Filed, Nov. 27, 1967; 8:47 a.m.]

service from the last inspection, or one (1) year, whichever occurs first, inspect for cracks or corrosion each bracket having a total time in service of 3,000 hours or more, using a dye penetrant in conjunction with a glass of at least 10 power, or an FAA-approved equivalent inspection. Prior to inspection, remove the aileron and remove the paint from the bracket.

(b) Within the next 4 weeks after the effective date of this AD, unless already accomplished within the last 48 weeks, and thereafter at intervals not to exceed 52 weeks (annually) from the last inspection, visually inspect for cracks or corrosion each bracket having a total time in service of less than 3,000 hours.

(c) If a crack or corrosion is found, replace the part before further flight with a part of the same part number that has been inspected in accordance with (a) and found free of cracks or corrosion, or with an FAA-approved equivalent part.

(d) Equivalent inspections may be approved by an FAA maintenance inspector. Equivalent parts must be approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

(e) Upon request with substantiating data submitted through an FAA maintenance inspector, the compliance times specified in this AD may be increased by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

This supersedes Amendment 39-250, AD 66-16-5.

This amendment is effective November 27, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423)

Issued in Jamaica, N.Y., on November 16, 1967.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 67-13862; Filed, Nov. 27, 1967; 8:47 a.m.]

SUBCHAPTER E—AIRSPACE

[Airspace Docket No. 67-SW-59]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Areas

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Alexandria, La., Lafayette, La., and Lake Charles, La., transition areas.

On October 4, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 13,820) stating the Federal Aviation Administration proposed to alter the Alexandria, La., Lafayette, La., and Lake Charles, La., transition areas.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., February 1, 1968, as herein set forth.

In § 71.181 (32 F.R. 2149) as subsequently altered by (32 F.R. 5465) the Alexandria, La., transition area is amended by deleting "to lat. 30°32'00" N., long. 92°15'00" W., to lat. 30°04'00" N., long. 92°24'45" W., to lat. 30°04'00" N., long. 92°44'00" W., to lat. 30°24'00" N., long. 92°26'00" W., to point of beginning;" and substituting therefor, "to lat. 30°32'00" N., long. 92°15'00" W., to lat. 30°24'00" N., long. 92°26'00" W., to point of beginning; * * *."

In § 71.181 (32 F.R. 2209), the Lafayette, La., transition area is amended by deleting "to and clockwise along the arc of a 35-mile radius circle centered at lat. 30°02'15" N., long. 91°53'00" W., to lat. 29°56'00" N., thence north to lat. 30°32'00" N., long. 92°15'00" W., to point of beginning; within 8 miles north and 5 miles south of the White Lake VOR 090° and 270° radials extending from 7 miles west to 13 miles east of the VOR, and within 8 miles south and 5 miles north of the White Lake VOR 091° and 271° radials extending from 7 miles east to 13 miles west of the VOR," and substituting therefor, "to and clockwise along the arc of a 35-mile radius circle centered at lat. 30°02'15" N., long. 91°53'00" W., to lat. 29°33'00" N., thence west via lat. 29°33'00" N., to long. 92°36'00" W., thence north to lat. 30°04'00" N., long. 92°36'00" W., to lat. 30°24'00" N., long. 92°26'00" W., to lat. 30°32'00" N., long. 92°15'00" W., to point of beginning."

In § 71.181 (32 F.R. 2209) the Lake Charles, La., transition area is amended by deleting "a line beginning at lat. 30°37'00" N., long. 92°50'00" W., to lat. 30°24'00" N., long. 92°26'00" W., to lat. 29°45'30" N., long. 93°00'00" W., thence west via lat. 29°45'30" N., to and counterclockwise along the arc of a 25-mile radius circle centered at lat. 29°54'40" N., long. 94°02'40" W., to long. 93°57'00" W., thence to point of beginning," and substituting therefor "a line beginning at lat. 30°37'00" N., long. 92°50'00" W., to lat. 30°24'00" N., long. 92°26'00" W., to lat. 30°04'00" N., long. 92°36'00" W., thence west via lat. 29°35'00" N., to and counterclockwise along the arc of a 25-mile radius circle centered at lat. 29°54'40" N., long. 94°02'40" W., to long. 93°57'00" W., thence to point of beginning."

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Fort Worth, Tex., on November 16, 1967.

A. L. COULTER,
Acting Director, Southwest Region.

[F.R. Doc. 67-13863; Filed, Nov. 27, 1967; 8:47 a.m.]

[Airspace Docket No. 67-SW-78]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Lake Jackson, Tex., transition area. This action is necessary as there has been a change in the name of the airport from "Lake Jackson Airport" to "Brazoria County Airport" since the transition area was initially designated.

As this amendment will not impose any burden on the public, notice and public procedures hereon are unnecessary and the amendment may be made effective immediately.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately, as herein set forth.

In § 71.181 (32 F.R. 2209) the Lake Jackson, Tex., transition area is amended by deleting "Lake Jackson Airport" and substituting therefor "Brazoria County Airport."

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Fort Worth, Tex., on November 13, 1967.

HENRY L. NEWMAN,
Director, Southwest Region.

[F.R. Doc. 67-13864; Filed, Nov. 27, 1967; 8:47 a.m.]

[Airspace Docket No. 64-AL-6]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Revocation of Control Zone and Transition Area

On April 6, 1965, Airspace Docket No. 64-AL-6 was published in the FEDERAL REGISTER (30 F.R. 4391) which designated the Dillingham, Alaska, control zone and transition area, effective May 27, 1965. Subsequent to the issuance of this rule, it was necessary to delay the effective date indefinitely due to technical difficulties in establishing a communications link between Dillingham and the King Salmon, Alaska, Flight Service Station.

Approximately 2½ years have elapsed since publication of the original rule. There is now a need for a major revision of airspace designation in the Dillingham area. This will be accomplished by separate rule making action at a later date. Therefore, action is taken hereby to withdraw Airspace Docket No. 64-AL-6.

Since this action will impose no additional burden on any person, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.171 (32 F.R. 2071, 29 F.R. 14078, 30 F.R. 4391, 7096, and 9300) the Dillingham, Alaska, control zone is revoked.

In § 71.181 (32 F.R. 2149, 29 F.R. 14078, 30 F.R. 4391, 7096, and 9300) the Dillingham, Alaska, transition area is revoked.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on November 20, 1967.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-13865; Filed, Nov. 27, 1967; 8:47 a.m.]

SUBCHAPTER E—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 8885; Amdt. 569]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

The amendments to the standard instrument approach procedures contained herein are adopted to become effective when indicated in order to promote safety. The amended procedures supersede the existing procedures of the same classification now in effect for the airports specified therein. For the convenience of the users, the complete procedure is republished in this amendment indicating the changes to the existing procedures.

As a situation exists which demands immediate action in the interests of safety in air commerce, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In view of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 97 (14 CFR Part 97) is amended as follows:

1. By amending the following low or medium frequency range procedures prescribed in § 97.11(a) to read:

LFR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
MOS VOR	MO LFR	Direct	1700	T-dn*	800-1	800-1	800-1½
				C-dn*	800-1	800-1	800-1½
				A-dn	NA	NA	NA

Proceed outbnd on E crs not below 2700' for 5 miles before starting descent to procedure turn altitude.
Procedure turn S side of E crs, 060° Outbnd, 240° Inbnd, 1700' within 15 miles.
Minimum altitude on final approach crs, 914', descend to 914' immediately after completion of procedure turn.
Crs and distance, facility to airport, 057°—2.6 miles.
If visual contact not established upon descent to 914', turn left, climb to 3600' on E crs of the MO LFR within 15 miles. VFR flight required from missed approach point to airport.
NOTES: (1) ADF approach not authorized. (2) Final approach from holding pattern at MO LFR not authorized. Procedure turn required.
CAUTION: Terrain 1709', 3 miles NW; and 979', 2.3 miles W rising to 1360', 5 miles W of MO LFR. No maneuvering authorized N through SW of MO LFR.
*No control zone. Weather observations not available, use Nome altimeter settings.
MSA within 25 miles of facility: NE, 4000'; SE, 2000'; SW, 2300'; NW, 4300'.

City, Moses Point; State, Alaska; Airport name, Moses Point; Elev., 14'; Fac. Class., RMRLS; Ident., MO; Procedure No. LFR-1, Amdt. 0; Eff. date, 18 Dec. 67; Sup. Amdt. No. LFR 1, Amdt. 5; Dated, 18 Apr. 64

2. By amending the following automatic direction finding procedures prescribed in § 97.11(b) to read:

ADF STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
OGD VOR	Mallard Int	Direct	6000	T-4n*	300-1	300-1	300-1½
Mallard Int	BMC NDB (final)	Direct	4500	C-4n	300-1	300-1	300-1½
				S-4n-34	300-1	300-1	300-1
				A-4n	NA	NA	NA

Radar available.
Procedure turn not authorized.
Minimum altitude over facility on final approach crs, 4827'.
Crs and distance, facility to airport, 026°—1.7 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 1.7 miles after passing BMC NDB, turn left, climb direct to BMC NDB, continue climb southwestbound on crs, 195° from BMC NDB to 7000' within 15 miles or, when directed by ATC, turn left, climb direct to BMC NDB, continue climb southwestbound on crs, 195° from BMC NDB to intercept OGD VOR, R 225°, thence climb to 6000', direct OGD VOR.
*Takeoffs all runways: Climb direct to BMC NDB, continue climb southwestbound on crs, 195° from BMC NDB to intercept V-81, thence direct OGD VOR.
MSA within 25 miles of facility: 225°-350°—8500'; 350°-225°—10,500'.

City, Brigham City; State, Utah; Airport name, Brigham City; Elev., 4227'; Fac. Class., MHW; Ident., BMC; Procedure No. NDB(ADF) Runway 34, Amdt. 1; Eff. date, 18 Dec. 67; Sup. Amdt. No. NDB(ADF) Runway 34, Orig.; Dated, 4 Nov. 67

ADF STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Oakwood Int	BKX RBn	Direct	3400	T-dn	300-1	300-1	300-1½
				C-d°	600-1	600-1	600-1½
				C-n°	600-1½	600-1½	600-2
				S-dn-12°	500-1	500-1	500-1
				A-dn°	800-2	800-2	800-2

Procedure turn W side of crs, 285° Outbnd, 112° Inbnd, 3400' within 10 miles.
Minimum altitude over facility on final approach crs, 2137° ("2837' with Watertown altimeter setting).
Facility on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6 mile of Brookings RBn, climb to 3400' on 120° bearing from Brookings RBn within 10 miles.
NOTE: When Brookings altimeter setting is not available, use Watertown altimeter setting. Circling and straight-in ceiling minimums are raised 200' and alternate minimums not authorized when using Watertown altimeter setting.
CAUTION: Runways 8/26 and 18/36 unlighted.
°These minimums apply at all times for air carriers with approved weather reporting service.
MSA within 25 miles of facility: 000°–090°—3100'; 090°–180°—3900'; 180°–360°—3500'.

City, Brookings; State, S. Dak.; Airport name, Brookings Municipal; Elev., 1637'; Fac. Class., HW; Ident., BKX; Procedure No. NDB(ADF) Runway 12, Amdt. 2; Eff. date, 16 Dec. 67; Sup. Amdt. No. ADF 1, Amdt. 1; Dated, 14 Jan. 67

Anthony VHF/LF Int	CLL RBn (final)	Direct	1000	T-dn	300-1	300-1	300-1½
				C-dn	500-1	500-1	500-1½
				S-dn-10	400-1	400-1	400-1
				A-dn	900-2	900-2	900-2

Procedure turn S side of crs, 270° Outbnd, 090° Inbnd, 1800' within 10 miles.
Minimum altitude over facility on final approach crs, 1000'.
Crs and distance, facility to airport, 090°—2.5 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 2.5 miles after passing CLL RBn, climb to 1800' on crs, 090° within 15 miles of RBn.
MSA within 25 miles of facility: 000°–090°—1900'; 090°–180°—1600'; 180°–270°—2600'; 270°–360°—1700'.

City, College Station; State, Tex.; Airport name, Easterwood Field; Elev., 319'; Fac. Class., H; Ident., CLL; Procedure No. NDB(ADF) Runway 10, Amdt. 1; Eff. date, 16 Dec. 67; Sup. Amdt. No. NDB(ADF) Runway 10, Orig.; Dated, 4 Nov. 67

OGD VOR	LGU RBn	Direct	11,800	T-dn%‡	500-1	500-1	500-1
Cornish Int	LGU RBn	Direct	9,500	C-dn°	700-1	700-1	700-1½
				A-dn	NA	NA	NA

Procedure turn W side of crs, 340° Outbnd, 160° Inbnd, 7900' within 10 miles.
Minimum altitude over facility on final approach crs, 6900'.
Crs and distance, facility to airport, 126°—2.9 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 2.9 miles after passing LGU RBn, turn right, climb direct LGU RBn, continue climb to 9500' within 15 miles on bearing 340° from LGU RBn. All maneuvering W of crs.
CAUTION: High terrain all quadrants.
°Use Malad City altimeter.
ŧCircling not authorized E of Runways 17–35.
‡Takeoffs all runways: Climb visually over airport to 4900' thence direct LGU RBn, continue climb on bearing 340° from LGU RBn within 10 miles to cross LGU RBn at or above: Northbound crs, 340° to Cornish Int, 8000'; southbound direct OGD VOR, 8400'.
MSA within 25 miles of facility: 000°–270°—12,800'; 270°–360°—11,200'.

City, Logan; State, Utah; Airport name, Logan-Cache; Elev., 4459'; Fac. Class., MHW; Ident., LGU ;Procedure No. NDB(ADF) Runway 17, Amdt. Orig.; Eff. date, 16 Dec. 67

AMP RBn	PI LOM	Direct	1600	T-dn	300-1	300-1	300-1½
PIE VORTAC	PI LOM	Direct	1600	C-dn	600-1	600-1	600-1½
				S-dn-17°	500-1	500-1	500-1
				A-dn	800-2	800-2	800-2

Radar available.
Procedure turn W side of crs, 350° Outbnd, 170° Inbnd, 1600' within 10 miles.
Minimum altitude over facility on final approach crs, 1600'.
Crs and distance, facility to airport, 170°—4.4 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.4 miles after passing LOM, turn right, climbing to 1600' on crs of 270°, intercept and proceed out 230° bearing from PI LOM within 15 miles.
°Reduction not authorized.
MSA within 25 miles of facility: 000°–090°—1400'; 090°–180°—2300'; 180°–270°—1600'; 270°–360°—1600'.

City, St. Petersburg-Clearwater; State, Fla.; Airport name, St. Petersburg-Clearwater International; Elev., 11'; Fac. Class., LOM; Ident., PI; Procedure No. NDB(ADF) Runway 17, Amdt. 12; Eff. date, 16 Dec. 67; Sup. Amdt. No. ADF 1, Amdt. 11; Dated, 15 Oct. 66

Chicago Heights VORTAC	VPZ RBn	Direct	2300	T-dn	300-1	300-1	300-1½
Knox VOR	VPZ RBn	Direct	2300	C-dn	700-1	700-1	700-1½
King Int	VPZ RBn	Direct	2300	S-dn-27	700-1	700-1	700-1
				A-dn	NA	NA	NA
				Minimums with ADF/VOR receivers:			
				C-dn	600-1	600-1	600-1½
				S-dn-27	600-1	600-1	600-1

Procedure turn S side of crs 070° Outbnd, 250° Inbnd, 2300' within 10 miles.
Minimum altitude over Railroad Int, on final approach crs, 1461'.
Crs and distance, Railroad Int to airport, 250°—4.4 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6 mile, climb to 2300' on crs, 250° within 10 miles and return to the RBn.
NOTE: Use South Bend altimeter setting.
MSA within 25 miles of facility: 000°–360°—2300'.

City, Valparaiso; State, Ind.; Airport name, Porter County Municipal; Elev., 761'; Fac. Class., MHW; Ident., VPZ; Procedure No. NDB(ADF) Runway 27, Amdt. 1; Eff. date, 16 Dec. 67; Sup. Amdt. No. NDB(ADF) Runway 27, Orig.; Dated, 23 July 67

3. By amending the following very high frequency omnirange (VOR) procedures prescribed in § 97.11(c) to read:

VOR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for an route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
PROCEDURE CANCELED EFFECTIVE 16 DEC. 1967.							
City, Clarksville; State, Tenn.; Airport name, Outlaw Field; Elev., 549'; Fac. Class., T-BVOR; Ident., CKV; Procedure No. VOR-1, Amdt. 2; Eff. date, 16 Nov. 67; Sup. Amdt. No. TerVOR (R 061), Amdt. 1; Dated, 20 Aug. 66							
15-mile DME Fix, R 080°, ITO VORTAC	5.9-mile DME Fix, R 080°, ITO VORTAC.	Direct	1000	T-dn°	300-1	300-1	300-1½
	Bayview Int.			C-dn	600-1	600-1	600-1½
Hibiscus Int		Direct	1500	S-dn-240	400-1	400-1	400-1
5.9-mile DME Fix, R 080°, (Bayview Int)–R 323°, ITO VORTAC clockwise	ITO VORTAC (final)	Direct	427	A-dn	800-2	800-2	800-2
	R 080°, ITO VORTAC	Via 7- to 15-mile DME Arc.	1500				
R 110°, ITO VORTAC counterclockwise	R 080°, ITO VORTAC	Via 7- to 15-mile DME arc.					

Procedure turn S side of crs, 080° Outbnd, 260° Inbnd, 1500' within 10 miles.
Minimum altitude over facility on final approach crs, 427'.
Crs and distance, facility to airport, 260°—1 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 1 mile (1-mile DME Fix, R 259°) after passing ITO VORTAC, turn right and climb to 3000' on R 355° within 20 miles, turn right, return to VOR on R 355°, hold E on R 080°, left turns.
°400–1 required Runway 26 with right turn after takeoff.
‡400–¾ authorized, with operative high-intensity runway lights, except for 4-engine turbojets.
%400–¾ authorized Runway 26 with right turn after takeoff.
%4-engine turbojets: 600–2 circling N of Runways 8/26; 800–2 circling S of Runways 8/26.
MSA within 25 miles of facility: 090°–120°—1200'; 120°–210°—7000'; 210°–300°—15,200'; 300°–090°—8000'.

City, Hilo; State, Hawaii; Airport name, General Lyman Field; Elev., 37'; Fac. Class., H-BVORTAC; Ident., ITO; Procedure No. VOR Runway 26, Amdt. 5; Eff. date, 2 Dec. 67; Sup. Amdt. No. VOR Runway 26, Amdt. 2; Dated, 2 Dec. 67

				T-dn%‡	300-1	300-1	300-1½
				C-dn	1900-1	1900-1	1900-1½
				A-dn	1900-2	1900-2	1900-2
				OM minimums:			
				C-dn	1200-1	1200-1	1200-1½

Radar available.
Procedure turn S side of crs, 141° Outbnd, 321° Inbnd, 7300' within 10 miles.
Minimum altitude over OM on final approach crs, 5092'.
Crs and distance, OM to airport, 319°—5.8 miles.
Facility on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6 mile of LMT VOR, turn left, climb to 7300' on R 256° of LMT VOR within 10 miles. All maneuvering N of R 256°.
CAUTION: High terrain all quadrants.
‡300–½ authorized only Runway 14. 300–1 required Runway 32. 500–1 required Runways 7/25 and 18/36.
%Takeoffs all runways: Climb via LMT LOLZE SE crs/LMT VOR R 140° to 6000', then turn right heading 260° to intercept and proceed via LMT VOR R 162° to cross LMT VOR at or above 7000'; westbound V–122, 6000'.
MSA within 25 miles of facility: 000°–090°—8200'; 090°–180°—7600'; 180°–360°—6800'.

City, Klamath Falls; State, Oreg.; Airport name, Kingsley Field; Elev., 4095'; Fac. Class., L-BVORTAC; Ident., LMT; Procedure No. VOR RUNWAY 32, Amdt. 1; Eff. date, 16 Dec. 67; Sup. Amdt. No. VOR–1, Orig.; Dated, 9 Nov. 67

MO LFR	MOS VOR	Direct	1700	T-dn°	300-1	300-1	300-1½
				C-dn°	900-1	900-1	900-1½
				A-dn	NA	NA	NA

Procedure turn S side of crs, 070° Outbnd, 250° Inbnd, 1700' within 10 miles.
Minimum altitude over facility on final approach crs, 914'.
Facility on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6 mile of MOS VOR, turn left, climb to 3000' on R 070° within 15 miles.
°No control zone. Weather observations not available, use Nome altimeter settings.
MSA within 25 miles of facility: 000°–090°—2300'; 090°–180°—2000'; 180°–270°—1200'; 270°–360°—4200'.

City, Moses Point; State, Alaska; Airport name, Moses Point; Elev., 14'; Fac. Class., L-BVOR; Ident., MOS; Procedure No. VOR–1, Amdt. 1; Eff. date, 16 Dec. 67; Sup. Amdt. No. Ter VOR–2, Orig.; Dated, 20 June 64

Ridgely Int	Waterloo VORTAC	Direct	1600	T-d	300-1	300-1	
Sea Isle VORTAC	Waterloo VORTAC	Direct	1600	C-d	700-1	700-1	
				S-d-16	700-1	700-1	
				A-d	NA	NA	NA

ATR VOR Holding fix, 180° Inbnd, 360° Outbnd, 1-minute left turns, 1600'.
Minimum altitude over facility on final approach crs, 1000'.
Crs and distance, facility to airport, 158°—3.4 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6.4 miles after passing ATR VORTAC, make right-climbing turn direct ATR VORTAC, 1600'. Hold N, R 360°, 180° Inbnd, 1-minute left turns.
NOTE: Use Salisbury, Md., altimeter setting.
MSA within 25 miles of facility: 000°–090°—1700'; 090°–180°—1400'; 180°–270°—1700'; 270°–360°—1500'.

City, Rehoboth Beach; State, Del.: Airport name, Rehoboth Aircrafters; Elev., 28'; Fac. Class., L-BVORTAC; Ident., ATR; Procedure No. VOR Runway 14, Amdt. Orig. Eff. date, 16 Dec. 67

VOR STANDARD INSTRUMENT APPROACH PROCEDURES—Continued

Transition From—	To—	Course and distance	Minimum altitude (feet)	Ceiling and visibility minimums: Condition	2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots
AMP RBn	PIE VORTAC	Direct	1600	T-dn	300-1	300-1	300-1½
				C-dn	600-1	600-1	600-1½
R 270°, PIE VORTAC clockwise	R 345°, PIE VORTAC	Via 10-mile DME Arc.	1600	S-dn-17°	600-1	600-1	600-1
				A-dn	800-2	800-2	800-2
R 090°, PIE VORTAC counterclockwise	R 345°, PIE VORTAC	Via 10-mile DME Arc.	1600	DME minimums:			
				C-dn	800-1	800-1	800-1½
10-mile DME Fix, R 345°	9-mile DME Fix, R 345° (final)	Direct	611	S-dn-17°	800-1	800-1	800-1

Radar available.
Procedure turn W side of crs, 345° Outbnd, 165° Inbnd, 1600′ within 10 miles.
Minimum altitude over 9-mile DME Fix on final approach crs, 611′.
Crs and distance, breakoff point to Runway 17, 170°—0.4 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile after passing PIE VORTAC turn right, climb to 1600′ on R 270° within 15 miles or, when directed by ATC, turn right, climb to 1600′ on R 226° within 15 miles.
*Reduction not authorized.
MSA within 25 miles of facility: 000°–090°—1600′; 090°–180°—2000′; 180°–270°—1600′; 270°–360°—1600′.

City, St. Petersburg-Clearwater; State, Fla.; Airport name, St. Petersburg-Clearwater International; Elev., 11′; Fac. Class., H-BVORTAC; Ident., PIE; Procedure No. VOR Runway 17, Amdt. 2; Eff. date, 16 Dec. 67; Sup. Amdt. No. VOR-1, Amdt. 1; Dated, 7 Jan. 67

				T-dn	300-1	300-1	300-1½
				C-dn	600-1	600-1	600-1½
				A-dn	NA	NA	NA
				Following minimums authorized when control zone in effect:			
				C-dn*	800-1	800-1	800-1½
				A-dn*	800-2	800-2	800-2

Procedure turn E side of crs, 128° Outbnd, 308° Inbnd, 7300′ within 10 miles.
Minimum altitude over facility on final approach crs, 6043′ (or control zone in effect, 5943′).
Facility on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 9 mile turn left, climb to 8000′ on R 128° within 20 miles of Silver City VOR. Proceed to Silver City VOR or as directed by ATC.
NOTES: (1) Use Deming altimeter setting when control zone not in effect. 2. Takeoff: Runway 08—turn right—Runway 26—turn left; climb in the holding pattern on R 128°, SE of Silver City VOR to minimum crossing altitude for direction of flight. MCA for departing aircraft: 8400′—southwestbound on V-202; 8700′—northeast bound on V-392.
*These minimums apply at all times for air carriers with approved weather reporting service.
MSA within 25 miles of facility: 090°–090°—10,700′; 090°–180°—9600′; 180°–270°—9100′; 270°–360°—10,100′.

City, Silver City; State, N. Mex.; Airport name, Silver City-Grant County; Elev., 5442′; Fac. Class., L-VORW; Ident., SVC; Procedure No. VOR-1, Amdt. 2; Eff. date, 16 Dec. 67; Sup. Amdt. No. VOR-1, Amdt. 1; Dated, 14 Sept. 67

				T-d	700-1¼	700-1¼	
				C-d	1100-2	1100-2	
				S-d			
				A-d	NA	NA	NA

Procedure turn S side of crs, 337° Outbnd, 157° Inbnd, 4000′ within 10 miles.
Minimum altitude over facility on final approach crs, 4000′.
Crs and distance, facility to airport, 157°—9.9 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 9.9 miles after passing PSB VOR, make right climbing turn to 4000′, proceed direct to PSB VOR. Hold NW, R 306°, 1-minute right turns, 126° Inbnd.
NOTE: Use Philipsburg, Pa., altimeter setting.
CAUTION: 2100′ terrain 2.5 miles S of airport.
MSA within 25 miles of facility: 000°–090°—3600′; 090°–180°—3600′; 180°–270°—3600′; 270°–360°—3200′.

City, State College; State, Pa.; Airport name, State College Air Depot; Elev., 1226′; Fac. Class., H-BVORTAC; Ident., PSB; Procedure No. VOR-1, Amdt. 1; Eff. date, 16 Dec. 67; Sup. Amdt. No. VOR-1, Orig.; Dated, 8 Jan. 66

Carleton VORTAC	Cone Int (final)	Direct	2200	T-dn	300-1	300-1	300-1
				C-dn	600-1	600-1	600-1½
				C-n	800-1½	800-1½	800-1½
				A-dn	NA	NA	NA

Radar available.
Procedure turn N side of crs, 089° Outbnd, 269° Inbnd, 2200′ within 10 miles of Cone Int.
Minimum altitude over Cone Int on final approach crs, 2200′.
Crs and distance, Cone Int to airport, 269°—5.5 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.5 miles after passing Cone Int. climb to 2200′ and return to Carleton VOR via R 269°.
NOTES: (1) Dual VOR receivers or DME required. (2) Use Willow Run altimeter setting.
CAUTION: Private airport 3 miles E on final approach crs.
MSA within 25 miles of facility: 000°–360°—2600′.

City, Tecumseh; State, Mich.; Airport name, Tecumseh; Elev., 815′; Fac. Class., H-BVORTAC; Ident., CRL; Procedure No. VOR-1, Amdt. Orig.; Eff. date, 16 Dec. 67

VOR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition From—	To—	Course and distance	Minimum altitude (feet)	Ceiling and visibility minimums: Condition	2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots
Cashmere VHF Int	EAT VOR	Direct	7300	T-dn*	1000-1	1000-1	1000-1
Beehive Mountain VHF Int	EAT VOR	Direct	6000	C-dn*	1900-1	1900-1	1900-1½
				A-dn	2000-2	2000-2	2000-2
				If Malaga FM received the following minimums apply:			
				C-d*	1000-1	1000-1	1000-1½
				C-n*	1000-1½	1000-1½	1000-2

Procedure turn N side of crs, 162° Outbnd, 342° Inbnd, 4700′ within 12 miles.
Minimum altitude over Malaga FM on final approach crs, 3100′.
Crs and distance, Malaga FM to airport, 282°—1.6 miles, EAT VOR on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile of EAT VOR, climb to 2700′ on R 282° EAT VOR, then make climbing left turn direct to EAT VOR and continue climb to 5000′ within 10 miles on R 090° EAT VOR.
CAUTION: High terrain in all quadrants.
*Sliding scale not authorized for takeoff.
%Takeoffs all runways: Climb visually over the airport to 2200′. Then climb southeastbound on EAT VOR R 142° to 3300′, thence return to EAT VOR climbing to cross VOR at: 4000′ eastbound, V-2N; 5100′, eastbound, V-4S; 6000′, westbound, V-2N. All turns N side of R 102°. Upon reaching 3900′ on R 102°, eastbound aircraft may proceed to intercept V-2N via magnetic heading 080°.
°Terrain to 1800′, 1.7 miles NW through NE, of airport. All circling and maneuvering S of Runways 11/29.
MSA within 25 miles of facility: 000°–090°—5400′; 090°–180°—7800′; 180°–270°—10,400′; 270°–360°—6600′.

City, Wenatchee; State, Wash.; Airport name, Pangborn Field; Elev., 1345′; Fac. Class., L-BVOR; Ident., EAT; Procedure No. VOR Runway 20, Amdt. 7; Eff. date, 16 Dec. 67; Sup Amdt. No. VOR Runway 20, Amdt. 6; Dated, 11 Nov. 67

4. By amending the following very high frequency omnirange—distance measuring equipment (VOR/DME) procedures prescribed in § 97.15 to read:

VOR/DME STANDARD INSTRUMENT APPROACH PROCEDURES

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition From—	To—	Course and distance	Minimum altitude (feet)	Ceiling and visibility minimums: Condition	2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots
17-mile DME Fix, R 163°, counterclockwise.	17-mile DME Fix, R 163°	17-mile DME Arc.	3300	T-dn%	300-1	300-1	300-1½
				C-dn	800-1	800-1	800-1½
17-mile DME Fix, R 132°	6-mile DME Fix, R 163° (final)	Direct	6000	S-dn-33°	300-1	300-1	300-1
				A-dn	800-2	800-2	800-2

Radar available.
Procedure turn S side of crs, 143° Outbnd, 323° Inbnd, 7800′ within 10 miles of 6-mile DME Fix, R 163°.
Minimum altitude over 6-mile DME Fix, R 163° on final approach crs, 6000′; over 4-mile DME Fix, R 132°, 3300′.
Facility on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile of LMT VOR, turn left, climb to 7800′ on R 256° LMT VOR within 10 miles. All maneuvering N of R 256°.
CAUTION: High terrain all quadrants.
%200–½ authorized only Runway 14. 300–1 required Runway 32. 800–1 required Runways 7/25 and 18/36.
%Takeoffs all runways: Climb via LMT LCLZR SE crs/LMT VOR, R 140° to 6000′, then turn right heading 260° to intercept and proceed via LMT VOR, R 162° to cross LMT VOR at or above 7000′; westbound, V-122, 6000′.
#Sliding scale below ¾ mile not authorized.
MSA within 25 miles of facility: 000°–090°—8300′; 090°–180°—7600′; 180°–360°—6300′.

City, Klamath Falls; State, Oreg.; Airport name, Kingsley Field; Elev., 4092′; Fac. Class., L-BVORTAC; Ident., #LMT; Procedure No. VOR/DME Runway 32, Amdt. 1; Eff. date, 16 Dec. 67; Sup. Amdt. No. VOR/DME Runway 32, Orig.; Dated, 9 Nov. 67

SLT VORTAC	SLT R 264°, 17-mile DME Fix	264°—17 miles	4000	T-dn	300-1	300-1	
SLT R 264°, 17-mile DME Fix	SLT R 264°, 22-mile DME Fix (final)	264°—22 miles	3000	C-dn	900-1½	900-1½	
				S-dn-27	900-1½	900-1½	
				A-dn	NA	NA	

SLT R 264°, 17-mile DME Holding Fix, 264° Inbnd, 084° Outbnd, 4000′.
Minimum altitude over SLT R 264°, 17-mile DME Fix on final approach crs, 4000′; over 22-mile DME Fix, 3000′.
Crs and distance, facility to airport, 264°—24.7 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished at 24.7-mile DME Fix, R 264°, make climbing right turn to 4000′. Proceed to SLT VORTAC E 264°, 17-mile DME Fix. Hold E, 1-minute right turns, 264° Inbnd.
NOTES: (1) Use Bradford, Pa., FSS altimeter setting. (2) Runway lights operated on UNICOM 122.8 MHz.

City, St. Marys; State, Pa.; Airport name, St. Marys Municipal; Elev., 1911′; Fac. Class., H-BVORTAC; Ident., SLT; Procedure No. VOR/DME Runway 27, Amdt. Orig.; Eff. date, 16 Dec. 67

5. By amending the following instrument landing system procedures prescribed in § 97.17 to read:

ILS STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums		
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less	More than 2-engine, more than 65 knots
					65 knots or less / More than 65 knots	
PIE VORTAC	LOM	Direct	1600	T-dn	200-1 / 200-1	200-½
AMP RBn	LOM	Direct	1600	C-dn	800-1 / 800-1	800-1½
				S-dn-17°	800-2 / 800-2	800-2
				A-dn	800-2 / 800-2	800-2

Radar available.
Procedure turn W side of crs, 359° Outbnd, 179° Inbnd, 1600' within 10 miles.
Minimum altitude at glide slope interception Inbnd, 1600'.
Altitude of glide slope and distances to approach end of runway at OM, 1,600'—4.4 miles; at MM, 225'—0.5 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.4 miles after passing LOM, turn right, climb to 1600' on PIE VORTAC R 270° within 15 miles or, when directed by ATC, turn right and climb to 1600' on crs of 270°, intercept and proceed out 226° bearing from PI LOM within 15 miles.
*800-2 required when glide slope not utilized. Reduction not authorized. Glide slope unusable below 199'.
MSA within 25 miles of PI LOM: 090°-180°—1600'; 180°-270°—2000'; 270°-360°—1600'.

City, St. Petersburg-Clearwater; State, Fla.; Airport name, St. Petersburg-Clearwater International; Elev., 11'; Fac. Class., ILS; Ident., I-PIE; Procedure No. ILS Runway 17, Amdt. 16; Eff. date, 16 Dec. 67; Sup. Amdt. No. ILS-17, Amdt. 9; Dated, 1 Oct. 66

PIE VORTAC	Sawgrass Int	Direct	1600	T-dn	200-1 / 200-1	200-½
AMP RBn	Sawgrass Int	Direct	1600	C-dn	800-1 / 800-1	800-1½
				S-dn-36°	400-1 / 400-1	400-1
				A-dn	800-2 / 800-2	800-2

Radar available.
Procedure turn W side of crs, 176° Outbnd, 356° Inbnd, 1600' within 10 miles of Sawgrass Int.
Minimum altitude over Sawgrass Int on final approach crs, 1400'.
Crs and distance, Sawgrass Int to Runway 36, 350°—3.8 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.8 miles after passing Sawgrass Int, turn left, climb to 1600' on the PIE VORTAC R 334° within 15 miles.
§400-¾ authorized with operative HIRL, except for 4-engine turbojets.

City, St. Petersburg-Clearwater; State, Fla.; Airport name, St. Petersburg-Clearwater International; Elev., 11'; Fac. Class., ILS; Ident., I-PIE; Procedure No. LOC (BC), Runway 36, Amdt. 6; Eff. date, 16 Dec. 67; Sup. Amdt. No. ILS (back crs.), Amdt. 5; Dated, 26 Mar. 66

6. By amending the following radar procedures prescribed in § 97.19 to read:

RADAR STANDARD INSTRUMENT APPROACH PROCEDURES

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet, MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If a radar instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below. Positive identification must be established with the radar controller. From initial contact with radar to final authorized landing minimums, the instructions of the radar controller are mandatory except when (A) visual contact is established on final approach at or before descent to the authorized landing minimums, or (B) at pilot's discretion if it appears desirable to discontinue the approach, except when the radar controller may direct otherwise prior to final approach, a missed approach shall be executed as provided below when (A) communication on final approach is lost for more than 5 seconds during a precision approach, or for more than 30 seconds during a surveillance approach; (B) directed by radar controller; (C) visual contact is not established upon descent to authorized landing minimums; or (D) if landing is not accomplished.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
					Surveillance approach		
248°	180°	0-20 miles	***2000	T-dn**	200-1	200-1	200-½
180°	248°	0-16 miles	***2000	C-dn-14 L & R, 32 L & R, 27, **23	400-1	400-1	400-1½
180°	248°	15-20 miles	***2800	C-dn-4	600-2	600-2	600-2
				S-dn-14 L & R, 32 L & R, 27, **22.5	400-1	400-1	400-1
				S-dn-4	600-2	600-2	600-2
				A-dn	800-2	800-2	800-2
					Precision approach		
				T-dn**	200-1	200-1	200-½
				C-dn	400-1	400-1	400-1½
				S-dn-14 R & L, 27, 32 L & R	200-½	200-½	200-½
				S-dn-22, 4	200-¾	200-¾	200-¾
				A-dn	600-2	600-2	600-2

All bearings are from radar site with sector azimuths progressing clockwise.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished:
Runway 4—Climb straight ahead to 2200' and proceed to Evanston Int via ORD VOR, R 078° or, when directed by ATC, climb straight ahead to 2200' and proceed to OBK VOR via R 170°.
Runway 27—Climb to 2000' on a crs of 360° and proceed to DPA VOR via R 088° or, when directed by ATC, climb to 3500' on ORD VOR, R 271° and proceed to Elgin Int via ORD VOR, R 271°.
Runway 22—Climb to 2000' on a crs of 226° and proceed to DPA VOR via R 073° or, when directed by ATC, make left-climbing turn to 3500' and proceed to Evanston Int via ORD VOR, R 075°.
Runway 14R—Turn right to heading 155°, climb to 1800', then make right-climbing turn to 3500' and proceed to DPA VOR via R 088° or, when directed by ATC, turn right to heading 155°, climb to 1800', make climbing right turn to 3500' and proceed to Elgin Int via ORD VOR, R 271°.
Runway 22R—Turn right to 226° heading, climb to 1500', then make right-climbing turn to 3500' and proceed to Evanston Int via ORD, R 075°.
Runway 32L—Turn left to 300° heading, climb to 1800', then make climbing left turn to 3500' and proceed direct to DPA VOR.
Runway 14L—Turn left to heading of 120° and climb to 1500', make left-climbing turn to 3500' and proceed to Evanston Int via ORD, R 075°.
CAUTION: 1400' tower, 5.5 miles W. 1413' tower, 4.9 miles W.
*Takeoffs on Runway 27 when weather is below 1000-3 will intercept ORD VOR, R 295° and climb to 2000' before proceeding westbound. Takeoffs on Runway 32L, when weather is below 1000-3, will intercept ORD VOR, R 305° and climb to 2000' before proceeding westbound.
**On ASE approach to Runway 22, do not descend below 1200' until radar advises passing 3-mile Radar Fix from end of runway.
***Radar control will provide 1000' vertical clearance within a 3-mile radius of towers: 1187', 15 miles NW; 1400', 5.5 miles W; 1413' 4.9 miles W; 1880', 7.2 miles SW; 1135', 4.8 miles SW; 1130', 3.5 miles SW; 1504', 14.2 miles SE; 1397', 10 miles SSW; 1060', 14.3 miles SSW; 1128', 5 miles SW; and 1549', 13.9 miles SE.
§RVR 2400' Runways 14 L & R, 22 L & R, and 27. Descent below 667' not authorized unless approach lights are visible.
%RVR 2400' authorized Runways 14 L & R, 22 L & R, and 27.
$Runways 27, 14 R & L, 32 R & L—400-¾ authorized with operative ALS, except for 4-engine turbojets. Runways 14 R & L, 22 R & L, and 27—400-¾ authorized with operative HIRL except for 4-engine turbojets.

City, Chicago; State, Ill.; Airport name, Chicago-O'Hare International; Elev., 667'; Fac. Class. and Ident., O'Hare Radar; Procedure No. 1, Amdt. 15; Eff. date, 16 Dec. 67; Sup. Amdt. No. 1, Amdt. 14; Dated, 17 June 67

					Surveillance radar		
				T-dn	200-1	200-1	200-½
				C-dn	600-2	600-2	600-2
				A-dn	800-2	800-2	800-2

Instrument approach to be conducted in accordance with USAF Radar Standard Instrument Approach Procedure.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished make right-climbing turn to intercept and proceed via Oxnard VOR, R 269° to 4000' within 20 miles.
CAUTION: Maneuvering N of final approach crs not authorized. High terrain N.
NOTE: Military aerodrome—Prior landing permission required.

City, Oxnard; State, Calif.; Airport name, Oxnard AFB; Elev., 80'; Fac. Class. and Ident., Oxnard Radar; Procedure No. 1, Amdt. 1; Eff. date, 16 Dec. 67; Sup. Amdt. No. 1, Orig.; Dated, 22 Jan. 66

These procedures shall become effective on the dates specified therein.

(Secs. 307(c), 313(a), 601, Federal Aviation Act of 1958; 49 U.S.C. 1348(c), 1354(a), 1421; 72 Stat. 749, 752, 775)

Issued in Washington, D.C., on November 8, 1967.

R. S. SLIFF,
Acting Director, Flight Standards Service.

[F.R. Doc. 67-12886; Filed, Nov. 27, 1967; 8:45 a.m.]

Title 19—CUSTOMS DUTIES

Chapter II—U.S. Tariff Commission

PART 200—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Miscellaneous Amendments

Pursuant to and in conformity with Executive Order 11222 of May 8, 1965 (30 F.R. 6469), and Title 5, Chapter I, Part 735 of the Code of Federal Regulations, as amended effective August 9, 1967 (32 F.R. 8281), Part 200 of Title 19 of the Code of Federal Regulations is amended as follows:

Subpart B is amended by inserting in appropriate sequence a new section 200.735–104a which reads:

§ 200.735–104a Prescribed actions.

An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:

(a) Using public office for private gain;

(b) Giving preferential treatment to any person;

(c) Impeding Government efficiency or economy;

(d) Losing complete independence or impartiality;

(e) Making a Government decision outside official channels; or

(f) Affecting adversely the confidence of the public in the integrity of the Government.

Section 200.735–105 is amended to read as follows:

§ 200.735–105 Gifts, entertainment, and favors.

(a) Except as provided in paragraph (b) of this section, no employee may solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value from any person who:

(1) Has, or is seeking to obtain, contractual or other business or financial relations with the Commission;

(2) Conducts operations or activities that are being investigated by the Commission; or

(3) Has interests that may be substantially affected by the performance or nonperformance of the employee's official duty.

(b) The prohibitions set forth under paragraph (a) of this section shall not apply to:

(1) Solicitations or acceptances based on obvious family or personal relationships (such as those between parents, children, or spouse of the employee and the employee) when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors;

(2) The acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting or on a field trip, where an employee may properly be in attendance;

(3) The acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans; and

(4) The acceptance of unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other items of nominal value.

(c) An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(d) An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in 5 U.S.C. 7342.

(e) Neither this section nor § 200.735–106 precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this part for which no Government payment or reimbursement is made. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his behalf, for excessive personal living expenses, gifts, entertainment or other personal benefits, nor does it allow an employee to be reimbursed by a person for travel on official business under agency orders when reimbursement is prescribed by Decision B–128527 of the Comptroller General dated March 7, 1967.

Section 200.735–106 is amended to read as follows:

§ 200.735–106 Outside employment and other activities.

(a) An employee may engage in outside employment or other outside activity not incompatible with the full and proper discharge of the duties and responsibilities of his Government employment: *Provided*, That no Commissioner shall actively engage in any other business, vocation, or employment than that of serving as a Commissioner (19 U.S.C. 1330(c)). Incompatible activities include but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, conflicts of interest; or

(2) Outside employment tending to impair the employee's capacity to perform his Government duties and responsibilities in an acceptable manner.

(b) An employee (except a special Government employee) shall not receive any salary or anything of monetary value from a private source as compensation for his services to the Government (18 U.S.C. 209).

(c) Employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law, the Executive order, or this part. However, an employee shall not, either for or without compensation, engage in teaching, lecturing, or writing that is dependent on information obtained as a result of his Government employment, except when that information has been made available to the general public or will be made available on request, or when the Commission gives authorization for the use of nonpublic information (other than information received in confidence) on the basis that the use is in the public interest and would not be in violation of law. In addition, Commissioners shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance the subject matter of which is devoted substantially to the responsibilities, programs, or operations of the Commission, or which draws substantially on official data or ideas which have not become part of the body of public information.

(d) An employee shall not engage in outside employment under a State or local government, except in accordance with 5 CFR Part 734 when not otherwise prohibited by law.

(e) This section does not preclude an employee from:

(1) Participation in the activities of national or State political parties not proscribed by law.

(2) Participation in the affairs of, or acceptance of, an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational and recreational, public service, or civic organization.

§ 200.735–113 [Amended]

Section 200.735–113 is amended by changing the parenthetical citation in paragraph (d) to read: "(5 U.S.C. 7311, 18 U.S.C. 1918)"; the parenthetical citation in paragraph (g) to read: "(5 U.S.C. 7352)"; the parenthetical citation in paragraph (h) to read: "(31 U.S.C. 638a(c))"; the parenthetical citation in paragraph (j) to read: "(18 U.S.C. 1917)"; by changing paragraph (p) to read: "(p) The prohibitions against political activities in subchapter III of chapter 73 of title 5, United States Code and 18 U.S.C. 602, 603, 607, and 608."; and by adding a new paragraph (q) to read:

(q) The prohibition against an employee acting as an agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

Section 200.735–114 is amended to read as follows:

§ 200.735–114 Employees required to submit statements.

The following employees shall submit statements of employment and financial interests:

(a) Employees paid at a level of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code.

(b) Employees in grade GS–15 or above of section 5332 of title 5, United States Code, or in comparable or higher positions not subject to that section.

(c) Employees in the following positions:

(1) General Counsel.
(2) Assistant General Counsel.
(3) Chief of the Technical Service.
(4) Assistant Chief of the Technical Service.
(5) Chief of the Economics Division.
(6) The Secretary.
(7) Director of Investigation.
(8) Assistant to the Director of Investigation.
(9) Special Industrial Advisor.
(10) Director of Administration.
(11) Chiefs of Commodity Divisions.
(12) Special Advisor to the Commission for Trade Agreements.

(d) Any employee designated to exercise the authority of any position enumerated in paragraph (c) of this section in the absence of the employee in such position.

A new § 200.735–114a is inserted after § 200.735–114 to read:

§ 200.735–114a Employee complaints on filing requirements.

Any employee who believes that his position has been improperly included under the reporting requirements of section 200.735–114 may obtain a review thereof through the Commission's grievance procedures.

Section 200.735–115 is amended to read:

§ 200.735–115 Forms—Interests not to be reported.

(a) Statements required to be submitted by the provisions of this subpart shall be prepared on forms (the format of which is prescribed by the Civil Service Commission) available from the Deputy Counselor.

(b) Pursuant to the authority contained in 18 U.S.C. 208(b)(2), it has been determined that the categories of financial interests hereinafter described are, to the extent indicated, exempted from the application of the prohibition of 18 U.S.C. 208(a) and need not be reported to the Deputy Counselor. Such interests are too remote or too inconsequential to affect the integrity of a Commission employee's services in any matter in which he may act in his governmental capacity. Therefore, the provisions of 18 U.S.C. 208(a) do not preclude the participation by a Commission employee, including a special Commission employee, in matters of a type covered by the prohibition of section 208(a) where the financial interest involved has been exempted hereunder. The following financial interests need not be reported under this subpart:

(1) Ownership of shares of common or preferred stocks, including warrants to purchase such shares, and of corporate bonds or other corporate securities, if the current aggregate market value of the stocks and other securities so owned in any single corporation does not exceed $5,000, and provided such stocks and securities are listed for trading on the New York or the American Stock Exchange. This exemption extends also to any financial interests that the corporation whose stocks or other securities are so owned may have in other business entities.

(B) Ownership of bonds other than corporate bonds, regardless of the value of such interest. This exemption extends also to any financial interests that the organization whose bonds are so owned may have in other business entities.

(3) Ownership of shares of a mutual fund or regulated investment company regardless of the value of such interest. This exemption extends also to any financial interests that the mutual fund or investment company may have in other business entities.

Section 200.735–117 is amended to read:

§ 200.735–117 Supplementary statements.

Changes in, or additions to, the information contained in an employee's statement of employment and financial interests shall be reported in a supplementary statement as of June 30 each year. If no changes or additions occur, a negative report is required. Notwithstanding the filing of the annual report under this section, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflicts of interest provisions of section 208 of title 18, United States Code, or the regulations in this part.

Section 200.735–121 is amended to read as follows:

§ 200.735–121 Confidentiality of employees' statements.

Each statement of employment and financial interests, and each supplementary statement, shall be held in confidence. To ensure this confidentiality, the Deputy Counselor is authorized to review and retain the statements. He shall be responsible for maintaining the statements in confidence and shall not allow access to, or allow information to be disclosed from, a statement except to carry out the purpose of this part. The Deputy Counselor may not disclose information from the statement except as the Civil Service Commission or the Chairman of the Tariff Commission may determine for good cause shown.

§ 200.735–122 [Amended]

Paragraph (a)(2) of § 200.735–122 is amended to read:

(2) The financial interests of the special Government employee which the Commission determines are relevant in the light of the duties he is to perform.

Effective date. These amendments were approved by the Civil Service Commission on November 9, 1967, and are effective on publication in the FEDERAL REGISTER.

[SEAL] STANLEY D. METZGER,
Chairman,
U.S. Tariff Commission.

[F.R. Doc. 67–13874; Filed, Nov. 27, 1967; 8:48 a.m.]

Title 20—EMPLOYEES' BENEFITS

Chapter V—Bureau of Employment Security, Department of Labor

PART 606—REGULATIONS TO IMPLEMENT TITLE IV OF THE VETERANS' READJUSTMENT ASSISTANCE ACT OF 1952 (ALL STATES EXCEPT PUERTO RICO AND THE VIRGIN ISLANDS)

PART 607—REGULATIONS TO IMPLEMENT TITLE IV OF THE VETERANS' READJUSTMENT ASSISTANCE ACT OF 1952 IN PUERTO RICO AND THE VIRGIN ISLANDS

PART 608—REGULATIONS TO IMPLEMENT TITLE IV OF THE VETERANS' READJUSTMENT ASSISTANCE ACT OF 1952 (IN STATES WHICH HAVE NO AGREEMENT WITH THE SECRETARY OF LABOR)

Revocation of Parts

Effective immediately 20 CFR Parts 606, 607, and 608 are revoked. Title IV of the Veterans' Readjustment Assistance Act of 1952, 66 Stat. 684, recodified as 38 U.S.C. 2006–2009, 72 Stat. 1216, which these regulations formerly implemented, was repealed by P.L. 87–675, 76 Stat. 559.

The provisions of section 4 of the Administrative Procedure Act (5 U.S.C. 553) which require notice of proposed rule making, public participation in their adoption, and delay in effective date do not apply because these rules relate to public benefits. I do not believe such procedures or delay will serve a useful purpose here.

(Pub. Law 87–675, sec. 1(e), 76 Stat. 559)

Signed at Washington, D.C., this 21st day of November 1967.

W. WILLARD WIRTZ,
Secretary of Labor.

[F.R. Doc. 67–13855; Filed, Nov. 27, 1967; 8:46 a.m.]

PART 613—REGULATIONS TO IMPLEMENT TEMPORARY UNEMPLOYMENT COMPENSATION ACT OF 1958; RESPONSIBILITIES OF PUERTO RICO, VIRGIN ISLANDS AND STATE AGENCIES

Revocation of Part

Effective immediately 20 CFR Part 613 is revoked. Section 101(a)(1) of the Temporary Unemployment Compensation Act of 1958, 72 Stat. 171, 42 U.S.C. 1400(a)(1), as amended by P.L. 86–7, 73 Stat. 14, authorized payment of temporary unemployment compensation only for weeks of unemployment beginning

before July 1, 1968, and the effective period of the program has expired.

The provisions of section 4 of the Administrative Procedure Act (5 U.S.C. 553) which require notice of proposed rule making, public participation in their adoption, and delay in effective date are not applicable because these rules relate to public benefits. I do not believe such procedures or delay will serve a useful purpose here.

(Sec. 207, 72 Stat. 176; 42 U.S.C. 1400j)

Signed at Washington, D.C., this 21st day of November 1967.

W. WILLARD WIRTZ,
Secretary of Labor.

[F.R. Doc. 67-13884; Filed, Nov. 27, 1967; 8:46 a.m.]

PART 615—TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION, 1961

Revocation of Part

Effective immediately 20 CFR Part 615 is revoked. Section 6 of the Temporary Extended Unemployment Compensation Act of 1961, 75 Stat. 19, 42 U.S.C. 1400p, authorized payment of temporary extended unemployment compensation only for weeks of unemployment beginning within a covered period beginning April 8, 1961, and ending on June 30, 1962, and the covered period has expired.

The provisions of section 4 of the Administrative Procedure Act (5 U.S.C. 553) which require notice of proposed rule making, public participation in their adoption, and delay in effective date are not applicable because these rules relate to public benefits. I do not believe such procedures or delay will serve a useful purpose here.

(Sec. 12, 75 Stat. 14; 42 U.S.C. 1400v)

Signed at Washington, D.C., this 21st day of November 1967.

W. WILLARD WIRTZ,
Secretary of Labor.

[F.R. Doc. 67-13883; Filed, Nov. 27, 1967; 8:46 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 148n—OXYTETRACYCLINE

Miscellaneous Amendments

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and delegated by him to the Commissioner of Food and Drugs (21 CFR 2.120), Part 148n of the antibiotic drug regulations is amended in the following respects to effect clarifying and technical changes:

1. Section 148n.1 is amended by revising paragraphs (a)(1)(viii) and (b)(1)(i)(c), (ii)(b), and (iii)(b), to read as follows:

§ 148n.1 Oxytetracycline.

(a) • • •
(1) • • •

(viii) When calculated on the anhydrous basis, its absorptivity at 353 millimicrons is 100±4 percent of that of the oxytetracycline standard similarly treated and corrected for potency.

• • • • •

(b) • • •
(1) • • •
(i) • • •

(c) *Working standard.* Accurately weigh a suitable quantity of the oxytetracycline working standard and dissolve in .01*N* hydrochloric acid to make an appropriate stock solution. Keep in a glass-stoppered flask and store under refrigeration. Discard solution after 1 week.

• • • • •

(ii) • • •

(b) *Working standard.* Accurately weigh a suitable quantity of the oxytetracycline working standard and dissolve in 0.1*N* hydrochloric acid to make an appropriate stock solution. Keep in a glass-stoppered flask and store under refrigeration. Discard solution after 1 week.

• • • • •

(iii) • • •

(b) *Standard solution.* Accurately weigh approximately 50 milligrams of the oxytetracycline working standard and dissolve with 25 milliliters of 0.1*N* hydrochloric acid. Quantitatively transfer to a 250-milliliter volumetric flask and dilute to volume with distilled water. Keep in a glass-stoppered flask and store under refrigeration. Discard solution after 1 week.

• • • • •

2. Section 148n.2(a)(1)(viii) is revised to read as follows:

§ 148n.2 Oxytetracycline hydrochloride.

(a) • • •
(1) • • •

(viii) When calculated on the anhydrous basis, its absorptivity at 353 millimicrons is 92.5±4.3 percent of that of the oxytetracycline standard similarly treated and corrected for potency.

• • • • •

3. Section 148n.11(b)(1) is revised to read as follows:

§ 148n.11 Oxytetracycline hydrochloride for injection.

• • • • •

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 148n.1(b)(1)(i) or (ii), except reconstitute the product as directed in the labeling. Using a suitable syringe and hypodermic needle, promptly withdraw a suitable, measured aliquot of the solution and prepare an appropriate stock solution by prompt dilution with 0.1*N* hydrochloric acid. Dilute further in 0.1*M* potassium phosphate buffer, pH 4.5, to the prescribed reference concentration. The potency is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of oxytetracycline that it is represented to contain.

• • • • •

§ 148n.13 [Amended]

4. In § 148n.13 *Oxytetracycline hydrochloride-tetracaine hydrochloride dental cones,* paragraph (a)(1) is amended by adding to the end of the second sentence the words "and 1 milligram of tetracaine hydrochloride."

Since the amendments in this order are clarifying and technical changes that are nonrestrictive in nature and raise no points of controversy, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: November 20, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-13896; Filed, Nov. 27, 1967; 8:49 a.m.]

Title 22—FOREIGN RELATIONS

Chapter I—Department of State

SUBCHAPTER C—FEES AND FUNDS

[Dept. Reg. 108.572]

PART 21—FEES FOR SERVICES IN THE UNITED STATES

Schedule

Section 21.1 is amended by changing Item 1a to read as follows:

§ 21.1 Schedule of fees.

Item No.	Description of services	Fee
1	a. For each search for a record and for making a copy or extract thereof, by photostat or otherwise (single page).	$2.00

• • • • •

This regulation shall become effective upon publication in the FEDERAL REGISTER.

(Sec. 4, 63 Stat. 111, as amended; 22 U.S.C. 2659)

For the Secretary of State.

IDAR RIMESTAD,
Deputy Under Secretary for Administration.

NOVEMBER 15, 1967.

[F.R. Doc. 67-13895; Filed, Nov. 27, 1967; 8:50 a.m.]

Title 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

SUBCHAPTER V—TERMINATION OF FEDERAL-INDIAN RELATIONSHIPS

PART 243—UTE TRIBE, UTAH; DISPOSITION OF INTERESTS IN TRIBAL ASSETS BY MIXED-BLOOD INDIANS

Deletion of Part

NOVEMBER 15, 1967.

Part 243 is deleted from Subchapter V, Chapter I of Title 25 of the Code of Federal Regulations. The authority for the issuance of Part 243 (section 15 of the Act of Aug. 27, 1954 (68 Stat. 876)), has expired.

ROBERT L. BENNETT,
Commissioner.

[F.R. Doc. 67-13845; Filed, Nov. 27, 1967; 8:45 a.m.]

Title 32—NATIONAL DEFENSE

Chapter XIV—The Renegotiation Board

SUBCHAPTER B—RENEGOTIATION BOARD REGULATIONS UNDER THE 1951 ACT

PART 1472—CONDUCT OF RENEGOTIATION

Filing of Information and Requests by Contractor

Section 1472.6(d) *Place for filing* is amended by changing, in subparagraph (1) thereof, the address of the Eastern Regional Renegotiation Board from "1634 Eye Street NW., Washington, D.C. 20447" to "1325 K Street NW., Washington, D.C. 20447."

(Sec. 109, 68 Stat. 22; 50 U.S.C., App. Sup. 1219)

Dated: November 22, 1967.

LAWRENCE E. HARTWIG,
Chairman.

[F.R. Doc. 67-13894; Filed, Nov. 27, 1967; 8:49 a.m.]

Title 36—PARKS, FORESTS AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 7—SPECIAL REGULATIONS RELATING TO PARKS AND MONUMENTS

Colonial National Historical Park, Va.

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535), and 245 DM-1 (27 F.R. 6395), National Park Service Order No. 24 (31 F.R. 4255), as amended, § 7.1 of Title 36 of the Code of Federal Regulations is revised as set forth below.

The purpose of this revision is to revoke certain regulations on fishing from bridges, travel on roads and trails, speed limits, and hours of closure, since these regulations are no longer necessary in view of the provisions of Parts 2-4 of this chapter. This revision will also accomplish editorial changes in the regulation relating to landing and launching of boats. Since this revision will not impose any additional restrictions on the public and in some instances will remove existing restrictions, public comment thereon and a delayed effective date are deemed to be unnecessary and this revision shall take effect upon publication in the FEDERAL REGISTER.

(5 U.S.C. 553; 39 Stat. 535; U.S.C. 3)

Section 7.1, Part 7 of Title 36 of the Code of Federal Regulations is hereby revised to read as follows:

§ 7.1 Colonial National Historical Park.

(a) *Boating.* Except in emergencies, no privately owned vessel shall be launched from land within Colonial National Historical Park and no privately owned vessel shall be beached or landed on land within said Park.

JACKSON E. PRICE,
Regional Director, Southeast Region, National Park Service.

OCTOBER 26, 1967.

[F.R. Doc. 67-13850; Filed, Nov. 27, 1967; 8:46 a.m.]

PART 7—SPECIAL REGULATIONS RELATING TO PARKS AND MONUMENTS

Fort Caroline National Memorial, Fla.; Restricted Area

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 3), and 245 DM-1 (27 F.R. 6395), National Park Service Order No. 24 (31 F.R. 4255), as amended, Part 7 of Title 36 of the Code of Federal Regulations is amended as set forth below. The purpose of this amendment is to revoke paragraph (b), Restricted Area, of § 7.61 which is no longer necessary because it is covered by § 2.6 of this chapter.

Since this amendment makes only a technical change, advance comment and a delayed effective date are deemed to be unnecessary and this amendment shall take effect upon publication in the FEDERAL REGISTER.

Part 7 of Title 36 of the Code of Federal Regulations is hereby amended as follows.

Paragraph (b) of § 7.61 is revoked.

(5 U.S.C. 553; 39 Stat. 535; 16 U.S.C. 3)

FRED H. ARNOLD,
Acting Regional Director, Southeast Region, National Park Service.

OCTOBER 26, 1967.

[F.R. Doc. 67-13851; Filed, Nov. 27, 1967; 8:46 a.m.]

PART 7—SPECIAL REGULATIONS RELATING TO PARKS AND MONUMENTS

Guilford Courthouse National Military Park

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535), and 245 DM-1 (27 F.R. 6395), National Park Service Order No. 24 (31 F.R. 4255), as amended, Part 7 of Title 36 of the Code of Federal Regulations is amended as set forth below.

The effect of this amendment is to revoke the special regulations on travel on roads, prohibited devices, load and vehicle weight limitations and speed applicable within Guilford Courthouse National Military Park, which are no longer necessary because they are covered by regulations contained in Part 4 of this chapter.

Inasmuch as this amendment makes only technical changes, advance comment thereon and a delayed effective date are deemed to be unnecessary and this amendment shall take effect upon publication thereof in the FEDERAL REGISTER.

Part 7 of Title 36 of the Code of Federal Regulations is hereby amended by revoking § 7.21 *Guilford Courthouse National Military Park.*

(5 U.S.C. 553; 39 Stat. 535; 16 U.S.C. 3)

FRED H. ARNOLD,
Acting Regional Director, Southeast Region, National Park Service.

OCTOBER 26, 1967.

[F.R. Doc. 67-13852; Filed, Nov. 27, 1967; 8:46 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4321]

[Oregon 014971]

OREGON

Powersite Cancellation No. 206 (Oregon); Partial Cancellation of Powersite Classification No. 421

By virtue of the authority contained in the act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), as amended, and Reorganization Plan No. 3 (64 Stat. 1262; 5 U.S.C. 133z-15, note), and in section 24 of the act of June 10, 1920 (41 Stat. 1075; 16 U.S.C. 818), as amended, it is ordered as follows:

1. The order of the Geological Survey of November 30, 1951, creating Powersite Classification No. 421, is hereby canceled so far as it affects the following described lands:

WILLAMETTE MERIDIAN

T. 11 S., R. 45 E.,
Sec. 36, NW¼SW¼NE¼, S½SW¼NE¼, and NW¼SW¼.
T. 12 S., R. 45 E.,
Sec. 12, E½NW¼SW¼ and SW¼NW¼SW¼;
Sec. 14, NW¼NW¼NE¼ and E½NE¼NW¼;
Sec. 26, SE¼SW¼.
T. 14 S., R. 45 E.,
Sec. 5, W½ lot 1;
Sec. 8, W½ lot 2, NE¼NW¼, NW¼SW¼SW¼, SE¼SE¼SW¼, and SE¼SE¼;
Sec. 9, SW¼SW¼;
Sec. 15, W½SW¼SW¼ and SE¼SW¼SW¼;
Sec. 17, S½NW¼NW¼ and NE¼NW¼NW¼;
Sec. 22, W½ lot 1, W½ lot 4, and W½ lot 5;
Sec. 27, W½ lot 2.
T. 15 S., R. 45 E.,
Sec. 2, SE¼SE¼;
Sec. 15, S½ lot 1;
Sec. 34, S½ lot 4.
T. 9 S., R. 46 E.,
Sec. 21, SW¼NE¼, NW¼SE¼NE¼, S½SE¼NE¼, NE¼NE¼SW¼, and S½NE¼SW¼;
Sec. 23, SW¼SW¼NW¼ and NW¼SW¼;
Sec. 28, E½SW¼NW¼ and N½NE¼SW¼;
Sec. 26, N½NE¼NE¼, SE¼NE¼NE¼, W½SW¼NE¼, N½NW¼SW¼, and SW¼NW¼SW¼.
T. 10 S., R. 46 E.,
Sec. 26, N½NE¼NW¼, SW¼NE¼NW¼, N½SW¼NW¼, and SW¼SW¼NW¼;
Sec. 29, N½SE¼SE¼ and SW¼SE¼SE¼.
T. 11 S., R. 46 E.,
Sec. 13, W½SE¼NE¼.
T. 15 S., R. 46 E.,
Sec. 18, S½ lot 2;
Sec. 19, S½ lot 1.
T. 9 S., R. 47 E.,
Sec. 2, N½SW¼NE¼, SW¼SW¼NE¼, and W½SW¼SW¼;
Sec. 10, NE¼NE¼;
Sec. 11, W½SW¼SW¼;
Sec. 15, N½NE¼NE¼ and SW¼NE¼;
Sec. 16, NW¼SE¼, N½SE¼SW¼ and SW¼SE¼SW¼;
Sec. 20, NE¼NE¼, W½SE¼NE¼, NE¼SW¼, N½SW¼SW¼, SW¼SW¼SW¼, NW¼SE¼SW¼, and N½NW¼SE¼;
Sec. 21, W½NW¼NW¼;
Sec. 30, N½ lot 4.
T. 7 S., R. 48 E.,
Sec. 5, SE¼SW¼;
Sec. 6, W½E½ and SE¼SW¼;
Sec. 17, NW¼NE¼, NE¼NW¼, S½NW¼, and NW¼SW¼;
Sec. 19, NE¼NE¼, NE¼SW¼, and SE¼SE¼;
Sec. 20, NE¼SW¼.
T. 8 S., R. 48 E.,
Sec. 4, SW¼NW¼ and W½SW¼;
Sec. 8, SE¼NE¼ and SW¼SE¼;
Sec. 9, NW¼NW¼;
Sec. 17, NE¼NW¼ and SW¼NW¼.

The areas described, including the public and nonpublic lands, aggregate approximately 2,350 acres in Baker and Malheur Counties.

The lands lie on the westerly side of of the Snake River in a stretch between Copperfield and Huntington. Topography is generally steep as the lands are mostly on the side slopes of the canyon walls. Vegetation consists of big sagebrush, bluebunch wheatgrass, cheatgrass and other native grasses, shrubs and forbs.

2. Until 10 a.m. on May 22, 1968, the State of Oregon shall have a preferred right of application to select the public lands as provided by R.S. 2276, as amended (43 U.S.C. 852). After that time the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on May 22, 1968, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The lands have been open to applications and offers under the mineral leasing laws, and to location under the U.S. mining laws subject to the provisions of the act of August 11, 1955 (69 Stat. 682; 30 U.S.C. 621).

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Portland, Oreg.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

NOVEMBER 20, 1967.

[F.R. Doc. 67-13844; Filed, Nov. 27, 1967; 8:46 a.m.]

[Public Land Order 4322]

[Oregon 2401]

OREGON

Revocation of National Forest Administrative Site Withdrawal

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. The departmental order of May 5, 1908, withdrawing national forest lands as an administrative site, is hereby revoked so far as it affects the following described lands:

WILLAMETTE MERIDIAN

ROGUE RIVER NATIONAL FOREST

Woodruff Meadows Administrative Site

T. 31 S., R. 3 E.,
Sec. 7, NE¼SE¼ and E½NW¼SE¼.

The areas described aggregate 60 acres in Jackson County.

2. At 10 a.m. on December 26, 1967, the lands shall be open to such forms of disposition as may by law be made of national forest lands.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

NOVEMBER 20, 1967.

[F.R. Doc. 67-13845; Filed, Nov. 27, 1967; 8:46 a.m.]

[Public Land Order 4323]

[Oregon 1070]

WASHINGTON

Withdrawal for Reclamation Project

By virtue of the authority contained in section 3 of the act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 416), it is ordered as follows:

Subject to valid existing rights, the following described land in the Wenatchee National Forest, is hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C. Ch. 2), but not from leasing under the mineral leasing laws, and reserved for the Keechelus Reservoir, Yakima Project:

WILLAMETTE MERIDIAN

T. 22 N., R. 11 E.,
Sec. 14, W½NW¼SW¼.

The area described contains 20 acres in Kittitas County.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

NOVEMBER 20, 1967.

[F.R. Doc. 67-13846; Filed, Nov. 27, 1967; 8:46 a.m.]

[Public Land Order 4324]

[Riverside 355]

CALIFORNIA

Withdrawal for National Forest Administrative Site and Recreation Area

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

SAN BERNARDINO MERIDIAN

SAN BERNARDINO NATIONAL FOREST

Mormon Rocks Administrative Site and Recreation Area

T. 3 N., R. 6 W.,
Sec. 27, SW¼NE¼NW¼, NW¼NW¼, N½SW¼NW¼, SE¼SW¼NW¼, W½SE¼NW¼, W½E½SE¼NW¼, NW¼SW¼, and N½SW¼SW¼;
Sec. 28, SE¼NE¼NE¼, E½NE¼SE¼, and NE¼SE¼SE¼.

The areas described aggregate 210 acres in San Bernardino County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

NOVEMBER 20, 1967.

[F.R. Doc. 67-13847; Filed, Nov. 27, 1967; 8:46 a.m.]

[Public Land Order 4325]

[New Mexico 2406]

NEW MEXICO

Withdrawal for Reclamation Project

By virtue of the authority contained in section 3 of the act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 416), as amended and supplemented, it is ordered as follows:

Subject to valid existing rights, the following described public lands, which are under the jurisdiction of the Secretary of the Interior, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, and reserved for the Navajo Indian Irrigation Project:

NEW MEXICO PRINCIPAL MERIDIAN

T. 27 N., R. 11 W.,
Sec. 3, lots 1 and 2.
T. 28 N., R. 11 W.,
Sec. 34, S½SE¼.

The areas described aggregate 161.60 acres in San Juan County.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

NOVEMBER 20, 1967.

[F.R. Doc. 67-13848; Filed, Nov. 27, 1967; 8:46 a.m.]

[Public Land Order 4326]

[Sacramento 605]

CALIFORNIA

Withdrawal for Reclamation Project

By virtue of the authority contained in section 3 of the act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 416), as amended and supplemented, it is ordered as follows:

Subject to valid existing rights, the following described public lands, which are under the jurisdiction of the Secretary of the Interior, are hereby withdrawn from all forms of appropriation under the public land laws including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, including the mineral leasing laws, and reserved for the Keswick Dam and Reservoir of the Shasta Division, Central Valley Project:

MOUNT DIABLO MERIDIAN

T. 32 N., R. 5 W.,
Sec. 4, lots 23 and 28.

The areas described aggregate approximately 9 acres in Shasta County.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

NOVEMBER 20, 1967.

[F.R. Doc. 67-13849; Filed, Nov. 27, 1967; 8:46 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission and Department of Transportation

[OST Docket No. 5, Amdt. 3]

PART 239—STANDARD TIME ZONE BOUNDARIES

Time Zones Applicable to State of Nebraska

The purpose of this amendment to Part 239 (formerly Part 138) of Title 49 of the Code of Federal Regulations is to alter the existing western boundary of the central standard time zone in Nebraska, so as to include certain presently divided Nebraska counties wholly within the central standard time zone, in accordance with a petition from the Governor and Legislature of the State.

This amendment is based on a notice of proposed rule making (Notice No. 1; OST Docket No. 5) issued by the General Counsel of the Department of Transportation and published in the FEDERAL REGISTER on August 9, 1967 (32 F.R. 11477). The notice was issued under the Act of March 19, 1918, ch. 24; 15 U.S.C. 261–265, which authorizes the Department to modify time zone boundaries, and the Department of Transportation Act (80 Stat. 939, 49 U.S.C. 1655).

Since the commencement of this proceeding over 3 months ago, all interested persons have been afforded an opportunity to express their views on and participate in the making of this amendment, and due consideration has been given to all matters presented.

The Department accorded special significance in this matter to the views of the Executive and Legislative branches of the State of Nebraska, as expressed by the Governor in his petition.

The amendment will have the effect of establishing as the eastern boundary of the mountain standard time zone the eastern boundaries of the following counties: Cherry, Hooker, Arthur, Keith, Perkins, Chase, and Dundy. The amendment is believed to be consistent with the existing junction points and division points of common carriers engaged in interstate and foreign commerce. It is expected that the convenience of commerce and the conduct of municipal affairs will be more adequately served.

This amendment in no way concerns adherence to or exemption from advanced (daylight saving) time during the summer months. The Uniform Time Act requires observance of advanced (daylight saving) time within the established time zones from the last Sunday in April to the last Sunday in October but permits an individual State to exempt itself, by law, from observing advanced (daylight saving) time within the State.

In consideration of the foregoing, effective January 1, 1968, § 239.5(c) of Title 49, Code of Federal Regulations, is amended to read as follows:

§ 239.5 Boundary line between central and mountain zones.

* * * * *

(c) *Nebraska.* From the intersection of the third guide meridian, west, and the north boundary line of the State of Nebraska, running south along the east line of Cherry County, Nebr., to the intersection of the north line of Blaine County; thence west along the north line of Blaine and Thomas Counties to the west line of Thomas County; thence south along the west line of Thomas County to the intersection of the north line of McPherson County; thence west along the north line of McPherson County to the west line of McPherson County; thence south along the west line of McPherson County to the intersection of the north line of Keith County; thence east along the north line of Keith County to the intersection of the west line of Lincoln County; thence south along the west line of Lincoln County to the intersection of the north line of Hayes County; thence west along the north line of Hayes County to the west line of Hayes County; thence south along the west line of Hayes and Hitchcock Counties to the boundary line between Kansas and Nebraska.

(Act of Mar. 19, 1918, ch. 24, as amended, Uniform Time Act of 1966; 15 U.S.C. 260–267; sec. 6(e)(5), Department of Transportation Act; 80 Stat. 939, 49 U.S.C. 1655)

Issued in Washington, D.C., on November 22, 1967.

ALAN S. BOYD,
Secretary of Transportation.

[F.R. Doc. 67-13880; Filed, Nov. 27, 1967; 8:49 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

SUBCHAPTER F—FEDERAL AID TO STATES IN FISH AND WILDLIFE RESTORATION

PART 80—RESTORATION OF GAME BIRDS, FISH, AND MAMMALS

On page 12481 of the FEDERAL REGISTER of August 29, 1967, there was published a notice of proposed rule making, revising Part 80 of Title 50, Code of Federal Regulations.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections with respect to the proposed revisions. In addition to the notice in the FEDERAL REGISTER, every State Fish and Game Department was notified by letter.

Several worthwhile suggestions for clarifying the regulations were received and the following changes have been made:

1. Section 80.1(k) has been altered to emphasize that this definition of "management" relates to its application in limiting the use of Federal Aid in Wildlife Restoration funds for management purposes.

A new definition, 80.1(n), *Administration*, has been added to define "administration of a fish and game department," as it pertains to diversions of license fees.

2. Section 80.11 has been expanded to indicate the distribution and availability of the Federal Aid in Fish and Wildlife Restoration Manual.

3. Section 80.21, *Contracts*, has been changed to state that contracts may be solicited and awarded according to State laws except as otherwise provided in these regulations.

4. Section 80.31(b) has been altered to emphasize that Federal Aid funds may be used to pay for marketable timber which is essential to project purposes

when acquiring the land on which it stands.

5. Section 80.30 has been changed to allow a State to be reimbursed for expenditures by agencies other than the fish and game department, provided they are made on approved projects and reported and certified to the Secretary by the fish and game department.

There were other comments, which, upon analysis, were found not to be in conflict with the proposed regulations.

Therefore, all comments having been fully considered, and no other changes being deemed necessary, the revised part, as so proposed, with the above-stated exceptions is hereby adopted and is to read as set forth below. These regulations are effective upon publication in the FEDERAL REGISTER.

JOHN S. GOTTSCHALK,
Director, Bureau of Sport Fisheries and Wildlife.

NOVEMBER 21, 1967.

Sec.
80.1 Definitions.
80.2 Apportionment and certification.
80.3 Notice of desire to participate.
80.4 Period of availability of funds.
80.5 Diversion of funds.
80.6 General information for the Secretary.
80.7 Hunting and fishing license information.
80.8 Activities prohibited.
80.9 Uses other than for fish and wildlife.
80.10 Minimum Federal participation.
80.11 Project statement.
80.12 Financial plan.
80.13 Plans, specifications and estimates.
80.14 Project agreement.
80.15 Officials not to benefit.
80.16 Equal employment opportunity.
80.17 Submission of documents.
80.18 Divergent opinions over project merits.
80.19 Land control.
80.20 Samples of materials to be submitted.
80.21 Contracts.
80.22 Safety and accident prevention.
80.23 Statements and payrolls.
80.24 Prosecution of work.
80.25 Personnel.
80.26 Maintenance of completed projects.
80.27 Production of income.
80.28 Inspection.
80.29 Civil rights.
80.30 Federal Aid payments.
80.31 Form of vouchers.
80.32 Records and reporting.
80.33 Records retention period.
80.34 Convict labor.
80.35 Water pollution control.
80.36 Purchase of equipment.
80.37 Patents.
80.38 Fish and wildlife planning.

AUTHORITY: The provisions of this Part 80 issued under sec. 10, 50 Stat. 917, as amended, sec. 10, 64 Stat. 430, as amended; 16 U.S.C. 669i, 777i.

§ 80.1 Definitions.

As used in this part, terms shall have the meanings ascribed in this section.

(a) *Federal Aid Act(s).* (1) The Act of Congress, approved September 2, 1937, entitled "An Act to provide that the United States shall aid the States in wildlife restoration projects, and for other purposes" (50 Stat. 917, as amended; 16 U.S.C., sec. 669–669i), commonly referred to as the Pittman-Robertson Act; and (2) the Act of Congress, approved August 9, 1950, entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes" (64 Stat. 430, as amended; 16 U.S.C., sec. 777–777k), commonly referred to as the Dingell-Johnson Act.

(b) *State.* Any State of the United States, the territorial areas of Guam and the Virgin Islands, and the Commonwealth of Puerto Rico.

(c) *State Fish and Game Department.* Any department or division, or commission, or official of a State empowered under its laws to exercise the functions ordinarily exercised by a State Fish and Game Department, the Secretary of Agriculture of Puerto Rico, or the Governor of Guam or the Virgin Islands.

(d) *Fish and wildlife.* (1) The term "fish" is limited to aquatic, gill breathing, vertebrate animals bearing paired fins; and (2) the term "wildlife" is limited to wild birds and wild mammals.

(e) *Project.* A sound and substantial undertaking with the general objective of restoring or managing fish and wildlife populations now and for the future and for the preservation and improvement of sport fishing, hunting, and related uses of these resources.

(f) *Project substantiality.* A substantial project is one which will provide benefits to hunters and fishermen commensurate with cost, and which is designed in accordance with accepted fish and wildlife conservation and management practices and sound engineering principles.

(g) *Project segment.* An essential part or division of a project, usually separated as a period of time, occasionally as a unit of work.

(h) *Land acquisition.* The acquisition of lands, waters, or interests therein, by purchase, condemnation, lease or gift.

(i) *Development.* Improving areas of land or water through the construction of works and facilities, improvement of soil and water conditions, establishing or controlling vegetation and animal populations and including operation and protection of the areas.

(j) *Research and surveys.* Investigations into problems of fish and wildlife management necessary for the efficient administration of these resources, including:

(1) *Research.* Studies designed to supply new information about fish and wildlife, their environment, or the development of new methods for management of these resources.

(2) *Surveys and inventories.* Routine collection of data on the abundance and utilization of fish and wildlife, or the condition of their environment, through the application of established methodology.

(k) *Management.* For purposes of the limitation on the use of Federal Aid in Wildlife Restoration funds for the management of wildlife areas and resources, the term includes measures and facilities for the harvest and control of wild birds and mammals.

(l) *Maintenance.* Repair and upkeep of capital improvements acquired or constructed under the Federal Aid Acts. A capital improvement is any successfully established improvement having an expected useful life in excess of 5 years. For the purpose of qualifying for maintenance, a project is completed when the lands have been acquired, or capital improvements have been finished.

(m) *Coordination.* The selection, planning, direction, supervision, and coordination of projects within a State's Federal Aid program, including the coordination of this program with other related activities of the fish and game department.

(n) *Administration.* As used in section 1 of each of the Federal Aid Acts, relating to diversion of license fees, in this part administration of a fish and game department includes all of the normal operations and functions of such an organization.

§ 80.2 Apportionment and certification.

The Secretary shall apportion funds in the manner prescribed in the Acts, as soon as possible after receiving notification of the amounts which have become available for the purposes of the Acts. He shall promptly certify to the Secretary of the Treasury and to each State Fish and Game Department, the respective sums which he has deducted for administering and executing the Acts and the respective sums which he has apportioned to each State for the ensuing fiscal year.

§ 80.3 Notice of desire to participate.

Any State Fish and Game Department desiring to avail itself of the benefits of the Acts, shall notify the Secretary within 60 days after it has received from him a certificate of apportionment of funds available to the State.

§ 80.4 Period of availability of funds.

Funds are available to a State for expenditure or obligation during the fiscal year for which they are apportioned and until the close of the succeeding fiscal year. For the purpose of this section, obligation of apportioned funds occurs when a project agreement or amendment thereto is signed by the Secretary or his authorized representative.

§ 80.5 Diversion of funds.

(a) Conditions to participation in the benefits of these Acts are that a State's hunting and fishing license revenues must be used only for administration of its Fish and Game Department and Federal Aid funds granted under the Acts must be used for the purposes of approved projects. A diversion of license fees occurs when a State Fish and Game Department, through legislative action, or otherwise, loses control of the expenditure of any portion of its hunting license or sport fishing license revenues, or expends such revenues for any purpose other than the administration of the State Fish and Game Department. A diversion of Federal Aid funds occurs whenever they are applied by a State to activities or purposes which are not a part of an approved project, or when real property acquired or constructed with Federal Aid funds under these Acts passes from the control of the State Fish and Game Department or is used for unapproved purposes in a manner or to an extent which interferes with the accomplishment of project purposes as they were approved by the Secretary, or as they may be amended with the approval of the Secretary.

(b) When a diversion of funds occurs, a State thereby becomes ineligible to receive Federal Aid funds under the pertinent Act from the date the diversion occurs until (1) action is taken to return the administration of hunting and sport fishing license fees to the State Fish and Game Department; (2) hunting and sport fishing license fees used for purposes other than the programs of the State Fish and Game Department are replaced; (3) Federal Aid funds used for purposes or activities which are not a part of an approved project are replaced; (4) Federal-Aid financed real property which has passed from the control of the State Fish and Game Department is restored to that control, or a property of equal value at current market prices and with commensurate benefits to fish and wildlife is acquired with non-Federal funds to replace it; or (5) uses of Federal-Aid financed real property, which interfere with the accomplishment of approved project objectives are ceased: *Provided, however,* That, where any projects were approved in compliance with the terms of the pertinent Act prior to diversion, and Federal Aid funds were obligated to carry out such projects, such funds shall remain available therefore until expended, without regard for the intervening period of the State's ineligibility under the Federal Aid Acts: *Provided, further,* That, when the State shall find, and the Secretary agree, that a property is no longer useful for the purposes for which it was acquired or constructed, and that it is not practical to convert the property to other fish or wildlife restoration, development, or management purposes, the State may sell the property and apply the proceeds of sale as the State Fish and Game Department and the Secretary may then agree: *Provided, further,* That, when required by this section to acquire a property with non-Federal funds, a State shall be given a reasonable time, up to 3 years, to accomplish this, before becoming ineligible to receive Federal Aid funds.

§ 80.6 General information for the Secretary.

Before any Federal funds may be obligated for any project to be undertaken in a State, there shall be furnished to the Secretary upon his request, information regarding the laws affecting fish or wildlife conservation and the authority of the State Fish and Game Department and of local officials with respect to the establishment and maintenance of projects; and the existing provisions of the State constitution or laws relating to revenues for the protection, restoration and management of fish or wildlife.

(a) *Document signature.* The Secretary of State of each State or any authorized official of the State shall certify as to the duly appointed official(s) authorized in accordance with State law to commit the State to participation under the provisions of the Acts and to sign Federal Aid project documents. The Secretary shall be advised promptly of any change made in such authorizations to sign Federal Aid documents.

(b) *Program information.* The Secretary may, from time to time, request and the State Fish and Game Department shall furnish information relating to the administration and maintenance of any project established under the Acts.

(c) *Planning-Programing-Budgeting System.* To promote the most efficient use of the financial resources of the Federal Government, Federal funds are budgeted according to a Planning-Programing-Budgeting System. In order that Federal funds for financing projects under the Federal Aid Acts may be budgeted under this system, States must furnish such plans and programs as the Secretary may require for this purpose.

§ 80.7 Hunting and fishing license information.

(a) Information concerning the number of paid hunting-license holders and the number of persons holding paid licenses to fish for sport or recreation in the State in the preceding year shall be furnished the Secretary by the Fish and Game Department of each State on or before December 15 of each year in form specified by the Secretary.

(b) This information shall be certified as accurate by the Director of the State Fish and Game Department. He shall furnish, when requested by the Secretary, evidence used in determining accuracy of the certification.

§ 80.8 Activities prohibited.

Neither law enforcement nor public relation activities which are not incidental to custodial functions on an approved Federal Aid project may be financed under the programs.

§ 80.9 Uses other than for fish and wildlife.

With respect to projects which are designed to include uses other than for fish or wildlife, reimbursement of costs from funds under the Federal Aid Acts shall be limited to the extent of the benefits to fish and wildlife resulting from such projects. Participation in maintenance of completed projects shall be similarly limited. Also, the costs of maintenance shall be appropriately shared according to the use of the area and facilities; Federal Aid funds shall not be applied to maintenance required by use other than for approved project purposes.

§ 80.10 Minimum Federal participation.

A minimum Federal Aid participation of 10 percent in the cost of each project is required as a condition of approval.

§ 80.11 Project statement.

A project statement shall be submitted for each proposed project which shall contain such fundamental information as the Secretary may require, in order that he may determine if a project meets the requirement of being substantial in character and design in accordance with standards set forth in the Federal Aid in Fish and Wildlife Restoration Manual. This Manual is distributed to all program participants and is available at the Washington and Regional Offices of the Bureau of Sport Fisheries and Wildlife.

§ 80.12 Financial plan.

A budget or spending plan listing estimated expenditures by activities (land acquisition, development, research, management, maintenance, and coordination) as related to the elements of Planning, Programming, and Budgeting shall be submitted for each project in a State covering the work to be performed over a specified period.

§ 80.13 Plans, specifications and estimates.

The annual financial plan shall be accompanied by supporting documents listing and describing the work to be performed with the funds listed therein. These shall be as follows: (a) Engineering plans, specifications, and estimates shall be submitted for major construction activities. (b) Plans in job description form shall be submitted for each logical and effective unit of research activity. (c) Work plans, listing the development activities to be carried out under the financial plan shall be submitted. (d) Schedules of supervisory and technical personnel to be employed and major items of equipment to be purchased shall be provided.

§ 80.14 Project agreement.

After the Secretary shall have approved project statements and the required plans, specifications and estimates, the mutual obligations to be undertaken by the cooperating agencies shall be evidenced by an agreement to be executed between the State Fish and Game Department and the Secretary. An agreement shall cover the financing proposed in one financial plan and the work items described in the documents supporting it.

§ 80.15 Officials not to benefit.

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or any part of any agreement, made under the Federal Aid Acts, or to any benefit that may arise therefrom.

§ 80.16 Equal employment opportunity.

Each project agreement shall contain the equal employment opportunity provisions of Part III of Executive Order 11246 (30 F.R. 12319) and as it may be amended.

§ 80.17 Submission of documents.

Papers and documents required by the Acts or by the regulations in this part shall be deemed submitted to the Secretary from the date of receipt by the Director of the Bureau of Sport Fisheries and Wildlife, or by the appropriate Regional Director of the Bureau.

§ 80.18 Divergent opinions over project merits.

Any difference of opinion about the substantiality of a proposed project, nature of development required, or appraised value of land to be acquired, are considered by qualified representatives of the Bureau of Sport Fisheries and Wildlife and the State. Final determination in the event of continued disagreement rests with the Secretary.

§ 80.19 Land control.

The State Fish and Game Department must control lands or waters on which improvements are made. Control may be exercised through fee title, lease, easement, or agreement. Control must be adequate for protection, maintenance, and use of the improvement throughout its useful life.

§ 80.20 Samples of materials to be submitted.

Whenever requested, suitable samples of materials to be used in construction work shall be submitted to the Secretary by or on behalf of the State Fish and Game Department to be tested for suitability and conformity with standard specifications.

§ 80.21 Contracts.

Contracts shall be solicited and awarded according to the laws and regulations of the State except as otherwise provided in this part.

§ 80.22 Safety and accident prevention.

In the performance of each project, the State shall comply with all applicable Federal, State and local laws governing safety, health and sanitation. The State shall be responsible that all safeguards, safety devices, and protective equipment are provided and will take any other needed actions reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work.

§ 80.23 Statements and payrolls.

The regulations of the Secretary of Labor applicable to contractors and subcontractors (29 CFR Part 3), made pursuant to the Copeland Act, as amended, (40 U.S.C. 276c), and to aid in the enforcement of the Anti-Kickback Act (18 U.S.C. 874) are made a part of this regulation by reference. The State Fish and Game Department will comply with these regulations and any amendments or modifications thereof and the State Prime Contractor will be responsible for the submission of statements required of subcontractors thereunder. The foregoing shall apply except as the Secretary of Labor may specifically provide for reasonable limitation, variations, tolerances, and exemptions.

§ 80.24 Prosecution of work.

(a) The State Fish and Game Department shall carry all approved projects through to satisfactory completion with reasonable promptness. Projects with activities extending over a period of years may be financed from a number of succeeding apportionments as appropriate to the schedule.

(b) Research work shall be continuously coordinated with other studies conducted by the State and other agencies in order to avoid unnecessary duplication.

(c) All work shall be performed in accordance with applicable State laws.

(d) Appropriate and adequate means shall be employed to insure economy and efficiency in the completion of the project.

§ 80.25 Personnel.

The State Fish and Game Department shall employ adequate and competent personnel to initiate and carry Federal Aid projects through to satisfactory completion.

§ 80.26 Maintenance of completed projects.

The State Fish and Game Department shall exercise all reasonable means to insure permanent and proper management and maintenance of each completed acquisition or development of lands or waters.

§ 80.27 Production of income.

Federal Aid funds shall not be spent for the purpose of producing income; e.g.,

(a) Producing agricultural crops in excess of those required for attracting, conserving, and enhancing wildlife populations.

(b) In connection with the acquisition of lands, paying for readily marketable timber or the salvage value of structures either of which are excess to project purposes when the State can secure immediate reimbursement through removal and sale.

(c) Purchasing transportation, construction, or farming equipment not needed for its full life on activities which are approvable for Federal Aid assistance.

(d) Conducting public hunting and fishing activities where user fees substantially pay for these costs.

Federal Aid funds used for such purposes shall be replaced as required under § 80.5, "Diversion of funds."

§ 80.28 Inspection.

Supervision of each project by the State Fish and Game Department shall include adequate and continuous inspection. The project will be subject at all times to Federal inspection.

§ 80.29 Civil rights.

Approval of each agreement shall be conditioned upon the acceptance by the United States of an Assurance executed in writing by the properly authorized representative of the contracting State, agency, or political division of the contracting State, supported by proper certification, guaranteeing that the program will be conducted in accordance with Title VI of the Civil Rights Act of 1964 and with the rules and regulations promulgated thereunder by the Secretary and published as 43 CFR Part 17 (filed Dec. 3, 1964) to that end.

§ 80.30 Federal Aid payments.

Payments under the Federal Aid Acts, including such preliminary costs and expenses as may be incurred in and about such projects, shall not be made unless the project statement, such plans, specifications and estimates as are required by the Secretary, and all other documents that may be necessary or required in the administration of these acts, shall have first been submitted to and approved by the Secretary. Payments shall be made only by way of reimbursement for expenditures reported and certified by the State Fish and Game Departments. Payments shall be made only to the State office or official designated by the State Fish and Game Department and authorized under the laws of the State to receive public funds of the State.

(a) Federal Aid payments shall not exceed 75 percent of the cost of a project or the amount specified in the agreement, whichever is less: *Provided*, That Federal Aid payments to the territorial areas of Guam, the Virgin Islands and the Commonwealth of Puerto Rico shall not exceed the amount specified in the agreement and in no event shall they be required to pay an amount which will exceed 25 percent of the cost of any project.

(b) Federal Aid payments on projects terminated prior to completion shall be limited to the cost of benefits produced, provided the work accomplished is substantial in character and design.

(c) Payments for acquired real property shall not exceed 75 percent of the fair and reasonable value of the property as approved by the Secretary.

(d) Overhead and preliminary costs which are clearly tied to an approved project may be reimbursed provided the claims are supported by accurate records.

§ 80.31 Form of vouchers.

Vouchers on forms provided by the Secretary and certified as therein prescribed, showing amounts expended and the amount of Federal Aid funds claimed to be due on account thereof, shall be submitted to the Secretary by the State Fish and Game Department.

§ 80.32 Records and reporting.

Reports shall be furnished as requested by the Secretary. Cost records shall be maintained separately for each project. In projects containing multiple activities, costs for research, acquisition, development, and coordination shall be segregated. The accounts and records maintained by the State, together with all supporting documents, shall be open at all times to the inspection of authorized representatives of the United States, and copies thereof shall be furnished when requested.

§ 80.33 Records retention period.

The records, accounts and supporting documents required to be maintained under the regulations in this part for each project shall be retained by the State Fish and Game Department until

the expiration of 3 years after final payment of reimbursement to the State on the project.

§ 80.34 Convict labor.

The State shall not employ any persons undergoing sentence of imprisonment at hard labor to perform work on projects approved under the Federal Aid Acts.

§ 80.35 Water pollution control.

In the performance of each project, the State shall take necessary action to avoid pollution of water as a direct or indirect result of project activity. Water quality must be maintained at a level consistent with State water quality standards approved by the Secretary.

§ 80.36 Purchase of equipment.

Advance approval by the Secretary is required for the purchase with Federal Aid participation of items of equipment costing in excess of $500.

§ 80.37 Patents.

Every project agreement and subcontract, having as a purpose the conduct of experimental or research work, shall contain a patent article conforming to the President's Statement of Government Patent Policy, issued October 10, 1963, 28 F.R. 10943.

§ 80.38 Fish and wildlife planning.

It is desirable that the expenditure of funds made available under the Federal Aid Acts be guided by long-range fish and wildlife plans. Therefore, undertakings of statewide planning for fish and wildlife are of the highest priority for Federal Aid Financing.

[F.R. Doc. 67-13843; Filed, Nov. 27, 1967; 8:46 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 910]

HANDLING OF LEMONS GROWN IN CALIFORNIA AND ARIZONA

Approval of Expenses and Fixing of Rate of Assessment for 1967–68 Fiscal Year

Consideration is being given to the following proposals submitted by the Lemon Administrative Committee, established pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in the State of California or in the State of Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(1) Expenses that are reasonable and necessary to be incurred by the Lemon Administrative Committee during the period November 1, 1967, through October 31, 1968, will amount to $224,316.

(2) That the rate of assessment for said period, payable by each handler in accordance with § 910.41, be fixed at $0.018 per carton of lemons.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: November 21, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-13872; Filed, Nov. 27, 1967; 8:48 a.m.]

[7 CFR Part 946]

IRISH POTATOES GROWN IN WASHINGTON

Expenses and Rate of Assessment

Consideration is being given to the approval of the proposed expenses and rate of assessment, hereinafter set forth, which were recommended by the State of Washington Potato Committee, established pursuant to Marketing Agreement No. 113 and Order No. 946 (7 CFR Part 946).

This marketing order regulates the handling of Irish potatoes grown in Washington, and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

All persons who desire to submit written data, views, or arguments in connection with these proposals shall file the same with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, not later than the 15th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). The proposals are as follows:

§ 946.220 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal year ending May 31, 1968, by the State of Washington Potato Committee to perform its functions and for such other purposes as the Secretary determines to be appropriate, will amount to $28,884.45.

(b) The rate of assessment to be paid by each handler in accordance with the marketing agreement and this part shall be one-tenth of one cent ($0.001) per hundredweight, or equivalent quantity, of potatoes handled by him, as the first handler thereof, during said fiscal year.

(c) Terms used in this section shall have the same meaning as when used in the said marketing agreement and this part.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

Dated: November 21, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Services.

[F.R. Doc. 67-13871; Filed, Nov. 27, 1967; 8:48 a.m.]

DEPARTMENT OF LABOR

Division of Public Contracts

[41 CFR Part 50–202]

MINIMUM WAGE DETERMINATIONS

Adjustment to Wage Increases Under Fair Labor Standards Act

Some of the prevailing minimum wage determinations for particular industries currently in effect under section 1(b) of the Walsh-Healey Public Contracts Act as amended (41 U.S.C. 35 et seq.) provide minimum wages higher than $1.60 per hour. Other such determinations, based on evidence now, or soon to be, outdated, provide minimum wages of less than $1.60 per hour.

Effective February 1, 1968, the Fair Labor Standards Amendments of 1966 (P.L. 89–601, 89th Cong., Sept. 23, 1966) require the payment of a minimum wage of not less than $1.60 an hour, except as otherwise specifically provided, by every employer to each of his employees who is engaged in commerce or in the production of goods for commerce (as those terms are broadly defined in that Act), or employed in certain enterprises so engaged, who does not come within one of its specific exemptions from that requirement. Based upon legal and economic data obtained in over 28 years of investigation and litigation, including administration and enforcement of seven previous statutory minimum wage increases under the Fair Labor Standards Act of 1938, economic studies, statutory reports to the Congress, and testimony, findings, and reports in administrative and legislative proceedings, I do hereby take official notice, under section 7(d) of the Administrative Procedure Act (5 U.S.C. 556(d)), that the application of, and compliance with, this requirement is such as to raise to $1.60 per hour any level of lower minimum wages prevailing in any of the groups of industries currently operating in any locality in which materials, suppliers, articles, or equipment are to be manufactured or furnished under any contracts subject to the Walsh-Healey Public Contracts Act.

Accordingly, I propose to make a final prevailing minimum wage determination under section 1(b) of the Walsh-Healey Public Contracts Act (41 U.S.C. 35(b)) for effect as to all contracts subject to the Public Contracts Act, bids for which are invited, offers for which are solicited, or negotiations otherwise commenced on or after February 1, 1968, that the prevailing minimum wage is $1.60 per hour in all those groups of industries currently operating in each locality in which the materials, supplies, articles, or equipment are to be manufactured or furnished under such contracts, except those particular or similar industries for which minimum wage determinations higher than $1.60 per hour have been made. Under this proposal, provision will be made for the employment of learners at lesser rates to the same extent such employment is permitted under the Fair Labor Standards Act.

Any person adversely affected or aggrieved by this proposal (who shall be deemed to include any manufacturer of, or regular dealer in, materials, supplies, articles, or equipment purchased or to be purchased by the Government from any source, who is in any industry to which this proposal is applicable, and any employee or representative of employees of any such person) shall have a hearing, as

provided in section 10(b) of the Act (41 U.S.C. 43a(b)), and an opportunity to make a showing contrary to the facts herein officially noticed, as provided in section 7(d) of the Administrative Procedure Act (5 U.S.C. 556(d)) upon timely application as herein provided.

Such application must be in writing, filed in quadruplicate with the Chief Hearing Examiner, U.S. Department of Labor, Washington, D.C. 20210, within 30 days after this notice is filed for publication with the Office of the Federal Register. It shall define precisely each industry and each locality in such industry as to which the applicant will make a showing, and state the minimum wages he will show to be prevailing there. Each copy of such application shall have attached a copy of each document the applicant intends to introduce in evidence at the hearing, an identification of each witness he intends to call, a summary of the testimony he expects to develop from each such witness, the name and address of the person selected to present such evidence, and his estimate of the time such presentation will require. The issues at any such hearing shall not exceed those presented in any such application or applications. A hearing will be scheduled only in response to an application that is timely filed and that contains all of the information specified above. The time and place of hearing will be published in the FEDERAL REGISTER, if, and after, applications are received. The procedure will be governed by sections 7 and 8 of the Administrative Procedure Act (5 U.S.C. 556 and 557), 41 CFR Part 50–203, Subpart C, and the applicable provisions of the Walsh-Healey Public Contracts Act (41 U.S.C. 35 et. seq.).

Signed at Washington, D.C., this 21st day of November, 1967.

W. WILLARD WIRTZ,
Secretary of Labor.

[F.R. Doc. 67-13856; Filed, Nov. 27, 1967; 8:47 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 67-SW-63]

ADDITIONAL CONTROL AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate an additional control area from Alamogordo, N. Mex., to Corona, N. Mex. This assignment of airspace would extend upward from 11,500 feet MSL and have a lateral extent of 4 NM each side of a direct line from the Holloman VOR to the Corona VOR extending from the arc of a 35-mile radius circle centered at lat. 32°51'04" N., long. 106°06'05" W., to the Corona VOR, excluding that airspace within R–5107B and the Corona, N. Mex. transition area. The controlled airspace proposed herein would abut the terminal controlled airspace proposed in Airspace Docket No. 67–SW–60.

This proposed additional control area would provide controlled airspace for scheduled air traffic operating from Alamogordo, N. Mex., to Corona, N. Mex.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on November 20, 1967.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-13866; Filed, Nov. 27, 1967; 8:47 a.m.]

[14 CFR Parts 71, 73]

[Airspace Docket No. 67-WE-44]

RESTRICTED AREAS AND CONTROLLED AIRSPACE

Proposed Designation and Alteration

The Federal Aviation Administration is considering amendments to Parts 71 and 73 of the Federal Aviation Regulations (FARs) that would designate and alter restricted areas in Arizona and alter the continental control area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 90007, Airport Station, Los Angeles, Calif. 90009. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The Department of the Army, Yuma Proving Ground, has requested the alteration of restricted airspace in the State of Arizona which would (a) designate a new restricted area (approximately 40 sq. miles) west of R–2306B, (b) reduce the lateral dimensions of R–2306A along the east and north boundaries by approximately 518 sq. miles and (3) raise the upper limits of R–2306A, R–2306B, from FL 240 to 80,000 feet MSL, and R–2308B, and the modified R–2306A from FL 200 to 80,000 feet MSL.

As stated in the Army's request, the proposed reconfiguration of restricted airspace is required for priority test activities which involve hazards to flight and which cannot be accomplished within the present boundaries and altitudes of the existing restricted areas, and for top priority Research and Development, Engineering, Acceptance, and Service testing programs conducted by the U.S. Army Test and Evaluation Command. These programs consist of ground-to-ground artillery and missile operations and air-to-ground firing and delivery of missiles and items which are recent additions to the Yuma Proving Ground mission. These tests and missions must be conducted both day and night.

A revision of the program utilizing target drone flights makes it possible to release approximately 518 square miles of restricted airspace along the east and north boundaries of R–2308A. Under the new program the target drone flights will be contained within R–2306B and modified R–2308A.

Specific activities proposed for these restricted areas include:

1. The new mission of service testing of all calibers of artillery from 4.2-inch mortars to 175-mm. guns, firing conventional and rocket assisted ammunition, as well as missiles.

2. Engineering and service testing of XM138 Self-Propelled Howitzer firing 155-mm. standard and rocket assisted projectiles and all other self-propelled weapons which require mobility testing simultaneously with firing.

3. The Lance missile system will be fired from R–2306A, through R–2308A, into R–2308B and R–2307, and from R–2306B or R–2307, through R–2308A, and into R–2306B.

4. Aerial delivery of precision drop gliders which are unmanned but have homing capabilities and must be released from altitudes to 41,000 feet MSL in R–2306A.

5. The present air-to-ground firing of artillery and missiles and ground-to-ground firing of artillery at a moving target will continue to altitudes of 24,000 feet MSL.

6. Ground-to-ground firing and bomb dropping will be conducted in R-2306B to altitudes of over 60,000 feet MSL.

Although the maximum ordinate of the various weapons used is classified, they can be contained within 80,000 feet MSL. The altitudes above 24,000 feet MSL are expected to be used only 30 percent of the time and will be released for air traffic control purposes at all other times.

The proposed new restricted area, R-2306C, would extend from the surface to 17,000 feet MSL and would be used for programs which can be contained below 17,000 feet MSL.

Although the increase in vertical limits of these restricted areas would limit the radar vectoring service now provided to high altitude enroute traffic south of jet route J-4, the adverse effect should not be substantial.

If this action is taken, a new Restricted Area R-2306C will be designated and restricted areas R-2306A, R-2306B, R-2306A, and R-2306B will be altered as follows:

R-2306A YUMA WEST, ARIZONA

Boundaries: Beginning at lat. 33°00'00" N., long. 114°30'00" W.; to lat. 33°02'45" N., long. 114°30'00" W.; to lat. 33°02'45" N., long. 114°24'00" W.; to lat. 32°15'00" N., long. 114°24'37" W.; to lat. 32°15'00" N., long. 114°15'00" W.; thence south along Highway 95 to lat. 32°00'00" N., long. 114°17'30" W.; to point of beginning.

Designated altitudes: Surface to 80,000 feet MSL.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Los Angeles Air Route Traffic Control Center.

Using agency: Commanding Officer, Yuma Proving Ground, Yuma, Ariz.

R-2306B YUMA WEST, ARIZONA

Boundaries: Beginning at lat. 32°26'00" N., long. 114°13'00" W.; thence south along Highway 95 to lat. 32°15'00" N., long. 114°15'00" W.; to lat. 32°15'00" N., long. 114°30'-00" W.; to lat. 32°26'00" N., long. 114°30'-00" W.; to lat. 32°26'00" N., long. 114°26'-00" W.; to point of beginning.

Designated altitudes: Surface to 80,000 feet MSL.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Los Angeles Air Route Traffic Control Center.

Using agency: Commanding Officer, Yuma Proving Ground, Yuma, Ariz.

R-2306C YUMA WEST, ARIZONA

Boundaries: Beginning at lat. 33°15'00" N., long. 114°24'37" W.; to lat. 32°15'00" N., long. 114°24'37" W.; to lat. 32°26'00" N., long. 114°30'00" W.; to lat. 32°15'00" N., long. 114°30'00" W.; to point of beginning.

Designated altitudes: Surface to 17,000 feet MSL.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Los Angeles Air Route Traffic Control Center.

Using agency: Commanding Officer, Yuma Proving Ground, Yuma, Ariz.

R-2306A YUMA EAST, ARIZONA

Boundaries: Beginning at lat. 32°26'00" N., long. 114°13'00" W.; to lat. 32°17'30" N., long. 113°39'06" W.; to lat. 32°17'30" N., long. 113°45'00" W.; to lat. 32°02'00" N., long. 113°45'00" W., to lat. 32°26'00" N., long. 113°56'30" W.; to lat. 32°30'00" N., long. 114°11'00" W.; to lat. 32°30'00" N., long. 114°17'30" W.; thence north along Highway 95 to point of beginning.

Designated altitudes: 1,500 feet AGL to 80,000 feet MSL.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Los Angeles Air Route Traffic Control Center.

Using agency: Commanding Officer, Yuma Proving Ground, Yuma, Ariz.

R-2306B YUMA EAST, ARIZONA

Boundaries: Beginning at lat. 32°30'00" N., long. 113°45'00" W.; to lat. 32°17'30" N., long. 113°45'00" W.; to lat. 32°17'30" N., long. 113°39'06" W.; to lat. 32°26'00" N., long. 113°39'04" W.; to point of beginning.

Designated altitudes: Surface to 80,000 feet MSL.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Los Angeles Air Route Traffic Control Center.

Using agency: Commanding Officer, Yuma Proving Ground, Yuma, Ariz.

The continental control area would be amended by adding Restricted Area R-2306C.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on November 17, 1967.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-13868; Filed, Nov. 27, 1967; 8:48 a.m.]

[14 CFR Part 73]

[Airspace Docket No. 67-WE-54]

RESTRICTED AREA

Proposed Designation

The Federal Aviation Administration (FAA) is considering an amendment to Part 73 of the Federal Aviation Regulations that would designate a restricted area near Oceanside, Calif.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 90007, Airport Station, Los Angeles, Calif. 90009. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The Department of the Navy has requested the designation of a joint-use restricted area near Oceanside, Calif., adjoining the Camp Pendleton, Calif., Restricted Area R-2503, extending from the surface to 2,000 feet MSL to contain both high speed jet aircraft and rotor wing aircraft during amphibious maneuvers in the Oceanside/Camp Pendleton area.

The Navy states that the selection of this area is based on the fact that these beaches are the only ones available north of San Diego, Calif., with suitable terrain for conduct of landing operations within the capability of available amphibious craft; these beaches are the only ones available with a large enough area for full scale amphibious operations; these beaches are so geographically located as to permit effective utilization of ships between the ports of San Diego and Long Beach, Calif.; and present facilities at Camp Pendleton permit the conduct of the above training in the most efficient and economical manner at minimum cost to the Government.

Large scale amphibious operations involving all types of Navy and Marine Corps fixed wing jet, prop and rotor wing aircraft occur on the average of six times a year. These maneuvers generally extend for a period of from 4 days to 2 weeks. It is recognized that the coastline between San Diego, Calif., and Long Beach, Calif., is a natural VFR flyway and the Navy has agreed that should the proposed restricted area be designated, it would not be activated when the ceiling is below 3,500 feet MSL and visibility is less than 5 miles. Surface and rotor wing operations may continue with lower weather minimums; however, the restricted area would not be activated and the operations would be conducted in accordance with Part 91 of the Federal Aviation Regulations.

In consideration of the foregoing, the FAA proposes designation of a restricted area as hereinafter set forth:

OCEANSIDE, CALIF.

Boundaries: Beginning at lat. 33°27'48" N., long. 117°36'15" W.; thence to lat. 33°18'20" N., long. 117°21'48" W.; thence to lat. 33°-17'30" N., long. 117°16'40" W.; thence to lat. 33°13'30" N., long. 117°26'00" W.; thence 3 nautical miles from and parallel to the shoreline to lat. 33°22'30" N., long. 117°39'-45" W.; thence to the point of beginning.

Designated altitudes: Surface to 2,000 feet MSL.

Time of designation: Continuous.

Controlling agency: FAA, El Toro RATCC.

Using agency: Commanding Officer, U.S. Marine Corps Air Station, El Toro, Calif.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on November 21, 1967.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-13867; Filed, Nov. 27, 1967; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 207]

[Docket No. 19278; EDR-128]

CHARTER TRIPS AND SPECIAL SERVICES

Liberalization of Volume Restrictions for All-Cargo Carriers

NOVEMBER 21, 1967.

Notice is hereby given that the Civil Aeronautics Board has under consideration proposed amendments to Part 207 of the Economic Regulations (14 CFR Part 207) to liberalize the off-route charter volume limitation in § 207.6 applicable to all-cargo carriers, so as to permit them to perform off-route charters not to exceed 20 percent of the base revenue plane miles performed in the preceding calendar year: *Provided*, That not more than 10 percent of such base revenue plane mileage shall constitute passenger charters. The basis and purpose of the proposed rules are set forth in the explanatory statement below and the proposed amendments are set forth below. The amendments are proposed under the authority of sections 204(a), 401(e)(6), and 416(b) of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 49 U.S.C. 1324; 72 Stat. 743, as amended by 76 Stat. 143, 49 U.S.C. 1371; 72 Stat. 771, 49 U.S.C. 1386).

Interested persons may participate in the proposed rule making through submission of ten (10) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant matter in communications received on or before December 26, 1967, will be considered by the Board. In addition, all interested persons are invited to submit ten (10) copies of written data, views, or arguments pertaining solely to the communications to be filed by other persons pursuant to the invitation set forth above. All relevant communications of this nature received on or before January 10, 1968, will be considered by the Board before taking action.

Upon receipt by the Board, copies of the above communications will be available for examination by interested persons in the Docket Section of the Board, Room 710, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

Explanatory statement. Part 207 of the Economic Regulations sets forth certain volume and frequency and regularity restrictions for both combination and all-cargo carriers with respect to the performance of so-called "off-route charters".[1] Specifically, with respect to the volume limitations for all-cargo carriers, § 207.6 provides that an all-cargo carrier shall not during any calendar year perform off-route charters which aggregate, on a revenue plane mile basis, in excess of 2 percent of the base revenue plane miles[2] flown by it during the preceding calendar year.[3]

Flying Tiger Line Inc., and Seaboard World Airlines, Inc.,[4] have filed petitions seeking amendment of Part 207 of the Economic Regulations so as to liberalize the restrictions applicable to all-cargo carriers. In essence Flying Tiger proposes that the all-cargo carriers be permitted to perform unlimited worldwide cargo charters, i.e., that with respect to cargo charter operations by all-cargo carriers, the present "off-route" volume restrictions of section 207.6 and frequency and regularity restrictions of section 207.7a should not be applicable. Seaboard similarly proposes unlimited worldwide cargo charter authority for the all-cargo carriers, but would maintain the present restrictions with respect to "off-route" cargo charters performed in the designated "areas of operations" of other all-cargo carriers. In addition, Seaboard proposes that all-cargo carriers be permitted to perform unlimited passenger charters between points for which the carrier is certificated to perform cargo operations. By amended petition, Seaboard further proposes that such passenger charter authorization should include authorization to provide inclusive tour charters.[5]

[1] Basically an "off-route" charter is a charter performed other than between points which a carrier is authorized to serve by certificate or exemption, however, with respect to all-cargo carriers, any passenger charter (with the exception of certain services performed for the Department of Defense) is considered to be "off-route" whether or not performed between certificated points.

[2] "Base revenue plane miles" is defined as "revenue mileage operated by an air carrier in scheduled services, extra sections, and on-route charter trips or special services" (§ 207.1).

[3] A similar 2-percent volume limitation is applicable to combination carriers. However, all-cargo carriers, but not combination carriers, are permitted to perform an unlimited volume of cargo charters within their "areas of operations." The areas of operations for the respective presently operating all-cargo carriers are: For The Flying Tiger Line Inc.—within the 48 contiguous States; for Airlift International, Inc.—within the 48 contiguous States, and between the 48 contiguous States and Puerto Rico; and for Seaboard World Airlines, Inc.—between the 48 contiguous States and Europe.

[4] Dockets 17628 and 17756, respectively. These dockets are hereby consolidated into this proceeding.

[5] As an alternative to its proposed amendment with respect to passenger charters, Seaboard requests that all-cargo carriers should be permitted to operate passenger charters between their certificated cargo points at least to the limit of the eight flights per month frequency and regularity limitation of section 207.7a, without regard to the 2-percent volume limitation of section 207.6.

Trans International Airlines, Inc., and World Airways, Inc., have filed answers opposing the proposals in the Flying Tiger petition and Seaboard's original petition. In addition, Capitol International Airways, Inc., and American Flyers Airline Corp. have filed answers opposing Seaboard's petition as amended to include its request for inclusive tour charter authority.

Upon consideration of all matters submitted, the Board has concluded that a rule-making proceeding should be instituted with a view toward liberalizing the Part 207 volume limitations applicable to all-cargo carriers. However, we have tentatively concluded that such liberalization should be in a form other than that proposed by Flying Tiger and Seaboard. Rather, it is our tentative conclusion that the § 207.6 volume limitations applicable to all-cargo carriers should be amended so as to permit these carriers to perform off-route charters not to exceed 20 percent of the "base revenue plane miles" performed by such carriers during the preceding calendar year: *Provided, however*, That not more than 10 percent of such base revenue plane mileage (i.e., one-half of the permissible volume) should constitute passenger charters.

Initially, it may be noted that the all-cargo carriers, by reason of their lack of access to passenger traffic over their certificated routes, are as a class necessarily subject to a more restricted base revenue plane mileage than is in general the case for combination carriers.[6] With the off-route charter volume limitations being computed on the basis of the base revenue plane mileage, it is apparent that the Part 207 volume restrictions constitute a much greater limitation upon the class of all-cargo carriers, than is generally true with respect to the class of combination carriers.[7] Indeed, it appears that, with respect to the all-cargo carriers, the present limitations may constitute a substantial impediment with respect to the mounting or main-

[6] We recognize that there are isolated instances in which the peculiar route system of a combination carrier may provide very limited "on-route" or base revenue plane mileage. Such was the case of Trans Caribbean Airways (see ER-419, 29 F.R. 13249, Sept. 24, 1964). Nevertheless, we believe that the appropriate method of dealing with these exceptional combination carrier cases is by waiver of the restrictions as may appear necessary or desirable. However, where as here, the exceptional circumstances are generally applicable to an entire class which is treated separately within the regulation, we believe that amendment of the regulation is appropriate.

[7] Thus Flying Tiger points out in its petition, that based upon its 1965 mileage in scheduled service (6,300,303 miles) its authorized 1966 off-route charters would be limited to 126,056 miles or the equivalent of approximately nine round trips between Los Angeles and Tokyo. The 1965 base revenue plane mileages for Airlift and Seaboard were even less, i.e., 5,169,667 and 4,265,967 miles, respectively.

taining of any program for the development of off-route charter business.[5] On the other hand, in view of the limited base revenue plane mileage of this class of carriers, it is apparent that the off-route charter volume limitations applicable to them may be substantially broadened without undue diversion from other certificated carriers.

We also believe that there is substantial merit to the contention that all-cargo operations peculiarly require a flexibility, made possible by off-route charter operations, which will permit the carrier to fully meet peak demands in the face of extreme seasonal fluctuations in requirements for scheduled all-cargo service. While fluctuation in demand for service is characteristic of all airline operations, all-cargo service is unique in that the inability to meet the demand during peak periods is far more likely to result in a substantial loss of the cargo market than would be the case in connection with passenger operations. Thus, the carriers assert that to a large extent the demand for all-cargo service arises from the large volume requirements of businesses which gear their operations toward distribution by air service, and to the extent that the carrier cannot meet the requirements of these businesses during peak as well as slack periods, such customers will necessarily look towards other more reliable means of distribution which will not be dependent upon the possibly unavailable rapid transportation by air. In this respect, the ability of the all-cargo carriers to utilize their equipment during slack periods in off-route charter operations may substantially contribute to their performance of their scheduled certificated all-cargo service, and undue restriction upon such off-route charter operations could well detract from their scheduled certificated operations.

Finally, we believe that expansion of the authorization of all-cargo carriers to perform off-route cargo charters, is consistent with the role of the all-cargo carriers as all-cargo specialists.

We are not persuaded, however, that the all-cargo carriers should be granted unlimited worldwide authority to operate off-route cargo charters, either within or without the area of operations of other all-cargo carriers. As we stated upon the adoption of the present 2-percent limitation,[6] where we denied a similar request; "The all-cargo carriers' primary responsibility, * * * is to serve the area within which they have been designated to provide scheduled service. To give them worldwide unlimited cargo charter authority would be contrary to our purpose of requiring the carriers to so concentrate their efforts." We adhere to our former views in this respect.

On the basis of the above considerations, we have tentatively concluded that a revision of § 207.6 so as to permit all-cargo carriers to perform off-route charters up to 20 percent of their base revenue plane miles for the preceding calendar year (inclusive of a limited number of passenger charters as hereafter discussed) should permit the desirable flexibility for all-cargo carriers to perform a reasonable amount of off-route charter operations, without however, considering the limited nature of the mileage performed by the all-cargo carriers in "on-route" operations, permitting an unwarranted concentration by these carriers on off-route charter operations in derogation of their primary responsibility to concentrate on the services for which they have been certificated.

We are, however, of the further view that all-cargo carriers should not be permitted to utilize the full 20-percent authorization for off-route charters in passenger charter operations, irrespective of whether or not such passenger charter operations are between points for which the carrier has been certificated to engage in cargo operations. The all-cargo carriers have been certificated to engage in cargo, not passenger services, and as cargo specialists, passenger charter operations should be justified as a means of providing flexibility in connection with cargo operations.

It does appear that a certain flexibility arising from passenger charter operations would be desirable. Thus such passenger charter operations may permit the all-cargo carriers to obtain a greater utilization of their convertible passenger/cargo aircraft, which have been useful in filling the requirements of the military, and similarly may permit more profitable cargo operations, by enabling the carrier to utilize convertible aircraft for the performance of a cargo flight in one direction and a passenger charter operation on the return, thus eliminating an otherwise empty ferry leg. In this manner a limited flexibility to perform passenger charter operations by all-cargo carriers can contribute to the performance of the all-cargo operations for which these carriers were certificated.

We believe the present 2-percent limitation, even if limited to passenger charter operations, is unduly restrictive. In view of the limited on-route mileage of these carriers, the present limitations might very well prevent these carriers from devoting the limited resources necessary for performance of any passenger charter operations whatsoever. On the other hand we believe that a 20-percent limitation would be unduly large, permitting an excessive dependence upon passenger charter operations. Accordingly, we have tentatively concluded that these carriers should be permitted to perform 10 percent of the base revenue plane-miles for the preceding calendar year in passenger/charter operations; i.e., one-half of the total 20-percent authorized for the aggregate of both passenger and cargo "off-route" charter operations.

We will also delete paragraphs (a) of § 207.5 and § 207.6. These paragraphs relate to volume restrictions applicable only for the period prior to January 1, 1966, with respect to the combination and all-cargo carriers respectively. As these paragraphs no longer have any application, they should be deleted.

Proposed rules. The Civil Aeronautics Board proposes to amend Part 207 (14 CFR Part 207) of its Economic Regulations by revising §§ 207.5 and 207.6 to read as follows:

§ 207.5 Limitation on amount of charter trips which may be performed by combination carriers.

A combination carrier shall not during any calendar year perform off-route charter trips which in the aggregate, on a revenue plane-mile basis, exceed 2 percent of the base revenue plane miles flown by it during the preceding calendar year.

§ 207.6 All-cargo carriers; limitation on amount of charter trips which may be performed.

(a) An all-cargo carrier shall not during any calendar year perform off-route charters (passenger and cargo) which in the aggregate, on a revenue plane-mile basis, exceed 20 percent of the base revenue plane miles flown by it during the preceding calendar year: *Provided, however,* That no such carrier shall during any calendar year perform off-route passenger charters which in the aggregate, on a revenue plane-mile basis, exceed 10 percent of the base revenue plane miles flown by it during the preceding calendar year: *And, provided further,* That an all-cargo carrier shall be permitted to perform off-route cargo charters within its area of operations without any limitation as to volume of service.

(b) Within the meaning of paragraph (a) of this section, the areas of operations of the all-cargo carriers are the following:

(1) Within the 48 contiguous States—Slick Airways; The Flying Tiger Line, Inc.; and Airlift International, Inc.

(2) Between the 48 contiguous States and Europe—Seaboard World Airlines, Inc.

(3) Between the 48 contiguous States and Puerto Rico—Airlift International, Inc.

(4) Between the 48 contiguous States on the one hand and the Caribbean, Central and South America on the other hand—Aerovias Sud Americana, Inc.

[F.R. Doc. 67-13880; Filed, Nov. 27, 1967; 8:49 a.m.]

[5] Thus Flying Tiger alleges that its authorized off-route charter mileage would permit utilization of only one-twelfth of the capacity of a single cargo aircraft and would not be sufficient to justify assigning the crews, mechanics, and sales personnel required for charter operations. Seaboard similarly alleges that the present 2-percent limitation has severely restricted the cargo charter operations of all-cargo carriers; that such limitation prohibits it from providing passenger charter flights anywhere near the eight flight per month limit of § 207.7a; and that the permitted volume is not sufficient to justify the assigning of any staff or aircraft to passenger charter operations.

[6] ER-419, Sept. 18, 1964, 29 F.R. 13249.

[14 CFR Part 399]

[Docket No. 19279; PSDR-19]

BLOCKED SPACE SERVICE

Participation of Combination Carriers

NOVEMBER 21, 1967.

Notice is hereby given that the Civil Aeronautics Board has under consideration proposed amendments to § 399.37 of its Statements of General Policy (14 CFR Part 399), to permit combination as well as all-cargo carriers to provide blocked space service to air freight forwarders and to large volume shippers. The basis and purpose of the proposed rules are set forth in the explanatory statement below and the proposed amendments are set forth below. The amendments are proposed under the authority of sections 204(a), 412, 416, and 1002 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 770, 771, 788; 49 U.S.C. 1324, 1382, 1386, 1482), and of section 3 of the Administrative Procedure Act (60 Stat. 383, as amended by 81 Stat. 54; 5 U.S.C. 552).

Interested persons may participate in the proposed rule making through submission of ten (10) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant matter in communications received on or before December 26, 1967, will be considered by the Board. In addition, all interested persons are invited to submit ten (10) copies of written data, views, or arguments pertaining solely to the communications to be filed by other persons pursuant to the invitation set forth above. All relevant communications of this nature received on or before January 10, 1968, will be considered by the Board before taking action.

Upon receipt by the Board, copies of the above communications will be available for examination by interested persons in the Docket Section of the Board, Room 710, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

Explanatory statement. On August 7, 1964, the Board adopted Policy Statement PS-24, Blocked Space Service (29 F.R. 11589, 14 CFR 399.37).[1] Under this policy the all-cargo carriers were given the exclusive right to enter into contracts with combination carriers, air freight forwarders, and other large volume shippers providing for regular, recurring, large volume, low rate cargo service.[2] The Board considered that successful development of a blocked space service would provide benefits not only in meeting the needs of the shipping public, but also in promoting the development of air transportation by tapping a market of considerable proportions, the great bulk of which presently moves by surface transport. In our order on reconsideration (E-21447, Oct. 26, 1964), we noted that the blocked space policy was not immutable, and would be subject to amendment in light of changing circumstances as the experiment developed. The policy has now been in effect for three years, and various changes in the circumstances present when the policy was adopted have occurred. Accordingly, the Board has decided to institute a rule making proceeding with the objective of reviewing the policy and amending it in light of present circumstances.

When we adopted the blocked space policy statement (PS-24, supra), we concluded that the all-cargo carriers should be given the exclusive right of providing such service on the basis of three principal considerations, namely: (1) That specialization by all-cargo carriers in bulk freight service would facilitate the technical breakthrough necessary for attracting large volume shipments from surface carriers; (2) that an effective test of large volume, low rate service, requiring high aircraft utilization and load factors, could not be achieved if excessive capacity should result from the participation of an excessive number of carriers in the experiment; and (3) that the exclusive right of the all-cargo carriers to provide blocked space service would provide them with a needed source of financial strengthening.

It now appears to the Board that the policy confining blocked space service exclusively to the all-cargo carriers may be impeding rather than promoting the blocked space experiment as initially contemplated. When the Board promulgated its policy in 1964 there were five operating all-cargo carriers, and it was reasonable to assume that between them a reasonably broad based blocked space service would be provided. However, since that time, two of these carriers have ceased to operate, and of the remaining three, only Flying Tiger has offered blocked space service. Thus, what was originally intended as a specialized service offered by a class of several carriers, has in effect become a service offered exclusively by a single carrier.

Second, it appears that it may no longer be necessary to confine the service to a small class of carriers in order to permit the blocked space experiment to be successful. In this connection, we note that there has been a very substantial growth in total air freight traffic carried by the airlines,[3] and continuous improvements in air cargo equipment and facilities.

Finally, as shown in the margin below,[4] there has been a marked improvement in the financial posture of the all-cargo carriers. We recognize that recent cutbacks in military charter business may have a temporary adverse impact on profits. Nevertheless, the trends of the last several years indicate that maintaining these carriers as the exclusive providers of blocked space service may no longer be required as a source of financial strengthening.

It therefore appears that the restriction against combination carriers participating in the blocked space experiment may no longer be fulfilling the purposes originally contemplated. Moreover, it appears that by permitting the combination carriers to participate in the blocked space experiment, the benefits of the program may be made available to a far greater segment of the shipping public, and the development of air transportation promoted by the attraction to air transportation of substantial traffic presently moving by surface transportation. Accordingly, the Board proposes to consider amendment of its blocked space policy (§ 399.37) to permit all certificated route carriers (combination as well as all-cargo) to provide blocked space service.

Section 399.37(b) presently sets forth the policy of the Board to permit all-cargo carriers to provide blocked space service to combination carriers serving the same routes, as well as to air freight forwarders and large volume individual shippers. This affirmative policy was consistent with the role we then envisioned for all-cargo carriers as the large volume all-cargo specialists. In view of our proposal to permit combination carriers to participate in the large volume blocked space service, all-cargo carriers will no longer constitute an exclusive class of carriers specializing in large volume freight movements. Under such circumstances we do not believe that it would be appropriate to maintain an affirmative policy that one class of carriers should be permitted to perform services on behalf of another. Nor do we believe it appropriate to adopt any particular policy with respect to carriers in general performing blocked space services on behalf

[1] Petitions for reconsideration were denied in Order E-21447, Oct. 26, 1964. In American Airlines, et al. v. C.A.B., 359 F. 2d 624 (CADC, Mar. 2, 1966), cert. denied 385 U.S. 843 (Oct. 10, 1966), the Board's action was affirmed. There are presently pending in Docket 14148, various petitions to reopen the proceeding which we deferred pending the outcome of the judicial proceedings. Our action herein is dispositive of these pending petitions.

[2] "Blocked-space service" is defined as "the carriage of property in all-cargo aircraft at wholesale rates pursuant to an effective tariff stating a rate applicable only when the user reserves and agrees to pay for a specified amount of space or lift on a regularly recurring basis for a period of not less than 60 days." (14 CFR 399.37(a)(2)).

[3] The total freight revenue ton miles carried by all certificated route air carriers has more than doubled since 1964, as follows:

12 months ending March 1967—3,164,066,000.
12 months ending March 1966—2,358,039,000.
Calendar year 1964—1,555,463,000.

[4] Return on investment of the all-cargo carriers as a class for the calendar years of 1964, 1965, and 1966 was as follows:

	Domestic	*International/ Territorial*
1964—4.03	percent	11.6%
1965—7.15	percent	11.69%
1966—17.22	percent	11.6%

of other carriers. Rather, we believe that with revision of the blocked space policy, to permit all certificated route carriers to participate, providing such service on behalf of another carrier is a matter which should be treated on a case by case basis for determination in accordance with the particular considerations involved. Any such arrangements between air carriers will, of course, require our approval under section 412 of the Act. Accordingly this portion of the policy statement will be deleted.

Proposed rule. The Civil Aeronautics Board proposes to amend Part 399 (14 CFR Part 399), its Statements of General Policy, by revising § 399.37 thereof to read as follows:

§ 399.37 Blocked space service.

(a) As used in this section, "Blocked space service" means the carriage of property in all-cargo aircraft at wholesale rates pursuant to an effective tariff stating a rate applicable only when the user reserves and agrees to pay for a specified amount of space or lift on a regularly recurring basis for a period of not less than 60 days.

(b) It is the policy of the Board to permit certificated route air carriers to provide blocked space service to air freight forwarders and to large volume individual shippers.

[F.R. Doc. 67-13891; Filed, Nov. 27, 1967; 8:49 a.m.]

FEDERAL MARITIME COMMISSION

[46 CFR Ch. IV]

[Docket No. 67-55]

COMMON CARRIERS OF FREIGHT BY WATER IN FOREIGN COMMERCE OF UNITED STATES

Rules Governing Filing of Agreements; Rescheduling of Filing Dates

By FEDERAL REGISTER publication of November 4, 1967 (32 F.R. 15438), the Federal Maritime Commission published proposed rules in this proceeding and invited comments thereon to be submitted within 30 days from date of publication.

Upon request, and good cause appearing, time for filing comments is enlarged to and including January 15, 1968. Hearing Counsel shall reply to comments on or before February 15, 1968. Answers to Hearing Counsel's reply shall be submitted on or before March 7, 1968.

By the Commission.

[SEAL] THOMAS LISI, *Secretary.*

[F.R. Doc. 67-13894; Filed, Nov. 27, 1967; 8:49 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 67-271]

EVIDENCE; CUSTOMS AGENTS' REPORTS

Decision Holding That Court May Refuse To Admit Reports of Investigations Made in the United States

NOVEMBER 21, 1967.

In the case of United States v. Gehrig, Hoban & Co., Inc., the U.S. Court of Customs and Patent Appeals stated, in a decision dated June 22, 1967, published as C.A.D. 924, that the court may refuse to admit reports of investigations made in the United States, particularly where the agent is not shown to be unavailable to testify.

On October 5, 1967, the court denied the Government's motion for a rehearing.

Inasmuch as other evidence may be available in support of the Government's position, the decision in C.A.D. 924 shall be limited to the merchandise which was the subject of the appeal to reappraisement in that case.

[SEAL] LESTER D. JOHNSON, *Commissioner of Customs.*

[F.R. Doc. 67-13878; Filed, Nov. 27, 1967; 8:48 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. N-934]

NEVADA

Notice of Classification

NOVEMBER 17, 1967.

1. Pursuant to section 2 of the Act of September 19, 1964 (43 U.S.C. 1412), the lands described in paragraph 3 below are hereby classified for disposal through exchange under section 8 of the Taylor Grazing Act (43 U.S.C. 315g), for lands in the Humboldt National Forest.

2. The notice of proposed classification (32 F.R. 7981), is hereby canceled so far as it affects the lands described in this paragraph. The segregative effect thereof will terminate upon publication of this notice, as provided by the regulations in 43 CFR 2411.2(e)(2)(ii):

MOUNT DIABLO MERIDIAN, NEVADA

T. 44 N., R. 52 E.,
Sec. 19, NE¼NE¼, S½NE¼, SE¼SW¼, SE¼;
Sec. 20, N½, SW¼, S½SE¼;
Sec. 30, lots 5 through 12, inclusive, E½ NE¼;
Sec. 31, lots 5, 6, 7, 10, 11.

containing 1,220.49 acres.

3. The land affected by this classification are located in Elko County and are described as follows:

T. 44 N., R. 52 E.,
Sec. 6, lots 1, 2;
T. 45 N., R. 50 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½;
Sec. 2, lots 3, 4, S½N½;
Sec. 3, lots 1, 2, 3, 4, S½N½;
Sec. 4, lots 1, 2, 3, 4, S½N½;
Sec. 5, lots 1, 2, 3, S½N½, S½;
Sec. 6, lots 3, 4, 5, 6, 7, SE¼NE¼, SE¼ NW¼, E½SW¼, W½SE¼;
Sec. 7, lots 2, 3, 4, NW¼NE¼, S½NE¼, E½NW¼, E½SW¼, SE¼;
Sec. 8;
Sec. 17, NW¼NW¼;
Sec. 18, lot 1, N½NE¼, NE¼NW¼;
T. 45 N., R. 51 E.,
Sec. 1, lots 3, 4, S½N½;
Sec. 2, lots 1, 2, 3, 4, S½N½;
Sec. 3, lots 1, 2, 3, 4, S½N½;
Sec. 4, lots 1, 2, 3, 4, S½N½;
Sec. 5, lots 1, 2, 3, 4, S½N½;
Sec. 6, lots 1, 2, 3, 4, 5, S½NE¼, SE¼NW¼;
T. 45 N., R. 52 E.,
Secs. 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, 31, 32;

aggregating 13,383.44 acres.

4. For a period of 30 days, interested parties may submit comments to the Secretary of the Interior, LLM, 721, Washington, D.C. 20240.

ROLLA E. CHANDLER, *Acting State Director, Nevada.*

[F.R. Doc. 67-13875; Filed Nov. 27, 1967; 8:48 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

DUKE UNIVERSITY ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C.

A copy of each comment filed with the Director of the Office of Scientific and Technical Equipment must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 68-00200-33-46040. Applicant: Duke University, Diagnostic & Treatment Building, Durham, N.C. 27706. Article: Electron Microscope EM6B, Automatic filler system catalog No. 783329 for liquid nitrogen and catalog No. 783312 plate desiccator. Manufacturer: Associated Electrical Industries, Ltd., England. Intended use of article: Applicant states:

Biological Research to include specific investigations into the following areas: Water and protein reabsorption in ciliated cells of the airway of mammalian and amphibian lungs utilizing high resolution autoradiography; evaluation of the methods of water movement across cell membranes; and a critical analysis of the ciliary energy system, interconnections between ciliated rootlets and mitochondria requiring the ultimate in resolution.

Application received by Commissioner of Customs: October 23, 1967.

Docket No. 68-00201-33-46500. Applicant: University of Illinois, Purchasing Division, 223 Administration Building, Urbana, Ill. 61801. Article: Reichert Ultra Microtome, Model SUDEA ("OM U2"). Manufacturer: C. Reichert Optische Werke A.G., Austria. Intended use of article: The article will be used in a research project that includes an ultrastructural study of the site of antibody action in malaria-infected erythrocytes which parasitize sheep. Such study involves the detection of ferritin-labeled antibodies in thin sections of the parasites. Morphological and pathological investigations at a fine structural level of microsporidian parasites will be carried out with the use of this instrument. Application received by Commissioner of Customs: October 26, 1967.

Docket No. 68-00202-33-43400. Applicant: Buffalo General Hospital, Pathology Department-Multilab, 100 High Street, Buffalo, N.Y. 14203. Article: Micromanipulators, Model Mark I and accessory equipment. Manufacturer: Sing-

er Instrument Co., Ltd., England. Intended use of article: Applicant states:

The micromanipulators are required for the microdissection of capillaries on living animals. For this purpose, they must be capable of fine movements in all directions, allowing for a variety of cutting and dissecting movements; and the stand must be of such a nature that it allows the operator to manouver the tissues at a distance from the stand.

Application received by Commissioner of Customs: October 26, 1967.

Docket No. 68-00203-33-46040. Applicant: Lovelace Foundation for Medical Education and Research, 5200 Gibson Boulevard, SE., Albuquerque, N. Mex. 87108. Article: Electron Microscope, Model HU-11C. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used in a research program directed toward developing an improved understanding of the long-term effects of inhaled fission product radio nuclides administered singly or in varied mixtures in dosages sublethal but calculated to reduce life span by accelerating aging processes, altering metabolic pathways, the generation of leukemias and local neoplasms, and the induction of atrophies and fibrosis as a result of special localizations of the inhaled radionuclides. Electron microscopy will be directed toward changes in fine structure of the lungs and of the liver where high isotope concentrations are found during the elimination process. The instrument will also be used for a number of nonanatomical studies as shown in the application. Application received by Commissioner of Customs: October 26, 1967.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-13882; Filed, Nov. 27, 1967; 8:45 a.m.]

UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00191-00-46040. Applicant: University of California, 318 Sproul Hall, Berkeley, Calif. 94720. Article: Shutter for Siemens Electron Microscope, Type Number 171 400. Manufacturer: Siemens Aktiengesellschaft, West Germany. Intended use of article: Applicant states: "Accurate preset exposure of photoplates in the Siemens Elmiskop."

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is an accessory intended for use with a Siemens electron microscope which was manufactured in West Germany. The accessory must be designed to work compatibly with the Siemens electron microscope.

The only known source for such accessory is the manufacturer of the Siemens electron microscope. The Department of Commerce knows of no comparable accessory which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-13883; Filed, Nov. 27, 1967; 8:45 a.m.]

HAWAII INSTITUTE OF GEOPHYSICS ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C.

A copy of each comment filed with the Director of the Office of Scientific and Technical Equipment must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 68-00209-85-46040. Applicant: Hawaii Institute of Geophysics, University of Hawaii, 2525 Correa Road, Honolulu, Hawaii 96822. Article: Microbarometers, Models Baromec Type M1975 and Type M2131/B. Manufacturer: Mechanism Ltd., United Kingdom. Intended use of article: The decade counting portable microbarometers will be used to calibrate altimeters presently used at the applicant institution that are part of the worldwide gravity program. Application received by Commissioner of Customs: October 30, 1967.

Docket No. 68-00210-33-46500. Applicant: U.S. Department of Agriculture, Agricultural Research Service, Eastern Administrative Division, Contracting Unit, Room 602, Federal Center Building, 6505 Belcrest Road, Hyattsville, Md. 20782. Article: Ultramicrotome, Model LKB 8800A Ultrotome III. Manufacturer: LKB Instruments, Inc., Sweden. Intended use of article: The article will be used for the preparation of ultrathin tissue sections for electron microscopy in various research projects shown in the application. Application received by Commissioner of Customs: October 30, 1967.

Docket No. 68-00211-33-46040. Applicant: Boston University, School of Medicine, 15 Stoughton Street, Boston, Mass. 02118. Article: Electron Microscope, Model AEI EM 6B 781301. Manufacturer: Associated Electrical Industries, Ltd., United Kingdom. Intended use of article: Applicant states:

Biological research into the fine structure of the nervous system. This involves the examination of (1) thin section and, (2) disintegrated specimens.

Application received by Commissioner of Customs: October 30, 1967.

Docket No. 68-00213-33-07200. Applicant: Massachusetts General Hospital, Fruit Street, Boston, Mass. 02114. Article: Adult and pediatric size Blood Filter Assemblies, Model 910/T with accessories and spare parts. Manufacturer: Honeywell Controls Limited, United Kingdom. Intended use of article: Applicant states:

Articles are to be used as a Blood Filter air trap in conjunction with the heart-lung perfusion apparatus in use clinically at the Massachusetts General Hospital operating room.

Application received by Commissioner of Customs: October 31, 1967.

Docket No. 68-00214-33-46040. Applicant: University of Wisconsin, 750 University Avenue, Madison, Wis. 53706. Article: Electron Microscope, Model HU-11E. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: Applicant states:

The instrument will be used in a training and research program designed to investigate the fine structure of microorganisms. A wide range of biological materials will be examined, such as protein molecules, viruses, bacteria, fungi, and cells of higher organisms. * * *

Application received by Commissioner of Customs: October 31, 1967.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-13884; Filed, Nov. 27, 1967; 8:45 a.m.]

UNIVERSITY OF KENTUCKY MEDICAL CENTER ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C.

A copy of each comment filed with the Director of the Office of Scientific and Technical Equipment must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 68-00191-33-00000. Applicant: The University of Kentucky Medical Center, 800 Rose Street, Lexington, Ky. 40506. ARTICLE: Pneumotaxic Guide. Manufacturer: Preci-Tool Ltd., Canada. Intended use of article: Applicant states: "Operations on patients with movement disorders." In an attached letter the applicant further explains,

This is an instrument for accurate placement of lesions deep within the brain of patients afflicted with Parkinsonism, intractable pain of epilepsy. * * * it consists of a frame in which the patient's head is positioned, precisely oriented to midline markers. Attached to the frame is a superstructure used to carry electrodes which stimulate selected targets and later destroy them. The reference grid on the instrument is used to orient the target within the patient's brain to the central X-ray beam. This instrument provides a unique system for superimposing the proposed lesion maker over the target without actually putting the lesion maker in the brain substance. After this initial orientation the probe is then guided into the brain and its final position checked by physiologic means.

Application received by Commissioner of Customs: October 19, 1967.

Docket No. 68-00195-33-46040. Applicant: Public Health Laboratories, City of New York, 455 First Avenue, New York, N.Y. 10016. Article: Electron Microscope, Model EM 300 with Biological Stage, Specimen Chamber Cooling Device, Rotating/Tilting Stage, 6.5 x 9 Plate Holders and Refrigerated Recirculating Water Cooler-Dual Pump. Manufacturer: N. V. Philips Gloeilampenfabrieken, The Netherlands. Intended use of article: Applicant states: "The instrument will be used for high resolution studies of viruses, their components, macromolecules and macromolecular complexes." Application received by Commissioner of Customs: October 23, 1967.

Docket No. 68-00196-33-46040. Applicant: Rutgers, The State University, Rutgers Medical School, New Brunswick, N.J. 08903. Article: Electron Microscope, Model EM 300. Manufacturer: Philips Electronics, The Netherlands. Intended use of article: The electron microscope will be used in a project for detailed physical and chemical study of group B arthropod-borne viruses (arboviruses) and their interaction with human and arthropod cells. The ultimate aim of these studies is to develop safe and effective immunising preparations and, through genetic approaches, to learn something about the evolutionary interrelationships which might explain the emergence of so many different viruses belonging to this rapidly growing group. The Kleinschmidt technique, or other improved methods as they become available, will be employed to look at Ribonucleic Acid (RNA), proteins, and lipids of dissected viral particles. The protein subunits and the lipid-containing envelope and its detailed structural relationship to cellular membrane structures will be studied. Additional projects include (1) studies of the Deoxyribonucleic Acid (DNA) of adenoviruses and the search for virus-specific viral macromolecules in malignant tumors and abortive infections caused by adenoviruses and other DNA viruses; (2) detailed comparison of RNA molecules derived from different parts of the cell (mitochondria, endoplasmic reticulum, polyribosomes, nucleolous, etc.) which are known to differ from one another by other criteria. Application received by Commissioner of Customs: October 23, 1967.

Docket No. 68-00198-33-46040. Applicant: State University of New York at Buffalo, School of Dentistry, 3258 Main Street, Buffalo, N.Y. 14214. Article: Electron Microscope, Hitachi Model HS-8. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: Applicant states:

1. Training fellows and graduate students, principally in the Departments of Oral Biology and Oral Pathology.
2. Examination of biopsy material from patients with diagnostic problems or unusual and inadequately studied diseases.
3. Examination of oral embryonic specimens.
4. Evaluation of specific details of the effects of operative and other dental procedures upon the dental pulp and oral tissues generally.
5. Staff research programs.

Application received by Commissioner of Customs: October 23, 1967.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-13885; Filed, Nov. 27, 1967; 8:45 a.m.]

UNIVERSITY OF LOUISVILLE

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C.

A copy of each comment filed with the Director of the Office of Scientific and Technical Equipment must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 68-00136-33-46500. Applicant: University of Louisville, 2301 South Third Street, Louisville, Ky. 40208. Article: Ultramicrotome, Model LKB 4800A Ultrotome I. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to prepare ultrathin sections for viewing with an electron microscope. The instrument will cut various sections in long series of equal thickness serial sections between the values of 50 Angstroms to 3 microns. Application received by Commissioner of Customs: September 18, 1967.

Docket No. 68-00188-33-46500. Applicant: State University of New York at Stony Brook, Stony Brook, N.Y. 11790. Article: Ultramicrotome, Model LKB 8800 Ultrotome III. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to section yeast cells prepared for electron micro-

scopy to determine how changes in lipid composition affect specific transport processes. Long series of equal thickness serial sections chosen between values of 50 Angstroms to 2 microns will be cut. Application received by Commissioner of Customs: October 17, 1967.

Docket No.: 68-00194-33-46040. Applicant: University of Washington Medical School, Department of Pathology, Seattle, Wash. 98105. Article: Electron Microscope, Model EM 300, with Anticontamination Device and Desiccator. Manufacturer: Philips Electronic Instruments, Inc., The Netherlands. Intended use of article: Applicant states:

> • • • Present projects requiring the highest resolution available in any electron microscope include studies of amyloid fibers by negative staining procedures and shadowing procedures, as well as studies of morphologic variations of elementary particles of mitochondrial membranes after negative staining procedures. Present projects which require large numbers of low magnification, low distortion, high resolution pictures include comparative studies of renal ultrastructure, studies of various disease tissues, of experimentally altered tissues, or autoradiographic studies in which large areas of tissue must be examined. • • • Other present projects include various histochemical studies of mucopolysaccharides and enzymes in tissue sections which require the use of unstained preparations.

Application received by Commissioner of Customs: October 23, 1967.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-13396; Filed, Nov. 27, 1967; 8:45 a.m.]

STATE UNIVERSITY OF NEW YORK

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00092-00-46040. Applicant: State University of New York, Albany, N.Y. 12203. Article: Shutter for Siemens Electron Microscope, Type No. 171 048. Manufacturer: Siemens Aktiengesellschaft, West Germany. Intended use of article: Applicant states: "Accurate preset exposure of photoplates in the Siemens Elmiskop." Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is an accessory intended for use with a Siemens electron microscope which was manufactured in West Germany. The accessory must be designed to work compatibly with the Siemens electron microscope.

The only known source for such accessory is the manufacturer of the Siemens electron microscope. The Department of Commerce knows of no comparable accessory which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-13397; Filed, Nov. 27, 1967; 8:45 a.m.]

UNIVERSITY OF OREGON

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C.

A copy of each comment filed with the Director of the Office of Scientific and Technical Equipment must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 68-00205-33-46040. Applicant: University of Oregon, Eugene, Oreg. 97403. Article: Electron Microscope, Model EM 300, with Desiccator and Anticontamination Device. Manufacturer: Philips Electronic Instruments, Inc., The Netherlands. Intended use of article: The article will be used for: (1) Studies of the mechanisms and ultrastructural sequence of lateral root protrusion through living cortical parenchyma during lateral root formation; (2) studies of the mechanism of cell plate formation during plant cell cytokinesis; (3) investigations of the specific localization of proteins within the contractile apparatus of muscle cells; (4) identification and localization of an additional third filament in muscle; (5) investigation of the mechanisms of chromosome movements during plant cell mitosis; (6) studies on the development of mutant ascospores; and (7) examination of the development of fungal hyphae, particularly the formation of the crosswall. Application received by Commissioner of Customs: October 26, 1967.

Docket No. 68-00206-33-10000. Applicant: Kaiser Foundation Hospitals, 300 Lakeside Drive, Oakland, Calif. 94604. Article: Automatic Chemical Analyzer, identified by the name of "Auto Chemist." Manufacturer: AGA AB, Sweden. Intended use of article: The article will be used to determine various biochemical developments in groups of patients through the use of automatic techniques. General programs include the use of the article in research, preventive health research projects, adverse drug reaction studies, a contraceptive drug study and multiphasic screening. Application received by Commissioner of Customs: October 26, 1967.

Docket No. 68-00208-33-46040. Applicant: Vanderbilt University, Nashville, Tenn. 37203. Article: Electron Microscope, Model HS-8. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: Applicant states:

> There are two (2) uses to which the article will be put. These are: (1) Research—for use in cytochemical studies at the ultrastructural level; (2) Training—graduate students and selected numbers of upperclass undergraduate students will be trained on the article.

Application received by Commissioner of Customs: October 26, 1967.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-13398; Filed, Nov. 27, 1967; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

HESS & CLARK

Notice of Withdrawal of Petition for Food Additives Furazolidone, Chlortetracycline, Penicillin, Sulfamethazine

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Hess & Clark, Division of Richardson-Merrell, Inc., Seventh and Orange Streets, Ashland, Ohio 44805, has withdrawn its petition, notice of which was published in the FEDERAL REGISTER of May 17, 1966 (31 F.R. 7193), proposing the issuance of a regulation to provide for the safe use of a medicated swine feed containing furazolidone, chlortetracycline, penicillin, and sulfamethazine for the purposes specified in said notice.

Dated: November 20, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-13387; Filed, Nov. 27, 1967; 8:50 a.m.]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 67-68]

GREAT LAKES PILOTAGE; REVIEW OF PILOTAGE SYSTEM AND RATE STRUCTURE

On October 11, 1967, the U.S. Coast Guard published an amendment to the rates for Great Lakes Pilotage in the FEDERAL REGISTER (32 F.R. 14104). In the preamble to the amendment it was announced that the United States and Canada had initiated an overall review of the present pilotage system and its rate structure and that recommendations for changes to the system and rate structure received during the proceedings resulting in the amendment would be included in the review. It is planned that the review be completed in sufficient time to allow any necessary changes in the Memorandum of Arrangements between the United States and Canada to be accomplished before the beginning of the 1968 Great Lakes shipping season.

The review provides an opportunity to examine all aspects of the system including the requirements for pilotage, the relationship of pilotage services and rates to shipping and port interests. Interested persons and organizations are invited to participate in the development of factual data essential to the review and to assist in the definition and refinement of the issues which should be given consideration during the review by submitting such written data, views, or arguments as they may desire to Commander, 9th Coast Guard District (dsp), 1240 East Ninth Street, Cleveland, Ohio 44199, where they will be available for examination by interested parties. Persons who submit such material and those who have already submitted similar material may be called upon, individually or collectively, for additional consultation or information.

Dated: November 20, 1967.

P. E. TRIMBLE,
Vice Admiral, U.S. Coast Guard, Acting Commandant.

[F.R. Doc. 67-13378; Filed, Nov. 27, 1967; 8:48 a.m.]

Federal Aviation Administration

ENGINEERING AND MANUFACTURING DISTRICT OFFICE 41

Change of Address

Notice is hereby given that on or about December 1, 1967, the Engineering and Manufacturing District Office 41 at 76 North Getty Street, Muskegon, Mich., will move to the Westgate Medical Center, 750 West Sherman, Muskegon, Mich. 49441.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 67-13389; Filed, Nov. 27, 1967; 8:48 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 19181]

ALLEGHENY-LAKE CENTRAL MERGER CASE

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on December 19, 1967, at 10 a.m., e.s.t., in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned examiner.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on November 20, 1967, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., November 21, 1967.

[SEAL] MILTON H. SHAPIRO,
Hearing Examiner.

[F.R. Doc. 67-13392; Filed, Nov. 27, 1967; 8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 17302, 17303; FCC 67M-1966]

BELL TELEPHONE COMPANY OF PENNSYLVANIA AND CONESTOGA TELEPHONE AND TELEGRAPH CO.

Order Continuing Hearing

In re applications of The Bell Telephone Company of Pennsylvania, Docket No. 17302, File No. 1698-C2-P-66; for a construction permit to modify the facilities of Station KGA585 in the Domestic Public Land Mobile Radio Service at Philadelphia, Pa.; The Conestoga Telephone and Telegraph Co., Docket No. 17303, File No. 679-C2-P-66; for a construction permit to establish new facilities in the Domestic Public Land Mobile Radio Service near Boyertown, Pa.

It is ordered, Due to a conflict in the Hearing Examiner's calendar, that the hearing now scheduled for December 1, 1967, be and the same is hereby rescheduled for December 27, 1967, at 10 a.m., in the Commission's offices, Washington, D.C.

Issued: November 22, 1967.

Released: November 22, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13393; Filed, Nov. 27, 1967; 8:50 a.m.]

[Docket Nos. 17306, 17307; FCC 67-1321]

BLANCETT BROADCASTING CO. AND BRECKINRIDGE BROADCASTING CO.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of J. C. Blancett trading as Blancett Broadcasting Co., Hardinsburg, Ky., Docket No. 17856, File No. BPH-5615; Requests: 94.3 mc, No. 232; 3 kw; 259 feet; Dr. O. C. Carter, Paul Fuqua and Dr. Robert D. Ingram doing business as Breckinridge Broadcasting Co., Hardinsburg, Ky., Docket No. 17857, File No. BPH-5927; Requests: 94.3 mc, No. 232; 3 kw; 300 feet; for construction permits.

1. The Commission has under consideration the above-captioned and described applications which are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference.

2. Consideration of the programing proposals is required because of the substantial and material difference between the proposals in the amount of AM programing to be duplicated. Breckinridge Broadcasting Co. proposes duplication of the daytime programing of its companion AM station while Blancett Broadcasting Co. proposes independent operation. Therefore, evidence regarding program duplication will be admissible under the standard comparative issue. The showing permitted under the standard comparative issue when duplicated programing is proposed will be limited to evidence concerning the benefits to be derived from the proposed duplication, and a full comparison of the applicants' program proposals will not be permitted in the absence of a specific programing inquiry—Jones T. Sudbury 8 FCC 2d 360, FCC 67-814 (1967).

3. Each of the applicants is qualified to construct and operate as proposed. However, because of their mutually exclusivity, the Commission is unable to make a statutory finding that a grant of the subject applications would serve the public interest, convenience, and necessity, and is of the opinion that they must be designated for hearing in a consolidated proceeding on the issues set forth below.

It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated

proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine which of the proposals would better serve the public interest.

2. To determine in the light of the evidence adduced pursuant to the foregoing issue, which of the applications for construction permit should be granted.

It is further ordered, That to avail themselves of the opportunity to be heard, the applicants pursuant to § 1.221(c) of the Commission's rules, in person or by attorney shall, within twenty (20) days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the applicants herein shall pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: November 8, 1967.

Released: November 21, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-13900; Filed, Nov. 27, 1967; 8:50 a.m.]

[Docket Nos. 17870-17873; FCC 67M-1959]

ELIM BIBLE INSTITUTE, INC., ET AL.

Order Continuing Hearing; Extension of Procedural Dates

In re applications of Elim Bible Institute, Inc., Lima, N.Y., Docket No. 17570, File No. BP-16869; "What the Bible Says, Inc.", Henrietta, N.Y., Docket No. 17571, File No. BP-17001; Oxbow Broadcasting Corp., Geneseo, N.Y., Docket No. 17572, File No. BP-17399; John B. Weeks, Warsaw, N.Y., Docket No. 17573, File No. BP-17400; for construction permits.

The Hearing Examiner having under consideration a "Motion to Extend Time for Final Exchange of Proposed Engineering Exhibits and Exchange of All Remaining Proposed Exhibits for Notification as to Witnesses and as to Hearing" filed November 20, 1967, by counsel for "What the Bible Says, Inc.";

It appearing, that counsel for all other parties have informally consented to the requested extension of procedural dates, and that "good cause" is stated in the motion for affording the additional time sought thereby to prepare for the hearing;

Accordingly, it is ordered, That the aforementioned "Motion to Extend Time for Final Exchange, Etc." filed November 20, 1967, by "What the Bible Says, Inc." is granted, and the affected procedural dates (all in 1967) are extended as follows:

Procedure	From and to
Final exchange of applicants' proposed engineering and all remaining proposed exhibits under existing issues (except Issue 9).	November 21–November 26.
Notifications as to witnesses required for cross-examination.	November 29–December 1.
Commencement of hearing in the offices of the Commission at Washington, D.C.	December 5–December 6.

Issued: November 21, 1967.

Released: November 22, 1967.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-13902; Filed, Nov. 27, 1967; 8:50 a.m.]

[Docket Nos. 17684, 17685; FCC 67M-1958]

TRI-STATE TELEVISION TRANSLATORS, INC., AND WELLERSBURG TV, INC.

Order Continuing Prehearing Conference

In re Tri-State Television Translators, Inc. (WØ2AO, WØ4AQ, WØ8AI, WØ8AU, W12AO), Cumberland, Md. Docket No. 17684; petitions for issuance of order to show cause; Wellersburg TV, Inc. (WØ7AL, WØ9AI, W13AP), Wellersburg, Pa., Docket No. 17685; order to show cause.

Due to a conflict in the Examiner's schedule: *It is ordered*, On the Examiner's own motion, that the further prehearing conference scheduled for November 30, 1967 at 9 a.m., during the last prehearing conference, is hereby rescheduled for November 30, 1967 at 2 p.m. in the offices of the Commission at Washington, D.C.

Issued: November 21, 1967.

Released: November 21, 1967.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-13903; Filed, Nov. 27, 1967; 8:50 a.m.]

FEDERAL MARITIME COMMISSION

[Fact Finding Investigation No. 6]

STEAMSHIP CONFERENCES

Effects on Foreign Commerce of the United States; Enlargement of Time for Filing Comments

By FEDERAL REGISTER publication of September 27, 1967 (32 F.R. 13534), the Federal Maritime Commission gave notice of the recommendations of the Investigative Officer in Fact Finding Investigation No. 6 and invited comments thereon to be submitted on or before December 8, 1967.

Upon request, and good cause appearing, the time for filing comments is enlarged to and including February 1, 1968.

By the Commission.

[SEAL] THOMAS LISI, *Secretary.*

[F.R. Doc. 67-13898; Filed, Nov. 27, 1967; 8:49 a.m.]

AMERICAN PRESIDENT LINES., LTD., AND KNUTSEN LINE

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. D. J. Morris, Manager, Rates & Conferences, American President Lines, 601 California Street, San Francisco, Calif. 94108.

Agreement 8991-1, between American President Lines, Ltd., and Knutsen Line, modifies the basic transshipment agreement by adding Frozen Prawns to the list of commodities covered by the agreement.

Dated: November 22, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI, *Secretary.*

[F.R. Doc. 67-13896; Filed, Nov. 27, 1967; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-6062 etc.]

PUBCO PETROLEUM CORP. ET AL.

Findings and Order

NOVEMBER 15, 1967.

Findings and order after statutory hearing issuing certificates of public convenience and necessity, amending certificates, permitting and approving abandonment of service, terminating certificates, severing proceeding, terminating rate proceeding, redesignating proceeding, and accepting related rate schedules and supplements for filing.

Each of the Applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce, for permission and approval to abandon service, or a petition to amend an existing certificate authorization, all as more fully described in the respective applications and petitions (and any supplements or amendments thereto) which are on file with the Commission.

The Applicants herein have filed related FPC gas rate schedules and propose to initiate or abandon, add or delete natural gas service in interstate commerce as indicated by the tabulation herein. All sales certificated herein are at rates either equal to or below the ceiling prices established by the Commission's statement of general policy No. 61-1, as amended, or involve sales for which permanent certificates have been previously issued; except that the sales from the Permian Basin area of New Mexico and Texas are authorized to be made at or below the applicable area base rates and under the conditions prescribed in Opinion Nos. 468 and 468-A.

The Commission's staff has reviewed each application and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

After due notice, no petitions to intervene, notices of intervention, or protests to the granting of any of the respective applications or petitions in this order have been received.

At a hearing held on November 9, 1967, the Commission on its own motion received and made a part of the record in these proceedings all evidence, including the applications, amendments, and exhibits thereto, submitted in support of the respective authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Each Applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and will, therefore, be a "natural-gas company" within the meaning of said Act upon the commencement of the service under the respective authorizations granted hereinafter.

(2) The sales of natural gas hereinbefore described, as more fully described in the respective applications, amendments, and/or supplements herein, will be made in interstate commerce, subject to the jurisdiction of the Commission and such sales by the respective Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) The respective Applicants are able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) The sales of natural gas by the respective Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity and certificates therefore should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the certificate authorizations heretofore issued by the Commission in Docket Nos. G-2062, G-6589, G-7595, G-11479, G-15714, G-16874, G-19213, CI60-175, CI63-996, CI66-470, CI67-140, and CI67-856 should be amended as hereinafter ordered and conditioned.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the temporary certificate heretofore issued in Docket No. G-19710 should be amended by deleting therefrom authorization to sell natural gas from acreage assigned to Applicant in Docket No. CI67-1847.

(7) The sales of natural gas proposed to be abandoned by the respective Applicants, as hereinbefore described, all as more fully described in the respective applications and in the tabulation herein, are subject to the requirements of subsection (b) of section 7 of the Natural Gas Act, and such abandonments should be permitted and approved as hereinafter ordered.

(8) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates of public convenience and necessity heretofore issued to the respective Applicants relating to the abandonments hereinafter permitted and approved should be terminated.

(9) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Docket No. RI65-602 should be severed from the consolidated proceeding on the order to show cause issued August 5, 1965, in Docket No. AR 61-1 et al., and the rate suspension proceeding pending in Docket No. RI65-602 should be terminated.

(10) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the name of the respondent in the proceeding pending in Docket No. RI65-243 should be changed from Petroleum Property Management, Inc., agent for Cador Petroleum Corp. et al., to Gruy Management Service Co., agent for Cador Petroleum Corp. et al., and that the proceeding should be redesignated accordingly.

(11) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the respective related rate schedules and supplements as designated in the tabulation herein should be accepted for filing as hereinafter ordered.

The Commission orders:

(A) Certificates of public convenience and necessity are issued upon the terms and conditions of this order, authorizing the sales by the respective Applicants herein of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary for such sales, all as hereinbefore described and as more fully described in the respective applications, amendments, supplements, and exhibits in this proceeding.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as Applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 4 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's regulations thereunder, and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against the respective Applicants. Further, our action in this proceeding shall not foreclose any prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. Nor shall the grant of the certificates aforesaid for service to the particular customers involved imply approval of all of the terms of the respective contracts particularly as to the cessation of service upon termination of said contracts, as provided by section 7(b) of the Natural Gas Act. Nor shall the grant of the certificates aforesaid be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) The grant of the certificates issued herein on all applications filed after April 15, 1965, and July 1, 1967, is upon the condition that no increase in rate which would exceed the ceiling prescribed for the given area by paragraphs (d)(1), (d)(2), and (d)(3) of the Commissions statement of general policy No. 61-1, as amended, shall be filed prior to the applicable dates as indicated by footnotes 11 and 1, respectively, in the attached tabulation.

(E) The initial rates for sales authorized in Docket Nos. G-7535, G-11479, G-16874, CI67-861, CI67-1178, and CI67-1947 shall be the applicable base area rates prescribed in Opinion No. 468, as

[1] Concurring statement of Commissioner Loevinger filed as part of the original document. Commissioner Bartley absent.

modified by Opinion No. 468–A, as adjusted for quality, or the contract rates, whichever are lower; and no increases in rate in excess of said initial rates shall be filed before January 1, 1968.

(F) If the quality of the gas delivered by Applicants in Docket Nos. G–7535, G–11479, G–16874, CI67–851, CI67–1170, and CI67–1847 deviates at any time from the quality standards set forth in Opinion No. 468, as modified by Opinion No. 468–A, so as to require a downward adjustment of the existing rate, a notice of change in rate shall be filed pursuant to the provisions of section 4 of the Natural Gas Act: *Provided, however,* That adjustments reflecting changes in B.t.u. content of the gas shall be computed by the applicable formula and charged without the filing of notices of changes in rate.

(G) Within 90 days from the date of initial delivery Applicants in Docket Nos. G–7535, G–11479, G–16874, CI67–851, and CI67–1170 shall file rate schedule quality statements in the form prescribed in Opinion No. 468–A.

(H) The grant of the certificate issued herein in Docket No. CI68–266 shall not be construed as Commission's approval of advance payment provisions in producer gas sales contracts and is without prejudice to any future action the Commission may take with respect to advance payment provisions in producer gas sales contracts.

(I) Certificates are issued herein in Docket Nos. CI68–254 and CI68–258 authorizing the respective Applicants to continue the sales of natural gas which were initiated without prior Commission authorization.

(J) The certificates heretofore issued in Docket Nos. G–6083, G–7535, G–11479, G–15714, G–16874, CI60–175, CI63–996, CI66–470, CI67–140, and CI67–856 are amended by adding thereto or deleting therefrom authorization to sell natural gas to the same purchasers and in the same areas as covered by the original authorizations pursuant to the rate schedule supplements as indicated in the tabulation herein.

(K) The temporary certificate heretofore issued in Docket No. G–10710 is amended by deleting therefrom authorization to sell natural gas from acreage assigned to Applicant in Docket No. CI67–1847.

(L) The certificate heretofore issued in Docket No. G–6580 is amended by changing the certificate holder to the successor in interest as indicated in the tabulation herein.

(M) The certificate heretofore issued in Docket No: G–19213 is amended to reflect the change in name from Petroleum Property Management, Inc., agent for Cador Petroleum Corp. et al., to Gruy Management Service Co., agent for Cador Petroleum Corp. et al., as indicated in the tabulation herein.

(N) Permission for and approval of the abandonment of service by the respective Applicants, as hereinbefore described, all as more fully described in the respective applications and in the tabulation herein are granted.

(O) The certificates heretofore issued in Docket Nos. G–3929, G–14243, G–17464, G–19382, CI63–1385, and CI65–685 are terminated.

(P) Docket No. RI65–602 is severed from the consolidated proceeding on the order to show cause issued August 5, 1965, in Docket No. AR61–1 et al., and the rate suspension proceeding pending in Docket No. RI65–602 is terminated.

(Q) The name of the respondent in the proceeding pending in Docket No. RI65–243 is changed from Petroleum Property Management, Inc., agent for Cador Petroleum Corp. et al., to Gruy Management Service Co., agent for Cador Petroleum Corp. et al., and the proceeding pending in Docket No. RI65–243 is redesignated accordingly.

(R) The respective related rate schedules and supplements as indicated in the tabulation herein are accepted for filing; further, the rate schedule relating to the succession herein is accepted and redesignated, subject to the applicable Commission regulations under the Natural Gas Act to be effective on the dates as indicated in the tabulation herein.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted		
			Description and date of document	No.	Supp.
C–6083 C 9–11–67 [1]	Pubco Petroleum Corp.	El Paso Natural Gas Co., Blanco Mesa Verde Field, San Juan County, N. Mex.	Supplemental agreement 8–4–67. [2]	1	20
C–6580 E 9–11–67	Gaylord S. Davidson Trust No. 1 (Operator) et al., (successor to G. S. & Norma D. Davidson).	Cities Service Gas Co., Kanese-Hugoton Field, Finney County, Kans.	G. S. & Norma D. Davidson, FPC GRS No. 1.	1	.....
			Supplement Nos. 1–7	1	1–7
			Notice of succession 9–8–67.	.....	.....
			Assignment 10–1–68	1	8
			Effective date: 8–1–68	.....	.....
			Assignment 3–17–67	1	9
			Effective date: 8–1–67	.....	.....
C–7535 C 8–28–66 C 9–27–67 [3]	Pan American Petroleum Corp. [4]	El Paso Natural Gas Co., Langlie Mattix Field, Lea County, N. Mex.	Supplemental agreement 9–1–66.	115	17
			Supplemental agreement 7–11–66. [5]	115	18
C–11479 C 9–17–67 [3]	Pan American Petroleum Corp. (Operator) et al. [4]	El Paso Natural Gas Co., Tubb Field, Lea County, N. Mex.	Letter agreement 8–9–66. [5]	168	71
C–15714 D 11–7–66	Humble Oil & Refining Co. (Operator) et al.	Transwestern Pipeline Co., acreage in Lipscomb County, Tex.	Assignment 9–27–66 [6] [7]	220	24
C–16874 C 9–26–67 [3]	Tamarack Petroleum Co., Inc. [7]	Northern Natural Gas Co., Buckhorn Field, Crockett County, Tex.	Contract 8–24–67 [8]	13	5
C–19213 9–5–67 [9]	Gruy Management Service Co., agent for Cador Petroleum Corp., et al. (formerly Petroleum Property Management, Inc., agent for Cador Petroleum Corp., et al.).	United Gas Pipe Line Co., North Lewisburg Field, St. Landry Parish, La.	Petroleum Property Management, Inc., agent for Kador Petroleum Corp., et al. FPC GRS No. 3.	1	.....
			Supplement Nos. 1–7	1	1–7
			Notice of name change 8–29–67.	.....	.....
			Effective date: 9–1–67	.....	.....
CI60–175 C 9–11–67 [1]	Pubco Petroleum Corp., (Operator) et al.	El Paso Natural Gas Co., Basin Dakota Field, San Juan County, N. Mex.	Supplemental agreement 8–4–67. [2]	13	21
CI63–996 D 8–23–66	Humble Oil & Refining Co.	Arkansas Louisiana Gas Co., North Cooper Field, Blaine County, Okla.	Assignment 7–25–66 [6] [10]	331	15
CI66–470 C 9–13–67 [3]	Sunray DX Oil Co.	Arkansas Louisiana Gas Co., acreage in Latimer County, Okla.	Amendatory agreement 8–11–67.	260	4
CI67–140 C 5–8–67 [11]	Atlantic Richfield Co.	El Paso Natural Gas Co., Fiorilla Area, Rio Arriba County, N. Mex.	Supplemental agreement 4–27–67. [2]	306	1
CI67–851 A 1–13–67 [3]	Pan American Petroleum Corp. [4]	El Paso Natural Gas Co., Gomez Area, Pecos County, Tex.	Contract 12–5–66	404	.....
			Letter agreement 12–5–66. [5]	404	1
CI67–856 C 5–8–67	Pisco Corp.	Lake Shore Pipe Line Co., Bushnell (Pennsylvania) Field, Erie and Crawford Counties, Pa.	Supplemental agreement 4–8–67. [2]	2	1
CI67–1170 A 2–27–67 [3]	Pan American Petroleum Corp. [4]	El Paso Natural Gas Co., Senora Field, Sutton County, Tex.	Contract 2–10–67 [2]	405	.....
CI67–1847 (G–10710) [12] F 9–28–67 [3]	Tamarack Petroleum Co., Inc. [7]	El Paso Natural Gas Co., Spraberry Trend Area, Reagan County, Tex.	Contract 2–28–56 [13]	15	.....
			Amendatory agreement 10–28–66.	15	1
			Supplemental agreement 4–14–66.	15	2
			Assignment 2–6–67 [14]	15	3
			Assignment 4–26–67 [15]	15	4

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted		
			Description and date of document	No.	Supp.
CI68–26 A 7–11–67 [1]	Humble Oil & Refining Co.	Texas Eastern Transmission Corp., Tunaha Field, Shelby County, Tex.	Contract 3–1–67	634	.....
			Letter agreement 3–1–67. [2]	634	1
CI68–230 (CI65–666) B 9–1–67	Mesa Petroleum Co. (successor to Petroleum Exploration, Inc. of Texas (Operator) et al.).	Panhandle Eastern Pipe Line Co., Oakdale Field, Woods County, Okla.	Notice of cancellation 8–30–67. [3] [4]	17	1
CI68–242 (G–14243) B 9–1–67	Amstral Oil Co., Inc. (Operator), agent for Oil Participations Inc.	Transcontinental Gas Pipe Line Corp., South Bourg Field, Terrebonne Parish, La.	Notice of cancellation 8–30–67. [3] [5]	11	2
CI68–243 (G–19382) B 9–1–67	Mesa Petroleum Co. (successor to Petroleum Exploration, Inc. of Texas et al.).	Panhandle Eastern Pipe Line Co., acreage in Meade County, Kans.	Notice of cancellation 8–30–67. [3] [5]	4	2
CI68–244 A 9–5–67 [1]	Resorts Development Corp.	Consolidated Gas Supply Corp., Williams District, Wood County, W. Va.	Contract 9–28–67	1	.....
			Letter agreement 8–1–67. [2]	1	1
CI68–245 A 9–5–67 [1]	Hays and Co., agent for McCullough Oil & Gas Co., et al.	Consolidated Gas Supply Corp., Parkersburg District, Wood County, W. Va.	Contract 12–28–66 [6]	306	.....
CI68–247 A 9–5–67 [1]	Wittington Oil Co., Inc.	Texas Eastern Transmission Corp., East Hariston Field, Harrison County, Tex.	Contract 10–1–66 [6]	1	.....
CI68–251 A 9–5–67 [1]	David Crow (Operator) et al.	United Gas Pipe Line Co., Lake Bisteneau Field, Bienville Parish, La.	Contract 8–31–67	13	.....
CI68–254 A 9–5–67 [1] [16]	Snyder Vogel	El Paso Natural Gas Co., Basin Dakota Field, San Juan County, N. Mex.	Contract 10–26–66 [17]	1	.....
			Amendment 9–25–67 [1] [18]	1	1
CI68–256 (CI63–1296) B 9–7–67	Joe Blalock et al.	Arkansas Louisiana Gas Co., acreage in Bossier Parish, La.	Notice of cancellation 9–6–67. [3] [19]	3	1
CI68–265 A 9–7–67 [1] [20]	Otmar Oil Co., et al.	Kansas-Nebraska Natural Gas Co., Inc., Big Sandy Field, Logan County, Colo.	Contract 10–5–66 [6]	17	.....
CI68–269 A 9–8–67	Pan American Petroleum Corp.	Arkansas Louisiana Gas Co., Bonanza Field, Sebastian County, Ark.	Contract 7–3–67	491	.....
			Statement 9–5–67 [1] [21]	491	1
CI68–268 A 9–8–67 [1]	Allen Beard et al.	United Fuel Gas Co., Rocky Fork Field, Kanawha County, W. Va.	Contract 8–4–67 [1] [22]	5	.....
CI68–269 A 9–11–67 [1]	Pan American Petroleum Corp.	Michigan Wisconsin Pipe Line Co., North Thorndike Area, Wheeler County, Tex.	Contract 8–11–67 [1]	492	.....
CI68–268 (G–17464) B 9–11–67	Frederic C. and Ferris F. Hamilton d.b.a. Hamilton Brothers, Ltd.	Cities Service Gas Co., acreage in Harper County, Okla.	Notice of cancellation (undated). [3] [23]	3	1
CI68–270 (G–9920) B 9–8–67	Sun Oil Co. (Southwest Division).	Coastal States Gas Producing Co., East Mathis Field, San Patricio County, Tex.	Notice of cancellation 9–1–67. [3] [23]	[24] 68	6

[1] Jan. 1, 1970, moratorium pursuant to the Commission's statement of general policy No. 61–1, as amended.
[2] Effective date: Date of initial delivery (Applicant shall advise the Commission as to such date).
[3] Jan. 1, 1968, moratorium provided by Opinion No. 468.
[4] By letter filed Sept. 11, 1967, Applicant agreed to accept permanent authorization containing conditions similar to those imposed by Opinion No. 468, as modified by Opinion No. 468–A.
[5] Deletes acreage which was assigned to Explorer Oil Co.
[6] Effective date: Date of this order.
[7] By letter filed Sept. 6, 1967, Applicant agreed to accept permanent authorization containing conditions similar to those imposed by Opinion No. 468, as modified by Opinion No. 468–A.
[8] Renegotiated contract—provides for increased rate for gas produced from acreage previously dedicated to the Sept. 15, 1962, contract and dedicates additional acreage.
[9] Amendment to the certificate to reflect the change in name from Petroleum Property Management, Inc. to Gruy Management Service Co.
[10] Deletes acreage assigned to Robert P. Lazzarotti.
[11] Jan. 1, 1968, moratorium pursuant to the Commission's statement of general policy No. 61–1, as amended.
[12] Sales from subject acreage authorized under temporary certificate issued June 16, 1966, in Docket No. G–10710.
[13] Between Shell Oil Co. and El Paso; on file as Shell Oil Co. FPC GRS No. 142.
[14] Shell farms out nonproducing acreage to Tamarack Petroleum Co., Inc.
[15] Omitted.
[16] Source of gas depleted.
[17] Cancels Petroleum Exploration, Inc., of Texas (Operator) et al., FPC GRS No. 17.
[18] Cancels Petroleum Exploration, Inc., of Texas et al., FPC GRS No. 4.
[19] Adds acreage.
[20] Sale being rendered without prior Commission authorization.
[21] Applicable to production from Dakota Formation.
[22] Dedicates production from Mesa Verde Formation.
[23] Complies with Commission Order No. 455–A, issued Mar. 21, 1967.
[24] Production limited to the Newberry Formation.
[25] Applicant has filed for an increase to 12.3076 cents in Docket No. RI68–602; however, no revenues collected subject to refund; therefore, the rate suspension proceeding in Docket No. RI68–602 will be terminated.

[F.R. Doc. 67–13758; Filed, Nov. 27, 1967; 8:45 a.m.]

[Project 2310]

PACIFIC GAS AND ELECTRIC CO.

Notice of Application for Approval of Exhibit L Drawing for Constructed Project

NOVEMBER 20, 1967.

Public notice is hereby given that application for approval of an Exhibit L drawing has been filed under the Federal Power Act (16 U.S.C. 791a–825r) by Pacific Gas and Electric Co. (correspondence to: E. J. Lage, Vice President—Rates and Valuation, Pacific Gas and Electric Co., 245 Market Street, San Francisco, Calif. 94106) for constructed Project No. 2310 located on the upper reaches of the South Yuba and Bear Rivers and their tributaries, in Nevada and Placer Counties, Calif., near Auburn, Colfax, Grass Valley, and Nevada City, and affecting lands of the United States within the Tahoe National Forest.

The Exhibit L drawing shows a new dam proposed by the licensee as a replacement for the existing Drum Afterbay Dam on Bear River. The new dam will be a concrete arch dam about 100 feet high to be located about 75 feet downstream from the 95-foot high old dam which is to be removed in part. In addition, a secondary or stilling pool dam about 30 feet high is proposed for construction about 35 feet downstream from the new dam. The licensee has advised that based upon U.S.G.S. datum, the normal maximum water surface of the reservoir behind the existing dam is at elevation 3,383.07 feet, whereas the corresponding level for the new reservoir is to be at elevation 3,383 feet, based upon the same datum.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is January 2, 1968. The application is on file with the Commission for public inspection.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67–13800; Filed, Nov. 27, 1967; 8:45 a.m.]

[Docket No. RI68–237]

CAROLINE HUNT TRUST ESTATE

Order Providing for Hearing on and Suspension of Proposed Change in Rate

NOVEMBER 17, 1967.

On October 26, 1967, Caroline Hunt Trust Estate (Hunt)[1] tendered for filing

[1] Address is: 1401 Elm Street, Dallas, Tex. 75202. Attention: Donald K. Young, Esquire.

a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated October 26, 1967.[2]
Purchaser and producing area: El Paso Natural Gas Co. (Buckhorn Field, Schleicher County, Tex.) (Railroad District No. 7–C) (Permian Basin Area).
Rate schedule designation: Supplement No. 5 to Hunt's FPC Gas Rate Schedule No. 2.
Effective date: January 1, 1968.[3]
Amount of annual increase: $1,014.
Effective rate: 15.2025 cents per Mcf.[4]
Proposed rate: 16.2160 cents per Mcf.[5]
Pressure base: 14.65 p.s.i.a.

Hunt proposes a renegotiated rate increase from 15.2025 cents to 16.2160 cents per Mcf, amounting to $1,014 annually, for a sale of gas to El Paso Natural Gas Co. from the Buckhorn Field, Schleicher County, Tex. (Railroad District No. 7–C) (Permian Basin Area). Hunt's proposed rate increase exceeds the area ceiling rate of 14.40 cents per Mcf as determined in the rate schedule quality statement previously accepted pursuant to Opinion No. 468, as amended. Since the proposed increased rate of 16.2160 cents per Mcf exceeds the applicable area rate, we conclude that it should be suspended for 5 months from January 1, 1968, the proposed effective date.

Except for the stay of the moratorium in Opinion No. 468, Hunt's proposed rate increase would be rejectable because it is in excess of the applicable area ceiling determined in Opinion No. 468. If the moratorium is ultimately upheld upon judicial review, Hunt's rate increase will be rejected ab initio.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed change, and that Supplement No. 5 to Hunt's FPC Gas Rate Schedule No. 2 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 5 to Hunt's FPC Gas Rate Schedule No. 2.

(B) Pending such hearing and decision thereon, Supplement No. 5 to Hunt's FPC Gas Rate Schedule No. 2 is hereby suspended and the use thereof deferred until June 1, 1968, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before January 3, 1967.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67–13840; Filed, Nov. 27, 1967; 8:45 a.m.]

[Docket No. RI68–226]

MARATHON OIL CO.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund

NOVEMBER 17, 1967.

On October 20, 1967, Marathon Oil Company (Marathon)[1] tendered for filing proposed changes in its presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are designated as follows:

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in Effect subject to refund in docket Nos.
RI68–226	Marathon Oil Co., 539 South Main St., Findlay, Ohio 45840, Attention: Jack Faris, Esquire.	44	[2] 3	El Paso Natural Gas Co. (Aneth Area, San Juan County, Utah and Montezuma County, Colo.).	$20	10–20–67	[3] 11–20–67	[4] 11–21–67	[5] 17.7	[6] [8] 17.8	
	Marathon Oil Co.	36	1	El Paso Natural Gas Co. (Chinle Wash Field, San Juan County, Utah).	181	10–20–67	[3] 11–20–67	[4] 11–21–67	17.7	[6] 17.775	

[1] Applicable to production from acreage located in Utah only.
[2] The stated effective date is the first day after expiration of the statutory notice.
[3] The suspension period is limited to 1 day.
[4] Tax reimbursement increase.
[5] Pressure base is 15.025 p.s.i.a.

Marathon requests that its proposed rate increases be permitted to become effective as of July 1, 1967, the date the Utah Oil and Gas Conservation tax became effective. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit an earlier effective date for Marathon's rate filings and such request is denied.

Marathon's proposed rate increases are for reimbursement of the increase in the Utah Oil and Gas Conservation tax. The sales are from the Aneth Area of Utah, where no formal rate ceilings have been announced by the Commission. Since Marathon's rate increases exceed the authorized initial rate for the area involved they should be suspended. However, since the increased rates exceed the authorized initial rate for the area only because of the tax reimbursement, a 1 day suspension period is appropriate.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed changes, and that the above-designated rate supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in the above-designated supplements.

(B) Pending a hearing and decision thereon, the above-designated rate supplements herein are suspended and their use deferred until November 21, 1967, and thereafter until such further time as they are made effective in the manner prescribed by the Natural Gas Act: *Provided, however,* That the supplements to the rate schedules filed by Marathon, as set forth herein, shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order, Marathon shall execute and file under the above docket number, with the Secretary of the Commission, its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of a copy thereof upon the purchaser, El Paso Natural Gas Co. Unless Marathon is advised to the contrary within 15 days from the date of filing of its agreement and undertaking, such agreement and undertaking shall be deemed to have been accepted.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)), on or before January 3, 1968.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67–13841; Filed, Nov. 27, 1967; 8:45 a.m.]

[2] Includes letter from buyer agreeing to increase.
[3] The stated effective date is the contractually provided effective date.
[4] Effective subject to refund in Docket No. RI68–226.
[5] Renegotiated rate increase.
[6] Address is: 539 South Main Street, Findlay, Ohio 45840. Attention: Jack Faris, Esquire.

THE RENEGOTIATION BOARD

STATEMENT OF ORGANIZATION AND FUNCTIONS

Change in Address of Eastern Regional Renegotiation Board

The statement of organization published in the issue of June 6, 1967 (F.R. Doc. 67–6258; 32 F.R. 8104) is hereby amended by changing, in section 3 thereof, the address of the Eastern Regional Renegotiation Board from "1634 Eye Street NW., Washington, D.C. 20447" to "1325 K Street NW., Washington, D.C. 20447."

Dated: November 22, 1967.

LAWRENCE E. HARTWIG, *Chairman.*

[F.R. Doc. 67–13885; Filed, Nov. 27, 1967; 8:49 a.m.]

SECURITIES AND EXCHANGE COMMISSION

CODITRON CORP.

Order Suspending Trading

NOVEMBER 21, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $3 par value, of Coditron Corp., New York, N.Y., otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 22, 1967, through December 1, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67–13887; Filed, Nov. 27, 1967; 8:47 a.m.]

[70–4558]

EASTERN UTILITIES ASSOCIATES ET AL.

Notice of Proposed Issue and Sale of Notes by Subsidiary Companies to Banks and/or Holding Company

NOVEMBER 21, 1967.

Notice is hereby given that Eastern Utilities Associates ("EUA"), Post Office Box 2333, Boston, Mass. 02107, a registered holding company, and three of its electric utility subsidiary companies, Blackstone Valley Electric Co. ("Blackstone"), 55 High Street, Pawtucket, R.I. 02860, Brockton Edison Co. ("Brockton"), 36 Main Street, Brockton, Mass. 02403, and Montaup Electric Co. ("Montaup"), Post Office Box 391, Fall River, Mass. 02722, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a)(1), 7, 9(a), 10, 12(b), (c), and (f), and Rules 42(b)(2), 43(a), 45(b)(1), and 50(a)(2), (3), and (4) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Blackstone, Brockton, and Montaup propose to issue and sell to banks (and/or, in the case of Blackstone, to EUA) from time to time during the period beginning December 21, 1967, and ending December 20, 1968, short-term, unsecured, promissory notes, in the maximum aggregate amounts to be outstanding at any one time, as shown below:

	Blackstone	Brockton	Montaup
Industrial National Bank of Rhode Island, Providence, R.I.	$1,050,000		
Rhode Island Hospital Trust Co., Providence, R.I.		$2,225,000	$4,400,000
The First National Bank of Boston, Boston, Mass.		2,500,000	
State Street Bank & Trust Co., Boston, Mass.		300,000	
Plymouth-Home National Bank, Brockton, Mass.		175,000	
First County National Bank, Brockton, Mass.	850,000		
EUA and/or the above Rhode Island banks equally			
	2,000,000	5,500,000	4,400,000

The notes will be dated as of the date of issuance, will bear interest at not to exceed the prime rate on the date of issuance (presently 5½ percent per annum) and will be prepayable in whole or in part without penalty. Notes issued prior to April 1, 1968, will mature on that date, and each note issued during either of the two subsequent 3-month periods ending respectively on July 1 and October 1 will mature at the end of the period in which it is issued. Any note issued thereafter will mature on December 20, 1968.

Blackstone expects to have outstanding, at December 21, 1967, an estimated $900,000 principal amount of short-term notes, including an $800,000 note to EUA; Brockton and Montaup expect to have outstanding $4 million and $3,200,000 of notes, respectively. The proceeds from the sale of the proposed notes will be used in part by the respective companies to pay such outstanding notes, and the balance to finance construction expenditures. Aggregate construction expenditures in 1968 for these companies are estimated at $7,200,000.

Blackstone may prepay its notes to banks, in whole or in part, by the use of proceeds of notes issued to EUA or vice versa. Any note issued to EUA for such purpose will bear interest, for the unexpired term of the prepaid note, at the lower of the prime rate or the rate borne by the prepaid note; and at the prime rate thereafter. If the interest rate on a note issued to a bank for the purpose of obtaining funds to prepay a note held by EUA shall exceed the rate of the note being prepaid, EUA shall reimburse or credit Blackstone for the added interest requirement for the unexpired term of such prepaid note.

In the event of any permanent financing by Blackstone, Brockton, or Montaup, the proceeds therefrom will be applied to the payment of its short-term note indebtedness outstanding and the maximum amount of short-term note indebtedness to be outstanding at any one time, as proposed herein, will be reduced by the amount of the proceeds of such permanent financing.

The application-declaration states that no State and no Federal Commission, other than this Commission, has jurisdiction over the proposed transactions; and that the aggregate fees and expenses to be incurred in connection with the proposed transactions are estimated at $1,180.

Notice is further given that any interested person may, not later than December 15, 1967, request in writing that a hearing be held in respect of such matters, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the application-declaration which he desires to controvert; or he may request that he be notified should the Commission order a

hearing in respect thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicants-declarants at the above noted addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective, as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof, or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13865; Filed, Nov. 27, 1967; 8:47 a.m.]

[File No. 7-2760]

MIDLAND-ROSS CORP.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 21, 1967.

In the matter of application of the Philadelphia - Baltimore - Washington Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Midland-Ross Corp., File No. 7-2760.

Upon receipt of a request, on or before December 5, 1967, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13866; Filed, Nov. 27, 1967; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 498]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 22, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2202 (Sub-No. 12 TA), filed November 14, 1967. Applicant: BRALLEY-WILLETT TANK LINES, INC., 200 Stockton Street, Richmond, Va. 23224. Applicant's representative: Douglas W. Bralley (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, from Montvale, Va., to points in Sullivan County, Tenn., for 150 days. Supporting shipper: Southern States Cooperative, Division of Petroleum Services, Richmond, Va. Send protests to: Robert W. Waldron, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 10-502 Federal Building, Richmond, Va. 23240.

No. MC 35628 (Sub-No. 383 TA), filed November 16, 1967. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, 134 Grandville Avenue SW., Grand Rapids, Mich. 49502. Applicant's representative: Leonard J. Verdier, Jr., 1 Vandenberg Center, Grand Rapids, Mich. 49502. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, household goods, and commodities in bulk), serving Chesaning, Mich., as an off-route point in connection with applicant's regular-route operations, for 180 days. Supporting shippers: Boycraft Industries, Inc., Chesaning, Mich. 48616; General Foundry & Manufacturing Co., 16197 James Couzens, Detroit, Mich. 49221. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 221 Federal Building, Lansing, Mich. 48933.

No. MC 52579 (Sub-No. 90 TA) (Republication), filed October 16, 1967, published FEDERAL REGISTER issue October 24, 1967, and republished this issue. Applicant: GILBERT CARRIER CORP., 1 Gilbert Drive, Secaucus, N.J. 07094. Applicant's representative: Aaron Hoffman (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, loose on hangers, and *materials and supplies* used in the manufacture thereof; between points in the New York, N.Y., commerical zone, as defined by the Commission, and Gainesboro, Tenn., for 180 days. NOTE: (1) Applicant intends to tack the authority here applied for, to other authority held by it and to interline with authorized carriers at points in the New York, N.Y., commercial zone as defined by the Commission. (2) The purpose of this republication is to include tacking information. Supporting shipper: Gainesboro Manufacturing Co., Inc., Gainesboro, Tenn. Send protests to: District Supervisor, Walter J. Greesmann, Interstate Commerce Commission, Bureau of Operations, 1060 Broad Street, Room 363, Newark, N.J. 07102.

No. MC 103993 (Sub-No. 307 TA), filed November 14, 1967. Applicant: MORGAN DRIVE AWAY, INC., 2800 West Lexington Avenue, Elkhart, Ind. 46514. Applicant's representative: Ralph H. Miller (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Portable shelters*, in initial movements, from points in Orange County, Calif., to points in Arizona, California, Utah, Wyoming, Oregon, Idaho, and Washington, for 180 days. Supporting shipper: Scrubby Bear Corp., 1781 Placentia Avenue, Costa Mesa, Calif. 92627. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 308 Federal Building, Fort Wayne, Ind. 46802.

No. MC 107496 (Sub-No. 661 TA), filed November 17, 1967. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way 50309, Post Office Box 855, Des Moines, Iowa 50304. Applicant's representative: H. L. Fabritz (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, in tank vehicles, from Rock Island, Ill., to points in Iowa, for 180 days. Supporting shipper: The Carey Salt Co., Post Office Box 1128, Hutchinson, Kans. 67501. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 227 Federal Office Building, Des Moines, Iowa 50309.

No. MC 109637 (Sub-No. 331 TA), filed November 15, 1967. Applicant: SOUTHERN TANK LINES, INC., 4107 Bells Lane, Louisville, Ky. 40211. Applicant's representative: Harris G. Andrews (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Calcium carbide*, in bulk, in specially equipped container trailers, from the plantsite of National Carbide Co., near Louisville, Ky., to Quincy, Ill., and Weirton, W. Va., for 150 days. Supporting shipper: J. W. Peterson, Director of Traffic, National Carbide Co., 150 East 42d Street, New York, N.Y. 10017. Send protests to: Wayne L. Merilatt, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 115669 (Sub-No. 81 TA), filed November 16, 1967. Applicant: HOWARD N. DAHLSTEN TRUCK LINE, Post Office Box 95, Clay Center, Nebr. 68933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used (spent) silica alumina catalyst*, in pneumatic tank vehicles, from Coffeyville and Phillipsburg, Kans., to Scottsbluff, Nebr., for 180 days. Supporting shipper: Farmland Industries, Inc., Post Office Box 7305, Kansas City, Mo. 64116. Send protests to: District Supervisor Max H. Johnston, Bureau of Operations, Interstate Commerce Commission, 315 Post Office Building, Lincoln, Nebr. 68508.

No. MC 119384 (Sub-No. 15 TA), filed November 16, 1967. Applicant: MORTON TRUCK LINES, INC., 101 West Willis Avenue, Perry, Iowa 50220. Applicant's representative: William A. Landau, 1451 East Grand Avenue, Des Moines, Iowa 50306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix 1 to report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities utilized by Oscar Mayer & Co., Inc., at Davenport, Iowa, to points in Indiana (except points within the Chicago, Ill., commercial zone as defined by the Commission), Kentucky, Michigan, and Ohio, for 180 days. Supporting shipper: Oscar Mayer & Co., Inc., 910 Mayer Avenue, Madison, Wis. 53701. Send protests to: Ellis L. Annett, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 227 Federal Office Building, Des Moines, Iowa 50309.

No. MC 123057 (Sub-No. 5 TA), filed November 15, 1967. Applicant: JAMES RICCIARDI & SONS, INC., 203 Fillmore Street, Staten Island, N.Y. 10301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum products*, from Delanco, N.J., to points in New York, Connecticut, and Pennsylvania, for 180 days. Supporting shipper: Kaiser Gypsum Co., Inc., 300 Lakeside Drive, Oakland, Calif. 94604. Send protests to: Paul W. Assenza, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 346 Broadway, New York, N.Y. 10013.

No. MC 123892 (Sub-No. 2 TA), filed November 13, 1967. Applicant: R. A. WILLIS, doing business as WILLIS TRANSFER CO., 109 Nixon Road, Augusta, Ga. 30901. Applicant's representative: Virgil H. Smith, Suite 431, Title Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick and tile products*, from plantsite of The Georgia-Carolina Brick & Tile Co., Augusta, Ga., to points in South Carolina, for 150 days. Supporting shipper: The Georgia-Carolina Brick & Tile Co., Augusta, Ga. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 124692 (Sub-No. 44 TA), filed November 17, 1967. Applicant: SAMMONS TRUCKING, Post Office Box 933, Missoula, Mont. 59801. Applicant's representative: Gene Johnson, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite*, from Belle Fourche, S. Dak., and points within 5 miles thereof to points in Oregon, for 180 days. Supporting shipper: Leo Cook Co., 215 Southeast Morrison Street, Portland, Oreg. 97214. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 251 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 124813 (Sub-No. 48 TA), filed November 14, 1967. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, Eagle Grove, Iowa 50533. Applicant's representative: William A. Landau, 1451 East Grand Avenue, Des Moines, Iowa 50316. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Defluorinated phosphate*, in bulk, from Muscatine, Iowa, to points in Kentucky, for 180 days. Supporting shipper: The Borden Chemical Co., Smith-Douglass Division, Post Office Box 419, Norfolk, Va. 23501. Send protests to: Ellis L. Annett, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 227 Federal Office Building, Des Moines, Iowa 50309.

No. MC 128256 (Sub-No. 2 TA), filed November 14, 1967. Applicant: O. W. BLOSSER, doing business as BLOSSER TRUCKING, 215 North Main Street, Middlebury, Ind. 46540. Applicant's representative: Alki E. Scopelitis, Suite 511, Fidelity Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden mouldings*, from the site of Middlebury Moulding, Inc., near Middlebury, Ind., to Alpena, Mich., Chicago and Blue Island, Ill., Pittsburgh and Highspire, Pa., for 180 days. Supporting shipper: Middlebury Moulding Co., Inc., Middlebury, Ind. Send protests to: District Supervisor, J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 308 Federal Building, Fort Wayne, Ind. 46802.

No. MC 129536 TA, filed November 17, 1967. Applicant: DAN BANOVICH, doing business as DAN BANOVICH TRUCKING, 3810 West Buckeye Road, Phoenix, Ariz. 85009. Applicant's representative: A. Michael Bernstein, 3550 North Central, 1327 Guaranty Bank Building, Phoenix, Ariz. 85012. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from points in the Los Angeles commercial zone and the Los Angeles Harbor commercial zone, California, as defined by the Commission, to Phoenix and Tucson, Ariz., *exempt commodities*, when transported in the same vehicle, at the same time, with bananas, from points in Kern, Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura Counties, Calif., to Phoenix and Tucson, Ariz., for 180 days. Supporting shippers: United Produce Co., Inc., 300 Terminal Building, Third Street and Jackson, Phoenix, Ariz. 85004; Cox Produce, 119 East Toole Avenue, Tucson, Ariz. 85701. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 3427 Federal Building, Phoenix, Ariz. 85025.

No. MC 129537 TA, filed November 17, 1967. Applicant: OLIVER W. REEVES AND BOBBY G. REEVES, a partnership, doing business as REEVES TRANSPORTATION, 153 Hill Drive, Valrico, Fla. 33594. Applicant's representative: John C. Vogt, Jr., 707 Florida Avenue, Tampa, Fla. 33601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpets and rugs*, from points in Floyd, Bartow, Gordon, Whitfield, Murray, Catoosa, and Walker Counties, Ga., to points in Hillsborough and Pinellas Counties, Fla., for 180 days. Supporting shippers: Jack Loughlin Carpets, 2041 Range Road, Clearwater, Fla.; West Coast Carpet Service, Inc., 3251 46th Avenue North, St. Petersburg, Fla.; Arnold Carpet Sales, 1283 South Lincoln, Clearwater, Fla.; ModernWay, Inc., 2000 Gulf to Bay Boulevard, Clearwater, Fla.; Ellis Carpet Mart, 2427 Fifth Avenue North, St. Petersburg, Fla.; Wholesale Carpets, Inc., 2580 28th Avenue North, St. Petersburg, Fla.; Modern Floor Covering, 4602 East Broadway, Tampa, Fla. Send protests to: Joseph B. Teichert, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1226, 51 Southwest First Avenue, Miami, Fla. 33130.

MOTOR CARRIER OF PASSENGERS

No. MC 68167 (Sub-No. 38 TA), filed October 17, 1967, published FEDERAL REGISTER issue of October 27, 1967, and republished this issue. Applicant: WASHINGTON, VIRGINIA AND

MARYLAND COACH COMPANY, INC., 707 North Randolph Street, Arlington, Va. 22203. Applicant's representative: Manuel J. Davis (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage and express mail and newspapers* in the same vehicle with passengers; between Sterling Park in Loudoun County, Va., and Washington, D.C.: From junction Holly Avenue and Sterling Boulevard over Sterling Boulevard to junction Virginia Highway 28, thence over Virginia Highway 28 to junction Dulles Airport Access Road, thence westerly over Dulles Airport Access Road to Dulles Airport and return easterly over Dulles Airport Access Road to junction Virginia Highway 7, thence over Virginia Highway 7 to junction U.S. Highway 50, thence over U.S. Highway 50 to junction Wilson Boulevard, thence over Wilson Boulevard to junction roadways leading to the Key Bridge in Rosslyn, Va., thence over said roadways to junction Key Bridge at Washington, D.C., city line, thence over existing city streets to Washington, D.C., and return over the same route, for 180 days. Applicant intends to tack the authority here applied for to its certificate No. 4 issued by Washington Metropolitan Area Transit Commission, covering service between Dulles Airport and Washington, D.C. The purpose of this republication is to show the tacking provision. Supporting shipper: Sterling Park Development Corp., Post Office Box 168, Sterling, Va. 22170. Send protests to: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th and Constitution Avenues NW., Washington, D.C. 20423.

By the Commission.

(SEAL) H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13886; Filed, Nov. 27, 1967; 8:49 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during November.

3 CFR

Page

PROCLAMATIONS:
3279 (modified by Proc. 3820) ... 15701
3290 (see Proc. 3820) ... 15701
3328 (see Proc. 3820) ... 15701
3386 (see Proc. 3820) ... 15701
3389 (see Proc. 3820) ... 15701
3509 (see Proc. 3820) ... 15701
3531 (see Proc. 3820) ... 15701
3541 (see Proc. 3820) ... 15701
3692 (see Proc. 3820) ... 15701
3694 (terminated in part by Proc. 3818) ... 15467
3712 (terminated in part by Proc. 3818) ... 15467
3744 (terminated in part by Proc. 3818) ... 15467
3779 (see Proc. 3820) ... 15701
3794 (see Proc. 3820) ... 15701
3818 ... 15467
3819 ... 15667
3820 ... 15701

EXECUTIVE ORDERS:
Mar. 23, 1912 (revoked in part by PLO 4320) ... 16160
2296 (modified by PLO 4313) ... 15429
4702 (revoked in part by PLO 4315) ... 15482
9652 (revoked in part by PLO 4317) ... 15482
10530 (see EO 11378) ... 15237
10682 (see EO 11378) ... 15237
10807 (amended by EO 11381) ... 15629
10903 (amended by EO 11380) ... 15627
11034 (amended by EO 11380) ... 15627
11378 ... 15237
11379 ... 15635
11380 ... 15627
11381 ... 15629

5 CFR

213 ... 15703, 15805, 15809, 15811, 16097
305 ... 15805
712 ... 15631
754 ... 15805

7 CFR

51 ... 15668, 15673
251 ... 15948
319 ... 15577
401 ... 15703, 15704, 15911
711 ... 15704
717 ... 15705
722 ... 15667, 16185, 16195
729 ... 15149
730 ... 15076
905 ... 15869, 16097, 16198, 16199
906 ... 15869
907 ... 15668, 16097
908 ... 15870
910 ... 15430, 15824, 15831, 15870, 16145
912 ... 15430, 15832, 15866, 15870, 15967, 16145
913 ... 15430, 15869, 15871
915 ... 15577
946 ... 16199
947 ... 15705
982 ... 15669
984 ... 15388
990 ... 15671, 15915, 16189
991 ... 15670, 15705
1001 ... 15076
1015 ... 15890
1067 ... 15693
1120 ... 15388
1125 ... 15766
1126 ... 15388
1132 ... 15389
1137 ... 15431
1421 ... 15832, 15766, 15872
1464 ... 15832, 16145

PROPOSED RULES:
51 ... 15435
362 ... 16164
723 ... 15546, 16043
724 ... 16043
811 ... 16045
814 ... 15835
822 ... 15393
891 ... 15393
892 ... 15393
Ch. IX ... 16164
905 ... 15116
906 ... 15394
907 ... 15688
908 ... 15394
910 ... 16220
912 ... 15436
913 ... 15396
946 ... 16220
959 ... 15177, 15884
966 ... 15884
989 ... 15488
1008 ... 15952
1038 ... 15952
1048 ... 15952
1049 ... 15489, 16101
1064 ... 15490
1090 ... 15437
1125 ... 15178
1131 ... 15588

8 CFR

100 ... 16200
103 ... 15469
212 ... 15469
238 ... 15469, 16200
287 ... 16200

9 CFR

76 ... 15240
78 ... 15577
92 ... 15707
131 ... 15469

10 CFR

40 ... 15872

PROPOSED RULES:
2 ... 16050
20 ... 15432, 15762
50 ... 16050
115 ... 16050

12 CFR

1 ... 15544, 15918
219 ... 15389
556 ... 15707, 15747, 16200
563 ... 15634
571 ... 15708, 16200

PROPOSED RULES:
545 ... 15763

13 CFR

101 ... 15806, 15873
106 ... 15065
108 ... 15149
120 ... 15634
122 ... 15635

13 CFR—Continued

Page

PROPOSED RULES:
107 ... 15399
121 ... 15184

14 CFR

21 ... 15472
39 ... 15094, 15153, 15154, 15390, 15421, 15472, 15523, 15579, 15635, 15808, 15873, 16201.
61 ... 15918
63 ... 15918
65 ... 15918
71 ... 15094, 15095, 15154, 15523, 15524, 15579, 15635, 15636, 15809, 15810, 15874, 16098, 16146, 16202.
73 ... 15096, 16098
75 ... 15636
91 ... 15422, 15708
97 ... 15423, 15473, 15580, 15811, 16203
141 ... 15583
145 ... 15670
157 ... 15818
207 ... 15096
208 ... 15097
241 ... 15098

PROPOSED RULES:
27 ... 15676
29 ... 15676
39 ... 15490, 15491, 15588
71 ... 15117–15121, 15491–15493, 15546–15548, 15588, 15589, 15712, 15837, 15838, 15885, 15926, 16049, 16050, 16102, 16169, 16221.
73 ... 16050, 16221, 16222
93 ... 15589
121 ... 15676
202 ... 15676
203 ... 15676
207 ... 16223
288 ... 15926
399 ... 16225

15 CFR

0 ... 15222
13 ... 15818
70 ... 15154
204 ... 15104, 15391
230 ... 15105, 15636
379 ... 15988
382 ... 16146
399 ... 16146

16 CFR

13 ... 15105–15107, 15470, 15748–15750, 15874, 15875
14 ... 15525
15 ... 15470, 15919
17 ... 15540
228 ... 15525
229 ... 15529
230 ... 15531
231 ... 15532
232 ... 15533
233 ... 15534
234 ... 15536
235 ... 15538
236 ... 15538
237 ... 15539
238 ... 15540
239 ... 15541
240 ... 15542
412 ... 15584
413 ... 15424

16 CFR—Continued

Page

PROPOSED RULES:
241 ... 15715
242 ... 15681
300 ... 15180

17 CFR

200 ... 15470
230 ... 15920
275 ... 16151
279 ... 16151

18 CFR

3 ... 15239
101 ... 15670
141 ... 15670
602 ... 16151

PROPOSED RULES:
2 ... 15714
14 ... 15714
101 ... 15927
104 ... 15927
105 ... 15927
141 ... 15434, 15927
201 ... 15927
204 ... 15927
205 ... 15927
260 ... 15434

19 CFR

4 ... 15390
10 ... 15424
14 ... 15155
16 ... 15390
200 ... 16210

20 CFR

396 ... 15471
401 ... 15544
606 ... 16211
607 ... 16211
608 ... 16211
613 ... 16211
615 ... 16212

21 CFR

4 ... 15709
120 ... 15107, 15120, 15424, 15578
121 ... 15108, 15109, 15155, 15545, 15988
133 ... 15109
146c ... 15988
148b ... 15988
148c ... 15425
148f ... 15989
148i ... 16152
148n ... 16212
148o ... 15989
148s ... 16153
148y ... 16153
166 ... 15390
191 ... 15875

PROPOSED RULES:
28 ... 15116
121 ... 16048
148i ... 16048
166 ... 16048

22 CFR

21 ... 16212
41 ... 16098

PROPOSED RULES:
201 ... 15116

23 CFR

215 ... 15818
216 ... 15818
255 ... 15792

24 CFR

Page

200 ... 15425, 15586, 15636
203 ... 15639
207 ... 15640
220 ... 15640
222 ... 15640
809 ... 15640

25 CFR

41 ... 15471, 16099
243 ... 16213

26 CFR

1 ... 15421, 15671, 15820, 15876
301 ... 15241, 15483
601 ... 15990

PROPOSED RULES:
1 ... 15167, 15393, 15758, 15879
31 ... 15879
46 ... 15879
48 ... 15879
49 ... 15879

28 CFR

0 ... 15425

29 CFR

526 ... 15425
786 ... 15425
1200 ... 15827
1202 ... 15831
1203 ... 15831
1208 ... 15831
1500 ... 15478, 15479

PROPOSED RULES:
5 ... 15396
6 ... 15396
7 ... 15396
526 ... 15712

31 CFR

306 ... 15672, 15920

32 CFR

66 ... 15111
127 ... 15112
536 ... 15113
552 ... 15115
710 ... 15115
719 ... 16153
750 ... 16154
751 ... 16154
812 ... 16035
844 ... 15920
851 ... 16154
855 ... 15920
860 ... 16155
882 ... 15921
901 ... 15922
906 ... 16159
1001 ... 16036
1006 ... 16036
1007 ... 16039
1018 ... 16039
1472 ... 16213

32A CFR

BDSA (Ch. VI):
M–11A ... 15710
ASCDIB (Ch. VII) ... 15831
OIA (Ch. X):
OI Reg. 2 ... 15876

33 CFR

204 ... 15673

35 CFR

61 ... 15641
255 ... 15831

36 CFR

Page

7 ..... 15391, 15710, 15750, 16213
311 15999

PROPOSED RULES:

7 15761

38 CFR

3 15678
21 16099

39 CFR

131 15587
821 15480
822 ..... 15480, 15481
823 15099

PROPOSED RULES:

Ch. I 15643

41 CFR

1–5 15674
3–75 15833
5–2 16160
6–60 15751
6–75 15427
9–1 15922
9–12 15922
50–204 15641
101–26 15754

PROPOSED RULES:

50–202 16220

42 CFR

PROPOSED RULES:

73 15178

43 CFR

PUBLIC LAND ORDERS:

1583 (see PLO 4307) 15428
1639 (see PLO 4315) 15482
3263 (revoked in part by PLO 4307) 15428

43 CFR—Continued

Page

PUBLIC LAND ORDERS—Continued

3634 (revoked in part by PLO 4302) 15427
4236 (see PLO 4317) 15482
4266 (see PLO 4317) 15482
4270 (amended by PLO 4312) 15429
4301 15098
4302 15427
4303 15427
4304 15427
4305 15428
4306 15428
4307 15428
4308 15428
4309 15428
4310 15429
4311 15429
4312 15429
4313 15429
4314 15482
4315 15482
4316 15482
4317 15482
4318 15483
4319 15678
4320 16100
4321 16213
4322 16214
4323 16214
4324 16214
4325 16214
4326 16215

PROPOSED RULES:

1720 15646
3100 15883
3120 15883
4120 16164

45 CFR

Page

14 16100
81 15156
631 15641

46 CFR

10 15754

PROPOSED RULES:

33 15835
94 15835
112 15835
Ch. IV 15438, 16226

47 CFR

0 ..... 15472, 15678
73 ..... 15161, 15162, 15545, 15711
87 16160
97 16162

PROPOSED RULES:

2 ..... 15180, 15712, 16103
73 ..... 15679, 16053, 16054, 16107
87 ..... 15712, 16055, 16056
89 ..... 15180, 15680, 16056
91 ..... 15180, 15680, 16056
93 ..... 15180, 15680, 16056

49 CFR

1 15710
103 15484
114 15484
180 16040
239 ..... 16162, 16215

PROPOSED RULES:

288 15589

50 CFR

10 15834
32 ..... 15166, 15586, 15587, 15642, 15675, 15878, 15924, 16100.
33 ..... 15711, 15758, 15924
80 16215

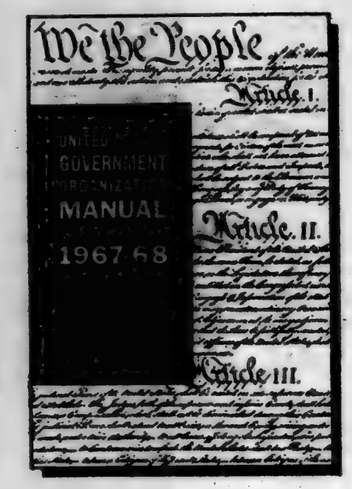

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230

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Pages 16243–16379

(Part II begins on page 16351)

(Part III begins on page 16367)

THE UNIVERSITY OF MICHIGAN
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MAIN READING ROOM

Agencies in this issue—

The President
Agricultural Stabilization and Conservation Service
Air Force Department
Army Department
Atomic Energy Commission
Civil Aeronautics Board
Coast and Geodetic Survey
Commerce Department
Commodity Credit Corporation
Environmental Science Services Administration
Equal Employment Opportunity Commission
Federal Aviation Administration
Federal Maritime Commission
Federal Power Commission
Federal Reserve System
Fish and Wildlife Service
General Services Administration
Hazardous Materials Regulations Board
Health, Education, and Welfare Department
Indian Affairs Bureau
Internal Revenue Service
Interstate Commerce Commission
Land Management Bureau
Maritime Administration
Securities and Exchange Commission
Small Business Administration
State Department
Tariff Commission
Weather Bureau

Detailed list of Contents appears inside.

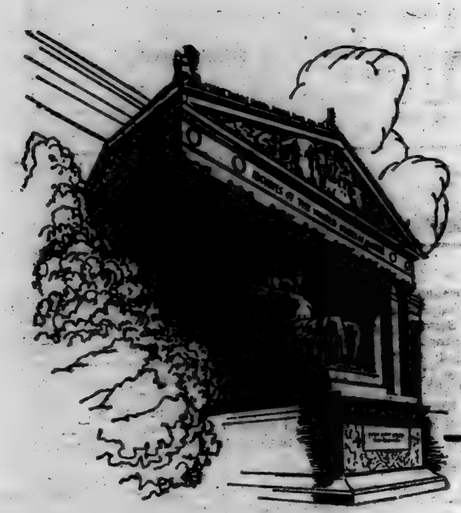

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Contents

THE PRESIDENT

EXECUTIVE ORDER

Amendment of Executive orders relating to functions of the Department of Transportation ... 16247

EXECUTIVE AGENCIES

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Rules and Regulations

Export wheat marketing certificate regulations; clearance on exportation or shipment from U.S.; correction ... 16251

AGRICULTURE DEPARTMENT

See Agricultural Stabilization and Conservation Service; Commodity Credit Corporation.

AIR FORCE DEPARTMENT

Rules and Regulations

Industrial security ... 16264

ARMY DEPARTMENT

Rules and Regulations

Claims against the U.S. arising in foreign countries ... 16264

Notices

Statement of organization and functions; description of central and field agencies ... 16279

ATOMIC ENERGY COMMISSION

Notices

Allis-Chalmers Manufacturing Co.; termination of facility license ... 16292

Plutonium and uranium enriched in U-233; charges ... 16289

Uranium hexafluoride; charges, enriching services, specifications, and packaging ... 16289

CIVIL AERONAUTICS BOARD

Rules and Regulations

Transatlantic supplemental air transportation ... 16251

Notices

Hearings, etc:

International Air Transport Association ... 16293

Western Truck Leasing Co. et al ... 16292

COAST AND GEODETIC SURVEY

Rules and Regulations

Transfer of regulations; cross reference ... 16288

COMMERCE DEPARTMENT

See also Coast and Geodetic Survey; Environmental Science Services Administration; Maritime Administration; Weather Bureau.

Notices

Environmental Science Services Administration; research laboratories ... 16288

COMMODITY CREDIT CORPORATION

Rules and Regulations

Wheat export program terms and conditions; correction ... 16251

DEFENSE DEPARTMENT

See Air Force Department; Army Department.

ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION

See also Coast and Geodetic Survey; Weather Bureau.

Rules and Regulations

Transfer of regulations ... 16257

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Rules and Regulations

Availability of records ... 16261

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations

Airworthiness directive; Cessna Models 150G and 150H airplanes ... 16251

Transition area; designation ... 16251

Notices

Advisory circular checklist ... 16352

FEDERAL MARITIME COMMISSION

Notices

Edward R. Bacon Grain Co.; revocation of license ... 16293

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:

Alabama Power Co. and Mount Vernon Mills, Inc ... 16294

Algonquin Gas Transmission Co ... 16293

Colorado Interstate Gas Co ... 16294

Everett, Wash., city of, and Public Utility District No. 1, Snohomish County, Wash ... 16294

Iowa Power and Light Co ... 16295

Trunkline Gas Co ... 16295

United Gas Pipe Line Co ... 16295

FEDERAL RESERVE SYSTEM

Notices

Bancorporation of Montana; applications for approval of acquisition of shares of banks ... 16295

FISH AND WILDLIFE SERVICE

Rules and Regulations

Sport fishing on certain national wildlife refuges:

Arizona and California; Imperial ... 16277

Kansas; Quivira ... 16277

Minnesota; Tamarac ... 16278

Oklahoma:

Tishomingo ... 16278

Wichita Mountains ... 16278

Wisconsin; Horicon ... 16278

GENERAL SERVICES ADMINISTRATION

Rules and Regulations

Procurement; clauses for construction contracts ... 16268

Property management; utilization and disposal; mistakes in bids ... 16270

Notices

Portion of John Martin Reservoir Area, Hasty, Bent County, Colo.; transfer of property ... 16296

HAZARDOUS MATERIALS REGULATIONS BOARD

Rules and Regulations

Explosives and other dangerous articles; postponement of effective date ... 16277

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Notices

Interstate air pollution in National Capital Metropolitan Area; change in place for conference of control agencies ... 16288

INDIAN AFFAIRS BUREAU

Notices

Redelegations of authority:

Albuquerque Area; Assistant Area Directors et al.; correction ... 16283

Gallup Area Office; revocation ... 16283

INTERIOR DEPARTMENT

See Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau.

INTERNAL REVENUE SERVICE

Rules and Regulations

Excise taxes; wine or wine products rendered unfit for beverage use ... 16260

(Continued on next page)

INTERSTATE COMMERCE COMMISSION

Notices

Motor carriers:
- Alternate route deviation notices ---- 16297
- Applications and certain other proceedings ---- 16296
- Intrastate applications ---- 16302
- Temporary authority applications ---- 16302
- Transfer proceedings (2 documents) ---- 16303

LAND MANAGEMENT BUREAU

Notices

- Arizona; filing of plat of survey ---- 16283
- Colorado; classification of public lands for multiple-use management ---- 16283
- Montana; opening of public lands ---- 16283
- New Mexico; proposed withdrawal and reservation of lands (2 documents) ---- 16284
- Oregon:
  - Classification of public lands for multiple-use management ---- 16285
  - Termination of proposed classification of public lands ---- 16284
- Utah; filing of plats of survey and opening of public lands ---- 16287

MARITIME ADMINISTRATION

Rules and Regulations

- Values for war risk insurance; miscellaneous amendments ---- 16272

Notices

- Harris Trust and Savings Bank; approval as trustee ---- 16287

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:
- George Putnam Fund of Boston ---- 16296
- Wolverine Aluminum Corp ---- 16297

SMALL BUSINESS ADMINISTRATION

Proposed Rule Making

- Small business investment companies ---- 16368

STATE DEPARTMENT

Rules and Regulations

- Board of Appellate Review ---- 16258
- Nationality procedures and passports; miscellaneous amendments ---- 16259

TARIFF COMMISSION

Notices

- Broom corn; change of place and date of hearing ---- 16297

TRANSPORTATION DEPARTMENT

See Federal Aviation Administration; Hazardous Materials Regulations Board.

TREASURY DEPARTMENT

See Internal Revenue Service.

WEATHER BUREAU

Rules and Regulations

- Transfer of regulations; cross reference ---- 16257

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

3 CFR

EXECUTIVE ORDERS:

- 10448 (amended by EO 11382) ---- 16247
- 10501 (amended by EO 11382) ---- 16247
- 10534 (revoked by EO 11382) ---- 16247
- 10536 (amended by EO 11382) ---- 16247
- 10631 (amended by EO 11382) ---- 16247
- 10765 (amended by EO 11382) ---- 16247
- 10771 (revoked by EO 11382) ---- 16247
- 10789 (amended by EO 11382) ---- 16247
- 10840 (amended by EO 11382) ---- 16247
- 10854 (amended by EO 11382) ---- 16247
- 10858 (revoked by EO 11382) ---- 16247
- 10865 (amended by EO 11382) ---- 16247
- 10883 (see EO 11382) ---- 16247
- 10898 (amended by EO 11382) ---- 16247
- 10968 (revoked by EO 11382) ---- 16247
- 10977 (amended by EO 11382) ---- 16247
- 11016 (amended by EO 11382) ---- 16247
- 11046 (amended by EO 11382) ---- 16247
- 11079 (amended by EO 11382) ---- 16247
- 11137 (amended by EO 11382) ---- 16247
- 11149 (amended by EO 11382) ---- 16247
- 11157 (amended by EO 11382) ---- 16247
- 11161 (amended by EO 11382) ---- 16247
- 11182 (amended by EO 11382) ---- 16247
- 11190 (amended by EO 11382) ---- 16247
- 11231 (amended by EO 11382) ---- 16247
- 11239 (amended by EO 11382) ---- 16247
- 11326 (amended by EO 11382) ---- 16247
- 11382 ---- 16247

PRESIDENTIAL DOCUMENTS OTHER THAN PROCLAMATIONS AND EXECUTIVE ORDERS:

- Presidential Memorandum of Aug. 11, 1960 (amended by EO 11382) ---- 16247
- Presidential Letter of June 22, 1963 (amended by EO 11382) ---- 16247

7 CFR

- 776 ---- 16251
- 1483 ---- 16251

13 CFR

PROPOSED RULES:

- 107 ---- 16367

14 CFR

- 39 ---- 16251
- 71 ---- 16251
- 298 ---- 16251

15 CFR

- Ch. V ---- 16257
- 906 ---- 16257
- 907 ---- 16257
- 945 ---- 16257

22 CFR

- 7 ---- 16258
- 50 ---- 16259
- 51 ---- 16259

26 CFR

- 170 ---- 16260

29 CFR

- 1610 ---- 16261

32 CFR

- 536 ---- 16264
- 852 ---- 16264

33 CFR

- Ch. III ---- 16268

41 CFR

- 1–7 ---- 16268
- 1–16 ---- 16268
- 101–45 ---- 16270

46 CFR

- 309 ---- 16272

49 CFR

- 171–190 ---- 16277

50 CFR

- 33 (6 documents) ---- 16277, 16278

Presidential Documents

Title 3—THE PRESIDENT

Executive Order 11382

AMENDMENT OF EXECUTIVE ORDERS RELATING TO FUNCTIONS OF THE DEPARTMENT OF TRANSPORTATION

WHEREAS, the Department of Transportation Act (Public Law 89–670, 80 Stat. 931), hereinafter referred to as the Act, established the Department of Transportation in the Executive Branch to be headed by a Secretary of Transportation and to be composed of the Federal Aviation Administration, the Federal Highway Administration, the Federal Railroad Administration, the Coast Guard, the Saint Lawrence Seaway Development Corporation and the National Transportation Safety Board; and

WHEREAS, the Act vested in the Secretary of Transportation new major responsibilities in the field of transportation, including that of exercising leadership under the direction of the President in transportation matters, and also transferred to the Secretary of Transportation and to certain instrumentalities of the Department of Transportation many functions involving transportation; and

WHEREAS, the transportation functions established or transferred by the Act involve additional activities which are currently assigned by Executive orders and other Executive documents to officers and agencies from whom the related statutory functions have been transferred by the Act; and

WHEREAS, it is appropriate and desirable with the establishment of the Department of Transportation that certain authority and duties concerned with transportation be assigned to the Secretary of Transportation or to officers and agencies under his jurisdiction:

NOW, THEREFORE, by virtue of the authority vested in me by section 301 of Title 3 of the United States Code and by the laws cited as authority for the Executive orders amended below, and as President of the United States, it is ordered as follows:

SECTION 1. *Classified information.* (a) Executive Order No. 10501 of November 5, 1953, as amended, is further amended by—

(1) inserting "Department of Transportation" in the list of departments and agencies in subsection (a) of section 2 thereof after "Department of Labor" and

(2) deleting "Federal Aviation Agency" from that list.

The Department of Transportation shall be deemed to have had authority for classification of information and material from April 1, 1967.

(b) Executive Order No. 10865 of February 20, 1960, as amended, is further amended by striking out the words "Administrator of the Federal Aviation Agency", "Deputy Administrator of the Federal Aviation Agency", and "Federal Aviation Agency" and inserting in place thereof "Secretary of Transportation", "Under Secretary of Transportation", and "Department of Transportation", respectively.

SEC. 2. *Federal Airport Act.* Executive Order No. 10536 of June 9, 1954, is amended by striking out the words "Administrator of Civil Aeronautics" and inserting in place thereof the words "Secretary of Transportation".

SEC. 3. *Life saving medals.* The regulations prescribed by section 1 of Executive Order No. 10765 of April 24, 1958 (being §§ 9.1 *et seq.* of Chapter I of Title 49 of the Code of Federal Regulations) are amended by—

(1) striking out the words "Interstate Commerce Commission" and "Commission" in §§ 9.1 and 9.3 and inserting in place thereof "Department of Transportation" and "Department", respectively, and

(2) striking out all of §§ 9.4, 9.5, and 9.6 and inserting in place thereof the following:

"§ 9.4 *Review of evidence; recommendations.* Applications for medals, together with all affidavits, testimony, and other evidence received in connection therewith, and the records developed in connection with investigations initiated by the Department of Transportation, shall be referred to a committee of three Department officials designated by the Secretary of Transportation. One of such officials shall be directly concerned with railroad safety, and another with motor-carrier safety. The committee shall carefully consider each application or record, and after thoroughly weighing the evidence shall prepare an abstract or brief covering the case and forward it, together with the committee's recommendation, to the Secretary of Transportation for his consideration.

"§ 9.5 *Award of Medals.* Upon approval by the Secretary of Transportation of the committee's recommendation in any case, the Secretary shall make the award of the medal in the name and on behalf of the President.

"§ 9.6 *Adoption and revision of designs.* The Secretary of Transportation is authorized to adopt and revise the existing designs for the medal, rosette, and ribbon provided for by the Act."

SEC. 4. *Contracting authority.* Executive Order No. 10789 of November 14, 1958, as amended, is further amended by inserting the words "Department of Transportation" in the list of departments and agencies in section 21 thereof after the words "Department of Commerce" and striking out of that list the words "Federal Aviation Agency".

SEC. 5. *Assignment of claims.* (a) Executive Order No. 10840 of September 20, 1959, is amended by striking out the words "Federal Aviation Agency" in the text and heading and inserting in place thereof the words "Federal Aviation Administration".

(b) The utilization by the Federal Aviation Administration of the authority made available to it by section 5(a) of this order shall be subject to direction and control by the Secretary of Transportation.

SEC. 6. *Extra-territorial jurisdiction.* (a) Executive Order No. 10854 of November 27, 1959 (as limited by section 7 of Executive Order No. 11326 of February 13, 1967), is amended by striking out the words "Administrator of the Federal Aviation Agency" and "Administrator" and inserting in place thereof the words "Secretary of Transportation".

(b) Executive Order No. 11326 of February 13, 1967, is hereby amended by striking out the words "Administrator of the Federal Aviation Agency" and inserting in place thereof the words "Secretary of Transportation".

SEC. 7. *International aviation.* (a) The Presidential Memorandum of August 11, 1960, on the subject of Executive Order No. 10883 of the same date, is amended by—

(1) striking out the words "Administrator of the Federal Aviation Agency" and "Administrator" and inserting in place thereof the words "Secretary of Transportation" and

(2) striking out the words "Federal Aviation Agency" and inserting in place thereof the words "Department of Transportation" and

(3) striking out the second sentence of the third paragraph of the memorandum.

(b) The Presidential Letter of June 22, 1963, assigning responsibility to the Secretary of State regarding international aviation policy, is amended by—

(1) striking out the words "Federal Aviation Agency" in the second paragraph and inserting in place thereof the words "Department of Transportation" and

(2) striking out the last two sentences of the third paragraph and inserting in place thereof the following: "The other members will be the Secretary of Defense, the Secretary of Commerce, and the Secretary of Transportation, or their respective representatives, the Chairman of the Civil Aeronautics Board, and the Administrator of the Agency for International Development. The Secretary of Transportation will serve as vice chairman."

SEC. 8. *Interdepartmental Highway Safety Board.* Executive Order No. 10898 of December 2, 1960, as amended, is further amended by—

(1) striking out all of subsection (b) of section 1 thereof and inserting in place thereof the following:

"(b) The Board shall have as members the following:

(1) The Secretary of Transportation, who shall be chairman of the Board.

(2) The Secretary of Commerce.

(3) The Secretary of Defense.

(4) The Postmaster General.

(5) The Secretary of Labor.

(6) The Secretary of Health, Education, and Welfare.

(7) The Chairman of the Interstate Commerce Commission.

(8) The Administrator of General Services." and

(2) striking out the word "Three" in subsection (d) of section 1 thereof and inserting in place thereof the word "Four".

SEC. 9. *Allowances and benefits.* Executive Order No. 11137 of January 7, 1964, is amended by—

(1) striking out the words "Secretary of the Treasury" and inserting in place thereof the words "Secretary of Transportation" and

(2) striking out all of section 101 and inserting in place thereof the following:

"SECTION 101. The term 'employee', as defined in 5 U.S.C. 5921(3), is hereby further defined as including civilian employees, compensated from non-appropriated funds, of the instrumentalities of the United States under the jurisdiction of the armed forces covered by 5 U.S.C. 2105(c)." and

(3) striking out the words "Section 203 of the Overseas Differentials and Allowances Act (5 U.S.C. 3035)" in section 102 and inserting in place thereof the words "5 U.S.C. 5922(c)" and

(4) striking out the words "Section 1 of the Act of June 19, 1952, ch. 444 (5 U.S.C. 150k)" in section 201 and inserting in place thereof the words "5 U.S.C. 2105(c)" and

(5) striking out the words "Section 111(6) of the Overseas Differentials and Allowances Act (5 U.S.C. 3032(6))" in section 202(b) and inserting in place thereof the words "5 U.S.C. 5921(6)".

SEC. 10. *Supersonic Transport.* Executive Order No. 11149 of April 1, 1964, is hereby amended by striking out the words "Administrator of the Federal Aviation Agency" and inserting in place thereof the words "Secretary of Transportation".

SEC. 11. *Wartime status.* Executive Order No. 11161 of July 7, 1964, is hereby amended by—

(1) striking out the words "Administrator of the Federal Aviation Agency" the first time they appear in section 1 and the word "Administrator" in section 2 and inserting in place thereof the words "Secretary of Transportation" and

(2) striking out the words "Administrator of the Federal Aviation Agency" the other times they appear and inserting in place thereof the words "Federal Aviation Administrator" and

(3) striking out the words "Federal Aviation Agency" in the text and heading and inserting in place thereof the words "Federal Aviation Administration" and

(4) striking out the word "Secretary" in section 2 and inserting in place thereof the words "Secretary of Defense".

SEC. 12. *Alaska Development Committees.* Executive Order No. 11182 of October 2, 1964, is amended by striking out the words "Administrator of the Federal Aviation Agency" and inserting the words "Secretary of Transportation".

SEC. 13. *Coast Guard.* The Executive Orders listed below are further amended by striking out the words "Secretary of the Treasury" and inserting in place thereof the words "Secretary of Transportation":

(1) Executive Order No. 10448 of April 22, 1953, as amended
(2) Executive Order No. 10631 of August 17, 1955
(3) Executive Order No. 10977 of December 4, 1961
(4) Executive Order No. 11016 of April 25, 1962
(5) Executive Order No. 11046 of August 24, 1962
(6) Executive Order No. 11079 of January 25, 1963
(7) Executive Order No. 11157 of June 22, 1964, as amended
(8) Executive Order No. 11190 of December 29, 1964
(9) Executive Order No. 11231 of July 8, 1965
(10) Executive Order No. 11239 of July 31, 1965

SEC. 14. *Redelegation of authority.* Unless prohibited by law or otherwise specified in the applicable order, and in addition to any other applicable authority to delegate and redelegate, the Secretary of Transportation and the Federal Aviation Administrator may redelegate and authorize successive redelegations of any authority conferred in this order or the orders amended by this order.

SEC. 15. *Prior actions.* All orders, determinations, rules, regulations, permits, contracts, agreements, interpretations, rulings, directives, certificates, circulars, policies, licenses, privileges, awards, and other actions relating to any function affected by this order shall remain in effect according to their terms, except for the substitution of the appropriate official by or under the authority of this order, until modified, terminated, superseded, set aside, amended, or revoked by appropriate authority, and nothing in this order shall affect the validity or force of anything done under previous delegations or other assignments of the functions affected by this order.

SEC. 16. *Revocations.* The following are revoked:
(1) Executive Order No. 10534 of June 9, 1954
(2) Executive Order No. 10771 of June 20, 1958
(3) Executive Order No. 10858 of January 13, 1960
(4) Executive Order No. 10968 of October 10, 1961.

Lyndon B. Johnson

THE WHITE HOUSE,
November 28, 1967.

[F.R. Doc. 67-14042; Filed, Nov. 28, 1967; 11:19 a.m.]

Rules and Regulations

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER C—SPECIAL PROGRAMS

PART 778—EXPORT WHEAT MARKETING CERTIFICATE REGULATIONS

Clearance on Exportation or Shipment From the United States

Correction

In F.R. Doc. 67-12570 appearing on page 14727 in the issue of Wednesday, October 25, 1967, the following change should be made in § 778.10(b): The word "Ex-Safference" appearing in the fourth line should read "Ex-Sufferance".

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER C—EXPORT PROGRAMS

PART 1483—WHEAT AND FLOUR

Subpart—Wheat Export Program (GR-345) Terms and Conditions

Correction

In F.R. Doc. 67-12569 appearing on page 14739 in the issue of Wednesday, October 25, 1967, the following changes should be made:

1. In the ninth line of § 1483.136(c), the word "cost" should read "coast".
2. In the third line of § 1483.163(d), the reference "§ 1483.106(l)" should read "§1483.106(l)".
3. The second paragraph of § 1483.175 which is now designated as paragraph (d) should be designated as paragraph (b).

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

SUBCHAPTER C—AIRCRAFT

[Docket No. 67-CE-10-AD; Amdt. 39-816]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna Models 150G and 150H Airplanes

An airworthiness directive was adopted on November 17, 1967, and made effective immediately, as to all registered owners of Cessna Models 150G and 150H airplanes. This AD was issued because there have been instances in which the elevator control on these model airplanes has been restricted and/or jammed by contact of the aileron chain and sprocket with the forward upper edge of the glove compartment, which can result in restriction of longitudinal control. In order to prevent this condition, the directive requires removal of the glove compartment prior to further flight. The directive further requires that any modification of the glove compartment after it is removed must be approved by the agency before it is reinstalled and the aircraft returned to service.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impractical and contrary to the public interest and good cause existed for making the AD effective immediately as to the owners of Cessna Models 150G and 150H airplanes by individual air mail letters dated November 17, 1967. These conditions still exist and the AD is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD:

CESSNA. Applies to Models 150G and 150H airplanes, Serial Nos. 15064533 through 15067891.

To prevent loss of longitudinal control, unless already accomplished, prior to further flight, remove the glove compartment from the aircraft.

If after it is removed the glove compartment is modified, the modification must be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Central Region, before it is reinstalled in the aircraft and the aircraft returned to service.

This amendment becomes effective November 29, 1967, for all persons except those to whom it was made effective by air mail letter dated November 17, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Kansas City, Mo., on November 21, 1967.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 67-13968; Filed, Nov. 28, 1967; 8:46 a.m.]

SUBCHAPTER E—AIRSPACE

[Airspace Docket No. 67-SO-86]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On October 6, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 13936), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Greenville, N.C., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

Subsequent to the publication of the notice, the geographic coordinate (lat. 35°37'55" N., long. 77°23'05" W.) for Pitt-Greenville Airport was obtained from Coast and Geodetic Survey. Accordingly, action is taken herein to add the geographic coordinate to the description.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., February 1, 1968, as hereinafter set forth.

In § 71.181 (32 F.R. 2148), the following transition area is added:

GREENVILLE, N.C.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Pitt-Greenville Airport (lat. 35°37'55" N., long. 77°23'05" W.); within 2 miles each side of the 013° bearing from the Greenville NDB (lat. 35°43'23" N., long. 77°23'05" W.), extending from the 5-mile radius area to 8 miles north of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348(a))

Issued in East Point, Ga., on November 16, 1967.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 67-13942; Filed, Nov. 28, 1967; 8:47 a.m.]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-821]

PART 295—TRANSATLANTIC SUPPLEMENTAL AIR TRANSPORTATION

Because of the number of outstanding amendments to Part 295 there follows a reissuance of Part 295 incorporating all amendments thereto which were in effect on November 20, 1967.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

Sec.
295.1 Applicability.
295.2 Definitions.
295.3 Waiver.
295.4 Separability.
295.5 Records and record retention.

Subpart A—Provisions Relating to Pro Rata Charters

295.10 Applicability of subpart.

Requirements Relating to Air Carriers

Sec.
295.11 Solicitation and formation of a chartering group.
295.12 Pretrip notification.
295.13 Tariffs to be on file.
295.13a. Written contracts with charterers.
295.14 Terms of service.
295.15 Agent's commission.
295.16 Prohibition against payments or gratuities.

Requirements Relating to Travel Agents

295.30 Prohibition against double compensation.
295.31 Prohibition against payments or gratuities.
295.32 Statement of supporting information.

Requirements Relating to the Chartering Organization

295.50 Solicitation of charter participants.
295.51 Passengers on charter flights.
295.52 Participation of immediate families in charter flights.
295.53 Charter costs.
295.54 Statements of charges.
295.55 Passenger manifests.
295.56 Statement of supporting information.

Subpart B—Provisions Relating to Single Entity Charters

295.70 Applicability of subpart.
295.40 Tariffs to be on file.
295.41 Terms of service.
295.42 Commissions paid to travel agents.

Subpart C—Provisions Relating to Mixed Charters

295.50 Applicable rules.

Subpart D—Procedure for Advisory Opinion on the Eligibility of a Charterer

295.60 Advisory opinion.

Authority: The provisions of this Part 295 issued under secs. 204, 401, 72 Stat. 743, as amended; 49 U.S.C. 1324, 1371.

§ 295.1 Applicability.

This part establishes the terms, conditions, and limitations of transatlantic supplemental air transportation.

§ 295.2 Definitions.

As used in this part, unless the context otherwise requires—

(a) "Transatlantic supplemental air transportation" means charter flights in air transportation performed pursuant to a certificate of public convenience and necessity issued under section 401(d)(3) of the Act authorizing the holder to engage in supplemental air transportation of persons and their personal baggage between points within the 48 contiguous States of the United States, on the one hand, and points in Greenland, Iceland, the Azores, Europe, Africa, and Asia, as far east as (and including) India, on the other hand.

(b) "Charter flight" means air transportation performed by a direct air carrier on a time, mileage, or trip basis where (1) the entire capacity of one or more aircraft has been engaged for the movement of persons and their personal baggage—

(i) By a person for his own use (including a direct air carrier when such aircraft is engaged solely for the transportation of company personnel or commercial passenger traffic in cases of emergency);

(ii) By a representative (or representatives acting jointly) of a group for the use of such group (provided no such representative is professionally engaged in the formation of groups for the transportation or in the solicitation or sale of transportation services); or

(iii) By a tour operator as defined by Part 378 of this chapter;

or (2) one-half the capacity of an aircraft has been engaged by a person for his own use or by a representative or representatives of a group for the use of such group and the remaining half of the capacity of such aircraft has been engaged by another person for his own use or by a representative or representatives of a second group (provided no such representative is professionally engaged in the formation of groups for the transportation or in the solicitation or sale of transportation services).

With the consent of the charterer, the direct air carrier may utilize any unused space for the transportation of (1) the carrier's own personnel and property and/or (2) the directors, officers, and employees of a foreign air carrier or another air carrier traveling pursuant to a pass interchange arrangement.

(c) "Pro rata charter" means a charter the cost of which is divided among the passengers transported.

(d) "Single entity charter" means a charter the cost of which is borne by the charterer and not by individual passengers, directly or indirectly.

(e) "Mixed charter" means a charter the cost of which is borne, or pursuant to contract may be borne, partly by the charter participants and partly by the charterer.

(f) "Person" means any individual, firm, association, partnership, or corporation.

(g) "Travel agent" means any person engaged in the formation of groups for transportation or in the solicitation or sale of transportation services.

(h) "Charter group" means that body of individuals who shall actually participate in the charter flight.

(i) "Charter organization" means that organization, group or other entity from whose members (and their immediate families) a charter group is derived.

(j) "Immediate family" means only the following persons who are living in the household of a member of a charter organization, namely, the spouse, dependent children, and parents, of such member.

(k) "Bona fide members" means those members of a charter organization who have not joined the organization merely to participate in the charter as the result of solicitation directed to the general public. Presumptively, persons are not bona fide members of a charter organization unless they are members at the time the organization first gives notice to its members of firm charter plans and unless they have actually been members for a minimum period of 6 months prior to the starting flight date. This presumption will not be applicable in the case of charters composed of (1) students and educational staff of a single school, and immediate families thereof, (2) employees of a single Government agency, industrial plant, or mercantile establishment, and immediate families thereof, or (3) participants in a study group. In the case of all other charters, rebuttal to this presumption may be offered for the Board's consideration by request for waiver.

(l) "Solicitation of the general public" means:

(1) A solicitation going beyond the bona fide members of an organization (and their immediate families). This includes air transportation services offered by an air carrier under circumstances in which the services are advertised in mass media, whether or not the advertisement is addressed to members of a specific organization, and regardless of who places or pays for the advertising. Mass media shall be deemed to include radio and television, and newspapers and magazines. Advertising in such media as newsletters or periodicals of membership organizations, industrial plant newsletters, college radio stations and college newspapers shall not be considered advertising in mass media to the extent that

(i) The advertising is placed in a medium of communication circulated mainly to members of an organization that would be eligible to obtain charter service, and

(ii) The advertising states that the charter is open only to members of the organization referred to in subdivision (i) of this subparagraph, or only to members of a subgroup thereof. In this context, a subgroup shall be any group with membership drawn primarily from members of the organization referred to in subdivision (i) of this subparagraph: *Provided*, That this paragraph shall not be construed as prohibiting air carrier advertising which offers charter services to bona fide organizations, without reference to a particular organization or flight.

(2) The solicitation, without limitation, of the members of an organization so constituted as to ease of admission to membership, and nature of membership, as to be in substance more in the nature of a segment of the public than a private entity.

(m) "Study group" means a charter group comprised of bona fide participants in a formal academic study course abroad and in which (1) the charterer is an educational institution or (2) such study course is for a period of at least 4 weeks' duration at an educational institution abroad. As used in this paragraph, the term "educational institution" means a bona fide school which (1) is empowered to grant college degrees or secondary school diplomas by the government of one of the 50 States of the United States, the District of Columbia, a U.S. territory or possession or a foreign country and (ii) is operated as a school on a year-round basis. An aircraft may carry a maximum of three study groups: *Provided*, That if more than one group is carried each of the groups shall consist of 40 or more study group participants: *And provided, further*, That the entire aircraft is chartered to a single study group charterer.

§ 295.3 Waiver.

A waiver of any of the provisions of this part may be granted by the Board upon the submission by an air carrier of a written request therefor not less than 30 days prior to the flight to which it relates provided such a waiver is in the public interest and it appears to the Board that special or unusual circumstances warrant a departure from the provisions set forth herein.

§ 295.4 Separability.

If any provision of this part or the application thereof to any air transportation, person, class of person, or circumstance is held invalid, neither the remainder of the part nor the application of such provision to other air transportation, persons, classes of persons, or circumstances shall be affected thereby.

§ 295.5 Records and record retention.

(a) Prior to performing any supplemental air transportation pursuant to this part, the carrier shall execute, and require the travel agent (if any) and charterer to execute, the form "Statement of Supporting Information" attached hereto and made a part hereof: *Provided*, That this requirement shall not apply to inclusive tour charters.

(b) Each air carrier operating pursuant to this part shall comply with the applicable record-retention provisions of Part 249 of this subchapter, as amended.

Subpart A—Provisions Relating to Pro Rata Charters

§ 295.10 Applicability of this subpart.

This subpart sets forth the special rules applicable to pro rata charters.

Requirements Relating to Air Carriers

§ 295.11 Solicitation and formation of a chartering group.

(a) A carrier shall not engage, directly or indirectly, in any solicitation of individuals (through personal contact, advertising, or otherwise) as distinguished from the solicitation of an organization for a charter trip, except after a charter contract has been signed.

(b) A carrier shall not employ, directly or indirectly, any person for the purpose of organizing and assembling members of any organization, club, or other entity into a group to make the charter flight, except after a charter contract has been signed.

§ 295.12 Pretrip notification.

Upon a charter flight date being reserved by the carrier or its agent, the carrier shall provide the prospective charterer with a copy of this Part 295.[1] The charter contract shall include a provision that the charterer, and any agent thereof, shall only act with regard to the charter in a manner consistent with this part and that the charterer shall within due time submit to the carrier the information specified in § 295.35. The carrier shall also require that the charterer and any travel agent involved shall furnish it in due time for review before flight the information required in §§ 295.36 and 295.22, respectively.

§ 295.13 Tariffs to be on file.

No air carrier shall perform any supplemental air transportation unless such air carrier shall have on file with the Board a currently effective tariff showing all rates, fares, and charges for the use of the entire capacity or one-half the capacity of one or more aircraft in such supplemental air transportation and showing all rules, regulation practices and services in connection with such supplemental air transportation, including eligibility requirements for charter groups not inconsistent with those established in this part.

§ 295.13a Written contracts with charterers.

(a) Every agreement to perform a charter trip, except charters for the Department of Defense, shall be in writing and signed by an authorized representative of the supplemental air carrier and the charterer prior to operation of a charter flight: *Provided*, That where execution of a contract prior to commencement of flight is impracticable because the charter has been arranged on short notice, compliance with the provision hereof shall be effected within seven (7) days after commencement of the flight. The written agreement shall include, without limitation:

(1) Date and place of execution of the contract or agreement;

(2) Signature, printed or typed name of each signatory, and official position of each;

(3) Dates of flights and points involved;

(4) Type of aircraft and number of passenger seats available; and

(5) Rates, fares, and charges applicable to the charter trip, including the charter price, live and ferry mileage charges, and layover and other nonflight charges.

(b) No term or condition of the charter contract shall, on its face, be inconsistent with any provision of the carrier's published tariff.

§ 295.14 Terms of service.

(a) The total charter price and other terms of service rendered pursuant to this part shall conform to those set forth in the applicable tariff on file with the Board and in force at the time of the respective charter flight and the contract must be for the entire capacity or for one-half the capacity of one or more aircraft. Where a carrier's charter charge computed according to a mileage tariff includes a charge for ferry mileage, the carrier shall refund to the charterer any sum charged for ferry mileage which is not in fact flown in the performance of the charter: *Provided*, That the carrier shall not charge the charterer for ferry mileage flown in addition to that stated in the contract unless such mileage is flown for the convenience of and at the express direction of the charterer.

(b) Insurance coverage shall be maintained in compliance with the insurance requirements of Part 208 of this subchapter.

(c) The air carrier shall assume, and publish as part of the rules and regulations of its tariffs, the following obligations without prejudice, and in addition, to any other rights or remedies of passengers under applicable law:

(1) *Substitute air transportation.* (i) On all charter flights, unless the air carrier causes an aircraft to finally enplane each passenger and commence the takeoff procedures at the airport of departure before the forty-eighth hour following the time scheduled for the departure of such flight, it shall provide substitute transportation in accordance with the provisions of this subparagraph.

(ii) As soon as the air carrier discovers, or should have discovered by the exercise of reasonable prudence and forethought, that the departure of any such charter flight will be delayed more than forty-eight hours, such air carrier shall arrange for and pay the costs of substitute air transportation for the charter group on another charter flight, operated by any other air carrier or foreign air carrier.

(iii) When neither the charter transportation contracted for nor substitute transportation has been performed before the expiration of forty-eight hours following the scheduled departure time of any such charter flight, the charterer, or his duly authorized agent, may arrange for substitute air transportation of the members of the charter group, at economy or tourist class fares, on individually ticketed flights and the chartered air carrier shall pay the costs of such air transportation to the substitute air carrier or foreign air carrier.

(iv) In determining the period of time during which the departure of a charter flight has been delayed within the purview of this subparagraph, periods of delay caused by the prohibition of flights from the airport of departure because of weather or other operational conditions shall be excluded if, and while, the air carrier had an airworthy aircraft which is capable of transporting the charter group in a condition of operational readiness posted at such airport.

(v) Air carriers may subcontract the performance of transatlantic passenger charter services which they have contracted to perform, only to air carriers authorized by the Board to perform such services.

[1] Copies of this part are available by purchase from the Superintendent of Documents, Washington, D.C. 20402. Single copies will be furnished without charge on written request to the Publications Section, Civil Aeronautics Board, Washington, D.C. 20428.

(2) *Incidental expenses.*[2] (i) On all charter flights bound from a point outside the continent where the charter originated to the point where it terminates, unless the air carrier causes an aircraft to finally enplane each passenger and commence the take-off procedures at the airport of departure before the sixth hour following the time scheduled for the departure of such flight, it shall pay incidental expenses in accordance with the provisions of this subparagraph. Such payments shall be made at the airport of departure as soon as they become due to the charterer, or its duly authorized agent, for the account of each passenger, including infants and children traveling at reduced fares.

(ii) Such payments shall be made at the rate of $16.00 for each full twenty-four hour period of delay following the scheduled departure time. However, the sum of $8.00 shall be paid for each passenger delayed six hours following the scheduled departure time. Thereafter, during the succeeding 18 hours of delay, an additional sum of $8.00 shall be paid for each passenger delayed in installments of $4.00 for the first and second succeeding six-hour period of delay, or any fractional part thereof. If the delay continues beyond a period of 24 hours following the scheduled departure time, such payments shall be made in equal installments of $4.00 for each further six-hour period of delay, or any fractional part thereof: *Provided, however,* That the air carrier may, at its option, discharge this obligation by providing free meals and lodging in lieu of making such payments. The obligation of the air carrier to pay incidental expenses or provide free meals and lodging shall cease when substitute air transportation is provided in accordance with the provisions of subparagraph (1) of this paragraph.

(d) Each and every contract for a transatlantic charter to be operated hereunder shall incorporate the provisions of paragraphs (b) and (c) of this section concerning insurance, substitute transportation, and incidental expenses.

(e) The carrier shall require full payment of the total charter price or the posting of a satisfactory bond for full payment prior to the commencement of the air transportation.

(f) In the case of a round-trip charter, one-way passengers shall not be carried except that up to five percent of the charter group may be transported one way in each direction. This provision shall not be construed as permitting knowing participation in any plan whereby each leg of a round trip is chartered separately in order to avoid the five percent limitation aforesaid. In the case of a charter contract calling for two or more round trips, there shall be no intermingling of passengers and each plane-load or one-half plane-load group shall move as a unit in both directions.

[2] Although the requirements with respect to providing incidental expenses are made expressly applicable only to the return leg of a charter flight, the air carriers are expected, in the case of delay in departure of the originating leg of a flight, to furnish such incidental expenses to charter passengers whose homes are not located within a reasonable distance from the point of origination of the charter.

§ 295.15 Agent's commission.

The carrier shall not pay its agent a commission or any other benefits, directly or indirectly, in excess of five percent of the total charter price as set forth in the carrier's charter tariff on file with the Board, or more than the commission related to charter flights paid to an agent by a carrier certificated to render regular service on the same route, whichever is greater. The carrier shall not pay any commission whatsoever to an agent if the agent receives a commission from the charterer for the same service.

§ 295.16 Prohibition against payments or gratuities.

A carrier shall make no payments nor extend gratuities of any kind, directly or indirectly, to any member of a chartering organization in relation either to air transportation or land tours or otherwise. Nothing in this section shall preclude a carrier from paying a commission (within the limits of § 295.15) to a member of a chartering organization if such member is its agent, or restrict a carrier from offering to each member of the charter group such advertising and good will items as are customarily extended to individually ticketed passengers (e.g., canvas traveling bag or a money exchange computer).

REQUIREMENTS RELATING TO TRAVEL AGENTS

§ 295.20 Prohibition against double compensation.

A travel agent may not receive a commission from both the direct air carrier and the charterer for the same service.

§ 295.21 Prohibition against payments or gratuities.

A travel agent shall make no payments nor extend gratuities of any kind, directly or indirectly, to any member of a chartering organization whether in relation to air transportation or otherwise. Nothing in this section shall restrict a travel agent from offering to each member of the charter group such advertising and good will items as are customarily extended to individually ticketed passengers (e.g., a canvas traveling bag or a money exchange computer).

§ 295.22 Statement of supporting information.

Travel agents shall execute, and furnish to air carriers, Section A of Part II of the Statement of Supporting Information attached hereto and made a part hereof, at such time prior to flight as required by the carrier to afford it due time for review thereof.

REQUIREMENTS RELATING TO THE CHARTERING ORGANIZATION

§ 295.30 Solicitation of charter participants.

As the following terms are defined in § 295.2, members of the charter group may be solicited only from among the bona fide members of an organization, club or other entity, and their immediate families, and may not be brought together by means of a solicitation of the general public.

§ 295.31 Passengers on charter flights.

Only bona fide members of the charterer, and their immediate families (except as provided in § 295.32), may participate as passengers on a charter flight. The charterer must maintain a central membership list, available for inspection by the carrier or Board representative, which shows the date each person became a member.[3] Where the charterer is engaging round-trip transportation, one-way passengers shall not participate in the charter flight except as provided in § 295.14(f). When more than one round trip is contracted for, intermingling between flights or reforming of planeload or one-half planeload groups shall not be permitted and each such group must move as a unit in both directions.

§ 295.32 Participation of immediate families in charter flights.

The immediate family of any bona fide member of a charter organization may participate in a charter flight: *Provided, however,* That this section shall not apply to study group charters as defined herein (§ 295.2(m)).

§ 295.33 Charter costs.

(a) The costs of charter flights shall be prorated equally among all charter passengers and no charter passenger shall be allowed free transportation; except that (1) children under twelve years of age may be transported at a charge less than the equally prorated charge; (2) children under two years of age may be transported free of charge.

(b) The charterer shall not make charges to the charter participants which exceed the actual costs incurred in consummating the charter arrangements, nor include as a part of the assessment for the charter flight any charge for purposes of charitable donations. All charges related to the charter flight arrangements collected from the charter participants which exceed the actual costs thereof shall be refunded to the participants in the same ratio as the charges were collected.

(c) Reasonable administrative costs of organizing the charter may be divided among the charter participants. Such costs may include a reasonable charge for compensation to members of the charter organization for actual labor and personal expenses incurred by them. Such charge shall not exceed $300 (or $500 where the charter participants number more than 80) per round-trip flight. Neither the organizers of the charter, nor any member of the chartering organization, may receive any gratuities or compensation, direct or indirect, from the carrier, the travel agent, or any organization which provides any service to the chartering organization whether of an air transportation nature or otherwise. Nothing in this section shall preclude a member of a chartering organization who is the carrier's agent from receiving a commission from the carrier (within the limits of § 295.15), or prevent any member of the charter group from accepting such advertising and good will items as are customarily extended to individually ticketed passengers (e.g., a canvas traveling bag or a money exchange computer).

[3] Where the charter is based on employment in one entity or student status at a college, records of the corporation, agency, or college will suffice to meet the requirement.

(d) If the total expenditures, including among other items compensation to members of the chartering organization, referred to in paragraph (c) of this section, but exclusive of expenses for air transportation or land tours, exceed $750 per round-trip flight, such expenditures shall be supported by properly authenticated vouchers.

§ 295.34 Statements of charges.

Any announcements or statements by the charterer to prospective charter participants of the anticipated individual charge for the charter shall clearly identify the portion of the charges to be separately paid for the air transportation, for the land tour, and for the administrative expenses of the charterer.

§ 295.35 Passenger manifests.

(a) Prior to each one-way or round-trip flight a manifest shall be filed by the charterer with the air carrier showing the names and addresses of the persons to be transported and specifying the relationship of each such person to the charterer (by designating opposite his name one of the three relationship categories hereinafter described). The manifest may include "stand-by" participants (by name, address and relationship to charterer).

(b) The relationship of a prospective passenger shall be classified under one of the following categories and specified on the passenger manifest as follows:

(1) A bona fide member of the chartering organization at the time the organization first gave notice to its members of firm charter plans and will have been a bona fide member of the chartering organization for at least six months prior to the starting flight date. Specify on the passenger manifest as "(1) member."

(2) The spouse, dependent child or parent of a bona fide member who lives in such member's household. Specify on the passenger manifest as "(2) spouse" or "(2) dependent child" or "(2) parent." Also give name and address of member relative where such member is not a prospective passenger.

(3) Bona fide members of entities consisting only of persons from a study group, or a college campus, or employed by a single Government agency, industrial plant, or mercantile company, or persons whose proposed participation in the charter flight was permitted by the Board pursuant to request for waiver. Specify on the passenger manifest as "(3) special" or "(3) member" (where participants are from a study or campus group or from a Government agency, industrial plant or mercantile company).

(c) In the case of a round-trip flight, the above information must be shown for each leg of the flight and any variations between the eastbound and westbound trips must be explained on the manifest.

(d) Attached to such manifest must be a certification, signed by a duly authorized representative of the charterer, reading:

> The attached list of persons includes every individual who may participate in the charter flight. Every person so identified on the attached list (1) was a bona fide member of the chartering organization at the time the chartering organization first gave notice to its members of firm charter plans, and will have been a member for at least 6 months prior to the starting flight date, or (2) is a bona fide member of an entity consisting of (a) students and educational staff of a single school, or (b) employees of a single Government agency, industrial plant, or mercantile establishment, or (3) is a person whose participation has been specifically permitted by the Civil Aeronautics Board, or (4) is the spouse, dependent child, or parent of a person described hereinbefore and lives in such person's household, or (5) is a bona fide participant in a study group charter.
>
> _____
> (Signature)

§ 295.36 Statement of supporting information.

Charterers shall execute and furnish to air carriers Section B of Part II of the Statement of Supporting Information attached hereto and made a part hereof at such time prior to flight as required by the carrier to afford it due time for review thereof.

Subpart B—Provisions Relating to Single Entity Charters

§ 295.39 Applicability of subpart.

This subpart sets forth the special rules applicable to single entity charters.

§ 295.40 Tariffs to be on file.

The provisions of § 295.13 shall apply to charters under this subpart.

§ 295.41 Terms of service.

(a) The total charter price and other terms of service shall conform to those set forth in the applicable tariff filed in accordance herewith and the contract shall be for the entire capacity or one-half the capacity of one or more aircraft.

(b) The terms of service prescribed in § 295.14 (b), (c), and (d) shall be applicable in the case of single entity charters.

§ 295.42 Commissions paid to travel agents.

No direct air carrier shall pay a travel agent any commission in excess of five percent of the total charter price or more than the commission related to charter flights paid to an agent by a carrier certificated to fly the same route, whichever is greater.

Subpart C—Provisions Relating to Mixed Charters

§ 295.50 Applicable rules.

The rules set forth in Subpart A of this part shall apply in the case of mixed charters.

Subpart D—Procedure for Advisory Opinion on the Eligibility of a Charterer

§ 295.60 Advisory opinion.

An air carrier or prospective charterer may request an advisory opinion from the Bureau of Economic Regulation, Civil Aeronautics Board, Washington, D.C., 20428, regarding the eligibility of the prospective charterer to obtain charter service in accordance with this part. The Bureau's opinion will be based on the representations submitted and shall not be binding upon the Board in any proceeding in which the lawfulness of the respective charter may be in issue. Such representations should include as much of the information specified by section B, Part II, of the Statement of Supporting Information as is available to the person requesting the advisory opinion.

NOTE: The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

STATEMENT OF SUPPORTING INFORMATION[4]

Members Gurney and Gilliland dissented.

Part I—To be completed by air carrier for each single entity, mixed, or pro rata charter. (Where more than one round-trip flight is to be performed under the charter contract, clearly indicate applicability of answers.)

1. Name of transporting carrier: _____
2. Commencement date(s) of proposed flight(s):
   (a) Going _____
   (b) Returning _____
3. Points to be included in proposed flight(s):
   (a) From _____ to _____
   (b) Returning from _____ to _____
   (c) Other stops required by charterer: _____
   (d) Technical stops required by carrier: _____
   (e) Planned routing: _____
4. (a) Type of aircraft to be used: _____
   (b) Seating capacity: _____
   (c) Number of persons to be transported: _____
5. (a) Total charter price: _____
   (b) Does the charter price conform to tariff on file with the Board? _____
   (c) If pro rata or mixed charter, explain construction of charter price in relation to tariff on file with the Board. (In case of mileage tariff, show mileage for each segment involved and indicate whether segment is live or ferry.) _____
6. (a) Has the carrier paid, or does it contemplate the payment of any commissions, direct or indirect, in connection with the proposed flight? Yes☐ No☐
   (b) If "yes," give names and addresses of such recipients and indicate the amount paid or payable to each recipient. If any commission to a travel agent exceeds 5 percent of the total charter price, attach a statement justifying the higher amount under this regulation. _____
7. (a) Will the carrier or any affiliate provide any services or perform any functions in _____

[4] This must be retained by the air carrier for two years pursuant to the requirements of Part 249, but open to Board inspection, and to be filed with the Board on demand.

addition to the actual air transportation? Yes☐ No☐

(b) If "yes," describe services or functions: _____

_____

_____

3. Name and address of charterer: _____

_____

9. If charter is single entity, indicate purpose of flight: _____

_____

10. On what date was the charter contract executed? _____

11. If the charter is pro rata, has a copy of Part 295 of the Civil Aeronautics Board's Economic Regulations been mailed to or delivered to the prospective charterer? Yes☐ No☐

Part II—To be completed for pro rata or mixed charters only.

Section A—To be supplied by travel agent, or, where none, by the air carrier or an affiliate under its control where either of the latter performs or provides any travel agency function or service (excluding air transportation sales but including land tour arrangements).

1. What specific services have been or will be provided by agent to charterer on a group basis? _____

_____

_____

2. What specific services have been or will be provided by agent to individual participants in the proposed charter? _____

_____

_____

3. Has the agent or, to his knowledge, have any of his principals, officers, directors, associates or employees compensated any member of the chartering organization in relation either to the proposed charter flight or any land tour? Yes☐ No☐

4. Does the agent have any financial interest in any organization rendering services to the chartering organization? Yes☐ No☐ If answer is "yes," explain:

_____

_____

WARRANTY [1]

I, _____, represent and warrant that
(Name)

I have acted with regard to this charter operation (except to the extent fully and specifically explained in Part II, Section A) and will act with regard to such operation in a manner consistent with Part 295 of the Board's Economic Regulations.

_____
(Signature and address of travel agent or, if none, of authorized official of air carrier where such carrier or an affiliate under its control performs any travel agency function or service (excluding air transportation sales but including land tour arrangements).)

[1] Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than 5 years, or both. Title 18, U.S.C., § 1001.

Section B—To be supplied by charterer:

1. Description of chartering organization, including its objectives and purposes: _____

_____

2. What activities are sponsored by the chartering organization?

_____

3. When was the organization founded?

_____

4. Qualification or requirements for membership in organization and membership fee, if any: _____

_____

5. Has there been any reference to prospective charter flights in soliciting new members for the chartering organization? Yes☐ No☐

6. If total membership in the chartering organization is less than 1,000, submit list showing names and addresses of members in good standing.[1] If total membership in the chartering organization is 1,000 or more, state where a list of members is available for inspection.

_____

7. Attach list of prospective passengers, showing for each: Name, address, and whether a member of chartering organization or relationship to a member of chartering group. (Memo: This is a list of prospective passengers and does not necessarily have to represent the passengers actually carried.)

8. Purpose of trip: _____

9. What are requirements for participation in charter? _____

10. How were prospective participants for charter solicited (attach any solicitation material)? _____

11. Will there be any participants in the charter flight other than (1) members of the chartering organization or (2) spouse, dependent children, and parents of a member of the chartering group residing in the same household with the member? Yes☐ No☐

12. Will there be any members of the chartering organization participating in the charter who will have been members of the organization for a period of less than six months prior to flight date?[1] Yes☐ No☐ If answer is "yes," give names of participants who will not have been members for six months and justify (see § 295.2(k)):

_____

_____

_____

13. If there is any intermediary involved in the charter, other than the travel agent whose participation is described in Part II, Section A, submit name, address, remuneration and scope of activity:

_____

_____

_____

14. Estimated receipts: _____ $_____
(Pro rata charge)

× _____
(No. of passengers)

= $_____
(Estimated receipts from charter)

Estimated receipts from other sources, if any: _____

Explain: _____

_____

(a) Total receipts: $_____

Estimated expenditures, including aircraft charter (separately itemize air transportation, land tour, and administrative expenses):

Item	Amount	Payable to

(b) Total expenditures: $_____

Explain any difference between (b) and (a): _____

_____

15. Are any of the expenses included in Item 14, above, to be paid to any members of the chartering organization? Yes [ ] No [ ] If "yes," state how much, to whom and for what services:

_____

_____

16. Is any member of the chartering organization to receive any compensation or benefit directly or indirectly from the air carrier, the travel agent, or any organization providing services in relation to the air or land portion of the trip? Yes [ ] No [ ] If "yes," explain fully:

_____

_____

17. Will any person in the group (except children under two years) be transported without charge? Yes [ ] No [ ]

18. Will charter costs be divided equally among charter participants, except to the extent that a lesser charge is made for children under twelve years old? Yes [ ] No [ ]

19. Separately state for the outbound and inbound flights the number of one-way passengers anticipated to be transported in each direction:

_____

_____

20. If more than one round trip is contracted for, will each group move as a unit in both directions? Yes [ ] No [ ]

21. If transatlantic charters have been performed for organization during past 5 years, give dates and name of carrier performing charters:

_____

_____

22. Has a copy of Part 295, "Transatlantic Supplemental Air Transportation," of the Economic Regulations of the Civil Aeronautics Board been received by the charterer? Yes [ ] No [ ]

WARRANTY OF CHARTERER [1]

I, _____ and _____
(Name) (Name)

represent and warrant that the charterer has acted with regard to this charter operation (except to the extent fully and specifically explained in Part II, Section B), and will act with regard to such operation, in a manner consistent with Part 295 of the Board's Economic Regulations.

_____
(Signature of person within organization in charge of charter arrangements.)

_____
(Signature and title of officer. This should be the chief officer of the chartering organization except in the case of a school charter, in which case the warranty must be by a school official not directly involved in charter.)

WARRANTY OF AIR CARRIER [1]

To the best of my knowledge and belief all the information presented in this statement, including but not limited to, those parts warranted by the charterer and the travel agent, is true and correct. I represent and warrant that the carrier has acted with regard to this charter operation (except to the extent fully and specifically explained in this statement or any attachment thereto) and will act with regard to such operation in a manner consistent with Part 295 of the Board's Economic Regulations.

_____
(Signature and title of authorized official of air carrier.)

[1] Not applicable to college-campus or study-group charters, nor to charters limited to employees of a single Government agency, industrial plant or mercantile company.

[P.R. Doc. 67-13960; Filed, Nov. 28, 1967; 8:49 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter V—Weather Bureau, Environmental Science Services Administration, Department of Commerce

TRANSFER OF REGULATIONS

CROSS REFERENCE: For a document consolidating and restating the matter now published in Chapter V of Title 15, and Chapter III of Title 33, see F.R. Doc. 67-13906, Chapter IX of this title, *infra*.

Chapter IX—Environmental Science Services Administration, Department of Commerce

TRANSFER OF REGULATIONS

The material that follows in Parts 906, 907, and 945 consolidates and restates in Chapter IX, Title 15, Code of Federal Regulations, matter now published in Chapter V, Title 15, and Chapter III, Title 33, Code of Federal Regulations. Chapter IX, Title 15, Code of Federal Regulations was assigned to the Environmental Science Services Administration, which was established July 13, 1965, pursuant to Reorganization Plan No. 2 of 1965, and which embraces the Weather Bureau and the Coast and Geodetic Survey. Section 906.1 of Part 906 cancels Part 502, Chapter V, Title 15, and Part 301, Chapter III, Title 33, Code of Federal Regulations. Part 907 cancels Part 503, Chapter V, Title 15, and Part 303, Chapter III, Title 33, Code of Federal Regulations. Part 945 restates without significant change information formerly appearing in and thereby canceling Part 501, Chapter V, Title 15, Code of Federal Regulations. Parts 906, 907, and 945 are added to Chapter IX, to read as set forth below:

SUBCHAPTER A—GENERAL REGULATIONS

PART 906—INTERNATIONAL AFFAIRS

Sec.
906.1 International training.
906.2 Foreign visitors.

AUTHORITY: The provisions of this Part 906 issued under sec. 3, 26 Stat. 653, secs. 4-6, 61 Stat. 782, R.S. 4685; 15 U.S.C. 313, 22 U.S.C. 501, 33 U.S.C. 883d-883f, 886.

§ 906.1 International training.

(a) ESSA provides training in its disciplines for representatives from various developing countries throughout the world. Those trained consist of the recipients of fellowships awarded by the United Nations and its Specialized Agencies; and the recipients of training awards from the Agency for International Development (AID), the Military Assistance Program (MAP), and under bilateral agreements arranged by the Department of State in cooperation with the participating foreign governments.

(b) Requests are received from the sponsors to provide training in the scientific and technical functions of ESSA, through individual training and/or through enrollment in recurring group courses. In individual or group training, the study program or course description is forwarded to the sponsor with the estimate cost or tuition fee and the amount of funds required for travel within the United States. Upon approval of the training program and the cost estimate, the sponsor informs the recipient of his acceptance and the date to begin training.

(c) Further information concerning eligibility of foreign nationals for training, course availability, course content, trainee qualifications, costs, funding, and other related information is available from the Director, International Affairs (IA), Environmental Science Services Administration, Rockville, Md. 20852.

§ 906.2 Foreign visitors.

(a) ESSA has been designated sponsor of an Exchange-Visitor Program in accordance with the administrative regulations issued under the Mutual Educational and Cultural Exchange Act of 1961. The program is identified as Exchange-Visitor Program No. G-V-228, and has an official description as follows: "A program to provide training and research opportunities at the Administration's facilities in various parts of the United States, for qualified foreign specialists, as a measure to increase international rapport among those interested in the development of the environmental sciences, and to promote the general interests of international exchange."

(b) In addition to the Exchange-Visitor Program described in paragraph (a) of this section, ESSA also accepts other visitors from various countries having a mutual interest with the United States in the environmental sciences. The duration of these visits extends from 1 to 10 days. Programs are arranged in accordance with the specific interests of the visitors and may include orientation, review, and consultation on: Organizational structure; operating methods; equipment and instrumentation; scientific and technical procedures; research; or exchange of ideas.

(c) Further information concerning international visits is available from the Director, International Affairs (IA), Environmental Science Services Administration, Rockville, Md. 20852.

PART 907—ENVIRONMENTAL INFORMATION

§ 907.1 Environmental information.

(a) ESSA gathers, processes, and issues information on weather conditions, river water height, coastal tides and currents, movement of ocean currents, structure and shape of ocean basins, seismic activity, the precise size and shape of the earth, and conditions of the upper atmosphere and space. It issues warnings against hurricanes, tornadoes, floods, and seismic sea-waves to areas in danger.

(b) ESSA information falls into three broad categories, namely:

(1) Current information and warnings on the dynamic or continually changing aspects of the environment, such as the weather and other geophysical phenomena.

(2) Longer term information, such as navigation charts, compilations or summaries of historical environmental data, and earth and ocean surveys and measurements.

(3) Scientific and technical research publications dealing with the earth sciences.

(c) ESSA information is available in many forms and from many sources throughout ESSA.

(1) Current information is disseminated in the form of forecasts, advisories, and warnings, directly by the local offices of ESSA, of which there are approximately 350, or through relaying intermediaries, such as radio and TV stations and telephone recorders. The address of local ESSA offices can be obtained by consulting local phone directories, generally under the heading of Commerce Department—Environmental Science Services Administration. The prime medium for disseminating weather information for the United States is the Daily Weather Map, which is available on a subscription basis. There is also published a Weekly Weather and Crop Bulletin, which narrates on a weekly basis the weather conditions and crop progress during the reporting period, generally on a State-by-State basis. Both the Daily Weather Map and the Weekly Weather and Crop Bulletin may be ordered from the Superintendent of Documents, Washington, D.C. 20402.

(2) Longer term information is available in various forms, such as charts, maps, books, and pamphlets, tabulations, individual data sheets, reproductions of original graphic recordings, and aerial photographs. These are available at varying prices, from various offices within ESSA. Also navigation charts may be purchased from contract sales agents, generally airport and marine operators. Catalogs or price lists of items in this category are available on request. Navigation chart catalogs are available from the Chief, Distribution Division (C44), ESSA, Rockville, Md. 20852. Price lists of climatological data, geophysical data, and geodetic data are available from the Director, Office of Data Information (D4), ESSA, Silver Spring, Md. 20910.

Requests or inquiries concerning other information in the longer term category, but excluding scientific and technical research publications, may be sent to the Chief, Administrative Controls Branch (AD14), ESSA, Rockville, Md. 20852, for referral to the responsible office.

(2) Scientific and technical research publications are disseminated in the form of printed journals, monographs, reports, and other paperbound publications. These range over the broad spectrum of the physical environment. Details concerning publications available and the prices may be obtained from the Chief, Scientific Information and Documentation Division (AD7), ESSA, Rockville, Md. 20852. Many of ESSA's scientific and technical research publications are sold by the Clearinghouse for Federal Scientific and Technical Information, Springfield, Va. 22151, and by the Superintendent of Documents, Washington, D.C. 20402. Additional details concerning ESSA's scientific and technical publications are given in Appendix B of the U.S. Government Organization Manual, published annually.

(Reorganization Plan No. 2 of 1965, 5 U.S.C. App. 1332-15 note)

SUBCHAPTER C—GENERAL REGULATIONS OF THE WEATHER BUREAU

PART 945—RULES FOR GUIDANCE OF THE PUBLIC

Sec.

945.1 Connections to weather communications systems.
945.2 Time of release of weather information affecting crops.
945.3 False weather reports.
945.4 Certified data for use in court.
945.5 Appearance in court of weather bureau employees.
945.6 Agreements for radio and television weather broadcasts.

AUTHORITY: The provisions of this Part 945 issued under sec. 3, 30 Stat. 958; 15 U.S.C. 313.

§ 945.1 Connections to weather communications systems.

The Weather Bureau uses a number of federally operated weather communications systems in support of its internal operations. Connections to these circuits, for receiving purposes only, are permitted to be made by qualified organizations or individuals. Application to connect to these circuits should be made to the Director, ESSA Weather Bureau, Silver Spring, Md. 20910.

§ 945.2 Time of release of weather information affecting crops.

(a) Bulletins or radio broadcasts giving agricultural weather information are released at 10 a.m. each workday during the growing season in the affected areas.

(b) Weekly Weather and Crop Bulletins containing a synopsis of weather conditions and their effect on crops and farming operations (which show snow and ice conditions during the season) are released simultaneously at Washington, D.C., and approximately 40 field stations at 12 noon e.s.t., on Tuesday, or on Wednesday if Monday or Tuesday is a holiday.

(c) Because of the influence that might be exerted upon the market value of the products of the soil by the information contained in the weather and crop bulletins, the law provides a fine of $10,000 or imprisonment of 10 years, or both, for any responsible Government official who willfully imparts any information of speculative value contained in the bulletins before the times of release to the public (18 U.S.C. 1902).

§ 945.3 False weather reports.

Whoever knowingly issues or publishes any counterfeit forecast or warning of weather conditions falsely representing such forecast or warning to have been issued or published by the Weather Bureau, * * * shall be fined not more than $500, or imprisoned not more than 90 days, or both (18 U.S.C. 2074).

§ 945.4 Certified data for use in court.

(a) 28 U.S.C. 1733 provides that authenticated copies of any books, records, papers, or other documents in any of the executive departments shall be admitted in evidence in courts of law equally with the originals thereof.

(b) All field stations and the Washington office are prepared to furnish applicants with duly certified copies of original or published weather records that are necessary for legal purposes, upon payment of appropriate fees to recover the reproduction, certification, and other related costs.

§ 945.5 Appearance in court of weather bureau employees.

In all cases of private litigation where it is required that an employee produce records or testify, it is necessary that he be duly subpoenaed to appear in court as an official of the Bureau. As the Federal Government will be deprived of his services while so testifying, the employee will collect the authorized witness fees and allowances for expenses of travel and subsistence, all of which he is required to account for to the Bureau. Arrangements should be made with the court to set a time for the appearance of an employee that will not interfere with important duties that would result in injury to interests of the community by delay in issuing important weather forecasts and danger warnings (15 Comp. Gen. 196).

§ 945.6 Agreements for radio and television weather broadcasts.

(a) Radio stations often desire to make special arrangements for the broadcast of daily weather forecasts, special warnings, and other weather information under commercial sponsorship. In such cases the Weather Bureau obtains an agreement setting forth conditions under which the broadcasts are to be made. This agreement specifies the regular time schedules of the broadcast; that the information be given exactly as issued by the Bureau; that while it is permissible to announce immediately before and at the conclusion of the weather broadcast that it is furnished by the courtesy of a sponsor, care must be exercised to avoid the implication that the forecasts are made or paid for by the advertiser; and that there shall be nothing in the announcement associated with weather broadcasts to indicate that the Weather Bureau or the Government endorses the sponsor or the product advertised.

(b) An agreement is also required between the Weather Bureau and any radio or television station that wishes to install equipment or make other arrangements for direct broadcasts from a Weather Bureau office.

(c) No charge is made to the radio or television stations or the sponsor for weather information intended for public distribution. However, if there are communication tolls or leased wire charges in connection with the delivery of such information to the radio or television stations, such charges are borne by the radio or television stations or the sponsor.

WILBUR A. BAUM,
Deputy Administrator, ESSA.

NOVEMBER 17, 1967.

[F.R. Doc. 67-13066; Filed, Nov. 28, 1967; 8:45 a.m.]

Title 22—FOREIGN RELATIONS

Chapter I—Department of State

SUBCHAPTER A—GENERAL

[Dept. Reg. 108.573]

PART 7—BOARD OF APPELLATE REVIEW

Part 7 is added to Title 22 of the Code of Federal Regulations to read as set forth below:

Sec.

7.1 Establishment of Board of Appellate Review; purpose.
7.2 Board membership.
7.3 Jurisdiction.

AUTHORITY: The provisions of this Part 7 issued under 63 Stat. 111, as amended; 22 U.S.C. 2658.

§ 7.1 Establishment of Board of Appellate Review; purpose.

There is hereby established the Board of Appellate Review in the Office of the Deputy Under Secretary for Administration for the purpose of promoting centralization of administrative appeal procedures required by law and regulation or otherwise as provided by the Department.

§ 7.2 Board membership.

The Board shall consist of regular members who shall serve on a full-time basis, one of whom shall be designated the head thereof, and such ad hoc members as may be designated from time to time by the Deputy Under Secretary for Administration. Nothing in this section shall prohibit the designation of ad hoc members from among persons not employed by the Department or its Foreign Service.

§ 7.3 Jurisdiction.

The jurisdiction of the Board shall include appeals from decisions in the following cases:

(a) *Nationality cases.* The Board shall consider and determine appeals under § 50.60 of this Title 22. The Board may adopt and make public rules of procedure approved by the Secretary (Part 50, Subpart D of this Title 22).

(b) *Passport cases.* (1) The Board shall consider and determine appeals under § 51.90 of this Title 22. The Board may adopt and make public rules of procedure approved by the Secretary (Part 51, Subpart F of this Title 22).

(2) The Board shall have responsibility for providing a regular or ad hoc member to act in the capacity of hearing officer under § 51.83 of this Title 22.

(c) *Contract cases.* The Board may, as directed by the Deputy Under Secretary for Administration, consider and determine appeals of contractors or grantees from final decisions of contracting officers arising under contracts or grants of the Department of State. This subpart shall not apply to contract appellate functions otherwise provided for in Department of State Procurement Regulations, Part 6-60 of Title 41 CFR.

(d) *Personnel cases.* (1) The Board shall have responsibility for providing a regular or ad hoc member to act in the capacity of hearing officer under section 1844.2, Volume 3, Foreign Affairs Manual (3 FAM 1844.2) in cases involving appeals from adverse decisions provided for in 3 FAM 1840.

(2) The Board shall make available, upon request of the Board of the Foreign Service under 3 FAM 844.2, regular and ad hoc members of the Board for designation as panel members for the purpose of taking testimony and making findings in cases involving the separation for cause of a Foreign Service officer or employee.

Effective date. The effective date of this regulation shall be July 28, 1967, except that for purposes of § 7.3 herein this regulation shall be effective upon publication in the FEDERAL REGISTER.

Dated: November 14, 1967.

For the Secretary of State.

IDAR RIMBERLAND,
Deputy Under Secretary for Administration.

[F.R. Doc. 67-12961; Filed, Nov. 28, 1967; 8:49 a.m.]

SUBCHAPTER T—NATIONALITY AND PASSPORTS

[Dept. Reg. 108.574]

PART 50—NATIONALITY PROCEDURES

PART 51—PASSPORTS

Miscellaneous Amendments

Parts 50 and 51 of Title 22 of the Code of Federal Regulations are hereby amended as set forth below. The purpose of these amendments is to transfer to the Board of Appellate Review, Part 7 of this Title 22, the functions of the Board of Review on Loss of Nationality and the Board of Passport Appeals which are hereby abolished except as provided below in paragraph III.

I. Part 50 is amended as follows:

1. The heading of Subpart D—Board of Review on Loss of Nationality is changed to read: "Subpart D—Procedures for Review of Loss of Nationality".

2. Section 50.60 is amended by changing "Board of Review on Loss of Nationality" to read "Board of Appellate Review". As amended, § 50.60 reads as follows:

§ 50.60 Appeal by nationality claimant.

A person who contends that the Department's administrative holding of loss of nationality or expatriation in his case is contrary to law or fact shall be entitled, upon written request made within a reasonable time after receipt of notice of such holding, to appeal to the Board of Appellate Review.

3. Section 50.61 is revised to read:

§ 50.61 Composition of the Board of Appellate Review in Nationality Cases.

The Board of Appellate Review (Part 7 of this Title 22) when considering an appeal under § 50.60 shall consist of two Regular Members and one ad hoc member. The ad hoc member shall be selected from a panel of five officers of the Department designated by the Deputy Under Secretary for Administration. Such officers shall be attorneys.

4. Section 50.62 is amended by changing "the Secretary" to "the Deputy Under Secretary of State for Administration". As amended, § 50.62 reads as follows:

§ 50.62 Chairman.

One of the members of the Board shall be designated by the Deputy Under Secretary of State for Administration as Chairman. The Chairman or his designee shall preside at all hearings of the Board and shall be empowered in all respects to regulate the conduct of the hearing and to pass on all issues relating thereto. The Chairman or his designee shall be empowered to administer oaths and affirmations.

(Sec. 4, 63 Stat. 111 as amended, secs. 104, 306, 66 Stat. 174, 238; 8 U.S.C. 1151c, 8 U.S.C. 1104, 1503)

II. Part 51 is amended as follows:

1. Section 51.84 is amended by changing "Board of Passport Appeals" to "Board of Appellate Review". As amended, § 51.84 reads as follows:

§ 51.84 Appearance at hearing.

The person adversely affected may appear at the hearing in person or by his attorney who must possess the qualifications prescribed for practice before the Board of Appellate Review.

2. Section 51.89 is amended by changing "Board of Passport Appeals" to "Board of Appellate Review". As amended, § 51.89 reads as follows:

§ 51.89 Decision of Administrator of the Bureau of Security and Consular Affairs.

The person adversely affected shall be promptly notified in writing of the decision of the Administrator of the Bureau of Security and Consular Affairs and, if the decision is adverse to him, the notification shall state the reasons for the decision and inform him of his right to appeal to the Board of Appellate Review under § 51.90.

3. Section 51.90 is amended by changing "Board of Passport Appeals" to "Board of Appellate Review". As amended, § 51.90 reads as follows:

§ 51.90 Time limit on appeal to Board of Appellate Review.

A person who has been subject of an adverse decision under § 51.89 shall be entitled, upon request made within 20 days after the receipt of notice of such decision, to appeal the decision to the Board of Appellate Review. If no appeal is made within 20 days, the decision will be considered final and not subject to further administrative review.

4. Section 51.91 is revised to read:

§ 51.91 Composition of the Board of Appellate Review in Passport Cases.

The Board of Appellate Review (Part 7 of this Title 22) when considering an appeal under § 51.90 shall consist of one Regular Member and two ad hoc members. The two ad hoc members shall be selected from a panel of five officers of the Department designated by the Deputy Under Secretary of State for Administration. Such officers shall be attorneys.

5. Section 51.92 is amended by changing "the Secretary" to "the Deputy Under Secretary of State for Administration". As amended, § 51.92 reads as follows:

§ 51.92 Chairman.

One of the members of the Board shall be designated by the Deputy Under Secretary of State for Administration as Chairman. The Chairman shall ensure that there is a quorum, including himself or his designee, to hear an appeal. The Chairman or his designee shall preside at all hearings of the Board and shall be empowered in all respects to regulate the conduct of the hearing and to pass on all issues relating thereto. The Chairman or his designee shall be empowered to administer oaths and affirmations.

§ 51.93 [Deleted]

6. Section 51.93 is deleted.

7. Section 51.94 is revised to read:

§ 51.94 Functions of the Board.

The Board shall act on all appeals under § 51.90 and shall take any action necessary and proper to the disposition of the cases appealed to it. The Board may adopt and make public rules of procedure approved by the Secretary.

8. Section 51.101 is amended by deleting "the Legal Assistant to the Board,". As amended, § 51.101 reads as follows:

§ 51.101 Privacy of hearing.

Unless otherwise requested by the person adversely affected, the hearing shall be private. There shall be present at the hearing only the appellant, his counsel, the members of the Board, official stenographers, Departmental employees directly concerned with the presentation of the case, and the witnesses. Witnesses shall be present at the hearing only while actually giving testimony or when otherwise directed by the Board.

(Sec. 1, 44 Stat. 887, sec. 4, 62 Stat. III, as amended; 22 U.S.C. 211a, 5 U.S.C. 151c. E.O. 11295, 31 F.R. 10603, 3 CFR 1966 Comp.)

III. *Effective date.* These amendments shall be effective upon publication in the FEDERAL REGISTER. The former regulations shall remain in effect as to any appeals which have been certified to the Board of Review for Loss of Nationality or Board of Passport Appeals as of the date of publication of these regulations.

Dated: November 16, 1967.

For the Secretary of State.

INAR RIMESTAD,
Deputy Under Secretary for Administration.

[F.R. Doc. 67-13962; Filed, Nov. 28, 1967; 8:49 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER B—ALCOHOL, TOBACCO AND OTHER EXCISE TAXES

[T.D. 6986]

PART 170—MISCELLANEOUS REGULATIONS RELATING TO LIQUOR

Wine or Wine Products Rendered Unfit for Beverage Use

On September 23, 1967, a notice of proposed rule making to amend 26 CFR Part 170, with respect to the removal free of tax from the bonded wine cellar of wine, or wine products made from wine, when rendered unfit for beverage use, was published in the FEDERAL REGISTER (32 F.R. 13416). In accordance with the notice, interested persons were afforded an opportunity to submit written comments or suggestions pertaining thereto. No comments or suggestions were received within the 30-day period prescribed in the notice and the amendments as published in the FEDERAL REGISTER are hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. The table of contents is changed to redesignate the heading of § 170.683 as "Notice and bond.", and to redesignate the heading of § 170.684 as "Facilities.".

PAR. 2. Section 170.683 and its heading are changed to require a written notice in lieu of an amended Form 698.

PAR. 3. Section 170.684 and its heading are changed to delete the requirement for segregated facilities.

PAR. 4. Section 170.689 is changed to delete the phrase "or (c)".

PAR. 5. Paragraph (b) of § 170.690 is changed to delete references to specific parts of Form 702.

Because this Treasury decision implements the provisions of Public Law 90-73 [81 Stat. 175], effective December 1, 1967, it is found impracticable and contrary to public interest to issue this Treasury decision subject to the effective date limitation of section 553(d) of title 5 of the United States Code. Accordingly, this Treasury decision shall become effective December 1, 1967.

(Sec. 7805, Internal Revenue Code (68 Stat. 917; 26 U.S.C. 7805))

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

Approved: November 22, 1967.

STANLEY E. SURREY,
Assistant Secretary of the Treasury.

In order to implement the provisions of section 5362(d) of the Internal Revenue Code, as added by Public Law 90-73, relating to the withdrawal free of tax from bonded wine cellars, of wine, or wine products made from wine, when rendered unfit for beverage use, the regulations in 26 CFR Part 170, Miscellaneous Regulations Relating to Liquor, are amended by adding a new Subpart Z, Regulations Respecting Wine and Wine Products Rendered Unfit for Beverage Use, as follows:

Subpart Z—Regulations Respecting Wine and Wine Products Rendered Unfit for Beverage Use

Sec.
170.681 Scope of subpart.
170.682 Meaning of terms.
170.683 Notice and bond.
170.684 Facilities.
170.685 Production.
170.686 Formulas.
170.687 Removals.
170.688 Marks and labels.
170.689 Acknowledgment of receipt by user of nonbeverage wine.
170.690 Bonded wine cellar records.
170.691 Inventories.

AUTHORITY: The provisions of this Subpart Z issued under sec. 7805, Internal Revenue Code, 68A Stat. 917; 26 U.S.C. 7805; interpret or apply sec. 5362, I.R.C., as amended; 72 Stat. 1380, as amended; 26 U.S.C. 5362.

Subpart Z—Regulations Respecting Wine and Wine Products Rendered Unfit for Beverage Use

§ 170.681 Scope of subpart.

This subpart provides, pursuant to section 5362(d), I.R.C., temporary regulations for the removal free of tax from bonded wine cellars of wine, or wine products made from wine, which have been rendered unfit for beverage use and procedures relating thereto. Notwithstanding any provisions of Part 240 of this chapter, nonbeverage wine may be produced on and withdrawn from bonded wine cellar premises in accordance with the provisions of this subpart.

§ 170.682 Meaning of terms.

When used in this subpart, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in Part 240 of this chapter and in this subpart.

Nonbeverage wine. Wine, or wine products made from wine, which have been rendered unfit for beverage use as provided in this subpart.

§ 170.683 Notice and bond.

Each proprietor who intends to produce nonbeverage wine for withdrawal free of tax from his bonded wine cellar shall, before commencing such operations, file with the assistant regional commissioner a written notice, in duplicate, of such intent. In addition, each proprietor who intends to operate under the provisions of this subpart shall file a consent of surety on Form 1533 to extend the terms of his existing bond, Form 700 or Form 2691, as applicable, or give a new bond. Each consent shall identify the particular bond to which it applies and shall contain a statement of purpose as follows—

To continue in effect said bond (including all extensions or limitations of terms and conditions previously consented to and approved), notwithstanding that nonbeverage wine will be produced on and withdrawn from bonded wine cellar premises under the provisions of Subpart Z of 26 CFR Part 170.

§ 170.684 Facilities.

A proprietor qualified to produce nonbeverage wine may use his existing bonded wine cellar facilities for such purpose but shall so conduct his operations as to prevent contamination of wine or wine products for beverage use. Each tank and receptacle being used in the production of nonbeverage wine will be marked to show its use in accordance with the provisions of Part 240 of this chapter.

§ 170.685 Production.

Wine, or wine products made from wine, may, in accordance with approved formulas, be treated with methods or materials which render such wine or wine products unfit for beverage use and suitable for their intended use. No wine or wine products so treated shall contain more than 21 percent of alcohol by volume at the time of withdrawal free of tax from the bonded wine cellar; nor shall any wine or wine products so withdrawn be used in the compounding of distilled spirits or wine for beverage use or in the manufacture of any product intended to be used in such compounding.

§ 170.686 Formulas.

Before producing any nonbeverage wine the proprietor must receive approval of the formula by which the wine, or wine product made from wine, is to be rendered unfit for beverage use. The formula and process shall be described on Form 698-Supplemental, which shall be filed, in triplicate, with the Director, Alcohol and Tobacco Tax Division. Each formula filed under the provisions of this section shall be numbered in serial order, starting with No. 1, and shall be prefixed with the symbol "NB." One ⅘-quart sample of the base wine or wine product to be used, and one ⅘-quart sample of the nonbeverage wine made therefrom shall be submitted under separate cover at the time of filing the formula. The samples will be taken to be representative of the base wine and of the nonbeverage wine and any material change in characteristics of the finished product from those of the approved samples will require the filing of a new formula, even though the ingredients and process may be the same. The Director, Alcohol and Tobacco Tax Division, may require the submission of samples of the materials to be used in rendering the wine or wine products unfit for beverage use. All ingredients to be used will be shown on the Form 698-Supplemental, as well as the quantities required to make 100 gallons of the nonbeverage wine. The formula shall also show the intended use of the nonbeverage wine. The process used in rendering the wine or wine products unfit for beverage use shall be stated in detail.

§ 170.687 Removals.

(a) *Containers.* Nonbeverage wine may be removed from bond free of tax in containers authorized by § 240.580 of this chapter for removal of wine from bond.

(b) *Notice of removals.* Where a proprietor removes nonbeverage wine from his bonded wine cellar, or taxpaid room, or other premises operated by him, he shall, except where the removal is in bottles or other consumer packages, prepare, in quadruplicate, a notice of shipment (for example, commercial invoice, bill of lading). Each such notice shall identify the nonbeverage wine shipped, by formula number, quantity, and percent of alcohol by volume, and the name and address of the consignee. One copy of each notice shall be forwarded to the assistant regional commissioner with the proprietor's monthly report, Form 702; one copy shall be retained by the proprietor available for inspection by internal revenue officers; and two copies shall be forwarded to the consignee. The proprietor shall mark one of the consignee's copies as follows: "Receipt of this shipment must be acknowledged on this copy which shall be forwarded to the Assistant Regional Commissioner, Alcohol and Tobacco Tax ——" (insert mailing address of the assistant regional commissioner of the region in which the consignor is located.)

§ 170.688 Marks and labels.

Each container of nonbeverage wine shall be marked or labeled in a plain and durable manner with—

(a) A serial number,

(b) The name of the proprietor and the registry number and location (city and State) of the bonded wine cellar,

(c) The formula number under which the nonbeverage wine was produced,

(d) The contents of the container in wine gallons,

(e) The date of removal or shipment, and

(f) The legend "NOT FOR SALE OR USE AS A BEVERAGE".

The provisions of this section do not carry or import any relief from other statutory or regulatory labeling requirements. Further, if nonbeverage wine or products made therefrom are placed in bottles or other consumer packages, and the marks or labels thereon state or imply that the contents are wine or are made from wine, such marks or labels must state with equal prominence that the contents are not for beverage use.

§ 170.689 Acknowledgment of receipt by user of nonbeverage wine.

Each person receiving nonbeverage wine covered by a notice of shipment required by § 170.687(b) shall acknowledge receipt on one copy of the notice of shipment, indicating the date received and any shortages in shipment, and promptly forward such acknowledgment to the assistant regional commissioner designated on the notice of shipment.

§ 170.690 Bonded wine cellar records.

(a) *Daily records.* Every proprietor producing nonbeverage wine shall keep daily records, separate from other records required by Part 240 of this chapter, showing the following for each formula of nonbeverage wine produced and withdrawn:

(1) The kind, quantity, and percent alcohol by volume of wine, or wine products made from wine, rendered unfit for beverage use;

(2) The kind and quantity of materials received to render wine, or wine products made from wine, unfit for beverage use;

(3) The kind and quantity of materials used to render wine, or wine products made from wine, unfit for beverage use;

(4) The name, quantity, percent alcohol by volume, and formula number of each nonbeverage wine produced;

(5) The name, quantity, percent alcohol by volume, and formula number of nonbeverage wine removed;

(6) The date of removal; and

(7) The name and address of the consignee if the removal is more than 5 wine gallons or two cases, or if the nonbeverage wine is shipped for resale.

Where a proprietor withdraws nonbeverage wine free of tax from his bonded wine cellar to his taxpaid room or to adjacent premises operated by him, he shall, at each such location, maintain the records required by subparagraphs (5), (6), and (7) of this paragraph.

(b) *Summaries and reports.* The quantity of wine, or wine products made from wine, used to produce nonbeverage wine shall be recorded daily on the appropriate Form 2058. At the close of each month, such quantities shall be totaled and the total recorded as a credit on Form 702. The quantities of nonbeverage wine produced and withdrawn each month shall be summarized by tax class and reported on Form 702 for that month.

§ 170.691 Inventories.

Each proprietor producing nonbeverage wines shall, as of the close of business June 30 and December 31 of each year, take a physical inventory of all nonbeverage wines in storage in bond. A detailed report shall be prepared on a separate Form 702-C, in duplicate, of each inventory taken, showing nonbeverage wine by formula number and the total quantity of such wines in each tax class. The original of the Form 702-C shall be attached to the Form 702 to which it pertains and forwarded to the assistant regional commissioner. The duplicate of the Form 702-C shall be retained by the proprietor and shall be kept available for inspection by internal revenue officers.

[F.R. Doc. 67-13876; Filed, Nov. 28, 1967; 8:45 a.m.]

Title 29—LABOR

Chapter XIV—Equal Employment Opportunity Commission

PART 1610—AVAILABILITY OF RECORDS

In accordance with the provisions of the Public Information Section of the Administrative Procedure Act, as amended by P.L. 90-23, 81 Stat. 54; 5 U.S.C. 552, the Equal Employment Opportunity Commission does hereby establish a new Part 1610 in Title 29 of the Code of Federal Regulations.

As added, Part 1610 reads as follows:

Subpart A—Production or Disclosure Under 5 U.S.C. 552(a)

Sec.
1610.1 Definitions.
1610.2 Statutory requirements.
1610.4 Purpose and scope.
1610.5 Public reference facilities and current index.
1610.7 Deletion of identifying details.
1610.9 Regional offices.
1610.11 Requests for identifiable records and copies.
1610.16 Records of other Agencies.
1610.17 Schedule of fees and method of payment for services rendered.
1610.20 Exemptions.
1610.22 Administrative decision and review.

Subpart B—Production in Response to Subpoenas or Demands of Courts or Other Authorities

1610.30 Purpose and scope.
1610.32 Production prohibited unless approved by the General Counsel.
1610.34 Procedure in the event of a demand for production or disclosure.
1610.36 Procedure in the event of an adverse ruling.

AUTHORITY: The provisions of this Part 1610 issued pursuant to sec. 713(b), 78 Stat. 265; 42 U.S.C. 2000e-12 and 5 U.S.C. 552.

Subpart A—Production or Disclosure Under 5 U.S.C. 552(a)

§ 1610.1 Definitions.

As used in this part:

(a) "Act" refers to Title VII of the Civil Rights Act of 1964, 42 U.S.C.A. sec. 2000e et seq.

(b) "Commission" refers to the Equal Employment Opportunity Commission.

§ 1610.2 Statutory requirements.

5 U.S.C. 552(a)(3) requires each Agency, upon request for identifiable

records made in accordance with published rules stating the time, place, fees to the extent authorized by statute, and procedure to be followed, to make such records promptly available to any person. 5 U.S.C. 552(b) exempts specified classes of records from all of the public access requirements of 5 U.S.C. 552 and permits them to be withheld.

§ 1610.4 Purpose and scope.

(a) This subpart contains the regulations of the Equal Employment Opportunity Commission implementing 5 U.S.C. 552. The regulations of this subpart provide information concerning the procedures by which records may be obtained from all organizational units within the Commission. Official records of the Commission made available pursuant to the requirements of 5 U.S.C. 552 shall be furnished to members of the public only as prescribed by this subpart. Officers and employees of the Commission may continue to furnish to the public, informally and without compliance with the procedures prescribed herein, information and records which prior to the enactment of 5 U.S.C. 552 were furnished customarily in the regular performance of their duties. To the extent permitted by other laws, the Commission also will make available records which it is authorized to withhold under 5 U.S.C. 552 whenever it determines that such disclosure is in the public interest.

(b) The Attorney General's memorandum on the Public Information Section of the Administrative Procedure Act, which was published in June 1967 and is available from the Superintendent of Documents, should be consulted in considering questions arising under 5 U.S.C. 552.

§ 1610.5 Public reference facilities and current index.

The Commission will maintain in a public reading area located in the Commission's library at 1800 G Street NW., Washington, D.C. 20506, the materials which are required by 5 U.S.C. 552(a)(2) and 552(a)(4) to be made available for public inspection and copying. The Commission will maintain and make available for public inspection and copying in this public reading area a current index providing identifying information for the public as to any matter which is issued, adopted, or promulgated after July 4, 1967, and which is required to be indexed by 5 U.S.C. 552(a)(2). The Commission in its discretion may, however, include precedential materials issued, adopted, or promulgated prior to July 4, 1967. The Commission will also maintain on file in this public reading area all material published by the Commission in the FEDERAL REGISTER and currently in effect.

§ 1610.7 Deletion of identifying details.

When making available any records pursuant to § 1610.5, the Commission will delete identifying details to the extent required to prevent a clearly unwarranted invasion of personal privacy. To each record from which identifying details shall have been deleted when the record is made available for public inspection and copying, the Commission will attach a written justification for such deletions. A single such justification shall suffice for deletions made in a group of similar or related records. Subject to necessary or appropriate variations in individual instances, the justification will be in substantially the following form:

> This record is (These records are) made available for public inspection and copying pursuant to 5 U.S.C. sec. 552(a)(2). As authorized therein, to prevent a clearly unwarranted invasion of personal privacy, identifying details have been deleted.

§ 1610.9 Regional offices.

Each office listed below will maintain in a public reading room or area various public materials dealing with the Act and the Commission:

Federal Office Building, Room 7515, 500 Gold Street SW., Albuquerque, N. Mex. 87101. Telephone No.: Area Code 505, 247-0811 Ext. 2061.

1776 Peachtree Street NW., Room 417, Atlanta, Ga. 30309. Telephone No.: Area Code 404, 526-5941.

300 East Eighth Street, Room G 115, Austin, Tex. 78701. Telephone No.: Area Code 512, 476-6411 Ext. 6845.

U.S. Courthouse and Federal Building, Room 1832, 219 South Dearborn Street, Chicago, Ill. 60604. Telephone No.: 312, 353-7550.

Engineers' Building, Room 402, 1365 Ontario Street, Cleveland, Ohio 44115. Telephone No.: 216, 522-4764.

911 Walnut Street, Room 906, Kansas City, Mo. 64106. Telephone No.: Area Code 816, 374-5773.

Federal Office Building, Room 7750, 300 North Los Angeles Street, Los Angeles, Calif. 90012. Telephone No.: Area Code 213, 688-2400.

Masonic Temple Building, 333 St. Charles Avenue, New Orleans, La. 70130. Telephone No.: Area Code 504, 527-2721.

344 Broadway, Suite 701, New York, N.Y. 10013. Telephone No.: 212, 264-3642.

Appraisers' Building, Room 136, 630 Sansome Street, San Francisco, Calif. 94111. Telephone No.: Area Code 415, 556-0260.

1016 16th Street NW., Room 104, Washington, D.C. 20036. Telephone No.: Area Code 202, 393-1914.

§ 1610.11 Requests for identifiable records and copies.

(a) A request for inspection or copying of a record of the Commission which is neither published in the FEDERAL REGISTER nor customarily made available and which is not available in the public reading area as described in § 1610.5, may be made in person or by mail to the Office of the General Counsel, 1800 G Street NW., Washington, D.C. 20506. Requests may be presented from 9 a.m. to 5:30 p.m., Mondays through Fridays, with the exception of holidays. Telephone inquiries or requests may be made by calling Washington, D.C., telephone number: Area Code 202, 343-7693. Collect calls will not be accepted.

(b) Charges for processing requests will be made in accordance with the schedule set forth in § 1610.17. Such charges are payable in advance.

(c) Each requests shall contain a description of the record requested which is sufficiently specific with respect to names, dates, subject matter, and location, to permit the record to be identified and located. A separate request must be submitted for each record requested.

(d) Except where circumstances require special processing, requests will be processed in the order in which they are received. Efforts will be made to make such records available as promptly as is reasonable under the particular circumstances.

(e) No obligation is undertaken by the Commission to compile or create information or records not already in existence at the time of the request.

(f) Where a requested record cannot be located from the information submitted or is known to have been destroyed or otherwise disposed of, the person making the request will be appropriately notified.

(g) When a requested record has been identified and is available, the person who made the request will be notified as to where and when the record will be available for inspection. Upon payment of the necessary fees, a copy of an available record may be furnished to the requester in person or by mail.

§ 1610.13 Records of other Agencies.

Request for records that originated in another Agency and are in the custody of the Commission, will be referred to that Agency for processing, and the person submitting the request shall be so notified. The decision made by that Agency with respect to such records will be honored by the Commission.

§ 1610.17 Schedule of fees and method of payment for services rendered.

(a) The following specific fees shall be applicable with respect to services rendered to members of the public under this subpart:

(1) Searching for records, per hour or fraction thereof	$3.00
(2) Other facilitative services and index assistance-minimum charge, per hour or fraction thereof	3.00
(3) Copies made by Xerox or otherwise (per page)	.25
(4) Certification of each record as a true copy	.75
(5) Certification of each record as a true copy, under the seal of the Agency	1.00
(6) For each signed statement of negative result of search for record	1.00

(b) When no specific fee has been established for a service, e.g., legal or research assistance, or the request for a service does not fall under one of the above categories due to the amount, size, or type thereof, the Director of Administration is authorized to establish an appropriate fee pursuant to the criteria established in Bureau of the Budget Circular No. A-25, entitled "User Charges."

(c) When a request for identifiable records is made by mail, it should be accompanied by remittance of the total fee chargeable, as well as a self-addressed stamped envelope, if special mail services are desired.

(d) Fees must be paid in full prior to issuance of requested copies of records. If uncertainty as to the existence of a record, or as to the number of sheets to be copied or certified precludes remitting the exact fee chargeable with the request, the Agency will inform the interested party of the exact amount required.

(e) Payment shall be in the form of a check, bank draft, money order, or, if personally delivered, may be made in cash. Remittances shall be made payable to the order of the Equal Employment Opportunity Commission. The Agency will assume no responsibility for cash which is lost in the mail.

(f) A receipt for fees paid will be given only upon request. Refund of fees paid for services actually rendered will not be made.

(g) No charge will be made for services performed at the request of other governmental agencies or officers thereof acting in their official capacities.

§ 1610.20 Exemptions.

(a) 5 U.S.C. 552 exempts from all of its publication and disclosure requirements nine categories of records which are described in subsection (b). These categories include such matters as national defense and foreign policy information, investigatory files, internal procedures and communications, materials exempted from disclosure by other statutes, information given in confidence, and matters involving personal privacy. The scope of the exemptions is discussed in the Attorney General's memorandum referred to in § 1610.4(b).

(b) Section 706(a) of the Act provides that the Commission shall not make public charges which have been filed. It also provides that (subsequent to the filing of a charge, an investigation, and a finding that there is reasonable cause to believe that the charge is true) nothing said or done during and as a part of the Commission's endeavors to eliminate any alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion may be made public by the Commission without the written consent of the parties; nor may it be used as evidence in a subsequent proceeding. Any officer or employee of the Commission, who shall make public in any manner whatever any information in violation of section 706(a) shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned not more than 1 year.

(c) Section 709 of the Act authorizes the Commission to conduct investigations of charges filed under section 706, engage in cooperative efforts with State and local agencies charged with the administration of State fair employment practices laws, and issue regulations concerning reports and recordkeeping. Subsection (e) of section 709 provides that it shall be unlawful for any officer or employee of the Commission to make public in any manner whatever any information obtained by the Commission pursuant to its authority under section 709 prior to the institution of any proceeding under the Act involving such information. Any officer or employee of the Commission who shall make public in any manner whatever any information in violation of section 709(e) shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned not more than 1 year. The Commission will, however, make available for inspection and copying some tabulations of aggregate industry, area, and other statistics derived from the Commission's reporting programs authorized by section 709(c) of the Act, where such tabulations have been previously compiled by the Commission and are available in documentary form, to the extent that such tabulations do not consist of aggregate data from less than three respondents, and do not reveal the identity of an individual or the dominant respondent in a particular industry or area in any manner.

§ 1610.23 Administrative decision and review.

(a) The General Counsel shall grant or delay each request made. The denial of each request shall be in writing and shall contain a simple statement of the reasons for the denial. The decision of the General Counsel shall be final, subject only to review as provided in paragraph (b) of this section.

(b) Review of the decision of the General Counsel may be requested by the person submitting the request within 30 days after the date of the notice advising him of the decision. The 30-day limitation may be waived for good cause. The filing of a request for review by the Commission may be accomplished by mailing to the Chairman, Equal Employment Opportunity Commission, 1800 G Street NW., Washington, D.C. 20506, by certified mail, a copy of the written denial issued under paragraph (a) of this section and a statement of the circumstances, reasons or arguments advanced for insistence upon disclosure of the originally requested record. The decision of the Commission upon review shall be in writing and shall contain a simple statement of the reasons for the decision. The decision after review will be promptly communicated to the person requesting review, and will constitute the final action of the Commission.

(c) No personal appearance, oral argument or hearing will ordinarily be permitted in connection with an initial request made to the General Counsel or on review of a denial by him. Upon request and a showing of special circumstances, however, this limitation may be waived and an informal conference or appearance arranged with or before the General Counsel or the Commission, as the case may be, or any employee designated by him or it for this purpose.

Subpart B—Production in Response to Subpenas or Demands of Courts or Other Authorities

§ 1610.30 Purpose and scope.

This subpart contains the regulations of the Commission concerning procedures to be followed when a subpena, order, or other demand (hereinafter in this subpart referred to as a "demand") of a court or other authority is issued for the production or disclosure of (a) any material contained in the files of the Commission; (b) any information relating to material contained in the files of the Commission; or (c) any information or material acquired by any person while such person was an employee of the Commission as a part of the performance of his official duties or because of his official status.

§ 1610.32 Production prohibited unless approved by the General Counsel.

No employee or former employee of the Commission shall, in response to a demand of a court or other authority, produce any material contained in the files of the Commission or disclose any information or produce any material acquired as part of the performance of his official duties or because of his official status without the prior approval of the General Counsel.

§ 1610.34 Procedure in the event of a demand for production or disclosure.

(a) Whenever a demand is made upon an employee or former employee of the Commission for the production of material or the disclosure of information described in § 1610.30, he shall immediately notify the General Council. If possible, the General Counsel shall be notified before the employee or former employee concerned replies to or appears before the court or other authority.

(b) If response to the demand is required before instructions from the General Counsel are received, an attorney designated for that purpose by the Commission shall appear with the employee or former employee upon whom the demand has been made, and shall furnish the court or other authority with a copy of the regulations contained in this part and inform the court or other authority that the demand has been or is being, as the case may be, referred for prompt consideration by the General Counsel. The court or other authority shall be requested respectfully to stay the demand pending receipt of the requested instructions from the General Counsel.

§ 1610.36 Procedure in the event of an adverse ruling.

If the court or other authority declines to stay the effect of the demand in response to a request made in accordance with § 1610.34(b) pending receipt of instructions from the General Counsel, or if the court or other authority rules that the demand must be complied with irrespective of the instructions from the General Counsel not to produce the material or disclose the information sought, the employee or former employee upon whom the demand has been made shall respectfully decline to comply with the demand (United States ex rel. Touhy v. Ragen, 340 U.S. 462 (1951)).

Effective date. These regulations shall become effective July 4, 1967.

Dated: November 21, 1967.

C. L. ALEXANDER, Jr.,
Chairman.

[F.R. Doc. 67-13916; Filed, Nov. 28, 1967; 8:45 a.m.]

Title 32—NATIONAL DEFENSE

Chapter V—Department of the Army

SUBCHAPTER B—CLAIMS AND ACCOUNTS

PART 536—CLAIMS AGAINST THE UNITED STATES

Claims Arising in Foreign Countries

In § 536.26, subdivision (iv) in paragraph (i)(1) is revised; subparagraph (3) in paragraph (k) is revised; subdivisions (i) and (ii) are revised and new subdivision (iv) is added in paragraph (p)(1); and in paragraph (s), the addresses for Belgium and France are revised, as follows:

§ 536.26 Claims arising in foreign countries.

* * * * *

(i) *Causation.* (1) * * *

(iv) Civilian employees who are not U.S. citizens, and who were hired in the country in which they are employed and in which the incident occurred, while acting within the scope of employment. Claims arising from the operation of U.S. Armed Forces vehicles or other equipment by the employees described in the preceding sentence, however, may be paid, even though the employees are not acting within the scope of their employment, provided the employer and owner of the vehicle or other equipment would be liable under local law in the circumstances involved.

* * * * *

(k) *Claims not payable.* * * *

(3) Falls under the Federal Employees' Compensation Act (5 U.S.C. 8101–8150); the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1424, 33 U.S.C. 901), or other workmen's compensation laws or regulations, including local law or custom, in cases where contribution is made or insurance premiums paid directly or indirectly by the United States on behalf of the injured employee. If, in the opinion of an approving or settlement authority the claim should be considered payable, e.g., the injuries did not result from a normal risk of employment or adequate compensation is not payable under workmen's compensation laws, the file will be forwarded with recommendations through normal channels to the Chief, U.S. Army Claims Service, who may authorize a foreign claims commission to make an appropriate award, provided workmen's compensation is not the exclusive remedy. The Chief, U.S. Army Claims Service, also may specify that all or any part of any compensation received by the claimant from workmen's compensation sources as above will be deducted from the award to claimant (see § 536.9).

* * * * *

(p) *Cross-servicing of claims*—(1) *Single-service claims responsibility (Department of Defense Directive 5515.8)*—(i) *Statutes and agreements.* Department of Defense has assigned single-service responsibility for the settlement of claims in certain countries under the following statutes and agreements:

(a) Foreign Claims Act (10 U.S.C. 2734); DoD Directive 5515.8, Settlement of Claims under 10 U.S.C. 2733 and 2734.

(b) Military Claims Act (10 U.S.C. 2733); DoD Directive 5515.8, Settlement of Claims under 10 U.S.C. 2733 and 2734.

(c) 10 U.S.C. 2734a, 2734b, Pro rata costsharing of claims pursuant to international agreement.

(d) NATO Status of Forces Agreement (4 UST 1792, TIAS 2846) and other similar agreements.

(e) Act of September 25, 1962 (42 U.S.C. 2651–2653), Claims for Reimbursement for Medical Care Furnished by the United States.

(f) 10 U.S.C. 2737, Claims not cognizable under any other provision of law.

(g) The Federal Claims Collection Act of 1966 (80 Stat. 308, 31 U.S.C. 951–953), as implemented by DoD Directive 5515.11, December 10, 1966; the Act of June 10, 1922 (42 Stat. 24, 31 U.S.C. 71), Claims and demands by the Government of the United States.

(h) 10 U.S.C. 2736, Advance or Emergency Payments.

(ii) *Specified foreign countries.* Responsibility for settlement of claims cognizable under the laws listed above in the following countries has been assigned to military departments as indicated below:

(a) Department of the Army: Belgium, The Democratic Republic of the Congo, Ethiopia, France, the Federal Republic of Germany, Iran, Korea, Liberia, Mali, Senegal, and Republic of Vietnam.

(b) Department of the Navy: Australia, Iceland, Italy, and Portugal.

(c) Department of the Air Force: Canada, Denmark, Greece, India, Japan, Libya, Luxembourg, Nepal, Netherlands, Norway, Pakistan, Saudi Arabia, Spain, Turkey, and the United Kingdom.

The addresses of United States sending State offices and single-service offices are contained in paragraph(s) of this section.

* * * * *

(iv) On an interim basis prior to receiving confirmation and approval from the appropriate office in the Office of the Secretary of Defense, the unified commander may, when necessary to implement contingency plans, assign single-service responsibility for processing of claims in countries where such assignment has not already been made.

* * * * *

(s) *List of United States sending State offices and single service offices.*

ARMY ADDRESS

BELGIUM

The Military Attaché, Embassy of the United States, 27 Boulevard du Regent, Brussels, Belgium.

U.S. Claims Office, France, APO New York 09777.

(Assists the Attaché and has area claims responsibility)

* * * * *

FRANCE

U.S. Claims Office, France, APO New York 09777.

* * * * *

[C2, AR 27-26, Sept. 14, 1967] (Secs. 2734, 2736, 70A Stat. 154, 76 Stat. 767; sec. 1, 42 Stat. 1509; sec. 12, 70 Stat. 640. 10 U.S.C. 2734, 2736; 86 U.S.C. 121, 138b)

For the Adjutant General.

J. W. HURD,
Colonel, AGC, Comptroller, TAGO.

[F.R. Doc. 67-13969; Filed, Nov. 28, 1967; 8:45 a.m.]

Chapter VII—Department of the Air Force

SUBCHAPTER E—SECURITY

PART 852—INDUSTRIAL SECURITY

Subchapter E of Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

Part 852 is revised to read as follows:

Sec.

852.1 Purpose.
852.2 Industrial security cognisance.
852.3 Special security requirements.
852.4 Responsibilities of contracting commands.
852.5 Contracts performed on Air Force installations.
852.6 Contracts performed outside the United States.
852.7 Access to cryptomaterial by contractors.
852.8 Reimbursement.
852.9 Submission of reports.
852.10 Location of meetings.
852.11 Consultants and personal services contractors.
852.12 Commander's authority over access to installations.
852.13 On-base contractor activities.
852.14 Visits to Air Force activities.
852.15 Unsatisfactory security conditions.
852.16 Security classification guidance.

AUTHORITY: The provisions of this Part 852 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: AFR 205-4, July 21, 1967.

§ 852.1 Purpose.

This part contains instructions applicable to the USAF for procurement, security, and other personnel concerned with the classification and protection of classified defense information that has been or is to be disclosed or released to bidders, contractors, or grantees, or for any other procurement, research, or development purposes. It also contains instructions concerning the protection of classified information of foreign nations or international pact organizations released to U.S. contractors.

§ 852.2 Industrial security cognisance.

The Defense Supply Agency (DSA) exercises industrial security cognisance over all cleared contractor facilities and performs all cognisant security office functions on behalf of the Air Force except as provided in paragraph 1-106 b and c, Industrial Security Regulation (ISR) (DoD 5220.22R). DSA has further assigned responsibility for these functions to the directors of the Defense Contract Administration Services Regions (DCASR) for all contractor facilities physically located or to be located within the geographical boundaries of their respective regions. (An appendix to the ISR defines regional offices and areas.)

§ 852.3 Special security requirements.

The commander (or chief of a major staff office in Hq USAF) for whom a classified contract is negotiated or awarded must:

(a) Develop special security requirements, when the situations so warrants because of the nature of the product or service to be provided, or the conditions under which the contract is to be performed, and furnish them to the procuring contracting officer (PCO) for inclusion in the contract. Specific consideration must always be given to the need for special security requirements for contracts to be performed within military installations or overseas. When special security requirements are necessary, the project office coordinates these special instructions with the security police staff within the appropriate headquarters. Special security requirements which will result in a contract being excluded from the DoD industrial security program will not be included in a contract without prior approval of Hq USAF.

(b) Review and approve or disapprove a contractor's proposal to publish and distribute unclassified brochures, promotional sales literature, or similar material when the administrative contracting officer (ACO) requests such a review.

§ 852.4 Responsibilities of contracting commands.

(a) *Contract administration.* In those instances where responsibility for contract administration rests with a major commander rather than with DSA, the major commander is responsible for insuring that all actions are taken which the Industrial Security Manual (ISM) (DoD 5220.22M), ISR, and this part charge to the contracting officer or the contracting user agency and which are appropriate for accomplishment after award of the contract. The ACO performs these functions unless the commander assigns them, in writing, to another officer.

(b) *Disposition instructions.* When a classified contract is completed, terminated, or cancelled, the ACO issues disposition instructions to the contractor in accordance with paragraph 7-104, ISR, advising him of the classified material which:

(1) Must be returned to the contracting officer,

(2) Must be destroyed,

(3) Is declassified, or

(4) May be retained in accordance with paragraph 5 k and l of the ISM. The project office will be requested to assist in the development of such instructions. A copy of the disposition instructions will be furnished to the cognisant security office of the facility involved.

(c) *Retention and recovery of classified material.* (1) The contracting officer is responsible for prompt, positive action to recover all classified material released or produced in connection with a bid, proposal, or contract, except that which has been destroyed in accordance with paragraph 19, ISM, or which the contractor has been authorized specifically to retain pursuant to paragraph 5 k or l, ISM. The PCO is responsible for this action in the case of a bid or proposal. The ACO is responsible for the action upon the completion or termination of a contract. When a contractor requests an ACO for authority to retain classified material under the provisions of paragraph 5 l, ISM, the ACO forwards such requests to the PCO for action. The PCO, in conjunction with the program or project officer concerned, evaluates the request taking into consideration such factors as:

(i) To what extent will the retention of the requested material enable the Government to derive some future benefit?

(ii) Will the requested retention provide the contractor with a foundation for additional research and possible advancement in the state-of-the-art?

(iii) Is there the possibility of follow-on contracts or subcontracts issued to the contractor for which possessing the requested material would be essential?

(iv) Do the requested documents constitute the type of records that would be subject to an examination by the General Accounting Office under the Examination of Records clause in the contract?

(2) When a contracting officer authorizes a contractor to retain classified material under the authority given in paragraph 5 k or l, ISM, he furnishes a list or description of the material and a copy of the authorization to the cognisant security office concerned. In addition, when he authorizes such retention, the contracting officer retains a residual responsibility, in accordance with paragraph 7-104, ISR, for appropriate classification actions in regard to the classified information involved, and for recovering the material at the end of the authorized retention period. This responsibility continues until the classified information has been destroyed, declassified, or recovered in accordance with subparagraph (1) of this paragraph.

§ 852.5 Contracts performed on Air Force installations.

The Air Force Procurement Instruction (AFPI) (Subchapter W of this chapter) requires that each classified contract contain as a minimum a security clause requiring the contractor to apply the principles of his Security Agreement (DD Form 441) for the purpose of safeguarding classified information. The contractor is bound by this agreement regardless of where the contract is performed. However, security matters pertaining to Air Force installations are not governed by the ISM or ISR. Therefore, the following instructions (in addition to those contained in paragraph 1-108, ISR, as supplemented by this part) apply to classified contracts which require performance on Air Force installations.

(a) *Restrictions on facility security clearances.* Only contractor activities on Air Force installations located in the United States, its possessions, trust territories, the Panama Canal Zone, or Puerto Rico which meet the criteria set forth in paragraph 1-108a, ISR, may be cleared as facilities.

(b) *Visits to contractor activities on Air Force installations.* Contractor personnel who in the performance of their duties, make visits to contractor activities located on Air Force installations will be treated as visitors in accordance with the provisions of part 2, section III, ISR, if they require access to classified information.

(c) *Additional security requirements.* Necessary security requirements which are additional to or different from those in the ISM must be made effective by including them in or modifying the contract pursuant to paragraph 5c, ISM. The specific duties and responsibilities of the contractor and of the installation where the contract is to be performed should be clearly defined. When the contractor's on-base operation is designated a separate facility, it normally is necessary only to include a special clause requiring compliance by the contractor with the appropriate security directives of the installation.

(d) When classified contracts are to be performed within restricted areas containing priority A, B, or C aerospace operational resources (AFR 207-1 (The USAF Aerospace Systems Security Program)), entry into such restricted areas by contractor personnel is subject to control as determined by the installation commander in accordance with the guidance provided in AFR 205-6 (Personnel Investigations, Security Clearances and Access Authorizations), chapters 6 and 10, AFM 207-1 (Doctrine and Requirements for Security of Aerospace Systems), and other appropriate Air Force guidance.

§ 852.6 Contracts performed outside the United States.

(a) *Contracting command.* The contracting command through the PCO, is responsible for:

(1) Insuring that the contractor has executed a DoD Security Agreement and has a facility security clearance for the facility in the United States which is responsible for performance on the contract concerned. Foreign subsidiaries owned or controlled by the contractor are not eligible for access to classified portions of the contract work and must be excluded therefrom. However, in extraordinary circumstances, the commander of the contracting major command may authorize the contractor to negotiate or award a subcontract to a foreign company or foreign affiliate or subsidiary pursuant to paragraph 8-104, ISR.

(2) Insuring that the contractor is informed of:

(i) The APO and/or other channels to be used by the contractor for classified correspondence with each oversea operating location,

(ii) Procedures for the shipment of classified material, when appropriate,

(iii) The U.S. Government activity designated to store classified material for the contractor,

(iv) Limitations on the use of foreign nationals,

(v) The name of the military activity responsible for providing security supervision of the contractor's operations in the oversea area, and

(vi) Any other special requirements developed by the project command.

(b) *Transmission outside the United States.* Paragraph 17 of the ISM provides that a contractor may transmit classified material outside the United States only when authorized in writing by the contracting officer or his authorized representative. Paragraph 17 of the ISM and paragraph 2-504 of the ISR provide guidance applicable to transmission of classified information to or from a contractor or contractor employees located outside the continental limits of the United States. Instructions issued by a contracting officer, when he authorizes a contractor to transmit classified material outside the continental United States, must be consistent with the requirements of paragraph 17, ISM, paragraph 2-504, ISR, and Part 850 of this subchapter. Normally, transmission will be only by registered mail through the U.S. military postal services or by the Armed Forces Courier Service.

(1) When transmission of classified material between oversea locations through normal military or other U.S. Government channels would create unacceptable operational problems, the contracting officer may appoint, in writing, upon approval of the activity responsible for the security supervision of the contract, appropriately cleared contractor personnel to act as courier or escort for the material, provided:

(i) The transmission does not cross national boundaries,

(ii) It is begun and completed during normal daytime hours of the same day, and

(iii) It is in accordance with the agreements in effect with the country concerned.

(2) When contract work within a foreign country involves a project of joint interest to the foreign government and the United States, it may be necessary to make special arrangements for transmitting classified information held jointly by the two governments. The phrase "held jointly by the two governments," as used in this section, refers to U.S. classified information which has been released to a foreign government, foreign classified information released to the United States, or classified information developed jointly by the two governments concerned. In such cases, either government may transmit the classified material to the contractor. The procedures for transmission may be those prescribed in this part and Part 850 of this subchapter, or when transmission is within the host country, the procedures authorized by that country may be used. However, the ACO, in collaboration with the project officer, should develop specific procedures which meet the practical requirements of the project while maintaining required standards of security for the information. Such procedures must be coordinated with the activity having security supervisory responsibility for the contractor's oversea operation involved.

(3) If a U.S. contractor engaged in a bilateral project requires access to U.S. classified information which is releasable under Air Force regulations, but which has not been approved for release to the foreign government involved, under the provisions of AFR 200-9 (AF Disclosure of Classified Military Information to Foreign Governments), the procedures prescribed in this part and Part 850 of this subchapter for transmission of such material normally will be used. In exceptional cases, however, special transmission procedures may be established to meet unique operational requirements. In such cases, the ACO, in conjunction with the project officer and the activity responsible for security supervision of the contractor's activity, may develop appropriate procedures which will meet operational requirements while maintaining the necessary degree of security. The proposed procedure will be forwarded for approval to Hq USAF (AFISPP). The request for approval must contain a detailed statement of facts and justification.

(c) *Storage in foreign countries.* (1) The storage of U.S. classified information in a foreign country within any location other than a U.S. military or other U.S. Government controlled installation is prohibited. Contractor personnel in foreign countries who must be given access to U.S. classified defense information must be advised that it is necessary, in order to assure security, for the material to remain under U.S. Government control. If storage at a U.S. military installation is not practical, the contractor will make prior arrangements for the storage of U.S. classified information with a U.S. Military Attache, Military Assistance Advisory Group, or a U.S. diplomatic or consular office.

(2) However, if the contract work involves a bilateral project, special arrangements may be developed for storing classified information held jointly by the participating governments. In such cases, the classified material may be retained for the contractor under the custody of the government which has the activity most conveniently located with regard to the contractor's operation. If such procedures are established, the material will be stored and safeguarded in accordance with the rules of the government accepting responsibility for the material and providing the storage facilities.

§ 852.7 Access to cryptomaterial by contractors.

(a) General: Air Force classified cryptomaterial is made available to DoD contractors and to their subcontractors, vendors, and suppliers, in accordance with the provisions of Appendix D, ISR, under one or a combination of the following conditions:

(1) When the contractor requires the use of cryptographic systems in the performance of his contract.

(2) When the contractor is required to accomplish research, development, or production of cryptographic systems or equipment.

(3) When the contractor is required to install, maintain, or operate cryptographic equipment for an activity of the U.S. Government.

(b) DoD contractor personnel may not enter crypto-equipment training prior to U.S. Communications Security Board (USCSB) approved release of the crypto-equipment to the contractor. If any question or particular problem arises, notify USAFSS (TCD), San Antonio, TX 78241.

(c) Monitoring contractor COMSEC accounts:

(1) AFSC will establish a COMSEC monitoring activity to monitor contractor COMSEC accounts. Monitoring includes but is not limited to:

(i) Insuring that the COMSEC interests of the contracting military departments are adequately protected.

(ii) Reviewing accounting reports and correspondence pertaining to COMSEC for completeness, accuracy, and compliance with directives.

(iii) Insuring follow-up action on all reports of investigations of possible compromises of cryptomaterial.

(iv) Programing for crypto-equipment.

(v) Insuring that cryptomaterial is removed from contractor facilities upon contract termination or when the material is no longer required.

(2) Air Force Cryptologic Depot (AFCD), in coordination with Hq AFSC, will provide technical, operational, and accounting assistance to contractors as required.

§ 852.8 Reimbursement.

In fulfilling the functions prescribed in paragraph 1-108.b and c, ISR, a commander will not commit the Government to reimburse a contractor for funds expended in connection with its security program unless he is also responsible for contract performance.

§ 852.9 Submission of reports.

When the installation commander has elected to perform the functions listed in paragraph 1-108b, ISR, or when performing functions listed in paragraph 1-108c, ISR, at an installation located outside the United States, its possessions, trust territories, the Panama Canal Zone, and Puerto Rico, he will arrange to have the contractor submit the reports prescribed by paragraph 5f, ISM, through him to the cognizant security office concerned.

§ 852.10 Location of meetings.

Air Force activities will not approve the use of auditoriums, halls, gymnasiums, etc., located on the campus of a college or university for meetings at which Top Secret or Secret information is to be disclosed. Such buildings are not considered to be part of the cleared facility since they are used primarily for campus activities and other events open to the public. Moreover, they are not constructed or designed with security considerations in mind and, consequently, are vulnerable to unauthorized visual, audio, or physical access. A meeting at which Top Secret or Secret information is to be disclosed may, however, be conducted within a building, room, or laboratory located on the campus of a college or university, provided that (a) the cognizant security office has identified the building, room, or laboratory as an integral part of the cleared facility, and (b) the cognizant security office has, during the performance of recurring inspections, determined that the security controls over the building, room or laboratory are adequate and would preclude unauthorized access during the conduct of a classified meeting.

§ 852.11 Consultants and personal services contractors.

(a) *Part-time Government employees.* Part-time Government employees include individuals (1) appointed under AFR 40-921 (Employment of Experts and Consultants) as experts or consultants with compensation when actually employed (WAE) or without compensation (WGC), and (2) contracted under AFR 26-4 (Expert and Consultant Services) to render personal services as experts or consultants. After investigation and determination of eligibility (AFR 205-6 (Personnel Investigations, Security Clearances and Access Authorizations)), these employees may be authorized access to classified material or unescorted entry to restricted areas (AFM 207-1 (Doctrine and Requirements for Security of Aerospace Systems)) located within the Air Force activity concerned. They are not authorized to remove classified material from the Air Force agency, except in connection with an authorized visit, and it may not be sent to them except after further action as follows:

(1) Whenever it is determined that a consultant/expert utilized in this category must have physical custody of classified information at his place of business or residence and must exercise full responsibility for security of such information, the responsible commander will take action to qualify the individual as a cleared facility in accordance with paragraph 2-107, ISR.

(ii) Whenever it is determined that utilization of the consultant/expert requires that he be given access to the classified information at a cleared facility which is his regular employer, the responsible commander will take action as provided in paragraph 2-108, ISR, in order to provide for the safeguarding of classified material made available to or developed by the consultant/expert.

(b) *Personal service contractors.* A personal service contractor is a contractor who enters into a contract for one or more of his employees to perform personal services for an Air Force agency. Security clearances will be provided as follows:

(1) The contractor will be cleared as a facility in accordance with the ISR if the performance of such services involves access to classified information and requires classified information to be in the physical custody of the contractor. The contractor's executive personnel and employees concerned must be granted personnel security clearance prior to being granted access to classified material. Also, the contractor's facility is subject to inspection by a cognizant security office.

(2) If the consultant services are performed on the premises of the Air Force activity and the classified information is not removed from such premises, no facility clearance is required. However, the contractor and his employees performing the personal services must jointly execute the certificate prescribed in paragraph 21-106, ISR. Those personnel requiring access to classified information must be granted a personnel security clearance prior to being granted access.

§ 852.12 Commander's authority over access to installations.

An installation commander is responsible for the security, safety, and welfare of his command and has authority to control and limit entry to all or part of the installation as he finds necessary under the circumstances. The commander's authority to deny entry is absolute, and the individual concerned has no right to appeal. However, the authority to grant, deny, or revoke authorization for access to classified defense information by contractor personnel is separate and apart from the commander's authority over entry. The individual does have a right to a hearing on charges and to appeal an adverse decision regarding access to classified defense information (clearance). Denial of entry to restricted areas containing priority A, B, or C aerospace operational resources frequently has the collateral effect of making ineffectual a valid authorization for access to classified defense information by contractor personnel employed for a particular job. The potential for conflict is apparent when the two decisions are based on substantially the same investigative results. Specific guidance for exercising authority for control over entry to those restricted areas is provided in AFR 205-6 and other appropriate Air Force guidance.

§ 852.13 On-base contractor activities.

For on-base contractor activities, the commander exercising security supervision over such activity will be responsible for fulfilling the cognizant security office functions contained in paragraph 3-104, ISR. The commander will inform the contractor concerned of the procedures to be followed.

§ 852.14 Visits to Air Force activities.

(a) Normally commanders will not approve visits for periods in excess of 6 months. However, approval may be renewed for succeeding periods of 6 months if required.

(b) Commanders of organizations or installations overseas will evaluate requests for visits by contractors received from the International Programs Division, DISCO (if the visitor is based in the United States), or from Central Index File Europe (if visitor based in Europe), and approve, disapprove, or limit the visit as appropriate. Replies to requests for visits will be made direct to the initiating activity or visitor with information copies to higher echelons as desired.

§ 852.15 Unsatisfactory security conditions.

When a contracting officer receives a notification under the provisions of paragraph 4-201b, ISR, he will:

(a) Withhold the release to the facility of additional classified information (including Defense Documentation Center (DDC) information) until the deficient condition has been corrected, unless the project commander determines that the continuation of the contract work is so essential to the best interests of the United States that such consideration must override security considerations. In cases of flagrant or continuing failure to maintain prescribed security standards, or upon the request of the director of the DCASR exercising security cognizance over the facility, the contracting officer also will withdraw the classified information already in the custody of the facility. (This includes requiring the project commander and DDC to withhold or withdraw classified information furnished by them.)

(b) Initiate action, in coordination with the director of the DCASR exercising security cognizance over the facility, to terminate the classified contract by default. The contracting commander also will consider whether action should be taken to debar or suspend the contractor.

§ 852.16 Security classification guidance.

The focal point for policy and coordination of all security classification guidance and regarding and declassification actions will be the classification management office. Therefore, the commander for whom a classified contract is negotiated (i.e., project command) will require the project office and classification management personnel to provide and monitor security classification guidance and instructions concerning classified systems, programs, or projects for which they are responsible. The project office, and classification management and contracting personnel, will develop and furnish security classification guidance and other security instructions to contractors at the time of Request for Proposal or an Invitation to Bid is originated. The PCO will assure that the DD Form 254 or 254-1 indicates in the remarks section the office and address to which questions concerning security classification guidance and instructions should be directed. Air Force ACOs will request that prime contractors develop security classification guidance for their subcontractors and submit it to the ACO for approval. When necessary, the ACO will send the guidance to the project officer for review prior to approval and distribution.

By order of the Secretary of the Air Force.

LUCIAN M. FERGUSON,
Colonel, U.S. Air Force, Chief, Special Activities Group, Office of The Judge Advocate General.

[F.R. Doc. 67-13907; Filed, Nov. 28, 1967; 8:45 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter III—Environmental Science Services Administration, Coast and Geodetic Survey, Department of Commerce

TRANSFER OF REGULATIONS

CROSS REFERENCE: For a document consolidating and restating the matter now published in Chapter V of Title 15 and Chapter III of Title 33, see F.R. Doc. 67-13906, Chapter IX of Title 15, *supra*.

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 1—Federal Procurement Regulations

REVISION OF CLAUSES FOR CONSTRUCTION CONTRACTS

This amendment of the Federal Procurement Regulations prescribes a revised "Changes" clause, a revised "Differing Site Conditions" clause, and a "Suspension of Work" clause for use in fixed-price construction contracts. These clauses are designed to facilitate administrative adjustment of claims arising under fixed-price construction contracts and to eliminate ambiguities and inconsistencies in the previously prescribed clauses. (The Appendix to these regulations indentifies and explains significant modifications included in the clauses.)

PART 1-7—CONTRACT CLAUSES

The table of contents for Part 1-7 is amended by adding new entries designated as §§ 1-7.601-2, 1-7.601-3, and 1-7.601-4; and by deleting the caption for § 1-7.602-1 and substituting in lieu thereof the caption "Reserved." As amended, the entries read as follows:

Sec.
1-7.601-2 Changes.
1-7.601-3 Differing site conditions.
1-7.601-4 Suspension of work.
1-7.602-1 [Reserved]

Subpart 1-7.6—Fixed-Price Construction Contracts

1. Section 1-7.601 is revised to indicate the scope of the section and to add new §§ 1-7.601-2, 1-7.601-3, and 1-7.601-4 which prescribe, respectively, a revised "Changes" clause, a revised "Differing Site Conditions" clause, and a revised "Suspension of Work" clause for use in fixed-price construction contracts. (See the amendment of § 1-16.401 regarding use of these clauses in connection with Standard Form 23-A.) As revised and added, §§ 1-7.601, 1-7.601-2, 1-7.601-3, and 1-7.601-4 reads as follows:

§ 1-7.601 Required clauses.

The clauses prescribed in this section shall be used in fixed-price construction contracts, advertised or negotiated, except for contracts:

(a) Entered into on Standard Form 19;

(b) For construction, alteration, or repair of vessels; and

(c) For construction, alteration, or repair work in foreign countries.

§ 1-7.601-2 Changes.

CHANGES

(a) The Contracting Officer may, at any time, without notice to the sureties, by written order designated or indicated to be a change order, make any change in the work within the general scope of the contract, including but not limited to changes:

(i) In the specifications (including drawings and designs);

(ii) In the method or manner of performance of the work;

(iii) In the Government-furnished facilities, equipment, materials, services, or site; or

(iv) Directing acceleration in the performance of the work.

(b) Any other written order or an oral order (which terms as used in this paragraph (b) shall include direction, instruction, interpretation, or determination) from the Contracting Officer, which causes any such change, shall be treated as a change order under this clause, provided that the Contractor gives the Contracting Officer written notice stating the date, circumstances, and source of the order and that the Contractor regards the order as a change order.

(c) Except as herein provided, no order, statement, or conduct of the Contracting Officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment hereunder.

(d) If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under this contract, whether or not changed by any order, an equitable adjustment shall be made and the contract modified in writing accordingly: *Provided, however,* That except for claims based on defective specifications, no claim for any change under (b) above shall be allowed for any costs incurred more than 20 days before the Contractor gives written notice as therein required: *And provided further,* That in the case of defective specifications for which the Government is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with such defective specifications.

(e) If the Contractor intends to assert a claim for an equitable adjustment under this clause, he must, within 30 days after receipt of a written change order under (a) above or the furnishing of a written notice under (b) above, submit to the Contracting Officer a written statement setting forth the general nature and monetary extent of such claim, unless this period is extended by the Government. The statement of claim hereunder may be included in the notice under (b) above.

(f) No claim by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under this contract.

§ 1-7.601-3 Differing site conditions.

DIFFERING SITE CONDITIONS

(a) The Contractor shall promptly, and before such conditions are disturbed, notify the Contracting Officer in writing of: (1) Subsurface or latent physical conditions at the site differing materially from those indicated in this contract, or (2) unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in this contract. The Contracting Officer shall promptly investigate the conditions, and if he finds that such conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the work under this contract, whether or not changed as a result of such conditions, an equitable adjustment shall be made and the contract modified in writing accordingly.

(b) No claim of the Contractor under this clause shall be allowed unless the Contractor has given the notice required in (a) above; provided, however, the time prescribed therefor may be extended by the Government.

(c) No claim by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under this contract.

§ 1-7.601-4 Suspension of work.

SUSPENSION OF WORK

(a) The Contracting Officer may order the Contractor in writing to suspend, delay, or interrupt all or any part of the work for such period of time as he may determine to be appropriate for the convenience of the Government.

(b) If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted by an act of the Contracting Officer in the administration of this contract, or by his failure to act within the time specified in this contract (or if no time is specified, within a reasonable time), and adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by such unreasonable suspension, delay, or interruption and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent (1) that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor or (2) for which an equitable adjustment is provided for or excluded under any other provision of this contract.

(c) No claim under this clause shall be allowed (1) for any costs incurred more than 20 days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order), and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such suspension, delay, or interruption, but not later than the date of final payment under the contract.

§ 1-7.602-1 [Deleted]

2. Section 1-7.602-1 is deleted and the section is shown as "Reserved." (See revised clause in § 1-7.601-4.)

PART 1-16—PROCUREMENT FORMS

Subpart 1-16.4—Forms for Advertised Construction Contracts

Section 1-16.401(h) is revised to prescribe an interim revision of Standard Form 23-A, reading as follows:

§ 1-16.401 Forms prescribed.

* * * * *

(h) General Provisions (Construction Contract) (Standard Form 23-A, June 1964 edition). Pending revision of Standard Form 23-A, agencies shall modify this form by deleting Clause 3, "Changes," and Clause 4, "Changed Conditions," and by substituting in lieu thereof the clauses prescribed in §§ 1-7.601-2 and 1-7.601-3, respectively, and shall add the "Suspension of Work" clause prescribed in § 1-7.601-4.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. These regulations are effective February 1, 1968, with respect to all invitations for bids and requests for proposals initiated on or after that date, but may be observed earlier.

Dated: November 22, 1967.

LAWSON B. KNOTT, Jr.,
Administrator of General Services.

APPENDIX

BACKGROUND AND NATURE OF REVISIONS TO CONTRACT CLAUSES

1. *Background.* This amendment prescribes three revised contract clauses for use by executive agencies in fixed-price construction contracts, namely: "Changes;" "Differing Site Conditions" (formerly designated "Changed Conditions"); and "Suspension of Work" (formerly designated "Price Adjustment for Suspension, Delay, or Interruption of the Work").

a. For many years, problems have been encountered in the administration of these clauses. A study of the problems was initiated by GSA on June 13, 1966. The Study Group (which included the representatives of major construction contracting agencies) submitted a report on March 1, 1966, in which it set forth basic objectives, analyzed administrative difficulties, and recommended revised contract clauses. Included in the basic objectives were:

(1) Clarification of the authority of the contracting officer with respect to the making of changes.

(2) Express recognition in the contract documents itself of the doctrine of "constructive changes."

(3) Elimination of the adverse effects of the "Ellis" doctrine (insofar as it has been interpreted to preclude appropriate consideration of the effect of a change upon affected aspects of contract work not specifically covered by the change order).

(4) Clarification and revision of notice requirements imposed by the Government on the contractor.

Underlying these objectives was the desire to facilitate administrative adjustment of claims arising under construction contracts. It was believed that the elimination of "fractionalization" problems in the handling of such cases by contracting officers, contract appeals boards, the General Accounting Office, and courts will benefit both the Government and contractors.

b. The proposals set forth in the report of the Study Group were submitted for comment both to Government agencies and to construction industry representatives (including industry associations, professional bar groups, and interested individuals). In the light of the comments received from these organizations, the Study Group submitted on May 8, 1967, a supplemental report which set forth additional revisions in the text of the respective clauses. Thereafter, further reconciliations were made by GSA and the prescribed texts of the clauses were developed, giving due consideration to the views and recommendations of all interested parties, consistent with the interests of the Government.

2. *Nature of revisions to contract clauses.*—a. *Changes clause.* (1) Paragraph (a), like a counterpart provision in the clause previously prescribed, establishes the authority of the contracting officer to make changes within the general scope of the work. The revised clause makes it clear, however, that the change may relate to any aspect of the work to be performed under the contract. To effect this clarification, the clause sets forth illustrative categories for the making of changes, which embrace changes not only in the drawing, designs and specifications, but also changes in the method and manner of performance; in the provision of sites and services; or requiring acceleration in performance. These categories are intended to be descriptive of the kind of change actions which historically have been accommodated under the Changes clause. Deceleration actions not related to a change or unreasonable delay in the issuance of a change order were intentionally omitted since they are in the nature of a suspension, delay, or interruption covered by the Suspension of Work clause, which is now made a mandatory clause. Hence, it is not intended that the Changes clause cover actions which (i) are clearly denoted as a suspension order or (ii) have as a primary purpose the effecting of a suspension, delay, or interruption of the work. While the contracting officer is authorized to make changes in any aspect of the work itself, the clause does not authorize him to alter any of the collateral aspects of contract performance, such as are covered by the payment and so-called boilerplate clauses.

(2) Paragraph (b) of the clause (for which there is no counterpart provision in the clause previously prescribed) concerns "constructive changes." This paragraph provides that other written or oral orders (including directions, instructions, interpretations, or determinations) from the contracting officer which cause a change within the general scope of the work will be treated as changes under the clause. However, as a prerequisite to the consideration of a claim based on a constructive change, the contractor must notify the contracting officer that he considers such order to be one directing a change in the work to be performed.

(3) Paragraph (c), (for which there is no counterpart provision in the clause previously prescribed) provides that no order, statement, or conduct of the contracting officer shall be treated as a change, except as specifically provided for in the clause itself. With respect to constructive changes, accordingly, only those provided for in paragraph (b), may be considered under the Changes clause. This paragraph does not, of course, preclude the contractor from seeking such administrative relief as may be available under another clause contained in the contract, such as the Suspension of Work or a Government-furnished property clause. Likewise, it does not preclude the contractor from seeking judicial relief for breach of contract.

(4) Paragraph (d), like a counterpart provision in the clause previously prescribed, establishes the contractor's right to an equitable adjustment in situations involving the making of changes. More specifically, the paragraph states that if any change effected under the clause causes an increase in the cost of, or in the time required for, the performance of any part of the work, "whether or not changed by any order," an equitable adjustment is to be made.

(5) A significant revision in the clause is the adoption of additional text designed to eliminate the application of the "Ellis" doctrine (which reflected interpretive rulings relating to the meaning of the clause previously prescribed). The elimination of the "Ellis" doctrine has been accomplished principally by adding the phrases "any part of the work" and "whether or not changed." These phrases now appear in the Changes clause of Standard Form 23, the general provisions for standard supply contracts. An equitable adjustment clearly encompasses the effect of a change order upon any part of the work, including delay expense; provided, of course, that such effect was the necessary, reasonable, and foreseeable result of the change.

(6) Except for defective specifications, the Changes clause as revised will continue to have no application to any delay prior to the issuance of a change order. An adjustment for such type of delay, if appropriate, will be for consideration under the provisions of the Suspension of Work clause.

(7) A further revision in the equitable adjustment provision in paragraph (d) has been made by reason of the recognition in the clause of constructive changes under paragraph (b). Under this revision, a contractor who seeks relief in a constructive change situation not involving defective specifications cannot recover for any costs arising more than 20 days prior to his furnishing an appriasl notice as prescribed under paragraph (b). Accordingly, a cost limitation which has heretofore been prescribed for suspensions arising under the Suspension of Work clause will now also be prescribed for constructive changes arising under the Changes clause. The 20-day limitation is not waiverable, and costs may not be recovered contrary to this limitation.

(8) Notwithstanding the inapplicability of the 20-day cost incurrance limitation to constructive change orders involving defective specifications, the appriasl notice required by paragraph (b) must be given. Moreover, paragraph (d) also limits the equitable adjustment to costs reasonably incurred in attempting to comply with defective specifications. Thus, the time of the notice in relation to when the contractor becomes aware of the defect could be a factor in determining reasonableness of costs. Of course, no adjustment is intended to be allowed in connection with defective specifications unless the Government is responsible therefor.

(9) Paragraph (e) requires the contractor to submit to the contracting officer a statement setting forth the general nature and monetary extent of his claim for an equitable adjustment within 30 days after the receipt of a written change order issued under paragraph (a), or within 30 days after the furnishing by the contractor to the contracting officer of an appriasl notice pursuant to paragraph (b). The paragraph also indicates that in a constructive change situation arising under paragraph (b), the contractor may include his claim statement with his appriasl notice. Because the clause previously prescribed made no reference to the constructive change situation, that clause did not cover the furnishing in such a situation either of an appriasl notice or of a claim statement. In effect, the clause merely required the contractor to submit a notice of intent to assert a claim where a change order issued. Also, there was no specific requirement to provide information on the nature and extent of the claim, based on either a change order or a constructive change. Such additional information will enable the contracting officer to evaluate a claim properly, particularly in a constructive change situation. A further revision concerns the authorization to extend the time for the filing of a claim. Under the text of the clause previously prescribed, the time for submitting the assertion of a claim could be extended by the "contracting officer." Under the clause as revised, the time for the submission of the claim may be extended by the "Government," which includes a contract appeals board. Whether the Government would be prejudiced thereby, is for consideration in granting an extension.

(10) Paragraph (f), (the subject matter of which appeared in the clause previously prescribed, merely as a dependent phrase rather than as an independent statement) states that a claim for an equitable adjustment

under the clause must be asserted prior to final payment.

(7) The disputes provision which appeared in the text of the clause previously prescribed has been deleted. The existence of an administrative remedy is established by the Disputes clause. Accordingly, there is no need to reiterate in clauses covering particular aspects of the contractual agreement the availability of that remedy. It must be emphasized that deletion of a separate disputes provision from the Changes clause (or from the Differing Site Conditions clause or the Suspension of Work clause) does not alter or diminish in any respect the applicability of the Disputes clause or the jurisdiction of administrative boards, which will continue to be subject to the limitations imposed by the Wunderlich Act.

(8) The extra work or material provision which appeared in the final sentence of the clause previously prescribed has been deleted. The provision appears to be unnecessary because the revised clause will cover all applications for adjustment thereunder, whether based upon a change order or a constructive change.

b. *Differing Site Conditions clause.* The Differing Site Conditions clause has been developed to coordinate its text with that of the Changes clause as revised. The principal revisions in the Differing Site Conditions clause are as follows:

(1) The former title, "Changed Conditions," has been replaced by the new title, "Differing Site Conditions" to describe more accurately the subject matter of the clause.

(2) The phrase, "any part of the work" and "whether or not changed," have been added to conform the text of paragraph (a) with similar provisions of the Changes clause.

(3) Like paragraph (a) of the Changes clause, which relates to a prescribed notice to be provided by the contractor, paragraph (b) of the Differing Site Conditions clause states that the time for furnishing a prescribed notice may be extended by the "Government." The term "Government" has been substituted for the term "contracting officer" in this provision for the same reason that such substitution has been made in a similar provision of the Changes clause.

(4) The separate disputes provision included in the prior Changed Conditions clause has been deleted for the same reasons that such provision has been deleted from the Changes clause.

c. *Suspension of Work clause.* The Suspension of Work clause has been revised to coordinate its text with that the Changes clause as revised. The principal revisions in the Suspension of Work clause are as follows:

(1) The abbreviated title, "Suspension of Work," commonly used in making reference to the clause, has been adopted in lieu of the longer title appearing in the clause previously prescribed.

(2) The text of paragraph (b) of the clause has been modified and some clarifications and editorial revisions have also been made. Accordingly, the phrase "without fault or negligence of the contractor" which appeared in the first sentence of the counterpart paragraph of the clause previously prescribed has been removed and has been added to the second sentence of the paragraph. For clarification, the second sentence of the clause as revised specifically indicates that an adjustment is not to be made under the clause in any instance where "an equitable adjustment is provided for or excluded under any other provision" of the contract. Accordingly, where a claim for delay expense is cognizable under the Changes clause or the Government-Furnished Property clause, for example, an adjustment will be for consideration under these clauses in preference to the Suspension of Work clause. Furthermore, granting an extension of time under the "Delays-Damages" clause (Clause 5 of Standard Form 23–A) does not preclude a price adjustment under the Suspension of Work clause.

(3) The separate disputes provision appearing in the clause previously prescribed has been deleted from the text for the same reasons that such provision has been deleted from the Changes clause.

[F.R. Doc. 67–13402; Filed, Nov. 28, 1967; 8:49 a.m.]

Chapter 101—Federal Property Management Regulations

SUBCHAPTER H—UTILIZATION AND DISPOSAL

PART 101–45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

Mistakes in Bids

Part 101–45 is amended by the addition of a new Subpart 101–45.8 which prescribes policy and methods relating to mistakes in bids.

The table of contents for Part 101–45 is amended by reserving Subpart 101–45.7 and by providing for the addition of new entries for Subpart 101–45.8, as follows:

Subpart 101–45.7 [Reserved]

Subpart 101–45.8—Mistakes in Bids

Sec.
101–45.800 Scope of subpart.
101–45.801 General.
101–45.802 Apparent clerical mistakes.
101–45.803 Other mistakes disclosed before award.
101–45.804 Mistakes disclosed after award.

AUTHORITY: The provisions of this Subpart 101–45.8 issued under sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subparts 101–45.9—101.45.48 [Reserved]

Part 101–45 is amended by reserving Subpart 101–45.7 and by providing for the addition of a new Subpart 101–45.8, as follows:

Subpart 101–45.7 [Reserved]

Subpart 101–45.8—Mistakes in Bids

§ 101–45.800 Scope of subpart.

This subpart prescribes the policies and methods governing the treatment by executive agencies of mistakes in bids by bidders in sales of personal property. The authorities prescribed herein are not intended to nullify previous authorities granted by the Comptroller General.

§ 101–45.801 General.

After the opening of bids, sales contracting officers shall examine all bids for mistakes. Where the sales contracting officer has reason to believe that a mistake may have been made, he shall request from the bidder a verification of the bid, calling attention to the suspected mistake. If the bidder alleges a mistake, the matter shall be processed in accordance with this Subpart 101–45.8. Such actions shall be taken prior to award.

§ 101–45.802 Apparent clerical mistakes.

Any clerical mistake apparent on the face of a bid may be corrected by the sales contracting officer prior to award if the sales contracting officer has first obtained from the bidder verification of the bid actually intended. An example of such an apparent mistake is an error in placing the decimal point (e.g., a bidder bids $10 each on 10 units, but shows an extended price of $1,000 or a bidder bids $0.50 per lb. for 1,000 lbs. but shows an extended price of $50). Any correction made pursuant to this § 101–45.802 shall be reflected in the award document, if an award is made on the corrected bid.

§ 101–45.803 Other mistakes disclosed before award.

(a) Heads of executive agencies are authorized (with power of redelegation as provided in §§ 101–45.803(b) and 101–45.804(d)), in order to minimize delay in contract awards, to make the administrative determinations described in this § 101–45.803 in connection with mistakes in bids alleged after opening of bids and before award. The authority contained herein to permit correction of bids is limited to bids which, as submitted, are responsive to the invitation for bids, and may not be used to permit correction of bids to make them responsive. This authority is in addition to that in § 101–45.802 or that which may be otherwise available.

(1) A determination may be made permitting the bidder to withdraw his bid where the bidder requests permission to do so and clear and convincing evidence establishes the existence of a mistake. However, if the evidence is clear and convincing both as to the existence of a mistake and as to the bid actually intended, and if the bid as submitted and as corrected is the highest received, a determination may be made to correct the bid and not permit its withdrawal.

(2) A determination may be made permitting the bidder to correct his bid where the bidder requests permission to do so and clear and convincing evidence establishes both the existence of a mistake and the bid actually intended. However, if such correction would result in displacing one or more higher bids, the determination shall not be made unless the existence of the mistake and the bid actually intended are ascertainable substantially from the invitation and bid itself. If the evidence is clear and convincing only as to the mistake, but not as to the intended bid, a determination permitting the bidder to withdraw his bid may be made.

(3) If the evidence does not warrant a determination under (a) (1) or (2) of this § 101–45.803, a determination may be made that a bidder may neither withdraw nor correct his bid.

(b) Heads of executive agencies may delegate to one central authority in their agencies, without power of redelegation, authority to make the determinations under this § 101–45.803.

(c) Each proposed determination shall be approved by the agency's General Counsel, Deputy or Associate General Counsel, an Assistant General Counsel, or other comparable legal officer.

(d) Suspected or alleged mistakes shall be processed as follows:

(1) Whenever the sales contracting officer suspects that a mistake may have been made in a bid, he shall immediately request the bidder to verify the bid. Such request shall inform the bidder of the basis for suspecting a mistake and shall advise the bidder that if a mistake is alleged, to support his allegation by statements concerning the alleged mistake and by all pertinent evidence; such as the bidder's file copy of the bid, his original worksheets and other data used in preparing the bid, and any other evidence which conclusively establishes the existence of the error, the manner in which it occurred, and the bid actually intended. If the time for acceptance of bids is likely to expire before a decision can be made, the sales contracting officer shall request all bidders whose bids may become eligible for award to extend the time for acceptance of their bids. If the bidder whose bid is believed erroneous does not grant such extension of time and a decision cannot be reached before expiration of the time for acceptance, even if handled by telegraph or telephone as provided in § 101–45.803(d)(4), the bid shall be considered as originally submitted.

(2) If the bidder verifies his bid, the sales contracting officer shall consider it as originally submitted.

(3) Where the bidder furnishes evidence in support of an alleged mistake, the case shall be referred to the appropriate authority together with the following data:

(i) All evidence furnished by the bidder.

(ii) A copy of the bid and the invitation for bids.

(iii) An abstract or record of the bids received.

(iv) A written statement by the sales contracting officer setting forth—

(*a*) The expiration date of the bid in question and of the other bids submitted;

(*b*) Specific information as to how and when the mistake was alleged;

(*c*) Most recent contract price for a like item(s) involved, when sold, in what quantity, relative condition, etc.;

(*d*) A summary of the evidence submitted by the bidder;

(*e*) Any additional evidence considered pertinent, including copies of all correspondence between the sales contracting officer and the bidder concerning the alleged mistake; and

(*f*) The course of action with respect to the bid that the sales contracting officer considers proper on the basis of the evidence.

(4) When time is of the essence, because of the expiration of bids or otherwise, the sales contracting officer may refer the case by telegraph or telephone to the designated authority. Ordinarily, however, sales contracting officers will not refer mistake in bid cases to the designated authority by telegraph or telephone, particularly when the determinations set forth in (a) (2) and (3) of this § 101–45.803 are applicable, since actual examination of the evidence is generally necessary to determine the proper action to be taken.

(5) Where the bidder fails or refuses to furnish evidence in support of a suspected or alleged mistake, the sales contracting officer shall consider the bid as submitted unless there are indications of error so clear as reasonably to justify the conclusion that acceptance of the bid would be unfair to the bidder or to other bona fide bidders, in which case it may be rejected. This action will be cleared through counsel serving the cognizant sales contracting officer. The attempts made to obtain the information required and the action taken with respect to the bid shall be fully documented.

(e) Nothing contained in this § 101–45.803 shall deprive the Comptroller General of his statutory right to question the correctness of any administrative determination made hereunder nor deprive any bidder of his right to have the matter determined by the Comptroller General should he so request. All doubtful cases shall be submitted to the Comptroller General for advance decision in accordance with agency procedures.

(f) Each agency shall maintain records of all administrative determinations made in accordance with this § 101–45.803, the facts involved, and the action taken in each case. Copies of all such administrative determinations shall be included in the case file. Where a contract is awarded, the General Accounting Office copy of the contract, whenever filed, shall be accompanied by a signed copy of any related determination.

§ 101–45.804 Mistakes disclosed after award.

(a) When a mistake in bid is not discovered until after the award, the mistake may be corrected by supplemental agreement if correcting the mistake would make the contract more favorable to the Government without changing the essential requirements of the contract.

(b) In addition to the cases contemplated in § 101–45.804(a), heads of executive agencies are authorized, under the circumstances set forth in § 101–45.804(c), to make the administrative determinations described below in connection with mistakes in bids alleged or disclosed after award. This authority is in addition to that provided by Public Law 85–804 (50 U.S.C. 1431–1435) or that which may be otherwise available.

(1) A contract in its entirety may be rescinded where the original total contract amount does not exceed $1,000.

(2) A contract, irrespective of amount, may be reformed (i) by deleting the item or items involved in the mistake where such deletion does not reduce the contract amount by more than $1,000; or (ii) by decreasing the price where the resultant decrease in price does not exceed $1,000 and the reformed contract price is not less than that of the otherwise next high bid under the original invitation for bids.

(c) Determinations under § 101–45.804(b) may be made only on the basis of clear and convincing evidence that a mistake in bid was made, and either that the mistake was mutual or that the unilateral mistake made by the purchaser was so apparent as to have charged the sales contracting officer with notice of the probability of the mistake. If the evidence does not warrant a determination under (b) (1) or (2) of this § 101–45.804, determination may be made that no change shall be made in the contract as awarded.

(d) Heads of executive agencies may delegate to one central authority in their agencies, without power of redelegation, authority to make the determinations under this § 101–45.804.

(e) Each proposed determination shall be approved by the agency's General Counsel, Deputy or Associate General Counsel, an Assistant General Counsel, or other comparable legal officer.

(f) Mistakes disclosed after award shall be processed as follows:

(1) Whenever a mistake in bid is alleged or disclosed after award, the sales contracting officer shall advise the purchaser to support the alleged error by written statements and by all pertinent evidence, such as the purchaser's file copy of the bid, his original worksheets and other data used in preparing the bid, and any other evidence which will serve to establish the mistake, the manner in which it occurred, and the bid actually intended.

(2) Where the purchaser furnishes evidence in support of an alleged mistake, the case shall be referred to the appropriate authority together with the following data:

(i) All evidence furnished by the purchaser.

(ii) A copy of the contract, including a copy of the bid.

(iii) An abstract or record of the bids received.

(iv) A written statement by the sales contracting officer setting forth—

(*a*) Specific information as to how and when the mistake was alleged or disclosed;

(*b*) A summary of the evidence submitted by the purchaser;

(*c*) His opinion whether a bona fide mistake was made in the bid and whether he was, or should have been, on constructive notice of the mistake before the award, together with the reasons or data upon which his opinion is based;

(*d*) Most recent contract price for a like item(s) involved, when sold, in what quantity, relative condition, etc.;

(*e*) Any additional evidence considered pertinent, including copies of all relevant correspondence between the sales contracting officer and the purchaser concerning the alleged mistake;

(*f*) The course of action with respect to the alleged mistake that the sales contracting officer considers proper on the basis of the evidence; and

(*g*) The status of performance and payments under the contract, including contemplated performance and payments.

(g) Nothing contained in this § 101–45.804 shall deprive the Comptroller

General of his statutory right to question the correctness of any administrative determination made hereunder nor deprive any purchaser of his right to have the matter determined by the Comptroller General should he so request.

(h) Each agency shall maintain records of all administrative determinations made in accordance with this § 101–45.804, the facts involved, and the action taken in each case. A copy of the determination shall be attached to each copy of any contract rescission or reformation resulting therefrom.

(i) Where administrative determination is precluded by the limitations set forth in this section, the matter will be submitted to the Comptroller General for decision in accordance with agency procedures.

(j) Nothing contained in this § 101–45.804 prevents an agency from submitting doubtful cases to the Comptroller General.

Subparts 101–45.9—101–45.48 [Reserved]

Effective date. This amendment is effective upon publication in the FEDERAL REGISTER.

Dated: November 22, 1967.

LAWSON B. KNOTT, Jr.,
Administrator of General Services.

[F.R. Doc. 67–13945; Filed, Nov. 28, 1967; 8:48 a.m.]

Title 46—SHIPPING

Chapter II—Maritime Administration, Department of Commerce

SUBCHAPTER G—EMERGENCY OPERATIONS

[General Order 83, 17th Rev.]

PART 309—VALUES FOR WAR RISK INSURANCE

Miscellaneous Amendments

Sections 309.1–309.101 of this part are hereby revised to read as follows:

FINDINGS AND SCOPE

Sec.
309.1 Findings.
309.2 Scope.

BASIC VALUES

309.3 Vessels built during or after 1939.
309.4 Vessels built prior to 1939.

GENERAL PROVISIONS

309.5 Adjustments for condition, equipment, and other considerations.
309.6 Definitions.
309.7 Modifications.
309.8 Vessel data forms.

VALUES FOR INDIVIDUAL VESSELS

309.101 Values effective July 1, 1967.

AUTHORITY: §§ 309.1 through 309.101 issued under sec. 204, 49 Stat. 1987, as amended, sec. 1209, 64 Stat. 776, as amended, 70 Stat. 964; 46 U.S.C. 1114, 1289.

FINDINGS AND SCOPE

§ 309.1 Findings.

The Ship Valuation Committee, Maritime Administration, has found that the values provided in this part constitute just compensation for the vessels to which they apply, computed in accordance with subsection 902(a) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1242), pursuant to section 1209(a), Merchant Marine Act, 1936, as amended (46 U.S.C. 1289(a)), Public Law 958, 84th Congress, and the authority delegated to the Maritime Administrator by the Secretary of Commerce in section 3 of Department Order No. 117–A effective May 20, 1966 (31 F.R. 8087), and redelegated to the Ship Valuation Committee (28 F.R. 12330, Nov. 21, 1963).

§ 309.2 Scope.

(a) *Vessels included.* (1) This part establishes values for self-propelled oceangoing iron and steel vessels (other than vessels excluded pursuant to paragraph (b) of this section) for which war risk insurance is provided by the Maritime Administration pursuant to Title XII, Merchant Marine Act, 1936, as amended (46 U.S.C. 1281–1294), Public Law 763, 81st Congress, Public Law 209, 84th Congress, Public Law 958, 84th Congress. The values established by §§ 309.1–309.101 represent the maximum amounts for which the Maritime Administration will provide war risk hull insurance for damage to or actual or constructive total loss of the vessel and for which claims for damage to or actual or constructive total loss of such insured vessels may be adjusted, compromised, settled, adjudged, or paid by the Maritime Administration with respect to insurance attaching during the period July 1, 1967, to December 31, 1967, inclusive, under the standard forms of war risk hull insurance interim binder or policy prescribed by §§ 308.106 and 308.107 of this chapter (General Order 75, 2d Rev., as amended): *Provided, however*, That if there is a substantial change in market values during said period, the Maritime Administration reserves the right to revise the values provided for herein or determined pursuant hereto at any time during said period.

(2) It is contemplated that the next revised values will be published as soon as practicable after January 1, 1968, to be effective with respect to insurance attaching during the period January 1, 1968, to June 30, 1968, inclusive.

(b) *Vessels excluded.* The values established pursuant to §§ 309.3 through 309.5 do not apply to passenger vessels, lumber schooners, car ferries, seatrains, cable ships, bulk cement and ore carriers, vessels operated on the Great Lakes and inland waterways, fully refrigerated vessels, vessels of less than 1,500 gross tons, or any other vessels or class of vessels to which the Maritime Administration finds that the provisions of said sections would not be appropriate. Values for vessels excluded by this paragraph (b) shall be specifically determined by the Maritime Administration and set forth in § 309.101, revised, as provided therein.

(c) *Fuel, stores, and supplies.* Values for fuel, stores, and supplies shall be determined in accordance with §§ 309.201 through 309.204 (General Order 100, 29 F.R. 2944, Mar. 4, 1964; 29 F.R. 3708, Mar. 25, 1964).

BASIC VALUES

§ 309.3 Vessels built during or after 1939.

(a) *Basic values.* The values of vessels built during or after 1939 shall be determined in accordance with this section, subject to the applicable adjustments provided in § 309.5.

(b) *War-built vessels.* (1) The values of the standard types of war-built vessels under U.S. flag listed in this subparagraph (1) which have the lawful right to engage in the coastwise trade of the United States (which are the current domestic market values of such vessels as determined by the Ship Valuation Committee) are as follows:

Standard-type vessel:	Value
EC2–S–C1	$275,000
EC2–S–AW1	225,000
VC2–S–AP2	550,000
C1–M–AV1	250,000
C1–A and B (Steam)	280,000
C1–A and B (Diesel)	275,000
C2–S–B1	605,000
C3–S–A2	1,100,000
C4–S–B5	1,550,000
T1–M–BT	235,000
T2–SE–A1	875,000
T3–S–A1	770,000
T3–S–BZ1	1,200,000

(2) The values of the standard types of war-built vessels under U.S. flag listed in this subparagraph (2) which do not have the lawful right to engage in the coastwise trade of the United States (which are the current domestic market values of such vessels as determined by the Ship Valuation Committee) are as follows:

Standard-type vessel:	Value
VC2–S–AP2	$500,000
T2–SE–A1	625,000
T3–S–A1	640,000

(3) The values of the standard types of war-built vessels under foreign flag listed in this subparagraph (3) (which are the lower of (i) the restricted world market values, or (ii) the domestic market values of comparable U.S.-flag vessels which do not have the lawful right to engage in the coastwise trade of the United States, as determined by the Ship Valuation Committee) are as follows:

Standard-type vessel:	Value
T2–SE–A1	$390,000
T3–S–A1	345,000

(4) The values of the standard subtypes of war-built vessels listed in this subparagraph (4) shall be determined as follows:

(i) If the subtype vessel is under U.S. flag and has the lawful right to engage in the coastwise trade of the United States, by multiplying the basic value of the standard-type vessel listed in subparagraph (1) of this paragraph by the factor shown opposite the subtype in the table set forth in this subparagraph (4), or

(ii) If the subtype vessel is under the U.S. flag but does not have the lawful right to engage in the coastwise trade of the United States, by multiplying the basic value of the standard-type vessel listed in subparagraph (2) of this paragraph by the factor shown opposite the subtype in the table set forth in this subparagraph (4), or

(iii) If the subtype vessel is under foreign flag, by multiplying the basic value of the standard-type vessel listed in subparagraph (3) of this paragraph by the factor shown opposite the subtype in the table set forth in this subparagraph (4).

TABLE

Subtype	Factor
VC2–S–AP3	110%—VC2–S–AP2
C2–S–A1	80%—C2–S–B1
C2–S–AJ1	100%—C2–S–B1
C2–S–AJ2	106%—C2–S–B1
C2–S–AJ3	100%—C2–S–B1
C2–S–AJ5	100%—C2–S–B1
C2	88%—C2–S–B1
C2–S–E1	103%—C2–S–B1
C2–F	100%—C2–S–B1
C2–S	92%—C2–S–B1
C3	90%—C3–S–A2
C3–S–A1	100%—C3–S–A2
C3–S–A3	76%—C3–S–A2
C3–S–A4	106%—C3–S–A2
C3–S–A5	106%—C3–S–A2
C3–E	71%—C3–S–A2
C3–M	100%—C3–S–A2
C3–S–BH1	100%—C3–S–A2
C3–S–BH2	100%—C3–S–A2
C4–S–A4	100%—C4–S–B5
T1–M–BT1	100%—T1–M–BT
T1–M–BT2	100%—T1–M–BT
T3–M–AZ1	105%—T3–S–A1

(c) *Other vessels.* The value of a vessel built during or after 1939 which is not included in paragraph (b) of this section shall be the current domestic market value as determined by the Maritime Administration.

§ 309.4 Vessels built prior to 1939.

The values of vessels built prior to 1939 shall be specifically determined by the Maritime Administration and set forth in § 309.101.

GENERAL PROVISIONS

§ 309.5 Adjustments for condition, equipment and other considerations.

The basic values provided in § 309.3 shall be adjusted for individual vessels to the extent provided in paragraphs (a) to (c) of this section.

(a) *Adjustment for a vessel of substandard condition.* If the Maritime Administration determines that a vessel is not in class or is in substandard condition for a vessel of her type or subtype and age, there will be subtracted from the basic value of such vessel, as determined, pursuant to § 309.3, the amount estimated by the Maritime Administration as the cost of putting the vessel in class or the amount estimated by the Maritime Administration as the difference in value of the substandard vessel and a vessel in standard condition.

(b) *Special equipment.* For any special equipment of material utility in the handling of cargo or utilization of the vessel, not otherwise included in determining the basic value pursuant to § 309.3, if the depreciated reproduction cost less construction subsidy, if any, of all such special equipment is in excess of $50,000, an allowance in such amount as the Maritime Administration shall determine to be the fair and reasonable value of such equipment, shall be added to the basic value.

(c) *Government installations.* The values provided by §§ 309.1–309.101 shall not include any allowance for any special installations or equipment to the extent that their cost was borne by the United States.

§ 309.6 Definitions.

(a) *Date vessel is built.* The date a vessel is built is the date upon which the vessel is delivered by the shipbuilder.

(b) *Deadweight tonnage.* The deadweight tonnage of a vessel means her deadweight capacity established in accordance with normal Summer Freeboard as assigned pursuant to the International Load Line Convention, 1930, and shall be her capacity (in tons of 2,240 pounds) for cargo, fuel, fresh water, spare parts, and stores, but exclusive of permanent ballast.

(c) *Speed of vessel.* The speed of a vessel means the speed determined in accordance with the formulae provided in Part 246 of this chapter (General Order 43, 3d revision).

(d) *Passenger vessel.* A passenger vessel is a ship which carries more than 12 passengers.

(e) *Construction subsidized vessel.* A construction subsidized vessel is a vessel built, reconstructed, or reconditioned with the aid of a construction-differential subsidy under Title V of the Merchant Marine Act, 1936, as amended, or a vessel sold by the United States which is subject by operation of law or contract to the provisions of section 802 of the Merchant Marine Act, 1936, as amended.

(f) *Vessel.* The stated valuation of a vessel in this part applies to a vessel in Class A–1 American Bureau of Shipping or equivalent, with all required certificates, including but not limited to marine inspection certificates of the U.S. Coast Guard, Department of Transportation, with all outstanding requirements and recommendations necessary for retention of class accomplished, without regard to any grace period; and so far as due diligence can make her so, tight, staunch, strong, and well and sufficiently tackled, appareled, furnished, and equipped, and in every respect seaworthy and in good running condition and repair, with clean swept holds and in all respects fit for service. A vessel in substandard condition is subject to § 309.5(a). The stated valuation of a vessel provided in this part does not include vessel stores and supplies, which consist of (1) Consumable Stores, (2) Subsistence Stores, (3) Slop Chest, (4) Bar Stock, and (5) Fuel, as defined in Maritime Administration Inventory Manual, Vessel Inventories, Part I, and Maritime Administration Inventory Books Forms MA–4736, A through K, which will be valued separately.

§ 309.7 Modifications.

The Maritime Administration reserves the right to exempt specific vessels from the scope of this part, or to amend, modify, or terminate the provisions hereof.

§ 309.8 Vessel data forms.

(a) *To accompany application for insurance.* Each application for war risk hull insurance submitted in accordance with § 308.101 of this chapter (General Order 75, 2d Revision, as amended) shall be accompanied by information relating to the vessel for use by the Maritime Administration in determining the value pursuant to this part. The information shall be submitted in duplicate on the applicable form prescribed in this section, copies of which may be obtained from the American War Risk Agency, 99 John Street, New York, N.Y. 10038, or the Chief, Division of Insurance, Maritime Administration, Washington, D.C. 20235.

(b) *Vessels of 1,500 gross tons or more.* Vessel data for all vessels of 1,500 gross tons or more shall be submitted on Form MA–510.

(c) *Vessels under 1,500 gross tons.* Vessel data for all vessels under 1,500 gross tons shall be submitted on Form MA–511.

(d) *Modification to vessels.* Revised vessel data shall be submitted on the appropriate form prescribed above whenever a vessel undergoes a physical change which increases or decreases its value by 5 percent or more.

VALUES FOR INDIVIDUAL VESSELS

§ 309.101 Values effective July 1, 1967.

(a) *Vessels covered by §§ 309.3 through 309.5.* (1) The Maritime Administration has found that the values established in accordance with §§ 309.3–309.5 constitute just compensation for the vessels to which they apply, computed as provided in sections 902(a) and 1209(a), Merchant Marine Act, 1936, as amended; and pursuant thereto has determined the values of the vessels covered by interim binders for war risk hull insurance, Form MA–184, prescribed by Part 308 of this chapter.

(2) The interim binders listed below shall be deemed to have been amended as of July 1, 1967, by inserting in the space provided therefor or in substitution for any value now appearing in such space the stated valuation of the vessels set forth below for the binders and vessels as designated. Such stated valuation shall apply with respect to insurance attaching during the period July 1, 1967, to December 31, 1967, inclusive: *Provided, however*, That the Assured shall have the right within 60 days after date of publication of these §§ 309.1–309.101 or within 60 days after the attachment of the insurance under said binder, whichever is later, to reject such valuation and proceed as authorised by section 1209(a)(2), Merchant Marine Act, 1936 as amended.

Binder No.	Name of vessel	Official No.	Stated valuation (in thousands)
870	Achilles	251782	$6,750
1060	Adabelle Lykes	251609	5,750
1429	African Comet	256231	4,700
720	African Crescent	250561	1,100
1063	African Dawn	251781	4,875
722	African Glade	245025	605
723	African Glen	247294	605
724	African Grove	244577	605
725	African Lightning	251451	1,100
1548	African Mercury	250148	4,800
1508	African Meteor	250702	4,785
726	African Moon	251175	1,100
1407	African Neptune	250485	4,800
730	African Planet	249260	1,100
731	African Rainbow	250118	1,100
1733	African Star	249351	1,100
1656	African Sun	251028	4,875
1751	Alma Lykes	252514	3,750
605	Alamar	245810	315
1289	Alaska Bear	249204	605
1790	Alcoa Commander	248227	605
1782	Alcoa Explorer	245335	605
1629	Alcoa Mariner	247573	605
1748	Alcoa Marketer	245488	605
1711	Alcoa Master	253573	605
1461	Alcoa Roamer	252567	605
1802	Alcoa Trader	248144	605
1749	Alcoa Voyager	253289	605
1650	Aldina	239754	605
1061	Aldine	941	300
689	Allen Raven	249222	605
1826	Allison Lykes	253517	3,900
1562	Alma Victory	245305	605
370	Almeria Lykes	249286	1,100
202	Aloha State	243267	1,100
2265	American Bear	252463	605
1402	American Chemist	250626	4,800
1418	American Champion	250536	4,800
1567	American Charger	250089	4,800
1662	American Chieftain	251020	4,800
531	American Clipper	249186	605
1883	American Command-er	250903	4,800
1672	American Condor	250247	1,100
1670	American Cornair	251020	4,800
1605	American Courier	250225	4,800
1774	American Crusader	253880	4,800
531	American Eagle	238227	6,945
1709	American Falcon	252524	1,100
893	American Forester	249274	605
535	American Forwarder	249443	605
536	American Forwester	245143	605
1791	American Hawk	253880	1,100
540	American Importer	248947	605
541	American Leader	249517	605
946	American Mail	242803	1,100
542	American Manu-facturer	247962	605
864	American Merchant	253045	605
545	American Miner	242823	605
1625	American Orbit	252804	1,100
546	American Packer	248488	605
547	American Pilot	248482	605
549	American Press	247890	605
2286	American Pride	247252	605
550	American Producer	244618	605
2266	American Racer	252001	4,400
2269	American Ranger	250570	4,430
2269	American Reliance	250771	4,800
552	American Reporter	248324	605
2052	American Resolute	250539	5,000
1679	American Robin	242041	1,100
1824	American Rover	247323	5,400
554	American Scientist	244633	605
555	American Scout	249123	605
556	American Shipper	248949	605
1902	American Trader	244855	1,205
560	American Traveler	249123	605
561	American Veteran	247229	605
2228	America San	240147	709
2285	America	248793	605
227	Amos Victory	247262	605
1455	Amoco Connecticut	253289	3,199
1458	Amoco Delaware	245068	2,126
1768	Amoco Louisiana	244829	2,265
1494	Amoco New York	244801	980
1498	Amoco Virginia	243518	2,265
641	Amtank	247908	1,220
2314	Anchorage	250721	5,100
2211	Andrew Jackson	247308	605
19	Angelo Petri	243962	3,870
1049	A. N. Kemp	149	975
2212	Antinoe	245979	623
676	Arinoa	250534	2,925
1446	Arizona Standard	245788	975
1719	Ashley Lykes	252161	3,750
1039	Athell McBean	141	980
232	Atlantis Communi-cator	250198	4,125
233	Atlantic Endeavor	277625	6,210
234	Atlantic Engineer	251107	3,510
1624	Atlantic Enterprise	276511	6,145
1049	Atlantic Navigator	251423	3,545
2309	Atlantic Trader	248007	2,429
418	Attleboro Victory	247475	889
788	Audrey J. Lucken-bach	250954	1,889
1485	Austin	247485	3,995
2053	Australian Galaxy	246311	605
2052	Australian Gem	246315	605
2054	Australian Gulf	246312	605
2055	Australian Isle	256767	625
2040	Australian Reef	244020	625
2056	Australian Surf	254342	625
210	Aytin	257151	1,625
229	Azalea City	243439	2,215
707	Badger State	245126	605
2062	Baltimore Trader	245065	875
1904	Bangor	252036	605
998	Barbara	249079	2,980
347	Barbara Jane	278108	4,910
2281	Battle Creek	247316	605
708	Bayou State	254013	605
949	Bay State	254120	605
1915	Beauregard	251505	2,215
709	Beaver State	245898	605
1755	Beloit Victory	245883	605
947	Bengal Mail	249344	1,100
204	Bennington	242406	875
697	Bethcar	253934	2,210
698	Bethtex	250539	2,210
419	Biddeford Victory	248433	500
361	Bienville	248436	2,215
710	Blue Gran State	253946	605
2107	Boise Victory	245786	605
1904	Bowling Green	244759	605
1849	Bradford Island	247640	875
1460	Brazos	247563	1,275
1568	Brighton	4445-49	2,415
1414	Brinton Lykes	253009	3,780
1473	Brooklyn Heights	247672	580
2157	Brookville	252670	605
263	Buckeye State	244577	1,100
2220	Byron D. Benson	248173	875
1248	California	257252	5,060
426	California Bear	250977	2,925
941	California Mail	252476	1,169
397	Californian	249229	2,720
963	California Standard	252468	980
1949	Calmar	254756	4,225
1589	Calter Gothenburg	2249-48	980
1569	Calter Stockholm	2070-47	980
1895	Calter Venden	2070-47	1,060
426	Canada Bear	247389	980
1974	Canada Mail	257570	5,475
1570	Cantigny	247622	2,050
07	Carbide Seadrift	241951	2,100
05	Carbide Texas City	242522	2,100
1900	C. E. Dant	250262	5,060
1901	Chancellorsville	244460	2,775
373	Charles Lykes	249457	605
1702	Charlotte Lykes	253753	3,780
2225	Chatham	252468	605
245	Chena	242706	327
697	Cherry Valley	243631	875
994	Chevron	249821	980
1041	Chevron Transporter	123	980
616	Chiltern	253219	2,775
1402	Chinook	253254	5,060
2215	Chootaw	242726	605
2280	Choctaw Victory	247420	605
1765	Christopher Lykes	252229	3,900
1682	Cibao	241698	580
1812	Cities Service Balti-more	271868	5,980
1814	Cities Service Miami	272077	5,980
1815	Cities Service Norfolk	272539	6,105
1960	Cities Service Valley Forge	482	1,805
2214	City of Alma	247882	623
101	Claiborne	242878	605
1967	Cleveland	243439	875
2223	Coastal Monarch	245089	250
2222	Coastal Nomad	245088	250
966	Coeur D'Alene Victory	247112	605
273	Coe Victory	247894	605
196	Colina	243875	875
2287	Colorado	243434	875
2124	Columbia	247512	2,925
1978	Columbia Victory	247705	580
1628	Conestoga	245283	605
1967	Commander	242209	2,580
2227	Connecticut	272267	7,080
1885	Conoco Dubai	1880	1,125
1975	Constitution State	249285	605
1880	Conoco Sopi	1605	1,125
712	Copper State	244127	2,180
2227	Coral	253132	980
713	Cotton State	245440	580
706	Cottonwood Creek	246564	1,060
1805	Counsell Grove	247895	2,945
1051	Cradle of Liberty	487	1,680
1526	C. R. Musser	246784	600
137	Cynthia Olsen	253443	580
1940	David D. Irwin	253254	2,180
212	David E. Day	249950	2,570
1970	Del Alva	253445	605
338	Del Alba	244986	980
165	Delaware Sun	246888	2,775
218	Del Campo	241993	278
220	Del Mar	251452	605
222	Del Monte	249228	278
223	Del Norte	245278	605
222	Del Norte	246063	602
1226	Del Ore	256186	4,210
226	Del Rio	254680	4,380
225	Del Santos	245377	605
227	Del Sol	255171	4,350
228	Del Stad	251459	600
229	Del Valle	245273	605
2215	De Soto	245366	623
257	Dick Lykes	245488	605
376	Doctor Lykes	249088	1,100
377	Dolly Turman	249747	605
1661	Duval	246641	600
2078	Eagle Courier	277541	6,400
697	Eagle Transporter	277710	6,285
697	Eagle Trawler	278442	7,010
698	Eagle Voyager	2782624	6,980
187	Eastern Sun	270025	4,300
187	Eclipse	267144	3,455
786	Edgar F. Luckenbach	248882	1,550
2078	Elaine	247049	600
378	Elizabeth Lykes	247623	605
2095	Elizabeth Lykes	500702	5,530
1917	Elizabethport	277021	4,380
1623	Elwell	245837	605
705	Empire State	248212	605
530	Erna Elizabeth	280198	7,225
1629	Esperia	243253	980
983	Esso Baltimore	252272	9,455
967	Esso Bangor	254701	3,775
1812	Esso Bogota		580
984	Esso Boston	255784	9,675
1310	Esso Brooklyn		245
989	Esso Chester	254445	3,410
1978	Esso Colon		875
998	Esso Dallas	250245	2,915
990	Esso Florence	255557	3,635
1007	Esso Gettysburg	272069	7,080
991	Esso Gloucester	255286	3,530
998	Esso Huntington	256229	3,775
994	Esso Jamestown	275519	7,400
998	Esso Lexington	276270	7,535
999	Esso Lima	250142	2,900
1000	Esso Newark	254231	3,380
1313	Esso Montevideo		940
997	Esso Newark	254231	3,380
998	Esso New York	256610	2,900
1814	Esso Norfolk		390
1015	Esso Santos		605
1044	Esso Scranton	245530	875
1826	Esso Seattle	277032	6,855
1009	Esso Washington	272069	7,105
379	Eugene Lykes	248051	605
2076	Eventide	246209	990
254	Evergreen State	257827	1,100
2080	Evilla	245572	400
962	Exbrook	249178	836
946	Exchester	243045	836
949	Exchequer	244128	836
947	Exobester	246120	836
950	Executor	248747	836
951	Exemplar	243965	781
953	Exford	249464	836
955	Exlena	252308	836
956	Exlyra	241988	484
957	Exmaster	244078	836
958	Expeditor	251971	836
959	Export Ambassador	259140	3,625
1296	Export Banner	256124	4,500
1254	Export Bay	249945	4,625
1372	Export Builder	257822	4,625
1401	Export Buyer	258076	4,625
1298	Export Challenger	252227	4,855
1771	Export Champion	257605	4,990
1719	Export Commerce	257767	4,540
1401	Export Courier	259942	4,740
964	Exporter	249049	836
965	Express	252376	836
1939	Express Baltimore	253555	532
1938	Express Virginia	252200	605
966	Extavia	241699	484
2225	Fairisle	245827	605
969	Fairland	242978	2,215
2216	Fakyort	259972	623
2217	Fanwood	252355	605
1536	F. E. Weyerhaeuser	248504	400
183	Floridian	252787	1,100
1810	Flower Hill	253445	605
1976	Flying A-Delaware	257937	2,750
1976	Flying A-New York	257938	3,705
1469	Flying Clipper	252291	605
1480	Flying Cloud	247000	605
1468	Flying Eagle	251684	605
1470	Flying Endeavor	241288	557
1479	Flying Enterprise II	245794	605
1474	Flying Fish	247097	557
1475	Flying Flash	247098	557
1472	Flying Gull	249448	557
1471	Flying Hawk	250822	557
1478	Flying Spray	248817	280

Binder No.	Name of vessel	Official No.	Stated valuation (in thousands)
1481	Flying Trader	248780	580
2290	Fortaleza	249878	605
584	Fort Fetterman	245735	2,980
1211	Fort Hoskins	245880	2,980
247	Fortuna	244971	275
498	Four Lakes	244549	2,365
1630	Fra Berlanga	244549	605
280	Frank Lykes	244794	605
2142	Free American	248537	705
962	F. S. Bryant	2221	1,695
1035	Gage Lumber	244484	2,225
595	Gaines Mill	248153	250
248	Galena	252444	605
1630	Garden City	248047	605
948	Garden State	251149	2,215
263	Gateway City	245015	600
1539	George S. Long	245183	605
394	Gibbes Lykes	243548	2,980
2244	Globe Carrier	277442	2,150
1764	Globe Explorer	277748	2,150
2252	Globe Progress	242282	2,500
2243	Globe Traveler	249120	2,980
1885	Glory of the Seas	245028	980
428	Golden Bear	249244	2,250
714	Golden State	244979	550
255	Gopher State	249913	1,160
2073	Green Bay	247268	1,550
885	Green Cove	247268	605
1129	Green Dale	251748	13
886	Green Harbour	247780	605
887	Green Island	247079	970
2035	Green Lake	245709	1,550
999	Green Mountain State	247128	550
1950	Green Port	252346	1,100
1901	Green Ridge	247222	1,100
889	Green Valley	247280	715
1249	Gusm Bear	252570	605
1863	Gulf Banker	247849	2,980
790	Gulfbear	247849	2,165
791	Gulfbreeze	243657	2,125
792	Gulfcrest	270894	4,186
793	Gulfdeer	245727	2,220
794	Gulfgreen	264625	2,220
1849	Gulf Farmer	246625	2,220
794	Gulfgreen	246979	716
795	Gulfhaven	251178	4,430
796	Gulfknight	277183	4,730
798	Gulflight	246900	2,415
797	Gulfmist	244498	215
1313	Gulfmobe	244498	4,075
997	Gulf Merchant	257329	4,525
798	Gulfoil	253424	2,220
799	Gulfpanther	246549	4,445
800	Gulfpride	276084	4,590
801	Gulfprince	276988	4,495
802	Gulfqueen	247837	2,275
811	Gulfservice	254324	1,500
1903	Gulf Shipper	249290	4,075
808	Gulfsky	252645	4,800
805	Gulfspray	253186	7,165
1356	Gulfsupreme	247767	2,425
804	Gulftiger	256404	4,075
1898	Gulf Trader	245923	605
1650	Halcyon Panther	245474	614
2234	Halcyon Tiger	248749	1,260
646	Hampton Roads	277708	6,800
824	Hans Isbrandtsen	246131	280
2158	Harbor Hills	247824	605
412	Harry Culbreath	249817	623
2215	Hastings	249119	5,060
1421	Hawaii	251971	2,720
298	Hawaiian	242283	1,100
300	Hawaiian Builder	247328	2,980
985	Hawaiian Citizen	253149	1,100
301	Hawaiian Craftsman	247226	1,160
303	Hawaiian Farmer	249890	1,100
304	Hawaiian Merchant	248845	1,100
307	Hawaiian Planter	248741	1,100
308	Hawaiian Rancher	248804	1,100
309	Hawaiian Refiner	248804	875
1445	Hawaii Standard	248737	875
995	H. D. Collier	249843	550
2249	Helen D	246039	2,550
878	Helen H	248945	605
2285	Helen Lykes	251777	550
1631	Heredia	248827	2,775
2308	Hermina	248804	2,775
634	Hess Banker	244725	2,510
636	Hess Patrol	248244	2,740
1378	Hess Refiner	246104	550
630	Hess Trader	254590	1,575
1638	Hibuscus	249283	2,925
961	Hilkyr Brown	244498	1,550
431	Hong Kong Bear	247783	600
706	Hooker State	244644	1,160
1540	Horace Irvine	243535	3,085
787	Horace Luckenbach	244498	1,600
176	Houston	244498	622
1222	Hudson	245469	1,100
2220	Iberville	252271	2,775
679	Idaho	245469	980
966	Idaho Standard	246945	2,925
249	Ilanan	254987	605
677	Illinois	253945	41
432	India Bear	256984	3,450
987	James Lykes	247997	605
414	James McKay		42
433	Japan Bear	270260	2,220
1418	Japan Mail	257979	4,980
945	Java Mail	253473	1,100
1394	Jean Lykes	274440	6,240
1265	J. B. Dyer	247945	605
274	Jeffersons City Victory	247982	605
998	Jean Lykes	274440	575
970	J. H. MacGargill	253956	625
978	J. H. Tuttle	253951	575
967	J. L. Hanna	246231	623
1221	John B. Waterman	243781	605
520	John C	257995	970
1017	John F. Shea	252772	2,450
999	John Lykes	248855	400
1535	John Weyerhaeuser	251238	2,450
990	Joseph Lykes	242283	2,205
986	Julesburg	247267	650
1532	Junior	249490	605
413	Kendall Fish	246082	315
612	Kenmar	247881	605
415	Kenneth McKay	268780	1,610
986	Keystoner	247783	1,550
986	Keystone State	246044	1,575
980	Keytrader	247095	1,650
990	Keytrader	249268	605
1906	Kings Point	250068	2,250
434	Koren Bear	248654	623
2223	Kyma	254217	2,910
13	Leland I. Doan	244049	1,100
788	Lena Luckenbach	257416	2,600
1342	Leslie Lykes	246977	605
991	Letitia Lykes	247077	1,645
1082	Liberty Bell	247583	650
2233	Linen	248987	1,100
992	Lipscomb Victory	242765	1,100
715	Lonestar State	247077	605
267	Longview Victory	247077	4,280
1918	Los Angeles	241183	315
613	Loumar	245111	605
996	Louise Lykes	254228	4,435
2082	Louise Lykes	243964	1,700
997	Louisiana Sulphur	242291	605
998	Lucile Bloomfield	246982	625
2224	Madaket	247144	605
716	Magnolia State	246983	623
1089	Maiden Creek	244681	605
384	Mallory Lykes	254077	5,080
2233	Mallory Lykes	257268	16,700
1328	Manhattan	245780	605
375	Mankato Victory	245678	605
2105	Marathon Victory	252455	2,980
1989	Margaret Lykes	250174	605
680	Margrett Brown		605
2264	Marine Chemical Transporter	244942	1,220
2057	Marine Clipper	245855	560
2077	Marine Outlier	247479	300
15	Marine Dew-Chem	257275	2,905
1570	Marine Merchant	245675	3,080
91	Marine Transport	247997	225
92	Marine Trader	247991	225
1513	Marjorie Lykes	249814	2,125
614	Marore	246108	575
108	Maryland Sun	247176	2,625
884	Maryland Trader	254720	2,625
1940	Maryner	254568	4,690
2260	Mason Lykes	256226	2,900
1739	Mayo Lykes	250870	3,115
1513	Medgar Evers	242228	400
1980	Merrimac	245878	2,905
1634	Metagon	252148	605
1296	Meteor	247321	605
681	Michigan	244468	1,100
887	Mill Spring	248885	2,250
2083	Missouri	245238	3,335
1271	M. L. Gonzey	250547	5,060
1530	M. M. Dant	279471	6,515
188	Mobil Aero	274585	5,570
189	Mobil Fuel	271443	5,190
190	Mobilgas	247077	5,720
191	Mobil Lube	276064	4,900
192	Mobiloil	274983	5,615
193	Mobil Power	2360	300
2095	Mona Pass	242428	875
901	Monmouth	268870	9,385
1365	Montiello Victory	250870	9,960
1447	Montpelier Victory	245785	550
2024	Morasea	268129	5,450
1968	Mormacaltair	254214	5,450
1890	Mormacargo	253541	4,225
92	Mormacbay	254125	4,400
80	Mormacscape	256749	4,400
1363	Mormacsove	250169	1,165
31	Mormacdawn	249026	5,450
2051	Mormacdraco	245988	605
23	Mormaclin	246839	605
24	Mormacfir	253283	4,400
1241	Mormaglen	246988	1,165
27	Mormacgulf	246812	1,165
29	Mormacisle	254987	4,400
40	Mormaclake	250161	1,165
41	Mormacland	250947	5,450
1937	Mormaclynx	256530	1,165
42	Mormacmail		
1217	Manasanak	242855	605
1541	Mormacpean	250541	1,165
47	Mormacpine	247477	605
48	Mormacpride	252262	4,270
1963	Mormacrigel	257264	1,450
50	Mormacrio	242549	1,100
51	Mormacsaga	250540	1,165
1942	Mormacstrade	257900	4,600
1264	Mormacvega	259532	5,450
281	Mount Vernon Victory	254178	2,650
1904	Nadina	245894	290
250	Naeco	244988	1,650
599	Nanny Lykes	252259	3,900
1248	Nassau	247267	1,200
648	Nathbalk	270988	11,645
1788	National Defender	270988	980
1941	National Seafarer	242283	980
2084	Neches	244228	875
251	Nenana	247915	875
1441	Nevada Standard	247758	605
661	Nova West	247881	605
1	New Century Victory	245469	800
1968	New Jersey Sun	248748	3,980
1837	New Market	247276	875
683	New York	242749	1,100
2088	New Yorker	242283	1,100
1688	Norberto Capay	244128	605
1466	Norina	245988	605
1961	Norman Lykes	249013	2,775
2119	Northfield	244228	605
1966	Northwestern Victory	247482	605
1466	Norwalk	244248	605
1237	Ocean Anna	245988	3,320
981	Ocean Evelyn	245217	1,166
1966	Oceanic Cloud	251979	605
1966	Oceanic Spray	245832	605
1966	Oceanic Tide	244813	605
2247	Oceanic Victory	247448	550
1966	Oceanic Wave	245988	600
2168	Ocean Pioneer	245988	2,760
2056	Ocean Ulla	250004	7,535
1966	Ohio	248988	1,100
1966	Ohio Sun	244229	875
1375	Oregon	257876	5,050
483	Oregon Bear	254497	2,925
1947	Oregon Mail	250778	5,450
971	Oregon Standard	250773	875
1825	Our Lady of Peace	247571	605
2112	Overseas Dinny	244215	605
21	Overseas Joyce	244249	9,980
795	Overseas Rose	244228	1,100
1882	Pacific Bear	242315	605
717	Palmetto State	247828	605
1247	Panocanic Faith	245134	605
1967	Parisian	251415	605
1410	Philippine Bear	258886	4,950
1750	Philippine Mail	258872	4,800
1715	Pioneer Contractor	251948	4,800
562	Pioneer Cove	259745	605
986	Pioneer Main	241251	2,925
587	Pioneer Mart	247915	2,925
988	Pioneer Mill	250532	2,925
989	Pioneer Minc	252249	2,925
570	Pioneer Minx	252256	2,925
571	Pioneer Mist	247444	4,800
1432	Pioneer Moon	252248	2,925
572	Pioneer Moor	255149	2,925
574	Pioneer Myth	247283	2,925
578	Pioneer Tide	249898	605
2122	Platte	245188	2,895
1967	Plymouth Victory	245825	605
1754	Point Loma	242063	575
1968	Point Sur	241295	575
1999	Portmar	254731	4,328
1395	Potomac	249890	2,550
1200	Prairie Grove	245060	3,085
1966	President Adams	255987	3,250
1966	President Arthur	256704	3,250
1966	President Buchanan	259917	3,250
1966	President Coolidge	257723	3,250
1966	President Fillmore	257282	1,100
1966	President Garfield	256282	3,250
1966	President Grant	249434	1,165
1966	President Hayes	254446	3,250
1966	President Jackson	259280	1,165
1966	President Jefferson	259262	1,100
1966	President Johnson	257321	1,100
1966	President McKinley	244243	1,165
1966	President Madison	249253	1,165
1966	President Pierce	248289	1,165

Binder No.	Name of vessel	Official No.	Stated valuation (in thousands)
321	President Taft	248278	1,100
322	President Taylor	248227	3,250
323	President Van Buren	257313	1,100
919	Producer	245888	2,550
228	Providence Getty	254689	235
2210	Prudential Oceanjet	504015	5,630
2139	Prudential Seajet	502726	5,590
1573	Puerto Rico	243289	280
2064	Pure Oil	249237	795
1273	P. W. Thirtle	270179	2,750
1640	Quisqueya	252201	550
2341	Rachel V	248785	605
1301	Rainbow	247026	400
1949	Ranger	244596	605
294	Raphael Semmes	242074	2,215
2164	Rappahannock	253238	605
972	R. C. Stoner	243128	535
1475	Remsen Heights	247865	550
417	Reuben Tipton	247820	605
09	R. E. Wilson	244090	950
1162	Richmond	241939	535
2281	Ridgefield Victory	247454	605
1089	Robert West Miller	172	980
156	Robin Goodfellow	247254	1,100
156	Robin Gray	252626	1,100
157	Robin Hood	247255	1,100
158	Robin Kirk	254272	1,100
159	Robin Locksley	240853	557
160	Robin Mowbray	255316	1,100
161	Robin Sherwood	240855	857
162	Robin Trent	254441	1,100
409	Ruth Lykes	247508	605
2162	Ruth Lykes	502926	5,610
172	Sabine Sun	241556	750
1579	Sacramento	245497	2,675
2256	Sagamore Hill	252351	605
1919	San Francisco	241220	4,350
1636	San Jose	247994	650
1930	San Juan	242653	4,350
891	Santa Adela	242243	605
2295	Santa Alicia	252747	1,100
2269	Santa Ana	252746	1,100
2297	Santa Anita	252745	1,100
886	Santa Catalina	248834	641
2287	Santa Elena	251812	1,100
888	Santa Elisa	248835	641
1811	Santa Emilia	247570	605
889	Santa Fe	250602	280
900	Santa Flavia	242762	605
901	Santa Inez	248236	641
908	Santa Juana	242111	925
2264	Santa Leonor	252526	1,100
906	Santa Malta	245489	605
1574	Santa Magdalena	250270	7,800
211	Santa Maria	253781	1,475
1756	Santa Maria	252538	7,800
1678	Santa Mariana	251811	7,800
1530	Santa Mercedes	253942	7,800
911	Santa Olivia	245172	641
2286	Santa Regina	240848	900
915	Santa Rita	245545	641
868	Santa Victoria	245120	280
1641	Santo Cerro	253820	550
619	Santore	254624	2,275
1822	Sassetown	1876	1,215
28	Sealady	244457	456
1970	Seamar	204720	4,225
2067	Sea Pioneer	257115	2,650
65	Seatrain Georgia	262568	1,050
66	Seatrain Louisiana	262535	1,050
67	Seatrain New Jersey	230688	535
68	Seatrain New York	231905	310
69	Seatrain Savannah	231916	310
70	Seatrain Texas	226540	535
1921	Seattle	247275	3,150
1610	Sheldon Lykes	250508	3,750
1426	Shirley Lykes	249283	3,750
226	Sierra	247531	1,100
1476	Sir John Franklin	244734	280
1286	Sister Kastings	277986	6,845
1642	Siracia	254211	550
202	Socony Vacuum	256801	3,720
982	Solon Turman	255880	3,600
337	Sonoma	252413	1,100
357	Sooner State	247139	605
1903	Southport II	248183	605
1049	Statue of Liberty	420	1,615
1016	Steel Admiral	252408	1,100
439	Steel Advocate	245731	1,100
440	Steel Age	244161	1,100
441	Steel Apprentice	253495	1,100
442	Steel Architect	247165	1,100
443	Steel Artisan	247822	1,100
444	Steel Chemist	252097	1,100
445	Steel Designer	247582	1,100
446	Steel Director	244078	1,100
447	Steel Executive	248843	1,100
448	Steel Fabricator	251781	1,100
449	Steel Flyer	246831	1,100
450	Steel King	252409	1,100
451	Steel Maker	247221	1,100
452	Steel Navigator	248846	1,100
453	Steel Recorder	251847	1,100
454	Steel Rover	252500	1,100
455	Steel Scientist	245720	1,100
456	Steel Seafarer	248736	1,100
457	Steel Surveyor	244068	1,100
458	Steel Traveler	247198	1,100
459	Steel Vendor	249464	1,100
460	Steel Voyager	252501	1,100
461	Steel Worker	247824	1,100
402	Stella Lykes	247504	605
2248	Stella Lykes	504982	5,575
403	Sue Lykes	248145	605
262	Sunkra	248389	350
404	Sylvia Lykes	247941	605
253	Talkeetna	245783	275
1415	Tampico	246344	3,085
254	Tanana	247310	250
255	Tatalina	247995	250
1430	Texaco Bristol	9481–G13	1,105
468	Texaco California	206910	2,100
464	Texaco Colorado	241758	880
465	Texaco Connecticut	266501	3,015
466	Texaco Florida	271820	2,320
1867	Texaco Georgia	203819	6,650
469	Texaco Illinois	246998	2,740
471	Texaco Kansas	244280	2,600
1077	Texaco Kentucky	3439–50	910
1218	Texaco London	1105	1,105
473	Texaco Louisiana	245053	875
1596	Texaco Maine	4500–59	2,455
1822	Texaco Maryland	227735	6,500
1834	Texaco Massachusetts	290306	6,280
475	Texaco Minnesota	243202	3,195
476	Texaco Mississippi	245082	3,195
2028	Texaco Montana	208918	7,080
478	Texaco Nebraska	242845	2,870
479	Texaco Nevada	245175	2,465
480	Texaco New Jersey	245831	2,430
481	Texaco New York	245061	2,065
482	Texaco North Dakota	255006	2,090
1081	Texaco Ohio	3447–50	910
1873	Texaco Oklahoma	275882	6,530
1083	Texaco Pennsylvania	3438–50	895
1899	Texaco Rhode Island	296380	6,850
1085	Texaco Texas	3449–50	905
1270	Texaco Wisconsin	277805	6,525
489	Texaco Wyoming	243048	2,775
209	Texan	246250	1,545
695	Texas	240541	1,100
174	Texas Sun	253807	10,295
3147	Thalia	248127	2,810
497	The Cabins	246149	2,430
925	Thetis	270427	8,450
3096	Thomas A	260264	3,475
405	Thompson Lykes	250413	3,450
1357	Thunderbird	247092	550
1622	Thunderhead	246038	605
602	Ticonderoga	242244	1,120
406	Tillie Lykes	248461	1,100
797	Timbo	1776	1,215
643	Tiviroa	254488	550
256	Tonsina	252547	275
2222	Topa Topa	247008	623
981	Transboringuen	246540	280
722	Transcaribbean	248749	550
231	Transeastern	279426	9,010
2253	Transhartford	241992	730
2252	Transhatteras	242942	875
2252	Transhudson	243910	875
1526	Transmariner	242915	280
1254	Transnorthern	245944	605
1337	Transontario	244545	875
1455	Transorleans	243223	875
1752	Transunion	242956	280
2255	Transwestern	251767	1,100
2251	Transyork	229271	900
1508	Trinidad	4230–48	2,230
1492	Trinity	248509	1,305
22	Trojan	247177	2,910
590	Tullahoma	246662	2,705
407	Tyson Lykes	248086	605
1044	Ulua	255135	550
1908	U.S. Conqueror	245519	275
1842	U.S. Peoa	242949	275
906	Utah Standard	251140	765
2340	Vantage Progress	245823	613
2339	Vantage Venture	242676	770
408	Velma Lykes	247584	605
821	Venore	248225	2,060
1100	Ventura	252533	1,100
966	Virginia Trader	244789	960
719	Volunteer State	247702	550
1046	Volusia	245415	400
1926	Washington	288608	5,000
137	Washington Bear	264232	2,925
1349	Washington Mail	267236	4,580
974	Washington Standard	244203	575
967	Washington Trader	245568	960
1713	Wellesley Victory	247564	605
1779	Western Clipper	286288	3,965
1780	Western Comet	266365	3,795
1302	Western Hunter	287156	12,500
1781	Western Planet	268078	3,980
178	Western Sun	268798	4,300
1900	Whitehall	256964	605
1837	W. H. Peabody	246065	400
2225	Wild Ranger	249615	605
224	William F. Humphrey	246557	575
410	William Lykes	247998	605
620	Wilmer	246507	315
1639	Windsor Victory	247843	605
1511	Wingless Victory	247242	50
338	Wolverine State	248749	1,550
2226	Yaka	246335	623
1645	Yaque	251684	550
2098	Yellowstone	248883	1,850
2030	Yorkmar	296261	4,325
2103	Young America	243024	605
411	Zoella Lykes	282126	3,450

(b) *Vessels of less than 1,500 gross tons—As of July 1, 1967.* (1) The Maritime Administration has determined for certain vessels of less than 1,500 gross tons the values which constitute just compensation for the vessels to which they apply, computed as provided in sections 902(a) and 1209(a), Merchant Marine Act, 1936, as amended; and pursuant thereto has determined the values of vessels covered by interim binders for war risk hull insurance, Form MA–184, prescribed in Part 308 of this chapter.

(2) The interim binders listed below shall be deemed to have been amended as of July 1, 1967, by inserting in the space provided therefor or in substitution for any value now appearing in such space the stated valuation of the vessels set forth below for the binders and vessels as designated. Such stated valuation shall apply with respect to insurance attaching during the period July 1, 1967, to December 31, 1967, inclusive: *Provided, however*, That the Assured shall have the right within 60 days after date of publication of this section or within 60 days after the attachment of the insurance under said binder, whichever is later, to reject such valuation and proceed as authorized by section 1209(a)(2), Merchant Marine Act, 1936, as amended.

Binder No.	Name of vessel	Official No.	Stated valuation (in thousands)
755	A. H. Dumont	239234	$88
1906	Ahi	251230	225
1696	Atlantic	262007	140
1188	Barge 118		8
1197	Barge 129		8
1198	Barge 133		24
1199	Barge 134		9
1256	Blue Line 107	288056	180
1153	Britton	119	20
1562	Challenger	253622	263
1876	Condado	268169	125
1165	Dammam 7		14
1166	Dammam 8	255039	15
1170	Dammam 12		56
1171	Dammam 13		46
1172	Dammam 14		56
1577	Dorado	253290	130
1564	Everglades	270577	360
1563	Fort Lauderdale	250607	105
24	George S	252206	105
764	George Whitlock II	241200	300
1150	Habib	112	16
1942	H. J. Sheridan	236602	57
1565	Hollywood		100
1151	Horne	115	17
765	Hygrade No. 2	270766	200
767	Hygrade No. 5	176732	175
768	Hygrade No. 14	250807	175
769	Hygrade No. 18	272741	195
771	Hygrade No. 26	252977	175
772	Hygrade No. 28	253004	175
773	Hygrade No. 30	254104	175
774	Hygrade No. 32	267113	185
1908	Isleways No. 1	251436	45
1909	Isleways No. 2	251519	45
1910	Isleways No. 3	251682	45
1911	Isleways No. 4	251778	45
1912	Isleways No. 5	251899	45

Binder No.	Name of vessel	Official No.	Stated valuation (in thousands)
1554	Lewis No. 8	244276	73
1702	Mohawk	254469	210
741	Ocean King	248921	102
742	Ocean Prince	279451	225
1907	Ono	283117	170
1502	Perth Amboy No. 1	171776	170
1503	Perth Amboy No. 2	171656	90
759	Phillip Lemler	251289	73
1719	Ponce de Leon	244296	373
744	Port Jefferson	274512	96
1176	Qatif 7		86
1177	Qatif 8		17
1148	Sandy	114	85
1278	Saratoga	254126	434
1263	Spartan	278515	18
1152	Swigart	118	9
18	Virginia Phillips	290771	70
768	W. A. Weber	251282	70

NOTE: The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Dated: November 21, 1967.

L. C. HOFFMANN,
Chairman,
Ship Valuation Committee.

[F.R. Doc. 67–13681; Filed, Nov. 28, 1967; 8:45 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission and Department of Transportation

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Docket No. 3666; Amdt. 75–1]

PARTS 171–190—EXPLOSIVES AND OTHER DANGEROUS ARTICLES

Notice of Postponement of Effective Date

At a session of the Hazardous Materials Regulations Board on November 21, 1967, consideration was given to several requests for extension of the mandatory effective date of Amendment No. 75, Docket 3666, issued September 15, 1967. Petitions for reconsideration of the effective date have been received from the following for additional time to facilitate compliance with the requirements for implementing shipping paper documentation:

(1) Adhesives and Sealant Council,
(2) Colgate-Palmolive Co.,
(3) Enjay Chemical Co.,
(4) Monsanto Co.,
(5) National Paint, Varnish, and Lacquer Association,
(6) National Small Shipments Traffic Conference, Inc.

These petitions, although not timely filed, are considered to have merit and are of such substance as to warrant consideration and disposition by Board action. Petitioners claim (1) that the 75 days beginning September 15, 1967, for compliance is not sufficient time and that the usual 90 days for notice of an adopted rule should be afforded, (2) that existing stocks of preprinted bills of lading must be discarded or be prepared manually at great cost, and (3) that the total quantity requirements of § 173.427(a) cannot be satisfied because electronic data processing machines cannot separate the weight of exempt articles from that of nonregulated articles with which they are included.

Extensions of 1 month to 6 months after the date of December 1, 1967, have been requested to allow the depletion of existing stocks of shipping papers or to accommodate changeover programs for automatic billing methods. In order to facilitate compliance with the requirements for implementing shipping paper documentation a 30-day extension of the effective date is considered reasonable but extension beyond that does not appear warranted.

Since this amendment is an extension of the effective date of Amendment No. 75, and imposes no additional burden on any person, notice and public procedure thereon are unnecessary, and good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, Amendment No. 75 to the Department's Hazardous Materials Regulations is hereby made effective on December 31, 1967, in place of December 1, 1967.

This amendment is issued under the authority of 62 Stat. 738, 74 Stat. 808, 80 Stat. 931, and 18 U.S.C. 834.

Issued in Washington, D.C., on November 24, 1967.

ALAN S. BOYD,
Secretary of Transportation.

LOWELL K. BRIDWELL,
Administrator,
Federal Highway Administration.

A. SCHEFFER LANG,
Administrator,
Federal Railroad Administration.

[F.R. Doc. 67–13664; Filed, Nov. 28, 1967; 8:48 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Imperial National Wildlife Refuge, Arizona and California

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

ARIZONA AND CALIFORNIA

IMPERIAL NATIONAL WILDLIFE REFUGE

Sport fishing on the Imperial National Wildlife Refuge, Arizona and California, is permitted only on the areas designated as open to fishing. These open areas, comprising 8,100 acres, are delineated on maps available at refuge headquarters, Yuma, Ariz., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from January 1 through December 31, 1968, inclusive, except an area of approximately 165 acres in Martinez Lake as posted to be closed during the periods January 1 through February 28, 1968, inclusive, and October 1 through December 31, 1968, inclusive.

(2) The use of bow and arrow for the taking of carp, buffalo, mullet, and suckers is permitted.

The provisions of this special regulations supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1968.

CLAUDE F. LARD,
Refuge Manager, Imperial National Wildlife Refuge, Yuma, Ariz.

NOVEMBER 14, 1967.

[F.R. Doc. 67–13921; Filed, Nov. 28, 1967; 8:46 a.m.]

PART 33—SPORT FISHING

Quivira National Wildlife Refuge, Kans.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

KANSAS

QUIVIRA NATIONAL WILDLIFE REFUGE

Sport fishing on the Quivira National Wildlife Refuge, Stafford, Kans., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 900 acres, are delineated on maps available at refuge headquarters, Stafford, Kans., and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from June 1, 1968, to September 30, 1968, inclusive.

(2) Fishing will be with closely attended rod(s) and line(s) only.

(3) The use of boats is not permitted. One-man floater tubes may be used.

(4) Overnight camping is not permitted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50,

Code of Federal Regulations, Part 33, and are effective through September 30, 1968.

CHARLES R. DARLING,
Refuge Manager, Quivira National Wildlife Refuge, Stafford, Kans.

NOVEMBER 22, 1967.

[F.R. Doc. 67-13923; Filed, Nov. 28, 1967; 8:46 a.m.]

PART 33—SPORT FISHING

Tamarac National Wildlife Refuge, Minn.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

MINNESOTA

TAMARAC NATIONAL WILDLIFE REFUGE

Sport fishing on the Tamarac National Wildlife Refuge, Rochert, Minn., is permitted only on the areas designated by signs as open to fishing. These posted areas comprising 13,000 acres, is delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn. 55408. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from January 1, 1968, through December 31, 1968, during daylight hours only.

(2) The use of minnows or fish, or parts thereof, for bait is not permitted in waters north of the Governor's Consent Line.

(3) The use of boats is not permitted on Chippewa Lake. The use of boats without motors is permitted on Lost and Wauboose Lakes.

(4) Fishing in the Ottertail River at the bridge on County Road 26 is limited as posted by signs to approximately 50 yards upstream and approximately 100 yards downstream from the bridge.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33, and are effective through December 31, 1968.

NELIUS B. NELSON,
Refuge Manager, Tamarac National Wildlife Refuge, Rochert, Minn.

NOVEMBER 21, 1967.

[F.R. Doc. 67-13925; Filed, Nov. 28, 1967; 8:46 a.m.]

PART 33—SPORT FISHING

Tishomingo National Wildlife Refuge, Okla.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

OKLAHOMA

TISHOMINGO NATIONAL WILDLIFE REFUGE

Sport fishing on the Tishomingo National Wildlife Refuge, Tishomingo, Okla., is permitted only on the area designated by signs as open to fishing. These open areas, comprising 10,000 acres, are delineated on maps available at refuge headquarters, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following condition:

(1) The open seasons for sport fishing on the refuge extend from January 1, through December 31, 1968, inclusive, on the waters of Lake Texoma east of the north-south centerline of secs. 19, 30, and 31, T. 4 S., R. 7 E., and in Rock Creek, Polecat Creek, Bell Creek, Big Sandy Creek, Dick's Pond, and Goose Pen Pond; from April 1, through September 30, 1968, inclusive, for waters of Lake Texoma west of the north-south centerline of secs. 19, 30, and 31, T. 4 S., R. 7 E.; and from January 15, through September 30, 1968, inclusive, for all other refuge waters.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1968.

ERNEST S. JEMISON,
Refuge Manager, Tishomingo National Wildlife Refuge, Tishomingo, Okla.

OCTOBER 27, 1967.

[F.R. Doc. 67-13924; Filed, Nov. 28, 1967; 8:46 a.m.]

PART 33—SPORT FISHING

Wichita Mountains Wildlife Refuge, Okla.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

OKLAHOMA

WICHITA MOUNTAINS WILDLIFE REFUGE

Sport fishing on the Wichita Mountains Wildlife Refuge, Cache, Okla., is permitted from January 1, through December 31, 1968, inclusive, in all waters of that portion of the refuge open for recreational uses by the general public. These open waters, comprising 550 acres of lakes and one mile of intermittent stream, are delineated on maps available at refuge headquarters, Cache, Okla. 73527, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) Fishing will be with closely attended pole and line only, including rod and reel. Trotlines, throw lines, and multiple set lines are not permitted.

(2) The use of outboard motors and boats in permitted only on Lake Elmer Thomas where the provisions of Part 28.10 of this title and those of the Oklahoma Boat and Water Safety Act, as amended, govern. The use of boats or other floating devices on all other refuge lakes is prohibited except the use of one-man inner tube type "fishing floaters"; inner tubes and similar safety floats commonly used by swimmers are not considered floating devices for purposes of this regulation.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1968.

JULIAN A. HOWARD,
Refuge Manager, Wichita Mountains Wildlife Refuge, Cache, Okla.

NOVEMBER, 15, 1967.

[F.R. Doc. 67-13928; Filed, Nov. 28, 1967; 8:46 a.m.]

PART 33—SPORT FISHING

Horicon National Wildlife Refuge, Wis.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

WISCONSIN

HORICON NATIONAL WILDLIFE REFUGE

Sport fishing on the Horicon National Wildlife Refuge, Mayville, Wis., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 15 acres, are delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn. 55408. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from January 1, 1968, through February 29, 1968, inclusive.

(2) Permit is required to take carp for sale.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33, and are effective through February 29, 1968.

ROBERT G. PERSONIUS,
Refuge Manager, Horicon National Wildlife Refuge, Mayville, Wis.

NOVEMBER 18, 1967.

[F.R. Doc. 67-13926; Filed, Nov. 28, 1967; 8:46 a.m.]

Notices

DEPARTMENT OF DEFENSE

Department of the Army

STATEMENT OF ORGANIZATION AND FUNCTIONS

Description of Central and Field Agencies

Section 3 of the Statement of Organization and Functions, appearing at 32 F.R. 13016–13028, September 13, 1967, is amended by revising paragraph (f), Military Traffic Management and Terminal Service, to read as follows:

SEC. 3. *Major Army Field Commands.* • • •

(f) *Military Traffic Management and Terminal Service*—(1) *Purpose.* This paragraph sets for the mission and principal functions of the Commander, Military Traffic Management and Terminal Service (MTMTS), and prescribes his command and staff relationships with higher and collateral echelons.

(2) *Authority.* (i) The Secretary of Defense has designated the Secretary of the Army as the Single Manager and has directed him to establish and organize as a jointly staffed major command of the Department of the Army, the Single Manager Operating Agency for military traffic, land transportation, and common-user ocean terminals (herein referred to as MTMTS).

(ii) The Secretary of the Army has been charged to designate, subject to the approval of the Secretary of Defense, a general officer as Executive Director for the Single Manager Operating Agency who shall have no other duties but to direct the operations of the agency. The Executive Director is also designated as the Commander, MTMTS.

(iii) MTMTS operations will be conducted within the United States, excluding Alaska and Hawaii, except for those assigned functions which require operations outside the continental United States.

(3) *Definitions.* To assure uniform interpretation of this paragraph, the definitions of terms set forth below and in AR 320–5 and JCS Pub 1 will apply.

(i) *Military Traffic Management and Terminal Service (MTMTS).* The Single Manager Operating Agency for military traffic, land transportation, and common-user ocean terminals. The term MTMTS includes the headquarters, major subordinate commands, installations and activities, together with personnel assigned thereto, under the command of the Commander, MTMTS. MTMTS is a major command of the Department of the Army.

(ii) *Department of Defense components.* For the purpose of this paragraph, Department of Defense components include the Office of the Secretary of Defense, the Organization of the Joint Chiefs of Staff, the unified and specified commands, the Military Departments, the Military Services, and the Defense agencies.

(iii) *Common-user ocean terminal.* A military installation or a commercial facility operated under contract or arrangement of MTMTS which regularly provides for two or more Services' terminal functions of receipt, transit storage or staging, processing and loading and unloading of passengers or cargo aboard ships.

(iv) *Military land transportation resources.* All military-owned transportation resources designated for common-user, over the ground, point-to-point use within the continental United States.

(v) *Military traffic.* Department of Defense personnel and materiel to be transported.

(vi) *Military traffic management.* The direction, control, and supervision of all functions incident to the effective and economical procurement and use of freight and passenger transportation service from commercial for-hire transportation companies (including rail, highway, air, inland waterway, coastwise, and intercoastal carriers). Reference to coastwise and intercoastal carriers is not intended to affect those responsibilities of ocean carrier functions assigned to the Military Sea Transportation Service but has reference to the traffic management authority necessary to determine the proper mode of shipment. Reference to air carriers is not intended to affect those responsibilities for procurement of commercial airlift services assigned to the Military Airlift Command.

(vii) *Passenger groups.* Passenger groups are usually composed of 10 or more travelers; however, this is subject to change based upon traffic management considerations.

(viii) *Release unit of cargo.* Release unit of cargo for surface shipment is usually 10,000 pounds; however, this is subject to change based upon traffic management considerations.

(ix) *Water Terminal Clearance Authority.* An activity designated by MTMTS or an oversea theater commander to control and monitor the flow of cargo into water terminals.

(x) *Traffic engineering.* The planning and design of streets and highways, together with abutting land, in connection with traffic operations thereon, as such uses are related to safe, convenient, and economic transportation of persons and things.

(xi) *Transportation engineering.* The science of evaluating the requirements for and planning the layout and functional aspects of transportation facilities; and of developing the most efficient relationships with respect to transportation equipment, transportation facilities, and traffic movement patterns so as to insure adequate, safe, and efficient movement by all modes of transportation.

(xii) *Transportability.* The capability of efficiently and effectively transporting an end item of military equipment, or component thereof, over railways, highways, waterways, oceans and airways, either by carrier, towing, or self-propulsion.

(4) *Mission and general responsibilities.* The Commander, MTMTS will—

(i) Within the mission of MTMTS, provide transportation planning support to the Organization of the Joint Chiefs of Staff, the unified and specified commands, the Military Services, and the Department of Defense agencies in support of the plans of the Joint Chiefs of Staff and other military operations as required.

(ii) Provide traffic management and common-user and commercial ocean terminal support for assigned functions and responsibilities to the Department of Defense components as required.

(iii) Develop, establish, and operate an integrated transportation information data system to support the mission of the agency.

(iv) Develop plans to assure the efficient use and control of military-owned and commercial continental U.S. land transportation resources and capabilities made available to the Department of Defense under mobilization or other emergency conditions.

(v) Receive, consolidate, and analyze total oversea passenger and cargo requirements from the Department of Defense components to determine continental U.S. transportation and terminal capability needed to satisfy the requirements. Advise the Organization of the Joint Chiefs of Staff, and other appropriate Department of Defense components, of insufficient continental U.S. transportation and continental U.S. ocean terminal capabilities with recommendations to the Organization of the Joint Chiefs of Staff for appropriate actions when requirements exceed capabilities.

(vi) Provide for diversions of passenger groups or release unit cargo within continental United States between modes of transportation, to a continental U.S. port of embarkation other than that originally intended, or to intransit storage in the case of cargo. However, no diversion is to be made without the concurrence of the shipper service or shipper agency.

(vii) In cooperation with Military Airlift Command and Military Sea Transportation Service perform analytical studies of all oversea outbound passenger travel patterns within continental United States and make appropriate recommendations to the Secretary of Defense

through the Joint Chiefs of Staff regarding improvements in passenger traffic management and relationship between continental United States and oversea movement.

(viii) Develop, in coordination with the Department of Defense components, joint regulations regarding preparation of air and ocean passengers for overseas travel. Based upon the feedback of information from ocean terminals and Military Airlift Command, provide information and advice to the appropriate Department of Defense components as to problems encountered at aerial and ocean ports of embarkation which prevent passengers from being processed for oversea travel.

(ix) Control the use of and, as directed by the Secretary of Defense, operate military-owned continental U.S. land transportation resources required to supplement the capability of commercial transportation carriers when the land transportation resources of commercial transportation carriers operating within the continental United States are inadequate to meet military requirements.

(x) Command oversea Army terminal units providing terminal service in oversea areas in support of the Department of the Air Force and other agencies as assigned.

(xi) Provide worldwide traffic management for the Department of Defense Household Goods Moving and Storage Program. Develop uniform Department of Defense regulations governing all traffic management and related aspects of the Department of Defense household goods moving and storage program so as not to require further implementation by separate military service regulations.

(xii) Command and operate, or arrange for the operation of, holding and reconsignment points and other intransit control activities or installations when required for en route shipments of cargo within the continental United States.

(xiii) Command and operate common-user military ocean terminals assigned to MTMTS by the Secretary of Defense, providing such fleet support requirements to the Navy as are required by the Department of the Navy and delineated in applicable cross-servicing agreements. (Assignments of command and operation of ocean terminals to either Navy or MTMTS will be based upon the concept that the entire terminal operations at any one installation will be conducted by only one Department of Defense activity.)

(xiv) Arrange for the utilization of common-user military ocean terminals operated by any Military Service on a reimbursable basis. The Navy may operate common-user ocean terminals at designated tidewater installations for manifested Department of Defense cargo in accordance with interservice support agreement between MTMTS and the Navy. This function may include responsibility for all manifested Department of Defense cargo moving through the entire port complex, if in accordance with the interservice support agreement in effect between MTMTS and the Navy.

(xv) Arrange for the operation or use of commercial ocean terminals within the continental United States for the shipment of military manifested cargo.

(xvi) Control and direct the operations of military-owned railway rolling stock registered for interchange service other than that permanently assigned to intrabase or intraplant operations, to include supply accountability and maintenance of the Defense Freight Railway Interchange Fleet.

(xvii) In coordination with affected Department of Defense components establish the size of passenger groups and release unit cargo.

(xviii) Prescribe, under guidance of the Joint Chiefs of Staff, the methods and format for use by the Military Services and other Department of Defense components to develop and forecast their continental U.S. transportation requirements by mode or modes (including the assumptions and computations on which they are based), which will assure responsiveness to their individual logistic systems, and evaluate and question, where necessary, the validity of the requirements specified.

(xix) Develop and improve the small shipment consolidation programs and develop and improve the loss and damage prevention program.

(xx) Administer the Department of Defense activities pertaining to Highways for National Defense, executing the transportation oriented aspects of the Department of Defense Engineering for Transportability Program assigned to Department of the Army; provide transportation engineering services for the Army, including those pertaining to access roads, highway system needs, special defense utilization of public highways, traffic engineering, transportability criteria and guidance, safety during transportation, and transportability economic analysis; and command the U.S. Army Transportation Engineering Agency, Fort Eustis, Va.

(xxi) Plan, program, and execute measures to modernize and improve military traffic, land transportation, and common-user ocean terminal operations as necessary to provide an effective and efficient continental U.S. complement to improved strategic mobility systems and military wholesale logistic systems.

(xxii) Perform the additional specific functions outlined in subparagraph (5) of this paragraph.

(5) *Specific functions.* The specific functions and responsibilities of the Commander, MTMTS with respect to the various type movement operations are as follows:

(i) *Commercial Freight and Passenger Traffic Movement between continental U.S. Points.* The Commander, MTMTS will—

(a) Provide traffic management for freight movements for all components of the Department of Defense (except common-user transportation service procured by Military Airlift Command under its Single Manager operating authority).

(b) Advise and assist, by provision of adequate cost, rate, and traffic data services:

(1) Procurement agencies in developing the most economical sources of supply;

(2) Production activities in programing the processing of raw materials and semifinished and finished products through Government-operated facilities;

(3) Distribution agencies in programing the position of stocks;

(4) Site selection authorities in evaluating transportation considerations in the selection of sites for plants and facilities;

(5) Fiscal agencies in the development and improvement of cost data techniques;

(6) Appropriate agencies as to the effect of packing and packaging costs on transportation and distribution costs and the utilization of transportation equipment.

(c) Determine or establish proper freight classification and freight and passenger rates, fares, charges, rules, and regulations for Department of Defense traffic.

(d) Negotiate, as necessary, with for-hire commercial carriers of cargo or passengers or their rate-making agencies, for the classification, rates, fares, charges, rules and regulations to carry out the functions assigned in (c) above; and negotiate for through-bill-of-lading service with all commercial carriers except air and ocean carriers which are under the cognizance of Military Airlift Command and Military Sea Transportation Service. Overall evaluation of quality of service rendered by contract air carriers and manner of use of contract service, in light of initial justifying requirements, is a function of MTMTS.

(e) Administer the transit management program.

(f) Maintain surveillance of released freight and passenger tariffs and of tariff supplements to determine changes made which would affect the cost of moving or the routing of military traffic.

(g) Review all for-hire commercial carrier (freight and passenger) dockets and other proposals to determine the extent to which military traffic would be affected and the action required. (This includes, in addition to dockets and proposals issued by the Interstate Commerce Commission, dockets and notices issued by the Civil Aeronautics Board and the Federal Aviation Administration on rate and service matters involving movements between points in continental United States, for determination of Department of Defense interests, and recommendations to the Assistant Secretary of Defense (Installations and Logistics) on issues to be presented before these agencies.)

(h) Recommend to The Judge Advocate General, Department of the Army, actions concerning Department of Defense litigation in the transportation and traffic management areas necessary to protect or promote the interests of the Department of Defense.

(i) Plan, develop, and monitor the Freight Classification Guide System.

(j) Develop and maintain current transportation cost and statistical data necessary to facilitate efficient and effective performance of the functions assigned in subparagraph (4) (iii) through (ix) of this paragraph.

(k) Maintain tariff files.

(l) Obtain and quote rates.

(m) Determine the transportation mode and type of service required to move freight in release unit lots.

(n) Arrange with carriers for the transportation required for the movement of passenger groups and release unit cargo (except common-user transportation service procured by Military Airlift Command under its Single Manager operating authority).

(o) Route traffic or prescribe rules, regulations, and criteria for the guidance of those assigned routing responsibilities.

(p) In coordination with affected Department of Defense components, prescribe regulations and disseminate technical instructions on the issuance and completion of transportation documentation (e.g., bills of lading and transportation requests).

(q) In coordination with affected Department of Defense components, develop and improve procedures for facilitating and assuring control and expeditious movement of traffic within continental United States (Except common-user transportation service procured by Military Airlift Command under its Single Manager operating authority).

(r) In coordination with affected Department of Defense components, develop and maintain uniform procedures, regulations, forms and other documents for the movement of traffic within continental United States (except common-user transportation service procured by Military Airlift Command under its Single Manager operating authority).

(s) In coordination with affected Department of Defense components, develop and maintain procedures, regulations, systems, forms, and other documents for monitoring en route traffic within continental United States (except common-user transportation service which is procured by Military Airlift Command under its Single Manager operating authority).

(t) Advise, as required, affected Department of Defense components with respect to status of en route traffic within the continental United States.

(u) Based on evaluated requirements submitted by the Department of Defense components, prepare long and short range forecasts of continental U.S. transportation and ocean terminals' requirements and match them with capabilities of continental U.S. transportation and ocean terminals. In accordance with procedures established by the Organization of the Joint Chiefs of Staff, submit requirements and capabilities to the Organization of the Joint Chiefs of Staff together with recommendations, as appropriate, to assure a proper balance.

(v) In coordination with other affected Department of Defense components, establish specific cargo movement procedures to be followed by the Department of Defense components in requesting routing and release of cargo for movement within the continental United States.

(w) In coordination with other affected Department of Defense components, establish specific movement procedures for passenger groups and units for movement within continental United States.

(x) Arrange for and manage the flow of passenger groups and units and cargo from point of origin to point of destination within the continental United States. This responsibility excludes cargo movements made on airlift services procured by Military Airlift Command. Unit moves within continental United States under the auspices of a unified or specified command will be arranged in accordance with instructions of that command.

(y) Perform analytical studies of all passenger travel patterns of domestic movements within the continental United States and make appropriate recommendations to the Secretary of Defense regarding improvements in passenger traffic management.

(z) Maintain cognisance of, and take appropriate action on, problems of commercial leave travel of military personnel within continental United States.

(ii) *Continental U.S. outbound air passenger traffic (other than Joint Chiefs of Staff-directed deployments or training exercises).* The Commander, MTMTS will—

(a) Based on space assignments made by Military Airlift Command, receive specific reservation requests from the Army, and receive copies of reservation confirmations from Military Airlift Command for all overseas passengers and port call Army passengers.

(b) Receive requests from the Military Services and other Department of Defense components for desired departure dates and required arrival dates at aerial ports of embarkation of passenger group moves, and plan, program and manage the flow of continental U.S. originated passenger groups to appropriate air terminals.

(c) Make necessary arrangements, in accordance with Organization of the Joint Chiefs of Staff procedures for air or land transportation of units between inland continental U.S. points and the aerial ports of embarkation, and advise the Military Services and other Department of Defense components of the transportation mode, the particular carrier within a mode, or the particular charter to be used, as appropriate, as well as the time and place from which the continental U.S. portion of the travel will originate.

(d) Participate with Military Airlift Command in the selection of routes for commercial service other than chartered flights.

(iii) *Continental U.S. outbound ocean passenger traffic (other than Joint Chiefs of Staff-directed deployment or training exercises).* The Commander, MTMTS will—

(a) Based upon space assignments made by Military Sea Transportation Service, receive specific reservation requests from the Army and Air Force and copies of reservation requests from the Navy and Marine Corps.

(b) Advise Military Sea Transportation Service of Army and Air Force passenger identifications. Port cal Army and Air Force passengers.

(c) Provide temporary accommodations of ocean passengers when passenger arrivals at ocean terminals do not coincide with ship availability.

(d) Receive requests from the Military Services and other Department of Defense components for desired departure dates and required arrival dates at ocean ports of embarkation of passenger group moves and plan, program, and manage the flow of continental U.S. originated passenger groups to and through appropriate ocean terminals.

(e) Make necessary arrangements, in accordance with Organization of the Joint Chiefs of Staff procedures for air or land transportation of units between inland continental U.S. points and the ocean terminals, and advise the Military Services and other Department of Defense components of the transportation mode, the particular carrier within a mode, or the particular charter to be used, as appropriate, as well as the time and place from which the continental U.S. portion of the travel will originate.

(f) Provide or arrange for, with respect to passengers at ocean terminals, information and services as required or requested.

(iv) *Continental U.S. movement of outbound air cargo (other than Joint Chiefs of Staff-directed deployment or training exercises).* The Commander, MTMTS will—

(a) Select the continental U.S. mode of transportation for release unit shipments that will be responsive to the priority and the delivery date that the Department of Defense component has established. The use of either air or surface movement from continental United States to overseas may be questioned by MTMTS.

(b) Provide for diversion of outbound air cargo within continental United States between transportation modes, to intransit storage, or to a continental U.S. port of embarkation other than that originally intended. However, no diversion is to be made without concurrence of the shipper Service or shipper agency. When cargo cannot be cleared for movement to an aerial port of embarkation, provide timely advice to the shipper as prescribed by military standard transportation and movement procedures.

(c) Acting as the point of contact between the sponsoring agency and the airlift system, perform the following Airlift Clearance Authority functions as

prescribed by Military standard transportation and movement procedures:

(1) Control the movement of air eligible cargo into the airlift system.

(2) Arrange for diversion of cargo as conditions require in coordination with the shipper Service. However, no diversion is to be made without the concurrence of the shipper Service or agency affected.

(3) Initiate necessary corrective action with the shipper Service on discrepancies in documentation and shipment identification.

(4) Furnish the terminal operator with an advance Transportation Control and Movement Document for each shipment unit prior to shipment arrival.

(5) Monitor retrograde cargo requiring onward movement from the aerial port of debarkation to assure shipment to the ultimate consignee.

(6) Respond to requests for movement information, expediting services (including expedited handling shipments—RDD Code "999"), and tracer action.

(7) Coordinate the movement of classified and/or courier material. When classified materiel is diverted to surface transportation, the Airlift Clearance Authority will insure that the shipment is properly coded and documented.

(d) Operate Military Air Traffic Coordinating Offices at the continental U.S. aerial ports of embarkation to perform on behalf of all shipper Services and agencies those Airlift Clearance Authority functions requiring physical presence at the air terminals. Each Military Air Traffic Coordinating Office will be jointly staffed. In addition, shipper Services or agencies may have logistic officers at the continental U.S. aerial ports of embarkation to take necessary corrective action on cargo packaging, to advise the Military Air Traffic Coordinating Offices with respect to diversions, to identify to Military Airlift Command or Military Air Traffic Coordinating Offices, as appropriate, materiel which should be moved promptly to meet specific service requirements, and to inspect their service shipments received directly from vendors. However, these representatives will not perform Military Air Traffic Coordinating Offices Air Clearance Authority functions; conversely, Military Air Traffic Coordinating Offices will not perform functions assigned to the Service Logistic Officer unless requested to do so by the shipper Service or agency concerned. Similarly, the Military Air Traffic Coordinating Offices will not duplicate the responsibilities of Military Airlift Command for air terminal operations, nor will Military Airlift Command duplicate the airlift clearance functions of MTMTS within the United States.

(v) *Continental U.S. movement of outbound ocean cargo (other than Joint Chiefs of Staff-directed deployment or training exercises).* The Commander, MTMTS will—

(a) Select the continental U.S. mode of transportation for release unit shipment that will be responsive to the priority and the delivery date that the Department of Defense components has established. The use of either air or surface movements from continental United States to overseas may be questioned by MTMTS.

(b) Provide for diversion of outbound ocean cargo within continental United States between transportation modes, to intransit storage, or to a continental U.S. port of embarkation other than that originally intended. However, no diversion is to be made without concurrence of the shipper service or shipper agency. When cargo cannot be cleared for movement to an ocean port of embarkation, provide timely advice to the shipper as prescribed by Military standard transportation and movement procedures.

(c) Provide traffic management and terminal service incident to the continental U.S. movement of Department of Defense-sponsored freight/cargo through common-user military and commercial ocean terminals, to include routing via the inland carrier, releasing and control of the input and flow into the terminal, and processing through the ocean terminal. MTMTS services will be in accordance with the program and operational requirements of the Department of Defense components. The foregoing does not modify Navy responsibilities for control over movements within the tidewater installation of fleet support cargo to be lifted via fleet ships.

(d) Control the flow of Department of Defense-sponsored traffic into ocean terminal facilities through the offering, acceptance, and release procedures.

(e) Make cost evaluations, ascertain port-handling capability, select port, offer cargo for booking by Military Sea Transportation Service, call cargo forward to designated terminal facilities, provide terminal operator(s) with shipment data, and issue appropriate export release with due dates, rate, route, and tariff or tender information.

(f) Operate designated common-user ocean terminals. This function includes responsibility for all manifested Department of Defense cargo moving through the entire port complex and for any fleet support requirements set forth in cross-servicing agreements in effect between MTMTS and the Navy.

(g) Establish and command outport detachments or other subordinate activities, as required; or through cross-servicing agreements or contracts, execute MTMTS terminal service operations incident to the transshipment of Department of Defense cargo through commercial ocean facilities.

(h) For release-unit freight, determine specific inland mode and carrier, and ocean terminal based on lowest landed cost within priority and delivery data limitations and operational requirements established by the appropriate Department of Defense components.

(i) Provide or arrange for terminal service to include receipt, transit storage and marshaling of cargo, loading and discharge of ships, and preparation of required documents.

(j) Supervise, direct, and control operations, staffing, and physical plant of assigned terminal facilities and activities.

(k) Offer cargo to Military Sea Transportation Service for booking and accept satisfactory bookings, provide traffic information essential to Military Sea Transportation Service in regard to booking of Department of Defense-sponsored manifested export cargo.

(l) Provide movement information, tonnage on hand awaiting lift, and expediting services and tracer action for the Department of Defense components as required.

(m) Provide or arrange for recoopering, repacking, and marking service as required for cargo in transit and report discrepancies to Department of Defense components for future correction.

(n) Correct, or provide for correction of, and report discrepancies to applicable Department of Defense components in documentation and Technical Order violations, to include preparation of mechanized Transportation Control and Movement Documents when required.

(o) Arrange for shipment of retrograde cargo requiring onward movement from ocean terminals to inland points.

(p) Furnish each Department of Defense component copies of required documents covering all of their sponsored export cargo moved via Military Sea Transportation Service.

(q) Perform the Water Terminal Clearance Authority functions as prescribed by military standard transportation and movement procedures.

(r) Develop and maintain a terminal selection guide for use by continental U.S. shipping activities in routing less than release unit shipments to continental U.S. ports of embarkation in accordance with military standard transportation and movement procedures requirements.

(vi) Overseas Joint Chiefs of Staff-directed deployment and training exercise. The Commander, MTMTS will—

(a) Participate in the planning cycle as it affects the mission of MTMTS.

(b) Prepare and submit continental U.S. transportation plans to Joint Chiefs of Staff in support of Joint Chiefs of Staff deployments and training exercises.

(6) *Command and staff relationships.* The Commander, MTMTS is responsible to the Secretary of the Army through channels prescribed by the Secretary.

(i) Operationally, for traffic management, transportation, and ocean terminal matters, the Commander, MTMTS is under the general direction and supervision of and is directly responsible to the Assistant Secretary of the Army (Installations and Logistics) by delegation of the Secretary of the Army. The Commander, MTMTS is authorized to communicate directly with the Assistant Secretary of the Army (Installation and Logistics) except on matters involving U.S. Army military operations and MTMTS financial, manpower, and logistic resources.

(ii) In connection with matters outside the scope of his traffic management, transportation, and ocean terminal authorities and responsibilities, the Commander, MTMTS is directly responsible to the Chief of Staff, U.S. Army. Directives, authorities, policy, planning and programing guidance, approved programs, and allocations involving U.S. Army military operations and MTMTS financial, manpower, and logistic resources are issued to the Commander, MTMTS by the Chief of Staff, U.S. Army through normal Army command and administrative channels.

(7) *Other relationships.* (i) As a major Army command, MTMTS will be operated as an integral part of the Department of the Army, and will be administered in accordance with its rules, regulations, and directives. The Commander, MTMTS will accomplish his responsibility through the issuance of regulations, procedures, technical staff assistance visits to military installations and activities, accumulation and analysis of data, traffic management and transportation research, and other similar means. Joint regulations and amendments thereto will be coordinated with the military departments in accordance with applicable Department of Defense directives and instructions.

(ii) As traffic and terminal service manager for Department of Defense, the Commander, MTMTS is authorized to communicate and coordinate on traffic management, transportation and terminal operations and related matters directly with all components of Department of Defense and with other departments and agencies of Government.

(iii) MTMTS will be jointly staffed in accordance with a Joint Table of Distribution developed by the Secretary of the Army in coordination with the Secretaries of the Navy and Air Force and approved by the Secretary of Defense. The Joint Table of Distribution is subject to adjustment by the Chief of Staff, U.S. Army, within the authority and limitations delegated by the Secretary of Defense to the Secretary of the Army.

For the Adjutant General.

J. W. HURD,
Colonel, AGC, Comptroller, TAGO.

[F.R. Doc. 67-12910; Filed, Nov. 28, 1967; 8:45 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Gallup Area Office Redelegation Order 2]

GALLUP AREA OFFICE

Redelegation of Authority; Revocation

NOVEMBER 21, 1967.

Gallup Area Office Redelegation Order 2 (19 F.R. 8675) as amended (20 F.R. 2894, 3941, 8780; 21 F.R. 5848, 6286; 22 F.R. 8829; 23 F.R. 6841; 24 F.R. 663, 1319, 8467, 9402; 25 F.R. 10036; 26 F.R. 8468; 28 F.R. 1349), having been superseded by Albuquerque Area Office Redelegation Order 1 (32 F.R. 15764) and Navajo Area Office Redelegation Order 1 (32 F.R. 15765), is revoked.

T. W. TAYLOR,
Deputy Commissioner.

[F.R. Doc. 67-12936; Filed, Nov. 28, 1967; 8:46 a.m.]

[Albuquerque Area Redelegation Order 1]

ASSISTANT AREA DIRECTORS ET AL., ALBUQUERQUE AREA

Redelegations of Authority; Correction

NOVEMBER 21, 1967.

F.R. Doc. 67-13459, published at pages 15764 and 15765 in the issue dated November 16, 1967, is corrected by changing the date "May 27, 1966," appearing in the seventh line of sec. 2.233 to read "May 27, 1955."

T. W. TAYLOR,
Deputy Commissioner.

[F.R. Doc. 67-12937; Filed, Nov. 28, 1967; 8:46 a.m.]

Bureau of Land Management

[Group No. 491]

ARIZONA

Notice of Filing of Plat of Survey

NOVEMBER 20, 1967.

1. Plat of survey of the land described below will be officially filed in the Land Office, Phoenix, Ariz., effective at 10 a.m., December 26, 1967;

GILA AND SALT RIVER MERIDIAN

T. 38 N., R. 17 E.,
Tracts 37 and 38.

The areas described aggregate 400 acres of land included in the Navajo Indian Reservation.

The plat represents a retracement and reestablishment of Tract 37 (160.00 acres) (Betatakin Section Navajo National Monument), designed to restore the corners in their true original positions according to the best available evidence, and a survey of Tract 38 (240 acres).

2. The lands in Tract 37 vary from nearly level to vertical cliffs with scattered timber with rock outcroppings and undergrowth.

3. The lands in Tract 38 vary from gently sloping to vertical cliffs and deep canyons with timber and dense undergrowth.

4. The lands are within the exterior limits of the Navajo Indian Reservation as withdrawn by Executive order of May 17, 1884. This order withdrew lands from sale and settlement, setting them apart as a reservation for Indian purposes; excepting lands settled upon or occupied or to which valid rights had attached under existing laws of the United States prior to date of the order.

Since the lands are withdrawn for the Navajo Indian Reservation, they will not be subject to disposition under the General Public Land Laws by reason of the official filing of the plat.

GLENDON E. COLLINS,
Manager.

[F.R. Doc. 67-13933; Filed, Nov. 28, 1967; 8:47 a.m.]

[C-2330]

COLORADO

Notice of Classification of Public Lands for Multiple Use Management

NOVEMBER 22, 1967.

F.R. Doc. 67-11869 appearing at pages 13986 and 13987 of the issue for Saturday, October 7, 1967, is hereby amended to include the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

DOLORES AND MONTEZUMA COUNTIES

T. 39 N., R. 19 W.,
Secs. 18 and 19.

E. I. ROWLAND,
State Director.

[F.R. Doc. 67-13958; Filed, Nov. 28, 1967; 8:48 a.m.]

[Montana 5155]

MONTANA

Order Providing for Opening of Public Lands

NOVEMBER 20, 1967.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1273), as amended June 26, 1936 (49 Stat. 1976; 43 U.S.C. 315g), the following lands have been reconveyed to the United States:

PRINCIPAL MERIDIAN, MONTANA

T. 9 N., R. 38 E.,
Sec. 26, all;
Sec. 27, all.
T. 10 N., R. 38 E.,
Sec. 1, lots 1, 2, 3, and 4, S½N½, and S½.
T. 11 N., R. 38 E.,
Sec. 25, all;
Sec. 35, all.
T. 10 N., R. 39 E.,
Sec. 5, lots 1, 2, 3, and 4, S½N½, and S½;
Sec. 8, N½N½, SE¼NW¼, NE¼SW¼, SW¼NE¼, NW¼SE¼, and S½S½;
Sec. 17, all.
T. 11 N., R. 39 E.,
Sec. 29, all;
Sec. 31, lots 1, 2, 3, and 4, E½W½, and E½;
Sec. 33, all.
T. 8 N., R. 40 E.,
Sec. 17, S½.

The area described contains 7,195.24 acres.

2. The above-described lands are located in Rosebud County, 25 airmiles north of Forsyth, Mont. The lands are rolling to rough with a thin forage cover and a poorly developed unfertile soil which produces a heavy runoff. The lands have a high wildlife value. Acquisition of these lands blocked a large area of public domain which will beneficially augment the Bureau's natural resource program in that it will provide control of an area where land treatment practices are needed, provide control of wildlife habitat, and further provide a large public hunting area.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands are hereby restored to the public domain status and are open to application, petition, location and selection. All valid applications received at or prior

to 10 a.m., December 26, 1967, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

4. The mineral rights in the lands were not exchanged. Therefore, the mineral status of the lands are not affected by this order.

5. Inquiries concerning the lands should be addressed to the Land Office Manager, Bureau of Land Management, Billings, Mont. 59101.

EUGENE H. NEWELL,
Land Office Manager.

[F.R. Doc. 67-13933; Filed, Nov. 28, 1967; 8:47 a.m.]

[New Mexico 3756]

NEW MEXICO

Notice of Proposed Withdrawal and Reservation of Lands

NOVEMBER 22, 1967.

The Forest Service, U.S. Department of Agriculture has filed application, Serial No. New Mexico 3756 for the withdrawal of lands described below. The lands were conveyed to the United States pursuant to section 8 of the Taylor Grazing Act. They lie within the exterior boundaries of the Cibola National Forest. They have not been open to entry under the public land laws. The applicant desires the lands for the addition to, and the consolidation with national forest lands to permit more efficient administration thereof in the conservation of national resources.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Chief, Division of Lands and Minerals, Program Management and Land Office, Post Office Box 1449, Santa Fe, N. Mex. 87501.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 4 N., R. 5 E.,
Sec. 10, SE¼NE¼ and NE¼SE¼;
Sec. 11, E½W½;
Sec. 12, SW¼NE¼, S½NW¼, SW¼;
NW¼NE¼SE¼, N½SW¼NE¼SE¼, and W½SE¼;
Sec. 13, NE¼NE¼, N½NW¼, S½N½, N½SW¼, NW¼SE¼, and E½SE¼;
Sec. 14, E½NE¼.
T. 11 N., R. 15 W.,
Sec. 7, lots 1, 2, NE¼, and E½NW¼;
and SE¼;
Sec. 7, lots 1, 2, NE¼, and E½NW¼;
Sec. 8, N½ and E½SE¼.
T. 11 N., R. 16 W.,
Sec. 1, lots 1, 2, 3, NW¼NE¼, S½N½, and SE¼;
Sec. 2, lots 1 and 2;
Sec. 3, lot 4, SW¼NW¼, and SW¼;
Sec. 9;
Sec. 14, W½NW¼, W½SE¼NW¼, SW¼, and SW¼SE¼;
Secs. 15, 21, 22, and 27.

The areas described aggregate 6,715.46 acres.

MICHAEL T. SOLAN,
Chief, Division of Lands and Minerals, Program Management and Land Office.

[F.R. Doc. 67-13934; Filed, Nov. 28, 1967; 8:47 a.m.]

[New Mexico 3863]

NEW MEXICO

Notice of Proposed Withdrawal and Reservation of Lands

NOVEMBER 22, 1967.

The Forest Service, U.S. Department of Agriculture has filed application, Serial No. New Mexico 3863 for the withdrawal of lands described below. The lands were conveyed to the United States pursuant to section 8 of the Taylor Grazing Act. They lie within the exterior boundaries of the Carson National Forest. They have not been open to entry under the public land laws. The applicant desires the lands for the addition to, and the consolidation with national forest lands to permit more efficient administration thereof in the conservation of national resources.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Chief, Division of Lands and Minerals, Program Management and Land Office, Post Office Box 1449, Santa Fe, N. Mex. 87501.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 26 N., R. 10 E.,
Sec. 6, lots 1, 2, and S½NE¼;
Sec. 23, N½.
T. 27 N., R. 10 E.,
Sec. 31, SE¼.

The areas described aggregate 637.05 acres.

MICHAEL T. SOLAN,
Chief, Division of Lands and Minerals, Program Management and Land Office.

[F.R. Doc. 67-13935; Filed, Nov. 28, 1967; 8:47 a.m.]

[OR 1630]

OREGON

Notice of Termination of Proposed Classification of Public Lands

NOVEMBER 22, 1967.

Notice of a proposed classification of public lands for multiple-use management was published as F.R. Doc. 67-5185 on page 7095 of the issue for May 10, 1967. The proposed classification has been canceled insofar as it involved the lands described below. Therefore, pursuant to the regulations contained in 43 CFR 2411.2(e)(2)(ii), such lands will be at 10 a.m. on December 28, 1967, relieved of any segregative effect the abovementioned proposed classification may have had.

The lands involved in this notice of termination are:

WILLAMETTE MERIDIAN

T. 23 S., R. 16 E.,
Sec. 2, NE¼NE¼, W½NE¼, NW¼, N½SW¼, and SW¼SW¼.
T. 24 S., R. 14 E.,
Sec. 2, W½;
Sec. 10, N½.
T. 26 S., R. 13 E.,
Sec 9, W½;
Sec. 17, N½ and SW¼;
Sec. 30, W½;
Sec. 29, NW¼.
T. 27 S., R. 13 E.,
Sec. 21;
Sec. 22, W½;
Sec. 27, W½.

T. 29 S., R. 13 E.,
Sec. 14, SW¼;
Sec. 15, S½;
Sec. 16, S½;
Sec. 18, W½.
T. 29 S., R. 14 E.,
Sec. 13, S½SW¼, and SE¼;
Sec. 14;
Sec. 15, SW¼;
Sec. 16, S½;
Sec. 17, S½;
Sec. 18, S½.
T. 29 S., R. 15 E.,
Sec. 18, SW¼.
T. 29 S., R. 16 E.,
Secs. 31 to 34, inclusive;
Sec. 35, SW¼.
T. 30 S., R. 16 E.,
Sec. 2, W½;
Sec. 11, W½;
Sec. 14, W½.
T. 33 S., R. 17 E.,
Sec. 17, W½;
Sec. 23, S½;
Sec. 24, S½.
T. 33 S., R. 26 E.,
Sec. 25, S½;
Sec. 35, S½.
T. 34 S., R. 26 E.,
Sec. 10, E½;
Sec. 16, E½;
Sec. 20, E½;
Sec. 31.
T. 35 S., R. 19 E.,
Sec. 6, W½;
Sec. 17, W½;
Secs. 20 and 21;
Sec. 27, W½;
Sec. 34, W½, and SE¼.
T. 35 S., R. 25 E.,
Sec. 1, E½;
Sec. 20, E½;
Sec. 29, E½;
Sec. 32, E½.
T. 37 S., R. 22 E.,
Sec. 21, W½, and SE¼.
T. 38 S., R. 22 E.,
Sec. 15, N½, and SW¼;
Sec. 29, W½.
T. 40 S., R. 22 E.,
Sec. 5, W½;
Sec. 8, NW¼;
Sec. 17, SW¼SW¼;
Sec. 20, W½.

IRVING W. ANDERSON,
Acting State Director.

[F.R. Doc. 67-13936; Filed, Nov. 28, 1967; 8:47 a.m.]

[OR 1630]

OREGON

Notice of Classification of Public Lands for Multiple-Use Management

NOVEMBER 22, 1967.

1. Pursuant to the act of September 19, 1964 (43 U.S.C. 1411-18) and to the regulations in 43 CFR Parts 2410 and 2411, the public lands within the areas described in paragraph 3, together with any lands therein that may become public lands in the future, are hereby classified for multiple-use management. Publication of this notice has the effect of segregating the lands described in paragraph 3 from appropriation only under the agricultural land laws (43 U.S.C., Chs. 7 and 9; 25 U.S.C., sec. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171) and the lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. No adverse comments were received following publication of the notice of proposed classification (32 F.R. 7095 of May 10, 1967), or at the public hearing at Lakeview, Oreg., which was held on June 15, 1967. Therefore, no changes have been made in the list of lands included in this classification, except that the May 10, 1967, notice of proposed classification (32 F.R. 7095) contained in error certain lands which are already included in the Deschutes and Fremont National Forests, and in the withdrawal for the Hart Mountain National Antelope Refuge. These lands are not included in this notice, but are listed in a separate notice of termination. The record showing the comments received and other information is on file and can be examined in the Lakeview District Office, Lakeview, Oreg., and the Land Office, Bureau of Land Management, 729 Northeast Oregon Street, Portland, Oreg.

3. As provided in paragraph 1 above, the public lands affected by this classification are located within the following described areas and are shown on a map designated "OR 1630, 2411.2:36-010, April 1967" on file in the Lakeview District Office, Bureau of Land Management, Lakeview, Oreg., and the Land Office, Bureau of Land Management, 729 Northeast Oregon Street, Portland, Oreg. The description of the area is as follows:

WILLAMETTE MERIDIAN

DAKE COUNTY

T. 22 S., R. 15 E.,
Secs. 33 and 34.
T. 23 S., R. 16 E.,
Sec. 1, SE¼NE¼, SE¼SW¼, and SE¼ sec. 2, secs. 11 to 14, inclusive, secs 23 to 27, inclusive, and secs. 34 to 36, inclusive.
T. 23 S., R. 17 E.,
Secs. 1 to 36, inclusive.
T. 23 S., R. 18 E.,
Secs. 1 to 36, inclusive.
T. 23 S., R. 19 E.,
Secs. 1 to 36, inclusive.
T. 23 S., R. 20 E.,
Secs. 1 to 36, inclusive.
T. 23 S., R. 21 E.,
Secs. 7, 18, and 19, and secs. 26 to 36, inclusive.
T. 23 S., R. 22 E.,
Secs. 31 to 33, inclusive, and secs. 35 to 36, inclusive.
T. 24 S., R. 13 E.,
Secs. 35 and 36.
T. 24 S., R. 14 E.,
Sec. 1, E½ sec. 2, S½ sec. 10, secs. 11 to 15, inclusive, and secs. 20 to 36, inclusive.
T. 24 S., R. 15 E.,
Secs. 1 to 36, inclusive.
T. 24 S., R. 16 E.,
Secs. 1 to 36, inclusive.
T. 24 S., R. 17 E.,
Secs. 1 to 36, inclusive.
T. 24 S., R. 18 E.,
Secs. 1 to 30, inclusive, and secs. 35 and 36.
T. 24 S., R. 19 E.,
Secs. 1 to 36, inclusive.
T. 24 S., R. 20 E.,
Secs. 1 to 36, inclusive.
T. 24 S., R. 21 E.,
Secs. 3 to 10, inclusive, and secs. 15 to 36, inclusive.
T. 24 S., R. 22 E.,
Secs. 30 and 31.
T. 24 S., R. 23 E.,
Secs. 1 to 4, inclusive, secs. 9 to 16, inclusive, secs. 21 to 28, inclusive, and secs. 33 to 36, inclusive.
T. 25 S., R. 13 E.,
Secs. 1 to 3, inclusive, E½ sec. 9, secs. 10 to 16, inclusive, SE¼ sec. 17, E½ sec. 20, secs. 21 to 28, inclusive, NE¼, S½ sec. 29, and secs. 32 to 36, inclusive.
T. 25 S., R. 14 E.,
Secs. 1 to 36, inclusive.
T. 25 S., R. 15 E.,
Secs. 1 to 36, inclusive.
T. 25 S., R. 16 E.,
Secs. 1 to 36, inclusive.
T. 25 S., R. 17 E.,
Secs. 3 to 10, inclusive, W½W½ sec. 11, W½W½ sec. 14, and secs. 15 to 36, inclusive.
T. 25 S., R. 18 E.,
Secs. 1, 12, 13, W½ sec. 19, W½ sec. 30, and NW¼ sec. 31.
T. 25 S., R. 19 E.,
Secs. 1 to 18, inclusive, secs. 21 to 26, inclusive, and secs. 34 to 36, inclusive.
T. 25 S., R. 20 E.,
Secs. 1 to 36, inclusive.
T. 25 S., R. 21 E.,
Secs. 1 to 36, inclusive.
T. 25 S., R. 22 E.,
Secs. 1 to 36, inclusive.
T. 25 S., R. 23 E.,
Secs. 1 to 36, inclusive.
T. 26 S., R. 13 E.,
Secs. 1 to 4, inclusive, secs. 9 to 16, inclusive, secs. 21 to 28, inclusive, and secs. 33 to 36, inclusive.
T. 26 S., R. 14 E.,
Secs. 1 to 36, inclusive.
T. 26 S., R. 15 E.,
Secs. 1 to 30, inclusive, and secs. 35 to 36, inclusive.
T. 26 S., R. 16 E.,
Secs. 1 to 14, inclusive, secs. 23 to 26, inclusive, and sec. 36.
T. 26 S., R. 17 E.,
Secs. 1 to 34, inclusive, and secs. 27 to 31, inclusive.
T. 26 S., R. 18 E.,
Secs. 6, 7, 8, 17, 18, 19, 20, 21, 27, 28, 29, 30, 33, 34, and 35.
T. 26 S., R. 19 E.,
Secs. 1, 2, and 3, secs. 7 to 26, inclusive, secs. 34, 35, and 36.
T. 26 S., R. 20 E.,
Secs. 1 to 36, inclusive.
T. 26 S., R. 21 E.,
Secs. 1 to 36, inclusive.
T. 26 S., R. 22 E.,
Secs. 1 to 36, inclusive.
T. 26 S., R. 23 E.,
Secs. 1 to 36, inclusive.
T. 27 S., R. 13 E.,
Secs. 1 to 4, inclusive, secs. 9 to 16, inclusive, E½ sec. 23, secs. 23 to 26, inclusive, E½ sec. 27, and secs. 33 to 36, inclusive.
T. 27 S., R. 14 E.,
Secs. 1 to 36, inclusive.
T. 27 S., R. 15 E.,
Secs. 4 to 10, inclusive, secs. 14 to 23, inclusive, and secs. 26 to 36, inclusive.
T. 27 S., R. 17 E.,
S½S½ sec. 26, S½SE¼ sec. 26, E½ sec. 35, and sec. 36.
T. 27 S., R. 18 E.,
N½ sec. 3, N½ sec. 4, S½S½ sec. 22, secs. 23 to 29, inclusive, S½S½ sec. 30, and secs. 31 to 36, inclusive.

T. 37 S., R. 19 E.,
Secs. 1, 2, 3, 10, 11, 12, 13, 14, secs. 23 to 26, inclusive, W½SW¼ sec. 30, secs. 31, 35, and 36.
T. 37 S., R. 20 E.,
Secs. 1 to 36, inclusive.
T. 37 S., R. 21 E.,
Secs. 1 to 36, inclusive.
T. 37 S., R. 22 E.,
Secs. 1 to 36, inclusive.
T. 37 S., R. 23 E.,
Secs. 1 to 36, inclusive.
T. 38 S., R. 13 E.,
Secs. 1 to 17, inclusive, and secs. 20 to 36, inclusive.
T. 38 S., R. 14 E.,
Secs. 1 to 36, inclusive.
T. 38 S., R. 15 E.,
Secs. 1 to 36, inclusive.
T. 38 S., R. 16 E.,
Secs. 6, 7, 8, 12, 13, 14, E½SE¼ sec. 15, and secs. 17 to 36, inclusive.
T. 38 S., R. 17 E.,
Secs. 1 to 5, inclusive, S½ sec. 6, and secs. 7 to 36, inclusive.
T. 38 S., R. 18 E.,
Secs. 1 to 36, inclusive.
T. 38 S., R. 19 E.,
Sec. 1, E½ sec. 2, W½, W½SE¼ sec. 4, secs. 5 to 8, inclusive, W½, W½E½, SE¼ SE¼ sec. 9, and secs. 10 to 36, inclusive.
T. 38 S., R. 20 E.,
Secs. 1 to 36, inclusive.
T. 38 S., R. 21 E.,
Secs. 1 to 36, inclusive.
T. 38 S., R. 22 E.,
Secs. 1 to 36, inclusive.
T. 38 S., R. 23 E.,
Secs. 1 to 36, inclusive.
T. 39 S., R. 13 E.,
Sec. 1.
T. 39 S., R. 13 E.,
Secs. 1 to 13, inclusive, N½, SE¼ sec. 14, N½ sec. 15, N½ sec. 16, sec. 17, and E½ sec. 18.
T. 39 S., R. 14 E.,
Secs. 1 to 13, inclusive, N½, N½SW¼ sec. 12, sec. 14, N½, SE¼ sec. 15, N½ sec. 16, N½ sec. 17, and N½ sec. 18.
T. 39 S., R. 15 E.,
Secs. 1 to 17, inclusive, N½, SE¼ sec. 18, and secs. 21 to 28, inclusive.
T. 39 S., R. 16 E.,
Secs. 1 to 30, inclusive, N½, SE¼ sec. 35, and sec. 36.
T. 39 S., R. 17 E.,
Secs. 1 to 36, inclusive.
T. 39 S., R. 18 E.,
Secs. 1 to 36, inclusive.
T. 39 S., R. 19 E.,
Secs. 1 to 36, inclusive.
T. 39 S., R. 20 E.,
Secs. 1 to 36, inclusive.
T. 39 S., R. 21 E.,
Secs. 1 to 36, inclusive.
T. 39 S., R. 22 E.,
Secs. 1 to 36, inclusive.
T. 39 S., R. 23 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 13 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 14 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 15 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 16 E.,
Secs. 1 to 17, inclusive, N½, SE¼ sec. 18, E½ sec. 3, E½ sec. 11, and E½ sec. 14.
T. 40 S., R. 17 E.,
Secs. 1 to 8, inclusive, secs. 9 to 16, inclusive, secs. 21 to 28, inclusive, secs. 34, 35, and 36.
T. 40 S., R. 18 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 19 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 20 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 21 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 22 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 23 E.,
Secs. 1 to 36, inclusive.
T. 41 S., R. 13 E.,
Secs. 1 to 36, inclusive.
T. 41 S., R. 14 E.,
Secs. 1 to 36, inclusive.
T. 41 S., R. 15 E.,
Secs. 1 to 36, inclusive.
T. 41 S., R. 16 E.,
Sec. 3.

T. 31 S., R. 17 E.,
Secs. 1, 2, and 3, and secs. 7 to 36, inclusive.
T. 31 S., R. 18 E.,
Secs. 1 to 36, inclusive.
T. 31 S., R. 19 E.,
Secs. 1 to 36, inclusive.
T. 31 S., R. 20 E.,
Secs. 1 to 36, inclusive.
T. 31 S., R. 21 E.,
Secs. 1 to 36, inclusive.
T. 31 S., R. 22 E.,
Secs. 1 to 36, inclusive.
T. 31 S., R. 23 E.,
Secs. 1 to 36, inclusive.
T. 32 S., R. 17 E.,
Secs. 1 to 36, inclusive.
T. 32 S., R. 18 E.,
Secs. 1 to 36, inclusive.
T. 32 S., R. 19 E.,
Secs. 1 to 36, inclusive.
T. 32 S., R. 20 E.,
Secs. 1 to 36, inclusive.
T. 32 S., R. 21 E.,
Secs. 1 to 36, inclusive.
T. 32 S., R. 22 E.,
Secs. 1 to 36, inclusive.
T. 32 S., R. 23 E.,
Secs. 1 to 36, inclusive.
T. 33 S., R. 17 E.,
Secs. 1 to 6, inclusive, secs. 8 to 16, inclusive, E½ sec. 17, N½ sec. 23, and N½ sec. 24.
T. 33 S., R. 18 E.,
Secs. 1 to 30, inclusive, and secs. 32 to 36, inclusive.
T. 33 S., R. 19 E.,
Secs. 1 to 36, inclusive.
T. 33 S., R. 20 E.,
Secs. 1 to 36, inclusive.
T. 33 S., R. 21 E.,
Secs. 1 to 36, inclusive.
T. 33 S., R. 22 E.,
Secs. 1 to 36, inclusive.
T. 33 S., R. 23 E.,
Secs. 1 to 36, inclusive.
T. 33 S., R. 24 E.,
Secs. 1 to 36, inclusive.
T. 33 S., R. 25 E.,
Secs. 1 to 36, inclusive.
T. 33 S., R. 26 E.,
Secs. 1 to 24, inclusive, N½ sec. 25, secs. 26 to 34, inclusive, and N½ sec. 35.
T. 33 S., R. 27 E.,
Secs. 4 to 8, inclusive, and secs. 17 to 19, inclusive.
T. 34 S., R. 18 E.,
Secs. 1 to 4, inclusive.
T. 34 S., R. 19 E.,
Secs. 1 to 36, inclusive.
T. 34 S., R. 20 E.,
Secs. 1 to 36, inclusive.
T. 34 S., R. 21 E.,
Secs. 1 to 36, inclusive.
T. 34 S., R. 22 E.,
Secs. 1 to 36, inclusive.
T. 34 S., R. 23 E.,
Secs. 1 to 36, inclusive.
T. 34 S., R. 24 E.,
Secs. 1 to 36, inclusive.
T. 34 S., R. 25 E.,
Secs. 1 to 36, inclusive.
T. 34 S., R. 26 E.,
Secs. 3 to 9, inclusive W¼ sec. 10, W½ sec. 16, secs. 17 to 19, inclusive W½ sec. 20, and sec. 30.
T. 34 S., R. 26 E.,
Secs. 1 to 36, inclusive.
T. 35 S., R. 19 E.,
Secs. 1 to 5, inclusive, E½ sec. 6, secs. 8 to 16, inclusive, E½ sec. 17, secs. 22 to 26, inclusive, E½ sec. 27, NE¼ sec. 34, and secs. 35 and 36.
T. 35 S., R. 20 E.,
Secs. 1 to 36, inclusive.
T. 35 S., R. 21 E.,
Secs. 1 to 36, inclusive.
T. 35 S., R. 22 E.,
Secs. 1 to 36, inclusive.
T. 35 S., R. 23 E.,
Secs. 1 to 36, inclusive.
T. 35 S., R. 24 E.,
Secs. 1 to 36, inclusive.
T. 35 S., R. 25 E.,
W½ sec. 1, secs. 2 to 10, inclusive secs. 17 to 19, inclusive, W½ sec. 20, W½ sec. 29, secs. 30, 31, and W½ sec. 32.
T. 35 S., R. 26 E.,
Secs. 1 to 36, inclusive.
T. 36 S., R. 20 E.,
Secs. 1 to 18, inclusive.
T. 36 S., R. 21 E.,
Secs. 1 to 18, inclusive.
T. 36 S., R. 22 E.,
Secs. 1 to 18, inclusive, secs. 21 to 28, inclusive, and secs. 33 to 36, inclusive.
T. 36 S., R. 23 E.,
Secs. 1 to 36, inclusive.
T. 36 S., R. 24 E.,
Secs. 1 to 36, inclusive.
T. 36 S., R. 25 E.,
Secs. 1, 2, 3, 4, secs. 10 to 15, inclusive, secs. 22 to 27, inclusive, and secs. 34 to 36, inclusive.
T. 37 S., R. 22 E.,
Secs. 1 to 4, inclusive, secs. 9 to 16, inclusive, NE¼ sec. 21, secs. 23 to 27, inclusive, and secs. 35 and 36.
T. 37 S., R. 23 E.,
Secs. 1, 4, 6, 10, 12, 14, 18, 20, and secs. 22 to 36, inclusive.
T. 37 S., R. 24 E.,
Secs. 1 to 36, inclusive.
T. 37 S., R. 25 E.,
Secs. 1 to 36, inclusive.
T. 38 S., R. 22 E.,
Secs. 1, 2, secs. 11 to 14, inclusive, SE¼ sec. 15, secs. 21 to 28, inclusive, E½ sec. 29, and secs. 33 to 36, inclusive.
T. 38 S., R. 23 E.,
Secs. 1 to 36, inclusive.
T. 38 S., R. 24 E.,
Secs. 1 to 36, inclusive.
T. 38 S., R. 25 E.,
Secs. 1 to 36, inclusive.
T. 38 S., R. 26 E.,
Secs. 1 to 36, inclusive.
T. 38 S., R. 27 E.,
Secs. 1 to 36, inclusive.
T. 38 S., R. 28 E.,
Secs. 1 to 36, inclusive.
T. 39 S., R. 22 E.,
Secs. 1, 2, 3, 4, secs. 9 to 16, inclusive, secs. 22 to 27, inclusive, and secs. 34 to 36, inclusive.
T. 39 S., R. 23 E.,
Secs. 1 to 36, inclusive.
T. 39 S., R. 24 E.,
Secs. 1 to 36, inclusive.
T. 39 S., R. 25 E.,
Secs. 1 to 36, inclusive.
T. 39 S., R. 26 E.,
Secs. 1 to 36, inclusive.
T. 39 S., R. 27 E.,
Secs. 1 to 36, inclusive.
T. 39 S., R. 28 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 22 E.,
Secs. 1 to 4, inclusive, E½ sec. 5, NE¼, S½ sec. 8, secs. 9 to 16, inclusive, N½, N½SW¼, SE¼SW¼, SE¼ sec. 17, E½ sec. 20, secs. 21 to 28, inclusive, and secs. 33, 35, and 36.
T. 40 S., R. 23 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 24 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 25 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 26 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 27 E.,
Secs. 1 to 36, inclusive.
T. 40 S., R. 28 E.,
Secs. 1 to 36, inclusive.
T. 41 S., R. 22 E.,
Secs. 1, 12, 13, and 24.
T. 41 S., R. 23 E.,
Secs. 1 to 24, inclusive.
T. 41 S., R. 24 E.,
Secs. 1 to 24, inclusive.

T. 41 S., R. 25 E.,
Secs. 1 to 24, inclusive.
T. 41 S., R. 26 E.,
Secs. 1 to 24, inclusive.
T. 41 S., R. 27 E.,
Secs. 1 to 24, inclusive.
T. 41 S., R. 28 E.,
Secs. 1 to 24, inclusive.

The areas described aggregate approximately 2,404,000 acres.

4. For a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER, interested parties may submit comments to the Secretary of the Interior, LLM, 721, Washington, D.C. 20240 (43 CFR 2411.1–2(d)).

IRVING W. ANDERSON,
Acting State Director.

[F.R. Doc. 67–13887; Filed, Nov. 28, 1967; 8:47 a.m.]

UTAH

Notice of Filing of Plats of Survey and Order Providing for Opening of Public Lands

1. Plats of survey of the lands described below will be officially filed in the Land Office, Salt Lake City, Utah, effective at 10 a.m., on January 8, 1968:

SALT LAKE MERIDIAN

Plats of survey accepted September 22, 1967:

T. 38 S., R. 3 E.,
Sec. 1, lots 1 to 4, inclusive, S½;
Sec. 3, lots 1 to 4, inclusive, S½;
Sec. 4, lots 1 to 4, inclusive, S½;
Sec. 5, lots 1 to 4, inclusive, S½;
Sec. 6, lots 1 to 6, inclusive, E½SW¼, SE¼;
Sec. 7, lots 1 to 4, inclusive, E½, E½W½;
Secs. 8 to 15;
Sec. 17;
Sec. 18, lots 1 to 4, inclusive, E½, E½W½;
Sec. 19, lots 1 to 4, inclusive, E½, E½W½;
Secs. 20 to 29, inclusive;
Sec. 30, lots 1 to 4, inclusive, E½, E½W½;
Sec. 31, lots 1 to 4, inclusive, E½, E½W½;
Secs. 33 to 35, inclusive.

Plats of survey accepted April 5, 1967:

T. 41 S., R. 3 E.,
Sec. 1, lots 1 to 8, inclusive, S½N½, S½;
Sec. 2, lots 1 to 8, inclusive, S½N½, S½;
Sec. 4, lots 1 to 8, inclusive, S½N½, S½;
Sec. 5, lots 1 to 8, inclusive, S½N½, S½;
Sec. 6, lots 1 to 11, inclusive, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, lots 1 to 4, inclusive, E½, E½W½;
Secs. 8 to 15, inclusive;
Sec. 17;
Sec. 18, lots 1 to 4, inclusive, E½, E½W½;
Sec. 19, lots 1 to 4, inclusive, E½, E½W½;
Secs. 20 to 29, inclusive;
Sec. 30, lots 1 to 4, inclusive, E½, E½W½;
Sec. 31, lots 1 to 4, inclusive, E½, E½W½;
Secs. 33 to 35, inclusive.

T. 39 S., R. 4 E.,
Sec. 1, lots 1 to 4, inclusive, S½N½, S½;
Sec. 2, lots 1 to 4, inclusive, S½N½, S½;
Sec. 4, lots 1 to 4, inclusive, S½N½, S½;
Sec. 5, lots 1 to 4, inclusive, S½N½, S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, lots 1 to 4, inclusive, E½, E½W½;
Secs. 8 to 15, inclusive;
Sec. 17;
Sec. 18, lots 1 to 4, inclusive, E½, E½W½;
Sec. 19, lots 1 to 4, inclusive, E½, E½W½;
Secs. 20 to 29, inclusive;
Sec. 30, lots 1 to 4, inclusive, E½, E½W½;
Sec. 31, lots 1 to 4, inclusive, E½, E½W½;
Secs. 33 to 35, inclusive.

T. 40 S., R. 5 E.,
Sec. 1, lots 1 to 4, inclusive, S½N½, S½;
Sec. 2, lots 1 to 4, inclusive, S½N½, S½;
Sec. 4, lots 1 to 4, inclusive, S½N½, S½;
Sec. 5, lots 1 to 4, inclusive, S½N½, S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, lots 1 to 4, inclusive, E½, E½W½;
Secs. 8 to 15, inclusive;
Sec. 17;
Sec. 18, lots 1 to 4, inclusive, E½, E½W½;
Sec. 19, lots 1 to 4, inclusive, E½, E½W½;
Secs. 20 to 29, inclusive;
Sec. 30, lots 1 to 4, inclusive, E½, E½W½;
Sec. 31, lots 1 to 4, inclusive, E½, E½W½;
Secs. 33 to 35, inclusive.

T. 41 S., R. 5 E.,
Sec. 1, lots 1 to 4, inclusive, S½N½, S½;
Sec. 3, lots 1 to 4, inclusive, S½N½, S½;
Sec. 4, lots 1 to 4, inclusive, S½N½, S½;
Sec. 5, lots 1 to 4, inclusive, S½N½, S½;
Sec. 6, lots 1 to 7, inclusive; S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, lots 1 to 4, inclusive, E½, E½W½;
Secs. 8 to 15, inclusive;
Sec. 17;
Sec. 18, lots 1 to 4, inclusive, E½, E½W½;
Sec. 19, lots 1 to 4, inclusive, E½, E½W½;
Secs. 20 to 29, inclusive;
Sec. 30, lots 1 to 4, inclusive, E½, E½W½;
Sec. 31, lots 1 to 4, inclusive, E½, E½W½;
Secs. 33 to 35, inclusive.

The area described aggregates 101,575.51 acres.

2. The following lands were withdrawn June 11, 1954, by the Bureau of Reclamation for the Colorado River Project:

T. 42 S., R. 5 E.,
Sec. 1, secs. 3 to 15, inclusive, secs. 17 and 18, secs. 22 to 27, inclusive, secs. 34 and 35.

3. The following were withdrawn June 28, 1941, and September 11, 1953, respectively, for Power Site Classifications 323 and 430:

T. 42 S., R. 5 E.,
Sec. 3, SE¼SW¼, S½SE¼;
Sec. 10, E½E½, NW¼NE¼, NE¼NW¼;
Sec. 11, E½NE¼, NW¼NW¼, S½NW¼, N½SW¼, SE¼;
Sec. 12, NW¼NW¼, S½NW¼, S½;
Sec. 13, NE¼, NE¼NW¼, N½SE¼;
Sec. 24, E½NE¼;
Sec. 34, S½SE¼.

4. The following lands are within State Exchange application U–3297, and are not open to application, selection and petition unless it is withdrawn or finally rejected, in which event these lands will become open as provided by 43 CFR 2244.2–3(c):

T. 39 S., R. 4 E.,
Secs. 5 to 8, inclusive;
Secs. 17 to 21, inclusive;
Secs. 28 to 31, inclusive;
Sec. 33.

5. Except for the lands shown in paragraphs 2 and 3, the lands listed in paragraph 1 of this order are open to application, selection and petition as outlined in paragraph 6 below. No application for these lands will be allowed under the Homestead, Desert Land, Small Tract, or any other nonmineral public land law unless the lands have already been classified as valuable, or suitable for such type of application, or shall be so classified upon consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

6. Subject to any existing valid rights and the requirements of applicable law, the lands referred to in paragraph 5 hereof are hereby opened to filing of applications and selections, in accordance with the following:

a. Applications and selections under the nonmineral public land laws, except applications for Small Tracts, may be presented to the Manager mentioned below, beginning on the date of this order. Such applications and selections will be considered as filed on the hour and respective dates shown for the various classes unnumerated in the following paragraphs.

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph, will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications and selections under the nonmineral public land laws presented prior to 10 a.m., on January 8, 1968, will be considered as simultaneously filed at that hour. Rights under such applications and selections and offers filed after that hour will be governed by the time of filing.

7. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

8. Available data indicate that the lands opened by this order vary from broken desert lands of 3,600 feet elevation to rolling and broken mountains reaching to 7,200 feet. Vegetation consists of native desert-type plants and grasses, with scattered juniper and pinon, except that more dense stands of timber are found in T. 39 S., R. 4 E. There is no evidence of mineral values, except coal.

9. Inquiries concerning the lands should be addressed to the Manager, Utah Land Office, Post Office Box 11505, Salt Lake City, Utah 84111.

J. E. KEOGH,
Manager, Utah Land Office.

NOVEMBER 21, 1967.

[F.R. Doc. 67–13888; Filed, Nov. 28, 1967; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Maritime Administration

HARRIS TRUST AND SAVINGS BANK

Notice of Approval of Applicant as Trustee

Notice is hereby given that Harris Trust and Savings Bank, an Illinois

banking association, with offices at 111 West Monroe Street, Chicago, Ill., has been approved as a trustee pursuant to Public Law 89-346 and 46 CFR 221.21-221.30.

Dated: November 22, 1967.

M. I. GOODMAN,
Chief,
Office of Ship Operations.

[F.R. Doc. 67-13230; Filed, Nov. 28, 1967; 8:47 a.m.]

Office of the Secretary

[Dept. Order 3-B, Amdt. 5]

ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION

Research Laboratories

This material further amends the material appearing at 32 F.R. 13000 of September 28, 1967; 32 F.R. 13339 of September 21, 1967; 32 F.R. 10271 of July 12, 1967; 32 F.R. 3405 of March 1, 1967; 31 F.R. 15640 of December 9, 1966; and 31 F.R. 10700 of August 11, 1966.

Department Order 3-B, dated August 1, 1966, is hereby further amended as follows:

1. Section 5 is revised to read:

Sec. 5. Research laboratories. The Research Laboratories conducts an integrated program of research and services relating to the oceans and inland waters, the lower and upper atmosphere, the space environment, and the solid earth to increase understanding of man's geophysical environment in order to provide the scientific basis for improved services. The Research Laboratories also serves as the central federal agency for the conduct of research and services directed toward improving national utilization of radio, infrared, and optical waves for telecommunications. The Research Laboratories consists of the Office of the Director, located at Boulder, Colo., and other major components located at Boulder and elsewhere, as described below. Each of the other major components is a separate management unit, consisting of one or more laboratories or other groups.

.01 The Office of the Director includes:

a. The Director, Deputy Director, other immediate staff as may be required, and the following units.

b. The Office of Programs serves as focal point for policy and management advice to Director, Research Laboratories on research and service programs; leads and coordinates program planning activities, including PPBS requirements; conducts program liaison; coordinates Research Laboratories activities in the framework of national and international scientific programs; reviews and evaluates current programs and plans; advises on resource allocation and reallocation; develops a management information system; conducts public information functions; and provides staff assistance to Director and his immediate staff.

c. The Office of Administrative and Technical Services provides administrative and technical services to all Research Laboratories components located at its headquarters at Boulder, Colo., and to its field locations as designated. This office also is responsible for providing services to NBS-Boulder Labs and coordinating services received from NBS under an administrative cross-servicing agreement.

.02 The Earth Sciences Laboratories conducts research in geomagnetism, seismology, geodesy, and related earth sciences, seeking fundamental knowledge of earthquake processes, of the internal structure and accurate figure of the earth and the distribution of its mass.

.03 The Atlantic Oceanographic Laboratories and the Pacific Oceanographic Laboratories conduct oceanographic research toward fuller understanding of the ocean basins and borders, of oceanic processes, sea-air, and land-sea interactions as required to improve the marine scientific services and operations of the ESSA.

.04 The Atmospheric Physics and Chemistry Laboratory performs research on processes of cloud physics and precipitation and the chemical composition and nucleating substance in the lower atmosphere. The laboratory is ESSA's major focus for design and conduct of laboratory and field experiments toward developing feasible methods of practical, beneficial weather modification.

.05 The Air Resources Laboratories conducts research on the diffusion, transport, and dissipation of atmospheric contaminants, using laboratory and field experiments to develop method for prediction and control of atmospheric pollution.

.06 The Geophysical Fluid Dynamics Laboratory conducts investigations of the dynamics and physics of geophysical fluid systems to develop a theoretical basis, by mathematical modeling and computer simulation, for the behavior and properties of the atmosphere and the oceans.

.07 The National Hurricane Research Laboratory studies hurricanes and other tropical weather phenomena by observational, analytical and theoretical means, and conducts experiments in hurricane modification to improve understanding of these phenomena and improve methods for analysis of developing tropical storms and prediction of their movement and severity.

.08 The National Severe Storms Laboratory conducts studies of tornadoes, squall lines, thunderstorms and other severe local convective phenomena in order to achieve improved methods of forecasting, detecting and providing advance warning of their occurrence and severity.

.09 The Space Disturbances Laboratory conducts research on the nature of space disturbances and provides forecasts of these disturbances. Studies are made of the behavior of these disturbances, the mechanisms producing them, and their consequences to mans' activities. Also included is the development of techniques and their use to continuously monitor those characteristics of the space environment necessary for the early detection and reporting of important disturbances.

.10 The Aeronomy Laboratory studies the nature of and the physical and chemical processes controlling the ionosphere and exosphere of the earth and other planets. The program includes theoretical, laboratory, ground-based, rocket and satellite studies.

.11 The Wave Propagation Laboratory acts as a focal point for the development of new methods for remote sensing of man's geophysical environment. Special emphasis is given to the propagation of sound waves, and electromagnetic waves at millimeter, infrared and optical frequencies.

.12 The Institute for Telecommunication Sciences serves as the central federal agency for the conduct of research and services on the propagation of radio waves, on the radio properties of the earth and its atmosphere, on the nature of radio noise and interference, on information transmission and antennas, and on methods for the more effective use of the radio spectrum for telecommunication purposes.

.13 The Research Flight Facility meets the requirements of ESSA and other interests for atmospheric and other environmental measurements from aircraft, and for outfitting and operating aircraft specially instrumented for research.

Effective date: November 9, 1967.

DAVID R. BALDWIN,
Assistant Secretary for Administration.

[F.R. Doc. 67-13261; Filed, Nov. 28, 1967; 8:47 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

AIR POLLUTION CONTROL; INTERSTATE AIR POLLUTION IN NATIONAL CAPITAL METROPOLITAN AREA

Notice of Change in Place for Conference of Air Pollution Control Agencies

The notice of the date, time, and place of the conference of air pollution control agencies concerning interstate air pollution in the National Capital Metropolitan Area published in the FEDERAL REGISTER on November 10, 1967 (32 F.R. 15648) is hereby revised to change the place of such conference to the Maryland Suite of the Sheraton Park Hotel, 2660 Connecticut Avenue NW., Washington, D.C. 20008.

Dated: November 20, 1967.

S. SMITH GRISWOLD,
Presiding Officer of the Conference.

[F.R. Doc. 67-14046; Filed, Nov. 28, 1967; 11:20 a.m.]

ATOMIC ENERGY COMMISSION

PLUTONIUM AND URANIUM ENRICHED IN U^{233}

Use Charges

1. The U.S. Atomic Energy Commission hereby gives notice of an increase in its use charge for plutonium and uranium enriched in U^{233}.

2. This notice amends a notice entitled "Plutonium and Uranium Enriched in U^{233}" published in the FEDERAL REGISTER on May 29, 1963 (28 F.R. 5314) by deleting paragraph 4 of said notice and substituting in lieu thereof the following:

4. *Use charges.* The use charge rate for plutonium and uranium enriched in U^{233}, when leased by the AEC, is five and one-half percent (5½%) per annum of the base charge.

3. *Effective date.* This notice is effective January 1, 1968.

Dated at Germantown, Md., this 22d day of November 1967.

For the Atomic Energy Commission.

F. T. HOBBS,
Assistant Secretary.

[F.R. Doc. 67-13888; Filed, Nov. 28, 1967; 8:45 a.m.]

URANIUM HEXAFLUORIDE

Base Charges, Use Charges, Special Charges, Table of Enriching Services, Specifications, and Packaging

The U.S. Atomic Energy Commission (AEC) hereby announces the establishment of its standard table of enriching services, its charge per kilogram unit of separative work, its standard processing loss pursuant to the established Uranium Enrichment Services Criteria set forth in the FEDERAL REGISTER, 31 F.R. 16479, December 23, 1966, and revisions in (1) its schedule of base charges for normal uranium and uranium enriched or depleted in the isotope U^{235}, (2) its use charge for uranium and other materials leased by the AEC, (3) its charges for withdrawal and packaging of UF_6, (4) its limits on loading of containers, and (5) its assay variation limits.

This notice is intended to consolidate, revise and supersede earlier notices concerning base charges, use charge, special charges, specification and packaging of normal uranium or uranium depleted or enriched in the isotope U^{235}. Accordingly, all previous information or schedules published by the AEC concerning the subject matter of this notice, insluding the following notices previously published by the Commission in the FEDERAL REGISTER are hereby superseded: 23 F.R. 4813, June 28, 1958; 25 F.R. 2317, April 2, 1960; 26 F.R. 1643, February 24, 1961; 26 F.R. 4765, May 30, 1961; 27 F.R. 5006, May 29, 1962; 27 F.R. 5155, June 1, 1962; 29 F.R. 5098, April 14, 1964; 30 F.R. 14831, November 30, 1965; 30 F.R. 14938, December 2, 1965; 31 F.R. 5385, April 5, 1966; and 31 F.R. 16584, December 28, 1966.

1. *General.* This notice sets forth AEC charges, specifications, container characteristics, container loadings, and other information with respect to:

(a) The special nuclear material, uranium enriched in the isotope U^{235} (enriched uranium), and

(b) The source materials, uranium having 0.00711 weight fraction U^{235} (normal uranium), and uranium depleted in the isotope U^{235} (depleted uranium),

in the standard form of uranium hexafluoride (UF_6).

The data contained in this notice pertain to domestic arrangements and, to the extent appropriate, to foreign arrangements, for the furnishing of toll enriching services, the lease or sale of enriched UF_6, for sale of depleted UF_6, and the lease of other materials entered into by AEC pursuant to the Atomic Energy Act of 1954, as amended. Nothing in this notice shall be deemed to modify or affect any regulation of the AEC, or to relieve any AEC licensee from his obligations to comply with such regulations, including those contained in 10 CFR Parts 70 and 71. Although the charges and other data published in this notice are subject to adjustment, the AEC intends to maintain them as stable as possible.

2. *Effective date.* All data contained in this notice shall become effective as of January 1, 1968.

3. *Schedule of base charges, standard table of enriching services, charge per kilogram unit of separative work and standard processing loss.* The base charges for uranium, enriched or depleted in the isotope U^{235}, in the form of UF_6 are those given in Table I of this notice. The AEC's Standard Table of Enriching Services is also set forth in Table I of this notice. The charge per kilogram unit of separative work is $26. The standard processing loss factor to be applied to toll enrichers acquisition of tails material is 0.05 percent.

4. *Use charge for material.* The use-charge rate for special nuclear material and other materials leased by AEC is five and one-half percent (5½%) per annum of the base charge or value of the material established by the Commission.

5. *Specification for UF_6 furnished by AEC.* Enriched or depleted uranium furnished as UF_6 shall consist of at least 99.5 percent by weight UF_6. The impurities making up the remainder may consist of fluorocarbons, hydrogen fluoride, and certain cations. The material shall contain a maximum of 0.01 mol percent of hydrocarbons, partially substituted halo-hydrocarbons or chlorocarbons.

The assay variability limits established for enriched and depleted uranium in the form of UF_6 to be furnished by AEC are set forth in Table 2.

6. *Specifications for UF_6 delivered to AEC.* Specifications for UF_6 delivered to AEC, whether the material contains normal uranium or uranium depleted or enriched in the isotope U^{235}, are set forth in Table 3.

7. *Packaging.* The characteristics of AEC-furnished containers are summarized in Table 4. A further description of the containers and their valves as well as information on handling procedures of UF_6, may be found in report ORO-651 (Revision 1), "Uranium Hexafluoride Handling Procedures and Container Criteria", available for a charge from Clearinghouse for Federal, Scientific and Technical Information, National Bureau of Standards, U.S. Department of Commerce, Springfield, Va. 22151. Engineering drawings of the AEC-owned containers may also be obtained for a charge.

The minimum-loading data set forth in Table 4 are the established minimum loadings of enriched uranium as UF_6 furnished to or by the AEC, whether in AEC or non-AEC-owned containers of the types described therein.

The AEC limits the loading of the containers listed in Table 5 to a value less than their volumetric capacity and also sets forth loading limits according to current AEC practice for various assay ranges. These apply to shipments both to and from the AEC. When ordering UF_6, the requester may specify delivery in any combination of customer furnished containers consonant with Table 5 and the compositing of analytical samples from any number of containers up to the limit in Table 6. To the extent that required containers are not reasonably available from commercial sources and AEC agrees to furnish containers, the requestor may, subject to approval of the AEC, specify the combination of containers he wishes to be used and will be charged an amount corresponding to the combination. In the event the requestor does not specify any particular combination, the AEC will package the UF_6 in any combination of containers which it sees fit to use and will charge the requestor an amount corresponding to the combination leading to minimum cost.

8. *Withdrawal and packaging charges.* Charges for withdrawal of UF_6 from the AEC gaseous diffusion plants and packaging in suitable containers are dependent upon the container size, assay variation limit, and the number of containers composited into an analytical lot, as set forth in Table 6. These handling charges are independent of the charge for toll enriching services furnished by the AEC or the base charges for UF_6 supplied by the AEC and are not refunded upon return of material.

9. *Container rental charges.* The rental charge, where applicable, for AEC-owned UF_6 containers is $5 for each 48F container, $4 for each 48A container, and $2.50 for each other container for each week or fraction thereof, said charges to commence on the first day after delivery to the recipient, f.o.b. AEC gaseous diffusion plant. The purchaser must provide any outer protective package required for the containers.

10. *Charges for special services.* When the AEC is requested and agrees to perform a service not covered in the charges given in this notice, such as certifying properties of UF_6 other than those given in section 5 of this notice, in which case

any or all of the properties listed in Table 3 may be certified, special charges may apply. Inquiries as to such charges should be directed to the AEC Materials Leasing Officer, USAEC, Oak Ridge Operations Office, Oak Ridge, Tenn. 37830.

11. *Correspondence.* Any correspondence involving this notice should be addressed to the AEC Materials Leasing Officer, USAEC, Oak Ridge Operations Office, Post Office Box E, Oak Ridge, Tenn. 37830.

Dated at Germantown, Md., this 22d day of November 1967.

For the Atomic Energy Commission.

F. T. HOBBS,
Assistant Secretary.

TABLE 1—SCHEDULE OF BASE CHARGES AND STANDARD TABLE OF ENRICHING SERVICES

Assay (wt. % U^{235})	Schedule of base charges ($/kg U as UF_6)	Standard table of enriching services	
		Feed component (normal) (kgs U feed/kg U product)	Separative work component (kg SWU/kg U product)
0.20	2.60	9	9
0.25	2.60	6.686	−0.109
0.30	2.65	6.195	−0.158
0.35	2.69	6.294	−0.169
0.38	2.74	6.227	−0.197
0.40	4.08	6.251	−0.193
0.42	4.99	6.421	−0.197
0.45	5.09	6.473	−0.194
0.46	7.66	6.559	−0.189
0.48	8.73	6.595	−0.182
0.50	9.27	6.627	−0.173
0.52	10.45	6.653	−0.163
0.54	11.67	6.695	−0.151
0.56	12.93	6.705	−0.137
0.58	14.25	6.740	−0.123
0.60	15.60	6.758	−0.107
0.65	19.05	6.831	−0.062
0.70	22.69	6.976	−0.013
0.711	23.45	1.000	0.000
0.75	26.26	1.076	0.044
0.80	29.96	1.174	0.104
0.85	34.21	1.272	0.168
0.90	38.73	1.370	0.237
0.95	43.49	1.469	0.307
1.00	48.52	1.568	0.380
1.10	58.78	1.763	0.535
1.20	64.66	1.957	0.698
1.30	71.08	2.152	0.868
1.40	82.25	2.348	1.045
1.50	91.53	2.544	1.227
1.60	101.02	2.739	1.413
1.70	110.64	2.935	1.603
1.80	120.17	3.131	1.797
1.90	129.59	3.327	1.994
2.00	138.89	3.522	2.194
2.20	156.47	3.914	2.602
2.40	173.47	4.305	3.018
2.60	189.84	4.697	3.441
2.80	205.61	5.088	3.871
3.00	240.80	5.479	4.306
3.20	261.13	5.871	4.746
3.40	281.36	6.262	5.191
3.60	302.60	6.654	5.636
3.80	323.69	7.045	6.080
4.00	344.78	7.436	6.544
4.50	397.36	8.415	7.660
5.00	450.49	9.393	8.861
5.50	503.99	10.372	10.022
6.00	557.55	11.350	11.208
7.00	665.44	13.307	13.567
8.00	773.98	15.264	15.995
9.00	882.97	17.221	18.422
10.00	992.35	19.178	20.883
12.00	1,212.07	23.092	25.782
14.00	1,432.72	27.006	30.737
16.00	1,654.07	30.920	35.719
18.00	1,876.08	34.834	40.724
20.00	2,098.46	38.748	45.747
25.00	2,656.15	48.532	58.369
30.00	3,215.78	58.317	71.064
35.00	3,776.89	68.102	83.816
40.00	4,339.25	77.887	96.616
50.00	5,467.26	97.456	122.344
60.00	6,599.82	117.025	148.235
70.00	7,736.37	136.595	174.202
80.00	8,879.34	156.164	200.605
85.00	9,454.35	165.949	213.502
90.00	10,033.59	175.734	227.941
92.00	10,267.24	179.648	232.796
93.00	10,384.76	181.605	235.550

[1] Normal.

All values are computed on the basis of taking normal uranium having an assay of 0.711 wt. percent U^{235}, as having a zero separative work component, and on the basis of a tails (waste) assay of 0.30 wt. percent U^{235}.

The base charges, kilograms of feed, and separative work components for assays not shown will be determined by linear interpolation between the nearest assays listed in the above schedules. A comprehensive listing of interpolated values for both the base charges and standard table is contained in report TID-21025 (Revised), "Interpolated Values For The Schedule of Base Charges and The Standard Table of Enriching Services" available for a charge from Clearinghouse for Federal, Scientific and Technical Information, National Bureau of Standards, U.S. Department of Commerce, Springfield, Va. 22151.

Uranium having an assay (wt. percent U^{235}) below 0.711 will normally be accepted by the AEC as feed material for the performance of enriching services only if such uranium was previously distributed by the AEC or has been derived solely from uranium previously distributed by the AEC.

The base charge for depleted uranium requested without a specification as to assay is $2.60 per kilogram U. The assay furnished by the AEC in this case will normally be in the neighborhood of 0.20 wt. percent U^{235} of which large amounts are available.

The inclusion in the Schedule of Base Charges of specific assays above 93.00 wt. percent U^{235} is for the purpose of interpolation and for establishment of base charges for limited amounts of specified assays above 93 percent. Inquiries concerning the availability of material for lease or sale of specified assays above 93 percent should be addressed to the AEC Materials Leasing Officer, USAEC, Oak Ridge Operations Office, Post Office Box E, Oak Ridge, Tenn. 37830.

An example of the use of the Schedule of Enriching Services Table follows:

A customer has 100 metric tons (100,000 kilograms) of 1 percent U^{235} recovered from a reactor discharge and he wants to deliver it plus additional normal uranium (0.711 percent U^{235}) for enrichment to produce 100 metric tons of 3 percent U^{235}. The feed component (normal) of his 1 percent material is * * * 100×1.568 or 156.8 metric tons. The total feed component (normal) requirement (based on 3 percent U^{235} product) is * * * 100×5.479 or 547.9 metric tons. Therefore, he must supply 547.9 minus 156.8 or 391.1 metric tons of normal uranium along with his 100 tons of 1 percent U^{235} uranium. He also must pay a tolling fee for (100×4.306) minus (100×0.380) or 392.6 metric tons of separative work, which at $26 per kilogram, would cost $10,207,600. His option to acquire tails material, would relate to the difference between the uranium feed (391.1 mtu normal plus 100 mtu of 1 percent) and the uranium product (100 metric tons of 3 percent) less standard processing loss or to 391.1 metric tons of tails.

TABLE 2—ASSAY VARIABILITY FOR UF_6

Assay range weight percent U^{235}	Variation from requested assay; weight percent U^{235}			Analytical precision	
	Routine variation		Special variation, single container	Routine analytical precision,[1] percent of reported value	Special analytical precision,[1] percent of reported value
	Single containers analyzed individually	Single containers analyzed as a composite sample			
	Col. II	Col. III	Col. IV	Col. V	Col. VI
0.4 and less [2]	±0.010	±0.020	±0.008	±0.20	±0.15
Above 0.4 to 0.711	±0.020	±0.015	±0.003	±0.20	±0.10
Above 0.711 to 1.00	±0.010	±0.015	±0.005	±0.15	±0.05
Above 1.00 to 2.00	±0.015	±0.020	±0.005	±0.15	±0.05
Above 2.00 to 5.00	±0.045	±0.030	±0.013	±0.15	±0.05
Above 5.00 to 15.00	±0.120	±0.180	±0.040	±0.10	±0.05
Above 15.00 to 20.00	±0.150	±0.200	±0.060	±0.10	±0.05
Above 20.00 to 30.00	±0.180	±0.300	±0.080	±0.10	±0.05
Above 30.00 to 60.00	±0.150	±0.400	±0.060	±0.10	±0.05
Above 60.00 to 85.00	±0.150	±0.400	±0.060	±0.05	±0.03
Above 85.00	±0.100	±0.120	±0.060	±0.03	±0.02

[1] 95 percent confidence limit.

[2] Depleted uranium requested without a specified U^{235} assay will be supplied in the range below 0.4 weight percent.

All materials will be analyzed on a composite basis to the pertinent routine analytical precision unless otherwise requested. Materials within the assay ranges specified, when analyzed on the basis of individual containers are subject to the "routine" assay variation shown in Column II; and when analyzed on the basis of composite lots, are subject to the "routine" assay variation shown in Column III. Therefore, any container in a composite lot will not vary from the specified target assay by more than the tolerance shown in Column III. Routine analytical precisions achieved are shown in Column V.

Materials requested under "special" assay variation are subject to the limits shown in Column IV and special analytical precisions shown in Column VI. Materials requested under "special" assay variation are provided at extra cost as indicated in Table 3 and on the basis of single containers except requests for material requiring from seven to 10 Model 12A containers, and not exceeding 5 wt. percent U^{235} in assay, will be composited; and requests requiring 11 to 45 Model 12A containers, and not exceeding 3 wt. percent U^{235} in assay, will be composited. Individual containers in these composite lots will vary from the specified target assay by no more than the tolerance shown in Column IV.

All U^{235} measurements are related to a series of uranium isotopic standards available from the National Bureau of Standards.

TABLE 3—SPECIFICATIONS FOR UF_6 DELIVERED TO THE AEC

Item [1]	Numerical value
Maximum vapor pressure of filled container at 200° F. in pounds per square inch, absolute	75
Minimum weight percent of UF_6 in material	99.5
Maximum mol percent of hydrocarbons, chlorocarbons, and partially substituted halohydrocarbons	0.01
Maximum number of parts of elements indicated per million parts of total uranium:	
Antimony	1
Bromine	5
Chlorine	100
Niobium	1
Phosphorus	50
Ruthenium	1
Silicon	100
Tantalum	1
Titanium	1
Total number of parts of elements forming nonvolatile fluorides (having a vapor pressure of one atmosphere or less at 300° C.) per million parts of total uranium, e.g., aluminum, barium, bismuth, cadmium, calcium, chromium, copper, iron, lead, lithium, magnesium, manganese, nickel, potassium, silver, sodium, strontium, thorium, tin, zinc, and zirconium	300
Maximum number of parts of elements or isotopes indicated per million parts of U^{235}:	
Chromium	1,500
Molybdenum	200
Tungsten	200
Vanadium	200
Uranium-233	500
Uranium-232	0.110
Maximum thermal neutron absorption of total impurity elements as equivalent parts of boron per million parts of total uranium	8
Maximum total of gamma activity due to fission products and uranium-237 as percent of gamma activity of aged natural uranium and as measured in a high-pressure ionization chamber (Drawing D-AWM-8706 of Nuclear Division, Union Carbide Corp.)	20
Maximum beta activity due to fission products as percent of beta activity of aged natural uranium	10
Maximum alpha activity from all transuranic elements in disintegrations per minute per gram of total uranium	1,500

[1] All specification analyses on UF_6 shall be performed on samples removed in the liquid state from each cylinder while its contents are liquid and homogeneous.

TABLE 4—CHARACTERISTICS OF AEC UF_6 CONTAINERS

Container type	Container model No.	Material of construction	Nominal length [1] (inches)	Nominal diameter (inches)	Approximate tare weight (pounds)	Capacity [2] (pounds UF_6)	Minimum loading (pounds UF_6)
14-ton	48F	Steel	150	48	5,200	28,000	3,000
10-ton	48A	Steel	121	48	4,500	21,000	3,000
2.5-ton	30A	Steel	93	30	1,000	4,200	600
12-inch(OD)	12A	Steel	84	12	235	460	55
8-inch	8A	Monel or nickel	87	8	120	200	55
5-inch	5A	Monel or nickel	26	5	35	55	11
3-inch	3A	Monel or nickel	11	3.5	4	4.8	1
Hamilton	2S	Monel or nickel	12	1.2	2	1	65 grams
1.5-inch	1S	Monel or nickel	8	0.2	1	15 grams	1 gram
Heke Tube	HT	Nickel					

[1] Overall length with valve and cap (if any) in place.

[2] When AEC loading practice does not limit the quantity in each container (see Table 5).

TABLE 5—LOADING LIMITS ON AEC UF_6 CONTAINERS [1]

Assay [2] weight percent U^{235}	Maximum quantity per container, pounds UF_6					
	48F	48A	30A	12A	8A	5A
1.00 or less	28,000	21,000	4,200	460	Not used	55
Above 1.00 to 4.50	Not used [3]	Not used [3]	4,200	460	do.	55
Above 4.50 to 5.00	do. [3]	do. [3]	Not used [3]	460	do.	55
Above 5.00 to 12.50	do. [3]	do. [3]	do. [3]	400	200	55
Above 12.50	do. [3]	do. [3]	do. [3]	Not used [3]	Not used [3]	55

[1] The loading limits on container Model Nos. 2S, 1S, and Heke tube is the rated capacity of each as stated in Table 4 without any U^{235} assay limitations. Containers loaded to these limits may require special precautions in storage and shipment to avoid the possibility of neutron interaction with adjacent containers or with neutron moderators and reflectors.

[2] Indicated maximum assays for these containers are those currently approved by the AEC and Department of Transportation in accordance with the terms of a specific license or DOT permit. Higher assays may be loaded in the container and shipping procedures are specifically approved for such higher assays by the AEC and the DOT.

TABLE 6—UF_6 WITHDRAWAL AND PACKAGING CHARGES

Container model No.	Assay range (wt. percent U^{235})	Maximum lot size per composite pounds UF_6	Maximum number containers per composite sample [1]	Charges (dollars) [2]			
				Routine variation from requested assay		Special variation from requested assay	
				First container	Each additional container	First container	Each additional container
48F	2.0 and less	28,000	1	420	NA	560	NA
48A	2.0 and less	21,000	1	305	NA	525	NA
30A	4.5 and less	24,000	5	305	215	NA	NA
30A	4.5 and less	4,800	1	305	NA	400	NA
12A	5.0 and less	20,220	45	185	70	265	70
12A	5.0 and less	4,520	10	120	70	260	70
12A	5.0 and less	2,700	6	185	100	NA	NA
12A	5.0 and less	460	1	185	NA	245	NA
12A	5.0 and less	1,800	6	155	50	NA	NA
8A	Above 5.0 to 12.5	1,800	6	155	NA	215	NA
8A	Above 5.0 to 12.5	200	1	155	85	NA	NA
5A	60.0 and less	330	6	155	NA	215	NA
5A	60.0 and less	55	1	155	85	NA	NA
5A	Above 60.0	330	6	165	NA	225	NA
5A	Above 60.0	55	1	165	NA	145	NA
2S	60.0 and less	4.8	1	85	NA	145	NA
2S	Above 60.0	4.8	1	95	NA	155	NA
1S	60.0 and less	1.0	1	85	NA	145	NA
1S	Above 60.0	1.0	1	95	NA	155	NA
HT	60.0 and less	15 grams	1	85	NA	145	NA
HT	Above 60.0	15 grams	1	96	NA	155	NA

[1] Samples from a number of containers up to the maximum listed are combined in a composite sample for analysis. Unless specifically requested otherwise, the AEC will composite to the maximum extent possible.

[2] Charges shown for routine variation from requested assay are based on compositing of containers for analytical measurement where applicable. This is indicated by a cost in the column "Each Additional Container." Charges shown for special variation from requested assay are based on single container measurement except withdrawals into 30A and 48A containers within assay limitations may be transferred into 12A containers for shipment. For this reason, costs for each additional container are shown for 10 and 45 container composites of 12A containers. If certification of minor isotopes (U^{234} and U^{236}) is required, an additional charge will be imposed for each composite group or individual container depending upon which is applicable. Charges for depleted UF_6, of unspecified assay, furnished in 30A and larger containers, are: 48F containers, $275 each; 48A containers, $235 each; and 30A containers, $200 for the first container and $126 for each additional container in five container composite lots or smaller. These charges apply only to routine measurement precision. If special analytical precision is requested, the charge will be the same as for enriched material.

NA—Not Applicable.

[F.R. Doc. 67-13699; Filed, Nov. 28, 1967; 8:45 a.m.]

[Docket No. 50-106]

ALLIS-CHALMERS MANUFACTURING CO.

Notice of Termination of Facility License

The Commission has terminated Facility License No. CX-15 which authorized Allis-Chalmers Manufacturing Co. to operate its critical experiments facility located in Greendale, Wis.

A Commission inspector has determined that all component parts have been removed from the room which formerly housed the critical facility and disposed of through commercial salvage or as radioactive waste. Surveys made prior to disposal indicated that components contained no detectable radioactivity above background. Also, no detectable radioactivity was found on the walls and floor of the facility room. Accordingly, the Commission has found that the facility has been dismantled and disposition made of the component parts pursuant to the Commission's order dated December 8, 1966, and in accordance with its regulations in 10 CFR Chapter 1.

Copies of the Commission's license termination order and the licensee's application dated October 2, 1967, are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 20th day of November 1967.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[F.R. Doc. 67-13239; Filed, Nov. 28, 1967; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 19210]

WESTERN TRUCK LEASING CO. ET AL.

Notice of Proposed Approval

Joint application of Western Truck Leasing Co. et al., for approval of control and interlocking relationships under sections 408 and 409 of the Federal Aviation Act of 1958, as amended, Docket 19210.

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the undersigned intends to issue the order set forth below under delegated authority. Interested persons are hereby afforded a period of 15 days from the date of service within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., November 22, 1967.

[SEAL] A. M. ANDREWS,
Director,
Bureau of Operating Rights.

ORDER APPROVING CONTROL RELATIONSHIPS Issued under delegated authority.

Joint application of Western Truck Leasing Co., Western Transportation Co., Inc., United Freight, Inc., WTC Air Freight, Pacific and Atlantic Shippers, Inc., R. B. Meyers, A. Meyers Trust, and Edward P. Downes for approval of certain acquisitions, control and interlocking relationships under sections 408 and 409 of the Federal Aviation Act of 1958, as amended.

By Order E-20713, adopted April 16, 1964, in Docket 15095, the Board, acting pursuant to section 408 of the Federal Aviation Act of 1958, as amended (the Act) approved the common control by R. B. Meyers and A. Meyers Trust (Trust) [1] of Western Truck Leasing Co. (Leasing), an intrastate common carrier by motor vehicle in the area of Los Angeles, Calif.; of Western Transportation Co., Inc. (Western), a surface freight forwarder; and through Western, of United Freight, Inc. (Freight), a surface freight forwarder and WTC Air Freight (WTC), a domestic and international air freight forwarder. Certain interlocking relationships involving R. B. Meyers and Edward P. Downes were also approved under section 409 of the Act. On November 30, 1965, R. B. Meyers and Trust transferred all of the capital stock of Western to Leasing without prior Board approval.

By application filed November 2, 1967,[2] Leasing, Western, Freight, WTC, Pacific and Atlantic Shippers, Inc. (P & A), a surface freight forwarder, R. B. Meyers, Trust, and Mr. Downes requested that the Board approve (1) without a hearing, the control relationships under section 408 that will result from the acquisition by Leasing of all of the outstanding stock of P & A,[3] and (2) the interlocking relationships under section 409 that will result from the holding by R. B. Meyers and Mr. Downes of the positions of president, and executive vice-president and secretary, respectively, in P & A, while holding other positions, within the purview of section 409, in the system of affiliated and subsidiary companies controlled by R. B. Meyers and Trust. The amended application also requests that the Board approve, without a hearing under section 408, and under section 409, to the extent necessary, the control and interlocking relationships resulting from the transfer to Leasing, within the system of affiliated or subsidiary companies, of all of the stock of Western and of Freight, and approximately 75 percent of the stock of WTC [4] owned by Western.

The applicants state that the operating functions under the proposed acquisition of the stock of P & A are expected to result, upon Board approval, in the performance by P & A (under its own name) of a substantial part of the surface freight forwarding operations that were heretofore performed by Western, to become an important element in the operational plans of the parent company, Leasing, and to result in improved service to the shipping public.

With respect to the control relationships resulting from the transfer by Western to Leasing of all of the stock (100 percent) of Freight and all of the stock (75 percent) of WTC held by Western, the applicants state that the effect of such transfers will be merely to remove Western as an intermediary between Leasing, on the one hand, and Freight and WTC, on the other hand, so as to simplify the corporate structure without any substantial change in the nature of the ownership or control relationships of Freight and WTC or of either the parent company, Leasing, or any other subsidiary or affiliated companies within the system of companies controlled by R. B. Meyers and Trust.

The applicants contend that the control relationships for which Board approval is requested are not inconsistent with the public interest and meet all the requirements of the third proviso of section 408 so as to warrant approval thereunder without a hearing.

No adverse comments or requests for a hearing have been received.

Notice of intent to dispose of the application without a hearing has been published in the FEDERAL REGISTER, and a copy of such notice has been furnished by the Board to the Attorney General not later than the day following the date of such publication, both in accordance with the requirements of section 408(b) of the Act.

The application states that the acquisition by Leasing of all of the stock of Western from R. B. Meyers and Trust, and all of the stock of Freight and the majority of the stock of WTC from Western, represents a simplification of the corporate structure within the system of affiliated and subsidiary companies controlled by R. B. Meyers and Trust. With respect to these realignments of affiliated and subsidiary companies, the applicants do not contend or request that the Board disclaim jurisdiction, and have submitted to the Board's jurisdiction.

Upon consideration of the application,[5] it is concluded that Leasing, Western, Freight, and P & A are common carriers and WTC is an air carrier within the meaning of section 408 of the Act, and that the acquisition by Leasing of all of of the stock of P & A, and the common control relationships resulting therefrom are subject to section 408 of the Act. However, it has been concluded that such relationships and those involving the realignment of the intercorporate structure do not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, do not result in creating a monopoly, and do not restrain competition. Furthermore, no person disclosing a substantial interest in this proceeding is currently requesting a hearing, and it is found that the public interest does not require a hearing. The control relationships are similar to those which the Board has previously approved and essentially do not present any new substantive issues.[6] It therefore appears that approval of the control relationships would not be inconsistent with the public interest.[7]

Pursuant to authority duly delegated by the Board's regulations, 14 CFR 385.13, it is found that the foregoing control relationships should be approved under section 408(b) of the Act, without a hearing.

[1] Gladys Marie Meyers is Trustee of the Trust.

[2] The application was supplemented by letter of Nov. 15, 1967.

[3] The application states that P & A has agreed to change its name as designated by Leasing, and thereafter to notify the Board.

[4] Approximately 20 percent of WTC's stock is publicly held since Apr. 27, 1967, and 5 percent is owned by R. B. Meyers individually.

[5] It has been decided not to enforce the doctrine expressed in Sherman Control and Interlocking Relationships, 15 CAB 876 (1952) to the extent applicable, and to consider the application on its merits.

[6] Orders E-8838, Dec. 30, 1954, and E-20713; ABC Freight Forwarding Corp. et al., Control and Interlocking Relationships, 34 CAB 317 (1961).

[7] In view of the Board's determination herein, the interlocking relationships between P & A and the Meyers system of affiliated and subsidiary companies are exempted from the provisions of section 409 by Part 287 of the Board's economic regulations. Consequently, that portion of the application seeking approval of the interlocking relationships will be dismissed.

Accordingly, it is ordered:

1. That the control by R. B. Meyers and Trust of Leasing, and, through Leasing, of P & A, Freight, Western, and WTC, be and is hereby is approved; and

2. That, subject to the extent granted herein, the application in Docket 19210, be and hereby is dismissed.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petition within 6 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-13265; Filed, Nov. 28, 1967; 8:48 a.m.]

[Docket No. 17228; Order E-28029]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding South Pacific Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 22d day of November 1967.

An agreement has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Joint Conference 2-1 of the International Air Transport Association (IATA), and adopted by mail vote. The agreement has been assigned the above-designated CAB agreement number.

The agreement extends to March 31, 1969 the expiry date for South Pacific fares and related resolutions. These fares were originally intended to expire on March 31, 1968, and include promotional fares as well as normal first-class and economy-class fares.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, does not find Resolution JT21(Mail 133)022f, which is incorporated in Agreement CAB 19815, to be adverse to the public interest or in violation of the Act, provided that approval shall be subject to the same conditions as may have been previously imposed with respect to resolutions revalidated.

Accordingly, it is ordered, That:

Agreement CAB 19815 is approved provided that such approval shall be subject to the conditions set forth in Orders E-24719, E-24823, and E-25003 which relate to the revalidated resolutions.

Any air carrier party to the agreement, or any interested person, may, within 15 days from the date of service of this order, submit statements in writing containing reasons deemed appropriate, together with supporting data, in support of or in opposition to the Board's action herein. An original and 19 copies of the statements should be filed with the Board's Docket Section. The Board may, upon consideration of any such statements filed, modify or rescind its action herein by subsequent order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-13266; Filed, Nov. 28, 1967; 8:49 a.m.]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License 111]

EDWARD R. BACON GRAIN CO.

Order of Revocation

Whereas, Edward R. Bacon Grain Co., 205 Grain & Flour Exchange, Boston, Mass., has ceased to operate as an Independent Ocean Freight Forwarder; and

Whereas, Edward R. Bacon Grain Co., has returned its Independent Ocean Freight Forwarder License No. 111 to the Commission for cancellation.

Now, therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), § 6.03:

It is ordered, That the Independent Ocean Freight Forwarder License No. 111 of Edward R. Bacon Grain Co., be and is hereby revoked, effective November 22, 1967.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served on the licensee.

LEROY F. FULLER,
Acting Director,
Bureau of Domestic Regulation.

[F.R. Doc. 67-13268; Filed, Nov. 28, 1967; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP65-340]

ALGONQUIN GAS TRANSMISSION CO.

Notice of Petition To Amend

NOVEMBER 21, 1967.

Take notice that on November 13, 1967, Algonquin Gas Transmission Co. (Petitioner), 1284 Soldiers Field Road, Boston, Mass. 02135, filed in Docket No. CP65-340 a petition to amend the order issued in said docket on August 24, 1965, as amended, by requesting (1) that the date for constructing and operating certain facilities be advanced, (2) that construction and operation of certain additional facilities be authorized, and (3) that certain existing facilities being replaced by part of such proposed additional facilities be abandoned. Petitioner is also requesting changes in the volumes of gas authorized for delivery to certain of its resale customers commencing November 1968.

All of the above is more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the order issued in the instant docket on August 24, 1965, Petitioner was authorized to commence a 4-year expansion program. Applicant now seeks to have the aforementioned order amended by requesting authorization to advance to 1968 the date for constructing and operating some of the facilities heretofore authorized in said order for construction and operation in 1969. Further, Petitioner requests authorization to construct and operate an additional 18 miles of 8-inch, 10-inch, and 16-inch pipeline loop and to replace 2.2 miles of 4-inch line with an 8-inch line. The 4-inch line will be abandoned in place. The capital cost of the additional construction is estimated to be $2,283,000. Petitioner states that the proposed construction is necessary to supply an overall increase in the requirements of certain of its customers under Rate Schedules F-1 and WS-1, commencing November 1968.

Petitioner's customers' revised requirements for which authorization is being sought in the instant petition to amend are as follows:

Customer	Under Rate Schedule		
	F-1, maximum daily quantity (Mcf)	WS-1	
		Maximum daily quantity (Mcf)	Winter contract quantity (Mcf)
Boston Gas Co.		46,000	2,700,000
Brockton Taunton Gas Co.	36,000	15,000	980,000
Bussards Bay Gas Co.	9,200	5,000	300,000
The Connecticut Gas Co.	42,000	9,000	460,000
The Hartford Electric Light Co.		1,200	72,000
The Hartford Gas Co.	24,000		
New Bedford Gas & Edison Light Co.	17,700	7,500	480,000
North Attleboro Gas Co.	720	220	13,200
Norwood Gas Co.	2,923	1,950	117,000
The Pequot Gas Co.		80	3,000
Providence Gas Co.	43,800	23,800	1,305,000
South County Gas Co.		100	6,000
The Southern Connecticut Gas Co. (formerly New Haven Gas Co.)	35,000		
Tiverton Gas Co.	160		
Worcester Gas Light Co.	28,000		

Petitioner has entered into a precedent agreement by which its sole supplier, Texas Eastern Transmission Corp., has agreed to supply the additional gas necessary for such requirements.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 18, 1967.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13211; Filed, Nov. 28, 1967; 8:45 a.m.]

[Docket No. E-7377]

ALABAMA POWER CO. AND MOUNT VERNON MILLS, INC.

Notice of Application

NOVEMBER 21, 1967.

Take notice that on November 13, 1967, Alabama Power Company of Birmingham, Ala., and Mount Vernon Mills, Inc., of Baltimore, Md., filed a joint application seeking authorization pursuant to section 203 of the Federal Power Act for the sale of the electric facilities of Mount Vernon Mills, Inc., located in the city of Tallassee, Ala., and surrounding areas to Alabama Power Co.

Alabama Power Co. is principally engaged in the generation, distribution and sale of electric energy at retail in 634 communities as well as rural areas, and at wholesale to municipalities and cooperatives in the State of Alabama.

The principal business activity of Mount Vernon Mills, Inc., is the manufacturing and sale of textiles. As an incident to the pursuit of its principal business purpose in Tallassee, Ala., it has been and is now engaged in the purchase and distribution of sale at retail of electricity.

The facilities to be acquired consist of the electric distribution system including street light facilities serving the city of in Elmore and Tallapoosa Counties, Ala., Tallassee, Ala., and surrounding areas serving approximately 1,350 customers. The purchase price is $675,000 subject to adjustment with respect to retirements on the distribution system.

The application states that: It is considered that the area as a whole, including the city of Tallassee, Ala., and surrounding areas, would benefit from having direct service from a single, regulated utility company; Alabama Power Co. already has over 600 customers in that portion of the city of Tallassee which it presently serves adjoining the service area of Mount Vernon Mills, Inc.; the addition of approximately 1,350 present customers of Mount Vernon Mills, Inc., in Tallassee and surrounding areas would result in a customer group of approximately 1,950 in the immediate area, a step which should result in an improved quality of service as well as increased economy of service; these new customers would have available a number of Alabama Power Co.'s customer services considered beneficial, such as home economists, lighting and wiring experts, a residential service wiring program and others.

Any person desiring to be heard or to make any protest with reference to said application should, on or before December 5, 1967, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.1 or 1.10). The application is on file and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13917; Filed, Nov. 28, 1967; 8:45 a.m.]

[Docket No. CP67-155]

COLORADO INTERSTATE GAS CO.

Notice of Supplement to Application

NOVEMBER 21, 1967.

Take notice that on November 8, 1967, Colorado Interstate Gas Co. (Applicant), Post Office Box 1087, Colorado Springs, Colo. 80901, filed in Docket No. CP67-155 a supplement to the application filed in said docket on December 5, 1966, by requesting that authorization pursuant to the certificate of public convenience and necessity sought by Applicant for the short-term sale be extended until a later date, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

By the application filed on December 5, 1966, Applicant requested authorization to make a short-term sale to Natural Gas Pipeline Company of America (Natural) for the period January 1, 1967, to December 31, 1967. Applicant was not required to make deliveries in excess of 50,000 Mcf of natural gas on any single day. Applicant received temporary authorization to make the proposed short-term sale on December 30, 1966.

By the instant supplemental application Applicant requests that the authorization for the aforementioned sale be extended until January 1, 1969, which sale to Natural will provide Applicant with a market for approximately 6,000,000 Mcf in 1968. The sale will be made at a price of 18 cents per Mcf.

Applicant states that no new facilities are needed to effectuate the continued authorization.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 18, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13912; Filed, Nov. 28, 1967; 8:45 a.m.]

[Project 2157]

CITY OF EVERETT, WASH., AND PUBLIC UTILITY DISTRICT NO. 1, SNOHOMISH COUNTY, WASH.

Notice of Application for Extension of Time To Complete Project Construction

NOVEMBER 21, 1967.

Public notice is hereby given that application for an extension of time in which to complete construction of Project No. 2157 has been filed under the Federal Power Act (16 U.S.C. 791a–825r) by the city of Everett and Public Utility District No. 1 of Snohomish County, Wash. (correspondence to: A. F. Alexander, Mayor, City of Everett, Washington 98201, and W. G. Hulbert, Jr., Manager, Public Utility District No. 1 of Snohomish County, Post Office Box 1107, Everett, Wash. 98201) joint licensees for Project No. 2157, located on the Sultan River in Snohomish County, Wash.

Construction of the project was to proceed in two stages, the first of which has been completed for the most part. Stage I has included an access road to the No. 1 dam site at river mile 16.9, reservoir clearing to well above elevation 1370 feet, construction of coffer dams and diversion works, and construction of that portion of the full section of No. 1 rockfill dam to elevation 1408 feet which is required for its structural safety and stability. Anticipated construction in Stage I of the base of the power intake structure and the 50 foot portion of the power tunnel has not taken place.

Stage II construction, to have begun by June 16, 1967, contemplated completion of the No. 1 dam to elevation 1,478 feet, construction of a No. 2 dam at river mile 13.4 forming a reservoir with normal pool elevation at 1,060 feet, and utilization for power generation of the existing Lake Chaplain diversion dam and storage reservoir by increasing its present capacity and by construction of a power canal. Power generation facilities were to be installed at the Nos. 1 and 2 dams and a third plant at the outlet of the canal from Lake Chaplain. The request to delay construction of Stage II indicates that the project construction schedule should be reviewed in light of present conditions, following studies by the licensees reflecting the effect of increased water demands due to accelerated industrial expansion, changing power requirements and sources, and current flood control requirements of the U.S. Corps of Engineers. The application requests that the Commission permit delay of commencement of Stage II construction, until at least June 16, 1969. Prior to that time, licensees indicate they intend to request a new date for commencement of construction.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is January 2, 1968. The application is on file with the Commission for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13918; Filed, Nov. 28, 1967; 8:46 a.m.]

[Docket No. E-7378]

IOWA POWER AND LIGHT CO.

Notice of Application

NOVEMBER 21, 1967.

Take notice that on November 14, 1967, Iowa Power and Light Co. (Applicant) of Des Moines, Iowa, filed an application seeking an order pursuant to section 204 of the Federal Power Act authorizing the issuance of $15 million principal amount of first mortgage bonds due 1998.

The bonds are to be issued under the Applicant's trust indenture, dated August 1, 1963, to Harris Trust and Savings Bank, and Harold Eckhart, trustees, as supplemented, including the supplemental trust indenture to be dated as of January 1, 1968. The interest rate of the New Bonds will be determined by competitive bidding pursuant to the Commission's regulations under the Federal Power Act. The bonds will not be redeemable prior to January 1, 1973, at the option of the company through a refunding which has an interest cost to the company less than the interest cost of the new bonds.

The purpose for which the said securities are to be issued is the refunding of certain obligations consisting of a portion of short-term borrowings from commercial banking institutions aggregating $16,800,000 at September 30, 1967, and expected to aggregate approximately $18,500,000.

Any person desiring to be heard or to make any protest with reference to said application should, on or before December 7, 1967, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13919; Filed, Nov. 28, 1967; 8:46 a.m.]

[Docket No. CP68-153]

TRUNKLINE GAS CO.

Notice of Application

NOVEMBER 21, 1967.

Take notice that on November 13, 1967, Trunkline Gas Co. (Applicant), Post Office Box 1642, Houston, Tex. 77001, filed in Docket No. CP68-153 a "budget-type" application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the regualtions under the Act for a certificate of public convenience and necessity authorizing the construction and operation of various gas-purchase facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to construct during the calendar year 1968 and operate miscellaneous gas-purchase facilities to facilitate the taking by Applicant of natural gas into its certificated main pipeline system which is or may become available from time to time in the general area of its system.

The total cost of the proposed facilities will not exceed $2,500,000 with no single item to exceed $500,000. The cost of construction will be financed from funds on hand.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 18, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13913; Filed, Nov. 28, 1967; 8:45 a.m.]

[Docket No. CP68-152]

UNITED GAS PIPE LINE CO.

Notice of Application

NOVEMBER 21, 1967.

Take notice that on November 13, 1967, United Gas Pipe Line Co. (Applicant), Post Office Box 1407, Shreveport, La. 71102, filed in Docket No. CP68-152 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities for the transportation and sale of natural gas in interstate commerce for resale, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to construct facilities to supply the city of Gary, Panola County, Tex., with natural gas which will be resold and distributed. In order to supply the gas, Applicant requests authorization to construct and operate approximately 60 feet of 2-inch pipeline, a positive meter station, and appurtenant facilities near mile post 32.6 on Applicant's 22-inch Latex Compressor Station to Goodrich Compressor Station Line, Panola County, Tex.

The estimated third year peak day and annual sales and deliveries of natural gas to Gary, Tex., are 1,660 Mcf and 91,500 Mcf, respectively.

The total estimated cost of the proposed facilities is $8,180, which will be financed through funds on hand.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 18, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-13914; Filed, Nov. 28, 1967; 8:46 a.m.]

FEDERAL RESERVE SYSTEM

BANCORPORATION OF MONTANA

Notice of Applications for Approval of Acquisition of Shares of Banks

Notice is hereby given that applications have been made to the Board of Governors of the Federal Reserve System pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)), by Bancorporation of Montana, which is a bank holding company located in Great Falls, Mont., for the prior approval of the Board of the acquisition by Applicant of 100 percent of the voting shares of each of the following banks: Eastside Bank of Montana, Great Falls, Mont.; Valier Bank of Montana, Valier, Mont.; The Peoples State Bank of Missoula, Missoula, Mont.; and Pondera Bank of Montana, Conrad, Mont.

Section 3(c) of the Act provides that the Board shall not approve (1) any acquisition or merger or consolidation under this section which would result in

a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or (2) any other proposed acquisition or merger or consolidation under this section whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that in every case, the Board shall take into consideration, the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Public access to the application may be had at the office of the Board of Governors or the Federal Reserve Bank of Minneapolis.

Dated at Washington, D.C., this 17th day of November 1967.

By order of the Board of Governors.

[SEAL] MERRITT SHERMAN, *Secretary.*

[F.R. Doc. 67-13915; Filed, Nov. 28, 1967; 8:45 a.m.]

GENERAL SERVICES ADMINISTRATION

[Wildlife Order 81]

PORTION OF JOHN MARTIN RESERVOIR AREA, HASTY, BENT COUNTY, COLO.

Transfer of Property

Pursuant to section 2 of Public Law 537, 80th Congress, approved May 19, 1948 (16 U.S.C. 667c), notice is hereby given that:

1. By deed from the United States of America dated November 14, 1967, the property known as a portion of the John Martin Reservoir Area, near Hasty, Bent County, Colo., consisting of 8.6 acres of land and improvements, and more particularly described in the deed, has been transferred from the United States to the State of Colorado.

2. The above-described property was transferred for wildlife purposes in accordance with the provisions of section 1 of said Public Law 537 (16 U.S.C. 667b).

Dated: November 21, 1967.

WILLIAM P. WOLF, *Manager, Real Property Disposal, Property Management and Disposal Service.*

[F.R. Doc. 67-13967; Filed, Nov. 28, 1967; 8:49 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[812-2180]

GEORGE PUTNAM FUND OF BOSTON

Notice of Filing of Application for Order Exempting Proposed Transaction

NOVEMBER 22, 1967.

Notice is hereby given that The George Putnam Fund of Boston ("Applicant"), 265 Franklin Street, Boston, Mass., a Massachusetts association registered under the Investment Company Act of 1940, 15 U.S.C. Sec. 80a-1 et seq. ("Act") as an open-end, diversified management investment company, has filed an application pursuant to section 6(c) of the Act for an order exempting from the provisions of section 22(d) of the Act a transaction in which Applicant's redeemable securities will be issued at a price other than the current public offering price in exchange for substantially all of the assets of Thorpe Investment Company ("Thorpe"). All interested persons are referred to the application on file with the Commission for a statement of Applicant's representations which are summarized below.

Thorpe is a Kentucky corporation, all the outstanding stock of which is owned by a small number of individuals. Thorpe is not making and does not propose to make a public offering of its stock and is exempt from registration under the Act by reason of the provisions of section 3(c)(1) thereof. Pursuant to an agreement between Applicant and Thorpe, assets owned by Thorpe, with a total market value of approximately $1,052,751 on August 18, 1967 and consisting of approximately $134,638 in equity securities, and $918,113 in cash and short-term government securities, will be transferred to Applicant in exchange for shares of Applicant's capital stock.

The number of shares of Applicant to be issued to Thorpe is to be determined by dividing the aggregate market value (subject to certain adjustments set forth in the agreement and plan of reorganization) of the assets of Thorpe to be transferred to Applicant by the net asset value per share of Applicant, both to be determined as of the business day preceding the date of the transfer, as defined in the agreement. In view of the large amount of cash and cash items being transferred to the Applicant, the number of shares to be issued to Thorpe will be reduced by an amount equal to $6,000 to reflect the estimated cost to the Applicant in brokerage commissions of investing in corporate equity and debt securities.

The per share asset value of Applicant's stock as of August 15, 1967, was $16.50. If the exchange had taken place on that date, Thorpe would have received approximately 63,449 shares of the Applicant's stock.

When received by Thorpe, the shares of Applicant are to be distributed to the Thorpe shareholders on the liquidation of Thorpe. Applicant has been advised by the management of Thorpe that the stockholders of Thorpe will represent to the Applicant that they will take shares of the Applicant for investment, with no present intention of selling or redeeming them.

Applicant represents that there is no affiliation or relationship between the officers and directors of the Applicant and the officers and directors of Thorpe and that the proposed transaction is the result of arms-length negotiations which extended over a period of several months.

Section 22(d) of the Act provides that registered open-end investment companies may sell their shares only at the current public offering price as described in the prospectus. Section 6(c) permits the Commission, upon application, to exempt such a transaction if it finds that such an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant contends that the proposed offering of its stock will comply with the provisions of the Act, other than section 22(d) and submits that the granting of the application would be in accordance with established practice of the Commission, is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 12, 1967, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13940; Filed, Nov. 28, 1967; 8:47 a.m.]

[File No. 1-5074]

WOLVERINE ALUMINUM CORP.

Notice of Application To Withdraw From Listing and Registration

NOVEMBER 22, 1967.

Wolverine Aluminum Corp. common stock, $1 par value:

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The reasons advanced by the issuer for the application are stated in the company's "Notice to Stockholders", dated October 30, 1967, which is on file with the Commission and has been disseminated together with the comments of the Exchange thereon to all stockholders of record.

Any interested person may, on or before December 8, 1967, submit by letter to the Secretary of the Securities and Exchange Commission, Washington 25, D.C., facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13939; Filed, Nov. 28, 1967; 8:47 a.m.]

TARIFF COMMISSION

[TEA-I-12]

BROOM CORN

Notice of Change of Place and Date of Hearing

Notice is hereby given by the U.S. Tariff Commission that the hearing ordered to be held in Washington, D.C., on January 16, 1968, in connection with the investigation instituted under section 301(b)(1) of the Trade Expansion Act of 1962 with respect to broom corn is canceled. In lieu thereof, a public hearing will be held beginning at 10 a.m. m.s.t., on February 1, 1968, in the Auditorium, Main Post Office Building, 18th and Stout Streets, Denver, Colo. The site and date of the hearing have been changed at the request of the petitioners for the investigation and because of the geographic concentration of the interested parties. The original notice of investigation and hearing appeared in the FEDERAL REGISTER of October 17, 1967 (32 F.R. 14354).

Issued: November 24, 1967.

By order of the Commission.

[SEAL] DONN N. BENT, *Secretary.*

[F.R. Doc. 67-13959; Filed, Nov. 28, 1967; 8:49 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 474]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

NOVEMBER 24, 1967.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission, under the Commission's deviation rules revised, 1957 (49 CFR 211.1(c)(8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1(d)(4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1(e)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's deviation rules revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 10872 (Deviation No. 10), BEMAC TRANSPORT CO., INC., 7400 North Broadway, St. Louis, Mo. 63147, filed November 9, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: Between Rockford, Ill., and Chicago, Ill., over Interstate Highway 90, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Rockford, Ill., over U.S. Highway 20 to Marengo, Ill., thence over Illinois Highway 176 (formerly Illinois Highway 67) to Crystal Lake, Ill., thence over Illinois Highway 176 to Wauconda, Ill., thence over U.S. Highway 12 to Chicago, Ill., and return over the same route.

No. MC 89723 (Deviation No. 8), MISSOURI PACIFIC TRUCK LINES, INC., 210 North 13th Street, St. Louis, Mo. 63103, filed November 14, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: Between Orange, Tex., and Baton Rouge, La., over Interstate Highway 10, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Orange, Tex., over Texas Highway 87 to junction Texas Highway 12, thence over Texas Highway 12 to the Texas-Louisiana State line, thence over Louisiana Highway 12 to junction U. S. Highway 190, thence over U.S. Highway 190 to Baton Rouge, La., and return over the same route.

MOTOR CARRIER OF PASSENGER

No. MC 3210 (Deviation No. 4) (Cancels Deviation No. 1), ROBERT F. HEMPERLEY, JR., d.b.a. ST. LOUIS-CAPE BUS LINE, 16 North Frederick Street, Cape Girardeau, Mo. 63701, filed November 13, 1967. Carrier's representative: James A. Cochrane, Jr., 325 Broadway, Cape Girardeau, Mo. 63701. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From St. Louis, Mo., over Interstate Highway 55 to junction U.S. Highway 61 south of Festus and Crystal City, Mo. with the following access routes (a) from junction Interstate Highway 55 and U.S. Highways Bypass 61 and Bypass 67 over U.S. Highways Bypass 61 and Bypass 67 to junction U.S. Highway 67, (b) from junction Interstate Highway 55 and Missouri Highway 141 over Missouri Highway 141 to junction U.S. Highways 61-67, (c) from junction Interstate Highway 55 and Jefferson County Route M over Jefferson County Route M to junction U.S. Highways 61 and 67, (d) from junction Interstate Highway 55 and Jefferson County Route Z over Jefferson County Route Z to junction U.S. Highways 61 and 67, and (e) from junction Interstate Highway 55 and U.S. Highway 61 south of Festus and Crystal

City, Mo., over U.S. Highway 61 to junction U.S. Highways 61 and 66, thence over U.S. Highways 61 and 67 to Festus and Crystal City, Mo., and (2) from junction Interstate Highway 55 and U.S. Highway 61, 1 mile south of Fruithand, Mo., over Interstate Highway 55 to junction Missouri Highway Route K west of Cape Girardeau, Mo., with the following access routes (a) from junction Interstate Highway 55 and Missouri Highway Route K over Missouri Highway Route K to junction U.S. Highway 61, and (b) from junction Interstate Highway 55 and U.S. Highway 61, 4 miles north of Cape Girardeau, Mo., over U.S. Highway 61 to Cape Girardeau, Mo., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From St. Louis, Mo., over U.S. Highway 67 to junction U.S. Highway 61, thence over U.S. Highway 61 via Jackson, Mo., to Cape Girardeau, Mo., and return over the same route.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13946; Filed, Nov. 28, 1967; 8:49 a.m.]

[Notice 1127]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

NOVEMBER 24, 1967.

The following publications are governed by Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER issue of April 20, 1966, which became effective May 20, 1966.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 2428 (Sub-No. 21) (Republication), filed July 10, 1967, published FEDERAL REGISTER issue of July 27, 1967, and republished this issue. Applicant: H. PRANG TRUCKING CO., INC., 112 New Brunswick Avenue, Hopelawn (Perth Amboy), N.J. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, N.Y. By application filed July 10, 1967, applicant seeks a permit authorizing operations, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of nonferrous scrap metal, in dump vehicles, unloaded by dumping, between the plantsites of Phelps Dodge Corp. and its subsidiaries at Laurel Hill, N.Y., and South Brunswick, N.J. An order of the Commission, Operating Rights Board dated October 31, 1967, and served November 16, 1967, finds that operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of *nonferrous scrap metal*, in dump vehicles, between the plantsites of Phelps Dodge Corp. and its subsidiary Phelps Dodge Copper Products Corp., at Laurel Hill, N.Y., and South Brunswick, N.J., under a continuing contract with Phelps Dodge Corp., of New York, N.Y., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 12669 (Sub-No. 1) (Republication), filed March 31, 1967, published FEDERAL REGISTER issues of April 20, 1967, and October 26, 1967, and republished this issue. Applicant: KNOXVILLE TOURS, INCORPORATED, 1708 Charles Drive, Knoxville, Tenn. Applicant's representative: Francis A. Cain, 201 Fidelity Building, Knoxville, Tenn. 37902. By application filed March 31, 1967, applicant seeks a license authorizing operation, in interstate or foreign commerce, as a broker at Knoxville, Tenn., in arranging for the transportation in interstate or foreign commerce, of passengers and their baggage in groups, destined for the same destination, in round-trip charter tours, beginning and ending at points in Hamilton, Monroe, McMinn, Loudon, Bradley, Polk, Sequatchie, Bledsoe, Cumberland, Fentress, Morgan, Scott, Campbell, Claiborne, Rhea, Meigs, Roane, Union, Grainger, Hancock, Hamblen, Hawkins, Greene, Jefferson, Cocke, Washington, Carter and Johnson Counties, Tenn., and extending to points in the United States. A supplemental order of the Commission, Operating Rights Board dated November 3, 1967, and served November 14, 1967, finds that operation by applicant, as a broker at Knoxville, Tenn., in arranging for the transportation, in interstate or foreign commerce, of *passengers and their baggage*, in special and charter operations, in round-trip tours, beginning and ending at points in Hamilton, Monroe, McMinn, Loudon, Bradley, Polk, Sequatchie, Bledsoe, Cumberland, Fentress, Morgan, Scott, Campbell, Claiborne, Rhea, Meigs, Roane, Union, Grainger, Hancock, Hamblen, Hawkins, Greene, Jefferson, Cocke, Washington, Carter, Johnson, Unicoi, and Sullivan Counties, Tenn., and extending to points in the United States (including Alaska but excluding Hawaii), will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder; and that a license authorizing such operations should be granted, subject to the right of the Commission, which is hereby expressly reserved, to impose, after final determination of the proceeding in Ex Parte No. MC-29 (Sub-No. 2), *Operation of Brokers of Passenger Transportation*, such terms and conditions, if any, as may be deemed necessary to insure that the transportation which applicant arranges is limited to bona fide service as a broker in arranging round-trip tours. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a license in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 126102 (Sub-No. 2) (Republication), filed February 27, 1967, published in the FEDERAL REGISTER issue of March 16, 1967, and republished this issue. Applicant: ANDERSON MOTOR LINES, INC., 37 Woodruff Road, Walpole, Mass. Applicant's representative: Sanford A. Kowgal, 73 Tremont Street, Boston, Mass. 02108. By application filed February 27, 1967, as amended, applicant seeks a permit of public convenience and necessity authorizing operation in interstate or foreign commerce as a contract carrier by motor vehicle of such commodities as are sold in drugstores, chain, discount, and department stores (except commodities in bulk, in tank vehicles), (1) from either public or private warehouses used by Carter-Overton, Inc., in Boston, Mass., to points in Minnesota, Oklahoma, Missouri, Ohio, Michigan, Texas, Louisiana, Tennessee, Arkansas, Alabama, Indiana, Iowa, Illinois, Colorado, Kansas, Wisconsin, New Jersey, Virginia, North Carolina, New York, South Carolina, Georgia, Delaware, Maine, Connecticut, Florida, New Hampshire, Mississippi, Vermont, West Virginia, and Pennsylvania, and (2) from the destination States named in (1) above to either public or private warehouses used by Carter-Overton, Inc., in Boston, Mass., under contract with Carter-Overton, Inc. The application was referred to an examiner for hearing and the recommendation of an appropriate order thereon.

Hearing was held on September 12, 1967, at Washington, D.C. A report and order of the Commission, Division 1, served November 8, 1967, which became effective November 16, 1967, as amended, finds that the present and future public convenience and necessity require operation by applicant in interstate or foreign commerce, as a contract carrier by motor vehicle, under a continuing contract with Carter-Overton, Inc., of Newton, Mass., of such commodities as are sold in drug, chain, discount, and department stores (except commodities in bulk in tank vehicles), between the warehouse of Carter-Overton, Inc., in Newton, Mass., on the one hand, and, on the other, points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin; that applicant is fit, willing, and able properly to perform the above described service, and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 126985 (Republication) filed March 30, 1967, published FEDERAL REGISTER issue of April 20, 1967, and republished this issue. Applicant: M. L. WILKERSON TRUCKING COMPANY, Route No. 5, Lenoir City, Tenn. 37771. Applicant's representative: Walter Harwood, 515 Nashville Bank and Trust Building, Nashville, Tenn. 37201. Applicant sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canvas duck, webbing, tents, and canvas items* from Knoxville, to Memphis, Tenn., and Ogden, Utah, (2) *materials* used in the manufacture of said commodities from points in Michigan, Pennsylvania, and Richmond, Va., to the plantsite of Camel Manufacturing Co., at Knoxville, Tenn., under a continuing contract with Camel Manufacturing Co., Knoxville, Tenn., (3) *camping trailers* from the plantsite of American Duralite Corp., at Loudon, Tenn., to points in the United States (except Alaska and Hawaii); (4) *aluminum windows and doors*, from the plantsite of American Duralite Corp., Loudon, Tenn., to points in the States which border on the Mississippi River and points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the international boundary line between the United States and Canada, and (5) (a) *Glass*, from points in Kentucky, Georgia, and Florida; (b) *Aluminum* from points in Indiana; and (c) *materials* used in the manufacture of camping trailers from points in Indiana, to the plantsite of American Duralite Corp., Loudon, Tenn., under a continuing contract with American Duralite Corp., Loudon, Tenn. The application was referred to Examiner Joseph A. Reilly, for hearing and the recommendation of an appropriate order thereon. Hearing was held on August 11, 1967, at Nashville, Tenn. As originally filed, the applicant sought authority to transport glass from points in Kentucky, Georgia, and Florida. The States named were done so through a misunderstanding and motion was made at the hearing to delete such points and substitute therefore Jeannette, Arnold, and Philadelphia, Pa., Clarksburg and Charleston, W. Va. The motion was granted by the examiner. Since such amendment broadens the scope of the application, there is the possibility that other parties who have relied upon the notice of the application as published may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this report, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication during which period any proper party in interest may file an appropriate petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

A report and order, recommended by Joseph A. Reilly, examiner, served September 31, 1967, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of (1) *camping trailers*, from the plantsite of American Duralite Corp., Loudon, Tenn., to points in the United States; except Alaska and Hawaii; (2) *aluminum windows and doors*, from the plantsite of American Duralite Corp., Loudon, Tenn., to points in the States which border on the Mississippi River and points in the United States on and east of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the international boundary line between the United States and Canada; and (3) (a) *glass*, from Jeanette, Arnold, and Philadelphia, Pa., Clarksburg and Charleston, W. Va., (b) *aluminum*, from Franklin, Ga., and (c) *wheels and axles*, used in the manufacture of camping trailers, from points in Elkhart County, Ind., and *steel tubing*, used in the manufacture of camping trailers, from Chicago, Ill. The transportation described in (a), (b), and (c) shall be destined to the plantsite of American Duralite Corp., Loudon, Tenn.; that applicant is fit, willing, and able properly to perform the service of a contract carrier by motor vehicle and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder.

NOTICE OF FILING OF PETITIONS

No. MC 16834 (Notice of Filing of Petition for Waiver of Rule 1.101(a) of the General Rules of Practice and Petition to Reopen and Correct Certificate), filed August 22, 1967. Petitioner: STRANG TRANSPORTATION, INC., Main Street, Elmer, N.J. 08318. Petitioner's representative: Charles H. Trayford, 127 East 30th Street, New York, N.Y. 10016. Petitioner seeks to reopen and correct that portion of its certificate in No. MC 16834, reading as follows: *Lime*, from West Chester, Pa., to points in Salem and Cumberland Counties, N.J., with no transportation for compensation on return except as otherwise authorized. The commodity Lime should read *Lime and Limestone*. The origin of *West Chester, Pa.*, should be *Devault, Pa.* Any interested person desiring to participate, may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 50544 (Subs 44, 45, 47, 48, and 51), (Notice of Filing of Petition to Renew Authority to Transport Explosives), filed October 30, 1967. Petitioner: THE TEXAS AND PACIFIC MOTOR TRANSPORT COMPANY, 210 North 13th Street, St. Louis, Mo. 63103. Petitioner's representative: Robert S. Davis (same address as above). Petitioner states it holds and operates the following subnumbered certificates which contain 5-year authorizations for transporting classes A and B explosives: (1) Sub 44—Effective August 25, 1961—expiration date of August 25, 1966, on explosives—authorizes transportation of general commodities, over irregular routes, to, from and between Abilene, Tex., and missile sites in Texas counties of: Jones, Callahan, Taylor, Nolan, Shackelford, and Runnels. (2) Sub 45—Effective October 31, 1960—Expiration date of October 31, 1965, on explosives, authorizes transportation of general commodities, between Savoy, Tex., and plantsite of Texas Power & Light Co. (3) Sub 47—Effective November 24, 1961—Expiration date of November 24, 1966, on explosives—authorizes transportation of general commodities, between El Paso, Tex., and Border Rolling Mills located 7 miles north of El Paso, also within a 5-mile radius of said plant. (4) Sub 48—Effective August 10, 1962—Expiration date of August 10, 1967, on explosives, authorizes transportation of general commodities to Shell Oil Plant near Bryan's Mill, Tex., served as an off-route point on Marshall-Texarkana route of petitioner. (5) Sub

51—Effective December 12, 1962—Expiration date of December 12, 1967, on explosives, authorizes transportation of general commodities, serving Climax Chemical Co., near Monument, N. Mex., served as an off-route point on Monahans, Tex.—Lovington, N. Mex., route of petitioner. By the instant petition, petitioner requests that said authorities be extended or renewed for an additional 5-year period. Any interested person desiring to participate, may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 89723 (Sub-No. 17) (Notice of Filing of Petition to Renew Authority to Transport Explosives), filed October 30, 1967. Petitioner: MISSOURI PACIFIC TRUCK LINES, INC., 210 North 13th Street, St. Louis, Mo. 63103. Petitioner's representative: Robert S. Davis (same address as applicant). Petitioner states it holds authority to operate in No. MC 89723 (Sub-No. 17), transporting general commodities, including authority to transport explosives, over a specified route between Wichita, Kans., and Geneseo, Kans., serving intermediate points on the Missouri Pacific Railroad, granted effective March 26, 1957, containing a 5-year expiration date of March 26, 1962, on explosives. By the instant petition, petitioner requests that said authority be renewed for an additional 5-year period. Any interested person desiring to participate, may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 116816 (Notice of Filing of Petition to Amend and Modify Permit by Deleting One Shipper and Adding a New Shipper), filed November 8, 1967. Petitioner: MERIT TRUCKING CORP., Port Newark, N.J. Petitioner's representative: Edward M. Alfano, 2 West 45th Street, New York, N.Y. 10036. Petitioner is authorized in No. MC 116816, as here pertinent, to transport (1) household gas and electrical appliances and parts and equipment therefor, from Port Newark, N.J., to New York, N.Y., and points in Nassau, Suffolk, Westchester, and Rockland Counties, N.J.; and returned shipments of the above-specified commodities, from New York, N.Y., and points in Nassau, Suffolk, Westchester, and Rockland Counties, N.Y., to Port Newark, N.J., limited to a transportation service to be performed under a continuing contract, or contracts, with Igoe Appliance Corp., and Apollo Distributing Co., both of Newark, N.J., (11) household electrical appliances, and parts and equipment therefor, from Newark, N.J., to New York, N.Y., and points in Nassau and Rockland Counties, N.Y., with no transportation for compensation on return except as otherwise authorized, limited to a transportation service to be performed under a continuing contract, or contracts, with Krich New Jersey, Inc., of Newark, N.J., and Associated Distributors of New Jersey, Inc., of Newark, N.J. By the instant petition, petitioner requests that its permit in (1) above, be amended to include in addition to Igoe Appliance Corp., and Apollo Distributing Co., the name of General Electric Co. as a shipper; and that Part II above be modified by deleting therefrom the shipper, Associated Distributors of New Jersey, Inc., of Newark, N.J., as petitioner is no longer serving this shipper. Any interested person desiring to participate, may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-9950. Authority sought for purchase by WATSON-WILSON TRANSPORTATION SYSTEM, INC., 92d Street, at State Line Road, Kansas City, Mo. 64114, of a portion of the operating rights of PACIFIC EXPRESS TRANSPORTATION, 3548 Unsworth Avenue, Route 2, Sacramento, Calif. 95828, and for acquisition by YELLOW TRANSIT FREIGHT LINES, INC., 92d Street, at State Line Road, Kansas City, Mo. 64114, and, in turn by GEORGE E. POWELL, 401 West 64th Terrace, Kansas City, Mo., GEORGE E. POWELL, JR., 1040 West 57th Street, Kansas City, Mo., and LESTER H. BRICKMAN, 6419 Belinder, Shawnee Mission, Kans., of control of such rights through the purchase. Applicants' attorneys: Kenneth E. Midgley, 1500 Commerce Building, Kansas City, Mo. 64106, Homer S. Carpenter, 1111 E Street NW., Washington, D.C. 20004, and David Axelrod, 39 South La Salle, Chicago, Ill. 60603. Operating rights sought to be transferred: A portion under a certificate of registration in No. MC-99833 Sub 2, covering the transportation of general commodities (Only classes A and B Explosives herein involved) as a common carrier, in intrastate commerce, within the State of California. Vendee is authorized to operate as a *common carrier* in Illinois, Minnesota, Iowa, California, Colorado, New Mexico, Nevada, Texas, Louisiana, Arizona, Georgia, Tennessee, Kentucky, South Carolina, Indiana, Nebraska, Wyoming, Kansas, Wisconsin, Maryland, Virginia, Alabama, Michigan, New Jersey, Utah, Idaho, Oklahoma, Montana, Oregon, Washington, and Arkansas. Application has not been filed for temporary authority under section 210a(b). NOTE: MC-70451 Sub 251 is a matter directly related.

No. MC-F-9951. Authority sought for control and merger by M & M TANK LINES, INC., Post Office Box 4174, North Station, Winston-Salem, N.C. 27102, of the operating rights and property of GAY TRUCKING COMPANY, Post Office Box 7055, Savannah, Ga., and for acquisition by S. H. MITCHELL, Post Office Box 612, Winston-Salem, N.C. 27102, of control of such rights and property through the transaction. Applicants' attorney: A. W. Flynn, Jr., Post Office Box 127, Greensboro, N.C. 27402. Operating rights sought to be controlled and merged: *Natural latex*, in bulk, in tank vehicles, as a *comon carrier*, over irregular routes, from Savannah, Ga., to points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and New Orleans, La., from Savannah, Ga., to points in Texas; *liquid latex*, in bulk, in tank vehicles, from Port Wentworth, Ga., to St. Louis, Mo.; *ammonium nitrate fertilizer*, in bulk, from Port Wentworth, Ga., to points in Florida; *ammonium nitrate fertilizer*, in bags, from Port Wentworth, Ga., to points in Florida, certain specified points in Alabama and Tennessee; *nitrogen solution, ammoniating solution, and urea*, in bulk, in tank vehicles, from Port Wentworth, Ga., to points in North Carolina, South Carolina, Florida, and that part of Tennessee on and east of U.S. Highway 27; *anhydrous ammonia*, in bulk, in tank vehicles, from Port Wentworth, Ga., to points in Florida, from Tampa, Fla., to points in Georgia; from Savannah, Ga., to points in North Carolina and South Carolina, with restriction; *gypsum, gypsum products, and materials and asbestos form board* used in the construction of roof decks, from Brunswick, Ga., to points in Alabama, North Carolina, South Carolina, and Tennessee.

Molten sulphur, in bulk, in tank vehicles, from Savannah, Ga., to points in South Carolina; *natural liquid latex*, in bulk, in tank vehicles, from Savannah, Ga., to points in Delaware, Indiana, Maryland, New Jersey, Ohio, and Virginia; *nitro-carbo-nitrate*, in bulk, in bags, in shipper-owned trailer equipment, from the plantsite of the Southern Nitrogen Co. located approximately 7 miles north of Port Wentworth, Ga., to points in Alabama, Florida, Kentucky, North Carolina, South Carolina, Tennessee, Virginia, West Virginia, and Wood River, Ill.; *fertilizer, and fertilizer materials and ingredients*, dry, in bulk, from Port Wentworth and Garden City, Ga., and from the plantsite of Southern Nitrogen Co. near Port Wentworth, Ga., to points in North Carolina, South Carolina, and Tennessee (with exceptions), from Charleston and Jericho, S.C., to points in North Carolina and Georgia, from Savannah, Ga., to points in North Carolina, South Carolina, and Tennessee (with exceptions), with restrictions; *roof slabs and materials* used in the installation of roof slabs, from the plantsite of Concrete Products, Inc., in Brunswick, Ga., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Ohio, Oklahoma, South Dakota, Texas, Virginia, West Virginia, and Wisconsin; *wood excelsior*, from points in the above-specified States to the plantsite of Concrete Products, Inc., in Brunswick, Ga.; *fertilizer solutions*, in bulk, in tank vehicles, from Century, Ga., to points in Alabama and Florida; *nitrogen solutions, anhydrous ammonia, ammoniating solutions, and urea*, in bulk, in tank vehicles, from the plantsite of the Southern Nitrogen Co., at Port Wentworth, Ga., to points in Alabama; *gypsum rock*, in bulk, from points in Chatham County, Ga., to points in South Carolina and New Hanover County, N.C.

Wallboard, insulating materials, and roofing materials, and supplies and accessories used in their installation, from points in Chatham County, Ga., to points in North Carolina and Virginia, from points in Chatham County, Ga., to points in Tenn., with restrictions; *dry chemicals* as defined by the Commission, and *phosphatic fertilizer solutions*, in bulk, in tank and hopper-type vehicles, from Augusta, Ga., and points in Richmond County, Ga., within 10 miles of Augusta, Ga., to points in Richmond County, Ga., Alabama, Florida, Louisiana, Mississippi, North Carolina, and South Carolina, with restrictions; and *liquid acids and chemicals*, as defined by the Commission, in bulk, in tank and hopper-type vehicles, from Augusta, Ga., and points in Richmond County, Ga., within 10 miles of Augusta, Ga., to points in Alabama, Florida, Louisiana, and Mississippi, with restrictions. Vendee is authorized to operate as a *common carrier* in South Carolina, Virginia, North Carolina, Georgia, Tennessee, New Jersey, Florida, West Virginia, Kentucky, New York, Maryland, Ohio, Pennsylvania, Illinois, Michigan, Missouri, Texas, Alabama, Arkansas, Indiana, Louisiana, Mississippi, Kansas, Minnesota, Nebraska, Oklahoma, Wisconsin, and Iowa. Application has been filed for temporary authority under section 210a(b). NOTE: If a hearing is deemed necessary, Applicant requests that it be held at Washington, D.C., Charlotte or Raleigh, N.C.

No. MC-F-9952. Authority sought for control by JONES MOTOR CO., INC., Bridge Street and Schuylkill Road, Spring City, Pa. 19475, of ERIE TRUCKING COMPANY, 1314 West 18th Street, Erie, Pa. 16512, and for acquisition by WM. S. JONES, R. C. JONES, JR., H. A. HERSEY, H. ELLIS JONES, and ALVIN JONES, all also of Spring City, Pa., of control of ERIE TRUCKING COMPANY, through the acquisition by JONES MOTOR CO., INC. Applicants' attorney and representative: Drew L. Carraway, Suite 618, Perpetual Building, 1111 E Street NW., Washington, D.C. 20004, and Harry A. Hershey, Bridge Street and Schuylkill Road, Spring City, Pa. 19475. Operating rights sought to be controlled: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Buffalo, N.Y., and Erie, Pa., serving no intermediate points, between Erie, Pa., and New York, N.Y., serving the intermediate point of Kane, Pa., and the off-route points in the New York City commercial zone, as defined by the Commission, Port Chester, N.Y., and points in New Jersey within 20 miles of Columbus Circle, N.Y.; *general commodities*, excepting, among others, household goods and commodities in bulk, over irregular routes, between Erie, Pa., on the one hand, and, on the other, points in New York and Pennsylvania within 50 miles of Erie, except Bradford and Custer City, Pa., and Buffalo, N.Y., between Kane, Pa., on the one hand, and, on the other, points in Pennsylvania within 50 miles of Erie, Pa., except Bradford and Custer City, Pa.; *rough rolled glass*, from Sergeant, Pa., to certain specified points in New Jersey, Rochester, and Elmira, N.Y., and points in the New York, N.Y., commercial zone, as defined by the Commission, certain specified points in Ohio, and Baltimore, Md.; and *uncrated furniture*, from Kane, Pa., to Jamestown, N.Y. JONES MOTOR CO., INC., is authorized to operate as a *common carrier* in New Jersey, Pennsylvania, New York, Delaware, Maryland, Massachusetts, Rhode Island, Michigan, Ohio, Illinois, Indiana, West Virginia, Virginia, Tennessee, North Carolina, Vermont, Connecticut, Maine, New Hampshire, Iowa, Missouri, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-9953. Authority sought for control and merger by LANGER TRANSPORT CORP., Box 205, Route 1 and Foot of Bonforth Avenue, Jersey City, N.J. 07303; of the operating rights and property of BARMEL TRANSPORT CORP., Post Office Box 133, Haslet, N.J., and for acquisition by JOSEPH A. LANGER, also of Jersey City, N.J., of control of such rights and property through the transaction. Applicants' attorney and representative: S. H. Eisen, 140 Cedar Street, New York, N.Y. 10006 and Frederick Bear, Navesink Building South, Middletown, N.J. 07748. Operating rights sought to be controlled and merged: *Petroleum products*, in bulk, in tank vehicles, except gasoline, kerosene, distillates, and naphtha, as a *common carrier*, over irregular routes, from Camden, N.J., to points in Connecticut, Maryland, Massachusetts, New York, and Pennsylvania, from Paulsboro, N.J., to New York, N.Y.; and *varnish*, in bulk, in tank vehicles, from Jersey City, N.J., to Philadelphia, Pa. LANGER TRANSPORT CORP. is authorized to operate as a *common carrier* in New York, New Jersey, Delaware, Pennsylvania, Connecticut, Massachusetts, Rhode Island, Ohio, Maryland, Virginia, Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, South Carolina, Tennessee, West Virginia, Missouri, North Dakota, South Dakota, Nebraska, Kansas, Illinois, Wisconsin, Minnesota, Iowa, California, Colorado, Arizona, Arkansas, Michigan, Indiana, Texas, Maine, New Hampshire, North Carolina, Vermont, Oklahoma, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-9954. Authority sought for (1) purchase by ROLLO TRUCKING CORPORATION, INC. (NEW JERSEY CORP.), 295 Broadway, Keyport, N.J. 07735, of the operating rights and property of ROLLO TRUCKING CORPORATION, INC. (NEW YORK CORP.), 295 Broadway, Keyport, N.J. 07735, and for acquisition by JOHN W. MAPPI and CERO L. MAPPI, both also of Keyport, N.J., of control of such rights and property through the transaction; and (2) control by ROLLO TRUCKING CORPORATION, INC. (NEW JERSEY CORP.), 295 Broadway, Keyport, N.J. 07735, of BAY SHORE TRUCKING CO., 295 Broadway, Keyport, N.J. 07735, and for acquisition by JOHN W. MAPPI and CERO L. MAPPI, both also of Keyport, N.J., of control of BAY SHORE TRUCKING CO., through the acquisition by ROLLO TRUCKING CORPORATION, INC. (NEW JERSEY CORP.). Applicants' attorney: Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006. Operating rights sought to be (1) transferred and (2) controlled: (1) *Boats and rafts*, as a *common carrier*, over irregular routes, from points in Monmouth County, N.J., to Philadelphia, Pa., and New York, N.Y.; *crude oil of coal tar*, in bulk, in tank trucks, from Chester, Pa., to Keyport, N.J.; *washed 837 oil*, and *insoluble spirits*, in bulk, in tank trucks, from Keyport, N.J., to Chester, Pa.; *petroleum and petroleum products* (except asphalt and tar of any kind), in bulk, in tank trucks, from Port Society, N.Y., to certain specified points in New York and New Jersey; *chemicals, petroleum and petroleum products* (except asphalt and tar of any kind), between certain specified points in New Jersey, on the one hand, and, on the other, Keyport, N.J., and points within 100 miles of Keyport, N.J., in New York, New Jersey, and Pennsylvania; *oil of coal tar*, in bulk, in tank vehicles, from Brooklyn, N.Y., to Chester, Pa., from Frankford, Pa., to Keyport, N.J.; *And dry polyethylene and polypropylene polymers* in bulk, in tank or hopper type vehicles, from the plantsite of the Hercules Power Co. at Sayreville, N.J., to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and the District of Columbia, with restriction; and (2) *brick, crushed stone, sand, gravel, and building materials* (not including lumber), as a *common carrier*, over irregular routes, between points in Middlesex County, N.J., on the one hand, and, on the other, Cliffwood, N.J., and points within 100 miles of Cliffwood, N.J., in New York and New Jersey. Application has not been filed for temporary authority under section 210a(b). NOTE: See also MC-F-9889 (Brockway Fast Motor Freight, Inc.—Purchase—Bayshore Trucking Co.), published in the September 27, 1967, issue of the FEDERAL REGISTER, on page 13552.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13947; Filed, Nov. 28, 1967; 8:48 a.m.]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

NOVEMBER 24, 1967.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. T-645 (Sub-No. 11), filed November 10, 1967. Applicant: FREDRICKSON MOTOR EXPRESS CORPORATION, Box 31098, 3400 North Graham Street, Charlotte, N.C. 28206. Applicant's representative: J. Ruffin Bailey, 1012 Insurance Building, Raleigh, N.C. 27602. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities* (except those requiring special equipment), serving the plantsite of Superior Cable Corp. located approximately 6.2 miles north of Terrell, N.C., as an off-route point as follows: (1) From the junction of North Carolina Highway 150 and County Road 1848 at Terrell, N.C., thence over County Road 1848 approximately 5.8 miles to junction unnumbered road, thence over unnumbered road approximately 1 mile to plantsite of Superior Cable Corp., and (2) from junction of North Carolina Highway 10 and County Road 1848 approximately 2 miles south of Catawba, N.C., thence over County Road 1848 approximately 3 miles to junction of unnumbered road, thence over unnumbered road approximately 1 mile to plantsite of Superior Cable Corp. Both interstate and intrastate authority sought.

Hearing: Tuesday, February 20, 1968, 10 a.m., Temporary Offices, North Carolina Utilities Commission, corner Edenton, and Wilmington Streets, Raleigh, N.C. 27602. Request for procedural information, including the time for filing protests concerning this application should be addressed to the North Carolina Utilities Commission, Post Office Box 991, Raleigh, N.C., and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13045; Filed, Nov. 28, 1967; 8:46 a.m.]

[Notice 499]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 24, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be

MOTOR CARRIERS OF PROPERTY

No. MC 41116 (Sub-No. 32 TA) (Republication), filed October 10, 1967, published FEDERAL REGISTER issue of October 18, 1967, and republished this issue. Applicant: FOGLEMAN TRUCK LINE, INC., 1724 West Mill Street, Post Office Box 1504, Crowley, La. 70526. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: Canned or bottled *food stuffs, and dried fruits and nuts*, in packages or containers (not frozen or requiring movement in vehicle equipped with mechanical refrigeration), from New Orleans, La.; Blytheville and Siloam Springs, Ark.; Uniontown and Cullman, Ala.; San Jose and Stockton, Calif.; Lewiston, Idaho; Forest Grove, Oreg.; Memphis, Tenn.; Tyler and Donna, Tex.; and Gulfport, Miss.; Georgia, Florida, South Carolina, Kentucky, and Missouri under a continuing contract with Fraering Brokerage Co., Inc., for 180 days. NOTE: The purpose of this republication is to show specific points to be served in aforementioned origin States which were inadvertently omitted from previous publication. Supporting shipper: Fraering Brokerage Co., Inc., 4906 Jefferson Highway, Post Office Box 10221, New Orleans, La. 70121. Send protests to: W. R. Atkings, District Supervisor, Bureau of Operations, Interstate Commerce Commission, T-4009 Federal Building, 701 Loyola Avenue, New Orleans, La. 70113.

No. MC 106398 (Sub-No. 352 TA), filed November 20, 1967. Applicant: NATIONAL TRAILER CONVOY, INC., 1929 National Plaza, Box 3086, Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings* in sections, transported on wheeled undercarriages with hitchball connector, from Elizabethton, Tenn., to points in Tennessee, Kentucky, West Virginia, Virginia, Indiana, Pennsylvania, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Maryland, Ohio, and Michigan, for 180 days. Supporting shipper: Hanley Structures, Inc., M. E. Traphagen, Treasurer-Comptroller, Post Office Box 72, Elizabethton, 37643. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 350, American General Building, 210 Northwest Sixth, Oklahoma City, Okla. 73102.

No. MC 107515 (Sub-No. 596 TA), filed November 14, 1967. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Road SE., Post Office Box 10799, Station A, Atlanta, Ga. 30310. Applicant's representative: B. L. Gundlach (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in descriptions in M.C.C. 209 and 766, from Baltimore, Md., to points in North Carolina, South Carolina, and Georgia, for 180 days. Supporting shipper: Dukeland Packing Co., Inc., 1050 South Dukeland Street (Post Office Box 16561, Baltimore, Md. 21223. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Washington, D.C.

No. MC 123393 (Sub-No. 193 TA), filed November 20, 1967. Applicant: BILYEU REFRIGERATED TRANSPORT CORPORATION, 2105 East Dale Street, Post Office Box 948, commercial station, Springfield, Mo. 65803. Applicant's representative: David O. Brunson, Post Office Box 671, Oklahoma City, Okla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts*, from Mankato, Kans., to points in Alabama, Georgia, Florida, Tennessee (excluding Memphis), Virginia, West Virginia, Pennsylvania, Delaware, New Jersey, New York, Rhode Island, Connecticut, New Hampshire, Vermont, Massachusetts, Maryland, District of Columbia, Kentucky, Arkansas, Oklahoma, Missouri, Michigan, and Ohio, for 180 days. Supporting shipper: Mankato Packing Co., Box No. 611, Mankato, Kans. 66956. Send protests to: H. J. Simmons, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 128220 (Sub-No. 3 TA), filed November 14, 1967. Applicant: RALPH LATHAM, doing business as LATHAM TRUCKING COMPANY, Post Office Box 508, Burnside, Ky. 42519. Applicant's representative: Louis J. Amato, Central Building, 1033 State Street, Post Office Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal*, in bulk, from Red Boiling Springs, Tenn., and points within 5 miles thereof, to the plantsite of the Cumberland Corp. near Burnside, Ky., for 180 days. Supporting shipper: Levern N. Forseth, Traffic Manager, Kingsford Co., Post Office Box 1033, Louisville, Ky. 40201. Send protests to: R. W. Schneiter, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 207 Exchange Building, 147 North Upper Street, Lexington, Ky. 40507.

No. MC 128813 (Sub-No. 3 TA), filed November 14, 1967. Applicant: C. R. ENGLAND & SONS, INC., 228 West Fifth South Street, Salt Lake City, Utah 84101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Filters:* A. Oil; B. Air; C. Gas; D. Water; (2) *Filter component parts;* (3) *Advertising aids and advertising materials*, including premiums used in sales promotions, (4) *Tools*, used in the inspection, installation, change or removal of filter parts and filters; (5) *Machinery* to replace or supplement existing equipment when the occasion arises, (6) *Unfinished materials* (that cannot be secured locally due to shortages in inventory of local suppliers, or the transfer of material to balance production): A. *Tin plate*, plain or lithographed; B. *Perforated tin plate;* C. *Filter paper;* D. *Wire screen cloth;* E. *Liquid plastic;* F. *Unfinished steel stampings;* G. *Steel.* For the account of Fram Corp. and Campbell Filter Co., between Clearfield, Utah, and Greenville, Ohio, for 180 days. Supporting shippers: Fram Corp., Providence, R.I. 02916; Campbell Filter Co., Post Office Box 4796, Rumford, R.I. 02916. Send protests to: John T. Vaughan, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2224 Federal Building, Salt Lake City, Utah 84111.

No. MC 129414 (Sub-No. 1 TA) (Correction), filed October 25, 1967, published FEDERAL REGISTER, issue of November 3, 1967, and corrected this issue. Applicant: BELL & MOONEY, INC., Post Office Box 925, Gillette, Wyo. 82716. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lost circulating materials and chemicals;* from Gillette and Upton, Wyo., to points in Carter and Powder River Counties, Mont., for 180 days. Supporting shippers: Banks Mud Sales, Box 487, Gillette, Wyo. 82716; Milchem, Post Office Box 693, Casper, Wyo. NOTE: The purpose of this republication is to correct the commodities proposed to be transported. Send protests to: District Supervisor, Paul A. Naughton, Bureau of Operations, Interstate Commerce Commission, D&S Building, 255 North Center Street, Casper, Wyo. 82601.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13046; Filed, Nov. 28, 1967; 8:46 a.m.]

[Notice 58]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 24, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-69988. By order of October 31, 1967, the Transfer Board approved the transfer to Louisville Transfer, Inc., Omaha, Nebr., of certificate of registration No. MC-121478 (Sub-No. 1) issued November 29, 1963, to Gail J. Meisinger, doing business as Louisville Transfer, Louisville, Nebr., authorizing transportation in interstate or foreign commerce pusuant to certificate of public convenience and necessity No. M-10557, dated August 12, 1961, issued by the Nebraska State Railway Commission. Donald E. Leonard, Box 2028, Lincoln, Nebr., attorney for applicants.

No. MC-FC-69995. By order of October 31, 1967, the Transfer Board approved the transfer to Salem Motor Transportation, Inc., Reading, Mass., of the certificate of registration in No. MC-58852 (Sub-No. 1) issued January 21, 1966, to Salem Motor Transportation, Inc., Lynn, Mass., evidencing the right to engage in transportation in interstate or foreign commerce solely within the State of Massachusetts, corresponding to irregular route common carrier certificate 5623, dated June 8, 1965, issued by the Massachusetts Department of Public Utilities. Joseph A. Kline, 185 Devonshire Street, Boston, Mass. 02110, attorney for applicants.

No. MC-FC-69996. By order of October 31, 1967, the Transfer Board approved the transfer to Michael A. Birardi, South Amboy, N.J., of certificate No. MC-113225, issued February 12, 1952, to R. S. Flog, Whitehouse Station, N.J., and authorizing the transportation of household goods, between points in Essex, Morris, Union, Hudson, Warren, Middlesex, Somerset, and Hunterdon Counties, N.J., on the one hand, and, on the other, points in New Jersey, Connecticut, Delaware, Maryland, Massachusetts, New York, Pennsylvania, and Rhode Island. Charles J. Williams, 47 Lincoln Park, Newark, N.J. 07102, attorney for applicants.

No. MC-FC-70001. By order of November 14, 1967, the Transfer Board approved the transfer to Scranton Moving Co., Inc., Scranton, Pa., of the portion of the operating rights in certificate No. MC-60196 issued May 11, 1961, to Auto Express, Inc., Scranton, Pa., authorizing the transportation of: Household goods, between Scranton, Pa., and points within 25 miles thereof (except Wilkes-Barre, Pa.), on the one hand, and, on the other, points in Massachusetts, Connecticut, New York, New Jersey, Maryland, Delaware, and the District of Columbia, Kenneth R. Davis, 1106 Dartmouth Street, Scranton, Pa. 18504, practitioner.

No. MC-FC-70006. By order of October 31, 1967, the Transfer Board approved the transfer to Paramount Hauling Co., Inc., St. Louis, Mo., of the operating rights in certificates Nos. MC-51104 and MC-51104 (Sub-No. 1) respectively issued July 1, 1952, and Jan. 26, 1965, respectively to G. F. Kiesel, doing business as Paramount Hauling, St. Louis, Mo., authorizing the transportation of: General commodities, with the usual exceptions, and certain specifically named commodities, i.e., coal, sand, gravel, etc., between points in Illinois and Missouri. Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101, attorney for applicants.

No. MC-FC-70007. By order of November 14, 1967, the Transfer Board approved the transfer to Biggs of Texas, Inc., Houston, Tex., of the operating rights of L. D. Cooper Trucking & Contracting, Inc., Houston, Tex., issued April 16, 1964, in certificate of registration No. MC-121201 (Sub-No. 1), authorizing the transportation of oilfield equipment and pipe, when moving as oilfield equipment; pipe when it is to be used in the construction and maintenance of pipe lines of any and every character or use other than oilfield equipment, as restricted; and trenching machines, tractors, drag lines, caterpillar road building machines, and various other types of machinery and related commodities, as restricted. Joe G. Fender, 802 Houston First Savings Building, Houston, Tex. 77002, attorney for applicants.

No. MC-FC-70010. By order of October 31, 1967, the Transfer Board approved the transfer to Darrell Godfrey, Brigham City, Utah, of the operating rights in permit No. MC-117445 (Sub-No. 2) issued January 6, 1961, to Williams Grain & Produce Co., a corporation, Ogden, Utah, authorizing the transportation of: Salt, from the plantsite of Lake Crystal Salt Co., Saline, Utah, to points in Colorado, Idaho, Montana, and Wyoming. Irene Warr, 419 Judge Building, Salt Lake City, Utah 84111, attorney for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13050; Filed, Nov. 28, 1967; 8:48 a.m.]

[Notice 58-A]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 24, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Com-

merce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-70110. By application filed November 21, 1967, J & H FREIGHT FORWARDING LTD., 483 Claremont Avenue, Jersey City, N.J. 07304, seeks temporary authority to lease the operating rights of ARROW CARRIER CORPORATION, 50 Moonachie Avenue, Carlstadt, N.J. 07072, under section 210a(b). The transfer to J & H FREIGHT FORWARDING LTD., of the operating rights of ARROW CARRIER CORPORATION, is presently pending.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-13951; Filed, Nov. 28, 1967; 8:48 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during November.

3 CFR

PROCLAMATIONS:
- 3279 (modified by Proc. 3820) ... 15701
- 3290 (see Proc. 3820) ... 15701
- 3328 (see Proc. 3820) ... 15701
- 3386 (see Proc. 3820) ... 15701
- 3389 (see Proc. 3820) ... 15701
- 3509 (see Proc. 3820) ... 15701
- 3531 (see Proc. 3820) ... 15701
- 3541 (see Proc. 3820) ... 15701
- 3693 (see Proc. 3820) ... 15701
- 3694 (terminated in part by Proc. 3818) ... 15467
- 3712 (terminated in part by Proc. 3818) ... 15467
- 3744 (terminated in part by Proc. 3818) ... 15467
- 3779 (see Proc. 3820) ... 15701
- 3794 (see Proc. 3820) ... 15701
- 3818 ... 15467
- 3819 ... 15667
- 3820 ... 15701

EXECUTIVE ORDERS:
- Mar. 23, 1912 (revoked in part by PLO 4320) ... 16100
- 2296 (modified by PLO 4313) ... 15429
- 4702 (revoked in part by PLO 4315) ... 15482
- 9653 (revoked in part by PLO 4317) ... 15482
- 10448 (amended by EO 11382) ... 16247
- 10501 (amended by EO 11382) ... 16247
- 10530 (see EO 11378) ... 15237
- 10534 (revoked by EO 11382) ... 16247
- 10536 (amended by EO 11382) ... 16247
- 10631 (amended by EO 11382) ... 16247
- 10682 (see EO 11378) ... 15237
- 10765 (amended by EO 11382) ... 16247
- 10771 (revoked by EO 11382) ... 16247
- 10789 (amended by EO 11382) ... 16247
- 10807 (amended by EO 11381) ... 15629
- 10840 (amended by EO 11382) ... 16247
- 10854 (amended by EO 11382) ... 16247
- 10858 (revoked by EO 11382) ... 16247
- 10865 (amended by EO 11382) ... 16247
- 10883 (see EO 11382) ... 16247
- 10898 ... 16247
- 10903 (amended by EO 11380) ... 15627
- 10966 (revoked by EO 11382) ... 16247
- 10977 (amended by EO 11382) ... 16247
- 11016 (amended by EO 11382) ... 16247
- 11034 (amended by EO 11380) ... 15627
- 11046 (amended by EO 11382) ... 16247
- 11079 (amended by EO 11382) ... 16247
- 11137 (amended by EO 11382) ... 16247
- 11149 (amended by EO 11382) ... 16247
- 11157 (amended by EO 11382) ... 16247
- 11161 (amended by EO 11382) ... 16247
- 11182 (amended by EO 11382) ... 16247
- 11190 (amended by EO 11382) ... 16247
- 11231 (amended by EO 11382) ... 16247
- 11239 (amended by EO 11382) ... 16247
- 11326 (amended by EO 11382) ... 16247
- 11378 ... 15237
- 11379 ... 15625
- 11380 ... 15627
- 11381 ... 15629
- 11382 ... 16247

PRESIDENTIAL DOCUMENTS OTHER THAN PROCLAMATIONS AND EXECUTIVE ORDERS:
- Presidential Memorandum of Aug. 11, 1960 (amended by EO 11382) ... 16247
- Presidential Letter of June 22, 1963 (amended by EO 11382) ... 16247

5 CFR
213 ... 15703, 15866, 15869, 15911, 16097
305 ... 15866
713 ... 15631
734 ... 15805

7 CFR
51 ... 15066, 15073
251 ... 15948
319 ... 15577
401 ... 15703, 15704, 15911
711 ... 15704
717 ... 15705
722 ... 15967, 16185, 16195
729 ... 15149
730 ... 15076
778 ... 16251
905 ... 15869, 16097, 16198, 16199
906 ... 15869
907 ... 15805, 16097
909 ... 15870
910 ... 15435, 15524, 15631, 15870, 16145
912 ... 15430, 15632, 15806, 15870, 15987, 16145
913 ... 15430, 16098
915 ... 15669, 15871
945 ... 15577
946 ... 16199
947 ... 15705
982 ... 15669
984 ... 15388
989 ... 15871, 15915, 16199
991 ... 15670, 15705
1001 ... 15076
1015 ... 15090
1067 ... 15093
1120 ... 15388
1125 ... 15706
1126 ... 15388
1132 ... 15389
1137 ... 15431
1421 ... 15632, 15706, 15872
1464 ... 15633, 16145
1483 ... 16251

PROPOSED RULES:
- 51 ... 15435
- 362 ... 16164
- 723 ... 15646, 16043
- 724 ... 16043
- 811 ... 16045
- 814 ... 15835
- 822 ... 15393
- 861 ... 15393
- 862 ... 15393
- Ch. IX ... 16164
- 905 ... 15116
- 906 ... 15394
- 907 ... 15488
- 908 ... 15394
- 910 ... 16220
- 912 ... 15436

7 CFR—Continued

PROPOSED RULES—Continued
- 913 ... 15395
- 946 ... 16220
- 959 ... 15177, 15884
- 966 ... 15884
- 989 ... 15488
- 1008 ... 15952
- 1036 ... 15952
- 1048 ... 15952
- 1049 ... 15489, 16101
- 1064 ... 15490
- 1090 ... 15437
- 1125 ... 15178
- 1131 ... 15588

8 CFR
- 100 ... 16200
- 103 ... 15469
- 212 ... 15469
- 238 ... 15469, 16200
- 287 ... 16200

9 CFR
- 76 ... 15240
- 78 ... 15577
- 92 ... 15707
- 131 ... 15469

10 CFR
- 40 ... 15872

PROPOSED RULES:
- 2 ... 16050
- 20 ... 15432, 15762
- 50 ... 16050
- 115 ... 16050

12 CFR
- 1 ... 15544, 15918
- 219 ... 15389
- 556 ... 15707, 15747, 16200
- 563 ... 15634
- 571 ... 15708, 16200

PROPOSED RULES:
- 545 ... 15763

13 CFR
- 101 ... 15806, 15873
- 106 ... 15065
- 108 ... 15149
- 120 ... 15634
- 122 ... 15635

PROPOSED RULES:
- 107 ... 15399, 16368
- 121 ... 15184

14 CFR
- 21 ... 15472
- 39 ... 15094, 15153, 15154, 15390, 15421, 15472, 15523, 15579, 15635, 15808, 15873, 16201, 16251.
- 61 ... 15918
- 63 ... 15918
- 65 ... 15918
- 71 ... 15094, 15095, 15154, 15523, 15524, 15579, 15635, 15636, 15809, 15810, 15874, 16098, 16146, 16202, 16251.
- 73 ... 15096, 16098
- 75 ... 15636
- 91 ... 15422, 15708
- 97 ... 15423, 15473, 15580, 15811, 16203
- 141 ... 15583
- 145 ... 15670
- 157 ... 15818
- 207 ... 15096
- 208 ... 15097
- 241 ... 15098
- 295 ... 16251

PROPOSED RULES:
- 27 ... 15676
- 29 ... 15676
- 39 ... 15490, 15491, 15588
- 71 ... 15117–15121, 15491–15493, 15546–15548, 15588, 15589, 15712, 15837, 15838, 15885, 15926, 16049, 16050, 16102, 16169, 16221.
- 73 ... 16050, 16221, 16222
- 93 ... 15589
- 121 ... 15676
- 202 ... 15676
- 203 ... 15676
- 207 ... 16223
- 288 ... 15926
- 399 ... 16225

15 CFR
- Ch. V ... 16257
- 0 ... 15222
- 13 ... 15818
- 70 ... 15154
- 304 ... 15104, 15391
- 230 ... 15105, 15636
- 379 ... 15988
- 382 ... 16146
- 399 ... 16146
- 906 ... 16257
- 907 ... 16257
- 945 ... 16258

16 CFR
- 13 ... 15105–15107, 15470, 15748–15750, 15874, 15875
- 14 ... 15525
- 15 ... 15470, 15919
- 17 ... 15540
- 228 ... 15525
- 229 ... 15529
- 230 ... 15531
- 231 ... 15532
- 232 ... 15533
- 233 ... 15534
- 234 ... 15536
- 235 ... 15538
- 236 ... 15538
- 237 ... 15539
- 238 ... 15540
- 239 ... 15541
- 240 ... 15542
- 412 ... 15584
- 413 ... 15424

PROPOSED RULES:
- 241 ... 15715
- 242 ... 15681
- 300 ... 15180

17 CFR
- 200 ... 15470
- 230 ... 15920
- 275 ... 16151
- 279 ... 16151

18 CFR
- 3 ... 15239
- 101 ... 15670
- 141 ... 15670
- 602 ... 16151

18 CFR—Continued

PROPOSED RULES:
- 2 ... 15714
- 14 ... 15714
- 101 ... 15927
- 104 ... 15927
- 105 ... 15927
- 141 ... 15434, 15927
- 201 ... 15927
- 204 ... 15927
- 205 ... 15927
- 260 ... 15434

19 CFR
- 4 ... 15390
- 10 ... 15424
- 14 ... 15155
- 16 ... 15390
- 200 ... 16210

20 CFR
- 396 ... 15471
- 401 ... 15544
- 606 ... 16211
- 607 ... 16211
- 608 ... 16211
- 613 ... 16211
- 615 ... 16212

21 CFR
- 4 ... 15709
- 120 ... 15107, 15120, 15424, 15578
- 121 ... 15108, 15109, 15155, 15545, 15988
- 133 ... 15109
- 146c ... 15968
- 148b ... 15988
- 148c ... 15425
- 148f ... 15989
- 148i ... 16152
- 148n ... 16212
- 148o ... 15989
- 148s ... 16153
- 148y ... 16153
- 166 ... 15390
- 191 ... 15875

PROPOSED RULES:
- 28 ... 15116
- 121 ... 16048
- 148i ... 16048
- 166 ... 16048

22 CFR
- 7 ... 16258
- 21 ... 16212
- 41 ... 16098
- 50 ... 16259
- 51 ... 16259

PROPOSED RULES:
- 201 ... 15116

23 CFR
- 215 ... 15818
- 216 ... 15818
- 255 ... 15792

24 CFR
- 200 ... 15425, 15586, 15636
- 203 ... 15639
- 207 ... 15640
- 220 ... 15640
- 222 ... 15640
- 809 ... 15640

25 CFR
- 41 ... 15471, 16099
- 243 ... 16213

26 CFR Page

1 ..... 15421, 15671, 15829, 15876
170 16260
301 ..... 15241, 15483
601 15990

PROPOSED RULES:

1 ..... 15167, 15393, 15758, 15879
31 15879
46 15879
48 15879
49 15879

28 CFR

0 15425

29 CFR

526 15425
785 15425
1200 15827
1202 15831
1203 15831
1206 15831
1500 ..... 15478, 15479
1610 16261

PROPOSED RULES:

5 15396
6 15396
7 15396
526 15712

31 CFR

306 ..... 15672, 15929

32 CFR

86 15111
127 15112
536 ..... 15113, 16264
552 15115
710 15115
719 16163
750 16164
751 16154
812 16035
844 15920
851 16154
852 16264
855 15920
860 16155
882 15921
901 15922
906 16159
1001 16036
1006 16036
1007 16039
1018 16039
1472 16213

32A CFR

BDSA (Ch. VI):
M-11A 15710
ASCDIB (Ch. VII) 15831
OIA (Ch. X):
OI Reg. 2 15876

33 CFR

Ch. III 16268
204 15673

35 CFR Page

61 15641
203 15831

36 CFR

7 ..... 15391, 15710, 15750, 16212
311 15989

PROPOSED RULES:

7 15761

38 CFR

3 15878
21 16099

39 CFR

131 15567
821 15480
822 ..... 15480, 15481
823 15099

PROPOSED RULES:

Ch. I 15643

41 CFR

1-5 15674
1-7 16268
1-16 16268
1-75 15833
3-2 16160
3-60 15751
3-75 15427
9-1 15922
9-12 15922
50-204 15641
101-26 15754
101-45 16270

PROPOSED RULES:

50-202 16220

42 CFR

PROPOSED RULES:

73 15178

43 CFR

PUBLIC LAND ORDERS:

1583 (see PLO 4307) 15428
1630 (see PLO 4315) 15482
3263 (revoked in part by PLO 4307) 15428
3634 (revoked in part by PLO 4302) 15427
4236 (see PLO 4317) 15482
4266 (see PLO 4317) 15482
4270 (amended by PLO 4312) 15429
4301 15096
4302 15427
4303 15427
4304 15427
4305 15428
4306 15428
4307 15428
4308 15428
4309 15428
4310 15429
4311 15429
4312 15429

43 CFR—Continued Page

PUBLIC LAND ORDERS—Continued

4313 15429
4314 15482
4315 15482
4316 15482
4317 15482
4318 15483
4319 15878
4320 16100
4321 16213
4322 16214
4323 16214
4324 16214
4325 16214
4326 16215

PROPOSED RULES:

1720 15546
3100 15883
3120 15883
4120 16164

45 CFR

14 16100
81 15156
531 15641

46 CFR

10 15754
309 16272

PROPOSED RULES:

33 15835
94 15835
112 15835
Ch. IV 15438, 16226

47 CFR

0 ..... 15472, 15675
73 ..... 15161, 15162, 15545, 15711
87 16160
97 16162

PROPOSED RULES:

2 ..... 15180, 15712, 16103
73 ..... 15679, 16053, 16054, 16107
87 ..... 15712, 16055, 16056
89 ..... 15180, 15680, 16056
91 ..... 15180, 16056
93 ..... 15180, 15680, 16056

49 CFR

1 15710
103 15484
114 15484
171-190 16277
180 16040
239 ..... 16162, 16215

PROPOSED RULES:

288 15589

50 CFR

10 15834
32 ..... 15166, 15586, 15587, 15642, 15675, 15878, 15924, 16100.
33 ..... 15711, 15756, 15924, 16277, 16278.
80 16215

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PART II

Department of Transportation

Federal Aviation Administration

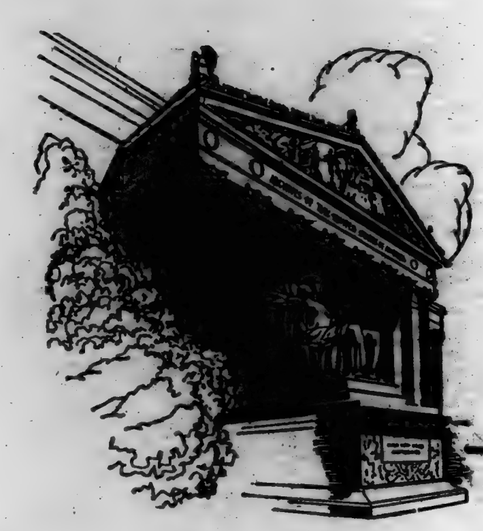

Advisory Circular Checklist

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[AC 00-2I—Effective Sept. 15, 1967]

ADVISORY CIRCULAR CHECKLIST

1. *Purpose.* This notice prescribes the revised checklist of current FAA advisory circulars as of Sept. 15, 1967.

2. *Cancellations.* The following advisory circulars are canceled:

AC 00-2H Advisory Circular Checklist, 3-15-67. Canceled by AC 00-2I Advisory Circular Checklist 9-15-67.

AC 20-6G U.S. Civil Aircraft Register, 1-1-67. Canceled by AC 20-6H U.S. Civil Aircraft Register, 7-1-67.

AC 20-7C General Aviation Inspection Aids, 7-15-66. Canceled by AC 20-7D General Aviation Inspection Aids, 7-19-67.

AC 20-29 Use of Phillips Petroleum Company's Additive PFA-55MB as an Anti-Icing Agent, 10-6-64. Canceled by AC 20-29A. Use of Anti-Icing Additive PFA-55MB, 6-19-67.

AC 43-203 Altimeter and Static System Tests and Inspections, 6-17-66. Canceled by AC 43-203A Altimeter and Static System Tests and Inspections, 6-6-67.

AC 60-2C Annual Aviation Mechanic Safety Award Program, 7-10-66. Canceled by AC 60-2D Annual Aviation Mechanic Safety Awards Program, 7-3-67.

AC 61-1 Aircraft Type Ratings and Guide to Airline Transport Pilot Flight Test Maneuvers, 11-1-62. Canceled by AC 61-1A Aircraft Type Ratings, 3-28-67.

AC 61-5 Helicopter Pilot Examination Guide—Private, Commercial, and Flight Instructor, 11-1-63. Canceled by AC 61-5A Helicopter Pilot Written Test Guide—Private, Commercial, 8-14-67.

AC 61-17 Flight Test Guide—Instrument Pilot Airplane, 9-1-64. Canceled by AC 61-17A Flight Test Guide—Instrument Pilot Airplane, 6-6-67.

AC 61.117-1A Flight Test Guide—Commercial Pilot, Airplane • • • Single Engine, 12-1-64. Canceled by AC 61.117-1B Flight Test Guide—Commercial Pilot, Airplane, 4-21-67.

AC 65.95-1 Inspection Authorization—Application Procedures and Examination Study Guide, 9-30-63. Canceled by AC 65.95-2 Handbook and Study Guide for Aviation Mechanics Inspection Authorization, 5-2-67.

AC 65.95-1 Handbook for Aviation Mechanics with Inspection Authorization, 5-1-63. Canceled by AC 65.95-2 Handbook and Study Guide for Aviation Mechanics Inspection Authorization, 5-2-67.

AC 91-1A Operation of Civil Aircraft With One Cabin Door Removed for Parachuting, Sky Diving, or Other Special Operations, 5-10-65. Canceled by AC 91-1B Operation of Civil Aircraft With One Cabin Door Removed for Parachuting, Sky Diving, or Other Special Operations, 3-24-67.

AC 120-3 Self-contained Navigational Aids, 7-9-63. Canceled by AC 121-10 Doppler Radar Navigational Aids, 3-23-67 and AC 121-11 Approval of Inertial Navigation Systems (INS), 3-23-67.

AC 147-2B Federal Aviation Agency Certificated Mechanic School Directory, 5-1-66. Canceled by AC 147-2C Federal Aviation Administration Certificated Mechanic School Directory, 5-1-67.

AC 149-2B Listing of Federal Aviation Agency Certificated Parachute Lofts, 1-1-65. Canceled by AC 149-2C Listing of Federal Aviation Administration Certificated Parachute Lofts, 5-4-67.

AC 183.29-1B Designated Engineering Representatives, 4-20-66. Canceled by AC 183.29-1C Designated Engineering Representatives, 4-25-67.

AC 150/5100-1 Information on Federal-aid Airport Program (FAAP) 4-15-65. Canceled by AC 150/5300-4 Utility Airports—Design Criteria and Dimensional Standards, 5-9-67.

AC 150/5300-1 VFR Airports, 3-15-63. Canceled by AC 150/5300-4 Utility Airports—Design Criteria and Dimensional Standards, 5-9-67.

AC 150/5320-6 Airport Paving, 6-10-64. Canceled by AC 150/5320-6A Airport Paving, 5-9-67.

AC 150/5340-2 Airport Lighting Control, 11-4-63. Canceled by AC 150/5340-13A High Intensity Runway Lighting System, 4-14-67.

AC 150/5340-13 High Intensity Lighting System, 3-30-65. Canceled by AC 150/5340-13A High Intensity Runway Lighting System, 4-14-67.

AC 150/5345-8 Specification for L-840 Low Intensity Runway, Landing Strip and Taxiway Light, 11-4-63. Canceled by AC 150/5345-38 Changes to Airport Lighting Equipment, 3-23-67.

AC 150/5345-9A Specification for L-819 Fixed Focus Bidirectional High Intensity Runway Light, 4-22-65. Canceled by AC 150/5345-9B Specification for L-819 Fixed Focus Bidirectional High Intensity Runway Light, 6-27-67.

AC 150/5345-13 Specification for L-801 Beacon for Small Airports, 3-3-64. Canceled by AC 150/5345-12A Specification for L-801 Beacon, 5-12-67.

3. *Additions.* The following advisory circulars are added to the list:

AC 00-2I Advisory Circular Checklist, Sept. 15, 1967.

AC 20-6H U.S. Civil Aircraft Register, 7-1-67.

AC 20-7D General Aviation Inspection Aids—August Summary 1967, 7-18-67.

AC 20-29A Use of Anti-Icing Additive PFA-55MB, 6-19-67.

AC 20-51 Procedures for Obtaining FAA Approval of Major Alterations to Type Certificated Products, 4-12-67.

AC 20-52 Maintenance Inspection Notes for Douglas D-6/7 Series Aircraft, 8-24-67.

AC 21-2A CH 1 Export Airworthiness Approval Procedures, 8-30-67.

AC 21-6 Production Under Type Certificate Only, 5-26-67.

AC 21-7 Certification and Approval of Import Products, 6-12-67.

AC 39-3 Distribution of Airworthiness Directives, 3-29-67.

AC 39-4 Distribution of Airworthiness Directives to Others Than Aircraft Owners, 4-25-67.

AC 43.13-2 CH 1 Acceptable Methods, Techniques, and Practices—Aircraft Alterations, 1-12-67.

AC 43-203A Altimeter and Static System Tests and Inspections, 6-6-67.

AC 60-2D Annual Aviation Mechanic Safety Awards Program, 7-1-67.

AC 60-5 Advisory Information on Written Test Questions Missed, 4-24-67.

AC 61-1A Aircraft Type Ratings, 3-28-67.

AC 61-5A Helicopter Pilot Written Test Guide—Private, Commercial, 8-14-67.

AC 61-17A Flight Test Guide—Instrument Pilot Airplane, 6-6-67.

AC 61-22 Private Pilot Written Examination Guide, 8-15-67.

AC 61-40 Performance of Stalls on Pilot Flight Tests, 9-14-67.

AC 61.117-1B Flight Test Guide—Commercial Pilot, Airplane, 4-21-67.

AC 65-6 Change in Airframe and Powerplant Mechanic Tests, 8-30-67.

AC 65.95-2 Handbook and Study Guide for Aviation Mechanics Inspection Authorization, 5-3-67.

AC 90-31 Retention of Flight Service Station (FSS) Civil Flight Plans and Related Records, 7-1-67.

AC 90-32 Radar Capabilities and Limitations, 8-15-67.

AC 91-1B Operation of Civil Aircraft With One Cabin Door Removed for Parachuting, Sky Diving, or Other Special Operations, 3-24-67.

AC 91-16 Category II Operations—General Aviation Airplanes, 8-7-67.

AC 120-25 Maintenance Symposium—Maintainability and Reliability of Aircraft Systems, 8-30-67.

AC 121-1 CH 12 Standard Maintenance Specifications Handbook, 5-16-67.

AC 121-10 Doppler Radar Navigational Aids, 3-23-67.

AC 121-11 Approval of Inertial Navigation Systems (INS), 3-23-67.

AC 121-12 Wet or Slippery Runways, 8-17-67.

AC 140-2C CH 1 List of Certificated Pilot Flight and Ground Schools, 7-6-67.

AC 147-2C Federal Aviation Administration Certificated Mechanic School Directory, 8-1-67.

AC 149-2C Listing of Federal Aviation Administration Certificated Parachute Lofts, 8-4-67.

AC 183.29-1C Designated Engineering Representatives, 4-25-67.

AC 211-2 Recommended Standards for IFR Aeronautical Charts, 8-20-67.

AC 211-3 Aviation Fuel Codes Used in Flight Information Publications, 5-19-67.

AC 150/5050-2 Compatible Land Use Planning in the Vicinity of Airports, 4-13-67.

AC 150/5060-2 Airport Site Selection, 7-19-67.

AC 150/5300-4 Utility Airports—Design Criteria and Dimensional Standards, 5-9-67.

AC 150/5320-6A Airport Paving, 5-9-67.

AC 150/5325-5 CH 1 Aircraft Data, 4-26-67.

AC 150/5340-13A High Intensity Runway Lighting System, 4-14-67.

AC 150/5345-9B Specification for L-819 Fixed Focus Bidirectional High Intensity Runway Light, 6-27-67.

AC 150/5345-12A Specification for L-801 Beacon, 5-12-67.

AC 150/5345-27A CH 1 FAA Specification L-850, Light Assembly, Airport Runway, Centerline, 4-3-67.

AC 150/5345-38 Changes to Airport Lighting Equipment.

4. *Explanation.* The FAA issues advisory circulars to inform the aviation public in a systematic way of nonregulatory material of interest. Advisory circulars are issued in a numbered-subject system corresponding to the subject areas in the recodified Federal Aviation Regulations (14 CFR Ch. I). This checklist is issued triannually listing all current circulars.

5. *The Circular Numbering System.*

a. *General.* The advisory circular numbers relate to the subchapter titles, and correspond with the parts, and when appropriate, the specific sections of the Federal Aviation Regulations. Circulars of a general nature bear a number corresponding to the number of the general subject (subchapter) in the FAR's.

b. *Subject numbers.* The general subject matter areas and related numbers are as follows:

Subject Number and Subject	
00	General.
10	Procedural.
20	Aircraft.
60	Airmen.
70	Airspace.
90	Air Traffic Control and General Operations.
120	Air Carrier and Commercial Operators and Helicopters.
140	Schools and Other Certificated Agencies.
150	Airports.
170	Air Navigational Facilities.
180	Administrative.
210	Flight Information.

c. *Breakdown of subject numbers.* When the volume of circulars in a general series warrants a subsubject breakdown, the general number is followed by a slash and a subsubject number. Material in the 150, Airports, series is issued under the following subsubjects:

Number and Subject	
150/1000	Defense Readiness Program.
150/4000	Resource Management.
150/5000	Airport Planning.
150/5100	Federal-aid Airport Program.
150/5150	Surplus Airport Property Conveyance Programs.
150/5190	Airport Compliance Program.
150/5200	Airport Safety—General.
150/5210	Airport Safety Operations (Recommended Training, Standards, Manning).
150/5220	Airport Safety Equipment and Facilities.
150/5230	Airport Ground Safety System.
150/5240	Civil Airports Emergency Preparedness.
150/5300	Design, Construction, and Maintenance—General.
150/5320	Airport Design.
150/5325	Influence of Aircraft Performance on Aircraft Design.
150/5335	Runway, Taxiway, and Apron Characteristics.
150/5340	Airport Visual Aids.
150/5345	Airport Lighting Equipment.
150/5360	Airport Buildings.
150/5370	Airport Construction.
150/5380	Airport Maintenance.
150/5390	Heliports.

d. *Individual circular identification numbers.* Each circular has a subject number followed by a dash and a sequential number identifying the individual circular. This sequential number is not used again in the same subject series. Revised circulars have a letter A, B, C, etc., after the sequential number to show complete revisions. Changes to circulars have CH 1, CH 2, CH 3, etc., after the identification number on pages that have been changed. The date on a revised page is changed to the effective date of the change.

6. *The Advisory Circular Checklist.*

a. *General.* Each issued circular is listed numerically within its subject-number breakdown. The identification number (AC 120-1), the change number of the latest change, if any, to the right of the identification number, the title and the effective date for each circular are shown. A brief explanation of the contents is given for each listing.

b. *Price.* When a price is listed after the description of a circular, it means that this circular is for sale by the Superintendent of Documents. When no price is given, the circular is distributed free of charge by FAA. Paragraph 7 tells how to get copies of circulars from these two sources.

c. *Missing numbers.* In some series of sequential numbers there are missing numbers, e.g., 00-8 through 00-11 have not been used although 00-7 and 00-12 have been used. These missing numbers are assigned to advisory circulars still in preparation which will be issued later.

d. *Internal directives on sale.* A list of certain internal directives sold by the Superintendent of Documents is shown at the end of the checklist. These documents are not identified by advisory circular numbers, but have their own directive numbers.

7. *How to get circulars.*

a. Request free advisory circulars shown without an indicated price from:

Department of Transportation
Federal Aviation Administration
Distribution Unit, TAD 484.3
Washington, D.C. 20590

NOTE: Individuals who want to be placed on FAA's mailing list for future circulars should write to the above address. Be sure to identify the subject matter desired by the subject numbers and titles shown in paragraph 5b because separate mailing lists are maintained for each advisory circular subject series. Checklists and circulars issued in the general series will be distributed to every addressee on each of the subject series lists. Individuals requesting more than one subject classification may receive more than one copy of related circulars and this checklist because they will be included on more than one mailing list. Persons already on the distribution list for AC's and changes to FAR's will automatically receive related circulars.

b. Order advisory circulars and internal directives with purchase price given from:

Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402

c. Send check or money order with your order to the Superintendent of Documents. Make the check or money order payable to the Superintendent of Documents in the amounts indicated in the list. Orders for mailing to foreign countries should include an additional amount of 25 percent of the price to cover postage. No c.o.d. orders are accepted.

d. Advisory circulars may be reproduced in their entirety or in part without permission from the Federal Aviation Administration.

JAMES T. MURPHY,
Manager of
Headquarters Operations.

ADVISORY CIRCULAR CHECKLIST

General

SUBJECT NO. 00

00-1 The Advisory Circular System (12-4-62).

Describes the FAA Advisory Circular System.

00-2I Advisory Circular Checklist (9-15-67).

This circular transmits the revised checklist of current FAA advisory circulars as of Sept. 15, 1967.

00-3 Realm of Flight (5-1-63).

Presents practical information about weather in relation to the piloting of private aircraft. Published in 1963. ($0.75 GPO.)

00-4 Facts of Flight (5-1-63).

Offers practical information about the operation of private aircraft. Published in 1963. ($0.50 GPO.)

00-5 Path of Flight (2-1-63).

Provides the private pilot with information essential to safe navigation of his aircraft. Published in 1963. ($0.70 GPO.)

00-6 Aviation Weather (5-20-65).

Provides an up-to-date and expanded text for pilots and other flight operations personnel whose interest in meteorology is primarily in its application to flying. Published in 1965. ($2.25 GPO.)

00-7 State and Regional Defense Airlift Planning (4-30-64).

Provides guidance for the development of plans by the FAA and other Federal and State agencies for the use of non-air-carrier aircraft during an emergency.

00-7 CH 1 Provision of Appendix 4 and Addition of New Appendix 9 to State and Regional Defense Airlift Planning (1-5-65).

The title is self-explanatory.

00-12 Potential Hazard Associated with the Use of Celluloid Computers in Flight (6-6-63).

Advises flight crewmembers of a hazard when using equipment made of celluloid material.

00-13A Runway Visibility Measurements (2-24-65).

Provides the latest information available on the installation and operational use of Runway Visibility Value (RVV) and Runway Visual Range (RVR) at civil airports in the United States.

00-14 Flights by U.S. Pilots Into and Within Canada (4-16-65).

Provides information concerning flights into and within Canada.

00-15 Potential Hazard Associated With Passengers Carrying "Anti-Mugger" Spray Devices (8-26-65).

Advises aircraft operators, crewmembers, and others who are responsible for flight safety, of a possible hazard to flight

should a passenger inadvertently or otherwise discharge a device commonly known as an "anti-mugger" spray device in the cabin of an aircraft.

00-17 Turbulence in Clear Air (12-16-65).

Provides information on atmospheric turbulence and wind shear, emphasizing important points pertaining to the common causes of turbulence, the hazards associated with it, and the conditions under which it is most likely to be encountered.

00-18B FAA Publications—March 1967 (3-17-67).

Provides a list of FAA publications of general interest to the aviation public.

00-19 System Description for a Modernized Weather Teletypewriter Communications System (7-8-66).

Transmits a technical report of the system improvements which the Federal Aviation Agency plans to make in the operation of the Services A, C, and O weather teletypewriter communications network.

00-20 Cancellation of Flight Standards Service Releases (9-7-66).

Cancels all outstanding Flight Standards Service Releases.

00-21 Shoulder Harness (10-5-66).

Provides information concerning the installation and use of shoulder harnesses by pilots in general aviation aircraft.

Procedural

SUBJECT No. 10

10-3 Operation of Oxygen System High Pressure Valves (8-21-64).

Provides information concerning the importance of proper "opening" of oxygen system high pressure valves.

11-1 Airspace Rule-Making Proposals and Changes to Air Traffic Control Procedures (10-28-64).

Emphasizes the need for the early submission of proposals involving airspace rule-making activity or changes to existing procedures for the control of air traffic.

Aircraft

SUBJECT No. 20

20-1 Limitations of Self-Locking Castellated Nuts (6-20-63).

Provides information on the limitations of cotter pinned self-locking nuts.

20-3A Status and Availability of Military Handbooks and ANC Bulletins for Aircraft (1-15-64).

Announces the status and availability of Military Handbooks and ANC Bulletins prepared jointly with FAA.

20-5 Plane Sense (8-14-63).

Provides general aviation information for the private aircraft owner.

20-6H U.S. Civil Aircraft Register (7-1-67).

Lists all active U.S. civil aircraft by registration number. Published in 1967. ($7.25 GPO.)

20-7D General Aviation Inspection Aids Summary (7-18-67).

Contains the latest information on airplane service difficulties reported up to and including fiscal year 1966. This year's summary also contains an Addendum of previously unpublished data. Published in 1966. ($1.50 GPO.)

20-8 Shifting Flight Control Systems from Boost-On to Boost-Off Operation on all Lockheed Constellation Aircraft (7-30-63).

Provides guidance material for air carriers and other operators of Constellation type aircraft relating to the shifting of the flight control system from boost-on to boost-off operation during emergencies.

20-9 Personal Aircraft Inspection Handbook (12-2-64).

Provides a general guide, in simple, nontechnical language, for the inspection of aircraft. Published in 1964. ($0.50 GPO.)

20-10 Approved Airplane Flight Manuals for Transport Category Airplanes (7-30-63).

Calls attention to the regulatory requirements relating to FAA Approved Airplane Flight Manuals.

20-11 Eligibility and Quality of Aircraft Replacement Parts and Supplies (8-18-63).

Advises the aircraft industry of replacement parts and supplies which may not meet acceptable standards.

20-12 Acceptable Functional and Installation Criteria for Aircraft Type Certification Approval of the Installation of Airborne Communications, Navigation, and Automatic Flight Control Systems (4-6-64).

Advises about the future plans of the FAA regarding the subject matter.

20-13A Surface-Effect Vehicles (8-28-64).

States FAA policy on surface-effect vehicles (vehicles supported by a cushion of compressed air).

20-14 Aircraft Airworthiness; Restricted Category: Certification of Aircraft With Uncertificated Engines or Engines to Which Major Alterations Have Been Made (10-25-63).

Sets forth information needed by FAA for type certification of aircraft in the restricted category with uncertificated engines or engines having major alterations.

20-15A Qualification of Type Certificated Engines and Propellers for Aircraft Installations (3-24-66).

Calls attention to the relationship between both Federal Aviation Regulations, Parts 33 (Aircraft Engine Airworthiness) and 35 (Propeller Airworthiness), and various aircraft airworthiness parts.

20-17 Surplus Military Aircraft (1-6-64).

Informs how to obtain copies of regulations required for certification of surplus military aircraft.

20-18A Qualification Testing of Turbojet Engine Thrust Reversers (3-16-66).

Discusses the requirements for the qualification of thrust reversers and sets forth an acceptable means of compliance with the tests prescribed in Federal Aviation Regulations, Part 33, when run under nonstandard ambient air conditions.

20-19A Identification of Approved Aeronautical Replacement Parts (1-19-66).

Advises the aircraft industry of the FAA methods for identifying aeronautical replacement parts and how to determine that such parts are approved for installation on certificated aircraft.

20-20A Flammability of Jet Fuels (4-9-65).

Gives information on the possibility of combustion of fuel in aircraft fuel tanks.

20-21 Application of Glass Fiber Laminates in Aircraft (12-3-64).

Provides information on the past and present uses of reinforced plastics in aircraft, the engineering and design considerations, and the manufacturing methods insofar as they relate to and affect the strength and durability characteristics of reinforced plastics. Published in 1964. ($0.35 GPO.)

20-23A Interchange of Service Experience—Mechanical Difficulties (8-18-66).

Explains the advantages of a voluntary exchange of service experience data.

20-24 Qualification of Fuels, Lubricants, and Additives (6-16-64).

Establishes procedures for the approval of the use of subject materials in certificated aircraft.

20-25 Identification of Technical Standard Order (TSO) Safety Belts (7-5-64).

Describes the markings which indicate that a safety belt has been manufactured under the FAA TSO system and approved for use in certificated aircraft.

20-26 Turbine and Compressor Rotors Type Certification Substantiation Procedures (7-22-64).

Sets forth acceptable means of complying with Part 13 of the CAR's.

20-26 CH 1 Turbine and Compressor Rotors Type Certification Substantiation Procedures (9-18-64).

Revises the overspeed r.p.m. for testing when the demonstration is made on a complete engine.

20-26 CH 2 Turbine and Compressor Rotors Type Certification Substantiation Procedures (7-8-65).

References to CAR 13 are revised to reflect only Federal Aviation Regulations; and provides clarification of paragraph 4c of the basic advisory circular.

20-27 Certification and Operations of Amateur-Built Aircraft (7-31-64).

Provides information and guidance material for amateur aircraft builders.

20-28 Nationally Advertised Aircraft Construction Kits (8-7-64).

Explains that using certain kits could render the aircraft ineligible for the issuance of an experimental certificate as an amateur-built aircraft.

20-29A Use of Anti-Icing Additive PFA-55MB (6-19-67).

Provides information on the use of anti-icing additive for jet fuels to assure compliance with FAR's that require assurance of continuous fuel flow under icing conditions.

20-30 Airplane Position Lights and Supplementary Lights (10-19-64).

Provides an acceptable means for complying with the position light requirements for airplane airworthiness and acceptable criteria for the installation of supplementary lights on airplanes.

20-32 Carbon Monoxide (CO) Contamination in Aircraft—Detection and Prevention (1-22-65).

Informs aircraft owners, operators, maintenance personnel, and pilots of the potential dangers of carbon monoxide contamination and discusses means of detection and procedures to follow when contamination is suspected.

20-33 Technical Information Regarding Civil Aeronautics Manuals 1, 3, 4a, 4b, 5, 6, 7, 8, 9, 10, 13, and 14 (2-8-65).

Advises the public that policy information contained in the subject Civil Aeronautics Manuals may be used in conjunction with specific sections of the Federal Aviation Regulations.

20-34 Prevention of Retractable Landing Gear Failures (3-8-65).

Provides information and suggested procedures to minimize landing accidents involving aircraft having retractable landing gear.

20-35 Tie-Down Sense (4-29-65).

Provides information of general use on aircraft tie-down techniques and procedures.

20-36A Index of Materials, Parts and Appliances Certified Under the Technical Standard Order System—March 1, 1966 (4-8-66).

Lists the materials, parts, and appliances for which the Administrator has received statements of conformance under the Technical Standard Order system as of March 1, 1966. Such products are deemed to have met the requirements for FAA approval as provided in Part 37 of the Federal Aviation Regulations.

20-37 Aircraft Metal Propeller Blade Failure (6-7-65).

Provides information and suggested procedures to increase service life and to minimize blade failures of metal propellers.

20-38A Measurement of Cabin Interior Emergency Illumination in Transport Airplanes (2-8-66).

Outlines acceptable methods, but not the only methods, for measuring the cabin interior emergency illumination on transport airplanes, and provides information as to suitable measuring instruments.

20-39 Installation Approval of Entertainment Type Television Equipment in Aircraft (7-15-65).

Presents an acceptable method (but not the only method) by which compliance may be shown with Federal Aviation Regulations 23.1431, FAR 25.1309(b), FAR 27.1309(b), or FAR 29.1309(b) as applicable.

20-40 Placards for Battery-Excited Alternators Installed in Light Aircraft (8-11-65).

Sets forth an acceptable means of complying with placarding rules in Federal Aviation Regulations 23 and 27 with respect to battery-excited alternator installations.

20-41 Replacement TSO Radio Equipment in Transport Aircraft (8-30-65).

Sets forth an acceptable means for complying with rules governing transport category aircraft installations in cases involving the substitution of technical standard order radio equipment for functionally similar radio equipment.

20-42 Hand Fire Extinguishers in Transport Category Airplanes and Rotorcraft (9-1-65).

Sets forth acceptable means (but not the sole means) of compliance with certain hand fire extinguisher regulations in FAR 25 and FAR 29, and provides related general information.

20-43 Aircraft Fuel Contamination (9-3-65).

Informs the aviation community of the potential hazards of fuel contamination, its control, and recommended fuel servicing procedures.

20-44 Glass Fiber Fabric for Aircraft Covering (9-3-65).

Provides a means, but not the sole means, for acceptance of glass fiber fabric for external covering of aircraft structure.

20-45 Safetying of Turnbuckles on Civil Aircraft (9-17-65).

Provides information on turnbuckle safetying methods that have been found acceptable by the Agency during past aircraft type certification programs.

20-46 Suggested Equipment for Gliders Operating Under IFR (9-23-65).

Provides guidance to glider operators on how to equip their gliders for operation under instrument flight rules (IFR), including flight through clouds.

20-47 Exterior Colored Band Around Exits on Transport Airplanes (2-8-66).

Sets forth an acceptable means, but not the only means, of complying with the requirement for a 2-inch colored band outlining exits required to be openable from the outside on transport airplanes.

20-48 Practice Guide for Decontaminating Aircraft (5-5-66).

The title is self-explanatory.

20-49 Analysis of Bird Strike Reports on Transport Category Airplanes (7-27-66).

Provides the results of a statistical study on the frequency of collisions of birds with transport aircraft and the resulting damages.

20-51 Procedures for Obtaining FAA Approval of Major Alterations to Type Certificated Products (4-12-67).

Provides assistance to persons who desire to obtain FAA approval of major alterations to type certificated products.

20-52 Maintenance Inspection Notes for Douglas DC-6/7 Series Aircraft (8-24-67).

Describes maintenance inspection notes which can be used for the maintenance support of certain structural parts of DC-6/7 series aircraft.

21-1 Production Certificates (6-15-65).

Provides information concerning Subpart G of Federal Aviation Regulations (FAR) Part 21, and sets forth acceptable means of compliance with its requirements.

21-2A Export Airworthiness Approval Procedures (2-16-67).

Announces the adoption of new regulations and provides guidance to the public regarding the issuance of export airworthiness approvals for aeronautical products to be exported from the United States.

21-2A CH 1 Export Airworthiness Approval Procedures (8-30-67).

Changes to basic document.

21-4A Special Flight Permits for Operation of Overweight Aircraft (9-16-66).

Furnishes guidance concerning special flight permits necessary to operate an aircraft in excess of its usual maximum certificated takeoff weight.

21-5 Summary of Supplemental Type Certificates (2-24-66).

Announces the availability to the public of a new Summary of Supplemental Type Certificates (STC's), Part 21 of the Federal Aviation Regulations.

21-6 Production Under Type Certificate Only (5-29-67).

Provides information concerning Subpart F of FAR Part 21, and sets forth examples, when necessary, of acceptable means of compliance with its requirements.

21-7 Certification and Approval of Import Products (6-13-67).

Provides guidance and information relative to U.S. certification and approval of import aircraft, aircraft engines, propellers manufactured in a foreign country with which the United States has an acceptance agreement of those products for export and import.

21.25-1 Use of Restricted Category Airplanes for Glider Towing (4-20-65).

Announces that glider towing is now considered to be a special purpose for type and airworthiness certification in the restricted category.

21.303-1 Replacement and Modification Parts (3-2-66).

Provides information concerning section 21.303 of Federal Aviation Regulations, Part 21, and sets forth examples of acceptable means of compliance with its requirements.

23-1 Type Certification Spin Test Procedures (4-1-64).

Sets forth an acceptable means by which compliance may be shown with the one-turn spinning requirement in Part 3 of the CAR's.

23.1329-1 Automatic Pilot Systems Approval (Non-Transport) (12-23-65).

Sets forth an acceptable means by which compliance with the automatic pilot installation requirements of FAR 23.1329 may be shown.

25-1 Airplane Flight Manual Procedures Associated with Performance Limitations (9-4-63).

Provides acceptable means for compliance with Special Regulation SR-422B, section 4T.743(c).

25-2 Extrapolation of Takeoff and Landing Distance Data Over a Range of Altitude for Turbine-Powered Transport Aircraft (7-9-64).

Sets forth acceptable means by which compliance may be shown with the requirements in CAR 4b and SR-422B.

25-3A Protection of Transport Aircraft Fuel Systems Against Lightning (11-10-66).

This circular summarizes the results of recent studies concerning: (a) the protection of transport aircraft fuel systems against the effects of lightning, (b) protective techniques and devices, and (c) methods for testing protective measures.

25-4 Inertial Navigation Systems (INS) (2-18-66).

Sets forth an acceptable means for complying with rules governing the installation of inertial navigation systems in transport category aircraft.

25.253-1 High-Speed Characteristics (11-24-65).

Sets forth an acceptable means by which compliance may be shown with FAR 25.253 during certification flight tests.

25.253-1 CH 1 High-Speed Characteristics (1-10-66).

Provides amended information for the basic advisory circular.

25.1329-1 Automatic Pilot System Approval (10-1-65).

Sets forth an acceptable means by which compliance with the automatic pilot installation requirements of FAR 25.1329 may be shown.

25.1457-1 Cockpit Voice Recorder Installations (4-7-65).

Sets forth an acceptable means of compliance with provisions in FAR Part 25 pertaining to cockpit voice recorder location and erasure features.

27.1581-1 Sea Rotorcraft Autorotative Landing on Land (8-3-65).

Sets forth acceptable means, not the sole means, with which to provide suitable warning information to crews of float-equipped rotorcraft (pneumatic bag type) when a safe autorotative landing on land may not be possible.

29-1 Approval Basis for Automatic Stabilization Equipment (ASE) Installations in Rotorcraft (12-26-63).

Gives means for compliance with flight requirements in various CAR's.

29-1 CH 1 Approval Basis for Automatic Stabilization Equipment (ASE) Installations in Rotorcraft (3-26-64).

Transmits revised information about the time delay of automatic stabilization equipment.

29.773-1 Pilot Compartment View (1-19-66).

Sets forth acceptable means, not the sole means, by which compliance with FAR 29.773(a)(1), may be shown.

33-1 Turbine-Engine Foreign Object Ingestion and Rotor Blade Containment Type Certification Procedures (6-24-65).

Provides guidance and acceptable means, not the sole means, by which compliance may be shown with the design and construction requirements of Part 33 of the Federal Aviation Regulations.

33-2 Aircraft Engine Type Certification Handbook (3-30-66).

Contains guidance relating to type certification of aircraft engines which will constitute acceptable, although not the sole means, of compliance with the Federal Aviation Regulations.

39-1 Jig Fixtures; Replacement of Wing Attach Angles and Doublers on Douglas Model DC-3 Series Aircraft (8-1-63).

Describes methods of determining that jig fixtures meet the requirements of Airworthiness Directive 63-4-1.

39-3 Distribution of Airworthiness Directives (3-29-67).

Announces a new procedure for the distribution of airworthiness directives.

39-4 Distribution of Airworthiness Directives to Other Than Aircraft Owners (4-25-67).

This circular is to clarify the procedure for the distribution of airworthiness directives to persons other than aircraft owners.

43-1 Matching VHF Navigation Receiver Outputs With Display Indicators (8-2-65).

Alerts industry to the possibility of mismatching outputs, both guidance and flag alarm, of certain VHF navigation receivers when used with some types of display indicators causing the receiver to fail without providing a flag alarm.

43-2 Minimum Barometry for Calibration and Test of Atmospheric Pressure Instruments (9-10-65).

Sets forth guidance material which may be used to determine the adequacy of barometers used in the calibration of aircraft static instruments and presents information concerning the general operation, calibration, and maintenance of such barometers.

43.9-1A Instruction for Completion of FAA Form 337 (4-20-65).

Provides instructions for completing revised FAA Form 337, Major Repair and Alteration (Airframe, Powerplant, Propeller, or Appliance).

43.11-1A Aircraft Use and Inspection Report (2-15-65).

Provides instruction for completing revised FAA Form 2350.

43.13-1 Acceptable Methods, Techniques and Practices—Aircraft Inspection and Repair (5-16-66).

Contains methods, techniques, and practices acceptable to the Administrator for inspection and repair to civil aircraft. Published in 1965. ($1.50 GPO.)

43.13-2 Acceptable Methods, Techniques, and Practices—Aircraft Alterations (4-19-66).

Contains methods, techniques, and practices acceptable to the Administrator in altering civil aircraft. Published in 1965. ($1 GPO.)

43.13-2 CH 1 Acceptable Methods, Techniques, and Practices—Aircraft Alterations (1-12-67).

Transmits new material to the subject advisory circular.

43-202 Maintenance of Weather Radar Radomes (6-11-65).

Provides guidance material useful to repair facilities in the maintenance of weather radar radomes.

43-203A Altimeter and Static System Tests and Inspections (6-6-67).

Specifies acceptable methods for testing altimeter and static system. Also, provides general information on test equipment used and precautions to be taken.

45-1 Nationality and Registration Marks for Fixed-Wing Aircraft (7-16-65).

Reminds owners and operators of fixed-wing aircraft of the approaching deadline to comply with the Federal Aviation Regulations requiring the display of the subject marks on the vertical tail surfaces or on the sides of the fuselage.

Airmen

SUBJECT No. 60

60-1 Know Your Aircraft (6-12-63).

Describes potential hazards associated with operation of unfamiliar aircraft and recommends good operating practices.

60-2D Annual Aviation Mechanic Safety Awards Program (7-3-67).

Provides details of the annual Aviation Mechanic Safety Awards Program which is a joint effort of FAA, The Flight Safety Foundation, and the aviation community.

60-4 Pilot's Spatial Disorientation (2-9-65).

Acquaints pilots flying under visual flight rules with the hazards of disorientation caused by the loss of reference with the natural horizon.

60-5 Advisory Information on Written Test Questions Missed (4-24-67).

Announces a new automated method of reporting written test results to airmen applicants. The applicant will be provided information concerning the subject matter areas in which one or more questions were answered incorrectly on the test.

61-1A Aircraft Type Ratings (3-28-67).

Provides a list of the various aircraft type ratings which are issued to qualified pilot applicants.

61-2A Private Pilot (Airplane) Flight Training Guide (9-1-64).

Contains a complete private pilot flight training syllabus which consists of 30 lessons. Published in 1964. ($1 GPO.)

61-3A Flight Test Guide—Private Pilot—Airplane—Single Engine (5-20-66).

Assists the private pilot applicant in preparing for his certification flight test. Published in 1966. ($0.20 GPO.)

61-4A Flight Test Guide—Multiengine Airplane Class or Type Rating (5-13-66).

Assists multiengine pilot applicants in preparing for certification or rating flight tests. Published in 1966. ($0.15 GPO.)

61-5A Helicopter Pilot Written Test Guide—Private—Commercial (8-14-67).

Gives guidance to applicants preparing for the aeronautical knowledge requirements for a private or commercial pilot certificate with a helicopter rating.

61-6A Glider Pilot Examination Guide—Private, Commercial, and Flight Instructor (5-1-65).

Outlines basic requirements for glider pilots and assists in preparing for the pilot examination.

61-7 Military Pilot Examination Guide (12-1-63).

Outlines requirements for military or former military pilots seeking FAA certificate as private or commercial pilots.

61-8A Instrument Pilot Examination Guide (1-12-66).

Assists pilots in preparing for the Instrument Pilot Examination. Revised in 1966. ($0.40 GPO.)

61-9 Pilot Transition Courses for Complex Single-Engine and Light Twin-Engine Airplanes (6-16-64).

Provides training syllabuses and checkout standards for pilots who seek to qualify on additional types of airplanes. Published in 1964. ($0.15 GPO.)

61-10 Private and Commercial Pilots Refresher Courses (9-1-64).

Provides a syllabus of ground instruction periods and training lessons. Published in 1964. ($0.15 GPO.)

61-11 Airplane Flight Instructor Examination Guide (1-5-66).

Provides information to prospective airplane flight instructors about certification requirements, application procedures, and reference study materials; a sample examination is presented with explanations of the correct answers. Published in 1965. ($0.45 GPO.)

61-12A Student Pilot Guide (2-28-66).

Serves as a guide for prospective student pilots and presents general procedures for obtaining student and private pilot certificates. Published in 1965. ($0.15 GPO.)

61-13 Basic Helicopter Handbook (1-20-66).

Provides detailed information to applicants preparing for private, commercial, and flight instructor pilot certificates with a helicopter rating about helicopter aerodynamics, performance, and flight maneuvers. It will also be useful to certificated helicopter flight instructors as an aid in training students. Published in 1965. ($0.75 GPO.)

61-14 Flight Instructor Practical Test Guide (1-19-65).

Provides assistance to the certificated pilot in preparing for the practical demonstration required for the issuance of the flight instructor certificate. Published in 1964. ($0.10 GPO.)

61.15-1 Helicopter or Gyroplane Class Rating Requirement for Rotorcraft Pilots (1-15-63).

Calls the attention of certificated rotorcraft pilots to the fact that helicopter or gyroplane class ratings are required for the operation of rotorcraft after 2-1-63.

61-16 Flight Instructor's Handbook (1-19-65).

Contains study and reference material on the principles of teaching and flight training procedures. Published in 1964. ($0.60 GPO.)

61-17A Flight Test Guide—Instrument Pilot Airplane (6-6-67).

Provides assistance for the instrument pilot applicant in preparing for his instrument rating flight test. Published in 1967. ($0.10 GPO.)

61-18A Airline Transport Pilot (Airplane) Written Examination Guide (4-28-66).

Describes the type and scope of aeronautical knowledge covered by the written examination, lists appropriate references for study, and presents sample examination questions. Published in 1966. ($0.35 GPO.)

61-19 Safety Hazard Associated with Simulated Instrument Flights (12-4-64).

Emphasizes the need for care in the use of any device restricting visibility while conducting simulated instrument flights that may also restrict the view of the safety pilot.

61-20 Integrated Flight Instruction (5-4-65).

Provides information on the objectives of integrated flight instruction, and on the procedures for its administration.

61-21 Flight Training Handbook (1-11-66).

Provides information and direction in the introduction and performance of training maneuvers for student pilots, pilots requalifying or preparing for additional ratings, and flight instructors. Published in 1965. ($0.70 GPO.)

61-22A Pilot Flight Tests in Small Airplanes With Stability/Control Augmentation (3-16-66).

Rescinds the limitation published in AC 61-22 for pilot certificates issued on the basis of flight training and tests in airplane equipped with gyroscopic stability/control augmentation systems.

61-23 Private Pilot's Handbook of Aeronautical Knowledge (5-27-66).

Contains essential, authoritative information used in training and guiding applicants for private pilot certification, flight instructors, and flying school staffs. Published in 1966. ($2.75 GPO.)

61-24 Student Pilot Certificate Endorsements for Solo Flight in Single-Place or Single-Control Aircraft (7-20-65).

Describes a suggested procedure for checking out student pilots for solo flights in single-place or single-control aircraft.

61-25 Flight Test Guide—Helicopter, Private and Commercial Pilot (12-7-65).

Assists the helicopter pilot applicant in preparing for the certification flight tests; provides information concerning applicable procedures and standards. Published in 1965. ($0.10 GPO.)

61-26 Flight Instructor Requalification Program and Increased Student Pilot Operating Requirements (9-23-65).

Informs the public of the procedures which will be used by FAA inspectors in

implementing the Flight Instructor Certificate renewal, instructor supervision of student pilots, and other associated requirements instituted by FAR Amendment 61-18.

61-27 Instrument Flying Handbook (12-12-66).

Provides the pilot with basic information needed to acquire an FAA instrument rating. It is designed for the reader who holds at least a private pilot certificate and is knowledgeable in all areas covered in the "Private Pilot's Handbook of Aeronautical Knowledge." Published in 1966. ($1.75 GPO.)

61-28 Commercial Pilot Examination Guide (5-17-66).

Guides prospective applicants toward a clear understanding of the requirements, the reference material, the form of the examination, and the examining procedures. Published in 1966. ($0.75 GPO.)

61-29 Instrument Flight Instructor Written Examination Guide (9-28-66).

Designed to aid those preparing for the Instrument Flight Instructor Written Examination, this guide outlines basic knowledge necessary to an instrument flight instructor, indicates sources helpful in acquiring this knowledge, and provides sample questions and answers for practice. Published in 1966. ($0.50 GPO.)

61-30 Flight Test Guide—Gyroplane, Commercial Pilot (2-8-66).

Assists commercial pilot operator in preparing for certification test. Revised in 1966. ($0.15 GPO.)

61-31 Gyroplane Pilot Examination Guide, Private and Commercial (2-9-66).

Outlines information basic to a gyroplane pilot, lists sources useful in acquiring this knowledge, and presents sample examination questions.

61-32 Private Pilot Written Examination Guide (8-15-67).

A combination workbook, written test guide. Includes 71 exercises covering every section of the Private Pilot's Handbook of Aeronautical Knowledge plus a sample written test presented in a fashion similar to the current Private Pilot Written Examination. Published in 1967. ($1.50 GPO.)

61-33 Gyroplane Flight Instructor Examination Guide (3-25-66).

Assists applicants who are preparing for the Flight Instructor Rotocraft Gyroplane Written Examination. Revised in 1966.

61-35 Gold Seal Flight Instructor Certificate (10-4-66).

Announces the issuance of gold seal certificates to persons with outstanding qualifications and performance records as flight instructors.

61-36 Use of Other Than U.S. Coast and Geodetic Survey Charts on Pilot Flight Tests (2-6-67).

Clarifies the requirement governing the use on pilot flight tests of en route and instrument approach charts prepared by other than the U.S. Coast and Geodetic Survey.

61-37 Correction to Koch Chart in AC 61-11 and AC 61-23 (2-14-67).

Informs holders of AC 61-11, Airplane Flight Instructor Examination Guide, (1965) and AC 61-23, Commercial Pilot Written Examination Guide, (1966) of inaccuracies in the Koch Charts for Altitude and Temperature Effects which appear in these publications.

61-40 Performance of Stalls on Pilot Flight Tests (9-14-67).

Advises flight test applicants and flight instructors of changes in the performance of stalls on flight tests for the issuance of pilot certificates and ratings.

61.117-1B Flight Test Guide—Commercial Pilot, Airplane (4-21-67).

Assists the commercial applicant in preparing for his certification flight test. Published in 1964. ($0.15 GPO.)

63-1 Flight Engineer Written Examination Guide (12-12-66).

Contains information about certification requirements and describes the type and scope of the examination. It also lists appropriate study and reference material and presents sample examinations with test items similar to those found in the official examinations. Published in 1966. ($0.30 GPO.)

63-2 Flight Navigator Written Examination Guide (10-26-66).

This circular: (1) Outlines the scope of the basic aeronautical knowledge requirements for a Flight Navigator; (2) acquaints the applicant with source material that may be used to acquire this basic knowledge; and (3) presents a sample examination, answers and explanations to the sample examination test items, and other data used in the current Flight Navigator Written Examinations. Published in 1967. ($0.25 GPO.)

65-2 Airframe and Powerplant Mechanics Examination Guide (7-22-63).

Provides information to prospective airframe and powerplant mechanics and other persons interested in FAA certification of aviation mechanics. Published in 1963. ($0.30 GPO.)

65-4 Aircraft Dispatcher Examination Guide (5-27-66).

Describes the type and scope of aeronautical knowledge covered by the aircraft dispatcher written examination, lists reference materials, and presents sample questions. Published in 1966. ($0.40 GPO.)

65-6 Change in Airframe and Powerplant Mechanic Tests (8-30-67).

Announces a change in format of mechanic written, oral, and practical tests.

65.33-1 List of Study References for the ATC Tower Operator Examination (5-25-66).

The title is self-explanatory.

65.71-1 Mechanic Written Test—Expiration Date (5-4-65).

Advises persons, who have (within the past 24 months) passed those sections of the mechanics written test that were previously failed, to submit Form 578A, Report of Written Examination, to FAA.

65.95-2 Handbook and Study Guide for Aviation Mechanics' Inspection Authorization (5-3-67).

Gives guidance to persons conducting annual and progressive inspection and approving major repairs or alterations of aircraft. While the handbook is primarily intended for mechanics holding or preparing for an Inspection Authorization, it may be useful to aircraft manufacturers and certificated repair stations who have these privileges.

Airspace

SUBJECT No. 70

77-1 Objects Affecting Navigable Airspace (7-2-65).

Announces the availability of the revised Part 77 of the Federal Aviation Regulations (FAR), dated May 1, 1965. This revised Part 77 supersedes the edition dated December 12, 1962.

77.37-1 Petitioning the Administrator for Review of Hazard Determinations (10-11-65).

Furnishes information concerning the submission of petitions to the Administrator for review, extension, or revision of hazard determinations issued by Regional Directors.

Air Traffic Control and General Operations

SUBJECT No. 90

90-1 Using the Instrument Approach Procedure Charts (2-25-63).

Clarifies the symbols and abbreviations used on Instrument Approach Procedure Charts.

90-5 Coordination of Air Traffic Control Procedures and Criteria (6-13-63).

States Air Traffic Service policy respecting coordination of air traffic procedures and criteria with outside agencies and/or organizations.

90-8 Radio Identification of Student Pilots (8-15-63).

Encourages student pilots to identify themselves when communicating with FAA facilities.

90-10 Holding Patterns (3-1-64).

Advises pilots that revised IFR aircraft holding pattern procedures, implemented by FAA in January 1, 1962, will be the sole basis for providing protected airspace for holding patterns, beginning March 1, 1964.

90-11 Air Traffic Control Radio Frequency Assignment Plan (9-16-64).

Describes the civil air traffic control very high frequency assignment plan and the allocation of frequencies in the 118-136 Mc/s band.

90-12 Severe Weather Avoidance (4-15-64).

Provides information regarding air traffic control assistance in avoiding severe weather conditions.

90-13 Turbojet Training Program—General Aviation (4-22-64).

Recommends areas of coverage for initial and recurrent training of general aviation pilots in turbojet aircraft.

90-13 CH 1 Turbojet Training Program—General Aviation (12-23-65).

Transmits a page change to Attachment 1 of AC 90-13 to provide suggested minimum hours of pilot training for general aviation turbojet aircraft certificated subsequent to the issuance of AC 90-13.

90-14 Altitude-Temperature Effect on Aircraft Performance (5-7-64).

Re-emphasizes importance to pilots of being aware of altitude-temperature effects on aircraft performance.

90-15 Pilot's Response to ATC Clearances and Instructions (7-2-64).

States Agency philosophy concerning expected pilot response to air traffic control clearances and instructions.

90-18 Large Propeller-Driven Aircraft Training Program—General Aviation (10-21-64).

Recommends areas of coverage for initial and recurrent training of general aviation pilots in large propeller-driven aircraft.

90-19 Use of Radar for the Provision of Air Traffic Control Services (10-29-64).

Advises the aviation community of the Agency's practice in the use of radar information to provide air traffic control services.

90-20 Weather Radar Radomes (11-12-64).

Highlights some important points to consider in the selection and maintenance of weather radar radomes.

90-21 Dualing of Service O Circuits 8273, 8275 and 8276 (3-1-65).

Provides revised weather schedules by circuit to enable users to determine which circuit(s) will be required to meet their needs.

90-22 Automatic Terminal Information Service (ATIS) (2-17-65).

Provides information concerning the establishment and operation of Automatic Terminal Information Service (ATIS).

90-23A Wake Turbulence (12-21-65).

Provides information on the subject of wake turbulence and suggests techniques that may help pilots avoid the hazards associated with wing tip vortex turbulence.

90-24 Service A Weather Teletypewriter Circuit Loading Adjustment (2-15-65).

Advises Service A weather teletypewriter system subscribers of a pending transfer of certain data from Area to Supplemental Circuits and provides lead time for obtaining extension service on the latter where necessary to continue receiving such data.

90-26 Retention of ATC Facility Voice Recordings and Flight Progress Strips Reduced to 15 Days (7-1-65).

Advises that the normal retention period of ATC facility voice recordings and flight progress strips which were formerly retained for 30 days are now retained only 15 days.

90-27 Operation of Pictorial Display/Course Line Computer Equipment in the National Airspace System (8-20-65).

Sets forth the advantages to be gained by the utilization of airborne Pictorial Display/Course Line Computer (PD/CLC) equipment in conjunction with VOR/DME/TACAN ground facilities.

90-28 Course Changes While Operating Under Instrument Flight Rules Below 18,000 Feet Mean Sea Level (9-2-65).

Reminds pilots making course changes that routings prescribed in air traffic control clearances must be adhered to as closely as possible in order that flight paths will remain within airway/route boundaries during en route and terminal flight operations.

90-29 Prescribed IFR Departure Procedures (9-16-65).

Advises pilots of the source of information relative to IFR departure procedures published by the Agency for terrain/obstruction avoidance purposes.

90-30 Precision Approach Radar (PAR) Service (1-1-66).

Provides information concerning the provision of Precision Approach Radar (PAR) service at FAA operated air traffic control facilities.

90-31 Retention of Flight Service Station (FSS) Civil Flight Plans and Related Records (7-1-67).

Establishes new retention periods for flight plans, preflight briefing logs, visual flight rule flight progress strips, and related records with FSSs.

90-32 Radar Capabilities and Limitations (8-15-67).

Advises the aviation community of the inherent capabilities and limitations of radar systems and the effect of these factors on the service provided by air traffic control (ATC) facilities.

91-1B Operation of Civil Aircraft With One Cabin Door Removed for Parachuting, Sky Diving, or Other Special Operations (3-24-67).

Provides a revised list of aircraft which may be operated with one cabin door removed and procedures for obtaining FAA authorization for such operation.

91-3 Aerobatic Flight (9-30-63).

Sets safe operating practices for the conduct of acrobatic flight operations.

91-5 Waivers Part 91, Federal Aviation Regulations (2-27-64).

Provides information on submission of applications and issuance of waivers to FAR Part 91.

91-6 Water, Slush, and Snow on the Runway (1-21-65).

Provides background and guidelines concerning the operation of turbojet aircraft with water, slush, and/or snow on the runway.

91-7 Hazards Associated With In-Flight Use of "Visible-Fluid" Type Cigarette Lighters (3-16-65).

Discusses the potential hazards associated with in-flight use of "visible-fluid" type cigarette lighters.

91-8 Use of Oxygen by General Aviation Pilots/Passengers (5-16-65).

Provides general aviation personnel with information concerning the use of oxygen.

91-9 Potential Hazards Associated With Turbojet Ground Operations (6-19-65).

Alerts turbojet operators and flight crews to potential hazards involving turbojet operations at airports.

91-10A Suggestions for Use of ILS Minima by General Aviation Operators of Turbojet Airplanes (10-8-65).

Provides general aviation operators of turbojet airplanes with information on practices and procedures to be considered before utilizing the lowest published IFR minima prescribed by FAR Part 97 and provides information on pilot-in-command experience, initial and recurrent pilot proficiency, and airborne airplane equipment.

91-11 Periodic Inspection Reminder (8-10-65).

Provides the aviation community with a uniform visual reminder of the date a periodic inspection becomes due.

91.11-1 Guide to Drug Hazards in Aviation Medicine (7-19-63).

Lists all commonly used drugs by pharmacological effect on airmen with side effects and recommendations. Published in 1962. ($0.35 GPO.)

91-12 Required Inspection for Air Carrier Aircraft Reverting to General Operation Under FAR 91 (5-24-66).

Describes acceptable methods for complying with the required inspections established by FAR Part 91.

91-13 Cold Weather Operation of Aircraft (11-16-66).

Emphasizes factors to be considered for the effective preparation, maintenance, and operation of aircraft in cold weather.

91-14 Altimeter Setting Sources (2-15-67).

Provides the aviation public, industry, and FAA field personnel with guidelines for setting up reliable altimeter setting sources.

91-16 Category II Operations—General Aviation Airplanes (8-7-67).

Sets forth acceptable means by which Category II operations may be approved in accordance with FAR Parts 23, 25, 61, 91, 97 and 135.

91.83-1 Canceling or Closing Flight Plans (3-12-64).

Outlines the need for canceling or closing flight plans promptly to avoid costly search and rescue operations.

91.83-2 IFR Flight Plan Route Information (2-16-66).

Clarifies the air traffic control needs for the filing of route information in an IFR (Instrument Flight Rules) flight plan.

95-1 Airway and Route Obstruction Clearance (6-17-65).

Advises all interested persons of the airspace areas within which obstruction clearance is considered in the establishment of Minimum En Route Instrument Altitudes (MEAs) for publication in FAR Part 95.

99.11-1 Flight Plan Requirements: Coastal or Domestic ADIZ (11-15-63).

Provides recommended flight plan filing procedures for operation within or into an Air Defense Identification Zone (ADIZ).

99.27-1 Flight Plan Tolerances for Air Defense Identification Zones (9-30-63).

Provides recommended flight plan tolerances for operations within or into the ADIZ.

101-1 Waivers of Part 101, Federal Aviation Regulations (1-13-64).

Provides information on submission of applications and issuances of waivers to FAR Part 101.

103-1 Hazard Associated with Sublimation of Solid Carbon Dioxide (Dry Ice) Aboard Aircraft (12-16-63).

Discusses potential hazards of dry ice and gives precautionary measures.

105-1 Intentional Parachute Jumping (11-19-63).

Provides information and guidance on intentional parachute jumping and parachute equipment.

Air Carrier and Commercial Operators and Helicopters

SUBJECT NO. 120

120-1 Reporting Requirements of Air Carrier and Commercial Operators (6-6-63).

Advises all Parts 40, 41, 42, and 46 operators that the mechanical reliability reporting requirements contained in those respective parts of the regulations have not been altered.

120-2A Precautionary Propeller Feathering To Prevent Runaway Propellers (8-20-63).

Emphasizes the need for prompt feathering when there is an indication of internal engine failure.

120-4A Criteria for Turbojet Landing Minima—Air Carriers and Commercial Operators of Large Aircraft (8-9-65).

Amends the criteria for approval of landing minimums below 300-¾ or RVR 4000 for turbojet aircraft.

120-5 High Altitude Operations in Areas of Turbulence (8-26-63).

Recommends procedures for use by jet pilots when penetrating areas of severe turbulence.

120-7 Minimum Altitudes for Conducting Certain Emergency Flight Training Maneuvers and Procedures (9-4-63).

Recommends minimum altitudes for conducting simulated emergency flight training maneuvers be established.

120-11 Section 42.52(b) of Civil Air Regulations Part 42 Effective November 11, 1963 (11-11-63).

Gives an acceptable method for air carriers to comply with CAR Part 42.

120-12 Private Carriage Versus Common Carriage by Commercial Operators Using Large Aircraft (6-24-64).

Provides guidelines for determining whether current or proposed transportation operations by air constitute private or common carriage.

120-13 Jet Transport Aircraft Attitude Instrument Systems (6-26-64).

Provides information about the characteristics of some attitude instrument systems presently installed in some jet transport aircraft.

120-14 Air Taxi Operators and Commercial Operators of Small Aircraft (7-6-64).

Clarifies the requirements of Part 135 of the FAR's and provides additional information not readily available.

120-16 Continuous Airworthiness Program (10-19-64).

Provides air carriers and commercial operators with guidance and information pertinent to the regulatory amendments concerned with requirements for air carrier continuous airworthiness program.

120-17 Handbook for Maintenance Control by Reliability Methods (12-31-64).

Provides information and guidance material which may be used to design or develop maintenance reliability programs which include a standard for determining time limitations.

120-17 CH 1 Handbook for Maintenance Control by Reliability Methods (6-24-66).

Transmits new material to the subject handbook.

120-18 Preservation of Maintenance Records (5-10-65).

Provides information and guidance relative to the microfilming of maintenance records.

120-20 Criteria for Approval of Category II Landing Weather Minima (6-6-66).

Sets forth criteria, guidelines, and procedures which provide an acceptable basis for the approval of Category II ILS minima and the installation approval of the associated airborne systems.

120-21 Aircraft Maintenance Time Limitations (6-24-66).

Provides method and procedures for the initial establishment and revision of time limitations on inspections, checks, maintenance or overhaul.

120-22 Systems Worthiness Analysis Program 7-29-66).

Gives information on the implementation, operation, and reasons for the Agency's Systems Worthiness Analysis Program.

120-23 Maintenance Symposium—Continued Reliability of Transport Type Aircraft Structure (8-2-66).

Announces date and purpose of FAA symposium.

120-24 Establishment and Revision of Aircraft Engine Overhaul and Inspection Periods (9-1-66).

Describes methods and procedures used by the Federal Aviation Agency in the establishment and revision of aircraft engine overhaul periods.

120-25 Maintenance Symposium Maintainability and Reliability of Aircraft Systems (6-30-67).

Announces proposed Symposium to be held at Oklahoma City to discuss and exchange ideas on maintainability and reliability of aircraft systems.

121-1 Standard Maintenance Specifications Handbook (12-15-62).

Provides procedures acceptable to FAA which may be used by operators when establishing inspection intervals and overhaul times.

121-1 CH 1 Standard Maintenance Specifications Handbook (7-1-63).

Provides amended information for the basic advisory circular.

121-1 CH 2 Standard Maintenance Specifications Handbook (6-16-64).

Provides amended information for the basic advisory circular.

121-1 CH 3 Standard Maintenance Specifications Handbook (8-26-64).

Provides amended information for the basic advisory circular.

121-1 CH 4 Standard Maintenance Specifications Handbook (12-14-64).

Provides amended information for the basic advisory circular.

121-1 CH 5 Standard Maintenance Specifications Handbook (11-8-65).

Provides new information for the basic advisory circular.

121-1 CH 6 Standard Maintenance Specifications Handbook (12-6-65).

Provides new information for the basic advisory circular.

121-1 CH 7 Standard Maintenance Specifications Handbook (12-29-65).

Provides new information for the basic advisory circular.

121-1 CH 8 Standard Maintenance Specifications Handbook (3-31-66).

Provides new and revised material for the basic advisory circular.

121-1 CH 9 Standard Maintenance Specifications Handbook (10-13-66).

Transmits new and revised material to the subject handbook.

121-1 CH 10 Standard Maintenance Specifications Handbook (10-24-66).

Transmits revised material to the subject handbook.

121-1 CH 11 Standard Maintenance Specifications Handbook (2-8-67).

Transmits revised material to the subject handbook.

121-1 CH 12 Standard Maintenance Specifications Handbook (5-16-67).

Presents additions to the basic handbook.

121-2 FAA Airborne Vibration Monitoring Program for Turbine Engines (1-15-63).

Describes conditions under which air carrier operators of turbine-powered aircraft may apply for and obtain approval for operation of engines and specific accessories, equipment and components beyond their currently approved overhaul time limitations when airborne vibration monitoring equipment is used.

121-2 CH 1 FAA Airborne Vibration Monitoring Program for Turbine Engines (5-20-65).

Provides guidance material for FAA Air Carrier Operations Inspectors and air carriers with respect to flight crewmember training in the use of airborne vibration monitoring equipment on turbine engines.

121-3F Maintenance Review Board Reports (7-20-66).

Revises the list of currently effective Maintenance Review Board Reports by adding the report for the Convair-Dart CV-240D (600), 340D, and 440D aircraft.

121-5 Aircraft Weight and Balance Control (1-2-65).

Provides a method and procedures for weight and balance control.

121-6 Portable Battery-Powered Megaphones (1-5-66).

Sets forth an acceptable means for complying with rules (applicable to various persons operating under Part 121 of the Federal Aviation Regulations) that prescribe the installation of approved megaphones.

121-7 Use of Seat Belts by Passengers and Flight Attendants To Prevent Injuries (7-14-66).

Concerned with the prevention of injury due to air turbulence.

121-8 Additional Airport Aids—Runway Marking and Lighting—Air Carrier Turbojet Operations (9-19-66).

Emphasizes the importance of runway markings and approach slope guidance in assisting turbojet airplane pilots to touchdown at the proper runway point.

121-9 Maintenance of Evacuation Slides (9-22-66).

Provides information and guidance to air carriers and commercial operators in the maintenance of emergency evacuation slides.

121-10 Doppler Radar Navigational Aids (3-23-67).

States an acceptable means, not the only means, of compliance with the referenced sections of the FAR as they apply to persons operating under Part 121 who desire approval of Doppler RADAR navigation systems for use in their operations.

121-11 Approval of Inertial Navigation Systems (INS) (3-23-67).

States an acceptable means, not the only means, of compliance with the referenced sections of the FAR as they apply to persons operating under Part 121 who desire approval of inertial navigation systems as the sole means of navigation in their operations.

121-12 Wet or Slippery Runways (8-17-67).

Provides uniform guidelines in the application of the "wet runway" rule by certificate holders operating under FAR 121 (8-17-67).

121.195(d)-1 Alternate Operational Landing Distances for Wet Runways; Turbojet Powered Transport Category Airplanes (11-19-65).

Sets forth an acceptable means, but not the only means, by which the alternate provision of section 121.195(d) may be met.

127.13-2 Helicopter Weight and Balance Control (11-2-64).

Provides a method and procedures for weight and balance control.

135.155-1 Alternate Static Source for Altimeters and Airspeed and Vertical Speed Indicators (2-16-65).

Sets forth an acceptable means of compliance with provisions in FAR Part 135 and Part 23 dealing with alternate static sources.

137-1 Agricultural Aircraft Operations (11-29-65).

Explains and clarifies the requirements of FAR Part 137 and provides additional information, not regulatory in nature, which will assist interested persons in understanding the operating privileges and limitations of this Part.

Schools and Other Certificated Agencies

SUBJECT NO. 140

140-1B Consolidated Listing of FAA Certificated Repair Stations (1-1-66).

Gives the name, address, certificate number, and ratings of repair stations.

140-2C List of Certificated Pilot Flight and Ground Schools (2-20-67).

Provides a list of FAA certificated pilot schools as of January 1, 1967.

143-1A Ground Instructor Examination Guide—Basic—Advanced (2-14-66).

Designed to assist applicants preparing for the Basic or Advanced Ground Instructor Written Examination by outlining the required knowledge and by providing sample questions for practice. Revised in 1966. ($0.70 GPO.)

143-2 Ground Instructor—Instrument—Examination Guide (12-30-65).

Provides information to applicants for the instrument ground instructor rating about the subject areas covered in the examination and illustrated by a study outline, a list of study materials, and a sample examination with answers. Published in 1965. ($0.50 GPO.)

145.101-1 Application for Air Agency Certificate—Manufacturer's Maintenance Facility (7-12-66).

Explains how to obtain a repair station certificate.

147-2C Federal Aviation Administration Certificated Mechanic School Directory (7-1-67).

Provides a revised listing of all FAA certificated mechanic schools as of July 1, 1967.

147.5-1 Application Procedures for Mechanic School Certificate Issuance (1-9-64).

Provides information on submission of an application for the issuance of a mechanic school certificate.

149-2C Listing of Federal Aviation Administration Certificated Parachute Lofts (8-4-67).

Provides a revised list of all FAA certificated parachute lofts.

149.9-1A Military Surplus Parachutes (9-24-64).

Advises of the release of military surplus parachutes to the public by the Department of Defense.

Airports

SUBJECT NO. 150

DEFENSE PREPAREDNESS PROGRAM

150/1930–1 Radiological Decontamination of Civil Airports (8–19–66).

Offers guidance in preattack preparations, emergency action and decontamination methods.

RESOURCE MANAGEMENT

150/4290–1 Assistance in Obtaining Copper Products for Airport Lighting (10–6–66).

Describes problems currently involved in obtaining copper products necessary for airport lighting and offers some possible solutions.

AIRPORT PLANNING

150/5050–1 Airport Planning as a Part of Comprehensive State Planning Programs (4–25–66).

Encourages states to include airport planning in their comprehensive planning program and provides guidance and general methodology for developing a statewide airport planning program as part of the state's comprehensive planning program.

150/5050–2 Compatible Land Use Planning in the Vicinity of Airports (4–13–67).

Advises Federal Aviation Administration personnel, local government officials and the public of the availability of the following two reports prepared under the auspices of the FAA by the firm of Transportation Consultants, Inc. *Compatible Land Use Planning On and Around Airports*, and *Aids Available for Compatible Land Use Planning Around Airports*.

150/5060–1 Airport Capacity Criteria Used in Preparing the National Airport Plan (11–10–66).

Presents the method used by the Federal Aviation Agency for determining when additional runways, taxiways, and aprons should be recommended in the National Airport Plan. The material is also useful to sponsors and engineers in developing Airport Layout Plans and for determining when additional airport pavement facilities should be provided to increase aircraft accommodation capacity at airports.

150/5060–2 Airport Site Selection (7–19–67).

Recommends procedures and provides guidance for analyzing potential airport sites.

150/5070–1 Rapid Transit Service for Metropolitan Airports (8–26–65).

Informs airport officials of a Federal assistance program for rapid transit.

150/5070–2 Planning the Metropolitan Airport (9–17–65).

Provides guidance and methodology for planning the metropolitan airport system as a part of the comprehensive metropolitan planning program.

150/5070–2 CH 1 Planning the Metropolitan Airport System (1–11–66).

Adds coverage of an advance land acquisition plan and program as an integral part of a metropolitan system planning program.

150/5070–3 Planning the Airport Industrial Park (9–30–65).

Provides guidance to communities, airport boards, and industrial developers for the planning and development of Airport Industrial Parks.

150/5070–4 Planning for Rapid Urbanization Around Major Metropolitan Airports (3–31–66).

Alerts planning agencies to the need for developing appropriate planning programs to guide rapid urbanization in the vicinity of major metropolitan airports and suggests procedures for such planning programs.

150/5090–1 Regional Air Carrier Airport Planning (2–2–67).

This circular: (1) Informs local and state governments, airport operators, and area planners of a Federal policy concerning the development of a single airport to serve two or more cities and their environs; and (2) provides such planners with guidance for evaluating the feasibility of establishing such regional airports.

FEDERAL-AID AIRPORT PROGRAMS

150/5100–2 Priorities Under the Federal-aid Airport Program for Fiscal Year 1967 (8–9–66).

Provides information of priorities used in the allocation of Federal funds for airport development under the Federal-aid Airport Program.

150/5100–3 Federal-aid Airport Program-Procedures Guide for Sponsors (6–30–66).

Advises sponsors who apply for Federal funds for airport development under the Federal-aid Airport Program.

150/5100–3 CH 1 Federal-aid Airport Program-Procedures Guide for Sponsors (8–23–66).

Corrects transposal of Figures 1 and 3 in Appendix I of AC 150/5100–3.

SURPLUS AIRPORT PROPERTY CONVEYANCE PROGRAMS

150/5150–1 Federal Surplus Personal Property for Public Airport Purposes (10–1–62).

Outlines policies and procedures for State and local agencies applying for and acquiring surplus personal property for public airport purposes.

AIRPORT COMPLIANCE PROGRAM

150/5190–1 Minimum Standards for Commercial Aeronautical Activities on Public Airports (8–18–66).

Gives to owners of public airports information helpful in the development and application of minimum standards for commercial aeronautical activities.

150/5190–2 Exclusive Rights at Airports (9–2–66).

Provides basic information and guidance on the Federal Aviation Agency's policy concerning exclusive rights at public airports on which Federal funds, administered by the Agency, have been expended.

150/5190–3 Model Airport Zoning Ordinance (1–16–67).

Provides a guide to be used in preparing airport zoning ordinances. This model will require modification and revision to suit circumstances and fulfill state and local law.

AIRPORT SAFETY—GENERAL

150/5200–1 Bird Hazards to Aviation (3–1–65).

Discusses certain steps that can be taken toward reducing or solving the bird strike problem on and near airports.

150/5200–2 Bird Strike/Incident Report Form (11–27–65).

Informs military and civil aviation organizations that FAA Form 3830, "Bird Strike/Incident Report Form," is available for use in reporting bird hazards and accidents/incidents to aircraft.

150/5200–3 Bird Hazards to Aircraft (10–7–66).

Transmits the latest published information concerning the reduction of bird strikes on aircraft.

150/5200–4 Foaming of Runways (12–21–66).

Discusses runway foaming and suggests procedures for providing this service.

150/5200–5 Considerations for the Improvement of Airport Safety (2–2–67).

Emphasizes that, in the interest of accident/incident prevention, airport management should conduct self-evaluations and operational safety inspections. An exchange of information and suggestions for the improvement of airport safety is also suggested.

150/5210–1 Airport Emergency Planning (8–15–63).

Presents general guidance for airport emergency operation planning.

150/5210–2 Airport Emergency Medical Facilities and Services (9–3–64).

Provides information and advice so that airports may take specific voluntary preplanning actions to assure at least minimum first-aid and medical readiness appropriate to the size of the airport in terms of permanent and transient personnel.

150/5210–3 Airport Emergency Operations—Aircraft Emergency (7–17–64).

Discusses measures that should be taken by airport management to establish and improve aircraft emergency procedures.

150/5210–4 FAA Aircraft Fire and Rescue Training Film, "Blanket for Survival" (10–27–65).

Provides information on the purpose, content, and availability of the subject training film.

150/5210–5 Painting, Marking, and Lighting of Vehicles Used on an Airport (8–31–66).

Makes recommendations concerning safety, efficiency, and uniformity in the interest of vehicles used on the aircraft operational area of an airport.

150/5210–6 Aircraft Fire and Rescue Facilities and Extinguishing Agents (9–7–66).

Furnishes guidance for estimating the facilities necessary to provide adequate aircraft fire and rescue service at civil airports.

150/5210–7 Aircraft Fire and Rescue Communications (10–28–66).

Provides airport management with information helpful in the establishment of communication and alarm facilities. Such facilities alert and guide those personnel who must deal with aircraft ground emergencies.

150/5210–8 Aircraft Firefighting and Rescue and Personnel Clothing (1–13–67).

Provides guidance concerning the manning of aircraft fire and rescue trucks, the physical qualifications that personnel assigned to these trucks should meet, and the protective clothing with which they should be equipped.

150/5220–1 Guide Specification for a Light-Weight Airport Fire and Rescue Truck (7–24–64).

Describes a vehicle with performance capabilities considered as minimum for an acceptable light rescue truck.

150/5220–2 Guide Specification for 1,800-Gallon Aircraft Fire and Rescue Truck (7–24–64).

Describes a vehicle possessing the minimum performance capabilities recommended for an acceptable aircraft fire and rescue truck.

150/5220–3 Guide Specification for 1,000-Gallon Aircraft Fire and Rescue Truck (3–9–67).

The title is self-explanatory.

150/5230–1 Suggestions for Airport Safety Self-Inspection (3–30–64).

Summarizes the functional statements, procedures, forms, and schedules on safety self-inspection now in use at many U.S. civil airports.

150/5230–2 Guide Specification for Fire Extinguishing System (Foam) for Heliports (4–14–65).

Contains guidance material which may be used by airport management in the development of local procurement specifications.

CIVIL AIRPORTS EMERGENCY PREPAREDNESS

150/5240–1 Airport Disaster Control Guide (8–1–62).

Acts as a guide to reducing or avoiding problems imposed by enemy nuclear attack.

150/5240–6A Radiation Safety for Civil Airports (12–27–65).

Provides information and technical criteria needed to cope with accidents involving nuclear materials. Published in 1965. ($0.30 GPO.)

DESIGN, CONSTRUCTION, AND MAINTENANCE—GENERAL

150/5300–2 Airport Design Requirements for Terminal Navigational Aids (3–30–64).

Provides information regarding location, functions, and siting requirements of air navigation aids on and in the immediate vicinity of airports.

150/5300–3 Adaptation of TSO–N18 Criterion to Clearways and Stopways (10–18–64).

Sets forth standards recommended by the FAA for guidance of the public for the adaptation of TSO–N18 criterion to clearways and stopways.

150/5300–4 Utility Airports—Design Criteria and Dimensional Standards (5–19–67).

Presents recommendations of the Federal Aviation Administration for the design of utility airports. These airports are developed for general aviation operations of small airplanes of 12,500 pounds or less of gross weight.

150/5310–1 Preparation of Airport Layout Plans (9–9–65).

Presents guidance material on the preparation of airport layout plans. Acceptable for the eligibility requirements of FAAP.

150/5320–5A Airport Drainage (1–28–66).

Provides guidance for airport managers, engineers, and the public in the design and maintenance of airport drainage systems. Published in 1965. ($0.45 GPO.)

150/5320–6A Airport Paving (5–9–67).

Provides data for the design and construction of pavements at civil airports.

150/5325–2A Airport Surface Areas Gradient Standards (5–12–66).

Sets forth standards recommended by the Federal Aviation Agency for guidance of the public in establishing the gradient of airport surface areas used for landing, takeoff, and other aircraft ground movement.

150/5325–3 Background Information on the Aircraft Performance Curves for Large Airplanes (1–26–65).

Provides airport designers with information on aircraft performance curves for design which will assist them in an objective interpretation of the data used for runway length determination.

150/5325–3 CH 1 Background Information on the Aircraft Performance Curves for Large Airplanes (5–12–66).

Transmits a revision to the effective runway gradient standards.

150/5325–4 Runway Length Requirements for Airport Design (4–5–65).

Presents aircraft performance curves and sets forth standards for the determination of runway lengths to be provided at airports. The use of these standards is required for project activity under the Federal-aid Airport Program when a specific critical aircraft is considered as the basis for the design of a runway.

150/5325–4 CH 1 Runway Length Requirements for Airport Design (8–3–65).

Provides amended information for the basic advisory circular and includes aircraft performance curves for the BAC 1–11.

150/5325–4 CH 2 Runway Length Requirements for Airport Design (9–21–65).

Transmits aircraft performance curves for the Boeing 707–300C and the Fairchild F–27 and F–27B.

150/5325–4 CH 3 Runway Length Requirements for Airport Design (4–25–66).

Transmits aircraft performance curves for the Douglas DC–8–55, DC–8F–55, and DC–9–10 Series, the Fairchild F–27J, and the Nord 262.

150/5325–4 CH 4 Runway Length Requirements for Airport Design (5–12–66).

Transmits a revision to the effective runway gradient standards.

150/5325–4 CH 5 Runway Length Requirements for Airport Design (7–13–66).

Transmits aircraft performance curves for the Douglas DC–9–10 Series equipped with Pratt & Whitney JT8D–1 Engines.

150/5325–4 CH 6 Runway Length Requirements for Airport Design (12–8–66).

It is recommended that turbojet powered aircraft use more runway length when landing under wet or slippery, rather than under dry conditions. This change furnishes a basis for estimating the additional recommended length.

150/5325–4 CH 7 Runway Length Requirements for Airport Design (2–7–67).

Presents design curves for landing and takeoff requirements of airplanes in common use in the civil fleet. Also presented are instructions on the use of these design curves and a discussion of the factors considered in their development.

150/5325–5 Aircraft Data (4–12–65).

Presents a listing of principal dimensions of aircraft in common use in the civil fleet affecting airport design for guidance in airport development.

150/5325–6 Effects of Jet Blast (4–15–65).

Presents the criteria for treatment of jet blast effects which are acceptable in accomplishing a project meeting the eligibility requirements of the Federal-aid Airport Program.

150/5330–2 Runway/Taxiway Widths and Clearances (8–16–65).

Presents the Federal Aviation Agency recommendations for landing strip, runway, and taxiway widths and clearances.

150/5330–2 CH 1 Runway/Taxiway Widths and Clearances (11–15–66).

Transmits a change to Table No. 1 on page 2 of AC 150/5330–2.

150/5330–3 Wind Effect on Runway Orientation (5–5–66).

Provides guidance for evaluating wind conditions and determining their effect on the orientation of runways.

150/5335–1 Airport Taxiways (1–28–65).

Provides the criteria for airport taxiways which are acceptable in accomplishing a project meeting the eligibility requirements of the Federal-aid Airport Program.

150/5335–1 CH 1 Airport Taxiways (11–15–66).

Taxiways designed for two- and three-engine jet powered air carrier airplanes may have a minimum width of 80 feet. This change provides guidance for the design of such taxiway design widths.

150/5335–2 Airport Aprons (1–27–65).

Provides the criteria for airport aprons which are acceptable in accomplishing a project meeting the eligibility requirements of the Federal-aid Airport Program.

150/5340–1A Marking of Serviceable Runways and Taxiways (6–30–66).

Required for FAAP project activity.

150/5340–1A CH 1 Change 1 to Marking of Serviceable Runways and Taxiways (9–15–66).

Transmits page change to the subject advisory circular.

150/5340–4A Installation Details for Runway Centerline and Touchdown Zone Lighting Systems (8–4–66).

Describes standards for the design and installation of runway centerline and touchdown zone lighting systems.

150/5340–5 Segmented Circle Airport Marker System (8–1–63).

Recommends an airport marking system of pilot aids and traffic control devices. Required for FAAP project activity.

150/5340–7 Marking of Deceptive, Closed, and Hazardous Areas on Airports (8–1–63).

Gives FAA recommendations in marking and re-marking deceptive, closed, and hazardous areas on airports. Required for FAAP project activity.

150/5340–8 Airport 51-foot Tubular Beacon Tower (6–11–64).

Provides design and installation details on the subject tower.

150/5340–9 Prefabricated Metal Housing for Electrical Equipment (8–18–64).

Provides design and installation details on the subject metal housing.

150/5340–12 CH 1 High Intensity Lighting Systems (7–22–65).

Provides corrected curves for estimating loads in high intensity series circuits.

150/5340–14A Economy Approach Lighting Aids (3–7–67).

Describes standards for the design, installation, and maintenance of economy approach lighting aids.

150/5340–15 Taxiway Lighting System (11–18–65).

Describes standards for the design, installation, and maintenance of a taxiway lighting system. Required for FAAP projects.

150/5340–16 Medium Intensity Runway Lighting System (10–28–66).

Describes standards for the design, installation, and maintenance of a medium intensity runway lighting system.

150/5345–1A Approved Airport Lighting Equipment (8–9–66).

Contains lists of approved airport lighting equipment and manufacturers qualified to supply such equipment.

150/5345–2 Specification for L–810 Obstruction Light (11–4–63).

Required for FAAP project activity.

150/5345–2 CH 1 Specification for L–810 Obstruction Light (10–28–66).

Transmits page changes to the subject advisory circular. This change provides for a new Alloy 360 in the die casting process.

150/5345–3 Specification for L–821 Airport Lighting Panel for Remote Control of Airport Lighting (11–4–63).

Required for FAAP project activity.

150/5345–4 Specification for L–829 Internally Lighted Airport Taxi Guidance Sign (10–15–63).

Required for FAAP project activity.

150/5345–4 CH 1 Specification for L–829 Internally Lighted Airport Taxi Guidance Sign (10–28–66).

Transmits page changes to the subject advisory circular. This change provides for a new Alloy 360 in the die casting process.

150/5345–5 Specification for L–847 Circuit Selector Switch, 5000 Volt 20 Ampere (9–3–65).

Required for FAAP project activity.

150/5345–6 Specification for L–809 Airport Light Base and Transformer Housing (9–3–63).

Required for FAAP project activity.

150/5345–7 Specification for L–824 Underground Electrical Cables for Airport Lighting Circuits (11–4–63).

Required for FAAP project activity.

150/5345–9B Specification for L–819 Fixed Focus Bidirectional High Intensity Runway Lights (6–27–67).

Describes the subject specification requirements.

150/5345–10A Specification for L–828 Constant Current Regulator with Stepless Brightness Control (12–8–65).

Required for FAAP project activity.

150/5345–10A CH 1 Change 1 to Specification for L–828 Constant Current Regulator with Stepless Brightness Control (6–7–66).

Deletes a detail requirement.

150/5345–11 Specification for L–812 Static Indoor Type Constant Current Regulator Assembly, 4 Kw and 7½ Kw, with Brightness Control for Remote Operation (3–2–64).

Required for FAAP project activity.

150/5345–12A Specification for L–801 Beacon (5–12–67).

Describes the subject specification requirements.

150/5345–13 Specification for L–841 Auxiliary Relay Cabinet Assembly for Pilot Control of Airport Lighting Circuits (1–6–64).

Required for FAAP project activity.

150/5345–14 Specification for L–827 "A" Frame Hinged Support for 12-Foot Wind Cone (2–13–64).

Required for FAAP project activity.

150/5345–14 CH 1 Specification for L–827 "A" Frame Hinged Support for 12-Foot Wind Cone (10–28–66).

Transmits page changes to the subject advisory circular. This change provides for a new Alloy 360 in the die casting process.

150/5345–15 Specification for L–842 Airport Centerline Light (1–6–64).

Required for FAAP project activity.

150/5345–16 Specification for L–843 Airport In-Runway Touchdown Zone Light (1–20–64).

Required for FAAP project activity.

150/5345–17 Specification for L–845 Semiflush Inset Prismatic Airport Light (3–3–64).

Describes the subject specification requirements.

150/5345–18 Specification for L–811 Static Indoor Type Constant Current Regulator Assembly, 4 Kw; with Brightness Control and Runway Selection for Direct Operation (3–3–64).

Required for FAAP project activity.

150/5345–18 CH 1 Specification for L–811 Static Indoor Type Constant Current Regulator Assembly, 4 Kw; with Brightness Control and Runway Selection for Direct Operation (5–28–64).

Advises that a detail requirement is not applicable to the circular.

150/5345–19 Specification for L–838 Semiflush Prismatic Airport Light (5–11–64).

Describes the subject specification requirements.

150/5345–20 Specification for L–802 Runway and Strip Light (6–24–64).

Describes the subject specification requirements.

150/5345–20 CH 1 Specification for L–802 Runway and Strip Light (8–31–64).

Provides amended information for the basic advisory circular.

150/5345–20 CH 2 Specification for L–802 Runway and Strip Light (1–14–66).

Provides new dimensions for the thickness of the metal stake and an organizational change.

150/5345–20 CH 3 Specification for L–802 Runway and Strip Light (10–28–66).

Transmits page changes to the subject advisory circular. This change provides for a new Alloy 360 in the die casting process.

150/5345–21 Specification for L–813 Static Indoor Type Constant Current Regulator Assembly; 4 Kw and 7½ Kw; for Remote Operation of Taxiway Lights (7–28–64).

Describes the subject specification requirements.

150/5345–22 Specification for L–834 Individual Lamp Series-to-Series Type Insulating Transformer for 5,000 Volt Series Circuit (10–8–64).

Describes the subject specification requirements.

150/5345–23 Specification for L–822 Taxiway Edge Light (10–13–64).

Describes the subject specification requirements.

150/5345–23 CH 1 Specification for L–822 Taxiway Edge Light (1–14–66).

Provides new dimensions for the thickness of the metal stake and an organizational change.

150/5345–23 CH 2 Specification for L–822 Taxiway Edge Light (10–28–66).

Transmits page changes to the subject advisory circular. This change provides for a new Alloy 360 in the die casting process.

150/5345–24 Specification for L–849 Condenser Discharge Type Flashing Light (6–30–65).

Describes the subject specification requirements for a condenser discharge type flashing light.

150/5345–24 CH 1 Change 1 to Specification for L–849 Condenser Discharge Type Flashing Light (6–14–66).

Deletes a detail requirement.

150/5345–25 Specification for L–848 Medium Intensity Approach Light Bar Assembly (6–30–65).

Describes the subject specification requirements for a medium intensity approach light bar assembly.

150/5345–26 Specification for L–823 Plug and Receptacle, Cable Connectors (10–5–64).

Describes the subject specification requirements.

150/5345–27 Specification for L–807 8-Foot Illuminated Wind Cone (2–10–65).

Describes the subject specification requirements for an illuminated wind cone for the guidance of the public. Required for FAAP project activity.

150/5345–27 CH 1 Specification for L–807 8-Foot Illuminated Wind Cone (10–28–66).

Transmits page changes to the subject advisory circular. This change provides for a new Alloy 360 in the die casting process.

150/5345–28 Specification for L–851 Abbreviated Visual Approach Slope Indicator System (10–28–66).

Describes the subject specification requirements for abbreviated visual approach slope indicator system (AVASI) equipment.

150/5345–30A Specification for L–846 Electrical Wire for Lighting Circuits to be Installed in Airport Pavements (2–3–67).

Describes, for the guidance of the public, subject specification requirements for electrical wire.

150/5345–31 Specification for L–833 Individual Lamp Series-to-Series Type Insulating Transformer for 600 Volt or 3,000 Volt Series Circuits (12–8–64).

Describes the subject specification requirements.

150/5345–32 Specification for L–837 Large-Size Light Base and Transformer Housing (1–13–65).

Describes the subject specification requirements.

150/5345–33 Specification for L–844 Individual Lamp Series-to-Series Type Insulating Transformer for 5000 Volt Series Circuit 20/6.6 Amperes 200 Watt (1–13–65).

Describes the subject specification requirements.

150/5345–34 Specification for L–839 Individual Lamp Series-to-Series Type Insulating Transformer for 5000 Volt Series Circuit 6.6/20 Amperes 300 Watt (1–13–65).

Describes the subject specification requirements.

150/5345–35 Specification for L–816 Circuit Selector Cabinet Assembly for 600 Volt Series Circuits (1–28–65).

Describes the subject specification requirements.

150/5345–36 Specification for L–808 Lighted Wind Tee (2–3–65).

Describes the subject specification requirements.

150/5345–37A FAA Specification L–850, Light Assembly, Airport Runway, Centerline (4–29–66).

Transmits the subject specification for the guidance of the public. The use of this specification is required for project activity under the Federal-aid Airport Program.

150/5345–37A CH 1 FAA Specification L–850 Light Assembly, Airport Runway Centerline (4–3–67).

Transmits page changes to the subject advisory circular.

150/5345–38 Changes to Airport Lighting Equipment (3–23–67).

The title is self-explanatory.

150/5360–1 Airport Service Equipment Buildings (4–6–64).

Provides guidance on design of buildings for housing equipment used in maintaining and repairing operational areas.

150/5360–2 Airport Cargo Facilities (4–6–64).

Provides guidance material on air cargo facilities.

150/5360–3 Federal Inspection Service Facilities at International Airports (4–1–66).

Describes and illustrates recommended facilities for inspection of passengers, baggage, and cargo entering the United States through international airport terminals. The material is for the guidance of architect-engineers and others interested in the planning and design of these airport facilities.

150/5370–1 Standard Specifications for Construction of Airports (6–1–59).

Contains specification items for construction of airports and other related information. Acceptable for FAAP project activity. Published in 1959. ($2.75 GPO.)

150/5370–1 CH 1 Standard Specifications for Construction of Airports (3–5–65).

(This is Supplement No. 2 to the June 1959 Edition.) Provides amended information for the basic advisory circular. Published in 1964. ($0.35 GPO.)

150/5370–1 CH 2 Standard Specifications for Construction of Airports (12–28–65).

Provides for a substitution of one type of membrane curing compound for another.

150/5370–2 Safety on Airports During Construction Activity (4–22–64).

Provides guidelines concerning safety at airports during periods of construction activity.

150/5370-3 Materials and Tests Required by AC 150/5370-1, Standard Specifications for Construction of Airports (12-22-65).

Transmits seven attachments listing the specifications for various materials and methods of testing established by the American Association of State Highway Officials, American Society for Testing and Materials, or the Federal Government.

150/5380-1 Airport Maintenance (4-14-63).

Provides a basic checklist and suggestions for an effective airport maintenance program.

150/5380-2A Snow Removal Techniques Where In-Pavement Lighting Systems are Installed (12-24-64).

Provides information on damage to inpavement lighting fixtures by snow removal equipment and recommends procedures to avoid such damage.

150/5390-1 Heliport Design Guide (11-3-64).

Contains design guidance material for the development of heliports, both surface and elevated, to serve single- and multi-engine helicopters operating under visual flight rules.

Air Navigational Facilities

SUBJECT NO. 170

170-1 Operation and Use of Approved Lights (ALS) and Sequenced Flashing Lights (SFL) Systems (1-14-63).

Advises airspace users of the operation and use of the ALS and SFL systems.

170-2 Implementation of ILS Channels 11 Through 20 (10-16-63).

Advertises that ILS Channels 11 through 20 are now being used in the United States and encourages owners to equip their aircraft with 20-channel capability.

170-3B Distance Measuring Equipment (DME) (11-8-65).

Presents information on DME and some of its uses to pilots unfamiliar with this navigational aid.

170-4 Emergency Signaling Device for Aircraft in Distress (1-9-64).

Informs of the use of crash locator beacon systems and their potential as an emergency signaling device.

170-5 Loss of VHF Navigational Signal During Transmission (6-18-64).

Discusses a feature of VHF which results in a loss of receiver capability while the transmitter is being used.

170-6A Use of Radionavigation Test Generators (3-30-66).

Gives information received from the Federal Communications Commission as to the frequencies on which the FCC will license test generators (used to radiate a radionavigation signal) within the scope of its regulations and gives additional information to assist the user when checking aircraft navigation receivers.

170-7 Decommissioning of ILS Middle Compass Locators (10-29-65).

Disseminates information regarding the Agency program for decommissioning of compass locators associated with ILS middle markers.

170-8 Use of Common Frequencies for Instrument Landing Systems Located on Opposite Ends of the Same Runway (11-7-66).

In the future, when common frequencies are installed to serve opposite ends of the same runway these frequencies will be assigned to two instrument landing systems (ILS). These systems will include their associated outer and middle marker compass locators (LOM and LMM).

171-1 Estimating Packing and Shipping Costs for Export Shipments for ATC and Navaid Equipments (2-18-66).

Assists personnel engaged in preparing packing and shipping estimates of air navigation and traffic control equipments for overseas shipment.

Administrative

SUBJECT NO. 180

183.29-1C Designated Engineering Representatives (4-25-67).

Lists the Designated Engineering Representatives available for consulting work. Designated Engineering Representatives, as direct representatives of the Federal Aviation Administration, are authorized to approve certain types of data as complying with the Federal Aviation Regulations within particular categories; such as structural, systems and equipment, powerplant, flight analyst, flight test pilot, and engine.

Flight Information

SUBJECT NO. 210

210-1 National Notice To Airmen System (2-3-64).

Announces FAA policy for the preparation and issuance of essential flight information to pilots and other aviation interests.

211-1 Content Criteria for Airman's Information Manual (3-15-66).

Announces the Federal Aviation Agency policy for inclusion of aeronautical data in the Airman's Information Manual (AIM).

211-2 Recommended Standards for IFR Aeronautical Charts (3-20-67).

Sets forth standards recommended by the Federal Aviation Administration for the guidance of the public in the issuance of IFR, aeronautical charts for use in the National Airspace System (NAS).

211-3 Aviation Fuel Codes Used in Flight Information Publications (5-19-67).

Transmits information concerning the change in aviation fuel codes used in FAA reports and publications, NATO symbols to be used.

Internal Directives

Contractions Handbook, 7340.1 ($0.60 GPO).

Gives approved word and phrase contractions used by personnel connected with air traffic control, communications, weather, charting and associated services. Published in 1965. Previous edition, AT P 7340.1A dated March 15, 1963 is canceled. ($0.60 GPO.)

Location Identifiers, 7350.1C (9-15-67).

Incorporates all authorized 3-letter location identifiers for special use in United States, worldwide, and Canadian assignments. Published in 1967. ($3 GPO.)

Aeronautical Communications and Pilot Services, 7300.7 (3-3-66).

Prescribes uniform instructions and practices, with accompanying phraseologies and examples, to be used by personnel of all facilities of the Federal Aviation Agency who provide aeronautical and flight assistance services. Published in 1965. Supersedes Communications Procedures, AT P 7300.1A dated July 1, 1964. ($3.25 GPO.)

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PART III

Small Business Administration

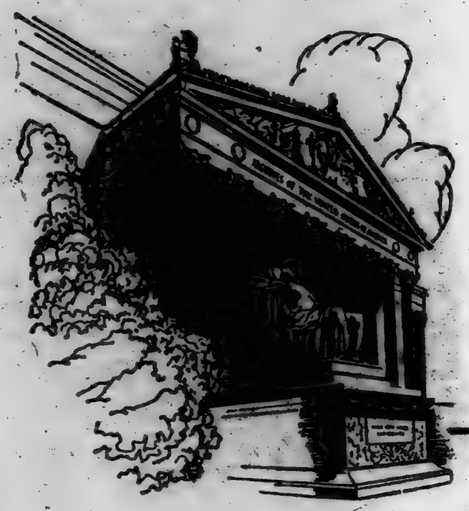

Small Business Investment Companies

Notice of Proposed Rule Making

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 107]

SMALL BUSINESS INVESTMENT COMPANIES

Notice of Proposed Rule Making

Notice is hereby given that pursuant to authority contained in section 308 of the Small Business Investment Act of 1958, Public Law 85-699, 72 Stat. 694, as amended, it is proposed to revise, as set forth below, Part 107 of Subchapter B, Chapter I, of Title 13 of the Code of Federal Regulations. Prior to final adoption of such revision, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in triplicate, to the Office of Investment, Small Business Administration, Washington, D.C. 20416, within a period of twenty (20) days of the date of this notice in the FEDERAL REGISTER.

Information. Proposed Revision 4 set forth below incorporates the subject matter of Part 107 (Revision 3) as previously published in the FEDERAL REGISTER (29 F.R. 16946-16961), together with subsequently published amendments (30 F.R. 534, 1187, 2653, 2653, 2654, 3635, 3856, 7597, 7651, 8775, 8900, 11960, 13005, 14095, 14850, 14951, 31 F.R. 2815, 4964, 4964-4965, 9720, 10114, 13532, and 32 F.R. 2769, 6630, 7743, and 12842). Substantial textural changes have been made throughout to clarify and improve the effectiveness of basic regulatory provisions. Implementing regulations required by the Small Business Investment Act Amendments of 1967, Public Law 90-104, approved on October 11, 1967, 81 Stat. 268, 269 (hereinafter referred to as the "1967 Amendments") have also been included. For example, proposed § 107.3 defines the term, "Venture Capital", pursuant to newly amended section 303(b) of the Act. In accordance with notice of proposed rule making published on November 3, 1967 (32 F.R. 15399), the Administration conducted a public hearing on November 16, 1967 to afford interested parties an opportunity to submit comments on a proposed definition of "Venture Capital". After careful consideration of the oral and written evidence presented, the Administration considers the definition set forth below, in proposed new § 107.3, as appropriate and in the best interests of the SBIC program. The Administration is republishing the definition at this time prior to final adoption and promulgation of proposed Revision 4 as of January 9, 1968, the effective date of the 1967 Amendments.

The 1967 amendments. The 1967 Amendments require new Licensees to have private paid-in capital and paid-in surplus of at least $150,000 (section 302(a) of the Act, as amended). SBA has discretionary authority, in licensing new SBICs, to require a capitalization of more than $150,000 if it determines that such action is necessary to assure a reasonable prospect of sound, active, and successful management: "Each company * * * shall have a combined paid-in capital and paid-in surplus in an amount (1) not less than $150,000, and (2) adequate to assure a reasonable prospect that the company will be operated soundly and profitably, and managed actively and prudently * * *." In addition, it is clear from the legislative history that SBA may condition its approval of transfer-of-control transactions on an increase in capitalization to assure sound management under the proposed new owners.

The maximum amount of Federal funds available to a Licensee has been increased to $10 million: (1) All Licensees will be eligible, up to a maximum of $7.5 million, for Federal funds on the basis of $2 for every $1 of private capitalization (section 303(b)(1) of the Act, as amended). (2) Licensees having at least $1 million in private capital may receive Federal funds up to $10 million if 65 or more percent of "total funds available for investment" are actually invested (or binding commitments for investment are made) in Venture Capital financing (section 303(b)(2) of the Act, as amended). Such Licensees will be eligible for the so-called "third dollar" amount of Government financing under section 303(b)(2) for every $1 of private capital exceeding $1 million (i.e., "300 percent of that portion of the company's paid-in capital and paid-in surplus which exceeds $1,000,000"), subject to the $10 million limitation.

Section 306 of the Act, as amended, provides for a maximum limit on investments in any single concern not exceeding 20 percent of the Licensee's paid-in capital and paid-in surplus. The concept of "statutory capital", consisting of private capital plus subordinated debentures purchased by SBA in an amount not exceeding $700,000 (under former section 302 of the Act), has been abolished. Existing Licensees having a 20 percent investment limit based on so-called "statutory capital" will have a transitional 4-year period ending December 31, 1971, in which its existing 20 percent limit will be reduced, in gradual 25 percent stages, to a private capital base. Another significant change authorized by the 1967 Amendments permits member banks to invest up to 5 percent of their capital and surplus in Licensees. Existing bank holdings in Licensees will not be affected by the new legislation, but banks will henceforth be prohibited from organizing or acquiring, for the first time, wholly-owned or 50 or more percent-owned Licensees (section 302(b) of the Act).

Major regulatory changes implementing the 1967 amendments. With respect to a Licensee having paid-in capital of $1 million or more, referred to in section 303(b)(2) of the Act, as amended, "total funds available for investment" is being defined (in § 107.202(b) of the present Revision) as Licensee's total assets minus fixed assets, equipment and deferred charges. In order to qualify for SBA funds under section 303(b)(2) of the Act (the so-called "third dollar" amount), at least 65 percent of such Licensee's total funds available for investment must be invested (or committed) in Venture Capital financing of small concerns. As previously noted, such Licensee may received SBA funds not exceeding $2 million (i.e., on the basis of $2 in Federal funds for $1 of private capitalization) "plus 300 percent of that portion of the company's paid-in capital and paid-in surplus which exceeds $1,000,000", but in an aggregate amount not exceeding $10 million. After receiving funds pursuant to section 303(b)(2) of the Act, a Licensee will be required to maintain the 65 percent Venture Capital investment ratio as March 31 and September 30 of each year during the period of its outstanding indebtedness to SBA, but a lesser ratio may be allowed by SBA to the extent necessary to take care of special situations caused by repayment of Venture Capital investments, or Licensee's receipt of SBA funds or additional private capital, less than 3 months prior to the respective dates referred to (§ 107.202(c) of Revision 4).

As noted, section 306 of the Act as amended, reduces the 20 percent investment limit of existing Licensees, insofar as it is based on subordinated debentures purchased by SBA under former section 302 of the Act, to a private capital base over a 4-year transitional period. Section 107.301(c)(2) of Revision 4 protects investments (or commitments), which are valid when made, against a subsequent reduction of Licensee's investment limit during the transitional period attributable to the operation of the new section 306 provisions.

New § 107.811 provides that a bank which on January 9, 1968, holds 50 percent or more of any class of equity securities having actual or potential voting rights in a Licensee, may make further investments in such Licensee (pursuant to section 302(b) of the Act) only if its percentage holdings of such securities would not be increased. Increases in Licensee's capitalization would be subject to SBA postapproval under § 107.1105.

General summary. The present Revision requires all Licensees to have (1) a full-time, qualified officer or manager (including a common manager approved by SBA) in charge of Licensee's operations; (2) a reasonably accessible office open to the public during regular business hours; and (3) a board of directors consisting of five or more members, at least 40 percent of whom must be independent of any other affiliation with the Licensee (§ 107.101 (a), (b), and (c)). Existing Licensees will have until June 30, 1968, to bring themselves into compliance with these new requirements (§ 107.101(g)). Unless otherwise specifically authorized by SBA, every Licensee must also maintain a diversified investment policy (§ 107.101(d)).

The proposed Revision provides for a one-step licensing procedure, including publication of notice in the FEDERAL REGISTER concerning the filing of the license application (§ 107.102 and § 107.103). Licenses issued are not transferable except with SBA's written approval (§ 107.104). Existing provisions pertaining to surrender of an SBIC license are being carried over in substantially their present form (§ 107.105).

Revision 4 provides for a $500 licensee fee as partial reimbursement to SBA for the cost of processing an Application for License (SBA Form 415), including necessary credit and other investigations (§ 107.102). It also requires an application for SBA approval of a proposed transfer-of-control transaction to be accompanied by a processing fee of $100 for each officer, director, owner of 10 or more percent of Licensee's stock, or other interested party involved in the change of control, as partial reimbursement for the cost of investigating and determining the merits of the transaction. The maximum fee in any transfer-of-control situation will not, however, exceed the sum of $400 (§ 107.701(e)). In the judgment of the Administration, the proposed fees represent fair and equitable user charges. In accordance with applicable statutory provisions, the Administration has taken into consideration direct and indirect costs to the Government of necessary services performed, value to the recipients, public policy and interest served, and other pertinent factors involved. (Act of Aug. 31, 1951, c. 376, title V, sec. 501, Public Law 82-137, 65 Stat. 290, 5 U.S.C. 140, codified by Public Law 89-554, Sept. 6, 1966, 80 Stat. 378, as 31 U.S.C. 483a (1964 ed. Suppl. III))

The definition of "Equity Capital" and the regulation of Licensee's acquisition of stock options or conversion rights in connection with instruments evidencing an indebtedness ("Equity Securities"), under §§ 107.302 and 107.303 remain substantially the same as under the present regulation. Short-term advances may be made to protect an existing investment. The amount disbursed for such purpose plus the outstanding balance of debt or equity financing furnished the portfolio concern may not exceed the 20 percent limit on Licensee's investments in a single concern (§ 107.301(d)). Upon the consummation of each loan or investment, Licensee must furnish the portfolio concern a written settlement statement specifying the amount and purpose of the financing, the type of security evidencing Licensee's financing, the interest rate, discount, fees, and other charges, and the percentage of Licensee's actual or potential ownership in the portfolio concern. The settlement statement and a receipted copy, together with the financial statements of such concern, must be retained as part of Licensee's records available for SBA examination (§ 107.301(f)). New § 107.501 authorizes a Licensee to guarantee up to 90 percent of the indebtedness of a portfolio concern to a lending institution, or short-term advances made by it to such concern. The total amount for which the Licensee may be liable, as guarantor, may not exceed its debt or equity financing of the portfolio concern; and such financing plus the guaranties issued on its behalf may not exceed Licensee's 20 percent limit on investments in a single concern. Existing provisions permitting earlier repayment of funds advanced during the first two years of a Licensee's commitment to provide financing, together with its acquisition of stock options for funds disbursed plus 25 percent of the amount undisbursed due to no fault on its part, continue as part of the revised regulation (§ 107.503). Authorization for the maintenance of a "Special Discretionary Portfolio" is also being retained (§ 107.504), except for Licensee's financing of small insurance companies and concerns engaged in long-term leasing of equipment with no provision for maintenance or repair. Provisions applicable to management consulting services performed by Licensees are being carried over in condensed form. (See §§ 107.601 and 107.603.) Those dealing with mergers and consolidations (§ 107.903), investment advisers (§ 107.909), retention of investments where the portfolio concern becomes large (§ 107.906), one-third limitation on real estate investments (§§ 107.101(d) and 107.1006), permitted-type of real estate investments (§ 107.1001(c)), purchases of portfolio securities from another Licensee (§ 107.907), maintenance of records and reports (§ 107.1102), internal controls (§107.1103), and fidelity insurance (§ 107.1104), have been restated in more concise form. Prior SBA approval will be required for all voluntary capital decreases and/or purchases by a Licensee of more than 2 percent of any class of its outstanding capital stock (§107.902).

Under new § 107.508, *Idle funds*, a Licensee may place funds not employed in current financing operations on demand deposit, or in time certificates of deposit maturing not later than 1 year after date of issuance, but only up to the insured amount, in any FDIC-insured bank.

One of the proposed changes would require a Licensee acquiring temporary control over a portfolio concern in order to protect its investment, or as a result of enforcement action in default situations, to obtain prior SBA approval of its control-divestiture plan. The plan would be subject to SBA's continuing jurisdiction to assure that it represents a workable arrangement under current conditions. After assuming control over a portfolio concern, additional financing by the Licensee would be subject to SBA's prior written approval. Licensees exercising control over a small concern on January 9, 1968 (the anticipated effective date of Revision 4) must file their control divestiture plans with SBA by April 30, 1968. Such plans, which would also be subject to SBA approval, must provide for relinquishment of control within a reasonable period of time not later than March 31, 1976 (§ 107.901).

The regulation of transactions involving transfer of control over a Licensee has been revised to provide uniform requirements for all debtor or nondebtor Licensees as well as 1940 Act companies. Every transfer of control, or transaction involving change of ownership affecting 10 or more percent of a Licensee's stock, will be subject to prior SBA approval (§ 107.701). Existing provisions on "Conflicts of Interest" have been expanded (§ 107.1004). For example, a Licensee may not supply funds to a small concern for its use in discharging (or freeing other funds for use in discharging) an obligation owing to an officer, director, or other Associate of the Licensee. Joint financing of the same small concern by a Licensee and its associates must be on terms equally favorable to the Licensee, and written evidence of the transaction must be retained as part of Licensee's records available for SBA examination. Officers, directors, and other Associates of a Licensee may not receive any compensation from a small concern for attempting to influence Licensee's action with respect to its application for financing. However, they may receive compensation for bona fide services (e.g., title examination, survey, etc.) performed at the request of the applicant concern. Such fees must be approved by the Licensee; payment must be made through the Licensee; and written evidence of the transaction must be retained as part of its records available for SBA examination. Existing provisions authorizing a Licensee to designate its own officer, director, or other representative to participate in the management of a portfolio concern, wherever necessary to protect Licensee's investment, have been amended. The revised regulation prohibits Licensee's designation of any person (1) having any other financial interest in the portfolio concern or (2) serving as an officer or director or otherwise participating in the management thereof for more than 30 days immediately prior to Licensee's financing (§ 107.1004(f)).

Revision 4 includes a new provision governing "assets acquired in liquidation". A Licensee may incur necessary expenditures for the care and preservation of such assets. Such expenditures (other than ordinary and necessary disbursements for maintenance) may not, without SBA's written permission, exceed an amount equivalent to Licensee's 20 percent overline limit on investments in a single concern. Assets in liquidation must be disposed of within a reasonable period (§ 107.810). A Licensee which has more than 25 percent of its assets in Idle Funds will be deemed inactive if it has not, for a period of more than one year, made new financings totalling at least 25 percent of such Idle Funds. A written report setting forth the reasons for its inactivity must be filed with SBA. The foregoing presumption of inactivity may be rebutted by Licensee's submission of appropriate evidence satisfactory to SBA (§ 107.1003). Revision 4 allows the financing of a small concern which is a customer of a Licensee-associated supplier, if not more than 50 percent of the funds are used to buy goods or services from such supplier (§ 107.1001(g)). Except for this limited authorization, a Licensee may not provide funds for use in purchasing property from any of its associates (§ 107.1004(b)(5)). The definition of "Capital Impairment" remains unchanged, viz., the existence of a retained earnings deficit exceeding 50 percent of Licensee's private paid-in capital and paid-in surplus. Licensees indebted to SBA will be required to inform SBA

when its retained earnings deficit reaches 35 percent of paid-in capital and paid-in surplus (§ 107.1003). This "early-warning" system will enable SBA to investigate and attempt to work out a proper resolution of Licensee's financial situation. For purposes of capital impairment, gains will be recognized by SBA as offsets against a Licensee's retained earnings deficit to the extent permitted under SBA Policy and Procedural Release No. 2008, subject: Guidelines Governing the Realization and Use of Income and Gains. Under the proposed Revision, ten or more percent of any Licensee's stock may not be purchased with borrowed funds unless the stockholder has a net worth twice the amount of the funds borrowed (§ 107.101(f)). Whenever 10 or more percent of Licensee's stock is hypothecated as collateral for an indebtedness, written notice must be given to SBA within five days (§ 107.703). Unless an exemption is granted in exceptional circumstances, a Licensee may not dispose of portfolio securities to an officer, director, or other person associated with such Licensee, or to a competitor of the issuer concern (§ 107.1005).

Under the proposed Revision, all postlicensing changes in Licensee's activities, for which prior SBA approval is not otherwise specifically required under the regulations, must be reported for SBA's postapproval as a condition for the continuance of its license. Such matters include Licensee's investment policy, financing plans, increases in capitalization, name, address, operating area, charter, and current officers and directors (§ 107.1105).

The following portions of present Revision 3 are not included in the revised SBIC regulation because SBA has determined on the basis of administrative experience to date that they are no longer necessary or appropriate: § 107.504 (reciprocal stock redemption); § 107.703(a)(2) (employment of common manager by two or more Licensees having a combined private capitalization not exceeding $800,000); and § 107.750 (purchases from underwriters). The provision authorizing purchases from underwriters is considered unnecessary because small concerns able to obtain financing on the public market would not ordinarily qualify for SBIC assistance, under section 102 of the Act, since funds required by them are available in adequate supply. The need for a common manager as permitted under the special restrictions of the present regulation (§ 107.703(a)(2)) has not arisen with sufficient frequency to warrant a special regulation on the subject. The Administration intends to deal with the problem on a case-by-case basis under other provisions of the revised regulation (§ 107.101(a) of Revision 4). The regulation of reciprocal stock redemption agreements (§ 107.504) is being repealed because administrative experience has not demonstrated any significant need for SBA controls in this area, other than those contained in the general provisions governing equity financing by SBICs.

Revision 4 includes a savings clause which provides that the legality of transactions of a continuing nature consummated prior to January 9, 1968 (the effective date of the 1967 Amendments), pursuant to former provisions of Revision 3 in effect at the time that a Licensee entered into such transactions with third parties shall be governed by such former provisions.

Interpretations now included as §§ 107.1000 to 107.1024, inclusive, of present Revision 3 are exempt from the advance notice requirements of 5 U.S.C. 553. Those of a continuing relevant nature which may serve a useful purpose under the new regulations will be assembled for publication in the FEDERAL REGISTER upon the promulgation of Revision 4.

Dated: November 22, 1967.

ROBERT C. MOOT,
Administrator.

Sec.
107.1 Scope of Part 107.
107.2 Information, forms, and instructions.

DEFINITIONS

107.3 Definition of terms.

OPERATIONAL REQUIREMENTS

107.101 Operational requirements.

PROCEDURE FOR OBTAINING LICENSE

107.102 License application.
107.103 Public notice.
107.104 Transferability of license.
107.105 Surrender of license.

BORROWING BY LICENSEE

107.201 SBA funds to Licensee.
107.202 SBA funds available under section 303(b)(2) of the Act based on venture capital financing.
107.203 SBA sale of securities evidencing loan to Licensee.
107.204 Collection or compromise of Licensee's indebtedness to SBA.

FINANCING OF SMALL BUSINESS CONCERNS [EQUITY CAPITAL FINANCING; LONG-TERM LOANS; AND OTHER PERMISSIBLE FINANCING]

107.301 General.

EQUITY CAPITAL

107.302 Equity capital.
107.303 Stock options or warrants; conversion rights.
107.304 Refinancing; first refusal on new indebtedness.

LONG-TERM LOANS

107.401 Provisions applicable to long-term loans.

OTHER PERMISSIBLE FINANCING

107.501 SBIC guarantee of loans.
107.502 Acquisition of stock options or warrants from an affiliate of a portfolio concern.
107.503 Commitments.
107.504 Special Discretionary Portfolio.

MANAGEMENT CONSULTING SERVICES

107.601 Management consulting services.
107.602 Wholly owned corporation for management consulting services.
107.603 Services to banks or other investors or lenders.

CONTROL OF LICENSEE

107.701 Changes in ownership or control of Licensee.
107.702 Common control.
107.703 Pledge of Licensee's shares.

LAWFUL OPERATIONS

107.801 Amendments to Act and regulations.
107.802 Other laws.
107.803 Operations under Act.
107.804 Identification as SBIC.
107.805 Postlicensing issuance of securities.
107.806 Retention of loans and investments.
107.807 Purchase of securities from another Licensee.
107.808 Idle funds.
107.809 Investment adviser.
107.810 Assets acquired in liquidation.
107.811 Additional investment by bank.

RESTRICTED ACTIVITIES

107.901 Control of small business concern.
107.902 Voluntary capital decrease.
107.903 Mergers, consolidations, and reorganizations.

PROHIBITIONS

107.1001 Prohibited uses of funds.
107.1002 Capital impairment.
107.1003 Inactive Licensees.
107.1004 Conflicts of interest.
107.1005 Sale of portfolio securities to competitors of portfolio concern or Licensee's Associates.
107.1006 Excess real estate investments of SBIC's licensed prior to March 19, 1966.
107.1007 No Government sponsorship.
107.1008 Violations based on false filings and nonperformance of agreements with SBA.

EXAMINATIONS, ACCOUNTS, RECORDS, AND REPORTS

107.1101 Examinations.
107.1102 Records and reports.
107.1103 Internal control.
107.1104 Fidelity insurance.
107.1105 Reporting postlicensing changes in activities not involving change of control or not otherwise subject to SBA prior approval.

INVESTIGATIONS AND COMPLIANCE

107.1201 Investigations.
107.1202 Enforcement actions.
107.1203 Exemption from civil penalties.

EXEMPTIONS

107.1301 Exemptions.
107.1302 Savings clause.

AUTHORITY: The provisions of this Part 107 issued under sec. 308, 72 Stat. 694, as amended; 15 U.S.C. 687.

§ 107.1 Scope of Part 107.

The regulations in this Part 107 implement the functions, powers, and duties conferred on SBA by the Small Business Investment Act of 1958, as amended.

§ 107.2 Information, forms, and instructions.

All SBA forms and instructions for their preparation referred to throughout the regulations in this Part 107 have been filed with the Office of Federal Register as part of the original document. Copies may be obtained from SBA, 1441 L Street NW., Washington, D.C. 20416. All applications, reports, or other forms filed with SBA must be completed in accordance with applicable instructions.

DEFINITIONS

§ 107.3 Definition of terms.

Act. "Act" means the Small Business Investment Act of 1958, as amended.

Associate of a Licensee. "Associate of a Licensee" means:

(a) An officer, director, general manager, or investment adviser of such Licensee, or any person or firm regularly serving such Licensee in the capacity of attorney at law; or

(b) Any person which owns or controls, directly or indirectly, 10 or more percent of any class of stock of such Licensee; or

(c) Any officer, director, partner, general manager, employer, or employee of any person described in paragraphs (a) and (b) of this section; or

(d) Any person which directly or indirectly controls, or is controlled by, or is under common control with, a Licensee or any person described in paragraphs (a) and (b) of this section; or

(e) Any close relative of any person described in paragraphs (a) and (b) of this section; or

(f) Any concern in which (1) any person described in paragraphs (a) through (e) of this section is an officer or director or (2) any such person (or group of two or more such persons acting in concert) owns or controls, directly or indirectly, 10 or more percent equity interest (exclusive of any interest attributable solely to ownership of equity interests in the Licensee); and

(g) For the purposes of this definition, any person which has held any of the positions or relationships described in paragraphs (a) through (f) of this section within 6 months prior to the date of financing provided by the Licensee, or which holds any such position or relationship within 6 months after the date of such financing, shall be deemed to have such position or relationship as of the date of Licensee's financing.

Close relative. "Close relative" means ancestor, lineal descendent, brother or sister and lineal descendants of either, spouse, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law.

Control. "Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Licensee or a small business concern, whether through the ownership of voting securities, by contract, or otherwise.

Debtor Licensee. "Debtor Licensee" means a Licensee indebted to SBA, including SBA guaranties and commitments with respect thereto.

Investment Adviser. "Investment Adviser" of a Licensee means a person who, pursuant to written contract, regularly furnishes advice to such Licensee with respect to the acquisition, servicing, or disposition of portfolio securities, or securities acquired as assets in liquidation. The provisions of § 107.809 govern Licensee's employment of an Investment Adviser.

License. "License" means the grant of authority, evidenced by a certificate issued by SBA pursuant to section 301 of the Act, authorizing a company to conduct operations solely as a Federal Licensee in accordance with the provisions of the Act and regulations thereunder.

Licensee. "Licensee" means a corporation chartered under State law, and granted a license by SBA.

Person. "Person" means a natural person or legal entity.

Portfolio. "Portfolio" means the securities representing a Licensee's total outstanding financing of small business concerns. It does not include Idle Funds or assets acquired in liquidation.

Portfolio concern. "Portfolio concern" means a small business concern financed by a Licensee in exchange for debt or equity securities which are still outstanding and constitute part of Licensee's Portfolio.

Real estate investment. "Real estate investment" means a Licensee's financing of a small business concern which is classified as a real estate concern under Major Group 65 of the Standard Industrial Classification Manual prepared by the Bureau of the Budget, and available from the U.S. Government Printing Office.

1940 Act Company. "1940 Act Company" means a Licensee which is registered under the Investment Company Act of 1940.

SBA. "SBA" means the Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

Small business concern. "Small business concern" means a concern (including affiliates as defined in § 121.3-2), which for purposes of size eligibility, meets the applicable size standards and criteria set forth in § 121.3-11 of this chapter.

Venture Capital. For purposes of this part, the following types of financings will be considered Venture Capital:

1. Common and Preferred Stock with no repurchase requirement for 5 years, except as may be specifically approved by SBA under § 107.901 of the regulations of this part for purposes of relinquishing control of a small business concern.

2. Any right to purchase such stock.

3. Debentures or loans (whether or not convertible or having stock purchase rights) which are unsecured and carry an effective interest rate of not to exceed 10 percent, and which

(a) are subordinated by their terms to all borrowings of the small concern from other institutional lenders; or

(b) have no part amortized during the first 3 years.

OPERATIONAL REQUIREMENTS

§ 107.101 Operational requirements.

New and existing Licensees shall comply with the following requirements:

(a) *Management.* A full time, qualified officer, general manager, or common manager employed by two or more Licensees subject to prior written approval by SBA, shall be in charge of Licensee's operations. A general manager, or common manager, shall be deemed an officer of such Licensee.

(b) *Office.* The Licensee shall maintain a reasonably accessible office, which will display the name of the Licensee and be open to the public during regular business hours. The License certificate shall be displayed in a prominent place in the principal office.

(c) *Independent board members.* The board of directors shall consist of at least five members, 40 or more percent of whom shall be independent members not affiliated in some other capacity, directly or indirectly, with the Licensee or its Associates.

(d) *Diversified investment policy.* Unless specifically authorized in writing by SBA, a Licensee shall not maintain more than one-third of its portfolio, as of the close of any full fiscal year, in any small business concern or concerns classified under any single Major Group of the Standard Industrial Classification Manual issued by the Bureau of the Budget.

(e) *Minimum capital.* Every Licensee shall have a combined private paid-in capital and paid-in surplus in an amount (1) not less than $150,000, and (2) adequate to assure a reasonable prospect that the company will be operated soundly and profitably, and managed actively and prudently in accordance with the Act and Regulations.

(f) *Borrowed funds.* Shareholders owning 10 or more percent of any class of Licensee's stock may not use borrowed funds in purchasing said stock, unless the net worth of each such shareholder is equal to at least twice the amount borrowed.

(g) *Time-limit for compliance.* Existing Licensees shall bring themselves into compliance with the requirements of paragraphs (a), (b) and (c) of this section not later than June 30, 1968.

PROCEDURE FOR OBTAINING LICENSE

§ 107.102 License application.

The license application shall be submitted on SBA Form No. 415 in accordance with accompanying instructions. A license fee of $500 shall be paid to SBA simultaneously with the filing of such application.

§ 107.103 Public notice.

SBA shall cause notice to be published in the FEDERAL REGISTER setting forth relevant information concerning the filing of the application for license. The notice shall include the name and location of the proposed Licensee, the area (or areas) in which it is to commence operations, the names and addresses of its Agent for Correspondence and of its officers, directors, and owners of 10 or more percent of its capital stock, and such other information as SBA may deem appropriate. The notice shall provide an opportunity to submit written comments within a designated period of time. A similar notice as prescribed by SBA, shall be published in a newspaper of general circulation in the city or local area (or areas) where the proposed Licensee is to commence operations, and a copy thereof shall be furnished to SBA within 10 days after such publication.

§ 107.104 Transferability of license.

A license is not transferable in any manner except under circumstances expressly approved in writing by SBA.

§ 107.105 Surrender of license.

A Licensee shall not surrender its license without prior written approval of SBA. Request for such approval shall be accompanied by Licensee's offer of immediate payment of all debts owing to SBA, or by a plan satisfactory to SBA for the fair and orderly liquidation of such obligations. Upon receipt of Licensee's request, SBA may remove Licensee's name from its published lists of Licensees, and may conduct an examination of the Licensee to ascertain the state of its affairs. In granting its approval, SBA may impose such terms and conditions as it may determine appropriate.

BORROWING BY LICENSEE

§ 107.201 SBA funds to Licensee.

Application for the purchase of debentures pursuant to section 303(b) of the Act shall be submitted to SBA on SBA Form No. 416 in accordance with accompanying instructions.

§ 107.202 SBA funds available under section 303(b)(2) of the Act based on Venture Capital financing.

(a) In order to qualify for SBA funds under section 303(b)(2) of the Act, at least 65 percent of a Licensee's total funds available for investment must be actually invested (or committed) in Venture Capital financing of small business concerns.

(b) The term, "total funds available for investment," means Licensee's total assets, except fixed assets and equipment and deferred charges.

(c) Maintenance of Venture Capital ratio: A Licensee indebted pursuant to section 303(b)(2) of the Act shall maintain at least the ratio required by (b) thereof as of March 31 and September 30 of each year: *Provided, however,* That subject to SBA approval a Licensee may temporarily maintain a lesser ratio. Approval may be granted to the extent necessary in appropriate cases, including prepayments of Venture Capital investments, raising of additional private capital, and SBA funds provided to the Licensee less than 3 months prior to these dates.

§ 107.203 SBA sale of securities evidencing loan to Licensee.

SBA may, in its discretion and upon such terms and conditions and for such consideration as shall be deemed to be reasonable, sell, assign, transfer or otherwise dispose of any debenture, or other evidence of debt or security held in connection with any loan made by SBA under the Act.

§ 107.204 Collection or compromise of Licensee's indebtedness to SBA.

The Administrator or his delegate may, in his discretion, and upon such terms and conditions and for such consideration as he shall deem reasonable, collect or compromise all obligations assigned to or held by SBA and all legal and equitable rights accruing to it in connection with such obligations.

FINANCING OF SMALL BUSINESS CONCERNS (EQUITY CAPITAL FINANCING; LONG-TERM LOANS AND OTHER PERMISSIBLE FINANCING)

§ 107.301 General.

(a) *Minimum period of financing and maximum amortization.* Except as otherwise provided for in these regulations, all financing of small business concerns by a Licensee shall be for a minimum period of five (5) years, but voluntary prepayment shall be permitted. Amortization during the first 5 years shall not be required at the rate exceeding an accumulated average of 20 percent of principal per year.

(b) *Maximum interest rate and related charges.* The maximum annual cost to a small business concern for average outstanding net funds advanced or guaranteed by the Licensee shall not exceed the lesser of:

(1) The maximum allowable cost prescribed by applicable State or local law; or

(2) Fifteen (15%) percent.

Cost shall include all interest and discount as well as all fees, commissions, charges, etc. (other than charges for management consulting services duly rendered), against such concern at the time of the financing. Such fees, charges, etc. shall be treated as additional discount for this purpose.

(c) *Twenty (20%) percent limitation.* (1) Without prior written SBA approval, the aggregate amount of obligations and securities acquired and for which commitments or guarantees may be issued by any Licensee for any single small business concern (including affiliated concerns as defined in Part 121 of this chapter) shall not exceed twenty (20%) percent of Licensee's combined paid-in capital and paid-in surplus.

(2) For this purpose, the combined paid-in capital and paid-in surplus of any SBIC licensed prior to January 1, 1968, shall consist of (i) its paid-in capital and paid-in surplus and (ii) the following portions of the funds outstanding from SBA through the issuance of subordinated debentures as of January 1, 1968, or on January 1 of each of the following calendar years, whichever is less: (a) One hundred (100%) percent, during 1968; (b) seventy-five (75%) percent, during 1969; (c) fifty (50%) percent, during 1970; (d) twenty-five (25%) percent, during 1971; and (e) zero, during 1972 and thereafter: *Provided, however,* That a reduction of Licensee's investment limit as a result of the operation of this subparagraph shall not impair the validity of any prior investment or commitment made in accordance with applicable provisions in effect at the time such investment or commitment was entered into.

(3) The twenty (20%) percent limitation of Licensee's investments in a single concern shall apply to the amount of funds disbursed and commitments issued to a portfolio concern, as distinguished from the face amount of the portfolio security. However, a write-down in carrying value of a portfolio security shall not reduce the amount which is computed against the limitation.

(d) *Short-term financing to protect investment.* Short-term advances may be made to a portfolio concern when reasonably necessary to protect Licensee's existing long-term investment in such concern, but the sum of such advances and the outstanding amount of its previous investment shall not exceed the 20 percent limit prescribed by paragraph (c) of this section. Such short-term advances may not be made if the purpose is to take care of the normal short-term requirements of the small business concern.

(e) *Size status declaration.* No financing (or management consulting services) shall be provided by a Licensee to any business concern unless (1) the Licensee and such concern have executed SBA Form 480, Size Status Declaration, including Licensee's determination that applicable size standards have been met, or (2) at the request of the Licensee or such concern, SBA has determined that the latter is a small business concern. The Licensee shall retain the completed SBA Form 480 as part of its records available for examination by SBA.

(f) *Settlement statement.* Upon the making of each financing of a small business concern, Licensee shall prepare a settlement statement describing, among other relevant particulars, the amount and purpose of financing, the type of security or other instrument evidencing Licensee's financing, interest rate, the amount of discount, fees, commissions, and charges together with informative identifying details, and the percentage of actual or potential ownership in the small business concern represented by the Licensee-held financing documents and accompanying rights. The original of the settlement statement shall be furnished to the small business concern and a receipted copy thereof, together with the financial statements of such concern, shall be retained by the Licensee as a part of its records available for examination by SBA.

(g) *Nondiscrimination.* Debtor Licensees shall require small business concerns financed by them after January 9, 1968, to certify on SBA Form No. 652-D that they will not illegally discriminate in their operations, employment practices or facilities, as set forth in Part 113 of this chapter. Such certification shall be retained by the Licensee as a part of its records available for examination by SBA.

EQUITY CAPITAL

§ 107.302 Equity capital.

(a) "Equity capital" means funds received by an incorporated small business concern from a Licensee as the consideration for the issuance of Equity Securities by such concern to such Licensee.

(b) Equity Securities means:

(1) Certificates of stock of any class with or without a right to convert to another class of stock or containing rights or privileges in the nature of stock warrants or options.

(2) Instruments which evidence a debt and which provide a right or privilege to convert all or any portion of the debt instruments into stock of the small business concern, or provide nondetachable or detachable stock purchase warrants or options, or provide both a right or privilege to convert all or any part of the debt instruments into stock and also detachable stock purchase warrants or options.

§ 107.303 Stock options or warrants; conversion rights.

(a) The total cost of all shares of stock which may be acquired through the exercise of options, warrants, or conversion rights shall not exceed the amount of Equity Capital supplied to the small business concern.

(b) Where short-term financing is furnished by a Licensee to protect its interests in previously acquired Equity Securities issued by a portfolio concern, such short-term financing may also incorporate stock acquisition rights on terms and conditions similar to those provided for in connection with the original financing.

(c) Stock purchase warrants or options issued in connection with Equity Securities shall expire not later than 10 years from the date of the issuance of such Equity Securities.

§ 107.304 Refinancing; first refusal on new indebtedness.

Whenever a Licensee provides Equity Capital to a small business concern, it may require such concern to (a) refinance any or all of its outstanding indebtedness so that the Licensee is the only holder of any evidence of indebtedness of such concern and/or (b) agree not to incur any new indebtedness without first obtaining Licensee's approval and afford such Licensee an opportunity to finance such new indebtedness: *Provided, however,* That the Licensee shall allow appropriate exceptions for open account or other short-term credit.

LONG-TERM LOANS

§ 107.401 Provisions applicable to long-term loans.

See section 305 of the Act and § 107.301.

OTHER PERMISSIBLE FINANCING

§ 107.501 SBIC guarantee of loans.

A Licensee may guarantee to lending institutions up to ninety (90) percent of (a) the obligation of a portfolio concern under any note, debenture, or other evidence of indebtedness or (b) short-term advances to such concern: *Provided, however,* That (1) the total amount for which Licensee may be liable on such guarantees shall not exceed the amount of Licensee's debt or equity financing of such concern and (2) such financing plus the amount of the guarantees do not exceed the 20 percent limit applicable to investments in a single concern under § 107.301(c). Guarantees may be issued only at the request of the portfolio concern or where necessary to protect Licensee's existing investment in such concern.

§ 107.502 Acquisition of stock options or warrants from an affiliate of a portfolio concern.

A Licensee may, in exchange for financing provided to a portfolio concern, acquire stock purchase warrants or options in an affiliated concern, as defined in § 121.3-2 of this chapter.

§ 107.503 Commitments.

(a) *General.* A Licensee is authorized to enter into a commitment to furnish financing to a small business concern. A reasonable commitment fee may be charged.

(b) *Repayment period as to funds advanced pursuant to Licensee's commitment.* (1) Where a Licensee enters into a commitment to finance a small business concern, disbursement in whole or in part to be made on the request of such concern, it shall be lawful (notwithstanding the maturity provisions of § 107.301(a)) to provide for repayment as follows:

(i) Any funds advanced during the first 2 years of the commitment period may become due and payable 5 years after date of the commitment; and

(ii) Any funds subsequently advanced during the commitment period may be for a period of 3 years from respective dates of disbursement.

(2) Amortization of each disbursement made shall not be required at an annual average rate in excess of the principal amount thereof divided by the number of years of the applicable repayment period.

(c) *Stock options and warrants.* Where a Licensee enters into a commitment to provide financing to a small business concern, and the financing agreement calls for the issuance of stock options or warrants, Licensee may acquire such options or warrants up to the full amount of funds disbursed, and up to 25 percent of the undisbursed portion of any commitment obligation not attributable to any default on Licensee's part.

§ 107.504 Special Discretionary Portfolio.

(a) *Authorization.* A Licensee may establish and maintain a Special Discretionary Portfolio. The maximum amount which may be invested and outstanding in such portfolio at any time shall not exceed 20 percent of the Licensee's total adjusted assets as of the date of its most recently required financial report to SBA. "Total adjusted assets" means total assets reduced by outstanding indebtedness of the Licensee to SBA and other loans having maturities of less than 1 year.

(b) *Investments permitted.* Notwithstanding otherwise applicable provisions of this Part 107 (which are hereinafter more specifically identified in subparagraphs of this paragraph), except restrictive provisions required under the Act, a Licensee may make the following types of investments up to the maximum authorized by paragraph (a) of this section:

(1) *Amortization rate of forty (40%) percent per annum.* Notwithstanding the provisions of § 107.301(a), financing with a minimum term of 5 years amortized at a rate not exceeding 40 percent per annum of the declining principal balance outstanding, except for the final year of the term.

(2) *Short-term financing of portfolio concerns.* Notwithstanding the provisions of § 107.301(a), financing with a term of less than 5 years to a portfolio concern when it constitutes a reasonably necessary part of the overall sound financing of such concern pursuant to the Act. This authority shall supplement that available to Licensees under § 107.301(d) relating to short-term financing to protect a Licensee's investment, but the sum of all short-term financing for any purpose and the outstanding amount of Licensee's long-term investment in such concern shall not exceed the 20 percent limit prescribed by § 107.301(c).

(3) *Equity securities of portfolio concerns purchased from nonissuer.* Notwithstanding the provisions of § 107.302, equity securities of a portfolio concern purchased in the open market or through negotiated transactions when such acquisition constitutes a reasonably necessary part of the overall sound financing of such concern pursuant to the Act.

MANAGEMENT CONSULTING SERVICES

§ 107.601 Management consulting services.

(a) *Nature of services.* Management consulting services shall consist only of advice with respect to the financial, management and operating activities of a small business concern; and shall not include performance by the Licensee of any financial, management or operating activity of the small business concern. The words, "management consulting services", shall have the same meaning as the phrase, "consulting and advisory services", in section 308(b) of the Act.

(b) *Services through independent contractor.* Management consulting services may be performed through an independent consultant under contract with the Licensee, whether or not such consultant has similar contracts with other Licensees.

(c) *Records.* A Licensee shall maintain a record for examination by SBA of the time spent and charges made with respect to management consulting services performed for each small business concern financed by the Licensee. Such charges shall not exceed comparable reasonable charges by established professional non-Licensee consultants and consulting firms.

§ 107.602 Wholly owned corporation for management consulting services.

(a) *Organization of subsidiary.* A Licensee may organize a corporation for the sole purpose of providing management consulting services subject to the provisions of § 107.601.

(1) All of its stock shall be owned and held by such Licensee; the parent-Licensee shall not sell, transfer or otherwise divest itself of any part of such stock, but it may transfer back any part thereof to the treasury of the wholly owned subsidiary corporation, whereupon such stock shall be forthwith retired and canceled. If the subsidiary corporation is liquidated, its charter shall be surrendered and terminated.

(2) Each officer and director of the subsidiary corporation must be at the same time either an officer or director of the parent-Licensee.

(3) Licensee's financial investment in its subsidiary corporation shall not exceed 1 percent of Licensee's paid-in capital and paid-in surplus. Advances and other receivables due the parent-Licensee by its subsidiary corporation shall not exceed 1 percent of Licensee's paid-in capital and paid-in surplus.

(b) *Licensee's responsibility.* The parent-Licensee shall be responsible for compliance by its subsidiary corporation with the Act and regulations pursuant thereto. Reports submitted to SBA by the parent-Licensee shall reflect consolidated figures covering the activities of both corporations. The subsidiary shall make such separate reports concerning its activities as shall be required by SBA; it shall be subject to examination and in the event of its failure to make required reports or to submit to SBA examinations, such failure may be acted upon by SBA as an act of noncompliance on the part of the parent-Licensee which shall subject the latter to the imposition of penalties or other sanctions authorized by the Act and regulations thereunder.

§ 107.603 Services to banks or other investors or lenders.

A Licensee may render services for and receive compensation from banks or other investors or lenders only in connection with the financing of, or the providing of management consulting services to, a small business concern by the Licensee in participation or cooperation with such bank or other investors or lenders.

CONTROL OF LICENSEE

§ 107.701 Changes in ownership or control of Licensee.

(a) Transfer of control of a Licensee by any means whatsoever shall be subject to prior written approval of SBA.

(b) Prior approval requirements: Prior written approval of SBA shall be required in case of—

(1) A proposed transfer of 10 or more percent of the capital stock issued by a Licensee; or

(2) A proposed transfer which would result in the acquisition of beneficial ownership by any person or affiliated group of persons of 10 or more percent of its capital stock; or

(3) Any proposed change with respect to the beneficial ownership of its capital stock which involves or results in a change in control over a Licensee.

(c) Unless prior written approval of SBA is obtained, no such transaction shall be consummated and neither the Licensee, nor any of its officers, directors, employees or other persons acting on its behalf shall:

(1) Register on its books any transfer of shares to the proposed new owner (or owners); or

(2) Permit the proposed new owner (or owners) to exercise voting rights with respect to said shares or participate in any manner in the conduct of Licensee's affairs.

(d) Terms used:

(1) "Transfer", "stock transfer" or "transfer of shares" refers to the aggregate amount of shares which any person or affiliated group of persons transfers or authorization as to such voting rights (6) month period.

(2) "Exercise of voting rights with respect to shares of Licensee's capital stock" shall include directly or indirectly procuring or voting any proxy, consent, or authorization as to such voting rights at any shareholders' meeting.

(3) "Participation in the conduct of Licensee's affairs" shall include access to, custody of, or control over Licensee's corporate books, records, funds, or other assets; participation directly or indirectly in any disposition thereof; or serving as an officer, director, employee or agent of such Licensee.

(e) Transferors' liability: SBA may in its discretion, as a condition of granting or renegotiating loans to a Licensee, require the controlling shareholder(s) to enter into a written agreement assuming personal liability for such Licensee's indebtedness to SBA, but only in the event of their direct or indirect participation in any violation of the prior approval requirements of this section applicable to transfers of control. Such personal liability will terminate if SBA subsequently approves the transfer of control and so notifies the transferor(s) in writing.

(f) Application for approval: Application for prior SBA approval shall be promptly filed by the Licensee on SBA Form 414A and by other parties in interest by appropriate written notice to SBA. Such application shall be accompanied by a processing fee in the amount of $100 for each officer, director, owner of 10 or more percent of Licensee's stock, or other interested party involved in a proposed change of control: *Provided, however,* That the processing fee shall not exceed $400 for any one transaction.

(g) Public notice: SBA shall cause notice to be published in the FEDERAL REGISTER setting forth information concerning the filing of an application for approval of a proposed transfer of control. The notice shall include the name and location of the Licensee and of the proposed transferees who will own 10 or more percent of any class of its stock, and such other information as SBA may deem appropriate. The notice shall provide interested parties an opportunity to submit written comments, for SBA's consideration within a specified period of time. A similar notice as prescribed by SBA shall also be published in a newspaper of general circulation in the city or local area (or areas) where the Licensee is located (or is to be located and conduct operations if the proposed transfer is approved), and a copy thereof shall be furnished to SBA within 10 days after such publication.

(h) Standards governing SBA approval:

(1) SBA may, as a condition of granting approval of a proposed transfer of control, require an increase in Licensee's capitalization pursuant to section 302(a) of the Act.

(2) SBA may condition its approval on the assumption in writing by the new owners of contractual liability for a Licensee's indebtedness to SBA in the event of their noncompliance with the prior approval requirements of paragraphs (a) or (b) of this section. SBA may also condition its approval on other requirements deemed necessary.

(3) SBA approval shall be contingent upon full disclosure by Licensee, and other parties concerned including information identifying the real parties in interest, describing the source of the funds used to effect the transaction, and setting forth such other data as SBA may request concerning the facts, events and circumstances involved.

(i) Reporting transactions involving possible transfer of control: The Licensee shall, upon obtaining knowledge thereof, promptly report to SBA the relevant facts pertaining to any transaction or event which affords reasonable grounds for belief that a transfer of control over such Licensee is involved or is likely to doubt as to whether the nature or extent of a particular transaction or event is such as to involve or result in a change of control, such doubt shall be resolved in favor of reporting the facts to SBA.

§ 107.702 Common control.

A Licensee shall not have an officer or a director who at the same time is either an officer or director of any other Licensee (except a common manager approved by SBA), nor shall 10 or more percent of the stock of any Licensee be owned or controlled, directly or indirectly, by an officer or director of, or by any party owning or controlling, directly or indirectly, 10 or more percent of the stock of another Licensee.

§ 107.703 Pledge of Licensee's shares.

Whenever 10 or more percent of a Licensee's stock is pledged or hypothecated by any person (or group of two or more persons acting in concert) as collateral for an indebtedness, and such pledge or hypothecation does not involve any transfer for which prior approval is required under § 107.701, written notice setting forth the terms of such transaction shall be furnished to SBA by the person (or persons) making such pledge or hypothecation within 5 calendar days from the date of the pledge or hypothecation.

LAWFUL OPERATIONS

§ 107.801 Amendments to Act and regulations.

A Licensee shall be subject to all existing and future provisions of the Act and regulations issued thereunder.

§ 107.802 Other laws.

Each Licensee shall comply with all applicable State or Federal law affecting its operation.

§ 107.803 Operations under Act.

A Licensee shall engage in and conduct only the activities set forth in and contemplated under the Act and shall not engage in or conduct any other activities.

§ 107.804 Identification as SBIC.

Any written communication made by or at the behest of a Licensee, shall identify that Licensee as "a Federal Licensee under the Small Business Investment Act of 1958."

§ 107.805 Postlicensing issuance of securities.

A Licensee may issue any of its securities, including stock options to management and employees, for (a) cash, (b) direct obligations of, or obligations guaranteed as to principal and interest by, the United States, (c) securities of which it is the issuer, in connection with a reclassification approved by SBA, (d) services previously rendered to the Licensee not to exceed fair value thereof, (e) physical assets to be currently employed in the operation of the Licensee at fair market value thereof, (f) as a dividend, and (g) in connection with a merger, consolidation, or reorganization approved by SBA: *Provided, however,* That any shares of stock issued as part of Licensee's minimum capital pursuant to § 107.101(c) must be paid for in cash or securities permitted by the last sentence of section 308(b) of the Act.

§ 107.806 Retention of loans and investments.

A Licensee may retain its investment in a concern which qualified as a small business concern at the time of Licensee's initial financing but which subsequently became large. Securities of a large business received by a Licensee in connection with the merger, consolidation, or affiliation of a portfolio concern with such large business may be retained as long as continued ownership does not interfere with the Licensee's ability to maintain on hand funds in adequate supply for the financing of small business concerns. The Licensee may, however, in any event retain such securities until it has fully recovered the amount of its original investment plus a reasonable return thereon. Additional financing may be provided only to the extent necessary (a) to honor a commitment made while the concern still qualified as a small business concern or (b) to protect Licensee's original investment.

§ 107.807 Purchase of securities from another Licensee.

A Licensee may exchange with or purchase for cash from another Licensee, without recourse against the seller (except for such liability as may result from the falsity of representations or warranties as to matters of fact), portfolio securities (or any interest therein) acquired from small business concerns, by such Licensee or any other Licensee: *Provided, however,* That a Licensee shall not have invested at any one time more than one-third of its total assets in such securities of small business concerns through such exchanges or purchases.

§ 107.808 Idle funds.

Idle funds of a Licensee not employed in current financing of small business concerns and not invested in accordance with the last sentence of section 308(b) of the Act shall, without delay, be placed on demand deposit, or in Time Certificates of Deposit maturing not later than 1 year after issuance, but only up to the insured amount, in any bank or banks which are members of the Federal Deposit Insurance Corporation: *Provided, however,* That a Licensee may maintain an imprest petty cash fund in an amount not to exceed $500 at any one time.

§ 107.809 Investment adviser.

(a) *General.* A Licensee may contract in writing with an individual or non-Licensee concern to serve on a continuing basis as its investment adviser. Services performed shall be advisory only and shall not include the actual performance of management or operating activities of the Licensee. The Licensee shall, on or before the effective date thereof, furnish SBA with a copy of such contract. Where the Licensee is indebted to SBA, SBA reserves the right to approve the compensation of the investment adviser.

(b) *Common investment adviser.* Two or more Licensees may, with prior SBA approval, contract in writing with an individual or non-Licensee concern to serve on a continuing basis as their common investment adviser.

(c) *Exempt contracts.* Contracts for appraisal, custodial, collection, bookkeeping, accounting, and legal services shall not be considered advisory services for the purposes of this section.

§ 107.810 Assets acquired in liquidation.

Where property is acquired by a Licensee in full or partial satisfaction of an obligation of a portfolio concern, Licensee may incur reasonably necessary expenditures for the care and preservation of such property: *Provided, however,* That except as specifically permitted in writing by SBA, such expenditures (other than ordinary and necessary expenses for the maintenance of such assets) plus Licensee's funds attributable to such assets in liquidation shall not exceed an amount equivalent to Licensee's investment limit under § 107.301(c). Licensee shall take steps to dispose of assets in liquidation within a reasonable period of time.

§ 107.811 Additional investment by bank.

A bank which on January 9, 1968, holds fifty (50%) percent or more of any class of equity securities issued by a Licensee and having actual or potential voting rights, may, pursuant to section 302(b) of the Act, make further investments in such Licensee only if such investments would not increase its percentage holdings of such securities. Such capital increases shall be subject to SBA post-approval under § 107.1105.

RESTRICTED ACTIVITIES

§ 107.901 Control of small business concern.

(a) General: The Act does not contemplate that Licensees shall operate business enterprises or function as holding companies exercising control over such enterprises. Accordingly, neither a Licensee, nor a Licensee and its Associates, nor two or more Licensees may, except as hereinafter set forth, assume control over a small business concern pursuant to management agreements, voting trusts, majority representation on the board of directors, or otherwise.

(b) Presumption of control: Control over a small business concern will be presumed to exist whenever a Licensee, or a Licensee and its Associates or two or more Licensees acting in concert, own, hold, or control, directly or indirectly, voting securities equivalent to (1) 50 or more percent of the outstanding voting securities, if the voting securities of such concern are held by less than 50 shareholders; (2) 25 or more percent of the outstanding voting securities, if the voting securities of such concern are held by 50 or more shareholders, or (3) a block of stock as large as or larger than, any other outstanding block of stock. This presumption may be rebutted by the submission of appropriate evidence satisfactory to SBA.

(c) Temporary control permitted: A Licensee may acquire temporary control over a small business concern in connection with financing supplied to it only where assumption of control is reasonably necessary for the protection of Licensee's investment.

(d) Plan to relinquish or divest control: A Licensee shall not assume control over a small business concern pursuant to paragraph (c) of this section unless it has negotiated and has entered into a fair and reasonable written plan at the time of financing, as a contractual obligation on its part enforceable by the small concern or its shareholders providing for relinquishment of control within a reasonable period of time not exceeding seven years. Such plan shall be subject to SBA's prior written approval. Where the plan appears inadequate or unreasonable, SBA may notify and afford the Licensee and other parties concerned an opportunity to submit evidence as to whether renegotiation of the divestiture plan should be required. SBA

approval shall be contingent upon full disclosure of all relevant facts and shall be subject to such conditions as SBA may determine are appropriate.

(e) The Licensee shall report to SBA in its annual audited financial report (SBA Form No. 468) current prospects for the implementation of the divestiture plan, and additional factors, if any, affecting the status or feasibility of relinquishing control.

(f) Subsequent events affecting plan: Where changed circumstances indicate that a workable arrangement no longer exists, SBA may, on its own initiative or upon application by the Licensee or other interested person, notify and afford the Licensee and other parties concerned an opportunity to submit evidence as to whether renegotiation of the divestiture plan should be required.

(g) Enforcement actions:

(1) Divestiture plans entered into pursuant to this section shall not adversely affect or interfere with enforcement by the Licensee of its legal rights against a concern which has defaulted on its obligations to the Licensee and shall no longer continue in effect as a binding obligation on Licensee's part in the event of such enforcement action.

(2) If the Licensee acquires control of the small business concern as the result of enforcement action taken, the Licensee shall immediately notify SBA and shall take steps to divest itself of control within a reasonable period of time pursuant to a plan approved in writing by SBA. In connection therewith, the Licensee shall be free to negotiate with any appropriate person or entity necessary to accomplish relinquishment of control.

(h) Licensees with existing plans: Licensees which have control of a small business concern on January 9, 1968, shall bring their plans for divestiture of control into compliance with this section not later than March 31, 1968: *Provided, however*, That the plan shall provide for relinquishment of such control within a reasonable period of time, but in no event later than March 31, 1975. Such plans shall be filed with SBA not later than April 30, 1968, and will be subject to SBA written approval in accordance with the provisions of this section.

(i) Prior approval for additional financing: Whenever a Licensee assumes control of a small concern, any additional financing provided by the Licensee to such concern shall be subject to SBA's prior written approval.

§ 107.902 Voluntary capital decrease.

A Licensee shall not voluntarily reduce its paid-in capital and paid-in surplus without prior written SBA approval. A Licensee may not purchase and hold more than 2 percent of any class of its stock without prior written SBA approval.

§ 107.903 Mergers, consolidations, and reorganizations.

Subject to the prior written approval of SBA, a Licensee may participate as a party to a statutory or other type of merger, consolidation, or reorganization with another Licensee or non-Licensee company where the resultant company will qualify as a Licensee. SBA's approval may be conditioned on such reasonable terms and conditions as it determines appropriate.

PROHIBITIONS

§ 107.1001 Prohibited uses of funds.

No funds may be provided by Licensee for:

(a) *Relending, reinvesting, etc.* Relending or reinvesting by the small business concern, except as permitted under § 107.904, nor may funds be provided to a small business concern if the business activity of such concern involves directly or indirectly the investing, lending, or other providing of funds to others in exchange for an equity interest or monetary obligation, purchase or discounting of debt obligations, factoring, or long-term leasing of equipment with no provision for maintenance or repair.

(b) *Financing Licensees.* Use, directly or indirectly, to purchase stock in or otherwise to provide capital for a Licensee, or to repay an indebtedness to accomplish such purpose.

(c) *Investments in unimproved real estate.* The acquisition, or payment of obligations relating to the prior acquisition, by a small business concern of land or improved real estate to be held, without prompt and substantial improvement or development, for resale or leasing to others. Improvement or development shall, for the purposes of this paragraph, be deemed prompt and substantial if (1) an amount equivalent to 50 or more percent of the financing supplied or committed by Licensee is used for land improvement, new construction, renovation, or other types of improvement or development, and (2) such improvement or development is undertaken within one (1) year from date of acquisition or date of Licensee's financing, whichever is later.

(d) *Purposes contrary to the public interest.* Purposes contrary to the public interest, including but not limited to gambling enterprises and activities, and any purpose which would encourage monopoly or be inconsistent with accepted standards of free competitive enterprise.

(e) *Foreign investment.* Use outside the United States: *Provided, however*, That a Licensee may provide funds to a small business concern which is subject to state or federal jurisdiction, (1) for use in the domestic production of products for distribution abroad, or to acquire abroad materials for such operation or (2) for use in its branch operations abroad or for transfer to its controlled foreign subsidiary; so long as the major portion of the assets and activities of such concern, after funds are so employed, remains within the territorial jurisdiction of the States.

(f) *Passive businesses.* Any person that is not engaged in a business operation conducted as a regular and continuous activity.

(g) *Licensee associated supplier.* A small business concern which purchases goods or services from a supplier; which supplier is an Associate of the Licensee, if 50 percent or more of the funds (or funds of the small business concern released by such financing) are used by the concern to purchase goods or services from such supplier.

(h) *Alcoholic beverages.* Enterprises which derive a substantial portion of their net sales from the sale of alcoholic beverages, where such funds represent proceeds of loans obtained from SBA. Accordingly, within thirty (30) days after the disbursement of any loan funds to Licensee, and thereafter during the period in which any part of such loan, remains unpaid, the Licensee shall maintain assets consisting of cash, eligible Government obligations, and portfolio investments and loans involving enterprises which do not derive a substantial portion of their net sales from the sale of alcoholic beverages (exclusive of all investments and loans already in the Licensee's portfolio at the time that the proceeds of such loans were disbursed), equal in face value to no less than the unpaid principal of such loan.

(i) *Agriculture.* Concerns engaged solely or primarily in the production of agricultural commodities.

§ 107.1002 Capital impairment.

(a) Each Licensee shall maintain at all times an unimpaired capital. An impairment shall be deemed to exist when the retained earnings deficit exceeds fifty (50%) percent of the private paid-in capital and paid-in surplus.

(b) A debtor Licensee shall promptly inform SBA when its retained earnings deficit exceeds thirty-five (35) percent of its combined paid-in capital and paid-in surplus.

(c) For capital impairment purposes, gains may be recognized by SBA only to the extent permitted in Policy and Procedure Release No. 2006; (Guidelines Governing the Realization and Use of Income and Gains).

§ 107.1003 Inactive Licensees.

(a) The Act contemplates that a Licensee shall conduct active operations to meet the needs for financing of small business concerns in its area. Accordingly, inactivity on the part of a Licensee constitutes a violation of these regulations.

(b) A Licensee which has more than twenty-five (25) percent of its assets in Idle Funds (section 306(b) of the Act and § 107.806) shall be presumed inactive if it has not, for a period of more than one year, provided new financing aggregating at least twenty-five (25) percent of said Idle Funds. It shall promptly file with SBA a written report setting forth the reasons for its inactivity. The foregoing presumption may be rebutted by the submission of appropriate written evidence satisfactory to SBA.

§ 107.1004 Conflicts of interest.

(a) *General.* Self-dealing to the prejudice of a small business concern, or of a Licensee or its shareholders, or of SBA, is prohibited.

(b) *Prohibitions.* Except where a written exemption may be granted by SBA in special instances in furtherance of the purposes of the Act—

(1) A Licensee shall not, directly or indirectly, provide financing to any of its Associates.

(2) A Licensee shall not, directly or indirectly, provide financing to an Associate of another Licensee if an Associate of the first Licensee receives, has received, or is about to receive (including receipt pursuant to any understanding, agreement, or cross-dealing, reciprocal or circular arrangement) any direct or indirect financing or a commitment for financing from such other Licensee or a third Licensee.

(3) No Licensee or any of its Associates shall directly or indirectly borrow money from (i) a concern financed by such Licensee or (ii) an officer, director, or owner of 10 or more percent equity interest in such concern, or a close relative of such officer, director, or equity owner.

(4) No Licensee shall directly or indirectly provide financing to a small business concern if the financing is used to provide funds to discharge or to free other funds for use in discharging an obligation of such concern to an Associate of the Licensee.

(5) No Licensee shall directly or indirectly provide financing to a small business concern, except as permitted by § 107.1001(g), if the financing is used to provide funds or to free other funds for use in purchasing property from an Associate of the Licensee.

(6) Where a Licensee provides financing to a small business concern which also receives financing from an Associate of such Licensee within a period of 1 year prior or subsequent thereto, the terms of Licensee's financing shall not be less favorable to the Licensee than those applicable to the financing supplied by its Associate. Licensee shall retain written evidence of such financing by the Licensee and its Associate as part of its records available for examination by SBA.

(c) *Fees or other compensation.* No Associate of a Licensee shall receive, directly or indirectly, from a small business concern any fees or compensation in connection with financing supplied by such Licensee, or any money or thing of value for procuring, attempting to procure, or influencing Licensee's action with respect thereto, except only for bona fide services performed by him at the request of such concern and paid in the manner hereinafter set forth. A reasonable sum for necessary incidental services and costs, including such items as title examination, appraisal, credit report, survey, closing fees and expenses, may be collected by the Licensee and paid to an Associate of the Licensee for services actually rendered by him at the request of the small concern. Such sum shall be approved by the Licensee, and written evidence of the transaction shall be retained as part of Licensee's records available for examination by SBA.

(d) *Public notice.* Prior to an exemption being granted by SBA under paragraph (b) of this section, the Licensee shall publish in a newspaper of general circulation in the locality most directly affected by the transaction, notice thereof as specified by SBA and shall furnish a copy to SBA within 10 days after publication.

(e) *1940 Act companies.* A 1940 Act company which has been granted an exemption by the Securities and Exchange Commission from applicable provisions of said Act and/or implementing rules and regulations with regard to a transaction which is also subject to paragraph (b) of this section, shall be exempt from the provisions thereof: *Provided, however*, That such Licensee shall inform SBA of the exemption granted by the Commission and shall cause prompt public notice thereof, in form specified by SBA, to be published in a newspaper of general circulation as set forth in paragraph (d) of this section, and shall furnish SBA with a copy of such notice within 10 days after publication.

(f) *Protection of investment.* Nothing herein contained is intended to preclude a Licensee from permitting any of its Associates, an employee, or representative from serving an as officer, director, or in any other capacity in the management of a small business concern for the purpose of protecting its investment in or loan to such concern: *Provided, however*, That the person so designated has no other direct or indirect financial interest in the portfolio concern and has not served as an officer or director or in any other capacity in the management of such concern for more than 30 days prior to such financing.

§ 107.1005 Sale of portfolio securities to competitors of portfolio concern or Licensee's Associates.

Except where an exemption may be granted by SBA in special instances (as being in furtherance of the purposes of the Act) no Licensee shall, directly or indirectly, dispose of its portfolio securities to (a) an Associate of such Licensee; or (b) a competitor of the portfolio concern.

§ 107.1006 Excess real estate investments of SBIC's licensed prior to March 19, 1965.

Unless specific SBA approval has been granted authorizing a particular SBIC to maintain more than one-third of its portfolio in permitted real estate investments, SBIC's licensed prior to March 19, 1965, whose real estate investments as of March 31, 1965, exceeded one-third of their portfolio, may retain such investments (not consummated in violation of provisions in effect when made) but shall not undertake further real estate investments until their portfolio is diversified to such extent that the real estate portion thereof constitutes less than one-third in dollar amount of the total portfolio. Thereafter, new real estate investments may be made, subject to the provisions of § 107.1001(c) as long as the one-third limitation is not exceeded.

§ 107.1007 No Government sponsorship.

No Licensee in issuing any security shall represent or imply in any manner that such security has been approved by the United States, or any agency or officer thereof, and a statement to such effect shall be included in any solicitations to investors.

§ 107.1008 Violations based on false filings and nonperformance of agreements with SBA.

The following shall constitute a violation of the regulations in this Part 107:

(a) Nonperformance by a Licensee of any of the terms, conditions, or requirements of any debenture, loan agreement, note, or other written agreement with SBA.

(b) Any false statement knowingly made, or misrepresentation or failure to state a material fact necessary in order to make the statement not misleading in the light of the circumstances under which the statement was made, in any document submitted by a Licensee to SBA pursuant to applicable provisions of the Act or regulations.

EXAMINATIONS, ACCOUNTS, RECORDS, AND REPORTS

§ 107.1101 Examinations.

See section 310(b) of the Act.

§ 107.1102 Records and reports.

(a) *Records.* Each Licensee shall keep current financial records in accordance with generally accepted accounting principles, including the maintenance of books of account in accordance with the System of Account Classifications prescribed by SBA as set forth in Part 111 of this chapter. All such financial records and minutes of meetings of stockholders, directors, executive committees, or other officials; and all files containing pertinent documents and supporting material employed by a Licensee with respect to any and all transactions of the Licensee shall be kept at its principal place of business: *Provided, however*, That there shall be exempted from the foregoing all portfolio items held by a custodian for Licensee pursuant to written custodian agreement. All financial reports furnished to SBA by Licensees shall make full and complete disclosure of all matters relevant to the Act and regulations.

(b) *Preservation of records.* Each Licensee shall maintain and preserve, for the periods hereinafter specified, such accounts, books, and other documents relating to its business as constitute the record forming the basis for financial statements required to be filed pursuant to paragraph (d) of this section, and of the independent public accountant's certificate relating thereto. Each Licensee shall:

(1) Preserve permanently, the first 2 years in an easily accessible place, (i) all general and subsidiary ledgers (or other records) reflecting all asset and valuation, liability, capital stock and surplus, income, and expense accounts; (ii) all general and special journals (or other records forming the basis for entries in such ledgers); and (iii) corporate charter, bylaws, Proposal to Operate, and all minute books, capital stock certificates or stubs, stock ledgers, and stock transfer registers;

(2) Preserve for a period of not less than 6 years following repayment, sale, or other final disposition of the related loan or investment (the first 2 years in an easily accessible place) all applications for financing, all size status declarations, all lending agreements, participation agreements, escrow agreements, financing instruments, capital stock certificates and warrants of small business concerns not surrendered or exercised, and all other documents and supporting material relating to such loan or investment, including correspondence, and

(3) Preserve for a period of not less than six (6) years all vouchers, checkbooks, bank statements, cancelled checks, cash reconciliations, ledger trial balances, memoranda, correspondence, and other documents forming the initial accounting data for entry in, or underlying records in support of, the records enumerated in subparagraph (1) of this paragraph.

(4) Notwithstanding the provisions of subparagraphs (1) through (3) of this paragraph, after any book, document, or other record has been preserved for three (3) years (or 3 years following final disposition of the related loan or investment, when applicable), a photograph or film thereof may be substituted therefor for the balance of the required time and the original destroyed.

(c) *Reports to stockholders.* At the time any financial report (including any prospectus, letter, or other publication with respect to the financial affairs or operations of the Licensee or any of its portfolio small business concerns) is furnished to investors and shareholders of a Licensee, such Licensee shall file with the Office of Investment, SBA, three (3) copies of such report.

(d) *Financial reports to SBA.* (1) Each Licensee shall submit to SBA, at the end of the first 6-month period of each fiscal year, a report containing financial statements covering such 6-month period; at the end of each fiscal year a report containing financial statements for the fiscal year; and, when requested by SBA, interim financial reports. The fiscal year to which such reports shall relate shall be for SBA purposes the period beginning April 1 and ending March 31.

(2) The report as of the end of each fiscal year shall contain, or be accompanied, by, an independent public accountant's opinion on the financial statements for the fiscal year included therein, unless a different 12-month period to be covered by the annual audit is expressly given prior approval in writing by SBA. Such opinion shall be based on an audit of the accounts of the Licensee conducted in accordance with generally accepted auditing standards, and in accordance with the Audit and Examination Guide for Small Business Investment Companies prescribed by SBA, by an independent certified public accountant or an independent licensed public accountant, certified or licensed by a regulatory authority of a State or other political subdivision of the United States, selected or approved by SBA; or, in States or other political subdivisions of the United States which do not license public accountants, an independent public accountant of recognized standing with 10 or more years of public accounting experience, selected or approved by SBA prior to September 8, 1967, to audit the particular Licensee, who fulfills to SBA's satisfaction the requirements established by SBA.

(e) *Forms for financial reports.* The financial reports required by this section to be filed with SBA by Licensees shall be on the prescribed form constituting the Financial Report, SBA Form 468(9–67), which shall be filed in triplicate with the Office of Investment, SBA, Washington, D.C. 20416, on or before the last day of the month immediately following the close of the period covered by the report (in the case of an unaudited report), and on or before the last day of the third month following the close of the period covered by the report (in the case of an audited report).

(1) Licensees which are 1940 Act companies, as defined in § 107.3, should refer to the rules promulgated by the Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, for the requirements as to financial reports to be filed with SEC and the time allowed for filing.

(2) The Financial Report filed by each Licensee shall present fairly the financial position of the Licensee as of the close of the period covered by the report and the results of the Licensee's operations for such period, and shall be prepared in accordance with the Instructions for Preparation of the Financial Report, SBA Form 468(9–67), which instructions are identified as SBA Form 468A(967).

(3) The Financial Report, SBA Form 468, and the instructions pertaining thereto are incorporated in and expressly made a part of this section.

(f) *Program evaluation reports.* (1) The Program Evaluation Report, SBA Form 684, shall be prepared by each Licensee as of March 31 of every calendar year and filed with SBA not later than June 30 of such year, to reflect all transactions involving Licensee's debt or equity financing of small business concerns which were outstanding at any time during the preceding 12-month period ending March 31. The report shall be prepared in accordance with Instructions for Preparation of the Program Evaluation Report, SBA Form 684. The Program Evaluation Report, SBA Form 684, and the instructions pertaining thereto are incorporated in and expressly made a part of this section.

(2) Each Licensee shall, as a condition of all financing agreements consummated or renegotiated with small business concerns after March 25, 1968, require such concerns to furnish to the Licensee all information needed by such Licensee for the preparation and filing of SBA Form 684.

(3) The provisions of Part 102 of this chapter prohibiting the disclosure of information contained in SBA's files, documents and records, apply to Program Evaluation Reports filed with SBA. Information submitted on SBA Form 684 is for SBA's official use in the performance of its statutory responsibilities, and not for public disclosure. It will not be published or released, as a matter of public information, except in the form of statistical totals or summaries which will not divulge the identity of the Licensee or its portfolio of small business concerns.

(g) *Litigation reports.* Every Licensee which is a party in any capacity to litigation or other proceedings, including any action by the Licensee or a security holder thereof in a derivative capacity against an officer, director, investment adviser, or trustee of such Licensee for alleged breach of official duty, shall within 10 days of becoming a party thereto file a report with SBA describing the nature and status of the proceedings, the identity of and Licensee's relationship to other parties involved and, upon SBA's request, submit copies of the pleadings and other documents specified by it. In case such proceedings have been compromised or settled or final judgment has been entered on the merits, the Licensee shall furnish SBA with a statement of the terms of such settlement or compromise, or describing the final judgment entered.

(h) *Copies provided SBA.* Whenever a Licensee files any report, application or document with the Securities and Exchange Commission, it shall concurrently provide SBA with a copy thereof.

(i) *Other reports.* In addition to the reports required elsewhere in this part, each Licensee shall, upon request by SBA, file with the Office of Investment, SBA, such other reports at such times and in such forms as SBA shall require.

§ 107.1103 Internal control.

(a) *General.* Each Licensee shall adopt a plan of organization and coordinate methods and measures designed to safeguard its assets and check the accuracy and reliability of its financial data. Effective control arrangements shall be established and maintained covering the Licensee's personnel, portfolio of investment securities, funds, and equipment.

(b) *Dual control.* With the exception provided for hereinafter, each Licensee shall maintain dual control over disbursement of funds and withdrawal of securities from safekeeping. Disbursements shall be made only by means of checks requiring the signatures of two or more officers of the Licensee, covered by the Licensee's fidelity bond, as drawers of such checks: *Provided, however,* A Licensee may maintain a separate imprest bank account to be drawn upon for the payment of operating expenses. Such imprest bank account shall have an aggregate balance not in excess of $25,000; and such account shall be reimbursed periodically through deposit therein of a check requiring dual signatures and drawn on Licensee's general funds bank account, covering disbursements made from the imprest bank account which have had the postapproval of the two signers of the reimbursement check. Checks drawn upon such imprest bank account in amounts of $1,000 or less may be signed by any authorized bonded officer of the Licensee. Two or more bonded officers or one bonded officer and one bonded employee of the Licensee shall be required to open safe deposit boxes or withdraw securities from safekeeping. Each Licensee shall furnish to each of its depository banks, custodians, and entities providing safe deposit boxes a certified copy of the resolution adopted by its board of directors placing the foregoing control procedures in effect.

§ 107.1104 Fidelity insurance.

(a) Each Licensee shall maintain a fidelity bond in the form and amount set forth by SBA in its Audit and Examination Guide for Small Business Investment Companies which must be executed by a surety holding a certificate of authority from the Secretary of the Treasury pursuant to sections 6–13 of Title 6 of the United States Code as an acceptable surety on Federal bonds. Each officer and employee who has control over or access to cash securities or other property of the Licensee, shall be covered by such fidelity bond.

(b) Each Licensee, at least 30 days prior to making any request to the surety to terminate or cancel such bond, shall notify SBA in writing of its intent to terminate or cancel the bond. Each Licensee shall have as a part of its verified bond a rider or endorsement providing that the surety will notify SBA of its intent to cancel, or the expiration of, the fidelity bond at least 30 days in advance of the effective date of the termination. Each Licensee shall notify SBA immediately in writing of any claim for loss filed under the bond with the surety.

(c) The Audit and Examination Guide for Small Business Investment Companies is incorporated and expressly made a part of this section.

§ 107.1105 Reporting postlicensing changes in activities not involving change of control or not otherwise subject to SBA prior approval.

(a) *Changes to be reported.* Any change of Licensee's name, address, operating area, charter, bylaws, increase in capitalization, financing plans, investment policy, officers, directors, or other changes made with regard to Licensee's affairs not covered by § 107.701 or for which prior approval is not specifically required by any other section of these regulations, shall be reported to SBA not later than thirty (30) days after the events described. All changes shall be subject to SBA postapproval as a condition for the continuance of the license.

(b) *SBA approval.* Reports and requests filed pursuant hereto shall be deemed approved unless Licensee is notified to the contrary by SBA within ninety (90) days after receipt of its request or report. SBA approval shall be contingent upon full disclosure of all relevant facts required by SBA and shall be subject to such conditions as SBA may determine are reasonable under the circumstances.

Investigations and Compliance

§ 107.1201 Investigations.

See section 310(a) of the Act.

§ 107.1202 Enforcement actions.

See sections 308(d), 309, 311, 313, and 315(a) of the Act.

§ 107.1203 Exemption from civil penalties.

(a) Where it is impracticable for a Licensee to submit any report required by any regulation or written directive of the Administrator within the time limit prescribed therefor, the president or chief executive officer of such Licensee may, prior to the required filing date, present a written application to the Administration which (1) identifies such report; (2) certifies to the occurrence of extraordinary events which, according to such certification, make the submission of the report on the prescribed form, on or before the required filing date, impracticable due to no fault on the part of the Licensee; and (3) is accompanied by written evidence in support thereof. Such application shall be submitted as promptly as possible after the occurrence of such events. SBA in its discretion may exempt the Licensee, in whole or in part, from the civil penalty provisions of section 315(a) of the Act otherwise applicable, for such length of time and upon such conditions as SBA determines reasonable in the circumstances.

(b) For the purpose of this section, the term, "impracticable", refers to the existence of conditions which would make it physically impossible or otherwise unreasonable for a prudent businessman to prepare and file the required report on time. Such conditions include death or serious illness of Licensee's key personnel, or unavoidable loss or destruction of books, records or other data by fire, theft, or similar hazards beyond Licensee's control.

Exemptions

§ 107.1301 Exemptions.

A Licensee may file an application in writing with SBA to have a proposed action, which is subject to any procedural or substantive requirement, restriction, or prohibition specified under this part, exempted from applicable provisions thereof. SBA may approve such application and grant an exemption, conditionally or unconditionally, to the extent that such requirement, restriction, or prohibition is not prescribed by statute and exemption therefrom would not be contrary to the Act. Such application must be accompanied by supporting evidence which demonstrates to SBA's satisfaction that (a) the terms of the proposed action are fair and equitable; and (b) the exemption requested is reasonably calculated to advance the best interests of the SBIC program in a manner consonant with the policy objectives of the Act and regulations.

§ 107.1302 Savings clause.

The legality of transactions of a continuing nature consummated with third parties prior to January 9, 1968 (the effective date of Revision 4 of this part), pursuant to former provisions in effect at the time that the Licensee entered into such transactions, shall be governed by such former provisions. Nothing contained herein shall prevent SBA from taking or continuing appropriate enforcement action with respect to any transaction consummated prior to January 9, 1968, in violation of former provisions of this part which were applicable to such transaction at the time it was entered into.

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231

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THE UNIVERSITY OF MICHIGAN
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Agencies in this issue—

Agricultural Research Service
Agricultural Stabilization and Conservation Service
Agriculture Department
Air Force Department
Civil Aeronautics Board
Coast Guard
Commodity Credit Corporation
Comptroller of the Currency
Consumer and Marketing Service
Customs Bureau
Defense Department
Federal Aviation Administration
Federal Communications Commission
Federal Maritime Commission
Federal Power Commission
Federal Reserve System
Fish and Wildlife Service
Hazardous Materials Regulations Board
Housing and Urban Development Department
Interagency Textile Administrative Committee
Internal Revenue Service
Interstate Commerce Commission
Land Management Bureau
Maritime Administration
National Bureau of Standards
Packers and Stockyards Administration
Panama Canal
Securities and Exchange Commission
Transportation Department

Detailed list of Contents appears inside.

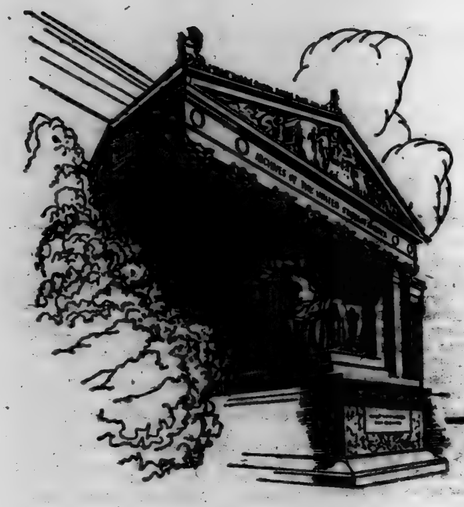

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Contents

AGRICULTURAL RESEARCH SERVICE

Rules and Regulations

Domestic quarantine notices:
- Pink bollworm:
  - Exemptions ... 16388
  - Quarantine and regulations ... 16385
  - Regulated areas ... 16388

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Notices

Sugarcane in Puerto Rico; 1968–69 crop proportionate shares ... 16442

AGRICULTURE DEPARTMENT

See also Agricultural Research Service; Agricultural Stabilization and Conservation Service; Commodity Credit Corporation; Consumer and Marketing Service; Packers and Stockyards Administration.

Rules and Regulations

Honeydew melons; determination of parity prices ... 16385

Notices

North Carolina; designation of areas for emergency loans ... 16442

AIR FORCE DEPARTMENT

Rules and Regulations

Miscellaneous amendments to subchapter ... 16427

CIVIL AERONAUTICS BOARD

Notices

U.S.-Caribbean-South America route investigation; notice of oral argument ... 16444

COAST GUARD

Notices

James River; notice of closing to navigation during launching of the "Charleston (AKA-113)" ... 16444

COMMERCE DEPARTMENT

See Maritime Administration; National Bureau of Standards.

COMMODITY CREDIT CORPORATION

Rules and Regulations

Payment program; price support level for 1968 marketing year:
- Mohair ... 16391
- Shorn wool and unshorn lambs wool (pulled wool) ... 16391

COMPTROLLER OF THE CURRENCY

Rules and Regulations

Bergen County Sewer Authority (New Jersey); investment securities regulation ... 16391

CONSUMER AND MARKETING SERVICE

Rules and Regulations

Milk handling:
- Greater Kansas City marketing area ... 16390
- Indianapolis, Ind. marketing area ... 16389

Navel oranges grown in Arizona and designated part of California; handling limitations ... 16389

CUSTOMS BUREAU

Proposed Rule Making

Importation of motor vehicles and motor vehicle equipment subject to motor vehicle safety standards ... 16432

DEFENSE DEPARTMENT

See also Air Force Department.

Rules and Regulations

Banking institutions serving DOD personnel on military installations ... 16426

Miscellaneous amendments to subchapter ... 16398

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations

Airworthiness directives; British Aircraft Corporation Model BAC 1-11 200 and 400 Series airplanes ... 16391

Control zone and transition area; alteration ... 16392

Foreign civil aircraft in VFR flight operations; special rules ... 16392

IFR altitudes; miscellaneous amendments ... 16392

Proposed Rule Making

Transition area; proposed designation ... 16437

FEDERAL COMMUNICATIONS COMMISSION

Notices

Hearings, etc.:
- CATV of Rockford, Inc., et al ... 16444
- City of Lawrence, Mass., and Four Star Aviation, Inc. ... 16445
- News-Sun Broadcasting Co., et al ... 16445
- Tri-State Broadcasting Co., Inc. (KUPD) ... 16446

FEDERAL MARITIME COMMISSION

Notices

American West African Freight Conference; notice of petition filed for approval ... 16446

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:
- Despot, George, et al ... 16448
- O'Neill, Joseph L., Jr., et al ... 16446
- Louisiana Nevada Transit Co. ... 16450
- Panhandle Eastern Pipe Line Co. ... 16451
- Wilson, Alvin, et al ... 16451

FEDERAL RESERVE SYSTEM

Notices

Central Wisconsin Bankshares, Inc.; order approving application ... 16452

Northwest Bancorporation; order for oral presentation ... 16452

Virginia Commonwealth Bankshares, Inc.; application for approval of acquisition of shares of bank ... 16452

FISH AND WILDLIFE SERVICE

Rules and Regulations

William L. Finley National Wildlife Refuge, Oreg.; hunting ... 16431

HAZARDOUS MATERIALS REGULATIONS BOARD

Proposed Rule Making

Rules of procedure ... 16437

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Notices

Acting Deputy Assistant Secretary for Renewal Assistance and Acting Deputy Assistant Secretary for Housing Assistance; designation ... 16444

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

Notices

Certain textiles and cotton textile products produced or manufactured in Malaysia; entry or withdrawal from warehouse for consumption ... 16453

INTERIOR DEPARTMENT

See Fish and Wildlife Service; Land Management Bureau.

INTERNAL REVENUE SERVICE

Rules and Regulations

Income tax; prepaid dues income of certain membership organizations ... 16393

Proposed Rule Making

Excise taxes; formulas for denatured alcohol and rum ... 16433

(Continued on next page)

INTERSTATE COMMERCE COMMISSION

Rules and Regulations

Freight forwarders; uniform system of accounts 16428

Notices

Fourth section application for relief 16464

Motor carrier, broker, water carrier and freight forwarder applications 16455

LAND MANAGEMENT BUREAU

Notices

Colorado; classification of public lands for multiple-use management (2 documents) 16441

MARITIME ADMINISTRATION

Proposed Rule Making

Guidelines for payment to subsidized operators 16436

Notices

List of foreign flag vessels arriving in North Vietnam on or after January 25, 1966 16443

NATIONAL BUREAU OF STANDARDS

Notices

National Bureau of Standards radio stations; notice of frequency and time broadcasts 16443

PACKERS AND STOCKYARDS ADMINISTRATION

Notices

Market agencies at Omaha Union Stock Yards; petition to vacate order and dismiss proceeding 16442

PANAMA CANAL

Rules and Regulations

Health, sanitation, and quarantine; performance of surgical operations on legally incompetent patients; correction 16428

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:

Interamerican Industries, Inc. 16453

Kjobenhavns Telefon Aktieselskab 16453

North America Research & Development Corp 16454

Pennzoil Co., et al 16454

Penrose Industries Corp 16455

TRANSPORTATION DEPARTMENT

See also Coast Guard; Federal Aviation Administration; Hazardous Materials Regulations Board.

Proposed Rule Making

Standard time zone boundaries; Yukon standard time zone 16439

TREASURY DEPARTMENT

See Comptroller of the Currency; Customs Bureau; Internal Revenue Service.

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

7 CFR

5 16385
301 (3 documents) 16385, 16388
907 16389
1049 16389
1064 16390
1468 16391
1472 16392

12 CFR

1 16391

14 CFR

39 16391
71 16392
91 16392
95 16392

PROPOSED RULES:

71 16437

19 CFR

PROPOSED RULES:

12 16432

26 CFR

1 16393

PROPOSED RULES:

312 16433

32 CFR

1 16398
2 16401
3 16402
4 16403
5 16403
6 16404
7 16405
8 16406
10 16406
12 16407
13 16407
14 16408
18 16415
30 16415
831 16426
1004 16427
1007 16427
1011 16427
1022 16427
1054 16428

35 CFR

61 16428

46 CFR

PROPOSED RULES:

Ch. II 16436

49 CFR

540 16428

PROPOSED RULES:

170 16437
239 16439

50 CFR

32 16431

Rules and Regulations

Title 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture

[Amdt. 20]

PART 5—DETERMINATION OF PARITY PRICES

Honeydew Melons

The regulations of the Secretary of Agriculture with respect to the determination of parity prices (21 F.R. 761, as amended; 7 CFR 5.1–5.6) are amended as hereinafter specified, effective November 30, 1967, in order to add honeydew melons to the list of commodities for which parity prices shall be calculated and to designate honeydew melons as a commodity for which marketing season average prices shall be used for the purpose of calculating adjusted base prices, since it is not practicable to determine the average prices received by farmers for this commodity on a calendar year basis.

1. In § 5.2, the paragraph under the centerhead "Vegetables for Fresh Market" is amended to read as follows:

§ 5.2 Marketing season average price data.

* * * * *

VEGETABLES FOR FRESH MARKET

Artichokes, asparagus, lima beans, snap beans, beets, broccoli, cabbage, cantaloups, carrots, cauliflower, celery, sweet corn, cucumbers, eggplant, escarole, garlic, honeydew melons, kale, lettuce, onions, green peas, green peppers, shallots, spinach, tomatoes, and watermelons.

* * * * *

2. In § 5.4, the paragraph under the centerhead "Vegetables for Fresh Market" is amended to read as follows:

§ 5.4 Commodities for which parity prices shall be calculated.

* * * * *

VEGETABLES FOR FRESH MARKET

Artichokes, asparagus, lima beans, snap beans, beets, broccoli, cabbage, cantaloups, carrots, cauliflower, celery, sweet corn, cucumbers, eggplant, escarole, garlic, honeydew melons, kale, lettuce, onions, green peas, green peppers, shallots, spinach, tomatoes, and watermelons.

* * * * *

(Sec. 301, 52 Stat. 38, as amended; 7 U.S.C. 1301)

Done at Washington, D.C., this 27th day of November 1967.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 67-14010; Filed, Nov. 30, 1967; 8:48 a.m.]

Chapter III—Agricultural Research Service, Department of Agriculture

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Pink Bollworm

Pursuant to sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), Notice of Quarantine No. 52 relating to the pink bollworm and regulations supplemental to said quarantine (7 CFR 301.52, 301.52–1, 301.52–2, 301.52–3 through 301.52–10), are hereby revised to read as follows:

QUARANTINE AND REGULATIONS

Sec.

301.52	Quarantine; restriction on interstate movement of specified regulated articles.
301.52–1	Definitions.
301.52–2	Authorization for Director to list regulated areas and suppressive or generally infested areas; and articles which are exempt from certification and permit requirements.
301.52–3	Conditions governing the interstate movement of regulated articles from quarantined States.
301.52–4	Issuance and cancellation of certificates and permits.
301.52–5	Compliance agreements; and cancellation thereof.
301.52–6	Assembly and inspection of regulated articles.
301.52–7	Attachment and disposition of certificates or permits.
301.52–8	Inspection and disposal of regulated articles and pests.
301.52–9	Movement of live pink bollworms.
301.52–10	Nonliability of the Department.

AUTHORITY: The provisions of this subpart issued under secs. 8, 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150ee; 29 F.R. 16210, as amended, 30 F.R. 5799, as amended.

§ 301.52 Quarantine; restriction on interstate movement of specified regulated articles.

(a) *Notice of quarantine.* Pursuant to the provisions of sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 150ee), the Secretary of Agriculture has determined, after public hearing, that it is necessary to quarantine the States of Arizona, Arkansas, California, Louisiana, New Mexico, Nevada, Oklahoma, and Texas, in order to prevent the spread of the pink bollworm (Pectinophora gossypiella Saund.), a dangerous insect injurious to cotton, okra, and kenaf, not heretofore widely prevalent or distributed within and throughout the United States. Under the authority of said provisions, the Secretary hereby quarantines the State of Nevada and continues to quarantine the other specified States with respect to the interstate movement from the quarantined States of the articles described in paragraph (b) of this section, issues the regulations in this subpart governing such movement, and gives notice of said quarantine and regulations.

(b) *Quarantine restrictions on interstate movement of specified regulated articles.* No common carrier or other person shall move interstate from any quarantined State any of the following articles (defined in § 301.52–1(m) as regulated articles), except in accordance with the conditions prescribed in this subpart:

(1) Cotton and wild cotton, including all parts of such plants.
(2) Seed cotton.
(3) Cottonseed.
(4) Cottonseed hulls.
(5) Cotton lint.
(6) Cotton linters.
(7) Cotton waste produced at cotton gins, cottonseed oil mills, and cotton textile mills.
(8) Cotton gin trash.
(9) Used bagging and other used wrappers for cotton.
(10) Used cotton harvesting equipment and used cotton ginning and cotton oil mill equipment.
(11) Okra and kenaf, including all parts of such plants, except canned or frozen okra.
(12) Any other products, articles or means of conveyance, of any character whatsoever, not covered by subparagraphs (1) through (11) of this paragraph, when it is determined by an inspector that they present a hazard of spread of pink bollworm, and the person in possession thereof has been so notified.

§ 301.52–1 Definitions.

Terms used in the singular form in this subpart shall be deemed to import the plural, and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively to mean:

(a) *Certificate.* A document issued or authorized to be issued under this subpart by an inspector to allow the interstate movement of regulated articles to any destination.

(b) *Compliance agreement.* A written agreement between a person engaged in growing, handling, or moving regulated articles, and the Plant Pest Control Division, wherein the former agrees to comply with the requirements of this subpart identified in the agreement by the inspector who executes the agreement on behalf of the Division as applicable to the operations of such person.

(c) *Director.* The Director of the Plant Pest Control Division, Agricultural Research Service, U.S. Department of Agriculture, or any other officer or employee of said Service to whom authority

to act in his stead has been or may hereafter be delegated.

(d) *Generally infested area.* Any part of a regulated area not designated as a suppressive area in accordance with § 301.52–2.

(e) *Infestation.* The presence of the pink bollworm or the existence of circumstances that make it reasonable to believe that pink bollworm is present.

(f) *Inspector.* Any employee of the Plant Pest Control Division, Agricultural Research Service, U.S. Department of Agriculture, or other person authorized by the Director to enforce the provisions of the quarantine and regulations in this subpart.

(g) *Interstate.* From any State, territory, or district of the United States into or through any other State, territory, or district of the United States (including Puerto Rico).

(h) *Limited permit.* A document issued or authorized to be issued by an inspector to allow the interstate movement of noncertified regulated articles to a specified destination for limited handling, utilization, or processing or for treatment.

(i) *Moved (movement, move).* Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any means. "Movement" and "move" shall be construed accordingly.

(j) *Person.* Any individual, corporation, company, society, or association, or other organized group of any of the foregoing.

(k) *Pink bollworm.* The live insect known as the pink bollworm of cotton (Pectinophora gossypiella Saund.), in any stage of development.

(l) *Regulated area.* Any quarantined State, territory, or district, or any portion thereof, listed as a regulated area in § 301.52–2a by the Director in accordance with § 301.52–2(a).

(m) *Regulated articles.* Any articles described in § 301.52(b).

(n) *Restricted destination permit.* A document issued or authorized to be issued by an inspector to allow the interstate movement of regulated articles not certified under all applicable Federal domestic plant quarantines to a specified destination for other than scientific purposes.

(o) *Scientific permit.* A document issued by the Director to allow the interstate movement to a specified destination of regulated articles for scientific purposes.

(p) *Suppressive area.* That part of a regulated area where eradication of infestation is undertaken as an objective, as designated by the Director under § 301.52–2(a).

(q) *Treatment manual.* The provisions currently contained in the "Manual of Administratively Authorized Procedures To Be Used Under the Pink Bollworm Quarantine" and the "Fumigation Procedures Manual" and any amendents thereto.[1]

§ 301.52–2 Authorization for Director to list regulated areas and suppressive or generally infested areas, and articles which are exempt from certification and permit requirements.

The Director shall publish and amend from time to time as the facts warrant, the following lists:

(a) *List of regulated areas and suppressive or generally infested areas.* The Director shall list as regulated areas in a supplemental regulation designated as § 301.52–2a, the quarantined States, territories, or districts, or portions thereof, in which pink bollworm has been found or in which there is reason to believe that pink bollworm is present, or which it is deemed necessary to regulate because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities. The Director, in the supplemental regulation, may divide any regulated area into a suppressive area and a generally infested area in accordance with the definitions thereof in § 301.52–1. Less than an entire quarantined State, territory, or district will be designated as a regulated area only if the Director is of the opinion that:

(1) The State, territory, or district has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under this subpart; and

(2) The designation of less than the entire State, territory, or district, as a regulated area will otherwise be adequate to prevent the interstate spread of the pink bollworm.

(b) *List of articles which are exempt from certification and permit requirements.* The Director may, in a supplemental regulation designated as § 301.52–2b, list regulated articles which shall be exempt from the certification and permit requirements of § 301.52–3 under such conditions as he may prescribe, if he finds that facts exist as to the pest risk involved in the movement of such regulated articles which make it safe to so relieve such requirements.

§ 301.52–3 Conditions governing the interstate movement of regulated articles from quarantined States.[2]

Any regulated articles may be moved interstate from any quarantined State under the following conditions:

(a) From any regulated area, with certificate or permit issued and attached in accordance with §§ 301.52–4 and 301.52–7 if moved:

(1) From any regulated area into or through any point outside of the regulated areas; or

(2) From any generally infested area into or through any suppressive area; or

(3) Between any noncontiguous suppressive areas; or

(4) Between contiguous suppressive areas when it is determined by the inspector that the regulated articles present a hazard of the spread of the pink bollworm and the person in possession thereof has been so notified; or

(b) From any regulated area, without certificate or permit if moved:

(1) Under the provisions of § 301.52–2b which exempts certain articles from certificate and permit requirements; or

(2) From a generally infested area to a contiguous generally infested area; or

(3) From a suppressive area to a contiguous generally infested area; or

(4) Between contiguous suppressive areas unless the person in possession of the articles has been notified by an inspector that a hazard of spread of the pink bollworm exists; or

(5) Through or reshipped from any regulated area if the articles originated outside of any regulated area and if the point of origin of the articles is clearly indicated, their identity has been maintained and they have been safeguarded against infestation while in the regulated area in a manner satisfactory to the inspector; or

(c) From any area outside the regulated areas, without a certificate or permit if the regulated articles are exempt under the provisions of § 301.52–2b or if the point of origin of such movement is clearly indicated on the articles or shipping document which accompanies the articles and if the movement is not made through any regulated area.

§ 301.52–4 Issuance and cancellation of certificates and permits.

(a) Certificates may be issued for any regulated articles by an inspector if he determines that they are eligible for certification for movement to any destination under all Federal domestic plant quarantines applicable to such articles and:

(1) Have originated in noninfested premises in a regulated area and have not been exposed to infestation while within the regulated areas; or

(2) Upon examination, have been found to be free of infestation; or

(3) Have been treated to destroy infestation in accordance with the treatment manual; or

(4) Have been grown, produced, manufactured, stored, or handled in such manner that no infestation would be transmitted thereby.

(b) Limited permits may be issued by an inspector to allow interstate movement of regulated articles, not eligible for certification under this subpart, to specified destinations for limited handling, utilization, or processing, or for treatment in accordance with the treatment manual, when upon evaluation of the circumstances involved in each specific case he determines that such movement will not result in the spread of the pink bollworm and requirements of other applicable Federal domestic plant quarantines have been met.

(c) Restricted destination permits may be issued by an inspector to allow the interstate movement of regulated articles to any destination permitted under all applicable Federal domestic plant quarantines (for other than scientific purposes) if such articles are not eligible for certification under all such quarantines but would otherwise qualify for certification under this subpart.

(d) Scientific permits may be issued by the Director to allow the interstate movement of regulated articles for scientific purposes under such conditions as may be prescribed in each specific case by the Director.

(e) Certificate, limited permit, and restricted destination permit forms may be issued by an inspector to any person for use by the latter for subsequent shipments provided such person is operating under a compliance agreement; and any such person may be authorized by an inspector to reproduce such forms on shipping containers or otherwise. Any such person may use the certificate forms, or reproductions of such forms, for the interstate movement of regulated articles from the premises of such person identified in the compliance agreement if such person has made one of the determination specified in paragraph (a) of this section with respect to such articles. Any such person may use the limited permit forms, or reproductions of such forms, for interstate movement of regulated articles to specific destinations authorized by the inspector in accordance with paragraph (b) of this section. Any such person may use the restricted destination permit forms, or reproductions of such forms, for the interstate movement of regulated articles not eligible for certification under all Federal domestic plant quarantines applicable to such articles, under the conditions specified in paragraph (c) of this section.

(f) Any certificate or permit which has been issued or authorized may be withdrawn by the inspector if he determines that the holder thereof has not complied with any condition for the use of such document imposed by this subpart.

§ 301.52–5 Compliance agreements; and cancellation thereof.

(a) Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the movement of such articles under this subpart. Compliance agreement forms may be obtained from the Director or an inspector.

(b) Any compliance agreement may be cancelled by the inspector who is supervising its enforcement whenever he finds, after notice and reasonable opportunity to present views has been accorded to the other party thereto, that such other party has failed to comply with the conditions of the agreement.

§ 301.52–6 Assembly and inspection of regulated articles.

Persons (other than those authorized to use certificates, limited permits, or restricted destination permits, or reproductions thereof, under § 301.52–4(e)) who desire to move interstate regulated articles which must be accompanied by a certificate or permit shall, as far in advance as possible, request an inspector to examine the articles prior to movement. Such articles shall be assembled at such points and in such manner as the inspector designates to facilitate inspection.

§ 301.52–7 Attachment and disposition of certificates or permits.

(a) If a certificate or permit is required for the interstate movement of regulated articles, the certificate or permit shall be securely attached to the outside of the container in which such articles are moved, except that, where the certificate or permit is attached to the waybill or other shipping document, and the regulated articles are adequately described on the certificate, permit, or shipping document, the attachment of the certificate or permit to each container of the articles is not required.

(b) In all cases, certificates or permits shall be furnished by the carrier to the consignee at the destination of the shipment.

§ 301.52–8 Inspection and disposal of regulated articles and pests.

Any properly identified inspector is authorized to stop and inspect, and to seize, destroy, or otherwise dispose of, or require disposal of regulated articles and pink bollworms as provided in section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and section 105 of the Plant Pest Act (7 U.S.C. 150dd), in accordance with instructions issued by the Director.

§ 301.52–9 Movement of live pink bollworms.

Regulations requiring a permit for, and otherwise governing the movement of live pink bollworms in interstate or foreign commerce are contained in the Federal Plant Pest regulations in Part 330 of this chapter. Applications for permits for the movement of the pest may be made to the Director.

§ 301.52–10 Nonliability of the Department.

The U.S. Department of Agriculture disclaims liability for any costs incident to inspections or compliance with the provisions of the quarantine and regulations in this subpart, other than for the services of the inspector.

This revision shall become effective upon publication in the FEDERAL REGISTER when it shall supersede the notice of quarantine and regulations effective October 26, 1966.

Pursuant to a notice of hearing and rule-making published in the FEDERAL REGISTER on February 8, 1967 (32 F.R. 2642), a public hearing was held in Las Vegas, Nev., on March 6, 1967, regarding quarantining Florida and Nevada on account of the pink bollworm. After due consideration of all relevant matters presented at the hearing and in response to the notice it has been decided to add Nevada to the list of States quarantined because of the pink bollworm. It has been decided not to add Florida to the list of quarantined States at this time due to the actions taken by the State of Florida and the Plant Pest Control Division to control the pink bollworm in kenaf and wild cotton in Florida.

In addition this revision simplifies and clarifies the pink bollworm quarantine and regulations. The only other substantive changes made are as follows:

The list of regulated articles has been revised to exclude certain articles which are not considered to be hazardous due to the manner in which they are handled. The revision contains provisions with respect to compliance agreements with persons handling regulated articles. A requirement is added for persons moving regulated articles from portions of quarantined States not included within the "regulated areas" to provide proof of origin in connection with such shipments. Provisions are also added under which certificates will not be issued or authorized to be issued for regulated articles unless the articles are certifiable under all applicable Federal domestic plant quarantine requirements; restricted destination permits are authorized; and all certificates or permits are required to be surrendered to the consignee at the destination of the shipments.

To the extent that this revision relieves certain restrictions presently imposed, it should be made effective promptly in order to be of maximum benefit to persons subject to the restrictions which are being relieved. To the extent that this revision imposes restrictions, they are necessary in order to prevent the dissemination of the pink bollworm, and should be made effective promptly to accomplish their purposes in the public interest. Accordingly, it is found upon good cause under the administrative procedure provisions of 5 U.S.C. 553, that further notice and other public procedure with respect to this revision are impracticable and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 24th day of November 1967.

[SEAL] R. J. ANDERSON,
Administrator,
Agricultural Research Service.

[F.R. Doc. 67–14006; Filed, Nov. 29, 1967; 8:48 a.m.]

[1] A pamphlet containing such provisions is available, upon request, from the Director, Plant Pest Control Division, Agricultural Research Service, U.S. Department of Agriculture, Hyattsville, Md. 20782, or from an inspector.

[2] Requirements under all other applicable Federal domestic plant quarantines must also be met.

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Pink Bollworm

REGULATED AREAS

Under the authority of § 301.52–2 of the Pink Bollworm Quarantine regulations, 7 CFR 301.52–2, as amended,[1] a supplemental regulation designating regulated areas is hereby issued to appear in 7 CFR 301.52–2a, as follows:

§ 301.52–2a Regulated areas; suppressive and generally infested areas.

(a) *Regulated areas.* The States and parts of States described below are designated as pink bollworm regulated areas within the meaning of the provisions in this subpart:

ARIZONA

All counties in the State.

ARKANSAS

Calhoun County. The entire county.
Clark County. The entire county.
Cleburne County. The entire county.
Columbia County. The entire county.
Conway County. The entire county.
Crawford County. The entire county.
Dallas County. The entire county.
Faulkner County. The entire county.
Franklin County. The entire county.
Garland County. The entire county.
Hempstead County. The entire county.
Hot Spring County. The entire county.
Howard County. The entire county.
Johnson County. The entire county.
Lafayette County. The entire county.
Little River County. The entire county.
Logan County. The entire county.
Miller County. The entire county.
Montgomery County. The entire county.
Nevada County. The entire county.
Ouachita County. The entire county.
Perry County. The entire county.
Pike County. The entire county.
Polk County. The entire county.
Pope County. The entire county.
Scott County. The entire county.
Sebastian County. The entire county.
Sevier County. The entire county.
Union County. The entire county.
Van Buren County. The entire county.
White County. That portion of the county lying west of the Missouri Pacific Railroad and the Little Red River.
Yell County. The entire county.

CALIFORNIA

Imperial County. The entire county.
Inyo County. That portion of the county lying east of the east boundary of R. 4 E., SBBM.
Kern County. That portion of the county lying east of the east boundary of R. 33 E., MDBM, and east of the east boundary of R. 15 W., SBBM.
Los Angeles County. That portion of the county lying east of the east boundary of R. 15 W., and north of the north boundary of T. 4 N., SBBM.
Riverside County. That portion of the county lying east of the east boundary of R. 4 E., SBBM.
San Bernardino County. That portion of the county lying east of the east boundary of R. 4 E., SBBM.
San Diego County. That portion of the county lying east of the east boundary of R. 4 E., SBBM.

LOUISIANA

Allen Parish. The entire parish.
Avoyelles Parish. All of Ward 10, and all of Ward 9 lying south of Bayou Des Glaises and west of the east line of sec. 2, T. 1 S., R. 4 E.
Beauregard Parish. The entire parish.
Bienville Parish. The entire parish.
Bossier Parish. The entire parish.
Caddo Parish. The entire parish.
Claiborne Parish. The entire parish.
De Soto Parish. The entire parish.
Evangeline Parish. That portion of Evangeline Parish located within the area bounded by a line beginning at a point where the north line of T. 4 S. intersects with the Evangeline-Allen Parish line, and proceeding thence in an easterly direction along said north line of T. 4 S. to its intersection with the east boundary line of R. 1 E., thence in a southerly direction along said east line of R. 1 E. to the south boundary line of T. 4 S., thence west along said south line of T. 4 S. to its junction with the Bayou des Cannes, thence in a southwesterly direction along said bayou to its intersection with the St. Landry Parish line, thence in a westerly direction along the south boundaries of secs. 12, 11, 10, 9, 8, and 7, T. 6 S., R. 1 W., and secs. 12, 11, 10, 9, and 89, T. 6 S., R. 2 W., to its intersection with the Allen-Evangeline Parish line, thence in a northerly direction along said parish line to the point of beginning.
Grant Parish. The entire parish.
Jackson Parish. The entire parish.
Jefferson Davis Parish. The entire parish.
Lincoln Parish. The entire parish.
Natchitoches Parish. The entire parish.
Rapides Parish. The entire parish.
Red River Parish. The entire parish.
Sabine Parish. The entire parish.
Vernon Parish. The entire parish.
Webster Parish. The entire parish.
Winn Parish. The entire parish.

NEVADA

Clark County. That portion of the county lying south of State Highway FAS 538 and west of the east line of R. 57 E.; and Tps. 15 and 16 S., Rs. 67 and 68 E.
Nye County. That portion of the county lying south of the south boundary of T. 17 S., MDBM, and east of the east boundary of R. 51 E., MDBM.

NEW MEXICO

All counties in the State.

OKLAHOMA

All counties in the State.

TEXAS

All counties in the State.

(b) *Suppressive areas.* All regulated areas within the States of Arkansas, California, Louisiana, and Nevada are hereby designated as suppressive areas.

(c) *Generally infested areas.* All regulated areas within the States of Arizona, New Mexico, Oklahoma, and Texas are hereby designated as generally infested areas.

(Sec. 9, 37 Stat. 318, sec. 106, 71 Stat. 33; 7 U.S.C. 163, 150ee. Interprets or applies sec. 8, 37 Stat. 318, as amended; 7 U.S.C. 161. 29 F.R. 16219, as amended; 7 CFR 301.52–2)

This supplemental regulation shall become effective upon publication in the FEDERAL REGISTER when it shall supersede P.P.C. 621, 11th Revision, 7 CFR 301.52–2a, effective October 28, 1966.

The Director of the Plant Pest Control Division has determined that infestations of the pink bollworm exist or are likely to exist in the States and parts of States, listed as regulated areas in paragraph (a), or that it is necessary to regulate such areas because of their proximity to pink bollworm infestations or their inseparability for quarantine purposes from pink bollworm infested localities.

This document classifies as regulated, suppressive, and generally infested areas, respectively, all areas heretofore designated as regulated, eradication, and generally infested areas with the following changes:

Parts of two counties in the newly quarantined State of Nevada are added as regulated and suppressive areas. All of Arizona is classed as regulated and generally infested. In California, parts of three counties (Inyo, Kern, and Los Angeles) are added as regulated and suppressive areas and an extension is made in the regulated and suppressive areas (heretofore regulated and eradication areas) in San Bernardino County. Union Parish in Louisiana and Chicot, Independence, and Jackson Counties in Arkansas are removed from designation as regulated areas, as are all heretofore regulated portions of Cleveland, Greene, Lonoke, Pulaski, Saline, and Woodruff Counties in Arkansas. A portion of White County, Arkansas is also removed from the list of regulated areas but another part of the county remains regulated as a suppressive area.

To the extent that this document relieves certain restrictions presently imposed, it should be made effective promptly in order to be of maximum benefit to persons subject to the restrictions which are being relieved. To the extent that the document imposes restrictions that are necessary in order to prevent the dissemination of the pink bollworm, it should be made effective promptly to accomplish its purposes in the public interest. Accordingly, it is found upon good cause under the administrative procedure provisions of 5 U.S.C. 553, that notice and other public procedure with respect to the foregoing regulation are impracticable and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Hyattsville, Md., this 27th day of November 1967.

[SEAL] D. R. SHEPHERD,
Director,
Plant Pest Control Division.

[F.R. Doc. 67–14006; Filed, Nov. 29, 1967; 8:48 a.m.]

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Pink Bollworm

EXEMPTIONS

Under authority of § 301.52–2 of the Pink Bollworm Quarantine regulations (7 CFR 301.52–2, as amended[1]), a supplemental regulation exempting certain articles from specified requirements of the regulations is hereby issued to appear in 7 CFR 301.52–2b as set forth below. The Director of the Plant Pest Control Division has found that facts exist as to the pest risk involved in the movement of such articles which make it safe to relieve the requirements as provided therein.

§ 301.52–2b Exempted articles.

(a) The following articles are exempt[2] from the certification and permit requirements of § 301.52–4 if they meet the applicable conditions prescribed in subparagraphs (1) through (4) of this paragraph and have not been exposed to infestation after ginning, compression, or other handling as prescribed in said subparagraphs:

(1) Baled cotton lint, linters, and lint cleaner waste, if compressed to a minimum of 22 lbs. per cu. ft.

(2) Baled cotton lint moving from the generally infested area into the suppressive area, if the lint is from seed cotton produced in the suppressive area and moved to the generally infested area for ginning, provided the identity of the baled cotton lint is maintained.

(3) Samples of cotton lint and cotton linters of the usual trade size. The samples may be assembled in a single package for shipment.

(4) Edible okra produced during the period December 1 to May 15 inclusive, except that okra consigned to California is exempt only if produced during the period of January 1 to March 15 inclusive.

(Secs. 8, 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150ee; 29 F.R. 16210, as amended, 30 F.R. 5799 as amended; 7 CFR 301.52–2)

This list of exempted articles shall become effective upon publication in the FEDERAL REGISTER when it shall supersede the list of exempted articles in 7 CFR 301.52a (PPC 630, 3d Revision), which became effective June 28, 1966.

The principal purposes of this document are to delete cottonseed cake; cottonseed meal; kenaf; and cotton linters produced at an approved establishment from the list of exempted articles, and to redefine the conditions under which edible okra is exempted. Cottonseed cake and cottonseed meal are no longer regulated articles. Kenaf is no longer considered safe to exempt from treatment. Okra produced in any regulated area is exempted but only during the period December 1 to May 15 unless consigned to California in which case it is exempted only during the period January 1 to March 15 to more closely correspond with the cotton-free period in California. Cotton linters produced at an approved establishment are no longer exempted since the inspector at destination cannot determine by inspecting the linters if they were produced at an approved establishment.

This document relieves certain restrictions which are not deemed necessary to prevent the interstate spread of the pink bollworm and substitutes other restrictions which are deemed necessary for this purpose. It should be made effective promptly in order to be of maximum benefit to persons subject to the restrictions being relieved and to protect the noninfested States from pink bollworm. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this document are impracticable and unnecessary and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Hyattsville, Md., this 27th day of November 1967.

[SEAL] D. R. SHEPHERD,
Director,
Plant Pest Control Division.

[F.R. Doc. 67–14007; Filed, Nov. 29, 1967; 8:48 a.m.]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Navel Orange Reg. 137]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.437 Navel Orange Regulation 137.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 28, 1967.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period December 1, 1967, through December 7, 1967, are hereby fixed as follows:

(i) District 1: 1,000,000 cartons;
(ii) District 2: 23,001 cartons;
(iii) District 3: 200,000 cartons;
(iv) District 4: 50,000 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," "District 4," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 29, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67–14008; Filed, Nov. 29, 1967; 11:18 a.m.]

Chapter X—Consumer and Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order No. 49]

PART 1049—MILK IN INDIANAPOLIS, IND., MARKETING AREA

Order Amending Order

§ 1049.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

[1] See F.R. Doc. 67–14006 in this chapter, *supra*.

[2] The articles hereby exempted remain subject to applicable restrictions under other quarantines.

[1] See F.R. Doc. 67–14005 in this chapter, *supra*.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing order (Part 900 of this title), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Indianapolis, Ind., marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* (1) It is necessary in the public interest to make this order amending the order effective not later than December 1, 1967. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

(2) The provisions of the said order are known to handlers. The recommended decision of the Deputy Administrator, Regulatory Programs was issued November 2, 1967, and the decision of the Deputy Assistant Secretary containing all amendment provisions of this order was issued November 20, 1967. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective December 1, 1967, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Indianapolis, Ind., marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

Section 1049.53(a) is revised to read as follows:

§ 1049.53 Location differentials to handlers.

(a) For producer milk which is received at a pool plant located outside the State of Ohio and 70 miles or more from Monument Circle in Indianapolis, Ind., by the shortest hard-surfaced highway distance as determined by the market administrator and which milk is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, and for other source milk for which a location adjustment credit is applicable, the price specified in § 1049.51(a) shall be reduced at a rate set forth in the following schedule.

Distance (miles):	*Rate per hundredweight (cents)*
70 but less than 80	10.0
For each additional 10 miles or fraction thereof	1.5

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: December 1, 1967.

Signed at Washington, D.C., on November 28, 1967.

RODNEY E. LEONARD,
Deputy Assistant Secretary.

[F.R. Doc. 67-14012; Filed, Nov. 29, 1967; 8:48 a.m.]

[Milk Order No. 64]

PART 1064—MILK IN GREATER KANSAS CITY MARKETING AREA

Order Suspending Certain Provisions

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Greater Kansas City marketing area (7 CFR Part 1064), it is hereby found and determined that:

(a) The following provisions of the order no longer tend to effectuate the declared policy of the Act for the months of December 1967 and January 1968:

(1) In § 1064.51(a), in the language preceding subparagraph (1), the words "and plus or minus a supply-demand adjustment of not more than 45 cents, computed as follows:"; and

(2) In § 1064.51(a), subparagraphs (1), (2), and (3).

(b) Thirty days notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(1) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date.

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

This suspension order will cancel the reductions in the Class I price of 7 cents per hundredweight for the month of December 1967, and a lesser amount for the month of January 1968 which would otherwise occur. These reductions are due to the operation of the supply-demand adjustor factor of the Class I price provision. The effect of this adjustor in reducing the Class I price is to establish Class I prices in the Greater Kansas City area unduly low relative to prices in surrounding areas where no similar reduction is made in Class I prices.

(3) Interested parties were afforded opportunity to file written data, views, or arguments concerning this suspension (32 F.R. 15490).

The suspension action was supported by cooperative associations representing more than two-thirds of the producers supplying the market. These organizations requested that the suspension be continued until a hearing can be held and a revised provision made effective.

Handlers operating pool plants which utilize approximately one-half of the producer receipts of the markets opposed the suspension action. Most of the handlers indicated that the matter should be considered at a public hearing.

The market administrator has been requested to notify interested persons that the Department is planning a public hearing on proposals to revise the supply-demand adjustor. Because it will take additional time to hold a hearing and complete amendatory action on an appropriate supply-demand adjustment to the Class I price, suspension of the present supply-demand provision is necessary for the months of December 1967 and January 1968.

Therefore, good cause exists for making this order effective December 1, 1967.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the months of December 1967 and January 1968.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: December 1, 1967.

Signed at Washington, D.C., on November 28, 1967.

RODNEY E. LEONARD,
Deputy Assistant Secretary.

[F.R. Doc. 67-14011; Filed, Nov. 29, 1967; 8:48 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES AND OTHER OPERATIONS

[Amdt. 3]

PART 1468—MOHAIR

Subpart—Payment Program for Mohair

PRICE SUPPORT LEVEL FOR 1968 MARKETING YEAR

The Regulations issued by Commodity Credit Corporation containing the requirements with respect to the Payment Program for Mohair, as amended (31 F.R. 5817, 15234; 32 F.R. 4568), are further amended by inserting the following new paragraph (d) at the end of § 1468.255:

§ 1468.255 Price support level.

* * * * *

(d) *1968 marketing year.* For the 1968 marketing year, the price support level was announced on June 2, 1967, as 77.4 cents per pound of mohair, grease basis.

(Sec. 4, 62 Stat. 1070, sec. 5, 63 Stat. 1072, secs. 702–708, 68 Stat. 910–912, as amended, secs. 401–403, 72 Stat. 994–995, sec. 151, 75 Stat. 306, sec. 201, 70 Stat. 1186; 15 U.S.C. 714b, 15 U.S.C. 714c, 7 U.S.C. 1781–1787, as amended)

Effective date. Date of publication.

Signed at Washington, D.C., on November 24, 1967.

H. D. GODFREY,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 67-13979; Filed, Nov. 29, 1967; 8:46 a.m.]

[Amdt. 3]

PART 1472—WOOL

Subpart—Payment Program for Shorn Wool and Unshorn Lambs (Pulled Wool)

PRICE SUPPORT LEVEL FOR 1968 MARKETING YEAR

The regulations issued by Commodity Credit Corporation containing the requirements with respect to the payment program for shorn wool and unshorn lambs (pulled wool), as amended (31 F.R. 4582, 15234; 32 F.R. 4568), are further amended by inserting the following new paragraph (d) at the end of § 1472.1205:

§ 1472.1205 Price support level.

* * * * *

(d) *1968 marketing year.* For the 1968 marketing year, the price support level was announced on June 2, 1967, as 87 cents per pound of shorn wool, grease basis.

(Sec. 4, 62 Stat. 1070, sec. 5, 63 Stat. 1072, secs. 702–708, 68 Stat. 910–912, as amended, secs. 401–403, 72 Stat. 994–995, sec. 151, 75 Stat. 306, sec. 201, 70 Stat. 1186; 15 U.S.C. 714b, 15 U.S.C. 714c, 7 U.S.C. 1781–1787, as amended)

Effective date. Date of publication.

Signed at Washington, D.C., on November 24, 1967.

H. D. GODFREY,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 67-13980; Filed, Nov. 29, 1967; 8:46 a.m.]

Title 12—BANKS AND BANKING

Chapter I—Bureau of the Comptroller of the Currency, Department of the Treasury

PART 1—INVESTMENT SECURITIES REGULATION

Bergen County Sewer Authority (New Jersey)

§ 1.201 Bergen County Sewer Authority (New Jersey).

(a) *Request.* The Comptroller of the Currency has been requested to rule that the bonds of the Bergen County Sewer Authority are eligible for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Bergen County Sewer Authority, established under the laws of the State of New Jersey by a resolution of the Board of Chosen Freeholders of the County of Bergen, is a body politic and corporate and a governmental instrumentality of the State. The Authority has power under New Jersey law to finance, construct, acquire, and operate a sewer system within its district. For this purpose it has issued its bonds which are now outstanding in the amount of $24,962,000 and proposes to issue additional bonds in the amount of $3,636,000.

(2) A number of Bergen County municipalities have as authorized by New Jersey law entered into perpetual service contracts with the Authority. These contracts provide for the payment by the municipalities of service charges calculated, as required by law, to provide such amounts (in addition to other available funds) as will be required by the Authority for payments of principal and interest of any of its bonds or other obligations, operating expenses, maintenance of reserves, and to extinguish any existing deficits. These municipalities which possess general powers of taxation have thus committed their faith and credit in support of the bonds of the Authority.

(c) *Ruling.* It is our conclusion therefore that the bonds of the Bergen County Sewer Authority are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and, accordingly, are eligible for purchase, dealing in, underwriting, and unlimited holding by national banks.

Dated: November 21, 1967.

[SEAL] WILLIAM B. CAMP,
Comptroller of the Currency.

[F.R. Doc. 67-13966; Filed, Nov. 29, 1967; 8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

SUBCHAPTER C—AIRCRAFT

[Docket No. 8556; Amdt. 39-613]

PART 39—AIRWORTHINESS DIRECTIVES

British Aircraft Corp. Model BAC 1–11 200 and 400 Series Airplanes

There have been reports of sticking or eroded control valves which control the pressure function in the rudder and elevator feel system on British Aircraft Corp. Model BAC 1–11 200 Series airplanes. A similar feel system is designed into the Model BAC 1–11 400 Series airplanes. Under these conditions the return line pressure can become excessive resulting in a reduction of rudder and elevator feel, and at low operating speeds the loss of rudder feel which can lead to a reversal of the feel function. Since these conditions are likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require the replacement of the paired links located in the rudder feel simulator linkage, Hobson P/N CH 504–071 or CH 504–220 with redesigned Hobson slotted links P/N CH 504–446 to provide a linkage arrangement which will prevent an over balance of the feel system. The AD also requires the slotted links to be attached with specified bolts and that if self-retained bolts are not used, the bolts must be replaced by self-retained bolts at the next overhaul of the rudder feel simulator unit.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BRITISH AIRCRAFT. Applies to Model BAC 1–11 200 and 400 Series airplanes.

Compliance required as indicated, unless already accomplished.

To prevent reversal of the rudder feel function, within the next 500 hours' time in service after the effective date of this AD, accomplish the following:

(a) Replace the paired links located in the rudder feel simulator linkage, Hobson P/N CH 504–071 or CH 504–220 with redesigned Hobson slotted links P/N CH 504–446 in accordance with British Aircraft Corp. BAC 1–11 Alert Service Bulletin PM 3290, or later ARB-approved issue, or an equivalent approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region.

(b) Attach Hobson slotted links P/N CH 504–446 with bolts P/N CH 127202–25 (NAS 1106–25) and CH 127202–22 (NAS 1106–22), or self-retained bolt P/N CH 127200 (NAS 1106–27–SR) and rivet P/N CH 824–120–3. If bolts P/N CH 127202–25 (NAS 1106–25) and

CH 127808-22 (NAS 1108-22) are used, replace these bolts with self-retained bolt P/N CH 127800 (NAS 1108-27-8R) and rivet P/N CH 524-129-3 during the next overhaul of the rudder feel simulator unit.

This amendment becomes effective December 30, 1967.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421 and 1423)

Issued in Washington, D.C., on November 27, 1967.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[F.R. Doc. 67-14061; Filed, Nov. 29, 1967; 8:46 a.m.]

SUBCHAPTER E—AIRSPACE

[Airspace Docket No. 67-CE-104]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

On Page 13006 of the FEDERAL REGISTER dated September 13, 1967, the Federal Aviation Administration published a notice of proposed rule making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Springfield, Ill., control zone and transition area.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendments. Two comments were received. The Air Transport Association concurred with the proposal. The Aircraft Owners and Pilots Association objected to any extension of the Springfield control zone to the northeast beyond the Capital VORTAC for the reason that the instrument approach procedure to Capital Airport, Springfield, Ill., could be modified to eliminate the necessity for such extension. A modification of these instrument approach procedures would require a rate of descent greater than the optimum of 300 feet per nautical mile as set forth in the "U.S. Standard for Terminal Instrument Procedures." While less than optimum instrument approach procedures can be developed at a given airport, if the required airspace is needed by other users and safety will not be unduly compromised, the Federal Aviation Administration strives to develop optimum approach procedures at all locations. Since there has been a control zone extension to the northeast at Springfield for several years without any indication that this airspace was overly restrictive to other users, the Federal Aviation Administration does not feel that there is sufficient justification for deleting the control zone extension.

In view of the foregoing, the proposed amendments are hereby adopted without change and are set forth below.

These amendments shall become effective 0001 e.s.t., February 1, 1968.

(Sec. 307(a) of the Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Kansas City, Mo., on November 15, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

1. In § 71.171 (32 F.R. 2071), the following control zone is amended to read:

SPRINGFIELD, ILL.

That airspace within a 5-mile radius of Capital Airport (latitude 39°50'35" N., longitude 89°40'35" W.); within 2 miles each side of the Capital ILS localizer southwest course, extending from the 5-mile radius zone to the OM; within 2 miles each side of the Capital VORTAC 040° radial, extending from the 5-mile radius zone to 12 miles northeast of the VORTAC; within 2 miles each side of the Capital VORTAC 086° radial, extending from the 5-mile radius zone to 7 miles northeast of the VORTAC; and within 2 miles each side of the Capital VORTAC 058° radial, extending from the 5-mile radius zone to 8 miles northeast of the VORTAC.

2. In § 71.181 (32 F.R. 2148), the following transition area is amended to read:

SPRINGFIELD, ILL.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Capital Airport (latitude 39°50'35" N., longitude 89°40'35" W.); and within the arc of a 23-mile radius circle centered on the Capital VORTAC, extending from a line 2 miles southeast of and parallel to the Capital VORTAC 213° radial clockwise to a line 2 miles northwest of and parallel to the Capital VORTAC 228° radial; and that airspace extending upward from 1,200 feet above the surface within an area bounded by a line beginning at the intersection of longitude 89°33'00" W. and the northwest boundary of V-426, thence southwest along the northwest boundary of V-426 to and counterclockwise along the arc of a 33-mile radius circle centered on the Lambert-St. Louis Municipal Airport (latitude 38°44'50" N., longitude 90°21'55" W.) to and north along the west boundary of V-9W, to and north along longitude 90°15'00" W., to and west along a line 10 miles south of and parallel to the Capital VORTAC 269° radial to and north along longitude 90°20'00" W., to and east along a line 6 miles north of and parallel to the Capital VORTAC 269° radial to and clockwise along the arc of a 26-mile radius circle centered on Capital Airport, to and northeast along the southeast boundary of V-173, to and south along longitude 88°39'40" W., to and southwest along the northwest boundary of V-191, to and counterclockwise along the arc of a 15-mile radius circle centered on the Decatur, Ill., VOR, to and west along a line 6 miles north of and parallel to the Decatur VOR 285° radial to and clockwise along the arc of a 26-mile radius circle centered on Capital Airport, to and south along longitude 89°33'00" W., to the point of beginning; and that airspace extending upward from 3,000 MSL within the area bounded on the north by latitude 40°20'00" N., on the east by the west boundary of V-129, on the south by the arc of a 26-mile radius circle centered on Capital Airport, and on the west by longitude 90°00'00" W.; within the area bounded on the north by latitude 40°20'00" N., on the southeast by the northwest boundary of V-9 on the south by the arc of a 26-mile radius circle centered on Capital Airport, and on the west by the east boundary of V-129; within the area bounded on the north by latitude 40°20'00" N., on the southeast by the northwest boundary of V-173, and on the west by the southeast boundary of V-9; and within the area bounded on the northwest by the arc of a 26-mile radius circle centered on Capital Airport, on the north by a line 10 miles south of and parallel to the Decatur VOR 285° radial, on the southeast by the northwest boundary of V-191 and V-426, and on the west by longitude 89°33'00" W.

[F.R. Doc. 67-13990; Filed, Nov. 29, 1967; 8:46 a.m.]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Docket No. 8270; Amdt. 91-48]

PART 91—GENERAL OPERATING AND FLIGHT RULES

Special Rules for Foreign Civil Aircraft in VFR Flight Operations

The purpose of this amendment to Part 91 of the Federal Aviation Regulations is to remove the requirement of § 91.43 (b) that no person may operate a foreign civil aircraft in the United States in VFR flight unless a VFR flight plan has been filed with an FAA communications station.

This amendment was proposed in Notice 67-28 and published in the FEDERAL REGISTER on July 13, 1967 (32 F.R. 10310). Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all matters presented. As the comments received on the notice were all favorable and support the proposal, the FAA has determined to issue the amendment for the reasons stated in the notice. By providing relief from compliance with a regulation deemed unnecessary, good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, § 91.43(b) of the Federal Aviation Regulations is revoked effective November 30, 1967.

(Secs. 307(a), 313(a), and 601 of the Federal Aviation Regulations; 49 CFR 1348, 1354(a), and 1421)

Issued in Washington, D.C., on November 24, 1967.

WILLIAM F. MCKEE,
Administrator.

[F.R. Doc. 67-13991; Filed, Nov. 29, 1967; 8:47 a.m.]

[Reg. Docket No. 8548, Amdt. 95-161]

PART 95—IFR ALTITUDES

Miscellaneous Amendments

The purpose of this amendment to Part 95 of the Federal Aviation Regulations is to make changes in the IFR altitudes at which all aircraft shall be flown over a specified route or portion thereof. These altitudes, when used in conjunction with the current changeover points for the routes or portions thereof, also assure navigational coverage that is adequate and free of frequency interference for that route or portion thereof.

As a situation exists which demands immediate action in the interest of safety, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 95 of the Federal Aviation Regulations is amended, effective January 4, 1968, as follows:

1. By amending Subpart C as follows:

Section 95.1001 *Direct routes—United States* is amended by adding:

From, To, and MEA

Yolo INT, Calif., via MYT 185° M rad, VOR; Marysville, Calif.; *2,000. *1,200—MOCA.
Dothan, Ala., VOR; Blakely INT, Ga.; 2,500.
Blakely INT, Ga.; Albany, Ga., VOR; *2,000. *1,600—MOCA.
Blakely INT, Ga.; Tallahassee, Fla., VOR; *2,300. *1,500—MOCA.

Section 95.1001 *Direct routes—United States* is amended to read in part:

Panama City, Fla., VOR; Bristol INT, Fla.; *2,000. *1,400—MOCA.

Section 95.6003 *VOR Federal airway 3* is amended to read in part:

Palm Beach, Fla., VOR; *Fort Pierce INT, Fla., **2,000. *3,000—MRA. **1,300—MOCA.

Section 95.6007 *VOR Federal airway 7* is amended to read in part:

*Cross City, Fla., VOR, via W alter.; **Lobster INT, Fla., via W alter.; ***7,000. *7,000—MCA Cross City VOR, westbound. **3,000—MRA. ***1,500—MOCA.
Lobster INT, Fla., via W alter.; Teresa INT, Fla., via W alter.; *7,000, *1,100—MOCA.

Section 95.6009 *VOR Federal airway 9* is amended to read in part:

Madison INT, La.; Folsom INT, La.; *2,000. *1,400—MOCA.

Section 95.6018 *VOR Federal airway 18* is amended to read in part:

Sharon INT, Ga., via S alter.; Augusta, Ga., VOR, via S alter.; *2,000. *1,900—MOCA.
Augusta, Ga., VOR, via S alter.; Sardis INT, Ga., via S alter.; *2,100. *1,900—MOCA.

Section 95.6020 *VOR Federal airway 20* is amended to read in part:

Palacios, Tex., VOR, via S alter.; *Jones Creek INT, Tex., via S alter.; **1,700. *2,500—MRA. **1,500—MOCA.

Section 95.6035 *VOR Federal airway 35* is amended to read in part:

Anderson, S.C., VOR; Clemson INT, S.C.; *2,500. *1,900—MOCA.
Albany, Ga., VOR; Cobb INT, Ga.; *2,000. *1,900—MOCA.

Section 95.6056 *VOR Federal airway 56* is amended to read in part:

Wallace INT, N.C.; Oak Grove INT, N.C.; *3,000. *2,000—MOCA. MAA—6,000.
Mitchell INT, Ga.; Augusta, Ga., VOR; *2,000. *1,900—MOCA.

Section 95.6070 *VOR Federal airway 70* is amended to read in part:

Palacios, Tex., VOR; *Jones Creek INT, Tex.; **1,700. *2,500—MRA. **1,500—MOCA.

Section 95.6097 *VOR Federal airway 97* is amended to read in part:

From, to, and MEA

Albany, Ga., VOR; Americus INT, Ga.; *2,000. *1,600—MOCA.
Americus INT, Ga.; *Junction City INT, Ga.; 3,500. *3,000—MRA.

Section 95.6161 *VOR Federal airway 161* is amended to read in part:

Lawson INT, Mo.; Lamoni, Iowa, VOR; *2,900. *2,500—MOCA.
Newton, Iowa, VOR; Dunbar INT, Iowa; *2,800. *2,200—MOCA.

Section 95.6185 *VOR Federal airway 185* is amended to read in part:

Sardis INT, Ga.; Augusta, Ga., VOR; *2,100. *1,900—MOCA.

Section 95.6222 *VOR Federal airway 222* is amended to read in part:

Industry, Tex., VOR; Cypress INT, Tex.; *2,500. *1,600—MOCA.
Cypress INT, Tex.; *Crosby INT, Tex.; **5,000. *2,000—MRA. **1,600—MOCA.
Cypress INT, Tex., via N alter.; Daisetta, Tex., VOR, via N alter.; *2,500. *1,600—MOCA.

Section 95.6241 *VOR Federal airway 241* is amended to read in part:

Dothan, Ala., VOR, via W alter.; *Edd INT, Ala., via W alter.; **2,000. *2,400—MCA Edd INT, northbound. **1,500—MOCA.

Section 95.6317 *VOR Federal airway 317* is amended to read in part:

*Harbor Point INT, Alaska; **Crescent DME Fix, Alaska; ***#9,000. *15,000—MRA. **8,000—MCA Crescent DME Fix, southeastbound. ***2,000—MOCA.
Crescent DME Fix, Alaska; Yakutat, Alaska, VOR; #2,000. #MEA is established with a gap in navigational signal coverage.
Yakutat, Alaska, VOR; *Malaspina DME Fix, Alaska; #2,000. *4,000—MCA Malaspina DME Fix, Westbound.
Malaspina DME Fix, Alaska; Katalla INT, Alaska; *#10,000. *5,400—MOCA.
Katalla INT, Alaska; Castle INT, Alaska; *#5,000. *4,000—MOCA.
Castle INT, Alaska; Eyak INT, Alaska; *#3,000. *2,000—MOCA.
Eyak INT, Alaska; Johnstone Point, Alaska, VOR; #5,000. #MEA is established with a gap in navigation signal coverage.

Section 95.6317 *VOR Federal airway 317* is amended by adding:

United States-Canadian Border, via W alter.; Annette Island, Alaska, VOR, via W alter.; 5,000.

Section 95.6402 *Hawaii VOR Federal airway 2* is amended to read in part:

Upolu Point, Hawaii, VOR; Waipio INT, Hawaii; 6,000.
Waipio INT, Hawaii; Paradise INT, Hawaii; Eastbound 4,000; Westbound 6,000.

Section 95.6440 *VOR Federal airway 440* is amended to read in part:

Biorka Island, Alaska, VOR; *Harbor Point INT, Alaska; **#9,000. *15,000—MRA. **5,900—MOCA.
Harbor Point INT, Alaska; *Crescent DME Fix, Alaska; **#9,000. *3,000—MCA Crescent DME Fix, Southeastbound. **2,000—MOCA.
Crescent DME Fix, Yakutat, Alaska, VOR; #2,000, Alaska; #MEA is established with a gap in navigation signal coverage.

From, to, and MEA

*Anchorage, Alaska, VOR; **Martha INT, Alaska; #3,000. *5,400—MCA Anchorage VOR, Southeastbound. **5,000—MCA Martha INT, northwestbound.
Martha INT, Alaska; *Friday INT, Alaska; #6,500. *7,000—MCA Friday INT, northwestbound.
Friday INT, Alaska; *Puntilla Lake INT, Alaska; **#10,000. *11,000—MRA. **9,500—MOCA.
Puntilla Lake INT, Alaska; *Windy Fork INT, Alaska; **#10,000. *8,600—MCA Windy Fork INT, Southeastbound. **9,500—MOCA.
Windy Fork INT, Alaska; McGrath, Alaska VOR; #4,000. #MEA is established with a gap in navigation signal coverage.

2. By amending subpart D as follows:

Section 95.8003 *VOR Federal airway changeover points:*

Airway segment: From, to—Changeover point: Distance, from

V-210 is amended to read in part:
Rosewood, Ohio, VOR; Tiverton, Ohio, VOR; 48; Rosewood.

V-436 is amended by adding:
Kenai, Alaska, VOR; Anchorage, Alaska, VOR; 10; Kenai.

(Secs. 307, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1348, 1510)

Issued in Washington, D.C., on November 21, 1967.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[F.R. Doc. 67-13941; Filed, Nov. 29, 1967; 8:45 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6937]

PART 1—INCOME; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Prepaid Dues Income of Certain Membership Organizations

On July 12, 1967, notice of proposed rule making with respect to the amendments of the Income Tax Regulations (26 CFR Part 1) under section 456 of the Internal Revenue Code of 1954, as added by Public Law 87-109 (75 Stat. 222) was published in the FEDERAL REGISTER (32 F.R. 10261). After consideration of all such relevant matter as was presented by interested persons regarding the rule proposed, the amendment of the regulations as proposed is hereby adopted, subject to the changes set forth below. Such regulations supersede §§ 17.1 and 17.1-1 of Treasury Decision 6596 (26 CFR Part 17), approved April 12, 1962 (27 F.R. 3626).

PARAGRAPH 1. Paragraph (c) of § 1.456-2, as set forth in the notice of proposed rule making, is changed.

PAR. 2. Paragraph (b) of § 1.456-6, as set forth in the notice of proposed rule making, is changed.

(Sec. 7805 of the Internal Revenue Code of 1954; 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

Approved: November 27, 1967.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

The following regulations relating to prepaid dues income of certain membership organizations, effective for taxable years beginning after December 31, 1960, are hereby prescribed under section 456 of the Internal Revenue Code of 1954, as added by Public Law 87-109 (75 Stat. 222):

§ 1.456 Statutory provisions; prepaid dues income of certain membership organizations.

SEC. 456. *Prepaid dues income of certain membership organizations*—(a) *Year in which included.* Prepaid dues income to which this section applies shall be included in gross income for the taxable years during which the liability described in subsection (c)(2) exists.

(b) *Where taxpayer's liability ceases.* In the case of any prepaid dues income to which this section applies—

(1) If the liability described in subsection (c)(2) ends, then so much of such income as was not includible in gross income under subsection (a) for preceding taxable years shall be included in gross income for the taxable year in which the liability ends.

(2) If the taxpayer ceases to exist, then so much of such income as was not includible in gross income under subsection (a) for preceding taxable years shall be included in gross income for the taxable year in which such cessation of existence occurs.

(c) *Prepaid dues income to which this section applies*—(1) *Election of benefits.* This section shall apply to prepaid dues income if and only if the taxpayer makes an election under this section with respect to the trade or business in connection with which such income is received. The election shall be made in such manner as the Secretary or his delegate may by regulations prescribe. No election may be made with respect to a trade or business if in computing taxable income the cash receipts and disbursements method of accounting is used with respect to such trade or business.

(2) *Scope of election.* An election made under this section shall apply to all prepaid dues income received in connection with the trade or business with respect to which the taxpayer has made the election; except that the taxpayer may, to the extent permitted under regulations prescribed by the Secretary or his delegate, include in gross income for the taxable year of receipt the entire amount of any prepaid dues income if the liability from which it arose is to end within 12 months after the date of receipt. Except as provided in subsection (d), an election made under this section shall not apply to any prepaid dues income received before the first taxable year for which the election is made.

(3) *When election may be made*—(A) *With consent.* A taxpayer may, with the consent of the Secretary or his delegate, make an election under this section at any time.

(B) *Without consent.* A taxpayer may, without the consent of the Secretary or his delegate, make an election under this section for its first taxable year (I) which begins after December 31, 1960, and (ii) in which it receives prepaid dues income in the trade or business. Such election shall be made not later than the time prescribed by law for filing the return for the taxable year (including extensions thereof) with respect to which such election is made.

(4) *Period to which election applies.* An election under this section shall be effective for the taxable year with respect to which it is first made and for all subsequent taxable years, unless the taxpayer secures the consent of the Secretary or his delegate to the revocation of such election. For purposes of this title, the computation of taxable income under an election made under this section shall be treated as a method of accounting.

(d) *Transitional rule*—(1) *Amount includible in gross income for election years.* If a taxpayer makes an election under this section with respect to prepaid dues income, such taxpayer shall include in gross income, for each taxable year to which such election applies, not only that portion of prepaid dues income received in such year otherwise includible in gross income for such year under this section, but shall also include in gross income for such year an additional amount equal to the amount of prepaid dues income received in the 3 taxable years preceding the first taxable year to which such election applies which would have been included in gross income in the taxable year had the election been effective 3 years earlier.

(2) *Deductions of amounts included in income more than once.* A taxpayer who makes an election with respect to prepaid dues income, and who includes in gross income for any taxable year to which the election applies an additional amount computed under paragraph (1), shall be permitted to deduct, for such taxable year and for each of the 4 succeeding taxable years, an amount equal to one-fifth of such additional amount, but only to the extent that such additional amount was also included in the taxpayer's gross income during any of the 3 taxable years preceding the first taxable year to which such election applies.

(e) *Definitions.* For purposes of this section—

(1) *Prepaid dues income.* The term "prepaid dues income" means any amount (includible in gross income) which is received by a membership organization in connection with, and is directly attributable to, a liability to render services or make available membership privileges over a period of time which extends beyond the close of the taxable year in which such amount is received.

(2) *Liability.* The term "liability" means a liability to render services or make available membership privileges over a period of time which does not exceed 36 months, which liability shall be deemed to exist ratably over the period of time that such services are required to be rendered, or that such membership privileges are required to be made available.

(3) *Membership organization.* The term "membership organization" means a corporation, association, federation, or other organization—

(A) Organized without capital stock of any kind, and

(B) No part of the net earnings of which is distributable to any member.

(4) *Receipt of prepaid dues income.* Prepaid dues income shall be treated as received during the taxable year for which it is includible in gross income under section 451 (without regard to this section).

[Sec. 456 as added by the Act of July 26, 1961 (Pub. Law 87-109, 75 Stat. 222)]

§ 1.456-1 Treatment of prepaid dues income.

Effective for taxable years beginning after December 31, 1960, a taxpayer which is a membership organization (as described in paragraph (e) of § 1.456-5) and which receives prepaid dues income as described in paragraph (a) of § 1.456-5 in connection with its trade or business of rendering services or making available membership privileges may elect under section 456 to include such income in gross income ratably over the taxable years during which its liability (as described in paragraph (b) of § 1.456-5) to render such services or extend such privileges exists, if such liability does not extend over a period of time in excess of 36 months. If the taxpayer does not elect to treat prepaid dues income under section 456, or if such income may not be reported under section 456, as for example, where the income relates to a liability to render services or make available membership privileges which extends beyond 36 months, then such income is includible in gross income for the taxable year in which it is received (as described in paragraph (d) of § 1.456-5).

§ 1.456-2 Scope of election under section 456.

(a) An election made under section 456 and § 1.456-6, shall be applicable to all prepaid dues income received in connection with the trade or business for which the election is made. However, the taxpayer may further elect to include in gross income for the taxable year of receipt the entire amount of any prepaid dues income attributable to a liability extending beyond the close of the taxable year but ending within 12 months after the date of receipt, hereinafter referred to as the "within 12 months" election.

(b) If the taxpayer is engaged in more than one trade or business in connection with which prepaid dues income is received, a separate election may be made under section 456 with respect to each such trade or business. In addition, a taxpayer may make a separate "within 12 months" election for each separate trade or business for which it has made an election under section 456.

(c) A section 456 election and a "within 12 months" election shall be binding for the first taxable year for which the election is made and for all subsequent taxable years, unless the taxpayer secures the consent of the Commissioner to the revocation of either election. In order to secure the Commissioner's consent to the revocation of the section 456 election or the "within 12 months" election, an application must be filed with the Commissioner in accordance with section 446(e) and the regulations thereunder. However, an application for consent to revoke the section 456 election or the "within 12 months" election in the case of all taxable years which end before November 30, 1967 must be filed on or before February 28, 1967. For purposes of Subtitle A of the Code, the computation of taxable income under an election made under section 456 or under the "within 12 months" election shall be treated as a method of accounting. For adjustments required by changes in method of accounting, see section 481 and the regulations thereunder.

(d) Except as provided in section 456 (d) and § 1.456-7, an election made under section 456 shall not apply to any prepaid dues income received before the first taxable year to which the election applies. For example, Corporation X, a membership organization which files its income tax returns on a calendar year basis, customarily sells 3-year memberships, payable in advance. In 1961 it received $160,000 of prepaid dues income for 3-year memberships beginning during 1961, and in 1962 it received $185,000 of prepaid dues income for 3-year memberships beginning on January 1, 1962. In March 1962 it elected, with the consent of the Commissioner, to report its prepaid dues income under the provisions of section 456 for the year 1962 and subsequent taxable years. The $160,000 received in 1961 from prepaid dues must be included in gross income in full in that year, and except as provided in section 456(d) and § 1.456-7, no part of such income shall be allocated to the taxable years 1962, 1963, and 1964 during which X was under a liability to make available its membership privileges. The $185,000 received in 1962 from prepaid dues income shall be allocated to the years 1962, 1963, and 1964.

(e) No election may be made under section 456 with respect to a trade or business if, in computing taxable income, the cash receipts and disbursements method (or a hybrid thereof) of accounting is used with respect to such trade or business, unless the combination of the section 456 election and the taxpayer's hybrid method of accounting does not result in a material distortion of income.

§ 1.456-3 Method of allocation.

(a) Prepaid dues income for which an election has been made under section 456 shall be included in gross income over the period of time during which the liability to render services or make available membership privileges exists. The liability to render the services or make available the membership privileges shall be deemed to exist ratably over the period of time such services are required to be rendered, or such membership privileges are required to be made available. Thus, the prepaid dues income shall be included in gross income ratably over the period of the membership contract. For example, Corporation X, a membership organization, which files its income tax returns on a calendar year basis, elects, for its taxable year beginning January 1, 1961, to report its prepaid dues income in accordance with the provisions of section 456. On March 31, 1961, it sells a 2-year membership for $48 payable in advance, the membership to extend from May 1, 1961, to April 30, 1963. X shall include in its gross income for the taxable year 1961 $\frac{8}{24}$ of the $48, or $16, and for the taxable year 1962 $1\frac{8}{24}$ of the $48, or $24, and for the taxable year 1963 $\frac{8}{24}$ of the $48, or $8.

(b) For purposes of determining the period or periods over which the liability of the taxpayer exists, and for purposes of allocating prepaid dues income to such periods, the taxpayer may aggregate similar transactions during the taxable year in any reasonable manner, provided the method of aggregation and allocation is consistently followed.

§ 1.456-4 Cessation of liability or existence.

(a) If a taxpayer has elected to apply the provisions of section 456 to a trade or business in connection with which prepaid dues income is received, and if the taxpayer's liability to render services or make available membership privileges ends for any reason, as for example, because of the cancellation of a membership then so much of the prepaid dues income attributable to such liability as was not includible in the taxpayer's gross income under section 456 for preceding taxable years shall be included in gross income for the taxable year in which such liability ends. This paragraph shall not apply to amounts includible in gross income under § 1.456-7.

(b) If a taxpayer which has elected to apply the provisions of section 456 ceases to exist, then the prepaid dues income which was not includible in gross income under section 456 for preceding taxable years shall be included in the taxpayer's gross income for the taxable year in which such cessation of existence occurs. This paragraph shall not apply to amounts includible in gross income under § 1.456-7.

(c) If a taxpayer is a party to a transaction to which section 381(a) applies and the taxpayer's method of accounting with respect to prepaid dues income is used by the acquiring corporation under the provisions of section 381(c)(4), then neither the liability nor the existence of the taxpayer shall be deemed to have ended or ceased. In such cases see section 381(c)(4) and the regulations thereunder for the treatment of the portion of prepaid dues income which was not included in gross income under section 456 for preceding taxable years.

§ 1.456-5 Definitions and other rules.

(a) *Prepaid dues income.* (1) The term "prepaid dues income" means any amount for membership dues includible in gross income which is received by a membership organization in connection with, and is directly attributable to, a liability of the taxpayer to render services or make available membership privileges over a period of time which extends beyond the close of the taxable year in which such amount is received.

(2) For purposes of section 456, prepaid dues income does not include amounts received by a taxpayer in connection with sales of memberships on a prepaid basis where the taxpayer does not have the liability to furnish the services or make available the membership privileges. For example, where a taxpayer has a contract with several membership organizations to sell memberships in such organizations and retains a portion of the amounts received from the sale of such memberships and remits the balance to the membership organizations, the amounts retained by such taxpayer represent commissions and do not constitute prepaid dues income for purposes of section 456.

(b) *Liability.* The term "liability" means a liability of the taxpayer to render services or make available membership privileges over a period of time which does not exceed 36 months. Thus, if during the taxable year a taxpayer sells memberships for more than 36 months and also memberships for 36 months or less, section 456 does not apply to the income from the sale of memberships for more than 36 months. For the purpose of determining the duration of a liability, a bona fide renewal of a membership shall not be considered to be a part of the existing membership.

(c) *Membership organization.* (1) The term "membership organization" means a corporation, association, federation, or other similar organization meeting the following requirements:

(i) It is organized without capital stock of any kind,

(ii) Its charter, bylaws, or other written agreement or contract expressly prohibits the distribution of any part of the net earnings directly or indirectly, in money, property, or services, to any member, and

(iii) No part of the net earnings of which is in fact distributed to any member either directly or indirectly, in money, property, or services.

(2) For purposes of this paragraph an increase in services or reduction in dues to all members shall generally not be considered distributions of net earnings.

(3) If a corporation, association, federation, or other similar organization subsequent to the time it elects to report its prepaid dues income in accordance with the provisions of section 456, (i) issues any kind of capital stock either to any member or nonmember, (ii) amends its charter, bylaws, or other written agreement or contract to permit distributions of its net earnings to any member or, (iii) in fact, distributes any part of its net earnings either in money, property, or services to any member, then immediately after such event the organization shall not be considered a membership organization within the meaning of section 456(c)(3).

(d) *Receipt of prepaid dues income.* For purposes of section 456, prepaid dues income shall be treated as received during the taxable year for which it is includible in gross income under section 451, relating to the general rule for taxable year of inclusion, without regard to section 456.

§ 1.456-6 Time and manner of making election.

(a) *Election without consent.* A taxpayer may make an election under section 456 without the consent of the Commissioner for the first taxable year beginning after December 31, 1960, in which it receives prepaid dues income in the trade or business for which such election is made. The election must be made not later than the time prescribed by law for filing the income tax return for such year (including extensions thereof). The election must be made by means of a statement attached to such return. In addition, there should be attached a copy of a typical membership contract used by the organization and a copy of its charter, bylaws, or other written agreement or contract of organization or association. The statement shall indicate that the taxpayer is electing to apply the provisions of section 456

to the trade or business, and shall contain the following information:

(1) The taxpayer's name and a description of the trade or business to which the election is to apply.

(2) The method of accounting used for prepaid dues income in the trade or business during the first taxable year for which the election is to be effective and during each of 3 preceding taxable years, and if there was a change in the method of accounting for prepaid dues income during such 3-year period, a detailed explanation of such change including the adjustments necessary to prevent duplications or omissions of income.

(3) Whether any type of deferral method for prepaid dues income has been used during any of the 3 taxable years preceding the first taxable year for which the election is effective. Where any type of such deferral method has been used during this period, an explanation of the method and a schedule showing the amounts received in each such year and the amounts deferred to each succeeding year.

(4) A schedule with appropriate explanations showing:

(i) The total amount of prepaid dues income received in the trade or business in the first taxable year for which the election is effective and the amount of such income to be included in each taxable year in accordance with the election,

(ii) The total amount, if any, of prepayments of dues received in the first taxable year for which the election is effective which are directly attributable to a liability of the taxpayer to render services or make available membership privileges over a period of time in excess of 36 months, and

(iii) The total amount, if any, of prepaid dues income received in the trade or business in—

(a) The taxable year preceding the first taxable year for which the election is effective if all memberships sold by the taxpayer are for periods of 1 year or less,

(b) Each of the 2 taxable years preceding the first taxable year for which the election is effective if any memberships are sold for periods in excess of 1 year but none are sold for periods in excess of 2 years, or

(c) Each of the 3 taxable years preceding the first taxable year for which the election is effective if any memberships are sold for periods in excess of 2 years.

In each case there shall be set forth the amount of such income which would have been includible in each taxable year had the election been effective for the years for which the information is required.

In any case in which prepaid dues income is received from more than one trade or business, the statement shall set forth separately the required information with respect to each trade or business for which the election is made. See paragraph (c) of this section for additional information required to be submitted with the statement if the taxpayer also elects to include in gross income for the taxable year of receipt the entire amount of prepaid dues income attributable to a liability which is to end within 12 months after the date of receipt.

(b) *Election with consent.* A taxpayer may elect with the consent of the Commissioner, to apply the provisions of section 456 to any trade or business in which it receives prepaid dues income. The request for such consent shall be in writing, signed by the taxpayer or its authorized representative, and shall be addressed to the Commissioner of Internal Revenue, Washington, D.C. 20224. The request must be filed on or before the later of the following dates: (1) 90 days after the beginning of the first taxable year to which the election is to apply, or (2) February 28, 1967 and should contain the information described in paragraph (a) of this section. See paragraph (c) of this section for additional information required to be submitted with the request if the taxpayer also elects to include in gross income for the taxable year of receipt the entire amount of prepaid dues income attributable to a liability which is to end within 12 months after the date of receipt.

(c) *"Within 12 months" election.* (1) The "within 12 months" election shall be made by including in the statement required by paragraph (a) of this section or the request described in paragraph (b) of this section, whichever is applicable, a declaration that the taxpayer elects to include such income in gross income in the taxable year of receipt, and the amount of such income for each taxable year to which the election is to apply which has ended prior to the time such statement or request is filed. If the taxpayer is engaged in more than one trade or business for which the election under section 456 is made, it must include, in such statement or request, a declaration for each trade or business for which it wishes to make the "within 12 months" election.

(2) If the taxpayer does not make the "within 12 months" election for a trade or business at the time it makes the election under paragraph (a) or (b) of this section, but later wishes to make such election, it must apply for permission from the Commissioner. Such application shall be made in accordance with the provisions of section 446(e) and § 1.446 (e) (3).

§ 1.456–7 Transitional rule.

(a) Under section 456(d)(1), a taxpayer making an election under section 456 shall include in its gross income for the first taxable year to which the election applies and for each of the 2 succeeding taxable years not only that portion of prepaid dues income which is includible in gross income for such taxable year under section 456(a), but also an additional amount equal to that portion of the total prepaid dues income received in each of the 3 taxable years preceding the first taxable year to which the election applies which would have been includible in gross income for such first taxable year and such 2 succeeding taxable years had the election under section 456 been effective during such 3 preceding taxable years. In computing such additional amounts—

(1) In the case of taxpayers who did not include in gross income for the taxable year preceding the first taxable year for which the election is effective, that portion of the prepaid dues income received in such year attributable to a liability which is to end within 12 months after the date of receipt, no effect shall be given to a "within 12 months" election made under paragraph (c) of § 1.456–6, and

(2) There shall be taken into account only prepaid dues income arising from a trade or business with respect to which an election is made under section 456 and § 1.456–6.

Section 481 and the regulations thereunder shall have no application to the additional amounts includible in gross income under section 456(d) and this section, but section 481 and the regulations thereunder shall apply to prevent other amounts from being duplicated or omitted.

(b) A taxpayer who makes an election with respect to prepaid dues income, and who includes in gross income for any taxable year to which the election applies an additional amount computed under section 456(d)(1) and paragraph (a) of this section, shall be permitted under section 456(d)(2) to deduct for such taxable year and for each of the 4 succeeding taxable years an amount equal to one-fifth of such additional amount, but only to the extent that such additional amount was also included in the taxpayer's gross income for any of the 3 taxable years preceding the first taxable year to which such election applies. The taxpayer shall maintain books and records in sufficient detail to enable the district director to determine upon audit that the additional amounts were included in the taxpayer's gross income for any of the 3 taxable years preceding such first taxable year. If, however, the taxpayer ceases to exist, as described in paragraph (b) of § 1.456–4, and there is included in gross income, under such paragraph, of the year of cessation the entire portion of prepaid dues income not previously includible in gross income under section 456 for preceding taxable years (other than for amounts received prior to the first year for which an election was made), all the amounts not previously deducted under this paragraph shall be permitted as a deduction in the year of cessation of existence.

(c) The provisions of this section may be illustrated by the following example:

Example. (1) Assume that X Corporation, a membership organization qualified to make the election under section 456, elects to report its prepaid dues income in accordance with the provisions of section 456 for its taxable year ending December 31, 1961. Assume further that X Corporation receives in the middle of each taxable year $6,000 of prepaid dues income in connection with a liability to render services over a 3-year period beginning with the date of receipt. Under section 456(a), X Corporation will report income received in 1961 and subsequent years as follows:

Year of receipt	Total receipts	1961	1962	1963	1964	1965	1966	1967	1968
1961	$3,000	$500	$1,000	$1,000	$500				
1962	3,000		500	1,000	1,000	$500			
1963	3,000			500	1,000	1,000	$500		
1964	3,000				500	1,000	1,000	$500	
1965	3,000					500	1,000	1,000	$500
1966	3,000						500	1,000	1,000
1967	3,000							500	1,000
1968	3,000								500
Total reportable under section 456(a)		500	1,000	2,500	3,000	3,000	3,000	3,000	3,000

(2) Under section 456(d)(1), X Corporation must include in its gross income for the first taxable year to which the election applies and for each of the 2 succeeding taxable years, the amounts which would have been included in those years had the election been effective 3 years earlier. If the election had been effective in 1958, the following amounts received in 1958, 1959, and 1960 would have been reported in 1961 and subsequent years:

Year of receipt	Amount received	Years of including additional amounts		
		1961	1962	1963
1958	$3,000	$500		
1959	3,000	1,000	$500	
1960	3,000	1,000	1,000	$500
Total additional amounts to be included under section 456(d)(1)		2,500	1,500	500

(3) Having included the additional amounts as required by section 456(d)(1), and assuming such amounts were actually included in gross income in the 3 taxable years preceding the first taxable year for which the election is effective, X Corporation is entitled to deduct under section 456(d)(2) in the year of inclusion and in each of the succeeding 4 years an amount equal to one-fifth of the amounts included, as follows:

Year of inclusion	Amount	Years of deduction						
		1961	1962	1963	1964	1965	1966	1967
1961	$2,500	$500	$500	$500	$500	$500		
1962	1,500		300	300	300	300	$300	
1963	500			100	100	100	100	$100
Total amount deductible under section 456(d)(2)		500	800	900	900	900	400	100

(4) The net result of the inclusions under section 456(d)(1) and the deductions under section 456(d)(2) may be summarized as follows:

	1961	1962	1963	1964	1965	1966	1967	1968
Amount includible under section 456(a)	$500	$1,000	$2,500	$3,000	$3,000	$3,000	$3,000	$3,000
Amount includible under section 456(d)(1)	2,500	1,500	500					
Total	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000
Amount deductible under section 456(d)(2)	500	800	900	900	900	400	100	
Net amount reportable under section 456	2,500	2,200	2,100	2,100	2,100	2,600	2,900	3,000

[F.R. Doc. 67–13999; Filed, Nov. 29, 1967; 8:47 a.m.]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER A—ARMED SERVICES PROCUREMENT REGULATIONS

MISCELLANEOUS AMENDMENTS TO SUBCHAPTER

The following amendments to this subchapter are issued by direction of the Assistant Secretary of Defense (Installations and Logistics) pursuant to authority contained in Department of Defense Directive No. 4105.30, dated March 11, 1959 (24 F.R. 2260) as amended, and 10 U.S.C. 2202.

PART 1—GENERAL PROVISIONS

1. Sections 1.106(a)(5), 1.109–2, and 1.305–3 (b) and (c) are revised, and new §§ 1.329,1.329–1, 1.329–2, 1.329–3, and 1.329–4 are added, as follows:

§ 1.106 Departmental procurement instructions and ASPR implementations.

(a) • • •

(5) Procurement procedures specifically identified as being essential for carrying out the peculiar needs of specialized commodity areas when authorized by: For the Army, Director of Procurement Policy and Review, Office of the Assistant Secretary of the Army (Installations and Logistics); for the Navy, Deputy Chief of Naval Material (Procurement); for the Air Force, Director of Procurement Policy, Office of the Deputy Chief of Staff (Systems and Logistics); for the Defense Supply Agency, Executive Director, Procurement and Production, and notification is given to the ASPR Committee immediately upon such authorization for the purpose of determining whether such procedures should be included in this subchapter.

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§ 1.109–2 Deviations affecting one contract or transaction.

Deviations from this subchapter or a Department of Defense Directive which affect only one contract or procurement may be made or authorized in accordance with Departmental procedures provided (a) special circumstances justify a deviation and (b) written notice of such deviation is furnished to the Assistant Secretary of Defense (Installations and Logistics); and in the case of the Department of the Army, to the Assistant Secretary of the Army (I&L), Attention: ASPR Policy Member; the Department of the Navy, the Chief of Naval Material, Attention: Code MAT02G; Department of the Air Force, Director of Procurement Policy, DCS/S&L, Attention: AFSPP–S; and the Defense Supply Agency, Executive Director, Procurement and Production, Attention: DSAH–PM. Such written notice shall be given in advance of the effective date of such deviations unless exigency of the situation requires immediate action.

§ 1.305–3 Terms.

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(b) Where the delivery schedule is in terms of specific calendar dates, invitations for bids will include one of the following provisions:

(i) The foregoing delivery requirements are based on the assumption that the Government will make award by [purchasing activity, insert calendar date]. Each delivery date in the delivery schedule set forth herein will be extended by the number of calendar days after the above date that the contract is in fact awarded. Attention is directed to paragraph 10(d) of the Solicitation Instructions and Conditions, which provides that a written award mailed or otherwise furnished to the successful bidder results in a binding contract. Therefore, in computing the available time for performance, the bidder should take into consideration the time required for notice of award to arrive through the ordinary mails. (August 1967)

(ii) The foregoing delivery requirements are based on the assumption that the successful bidder will receive the notice of award by [purchasing activity, inserting calendar date]. The Government will extend each delivery date in the delivery schedule set forth herein by the number of calendar days after the above date that the contractor receives notice of award: *Provided*, That the contractor promptly acknowledges such receipt. (April 1959)

(c) Where the delivery schedule is based on the date of contract (see paragraph (a) (2) of this section), the invitations for bids will include the following provision:

Attention is directed to paragraph 10(d) of the Solicitation Instructions and Conditions, which provides that a written award mailed or otherwise furnished to the successful bidder results in a binding contract. Any award hereunder, or a preliminary notice thereof, will be mailed or otherwise furnished to the bidder the day the award is dated. Therefore, in computing the time available for performance, the bidder should take into consideration the time required for the notice of award to arrive through the ordinary mails. However, a bid offering delivery based on date of receipt by the contractor of the contract or notice of award (rather than the contract date) will be evaluated by adding the maximum number of days normally required for delivery of the award through the ordinary mails. If, as so computed, the delivery date offered is later than the delivery date required in the invitation, the bid will be considered nonresponsive and rejected. (August 1967)

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§ 1.329 Release of procurement information.

§ 1.329–1 Purpose and scope.

Public Law 89–487 (as codified by Public Law 90–23, in section 552 of title 5, United States Code) provides that information is to be made available to the public either by (a) publication in the FEDERAL REGISTER, (b) providing an opportunity to read and copy records at convenient locations, or (c) upon request, providing a copy of a properly identified record. Materials to be published or made available under paragraphs (a) and (b) of this section will be determined in accordance with applicable provisions of DoD Directive 5400.7 and implementing Departmental regulations. General policy guidelines and procedures to be followed in responding to public requests for procurement records are contained in §§ 1.329—1.329–4 and DoD Directive 5400.7. (See Part 286 of this chapter, 32 F.R. 9866, July 4, 1967.)

§ 1.329–2 Release of records—General considerations.

(a) The Act imposes upon the Department of Defense the obligation of making information available to the public to the greatest extent possible while at the same time recognizing the need for providing specific exemptions to protect certain categories of information. The Department of Justice has stated with respect to the passage of this law:

This law was initiated by Congress and signed by the President with several key concerns

—that disclosure be the general rule, not the exception;

—that all individuals have equal rights of access;

—that the burden be on the Government to justify the withholding of a document, not on the person who requests it;

—that individuals improperly denied access to documents have a right to seek injunctive relief in the courts;

—that there be a change in Government policy and attitude.

Accordingly, DoD Directive 5400.7 states that it is the policy of the Department of Defense to make the maximum amount of information concerning its operations and activities available to the public.

(b) Procurement records requested and properly identified by any member of the public must be made available, unless they come within any of the specific categories of matters which are exempt from public disclosure under §1.329–3. It should be noted that the person making the request need not have a particular interest in its subject matter nor must he provide justification for the request.

(c) In deciding whether a particular record may be released, the request must be reviewed in accordance with DoD Directive 5400.7 and Departmental implementation thereof to determine whether the document or material requested qualifies as a "record" and, if so, whether it falls within an exemption under section VIII of the Directive as further implemented by §§ 1.329—1.329–4. Except for the establishment of procedures for the review of requests, the Departments and their subordinate organizations shall not, pursuant to § 1.108, issue instructions or regulations establishing standards for determining the release of procurement records without prior approval of the Assistant Secretary of Defense (Installations and Logistics).

§ 1.329–3 Exemptions.

(a) The law does not provide an automatic self-executing formula for determining whether a particular record is appropriate for release. Rather nine general categories of exemptions were established to provide the framework within which judgment must be exercised in deciding whether a particular record is exempt from disclosure.

(b) In compliance with DoD Directive 5400.7, records should be made available upon the request of any member of the public if no significant purpose would be served by withholding them under an applicable exemption, provided disclosure is not prohibited by executive order (see paragraph (c)(1) of this section) or by a statute.

(c) In addition to the general discussion of the exemptions in DoD Directive 5400.7, the following guidelines for the review of request for procurement documents are set forth below. In determining whether a procurement record not specifically discussed in §§ 1.329—1.329–4 should be released, the Department of Defense policy regarding the release of information contained in DoD Directive 5400.7 shall govern.

(1) *Matters "specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy."* Examples of such matters are those classified pursuant to Executive Order 10501, Safeguarding Official Information in the Interests of the Defense of the United States. This exemption would also cover information not classified for security reasons but otherwise required by Executive order to be kept secret in the interests of foreign policy or national defense.

(2) *Matters "related solely to the internal personnel rules and practices of an agency."* These matters include materials which are intended for the guidance of agency personnel only, including internal rules and practices which cannot be disclosed to the public without prejudice to the proper and efficient performance of an agency function. Examples of such materials are operating rules, guidelines, and manuals of procedure for Government investigators and examiners. Other examples are: Circumstances under which an unannounced inspection or spot-audit of a transaction will be conducted to determine compliance with regulatory requirements; or negotiating or bargaining techniques, positions, or limitations.

(3) *Matters "specifically exempted from disclosure by statute."* Examples of such statutes include 18 U.S.C. 1905 for trade and financial information provided in confidence to an officer or employee of the Government; Public Law 86–36 (50 U.S.C. 402 note) for National Security Agency information; the Atomic Energy Act of 1954 (42 U.S.C. 2281); and 35 U.S.C. 181–188 (Patent Secrecy).

(4) *Matters that are "trade secrets and commercial or financial information obtained from a person and privileged or confidential."* (i) This exemption covers documents containing information which is customarily privileged or confidential and is released to the Government on that basis by an individual, private or public organization, State or local government, foreign government, or international organization. The applicability of this exemption does not depend upon whether the Department obtains the information directly from a person concerned with preserving the confidential nature of the information, such as in the case where a prime contractor submits information from a subcontractor. It may encompass business statistics, inventory and customer lists, scientific and manufacturing processes and developments, and trade secrets. Such information is generally received in confidence in connection with the receipt of bids and proposals, solicited or unsolicited, and in the course of negotiations. It would also include statistical data or information concerning contract performance, income, profits, losses, and expenditures received from contractors or potential contractors.

(ii) To receive the protection of the exemption, material must be received in confidence or not made generally available by the party furnishing it to the Government. The following are examples of documents which would normally be exempt under this provision: Cost and pricing data submitted by contractors, as described in § 3.807 of this chapter; documents or data appropriate for renegotiation purposes; price analyses based on contractor submitted data (see e.g. § 3.811 of this chapter); documents supporting advance and progress payments; documents received from contractors relating to compliance with labor policies e.g., records of compliance checks; payrolls or certified excerpts); settlement proposals, rejected engineering change proposals, invention reports of disclosures and value engineering proposals.

(iii) Formulae, designs, drawings and specifications, and research data are considered to be items of valuable public property and their release is governed by other DoD Directives and Departmental regulations. Reports or documents which are end items under a contract, or reports recording the results obtained from scientific and technical activities, whether acquired under contract or accomplished by in-house research elements of the Department of Defense, would likewise be governed by appropriate DoD Directives and Departmental regulations.

(5) *Matters that are "interagency or intraagency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency."* (i) This exemption is intended to recognize that a full and frank exchange of opinions would be impossible if all internal communications were required to be made public. The exemption does not contemplate indiscriminate administrative secrecy, and any internal memoranda which would routinely be disclosed to a private party through the discovery process in litigation should be available for release to members of the public.

(ii) The following are examples of documents and information not normally available to the public under this exemption: Cost and price analysis as described in Subpart H, Part 3 of this chapter; contractor experience lists; procurement management reviews, such as Contract Performance Evaluation Reports; Government price estimates; preaward surveys and other advisory documents considered by contracting officers in determining contractor responsibility for award purposes and other documents containing staff advice preliminary to an award of a contract; records of Source Selection Boards, Contract Review Boards, etc.; advisory documents regarding termination actions; advisory records concerned with contract administration, such as production surveillance, quality assurance, and inspection reports; and renegotiation reports (see § 1.319).

(iii) Records which are received or generated by a department and which are preliminary to a decision or action, should not be released until such time as disclosure would not be detrimental to the authorized and appropriate purpose for which they are being used. For example, a copy of an IFB intended for public release at a particular time should not be released prematurely, although the document is in final form and ready for distribution. Similarly, advance plans to procure, lease, or dispose of materials, real estate, or facilities should not be released, particularly when such information would adversely affect the integrity of the procurement process. (See e.g. §1.1007.)

(6) *Matters that are "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy."* A citizen has a right to be secure in his personal affairs when such affairs have no bearing or effect on the general public. This exemption is intended to exclude from disclosure requirements, not only personnel and medical files, but also all private, personal, financial, or business information contained in other files which, if disclosed to the public, would constitute a clearly unwarranted invasion of personal privacy. An example of such similar files are those compiled to evaluate candidates for security clearance—civilian, military, and industrial.

(7) *Matters contained in "investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency."* (i) The term "law enforcement" is used in this exemption in its broadest sense and is not limited to the enforcement of criminal statutes only.

(ii) This exemption would include reports under § 1.111 for suspected criminal conduct, noncompetitive practices, and other procurement irregularities or reports on identical bids under § 1.114. It would also encompass Inspector General reports on procurement matters, where reports were compiled for possible law enforcement action. These reports are often generated by specific allegations of procurement irregularities on the part of contractors or Government personnel. Other examples are lists of firms or individuals suspended under § 1.605 or reports under § 1.608; and information received in connection with investigations conducted pursuant to Executive Order 11246 (Equal Opportunity).

(8) *Matters "contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions."*

(9) *Matters involving "geological and geophysical information and data including maps, concerning wells."*

§ 1.329–4 Requests for procurement records.

(a) Request for copies of procurement records shall be reviewed in accordance with Departmental procedures issued in accordance with DoD Directive 5400.7.

(b) Request for copies, or for the inspection of procurement records should be addressed to the procuring activity, purchasing office or other appropriate activity having cognisance of the information or document desired by the party making the request. If the identity of the activity is not known, the request should be addressed to the most appropriate office as follows:

Army: Office of the Assistant Secretary of the Army (Installations & Logistics), Department of the Army, Washington, D.C. 20310.
Navy: Chief of Naval Material (MAT 05), 18th Street and Constitution Avenue NW., Washington, D.C. 20360.
Air Force: Director, Administrative Services, Headquarters, U.S. Air Force, Washington, D.C. 20330.
DSA: Staff Director, Administration, Headquarters, Defense Supply Agency, Attention DSAH–XA, Cameron Station, Alexandria, Va. 22314.
DCA: Information Services Officer, Room 4430, HQ, DCA, Navy Service Center, 8th and South Courthouse Road, Arlington, Va. 20305.
DASA: HQ, Defense Atomic Support Agency, Washington, D.C. 20305.

2. The contract clause in § 1.506–1 is revised; §§ 1.506–2(a) and 1.601–4 are revised; the introductory text of § 1.701–4 is revised; and §§ 1.705–4(f), 1.907, 1.1002–1, 1.1004(b), and 1.1006–2 are revised, as follows:

§ 1.506–1 General.

* * * * *

Bidder represents: (a) That he ☐ has, ☐ has not, employed or retained any company or person (other than a full-time bona fide employee working solely for the bidder) to solicit or secure this contract, and (b) that he ☐ has, ☐ has not, paid or agreed to pay to any company or person (other than a full-time bona fide employee working solely for the bidder) any fee, commission, percentage or brokerage fee, contingent upon or resulting from the award of this contract, and agrees to furnish information relating to (a) and (b) above as requested by the Contracting Officer. (For interpretation of the representation, including the term "bona fide employee," see Code of Federal Regulations, Title 41, Subpart 1–1.5 (Apr. 1966).) (August 1967)

* * * * *

§ 1.506–2 Interpretation of the representation.

(a) For the purpose of the representation and agreement required from the prospective contractor, as described in § 1.506–1, the definition of "bona fide employee" is as specified in § 1.505–3.

* * * * *

§ 1.601–4 Protection of records.

Records relating to debarment and suspension shall be protected to prevent inspection of the contents by personnel who are not required to have access to such information. The reports made pursuant to § 1.606 and all related internal correspondence shall be marked "For Official Use Only" unless the information warrants a security classification. (See § 1.329–3(c)(7).)

§ 1.701–4 Manufacturing industry employment size standards.

The Standard Industrial Classification Manual (1963 edition) index provides an alphabetic listing of products and the industry with which the product is associated, which includes references to the Classification Code set forth below.

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§ 1.705–4 Certificates of Competency.

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(f) If a Certificate of Competency is issued and the contracting officer has substantial doubt as to the ability of the contractor to perform, the case shall be forwarded through channels on an expedited basis with complete documentation as to the element of substantial doubt to, as appropriate, the Director of Procurement Policy and Review, Office of the Assistant Secretary of the Army (I&L); Director of Procurement, Office of the Assistant Secretary of the Navy (I&L); Director of Procurement Policy (AFPPP), Headquarters USAF; or the Executive Director, Procurement and Production, Headquarters DSA, for review. The contracting officer shall withhold procurement action pending receipt of instructions from departmental headquarters.

§ 1.907 Disclosure of preaward data.

Data, including information obtained from a preaward survey, accumulated for purposes of determining the responsibility of a prospective contractor shall not be released outside the Government and shall not be made available for inspection by individuals, firms, or trade organizations (see § 1.329–3(c)(5)). Such data may be disclosed to, or summarized for, other elements within the Government on their request, and shall be made available to Department of Defense procurement personnel upon request in accordance with § 1.905–1. Prior to making a determination of responsibility, such data may be discussed with the prospective contractor as determined necessary by the purchasing office. After an award, the findings of the preaward survey may be discussed by the contracting officer with the company surveyed as provided in §§ 2.408 and 3.508 of this chapter, or if appropriate, by the head of the contract administration office or his designee.

§ 1.1002–1 Availability of invitations for bids and requests for proposals at the contracting office.

A reasonable number of copies of invitations for bids and requests for proposals, which are required to be publicized in the Commerce Business Daily, including specifications and other pertinent information, shall be maintained at the contracting office. Upon request, prospective contractors not initially solicited may be mailed or otherwise provided copies of such invitations for bids or requests for proposals to the extent they are available. When a solicitation for proposals has been limited as a result of a determination that only a specified firm or firms possess the capability to meet the requirements of a procurement, requests for proposals shall be mailed or otherwise provided upon request to firms not solicited, but only after advice has been given to the firm making the request as to the reasons for the limited solicitation and the unlikelihood of any other firm being able to qualify for a contract award under the circumstances; but see § 4.106–2 of this chapter. In addition, to the extent that invitations for bids or requests for proposals are available, they shall be provided on a "first come–first served" basis, for pick-up at the contracting office, to publishers, trade associations, procurement information services, and other members of the public having a legitimate interest therein (for construction, see § 18.205(c) of this chapter); otherwise the contracting office will make copies available to members of the public pursuant to DoD Directive 5400.7, published as Part 286 of this chapter, 32 F.R. 9666, July 4, 1967. In determining the "reasonable number" of copies to be maintained, the contracting officer shall consider, among other things, the extent of initial solicitation, reproduction costs, the nature of the procurement, whether access to classified matter is involved, the anticipated requests for copies based upon responses to synopses and other means of publication in previous similar situations, and the fact that publishers and others who disseminate information regarding proposed procurements normally do not require voluminous specifications or drawings. With regard to classified procurements, the foregoing instructions apply to the extent consistent with Departmental security instructions and procedures.

§ 1.1004 Disclosure of information prior to award.

* * * * *

(b) Maximum information may be made available to the public except (1) advance information on proposed plans regarding procurements, which information would provide undue or discriminatory advantage to private or personal interests; (2) information which is received in confidence; (3) information which otherwise requires protection under § 1.329–3(c); or (4) information as to referrals (for technical review, contracting authority, or other reasons) or recommendations made with respect thereto in connection with any given procurement. This policy applies to all Government personnel who participate directly or indirectly in any stage of the procurement cycle. (See §§ 1.1006, 2.211, 3.507, 3.508, and 3.804 of this chapter.) Information submitted by the bidder or offeror in confidence, and information which might jeopardize the position of the Government or any prospective contractor shall not be released, except as provided in §§ 1.1006 and 3.508 of this chapter. (See § 1.705–3 as to information to be released to the SBA, and

§ 1.1007 for procedures for publicising long-range procurement estimates.)

§ 1.1006–2 General public.

Requests from the general public, including suppliers, for specific information will be processed in accordance with § 1.329; but see § 286.7(d) of this chapter (32 F.R. 9668, July 4, 1967).

3. In § 1.1604, the second address listed in paragraph (c) is revised; § 1.1705–1 is revised; and clause paragraph (j)(1) in § 1.1707–3(b) is amended, as follows:

§ 1.1604 Processing novation agreements and change of name agreements.

* * * * *

(c) * * *

Department of the Navy, Chief of Naval Material, Attention: MAT 0243, Washington, D.C. 20360.

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§ 1.1705–1 Submission of identical value engineering change proposals under more than one contract.

Contractors should be encouraged to submit cost reduction proposals under any of their contracts where the likelihood of savings is present even though an identical proposal may have been accepted under another contract with the contractor or another contractor. When identical value engineering change proposals are submitted under more than one contract for substantially the same items, either with the same contractor or with different contractors, and both are accepted, the value engineering clauses provide that (a) instant contract savings shall be paid under each contract, (b) future acquisition savings and collateral savings will be paid only to the extent provided for by the contract under which the proposal is first received by the contracting officer and not pursuant to the other contract, and (c) the royalty sharing provision (if any) in the contract under which the proposal is first received will nevertheless not operate with respect to the other contract under which the Government accepts the proposal and pays instant contract savings.

§ 1.1707–3 Future acquisition sharing provisions (clause paragraph (j)).

* * * * *

(b) *Royalty sharing provision.* Where the royalty sharing method is to be used, insert the following as paragraph (j) of the Value Engineering Incentive clause or Value Engineering Program Requirement clause in § 1.1707–1.

(j) (1) If a cost reduction proposal is accepted under this clause, the Contractor will be paid (in addition to any adjustment under paragraphs (d) and (f) (if included) above) a royalty share of savings realized by the Government on future purchases, if any, of items utilizing the cost reduction proposal. The Contractor's royalty share will be _____ percent (_____%)* of the unit cost reduction under this contract** (without deducting any cost of development or implementation) multiplied by the quantity of _____*** which:

(i) Utilize the cost reduction proposal pursuant to the specifications or other provisions of any other contract of the _____**** which is awarded after acceptance of the cost reduction proposal; and

(ii) Are originally scheduled for delivery not later than _____ (____) years***** after either the last originally scheduled delivery date for any such item under this contract or the date of acceptance of the cost reduction proposal whichever is later,****** and

(iii) Are accepted by the Government under such other contracts. However, if application of the cost reduction proposal reasonably requires the incurrence of any net increase in ascertainable collateral costs to the Government in connection with this or future contracts with the Contractor or other contractors or any predictable implementation costs for future contracts with the Contractor or other contractors, or if application of the cost reduction proposal to this contract results in an increase in the contract price under paragraph (d) above, then the sum of such collateral costs, implementation costs, and price increase will be determined promptly after acceptance of the cost reduction proposal. Then the estimated savings on future contracts (unit cost reduction under the instant contract multiplied by quantity affected under the future contract to which the royalty sharing under this paragraph (j)(1) applies) shall be successively credited against the sum of such collateral costs, implementation costs, and price increase so that no amount shall be payable under this paragraph (j)(1) unless and until the amounts so credited equal such sum.

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PART 2—PROCUREMENT BY FORMAL ADVERTISING

4. Sections 2.406–3(b)(1), 2.407–1, and 2.407–3(a) are revised to read as follows:

§ 2.406–3 Other mistakes.

* * * * *

(b) * * *

(1) Department of the Army: To the Director of Procurement Policy and Review, Office of the Assistant Secretary of the Army (Installations and Logistics); General Counsel of the U.S. Army Materiel Command; General Counsel of the Office of the Chief of Engineers.

* * * * *

§ 2.407–1 General.

Unless all bids are rejected, award shall be made by the contracting officer, within the time for acceptance specified in the bid or extension thereof, to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Government, price and other factors considered. If a proposed award requires approval of higher authority, such award shall not be made until approval has been obtained. Awards shall be made by mailing or otherwise furnishing to the bidder a properly executed award document (see Subparts A and D, Part 16 of this chapter) or notice of award on such form as may be prescribed by the procuring activity. When a notice of award is issued, it shall be followed as soon as possible by the formal award. When more than one award results from any single invitation for bids, separate award documents shall be executed, each suitably numbered. When an award is made to a bidder for less than all the items which may be awarded to that bidder and additional items are being withheld for subsequent award, the first award to that bidder shall state that the Government may make subsequent awards on such additional items within the bidder's bid acceptance period. When two or more awards are made to a single bidder on an invitation, the copy of the successful bid marked "original" will be attached to the appropriate finance center copy and a copy marked "duplicate" will be attached to the retained office copy of the first award issued, and succeeding awards will be inscribed to indicate the number of the award to which the original and duplicate bids are attached. This is necessary for legal review and auditing by the General Accounting Office. All provisions of the invitation for bids, including any acceptable additions or changes made by a bidder in the bid, shall be clearly and accurately set forth (either expressly or by reference) in the award document, since the award is an acceptance of the bid, and the bid and the award constitute the contract.

§ 2.407–3 Discounts.

(a) The Discounts clause of the Solicitation Instructions and Conditions (Standard Form 33–A) establishes 20 calendar days as the minimum period for prompt payment discounts to be considered in bid evaluation unless otherwise specified in the invitation for bids. Prior to issuing an invitation for bids (except for construction), a determination shall be made as to whether the 20-calendar-day minimum period for prompt payment discounts is appropriate. If a minimum period more or less than 20 calendar days is determined to be desirable, such minimum period shall be stated in the invitation for bids by including in the solicitation the following clause:

DISCOUNTS (AUGUST 1967)

In accordance with subparagraph (a) of the clause entitled "Discounts" in the Solicitation Instructions and Conditions (Standard Form 33–A) prompt payment discounts will be considered in the evaluation of bids, provided the minimum period for the offered discount is:

*(i) _____ days where delivery and acceptance are at point of origin; or

*(ii) _____ days where delivery and acceptance are at destination.

The offered discount of a successful Bidder will form a part of the award whether or not such discount was considered in the evaluation of his bid and such discount will be taken if payment is made within the discount period.

In determining the minimum period for a particular procurement, consideration shall be given to:

(1) The place of delivery, inspection, and acceptance in relation to the place of payment of invoices or vouchers;

(2) The number of days required to process invoices or vouchers from receipt through payment in the normal course of business; and

*The contracting officers shall delete (i) or (ii) from the clause, whichever is inapplicable, when "origin only" or "destination only" delivery acceptance is solicited.

(3) The need for prolonged acceptance testing or other unusual circumstances tending to retard the normal processing of invoices or vouchers.

Generally, the minimum period will be expressed in multiples of 10 days; e.g., "10 calendar days," "20 calendar days," or "30 calendar days," since these time intervals coincide with the discount terms generally offered by industry.

* * * * *

PART 3—PROCUREMENT BY NEGOTIATION

5. Sections 3.101(h) and 3.102(c) are revised; in § 3.201–2(b), a new subparagraph (3) is added; § 3.201–3 and the first sentence of § 3.410–2(a) are revised; and § 3.603–1(c) is revised, as follows:

§ 3.101 Negotiation as distinguished from formal advertising.

* * * * *

(h) Consideration of the nature and effectiveness of the prospective contractor's cost reduction program (for those contractors that have participated in the Defense Contractor Cost Reduction Program, a transcript of all Contractor Cost Reduction Program Report (DD Form 1514) evaluation certificates (Item 10 of the form) may be obtained from the Defense Documentation Center of the Defense Supply Agency (DDC–TSR), Cameron Station, Alexandria, Va. 22314. Such transcript or a statement that there is no record on file shall always be obtained for procurements in excess of $1 million. Cost reduction programs of contractors who have not submitted reports under the DoD Contractor Cost Reduction Program or who are not participating in the formal program should also be evaluated.);

* * * * *

§ 3.102 General requirements for negotiation.

* * * * *

(c) Negotiated procurements shall be on a competitive basis to the maximum practical extent. When a proposed procurement appears to be necessarily noncompetitive, the purchasing activity is responsible not only for assuring that competitive procurement is not feasible, but also for acting whenever possible to avoid the need for subsequent noncompetitive procurements. This action should include both examination of the reasons for the procurement being noncompetitive and steps to foster competitive conditions for subsequent procurements, particularly as to the availability of complete and accurate data, reasonableness of delivery requirements (§ 1.305–3(a) of this chapter), and possible breakout of components for competitive procurement. Except for procurement of electric power or energy, gas (natural or manufactured), water, or other utility services, and procurement of educational services from nonprofit institutions, contracts in excess of $10,000 shall not be negotiated on a noncompetitive basis without prior review at a level higher than the contracting officer to assure compliance with this paragraph.

§ 3.201–2 Application.

* * * * *

(b) * * *

(3) Procurements entered into pursuant to the Balance of Payments Restricted Advertising method of procurement (see § 6.806–2 of this chapter).

§ 3.201–3 Limitation.

The authority of §§ 3.201—3.201–3 shall not be used when negotiation is authorized by the provisions of §§ 3.206—3.206–2 except that, in the event of a labor surplus or small business set-aside, this authority shall be used in preference to any other authority in this subpart (see §§ 1.706–2 and 1.804–4 of this chapter). The authority of this section shall not be used to negotiate a reasonable price with a low responsible small business bidder whose bid has been determined by the contracting officer to be an unreasonable bid under Small Business Restricted Advertising procedures. When such an unreasonable bid is received, the set-aside shall be dissolved and the requirement procured on an unrestricted basis by the use of formal advertising or where appropriate by other negotiation authority in accordance with existing regulations.

§ 3.410–2 Basic ordering agreement.

(a) *Description.* A basic ordering agreement is not a contract (but see §§ 12.302, 12.602–1, and 12.1001 of this chapter). * * *

§ 3.603–1 General.

* * * * *

(c) Inspection procedures for small purchases shall be in accordance with § 14.308 of this chapter.

6. Sections 3.604–2, 3.605–1, 3.605–3(b), and 3.608–2(d) (4) and (7) are revised, and in § 3.606–3, paragraph (b) is revised and paragraph (c) is revoked, as follows:

§ 3.604–2 Purchases in excess of $250 but not in excess of $2,500.

Except as provided in § 3.608–2(b)(2), reasonable solicitation of quotations from qualified sources of supply shall be made to assure that the procurement is to the advantage of the Government, price and other factors considered, including the administrative cost of the purchase. Generally, solicitation shall be limited to three suppliers and, to the maximum extent possible, shall be restricted to the local trade area of either the purchasing or the receiving activity. When prices are solicited from three suppliers dealing in the general category of items required and only one quotation is received, it is not necessary to solicit additional quotations if the price received is considered fair and reasonable. Quotations shall generally be solicited orally. Written solicitations shall be used only where (a) the suppliers are located outside the local area, (b) special specifications are involved, (c) a large number of items are included in a single proposed procurement, or (d) obtaining oral quotations is not considered economical. Reasonableness of proposed prices may be established by comparison with previous purchases, current price lists, catalogs, advertisements, or by other appropriate method. Where these informational media are not available, reasonableness of price may be based on a comparison with similar items in a related industry or the contracting officer's personal knowledge of the item being procured. Although the contracting officer must determine that prices are fair and reasonable, written justification explaining how prices were determined to be fair and reasonable is not required. Written records of solicitation may be limited to notes or abstracts to show the vendor or vendors contacted, prices, delivery, and other informal historical data. When only one source is solicited, a brief written notation must be made a part of the file to explain the absence of competition. Such notation is not required for procurement of utility services available only from one source or procurement of educational services from nonprofit institutions. Notification to unsuccessful suppliers shall be given only if requested.

§ 3.605–1 General.

A blanket purchase agreement is a simplified method of filling anticipated repetitive needs for small quantities of supplies or services by establishing "charge accounts" with qualified sources of supply (see §§ 12.202, 12.602–1, and 12.1001 of this chapter). Blanket purchase agreements are designed to reduce administrative costs in accomplishing small purchases by eliminating the need for issuing individual purchase documents.

§ 3.605–3 Establishment of blanket purchase agreements.

* * * * *

(b) *Form.* (1) Except as provided in subparagraph (2) of this paragraph, blanket purchase agreements shall be prepared and issued on DD Form 1155 (Order for Supplies or Services/Request for Quotations). Either the "General Provisions of Purchase Order," DD Form 1155r, or the "General Provisions of Purchase Order—Foreign," DD Form 1155r–1, as applicable, shall be used. Other applicable provisions of the blanket purchase agreement shall be set forth on the Standard Form 36 (Continuation Sheet) or on a blank sheet of paper, including the following:

(i) The Contract Work Hours Standards Act—Overtime Compensation clause in § 12.303 of this chapter shall be added unless it is reasonably anticipated that the aggregate of the total dollar amounts of orders to be placed thereunder will be $2,500 or less;

(ii) Where the agreement is for the intended purchase of services covered by the Service Contract Act of 1965, the clause in § 12.1004(a) of this chapter shall be substituted for Clause 16 of the General Provisions and the procedures in § 12.1006 of this chapter complied with, unless it is reasonably anticipated that the aggregate of the total dollar amounts of orders to be placed thereunder will be $2,500 or less; and

(iii) Where the agreement is for the intended purchase of supplies, the Walsh-Healey Public Contracts Act clause in § 12.606 of this chapter shall be added, unless the agreement limits the aggregate total of orders to be placed thereunder to $10,000.

(2) Blanket purchase agreements issued by the Defense Personnel Support Center may be prepared on its form "Order for Subsistence."

* * * * *

§ 3.608–2 Order for Supplies or Services/Request for Quotations (DD Forms 1155, 1155r, 1155r–1; Standard Form 36; DD Form 1155c–1 and Standard Form 30).

* * * * *

(d) * * *

(4) Inspection of small purchase shall be in accordance with § 14.308 of this chapter. Orders generally will provide that inspection and acceptance will be at destination and source inspection should be specified only when required by § 14.305–2(c) of this chapter. When inspection and acceptance are to be performed at destination, advance copies of the purchase order shall be furnished to consignee(s) for material receipt purposes. Receiving reports shall be accomplished immediately upon receipt and acceptance of material to assure expeditious payment of orders and to obtain prompt payment discounts, except where the fast payment procedure is authorized.

* * * * *

(7) The contracting officer's signature on purchase orders shall be in accordance with ASPR procedure. Facsimile signatures may be used in the production of purchase orders by automated methods, provided specific authority for such use is obtained from the Director of Procurement Policy and Review, Office of the Assistant Secretary of the Army (Installations and Logistics) in the Army; Deputy Chief of Naval Material (Procurement) in the Navy; the Director of Procurement Policy, Office of the Deputy Chief of Staff (Systems and Logistics) in the Air Force; and the Executive Director, Procurement and Production; and the Defense Supply Agency.

* * * * *

§ 3.808–3 Profit objective.

* * * * *

(b) Development of a profit objective should not begin until after a thorough (1) review of proposed contract work; (2) review of all available knowledge regarding the contractor, pursuant to Subpart I, Part 1 of this chapter, including performance, capability reports, audit data, preaward survey reports and financial statements, as appropriate; and (3) analysis of the contractor's cost estimate and comparison with the Government's estimate or projection of cost.

(c) [Revoked]

PART 4—SPECIAL TYPES AND METHODS OF PROCUREMENT

7. In § 4.106–4, paragraph (d) is revised, and in § 4.110, new paragraph (d) is added, as follows:

§ 4.106–4 Evaluation for award.

* * * * *

(d) In evaluating proposals for contracts in excess of $1 million for advanced development, engineering development, operational systems development, and follow-on or concurrent production contracts, the Source Selection Advisory Council or any other person or group acting in a similar capacity shall obtain from the Defense Documentation Center, Attention: DDC–TSR, Cameron Station, Alexandria, Va. 22314 (see 4–117), a transcript of the performance evaluations of all contractors submitting acceptable proposals, or a statement that there is no record on file. This transcript or statement may be obtained for a procurement below $1 million. This information shall be furnished within 3 working days from receipt of the request by the Defense Documentation Center.

§ 4.110 Cost-sharing policy.

* * * * *

(d) It is Department of Defense policy that foreign buyers of major defense equipment shall pay a fair share of nonrecurring costs associated with the equipment. To provide for future negotiation of amounts to be recovered by the Department of Defense from contractors' direct sales, the clause in § 7.403–42 of this chapter will be included in all contracts for production of such major defense equipment.

(1) *Major defense equipment.* Major defense equipment consists of those weapons or weapons systems which required or will require a research, development, test and evaluation investment estimated in excess of $25 million or total production investment estimated in excess of $100 million (see DoD Directive 3200.9).

(2) *Nonrecurring costs.* Nonrecurring costs are costs incurred or to be incurred for the benefit of the entire production run, including initial, past, current, and future runs, and which are allocable to all units, rather than to those units, if any, produced at the time the cost is booked. Nonrecurring costs include such costs as research, development, test, evaluation, preproduction, facilities, special tooling, special test equipment, production engineering, product improvement, destructive testing, and pilot model production, testing and evaluation.

(3) *Charge for nonrecurring costs.* For an item of major defense equipment offered for sale, the charge for nonrecurring costs is the pro rata share of all Department of Defense nonrecurring costs, incurred and projected to be incurred, applied against the total production quantity of such item, past and projected future, including the production quantity for the Department of Defense. It is calculated by multiplying the nonrecurring costs by the foreign buyer quantity and dividing by the total production quantity. In principle, for major defense equipment for which several model designators exist, the nonrecurring costs and the total production quantity should be accumulated over the range of models and major subsystems "essentially similar" to the model and subsystems being sold.

(i) The phrase "essentially similar" is not precisely definable and will require judgment on the part of those calculating the charge for nonrecurring costs in each case as to whether it is equitable (*a*) to accumulate costs and production quantities over the whole range back to the first model or (*b*) to limit the accumulation to those costs and production quantities associated with the more recent models or the exact model being sold. The former would be equitable if the first model was followed by relatively minor changes and nonrecurring costs for subsequent models; the latter, if the more recent models, or the model being sold, are an improvement requiring a significant investment which makes the first model technology essentially irrelevant.

(ii) In any event, the charge must cover the same program for nonrecurring costs on the one hand, and associated production on the other.

(4) *Deviations and waivers.* Notwithstanding §§ 1.109–2 and 1.109–3 of this chapter, the advance written approval of the Secretary of Defense or his designee is required before:

(i) Deviating from this paragraph;

(ii) Deviating from § 7.403–42 of this chapter or the clause contained therein; or

(iii) Waiving, in whole or in part, the charge for nonrecurring costs.

Each request for such a deviation or waiver must include the recommendations of the Secretary of the Department concerned and must clearly demonstrate that approval would be in the best interests of the U.S. Government (see also § 1.109–5 of this chapter).

PART 5—INTERDEPARTMENTAL AND COORDINATED PROCUREMENT

8. Sections 5.1106–3(a)(2) and 5.1106–5 are revised to read as follows:

§ 5.1106–3 Determinations and findings.

(a) *General.* * * *

(2) When coordinated procurement is negotiated pursuant to 10 U.S.C. 2304(a)(13) and § 3.213 of this chapter, the Requiring Department shall make the determinations and findings in accordance with Subpart C, Part 3 of this chapter. When the Requiring Department is responsible for securing Secretarial approval under 10 U.S.C. 2304(a)(16) and § 3.216 of this chapter, the MIPR shall contain a statement that the required determinations and findings has been executed for the specific case in question or program involved. In both instances the Requiring Department shall preserve the original determinations and findings with supporting data as required by

§ 3.308 of this chapter, and shall make distribution in accordance with § 3.307 of this chapter, except that two copies shall be attached to the MIPR or purchase request. The Procuring Department shall file one copy in the official contract file and forward the other copy to the appropriate finance center with the copy of the negotiated contract.

* * * * *

§ 5.1106–5 Specifications, drawings, and other purchase data.

The Requiring Department shall furnish to the Procuring Department a list (or copies) of specifications, drawings, and other data, as appropriate, required for the procurement. If Federal, Military, Departmental, or other specifications, or drawings or data are available to the Procuring Department and referenced in the MIPR, they need not be furnished by the Requiring Department. Under no circumstances shall the Procuring Department direct or authorize deviations or waivers from the specifications, drawings, or other purchase data included in the MIPR without express authority of the Requiring Department (but see § 14.406 (b) of this chapter). Required changes in such purchase data shall be accomplished as set forth in § 5.1108–6.

PART 6—FOREIGN PURCHASES

9. Sections 6.705, 6.705–1, 6.705–2, and 6.705–3 are revised; in § 6.805–2, paragraphs (b) (1) (ii) and (iii), (d) (1) (i) and (ii), and (e) are revised; and new Subpart J is added, as follows:

§ 6.705 Procurements for foreign military sales (FMS).

§ 6.705–1 Scope of §§ 6.705–6.705–3.

Sections 6.705—6.705–3 set forth policies and procedures applicable to procurements for the purpose of Foreign Military Sales pursuant to the Foreign Assistance Act of 1961. It does not apply to sales made from inventories or stocks or to procurements for replenishment of inventories or stocks.

§ 6.705–2 General.

(a) (1) Department of Defense policy prohibits sales of unclassified defense articles to the Government of any economically developed nation unless such articles are not generally available for purchase by such nations from commercial sources in the United States, except if this prohibition has been waived by the Secretary of Defense. Note that this prohibition is not limited to commercial articles: it extends to unclassified articles of a military nature, or manufactured according to military specifications, so long as they are generally available to foreign countries from U.S. commercial sources. Further, this prohibition applies, as a matter of policy, whether or not the sale depends on section 507(b) of the Foreign Assistance Act of 1961, as amended, unless a waiver by the Secretary of Defense applies.

(2) Current information as to "economically developed nations" and as to waivers of the prohibition in subparagraph (1) of this paragraph is available, in the Army, from the Director of International Logistics, Army Materiel Command; in the Navy, from the Office of the Chief of Naval Operations (OP-42); and in the Air Force, from the Director of Military Assistance, Deputy Chief of Staff, Systems and Logistics. If a foreign government seeks to purchase items from any Department of Defense activity and there is doubt as to whether the items are available from commercial sources in the United States, the Department concerned may suggest the names of possible commercial sources to the foreign government to assist in making the determination.

(b) In connection with each Foreign Military Sale expected to involve procurement in excess of $10,000 where the procurement involved cannot be placed on the basis of price competition (as, for example, where the foreign customer has designated only one source as acceptable), before the Department of Defense furnishes prices for information purposes to potential foreign customers, prices shall be requested from prospective sources and such request shall state that it is for information for the purpose of a Foreign Military Sale and shall identify the customer.

§ 6.705–3 Pricing procurements for Foreign Military Sales.

(a) When the Department of Defense undertakes procurement for sale to a foreign country which has committed itself to bear the cost of the procurement, the Department of Defense assumes responsibility to see to it that no more than a fair price is paid for the procurement. Accordingly, Foreign Military Sales contracts shall be priced on the same principles and with the same care as are used in pricing normal Defense contracts. But this does not mean that prices of normal Defense contracts for an item are automatically applicable to Foreign Military Sales contracts for the same item. On the contrary, application to Foreign Military Sales contracts of the pricing principles established by Subpart H, Part 3, and Part 15 of this chapter may require pricing results that differ from normal Defense contract prices for the same item because certain kinds of costs may reasonably and allocably arise in different amounts for the former than for the latter.

(b) If the contractor has made sales of an item to foreign customers under comparable conditions including quantity and delivery, the price of such sales generally should be used as a guide in pricing Foreign Military Sales contracts for the same or similar items, subject to price analysis under the provisions of Subpart H, Part 3 of this chapter. Cost analysis should be used only if required by Subpart H, Part 3 of this chapter.

(c) In pricing Foreign Military Sales contracts where non-U.S. Government prices, as described in paragraph (b) of this section, do not exist, recognition should be given to costs of doing business with a foreign government (even though the form of the transaction is a Defense procurement for the purpose of Foreign Military Sales) whenever comparable costs of doing business with the United States would be recognized in pricing normal Defense contracts. Thus, recognition should be given to reasonable and allocable costs even though they might not be recognized in the same amounts in pricing normal Defense contracts. Examples of such costs include, but are not limited to, the following: Selling costs, including maintenance of international sales and service organizations and sales commissions and fees (except as limited by § 15.205–37(c) of this chapter); product support and postdelivery service costs; costs of translating technical manuals and comparable material; and costs that are the subject of advance understanding, in accordance with § 15.107 of this chapter, where the advance understanding places a limit on the amounts of a cost that will be recognized in Defense contract pricing and the understanding contemplated that it will apply only to normal Defense contracts (as distinguished from Foreign Military Sales contracts). On the other hand, kinds of costs that are not allowable under Part 15 of this chapter (e.g., entertainment costs) are not allowable in pricing Foreign Military Sales contracts.

§ 6.805–2 Procurement limitations.

* * * * * *

(b) * * *

(1) * * *

(ii) Department of the Navy—

(a) Commander-in-Chief, U.S. Naval Forces, Europe;

(b) Commander, U.S. Naval Forces, Japan;

(c) Commander, U.S. Naval Forces, Philippines;

(d) Chief of Naval Material;

(e) Commander, Service Force, Atlantic Fleet;

(f) Commander, Service Force, Pacific Fleet;

(g) Commander, Military Sea Transportation Service (MSTS);

(h) Commandant, U.S. Marine Corps;

(iii) Department of the Air Force—

(a) Commander, U.S. Air Forces in Europe;

(b) Commander, USAF Southern Command;

(c) Commander, Pacific Air Force;

(d) Commander, Military Airlift Command (MAC);

(e) Commander, Air Force Logistics Command;

(f) Commander, Air Force Systems Command;

* * * * * *

(d) * * *

(1) * * *

(i) Department of the Army—

(a) Commanding General, Army Materiel Command;

(b) Chief of Engineers;

(c) Surgeon General, Army Medical Corps;

(d) Director of Army Research;

(ii) Department of the Navy—

(a) Chief of Naval Research;

(b) Commander, Naval Air Systems Command;

(c) Commander, Naval Ordnance Systems Command;

(d) Commander, Naval Electronics Systems Command;

(e) Commander, Naval Ship Systems Command;

(f) Chief, Bureau of Medicine and Surgery;

(g) Commander, Naval Supply Systems Command;

(h) Chief of Naval Development;

(i) Oceanographer of the Navy;

(j) Commander, Naval Facilities Engineering Command;

* * * * * *

(e) Complete documentation justifying procurements under paragraphs (a) and (c) of this section shall be prepared except when made pursuant to paragraph (a) (2) and (3). Such documentation shall be prepared by requiring activities, furnished in requests for determinations submitted to the individuals listed in paragraphs (b) and (d) of this section, and included in the contract file.

Subpart J—Exemption of Certain Contracts With Foreign Contractors From the Requirement for an Examination of Records Clause

Sec.
6.1000 Scope of subpart.
6.1001 Statutory requirements.
6.1002 Policy.
6.1003 Requests for determinations and findings.
6.1004 Determination and findings.

AUTHORITY: The provisions of this Subpart J issued under sec. 2202, 70A Stat. 130; 10 U.S.C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314.

§ 6.1000 Scope of subpart.

This subpart sets forth policies and procedures for exempting the requirement for the Examination of Records clause in contracts with foreign contractors and foreign subcontractors.

§ 6.1001 Statutory requirements.

(a) In accordance with 10 U.S.C. 2313(c), the Examination of Records clause may be excluded from negotiated contracts and subcontracts with foreign contractors and foreign subcontractors where:

(1) The Secretary determines, with the concurrence of the Comptroller General or his designee, that inclusion of the clause would not be in the public interest; or

(2) Where

(i) The contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its books, documents, papers, or records available for examination, and

(ii) The Secretary determines, after taking into account the price and availability of the property or services from U.S. sources, that the public interest would be best served by exclusion of the clause.

(b) A determination of the Secretary under subparagraph (2) of paragraph (a) of this section does not require the concurrence of the Comptroller General or his designee. However, where a determination of the Secretary under subparagraph (2) of this paragraph is the basis for exclusion of the Examination of Records clause, the statute requires that a written report be furnished to the Congress. This report be furnished to the Congress. This report, which shall explain the reasons for the determination, shall be made by the Secretary of the Department concerned and submitted in triplicate through the Office of the Assistant Secretary of Defense (Comptroller), Attention: Director for Statistical Services.

§ 6.1002 Policy.

The Examination of Records clause shall be included wherever possible. Exclusion of the clause should be allowed only after the contracting officer has made all reasonable efforts to include the clause and has considered such factors as alternate sources of supply, additional cost, and time of delivery. "Foreign Contractor" for the purposes of this subpart is defined as "one that is organized or existing under the laws of a country other than the United States, its territories or possessions."

§ 6.1003 Requests for determinations and findings.

Request for determinations and findings for exclusion ordinarily will be initiated by the contracting officer. The request shall consist of a letter submitted through normal procurement channels, addressed to the Secretary setting forth all the facts necessary to arrive at an appropriate determination and findings.

§ 6.1004 Determination and findings.

The determination and findings made by the Secretary to authorize exclusion of the Examination of Records clause from a contract with a foreign contractor or foreign subcontractor under 10 U.S.C. 2313(c) shall:

(a) Identify the contract and its purpose, and state that it is a contract or subcontract with a foreign contractor or foreign subcontractor, or that the contractor or subcontractor is a foreign government or agency thereof;

(b) Describe the efforts that have been made to include the clause in the contract or subcontract;

(c) State the reasons for the contractor's or subcontractor's refusal to include the clause;

(d) Describe the price and availability of the property or services from United States and other sources; and

(e) Determine that it is in the public interest to exclude the clause pursuant to the provisions of 10 U.S.C. 2313(c).

PART 7—CONTRACT CLAUSES

10. Sections 7.103–5(d) and 7.104–28 are revised; new § 7.104–64 is added; §§ 7.203–5(b), 7.204–6, and 7.204–10 are revised; new § 7.204–26 is added; § 7.204–34 is revised; and new § 7.204–45 is added, as follows.

§ 7.103–5 Inspection.

* * * * * *

(d) Where it is desired to require contractors to maintain an inspection system in accordance with Military Specifications MIL–I–45208 (see § 14.303 of this chapter), insert the following clause:

INSPECTION SYSTEM (AUGUST 1967)

The inspection system which the Contractor is required to maintain, as provided in paragraph (c) of the "inspection" clause of this contract, shall be in accordance with the edition of Military Specification MIL–I–45208 in effect on the date of this contract.

§ 7.104–28 Quality program.

In accordance with § 14.304 of this chapter in contracts for complex supplies or services requiring a quality program, insert the following clause.

QUALITY PROGRAM (AUGUST 1967)

The Contractor shall provide and maintain a quality program acceptable to the Government for supplies and services covered by this contract. The quality program shall be in accordance with the edition of Military Specification MIL–Q–9858 in effect on the date of this contract.

§ 7.104–64 Recovery of nonrecurring costs on foreign sales of major defense equipment.

Insert the clause set forth in § 7.403–42.

§ 7.203–5 Inspection of supplies and correction of defects.

* * * * * *

(b) When it is desired to require contractors to maintain an inspection system in accordance with Military Specification MIL–I–45208 (see § 14.303 of this chapter), the clause set forth in paragraph (a) of this section shall be included in the contract except that the following shall be added as the third sentence of paragraph (a).

The inspection system shall be in accordance with the edition of Military Specification MIL–I–45208 in effect on the date of this contract. (August 1967)

§ 7.204–6 Filing of patent applications.

In accordance with the requirements of § 9.106 of this chapter, insert the contract clause set forth therein.

§ 7.204–10 Quality program.

In accordance with the instructions in § 14.304 of this chapter, insert the clause set forth in § 7.104–28.

§ 7.204–26 Frequency authorization.

In accordance with the requirements of § 7.104–61, insert the clause set forth therein.

§ 7.204–34 Multi-year procurement.

In accordance with the requirements of § 1.322–5 of this chapter, insert the contract clauses set forth therein.

§ 7.204–45 Recovery of nonrecurring costs on foreign sales of major defense equipment.

Insert the clause set forth in § 7.403–42.

11. Sections 7.302–4(c) and 7.303–15 are revised; new § 7.303–45 is added;

§§ 7.402–5(c) and 7.403–15 are revised; new § 7.403–42 is added; and § 7.602–10(b) is revised, as follows:

§ 7.302–4 Inspection.

* * * * *

(c) Where it is desired to require contractors to maintain an inspection system in accordance with Military Specification MIL–I–45208 (see § 14.303 of this chapter), the clause set forth in paragraph (a) of this section shall be included in the contract, except that the following shall be added as the second sentence of paragraph (c) of this section.

The inspection system shall be in accordance with the edition of Military Specification MIL–I–45208 in effect on the date of this contract. (August 1967)

§ 7.303–15 Quality program.

In accordance with the instructions in § 14.304 of this chapter, insert the clause set forth in § 7.104–28.

§ 7.303–45 Recovery of nonrecurring costs on foreign sales of major defense equipment.

Insert the clause set forth in § 7.403–42.

§ 7.402–5 Inspection and correction of defects.

* * * * *

(c) Where it is desired to require contractors to maintain an inspection system in accordance with Military Specification MIL–I–45208 (see § 14.303 of this chapter), the clause set forth in paragraph (a) of this section shall be included in the contract except that the following shall be added as the third sentence of paragraph (a) of this section.

The inspection system shall be in accordance with the edition of Military Specification MIL–I–45208 in effect on the date of this contract. (August 1967)

§ 7.403–15 Quality program.

In accordance with the instructions in § 14.303 of this chapter, insert the clause set forth in § 7.104–28.

§ 7.403–42 Recovery of nonrecurring costs on foreign sales of major defense equipment.

Use the following clause in contracts for production of an item of major defense equipment (see § 4.110(d) of this chapter).

RECOVERY OF NONRECURRING COSTS ON FOREIGN SALES (APRIL 1967)

(a) In the event the Contractor intends to enter into sales or license agreements with any foreign government or international organization for the items in this contract or essentially similar items, he shall promptly notify the Contracting Officer. The Contractor agrees that he will adjust this contract by an amount or amounts calculated to reimburse the Government for a pro rata share of its expenditures for nonrecurring costs applicable to the items. In the event that this contract has been finally settled, adjustment shall be accomplished by payment to the Government.

(1) Nonrecurring costs include such costs as research, development, test, evaluation, preproduction, facilities, special tooling, special test equipment, production engineering, product improvement, destructive testing, and pilot model production, testing, and evaluation.

(2) The amount to be reimbursed to the Department of Defense as representing the charge for nonrecurring costs is the pro rata share of all Department of Defense nonrecurring costs, incurred and projected to be incurred, applied against the total production quantity of such item, past and projected future, including the production quantity, for the Department of Defense.

(b) Failure to agree on an equitable adjustment shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract.

(c) Notwithstanding the provisions of the clauses of this contract entitled "Patents—License" and "Rights in Technical Data," the Contractor agrees that his rights to enter into production for sales to foreign governments or international organizations of the items or essentially similar items are expressly contingent upon compliance with the provisions of this clause: *Provided*, That the Secretary of Defense or his designee may waive the Government's rights under this clause, in whole or in part, whenever he determines that such action would be in the best interests of the Government.

§ 7.602–10 Contractor inspection system.

* * * * *

(b) Where it is desired to require contractors to maintain an inspection system in accordance with Military Specification MIL–I–45208 (see § 14.303 of this chapter), the clause set forth in paragraph (a) of this section shall be included in the contract with the following additional sentence.

The inspection system shall be in accordance with the edition of Military Specification MIL–I–45208 in effect on the date of this contract. (August 1967)

12. Sections 7.605–15 and 7.607–18 are revised; new §§ 7.703–44, 7.901–25, and 7.901–26 are added; and § 7.1202–1 is revised, as follows:

§ 7.605–15 Examination of records.

In accordance with the instructions in § 7.203–7, insert the clause set forth therein.

§ 7.607–18 Examination of records.

In accordance with the instructions in § 7.104–15, insert the clause set forth therein, substituting "Architect-Engineer" for "Contractor."

§ 7.703–44 Inspection system.

Where it is desired to require contractors to maintain an inspection system in accordance with Military Specification MIL–I–45208 (see § 14.303 of this chapter), insert the following clause.

INSPECTION SYSTEM (AUGUST 1967)

The inspection system which the Contractor is required to maintain, as provided in paragraph (c) of the "Inspection" clause of this contract, shall be in accordance with the edition of Military Specification MIL–I–45208 in effect on the date of this contract. (August 1967)

§ 7.901–25 Inspection system.

Where it is desired to require contractors to maintain an inspection system in accordance with Military Specification MIL–I–45208 (see § 14.303 of this chapter), insert the following clause.

INSPECTION SYSTEM (AUGUST 1967)

The inspection system which the Contractor is required to maintain, as provided in paragraph (c) of the "Inspection" clause of this contract, shall be in accordance with the edition of Military Specification MIL–I–45208 in effect on the date of this contract.

§ 7.901–26 Quality program.

In accordance with § 14.304 of this chapter, insert the clause set forth in § 7.104–28.

§ 7.1202–1 Examination of records.

In accordance with the instructions in § 7.104–15, insert the clause set forth therein in negotiated contracts for mortuary services.

PART 8—TERMINATION OF CONTRACTS

13. Section 8.403 is revised to read as follows:

§ 8.403 Notice to the General Accounting Office.

The TCO shall promptly send a copy of the notice of termination to the regional office of the General Accounting Office serving the geographical area in which work under the terminated contract was performed. In addition, he shall advise that office of the date on which the six-month vouchering period will expire, or of the contractor's election to discontinue the use of Standard Form 1034 prior to the expiration of the six-month period. If the regional office of the General Accounting Office notifies the TCO that an audit of payments under the contract will not be made or that no objection is interposed to effecting final settlement, no action will be taken under §§ 8.404–5, 8.404–6, or 8.404–7, and the TCO shall proceed with completion of the settlement in accordance with § 8.404–8.

PART 10—BONDS, INSURANCE, AND INDEMNIFICATION

14. Sections 10.505 and 10.603 are revised, as follows:

§ 10.505 Group insurance plans under cost-reimbursement type contracts.

(a) Group insurance plans under cost-reimbursement contracts shall be submitted for approval to the Heads of Procuring Activities for the Department of the Army; the Chief of Naval Material (Attention: Contract Insurance Branch) for the Department of the Navy; Air Force Systems Command, Air Force Contract Management Division, Attention: CMK, for the Department of the Air Force; and the Executive Director, Procurement and Production, for the Defense Supply Agency. Changes in the benefits provided under an approved plan that can reasonably be expected to increase significantly the costs being charged to the Government shall be submitted as provided above for approval. Provision shall also be made for the Government to participate in all premium refunds or credits paid or otherwise allowed to the contractor, as required by

§ 15.201–5 of this chapter. In determining the extent of the Government's participation in such premium refunds or credits, consideration shall be given to any special reserves and other refunds that may subsequently be paid to the contractor.

(b) The Defense Department Group Term Insurance Plan is available for use by cost-reimbursement type contractors. A contractor is eligible only if the number of covered employees is 500 or more, and (1) the contractor is wholly engaged in operations under eligible contracts, or (2) 90 percent or more of the payroll of contractor's operations to be insured under the Plan arises under eligible contracts. Insurance policies under this plan shall be submitted for approval to the Army Materiel Command, Attention: AMCPP–SC, for the Department of the Army; the Chief of Naval Material, Attention: Contract Insurance Branch, for the Department of the Navy; Air Force Systems Command, Air Force Contract Management Division, Attention: CMK, for the Department of the Air Force; and the Executive Director, Procurement and Production, for the Defense Supply Agency.

§ 10.603 Use and eligibility for plan.

The rating plan described in this subpart shall be applied to all eligible defense projects where such application is determined by the Army Materiel Command, Attention: AMCPP–SC, for the Department of the Army; the Chief of Naval Material, Attention: Contract Insurance Branch, for the Department of the Navy; Air Force Systems Command, Air Force Contract Management Division, Attention: CMK, for the Department of the Air Force; and the Executive Director, Procurement and Production, for the Defense Supply Agency, to be in the best interest of the Government. The rating plan may be applied to cost-reimbursement type contracts and also, in appropriate cases, to fixed-price contracts with price redetermination provisions. A defense project is eligible for application of a plan when (a) eligible Government contracts represent, at inception of the plan, at least 90 percent of the payroll for total operations at the specific locations of the project; and (b) the annual premium for insurance is estimated to be at least $10,000. A defense project may include contracts awarded by more than one Department to the same contractor.

PART 12—LABOR

15. In § 12.102–4, the first sentence of paragraph (e) is revised; in § 12.302, the introductory text and paragraph (e) are revised; §§ 12.602–1, 12.602–3, and 12.–1001 are revised; new paragraph (c) is added to § 12.1004; and § 12.1005(b) is revised, as follows:

§ 12.102–4 Approval of overtime premiums in certain cost-reimbursement type contracts.

* * * * *

(e) The Director of Materiel Acquisition, Office of the Assistant Secretary of the Army (Installation and Logistics), for the Army; the Deputy Chief of Naval Material (Procurement), for the Navy; the Director of Procurement Policy, Headquarters, USAF, for the Air Force; and the Executive Director for Procurement and Production, for the Defense Supply Agency, are authorized, without power of delegation, to designate without power of redesignation, officers and civilian officials for the purpose of approving overtime premiums at Government expense. * * *

§ 12.302 Applicability.

The requirement set forth in § 12.301 applies, except as stated below, to all contracts (including, for this purpose, basic ordering agreements and blanket purchase agreements (see §§ 3.410–2 and 3.605 of this chapter)) which may require or involve the employment of laborers or mechanics, including guards and watchmen, either by a contractor or by any subcontractor. The requirement does not apply to the following kinds of contracts:

* * * * *

(e) Contracts of $2,500 or less in aggregate amount. In arriving at the aggregate amount involved, there must be included all property and services which would normally be grouped together in a single transaction. In the case of a basic ordering agreement or blanket purchase agreement, such amount shall be the aggregate amount of all orders estimated to be placed thereunder for 1 year after the effective date of the agreement. If a basic ordering agreement continues or is extended, such estimate shall be made annually for each year after the first and the agreement modified accordingly.

§ 12.602–1 General.

The requirement set forth in § 12.601 applies to contracts (including, for this purpose, basic ordering agreements and blanket purchase agreements (see §§ 3.–410–2 and 3.605 of this chapter)) for the manufacture or furnishing of "materials, supplies, articles, and equipment" which are to be performed within the United States, Puerto Rico, or the Virgin Islands, and which exceed or may exceed $10,000 in amount unless exempt pursuant to § 12.602–2.

§ 12.602–3 Department of Labor regulations and interpretations.

Pursuant to the Walsh-Healey Act, the Secretary of Labor has issued detailed regulations and interpretations as to the coverage of said Act, and exemptions and procedures thereunder. These regulations and interpretations are compiled in a document entitled "Walsh-Healey Public Contracts Act, Rulings and Interpretations," which may be obtained from the Department of Labor Regional Offices listed in § 12.607. In addition to the interpretations stated in that document, attention is directed to an opinion of the Department of Labor that contracts which are originally $10,000 or less, but are subsequently modified to increase the price to an amount in excess of $10,000, are subject to the Walsh-Healey Act; and that contracts in an amount exceeding $10,000, which are subsequently modified to a figure of $10,000 or less, are not subject to said Act with respect to work performed after such modification if modification is effected by mutual agreement. Also, in the case of a basic ordering agreement or blanket purchase agreement, such amount shall be the aggregate amount of all orders estimated to be placed thereunder for 1 year after the effective date of the agreement. If a basic ordering agreement continues or is extended, such estimate shall be made annually for each year after the first and the agreement modified accordingly.

§ 12.1001 Applicability.

The Service Contract Act of 1965 (P.L. 89–286), as amended, applies to contracts the principal purpose of which is to furnish services in the United States through the use of service employees as defined in § 12.1002. It applies but is not limited to contracts for services such as custodial, laundry, guard, food and other housekeeping services. The Act does not apply to contracts to furnish services through the use of employees such as professional employees or others who are not service employees as defined in § 12.1002(a). "Contracts," for this purpose, shall include basic ordering agreements and blanket purchase agreements (see §§ 3.410–2 and 3.605 of this chapter).

§ 12.1004 Contract clauses.

* * * * *

(c) In the case of a basic ordering agreement or blanket purchase agreement, the amount thereof for purposes of paragraphs (a) and (b) of this section shall be the aggregate amount of all orders estimated to be placed thereunder for one year after the effective date of the agreement. If a basic ordering agreement continues or is extended, such estimate shall be made annually for each year after the first and the agreement modified accordingly.

§ 12.1005 Notices and other submissions.

* * * * *

(b) *Notice of award.* Two copies of a notice of award shall be prepared on Standard Form 99 for procurements of $2,500 or more but less than $10,000 (including orders under indefinite delivery type contracts) containing the clause required by § 12.1004(a) and shall be forwarded to the Department of Labor, Attention: Administrator, Wage and Hour and Public Contracts Divisions, Washington, D.C. 20210. All items on the form except items 11, 13, and 14 shall be completed. Standard Form 99 may be obtained from General Services Administration.

* * * * *

PART 13—GOVERNMENT PROPERTY

16. New § 13.107 and Subpart H are added, as follows:

§ 13.107 Control of Government property.

The control of Government property shall be in accordance with the provisions of § 30.2 of this chapter except, in contracts with educational or other nonprofit organizations, § 30.3 of this chapter is applicable; unless otherwise authorized in this part.

Subpart H—Administrative Practices

Sec.
13.801 Appointment of property administrator.
13.802 Assignment of contracts for property administration.
13.803 Records of Government property.

AUTHORITY: The provisions of this Subpart H issued under sec. 2202, 70A Stat. 120; 10 U.S.C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–138; 10 U.S.C. 2301–2314.

§ 13.801 Appointment of property administrator.

(a) The selection, appointment and termination of appointment of property administrators shall be made in writing by the Head of a Procuring Activity or his designee for the Defense Supply Agency and by the Head of the Contract Administration Office or his designee for the other Departments. In selecting qualified property administrators, the appointing authority shall consider experience, training, education, business acumen, judgment, character, and ethics.

(b) In considering experience, training and education, the following shall be evaluated:

(1) Experience in accounting, material control, inventory control and allied functions;

(2) Formal education or specialization in such areas as evaluating, monitoring, administering, or coordinating industrial property programs or implementing plans and policies in support of diversified property control system;

(3) Knowledge of the provisions of this and other applicable regulations.

§ 13.802 Assignment of contracts for property administration.

(a) All Department of Defense contracts under which Government property will be provided and which will be performed at a single location by a contractor shall be assigned to a single property administrator.

(b) Each contract under which Government property will be provided to the contractor will be assigned in writing to a property administrator by the CAO. The assignment document shall contain the (1) name and address of the contractor, (2) PII (contract) number, and (3) type of contract. The CAO and the contractor shall be advised in writing of the assignment and any changes thereto.

(c) The assignment shall be terminated when:

(1) It has been determined that no Government property has been or will be furnished or acquired, or

(2) The contract is reassigned to another CAO or to another property administrator.

§ 13.803 Records of Government property.

Records of Government property established and maintained by the contractor pursuant to the terms of the contract shall be designated and utilized as the official contract records. Duplicate records shall not be furnished to nor be maintained by the Government personnel other than as provided for in this subchapter. Exceptions to this policy may be authorized by the Head of a Procuring activity, or his designee, where Government property is furnished to a contractor for repair or servicing and return to the shipping organization under contracts administered by the procuring activity. In such cases, the property will be accounted for as a suspense item within the military account from which shipped and the Government property clause shall be modified by insertion of the following clause.

PROPERTY RECORDS (AUGUST 1967)

The Government shall maintain the official contract records in connection with Government property under this contract. The "Government Property" clause is hereby modified by deleting so much thereof as requires that the Contractor maintain such records.

PART 14—PROCUREMENT QUALITY ASSURANCE

17. Part 14, with revised heading set forth above, is revised to read as follows:

Sec.
14.000 Scope of part.
14.001 Definitions.
14.001–1 Government procurement quality assurance.
14.001–2 Contract quality requirements.
14.001–3 Inspection.
14.001–4 Testing.
14.001–5 Subcontractor.
14.001–6 Acceptance.

Subpart A—General

14.101 Types of contract quality requirements.
14.101–1 Standard inspection requirement.
14.101–2 Inspection system requirement.
14.101–3 Quality program requirement.
14.102 Responsibilities of the Contractor.
14.103 Responsibilities of the Government.
14.103–1 Subcontracts.
14.103–2 Specialized inspections reserved to the Government.

Subpart B—Responsibility of Government Organizations for Quality of Supplies and Services

14.201 Organization responsible for technical requirements.
14.202 Purchasing office.
14.203 Contract administration office.

Subpart C—Contract Provisions for Government Procurement Quality Assurance and Acceptance

14.301 Quality assurance clauses.
14.302 Standard inspection clauses.
14.303 Inspection system requirements.
14.304 Quality program requirements.
14.305 Places of performance of Government procurement quality assurance actions.
14.305–1 General.
14.305–2 Government procurement quality assurance at source.
14.305–3 Government procurement quality assurance at destination.
14.306 Acceptance of supplies or services.
14.307 Place of acceptance.
14.308 Government procurement quality assurance actions on small purchases.

Subpart D—Performance of Government Procurement Quality Assurance Actions by Contract Administration Offices

14.401 General.
14.402 Planning.
14.403 Implementation.
14.404 Maintenance of Government records.
14.405 Quality evaluation data.
14.406 Nonconforming supplies and services.
14.407 Government procurement quality assurance actions at subcontract level.
14.407–1 General.
14.407–2 Conditions.
14.407–3 Selective evaluation at the subcontract level.
14.408 Inspection stamping.
14.409 Authorizing shipment of supplies.
14.409–1 General.
14.409–2 Alternative procedures—contractor release for shipment.

Subpart E—Contract Administration of Special Commodities

14.501 General.
14.502 Subsistence.
14.503 Petroleum.
14.504 Construction projects.

Subpart F—Performance of Government Procurement Quality Assurance Actions for and by Other Government Agencies

14.601 National Aeronautics and Space Administration.
14.602 Other Government agencies.
14.602–1 Performance of services by a military department for another Government agency.
14.602–2 Request for services.
14.602–3 Aircraft, aircraft equipment and accessories.

Subpart G—Performance of Government Procurement Quality Assurance Actions for Foreign Governments

14.701 General.

AUTHORITY: The provisions of this Part 14 issued under sec. 2202, 70A Stat. 120; 10 U.S.C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–138; 10 U.S.C. 2301–2314.

§ 14.000 Scope of part.

This part prescribes policies and procedures (a) to assure that supplies and services procured by the Department of Defense conform to the quality and quantity set forth in the contract and (b) for the acceptance functions associated therewith.

§ 14.001 Definitions.

As used in this part, words and terms shall have the meanings set forth below.

§ 14.001–1 Government procurement quality assurance.

Government procurement quality assurance means the Government function by which the Government determines whether a contractor has fulfilled his contract obligations pertaining to quality and quantity. This function is related to and generally precedes the act of acceptance as defined in § 14.001–6.

§ 14.001–2 Contract quality requirements.

Contract quality requirements means the detailed requisites for quality incumbent on the contractor, consisting of (a) all quality requirements contained in a contract; and (b) the detailed contractual requisites provided by § 14.101 incumbent on the contractor to substantiate conformance of product or service to quality requirements of the contract.

§ 14.001–3 Inspection.

Inspection means the examination and testing of supplies or services (including, when appropriate, raw materials, components, and intermediate assemblies) to determine whether they conform to contract requirements.

§ 14.001–4 Testing.

Testing is an element of inspection and generally denotes the determination by technical means of the properties or elements of supplies, or components thereof, including functional operation, and involves the application of established scientific principles and procedures.

§ 14.001–5 Subcontractor.

Subcontractor means any supplier, distributor, vendor, or firm which furnishes supplies or services to or for a prime contractor or another subcontractor.

§ 14.001–6 Acceptance.

Acceptance means the act of an authorized representative of the Government by which the Government assumes for itself, or as agent of another, ownership of existing and identified supplies tendered or approves specific services rendered, as partial or complete performance of the contract on the part of the contractor.

Subpart A—General

§ 14.101 Types of contract quality requirements.

There are four basic types of contract quality requirements to substantiate conformance of product or service to the requirements of the contract. Generally, there is no direct requirement on the contractor to perform inspection of small purchases and other supplies and services procured through use of DD Form 1155, Order for Supplies and Services Request for Quotations, unless (a) the item is purchased under a Federal or Military specification providing that the contractor is responsible for inspection (see § 14.101–1) or (b) an additional contract clause requiring such inspection is included in the DD Form 1155 (see §§ 14.101–2 and 14.101–3).

§ 14.101–1 Standard inspection requirement.

Standard inspection requirement is a requirement that the contractor maintain an inspection system acceptable to the Government. This requirement is included in the standard inspection clauses (see, for example, paragraph (a) of the Inspection clause in § 7.103–5(a) of this chapter) and is not further defined by a Government specification. This requirement is appropriate when for reasons of practicability (e.g., purchase of a commercial item) or because of the nature of the supplies (i.e., the item serves a function that is not materially or consequentially related to military operations), it is not considered necessary to describe further what constitutes an acceptable inspection system.

§ 14.101–2 Inspection system requirement.

Inspection system requirement is a requirement, in addition to the standard inspection requirement, that the contractor establish and maintain an inspection system in accordance with a Government specification. This requirement shall be referenced in contracts when technical requirements are such as to require control of quality by in-process as well as final end item inspection, including control of such elements of the manufacturing process as measuring and testing equipment, drawings and changes, inspection, documentation and records. The objectives and essential elements of an inspection system are prescribed in MIL–I–45208, which shall be referenced in contracts when an inspection system requirement has been established.

§ 14.101–3 Quality program requirement.

Quality program requirement is a requirement, in addition to the standard inspection requirement, that the contractor establish and maintain a quality program in accordance with a Government specification. Such a requirement shall be established when the technical requirements of the contract are such as to require control of work operations, in process controls, and inspection, as well as attention to other factors (e.g., organization, planning, work instructions, documentation control, advanced metrology). The objectives and essential elements of a quality program are prescribed in MIL–Q–9858 which shall be referenced in contracts when a quality program requirement has been established.

§ 14.102 Responsibilities of the contractor.

(a) The contractor is responsible for carrying out his obligations as set forth in the terms and conditions of the contract and in the applicable specifications. Most Department of Defense contracts include, or reference, standard requirements, such as those in general provisions, special clauses for an inspection system or quality program, and performance and product specification requirements. The contractor is responsible for controlling product quality and for offering to the Government for acceptance only those supplies and services that conform to contract requirements and, when required, for maintaining and furnishing substantiating evidence of this conformance.

(b) The control of quality by the contractor may relate to, but is not limited to:

(1) Manufacturing processes, to assure that the product is produced in accordance with technical requirements;

(2) Drawings, specifications, and engineering changes, to assure that manufacturing methods and operations reflect technical requirements;

(3) Testing and examination, to assure that practices and equipment provide the means for optimum evaluation of characteristics subjected to inspection;

(4) Reliability and maintainability assessment (life, endurance, and continued readiness);

(5) Fabrication and delivery of products to assure that only conforming products are tendered to the Government;

(6) Technical documentation, including drawings, specifications, handbooks, manuals, and other technical publications; and

(7) Preservation, packaging, packing, and marking.

§ 14.103 Responsibilities of the Government.

The Government shall determine the type and extent of Government procurement quality assurance actions required, based upon the particular procurement. These actions may include:

(a) Inspection of supplies and services;

(b) Review of the contractor's inspection system, quality program, or of any other means employed by the contractor to control quality and to comply with contract requirements;

(c) Maintenance of Government records to reflect actions, deficiencies, and corrective measures; and

(d) Review and evaluation of quality information, including reports from the user, to initiate required corrective actions or to adjust Government procurement quality assurance actions.

§ 14.103–1 Subcontracts.

Government procurement quality assurance at subcontractor's plans shall be performed only when necessary to assist the contract administration office cognisant at the prime contractor's plant. Section 14.407 provides guidance on Government procurement quality assurance actions at the subcontract level.

§ 14.103–2 Specialized inspections reserved to the Government.

Although contracts generally require that contractors are responsible for performing inspection prior to submitting supplies to the Government, there are situations when contracts will provide for specialized inspections to be performed solely by the Government. Among situations for which specialized Government inspection is required are the following:

(a) Test requirements necessitate the use of specialized test equipment or facilities not ordinarily available in suppliers' plants or commercial laboratories (e.g., ballistic testing of ammunition unusual environmental tests, or simulated service tests); or

(b) The contract requires Government testing for first article approval (see Subpart S, Part 1 of this chapter).

Subpart B—Responsibility of Government Organizations for Quality of Supplies and Services

§ 14.201 Organization responsible for technical requirements.

(a) The activity responsible for technical requirements (e.g., specifications, drawings and standards) is responsible for prescribing inspection, testing, or other contract quality requirements that are essential to assure the integrity of products and services.

(b) To the extent feasible, alternative but substantially equivalent inspection methods shall be provided in order to obtain wide competition and low cost. Contractor-recommended alternatives may be authorized when in the interest of the Government and after approval by the activity responsible for technical requirements.

(c) The activity responsible for technical requirements may also prepare instructions regarding the type and extent of Government inspections pertaining to contracts for specific supplies and services that are complex or for which unusual requirements have been established. The technical activity shall keep requirements for such Government inspection to a minimum in order to permit flexible planning and effective utilization of Government quality assurance resources at the facility level.

§ 14.202 Purchasing office.

(a) The purchasing office is responsible after coordinating, where necessary, with the technical activity for contractually formalizing requirements for quality and, within the provisions of § 14.201(c), issuing Government inspection instructions to the contract administration office. The purchasing office shall include, in each solicitation and resultant contract, by contract clause, exhibit or specification reference, appropriate requirements for the contractor's control of quality for the supplies or services to be procured (see §§ 14.302–14.304).

(b) The purchasing office may conduct, in conjunction where necessary, with the activity responsible for technical requirements, product-oriented surveys and evaluations to determine the adequacy of the technical requirements relating to quality and product conformance to design intent. The purchasing office may arrange with the contract administration office to participate in preaward surveys, postaward, and preproduction conferences, and first article testing. The purchasing office may aid the contract administration office in the transition from research and development to production, aid the technical activity in improving the quality requirements in contracts when first designated for competitive procurement, and aid in ascertaining the source of difficulties associated with user experience reports.

§ 14.203 Contract administration office.

(a) Except as otherwise specified in the contract, the contract administration office cognizant at a plant is responsible for the performance of Government procurement quality assurance actions. The contract administration office shall verify that the contractor has fulfilled contract quality requirements. It is the contract administration office responsibility to develop and apply effective and efficient procedures for Government procurement quality assurance. The contract administration office shall perform specific Government inspection actions when these actions are required in writing by the purchasing office. In implementing written Government inspection instructions, the contract administration office shall review these instructions and when appropriate, make recommendations to the purchasing office for their improvement in terms of both technical effectiveness and cost, particularly with respect to the utilization of Department of Defense personnel, equipment, and facilities. Written Government inspection instructions shall be continued on schedule as prescribed until the recommendation has been acted upon. The purchasing office is obligated to take appropriate action on such recommendation.

(b) The contract administration office shall report to the purchasing office any observed deficiencies in design or technical requirements, including contract quality requirements, and recommend necessary changes to the contract, specifications, or other requirements which will provide more effective operations or eliminate unnecessary costs.

Subpart C—Contract Provisions for Government Procurement Quality Assurance and Acceptance

§ 14.301 Quality assurance clauses.

(a) The appropriate clauses referenced in §§ 14.302–14.304 shall be inserted in contracts other than those entered into by use of DD Form 1155, Order for Supplies and Services/Request for Quotations (see Subpart F, Part 3 of this chapter.

(b) In purchases made by use of DD Form 1155 there generally is no requirement for the contractor to perform inspection; however, (1) the item may be purchased under a Federal or Military specification providing that the contractor is responsible for inspection, or (2) the nature of the item may make it desirable to include one or more of the clauses listed in §§ 14.302–14.304.

§ 14.302 Standard inspection clauses.

Where inspection is sufficient to assure that the supplies and services conform to contract requirements (see § 14.101–1), the appropriate standard inspection clause prescribed in the listing below shall be inserted in the contract:

(a) Section 7.103–5 (a), (b), or (c) of this chapter;
(b) Section 7.203–5(a);
(c) Section 7.302–4 (a) or (b);
(d) Section 7.402–5(a) (1) or (3);
(e) Section 7.402–5(b);
(f) Section 7.602–10(a);
(g) Section 7.602–11;
(h) Section 7.702–6;
(i) Section 7.703–6;
(j) Section 7.704–8;
(k) Section 7.901–21; or
(l) Section 7.1201–10.

§ 14.303 Inspection system requirements.

When the technical requirements of the contract are such as to require control of quality by in-process as well as final end item inspection, including control of such elements of the manufacturing process as measuring and testing equipment, drawings and changes, inspection, documentation, and records, the appropriate inspection system clause listed below, referencing the latest revision of MIL–I–45208, shall be used:

(a) Section 7.103–5 (a), (b) or (c), and (d) of this chapter;
(b) Section 7.203–5 (a) and (b);
(c) Section 7.303–(a) or (b) and (c);
(d) Section 7.402–5(a) (1) or (3) and (c);
(e) Section 7.402–5 (b) and (c);
(f) Section 7.602–10 (a) and (b);
(g) Section 7.703–44; or
(h) Sections 7.901–21 and 7.901–25.

§ 14.304 Quality program requirements.

(a) When the technical requirements of the contract are such as to require control of work operations, in-process controls, inspections and tests, as well as attention to other factors (e.g., organization, planning, work instructions, documentation control, advanced metrology), the appropriate clause listed below, referencing the latest revision of MIL–Q–9858, shall be used. This section does not apply to construction contracts.

(1) Sections 7.103–5 (a), (b), or (c) and 7.104–28 of this chapter.
(2) Sections 7.203–5(a) and 7.204–10;
(3) Sections 7.302–4 (a) or (b) and 7.303–15;
(4) Sections 7.402–5(a) (1) or (3) and 7.403–15;
(5) Sections 7.402–5(b) and 7.403–15; or
(6) Sections 7.901–21 and 7.901–26.

(b) The contracting officer may delete nonapplicable portions of MIL–Q–9858 in contracts for material maintenance.

§ 14.305 Places of performance of Government procurement quality assurance actions.

§ 14.305–1 General.

Each contract shall designate the place or places where the Government reserves the right to perform those procurement quality assurance actions that it considers necessary to determine that supplies and services conform to contract requirements. Where the contract provides for Government procurement quality assurance actions at source, the place or places designated for such actions may not be changed without authorization of the contracting officer.

§ 14.305–2 Government procurement quality assurance at source.

(a) When a contract requires the contractor to establish and maintain an inspection system or a quality program in accordance with § 14.101–2 or § 14.101–3, Government procurement quality assurance actions generally shall be performed at source.

(b) In addition to paragraph (a) of this section, Government procurement quality assurance actions shall be performed at source where:

(1) Performance of such actions at any other point would require uneconomical disassembly or destructive testing;
(2) Considerable loss to the Government would result from the manufacture and shipment of unacceptable supplies or from the delay in making necessary corrections;
(3) Special instruments, gauges, or facilities required for performance of such actions are available only at source;
(4) Performance of such actions at any other point would destroy or require the replacement of costly special packing and packaging;
(5) Government procurement quality assurance during performance is essential;
(6) Supplies are destined for points of embarkation for overseas shipment (except as provided in § 14.305–3(b)); or
(7) Otherwise determined to be in the best interest of the Government.

(c) Where the contract provides for the performance of Government procurement quality assurance actions at source, these actions shall be taken at such times and places (including any stage in the manufacturing process at both the contractor's and his subcontractor's plants) as may be necessary to determine conformance to contract requirements. In the event that it is in the best interest of the Government to authorize shipment before all Government procurement quality assurance actions can be taken at source, the contract shall be modified to the extent appropriate prior to shipment, if delivery is f.o.b. origin, (1) to make the delivery term f.o.b. destination or otherwise to make the contractor responsible for risk of loss or damage in transit, and (2) where delivery remains f.o.b. origin, to require the contractor to reimburse the Government for the cost of shipping and other expenses incurred by the Government in the event of rejection at destination.

§ 14.305–3 Government procurement quality assurance at destination.

(a) Government procurement quality assurance actions that can be performed at destination are normally limited to inspection of supplies. For many procurements, such inspection by the Government is sufficient. Supplies shall be inspected by the Government at destination when:

(1) They are purchased "off-the-shelf" and do not require technical inspection;
(2) Necessary testing equipment is located only at destination;
(3) Perishable subsistence supplies are purchased within the United States, except that perishable subsistence supplies destined for overseas shipment will normally be inspected for condition and quantity at points of embarkation;
(4) Brand name items are purchased for authorized resale, except that where supplies are destined for direct overseas shipment, inspection (and acceptance) will be made by the contracting officer or the official charged with such responsibility on the basis of a tally sheet evidencing receipt of shipment signed by the port transportation officer or other designated official at the transshipment point; or
(5) Otherwise determined to be in the best interest of the Government.

(b) In no event shall a contract provide for Government inspection at a port of embarkation when the supplies are destined for overseas shipment, unless the contracting officer first determines that inspection functions can be provided at such destination. Similarly, overseas inspection shall not be required for supplies shipped from the United States except in unusual circumstances—as, for example, where inspection overseas is essential in conjunction with installation, operation, or other use of the supplies or equipment—and then only when the contracting officer first determines that inspection can be performed, or makes necessary arrangements for its performance, overseas.

§ 14.306 Acceptance of supplies or services.

(a) Acceptance of supplies or services is the responsibility of the activity to which the function is assigned by the purchasing office. When a Government activity uses services of another Government activity or department for the purpose of acceptance, acceptance by the other activity or department is binding upon the activity for which the services are performed.

(b) Depending upon the provisions of the contract, acceptance may be effected prior to, at the time of, or after delivery. Acceptance shall ordinarily be evidenced by execution of an acceptance certificate on the applicable inspection and receiving report form (DD Form 250, DD Form 1155, or Standard Form 44). When acceptance is accomplished at a point other than destination, supplies cannot be reinspected at destination for acceptance purposes. However, such supplies should be examined at destination for identity, damage in transit, quantity, and condition.

(c) Certificates of conformance may be required by the contract when the value of supplies or the condition of purchase, delivery, receipt or use thereof make it desirable to have additional assurance that supplies conform to contract requirements. A contractor's certificate of conformance with requirements may be considered a proper element incident to acceptance of supplies or services. However, in instances where small losses would be incurred in the event of defects or where knowledge of the supplier's reputation or past performance provides assurance that the supplies would be replaced without contest, such certificate may be used as the sole basis for acceptance. At the discretion of the contracting officer, a clause may be inserted in contracts requiring the contractor to certify that supplies or services comply with contract requirements. In no case shall the Government's right to inspect supplies or services be jeopardized.

§ 14.307 Place of acceptance.

(a) Each contract shall specify the place of acceptance. A contract which provides for Government procurement quality assurance actions only at source shall ordinarily provide for acceptance at source. A contract which provides for performance of Government procurement quality assurance actions at destination shall ordinarily provide for acceptance at destination.

(b) For procurement of subsistence, petroleum products and construction, see Subpart E of this part.

§ 14.308 Government procurement quality assurance actions on small purchases.

(a) In determining the type and extent of Government procurement quality assurance actions to be required on small purchases, the criticality of application of the item, the amount of possible losses, and the likelihood of uncontested replacement of defective supplies shall be considered.

(b) Government procurement quality assurance of small purchases shall be at destination, unless the provisions of § 14.305–2 (a) or (b) apply. Government procurement quality assurance actions shall be performed at source if defective supplies can harm personnel or equipment. In such case, one of the types of contract quality requirements described in § 14.101 shall be included in the contract.

(c) Unless detailed Government procurement quality assurance actions are necessary, inspection of small purchases shall consist of examination of:

(1) Type and kind;
(2) Quantity;
(3) Condition;
(4) Operability, if readily determinable; and
(5) Preservation, packaging, packing and marking, if applicable.

Subpart D—Performance of Government Procurment Quality Assurance Actions by Contract Administration Offices

§ 14.401 General.

This subpart sets forth policies and procedures for performance of Government procurement quality assurance actions by contract administration offices, designed to provide a systematic product-oriented plan, appropriate distribution of effort, and maintenance of suitable records.

§ 14.402 Planning.

(a) Government procurement quality assurance actions to determine a contractor's compliance with contract quality requirements shall be systematically planned, taking into consideration the relative importance of the product and the variety of tasks required of the available resources. Systematic planning shall include:

(1) Review and analysis of preaward surveys, postaward conferences, technical data packages, and first article approvals;

(2) Identification of the specific products, processes, and procedures to be subjected to Government procurement quality assurance as well as the specific characteristics of such products, processes, or procedures to be verified (in the absence of identification of specific characteristics by the purchasing office, those established by the contractor will be used to the maximum extent possible);

(3) Provisions for effective distribution and utilization of the Government's efforts and resources between inspection of products and inspection of the contractor's methods of regulating quality; and

(4) Provisions for keeping and using records.

(b) Planning to determine the extent of Government procurement quality assurance actions shall include as a minimum:

(1) Possible effect of failure on the health or safety of personnel, or on associated or related equipment;

(2) Tactical, strategic, or technical importance;

(3) Complexity and the need for required reliability;

(4) Pertinency, completeness, and reliability of the contractor's quality records;

(5) Previous quality history of the contractor; and

(6) Unit cost.

§ 14.403 Implementation.

(a) Determination of conformance to contract quality requirements shall be made on the basis of objective evidence of quality. In determining the acceptability of supplies or services, the contract administration office shall make optimum use of quality data generated by contractors. To the extent that contractor quality data are available and reliable, as determined by the contract administration office, such data shall be used to adjust the amount of Government procurement quality assurance to a minimum consistent with proper assurance that the supplies or services accepted conform to contract quality requirements.

(b) When the contract requires the contractor to conduct particularly expensive tests involving destruction of supplies, extended periods of time for conducting the tests, or other factors contributing to high-testing costs, the tests shall be coordinated between the contractor and the Government to the maximum extent practicable to avoid the need for later independent Government examination and testing.

(c) The following basic actions shall be taken to determine the contractor's compliance with the contract quality requirements:

(1) Review and evaluation of the contractor's inspection procedures;

(2) Review and evaluation of the contractor's selection, calibration, maintenance, and use of gauges and measuring and test equipment;

(3) Review and evaluation of the contractor's quality records; and

(4) Performance of product verification inspection by the Government.

(d) Because of configuration, innumerable design characteristics, and life and reliability requirements, the quality of complex supplies and equipment cannot be adequately evaluated by inspection only; such supplies and equipment must be produced under regulated conditions if adequate assurance of product quality is to be realized. Systematic control of manufacturing processes by the producer is an essential prerequisite for assuring the quality of such items. It is also essential that the Government verify systematically that such control is, in fact, established and maintained by contractors.

§ 14.404 Maintenance of Government records.

Suitable records shall be maintained by the contract administration office as part of the performance records of contractors in order to reflect:

(a) The nature of all Government procurement quality assurance actions, including when appropriate the number of observations made and the number and type of deficiencies;

(b) Decisions regarding the acceptability of the products, the processes, and the requirements, together with action taken to correct deficiencies; and

(c) Distribution of Government procurement quality assurance effort.

§ 14.405 Quality evaluation data.

The contract administration office shall establish a system providing as a minimum for the collection, evaluation, and use of quality data developed by the contractor during manufacture and by the Government through procurement quality assurance actions and reports by users during initial use phase, where available. The objectives of the system are to:

(a) Provide a foundation for technical actions aimed at maintaining and making needed improvements in the quality characteristics of both current and future products (subject to military requirements and cost considerations);

(b) Upgrade the methods and practices used to assure quality during manufacture, delivery, and use of the item;

(c) Provide a basis for managerial decisions relative to the allocation of Government procurement quality assurance resources among different products and activities; and

(d) Determine production source capabilities as measured by product quality.

§ 14.406 Nonconforming supplies and services.

(a) Contractors ordinarily shall be given an opportunity to correct or replace nonconforming supplies or services if this can be done within the required delivery schedule. Unless the contract provides otherwise, such correction or replacement shall be made without additional cost to the Government. Paragraph (c) of the standard Inspection clause in § 7.103–5(a) of this chapter reserves to the Government the right to charge the contractor the cost of Government reinspection and retests because of prior rejection. Notices or rejection of nonconforming supplies or services need not be in writing unless (1) the supplies have been delivered to a point other than the contractor's plant, (2) the contractor persists in offering nonconforming supplies or services for acceptance, or (3) delivery or performance is overdue without excusable cause. The notice of rejection normally shall state the reasons for rejection. It is important that a notice of rejection be furnished to the contractor promptly, because if timely notice of rejection is not furnished, acceptance may in certain cases be implied as a matter of law.

(b) There are occasions when, for reasons of economy or urgency of the requirement, acceptance of supplies or services which do not meet all contract requirements may be permitted as provided below, if the supplies or services are usable for the purpose intended:

(1) Nonconforming supplies and services having departures from contract requirements involving health, safety, performance, durability, reliability, interchangeability, effective use or operation, weight or appearance (where a factor): *Provided*, That the purchasing office—

(i) Concurs with such action and

(ii) When appropriate, obtains the concurrence of the military activity responsible for technical requirements; or

(2) Other supplies and services having departures from contract requirements which are insignificant and not specified in subparagraph (1) of this paragraph may be accepted by the contract administration office, except when the authority for such acceptance is withheld by the purchasing office, or in the case of a MIPR is withheld by either the requiring Department or the purchasing office.

In either case, the contract is appropriately modified to provide an equitable price reduction or other consideration, except where it is determined that the amount of such reduction is less than the administrative cost of modifying the contract, and the contract file is documented to show the basis of such determination.

(c) Tender of nonconforming supplies to the Government should be the exception and shall not be anticipated by the inclusion in contracts of formalized procedures therefor. The contract administration office may establish a formalized procedure (e.g., Material Review Board) for consultation between the contractor and the contract administration office regarding the Government's decision whether to accept nonconforming supplies, provided such nonconformance does not involve health, safety, performance, durability, reliability, interchangeability, effective use or operation, weight, or appearance (where a factor). This procedure shall provide that final decision regarding the acceptance of nonconforming supplies is solely the prerogative of the Government.

§ 14.407 Government procurement quality assurance actions at subcontract level.

§ 14.407–1 General.

Government procurement quality assurance actions at the subcontract level do not relieve the contractor of any of his responsibilities under the contract and do not establish any contractual relationship between the Government and the subcontractor. Such actions are to assist the contract administration office for the prime contract to determine that the prime contractor is assuring conformance of subcontracted supplies or services with contract requirements. When the Government elects to perform selected procurement quality assurance actions at the subcontract level, the prime contractor shall be requested to assure that appropriate Government access authority is provided.

§ 14.407–2 Conditions.

Government procurement quality assurance actions at the subcontract level shall be performed when:

(a) The item is to be shipped from the subcontractor's plant to the using activity;

(b) The conditions for inspection at source established in § 14.305–2 (a) or (b) are applicable; or

(c) The contract specifies that certain inspection is to be made by the Government, and such inspection can be performed only at the subcontractor's plant.

§ 14.407–3 Selective evaluation at the subcontract level.

Selective evaluation of the contract administration office responsible for the contract in order to provide that office with additional assurance that supplies and services being received from subcontractors conform to quality requirements. Communications between contract administration offices concerning procurement quality assurance actions to be performed shall be through Government channels. Requests for selective evaluation shall indicate Government procurement quality actions to be performed, e.g., specific characteristics, processes, and procedures to be verified, tests to be witnessed, and records, reports, and certificates to be evaluated.

§ 14.408 Inspection stamping.

(a) There is one Department of Defense inspection approval marking design for identification of material which has been inspected for conformance to only a portion of the contract quality requirements, and another for material which has been completely inspected for all contract quality requirements at source. The designs and their uses are as follows:

(1) *Partial (circle) inspection approval stamp.* This stamp is circular and is used by or under the direct supervision of the Government representative to identify contract or subcontract material which has been subjected to only a portion of the contract quality requirements applicable to the material at the time and place of Government procurement quality assurance. Partial inspection approval stamping shall identify, for Government personnel, material which complies and all contract quality requirements applicable at the time and place of Government procurement quality assurance, excepting those listed as uninspected on the associated Material Inspection and Receiving Report (DD Form 250), packing list, or comparable document.

(2) *Complete (square) inspection approval stamp.* This stamp is square and is used by or under the direct supervision of the Government representative to identify contract or subcontract material which has satisfied all contract quality requirements. Complete inspection approval stamping shall identify, for Government personnel, material which is in complete conformance with all contract quality requirements applicable to the material at the time and place of inspection. Complete inspection approval establishes that material which once was partially approved has subsequently received complete approval. One imprint of the square stamp will void multiple imprints of the circle stamp.

(b) The marking of each item is neither required nor prohibited. Ordinarily, the stamping of shipping containers, packing lists, or lot routing tickets adequately serves to provide the necessary indication status and to control or facilitate the movement of material. No material shall be stamped in such a way as to damage the material.

(c) The placing of a Department of Defense Inspection Approval Stamp upon material does not mean that the material has been accepted by the Government. Acceptance is ordinarily evidenced by execution of the acceptance certificate on the applicable inspection and receiving report.

(d) NASA Publications include detailed policies and procedures regarding the use of National Aeronautics and Space Administration (NASA) Quality Status Stamps. When requested by NASA Centers, the Government representative shall use NASA Quality Status Stamps and apply the procedures of current NASA requirements for all NASA delegations.

§ 14.409 Authorizing shipment of supplies.

§ 14.409–1 General.

Ordinarily, a representative of the contract administration office shall sign or stamp the shipping papers accompanying Government source-inspected supplies of both prime contracts and subcontracts to release them for shipment. In accordance with the criteria in § 14.409–2(a), however, an alternative procedure may be used in which the contractor assumes the responsibility for the release for shipment of such supplies inspected at his or his subcontractor's facilities, just as the contractor may be given the authority for other functions pertaining to the control of quality. When this alternative procedure is used, it will release Department of Defense manpower for technical functions by eliminating routine signing or stamping of the papers accompanying each shipment.

§ 14.409–2 Alternative procedures—contractor release for shipment.

(a) The contract administration office may give the contractor authorization in writing to release supplies for shipment when:

(1) The stamping or signing of the shipping papers by a representative of the contract administration office impairs the operation of a planned Government procurement quality assurance program or places an unreasonable demand on the Government representative's time; and

(2) There is sufficient continuity of production to permit the establishment of a systematic and continuing Government evaluation of the contractor's control of quality; and

(3) The contractor has a record of satisfactory product quality including quality pertaining to preparation for shipment.

(b) When there is an indication that the conditions in paragraph (a) (2) or (3) of this section no longer prevail, the authorization shall be withdrawn in writing.

(c) When the alternative procedure is used:

(1) The contractor shall type or stamp, and sign, the following statement on each copy of the shipping papers.

The supplies comprising this shipment have been subjected to and have passed all examinations and tests required by the contract, were shipped in accordance with authorized shipping instructions, and conform to the quality, identity and condition called for in contractual requirements and to the quantity shown on this document. This shipment was released in accordance with paragraph 14–409 of the Armed Services Procurement Regulation for Authorizing Shipment of Supplies under authorization of (Name and Title of the authorized representative of the Contract Administration Office) in a letter dated (Date of authorizing letter).

(Signature and Title of Contractor's designated representative)

and

(2) Where acceptance and delivery are at point of origin, the Government procurement quality assurance representative shall sign and date Item 21 of those copies of DD Form 250 (Material Inspection and Receiving Report), or the appropriate item of any other receiving report form authorized by this subchapter, which are to be attached to the contractor's voucher or invoice for submission to the paying activity.

Subpart E—Contract Administration of Special Commodities

§ 14.501 General.

Special commodities are those that are subject to statutory requirements, support agreements with other than Department of Defense activities, or specific Office of Secretary of Defense policy guidance.

§ 14.502 Subsistence.

(a) Any Federal activity capable of assuring wholesomeness and quality in food, including medical service personnel of the Military Departments, may be designated by the purchasing office to perform Government procurement quality assurance actions on a reimbursable basis when appropriate, for subsistence contract items.

(b) The following is an explanation of particular terms used in this subpart:

(1) *Subsistence.* Food for, and provisions to be used in, feeding of personnel and animals;

(2) *Medical service personnel.* Officers and enlisted personnel of the Medical Services of the Departments of the Army, Navy, and Air Force designated to perform the required inspections of subsistence;

(3) *Wholesomeness of food.* That characteristic possessed by a food product which promotes good health and well being in the consumer; and

(4) *Quality of food.* The required elements or characteristics stated in the specification or other contractual document, which the food must possess to comply with the desired degree of excellence exclusive of those characteristics required to assure wholesomeness.

(c) The Surgeons General of the Military Departments are responsible for the acceptance criteria, technical requirements, and inspection procedures needed to assure wholesomeness of foods. Wholesomeness assurance measures will include but not be limited to:

(1) Establishment of standards or tolerances to evaluate wholesomeness from a microbiological, toxicological, and radiological viewpoint;

(2) Inspection of sources for sanitation including sources of component items when required;

(3) Approval of manufacturing processes to assure that technical procedures required to assure wholesomeness are incorporated and used; and

(4) Use of test and examination techniques during processing or for the finished item to detect insanitary practices or unwholesome food.

(d) Maximum utilization shall be made of existing inspection and grading services of other Federal agencies to perform procurement quality assurance actions in processing plants economically and efficiently. However, an adequate Government procurement quality assurance workload shall be retained for training of medical service personnel and to provide a base for rotation of personnel between the continental United States and overseas.

§ 14.503 Petroleum.

(a) Contracts for the procurement of petroleum products which provide for delivery f.o.b. destination shall provide for acceptance at destination, irrespective of the point or points of other procurement quality assurance actions.

(b) The contract administration office may authorize the release of petroleum supplies without requiring the signing or stamping of shipping papers by a representative of the contract administration office, if the alternative procedures of § 14.409–2 are used. In that event on petroleum servicing contracts for receiving, storing, and issuing Government-owned petroleum products, the contractor shall be required to type or stamp and to sign the following statement on each copy of the shipping papers.

I certify that the above supplies were (a) in the quantity indicated, (b) taken from Government-owned and approved stocks, and (c) loaded into inspected and approved containers. This shipment was released in accordance with paragraph 14–503 of the Armed Services Procurement Regulation under authorization of (Name and title of the authorize representative of the Contract Administration Office) in a letter dated (Date of authorizing letter).

(Signature and Title of Contractor's Designated Representative)

(c) Bulk petroleum product contracts or related service contracts shall specify either:

(1) The specific point at which the Government takes title to the product, or

(2) The point in a service contract that the contractor can be considered as having fulfilled his obligation.

§ 14.504 Construction projects.

(a) On-site inspection of buildings and other structures is normally performed by the Military Department responsible for their construction.

(b) Government procurement quality assurance actions for construction materials and supplies acquired for military and civil works projects shall be performed by the contract administration office in accordance with this part.

(c) The functions in paragraphs (a) and (b) of this section will be performed so as to assure compatibility of buildings and structures and installed equipment.

Subpart F—Performance of Government Procurement Quality Assurance Actions for and by Other Government Agencies

§ 14.601 National Aeronautics and Space Administration.

In accordance with Public Law 85–568 (72 Stat. 429; 42 U.S.C. 2473(b)(6)), the Department of Defense shall provide procurement quality assurance services to the National Aeronautics and Space Administration (NASA) on a reimbursable basis and within available resources.

§ 14.602 Other Government agencies.

§ 14.602–1 Performance of services by a military department for another Government agency.

When requested by a Government executive agency outside the Department of Defense, other than NASA, contract administration offices shall, within the provisions of pertinent Department of Defense policies, provide maximum procurement quality assurance services consistent with available resources, applicable interagency agreements, and direction from higher authority. Reimbursement for such services shall be on a mutually agreeable basis, in accordance with Public Law 85–781 (72 Stat. 936; 40 U.S.C. 481(d)), due consideration being given to possible savings and increased efficiency for the Government as a whole. Established plans for procurement quality assurance coverage may be modified at the request of the other agency if agreeable to the contract administration office.

§ 14.602–2 Request for services.

When it is to the advantage of the Department of Defense, a Military Department may request a Government executive agency outside the Department of Defense to perform procurement quality assurance actions. The purchasing department shall request such services in writing and obtain a written acceptance from the other agency.

§ 14.602–3 Aircraft, aircraft equipment and accessories.

(a) Under Public Law 85–726 (72 Stat. 776, 49 U.S.C. 1423), the Federal Aviation Administration (FAA) has certain responsibilities and prerogatives in connection with the issuance and continuation of various certificates applicable to the design, manufacture, and airworthiness criteria of certain types of commercial aircraft and of aircraft equipment and accessories.

(b) The FAA evaluations are not a substitute for normal Department of Defense evaluations of the contractor's quality assurance measures. Actual records of such FAA evaluations may be of benefit, however, and should be utilized to maximum advantage by the contract administration office. That office is responsible for assuring that the supplies and services conform to the terms of the contract and that any required certificates and approvals are in the possession of the contractor prior to acceptance.

Subpart G—Performance of Government Procurement Quality Assurance Actions for Foreign Governments

§ 14.701 General.

When required or authorized by statute or executive agreement or by Department of Defense or Departmental mutual security program policies, and when requested through official channels, Government procurement quality assurance services shall be performed for friendly foreign governments and international agencies. When such services are performed outside the United States, the levels of technical capability and the administrative procedures not already prescribed by statute, executive agreement, or Department of Defense or Military Department policy shall be in accordance with arrangements suitable and acceptable to United States country teams or commanders of unified and specified commands, as appropriate.

PART 18—PROCUREMENT OF CONSTRUCTION AND CONTRACTING FOR ARCHITECT-ENGINEER SERVICES

18. Section 18.113 is revised to read as follows:

§ 18.113 Liquidated damages.

A liquidated damages clause shall be included in all contracts in excess of $25,000 except cost-plus-fixed-fee contracts or those where the contractor cannot control the pace of the work. Use of a liquidated damages clause is optional for contracts of $25,000 or less. Where such a provision is used, the clause set forth in § 7.603–39 of this chapter shall be included in the invitation for bids or request for proposals. Where different completion dates for separate parts or stages of the work are specified in the contract, this clause should be revised appropriately to provide for liquidated damages for delay of each separate part or stage of the work. The minimum amount of liquidated damages should be based on the estimated cost of inspection and superintendence for each day of delay in completion. Whenever the Government will suffer other specific losses due to the failure of the contractor to complete the work on time, such as the cost of substitute facilities, the rental of buildings, or the continued payment of quarters allowances, an amount for such items should also be included. Contracting officers shall take all reasonable steps to mitigate liquidated damages in accordance with § 1.310(c) of this chapter and may propose remissions of such damages in accordance with § 1.310(d) of this chapter.

PART 30—APPENDIXES TO ARMED SERVICES PROCUREMENT REGULATIONS

19. Sections 30.2 and 30.3 are revised to read as follows:

§ 30.2 Appendix B—Control of Government property in possession of contractors.

PART 1—INTRODUCTION

100. *Scope of section.* This section sets forth the basic requirements to be observed by contractors in establishing and maintaining control over Government property provided pursuant to the terms of contracts with the Military Departments (see § 1.201–5 of this chapter). To the extent of any inconsistency between this section and the terms of the contract under which the Government property is provided, the terms of the contract shall govern.

101. *General.* The contractor shall be directly responsible for and accountable for all Government property in accordance with the provisions of the contract including property provided under such contract which may be in the possession or control of a subcontractor. The contractor shall establish and maintain a system (in accordance with the provisions of this section) to control, protect, preserve and maintain all Government property. This system shall be reviewed and, if satisfactory, approved in writing by the assigned property administrator. The contractor shall maintain and make available such records as are required by Part 3 of this section and must account for all Government property until relieved of responsibility therefor in accordance with procedures set forth in Part 2 of this section. Liability for loss, damage, or excessive use of property in a given instance will necessarily depend upon all the circumstances surrounding the particular case and must be considered and determined in accordance with the provisions of the contract. The contractor shall furnish all necessary data to substantiate any request for discharge from responsibility.

(a) The contractor shall require any of his subcontractors who are provided Government property under the prime contract to comply with the provisions of this section. Procedures for assuring subcontractor compliance shall be included in the contractor's approved property control system. In those instances where the property administrator assigned to the contract has requested supporting property administration, the contractor may accept the system approval and continuing surveillance of the supporting property administrator in lieu of performing duplicative actions to assure the subcontractor's compliance with the provisions of this section.

(b) In the event any portion of the contractor's property control system is found to be inadequate upon review by the property administrator, any necessary corrective action will be accomplished by the contractor prior to approval of the system. When agreement as to adequacy of control and corrective action is not reached between the contractor and the property administrator, the matter will be referred to the administrative contracting officer.

(c) When Government property (excluding misdirected shipments) is disclosed to be in the possession or control of the contractor but not provided in accordance with the provisions of any contract, the contractor will, as promptly as possible, (i) record such property according to the established property control procedure, and (ii) furnish to the property administrator with all known circumstances and factual data pertaining to its receipt and a statement as to whether there is a need for retention of such property. For misdirected shipments, see paragraph 313 of this section.

(d) The contractor shall report all Government property in excess of the amounts needed to complete full performance under the contract pursuant to which it was provided, or other existing contracts which authorize the use of such property, as promptly as possible after disclosure of the condition.

102. *Definitions.* As used in this section:

102.1 "Property Administrator" means the individual duly designated by appropriate authority to administer the contract requirements and obligations relative to Government property. He is an authorized representative of the contracting officer.

102.2 "Government property" means all property owned by or leased to the Government or acquired by the Government under the terms of a contract. Government property includes both Government-furnished property and contractor-acquired property as defined below:

(i) "Government-furnished property" is property in the possession of, or acquired directly by, the Government and subsequently delivered or otherwise made available to the contractor; and

(ii) "Contractor-acquired property" is property procured or otherwise provided by the contractor for the performance of a contract, title to which is vested in the Government (but see paragraph 201(e) of this section).

102.3 "Provide," as used in the content of such phases as "Government property provided to the contractor" and "Government-provided property," means either to furnish, as in "Government-furnished property," or to acquire, as in "contractor-acquired property."

102.4 "Government material" means Government property which may be incorporated into or attached to an end item to be delivered under a contract or which may be consumed in the performance of a contract. It includes, but is not limited to, raw and processed material, parts, components, assemblies, and small tools and supplies.

102.5 "Special tooling" means all jigs, dies, fixtures, molds, patterns, taps, gauges, other equipment and manufacturing aids, and replacements thereof, which are of such a specialized nature that, without substantial modification or alteration, their use is limited to the development or production of particular supplies or parts thereof, or the performance of particular services. The term includes all components of such items, but does not include:

(i) Consumable property;

(ii) Special test equipment; or

(iii) Buildings, nonseverable structures (except foundations and similar improvements necessary for the installation of special tooling), general or special machine tools, or similar capital items.

102.6 "Special test equipment" means electrical, electronic, hydraulic, pneumatic, mechanical or other items or assemblies of equipment, which are of such a specialized nature that, without modification or alteration, the use of such items (if they are to be used separately) or assemblies is limited to testing in the development or production of particular supplies or parts thereof, or in the performance of particular services. The term "special test equipment" includes all components of any assemblies of such equipment but does not include:

(i) Consumable property;

(ii) Special tooling; or

(iii) Buildings, nonseverable structures (except foundations and similar improvements necessary for the installation of special test equipment), general or special machine tools, or similar capital items.

102.7 "Facilities" means industrial property (other than material, special tooling, military property, and special test equipment) for production, maintenance, research, development, or test, including real property and rights therein, buildings, structures, improvements, and plant equipment.

102.8 "Real property," for purposes of accounting classification, means (i) land and rights therein, (ii) ground improvements, (iii) utility distribution systems, (iv) buildings, and (v) structures. It excludes foundations and other work necessary for the installation of special tooling, special test equipment and plant equipment.

102.9 "Utility distribution system" means a system (including distribution and transmission lines, substations, and installed equipment forming an integral part of the system) by which gas, water, steam, electricity, sewerage, or other utility services are transmitted between (i) the outside of the

building or structure in which the services are used, and (ii) the point of origin or disposal, or the connection with some other system. For the purpose of this section, it does not include communication services.

102.10 "Plant equipment" means personal property of a capital nature (consisting of equipment, machine tools, test equipment, furniture, vehicles, and accessory and auxiliary items, but excluding special tooling and special test equipment) used or capable of use in the manufacture of supplies or in the performance of services or for any administrative or general plant purpose.

102.11 "Industrial plant equipment" (IPE) means that part of plant equipment with an acquisition cost of $1,000 or more which is listed in § 13.312 of this chapter.

102.12 "Minor plant equipment" means an item of plant equipment having an acquisition cost of less than $300, and other plant equipment regardless of cost when so designated by the Government.

102.13 "Accessory item" means an item which facilitates or enhances the operation of plant equipment but which is not essential for its operation, such as remote control devices.

104.14 "Auxiliary item" means an item without which the basic unit of plant equipment cannot operate, such as motors for pumps and machine tools.

102.15 "Salvage" means property which, because of its worn, damaged, deteriorated, or incomplete condition, or specialized nature, has no reasonable prospect of sale or use as serviceable property without major repairs or alterations, but which has some value in excess of its scrap value.

102.16 "Scrap" means property that has no reasonable prospect of being sold except for the recovery value of its basic material content.

102.17 "Custodial records" means written memoranda or identifying checks of any description or type used to control items issued from tool cribs, tool rooms, stockrooms, etc., such as requisitions, issue hand receipts, tool checks, stock record books, etc.

102.18 "Individual item record" means a separate card form, or document utilized to account for one item of property.

102.19 "Stock record" means a perpetual inventory form of record which shows, by nomenclature, the quantities received and issued and the balances on hand.

102.20 "Discrepancies incident to shipment" means all deficiencies incident to the shipment of Government property to or from a contractor's facility whereby differences exist between the property purported to have been shipped and the property actually received. Such deficiencies include, but are not limited to loss, damage, destruction, improper status and condition, coding, error in identity or classification, and improper consignment.

102.21 "Military property" means personal property peculiar to military operations which is under the cognizance of a military inventory control point. It includes weapons systems, components thereof, and related support equipment, but does not include items which are consumed in the performance of a procurement contract or incorporated in the end items produced under a contract (see "material" in § 13.101–4 of this chapter).

103. *Segregation or commingling of Government property and contractor's property.* Government property will be segregated and kept physically separate from contractor-owned property. However, when advantageous to the Government and consistent with the contractor's authority to use such property, the property may be commingled:

(a) When the Government property is special tooling, special test equipment or plant equipment which is clearly identified and recorded as Government property;

(b) When approved by the property administrator in connection with research and development contracts;

(c) When material is included in a multi-contract cost and material control system approved in accordance with paragraph 303(e)(ii) of this section;

(d) When (i) scrap of a uniform nature is produced from both Government-owned and contractor-owned material and physical segregation is impracticable, (ii) scrap produced from Government-owned material is insignificant in consideration of the cost of segregation and control, or (iii) Government contracts involved are fixed-price in nature and provide for the retention of the scrap by the contractor; or

(e) When otherwise approved by the property administrator.

104. *Audit of property control system.* The contractor's Government property control system shall be audited by the Government as frequently as conditions warrant. Any such auditor audits may take place at any time during the performance of the contract, upon completion or termination of the contract, or at any time thereafter, during the period the contractor is required to retain such records. The contractor shall make all such records, including correspondence related thereto, available to the auditors.

105. *Administration of military property.* Due to the special nature of military property, the contract under which it is provided generally will contain specific requirements for maintenance and control. Moreover, the following conditions shall be observed: (i) Each item of the property shall be identified by its Federal item identification number and Government nomenclature; and (ii) upon the completion or termination of the contract, the contractor shall request and comply with disposition instructions from the contracting officer. To the extent specified in the contract, provisions of this section shall apply to military property.

PART 2—CONTRACTOR'S RESPONSIBILITY

200. *Scope of part.* This part covers to the extent not otherwise provided in the contract, (i) the duties and responsibilities of the contractor with respect to Government property, (ii) the obligations of the contractor with respect to the control of Government property, both physically and administratively, and (iii) the liability of the contractor for Government property lost, damaged, destroyed, or for which the contractor is otherwise unable to account.

201. *Assumption of responsibility.* A contractor shall be responsible for all Government property in his possession or control in accordance with the terms of the contract including property provided under such contract which may be in the possession or control of a subcontractor. Sources from which Government property may be furnished or acquired are as follows:

(a) *Military installations or other contractor's plants.* Government property may be shipped to a contractor from military installations, other Government installations, or plants of Military Departments or other Government Agency contractors. For the purpose of this section, the contractor shall become responsible for such property upon delivery of the property into his custody or control. The shipping activity shall furnish the contractor with copies of documents necessary to permit the contractor's property records to accurately reflect the transaction.

(b) *Direct purchase by the contractor.* Direct purchases shall be subject to a determination by the administrative contracting officer (ACO) that the items are allocable to the contract involved and are reasonably necessary therefor. For purposes of property control within the scope of this section, it shall be considered that property purchased by the contractor, for which reimbursement is to be requested, becomes Government property upon its receipt by the contractor. This provision shall not be deemed to alter or modify contractual provisions relating to passage of title.

(c) *Withdrawal from contractor-owned stores.* For purposes of property control, within the scope of this section, property withdrawn from contractor-owned stores, for direct charge to the contract, shall be considered Government property at the time of approval of the claim for reimbursement, or at the time of issuance for use of such property for the performance of the contract, whichever is earlier.

(d) *Contract provisions, terminations, contract changes.* Pursuant to specific contractual provisions, or as a result of termination of a contract, or change orders issued under a contract, the Government may acquire title to property. For purposes of property control, such property shall, unless otherwise provided by the contract, be considered Government property upon acceptance of title by the Government.

(e) *Advance, progress, or partial payments.* Pursuant to the terms of a contract, the Government may acquire a lien or title to property upon the making of advance, progress, or partial payments to the contractor. Property to which the Government has acquired a lien or title solely as a result of advance, progress, or partial payments shall not be subject to the provisions of this section.

201.1 *"Evidence of receipt of Government property."* The contractor shall furnish written receipts for all, or specific classes of Government-provided property only in those instances where such action is determined by the property administrator to be essential for maintenance of minimum acceptable property controls. Where such evidence of receipt is required for contractor-acquired property, it shall be provided by the contractor not later than the time he submits his application for payment (public voucher) for the property. In the instance of Government-furnished property, the required receipt shall be provided by the contractor immediately upon receipt of the property.

201.2 *Discrepancies incident to shipment*—(a) *Government-furnished property.* When overages, shortages, or damages are discovered upon receipt of Government-furnished property, the contractor shall provide a statement of the condition and the apparent causes in accordance with procedures approved by the property administrator pursuant to paragraph 101 of this section. When the quantity or description of property received by a contractor differs from the quantity or description denoted as shipped on the shipping document, only that quantity, or property, actually received will be recorded on the official records of the contractor.

(b) *Contractor-acquired property.* The contractor shall take all actions necessary in adjustment of overages, shortages, or damages in shipment of contractor-acquired property from a vendor or supplier except in those instances wherein the shipment has moved via Government bill of lading and carrier liability is indicated. In the latter event, the contractor shall report the instance in accordance with (a) above.

202. *Relief From Responsibility.* Subject to specific instructions of the contracting officer, and unless otherwise provided for in the contract, the contractor shall be relieved of his property control responsibility for Government property by the following:

(a) *Consumption of property in the performance of the contract.* To the extent that the property administrator determines that property has been consumed or expended for proper purposes and in reasonable amounts in the performance of the contract;

(b) *Retention by the contractor.* When the contractor retains with the approval of the contracting officer Government property for which the Government has received consideration;

(c) *Sale of property.* For Government property sold pursuant to instructions of the plant clearance officer: *Provided,* That the proceeds of such sale shall have been received by or credited to the Government;

(d) *Shipment of Government property from a contractor's plant.* When Government property is shipped from the contractor's plant (except when shipment is to a subcontractor or other location of the contractor) pursuant to the instructions of the plant clearance officer or the property administrator; or

(e) *Determination by the contracting officer.* For Government property which is lost, damaged, destroyed, or consumed in excess of that normally anticipated in a manufacturing or processing operation, and for which the contracting officer has determined the extent of liability, if any, of the contractor: *Provided,* That:

(i) Such determination is furnished to the contractor in writing;

(ii) The Government has been reimbursed where required by the determination; and

(iii) Proper disposition of property rendered unserviceable by damage has been accomplished, and appropriate cross-reference is recorded on the determination as to the shipping document or other documents evidencing disposal.

203. *Contractor's liability.* (a) Subject to the terms of the contract, the contractor may be liable when shortages of Government property are disclosed or when Government property is lost, damaged, or destroyed, or when there is evidence of unreasonable use or consumption of Government property as measured by the allowances provided for by the terms of the contract, the bill of material, or other appropriate criteria.

(b) The contractor shall report all cases of loss, damage, or destruction of Government property in his possession or control to the property administrator as soon as such facts become known or when requested by the property administrator. The report shall be furnished when completed and accepted products or end items are lost, damaged, or destroyed while such property is in the possession or control of the contractor.

(c) The contractor shall require any of his subcontractors having Government property in their possession or control which is accountable under the contract to report to him all instances of loss, damage, or destruction of such Government property. Further procedures shall be in accordance with that prescribed in (a) and (b) above.

PART 3—RECORDS OF GOVERNMENT PROPERTY

300. *Scope of part.* This part establishes minimum requirements for records to be established and maintained by the contractor for Government property in his possession or control.

301. *General.* (a) It is the Government's policy to rely upon contractor property control records and to designate and use such records as the official contract records unless an exception has been authorized due to special circumstances. The contractor shall establish and maintain adequate control records, either manual or mechanized, in accordance with the requirements of this section for all Government property provided under a contract, including property provided under such contract as may be in the possession or control of a subcontractor. When the subcontractor has a property control system approved by the Government for Government property provided under the subcontractor's own prime contracts, the contractor will utilize records created and maintained in accordance with such approved system unless otherwise directed by the property administrator.

(b) The contractor's property control system shall provide financial accounts for Government-owned facilities in the contractor's possession or control. The system shall be subject to internal control standards and be supported by property records for such facilities in the manner described in this Part 3.

(c) The official records shall be kept in such condition that at any stage of completion of the work under a contract the status of Government property may be readily ascertained.

(d) Separate property records for each contract are desirable but a consolidated property record may be maintained: *Provided,* That the consolidated record provides the information set forth in this Part 3.

(e) Special tooling and special test equipment fabricated from materials which are the property of the Government will be appropriately recorded as Government-owned special tooling or special test equipment immediately upon fabrication. Special tooling and special test equipment fabricated from materials which are the property of the contractor will be appropriately recorded as Government property at the time title passes to the Government.

(f) Property records of the same type which would have been established for components if acquired separately shall be established for such usable components which are permanently removed from items of Government property as a result of modification or otherwise.

(g) The contractor's property control system shall contain an adequate locator system or techniques to permit the location of any item of Government property within a reasonable period of time after request therefor.

302. *Pricing.* Except as provided in paragraph 302.1 of this secton, the contractor's property control system shall contain the unit price for each item of Government property recorded therein. It is a recognized practice of many contractors to record the unit price of property on other than the quantitative inventory record, thus requiring the use of supplementary records to ascertain unit prices. Under such circumstances, the supplementary records containing such information shall be identified and recognized as a portion of the official property records. The requirement that unit prices be contained in the official property records will not apply to those separate property records located at contractor's secondary sites and subcontractor's plants: *Provided,* That:

(i) Records maintained by the prime contractor at his primary site are in full compliance in this respect; and

(ii) The prime contractor agrees to furnish either actual or reasonable estimated unit prices to the secondary site or subcontractor as the need arises.

When definite information as to unit price cannot be obtained, reasonable estimates will be used.

302.1 *Contractor-acquired and contractor-fabricated property.* The unit price of contractor-acquired and contractor-fabricated property shall be determined in accordance with the system established by the contractor in conformance with sound accounting principles and consistently applied. Generally, it is desired that separate unit prices be applied to items of special tooling and special test equipment fabricated or acquired by the contractor. However, if the contractor's accounting system is acceptable, and if the maintenance of detailed cost records results in excessive accounting cost or is otherwise impracticable considering all circumstances, group pricing may be used for special tooling and special test equipment. Group pricing may also be used for work-in-process in accordance with the contractor's acceptable cost accounting system. Processed material, fabricated parts, components, assemblies, etc., charged to the contractor's work-in-process inventory, including items in temporary storage while awaiting processing may be considered as work-in-process for the purpose of compliance with this requirement. Nothing in the foregoing lessens the requirement for quantitative property controls for special tooling, special test equipment, and work-in-process necessary for the proper protection of the Government's interest.

302.2 *Government-furnished property.* The unit price of Government-furnished property shall be determined by the Government and furnished to the contractor. Transportation and installation costs will not be considered as part of the unit price for this purpose. Normally, the unit price of Government-furnished property will be provided on the document covering shipment of the property to the contractor. In event the unit price is not provided on the document, action will be taken through the property administrator to obtain the information.

303. *Records of material.* All Government material furnished to the contractor, as well as other material to which title has passed to the Government by reason of allocation from contractor-owned stores or purchase by the contractor for direct charge to a Government contract or otherwise, shall be recorded in accordance with the contractor's property control system, as follows.

(a) *Contractor's property control system.* Except as provided in (d) and (e) below, the contractor's property control system shall be such as to provide the following information:

(i) Contract number or equivalent code designation;

(ii) Nomenclature or description of item (including Federal stock number if known);

(iii) Quantity received;

(iv) Quantity issued;

(v) Balance on hand;

(vi) Posting reference and date of transaction;

(vii) Unit price;

(viii) Location; and

(ix) Disposition.

(b) *Consolidated stock record.* When a contractor has more than one Government contract under which Government material is provided, a consolidated record for materials may be authorized by the property administrator provided the total quantity of any item is allocated to each contract by contract number and each requisition of material from contractor-owned stores is charged to the contract on which the material is to be used. The supporting document or issue slip shall show the contract number or equivalent code designation to which the issue is charged.

(c) *Custodial records.* Custodial records shall be maintained for tool crib items, guard force items, protective clothing, and other items issued for the use of individuals in the performance of their work under the contract.

(d) *Use of receipt and issue documents.* When authorized by the property administrator, the contractor may maintain, in lieu of "stock records," a file of appropriately cross-referenced documents evidencing receipt, issue and use of Government-provided material which is issued for immediate consumption upon receipt and is not entered in the inventory record as a matter of sound business practice. This method of control may be authorized by the property administrator in the following instances:

(i) Material charged through overhead, including but not limited to items used in

manufacturing, maintenance, and office supplies;

(ii) Material under research and development contracts;

(iii) Subcontract or outside production items;

(iv) Nonstock or special items (These items are considered to be those whose procurement cycle is irregular and infrequent.);

(v) Items which are purchased for direct charge to a contract, procured and issued for installation upon receipt, and involve no spoilage (such as maintenance and repair parts for plant equipment); or

(vi) Items issued from contractor-owned inventory direct to production, maintenance, etc.

(e) *Multicontract cost and material control*—(i) *Description and scope.* A multicontract cost and material control system constitutes a modification of the requirements for physical identification of Government material and substitutes therefor a system of financial accounting. The system operates as follows:

(A) The contractor may acquire, purchase, requisition, receive, store and issue like items of material for the total requirements of all contracts involved in the system without identifying the material to each contract.

(B) The contractor may commingle, during all stages of contract performance, Government-owned and contractor-owned material and work-in-process, which was furnished, acquired, or produced for all Government contracts of any type covered by the system, without physical segregation or identification to the individual contracts.

(C) In lieu of physical segregation and identification to individual contracts, periodic calculation of requirements and distribution of costs to all contracts permits the allocation of material costs to products delivered. This system by reflecting the materials expended to perform each contract at any stage in production, permits usage analysis to determine the reasonableness of consumption and expenditure of Government material.

(D) The system may appropriately include all Government contracts of any time which involve common repetitive operations.

(E) The system does not require commingling of all common materials of all contracts included. For example, items of Government-furnished material of high value or in short supply may be excluded from commingling and reserved for use in performance of the contract under which furnished.

(F) Notwithstanding paragraph 302 of this section, physical inventories of material in stores included in the systems (other than work-in-process) will be taken by the contractor at least annually, price extended, and reconciled to the quantitative balance for each item, and adjustments recorded in the stock record and financial inventory control accounts. Such physical inventories and adjustments shall be reviewed by and are subject to the approval of the property administrator. An equitable distribution to cost accounts of any inventory losses will be subject to a like review and approval.

(ii) *Authorization.* The Head of the Procuring Activity responsible for contract administration at the contractor's plant involved or his designee may authorize a contractor who is performing or will perform more than one Government contract to use the multicontract cost and material control system in accordance with this paragraph. The property administrator will, for each system authorized, approve detailed operating procedures as are necessary for that particular system.

(iii) *Criteria.* A multicontract cost and material control system may be authorized if:

(A) The contractor demonstrates that savings or improved operations will result from adoption of the system or that it will otherwise be in the interest of the Government;

(B) The contractor's accounting system is adequate to satisfy the requirements set out in paragraph 312 of this section; and

(C) The system is applied to existing Government contracts only and excludes materials acquired or costs incurred for non-Government work or in anticipation of future Government work.

304. *Records of special tooling.* The contractor's property control system shall be such as to provide the following minimum information regarding each item of Government-owned special tooling:

(i) Contract number or equivalent code designation;

(ii) Nomenclature or description of item (including identification number and item on which used);

(iii) Quantity received or fabricated;

(iv) Posting reference and date of transaction;

(v) Location;

(vi) Disposition;

(vii) Unit or group price; and

(viii) Retention category (when required by the contract).

(a) In the event group pricing of special tooling is utilized by the contractor, as recognized in paragraph 302.1 of this section, unit prices may be computed as and when required.

(b) Retention category, item (viii) above (when applicable), shall be established by the contractor at time of acquisition or fabrication of the item of special tooling. Retention categories as defined below shall be used:

(i) *Assembly tooling.* Required for manufacture of the end product but not required for production of spare parts. Those items having no post production need except for potential modification or resumed production programs.

(ii) *Critical tooling.* Those tools within a family of tools absolutely essential to fabricate spare parts and assemblies even at a minimum production rate. This would include basic forming tools and tooling for special processes. Tools within this category are to be further identified as:

(A) *Spares tooling.* Required to produce a provisioned spare part or assembly.

(B) *Judgment (insurance) tooling.* Fabrication tools for parts that are not provisioned spares but which in the judgment of the contractor will be required at some time for logistic support of the end item.

(C) *Support tooling.* Of secondary importance, necessary to economically produce at increased rates but not essential for parts fabrication at low production rates.

This information will be utilized to expedite screening when the special tooling becomes excess to contract requirements. After a major system has gone out of production, this information need not be required for those items of special tooling which have been retained for spares production, overhaul, or repair work.

305. *Records of special test equipment.* The contractor's property control system shall be such as to provide the following minimum information regarding each item of Government-owned special test equipment:

(i) Contract number or equivalent code designation;

(ii) Nomenclature or description of item (including identification number and item on which used);

(iii) Identity of any general purpose test equipment incorporated as components in such a manner that removal and reutilization may be feasible and economical;

(iv) Quantity received or fabricated;

(v) Posting reference and date of transaction;

(vi) Location;

(vii) Disposition;

(viii) Unit or group price; and

(ix) Retention category (when required by the contract).

(a) In event group pricing of special test equipment is utilized by the contractor, as recognized in paragraph 302.1 of this section, unit prices may be computed as and when required.

(b) Retention category, item (ix) above (when applicable), shall be established by the contractor at time of acquisition or fabrication of the item of special test equipment. Retention categories defined in paragraph 304(b) of this section will be used for special test equipment. This information will be utilized to expedite screening when the special test equipment becomes excess to contract requirements. After a major system has gone out of production, this information need not be required for those items of special test equipment which have been retained for spare production, overhaul or repair work.

306. *Records of plant equipment*—(a) *Plant equipment costing $1,000 or more.* The contractor shall maintain individual item records (manual or mechanized) of each item of Government-owned plant equipment having a unit cost of $1,000 or more which will provide the following minimum information:

(i) Federal Supply Code for Manufacturer (Cataloging Handbooks H4–1, H4–2) and, at the option of the contractor, the name and address of the equipment manufacturer;

(ii) Manufacturer's model/part number;

(iii) Serial number and year built (when available);

(iv) U.S. Government identification/tag number;

(v) Noun name of the item and Federal Supply Classification (Cataloging Handbooks H2–1, H2–2, and H2–3);

(vi) Acquisition document reference and date;

(vii) Location;

(viii) Disposition document reference and date;

(ix) Contract number or equivalent code designation;

(x) Unit price when equipment is Government for setting up accounting records as when contractor acquired. (Unit price will be reduced when accessory and auxiliary items are permanently separated from the basic item of plant equipment.)

DD Form 1342 may be used as a source document for setting up accounting records as prescribed herein.

(b) *Record of accessory and auxiliary equipment.* Accessory and auxiliary equipment which is attached to or otherwise a part of an item of plant equipment or has been acquired for use in connection with a specific item, shall be recorded on the record of the item of plant equipment. In the event the accessory or auxiliary item is not attached to, a part of, or acquired for use with a specific item of plant equipment, it shall be recorded as indicated in paragraph 306(d) of this section.

(c) *Record of manufacturing systems.* Where plant equipment (including accessory or auxiliary type items) is assembled and interconnected to form a single operating unit to perform continuously the same manufacturing process, such equipment may, for property and inventory control purposes, be grouped and recorded as a single item of plant equipment on one plant equipment record in lieu of an individual item record for each component comprising the item of plant equipment. This does not obviate the requirement for adequately describing the component items on the plant equipment record nor does it preclude the use of more than one plant equipment record form when additional space is required.

(d) *Plant equipment costing more than $200 and less than $1,000.* Except where individual item records are necessary for effective control, calibration, or maintenance, summary stock records may be maintained for minor plant equipment and for plant equipment costing between $200 and $1,000 per unit. The contractor's property control system shall be such as to provide the following minimum information:

(i) Contract number or equivalent code designation;

(ii) Noun name, Federal Supply Classification in Cataloging Handbooks H2–1, H2–2 and H2–3;

(iii) Manufacturer or Federal Supply Code for the manufacturer and model/part number;

(iv) Quantity received;

(v) Balance on hand;

(vi) Posting reference and date of transaction;

(vii) Unit price;

(viii) Location (see paragraph 301(g) of this section); and

(ix) Disposition.

In addition, where appropriate as determined by the property administrator the serial number and/or Government identification number for each item shall be recorded in a permanent manner in the property records and, upon disposition, lined out or otherwise deleted from the record. DD Form 1342 may be used for individual record cards for items costing between $200 and $1,000.

306.1. *Centrally reportable plant equipment.* Notwithstanding the approval of a contractor's property accounting and control system, the contractor shall, with respect to items identified as industrial plant equipment (IPE) (including those items which are a part of a manufacturing system but excluding general purpose components of special test equipment) prepare a DD Form 1342 (Appendix F, F–200.1342) at the time of acquisition or receipt to be forwarded to DIPEC pursuant to AR 700–43, AFM 78–1, DSAM 4215.1—"Defense Industrial Plant Equipment Center (DIPEC) Operations." If changes occur in the data as originally recorded, a change report will be made to DIPEC as prescribed by DSAM 4215.1. When IPE including general purpose components of special test equipment is no longer required at the point of acquisition or receipt, the contractor shall prepare a DD Form 1342 (Appendix F, F–200.1342) and reflect thereon any changes in original data not previously reported. The contractor shall retain the original of each DD Form 1342 and forward the copies of DIPEC through the property administrator pursuant to § 8.505–3 of this chapter. Use of the DD Form 1342 as the official property record is optional. Subsequent to the disposal of IPE the contractor will prepare DD Form 1342, section 4, pursuant to DSAM 4215.1 for transmittal to DIPEC.

307. *Records of real property.* Records of real property shall consist of maps, drawings, plans, and specifications supplimented, where necessary to reflect building installations such as heating, electrical, sanitary, ventilating, drainage, sprinkler systems, etc. Appropriate changes will be made to the records to reflect alterations, additions, or extensions to real property. Where the maps, drawings, plans, and specifications do not adequately reflect descriptive data as to buildings installations, supplemental records will be maintained. The foregoing records will: (i) Be complete, (ii) show the original cost of the property and improvements and the cost of changes and additions thereto, and (iii) be appropriately indexed.

308. *Records of scrap and salvage.* Except as provided in paragraph 103(d) of this section the contractor shall maintain records of all scrap or salvage generated. These records shall be in accordance with the contractor's established system of scrap and salvage control, if approved by the property administrator, who shall take into consideration the need for protecting the Government's interest in the proration, disposition, and allocation of proceeds resulting therefrom.

308.1. *Records of scrap.* The contractor's property control system shall be such as to provide the following minimum information:

(i) Contract number, if practicable, or equivalent code designation;

(ii) Scrap classification (material content);

(iii) Quantity on hand;

(iv) Unit of measure;

(v) Posting references and date of transactions; and

(vi) Disposition.

308.2. *Records of salvage.* The contractor's property control system shall be such as to provide the following minimum information:

(i) Contract number, if practicable, or equivalent code designation;

(ii) Nomenclature or description of item;

(iii) Quantity on hand;

(iv) Posting reference and date of transaction; and

(v) Disposition.

309. *Records of related data and information.* The contractor shall maintain property control and accountability in accordance with sound industrial practice with respect to manufacturing or assembly drawings, installation, operation, repair, or maintenance instructions, or other similar data and information furnished to the contractor by the Government. The requirements of this section are not otherwise applicable to such property.

310. *Records of completed products.* The contractor shall maintain a record of all completed products produced under a contract as follows:

(a) When there is no lapse of time between Government inspection and acceptance of the completed products and shipment from the plant site, the records shall, as a minimum, consist of summarization of quantities accepted and shipped. When end items are accepted by the Government and stored with the contractor awaiting shipment, the record shall identify quantities stored, location and disposition action.

(b) On contracts which provide that complete products are to be retained by the contractor for further use under the contract, or other contracts, such items shall be considered "Government-furnished property" upon acceptance and shall be recorded as prescribed in this Part 3.

(c) When completed products are returned to a contractor under the terms of a warranty clause, the contractor shall, as a minimum, maintain a record by contract, setting forth a description of the items involved, quantities received and returned to the Government, and such other pertinent data as may be required to permit determination that a proper accounting for all property has been made.

311. *Financial control accounts*—(a) *Facilities.* The contractor's property control system shall be such as to provide semiannually the dollar amount of Government-owned facilities of each Military Department or Defense Agency for which he is accountable in the following classifications;

(i) Land and rights therein;

(ii) Utility distribution systems;

(iii) Buildings, structures, and improvements thereto, excluding plant equipment;

(iv) Plant equipment, excluding industrial plant equipment; and

(v) Industrial plant equipment.

The contractor's account will be susceptible to local reconciliation in totals and subtotals as to whether contractor-acquired or Government-furnished. The contractor shall furnish the property administrator, as of June 30 and December 31 of each year, a separate report for each Military Department or Defense Agency, listing by contract, the dollar amount of Government-owned facilities in the contractor's possession, falling in each of the above classifications. The report shall be furnished to the property administrator no later than August 10 and February 10 of each year.

(b) *Government material.* The contractor's property control system shall be such as to provide annually the dollar amount of Government material of each Military Department or Defense Agency for which he is accountable. The contractor shall furnish to the property administrator, as of June 30 of each year, a separate report for each Military Department or Defense Agency of the total dollar amount of Government material in his possession. Each report shall separately indicate the dollar amount which is Government-furnished and the dollar amount which is contractor-acquired. However, the following types of Government material are exempted from reporting:

(i) Items sent to the contractor for processing and return to the Government;

(ii) Work in process;

(iii) Government material amounting to less than $5,000 for any one Military Department or Defense Agency;

(iv) Government shipping containers;

(v) Material accounted for under an approved multicontract cost and material control system;

(vi) Completed products returned pursuant to a warranty clause; and

(vii) Scrap and salvage.

The reports shall be furnished to the property administrator no later than August 10 of each year.

(c) *Reporting authority.* Bureau of the Budget No. 22–R232 has been assigned to the reports required under (a) and (b) above.

312. *Financial accounting requirements for multicontract cost and material control systems.* Whenever a multicontract cost and material control system is authorized, the contractor's financial accounts must include all material, including Government-furnished material in the system. Specifically, his accounting system must be adequate to:

(a) Provide on a complete and timely basis a clear "audit trail" from costs of materials acquired for each contract to materials used or disposed of on each contract;

(b) Reflect separately for Government-furnished and contractor-acquired material in stores (except work-in-process) the inventory balances as affected by receipts, issues, adjustments, and other dispositions;

(c) Determine unit costs for each identifiable part, component, subassembly, assembly, end item and contract item;

(d) Calculate amounts for cost reimbursements and progress payments during the life of the contract by applying or allocating such unit costs developed through each stage of work-in-process to contract items for the requirements of each contract; and

(e) Assure that when material furnished by one procuring activity is used on a contract of another procuring activity, the furnishing activity receives credit for such material.

313. *Records of property of misdirected shipments.* The contractor's property control

system shall be such as to provide the following information regarding each misdirected shipment of Government property received:

(i) Identity of shipment (shipping document, bill of lading, etc.);
(ii) Origin of shipment;
(iii) Content (items in the shipment) per shipping document, if available;
(iv) Location; and
(v) Disposition.

314. *Records of property provided under exception authority.* The contractor's property control system shall be such as to provide the following minimum information regarding each item of Government property provided:

(i) Exception identification number;
(ii) Nomenclature or description of item;
(iii) Quantity received;
(iv) Posting reference and date of transaction;
(v) Location;
(vi) Disposition; and
(vii) Unit price.

315. *Records of property sent to contractors for processing and return.* (a) The contractor shall maintain quantitative records of such items to assure control from time of receipt, during processing and return of the items to the DoD component. Such item records will be established by the contractor in accordance with his property control system but will include at least the following:

(i) Contract number or equivalent code designation;
(ii) Nomenclature or description of item including the Federal stock number;
(iii) Quantity received;
(iv) Unit price;
(v) Location;
(vi) Quantity returned to DoD component;
(vii) Quantity disposed of otherwise pursuant to proper authority;
(viii) Balance on hand; and
(ix) Posting reference and date of transaction.

Part 4—Identification

400. *Scope of Part.* This part establishes minimum requirements for the identification and marking of Government property in the possession or control of the contractor.

401. *General.* The contractor shall identify, mark, and record all Government property promptly upon receipt except as may be exempted by this part; and it shall remain so identified so long as it remains in the custody, possession, or control of the contractor. Assigned Government property identification numbers will be recorded on all applicable receiving documents, shipping documents, disposal documents, and any other documents pertaining to the property control system. Such markings shall be removed or obliterated from the property involved when the disposal is by sale, scrap or through donation.

402. *Material and minor plant equipment.* All Government material and minor plant equipment shall be identified as Government property except in those cases where:

(a) No material or minor plant equipment of the same type at the same location is owned by the contractor, his employees, or other contracting agencies;

(b) Adequate physical control is maintained over tool crib items, guard force items, protective clothing, and other items issued for use by individuals in the performance of their work under the contract;

(c) Property is of bulk type or by its general nature of packing or handling precludes adequate marking, as may be determined by the property administrator; and

(d) Property is commingled, as authorized by paragraph 108 of this section.

403. *Special tooling and special test equipment.* Government-owned special tooling and special test equipment shall be marked in accordance with the procedure established by the contractor and approved by the property administrator, unless it is determined by the contractor in an individual case that marking will damage the special tooling or special test equipment or is otherwise impracticable. The contractor shall advise the property administrator, in writing, of any such determination. Identification shall consist of a serial number (identification number), and an indication of Government ownership, including the Military Department responsible for funding and control of the property as follows: Army—"USA," Navy—"USN," Air Force—"USAF," and Defense Supply Agency—"USD." If an item is already identified as "U.S. Property," the marking shall not be changed solely to conform to the provisions of this paragraph. Components of special test equipment having an acquisition cost of $1,000 or more and incorporated in such a manner that removal and reutilization is feasible and economical, shall be marked in a manner similar to plant equipment as required by paragraph 404 of this section. General purpose components of special test equipment having an acquisition cost of between $200 and $1,000 may be identified in the same manner, when required for effective control, in accordance with a contractor's approved property control system.

404. *Plant equipment.*

(a) Unless already marked in compliance with these instructions, all Government-owned plant equipment, including industrial plant equipment reportable to the Defense Industrial Plant Equipment Center but excluding minor plant equipment (see paragraph 402 of this section), shall be marked by the contractor with a Government identification number except (i) when the size or nature of the equipment makes it impracticable; or (ii) the equipment is accessory or auxiliary and attached to or otherwise a part of an item of plant equipment and is required for its normal operation, in which case such item shall be entered and described on the record of the equipment to which it is attached or of which it is otherwise a part. Identification shall be effected by affixing a metal, fiber, plastic, or other plate direct to the equipment; by using indelible ink, acid, or electric etch, steel dies, or any other legible, permanent, conspicuous, and tamper proof method.

(b) Identification by the contractor shall be in accordance with procedures established by the contractor and approved by the property administrator and shall consist of the following:

(i) An indication of Government ownership and of the Military Department responsible for funding and control of the plant equipment, as follows: Army — "USA," Navy—"USN," Air Force—"USAF," and Defense Supply Agency—"USD;" however, if the item is already identified as "U.S. Property," the marking shall not be changed solely to conform to the provisions of this paragraph;

(ii) A serially controlled identification number;

(iii) In the case of items included within a standard Departmental registration system, for example, automotive, construction, or material-handling equipment, application for a proper registration number will be made to the cognizant Department, which number shall be used to lieu of any other identification number; and

(iv) Accessory or auxiliary equipment associated with a specific item of plant equipment and recorded on the official records for that item need not be marked with an identification number unless circumstances necessitate marking to assure that the item of accessory and/or auxiliary equipment will be returned to the Government with the basic item with which associated.

(c) Normally, identification numbers assigned and markings affixed shall be permanent and will not be changed as long as the equipment remains under the control of the Department of Defense. However, identification markings may be removed and new identification numbers assigned and appropriate markings affixed in event of transfer of funding and control responsibilities between Military Departments or transfer of the equipment between contractors. The marking so removed shall be shown on the appropriate documents involved.

Part 5—Physical Inventories

500. *Scope of Part.* This Part establishes minimum requirements for the physical inventory of Government property in the possession or control of the contractor.

501. *Periodic inventories.* The contractor shall periodically physically inventory all Government property (except materials issued from stock for performance of manufacturing, research, design, or other services required by the contract) in his possession or control and shall cause his subcontractors to do likewise. The type and frequency of physical inventory and the procedures therefor shall be established by the contractor and approved by the property administrator. In establishing type and frequency of physical inventory consideration should be given to contractor's established practices, type, and usage of the Government property in the possession or control of the contractor, amount of Government property involved and their monetary value, and the reliability of contractor's property control system. Type and frequency of physical inventories normally will not vary between contracts being performed by the contractor; however, it may vary with the types of property being controlled. Inventory, as used here, consists of sighting, tagging or marking, describing, recording and reporting the property concerned and reconciling the property recorded and reported with the property records.

502. *Inventories upon termination or completion.* Immediately upon termination or completion of a contract, the contractor shall perform a physical inventory adequate for disposal purposes of all Government property applicable to the terminated or completed contract. Further, the contractor shall cause each subcontractor to perform a physical inventory, adequate for disposal purposes, of all Government property in the subcontractor's possession or control which is applicable to the terminated or completed contract.

(a) *Exception.* The requirement for physical inventory of Government property at the completion of a contract may be waived by the property administrator when the property applicable to the completed contract is authorized for use on a follow-on contract: *Provided:*

(i) Past experience has established the adequacy of property controls and an acceptable degree of inventory discrepancies; and

(ii) A statement is provided by the contractor indicating that transfer of record balances has been made in lieu of preparing formal inventory list and the contractor accepts responsibility and accountability for these balances under the terms of the follow-on contract.

503. *Reporting results of inventories.* The contractor shall, as a minimum, submit to the property administrator: (i) A listing which properly identifies all discrepancies disclosed by a physical inventory, and (ii) a signed statement that physical inventory of all or certain classes of Government property was completed on a given date and that the official property records were found to be in agreement with the physical inventory except for discrepancies reported. The listing and signed statement will be furnished with a minimum of delay after completion of the physical inventory.

504. *Quantitative and monetary control.* As directed or required by proper authority, contractor's reports of results of physical inventory action shall be prepared on both a quantitative and monetary basis and segregated by categories of property such as material (except material issued from stock for performance of manufacturing, research, design, or other services required by the contract), special tooling, special test equipment, and plant equipment.

Part 6—Care, Maintenance and Utilization

600. *Scope of part.* This part establishes minimum requirements as to care, maintenance, and utilization of Government property in the possession or control of the contractor.

601. *General.* The contractor shall be responsible for the proper care, maintenance, and utilization of Government property in his possession or control from the time of receipt of the property until properly relieved of responsibility in accordance with the contract. The removal of Government property to storage, or its contemplated transfer, does not relieve the contractor of these responsibilities.

602. *Contractor's maintenance program.* The contractor's maintenance program (which shall be approved in accordance with paragraph 101 of this section) shall be such as to provide for, consistent with sound industrial practice and the terms of the contract:

(i) Disclosure of need for and the performance of preventive maintenance;
(ii) Disclosure and reporting of need for capital type rehabilitation; and
(iii) Recording of work accomplished under the program.

(a) *Preventive maintenance.* Preventive maintenance is maintenance generally performed on a regular scheduled basis to prevent the occurrence of defects and to detect and correct minor defects before they result in serious consequences. An effective preventive maintenance program shall consist of, but not be limited to, the following actions:

(i) Inspecting buildings at such periodic intervals as will assure detection of deterioration and the need for repairs;

(ii) Inspecting plant equipment at such periodic intervals as will assure detection of maladjustment, wear, or impending breakdown;

(iii) Regularly scheduled lubrication of bearings and moving parts in accordance with a lubrication chart or equivalent plan;

(iv) Protection from exposure to deteriorating agents;

(v) Adjustments for wear, repair, or replacement of worn or damaged parts and the elimination of causes of deterioration of associated parts;

(vi) Removal of sludge, chips, and cutting oils from equipment which will not be used for a period of time;

(vii) Taking necessary precautions to prevent deterioration from contamination and corrosion; and

(viii) Proper storage and preservation of accessories and special tools furnished with an item of plant equipment but not regularly used with it.

(b) *Capital type rehabilitation.* The contractor's maintenance program shall be such as to provide for the disclosure and reporting of the need for major repair, replacement, and other rehabilitation work for Government property in the possession or control of the contractor.

(c) *Records of maintenance.* The contractor's maintenance program shall provide for records sufficient to disclose the maintenance actions performed and deficiencies discovered as a result of inspection.

603. *Utilization of Government property.* The contractor's procedures shall be adequate to assure that Government proprety will be utilized only for those purposes authorized in the contract.

604. *Property in possession of subcontractors.* The contractor shall require any of his subcontractors having Government property in their possession or control to adequately care for and maintain that property and assure that it is utilized only as authorized by the contract. Procedures necessary to the accomplishment of this responsibility shall be included in the contractor's approved property control system.

§ 30.3 Appendix C—Control of property in possession of nonprofit research and development contractors.

Part 1—Introduction

100. *Scope of section.* This section sets forth the basic requirements to be observed by contractors in establishing and maintaining control over Government property provided pursuant to the terms of contracts with the Military Departments (see § 1.201-5 of this subchapter). To the extent of any inconsistency between this section and the terms of the contract under which the Government property is provided, the terms of the contract shall govern.

101. *General.* The contractor shall be directly responsible for and accountable for all Government property in accordance with the provisions of the contract, including property provided under such contract which may be in the possession or control of a subcontractor. The contractor shall establish and maintain a system (in accordance with the provisions of this section) to control, protect, preserve, and maintain all Government property. This system shall be reviewed, and, if satisfactory, approved in writing by the assigned property administrator. The contractor shall maintain and make available such records as are required by Part 3 of this section and must account for all Government property until relieved of responsibility therefor in accordance with procedures set forth in Part 3 of this section. Liability for loss, damage, or excessive use of property in a given instance will necessarily depend upon all the circumstances surrounding the particular case and must be considered and determined in accordance with the provisions of the contract. The contractor shall furnish all necessary data to substantiate any request for discharge from responsibility.

(a) The contractor shall require any of his subcontractors who are provided Government property under the prime contract to comply with the provisions of this section. Procedures for assuring subcontractor compliance shall be included in the contractor's approved property control system. In those instances where the property administrator assigned to the contract has requested supporting property administration, the contractor may accept the system approval and continuing surveillance of the supporting property administrator in lieu of performing duplicative actions to assure the subcontractor's compliance with the provisions of this section.

(b) In the event any portion of the contractor's property control system is found to be inadequate upon review by the property administrator, any necessary corrective action will be accomplished by the contractor prior to approval of the system. When agreement as to adequacy of control and corrective action is not reached between the contractor and the property administrator, the matter will be referred to the administrative contracting officer.

(c) Procedures for the control of scrap and salvage shall not be required unless the property administrator determines that the scrap and salvage is substantial in amount and that the Government is not receiving sufficient benefits from the use or disposal thereof. In this event the contractor shall establish a procedure whereby all Government property that can be salvaged shall be returned to Government stock, which procedure shall be subject to the approval of the property administrator.

(d) When Government property (exluding misdirected shipments) is disclosed to be in the possession or control of the contractor but not provided in accordance with the provisions of any contract, the contractor will, as promptly as possible, (i) record such property according to the established property control procedure, and (ii) furnish the property administrator with all known circumstances and factual data pertaining to its receipt and a statement as to whether there is a need for retention of such property. For misdirected shipments, see paragraph 312 of this section.

(e) The contractor shall report all Government property in excess of the amounts needed to complete full performance under the contract pursuant to which it was provided, or other existing contracts which authorize the use of such property, as promptly as possible after disclosure of the condition.

102. *Definitions.* As used in this section:

102.1 "Property Administrator" means the individual designated by appropriate authority to administer the contract requirements and obligations relative to Government property. He is an authorized representative of the contracting officer.

102.2 "Government property" means all property owned by or leased to the Government or acquired by the Government under the terms of a contract. Government property includes both Government-furnished property and contractor-acquired property as defined below:

(i) "Government-furnished property" is property in the possession of, or acquired directly by, the Government and subsequently delivered or otherwise made available to the contractor; and

(ii) "Contractor-acquired property" is property procured or otherwise provided by the contractor for the performance of a contract, title to which is vested in the Government.

102.3 "Provide," as used in the context of such phrases as "Government property provided to the contractor" and "Government-provided property," means either to furnish, as in "Government-furnished property," or to acquire, as in "contractor-acquired property."

102.4 "Government material" means Government property which may be incorporated into or attached to an end item to be delivered under a contract or which may be consumed in the performance of a contract. It includes, but is not limited to, raw and processed materials, parts, components, assemblies, and small tools and supplies.

102.5 "Special tooling" means all jigs, dies, fixtures, molds, patterns, taps, gauges, other equipment and manufacturing aids, and replacement thereof, which are of such a specialized nature that, without substantial modification or alteration, their use is limited to the development or production of particular supplies or parts thereof, or the performance of particular services. The term includes all components of such items, but does not include:

FEDERAL REGISTER, VOL. 32, NO. 231—THURSDAY, NOVEMBER 30, 1967

(i) Consumable property;
(ii) Special test equipment; or
(iii) Buildings, nonseverable structures (except foundations and similar improvements necessary for the installation of special tooling), general or special machine tools, or similar capital items.

102.6 "Special test equipment" means electrical, electronic, hydraulic, pneumatic, mechanical, or other items or assemblies of equipment, which are of such a specialized nature that, without modification or alteration, the use of such items (if they are to be used separately) or assemblies is limited to testing in the development or production of particular supplies or parts thereof, or in the performance of particular services. The term "special test equipment" includes all components of any assemblies of such equipment, but does not include:
(i) Consumable property;
(ii) Special tooling; or
(iii) Buildings nonseverable structures (except foundations and similar improvements necessary for the installation of special test equipment), general or special machine tools, or similar capital items.

102.7 "Facilities" means industrial property (other than material, special tooling, military property, and special test equipment) for production, maintenance, research, development, or test, including real property and rights therein, buildings, structures, improvements, and plant equipment.

102.8 "Real property," for purposes of accounting classification, means (i) land and rights therein; (ii) ground improvements; (iii) utility distribution systems; (iv) buildings; and (v) structures. It excludes foundations and other work necessary for the installation of special tooling, special test equipment, and plant equipment.

102.9 "Utility distribution system" means a system (including distribution and transmission lines, substations, and installed equipment forming an integral part of the system), by which gas, water, steam, electricity, sewerage, or other utility services are transmitted between:
(i) Outside of the building or structure in which the services are used; and
(ii) The point of origin or disposal, or the connection with some other system.

For the purpose of this section, it does not include communication services.

102.10 "Plant equipment" means personal property of a capital nature (consisting of equipment, machine tools, test equipment, furniture, vehicles, and accessory and auxiliary items, but excluding special tooling and special test equipment) use or capable of use in the manufacture of supplies or in the performance of services or for any administrative or general plant purpose.

102.11 "Industrial plant equipment (IPE)" means that part of plant equipment with an acquisition cost of $1,000 or more which is listed in § 13.213 of this chapter.

102.12 "Minor plant equipment" means an item of plant equipment having an acquisition cost of less than $200, and other plant equipment regardless of cost when so designated by the Government.

102.13 "Accessory item" means an item which facilitates or enhances the operation of plant equipment but which is not essential for its operation, such as remote control devices.

102.14 "Auxiliary item" means an item without which the basic unit of plant equipment cannot operate, such as motors for pumps and machine tools.

102.15 "Salvage" means property which because of its worn, damaged, deteriorated, or incomplete condition, or specialized nature, has no reasonable prospect of sale or use as serviceable property without major repairs or alterations, but which has some value in excess of its scrap value.

102.16 "Scrap" means property that has no reasonable prospect of being sold except for the recovery value of its basic material content.

102.17 "Custodial records" means written memorandum or identifying checks of any description or type used to control items issued from tool cribs, tool rooms, stockrooms, etc., such as requisitions, issue hand receipts, tool checks, stock record books, etc.

102.18 "Individual item record" means a separate card form, or document utilized to account for one item of property.

102.19 "Stock Record" means a perpetual inventory form of record which shows, by nomenclature, the quantities received and issued and the balances on hand.

102.20 "Discrepancies incident to shipment" means all deficiencies incident to the shipment of Government property to or from a contractor's facility whereby differences exist between the property purported to have been shipped and the property actually received. Such deficiencies include, but are not limited to, loss, damage, destruction, improper status and condition coding, error in identity of classification, and improper consignment.

102.21 "Military property" means personal property peculiar to military operations which is under the cognizance of a military inventory control point. It includes weapons system, components thereof, and related support equipment, but does not include items which are consumed in the performance of a procurement contract or incorporated in the end items produced under a contract (see "material" in § 13.101–4 of this chapter).

102.22 "Property account" means the official records of the Government property provided to a contractor by a Department, which are established and maintained under the provisions of this section. Separate property accounts will be maintained either on an individual contract basis or contractor basis.

102.23 "Educational or other nonprofit organization", means any corporation, foundation, trust, or other institution operated for scientific or educational purposes, not organized for profit, no part of the net earnings of which inures to the profit of any private shareholder or individual.

103. *Segregation or commingling of Government property and contractor's property.* Ordinarily, Government property, particularly material, should be segregated and kept physically separate from contractor-owned property at all times. However, when advantageous to the Government and consistent with the contractor's authority to use such property, the property may be commingled:

(a) When the Government property is special tooling, special test equipment, or plant equipment which is clearly identified and recorded as Government property;

(b) When (i) scrap of a uniform nature is produced from both Government-owned and contractor-owned materials and physical segregation is impracticable, (ii) scrap produced from Government-owned materials is so insignificant in consideration of the cost of segregation and control;

(c) When approved by the property administrator.

104. *Audit of property control system.* The contractor's Government property control system shall be audited by the Government as frequently as conditions warrant. Any such audit or audits may take place at any time during the performance of the contract, upon completion or termination of the contract, or at any time thereafter, during the period the contractor is required to retain such records. The contractor shall make all such records, including correspondence related thereto, available to the auditors.

105. *Administration of military property.* Due to the special nature of military property, the contract under which it is provided generally will contain specific requirements for maintenance and control. Moreover, the following conditions shall be observed:

(i) Each item of the property shall be identified by its Federal Item Identification Number and Government nomenclature; and

(ii) Upon the completion or termination of the contract, the contractor shall request and comply with disposition instructions from the contracting officer.

To the extent specified in the contract, the provisions of this section with respect to all Government property shall apply to military property.

PART 2—CONTRACTOR'S RESPONSIBILITY

200. *Scope of part.* This part covers to the extent not otherwise provided in the contract, (i) the duties and responsibilities of the contractor with respect to Government property, (ii) the obligations of the contractor with respect to the control of Government property, both physically and administratively, and (iii) the liability of the contractor for Government property lost, damaged, destroyed, or for which the contractor is otherwise unable to account.

201. *Assumption of responsibility.* A contractor shall be responsible for all Government property in his possession or control in accordance with the terms of the contract, including property provided under such contract which may be in the possession or control of a subcontractor. Sources from which Government property may be furnished or acquired are as follows:

(a) *Military installation or other contractor's plants.* Government property may be shipped to a contractor from military installations, other Government installations, or plants of Military Departments or other Government Agency contractors. For the purpose of this section, the contractor shall become responsible for such property upon delivery of the property into his custody or control. The shipping activity shall furnish the contractor with copies of documents necessary to permit the contractor's property records to accurately reflect the transaction.

(b) *Direct purchase by the contractor.* Direct purchases shall be subject to a determination by the administrative contracting officer (ACO) that the items are allocable to the contract involved and are reasonably necessary therefor. For purposes of property control within the scope of this section, it shall be considered that property purchased by the contractor for which reimbursement is to be requested, becomes Government property upon its receipt by the contractor. This provision shall not be deemed to alter or modify contractual provisions relating to passage of title.

(c) *Withdrawal from contractor-owned stores.* For purposes of property control, within the scope of this section, property withdrawn from contractor-owned stores, for direct charge to the contract, shall be considered Government property at the time of approval of the claim for reimbursement, or at the time of issuance for use of such property for the performance of the contract, whichever is earlier.

(d) *Contract provisions, terminations, contract changes.* Pursuant to specific contractual provisions or as a result of termination of a contract, or change orders issued under a contract, the Government may acquire title to property. For purposes of property control, such property shall, unless otherwise provided by the contract, be considered Government property upon acceptance of title by the Government,

(e) *Advances, progress, or partial payments.* Pursuant to the terms of a contract, the Government may acquire a lien or title to property upon the making of advance, progress, or partial payments to the contractor. Property to which the Government has acquired a lien or title solely as a result of advance, progress, or partial payments shall not be subject to the provisions of this section.

201.1 *Evidence of receipt of Government property.* The contractor shall furnish written receipts for all, or specific classes of Government-provided property only in those instances where such action is determined by the property administrator to be essential for maintenance of minimum acceptable property controls. Where such evidence of receipt is required for contractor-acquired property, it shall be provided by the contractor not later than the time he submits his application for payment (public voucher) for the property. In the instance of Government-furnished property, the required receipt shall be provided by the contractor immediately upon receipt of the property.

201.2 *Discrepancies incident to shipment.* (a) *Government-furnished property.* When overages, shortages, or damages are discovered upon receipt of Government-furnished property, the contractor shall provide a statement of the condition and the apparent causes in accordance with procedures approved by the property administrator pursuant to paragraph 201 of this section. When the quantity or description of property received by a contractor differs from the quantity or description denoted as shipped on the shipping document, only that quantity, or property, actually received will be recorded on the official records of the contractor.

(b) *Contractor-acquired property.* The contractor shall take all actions necessary in adjustment of shortages, overages, or damages in shipment of contractor-acquired property from a vendor or supplier except in those instances wherein the shipment has moved via Government bill of lading and carrier liability is indicated. In the latter event, the contractor shall report the instance in accordance with (a) above.

202. *Relief from responsibility.* Subject to specific instructions of the contracting officer, and unless otherwise provided for in the contract, the contractor shall be relieved of his property control responsibility for Government property by the following:

(a) *Consumption of property in the performance of the contract.* To the extent that the property administrator shall determine that property has been consumed or expended for proper purposes and in reasonable amounts in the performance of the contract;

(b) *Retention by the contractor.* When the contractor retains, with the approval of the contracting officer, Government property for which the Government has received consideration;

(c) *Sale of property.* For Government property sold pursuant to instructions of the plant clearance officer: *Provided*, That, the proceeds of such sale shall have been received by or credited to the Government;

(d) *Shipment of Government property from a contractor's plant.* When Government property is shipped from the contractor's plant (except when shipment is to a subcontractor or other location of the contractor) pursuant to the instructions of the plant clearance officer or the property administrator;

(e) *Determination by the contracting officer.* For Government property which is lost, damaged, destroyed, or consumed in excess of that normally anticipated in a manufacturing or processing operation, and for which the contracting officer has determined the extent of liability, if any, of the contractor: *Provided*, That:

(i) Such determination is furnished to the contractor in writing;

(ii) The Government has been reimbursed where required by the determination; and

(iii) Proper disposition of property rendered unservicable by damage has been accomplished, and appropriate cross-reference is recorded on the determination as to the shipping documents or other documents evidencing disposal.

(f) *Transfer of title.* Where the contractor shall be relieved of responsibility for Government property when title to the property has been transferred to the contractor in accordance with § 4.116–4(c) of this chapter. (P.L. 85–934)

203. *Contractor's liability.*

(a) Subject to the terms of the contract, the contractor may be liable when shortages of Government property are disclosed or when Government property is lost, damaged, or destroyed, or when there is evidence of unreasonable use or consumption of Government property as measured by the allowance provided for by the terms of the contract, the bill of materials, or other appropriate criteria.

(b) The contractor shall report all cases of loss, damage, or destruction of Government property in his possession or control to the property administrator as soon as such facts become known or when requested by the property administrator. The report shall contain all factual data as to the circumstances surrounding such loss, damage, or destruction. A similar report shall be furnished when completed products or end items are lost, damaged, or destroyed while such property is in the possession or control of the contractor.

(c) The contractor shall require any of his subcontractors having Government property in their possession or control which is accountable under the contract to report to him all instances of loss, damage, or destruction of such Government property. Further procedures shall be in accordance with that prescribed in (a) and (b) above.

PART 3—RECORDS OF GOVERNMENT PROPERTY

300. *Scope of part.* This part establishes minimum requirements for records to be established and maintained by the contractor for Government property in his possession or control.

301. *General.* (a) It is the Government's policy to rely upon contractor property control records and to designate and use such records as the official contract records unless an exception has been authorized due to special circumstances. The contractor shall establish and maintain adequate control records, either manual or mechanized, in accordance with the requirements of this section for all Government property provided under a contract, including property provided under such contract as may be in the possession or control of a subcontractor. When the subcontractor has a property control system approved by the Government for Government property provided under the subcontractor's own prime contracts, the contractor will utilize records created and maintained in accordance with such approved system unless otherwise directed by the property administrator.

(b) The contractor's property control system shall provide financial data for Government-owned facilities in the contractor's possession or control. The system shall be subject to internal control standards and be supported by property records for such facilities in the manner described in this Part 3.

(c) The official records shall be kept in such condition that at any stage of completion of the work under a contract the status of Government property can be readily ascertained.

(d) Separate property records for each contract are desirable but a consolidated property record may be maintained: *Provided*, That the consolidated record provides the information set forth in this Part 3.

(e) Special tooling and special test equipment fabricated from materials which are the property of the Government will be appropriately recorded as Government-owned special tooling or special test equipment immediately upon fabrication. Special tooling and special test equipment fabricated from materials which are the property of the contractor will be appropriately recorded as Government property at the time title passes to the Government.

(f) Property records of the same type which would have been established for components if acquired separately shall be established for such usable components which are permanently removed from items of Government property, as a result of modification, or otherwise.

(g) The contractor's property control system shall contain an adequate locator system or techniques to permit the location of any item of Government property within a reasonable period of time after request therefor.

302. *Pricing.* Except as provided in paragraph 302.1 of this section, the contractor's property control system shall contain the unit price for each item of Government property recorded therein. It is a recognized practice of many contractors to record the unit price of property on other than the quantitative inventory record, thus requiring the use of supplementary records to ascertain unit prices. Under such circumstances, the supplementary records containing such information shall be identified and recognized as a portion of the official property records.

302.1 *Contractor-acquired and contractor-fabricated property.* Except for items fabricated for research and development purposes by the contractor, the unit price of contractor-acquired and contractor-fabricated property shall be determined in accordance with the system established by the contractor in conformance with sound accounting principles and consistently applied. Generally, it is desired that separate unit prices be applied to items of special tooling and special test equipment fabricated or acquired by the contractor. However, if the contractor's accounting system is acceptable, and if the maintenance of detailed cost records results in excessive accounting cost or is otherwise impracticable considering all circumstances, group pricing may be used for special tooling and special test equipment. Group pricing may also be used for work-in-process in accordance with the contractor's acceptable cost accounting system. Processed material, fabricated parts, components, assemblies, etc., charged to the contractor's work-in-process inventory, including items in temporary storage while awaiting processing, may be considered as work-in-process for the purpose of compliance with this requirement. Nothing in the foregoing lessens the requirement for quantitative property controls for special tooling, special test equipment, and work-in-process necessary for the proper protection of the Government's interest.

302.2 *Government-furnished property.* The unit price of Government-furnished property shall be determined by the Government and furnished to the contractor. Transportation and installation costs will not be considered as part of the unit price for this purpose. Normally, the unit price of Government-furnished property will be provided on the document covering shipment of the property to the contractor. In event the unit price is not provided on the document, action will be taken through the property administrator to obtain the information.

303. *Records of material.* All Government material furnished to the contractor, as well as other material to which title has passed to the Government by reason of allocation from contractor-owned stores or purchase by the contractor for direct charge to a Government contract or otherwise, shall be recorded in accordance with the contractor's property control system, as follows:

(a) *Material issued directly upon receipt*—(i) *Fixed-price contracts.* In the case of Government-furnished material which is issued directly by the contractor upon receipt so as to be considered consumed under the contract, and in the case of minor plant equipment and special tooling, the documents evidencing receipt and issue maintained by the contractor will be accepted as property control records; and

(ii) *Cost-type contracts.* For material, whether Government-furnished or contractor-acquired, issued by the contractor directly so as to be considered consumed under the contract, for minor plant equipment, and for special tooling, the Government invoices, contractor's purchase documents or other documentary evidence of acquisition and issue, will be accepted as adequate property records.

(b) *Material maintained in stocks.* For material maintained by the contractor in stocks or stores, the contractor's property control system shall be such as to provide the following information:

(i) Contract number or equivalent code designation;
(ii) Nomenclature or description of item;
(iii) Quantity received;
(iv) Quantity issued;
(v) Balance on hand;
(vi) Posting reference;
(vii) Date received or issued;
(viii) Price; and
(ix) Disposition action taken.

(c) *Consolidated stock record.* When a contractor has more than one Government contract under which Government material is provided, a consolidated record for material may be authorized by the property administrator provided the total quantity of any item is allocated to each contract by contract number and each requisition of material from contractor-owned stores is charged to the contract on which the material is to be used. The supporting document or issue slip shall show the contract number or equivalent code designation to which the issue is charged.

(d) *Custodial records.* Custodial records shall be maintained for tool crib items, guard force items, protective clothing and other items for the use of individuals in the performance of their work under the contract.

304. *Records of special tooling.* In the case of special tooling acquired or fabricated by the contractor or furnished by the Government, for research and development purposes, the Government invoices, contractor's purchase document or other documental evidence of acquisition and issue, will be accepted as adequate property control records.

305. *Records of special test equipment.* The contractor's property control system shall be such as to provide the following minimum information regarding each item of Government-owned special test equipment:

(i) Contract number or equivalent code designation;
(ii) Nomenclature or description of item (including identification number and item on which used);
(iii) Identity of any general purpose test equipment incorporated as components in such a manner that removal and reutilization may be feasible and economical;
(iv) Quantity received or fabricated;
(v) Posting reference and date of transaction;
(vi) Location;
(vii) Disposition; and
(viii) Unit or group price.

In event group pricing of special test equipment is utilized by the contractor, as recognized in paragraph 302.1 of this section, unit prices may be computed as and when required.

306. *Records of plant equipment.*—(a) *Plant equipment costing $1,000 or more.* The contractor shall maintain individual item records (manual or mechanized) of each item of Government-owned plant equipment having a unit cost of $1,000 or more which will provide the following minimum information:

(i) Federal Supply Code for Manufacturer (Cataloging Handbooks H4–1, H4–2) and, at the option of the contractor, the name and address of the equipment manufacturer;
(ii) Manufacturer's model/part number;
(iii) Serial number and year built (when available);
(iv) U.S. Government identification/tag number;
(v) Noun name of the item and Federal Supply Classification (Cataloging Handbook H2–1, H2–2, and H2–3);
(vi) Acquisition document reference and date;
(vii) Location;
(viii) Disposition document reference and date;
(ix) Contract number or equivalent code designation; and
(x) Unit price when equipment is Government furnished or cost (f.o.b. manufacturer) when contractor acquired (Unit price will be reduced when accessory and auxiliary items are permanently separated from the basic item of plant equipment.).

DD Form 1342 may be used as a source document for setting up accounting records as prescribed herein.

(b) *Plant equipment costing more than $200 and less than $1,000.* Except where individual item records are necessary for effective control, calibration, or maintenance, summary stock records may be maintained for minor plant equipment and for plant equipment costing between $200 and $1,000 per unit. The contractor's property control system shall be such as to provide the following minimum information:

(i) Contract number or equivalent code designation;
(ii) Noun name, Federal Supply Classification in Cataloging Handbooks H2–1, H2–2, and H2–3;
(iii) Manufacturer or Federal Supply Code for the manufacturer and model/part number;
(iv) Quantity received;
(v) Balance on hand;
(vi) Posting reference and date of transaction;
(vii) Unit price;
(viii) Location (see paragraph 301(g) of this section); and
(ix) Disposition.

In addition, where appropriate as determined by the property administrator, the serial number and/or Government identification number for each item shall be recorded in a permanent manner in the property records and upon disposition, lined out or otherwise deleted from the record. DD Form 1342 may be used for individual record cards for items costing between $200 and $1,000.

(c) *Record of accessory and auxiliary equipment.* Accessory and auxiliary equipment, which is attached to or otherwise a part of an item of plant equipment or has been acquired for use in connection with a specific item, shall be recorded on the record of the item of plant equipment. In the event the accessory or auxiliary item is not attached to, a part of, or acquired for use with a specific item of plant equipment, it shall be recorded as indicated in paragraph 306(b) of this section.

306.1 *Centrally reportable plant equipment.* Notwithstanding the approval of a contractor's property accounting and control system, the contractor shall, with respect to items identified as industrial plant equipment (IPE) (including those items which are a part of a manufacturing system but excluding general purpose components of special test equipment) prepare a DD Form 1342 (see Appendix F, F–200.1342) at the time of acquisition or receipt to be forwarded to DIPEC pursuant to AR 700–43, AFM 78–1, DSAM 4215.1—"Defense Industrial Plant Equipment Center (DIPEC) Operations." If changes occur in the data as originally recorded, a change report will be made to DIPEC as prescribed by DSAM 4215.1. When IPE including general purpose components of special test equipment is no longer required at the point of acquisition or receipt, the contractor shall prepare a DD Form 1342 (see F–200.1342) and reflect thereon any changes in original data not previously reported. The contractor shall retain the original of each DD Form 1342 and forward the copies to DIPEC through the property administrator pursuant to § 8.505–8 of this chapter. Use of the DD Form 1342 as the official property record is optional. Subsequent to the disposal of IPE, the contractor will prepare DD Form 1342, section 4, pursuant to DSAM 4215.1 for transmittal to DIPEC.

307. *Records of real property.* In the case of real property furnished by the Government under fixed-price contracts, and in the case of real property furnished by the Government and acquired by the contractor, title to which vests in the Government, under cost-type contracts the contractor shall maintain a continuous itemized record of the description, location, acquisition cost, and disposition of all Government real property including unimproved real property, all alterations and all construction work, and sites connected with such alteration and construction, acquired by purchase, lease or otherwise. The foregoing records will: (i) Be complete, (ii) show the original cost of the property and improvements and the cost of changes and additions thereto, and (iii) be appropriately indexed.

308. *Records of scrap and salvage.* In the event procedures for the control of scrap and salvage are required (see paragraph 101(c) of this section) and except as provided in paragraph 108(b) of this section, the contractor shall maintain records of all scrap and salvage generated.

308.1 *Records of scrap.* The contractor's property control system shall be such as to provide the following minimum information:

(i) Contract number, if practicable, or equivalent code designation;
(ii) Scrap classification (material content);
(iii) Quantity on hand;
(iv) Unit of measure;
(v) Posting reference and date of transaction; and
(vi) Disposition.

308.2 *Records of salvage.* The contractor's property control system shall be such as to provide the following minimum information:

(i) Contract number, if practicable, or equivalent code designation;
(ii) Nomenclature or description of item;
(iii) Quantity on hand;
(iv) Posting reference and date of transaction; and
(v) Disposition.

309. *Records of related data and information.* The contractor shall maintain property control and accountability in accordance with sound business practice with respect to manufacturing or assembly drawings, installations, operation, repair, or maintenance instructions, or other similar data and information furnished to the contractor by the Government. The requirements of this section are not otherwise applicable to such property.

310. *Records of end items.* The contractor shall maintain a record of all completed products produced under the contract as follows:

(a) When there is no lapse of time between Government inspection and acceptance of the completed products and shipment from the plantsite, the records shall, as a minimum, consist of a summarization of quantities accepted or shipped. When end items are accepted by the Government and stored with the contractor awaiting shipment, the record shall identify quantities stored, location, and disposition action.

(b) On contracts which provide that completed products are to be retained by the contractor for further use under the contract, or other contracts, such items shall be considered "Government-furnished property" upon acceptance and shall be recorded as prescribed in this Part 8.

311. *Financial control accounts, facilities.* The contractor's property control system shall be such as to provide semiannually the dollar amount of Government-owned facilities of each Military Department or Defense Agency for which he is accountable in the following classifications:

(i) Land and rights therein;
(ii) Utility distribution systems;
(iii) Buildings, structures, and improvements thereto, excluding plant equipment;
(iv) Plant equipment, excluding industrial plant equipment; and
(v) Industrial plant equipment.

The contractor's accounts will be susceptible to local reconciliation in totals and subtotals as to whether contractor-acquired or Government-furnished. The contractor shall furnish to the property administrator, as of June 30 and December 31 of each year, a separate report for each Military Department or Defense Agency, listing by contract, the dollar amount of Government-owned facilities in the contractor's possession falling in each of the above classifications. The report shall be furnished to the property administrator no later than August 10 and February 10 of each year. Bureau of the Budget No. 22–R235 has been assigned to these reports.

312. *Records of property of misdirected shipments.* The contractor's property control system shall be such as to provide the following information regarding each misdirected shipment of Government property received:

(i) Identity of shipment (shipping document, bill of lading, etc.);
(ii) Origin of shipment;
(iii) Content (items in the shipment) per shipping documents, if available;
(iv) Location; and
(v) Disposition.

PART 4—IDENTIFICATION

400. *Scope of part.* This part establishes minimum requirements for the identification and marking of Government property in the possession or control of the contractor.

401. *General.* The contractor shall identify, mark, and record all Government property promptly upon receipt, except as may be exempted by this part, and it shall remain so identified so long as it remains in the custody, possession, or control of the contractor. Assigned Government property identification numbers will be recorded on all applicable receiving documents, shipping documents, disposal documents, and any other documents pertaining to the property control system. Such markings shall be removed or obliterated from the property involved when the disposal is by sale, scrap or through donation.

402. *Material and minor plant equipment.* All Government material and minor plant equipment shall be identified as Government property except in those cases where:

(a) No material or minor plant equipment of the same type at the same location is owned by the contractor, his employees, or other contracting agencies;

(b) Adequate physical control is maintained over tool crib items, guard force items, protective clothing, and other items issued for use by individuals in the performance of their work under the contract;

(c) Property is of bulk type or by its general nature of packing or handling precludes adequate marking, as may be determined by the property administrator; and

(d) Property is commingled, as authorized by paragraph 108 of this section.

403. *Special tooling and special test equipment.* Government-owned special tooling and special test equipment shall be marked in accordance with the procedures established by the contractor and approved by the property administrator, unless it is determined by the contractor in an individual case that marking will damage the special tooling or special test equipment or is otherwise impracticable. The contractor shall advise the property administrator, in writing, of any such determination. Identification shall consist of a serial number (identification number) and an indication of Government ownership, including the Military Department responsible for funding and control of the property as follows: Army—"USA," Navy—"USN," Air Force—"USAF," and Defense Supply Agency—"USD." If an item is already identified as "U.S. Property," the marking shall not be changed solely to conform to the provisions of this paragraph. Components of special test equipment, having an acquisition cost of $1,000 or more and incorporated in such a manner that removal and reutilization is feasible and economical, shall be marked in a manner similar to plant equipment as required by paragraph 404 of this section. General purpose components of special test equipment having an acquisition cost of between $200 and $1,000 may be identified in the same manner, when required for effective control, in accordance with the contractor's approved property control system.

404. *Plant equipment.* (a) Unless already marked in compliance with these instructions, all Government-owned plant equipment, including industrial plant equipment reportable to the Defense Industrial Plant Equipment Center but excluding minor plant equipment (see paragraph 402 of this section) shall be marked by the contractor with a Government identification number, except (i) when the size or nature of the equipment makes it impracticable; or (ii) the equipment is accessory or auxiliary and attached to or otherwise a part of an item of plant equipment and is required for its normal operations, in which case such item shall be entered and described on the record of the equipment to which it is attached or of which it is otherwise a part. Identification shall be effected by affixing a metal, fiber, plastic, or other plate direct to the equipment; by using indelible ink, acid, or electric etch, steel dies, or any other legible, permanent conspicuous, and tamper proof method.

(b) Identification by the contractor shall be in accordance with procedures established by the contractor and approved by the property administrator and shall consist of the following:

(i) An indication of Government ownership and of the Military Department responsible for funding and control of the plant equipment, as follows: Army — "USA," Navy—"USN," Air Force—"USAF," and Defense Supply Agency—"USD." However, if the item is already identified as "U.S. Property," the marking shall not be changed solely to conform to the provisions of this paragraph;

(ii) A serially controlled identification number;

(iii) In the case of items included within a standard Departmental registration system, for example, automotive, construction, or material-handling equipment, application for a proper registration number will be made to the cognizant Department, which number shall be used in lieu of any other identification number; and

(iv) Accessory or auxiliary equipment associated with a specific item of plant equipment and recorded on the official records for that item need not be marked with an identification number unless circumstances necessitate marking to assure that the item of accessory and/or auxiliary equipment will be returned to the Government with the basic item with which associated.

(c) Normally, identification numbers assigned and markings affixed shall be permanent and will not be changed as long as the equipment remains under the control of the Department of Defense. However, identification markings may be removed and new identification numbers assigned and appropriate markings affixed in event of transfer of funding and control responsibilities between Military Departments or transfers of the equipment between contractors. The markings so removed shall be shown on the appropriate documents involved.

PART 5—PHYSICAL INVENTORIES

500. *Scope of part.* This part establishes minimum requirements for the physical inventory of Government property in the possession or control of the contractor.

501. *Periodic inventories.* The contractor shall periodically physically inventory Government property (except materials issued from stock for performance of manufacturing, research, design, or other services required by the contract) in his possession or control and shall cause his subcontractors to do likewise. Such periodic inventories normally shall be limited to materials, special tooling, and minor plant equipment held in stocks and stores, and all special test equipment and other plant equipment. The type and frequency of physical inventory and the procedures therefor shall be established by the contractor and approved by the property administrator. In establishing type and frequency of inventory, consideration should be given to contractor's established practices, type and usage of the Government property in the possession or control of the contractor, amount of Government property involved and their monetary value, and the reliability of contractor's property control system. Type and frequency of physical inventories normally will not vary between contracts being performed by the contractor; however, it may vary with the types of property being controlled. Inventory, as used here, consists of sighting, tagging or marking, describing, recording, and reporting the property concerned and reconciling the property so recorded and reported with the property records.

502. *Inventories upon termination or completion.* Immediately upon termination or completion of a contract, the contractor shall perform a physical inventory adequate for disposal purposes, of all Government property applicable to the terminated or completed contract. Further, the contractor shall cause each subcontractor to perform a physical inventory, adequate for disposal purposes, of all Government property in the subcontractor's possession or control which is applicable to the terminated or completed contract.

(a) *Exception.* The requirement for physical inventory of Government property at the completion of a contract may be waived by the property administrator when the property applicable to the completed contract is authorized for use on a follow-on contract, *Provided:*

(i) Past experience has established the adequacy of property controls and an acceptable degree of inventory discrepancies; and

(ii) A statement is provided by the contractor indicating that transfer of record balances has been made in lieu of preparing formal inventory list and the contractor accepts responsibility and accountability for those balances under the terms of the follow-on contract.

(b) *Listings for disposal purposes.* (i) Standard items that have been modified may be described, on listings for disposal purposes, as standard items with a general description of the modification.

(ii) Items that have been fabricated, such as test equipment, shall be described in sufficient detail to permit a potential user to determine whether they are of sufficient interest to warrant further inspection.

508. *Reporting results of inventories.* The contractor shall, as a minimum, submit to the property administrator: (i) A listing which properly identifies all discrepancies disclosed by a physical inventory, and (ii) a signed statement that physical inventory of all or certain classes of Government property was completed on a given date and that the official property records were found to be in agreement with the physical inventory except for discrepancies reported. The listing and signed statement will be furnished with a minimum of delay after completion of the physical inventory.

504. *Quantitative and monetary control.* As directed or required by proper authority, contractor's reports of results of physical inventory action shall be prepared on both a quantitative and monetary basis and segregated by categories of property such as material (except material issued from stock for performance of manufacturing, research, design, or other services required by the contract), special tooling, special test equipment, and plant equipment.

PART 8—CARE, MAINTENANCE AND UTILIZATION

600. *Scope of part.* This part establishes minimum requirements as to care, maintenance, and utilization of Government property in the possession or control of the contractor.

601. *General.* The contractor shall be responsible for the proper care, maintenance, and utilization of Government property in his possession or control from the time of receipt of the property until properly relieved of responsibility in accordance with the contract. The removal of Government property to storage, or its contemplated transfer, does not relieve the contractor of these responsibilities.

602. *Contractor's maintenance program.* The contractor's maintenance program (which shall be approved in accordance with paragraph 101 of this section) shall be such as to provide for, consistent with the terms of the contract:

(i) Disclosure of need for and the performance of preventive maintenance;

(ii) Disclosure and reporting of need for capital type rehabilitation; and

(iii) Recording of work accomplished under the program.

(a) *Preventive maintenance.* Preventive maintenance is maintenance generally performed on a regularly scheduled basis to prevent the occurrence of defects and to detect and correct minor defects before they result in serious consequences. An effective preventive maintenance program shall consist of, but not be limited to, the following actions:

(i) Inspecting buildings at such periodic intervals as will assure detection of deterioration and the need for repairs;

(ii) Inspecting plant equipment at such periodic intervals as will assure detection of misadjustment, wear, or impending breakdown;

(iii) Regularly scheduled lubrication of bearings and moving parts in accordance with a lubrication chart or equivalent plan;

(iv) Protection from exposure to deteriorating agents;

(v) Adjustments for wear, repair, or replacement of worn or damaged parts and the elimination of causes of deterioration of associated parts;

(vi) Removal of sludge, chips, and cutting oils from equipment which will not be used for a period of time;

(vii) Taking necessary precautions to prevent deterioration from contamination and corrosion; and

(viii) Proper storage and preservation of accessories and special tools furnished with an item of plant equipment but not regularly used with it.

(b) *Capital type rehabilitation.* The contractor's maintenance program shall be such as to provide for the disclosure and reporting of the need for major repair, replacement, and other rehabilitation work for Government property in the possession or control of the contractor.

(c) *Records of maintenance.* The contractor's maintenance program shall provide for records sufficient to disclose the maintenance actions performed and deficiencies discovered as a result of inspections.

603. *Utilization of Government property.* The contractor's procedures shall be adequate to assure that Government property will be utilized only for those purposes authorized in the contract.

604. *Property in possession of subcontractors.* The contractor shall require any of his subcontractors having Government property in their possession or control to adequately care for and maintain that property and assure that it is utilized only as authorized by the contract. Procedures necessary to the accomplishment of this responsibility shall be included in the contractor's approved property control system.

[Rev. 24, ASPR, Aug. 15, 1967] (Sec. 2202, 70A Stat. 130; 10 U.S.C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314)

For the Adjutant General.

J. W. HUBB,
Colonel, AGC Comptroller, TAGO.

[F.R. Doc. 67-13908; Filed, Nov. 29, 1967; 8:45 a.m.]

SUBCHAPTER M—MISCELLANEOUS

PART 231—BANKING INSTITUTIONS SERVING DOD PERSONNEL ON MILITARY INSTALLATIONS

The Deputy Secretary of Defense approved the following on November 18, 1967:

Sec.
231.1 Purpose.
231.2 Applicability.
231.3 Responsibility.
231.4 Policy.
231.5 Logistical support and services.

AUTHORITY: The provisions of this Part 231 issued under sec. 136 of 10 U.S.C.

§ 231.1 **Purpose.**

This Directive:

(a) Prescribes Department of Defense (DoD) policies governing the establishment, operation and termination of "banking facilities," "banks," and "branch banks" serving on military installations worldwide, and

(b) Assigns responsibility for developing and monitoring adequate banking services for official and quasi-official DoD organizations and personnel.

§ 231.2 **Applicability.**

The provisions of this Directive apply to all DoD components.

§ 231.3 **Responsibility.**

(a) The Assistant Secretary of Defense (Comptroller) shall, in concert with the Fiscal Assistant Secretary of the Treasury Department, develop and monitor policies and procedures governing the establishment, operation and termination of banking institutions on military installations.

(b) The Assistant Secretary of Defense (Installations and Logistics) shall develop and monitor policies and procedures governing logistical support including the use of DoD property and real estate furnished banking institutions on military installations.

§ 231.4 **Policy.**

Recognizing that the prudent administration of public moneys and the efficient management of private funds of DoD personnel require the services of a properly constituted and convenient banking institution, DoD components will:

(a) Encourage regularly established banks or branch banks to provide complete banking and finance services on military installations world-wide where there is a demonstrated need for such services;

(b) Establish military banking facilities with the approval and assistance of the Treasury Department, at military installations where a demonstrated and justified need cannot be met by off-base banks or branches;

(c) Provide the Treasury Department with full particulars concerning the requirements for banking services to facilitate the selection of a banking institution under prescribed competitive principles;

(d) Participate with the Treasury Department in evaluating banking and finance services being provided by banking facilities serving the DoD and DoD personnel in relation to (1) existing requirements at each location and (2) operating changes needed to improve existing services or satisfy additional requirements; and

(e) Encourage the use of banking facilities on military installations as a means of:

(1) Assisting DoD personnel;

(2) Providing safe custody of official and quasi-official funds;

(3) Facilitating the paying and collection of official and quasi-official funds; and

(4) Eliminating the possibility of loss of funds by theft or otherwise.

§ 231.5 **Logistical support and services.**

In the interest of providing banking and finance services at a minimum cost to the DoD and DoD personnel, banking facilities, banks and branch banks authorized to locate on military installations will be furnished such utilities and other logistical support as may be authorized under the provisions of DoD Instruction 1330.3, "Space Criteria for Providing Religious, Welfare, and Recreational Facilities," dated September 4, 1963, DoD Directive 4270.18, "Standards and Criteria for Construction—Permanent-Type Religious, Morale, Welfare, and Recreational Facilities, and Personnel Support and Service Facilities," dated November 29, 1955, and DoD Directive 4000.6, "Policy on Logistic Support of U.S. Non-Governmental, Non-Military Agencies and Individuals in Oversea Military Commands," dated March 15, 1956,[1] under the following terms and conditions:

(a) Banking facilities certified as non-self-sustaining organizations by the Treasury Department will be furnished logistical support, including the use of DoD property and services without charge, provided the properties and services are available from existing resources. Generally, DoD facilities will be furnished in support of banking facilities on a nonreimbursable permit for a period of 5 years subject to renewal for an additional 5 years by mutual agreement. Type and size of facilities shall be in accordance with criteria heretofore established. The Secretary of the military department concerned shall have the right to terminate the permit at any time. In the event of a notice by the Treasury Department that a banking facility has become a self-sustaining organization, the nonreimbursable permit under which it occupies DoD facilities shall be terminated and a lease entered into in accordance with the terms and conditions hereinafter set forth.

(b) A lease of land as the site for construction of a building to house a self-sustaining banking facility, bank or branch bank shall be at fair rental value and for a term not to exceed 25 years but within that limitation for sufficient duration to permit full depreciation of the structures constructed by the lessee, in accordance with agreements reached in this regard between the lessee and the Internal Revenue Service. The right is reserved to the Secretary of the military department concerned to terminate such leases in the event of a national emergency; base closure; the installation or a major portion thereof becomes excess; default by the lessee; or in the interest of national defense. In the event of such termination or upon expiration of a lease, the Secretary of the military department concerned shall have the option to require the lessee to remove the improvements and restore the land or, to cause title to such improvements to vest in the United States. The lessee shall have the right to terminate such lease at any time upon 90 days written notice in which event the foregoing options are reserved to the Secretary of the military department concerned. Maintenance and the cost of utilities and services furnished shall be the responsibility of the lessee.

(c) The duration of leases as set forth in this directive will promote the national defense and be in the public interest and constitutes the finding and determinations required by section 2667(b)(1) of Title 10 United States Code.

(d) A lease of existing structures to house a self-sustaining military banking facility, a bank, or a branch bank shall be at fair rental value for a period of 5 years, subject to renewal by mutual agreement for an additional 5-year term and subject also to the right of the Secretary of the military department concerned to terminate the lease in accordance with the cancellation provisions set forth in § 231.5(b). The lessee shall be responsible for interior maintenance and reimbursement shall be made by the lessee for utilities, custodial, janitorial and other services to the extent such are furnished.

(e) Leases executed prior to the issuance of this Directive will not be disturbed unless a lessee (bank) specifically requests that a lease be renegotiated under the provisions of this section.

—MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Administration).

[F.R. Doc. 67-13968; Filed, Nov. 29, 1967; 8:45 a.m.]

[1] Filed as part of original document. Copies available at Publications Counter, OASD(A), Room 3E200 Pentagon, or OX 52167.

Chapter VII—Department of the Air Force

SUBCHAPTER W—AIR FORCE PROCUREMENT INSTRUCTIONS

MISCELLANEOUS AMENDMENTS TO SUBCHAPTER

Subchapter W of Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

PART 1004—SPECIAL TYPES AND METHODS OF PROCUREMENT

Subpart C—Contracts for Preparation of Household Goods for Shipment, Government Storage, and Related Services

§§ 1004.302, 1004.302–50 [Deleted]

1. Subpart C, Contracts for Preparation of Household Goods for Shipment, Government Storage, and Related Services, is deleted.

PART 1007—CONTRACT CLAUSES

Subpart NN—Special Clauses

2. Section 1007.4061 is amended by revising the introduction of paragraph (a) to read as follows:

§ 1007.4061 **Material inspection and receiving report and pricing information.**

(a) The following clause will be inserted in any contract which requires the inclusion of the clause in § 7.104–62 of this title, with the exception of DD Form 1155, "Order for Supplies or Services," when the following applies:

* * * * *

PART 1011—TAXES

Subpart C—State and Local Taxes

§§ 1011.356—1011.356–2 [Deleted]

3. Sections 1011.356 through 1011.356–2 are deleted.

PART 1022—SERVICE CONTRACTS

4. A new Part 1022 is added as follows:

Subparts A Through E [Reserved]

Subpart F—Contracts for Preparation of Household Goods for Shipment, Government Storage, and Intracity or Intraarea Movement

§ 1022.603—50 **BDO procedure.**

The procedures established in this section provide for placement of blanket delivery orders (BDOs) against contracts for Preparation of Household Goods for Shipment, Government Storage and Related Services and placement of calls against the BDO.

(a) Blanket Delivery Orders for a specified period in an estimated amount will be issued by a contracting officer in the base procurement office.

(b) Call against the BDOs may be issued by: (1) An individual located in the base procurement office; or (2) an individual designated in the BDO by title located outside the base procurement office, provided that if there is a contracting officer in the transportation office, he will be the individual so designated.

(i) Individuals authorized to place calls, when in receipt of Special Orders authorizing movement of household goods and citing funds, will assume that the funds have been committed for the packing and crating requirement incident to the movement of the individual named in the Special Orders.

(ii) The person placing oral calls will establish a control record at the beginning of each month indicating the call number, name of individual for whom services are to be performed, date of placement of call, Special Order Number, voucher number, date payment was made, amount and accumulated expenditures. In no event will the sequence of call numbers be interrupted. The accumulated expenditure will be brought

forward to the control record for the next month. At the end of each month the amount column should be totaled for reporting purposes.

(iii) [Reserved]

(iv) Prior to contacting the contractor to place a call, the individual authorized to place calls will be furnished a copy of the Special Order indicating the individual for whom services are to be ordered and a form letter in duplicate indicating date and place of pickup, estimated weight of household goods, special markings, destination, and any other information required incident to the services to be performed. On receipt of this information, he will contact the contractor, establish a firm pickup date, and issue a call number from control records. This information will then be placed on a duplicate copy of the form letter and returned to the transportation officer who will use this information when preparing the Standard Form 1034. In addition, the transportation officer will keep the contracting officer informed of contractor performance on a daily basis to assure contractor compliance.

(v) Wherever possible, calls should be placed in the month in which services are to be performed. Services should be scheduled no more than 48 hours in advance if call is placed during the last 2 days of a month.

(c) Payment for services rendered may be on a consolidated monthly basis or at more frequent intervals as determined by the contracting officer. Payment vouchers should not reflect services performed in more than 1 month.

(d) The contractor's invoice for services will be directed to the transportation officer, who will place upon them a certificate of service rendered. The transportation officer will then periodically (normally at the end of each month) prepare a Standard Form 1034 and certify it for payment. The Standard Form 1034 will set forth each call number, individual for whom services were performed, special order, dollar amount, and citations of various funds set forth in the special orders, with the total amount chargeable to each indicated. Special orders and vendors invoices should be attached and the entire package should be forwarded to accounting and finance for payment.

(e) The transportation officer will be responsible for performing technical assistance and for notifying the contracting officer of noncompliance with contractual requirements.

(Sec. 8012, 70A Stat. 488, secs. 2301–2314, 70A Stat. 127–138; 10 U.S.C. 8012, 2301–2314)

PART 1054—CONTRACT ADMINISTRATION

Subpart DD—Administration of Base Procurement Contracts

§ 1054.3005 [Deleted]

5. Section 1054.3005, *Contract modifications* is deleted.

(Sec. 8012, 70A Stat. 488, secs. 2301–2314, 70A Stat. 127–138; 10 U.S.C. 8012, 2301–2314)

[AFPI Rev. No. 69, Sept. 27, 1967]

By order of the Secretary of the Air Force.

LUCIAN M. FERGUSON,
Colonel, U.S. Air Force, Chief, Special Activities Group, Office of The Judge Advocate General.

[F.R. Doc. 67-12965; Filed, Nov. 29, 1967; 8:45 a.m.]

Title 35—PANAMA CANAL

Chapter I—Canal Zone Regulations

PART 61—HEALTH, SANITATION, AND QUARANTINE

Performance of Surgical Operations on Legally Incompetent Patients

Correction

In F.R. Doc. 67-13280 appearing on page 15641 in the issue of Friday, November 10, 1967, paragraph (d) of § 61.401 is corrected to read as follows:

§ 61.401 Performance of surgical operations on legally incompetent patients.

* * * * * * *

(d) A sibling of the incompetent;

* * * * * * *

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission and Department of Transportation

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[No. 34563]

PART 540—UNIFORM SYSTEM OF ACCOUNTS FOR FREIGHT FORWARDERS

Miscellaneous Amendments

Order. At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 7th day of November 1967.

On September 19, 1967, notice of proposed rule making regarding proposed amendments of the Uniform System of Accounts for Freight Forwarders, pertaining to the accounting treatment of extraordinary and prior period items in the determination of net income, was published in the FEDERAL REGISTER (32 F.R. 13233). After consideration of all such relevant matter as was submitted by interested persons, the amendments as so proposed are hereby adopted.

It is ordered, That the amendments to Part 540 as proposed are adopted without change.

It is further ordered, That these amendments are effective January 1, 1967.

And it is further ordered, That service of this order shall be made on all Freight Forwarders which are affected hereby and notice thereto shall be given the general public by depositing a copy of this order in the Office of the Secretary of the Commission at Washington, D.C., and by filing the order with the Director, Office of the Federal Register.

(Secs. 409, 412, 54 Stat. 285, 294, as amended; 49 U.S.C. 1009, 1012)

By the Commission, Division 2.

[SEAL] H. NEIL GARSON,
Secretary.

I. INSTRUCTIONS AMENDED

Item No. 1. Instruction "540.0–2 Definitions," is amended by adding the following after the last sentence of paragraph (h):

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* * * See sec. 540.0–3 and 540.0–4.

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Item No. 2. Instruction "540.0–4. Delayed items and adjustments" is amended by revising the title and text as follows:

§ 540.0–4 Extraordinary and prior period items.

(a) (1) All items of profit and loss recognized during the year are includible in ordinary income except nonrecurring items which in the aggregate for the same class are both material in relation to operating revenues and ordinary income for the year and are clearly not identified with or do not result from usual business operations of the year. Important items of the kind which occur from time to time and which, when material in amount, are to be excluded from ordinary income are those resulting from unusual sales of property and investment securities other than temporary cash investments, from wars and similar calamities and catastrophes, which are not a recurrent hazard of the business and which are not usually covered by insurance, from changes in application of accounting principles, and from prior period items (other than ordinary adjustments of a recurring nature). Material items are those which, unless excluded from ordinary income, would distort the accounts and impair the significance of ordinary income for the year. Items so excludible from ordinary income are to be entered directly in the income accounts provided for extraordinary and prior period items upon approval of the Commission.

(2) Adjustments, constituting items of a character typical of customary business activities or representing corrections or refinements resulting from the natural use of estimates inherent in the accounting process, shall not be considered extraordinary or prior period items regardless of size.

(b) In determining materiality, items of a similar nature should be considered in the aggregate; dissimilar items should be considered individually. As a general standard, an item to qualify for inclusion as an extraordinary or prior period item shall exceed 1 percent of total operating revenues and 10 percent of ordinary income for the year.

(c) Ordinary delayed items and adjustments arising during the current year which are applicable to or related to transactions of prior years shall be included in the same accounts which would have been charged or credited if the item had been taken up or adjusted in the period to which it pertained. Ordinary delayed items excludes items of the character described in paragraph (a) of this section.

Item No. 3. Instruction "540.0–24 Discount, premium, and expense on capital stock" is amended by revising the first sentence of paragraph (c) as follows:

§ 540.0–24 Discount, premium, and expense on capital stock.

* * * * * * *

(c) Discount, commissions, and expenses on capital stock may be amortized through such regular charges to account 250–1, "Paid-in surplus," as will equitably distribute the amount over a definite period: *Provided, however,* That the excess of net debits over the accumulated net credit balance in paid-in surplus applicable to the particular class of stock shall be charged to earned surplus, or they may be retained in account 242, "Discount, commission, and expense on capital stock," until the retirement of the stock to which the discount, commission, and expense apply. * * *

* * * * * * *

Item No. 4. Instruction "540.0–25 Discount, premium, and expense on long-term debt" is amended by revising the text of paragraph (d) as follows:

§ 540.0–25 Discount, premium, and expense on long-term debt.

* * * * * * *

(d) Except as provided in paragraphs (a), (b), and (c) of this section, the balance in each of these accounts shall be carried until the reacquirement of the securities to which it relates at which time the proportion (based on the relation of the amount of long-term debt reacquired to the total outstanding before its reacquirement) of the balance in the premium, discount, and debt-expense account for the particular class of long-term debt reacquired shall be closed to account 403, "Miscellaneous income," 414, "Miscellaneous income charges," or account 435, "Extraordinary items," as appropriate.

Item No. 5. Instruction "540.0–43 Retirements," is amended by revising the text of item 2 "Land" as follows:

§ 540.0–43 Retirements.

* * * * * * *

2. Land: If the land is sold, the amount of the necessary adjustment between the book cost and the amount realized shall be included in accounts 403, "Miscellaneous income," 414, "Miscellaneous income charges," or account 435, "Extraordinary items," as may be appropriate in accordance with the texts of these accounts. If the land is retained, the lesser of its appraised value or book cost shall be charged to account 160, "Nontransportation property," and the necessary adjustment shall be included in the appropriate income account.

* * * * * * *

Item No. 6. Instruction "540.0–51 Purpose of earned surplus accounts," is amended by revising the text as follows:

§ 540.0–51 Purpose of earned surplus accounts.

The earned surplus accounts are designed to show the changes in earned surplus during each calendar year as affected by the balance of the income account as reported for that period; by any disposition of earned surplus made by the company; when authorized by the Commission, other items; and also to show the unappropriated earned surplus of the company as of the date of the balance sheet.

Item No. 7. The text of instruction "540.0–61 Purpose of income accounts" is revised as follows:

§ 540.0–61 Purpose of income accounts.

The income accounts are designed to show as nearly as practicable for each calendar year the amount of money that a company becomes entitled to receive for transportation services rendered; the income accrued upon investments in securities and nontransportation property; the accrued costs paid or payable for the transportation services rendered by it; the losses sustained by it; the amounts accrued for taxes, for use of moneys, for use of properties of others; and for extraordinary and prior period items. See § 540.0–4.

II. TEXTS OF BALANCE SHEET ACCOUNTS AMENDED

Item No. 1. Section 540.149 *Depreciation and amortization reserve; transportation property.* This account is amended by revising the last sentence of paragraph (a) and the text of paragraph (c) as follows:

§ 540.149 Depreciation and amortization reserve; transportation property.

(a) * * * It shall also include other entries which may be authorized by the Commission.

* * * * * * *

(c) At the time of retirement of improvements on leased property or the reversion to the lessor, the amount of the balance in this account with respect to such property shall be cleared from this account, and the remainder of the loss, if any, shall be charged to account 414, "Miscellaneous income charges."

* * * * * * *

Item No. 2. Section 540.160 *Nontransportation property.* The text of this account is amended by revising paragraph (b) as follows:

§ 540.160 Nontransportation property.

* * * * * * *

(b) This account shall include also the lesser of the appraised value or book cost of land and improvements retired from transportation service and retained by the company.

Item No. 3. Section 540.161 *Depreciation reserve—Nontransportation property.* The text of this account is amended by revising the last sentence of paragraph (b) as follows:

§ 540.161 Depreciation reserve; nontransportation property.

* * * * * * *

(b) * * * If the amounts recovered from insurance are in excess of the service value of the property destroyed, such excess shall be credited to account 403, "Miscellaneous income," or account 435, "Extraordinary items," as appropriate.

Item No. 4. Section 540.165 *Organization.* The text of this account is amended by revising paragraph (b) as follows:

§ 540.165 Organization.

* * * * * * *

(b) The balance in this account may be amortized by regular charges to account 414, "Miscellaneous income charges"; or the entire amounts of such items, when qualifying as extraordinary pursuant to § 540.0–4, may be written off to account 435, "Extraordinary items."

Item No. 5. Section 540.166 *Other intangible property.* The text of this account is amended by revising paragraph (b) as follows:

§ 540.166 Other tangible property.

* * * * * * *

(b) The balance in this account may be amortized by regular charges to account 414, "Miscellaneous income charges"; or the entire amounts of such items, when qualifying as extraordinary pursuant to § 540.0–4, may be written off to account 435, "Extraordinary items."

Item No. 6. Section 540.171 *Debt discount and expense.* The text of this account is amended by revising paragraph (b) as follows:

§ 540.171 Debt discount and expense.

* * * * * * *

(b) When an issue of long-term debt, or any part thereof, is refunded and at the date of refunding there is a balance of unamortized discount and expense relating thereto, the amount of such balance, together with any premium paid in retiring the debt, shall be charged to account 414, "Miscellaneous income charges," or to account 435, "Extraordinary items," as may be appropriate in accordance with the text of these accounts.

Item No. 7. Section 540.172 *Other deferred debits.* Paragraph (a) of the text of this account is amended by revising the sixth tabulated item as follows:

§ 540.172 Other deferred debits.

* * * * * * *

The lesser of the appraised value or net book value (book cost less recorded depreciation) of property retired and held without being torn down pending sale or other disposition and not used for any purpose. (See account 160, "Nontransportation property.")

* * * * * * *

Item No. 8. Section 540.190 *Reacquired and nominally issued long-term debt.* The text of this account is amended by revising paragraphs (b) and (c) as follows:

§ 540.190 Reacquired and nominally issued long-term debt.

* * * * *

(b) The difference between the par value of bonds or other long-term debt included in this account and the amount paid by the company for such securities, including commissions and expenses paid in connection with the reacquisition, shall be credited or debited, at the time of reacquirements, to accounts 403, "Miscellaneous income," 414, "Miscellaneous income charges," or to account 435, "Extraordinary items," as may be appropriate in accordance with the texts of these accounts. Concurrently, the portion of unamortized premium, discount, and expense relating to the long-term debt reacquired shall be credited or debited as appropriate to the same accounts. (See § 540.0–25 Discount, premium, and expense on long-term debt.)

(c) When reacquired long-term debt is resold by the company, the par value of the securities shall be credited to this account and the difference between such amount and the net sale price realized shall be credited or debited to the same accounts mentioned in paragraph (b) of this section.

* * * * *

Item No. 9. Section 540.230 *Premium on long-term debt.* The text of this account is amended by revising paragraph (b) as follows:

§ 540.230 Premium on long-term debt.

* * * * *

(b) When an issue of long-term debt, or any part thereof is refunded and at the date of refunding there is a balance of unamortized premium related thereto, the amount of such balances shall be credited to account 403, "Miscellaneous income," or account 435, "Extraordinary items," as appropriate.

III. TEXTS OF EARNED SURPLUS ACCOUNTS AMENDED

Item No. 1. Section 540.301 *Miscellaneous credits.* The text of this account is revised as follows:

§ 540.301 Miscellaneous credits.

This account shall include other credit adjustments, net of assigned income taxes, not provided for elsewhere in this system but only after such inclusion has been authorized by the Commission.

Item No. 2. Section 540.310 *Miscellaneous debits.* The text of this account is revised as follows:

§ 540.310 Miscellaneous debits.

(a) This account shall include charges which reduce or write off discount on capital stock issued by the company, but only to the extent that such charges exceed credit balances in paid-in surplus for shares reacquired.

(b) This account shall also include debit adjustments, net of assigned income taxes, not provided for elsewhere in this system but only after such inclusion has been authorized by the Commission.

§ 540.311 [Amended]

Item No. 3. Section 540.311 *Miscellaneous reservations of earned surplus.* "Note A" following paragraph (b) of the text of this account is deleted; and "Note B" is redesignated as "Note".

IV. FORM OF INCOME STATEMENT AMENDED

§ 540.0–63 [Amended]

Section 540.0–63 Form of income statement. This section is amended by making the following changes:

Item No. 1. The following centered caption is added after the opening paragraph, above "Forwarder Operating Income."

ORDINARY ITEMS

Item No. 2. After 403 "Miscellaneous income," 404, "Delayed income credits" is deleted.

Item No. 3. After 413 and before "Fixed charges" all line items are deleted and the following are added:

414 Miscellaneous income charges.
Total income deductions.
Ordinary income before fixed charges and income taxes.[1]

Item No. 4. After "Total fixed charges," "Net income before provision for income taxes"[1] is revised as follows:

Ordinary income before provision for income taxes.[2]

Item No. 5. All line items after the caption "Provision for Income Taxes" are deleted and the following are added:

431 Income taxes on ordinary income.
Ordinary income.[1]

EXTRAORDINARY AND PRIOR PERIOD ITEMS[1]

435 Extraordinary items (net).
440 Prior period items (net).
450 Income taxes on extraordinary and prior period items.
Total extraordinary and prior period items.
Net income (transferred to earned surplus).[1]

V. TEXTS OF INCOME ACCOUNTS AMENDED

Item No. 1. Section 540.401 *Dividend and interest income.* The text of "Note C" following the text of this account is revised as follows:

§ 540.401 Dividend and interest income.

* * * * *

NOTE C: Credits to this account representing income from reserve funds (retained therein) shall be charged concurrently to account 311, "Miscellaneous reservations of earned surplus," and credited to account 280, "Earned surplus—Appropriated."

Item No. 2. Section 540.403 *Miscellaneous income.* After the text of this account, the list of items is deleted and the following are added:

§ 540.403 Miscellaneous income.

* * * * *

Profits from sale of securities, including temporary cash investments.
Profits from sale of land used for transportation purposes and nontransportation property.
Credits resulting from adjustments required to bring to par long-term debt obligations issued or assumed by the company and reacquired at a cost less than the par value.
Unamortized premium on long-term debt reacquired before maturity.
Profits derived from conversion of money of a foreign country into U.S. money.
Fees collected in connection with the exchange of coupon bonds for registered bonds.
Revenues, rents, and other income from nontransportation property.
Cancellation of liability accounts (including unclaimed wages) or erroneous collections (except unrefundable revenue overcharges) written off because of carrier's inability to locate creditor or payee.

When the profits or adjustments resulting from any of the first four items are of amounts sufficiently large to constitute extraordinary items pursuant to § 540.0–4, such profits or adjustments shall be credited to account 435, "Extraordinary items."

§ 540.404 [Deleted]

Item No. 3. Section 540.404 *Delayed income credits.* The number, title, and text of this account are deleted.

§ 540.411 [Amended]

Item No. 4. Section 540.411 *Transportation tax accruals.* The following is deleted from the first sentence of paragraph (a); also, "Note J" to the text of this account is revised as follows:

(a) * * * also adjustments applicable to prior periods not included in accounts 404, "Delayed income credits," or 415, "Delayed income debits," * * *

* * * * *

NOTE J: Accruals for taxes assessed on the income of the company when not in lieu of property taxes shall be charged to account 431, "Income taxes on ordinary income."

* * * * *

Item No. 5. Section 540.414 *Miscellaneous income charges.* After the text of this account, the list of items is revised as follows:

§ 540.414 Miscellaneous income charges.

* * * * *

Loss on sale of securities, including temporary cash investments, and charges to write down the ledger value of such securities because of impairment in their value.
Loss on sale of land used for transportation purposes and nontransportation property.
Unextinguished discounts and expense on funded debt reacquired before maturity.
Debits resulting from adjustments required to bring to par long-term obligations issued or assumed by the company and reacquired at a cost exceeding the par value.
Amortization of balances reflected in accounts 165, "Organization" and 166, "Other intangible property."
Loss of funds due to bank failures.
Book cost (in excess of reserve provisions) of improvements on leased property reverting to lessor.
Contributions for charitable or social or community welfare purposes which do not have a direct or intimate relation to the protection of property of the company, to the development of its business, or the welfare of its employees.
Payments of liability accounts previously written off.
Penalties and fines for violations of the Interstate Commerce Act, and other Federal or State laws when not specifically provided for elsewhere.
Calls for bids in accordance with provisions of mortgages.
Cost of advertising bonds drawn for redemption.
Expenses of nontransportation property, including depreciation, rent, and insurance.
Losses due to conversion of money of a foreign country into U.S. money.
Premiums on bonds to assure performance of contractual obligations when payments under the contracts are chargeable to income accounts.
Premiums paid less the current increase in the cash surrender value of the insurance on lives of officers when the company is the beneficiary. The cash-surrender value portion of the premium shall be included in account 131, "Other investments."
Taxes on interest on company's debt paid at the source under tax-free covenants.
Trusts, current expenses of maintaining and administering.
Trustees' commissions and fees for paying out bond interest on coupons and expenses including registrars' fees connected with such payments.

When the losses or adjustments resulting from any of the first six items are of amounts sufficiently large to constitute extraordinary items, pursuant to § 540.0–4, such losses shall be charged to account 435, "Extraordinary items."

§ 540.415 [Deleted]

Item No. 6. Section 540.415 *Delayed income debits.* The number, title, and text of this account are deleted.

Item No. 7. Section 540.431 *Income taxes.* The title and text of this account (but the Note is retained) are revised as follows:

§ 540.431 Income taxes on ordinary income.

(a) (1) This account shall include accruals for taxes assessed by Federal, State, and other governmental bodies on the ordinary income of the company, when not in lieu of property taxes. See the texts of accounts 450, "Income taxes on extraordinary and prior period items," 301, "Miscellaneous credits," and 310, "Miscellaneous debits" for recording other income tax consequences.

(2) Details pertaining to the tax consequences of other unusual and significant items, and also cases where tax consequences are disproportionate to amounts included in income accounts, shall be submitted to the Commission for consideration and decision as to the proper accounting.

(b) Federal income taxes which are refundable or reduced as the result of carry-back or carry-forward of operating loss shall be credited to this account, if a carry-back, in the year in which the loss occurs or, if a carry-forward, in the year in which such loss is applied to reduce taxes. However, when the amount constitutes an extraordinary item pursuant to § 540.0–4, it shall be included in account 440, "Prior period items."

§§ 540.432, 540.433 [Deleted]

Item No. 8. Section 540.432 *Miscellaneous amortization charges to income.* The number, title, and text of this account are deleted.

Item No. 9. Section 450.433 *Miscellaneous reservations of income.* The number, title, and text of this account are deleted.

Item No. 10. The system of accounts, following the text of account 431, "Income taxes on ordinary income," is amended by adding the following caption, account numbers, titles and texts:

EXTRAORDINARY AND PRIOR PERIOD ITEMS

§ 540.435 Extraordinary items (net).

(a) This account shall include extraordinary items accounted for during the current accounting year in accordance with the text of § 540.0–4, upon approval of the Commission. Among the items which shall be included in this account are:

Net gain or loss on sale of land used for transportation purposes, and of nontransportation property.
Net gain or loss on the sale of securities acquired for investment purposes, and charges to write down the ledger value of such securities because of impairment of value.
Changes in application of accounting principles.

(b) Income tax consequences of charges and credits to this account shall be recorded in account 450, "Income taxes on extraordinary and prior period items."

(c) This account shall be maintained in such a manner sufficient to identify the nature and gross amount of each debit and credit.

§ 540.440 Prior period items (net).

(a) This account shall include unusual delayed items accounted for during the current accounting year in accordance with the text of § 540.0–4, upon approval of the Commission. Among the items which shall be included in this account are:

Unusual adjustments, refunds or assessments of Federal income taxes of prior years.
Similar items representing transactions of prior years which are not identifiable with or do not result from business operations of the current year.

(b) Income tax consequences of charges and credits to this account shall be recorded in account 450, "Income taxes on extraordinary and prior period items."

(c) This account shall be maintained in a manner sufficient to identify the nature and gross amount of each debit and credit.

§ 540.450 Income taxes on extraordinary and prior period items.

This account shall include the estimated income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which, for accounting purposes are classified as unusual and extraordinary, and are recorded in accounts 435, "Extraordinary items," and 440, "Prior period items."

VI. MISCELLANEOUS AMENDMENTS

Item No. 1. The list of instructions and accounts in the Code of Federal Regulations, Part 540, is amended by making the following revisions:

(a) 540.0–4 Delayed items and adjustments is changed to:

540.0–4 Extraordinary and prior period period items.

(b) Directly below income accounts, the following is added:

ORDINARY ITEMS

(c) The following are deleted:

540.404 Delayed income credits.
540.415 Delayed income debits.
540.432 Miscellaneous amortization charges to income.
540.433 Miscellaneous reservations of income.

(d) 540.431 Income taxes is changed to:

540.431 Income taxes on ordinary income.

(e) The following are added after 540.431 Income taxes on ordinary income:

EXTRAORDINARY AND PRIOR PERIOD ITEMS

540.435 Extraordinary items (net).
540.440 Prior period items (net).
540.450 Income taxes on extraordinary and prior period items.

Item No. 2. In the system of accounts, below "Income accounts" and above "Credit," the following centered caption is added:

ORDINARY ITEMS

[F.R. Doc. 67–14001; Filed, Nov. 29, 1967; 8:47 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

William L. Finley National Wildlife Refuge, Oreg.; Correction

In F.R. Doc. 67–13610, appearing on page 15678 of the issue for Saturday, November 18, 1967, the following subparagraph should be added under special conditions:

(3) Hunters must shoot from blind sites only. Blind site assignments will be drawn at the check station.

PAUL T. QUICK,
Regional Director, Bureau of Sport Fisheries and Wildlife, Portland, Oreg.

NOVEMBER 22, 1967.

[F.R. Doc. 67–13963; Filed, Nov. 29, 1967; 8:48 a.m.]

[1] If a loss or a debit, show the amount in parenthesis.

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Part 12]

IMPORTATION OF MOTOR VEHICLES AND MOTOR VEHICLE EQUIPMENT SUBJECT TO MOTOR VEHICLE SAFETY STANDARDS

Notice of Proposed Rule Making

Notice is hereby given that the Secretary of the Treasury and the Secretary of Transportation propose to promulgate joint regulations under section 108 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1397) hereinafter referred to as the Act. The purpose of the regulations is to prescribe procedures governing the entry into the United States of motor vehicles or items of motor vehicle equipment pursuant to the provisions of section 108 of the Act and, pursuant to said provisions, to provide for the prohibition against entry of such articles which do not conform with applicable Federal motor vehicle safety standards established under sections 103 and 119 of the Act and in effect at the time the motor vehicle or motor vehicle equipment was manufactured.

The proposed regulations which will be added to Part 12 of Title 19, Chapter 1, of the Code of Federal Regulations are set forth in tentative form below:

MOTOR VEHICLES AND MOTOR VEHICLE EQUIPMENT MANUFACTURED ON OR AFTER JANUARY 1, 1968

§ 12.80 Federal motor vehicle safety standards.

(a) *Standards prescribed by the Department of Transportation.* Motor vehicles and motor vehicle equipment manufactured on or after January 1, 1968, offered for sale, or introduction or delivery in interstate commerce, or importation into the United States are subject to Federal Motor Vehicle Safety Standards (hereafter referred to in this section as "safety standards") prescribed by the Secretary of Transportation under sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1407) as set forth in regulations in 23 CFR. A motor vehicle (hereafter referred to in this section as "vehicle") or item of motor vehicle equipment (hereafter referred to in this section as "equipment item"), manufactured on or after January 1, 1968, is not permitted entry into the United States unless (with certain exceptions set forth in paragraph (b) of this section) it is in conformity with applicable safety standards in effect at the time the vehicle or equipment item was manufactured.

(b) *Requirements for entry and release.* Any vehicle or equipment item offered for importation into the customs territory of the United States shall not be refused entry under this section if it bears a valid certification as required by section 114 of the National Traffic and Motor Vehicle Safety Act of 1966 and regulations issued thereunder by the Secretary of Transportation (in the case of a vehicle, in the form of a label or tag permanently affixed to such vehicle or in the case of an equipment item, in the form of a label or tag on such item or on the outside of a container in which such item is delivered). Any such vehicle or equipment item not bearing such certification shall be refused entry unless there is filed with the entry, in duplicate, a declaration verified by the importer or consignee which states that:

(1) The vehicle or equipment item was manufactured on a date when there were no applicable safety standards in force, a verbal statement to such effect being acceptable at the option of the district director of customs; or

(2) Such vehicle or equipment item was not manufactured in conformity with applicable standards but has since been brought into conformity, such declaration to be accompanied by the certificate of the manufacturer, contractor, or other person who has brought such vehicle or equipment item into conformity, which describes the nature and extent of the work performed; or

(3) Such vehicle or equipment item does not conform with applicable standards, but that he will bring such vehicle or equipment item into conformity with such standards; or

(4) He is a nonresident alien, importing such vehicle or equipment item primarily for personal use or for the purpose of making repairs or alterations to the vehicle or equipment item, for a period not exceeding 90 days or such additional period as the district director of customs may allow, not to exceed one year from the date of entry, and that he will not resell it in the United States during that time: *Provided*, That persons regularly entering the United States by motor vehicle at the Canadian and Mexican borders may apply to the district director of customs for an appropriate means of identification to be affixed to the vehicle which will serve in place of the declaration required by this paragraph; or

(5) He is a member of the armed forces of any foreign country on assignment in the United States, or is a member of the personnel of a foreign government on assignment in the United States who comes within the class of persons for whom free entry of motor vehicles has been authorized by the Department of State and that he is importing such vehicle or equipment item for personal use and not for resale; or

(6) He is a bona fide manufacturer of motor vehicles or motor vehicle equipment items and that he is importing the vehicle or equipment item for the purposes of show, test, experiment, repairs or alterations and that such vehicle or equipment item will not be sold or licensed for use on the public roads.

Any declaration given under this section (except an oral declaration accepted at the option of the district director of customs under subparagraph (1) of this paragraph) shall state the name and address of the importer or consignee, the date and the entry number, a description of any equipment item, the make and model, serial and body number of any vehicle, and the city and State in which it is to be registered and principally located if known. The district director of customs shall immediately forward the duplicate of such declaration to the National Highway Safety Bureau of the Department of Transportation.

(c) *Release under bond.* If a declaration filed in accordance with paragraph (b) of this section states that the entry is being made under circumstances described in paragraph (b) (3) of this section, the entry shall be accepted only if the importer gives a bond on customs Form 7551, 7553, or 7595 for the production of a statement verified by the importer or consignee that the vehicle or equipment item described in the declaration filed by the importer has been brought into conformity with applicable safety standards and identifying the manufacturer, contractor, or other person who has brought such vehicle or equipment item into conformity with such standards and describing the nature and extent of the work performed. The bond shall be in the amount required under § 25.4(a) of this chapter. Within 90 days after such entry, or such additional period as the district director of customs may allow for good cause shown, the importer or consignee shall deliver to the district director of customs the signed statement described in this paragraph. If such signed statement is not delivered to the district director of customs for the port of entry of such vehicle or equipment item within 90 days of the date of entry or such additional period as may be allowed by the district director of customs, for good cause shown, the importer or consignee shall deliver or cause to be delivered to the district director of customs those vehicles or equipment items which were released in accordance with this paragraph. In the event that any such vehicle or equipment item is not redelivered within 5 days following the date specified in the preceding sentence, liquidated damages shall be assessed in the full amount of a bond given on Form 7551. When the transaction has been charged against a bond given on Form 7553 or 7595, liquidated damages shall be assessed in the amount that would have been demanded under the preceding sentence if the merchandise had been released under a bond given on Form 7551.

(d) *Merchandise refused entry.* If a vehicle or equipment item is denied entry under the provisions of paragraph (b) of this section, the district director of customs shall refuse to release the merchandise for entry into the United States and shall issue a notice of such refusal to the importer or consignee.

(e) *Disposition of merchandise refused entry into the United States; redelivered merchandise.* Vehicles or equipment items which are denied entry under paragraph (b) of this section or which are redelivered in accordance with paragraph (c) of this section and which are not exported under customs supervision within 90 days from the date of notice of refusal of admission or date of redelivery shall be disposed of under customs laws and regulations; *Provided, however*, That any such disposition shall not result in an introduction into the United States of a vehicle or equipment item in violation of the National Traffic and Motor Vehicle Safety Act of 1966.

Prior to final adoption of regulations based on this proposal, consideration will be given to all relevant data, views, or arguments submitted in duplicate to the Commissioner of Customs, Washington, D.C. 20226, within 30 days from the date of publication of this notice in the FEDERAL REGISTER. No hearing will be held.

[SEAL] LESTER D. JOHNSON,
Commissioner of Customs.

Approved: November 27, 1967.

MATTHEW J. MARKS,
Acting Assistant Secretary of the Treasury.

ALAN S. BOYD,
Secretary of Transportation.

[F.R. Doc. 67-14056; Filed, Nov. 29, 1967; 8:48 a.m.]

[26 CFR Part 212]

FORMULAS FOR DENATURED ALCOHOL AND RUM

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Director, Alcohol and Tobacco Tax Division, within the 30-day period. In such a case, a public hearing will be held and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

In order to (1) provide in regulations for the use of alcohol of not less than 185 degrees of proof in formulas of specially denatured alcohol; (2) authorize the use, as a denaturant, of ethyl acetate having an ester content of 100 percent for Formula No. 29; (3) revise the numbering of specially denatured alcohol Formula No. 40 by providing separate formula numbers for the various authorized alternate denaturants; (4) authorize additional uses for alcohol denatured under certain formulas; (5) specify the number of copies of certain applications to be submitted; (6) provide new melting point and solubility specifications for benzyldiethyl (2:6 xylylcarbamoyl methyl) ammonium benzoate (Bitrex) and for the use of a purer, whiter form of sucrose octa-acetate having a higher melting point; (7) provide for the use, as a denaturant, of wood alcohol having a minimum specific gravity of 0.8072; and (8) provide miscellaneous editorial and clarifying changes, the regulations in 26 CFR Part 212, Formulas for Denatured Alcohol and Rum, are amended as follows:

PARAGRAPH 1. Section 212.3 is amended to correct a printing error and to specify the number of copies of applications to be submitted. As amended, § 212.3 reads as follows:

§ 212.3 Stocks of discontinued formulas.

Denaturers, or specially denatured spirits dealers or users, having on hand stocks of denaturants or formulas of specially denatured spirits no longer authorized by this part may (a) continue to supply or use such stocks in accordance with permits until the stocks are exhausted; (b) otherwise dispose of such stocks in a manner satisfactory to the Director, pursuant to approval of an application (to be filed, in triplicate, with the assistant regional commissioner for transmittal to the Director); or (c) on approval by the assistant regional commissioner of an application, filed in duplicate, to do so, destroy such stocks under such supervision as the assistant regional commissioner may prescribe.

PAR. 2. In § 212.15, paragraph (a) is amended to provide for the use of alcohol of not less than 185 degrees of proof in any formula of specially denatured alcohol. As amended, paragraph (a) reads as follows:

§ 212.15 General.

(a) *Formulas.* Specially denatured alcohol shall be denatured in accordance with formulas prescribed in this subpart. Alcohol of not less than 185 degrees of proof shall be used in the manufacture of all formulas of specially denatured alcohol, unless otherwise authorized by the Director. Rum for denaturation shall be of not less than 150 degrees of proof and shall be denatured in accordance with Formula No. 4.

* * * * * *

PAR. 3. In §§ 212.16, 212.17, 212.18, 212.19, and 212.23, paragraphs (b) (2) are amended by deleting the parenthetical phrases "(for rubber processing)" and "(ethylamines)" from code 530 and code 540, respectively. As amended, paragraphs (b) (2) in §§ 212.16, 212.17, 212.18, 212.19, and 212.23 read as follows:

§ 212.16 Formula No. 1.

* * * * * *

(b) * * *

(2) As a raw material:

* * * * * *

530. Ethylamines.
540. Dyes and intermediates.

* * * * * *

§ 212.17 Formula No. 2–B.

* * * * * *

(b) * * *

(2) As a raw material:

* * * * * *

530. Ethylamines.
540. Dyes and intermediates.

* * * * * *

§ 212.18 Formula No. 2–C.

* * * * * *

(b) * * *

(2) As a raw material:

* * * * * *

530. Ethylamines.
540. Dyes and intermediates.

* * * * * *

§ 212.19 Formula No. 3–A.

* * * * * *

(b) * * *

(2) As a raw material:

* * * * * *

530. Ethylamines.
540. Dyes and intermediates.

* * * * * *

§ 212.23 Formula No. 12–A.

* * * * * *

(b) * * *

(2) As a raw material:

* * * * * *

530. Ethylamines.
540. Dyes and intermediates.

* * * * * *

PAR. 4. In § 212.30, paragraph (b) (1) is amended to insert, in numerical order, a new authorized use—Code 244. As amended, paragraph (b) (1) reads as follows:

§ 212.30 Formula No. 23–A.

* * * * * *

(b) *Authorized uses.* (1) As a solvent:

* * * * *

244. Antiseptic solutions (U.S.P. or N.F.).

* * * * *

PAR. 5. In § 212.39, paragraph (a) is revised to provide for an alternate denaturant, and to specify the number of copies of the required application, and paragraph (b) (1) is amended by inserting, in numerical order, a new authorized use—Code 511, and by deleting the parenthetical phrases "(for rubber processing)" and "(ethylamines)" from Code 530 and Code 540, respectively. As amended, paragraphs (a) and (b) (1) read as follows:

§ 212.39 Formula No. 29.

(a) *Formula.* To every 100 gallons of alchohol add:

One gallon of 100 percent acetaldehyde or 5 gallons of an alcohol solution of acetaldehyde containing not less than 20 percent acetaldehyde, or 1 gallon of ethyl acetate having an ester content of 100 percent, or, where approved by the Director as to material and quantity, not less than 0.5 pounds if solid, or 1 gallon if liquid, of any chemical. Where material other than acetaldehyde or ethyl acetate is proposed to be used, an application therefor shall be submitted, in sextuplet, to the Director. The applicant shall furnish the Director with specifications, assay methods, and duplicate 8-ounce samples of such other material.

(b) *Authorized uses.* (1) a raw material:

511. Vinegar.

* * * * *

530. Ethylamines.
540. Dyes and intermediates.

* * * * *

PAR. 6. In § 212.40, paragraph (b) (1) is amended to insert, in numerical order, new authorized uses—Code 011 and Code 012. As amended, paragraph (b) (1) reads as follows:

§ 212.40 Formula No. 30.

* * * * *

(b) *Authorized uses.* (1) As a solvent:

011. Cellulose coatings.
012. Synthetic resin coatings.

* * * * *

PAR. 7. In § 212.46, paragraph (b) (2) is amended by deleting the parenthetical phrases "(for rubber processing)" and "(ethylamines)" from Code 530 and Code 540, respectively. As amended, paragraph (b) (2) reads as follows:

§ 212.46 Formula No. 36.

* * * * *

(b) * * *

(2) As a raw material:

530. Ethylamines.
540. Dyes and intermediates.

* * * * *

PAR. 8. In § 212.48, paragraph (a) is amended to correct the spelling of the word "Anethole" and to clarify requirements relating to the proposed use of substitute denaturants. As amended, paragraph (a) reads as follows:

§ 212.48 Formula No. 38–B.

(a) *Formula.* To every 100 gallons of alcohol add:

Ten pounds of any one, or a total of 10 pounds of two or more, of the oils and substances listed below:
Anethole, U.S.P.

* * * * *

Where it is shown that none of the above single denaturants or combinations can be used in the manufacture of a particular product, application (*in* duplicate) may be submitted to the Director, requesting permission to use another essential oil or substance having denaturing properties satisfactory to the Director. In such case the applicant shall furnish the Director with specifications, assay methods, and duplicate 8-ounce samples of the denaturant for examination.

* * * * *

PAR. 9. In § 212.55, paragraph (b) (1) is amended to include an additional class of product in Code 122. As amended, paragraph (b) (1) reads as follows:

§ 212.55 Formula No. 39–C.

* * * * *

(b) *Authorized uses.* (1) As a solvent:

* * * * *

122. Toilet waters and colognes.

* * * * *

PAR. 10. To provide a new, distinct formula number as to each of the alternate denaturants now authorized for use in Formula No. 40, § 212.57 is amended and new §§ 212.57a through 212.57g are inserted to read as follows:

§ 212.57 Formula No. 40–1.

(a) *Formula.* To every 100 gallons of alcohol add:

One and one-half avoirdupois ounces of brucine (alkaloid) and ⅛ gallon of *tert.*-butyl alcohol.

(b) *Authorized uses.* (1) As a solvent:

051. Polishes.
111. Hair and scalp preparations.
112. Bay rum.
113. Lotions and creams (hand, face, and body).
114. Deodorants (body).
121. Perfumes and perfume tinctures.
122. Toilet waters and colognes.
141. Shampoos.
142. Soaps and bath preparations.
210. External pharmaceuticals (not U.S.P. or N.F.).
410. Disinfectants, insecticides, fungicides, and other biocides.
450. Cleaning solutions (including household detergents).
470. Theater sprays, incense, and room deodorants.
482. Miscellaneous dye solutions.
485. Miscellaneous solutions.

§ 212.57a Formula No. 40–2.

(a) *Formula.* To every 100 gallons of alcohol add:

One and one-half avoirdupois ounces of brucine sulfate (N.F. IX) and ⅛ gallon of *tert.*-butyl alcohol.

(b) *Authorized uses.* (1) As a solvent:

051. Polishes.
111. Hair and scalp preparations.
112. Bay rum.
113. Lotions and creams (hand, face, and body).
114. Deodorants (body).
121. Perfumes and perfume tinctures.
122. Toilet waters and colognes.
141. Shampoos.
142. Soaps and bath preparations.
210. External pharmaceuticals (not U.S.P. or N.F.).
410. Disinfectants, insecticides, fungicides, and other biocides.
450. Cleaning solutions (including household detergents).
470. Theater sprays, incense, and room deodorants.
482. Miscellaneous dye solutions.
485. Miscellaneous solutions.

§ 212.57b Formula No. 40–3.

(a) *Formula.* To every 100 gallons of alcohol add:

One and one-half avoirdupois ounces of quassin and ⅛ gallon of *tert.*-butyl alcohol.

(b) *Authorized uses.* (1) As a solvent:

051. Polishes.
111. Hair and scalp preparations.
112. Bay rum.
113. Lotions and creams (hand, face, and body).
114. Deodorants (body).
121. Perfumes and perfume tinctures.
122. Toilet waters and colognes.
141. Shampoos.
142. Soaps and bath preparations.
210. External pharmaceuticals (not U.S.P. or N.F.).
410. Disinfectants, insecticides, fungicides, and other biocides.
450. Cleaning solutions (including household detergents).
470. Theater sprays, incense, and room deodorants.
482. Miscellaneous dye solutions.
485. Miscellaneous solutions.

§ 212.57c Formula No. 40–4.

(a) *Formula.* To every 100 gallons of alcohol add:

One-quarter avoirdupois ounce of denaturing grade benzyldiethyl (2:6 xylylcarbamoyl methyl) ammonium benzoate (Bitrex) and ⅛ gallon of *tert.*-butyl alcohol.

(b) *Authorized uses.* (1) As a solvent:

051. Polishes.
111. Hair and scalp preparations.
112. Bay rum.
113. Lotions and creams (hand, face, and body).
114. Deodorants (body).
121. Perfumes and perfume tinctures.
122. Toilet waters and colognes.
141. Shampoos.
142. Soaps and bath preparations.
210. External pharmaceuticals (not U.S.P. or N.F.).
410. Disinfectants, insecticides, fungicides, and other biocides.
450. Cleaning solutions (including household detergents).
470. Theater sprays, incense, and room deodorants.
482. Miscellaneous dye solutions.
485. Miscellaneous solutions.

§ 212.57d Formula No. 40–5.

(a) *Formula.* To every 100 gallons of alcohol add:

One pound of sucrose octa-acetate and ⅛ gallon of *tert.*-butyl alcohol.

(b) *Authorized uses.* (1) As a solvent:

051. Polishes.
111. Hair and scalp preparations.
112. Bay rum.
113. Lotions and creams (hand, face, and body).
114. Deodorants (body).
121. Perfumes and perfume tinctures.
122. Toilet waters and colognes.
141. Shampoos.
142. Soaps and bath preparations.

210. External pharmaceuticals (not U.S.P. or N.F.).
410. Disinfectants, insecticides, fungicides, and other biocides.
450. Cleaning solutions (including household detergents).
470. Theater sprays, incense, and room deodorants.
482. Miscellaneous dye solutions.
485. Miscellaneous solutions.

§ 212.57e Formula No. 40–6.

(a) *Formula.* To every 100 gallons of alcohol add:

Two avoirdupois ounces of sucrose octa-acetate, ⅛ gallon of *tert.*-butyl alcohol, and 1/16 avoirdupois ounce of denaturing grade benzyldiethyl (2:6 xylylcarbamoyl methyl) ammonium benzoate (Bitrex).

(b) *Authorized uses.* (1) As a solvent:

051. Polishes.
111. Hair and scalp preparations.
112. Bay rum.
113. Lotions and creams (hand, face, and body).
114. Deodorants (body).
121. Perfumes and perfume tinctures.
122. Toilet waters and colognes.
141. Shampoos.
142. Soaps and bath preparations.
210. External pharmaceuticals (not U.S.P. or N.F.).
410. Disinfectants, insecticides, fungicides, and other biocides.
450. Cleaning solutions (including household detergents).
470. Theater sprays, incense, and room deodorants.
482. Miscellaneous dye solutions.
485. Miscellaneous solutions.

§ 212.57f Formula No. 40–7.

(a) *Formula.* To every 100 gallons of alcohol add:

Three gallons of *tert.*-butyl alcohol.

(b) *Authorized uses.* (1) As a solvent:

051. Polishes.
111. Hair and scalp preparations.
112. Bay rum.
113. Lotions and creams (hand, face, and body).
114. Deodorants (body).
121. Perfumes and perfume tinctures.
122. Toilet waters and colognes.
141. Shampoos.
142. Soaps and bath preparations.
210. External pharmaceuticals (not U.S.P. or N.F.).
410. Disinfectants, insecticides, fungicides, and other biocides.
450. Cleaning solutions (including household detergents).
470. Theater sprays, incense, and room deodorants.
482. Miscellaneous dye solutions.
485. Miscellaneous solutions.

(c) *Conditions governing use.* This formula shall be used only in the manufacture of products which will be packaged in pressurized containers in which the liquid contents are in intimate contact with the propellant and from which the contents are not easily removable in liquid form.

§ 212.57g Formula No. 40–8.

(a) *Formula.* To every 100 gallons of alcohol add:

One-sixteenth avoirdupois ounce of denaturing grade benzyldiethyl (2:6 xylylcarbamoyl methyl) ammonium benzoate (Bitrex) and ¼ gallon of *tert.*-butyl alcohol.

(b) *Authorized uses.* (1) As a solvent:

051. Polishes.
111. Hair and scalp preparations.
112. Bay rum.
113. Lotions and creams (hand, face, and body).
114. Deodorants (body).
121. Perfumes and perfume tinctures.
122. Toilet waters and colognes.
141. Shampoos.
142. Soaps and bath preparations.
210. External pharmaceuticals (not U.S.P. or N.F.).
410. Disinfectants, insecticides, fungicides, and other biocides.
450. Cleaning solutions (including household detergents).
470. Theater sprays, incense, and room deodorants.
482. Miscellaneous dye solutions.
485. Miscellaneous solutions.

PAR. 11. In § 212.58, paragraph (a) is amended to provide for denaturing with 3 pounds instead of 5 pounds of sucrose octa-acetate. As amended, paragraph (a) reads as follows:

§ 212.58 Formula No. 40–A.

(a) *Formula.* To every 100 gallons of alcohol add:

Three pounds of sucrose octa-acetate and ⅛ gallon of *tert.*-butyl alcohol.

* * * * *

PAR. 12. Section 212.65 is amended to provide for the submission of an application, in duplicate, for a variation from specifications or for the use of substitute denaturants. As amended, § 212.65 reads as follows:

§ 212.65 General.

Denaturants prescribed in this part shall comply with the specifications set forth in this subpart: *Provided*, That, in order to meet requirements of national defense or for other valid reasons, the Director may, pursuant to application; in duplicate, authorize variations from such specifications or authorize the use of substitute denaturants where such variation or substitution will not jeopardize the revenue.

PAR. 13. Section 212.69a is amended to provide new melting point and solubility specifications for the denaturant Bitrex. As amended, § 212.69a reads as follows:

§ 216.69a Benzyldiethyl (2:6 xylylcarbamoyl methyl) ammonium benzoate (Bitrex).

Benzyldiethyl (2:6 xylylcarbamoyl methyl) ammonium benzoate is a synthetic quaternary ammonium compound having an intensely bitter taste. It is commercially produced as Bitrex.

Color. White (crystalline powder).

Melting Point. 164°–167° C.

Solubility at 20° C. One gram is soluble in 20 ml. water and in 2 ml. ethyl alcohol. Solutions are clear and colorless and reasonably free of extraneous matter.

Assay. Not less than 99 percent $C_{28}H_{42}O_3N_2$. Dissolve about 0.8 gm. benzyldiethyl (2:6 xylylcarbamoyl methyl) ammonium benzoate (Bitrex) accurately weighed in 60 ml. glacial acetic acid, cool; add 15 ml. of a 5 percent weight-to-volume solution of mercuric acetate in glacial acetic acid, and titrate with 0.1*N* perchloric acid in glacial acetic acid using 0.2 ml. of a 0.5 percent weight-to-volume solution of crystal violet in glacial acetic acid as indicator (or methylrosaniline chloride T.S.). Repeat the titration omitting the sample. The difference between the two readings will represent the volume of perchloric acid required by the sample. Each ml. of 0.1*N* perchloric acid is equivalent to 0.04485 gm. of $C_{28}H_{42}O_3N_2$.

Identification Tests. (a) Dissolve about 0.15 gm. sample in 10 ml. water, and add 15 ml. of 0.66 percent weight-to-volume trinitrophenol in water; the melting point of the precipitate after washing with water and drying is about 175° C.

(b) Dissolve about 0.1 gm. sample in 10 ml. water and add 20 ml. of dilute sulfuric acid and 30 ml. of 1 percent weight-to-volume ammonium reineckate in water; the melting point of the precipitate after washing with water and drying is about 170° C.

Bitterness. An alcoholic or aqueous solution of benzyldiethyl (2:6 xylylcarbamoyl methyl) ammonium benzoate (Bitrex) shall be distinctly bitter at 1 to 250,000 dilution.

Optical Assay. When 25 ml. of an aqueous solution containing 1 part in 10,000 of benzyldiethyl (2:6 xylylcarbamoyl methyl) ammonium benzoate (Bitrex) (0.1 gm/L) is made acid with 1 ml. of hydrochloric acid, and extracted 3 times with a total of 100 ml. of diethyl ether, the resulting ether extract shall have an absorbance in a 1 cm. cell of not less than 0.400 at a wavelength of 228 millimicrons.

PAR. 14. In § 212.94, the first paragraph and the paragraph entitled "Melting point" are amended to read as follows:

§ 212.94 Sucrose octa-acetate.

Sucrose octa-acetate is an organic acetylation product occurring as a white or cream-colored, nonhygroscopic powder, having an intensely bitter taste.

* * * * *

Melting point. Not less than 78° C.

* * * * *

PAR. 15. In § 212.96, the next-to-last paragraph entitled "Specific gravity 15.56°/15.56°C." is amended to read as follows:

§ 212.96 Wood alcohol.

* * * * *

Specific gravity 15.56°/15.56° C. 0.8072 minimum.

* * * * *

PAR. 16. In § 212.105, various lines in the table, as listed below, are amended to conform the list of products, processes, and authorized formulas; and footnote No. 2 at the end of the table is amended to authorize laboratory use of various formulas in product development under Code 810. As amended, the changed lines in the table in § 212.105, and footnote No. 2 at the end thereof, read as follows:

§ 212.105 Listing of products and processes using specially denatured alcohol and rum and formulas authorized therefor.

* * * * *

USES OF SPECIALLY DENATURED ALCOHOL[1]

Product or process	Code No.	Formulas authorized
• • •	•	• • •
Antiseptic solutions, U.S.P. or N.F.	244	39-A, 37, 39-B, 39-F.
Bath preparations	143	1, 2-A, 2-B, 22-A, 30, 30, 39-B, 39-B, 39-C, 40-1 through 40-6, 40-A.
Bay rum	112	39-A, 37, 39-B, 39, 39-B, 39-D, 40-1 through 40-6, 40-A.
Biocides, miscellaneous.	410	1, 2-A, 2-B, 22-A, 22-H, 27-A, 27-B, 30, 37, 39-B, 39-B, 40-1 through 40-6, 40-A.
• • •	•	• • •
Cellulose coatings	511	1, 23-A, 30.
• • •	•	• • •
Cleaning solutions	450	1, 2-A, 39-A, 39-H, 30, 39, 39-B, 40-1 through 40-6.
• • •	•	• • •
Colognes	122	39-B, 39, 39-A, 39-B, 39-C, 40-1 through 40-6, 40-A.
• • •	•	• • •
Deodorants (body)	114	37-A, 39-B, 39-B, 39-C, 40-1 through 40-6, 40-A.
Detergents, household	450	1, 2-A, 39-A, 39-H, 30, 39, 39-B, 40-1 through 40-6.
• • •	•	• • •
Disinfectants	410	1, 2-A, 2-B, 22-A, 22-H, 27-A, 27-B, 30, 37, 39-B, 39-B, 40-1 through 40-6, 40-A.
• • •	•	• • •
Dye solutions, miscellaneous.	462	1, 2-A, 22-A, 30, 39-C, 40-1 through 40-6.
• • •	•	• • •
Ethylamines	550	1, 2-B, 2-C, 3-A, 12-A, 29, 35.
• • •	•	• • •
External pharmaceuticals (not U.S.P. or N.F.).	210	39-A, 39-F, 39-H, 27-A, 27-B, 30, 37, 39-B, 39-B, 39-F, 39-B, 40-1 through 40-6, 40-A.
• • •	•	• • •
Fungicides	410	1, 2-A, 2-B, 2 2-A, 22-H, 27-A, 27-B, 30, 37, 39-B, 39-B, 40-1 through 40-6, 40-A.
• • •	•	• • •
Hair and scalp preparations.	111	3-B, 39-A, 39-F, 39-H, 37, 39-B, 39, 39-A, 39-B, 39-C, 39-D, 40-1 through 40-6, 40-A.
• • •	•	• • •
Incense	470	2-A, 22, 37, 39-B, 39-B, 39-C, 40-1 through 40-6, 40-A.
• • •	•	• • •
Insecticides	410	1, 2-A, 2-B, 22-A, 22-H, 27-A, 27-B, 30, 37, 39-B, 39-B, 40-1 through 40-6, 40-A.
• • •	•	• • •
Lotions and creams (body, face, and hand).	113	39-A, 39-H, 31-A, 37, 39-B, 39, 39-B, 39-C, 40-1 through 40-6, 40-A.
• • •	•	• • •
Perfumes and perfume tinctures.	121	39-B, 39, 39-B, 39-C, 40-1 through 40-6, 40-A.
• • •	•	• • •
Polishes	661	1, 2-A, 39, 40-1 through 40-6.
• • •	•	• • •
Resin castings, synthetic.	612	1, 22-A, 39.
• • •	•	• • •
Room deodorants	470	2-A, 22, 37, 39-B, 39-D, 39-C, 40-1 through 40-6, 40-A.
• • •	•	• • •
Shampoos	141	1, 2-A, 2-B, 22-A, 27-B, 31-A, 39, 39-B, 39-B, 39-A, 39-B, 40-1 through 40-6, 40-A.
• • •	•	• • •
Soaps, toilet	142	1, 2-A, 2-B, 22-A, 30, 39, 39-B, 39-B, 39-C, 40-1 through 40-6, 40-A.
• • •	•	• • •
Solutions, miscellaneous.	495	1, 2-A, 22-A, 30, 39-B, 40-1 through 40-6, 40-A.
• • •	•	• • •
Tinster sprays	470	2-A, 22, 37, 39-B, 39-B, 39-C, 40-1 through 40-6, 40-A.
• • •	•	• • •
Toilet waters	122	39-B, 39, 39-A, 39-B, 39-C, 40-1 through 40-6, 40-A.
• • •	•	• • •
Vinegar	511	18, 29, 35-A.
• • •	•	• • •

[1] Formula No. 3-A and Formula No. 30 are authorized for general laboratory purposes under Code 810. All other formulas are authorized for laboratory use in product development under Code 810.

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PAR. 17. In § 212.110, various lines in the table, as listed below, are amended. As amended, the changed lines in the table in § 212.110 read as follows:

§ 212.110 Listing of denaturants authorized for denatured spirits.

• • • • • • •

Benzyldiethyl (2:6 xylylcarbamoyl methyl) ammonium benzoate (Bitrex)	S.D.A. 40-4; 40-6; 40-8.
• • • • •	• • •
Brucine alkaloid	S.D.A. 40-1.
Brucine sulfate N.F. IX	S.D.A. 40-2.
• • • • •	• • •
tert.-Butyl alcohol	S.D.A. 39; 39-A; 39-B; 40-1; 40-2; 40-3; 40-4; 40-5; 40-6; 40-7; 40-8; 40-A.
• • • • •	• • •
Ethyl acetate	S.D.A. 29; 35; 35-A.
• • • • •	• • •
Quassin	S.D.A. 40-8.
• • • • •	• • •
Sucrose octa-acetate	S.D.A. 40-5; 40-6; 40-A.
• • • • •	• • •

PAR. 18. In the table in § 212.115, the data on the lines for SDA Formulas Nos. 39, 40, and 40-A are revised to read as follows:

§ 212.115 Weights and specific gravities of specially denatured alcohol.

• • • • • • •

SDA Formula No.	Finished formula (gal.)	190° proof		192° proof		200° proof	
		Wt./gal. in air (pounds)	Sp. gr. in vac.	Wt./gal. in air (pounds)	Sp. gr. in vac.	Wt./gal. in air (pounds)	Sp. gr. in vac.
• • •	• • •	• • •	• • •	• • •	• • •	• • •	• • •
39	128.0	6.986	0.8255	6.953	0.8226	6.839	0.8186
• • •	• • •	• • •	• • •	• • •	• • •	• • •	• • •
40-1	100.1	6.795	.8162	6.778	.8140	6.611	.7941
40-2	100.1	6.795	.8162	6.778	.8140	6.611	.7941
40-3	100.1	6.795	.8162	6.778	.8140	6.611	.7941
40-4	100.1	6.795	.8162	6.778	.8140	6.611	.7941
40-5	100.35	6.797	.8164	6.780	.8162	6.613	.7943
40-6	100.1	6.795	.8162	6.778	.8140	6.611	.7941
40-7	100.0	6.795	.8162	6.778	.8140	6.611	.7941
40-8	100.25	6.795	.8162	6.778	.8140	6.611	.7941
40-A	100.4	6.804	.8172	6.787	.8150	6.620	.7952

• • • • • • •

[F.R. Doc. 67-13277; Filed, Nov. 20, 1967; 8:45 a.m.]

DEPARTMENT OF COMMERCE

Maritime Administration

[46 CFR Ch. II]

SUBSIDIZED OPERATORS

Guidelines for Payment

The Maritime Subsidy Board proposes for adoption as a "fair and reasonable" test for payment of operating-differential subsidy the guidelines contained in the award dated September 22, 1965, by the Special Panel concerning additional compensation on mechanized, semimechanized and retrofit vessels.

This panel, composed of Messrs. James Reynolds, Theodore Kheel, and Lane Kirkland, was formed to resolve manning and related issues arising from the mechanization and retrofitting of ships.

In line with the guidelines contained in the Special Panel's award, the Maritime Subsidy Board would recognize as fair and reasonable a base wage premium not in excess of 10 percent additional compensation for specified crew members on mechanized, semimechanized or retrofitted ships provided the following conditions are met:

1. Responsibilities and duties of the specified crew member have been expanded to the point that additional formal training of that crew member is required.

2. The specified crew member has completed an appropriate training program and is assigned to these duties.

3. The parties have agreed to a lesser complement than on conventional ships.

To be eligible for operating-differential subsidy, any additional compensation for service on mechanized, semimechanized or retrofitted ships would be required to meet the above standards.

Interested parties are invited to submit comments to the Secretary, Maritime Subsidy Board, by December 18, 1967. The Maritime Subsidy Board will consider these comments and take such action with respect thereto as may be deemed appropriate.

Dated: November 28, 1967.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 67-14066; Filed, Nov. 29, 1967; 9:15 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 67-CE-124]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Adrian, Mich.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

As a result of the development of a public use instrument approach procedure to serve Adrian, Mich., Municipal Airport, utilizing a privately owned radio beacon located on the airport as a navigational aid, it is necessary to designate a 700-foot floor transition area at Adrian, Mich., to protect aircraft executing this approach procedure.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (32 F.R. 2148), the following transition area is added:

ADRIAN, MICH.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Adrian Municipal Airport (latitude 41°52'10" N., longitude 84°04'30" W.); and within 2 miles each side of the 223° bearing from Adrian Municipal Airport, extending from the 6-mile radius area to 8 miles southwest of the airport.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958; 49 U.S.C. 1348.

Issued at Kansas City, Mo., on November 15, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 67-13902; Filed, Nov. 29, 1967; 8:47 a.m.]

Hazardous Materials Regulations Board

[49 CFR Part 170]

[Docket No. HM-1; Notice 67-1]

RULES OF PROCEDURE

Notice of Proposed Rule Making

On October 19, 1967 (32 F.R. 14569), the Department published a notice of the creation of the Hazardous Materials Regulations Board, and stated its composition and jurisdiction.

The function of the Board is to handle all matters relating to regulations (including special permits for waiver or exemption, issued under Title 18, U.S.C. 831–835 and title IV and section 902(h) of the Federal Aviation Act of 1958 (49 U.S.C. 1421–1430, and 1472(h)), for the shipment and transportation of hazardous materials.

Regulations of the Board, other than special permits, for the shipment and transportation of hazardous materials will be published in the FEDERAL REGISTER and in the Code of Federal Regulations. Regulations now contained in Parts 171–190 of Title 49 CFR and in Part 103 of the Federal Aviation Regulations (14 CFR Part 103) are now designated as the "Hazardous Materials Regulations of the Department of Transportation".

At the present time, regulations under Title 18, U.S.C. 831–835 are issued under procedures established by the Interstate Commerce Commission which was vested with this regulatory function before the effective date of the Department of Transportation Act. Similarly, regulations in Part 103 of the Federal Aviation Regulations are currently issued under Part 11 thereof (14 CFR Part 11). Section 12 of the Department of Transportation Act provides that regulations (including procedural regulations) issued in the exercise of powers, functions, and duties transferred by the Act shall continue in effect until modified, terminated, or superseded in the exercise of authority under that Act.

The purpose of this notice is to request public comment on procedures proposed for use in prescribing all hazardous materials regulations under the cited authority. The proposed rule would supersede the applicable procedural rules of the Interstate Commerce Commission and, so far as Part 11 of the Federal Aviation Regulations relates to Hazardous Materials Regulations, would supersede that part. The proposal would establish one procedure for the issuance of all of those regulations.

Interested persons are invited to participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, D.C. 20590.

Communications received before January 30, 1968, will be considered by the Board before taking final action on the notice. All comments will be available for examination by interested persons at the Office of the Secretary, both before and after the closing date for comments. The proposals contained in this notice may be changed in the light of comments received.

The proposed rule provides for general notice of proposed rule making, to be published in the FEDERAL REGISTER, except in cases in which the Board finds that notice is impractical, unnecessary, or contrary to the public interest, and except for interpretive rules, general statements of policy, and rules relating to organization, procedure, or practices. It also provides for the consideration of petitions for rule making, special permits, reconsideration of rules, and extensions of time to comment on notices of proposed rule making. It specifically provides that a petition for reconsideration does not, automatically, stay the effectiveness of a rule, but such a stay

may be ordered in the discretion of the Board.

Sections 556 and 557 of title 5, United States Code (formerly sections 7 and 8 of the Administrative Procedure Act) relating to the conduct of hearings on the record, would not apply to rule making under the proposed part. Therefore, hearings are not a required part of the rule-making procedure. However, hearings may be held, in the discretion of the Board, as a supplementary fact-finding procedure. Any hearing held would be nonadversary, with no formal pleadings, and any resultant rule would not necessarily be based exclusively on the record of the hearing.

This amendment is proposed under the authority of Title 18, U.S.C. sections 831–835, section 9 of the Department of Transportation Act (49 U.S.C. 1657), and title VI and section 902(h) of the Federal Aviation Act of 1958 (49 U.S.C. 1421–1430, and 1472(h)).

In consideration of the foregoing, it is proposed to amend Title 49 of the Code of Federal Regulations by adding the following new Part 170.

Issued in Washington, D.C., on November 13, 1967.

P. E. TRIMBLE,
Acting Commandant,
U.S. Coast Guard.

SAM SCHNEIDER,
Acting Administrator,
Federal Aviation Administration.

LOWELL K. BRIDWELL,
Administrator,
Federal Highway Administration.

A. SCHEFFER LANG,
Administrator,
Federal Railroad Administration.

PART 170—RULE-MAKING PROCEDURES OF THE HAZARDOUS MATERIALS REGULATIONS BOARD

Subpart A—General

Sec.
170.1 Applicability.
170.3 Initiation of rule making.
170.5 Participation in rule-making proceedings.
170.7 Regulatory docket.

Subpart B—Petitions for Rule Making

170.11 Filing of petitions for rule making.
170.13 Filing of petitions for special permits for waivers or exemptions.
170.15 Proceeding of petitions for rule making and special permits.

Subpart C—Procedures

170.21 General.
170.23 Contents of notices.
170.25 Petitions for extension of time to comment.
170.27 Consideration of comments received.
170.29 Additional rule-making proceedings.
170.31 Hearings.
170.33 Adoption of final rules.
170.35 Petition for rehearing or reconsideration of rule.

AUTHORITY: The provisions of this Part 170 issued under Title 18, U.S.C., secs. 831–835; sec. 9, Department of Transportation Act (49 U.S.C. 1657); title VI, sec. 902(h), Federal Aviation Act of 1958 (49 U.S.C. 1421–1430, 1472(h)).

Subpart A—General

§ 170.1 Applicability.

(a) This part prescribes general rule-making procedures that apply to the issue, amendment, and repeal of hazardous materials regulations under title 18, U.S.C. 831–835 and title VI and section 902(h) of the Federal Aviation Act of 1958 (49 U.S.C. 1421–1430 and 1472(h)). The regulations in this part are designated as the "Hazardous Materials Regulations" of the Department of Transportation.

(b) The Hazardous Materials Regulations Board, established by Department of Transportation Order 1100.11, dated July 27, 1967 (hereinafter referred to as the "Board") is composed of the Assistant Secretary for Research and Technology as Chairman; and the Commandant, U.S. Coast Guard, Federal Aviation Administrator, Federal Highway Administrator, and Federal Railroad Administrator, or their designees, as members. The General Counsel of the Department is the legal adviser to the Board and the Director of the Office of Hazardous Materials is the Secretary to the Board.

(c) The signature of the Board member issuing a notice or adopting a regulation for a mode of transportation determines the applicability of that notice or rule to that mode of transportation. Where more than one mode is involved, the requisite number of authorized signatures is included.

(d) Records of the Board relating to rule-making proceedings, including the regulatory docket maintained under § 170.7, are available for inspection as provided in Part 7 of the regulations of the Secretary of Transportation (Part 7 of this title).

§ 170.3 Initiation of rule making.

The Board initiates rule making on the motion of any of its members. The Board also considers the recommendations of other agencies of the U.S. Government and of interested persons.

§ 170.5 Participation in rule-making proceedings.

Any person may participate in rule-making proceedings by submitting written information or views. The Board may also allow any person to participate in additional rule-making proceedings, such as informal meetings or hearings, held with respect to any rule.

§ 170.7 Regulatory docket.

Records of the Board concerning rule-making actions, including notices of proposed rule making, comments received in response to those notices, petitions for rule making (including special permits for waiver or exemption), petitions for rehearing or reconsideration, grants and denials of special permits, denials of petitions for rule making, records of additional rule-making proceedings under § 170.29 and final rules are maintained in current docket form in the Department.

Subpart B—Petitions for Rule Making

§ 170.11 Filing of petitions for rule making.

(a) Any person may petition the Board to issue, amend, or repeal a rule.

(b) Each petition filed under this section must—

(1) Be submitted, in duplicate, to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, D.C. 20590.

(2) Set forth the text or substance of the rule or amendment proposed, or specify the rule that the petitioner seeks to have repealed as the case may be.

(3) Explain the interest of the petitioner in the action requested.

(4) Contain information and arguments to support the action sought.

§ 170.13 Filing of petitions for special permits for waivers or exemptions.

(a) Any person may petition the Board for a special permit for a waiver or exemption from any provision of Parts 171–190 of this chapter or Part 103 of Title 14 (14 CFR Part 103). The Board may issue the special permit whenever it determines that—

(1) The petitioner has proposed an alternative which would provide at least an equivalent degree of safety, and

(2) Compliance with that provision of the regulations is—

(i) Not possible;
(ii) Not practicable;
(iii) Unreasonable; or
(iv) Not in the public interest.

(b) Each petition must comply with the following:

(1) Unless good cause is shown, be submitted at least 60 days before the proposed effective date.

(2) Be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, D.C. 20590.

(3) Specify the regulatory provisions involved.

(4) State the justification for the permit, including reasons why the regulations are not appropriate, why the public interest would be served by the proposal, and the basis upon which the proposal would provide at least an equivalent degree of safety to that provided by the regulations concerned.

(5) Describe the proposal in detail, with drawings, plans, calculations, procedures, test results, previous approvals or permits, or other appropriate information. If specification containers or modified specification containers are proposed they must be described.

(6) State the chemical name, common name, hazard classification, form, quantity, properties, and characteristics of material covered by the proposal, including composition and percentage of each chemical if a solution or mixture.

(7) Describe any specific shipping or accident experience with the container type proposed.

(8) Name the proposed mode of transportation, and describe any special transport controls needed.

(9) State the name, address, and telephone number of the applicant, and, if tank motor vehicles are to be used, that of the motor carrier.

(10) Contain a statement or recommendation regarding any changes to the regulations which would be desirable to obviate the need for similar special permits.

§ 170.15 Processing of petitions for rule making and special permits.

(a) *General.* Each petition received under this subpart is referred to the Board for such action as its members consider necessary or desirable. Unless otherwise directed by the Board, no public hearing, argument, or other proceeding is held directly on a petition before its disposition under this section.

(b) *Grants.* If the petition meets the applicable requirements and the Board finds that adequate justification exists, the Board issues the special permit under this subpart or initiates rule-making action under Subpart C of this part.

(c) *Denials.* If the petition does not meet the applicable requirements, or the Board finds that adequate justification does not exist, the petition is denied.

(d) *Notification.* A notice of each grant or denial of a petition is issued to the petitioner.

Subpart C—Procedures

§ 170.21 General.

(a) Unless the Board finds, for good cause, that notice is impracticable, unnecessary, or contrary to the public interest, a notice of proposed rule making is issued and interested persons are invited to participate in the rule-making proceedings with respect to each substantive rule.

(b) Unless the Board determines that notice and public rule-making proceedings are desirable, interpretive rules, general statements of policy, and rules relating to organization, procedure, or practice are prescribed as final without notice or other public rule-making proceedings.

(c) In its discretion, the Board may invite interested persons to participate in the rule-making proceedings described in § 170.29.

§ 170.23 Contents of notices.

(a) Each notice of proposed rule making is published in the FEDERAL REGISTER, unless all persons subject to it are named therein and are served with a copy.

(b) Each notice, whether published in the FEDERAL REGISTER or served, includes—

(1) A statement of the time, place, and nature of the proposed rule-making proceeding;

(2) A reference to the authority under which it is issued;

(3) A description of the subjects and issues involved or the substance or terms of the proposed rule;

(4) A statement of the time for the submission of written comments and the number of copies required; and

(5) A statement of how and to what extent interested persons may participate in the proceeding.

§ 170.25 Petitions for extension of time to comment.

(a) Any person may petition the Board for an extension of time to submit comments in response to a notice of proposed rule making. The petition must be submitted in duplicate not later than 7 days before expiration of the time stated in the notice. The filing of the petition does not automatically extend the time for petitioner's comments.

(b) The Board grants the extension only if it is in the public interest and the petitioner shows good cause for the extension. If an extension is granted, it is granted to all persons by publication in the FEDERAL REGISTER.

§ 170.27 Consideration of comments received.

All timely comments are considered before final action is taken on a rule-making proposal. Late filed comments may be considered so far as practicable.

§ 170.29 Additional rule-making proceedings.

The Board may initiate any further rule-making proceedings that it finds necessary or desirable. For example, it may invite interested persons to present oral arguments, participate in conferences, appear at informal hearings, or participate in any other proceeding.

§ 170.31 Hearings.

(a) Sections 556 and 557 of title 5, United States Code (relating to the conduct of hearings required to be on the record) do not apply to hearings held under this part. As a factfinding proceeding, each hearing is nonadversary and there are no formal pleadings or adverse parties. Any rule issued in a case in which a hearing is held is not necessarily based exclusively on the record of the hearing.

(b) The Board designates one or more of its members or a representative to conduct any hearing held under this part. The General Counsel or a member of his staff serves as legal officer at the hearing.

§ 170.33 Adoption of final rules.

If a Board adopts a rule, it is published in the FEDERAL REGISTER, unless all persons subject to it are named and are served with a copy.

§ 170.35 Petition for rehearing or reconsideration of rule.

(a) Any interested person may petition the Board for reconsideration of any rule issued under this part. Such a petition must be transmitted, in duplicate, to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, D.C. 20590, at least 10 days before the effective date of the rule. Petitions filed after that time will be considered as petitions filed under § 170.11. The petition must contain a brief statement of the complaint and an explanation as to why compliance with the rule is not possible, is not practicable, is unreasonable, or is not in the public interest.

(b) If the petitioner requests the consideration of additional facts, he must state the reason they were not presented to the Board within the allotted time.

(c) The Board does not consider repetitious petitions.

(d) Unless the Board otherwise provides, the filing of a petition under this section does not stay the effectiveness of a rule.

[F.R. Doc. 67–14060; Filed, Nov. 30, 1967; 8:48 a.m.]

Office of the Secretary

[49 CFR Part 239]

[OST Docket No. 9; Notice No. 5A]

STANDARD TIME ZONE BOUNDARIES

Yukon Standard Time Zone

On August 9, 1967, the Department of Transportation issued Notice No. 5 (32 F.R. 11479) which proposed the establishment of new standard time zone boundaries for the States of Alaska and Hawaii. Included in the notice was a proposal for a new U.S. standard time zone, to be known as the Yukon standard time zone. It was proposed pursuant to the Uniform Time Act of 1966 (15 U.S.C. 261–265) which states in part:

"• • • the territory of the United States shall be divided into eight zones • • •. [T]he standard time of the sixth zone [shall be based on] the one hundred and thirty-fifth [degree of longitude west from Greenwich]. (Section 4(a))

The notice proposed that the entire area between 127°30′ W. longitude and 141° W. longitude be included within the new Yukon time zone. Under this proposal, the cities of Juneau and Ketchikan would observe Yukon time, a time 1 hour behind the Pacific time observed in Seattle and San Francisco.

Considerable opposition was expressed to the original proposal by citizens, chambers of commerce, and commercial enterprises. Their comments pointed out that historically Juneau and Ketchikan have been closely aligned with the western coast of the continental United States through commerce, shipping, and general transportation, and that the change suggested would work serious hardship on the people and businesses of the area. Specifically, it was pointed out that the proposal would reduce the daily period for conducting business between southeastern Alaska and certain continental West Coast cities from 8 hours to 6 hours.

In consideration of these comments, the Department of Transportation hereby revises its original proposal with respect to the establishment of a Yukon time zone and proposes instead that only that portion of Alaska which falls between 137° W. longitude and 141° W. longitude be included within the new Yukon standard time zone. Under the proposal, all of Alaska east of the 137° W. longitudinal line would be in the Pacific standard time zone. In accordance with the foregoing, it is proposed to amend Part 239 of Title 49 of the Code of Federal Regulations by adding a new § 239.11 reading as follows:

§ 239.11 Yukon standard time.

The sixth standard time zone, the Yukon time zone, includes all territory of the United States between 137° W. longitude and 141° W. longitude.

Interested persons are invited to participate in the making of this proposed rule by submitting such written data, views, and arguments as they may desire. Communications should identify the regulatory docket or notice number (see above) and be submitted in duplicate to Docket Clerk: Office of the General Counsel; Department of Transportation; Washington, D.C. 20590.

Communications received on or before December 31, 1967, and all other communications received before the date of this notice, will be considered by the Department before taking final action. All docketed comments will be available for examination by interested persons, both before and after the closing date for comments.

These proceedings will not concern adherence to or exemption from advanced (daylight saving) time during the summer months. The Uniform Time Act requires observance of advanced time within established time zones from the last Sunday in April to the last Sunday in October, but permits an individual State to exempt itself, by law, from observing advanced time within the State.

This proposal is issued under the authority of the Act of March 19, 1918, ch. 24, as amended by the Uniform Time Act of 1966 (15 U.S.C. 260–267); section 6(e)(8) of the Department of Transportation Act (80 Stat. 939, 49 U.S.C. 1655); and 49 CFR Part 5.

Issued in Washington, D.C., on November 24, 1967.

JAMES E. ROBSON,
General Counsel.

[F.R. Doc. 67-13993; Filed, Nov. 29, 1967; 8:47 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[C-2656]

COLORADO

Notice of Classification of Public Lands for Multiple-Use Management

NOVEMBER 24, 1967.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18) and to the regulations in 43 CFR, Parts 2410 and 2411, the public lands within the areas described below together with any lands therein that may become public lands in the future are hereby classified for multiple-use management. Publication of this notice segregates all the described lands from appropriation only under the agricultural land laws (43 U.S.C. Chs. 7 and 9; 25 U.S.C. 334); from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171); the Public Land Sale Act of September 19, 1964 (78 Stat. 988, 43 U.S.C. 1421–27); and Small Tract Act of June 1, 1938, as amended (43 U.S.C. 682 (a) and (b)). The land shall remain open to all other applicable forms of appropriation including the mining and mineral leasing or material sale laws, exchanges under section 8 of Taylor Grazing Act (48 Stat. 1269), and Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869, 869–1 to 869–4). As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269) as amended which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. No protests or objections were received following publication of a notice of proposed classification (32 F.R. 13387) or at the public hearing held on October 19, 1967, at Grand Junction, Colo. The record showing the comments received and other information is on file and can be examined in the Grand Junction District Office, Grand Junction, Colo. The public lands affected by this classification are located within the following described area and are shown on a map designated by Serial No. C–2656 in the Grand Junction District Office, Bureau of Land Management, Federal Building, Fourth and Rood, Grand Junction, Colo. 81502 and at the Land Office, Bureau of Land Management, Room 15019, Federal Building, 1961 Stout Street, Denver, Colo. 80202.

UTE PRINCIPAL MERIDIAN, COLORADO

MESA COUNTY

T. 1 N., R. 2 W.,
Secs. 18, 19, 20, 29, and 30.
T. 1 N., R. 3 W.,
Secs. 7, 8, 9, 10, and 11, those portions south of the Colorado River;
Secs. 13 to 36, inclusive.

SIXTH PRINCIPAL MERIDIAN, COLORADO

MESA COUNTY

T. 10 S., R. 103 W.,
Secs. 7 and 8, 15 to 19 inclusive, south of Colorado River;
Secs. 20, 21, and 22;
Secs. 27 to 34 inclusive.
T. 10 S., R. 104 W.,
Secs. 23 to 26 inclusive, south of Colorado River;
Secs. 32 and 33 south of Colorado River;
Secs. 34, 35, and 36.
T. 11 S., R. 102 W.,
Secs. 13 to 30 inclusive;
Sec. 32 all that portion lying northeast of a diagonal line connecting the northwest corner and the southeast corner;
Secs. 33 to 36 inclusive.
T. 11 S., R. 103 W.,
Secs. 2 to 11 inclusive;
Secs. 13 to 31 inclusive;
Secs. 32, 33, and 34 north of uppermost rim of Sieber Canyon.
T. 11 S., R. 104 W.,
Secs. 1, 2, and 3;
Secs. 4, 5, 7, and 8 south of Colorado River;
Secs. 9 to 36 inclusive.
T. 12 S., R. 103 W.,
Secs. 6 and 7 that part north of Sieber Canyon rim.
T. 12 S., R. 104 W.,
Secs. 1 to 9, inclusive;
Secs. 10, 11, and 12 north of Little Dolores River Canyon rim;
Secs. 16, 17, and 18 north of rim of Little Dolores River.

The areas described aggregate approximately 78,088 acres of public lands.

3. For a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER, interested parties may submit comments to the Secretary of the Interior, LLM, 721, Washington, D.C. 20240 (43 CFR 2411.1–2(d)).

E. I. ROWLAND,
State Director.

[F.R. Doc. 67-13983; Filed, Nov. 29, 1967; 8:46 a.m.]

[C-2657]

COLORADO

Notice of Classification of Public Lands for Multiple-Use Management

NOVEMBER 24, 1967.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18) and to the regulations in 43 CFR, Parts 2410 and 2411, the public lands within the areas described below together with any lands therein that may become public lands in the future are hereby classified for multiple-use management. Publication of this notice segregates all the described lands from appropriation only under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869, 869–1 to 869–4); the Agricultural Land Laws (43 U.S.C. Chs. 7 and 9, 25 U.S.C. sec. 334); from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171); the Public Land Sale Act of September 19, 1964 (78 Stat. 988, 43 U.S.C. 1421–27); and Small Tract Act of June 1, 1938, as amended (43 U.S.C. 682 (a) and (b)). The land shall remain open to all other applicable forms of appropriation including the mining and mineral leasing or material sale laws, exchanges under section 8 of Taylor Grazing Act (43 Stat. 1269). As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269) as amended which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. No protests or objections were received following publication of a notice of proposed classification (32 F.R. 13387) or at the public hearing held on October 19, 1967, at Grand Junction, Colo. The record showing the comments received and other information is on file and can be examined in the Grand Junction District Office, Grand Junction, Colo. The public lands affected by this classification are located within the following described areas and are shown on a map designated by Serial No. C–2657 in the Grand Junction District Office, Bureau of Land Management, Federal Building, Fourth and Rood, Grand Junction, Colo. 81502 and at the Land Office, Bureau of Land Management, Room 15019 Federal Building, 1961 Stout Street, Denver, Colo. 80202.

SIXTH PRINCIPAL MERIDIAN, COLORADO

MESA COUNTY

T. 12 S., R. 103 W.,
Secs. 5 and 6 that portion in Sieber Canyon;
Sec. 7 that portion in Sieber Canyon, that portion lying south and west of the north and east rim of the Little Dolores River;
Secs. 17 and 18 those portions lying south and west of the north and east rim of the Little Dolores River;
Sec. 19;
Secs. 20 and 21 those portions lying south and west of the north and east rim of the Little Dolores River;
Sec. 29, W½W½;
Secs. 30 and 31;
Sec. 32, W½W½ (lot 4), SE¼NW¼, NE¼SW¼, Tract 41 (lots 5 and 6).
T. 12 S., R. 104 W.,
Secs. 10, 11, and 12 those portions lying south of the north rim of Little Dolores River;
Secs. 13, 14, and 15;
Secs. 16, 17, and 18 those portions lying south of the north rim of Little Dolores River;
Secs. 19 to 36, inclusive.

T. 13 S., R. 108 W.,
Sec. 3, W½SW¼;
Secs. 5 to 9, inclusive;
Sec. 10, W½;
Sec. 15, N½NW¼ and those portions of S½NW¼ and SW¼ lying west of the continuous rim in these subdivisions;
Secs. 16 to 21, inclusive;
Sec. 22, W½W¼ that portion lying west of the continuous rim;
Sec. 28, NW¼NE¼, NW¼, N½SW¼;
Secs. 29 to 31, inclusive;
Sec. 32, W½, W½E½.
T. 13 S., R. 104 W.,
Secs. 1 to 36, inclusive.
T. 14 S., R. 108 W.,
Sec. 5, lots 2, 3, and 4;
Sec. 6, lots 1, 2, 3, and 4;
Secs. 26 to 32, inclusive;
Secs. 33 and 34 above Unaweep Rim.
T. 14 S., R. 104 W.,
Secs. 1 to 33, inclusive;
Secs. 33 to 35, inclusive, above Unaweep Rim;
Sec. 36.
T. 15 S., R. 108 W.,
Secs. 3 to 6, inclusive, and sec. 8 those portions above Unaweep Rim.
T. 15 S., R. 104 W.,
Secs. 1, 2, 4, 5, 6, 11, and 12 those portions above Unaweep Rim.

The areas described aggregate approximately 53,273 acres of public land.

3. For a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER, interested parties may submit comments to the Secretary of the Interior, LLM, 721, Washington, D.C. 20240 (43 CFR 2411.1-2(d)).

E. I. ROWLAND,
State Director.

[F.R. Doc. 67-13984; Filed, Nov. 29, 1967; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

SUGARCANE IN PUERTO RICO

1968-69 Crop Proportionate Shares; Notice of Hearing

Notice is hereby given that the Secretary of Agriculture, acting pursuant to the Sugar Act of 1948, as amended, is preparing to conduct a public hearing to receive views and recommendations from all interested persons on the possible need for establishing proportionate shares for the 1968-69 sugarcane crop in Puerto Rico.

In accordance with the provisions of paragraph (1), subsection (b) of section 302 of the Sugar Act of 1948, as amended, the Secretary must determine for each crop year whether the production of sugar from any crop of sugarcane in Puerto Rico will, in the absence of proportionate shares, be greater than the quantity needed to enable the area to meet its quota and provide a normal carryover inventory, as estimated by the Secretary for such area for the calendar year during which the larger part of the sugar from such crop normally would be marketed. Such determination may be made only after due notice and opportunity for an informal public hearing.

The hearing on this matter will be conducted in Room 3W, Administration Building, U.S. Department of Agriculture, Washington, D.C., beginning at 10 a.m. on December 19, 1967.

Views and recommendations are desired on all phases of the proportionate share program. They may be submitted in writing, in triplicate, at the hearing, or may be mailed to the Director, Sugar Policy Staff, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, postmarked not later than December 29, 1967. Interested persons will be given the opportunity at the hearing to appear and submit orally data, views and arguments in regard to the establishment of proportionate shares.

Restrictions on the marketing of sugarcane in Puerto Rico have not been in effect since the 1955-56 crop. The area has not marketed all of its mainland basic sugar quota in recent years. Prospects for the 1967-68 crop indicate that production will again fall short of the area's mainland basic quota.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places in a manner convenient to the public business (7 CFR 1.27(b)).

Signed at Washington, D.C., on November 24, 1967.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 67-14008; Filed, Nov. 29, 1967; 8:48 a.m.]

Packers and Stockyards Administration

[P. & S. Docket No. 143]

MARKET AGENCIES AT OMAHA UNION STOCK YARDS, OMAHA, NEBR.

Notice of Petition To Vacate Order and Dismiss Proceeding

Pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), a basic order was issued in the case of "In Re Market Agencies at Omaha Union Stock Yards, Omaha, Nebr.," respondents (P. & S. Docket No. 143), on November 19, 1926, prescribing the rates and charges to be assessed by the respondents for the services rendered by them at the Omaha Union Stock Yards, Omaha, Nebr. Such rates and charges have been modified or extended from time to time by subsequent orders issued in the proceeding. The latest such order was issued on December 6, 1965, continuing in effect to and including December 31, 1967, unless modified or extended by further order before the latter date, an order issued on December 26, 1963, prescribing the rates and charges to be assessed by the respondents.

On November 3, 1967, a petition was filed on behalf of respondents requesting that the rate order in this proceeding be vacated and the proceeding dismissed in conformity with § 203.11 (9 CFR 203.11) of the statements of general policy under the Packers and Stockyards Act. The petition reads as follows:

This is a rate proceeding under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.). Respondents are now operating under orders issued on December 20, 1963 (28 A.D. 1859) and December 6, 1965 (24 A.D. 1561). The current schedule of rates and charges became effective January 1, 1964 and is to remain in effect, unless modified or extended by further order, to and including December 31, 1967.

The basic rate order in this proceeding was issued November 19, 1926. During the period since the basic rate order has been in effect Respondents have followed the procedure, prior to filing of a petition for modification of the basic order, of seeking an advance indication of the attitude of the Packers and Stockyards Administration toward the changes to be proposed. Information in support of such proposals has been submitted and a tentative agreement is reached before a formal petition for modification has been filed.

Respondents do not believe economic conditions in the industry, the marketing structure in the trade territory, or any other circumstance necessitates the continuation of the formal procedure for obtaining modification in the rates and charges assessed by Respondents.

It is requested therefore that in conformity with the policy expressed in section 203.11 of the statements of general policy under the Packers and Stockyards Act (9 CFR 203.11) that the rate order in this proceeding be vacated and the proceeding be dismissed.

Any interested person may file with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, within 15 days after the publication of this notice in the FEDERAL REGISTER, written data, views, comments, or arguments with respect to the petition filed by the respondents.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 24th day of November 1967.

DONALD A. CAMPBELL,
Acting Administrator, Packers and Stockyards Administration.

[F.R. Doc. 67-14009; Filed, Nov. 29, 1967; 8:48 a.m.]

Office of the Secretary

NORTH CAROLINA

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the State of North Carolina, a natural disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

NORTH CAROLINA

Gates.

Hertford.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1968, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 24th day of November 1967.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 67-13981; Filed, Nov. 29, 1967; 8:46 a.m.]

DEPARTMENT OF COMMERCE

Maritime Administration

[Report 16]

LIST OF FOREIGN FLAG VESSELS ARRIVING IN NORTH VIETNAM ON OR AFTER JANUARY 25, 1966

SECTION 1. The President has approved a policy of denying the carriage of U.S. Government-financed cargoes shipped from the United States on foreign-flag vessels which called at North Vietnam ports on or after January 25, 1966.

The Maritime Administration is making available to the appropriate U.S. Government Departments the following list of such vessels which arrived in North Vietnam ports on or after January 25, 1966, based on information received through November 16, 1967. This list does not include vessels under the registration of countries, including the Soviet Union and Communist China, which normally do not have vessels calling at U.S. ports.

FLAG OF REGISTRY NAME OF SHIP	Gross tonnage
Total, all flags (47 ships)	321,954
British (13 ships)	70,102
Ardrossmore	5,820
Ardrowan	7,300
Dartford	2,739
Greenford	2,964
Isabel Erica	7,105
Kingford	3,911
*Rochford	3,324
**Rosetta Maud (trip to North Vietnam under ex-name, Ardtara—British).	5,795
Santa Granda	7,229
Shienfoon	7,127
Shirley Christine	6,724
*Taipleng	5,676
Yungfutary	5,388
Cypriot (6 ships)	43,101
Acme	7,173
Agenor (trips to North Vietnam—Greek)	7,139
Amfiali	7,110
Amfitriti	7,147
Amon	7,229
Antonia II	7,303
Italian (1 ship)	8,380
*Agostino Bertani	8,380
Maltese (1 ship)	7,304
Amalia	7,304
Panamanian:	
**Salamanca (trips to North Vietnam under ex-name, Milford—British).	1,889
Polish (25 ships)	191,178
Andrzej Strug	6,919
Beniowski	10,443
Djakarta	6,915
Energetyk	10,876
*Florian Ceynowa	6,784
General Sikorski	6,785
Hanka Sawicka	6,944
Hanoi	6,914
Hugo Kollataj	3,755
Jan Matejko	6,748
*Janek Krasicki	6,904
Josef Conrad	8,730
Kapitan Kosko	6,629
Kochanowski	8,231
Konopnicka	9,690
Krasowski	10,368
Lelewel	7,817
Marceli Nowotko	6,660
Marian Buczek	7,053
Norwid	5,512
Phenian	6,923
Stefan Okrzeja	6,620
Transportowiec	10,854
Wieniawski	9,190
Wladyslaw Broniewski	6,919

See footnote at end of document.

SEC. 2. In accordance with approved procedures, the vessels listed below which called at North Vietnam on or after January 25, 1966, have reacquired eligibility to carry U.S. Government-financed cargoes from the United States by virtue of the persons who control the vessels having given satisfactory certification and assurance:

(a) that such vessels will not, thenceforth, be employed in the North Vietnam trade so long as it remains the policy of the U.S. Government to discourage such trade and;

(b) that no other vessels under their control will thenceforth be employed in the North Vietnam trade, except as provided in paragraph (c) and;

(c) that vessels under their control which are covered by contractual obligations, including charters, entered into prior to January 25, 1966, requiring their employment in the North Vietnam trade shall be withdrawn from such trade at the earliest opportunity consistent with such contractual obligations.

FLAG OF REGISTRY	Number of ships
a. Since last report: None.	
b. Previous reports:	
British	1

SEC. 3. The following number of vessels have been removed from this list since they have been broken up.

FLAG OF REGISTRY	Broken up
British	1
Greek	1

*Added to Report No. 15 appearing in the FEDERAL REGISTER issue of September 28, 1967.
**Ships appearing on the list that have been scrapped or have had changes in name and/or flag of registry.

Dated November 21, 1967.

By Order of the Acting Maritime Administrator.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 13994; Filed, Nov. 29, 1967; 8:47 a.m.]

National Bureau of Standards

NATIONAL BUREAU OF STANDARDS RADIO STATIONS

Notice of Standard Frequency and Time Broadcasts

Notice is hereby given that the carrier frequencies of broadcasts by NBS stations which are coordinated by the Bureau International de l'Heure (BIH) under the Coordinated Universal Time (UTC) system will be offset during 1968 from their nominal values referred to the NBS frequency standard by −300 parts in 10^{10}. This represents no change from the 1967 value. The offset value for 1968 was announced by the BIH on November 2, 1967. As a result of this offset, the interval between timing pulses for the UTC system will be longer than a second by 300 parts in 10^{10}. At the present time, stations on the UTC system whose carrier frequencies are offset according to this system include NBS stations WWV and WWVL, Fort Collins, Colo., and station WWVH, Maui, Hawaii.

Notice is also hereby given in accordance with NBS policy that there will be no adjustment on January 1, 1968 in the phases of time signals emitted from the above stations.

Notice is also hereby given that there will be no adjustment on January 1, 1968 in the phase of seconds pulses emitted from radio station WWVB, Fort Collins, Colo., which is coordinated by the BIH on the Stepped Atomic Time (SAT) system.

Although no phase adjustments are scheduled for January 1, 1968, such adjustments are sometimes needed to ensure that the emitted pulses from all stations will remain within about 100 ms of the UT2 scale. They are made because of changes in the rate of rotation of the earth with which the UT2 scale is associated. NBS obtains daily UT2 information from weekly forecasts of extrapolated UT2 clock readings provided by

the U.S. Naval Observatory in accordance with the close cooperation maintained between the two agencies.

A. V. ASTIN,
Director.

NOVEMBER 20, 1967.

[F.R. Doc. 67-13990; Filed, Nov. 20, 1967; 8:47 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ACTING DEPUTY ASSISTANT SECRETARY FOR RENEWAL ASSISTANCE AND ACTING DEPUTY ASSISTANT SECRETARY FOR HOUSING ASSISTANCE

Designations

A. *Acting Deputy Assistant Secretary for Renewal Assistance.* The officers appointed to the following listed positions are hereby designated to serve as Acting Deputy Assistant Secretary for Renewal Assistance during the absence of the Deputy Assistant Secretary for Renewal Assistance, with all the powers, functions, and duties redelegated or assigned to the Deputy Assistant Secretary for Renewal Assistance: *Provided*, That no officer is authorized to serve as Acting Deputy Assistant Secretary for Renewal Assistance unless all other officers whose position titles precede his in this designation are unable to act by reason of absence:

1. General Deputy, Renewal Assistance Administration.

2. Director, Program Management Division, Renewal Assistance Administration.

3. Chief Counsel, Renewal Assistance Administration.

B. *Acting Deputy Assistant Secretary for Housing Assistance.* The officers appointed to the following listed positions are hereby designated to serve as Acting Deputy Assistant Secretary for Housing Assistance during the absence of the Deputy Assistant Secretary for Housing Assistance, with all the powers, functions, and duties redelegated or assigned to the Deputy Assistant Secretary for Housing Assistance: *Provided*, That no officer is authorized to serve as Acting Deputy Assistant Secretary for Housing Assistance unless all other officers whose position titles precedes his in this designation are unable to act by reason of absence:

1. General Deputy, Housing Assistance Administration.

2. Deputy Director, Management Division, Housing Assistance Administration.

C. *Supersedure.* These designations supersede the designation and order of precedence published at 31 F.R. 9141, July 2, 1966, as amended at 32 F.R. 13150, Sept. 15, 1967, and 32 F.R. 13631, Oct. 4, 1967.

(Secretary's delegation effective July 1, 1966, 31 F.R. 8964, 8965, June 29, 1966, as amended)

Effective date. These designations shall be effective as of November 24, 1967.

DON HUMMEL,
Assistant Secretary for Renewal and Housing Assistance.

[F.R. Doc. 67-13997; Filed, Nov. 29, 1967; 8:47 a.m.]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 67-85]

JAMES RIVER

Notice of Closure to Navigation During Launching of the "Charleston"

By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by 49 CFR 1.4 (32 F.R. 5606) and Executive Order 10173 as amended by Executive Orders 10277, 10352, and 11249, I hereby affirm for publication in the FEDERAL REGISTER the order of E. C. Allen, Jr., Rear Admiral, U.S. Coast Guard, Commander, 5th Coast Guard District, who has exercised authority as District Commander, such order reading as follows:

SPECIAL NOTICE JAMES RIVER

Under the authority of Title II of the Espionage Act of June 15, 1917, 40 Stat. 220, 50 U.S.C. 191 and Executive Order 10173 as amended, I declare that from 10:30 a.m., e.s.t., until 2:30 p.m., e.s.t., Saturday, December 2, 1967, the following area is a security zone and I order that it be closed to any person or vessel due to the launching of the "Charleston" (AKA-113):

The water of the James River, Norfolk-Newport News Harbor, Va., within the coordinates of latitude 36°59'34" N., longitude 76°26'58" W. at the shoreline of Newport News, thence southwesterly 500 yards to latitude 36°59'37" N., longitude 76°-27'10" W., thence southeasterly to latitude 36°59'48" N., longitude 76°26'41" W., thence easterly to Newport News Shipbuilding Co. Pier 8 Light (USCG Light List No. 3037).

No person or vessel may remain in or enter this security zone.

The Captain of the Port, Hampton Roads Area, Va., shall enforce this order.

The Captain of the Port may be assisted by employees and facilities of any State or political subdivision thereof or any Federal agency.

For violation of this order Title II of the Espionage Act of June 15, 1917 (40 Stat. 220 as amended, 50 U.S.C. 193), provides:

"If any owner, agent, master, officer, or person in charge, or any member of the crew of any such vessel fails to comply with any regulation or rule issued or order given under the provisions of this chapter, or obstructs or interferes with the exercise of any power conferred by this chapter, the vessel, together with her tackle, apparel, furniture, and equipment, shall be subject to seizure and forfeiture to the United States in the same manner as merchandise is forfeited for violation of the customs revenue laws; and the person guilty of such failure, obstruction, or interference shall be punished by imprisonment for not more than 10 years and may, in the discretion of the court, be fined not more than $10,000."

"If any other person knowingly fails to comply with any regulation or rule issued or order given under the provisions of this chapter, or knowingly obstructs or interferes with the exercise of any power conferred by this chapter, he shall be punished by imprisonment for not more than 10 years and may, at the discretion of the court, be fined not more than $10,000."

Dated: November 24, 1967.

W. J. SMITH,
Admiral, U.S. Coast Guard, Commandant.

[F.R. Doc. 67-14003; Filed, Nov. 29, 1967; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 13885, etc.]

U.S.-CARIBBEAN-SOUTH AMERICA ROUTE INVESTIGATION (U.S.-CARIBBEAN PART)

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled matter is assigned to be held on January 10, 1968, at 10 a.m., e.s.t., in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the Board.

Dated at Washington, D.C., November 24, 1967.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 67-14009; Filed, Nov. 29, 1967; 8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 17234 etc.; FCC 67M-1971]

CATV OF ROCKFORD, INC., ET AL.

Statement and Order After Further Prehearing Conference

In re petitions by: CATV of Rockford, Inc., Rockford, Ill., Docket No. 17234, File Nos. CATV 100-23, 100-39; Rockford Community Television, Inc., Loves Park, Ill., Docket No. 17235, File No. CATV 100-68; TV Cable Company of Stephenson County, Freeport, Ill., Docket No. 17236, File No. CATV 100-105; Beloit Community Television Services, Inc., Beloit, Wis., Docket No. 17237, File No. CATV 100-82; Television Wisconsin, Inc., Whitewater, Wis., Docket No. 17238, File No. CATV 100-26; Whitewater Cable Corp., Whitewater, Wis., Docket No. 17239, File No. CATV 100-37; Jefferson Cable Corp., Jefferson, Wis., Docket No. 17240, File No. CATV 100-51; Total TV, Inc., Janesville, Wis., Docket No. 17241, File No. CATV 100-13; for authority pursuant to § 74.1107 to serve and operate CATV systems in the Milwaukee, Wis., Market (24), Madison, Wis., Market (80), and Rockford, Ill., Market (99).

At today's conference the hearing was rescheduled from November 27, 1967, to February 26, 1968 (when no evidence will be taken) and March 11, 1968.

So ordered.

Issued: November 22, 1967.

Released: November 24, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13967; Filed, Nov. 29, 1967; 8:45 a.m.]

[Docket Nos. 17871, 17872; FCC 67-1256]

CITY OF LAWRENCE, MASS. AND FOUR STAR AVIATION, INC.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of city of Lawrence, Mass., Docket No. 17871, File No. 173-A-L-87; Four Star Aviation, Inc., Docket No. 17872, File No. 175-A-L-87; for aeronautical advisory station to serve the Lawrence Municipal Airport, North Andover, Mass.

1. The Commission's rules (§ 87.251 (a)) provide that only one aeronautical advisory station may be authorized to operate at a landing area. The above-captioned applications both seek Commission authority to operate an aeronautical advisory station at the Lawrence Municipal Airport, North Andover, Mass., and, therefore, are mutually exclusive. Accordingly, it is necessary to designate the applications for hearing. Except for the issues specified herein each applicant is otherwise qualified.

2. In view of the foregoing, *It is ordered*, That pursuant to the provisions of section 309(e) of the Communications Act of 1934, as amended, that the above-captioned applications are hereby designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent order on the following issues:

(a) To determine which applicant would provide the public with better aeronautical advisory service based on the following considerations:

(1) Location of the fixed-base operation and proposed radio station in relation to the landing area and traffic patterns;

(2) Hours of operation;

(3) Personnel available to provide advisory service;

(4) Experience of applicant and employees in aviation and aviation communications;

(5) Ability to provide information pertaining to primary and secondary communications as specified in § 87.257 of the Commission's rules;

(6) Proposed radio system including control and dispatch points; and

(7) The availability of the radio facilities to other, fixed-base operators.

(b) To determine in light of the evidence adduced on the foregoing issues which, if either, of the applications should be granted.

3. *It is further ordered*, That to avail themselves of an opportunity to be heard the city of Lawrence and Four Star Aviation, Inc., pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for hearing and present evidence on the issues specified in this order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

Adopted: November 15, 1967.

Released: November 24, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13968; Filed, Nov. 29, 1967; 8:45 a.m.]

[Docket No. 13292 etc.; FCC 67M-1944]

NEWS-SUN BROADCASTING CO. ET AL.

Memorandum Opinion and Order Scheduling Hearing

In re applications of the News-Sun Broadcasting Co., Waukegan, Ill., Docket No. 13292, File No. BPH-2543; Edward Walter Piancsek and Jerome K. Westerfield, Des Plains, Ill., Docket No. 13940, File No. BPH-3201; Maine Township FM, Inc., Des Plaines, Ill., Docket No. 17242, File No. BPH-4821; for construction permits.

1. The Hearing Examiner has under consideration the motions to quash notice to take deposition filed on November 3, 1967, and November 2, 1967, by News-Sun Broadcasting Co. and Piancsek and Westerfield, respectively, and the opposition thereto filed on November 7, 1967, by Maine Township FM, Inc. The request of Maine for acceptance of its opposition to the motions to quash will be accepted. It does offer use of the alternative of written interrogatories and counsel may wish to explore this offer informally.

2. By order released June 6, 1967, the issues were enlarged to include an adequacy of staff issue against Maine Township FM, Inc. In this order it was noted "Reliance is also placed upon the agreement of local citizens to appear on and assist in programs. Maine Township includes a list of programs with the names of those who will assist in presenting them, but adds the cautionary footnote that the 'names of individuals are illustrative of those who have agreed to assist Maine where their talents and background will be best utilized. It is not firmly established that each will be matched to the above programs, only that each when contacted was willing to assist in the programing.' As part of its evidentiary presentation under this issue, by agreement of all parties, Maine on August 17, 1967, filed a notice to take depositions and on September 18, 1967, a "Modification of Notice" was filed adding a further deponent and advising that Mr. Bert W. Ball would be unable to appear at the scheduled deposition session. The depositions were taken pursuant to the modified notice on September 20 and 21, 1967. On October 27, 1967 the instant notice to take deposition was served proposing to now take the deposition of Mr. Ball on November 20, 1967, at Park Ridge, Ill., relative to his proposed participation in station programing. The sole basis asserted for now taking this testimony by deposition is that the testimony will be brief and the deposition would save expense and time over the alternative of bringing Mr. Ball to Washington for such brief testimony.

3. The motions to quash assert that the need for Mr. Ball's deposition being based solely on the existence of an adequacy of staff issue, no sufficient showing of need to take deposition has been made as required under the Commission's rules. It is also asserted that "the taking of depositions the second time would be an unwarranted imposition upon other parties and their counsel" and should not be permitted and that Commission precedent (citing Abacoa Radio Corporation, 1 RR 2d, 736) establishes that depositions may not be taken over the objections of a party merely for the convenience of the witness or a party.

4. The instant notice to take deposition reflects no basis of need for eliciting this testimony by deposition rather than by direct testimony other than for the convenience of the witness. Considerations of equity alone require that it be ordered that the deposition shall not be taken. Maine would impose the burden of a deposition proceeding in Park Ridge, Ill., on the other three parties to the proceeding to avoid the need of bringing a single witness to Washington, D.C. where the concluding phases of this proceeding must be conducted. If Maine believes the testimony of this witness is critical to its case, however, a definite time for his appearance in Washington, D.C., will be scheduled to avoid inconvenience to him and mitigate any disruption it may occasion in the performance of his duties as Mayor of the city of Park Ridge.

Accordingly, it is ordered, That the said motions to quash are granted and the deposition pursuant to the said notice shall not be taken;

It is further ordered, That hearing herein shall resume on January 15, 1968 commencing at 10 a.m. in the offices of the Commission at Washington, D.C.

Issued: November 16, 1967.

Released: November 22, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13969; Filed, Nov. 29, 1967; 8:45 a.m.]

[1] Commissioners Bartley and Lee absent.

[Docket No. 17777; FCC 67M-1973]

TRI-STATE BROADCASTING CO., INC. (KUPD)

Order Continuing Prehearing Conference

In re application of Tri-State Broadcasting Co., Inc. (KUPD), Tempe, Ariz., Docket No. 17777, File No. BP-16895, for construction permit.

It is ordered, That the prehearing conference in the above matter now scheduled for November 30, 1967 is continued to December 21, 1967 at 10 a.m.

Issued: November 22, 1967.

Released: November 24, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-13970; Filed, Nov. 29, 1967; 8:45 a.m.]

FEDERAL MARITIME COMMISSION

AMERICAN WEST AFRICAN FREIGHT CONFERENCE

Notice of Petition Filed for Approval

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 814).

Interested parties may inspect a copy of the proposed contract form and of the petition at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to the proposed contract form and the petition including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the proposed contract form and of the petition (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of application to institute a dual rate system filed by:

Mr. John K. Cunningham, Chairman, American West African Freight Conference, 67 Broad Street, Suite 2400, New York, N.Y. 10004.

Notice of the application of the member lines of the American West African Freight Conference to institute a contract rate system for the carriage of coffee, cocoa, and bulk vegetable oils in less than full shipload lots in the westbound conference trade, which was published in the FEDERAL REGISTER on November 10, 1967 in Volume 32-219 at page 15651, inadvertently stated that noncontract rates will be 15 percent lower than the ordinary rates as set forth in the conference tariffs.

The last sentence of the November 10, notice should read as follows: "The application provides that noncontract rates will be 15 percent higher than the contract rates as set forth in the conference tariffs under terms and conditions as further described in the contract."

Dated: November 27, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-14004; Filed, Nov. 29, 1967; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CS67-103 etc.]

JOSEPH I. O'NEILL, JR. ET AL.

NOVEMBER 20, 1967.

Findings and order after statutory hearing issuing small producer certificates of public convenience and necessity, amending certificate, terminating certificates, canceling FPC gas rate schedules, severing and terminating rate proceedings, and dismissing small producer applications.

Each Applicant listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations under the Act for a small producer certificate of public convenience and necessity authorizing the sale and delivery for resale in interstate commerce of natural gas produced from the Permian Basin area of Texas and New Mexico, all as more fully set forth in the applications in this proceeding.

Each application covers a sale from the Prentice Plant, Yoakum County, Tex., to Northern Natural Gas Co., and only one application, Docket No. CS68-21, also covers sales other than Prentice Plant sales.

Seven of the Applicants, as listed in Appendix I, transferred their interests to eight other Applicants in Docket Nos. CS68-7, CS68-9, CS68-12, CS68-13, CS68-14, CS68-15, CS68-21, and CS68-23. Five of these successor Applicants, CS68-12, CS68-13, CS68-14, CS68-15, and CS68-21, own, in addition to the acquired interest, a prior interest in sales from the plant and have rate schedules on file to cover these sales. The other three successor Applicants, Docket Nos. CS68-7, CS68-9, and CS68-23, do not have any present filings with the Commission. Since the Applicants in Appendix I, except Applicants in Docket No. CS67-103, have transferred their interests and are no longer making any sales, their applications will be dismissed as no longer required and the related rate schedules canceled.

The successor Applicants had filed a joint application in Docket No. CS67-103, under the name of Joseph I. O'Neill, Jr., et al., to cover their acquisition of interest from the producers listed in Appendix I. Each successor Applicant has now filed a separate application to cover his sales; accordingly, the application in Docket No. CS67-103 will also be dismissed as no longer required.

With the exception of the successor Applicants in Docket Nos. CS68-7, CS68-9, and CS68-23, each Applicant's sale from the Prentice Plant is covered by the certificate issued in Docket No. G-11564 under the name of Pan American Petroleum Corp. (Operator) et al., the plant operator. Docket No. G-11564 will be amended to delete therefrom the "et al"., interests of Applicants. The current rate for sales by all Applicants from the Prentice Plant is 14.5 cents per Mcf at 14.65 p.s.i.a., the applicable area base rate. Two prior rate increases to rates of 13.0504 cents and 14.0552 cents per Mcf had been collected by each Applicant subject to refund under the suspension proceedings in Docket Nos. G-17059 and RI64-293, respectively. The current rate of 14.5 cents per Mcf is not involved in a suspension proceeding. Docket No. G-17059 was involved in the Permian Basin Proceeding, Docket No. AR61-1 et al., and Docket No. RI64-293 was consolidated in the show cause proceeding, Docket No. AR61-1 et al. Since the current rate is equal to the applicable area base rate, the rate proceedings in Docket Nos. G-17059 and RI64-293 will be terminated only insofar as they pertain to the Applicants herein.

In addition to his sale from the Prentice Plant, Joseph I. O'Neill, Jr. (Operator) et al., Applicant in Docket No. CS68-21, seeks by said application a small producer certificate for five other present sales, as follows:

Rate Schedule No. 1. Covers a sale to El Paso Natural Gas Co. of low and high pressure gas at current rates of 8.105 cents per Mcf and 10.6008 cents per Mcf, respectively. Rate increases of 13.68225 cents and 15.70925 cents per Mcf for low and high pressure gas, respectively, are suspended in Docket No. RI60-320, which was involved in the Permian Basin Proceeding, Docket No. AR61-1 et al. The suspended rates were never placed in effect and the current rates are less than the applicable area base rate of 14.5 cents per Mcf. The Commission, however, in Opinion No. 468 determined that the just and reasonable rate for these sales was above the then effective rates. The just and reasonable rate also exceeded the suspended rate for low pressure gas, but was below the suspended rate for high pressure gas. Accordingly, the rate proceedings will be severed and terminated and O'Neill advised that he may collect under the instant rate schedule the suspended rate or the area rate, whichever is lower, as of September 1, 1965.

Rate Schedule No. 15. Covers a sale to Phillips Petroleum Co. at 13.50 cents per Mcf effective subject to refund in Docket No. RI63-267, which docket was included in the show cause order, Docket No. AR 61-1 et al. Since the rate is lower than the applicable area base rate of 14.5 cents per Mcf, the rate proceedings will be severed and terminated.

Rate Schedule No. 16. Covers a sale to El Paso Natural Gas Co. in New Mexico at 7.50 cents per Mcf. The applicable area base rate for this sale is 13.50 cents per Mcf plus applicable tax.

Rate Schedule No. 17. Covers a sale to Transwestern Pipeline Co. in New Mexico under a temporary certificate issued at a conditioned rate of 16.0 cents per Mcf. The contract rate is 22.425 cents per Mcf and the applicable area base rate for the sale is 13.50 cents per Mcf plus applicable tax. The order issued herein will advise Applicant that he is still responsible for refunds which may be ordered by the Commission for this sale pursuant to the provisions of Opinion No. 468.

Rate Schedule No. 19. Covers a sale to Phillips Petroleum Co. at the contract rate of 13.50 cents per Mcf effective subject to refund in Docket No. RI63-260, which is included in the show cause proceeding, Docket No. AR61-1 et al. Since the applicable area base rate for this sale is 14.50 cents per Mcf, the rate proceedings will be severed and terminated.

The Commission's staff has reviewed each application and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

After due notice, no petition to intervene, notice of intervention, or protest to the granting of the applications has been received.

At a hearing held on November 9, 1967, the Commission on its own motion received and made a part of the record in this proceeding, all evidence, including the applications and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Each Applicant is or was engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and each is, therefore, a "natural-gas company" within the meaning of the Natural Gas Act.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications herein, will be made in interstate commerce subject to the jurisdiction of the Commission, and such sales by Applicants, together with the construction and operation of any facilities necessary therefor will be subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) Each Applicant is an independent producer of natural gas who is not affiliated with a natural gas pipeline company and whose total jurisdictional sales on a nationwide basis, together with the sales of affiliated producers, were not in excess of 10,000,000 Mcf of natural gas at 14.65 p.s.i.a. during the preceding calendar year.

(5) The sales of natural gas by Applicants, together with the construction and operation of any facilities necessary therefor, are required by the public convenience and necessity, and small producer certificates of public convenience and necessity, therefore, should be issued as hereinafter ordered and conditioned.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the application in Docket No. CS67-103 and the other applications set forth in Appendix I be dismissed and that the related rate schedules be canceled.

(7) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the certificate issued in Docket No. G-11564 be amended to delete therefrom the authorizations covering the interests of Applicants listed in Appendix II, and the related rate schedules canceled, except for Applicants in Docket Nos. CS68-7, CS68-9, and CS68-23.

(8) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates heretofore issued in Docket Nos. G-6393, G-13254, G-16544, G-19113, and CI62-224 to Applicant in Docket No. CS68-21 be terminated.

The Commission orders:

(A) Small producer certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing the sale for resale and the delivery of natural gas in interstate commerce by Applicants listed in Appendix II from the Permian Basin area of Texas and New Mexico, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as more fully described in the applications in this proceeding.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as the Applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission and particularly,

(1) The subject certificates shall be applicable only to all present and future "small producer sales", as defined in § 157.40(a)(3) of the regulations under the Natural Gas Act, from the Permian Basin area;

(2) Sales shall not be at rates in excess of those set forth in § 157.40(b)(1) of the regulations under the Natural Gas Act; however, for sales authorized prior to September 1, 1965, Applicants may file notices of changes in rate for any contractually authorized rates in excess of the ceiling rates, which increased rates shall be subject to suspension pursuant to section 4(e) of the Natural Gas Act and subsequently may be rejected as of the date of filing as provided by the order granting relief, issued February 6, 1967, in Docket No. CS66-48 et al.;

(3) Applicants shall file annual statements pursuant to § 154.104 of the regulations under the Natural Gas Act.

(C) The certificates granted in paragraph (A) above shall remain in effect for small producer sales until the Commission on its own motion or on application terminates said certificates because Applicants no longer qualify as small producers or fail to comply with the requirements of the Natural Gas Act, the regulations thereunder, or the terms of the certificates. Upon such termination Applicants will be required to file separate certificate applications and individual rate schedules for future sales. To the extent compliance with the terms of this order is observed, the small producer certificates will still be effective as to those sales already included thereunder.

(D) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 7 of the Natural Gas Act or Part 157 of the Commission's regulations thereunder, and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against Applicants. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. Nor shall the grant of the certificates aforesaid for service to the particular customers involved imply approval of all of the terms of the contracts, particularly as to the cessation of service upon termination of said contracts, as provided by section 7(b) of the Natural Gas Act, Nor shall the grant of the certificates aforesaid be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales subject to said certificates.

(E) Docket No. CS67-103 and the applications listed in Appendix I are dismissed as moot and the related rate schedules cancelled.

(F) The certificate heretofore issued to Pan American Petroleum Corp. (Operator) et al., in Docket No. G-11564 is amended to delete therefrom the "et al." interests of Applicants listed in Appendix II, and the related rate schedules are canceled, except for Applicants in Docket Nos. CS68-7, CS68-9, and CS68-23.

(G) The certificates heretofore issued in Docket Nos. G-6393, G-13254, G-16544, G-19113, and CI62-224 to Applicant in Docket No. CS68-21 are terminated.

(H) The suspension proceedings in Docket No. G-17059, involved in the area rate proceeding in Docket No. AR61-1 et al., and Docket No. RI64-293, involved in the show cause proceeding in Docket No. AR61-1 et al., are terminated insofar as they pertain to all Applicants listed in appendices I and II, except for Applicants in Docket Nos. CS68-7, CS68-9, and CS68-23.

(I) The rate proceeding in Docket No. RI60-320 is severed from the area rate proceeding in Docket No. AR61-1 et al., and is terminated. Applicant in Docket No. CS68-21 is advised that under his FPC Gas Rate Schedule No. 1 he may collect the suspended rate or the applicable area rate, whichever is lower, as of September 1, 1965.

(J) The rate proceedings in Docket Nos. RI63-260 and RI63-267 are severed

from the show cause proceeding in Docket No. AR61–1 et al., and terminated.

(K) Joseph I. O'Neill, Jr. (Operator) et al., Applicant in Docket No. CS68–21, is advised that he is not relieved of any refund obligations imposed as a result of Opinion No. 468, particularly the refund obligations imposed by ordering paragraph (D), with respect to the sale to Transwestern Pipeline Co. rendered under his FPC Gas Rate Schedule No. 17.

(L) The certificates granted in paragraph (A) above are effective as of the date of authorization.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

APPENDIX I—APPLICATIONS TO BE DISMISSED

Certificate Docket No.	Applicant	FPC gas rate schedules to be canceled
CS67–[illegible]	Joseph I. O'Neill, Jr. et al.	
CS68–6	D. E. Ackers	19 [1]
CS68–8	Albert Bradley	1 [1]
CS68–10	John J. Burns	1 [1]
CS68–11	John T. Cahill	1 [1]
CS68–16	John M. Franklin	1 [1]
CS68–17	Joseph Peter Grace	1 [1]
CS68–19	Thomas S. Lamont	1 [1]

[1] Interest transferred to each of the following: E. T. Anderson, Edwina S. Broksw, J. Walker Duncan, Jr., Raymond T. Duncan, Vincent J. Duncan, Walter Duncan, Joseph I. O'Neill, Jr., and Peter L. Shea.
[2] Designated as Dean E. Ackers, FPC gas rate schedule No. 1.

APPENDIX II

Certificate Docket No.	Applicant	FPC gas rate schedule to be canceled	Certificate Docket No. to be terminated	Rate proceeding to be terminated
CS68–7	E. T. Anderson			
CS68–9	Edwina S. Broksw			
CS68–12	J. Walter Duncan, Jr.	1	G–11564 [1]	G–17059,[3] RI64–293,[3]
CS68–13	Raymond T. Duncan	1	G–11564 [1]	G–17059,[3] RI64–293,[3]
CS68–14	Vincent J. Duncan	1	G–11564 [1]	G–17059,[3] RI64–293,[3]
CS68–15	Walter Duncan	3	G–11564 [1]	G–17059,[3] RI64–293,[3]
CS68–18	Estate of Frank A. Howard	1	G–11564 [1]	G–17059,[3] RI64–293,[3]
CS68–20	G. Hilmar Lundbeck, Jr.	1	G–11564 [1]	G–17059,[3] RI64–293,[3]
CS68–21	Joseph I. O'Neill, Jr. (Operator), et al.	1	G–6368	RI60–320,[3]
	do	14	G–11564 [1]	G–17059,[3] RI64–293,[3]
	do	15	G–13254	RI63–267,[4]
	do	16	G–16544	
	do	17	G–19113	
	do	19	CI62–224	RI63–260,[4]
CS68–22	Estate of Edward L. Shea	1	G–11564 [1]	G–17059,[3] RI64–293,[3]
CS68–23	Peter L. Shea			

[1] Amended to delete the "et al." interest of Applicant from certificate issued under name of Pan American Petroleum Corp. (Operator) et al.
[2] Terminated only insofar as it pertains to Applicant.
[3] Consolidated in Docket No. AR61–1 et al., Permian Basin Proceeding.
[4] Included in Show Cause Order, Docket No. AR61–1 et al.

[F.R. Doc. 67–13920; Filed, Nov. 29, 1967; 8:45 a.m.]

[Docket No. CI66–974, CI66–591, etc.]

GEORGE DESPOT ET AL.

Order Conditionally Approving Settlement, Issuing Certificate of Public Convenience and Necessity and Severing and Terminating Proceedings

NOVEMBER 22, 1967.

Pursuant to a gas sale contract dated March 5, 1962, Humble Oil & Refining Co. (Humble) commenced deliveries of gas to Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee), on May 15, 1962. The gas sold is produced from Grand Isle Blocks 16 and 18 in Zone 2 of offshore Louisiana; no final determination has been made as to whether or not Zone 2 or any part of it is within the seaward boundary of the State of Louisiana. Deliveries commenced at an initial price of 19.5 cents, which escalated on May 15, 1965 to 20.5 cents.

The contract between Humble and Tennessee contained restrictions similar to those before us in Lo-Vaca Gathering Co., Opinion No. 348, 26 F.P.C. 606 (1961), aff. 379 U.S. 366 (1965). Because of the contractual restriction on the use of the gas by Tennessee, Humble treated its sale as not subject to our jurisdiction until January 7, 1966, when Humble filed the May 15, 1962, contract as amended by an agreement of April 8, 1963, as a rate schedule and applied for a certificate of public convenience and necessity.

On September 14, 1966, we issued an order to show cause in the consolidated Despot proceedings. Humble was one of the respondents to whom that order was addressed. As a respondent, Humble was required to show cause why it should not be required to apply for and obtain a certificate of public convenience and necessity nunc pro tunc authorizing it to make the sale and to show cause why it should not be required to refund the difference between its charges to Tennessee and the in-line price for offshore southern Louisiana.

On July 17, 1967, Humble filed a proposed settlement, which was superseded by an amended proposal filed on July 26, 1967. Humble proposes to refund 100 percent of all amounts it has collected in excess of the in-line price for the southern Louisiana area applicable since January 19, 1965, and 62½ percent from the date of initial delivery to January 19, 1965. To accomplish this, Humble agrees to refund 100 percent of the amounts it has collected in excess of the 20-cent in-line price for southern Louisiana sales subject to Louisiana taxes, and Humble agrees that as to any volumes of gas involved herein ultimately determined to have been produced from an area not subject to Louisiana taxes, as to which the in-line price for off-shore southern Louisiana of 18.5 cents applies, it will, if ordered by the Commission, refund 1.50 cents for volumes not subject to Louisiana tax sold between May 15, 1965, and the date of our order herein, 1 cent per Mcf for volumes not subject to Louisiana tax sold between January 19, 1965, and May 14, 1965, and 0.625 cent per Mcf for volumes not subject to Louisiana tax sold between May 15, 1962, and January 18, 1965. As to any volumes produced in areas ultimately found subject to Louisiana taxation, Humble would be obligated to pay Louisiana tax, and no refunds would be required below 20 cents. Humble agrees to pay interest at the rate of 7 percent on all sums collected in excess of 20 cents.

Noting the Commission's policy on retention of refunds by the seller pending a determination of the flow through obligation of the purchaser, Humble requests that if it is required to retain the refunds of the funds it has collected in excess of 20 cents, that it be given the option of placing the funds in an escrow account or commingling the funds with other corporate funds. In the event of commingling, Humble agrees to pay interest on such funds at the rate of 5 percent per annum from a date 45 days subsequent to the Commission's approval of this settlement. Humble requests that it be allowed the same alternative with regard to the funds which will be refundable as to any areas of Zone 2 found not to be within the taxing jurisdiction of Louisiana and makes a like offer to pay interest of 5 percent per annum from 45 days after the order approving the settlement in the event of commingling on any refunds arising from a finding that the area involved is not subject to Louisiana taxation, such interest to run only until the date of the determination that the area is not subject to Louisiana tax.

In addition Humble has agreed to undertake a contingent refund liability depending upon the outcome of the proceedings in Docket No. AR61–2, the Southern Louisiana Area Rate Proceeding. Humble agrees to refund the difference, if any, between the 20-cent price which it is now charging Tennessee and the area rate determined by the Commission in AR61–2, but in no event shall the refund be computed on a level below 18.25 cents per Mcf at 15.025 p.s.i.a. Such refunds will be made for the period commencing with the Commission's approval of Humble's settlement and ending with the Commission's opinion and order disposing of the exceptions now pending to the Examiner's initial decision in AR61–2 or approval of any settlement of AR61–2. In no event, however, will Humble be required to make refunds for a period greater than 6 months. If our opinion in AR61–2 is issued more than 6 months after the order approving Humble's settlement proposal; Humble agrees to make refunds on the sales made for a 6-month period ending with our opinion in AR61–2 or approval of any settlement therein.

Humble also requests that as part of the settlement, its application for a certificate to continue the sale to Tennessee be granted.

Humble's proposal presents an opportunity to dispose of the proceeding by settlement in a manner consistent with the public interest. It conforms to the settlement pattern negotiated between Mobil and the intervenors in the Despot proceedings, and no objections to the settlement or comments upon it have been received from any party. Nevertheless, while we approve Humble's offer, it is necessary to make our approval conditional upon the correction of several minor defects in the proposal, which we find not in the public interest.

We think Humble's treatment of interest on refunds is not proper. The courts have approved our requirement of interest on refunds, noting that the requirement of interest serves the purpose of preventing unjust enrichment. U.G.I. v. Callery Properties, Inc., 382 U.S. 223, 230 (1965); Texaco Inc. v. F.P.C., 290 F. 2d 149, 157 (CA5, 1961). The interest on refunds compensates purchasers who have been improperly deprived of the use of their money, and requires the producers to pay for having had the use of the money. The restitutionary purpose of the requirement of interest is not served in this case by the adoption of an arbitrary cutoff date on the obligation to pay interest on refunds prior to the date of our order approving this settlement. Equally Humble should be required to include in the fund which will be refundable in the event Zone 2 is found to be within the Federal Domain interest at the rate of 7 percent from the date of collection until the date of our approval of this settlement. Humble has had the use of these funds and should compensate for their use upon the occurrence of the event which would make them refundable.

The proper rate of interest under our current practice on sums refundable which are commingled with corporate funds is 5½ percent, and not the 5 percent proposed by Humble.

In issuing Humble a certificate for its sale, we will require the purchaser Tennessee to escrow the difference between 20 cents and 18.5 cents, the tax reimbursement payable to Humble, until the determination of the extent to which the gas delivered is subject to Louisiana tax. The amount escrowed with interest less the fees and expenses of the escrow agent would be payable to Tennessee if it were finally determined that the gas delivered was not subject to Louisiana tax, or to Humble, if it should be determined that it was subject to Louisiana tax. However, in the latter instance the interest would be payable to Humble only to the extent that Humble should be required to pay interest on the applicable state taxes.

During the course of the proceeding in Despot, the Presiding Examiner required the pipeline intervenors in that proceeding to file statements of their intended disposition of any refunds ordered in those proceedings. In response to that order Tennessee filed a statement of intention in which it claimed the right to retain any refunds. We are, therefore, directing Humble to retain the refunds pending our final determination as to their disposition.

The Commission finds:

(1) Humble's settlement proposal of July 26, 1967, as hereinafter conditioned, is in the public interest, and it is appropriate in the administration of the provisions of the Natural Gas Act that it be approved and made effective as hereinafter ordered; and good cause exists for severing and terminating the proceedings in Docket No. CI66–591.

(2) The sale by Humble to Tennessee commenced on May 15, 1962, and for which certification was sought on January 7, 1966, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefore, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Humble is able and willing to do the acts and to perform the services proposed, and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) The sale proposed by Humble, together with the construction and operation of any facilities subject to the jurisdiction of the Commission and necessary therefore are required by the public convenience and necessity and as conditioned herein are in the public interest.

The Commission orders:

(A) The settlement of these proceedings on the basis of the settlement proposal filed by Humble on July 26, 1967, as herein conditioned, is approved and made effective subject to terms and conditions herein.

(B) Humble shall compute interest on all amounts which it has collected in excess of 20 cents per Mcf. At the rate of 7 percent per year from the date of collection to the date of the issuance of this order less royalty and overriding royalty interest.

(C) Humble shall compute interest on the amounts collected in excess of 18.5 cents which will be refundable under the terms of the settlement proposal if all or any part of the gas delivered is found not subject to the taxing jurisdiction of the State of Louisiana at 7 percent per year from the date of delivery to the date of the issuance of the order less royalty and overriding royalty interest.

(D) Humble shall file with the Commission within 45 days after the date of this order a report setting out the amount of refunds computed in accordance with the settlement proposal together with the interest thereon computed in accordance with paragraph (B) hereof and setting out the amount of refunds computed in accordance with the settlement proposal which will be refundable if the gas delivered is found not to be subject to the taxing jurisdiction of the State of Louisiana together with interest computed in accordance with paragraph (C) hereof and shall serve a copy of the report on all parties to the proceeding in Docket No. CI66–591.

(E) Humble shall retain the amounts shown in the reports required under ordering paragraph (D) subject to further order of the Commission directing the disposition of those amounts. If Humble elects to commingle these retained refunds with its general assets and use them for its corporate purposes, it shall pay interest thereon at the rate of 5½ percent per annum on all funds thus available from the date of this order to the date on which they are paid over to the person ultimately determined to be entitled thereto in a final order of the Commission. If Humble elects to deposit the retained refunds in a special escrow account, Humble shall tender for filing on or before the date of the filing of the refund report an executed Escrow Agreement, conditioned as set out below accompanied by certificate showing service of a copy thereof upon the parties to the proceeding in Docket No. CI66–591. Unless notified to the contrary by the Secretary within 30 days from the date of filing thereof the Escrow Agreement shall be entered into between Humble and any bank or trust company used as a depositor for funds of the U.S. Government and the agreement shall be conditioned as follows:

(1) Humble, the bank or trust company, and the successors and assigns of each, shall be held and formally bound unto the Federal Power Commission for the use and benefit of those entitled thereto, with respect to all amounts and the interest thereon deposited in a special escrow account, subject to such agreement, and such bank or trust company shall be bound to pay over to such person or persons as may be identified and designated by final orders of the Commission and in such manner as may be therein specified, all or any portion of such deposits and the interest thereon.

(2) The bank or trust company may invest and reinvest such deposits in any short-term indebtedness of the United States or an agency thereof or in any form of obligation guaranteed by the United States which is, respectively, payable within 120 days as the said bank or trust company in the exercise of its sound discretion may select.

(3) Such bank or trust company shall be liable only for such interest as the invested funds described in paragraph (2) above will earn and no other interest may be collected from it.

(4) Such bank or trust company shall be entitled to such compensation as is fair, reasonable, and customary for its services as such, which compensation shall be paid out of the escrow account to such bank or trust company. Said bank or trust company shall likewise be entitled to reimbursement for its reasonable expenses necessarily incurred in the administration of this escrow account, which reimbursement shall be made out of the escrow account.

(5) Such bank or trust company shall report to the Secretary of this Commission quarterly, certifying the amount deposited in the trust account for the quarterly period.

(F) A permanent certificate of public convenience and necessity issued to Humble upon the conditions hereinafter set forth authorizing the sale and service proposed.

(G) The certificate issued in paragraph (F) above is hereby conditioned so that from and after the date of this order and until lawfully changed in the manner provided by the Natural Gas Act shall be 18.5 cents per Mcf: *Provided, however,* That the purchaser, Tennessee, shall pay into escrow the additional sum of 1.5 cents for each Mcf of gas delivered until a final determination as to whether or not the gas delivered is subject to the taxing jurisdiction of the State of Louisiana. The amount so escrowed together with the interest thereon less the fees and expenses of the escrow agent shall, as to all gas delivered which is determined to have been produced in an area not subject to the taxing jurisdiction of the State of Louisiana, will upon that determination be payable to the purchaser. The amount so escrowed, as to all gas delivered which is determined to have been produced in area subject to the taxing jurisdiction of the State of Louisiana, will upon that determination be payable to Humble: *Provided, however,* That interest will be payable to Humble upon such amount only if Humble should be required to pay interest on applicable State taxes. Humble within 30 days from the date of the issuance of this order shall file a supplemental rate filing reflecting the conditioned price in lieu of the price currently provided therein, and as to such filing the requirements of § 154.94(f) of the regulations under the Natural Gas Act are waived and upon compliance Humble's proposed related rate schedule designated as Humble Oil and Refining Co. FPC Rate Schedule No. 385 and the letter agreement dated April 8, 1963, as Supplement No. 1 thereto, shall be accepted for filing effective as of the date of this order: *Provided,* That this order is without prejudice to any action which the Commission may hereafter take pursuant to the provisions of sections 4 and 5 of the Natural Gas Act.

(H) The certificate issued to Humble by paragraph (F) is conditioned upon Humble's accepting the certificate issued to it in writing and under oath within 30 days of the issuance of this order.

(I) The certificate issued to Humble by paragraph (F) is conditioned upon the acceptance by Humble of the modification of its settlement proposal as provided in paragraph (J) of this order.

(J) Humble shall, over the signature of a responsible officer, file with the Commission, within 30 days of the date of this order, an original and one copy of its acceptance or rejection of this order and shall serve a copy of the same on the parties to Docket No. CI65–1227.

(K) Upon full compliance by Humble with this order the proceedings in Docket No. CI66–591 shall terminate and such proceedings upon termination are hereby severed from the consolidated proceedings in Docket No. CI65–974 et al.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67–13971; Filed, Nov. 29, 1967; 8:45 a.m.]

[Docket No. RP68–4]

LOUISIANA NEVADA TRANSIT CO.

Order Suspending Proposed Change in Rate and Providing for Hearing

NOVEMBER 24, 1967.

Louisiana Nevada Transit Co. (Louisiana Nevada) filed, on October 25, 1967, proposed changes in its presently effective FPC Gas Tariff, Original Volume No. 1. The changes, designated Third Revised Sheet No. 3–A, reflect a change in rate structure from a block rate to a one-part rate of 24.8 cents per Mcf, and result in an increase of $45,994 annually, or an average of 4.87 cents per Mcf, based on volumes of gas sold for resale during 1966 to the city of De Queen, Ark. (De Queen).[1] The proposed effective date is November 25, 1967.

On November 9, 1967, De Queen filed comments requesting suspension of the filing in question and representing that Louisiana Nevada has failed to show the reasonableness of its proposed changes. Specifically, De Queen takes issue with the respondent's change in rate structure, its claimed return of 7 percent, and alleged failure to adjust test year volumes for new sales to De Queen and to direct customers, respondent's allocation of plant investment and various expenses between transmission and distribution functions and between jurisdictional and nonjurisdictional operations, and the company's use of certain book figures in computing its cost of service.

The data furnished by Louisiana Nevada concurrently with its filing is not adequate to enable the Commission to determine the lawfulness of the proposed rates and charges, particularly in view of the comments in opposition thereto set forth by respondent's only jurisdictional purchaser.

The proposed rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates, charges, classifications, and services contained in Louisiana Nevada's FPC Gas Tariff, Original Volume No. 1, as proposed to be amended by Third Revised Sheet No. 3–A, and that said Third Revised Sheet No. 3–A be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held, upon a date to be fixed by notice from the Presiding Examiner concerning the lawfulness of the rates, charges, classifications, and services contained in Louisiana Nevada's FPC Gas Tariff, Original Volume No. 1, as proposed to be amended by Third Revised Sheet No. 3–A.

(B) Pending a hearing and decision thereon, Third Revised Sheet No. 3–A to Louisiana Nevada's FPC Gas Tariff, Original Volume No. 1, is hereby suspended and the use thereof is deferred until April 25, 1968, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Pursuant to section 1.18 of the Commission's rules of practice and procedure, a prehearing conference before the Presiding Examiner shall commence at 10 a.m., e.s.t., on January 8, 1968, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, for the purpose of effectuating the expeditious disposition of this proceeding.

(D) A Presiding Examiner to be designated, or any other officer or officers of the Commission designated by it for that purpose, shall preside at the prehearing conferences and hearing in this matter, pursuant to the Commission's rules of practice and procedure, and particularly §§ 1.27, 1.18, and 2.59 thereof: *Provided, however,* That the Presiding Examiner may in his discretion set the date for service of rebuttal evidence before or after cross-examination of the direct evidence.

(E) Notices of intervention and petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., in accordance with the Commission's rules of practice and procedure, §§ 1.8 and 1.37(f) (18 CFR 1.8 and 1.37(f)) on or before December 18, 1967.

By the Commission.

[SEAL] KENNETH T. PLUMB, *Acting Secretary.*

[F.R. Doc. 67–13972; Filed, Nov. 29, 1967; 8:45 a.m.]

[1] In the past, Louisiana Nevada has made sporadic gas sales for resale to Arkansas Louisiana Gas Co., but no such sales were reported for 1966. Other sales by Louisiana Nevada are retail only.

[Docket No. CP68–150]

PANHANDLE EASTERN PIPE LINE CO.

Notice of Application

NOVEMBER 21, 1967.

Take notice that on November 9, 1967, Panhandle Eastern Pipe Line Co. (Applicant), 1 Chase Manhattan Plaza, New York, N.Y. 10005, filed in Docket No. CP68–150 an application pursuant to subsections (b) and (c) of section 7 of the Natural Gas Act for permission and approval to abandon in place certain natural gas facilities and a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities for the transportation and sale of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks permission and approval to abandon in place 7.1 miles of 6-inch pipeline extending from Applicant's Muncie lateral to the city of Winchester, Ind. Pursuant to a certificate of public convenience and necessity Applicant seeks authorization to construct and operate 7.1 miles of 8-inch pipeline which will serve as the replacement for the aforementioned 6-inch pipeline running from the Muncie lateral to the city of Winchester, Ind.

The total estimated cost of the proposed construction is $278,000, which will be financed out of available general funds.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before December 18, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission-and-approval for the proposed abandonment are required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67–13973; Filed, Nov. 29, 1967; 8:45 a.m.]

[Docket No. RI68–374]

ALVIN WILSON ET AL.[1]

Order Accepting Offer of Settlement, Requiring Filing of Executed Contract Amendment and Terminating Proceeding in Part

NOVEMBER 21, 1967.

On October 23, 1967, Alvin Wilson et al. (Wilson) submitted an offer of settlement in this proceeding pursuant to § 1.18(a) of the Commission's rules of practice and procedure.[2] The offer involves a proposed increased rate of 15.4248 cents per Mcf of natural gas at 14.65 p.s.i.a. from the Bethany Field, Tex. (Texas Railroad Commission District No. 6) to Tennessee Gas Transmission Co. (TGT) under his FPC Gas Rate Schedule No. 1. Wilson has filed a notice of change in rate, designated as Supplement No. 9 to his FPC Gas Rate Schedule No. 1, proposing to decrease the rate now being collected subject to refund to 15 cents per Mcf. His offer is in accordance with the provisions of the second and ninth amendments of the Statement of General Policy No. 61–1 (18 CFR 2.56).

Additionally Wilson filed an unexecuted contract amendment with TGT which eliminates all price escalation provisions except those providing for possible future tax reimbursement. TGT concurrently filed a statement indicating that it will execute the amendment upon Commission approval of the settlement order.

Wilson proposes to refund all monies collected in excess of the 15 cents per Mcf proposed settlement rate, subject to refund, to TGT, which will approximate $5,200, exclusive of interest. Acceptance of Wilson's proposal will cause a decrease in his annual revenues of approximately $1,450.

We desire to make it clear that acceptance of Wilson's offer of settlement shall not be construed as approval of any future increased rate filed in accordance with his reservation of the right to file increases to cover future tax increases as provided in his offer of settlement, and is without prejudice to any findings or order of the Commission in any future proceedings, including area rate or other similar proceedings, involving Wilson's rate and rate schedule.

The Commission finds: The proposed settlement of the above-designated proceedings, on the basis described herein, as more fully set forth in the offer of settlement filed with the Commission by Wilson on October 23, 1967, is consistent with the Statement of General Policy 61–1, as amended, 18 CFR 2.56 and approval thereof as made effective and hereinafter ordered is in the public interest and is appropriate to carry out the provision of the Natural Gas Act.

[1] The offer pertains to the interests of both C. D. Davis, now deceased, and Wilson in this proceeding. Wilson was executor of C. D. Davis' estate and upon settlement thereof Wilson was assigned the interests involved here. The offer does not cover the interests assigned to Car-Tex Producing Co. (Operator) et al., a co-respondent in Docket No. RI65–374.

The Commission orders:

(A) The offer of settlement filed with the Commission by Wilson on October 23, 1967, is approved in accordance with the provisions of this order.

(B) Wilson shall file within 30 days from the issuance of this order an executed contract amendment to his FPC Gas Rate Schedule No. 1 eliminating the periodic price escalation provisions therefrom.

(C) Wilson shall compute the difference between the rates collected subject to refund and the settlement rate for sales to TGT in Docket No. RI65–374, with applicable interest to the date of this order, and shall within 45 days from the date of issuance of this order submit a report to the Commission, with a copy to TGT, setting out the amount of refunds (showing separately the principal and applicable interest) the basis used for such determination, the period covered, and 10 days thereafter a letter from TGT agreeing to the correctness of such amounts.

(D) Wilson shall retain the amounts shown in the report required under paragraph (C) above as provided in paragraph (E) below or deposit the same in a bank wherein deposits are insured by the FDIC, subject to further order of the Commission directing the disposition of those amounts.

(E) If Wilson elects to commingle these retained refunds with his assets and use them for business purposes, he shall pay interest thereon at the rate of 6 percent per annum on all funds thus available from the date of this order to the date on which they are paid over to the person ultimately determined to be entitled thereto in a final order of the Commission.

(F) Upon notification by the Secretary of the Commission that Wilson has complied with the terms and conditions of this order, the 15 cents per Mcf rate contained in Supplement No. 9 to his FPC Gas Rate Schedule No. 1 shall be effective as of the date of this order, and the above-designated proceeding insofar as Wilson is concerned shall be deemed severed from the consolidated proceedings in Docket Nos. AR67–1 and the proceeding in Docket RI65–374 shall terminate only as to Wilson's interest and Wilson shall be relieved of refund liability in Docket No. RI65–347, and the proceeding in Docket No. RI65–374 shall be redesignated as Car-Tex Petroleum Co. (Operator) et al., all without further order of the Commission.

(G) The acceptance by Commission of Wilson's offer of settlement is without prejudice to any findings or determinations that may be made in any proceeding now pending, or hereafter instituted by or against Wilson, and is without prejudice to claims or contentions which may be made by Wilson, the Commission staff, or any affected party hereto, in any proceeding, including area rate or similar proceedings.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67–13974; Filed, Nov. 29, 1967; 8:46 a.m.]

FEDERAL RESERVE SYSTEM

CENTRAL WISCONSIN BANKSHARES, INC.

Order Approving Application Under Bank Holding Company Act

In the matter of the application of Central Wisconsin Bankshares, Inc., Wausau, Wis., for approval of action to become a bank holding company through the acquisition of voting shares of Mosinee Commercial Bank, Mosinee, Wis. (Docket No. BHC-81).

There has come before the Board of Governors, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)) and section 222.4(a) of Federal Reserve Regulation Y (12 CFR 222.4(a)), an application by Central Wisconsin Bankshares, Inc., Wausau, Wis., for the Board's prior approval of action whereby Applicant would become a bank holding company through the acquisition of more than 90 percent of the outstanding voting shares of Mosinee Commercial Bank, Mosinee, Wis.

In accordance with section 3(b) of the Act, the Board gave written notice of receipt of the application to the Commissioner of Banks for the State of Wisconsin and requested his views and recommendation thereon. A copy of the application was forwarded to the Department of Justice for its consideration. Notice of receipt of the application was published in the FEDERAL REGISTER on November 18, 1966 (31 F.R. 14705), which provided an opportunity for interested persons to submit comments and views with respect to the proposed transaction. Within the time provided, "comments and views" were filed by Intercity State Bank, Schofield, Wis.; People's State Bank, Stettin, Wis.; Citizens State Bank and Trust Co., Wausau, Wis.; and the Bank of Edgar, Edgar, Wis.; ("Protestants"), all of which urged denial of the application.

Within 30 days after having been notified of the Board's receipt of the application, the Commissioner of Banks for the State of Wisconsin advised the Board in writing of his recommendation that the application be disapproved. In such circumstances, the Board is required by section 3(b) of the Act to order a hearing. Accordingly, the Board issued an Order for Public Hearing, which was published in the FEDERAL REGISTER on January 13, 1967 (32 F.R. 397), and a hearing was held before a Hearing Examiner duly selected by the Civil Service Commission on February 7–10, 1967, at which testimony and exhibits bearing on the application were received.

Applicant and Protestants both filed Briefs and Proposed Findings of Fact and Conclusions of Law, and the Hearing Examiner has filed with the Board a Report and Recommended Decision[1] recommending approval of the application. Protestants filed Exceptions to the Hearing Examiner's Report and Recommended Decision and a Brief in Support of the Exceptions; Applicant filed a Brief in Opposition to the Exceptions.

Having considered all matters properly before the Board in this proceeding,

It is hereby ordered, For the reasons set forth in the Board's statement[2] of this date, that said application be and hereby is approved, provided that the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

Dated at Washington, D.C., this 20th day of November 1967.

By order of the Board of Governors.[3]

[SEAL] MERRITT SHERMAN, *Secretary.*

[F.R. Doc. 67-13975; Filed, Nov. 29, 1967; 8:45 a.m.]

NORTHWEST BANCORPORATION

Order for Oral Presentation

In the matter of the application of Northwest Bancorporation, Minneapolis, Minn., pursuant to section 3 of the Bank Holding Company Act of 1956.

On September 19, 1967, there was published in the FEDERAL REGISTER (32 F.R. 13241) a notice of receipt by the Board of Governors of an application filed pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)) by Northwest Bancorporation, Minneapolis, Minn., a registered bank holding company, for the prior approval of the Board of the acquisition by Applicant of 85 percent or more of the voting shares of The First National Bank of Ely, Ely, Minn.

The aforestated published notice advised that the application was available for study at the office of the Board of Governors and the Federal Reserve Bank of Minneapolis, and provided that within 30 days of publication comments and views on the proposed acquisition could be filed with the Board. Within the period provided, opposition to the proposal was filed on behalf of the Independent Bankers of Minnesota, accompanied by a request for a public hearing.

It appears to the Board that it is appropriate in the public interest that there be conducted before the Board an oral presentation at which representatives of the Independent Bankers of Minnesota and Applicant could present views and comments with respect to this application. Accordingly,

It is hereby ordered, That pursuant to section 262.3(f)(3) of the Board's Rules of Procedure (12 CFR 262.2(f)(3)) an oral presentation be held with respect to this application commencing at 2 p.m. on December 6, 1967, in Room 1202 of the Federal Reserve Building, 20th and Constitution Avenue, Washington, D.C.

It is further ordered, That said oral presentation shall be public, and that participation in the oral argument shall be limited to representatives of the Independent Bankers of Minnesota, the Applicant, and the Board of Governors.

Dated at Washington, D.C., this 24th day of November 1967.

By order of the Board of Governors.

[SEAL] MERRITT SHERMAN, *Secretary.*

[F.R. Doc. 67-13976; Filed, Nov. 29, 1967; 8:46 a.m.]

VIRGINIA COMMONWEALTH BANKSHARES, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made to the Board of Governors of the Federal Reserve System pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)), by Virginia Commonwealth Bankshares, Inc., which is a bank holding company located in Richmond, Va., for the prior approval of the Board of the acquisition by Applicant of 100 percent of the voting shares of The First Colonial Bank, Virginia Beach, Va., a proposed new bank.

Section 3(c) of the Act provides that the Board shall not approve (1) any acquisition or merger or consolidation under this section which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or (2) any other proposed acquisition or merger or consolidation under this section whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Public access to the application may be had at the office of the Board of Governors or the Federal Reserve Bank of Richmond.

Dated at Washington, D.C., this 22d day of November, 1967.

By order of the Board of Governors.

[SEAL] MERRITT SHERMAN, *Secretary.*

[F.R. Doc. 67-13977; Filed, Nov. 29, 1967; 8:46 a.m.]

[1] Filed as part of the original document. Report and Recommended Decision of Hearing Examiner released on Aug. 28, 1967. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Chicago. Dissenting Statement of Governors Robertson, Brimmer, and Sherrill also filed as part of the original document and available upon request.

[2] Voting for this action: Chairman Martin, and Governors Mitchell, Deane, and Maisel. Voting against this action: Governors Robertson, Brimmer, and Sherrill.

SECRETARY OF COMMERCE
PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE

NOVEMBER 28, 1967.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, including Article 6(c) thereof relating to nonparticipants, and in accordance with the procedures outlined in Executive Order 11052 of September 28, 1962, as amended by Executive Order 11214 of April 7, 1965, you are directed to prohibit, effective as soon as possible after November 27, 1967, and for the 12-month period beginning September 29, 1967, and extending through September 28, 1968, entry into the United States for consumption and withdrawal from warehouse for consumption, of cotton textiles and cotton textile products in Category 43, produced or manufactured in Malaysia in excess of a level of restraint for the period of 16,500 dozen.[1]

Cotton textiles and cotton textile products in Category 43 produced or manufactured in Malaysia and which have been exported to the United States prior to September 29, 1967, shall not be subject to this directive.

A detailed description of Category 43 in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on July 7, 1966 (31 F.R. 9310).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Malaysia and with respect to imports of cotton textiles and cotton textile products from Malaysia have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 553 (Supp. II, 1965–66). This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

A. B. TROWBRIDGE,
Secretary of Commerce, Chairman, President's Cabinet Textile Advisory Committee.

[F.R. Doc. 67-13966; Filed, Nov. 29, 1967; 8:47 a.m.]

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN MALAYSIA

NOVEMBER 27, 1967.

On September 29, 1967, after discussions with the Government of Malaysia, the U.S. Government requested the Government of Malaysia to restrain for the 12-month period, beginning September 29, 1967, and extending through September 28, 1968, its exports to the United States of cotton textiles and cotton textile products in Category 43 produced or manufactured in Malaysia. In furtherance of the objectives of, and under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, including Article 6(c) relating to nonparticipants, the U.S. Government is establishing a restraint in accordance with that request. This restraint does not apply to cotton textiles and cotton textile products produced or manufactured in Malaysia and exported to the United States prior to the beginning of the applicable 12-month period designated above.

In the event that consultations regarding cotton textiles and cotton textile products in Category 43 or other categories are held with the Government of Malaysia, any goods which have been prohibited entry as a result of the directive published below would be a subject of such consultations, and their entry would be provided for under any arrangement resulting therefrom.

There is published below a letter of November 24, 1967, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, directing that the amount of cotton textiles and cotton textile products in Category 43, produced or manufactured in Malaysia which may be entered or withdrawn from warehouse for consumption in the United States for the 12-month period beginning September 29, 1967, be limited to the designated level.

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.

[1] This level has not been adjusted to reflect entries made on or after Sept. 29, 1967.

SECURITIES AND EXCHANGE COMMISSION

INTERAMERICAN INDUSTRIES, INC.

Order Suspending Trading

NOVEMBER 24, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the capital stock of Interamerican Industries, Ltd., CALGARY, Alberta, Canada being traded in the United States otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in the United States in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 25, 1967, through December 4, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13985; Filed, Nov. 29, 1967; 8:48 a.m.]

[File Nos. 2-20818 (25-3339), 2-21180 (32-2606)]

KJOBENHAVNS TELEFON AKTIESELSKAB

Notice of Application and Opportunity for Hearing

NOVEMBER 24, 1967.

Notice is hereby given that Kjobenhavns Telefon Aktieselskab (Copenhagen Telephone Co., Inc.) ("Company") has filed an application pursuant to clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (hereinafter referred to as the "Act") for a finding by the Commission that the trusteeship of First National City Bank ("Bank") under four indentures (the "Bank Indentures") of the Company, dated as of June 1, 1962 (the "1962 Indenture"), dated as of April 15, 1963 (the "1963 Indenture"), both of which have been qualified under the Act, dated as of July 1, 1963 (the "1964 Indenture"), and dated as of April 1, 1966 (the "1966 Indenture"), neither of which has been qualified under the Act, and the trusteeship of the Bank under an indenture dated as of October 15, 1967 (the "1967 Indenture") between the Company and the Bank, which has not been qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as trustee under the four Bank Indentures and the 1967 Indenture.

Section 310(b) of the Act, which is included in § 8.06 in each of the four Bank Indentures, provides, in part, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall within 90 days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign. Subsection (1) of this section provides, with certain exceptions stated therein, that a trustee is deemed to have a conflicting interest if it is acting as trustee under a qualified indenture and becomes trustee under another indenture of the same obligor. However, pursuant to clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture or indentures under which other securities of such obligor are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission, and after opportunity for hearing thereon, that trusteeship under

a qualified indenture and another indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under any of such indentures.

The Company alleges that:

1. It has outstanding:

(a) $15 million principal amount of its 5⅝ percent sinking fund dollar debentures due June 1, 1977 under an indenture (the "1962 Indenture") between the Company and First National City Bank, trustee. The 1962 Indenture has been qualified under the Act;

(b) $15 million principal amount of its 5⅜ percent sinking fund debentures due April 15, 1978 under an indenture (the "1963 Indenture") between the Company and First National City Bank, trustee. The 1963 Indenture has been qualified under the Act;

(c) $15 million principal amount of its 5¾ percent sinking fund debentures due July 1, 1984 under an indenture (the "1964 Indenture") between the Company and First National City Bank, trustee. The 1964 Indenture has not been qualified under the Act;

(d) $10 million principal amount of its 6¾ percent sinking fund dollar debentures due April 1, 1986 under an indenture (the "1966 Indenture") between the Company and First National City Bank, trustee. The 1966 Indenture has not been qualified under the act.

2. The Company has issued $10 million principal amount of its 6¾ percent sinking fund dollar debentures due October 15, 1982, under an indenture (the "1967 Indenture") between the Company and First National City Bank, trustee. The 1967 Indenture has not been qualified under the Act.

3. The 1962 Indenture, the 1963 Indenture, the 1964 Indenture, the 1966 Indenture, and the 1967 Indenture are wholly unsecured.

4. Aside from differences as to amounts, dates, and interest rates, the provisions of the five indentures are substantially identical, except for certain other differences which, in the opinion of the Company, are unlikely to cause any conflict of interest between the respective trusteeships of First National City Bank under such indentures.

The Company waives notice of hearing and waives hearing in connection with the matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission, 500 North Capitol Street NW., Washington, D.C.

Notice is further given that any interested person may, not later than December 19, 1967, request in writing that a hearing be held in such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13986; Filed, Nov. 29, 1967; 8:46 a.m.]

NORTH AMERICAN RESEARCH & DEVELOPMENT CORP.

Order Suspending Trading

NOVEMBER 24, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of North American Research & Development Corp., 1935 South Main Street, Salt Lake City, Utah, and all other securities of North American Research & Development Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 27, 1967, through December 6, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13987; Filed, Nov. 29, 1967; 8:46 a.m.]

[70-4373, 70-4396]

PENNZOIL CO., ET AL.

Notice of Filing of Supplemental Declaration Regarding Issuance of Production Payment and Request for Supplemental Order Authorizing Advance to Wholly Owned Subsidiary

NOVEMBER 24, 1967.

Notice is hereby given that a joint supplemental application-declaration and an amendment thereto has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") by Pennzoil Company ("Pennzoil") 900 Southwest Tower, Houston, Tex. 77002, a registered holding company, and its nonutility subsidiary companies Wolf's Head Oil Refining Co., Inc. ("Wolf's Head"), and Pennzoil Del Caribe, S.A. ("Caribe"), designating sections 6, 7, 9, 10, and 12 of the Act and Rules 22, 23, 24, 43, and 45 as applicable to the proposed transactions. All interested persons are referred to said supplemental application-declaration, which is summarized below, for a complete description of the proposed transactions.

By order dated June 16, 1966 (Holding Company Act Release No. 15503), the Commission authorized Pennzoil, Wolf's Head, and other nonutility subsidiary companies of Pennzoil, to enter into certain transactions and agreements in connection with the acquisition or disposition of petroleum, natural gas and mining properties or leases or interests therein in the ordinary course of their oil and gas businesses. Under the terms and conditions of the order, any such single transaction involving the acquisition or disposition of properties or other interests having a book value in excess of $5 million is subject to Commission authorization.

By Supplemental Order dated December 23, 1966 (Holding Company Act Release No. 15630) the Commission authorized Pennzoil and Wolf's Head to sell to Bright Star Foundation, Inc. ("Grantee") a nonaffiliated Texas nonprofit corporation, an oil and gas production payment in a primary sum not to exceed $14,250,000 in the case of Pennzoil and $750,000 in the case of Wolf's Head.

Pennzoil and Wolf's Head now propose to sell to Grantee, an oil and gas production payment in a primary sum not to exceed $28 million in the case of Pennzoil and $2 million in the case of Wolf's Head, plus in each case: (a) An amount equal to an increment accrual computed monthly at a rate not to exceed 7½ percent per annum on the unliquidated balance of the primary sum, (b) an amount equal to the aggregate of all amounts which may be paid by the Grantee to any State or political subdivision thereof on account of ad valorem, severance, gross production, franchise, income and other taxes, and (c) an amount equal to certain costs and expenses of the Grantee incidental to the acquisition, ownership, mortgaging and transfer of each production payment. It is anticipated that each production payment will be discharged within 3 years following the sale thereof.

Each production payment will be payable solely out of the proceeds from the sale of oil, gas, and other hydrocarbons produced from specified properties of Pennzoil and Wolf's Head, respectively. In general, the properties to be subject to Pennzoil's production payment are substantially oil and gas producing properties owned by Pennzoil in the States of Pennsylvania, New York, and West Virginia and certain specified properties located in the States of Texas, South Dakota, New Mexico, and Louisiana; and the properties to be subject to Wolf's Head's production payment are certain specified properties located in the States of Pennsylvania, West Virginia, New Mexico, Texas, Louisiana, and New York. The production payments terminate after the Grantee of the production payment has received the primary sum plus the increments described above. The proceeds of the sales will be used by Pennzoil and Wolf's Head, respectively, for working capital as required with excess funds being invested in (a) government securities or (b) commercial paper maturing within nine months following the date of issuance thereof.

By order dated July 8, 1966 (Holding Company Act Release No. 15523) the Commission authorized Pennzoil to make open account advances during 1966 to its wholly owned nonutility subsidiary Caribe and $239,000 was advanced pursuant thereto. Caribe now proposes to borrow and Pennzoil proposes to advance, without interest, pursuant to a credit agreement further sums up to $200,000 on or before December 31, 1967. Proceeds of such advances will be used by Caribe in its South American oil and gas exploration and development program.

Fees and expenses related to the sales of the production payments are estimated at $122,550 which includes legal fees aggregating $33,500. No fees or expenses will be incurred in connection with the advances to Caribe. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions and that no finder's fee, commission, or remuneration is to be paid for negotiating the proposed transactions.

Notice is further given that any interested person may, not later than December 14, 1967, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said supplemental application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Pennzoil Co. at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the supplemental application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13988; Filed, Nov. 29, 1967; 8:46 a.m.]

[File No. 1-1277]

PENROSE INDUSTRIES CORP.

Order Suspending Trading

NOVEMBER 24, 1967.

The common stock $2 par value, of Penrose Industries Corp., being listed and registered on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and the 5 percent cumulative convertible preferred stock, $20 par value of Penrose Industries Corp., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the American Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 25, 1967, through December 4, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-13989; Filed, Nov. 29, 1967; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 1128]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

NOVEMBER 24, 1967.

The following applications are governed by Special Rule 1.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with § 1.247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of § 1.247(d)(4) of the special rule, and shall include the certification required therein.

Section 1.247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's General Policy Statement Concerning Motor Carrier Licensing Procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 2228 (Sub-No. 53), filed November 2, 1967. Applicant: MERCHANTS FAST MOTOR LINES, INC., East U.S. Highway 80, Post Office Drawer 270, Abilene, Tex. 79604. Applicant's representative: Reagan Sayers, Century Life Building, Post Office Drawer 17007, Fort Worth, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between (1) San Antonio and Dallas, Tex., over Interstate Highway 35; and (2) San Antonio and Fort Worth, Tex.: From San Antonio over Interstate Highway 35 to its intersection with Interstate Highway 35W, and thence over Interstate Highway 35W to Fort Worth,

[1] Copies of Special Rule 1.247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

returning over the same route, serving no intermediate points, as alternate routes for operating convenience only in connection with applicant's authorized service routes between the termini. NOTE: If a hearing is deemed necessary, applicant requests it be held at Dallas or Fort Worth, Tex.

No. MC 2228 (Sub-No. 54), filed November 6, 1967. Applicant: MERCHANTS FAST MOTOR LINES, INC., East U.S. Highway 80, Post Office Drawer 270, Abilene, Tex. 79604. Applicant's representative: Reagan Sayers, Century Life Building, Post Office Drawer 17007, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), (1) between Brownfield and Post, Tex., over U.S. Highway 380, (2) between Brownfield and Lemesa, Tex., over Texas Highway 137, (3) between Lemesa and Andrews, Tex., over Texas Highway 115, (4) between Lemesa and Snyder, Tex., over U.S. Highway 180, (5) between Kermit and Monahans, Tex., over Texas Highway 18, and (6) between Kermit and Pyote, Tex., over Texas Highway 115; as alternate routes for operating convenience only in (1) through (6) above, in connection with applicant's existing regular route operations between the same termini, and serving no intermediate points on the above-described routes. NOTE: Applicant states it holds authority under MC 2228 and Subs 28 and 44 to serve between and over circuitous routes of each termini as related to each portion of this application. If a hearing is deemed necessary, applicant requests it be held at Dallas or Fort Worth, Tex.

No. MC 4941 (Sub-No. 28), filed November 9, 1967. Applicant: QUINN FREIGHT LINES, INC., 1093 North Montello Street, Brockton, Mass. 02403. Applicant's representative: Mary E. Kelley, 10 Tremont Street, Boston, Mass. 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading, serving the plant and warehouse sites of Eastern Products Corp., located in Howard County, Md., at or near the junction of Maryland Highway 32 and U.S. Highway 29, as an off-route point in connection with applicant's regular route authorities between Baltimore, Md., and New York, N.Y. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Baltimore, Md.

No. MC 11207 (Sub-No. 268), filed November 8, 1967. Applicant: DEATON, INC., 3409 10th Avenue North, Birmingham, Ala. 35234. Applicant's representative: A. Alvis Layne, Pennsylvania Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boards and slabs, composed of wood fiber and cement combined, and accessories therefor*, when transported at the same time and in the same vehicles with such boards and slabs, from the site of Atlas Roof Deck Co., Inc., Terry, Miss., to points in Alabama (except Birmingham and points within 65-mile radius thereof), Georgia (except Atlanta and its commercial zone), Florida, Tennessee, Kentucky, North Carolina, South Carolina, and Virginia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss., or Atlanta, Ga.

No. MC 21170 (Sub-No. 258), filed November 13, 1967. Applicant: BOS LINES, INC., 498 South 12th Avenue, Marshalltown, Iowa 50158. Applicant's representative: William C. Harris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy, confectionery candy, and confectionery products; cough drops, and advertising matter* when shipped therewith, from the plantsite and warehouse facilities of Luden's Inc., at or near Reading, Pa., to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Texas, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 29886 (Sub-No. 237), filed November 13, 1967. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46621. Applicant's representative: Charles Pieroni (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Motor vehicles* (except passenger automobiles), and *chassis*, in initial movements, in driveaway and truckaway service, and (2) *bodies, cabs, and parts of, and accessories for such vehicles*, from Nashville, Tenn., to points in the United States (except Hawaii). NOTE: If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Washington, D.C.

No. MC 43269 (Sub-No. 55), filed November 13, 1967. Applicant: WELLS CARGO, INC., 1775 East Fourth Street, Reno, Nev. Applicant's representative: Bruce R. Geernaert, 100 Bush Street, 21st Floor, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, between Reno and Carson City, Nev., from Reno, Nev., to Carson City, Nev., over U.S. Highway 395, serving no intermediate points. NOTE: Applicant holds irregular-route authority between Reno, Nev., and Carson City, Nev., which it will cancel if and when the regular-route authority is granted. This application is filed pursuant to MC-C-4366, dated January 13, 1964, which provides the special rules for conversion of irregular-route to regular-route motor carrier operations. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 52460 (Sub-No. 88), filed November 9, 1967. Applicant: HUGH BREEDING, INC., 1429 West 35th Street, Post Office Box 9519, Tulsa, Okla. 74107. Applicant's representative: Steve B. McCommas (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products* in packages and containers, (1) from points in Kansas to points in Alabama, Arkansas, Georgia, Illinois (on and south of U.S. Highway 24), Louisiana, Mississippi, Missouri (on and south of U.S. Highway 50, except the St. Louis commercial zone), and Tennessee; and (2) from points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone, as defined by the Commission, and points in Madison County, Ill., to points in Arkansas, Kansas, Louisiana, Oklahoma, and Texas. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City or St. Louis, Mo.

No. MC 61396 (Sub-No. 192), filed November 13, 1967. Applicant: HERMAN BROS. INC., 2501 North 11th Street, Omaha, Nebr. 68110. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aqua ammonia*, from Muscatine, Iowa, to points in Illinois. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or St. Louis, Mo.

No. MC 64932 (Sub-No. 442), filed November 13, 1967. Applicant: ROGERS CARTAGE CO., a corporation, 1439 West 103d Street, Chicago, Ill. 60643. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Anhydrous ammonia*, in bulk, from Seneca, Ill., and points within 5 miles thereof to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, and Wisconsin, and (2) *nitrogen fertilizer solutions, liquid fertilizer, and liquid fertilizer material*, in bulk, in tank vehicles, from Seneca, Ill., and points within 5 miles thereof to points in Indiana, Iowa, Kentucky, Michigan, Missouri, and Wisconsin, restricted to traffic originating at the plantsite and facilities of the F. S. Royster Guano Co., in connection with (2) above. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 73165 (Sub-No. 240), filed October 27, 1967. Applicant: EAGLE MOTOR LINES, INC., Post Office Box 1348, Birmingham, Ala. 35201. Applicant's representative: Robert M. Pearce, Post Office Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road and bridge building machinery and materials*, between West Memphis, Ark., on the one hand, and, on the other, points in Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, and Texas. NOTE: Applicant states it now holds authority in MC 73165 Sub 199 to transport road and bridge building machinery and materials between Warren, Ark., on the one hand, and, on the other, points in Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, and Texas. This application seeks to use West Memphis, Ark., as a gateway in lieu of Warren, Ark. The proposed authority will be tacked to applicant's present authority in MC 73165 Sub 102; Sub 155; and the remaining authority in Sub 199. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala.

No. MC 78228 (Sub-No. 17), filed November 13, 1967. Applicant: THE J. MILLER COMPANY, a corporation, 147 Nichol Avenue, McKees Rocks, Pa. 15136. Applicant's representative: Henry M. Wick, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap carbon, furnace lining, and carbon butts*, from Niagara Falls, N.Y., to points in Pennsylvania, Ohio, and West Virginia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y., or Washington, D.C.

No. MC 82841 (Sub-No. 40), filed November 9, 1967. Applicant: R-D TRANSFER INC., 801 Livestock Exchange Building, Omaha, Nebr. 68107. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boilers*, heating or power, steel or steel and cast iron combined, from Kewanee, Ill., to points in Kansas, Nebraska, South Dakota, North Dakota, Montana, Wyoming, and Colorado. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or St. Louis, Mo.

No. MC 95084 (Sub-No. 64), filed October 16, 1967. Applicant: HOVE TRUCK LINE, a corporation, Stanhope, Iowa 52406. Applicant's representative: Kenneth F. Dudley, 901 South Madison Avenue, Post Office Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors* (not including tractors with vehicle beds, bed frames, or fifth wheels) *agricultural implements, farm machinery, industrial and construction, machinery and equipment, tractor parts and attachments, agricultural implement parts and attachments, farm machinery parts and attachments, industrial and construction machinery and equipment parts and attachments*, from Coldwater, Ohio, to points in Arkansas, Colorado, Illinois, Iowa, Kansas, Louisiana, Minnesota, Missouri, Mississippi, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Wisconsin, and Wyoming. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 95876 (Sub-No. 75) (Correction), filed October 26, 1967, published FEDERAL REGISTER issue of November 16, 1967, and republished as corrected, this issue. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. Applicant's representative: Donald A. Morken, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Material handling equipment, winches, compaction and road making equipment, rollers, self-propelled and non-self-propelled, mobile cranes, and highway freight trailers*, (2) *parts attachments, and accessories* for the commodities described in (1) above, between the plantsite of the Hyster Co. located at or near Danville, Kewanee, and Peoria, Ill., on the one hand, and, on the other, points in Minnesota. NOTE: The purpose of this republication is to show the correct docket number as MC 95876 (Sub-No. 75) in lieu of MC 95876 (Sub-No. 76), which was erroneously shown in previous publication. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 100623 (Sub-No. 7), filed November 6, 1967. Applicant: HOURLY MESSENGERS, INC., 1710 Wood Street, Philadelphia, Pa. Applicant's representative: V. Baker Smith, 123 South Broad Street, Philadelphia, Pa. 19109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Parcels and packages*, no single parcel or package to exceed 50 pounds in weight nor 108 inches in length and girth combined, and the maximum weight for all parcels and packages from a single shipper to a single consignee on any one day not to exceed 100 pounds, restricted against transportation from department stores, mail order houses, premium redemption companies, and other retail stores, (a) between points in Philadelphia, Delaware, Chester, Montgomery, and Bucks Counties, Pa., on the one hand, and, on the other, points in Warren, Hunterdon, Mercer, Burlington, Camden, Gloucester, Salem, and Cumberland Counties, N.J., and New Castle County, Del., (b) between points in Warren, Hunterdon, Mercer, Burlington, Camden, Gloucester, Salem, and Cumberland Counties, N.J., on the one hand, and, on the other, points in New Castle County, Del., and (2) *parcels and packages*, having a prior movement in interstate commerce, no single parcel or package to exceed 50 pounds in weight nor 108 inches in length and girth combined, and the maximum weight for all parcels and packages from a single shipper to a single consignee on any one day not to exceed 100 pounds, from Philadelphia, Pa., to points in Delaware, Chester, Montgomery, Bucks, Lancaster, York, Dauphin, Lebanon, Berks, Lehigh, and Northampton Counties, Pa. Restriction: No service is sought on the transportation of parcels and packages having an immediately prior or subsequent movement by air from or to the Philadelphia International Airport, Pa. NOTE: Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 104004 (Sub-No. 170), filed November 9, 1967. Applicant: ASSOCIATED TRANSPORT, INC., 380 Madison Avenue, New York, N.Y. 10017. Applicant's representative: John P. Tynan, 66-12 Fresh Pond Road, Ridgewood, N.Y. 11227. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials, synthetic resin*, in bulk, between Charlotte, N.C., on the one hand, and, on the other, the plantsite of Stein Hall & Co., Inc., Long Island City, N.Y. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 105120 (Sub-No. 10), filed November 2, 1967. Applicant: M.A.T. LINES, INC., 633 East Street, Memphis, Tenn. 38104. Applicant's representative: James N. Clay III, 2700 Sterick Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, those contaminating to other lading and those requiring special equipment), (1) between Memphis, Tenn., and, Blytheville, Ark., serving all intermediate points; and all off-route points within 10 miles of U.S. Highway 61 between Turrell and Blytheville, Ark., including Turrell and Blytheville; from Memphis over U.S. Highway 61 to Blytheville and return over the same route, (2) between junction of U.S. Highway 63 and Arkansas Highway 135 and Arbyrd, Mo., from junction of U.S. Highway 63 and Arkansas Highway 135 over Arkansas Highway 135 to Black Oak, Ark., thence north over Arkansas Highway 18 to junction Arkansas Highway 119, thence north over Arkansas Highway 119 to junction Arkansas Highway 77, thence north over Arkansas Highway 77 to the Missouri-Arkansas State Line, thence north over Missouri Highway 108 to junction Missouri Highway 25, thence east over Missouri Highway 25 to Arbyrd and return over the same route serving all intermediate points and the off-route point of Caraway, Ark., (3) between Hickman and Monette, Ark., from Hickman over Arkansas Highway 18 to Monette and return over the same route, serving all intermediate points, and the off-route point of Garfield, Ark.; (4) between Luxora, Ark., and junction Arkansas Highway 158 and Arkansas Highway 135, from Luxora over Arkansas Highway 158 to junction with Arkansas Highway 135 and return over the same route.

(5) Between Osceola and Athelstan, Ark., from Osceola over Arkansas Highway 140 to Athelstan and return over the same route, (6) between Wilson and Calumet, Ark., from Wilson over Arkansas Highway 181 to Calumet and return over the same route, (7) between Marie and Lepanto, Ark., from Marie over Arkansas Highway 14 to Lepanto and return over the same route, (8) between Joiner, Ark., and junction Arkansas Highway 118 and U.S. Highway 63 from Joiner over Arkansas Highway 118 to

junction U.S. Highway 63 and return over the same route, (9) between junction Arkansas Highways 119 and 140 and Arkansas Highways 119 and 158, from junction Arkansas Highways 119 and 140 north over Arkansas Highway 119 to junction Arkansas Highway 158 and return over the same route, (10) between junction U.S. Highway 63 and Arkansas Highway 77 to junction of Arkansas Highways 77 and 14, from junction U.S. Highway 63 and Arkansas Highway 77 north over Arkansas Highway 77 to junction Arkansas Highway 14 and return over the same route, serving all intermediate points in (4) through (10) above, (11) between Memphis, Tenn., and Cooter, Mo., from Memphis, over Interstate Highway 55 to Cooter, Mo., and return over same route serving no intermediate points as an alternate route only. NOTE: If a hearing is deemed necessary, applicant requests it be held at Blytheville, Tenn., Osceola, Ark., or Memphis, Tenn.

No. MC 105733 (Sub-No. 42), filed November 22, 1967. Applicant: H. R. RITTER TRUCKING CO., INC., 928 East Hazelwood Avenue, Rahway, N.J. 07065. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, from Burlington, N.J., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 106398 (Sub-No. 352), filed November 8, 1967. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers*, designed to be drawn by passenger automobiles from Newport, Ark., to points in the United States, except Alaska and Hawaii; and (2) *trailers*, designed to be drawn by passenger automobiles and buildings, in sections from South Hill, Va., to points in the United States, except Alaska and Hawaii. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 106760 (Sub-No. 83) (Correction), filed October 11, 1967, published in the FEDERAL REGISTER issue of October 26, 1967, and republished as corrected, this issue. Applicant: WHITEHOUSE TRUCKING, INC., 2905 Airport Highway, Toledo, Ohio 43614. Applicant's representatives: O. L. Thee, 1925 National Plaza, Tulsa, Okla. 74131, and Leonard A. Jaskiewicz, 1155 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings, knocked down or in sections or prefabricated building sections and components together with materials necessary for the construction and erection thereof*, from points in Pinellas County, Fla., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia. NOTE: The purpose of this republication is to show the applicant's representative correctly. If a hearing is deemed necessary, applicant requests it be held at Tampa, Fla.

No. MC 107010 (Sub-No. 30), filed November 16, 1967. Applicant: D & R BULK CARRIERS, INC., Post Office Box 106, Auburn, Nebr. 68305. Applicant's representative: Leonard A. Jaskiewicz, 1155 15th Street NW., Madison Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal food and animal food supplements*, in bulk, in tank vehicles, from La Platte and Omaha, Nebr., to points in Iowa, Kansas, Minnesota, Missouri, North Dakota, and South Dakota. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 107496 (Sub-No. 599), filed November 8, 1967. Applicant: RUAN TRANSPORT CORPORATION, Keosauqua Way at Third, Post Office Box 855, Des Moines, Iowa 50304. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid animal food and animal food supplements*, in bulk, from Dubuque, Iowa, to points in Illinois, Iowa, Indiana, Kansas, Missouri, Minnesota, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Chicago, Ill.

No. MC 107496 (Sub-No. 600), filed November 9, 1967. Applicant: RUAN TRANSPORT CORPORATION, Keosauqua Way at Third, Post Office Box 855, Des Moines, Iowa 50304. Applicant's representative: H. L. Fabritz (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paint and paint products*, in bulk, from Fort Madison, Iowa, to points in Illinois, Indiana, Missouri, Kansas, and Minnesota. NOTE: If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Chicago, Ill.

No. MC 107839 (Sub-No. 117), filed November 13, 1967. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., Post Office Box 16021, Denver, Colo. 80216. Applicant's representative: Paul M. Daniell, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I, *Description In Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from the plantsite of Missouri Beef Packers at or near Friona, Tex., to points in Alabama, Florida, Georgia, North Carolina, and South Carolina, restricted to traffic originating at the above-named plantsite and destined to the States named. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Dallas, Tex.

No. MC 109172 (Sub-No. 3), filed November 8, 1967. Applicant: NATIONAL TRANSFER, INC., doing business as NATIONAL MOTOR FREIGHT, 4100 East Marginal Way South, Seattle, Wash. 98134. Applicant's representative: George Kargianis, 609 Norton Building, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *commodities* which because of their size and weight require the use of special equipment for loading and unloading, and *related parts* when their transportation is incidental to the transportation of the commodities described above, (1) between Seattle, Wash., on the one hand, and, on the other, points in Washington on and east of a line extending north and south through Cascade Tunnel, Wash., (2) between Seattle, Wash., on the one hand, and, on the other, points in King and Pierce Counties, Wash., and Benton, Clackamas, Clatsop, Columbia, Douglas, Land, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, and Yamhill Counties, Oreg., and (3) from Seattle, Wash., to mines in Josephine County, Oreg. NOTE: Applicant states that it is authorized to transport heavy machinery (part 1), machinery (part 2), and mining machinery (part 3) between the various territorial points. To the extent that such authority would be a size and weight commodity there may be a duplication. No territorial expansion of present authority is contemplated by the instant application. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash., or Portland, Oreg.

No. MC 109689 (Sub-No. 187), filed November 13, 1967. Applicant: W. S. HATCH CO., a corporation, 643 South 800 West, Woods Cross, Utah 84087. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum crude oil*, in bulk, in tank vehicles, from the terminal of the Phillips Pipe Line Co., located approximately 7 miles south of Robertson, Uinta County, Wyo., to the plantsite of the Phillips Petroleum Co., Woods Cross refinery at West Bountiful, Utah. NOTE: If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah.

No. MC 110525 (Sub-No. 849), filed November 16, 1967. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representatives: Leonard A. Jaskiewicz, Madison Building, 155 15th Street NW., Washington, D.C. 20005, also Edwin H. van Deusen (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbon black*, in bulk, in tank or hopper-type vehicles, from points in Pleasants County, W. Va., and Belpre, Ohio to points in Indiana, Kentucky, Maryland, Massachusetts, Michigan, New York, Ohio, Pennsylvania, and Virginia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 112098 (Sub-No. 13), filed November 9, 1967. Applicant: LOS ANGELES TURF EXPRESS, a corporation, 1611 Easterly Terrace, Los Angeles, Calif. 90026. Applicant's representative: R. Y. Schureman, 1010 Wilshire Boulevard, Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Horses*, other than ordinary, and *personal effects* of attendants, *equipment, supplies, and mascots* used in the care and exhibition of such animals, (1) between points in Arizona, Arkansas, California, Colorado, Louisiana, Nebraska, Nevada; New Mexico, Oklahoma, Oregon, Texas, Utah, and Washington, and (2) between points in Arizona, Arkansas, California, Colorado, Louisiana, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, and Washington, on the one hand, and, on the other, points in the United States. NOTE: Duplicating authority to be eliminated. If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz., Omaha, Nebr., or Denver, Colo.

No. MC 113254 (Sub-No. 3), filed November 9, 1967. Applicant: BREYER EXCHANGE, INC., Route 3, New Philadelphia, Ohio 44663. Applicant's representative: Richard H. Brandon, 79 East State Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt compounds*, between points in Tuscarawas County, Ohio, on the one hand, and, on the other, points in Kentucky, Pennsylvania and West Virginia, under contract with Morton International, Inc., Morton Salt Company Division, Chicago, Ill. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Chicago, Ill.

No. MC 113362 (Sub-No. 140), filed November 13, 1967. Applicant: ELLSWORTH FREIGHT LINES, INC., 220 East Broadway, Eagle Grove, Iowa. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (1) from Fremont, Nebr., to Austin, Minn., and (2) from Des Moines, Iowa, to Austin, Minn., restricted to shipments originating at the plantsites and warehouse facilities of the Geo. A. Hormel & Co., Fremont, Nebr., and I. D. Packing Co., Des Moines, Iowa, and destined to Austin, Minn. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., Omaha, Nebr., or Des Moines, Iowa.

No. MC 113855 (Sub-No. 170), filed November 13, 1967. Applicant: INTERNATIONAL TRANSPORT, INC., South Highway 52, Rochester, Minn. 55902. Applicant's representative: Gene P. Johnson, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery, agricultural implements, snow cycles, and accessories, attachments, and parts for agricultural implements, agricultural machinery, and snow cycles*, from Garfield, Wash., to points in the United States (except Alaska and Hawaii). NOTE: If a hearing is deemed necessary, applicant requests it be held at San Francisco or Los Angeles, Calif., or Portland, Oreg.

No. MC 114334 (Sub-No. 10) (Amendment), filed June 9, 1967, published in FEDERAL REGISTER issue of June 29, 1967, amended November 7, 1967, and republished as amended this issue. Applicant: BUILDERS TRANSPORTATION COMPANY, a corporation, 3265 Tulane Road, Memphis, Tenn. 38116. Applicant's representative: Dale Woodall, 900 Memphis Bank Building, Memphis, Tenn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Prefabricated metal buildings*, knocked down, *prefabricated metal building sections*, knocked down, *prefabricated prefinished metal panel sections, component parts thereof, equipment, materials, and supplies* used in the installation, construction, or erection thereof, except metal buildings which are designed to be drawn by passenger vehicles, from Evansville, Wis., to points in Arizona, New Mexico, Kansas, Oklahoma, Texas, Missouri, Arkansas, Louisiana, Mississippi, Alabama, Georgia, and Florida, and (2) *materials, equipment, and supplies* used or useful in the manufacture of the above described commodities, on return. NOTE: The purpose of this republication is (1) to eliminate the size and weight restriction, (2) to change the commodity description and (3) to limit the number of States involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114334 (Sub-No. 16), filed November 8, 1967. Applicant: BUILDERS TRANSPORTATION COMPANY, a corporation, 3265 Tulane Road, Memphis, Tenn. 38116. Applicant's representative: Dale Woodall, 900 Memphis Bank Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, from Memphis, Tenn., and points in its commercial zone, to points in Illinois, Indiana, Missouri, Oklahoma, Louisiana, Alabama, Iowa, Georgia, and Florida. NOTE: If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 114364 (Sub-No. 153), filed November 9, 1967. Applicant: WRIGHT MOTOR LINES, INC., Post Office Box 1191 (1401 North Little Street), Cushing, Okla. 74023. Applicant's representative: Rodger Spahr (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpet, floor coverings and textile products*, from points in Lafayette County, Ark., to points in Arizona, California, Colorado, Idaho, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming. NOTE: If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark., or Tulsa, Okla.

No. MC 115180 (Sub-No. 45), filed November 6, 1967. Applicant: ONLEY REFRIGERATED TRANSPORTATION, INC., 408 West 14th Street, New York, N.Y. 10014. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs*, except in bulk; and, (2) *commodities*, the transportation of which is partially exempt under the provisions of section 203(b)(6) of the Interstate Commerce Act, if transported in vehicles not used in carrying any other property, when moving in the same vehicle at the same time with regulated commodities presently authorized, authorized at time of hearing, or authorized in this proceeding, from South Hackensack, N.J., to points in Ohio, Indiana, Illinois, Kentucky, Missouri, Iowa, Wisconsin, and Minnesota. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 115379 (Sub-No. 32), filed November 13, 1967. Applicant: JOHN D. BOHR, INC., Post Office Box 217, Annville, Pa. 17003. Applicant's representative: Christain V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Poultry feed*, in bulk, from Palmyra, Pa., to points in Virginia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Harrisburg, Pa.

No. MC 115826 (Sub-No. 179), filed November 9, 1967. Applicant: W. J. DIGBY, INC., 1960 31st Street, Post Office Box 5088, Terminal Annex, Denver, Colo. 80217. Applicant's representative: Paul M. Daniell, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I, *Description in Motor Carrier Certificates*, 61 M.C.C. 209 (272–273) and 61 M.C.C. 766,

except commodities in bulk, in tank vehicles and hides, from the plantsite of Missouri Beef Packers at or near Friona, Tex. to points in Kentucky, Virginia, North Carolina, South Carolina, Georgia, Alabama, and Tennessee (except Memphis and points in its commercial zone), restricted to traffic originating at the above named plantsite and destined to the States named. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., Dallas or Amarillo, Tex.

No. MC 115841 (Sub-No. 317), filed November 6, 1967. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 Bankhead Highway West, Post Office Box 2169, Birmingham, Ala. 35201. Applicant's representative: C. E. Wesley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products, products produced or distributed by manufacturers and converters of paper and paper products, materials, supplies, and equipment* used or useful in the manufacture and distribution of these products (except in bulk and/or tank vehicles), between points in Little River County, Ark., on the one hand, and, on the other, points in Tennessee, Louisiana, Mississippi, Missouri, Alabama, Georgia, Florida, Kentucky, Illinois, Indiana, Ohio, Michigan, North Carolina, South Carolina, Virginia, West Virginia, Oklahoma, Texas, and Kansas. NOTE: If a hearing is deemed necessary, applicant does not specify a location.

No. MC 115941 (Sub-No. 318), filed November 8, 1967. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 Bankhead Highway West, Post Office Box 2169, Birmingham, Ala. 35201. Applicant's representative: C. E. Wesley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal* and/or *charcoal derivatives, such as briquettes* (except in bulk or tank vehicles), from Paris, Ark., and Memphis, Tenn., to points in Texas, Oklahoma, Kansas, Nebraska, Minnesota, Iowa, Missouri, Arkansas, Louisiana, New Mexico, Arizona, California, and points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the international boundary line between the United States and Canada. NOTE: If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or Little Rock, Ark.

No. MC 116077 (Sub-No. 322), filed November 9, 1967. Applicant: ROBERTSON TANK LINES, INC., 5700 Polk Avenue, Post Office Box 1505, Houston, Tex. 77001. Applicant's representative: Thomas E. James, The 904 Lavaca Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt*, in bulk, from points in Jefferson County, Tex., to points in Louisiana. NOTE: If a hearing is deemed necessary, applicant requests it be held at Houston, Tex., or New Orleans, La.

No. MC 116254 (Sub-No. 76), filed November 3, 1967. Applicant: CHEM-HAULERS, INC., Post Office Drawer M, Sheffield, Ala. 35660. Applicant's representative: Walter Harwood, 515 Nashville Bank and Trust Building, Nashville, Tenn. 37201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from points in Marshall County, Ala., to points in the United States (except Alaska and Hawaii). NOTE: No duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., Atlanta, Ga., or Nashville, Tenn.

No. MC 116544 (Sub-No. 87), filed November 14, 1967. Applicant: WILSON BROTHERS TRUCK LINE, INC., Post Office Box 518, Carthage, Mo. 64836. Applicant's representative: Paul M. Daniell, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I, *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from the plantsite of Missouri Beef Packers at or near Friona, Tex., to points in Kentucky, Alabama, North Carolina, Georgia, South Carolina, Florida, and Tennessee (except Memphis, Tenn., and points in its commercial zone), restricted to traffic originating at the above-named plantsite and destined to the States named. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Dallas or Amarillo, Tex.

No. MC 116544 (Sub-No. 88), filed November 14, 1967. Applicant: WILSON BROTHERS TRUCK LINES, INC., Post Office Box 518, Carthage, Mo. 64836. Applicant's representative: Paul M. Daniell, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I, *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from the plantsite of Missouri Beef Packers at or near Friona, Tex., to points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Minnesota, Wisconsin, Iowa, Missouri, Arkansas, Louisiana, Mississippi, Illinois, Indiana, and Memphis, Tenn., restricted to traffic originating at the above-named plantsite and destined to the States named. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., Dallas or Amarillo, Tex.

No. MC 117823 (Sub-No. 32), filed November 13, 1967. Applicant: DUNKLEY REFRIGERATED TRANSPORT, INC., 240 West California Avenue, Salt Lake City, Utah 84115. Applicant's representative: Lon Rodney Kump, 720 Newhouse Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food stuffs*, in mechanically refrigerated vehicles (except frozen foods, bananas, and commodities in bulk, in tank vehicles), from points in California to points in Utah. NOTE: If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, or Los Angeles, Calif.

No. MC 118642 (Sub-No. 2), filed November 9, 1967. Applicant: MOLLISON'S INC., Belmont Avenue, Belfast, Maine 04915. Applicant's representative: Raymond E. Jensen, 477 Congress Street, Portland, Maine 04111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid* (93½ *percent*), *liquid alum, anhydrous ammonia, fertilizer ammoniating solutions, nitrogen fertilizer solutions* (nonpressure), *nitric acid*, in bulk, in tank vehicles, from Searsport, Maine, to points in New Hampshire and Vermont, under contract with W. R. Grace & Co., Searsport, Maine. NOTE: If a hearing is deemed necessary, applicant requests it be held at Portland or Bangor, Maine.

No. MC 118910 (Sub-No. 1) (Amendment), filed October 17, 1967, published in the FEDERAL REGISTER issue of November 2, 1967, amended November 8, 1967, and republished as amended this issue. Applicant: MRS. T. E. GROTEVANT, doing business as J & G CONTRACT CARRIERS, 610 West Henry Street, Pontiac, Ill. 61764. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel and aluminum doors, screens, and awnings, and parts and accessories therefor; and steel and aluminum channels, angles, coils, and sheets*, (1) between Chatsworth, Ill., on the one hand, and, on the other, Goshen, Ind.; Carlstadt, N.J.; Miami, Fla.; Jefferson City, Mo.; Merrill, Fond du Lac, and Sheboygan, Wis.; Oswego, N.Y.; Hanover and York, Pa.; Bayport, Minneapolis, and St. Paul, Minn., and (2) from Goshen, Ind., to Carlstadt, N.J., under contract with American Screen Products Co., Chatsworth, Ill. NOTE: The purpose of this republication is to add certain additional commodities and points to be served. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119211 (Sub-No. 11), filed November 9, 1967. Applicant: MAU TRUCKING, INC., Early, Iowa. Applicant's representative: Donald E. Leonard, Box 2026, 605 South 14th Street, Lincoln, Nebr. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients*, except bulk liquids in tank vehicles, from Estherville, Iowa, to points in Minnesota, under contract with Kent Feeds, Inc., Sioux City, Iowa. NOTE: If a hearing is deemed necessary, applicant requests it be held at Sioux City, Iowa, or Chicago, Ill.

No. MC 119489 (Sub-No. 15), filed November 7, 1967. Applicant: PAUL ABLER, doing business as CENTRAL TRANSPORT COMPANY, Post Office Box 596, Norfolk, Nebr. 68701. Applicant's representative: J. Max Harding, 605 South 14th Street, Post Office Box 2028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal food and animal food supplements*, in bulk, in tank vehicles, from La Platte and Omaha, Nebr., to points in Iowa, Kansas, Minnesota, Missouri, North Dakota, and South Dakota. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha or Lincoln, Nebr.

No. MC 119493 (Sub-No. 36) (Correction), filed October 18, 1967, published in the FEDERAL REGISTER issue of November 2, 1967, corrected and republished as corrected, this issue. Applicant: MONKEM COMPANY, INC., West 20th Street Road (Post Office Box 1196), Joplin, Mo. 64801. Applicant's representative: Harry Ross, 848 Warner Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper products, products produced or distributed by manufacturers and converters of paper and paper products; and materials, equipment, and supplies used in the manufacture and distribution of the foregoing commodities* (except commodities in bulk, and commodities which, due to size and weight, require use of specialized motor vehicle equipment), between points in Little River County, Ark., on the one hand, and, on the other, points in Arkansas, Illinois, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, and Texas. NOTE: The purpose of this republication is to correct the commodity description. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 119777 (Sub-No. 90), filed November 3, 1967. Applicant: LIGON SPECIALIZED HAULER, INC., Post Office Drawer L, Madisonville, Ky. 42431. Applicant's representative: Robert M. Pearce, Post Office Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Material handling equipment, winches, compaction and road making equipment, rollers, self-propelled and non-self-propelled, mobile cranes, and highway freight trailers*, (2) *parts, attachments, and accessories* for the commodities described in (1) above, between the plantsites of the Hyster Co. located at or near Danville, Kewanne, and Peoria, Ill., on the one hand, and, on the other, points in Indiana and Kentucky, restricted to traffic originating at or destined to the named plantsites. NOTE: Applicant is authorized to operate as a contract carrier in MC 126970 Sub 1, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Nashville, Tenn.

No. MC 119777 (Sub-No. 91), filed November 13, 1967. Applicant: LIGON SPECIALIZED HAULER, INC., Post Office Box L, Madisonville, Ky. 42431. Applicant's representative: Fred F. Bradley, 213 St. Clair Street, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural implements, parts, and accessories, including disk harrows and rotary cutters*, from Poplarville, Miss., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas. NOTE: Common control may be involved. Applicant is also authorized to conduct operations as a contract carrier in permit No. MC 126970 and Sub 1, therefor, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Jackson, Miss.

No. MC 121060 (Sub-No. 4), filed November 15, 1967. Applicant: ARROW TRUCK LINES, INC., 1220 West Third Street, Birmingham, Ala. Applicant's representative: Robert L. Ragsdale (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe; plastic or iron connections, fittings, and accessories*, from the plantsite and/or warehouse facilities of the Clow Corp. at or near Lincoln, Talladega County, Ala., to points in Arkansas, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Texas, and (2) *equipment, materials, and supplies*, used in the manufacture, processing, and distribution of *plastic pipe, plastic or iron connections, fittings, and accessories* (except commodities in bulk, in tank vehicles), from points in Arkansas, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Texas to the plantsite and/or warehouse facilities of the Clow Corp. at or near Lincoln, Talladega County, Ala. NOTE: If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala.

No. MC 121525 (Sub-No. 2), filed November 1, 1967. Applicant: SNIDER TRUCKING SERVICE, INC., 110 East Fifth Street, Ritzville, Wash. 99169. Applicant's representatives: George H. Hart and Jack R. Davis, 1100 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural commodities*, consisting of fruit and vegetables only, between Wenatchee, Prosser, Yakima, Zillah, or Toppenish, Wash., on the one hand, and, on the other, Seattle or Tacoma, Wash., (2) *petroleum products*, in packages, between Richmond Beach, Wash., on the one hand, and, on the other, Spokane, Wash., (3) *sugar*, from Toppenish, Wash., to Seattle or Tacoma, Wash., for Nalleys, Inc., only, and (4) *heavy machinery and building materials* (except cement, in bulk, in tank vehicles), between points in Washington. NOTE: Applicant states that the authority set forth above is identical to its certificate of registration under MC 121525, canceled September 6, 1967. The instant application seeks a certificate of public convenience and necessity to continue such operations by applicant. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., or Spokane or Seattle, Wash.

No. MC 124078 (Sub-No. 305), filed November 16, 1967. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, Wis. 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal feed ingredients and/or supplements*, (1) from Dubuque, Iowa, to points in Illinois, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin, (2) from Memphis, Tenn., to points in Alabama, Arkansas, Kentucky, Louisiana, Mississippi, and Missouri, and (3) from Omaha, Nebr., to points in Colorado, Iowa, Kansas, Missouri, North Dakota, South Dakota, and Wyoming. NOTE: Applicant states it could tack part (3) with MC 124078 Subs 99 and 146 at Montpelier, Iowa, to serve Illinois, Indiana, Ohio, Michigan, Kentucky, Tennessee, Pennsylvania, and Wisconsin. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 124206 (Sub-No. 2), filed November 9, 1967. Applicant: BARRY CARTAGE, INC., 120 East National Avenue, Milwaukee, Wis. 53204. Applicant's representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise*, as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, equipment, materials, and supplies used in the conduct of such business, from Wauwatosa, Wis., to points in the Upper Peninsula of Michigan, under continuing contract with Roundy's Inc., of Wauwatosa, Wis. NOTE: If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis.

No. MC 126305 (Sub-No. 12), filed November 13, 1967. Applicant: BOYD BROTHERS TRANSPORTATION CO. INC., Route 1, Clayton, Ala. 36016. Applicant's representative: Robert E. Tate, Suite 2025–2028, City Federal Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, including plywood, from points in Wilcox County, Ala., to points in Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, Louisiana, and Kentucky restricted to traffic originating at points in Wilcox County, Ala. NOTE: If a hearing

is deemed necessary, applicant requests it be held at Birmingham, Ala.

No. MC 127164 (Sub-No. 1), filed November 9, 1967. Applicant: ELMER MILLER, doing business as MILLER TRUCKING CO., 509 Jackson Street, Archbold, Ohio 43502. Applicant's representative: Lewis S. Witherspoon, 85 East Gay Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lime, limestone, limestone products, and fertilizer*, in bulk, in dump vehicles, between points in Crawford, Sandusky, Ottawa, Wyandot, Seneca, Erie, Fulton, Lucas, Delaware, Paulding, and Hancock Counties, Ohio, on the one hand, and, on the other, points in Indiana and Michigan; and (2) *salt*, between points in Ohio, Indiana, and Michigan. NOTE: If a hearing is deemed necessary, applicant requests it be held at Toledo or Columbus, Ohio, or Detroit, Mich.

No. MC 127187 (Sub-No. 4), filed November 16, 1967. Applicant: FLOYD DUENOW, 215 East Cherry, Fergus Falls, Minn. Applicant's representative: Gene P. Johnson, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed, and animal and poultry feed ingredients*, (1) from points in North Dakota on and east of North Dakota Highway 1, and points in Minnesota on and west of U.S. Highway 71, to points in Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wisconsin, and (2) from Sioux City, Iowa, to points in Nebraska. NOTE: If a hearing is deemed necessary, applicant requests it be held at Fargo, N. Dak.

No. MC 127568 (Sub-No. 6) (Amendment), filed June 9, 1967, published FEDERAL REGISTER issues of June 29, 1967, and republished as amended this issue. Applicant: MID SOUTH DELIVERY SERVICE CO., a corporation, 3215 Tulane Road, Memphis, Tenn. Applicant's representative: Dale Woodall, 900 Memphis Bank Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Prefabricated metal buildings*, knocked down, *prefabricated metal building sections*, knocked down, *prefabricated prefinished metal panel sections; component parts thereof, equipment, materials, and supplies* used in the installation, construction, or erection thereof (except metal buildings which are designed to be drawn by passenger vehicles), from Evansville, Wis., to points in Arkansas, Louisiana, Kentucky, Tennessee, Mississippi, Alabama, Georgia, and Florida, (2) *materials, equipment, and supplies* used or useful in the manufacture of the commodities described in (1) above, from points in Florida, Georgia, Alabama, Mississippi, Tennessee, Kentucky, Louisiana, and Arkansas to Evansville, Wis. NOTE: The purpose of this republication is to reflect the broadening of the commodity description, the change in the territorial scope and eliminate the restriction as previously published. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 127954 (Sub-No. 2), filed November 13, 1967. Applicant: MARSH MOTOR HAULAGE, INC., Marsh and Coastwise Streets, Port Newark, N.J. 07114. Applicant's representative: Charles J. Williams, 47 Lincoln Park, Newark, N.J. 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission, between points in Maryland, on the one hand, and, on the other, points in Delaware, Illinois, Indiana, Maryland, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Virginia, and the District of Columbia. NOTE: Applicant states it holds authority to provide the service described above in certificate MC 127954 by operating via points in Pennsylvania and New Jersey within 50 miles of New York, N.Y. The purpose of the instant application is to eliminate such gateways. If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 128774 (Sub-No. 1) (Correction), filed September 13, 1967, published in the FEDERAL REGISTER issue of October 5, 1967, and republished as corrected this issue. Applicant: RICE TRUCKING, INC., 151 St. James Street, Mansfield, Pa. 16933. Applicant's representative: Edward H. Owlett, 19 Central Avenue, Wellsboro, Pa. 16901. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, from the plantsite of Armco Steel Corp., Mansfield, Tioga County, Pa., to points in New York, Ohio, Maryland, and Kentucky and (2) *products* manufactured for, inventoried for and sold to the construction market from, to and between the plantsites of Armco Steel Corp. located at Mansfield, Pa., Halethorpe, Md., Middletown, Ohio, and Boyd County, Ky., under contract with Armco Steel Corp., Middletown, Ohio. NOTE: The purpose of this republication is to more clearly describe authority sought in (2) above. If a hearing is deemed necessary, applicant requests it be held at Scranton, Harrisburg, Philadelphia, or Washington, Pa.

No. MC 128958 (Sub-No. 1), filed September 1, 1967. Applicant: CENTRAL PENN AIR SERVICE, INC., Post Office Box P, New Cumberland, Pa. 17070. Applicant's representative: John M. Musselman, 400 North Third Street, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, between Middletown, Pa., on the one hand, and, on the other, points in Kent and New Castle Counties, Del., Anne Arundel, Baltimore, Carroll, Cecil, Frederick, Harford, Howard, Montgomery, and Washington Counties, Md., Burlington, Camden, and Gloucester Counties, N.J., Adams, Bedford, Blair, Berks, Bucks, Carbon, Centre, Chester, Clinton, Columbia, Cumberland, Dauphin, Delaware, Franklin, Fulton, Huntingdon, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Mifflin, Monroe, Montgomery, Montour, Northampton, Northumberland, Perry, Philadelphia, Schuylkill, Snyder, Sullivan, Union, Wyoming, and York Counties, Pa.; Baltimore, Md., and Washington, D.C., restricted to the transportation of shipments having a prior or subsequent movement by air. NOTE: Applicant states that by tacking at Middletown, Pa., all points within the area of this application would be served in connection with points served by applicant's regular routes at MC 128958. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Washington, D.C.

No. MC 129032 (Sub-No. 2), filed November 13, 1967. Applicant: TOM INMAN TRUCKING, INC., 6015 South 49 West Avenue, Tulsa, Okla. 74105. Applicant's representative: David D. Brunson, Box 671, Oklahoma City, Okla. 73101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beverages* (nonalcoholic), when moving in vehicles equipped with mechanical refrigeration and/or heating units, from Muskogee, Okla., to points in California, Arizona, Utah, New Mexico, Nevada, Oregon, Washington, and Texas. NOTE: If a hearing is deemed necessary, applicant requests it be held at Tulsa, or Oklahoma City, Okla., or St. Louis, Mo.

No. MC 129042 (Sub-No. 1), filed November 6, 1967. Applicant: MARDELLO FORD, doing business as FORD'S MOVING & STORAGE, Post Office Box 43, Cookeville, Tenn. 38501. Applicant's representative: Maddux, Cameron & Jared, 201 Whitson Building, Cookeville, Tenn. 38501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, containerized, from (1) from Cookeville, Tenn., to points in Smith, Jackson, Clay, Overton, Pickett, Fentress, Cumberland, White, Van Buren, De Kalb, Warren, and Bledsoe Counties, Tenn., and (2) from points in Bledsoe, Warren, De Kalb, White, Van Buren, Cumberland, Fentress, Pickett, Overton, Clay, Jackson, and Smith Counties, Tenn., to points in Putnam County, Tenn. NOTE: If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Atlanta, Ga.

No. MC 129133 (Sub-No. 1), filed November 9, 1967. Applicant: TYRONE J. GOLLOTT, doing business as CITY TRANSFER & STORAGE CO., 1253 Cuevas Street, Biloxi, Miss. 39533. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Mississippi, restricted to shipments having a prior or subsequent movement beyond said points in containers, and further restricted to pickup and delivery services incidental to and in connection with packing, crating, and containerization or unpacking, uncrating and decontainerization of such shipments. NOTE: If a hearing is deemed necessary, applicant requests it be held at Biloxi, Miss.

No. MC 129184 (Sub-No. 1), filed November 13, 1967. Applicant: KENNETH L. KELLAR, Box 449, Blaine, Wash. Applicant's representative: Joseph O. Earp, 607 Third Avenue, Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquor and cigarettes*, (1) from Blaine, Wash., to Lynden, Sumas, Port Angeles, and Oroville, Wash., (2) from Duluth, Minn., to Grand Portage, Minn., (3) from International Falls, Minn., to Noyes, Minn., (4) from port of entry on the international boundary line between the United States and Canada located at or near Oroville, Wash., to Eastport, Idaho, Sweetgrass, Mont., Portal, N. Dak., and Noyes, Baudette, International Falls, Grand Portage, and Duluth, Minn., restricted to traffic having had a prior movement from points in British Columbia, Canada, and (5) from Duluth, Minn., to International Falls, Baudette, and Noyes, Minn.; Portal, N. Dak.; Sweetgrass, Mont.; Eastport, Idaho, and Oroville, Wash., restricted to traffic having a prior movement by water, under contract with Exports, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 129415 (Sub-No. 2), filed November 6, 1967. Applicant: OVERLAND TRANSPORTATION, INC., 335 South Virginia, Liberal, Kans. 67901. Applicant's representative: C. Zimmerman, 503 Schweiter Building, Wichita, Kans. 67202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feeds* (except liquid) and *sanitation and health commodities used in raising animals and poultry*, from Liberal, Kans., to points in Oklahoma on and west of U.S. Highway 183 and on and north of U.S. Highway 66, points in Texas on and north of U.S. Highway 66, points in New Mexico on and north of U.S. Highway 66 and on and east of U.S. Highways 84 and 85, and points in Colorado on and east of U.S. Highway 85 and on and south of U.S. Highway 50. NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Wichita, Kans.

No. MC 129474 (Correction), filed October 13, 1967, published FEDERAL REGISTER issue of November 2, 1967, corrected November 15, 1967, and republished as corrected this issue. Applicant: ALBERT G. PULIZ, WILLIAM EUART HIBBITT, AND DAVID MACAULAY, a partnership, doing business as LAWRENCE MAYFLOWER MOVING & STORAGE CO., 2730 East Fourth Street, Post Office Box 37, Reno, Nev. 89504. Applicant's representative: Edward J. Hegarty, Shell Building, 100 Bush Street, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, as defined by the Commission, between points in an area contained within the following described boundaries: From junction Nevada Highway 28 and the California-Nevada State line, at or near Crystal Bay, Nev., along Nevada Highway 28 to junction U.S. Highway 50, at or near Glenbrook, Nev., thence northeasterly along U.S. Highway 50 to junction Alternate Interstate Highway 95, at or near Silver Springs, Nev., thence northeasterly along Alternate Interstate Highway 95 to junction Interstate Highway 80, at or near Fernley, Nev., thence northwesterly along Interstate Highway 80 to junction Nevada Highway 34, at or near Wadsworth, Nev., thence northerly along Nevada Highway 34 to junction Nevada Highway 33, at or near Nixon, Nev., thence from Nixon, Nev., along an imaginary line due west to junction with the California-Nevada State line, thence southerly along the California-Nevada State line to point of beginning. Restriction: The service sought herein is restricted to the transportation of shipments both (1) having a prior or subsequent out-of-State movement by rail, motor, water, or air, and (2) pickup and delivery services incidental to and in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such shipments. NOTE: Common control may be involved. The purpose of this republication is to redescribe the route above as between points in the described area. If a hearing is deemed necessary, applicant requests it be held at Reno, Nev.

No. MC 129526, filed November 13, 1967. Applicant: FACTOR TRUCK SERVICE, INC., 1965 Alcott Street, Philadelphia, Pa. Applicant's representative: Robert B. Einhorn, 12 South 12th Street, Room 1540, P.S.F.S. Building, Philadelphia, Pa. 19107. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fluorescent lighting fixtures and items used and useful in the manufacture thereof*, between the plantsite of Keystone Lighting Corp. located at or near Bristol, Pa., and points in Minnesota, Nebraska, Iowa, Missouri, Arkansas, Louisiana, Mississippi, Tennessee, Kentucky, Illinois, Wisconsin, Michigan, Indiana, Alabama, Florida, Georgia, South Carolina, North Carolina, Virginia, West Virginia, Ohio, New York, Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New Jersey, Delaware, Maryland, and the District of Columbia, under contract with Keystone Lighting Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 129534, filed November 13, 1967. Applicant: RAYMOND H. FILBECK, 610 West Second Street, Tulsa, Okla. 74127. Applicant's representative: Martin E. Wyatt, Post Office Box 771, Tulsa, Okla. 74101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages*, in sealed cases, from points in Illinois, Indiana, Kentucky, Missouri, and Ohio to points in Oklahoma, under contract with Dixie Liquor Co., Famous Brands Wholesale Liquor Co. and Leader Liquor Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Tulsa or Oklahoma City, Okla.

No. MC 129535, filed November 13, 1967. Applicant: COLONIAL STORAGE COMPANY, a corporation, 6935 Kansas Avenue NW., Washington, D.C. 20011. Applicant's representative: H. Charles Ephraim, 1411 K Street NW., Washington, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in the District of Columbia, Baltimore City, Md., those in Charles, St. Marys, Calvert, Anne Arundel, Baltimore, Howard, Frederick, Montgomery, and Prince Georges Counties, Md., and those in Arlington, Fairfax, Prince William, Stafford, King George, Culpeper, Fauquier, Loudoun, Westmoreland, Northumberland, Richmond, Caroline, Spotsylvania, Orange, Madison, Rappahannock, and Shenandoah Counties, Va., restricted to shipments: (1) Moving on the through bill of lading of a forwarder operating under section 402(b) of the Act, (2) having prior or subsequent linehaul movement by rail, motor, water, or air carrier, and (3) having a prior or subsequent movement beyond said points in containers. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

APPLICATION FOR BROKERAGE LICENSE

No. MC 130045 filed, November 6, 1967. Applicant: CATHOLIC TOURS, INCORPORATED, doing business as CROUX CATHOLIC TOURS AND W. A. CROUX TOURS, 15 Maple Hill Road, Clifton, N.J. Applicant's representative: Robert S. Burk, 2001 Massachusetts Avenue NW., Washington, D.C. 20036. For a license (BMC 5) to engage in operations as a *broker* at New York, N.Y., and Clifton, N.J., in arranging for the transportation of *passengers and their baggage*, both as individuals and in groups, in all expense and round-trip tours, between points in the United States.

WATER CARRIERS OF PROPERTY

No. W-923 (Sub-No. 14), GULF-CANAL LINES, INC., Extension—Victoria Channel, filed November 12, 1967. Applicant: GULF-CANAL LINES, INC., 611 East Marceau Street, St. Louis, Mo. 63111. Applicant's representative: Richard J. Hardy, One North La Salle Street, Chicago, Ill. 60602. Application of Gulf-Canal Lines, Inc., filed November 12, 1967, for a revised certificate authorizing extension of its operations to include operation as a *common carrier* by water in interstate or foreign commerce, by non-self-propelled vessels with the use of separate towing vessels in the transportation of *general commodities*, and by towing vessels in the performance of general towage, in year round operation between ports on the Victoria Channel, from and including Victoria, Tex., to the Gulf Intracoastal Waterway.

No. W-1238, CATTLE COACHES, INC., Common Carrier Application, filed November 20, 1967. Applicant: CATTLE COACHES, INC., 1082 Baskin Drive,

Greenville, Miss. 38701. Applicant's representative: Douglas C. Wynn, Post Office Box 1295, 364–365 May Building, Greenville, Miss. 38701. Authority sought to operate as a *common carrier*, by water in interstate or foreign commerce, by non-self-propelled vessels with the use of separate towing vessels, and by towing vessels in the performance of a general towage service, of *livestock, ordinary and not ordinary, and live fish, ordinary and nonordinary, and feed, forage, tack, equipment, supplies, attendants and handlers and their personal effects, and other articles normally and customarily used in the care, feeding, transportation and exhibition of such livestock and fish, and moving therewith; and livestock and fish feed*, in bulk, in bales and in containers; between ports and points in the United States on the Atlantic Ocean, the Gulf of Mexico, and on the inland waterways, lakes and rivers tributary thereto, including the Great Lakes; and the St. Lawrence River and the St. Lawrence seaway; and the Red River of the north. NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Memphis, Tenn.

APPLICATION FOR WHICH NO ORAL HEARING IS REQUESTED

No. MC 129362 (Sub-No. 2), filed November 7, 1967. Applicant: GEORGE NASHOLD, INC., Post Office Box 286, Frederica, Del. 19946. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* in bulk, as are transported in dump and hopper vehicles, from points in Delaware to points in Carolina, Cecil, Dorchester, Kent, Queen Annes, Somerset, Talbot, Wicomico, and Worcester Counties, Md., restricted against the transportation of: (1) Dry soy bean meal and dry soy bean hulls, from points in Sussex County, Del., to the requested destinations in Maryland, (2) sand and stone, from points in Delaware to points in Cecil, Kent, and Queen Annes County, Md., (3) sand, gravel, and cement, from points in Delaware within 15 miles of Newark, Del., including Newark, to points in Maryland within 15 miles of Newark, Del., (4) dry feed ingredients, from points in Delaware to the requested destinations in Maryland, and (5) fertilizer, from Newark, Del., and points in Delaware within 7 miles of Elkton, Md., to points in Cecil and Kent Counties, Md.

NO HEARING PASSENGER

No. MC 46879 (Sub-No. 7), filed November 7, 1967. Applicant: WALTERS TRANSIT CORP., 1515 Jefferson Street, Hoboken, N.J. 07030. Applicant's representative: William A. Roberts, 1740 N Street Northwest, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, express and mail* in the same vehicle with passengers, between New York City and White Plains, N.Y., from New York City over Interstate Highway 87 (New York State Thruway) to junction with Interstate Highway 287 (Cross Westchester Expressway), thence over Interstate Highway 287 to the City of White Plains, as an alternate route for operating convenience only, in connection with applicant's existing authority, serving no intermediate points, but subject to tacking at New York State Route 9A with applicant's existing authority.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67–13952; Filed, Nov. 29, 1967; 8:45 a.m.]

FOURTH SECTION APPLICATION FOR RELIEF

NOVEMBER 27, 1967.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41174—*Woodpulp from Abercrombie, Nova Scotia.* Filed by Traffic Executive Association—Eastern Railroad, agent (No. 2898), for and on behalf of Canadian National Railways and other rail carriers. Rates on woodpulp and woodpulp screenings, in car loads, from Abercrombie, Nova Scotia, to Winslow, Maine, and Fort Edward, N.Y.

Grounds for relief—Foreign water and rail competition.

Tariff—Supplement 16 to Canadian National Railway Tariff ICC E–538.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67–14000; Filed, Nov. 29, 1967; 8:47 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during November.

3 CFR

	Page
PROCLAMATIONS:	
3279 (modified by Proc. 3820)	15701
3290 (see Proc. 3820)	15701
3328 (see Proc. 3820)	15701
3386 (see Proc. 3820)	15701
3389 (see Proc. 3820)	15701
3509 (see Proc. 3820)	15701
3531 (see Proc. 3820)	15701
3541 (see Proc. 3820)	15701
3693 (see Proc. 3820)	15701
3694 (terminated in part by Proc. 3818)	15467
3712 (terminated in part by Proc. 3818)	15467
3744 (terminated in part by Proc. 3818)	15467
3779 (see Proc. 3820)	15701
3794 (see Proc. 3820)	15701
3818	15467
3819	15867
3820	15701
EXECUTIVE ORDERS:	
Mar. 23, 1912 (revoked in part by PLO 4320)	16100
2295 (modified by PLO 4313)	15429
4702 (revoked in part by PLO 4315)	15482
8652 (revoked in part by PLO 4317)	15482
10448 (amended by EO 11382)	16247
10501 (amended by EO 11382)	16247
10530 (see EO 11378)	15237
10534 (revoked by EO 11382)	16247
10536 (amended by EO 11382)	16247
10631 (amended by EO 11382)	16247
10682 (see EO 11378)	15237
10765 (amended by EO 11382)	16247
10771 (revoked by EO 11382)	16247
10789 (amended by EO 11382)	16247
10807 (amended by EO 11381)	15629
10840 (amended by EO 11382)	16247
10854 (amended by EO 11382)	16247
10858 (revoked by EO 11382)	16247
10865 (amended by EO 11382)	16247
10883 (see EO 11382)	16247
10898 (amended by EO 11382)	16247
10903 (amended by EO 11380)	15627
10968 (revoked by EO 11382)	16247
10977 (amended by EO 11382)	16247
11016 (amended by EO 11382)	16247
11034 (amended by EO 11380)	15627
11046 (amended by EO 11382)	16247

3 CFR—Continued

	Page
EXECUTIVE ORDERS—Continued	
11079 (amended by EO 11382)	16247
11137 (amended by EO 11382)	16247
11149 (amended by EO 11382)	16247
11157 (amended by EO 11382)	16247
11161 (amended by EO 11382)	16247
11182 (amended by EO 11382)	16247
11190 (amended by EO 11382)	16247
11231 (amended by EO 11382)	16247
11239 (amended by EO 11382)	16247
11326 (amended by EO 11382)	16247
11378	15237
11379	15625
11380	15627
11381	15629
11382	16247
PRESIDENTIAL DOCUMENTS OTHER THAN PROCLAMATIONS AND EXECUTIVE ORDERS:	
Presidential Memorandum of Aug. 11, 1960 (amended by EO 11382)	16247
Presidential Letter of June 22, 1963 (amended by EO 11382)	16247

5 CFR

213	15703, 15805, 15869, 15911, 16097
305	15805
713	15631
754	15805

7 CFR

5	16385
51	15066, 15073
251	15948
301	16385, 16388
319	15577
401	15703, 15704, 15911
711	15704
717	15705
722	15987, 16185, 16195
729	15149
730	15076
778	16251
905	15869, 16097, 16198, 16199
906	15869
907	15805, 16097, 16389
909	15870
910	15430, 15524, 15631, 15870, 16145
912	15430, 15632, 15806, 15870, 15987, 16145
913	15430, 16098
915	15669, 15871
945	15577
946	16199
947	15705
982	15669
984	15388
989	15871, 15915, 16199
991	15670, 15705
1001	15076

7 CFR—Continued

	Page
1015	15090
1049	16389
1064	16390
1067	15093
1120	15388
1125	15706
1126	15388
1132	15389
1137	15431
1421	15632, 15706, 15872
1464	15633, 16145
1468	16391
1472	16391
1483	16251
PROPOSED RULES:	
51	15435
362	16164
723	15546, 16043
724	16043
811	16045
814	15835
822	15393
891	15393
892	15393
Ch. IX	16164
905	15116
906	15394
907	15488
908	15394
910	16220
912	15436
913	15395
946	16220
959	15177, 15884
966	15884
989	15488
1006	15952
1036	15952
1048	15952
1049	15489, 16101
1064	15490
1090	15437
1125	15178
1131	15588

8 CFR

100	16200
103	15469
212	15469
238	15469, 16200
287	16200

9 CFR

76	15240
78	15577
92	15707
131	15469

10 CFR

40	15872
PROPOSED RULES:	
2	16050
20	15432, 15762
50	16050
115	16050

12 CFR

1	15544, 15918, 16391
219	15389
556	15707, 15747, 16200
563	15634
571	15708, 16200

12 CFR—Continued

PROPOSED RULES:
545 — 15763

13 CFR

101 — 15806, 15873
106 — 15065
108 — 15249
120 — 15634
122 — 15635

PROPOSED RULES:
107 — 15399, 16368
121 — 15184

14 CFR

21 — 15472
39 — 15094, 15153, 15154, 15390, 15421, 15472, 15523, 15579, 15635, 15808, 15873, 16201, 16251, 16391
61 — 15918
63 — 15918
65 — 15918
71 — 15094, 15095, 15154, 15523, 15524, 15579, 15635, 15636, 15809, 15810, 15874, 16098, 16146, 16202, 16251, 16392
73 — 15096, 16098
75 — 15636
91 — 15422, 15705, 16392
95 — 16392
97 — 15423, 15473, 15580, 15811, 16203
141 — 15583
145 — 15670
157 — 15818
207 — 15096
208 — 15097
241 — 15098
295 — 16251

PROPOSED RULES:
27 — 15676
29 — 15676
39 — 15490, 15491, 15588
71 — 15117–15121, 15491–15493, 15546–15548, 15588, 15589, 15712, 15837, 15838, 15885, 15926, 16049, 16050, 16102, 16169, 16221, 16437
73 — 16050, 16221, 16222
93 — 15589
121 — 15676
202 — 15676
203 — 15676
207 — 16223
288 — 15926
399 — 16225

15 CFR

0 — 15222
13 — 15818
70 — 15154
204 — 15104, 15391
230 — 15105, 15636
379 — 15988
382 — 16146
399 — 16146
Ch. V — 16257
906 — 16257
907 — 16257
945 — 16258

16 CFR

13 — 15105–15107, 15470, 15748–15750, 15874, 15875
14 — 15525
15 — 15470, 15919
17 — 15549
228 — 15525
229 — 15526
230 — 15591
231 — 15532
232 — 15533
233 — 15534
234 — 15536
235 — 15538
236 — 15538
237 — 15539
238 — 15540
239 — 15541
240 — 15542
412 — 15584
413 — 15424

PROPOSED RULES:
241 — 15715
242 — 15681
300 — 15180

17 CFR

200 — 15470
230 — 15920
275 — 16151
279 — 16151

18 CFR

3 — 15239
101 — 15670
141 — 15670
602 — 16151

PROPOSED RULES:
2 — 15714
14 — 15714
101 — 15927
104 — 15927
105 — 15927
141 — 15434, 15927
201 — 15927
204 — 15927
205 — 15927
260 — 15434

19 CFR

4 — 15390
10 — 15424
14 — 15155
16 — 15390
209 — 16210

PROPOSED RULES:
12 — 16432

20 CFR

396 — 15471
401 — 15544
606 — 16211
607 — 16211
608 — 16211
613 — 16211
615 — 16212

21 CFR

4 — 15709
120 — 15107, 15120, 15424, 15578
121 — 15108, 15109, 15156, 15545, 15988
135 — 15109
145c — 15988
148b — 15988
148c — 15425
148f — 15989
148i — 16152
148m — 16212
148o — 15989
148s — 16153
148y — 16153
166 — 15390
191 — 15875

21 CFR—Continued

PROPOSED RULES:
28 — 15116
121 — 16048
1481 — 16048
166 — 16048

22 CFR

7 — 16258
21 — 16212
41 — 16098
50 — 16259
51 — 16259

PROPOSED RULES:
201 — 15116

23 CFR

215 — 15818
216 — 15818
255 — 15792

24 CFR

200 — 15425, 15586, 15636
203 — 15639
207 — 15640
220 — 15640
222 — 15640
809 — 15640

25 CFR

41 — 15471, 16099
243 — 16213

26 CFR

1 — 15421, 15671, 15820, 15876, 16393
170 — 16260
301 — 15241, 15483
601 — 15990

PROPOSED RULES:
1 — 15167, 15393, 15758, 15879
31 — 15879
46 — 15879
48 — 15879
49 — 15879
212 — 16433

28 CFR

0 — 15425

29 CFR

526 — 15425
786 — 15425
1200 — 15827
1202 — 15831
1203 — 15831
1208 — 15831
1500 — 15478, 15479
1610 — 16261

PROPOSED RULES:
5 — 15396
6 — 15396
7 — 15396
526 — 15712

31 CFR

306 — 15672, 15920

32 CFR

1 — 16398
2 — 16401
3 — 16402
4 — 16403
5 — 16403
6 — 16404
7 — 16405
8 — 16406

32 CFR—Continued

10 — 16406
12 — 16407
13 — 16407
14 — 16408
18 — 16415
30 — 16415
66 — 15111
127 — 15112
231 — 16426
536 — 15113, 16264
552 — 15115
710 — 15115
719 — 16153
750 — 16154
751 — 16154
812 — 16035
844 — 15920
851 — 16154
852 — 16264
855 — 15920
860 — 16155
882 — 15921
901 — 15922
906 — 16159
1001 — 16036
1004 — 16427
1006 — 16036
1007 — 16039, 16427
1011 — 16427
1018 — 16039
1022 — 16427
1054 — 16428
1472 — 16213

32A CFR

BDSA (Ch. VI):
M–1TA — 15710
ASCDIB (Ch. VII) — 15831
OIA (Ch. X):
OI Reg. 2 — 15876

33 CFR

204 — 15673
Ch. III — 16268

35 CFR

61 — 15641, 16428
255 — 15831

36 CFR

7 — 15391, 15710, 15750, 16213
311 — 15989

PROPOSED RULES:
7 — 15761

38 CFR

3 — 15878
21 — 16099

39 CFR

131 — 15587
821 — 15480
822 — 15480, 15481
823 — 15099

PROPOSED RULES:
Ch. I — 15643

41 CFR

1–5 — 15674
1–7 — 16268
1–16 — 16268
3–75 — 15833
5–2 — 16160
6–60 — 15751
6–75 — 15427
9–1 — 15922
9–12 — 15922
50–204 — 15641
101–26 — 15754
101–45 — 16270

PROPOSED RULES:
50–202 — 16220

42 CFR

PROPOSED RULES:
73 — 15178

43 CFR

PUBLIC LAND ORDERS:
1583 (see PLO 4307) — 15428
1630 (see PLO 4315) — 15482
3263 (revoked in part by PLO 4307) — 15428
3634 (revoked in part by PLO 4302) — 15427
4236 (see PLO 4317) — 15482
4266 (see PLO 4317) — 15482
4270 (amended by PLO 4312) — 15429
4301 — 15098
4302 — 15427
4303 — 15427
4304 — 15427
4305 — 15428
4306 — 15428
4307 — 15428
4308 — 15428
4309 — 15428
4310 — 15429
4311 — 15429
4312 — 15429
4313 — 15429
4314 — 15482
4315 — 15482
4316 — 15482
4317 — 15482
4318 — 15483
4319 — 15878
4320 — 16100
4321 — 16213
4322 — 16214

43 CFR—Continued

PUBLIC LAND ORDERS—Continued
4323 — 16214
4324 — 16214
4325 — 16214
4326 — 16215

PROPOSED RULES:
1720 — 15546
3100 — 15883
3120 — 15883
4120 — 16164

45 CFR

14 — 16100
81 — 15156
531 — 15641

46 CFR

10 — 15754
309 — 16272

PROPOSED RULES:
33 — 15835
94 — 15835
112 — 15835
Ch. I — 16436
Ch. IV — 15438, 16226

47 CFR

0 — 15472, 15675
73 — 15161, 15162, 15545, 15711
87 — 16160
97 — 16162

PROPOSED RULES:
2 — 15180, 15712, 16103
73 — 15679, 16053, 16054, 16107
87 — 15712, 16055, 16056
89 — 15180, 15680, 16056
91 — 15180, 16056
93 — 15180, 15680, 16056

49 CFR

1 — 15710
103 — 15484
114 — 16277
171–190 — 16040
180 — 16162, 16215
239 — 16428
540 — 16437

PROPOSED RULES:
170 — 16439
239 — 15589
288 — 15589

50 CFR

10 — 15834
32 — 15166, 15586, 15587, 15642, 15675, 15878, 15924, 16100, 16431
33 — 15711, 15756, 15924, 16277, 16278.
80 — 16215

PUBLIC PAPERS OF THE PRESIDENTS OF THE UNITED STATES

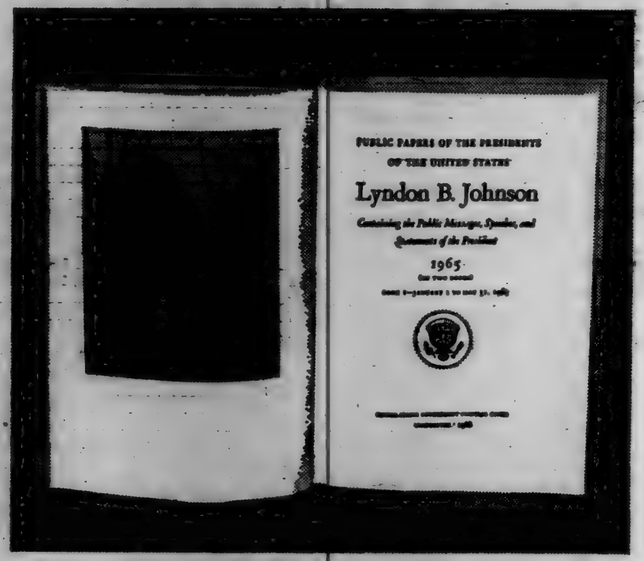

CONTENTS

- Messages to the Congress
- Public speeches and letters
- The President's news conferences
- Radio and television reports to the American people
- Remarks to informal groups

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List of CFR Sections Affected

(Codification Guide)

January–November
1967

Includes U.S.C.-CFR
Table of Authorities (see last page)

NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

86-000—67——1

LIST OF CFR SECTIONS AFFECTED

(The Codification Guide)

The List of CFR Sections Affected is published monthly on a cumulative basis. It lists by number the titles, parts, and sections of the *Code of Federal Regulations* amended or otherwise affected by documents published in the *Federal Register* since January 1, 1967. Entries indicate the nature of changes effected. Proposed rules are listed at the end of appropriate titles.

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A subject Index to the daily *Federal Register* is published separately, covering the contents of the *Federal Register* as follows; Monthly for the months of January, February, April, May, July, August, October, November, and December; quarterly for the quarters ending in March, June, and September; and annually for the calendar year.

LIST OF CFR SECTIONS AFFECTED

(Cumulative Codification Guide)

	Page
1 CFR	
Chapter I	
Appendix A revised	3602
Appendix B amended	4015
7.1	
(g) added	7695
7.3	
(a) revised	7695
20	
Added	7890
3 CFR	
Proclamations	
Nov. 6, 1906	
Revoked in part by PLO 4128	54
June 29, 1911	
Revoked in part by PLO 4128	54
3062	
Terminated by Proc. 3761	358
3279	
Modified by Proc. 3779	5919
Modified by Proc. 3794	10547
Modified by Proc. 3820	15701
3290	
See Proc. 3779	5919
See Proc. 3794	10547
See Proc. 3820	15701
3328	
See Proc. 3779	5919
See Proc. 3794	10547
See Proc. 3820	15701
3386	
See Proc. 3779	5919
See Proc. 3794	10547
See Proc. 3820	15701
3389	
See Proc. 3779	5919
See Proc. 3794	10547
See Proc. 3820	15701
3455	
Terminated by Proc. 3762	362
3458	
Terminated in part by Proc. 3762	362
3509	
See Proc. 3779	5919
See Proc. 3794	10547
See Proc. 3820	15701
3531	
See Proc. 3779	5919
See Proc. 3794	10547
See Proc. 3820	15701
3541	
See Proc. 3779	5919
See Proc. 3794	10547
See Proc. 3820	15701
3693	
See Proc. 3779	5919
See Proc. 3794	10547
See Proc. 3820	15701
3694	
Terminated in part by Proc. 3818	15468
3712	
Terminated in part by Proc. 3818	15468
3744	
Terminated in part by Proc. 3818	15468
3759	31
3760	309
3761	357
3762	361
3763	965
3764	967
3765	1167
3766	3131
3767	3133
3768	3135
3769	3809
3770	4111
3771	5241
3772	5243
3773	5491
3774	5539
3775	5761
3776	5763
3777	5915
3778	5917
3779	5919
See Proc. 3794	10547
See Proc. 3820	15701
3780	6125
3781	6757
3782	7167
3783	7169
3784	7203
3785	7621
3786	7801
3787	8017
3788	8465
3789	8749
3790	9603
3791	10047
3792	10341
3793	10343
3794	10547
See Proc. 3820	15701
3795	10905
3796	11071
3797	11259
3798	11373
3799	11729
3800	12035
3801	12469
3802	12547
3803	12663
3804	13441
3805	13481
3806	13483
3807	13485
3808	13633
3809	13693
3810	13799
3811	13853
3812	14015
3813	14089
3814	14193
3815	14195
3816	14197
3817	15001
3818	15467
3819	15667
3820	15701
Executive Orders	
June 13, 1902	
Revoked in part by PLO 4143	213
July 2, 1910	
Modified by PLO 4227	8037
Revoked in part by PLO 4267	13072
July 7, 1910	
Revoked in part by PLO 4131	210
July 9, 1910	
Revoked in part by PLO 4159	3021
Sept. 14, 1910	
Revoked in part by PLO 4267	13072
Dec. 19, 1910	
Revoked in part by PLO 4182	5836
June 16, 1911	
Revoked in part by PLO 4129	210
March 23, 1912	
Revoked in part by PLO 4320	16100
Dec. 11, 1912	
Revoked in part by PLO 4175	3991
Mar. 17, 1913	
Revoked in part by PLO 4209	6640
Apr. 21, 1913	
Revoked in part by PLO 4178	4282
May 19, 1913	
Revoked in part by PLO 4200	6640
Feb. 27, 1914	
Revoked in part by PLO 4178	4282
June 6, 1914	
Revoked in part by PLO 4175	3991
June 24, 1914	
Revoked in part by PLO 4127	54
May 11, 1915	
Revoked in part by PLO 4211	6644
Aug. 17, 1915	
Revoked in part by PLO 4178	4282
Sept. 21, 1916	
Revoked in part by PLO 4267	13072
Dec. 20, 1916	
Revoked in part by PLO 4191	6096
May 22, 1917	
Revoked in part by PLO 4178	4282
July 17, 1917	
Revoked in part by PLO 4166	3744
May 4, 1919	
Revoked in part by PLO 4178	4282
Aug. 22, 1919	
Revoked in part by PLO 4207	6642
June 17, 1920	
Revoked in part by PLO 4175	3991
Nov. 26, 1921	
Revoked in part by PLO 4167	3744
Nov. 22, 1924	
Revoked in part by PLO 4151	611
Apr. 17, 1926	
Revoked in part by PLO 4203	6641
842	
Revoked in part by PLO 4128	54
2295	
Modified by PLO 4313	15429
3577	
Amended by EO 11354	7695
4294	
Revoked by PLO 4219	6645
4702	
Revoked in part by PLO 4315	15482
5327	
Revoked in part by PLO 4230	8809
5384	
Revoked by PLO 4188	5837
5630	
Revoked in part by PLO 4197	6639
5952	
Revoked by EO 11339	5321
6143	
Revoked in part by PLO 4136	211
Revoked in part by PLO 4165	3744
6276	
Revoked in part by PLO 4136	211
Revoked in part by PLO 4165	3744
6583	
Revoked in part by PLO 4190	6095
Revoked in part by PLO 4223	8036
Revoked in part by PLO 4273	13411
6783	
Superseded by EO 11342	5828
7500	
Revoked by EO 11339	5321

3 CFR—Continued

Executive Orders—Continued

	Page
7743	
Amended by PLO 4194	6138
7921	
Superseded by EO 11342	5828
8333	
Revoked by EO 11339	5321
8652	
Revoked in part by PLO 4236	9224
Revoked in part by PLO 4266	12950
Revoked in part by PLO 4317	15482
9213	
Superseded by EO 11342	5828
9741	
Superseded by EO 11342	5828
9890	
Superseded by EO 11342	5828
9979	
See EO 11360	9787
9988	
See EO 11350	6961
See EO 11360	9787
10001	
See EO 11350	6961
See EO 11360	9787
10008	
See EO 11350	6961
See EO 11360	9787
10116	
See EO 11350	6961
10134	
Superseded by EO 11342	5828
10202	
See EO 11350	6961
See EO 11360	9787
10292	
See EO 11350	6961
See EO 11360	9787
10347	
Amended by EO 11354	7695
10363	
See EO 11350	6961
See EO 11360	9787
10366	
See EO 11360	9787
10448	
Amended by EO 11382	16250
10469	
See EO 11360	9787
10501	
Amended by EO 11382	16247
10530	
See EO 11378	15237
10534	
Revoked by EO 11382	16250
10536	
Amended by EO 11382	16247
10541	
Superseded by EO 11342	5828
10545	
Revoked by EO 11339	5321
10562	
See EO 11360	9787
10589	
Superseded by EO 11342	5828
10631	
Amended by EO 11382	16250
10647	
Amended by EO 11355	7803
10659	
See EO 11350	6961
See EO 11360	9787
10682	
See EO 11378	15237
10714	
See EO 11350	6961
See EO 11360	9787
10735	
See EO 11360	9787
10765	
Amended by EO 11382	16248
10767	
Superseded by EO 11342	5828
10771	
Revoked by EO 11382	16250
10789	
Amended by EO 11382	16248
10800	
Revoked by EO 11348	6337
10807	
Amended by EO 11381	15629
10809	
See EO 11360	9787
10840	
Amended by EO 11382	16248
10854	
Amended by EO 11382	16248
See EO 11326	2841
10858	
Revoked by EO 11382	16250
10865	
Amended by EO 11382	16247
10883	
See EO 11382	16248
10898	
Amended by EO 11382	16249
10903	
Amended by EO 11380	15628
10946	
Revoked by EO 11374	14199
10968	
Revoked by EO 11382	16250
10977	
Amended by EO 11382	16250
10984	
See EO 11350	6961
See EO 11360	9787
11016	
Amended by EO 11382	16250
11022	
Amended by EO 11376	14545
11030	
Amended by EO 11354	7695
11031	
Superseded by EO 11342	5828
11032	
Revoked by EO 11339	5321
11034	
Amended by EO 11380	15627
11046	
Amended by EO 11382	16250
11079	
Amended by EO 11382	16250
11098	
See EO 11360	9787
11136	
Amended by EO 11349	6759
11137	
Amended by EO 11382	16249
11149	
Amended by EO 11382	16249
11157	
Amended by EO 11382	16250
11161	
Amended by EO 11382	16249
11182	
Amended by EO 11382	16250
11188	
See EO 11350	6961
See EO 11360	9787
11190	
Amended by EO 11382	16250
11198	
Modified by EO 11328	3137
11210	
Amended by EO 11347	6333
11211	
Amended by EO 11368	12549
11231	
Amended by EO 11382	16250
11239	
Amended by EO 11382	16250
11241	
See EO 11360	9787
11246	
Amended by EO 11375	14303
11248	
Amended by EO 11323	777
Amended by EO 11335	3965
Amended by EO 11338	5247
Amended by EO 11346	6331
Amended by EO 11367	12037
Amended by EO 11369	12585
11266	
See EO 11360	9787
11269	
Amended by EO 11334	3933
11318	
Amended by EO 11351	7561
11322	119
11323	777
11324	1075
11325	1119
11326	2841
Amended by EO 11382	16248
11327	2995
Superseded in part by EO 11366	11412
11328	3137
11329	3811
11330	3871
11331	3875
11332	3877
11333	3879
11334	3933
11335	3965
11336	4489
11337	5245
11338	5247
11339	5321
11340	5453
11341	5765
11342	5827
11343	6085
11344	6173
11345	6329
11346	6331
11347	6333
11348	6335
11349	6759
11350	6961
See EO 11360	9787
11351	7561
11352	7563
11353	7623
11354	7695
11355	7803
11356	8019
11357	8225
11358	8227
11359	8851
11359A	11049
11360	9787
11361	10153
11362	10495
11363	10779
11364	10907
11365	11111
11366	11411
11367	12037
11368	12549
11369	12585
11370	12665
11371	12903
11372	13251
11373	13371
11374	14199
11375	14303
11376	14545
11377	14725
11378	15237
11379	15625
11380	15627
11381	15629
11382	16247
Presidential documents other than Proclamations and Executive orders	
Presidential Memorandum of Aug. 11, 1960	
Amended by EO 11382	16248
Presidential Letter of June 22, 1963	
Amended by EO 11382	16248
Notice of Oct. 21, 1963	
Supplemented by Notice of April 22, 1967	6429
Letter of Feb. 1, 1967, designating Acting Secretary of Commerce	2493
Letter of Feb. 1, 1967, designating Acting Under Secretary of Commerce	2495
Finding of Feb. 27, 1967	4051
Finding of Feb. 28, 1967	4053
Notice of April 22, 1967	6429
Reorganization Plan No. 1 of 1967	7049
Reorganization Plan No. 3 of 1967	11669
Finding of Sept. 18, 1967	14885

4 CFR

	Page
Chapter I	
20	
Added	11313

5 CFR

	Page
Chapter I	
177	
Added	7052
212.101	
(a) revised	13752
212.301	
Revised	13752
213.101	
(a) revised	13752
213.3102	
(y) added	3085
(v) added; (w) revised	5411
(z) added	8281
(u) revised	10635
(aa) added	10635
(x) revised	12383
213.3102	
(y) revoked	15703
213.3104	
(a) (1) revised	14887
213.3105	
(f) added	10345
213.3106	
(b) (6) revoked	15703
213.3107	
(i) revoked	10635
213.3108	
(a) (12) added	3383
(a) (6) revised	9493
(e) and (g) revoked	10635
213.3109	
(e) revoked	10635
213.3111	
(a) (11) revised	13695
213.3112	
(h) (1) revoked	75
(a) (5) revised	10249
213.3113	
(g) (3) revoked	10635
213.3114	
(l) (3) added	4015
(e) and (j) (3) revoked	10635
(d) (1) revised	11981
(h) (3) revoked	14887
213.3116	
(c) (2) added	8021
(h) revoked	10635
(c) (2) revoked	15703
213.3123	
Added	12598
213.3132	
(f) added	251
213.3144	
(a) (2) revoked	9807
(b) revoked	10249
(a) (3) and (4) revoked	12598
213.3146	
(c) revised	8511
213.3153	
Added	5979
213.3160	
Added	11847
213.3163	
Added, incorrectly designated as 213.3194	4341
Designated correctly	8657
213.3175	
Added	9297
213.3182	
(a) (4) revoked; (a) (9) added	13401
213.3184	
Added	9807
(b) added	10249
213.3188	
Revoked	15703
213.3189	
Revoked	12937
213.3192	
Revised	9807
Revoked	12937
213.3194	
Added	8751
213.3195	
Added	6431
213.3196	
Added	8281
213.3197	
Added	15911
213.3206	
(a) (2) revised	10556
213.3212	
(b) revoked	75
213.3213	
(a) revoked	75
213.3214	
(a) added	9807
213.3215	
(a) revised	8229
213.3216	
(b) revoked	75
213.3237	
Added	8511
213.3242	
Added	10293
213.3256	
(a) revised	11375
213.3273	
(a) revoked	75
(g) added	2361
(b), (c), and (d) revoked; (h) added	5249
(g) revoked	12937
213.3301a	
Added	15805
213.3303	
(e) added	10556
(e) revoked	14017
213.3304	
(l) (1) revised	3289
Heading of (j) and (j) (3) revised	6431
(a) (5) revised	14685
213.3305	
(a) (28) added	5455
(a) (29) added	6389
(e) revoked	6965
(a) (30) added	7011
(d) (2) added	11313
(a) (31) added	11375
(a) (32) added	13754
213.3306	
(c) (2) revised	3289
(a) (45) and (46) revised	5411
(a) (9) revised	8511
(c) (3) revised	8953
(a) (53) added	9605
(a) (54) added	10249
213.3307	
(a) (18) added	7521
213.3309	
(a) (2) revised	8511
213.3310	
(r) (2) revoked; (r) (3) and (5) revised; (r) (6) and (7) revoked; (r) (10) revised; (r) (11) revoked; (r) (13) and (14) added	4491
(m) (3) revoked; (m) (5) and (6) added	5455
(l) revoked	5768
(e) (14) added	15911
213.3311	
(a) (4) revised	4341
(h) (7) added	8511
213.3312	
(a) (31) added	1085
(a) (7) revoked	2805
(d) (3) revoked; (d) (8) added	5671
(h) (4) revised	6901
(b) (4) revised	10781
(o) added	12831
(a) (3) revised	13045
(a) (33) added	13909
213.3313	
(a) (19) revised; (a) (23) added	7
(a) (24) added	9061
(a) (24) revoked	12437
(m) (4) added	14201
213.3314	
(a) (23), (25), and (27) revoked	251
(a) (41) added	789
(q) (1), (2), (3), and (4) revoked; (q) (9) revised; (q) (13) and (14) revoked; (q) (17) revised; (q) (22) revoked; (q) (26) added	7805
(a) (24) revoked	9297
(q) (21) revised	12383
(q) (32) added	12831
(n) (5) added	12937
213.3315	
(a) (1) revised	2931
(a) (22) revised; (a) (26) added	4341
(a) (24) revised	8124
(a) (23) revised	8229
(a) (19) revised	9061
213.3316	
(l) (2) revised	251
(h) (5) revoked; (j) (9) added	3085
(e) (1) revised	8953
(h) (7) added	10249
(f) (1) revised; (f) (3) and (5) revoked	11313
(n) (5) added	12383
(o) added	12383
(h) (8) added	12437
(j) (10) added	13443
(o) (4) added	13443

5 CFR—Continued

Page

Chapter I—Continued

213.3316—Continued
(a) (5), (d) (1), (4), and (5), and (j) (3) and (4) revoked ... 13695
(o) (5) added ... 13855
213.3322
(a) revised ... 14887
213.3326
(g) revoked; (o) added ... 6620
(d) (2) added ... 11770
213.3329
(j) added ... 3689
213.3332
(jj) added ... 1085
(kk) added ... 3763
(ll) added ... 6087
(f) revoked ... 6620
213.3333
(i) added ... 3729
213.3337
(i) added ... 7625
(a) (3) revised ... 10293
213.3342
(f) revised ... 8229
213.3344 Page
(b) (13) revoked ... 407
(b) (7) revoked ... 607
(b) (3), (9), (12), (14), and (18) through (21) revoked ... 2931
(a) (15) revoked; (c) (3), (6), and (7) revoked ... 4158
(b) (1) revoked ... 8281
(a) (17) revoked ... 9297
(a) (1), (2), (3), (5), (6), (7), (10), (12), (13), (16), (22), (24), (26), (28), (30), (32), (33), (34), (37), (42) through (45), and (47) and (c) (2) and (5) revoked ... 12437
(a) (20), (27), (29), (38), (39), and (46), and (b) (2), (4), (5), (6), (8), (10), (11), (15), and (16) revoked ... 14201
213.3348
(o) and (p) added ... 9005
213.3359
Revoked ... 15911
213.3368
(b) (4) added ... 4275
213.3371
(d) added ... 14017
213.3373
(a) (3), (5), (7), (8), and (b) (1) revised; (b) (2) and (3) revoked; (b) (4) revised; (b) (5) revoked; (b) (6), (c) (1), and (d) (1) revised ... 5249
(c) (5) revised; (c) (6) and (7) revoked ... 12437
(a) (8) revoked ... 14201
213.3374
Added ... 7172
213.3377
(g) and (h) added ... 3383
(i) added ... 9297
(a) revised ... 13754
(i) revoked ... 14887
213.3384
(a) (19) added ... 365
(a) (4) revised; (c) (6) added ... 407
(a) (20) and (21), incorrectly designated as (a) (19) and (20), added ... 407
(a) (20) and (21) designated correctly ... 780
(b) (3) through (8) added ... 2931
(c) (5) added ... 3335
(a) (22) added ... 5671
(c) (2) revoked; (c) (6) added ... 6257
(c) (7) added ... 7521
(b) (9) added ... 8281
(c) (7) added ... 9297
(g) (23) added ... 9907
Heading of (b) corrected ... 10249
(a) (24), (b) (10) through (18), and (c) (8) through (12) added ... 14201
(a) (25) added ... 15869
(a) (13) revised ... 15911
213.3385
Added; incorrectly designated as 213.3375 ... 15011
Correctly designated as 213.3385 ... 16097
213.3394
Added ... 6389
(b) added ... 8021
(a) (3) added ... 8124
(a) (4) added ... 8511
(a) (5) added ... 8657
(a) (6) added ... 9297
(a) (7) added ... 9807
(a) (8) added ... 10556
(a) (9) added ... 11313, 11515
(a) (10) and (c) added ... 11609
(c) (2) added ... 12937
(a) (7) revised ... 13319
294
Added ... 9493
302.101
(d) (7) and (8) revised; (d) (9) added ... 13752
305
Added ... 13753
305.509
(e) added ... 15805
330
Subpart G added ... 3967
330.303
Revised ... 3967
330.501
Revised ... 705
330.503
Added ... 705
330.701—330.703
Subpart G added ... 3967
332.311
(b) revised ... 3967
332.322
(e) revised ... 3967
335.102
Introductory text and (a) revised ... 13754
410.602
Revised ... 3085
511.201
(b) amended ... 5455
(b) amended ... 9805
531.203
(b) (2) revised ... 7247
(b) (2) revised ... 12472
531.305
(a) revised ... 3141
534.202
(a) revised; (b) amended ... 75
(b) amended ... 5455
(b) amended ... 9805
(b) amended ... 14887
550
Subpart I added ... 7
Subpart I Appendix A amended; Appendix A–1 added ... 8751
Subpart I Appendix A–1 revised ... 10556
550.505
(k) added ... 9807
550.701
(b) (4) added ... 7743
(b) (1) revised; (b) (5) added ... 13648
550.703
(b) revised ... 3763
550.704
(b) (1) revised ... 3689
(b) (4) (iii) added ... 6674
550.804
(f) added ... 5768
550.901—550.907
Subpart I added ... 7
Subpart I Appendix A amended; Appendix A–1 added ... 8751
610.305
(d) added ... 12551
630
Subpart G added ... 4565
630.502
(b) revised ... 12937
630.701—630.704
Subpart G added ... 4565
713
Authority citation revised ... 15631
Subpart B heading revised ... 15631
Subpart D heading revised ... 15631
713.201—713.232
Subpart B heading revised ... 15631
713.201
(a) revised ... 15631
713.202
Revised ... 15631
713.203
(a), (b), (c), and (g) revised ... 15631
713.211
Revised ... 15631
713.212
Revised ... 15631
713.214
Revised ... 11847
713.217
Revised ... 15631
713.225
Revised ... 15631
713.302
Revised ... 11847
713.401
Subpart D heading revised ... 15631
713.402
Revoked ... 15631
733.301
(b) amended ... 4275
(b) amended ... 12937
735.201a
Redesignated from 735.202(c); revised ... 8281
735.202
(a) revised; (c) redesignated as 735.201a and revised; (d) and (e) revised; (f) redesignated from 735.203(e) (1) and revised ... 8282
735.203
Heading revised; (e) (1) redesignated as 735.202(f) and revised ... 8282
735.210
(a), (d), (g), (h), (j), and (p) revised; (q) added ... 8282
735.401
Revised ... 8282
735.403
Revised ... 8282
735.403a
Added ... 8282
735.404
Revised ... 8282
735.404a
Added ... 8282
735.406
Revised ... 8282
735.410
Revised ... 8283

Page

735.412
(b) (2) revised ... 8283
752.102
Revised ... 10909
752.201
(a) (1) revised ... 13754
752.202
(f) revised ... 10909
752.203
(b) (3) revised ... 3289
752.301
(a) (1) revised ... 13754
754.101
Revised ... 15805
771.204
(a) (1) revised ... 13754
771.216
Revised ... 10909
771.219
Revised ... 3289
771.228
Revised ... 10909
831.106
(a) revised ... 2427
831.201
(a) (5) revised ... 9061
870.202
(a) (6) revised ... 9061
Revised ... 12937
890
Authority citation revised ... 14887
890.101
(a) (1) and (8) revised ... 14887
890.102
(c) (6) revised ... 9061
890.201
(a) (1), (4), and (6) and (b) revised ... 14888
890.202
Introductory text revised ... 14888
890.301
(m–1) added ... 14888
890.303
(c) and (e) revised ... 14888
890.306
(c) revoked ... 14888
890.503
(c) (2) and (3) revised; (c) (4) added ... 14888
891.103
(c) and (e) revised ... 14363
1001
Revised ... 11113

Chapter VII

1700
Corrected ... 203

Chapter X

2000
Revised ... 14547
Proposed Rules:
890 ... 12725
891 ... 12727

7 CFR

Subtitle A

1
Subpart A revised ... 9605
1.1—1.6
Subpart A revised ... 9605
1.26
Revised ... 5458
1.51
Revised ... 1021
1.52
Added ... 2805
(c) revised ... 7835
5.2
Amended ... 11031
Amended ... 16385
5.4
Amended ... 11031
Amended ... 16385
6.32
Added ... 10833
(c) (1) (i) revised ... 12438
7.8
Revised ... 7171
7.18
Revised ... 7171
15
Appendix amended ... 705
15.4
(d) and (e) added ... 3967
17
Appendix A corrected ... 921
Appendix B corrected ... 3935
Appendix A amended ... 5978
17.1
(c) (3) corrected ... 3935
17.2
(b) (7) corrected ... 3935
(b) (7) and (c) (2) revised ... 5977
17.7
(c) revised ... 5977
17.8
(c) (1) and (2) revised; (c) (6) added ... 5977
17.9
(o) (1) corrected ... 921
(k) (7) corrected ... 3935
(j) (5) and (m) revised ... 5977
17.10
(a) (1), (h) (1), (3), (5), and (6), (l), and (p) revised ... 5977
17.13
(c) (2) and (4) corrected ... 921
(d) (1), (3), (6) (i), and (7) (i) revised; (d) (8) deleted ... 5978
17.14
(a) revised ... 5978
17.15
(b) (5) corrected ... 3935
(a) (6), (b) (6) (ii), and (c) (2) revised ... 5978

Chapter I

26.29
(m) (2) revised; (m) (3) amended; (m) (4) and (5) revised; (m) (6) amended ... 13648
27.2
(o) revised ... 4157
27.38
(e) revised ... 7011
27.48
Deleted ... 4157
27.93
Revised ... 12831
27.94
Revised ... 4157
Revised ... 12831
28.40
(e) revised ... 7011
28.525
Center heading and section added ... 8760
29.1162
Amended ... 5979
29.1163
Amended ... 5979
29.1181
Amended ... 5979
33.10
(d) (1) revised ... 9298
44
Recodified as 52.6041—52.6046; revised ... 8575
51.1—51.61
Subpart recodified from 51.1—51.67; revised ... 15066
51.1—51.67
Subpart recodified as 51.1—51.61; revised ... 15066
51.750—51.783
Subpart revised ... 13488
51.1140—51.1178
Subpart recodified as 51.1140—51.1179; revised ... 13493
51.1140—51.1179
Subpart recodified from 51.1140—51.1178; revised ... 13493
51.1400—51.1416
Subpart recodified as 51.1400—51.1418; revised ... 15073
51.1400—51.1418
Subpart recodified from 51.1400—51.1416; revised ... 15073
51.1810—51.1834
Subpart revised ... 13500
51.3325—51.3333
Subpart added ... 8857
51.3555—51.3573
Subpart added ... 8858
51.3740—51.3749
Subpart added ... 3213
51.3785—51.3795
Subpart added ... 8859
51.3805—51.3818
Subpart added ... 8859
51.3830—51.3844
Subpart added ... 8860
51.3855—51.3872
Subpart added ... 8861
51.3880—51.3888
Subpart added ... 8862
51.3900—51.3918
Subpart added ... 8862
51.3930—51.3937
Subpart added ... 8863
51.3945—51.3948
Subpart added ... 8864
51.3955—51.3970
Subpart added ... 8864
51.3980—51.3989
Subpart added ... 8865
51.4000—51.4004
Subpart added ... 8866
51.4010—51.4022
Subpart added ... 8866
51.4030—51.4041
Subpart added ... 8867
51.4050—51.4062
Subpart added ... 8868
51.4075—51.4085
Subpart added ... 8868
51.4095—51.4109
Subpart added ... 8869
51.4120—51.4129
Subpart added ... 8870
51.4140—51.4157
Subpart added ... 8871
51.4170—51.4180
Subpart added ... 8872
51.4190—51.4204
Subpart added ... 8872
51.4210—51.4227
Subpart added ... 8873
51.4240—51.4250
Subpart added ... 8874
51.4260—51.4267
Subpart added ... 8874
51.4270—51.4277
Subpart added ... 8875
51.4290—51.4307
Subpart added ... 8875
51.4320—51.4328
Subpart added ... 8876

7 CFR—Continued

Page

Chapter I—Continued

51.4340—51.4348
Subpart added 8877
51.4360—51.4368
Subpart added 8877
51.4380—51.4387
Subpart added 8878
51.4400—51.4406
Subpart added 8878
51.4415—51.4426
Subpart added 8879
51.4435—51.4444
Subpart added 8879
51.4455—51.4466
Subpart added 8880
51.4475—51.4496
Subpart added 8881
51.4505—51.4525
Subpart added 8882
51.6060—51.6005
Subpart added 9145
52.1026
(b) deleted; Table I amended 921
52.1901a
Added 4397
(e) added 5979
52.1903
Revised 4397
52.1904
(b) revised; (c) added 4397
52.2392a
Added 779
52.2396
(b) revised 779
52.2400
Amended 779
52.2681—52.2694
Subpart recodified as 52.2681—52.2695; revised 12373
52.2681—52.2695
Subpart recodified from 52.2681—52.2694; revised 12373
52.2761—52.2773
Subpart deleted 12369
52.2861—52.2888
Subpart added 7565
52.3451—52.3462
Subpart added 7568
52.5452
(d) revised 11467
52.5601—52.5616
Subpart added 7570
52.5641—52.5652
Subpart added 10499
52.5681—52.5692
Subpart added 10497
52.5761—52.5773
Subpart added 7572
52.5801—52.5810
Subpart added 7573
52.5841—52.5849
Subpart added 7575
52.5881—52.5892
Subpart added 7576
52.5921—52.5926
Subpart added 7578
52.5961—52.5968
Subpart added 7579
52.6001—52.6009
Subpart added 7580
52.6041—52.6046
Recodified from Part 44; revised 8575
53.29
(d) amended 705
(b) revised 8953
56.1
Paragraph designations deleted; amended 8230
56.17
Added 8230
56.26
(a) and (b)(2), (3), and (4) revised 8230
56.27
Revised 8231
56.39
Center heading revised 8231
56.40
Revised 8231
56.41
Deleted 8231
56.43
(a)(4) and (b)(1), (2), (5), (6), (9), and (10) revised 8231
56.44
(d) revised; (e) added 8231
56.76
(a)(3) revised; (a)(4) and (5) added; (c)(1) revised; (c)(3) added; (d) and (e)(2), (3), and (4) revised; (e)(5) through (12) added; (f) revised; (g) added 8232
56.77
Added 8232
56.206
Revised 8232
56.306
Revised 8232
56.307
Deleted 8232
56.326
(b) revised 8232
56.312
(c) added 8232
56.315
(a) and (c) revised 8232
56.316
Revised 8233
56.317
Tables I and II revised 8233
56.318
(b) revised 8233
56.321
Revised 8233
56.322
Table I revised 8234
56.331—56.333
Center heading and sections deleted 8234
56.334
Introductory text of (a) revised; (d) deleted 8234
58
Subpart B recodified and revised 4204
58.101—58.201
Subpart B recodified as 58.101—58.941; revised 4204
58.101—58.941
Subpart B recodified from 58.101—58.201; revised 4204
61.45
Revised 8576
68
Subpart C recodified and revised 14633
Subpart D recodified and revised 14635
Subpart E recodified and revised 14637
68.201—68.225
Subpart C recodified from 68.201—68.233; revised 14633
68.201—68.233
Subpart C recodified as 68.201—68.225; revised 14633
68.251—68.253
Subpart D recodified as 68.251—68.285; revised 14635
68.251—68.285
Subpart D recodified from 68.251—68.253; revised 14635
68.301—68.303
Subpart E recodified as 68.301—68.333; revised 14637
68.301—68.333
Subpart E recodified from 68.301—68.303; revised 14637
81.134
Effective date of revision partly postponed 2442
Effective date of revision 6673
81.208
Effective date of revision partly postponed 2442
Effective date of revision 6673
201.2
(h) and (i) amended; (l) revised; (x) added 12778
201.4
(b) amended 12778
201.7a
Added 12778
201.10
Existing text designated as (b); (a) added 12778
201.11a
Added 12779
201.12a
Added 12779
201.14
(c) amended 12779
201.17
Revised 12779
201.18
Amended 12779
201.20
Amended 12779
201.22
Amended 12779
201.24a
Added 12779
201.26
Heading and text amended 12779
201.29
Revised 12779
201.29a
Added 12779
201.30
Revised 12779
201.30a
Added 12779
201.31
Amended 12779
201.34
Heading amended; (a) and (c) revised; (e)(1), (3), (4), (6), and (8) amended 12779
201.36b
(c) revised; (e) added 12780
201.36c
Added 12780
201.46
(d) amended 12780
201.47
(e) revised 12780
201.56–2
Introductory text of (a) and (a)(1)(iii) and (iv) amended; (a)(1)(v) added; (a)(2)(iv) and (v) amended; (a)(2)(vi) added 12780
201.56–6
Headings of (a) and (c) amended 12781

Page

201.58
(a)(8) and (c) amended 12781
201.58a
Introductory text amended 12781
201.61
Revised 12781
201.62
Revised 12781
201.65
Amended 12782
201.66
Revised 12782
201.102
Existing text designated as (a) and amended; (b) added 12782
201.107
(b) amended 12782
201.208
(a) amended 12156
201.218
Amended 12156
201.221
(c) amended; (d) added 12156
201.221a
Amended 12155
201.222
Heading and (a) amended; (b) and (e) deleted; new (e) and (f) added 12155

Chapter II

210
Appendix added 2983
Appendix added 6431
210.6
(d)(13)(ii) and (iii) revised 33
210.10
Revised 12983
215
Revised 12987
215.2
(m) revised 4341
215.7
(b) revised 6549
220
Added 33
Appendices added 485
Appendix added 7491
Appendix amended 9296
Appendix amended 11073
Appendix amended 13376
220.2
(f) revised 13215
220.7
(c)(12)(iii) revised 13215
220.9
(b) and (c) revised 13215
220.11
(b) revised 13215
220.18
(a) revised 13215
251
Added 16948

Chapter III

301.32–2c
Revised 7437
301.52—301.52–10
Subpart recodified and revised 16386–16389
301.80
Revised 9496
301.80a
Superseded by 301.80–2b 9507
301.80–1
Revised 9496
301.80–2
Revised 9496
301.80–2a
Revised 9499
Corrected 10781
301.80–2b
Added 9507
301.80–2—301.80–10
Revised 9496
301.83
Added 7958
319.28
Revised 7959
(h) added 16577
319.37
(b) amended 2443
319.37–19
(c) amended 2444
319.37–24c
Revised 636
319.37–28
Added 2444
319.56a
(a)(4) revised 13319
319.56–2d
(a)(2) amended; (a)(2)(iv) added; (c) amended 12832
(a)(2)(iv) corrected 13215
319.56–2p
Revised 12471
319.59a
Revised 6496
320.8
Revised 8953
320.9
Revised 8954
320.10
(c) revised 8954
330.106
(a) revised 6239
354.2
Amended 969
Amended 3283
Amended 6019
Amended 7697
Amended 9045
Revised 11981
370
Added 9606

Chapter IV

401.1
Appendix amended 1123 (7 docs.), 1169 (3 docs.), 2931 (2 docs.), 4275, 4276, 4565, 5416, 8666 (2 docs.), 10781 (2 docs.), 16324, 11731, 14091–14098 12 docs.), 14147–14149 (6 docs.), 16396
401.3
(a) amended 705, 706, 921, 10501, 12989 (2 docs.), 15703–15704 (3 docs.)
401.21
Amended 12989
401.23
Amended 12989
401.32
Amended 12989
401.36
Heading and introductory text revised 921
401.40
Amended 705, 15704
401.43
Amended 706, 10501, 15703
401.46
Added 921
Heading revised; text amended 15703
401.101—401.111
Subpart added 15911
402.1
Appendix amended 14150
403.40
Appendix amended 14150
404.20
Appendix added 1124
Appendix amended 14150
406.1
Appendix amended 14150
406.6
Amended 9512
407.1
Appendix amended 11755
408.1
Appendix amended 14150
409.1—409.6
Superseded by 409.20—409.25 16635
409.20—409.25
Added, superseding 409.1—409.6 16635
409.20
Appendix added 14150
410.20
Appendix added 1124
Appendix amended 14150
411
Added 706
411.1
Appendix added 1124
Appendix amended 4566, 13315
411.2
(a) revised 12989
411.3
Revised 12990
411.6
Amended 12990
412
Added 9616

Chapter VI

601
Authority citation revised 11515
601.1
(aa) and (bb) revised; (cc) and (dd) added 10155
601.8
(a) revised; (d) and (e) added 10156
601.11
(a)(25) revised; (a)(26) deleted; (b) and (c) revised; (d), (e), (f), and (g) added 10155
(b)(1) corrected 10501
601.12
(a) revised; (c) and (d) deleted 10156
601.13
(b) and (c) deleted 11515

Chapter VII

701.1—701.97
Subpart recodified as 701.1—701.99; revised 11117
701.1—701.99
Subpart recodified from 701.1—701.97; revised 11117
701.2
(c) added 11261
701.48
Amended 5619
706
Subpart G recodified and revised 13695
706.501—706.533
Subpart G recodified as 706.601—706.633; revised 13695
706.601—706.633
Subpart G recodified from 706.501—706.533; revised 13695
706.613
Amended 14548
706.622
Revised 14548
706.623
Revised 14548
706.624
Revised 14548

7 CFR—Continued

Chapter VII—Continued

707.1
Revised ... 13649
709
Revised ... 14921
711.4
Amended ... 15705
711.26
Closing paragraph deleted ... 15705
717.4
(c) added ... 9946
(c) corrected ... 10293
(c) amended ... 10549
717.5
Amended ... 9949
717.7
(d) amended ... 7385
717.9
Revised ... 15705
717.17
(b) amended ... 3139
(c)(4) added ... 7385
718
Revised ... 9069
718.5
(f)(2) corrected ... 9507
718.8b
(c)(2) (i), (d), and (j)(3) revised ... 3139
718.16
(b) amended ... 5493
718.17
(b) revised ... 3140
718.27
(b) corrected ... 9507
(b) amended ... 11755
719.2
(m) revised; (x) added ... 14600
719.3
(b)(8) revised; (d)(6) added ... 14600
719.7
(b)(3) revised; (b)(5) added; (c) revised ... 14600
719.8
(h) revised ... 14600
719.9
Revised ... 14600
719.11
(e) revised ... 14600
719.15
Added ... 14600
722.100
(b) added ... 9296
722.404
(b)(3)(ii) revised; (b)(15) amended ... 3935
722.405
Amended ... 3936
722.408
Amended ... 3936
722.411
(a)(7) revised; (h) added ... 9606
722.413
(b)(4)(iii) added ... 9606
722.414
(a)(5) added; (b)(2) revised ... 3936
(a)(1) and (b)(1) amended ... 9606
722.430
(i) added ... 6549
(i) amended ... 7437
(i) amended ... 7491
(i) amended ... 7630
(i) amended ... 7910
722.436
(b)(3) added ... 3936
722.438
(d) amended ... 3936
722.451
(c)(3) revised ... 1079
722.470
(f) amended ... 2361
722.473
Added ... 75
722.474
Added ... 5671
722.475
Added ... 8954
722.476—722.479
Added ... 14267
722.480, 722.481
Added ... 14269
722.482
Added ... 14269
722.483
Added ... 16185
722.484
Added ... 16195
722.505
Amended ... 5416
722.508
(b) amended ... 5416
722.514
(a)(4) added ... 5416
722.557
Added ... 76
722.558—722.560
Added ... 14305
722.561
Added ... 14306
722.562
Added ... 15987
722.801—722.824
Subpart revised ... 2931
722.802
(j) and (m) revised ... 8666
722.804
(b)(5) amended ... 8666
722.809
(c) revised ... 8666
722.815
(e) amended ... 8666
722.817
(c) added ... 6127
724.35p
Revoked ... 2603
724.35q
Revoked ... 2603
724.36—724.36d
Subpart added ... 651
724.36e, 724.36f
Subpart added ... 1124
724.36g—724.36l
Subpart added ... 653
724.36j—724.36m
Subpart added ... 1022
724.36m
(g) and (h) added ... 2609
724.36n
Added ... 2603
Amended ... 3045
724.36o, 724.36p
Subpart added ... 4055
724.36q
Added ... 4305
724.36r
Added ... 5323
724.51
(i), (j), and (l) revised; (dd) added ... 10549
(i) corrected ... 11203
724.55
Revised ... 10550
724.56a
Added ... 10550
724.57
Revised ... 10551
724.59
(i) added ... 10551
724.60
(b) revised ... 12905
724.62
(a)(3) and (c)(3) revised ... 2936
(b)(11) added ... 12905
724.67
(d) deleted ... 10551
(a) and (g) revised ... 12905
724.71
Added ... 2936
724.72
Added ... 12906
724.87
(a)(1) amended ... 10551
724.90
(j) added ... 10551
724.92
(l) and (m) added ... 10551
724.94
(h) and (l) added ... 10551
724.95
(c) added ... 10551
724.98
(c) revised; (m) added ... 10551
724.99
(h)(12) and (13) and (k) added ... 10552
724.102
Revised ... 10552
725.3
Added ... 9818
725.4
Added ... 11413
725.56
(a) revised ... 10293
725.58
Revised ... 10293
725.60
(b) revised ... 10294
725.66
(a) and (b) amended ... 10294
725.68
(d) amended ... 10294
725.70
(e) revised ... 10427
725.72
(d) revised ... 13113
725.73
(a), (b), and (c) revised ... 10294
725.75
Added ... 10294
725.87
(a) amended; (f) revised ... 10295
(a) revised ... 10427
(g) added ... 13113
Heading of (f) revised; (f)(4) added ... 14270
725.88
(a)(1) amended ... 10295
725.91
(a) revised ... 10295
725.92
(d) and (e) added ... 10295
725.95
(c) added ... 10427
725.98
(k) and (l) added ... 10295
725.99
(a)(3) amended; (g)(11) and (h) added ... 10295
(c)(4) added ... 14270
725.100
(b) revised ... 14270
725.104a
Added ... 10295
725.109
(j) added ... 10295
728.309
(b)(3) amended ... 11755
728.315
(b)(2) and (3) amended; (e) added ... 5416

728.316
Existing text designated as (a); (b) added ... 8577
728.317
(b)(5) revised ... 8577
728.323
Amended ... 8577
728.325
(a) and (b) amended ... 5417
(b) revised ... 11755
728.341—728.345
Subpart revised ... 9819
Subpart heading revised; subpart recodified as 728.351—728.355 ... 13700
728.346
Added ... 11609
Redesignated as 728.356 ... 13700
728.347
Revised ... 11609
Corrected ... 12083
Redesignated as 728.357 ... 13700
728.351—728.355
Subpart heading revised; subpart recodified from 728.341—728.345 ... 13700
728.356
Redesignated from 728.346 ... 13700
728.357
Redesignated from 728.347 ... 13700
728.416a
(e) amended ... 5417
728.502
(a)(2) amended ... 8577
728.505
(e) amended ... 8577
728.507
(d) added ... 8139
729.1424
Revised ... 9146
729.1425
(c) amended; (d) revised; (f) deleted ... 9147
729.1432
(b)(8) added ... 1169
729.1435
(a) revised ... 9147
729.1441a
Added ... 9147
729.1446
(b) and (d) revised ... 9147
(d) revised ... 13569
729.1450
Amended ... 9148
729.1454
(a) revised ... 9148
729.1457
(f) added ... 13569
729.1468a
Added ... 9148
729.1804
Subpart added ... 4566
729.1807
Subpart added ... 12991
Subpart corrected ... 13215
729.1810—729.1813
Subpart added ... 15149
730.1—730.49
Subpart added ... 3666
730.22
Amended ... 5143
730.1511
(h) revised ... 8065
730.1517
(e) added ... 3661
730.1518
(g) added ... 3661
(h) added ... 15076
730.1521
(g) added ... 2097
(h) added ... 6065
730.1525
(a)(2) amended ... 3661
730.1527
(b)(3)(iii) revised; (b)(3)(iv) added ... 6065
730.1528
(f) added ... 3662
(g) added ... 6065
730.1529
(i) added ... 3662
(j) added ... 15076
730.1803
Amended ... 3662
730.1808
Added ... 7055
730.1809
Added ... 1170
750.156
(d)(4) added ... 6549
750.157
(b)(1) amended ... 6549
750.187
Revised ... 6549
750.511
(c) added ... 6550
750.513
(b)(1) amended ... 6550
750.541
Revised ... 6550
751.19
Amended ... 5417
751.50
Added ... 8577
751.61
Amended ... 5417
751.92
Added ... 8512
751.101
(g) revised ... 5417
751.103
(b) and (c) amended ... 5417
751.108
(d) added ... 8512
751.115
(f) added ... 5767
(b) amended ... 8512
751.116
(b)(1)(iv) revised; (d) amended ... 5417
751.123
(e) added ... 6431
751.129
(i) added ... 6431
751.142
(a) revised ... 9148
(c)(2) revised ... 9821
751.150—751.152
Revised ... 11031
755.10
(b) revised ... 12938
775.401
(d) amended ... 697
775.402
(c)(2)(x) and (v) added ... 697
(c)(2)(xi) added ... 7836
(d)(3) amended ... 8123
(c)(2)(vii) revised; (c)(2)(xii) added; (d)(2)(vi) revised; (d)(2)(ix) added; (o) revised ... 13700
775.404
(c)(2) amended ... 697
775.409
(c)(2)(vi) and (4) revised ... 8123
775.410
(g)(2) revised ... 697
775.411
Amended ... 697
Amended ... 8123
775.412
(b) amended ... 697
775.417
(i) revised ... 7836
(l) amended ... 13700
775.419
(c) added ... 6127
Introductory text of (a) revised ... 7836
775.427
Text designated as (a); (b) added ... 2500
(b) corrected ... 3968
775.430
Added ... 697
(c)(1) amended; (e) revised ... 7836
(a) amended; (f) revised ... 13700
777
Interpretation of Appendix II ... 4305
Appendix II amended ... 10834
Appendixes II and III amended; Appendix VI added ... 12552
Appendix VI corrected ... 14363
777.2
(g)(6) added ... 8676
(c)(4) revised ... 10834
(y) added ... 12551
777.4
(b)(7) revised ... 7836
(a) amended ... 8676
777.10
(b) revised; (d) amended ... 12561
777.12
(a) revised; (c) amended; (g) revised ... 12551
777.13
Interpretation ... 4305
777.14
(c) amended ... 8676
(c) amended ... 10562
777.15
Amended ... 12552
777.18
Interpretation of (b) ... 6127
777.19
(e) revised ... 8676
777.25
Added ... 7836
778
Revised ... 14727
778.10
(b) corrected ... 16251
780.6
(d) added ... 8676
790.2
Revised ... 8955
790.3
Revised ... 8955
792.2
(c)(2) revised; (c)(6) added ... 3335
(b)(4) revised; (c)(7) added ... 11515
792.3
(a)(4) and (b)(2) amended; (b)(7) revised; (c) and (d) amended ... 3335
(a)(5), (6), and (7) and (b)(13) added ... 11515
793
Added ... 11515
798
Added ... 9606

Chapter VIII

811.50
Revised ... 2610
Revised ... 4015
Revised ... 8577
Revised ... 9149
Revised ... 9949

7 CFR—Continued

Chapter VIII—Continued

	Page
811.51	
(a) revised	2610
(a) revised	4015
Text of (c) redesignated as (a) (1); (a) (2) added	7581
(a) (1) revised	8577
(a) (1) revised	9149
(a) (1) revised	9949
811.52	
Added	7581
(c) added	12592
811.53	
(b) and (c) revised	2610
(d) (1), (2) (ii), and (4) (i) and (iii) revised; (d) (4) (v) added	3085
(b), (c), and (d) (1), (2) (ii), and (4) (i) revised; (d) (4) (vi) added	4016
(d) (1), (2) (ii), and (4) (i) re-revised; (d) (4) (vii) added	6387
(d) rescinded	7011
(c) revised	7521
(c) revised	7581
(c) revised	8578
(c) revised	9149
(c) revised	9949
(c) revised	12592
813	
Determination	13701
814.5	
Added	39
(a) revised	3687
Revised	6192
(a) revised	8807
(a) revised	10554
815.8	
Added	42
(a) revised	6550
(a) revised	10501
816.4	
(a) revised; (f) added	3045
817	
Revised	14364
817.10	
(d) amended	10345
831.14	
Added	12552
(a) and (c) amended	13649
833.14	
Added	13216
842.11	
Added	1079
845.8	
Added	8234
847.15	
Added	14017
848.7	
Added	8123
849.2	
Revised	6432
850.188	
Added	1024
850.189	
Added	251
850.190	
Added	252
850.191	
Added	1025
850.192	
Added	439
850.193	
Added	253
850.194	
Added	1027
850.195	
Added	1080
850.196	
Added	254
850.197	
Added	256
850.198	
Added	2997
850.199	
Added	1028
850.200	
Added	1030
850.201	
Added	2697
850.202	
Added	440
850.203	
Added	258
850.204	
Added	1031
850.205	
Added	441
850.206	
Added	1082
850.207	
Added	443
850.208	
Added	444
850.209	
Added	445
850.210	
Added	1083
850.211	
Added	311
850.212	
Added	12553
851.1	
(c) (2) (ii) revised	7385
855.37—855.46	
Added	10715
857.16	
Added	969
862.7	
Added	5458
863.19	
Added	14096
863.14	
Added	13801
871.19	
Added	312
873.19	
(a) (1) amended	6551
873.20	
Added	14737
874.20	
Added	14306
876.19	
Added	7243
877.19	
Added	3086
891	
Revised	7837
891.1	
(k) corrected	8283
892	
Revised	8413
893	
Revised	10638
893.11	
Corrected	11467
894	
Added	8882
Chapter IX	
900.350—900.357	
Subpart added	9821
900.500—900.516	
Subpart added	9610
900.500	
Amended	12992
900.510	
(a) amended	12992
905.206	
Added	16097
906.137	
Introductory text of (a) and (a) (1) revised	14372
906.207	
Added	15869
906.311	
(a) revised	13114
907.100	
(f) added	15805
907.110	
(d) and (e) (1) amended	7839
907.111	
(c) deleted; (d) revised	15805
907.112	
(a) revised	15806
907.113	
(b) amended	15806
907.120	
(a) amended	15806
907.140	
Amended	15806
907.142	
Added	7840
Existing text designated as (a); (b) added	15806
907.205	
Added	259
908.110	
(d) and (e) (1) amended	7840
908.111	
(c) deleted	12909
908.113	
(a) revised	3688
908.142	
Added	7840
908.206	
Added; incorrectly designated as 907.206	6257
909.206	
Added	15870
911.207	
Added	8513
912.207	
Added	15988
913.203	
Added	16098
915.207	
Added	8761
915.305	
(a) (1) (i) revised	7171
(a) (1) (viii) revised	13180
(a) (1) (i) revised	14548
(a) (1) (x) added	15669
(a) (1) (x) revised	15871
916.206	
Added	8955
917.116	
Added	5543
917.205	
(a) revised	3384
917.206	
Added	9006
918.206	
Added	7522
919.206	
Added	12398
921.207	
Added	12083
922.207	
Added	12156
923.207	
Added	12156
924.207	
Added	12472
925.207	
Added	14202
926.17	
Amended	13045
926.46	
Amended	13045
926.47	
Revised	13046
926.49	
Revised	13046
926.50	
Revised	13046
926.51	
Revised	13046
926.207	
Added	14151
927.122	
(a) revised	13181
927.207	
Added	12743
927.306	
Added	11698
(a) (1) (i) and (ii) deleted	14151
929.105	
(b) revised	13253
929.204	
(b) revised	13253
929.208	
Added	13253
931.202	
Added	13319
932.150	
Introductory text revised; (e) added	13443
932.160	
Added	5323
932.204	
Added	14202
944.7	
Added	7245
Introductory text of (a) and (a) (1) and (2) revised	10052
Introductory text of (a), (a) (1), (2), and (5) revised	10641
Introductory text of (a) and (a) (1) and (4) revised	11756
944.104	
(a) (2) revised	8235
(a) (2) revised	8761
Terminated by 944.105	12939
944.105	
Added	12938
944.202	
Introductory text of (a) and (a) (2) revised	5731
Introductory text of (a) and (a) (1), (2), and (3) revised	8235
944.306	
(a) revised	711
(a) revised	2938
(a) revised	3437
Terminated by 944.307	12994
944.307	
Added	12993
(a) revised	14311
945.220	
Added	11699
946.219	
Added	16199
947.220	
Added	15705
948.251	
(a) revised	11032
948.254	
Added	11032
948.255	
Added	12939
948.256	
Added	14889
953.204	
Added	12555
958.44	
Revised	11261
958.45	
Added	11262
958.47	
Revised	11262
958.52	
(a) (3) revised	11262
958.211	
Added	12743
967.202	
Added	76
967.203	
Added	15003
971.207	
Added	365
971.208	
Added	13320
980.1	
(a) (1) (i) and (2) (ii) and (iii) and (b) (1) and (2) amended; (a) (1) (iii) and (2) (i) and (ii) revised; (a) (2) (iii) deleted; (a) (2) (iv) redesignated as (a) (2) (iii); (b) (1) and (2) revised; (b) (3) redesignated as (b) (4); new (b) (3) added	9509
980.105	
Introductory text and (a) revised; (b) republished; (h) revised; (i) added	608
980.106	
Added	12156
981.217	
Added	12787
981.316	
Added	2939
981.317	
Added	13114
982.217	
Added	14739
Revised	15669
982.312	
Added	14685
984.215	
Added	15388
984.319	
Added	14890
987.3	
Revised	12595
987.8a	
Added	12595
987.21	
Revised	12595
987.22	
Revised	12595
987.24	
Revised	12595
987.33	
Center heading and section revised	12595
987.39	
Revised	12596
987.51	
Revised	12596
987.53	
Added	12596
987.155	
(a) (1) (ii) revised	215
(a) (1) (i) revised	14203
987.215	
Added	11847
987.312	
Added	11848
987.501	
Revised	215
Revised	12333
989.12a	
Added	12158
989.13	
Revised	12158
989.14	
Revised	12158
989.24	
(b) revised	12158
989.26	
Revised	12158
989.27	
Revised	12159
989.28	
Revised	12159
989.29	
(a) and (b) (1) and (2) revised	12159
989.30	
Revised	12159
989.35	
Revised	12159
989.36	
Revised	12159
989.39	
Revised	12159
989.39b	
Revised	12160
989.40	
Revised	12160
989.42	
Revised	12160
989.43	
Revised	12160
989.54	
Revised	12160
989.55	
Revised	12161
989.56	
Deleted	12161
989.57	
Deleted	12161
989.58	
(d) (1) revised; (d) (3) added	12161
989.59	
(c) and (f) revised	12161
989.63	
Deleted	12161
989.64	
Deleted	12161
989.66	
Revised	12161
(b) (1) corrected	12710
989.67	
Revised	12162
Finding	15003
989.68	
Deleted	12164
989.69	
Revised	12164
989.71	
Revised	12164
989.73	
(b) revised	12164
989.79	
Revised	12165
989.80	
(a) and (b) revised	12165
989.82	
Revised	12165
989.84	
Revised	12165
989.96	
(b) through (g) revised; (h) added	12165
989.126	
Added	7841
989.139	
Added	7842
989.158	
(c) (4) (i) amended	15915
989.166	
Revised	15916
989.167	
Revised	15916
989.168	
Deleted	15917

7 CFR—Continued

Page

Chapter IX—Continued

989.173
(a)(2) and (b)(2)(i) and (ii) revised ... 15017
989.221
Added ... 14272
989.222
Added ... 14272
989.224
Revised ... 5921
989.225
Added ... 14272
Revised ... 16199
989.318
Added ... 15671
989.401
(a), (b), and (d) revised ... 15917
991.132
Added ... 3763
991.138
Added ... 1125
991.138a—991.160
Subpart added ... 6551
991.138a
Revised ... 15706
991.138b
Added ... 13570
991.138d
Added ... 7331
991.203
Added ... 4398
991.204
Added ... 13570
991.205
Added ... 15706
991.231
Added ... 13570
991.302
Added ... 15670
991.601
Added ... 13571
993.203
Added ... 11314
993.318
Added ... 12472

Chapter X

1001
Revised ... 15076
1001.32
(k) added ... 5418
1001.60
(b) amended; (e) revised ... 2362
(b)(2) revised; (d) revoked; introductory text of (e) revised ... 5418
Introductory text of (e) revised ... 6607
1001.61
(b) suspended in part ... 13804
1001.62
(b) amended; (e) revised ... 2362
1001.64
(b–1) and (b–2) added ... 5418
1001.70
(b) suspended in part ... 446
1001.72
Introductory text suspended in part ... 446
1001.80
Revised ... 5418
1001.81
(a)(2) suspended ... 446
1002.23
(k) added ... 5418
1002.40
(a)(11) suspended in part ... 2362
(a)(3) revised ... 3385
(a)(11) revoked ... 5418
Introductory text of (a) and (a)(1) revised ... 7842
Introductory text of (a) suspended in part; (a)(3) through (10) suspended ... 12596
(e)(2) suspended in part ... 13804
1002.42
(b) terminated in part ... 2807
1002.47
(b)(7) terminated ... 2807
(a)(7) revised ... 5418
1002.65
(e) terminated in part ... 2807
1002.66
(c–1) and (c–2) added ... 5418
1002.71
(b) terminated ... 2807
1002.75
Revised ... 5419
1003.50
(a) revised ... 6608
(b)(2) suspended in part ... 13804
1004
Determination ... 3813
Revised ... 7056
1004.8
(b) suspended in part ... 9006
(b) suspended in part ... 11414
(b) revised ... 12788
1004.15
Introductory text and (d) suspended in part ... 8063
Introductory text and (d) revised ... 12788
1004.16
(c)(2) amended; (d) and (e) added ... 11204
1004.22
(j)(2) revised; (o) added ... 11204
1004.50
(a)(2) revised; (a)(3) amended ... 6608
(b)(2) suspended in part ... 13804
1004.63
Added ... 11205
1004.64
Added ... 11205
1004.71
Introductory text and (f) revised ... 11205
1004.72
Added ... 11205
1004.80
(a) and (d)(2) revised ... 11206
1004.82
Revised ... 11206
1004.84
(b) revised ... 11206
1005.50
Amended ... 6608
1005.51
(a)(1) revised ... 6608
1006.16
Introductory text of (b) suspended in part; (b)(2), (3), and (4) suspended ... 6763
Introductory text of (b) suspended in part; (b)(2), (3), and (4) suspended ... 8707
1006.19
Suspended ... 12994
1006.20
Suspended ... 12994
1006.27
(k)(2) suspended in part ... 12994
1006.31
(b)(1) suspended; (b)(2)(ii) suspended in part ... 12994
1006.50
Amended ... 6608
1006.51
Introductory text of (a) revised ... 6608
1006.71
Introductory text and (f) suspended in part ... 12994
1006.72
Suspended ... 12994
1006.74
(a) suspended in part ... 12994
1006.75
(b) suspended; (c) suspended in part ... 12994
1006.80
(a)(2) suspended in part; (d)(2)(ii) suspended ... 12994
1006.82
(b)(1) suspended in part ... 12994
1006.90—1006.92
Center heading and sections suspended ... 12994
1009.50
Amended ... 6608
1009.51
Introductory text of (a) revised ... 6608
1011.50
Amended ... 6608
1011.51
(a) revised ... 6608
1012.16
(b)(2), (3), and (4) suspended ... 6635
(b)(2), (3), and (4) suspended in part ... 10554
1012.41
(c)(5) revised ... 11207
1012.50
Amended ... 11207
1012.51
(a) suspended in part ... 9300
(a) revised ... 11207
1013.41
(c)(5) revised ... 11415
1013.44
(g)(1) and (3)(iv) revised ... 7742
1013.50
Amended ... 11415
1013.51
(a) suspended in part ... 9361
(a) revised ... 11415
1015.9
(c)(4) revoked; (d) revised ... 15090
1015.10
Introductory text and (a) revised ... 15090
1015.16
(b)(1) revised ... 15090
1015.26
(c) revoked ... 15091
1015.32
(k) added ... 5419
(g)(5) added ... 15091
1015.35
Center heading and section added ... 15091
1015.41
(c) and (e)(1) revised ... 15091
1015.50
Revised ... 15091
1015.52
(g)(2) and (3) revised; (i) redesignated as (j) and revised; new (i) added ... 15091
1015.55
Introductory text, (b)(3), (c), and (e) revised ... 15091
1015.60
(b)(2) revised; (d) revoked; introductory text of (e) revised ... 5419
Introductory text of (e) revised ... 6608
Revised ... 15092

Page

1015.61
(b) suspended in part ... 13804
1015.62
(b) amended; (e) revised ... 2363
(d) revised ... 15093
1015.63
Introductory text and (c) revised ... 15093
1015.64
(c) and d) revised ... 5419
(a) revised ... 15093
1015.70
(a)(2) suspended in part ... 4113
1015.72
(a) and (b) suspended in part ... 4113
1015.73
(b) revised ... 15093
1015.74
Revised ... 15093
1015.80
Revised ... 5419
Revised ... 15093
1015.81
Suspended in part ... 4113
1015.82
Suspended in part ... 4113
1015.87
(b) revised ... 15093
1016.50
(a) revised ... 6608
(b)(2) suspended in part ... 13804
1031.50
Amended ... 6609
1031.51
(a) amended ... 6609
1032.12
(a)(2) suspended in part ... 2611
1032.14
(b)(2) suspended in part ... 9612
1032.71
(h) and (i) revised ... 10835
1033.50
Amended ... 6609
1033.51
Introductory text of (a) revised ... 6609
1034
Revised ... 12166
1034.50
Amended ... 6609
1034.51
Introductory text of (a) revised ... 6609
1034.55
Added ... 3337
1035.50
Amended ... 6609
1035.51
Introductory text of (a) revised ... 6609
1036.50
Amended ... 6609
1036.51
Introductory text of (a) revised ... 6609
1038.50
Amended ... 6609
1038.51
(a) amended ... 6609
1039.50
Amended ... 6609
1039.51
(a) amended ... 6609
1040.50
Amended ... 6609
1040.51
(a) revised ... 6609
1041.50
Amended ... 6609
1041.51
Introductory text of (a) and (a)(1) revised ... 6609
1043.22
(i)(1) revised ... 6610
1043.50
Amended ... 6610
1043.51
(a) revised ... 6610
1044.50
Amended ... 6610
1044.51
Introductory text of (a) revised ... 6610
1045.50
Amended ... 6610
1045.51
Introductory text of (a) revised ... 6610
1046.50
Amended ... 6610
1046.51
Introductory text of (a) revised ... 6610
1047.50
Amended ... 6610
1047.51
Introductory text of (a) revised ... 6610
1047.62
(b)(1)(i)(b) amended; (b)(2) revised ... 5250
1047.71
(h) revised ... 5250
1049.44
(c) and (d) suspended in part ... 2939
1049.50
Amended ... 6610
1049.51
Introductory text of (a) revised ... 6610
1049.53
(a) revised ... 16390
1050.14
(b)(2) suspended in part ... 11297
(b)(2) suspended in part ... 12940
1050.50
Amended ... 6610
1050.51
(a) amended ... 6610
1050.71
(h) and (i) revised ... 10835
1051.50
Amended ... 6610
1051.51
(a) amended ... 6610
1060
Added ... 13703
1062.14
(b)(3) suspended in part ... 6967
1062.50
Amended ... 6611
1062.51
Introductory text of (a) amended ... 6611
Introductory text of (a) suspended in part; (a)(1) suspended ... 9022
Introductory text of (a) suspended in part; (a)(1) suspended ... 10910
Introductory text of (a) suspended in part; (a)(1) suspended ... 12597
1062.71
(h) and (i) revised ... 10835
1063.10
(a) suspended in part ... 7843, 8023
(a) revised ... 9150
1063.15
Revised ... 9150
1063.50
(c) revised ... 5250
(a) revised; (b) amended ... 6611
1064.12
(b) suspended in part ... 779
Introductory text and (b) revised; (c) added ... 2364
1064.15
(a) and (b) revised ... 2364
1064.50
Amended ... 6611
1064.51
Introductory text of (a) revised ... 6611
Introductory text of (a) suspended in part; (a)(1), (2), and (3) suspended ... 16390
1065.50
Amended ... 6611
1065.51
(a) revised ... 6611
1066.50
Amended ... 6611
1066.51
(a) revised ... 6611
1067.11
(b) suspended in part ... 12597
(b) suspended in part ... 15094
1067.51
(a) revised ... 6611
1067.71
(h) and (i) revised ... 10835
1068.9
(b) suspended in part ... 11415
1068.51
Amended ... 6611
1068.53
Introductory text amended ... 6611
1069.50
Amended ... 6611
1069.51
(a) revised ... 6611
1070.50
(c) revised ... 5250
(a) revised; (b) amended ... 6611
1071.50
Amended ... 6611
1071.51
Introductory text of (a) revised ... 6612
1073.50
Amended ... 6612
1073.51
Introductory text of (a) revised ... 6612
(a) suspended in part ... 9510
Introductory text of (a) suspended in part; (a)(1), (2), and (3) suspended ... 11130
Introductory text of (a) suspended in part; (a)(1), (2), and (3) suspended ... 12598
1073.71
(g) through (k) suspended in part ... 6341
1075.50
Amended ... 6612
1075.51
(a) revised ... 6612
1076.12
Introductory text amended; (c) added ... 12440
1076.14
(c) revised ... 12440

7 CFR—Continued

Chapter X—Continued

1076.19 Revoked 12440
1076.20 Revoked 12440
1076.27 (j) (2) revised; (j) (3) revoked 12440
1076.30 (a) (1) (i) revised 12440
1076.31 (b) revised 12440
1076.50 Amended 9612
1076.51 (a) revised 9613
1076.72 Heading and (b) revised; (c) through (g) added 12440
1076.73 Revoked 12440
1076.75 (a) revised 12440
1076.76 (b) revised 12440
1076.80 (a) (2) amended 12441
1076.90—1076.92 Center heading and sections revoked 12441
1078.59 (a) revised 9251
(a) revised; (b) amended 9612
1078.12 (c) suspended 9288
1078.59 (c) revised 9251
(a) revised; (b) amended 9612
1090.27 (k) (1) revised 11130
1090.50 Amended 9612
1090.51 Introductory text of (a) and (a) (1) revised 9612
Revised 11130
1090.52 (k) revised 11131
1094.50 Amended 9612
1094.51 Introductory text of (a) revised 9612
Introductory text of (a) suspended in part; (a) (6) suspended 12865
1096.13 Revoked 1126
1096.19 Revoked 1126
1096.27 (j) (2) amended; (l) (2) revoked 1126
1096.30 (a) (1) (i) revised 1126
(a) (1) (iv) revised 6763
1096.31 (c) revised 1126
1096.41 (a) and (b) (3) revised 6764
1096.44 (b) revised; (d) (3) (iii) and (iv) redesignated as (iv) and (v) respectively; new (d) (3) (iii) added; introductory text of (e) revised 6764
1096.46 (a) (2-a) added; (a) (3) (iii) and (5) revised 6764
1096.50 Amended 9612
1096.51 (a) revised 9613
(b) revised 6764
1096.60 Revised 6764
1096.65—1096.67 Center heading and sections revoked 1126
1096.70 (c) revised 6764
1096.72 (b) revised 1126
1096.73 Revoked 1126
1096.80 (b) revised; (c) revoked 1126
1097.50 Amended 9613
1097.51 Introductory text of (a) revised 9613
1098.50 Amended 9613
1099.51 Introductory text of (a) revised 9613
1099.13 (c) (2) and (3) suspended 9180
1099.61 (a) revised 12744
1099.71 (h) revised 7068
1099.86 (b) deleted 12744
1101.5 Revised 2338
1101.7 Revised 2338
1101.12 Revised 2338
1101.13 Revised 2338
1101.22 (j) (1) revised 11131
1101.50 Amended 9613
1101.51 (a) revised 2338
Introductory text of (a) and (a) (1) revised 9613
Revised 11131
1101.52 (a) revised 2339
(b) revised 11132
1101.60 Revised 2339
1101.95 (a) revised 2339
1102.50 Amended 9613
1102.51 Introductory text of (a) revised 9613
Introductory text revised 10555
1102.54 Added 10555
1102.60 Revised 10555
1102.71 Revised 10555
1102.72 (a) revised 10555
1102.80 (a) revised 10555
1102.86 Added 10555
1103.11 (a) revised 11132
1103.15 (b) through (e) revised 11132
1103.20 (a) (1) (iv) revised 11133
1103.41 (a) and (b) (4) revised 11133
1103.44 Introductory text of (c) (3) and (c) (3) (iv) (a) revised; (c) (4) added; introductory text of (d) and (d) (2) and (3) revised 11133
1103.46 (a) (2-a) added; (a) (5) revised 11133
1103.50 Amended 9613
1103.51 Introductory text of (a) revised 9613
Introductory text of (a) suspended in part; (a) (3) suspended 13713
1103.53 Revised 11133
1103.70 (c-1) added 11134
1104.61 (a) revised 9623
1106.50 Amended 9613
1106.51 Introductory text of (a) suspended in part; (a) (1), (2) and (3) suspended 9251
Introductory text of (a) revised 9613
Introductory text of (a) suspended in part; (a) (1), (2), and (3) suspended 9614
Introductory text of (a) suspended in part; (a) (1), (2), and (3) suspended 7843
Introductory text of (a) suspended in part; (a) (1), (2), and (3) suspended 11134
Introductory text of (a) suspended in part; (a) (1), (2), and (3) suspended 12598
1108.50 Amended 9613
1108.51 Introductory text of (a) revised 9613
1120.14 (a) (2) suspended in part 12366
1125.5 Introductory text of (b) (2) suspended in part 12786
1125.17 Redesignated as 1125.110; revised 11925
1125.18 Redesignated as 1125.111; revised 11925
1125.22 (k) (2) revised 11925
1125.35 (a) (7) added 11925
1125.44 (c) (3) suspended in part 7563
1125.50 Amended 9613
1125.51 (a) revised 9613
1125.60, 1125.61 Recodified as 1125.120—1125.124; revised 11926
1125.81 (a) (2) revised 11925

1125.110 Redesignated from 1125.17; revised 11925
1125.111 Redesignated from 1125.18; revised 11925
1125.120—1125.124 Recodified from 1125.60, 1125.61; revised 11926
1126.41 (b) (2) (i) suspended in part 15388
1126.50 Amended 9613
1126.51 Introductory text of (a) suspended in part; (a) (1), (2), (3), (4), (5), and (6) suspended 5251
Introductory text of (a) revised 9613
Introductory text of (a) suspended in part; (a) (1) through (5) suspended 9614
Introductory text of (a) suspended in part; (a) (1) through (5) suspended 7843
Introductory text of (a) suspended in part; (a) (1) through (5) suspended 11134
Introductory text of (a) suspended in part; (a) (1) through (5) suspended 12598
1127.11 Suspended in part 9235
Suspended in part 10783
1128.53 (a) revoked; (b), (c), and (d) redesignated as (a), (b), and (c), respectively 11135
1129.91 (a) revised 11136
1131.50 Amended 9614
1131.51 Introductory text of (a) revised 9614
1132.7 (b) (2) suspended in part 13855
(b) (2) suspended in part 15389
1132.10 (a) revised 9624
1132.50 Amended 9614
1132.51 (a) revised 9614
1132.61 (a) revised 9624
1133.12 (c) (1) and (2) suspended in part 9341
(c) (1) and (2) suspended in part 12940
1133.50 Amended 9614
1133.51 (a) revised 9614
1134.12 (b) (1) suspended in part 4016
(b) (1) suspended in part 9235
(b) (1) and (2) suspended in part 9956
1136.11 (a) suspended in part 9956
1136.50 Introductory text of (a) revised 9614
1136.51 Amended 9614
1139.15 Revised 9239
1137.50 Amended 9614
1137.51 Introductory text of (a) revised 9614
(a) (1) and (2) suspended 15431
1138.10 Introductory text revised; (e) added 2296
(a) suspended in part 11125
1138.50 Amended 9614
1138.51 (a) amended 2286
(a) revised 9614
1138.55 Introductory text revised 2296
1138.88 Amended 2286
Chapter XI
1201.300 Subpart revised 6128
1205 Heading corrected 852
1205.50—1205.52 Subpart added 2698
1205.401—1205.403 Subpart added 1984
1205.500—1205.540 Subpart added 7058
Chapter XIV
1400.5 (a) amended 7582
1400.8 (f) (2) deleted 7582
1421.55 (c) revised 9301
1421.58 (a) revised 9301
(a) corrected 10810
1421.67 (a) revised; (d) added 7843
(a) revised 12776
1421.70 Revised 9301
1421.72 (f) revised 7844
(m) added 9301
1421.79 Added 7844
1421.2166 (a) (1) revised 9612
1421.2167 Introductory text revised 9613
1421.2169 (c) revised 7961
1421.2172 (a) (3) and (5) revised 7891
(a) (4) revised 7961
1421.2181—1421.2185 Subpart added 2283
1421.2185 (b) corrected 10719
1421.2260 (c) revised 9151
1421.2281—1421.2284 Subpart added 10052
1421.2364 (a) (1) and (3) revised 13444
(c) (1) revised 13796
1421.2366 (a) revised 13444
1421.2367 (c) revised 13444
1421.2369 (c) revised 13444
1421.2386—1421.2391 Subpart added 13046
1421.2391 (b) corrected 13805
(d) (2) revised 15707
1421.2480—1421.2483 Subpart added 11928
Authority citation corrected 12176
1421.2560 (a) revised 9302
(c) deleted 9124
1421.2571 (a) (3) and (5) revised 9124
(b) revised 9302
(b) revised 13962
1421.2581—1421.2585 Subpart added 9624
1421.2585 (b) corrected 11046
(b) amended 13962
1421.2658 (c) revised 7961
1421.2666—1421.2670 Subpart added 9615
1421.2669 Revised 8283
1421.2670 (a) corrected 7522
1421.2763 Revised 10656
1421.2765 (a) (2) revised 10656
1421.2777 Revised 6242
1421.2780—1421.2783 Subpart added 5629
1421.2783 (a) amended 15672
1421.2847 (c) revised 9151
1421.2849 (a) (3) and (5) revised 9151
1421.2856—1421.2860 Subpart added 10562
1421.2859 (a) corrected 11928
1421.2950 (c) revised 11376
1421.2971—1421.2974 Subpart added 13046
1421.2974 (a) corrected 12744
(a) amended 14099
1421.3060 (a) (1) (iii) and (2) revised 8578
1421.3065 Revised 2283
1421.3067 Revised 2283
1421.3071—1421.3074 Subpart added 9907
1421.3074 (b) corrected 11848
1421.3106 Subpart added 7248
1421.3483 (a) and (d) revised 5767
(c) and (d) revised 15632
1421.3489 (e) added 365
1421.3518—1421.3525 Subpart added 7698
1421.3613—1421.3622 Subpart revised 12744
1421.3626—1421.3629 Subpart added 12745
1421.3627 (b) corrected 14151
1421.3695 Revised 10783

7 CFR—Continued

Chapter XIV—Continued

1421.3825
(a) revised 122
(a) revised 3339
(a) revised 5462
(a) revised 6342
(a) revised 10431
(a) revised 13714
1421.5552
(d) (6) revised 3339
1421.6000—1421.6009
Subpart added 14272
1424
Added 43
1424.2
(d) (6) revised 14099
1425.1—1425.21
Subpart supplemented 8965
1425.3
Revised 7122
1425.13
Revised 7699
1425.15
Revised 3689
1427.1356
(j) revised 6967
(d) and (l) revised 9302
1427.1359
(a) amended 6967
(b) revised 9303
1427.1360
(c) revised 9303
1427.1361
Revised 9303
1427.1368
(e) revised 5671
(b) and (c) revised 14549
1427.1369
Revised 9302
1427.1376
Revised 9303
1427.1378
(b) and (d) revised 9304
1427.1379
Revised 9304
1527.1510—1427.1514
Subpart added 7386
1427.1511
Corrected 7699
Corrected 9213
1427.2239
(a) revised 122
(a) revised 2340
(a) revised 5462
(a) revised 6342
(a) revised 10432
(a) revised 13714
1430.281
Added 5767
(b) (1) amended 14647
1434.85
Amended 6967
1434.90
(c) revised 6967
1434.93
Introductory text deleted; (a) revised 6967
1434.93a
Added 6968
1434.96
(a) revised 6968
1434.98
(b) revised 6968
1434.99
(a) revised 7844
1434.105
Revised 6968
1434.106
Heading of (a) revised; (c) added 6968
1434.111
(a) revised 6968
(b) and (c) redesignated as (c) and (d), respectively; new (b) added 7844
1438.1636—1438.1645
Subpart added 1084
1443.2058—1443.2071
Subpart added 8884
1446.1—1446.27
Subpart added 9950
1446.40—1446.52
Subpart added 10910
1446.51
Introductory text and (a) revised 13504
1446.52
(a) revised; (d) added 13504
1464.1756
(d) (1) (iv) revised 10349
(d) (1) (iv) revised 11416
(d) revised 14203
1464.1758
(c) added 14204
1464.1759
Revised 14204
1464.1762
Revised 10250
1464.1763
Revised 14204
1464.1766—1464.1770
Revised 15633
1464.1767
Corrected 16145
1464.1769
Corrected 16145
1464.1776
Added 9827
1464.1777
Added 9813
1468.255
(d) added 16391
1468.258
Text as designated as (a); (b) added 4568
1468.263
(a), amended 4568
1468.267
Text designated as (a); (b) added 4568
1472.1205
(d) added 16391
1472.1208
Text designated as (a); (b) added 4568
1472.1221
(c) added 4568
1472.1241
(a) amended 4569
1474.1—1474.16
Recodified from 1474.721—1474.769; revised 9510
1474.721—1474.769
Recodified as 1474.1—1474.16; revised 9510
1475.208
(c) (1) revised 14372
1481.106
(a) amended 5463
1481.108
(a) (3) revised 5463
1481.109
(a) amended 5463
1483.101—1483.190
Subpart recodified from 1483.101—1483.199; revised 14739
1483.101—1483.199
Subpart recodified as 1483.101—1483.190; revised 14739
1483.104
Added 6257
1483.114
(d) added 6257
1483.115
(d) revised 6258
1483.121
(d) amended 6258
1483.125
(a) (5) amended; (b) (1a) revised; (b) (17) amended 6258
1483.126
(a) amended; (b) revised 6258
1483.127
(b) (12a) and (17) revised 6258
1483.136
(c) corrected 16251
1483.141
(a) amended; (b) and (c) revised 6258
1483.146
(c) revised 6259
1483.147
(a) amended 6259
1483.151
(c) (1) amended 6259
1483.155
Center heading revised; section amended 6259
1483.158
Revised 6259
(a) (3) corrected 6991
1483.161
(a) amended 6259
1483.163
(b) (1) and (2) revised 6260
(d) corrected 16251
1483.175
(b) corrected 16251
1483.189
Amended 6260
1483.221
(e) amended 6342
1483.225
(a) (5) and (b) (2) (ix) revised 6342
1483.226
(b) revised 6343
1483.227
(b) (2) (viii) revised 6343
1483.260
Center heading revised; section amended 6343
1483.263
Revised 6343
1486.120
Center heading and section heading revised; amended 7700
1486.123
Revised 7700
1488
Revised 6496
1488.1
(a) revised 7437
1488.2
(x) corrected 6836
(h) revised; (k) amended; (n) and (u) revised 11416
1488.3
(c) (6) amended; (d) (4) revised; (e) amended; (g) redesignated as (h); new (g) added 11416
1488.4
(i) added 11416
1488.5
Corrected 6836
Revised 11417
1488.8
Amended 11417
1488.9
(a) (2) and (7) and (d) amended 11417
1488.10
(c) corrected 6836
(b) amended 11417
1488.11
Corrected 6835
Amended 11417
1488.12
Amended 11417
1490.2
(f) revised; (l) added 4491
Chapter XV
1520
Added 9827
Chapter XVI
1602.5
(a) and (b) revised 8519
Chapter XVII
1701
Added 9613
Chapter XVIII
1800
Subpart B revised 9152
1800.11, 1800.12
Subpart B revised 9152
1804
Existing sections designated as Subpart A; Subpart B added 8235
1804.1—1804.6
Designated as Subpart A 8235
1804.21—1804.31
Subpart B added 8235
1804.22
(b) (2) revised 9828
1804.26
(b) revised 9828
1811
Added 9082
1812
Added 8366
1813
Added 9614
1821.51—1821.61
Subpart B recodified from 1823.1—1823.10 7171
1821
Heading revised; existing text designated as Subpart A; Subpart B redesignated from Subpart A of Part 1823; Subpart C added 7171
1821.1—1821.24
Designated as Subpart A 7171
1821.81-1821.86
Subpart C added 7171
1822
Subpart D recodified and revised 11757
Subpart F added 12398
1822.81—1822.97
Subpart D recodified from 1822.81—1822.98 and revised 11757
1822.81—1822.98
Subpart D recodified as 1822.81—1822.97 and revised 11757
1822.231—1822.244
Subpart F added 12398
1823
Subpart A redesignated as Subpart B of Part 1821 7171
Heading revised; Subpart B redesignated as Subpart A and revised 8367
Subpart B added 9099
Subpart C added 9010
Subpart D added 9011
Subpart E added 9016
Subpart F added; recodified from Part 1891 11417
Subpart H added 11425
Subpart G added 11621
1823.1—1823.10
Subpart A recodified as 1821.51—1821.61 7171
1823.1—1823.25
Subpart A redesignated from Subpart B and recodified from 1823.21—1823.40; revised 8367
1823.21—1823.40
Subpart B redesignated as Subpart A and recodified as 1823.1—1823.25; revised 8367
1823.24
Introductory text of (c) revised 9304
1823.41—1823.50
Subpart B added 9009
1823.61—1823.70
Subpart C added 9010
1823.81—1823.96
Subpart D added 9011
1823.121—1823.138
Subpart E added 9016
1823.141—1823.161
Subpart F added; recodified from Part 1891 11417
1823.181—1823.201
Subpart G added 11621
1823.221—1823.239
Subpart H added 11425
1831
Revised 14373
1833
Added 11929
1861
Subpart C recodified and revised 8064
1861.41—1861.47
Subpart C recodified as 1861.41—1861.48; revised 8064
1861.41—1861.48
Subpart C recodified from 1861.41—1861.47; revised 8064
1872
Subpart A recodified and revised 8066
Subpart C added; recodified from Subparts E and F 8290
1872.1—1872.18
Subpart A recodified as 1872.1—1872.21; revised 8066
1872.1—1872.21
Subpart A recodified from 1872.1—1872.18; revised 8066
1872.61—1872.66
Subpart C added; recodified from Subparts E and F 8290
1872.81—1872.85
Subpart E vacated; recodified in new Subpart C 8290
1872.101—1872.109
Subpart F vacated; recodified in new Subpart C 8290
1891
Recodified as Subpart F of Part 1823; revised 11417
Chapter XXI
Added 9615
2101
Added 9615
Proposed Rules:
26 8116, 12755
27 9035, 11278
29 8065

29 8226
31 12485
33 7289
51 10084, 10990, 10997, 10449, 12052, 12799, 12953, 13077, 13196, 15435.
52 5371, 6284, 6286, 6848, 8301, 8719, 10935, 12299, 12720.
53 13230
56 1092
66 5555, 8004, 8093
81 11279
201 454, 3644
301 2642, 5284, 5807, 7631, 8973
319 1181, 5284, 5807, 13820
320 5555
330 2787
362 16164
722 11475
723 15546, 16043
724 11225, 16043
725 7287
729 2896, 11957
730 6196, 14331
777 278, 4123, 7337, 7976, 8880, 11533, 14832
811 16045
813 1132
814 2572, 15635
815 14965
816 280
817 11996
822 2708, 2946, 15393
891 15693
892 15393
Ch. IX 16164
905 15116
906 11887, 12803, 15394
907 7088, 15428
908 2896, 5628, 7089, 15894
909 15029
910 16220
911 6205, 7715, 7777, 7858, 14560
912 15436
913 15695
915 6206, 7715, 7858, 8099, 14560, 14665
916 7777
917 4026, 8247
919 11535
921 10579, 11333
922 10579, 11333
923 10579, 11333
924 11475
925 12392
926 7089, 10804, 11801, 13331
927 11957
929 12621
931 12562
932 3092, 12854, 13292
945 10516
946 14806, 16220
947 14560
948 9084, 11893, 13820
953 8039, 11037
956 5629, 8168, 9635, 11475
959 15177, 15884
966 15884
967 11037, 14063
971 12189, 13562
980 11281
981 11476, 12444
982 13870, 13933
984 14227, 14895
987 4417, 8171, 11038, 11164
989 8690, 8678, 8175, 8720, 9084, 11226, 13292, 14396, 14396, 14897, 15482.
991 357, 3399, 5838, 6501, 11736, 14808, 14966
992 5514, 6453
993 5556, 10579, 11233, 11476
1001 357, 1181, 2447, 2844, 3819, 3093, 4071, 5288, 5894, 6501, 8175, 8720, 9025, 9902, 10983, 14502, 14771.
1002 357, 2447, 2819, 2894, 3960, 4971, 5288, 5894, 6401, 6407, 6501, 8175, 8720, 9025, 14771.
1003 5894, 6501, 8175, 8720, 9025

7 CFR—Continued

Proposed Rules—Continued

Page

1004 ---------- 415, 5694, 5876, 6501, 7596, 7976, 8175, 8176, 8720, 9025, 9026, 10592, 11039, 11394, 12444.
1006 ---------- 5696, 6501, 10449
1006 -- 5269, 5269, 9096, 10908, 10957, 13022
1008 ---------- 5156, 5696, 6501, 12189, 15952
1009 ---------- 5696, 6501
1011 ---------- 5696, 6501
1012 ---- 4313, 5472, 6206, 7596, 9097, 10957
1013 ---------- 4313, 5472, 7596, 9097, 10957
1015 ---------- 667, 1161, 2447, 2644, 3819, 4071, 5266, 5694, 6501, 8175, 8720, 9025, 9903, 10983, 14502, 14771.
1016 ---------- 5694, 6501, 8175, 8720, 9025
1030 ---------- 6095, 6453, 6592, 8529
1031 ---------- 613, 2573, 5696, 6095, 6453, 6501, 6592, 8529.
1032 ---------- 613, 2573, 5296, 5695, 6501, 8176, 8529, 10208, 10597, 12008.
1033 ---------- 5696, 6501, 11757
1034 ---------- 2573, 5064, 5695, 6501, 8591, 11585, 11887
1035 ---------- 5695, 6501
1036 ---------- 5156, 5695, 6501, 15952
1039 ---------- 613, 2573, 5696, 6095, 6453, 6501, 6592, 8529.
1039 ---------- 613, 2573, 5695, 6095, 6453, 6501, 6592, 8529.
1040 ---------- 5695, 6501, 7182, 14227, 14468
1041 ---------- 5695, 6501
1043 ---------- 5695, 6501, 10808
1044 ---------- 613, 2573, 5696, 6095, 6453, 6501
1045 ---------- 613, 2573, 5696, 6095, 6453, 6501, 6592
1046 ---------- 5695, 6501
1047 ---------- 1132, 3092, 4418, 5695, 6501
1048 ---------- 5156, 5695, 6501, 15952
1049 -- 2382, 5695, 6501, 13418, 15489, 16101
1050 ---------- 613, 2573, 5296, 5695, 6501, 8176, 10208, 10811, 12404.
1051 ---------- 613, 2573, 5696, 6095, 6453, 6501, 6592, 8529.
1060 ---- 5696, 6501, 6872, 7460, 8093, 12516
1062 ---------- 613, 1042, 2573, 5296, 5695, 6501, 8176, 8529, 10208.
1063 ---------- 613, 2573, 2644, 3776, 5696, 6501, 6592, 7460, 7499, 8179, 8529, 8972.
1064 ---------- 613, 2573, 2644, 3776, 5696, 6501, 15490.
1065 ---------- 5529, 5696, 6501
1066 ---------- 5529, 5696, 6501
1067 ---------- 613, 1042, 2573, 5296, 5695, 6501, 7681, 8176, 8529, 9691, 10208, 11887, 14278
1068 ---- 613, 2573, 5696, 6501, 10597, 10863
1069 ---------- 458, 5696, 6501
1070 ---------- 613, 2573, 2644, 3776, 5696, 6501, 8529
1071 ---------- 613, 2573, 5695, 6501
1073 --- 5638, 5696, 6501, 6247, 11233, 11566
1075 ---------- 5696, 6501
1076 --------- 5638, 5696, 6501, 10597, 11866
1078 ---------- 613, 2573, 2644, 3776, 5696, 6501, 8529.
1079 ---------- 613, 2573, 2644, 3776, 5639, 5695, 6501, 8529.
1090 --- 5695, 6501, 7133, 9977, 10808, 18437
1094 ---------- 5694, 6501, 12460
1096 ---------- 574, 1053, 5694, 9064, 6501
1097 ---------- 613, 2573, 5695, 6501
1098 ---------- 613, 2573, 5696, 6501
1099 ---------- 613, 2448, 2573, 2820, 5695, 6501, 6647, 6978, 8580, 11709, 12823.
1101 ----- 966, 5695, 6501, 7133, 9977, 10808
1102 ---------- 613, 1042, 2573, 5696, 6501, 7631, 9691.

Page

1103 -- 5694, 6501, 7338, 8093, 10737, 13418
1104 ------- 613, 2573, 5695, 6501, 8247, 9694
1106 ------- 613, 2573, 2574, 5695, 6501, 7090
1108 ---------- 613, 2573, 5695, 6501
1120 ---------- 613, 2573, 5695, 6501, 14773
1125 ---------- 3834, 5695, 5836, 6371, 6501, 7026, 10742, 10863, 11478, 11567, 12069, 15178.
1126 ---------- 613, 724, 2573, 2574, 6607, 6614, 7090, 7843, 14774.
1127 ---------- 613, 2573, 5695, 6501, 9697
1128 ---------- 613, 2382, 2573, 5371, 5695, 5696, 6206, 6501, 10208.
1129 ---------- 613, 2573, 5696, 6501
1130 ---------- 613, 2573, 5696, 6501
1131 ---------- 140, 415, 5696, 6501, 14232, 14851, 15588.
1132 ---------- 613, 2573, 5695, 6501, 7090, 8247, 9694, 13596, 14774.
1133 ---------- 5640, 5696, 6501, 10600, 11066, 11476, 11957
1134 ------ 3469, 5696, 6206, 6501, 8248, 8720
1136 ---------- 1054, 5696, 6501, 8180
1137 -- 56, 328, 4382, 5640, 5696, 6501, 14774
1138 --- 91, 613, 2573, 2849, 3298, 5695, 6501
1201 ---------- 4314
1205 ---------- 5696

8 CFR

Chapter I

100
Added ---------- 9616

100.4
(c) (2) amended ---------- 11628
(d) amended ---------- 16200

101.2
Added ---------- 9622

101.3
Added ---------- 9622

103
Heading and authority citation revised ---------- 9622

103.1
(c) revised; (g) amended ---------- 9622
(g) amended ---------- 11628

103.2
(a) and (b) (1) amended ---------- 9622

103.3
(a) amended ---------- 9622

103.4
Amended ---------- 15469

103.5
Amended ---------- 271

103.6
(c) (3) added; (e) revised ---------- 9622

103.7
Heading revised; (a) deleted; (b) and (c) redesignated as (a) and (b); (b) amended ---------- 9623
(b) corrected ---------- 10433
(b) amended ---------- 13755

103.8
Added ---------- 9623

103.9
Added ---------- 9623

103.10
Added ---------- 9623
(b) corrected ---------- 10433
(c) (1) revised ---------- 11628

204.1
(d) amended ---------- 852

204.2
(f) amended; (g) revised ---------- 852
(d) (8) added; (e) (1) revised; text of (f) redesignated as (f) (1); new (f) (2) added ---------- 9624
(d) (8) corrected ---------- 10433
(e) (1) amended ---------- 11628

204.6
Added ---------- 9624

205.1
Introductory text revised ---------- 6260

211.1
(b) (1) and (2) amended ---------- 408
(b) (1) amended ---------- 8378
(b) (1) amended ---------- 11516

211.5
Added ---------- 9625

212.1
(e) revised ---------- 3731
(g) added ---------- 3970
(c) revised ---------- 7743
(h) added ---------- 8707
(i) and (j) added ---------- 9625, 10433
(g) revoked ---------- 13755

212.2
Amended ---------- 9625

212.4
(c) amended ---------- 271
(c) amended ---------- 9625
(c) amended ---------- 11628
(a) and (c) amended ---------- 15469

212.5
(b) added ---------- 9625

212.6
(a) amended ---------- 7743
(b) amended; (d) revised ---------- 9625

212.7
(a) amended ---------- 2500
(c) amended ---------- 9625

212.8
(a) revised; (c) added ---------- 852
(c) (5) (i) amended; (c) (5) (ii) added ---------- 9625
(b) (5) revised ---------- 11516

213.1
Amended ---------- 9626

214.1
(a) amended ---------- 9626

214.2
(c) (1) revised ---------- 3731
(c) (1) amended ---------- 9019
(b), (f) (1), (2), and (3), and (j) (1) amended; (j) (2) added ---------- 9626

214.3
(b) amended ---------- 11517
(b), (c), and (e) amended ---------- 11628

215
Added ---------- 9626

221
Revised ---------- 9626

223.1
Amended ---------- 9626

231.1
(d) added ---------- 9626
(a) and (b) revised; (d) amended ---------- 11517

231.2
(c) added ---------- 9627
(a) and (b) revised ---------- 11517

231.3
Added ---------- 9627

234
Added ---------- 9627

235
Heading revised ---------- 9627

235.1
Revised ---------- 9627
(a) revised ---------- 11628

235.3
Revised ---------- 9628

235.8
(a) amended ---------- 9628

235.9
(c) amended ---------- 9628

235.10
Added ---------- 9628

236.2
(a) amended; (c) revised ---------- 9628

Page

236.3
(d) added ---------- 9628

236.4
Revised ---------- 9628

238
Revised ---------- 9629

238.2
(b) (1) amended ---------- 13755

238.3
(b) amended ---------- 11628
(b) amended ---------- 13755
(b) amended ---------- 14274
(b) amended ---------- 16200

238.4
Amended ---------- 11628
Amended ---------- 13755
Amended ---------- 15469
Amended ---------- 16200

239.2
(a) revised; (b) amended ---------- 9631

241
Revised ---------- 11517

242.1
(c) amended ---------- 6260

242.2
(e) added ---------- 3340
(e) revised ---------- 5619
(a) amended ---------- 6260

242.7
Amended ---------- 9631

242.8
(a) amended ---------- 9631

242.9
(b) revised ---------- 9631

242.14
(a) revised ---------- 271
(a) revised ---------- 2883

242.16
(a) and (b) amended ---------- 9632

243.8
Amended ---------- 9632

244.1
Amended ---------- 3340

245.1
(e) revised ---------- 853
(a) amended ---------- 4341
(f) amended ---------- 9632

245.2
(b) (1) and (2) revised ---------- 853
(a) amended ---------- 2883

245.3
Amended ---------- 9632

248.1
Revised ---------- 9632

248.2
Amended ---------- 9632

249.1
Revised ---------- 9632

251.1
(d) added ---------- 9632

251.5
Added ---------- 9632

252.1
(g) added ---------- 9633

252.4
Revised ---------- 13867

253.1
(a), (b), (c), (d), (e), and (f) redesignated as (b), (c), (d), (e), (f), and (g) respectively; new (a) added; (f) and (g), as redesignated, revised ---------- 4341
(a) amended ---------- 9633

253.2
Revised ---------- 4342

264.1
(c) amended; (g) added ---------- 9633

282
Revised ---------- 11518

287.3
Amended ---------- 6260

287.6
Amended ---------- 16200

292.4
(b) revised ---------- 9633

292.5
(a) amended ---------- 11517

292.6
Added ---------- 9633

299.1
Amended ---------- 6260
Amended ---------- 9633
Amended ---------- 13756

299.2
Amended ---------- 11518

299.3
Amended ---------- 11518

312
Added ---------- 9633

316a.2—316a.4
Added ---------- 9634

316a.2
Amended ---------- 13756

316a.4
Amended ---------- 11628
Amended ---------- 13756

319.3
Added ---------- 9635

332a.2
Amended ---------- 13756
Amended ---------- 14274

334.11
Revised ---------- 9635

334.16
(b) revised ---------- 9635

336.13
(a) revised; (b) amended ---------- 13756

336.16
Amended ---------- 5620

336.16a
Revised ---------- 7205

337.1
(b) amended ---------- 13756

337.4
Added ---------- 9635

339.2
Amended ---------- 9635

341.2
(g) added ---------- 6260
(b) revised ---------- 14889

341.5
Amended ---------- 9635
Amended ---------- 14889

342.5
(d) added ---------- 3340

343.1
Amended ---------- 9635

343a.1
(c) revised ---------- 9635

343a.2
Added ---------- 9635
Amended ---------- 14274

343b.1
Revised ---------- 9636

343b.2—343b.5
Added ---------- 9636

343b.11
(a) revised ---------- 9636

349
Added ---------- 9636

499.1
Amended ---------- 9636
Amended ---------- 13756
Amended ---------- 14274

Proposed Rules:

100 ---------- 6781
101 ---------- 6781
103 ---------- 6781
204 ---------- 6781, 6978, 11087
211 ---------- 6781, 7026, 10870
212 ---------- 6781, 10870
213 ---------- 6781

Page

214 ---------- 6781, 10370
215 ---------- 6781
221 ---------- 6781
223 ---------- 6781
231 ---------- 6781
234 ---------- 6781
235 ---------- 6781
236 ---------- 6781
238 ---------- 6781
239 ---------- 6781
241 ---------- 10370
242 ---------- 6781
243 ---------- 6781
245 ---------- 6781
248 ---------- 6781
249 ---------- 6781
251 ---------- 6781
252 ---------- 6781, 12920
253 ---------- 6781
264 ---------- 6781
282 ---------- 6781, 10370
299 ---------- 6781
312 ---------- 6781
316a ---------- 6781
319 ---------- 6781
334 ---------- 6781
337 ---------- 6781
339 ---------- 6781
341 ---------- 6781
343 ---------- 6781
343a ---------- 6781
343b ---------- 6781
349 ---------- 6781
499 ---------- 6781

9 CFR

Chapter I
Subchapter A added ---------- 3270

1
Added ---------- 3270

2
Added ---------- 3270

2.3
Revised ---------- 6619

3
Added ---------- 3273

51.1
(m) amended ---------- 8752

51.6
Revised ---------- 9945

53
Heading revised ---------- 2427

53.1
(f) revised ---------- 2427

53.2
(a) revised ---------- 2428

71.3
(e) redesignated as (f); new (e) added ---------- 7583

72.2
Heading revised; text amended ---------- 11518

72.3
Revised ---------- 11518

72.5
(d) revised ---------- 711

73.1a
Revoked ---------- 7584

74.2
(a) (1) corrected ---------- 654
(a) revised ---------- 8519
Heading revised; introductory text of (a) redesignated as introductory text of section and revised; (a) (1) redesignated as (a) and amended; (a) (2) and (b) deleted ---------- 11637
Revised ---------- 13401

74.3
Revised ---------- 8519
Revised ---------- 11637
Revised ---------- 13401

9 CFR—Continued

Chapter I—Continued

76.1
(f) (3) revised; (f) (4) added ... 10719
(x) revised; (y) redesignated as (z); new (y) added ... 11376
76.2
(f) and (g) revised ... 7845
(f) revised ... 11376
76.5
Heading, introductory text, and introductory text of (a) revised ... 10719
76.6
(b) and (c) revised; (d) deleted ... 7845
76.7
(c) (3), (4), and (5) revised; (c) (6) added ... 11376
76.9
Introductory text of (b) revised ... 10719
Revised ... 11377
76.10
(a) (1) and (b) (2) revised ... 10719
Revised ... 11378
76.16
(c) added ... 10719
(d) added ... 10720
(d) amended ... 13856
(d) amended ... 15240
78.1
(j) amended ... 8752
78.13
Revised ... 4169
Revised ... 6619
Revised ... 10783
Revised ... 13050
Revised ... 13757
Revised ... 15577
83
Added ... 7012
83.5
(a) and (c) revised ... 8078
83.7
Revised ... 8078
83.8
(c) revised ... 8079
92
Heading revised ... 15707
92.2a
Added ... 15707
92.31
(a) revised ... 45
92.34
(a) revised ... 45
92.40
Amended ... 45
94.8
Introductory text revised ... 6261
(a) revised ... 7051
97.1
Amended ... 13444
97.2
Amended ... 2843
Amended ... 6021
Amended ... 12441
Amended ... 13650
131.113
Terminated ... 15470
145.1
(t) and (u) added ... 780
145.10
(f) deleted; (g) redesignated as (f); new (g) added ... 780
145.14
(d) revised; (g) amended ... 781
145.26
(c) (10) and (19) revised ... 781
146.1
(i), (j), and (p) revised ... 781
146.3
(d) revised ... 781
146.5
(c) revised ... 781
146.8
(a) revised ... 781
146.10
(a) through (d) deleted; (e) redesignated as (a) and amended; (f) and (g) redesignated as (b) and (c), respectively, and revised; new (d) added ... 781
146.14
(a), (d), and (g) revised ... 782
146.15
Deleted ... 782
146.15
Added ... 782
146.16
Deleted ... 782
146.16
Redesignated from 146.29; (d) (1) revised ... 783
146.17
Deleted ... 782
146.17
Redesignated from 146.30; (i) (1) revised ... 783
146.18
Deleted ... 782
146.19
Deleted ... 782
146.20
Deleted ... 782
146.21
Deleted ... 782
146.22
Deleted ... 782
146.23
Deleted ... 782
146.24
Deleted ... 782
146.25
Deleted ... 782
146.26
Deleted ... 782
146.27
Deleted ... 782
146.28
Deleted ... 782
146.29
Redesignated as 146.16; (d) (1) revised ... 783
146.30
Redesignated as 146.17; (i) (1) revised ... 783
146.31
Deleted ... 782
147
Subpart E added ... 783
147.25
(c) amended ... 783
147.41—147.56
Subpart E added ... 783
166.1
Added ... 10915

Chapter II
Heading revised ... 7700
201
Amended ... 7700
201.2
(d), (e), (f), (g), and (h) deleted; new (d) and (e) added; (f) through (o) redesignated as (f) through (l) respectively; (f) amended ... 7700
201.8
Amended ... 12667
201.34
Amended ... 7700
201.50
(b) revised ... 13254
201.52
Revised ... 13254
201.58
Revised ... 13255
201.71
Revised ... 13255
202
Amended ... 7700
202.2
(d), (e), and (r) deleted; new (d) and (e) added ... 7700
202.22
(b) revised ... 4113
203
Amended ... 7700
203.4
(c) amended ... 7701
203.7
(b) (2) (iii) amended ... 7701
203.16
Added ... 6901
203.11
Added ... 12599
204
Added ... 9636

Chapter III
301—329
Amended ... 13115
301.1
(f), (g), (h), (j), and (bb) revised ... 13115
304.2
(a) amended ... 4398
309.3
Heading and (b) revised ... 5420
309.16
Amended ... 5420
310.19
Existing text designated as (a); (b) added ... 11135
312
Deleted ... 4306
314.1
Heading revised; introductory text of (a) amended; (c) added ... 5420
314.4
(a) revised ... 5420
324.2
(e) revised ... 2769
324.3
Revised ... 2769
325.14
Heading revised; (a) amended ... 2769
327.8
Heading, (n), and (q) revised; (r) added ... 6686
340
Amended ... 13115
340.2
(i) revised ... 6021
(d) deleted ... 13115
355
Amended ... 13115
355.2
(r) added ... 13115
380.1
(b) revised ... 13115
381.1
(b) amended ... 13115

Proposed Rules:
71 ... 279
76 ... 3643
101 ... 7177, 8529
102 ... 7177, 8529, 11801
114 ... 7177, 8529

131 ... 13666
145 ... 14224
146 ... 14224
147 ... 14224
160 ... 14225
161 ... 14225
162 ... 14225
201 ... 7858, 8621, 9025, 9101, 9171, 11334, 14106
203 ... 2575, 8621
316 ... 8420, 12953
317 ... 8420, 12953
318 ... 8420, 11385
328 ... 11236, 12953
355 ... 14097

10 CFR

Chapter I
0
Annex B and Annex C revised ... 13653
0.735–24
(d) revised ... 13651
0.735–28
(a), (c), (d) (4) and (5), (f), and (h) revised; (i) added ... 13651
0.735–30
Revised ... 13652
0.735–40
(e) and (g) revised ... 13652
0.735–42
(d) redesignated as 0.735–49a and revised; new (d) and (e) added ... 13653
0.735–49a
Added ... 13653
1.7
Added ... 9214
1.8
Added ... 9215
1.16
(a) (17) revised ... 9215
1.242
Revised ... 13377
2.103
(a) amended ... 10432
2.106
(a) amended ... 10432
2.710
Amended ... 11379
2.790
(a) and (b) revised ... 9215
3.10
(a) (3) amended ... 9215
8.3
Added ... 11379
9
Revised ... 9215
10.11
(a) (9) revised; (b) (11) amended; (b) (12) added ... 6836
(b) (12) amended; (b) (13) added ... 13409
14
Added ... 3731
20.405
(a) amended ... 10432
30.15
(a) (5) revised ... 785
(a) (8) added ... 6433
(a) (1) revised ... 13921
30.16
Added ... 4241
31.7
(a) revised ... 7247
32.15
(c) revised ... 6434
32.16
Revised ... 4241
32.17
Added ... 4241
32.53
(c) revised ... 7247
35.14
Added ... 14265
35.100
Added ... 14265
36.24
Added ... 9213
40.13
(c) (8) redesignated as (c) (9); new (c) (8) added ... 15873
40.23
(d) redesignated as (e); new (d) added ... 15873
40.42
Revised ... 7172
50.13
Added ... 13445
50.33
(f) amended ... 4055
50.54
(a) deleted ... 2562
50.55
(a) amended ... 4055
50.60
Revised ... 4055
50.81
(a) and (c) amended ... 2562
50.82
(a) revised ... 3090
50.103
(a) (2) amended ... 4056
70.1
(a) revised ... 2562
(a) revised ... 4056
70.3
Revised ... 2562
70.4
(q) added ... 2365
(p) added ... 2562
70.11
Amended ... 2562
70.19
Introductory text of (a), (b), introductory text of (c), and (c) (2) amended ... 8124
70.22
(b) and (c) redesignated as (c) and (d), respectively; new (b) added ... 2365
(a) amended; (c) and (d) redesignated as (d) and (e); new (c) added ... 2562
(a) (5) deleted; note amended ... 4056
70.23
(g) added ... 2365
Introductory text and (e) amended ... 2563
(e) revised; (f) deleted ... 4056
70.31
(c) and (d) revised; (e) added ... 2563
(b) deleted; (d) revised ... 4056
70.32
(c) added ... 2365
(a) (1) deleted; (b) amended ... 2563
70.38
(a) revised ... 4056
70.39
Heading revised; (a) and (b) amended ... 2563
70.41—70.43
Center heading amended ... 2563
70.41
(a) amended; (c) revised ... 2563
70.43
(a) and (b) amended ... 2563
Deleted ... 4056
70.44
Added ... 2563
70.51
Center heading and section revised ... 2365
(a) amended ... 2563
70.55
(b) amended ... 2563
70.62
(b) amended ... 4056
115.9
Added ... 13445
140.12
(a) and (b) (3) amended ... 8125
140.13
Amended ... 2563
150.20
(b) (1) revised ... 10432
155.42
(a) deleted ... 2563

Proposed Rules:
2 ... 16050
10 ... 234
20 ... 15482, 15762
25 ... 6702
26 ... 6706
30 ... 2575, 3995, 6099
31 ... 3649, 13331
32 ... 2576, 3649, 13331
40 ... 3995, 6099
50 ... 2821, 2851, 3995, 5563, 6099, 8423, 10313, 10816, 11278, 11739, 16050.
70 ... 3995, 6099, 11958
95 ... 6710
115 ... 2821, 5562, 11278, 16050
170 ... 3995, 6099

12 CFR

Chapter I
1.87
Added ... 9061
Redesignated as 1.187 ... 11379
1.177
Added ... 408
1.178
Added ... 720
1.179
Added ... 721
1.180
Added ... 2499
1.181
Added ... 3687
1.182
Added ... 3687
1.183
Added ... 4342
1.184
Added ... 9062
1.185
Added ... 9062
1.186
Added ... 9062
1.187
Redesignated from 1.87 ... 11379
1.188
Added ... 9809
1.189
Added ... 10432
1.190
Added ... 11944
1.191
Added ... 11944
1.192
Added ... 11944
1.193
Added ... 11945
1.194
Added ... 12850
1.195
Added ... 12938
1.196
Added ... 13409

12 CFR—Continued

Chapter I—Continued
1.197 Added 13805
1.198 Added 15544
1.199 Added 15918
1.200 Added 15918
1.201 Added 16391
4 Heading revised 9513
4.1 Revised 9513
4.1a, 4.1b Added 9513
4.11 (b)(5) revised 9514
4.13 Revised 9514
4.14 Redesignated as 4.19 9515
4.14—4.18 Added 9515
4.19 Redesignated from 4.14 9515
7.8 Rescinded 11074
10 Revised 7070
11 Schedules A and C amended 3090
11.3 Revised 13968
14.2a Revoked 6022
18 Added 7071
19 Added 11136
Chapter II
204.5 Revised 3763
204.110 Revoked 854
206.4 (a) revised 9652
206.46 Added 9652
207 Revoked 10912
208.112 Revoked 854
208.121 Added 11208
208.122 Added 11262
210 Revised 10912
211.8 (c)(2) revised 4398
211.9 (d) deleted; (g) revised; (e), (f), and (g) redesignated as (d), (e), and (f) respectively 4398
211.103 Added 6195
213 Revised 4399
215.1 (c) revised 7564
217.138 Revoked 854
217.142 Added 2428
217.143 Added 2428
219.104 Added 15389
221.116 Added 3357
222 Forms adopted 3813
222.105 Revoked 854
222.106 Revoked 854
222.108 Revoked 854
222.110 Revoked 854
222.116 Revoked 854
222.117 Revoked 854
222.119 Revoked 854
222.120 Revoked 854
222.122 Added 15004
224.2 Revised 6195
224.3 Revised 6195
224.4 Revised 6195
251 Revised 9516
262 Revised 11984
262.6 Corrected 12473
263 Revised 11140
265 Added; incorrectly designated as Part 264 3519
Correctly designated as Part 265 3956
265.2 (f)(7)(ii) corrected 3956
271 Revised 9518
272.1 Revised 9520
272.2 Revised 9520
272.5 Repealed 9520
Chapter III
301.1 Revised 9638
303 Revised 10556
303.10 Amended; (c), (d), and (e) added 9638
304 Revised 10558
305.1 Amended 9638
306.2 Amended 10561
307.1 Amended 10561
307.2 Amended 10561
307.3 Introductory text of (a) amended 9638
Amended 10561
308 Revised 11147
309 Revised 9638
325.0 Amended 10561
327.3 (c) amended 10561
328 Revised 10189
329.7 (c) revised 8579
330 Revised 10408
331.1 (d) revised 10561
334.4 Amended 9638
336 Appendix A added 13965
336.735–10 Added 13964
336.735–11 (a) revised; (c) redesignated as 336.735–10 and revised; (d) and (e) revised; (f) redesignated from 336.735–12(f)(1) and revised 13964
336.735–12 Heading revised; (f)(1) redesignated as 336.735–11(f) and revised 13964
336.735–13 (a)(1) revised 13964
336.735–19 (d), (g), (h), (j), and (p) revised; (r) added 13964
336.735–31 Revised 13964
336.735–31a Added 13964
336.735–32 Revised 13964
336.735–34 Revised 13964
336.735–38 Revised 13964
336.735–40 (a)(2) revised 13964
Chapter IV
400.735–5 (a)(4) revised; (b)(2)(v) added 13758
400.735–6 (b)(5(ii) revised 13758
400.735–17 (e), (h), (i), (k), (m), and (q) revised; (r) added 13758
400.735–21 Revised 13758
400.735–30 (a) revised; (c) added 13758
400.735–40 (d) revised 13758
400.735–42 (h) and (i)(7), (10), and (17) revised; (i) (18) added 13759
400.735–51 Revised 13759
400.735–53 Revised 13759
Chapter V
505 Revised 9520
509 Revised 6764
509.10 (a) corrected 8889
509.11 (a) corrected 8889
509.17 Corrected 8889
511.735–11 (b)(7) added 14817

511.735–12 Revised 14817
511.735–13 Revised 14817
511.735–14 Heading revised; (d)(1) revoked 14817
511.735–35 (d) added 14817
511.735–36 Revised 14817
511.735–36a Added 14817
511.735–39 Revised 14817
511.735–44 (a)(2) revised 14817
511.735–55 (d), (g), (h), (j), and (p) revised; (q) added 14817
525.2 Revised 976
526.3 (b) and (c) revised 8023
526.4 (c) revised 8023
531.1 Added 2366
531.3 Revised 2366
531.4 Added 3970
531.9 (c) revised 368
(e) revised 4400
(e) revised 5830
541.18 Added 6769
542.3 Revoked 6769
544.6 (h) added 11032
(i) added 11032
545.3 (b)(5) revised 8314
545.6–1 (a)(4) revised 9955
545.14 (b)(3) and (c)(1) revised 11348
545.14–4 Revised 8389
545.24—545.26 Center heading and sections repealed 12913
547 Revised 6769
548.1 Introductory text, (b) and (c) revised 6770
548.2 Introductory text revised 6770
548.5 (b) and (c) revised 6770
549.1 Introductory text and (c) revised 6770
549.2 Revoked 6770
549.3 (a) revised 6770
549.4 (a) revised 6773
549.5 (a) revised 6773
549.6 Heading, (b) and (c) revised 6771
550 Added 6771
551.1 Revised 6772
555.8 (c) added 4114
(d) revised 8238
(f) revised 12387
556.2 Added 4401
(d)(2)(v) added; (f)(2) revised 15708
556.3 Added 15747
556.4 Added 16200
561.2 Revised 10415
561.3 Revoked 10415
561.3 Added 10418
561.4 Revoked 10418
561.4 Added 10415
561.5 Revoked 10415
561.5—561.5b Added 10418
561.15 (e) revised 11033
562 Revised 8125
563.9–2 Revised 15634
563.13 (c) revised 4114
(b)(5) revised 14266
564 Revised 10415
566 Added 6773
569.3 (b) and (c) revised 8023
569.4 (c) revised 8024
571.5 Added 4403
(d)(2)(v) added; (f)(2) revised 15708
571.6 Added 16200
Chapter VI
604 Existing sections designated as Subpart A; Subpart B added 12710
604.1—604.10 Designated as Subpart A 12710
604.1 (a) amended 12710
604.5 (c) amended 12710
604.10 Revised 12710
604.11—604.14 Subpart B added 12710
605.735–304 (d)(3) added 13052
605.735–305 (c)(3), (6), (7), (9), and (15) revised; (c)(16) added 13052
605.735–309 (b) revised 13052
605.735–319 (a) revised 13052
605.735–322 (a) revised 13052
605.735–324 Revised 13052
605.735–324–51 Revised 13052
605.735–324–55 Revised 13052
610.40 (c) added 4157
610.47 Revised 4157
611.1013–50 Added 4157
619 Revised 4158
640.226–2 (b) revised 5415
(b) corrected 5543
640.227 Revoked 12106
650.103 Revised 3740
Proposed Rules:
10 2640
12 13972
18 2649
19 6837
206 4516, 13994
207 6210, 14888
210 6210
212 874
216 4194, 13758
218 5040
220 11237, 14855
221 14827
263 6723
308 6716
330 326
333 13982
509 2650
545 3999, 6209, 7636, 14388, 15763
547 2654
548 2654
549 2654
550 2654
551 2654
555 997
561 998, 7288, 13983
562 6999
563 998, 11043, 13982
564 999, 1057
566 7658

13 CFR

Chapter I
Amended 2377
101.1 (c)(1) revised 2377
Revised 7805
101.2—101.2–7 Recodified from 101.2—101.2–9 and revised 7806
101.2—101.2–9 Recodified as 101.2—101.2–7 and revised 7806
101.3 Recodified as 101.3, 101.3–1 and revised 7814
101.3, 101.3–1 Recodified from 101.3 and revised 7814
101.4 Added 10069
Revised 15806, 15873
103 Revised 9522
105.735–3–3 (f) revised; (j) amended; (k) added 14383
105.735–4–4 (a) amended 14384
105.735–4–6 (c)(3) deleted 14384
105.735–4–7 (a), (b), and (c) revised; (d) deleted 14384
105.735–4–10 Revised 14384
105.735–5–1 (a) amended 14384

13 CFR—Continued

Chapter I—Continued

105.735–5–2
(a) amended ... 14384
105.735–5–3
Amended ... 14384
105.735–11
(d), (g), (h), (j), and (p) amended ... 14384
106
Added ... 5672
106.3
(i) and (j) deleted ... 14759
106.4
Revised ... 14759
106.6
(c)(1) and (e) revised; (g)(2) deleted; (h) added ... 14759, 15065
107.11
(a) revised ... 7744
107.102
(d) (4), (9), and (10) revised; (d)(11) added ... 2770
(d)(4) deleted ... 6621
107.104
Revised ... 2770
107.201
(b)(3) revised ... 2770
107.205
Revised ... 6621
107.301
Revised ... 2770
(e) revised ... 6621
107.302
(a) revised; (c) added ... 2771
107.402
(a–1) added; (c) and (d) revised ... 2771
(a–1) deleted ... 6621
107.704
(a) and (b) revised ... 6621
107.709
Deleted ... 2771
107.801
(e) and (f) revised ... 12843
107.802
Heading, (b), introductory text of (c), (c)(1), (d), (e), (g), (i)(1), and (j) revised ... 12843
107.902
Revised ... 7744
107.904
Added ... 7744
107.1009
Deleted ... 6622
108
Revised ... 15149
108.2
(d)(2) revised ... 4405
108.4
Added ... 12387
108.502–1
(e) revised ... 4405
109.1
Revised ... 6089
109.2
Revised ... 6089
109.3
(b) revised ... 6089
109.4
Revised ... 6089
109.5
Revised ... 6089
109.6
(d) revised; (e) added ... 6090
109.14
(b)(9) revised ... 6090
109.20
(a) revised ... 6090
109.22
(g) revised ... 6090
109.23
(c) added ... 6090
110.1
Revised ... 6091
113
Heading revised ... 409
113.2
Revised ... 409
114
Added ... 10190
119
Added ... 5988
119.41
(b) revised ... 12788
120
Revised ... 11770
120.3
(a) revised ... 15635
121
Revised ... 6175
Schedule B amended ... 7440
Schedule C added ... 11208
Schedule D added ... 11209
Schedule D amended ... 11732
121.3–6
(a) revised ... 5495
(b)(1) revised ... 7522
121.3–8
(f)(3) amended ... 5620
121.3–10
(c)(2) revised ... 2564
(d)(5) revised ... 5495
(d)(10) added ... 10365
(e)(1) and (g) revised ... 11208
121.3–14
(c) and (d) added ... 9318
(e)(3)(ii) revised ... 13571
122
Revised ... 11699
122.17
Revised ... 15635
123
Revised ... 3813
123.4
(a)(1) amended ... 13401
(c) revised ... 14266
123.6
(a) amended ... 13401

Chapter III

301
Authority citation revised ... 10365
Authority citation revised ... 10836
Subpart C deleted ... 10836
301.2
(u) revised ... 10365
301.30—301.44
Subpart C deleted ... 10836
301.32
Revised ... 10365
301.35
Amended ... 10365
301.63
Revised ... 10836
302.52
Revised ... 3707
303.6
Revised ... 3708
307
Revised ... 10365

Proposed Rules:

107 ... 6101, 11045, 15899, 16068
121 ... 2710, 4079, 4482, 5516, 7092, 9322, 9328, 9969, 9982, 10753, 10764, 11045, 12295, 15194.

14 CFR

Chapter I
Amended ... 5769
1.1
Amended ... 3735, 5769, 6905, 9641, 10250, 13910
1.2
Amended ... 5769
Amended ... 6905
Amended ... 13910
11.25
(b)(2) amended ... 6390
11.35
(a) and (b) amended ... 5769
11.37
(b) amended ... 6390
11.41
(a) amended ... 6390
11.55
(b), (c), (d) amended ... 5770
13
Subpart A heading revised; Subpart C redesignated as Subpart D; Subpart B redesignated as Subparts B and C ... 7585
13.1, 13.3
Subpart A heading revised ... 7585
13.11
Designated as new Subpart B and revised; Subpart B heading revised ... 7585
13.13
Deleted ... 7585
13.15—13.23
Designated as new Subpart C; heading added ... 7585
13.19
(d) amended ... 5769
(c) amended ... 7585
13.31—13.67
Subpart C redesignated as Subpart D ... 7585
13.59
(a) amended ... 5769
13.67
(c) amended ... 5769
(a) revised ... 7585
21.17
(a) revised ... 13262
21.21
(b)(2) amended ... 3735
21.33
(a) revised ... 14926
21.49
Amended ... 5769
21.53
Revised ... 14926
21.101
(a) revised ... 13262
21.115
Revised ... 14927
21.128
(a)(1) and (2) amended ... 3735
21.130
Revised ... 14927
21.182
Added ... 188
21.183
Revised ... 14927
21.273
(a) amended ... 15472
21.325
(b)(1) revised ... 2999
23.3
(a) and (b) revised ... 5984
23.859
(b) revised ... 6912
23.1183
(b)(1) revised ... 6912
23.1325
(b)(2) and (3) revised ... 7586
(b)(2)(ii) corrected ... 13505, 13714

23.1585
(d) added ... 6912
25
Appendix F added ... 13266
25.2
Added ... 13262
(b) corrected ... 13635
25.721
(d) added ... 13262
25.783
(g) added ... 13262
25.785
(c) revised ... 13262
25.803
(b) revised; (c), (d), and (e) added ... 13262
25.807
(a) and (c) revised ... 13263
(d) revised ... 13264
25.809
(f) revised; (h) added ... 13264
25.811
Revised ... 13264
25.812
Added ... 13265
25.813
(a), (b), and (c) revised ... 13265
25.815
Revised ... 13265
25.817
Added ... 13265
25.853
Introductory text, (a), and (b) revised ... 13265
25.855
(a) revised ... 13266
25.859
(e)(1) revised ... 6912
25.933
(d) added ... 6912
25.939
Revised ... 6912
25.954
Added ... 11629
25.955
(b) revised ... 6912
25.961
Revised ... 6912
25.965
(b)(3)(i) revised ... 6913
25.969
Revised ... 6913
25.977
Revised ... 6913
25.979
Revised ... 6913
25.981
Added ... 6913
25.993
(f) added ... 13266
25.1041
Revised ... 6913
25.1141
(e) added ... 6913
25.1153
(b) revised ... 6913
25.1155
Revised ... 6913
25.1181
(c) deleted ... 6913
25.1182
Added ... 6913
25.1183
(b)(1) revised ... 6913
25.1305
(x) added ... 6913
25.1325
(c)(2) revised ... 7587
25.1359
(c) added ... 13266
25.1435
Revised ... 9154
25.1457
(d)(2) revised ... 13914
25.1585
(b) added ... 6913
27.859
(c)(2) revised ... 6914
27.939
Added ... 6914
27.955
(b) revised ... 6914
27.1183
(b)(1) revised ... 6914
27.1585
Revised ... 6914
29.859
(e)(1) revised ... 6914
29.939
Added ... 6914
29.955
(b) revised ... 6914
29.1183
(b)(1) revised ... 6914
29.1585
Revised ... 6914
33.7
Revised ... 3736
33.8
Added ... 3736
33.17
(b) amended ... 3736
33.22
Revised ... 3736
33.43
Amended ... 3736
33.49
Revised ... 3736
33.51
Amended ... 3737
33.73
Amended ... 3737
33.87
(b)(1), (2), (3), and (5), (c)(1), (2), (3), (5), and (7), and (d)(1) and (2) amended ... 3737
33.95
(b), (c), and (d) amended ... 3737
33.97
(b) amended ... 3737
35.23
Added ... 3737
35.35
Amended ... 3737
35.37
Revised ... 3737
35.39
(a)(2) and (3) and introductory text of (c) and (e)(1) amended ... 3737
37.111
Revised ... 3142
37.113
Revised ... 12109
37.158
Revised ... 14690
37.159
Revised ... 14686
37.175
(a)(1) amended ... 13266
37.180
Revised ... 191
37.184
Added ... 129
37.197
Added ... 124
37.198
Added ... 130
39.13
Amended ... 5–6 (3 docs.), 260, 409, 486 (2 docs.), 608, 654, 655, 854, 2438–2440 (3 docs.), 2775, 2807, 3048, 3061, 3218, 3291 (2 docs.), 3386–3387 (4 docs.), 3437 (2 docs.), 3690, 3691, 3738, 3764, 3882, 3937 (2 docs.), 3971 (2 docs.), 4306–4307 (3 docs.), 4491, 4529, 4577, 5366 (3 docs.), 5463, 5464, 5496, (3 docs.), 5543–5545 (5 docs.), 5676, 5731, 5732, 5771, 5830, 5922, 5984–5985 (4 docs.), 6022, 6091, 6185 (3 docs.), 6344, 6553, 6674–6675 (3 docs.), 6914, 6968, 6969, 7051, 7124 (2 docs.), 7205 (2 docs), 7247–7248 (4 docs.), 7391, 7443 (2 docs.), 7704, 7749, 7817–7818 (4 docs.), 7948, 8024, 8079, 8295, 8357, 8579, 8708, 8891, 8957, 9155, 9219 (2 docs.), 9641, 10061, 10345, 10642 (4 docs.), 10721, 10784 (3 docs.), 10928, 11074, 11154 (2 docs.), 11209, 11314, 11380–11381 (5 docs.), 11630, 11704, 11849 (2 docs.), 12050, 12110, 12387, 12668, 12711, 12746, 12788, 12789, 12900–12911 (5 docs.), 13115, 13182–13183 (3 docs.), 13269 (2 docs.), 13321, 13453, 13760, 13857 (2 docs.), 14061, 14151, 14311, 14647 (3 docs.), 14756–14757 (4 docs.), 14890, 14927, 15094, 15153, 15154, 15390, 15421 (2 docs.), 15472, 15523, 15579, 15635 (2 docs.), 15809, 15873, 15874, 16201 (3 docs.), 16251, 16391.
43
Appendix E amended ... 7587
45.1
(a) revised ... 188
45.11
Revised ... 188
45.13
Revised ... 188
(b)(1) amended ... 12556
47.13
(a), (d)(3)(i), and (e)(3) revised ... 6554
47.15
Introductory text of (a) amended ... 12556
Introductory text of (a) revised ... 13505
47.16
Added ... 12556
47.19
Revised ... 6554
Amended ... 13505
47.47
(b) revised; (c) added ... 6554
47.69
(b) revised ... 12556
49.11
Revised ... 6554
Amended ... 13505
61
Appendix A added ... 263
Appendix A corrected ... 1086
Appendix A amended ... 5987
Appendix A amended ... 7705
61.3
(e) amended ... 5769
(g) added ... 6905
(e) amended ... 7249
61.5
(e) and (f) redesignated as (f) and (g) respectively; new (e) added ... 6905

14 CFR—Continued

Chapter I—Continued

Page

61.9
(d) revised ... 7249
(c) deleted ... 15919
61.9a
Added ... 15919
61.10
Added ... 6905
61.21
(a)(4) revised ... 4492
61.22
Added ... 4493
61.27
(d) amended ... 262
(b) amended; (d) revised ... 4493
61.31
(c)(3) added ... 10643
(a) (3) and (4) amended; (a) (5) added; (b) (1) and (2), (c), and (d) (2), (3), and (4) amended ... 13914
61.33
Revised ... 7250
61.36
Added ... 6905
61.37A
Added ... 6905
61.38
Added ... 3000
61.39
(f) amended ... 5769
61.41
(b) amended ... 5769
61.47
(h) added ... 6906
61.61
(b) revised; (c) deleted ... 46
61.83
(a) amended ... 5769
61.85
Introductory text of (a) revised; (a)(4) amended ... 4493
61.89
Introductory text of (a) revised ... 4493
61.93
Introductory text revised ... 4493
61.111
Amended ... 4493
61.113
(a)(1) amended ... 5769
61.115
(a)(3) revised; (a)(4) deleted; amended ... 4493
61.119
(a)(3) amended ... 4493
61.123
(b) amended ... 4493
61.143
(a) revised ... 5770
61.147
Revised ... 262
Introductory text of (c) amended ... 5987
61.155
(b) revised; (d) added ... 5987
61.157
(a)(2) and (c)(2) amended ... 4493
61.180
(c) redesignated as (f); new (c) added ... 13915
63.3
(c) amended ... 5769
63.15
(a) revised ... 15919
63.15a
Added ... 15919

Page

65
Appendix A amended ... 5770
65.15
(a) amended; (b) deleted ... 15919
65.15a
Added ... 15919
65.45
(a) amended ... 5769
65.51
(b) amended ... 5769
65.85
Amended ... 5770
65.87
Amended ... 5770
65.89
Amended ... 5769
65.95
(b) amended ... 5769
65.101
(c) and (f) revised ... 13506
65.103
Revised ... 13506
65.105
Amended ... 5769
65.111
(c) amended ... 5769
71
Republished ... 2003
71.103
Amended ... 14590
71.105
Amended ... 7948, 13272
71.107
Amended ... 14590
71.109
Amended ... 12997, 14590
71.123
Amended ... 47, 48, 50 (3 docs.), 655, 1086–1087 (4 docs.) 2369, 2441 (2 docs.), 2939, 3091 (2 docs.), 3219 (2 docs.), 3438 (2 docs.), 3738 (3 docs.), 5253, 5412 (2 docs.), 5497, 5732, 5831, 5988, 6262, 6390, 6434–6435 (5 docs.), 6556, 7014, 7125,7251–7252 (3 docs.), 7391, 7392, 7588–7589 (3 docs.), 7591, 7625 (13 docs.), 8079, 8405 (2 docs.), 8857, 8710 (3 docs.), 9157, 9220, 10192, 10433, 10507 (3 docs.), 10839, 10929 (2 docs.), 11155, 11429, 11773, 11850, 12113, 12388 (2 docs.), 12789, 12833, 12995 (3 docs.), 13118 (2 docs.), 13219–13220 (3 docs.), 13454, 13506, 14099, 14311, 14312, 14550, 14590 (2 docs.).
71.125
Amended ... 7589, 13760, 15636
71.127
Amended ... 2442
Revised ... 5412
71.131
Amended ... 7820
71.161
Amended ... 5412, 6556, 7014, 8025, 9642, 10507, 14154, 14207, 14891.
71.161
Amended ... 2442, 12113
71.163
Amended ... 655, 3739, 6261, 10644, 12688, 14062, 14757.
71.165
Amended ... 487, 2615, 2775, 3938, 9642, 10838, 11156, 12668, 14153.
71.171
Amended ... 80, 267, 487 (2 docs.), 609, 786, 787, 1035, 1086 (2 docs.), 2368 (3 docs.), 2370, 2440–2441 (3 docs.), 2808, 2884, 3048, 3049, 3345, 3438, 3764–3766 (5 docs.), 4307, 4405, 5251, 5367, 5465, 5497, 5677 (2 docs.), 5768, 5769, 6185, 6261, 6262, 6345, 6346, 6555, 6556, 7124–7125 (3 docs.), 7250–7251 (4 docs.), 7392 (2 docs.), 7443, 7492–7493 (3 docs.), 7522, 7589, 7706 (4 docs.), 7818–7819 (4 docs.), 7949, 8295 (2 docs.), 8405, 8580, 8657, 8708, 8709, 9019, 9155, 9157, 9642, 9808 (2 docs.), 9956 (2 docs.), 10061 (2 docs.), 10193 (2 docs.), 10194, 10346, 10432, 10838 (5 docs.), 10928 (2 docs.), 11314, 11381, 11519–11520 (4 docs.), 11630–11632 (6 docs.), 11772, 11773, 11850 (2 docs.), 12110–12111 (5 docs.), 12113, 12556, 12712, 12789, 12912–12913 (6 docs.), 13116–13118 (8 docs.), 13218–13219 (4 docs.), 13269, 13453 (3 docs.), 13506, 13636 (3 docs.), 13806, 13857, 13915–13916 (5 docs.), 14152–14153 (5 docs.), 14207, 14266, 14267, 14549–14550 (3 docs.), 14648, 14757, 14891 (2 docs.), 15094, 15095, 15523, 15809–15810 (3 docs.), 16146, 16202, 16392.
71.181
Amended ... 50, 80 (2 docs.), 267 (2 docs.), 367–368 (3 docs.), 486–487 (3 docs.), 609, 786–787 (3 docs.), 1034, 1035, 2368, 2369 (3 docs.), 2370 (3 docs.), 2441 (2 docs.), 2442, 2775, 2808, 2884, 3048–3050 (5 docs.), 3091, 3345, 3765–3768 (15 docs.), 3971–3972 (3 docs.), 4307, 5251–5254 (10 docs.), 5465, 5497, 5677, 5768–5769 (3 docs.), 6022, 6261, 6262, 6345–6346 (4 docs.), 6390, 6435, 6555–6556 (5 docs.), 6676, 6838, 7125 (2 docs.), 7253–7254 (4 docs.), 7392 (2 docs.), 7493 (2 docs.), 7587–7590 (7 docs.), 7626, 7706, 7749, 7819–7820 (5 docs.), 8079–8080 (3 docs.), 8127, 8295, 8580 (4 docs.), 8709 (4 docs.), 8891 (2 docs.), 9156–9157 (7 docs.), 9641–9643 (4 docs.), 9808 (3 docs.), 9956, 10061, 10193 (4 docs.), 10346 (4 docs.), 10508, 10556, 10644, 10838 (6 docs.), 11024, 11155, 11429, 11519–11521 (8 docs.), 11631–11632 (7 docs.), 11773 (3 docs.), 11850 (2 docs.), 12050, 12111–12113 (7 docs.), 12442 (2 docs.), 12556, 12668 (2 docs.), 12712, 12789–12790 (4 docs.), 12912 (2 docs.), 12995–12996 (6 docs.), 13116–13119 (6 docs.), 13218–13221 (7 docs.), 13269, 13270, 13453–13454 (5 docs.), 13506, 13636 (2 docs.), 13806 (4 docs.), 13857, 13916–13917 (3 docs.), 13965, 14152–14154 (5 docs.), 14207, 14266–14267 (3 docs.), 14549–14550 (3 docs.), 14590 (2 docs.), 14648, 14891 (2 docs.), 15094–15095 (5 docs.), 15154, 15523–15524 (4 docs.), 15580, 15809, 15810, 16098, 16146 (2 docs.), 16202 (3 docs.), 16251, 16392.

Page

71.193
Amended ... 9643, 11849, 13271
71.203
Amended ... 1086, 2884, 3219, 3883, 7392, 7589, 8080, 13118.
71.207
Amended ... 8405, 11155, 15636
71.209
Amended ... 2442, 13118
71.211
Amended ... 4056, 7253, 13760, 14590, 15874.
71.213
Amended ... 13507, 13760
73
Republished ... 2290
Subpart C added ... 3739
73.1
Amended ... 3739
73.15
(a) amended ... 3739
73.21
Center heading deleted ... 3739
73.22
Amended ... 3439, 6391, 7015
73.24
Amended ... 4529
73.25
Amended ... 787, 5412, 5498, 6346, 10194, 14154
73.28
Amended ... 3768
73.29
Amended ... 655, 969, 7014, 7392, 11024, 11774, 12712, 12833, 13119.
73.31
Amended ... 7126, 13119
73.32
Amended ... 6346
73.33
Amended ... 4577
73.34
Amended ... 4577
73.36
Amended ... 7393, 10297
73.37
Amended ... 11521
73.39
Amended ... 10347
73.40
Amended ... 6556
73.41
Amended ... 3739
73.44
Amended ... 14207
73.45
Amended ... 6346
73.47
Amended ... 6186
73.48
Amended ... 4406, 10507
73.49
Amended ... 6346, 12557
73.50
Amended ... 2370, 5254, 11382
73.51
Amended ... 5546, 8024, 8025, 11024
73.52
Amended ... 8710
73.53
Amended ... 6128
73.55
Amended ... 10929, 14648, 14757, 16098
73.56
Amended ... 4530
73.57
Amended ... 5545
73.58
Amended ... 2699, 3740
73.60
Amended ... 1087
73.61
Amended ... 7015
73.63
Amended ... 3691, 8127
73.64
Amended ... 3219
73.65
Amended ... 3092
73.66
Amended ... 7014, 7392, 11025, 14891
73.69
Amended ... 3740
73.71
Amended ... 2775
73.81—73.87
Subpart C added ... 3739
73.87
Amended ... 15096
75
Republished ... 2340
75.100
Amended ... 2442, 3092, 3740, 3972, 4308, 5254, 5831, 5988, 7126, 7443, 7591, 7821, 10786, 11774, 12113, 12388, 12913, 13507, 13760 (2 docs.), 14154, 15636.
75.200
Amended ... 5831
77.19
(c)(2) and (3) amended; (c)(4) and closing paragraph deleted ... 12997
77.33
(a)(1) amended ... 12997
77.37
(a) amended ... 6970
91
Appendix A added ... 6906
Appendix A corrected ... 8127
SFAR 17 ... 9809
SFAR 16 revoked ... 14312
91.6
Added ... 6906
91.10
Added ... 9641
91.17
Revised ... 3000
91.18
Added ... 3001
91.21
Heading revised; (c) added ... 262
91.23
Closing paragraph amended ... 13910
91.33
(a) amended; (f) added ... 6906
(a) revised ... 8406
91.34
Added ... 6906
91.36
Added ... 8893
91.38
Heading and text amended ... 8406
91.43
(b) revoked ... 16392
91.70
Added ... 15709
91.83
(b) amended; (c) revised ... 13910
91.85
(c) and closing paragraph revoked ... 15709
91.87
(d), (f)(2), and (g) revised ... 15422
91.102
Added ... 14312
91.105
(c) revised ... 2940
91.107
(d) revised ... 2940
91.116
Redesignated from 91.117; revised ... 13910
91.117
Redesignated as 91.116; revised ... 13910
91.117
Added ... 13911
91.165
Amended ... 7587
91.170
Revised ... 7587
91.173
(c)(3) amended ... 5769
93
Subpart H added ... 12747
93.101—93.107
Subpart H added ... 12747
95
Amended ... 855, 3001, 4530, 6262, 7448, 8658, 10250, 11429, 12747, 13858, 14928, 16393.
97
Subpart C added ... 13912
97.9
Revised ... 13911
97.5
Revised ... 13912
97.11—97.19
Subpart B amended ... 81, 368, 656, 970, 2371, 2776, 3003, 3220, 3692, 3938, 4163, 4494, 5413, 5678, 5980, 6264, 6557, 6915, 7254, 7444, 7707, 7949, 8296, 8660, 8958, 9305, 9957, 10348, 10721, 11025, 11315, 11633, 11732, 11935, 12389, 12669, 12834, 13120, 13378, 13637, 13761, 13917, 14208, 14313, 14591, 14758, 15005, 15423, 15473, 15580, 15811, 16203.
97.20—97.31
Subpart C added ... 13912
101.35
(a) revised ... 5254
103.1
Introductory text of (b) revised; (c)(3) amended ... 5769
(b) and (c)(3) amended ... 7015
103.3
(b) amended ... 5769
103.5
(a)(9) amended ... 5769
(a)(9) amended ... 7015
103.7
(a) through (f) amended ... 5770
Amended ... 7015
103.9
(a)(1) amended ... 5770
(a)(1) amended ... 7015
103.11
Amended ... 5770
Amended ... 7015
103.13
Amended ... 5770
Amended ... 7015
103.21
Amended ... 5770
Amended ... 7015
121
Appendix E amended ... 263
Appendix F added ... 265
Appendix F amended ... 5987
Appendix F amended ... 7705
Appendix D amended ... 13268
Appendix F amended ... 14551
121.45
(a)(3) amended; (a)(4) added ... 6272

14 CFR—Continued

Page

Chapter I—Continued

121.47
(a) revised ... 6272
121.53
(a) revised ... 6272
121.291
Revised ... 13266
121.309
(f) revised; (g) and (h) deleted ... 13267
121.310
(a) revised; introductory text of (b), (b)(2), and introductory text of (c) amended; (d) revised; introductory texts of (e) and (f) amended; (f)(3), (g), (h), and (i) revised; (j) added ... 13267
(j) amended ... 14930
121.311
(c) and (d) added ... 13267
121.312
Added ... 13267
121.319
Deleted ... 13268
121.340
(a) amended ... 3223
121.343
(c) amended ... 5769
(e) added ... 8893
121.359
(c) revised ... 5770
(e) revised ... 13914
121.379
(a) revised ... 13506
121.391
(a) revised; (b) amended; (d) added ... 13268
121.418
Revised ... 262
121.419
Revised ... 262
(a)(3) amended ... 5087
121.420
Deleted ... 262
121.441
(b), (c), and (d) revised; (e) and (f) added ... 263
121.442
(a) amended; (b)(1) and (c) revised ... 263
121.449
Deleted ... 263
121.545
(b) amended ... 5769
121.547
(a)(2) and (c)(1) amended ... 5769
121.571
(b) amended ... 13268
121.579
(b) amended ... 13913
121.589
Added ... 13268
121.613
Amended ... 13912
121.615
(a) amended ... 13912
121.619
(a)(1) amended ... 13912
121.621
(a)(1) amended ... 13913
121.625
Amended ... 13912
121.637
(b) amended ... 13912
(a)(4) revised ... 13913
121.681
(a) through (e) amended ... 13913
121.683
Introductory text of (a), (b), (c), and (d) amended ... 13913
121.703
(f) revised ... 5770
127.19
Amended ... 5769
127.209
(b) amended ... 5769
127.211
(a)(2) and (c)(1) amended ... 5769
127.213
(f) revised ... 5770
135.39
(a) and (c) revised ... 6563
135.72
Added ... 6908
135.107
(b) amended ... 13912
135.111
(b), (c), and (d) (1) and (2) amended ... 13913
135.129
Introductory text of (a) amended; (b) redesignated as (c); new (b) added ... 6564
135.131
(a) revised; (b) through (f) redesignated as (c) through (g), respectively; new (b) added ... 6564
135.133
Amended ... 6564
135.143
(b) revised ... 8406
141
Appendix B amended ... 5770
141.47
(a) revised ... 5770
141.49
(a) amended ... 5770
141.59
Revised ... 15583
141.60
Added ... 15584
143.21
Amended ... 5769
145.15
(a) revised ... 15670
147.21
(c)(1) and (d)(1) revised ... 5770
151.7
(a)(1) and (2) and introductory text of (a)(3) revised ... 9220
151.71
Revised ... 9220
151.121
Amended ... 6926
153.13
(a)(3) and (4) revised; (c) deleted ... 6926
157.5
Amended ... 15818
171.73
Added ... 7331
181
Rescinded ... 5546
183
Amended ... 46
183.21
(c) amended; (d) redesignated as (e); new (d) added ... 46
185.1
Revised ... 12051
185.3
Introductory text amended ... 12051
185.9
Amended ... 12051
185.11
(a) amended ... 12051
185.15
Revised ... 12051
185.17
Amended ... 5770
187
Revised ... 12051
Special Federal Aviation Regulations:
16
Revoked ... 14312
17 ... 9809

Chapter II

202.3
(c)(4) added ... 13184
203.7
(d) revised ... 13184
207.1
Amended ... 488
Amended ... 15097
207.4a
Added ... 13860
207.9
Revised ... 13860
208
Subpart B1 added ... 15098
208.3
(r) added ... 6437
208.11
(a) and (b) revised ... 8752
208.31b
Added ... 13860
208.150
Subpart B1 added ... 15098
208.200a
Revised ... 11156
208.212
Revised ... 6437
208.213
(d) revised ... 6022
212
Heading revised ... 13861
212.3a
Added ... 13861
212.7
Revised ... 13861
214.2
(k) revised; (m) added ... 6438
214.11
Revised ... 11156
214.13a
Added ... 13861
214.31
Revised ... 6438
214.32
Revised ... 6438
214.35
(d) revised ... 6438
221.38
(a)(7) added ... 11938
221.165
Revised ... 7453
221.175
(b) revised ... 8129
224
Revised ... 5546
224.3
(a) and (c) revised ... 7901
233.1
(c) through (f) revised ... 8793
234.2
Revised ... 14598
234.8
(a) and (b) revised ... 14598
241
Amended ... 2808
Amended ... 5367
Amended ... 7591
Amended ... 15098
249.8
Amended ... 6487
249.12
(c) added ... 13862

Page

249.13
(f) amended ... 13862
250
Added ... 11942
288
Revised ... 7908
288.7
(a)(1) revised ... 10930
295
Amended ... 5733, 5734
Republished ... 16251
295.2
(k) revised; (m) added ... 6439
295.11
Revised ... 11156
295.12
Revised ... 5732
295.13a
Added ... 13862
295.14
Introductory text of (c) revised ... 13862
295.31
Revised ... 6439
295.32
Revised ... 6439
295.33
(d) revised ... 5732
295.34
Revised ... 5732
295.35
(d) revised ... 6439
298.13
Revised ... 14321
298.21
(e) revised ... 490
(f) revised ... 14321
298.24
Added ... 14321
301.1
Revised ... 9221
301.2
Revised ... 9221
301.4
(a) revised ... 9221
301.5
(d) revised ... 9221
301.10
(a) and (a–1) revised ... 9222
301.19
(b) revised ... 9222
301.27
(b) revised ... 9222
301.29
Revised ... 9222
301.40
Revised ... 9222
301.41
Revised ... 9222
301.45
Revised ... 9222
301.46
Revised ... 9222
301.47
Revised ... 9223
301.48
Revised ... 9223
301.50
(d) revised ... 9223
302.38
(a), (b), and (c) revised ... 4343
310
Added ... 8793
320.5
Amended ... 90
370
Revised ... 13062
378.1
Revised ... 9223
378.2
(f) revised ... 9223
378.10
Revised ... 11987
378.18
(a) revised ... 11987
384
Added ... 8797
385
Revised ... 8799
385.13
(u) added ... 11944
(v) added ... 11987
(n) revised; (w) and (x) added ... 13507
385.14
(c) revised ... 13272
387.4
(c) and (d) revised ... 6129
389
Revised ... 8804
399
Subpart H heading revised ... 3818
399.16
(b) and (c) deleted; (d), introductory text of (e), and (e)(1) and (2) revised ... 7823
399.39
Added ... 5370
399.90—399.92
Subpart H heading revised ... 3818
399.92
Added ... 3818

Chapter III

Added ... 9963
400
Added ... 12639
401
Added ... 9964

Chapter V

1200
Redesignated as Part 1207; revised ... 14648
1201
Added ... 9524
1204
Subpart 7 added ... 6564
Subpart 3 heading revised ... 13321
Subpart 9 added ... 13321
1204.300—1204.312
Subpart 3 heading revised ... 13321
1204.508
Added ... 3883
1204.700—1204.707
Subpart 7 added ... 6564
1204.900—1204.915
Subpart 9 added ... 13321
1205
Added ... 132
1206
Added ... 9528
1207
Redesignated from Part 1200; revised ... 14648
1209
Subpart 4 added ... 11209
1209.400—1209.405
Subpart 4 added ... 11209
1221
Revised ... 12997
1240
Revised ... 6272
Subpart 2 added ... 11262
1240.200—1240.201–5
Subpart 2 added ... 11262

Proposed Rules:

1 ... 6038, 7219, 7220, 10811
21 ... 91, 6096, 6315, 6642, 11043, 14106, 14776
23 ... 5698, 5791, 9237, 10105, 10803, 10868
25 ... 3226
27 ... 14106, 15676
29 ... 14106, 15676
37 ... 3171, 3175, 3226, 5788, 6315, 6642
39 ... 9, 55, 56, 283, 284, 614, 822, 931, 2382, 2450–2451, 2576, 2577, 2821, 2897, 3063, 3997, 4124, 4314, 4426, 5906, 5939, 5996, 6099, 6578, 6945, 6953, 7396, 7460, 7596, 7856, 7978, 7979, 8522, 8681, 9171, 9703, 10370–10372, 10660, 11165, 11335, 11336, 11582, 12065, 12066, 12405, 12920, 12921, 13669, 13776, 13870, 14110, 14776, 14777, 15490, 15491, 15588.
43 ... 91, 6316, 6642, 14106
45 ... 5997, 14106
61 ... 329, 3171, 3749, 5740, 6320, 6513, 8094, 10103, 10660, 11578.
63 ... 6320, 8094
65 ... 91, 3946, 6320, 8094
67 ... 6320
71 ... 94, 284, 389, 615–618, 823, 872, 1056, 2383, 2451–2453, 2578, 2649, 2650, 2709, 2787, 2860, 2897, 2898, 3100–3102, 3227, 3228, 3364, 3365, 3400–3402, 3470, 3750, 3779, 3946, 3947, 3997, 4026, 4315, 4428–4432, 4542–4543, 5291–5293, 5425, 5472, 5473, 5706, 5997, 5998, 6060, 6061, 6145, 6207, 6208, 6288, 6287, 6371, 6408, 6454, 6579–6581, 6645–6647, 7123, 7219, 7290–7292, 7397, 7461–7463, 7599, 7694, 7856, 7857, 7979, 8181, 8182, 8301–8303, 8422, 8681, 8723–8724, 8818, 8819, 8919–8921, 8978–8979, 9027, 9171, 9173, 9237, 9571, 9704–9706, 9966, 10108, 10210–10213, 10809, 10372, 10450, 10516, 10661–10663, 10865, 10937, 11167, –11168, 11282, 11385, 11477, 11574–11576, 11643, 11803–11805, 11882, 12119–12121, 12449, 12690, 12724, 12922, 13006–13008, 13079, 13140, 13141, 13197, 13283, 13294, 13460, 13526, 13670, 13776, 13820, 13821, 13932–13936, 14063, 14111, 14153, 14333, 14564, 14565, 14665–14668, 14852, 15117–15121, 15491–15493, 15546–15548, 15583, 15589, 15712, 15837, 15838, 15885, 15926, 16049, 16050, 16102, 16169, 16221, 16487.
73 ... 56, 389, 579, 2453, 3103, 3104, 3402, 3751, 3998, 4316, 4543, 5373, 6207, 6582, 7026, 7134, 7599, 8422, 8682, 10666, 11043, 13937, 16050, 16221, 16222.
75 ... 390, 2453, 2454, 3228, 3402, 3751, 3998, 4316, 4543, 5373, 5425, 5473, 8095, 8725, 9708, 10516, 11336, 13469, 13670, 14333, 14565.
77 ... 3867, 10373
91 ... 91, 675, 2860, 5559, 6038, 7219, 7220, 9840, 9987, 10810, 10903, 10960, 10811, 10963, 11958, 12724, 13722, 13871, 14106, 14334, 14565, 14775.
93 ... 15590
97 ... 6038, 7219
105 ... 13595
121 ... 2860, 3226, 3946, 6315, 6642, 6038, 7219, 10811, 11169, 11477, 12405, 12922, 13722, 14334, 14565, 14777, 15676.
127 ... 6315, 6642, 13417, 14106, 14777
133 ... 6315, 6642
135 ... 4500, 6315, 6642, 6038, 7219
137 ... 6188, 6642, 7183
141 ... 6315, 6642, 9102
143 ... 6320
145 ... 91, 6315, 6642
147 ... 6315, 6642
149 ... 6315, 6642
187 ... 6315, 6320, 6642
203 ... 11170, 15676
205 ... 11170, 15676
207 ... 387, 2831, 7091, 8765, 16223
208 ... 387, 2831, 3399, 7091, 8348, 8765
213 ... 387, 2831, 8765
214 ... 387, 2831, 8348, 8765
216 ... 11480

14 CFR—Continued

Proposed Rules—Continued

	Page
217	11337
221	367, 459, 990, 2821, 2955, 4076, 8921, 9841, 10866, 12190.
223	13141
233	6714
234	11888
235	328
241	328, 7343
243	5562, 6941, 8360, 8529
249	9760
250	459, 2956
288	4421, 5564, 7429, 15626
295	367, 2821, 8348, 8765
298a	993, 2955, 3753
298	10460
302	6714, 7635, 9837, 14111
375	11480
378	6454, 6947, 7134, 12009, 14282
389	9841, 10365, 11278
399	3170, 4076, 4421, 5564, 5662, 7429, 8921, 9841, 10866, 12235.

15 CFR

Subtitle A

0	
Revised	15222
2	
Revised	3769
2.13	
(b) revised	10252
4	
Revised	9643
4.1	
(a) revised	14017
7	
Superseded by 49 CFR Part 91	13384
11	
Added	1126
12	
Added	11074
13	
Added	15818
Chapter I	
60	
Added	10786
60.9	
Corrected	12441
70	
Added	15154
Chapter II	
200	
Revised	10194
201	
Revised	7312
201.306	
Corrected	8027
201.701	
Revised	840
201.800—201.860	
Recodified as 201.800—201.861 and revised	840
201.800—201.861	
Recodified from 201.800—201.860 and revised	840
201.822	
(b) amended	10644
201.870	
Added	7131
201.871	
Added	7131
201.900—201.950	
Recodified and revised	844
201.910	
(g) amended	7131
201.912	
Amended	5547
202	
Revised	7372
202.620—202.626	
Deleted	2814
202.630—202.633	
Added	2814
203	
Revised	7744
204.201—204.203	
Revised	15391
204.503	
Added	3817
204.701—204.703	
Revised	15105
205	
Revised	10645
206	
Revised	7746
208	
Deleted	10645
210	
Revised	13765
230.7–5	
Amended	13766
230.7–7	
(a) and (b) revised; table amended	2844
230.7–18	
Amended	11765
230.7–20	
Existing text designated as (a) and heading added; (b) added	6129
230.7–21	
(b) amended	7132
230.7–22	
Amended	4057
Amended	13057
230.7–23	
Added	11765
230.7–24	
Added	15636
230.8–4	
Amended	11765
230.8–5	
(b)(3) amended	3741
(b)(5) amended	4057
(b)(3) amended	7132
(b) amended	11765
(b)(1)(ii) and (5) amended	12441
(b)(2) and (3) redesignated as (b)(2) and revised	15105
230.8–6	
(a) amended	7593
230.8–8	
Revoked	10939
230.8–15	
Amended	8957
230.8–17	
Amended	13766
Amended	15636
230.8–19	
Amended	13058
230.8–21	
Revised	2844
230.8–25	
(b) revised	3741
230.8–26	
Added	2844
Amended	8957
230.8–27	
Added	11766
230.1	
Revised	10198
256	
Added	10252
Chapter III	
Determination	10077
Determination	10297
364.2	
Amended	8853
364.3	
(b), (c), (e), and (f) amended	8853
364.5	
Amended	8853
365.1	
Amended	9809
367.2	
(b) amended	8853
369.2	
Amended	10079
370.1	
(g) revised	4344
370.2	
Revised	11766
370.5	
(h) added	8581
370.11	
Added	10079
371.9	
(b) revised	8129
371.10	
(a) revised	4344
Revised	10080
371.25	
(b) revised	4344
372.5	
(e)(1) revised	4345
372.12	
(a)(2) and (3) revised	4345
(c)(2)(ii)(c) amended	10079
(a) added	11766
373	
Supplement 1 amended	978
Supplements 1 and 4 amended	10079
Supplement 1 amended	12942
Supplement 1 revised; Supplement 4 amended	13448
373.2	
(a) and (b) revised	4345
373.4	
(a), (b), (c), and (f) revised	4346
373.5	
(b)(1) revised	13446
373.8	
(b) revised	981
373.18	
Revised	11766
Revised	13446
Revised	14213
373.19	
Deleted	6130
373.20	
(a)(2)(i), (ii), and (iii) redesignated as (a)(2)(i)(a), (b), and (c); new (a)(2)(ii) added	12114
Revised	13446
Amended	14213
373.21	
Revised	14213
373.35	
Revised	4348
373.38	
Added	13447
Revised	14214
373.39	
Added	14214
373.42	
Revised	4348
Deleted	6130
373.42	
Added	11767
Revised	13447
373.43	
(b)(2) and (3) amended; (b)(4) added	6130
(b)(2) revised	12942
373.46	
Revised	4348
Deleted	6130

	Page
373.47	
Introductory text and (a) revised	4348
373.48	
(a) revised	4348
373.50	
Added	982
(b)(5) revised	6130
373.55	
Deleted	6130
373.56	
Revised	4348
373.57	
Added	10081
373.63	
Revised	4348
Deleted	6130
373.69	
Revised	13447
374.2	
Revised	4348
374.3	
(a)(2) revised	4348
376.4	
(a)(1) revised	4349
377.2	
Revised	4349
379.1	
(a)(3) revised	15988
379.2	
(h)(2)(ii) redesignated as (iii) and revised; new (h)(2)(ii) added	11767
(h) revised	13448
379.3	
(c)(3)(vi) added	11767
379.4	
(k) deleted	4159
379.12	
(c) revised	978
(c) amended	6130
(c) amended	10079
(c) amended	13449
380.2	
(f)(3) and (4) revised	4349
382.51	
(b) amended	4159
(b) amended	6347
(b) amended	8133
(b) amended	8581
(b) amended	10083
(b) amended	13449
(b) amended	16146
384.4	
Revised	8130
385.2	
(c)(4)(iii)(es) revised	6130
(c)(2) revised; (c)(4)(iii)(gg) added	10081
(c)(4)(iv) and (5)(v) revised	11767
(c)(4)(iii)(hh) and (ii) added	13449
385.4	
(a) revised	4160
385.6	
Revised	10081
399.1	
Amended	978
Amended	4160
Amended	4349
Revised	5003
Amended	6348
Amended	6130
Amended	8582
Amended	10082
Amended	11767
Amended	13449
Amended	14214
Amended	16147
399.2	
Amended	4349
Amended	8584

	Page
Chapter IV	
400	
Amended	13714
400.104	
Revised	13714
400.605	
Revised	13714
400.608	
Revised	13714
400.609	
Added	13714
400.1301	
Revised	13714
400.1303	
Revised	13715
400.1308	
Amended	13714
400.1400—400.1406	
Center heading and sections added	13715
Chapter V	
Consolidated with Chapter III of Title 33 in new Parts 906, 907, and 945 of Chapter IX	16257
Chapter VI	
602	
Added	2433
Appendix B revised	9083
Chapter VII	
700.12	
Revised	10720
Chapter IX	
Added	13184
903	
Added	13184
906	
Added	16257
907	
Added	16257
945	
Added	16258
Proposed Rules:	
10	13059, 13385
12	7582
12	13077
70	280
602	

16 CFR

Chapter I	
Subchapter B heading revised	15525
0	
Revised	12272
1	
Revised	8444
2	
Revised	8446
3	
Revised	8449
3.33	
(f)(1) corrected	9158
3.36	
(c) corrected	8710
3.43	
(g) corrected	8711
4	
Revised	8456
4.10	
(n)(6) corrected	8711
13.5	
C–1159	2498
C–1161	2884
C–1169o	3771
C–1182	5324
7938o	6676
7946	7628
8074	8238
8653o	9846
8701	11432
C–1252	14099
8572o	15011
13.15	
C–1148	267
8694	269
8692	446
C–1162	2885
C–1164	3225
C–1165	5735
8710	6130
8705	6677
8693	6928
C–1194	7626
C–1203	10563
C–1227	10940
8649o	12713
8624o	15749
C–1261	
13.30	
C–1145	134
C–1149	380
8692	446
C–1152	491
C–1155	610
C–1170	3439
C–1173	3973
C–1176	4017
C–1193	6927
C–1197	6928
C–1195	6929
C–1198	7016
C–1209	8585
C–1215	9645
C–1264	15748
13.50	
C–1158	2497
C–1227	10563
13.60	
C–1158	2497
C–1165	3225
C–1167	3340
C–1203	7626
C–1227	10563
C–1246	10976
13.70	
C–1146	134
C–1148	267
8706	268
8694	269
8692	446
C–1158	2497
C–1162	2885
C–1165	3225
8710	5735
8962	5991
8705	6130
8690	8963
C–1246	10976
8624o	12713
C–1261	15749
13.71	
8693	6677
13.73	
C–1145	134
C–1149	380
8692	446
C–1152	491
C–1155	610
C–1173	3973
C–1174	4017
C–1176	4017
C–1175	4018
C–1197	6928
C–1195	6929
C–1198	7016
C–1209	8585
C–1215	9645
C–1234	10645
C–1264	15748

16 CFR—Continued

Chapter I—Continued

13.75
C-1146 ---- 134
8719 ---- 448
C-1156 ---- 1170
C-1162 ---- 2885
8702 ---- 3974
8690 ---- 8963
C-1246 ---- 10976
13.85
8720 ---- 3973
13.90
5959o ---- 609
13.105
C-1203 ---- 7626
C-1227 ---- 10563
8624o ---- 12713
13.110
C-1249 ---- 10977
13.115
C-1203 ---- 7626
13.125
C-1146 ---- 134
8694 ---- 269
C-1156 ---- 1170
8720 ---- 3973
13.140
C-1164 ---- 3051
8720 ---- 3973
C-1184 ---- 5734
13.155
C-1145 ---- 134
C-1146 ---- 134
C-1148 ---- 267
8706 ---- 268
8694 ---- 269
8719 ---- 448
C-1152 ---- 491
C-1154 ---- 609
C-1155 ---- 610
C-1158 ---- 1170
C-1162 ---- 2885
C-1163 ---- 3050
C-1164 ---- 3051
8720 ---- 3973
C-1173 ---- 3973
8702 ---- 3974
C-1174 ---- 4017
C-1184 ---- 5734
8710 ---- 5735
8662 ---- 5991
C-1186 ---- 5991
8705 ---- 6130
8693 ---- 6677
C-1197 ---- 6928
C-1198 ---- 7016
8690 ---- 8963
C-1215 ---- 9645
C-1234 ---- 10645
8649o ---- 10840
8624o ---- 12713
C-1261 ---- 15749
13.157
8710 ---- 5735
8705 ---- 6130
13.170
8641o ---- 379
8642o ---- 380
8640o ---- 381
8644o ---- 382
5959o ---- 609
8643o ---- 9648
C-1129 ---- 10564
8619o ---- 10564
C-1249 ---- 10977
13.175
C-1165 ---- 3225
C-1167 ---- 3340
8720 ---- 3973
8710 ---- 5735
8662 ---- 5991
13.180
C-1184 ---- 5734
13.185
C-1149 ---- 380
C-1158 ---- 2497
C-1162 ---- 2885
13.190
C-1246 ---- 10976
13.195
5969o ---- 609
13.205
5969o ---- 609
13.225
C-1246 ---- 10976
13.235
C-1174 ---- 4017
8412 ---- 6837
C-1197 ---- 6928
C-1195 ---- 6929
C-1198 ---- 7016
C-1261 ---- 15749
13.240
8719 ---- 448
8690 ---- 8963
13.245
C-1249 ---- 10977
13.255
8710 ---- 5735
13.260
8702 ---- 3974
8704 ---- 7627
13.295
8644o ---- 10562
8512o ---- 12713
13.297
8512o ---- 12713
13.425
C-1257 ---- 14818
13.450
C-1251 ---- 10975
C-1248 ---- 10975
13.455
8512o ---- 12713
13.470
6487 ---- 3050
8634o ---- 10562
13.525
C-1188 ---- 6565
C-1187 ---- 6566
C-1189 ---- 6566
13.535
6487 ---- 3050
C-1251 ---- 10975
13.550
6487 ---- 3050
8512o ---- 12713
13.573
8634o ---- 10562
13.617
8512o ---- 12713
13.670
6487 ---- 3050
C-1257 ---- 14818
13.700
C-1248 ---- 10975
13.730
8599 ---- 12844
13.737
8548o ---- 11432
13.765
8038 ---- 7626
13.800
C-1201 ---- 7493
C-1253 ---- 14693
C-1254 ---- 14693
C-1256 ---- 14818
C-1255 ---- 14819
13.824
C-1178 ---- 4057
C-1185 ---- 5734
8584o ---- 10844
8664o ---- 15874
13.825
C-1178 ---- 4057
C-1185 ---- 5734
8664o ---- 15874
13.835
C-1178 ---- 4057
13.870
7887 ---- 5991
13.885
C-1248 ---- 10975
13.892
C-1177 ---- 4057
8100 ---- 5990
8669o ---- 13766
C-1257 ---- 14818
13.995
8706 ---- 268
13.1053
C-1171 ---- 3771
C-1206 ---- 8240
C-1212 ---- 9158
C-1213 ---- 9158
C-1214 ---- 9647
C-1233 ---- 10647
C-1241 ---- 10840
C-1239 ---- 10842
C-1240 ---- 10843
C-1250 ---- 10975
C-1260 ---- 15106
C-1263 ---- 15750
13.1055
8661o ---- 268
C-1154 ---- 609
C-1157 ---- 1170
8711 ---- 2499
C-1162 ---- 2885
8660o ---- 3439
C-1186 ---- 5991
C-1190 ---- 6676
C-1261 ---- 15749
13.1057
C-1217—C-1226 ---- 10565
13.1060
C-1147 ---- 269
C-1153 ---- 490
C-1171 ---- 3771
C-1204 ---- 7626
C-1205 ---- 8239
C-1207 ---- 8584
C-1216 ---- 10058
C-1259 ---- 14818
C-1260 ---- 15106
13.1108
C-1145 ---- 134
C-1149 ---- 380
C-1151 ---- 447
C-1150 ---- 447
C-1152 ---- 491
C-1155 ---- 610
C-1160 ---- 2498
C-1163 ---- 3050
C-1170 ---- 3439
C-1173 ---- 3973
C-1174 ---- 4017
C-1176 ---- 4017
C-1175 ---- 4018
C-1180 ---- 5255
C-1179 ---- 5255
C-1183 ---- 5734
C-1188 ---- 6565
C-1187 ---- 6566
C-1189 ---- 6566
C-1197 ---- 6928
C-1200 ---- 7206
C-1202 ---- 7494
C-1209 ---- 8585

C-1208 ---- 8586
C-1214 ---- 9647
C-1230 ---- 10646
C-1233 ---- 10647
C-1238 ---- 10648
C-1242 ---- 10843
C-1247 ---- 10977
C-1260 ---- 15106
C-1262 ---- 15470
C-1264 ---- 15748
13.1140
8512o ---- 12713
13.1185
C-1145 ---- 134
C-1149 ---- 380
8692 ---- 446
C-1150 ---- 447
C-1155 ---- 610
C-1160 ---- 2498
C-1163 ---- 3050
C-1166 ---- 3225
C-1168 ---- 3341
8660o ---- 3439
C-1170 ---- 3439
C-1173 ---- 3973
C-1172 ---- 3975
C-1176 ---- 4017
C-1175 ---- 4018
C-1180 ---- 5255
C-1179 ---- 5255
C-1183 ---- 5734
C-1188 ---- 6565
C-1187 ---- 6566
C-1189 ---- 6566
C-1192 ---- 6836
C-1191 ---- 6837
C-1196 ---- 6927
C-1193 ---- 6927
C-1195 ---- 6929
C-1199 ---- 7015
C-1198 ---- 7016
C-1200 ---- 7206
C-1202 ---- 7494
C-1206 ---- 8240
C-1210 ---- 8584
C-1209 ---- 8585
C-1211 ---- 8586
C-1208 ---- 8586
C-1212 ---- 9158
C-1213 ---- 9158
C-1215 ---- 9645
C-1214 ---- 9647
C-1228 ---- 10565
C-1235 ---- 10646
C-1230 ---- 10646
C-1232 ---- 10646
C-1233 ---- 10647
C-1238 ---- 10648
C-1237 ---- 10648
C-1231 ---- 10648
C-1236 ---- 10649
C-1241 ---- 10841
C-1245 ---- 10841
C-1244 ---- 10842
C-1239 ---- 10843
C-1240 ---- 10843
C-1242 ---- 10843
C-1243 ---- 10844
C-1250 ---- 10975
C-1247 ---- 10977
C-1258 ---- 14819
C-1260 ---- 15106
C-1262 ---- 15470
C-1264 ---- 15748
C-1263 ---- 15750
C-1265 ---- 15874
13.1212
C-1145 ---- 134
C-1149 ---- 380
8692 ---- 446
C-1151 ---- 447
C-1150 ---- 447
C-1153 ---- 490
C-1152 ---- 491
C-1155 ---- 610
C-1158 ---- 2497
C-1160 ---- 2498
C-1165 ---- 3225
C-1167 ---- 3340
C-1166 ---- 3341
C-1168 ---- 3440
C-1170 ---- 3975
C-1172 ---- 4017
C-1176 ---- 4018
C-1175 ---- 5255
C-1180 ---- 5255
C-1179 ---- 5734
C-1183 ---- 6565
C-1188 ---- 6566
C-1187 ---- 6566
C-1189 ---- 6566
C-1192 ---- 6836
C-1191 ---- 6837
C-1196 ---- 6927
C-1193 ---- 6927
C-1195 ---- 6929
C-1199 ---- 7015
C-1198 ---- 7016
C-1200 ---- 7206
C-1202 ---- 7494
C-1206 ---- 8240
C-1210 ---- 8585
C-1209 ---- 8585
C-1211 ---- 8585
C-1208 ---- 8586
C-1212 ---- 9158
C-1213 ---- 9158
C-1215 ---- 9645
C-1214 ---- 9647
C-1228 ---- 10565
C-1235 ---- 10646
C-1230 ---- 10646
C-1232 ---- 10646
C-1233 ---- 10647
C-1238 ---- 10648
C-1237 ---- 10648
C-1231 ---- 10648
C-1236 ---- 10649
C-1241 ---- 10841
C-1245 ---- 10841
C-1244 ---- 10842
C-1239 ---- 10842
C-1240 ---- 10843
C-1242 ---- 10843
C-1243 ---- 10844
C-1250 ---- 10975
C-1247 ---- 10977
C-1258 ---- 14819
C-1260 ---- 15106
C-1262 ---- 15470
C-1264 ---- 15748
C-1263 ---- 15750
C-1265 ---- 15874
13.1280
C-1145 ---- 134
C-1152 ---- 491
C-1155 ---- 610
C-1163 ---- 3050
8660o ---- 3439
C-1195 ---- 6929
13.1295
8712 ---- 2497
13.1325
8660o ---- 3439
6412 ---- 6837
C-1214 ---- 9647
C-1233 ---- 10647
C-1247 ---- 10977
C-1260 ---- 15106
13.1355
C-1198 ---- 7016
13.1380
8705 ---- 6130
C-1190 ---- 6676
8679o ---- 13455
13.1395
C-1181 ---- 5324
C-1203 ---- 7626
13.1400
C-1164 ---- 3051
8624o ---- 12713
13.1417
8693 ---- 6677
C-1203 ---- 7626
13.1425
8661o ---- 268
C-1190 ---- 6676
13.1460
C-1165 ---- 3225
8700 ---- 13766
13.1475
8724 ---- 13124
C-1261 ---- 15749
13.1490
8710 ---- 5735
8693 ---- 6677
8724 ---- 13124
8700 ---- 13766
13.1505
8679o ---- 13455
13.1520
C-1162 ---- 2885
13.1540
C-1194 ---- 6926
13.1550
8649o ---- 10840
13.1553
C-1194 ---- 6926
13.1555
C-1203 ---- 7626
13.1590
8660o ---- 3439
8697o ---- 11467
13.1608
C-1158 ---- 2497
C-1227 ---- 10563
C-1246 ---- 10976
13.1615
C-1158 ---- 2497
C-1165 ---- 3225
C-1167 ---- 3340
C-1203 ---- 7626
C-1227 ---- 10563
C-1246 ---- 10976
13.1625
C-1156 ---- 1170
C-1162 ---- 2885
8702 ---- 3974
8690 ---- 8963
8679o ---- 13455
13.1635
C-1157 ---- 1170
13.1640
8661o ---- 268
13.1645
C-1157 ---- 1170
8720 ---- 3973
13.1647
C-1158 ---- 2497
C-1162 ---- 2885
C-1181 ---- 5324
8710 ---- 5735
8662 ---- 5991
8705 ---- 6130
8690 ---- 8963
C-1246 ---- 10976
8624o ---- 12713
13.1650
8722 ---- 6927

16 CFR—Continued

Page

Chapter I—Continued

13.1663
C–1203 ---- 7626
8624o ---- 12713
13.1665
C–1249 ---- 10977
C–1261 ---- 15749
13.1670
C–1203 ---- 7626
13.1675
8700 ---- 13766
13.1685
8697o ---- 11467
13.1695
C–1184 ---- 5734
13.1698
C–1217—C–1226 ---- 10565
13.1705
8710 ---- 5735
8705 ---- 6130
13.1710
8643o ---- 9648
C–1249 ---- 10977
13.1715
8712 ---- 2497
C–1165 ---- 3225
C–1167 ---- 3340
8720 ---- 3973
8710 ---- 5735
8662 ---- 5991
8705 ---- 6130
C–1245 ---- 10841
C–1246 ---- 10976
8697o ---- 11467
C–1261 ---- 15749
13.1720
C–1184 ---- 5734
13.1725
C–1158 ---- 2497
C–1162 ---- 2885
13.1730
C–1246 ---- 10976
13.1745
8660o ---- 3439
13.1747
C–1156 ---- 1170
C–1173 ---- 3973
8722 ---- 6927
8690 ---- 8963
8679o ---- 13455
13.1757
8710 ---- 5735
13.1760
8702 ---- 3974
8704 ---- 7627
13.1778
C–1162 ---- 2885
8702 ---- 3974
13.1779
C–1156 ---- 1170
8720 ---- 3973
C–1184 ---- 5734
8710 ---- 5735
8705 ---- 6130
8693 ---- 6677
8690 ---- 8963
C–1234 ---- 10645
8679o ---- 13455
13.1800
C–1164 ---- 3051
C–1181 ---- 5324
8662 ---- 5991
8690 ---- 8963
8624o ---- 12713
13.1805
C–1156 ---- 1170
8711 ---- 2499
C–1173 ---- 3973
8702 ---- 3974

Page

C–1181 ---- 5324
8710 ---- 5735
8693 ---- 6677
13.1810
8711 ---- 2499
13.1811
8660o ---- 3439
13.1813
8710 ---- 5735
13.1817
C–1164 ---- 3051
8722 ---- 6927
13.1820
8649o ---- 10840
13.1825
C–1164 ---- 3051
C–1173 ---- 3973
8690 ---- 8963
C–1234 ---- 10645
C–1261 ---- 15749
13.1845
C–1145 ---- 134
C–1149 ---- 380
8692 ---- 446
C–1152 ---- 491
C–1155 ---- 610
C–1163 ---- 3050
C–1168 ---- 3225
C–1173 ---- 3973
C–1174 ---- 4017
C–1176 ---- 4017
C–1175 ---- 4018
C–1180 ---- 5255
C–1179 ---- 5255
C–1183 ---- 5734
C–1188 ---- 6565
C–1187 ---- 6566

Page

C–1189 ---- 6566
C–1192 ---- 6836
C–1191 ---- 6837
C–1196 ---- 6927
C–1193 ---- 6927
C–1197 ---- 6928
C–1195 ---- 6929
C–1199 ---- 7015
C–1198 ---- 7016
C–1200 ---- 7206
C–1202 ---- 7494
C–1206 ---- 8240
C–1210 ---- 8585
C–1209 ---- 8585
C–1211 ---- 8585
C–1208 ---- 8586
C–1212 ---- 9158
C–1213 ---- 9158
C–1215 ---- 9645
C–1214 ---- 9647
C–1228 ---- 10565
C–1230 ---- 10646
C–1232 ---- 10646
C–1235 ---- 10646
C–1233 ---- 10646
C–1238 ---- 10648
C–1237 ---- 10648
C–1231 ---- 10648
C–1236 ---- 10649
C–1245 ---- 10841
C–1239 ---- 10842
C–1244 ---- 10842
C–1240 ---- 10843
C–1242 ---- 10843
C–1250 ---- 10975
C–1247 ---- 10978
C–1258 ---- 14819
C–1264 ---- 15748
C–1263 ---- 15750
C–1265 ---- 15874
13.1880
8702 ---- 3974
13.1882
8702 ---- 3974
13.1890
5959o ---- 609
13.1905
8702 ---- 3974
8722 ---- 6927
8704 ---- 7627
13.2013
8702 ---- 3974
13.2168
8724 ---- 13124
13.2195
8696o ---- 15107
13.2280
8660o ---- 3439
C–1233 ---- 10647
C–1245 ---- 10841
13.2290
8700 ---- 13766
13.2310
8660o ---- 3439
13.2330
8705 ---- 6130
C–1261 ---- 15749
13.2345
8660o ---- 3439
C–1233 ---- 10647
C–1261 ---- 15749
13.2365
8705 ---- 6130
8679o ---- 13455
13.2375
C–1261 ---- 15749
13.2380
8661o ---- 268
C–1190 ---- 6676

Page

13.2395
8700 ---- 13766
13.2410
8679o ---- 13455
13.2425
8710 ---- 5735
8693 ---- 6677
13.2445
8692 ---- 446
C–1229 ---- 10564
13.2475
C–1266 ---- 15875
13.2485
8512o ---- 12713
7211o ---- 15105
14.3
Recodified as Part 228; revised 15525
14.5
Recodified as Part 229; revised 15529
14.6
Recodified as Part 230; revised 15531
14.8
Recodified as Part 231; revised 15532
14.9
Recodified as Part 232; revised 15533
14.10
Recodified as Part 233; revised 15534
14.11
Recodified as Part 234; revised 15536
14.13
Recodified as Part 235; revised 15538
14.14
Recodified as Part 236; revised 15538
14.15
Recodified as Part 237; revised 15539
15.105
Added ---- 135
15.106
Added ---- 135
15.107
Added ---- 382
15.108
Added ---- 383
15.109
Added ---- 787
15.110
Added ---- 788
15.111
Added ---- 1171
15.112
Added ---- 1171
15.113
Added ---- 2844
15.114
Added ---- 3387
15.115
Added ---- 3818
15.116
Added ---- 3818
15.117
Added ---- 4308
15.118
Added ---- 4569
15.119
Added ---- 5620
15.120
Added ---- 6023
15.121
Added ---- 6362
15.122
Added ---- 6362
15.123
Added ---- 6929
15.124
Added ---- 6929
15.125
Added ---- 7262
15.126
Added ---- 7701
15.127
Added ---- 7702

Page

15.128
Added ---- 7749
15.129
Added ---- 8406
15.130
Added ---- 8407
15.131
Added ---- 9063
15.132
Added ---- 9064
15.133
Added ---- 10297
15.134
Added ---- 10298
15.135
Added ---- 10566
15.136
Added ---- 10567
15.137
Added ---- 12176
15.138
Added ---- 12176
15.139
Added ---- 12557
15.140
Added ---- 12557
15.141
Added ---- 12750
15.142
Added ---- 12750
15.143
Added ---- 12941
15.144
Added ---- 13635
15.145
Added ---- 14323
15.146
Added ---- 14693
15.147
Added ---- 14694
15.148
Added ---- 15470
15.149
Added ---- 15919
15.150
Added ---- 15919
17.1
Revised ---- 15540
38
Rescinded ---- 12999
228
Recodified from 14.3; revised 15525
229
Recodified from 14.5; revised 15529
230
Recodified from 14.6; revised 15531
231
Recodified from 14.8; revised 15532
232
Recodified from 14.9; revised 15533
233
Recodified from 14.10; revised 15534
234
Recodified from 14.11; revised 15536
235
Recodified from 14.13; revised 15538
236
Recodified from 14.14; revised 15538
237
Recodified from 14.15; revised 15539
238
Added ---- 15540
239
Added ---- 15541
240
Added ---- 15542
300.36
Added ---- 9022
Effective date deferred ---- 14660
301.0
Amended ---- 6023

Page

302
Interpretation rescinded ---- 492
Interpretation ---- 11850
302.6
(a) and (b) revised ---- 2378
(c) added ---- 6092
302.14
(b) revised ---- 2378
412
Added ---- 15584
413
Added ---- 11023
Effective date postponed ---- 15424
Proposed Rules:
153 ---- 8711, 6514, 9109, 12759
241 ---- 13461, 15715
242 ---- 15681
300 ---- 15180
414 ---- 10758
415 ---- 9648, 12664
500 ---- 9109, 9571, 10937

17 CFR

Chapter I
1.3
(x) added ---- 7593
1.35
Revised ---- 7593
140
Added ---- 9648
Chapter II
200.30–2
(b)(1)(xxiv) added ---- 15470
200.80—200.80d
Added ---- 9828
200.80e
Added ---- 10198
200.735–4
(f) revised ---- 3741
201.25
Rescinded ---- 9828
201.25
Redesignated from 201.26 ---- 9828
201.26
Redesignated as 201.25 ---- 9828
201.26
Redesignated from 201.27 ---- 9828
201.27
Redesignated as 201.26 ---- 9828
211
Interpretative release ---- 856
230.427
Revised ---- 15920
231
Interpretative release ---- 11705
240.3b–4
Added ---- 7848
240.12g2–2
Added ---- 7848
240.13a–11
(b) revised ---- 7849
240.13a–16
Added ---- 7848
240.14a–3
Revised ---- 1036
240.14a–6
(a) and (b) revised ---- 1036
240.14c–3
Revised ---- 1036
240.14c–5
(a) revised ---- 1037
240.15Ag–1
(b) revised ---- 8358
240.15b9–1
Added ---- 7850
240.15b10–1—240.15b10–7
Added ---- 11639
240.15c3–1
Interpretative release and guide ---- 856

17 CFR—Continued

Page

Chapter II—Continued

240.15d–11
(b) revised ... 7849
240.15d–16
Added ... 7849
240.16b–7
Revised ... 14322
240.17a–3
(a)(11) revised ... 864
240.17a–4
(b)(5) revised ... 864
240.17a–5
(b)(3) revised ... 14018
240.17a–9
Revised ... 5257
241
Interpretative release ... 856
249.220
Revised ... 7854
249.221
Deleted ... 7854
249.306
Added ... 7853
249.320
Revised ... 7851
249.321
Deleted ... 7851
249.504a
Added ... 7851
249.617
Revised ... 14018
249.917(2)
Revised ... 5257
249.917(3)
Revised ... 5257
250.7
(e) added ... 13487
270.11a–1
Added ... 10728
270.11b–1
Added ... 10729
275.203–2
Revised ... 16151
279.2
Added ... 16151

Proposed Rules:

1 ... 1043, 4026
240 ... 5808, 9288, 10988
249 ... 5808, 10983
250 ... 11044
270 ... 7398, 7399, 14068
274 ... 11286
275 ... 10984, 11288
279 ... 10984, 11288

18 CFR

Chapter I

1.1
(g) revised ... 10062
1.2
(c) revised ... 10062
1.26
(d) revised ... 5772
1.36
Revised ... 10062
2.8
Added ... 7494
2.9
Added ... 8521
2.56
(d)(3) and (4) added ... 9955
2.63
Added ... 2845
2.64
Added ... 5990
3
Heading of Subpart A revised ... 10064
Subpart B added ... 10064
3.1—3.7
Heading of Subpart A revised ... 10064
3.1
Revised ... 10064
3.4
(c)(11) revised ... 9065
Introductory text of (e), (e)(7), (9), (10), and (12) revised ... 10064
3.6
(a), introductory text of (b), and (c) revised ... 10064
3.100—3.186
Subpart B added ... 10064
3.735–5
(c)(2)(v) added; (c)(3) and (4) and (e)(4)(i) revised ... 15239
(b)(5)(iii) and (e)(4)(iii) amended ... 15240
3.735–7
(d)(4) and (e) revised ... 15239
Introductory text of (a), (c)(5), and (d) amended ... 15240
3.735–8
(a)(1)(ii)(*f*) added; (a)(2)(i)(c) revised ... 15239
(a)(1)(ii)(e) and (b) amended ... 15240
3.735–9
(a), (b), (c), (d)(2) and (3)(i)(a) and (*b*), and (e)(1) amended ... 15240
3.735–10
(c)(1) amended ... 15240
3.735–11
(a)(6) and (d)(3) added; (e)(1) revised ... 15239
Introductory text, (b)(1), (c)(1), (d)(1), (h)(1), and (i)(1) amended ... 15240
3.735–21
(b) amended ... 15240
3.735–23
Amended ... 15240
3.735–25
(b) amended ... 15240
3.735–26
(c)(2)(v) added; (e)(3) revised; (e)(4) amended ... 15240
3.735–28
Introductory text of (a) and (c) amended; (d) revised ... 15240
3.735–29
(b) amended ... 15240
3.735–30
(a), (c), (d)(2), and (e) amended ... 15240
3.735–31
(c) amended ... 15240
3.735–32
Revised ... 15240
8.2
(a) revised ... 6488
(a) corrected ... 11640
8.3
Added ... 6488
25.1
Amended ... 7495
32.4
Revised ... 6622
32.22
Heading revised ... 6622
32.24
Revoked ... 6622
32.37
Revised ... 6622
32.50
(a) revised ... 6622
101
Amended ... 9678
Corrected ... 9657
Amended ... 15671
131.6
Amended ... 9651
141
Form amended ... 2845
Form amended ... 4058
141.1
(d) amended ... 9679
(d) amended ... 15671
141.7
Revised ... 4058
154.103
Added ... 865
Revised ... 5258
154.110
Revised ... 866
157.25
Amended ... 866
157.30
Cross reference added ... 5990
260.1
Amended ... 7052
(c) amended ... 8522
260.7
(a) and (b) revised ... 3292
260.7a
Added ... 3293
260.8
(b)(12) revised ... 7332

Chapter II

300.735–16
Revised ... 12177
301.1
Revised ... 5133
301.3
Deleted ... 5134

Chapter V

602
Added ... 16151

Chapter VI

701.60
(c) added ... 712
701.79
Introductory text revised; (d) added ... 712
703.6
Added ... 712

Proposed Rules:

2 ... 13896, 13714
4 ... 14778
14 ... 13714
101 ... 9709, 15927
104 ... 15927
105 ... 15927
131 ... 14778
141 ... 9709, 15434, 15927
154 ... 675, 6100, 7920, 13077
201 ... 15927
204 ... 15927
206 ... 15927
260 ... 5374, 6100, 7920, 14606, 15494
601 ... 11330
602 ... 1131
702 ... 5939

19 CFR

Chapter I

Suspension of effective dates of amendments ... 10200
1.2
(c) amended ... 492, 3008 (2 docs.), 3294, 3388
(c) corrected ... 5258
(c) amended ... 7263, 11988, 12999, 13571
1.4
Amended ... 14891
1.4a
Amended ... 11945

Page

1.5
Amended ... 8025
Amended ... 11945
Amended ... 14100
2
Authority citation revised ... 3388
2.2
Revised ... 3388
2.5
Introductory text of (b) revised; (d) added ... 3388
2.6
(c) added ... 3388
2.7
Text designated as (a) and amended; (b) added ... 3389
2.8
Revised ... 3389
2.11
(c) added ... 3389
2.101—2.105
Center heading and sections added ... 3389
3.9
Revised ... 3389
3.15
Added ... 3390
4.13
(a) and (b) revised ... 12557
(a) corrected ... 12750
4.68
(c) added; authority citation revised ... 13186
4.93
(b) amended ... 136
(b) amended ... 3052
(b) amended ... 5411
(b) amended ... 6339
(b) amended ... 7390
(b) amended ... 13186
(b) amended ... 15390
5.7
(c) revised ... 1176
6.13
Amended ... 3294
8.3
(d)(5) revised ... 11763
8.4
(d) and (g) amended ... 3008
8.8
(c) revised ... 492
Effective date of revision of (c) postponed ... 3741
(a) amended ... 11763
8.13
(h) amended ... 4308
8.19
(a) amended ... 12177
8.27
Amended ... 11764
8.28
(c) amended ... 492
Effective date of amendment of (c) postponed ... 3741
8.35
(a) amended ... 11764
8.37
(a) amended ... 11764
8.40
(b) and authority citation revised ... 492
Effective date of revision of (b) and authority citation postponed ... 3741
8.51
(a) amended ... 448
(a) amended ... 11764
9.8
Heading and (a) revised ... 11764
10.9
Deleted ... 6392
10.17
(i) revised ... 866
10.21
(j) revised ... 492
Effective date of revision of (j) postponed ... 3741
(i) amended; (l) revised ... 11764
10.26a
Added ... 4308
10.30a
(a) amended ... 409
(a) amended ... 6391
(a) amended ... 11733
(a) amended ... 15424
10.43
(a) amended ... 6392
10.45
Deleted ... 6392
10.46
Amended ... 6392
10.47
Added ... 6392
10.48
Heading revised; (a) and (b) amended ... 6392
10.53
(a) amended ... 6392
10.62
Revised ... 410
10.65
Heading and (a) amended; (c)(2) revised ... 11764
10.84
(c) and (d) revised ... 4589
10.114—10.118
Center heading and sections added ... 2437
10.121
Center heading and section added ... 11641
11.2
(a) revised ... 11764
11.2a
Revised ... 11765
11.3
Revised ... 11765
11.4
Deleted ... 11765
11.5
Amended ... 11765
11.8
(a) amended ... 10845
Effective date of amendment of (a) suspended ... 13863
12.70
(b)(1) and (d) revised ... 13716
12.73
Center heading and section added ... 11946
13.10
Center heading and (a) revised; (b), (c), (d), and (e) amended ... 6838
14.6a
Heading revised; amended ... 9533
14.13
(b) amended ... 15155
16.2
(c) revised ... 493
Compliance ... 10200
16.3
(d) amended ... 11765
16.12
(a) revised ... 493
Effective date of revision of (a) postponed ... 3741
16.24
(f) amended ... 4019
(f) amended ... 6274, 6622
(f) amended ... 11033
(d) revised; (e) amended ... 13276
(f) amended ... 13446
(f) amended (2 docs.) ... 14205
(f) amended ... 15390
17.1
(b) revised ... 493
Effective date of revision of (b) postponed ... 3741
17.2
(a) revised ... 12177
17.11
(d) revised ... 9533
19.19
Revised ... 8134
23.9a
Revised ... 11641
24.1
(a)(4) and (b)(1) amended; (d) added ... 8025
24.4
(d)(2), (e), (f), (g), and (h) revised ... 493
Effective date of revision of (d)(2), (e), (f), (g), and (h) postponed ... 3741
24.5
Added ... 493
(c) revised; effectiveness of section ... 3741
Compliance ... 10200
24.11
Introductory text of (a) revised ... 494
Effective date of revision of introductory text of (a) postponed ... 3741
24.16
(c)(2) amended ... 494
Effective date of amendment of (c)(2) postponed ... 3741
(j) revised ... 10845
24.36
(a) revised ... 494
Effective date of revision of (a) postponed ... 3741
25.19
Revised ... 494
Effective date of revision postponed ... 3741
26
Revised ... 9533
31.15
Deleted ... 9537
54.2
Deleted ... 4309

Chapter II

200.735–104a
Added ... 16210
200.735–105
Revised ... 16210
200.735–106
Revised ... 16210
200.735–113
(d), (g), (h), and (j) amended; (p) revised; (q) added ... 16210
200.735–114
Revised ... 16210
200.735–114a
Added ... 16211
200.735–115
Revised ... 16211
200.735–117
Revised ... 16211
200.735–121
Revised ... 16211
200.735–122
(a)(2) revised ... 16211

19 CFR—Continued

Proposed Rules:

1 ... 9, 7499, 9320
4 ... 55, 2819
8 ... 8719, 12116, 12481
10 ... 277, 7917, 13870
11 ... 2819
12 ... 10867, 16432
13 ... 7080, 13690
14 ... 13514, 14955
16 ... 14955
17 ... 8719, 14955
18 ... 14395
23 ... 8098
24 ... 7337
25 ... 8916, 11803, 12116
32 ... 14768
53 ... 14955

20 CFR

Chapter I

01
Subpart A recodified and revised ... 6273
01.1—01.3
Subpart A recodified as 01.1—01.8; revised ... 6273
01.1—01.8
Subpart A recodified from 01.1—01.3; revised ... 6273
1.1
(e) revised ... 2699
1.5
Revised ... 2699
1.14
Revised ... 2699
1.15
Revised ... 2700
1.16
Revised ... 2700
25.22
Revised ... 10567

Chapter II

200.1
(c) revised ... 9064
200.3
Added ... 9651
250.3
(a) revised ... 9064
250.4
(b) revised ... 9065
255.1
(a) revised; (e) added ... 3224
255.3
Revised ... 3224
255.5
Revised ... 3224
255.6
Revised ... 3224
255.8
Revised ... 3224
255.13
Added ... 3224
255.14
Added ... 3224
255.15
Added ... 3224
262.16
(c) and (d) revised ... 9652
325.12
(c)(2) revised ... 13862
325.13
Revised ... 13862
340
Added ... 3341
345.24
(b) revised ... 9065
395.5
(b)(2) amended ... 9065
395.6
Introductory text of (b)(2) and introductory text of (b)(3) revised ... 3975
396
Revised ... 15471

Chapter III

401.1
Revised ... 14892
401.3
(a), (b), (f), and (g)(1) and (3) revised; (g)(4) added; (i)(3), (j), (m), and (n) revised ... 14892
(i)(4) revised ... 15545
401.4
(a) revised; (h) added ... 14894
401.5
Revised ... 14894
401.6
(e) revised ... 14894
404.906
Introductory text revised; (f) added ... 7750
404.954
(a) corrected ... 75
404.971
Revised ... 7750
404.972
Revised ... 7750
404.973
Revised ... 7751
404.974
Revised ... 7751
404.975
Revised ... 7751
404.976
Revised ... 7751
404.977
Revised ... 7751
404.977a
Revised ... 7752
404.978
(a), (b), and (c) revised ... 7752
404.979
Amended ... 7752
404.981
Amended ... 7752
404.1002—404.1025
Recodified as 404.1002—404.1025b; revised ... 7752
404.1002—404.1025b
Recodified from 404.1002—404.1025; revised ... 7752
404.1008
(c) corrected ... 8281
404.1016
(b)(1)(v) corrected ... 8281
404.1026
Revised ... 11076
400.1027
Revised ... 11077
404.1103
Revised ... 7332
404.1104
Revised ... 7332
404.1105
Revised ... 7332
404.1106
Revised ... 7333
404.1107
Revised ... 7333
405
Subpart P added ... 9537
Subpart E added ... 12599
Subpart K added ... 14931
405.116
(c) corrected ... 136
405.122
Heading corrected ... 136
405.145
Corrected ... 136
405.310
(b) revised ... 1172
405.402
(d) revised ... 5258
405.416
(d)(1), (f), and (g) revised ... 5259
405.420
(d) revised ... 5259
(d) corrected ... 7126
405.421
(e) amended ... 5260
405.452
(c)(3)(i) and (ii) amended ... 5260
405.454
Introductory text of (d)(1) revised ... 5260
405.501—405.525
Subpart E added ... 12599
405.1023
(p) corrected ... 136
405.1101—405.1137
Subpart K added ... 14931
405.1625—405.1634
Subpart P added ... 9537
422
Revised ... 13653

Chapter V

602.9
Introductory text and (d) revised ... 7701
602.10
Revised ... 4570
602.10a
Added ... 4570
602.10b
Added ... 4571
604.3
Revised ... 12178
606
Revoked ... 16211
607
Revoked ... 16211
608
Revoked ... 16211
610.5
(a) revised ... 3052
611.5
(a)(1) revised ... 3052
613
Revoked ... 16211
614.10
(e), (f), and (g) revoked ... 3052
615
Revoked ... 16212

Proposed Rules:

401 ... 9826
405 ... 688, 2688, 8916
602 ... 4123

21 CFR

Chapter I

1
Heading revised ... 10730
1.1
Revised ... 10730
1.1a
Added ... 10730
1.1b
Added ... 10730
(c) revised ... 13277
1.1c
Added ... 10731
(a)(2) and (4) revised ... 13278
1.2
Revised ... 10731
1.7
Redesignated as 1.15 ... 10731

1.7
Added ... 10731
(c) and closing paragraph revised ... 13278
1.8
Revised ... 10731
1.8a
Added ... 10731
(c) and (d) revised ... 13278
1.8b
Added ... 10732
(m)(1) corrected ... 10980
(b)(2)(i), (j)(3), and (o) revised ... 13278
1.8c
Added ... 10733
(a) amended ... 13278
1.10
(d) and (e) revised; (h) added ... 10733
(d) revised ... 13278
1.15
Redesignated from 1.7 ... 10731
2.48
Amended ... 6839
2.52
(i) amended ... 6839
2.65
(b) amended ... 6839
2.66
(a) amended ... 6839
2.68
(a) amended ... 6839
2.120
(a) amended ... 6839
2.121
(b)(4) and introductory text of (b)(5) revised ... 136
(j) and (k) revised ... 712
(b)(2)(i) revised ... 6839
(j) revised ... 10846
(l) added ... 13187
2.171
Amended ... 12714
Amended ... 13807
2.173
Revised ... 12714
2.174
Revised ... 12714
2.175
Added ... 12714
2.176
Added ... 12714
3.44
(d)(5) and (6) revised; (d)(7) revoked ... 14101
3.48
Revised ... 449
Revised ... 7945
3.53
Revised ... 4350
3.57
Added ... 10734
3.58
Added ... 4058
3.59
Added ... 12714
3.501
Added ... 7127
3.509
(a) and (c) revised ... 3440
3.510
Amended ... 1172
4.1
Revised ... 15709
8.300
(b)(3) added ... 6568
Effective date of (b)(3) ... 8753
8.303
(a)(2)(ii) amended ... 7173
Effective date of amendment of (a)(2)(ii) ... 9945
8.317
Added ... 6132
Effective date; (b) amended ... 10981
8.320
Added ... 6131
Effective date ... 8586
8.321
Added ... 6186
Effective date ... 8586
8.322
Added ... 5325
Effective date of addition; (b) amended ... 10199
Effective date of amendment of (b) ... 12603
8.323
Added ... 8853
Effective date ... 11733
8.324
Added ... 10980
Effective date ... 12943
8.501
(e) and (f) revised; (g) amended ... 51
(e) and (f) amended ... 8685
(e) amended ... 8586
(e) amended ... 8586
(f) amended ... 8814
Introductory text through (f) revised ... 10931
(e) amended ... 10981
(e) amended ... 11733
(a), (b), and (c) amended ... 12715
(e) amended ... 12943, 13507
8.510
(e) added ... 10932
8.6009
Added ... 6132
Effective date ... 10981
8.6011
Added ... 6686
Effective date ... 8814
8.6012
Added ... 6686
Effective date ... 8814
8.6013
Added ... 6686
Effective date ... 8814
14.11
(a) revised ... 8815
Effective date of revision of (a) ... 11733
14.13
Added ... 8815
Effective date ... 11733
17.1
(a)(12) revised ... 4531
Effective date of revision of (a)(12) ... 7496
(a)(6)(iii) added ... 11733
Effective date of (a)(6)(iii) ... 13807
18.520
(a)(1)(iii) added ... 1127
Effective date of (a)(1)(iii) ... 6024
19.499
Added ... 410
19.500
(b) amended ... 410
Effective date of amendment of (b) ... 4350
19.505
(b) amended ... 410
Effective date of amendment of (b) ... 4350
19.510
(b) amended ... 410
Effective date of amendment of (b) ... 4350
19.515
Effective date of revision of (b)(2) and (c) ... 51
(b)(2) redesignated as (b)(2)(i); (b)(2)(ii) added; (c) amended ... 1127
Effective date of redesignation of (b)(2) as (b)(2)(i), addition of (b)(2)(ii), and amendment of (c) ... 6024
19.520
Effective date of revision of (b)(2) and (c) ... 51
(b)(2) redesignated as (b)(2)(i); (b)(2)(ii) added ... 1127
(c) amended ... 1128
Effective date of redesignation of (b)(2) as (b)(2)(i), addition of (b)(2)(ii), and amendment of (c) ... 6024
19.530
(b)(6)(iii) added ... 1128
Effective date of (b)(6)(iii) ... 6024
(b)(4) revised; (b)(7) added; (d)(2) redesignated as (d)(3) and revised; new (d)(2) added ... 7263
Effective date of revision of (b)(4), addition of (b)(7), redesignation of (d)(2) as (d)(3) and revision, and addition of new (d)(2) ... 10788
19.535
(b) amended ... 410
Effective date of amendment of (b) ... 4350
19.540
(b) amended ... 410
Effective date of amendment of (b) ... 4350
19.600
Effectiveness ... 2611
19.601
Effectiveness ... 2611
19.605
Effectiveness ... 2611
Heading revised; (d) and (e) added ... 8358
Effective date of revision of heading and addition of (d) and (e) ... 11521
19.606
Effectiveness ... 2611
Revised ... 8358
Effective date of revision ... 11521
19.775
(f)(1) redesignated as (f)(1)(i); (f)(1)(ii) added; (g) amended ... 1128
Effective date of redesignation of (f)(1) as (f)(1)(i), addition of (f)(1)(ii), and amendment of (g) ... 6024
19.782
(a)(1) redesignated as (a)(1)(i); (a)(1)(ii) added ... 1128
Effective date of redesignation of (a)(1) as (a)(1)(i) and addition of (a)(1)(ii) ... 6024
19.783
(b)(1) redesignated as (b)(1)(i); (b)(1)(ii) added; (d) amended ... 1128
Effective date of redesignation of (b)(1) as (b)(1)(i), addition of (b)(1)(ii), and amendment of (d) ... 6024
19.787
(e)(8) revised ... 1128
Effective date of revision of (e)(8) ... 6024

21 CFR—Continued

Chapter I—Continued

20.1
Effective date of amendment of (a), addition of (f)(6), and revision of (g)(3) ... 411
(f)(7) added ... 1128
Effective date of (f)(7) ... 6024
(f)(8) added ... 12750
Effective date of (f)(8) ... 14943
20.3
Effective date of revision of (e) ... 411
20.4
Effective date of amendment of (a) and addition of (e)(11) and (g)(4) ... 411
(e)(12) added ... 1128
Effective date of (e)(12) ... 6024
20.5
(d)(1) redesignated as (d)(1)(i); (d)(1)(ii) added ... 1128
Effective date of redesignation of (d)(1) as (d)(1)(i) and addition of (d)(1)(ii) ... 6024
25.2
(c)(3) added ... 1128
Effective date of c)(3) ... 6024
25.3
(d) redesignated as (d)(1); (d)(2) added ... 1128
Effective date of redesignation of (d) as (d)(1) and addition of (d)(2) ... 6024
27.1
(g) added ... 12603
Effective date of (g) ... 14943
27.6
(a) and (b)(2) amended ... 12603
Effective date of amendment of (a) and (b)(2) ... 14943
27.14
(a) and (b)(2) amended ... 12603
Effective date of amendment of (a) and (b)(2) ... 14943
27.24
(a) and (b)(2) amended ... 12603
Effective date of amendment of (a) and (b)(2) ... 14943
27.34
(a) and (b)(2) amended ... 12603
Effective date of amendment of (a) and (b)(2) ... 14943
27.43
(a) and (b)(2) amended ... 12603
Effective date of amendment of (a) and (b)(2) ... 14943
27.71
Added ... 8135
Effective date ... 11263
27.73
(a) and (b)(2) amended ... 12603
Effective date of amendment of (a) and (b)(2) ... 14943
27.103
(a) revised; (b) deleted ... 7769
Effective date of revision of (a) and deletion of (b) ... 11023
29.2
(a)(2) revised ... 14205
29.3
(a)(2) revised ... 14205
29.4
(a)(2) revised ... 14205
29.5
(a)(2) revised ... 14205
31.1
(b)(10) revised ... 449
(b)(6) redesignated as (b)(6)(i); (b)(6)(ii) added ... 1128
(b)(11) added; (c)(2) revised; (c)(3) added ... 2941
Effective date of revision of (b)(10) ... 4350
Effective date of addition of (b)(11), revision of (c)(2), and addition of (c)(3) ... 5922
Effective date of redesignation of (b)(6) as (b)(6)(i) and addition of (b)(6)(ii) ... 6024
37.1
Effective date of amendment of (b) ... 2941
(b) amended ... 8359
42.30
(a) and (d)(1) revised ... 12604
Effective date of revision of (a) and (d)(1) ... 14551
42.60
(a) and (d)(1) revised ... 12604
Effective date of revision of (a) and (d)(1) ... 14551
45.1
Introductory text of (a)(2) revised ... 2893
Effective date of revision of introductory text of (a)(2) ... 5922
51.1
Effective date of revision of heading, addition of (d)(6), and revision of (f)(5) ... 982
51.2
Effective date of revision of heading ... 982
51.3
Effective date of revision of heading ... 982
51.10
Effective date of revision of introductory text of (a) and addition of (b)(7) ... 982
51.20
Effective date of (a)(5) and (d)(4) ... 982
51.990
(b) amended; (e) revised ... 137
Effective date of (c)(13) and (f)(14) ... 982
Effective date of amendment of (b) and revision of (e) ... 4059
53.40
Effective date of amendment of (b) ... 4350
80.2
(b) and (c) revised ... 5736
120.1
(g) revised; (l) added ... 13571
120.3
(e)(5) amended ... 2612
(d)(5) added ... 7523
(e)(5) amended ... 7524
(c) redesignated as (c)(1); (c)(2) added ... 7701
(c)(2) corrected ... 8025
(e)(3) amended ... 10734
(e)(5) amended ... 11081
(e)(4) amended ... 11321
(e)(5) amended ... 12605
(e)(4) amended ... 12715
(e)(5) amended ... 13863
(e)(5) amended ... 14023
120.33
(l)(2) revised ... 8815
120.34
(f) added ... 13572
120.35
Revised ... 13279
120.101
(c) and (d) revoked; new (c) added ... 8815
120.117
Revoked ... 12751
120.123
Amended ... 7173
120.129
Amended ... 9159
120.135
Revised ... 4351
Amended ... 12999
120.137
Revised ... 4351
Corrected ... 4572
Amended ... 12999
120.142
Existing text designated as (a); (b) added ... 5773
(b)(2) revised ... 12473
120.147
Amended ... 11157
120.147a
(a) revised ... 4059
120.147b
(b) revised ... 4059
120.147c
Added ... 4060
120.148
Revoked ... 12751
120.153
Amended ... 15424
120.163
Amended ... 11264
120.172
Amended ... 12715
120.173
Revised ... 7524
Corrected ... 8294
120.176
Revised ... 7523
Corrected ... 8294
120.182
Revised ... 6439
120.183
Revised ... 13863
120.184
Revised ... 14206
120.197
Amended ... 5547
120.205
Added ... 2894
Revised ... 12473
120.206
Added ... 2612
Revised ... 14023
120.207
Added ... 3092
Revised ... 12716
Revised ... 13124
Revised ... 14944
120.208
Added ... 3441
Revised ... 13807
120.209
Added ... 4352
Revised ... 7173
120.210
Added ... 4352
120.211
Added ... 6132
Revised ... 8816
Amended ... 14944
120.212
Added ... 6392
120.213
Added ... 6393
120.215
Added ... 11081
120.216
Added ... 10433
120.217
Added ... 10734

120.218
Added ... 11321
120.219
Added ... 13474
120.220
Added ... 12605
120.221
Added ... 12605
120.222
Added ... 12716
120.223
Added ... 12715
120.224
Added ... 12913
120.225
Added ... 12943
120.226
Added ... 14023
120.227
Added ... 14323
120.228
Added ... 15107
120.229
Added ... 15578
121.200
(b)(5)(i) revised ... 6775
121.207
(c) amended ... 6775
(c) amended ... 9225
(c) amended ... 15012
121.208
(d) amended ... 4171
(d) amended ... 14155
121.210
(c) amended ... 270
(c) amended ... 4171
(c) amended ... 6775
(c) amended ... 6970
(c) amended ... 9225
(c) amended ... 15012
121.211
Revised ... 7524
121.212
(c) amended ... 2941
121.213
(d) amended ... 4171
121.217
(d) amended ... 7395
121.222
Revised ... 8962
(b) corrected ... 9160
121.232
(d) amended ... 4171
121.233
(d) amended ... 270
(d) amended ... 4171
121.241
(b) amended; (c)(3) revised; (c)(4) and (5) deleted ... 5548
121.242
Deleted ... 15988
121.249
(c) added ... 7395
(a)(8) added ... 8753
(a)(2)(ii) revised ... 10735
121.252
(d) amended ... 4171
121.253
(c) amended ... 4171
(c) amended ... 9225
(c) amended ... 15012
121.254
(c) amended ... 15012
121.256
(d) amended ... 4171
121.260
Introductory text of (c) revised ... 4352
(c) amended ... 8587
(c) amended ... 14696
121.262
(a) amended ... 6971
(c) corrected ... 7127
(c) amended ... 13573
(c) amended ... 15012
121.263
(d) and (e) added ... 13573
121.264
(c) amended ... 7458
(c) amended ... 13574
121.266
(c) amended ... 6776
121.269
(c) amended ... 7458
121.275
(b) and (c) revised; (d) deleted ... 14023
121.281
(a), (b), and (c) revised ... 12943
121.289
(b) revised ... 5456
121.290
(b) revised ... 5456
121.291
(a) amended ... 11988
(a) amended ... 15013
121.292
(d) amended ... 9225
(d) amended ... 15013
121.293
Added ... 866
121.294
Added ... 2846
121.295
Added ... 4019
Revised ... 14385
121.296
Added ... 2612
121.297
Added ... 2846
121.298
Added ... 2942
121.299
Added ... 5548
121.300
Added ... 5773
121.301
Added ... 11734
121.302
Added ... 7263
121.303
Added ... 7523
121.304
Added ... 15545
121.1009
(c)(12) added ... 4020
121.1012
(b)(3) added ... 7174
121.1014
(a) amended ... 12751
121.1017
(b)(1) amended ... 3442
(b)(1) amended ... 6686
121.1020
(b) amended ... 2942
(b) amended; (c) revised ... 7911
121.1029
(c)(1) revised ... 7945
121.1030
(c)(1) revised ... 7946
121.1031
(d) amended ... 8359
121.1039
(c) added ... 12605
121.1044
Revised ... 9159
121.1046
(a) amended ... 12751
121.1049
Revised ... 7396
121.1056
(b)(3) added ... 6393
121.1058
(b)(3) deleted ... 12606
121.1059
(a) amended ... 10508
121.1070
(b)(2)(ii) and (c)(3) revised ... 11432
121.1074
(a)(2) revised ... 5456
(b) and (c)(3) added; (d) revised ... 7458
121.1075
(a)(2) revised ... 5456
(b) and (c)(3) added; (d) revised ... 7458
121.1084
(a) revised ... 10508
121.1085
Revised ... 4532
121.1088
(c) amended ... 5922
121.1093
Amended ... 11157
121.1093a
Added ... 4060
121.1099
(a)(2) amended ... 12606
121.1117
(b) revised; (c) deleted ... 3819
121.1122
Deleted ... 15968
121.1124
Amended ... 866
121.1126
Revised ... 7524
Revised ... 9066
121.1136
Revised ... 12606
121.1142
Added ... 4353
121.1143
Revised ... 8753
121.1146
(c) amended ... 411
(c) amended ... 2701
121.1148
(a)(13) added; (b) revised ... 7946
(a)(14) added ... 10735
121.1152
(a) revised; (d) added ... 7911
121.1153
Revised ... 8587
121.1163
(b) amended ... 12751
(b) amended ... 13125
121.1164
(b) amended ... 5773
(b) amended; (d) added ... 7947
121.1168
Revised ... 13574
121.1178
(a) and (c) revised ... 12943
121.1179
(b)(2) amended ... 4353
Introductory text of (b)(3) revised; (b)(4) added ... 4353
121.1182
(c) amended ... 10735
121.1183
(b) revised ... 2612
(b)(3) and (4) added ... 8359
121.1185
Revised ... 14024
121.1194
(a)(2) revised ... 7911
121.1198
Added ... 713

121.1199
Added ... 7911
121.1200
Added ... 7911
121.1201
Added ... 7911
121.1202
Added ... 7911
121.1203
Added ... 7911
121.1204
Added ... 7911
121.1205
Added ... 7911
121.1206
Added ... 7911
121.1207
Added ... 7911
121.1208
Added ... 7911

21 CFR—Continued

Chapter I—Continued

121.1199
Added ... 411
Revised ... 12606
121.1200
Added ... 2846
121.1201
Added ... 5548
121.1202
Added ... 1174
121.1203
Added ... 4354
121.1204
Added ... 5773
121.1205
Added ... 7459
121.1206
Added ... 7523
121.1207
Added ... 8359
121.1208
Added ... 8522
121.1209
Added ... 12844
121.1211
Added ... 14944
121.2502
(b) amended ... 12716
121.2505
(c) amended ... 5675
121.2506
(b) amended ... 4060
121.2507
(c) amended ... 2942
(c) amended ... 2943
(c) amended ... 4060
(c) amended ... 5774
(c) amended ... 8816
121.2508
Added ... 8522
121.2510
Added ... 7264
121.2511
(b) amended ... 6186
121.2514
(b) (3) (xviii) amended ... 5675
(b) (3) (xx) amended ... 6133
(b) (3) (viii) (b) amended ... 6568
(b) (3) (xviii) amended ... 7264
(b) (3) (xv) amended ... 11523
121.2517
Added ... 5774
121.2520
(c) (5) amended ... 2612, 5675, 6187, 7524, 7947, 8360, 8523, 8817, 9160, 11522, 15108, 15155
121.2521
Introductory text revised ... 6569
121.2523
Revised ... 52
(a) (2) amended ... 6187
(a) (2) amended ... 8817
(a) (2) amended ... 15155
121.2525
(b) amended ... 4060
121.2526
(b) (2) amended ... 3442
(a) (5) amended ... 5675
(a) (5) and (b) (2) amended ... 5774
(b) (2) amended ... 11523
(a) (5) amended ... 12474
(b) (2) amended ... 14945
121.2527
(b) amended ... 983
(b) amended ... 8817
121.2531
(b) (2) amended ... 4060
121.2532
Added ... 8548
121.2536
(d) amended ... 270
(d) amended; (m) added ... 1021
121.2541
(c) amended ... 4060
(c) amended ... 14551
(c) amended ... 15108
121.2543
(c) (2) added ... 8360
Heading, introductory text, (a), and introductory text of (b) revised; (b) (5) added ... 10567
121.2547
(b) (7) and (c) (5) added ... 7459
121.2553
(a) (3) amended ... 2894
(a) (3) amended ... 2943
(a) (3) amended ... 12474
121.2557
(d) (3) amended ... 4060
(d) (3) amended ... 14552
121.2562
(c) (4) (iii) amended ... 5675
121.2564
Added ... 5675
121.2566
(b) amended ... 412
(b) amended ... 6569
(b) amended ... 7174
(b) amended ... 14945
121.2569
(b) (3) amended ... 7265
(b) (3) amended ... 14946
(b) (3) amended ... 15108
121.2571
(b) (2) amended ... 5675
(b) (2) amended ... 5774
(b) (2) amended ... 11522
121.2574
(a) and introductory text of (b) revised ... 7769
(b) amended ... 14324
121.2577
(a) (5) added; (b) (1) revised ... 5774
121.2582
Heading, introductory text, (a), and (d) revised ... 8360
121.2592
Introductory text of (a) (4) revised ... 412
(a) (3) (i) amended ... 10508
121.2597
(b) revised ... 983
Revised ... 14024
121.2599
(b) revised ... 12717
121.2600
Added ... 14946
121.2601
Added ... 15109
121.3002
(d) revised ... 3443
121.3003
(c) (1) and (2) revised ... 3443
121.3004
(c) revised ... 3443
121.3005
(d) revised ... 3443
121.3007
(d) (1) and (2) revised ... 3443
121.3008
Added ... 1175
130.1
Introductory text added; (a) revised; (k) and (m) added ... 8080
130.3
(a) (2) amended ... 8081
130.4
Revised ... 8081
130.5
(a) and (b) revised ... 8085
130.9
(e) and (f) revised; (g) redesignated as (h) and revised; new (g), (i), (j), and (k) added ... 8085
130.13
(a) and (b) revised ... 8086
130.13a
Added ... 8087
130.30
(b) (3) revised ... 8087
130.33
Revised ... 13807
130.35
(c) amended ... 8087
130.37
Revised ... 8753
130.38
Added ... 8087
131.9
Revised ... 3441
131.10
Revised ... 3441
131.15
Amended ... 3441
133.200—133.210
Center heading and sections added ... 15109
138
Added ... 6187
141.2
(c) (4) added ... 10789
(c) (4) corrected ... 11210
141.550
Added ... 11522
141a.9
(a) (1), (4) and (5), and (b) amended ... 9810
141a.10
Heading, (a) and (f) amended ... 9810
141a.26
(b) revised ... 10789
141a.29
(b) revised ... 10789
141a.39
(b) revised ... 10789
(b) corrected ... 11210
141a.46
(b) revised ... 10789
141a.51
(b) revised ... 10789
141a.52
(b) revised ... 10789
141a.81
Heading, (a) and (f) amended ... 9810
141a.82
Heading and (a) amended ... 9810
141a.83
Heading, (a) and (h) amended ... 9810
141a.84
Heading, (a) (2) and (3) amended ... 9810
141a.85
Heading and (a) amended ... 9810
141a.87
Heading and (a) amended ... 9810
141a.91
Heading, (a) and (g) amended ... 9810
141a.92
Heading and (a) amended ... 9810
141a.99
Heading and (a) amended ... 9810
141a.113
(c) amended ... 12717
141a.121
Heading and (a) amended ... 9810
141a.130
Added ... 9810

141c.232
(b) (2) revised ... 10298
141c.266
(a) amended ... 12717
141c.271
Added ... 6839
141d.307
(b) (2) revised ... 11851
141e.436
Added ... 10199
144.26
(b) (54) amended ... 6971
145.3
(a) (1) (iii) and (b) (1) (iii) amended ... 9810
(a) (36) and (b) (36) added ... 11523
145.4
(a) (1) amended ... 9810
(b) (38) added ... 11523
146a.19
Heading, (a), (d) (1), (d) (2) (ii), and (d) (3) (ii) and (iv) amended ... 9810
146a.27
(a), (c) (1) (ii) (c) and (d), and (d) (2) (ii) and (3) (11) amended ... 9810
146a.61
Heading and (a) amended ... 9810
146a.72
Heading, (a) and (d) amended ... 9810
146a.73
Heading, introduction, (a) and (c) amended ... 9810
146a.103
(a) amended ... 9810
Heading, (a) and (d) amended ... 9810
146a.104
Heading, (a), (c) (1) (ii) and (d) (2) (ii) amended ... 9810
146a.105
Heading, (a), and (d) (1) and (3) amended ... 9810
146a.106
Heading, (a), (b), and (c) (2) amended ... 9810
146a.107
Heading and text amended ... 9810
146a.109
Heading, introductory text, and (a), (b), and (c) amended ... 9810
146a.117
Heading, (a), (d) (1) and (2) (i) and (c) amended ... 9810
146a.118
(a) revised ... 4060
146a.121
(c) revised ... 14101
146a.126
Added ... 9810
146b.131
(c) revised ... 13125
146c.232
(a) (6) revised ... 10298
146c.236
(c) revised ... 15988
146c.263
(a) amended ... 12717
146c.265
(c) (1) (v) revised ... 2894
146c.271
Added ... 6839
146c.436
Added ... 10200
147.1
(c) (3) and (d) amended ... 11523
147.2
(a) (30) added ... 11523
148b.1
(b) (2) (i) and (ii) revised ... 15989
148b.5
(b) revised ... 15989
148c.5
(b) (3) revised ... 15425
148c.34
Added ... 4355
148f.1
(b) (6) amended ... 15989
148i.18
(b) (1) (i) and (ii) amended ... 12475
148i.36
Heading and (a) (1) and (2) revised ... 1172
148i.37
Heading and (a) (1) and (2) revised ... 1172
148i.38
Heading and (a) (1) and (2) revised ... 1172
148i.49
Added ... 16152
148j.2
(b) (4) amended ... 12717
148n.1
(a) (1) (vi) revised ... 13279
(a) (1) (viii) and (b) (1) (i) (c), (ii) (b), and (iii) (b) revised ... 16212
148n.2
(a) (1) (vi) amended ... 11988
(a) (1) (viii) revised ... 16212
148n.11
(b) (1) revised ... 16212
148n.13
(a) (1) amended ... 16212
148n.28
(a) (1) and (b) (2) amended ... 11629
148o.1
(b) (6) revised ... 15989
148o.2
(b) (1) revised ... 15989
148o.3
(b) (1) amended ... 12717
(a) (1) revised ... 15989
148r.4
(b) amended ... 12717
148r.7
Revoked ... 1173
148r.8
Revoked ... 1173
148s.1
Introductory text of (a) (1), (a) (4) (i), and (a) (4) (ii) (g) (f) and (b) (f) amended; (b) (1) (iii) and (8) revised ... 16153
148w.1
(a) (2) revised ... 5774
(b) (1) (i) (d), (g), and (h) revised ... 11081
148x.1
(b) (1) (vii) amended ... 12717
148y.1
(b) (1) (ii) revised ... 16153
148z
Added ... 11523
165.5
(d) revised ... 203
166.3
(c) (3) amended ... 13408
Effective date of amendment of (c) (3) ... 15390
166.8
Introductory text amended ... 137
Revised ... 197
Heading, introductory text, and introductory text of (a) revised ... 4406
(a) amended; introductory text of (b) revised; (b) amended ... 4407
166.18
(d) (1) revised ... 203
Introductory text of (a) revised ... 4407
191.1
(c) and (o) revised; (q) added ... 11322
191.8
Introductory text and (c) revised ... 11322
191.9
Added ... 11324
Effective date ... 13408
191.62
Revised ... 11322
191.63
(a) (31) added ... 2612
(a) (33) added ... 5456
(a) (32) added ... 6840
Introductory text of (a) revised ... 11323
(a) (34) added ... 14025
191.65
Added ... 11323
(a) (5) added ... 12475
(a) (6) added ... 14946
191.101
(f) added ... 11323
191.106
Revised ... 11323
191.107
(a) revised ... 11323
191.112
Added ... 15875
191.201
Heading and (a) revised; (c) redesignated as (f); new (c) added ... 11323
191.212
(b) (1) and (2) amended ... 11323
281.19
(a) revised ... 4020

Chapter II

308
Added ... 10070

Proposed Rules:

1 ... 4173, 4363, 7533, 9320, 12060, 14898
3 ... 5560, 7026, 12404, 12756, 13008
5 ... 2645, 2646, 2697, 5701, 8094, 10983
14 ... 4075, 9970
15 ... 14287
17 ... 3710, 7917, 11577, 14239
19 ... 2646, 2647, 12723
20 ... 6938
27 ... 2983, 3469, 6144, 7343, 8320, 14906
28 ... 15116
29 ... 8975
42 ... 6944
51 ... 990, 12723
80 ... 1055
120 ... 2647, 2709, 6050, 6702, 8379
121 ... 140, 578, 1055, 6844, 7777, 8379, 11234, 11443, 14239, 14403, 14697, 16048.
130 ... 3994, 4264
131 ... 5560, 7026
133 ... 3470
141 ... 14239
141a ... 14239
141c ... 1184
146c ... 1184
148i ... 16048
166 ... 5932, 10906, 16048
191 ... 5561, 5562

22 CFR

Chapter I

3
Added ... 6569
5
Added ... 9160
6
Added ... 9161
7
Added ... 16258

22 CFR—Continued

Page

Chapter I—Continued
10.735–204
(d) revised 11641
11
Revised (2 docs.) 3443, 3444
21.1
Amended 16312
31
Revised 4020
41.6
(a) (1) revised 3742
(g) added 3970
(c) revised 7770
(h) added 8711
41.117
Revised 16098
41.122
(c) revised 5620
41.124
(b), (c) (1) (v), and (e) amended 5620
(c) (1) (vi) and (viii), (g), and (h) revised 8512
41.126
(a) amended; (b) revised 5620
41.128
(a) revised 7770
42.60
(b) revised 12807
42.91
(a) (14) (ii) (f) revised 8499
50
Subpart D heading revised 16259
50.60—50.72
Subpart D heading revised 16259
50.60
Revised 16259
50.61
Revised 16259
50.62
Revised 16259
51.72
Revised 4122
51.74
Revised 4024
51.84
Revised 16259
51.89
Revised 16259
51.90
Revised 16259
51.91
Revised 16259
51.92
Revised 16259
51.93
Deleted 16259
51.94
Revised 16259
51.101
Revised 16260
91.4
Added 12558
92.66
(a) revised 11775
92.67
Revised 11775
92.85
Revised 11776
92.86
Revised 11776
123.23
(c) (3) and (4) revised; (e) (5) added 4211
126
Authority citation revised 5456
126.10
Added 5456

Chapter II
201
Appendix C added 497
Republished 7672
Appendix E added 11264
Effective date of Appendix E 13716
Appendix E deleted 15013
201.01
(w) added 495
(x) added 11264
Effective date of (x) 13716
(x) deleted 15013
201.11
(j) added 11264
Effective date of (j) 13716
(j) (3) deleted 15013
201.13
(b) (1) (ii) amended 494
(b) (3) (i) (c) added 923
201.15
(g) added 495
201.27
Added 923
201.32
(g) added 923
201.34
Added 11264
Effective date 13716
Deleted 15013
201.47
Added 923
201.52
Introductory text of (a) amended; (a) (2) added; (c) amended 495
(a) (4) amended; text of (c) designated as (c) (1); (c) (2) added 5488
(a) (2) (i) (f) revised; (a) (10) added 11264
Effective date of revision of (a) (2) (i) (f) and addition of (a) (10) 13716
(a) (2) (i) (f) revised; (a) (10) deleted 15013
201.61
(h) through (y) added 495
201.65
Revised 495
201.71
(c) added 11264
Effective date of (c) 13716
(c) revised 15013
201.72
Introductory text of (b) and (c) amended 497
Introductory text of (b) and (c) amended 11264
Effective date of amendment of introductory text of (b) and (c) 13716
Introductory text of (b) and (c) amended 15013
201.73
(a) amended; (b) (1) revised 497
(a) and (b) (1) amended 11264
Effective date of amendment of (a) and (b) (1) 13716
(a) and (b) (1) amended 15013
208.11
(c) added 9068
212
Added 9652

Chapter III
302
Added 9655
303
Added 9655

Chapter V
301
Revoked 9657
302
Revised 10352
302.8
(c) revised 11157
303
Added 9657

Chapter VI
601.735–12
(c) (4), (6) (7), (8), and (10) revised; (c) (16) and (17) added 12944
601.735–13
Heading revised 12944
601.735–14
(b) and (c) revised; (d) added 12944
601.735–24
Revised 12944
601.735–52
Revised 12944
601.735–61
Revised 12944
601.735–62
Introductory text revised 12944
601.735–71
Revised 12944
601.735–72
(a) and (b) revised 12945
601.735–74
Revised 12945
601.735–75
Revised 12945
602
Added 9202
603
Added 9202

Proposed Rules:
201 1A116

23 CFR

Chapter II
209.33
Revised 13000
209.45
(b) amended 13000
215
Deleted 15819
215.17
Revised 976
215.19
Added 5832
215.21
Added 5833
215.23
Added 5833
215.25
Added 5833
215.29
Added 5833
215.31
Added 5833
216
Added 15819
255
Added 2408
Appendix A added 3890
Appendix A amended 5499
Appendix A amended 8998
255.3
(b) amended 11776
255.21
Amended 3890
Amended 5498
Amended (2 documents) 10072
Amended 10073
Amended 11777
Amended 13792

Proposed Rules: Page
255 2417, 2418, 10313, 14878

24 CFR

Subtitle A
0
Revised 13921
1.4
Existing text of (b) (2) designated as (b) (2) (i); (b) (2) (ii) added 14819
6
Added 3052
7
Added 11157
11
Revised 366
15
Added 9660
Chapter II
Subchapter W added 6571
200
Subpart R added 788
Subpart I heading revised 9570
Subpart G revoked 15639
200.5
Revised 15637
200.7
Added 15637
200.10
(a) revised 15637
200.11
(a) revised 15637
200.12
(a) revised 15637
200.13
(a) revised 15637
200.14
Revised 15637
200.15
Revised 15637
200.16
Redesignated as 200.19; revised 15637
200.19
Redesignated from 200.16; revised 15637
200.20
(a) revised 15637
200.21
Revised 15637
200.22
Redesignated as 200.25; revised 15638
200.22
Added 15638
200.23
Redesignated as 200.24; (b) revised 15638
200.24
Redesignated as 200.29; revised 15638
200.24
Redesignated from 200.23; (b) revised 15638
200.25
Redesignated from 200.22; revised 15638
200.26
Added 15638
200.27
Added 15638
200.28
Added 15638
200.29
Redesignated from 200.24; revised 15638
200.30
(a) and (b) revised 15638
200.32
(a) and (b) revised 15639
200.33
Center heading added; section revised 15639
200.35
Redesignated as 200.38; revised 15639
200.35
Added 15639
200.38
Redesignated from 200.35; revised 15639
200.39
Added 15639
200.41
Revised 3093
Revised 15586
200.43
Revised 3093
Revised 9539
200.51
Revised 3093
Revised 15586
200.52
Revised 15586
200.52a
Revised 3093
(c) revised 9539
(d) revoked 15586
200.52b
Revoked 3093
200.52c
Added 3093
200.54
Heading and introductory text revised 9539
200.56
Heading and introductory text revised; (g) added 3093
200.57
Heading, introductory text, (b), and (c) revised 3093
(b) and (c) revised 5681
(d) revised 9540
(g) added 15586
200.58
(b) revised 3093
Revised 5681
200.58a
Added 5681
Revised 15586
200.58b
Added 5681
200.58c
Added 5682
Revised 15586
200.58d
Added 5682
200.58e
Added 5682
Revoked 15586
200.59
(b) revised 3093
Revised 5682
(c) revised 9540
200.59a
Added 9540
200.59b
Added 9540
200.60
(b) revised 3093
Revoked 5682
200.62
(b) revised 3093
200.63
Revised 3093
200.64
(a) and (b) revised 3094
200.68
(a) and (d) revised; (j) and (k) added 3094
(l) and (m) added 11468
200.69
(a) revised 3094
200.71
Revoked 3094
200.72
Heading and introductory text revised; (g) through (j) added 3094
Introductory text revised; (k) added 11468
200.73
Revised 3094
Heading and introductory text revised 5682
200.74
Revoked 3094
200.75
Revoked 3094
200.77
(n) revised 3094
(z) added 5682
(a) and (c) revised; (l) revoked 15425
200.81
Revoked 15425
200.82
(h) revised 3094
200.84c
Revised 9540
200.84d
Revoked 3095
200.84e
(a) and (b) revised; (d) added 3095
200.84f
Revoked 3095
200.85
(a) revised 3095
200.86
(a) revised 3095
200.88
(a) revised 3095
200.91
(a) revised 3095
200.97
Heading and introductory text revised 3095
Heading and introductory text revised 9540
200.102
Heading and introductory text revised 3095
Heading and introductory text revised 5682
200.103
Revised 3095
Revised 9540
200.106
Heading and (a) revised 3095
Heading and (a) revised 9540
200.109
Added 12475
200.185, 200.186
Subpart G revoked 15639
200.300
Revised 6570
200.305
Revised 6570
200.310
Introductory text revised 6571
200.320
Revised 6571
200.325
Revised 6571
200.405
Revised 6571
200.410
(a) revised 6571
200.900, 200.905
Subpart R added 788

24 CFR—Continued

Chapter II—Continued

291.5
(f) revised ... 11328
201.11
(c)(1) and (e)(4)(i) revised ... 11328
203.19
(b) revised ... 15640
207.32
Introductory text of (a) revised; (b) redesignated as (c); new (b) added ... 11526
(b) revised ... 12718
207.253
(d)(4) added ... 449
207.261
Introductory text of (e)(3) revised ... 15640
229.5
(b) revised ... 15640
220.10
Introductory text revised ... 15640
220.20
Revised ... 15640
220.502
(b) revised ... 15640
220.503
Introductory text revised ... 15640
221.60
Center heading and section added ... 4279
(c)(2) revised ... 12718
221.251
(a) amended ... 4279
221.254
Added ... 4279
221.256
Added ... 4279
221.501
(b) revised ... 4280
221.510
Heading of (a) revised; (a)(3) added ... 4280
Introductory texts of (a)(2) and (d)(2) revised ... 11526
221.514
(a)(1)(iii) added ... 4280
(a)(2)(i) and (3)(i) revised ... 11526
221.515
(b)(1) and (2) and (c)(1) and (2)(ii) revised ... 4280
(b)(1) and introductory text of (c)(1) revised ... 11527
221.519a
Added ... 4280
221.535
(a) revised ... 11527
221.535a
(a) revised ... 11527
221.538
(b) revised ... 4280
221.542
(c) added ... 12718
221.542a
Revised ... 4280
221.543
(b)(1) revised ... 4280
221.545
(a) and (b) revised ... 4280
221.546
(c) added ... 4281
221.546a
Added ... 4281
221.550a
(a) revised; (d) added ... 4281
(a) and (d) revised ... 11527
222.2
(a) revised ... 15640
231.11a
(a) revised; (d) added ... 11527

24 CFR—Continued

Page

Chapter II—Continued

600a
Revised ... 7770
609.5
Revised ... 15640
1300
Added ... 6671
1300.65
Revised ... 11526
Chapter III
Heading revised ... 13808
1500.1
Revised ... 13808
1500.2
Revoked ... 13808
1500.7
(c)(1) and (3) and Appendix A revised ... 13808
Appendix A revised ... 14695
1520
Revised ... 13808
1530
Revoked ... 13809
Chapter IV
1600.0
Amended ... 9662
1600.3
Added ... 9662

25 CFR

Chapter I

41.3
(g)(3) and (h)(2) revised ... 5621
(b) revised ... 10058
(d)(2) revised ... 12790
(i) added ... 15471
(j) added ... 16099
52.5
Revised ... 11778
52.6
Revised ... 11778
52.8
(b) amended ... 11778
52.10a
Added ... 11778
52.11
Revised ... 11778
52.12
Amended ... 11778
52.13
Amended ... 11778
52.15
Revised ... 11778
52.17
Revised ... 11778
53
Added ... 11779
73.30
Added ... 10253
73.38
Revised ... 10253
73.40
Revised ... 10253
73.41
Revised ... 10254
73.42
Revised ... 10254
73.43
Revised ... 10254
73.44
Added ... 10254
73.47
Revised ... 10254
73.51
Deleted ... 10254
131.8
(a) revised ... 663
183.81
Revised ... 8587

Page

183.82
Revoked; superseded by revision of 183.81 ... 8588
183.83
Revoked; superseded by revision of 183.81 ... 8588
183.84
Revoked; superseded by revision of 183.81 ... 8588
183.91
(a)(10) revised ... 8588
221.16
Revised ... 5621
221.17
Revised ... 5621
221.24
Revised ... 7771
221.26
Revised ... 7771
221.28
Revised ... 7771
221.86
Revised ... 664
221.95
Revised ... 4282
243
Deleted ... 15213
255
Added ... 3945
256
Added ... 10434

Proposed Rules:

42 ... 3061
53 ... 3062
73 ... 3748
191 ... 5512, 7287
221 ... 613, 2849, 2360, 3469, 5371, 13417, 14395

26 CFR

Chapter I

1
Determination ... 3446
1.38–1
Added ... 14025
1.46–1
(a) revised ... 14026
1.46–2
(a)(1) revised ... 14026
1.46–3
(a)(2), (c)(2), (e)(3), and (f)(2)(i) revised; (f)(2)(iii) and (h) added ... 14026
1.47–1—1.47–6
Added ... 14027
1.48–3
(d) added ... 14040
1.48–5
(a)(3) revised ... 14040
1.48–6
(a)(3) revised; (a)(5) added ... 14040
1.48–7
(a)(2)(iv) revised ... 14040
1.79–2
(b)(2)(i)(a)(f) revised ... 7390
1.108(a)–2
Revised ... 13221
1.121–5
(h) added ... 5923
1.162–5
Revised ... 6679
1.166–6
(e) added ... 5923
1.262–1
(b)(9) added ... 6681
1.265
Amended ... 13221
1.266–2
Revised ... 13221
1.453–5
(b) revised ... 5923

Page

1.453–6
(b) and (c) revised; (d) added ... 5923
1.454
Amended ... 15820
1.454–1
(a) and (c) revised ... 15820
1.456—1.456–7
Added ... 16394
1.461–1
(e) added ... 6682
1.852
Amended ... 8754
1.852–2
(b)(1) revised ... 8754
1.852–4
(c) revised ... 8755
1.852–9
(a)(1) and (2)(i), and (b) revised ... 8755
1.852–10
Added ... 8755
1.853
Amended ... 8756
1.853–3
Revised ... 8756
1.854
Amended ... 8756
1.854–1
(a) and (b) revised ... 8756
1.854–2
Revised ... 8757
1.855
Amended ... 8757
1.855–1
(e) revised ... 8757
1.856–1
(d)(1) revised ... 13221
1.1012–1
(c)(7) added ... 15671
(c)(7)(ii)(a)(2) corrected ... 15876
1.1031(a)–1
(d) revised ... 15822
1.1031(b)
Revised ... 15822
1.1031(b)–1
(a) and (b) revised ... 15822
1.1031(c)
Revised ... 15822
1.1031(c)–1
Revised ... 15822
1.1031(d)
Revised ... 15823
1.1031(d)–1
(a), introductory texts of (b) and (c), (d), and introductory text of (e) revised ... 15823
1.1034–1
(a) revised ... 5924
(a) corrected ... 6971
1.1037
Added ... 15823
1.1037–1
Added ... 15824
1.1038—1.1038–3
Added ... 5924
1.1038–1
(h) corrected ... 6971
1.1038–2
(h) corrected ... 6971
1.1091–1
(g) redesignated as (h); new (g) added ... 11468, 15421
1.1232–3
(a)(2) and (f) revised ... 15827
1.1233–1
(a)(5) added ... 11468, 15421
1.1372–6
Added ... 14040
1.1441–4
(d)(3) revised ... 8711

Page

1.1461–2
Heading, (a), (b)(1), (c)(1) and (2)(i), and (e) revised ... 8711
1.1461–3
Deleted ... 8712
1.1461–3
Added ... 8712
1.1461–4
Added ... 8712
1.1464–1
Revised ... 8713
1.1465–1
(a) and (b)(3) revised; (d) added ... 8713
1.1551
Revised ... 3214
1.1551–1
Revised ... 3214
1.6011–1
(c) added ... 8713
1.6081–3
(a)(2) revised ... 3819
1.6091–1
(b)(15) added ... 8713
1.6091–3
(g) added ... 8713
1.6151–1
(d) added ... 3819
(d) revised ... 8713
1.6152–1
(a)(3) added ... 3819
1.6154–4
Added ... 3819
1.6302, 1.6302–1
Added ... 3820
1.6302–2
Added ... 8713
1.6414, 1.6414–1
Added ... 8714
14
Added ... 3343
31.6091
Revised ... 5260
31.6091–1
(c) and (d) revised; (e), (f), and (g) added ... 5261
31.6151
Amended ... 5261
31.6151–1
(a) revised ... 5261
31.6302(c)–1
(a)(3) revised ... 5261
46.6011(a)–1
(a) and (b) revised ... 5262
46.6071(a)–1
(a) and (b) revised ... 5262
46.6091
Revised ... 5262
46.6091–1
(c) and (d) revised; (e) redesignated as (g) and revised; new (e) and (f) added ... 5263
46.6101–1
Revised ... 5263
46.6151
Amended ... 5263
46.6151–1
Revised ... 5263
46.6302(c)
Revised ... 5263
46.6302(c)–1
(a)(1) and (b) revised; (c) added ... 1037
(a)(1)(i) revised; (a)(1)(iii) added ... 5263
48.0–4
Revised ... 1038
Revised ... 5263
48.4091–4
(f) added ... 9541

Page

48.6091–6
Added ... 9541
48.6011(a)—48.6011(a)–2
Added ... 5264
48.6071(a), 48.6071(a)–1
Added ... 5264
48.6091, 48.6091–1
Added ... 5265
48.6151, 48.6151–1
Added ... 5265
48.6302(c)
Added ... 1038
48.6302(c)–1
Added ... 1038
(a)(1)(iii) added ... 5266
49
Exemption ... 5457
49.0–4
Revised ... 1039
Revised ... 5266
49.6011(a)—49.6011(a)–2
Added ... 5266
49.6071(a)
Added ... 1039
49.6071(a)–1
Added ... 1039
Heading revised; (b) redesignated as (c) and revised; new (b), (d), and (e) added ... 5266
49.6091, 49.6091–1
Added ... 5267
49.6151, 49.6151–1
Added ... 5268
49.6302(c)
Added ... 1039
49.6302(c)–1
Added ... 1039
(a)(1)(i) and (iii) revised; (a)(1)(iv) added; (d) revised ... 5268
170
Subpart X deleted ... 13864
Subpart Y deleted ... 13864
Subpart Z added ... 16260
170.651—170.658
Subpart X deleted ... 13864
170.661—170.667
Subpart Y deleted ... 13864
170.681—170.691
Subpart Z added ... 16260
198.114
Revised ... 9314
198.114a
Added ... 9314
211.33
Center heading revised ... 11210
211.33a
Revised ... 11210
240.221
Revised ... 13864
240.222
Revised ... 13864
240.590a
Added ... 13864
240.591
Revised ... 13864
240.594
Revised ... 13865
245.46a
Deleted ... 13865
245.116a
Added ... 13865
245.117a
Revised ... 13865
245.117c
Revised ... 13865
270.142
Added ... 13866
270.161
Revised ... 13866

26 CFR—Continued

Chapter I—Continued

270.162
Revised ... 13866
270.163
Revised ... 13866
270.165
Revised ... 13866
296
Subpart E deleted ... 13866
296.101—296.107
Subpart E deleted ... 13866
301
Republished ... 15241
301.6302–1
Revised ... 8715
301.6312–1
(d) added ... 3820
301.6414–1
Revised ... 8715
301.6501(b)
Amended ... 8715
301.6501(b)–1
(a) and (b) revised ... 8715
301.6513
Amended ... 8715
301.6513–1
(a), (b), and (c) revised ... 8716
301.6656–1
(a) revised ... 8716
301.7514–1
(a)(5)(ii) revised ... 15483
301.9000–1
Added ... 8241
400
Added ... 14385
601
Subpart E recodified and revised ... 13059
Republished ... 15990
601.104
(c) (3) and (4) revised ... 8135
601.105
(b)(5)(iii) and (c)(6) revised ... 8136
601.106
(a)(1) and (2)(iii), (c), (f)(3), and (g)(1) revised ... 8136
601.109
(c)(2) revised ... 8137
601.201
(a)(6), (b) (1), (3), and (4), (c) (1), (4), and (7), (e) (2) and (5), (l) (1), (7), and (8), (m), (n), and (o)(1)(i) and (2)(i) revised; (o)(2)(ii) *(f)* added; (o)(2)(iii)(c), (iv) *(c)* (f), (vi), (vii)(d), and (3)(iii) revised; (o)(3)(ix) added; (o)(4)(vi) revised ... 8137
601.202
(c) revised ... 8141
601.203
Introductory text of (c)(1), (c)(2)(iv) and (4), and (d) revised ... 8141
601.301
(c)(2) revised ... 8141
601.303
(c) revised ... 8142
601.315
(c) revised ... 8142
601.328
(a) revised ... 13058
601.401
(a)(5)(i) revised ... 8142
601.402
(c)(3) revised ... 8142
601.501—601.511
Subpart E recodified as 601.501—601.527; revised ... 13059
601.501—601.527
Subpart E recodified from 601.501—601.511; revised ... 13059
601.601
(b) and (d) revised ... 9542
601.602
(c) revised ... 9542
601.701
Revised ... 9542
601.702
Revised ... 9543

Chapter II

701.7
(c)(4)(ii)(a) revised ... 450

Proposed Rules:

1 ... 278, 1091, 3155, 3886, 5278, 5993, 6691, 7080, 7337, 8093, 10261, 11217, 11538, 12182, 13288, 13773, 14846, 15020, 15167, 15393, 15758, 15879.
31 ... 3565, 15879
46 ... 3565, 15879
48 ... 3565, 15879
49 ... 3565, 15879
170 ... 13416
212 ... 16433
301 ... 7080
301 ... 5278, 5688

27 CFR

Proposed Rules:

5 ... 10208

28 CFR

Chapter I

0
Subpart O appendices added (2 docs.) ... 6576
Subpart O appendix added ... 8523
0.35
(d) revoked ... 15425
0.45
(e) added ... 15425
0.75—0.84
Subpart O appendices added (2 documents) ... 6576
Subpart O appendix added ... 8523
0.90
Revised ... 1067
0.130
(e) added ... 9663
0.147
Amended ... 11160
0.160
Introductory text amended ... 6930
0.164
Introductory text and (a) amended ... 6930
0.165
Amended ... 6930
0.171
Revised ... 8144
2.37
Revised ... 15014
5
Revised ... 6362
16
Revised ... 9663
43.3
Revised ... 713
45.735–9
(a) amended; (e) added ... 9066
45.735–14
(c)(5), (d), and (e) revised ... 13217
45.735–19
(a) amended; authority citation deleted ... 13217
45.735–21
(b), (e), (f), and (h) amended; (n) added ... 13217
45.735–22
(a)(1)(iii), (c), (d), and (g) revised; (i) added ... 13217
45.735–23
(a) revised ... 13218
50.4
Added ... 713
50.5
Added ... 1040

Chapter II

202
Added ... 9163

29 CFR

Subtitle A

2
Revised ... 11035
2.4
(a)(2)(ii) revised ... 3216
4.6
(c)(9) revised ... 5775
4.10
Added ... 3690
5.14
(b)(5) revised ... 1088
6
Added ... 6133
8
Heading revised ... 14387
8.1
Revised ... 14387
8.5
(c) added ... 14388
8.6
Revised ... 14388
8.7
Added ... 14388
8.8
Added ... 14388
10
Recodified as Part 1515 of Chapter XIII ... 4170
20
Subpart D heading revised ... 8909
20.1
Revised ... 8908
20.10
(a) revised ... 8908
20.12
Revised ... 8909
20.13
Added ... 8909
20.20
(c) revised ... 8909
20.39—20.41
Subpart D heading revised ... 8909
20.30
(a) and (d) revised; (f) added ... 8909
20.31
Revised ... 8909
20.32
Heading and (b) revised ... 8910
20.33
Revised ... 8910
20.34
Revised ... 8910
20.35
(a)(1)(iv) and (2), (b), (c), and (d) revised; (e) and (f) added ... 8910
20.36
Revised ... 8911
20.37
Revised ... 8911
20.39
Revised ... 8911

20.40
(a) revised ... 8911
20.41
(b) (1) and (2) and (d) revised ... 8911
20.42
Added ... 8911
20.50
(a) and (b) revised ... 8911
20.51
(a) through (e) and (f)(5) revised ... 8912
26
Added ... 7207
40.4
(d) revised ... 10649
50
Revised ... 6449
51
Added ... 6442
60
Schedule C added ... 867
Schedule A amended ... 10933
60.2
CFR corrected ... 7594
60.3
Revised ... 867
(b) revised ... 10933
60.4
Revised ... 867
60.5
Added ... 10932
60.6
Added ... 10932
70
Added ... 11033

Chapter I

100
Revised ... 13560
101.6
Revised ... 9547
101.9
Revised ... 9547
(c)(2) corrected ... 10699
101.17
Revised ... 9548
101.18
(a) and (c) revised ... 9548
102.19
Revised ... 9548
102.33
Revised ... 9549
102.46
(e) revised ... 9549
102.69
(c), (d), (e), and (h) revised ... 9549
102.72
Revised ... 9550
102.81
Revised ... 9550
102.111
Revised ... 9551
102.117
Revised ... 9551
102.127
(a) revised ... 9406
102.128
Introductory text revised ... 9406
102.134
Revised ... 9406

Chapter IV

460.5
Revised ... 12178
462.27
Added ... 11433
462.28
Added ... 11434
463
Heading revised ... 12697
463.3
Revised ... 12697
465.21, 465.22
Center heading and sections added ... 6940

Chapter V

505
Added ... 4309
512
Revised ... 14324, 14552
516
Revised ... 9551
519
Revised ... 1088
Revised ... 11082
522.24
(a) through (d) revised ... 664
522.35
(a) revised ... 664
522.43
(a) (1) through (9) and (d) revised ... 665
522.50
Revised ... 665
522.65
(a) revised ... 665
522.85
(a) revised ... 665
522.92
Revised ... 665
522.93
Revised ... 665
522.102
Revised ... 665
522.103
Revised ... 665
522.104
Revised ... 666
522.105
Revised ... 666
524
Revised ... 714
525
Revised ... 715
526
Revised ... 5775
526.10
Amended ... 7390
Amended ... 14326
526.11
Amended ... 10649
Amended ... 12675, 14157
Revised ... 15426
526.12
Amended ... 7391
Amended ... 9811
Amended ... 13767
Revised ... 15426
531
Revised ... 13575
541
Heading revised ... 7823
541.0
Added ... 7823
541.1
Revised ... 7824
541.2
Revised ... 7824
541.3
Revised ... 7824
541.5b
Deleted ... 7824
541.99
Revised ... 7824
541.100
Revised ... 7825
541.112
Revised ... 7825
541.117
Revised ... 7825
541.118
(b) revised ... 7826
541.119
Revised ... 7826
541.200
Revised ... 7826
541.201
(c) added ... 7826
541.202
(e) added ... 7826
541.206
Revised ... 7827
541.209
Revised ... 7827
541.211
Revised ... 7827
541.214
Revised ... 7827
541.215
Added ... 7827
541.300
Revised ... 7827
541.302
(e) revised; (g) added ... 7828
541.303
(e)(1) revised ... 7828
541.304
Revised ... 7828
541.307
(c) added ... 7828
541.311
Revised ... 7828
541.313
(c) and (d) revised ... 7829
541.314
Revised ... 7829
541.315
Revised ... 7829
541.602
(b) revised ... 7829
545.13
Revised ... 12384
548.301
(b) amended; (c) revised ... 3293
548.303
(b) amended ... 3293
548.306
(c)(2) revised ... 3293
548.400
(b) revised ... 3294
601.2
Revised ... 5465
Revised ... 6445
602.2
Heading of (a), (a)(1)(i), (2)(i), (3)(i), (4)(i), and (5)(i), heading of (b), and (b)(1) revised ... 5465
Introductory text deleted; (c) added ... 6445
603.2
Heading of (a), (a)(1)(i), (2)(i), (3)(i), (4)(i), heading of (b), and (b)(1) revised ... 5466
Introductory text deleted; (c) added ... 6445
604.2
Heading of (a), (a)(1)(i), (2)(i), (3)(i), (4)(i), (5)(i), heading of (b), and (b)(1) revised ... 5466
Introductory text deleted; (c) added ... 6446
606.2
Heading of (a), (a)(1)(i), (2)(i), (4)(i), (5)(i), (6)(i), heading of (b), and (b)(1) revised ... 5466
(a)(6)(i) corrected ... 5979
Introductory text deleted; (c) added ... 6446

29 CFR—Continued

Page

Chapter V—Continued

608.2
Revised 4407
Effective date of revision advanced 5416
Introductory text deleted; (c) added 6446

609.2
Heading of (a), (a)(1)(i) and (2)(i), heading of (b), and (b)(1) revised 5466
Introductory text deleted; (c) added 6446

610.2
Heading of (a), (a)(1)(i) and (2)(i), heading of (b), and (b)(1) revised 5466
Introductory text deleted; (c) added 6446

611.2
Revised 5466
Revised 6446

612.2
(a)(1), (b)(1), (c)(1), (d)(1), (e)(1), (f)(1), heading of (g) and (g)(1) revised 5467
(e)(1) corrected 5979
Introductory text deleted; (h) added 6447

613.2
Heading of (a), (a)(1)(i), (2)(i), (3)(i), heading of (b), and (b)(1) revised 5467
Introductory text deleted; (c) added 6447

614.2
(a)(1), heading of (b), and (b)(1) revised 5467
Revised 6447

615.2
Heading of (a), (a)(1)(i), (2)(i), (3)(i), heading of (b), and (b)(1) revised 5467
Introductory text deleted; (c) added 6447

616.2
Heading of (a), (a)(1)(i), (2)(i), (3)(i), (4)(i), (5)(i), (6)(i), (7)(i), (8)(i), heading of (b), and (b)(1) revised 5467
Introductory text deleted; (c) added 6447

619.2
Revised 5467
Revised 6448

657.2
Heading of (a), (a)(1)(i), (2)(i), (3)(i), (4)(i), (5)(i), heading of (b), and (b)(1) revised 5468
Introductory text deleted; (c) added 6448

661.2
Revised 5468
Revised 6446

670.2
Heading of (a), (a)(1)(i), (2)(i), (3)(i), (4)(i), (5)(i), (6)(i), heading of (b), (b)(1), heading of (c), and (c)(1) revised 5468
Introductory text deleted; (d) added 6448

671.2
Heading of (a), (a)(1)(i), (2)(i), heading of (b), (b)(1)(i), (2)(i), and (3)(i) revised 5468
Introductory text deleted; (c) added 6448

672.2
Revised 5468
Revised 6448

673.2
(a)(1), (b)(1), (c)(1), (d)(1), (e)(1), heading of (f) and (f)(1), heading of (g) and (g)(1), heading of (h) and (h)(1), heading of (i) and (i)(1), heading of (j) and (j)(1), heading of (k) and (k)(1), heading of (l) and (l)(1), (m)(1), heading of (n) and (n)(1), heading of (o) and (o)(1), and heading of (p) and (p)(1) revised 5468
(c)(1) and (d)(1) corrected 5979
Introductory text deleted; (q) added 6449

675.2
Heading of (a), (a)(1)(i), (2)(i), (3)(i), (4)(i), (5)(i), heading of (b) and (b)(1), heading of (c) and (c)(1), and heading of (d) and (d)(1) revised 5469
Introductory text deleted; (e) added 6449

677.2
Heading of (a), (a)(1), heading of (b), and (b)(1) revised 5469
Introductory text deleted; (c) added 6449

678.2
Heading of (a), (a)(1)(i), (2)(i), (3)(i), (4)(i), (5)(i), (6)(i), (7)(i), heading of (b) and (b)(1), and heading of (c) and (c)(1) revised 5469
Introductory text deleted; (d) added 6449

681.9
(b) and (c) revised 12178

682.2
Heading of (a) and (a)(1), heading of (b) and (b)(1), heading of (c), and (c)(1) revised 5469
Introductory text deleted; (d) added 6449

687.2
Heading of (a), (a)(1)(i), (2)(i), heading of (b), and (b)(1) revised 5469
Introductory text deleted; (c) added 6449

688.2
Heading of (a), (a)(1), heading of (b), and (b)(1) revised 5470
Introductory text deleted; (c) added 6449

689.1
Revised 4408
Effective date of revision advanced 5416

689.2
Revised 4408
Effective date of revision advanced 5416
Revised 6449

690.2
Heading of (a), (a)(1)(i), (2)(i), (3)(i), (4)(i), heading of (b), and (b)(1) revised 5470
Introductory text deleted; (c) added 6450

694.2
Revised 4408
Effective date of revision advanced 5416

697
Revised 8242

699.2
Heading of (a), (a)(1)(i), (2)(i), (3)(i), (4)(i), (5)(i), (6)(i), (7)(i), heading of (b), (b)(1)(i), (2)(i), and (3)(i) revised 5470
Introductory text deleted; (c) added 6450

720.2
Heading of (a), (a)(1)(i), (2)(i), (3)(i), (4)(i), heading of (b), and (b)(1) revised 5470
Introductory text deleted; (c) added 6450

721
Added 4408

722
Added 4409

723
Added 4409

724
Added 5268

725
Added 5269

726
Added 5505

727
Added 5831

728
Added 6092

729
Added 6093

779.317
Revised 14327

779.397
(b)(6) added 14328

786.50
Revised 15426

786.100
Revised 15426

786.200
Revised 15426

786.250
Revised 15426

800.10
Revised 2378

800.12
Revised 2379

800.104
Revised 2379

800.107
Revised 2379

800.108
Revised 2379

800.110
Revised 2379

800.112
Revised 2380

800.113
Revised 2380

800.114
Revised 2380
(a) amended 5737

800.166
(b) revised 2381

Chapter X

1200
Revised 15827

1202.15
Deleted 15831

1203.2
Amended 15831

1208
Added 15831

Chapter XII

1401
Revised 9812

Page

1402
Revised 9812

1403
Revised 9813

1404
Revised 9813

Chapter XIII

1500
Subpart E–1 added 15479

1500.21
Continued effectiveness 11988

1500.35
Revised 15478

1500.41
Revised 6136

1500.42
Revised 6136

1500.44
Revised 6136

1500.52
Heading, (a), and (b)(3) revised 15478

1500.54
(a)(2)(vii), (viii), (ix), and (x) added 6024

1500.56
Deleted 6025

1500.58
(c) added 15479

1500.70, 1500.71
Subpart E–1 added 15479

1501
Subpart B heading revised 14042

1501.5
Revised 14041

1501.10—1501.15
Subpart B heading revised 14042

1501.10
(a), (b)(1), (3), and (5), and (c)(1) and (3) revised 14042

1501.11
Revised 14042

1501.12
Introductory text of (a), (b), and (d) revised; (e), (f), and (g) added 14042

1501.13
(b) and (c) revised 14043

1501.14
(c) and (d) revised 14043

1501.21
Revised 14043

1501.23
(c)(1)(iv) added 14043

1501.24
(a)(4) and (b)(5), (13), and (14) revised 14043

1501.31
(a)(1)(vi) revised 14043

1501.32
(e) revised; (h) and (i) added 14043

1501.35
(a)(9), (e), and heading of (g) revised; existing text of (g) designated as (g)(1); (g)(2) and (g)(3) added 14044

1501.36
(a)(2) revised 14044

1501.41
(a)(5) and (i)(2) and (3) revised 14044

1501.42
(a)(4) and (6) revised 14044

1501.43
Heading revised; (c), (d), (e), and (f) added 14044

1501.45
Heading revised; (g) added 14044

1501.47
Revised 14044

1501.51
(a) revised 14044

1501.52
(b)(2) revised 14045

1501.53
(c) added 14045

1501.57
Revised 14045

1501.58
(d) revised 14045

1501.64
(d) added 14045

1501.65
Revised 14045

1501.66
(m) revised; (n) and (o) redesignated as (o) and (p), respectively, and revised; new (n) added 14045

1501.68
Amended 14045

1501.71
(a) revised; (f), (g), and (h) added 14046

1501.72
(a) revised 14046

1501.74
Introductory text of (c) revised 14046

1501.76
Added 14046

1501.81
(c)(1) revised 14046

1501.83
(b) revised 14046

1501.84
(a), (b), and (c)(4) revised 14046

1501.91
Introductory text of (a) and (a)(1) and (2) revised 14046

1501.92
Revised 14046

1501.111
Revised 14047

1502
Subpart B heading revised 14047

1502.5
Revised 14047

1502.10
Subpart B heading revised; (a), (b)(1), (3), and (5), and (c)(1) revised 14047

1502.21
Revised 14047

1502.23
(c)(1)(iv) added 14047

1502.24
(a)(4) and (b)(5), (13), and (14) revised 14048

1502.31
(a)(1)(vi) revised 14048

1502.32
(e) revised; (h) and (i) added 14048

1502.35
(a)(9), (e), and heading of (g) revised; existing text of (g) designated as (g)(1); (g)(2) and (3) added 14048

1502.36
(a)(2) revised 14048

1502.41
(a)(5) and (i)(2) and (3) revised 14048

1502.42
(a)(4) and (6) revised 14048

1502.43
Heading revised; (c) through (f) added 14048

1502.45
Heading revised; (g) added 14049

1502.47
Revised 14049

1502.51
(a) revised 14049

1502.52
(b)(2) revised 14049

1502.53
(c) added 14049

1502.57
Revised 14049

1502.58
(d) revised 14049

1502.64
(d) added 14049

1502.65
Revised 14049

1502.66
(m) revised; (n) and (o) redesignated as (o) and (p), respectively, and revised; new (n) added 14050

1502.68
Amended 14050

1502.71
(a) revised; (f), (g), and (h) added 14050

1502.72
(a) revised 14050

1502.74
Introductory text of (c) revised 14050

1502.76
Added 14050

1502.81
(c)(1) revised 14050

1502.83
(b) revised 14050

1502.84
(a), (b), and (c)(4) revised 14050

1502.91
Introductory text of (a) and (a)(1) and (2) revised 14051

1502.92
Revised 14051

1502.111
Revised 14051

1503
Subpart B heading revised 14051

1503.5
Revised 14051

1503.10—1503.14
Subpart B heading revised 14051

1503.10
(a), (b)(1), (3), and (5), and (c)(1) and (3) revised 14051

1503.11
Revised 14052

1503.12
Introductory text of (a), (b), and (d) revised; (e), (f), and (g) added 14052

1503.13
(b)(3) and (4) revised 14052

1503.14
(b) revised 14053

1503.31
(a)(1)(vi) revised 14053

1503.32
(b) revised 14053

1503.35
(a)(9), (e), and heading of (g) revised; existing text of (g) designated as (g)(1); (g)(2) and (3) added 14053

1503.36
(a)(2) revised 14053

1503.41
(a)(5) and (e)(2) and (3) revised 14053

29 CFR—Continued

Chapter XIII—Continued

1503.42
(a)(4) and (6) revised ... 14053
1503.45
Heading revised; (g) added ... 14053
1503.47
Added ... 14053
1503.52
(b)(2) revised ... 14053
1503.57
Revised ... 14053
1503.58
(d) revised ... 14054
1503.64
(d) added ... 14054
1503.65
Revised ... 14054
1503.66
(m) revised; (n) added ... 14054
1503.68
Amended ... 14054
1503.71
(a) revised; (f), (g), and (h) added ... 14054
1503.72
(a) revised ... 14054
1503.74
Introductory text of (e) revised ... 14054
1503.76
Added ... 14055
1503.81
(c)(1) revised ... 14055
1503.83
(b) revised ... 14055
1503.84
(a), (b), and (c)(4) revised ... 14055
1515
Recodified from Part 10 of Subtitle A ... 4170

Chapter XIV

1602
Subparts D and E added ... 10650
Subparts F and G added ... 10651
Subpart H added ... 10652
1602.15—1602.19
Subpart D added ... 10650
1602.20, 1602.21
Subpart E added ... 10650
1602.22—1602.26
Subpart F added ... 10651
1602.27, 1602.28
Subpart G added ... 10651
1602.29
Subpart H added ... 10652
1605.1
Revised ... 10298
1610
Added ... 16261

Proposed Rules:

4 ... 736, 10182, 10265, 10658
5 ... 15396
6 ... 15396
7 ... 15396
26 ... 3710
40 ... 7028
460 ... 2708
463 ... 2709
465 ... 2963
Ch. V ... 2963, 3100
512 ... 12117
516 ... 140
519 ... 148
524 ... 14334
526 ... 671, 674, 5788, 9027, 10601, 11048, 13712
531 ... 222
541 ... 228
606 ... 2940
689 ... 2842
694 ... 2820
697 ... 4579
1500 ... 91, 931, 6057, 6102, 6144, 8919
1501 ... 7859
1502 ... 7859
1503 ... 7859
1504 ... 6058
1516 ... 10658
1902 ... 2932, 3100, 3304, 7585, 14404
1904 ... 5900, 6941
1906 ... 7092

30 CFR

Chapter I

45.46—45.46-3
Revised ... 7017
52
Added ... 6637
53
Added ... 2944

Chapter II

229.3
Revised ... 12941
229.9
Revised ... 12941

Chapter IV

400.735-101
Revised ... 13809
400.735-102
Revised ... 13809
400.735-108
Revised ... 13810

Proposed Rules:

11 ... 8162

31 CFR

Subtitle A

0
Appendix A revised ... 13769
0.735-21
(f) amended ... 13767
0.735-30
Redesignated as 0.735-30a; amended ... 13767
0.735-30
Added ... 13767
0.735-30a
Redesignated from 0.735-30; amended ... 13767
0.735-31
Amended ... 13767
0.735-32
Amended ... 13767
0.735-33
(a) and (c) revised ... 13767
0.735-34
Revised ... 13767
0.735-39
Amended ... 13767
0.735-42
Amended ... 13768
0.735-44
Amended ... 13768
0.735-46
Amended ... 13768
0.735-47
Amended ... 13768
0.735-48
Amended ... 13768
0.735-51
Amended ... 13768
0.735-53
Amended ... 13768
0.735-55
(a) revised; (b) amended; (j) added ... 13768
0.735-70
Revised ... 13768
0.735-70a
Added ... 13768
0.735-71
Revised ... 13768
0.735-72
Revoked ... 13768
0.735-73
Revised ... 13768
0.735-75
Revised ... 13768
0.735-79
Amended ... 13768
0.735-80
Revised ... 13769
0.735-100
Revised ... 13769
0.735-209
Revised ... 13769
0.735-231
(a) revised ... 13769
0.735-236
Revised ... 13769
1
Heading revised; Subpart A heading deleted and text revised; Subpart B recodified as Part 256 ... 9562
Authority citation corrected ... 10059
1.4
(d) corrected ... 10059
1.10, 1.11
Subpart B recodified as Part 256 ... 9562
3.20
Amended ... 3056
5
Added ... 452

Chapter I

56
Added ... 7496
56.1
Revised ... 13380
56.2
Revised ... 13380
80
Deleted ... 195
81
Added ... 195
82
Added ... 7496
90.3
Amended ... 14599
90.4
Heading of (b) revised ... 14599
92.5
Revised ... 14599
92.21
Revoked ... 9664
92.21
Added ... 9665
92.22
Revoked ... 9664
92.22
Added ... 9665
92.23
Revoked ... 9664
92.24
Revoked ... 9664
93.12
Revised ... 7496
93.14
Revoked ... 10435
93.15
Revoked ... 10435
93.16
Revoked ... 10435
93.17
Revised ... 10435
93.75
Deleted ... 196

93.75
Added ... 7496
Deleted ... 13380
93.76
Deleted ... 196
93.77
Deleted ... 196
93.80
Added ... 196
100.10
(a) revised ... 14274
100.14
(a) revised ... 14274
128.23
Added ... 14055

Chapter II

202
Revised ... 14215
203
Revised ... 14216
205
Added ... 10201
214
Added ... 3820
251
Added ... 7948
256
Added; recodified from Part 1, Subpart B ... 9562
257
Added ... 9665
270
Revised ... 9665
306
Subpart O redesignated as Subpart P; new Subpart O added ... 15672
306.0
Revised ... 3446
306.115—306.118
Subpart O redesignated as Subpart P and recodified as 306.123—306.126 ... 15672
306.115—306.122
Subpart O added ... 15672
306.117
(b) corrected ... 15920
306.118
Corrected ... 15920
306.123—306.126
Subpart P redesignated from Subpart O and recodified from 306.115—306.118 ... 15672
309.5
Revised ... 3821
312.2
Rescinded ... 3446
312.4
Revised ... 3447
315.0
Revised ... 3447
315.2
(a) revised ... 3447
315.16
Revised ... 3447
316
Table 51 supplemented ... 10655
316.8
(a)(4) and (b)(5) revised; (b)(6) added ... 3700
317
Revised ... 3447
317.2
(a) revised ... 12914
317.3
Revised ... 12914
321.2
Revised ... 12914
323
Revised ... 9967
342
Added ... 3356
351
Revised ... 9666
360
Revised ... 14217
500.204
Revised ... 3822
Appendix amended ... 5833
Appendix amended ... 7830
Appendix amended ... 10506
500.515
Revised ... 10846
500.803
Revised ... 10846
500.808
Revised ... 3829
500.809
Added ... 10846
515.508
Revised ... 10846
515.515
Revised ... 10847
515.803
Revised ... 10847
515.804
Revised ... 10847
515.809
Added ... 10847
520.803
Revised ... 10847
520.804
Revised ... 10847
520.809
Added ... 10847
525
Added ... 3448
525.201
(c) corrected ... 4024
525.802
Revoked ... 10847
525.803
Revised ... 10847
525.809
Added ... 10847

Proposed Rules:

251 ... 6512
257 ... 7858
306 ... 11216

32 CFR

Chapter I

Heading of Subchapter E revised ... 11382
1
Subpart T added ... 502
Subpart Q recodified and revised ... 12088
1.108
(a)(5) revised ... 16398
1.109–2
Revised ... 16398
1.201–1
Revised ... 4242
1.201–18
Revised ... 4242
1.201–29
Added ... 10157
1.201–30
Added ... 10157
1.305–3
(b) and (c) revised ... 16398
1.305–5
Added ... 10157
1.308
Revised ... 10157
1.311
Added ... 10157
1.313
Added ... 10157
1.315
Added ... 10157
1.319
(f) revised ... 10158
1.320
Revised ... 5505
1.322–1
Revised ... 499
1.322–2
Revised ... 500
1.322–3
(e) revised; (f) and (g) added ... 500
1.322–4
Redesignated as 1.322–5; revised ... 501
1.322–4
Added ... 501
1.322–5
Redesignated from 1.322–4; revised ... 501
1.323
(b) revised; (c) added ... 501
1.328—1.328–6
Added ... 6136
1.329—1.329–4
Added ... 16398
1.506–1
Amended ... 16400
1.506–2
(a) revised ... 16400
1.601–4
Revised ... 16400
1.603
(a)(3) revised ... 4242
1.606–1
(c) revised ... 4242
1.701–1
(a)(2)(iv)(d) revised; (a)(2)(iv)(e) added ... 4242
(a)(2) and (c) revised ... 12084
1.701–4
Amended ... 12085
Introductory text revised ... 16400
1.704–3
(b)(3) revised ... 12085
1.705–4
(f) revised ... 16400
1.706–6
(c) revised ... 12085
1.707–3
(c) revised ... 12086
1.707–4
(a) revised ... 12086
1.801–1
Revised ... 12086
1.801–2
Revised ... 12087
1.803
(a)(4) revised ... 12087
1.804–2
(b) revised ... 12087
1.805–3
(b) amended ... 12088
1.905–3
(c) revised ... 10158
1.905–4
(b) revised ... 502
1.907
Revised ... 16400
1.1002–1
Amended ... 10158
Revised ... 16400
1.1003–4
Amended ... 10158
1.1003–9
(b) amended ... 4242
1.1004
(b) revised ... 16400
1.1006–2
Revised ... 16401

32 CFR—Continued

Chapter I—Continued

	Page
1.1604	
(c) revised	502
(c) amended	16401
1.1701—1.1706–5	
Subpart Q recodified as 1.1701—1.1710; revised	12088
1.1701—1.1710	
Subpart Q recodified from 1.1701—1.1706–5; revised	12088
1.1705–1	
Revised	16401
1.1707–3	
(b) amended	16401
1.2000, 1.2001	
Subpart T added	502
2.201	
Introductory text, (a) (8), (12) and (31), and (b) (21) revised	502
Introductory text, (a) (25) and (29), and (c) (4) revised	4242
(a) (27) revoked; (a) (40) revised	5506
(a) (11) and (b) (15) and (23) added; (c) (7) revised	10158
(b) (24) added	12097
2.202	
(a) revised	4242
2.405	
(f) added	10159
2.406–3	
(b) (2) revised	10159
(b) (1) revised	16401
2.407–1	
Revised	16401
2.407–3	
(a) revised	16401
2.407–5	
Revised	10159
2.503–1	
(g) revised	5506
3	
Subpart I recodified and revised	4249
3.101	
Introductory text and (h) revised	4242
Introductory text revised	10159
(h) revised	16402
3.102	
(c) revised	16402
3.109	
Revised	10159
3.201–2	
(b) (3) added	16402
3.201–3	
Revised	16402
3.202–2	
(g) added	4242
3.202–3	
Revised	4242
3.306	
(b) added	4242
3.405–3	
Revised	10159
3.405–5	
(c) (1) and (d) (3) revised	10159
3.410–2	
(a) amended	16402
3.501	
(b) (16), (43), and (58) revised	503
(b) (15), (23), (31), (33), (49), and (51) revised; (b) (52) revoked; (b) (54), (56), and (59) revised	4243
(b) (64) revised	5506
(b) (2) and (18) revised; (b) (52) and (55) added	10159
(b) (66) added	12097
3.502	
(a) revised	4243
3.506	
Revised	5506
3.507–1	
Revised	4243
(a) amended; (d) and (e) revised	10160
3.507–3	
(a) revised	5507
3.600	
Revised	4244
3.603–1	
(c) revised	16402
3.604–2	
Revised	4244
Revised	5507
Revised	16402
3.605–1	
Revised	16402
3.605–3	
(b) and (f) (8) revised	4244
(f) (6) (v) revoked	5507
(b) revised	16402
3.605–6	
Revised	4244
3.606–3	
(a) and (b) (3) revised	4244
(b) (4) amended	5507
3.607–3	
(b) (3) added	4244
3.607–4	
(c) (1) revised	4244
3.608–1	
Revised	4245
3.608–2	
Revised	4245
(b) (2) revised	10160
(d) (4) and (7) revised	16403
3.608–4	
Revised	4246
(c) revised	10160
3.608–5	
Revised	4247
3.608–8	
Redesignated as 3.608–9; revised	4248
3.608–8	
Added	4247
3.608–9	
Redesignated from 3.608–8; revised	4248
3.609—3.609–3	
Added	4248
3.707	
Amended	10160
3.802–2	
Revised	10160
3.805–1	
(a) (5) and (b) revised	4249
Introductory text of (a), and (b) and (c), revised	10160
3.807–10	
Introductory text of (a) and (b) revised	4249
3.807–12	
Added	10160
3.808–2	
(b) (1) revised	12097
3.808–3	
(b) revised	16403
3.808–4	
(a) amended	5507
(f) added	12097
3.808–5	
(d) (2) amended	10161
3.808–6	
Revised	503
3.809	
(c) (3) revised; (c) (4) added	5507
3.811	
(a) revised	5508
3.901—3.902–5	
Subpart I recodified from 3.901—3.904; revised	4249
3.901—3.904	
Subpart I recodified as 3.901—3.902–5; revised	4249
4	
Subparts H and I revoked	504
Subpart B redesignated as Subpart A and revised	10161
Subpart C revoked	10161
4.100—4.117	
Subpart A redesignated from Subpart B and recodified from 4.200—4.215; revised	10161
4.106–4	
(d) revised	16403
4.110	
(d) added	16403
4.117	
Revised	12097
4.200—4.215	
Subpart B redesignated as Subpart A and recodified as 4.100—4.117; revised	10161
4.205–1	
(e) revised	4251
4.210	
Revised	4251
4.214–4	
(c) revised	503
4.301—4.303–24	
Subpart C revoked	10161
4.502	
Amended	12098
4.503–1	
Revised	12098
4.503–5	
Introductory text amended	12098
4.507–2	
Revised	12098
4.507–3	
Revised	12098
4.507–4	
Revoked	12098
4.800—4.806	
Subpart H revoked	504
4.900—4.903–2	
Subpart I revoked	504
5	
Subpart K revised	504
Subpart L recodified and revised	503
5.101	
(a) amended	504
5.102–2	
(b) revised	4251
5.1100—5.1118	
Subpart K revised	504
5.1106–3	
(a) (2) revised	16403
5.1106–5	
Revised	16404
5.1107–4	
Added	12098
5.1201—5.1201–7	
Subpart L recodified from 5.1201—5.1203; revised	503
5.1201—5.1203	
Subpart L recodified as 5.1201—5.1201–7; revised	503

	Page
6	
Subpart D heading revised	516
Subpart B revoked; cross reference added	4254
Subpart H added	4254
Subpart J added	16405
6.000	
Revised	4252
6.001	
Added	4252
6.101	
Revised	4252
6.102–2	
(b) revised	4252
6.102–3	
Revised	4253
(a) (2) revised	10167
6.103–2	
Revised	4253
Introductory text of (b) revised	10167
6.103–5	
(a) revised	4253
6.104–2	
Revised	4253
6.104–4	
(e) added	4253
6.104–6	
Revised	4253
6.105	
Revised	4253
6.200—6.206	
Subpart B revoked; cross reference added	4254
6.301	
Revised	4254
6.303	
(d) revised	4254
6.401—6.403	
Subpart D heading revised	516
6.491–5	
Revised	516
6.493	
Revised	516
6.502	
(d) added	5508
6.504–5	
Added	5508
6.505	
Revised	5508
6.701	
Revoked	4254
6.705—6.705–3	
Revised	16404
6.800—6.807	
Subpart H added	4254
6.805–2	
(b) (1) (ii) and (iii), (d) (1) (i) and (ii), and (e) revised	16404
6.1000—6.1004	
Subpart J added	16405
7	
Subpart M added	10168
Subpart N added	10171
Subpart O added	10172
7.101	
(a) (2) revised	4258
7.103–5	
(d) revised	16405
7.103–15	
Revised	516
7.103–16	
Revised	5508
7.104–1	
(a) revised	516
(b) revised	4258
7.104–6	
Revised	4258
7.104–9	
Revised	516
7.104–23	
Revised	4258
7.104–26	
Revoked	4258
7.104–28	
Revised	16405
7.104–45	
Revised	12098
7.104–47	
Revised	516
7.104–48	
Revised	516
7.104–60	
Added	516
7.104–61	
Added	517
7.104–62	
Added	10167
7.104–63	
Added	10167
7.104–64	
Added	16405
7.105–7	
Revised	10167
7.105–8	
Added	517
Revoked	10167
7.105–9	
Revoked	517
7.105–10	
Revoked	517
7.108–1	
Amended	4258
7.108–2	
Amended	4258
7.109–2	
(b) amended	4258
7.109–4	
(b) amended	4258
7.203–2	
Revised	517
Amended	10167
7.203–3	
Revised	517
7.203–5	
(b) revised	16405
7.203–8	
Revised	4258
7.203–16	
Revised	5508
7.203–22	
Amended	5508
7.203–25	
Revised	518
7.203–27	
Revised	12098
7.204–1	
(a) revised	518
(b) revised	4258
7.204–6	
Revised	16405
7.204–9	
Revised	518
7.204–10	
Revised	16405
7.204–36	
Added	518
Revised	16405
7.204–32	
Revised	12098
7.204–34	
Revised	518
Revised	16405
7.204–44	
Added	10167
7.204–45	
Added	16405
7.205–6	
Revoked	10168
7.205–8	
Revoked	518
7.302–4	
(c) revised	16406
7.302–23	
Revised	518
7.302–24	
Revised	518
7.303–1	
(a) revised	518
(b) revised	4259
7.303–8	
Revised	518
7.303–12	
Revised	4259
7.303–13	
Revoked	4259
7.303–13	
Added	10168
7.303–14	
Added	518
7.303–15	
Revised	16406
7.303–32	
Revised	12098
7.303–44	
Added	518
7.303–45	
Added	16406
7.304–6	
Added	518
7.304–7	
Revoked	519
7.304–7	
Redesignated from 7.304–8; revised	519
7.304–8	
Redesignated as 7.304–7; revised	519
7.304–9	
Revoked	519
7.402–2	
Revised	519
7.402–5	
(c) revised	16406
7.402–8	
Revised	4259
7.402–11	
Revised	4259
7.402–22	
Revised	520
7.402–28	
Revised	12098
7.403–1	
(a) revised	521
(b) revised	4259
7.403–2	
Revised	4259
7.403–8	
Revised	521
7.403–15	
Revised	16406
7.403–39	
Added	521
7.403–40	
Added	521
7.403–41	
Added	10168
7.403–42	
Added	16406
7.404–1	
Revised	521
Revised	10168
7.404–7	
Revoked	521
7.505–1	
Revised	4259
7.602–2	
Revised	521
7.602–7	
(b) amended	521
7.602–10	
(b) revised	16406

32 CFR—Continued Page

Chapter I—Continued

7.602–20
Revised ... 4259
7.602–23
Revised ... 521
7.602–24
Revised ... 4259
7.602–37
Revised ... 521
7.603–2
Revised ... 521
7.603–3
Revised ... 4259
7.603–9
Revised ... 4259
7.603–13
Revised ... 521
7.603–30
Revised ... 10168
7.605–15
Revised ... 16406
7.605–18
Revised ... 521
7.605–23
Revised ... 4259
7.606–3
Revised ... 4260
7.606–4
Revised ... 4260
7.606–11
Revised ... 12098
7.607–14
Revised ... 521
7.607–18
Revised ... 16406
7.702–33
Revised ... 5509
7.702–42
Revised ... 12098
7.702–46
Revised ... 521
Revised ... 5509
7.703–24
Revoked ... 521
7.703–25
Revised ... 5509
7.703–34
Revised ... 12098
7.703–44
Added ... 16406
7.704–21
Revised ... 521
7.704–27
Revised ... 12098
7.704–30
Revised ... 521
Revised ... 5509
7.705–2
Revised ... 10168
7.705–4
Revised ... 10168
7.705–5
Revised ... 521
7.705–6
Revised ... 4260
7.705–8
Revised ... 522
7.802–4
Introductory text added ... 10168
7.802–5
(a) amended ... 10168
7.901–11
Revised ... 5509
7.901–25
Added ... 16406
7.901–26
Added ... 16406
7.902–7
Revised ... 10168
7.902–12
Heading revised ... 522
7.902–16
Heading revised ... 522
7.902–25
Added ... 10168
7.1000
Revised ... 522
7.1001
Revised ... 522
7.1003–1
Heading revised ... 522
7.1004–3
Revoked ... 522
7.1102–3
(b) amended; (b) (4) added ... 522
(b) (2) revised ... 12098
7.1102–4
Added ... 10168
7.1200
Revised ... 522
7.1201–27
Revised ... 5509
7.1202–1
Revised ... 16406
7.1300—7.1302–2
Subpart M added ... 10168
7.1400—7.1401–12
Subpart N added ... 10171
7.1500—7.1503
Subpart O added ... 10172
8.403–
Revised ... 16406
9
Subpart D added ... 534
9.102–1
Introductory text revised ... 522
9.104
Closing sentence revised ... 522
9.105
Revoked ... 522
9.106
Revised ... 522
9.106–1
Revised ... 523
9.106–2
Added ... 523
9.107–4
(a) and (b) revised; (h) added ... 523
9.107–5
Revised ... 524
(b) amended ... 4260
9.107–7
(a) revised ... 528
9.107–9
Revised ... 528
9.108
Revised ... 528
9.109
Revised ... 528
9.109–1—9.109–5
Added ... 528
9.109–3
(b) revised ... 10172
9.110
Revised ... 530
(a) (2) revised ... 4260
9.111
Redesignated as 9.112; revised ... 531
9.111
Redesignated from 9.112; revised ... 530
9.112
Redesignated as 9.111; revised ... 530
9.112
Redesignated from 9.111; revised ... 531
9.202–3
Revised ... 531
(e) amended ... 10172
(b) revised ... 12099
9.203
(a) revised ... 531
9.204–1
Revised ... 531
9.204–2
Revised ... 531
9.205–2
Revised ... 532
9.206
Revised ... 532
9.207–2
Revised ... 532
9.301–2
Revised ... 532
9.302
Heading and (a) revised ... 533
9.303
Revised ... 533
9.304–1
Introductory text revised ... 533
9.304–2
Revised ... 533
Introductory text of (b) revised ... 4260
9.401—9.413
Subpart D added ... 534
10.104–2
(b) revised ... 537
10.105–3
(a) revised ... 537
10.110
(b) revised ... 537
10.112
(a) revised ... 5509
(a) revised ... 10172
10.201–2
(d) revised ... 12099
10.505
Revised ... 16406
10.603
Revised ... 16407
11.403
Revised ... 537
11.403–1
(a) revised ... 537
(a) amended ... 12099
11.403–2
Revised ... 537
11.404
Revoked ... 538
12
Subpart D revoked; cross reference added ... 539
12.000
Revised ... 538
12.102—12.102–6
Recodified as 12.102—12.102–7; revised ... 12099
12.102—12.102–7
Recodified from 12.102—12.102–6; revised ... 12099
12.102–4
(b) revised ... 538
(c) amended ... 16407
12.106
Revised ... 538
12.106–1
Added ... 538
12.106–2
Added ... 539
12.202
Introductory text revised ... 12100
12.300
Revised ... 539
12.302
Revised ... 5509
(a) revised ... 12101
Introductory text and (c) revised ... 16407
12.303
Revised ... 5509

12.303–1
Revoked ... 5509
12.303–2
Revoked ... 5509
12.304
Revised ... 539
Revised ... 5509
12.305
Revised ... 5509
12.306
Added ... 5509
Revised ... 12101
12.400—12.404–12
Subpart D revoked; cross reference added ... 539
12.602–1
Revised ... 16407
12.602–3
Revised ... 16407
12.1001
Revised ... 16407
12.1003
Revised ... 5510
12.1004
(a) and (b) amended ... 5510
(c) added ... 16407
12.1005
(a) revised ... 4260
(b) revised ... 16407
13
Subpart H added ... 16408
13.106
Added ... 10173
13.107
Added ... 16408
13.701
(a) and (c) revised ... 4260
13.702
Introductory text of (a) revised; (b) redesignated as (c); new (b) added ... 10173
13.706
(b) amended ... 10173
13.707
(b) amended ... 10173
13.710
Text designated as (a); (b) added ... 10173
13.801—13.803
Subpart H added ... 16408
14
Revised ... 16408
15.107
(f) added ... 5510
15.203
(f) added ... 5510
15.205–1
Revised ... 5510
15.205–2
Revised ... 5510
15.205–3
Revised ... 5510
15.205–4
Heading revised ... 5510
15.205–5
(a) revised ... 5510
15.205–10
Heading revised ... 5511
15.205–11
Heading revised ... 5511
15.205–12
Revised ... 5511
15.205–13
Heading revised ... 5511
15.205–46
(g) added ... 4260
16
Subpart A recodified and revised ... 4261
16.000
Revised ... 4261
16.100—16.101–2
Subpart A recodified as 16.100—16.104–4; revised ... 4261
16.100—16.104–4
Subpart A recodified from 16.100—16.101–2; revised ... 4261
16.102–2
(c) (2) (x) and (d) revised ... 12101
16.103
(a) and (d) revised ... 12101
16.200
Revoked ... 4264
16.200
Added ... 12101
16.201—16.201–2
Revoked ... 4264
16.201
Added ... 12101
16.202
(b) (2) (v) revised ... 539
Revoked ... 4264
16.202
Added ... 12101
16.203—16.203–3
Revoked ... 4264
16.206–1
Revised ... 10173
16.206–3
Revised ... 10173
16.303
Revised ... 4264
16.401–1
Revised ... 4264
(i) revised ... 12101
16.401–2
Revised ... 4264
16.401–3
(g) revoked ... 4265
16.402–1
Revised ... 4265
16.404–1
(a) and (c) revised ... 539
16.404–2
Amended ... 539
16.405–1
Added ... 12101
16.405–3
Revised ... 12101
16.600
Revised ... 539
16.601
Revised ... 539
16.604
Added ... 12102
16.803–1
Revised ... 539
16.803–3
Added ... 12102
16.803–4
Added ... 12102
16.807
Revised ... 10173
16.814
Added ... 10173
16.815—16.815–2
Revoked ... 4265
16.815
Added ... 10173
17.201
Revised ... 4265
17.203
(a) amended; (b) (2) revised; (b) (4) added ... 4265
17.205–2
(e) revised ... 4266
17.206
(h) revised ... 539
17.207–1
(e) and (f) added ... 4266
17.207–3
(b), (c), and (d) revised; (e) and (f) added ... 4266
17.208–3
(c) (4) and (5) added ... 4266
17.208–5
Revised ... 4266
17.304
Revised ... 4266
18
Subpart G added ... 540
Subpart E recodified and revised ... 4266
18.100
Revised ... 539
18.101–2
Revised ... 540
18.113
Revised ... 16415
18.117—18.117–3
Added ... 10174
18.206
Revised ... 540
Revised ... 12102
18.208
Revised ... 540
18.210
Revised ... 540
18.211
Introductory text revised ... 12102
18.303–3
(c) revised ... 4266
18.304
Revised ... 4266
18.305–1
(a) and (b) (1) revised ... 4266
18.501—18.505
Subpart E recodified as 18.501—18.511; revised ... 4266
18.501—18.511
Subpart E recodified from 18.501—18.505; revised ... 4266
18.602
Revised ... 540
18.618–9
Revised ... 540
18.700—18.706
Subpart G added ... 540
18.704–16
Revised ... 5511
18.903–3
(a) revised ... 10174
18.906
Revised ... 549
22
Added ... 549
Subpart F added ... 10174
Subpart G added ... 10179
Subpart H added ... 10180
22.207–5
Revised ... 10174
22.601—22.603–24
Subpart F added ... 10174
22.700—22.702–2
Subpart G added ... 10179
22.800—22.803
Subpart H added ... 10180
23
Added ... 4268
30.2
Revised ... 16415
30.3
Amended ... 555
Amended ... 10180
Revised ... 16421
30.6
Revised ... 555
30.7
Amended ... 569
30.8
Added ... 4272

32 CFR—Continued

Page

Chapter I—Continued

40
Appendix B amended 12179
40.735–6
(b) (14) revised 12179
40.735–6
Revised 12179
40.735–14
(a), (b), (i), and (m) revised 12179
42
Revoked 9066
42
Added 13380
49
Added 6192
51
Added 6777
53
Revised 6567
63
Revised 8293
66
Revised 15111
67
Added 9968
68
Added 9968
81
Added 52
82.1
Revised 12845
82.3
Introductory text of (a) and (a) (1) revised 12845
83.3
(d) added 7175
(b) amended 7771
83.5
(d) revised 7175
86
Added 6393
100
Added 3629
102
Revised 14820
103
Added 7175
110
Revised 6468
127
Revised 15112
151
Added 5682
155.7
(a) (5) revised 14552
155.8
Revised 14552
156.2
Revised 5420
156.3
Revised 5420
156.6
(b) revised 5420
156.7
(b) (8) revised 5420
156.8
(a) (1) (ii), (c), and (d) revised 5420
156.9
(c) (12 corrected 4114
Heading, (a) (1) and (4), introductory text of (b), (b) (1) and (4), (c) (5), (g), and (h) revised 5421
156.10
Revised 5421
156.11
Revised 5421

Page

156.13
Revised 5421
Revised 10044
163—167
Subchapter E heading revised 11382
163.2
Revised 11950
163.3
Revised 11950
163.4
Revised 11950
163.6
Revised 11950
163.12–3
Revised 11950
163.16
Revised 11950
163.17
Revised 11950
163.26
Revised 11950
163.30
Revised 11951
163.31
Revised 11951
163.32
Revised 11951
163.33
Revised 11951
163.33a–3
Revised 11951
163.38
Revoked 11951
163.38
Redesignated from 163.38–1; revised 11951
163.38–1
Redesignated as 163.38; revised 11951
163.40
Revised 11951
163.40–1
Revised 11951
163.40–2
Revised 11951
163.42
Revised 11952
163.49
(a) revised 11952
163.56–1
Revised 11952
163.62–1
Revised 11952
163.70
Revised 11952
163.72
Revised 11952
163.74
Revised 11953
163.77
Revised 11953
163.78–1
Revised 11953
163.78–7
Revised 11953
163.79
Revised 11953
163.81–2
(c) revised 11953
163.85—163.85–6
Revoked 11953
163.86
(a) revised 11953
163.88
Revised 11953
163.92
Revised 11953
163.92–1
Revised 11954
163.93–3
Revised 11954

Page

163.96
Revised 11954
163.97
Revised 11954
163.98
Revised 11954
163.98–1
Revised 11954
163.99
(i) and (j) revised; (k) and (l) revoked 11955
163.101–4
Revised 11955
163.101–5
Revised 11955
163.102
Revised 11955
163.106–2
Revised 11955
163.107
Revised 11955
163.109
Revised 11955
163.109–1
Revised 11955
163.119
Revised 11955
163.119–1
(c) added 11955
163.120
Revised 11955
163.121
Revised 11955
163.123
Added 11956
163.123–1
Added 11956
163.124
Added 11956
164
Added 2772
168
Added 12718
169
Added 12607
169a
Added 12675
231
Added 16426
242
Added 9969
243
Added 9971
245
Added 15014
246
Added 14760
247
Added 15019
248
Added 11706
256
Added 8089
257
Added 7019
265
Revised 9066
267
Added 8588
267.4
(c) added 12608
274
Revised 14660
275
Added 10436
280
Revised 11160
286
Added 9666
286a
Added 12102

Page

287
Added 9670
288
Revised 6025
289
Deleted 6025
289
Added 11780
290
Added 9671
291
Added 14552
Chapter V
505.17
Revised 3391
518
Revised 10355
518.5
(d) (5) added 4355
518.10
Added 3771
518.13
(a), (c), and (d) (1) and (4) revised 11265
519
Added 4114
536.12
Revised 10789
536.12a
Added 10789
536.13
Revised 10789
536.15
Revised 10789
536.18
Revised 10790
536.19
Revised 10790
536.21
Redesignated as 536.22; revised 10790
536.21
Redesignated from 536.22; revised 10790
536.22
Redesignated as 536.21; revised 10790
536.22
Redesignated from 536.21; revised 10790
536.22a
Added 10790
536.23
Revised 10790
536.24
Revised 10791
536.24a
Revised 10791
536.24b
Revised 10791
536.26
(i) (1) (iv), (k) (3), (n) (4), (5), (6), and (7), and (p) (2) (iv) revised 11469
(i) (1) (iv), (k) (3), and (p) (1) (i) and (ii) revised; (p) (1) (iv) added; (s) amended 16264
536.27
(a) (3) (iii), (4) (vi) (c), and (6) (viii), and introductory text of (b) (4) revised; (c) (2) (ii) (c) revoked; (c) (8) (iv) added; (d) (3) (i), (ii), and (v) revised; (d) (3) (vi) added 11780
536.29
Revised 6366
(h) (18) added; (i) (3) revised; (l) (4) added; introductory text of (q) (1), (q) (1) (ii), and (r) revised; (t) added 9164

Page

536.140
Revised 15113
536.143
(w) added 15113
536.146
(a) revised; (c) added 15113
536.147
Revised 15114
536.148
Revised 15114
536.151b
Added 15114
536.152
Revised 15114
536.161
Revised 13658
536.162
Revised 13658
536.163
Revised 13658
536.164
Revised 13658
536.167
Revised 13658
536.169
Revised 13658
536.170
Redesignated as 563.171; revised 13659
536.170
Added 13659
536.171
Redesignated from 563.170; revised 13659
536.191—536.198
Added 6193
538
Deleted 8091
552.21
Revoked 15115
553.18
Introductory text of (b) (2) (v), (vi), and (vii), and (b) (2) (vii) (b) revised; (b) (4) (i) revised; (b) (4) (v) and (vi) added 2886
577.60—577.70
Recodified from 577.60—577.72; revised 6623
577.60—577.72
Recodified as 577.60—577.70; revised 6623
577.65
Revised 215
577.66
(f) and (g) revised 216
577.67
Heading, (a), (b), (c) (2) (iii) and (iv), (d), and (f) (6) through (9) revised; (f) (10) added; (g) (2) revised 217
577.70
Added 219
577.71
Added 220
577.72
Added 220
577.80—577.84
Revised 6931
577.80
Revised 366
577.81
Revised 366
577.84
Revised 366
582
Revised 13279
591
Subpart YY added 2618

Page

591.103
Amended 2616
591.109–2
(a) and (b) revised 8895
591.113
Revised 8895
591.150
(b) (6) revised; (b) (7) and (18) added 8895
591.151
Revised 8895
591.357
Added 2616
591.401
(a) and (g) revised 8895
591.403–50
Revised 8895
591.403–55
Added 8895
591.405
(a) (2) revised 8896
591.450–1
Revised 8896
591.450–2
(a) and introductory text of (b) revised 8896
591.450–4
(c) and (g) revised 8896
591.452
Revised 2616
591.452–1
Revised 2616
591.452–2
Revised 2616
Revised 8896
591.452–3
Revised 2616
591.452–4
Revised 2616
(b) revised 8896
591.452–5
Revised 2616
591.452–6
Revised 2617
(a) (2), (b), and (c) revised 8896
591.452–7
Revised 2617
591.452–8
Revised 2617
591.452–9
Revised 2617
591.452–10
Revised 2618
591.452–11
Revoked 2618
591.452–12
Revoked 2618
591.452–13
Revoked 2618
591.452–14
Revoked 2618
591.452–15
Revoked 2618
591.1506–50
Revised 8897
591.5001
Revised 8897
591.5003
Revised 8897
591.5005
(b) and (c) revised 8897
591.5101, 591.5102
Subpart YY added 2618
591.5103
(c) amended 8897
592.406–50
(c) revised 8898
592.407–9
(c) amended; (g) (3) revised 8898
592.450
Revised 8898

32 CFR—Continued

Chapter V—Continued

	Page
593	
Subpart F recodified and revised	8899
593.302	
(a) (7) revised	8898
593.305	
(b), (j) (2), and (p) (4) and (6) revised	8898
593.306	
(j) revised; (p) amended	8898
593.605—593.609–1	
Subpart F recodified from 593.608–2—593.608–51 and revised	8899
593.608–2—593.608–51	
Subpart F recodified as 593.605—593.609–1 and revised	8899
594	
Subpart YY revoked	8900
594.205–1	
Revoked	8900
594.211	
Added	8900
594.5101—594.5106	
Subpart YY revoked	8900
595	
Subpart A revoked	8900
595.101	
Subpart A revoked	8900
595.1102	
Added	8900
595.1102–1	
Revoked	8900
595.1103	
Added	8900
595.1103–6	
Revoked	8900
596	
Subpart D revised	2622
Subpart B revoked	8900
596.103–2	
(c) (3) revised	2622
(b) and introductory text of (d) revised	8900
596.104–4	
Revoked	8900
596.204–3, 596.205–50	
Subpart B revoked	8900
596.204–1	
Revised	8900
596.402	
Subpart D revised	2622
(c) (1) revised	8901
597	
Subpart O revoked	2623
597.150–5	
Added	2622
597.403–52	
Revoked	8901
597.1501—597.1501–3	
Subpart O revoked	2623
598.602–3	
(a) revised	8901
600.112	
(a) revised	2623
600.554	
(c) revised	2623
601	
Subpart XX added	8901
601.5000—601.5004	
Subpart XX added	8901
602	
Subpart D revoked	2623
602.101–4	
Added	8902
602.102–4	
(f) revised	8902
602.401—602.451	
Subpart D revoked	2623
603.1704	
(a) revised	8902
606	
Subpart A revoked	8902
606.101, 606.101–2	
Subpart A revoked	8902
606.551	
Revised	8902
606.552	
Recodified as 606.552—606.552–4; revised	2623
606.552—606.552–4	
Recodified from 606.552; revised	2623
606.553	
Revised	2623
606.553–1—606.553–4	
Revoked	2623
606.554	
Revoked	2623
612	
Added	8903
Chapter VI	
701	
Authority citation revised	317
706.2	
Amended	2624
Amended	8806
Amended	14388
707.1	
(c) revised	8589
710.14	
Added	12790
(b) (1) (viii) added	15115
713	
Subparts A and B authority citations revised	317
713.211	
Revised	6028
713.213	
Revised	6028
713.217	
Revised	6028
713.221	
Revised	6029
713.336	
(a), (c), (d), (e), (f), and (g) revised	6029
713.351	
(e) (2) (vi), (f) (2) (vi) and (h) (2) (iii) deleted; (k) (1) (vii), (o), and (t) (1) revised	6030
713.353	
(b) revised	6030
713.353a	
Added	6030
713.361	
(b) redesignated as (c); new (b) added	6031
713.371	
Revised	16609
713.372	
Revised	16609
713.373	
Revised	10509
713.374	
(c) revised; (d) and (e) added	10509
713.375	
Revised	10509
713.376	
Deleted	10510
713.376	
Added	10510
713.377	
Deleted	10510
713.377	
Added	10510
713.378	
Added	10510
713.379	
Added	10510
713.379a	
Added	10510
713.379b	
Added	10510
713.379c	
Added	10510
713.379d	
Added	10510
713.413	
Introductory text revised	6031
713.444	
(a) revised	6031
713.514	
(e) added	6031
713.517	
(g) deleted	6031
713.521	
Revised	6031
713.522	
(a) revised	6032
713.600	
Added	2525
713.1000—713.17005	
Added	2528
715	
Authority citation revised	317
719	
Authority citation revised	317
719.109a	
(b) (1) (i) revised	16153
719.116	
Heading revised; existing text designated as (b) and heading added; (a) added	16154
719.117	
(b) revised	16154
719.120	
Heading and (a) revised	16154
719.122	
(b) revised	16154
719.261	
(a) (1) revised	16154
720	
Authority citation revised	317
720.12	
Redesignated as 720.13; revised	319
720.12	
Added	319
720.13	
Redesignated from 720.12; revised	319
721	
Authority citation revised	318
723	
Authority citation revised	318
725	
Authority citation revised	318
726	
Authority citation revised	318
Authority citation revised	2846
726.4	
(c) (4) revised; (c) (5) deleted	2846
726.5	
Revised	2847
726.5a	
Added	2847
726.6	
(a) (2), (e), and (g) revised	2847
728	
Authority citation revised	318
729	
Authority citation revised	318
730	
Authority citation revised	318
730.8	
(b) and (h) (2) (ii) and (iii) revised	10511
730.9	
(j) revised	10511
730.10	
(h) revised	10511
730.12	
(g) revised	10511
730.13	
(f) revised	10511
730.303	
(b) (14) revised; (b) (29) deleted	11266
732	
Authority citation revised	318
732.41	
Revised	11851
732.43	
Revised	11851
732.44	
Revised	11852
732.45	
Revised	11852
732.46	
Revised	11852
733	
Authority citation revised	318
733.70	
Introductory text of (d) and (d) (5) (iv) revised	221
734	
Authority citation revised	318
750	
Subpart A heading revised	3393
Subpart A–1 added	3393
750.1—750.16	
Subpart A heading revised	3393
750.16a—750.161	
Subpart A–1 added	3393
750.25	
(c) revised	3395
750.27	
Deleted	3395
750.27—750.27b	
Redesignated from 750.28a—750.28c and revised	3395
750.28	
Deleted	3395
750.28—750.28b	
Center heading and sections added	3395
750.28a—750.28c	
Redesignated as 750.27—750.27b and revised	3395
750.29	
Introductory text of (a) and (d) and (e) revised	3396
750.31	
(b) revised	3396
750.41	
(d) and (e) revised; (f) added	3396
750.45	
(a) revised	3396
750.48	
(a) (6) revised	3397
(a) (8) and (e) added	16154
751	
Authority citation revised	318
751.4	
(c) revised	16154
751.16	
Revised	319
751.29	
Revised	16154
752	
Authority citation revised	318
753	
Authority citation revised	318
753.29	
(b) (1) (vi) revised	3397
753.31	
Revised	3397
755	
Authority citation revised	318
756	
Authority citation revised	318
757	
Authority citation revised	318
761	
Authority citation revised	318
765	
Authority citation revised	318
Chapter VII	
800	
Revised	9673
800.4	
(c) (2) deleted	11782
801	
Heading revised	569
801.1	
Revised	569
803.1	
(a) (4) added	6032
803.2	
(a) and (b) (1), (2), and (3) revised	6032
803.13	
(f) (2) revised	6032
804.1	
(f) revised	6368
804.2	
(d) revised	6368
804.3	
Revised	6369
804.4	
Introductory text of (a) revised	6369
804.10	
Revised	6369
806	
Added	9674
806.6	
(a) and (b) revised	14821
806.9	
(e) revised	14821
806.11	
(b) revised	13000
807	
Added	12609
810	
Revised	7020
812	
Revised	16035
813a	
Added	9677
818	
Added	2367
819	
Added	7021
819a	
Added	11782
820	
Revised	6093
822	
Revised	9674
823.1	
(e) revised; (i) and (j) redesignated as (j) and (k), respectively; new (i) added	6032
827	
Revoked	9677
835.23	
(d) revised	6369
835.24	
Revised	6369
837	
Added	3009
838	
Added	11783
839	
Added	12609
840	
Revised	7021
841	
Revised	3010
842	
Revised	14824
844	
Deleted	15920
845	
Revised	13810
847	
Added	569
850.2	
Revised	4118
850.9	
(e) amended	10512
850.10a	
Added	10512
850.11	
(a) (3) and (4) revised	4118
850.11a	
(a) and (b) deleted	10512
850.13	
(e) amended	4118
851.7	
(a) revised	16154
852	
Revised	16264
855.5	
(g) revised	15920
855.6	
Revised	15920
855.7	
(a) (1), (2), and (3) revised	15921
855.9	
(c) (4) revised	15921
855.15	
Introductory text and (a) revised	15921
856	
Revised	570
857	
Revoked	9677
858	
Revised	6094
860	
Revised	16155
870.2	
(m) and (w) amended	9677
870.8	
Introductory text revised; (b) amended	9677
870.9	
Introductory text added	9678
870.10	
(a) (1) revised; (a) (2) amended; (b) and (c) revised	9678
871	
Heading corrected	570
872.21	
(b) revised	13000
872.23	
Revised	13000
872.25	
Revised	13000
872.26	
Added	13000
873	
Added	9678
874	
Added	12611
Heading corrected	13811
875	
Added	14821
881	
Revised	7962
882	
Revised	11852
Subpart L added	13126
882.25	
(j) deleted	14824

32 CFR—Continued

Chapter VII—Continued

882.43
(a) corrected ... 13811
882.54a
Added ... 14824
Revised ... 15921
882.77
Amended ... 14824
882.132
Amended ... 14824
882.150—882.152
Subpart L added ... 13126
885
Revised ... 7441
888
Revised ... 4118
888.4
(a) amended ... 13126
888.5
Amended ... 13126
888.6
Amended ... 13126
888.8
Revised ... 13126
888.11
Revised ... 13126
888a
Revised ... 5778
888b
Added ... 13065
901
Revised ... 14762
901.6
Introductory text corrected ... 15922
902.1
Revised ... 4356
902.2
(j) revised ... 4356
902.4
(a) and (e) revised ... 4356
902.5
(f) added ... 4356
902.6
Tables 1 and 2 revised; Table 3 amended; Tables 4, 5, and 6 revised ... 4356
902.7
Tables 7, 8, and 10 revised ... 4357
902.10
Table 11 revised ... 4358
902.12
(b)(1) and (2) revised ... 4358
906
Revised ... 16159
908
Added ... 2367
908.3
(d) revised ... 3011
909
Added ... 16613
920.6
Revised ... 13000
920.13
Revised ... 13001
920.21
Introductory text of (a)(1) amended; (a)(2) revised; (d)(5) deleted; (f)(2) revised ... 13001
920.23
(b)(14) revised ... 13001
920.24
(a)(4) and (5) added; (b) deleted; (c) revised; (f) amended; (g), (j), (k), (l), and (m)(1) and (2) revised ... 13001
1001.310
(a)(1) and (d) revised ... 8142
1001.312–50
(a)(3) amended ... 5781
Revised ... 12476
1001.313–50
Amended ... 5782
1001.313–53
Added ... 5782
1001.321
Text deleted ... 5782
1001.321–50
Added ... 5782
1001.325—1001.325–2
Deleted ... 5782
1001.402
(b)(3) amended ... 6450
1001.405
(b) revised ... 6450
1001.405–2
Introductory text of (a)(1) revised ... 6450
1001.405–50
(b) revised ... 3011
1001.453
(1)(3) amended ... 6450
1001.456
Revised ... 8143
1001.461
Revised ... 16036
1001.704–3
(b) revised ... 3011
1001.705–4
Added ... 3011
Revised ... 8963
Introductory text of (c) revised ... 16036
1001.706–1
(a) revised ... 3012
(a) revised ... 5782
1001.1002
(a)(2) through (13) deleted; (a)(2) and (3) added ... 5782
1001.1306
(c) revised ... 3976
1002.403
Deleted ... 13717
1002.407–9
(a) added ... 5782
1002.408–1
(b) revised ... 8143
(b) revised ... 12476
1003
Subpart H recodified and revised ... 3977
Subpart T deleted ... 3977
Subpart B revised ... 5782
Subpart A deleted ... 8143
1003.101
Deleted ... 5782
1003.101–50
Deleted ... 5782
1003.103, 1003.106
Subpart A deleted ... 8143
1003.103
(a) and (b) deleted ... 5782
1003.204—1003.217–3
Subpart B revised ... 5782
1003.210–3
(c) amended ... 8143
1003.215–51
Amended ... 3976
1003.250
Deleted ... 3976
1003.305
(a) revised ... 5786
1003.306
(a), (b), and (c) revised; (d)(3) amended; (d)(5) added ... 5786
(b)(1)(i) and (c) revised ... 13717
1003.408
(c)(3) amended ... 8143
1003.410–2
(d)(4) amended ... 5786
1003.604–49
Added ... 8143
1003.605–3
Added ... 3976
1003.605–7
Added ... 3976
1003.605–8
Added ... 3976
1003.607–2
(a)(1)(iv) revised; (c)(2)(vii) deleted ... 3977
(a)(1)(ii) revised ... 6450
1003.607–4
(f) deleted ... 3977
1003.608–2
Deleted ... 3977
1003.608–6
(b) and (d)(5)(ii) revised ... 10978
(b) revised; (d)(5) redesignated as (6) and revised; new (d)(5) added ... 13717
1003.608–7
Added ... 5786
Revised ... 10978
1003.609
Added ... 8143
1003.609–2
Added ... 8143
1003.609–3
Added ... 8143
(a) and (c) revised ... 13717
1003.609–49
Added ... 8143
Revised ... 13717
1003.651
Deleted ... 8786
1003.651–1
Deleted ... 8144
1003.651–2
Deleted ... 8144
1003.651–3
Deleted ... 8144
1003.651–7
Deleted ... 8144
1003.801—1003.850–3
Subpart H recodified as 1003.807–5—1003.850–4; revised ... 3977
1003.807–5—1003.850–4
Subpart H recodified from 1003.801—1003.850–3; revised ... 3977
1003.2000—1003.2006
Subpart T deleted ... 3977
1004
Subpart A deleted ... 3977
Subpart YY added ... 6450
Subpart C deleted ... 16427
1004.150—1004.150–5
Subpart A deleted ... 3977
1004.302, 1004.302–50
Subpart C deleted ... 16427
1004.302–50
(b)(3) deleted ... 3977
(b)(3) added ... 5786
(b) revised ... 8964
(b) revised ... 12476
(d) revised ... 13717
1004.2103
Revised ... 3978
Revised ... 8964
1004.5002–3
(a)(1) and (2) and (f)(1) revised ... 3012
(a) revised ... 12477
1004.5100—1004.5102
Subpart YY added ... 6450
1004.5102
(a)(3) revised ... 8964

1005
Subpart A recodified and revised ... 12477
Subpart B added ... 12478
Subpart C added ... 12478
1005.100—1005.108
Subpart A recodified as 1005.100—1005.150; revised ... 12477
1005.106—1005.150
Subpart A recodified from 1005.100—1005.108; revised ... 12477
1005.204—1005.208
Subpart B added ... 12478
1005.301, 1005.303
Subpart C added ... 12478
1005.650–1
(c)(1) and (3) revised ... 12478
1005.1201–50
Deleted ... 13718
1006
Subpart H heading revised ... 8964
Subpart H recodified and revised ... 16036
1006.103–2
(h) deleted ... 8787
1006.552
Revised ... 16036
1006.850—1006.850–3
Subpart H heading revised ... 8964
Subpart H recodified as 1006.850—1006.850–7; revised ... 16036
1006.850—1006.850–7
Subpart H recodified from 1006.850—1006.850–3; revised ... 16036
1007
Subpart U deleted ... 3012
Subpart PP recodified and revised ... 10978
Subpart PP deleted ... 12479
Subpart VV deleted ... 12479
Subpart HHH added ... 12479
Subpart FF deleted ... 13718
Subpart GG deleted ... 13718
1007.104
Added ... 6451
1007.104–51
Added ... 6451
1007.105–51
Amended ... 6451
1007.106
Deleted ... 6451
1007.106–50
Added ... 16039
1007.403–53
Deleted ... 12479
1007.602–9
Added ... 16039
1007.2100—1007.2105–1
Subpart U deleted ... 3012
1007.3200—1007.3205–1
Subpart FF deleted ... 13718
1007.3204–10
Deleted ... 8787
1007.3302—1007.3305–1
Subpart GG deleted ... 13718
1007.3304–3
Deleted ... 8787
1007.3706
Revised ... 3978
1007.3706–3
(a) amended ... 3978
(a) and (b) amended ... 6451
(b) amended ... 13718
1007.3706–4
Amended ... 3978
Amended ... 6451
1007.4015
Revised ... 3978
1007.4016
Revised ... 3978
1007.4021
Deleted ... 3012
1007.4043
(a)(1) revised ... 6451
1007.4048
(a) amended ... 3978
(a) amended ... 6451
(a) amended ... 8144
1007.4054
Introductory text revised; (a) amended ... 6451
(b) deleted; (c) redesignated as (b) ... 6451
1007.4061
Introductory text of (a) revised ... 16427
1007.4064
Deleted ... 10978
1007.4067
Deleted ... 6451
1007.4200—1007.4210
Subpart PP recodified as 1007.4200; revised ... 10978
1007.4200
Subpart PP recodified from 1007.4200—107.4210; revised ... 10978
Subpart PP deleted ... 12479
1007.4800—1007.4806
Subpart VV deleted ... 12479
1007.6000—1007.6001–3
Subpart HHH added ... 12479
1007.6001–3
Added ... 16039
1008.202–50
Introductory text of (g) amended ... 12479
1009
Subpart A recodified and revised ... 3012
Subparts J and K recodified and revised ... 3014
1009.102—1009.112
Subpart A recodified as 1009.103–1—1009.112; revised ... 3012
1009.103–1—1009.112
Subpart A recodified from 1009.102—1009.112; revised ... 3012
1009.1000—1009.1002
Subpart J recodified and revised ... 3014
1009.1100—1009.1108
Subpart K recodified as 1009.1100—1009.1109; revised ... 3014
1009.1100—1009.1109
Subpart K recodified from 1009.1100—1009.1108; revised ... 3014
1011.356—1011.356–2
Deleted ... 16427
1013.406—1013.406–2
Deleted ... 13718
1013.406
Added ... 13718
1013.552
Amended ... 8144
1013.2103–4
(b)(4) amended ... 3978
1016
Subpart C added ... 6451
Subpart C revised ... 13718
1016.202
Amended ... 3978
Deleted ... 10979
1016.207–50
(c) added ... 3978
Introductory text revised ... 10979
1016.207–56
Revised ... 3978
1016.303
Subpart C added ... 6451
Subpart C revised ... 13718
1016.815
Added ... 6451
1016.815–2
Added ... 6451
Deleted ... 10979
1018.150
Added ... 16039
1018.306–1
Added ... 13718
1023
Added ... 16427
1053
Subpart X deleted ... 5787
1053.404–2
Revised ... 3017
1053.404–6
Deleted ... 3018
1053.2400—1053.2404
Subpart X deleted ... 5787
1054
Subpart Z recodified and revised ... 3018
Subpart H deleted ... 13718
1054.800—1054.803
Subpart H deleted ... 13718
1054.804
Deleted ... 10979
1054.2600—1054.2605
Subpart Z recodified from 1054.2600—1054.2606; revised ... 3018
1054.2600—1054.2606
Subpart Z recodified as 1054.2600—1054.2605; revised ... 3018
1054.3004
(a)(3)(iii) revised ... 3978
Introductory text of (a) and (a)(2)(i) and (iv) and (2)(ii) revised ... 10979
1054.3005
Added ... 10979
Deleted ... 16428
1054.3006
Revised ... 10979
1055.201
Revised ... 5787
1055.202
(a) revised ... 5787
1057
Subpart KK deleted ... 10980
1057.3700—1057.3703
Subpart KK deleted ... 10980
1059.602
(a) deleted; (b) and (c) redesignated as (a) and (b), respectively; (b)(3)(i) amended ... 8964
1059.604
Revised ... 8964
Chapter XII
1260
Added ... 11324
Chapter XIV
1450.735–4
(c) and (d) added ... 13187
1450.735–7
Added ... 13187
1450.735–21
Redesignated as 1450.735–22; (c), (d), and (e) revised ... 13187
1450.735–21
Added ... 13187
1450.735–22
Redesignated as 1450.735–23; heading amended; (e)(1) deleted ... 13187
1450.735–22
Redesignated from 1450.735–21; (c), (d), and (e) revised ... 13187

36-000—67—9

32 CFR—Continued

Chapter XIV—Continued
1450.735–23—1450.735–29
Redesignated as 1450.735–24—1450.735–30 ... 13187
1450.735–23
Redesignated from 1450.735–22; heading amended; (e) (1) deleted ... 13187
1450.735–24—1450.735–30
Redesignated from 1450.735–23—1450.735–29 ... 13187
1450.735–30
(f), (i), (j), (l), and (r) amended; (s) added ... 13188
1450.735–32
(b) amended ... 13188
1450.735–34
(b) amended ... 13188
1450.735–35
Amended ... 13188
1450.735–36
Amended ... 13188
1450.735–42
Revised ... 13188
1450.735–42a
Added ... 13188
1450.735–45
(a) revised; (b) amended ... 13188
1450.735–46
Amended ... 13188
1453.3
(d) (2) (i) amended ... 6095
(d) (2) (i) amended ... 12400
1453.5
(g) revoked ... 5457
1455.6
(b) amended ... 10299
1457.9
Revised ... 6971
1464.12
Revised ... 6972
1467.26
(b) (3) added ... 8091
1467.30
(b) (3) added ... 8091
1470.92
Revised ... 9226
1472.6
(d) (1) amended ... 16213
1480
Revised ... 9226
1498.8
Revised ... 5457
Chapter XVI
Amended ... 9787
1600
Revised ... 14947
1604.22
Revised ... 9787
1604.52
(c) revised; (d) added ... 9787
1604.71
(c) revised; (e) added ... 9788
1606.41
Revised ... 13811
1606.55—1606.61
Added ... 14328
1607.2
Revised ... 9973
1607.3
Rescinded ... 9973
1607.5
Revised ... 9973
1609.1
(b) and (d) revised ... 9973
1609.2
Revised ... 9973
1609.21
(b) revised ... 9973
1610.2
(a) and (b) revised ... 9973
1611.2
(a) revised ... 9788
1611.5
(a) deleted; (b) redesignated as text of section ... 9788
1622.1
(a) revised; (e) added ... 9789
1622.11
(b) deleted; (a) redesignated as text of section ... 9789
1622.12
(d) revised ... 9789
1622.13
(f) revised ... 9789
1622.14
(b) deleted; (a) redesignated as text of section ... 9790
1622.15
(b) revised ... 9790
1622.22
Text designated as (a); (b) added ... 9790
1622.23
(c) revised ... 9790
1622.23a
(f) (2) revised ... 9973
1622.24
(c) deleted ... 9790
1622.25
Revised ... 9790
1622.25a
Revoked ... 9973
1622.26
Added ... 9791
1622.30
(a) revised ... 9791
1622.30a
Revised ... 2368
1622.40
(a) (3) revised; (b) (6) added ... 9791
1622.42
(d) added ... 9792
1622.50
(a) and (b) revised ... 9792
1624.1
(a) revised ... 6961
1626.2
(b) and (c) (1) revised ... 6961
1626.24
(b) (3) and (4) deleted ... 9792
1626.25
(a), (b), and (c) revised ... 6961
(d) rescinded; (e) redesignated as (d) ... 6962
Deleted ... 9792
1626.61
(b) revised ... 6962
1627.3
Revised ... 6962
1628.14
(h) revised ... 6963
1628.25
(a) (2) and (3), (c), and (d) (3) and (4) revised ... 6963
1630.4
(a) revised ... 9793
1631.4
Revised ... 9793
1631.5
(a) revised ... 9793
1631.7
(a) amended; (b) redesignated as (c); new (b) added ... 9793
1631.8
(c) added ... 9794
1632.5
(a) (2) revised ... 6964
1632.9
(j) revised ... 6964
1632.20
(a) (3) revised ... 6964
(b) (3) revised ... 9794
1632.21
(b) revised ... 6964
1642.10
Revised ... 9794
1642.12
Revised ... 9794
1642.13
Revised ... 9795
1642.14
Revised ... 9795
1642.15
Revised ... 9795
1642.21
(c) redesignated as (e) and revised; new (c) and (d) added ... 9796
1643
Added ... 1119
1690.16
(d) (1) revised ... 7073
1690.17
(c) revised ... 7073
Chapter XVII
1705
Added ... 8757
1711
Added ... 7628
1711.3
(b) revised ... 12845
Chapter XVIII
1810.4
(a) amended ... 6932

32A CFR

OEP (Chapter I)
DMO 3000.1
Amended ... 788
DMO 8540.2
Added ... 6032
DMP 4
Revised ... 14388
BDSA (Chapter VI)
BDSA Reg. 2, Dir. 11
Added ... 11734
M–11A
Schedule A revised ... 7208
Schedule A revised ... 15710
M–11A, Dir. 1
Amended ... 7208
M–11A, Dir. 2
Revised ... 2886
Amended ... 7208
ABCDIB (Chapter VII)
Heading revised; text amended ... 15831
OIA (Chapter X)
OI Reg. 1
Amended ... 1175
Amended ... 11382
Amended ... 13856
OI Reg. 2
Added ... 15876
Residual Fuel Oil Import Instructions—District I
Revoked ... 1175
NSA (Chapter XVIII)
INS–1
Revised ... 5422
Corrected ... 5621
OMA (Chapter XIX)
MA–ET–1
Added ... 10568
Terminated ... 10791

Proposed Rules:
Ch. X ... 11238, 11396, 12631
Ch. XVIII ... 10102, 12995

33 CFR

Chapter I
Subchapter J added ... 12791
Subchapter O added ... 14390
1
Subpart 1.25 revised ... 11211
Subpart 1.26 added ... 11211
1.25–1—1.25–80
Subpart 1.25 revised ... 11211
1.26–1—1.26–25
Subpart 1.26 added ... 11211
3.10–1
Revised ... 5269
3.10–40
Revised ... 5269
3.10–80
Revised ... 5270
3.40–1
Revised ... 5270
3.40–10
Revised ... 5270
3.40–30
Revised ... 5270
3.40–35
Revised ... 5270
23.05
Revised ... 6576
23.10
Revised ... 6577
33
Subpart 33.05 authority citation revised ... 3398
33.05–1—33.05–25
Subpart 33.05 authority citation revised ... 3398
33.05–3
(a) (1) amended ... 3398
33.05–6
(c) amended ... 3398
33.05–7
(c) revised ... 3398
33.05–11
(a) and (b) amended ... 3398
33.05–19
(b) amended ... 3398
64
Revised ... 3056
82
Authority citation revised ... 7127
82.145
Revised ... 7127
117
Redesignated from Part 203 of Chapter II ... 12791
117.90
Revised ... 12915
117.220
(d) revised; (n) added ... 13127
117.245
(f) (5–a) revised ... 13127
(f) (12) revised ... 13128
(g) (2) revised ... 13410
(h) (23–a) added ... 13582
117.370
Added ... 13410
117.712
(i) (1) revised ... 13582
117.714
(a) (6) revised ... 13128
117.720
Redesignated from 203.720; (a) revised ... 12791
117.750
(b) (5) (iii) revised ... 13129
151
Redesignated from Part 212 of Chapter II; revised ... 14390
Chapter II
201.20
Added ... 3057
202.168
(a) (6–a) added ... 3883
202.189a
Added ... 4410
203
Redesignated as Part 117, Subchapter J, of Chapter I ... 12791
203.225
(f) (2–a) added ... 3096
203.240
Heading revised; (k) amended ... 923
203.245
(f) (16–b) revised; (j) (32) revoked; (j) (39) revised ... 319
(j) (27) revised ... 5834
203.446d
Added ... 6137
203.712
(h) (1) and (i) (1) revised ... 3772
203.720
Redesignated as 117.720; (c) revised ... 12791
204.20
(a) revised ... 4410
204.30
(b) through (m) redesignated as (b) through (k) and revised ... 15673
204.40
(a) (1) and (2) (ii) and (iii) revised ... 3883
204.200b
Added ... 6138
204.201a
(b) (1) revised ... 5834
204.216
(a) amended ... 7594
204.225a
Added; designated incorrectly as 204.226 ... 217
Addition designated correctly as 204.225a ... 611
207.9
Added ... 8716
207.100
(j) (4) revised ... 4572
207.110
Revoked ... 8717
207.117
Added ... 10299
207.120
Revoked ... 8717
207.180
Heading and (a) (1) revised ... 3057
207.440
(w) revised ... 12479
207.441
(b) (2) revoked ... 10652
207.476
Added ... 9068
207.530
Revised ... 320
207.642
(a) (2) and (b) revised ... 13382
207.645
Added ... 5685
207.750
(a) (1) revised ... 8717
(b) revoked ... 13382
208.40
Added ... 5834
209.135
(d) amended ... 14392
212
Redesignated as Part 151, Subchapter O, of Chapter I; revised ... 14390
Chapter III
Consolidated with Chapter V of Title 15 in new Parts 906, 907, and 945 of Chapter IX of Title 15 ... 16257
Chapter IV
401.102–9
Revised ... 6394
401.102–13
Revised ... 6394
401.102–18
Revised ... 6394
401.102–19
Revised ... 6395
401.102–21
Revised ... 6395
401.102–22
Deleted ... 6395
401.102–25
Revised ... 6395
401.103–3
Revised ... 6395
401.103–6
Deleted ... 6395
401.103–7
Amended ... 6395
401.104–15
Revised ... 6395
401.104–30
Amended ... 6395
401.105–1—401.105–8
Recodified as 401.105–1—401.105–11; revised ... 6395
401.105–1—401.105–11
Recodified from 401.105–1—401.105–8; revised ... 6395
401.105–6
(g) corrected ... 6973
401.120–1
Amended ... 6396
402.3
(c) revised ... 6490
402.6
Revised ... 6490
Proposed Rules:
80 ... 795
82 ... 722, 8768, 14775
95 ... 795
124 ... 795
126 ... 795
401 ... 3888

35 CFR

Chapter I
5.46
Revised ... 13770
5.61
Amended ... 13770
9
Added ... 14219
61
Subpart J added ... 15641
61.123
Amended ... 3216
61.284
Revised ... 3216
61.401
Subpart J added ... 15641
(d) corrected ... 16428
67.163
(b) (1) revised ... 8026
67.591
(b) revised; (c) amended ... 8026

35 CFR—Continued

Chapter I—Continued

67.704
(a) revised ... 9026
67.722
(d)(1) revoked; (e)(1) through (6) revised; (e)(7) and (8) revoked; (e)(9)(x) added; (f)(3) and (h)(1)(i) revised ... 9026
111.203
(a) revised ... 8243
111.207
Added ... 8243
111.221
Revised ... 8243
117.1a
Added ... 3830
117.1b
Added ... 3830
Corrected ... 7022
117.3
Revised ... 3830
119.141
Revised ... 4061
123.4
(a) amended ... 8243
123.7
Revised ... 8243
253.2
(k)(2), (l), and (n) revised ... 4281
(l) corrected ... 5270
253.3
(a) amended ... 4281
253.8
(a) amended; (b)(6) and (7) and (d)(6) revised; (e) and (f)(1) amended ... 4281
253.38
Amended ... 4281
253.41
(b)(2) revised ... 8361
253.43
(a) revised ... 8361
253.112
Amended ... 4281
253.134
Amended ... 4281
253.135
(d) revised ... 4281
253.241
Revised ... 4281
255.735-2
(h) amended ... 15832
255.735-30
Added ... 15832
255.735-31
Introductory text of (a) revised; (c) redesignated as 255.735-30 and revised; (d) and (e) revised; (f) redesignated from 255.735-32(g)(1) and revised ... 15832
255.735-32
Heading revised; (g)(1) redesignated as 255.735-31(f) and revised ... 15832
255.735-40
Amended ... 15832
255.735-56
Amended ... 15832
255.735-72
Revised ... 15832
255.735-72a
Added ... 15832
255.735-74
Revised ... 15833
255.735-78
Revised ... 15833
255.735-80
(a)(2) revised ... 15833

36 CFR

Chapter I

1.1
(c) added ... 8294
2.1
Amended ... 8294
3.1
(w) added ... 8294
3.17
(b) revised ... 8294
5.4
Introductory text of (a) amended ... 8294
6.2
(b) revised ... 6399
6.4
Introductory text of (c)(1) revised ... 6399
7
Note added ... 6932
Note corrected ... 7333
7.1
Revised ... 16213
7.11
Revised ... 13071
7.12
Revoked ... 6932
7.13
(e)(1), (2)(ii), and (5) revised ... 7595
7.17
Revoked ... 13129
7.18
(a) revoked ... 15710
7.19
Revoked ... 6932
7.19
Added ... 13129
7.20
Revoked ... 6932
7.20
Added ... 11989
(a)(3)(v) revised ... 15391
7.21
Revoked ... 16213
7.22
(a) revised ... 7772
7.23
Revoked ... 6932
7.24
Revised ... 5771
7.29
Revoked ... 6932
7.30
Revoked ... 6932
7.32
Revoked ... 6932
7.33
Revoked ... 6932
7.35
Revoked ... 6932
7.37
Revoked ... 6932
7.38
(f) added ... 13812
7.43
Revised ... 15751
7.50
Revoked ... 6932
7.51
Revoked ... 6932
7.53
Revoked ... 6932
7.53
Revoked ... 6932
7.54
Revoked ... 6932
7.56
Revoked ... 6932
7.59
Revoked ... 6932
7.61
(b) revoked ... 16213
7.62
Revoked ... 6932
7.70
Revised ... 5424
7.76
Added ... 2564
7.77
Added ... 13072
30
Added ... 13189
50.19
Introductory text of (c) revised ... 13582

Chapter II

200
Added ... 9679
251.24
Revoked ... 12946
251.40—251.42
Center heading and sections added ... 13190
251.90—251.96
Center heading and sections added ... 12945
261.6
Revised ... 6622
261.11
(a) and (b) revised; (g) revoked; (h) revised ... 12946

Chapter III

311.1
Amended ... 3742
Amended ... 6933
Amended ... 15989
311.3
(b) revised ... 13280
326.3
(b) revised ... 13280

Chapter V

502.735-11
Redesignated as 502.735-11a; revised ... 13222
502.735-11
Added ... 13222
502.735-11a
Redesignated from 502.735-11; revised ... 13222
502.735-12
(i)(1) redesignated as 502.735-11a(h) and revised ... 13223
502.735-21
(c), (g), (h), (j), and (n) revised; (r) added ... 13223
502.735-41
(e) revised ... 13223
502.735-41a
Added ... 13223
502.735-42
Revised ... 13223
502.735-44
Revised ... 13223
502.735-49
Revised ... 13223
504
Added ... 9682

Proposed Rules:

7 ... 5039, 9235, 9236, 10808, 12723, 15761
80 ... 6979
251 ... 6979

37 CFR

Chapter I

1.15
Added ... 13812
1.119
Revised ... 13583
1.121
Revised ... 13583

1.126
Revised ... 13583

Chapter II

201.2
(b)(3) added; (c)(1) and (3) revised ... 9315

Proposed Rules:

1 ... 9026

38 CFR

Chapter I

1.500—1.526
Center heading revised; note added ... 10848
1.500
(c) and (d) added ... 10848
1.501
Revised ... 10848
1.502
Revised ... 10848
1.507
Revised ... 10848
1.508
(b) revised ... 10848
1.509
Revised ... 10848
1.510
Revised ... 10848
1.511
(d) and (e) revised ... 10849
1.512
Revised ... 10849
1.513
Heading, (a), and (b)(1)(iv) and (2) revised ... 10849
1.514
(b)(2) revised; (b)(3) added ... 10849
1.516
Revised ... 10849
1.518
(c) revised ... 10849
1.523
Revoked ... 10849
1.524
Revised ... 10849
1.525
(a)(1) and (b)(5) and (6) revised ... 10849
1.526
(b), (e), (g), (i), (j), and (k) revised ... 10850
1.527
Added ... 10850
1.550—1.558
Center heading, note, and sections added ... 10850
1.900—1.906
Center heading and sections added ... 2613
1.910—1.921
Center heading and sections added ... 2613
1.930—1.937
Center heading and sections added ... 2614
1.940—1.943
Center heading and sections added ... 2615
1.950—1.954
Center heading and sections added ... 2615
2.1
(b) revised ... 7127
2.3
(b) revised ... 7127
2.4
Revised ... 7127
2.6
(a)(6) added; (b), (c), (d), and (e) revised ... 2815
2.68
Revoked ... 4533
2.68a
Revised ... 4533
3
Subpart E revoked ... 4533
3.1
(g)(4) revised ... 6840
3.2
(f) redesignated as (g) and republished; new (f) added ... 13223
3.3
(c)(1) and (3) and (d)(3) revised ... 13223
3.7
(h) revised ... 6840
3.13
(a)(2) revised ... 13224
3.17
Revised ... 13224
3.52
(a) revised ... 13224
3.54
(a) through (d) revised ... 13224
3.100
(c) revoked; (d) redesignated as (c) and revised ... 4533
3.252
Heading revised ... 13224
3.262
(m), (n), and (p) revised ... 13224
3.314
Introductory text of (b) and (b)(2) and (3) revised ... 13224
3.315
(d) and (e) revised ... 13225
3.326
(d) revised; (h) added ... 13225
3.342
(a) revised ... 13225
3.350
Introductory text of (a) revised ... 13225
(f)(3) revised ... 15878
3.351
Revised ... 13225
Cross reference amended ... 13226
3.402
(a) revised; (c) added ... 13226
3.450
(g) revised ... 13226
3.454
(b) revised ... 13226
3.460
Revised ... 13226
3.502
(e) added ... 13226
3.551
(c) revised ... 13226
3.552
(b)(1) and (e) revised ... 13226
3.667
(c) revised; (f) added ... 12114
3.711
Revised ... 13226
3.802
(a) revised ... 6840
3.806
(a) and introductory text of (c) revised; (e) added ... 13227
3.1600
Introductory text, (a), (b)(4), and (c) revised ... 3742
3.1601
Introductory text of (a) revised; (c) added ... 13227
3.1605
Introductory text added; (a) revised ... 3743
3.1900—3.1908
Subpart E revoked ... 4533
6.65
Revised ... 14274
6.95
(b) revised ... 13927
8.24
Revised ... 13927
8.26
(b) revised ... 13927
8.77
(a)(2) revised ... 14275
8.116
(c) revised ... 14275
8.186
Added ... 923
9.28
(d) revised ... 8144
(b) revised ... 9165
13.200—13.217
Added ... 4534
13.202
(b)(1)(iv) and (v) revised; (c) added ... 13771
13.209
(a)(3) revised ... 10436
14.514a
Revised ... 2429
14.514b
Revoked ... 2429
14.600—14.610
Center heading revised; note added ... 2429
14.607
(c) revised ... 11162
14.608
Revised ... 11162
14.611—14.613
Center heading, note, and sections added ... 2429
17.30
(r) and (s) added ... 6841
(f) revised; (p) revoked; (k) through (o) redesignated as (l) through (p), respectively, and revised; new (k) added ... 13813
17.33
Added ... 13813
17.36
(b) (2) revised ... 13813
17.45
Center heading, (a), and (d)(1) revised ... 13813
17.45a
Added ... 13813
17.46
(d) redesignated as (e) and revised; new (d) added ... 6841
(e) revised ... 11382
17.47
(a) revised ... 13813
17.48
(h) added ... 6841
Revised ... 13813
17.49
(a)(3)(vii) revised ... 6841
(b)(2)(vi) amended ... 13814
17.50
(k) added ... 6841
(c), (d), (e), (f), and (j)(2) revised ... 13814
17.52
Heading revised; (c) added ... 6841
17.60
(d) added ... 6841
Revised ... 13815
17.60a
Added ... 13815
17.60b
Added ... 13816
17.60c
Added ... 13816

38 CFR—Continued

Page

Chapter I—Continued

17.60d
Added ... 13816
17.60e
Added ... 13816
17.62
Revised ... 6841
Center heading added; section revised ... 14382
17.63
Added ... 11382
17.64
Added ... 11382
17.65
Center heading and section deleted ... 11383
17.65
Added ... 11383
17.100
(c) revised ... 13816
17.115
Center heading and section revised ... 13816
17.115a
Added ... 13816
17.115b
Added ... 13816
17.115c
Added ... 13816
17.120
(h) revised ... 13817
17.123
Introductory text revised ... 13817
17.142
(b) revised ... 13817
17.210—17.220
Center heading and sections added ... 6841
17.300—17.306
Center heading and sections added ... 11383
19.111
(a) and (c) revised ... 4410
19.119
Revised ... 4410
19.121
(b) (1) and (2) revised ... 4410
19.129
(b) revised ... 4410
19.130
Revised ... 4410
19.131
(a) revised ... 4411
19.132
Revised ... 4411
19.141
Revised ... 4411
19.152
Revised ... 4411
21.42
Revised ... 16099
21.700
(a) revised ... 16099
21.701
Introductory texts of (b) and (c) revised ... 16099
21.1020
(a) revised ... 5271
Introductory text added ... 13402
21.1021
(b) revised ... 5271
(d) added ... 13402
21.1040
(e) revised ... 5549
21.1041
(a) (3) added; (b) and (d) (2) revised ... 13402
21.1042
(c) revised ... 13402
21.1045
(a) and (b) revised ... 13402
21.3032
(a) (3) revised ... 3979
21.3040
(c) revised ... 13402
21.3041
(c), introductory text of (d), and (d) (3) revised; (d) (7) added ... 13402
21.4006
(b) revised ... 13402
21.4008
(a) and (b) revised ... 4533
Revised ... 13402
21.4009
Revised ... 4533
21.4025
(b) (7) and (c) (6) and (7) revised; (c) (8) added ... 5271
21.4134
Revised ... 13403
21.4135
(n) revised; (u) added ... 3979
21.4136
(a), (c), and (g) revised ... 13403
21.4138
Revised ... 3452
21.4200
(b) revised ... 3979
(a) (1) revised; (c) added ... 13403
21.4202
(a), (b) (7), and (c) revised ... 13403
21.4203
(f) (1) revised; (f) (3) and (g) added ... 13403
21.4204
Introductory text and (a) revised ... 3452
(a) revised ... 13404
21.4205
(c) (1) revised ... 3452
(b) (3) revised ... 13404
21.4206
Added ... 13404
21.4209
(c) revised ... 13404
21.4230
(c) revised ... 13404
21.4233
(b) (1) and (2) revised ... 3979
Introductory text revised; (d) added ... 13404
21.4235
Added ... 13404
21.4251
Introductory text of (a) revised ... 13404
21.4252
(a) revised ... 3979
(c) and (d) revised; (g) added ... 13404
21.4253
Introductory text of (f) revised ... 3979
21.4258
(b) added ... 3979
(a) (7) revised; (c) added ... 13405
21.4259
(a) and (d) revised ... 13405
21.4260
(b) (1) revised ... 3979
21.4261
Added ... 13405
21.4262
Added ... 13405
21.4263
Added ... 13405
21.4264
Added ... 13406
21.4270
Revised ... 13406
21.4271
(c) revised ... 13407
21.4272
(g) revised ... 4411
Introductory texts of section, (a), (b), and (c) revised; (d), (e), and (f) revised ... 13407
21.4273
(a) revised; (d) revoked ... 4411
21.4274
Revised ... 4411
21.4275
(l) revised ... 13407
36.4302
(j) revised ... 13583
36.4380—36.4389
Center heading and sections revoked ... 4537
36.4502
Revised ... 13583
36.4503
(a) revised ... 13583
36.4504
(b) (1) revised ... 13583
36.4506
Revised ... 3096
36.4509
(b) revised ... 13584
36.4511
(a) revised ... 13584

39 CFR

Chapter I

Subchapter C appendix amended ... 2624
Subchapter I heading revised ... 4572
Subchapter K revised ... 5326
Subchapter C republished ... 12252
Subchapter C appendix amended ... 13808
113
Redesignated as Part 117 ... 9559
113
Added ... 9559
113.5
(c) revised ... 12400
114.2
Amended ... 3018
114.4
(d) (1) (i) revised ... 3345
117
Redesignated from Part 113 ... 9559
122.4
(g) added ... 5686
123.1
(e) through (h) redesignated as (f) through (i), respectively; new (e) added; newly designated (i) revised ... 13659
123.8
(b) (3) revised ... 13659
125.3
(c) (2) (i) and (d) (2) revised ... 13659
125.4
(d) and (e) revised ... 13659
126.3
(b) (6) (i) (b), (ii) (b), (iii) (b), (iv) (b), and (v) (b), and (c) (3) and (4) amended ... 3345
126.4
(b) revised ... 3345
126.5
(a) revised ... 3019
126.7
(d) (3) amended ... 3345
127.1
Revised ... 3057
(e) (1) (iii) and (e) (2) revised ... 5737

Page

127.2
Amended ... 3058
Amended ... 5738
Amended ... 12400
Amended ... 13662
131.1
Revised ... 15020
131.2
(c) (4) revised ... 2703
(a), (b), and (c) (1), (2), and (3) (i), introductory text of (3) (ii), and (3) (ii) (a) revised ... 15021
(b) (4) (i) revised ... 15587
131.5
(b) revised ... 2816
132.2
(d) revised ... 3019
(b) (3) revised ... 10436
132.3
(c) (3) revised ... 2704
132.6
(b) revised ... 3019
134.4
(a) revised ... 383
134.8
(b) revised ... 383
135.1
(b) (1) (iii) and (iv) revised; (b) (2) redesignated as (3); new (b) (2) added ... 383
(a) revised; (b) (1) amended; (b) (3) revised ... 450
135.2
(a) (4) (i) and (b) revised ... 451
135.3
Amended ... 451
Revised ... 12794
137.2
(c) (1) (ii) amended; (c) (1) (iv) (a) revised; (c) (1) (v) and (vi) added; (c) (2) amended; (c) (2) (i) and (ii) deleted ... 2704
141.8
Revised ... 2432
142.2
(c) revised; (e) amended; (f) revised ... 11328
142.3
Amended ... 11328
143.2
(b) redesignated as (c); new (b) added ... 2895
143.3
Revised ... 5687
143.4
(f) revised ... 7955
143.6
Revised ... 7955
143.8
(c) revised ... 7772
(f) (2) revised ... 13455
144.1
Revised ... 2704
144.2
Revised ... 2704
144.3
Revised ... 2704
Revised ... 7438
144.4
Revised ... 2704
Amended ... 7438
144.7
Revised ... 13662
144.8
Added ... 7438
148
Added ... 5686
149
Added ... 5686
151.3
(e) (1) (ii) amended ... 7629
154.2
(a) (2) revised ... 14894
154.9
Added ... 7629
155.4
(b) revised ... 2433
(b) amended ... 6490
155.6
(f) (1) amended ... 2824
(f) (1) amended ... 3356
161.5
(c) revised ... 7629
161.7
(b) revised ... 7629
161.9
(a) and (g) (5) revised ... 7630
164.6
(a) and (b) revised ... 13662
171.1
(c) (1) (i) (c) amended; (d) (1), (e) (1) and (2), and (g) (2) (ii) revised ... 6491
171.2
(d) and (e) revised; (g) amended; (h) revised; (i) amended ... 6492
171.3
(a) and (b) revised ... 6492
172.3
(c) and (e) (2) revised ... 3096
172.4
(a) revised; (c), (d) (4) (ii), (e) (2), and (f) amended; (h) revised ... 3096
173.1
Revised ... 3294
173.2
Revised ... 3294
173.3
(a) revised ... 3295
173.4
Revised ... 3295
173.5
(a) and (b) revised; (d) amended; (f) (3) and (g) revised; (h) (2) (ii) and (3) amended ... 3295
173.6
Revised ... 3295
173.7
Deleted ... 3296
173.7
Redesignated from 173.8; revised ... 3296
173.8
Redesignated as 173.7; revised ... 3296
173.8
Redesignated from 173.9; revised ... 3296
173.9
Redesignated as 173.8; revised ... 3296
201
Subpart K recodified as Part 747; revised ... 12947
201.90—201.94
Subpart K recodified as Part 747; revised ... 12947
211—273
Appendix C amended ... 2624
Subchapter C republished ... 12252
Subchapter C appendix amended ... 13808
224.4
(d) (4) revised ... 3058
271.5
(b) revised ... 3058
531
Revised ... 10916
531.3
(g) (2) and (3) revised ... 6974
531.5
(d) (4) added ... 6974
532
Revised ... 10918
533
Revised ... 10919
534
Revised ... 10924
541.1
(c) revised ... 11527
614
Revised ... 4411
742, 743
Subchapter I heading revised ... 4572
742
Revised ... 11785
742.735–52
(d) corrected ... 12115
743
Added ... 4413
747
Recodified from Subpart K of Part 201; revised ... 12947
811
Revised ... 5326
812
Revised ... 5326
812.9
(a) (5) revised ... 7266
813
Revised ... 5328
821
Revised ... 5329
821.6
Revised ... 15480
821.8
Revised ... 13129
822
Revised ... 5332
Amended ... 15481
822.2
Revised ... 13130
(a) (19) corrected ... 13869
822.3
(e) (3) revised ... 15480
822.4
(h) revised ... 7266
Heading, (f) (2) (viii), and (g) (6) revised; (g) (7) deleted ... 15481
822.6
(a) (1), (g) (1) (ii), (g) (2) (i), and (g) (3) (ii) revised; (g) (4) amended; (h) (1) (i) and (ii) revised; (h) (1) (iv) added ... 11384
823
Revised ... 15099
956
Added ... 3143
956.2
(e) corrected ... 3296

Proposed Rules:

Ch. I ... 415, 15643
132 ... 4027, 8701
141 ... 8379
143 ... 4027, 4420, 10306
154 ... 11037
224 ... 14851
232 ... 14851
531 ... 3778

41 CFR

Chapter 1

1–1.701–1
(a) and (c) (2) revised; (c) (5) added; (d) (3) and (f) (2) revised; (f) (4), (5), (6), and (7) added; (h) amended; (i) added ... 2624

41 CFR—Continued

Chapter 1—Continued
1-1.701-2 Revised 2626
1-1.701-10 Added 2626
1-1.711 Added 6568
1-3.404-2 (f) revised 2626
1-3.201 (b) revised; (c)(3) added 5622
1-5 Subpart 1-5.9 recodified and revised 15674
1-5.900—1-5.905 Subpart 1-5.9 recodified from 1-5.900—1-5.906; revised 15674
1-5.900—1-5.906 Subpart 1-5.9 recodified as 1-5.900—1-5.905; revised 15674
1-6 Subpart 1-6.8 added 5622
1-6.800—1-6.806-4 Subpart 1-6.8 added 5622
1-7.601—1-7.601-4 Recodified from 1-7.601; revised 16268
1-7.601 Recodified as 1-7.601—1-7.601-4; revised 16268
1-7.602-1 Deleted 16268
1-8.700-2 (a) and (b)(5) revised 9683
1-12.202 Introductory text revised 10852
1-12.302 (d) revised 4312
1-12.303 Introductory text revised 4312
1-12.304 Revised 4312
1-12.403-3 Revised 4312
1-12.604 (b), (c), and (d) revised 2626
1-16.401 (h) revised 16268
1-16.801 (a)(2) revised 9232
1-16.901-25 Revised 9233
Chapter 2
2-60.101 Revised 6974
Chapter 3
3-75 Revised 15833
Chapter 4
4-1.112 Added 1176
4-1.112-1 Added 1177
4-1.302-3 Added 1177
4-2.407-6 Added 10083
4-3.204 (a)(3) revised 1177
4-3.211 (c) deleted 1177
4-3.350 Deleted 1177
4-3.350 Added 1177
4-3.901 Deleted 1177
4-4 Subpart 4-4.52 deleted 1179
4-4.5001 Redesignated as 4-4.5001a 1177
4-4.5001 Added 1177
4-4.5001a Redesignated from 4-4.5001 1177
4-4.5002 Deleted 1177
4-4.5005 (a) revised 1177
4-4.5006 (b) revised 1178
4-4.5010 Revised 1178
4-4.5014 (b) revised 1178
4-4.5016 Revised 1178
4-4.5018 Revised 1178
4-4.5021 Revised 1178
4-4.5024 Deleted 1178
4-4.5027 Revised 1178
4-4.5032 Deleted 1178
4-4.5033 Revised 1178
4-4.5041 Revised 1178
4-4.5042 Revised 1178
4-4.5043 (b) revised 1178
4-4.5045 Revised 1178
4-4.5046 Revised 1178
4-4.5047 Revised 1179
4-4.5051 Revised 1179
4-4.5053 Revised 1179
4-4.5059 Revised 1179
4-4.5060 Deleted 1179
4-4.5061 Revised 1179
4-4.5064 Revised 1179
4-4.5073 Revised 1179
4-4.5074 (d) revised; (e) deleted 1179
4-4.5079 Revised 1179
4-4.5088 Revised 1179
4-4.5097 Revised 1179
4-4.5099a Revised 1179
4-4.5099b (f)(4)(iii) revised 1179
4-4.5200—4-4.5216 Subpart 4-4.52 deleted 1179
4-4.5301-8 (c) revised 1179
4-4.5320 Added 1179
4-5.5500 Deleted 1179
4-12.404-1 Revised 1179
4-12.404-2 (c) added 1179
4-12.404-7 Revised 1179
4-16.804 (c) added 1180
4-50.202-2 (a) revised 1180
4-50.202-6 Added 1180
4-50.206 Revised 1180
4-50.207 Amended 1180
Chapter 5
5-1 Subpart 5-1.50 added 9165
5-1.5000—5-1.5011-4 Subpart 5-1.50 added 9165
5-2.407—5-2.407-8 Added 16160
5-2.407-52 (c) added 16160
5-2.407-53 Added 16160
5-2.407-54 Revised 16160
5-3.802 (a) revised; (b) deleted 6452
5-3.852 Deleted 6452
Chapter 5A
Revised 9402
5A-1.307—5A-1.307-8 Added 12558
5A-1.375 (d) revised 11384
5A-3.103 (e) added 11384
5A-8.602-1 (b) revised 13817
5A-16.950-1535 Revised 11384
5A-73.101-2 Amended 14844
5A-73.101-4 (a) amended 14844
5A-73.109-2 Revised 14844
5A-73.114-3 Amended 11384
Chapter 5B
5B-2.201-70 Deleted 5360
5B-2.201-81 Added 12720
5B-2.202-70 (e) amended 13719
5B-2.202-71 Revised 5361
5B-2.202-76 Deleted 5361
5B-2.407-72 Added 12720
5B-3 Added 5361
5B-7 Subpart 5B-7.70 added 5361
5B-7.701, 5B-7.701-1 Subpart 5B-7.70 added 5361
5B-16 Amended 12720
5B-16.950-1411B Deleted 5361
5B-16.950-1467 Revised 5361
5B-16.950-1467A Added 5363
5B-16.950-1468 Revised 5364
5B-16.7001 Revised 5365
5B-53.7001 (a)(7) revised 13719
Chapter 6
6-1.258—6-1.258-2 Recodified from 6-1.258; revised 12115
6-1.258 Recodified as 6-1.258—6-1.258-2; revised 12115
6-3.213 Added 3936
6-6 Subpart 6-6.50 deleted 14695
Subpart 6-6.8 added 14695
6-6.500—6-6.504 Subpart 6-6.50 deleted 14695
6-6(800—6-6.806-2 Subpart 6-6.8 added 14695
6-60 Revised 15751
6-75.201 (b) revised 15427
6-75.202 Revised 3937
6-75.205 (a) revised 12115
(a) revised 15427
6-75.209 Added 15427
Chapter 7
7-1.102 Amended 8467
7-1.104-4 Amended 8467
7-1.104-5 Amended 8467
7-1.106 Amended 8467
7-1.107—7-1.107-3 Recodified from 7-1.107; revised 14844
7-1.107 (b) and (c) amended 8467
Recodified as 7-1.107—7-1.107-3; revised 14844
7-1.204 Amended 8467
7-1.205 Amended 8467
7-1.206 Amended 8467
7-1.305-3 Amended 8467
7-1.310-7 Amended 8467
7-1.310-10 Amended 8467
7-1.313 Deleted 8467
7-1.451-2 Amended 8467
7-1.451-3 Revised 8467
Revised 14845
7-1.451-4 Amended 8467
7-1.453-2 Revised 8467
7-1.602 Amended 8467
7-1.604 Amended 8467
7-1.605-3 Amended 8467
7-1.605-4 Amended 8467
7-1.606 Amended 8467
7-1.1001 (b) revised 8467
7-2.406-3 Amended 8468
7-2.406-4 Amended 8468
7-3.200-50 (a) amended 8468
7-4.202 Revised 8468
7-4.203-1 (b) amended 8468
(b) amended 14845
7-4.203-2 (b) amended 8468
(b) amended 14845
7-4.5300 Amended 14845
7-5.5001 Amended 8468
7-8 Subpart 7-8.52 revised 8468
7-8.5200—7-8.5208 Subpart 7-8.52 revised 8468
7-10.302 Amended 8469
7-12.305-1 (b) amended 8469
7-12.305-5 (a) amended 8469
7-15.305-6 (b)(1) amended; (b)(4) revised 8469
7-15.307-4 Amended 8469
7-16 Subpart 7-16.8 deleted 8470
7-16.200 Revised 8470
7-16.252 Added 8470
7-16.253 Added 8470
7-16.254 Added 8470
7-16.800, 7-16.851 Subpart 7-16.8 deleted 8470
7-16.900 Added 8470
7-16.951 Deleted 8470
7-16.951 Redesignated from 7-16.951-2 8470
7-16.951-1 Deleted 8470
7-16.951-2 Redesignated as 7-16.951 8470
7-16.952 Added 8470
7-16.953 Added 8434
7-16.954 Added 8469
7-30.410 Added 14846
Chapter 8
8-1.108-2 Revised 7267
8-1.302-1 (a)(7) revised; (d) added 8549
8-1.311 Added 7267
8-1.317 Revised 3772
8-1.604-1 (a)(7)(ii) revised 7812
8-2.201 (c) amended 7267
8-2.202-4 Revised 7267
8-2.203-1 (a) revised 7267
8-2.203-3 Revised 7268
8-2.205-1 Added 3773
8-2.205-2 Revised 3773
8-2.407-3 Added 3773
8-2.407-6 Introductory text of (b) revised 3773
8-3.401 Revoked 3773
8-3.403 (b) and (c) revised; (d) added 3773
(c) revised 9827
8-3.405-5 Revised 3773
(d) added 6974
8-3.606-1 Revoked 3773
8-3.606-2 Revoked 3773
8-3.606-5 Revised 3773
8-6 Subpart 8-6.53 revised 7912
Subpart 8-6.2 recodified and revised 12792
8-6.103, 8-6.103-2 Added 12792
8-6.104 Added 12792
8-6.104-3 Revised 12792
8-6.104-4 (a) revised; (b) revoked 12792
8-6.105 Revised 7268
Revised 12792
8-6.202—8-6.204 Subpart 8-6.2 recodified from 8-6.202-1—8-6.204; revised 12792
8-6.202-1—8-6.204 Subpart 8-6.2 recodified as 8-6.202—8-6.204; revised 12792
8-6.5300—8-6.5303 Subpart 8-6.53 revised 7912
8-7.101-5 Introductory text of (b) revised 7268
8-7.150-4 (b) revised 3773
8-7.150-6 (a) revised 7268
8-7.150-8 Amended 3773
8-7.150-9 Added 7268
8-7.150-17 (a) revised 7268
8-7.150-20 Revoked 7268
8-7.150-22 Added 3774
8-7.650-5 Amended 7268
8-7.650-6 Revised 7268
8-7.650-21 Revised 7269
8-7.651-8 Added 7269
8-7.651-9 Added 7269
8-10.103-1 Added 7269

41 CFR—Continued

Page

Chapter 8—Continued

8–10.103–3
Added 7269
8–12.404–1
Added 7269
8–12.404–3
(a) and (d) revised 7269
8–12.404–6
(b)(5) added 7270
8–12.404–7
(c) revised 7270
8–12.404–13
Revised 7270
8–12.803–1
Revised 7270
8–12.803–50
Added 7270
8–12.803–51
Added 7270
8–12.805–1
Revised 7270
8–12.805–3
Revised 7270
8–12.805–4
Revised 7270
8–12.805–6
Revised 7270
8–12.813
Revised 7270
8–12.850
Revised 7270
8–12.851
(a) and (c) revised 7270
8–12.852
Revised 7271
8–12.853
Revoked 7271
8–12.854
Revoked 7271
8–14.102–50
Revoked 6605
8–14.105
Added 6605
8–14.105–51
Revised 6605
8–52.101
Revised 7271
8–52.106
(c) revised 7271
8–75.101
(a) and (b) revised 7271

Chapter 9

9–1
Subpart 9–1.53 added 14055
Subpart 9–1.54 added 15922
9–1.104
(c) amended 15922
9–1.305–1
Revised 3146
9–1.310–5
(a)(2) added 5737
9–1.350–1
Revised 11328
9–1.5103
(b) through (j) redesignated as (c) through (k) respectively; new (b) added 11433
9–1.5201
Revised 8410
9–1.5203
(f) revised 8410
9–1.5300—9–1.5303
Subpart 9–1.53 added 14055
9–1.5401—9–1.5408
Subpart 9–1.54 added 15922
9–2.406–4
Revised 7175
9–2.406–50
Introductory text of (b) revised 7175
9–3.000–50
Revised 3358
Revised 8410
9–3.903–2
(a) revised 8410
9–3.951
Added 8410
9–4
Subpart 9–4.54 added 3979
Subpart 9–4.51 recodified and revised 7271
Subpart 9–4.55 added 14952
9–4.000–50
Revised 3979
Revised 14951
9–4.5100—9–4.5112–8
Subpart 9–4.51 recodified from 9–4.5100—9–4.5112–9; revised 7271
9–4.5100—9–4.5112–9
Subpart 9–4.51 recodified as 9–4.5100—9–4.5112–8; revised 7271
9–4.5107–2
(c–1) added 13131
9–4.5109–7
Revised 13132
9–4.5112–4
Revised 13132
9–4.5112–5
(a)(2)(ii) revised 13132
9–4.5400—9–4.5404
Subpart 9–4.54 added 3979
9–4.5500—9–4.5505
Subpart 9–4.55 added 14952
9–6.151
Revised 3358
9–7.5004–6
Revised 7175
9–7.5006–9
Amended 6274
Amended 7175
Amended 8411
9–7.5006–10
Amended 3358
Amended 6275
Amended 8411
9–7.5006–11
Amended 6275
9–7.5006–12
Amended 3358
Amended 6275
Amended 8411
9–7.5006–14
Revised 6275
Amended 7912
9–7.5006–15
Revised 6275
9–7.5006–17
Revised 6276
9–7.5006–18
Revised 6276
9–7.5006–19
Revised 6276
9–7.5006–20
Revised 6276
9–7.5006–21
Revised 6276
9–7.5006–22
Revised 6276
9–7.5006–29
Revised 8411
9–7.5006–33
Deleted 8411
9–7.5006–45
(b) revised 3358
9–7.5006–56
Added 8411
9–7.5006–57
Added 14953
9–7.5006–58
Added 14953
9–7.5007–4
Deleted 8411
9–8.211–2
(a) revised 11328
9–8.507–5
Revised 11329
9–9.5103
(f) revised 3358
9–12.5408
Deleted 15924
9–15.000–50
Revised 3358
9–15.5003
Revised 7175
Revised 11329
9–15.5005–2
(b) revised 11329
9–15.5008–1
Revised 7175
9–15.5008–2
Revised 7175
9–15.5010–19
Added 8411
9–16.5002–2
Amended 7913
Amended 8412
9–16.5002–4
Amended 7913
Amended 8412
9–16.5002–5
Amended 7913
Amended 8412
9–16.5002–6
Amended 8412
9–16.5002–8
Revised 7278
Amended 13132
9–16.5002–9
Amended 7282
9–16.5002–15
Added 3981
9–51.201
(a) revised 8412
9–58.002
(a) revised 11329

Chapter 10

10–1
Redesignated as Part 10–60; revised 8676
10–60
Redesignated from Part 10–1; revised 8676

Chapter 11

11–1
Subpart 11–1.7 recodified and revised 138
Subpart 11–1.52 added 6974
11–1.313
(b)(4) amended 13135
11–1.315–3
Added 13135
11–1.318
Revised 9234
11–1.353—11–1.353–3
Added 13133
11–1.700—11–1.709
Subpart 11–1.7 recodified from 11–1.708–2—11–1.750; revised 138
11–1.708–2—11–1.750
Subpart 11–1.7 recodified as 11–1.700—11–1.709; revised 138
11–1.5201—11–1.5204–1
Subpart 11–1.52 added 6974
11–2.201–50
(a) amended 13135
11–2.201–51
(c) and (d) amended 13135
11–2.204
Revised 139

Page
11–2.407–8
(c) added 139
11–3.201
Revised 1040
11–3.203
Revised 1041
(b) revised 13135
11–3.204
Revised 4061
(b) amended 13135
11–3.215
Revised 1041
11–3.252
Recodified as 11–3.252—11–3.252–2; revised 1041
11–3.252—11–3.252–2
Recodified from 11–3.252; revised 1041
11–3.600
Added 8027
Amended 13135
11–3.604—11–3.604–7
Added 8027
11–3.605, 11–3.605–1
Added 8029
11–3.605–2
Revised 8029
11–3.606—11–3.606–5
Added 8029
11–3.650—11–3.650–9
Added 8029
11–3.650–8
(b) amended 13135
11–3.651—11–3.651–4
Added 8032
11–3.652—11.3.652–6
Added 11470
11–3.652–3
(a) corrected 11796
11–4
Subpart 11–4.50 deleted 4061
Subpart 11–4.52 added 13133
11–4.5000—11–4.5007
Subpart 11–4.50 deleted 4061
11–4.5105–34
Revised 13135
11–4.5200—11–4.5203
Subpart 11–4.52 added 13133
11–5.5002–2
(b) revised 12442
11–7
Subpart 11–7.1 recodified and revised 6976
Subpart 11–7.6 recodified and revised 7209
Subpart 11–7.50 recodified and revised 13584
11–7.100—11–7.101–68
Subpart 11–7.1 recodified as 11–7.100—11–7.150–18; revised 6976
11–7.100—11–7.150–18
Subpart 11–7.1 recodified from 11–7.100—11–7.101–68; revised 6976
11–7.150–6
Revised 13135
11–7.150–14
Amended 13135
11–7.600—11–7.602–75
Subpart 11–7.6 recodified as 11–7.600—11–7.650–36; revised 7209
11–7.600—11–7.650–36
Subpart 11–7.6 recodified from 11–7.600—11–7.602–75; revised 7209
11–7.650–5
Amended 13135
11–7.5000—11–7.5001
Subpart 11–7.50 recodified as 11–7.5000—11–7.5002–6; revised 13584
11–7.5000—11–7.5002–6
Subpart 11–7.50 recodified from 11–7.5000—11–7.5001–9; revised 13584
11–10
Subpart 11–10.3 added 13135
11–10.305
Subpart 11–10.3 added 13135
11–11
Subpart 11–11.4 added 139
11–11.000
Added 139
11–11.401–4
Subpart 11–11.4 added 139
11–12.404–8
Deleted 13135
11–16
Subpart 11–16.1 added 7074
Subpart 11–16.3 recodified and revised 7076
Subpart 11–16.4 added 7077
Subpart 11–16.5 added 7078
Subpart 11–16.50 added 13590
11–16.100—11–16.101–51
Subpart 11–16.1 added 7074
11–16.200
Revised 7074
11–16.201, 11–16.201–1
Added 7074
11–16.202—11–16.202–52
Added 7074
11–16.202–52
(b)(3) and (5) revised 13135
11–16.250
(b)(2)(v) revoked; (b)(2)(vi) through (x) redesignated as (v) through (ix), respectively 139
Revoked 7076
11–16.250—11–16.250–4
Added 7076
11–16.251—11–16.251–3
Revoked 7076
11–16.251
Added 7076
11–16.300—11–16.350
Subpart 11–16.3 recodified from 11–16.301–2; revised 7076
11–16.301–2
Subpart 11–16.3 recodified as 11–16.300—11–16.350; revised 7076
11–16.400—11–16.404
Subpart 11–16.4 added 7077
11–16.404
(d) amended 13135
11–16.500—11–16.501–51
Subpart 11–16.5 added 7078
11–16.804
(b) amended 13136
11–16.850—11–16.850–2
Revoked 7079
11–16.851
Amended 13136
11–16.853
Added 13136
11–16.5000—11–16.5003
Subpart 11–16.50 added 13590
11–50.102–1
(f) revised 13136
11–60
Subpart 11–60.5 added 9234
11–60.500
Subpart 11–60.5 added 9234
11–75.101
(a) and (c) amended 13136
11–75.102–1
(d) added 13136
11–75.102–2
Revised 13136
11–75.201
Introductory text of (d) revised 13136

Chapter 12

12–60
Added 7772
12–60.211–1
Added 18411

Chapter 50

Heading revised 7702
50–201.601
(b) revised 7702
50–202.2
Revised 2431
50–202.11
Deleted 2431
50–202.14
(b)(1) revised 2431
50–202.19
Deleted 2431
50–202.21
(b)(1) revised 2431
50–202.23
(b)(1) and (3) and (c)(1) revised 2432
50–202.25
Deleted 2432
50–203.1
Revised 7702
50–203.6
(b) revised 7702
50–203.8
(m) revised 7703
50–203.11
(a) and (d) through (h) revised 7703
50–203.13
(c) revised 7703
50–203.14
Revised 7704
50–204.315
Revised 7704
50–204.316
Revised 7704
50–204.319
Revised 7704
50–204.320
(c)(1) and (2) amended 5835
50–204.321
Added 7023
Revised 8412
Heading, (b), and (c) revised; (d) added 15641
50–295.2
(d) revised 7704
50–295.7
Revised 7704
50–295.9
Revised 7704

Chapter 60

60–2
Added 7439

Chapter 101

101–7.102–1
(a) revised 3145
101–7.102–3
(a) revised 3146
101–7.104–3
Revised 3146
101–7.107–2
Revised 3146
101–7.109–1
(a) revised 3146
101–10.106
Text deleted 3145

41 CFR—Continued

Chapter 101—Continued

101–11
Subpart 101–11.8 added ... 8034
101–11.201–1
(b) (1) revised ... 3147
101–11.203–1
(b) revised ... 3147
101–11.203–2
Revised ... 3147
101–11.210—101–11.210–4
Added ... 3147
101–11.410–1
Amended ... 3147
101–11.800—101–11.810
Subpart 101–11.8 added ... 8034
101–11.4919
Deleted ... 8036
101–11.4920
Added ... 8036
101–12
Deleted ... 10299
101–20.902—101–20.902–3
Deleted ... 2432
101–20.4902–1807
Deleted ... 2432
101–20.4902–1807A
Deleted ... 2432
101–25.107
Added ... 4413
101–25.302–1
Revised ... 9683
101–25.405
Revised ... 12400
101–26.102–1
(c) added ... 3690
101–26.200
Revised ... 983
101–26.201
Revised ... 983
101–26.202
Revised ... 984
101–26.203—101–26.203–2
Revised ... 984
101–26.204
Deleted ... 984
101–26.205
Revised ... 984
101–26.205–1
Deleted ... 984
101–26.300
Revised ... 12850
101–26.301–2
Added ... 12850
101–26.307–1
(a) revised ... 11162
101–26.307–2
Revised ... 11163
101–26.309
Revised ... 11163
101–26.312—101–26.312–6
Added ... 12850
101–26.401
(b) revised ... 15754
101–26.401–1
Revised ... 15754
101–26.402–4
Revised ... 15754
101–26.402–5
Revised ... 15754
101–26.408–4
(a) revised ... 3690
101–26.4901
Revised ... 15754
101–26.4901–344
Added ... 984
101–26.4902
(b) revised ... 15754
101–26.4902–1052
Deleted ... 11163
101–26.4902–1348–4
Deleted ... 984
101–26.4902–1424
Added ... 15754
101–27
Subpart 101–27.2 added ... 6493
Subpart 101–27.4 added ... 12401
Subpart 101–27.3 added ... 13456
101–27.201—101–27.209–3
Subpart 101–27.2 added ... 6493
101–27.300—101–27.305
Subpart 101–27.3 added ... 13456
101–27.400—101–27.406
Subpart 101–27.4 added ... 12401
101–27.405
Note corrected ... 12712
101–28
Subpart 101–28.2 added ... 4161
101–28.300—101–28.308
Subpart 101–28.3 added ... 4161
101–29.303
Deleted ... 13635
101–32
Added ... 5687
101–34
Added ... 4024
101–35
Subpart 101–35.5 added ... 8759
101–35.307
Added ... 8759
101–35.308—101–35.308–9
Added ... 8759
101–35.501—101–35.506
Subpart 101–35.5 added ... 8759
101–38.001–11
Revised ... 8144
101–38.001–12
Revised ... 8144
101–38.001–15
Revised ... 8154
101–38.001–16
Revised ... 8145
101–38.304–1
Amended ... 8145
101–38.602
(b) revised ... 8145
101–39.504
(b) revised ... 13635
101–40
Subpart 101–40.7 added ... 8965
101–40.700—101–40.713
Subpart 101–40.7 added ... 8965
101–40.4902
Added ... 8967
101–40.4906–3—101–40.4906–5
Added ... 8967
101–43.303–1
(b) revised; (c) and (d) added ... 12402
101–43.311–1
Revised ... 571
101–43.315–2
Revised ... 10255
101–43.315–5
(i) added ... 571
101–43.4900
Revised ... 571
101–43.4903
Amended ... 12402
101–43.4904
Revised ... 571
101–45
Subpart 101–45.6 added ... 8145
Subpart 101–45.8 added ... 16270
101–45.600—101–45.603
Subpart 101–45.6 added ... 8145
101–45.800—101–45.804
Subpart 101–45.8 added ... 16270
101–46.403
(c) added ... 8145

Chapter 105

105–60
Added ... 9564
105–735.105
Revised ... 15022
105–735.202–2
Revised ... 15022
105–735.202–3
Revised ... 15022
105–735.203–5
Introductory text and (a) revised ... 15022
105–735.213
Revised ... 15022
105–735.214
Revised ... 15023
105–735.217
Revised ... 15023
105–735.218
Revised ... 15023
105–735.306
Revised ... 15023
105–735.401
Revised ... 15023
105–735.402
Revised ... 15023
105–735.403
(a) revised ... 15023
105–735.404
Revised ... 15023
105–735.408
Revised ... 15023
105–735.410
Revised ... 15023
105–735.411
(a) (1) revised ... 15024
105–735.413
Added ... 15024
105–735.511
Revised ... 15024
105–735.514
Revised ... 15024
105–735.523
Added ... 15024
105–735.601
Revised ... 15024
105–735.602
Deleted ... 10524
105–735.603—105–735.610
Revised ... 15024
105–735.611
Deleted ... 15025

Chapter 109

Added ... 14765
109–1
Added ... 14765

Proposed Rules:

50–202 ... 16220
50–204 ... 5848, 12449

42 CFR

Chapter I

35.17
Added ... 6842
51
Revised ... 8243
Subpart A added ... 10792
51.1—51.8
Subpart A added ... 10792
53.130
(a) (1) and (2) deleted ... 11875
54
Subpart E added ... 571
54.1
(d) revised ... 5676
54.4
(c) revised ... 5676
54.5
Deleted ... 11875

54.101
(d) revised ... 5676
54.112
(c) revised ... 5676
54.115
(a) (1) and (2) deleted ... 11875
54.201
(j) revised ... 8146
54.208
(a) (1) and (2) deleted ... 11875
54.209
(c) revised ... 8146
54.212
(c) (2) revised; (c) (3) and (4) redesignated as (4) and (5), respectively; new (c) (3) added ... 8146
54.401—54.414
Subpart E added ... 571
56
Revised ... 7830
57
Subpart H added ... 204
57.9
Deleted ... 11875
57.108
Deleted ... 11875
57.408
Deleted ... 11875
57.701—57.716
Subpart H added ... 204
57.703
(b) revised ... 10202
57.707
(d) revised ... 10202
59.5
(e) revoked ... 8295
59a.8
Deleted ... 11875
71
Subpart J–1 added ... 14058
71.152
Deleted ... 14058
71.153
Deleted ... 14058
71.161—71.166
Subpart J–1 added ... 14058
76.1
(c) revised ... 4415
76.5
(c) revised ... 4415
77
Added ... 11990

Chapter IV

Revoked ... 11735

Proposed Rules:

35 ... 578
53 ... 8334
71 ... 5679
73 ... 7215, 8181, 13775, 13776, 15178
77 ... 3160, 9998
81 ... 5514
306 ... 10801

43 CFR

Subtitle A

2
Revised ... 9974
18
Revised ... 207
18.2
(b) (4) revised ... 6494
20
Appendix revised ... 3701
21
Added ... 8361
21.8
Corrected ... 10299
22
Added ... 6633

Chapter I

407
Revoked ... 2774
408
Revoked ... 2774
410
Revoked ... 2774
414
Revoked ... 2774
415
Revoked ... 2774
416
Added ... 3098

Chapter II

1810
Subpart 1815 added ... 3059
1815.0–5—1815.1–4
Subpart 1815 added ... 3059
2226.1–5
(e) and (f) revised ... 7713
2232.2–3
(a), (b), and (c) revised ... 6194
2234.2–3
(b) (16) (ii) revised ... 4414
2244.9–1
(d) (2) revised ... 5689
3100
Subpart 3107 added ... 8968
3107.01—3107.1–4
Subpart 3107 added ... 8968
3122.1
(a) amended ... 13324
3123.3
(c) added ... 13324
3131.1
Revised ... 10652
3131.2
(b) revised ... 10653
3131.5—3131.5–6
Added ... 10653
3132.1–1
(c) revised ... 10653
3132.1–2
(a) and (b) revised ... 10653
3132.2
(a) (2), (3), and (5) revised ... 10653
3132.3–1
Revised ... 3297
Revised ... 10654
3132.7
(b) revised ... 10654
3133.4
(a) revised ... 10654
3134.1
(a) revised ... 10654
3143.2–2
Revised ... 3297
3153.2–2
Revised ... 3297
3161.1
(a) (1) revised ... 10654
3161.2
(b) (1) revised ... 10655
3161.3–4
Revised ... 10655
3162.2
Revised ... 3297
Revised ... 10655

Public Land Orders

47
Revoked in part by PLO 4199 ... 6640
386
Revoked in part by PLO 4234 ... 9167
583
Revoked in part by PLO 4274 ... 13412
684
See PLO 4161 ... 3151
686
Revoked in part by PLO 4133 ... 211
1067
Revoked by PLO 4213 ... 6644
1096
Revoked in part by PLO 4141 ... 213
1166
Revoked by PLO 4295 ... 14275
1259
Revoked by PLO 4121 ... 52
1374
Revoked in part by PLO 4198 ... 6640
1552
Revoked in part by PLO 4204 ... 6642
1564
Revoked in part by PLO 4198 ... 6640
1583
See PLO 4307 ... 15428
1630
See PLO 4315 ... 15482
1654
Revoked by PLO 4154 ... 3020
1718
Revoked in part by PLO 4280 ... 13413
1767
Revoked in part by PLO 4255 ... 10933
1967
Revoked in part by PLO 4233 ... 9167
2135
Revoked in part by PLO 4168 ... 3745
2198
Revoked in part by PLO 4157 ... 3020
Revoked in part by PLO 4206 ... 6642
2375
Revoked in part by PLO 4296 ... 14276
2449
Revoked by PLO 4140 ... 213
2631
Revoked by PLO 4140 ... 213
2749
Revoked in part by PLO 4137 ... 212
3036
Amended by PLO 4259 ... 10934
3263
Revoked in part by PLO 4307 ... 15428
3456
Revoked in part by PLO 4239 ... 10437
3518
See PLO 4123 ... 53
3634
Revoked in part by PLO 4302 ... 15427
3945
Revoked in part by PLO 4275 ... 13412
4038
Revoked in part by PLO 4208 ... 6643
4074
Corrected and amended by PLO 4134 ... 211
4111
Corrected and modified by PLO 4120 ... 6
4120 ... 6
4121 ... 52
4122 ... 53
4123 ... 53
4124 ... 53
4125 ... 53
4126 ... 54
4127 ... 54
4128 ... 54
4129 ... 210
4130 ... 210
4131 ... 210
4132 ... 210
4133 ... 210
4134 ... 211
4135 ... 211
4136 ... 211
4137 ... 212
4138 ... 212
4139 ... 212
4140 ... 213

43 CFR—Continued

Chapter II—Continued
Public Land Orders—Continued

	Page
4141	213
4142	213
4143	213
4144	213
4145	214
4146	214
4147	214
4148	320
4149	452
4150	452
4151	611
4152	2817
Corrected	6780
4153	2888
Corrected	4061
Revoked in part by PLO 4252	10933
4154	3020
4155	3020
4156	3020
4157	3020
4158	3021
4159	3021
4160	3021
Revoked in part by PLO 4212	6644
4161	3151
4162	3297
4163	3743
4164	3743
4165	3744
4166	3744
4167	3744
4168	3744
4169	3745
4170	3745
4171	3745
4172	3746
4173	3747
4174	3747
4175	3991
4176	4121
4177	4122
4178	4282
4179	5835
4180	5836
4181	5836
4182	5836
4183	5836
4184	5837
4185	5837
4186	5837
4187	5837
4188	5837
4189	7913
4190	6096
4191	6096
4192	6096
4193	6194
4194	6138
4195	6494
4196	6495
4197	6639
4198	6640
4199	6640
4200	6640
4201	6641
4202	6641
4203	6641
4204	6642
4205	6642
4206	6642
4207	6642
4208	6643
4209	6643
4210	6643
4211	6644
4212	6644
4213	6644
4214	6644
Corrected by PLO 4294	14156
4215	6645
4216	6645
4217	6645
4218	6645
4219	6646
4220	6646
4221	7913
4222	7913
4223	8036
4224	8036
4225	8037
4226	8037
4227	8037
4228	8808
4229	8809
4230	8809
4231	9166
4232	9166
4233	9167
4234	9167
4235	9167
4236	9234
See PLO 4317	15483
4237	10255
4238	10256
4239	10437
4240	10257
4241	10257
4242	10258
4243	10258
4244	10258
4245	10259
4246	10259
Corrected by PLO 4284	13414
4247	10259
4248	10259
4249	10260
4250	10260
4251	10260
4252	10933
4253	10933
4254	10933
4255	10933
4256	10934
4257	10934
4258	10934
4259	10934
4260	10934
4261	11875
4262	11875
4263	11876
4264	11876
4265	12752
4266	12950
See PLO 4317	15483
4267	13072
4268	13072
4269	13072
4270	13192
Amended by PLO 4312	15429
4271	13411
4272	13411
4273	13411
4274	13412
4275	13412
4276	13412
4277	13412
4278	13412
4279	13413
4280	13413
4281	13413
4282	13413
4283	13413
4284	13414
4285	13414
4286	13414
4287	14060
4288	14060
4289	14101
4290	14155
4291	14155
4292	14155
4293	14156
4294	14156
4295	14275
4296	14276
4297	14276
4298	14276
4299	14276
4300	14276
4301	15098
4302	15427
4303	15427
4304	15427
4305	15428
4306	15428
4307	15428
4308	15428
4309	15428
4310	15429
4311	15429
4312	15429
4313	15429
4314	15482
4315	15482
4316	15482
4317	15482
4318	15483
4319	15878
4320	16100
4321	16213
4322	16214
4323	16214
4324	16214
4325	16214
4326	16215

Proposed Rules:

23	10656, 12059, 13972
1720	15546
1820	13196
2240	7085
2244	8622, 10799, 11996
3100	15883
3120	12196, 13983
3170	7086, 8622, 11996
4120	11192, 16164

44 CFR

Chapter IV

401.2 (j) and (k) added	9516

Proposed Rules:

401	7978

45 CFR

Subtitle A

4.1 Amended	6664
5 Revised	9315
5.3 Revised	14895
5.4 Revised	14895
5.11 Amended	14895
5.21 (a) and (c) amended	14895
5.22 (a) revised; (c) amended	14895
5.24 (a) (3) and (4) revised	14895
5.52 Amended	14895
5.70 Amended	14895
5.71 Amended	14895

5.72 Amended	14895
13 Revised	4572
14 Revised	9167
14.15 Added	16100
35 Revised	14101
55 Added	10852
80 Authority citation for part deleted; authority citations added to individual sections	14556
80.3 (c) amended	14556
80.4 (c) (2) revised	14555
80.6 (a) amended	14555
80.8 (c) (3) deleted; (c) (4) redesignated as (c) (3)	14556
(d) (2) deleted; (d) (3) and (4) redesignated as (d) (2) and (3), respectively	14557
80.9 (e) amended	14555
(d) (1) amended	14556
(b) and (d) amended	14557
80.10 (a) through (e) revised	14555
(g) added	14556
80.12 (b) revised	14555
(a) (1) deleted; (a) (2) and (3) redesignated as (a) (1) and (2), respectively; (c) amended	14557
80.13 (c) revised	14555
(d) through (j) redesignated as (e) through (k), respectively; new (d) added	14556
(k) amended	14557
81 Revised	15156
85.10 Revised	12851
85.200—85.204 Subpart added	11947

Chapter I

114 Revised	5549
116 Revised	2742
117 Revised	2753
118 Revised	2758
121 Added	11434
130 Revised	2946
141.1 Introductory text of (c) revised; (c) (10) added	4162
141.20 Revised	7498
141.21 Revised	7498
141.23 Revoked	7498
142.2 Introductory text of (c) revised; (c) (10) added	4163
166 Revised	6276
177.2 Revised	8146
178.2 Revised	8147

Chapter III

301.26 Added	5271
301.27 Added	5271
301.28 Added	5272
308.4 Revised	7334

Chapter IV

402 Subpart H recodified and revised	3148
402.75, 402.76 Subpart H recodified as 402.75—402.93; revised	3148
402.75—402.93 Subpart H recodified from 402.75, 402.76; revised	3148

Chapter V

502 Revised	13508
503 Added	9569
531.1 (c) added	413
(c) revised	15641
531.2 (f) and (g) redesignated as (g) and (h), respectively; new (f) added	413
531.5 (c) and (l) revised	413

Chapter VI

611.12a Added	3150
Revoked	4062

Chapter VII

Revised	4062
701 Revised	4062
702 Revised	4063
703 Revised	4065
704 Revised	4066
Revised	9684
704.2 (h) corrected	11085
705 Added	272
Revised	4067
Revised	14589
705.735–1 Corrected	2848
705.735–3 Corrected	2848

Chapter VIII

801 Appendix A amended	5470, 5554, 6685, 8091, 8246, 8523, 8590, 10736, 11085, 11440, 12180, 12620, 13193.

Chapter X

1005 Added	9585
1009 Added	9587
1015 Added	13965
1039.10 Revised	10073

Chapter XI

Added	10513
1100 Added	10513
1100.3 (d) (2) corrected	11215

Proposed Rules:

25	2448
801	387
808	8778

46 CFR

Chapter I

10 Authority citation revised	7914
Subpart 10.02 authority citation revised	7914
Subpart 10.05 authority citation revised	7914
Subpart 10.10 authority citation revised	7915
Subpart 10.13 authority citation revised	7915
Subpart 10.15 authority citation revised	7915
Subpart 10.20 authority citation revised	7915
Subpart 10.25 authority citation revised	7915
Authority citation revised	15755
10.02–1—10.02–33 Subpart 10.02 authority citation revised	7914
10.02–19 (a) revised	7914
10.05–1—10.05–61 Subpart 10.05 authority citation revised	7914
10.05–5 Introductory text of (b) revised	7914
10.05–6 Added	15755
10.05–28 Revised	7914
10.05–29 (a) (3) revised	7914
10.05–31 (a) (2) revised	7914
10.05–36 Added	15755
10.05–52 Added	15756
10.05–58 Added	15756
10.10–1—10.10–29 Subpart 10.10 authority citation revised	7915
10.13–1—10.13–33 Subpart 10.13 authority citation revised	7915
10.15–1—10.15–33 Subpart 10.15 authority citation revised	7915
10.20–1—10.20–13 Subpart 10.20 authority citation revised	7915
10.25–1—10.25–9 Subpart 10.25 authority citation revised	7915
10.25–9 (a) (6) redesignated as (a) (7) and revised; new (a) (6) added	7915
43 Subpart 43.03 added	78
43.03–1—43.03–20 Subpart 43.03 added	78
43.03–15 (a) (2) revised	3022

46 CFR—Continued

Page

Chapter I—Continued
42.03-20
(a)(2) revised 3622
45
Authority citation revised 13509
45.01-75
(b) revised 13809
70.05-1
(b) added 6397
70.05-3
Introductory text of (a) and (b) revised; (d) added 6397
75.43-5
(b) revised 384
75.43-90
(a)(2) added 384
80
Added 6397
Subpart 80.15 added 12480
80.15-1
Subpart 80.15 added 12480
94.43-5
(b) revised 384
94.43-90
(a)(2) added 384
146
Authority citation revised 8148
146.02-10
Revised 8148
146.02-11
Revised 8148
146.03-4
Added 8149
146.04-5
Amended 8149
146.05-17
(q) amended 8149
146.06-14
Revised 8149
146.09-15
Introductory texts of (b) and (d) revised 8149
146.20-35
(e) revised 8150
146.20-85
(a) revised 8150
146.20-87
Introductory text of (a) revised 8150
146.21-15
Revised 8150
146.21-57
Revised 8150
146.22-7
Revised 8150
146.22-100
Amended 8150
146.23-13
Revised 8150
146.23-100
Amended 8150
146.24-27
Revised 8151
146.25-20
Revised 8151
146.25-21
Revised 8151
146.25-23
Added 8151
146.25-25
Revised 8151
146.25-30
Revised 8152
146.25-35
(e) and (f) revised; (g) and (h) added 8152
146.25-43
Revised 8153
146.25-50
(b) revised 8153
146.25-400
Amended 8153
146.26-35
Revised 8154
146.27-35
Revised 8154
146.29-5
Revised 8154
146.29-11
(c) revised 8154
146.29-13
Revised 8157
146.29-14
Added 8157
146.29-29
(c) revised 8158
146.29-35
(b) revised 8158
146.29-39
(c) and (m) revised 8158
146.29-51
(b) revised 8158
146.29-57
(c) revised 8158
146.29-59
Introductory text of (d) and (d)(5) revised 8158
146.29-61
(a) revised 8158
146.29-73
(c) revised 8158
146.29-75
Introductory text of (b) revised 8159
146.29-81
(b) and (c) revised 8159
146.29-85
(h) revised 8159
146.29-90
Added 8159
146.29-93
(a) revised 8159
146.29-99
(c) amended; Chart A revised 8159
146.29-100
Amended 8160
147
Authority citation revised 8161
147.03-8
Revised 8161
147.03-10
Revised 8161
147.05-100
Amended 8161
154.20
Added 12794
160
Subpart 160.055 revised 5500
160.055-1—160.055-9
Subpart 160.055 revised 5500
171.10-1
(a)(2) and (b) amended 4499
171.10-3
(a) amended 4499
171.10-25
(a) amended 4499
171.15-20
(b) and (c) amended 4499
180.30-1
(b) added 385
Chapter II
202
Revised 2705
205
Subpart A revised 12951
206.1—206.8
Subpart A revised 12951
221
Appendix amended 4499
221.7
(a)(2) revised 4122
222.2
Revised 7525
247
Revoked 7054
290.1
Revised 7174
293.8
Redesignated as 293.9(b); revised 10855
293.8
Added 10855
293.9
Revised 10855
308.6
Amended 4537
Amended 11528
308.106
Amended 4537
Amended 11528
308.206
Amended 4537
Amended 11528
308.305
Amended 4537
Amended 11528
309.1—309.101
Revised 7525
Revised 16272
310
Subpart A recodified and revised 4537
310.1—310.12
Subpart A recodified from 310.1—310.12a; revised 4537
310.1—310.12a
Subpart A recodified as 310.1—310.12; revised 4537
310.58
(c) amended 3022
310.60
(c) amended 3022
350.4
Revised 9224
350.5
Revised 9224
380
Subpart D added 12345
380.30—380.36
Subpart D added 12345
Chapter III
Heading revised 8599
401
Authority citation revised 14220
401.110
(a)(1), (2), (3), (7), and (8) revised; (a)(9) added 14220
401.200
Revised 14220
401.210
(a)(1), (4), and (7) revised 14220
401.211
(a)(3) suspended in part 871
Introductory text of (a) and (a)(3) amended; (c) and (d) revised 14220
401.220
(a), (b)(1) and (4), (c), and (e) amended 14221
401.230
(b), (c), (d), and (e) amended; (f) canceled 14221
401.240
(a), (c), (d), and (e) amended 14221
401.250
Revised 14221
401.260
(a), (b), and (c) amended 14221
401.300
Introductory text of (a) and (b) amended 14221
401.310
Introductory text amended 14221
401.320
(a) and (d)(2), (3), (4), and (5) amended 14221
401.330
(a) and (b) amended 14221
401.340
(c) amended 14221
401.400
Revised 14104
(a)(1) corrected 14895
401.410
Revised 14105
401.420
Revised 14105
401.430
Amended 14221
401.431
(a), (d), (e), and (f) amended 14221
401.440
Amended 14221
401.500
Amended 14221
401.510
Revised 14221
401.600
(a) and (b) amended 14222
401.605
Revised 14222
401.610
Revised 14222
401.615
Revised 14222
401.620
Revised 14222
401.630
Revised 14222
401.645
Amended 14222
401.650
Revised 14222
402
Authority citation revised 8590
402.100
Amended 14223
402.210
Introductory text of (a) amended 14223
402.320
(a)(3) revised 8590
Introductory text of (a) amended 14223
403
Authority citation revised; part amended 14223
Chapter IV
500.735-3
Revised 13382
500.735-10
Added 13382
500.735-11
Revised 13382
500.735-12
Heading revised; (e)(1) recodified as 500.735-11(f) and revised 13383
500.735-19
(a), (d), (g), (h), (j), and (p) revised; (q) added 13383
500.735-32
Revised 13383
500.735-33
Revised 13383
500.735-35
Revised 13383
500.735-39
Revised 13383
500.735-42
Added 13384
502
Subparts S and T added 7455
502.5
Revoked; superseded by new Part 503 8407
502.6
Recodified as Subpart E of new Part 503; revised 8407
502.301—502.304
Subpart S added 7455
502.311—502.321
Subpart T added 7455
503
Added 8407
Authority citation corrected 9319
503.43
(f) added 10515
510.9
Amended 8524
510.22
Effective date of amendment of (a) 3774
Effective date of amendment of (a) postponed 5457
Effective date of amendment of (a) postponed 6399
510.23
Effective date of revision of (f) 3774
Effective date of revision of (f) postponed 5457
510.24
Effective date of revision of (a) and (f) 3774
Effective date of revision of (a) and (f) postponed 5457
510.26
(b) revised 6370
513
Added 5504
530.6
Added 9170
530.7
Added 9650
531
Heading revised 7457
531.5
(f) added 7457
531.25
Added 12753
533
Compliance date 7214
533.3
Revised 7915
540
Added 3987
Subpart B added 7283
540.5
Introductory text amended 5457
540.20—540.27
Subpart B added 7283
Proposed Rules:
3 13514
10 795
24 795, 13514
25 795
26 795
30 13514
31 795, 13514
32 795, 13514
33 795, 13538
34 795
35 795, 13514
37 13514
38 13514
39 795, 13514
40 13514
50 13514
51 13514
52 13514
53 13514
54 13514
55 795, 13514
56 13514
57 13514
58 13514
59 13514
60 13514
61 795, 13514
62 13514
63 13514
64 13514
65 13514
66 13514
67 13514
68 13514
69 13514
70 13514
71 795, 13514
72 795
75 795
76 795
77 795
78 795, 13514
79 13514
80 8168
90 795, 13514
91 795, 13514
92 795
93 795
94 795, 15635
95 795
96 795
97 795, 13514
98 795, 13514
99 13514
111 795, 13514
112 795, 15635
113 795
146 795
147 795
160 795
162 13514
167 795
175 795
176 795, 13514
180 795
182 13514
184 795
187 795
189 795
192 795
195 795
Ch. II 16436
401 3709, 5425, 12756, 13079, 13668
403 3709, 5425, 13668
Ch. IV 15488, 16226
502 6512
510 386, 4879
512 5516
536 7857
540 3064

47 CFR

Chapter I
0
Subpart C heading revised 10570
0.1
Deleted 10569
0.1
Redesignated from 0.2(a); revised 10569
0.2
(a) redesignated as 0.1 and revised; (b) redesignated as 0.4 and revised 10569
Deleted 12180
0.3
Revised 10569
0.4
Redesignated from 0.2(b); revised 10569

36-000—67——11

47 CFR—Continued

Page

Chapter I—Continued

0.5
Revised 10569
(a) (12) and (b) (6) amended 13125
0.61
Center heading and section revised 13125
0.281
(dd) through (jj) added 10363
(kk) added 15472
(ll) added 15675
0.289
(c) added 3831
(c) (10) added 6283
(c) (11) added 7835
0.291
(k) added 5273
0.331
(b) (8) revised; (b) (19) added 3831
0.401—0.493
Subpart C heading revised 10570
0.401
(b) revised 12795
0.402—0.431
Revoked 10570
0.403
Added 10570
0.405
Added 10570
0.406
Added 10570
(b) (7) corrected 12180
0.411—0.420
Center heading and sections added 10571
0.421—0.423
Center heading and sections added 10572
0.423
(c) (15) and (16) corrected 12180
Introductory text of (a) amended 13125
0.431—0.434
Center heading and sections added 10573
0.441
Redesignated as 0.481; amended 10578
0.441—0.467
Center heading and sections added 10573
0.442—0.453
Redesignated as 0.483—0.493 10578
0.443
(c) revised 2626
Amended 13125
0.455
(g) amended 13125
0.457
(g) revised 11213
Headings of (a), (b), (c), (d), (e), and (f) corrected 12180
0.471—0.475
Center heading and sections added 10578
0.481
Redesignated from 0.441; amended 10578
0.483—0.493
Redesignated from 0.443—0.453 10578
1.61
(g) added 8813
1.70
Added 2890
1.545
Revised 2771
1.572
(a) (1) revised 11214
1.1209
(g) added 4358
1.1237
(b) revised 4358
2.106
Amended ..... 924, 2772, 3832, 4069, 6933, 8147, 10300, 11991, 12916.
2.561
(b) revised 12795
2.601
Revised 273
Revised 10181
2.602
Revised 10181
2.609
(a) and (b) revised; (d) added 273
Revised 10181
5.63
Revised 1129
13.5
(c) (2) and (3) redesignated as (c) (3) and (4) respectively; (c) (2) added 9232
13.11
(b) (1) revised 2627
15.63
(c) amended 6933
(c) revised 10854
17.1
Revised 11268
17.3
(c) added 8813
(a) revised 11268
17.3
Deleted 11268
17.4
Revised 11268
17.7
Added 11269
17.8
Added 8813
(a) revised 13591
17.9
Added 8813
17.10
Added 8813
17.11
Deleted 11268
17.12
Deleted 11268
17.13
Deleted 11268
17.14
Revised 11269
17.15
Deleted 11269
17.16
Deleted 11269
17.17
Revised 11269
17.21
Revised 11269
17.22
Revised 11269
17.24
Revised 11269
17.25
(a) (1) and (2) revised 11269
17.26
(a) (1) and (2) revised 11270
17.27
(a) (1) and (2) revised 11270
17.28
(a) (1) and (2) revised 11270
17.29
(a) (1) and (2) revised 11270
17.30
(a) (1) and (2) revised 11270
17.31
(a) (1) and (2) revised 11271
17.32
(a) (1) and (2) revised 11271
17.33
(a) (1) and (2) revised 11271
17.34—17.45
Deleted 11271
17.34—17.58
Added 11271
19.735–201a
Added 13457
19.735–202
Introductory text of (a) revised; (c) redesignated as 19.735–201a and revised; (d) and (e) revised; (f) redesignated from 19.735–203(e)(1) and revised 13457
19.735–203
Heading revised; (e)(1) redesignated as 19.735–202(f) and revised 13457
19.735–210
(d), (g), (h), (j), and (p) revised; (q) added 13457
19.735–403
Revised 13458
19.735–403a
Added 13458
19.735–405
(c) revised 13458
19.735–406
Revised 13458
19.735–410
Revised 13458
21.15
(p) added 2890
21.52
(a) and (b) revised 13282
21.502
Revised 12041
21.503
Revised 12041
21.504
Revised 12041
21.712
(c) and (d) (3) revised; (d) (4) added 914
23.20
(c) added 2890
25
Subpart E added 321
25.390
Subpart E added 321
31
Appendix B amended 2634
31.1–17
Revised 2628
31.120:1
(a) revised 2628
31.122
(a) revised 2628
31.137
Revised 2629
31.159:1
(a) revised 2629
31.2–20
(c) revised 2629
31.2–25
(e) revised 2629
31.212
Amended 2629
31.221
Amended 2629
31.231
Amended 2630
31.234
Amended 2630
31.241
Amended 2630
31.242:1
Amended 2630

Page

31.242:2
Amended 2630
31.242:3
Amended 2630
31.242:4
Amended 2631
31.243
Amended 2631
31.261
Amended 2631
31.264
Amended 2631
31.500
Amended 276
31.504
Revised 2631
31.510
(b) revised; (c) added 276
31.521
Revised 2631
31.6–63
(a) revised 2631
31.602:1
Amended 2631
31.602:2
Amended 2631
31.602:3
Amended 2632
31.602:4
Amended 2632
31.602:5
Amended 2632
31.602:6
Amended 2632
31.602:7
Amended 2632
31.604
Amended 2632
31.622
Amended 2633
31.624
(a) and (b) revised 2633
31.626
Amended 2633
31.627
Amended 2633
31.629
Amended 2633
31.630
Amended 2633
31.642
Amended 2633
31.645
Amended 2634
31.662
Amended 2634
31.668
Amended 2634
31.702
Amended 2634
31.707
Amended 2634
31.8
Amended 2634
33
Report Form M amended 276
33.1064
Amended 2635
33.3010
Amended 276
33.3030
Amended 276
33.9000
Amended; (a) revised 2635
34.04–1
Revised 2635
34.1–99
Amended 2635
34.14
Amended 2635
34.22
Amended 2635
34.31
Revised 2636
34.32
Revoked 2636
34.33
Amended 2636
34.36
(b) revised 2636
34.40
Amended 2636
34.41
Amended 2636
34.51
Amended 2636
34.71
Revised 2636
34.4250
Amended 2636
34.1–6–1
Amended 2637
35.15
Amended 2637
35.21
Amended 2638
35.23
Amended 2638
35.51
Amended 2638
35.61
Amended 2638
35.71
Amended 2638
35.4223
Amended 2638
64
Subpart D added 788
Appendix A added 788
Subpart E added 11275
64.202
(a) revised 2892
64.221
(a) amended 10855
64.227
(b) revised 2892
64.401
Subpart D added 788
64.501
Subpart E added 11275
73
Subpart G revised 10184
73.13
Deleted 11796
73.18
Text designated as (a); (b) added 2890
73.39
(j) added 13511
73.49
(b) (4) and (5) deleted 10306
73.63
(c) (5) added 11796
73.66
(a) and (c) revised 4359
Revised 11797
73.67
Revised 10447, 12402
73.99
Added 10447, 12402
Corrected; (i) added 10794
73.117
(g) and note added 15162
73.119
(h) redesignated as (i) and revised; new (h) added 7916
73.123
Added 10305
(b) revised 11532
73.190
Amended 10447, 10794
73.202
(b) amended ..... 326, 926, 3151, 6138, 7336, 8528, 8914, 10302, 11877, 11879, 12615, 15166, 15545, 15711.
73.209
(c) added 8813
73.215
Text designated as (a) and amended; (b) added 2891
73.253
(a) amended 7531
73.257
(b) (8) deleted 11797
73.274
(b) revised 4359
Revised 11797
73.287
(g) and note added 15162
73.289
(h) redesignated as (i) and revised; new (h) added 7916
73.300
Added 10305
(b) revised 11532
73.311
(a) revised 11471
73.320
(g) added 13511
73.332
(d) (6) amended 4532
73.515
Text designated as (a) and amended; (b) added 2891
73.553
(a) amended 7531
73.557
(b) (8) deleted 11797
73.572
(b) revised 4359
Revised 11797
73.598
Added 10305
(b) revised 11532
73.606
(b) amended ..... 925, 1129, 1130, 3833, 6142–6143 (3 docs.), 6399, 6779, 6780, 7023, 7024, 7393–7394 (3 docs.), 7956, 8677, 9816, 11214, 11472 (2 docs.), 11889, 12560, 12797, 12798.
73.612
Text designated as (a); (b) added 8814
73.623
Text designated as (a) and amended; (b) added 2891
73.652
(c) and note added 15162
73.654
(i) redesignated as (j) and revised; new (i) added 7916
73.679
Added 10305
(b) revised 11532
73.688
(g) added 13511
73.712
Text designated as (a) and amended; (b) added 2891
73.901—73.971
Subpart G recodified as 73.901—73.981 and revised 10184
73.901—73.981
Subpart G recodified from 73.901—73.971 and revised 10184
74.11
Revised 914

47 CFR—Continued

Page

Chapter I—Continued

74.12
Text designated as (a) and amended; (b) added ... 2891
74.402
(a) amended ... 11992
74.682
(a)(3) corrected ... 452
74.950
(f) revised ... 13512
74.1033
(a) and (b)(3) revised; (b)(4) added ... 914
74.1100
Added ... 914
74.1103
(a) and (b)(3) revised; (b)(4) added ... 914
74.1105
Revised ... 915
Corrected ... 1090
Amended ... 10306
74.1107
(a), (b), and (d) revised ... 915
(e) added ... 5554
Amended ... 10306
81
Subpart P added ... 6935
Subpart F recodified and revised ... 13663
81.31
(h) added ... 2891
81.111
(e) and (f) revised; (g) and (h) added ... 6934
81.131
(d) revised ... 6934
81.132
(a) amended ... 6934
81.133
Revised ... 6934
81.134
(f) revised ... 6934
81.137
(c) added ... 6935
81.151—81.156
Subpart F recodified as 81.151—81.159; revised ... 13663
81.151—81.159
Subpart F recodified from 81.151—81.156; revised ... 13663
81.213
(a)(2) revised ... 13664
81.313
(a)(2) revised ... 13664
81.369
(a)(2) revised ... 13664
81.481—81.486
Center heading and sections deleted ... 6935
81.535
(b)(2) revised ... 13664
81.601—81.604
Subpart P added ... 6935
83
Subpart F recodified and revised ... 13664
83.104
(a) revised ... 13664
83.151—83.158
Subpart F recodified as 83.151—83.165; revised ... 13664
83.151—83.165
Subpart F recodified from 83.151—83.158; revised ... 13664
85.4
(b) revised ... 6936
85.106
(a)(2) revised ... 13667
85.115
(b) amended ... 6936
(b) amended ... 13667
85.151
(b)(3) added ... 6936
85.152
(c) added; note revised ... 6936
85.153
(c) added ... 6936
85.155
(c) added ... 6936
85.156
(b) added ... 6936
85.208
Added ... 6936
87.31
(c) added ... 2891
87.90
(g) revised ... 4069
87.183
(i) amended ... 10300
87.195
(c) added ... 10300
87.201
(b) and (c) revised ... 4069
87.251
Revised ... 4068
87.253
Revised ... 4069
87.257
Revised ... 4069
(c) revised ... 11276
87.277
Revised ... 11276
87.303
Revised ... 16161
87.305
Revised ... 16162
87.401
(a) amended ... 10300
89.55
(f) added ... 2891
89.101
Introductory text of (f) revised ... 12917
89.107
Order regarding effectiveness ... 7531
89.259
(f) amended; (g)(1) and (2) added ... 12915
89.309
(c) revised ... 927
91.8
(a)(1)(viii) added ... 6937
(j) amended ... 12917
91.54
(f) added ... 2891
91.105
Order regarding effectiveness ... 7531
91.254
(a) amended; (b)(17) through (23) added ... 12917
91.304
(a) amended; (b)(21) through (26) added ... 12917
91.354
(a) amended; (b)(21) added ... 11993
(a) amended; (b)(10) revised; (b)(22) through (26) added ... 12918
91.504
(a) amended; (b)(19) added ... 11993
(a) amended; (b)(20) through (25) added ... 12918
91.554
(a) amended; (b)(25) through (28) added ... 11994
(a) amended; (b)(29), (30), and (31) added ... 12918
91.559
(a) and (b)(3) revised; (b)(4) added ... 918
91.604
(b)(2) revised ... 924
93.54
(f) added ... 2891
93.104
Order regarding effectiveness ... 7531
95.15
(e) added ... 2891
95.41
(e) revised ... 2892
95.51
Order regarding effectiveness ... 7531
97.7
Revised ... 12684
(d)(2) corrected ... 16162
97.9
(b) revised ... 12685
97.21
Revised ... 12685
97.23
Revised ... 12685
97.25
(c) revised ... 12685
97.29
(a) revised ... 12685
97.31
(b) revised ... 12685
97.33
Revised ... 12685
97.35
(b) deleted ... 6143
97.41
(c) added ... 2891
97.51
(a)(5) revised ... 12685
(a)(5) corrected ... 13377
97.59
(a) and (b) revised ... 12685
97.139
Deleted ... 12560
97.141
Deleted ... 12560
97.143
Deleted ... 12560
99.11
(g) added ... 2892
Chapter II
Added ... 790
201
Added ... 791

Proposed Rules:

0 ... 10663
1 ... 7917, 10663, 13821
2 ... 332, 2899, 3105, 3301, 4501, 6583, 12562, 13143, 13972, 15180, 15712, 16103.
13 ... 13821
15 ... 6145, 7696, 12563
18 ... 3888
21 ... 464, 2383, 3403, 9103, 9173, 12005, 12121, 13723, 13728
43 ... 14158
64 ... 3384
73 ... 464, 823, 872–874, 1135, 1136, 3384, 3899, 3023, 3024, 3178, 3471, 3835, 3836, 3888, 4077, 4078, 4124, 4175, 4284, 4383, 5564–5568, 5642, 5740, 6099, 6147, 6408, 6409, 7092, 7344, 7397, 7918, 7919, 8520, 8533, 9105, 9173, 10675, 10452, 10606, 10664, 11066, 11283, 11285, 11338, 11886, 12407, 12564, 12954, 13232, 13294, 13527, 13776, 13823, 14160, 14608, 15679, 16083, 16054, 16107.
74 ... 332, 7537, 8725, 9105, 10664, 12121, 12562, 15010.
81 ... 332, 4501, 6583, 13294
83 ... 4501, 6583, 10663, 13294
85 ... 332, 10663, 13294
87 ... 2899, 7345, 10665, 11884, 14161, 15712, 16085, 16056.
89 ... 3301, 10675, 11956, 13143, 13145, 13975, 14161, 14852, 15180, 15680, 16056.
91 ... 3301, 7537, 8533, 9105, 12121, 13143, 13972, 14161, 14852, 15180, 16056.
93 ... 13143, 13972, 14161, 15180, 15680, 16056
95 ... 9105, 13972
97 ... 8293, 8400, 8942, 8303, 13728

48 CFR

Chapter IV
411.21
Revised ... 9024

49 CFR (Prior to April 1, 1967)

Chapter I
Parts 0–500 recodified as Parts 100–600, respectively ... 5606
0–500
Chapter I recodified as Parts 100–600, respectively ... 5606
1.5
(k) added ... 5273
1.55
Revised ... 5273
1.88
Revised ... 5273
1.91
(d) revised ... 5273
1.247
(i) revised ... 4070
72.5
(a) amended ... 5274
73
Note 1 cancelled ... 3453
73.7
(b) revised ... 5274
73.22
Introductory text of (a) revised ... 6, 413
Effective date of revision of introductory text of (a) postponed ... 1180
73.33
Revised ... 3453
73.119
(a)(17) amended; (c)(3) and (f)(5) revised ... 3455
73.123
(a)(6) revised ... 3455
73.134
(a)(6) revised ... 3455
73.135
(a)(9) revised ... 3455
73.136
(a)(8) revised ... 3455
73.141
(a)(8) revised ... 3455
73.145
(a)(7) revised ... 3455
73.148
(a)(5) revised ... 3455
73.190
(b)(4) revised ... 3455
73.206
(c)(3) revised ... 3455
73.224
(a)(4) revised ... 3455
73.247
(a)(12) revised ... 3456
73.248
(a)(6) revised ... 3456
73.249
(a)(6) revised ... 3456
73.252
(a)(4) revised ... 3456
73.253
(a)(6) revised ... 3456
73.254
(a)(5) revised ... 3456
73.255
(a)(5) revised ... 3456
73.257
(a)(4) revised ... 3456
73.262
(a)(11) and (b)(4) revised ... 3456
73.263
(a)(10) revised ... 3456
73.264
(a)(14) amended; (b)(3) revised ... 3456
73.265
(b)(4) revised ... 3456
73.266
(f)(2) revised ... 3456
73.267
(a)(7) revised ... 3456
73.268
(b)(3) revised ... 3456
73.271
(a)(8), (13), (14), and (15) revised ... 3457
73.272
(h)(2) and (i)(3) revised ... 3457
73.273
(a)(5) revised ... 3457
73.276
(a)(6) revised ... 3457
73.280
(a)(8) revised ... 3457
73.289
(a)(4) revised ... 3457
73.292
(a)(2) revised ... 3457
73.294
(a)(3) revised ... 3457
73.295
(a)(9) and (10) revised ... 3457
73.296
(a)(2) revised ... 3457
73.297
(a)(1) revised ... 3457
73.315
(b)(1) added ... 7, 413
Effective date of (b)(1) postponed ... 1180
73.346
(a)(12) revised ... 3457
73.347
(a)(3) revised ... 3457
73.352
(a)(5) revised ... 3457
73.353
(c) revised ... 3457
73.354
(a)(5) amended ... 3458
73.369
Introductory text of (a)(14) revised ... 3458
73.391
(a)(1) and (3), introductory text of (b), and (b)(1) ... 5274
73.392
Introductory text of (a), (a)(2)(i) and (iii) and (3), (b), (e), and (f) revised ... 5274
73.393
(a) revised; (b) and (e) cancelled; (f)(2) and (5) revised; (f)(6) redesignated as (8) and revised; new (f)(6), (7), and (8) added; (h), introductory texts of (1) and of (1), (l)(2), (m)(3), and (n) revised ... 5275
73.394
(c) revised; (d)(1) added ... 5275
74.532
(j) revised ... 5275
74.544
(a)(6) revised ... 5276
74.584
(a) amended ... 5276
74.586
(h)(2) amended; (h)(3) revised ... 5276
74.588
(c) revised ... 5276
74.597
(e) revised ... 5276
74.600
(c) revised ... 5276
75.655
(j)(2) amended; (j)(3) revised; (j)(6) cancelled; (j)(7) redesignated as (6) and revised ... 5276
77
Subpart F revised ... 2818
Note 1 cancelled ... 3458
77.806
(b) revised ... 5276
77.815
(a)(1) added ... 3458
77.819
(a)(1) added ... 3458
77.824
Heading revised; (a) through (c) and (e) through (h) cancelled; (d) redesignated as (e); new (a) through (d) and (f) through (h) added ... 3458
77.841
(d)(1) amended; (d)(2), (4), and introductory text of (5) revised ... 5276
77.860
(c) revised ... 5277
77.875—77.877
Subpart F revised ... 2818
78.205–38
Added ... 5277
78.321
Cancelled ... 3459
78.323
Cancelled ... 3459
78.324
Cancelled ... 3459
78.325
Cancelled ... 3459
78.326
Cancelled ... 3459
78.330
Cancelled ... 3459
78.331
Cancelled ... 3459
78.336
Cancelled ... 3459
78.340—78.340–10
Added ... 3459
78.341—78.341–7
Added ... 3462
78.342—78.342–7
Added ... 3464
78.343—78.343–7
Added ... 3465
91.201
Introductory text of (b) corrected ... 4360
91.206
(c) corrected ... 4360
91.208
Corrected ... 4361
91.212
(c) and (d) corrected ... 4361
91.247
(b) corrected ... 4361
91.264—91.267
Center heading and sections deleted ... 4361

49 CFR (Prior to April 1, 1967)—Continued

Chapter I—Continued

91.330
Reinstated — 4361
91.331
Revised and reinstated — 4361
91.334
Reinstated; (a) revised; (b) through (f) deleted — 4361
95.288
(e) revised — 4499
95.990
Added — 794
131.1
Introductory note added — 2701
131.27
Added — 2701
(a)(3)(ii) revised — 3152
131.28
Added — 2703
135
Added — 927
Effective date postponed — 3059
170.4
Revised — 76
Effective date of revision stayed — 3884
177a
Corrected and republished — 385
190.33
Effective date of amendment further postponed — 3467
191.8
Revised — 719
191.9
Revised — 720
191.10
Revised — 720
191.11
Revised — 720
193.95
(f) through (i) revised — 3775
Effective date of revision of (f) through (i) postponed — 5424

49 CFR (After April 1, 1967)

Chs. I and II designated as Subtitle B; Subtitle A added — 5606

Subtitle A
Added — 5606
1
Added — 5606
Subpart B added — 5609
1.4
(a-1) added — 7497
Introductory text of (b) revised; (b)(3) added — 12919
1.5
(j)(1) revised — 6495
(j)(1) revised — 11277
(q)(1) revised — 14105
(j)(1) revised — 14277
(j)(1)(ii) revised — 15711
1.21—1.33
Subpart B added — 5609
3
Added — 11472
3.5
Added — 14846
5
Added — 10363
Appendix A added — 11473
7
Added — 9284
9
Added — 10076
91
Added, superseding 15 CFR Part 7 — 13384
Chapter I
Parts 100–600 recodified from Parts 0–500 respectively — 5606
100–300
Ch. I recodified from Parts 0–500 respectively — 5606
100.5
Revised — 11215
100.10
Added — 9020
101.48
(a)(7) revised — 14696
101.70
(a) amended — 14696
101.101
(a)(2) amended; (e) revised; (g) amended — 12753
101.242
Deleted — 12753
101.243
Deleted — 12753
101.244
Deleted — 12753
103.5
Added — 15484
105a
Added — 9020
105a.1
(f) added — 9816
106.2
Revised — 13414
107a
Added — 10794
110
Amended — 13136
114
Amended — 15484
120
Amended — 13927
124
Amended — 14392
171.8
(h) added — 13324
Effective date of (h) postponed — 16277
173.22
(a)(1) revised — 5624
173.38
(c) revised — 5624
(b)(2) revised — 5624
173.404
(b) revised — 13324
Effective date of revision of (b) postponed — 16277
173.427
Revised — 13324
Effective date of revision postponed — 16277
173.428
Deleted — 13325
Effective date of deletion postponed — 16277
173.429
Deleted — 13325
Effective date of deletion postponed — 16277
173.430
Revised — 13325
Effective date of revision postponed — 16277
174.507
(c) added — 13325
Effective date of (c) postponed — 16277
174.510
Added — 13325
Effective date postponed — 16277
174.511
Added — 13325
Effective date postponed — 16277
175.652a
Added — 13325
Effective date postponed — 16277
175.653
(a) revised — 13325
Effective date of revision of (a) postponed — 16277
175.654
Revised — 13325
Effective date of revision postponed — 16277
175.657
Deleted — 13325
Effective date of revision postponed — 16277
176.704
Revised — 13325
Effective date of revision postponed — 16277
176.704a
Added — 13325
Effective date postponed — 16277
176.704b
Added — 13326
Effective date postponed — 16277
177.815
(a) revised — 13326
Effective date of revision of (a) postponed — 16277
177.817
Revised — 13326
Effective date of revision postponed — 16277
177.818
Deleted — 13326
Effective date of revision postponed — 16277
177.819
Revised — 13326
Effective date of revision postponed — 16277
180
Added — 9228
Effective date postponed — 12851
Revised — 16040
191.201
Effective date of correction of introductory text of (b) postponed — 8092
Effective date of correction of introductory text of (b) — 11994
191.206
Effective date of correction of (c) postponed — 8092
Effective date of correction of (c) — 11994
(c) amended — 13512
191.208
Effective date of correction postponed — 8092
Amended; effective date — 11994
191.212
Effective date of correction of (c) and (d) postponed — 8092
Effective date of correction of (c) and (d) — 11994
191.247
Effective date of correction of (b) postponed — 8092
Effective date of correction of (b) — 11994
191.331
Effective date of revision and reinstatement postponed — 8092
Effective date of revision and reinstatement — 11994

191.334
Effective date of reinstatement, revision of (a) and deletion of (b) through (f) postponed — 8092
Effective date of reinstatement, revision of (a), and deletion of (b) through (f) — 11994
195.935
Revised — 5931
Vacated — 11948
195.948
(d) revised — 9230
195.949
(d) revised — 9231
Vacated — 11277
195.950
(d) revised — 9231
195.966
(e) revised — 8678
Vacated — 14601
195.975
Temporarily suspended — 8678
(e) revised — 9689
195.976
Vacated — 8718, 8969
195.979
Vacated — 8718
195.981
Revised — 6033
195.988
(e) revised — 6780
195.990
Vacated — 10515
195.991
Added — 6347
195.992
Added — 8037
195.993
Added — 8038
195.995
Added — 11949
195.996
Added — 14156
Revised — 14755
195.997
Added — 14953
197.562
Revised — 5932
Vacated — 11949
197.994
Added — 11949
235
Vacated — 5624
239.1
Amended — 16162
239.1A
Added — 16162
239.2
Revised — 16163
239.4
Revised — 16163
239.5
(c) revised — 16215
239.6
Revised — 16163
239.8
Revised — 16163
270.3
Revised — 9231
270.8
Revised — 13930
274.8
(b) revised — 14557
277a
Revised — 13282
277a.2
Corrected — 13512
277c
Added — 13283
281
Amended — 14601
283
Amended — 13326
287.100
Revised — 8893
287.101
Revised — 8894
287.201
(a) amended — 6843
288.3
Revised — 12403
290.40
Revised — 7128
291.2
(e) revised — 7128
291.10
Revised — 7129
292.10
Revised — 10306
293.17
(b) and (c) revised — 5625
(b) and (c) revised — 7957, 8246
293.42
(b) revised — 5625
(b) revised — 7957
293.71
(a), (b), (c), (g), (j)(2), (k)(1) and (7), and (l)(1) revised; (n) added — 5625
(a), (b), (c), (g), (j)(2), (k)(1) and (7), and (l)(1) revised — 7957
(n) revised — 7958
293.91
Revised — 7129
294.3
Introductory text of (a) and (b) revised — 7129
294.5
Revised — 7129
294.7
Revised — 7129
294.8
Revised — 7129
294.9
Revised — 7129
294.10
Revised — 7129
294.11
Revised — 7129
295.8
(a), (j), (l) through (o), (s), and (t) revised — 7130
295.9
Revised — 7130
295.13
Revised — 7130
296.5
(a), (b), (c)(1), and (d) revised — 7130
423
Amended — 14661
424
Amended — 15025
505.6
(b) revised — 14557
540
Amended — 16428
600
Effective date — 12689

Proposed Rules:
Ch. I — 10517, 12883
71–90 — 10, 14, 675, 5304
80 — 1028
103 — 6451, 7128, 7134, 7188, 7600
110 — 8381, 8725
114 — 12006
120 — 9028
124 — 11644
152 — 14697
170 — 16437
176 — 890
229 — 11477–11480, 16439
270 — 8182, 13823
274 — 12853
276 — 11170, 12854, 13197
281 — 10603
282 — 8725, 13823
288 — 12407, 15589
293 — 12190, 13821
305 — 13823
422 — 10666
424 — 11959
505 — 12853
540 — 13283

50 CFR

Chapter I
1.11
Added — 10855
10.3
(a)(1) and (3), (b)(4) and (7), and (c) revised — 7713
(a)(3) revised — 12689
10.6
(b) revised — 7713
10.41
Revised — 10795
10.46
Revised — 10796
10.51
Revised — 10797
10.52
Revised — 7497
(a) corrected — 7713, 8718
10.53
Revised — 10797
(a)(1) corrected — 11163
(c) added — 11642
(b) revised — 12039
(d) through (h) added — 12686
Heading, (e), (f), and (g) corrected — 12798
(e) corrected — 13072
(c)(3 revised — 13227
(c) (1) and (2) amended; (c)(3) revised — 15834
10.54
Revised — 12688
13
Amended — 10356
13.1
(d)(2) revised — 10856
14
Amended — 10856
15
Amended — 10856
16
Amended — 10856
16.1
(a) revised — 10856
28.28
Amended — 326, 666, 929, 2892, 4414, 6577, 12615, 14696.
32
Amended — 13384

50 CFR—Continued

Page

Chapter I—Continued

32.11
Amended ..... 3869, 12039, 12722, 12919, 13329, 13771, 13932, 14206, 15586.

32.12
Amended ..... 11528, 11707, 11735, 11799, 11880, 11881, 12180, 12560, 12561, 12616–12617 (5 docs.), 12721, 12754, 12851–12852 (3 docs.), 12951 (2 docs.), 13002, 13003, 13073–13074 (3 docs.), 13193–13194 (3 docs.), 13227, 13228, 13284–13286 (2 docs.), 13329, 13512–13513 (3 docs.), 13592 (2 docs.), 13817–13818 (4 docs.), 13867–13868 (3 docs.), 13930, 13931, 13970, 13971, 14103, 14157, 14206, 14326, 14394, 14558, 14846, 14954, 15166, 15587, 15878, 16431.

32.21
Amended ..... 12722, 12689, 12919, 13329, 13772, 13932, 14206, 14767 (2 docs.), 14954

32.22
Amended ..... 79, 3884, 11276, 11440, 11441, 11473 (2 docs.), 11528 (3 docs.), 11530, 11735, 11798, 12039, 12181, 12617–12618 (3 docs.), 12722 (2 docs.), 12754, 12851, 12852, 12952 (2 docs.), 13003, 13095, 13074–13076 (5 docs.), 13194, 13228, 13329, 13458, 13513, 13592–13593 (4 docs.), 13719, 13818–13819 (4 docs.), 13932, 13971 (2 docs.), 14394, 14558, 14559, 14696, 14766, 15587, 15642, 15675.

32.31
Amended 4415, 11163, 13329, 13771, 13772, 13932, 14100

32.32
Amended ..... 7054, 8246, 9234, 9690, 10798, 11036, 11085, 11440, 11474, 11530 (4 docs.), 11735, 11799–11800 (3 docs.), 11881 (2 docs.), 11934, 12040, 12181, 12442, 12561, 12618–12620 (5 docs.), 12721, 12754, 12852, 12954 (2 docs.), 13004–13005 (3 docs.), 13075–13076 (3 docs.), 13194–13195 (3 docs.), 13227–13228 (5 docs.), 13286–13287 (3 docs.), 13329–13330 (3 docs.), 13458, 13513, 13593–13594 (3 docs.), 13771, 13819 (2 docs.), 13868, 13869, 13932, 13971, 14060–14061 (3 docs.), 14103, 14157, 14559, 14664, 14847, 15012, 15924, 16100

33.4
Amended 12919, 13772, 13932, 14767, 14954

33.5
Amended ..... 327, 414 (2 docs.), 611, 726, 929, 983, 1190, 2376–2377 (7 docs.), 2639 (2 docs.), 2709 (3 docs.), 2848, 2893, 2952, 3097, 3151, 3216, 3218 (2 docs.), 3467, 3884 (3 docs.), 4415 (2 docs.), 4578, 5225 (2 docs.), 5626–5627, (3 docs.), 5689, 5738–5739 (3 docs.), 5835, 6034, 6096–6097 (3 docs.), 6143, 6400, 6495, 6685, 7024, 7131, 7394, 11036, 11531, 13229, 13330, 14847, 15166, 15711, 15756 (2 docs.), 15924, 16277–16278 (6 docs.)

60.11
Amended 5787

80
Revised 16215

Chapter II

280
Revised 3970

Proposed Rules:

10 ..... 5638, 6196
13 ..... 10962, 12505
33 ..... 1132, 8765, 10857, 10962, 11224, 11801, 12404, 12444, 12958, 13720, 13933, 14063.
88 ..... 10857, 12444, 12958, 13220, 14063
90 12481
254 6419
280 7776

PARALLEL TABLE OF STATUTORY AUTHORITIES AND RULES

(Additions to 2 CFR; January—November 1967)

This table lists the sections of the U.S. Code which were added to 2 CFR as a result of new citations of authority carried in the *Federal Register* during January—November 1967. Recent legislation not yet assigned within the U.S. Code is carried by public law number at the end of the list.

In order to determine the *Federal Register* page numbers of the parallel CFR citations, users should consult the List of CFR Sections Affected, above.

5 U.S.C.:	CFR
552	1 Part 20; 5 Part 294; 7 Parts 1, 370, 412, 793, 900, 1520, 1701, 1813, 2101; 8 Part 103; 9 Parts 165, 204; 10 Part 9; 12 Parts 4, 261–262, 271, 505, 604; 13 Part 301; 14 Parts 221, 250, 310, 384, 389, 400, 401, 1201, 1206; 15 Parts 4, 60, 903; 17 Parts 140, 200; 19 Parts 14, 17, 36; 21 Part 308; 22 Parts 5–6, 212, 302–303, 503, 602–603; 24 Part 15; 26 Part 601; 28 Part 16; 29 Parts 70, 1401–1404; 31 Parts 1, 92, 270, 323, 351; 32 Parts 168, 169, 169a, 245, 248, 275, 286–286a, 287, 290–291, 518, 806, 813a, 1260, 1480, 1606, 1705; 33 Part 1; 35 Part 9; 36 Parts 200, 504; 37 Part 1; 39 Part 113; 41 Part 105–60; 43 Part 2; 45 Parts 5, 503, 704, 1005, 1100; 46 Parts 380, 503; 47 Part 0; 49 Parts 7, 100, 105a.
553	12 Part 19; 14 Parts 221, 250; 15 Parts 4, 60, 903; 36 Parts 7, 50.
559	7 Parts 1, 370, 412, 793, 900, 1520, 1701, 1813, 2101; 9 Parts 165, 204; 17 Part 140; 29 Part 70; 32 Part 1260; 36 Part 504; 45 Part 1005
1104	5 Part 294
1302	5 Parts 752, 771
3301–3302	5 Parts 305, 330, 713, 733, 752, 771
4118	5 Part 410
5338	5 Parts 531,752,771
5351	5 Part 511
6305	5 Part 630
6311	5 Part 630
7301	5 Parts 752, 771
7327	5 Part 733
7701	5 Parts 752, 771
8124	20 Part 01
8128	20 Part 01
8140	32 Part 732
8145	20 Part 01
8149	20 Part 01
8347	5 Part 831
8716	5 Part 870
5 U.S.C. App.:	
652e	5 Part 550
759	5 Parts 330, 332
1117	5 Part 550
1134	5 Part 550
7 U.S.C.:	
211	9 Part 203
214	9 Part 203
218a	9 Part 203
601–674	7 Parts 900, 953
612c	7 Part 251
1131	7 Part 894
1132	7 Part 877
1133	7 Part 833
1134	7 Parts 833, 891–892, 894
1136	7 Parts 891–892, 894
1153	7 Parts 793, 894
1312	7 Part 725
1314a–1314b	7 Part 724
1373	7 Part 718
1375	7 Part 793
1379j	7 Part 793
1421	7 Part 793
1423	7 Part 1421
1441 note	7 Part 793
1444	7 Part 793
1445	7 Part 1421
1506	7 Part 411
1516	7 Part 411
1702	7 Part 778
1707a	7 Part 1488
1785	7 Part 793
1813	7 Part 1421
1838	7 Parts 707, 719, 793
1969	7 Parts 1804, 1811–1812, 1821, 1823, 1861, 1872
2053	29 Part 40
2106	7 Part 1205
2133	9 Part 2
2151	9 Parts 1–3
2260	7 Part 354; 9 Part 97
8 U.S.C.:	
1103	8 Parts 100, 215, 234, 312
1185	8 Part 215
1224	8 Part 234
1228	8 Part 238
1423	8 Part 312
1443	8 Part 312
10 U.S.C.:	
133	32 Parts 151, 289, 713
136	32 Parts 164, 231
263 note	32 Part 100
471	33 Part 202
1035 note	32 Part 536
1331–1337	32 Part 86
1401–1406	32 Part 86
1577	29 Part 26
2101–2111	32 Part 110
2202	32 Parts 246, 248
2301–2314	32 Part 612
2737	32 Parts 750, 753
3012	32 Parts 519, 612
8012	32 Parts 806–807, 813a, 819–819a, 838–839, 873–875, 888b, 909.
12 U.S.C.:	
1 et seq	12 Part 18
221a	12 Part 208
248	12 Part 264
265	31 Part 214
391	31 Part 214
665	12 Part 619
1464	5 Part 550; 12 Parts 505, 564
1725–1726	12 Parts 509, 566
1725	12 Part 505
1728	12 Part 561
1730	12 Part 566
1748b	24 Part 803a
1748f	24 Part 803a
1749aaa–3	24 Part 1100
1813	12 Part 330
1817	12 Part 330
1818	12 Parts 19, 263
1821	12 Part 330
1828	12 Part 263
1844	12 Part 263
13 U.S.C.:	CFR
4	15 Part 70
5	15 Part 70
14 U.S.C.:	
81	33 Part 64
501	33 Part 1
632	33 Part 1
641	33 Part 1
654	33 Part 1
891	33 Part 1
15 U.S.C.:	
13	16 Parts 240, 412
19	12 Part 263
41–58	16 Parts 412–413
45	16 Parts 228–240
46	16 Parts 228–240
69	16 Part 15
78c	17 Part 249
78l–78m	12 Part 18
79b	17 Part 250
80a–11	17 Part 270
189a	46 Part 206
636	13 Part 122
671	13 Part 123
687	13 Part 123
692–694	13 Part 106
714b–714c	7 Part 793
714c	7 Part 778
717c	18 Part 260
1261	21 Part 191
1392	23 Part 255
1407	23 Parts 216, 255
1453	21 Parts 1, 3
1454	15 Part 12
1455	21 Parts 1, 3
16 U.S.C.:	
3	36 Part 30; 43 Part 21
460k	43 Part 21
460q–1	36 Parts 30, 251
590d	7 Parts 719, 793
590p	7 Part 793
664	43 Part 21
668dd	50 Parts 32, 33
686	43 Part 21
690	43 Part 21
703	50 Part 10
725	43 Part 21
824e	18 Part 2
825g	18 Part 32
1005	7 Part 1823
18 U.S.C.:	
201–209	45 Part 705
203	7 Part 1
205	7 Part 1
207	7 Part 1
208	24 Part 0; 45 Part 1015
834	49 Part 180
19 U.S.C.:	
2051	22 Part 502
20 U.S.C.:	
91	15 Part 256
443	45 Part 142
871–881	45 Part 121
883–885	45 Part 121
883	45 Part 116
954	29 Part 505
988	45 Part 178
1209	45 Part 166

21 U.S.C.:	CFR
89	9 Part 310
111–113	9 Part 83
115	9 Part 83
117	9 Part 83
120	9 Part 83
121	9 Part 76
123	9 Part 83
125	9 Parts 76, 83
134–134h	9 Part 74
134b	9 Parts 76,83
134f	9 Part 76
353	21 Part 165
357	21 Part 148s
358	21 Part 138
360a	21 Part 165
371	21 Parts 138, 191
376 note	21 Part 8
22 U.S.C.:	
287	15 Part 11
287c	22 Part 126; 31 Part 535
620	28 Part 5
1431 et seq	22 Part 502
2381	22 Part 212
2503	22 Parts 302–303
2581	22 Parts 602–603
2626	22 Part 3
2658	22 Parts 3, 5–7, 503; 41 Part 6–60.
25 U.S.C.:	
2	25 Parts 53, 255–256
9	25 Parts 53, 255–256
476	25 Part 53
26 U.S.C. (1954 I.R.C.):	
38	26 Part 1
5362	26 Part 170
7502	26 Part 270
7805	26 Parts 240, 245, 601
28 U.S.C.:	
2671–2680	43 Part 22
2672	5 Part 177; 13 Part 114
29 U.S.C.:	
41a	29 Part 10
181	29 Part 70
201	29 Part 526
203 note	29 Parts 519, 526
205	29 Parts 721–729
206	29 Parts 512, 661, 721–729
208	29 Parts 721–729
301 et seq	29 Part 2
307	29 Part 70
401 et seq	29 Part 2
438	29 Part 70
461	29 Part 70
30 U.S.C.:	
482	30 Part 53
31 U.S.C.:	
52	4 Part 20
71	4 Part 20
74	4 Part 20
394	31 Part 81
395	31 Part 82
397	31 Part 81
405a–1	31 Parts 56, 93
483a	13 Part 301; 22 Parts 5–6, 503, 602–603; 28 Part 16; 29 Part 70; 42 Part 35; 49 Parts 7, 106.

	CFR
492	31 Part 360
725e	31 Part 251
753	31 Parts 317, 342
754b	31 Parts 317, 342
771	31 Part 214
951–952	32 Parts 750, 753
952	7 Part 1; 24 Part 200; 49 Part 107a
33 U.S.C.:	
403	33 Part 64
1008–1011	33 Part 151
37 U.S.C.:	
1001	32 Part 726
38 U.S.C.:	CFR
107 note	38 Part 8
212	38 Part 2
39 U.S.C.:	
501	39 Parts 113, 148–149, 743, 747, 956
4556–4557	39 Part 135
40 U.S.C.:	
442	7 Parts 1823, 1861, 1872
486	41 Parts 6–1, 6–6, 6–60, 8–1—8–3, 8–6—8–7, 10–60, 101–32, 105–60, 109–1.
40 U.S.C. App.:	
203	7 Parts 793, 1821, 1872
41 U.S.C.:	
353	29 Parts 4, 6
42 U.S.C.:	
216	42 Part 54
246	45 Part 55
295h–1	42 Part 57
295h–4	42 Part 57
299–299f	42 Part 54
2991	42 Part 54
421	20 Part 422
1395ff	20 Part 422
1395hh	20 Part 422
1480	7 Parts 1811–1812, 1861, 1872
1771	7 Part 220
1772	7 Part 215
1773	7 Part 220
1775	7 Part 220
1777–1785	7 Part 220
1855aa	43 Part 1810
1855cc	32 Part 1711
1855gg	43 Part 1810
1857f–2	45 Part 85
1891–1893	30 Part 52
1900a	30 Part 52
2000d—2000d–1	45 Part 80
2000e–12	29 Part 1610
2165	10 Part 10
2201	41 Part 109–1
2454	14 Part 1205
2457–2458	14 Part 1209
2472	14 Part 1221
2901–2902	13 Part 119
2905–2907	13 Part 119
2942	7 Parts 1804, 1823, 1833, 1861, 1872; 29 Part 51; 45 Parts 1009, 1015.
3535	24 Parts 1, 6–7, 15, 1520
43 U.S.C.:	
315	43 Part 21
373	43 Parts 21, 418
682a–682e	43 Part 21
869	43 Part 21
1201	43 Part 21

44 U.S.C.:	CFR
206	32 Part 257
45 U.S.C.:	
151–163	39 Part 1208
46 U.S.C.:	
71–75	19 Part 2
72	19 Part 3
216b	46 Parts 402–403
216c	46 Part 403
362	46 Part 80
817d–817e	19 Part 4; 46 Part 540
821	46 Part 502
841a	46 Part 513
1114	46 Part 350
47 U.S.C.:	
151	47 Parts 64, 73
155	47 Part 73
202–205	47 Part 64
307	47 Part 17
316	47 Part 73
318	47 Parts 81, 83, 85
353	47 Parts 81, 83, 85
353a	47 Parts 81, 83, 85
49 U.S.C.:	
12	49 Part 105a
304–305	49 Part 277c
904	49 Part 424
1302	14 Parts 221, 250
1324	14 Parts 250, 310, 384
1324 note	49 Part 91
1343–1344	14 Part 187
1348	14 Part 135
1372	14 Parts 221, 378
1373	14 Parts 208, 212, 214, 250, 288, 295
1374	14 Part 250
1376	14 Part 298
1377	14 Parts 295, 298
1381	14 Part 250
1386	14 Parts 221, 250
1387	14 Part 295
1402	14 Parts 47, 49
1404	14 Parts 47, 49
1427	14 Part 135
1472	14 Part 401
1504	14 Part 401
1507	33 Part 1
1651 note	14 Parts 224, 400, 401; 41 Part 12–60; 49 Part 1
1652	14 Parts 47, 49
1654–1655	14 Parts 400, 401
1655	33 Part 151; 46 Parts 401–403; 49 Parts 91, 191
1657	49 Parts 1, 3, 5, 7, 9, 91
50 U.S.C.:	
791	28 Part 202
50 U.S.C. App.:	
456	32 Part 110
1219	32 Part 1450
2154	32A Ch. VI, BDSA Reg. 2, Dir. 11; Ch. XIX, MA–ET–1
2166	32A Ch. VI, BDSA Reg. 2, Dir. 11; M–11A, Dir. 2; Ch. XIX, MA–ET–1.
Public laws:	
Pub. Law 89–488	20 Part 1

FEDERAL REGISTER

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SUBJECT INDEX

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THE FEDERAL REGISTER SUBJECT INDEX

The Subject Index to the daily *Federal Register* is published separately, covering the contents of the *Federal Register* as follows: Monthly for the months of January, February, April, May, July, August, October, November, and December; quarterly for the quarters ending in March, June, and September; and annually for the calendar year.

Entries in this Index are carried primarily under the names of the issuing agencies, with the most significant subjects additionally carried in appropriate alphabetical position.

This Subject Index should be distinguished from the numerical codification guide (List of CFR Sections Affected) which is also published separately. The numerical guide is designed for quick checking in the *Code of Federal Regulations* numbering system of provisions whose numbers are already known or have been learned through use of the Subject Index.

Page

Accidents:
AIRCRAFT, investigations. *See* National Transportation Safety Board.
PIPELINE CARRIERS, reporting. *See* Federal Railroad Administration.

Additives, Food:
See Food and Drug Administration.

Agency for International Development:
AUTHORITY DELEGATION by Administrator to Assistant Administrator, War on Hunger; interregional and research projects 15550
COMMODITY TRANSACTIONS FINANCED BY A.I.D.; requirement for supplier of U.S.-source commodities to execute new certification, proposed rule 15116

Agriculture Department:
ANIMALS AND PRODUCTS:
See also Packers and Stockyards Administration.
Diseases:
Brucellosis (Bang's) 15577
Hog cholera, swine diseases 15240
Humane slaughter of livestock, identification of carcasses 15125, 16170
Imports; inspection and requirements for certain aircraft, etc., and shipping containers brought into U.S.:
Animals and products 15707
Poultry and products 15707
Viruses, serums, toxins, etc. *See* Viruses, serums, toxins, etc., *below*.
AUTHORITY DELEGATION by Director, Procurement and Sales Division, Agricultural Stabilization and Conservation Service, to certain officials; wheat export, etc.:
Kansas City ASCS Commodity Office Director 15125
Wheat, Subsidy and Market Branch Chief, et al 15125
AVOCADOS, marketing:
Florida, 15669, 15871.
BARLEY; reseal loan programs:
1965 and subsequent storage periods, 15632.
BEANS, dry, edible; reseal loan programs:
1965 and subsequent storage periods, 15632.
CAULIFLOWER; standards for grades, proposed rules 15435
CORN:
Loan and purchase programs:
1967 and subsequent crops, 15706.
Reseal loan programs:
1965 and subsequent storage periods, 15632.
COTTON; marketing quotas, acreage allotments, 1968 crops:
Extra long staple, 15967.
Upland, 16185, 16195.
DAIRY PRODUCTS. *See* Milk and products.
DISASTER AREAS, need for agricultural credit:
Indiana, 15840.
Massachusetts, 16171.
New Hampshire, 16171.
North Carolina, 16111, 16442.
North Dakota, 15126.
Rhode Island, 16171.
South Dakota, 15401.
Texas, 15840.
EXPORTS, wheat:
Authority delegation 15125
Exporters marketing certificate program, 1967; correction 16251
Payment-in-kind (GR-345), correction 16251
FEDERAL CROP INSURANCE CORPORATION. *See main heading* Federal Crop Insurance Corporation.
FEDERALLY-DONATED COMMODITIES, financial assistance for distribution 15948
FILBERTS, marketing:
Oregon and Washington, 15669.
FLAXSEED; reseal loan programs:
1965 and subsequent storage periods, 15632.
FRUITS, fresh:
See also specific fruits.
Inspection, certification, and standards 15066
GRAIN SORGHUM; reseal loan programs:
1965 and subsequent storage periods, 15632.
GRAINS:
See also specific grains.
Reseal loan programs:
1965 and subsequent storage periods, 15632.
GRAPEFRUIT, marketing:
Arizona and California, 15670.
Florida, 15116, 15395, 15430, 15436, 15632, 15806, 15870, 15967, 16097, 16098, 16145.
Texas, 15394, 15669.
HOPS, domestic; marketing, certain States 15670, 15705
HUMANE SLAUGHTER of livestock, identification of carcasses 15125, 16170
IMPORTS:
Animals and products. *See under* Animals and products, *above*.
Plant quarantine, foreign; Unshu oranges from Japan to Alaska, restricted importation 15577
Poultry and products. *See under* Poultry and products, *below*.
INFORMATION, availability of. *See* Records, *below*.
LEMONS, marketing:
Arizona and California, 15430, 15524, 15631, 15870, 16145, 16220.
LIVESTOCK, humane slaughter of livestock, identification of carcasses 15125, 16170
MARKETING QUOTAS, farm acreage allotments, etc.:
See also specific commodities.
Referenda; issuing ballots to voters 15705
Review; availability of records for public inspection 15704
MEAT, humane slaughter of livestock, identification of carcasses 15125, 16170
MELONS:
Marketing:
Texas, 16164.
Parity prices, honeydew 16385
MILK AND PRODUCTS; marketing in certain States, orders proposed or adopted:
Arizona, 15568.
Arkansas, 15093.
Colorado, 15431.
Connecticut, 15090.
Indiana, 15489, 16101, 16389.
Kansas, 15431, 15490, 16390.
Massachusetts, 15076.
Missouri, 15093, 15490, 16390.
New Hampshire, 15076.
Ohio, 15952.
Oklahoma, 15389.
Pennsylvania, 15952.
Rhode Island, 15076.
Tennessee, 15437.
Texas, 15388, 15389.
Washington, 15178, 15706.
West Virginia, 15952.
MOHAIR; payment program, 1968 16391
NUTS. *See* Filberts; Peanuts; Pecans; Walnuts.
OATS; reseal loan programs:
1965 and subsequent storage periods, 15632.
ONIONS, marketing:
Texas, 15177, 15894.
ORANGES:
Marketing:
Arizona and California:
Navel oranges, 15488, 15905, 16097, 16389.
Valencia oranges, 15384.
Florida, 15116, 16097, 16198.
Texas, 15894, 15669.
Plant quarantine, foreign; Unshu oranges from Japan to Alaska, restricted importation 15577
PACKERS AND STOCKYARDS ADMINISTRATION; posted stockyards, designation or removal 15126, 15717, 16171, 16442
PARITY PRICES, determination; honeydew melons 16385
PEANUTS; marketing quotas, acreage allotments, etc.:
1968 crop, 15149.
PECANS; in shell, standards for grades 15073
PESTICIDES; enforcement of Federal Insecticide, Fungicide, and Rodenticide Act, sodium arsenite or arsenic trioxide products intended for use by homeowner, proposed interpretation 16164
PLANT QUARANTINE:
Domestic; pink bollworm 16385, 16388
Foreign; Unshu oranges from Japan to Alaska, restricted importation 15577

Agriculture Department—Continued Page

POTATOES, Irish; marketing:
California, 15705.
Idaho, 15577.
Oregon, 15577, 15705.
Washington, 16199, 16220.
POULTRY AND PRODUCTS, imports; inspection and requirements for certain aircraft, etc., and shipping containers brought to U.S. 15757
PRICE-SUPPORT PROGRAMS. *See main heading* Commodity Credit Corporation.
RAISINS, marketing:
California, 15488, 15871, 15915, 16199.
RECORDS, availability:
Agricultural Stabilization and Conservation Service, 15704.
RICE:
Loan and purchase program:
1967 crop, 15872.
Marketing quotas, acreage allotments, etc.:
1964 and subsequent crops, 15076.
Reseal loan programs:
1965 and subsequent storage periods, 15632.
RYE; reseal loan programs:
1965 and subsequent storage periods, 15632.
SALES of agricultural commodities acquired through price-support activities; November sales list 15497
SCHOOL LUNCH PROGRAM, reporting of free and reduced price lunches 15888
SOYBEANS; reseal loan programs:
1965 and subsequent storage periods, 15632.
SUGAR:
Allotment of quotas, mainland cane area:
1968 crop, 15835.
Conditional payments provisions, 1968 and subsequent crops:
Domestic beet sugar area, 15393.
Mainland cane sugar area, 15393.
Farms, determination; continental U.S., 1968 and subsequent crops:
Sugar beets, 15393.
Sugarcane, 15393.
Importing sugar or liquid sugar:
1968, proposed determination 16045
Refining and storage 15683
Prices, sugar beets:
1968 crop, 15595.
Proportionate shares, sugarcane:
Puerto Rico, 1968–69 crop, 16442.
Wage rates, sugar beets:
1967 crop, 15595.
TANGELOS, marketing:
Florida, 15116, 16097.
TANGERINES, marketing:
Florida, 15116, 15869, 16097, 16199.
TOBACCO:
Loan programs, 1967 crops:
Burley, dark air-cured, Virginia fire-cured and sun-cured, 15633, 16145.
Kentucky-Tennessee fire-cured, 15633.
Marketing quotas, farm acreage allotments, etc.:
1968–71 marketing years, 15646, 16043.
TOMATOES, marketing:
Florida, 15884.
VEGETABLES:
See also specific vegetables.
Inspection, certification, and standards 15066
VIRUSES, SERUMS, TOXINS, etc.; handling of anti-hog-cholera serum and hog-cholera virus, termination of marketing agreement and order and discharging Control Agency 15469
WALNUTS, marketing:
California, Oregon, and Washington, 15388.
WHEAT:
Export program; payment-in-kind (GR–345), correction 16251
Marketing certificate programs; exporters, 1967:
Authority delegation 15125
Correction 16251
Reseal loan programs:
1965 and subsequent storage periods, 15632.
WOOL; payment program, 1968 16391

Air Carriers: Page
See Aircraft and air carriers.

Air Force Department:
See also Defense Department.
ACADEMY, appointment to; correction 15922
AIRCRAFT:
Contractors' flight operations 16155
Emergency landings, other than Defense aircraft 15920
CLAIMS; taxation, legal and administrative actions, etc., deleted 15920
DECORATIONS AND AWARDS, Combat Readiness Medal 15921
MILITARY TRAINING, medical service early commissioning program 16159
PROCUREMENT REGULATIONS:
Construction procurement and architect-engineer services 16039
Contracts:
Administration; base procurement contracts 16428
Clauses 16039, 16427
Service; household goods 16427
Foreign purchases:
Balance of payments program, offshore procurement 16036
Canadian purchases 16036
General provisions, procurement responsibility and authority 16036
Special types and methods; household goods 16427
Taxes, State and local 16427
SALES AND SERVICES, user charges 16035
SECURITY:
Industrial 16264
Protection of USAF resources 16154

Air Pollution:
INTERSTATE AIR POLLUTION, National Capital Metropolitan Area; conference of air pollution control agencies 15597, 15648, 16288

Aircraft and Air Carriers:
AIR FORCE REGULATIONS. *See* Air Force Department.
NATIONAL PARKS, RECREATION AREAS, etc., aircraft landing restrictions. *See under* National Park Service.
POULTRY IMPORTS, regulations respecting cleaning and disinfecting of planes 15707
REGULATORY AGENCIES. *See* Civil Aeronautics Board; Federal Aviation Administration; National Transportation Safety Board.
RESTRICTED AREAS over military installations. *See* Federal Aviation Administration.

Airports:
INVESTIGATION of aircraft accident occurring at Greater Cincinnati Airport, Erlanger, Ky.; hearing 16112

Alcoholic Beverages:
EXCISE TAXES. *See* Internal Revenue Service.
INDIANS, legalizing sale to. *See* Interior Department.
LAKE MEAD NATIONAL RECREATION AREA, use restricted 15751

Aliens:
IMMIGRATION REGULATIONS. *See* Immigration and Naturalization Service.

American Samoa:
WATCHES AND MOVEMENTS, import quotas 15818

Animals and Products:
See also Livestock; Wildlife.
DISEASES, humane slaughter, etc. *See* Agriculture Department.
DOG AND CAT food industry guides, proposed; extension of time 15715
LIVE ANIMALS AND BIRDS; revised air freight charges, hearing 15131
MAMMALS, restoration. *See* Fish and Wildlife Service.

Antibiotic Drugs:
See Food and Drug Administration.

Antidumping Act of 1921:
DETERMINATIONS. *See* Customs Bureau; Treasury Department.

Armed Services: Page
See also Defense Department *and specific services.*
HOUSING MORTGAGE INSURANCE. *See* Federal Housing Administration.

Army Department:
See also Defense Department.
CANAL ZONE. *See main heading* Canal Zone.
CLAIMS against U.S.:
Foreign countries, claims arising in 16264
National Guard personnel, claims arising from activities of, while engaged in duty or training 15113
ENGINEERS CORPS regulations. *See main heading* Engineers Corps.
ORGANIZATION AND FUNCTIONS, central and field agencies 16279
RESERVATIONS, military; inspection of steam boilers, revoked 15115

Atomic Energy Commission:
CONDUCT STANDARDS; cost-type contractors, use of certain information in private activities, avoidance of organizational conflicts of interest 15922
FUELS, spent, reactor; chemical processing and conversion, proposed notice 15128
NUCLEAR MATERIAL:
Byproduct material, licensing, exemption, petition for rulemaking; combustion detectors, products 15724
Exports to certain foreign countries, etc.; general licenses for 15872
Plutonium, enriched in U^{235}, and uranium; use charges increased 16289
Source material, licensing; thorium in certain aircraft engine parts containing nickel-thoria alloy:
Exemption 15872
General licenses to export to certain foreign countries or destinations 15872
Uranium:
Enriched in U^{235}, and plutonium; use charges increased 16289
Hexafluoride, base charges, specifications, etc. 16289
PLUTONIUM, enriched in U^{235}, and uranium; use charges increased 16289
PRACTICE RULES; proposed rules:
General applicability:
Atomic safety and licensing boards; appointment of alternates 16051
Hearing notice; time to publish 16051
Intervention; filing petition at specified time 16051
Policy statement, Appendix A 16051
PROCUREMENT REGULATIONS:
General; cost-type contracts, use of information, avoidance of organizational conflicts of interest 15922
Labor; cost-type contractors, employee participation, deletion 15924
RADIATION, standards for protection against; proposed rules:
Exposure to concentrations of radioactive material in restricted areas 15432
Record and reports system for radiation workers; surveys, personnel exposure, etc. 15762
REACTORS AND CRITICAL EXPERIMENT FACILITIES
Construction and/or operation:
Licenses or permits to listed companies, etc.:
Aerojet-General Corp., 15447.
Allis-Chalmers Manufacturing Co., 16292.
Armed Forces Radiobiology Research Institute, 15724.
Carolinas Virginia Nuclear Power Associates, Inc., 16061.
Duke Power Co., 15684.
General Dynamics Corp., 15468.
Gulf General Atomic, Inc., 15553.
National Bureau of Standards, 15685.
Niagara Mohawk Power Corp., 15849.
Pennsylvania State University, et al., 15686, 15688.
Philadelphia Electric Co., 15469.
Public Service Electric and Gas Co., 15684.
United Nuclear Corp., 15130, 15770.
Wisconsin University, 16171.
Worcester Polytechnic Institute, 16171.
Licensing:
Advisory Committee on Reactor Safeguards, hearings and reports; proposed rule 16053
Construction and/or operation—Continued
Licensing—Continued
Boiling water reactor, La Crosse; application for transfer of provisional operating authorization 15684
Exemption from licensing requirements; hearings and reports of Advisory Committee on Reactor Safeguards, proposed rule 16053
Dismantling order:
Consumers Public Power District, 15684.
Fuels, spent, reactor; chemical processing and conversion, proposed notice 15128
SOURCE MATERIAL. *See under* Nuclear material.
URANIUM:
Enriched in U^{235}, and plutonium; use charges increased 16289
Hexafluoride, base charges, specifications, etc. 16289
Supply policies, research and development; proposed statement 15598

Attorney General:
See Justice Department.

Automobiles:
See Motor vehicles.

Automotive Agreement Adjustment Assistance Board:
DETERMINATIONS BY BOARD:
Borg-Warner Corp., Detroit, Mich., 15933.
Rockwell-Standard Corp., Mishawaka, Ind., 15554.

Avocados:
MARKETING. *See* Agriculture Department.

Awards:
See Decorations and awards.

B

Banks:
DEFENSE DEPARTMENT personnel served by banks on military installations 16426
DEPOSITARY BANKS, equal employment opportunity program compliance guidelines 15401
FEDERAL RESERVE BANKS. *See* Federal Reserve System.
HOME LOAN BANK BOARD regulations. *See* Federal Home Loan Bank Board.
MERGERS; regulations, Federal Savings and Loan Insurance Corporation and Federal Savings and Loan System. *See* Federal Home Loan Bank Board.

Barley:
CROP INSURANCE. *See* Federal Crop Insurance Corporation.
RESEAL LOAN PROGRAMS. *See* Commodity Credit Corporation.

Beans, Dry, Edible:
CROP INSURANCE. *See* Federal Crop Insurance Corporation.
RESEAL LOAN PROGRAMS. *See* Commodity Credit Corporation.

Biological Products:
ADDITIONAL STANDARDS, mumps virus vaccine, live. *See* Public Health Service.
VIRUSES, SERUMS, TOXINS, etc. *See* Agriculture Department.

Birds:
LIVE BIRDS AND ANIMALS; revised air freight charges, hearing 15131
MIGRATORY, etc. *See* Fish and Wildlife Service.

Boats:
See Vessels.

Bonds:
REGULATIONS of various agencies. *See specific agencies.*

Bureau of Labor Standards:
See Labor Standards Bureau.

Bureau of Standards: Page

See National Bureau of Standards.

Business and Defense Services Administration:

COPPER AND COPPER-BASE ALLOYS; set-aside percentages, schedule A revised 15710

SCIENTIFIC INSTRUMENTS, duty free entry; applications, decisions, etc.:
- Agricultural Research Service, 16228.
- Alabama University, 15845.
- Albert Einstein College of Medicine, 15832.
- Auburn University, 16059.
- Baylor University Medical Center, 15841.
- Boston University School of Medicine, 16228.
- Brookhaven National Laboratory, Associated Universities, Inc., 15845.
- Buffalo General Hospital, 16227.
- California University, 15189, 15845, 16228.
  - San Francisco Medical Center, 15502.
- Chicago University, 15843.
- Children's Hospital Research Foundation, 15846.
- City of Hope Medical Center, 16060.
- Colorado University Medical Center, 15845.
- Columbia University, 16060.
- Cornell University, 15845.
- Duke University Medical Center, 15841, 16227.
- Florida State University, 15845, 15889.
- Forsyth Dental Center, 15889.
- Fresno State College, 15841.
- Georgia Institute of Technology, 15845.
- Harvard University, 15501.
- Hawaii Institute of Geophysics, 16228.
- Health Research, Inc., 15889.
- Holy Cross Hospital, 15844.
- Houston University, 16059.
- Illinois University, 16227.
- Kaiser Foundation Hospitals, 16230.
- Kentucky University Medical Center, 16229.
- Los Angeles County General Hospital, 16060.
- Louisville University, 16229.
- Lovelace Foundation for Medical Education and Research, 16228.
- Margaret Sanger Research Bureau, 15842.
- Massachusetts General Hospital, 16228.
- Massachusetts Institute of Technology, 15844.
- Massachusetts University, 15844, 15847.
- Michigan State University, 16059.
- Mississippi University Medical Center, 15931.
- Montefiore Hospital and Medical Center, 15501.
- National Aeronautics and Space Administration, Ames Research Center, 15842.
- New Mexico University, 16060.
- New York City Public Health Laboratories, 16229.
- New York State University:
  - Albany Center, 16230.
  - Buffalo Center, 15842, 15843.
  - Downstate Medical Center, 15402, 15931.
  - Research Foundation, Upstate Medical Center, 15889.
  - School of Dentistry, 16229.
  - Stony Brook Center, 16229.
- North Carolina State University, 16060.
- Ohio State University, 15846, 15890.
- Oregon University, 16230.
- Pennsylvania University, 16059.
- Purdue University, 15847.
- Rochester University, 15503.
- Rutgers State University, 15189.
  - Medical School, 16229.
- San Jose State College, 16060.
- Stanford University, 15502, 15506.
- Texas A. & M. University, 15127.
- Texas University Southwestern Medical School, 15844.
- Union University, Albany Medical College, 15188.
- Utah State University, 16060.
- Vanderbilt University, 16230.
- Virginia University School of Medicine, 15845.
- Washington University Medical School, 15844, 16230.
- Wisconsin University, 15503, 16228.
- Yeshiva University, 16060.
- Youngstown University College of Engineering, 15190.

C

Canada: Page

INTERNATIONAL JOINT COMMISSION regulations. *See* International Joint Commission—United States and Canada.

PURCHASES from, Air Force Department procurement regulations 16036

TRADE AGREEMENTS, termination of certain concessions (Proclamation 3818) 15467

Canal Zone:

CONDUCT STANDARDS 15831

MENTALLY ILL, performance of surgical operations on legally incompetent patients 15641, 16428

Canned Food:

See also specific foods.

DISTRIBUTOR STOCKS, survey 15930

STANDARDS OF IDENTITY. *See* Food and Drug Administration.

Cats:

FOOD INDUSTRY GUIDES, proposed, extension of time 15715

Cauliflower:

STANDARDS for grades. *See* Agriculture Department.

Census Bureau:

BOUNDARY CHANGES for 1970 censuses; cutoff date for recognition 15154

SURVEYS:
- Canned foods, distributors' stocks of 15631
- Manufacturing area 15595

Cherry Pie:

IDENTITY STANDARD, optional ingredients. *See* Food and Drug Administration.

Citrus Fruits:

See also specific fruits.

CROP INSURANCE. *See* Federal Crop Insurance Corporation.

Civil Aeronautics Board:

ECONOMIC REGULATIONS:
- Accounts, uniform system; route air carriers, charter and special service revenue aircraft miles flown, reporting requirement 15098
- Agreements, filing; International Transport Association; fares:
  - North/Central Pacific 16063
  - South Pacific 16293
- Certificates of public convenience and necessity; foreign air transportation and interstate and overseas route air transportation, proposed rules:
  - Airport authorization; automatic revocation upon nonuse of airport 15676
  - Airport notices, documents, and applications for change in service pattern and permission to use airport 15676
- Charter operations, U.S. carriers:
  - Special services:
    - All-cargo and combination carriers; limitation on amount of charter trips, proposed rule 16223
    - Definition of "off-route" 15096
  - Supplemental carriers. *See* Supplemental air transportation
- Classification and exemption of certain air carriers; military charters and substitute service, commercial one-way charter rates lower than minimum rates, requested by Defense Department, proposed rule 15926
- Foreign air transportation. *See* Certificates of public convenience and necessity, *above.*
- Interstate and overseas route air transportation. *See* Certificates of public convenience and necessity *above.*
- Military exemptions 15926
- Supplemental air transportation:
  - Domestic operations, military backhaul charters 15097
  - Transatlantic; applicability, etc., reissuance 16251

HEARINGS, investigations, etc. *See list at end of this agency.* Page

MILITARY EXEMPTIONS 15926

POLICY STATEMENT; rates and tariffs, participation of combination carriers in blocked space service, proposed rule 16225

HEARINGS, INVESTIGATIONS, ETC.:
- Aerolineas El Salvador S.A., 15445.
- Aerovias Sud Americana case, 15685.
- Albuquerque, New Mexico, service to, 15727.
- Allegheny-Lake Central merger case, 16231.
- American Airlines, Inc. et al., 15405, 15724, 16061, 16064.
- Americana De Aviacion, S.A., 15949.
- Anchorage-Fairbanks service case, 15771.
- Animals and birds, live, revised charges, 15131.
- B. C. Air Lines, Ltd., 15548.
- Bonanza Airlines, Inc. et al., 15191.
- Caledonian Airways (Prestwick), Ltd., 16112.
- Cassels in The Air, Inc., 15685.
- Combs-Pickens, 16063.
- Compagnie Nationale Air France, 15445.
- Continental Air Lines, Inc., 15555.
- Denver-Calgary service case, 16112.
- Deutsche Lufthansa Aktiengesellschaft, 15849.
- East Coast Points-Europe service investigation, 16061.
- Flying Tiger Line, Inc., 15503.
- International Air Transport Association, 16063, 16293.
- Jamestown Aviation Co., 15130.
- Lufthansa German Airlines, 15849.
- Mail:
  - Combs-Pickens, 16063.
  - Nonpriority and domestic service rate cases, 15726, 16112.
- Northwest Airlines, Inc., 15548.
- Ozark Air Lines, Inc., 15896.
- Palm Springs, California, city of, 15724.
- Reading Aviation Service, Inc., 15849.
- Saber Air Freight, Inc., 15587.
- St. Louis limited supplemental air service investigation, 15685.
- Scandinavian Airlines System, enforcement proceeding, 15850.
- Southern Airways, Inc., 15445.
- Staron Flight Ltd., 15548.
- Trans International Airlines Corp., 15597, 16063.
- Transamerica Corp., 15597, 16063.
- United States-Caribbean-South America route investigation, 16444.
- Western Air Lines, Inc., 15649.
- Western Truck Leasing Co. et al., 16292.
- White Plains, N.Y., service to, 15556.

Civil Service Commission:

ADVERSE ACTIONS by Commission, scope 15805

EDUCATIONAL REQUIREMENT for social work program specialist 15900

EQUAL OPPORTUNITY without regard to race, color, religion, sex, or national origin:
- Appeals 15631
- Complaints 15631
- General policy, agency program, etc 15631

EXCEPTED SERVICE:
- Agencies with positions added, amended, or revoked:
  - Defense Department, 15703.
  - Entire executive civil service, certain temporary positions, 15703.
  - Health, Education, and Welfare Department, 15703.
  - Housing and Urban Development Department, 15869, 15911.
  - Interagency Committee on Civil Disorders, 15911.
  - Justice Department, 15911.
  - National Advisory Commission on Health Manpower, 15703.
  - National Capital Transportation Agency, 15911.
  - President's Council on Youth Opportunity, 16097.
- Removal of certain positions from Schedule C 15805

EXECUTIVE ASSIGNMENTS SYSTEM:
- Career assignments, limited; eligibility for within-grade increases 15805
- Noncareer assignments, authority to agencies to make assignments 15850

Claims:

AUTHORITY DELEGATIONS, regulations, etc. *See specific agencies.*

Coast and Geodetic Survey:

TRANSFER OF REGULATIONS 16257

Coast Guard:

CARGO VESSELS, Great Lakes, lifesaving equipment; proposed rules 15836

ELECTRICAL ENGINEERING, emergency power for radiotelephone, Great Lakes freight vessels; proposed rules ..... Page 15837

GREAT LAKES PILOTAGE, review of system and rate structure 16231

HAZARDOUS MATERIALS. *See main heading* Hazardous Materials Regulations Board.

MERCHANT MARINE OFFICERS, licensing of; master and mate of freight and towing vessels 15754

NAVIGATION RESTRICTIONS, vessel launchings:
- Delaware River, *Ponce De Leon* 15895
- James River, *Charleston* 16444

TANK VESSELS, Great Lakes, lifesaving equipment; proposed rules 15836

Commerce Department:

See Business and Defense Services Administration.
Census Bureau.
Environmental Science Services Administration.
International Commerce Bureau.
Maritime Administration.
National Bureau of Standards.

CONDUCT STANDARDS 15222

EDITORIAL CHANGE, "Under Secretary for Transportation" changed to "Assistant Secretary for Domestic and International Business" 15831

ORGANIZATION AND FUNCTIONS; Environmental Science Services Administration, research laboratories 16288

PATENT POLICY, contracts and grants 15890

WATCHES AND WATCH MOVEMENTS produced in Virgin Islands, Guam, and American Samoa, limitation on imports; review procedures 15818

Committees, Boards, etc.:

FEDERAL OPEN MARKET COMMITTEE. *See* Federal Open Market Committee.

Committees, Boards, etc., Presidential:

SCIENCE AND TECHNOLOGY, FEDERAL COUNCIL FOR; membership (Executive Order 11381) 15629

Commodity Credit Corporation:

EXPORT PROGRAM, wheat; payment-in-kind (GR-345), correction 16251

LOAN PROGRAMS, tobacco; 1967 crops:
- Burley, dark air-cured, Virginia fire-cured and sun-cured, 15633, 16145.
- Kentucky-Tennessee fire-cured, 15633.

LOAN AND PURCHASE PROGRAMS; 1967 and subsequent crops:
- Corn, 15706.
- Rice, 15872.

PAYMENT PROGRAMS, 1968:
- Mohair, 16391.
- Wool, 16391.

PRICE-SUPPORT PROGRAMS; sales of agricultural commodities acquired through price-support activities, November sales list 15497

RESEAL LOAN PROGRAMS; 1965 and subsequent storage periods:
- Barley, 15632.
- Beans, dry, edible, 15632.
- Corn, 15632.
- Flaxseed, 15632.
- Grain sorghum, 15632.
- Grains, 15632.
- Oats, 15632.
- Rice, 15632.
- Rye; 15632.
- Soybeans, 15632.
- Wheat, 15632.

Comptroller of Currency:

INVESTMENT SECURITIES, eligibility of specific bond issues for purchase by national banks:
- Bergen County Sewer Authority (New Jersey), 16391.
- Upland, city of, Parking Authority parking revenue bonds (California), 15918.
- Upland Civic Center Building Authority revenue bonds (California), 15918.
- Visalia Area Hospital Authority revenue bonds (California), 15544.

Conduct Standards:

ATOMIC ENERGY COMMISSION contractors, 15922.

CANAL ZONE, 15831.

Conduct Standards—Continued Page
COMMERCE DEPARTMENT, 16222.
FEDERAL POWER COMMISSION, 16226.
NATIONAL MEDIATION BOARD, 15827.
RAILROAD RETIREMENT BOARD, 15471.
TARIFF COMMISSION, 16210.
WITHOUT-COMPENSATION EMPLOYEES. *See* Interior Department.

Conflict of Interest:
See Conduct standards.

Copper and Copper-Base Alloys:
SET-ASIDE PERCENTAGES. *See* Business and Defense Services Administration.

Corn:
CROP INSURANCE. *See* Federal Crop Insurance Corporation.
RESEAL LOAN PROGRAMS, etc. *See* Commodity Credit Corporation.

Corn-Grain Silage:
CROP INSURANCE. *See* Federal Crop Insurance Corporation.

Cotton:
CROP INSURANCE. *See* Federal Crop Insurance Corporation.
MARKETING QUOTAS, acreage allotments. *See* Agriculture Department.

Cotton Textiles:
IMPORT RESTRICTIONS. *See* Interagency Textile Administrative Committee.

Councils:
See Committees, boards, etc., Presidential.

Crop Insurance:
See Federal Crop Insurance Corporation.

Cuba:
VESSELS, free world and Polish flag, arriving since January 1, 1963. *See* Maritime Administration.

Cultural and Educational Exchanges With Foreign Countries:
FUNCTIONS (Executive Order 11380) 15627

Customs Bureau:
ANTIDUMPING ACT, 1921; determinations, certain imports:
See also Treasury Department.
Soil pipe, cast iron; Poland, 15155.
Titanium sponge; U.S.S.R., 16170.
ARTICLES CONDITIONALLY FREE, subject to reduced rate, etc.; Lake Ontario Claims Tribunal included as public international organization 15424
EVIDENCE, Customs agents' reports; court refusal to admit investigation reports made in U.S. 16227
LIQUIDATION OF DUTIES, countervailing duties; sugar content of certain articles from Australia 15390
MOTOR VEHICLES and equipment, importation, safety standards; proposed rule 16432
TARIFF CLASSIFICATION:
Wheat flour, second clear, 15186.
TRADE NAME, recording, application, United Air Lines 15839
VESSELS in foreign and domestic trades, coastwise transportation of empty cargo vans and shipping tanks by listed vessel:
Polish People's Republic, 15390.

D

Dairy Products:
See Agriculture Department.

Danger and Restricted Areas:
AIRCRAFT restricted areas over military installations. *See* Federal Aviation Administration.
VESSELS, navigation danger zones. *See* Engineers Corps.

Decorations and Awards: Page
COMBAT READINESS MEDAL, description, etc. 15921
LIFE SAVING MEDALS, regulations (Executive Order 11382) 16247

Defense Department:
See Air Force Department.
Army Department.
Navy Department.
BANKING INSTITUTIONS serving DoD personnel on military installations 16426
INFORMATION from medical records, release 15111
PROCUREMENT REGULATIONS:
Advertising, formal 16401
Appendixes B and C 16415
Bonds, insurance, and indemnification 16406
Construction contracts and contracting for architect-engineering services 16415
Contracts:
Clauses 16405
Termination 16406
Foreign purchases 16404
General provisions 16398
Government property 16407
Interdepartmental and coordinated 16403
Labor 16407
Negotiation 16402
Quality assurance 16408
Special types and methods 16403
READY RESERVE, involuntary order to active duty 15112
RECORDS, medical; release of information 15111

Disaster Areas:
FEDERAL ASSISTANCE. *See* Agriculture Department; Emergency Planning Office; Small Business Administration.
LIVESTOCK FEED, transportation to certain areas at reduced rates. *See* Interstate Commerce Commission.

Discrimination:
See Nondiscrimination.

District of Columbia:
ACTING COMMISSIONER, order of succession (Executive Order 11379) 15625
AIRSPACE, prohibited areas 15096

Dogs:
FOOD INDUSTRY, proposed guides, extension of time 15715

Drugs:
ANTI-HOG-CHOLERA SERUM, etc. *See* Agriculture Department: viruses, serums, etc.
CERTIFICATION, etc. *See* Food and Drug Administration.

E

Education and Educational Facilities:
See also Education Office.
CIVIL SERVICE, educational requirements for certain positions. *See* Civil Service Commission.
CULTURAL AND EDUCATIONAL EXCHANGES WITH FOREIGN COUNTRIES, functions (Executive Order 11380) 15627
MILITARY TRAINING. *See* Air Force Department.
SCHOOL LUNCH PROGRAM. *See* Agriculture Department.
SCHOOLS:
Air Force Academy, appointment; correction 15922
Naval Honor Schools, nondiscrimination in admission and treatment of students 15115
Payment for recruiting new students 15919
STUDENTS, employment at special minimum wages. *See* Wage and Hour Division.
VETERANS EDUCATION AND VOCATIONAL REHABILITATION. *See* Veterans Administration.

Education Office:
ORGANIZATION AND FUNCTIONS, National Center for Educational Statistics 15597
VOCATIONAL EDUCATION ACT of 1963, allotment ratios 15403

Emergency Planning Office: Page
DISASTER AREA, Federal assistance:
New York, 15510.

Employment Security Bureau:
TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION, 1961; revocation of part 16212
TEMPORARY UNEMPLOYMENT COMPENSATION ACT of 1958, revocation of part 16211
VETERANS READJUSTMENT ASSISTANCE ACT of 1952; Title IV, revocation of parts:
All States 16211
Puerto Rico and Virgin Islands 16211
States with no agreement with Secretary of Labor 16211

Engineers Corps:
DANGER ZONE REGULATION; Maryland, Chesapeake Bay 15673
RESERVOIR AREA, public use; Tennessee, J. Percy Priest Reservoir Area, Stones River 15989

Environmental Science Services Administration:
See Coast and Geodetic Survey.
Weather Bureau.
INFORMATION, environmental 16257
INTERNATIONAL AFFAIRS; training, foreign visitors 16257
ORGANIZATION AND FUNCTIONS, research laboratories 16288
TRANSFER OF REGULATIONS 16257

Equal Employment Opportunity Commission:
RECORDS, availability 16261

Equal Opportunity:
See Nondiscrimination.

Ethical Standards:
See Conduct standards.

Executive Office of the President:
See Emergency Planning Office.

Executive Orders:
See Presidential documents.

Explosives:
TRANSPORTATION, storage, etc. *See* Transportation Department.

Export Control:
See International Commerce Bureau.

Exports:
See Imports and exports.

F

Fallout Shelters:
ADVERTISING GUIDES, trade practice rules. *See* Federal Trade Commission.

Federal Aviation Administration:
ADVISORY CIRCULAR CHECKLIST, current circulars as of Sept. 15, 1967 16352
AIR CARRIERS and commercial operators, large aircraft; proposed rules, extensions of time:
Dispatching and flight release rules; authority by pilot in command, operational plan 15676
Flight operations; operational plan system, responsibility 15676
Records and reports:
Disposition of load manifest, flight release, flight and operational plans 15676
Form for operational plan 15676
AIR TRAFFIC AND GENERAL OPERATING RULES:
See also Instrument flight rules.
Airport traffic patterns, special; Valparaiso, Fla., terminal area, communication requirement on continuous basis, proposed rule 15589
General operating and flight rules:
Airports with operating control towers, minimum altitudes, noise abatement runway system 15422
Flight rules; aircraft speed, operation in airport traffic area 15708
Foreign civil aircraft, VFR flight operations 16392
AIRMEN; certification:
See also Schools and other certificated agencies.
Flight crewmembers other than pilots; certificates, expired, reissuance 15918
Other than flight crewmembers; certificates, expired, reissuance 15918
Pilots and flight instructors; certificates, expired, airline transport and lighter-than-air, reissuance 15918
AIRPORTS:
Construction, alteration, reactivation and deactivation; revision of form concerning proposed landing areas 15818
Traffic patterns, special; Valparaiso, Fla., terminal area, communication requirement on continuous basis, proposed rule 15589
With operating control towers, minimum altitudes, noise abatement runway system 15422
AIRSPACE:
See also Federal airways, etc.; Jet routes.
Restricted areas. *See* Restricted areas.
Special use airspace; prohibited areas, District of Columbia 15096
AIRWORTHINESS DIRECTIVES:
Aero, correction, 16201.
Bristol Siddeley de Havilland, 15490.
British Aircraft Corp., 15421, 15491, 15835, 15673, 16391.
Cessna, 16251.
Continental, 15606.
Fairchild Hiller, 15153.
Correction, 15472.
General Dynamics, 15688.
Grumman, 16301.
Hawker Siddeley, 15685, 15873.
McDonnell Douglas, 15579.
Piper, 15523.
Sikorsky, 15094, 15154, 15390.
AIRWORTHINESS STANDARDS, rotorcraft; normal and transport categories, dual locking devices for fasteners, proposed rules 15676
ALTITUDES, instrument. *See* Instrument flight rules.
APPROACH PROCEDURES. *See* Instrument flight rules.
CERTIFICATION PROCEDURES for products and parts; authority of delegation option manufacturers to issue airworthiness certificates 15472
FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS; alterations:
Continental control area, restricted areas included 16050, 16221
Control areas and control area extensions; additional control areas 16221
Control zones ..... 15094, 15095, 15117, 15118, 15523, 15546, 15547, 15579, 15809, 15810, 15837, 15838, 15926, 16102, 16146, 16169, 16202, 16392.
Positive control areas 15491
Reporting points:
Alaska, low altitude 15874
Domestic:
High altitude 15636
Low altitude 15885
Transition areas ..... 15094, 15095, 15117, 15118, 15120, 15121, 15154, 15492, 15493, 15523, 15524, 15547, 15548, 15579, 15712, 15809, 15810, 15837, 15838, 16049, 16050, 16098, 16102, 16146, 16202, 16251, 16392, 16437.
VOR Federal airways:
Alaska 15635
Domestic 15548, 15588, 15589, 15885
HAZARDOUS MATERIALS TRANSPORTATION. *See main heading* Hazardous Materials Regulations Board.
HELICOPTERS. *See* Airworthiness standards, rotorcraft.
INSTRUMENT FLIGHT RULES:
Altitudes, minimum en route IFR:
Changeover points; VOR Federal airways 16393
Particular routes and intersections:
Direct routes 16393
VOR Federal airways 16393
Hawaii 16393
Approach procedures, standard; particular airports, take-off and landing, alterations:
Landing system 15476, 15582, 15816, 16208
Radar 15477, 15583, 15817, 16209
Radio 15423, 15473, 15580, 15811, 16203

86-000—67——2

Federal Aviation Administration—Continued Page

JET ROUTES, alterations 15636
OPERATING RULES. *See* Air traffic and general operating rules.
ORGANIZATION; District Office 41, engineering and manufacturing, Muskegon, Mich., change of address 16231
RESTRICTED AREAS over military installations, etc., various States; alterations:
Arizona, 16221.
California, 16222.
Maryland, 16060.
Ohio, 16096.
ROTORCRAFT. *See* Airworthiness standards.
SCHOOLS AND OTHER CERTIFICATED AGENCIES:
Flying schools, chief flight instructor requirements and duties 15583
Repair stations, general; changes in personnel allowed without certificate change 15670

Federal Communications Commission:

AMATEUR RADIO SERVICES, operator licenses, privileges; correction 16162
AVIATION SERVICES:
Aeronautical enroute stations:
Caribbean area 16162
Frequencies for offshore drilling operations, proposed rules 15712
International high frequency service 16161
Flight test stations; proposed rules:
Eligibility of licensee 16056
Frequencies 15716
Operational stations, cooperative use of; annual reports, proposed rule, extension of time 16056
COMMUNITY ANTENNA TV SYSTEMS, carriage and program exclusivity; inquiry, extension of time 15772
FREQUENCY ALLOCATIONS; proposed rules:
Definition; person 16104
High frequency channels for flight test and offshore drilling operations 15712
Table, changes:
154.46–156.25 Mc/s, 15180.
2.9–10.5 Gc/s, 15680.
Type acceptance of equipment 16104
HEARINGS, ORDERS, ETC.:
See also list at end of this agency.
Cases designated for; moratorium on filing of pleadings for two weeks 15727
INDUSTRIAL RADIO SERVICES; proposed rules, extensions of time:
Cooperative use of fixed stations; annual reports 16056
Various services; frequencies 15180
LAND TRANSPORTATION RADIO SERVICES; proposed rules:
Automobile emergency service, frequencies; extension of time 15180
Cooperative use of fixed stations; annual reports, extension of time 16056
Taxicab service, frequencies; extension of time 15180
Technical standards, radiolocation stations, type acceptance, etc 15681
MEXICAN BROADCAST STATIONS 15602
ORGANIZATION AND FUNCTIONS; Broadcast Bureau Chief 15472, 15675
PUBLIC SAFETY RADIO SERVICES; proposed rules:
Cooperative use of fixed stations; annual reports, extension of time 16056
Local Government service, frequencies; extension of time 15180
Special emergency service; physicians and veterinarians, extension of time 15180
Technical standards; radiolocation, type acceptance, etc 15680
RADIO BROADCAST SERVICES:
FM stations:
Channel assignments, various States:
Alabama, 15162.
Arkansas, 15680.
California, 15163.
Florida, 15679.
Idaho, 15680.
Illinois, 15163.
Kentucky, 15162.

FM stations—Continued.
Channel assignments—Continued Page
Louisiana, 15162.
Minnesota, 15162.
Mississippi, 15162.
New York, 15163, 15679.
North Carolina, 15162, 15545, 15711.
Puerto Rico, 15679.
Virginia, 15162.
Station identification 15161, 15191
Standard broadcast stations:
Applications ready and available for processing 15132, 15558, 15686
Presunrise operating authority:
Class II stations; proposed rules, extension of time 16107
Unlimited-time class II and III stations, temporary authority 16064
Waiver requests, guidelines for 15133
Remote control operation, telemetry signals; proposed rule 16055
Station identification 15161, 15191
Television broadcast stations:
Channel assignment:
Virginia, 16053.
Station identification 15161, 15191

HEARINGS, ORDERS, ETC.:
Akron Telerama, Inc. et al., 15649.
Aljir Broadcasting Co., Inc., 15771.
American Television Co., Inc., 15771, 15934.
Americana Broadcasting Corp., 16113.
Baltimore Broadcasting Co., 15406.
Bell Telephone Co. of Pa., 16231.
Bettervision Systems, Inc., 15504, 15934.
Blancett Broadcasting Co., 16231.
Boston Heritage Broadcasting, Inc., 15132.
Breckinridge Broadcasting Co., 16231.
Brownsville, Texas, city of, 15192.
CATV of Rockford, Inc. et al., 16444.
Camden, New Jersey, city of, 15131.
Cape Fear Broadcasting Co. (WFNC), 15727.
Carlisle, Roy E., 16171.
Clearview TV Cable, Inc., 15406.
Collins Broadcasting Co., 16066.
Conestoga Telephone and Telegraph Co., 16231.
Corinth Broadcasting Co., Inc., 15192.
Cosmos Cablevision Corp., 15131, 16066.
Delta Teleradio Corp., 15686.
Durham-Raleigh Telecasters, Inc. et al., 15650.
Eastern Microwave, Inc., 15132.
El Camino Broadcasting Corp., 15407, 16066.
Elim Bible Institute, Inc. et al., 16232.
Fairleigh Dickinson University, 15558.
First Capitol Radio, Inc., 15406.
Fort Wayne Broadcasting Co., 15407.
Four Star Aviation, Inc., 16445.
General Electric Cablevision Corp., 15504, 16172.
General Telephone Co. of Northwest, Inc., 15131.
Gospel Broadcasting Co. of Fort Wayne, Inc., 15407.
Grayson Television Co., Inc., 15132.
Great Southern Broadcasting Co., 15772.
Hahn, Philip Y., Jr., 16113.
Hemphill Flying Service, 15192.
Hercules Broadcasting Co., 15132.
Industrial Communications Systems, Inc., 15504.
L & P Broadcasting Corp., 15131.
Laurel Cablevision Co. et al., 15934.
Lawrence, Mass., city of, 16445.
Lawrence County Broadcasting Corp. et al., 15558.
Loyola University, 16113.
Malrite, Inc., 16113.
Meadows Broadcasting Co., Inc., 15406.
Mel-Lin, Inc. (WOBS), 15935.
Meredith-Avco, Inc. et al., 15558.
Minshall Broadcasting Co., Inc., 15407, 15935, 15937.
Natchez Broadcasting Co. (WMIS), 15406.
New York University, 15566.
News-Sun Broadcasting Co. et al., 16445.
O'Quinn, Farnell, 15192, 15505.
Palmer-Dykes Broadcasting Co., 15192.
Patriot State Television, Inc., 15132.
Radio-Corinth, 15192.
Rice, Michael S., 15406.
Robertson, Donald J., 15132.
S B C, Inc., 15650.
St. Anthony Television Corp. (KHMA-TV), 15686.

San Angelo Independent School, 15650. Page
Shriner, T. J., 15132.
Simpson, Perry H., 15686.
South Coast Broadcasting Co., 15407, 16066.
South Kane-Kendall Broadcasting Corp., 15771.
Tri-Cities Broadcasting Corp., 15192.
Tri-State Broadcasting Co., Inc., (KUPD), 16446.
Tri-State Television Translators, Inc., 15727, 16232.
Triple C Broadcasting Corp., 16066.
University City Television Cable Co., Inc., 15407, 15935, 15937.
V.W.B. Inc., 15505.
Vestal Video, Inc., 15132.
Video, Brainerd, 15131.
Video Service Co., 15937.
Wellersburg TV, Inc., 15727, 16232.
Wichrowski, Stephen A., Jr., 15650, 15727, 15772.

Federal Council for Science and Technology:

MEMBERSHIP (Executive Order 11381) 15629

Federal Crop Insurance Corporation:

FEDERAL CROP INSURANCE:
1967 crop:
Citrus, 15501.
1968 crops:
Peas, canning and freezing, 15703.
Sugar beets, 15703.
Tomatoes, canning and processing, 15704.
1969 and succeeding crop years:
Barley, 15911.
Beans, dry, 15911.
Combined crop, 15911.
Corn, 15911.
Corn-grain silage, 15911.
Cotton, 15911.
Flax, 15911.
Grain sorghum, 15911.
Oats, 15911.
Peanuts, 15911.
Peas:
Canning and freezing, 15911.
Dry, 15911.
Potatoes, 15911.
Rice, 15911.
Rye, 15911.
Soybeans, 15911.
Sugar beets, 15911.
Sugarcane, 15911.
Tobacco, 15911.
Tomatoes, canning and processing, 15911.
Wheat, 15911.
ORGANIZATION AND FUNCTIONS:
National Service Office 15716
National Service Office Director, claims 15716

Federal Employees:

See Government employees.

Federal Highway Administration:

AUTHORITY DELEGATION from Secretary of Transportation, rules respecting tires and rim standards 15710
MOTOR VEHICLE SAFETY STANDARDS:
Certification requirement 15444
Initial safety standards, revoked 15818
Rule-making procedures 15818
Tires and tire selection and rims, passenger cars 15792
Authority delegation 15710

Federal Home Loan Bank Board:

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION:
Operations; loans and investments, sale of participating interests otherwise than to insured institutions 15634
Policy statements:
Attendance by applicants and their representatives at hearings on applications for insurance of accounts 16200
Mergers 15708
FEDERAL SAVINGS AND LOAN SYSTEM:
Operations, service corporations; proposed rule 15763
Policy statements:
Attendance by applicants and their representatives at hearings on applications for permission to organize Federal associations 16200
Mergers 15707
Service corporations 15747

Federal Housing Administration: Page

ARMED SERVICES HOUSING mortgage insurance, civilian employees, eligibility requirements; maximum mortgage amount, loan-to-value limitation 15640
AUTHORITY DELEGATIONS, particular position delegations 15425, 15586
MULTIFAMILY HOUSING mortgage insurance. *See* Rental housing.
MUTUAL MORTGAGE INSURANCE and insured home improvement loans, eligibility requirements; mortgagor's minimum investment 15640
ORGANIZATION AND FUNCTIONS, certain programs, etc 15636
RECORDS, official; availability, etc., certain regulations revoked 15639
RENTAL HOUSING, multifamily housing mortgage insurance; contract rights and obligations, assignment of insured mortgages 15640
SERVICEMEN'S mortgage insurance, eligibility requirements; definition of "Secretary" 15640
URBAN RENEWAL mortgage insurance and insured improvement loans; eligibility requirements, homes and projects 15640

Federal Maritime Commission:

FREIGHT FORWARDERS, independent, ocean:
See also Maritime carriers, *below.*
Licenses revoked:
Bacon, Edward R., Grain Co., 16293.
De Mallo, Louis V., 16173.
Sherriff-Guerringue, Inc., 15445.
MARITIME CARRIERS:
See also Freight forwarders, *above.*
Agreements filed between common carriers of freight by water in U.S. foreign commerce; proposed rules 15438, 16226
Security for public protection; applications for certificates:
Indemnification of passengers for non-performance of transportation:
Gulfo Y. Caribe Steamship Lines, S.A., 15445.
Trans-Ocean Steamship Co., 15600.
Liability incurred for death or injury to passengers or other persons on voyages:
Golfo Y. Caribe Steamship Lines, S.A., 15445.
Princess Cruises Corp., Inc., 15445.
Trans-Ocean Steamship Co., 15600.
Steamship conferences, effects on foreign commerce of U.S.; report of investigative officer, extension of time 16232
RATES, investigations:
Alaska Steamship Co., 15937.
SECURITY for public protection. *See under* Maritime carriers.
TRANSPORTATION AGREEMENTS, terminal agreements, etc.:
Exclusive patronage (dual rate) contracts under Public Law 87–346:
American West African Freight Conference, 15651, 16446.
Section 15 agreements:
AB August Leffler & Son, et al., 15727.
American President Lines, 15446.
American President Lines, Ltd., 15445, 15600, 16232.
American West African Freight Conference, 15850.
Atlantic Container Line, Ltd., 15772.
Buffalo Overseas Terminals, Inc.; terminal agreement, 15851.
Containerships, Ltd., 16173.
Farrell Lines, Inc., 16173.
Gallan Line, 15600.
Hamburg-Amerika Linie, 15772.
Holland-America Line; terminal agreements, 15850, 16114.
Italy, South France/U.S. Gulf Conference, 15600.
Java-New York Rate Agreement, 15446.
Knutsen Line, 16067, 16232.
Lykes Bros. Steamship Co., Inc., 15446, 16173.
Marine Terminals Corp.; terminal agreement, 16172.
Mediterranean-USA Great Lakes Westbound Freight Conference, 15133.
Mitsui O.S.K. Lines, Ltd., 16066.
Moore-McCormack Lines, Inc., 15446, 16173.
Niagara Frontier Port Authority; terminal agreement, 15851.
Norddeutscher Lloyd, 15772.
Norwegian-America Line; terminal agreement, 15850.
Oakland, California, city of; terminal agreement, 16172.

Federal Maritime Commission—Continued

TRANSPORTATION AGREEMENTS, etc.—Continued — Page
Section 15 agreements—Continued
Pacific Far East Line, Inc., 15600, 16066.
Pier 40 Corp.; terminal agreement, 16114.
Rodriquez Co., 15726.
Royal Interocean Lines, 15445.
Sacal, V.I., Inc., 15861.
Sea-Land Service, Inc., 15445.
South Atlantic & Caribbean Line, Inc., 15201, 15861.
States Steamship Co., 16067.
Sunlane Hydrofoils, Inc., 15726.
TMT Trailer Ferry, Inc., 15201.
Tico Line, 15600.

Federal Open Market Committee:

ECONOMIC POLICY, current — 15901

Federal Power Commission:

CONDUCT STANDARDS — 15239
FEDERAL POWER ACT regulations:
Accounts, uniform system; public utilities and licensees:
Class A and B:
Clearing, grading and damage costs related to construction on land and rights-of-way; proposed rule — 15927
Pumped storage projects — 15670
Class C and D, clearing, grading and damage costs related to construction on land and rights-of-way; proposed rule — 15927
Forms:
Clearing, grading and damage costs related to construction on land and rights-of-way; proposed rule — 15927
No. 1, annual report, class A and B licensees, etc.:
Pumped storage projects — 15670
Schedule for reporting charges for professional and other consultative services; proposed rule — 15434
Policy and interpretation, calculation of net investment in limited projects; proposed rule — 15714
Reports:
See also under Forms.
Reporting net investment in licensed projects, reports required; proposed rule — 15714
HEARINGS, etc. *See list at end of this agency.*
NATURAL GAS ACT regulations, proposed rules:
Accounts, uniform system, class A, B, C, and D natural gas companies; clearing, grading and damage costs related to construction on land and rights-of-way — 15927
Form No. 2, annual report, class A and B companies, schedule for reporting charges for professional and other consultative services — 15424

HEARINGS, ETC.:
Alabama Power Co., 16294.
Algonquin Gas Transmission Co., 16114, 16293.
Armer, Elva, et al., 15505.
Ashland Oil & Refining Co. et al., 15651, 16173.
Ballard, Norval, et al., 15448.
Bowman, Fred, 15506.
Bravo Oil Co., 15851.
California-Pacific Utilities Co., 15687.
Champlin Petroleum Co. et al., 16114, 16115.
Cities Service Gas Co., 15602.
Cities Service Oil Co. et al., 15938.
Colorado Interstate Gas Co., 15900, 16294.
Continental Oil Co. et al., 15199, 15509, 15601, 15684.
Despot, George, et al., 16448.
Eason Oil Co., 16114.
El Paso Natural Gas Co., 15773.
Electric Plant Board of Paducah, Ky. et al., 16115.
Everett, Wash., city of, 16294.
Featherstone, Martha, et al., 15559.
Fleet, Howard W. et al., 15411.
Florida Gas Transmission Co., 15412.
Forse Co. et al., 15412, 15509.
French, L. R., Jr. et al., 15688, 15855.
Gulf Oil Corp. et al., 15413.
Hamilton Brothers, Ltd. et al., 15197, 16115.
Humble Oil & Refining Co. et al., 15196, 16116.
Hunt, Caroline, Trust Estate, 16235.
Idaho Power Co., 15413, 15601.
Iowa Power and Light Co., 16295.
Juarez Gas Transportation Co., Inc., 15856. — Page
Kadiak Fisheries Co., 15509, 15856.
Kansas City Power & Light Co., 15601.
Kansas-Nebraska Natural Gas Co., Inc., 15728, 15778, 15856.
Lake Superior District Power Co., 15688.
Leitchfield, Ky., city of, 15601.
Lone Star Gas Co. et al., 15509, 15852, 15689.
Louisiana Nevada Transit Co., 15561, 16450.
MWJ Producing Co., 15410.
Manufacturers Light & Heat Co. et al., 15554.
Marathon Oil Co. et al., 15898, 16236.
May Petroleum, Inc., 15411.
Michigan Consolidated Gas Co., 15133.
Michigan Wisconsin Pipe Line Co., 15133, 15510.
Midwest Oil Corp. et al., 15413.
Midwestern Gas Transmission Co., 15601.
Mobil Oil Corp. et al., 15413, 15447, 15510.
Morgan, E., estate of, et al., 15414.
Mount Vernon Mills, Inc., 16294.
Northern Natural Gas Co. et al., 15134, 15447, 15510, 15602, 15729, 16116.
Northern States Power Co., 15900.
Ohio Fuel Gas Co., 15415.
O'Neill, Joseph I., Jr. et al., 16446.
Pacific Gas and Electric Co., 16117, 16235.
Pacific Power & Light Co., 15415, 15448.
Panhandle Eastern Pipe Line Co., 16117, 16451.
Pubco Petroleum Corp. et al., 16232.
Public Service Co. of Indiana, Inc., 16116.
Public Utility District No. 1, Snohomish County, Wash., 16294.
St. Croix Paper Co., 15773.
Samedan Oil Corp. et al., 15134.
Shell Oil Co. et al., 15856.
Sinclair Oil & Gas Co., 16116.
South Texas Natural Gas Gathering Co., 15689.
Southern California Edison Co., 15939.
Southern Natural Gas Co., 16116.
Superior Oil Co. et al., 15560, 16119.
Tenneco Oil Co., 15199, 16119.
Tennessee Gas Pipeline Co., 15200, 16118, 16120.
Texaco, Inc., 15899.
Texas Eastern Transmission Corp., 15415.
Texas Gas Transmission Corp., 15601, 15854, 16120.
Transcontinental Gas Pipe Line Corp., 15689.
Transwestern Pipeline Co., 15939.
Trunkline Gas Co., 16295.
United Fuel Gas Co., 15510.
United Gas Pipe Line Co., 15134, 15448, 15774, 16295.
Western Massachusetts Electric Co. et al., 15448.
Western Transmission Corp., 15602.
Whiting, Fred M. et al., 15687.
Wilson, Alvin, et al., 16451.
Yuba County Water Agency, 15201.

Federal Railroad Administration:

EXPLOSIVES. *See main heading* Transportation Department.
HAZARDOUS MATERIALS. *See main heading* Hazardous Materials Regulations Board.
PIPELINE CARRIERS, accident reporting, etc. — 16040

Federal Register:

CFR CHECKLIST — 15065

Federal Reserve System:

See Federal Open Market Committee.
BANK HOLDING COMPANIES; applications, requests for determinations, etc.:
Bancorporation of Montana, 16295.
Bancstock Corporation of America, 15729.
Barnett National Securities Corp., 15135, 15559.
Central Wisconsin Bankshares, Inc., 16452.
Charter New York Corp., 16067.
Franklin County Trust Co., 16068,
Marine Corp., 16174.
Northwest Bancorporation, 16452.
Virginia Commonwealth Bankshares, Inc., 16452.
BANK SERVICE ARRANGEMENT; credit card service organization — 15389

Federal Trade Commission:

ADMINISTRATIVE RULINGS, etc.:
Corsage wearing apparel under Flammable Fabrics Act — 15470
Schools, payment for recruiting new students — 15919
Trade association publication of suggested prices to be charged consumers — 15919

CEASE AND DESIST ORDERS. *See* Prohibited trade practices *at end of this agency.* — Page
GUIDES AND TRADE PRACTICE OR REGULATION RULES:
Adhesive compositions, deceptive labeling and advertising — 15538
Advertising allowances — 15542
Application of guides and trade practice rules in preventing unlawful competitive restraints — 15540
Bait advertising — 15540
Curtains, draperies, and fabrics of glass fiber, washing or handling; failure to disclose that skin irritation may result, extension of effective date — 15424
Debt collection deception — 15539
Deceptive pricing — 15534
Dog and cat food industry; proposed rule, extension of time — 15715
Fallout shelters, advertising — 15529
Guarantees, deceptive advertising of — 15541
Mail order insurance industry — 15536
Men's and boys' tailored clothing industry, discriminatory practices in — 15584
Photographic film and film processing service, use of word "free" — 15681
Radiation monitoring instruments, advertising — 15533
Shell homes, advertising — 15531
Shoe content labeling and advertising, guides — 15532
Textile industry, deceptive use of word "mill" — 15538
Tire advertising and labeling — 15525
ORGANIZATION AND FUNCTIONS, Bureaus of Restraint of Trade, Deceptive Practices, Textiles and Furs, and Industry Guidance; closing of certain investigational files — 16121
TRADE PRACTICE OR REGULATION RULES. *See* Guides and trade practice or regulation rules.
WOOL PRODUCTS LABELING ACT OF 1939, imported wool products; testing and compliance, proposed rule — 15180

PROHIBITED TRADE PRACTICES, CEASE AND DESIST ORDERS:
American Cyanamid Co., 15105.
Bristol Laboratories, Inc., 15105.
Bristol-Myers Co., 15105.
Derby of San Francisco, 15750.
Fox, Samuel, 15107.
Gladstone-Arcuni, Inc., 15874.
Globe, Inc., 15749.
Havana Florida Cigar Co., 15749.
Hoffman, Ida, Mabel, and Morton H., 15748.
Hoffman-Morton Co., 15748.
Hoffman-Morton Furriers, 15748.
Jacobs, Mitchell B., and Samuel B., 15749.
La Salle Quilting Co., Inc., 15470.
Olin Mathieson Chemical Corp., 15105.
Pan American Cigar Co., 15749.
Pfizer, Chas., & Co., Inc., 15105.
Rich, Jack, 15106.
Rich, Jo, Originals, Inc., 15106.
Rifas, Arthur D., 15470.
Rose, Myles, 15875.
Rosen, Seymour, 15107.
Ross, William I., 15750.
S & S Pharmaceutical Co., Inc., 15107.
Upjohn Co., 15105.
Veltman, David, 15748.
Wendy Coat Co., Inc., 15875.
Werts Novelty Co., Inc., 15875.
Wilmer, O. Norman, 15875.

Federal Water Pollution Control Administration:

CERTIFICATION OF FACILITIES — 16151

Fees:

VARIOUS SERVICES performed by agenies, charges for. *See specific agencies.*

Filberts:

MARKETING. *See* Agriculture Department.

Fiscal Service:

See Treasury Department.

Fish, Fishing:

NATIONAL PARKS, certain, fishing in. *See* National Park Service.

Fish and Wildlife Service:

COMMERCIAL FISHERIES: — Page
Fishing vessel purchase or construction; loan fund applications:
Harris, Harry R., 15134.
Miller, Rodman A. and Lois Mae, 15134.
Raymond, William A. and Joan A., 15768.
Vinson, Jay J. and Janet J., 15769.
Master hull policy mortgage insurance, intent to request proposals — 16058
GAME BIRDS. *See* Restoration of game birds.
HUNTING AND POSSESSION OF WILDLIFE:
Areas open to hunting and sport fishing. *See under* Wildlife refuges, national.
Migratory birds; seasons, limits, etc — 15834
MIGRATORY BIRDS. *See* Hunting and possession of wildlife.
RESTORATION of game birds, fish, and mammals — 16215
WILDLIFE REFUGES, NATIONAL:
See also Hunting and possession of wildlife.
Areas open to hunting or sport fishing; rules adopted or proposed:
Arizona, 16100, 16277.
California, 15587, 16277.
Colorado, 15586, 15587.
Iowa, 15166.
Kansas, 16277.
Minnesota, 16278.
Mississippi, 15924.
Nebraska, 15166.
New Mexico, 15642.
North Dakota, 15756, 15924.
Oklahoma, 16278.
Correction, 15675.
Oregon, 15878.
Correction, 16431.
South Dakota, 15166.
Wisconsin, 15711, 16278.

Fishing:

See Fish, fishing.

Flax:

CROP INSURANCE. *See* Federal Crop Insurance Corporation.

Flaxseed:

RESEAL LOAN PROGRAMS. *See* Commodity Credit Corporation.

Flour:

TARIFF CLASSIFICATION, second clear wheat flour. *See* Customs Bureau.

Food and Drug Administration:

ADDITIVES, food. *See* Food additives.
ANTIBIOTIC DRUGS:
See also Drugs, *below.*
Specific antibiotics; rules proposed or adopted:
Amphotericin, 15988.
Chlortetracycline and chlortetracyline-containing drugs, certification, 15988.
Gramicidin, 15989.
Methacycline hydrochloride, 16153.
Neomycin sulfate, 16048, 16153.
Oxytetracycline, 16212.
Paromomycin, 15989.
Sodium colistimethate for injection, 15435.
Vancomycin hydrochloride, 16153.
CHERRY PIE, identity standard, optional ingredients; proposed rules — 15116
DRUGS:
See also Antibiotic drugs, *above.*
Aspirin, labeling of drug preparations containing; scientific data regarding maximum dose, submission invited — 16060
Drug Abuse Control Amendments of 1965, depressants and stimulants, listing of drugs — 15390, 16048
Medicated premixes, definition and manufacturing practice — 15109
New drug application, approval withdrawn:
Promone, 15128.

Food and Drug Administration—Continued

FOOD ADDITIVES in animal feed, foods for human consumption, packaging materials, etc.: Page
Safe substances; nordihydroguaiaretic acid added, proposed rule 16048
Specific additives; rules proposed or adopted:
N-Acyl sarcosines, 15647.
Adhesives, 15108, 15155, 15721.
Ampropium, 15647.
1,3-Butylene glycol, 15155.
Cellophane, 15647.
Chlortetracycline; petition withdrawn, 16230.
Coumaphos, 15545.
Di(*n*-octyl) tin *S,S'*-bis(isooctylmercaptoacetate); petition withdrawn, 15647.
O,O-Diethyl *S*-[4-oxo-1,2,3-benzotriazin-3(4H)-ylmethyl] phosphorodithioate, 15849.
Dimethyl-α-methylstyrene, 15108.
Dipentaerythritol pentastearate, 15721.
Disodium *N*-octadecylsulfosuccinamate, 15849.
Emulsifiers and/or surface-active agents, 15108.
Flavoring substances, synthetic, and adjuvants; petition withdrawn, 15553.
Furanolidone; petition withdrawn, 16230.
1-Hydroxy-2-butanone; petition withdrawn, 15553.
2-Hydroxy-4-*n*-octoxybenzophenone, 15720.
4,4'-Isopropylidenediphenol-epichlorohydrin, 15108.
Nickel sulfate, 15968.
Oxytetracycline, 15647.
Paper and paperboard, 15720, 15848.
Penicillin; petition withdrawn, 16230.
Pentaerythritol-linseed oil alcoholysis product, 15155.
Phosphoric acid esters, partial, of polyester resins, 15109.
Plasticizers in polymeric substances, 15721.
Polyethylenimine, 15108.
Polyurethane resins, 15155.
Resinous and polymeric coatings, 15108.
Petition withdrawn, 15647.
Silver bisthiocyanate; petition withdrawn, 15443.
Slimicides; petition withdrawn, 15403.
Sulfamethazine; petition withdrawn, 16230.
4-Thujanol; petition withdrawn, 15553.
Trimethylamine; petition withdrawn, 15553.
2,2,4-Trimethylpentane-1,3-diisobutyrate, 15721.
Vinylidene chloride copolymer coatings for nylon film, 15128.
HAZARDOUS SUBSTANCES, procedural and interpretative regulations; labeling ethylene glycol-base radiator antifreeze 15675
ORGANIZATION AND FUNCTIONS, Bureau of Medicine 15721
PEACHES, canned diced, deviating from identity standard, temporary permit for market testing 15402
PESTICIDE CHEMICALS in or on raw agricultural commodities, specific tolerances; rules proposed or adopted:
Benzamidooxyacetic acid, 15647.
Chloroneb, 15849.
O,O-Diethyl *O*-(2-isopropyl-4-methyl-6-pyrimidinyl) phosphorothioate, 15424.
O,O-Diethyl *S*-[4-oxo-1,2,3-benzotriazin-3(4H)-ylmethyl] phosphorodithioate, 15849.
1,1-Dimethyl-3-(α,α,α-trifluoro-*m*-tolyl) urea, 15478.
Dodecachloro-octahydro-1,3,4-metheno-2H-cyclobuta [cd]pentalene, 15848.
Dodine (*n*-dode-cylguanidine acetate), 15647.
S-Ethyl hexahydro-1H-azepine-1-carbothioate, 15107.
Gibberellic acid, 15647.
Trichlorobenzyl chloride, 15721.
Zinc ion and maneb coordination product; petition withdrawn, 15721.
RECORDS AND INFORMATION, official; disclosure 15709

Foreign Aid:
See Agency for International Development.

Foreign Claims Settlement Commission:
YUGOSLAV CLAIMS AGREEMENT, claims under 15641

Forests, National:
See Land Management Bureau.

Freedom of Information Act:
COMPLIANCE by agencies. *See* Organization and information.

Fruits:
See also specific fruits.
FRESH FRUITS, inspection, certification, and standards. *See* Agriculture Department.

G

Gas:
See Oil and gas.

Gas Companies:
RATES, CHARGES, etc. *See* Federal Power Commission.

General Services Administration:
FEDERAL PROPERTY MANAGEMENT REGULATIONS:
Procurement sources, Federal supply schedules 15754
Sale, abandonment, or destruction of personal property, mistakes in bids 16270
PROCUREMENT REGULATIONS:
Federal:
Contract clauses, fixed-price construction contracts 16268
Forms, construction contracts 16268
Special and directed sources of supply, contractor use of GSA supply sources 15674
GSA; advertising, formal, bids 16160
WILDLIFE PURPOSES, transfer of portion of John Martin Reservoir Area, Hasty, Bent County, to State of Colorado 16296

Government Employees:
CIVIL SERVICE REGULATIONS. *See* Civil Service Commission.
CONDUCT STANDARDS. *See* Conduct standards.
OVERSEAS DUTY, allowances (Executive Order 11380) 15627
RETIREMENT FOR AGE, COMPULSORY; exemption of Daniel J. Quill (Executive Order 11378) 15237
WITHOUT-COMPENSATION EMPLOYEES. *See* Interior Department.

Grain Sorghum:
CROP INSURANCE. *See* Federal Crop Insurance Corporation.
RESEAL LOAN PROGRAMS. *See* Commodity Credit Corporation.

Grains:
See also specific grains.
RESEAL LOAN PROGRAMS. *See* Commodity Credit Corporation.

Grapefruit:
MARKETING. *See* Agriculture Department.

Great Lakes Pilotage Regulations:
See Coast Guard.

Guam:
See also specific grains.
WATCHES AND MOVEMENTS, import quotas 15818

H

Hay:
DISASTER AREA, transportation of hay at reduced rate. *See* Interstate Commerce Commission.

Hazardous Materials Regulations Board:
EXPLOSIVES, definitions, shipping paper; postponement of effective date 16277
PIPELINE CARRIERS, accident reporting, etc. 16040
RULE-MAKING PROCEDURES, proposed rules 16437

Hazardous Occupations:
CHILD LABOR. *See* Labor Standards Bureau.

Hazardous Substances:
See also Food and Drug Administration.
GLASS FIBER FABRICS and fiber textile products, hazards of washing or handling 15424

Health, Education, and Welfare Department:
See Education Office.
Food and Drug Administration.
Public Health Service.
Social Security Administration.

AIR POLLUTION in National Capital Metropolitan Area, conference Page 15597, 15648, 16288
AUTHORITY DELEGATIONS by Secretary to certain officials:
Assistant Secretary for Administration, certain civil rights functions 15190
Director, Civil Rights Office; certain functions 15190
CIVIL RIGHTS ACT, Title VI:
Administration 15190
Authority delegations 15190
Hearings; practice and procedure 15156
CIVIL RIGHTS OFFICE, establishment of reviewing authority 15190
ORGANIZATION AND FUNCTIONS:
Civil Rights Act and Executive Order 11246, administration of 15190
Education Office, National Center for Educational Statistics 15597
Food and Drug Administration, Bureau of Medicine 15721
Public Health Service 15443, 15597
PROCUREMENT REGULATIONS, authority delegations 15833
SURPLUS PROPERTY, minimum standards of operation for State agencies; temporary suspension 16100

Highway Administration:
See Federal Highway Administration.

Home Loan Bank Board:
See Federal Home Loan Bank Board.

Homesteads:
See Land Management Bureau.

Hops:
MARKETING. *See* Agriculture Department.

Hospital and Medical Care:
AIR FORCE MEDICAL SERVICE EARLY COMMISSIONING PROGRAM, eligibility, etc. 16159
MENTALLY ILL patient in Canal Zone hospital, performance of surgical operations on legally incompetent patients 15641, 16428

Housing and Urban Development Department:
AUTHORITY DELEGATIONS:
By Assistant Secretary, Renewal and Housing Assistance, to certain officals:
Acting Deputy Assistant Secretary, Housing Assistance; designation 16444
Acting Deputy Assistant Secretary, Renewal Assistance; designation 16444
Deputy, Housing Assistance, et al.; low-rent public housing 15723
By Regional Administrator, Region IV (Chicago), to Assistant Regional Administrator, Renewal Assistance, et al.; renewal assistance programs 15124
By Secretary to Assistant Secretary and Deputy, Renewal and Housing Assistance; low-rent public housing 15723

Humane Slaughter:
LIVESTOCK, identification of carcasses. *See* Agriculture Department.

Hunting:
See Fish and Wildlife Service.

I

Immigration and Naturalization Service:
IMMIGRATION REGULATIONS:
Documentary requirements, nonimmigrants, waivers; applications for exercise of discretion 15469
Officers, powers and duties:
Field officers, proof of official records 16200
Service officers, certifications 15469
Transportation lines, contracts with; preinspection outside U.S., etc. 15469, 16200
ORGANIZATION, field service, border patrol sectors No. 22 and No. 13 16200

Imports and Exports:
AGRICULTURAL COMMODITIES:
Export programs. *See* Agriculture Department; Commodity Credit Corporation.
Import restrictions, quarantine, etc. *See* Agriculture Department.
ANTIDUMPING ACT of 1921, determinations. *See* Customs Bureau; Treasury Department.
COTTON TEXTILES, import restrictions. *See* Interagency Textile Administrative Committee.
EXPORT CONTROL. *See* International Commerce Bureau.
MOTOR VEHICLES AND EQUIPMENT, imported, safety standards; proposed rule 16432
OIL IMPORTS, adjustment:
See also Oil Import Administration.
Proclamation 3820 15701
SCIENTIFIC ARTICLES, duty-free entry. *See* Business and Defense Services Administration.
WATCHES AND MOVEMENTS from American Samoa, Guam, and Virgin Islands, import quotas 15818
WOOL PRODUCTS, imported. *See* Federal Trade Commission.

Indian Affairs Bureau:
AUTHORITY DELEGATIONS:
By Area Directors to Assistant Area Directors, et al.; certain authority:
Albuquerque Area 15764, 16283
Navajo Area 15765
By Commissioner to Phoenix Area Office Director, forestry matters 15645
By Deputy Commissioner to Superintendents, Gallup Area Office; redelegation, revocation 16283
ENROLLMENT; membership rolls:
Brotherton Indians of Wisconsin 15471
Upper and Lower Chehalis Tribes 16099
UTE TRIBE, UTAH; disposition of tribal assets by mixed-blood Indians, deletion of Part 16213

Indians:
See also Indian Affairs Bureau.
ALCOHOLIC BEVERAGES, legalizing sale to Indians; Kalispel Indian Reservation, Wash 16170

Information:
AVAILABILITY, etc. *See* Organization and information.

Insecticides, Pesticides, etc.:
ENFORCEMENT of Federal Insecticide, Fungicide, and Rodenticide Act. *See* Agriculture Department.
TOLERANCES for residues on various agricultural commodities. *See* Food and Drug Administration.

Insurance:
CROP INSURANCE. *See* Federal Crop Insurance Corporation.
FEDERAL SAVINGS AND LOAN INSURANCE, etc. *See* Federal Home Loan Bank Board.
HOUSING mortgage insurance. *See* Federal Housing Administration.
MAIL ORDER INSURANCE INDUSTRY guides, trade practice rules 15536
RAILROAD UNEMPLOYMENT insurance account, deficit 15729
VESSELS, war risk insurance. *See* Maritime Administration.

Interagency Textile Administrative Committee:
COTTON TEXTILES, import restrictions:
Brazil, 15408.
Malaysia, 16453.

Interior Department:
See Federal Water Pollution Control Administration.
Fish and Wildlife Service.
Indian Affairs Bureau.
Land Management Bureau.
National Park Service.
Oil Import Administration.
APPOINTMENTS and statements of financial interests under Defense Production Act of 1950 15125, 15188, 15401, 15594, 15839, 15840
AUTHORITY DELEGATIONS:
By Director, Management Operations, to Administrator, Lower Colorado River Land Use Office; contracts 15769
By Secretary to certain officials:
National Park Service Director, transportation programs and projects affecting historic sites 16059
Outdoor Recreation Bureau Director, transportation programs 16059

Interior Department—Continued

INDIANS, Kalispel Reservation, Wash.; legalizing liquor sale — 16170
LOWER COLORADO RIVER land use program, administration of functions and programs — 15645
OIL IMPORTS, adjustment (Proclamation 3820) — 15701
TRUST TERRITORY OF PACIFIC ISLANDS; contracts for aircraft and surface vessels, authority reserved to Secretary and to High Commissioner — 16058

Internal Revenue Service:

EMPLOYMENT TAXES, use of Government depositaries; proposed rules — 15880
EXCISE TAXES:
- Alcohol, denatured, and rum, formulas; proposed rules — 16433
- Facilities and services tax, use of Government depositaries; proposed rules — 15883
- Manufacturers and retailers tax, use of Government depositaries; proposed rules — 15882
- Taxes payable by return, use of Government depositaries; proposed rules — 15881
- Wine and products rendered unfit for beverage use — 16260

INCOME TAXES:
- Accounting methods:
  - Obligations issued at discount, United States savings bonds — 15820
  - Prepaid dues income of certain membership organizations — 16393
- Aliens, nonresident, and foreign corporations, withholding tax on; payment, proposed rule — 15879
- Capital gains and losses:
  - Sale or exchange of United States obligations issued at discount — 15827
  - Short sales, determination of date of sale; correction — 15421
- Corporations, proposed rules:
  - Distributions and adjustments:
    - Carryovers, constructive ownership of stock — 15760
    - Constructive ownership of stock — 15759
    - Stock redemption, disposition of certain stock, etc. — 15758
  - Returns, information; foreign corporations — 15761
  - Special deductions, dividends received — 15167
  - Used to avoid income tax on shareholders; accumulated taxable income earnings credit — 15175
- Life insurance companies, proposed rules:
  - Deductions — 15176
  - Investment income — 15176
- Natural resources, mines, oil and gas wells, etc., deductions, proposed rules:
  - Depletion, hearing — 15393
  - Exploration expenditures — 15176
- Property disposition, gain or loss on:
  - Basis of property, identification of book-entry treasury securities — 15671, 15876
  - Common nontaxable exchanges of certain United States obligations — 15822
  - Losses from wash sales of stock; correction — 15421
- Real estate investment trusts, definition; proposed rule — 15761
- Returns, information, foreign corporations; proposed rules — 15761
- Tax payment, use of Government depositaries; proposed rules — 15879

PROCEDURAL RULES — 15990
PROCEDURE AND ADMINISTRATION — 15241
SEALS, establishment; Directors of Internal Revenue Service Centers, office changes — 15483

International Commerce Bureau:

EXPORT CONTROL:
- Commodity control list; changes — 16147
- Denial and probation orders:
  - *See also* Suspension of export privileges, *below*.
  - Additions and amendments — 16146
- Export clearance and destination control; exports by water or air carrier — 15988

SUSPENSION OF EXPORT PRIVILEGES:
- Botes, Alexander, 15646.
- Courtenay, Peter J., 15126.
- Dukerswell Engineers, Ltd., 15646.
- ERES, Etablissement De Recherches Scientifiques et Expertises, 15646.
- Expert Electronic Products, Ltd., 15646.
- Gunter, Kathleen P., 15646.
- Hughes, Patrick, 15646.
- Instrument Maintenance Services, 15646.
- Ring, Chris, Chris F., Christian, or Christopher, 15646.
- Savoy International, Ltd., 15646.
- Tansley, W. L., & Co. (PTY.), Ltd., 15126.
- Vandervekan, Louis, 15717.
- Voght, Alois, 15646.

International Development Agency:

See Agency for International Development.

International Joint Commission—United States and Canada:

WATER POLLUTION; hearings:
- Niagara River — 15940
- Red River — 15561

International Organization, Privileged:

LAKE ONTARIO CLAIMS TRIBUNAL, Customs Bureau regulation — 15424

Interstate Commerce Commission:

DISASTER AREAS. *See under* Railroads, *below*.
EXPLOSIVES. *See main heading* Transportation Department.
FREIGHT FORWARDERS, uniform system of accounts — 16428
LONG-AND-SHORT-HAUL CHARGES. *See* Tariffs and schedules, *below*.
MOTOR CARRIERS:
- Agreements under section 5a, contents of — 15484
- Applications for certificates, permits, and licenses; lists of applicants:
  - Brokers, passenger — 15614, 16137, 16463
  - Operating authority:
    - Intrastate carriers — 15569, 16077, 16302
    - Passenger carriers — 15216, 15614, 15785, 16137, 16464
    - Property carriers — 15138, 15140, 15204, 15216, 15564, 15606, 15614, 15732, 15735, 15777, 15785, 15861, 16071, 16074, 16124, 16138, 16298, 16300, 16455, 16464.
  - Temporary authority under section 210a(a) of Act:
    - Passenger carriers — 15691, 16177, 16178, 16239
    - Property carriers — 15141, 15217, 15409, 15459, 15515, 15570, 15615, 15659, 15690, 15737, 15786, 15903, 15942, 16176, 16177, 16238, 16302.
  - Transfer proceedings — 15143, 15516, 15616, 15617, 15787, 15788, 15861, 16078, 16303
- Operating rights, property carriers; guide to restrictions and descriptions — 16084
- Rates and charges, carrier agreements relating to rates, fares, etc.; contents of agreement — 15484
- Routes, alternate; deviation notices — 15136, 15562, 15731, 16070, 16297
- Tariffs and schedules:
  - *See also* Tariffs and schedules, *below*.
  - Extension of credit to shippers; payment of rates and charges, household goods, penalty charges for violation by shippers, proposed rule, extension of filing and hearing dates — 15589

RAILROADS:
- Accounts, uniform system; electric railways — 15484
- Disaster areas, transportation of hay at reduced rates to certain drought areas in Texas — 15862
- Routing of traffic, rerouting; authority to divert certain traffic:
  - Chicago, Burlington and Quincy Railroad Co., 15217.
  - Frankfort & Cincinnati Railroad Co., 15217.
- Tariffs and schedules. *See* Tariffs and schedules, *below*.

STANDARD TIME ZONES. *See main heading* Transportation Department.
TARIFFS AND SCHEDULES:
- *See also* Motor carriers, *above*.
- Long-and-short-haul charges; fourth section applications for relief — 15217, 15480, 15514, 15615, 15785, 15786, 15861, 16138, 16464.

WATER CARRIERS, applications for certificates, permits, and licenses; property carriers — 15216, 15614, 16137, 16463

J

Japan:

TRADE AGREEMENTS, termination of certain concessions (Proclamation 3818) — 15467

Justice Department:

See Immigration and Naturalization Service.
ORGANIZATION AND FUNCTIONS; Civil Division, transfer of functions relating to gifts and bequests to, from Office of Legal Counsel — 15425

L

Labor Department:

See Employment Security Bureau.
Labor Standards Bureau.
Public Contracts Division.
Wage and Hour Division.
LABOR STANDARDS, federally financed and assisted construction and non-construction contracts; proposed rules:
- Definitions, investigations, variations, etc. — 15396
- Enforcement, rules of practice for administrative proceedings — 15398

WAGE APPEALS BOARD, practice before, proposed rules:
- Information, availability — 15399
- Purpose and scope — 15399
- Review of debarment and liability proceedings — 15399

Labor Standards Bureau:

CHILD LABOR REGULATIONS:
- Hazardous occupations:
  - Agriculture, certain occupations in — 15479
  - Motor-vehicle driver and outside helper — 15478
- Minors between 14 and 16 in Economic Opportunity Program — 15478

Lake Ontario Claims Tribunal:

PRIVILEGED ORGANIZATION, Customs Bureau regulation — 15424

Land Management Bureau:

ALASKA:
- Chugach and Tongass National Forests, lands excluded for homesites (PLO 4303) — 15427
- Classification for multiple-use management, correction — 16057
- Withdrawals of lands for use of Federal agencies, etc. *See* Withdrawals, *below*.

AMERICAN FALLS RESERVOIR DISTRICT No. 2, release of lands from lien for irrigation charges (PLO 4304) — 15427
AUTHORITY DELEGATION by Director, Ft. Vannoy Job Corps Conservation Center, Grants Pass, Oreg., to Administrative Officer and Assistant; contracts and leases — 15594
CLASSIFICATION OF LANDS; proposals, etc.:
- Exchange:
  - Arizona, 15931.
  - Nevada, 16227.
- Multiple use management:
  - Alaska, 16067.
  - Arizona, 15591, 15592, 15766.
  - California, correction, 15683, 15887.
  - Colorado, 15186, 15716, 16283, 16441.
  - Idaho, 15186, 15766, 15767.
  - Montana, 15593.
  - Nevada, 15768.
  - Oregon, 15494, 15683, 15716, 16106, 16284, 16285.
  - Utah, 16057.
  - Wyoming, 15551, 15552, 16057.
- Scrip claimants, disposal to:
  - California, terminations, 15550.

GRAZING ADMINISTRATION, leases, practices, enforcement, etc.; proposed rules, extension of time — 16164
HOMESTEADS, lands opened to entry; various States:
- Arizona, 15186, 16057.
- Colorado, 15683, 16100.
- Idaho, 15462.
- Montana, 16283.
- Nevada, 15462.
- Oregon, 15427, 15931, 16213, 16214.
- Utah, 15463.

MINERAL LANDS:
- *See also* Oil and gas.
- Public domain leasing under 1920 Act, qualifications for associations; proposed rules — 15883
- Various States, lands opened to mineral entry:
  - Colorado, 15683.
  - Idaho, 15462.
  - Nevada, 15462.
  - Utah, 15463.

NATIONAL FOREST LANDS; additions, etc.
- *See also under* Withdrawals, *below*.
- Alaska, Chugach and Tongass National Forests, lands excluded for homesites (PLO 4303) — 15427
- Utah, Fishlake National Forest, addition (PLO 4306) — 15428

OIL AND GAS:
- Deposits, transfer of jurisdiction of certain lands at VA Center, Los Angeles, Calif., to Interior Department for protection from loss; PLO 4270 amended (PLO 4312) — 15429
- Noncompetitive leases, what should accompany offer; proposed rule — 15883
- Protraction diagrams:
  - Idaho, 16106.

ORGANIZATION; change of locations:
- Idaho Land Office, Boise — 15550
- Montana, Billings District Office — 15683

POWER PROJECTS, powersite reserves, etc.; restoration of lands:
- Colorado, powersite reserve No. 253, Executive order of March 23, 1912, revoked in part (PLO 4320) — 16100
- Oregon, powersite classification No. 421 (PLO 4321) — 16213

PROGRAM MANAGEMENT, designation of natural resource experiment and research areas; proposed rule — 15546
SALE OF LANDS; Oregon, Willamette Meridian — 15888
SCHOOL PURPOSES:
- Colorado, 16100.
- Oregon, 16213.
- Utah, 15463.

SURVEY PLATS; various States:
- Arizona, 16283.
- Utah, 16287.

WITHDRAWALS of lands for specified uses of Federal agencies, etc.:
- Alaska; proposed withdrawals:
  - Crown Point, terminal, Alaska Railroad — 16108
  - Fairbanks Meridian, geophysical observation program, Commerce Department; terminated in part — 15716
  - Noatak, school facility, Indian Affairs Bureau; terminated — 15716
- Arizona:
  - Apache National Forest, roadside zone, Forest Service; PLO 3263 revoked in part (PLO 4307) — 15428
  - Pima County, rifle range, Executive Order 2295 modified for right-of-way to city of Tucson (PLO 4313) — 15429
- Arkansas, Little River County, Millwood Dam and Reservoir Project, Engineers Corps; proposed withdrawal — 15443
- California:
  - Modoc National Forest, natural area and experimental forest, Forest Service (PLO 4308) — 15428
  - San Juan County, Navajo Indian Irrigation Project and recreation area, Agriculture Department (PLO 4324) — 16214
  - Shasta County, Central Valley Project (PLO 4326) — 16215
- Idaho, Shoshone County, air navigation site, prior order revoked (PLO 4316) — 15482
- Montana:
  - Helena National Forest, campgrounds, Agriculture Department (PLO 4309) — 15428
  - Kootenai National Forest, recreation area, Agriculture Department (PLO 4310) — 15429
  - Lolo National Forest, road, Forest Service (PLO 4318) — 15483
- Nevada:
  - Clark County, airmail beacon site, Executive Order 4702 revoked in part (PLO 4315) — 15482
  - Lander County, air navigation site No. 213 revoked (PLO 4314) — 15482
- New Mexico:
  - Carson National Forest, administration, Forest Service; proposed withdrawal — 16284

86-000—67——8

Land Management Bureau—Continued Page
WITHDRAWALS of lands for specified uses of Federal agencies, etc.—Continued
New Mexico—Continued
Cibola National Forest, administration, Forest Service; proposed withdrawal 16284
San Juan County, Navajo Indian Irrigation Project (PLO 4325) 16214
North Dakota, Fifth Principal Meridian, Oahe Dam and Reservoir Project, Engineers Corps; proposed withdrawal 15887
Oregon:
Benton County, recreation site (PLO 4305) 15428
Mt. Hood National Forest, campsite, Agriculture Department (PLO 4302) 15427
PLO 3634 revoked in part (PLO 4302) 15427
Rogue River National Forest, administrative site; prior order revoked (PLO 4322) 16214
Siskiyou National Forest, seed production area, Agriculture Department (PLO 4319) 15878
Umatilla National Forest, administrative areas, Agriculture Department (PLO 4311, 4319) 15429, 15878
Whitman National Forest, reservoir sites, Reclamation Bureau; proposed withdrawal, correction 15550
Utah, Toole County, aerial bombing and gunnery range, Air Force Department; Executive Order 9652 revoked in part (PLO 4317) 15482
Washington:
Kaniksu National Forest, campground, Agriculture Department (PLO 4319) 15878
Wenatchee National Forest, Yakima Project (PLO 4323) 16214
Wyoming, Park County, Shoshone Project (PLO 4301) 15098

Lemons:
MARKETING. *See* Agriculture Department.

Livestock:
FEED, transportation at reduced rates to certain disaster areas. *See* Interstate Commerce Commission.
FOOD ADDITIVES in feed and drinking water. *See* Food and Drug Administration.
HUMANE SLAUGHTER, etc. *See* Agriculture Department.

Loans:
AGRICULTURAL COMMODITIES, various loan programs. *See* Commodity Credit Corporation.
DISASTER AREAS, emergency loans. *See* Agriculture Department; Emergency Planning Office; Small Business Administration.
FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION, etc. *See* Federal Home Loan Bank Board.
FISHING VESSELS, construction or purchase loan applications. *See* Fish and Wildlife Service.
HOUSING LOANS. *See* Federal Housing Administration.
SMALL BUSINESS LOANS. *See* Small Business Administration.

M

Maritime Administration:
CUBA, free world and Polish flag vessels arriving in, since January 1, 1963; list 15718
DOCUMENTATION, TRANSFER, OR CHARTER of vessels, applicant as trustee under Public Law 89-346; approval:
Harris Trust and Savings Bank, 16367.
GOVERNMENT-SPONSORED COMMODITIES, voyage charter rate guidelines 15769
NORTH VIETNAM, free world and Polish flag vessels arriving in, since January 25, 1966; list 16443
SUBSIDIZED VESSELS AND OPERATORS, operating-differential subsidies:
Application under Merchant Marine Act, 1936:
American Export Isbrandtsen Lines, Inc., 16171.
Guidelines for payment, subsidized operators; proposed rule 16436
TROOPSHIPS, C4; availability 15848
WAR RISK INSURANCE, values for 16272

Maritime Commission, Federal:
See Federal Maritime Commission.

Medals:
See Decorations and awards.

Medical Care: Page
See Hospital and medical care.

Melons:
MARKETING, etc. *See* Agriculture Department.

Mexico:
BROADCAST STATIONS. *See* Federal Communications Commission.

Migratory Birds:
HUNTING AND POSSESSION. *See* Fish and Wildlife Service.

Milk and Products:
MARKETING. *See* Agriculture Department.

Mineral Lands and Minerals:
See also Oil and gas.
PUBLIC LANDS, leases, etc. *See* Land Management Bureau.

Mohair:
PAYMENT PROGRAM. *See* Commodity Credit Corporation.

Motor Carriers:
OPERATING AUTHORITY, routes, etc. *See* Interstate Commerce Commission.

Motor Vehicles:
FIRE ISLAND NATIONAL SEASHORE, use of vehicles 15391
SAFETY STANDARDS:
See also Federal Highway Administration.
Imported motor vehicles and equipment, proposed rule 16432

Mutual Educational and Cultural Exchange Act of 1961:
ADMINISTRATION (Executive Order 11380) 15627

N

National Bureau of Standards:
RADIO STATIONS, standard frequency and time broadcasts 15128, 16443
STANDARD REFERENCE MATERIALS:
Certified chemical composition; bio-medical chemicals 15636
Certified properties and purity:
Microcopy resolution test chart 15636
Radioactivity standards; beta, gamma, and electron-capture solution standards 15105
TEST FEE SCHEDULES; radiation physics:
Neutron physics 15104
Radioactivity 15391

National Forests, Parks, etc.:
See National Park Service; Land Management Bureau.

National Mediation Board:
APPLICATIONS FOR SERVICE, investigation of representation disputes 15831
CONDUCT STANDARDS 15827
INFORMATION, availability of 15831
Prior regulation deleted 15831

National Park Service:
AUTHORITY DELEGATIONS:
By Superintendent, Great Smoky Mountains National Park, to Assistant Superintendent, et al.; contracts and purchase orders 15443
From Secretary of Interior; transportation programs and projects affecting historic sites 16059
NATIONAL PARKS, etc.:
Blue Ridge Parkway; concession permits 15497
Colonial National Historical Park; boating 16213
Fire Island National Seashore; vehicular use 15391
Fort Caroline National Memorial, restricted area; editorial change 16213
Fort Jefferson National Monument; fishing and aircraft landing areas, proposed rule 15762
Great Smoky Mountains National Park; concession permits 15497
Guilford Courthouse National Military Park, special regulations, revocation 16213
Hot Springs National Park; speed, editorial change 15710

Lake Mead National Recreation Area; aircraft airstrips, alcoholic beverages, and parking vehicle-boat trailer combinations, etc. 15751
National Capital Region; concession contract 15663

National Transportation Safety Board:
AIRCRAFT ACCIDENT INVESTIGATIONS:
Blossburg, Pa. 15932
Greater Cincinnati Airport, Erlanger, Ky. 16112

Navigation Regulations:
AIRWAYS. *See* Federal Aviation Administration.
WATERWAYS. *See* Coast Guard.

Navy Department:
See also Defense Department.
ACADEMY, appointment as midshipman; honor schools 15115
CLAIMS:
General 16154
Personnel 16154
COURTS and certain fact-finding bodies:
Administrative fact-finding bodies 16154
Post-trial matters 16153
Trial matters 16153

Nondiscrimination:
CIVIL SERVICE equal opportunity regulations. *See* Civil Service Commission.
DEPOSITARY BANKS and issuing and paying agents, guidelines for compliance with equal employment opportunity program 15401
NAVAL HONOR SCHOOLS, nondiscrimination in admission and treatment of students 15115

North Vietnam:
VESSELS, free world and Polish flag, arriving since January 25, 1966. *See* Maritime Administration.

Nuts:
See Filberts; Peanuts; Pecans; Walnuts.

O

Oats:
CROP INSURANCE. *See* Federal Crop Insurance Corporation.
RESEAL LOAN PROGRAMS. *See* Commodity Credit Corporation.

Office of Emergency Planning:
See Emergency Planning Office.

Oil and Gas:
OIL IMPORTS, adjustment:
See also Oil Import Administration.
Proclamation 3820 15701

Oil Import Administration:
SUSPENSION OR REVOCATION OF ALLOCATIONS AND LICENSES, rules for proceedings 15876

Onions:
MARKETING. *See* Agriculture Department.

Oranges:
MARKETING, etc. *See* Agriculture Department.

Organization and Information:
COMPLIANCE with Freedom of Information Act by listed agencies:
Army Department, 16279.
Education Office, 15597.
Environmental Science Services Administration, 16286.
Equal Employment Opportunity Commission, 16261.
Federal Communications Commission, 15472, 15675.
Federal Housing Administration, 15586.
Food and Drug Administration, 15709.
Health, Education, and Welfare Department, 15190, 15721.
Immigration and Naturalization Service, 16200.
Justice Department, 15425.
National Mediation Board, 15831.
Post Office Department, 15099, 15480, 15481.
Public Health Service, 15442, 15597.
Renegotiation Board, 16237.
State Department, 16258.

Outdoor Recreation Bureau:
AUTHORITY DELEGATION from Secretary of Interior; transportation programs 16059

P

Pacific Islands, Trust Territory of: Page
AIRCRAFT AND SURFACE VESSELS, contracts for; authority of Secretary of Interior and of High Commissioner 16058

Packers and Stockyards Administration:
See Agriculture Department.

Panama Canal:
See Canal Zone.

Parks, National:
See National Park Service.

Passports:
See State Department.

Pay, Compensation, etc.:
FEDERAL EMPLOYEES on overseas duty (Executive Order 11380) 15627
MINIMUM WAGES, etc. *See* Public Contracts Division; Wage and Hour Division.
OVERTIME SERVICES, imports and exports. *See* Agriculture Department.
POSTAL DATA CENTERS, uniform allowance payments by, directly to vendors; proposed rules 15643
VESSELS, subsidized operators, guidelines; proposed rule 16436
WITHOUT-COMPENSATION EMPLOYEES. *See* Interior Department.

Peaches:
CANNED, diced; temporary permit for market testing. *See* Food and Drug Administration.

Peanuts:
CROP INSURANCE. *See* Federal Crop Insurance Corporation.
MARKETING QUOTAS, acreage allotments. *See* Agriculture Department.

Peas:
CROP INSURANCE. *See* Federal Crop Insurance Corporation.

Pecans:
STANDARDS for grades, pecans in shell. *See* Agriculture Department.

Pesticides:
FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT, enforcement, interpretation. *See* Agriculture Department.
TOLERANCES for residues. *See* Food and Drug Administration.

Petroleum and Products:
See Oil and gas.

Pipeline Carriers:
ACCIDENT REPORTING, etc. *See* Federal Railroad Administration.

Plant Quarantine:
See Agriculture Department.

Pollution:
See Air pollution; Water pollution.

Post Office Department:
DOMESTIC SERVICES:
Classification, first class, postal and post cards; correction 15587
Postage, permit imprints; preparation during pendency of postage rate bill 15839
ORGANIZATION AND ADMINISTRATION:
International Postal Affairs, Office of 15480
Operations Bureau 15480
Regional Director, Office of 15099
Transportation Bureau 15481
PAYMENTS, uniform allowance, by Postal Data Centers directly to vendors; proposed rules 15643
RETIREMENT, Quill, Daniel J.; exemption from compulsory retirement for age (Executive Order 11378) 15237
UNIFORM QUALITY CONTROL PROGRAM, female letter carriers' and special delivery messengers' new surcoats and culottes 15839

Potatoes: Page
CROP INSURANCE. *See* Federal Crop Insurance Corporation.
MARKETING. *See* Agriculture Department.

Poultry and Products:
See Agriculture Department.

Power Commission:
See Federal Power Commission.

Presidential Documents:
DISTRICT OF COLUMBIA; Acting Commissioner, order of succession (EO 11379) ---- 15625
EDUCATIONAL AND CULTURAL EXCHANGES WITH FOREIGN COUNTRIES, functions (EO 11380) ---- 15627
FEDERAL COUNCIL FOR SCIENCE AND TECHNOLOGY, membership (EO 11381) ---- 15629
FEDERAL EMPLOYEES, allowances for overseas duty (EO 11380) ---- 15627
OIL IMPORTS, adjustment (Proc. 3820) ---- 15701
QUILL, DANIEL J., exemption from compulsory retirement for age (EO 11378) ---- 15237
THANKSGIVING DAY, 1967 (Proc. 3819) ---- 15667
TRADE AGREEMENTS with Canada, Japan, United Kingdom; termination of certain concessions (Proc. 3818) ---- 15467
TRANSPORTATION DEPARTMENT, functions (EO 11382) ---- 16247

Price Support:
AGRICULTURAL COMMODITIES. *See* Commodity Credit Corporation.

Procurement:
ARMED SERVICES. *See* Air Force Department; Defense Department.
FEDERAL PROCUREMENT REGULATIONS. *See* General Services Administration.
REGULATIONS of various agencies. *See specific agencies.*

Public Contracts Division:
MINIMUM WAGE DETERMINATIONS, adjustment to wage increases under Fair Labor Standards Act; proposed rule ---- 16220
SAFETY AND HEALTH STANDARDS, Federal supply contracts; radiation standards for mining ---- 15641

Public Health Service:
BIOLOGICAL PRODUCTS, additional standards, mumps virus vaccine, live; proposed rules ---- 15178
ORGANIZATION AND FUNCTIONS ---- 15443, 15597

Puerto Rico:
SUGAR, proportionate shares. *See* Agriculture Department.
TIME ZONE BOUNDARIES, standard ---- 16162

Q

Quarantine Regulations:
ANIMAL DISEASES, control of. *See* Agriculture Department.
PLANT QUARANTINE. *See* Agriculture Department.

Quill, Daniel J.:
COMPULSORY RETIREMENT FOR AGE, exemption (Executive Order 11378) ---- 15237

R

Radiation:
MONITORING INSTRUMENTS, advertising guides ---- 15533
PHYSICS. *See* National Bureau of Standards.
REACTORS, construction, operation, etc. *See* Atomic Energy Commission.
SAFETY AND HEALTH STANDARDS, Federal supply contracts. *See* Public Contracts Division.
STANDARD REFERENCE MATERIALS, radioactivity standards. *See* National Bureau of Standards.

Radio Communications:
See Federal Communications Commission; National Bureau of Standards.

Railroad Retirement Board: Page
CONDUCT STANDARDS ---- 15471
RAILROAD UNEMPLOYMENT INSURANCE ACCOUNT, notice of deficit ---- 15729

Railroads:
See also Railroad Retirement Board.
ROUTING, etc. *See* Interstate Commerce Commission.

Raisins:
MARKETING. *See* Agriculture Department.

Ready Reserve:
ACTIVE DUTY, involuntary order ---- 15112

Records:
AVAILABILITY. *See* Organization and information.

Recreation:
NATIONAL RECREATION AREAS. *See* National Park Service.
PUBLIC LANDS, withdrawals for recreation areas, etc. *See* Land Management Bureau.

Renegotiation Board:
CONDUCT OF RENEGOTIATION, filing of information and requests by contractor; place for filing ---- 16213
ORGANIZATION AND FUNCTIONS, Eastern Regional Renegotiation Board; change of address ---- 16237

Reservoir Areas:
PUBLIC USE for recreation, etc. *See* Engineers Corps.
WILDLIFE PURPOSES, transfer of area for. *See* General Services Administration.

Restricted Areas:
AIRCRAFT restricted over military installations. *See* Federal Aviation Administration.

Retirement:
QUILL, DANIEL J., exemption from compulsory retirement for age (Executive Order 11378) ---- 15237

Rice:
CROP INSURANCE. *See* Federal Crop Insurance Corporation.
MARKETING QUOTAS, acreage allotments, etc. *See* Agriculture Department.
RESEAL LOAN PROGRAMS, etc. *See* Commodity Credit Corporation.

Rye:
CROP INSURANCE. *See* Federal Crop Insurance Corporation.
RESEAL LOAN PROGRAMS. *See* Commodity Credit Corporation.

S

Safety:
AIRCRAFT, accident investigations. *See* National Transportation Safety Board.
FEDERAL SUPPLY CONTRACTS. *See* Public Contracts Division.
MOTOR VEHICLES, safety standards. *See* Customs Bureau; Federal Highway Administration.

Samoa, American:
WATCHES AND MOVEMENTS, import quotas ---- 15818

School Lunch Program:
See Agriculture Department.

Schools:
See Education and educational facilities.

Science and Technology, Federal Council for:
MEMBERSHIP (Executive Order 11381) ---- 15629

Seal:
INTERNAL REVENUE SERVICE ---- 15483

Securities and Exchange Commission:
HEARINGS, etc. *See list at end of this agency.*
INVESTMENT ADVISERS ACT, 1940:
Form ADV-W, withdrawal from registration as investment adviser ---- 16151
Withdrawal from registration as investment adviser ---- 16151

ORGANIZATION AND FUNCTIONS, authority delegation to Director, Division of Corporate Regulation; correction ---- Page 15470
SECURITIES ACT, 1933, contents of prospectus used after nine months ---- 15920
HEARINGS, ETC.:
Aetna Insurance Co., 16122.
Aetna Life and Casualty Co. et al., 16121.
American Hydrocarbon Corp., 15449.
American Natural Gas Co., 15941.
American Republic Assurance Co., 16068.
American Republic Assurance Co. Separate Account B, 16068.
American Variable Annuity Fund, 15511.
American Variable Annuity Life Assurance Co., 15511.
Arizona City Development Corp., 15774.
Arkansas Power & Light Co., 15689.
Berkshire Industries, Inc., 15201.
Central Indiana Gas Co., Inc., 15941.
Central Power and Light Co., 15857.
Coditron Corp., 15512, 15775, 16237.
Collins Radio Co. et al., 15690.
Columbia Gas System, Inc. et al., 16175.
Connecticut General Insurance Corp., 16122.
Continental Vending Machine Corp., 15202, 15730, 16122.
Delta Air Lines, Inc. (Delaware), et al., 15555, 15901.
Eastern Utilities Associates, et al., 16237.
Fastline, Inc., 15775, 16176.
Gillette International Capital Corp., 15450.
Glen Alden Corp., 16069.
Gulf & Western Industries, Inc. (Delaware), 15135, 15512, 16123.
Hubbard, M. M., Associates, Inc., 15513.
Interamerican Industries, Inc., 16463.
Interamerican Industries, Ltd., 15135, 15604, 15901.
Ivest Fund, Inc., 15202.
Jersey Central Power & Light Co., 15901.
Jodmar Industries, Inc., 15451, 15775, 15902.
Kjobenhavns Telefon Aktieselskab, 16453.
Louisiana Power & Light Co., 15655.
Massachusetts Investors Trust, 15730.
Middle South Utilities, Inc., 15655.
Midland-Ross Corp., 16238.
Mississippi Power & Light Co., 15451.
Missouri-Kansas-Texas Railroad Co. et al., 15775.
Murphy Oil International Finance Co., 15513.
National Exhibition Co., 15562.
North American Research & Development Corp., 15203, 15656, 16070, 16454.
Nuveen Tax-Exempt Bond Fund, Series 16; 15136.
Pakco Companies, Inc., 15203, 15730, 16123.
Penrose Industries Corp., 15136, 15604, 15902, 16455.
Pennsoil Co. et al., 16454.
Pittsburgh Railways Co., 15857.
Power Oil Co., 15136.
Putnam, George, Fund of Boston, 16296.
Roto American Corp., 15203, 15670, 16123.
SCM Corp., 15452.
Scripps-Howard Investment Co., 15604.
Standard Shares, Inc., 15857.
Trans International Airlines Corp., 15452.
Warner Bros.-Seven Arts, Ltd., 15902.
Westec Corp., 15203, 15730, 16123.
Wheelabrator Corp. et al., 16123.
Wolverine Aluminum Corp., 16297.

Security:
AIR FORCE DEPARTMENT:
Industrial security ---- 16264
Resources, protection of; warning signs ---- 16154
INFORMATION, disclosure of; protection of national security ---- 15544

Ships:
See Vessels.

Small Business Administration:
ADMINISTRATION, list of public-use SBA forms ---- 15806, 15873
AUTHORITY DELEGATIONS by Area Administrators to certain officials:
New York Area, Regional Directors ---- 15452
Pacific Coastal Area, Branch Manager, Agana, Guam ---- 15453
Southeastern Area, Area Coordinators, et al ---- 15453
DISASTER AREAS requiring Federal assistance:
California, 15605.
Florida, 15606.
Mississippi, 15514.
FORMS, SBA, public use of; list ---- 15806, 15873
LEASE GUARANTEE, correction ---- 15065
SMALL BUSINESS ACT REGULATIONS:
Business loans, maturities ---- 15635
Loan policy, terms and conditions of financial assistance, maturities ---- 15634
Size standards, definitions of small business for various purposes; proposed rules:
SBA business loans; construction contractors, hearing ---- 15184
Government procurement; construction contractors, hearing ---- 15184
SMALL BUSINESS INVESTMENT ACT REGULATIONS:
Loans to State and local development companies ---- 15149
Small business investment companies, proposed rules ---- 16368
Definition, venture capital ---- 15399, 16371

Social Security Administration:
INFORMATION, disclosure of; protection of national security ---- 15544

Soybeans:
CROP INSURANCE. *See* Federal Crop Insurance.
RESEAL LOAN PROGRAMS. *See* Commodity Credit Corporation.

Standards:
AGRICULTURAL COMMODITIES. *See* Agriculture Department.
CONDUCT STANDARDS. *See* Conduct standards.
FOODS, canned, processed, etc. *See* Food and Drug Administration.
TECHNICAL STANDARDS for equipment, materials, etc. *See specific agencies.*

Standards Bureau:
See National Bureau of Standards.

Standards of Conduct:
See Conduct standards.

State Department:
See Agency for International Development.
AUTHORITY DELEGATIONS by Deputy Under Secretary, Administration, to Chief, Supply and Transportation Services Division, et al.; procurement delegations ---- 15427
FEES for service in U.S., schedule ---- 16212
NATIONALITY, board of review on loss of; appeal by nationality claimant, etc ---- 16259
ORGANIZATION AND FUNCTIONS, Board of Appellate Review ---- 16258
PASSPORTS, review of adverse action, procedures for; appearance at hearing, etc ---- 16259
PROCUREMENT:
Authority delegations; Chief, Supply and Transportation Services Division, et al ---- 15427
Contract appeal regulations ---- 15751
VISAS, documentation under Immigration and Nationality Act; nonimmigrant applications, signature ---- 16098

Stockyards:
See Agriculture Department.

Students:
See Education and educational facilities.

Sugar:
COUNTERVAILING DUTIES, Australia ---- 15390
CROP INSURANCE. *See* Federal Crop Insurance Corporation.
PRODUCTION, marketing, etc. *See* Agriculture Department.

Surplus Property and Commodities:
AGRICULTURAL COMMODITIES, sales of commodities acquired through price-support programs. *See* Commodity Credit Corporation.

T

Tangelos and Tangerines:
MARKETING. *See* Agriculture Department.

Tariff Commission: Page
ADJUSTMENT ASSISTANCE; workers' petitions:
Borg-Warner Corp., Detroit, Mich. 15731
Pittsburgh Plate Glass Co.:
Creighton, Pa. 15942
Ford City, Pa. 15942
CONDUCT STANDARDS. 16210
INVESTIGATION OF IMPORTS:
Corn, broom, 16297.

Tariff Schedules of the United States:
TRADE AGREEMENTS with Canada, Japan, United Kingdom; termination of certain concessions (Proclamation 3818) 15467

Taxes:
INCOME, etc. *See* Internal Revenue Service.

Television:
BROADCAST STATIONS, regulations. *See* Federal Communications Commission.

Thanksgiving Day, 1967:
PROCLAMATION 3819. 15667

Tires:
ADVERTISING AND LABELING GUIDES, trade practice rules. *See* Federal Trade Commission.
MOTOR VEHICLE SAFETY STANDARDS. 15792

Tobacco:
CROP INSURANCE. *See* Federal Crop Insurance Corporation.
LOAN PROGRAMS. *See* Commodity Credit Corporation.
MARKETING QUOTAS, acreage allotments, etc. *See* Agriculture Department.

Tomatoes:
CROP INSURANCE. *See* Federal Crop Insurance Corporation.
MARKETING. *See* Agriculture Department.

Trade Agreements:
CANADA, JAPAN, UNITED KINGDOM; termination of certain concessions (Proclamation 3818) 15467

Trade Commission:
See Federal Trade Commission.

Trade Name:
RECORDING. *See* Customs Bureau.

Trade Practices:
See Federal Trade Commission.

Trains:
RAILROADS. *See* Interstate Commerce Commission.

Transportation Department:
See Coast Guard.
Federal Aviation Administration.
Federal Highway Administration.
Hazardous Materials Regulations Board.
National Transportation Safety Board.
AUTHORITY DELEGATION by Secretary to Federal Highway Administrator; rules respecting tires and rim standards. 15710
EXPLOSIVES, definitions, shipping paper; postponement of effective date. 16277
FUNCTIONS (Executive Order 11382). 16247
PIPELINE CARRIERS, accident reporting, etc. 16040
STANDARD TIME ZONE BOUNDARIES:
Alaska, Yukon, proposed rule. 16439
Atlantic zone (Puerto Rico and Virgin Islands), establishment 16162
Nebraska, boundary line between central and mountain zones. 16215

Treasury Department:
See Comptroller of Currency.
Customs Bureau.
Internal Revenue Service.

ANTIDUMPING ACT, 1921; determinations, certain imports: Page
See also main heading Customs Bureau.
Refrigeration compressors; Denmark, 15595.
Wall tile, ceramic glazed; Japan, 16106.
AUTHORITY DELEGATION by Under Secretary for Monetary Affairs to Director, Office of Domestic Gold and Silver Operations; authorization of signature and issuance of certain documents. 15122
EQUAL EMPLOYMENT OPPORTUNITY PROGRAM, compliance guidelines, depositary banks and issuing and paying agents. 15401
PUBLIC DEBT BUREAU:
Notes, Treasury, offering:
Series A–1969, 5¾ percent, 15122.
Series A–1974, 5¾ percent, 15128.
United States securities, book-entry procedure. 15672, 15920

Trust Territory of Pacific Islands:
AIRCRAFT AND SURFACE VESSELS, contracts for; authority of Secretary of Interior and of High Commissioner 16058

U

United Kingdom:
TRADE AGREEMENTS, termination of certain concessions (Proclamation 3818) 15467

United States Information Agency:
MUTUAL EDUCATIONAL AND CULTURAL EXCHANGE ACT OF 1961, functions (Executive Order 11380) 15627

Urban Renewal:
HOUSING INSURANCE. *See* Federal Housing Administration.

V

Vegetables:
See also specific vegetables.
FRESH VEGETABLES, inspection, certification, and standards. *See* Agriculture Department.

Vehicles:
See Motor vehicles.

Vessels:
COAST GUARD regulations. *See* Coast Guard.
CUBA, list of free world and Polish flag vessels arriving in, since January 1, 1963. *See* Maritime Administration.
CUSTOMS regulations. *See* Customs Bureau.
MARITIME CARRIERS, regulations, etc., affecting. *See* Federal Maritime Commission; Maritime Administration.
NORTH VIETNAM, list of free world and Polish flag vessels arriving in, since January 25, 1966. *See* Maritime Administration.
PASSENGER AND MERCHANT VESSELS. *See* Coast Guard.
WAR RISK INSURANCE. *See* Maritime Administration.

Veterans Administration:
ADJUDICATION. *See* Pension, compensation.
PENSION, COMPENSATION, special monthly compensation ratings, certain additional disabilities. 15878
VOCATIONAL REHABILITATION AND EDUCATION:
Eligibility, dates of; Korean conflict, other service, etc 16099
Employment:
Disabled veterans, counseling. 16099
Service-connected disability; need for vocational rehabilitation 16099

Vietnam:
VESSELS, free world and Polish flag, arriving in North Vietnam since January 1, 1966. *See* Maritime Administration.

Virgin Islands:
PETROCHEMICAL FACILITIES, development (Proclamation 3820) 15701
TIME ZONE BOUNDARIES, standard. 16162
WATCHES AND MOVEMENTS, import quotas. 15818

Visas: Page
See State Department.

Vocational Rehabilitation:
VETERANS. *See* Veterans Administration.

W

Wage and Hour Division:
EXEMPTIONS to Fair Labor Standards Act of 1938, miscellaneous; enforcement policies. 15426
LEARNERS, employment at below minimum wages; special certificates to various industries. 15457, 15858
SEASONAL INDUSTRIES:
Annually recurring seasonal peaks of operations; industries characterized by. 15426
Perishable agricultural or horticultural commodities, seasonal industries engaged in certain operations on. 15426
Nursery stock storing and packing industry, proposed rule. 15712
STUDENTS, full-time; certificates authorizing employment at special minimum wages. 15656

Wages:
See Pay, compensation, etc.

Walnuts:
MARKETING. *See* Agriculture Department.

Watches and Movements:
IMPORT QUOTAS, American Samoa, Guam, and Virgin Islands. 15818

Water Carriers:
REGULATIONS, notices, etc. *See* Federal Maritime Commission; Interstate Commerce Commission; Maritime Administration.

Water Pollution: Page
INTERNATIONAL BOUNDARY LINE between U.S. and Canada, pollution of waters crossing; hearings. *See* International Joint Commission-United States and Canada.

Weather Bureau:
PUBLIC, rules for guidance of. 16258
TRANSFERS OF REGULATIONS. 16257

Wheat:
CROP INSURANCE. *See* Federal Crop Insurance Corporation.
MARKETING CERTIFICATE PROGRAMS. *See* Agriculture Department.
RESEAL LOAN PROGRAMS, etc. *See* Commodity Credit Corporation.
TARIFF CLASSIFICATION, second clear wheat flour. *See* Customs Bureau.

Wildlife:
JOHN MARTIN RESERVOIR AREA, portion transferred for wildlife conservation purposes. *See* General Services Administration.
REFUGES, hunting, sport fishing. *See* Fish and Wildlife Service.

Without-Compensation Employees:
APPOINTMENTS and statements of financial interests. *See* Interior Department.

Women:
CULOTTES AND SURCOATS, new, female letter carriers' and special delivery messengers'; uniform quality control program. 15839

Wool and Products:
IMPORTED WOOL PRODUCTS. *See* Federal Trade Commission.
SHORN AND PULLED WOOL, payment program. *See* Commodity Credit Corporation.

232

J
83
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v.32
no.232-244

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Pages 16469–16519

THE UNIVERSITY OF MICHIGAN
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Agencies in this issue—

Agricultural Stabilization and Conservation Service
Atomic Energy Commission
Business and Defense Services Administration
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Consumer and Marketing Service
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Equal Employment Opportunity Commission
Federal Aviation Administration
Federal Communications Commission
Federal Crop Insurance Corporation
Federal Maritime Commission
Federal Power Commission
Federal Register Administrative Committee
Fish and Wildlife Service
Food and Drug Administration
General Services Administration
Interior Department
Interstate Commerce Commission
National Bureau of Standards
National Transportation Safety Board
Securities and Exchange Commission

Detailed list of Contents appears inside.

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Contents

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Rules and Regulations

Tobacco:
- Burley, flue-cured, etc.; 1963–64 and subsequent marketing years; miscellaneous amendments ---- 16478
- Flue-cured; 1966–67 and subsequent marketing years; determination of acreage allotments for new farms ---- 16479

AGRICULTURE DEPARTMENT

See Agricultural Stabilization and Conservation Service; Consumer and Marketing Service; Federal Crop Insurance Corporation.

ATOMIC ENERGY COMMISSION

Notices

Nuclear Fuel Services, Inc., and New York State Atomic and Space Development Authority; applications for plant addition for recovery of neptunium ---- 16508

BUSINESS AND DEFENSE SERVICES ADMINISTRATION

Notices

Applications and decisions on applications for duty-free entry of scientific articles:
- Cornell University Medical College ---- 16505
- Mayo Foundation ---- 16505
- Research Triangle Institute et al ---- 16503
- Tulane University et al ---- 16504
- University of California et al ---- 16504
- University of Colorado ---- 16505
- University of Hawaii ---- 16506
- University of Illinois ---- 16506
- University of Washington ---- 16506

CIVIL AERONAUTICS BOARD

Rules and Regulations

Transfer of regulations; cross reference ---- 16491

Notices

Trans Caribbean Airways, Inc.; hearing, etc ---- 16508

CIVIL SERVICE COMMISSION

Rules and Regulations

Excepted service:
- Executive Office of the President ---- 16477
- Interstate Commerce Commission ---- 16477
- National Aeronautics and Space Administration (2 documents) ---- 16477

Miscellaneous amendments to chapter ---- 16473

Notices

Manpower shortages:
- Director, Armed Forces Institute ---- 16509
- Director of Program Development, District of Columbia Government ---- 16509
- Training instructor (electrical power generation) ---- 16509

COMMERCE DEPARTMENT

See Business and Defense Services Administration; National Bureau of Standards.

CONSUMER AND MARKETING SERVICE

Rules and Regulations

Milk handling in certain marketing areas:
- Oklahoma Metropolitan and North Texas ---- 16480
- St. Louis, Mo ---- 16479
- Wichita, Kans ---- 16480

CUSTOMS BUREAU

Notices

Finnish markka; rates of exchange ---- 16503

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Rules and Regulations

Availability of records; administrative decision and review; correction ---- 16491

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations

Airworthiness directives:
- Fairchild Hiller aircraft ---- 16481
- Hawker Siddeley de Havilland Model 104 Dove Series airplanes ---- 16481

Alterations:
- Control area ---- 16482
- Control zone and transition area ---- 16483
- Control zones (2 documents) ---- 16482, 16483
- Transition area ---- 16482

Control area extension, control zone, and transition area; revocation, alteration, and designation ---- 16482

Control areas; designation ---- 16482

Flight maneuvers; continuation of changes to engine out landing requirements ---- 16481

Operating and flight rules; VOR equipment checks outside U.S. ---- 16483

Standard instrument approach procedures; miscellaneous amendments ---- 16484

Proposed Rule Making

Positive control areas; provision of controlled visual flight; withdrawal of proposed rule making ---- 16495

Transition area; designation ---- 16495

FEDERAL COMMUNICATIONS COMMISSION

Proposed Rule Making

Air carrier aircraft radio stations; use of certain frequency ---- 16495

Notices

J. W. Furr (WMBC) and James W. Eatherton; hearing, etc ---- 16509

FEDERAL CROP INSURANCE CORPORATION

Rules and Regulations

Federal crop insurance; potatoes; discontinuance of insurance in certain county ---- 16478

FEDERAL MARITIME COMMISSION

Proposed Rule Making

Significant vessel operating common carriers in domestic offshore trade; reports of rate base and income account ---- 16496

Notices

Wilh. Wilhelmsen A/B Svenska Atlant Linien and Lykes Bros. Steamship Co., Inc.; agreement filed for approval ---- 16510

FEDERAL POWER COMMISSION

Notices

Hunt Oil Co. et al.; hearing, etc ---- 16511

FEDERAL REGISTER ADMINISTRATIVE COMMITTEE

CFR Checklist ---- 16473

FISH AND WILDLIFE SERVICE

Rules and Regulations

Aid to fisheries; jellyfish ---- 16492

FOOD AND DRUG ADMINISTRATION

Rules and Regulations

Certification of penicillin and penicillin-containing drugs; sodium ampicillin ---- 16491

Notices

Dow Chemical Co.; pesticide petition ---- 16507

Shell Chemical Co.; withdrawal of pesticide petition ---- 16508

GENERAL SERVICES ADMINISTRATION

Rules and Regulations

Procurement responsibility and authority ---- 16491

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Food and Drug Administration.

(Continued on next page)

INTERIOR DEPARTMENT

See also Fish and Wildlife Service.

Notices

Howard A. Beck; report of appointment and statement of financial interests 16503

INTERSTATE COMMERCE COMMISSION

Notices

Motor carriers:
- Temporary authority applications 16517
- Transfer proceedings 16518

Niagara Frontier Tariff Bureau, Inc.; application for approval of amendment to agreement 16517

NATIONAL BUREAU OF STANDARDS

Notices

NBS radio stations; change in coding GEOALERTS broadcast 16507

NATIONAL TRANSPORTATION SAFETY BOARD

Rules and Regulations

Air safety proceedings, aircraft accidents, etc.; miscellaneous amendments 16491

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:
- American Electric Power Co., Inc 16515
- Roto American Corp 16516
- Silver Shield Corp 16516

TRANSPORTATION DEPARTMENT

See Federal Aviation Administration.

TREASURY DEPARTMENT

See Customs Bureau.

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

5 CFR

210 16474
213 (4 documents) 16477
315 16474
351 16474
352 16474
353 16475
430 16475
511 16475
531 16475
713 16476
731 16476
752 16476
754 16476
771 16477
772 16477
831 16477
891 16477

7 CFR

401 16478
724 16478
725 16479
1062 16479
1073 16480
1106 16480
1126 16480

14 CFR

39 (2 documents) 16481
61 16481
71 (7 documents) 16482, 16483
91 16483
97 16484
121 16481
301 16491
303 16491
311 16491
320 16491
421 16491
430 16491
431 16491
435 16491

PROPOSED RULES:

1 16495
71 16495
91 16495

21 CFR

146a 16491

29 CFR

1610 16491

41 CFR

1–1 16491

46 CFR

PROPOSED RULES:

514 16496

47 CFR

PROPOSED RULES:

2 16495
87 16495

50 CFR

254 16492

Rules and Regulations

Title 1—GENERAL PROVISIONS

Chapter I—Administrative Committee of the Federal Register

CFR CHECKLIST

This checklist, arranged in order of titles, shows the issuance date and price of current bound volumes and supplements of the Code of Federal Regulations. The rate for subscription service to all revised volumes and supplements issued as of January 1, 1967, is $100 domestic, $30 additional for foreign mailing. The subscription price for revised volumes and supplements to be issued as of January 1, 1968, will be $125 domestic, $35 additional for foreign mailing.

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5 (Rev. Jan. 1, 1964)	4.75
(Supp. Jan. 1, 1967)	1.00
6 [Vacated; Reserved]	
7 Parts:	
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981–999 (Rev. Jan. 1, 1967)	.65
1000–1029 (Rev. Jan. 1, 1967)	1.00
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9 (Rev. Jan. 1, 1967)	1.25
10 (Rev. Jan. 1, 1967)	1.00
11 [Reserved]	
12 Parts:	
1–399 (Rev. Jan. 1, 1967)	1.50
400-end (Rev. Jan. 1, 1967)	1.00
13 (Rev. Jan. 1, 1967)	.65
14 Parts:	
1–59 (Rev. Jan. 1, 1967)	$1.75
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15 (Rev. Jan. 1, 1967)	1.25
16 Parts:	
0–149 (Rev. Jan. 1, 1967)	1.75
150-end (Rev. Jan. 1, 1967)	1.25
17 (Rev. Jan. 1, 1967)	2.00
18 (Rev. Jan. 1, 1967)	2.50
19 (Rev. Jan. 1, 1967)	2.00
20 (Rev. Jan. 1, 1967)	2.00
21 Parts:	
1–119 (Rev. Jan. 1, 1967)	1.00
120–129 (Rev. Jan. 1, 1967)	1.00
130–146e (Rev. Jan. 1, 1967)	1.75
147-end (Rev. Jan. 1, 1967)	1.00
22 (Rev. Jan. 1, 1967)	1.00
23 (Rev. Jan. 1, 1967)	.25
24 (Rev. Jan. 1, 1967)	1.00
25 (Rev. Jan. 1, 1967)	1.25
26 Parts:	
1 (§§ 1.0–1—1.300) (Rev. Jan. 1, 1967)	2.00
1 (§§ 1.301–1.400) (Rev. Jan. 1, 1967)	.65
1 (§§ 1.401–1.500) (Rev. Jan. 1, 1967)	1.00
1 (§§ 1.501–1.640) (Rev. Jan. 1, 1967)	.70
1 (§§ 1.641–1.850) (Rev. Jan. 1, 1967)	1.00
1 (§§ 1.851–1.1200) (Rev. Jan. 1, 1967)	1.25
1 (§§ 1.1201–1.6000) (Rev. Jan. 1, 1967)	1.50
1 (§§ 1.6001–end) to Part 19 (Rev. Jan. 1, 1967)	.70
20–29 (Rev. Jan. 1, 1961)	4.25
(Supp. Jan. 1, 1966)	.40
30–39 (Rev. Jan. 1, 1967)	.75
40–169 (Rev. Jan. 1, 1967)	1.75
170–299 (Rev. Jan. 1, 1967)	2.25
300–499 (Rev. Jan. 1, 1961)	4.00
(Supp. Jan. 1, 1967)	.50
500–599 (Rev. Jan. 1, 1961)	4.25
(Supp. Jan. 1, 1967)	.35
600-end (Rev. Jan. 1, 1961)	3.00
(Supp. Jan. 1, 1967)	.45
27 (Rev. Jan. 1, 1961)	3.00
(Supp. Jan. 1, 1967)	.30
28 (Rev. Jan. 1, 1967)	.65
29 Parts:	
0–499 (Rev. Jan. 1, 1967)	.70
500–899 (Rev. Jan. 1, 1967)	2.00
900-end (Rev. Jan. 1, 1967)	.75
30 (Rev. Jan. 1, 1967)	1.00
31 (Rev. Jan. 1, 1967)	1.75
32 Parts:	
1–39 (Rev. Jan. 1, 1967)	2.75
40–399 (Rev. Jan. 1, 1967)	1.25
400–589 (Rev. Jan. 1, 1967)	1.50
590–699 (Rev. Jan. 1, 1966)	4.25
(Supp. Jan. 1, 1967)	.50
700–799 (Rev. Jan. 1, 1967)	2.00
800–999 (Rev. Jan. 1, 1967)	1.25
1000–1199 (Rev. Jan. 1, 1967)	1.25
1200–1599 (Rev. Jan. 1, 1967)	1.25
1600-end (Rev. Jan. 1, 1967)	.55
32A (Rev. Jan. 1, 1967)	$1.00
33 Parts:	
1–199 (Rev. Jan. 1, 1967)	1.00
200-end (Rev. Jan. 1, 1967)	1.75
34 [Reserved]	
35 (Rev. Jan. 1, 1967)	5.25
36 (Rev. Jan. 1, 1967)	.75
37 (Rev. Jan. 1, 1967)	4.00
38 (Rev. Jan. 1, 1967)	2.25
39 (Rev. Jan. 1, 1967)	2.00
40 [Reserved]	
41 Chapters:	
1 (Rev. Jan. 1, 1967)	2.00
2–4 (Rev. Jan. 1, 1967)	1.00
5–5D (Rev. Jan. 1, 1967)	.60
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18 (Rev. Jan. 1, 1967)	2.00
19–100 (Rev. Jan. 1, 1967)	.60
101–end (Rev. Jan. 1, 1967)	1.25
42 (Rev. Jan. 1, 1960)	4.00
(Supp. Jan. 1, 1967)	1.00
43 (Rev. Jan. 1, 1967)	2.75
44 (Rev. Jan. 1, 1967)	.40
45 (Rev. Jan. 1, 1967)	1.75
46 Parts:	
1–145 (Rev. Jan. 1, 1967)	3.00
146–149 (Rev. Jan. 1, 1967)	2.50
(Supp. July 1, 1967)	.40
150–199 (Rev. Jan. 1, 1967)	1.25
200-end (Rev. Jan. 1, 1967)	2.00
47 Parts:	
0–19 (Rev. Jan. 1, 1967)	1.00
20–69 (Rev. Jan. 1, 1967)	1.50
70–79 (Rev. Jan. 1, 1967)	1.00
80-end (Rev. Jan. 1, 1967)	1.50
48 (Rev. Jan. 1, 1967)	.60
49 Parts:	
0–70 (Rev. Jan. 1, 1967)	1.25
71–90 (Rev. Jan. 1, 1967)	2.25
91–164 (Rev. Jan. 1, 1967)	1.50
165-end (Rev. Jan. 1, 1964)	[2] 6.25
(Supp. Jan. 1, 1967)	.65
50 (Rev. Jan. 1, 1967)	.75
General Index (Rev. Jan. 1, 1967)	.70
List of Sections Affected, 1949–1963 (Compilation)	6.75

[1] Temporarily out of print.

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

MISCELLANEOUS AMENDMENTS TO CHAPTER

Subchapter B of Chapter I is amended in several places to make clear that references to "days" are to "calendar days" and to increase from 10 to 15 calendar days certain regulatory time limits. These amendments are effective January 30, 1968.

[2] Out of print.

08 182 AA A 30

PART 210—BASIC CONCEPTS AND DEFINITIONS (GENERAL)

1. Section 210.102 is revised as set out below.

§ 210.102 Definitions.

(a) The definitions in paragraph (b) of this section apply throughout this chapter, except when a defined term is specifically modified in or specifically defined for the purpose of a particular part.

(b) In this chapter:

(1) "Appointing officer" means a person having power by law, or by lawfully delegated authority, to make appointments to positions in the service of the Federal Government or the government of the District of Columbia.

(2) "Commission" means the U.S. Civil Service Commission.

(3) "Days", unless otherwise defined or limited, means calendar days and not workdays. In computing a period of time prescribed in this chapter, the day of the action or event after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included unless it is a Saturday, a Sunday, or a legal holiday in which event the period runs until the end of the next day which is neither a Saturday, a Sunday, nor a legal holiday.

(4) "Demotion" means a change of an employee, while serving continuously within the same agency:

(i) To a lower grade when both the old and the new positions are under the Classification Act of 1949, as amended, or under the same type graded wage schedule; or

(ii) To a position with a lower rate of compensation when both the old and the new positions are under the same type ungraded wage schedule, or are in different pay method categories.

(5) "Eligible" means an applicant who meets the minimum requirements for entrance to an examination and is rated 70 or more in the examination by the Commission.

(6) "Metropolitan area of Washington, D.C.", means the District of Columbia; Alexandria, and Falls Church Cities, Va.; Arlington, and Fairfax Counties, Va.; and Montgomery and Prince Georges Counties, Md.

(7) "Noncompetitive action" means a promotion, demotion, reassignment, transfer, reinstatement, or an appointment based on prior service.

(8) "Overseas" means outside the continental United States, but does not include Alaska, Guam, Hawaii, the Isthmus of Panama, Puerto Rico, or the Virgin Islands.

(9) "Position change" means a promotion, demotion, or reassignment.

(10) "Promotion" means a change of an employee, while serving continuously within the same agency:

(i) To a higher grade when both the old and the new positions are under the Classification Act of 1949, as amended, or under the same type graded wage schedule; or

(ii) To a position with a higher rate of compensation when both the old and the new position are under the same type ungraded wage schedule, or are in different pay method categories.

(11) "Reassignment" means a change of an employee, while serving continuously within the same agency, from one position to another without promotion or demotion.

(12) "Reemployed annuitant" means an employee whose annuity under the Civil Service Retirement Act, as amended, was continued on reemployment in an appointive position on or after October 1, 1956.

(13) "Register" means a list of qualified applicants compiled in order of relative standing for certification.

(14) "Reinstatement" means the noncompetitive reemployment for service as a career or career-conditional employee of a person formerly employed in the competitive service who had a competitive status or was serving probation when he was separated from the service.

(15) "Status quo employee" means an employee who failed to acquire a competitive status when the position in which he was serving was placed in the competitive service by a statute, Executive order, or Civil Service rule, which permitted his retention without the acquisition of status.

(16) "Tenure" means the period of time an employee may reasonably expect to serve under his current appointment. It is granted and governed by the type of appointment under which an employee is currently serving without regard to whether he has a competitive status or whether his appointment is in a competitive position or in an excepted position.

(17) "Transfer means a change of an employee, without a break in service of 1 full workday, from a position in one agency to a position in another agency.

(5 U.S.C. 3301, 3302; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–58 Comp., p. 218)

PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

2. Section 315.806(d) is revised as set out below.

§ 315.806 Appeal rights to the Commission.

* * * * *

(d) *Time limits.* An employee may submit an appeal at any time after receipt of the notice of adverse decision, but not later than 15 calendar days after the termination has been effected. The Commission may extend the time limit in this paragraph when the appellant shows that he was not notified of the time limit and was not otherwise aware of it, or that he was prevented by circumstances beyond his control from appealing within the time limit.

(5 U.S.C. 3301, 3302; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–58 Comp., p. 218)

PART 351—REDUCTION IN FORCE

3. Section 351.901(a) is revised as set out below.

§ 351.901 Initial appeals.

(a) An employee who has received a notice of specific action and who believes this part has not been correctly applied may appeal to the Commission. He may appeal any time after he receives a notice of specific action, but not more than 15 calendar days after the effective date of the action.

* * * * *

(5 U.S.C. 1302, 3502)

PART 352—REEMPLOYMENT RIGHTS

4. Sections 352.205, 352.209, 352.312 (a), and 352.508 (a), (b), and (d) are revised as set out below.

§ 352.205 Appeal of losing agency.

An appointing officer who intends to employ with reemployment rights an employee of another executive agency shall give the losing agency written notice at least 15 calendar days before the effective date of the proposed action. If the losing agency believes the grant of reemployment rights would be detrimental to the public interest, it may appeal the proposed grant to the Commission within 15 calendar days after receipt of the notice. The losing agency, at the same time, shall furnish a copy of the appeal to the prospective appointing officer, who shall withhold the proposed grant pending decision on the appeal. The Commission shall determine whether the employee will be given reemployment rights and notify both agencies accordingly. If the losing agency does not appeal within 15 calendar days, the employee shall be granted reemployment rights.

§ 352.209 Employee appeals to the Civil Service Commission.

When an agency denies reemployment to a person claiming reemployment rights under this subpart, the agency shall inform him of that denial by a written notice. In the same notice, the agency shall inform him of his right to appeal to the Commission within 15 calendar days after receipt of the notice. The Commission may extend this time limit on a showing by the person that circumstances beyond his control prevented him from filing his appeal within the time limit. The Commission shall make the final decision of his right to reemployment.

(5 U.S.C. 3301, 3302, sec. 1310, 65 Stat. 757, as amended, 5 U.S.C. 3101 note; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–58 Comp., p. 218)

§ 352.312 Failure to reemploy and right of appeal.

(a) When an agency fails to reemploy an employee within 30 days of his application, it shall notify him in writing of the reasons and of his right to appeal within 15 calendar days to the U.S. Civil Service Commission, Washington, D.C. 20415. The employee may file his appeal with the Commission not later than 15 calendar days after receipt of notice denying reemployment. The Commission may extend this time limit on a showing by the employee that he was not notified of the applicable time limit, and was not otherwise aware of the limit, or that circumstances beyond his control prevented him from filing an appeal within the prescribed time limit.

* * * * *

(5 U.S.C. 3584; E.O. 10804, 24 F.R. 1147, 3 CFR, 1959–63 Comp., p. 328)

§ 352.508 Appeals to the Commission.

(a) *Right to appeal.* (1) If an agency determines that an employee who has applied for reinstatement is not eligible for reinstatement, it shall notify the employee as promptly as possible of its decision, of the basis therefor, and of the employee's appeal rights under this subpart. The employee is entitled to appeal the decision to the Commission within 15 calendar days after he receives notice of the decision.

(2) If an agency fails to reinstate an employee within the time limits specified in section 352.507, the employee is entitled to appeal to the Commission within 15 calendar days after the applicable time limit expires.

(3) If an employee considers that his reinstatement is not in accordance with the act and this subpart, he is entitled to appeal to the Commission within 15 calendar days after his reinstatement becomes effective.

(b) *Where initial appeals are filed.* Initial appeals under this subpart are to be filed with the Chief, Appeals Examining Office, U.S. Civil Service Commission, Washington, D.C. 20415.

* * * * *

(d) *Right to further appeal.* An initial appeal decision by the Chief, Appeals Examining Office, may be further appealed to the Board of Appeals and Review, U.S. Civil Service Commission, Washington, D.C. 20415 within 15 calendar days after receipt of the decision. The further appeal shall be in writing and contain the reasons for disagreement with the initial decision.

* * * * *

(Sec. 636(b), 75 Stat. 449, 22 U.S.C. 2396(b); E.O. 10973, 26 F.R. 10469, 3 CFR, 1961 Supp.)

PART 353—RESTORATION AFTER MILITARY DUTY

5. Sections 353.701 and 353.704 are revised as set out below.

§ 353.701 Initial appeals to the Commission.

(a) *Executive branch and District of Columbia employees.* (1) An employee who left an agency with right to restoration under section 9(b) or section 9(g) (1), (2), or (3) of the Act may appeal to the Commission in furtherance of this right, as follows:

(i) *Failure of restoration.* If the agency concerned fails to restore an employee within 30 days after receipt of his application for restoration, filed in accordance with the Act, he may appeal to the Commission not later than 15 calendar days after the 30-day period has expired.

(ii) *Not feasible to restore.* If the agency concerned decides that it is not feasible to restore an employee, he may appeal this decision to the Commission not later than 15 calendar days after receipt of notice from the agency.

(iii) *Refusal of restoration.* If the agency concerned refuses to restore an employee, he may appeal to the Commission not later than 15 calendar days after receipt of notice from the agency.

(iv) *Improper restoration.* If an employee considers that he has been improperly restored, he may appeal to the Commission not later than 15 calendar days after his restoration.

(v) *Former agency abolished.* If the agency in which an employee was employed when he left for military duty is abolished and its functions are not transferred to another agency, the employee may appeal to the Commission not later than 15 calendar days after expiration of the period specified in the Act for applying for restoration.

(2) An employee who left a position in an agency with right to return to his position under section 9(g)(4) or section 9(g)(5) of the Act may appeal to the Commission in furtherance of his right to return to work in accordance with the provisions of section 9(g)(4) or section 9(g)(5) of the Act and this part.

(b) *Legislative employees.* An employee of the legislative branch who is entitled to appeal to the Commission under section 9(e)(2) of the Act may appeal not later than 15 calendar days after expiration of the period specified in the Act for applying for restoration.

§ 353.704 Further appeals to the Commission.

An appeal decision rendered by the Chief, Veterans Service Staff, or a regional director, may be appealed to the Board of Appeals and Review, U.S. Civil Service Commission, Washington, D.C. 20415, within 15 calendar days after receipt of the decision on the initial appeal. The further appeal shall be in writing and shall contain the reasons for disagreeing with the initial decision.

(Sec. 9, 62 Stat. 614, as amended; 50 U.S.C. App. 459)

PART 430—PERFORMANCE EVALUATION

6. Part 430 is changed by adding subparagraph (3) to § 430.102(a) and revising § 430.401(c) as set out below.

§ 430.102 Definitions.

(a) In this part:

* * * * *

(3) "Days" means calendar days and not workdays.

* * * * *

§ 430.401 Appeals.

* * * * *

(c) *Time limits on appeals.* An appeal to a board shall be made to the chairman of the board. The appeal shall be in writing and shall be submitted within:

(1) Thirty days after the employee receives notice of his rating; or

(2) Fifteen days after the employee withdraws his request for the impartial review within his agency, when more than 30 days have elapsed since he received notice of his rating; or

(3) Thirty days after the employee receives his agency's decision on the impartial review of an unsatisfactory rating.

* * * * *

(5 U.S.C. 4306)

PART 511—POSITION CLASSIFICATION UNDER THE CLASSIFICATION ACT SYSTEM

7. Section 511.703(a) is revised as set out below.

§ 511.703 Retroactive effective date.

(a) *Downgrading or loss of compensation.* The effective date of a classification action resulting from an appeal decision reversing in whole or part either a downgrading or other classification action that resulted in a reduction of compensation shall be made retroactive to the date of adverse action when the initial appeal to either the department or the Commission was submitted not later than 15 calendar days after the effective date of the action taken as a result of the classification decision. However, when the appeal decision raises the grade of the position above its grade immediately preceding the downgrading, retroactivity will apply only to the extent of restoration to the grade immediately preceding the downgrading. The right to a retroactive effective date provided by this section is preserved on subsequent appeal from a department classification decision to the Commission when the appeal is filed not later than 15 calendar days following receipt of written notification of final administrative decision or 15 calendar days after the effective date of the action taken as a result of the classification decision, whichever is later.

* * * * *

(5 U.S.C. 5115, 5851)

PART 531—PAY UNDER THE CLASSIFICATION ACT SYSTEM

8. Sections 531.407 (d)(1) and (e)(1) and 531.516(c) are revised as set out below.

§ 531.407 Work of an acceptable level of competence.

* * * * *

(d) *Reconsideration.* (1) The department shall give the employee an opportunity to secure reconsideration of the negative determination when the employee makes a request in writing within 15 calendar days of his receipt of the notice of the department's negative determination. The department shall extend this time limit when its finds that the employee:

68 142 AA A 30

(i) Was not notified of the time limit and was not otherwise aware of it, or

(ii) Was prevented by circumstances beyond his control from requesting reconsideration within the time limit.

• • • • •

(c) *Appeal to the Commission.* (1) An employee may appeal to the Commission the decision by his department sustaining the negative determination by writing to the Board of Appeals and Review, U.S. Civil Service Commission, Washington, D.C. 20415 (hereinafter referred to as the "Board") not later than 15 calendar days after his receipt of the decision. The Board may extend this time limit when it finds that the employee

(i) Was not notified of the time limit and was not otherwise aware of it, or

(ii) Was prevented by circumstances beyond his control from appealing within the time limit.

• • • • •

§ 531.516 Appeals to the Commission.

• • • • •

(c) *Time limit*—(1) *General.* Except as provided in subparagraph (2) of this paragraph, an employee may submit an appeal to the Commission at any time after his receipt of a decision to deny or terminate salary retention but not later than 15 calendar days after his demotion or reassignment has been effected.

(2) *Exceptions.* When an employee appeals a decision to deny or terminate salary retention to the department under established procedures, other than those based on Subpart B of Part 771 of this chapter, the time limit on an appeal to the Commission is not later than 15 calendar days after receipt of the notice of final decision on the appeal to the department. The Commission may extend the time limits in this paragraph when the employee shows that he was not informed of his right of appeal or of the applicable time limit and was not otherwise aware of that right or that time limit, or that he was prevented by circumstances beyond his control from appealing within the time limit.

• • • • •

(5 U.S.C. 5115, 5238)

PART 713—EQUAL OPPORTUNITY

9. Sections 713.213(a) and 713.223(a) are revised as set out below.

§ 713.213 Filing and presentation of complaint.

(a) *Time limit.* An agency shall require that a complaint be submitted in writing by the complainant or his representative within 30 calendar days of the date of the action giving rise to the complaint or, if a personnel action, within 30 calendar days of its effective date, except that when the complaint is made in connection with an adverse action covered by § 771.205 of this chapter, the agency shall require that the complaint be submitted in writing by the complainant or his representative not later than 15 calendar days after the adverse action has been effected. The agency shall extend the prescribed time limit for good cause shown by the complainant. A complaint concerned with a continuing discriminatory practice having a material bearing on employment may be filed at any time.

• • • • •

§ 713.223 Time limit.

(a) Except as provided in paragraph (b) of this section, a complainant may file an appeal at any time after receipt of his agency's notice of final decision on his complaint but not later than 15 calendar days after receipt of that notice.

• • • • •

(5 U.S.C. 1301, 3301, 3302, 7151–7154, 7301; E.O. 10577, 19 F.R. 7521, 3 CFR 1954–58 Comp., p. 218; E.O. 11222, 30 F.R. 6469, 3 CFR, 1965 Supp., p. 130; E.O. 11246, 30 F.R. 12319, 3 CFR, 1965 Supp., p. 167; E.O. 11375, 32 F.R. 14303)

PART 731—SUITABILITY

10. Section 731.401(c) is revised as set out below.

§ 731.401 Reemployment eligibility of certain former Federal employees.

• • • • •

(c) *Time limits for submitting requests.* The Commission may consider a case under this section only if it is submitted to the Commission within 6 months after the date of separation, or 60 calendar days after the date of the last adverse decision as a result of an appeal, whichever is later. The Commission may extend this time limit on a showing by the former employee that circumstances beyond his control prevented him from filing his request within the prescribed period.

(5 U.S.C. 3301, 3302, 7301; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–58 Comp., p. 218; E.O. 11222, 30 F.R. 6469, 3 CFR, 1965 Supp., p. 130)

PART 752—ADVERSE ACTIONS BY AGENCIES

11. Sections 752.203(b) and 752.304(c) are revised as set out below.

§ 752.203 Appeal rights to the Commission.

• • • • •

(b) *Time limit.* (1) Except as provided in subparagraphs (2), (3), and (4) of this paragraph, an employee may submit an appeal at any time after receipt of the notice of adverse decision but not later than 15 calendar days after the adverse action has been effected.

(2) When a postmaster appointed by the President and confirmed by the U.S. Senate is notified of an adverse decision to discharge him and is continued in office until a successor can be installed, the time limit on an appeal is 15 calendar days after his receipt of the notice of adverse decision, except when subparagraph (3) of this paragraph applies.

(3) (i) An appeal to the agency and an appeal to the Commission from the same original decision may not be processed concurrently.

(ii) An employee who appeals first to the Commission within the prescribed time limit forfeits his right of appeal to the agency.

(iii) When the employee appeals first to the agency within the prescribed time limit, he is entitled to appeal to the Commission only after, but not more than 15 calendar days later than:

(a) Receipt of the final agency appellate decision if the agency has only one appellate level; or

(b) Receipt of the first-level agency appellate decision, if the agency has more than one appellate level.

If no agency appellate decision has been made within 60 days from the date of filing the appeal to the agency, the employee may elect to terminate that appeal by appealing to the Commission.

(iv) An employee who appeals to the second agency appellate level forfeits his right of appeal to the Commission. An employee who appeals a first-level agency appellate decision to the Commission forfeits his right to appeal to the second agency appellate level.

§ 752.304 Appeal rights to the Commission.

• • • • •

(c) *Time limit.* An employee may submit an appeal at any time after receipt of the notice of adverse decision but not later than 15 calendar days after the suspension has been effected. The Commission may extend the time limit in this paragraph when the appellant shows that he was not notified of the time limit and was not otherwise aware of it, or that he was prevented by circumstances beyond his control from appealing within the time limit.

(5 U.S.C. 1302, 3301, 3302, 7301; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–58 Comp., p. 218; E.O. 11222, 30 F.R. 6469, 3 CFR, 1965 Supp., p. 130)

PART 754—ADVERSE ACTIONS BY THE COMMISSION

12. Sections 754.101 and 754.105(b) are revised as set out below.

§ 754.101 Scope.

(a) *Coverage.* This part sets forth the procedures to be followed when the Director of the Commission's Bureau of Personnel Investigations or his designee (referred to in this part as the Director), acting under authority of § 5.4 or § 731.302(b) of this chapter, instructs an agency to remove or take other disciplinary action against an employee in the competitive service who was appointed subject to investigation under § 731.301 of this chapter and who has served more than 1 year as a career, career-conditional, overseas limited, indefinite, or term employee under his current appointment.

(b) *Definition.* In this part, "days" means calendar days and not workdays.

§ 754.105 Appeal rights.

• • • • •

(b) The time limit for filing an appeal is 15 days from the date the employee receives the notice of adverse decision.

The Appeals Examining Office may waive this time limit for good cause.

• • • • •

(5 U.S.C. 1302, 3301, 3302; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–58 Comp., p. 218)

PART 771—EMPLOYEE GRIEVANCES AND ADMINISTRATIVE APPEALS

13. Sections 771.211(a) and 771.219(c) are revised as set out below.

§ 771.211 Time limit for filing appeal.

(a) An employee may submit an appeal at any time after receipt of the notice of original decision but not later than 15 calendar days after the adverse action has been effected.

• • • • •

§ 771.219 Order of processing appeals.

• • • • •

(c) When the employee appeals first to the agency within the prescribed time limit, he is entitled to appeal to the Commission only after, but not more than 15 calendar days later than:

(1) Receipt of the final agency appellate decision, if the agency has only one appellate level; or

(2) Receipt of the first-level agency appellate decision, if the agency has more than one appellate level.

If no agency appellate decision has been made within 60 days from the date of filing the appeal to the agency, the employee may elect to terminate that appeal by appealing to the Commission.

• • • • •

(5 U.S.C. 1302, 3301, 3302; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–58 Comp., p. 218; E.O. 10987, 27 F.R. 550, 3 CFR, 1959–63 Comp., p. 519)

PART 772—APPEAL TO THE COMMISSION

14. Section 772.307(a) is revised as set out below.

§ 772.307 Further appeal to the Board of Appeals and Review.

(a) *Right of further appeal.* Both parties are entitled to appeal the decision on the initial appeal issued under § 772.306 to the Board of Appeals and Review, U.S. Civil Service Commission, Washington, D.C. 20415. An appeal to the Board of Appeals and Review shall be in writing, set forth the reasons for the appeal, and be filed with the Board within 15 calendar days after receipt of the decision on the initial appeal. The Board may extend the time limit in this paragraph when a party shows that circumstances beyond the control of the party prevented the filing of the apppeal within the time limit.

• • • • •

(5 U.S.C. 1302, 3301, 3302, 5115, 5338; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–58 Comp., p. 218; E.O. 10988, 27 F.R. 551, 3 CFR, 1959–63 Comp., p. 521)

PART 831—RETIREMENT

15. Section 831.107(a) is revised as set out below.

§ 831.107 Appeals.

(a) Except as provided in Subpart K of this part, a department, agency, or individual whose rights or interest under the Civil Service Retirement Act are adversely affected by a final action or order of the Bureau of Retirement and Insurance may appeal to the Commission's Board of Appeals and Review from the action or order, as provided in this section. As used in this section, "days" means calendar days and not workdays.

• • • • •

(5 U.S.C. 8347)

PART 891—RETIRED FEDERAL EMPLOYEES HEALTH BENEFITS

16. Section 891.105(a) is revised as set out below.

§ 891.105 Appeals.

(a) A retired employee may appeal any determination by the Bureau of Retirement and Insurance that he is not eligible to make an election or to receive a Government contribution under this part. The appeal shall be made in writing, within 90 calendar days of the determination, to the Board of Appeals and Review, U.S. Civil Service Commission, Washington, D.C. 20415.

• • • • •

(Sec. 9, 74 Stat. 851)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67-14103; Filed, Nov. 30, 1967; 8:50 a.m.]

PART 213—EXCEPTED SERVICE

Interstate Commerce Commission

Section 213.3322 is amended to show that the position of Confidential Assistant to the Managing Director is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, paragraph (d) is added under § 213.3322 as set out below.

§ 213.3322 Interstate Commerce Commission.

• • • • •

(d) One Confidential Assistant to the Managing Director.

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67-14062; Filed, Nov. 30, 1967; 8:48 a.m.]

PART 213—EXCEPTED SERVICE

National Aeronautics and Space Administration

Section 213.3348 is amended to show that the positions of Confidential Assistant to the Executive Secretary, Confidential Assistant to the Assistant Administrator for Management Development, and Special Assistant (Policy Analyst) to the Assistant Administrator for Policy Analysis are no longer excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER, paragraphs (e), (f), and (n) of § 213.3348 are revoked.

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67-14063; Filed, Nov. 30, 1967; 8:48 a.m.]

PART 213—EXCEPTED SERVICE

National Aeronautics and Space Administration

Section 213.3348 is amended to show that the position of Secretary to the Associate Administrator is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, paragraph (q) is added to § 213.3348 as set out below.

§ 213.3348 National Aeronautics and Space Administration.

• • • • •

(q) One Secretary to the Associate Administrator.

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67-14064; Filed, Nov. 30, 1967; 8:48 a.m.]

PART 213—EXCEPTED SERVICE

Executive Office of the President

Section 213.3303 is amended to show that the position of Confidential Secretary and Assistant to the Director, Energy Policy Staff, in the Office of Science and Technology, is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (5) is added under paragraph (c) of § 213.3303 as set out below.

§ 213.3303 Executive Office of the President.

• • • • •

(c) *Office of Science and Technology.*

• • •

(5) One Confidential Secretary and Assistant to the Director, Energy Policy Staff.

• • • • •

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67-14145; Filed, Nov. 30, 1967; 10:53 a.m.]

Title 7—AGRICULTURE

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1961 and Succeeding Crop Years

DISCONTINUANCE OF INSURANCE IN COUNTY PREVIOUSLY DESIGNATED FOR POTATO CROP INSURANCE

The county listed below is hereby deleted from the list of counties published in the FEDERAL REGISTER on October 11, 1967 (32 F.R. 14096), which were designated for potato crop insurance for the 1968 crop year pursuant to the authority contained in § 401.1 of the above-identified regulations.

ALABAMA

Baldwin.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] JOHN N. LUFF,
Manager,
Federal Crop Insurance Corporation.

[F.R. Doc. 67-14047; Filed, Nov. 30, 1967; 8:47 a.m.]

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 27]

PART 724—BURLEY, FLUE-CURED, FIRE-CURED, DARK AIR-CURED, VIRGINIA SUN-CURED, CIGAR-BINDER (TYPES 51 AND 52), CIGAR-FILLER AND BINDER (TYPES 42, 43, 44, 53, 54, AND 55), AND MARYLAND TOBACCO

Subpart—Tobacco Allotment and Marketing Quota Regulations, 1963–64 and Subsequent Marketing Years

MISCELLANEOUS AMENDMENTS

Basis and purpose. (a) The amendments contained herein are issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281, et seq.), and are made for the purpose of amending the Tobacco Allotment and Marketing Quota Regulations for the 1963–64 and Subsequent Marketing Years. The amendments are designed to comply with Public Law 90–106 (approved Oct. 12, 1967), which amended the first sentence of section 313(g) of the Act providing that:

• • • the Secretary may convert the national marketing quota into a national acreage allotment by dividing the national marketing quota by the national average yield for the 5 years immediately preceding the year in which the national marketing quota is proclaimed, and may apportion the national acreage allotment, less a reserve of not to exceed 1 per centum thereof for new farms, for making corrections in old farm acreage allotments, and for adjusting inequities in old farm acreage allotments, through the local committees among farms on the basis of the factors set forth in subsection [313](b), using past farm acreage and past farm acreage allotments for tobacco in lieu of past marketings of tobacco; and the Secretary on the basis of the factors set forth in subsection [313](c) and the past tobacco experience of the farm operator, shall through the local committees allot that portion of the national acreage allotment reserved for new farms among farms on which no tobacco was produced or considered produced during the last 5 years.

In addition, the 5-year experience period for new farm allotment applicants is expanded for persons who were in the armed services.

(b) Tobacco farmers are making plans for production of the 1968 crop of the kinds of tobacco covered by these regulations and the Secretary will soon announce such quotas and acreage reserve provided for by Public Law 90–106. Hence, it is essential that the amendment contained herein be made effective at the earliest possible date. Accordingly, it is hereby found and determined that compliance with the notice, public procedure and 30-day effective date requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest, and the amendments contained herein shall become effective upon filing this document with the Director, Office of the Federal Register.

1. Section 724.56 is amended to read as follows:

§ 724.56 Old farm tobacco acreage allotment.

The preliminary allotments determined for all old farms pursuant to § 724.55 shall be adjusted uniformly so that the total of such allotments for old farms plus a reserve acreage available for adjusting inequities in acreage allotments for old farms and for correcting errors in old farm allotments shall not exceed the national acreage allotment less that part of such reserve acreage set aside for establishing new farm allotments: *Provided*, That in the case of burley tobacco the farm acreage allotment for the current year shall not be less than the smallest of (a) the allotment for the preceding year, (b) fifty-hundredths of an acre, or (c) 10 percent of the cropland in the farm: *Provided further*, That no burley tobacco allotment for any one year of seventy-hundredths of an acre or less shall be reduced more than 0.10 acre, and no burley tobacco farm acreage allotment for any one year of more than seventy-hundredths of an acre shall be reduced to less than 0.60 acre.

2. Section 724.57 is amended to read as follows:

§ 724.57 Correction of errors and adjusting inequities in acreage allotments for old farms.

(a) *General.* Notwithstanding the limitations contained in any other section of this subpart, the farm acreage allotment for each kind of tobacco established for an old farm may be increased to correct an error or adjust an inequity if the county committee determines, with the approval of a representative of the State committee, that the increase is necessary to establish an allotment for such farm which is fair and equitable in relation to the allotment for other old farms in the county in which the farm is located. Not to exceed 1 percent of the national acreage allotment for each kind of tobacco minus that part of the national reserve set aside for establishing new farm allotments shall be made available for adjusting inequities and for correcting errors. The amount of the national reserve acreage available for correcting errors and for adjusting inequities will be announced at the same time the national quota is proclaimed. The reserve acreage for old farms will be allocated to each State based on the relation of each State preliminary acreage allotment to the preliminary allotments for all States.

(b) *Basis for adjustment.* Acreage increases to adjust inequities in acreage allotments shall be made on the basis of the past farm acreage and past farm acreage allotments of tobacco, making due allowances for drought, flood, hail, other abnormal weather conditions, plant bed and other diseases; land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco. The total of all adjustments in old farm allotments under this paragraph shall not exceed the acreage allocated for such purpose. The sum of adjustments for farms in a county owned, operated, or controlled by the State, county and community committeemen and the county office manager, shall not be larger in relation to the sum of the preceding year's allotments for such farm than the sum of the adjustments for other farms in such county in relation to the preceding year's allotments for such farms.

(c) *CR, CCP, and CAP farms.* The allotment for a farm under a conservation reserve contract or a farm under a cropland conversion program agreement, or land under a cropland adjustment program agreement shall be given the same consideration under this section as the allotment for any other old farm.

(d) *Approved acreage.* Acreage approved for a farm under this section becomes a part of the farm acreage allotment.

3. Section 724.59(b) is amended to read as follows:

§ 724.59 Reallocation and release and reapportionment of allotments determined for farms acquired by an agency having the right of eminent domain, or shifted from production of cigar-binder (types 51 and 52) tobacco and cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco to production of shade-grown cigar-leaf (type 61) wrapper tobacco.

• • • • • •

(b) Beginning with the 1968 crop, the displaced owner of a farm may, not later than April 1 of the current year in the States of Alabama, Georgia, North Carolina, South Carolina, and Virginia, and not later than May 1 of the current year in all other States, release in writing to the county committee for the current year all or part of the acreage for the farm in a pool under § 719.12 of this chapter for reapportionment for the current year by the county committee to other farms in the county having allotments for the same kind of tobacco. The county committee may reapportion, not later than May 1 of the current year in the States of Alabama, Georgia, North Carolina, South Carolina, and Virginia, and not later than June 1 of the current year in all other States the released acreage or any part thereof to other farms in the county on the basis of the past farm acreage and past farm acreage allotments of the same kind of tobacco, land, labor, equipment available for the production of such kind of tobacco, crop rotation practices, and soil and other physical factors affecting the production of such kind of tobacco. The allotment acreage released shall, for tobacco history acreage and future allotment purposes, be considered to have remained in the pool as though it had not been released therefrom. The acreage reapportioned to a farm under this paragraph shall automatically be reduced, where applicable, so as not to exceed the acreage by which the final tobacco acreage on the farm for the current year determined pursuant to Part 718 of this chapter, exceeds the allotment for the current year for the farm prior to being increased by reapportionment of acreage under this paragraph.

• • • • • •

4. Section 724.62, paragraphs (b)(7) and (c) are amended to read as follows:

§ 724.62 Determination of acreage allotments for new farms.

• • • • • •

(b) • • •

(7) The farm operator shall have had experience in producing, harvesting and marketing the kind of tobacco requested in the application either as a sharecropper, tenant or farm operator during at least 2 of the 5 years immediately preceding the year for which the new farm allotment is requested. If the applicant was in the armed services during any part or all of the 5-year period, the experience period shall be expanded year for year for each year of military service during such 5-year period. The production of tobacco of the kind requested in the application on a farm for which no farm acreage allotment for such kind of tobacco was established, shall not be deemed as experience in growing tobacco for this purpose.

• • • • • •

(c) The acreage allotments established as provided in this section for each kind of tobacco beginning with the 1968 crop shall be subject to such downward adjustment as is necessary to bring such allotments in line with the total acreage available for allotments to all new farms. A reserve acreage of not more than 1 percent of the national acreage allotment for the current year, minus that part of such reserve acreage set aside for adjusting inequities in acreage allotments for old farms and for correcting errors in old farm allotments, shall be available for establishing allotments for new farms.

• • • • • •

(Secs. 313, 375, 52 Stat. 46, as amended, 66, as amended, Pub. Law 90–106; 7 U.S.C. 1313, 1375)

Effective date: Date of filing with Director, Office of the Federal Register.

Signed at Washington, D.C., on November 24, 1967.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 67-14048; Filed, Nov. 30, 1967; 8:47 a.m.]

[Amdt. 5]

PART 725—FLUE-CURED TOBACCO

Subpart—Flue-Cured Tobacco, 1966–67 and Subsequent Marketing Years

DETERMINATION OF ACREAGE ALLOTMENTS FOR NEW FARMS

Basis and purpose. This amendment is issued pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.) and is made for the purpose of amending the flue-cured tobacco allotment and marketing quota regulations for the 1966–67 and subsequent marketing years. The amendment provides for expanding the 5-year experience period for new farm allotment applicants who were in the armed services during any or all of the base period.

Farmers are making plans for the production of the 1968 crop of flue-cured tobacco and the Secretary has already announced the amount of the national marketing quota and the amount of reserve available for new farms (32 F.R. 9817). Hence, it is essential that the amendment contained herein be made effective at the earliest possible date. Accordingly, it is hereby found and determined that compliance with the notice, public procedure and 30-day effective date provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest, and the amendment contained herein shall become effective upon filing this document with the Director, Office of the Federal Register.

Section 725.69, paragraph (b)(7) is amended to read as follows:

§ 725.69 Determination of acreage allotments for new farms.

• • • • • •

(b) • • •

(7) The farm operator shall have had experience in producing, harvesting, and marketing flue-cured tobacco either as a sharecropper, tenant, or farm operator during at least 2 of the 5 years immediately preceding the year for which the new farm allotment is requested. If the applicant was in the armed services during any part or all of the 5-year period, the experience period shall be expanded, year for year, for each year of military service during such 5-year period. The production of flue-cured tobacco on a farm for which no farm acreage allotment for such kind of tobacco was established shall not be deemed as experience in growing tobacco for this purpose.

• • • • • •

(Secs. 313, 375, 52 Stat. 46, as amended, 66, as amended; 7 U.S.C. 1313, 1375)

Effective date: Date of filing with Director, Office of the Federal Register.

Signed at Washington, D.C., on November 24, 1967.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 67-14049; Filed, Nov. 30, 1967; 8:49 a.m.]

Chapter X—Consumer and Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order 62]

PART 1062—MILK IN ST. LOUIS, MO., MARKETING AREA

Order Suspending Certain Provisions

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the St. Louis, Mo., marketing area (7 CFR Part 1062); it is hereby found and determined that:

(a) The following provisions of the order do not tend to effectuate the declared policy of the Act for the months of December 1967 and January 1968.

(1) In § 1062.51(a) the following words of the introductory text preceding subparagraph (1): "And plus or minus the amounts provided in subparagraphs (1) and (2) of this paragraph:"

(2) Subparagraph (1) of § 1062.51(a).

(b) Notice of proposed rule making, public procedure thereon, and 30 days notice of the effective date hereof are impractical, unnecessary, and contrary to the public interest in that:

(1) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date.

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(3) This suspension order will continue for the months of December 1967 and January 1968 the effect of the prior suspension orders issued June 1, July 25, and August 25, 1967, which eliminated price adjustments due to the supply-demand adjustor for the periods of June 3–30 and the months of July through November 1967. Such prior suspension orders were issued at the request of cooperative associations whose members comprise a large majority of producers

serving the St. Louis market and other markets affected by this supply-demand adjustor. Hearings have been held in St. Louis, Mo., January 24, 1967, pursuant to notice issued January 13, 1967 (32 F.R. 613) and February 28–March 3, 1967, pursuant to notice issued January 24, 1967 (32 F.R. 1042) at which proposals to revise the supply-demand adjustor were considered. The present suspension action is being taken to prevent supply-demand adjustments for this additional period while consideration is being given to revision of the supply-demand adjustor based upon the hearings which have been held.

(4) The previous suspensions were taken so that a decrease in the Class I price would not unduly reduce returns to producers in the St. Louis, Mo., Ozarks, Southern Illinois, and Paducah markets. Since the same conditions that prompted the previous suspension orders continue to prevail this order effective for the months of December 1967 and January 1968 is warranted.

Therefore, good cause exists for making this order effective December 1, 1967.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the months of December 1967 and January 1968.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: December 1, 1967.

Signed at Washington, D.C., on November 28, 1967.

RODNEY E. LEONARD,
Deputy Assistant Secretary.

[F.R. Doc. 67–14045; Filed, Nov. 30, 1967; 8:47 a.m.]

[Milk Order 73]

PART 1073—MILK IN WICHITA, KANS., MARKETING AREA

Order Suspending Certain Provisions

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Wichita, Kans., marketing area (7 CFR Part 1073), it is hereby found and determined that:

(a) The following provisions of the order no longer tend to effectuate the declared policy of the Act for the months of December 1967 and January 1968:

In § 1073.51(a) that portion of the first sentence reading as follows: ", subject to a supply-demand adjustment computed pursuant to subparagraphs (1) through (3) of this paragraph"; and subparagraphs (1), (2), and (3) relating to the supply-demand adjustment to the Class I price.

(b) Notice of proposed rule making, public procedure thereon, and 30 days notice of the effective date hereof are impractical, unnecessary, and contrary to the public interest in that:

(1) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date.

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(3) This suspension will eliminate supply-demand adjustments to the Class I price for December 1967 and January 1968, and will improve Class I price alignment in this market. A Class I sales account to an outside market is no longer available and approximately 1.6 million pounds of milk is now being pooled locally thereby causing abnormal fluctuation in the supply-demand adjustor in this order.

(4) This suspension action was requested by producers at a public hearing held June 15, 1967, at Wichita, Kans. At the hearing a witness testified that emergency action in the form of a suspension order is necessary to obtain orderly marketing conditions in the area pending the time when an amended order can be issued. There was no opposition to the request. Upon this basis suspension of these provisions for the months of July and August 1967 were issued June 28, and July 27, 1967. A recommended decision was issued on July 28, 1967. Further suspension for September through November 1967 was issued August 25, 1967. It is now evident amendment on the basis of the hearing cannot be completed by December 1, 1967.

Therefore, good cause exists for making this order effective December 1, 1967.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the period December 1, 1967, through January 31, 1968.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: December 1, 1967.

Signed at Washington, D.C., on November 28, 1967.

RODNEY E. LEONARD,
Deputy Assistant Secretary.

[F.R. Doc. 67–14044; Filed, Nov. 30, 1967; 8:47 a.m.]

[Milk Orders 106, 126]

PART 1106—MILK IN OKLAHOMA METROPOLITAN MARKETING AREA

PART 1126—MILK IN NORTH TEXAS MARKETING AREA

Order Suspending Certain Provisions

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the orders regulating the handling of milk in the Oklahoma Metropolitan and North Texas marketing areas (7 CFR Parts 1106 and 1126), it is hereby found and determined that:

(a) The following provisions of the orders no longer tend to effectuate the declared policy of the Act for December 1967 and January 1968;

(1) In § 1106.51(a) of the order regulating the handling of milk in the Oklahoma Metropolitan marketing area, the last sentence of the introductory text reading as follows: "To this price add or subtract a 'supply-demand adjustment' of not more than 50 cents, computed as follows:" and subparagraphs (1), (2), and (3).

(2) In § 1126.51(a) of the order regulating the handling of milk in the North Texas marketing area, that portion of the last sentence of the introductory text reading as follows: "and subject to a supply-demand adjustment of not more than 50 cents computed as follows:" and subparagraphs (1), (2), (3), (4), (5), and (6).

(b) Notice of proposed rule making, public procedure thereon, and 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(1) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date.

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(3) This suspension will continue for the months of December 1967 and January 1968 the elimination of the effect of supply-demand adjustors in the Oklahoma Metropolitan and North Texas orders that was provided for September through November 1967 by suspension order issued August 25, 1967 (32 F.R. 12598).

(4) This suspension action was requested by both producers and handlers at a public hearing held May 15, 1967, at Oklahoma City, Okla. At the hearing, witnesses testified that emergency action in the form of a suspension order is necessary to maintain orderly marketing conditions pending the time when an amended order can be issued. No testimony was offered in opposition to this request. It is now evident that amendatory action based upon this hearing will not be completed so that an amended order could be effective by December 1, 1967.

Therefore, in view of the foregoing reasons, good cause exists for making this order effective December 1, 1967.

It is therefore ordered, That the aforesaid provisions of the orders are hereby suspended for the period December 1, 1967, through January 31, 1968.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: December 1, 1967.

Signed at Washington, D.C., on November 28, 1967.

RODNEY E. LEONARD,
Deputy Assistant Secretary.

[F.R. Doc. 67–14046; Filed, Nov. 30, 1967; 8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

SUBCHAPTER C—AIRCRAFT

[Docket No. 67–EA–131; Amdt. 39–517]

PART 39—AIRWORTHINESS DIRECTIVES

Fairchild Hiller Aircraft

Pursuant to the authority delegated to me by the Administrator, 14 CFR 13.89, 31 F.R. 13697 an airworthiness directive was adopted on November 9, 1967 and made effective immediately as to all known U.S. operators of Fairchild Hiller 227 type airplanes. The directive required inspection and replacement when necessary of the elevator trim tab hinges and the aluminum blocks behind such hinges.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to all known U.S. operators of FH–227 type airplanes by telegram dated November 9, 1967. These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation regulations as follows:

Applies to FAIRCHILD HILLER AIRCRAFT FH–227.

Compliance required as indicated.

Within the next 5 hours time in service unless already accomplished. Visually inspect the three elevator trim tab hinges for elongated holes in the clevis holes of the aluminum blocks located behind the three elevator trim tab hinges. Also, visually inspect each elevator trim tab hinge bearing for damage. Remove and replace blocks containing elongated holes and damaged bearings with an unused part of the same part number. Remove and replace trim tab clevis hinge containing a damaged block or bearing.

This subject also covered by telegram of November 9, 1967.

This amendment is effective December 2, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Jamaica, N.Y., November 21, 1967.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 67–14029; Filed, Nov. 30, 1967; 8:46 a.m.]

[Docket No. 8550; Amdt. 39–518]

PART 39—AIRWORTHINESS DIRECTIVES

Hawker Siddeley de Havilland Model 104 Dove Series Airplanes Prior to Serial Number 04503

Amendment 290 (26 F.R. 4395), AD 61–11–4, as amended by Amendment 345 (26 F.R. 9670), requires inspections for corrosion of the upper and lower spar booms from Rib No. 1 to the wing tip on Hawker Siddeley de Havilland Model 104 Dove Series airplanes prior to Serial Number 04503. Based on service experience since the issuance of AD 61–11–4, the FAA has determined that after surface protection has been applied, the spar boom inspections from Ribs 5 to 7 may be discontinued. Therefore, the AD is being further amended to provide that the spar boom inspections from Ribs 5 to 7 may be discontinued after surface protection has been applied, and the references to the manufacturer's documents have been updated.

Since this amendment relieves a restriction, provides a clarification, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation regulations, Amendment 290 (26 F.R. 4395), as amended by Amendment 345 (26 F.R. 9670), is further amended as follows:

1. By amending the applicability statement to read as follows: "Hawker Siddeley. Applies to de Havilland Model 104 Dove Series Airplanes prior to Serial No. 04503."

2. By amending the last sentence of paragraph (a)(2) to read as follows: "This inspection may be discontinued if no signs of corrosion are found after 6 months and surface protection is provided in accordance with de Havilland Dove Modification 852, or an FAA-approved equivalent."

3. By amending paragraph (b) by deleting the words "specified on de Havilland Drawing No. R.4W.349" and "of Drawing No. R.4W.349" and inserting in lieu thereof the words "specified by the Hawker Siddeley Dove Maintenance and Repair Manual, section 2, Chapter 6, Appendix A1, or an FAA-approved equivalent."

4. By amending the parenthetical note at the end of the AD to read: "Hawker Siddeley Technical News Sheet CT (104) No. 128, Issue 6, dated June 26, 1967, and Hawker Siddeley Dove Maintenance and Repair Manual, section 2, Chapter 6, Appendix A1, cover this subject."

This amendment becomes effective December 1, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on November 24, 1967.

R. S. SLIFF,
Acting Director, Flight Standards Service.

[F.R. Doc. 67–14060; Filed, Nov. 30, 1967; 8:46 a.m.]

SUBCHAPTER D—AIRMEN

[Docket No. 7201; Amdts. 61–33, 121–36]

PART 61—CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS

SUBCHAPTER G—AIR CARRIER AND COMMERCIAL OPERATOR CERTIFICATION AND OPERATIONS

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Flight Maneuvers; Continuation of Changes to Engine Out Landing Requirements

The purpose of this amendment to Parts 61 and 121 of the Federal Aviation Regulations is to continue the permission to use, in turbojet airplanes, alternatives to the two engine out landing maneuvers that are required for (1) airline transport pilot certificate and type rating flight tests and (2) proficiency checks and recurrent training for each pilot in command of a Part 121 certificate holder.

On May 19, 1967, the FAA issued Amendments 61–34 and 121–26 which permitted, in turbojet powered aircraft, alternatives to conducting a two engine out landing maneuver. At that time, a number of questions had been raised as to the efficacy of this maneuver as a training requirement. The FAA had discussed these questions with representatives of industry and pilot associations and recommendations were made for changes to the maneuvers. A study group was established to carefully consider all related technical and safety factors before the FAA took action on these recommendations. The alternatives to the maneuvers were provided for the period of the study. The study has proceeded as planned but the number of flight checks conducted has been fewer than anticipated. As a result, the accumulated data at present is insufficient for comprehensive evaluation of the problems involved.

The FAA has determined that the authorization for use of the alternative maneuvers should continue until such time as the study group completes the evaluation and makes recommendations. Since it appears that the recommendations will be available in sufficient time

for the FAA to take appropriate action by May 1, 1968, the continued use of the alternative maneuvers will be permitted until that date.

Since these amendments are relaxatory in nature and merely extend a previously established period for use of an alternative method of compliance, I find that notice and public procedure is impractical and unnecessary and that good cause exists for making them effective on less than 30 days' notice.

In consideration of the foregoing, Parts 61 and 121 are amended as follows, effective December 1, 1967:

1. Appendix A, Item V(d) of Part 61 is amended by deleting the date "December 1, 1967," and inserting in place thereof the date "May 1, 1968".

2. Appendix F, Item V(d) of Part 121 is amended by deleting the date "December 1, 1967," and inserting in place thereof the date "May 1, 1968".

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1422)

Issued in Washington, D.C., on November 24, 1967.

WILLIAM F. MCKEE,
Administrator.

[F.R. Doc. 67-14088; Filed, Nov. 30, 1967; 8:47 a.m.]

SUBCHAPTER E—AIRSPACE

[Airspace Docket No. 66-AL-1]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Revocation of Control Area Extension, Alteration of Control Zone, and Designation of Transition Area

On October 27, 1967, F.R. Doc. No. 67-12706 was published in the FEDERAL REGISTER (32 F.R. 14691) which amended F.R. Doc. No. 66-12007 in part by establishing the effective date for Airspace Docket No. 66-AL-1 as December 7, 1967.

The Federal Aviation Administration has determined that the effective date for Airspace Docket No. 66-AL-1 should be further delayed until 0001 e.s.t., February 29, 1968. This delayed effective date will allow additional time for appropriate coordination with the International Civil Aviation Organization.

In consideration of the foregoing, effective immediately, F.R. Doc. No. 67-12706 is amended as follows:

Item 1. is amended to read:

1. Delete "effective January 5, 1967," and substitute "effective February 29, 1968" therefor.

(Secs. 307(a), 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1510); Executive Order 10854 (24 F.R. 9565))

Issued in Washington, D.C., on November 22, 1967.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-14081; Filed, Nov. 30, 1967; 8:46 a.m.]

[Airspace Docket No. 67-AL-8]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Control Areas

On October 10, 1967, F.R. Doc. No. 67-11912 was published in the FEDERAL REGISTER (32 F.R. 14061) which amended Part 71 of the Federal Aviation Regulations by designating Control Areas 1234, 1235, and 1236 to become effective December 7, 1967.

On October 25, 1967, F.R. Doc. No. 67-12591 was published in the FEDERAL REGISTER (32 F.R. 14757) which amended in part F.R. Doc. No. 67-11912 and which made a minor change in the configuration of Control 1234.

The Federal Aviation Administration has determined that it is appropriate to delay the effective date of the amendments contained in Airspace Docket No. 67-AL-3 as amended until February 29, 1968. This delayed effective date will allow additional time for appropriate coordination with the Internation Civil Aviation Organization.

In consideration of the foregoing, effective immediately, F.R. Doc. No. 67-11912 is amended as follows: "effective 0001 e.s.t., December 7, 1967," is deleted and "effective 0001 e.s.t., February 29, 1968," is substituted therefor.

(Secs. 307(a), 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1510); Executive Order 10854 (24 F.R. 9565))

Issued in Washington, D.C., on November 22, 1967.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-14082; Filed, Nov. 30, 1967; 8:46 a.m.]

[Airspace Docket No. 67-WA-33]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On October 27, 1967, F.R. Doc. No. 67-12708 was published in the FEDERAL REGISTER (32 F.R. 14891) which amended Part 71 of the Federal Aviation Regulations to exclude Control 1234 from a portion of the King Salmon, Alaska, transition area. This amendment was to become effective 0001 e.s.t., December 7, 1967.

The Federal Aviation Administration has determined to delay the effective date of Control 1234. Accordingly, action is taken herein to delay the effective date for Airspace Docket No. 67-WA-33 until February 29, 1968. This delayed effective date will allow additional time for appropriate coordination with the International Civil Aviation Organization.

In consideration of the foregoing, effective immediately, F.R. Doc. No. 67-12708 is amended as follows: "effective 0001 e.s.t., December 7, 1967," is deleted and "effective 0001 e.s.t., February 29, 1968," is substituted therefor.

(Secs. 307(a), 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1510); Executive Order 10854 (24 F.R. 9565))

Issued in Washington, D.C., on November 22, 1967.

T. MCCORMACK,
Acting Chief; Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-14083; Filed, Nov. 30, 1967; 8:46 a.m.]

[Airspace Docket No. 67-SO-102]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to make an editorial change in the description of Control Area 1232.

On January 20, 1967, F.R. Doc. 67-708 was published in the FEDERAL REGISTER (32 F.R. 655) wherein Control Areas 1150 and 1386 were amended.

In the same document, Restricted Area R-2902 was redesignated as R-2902A and R-2902B. Since these restricted areas were designated as joint use, action should have been taken at that time to amend the description of Control 1232 by deleting the reference to R-2902 as being excluded. Accordingly, such action is taken herein.

Since this amendment is editorial in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and this action may be made effective immediately.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective upon the date of publication in the FEDERAL REGISTER, as hereinafter set forth.

In § 71.163 (32 F.R. 2063) Control 1232 is amended by deleting "The airspace within R-2902 and the Nassau control area is excluded." and substituting "The airspace within the Nassau control area is excluded." therefor.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on November 24, 1967.

LOUIS H. MCCAUGHEY,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-14084; Filed, Nov. 30, 1967; 8:46 a.m.]

[Airspace Docket No. 67-AL-22]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

On September 26, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 13460) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations which would alter the controlled airspace in the vicinity of Kenai, Alaska.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. No comments were received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 e.s.t., February 1, 1968, as hereinafter set forth.

Section 71.171 (32 F.R. 2071) is amended as follows:

KENAI, ALASKA

Within a 5-mile radius of the Kenai Municipal Airport (latitude 60°34'11" N., longitude 151°14'52" W.); within 2 miles northwest and 3 miles southeast of the Kenai VOR 031° radial extending from the 5-mile radius zone to 8 miles northeast of the VOR; and within 2 miles northeast of the Kenai VOR 151° radial extending from the VOR to 7 miles southeast of the VOR; excluding the Soldotna Control Zone.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Anchorage, Alaska, on November 21, 1967.

LYLE K. BROWN,
Director, Alaskan Region.

[F.R. Doc. 67-14085; Filed, Nov. 30, 1967; 8:46 a.m.]

[Airspace Docket No. 67-AL-20]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

On September 27, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 13524) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations which would alter the controlled airspace in the vicinity of Bettles, Alaska.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. No comments were received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 e.s.t., February 1, 1968, as hereinafter set forth.

Section 71.171 (32 F.R. 2071) is amended as follows:

BETTLES, ALASKA

Within a 5-mile radius of the Bettles Municipal Airport (latitude 66°55'00" N., longitude 151°31'00" W.); within 2 miles southeast and 3 miles northwest of the 210° bearing from the Bettles RBN extending from the 5-mile radius zone to 8 miles southwest of the RBN.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Anchorage, Alaska, on November 21, 1967.

LYLE K. BROWN,
Director, Alaskan Region.

[F.R. Doc. 67-14086; Filed, Nov. 30, 1967; 8:47 a.m.]

[Airspace Docket No. 67-CE-102]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

On page 13293 of the FEDERAL REGISTER dated September 26, 1967, the Federal Aviation Administration published a notice of proposed rule making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Quincy, Ill.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendments.

No objections have been received and the proposed amendments are hereby adopted without change and are set forth below.

These amendments shall be effective 0001 e.s.t., February 1, 1968.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Kansas City, Mo., on November 8, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

(1) In § 71.171 (32 F.R. 2071), the following control zone is amended to read:

QUINCY, ILL.

That airspace within a 5-mile radius of Quincy Municipal Airport (latitude 39°56'-35" N., longitude 91°11'40" W.), within 2 miles each side of the Quincy VORTAC 034° radial, extending from the 5-mile radius zone to the VORTAC, and within 2 miles each side of the Quincy VORTAC 035° radial extending from the 5-mile radius zone to 12 miles northeast of the airport.

(2) In § 71.181 (32 F.R. 2148), the following transition area is amended to read:

QUINCY, ILL.

That airspace extending upward from 700 feet above the surface within 5 miles northwest and 8 miles southeast of the Quincy ILS localizer southwest course extending from 4 miles northeast to 12 miles southwest of the OM; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at the intersection of a line 5 miles west of and parallel to the Quincy VORTAC 017° radial and the arc of a 25-mile radius circle centered on the Quincy VORTAC, thence clockwise along the arc of a 25-mile radius circle centered on the Quincy VORTAC, to and west along a line 5 miles south of and parallel to the Quincy VORTAC 087° radial, to and clockwise along the arc of a 13-mile radius circle centered on the Quincy VORTAC, to and east along a line 5 miles north of and parallel to the Quincy VORTAC 269° radial, to and clockwise along the arc of a 12-mile radius circle centered on Quincy Municipal Airport (latitude 39°56'35" N., longitude 91°11'40" W.), to and north along a line 5 miles west of and parallel to the Quincy VORTAC 017° radial to the point of beginning.

[F.R. Doc. 67-14087; Filed, Nov. 30, 1967; 8:47 a.m.]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Docket No. 8264; Amdt. 91-49]

PART 91—GENERAL OPERATING AND FLIGHT RULES

VOR Equipment Checks Outside the United States

The purpose of this amendment to Part 91 of the Federal Aviation Regulations is to provide for VOR equipment check under § 91.25 outside the United States using test signals and checkpoints that have not been approved of designated by the Administrator.

This amendment was proposed in Notice of Proposed Rule Making 67-24 published in the FEDERAL REGISTER on July 6, 1967 (32 F.R. 9940). All of the comments received were in favor of the proposal and therefore, for the reasons set forth in Notice 67-24, the proposed rule is adopted herein without change.

In consideration of the foregoing, Part 91 of the Federal Aviation Regulations is amended, effective December 31, 1967, by amending § 91.25(b) as follows:

§ 91.25 VOR equipment check for IFR operations.

* * * * *

(b) Except as provided in paragraph (c) of this section, each person conducting a VOR check under paragraph (a) (2) of this section shall—

(1) Use, at the airport of intended departure, an FAA operated or approved test signal or, outside the United States, a test signal operated or approved by appropriate authority, to check the VOR equipment (the maximum permissible indicated bearing error is plus or minus 4 degrees);

(2) If a test signal is not available at the airport of intended departure, use a point on an airport surface designated as a VOR system checkpoint by the Administrator or, outside the United States, by appropriate authority (the maximum permissible bearing error is plus or minus 4 degrees);

(3) If neither a test signal nor a designated checkpoint on the surface is available, use an airborne checkpoint designated by the Administrator or, outside the United States, by appropriate authority (the maximum permissible bearing error is plus or minus 6 degrees); or

* * * * *

(Secs. 307, 313(a), 601, Federal Aviation Act of 1958; 49 U.S.C. 1348, 1354(a), 1421)

Issued in Washington, D.C., on November 24, 1967.

WILLIAM F. MCKEE,
Administrator.

[F.R. Doc. 67-14089; Filed, Nov. 30, 1967; 8:47 a.m.]

[Reg. Docket No. 8542; Amdt. 870]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

The amendments to the standard instrument approach procedures contained herein are adopted to become effective when indicated in order to promote safety. The amended procedures supersede the existing procedures of the same classification now in effect for the airports specified therein. For the convenience of the users, the complete procedure is republished in this amendment indicating the changes to the existing procedures.

As a situation exists which demands immediate action in the interests of safety in air commerce, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In view of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 97 (14 CFR Part 97) is amended as follows:

1. By amending the following low or medium frequency range procedures prescribed in § 97.11(a) to read:

LFR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums		
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less	More than 2-engine, more than 65 knots
					65 knots or less / More than 65 knots	
BKA VOR	SIT LFR	Direct	1700	T-d	500-2 / 500-2	500-2
				T-n	700-2 / 700-2	700-2
				C-dn	700-2 / 700-2	700-2
				A-dn	800-2 / 800-2	800-2

Procedure turn S side of SW crs, 178° Outbnd, 358° Inbnd, 1700′ within 10 miles.
Minimum altitude over facility on final approach crs, 1000′.
Crs and distance, facility to airport, 357°—12.9 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6 miles after passing Sitka LFR, turn left, climb to 1700′ on SW crs, Sitka LFR within 13 miles.
NOTE: Visual flight required from missed approach point to airport.
CAUTION: High terrain E of NE crs within 9.5 miles Sitka LFR. High terrain N of NW crs within 13 miles.
MSA within 25 miles of facility: NE—3000′; SE—2000′; SW—2000′; NW—4300′.

City, Sitka; State, Alaska; Airport name, Sitka; Elev., 19′; Fac. Class., SBRAZ; Ident., SIT; Procedure No. LFR-1, Amdt. 1; Eff. date, 28 Dec. 67; Sup. Amdt. No. LFR-1, Orig.; Dated, 4 Feb. 67

2. By amending the following automatic direction finding procedures prescribed in § 97.11(b) to read:

ADF STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums		
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less	More than 2-engine, more than 65 knots
					65 knots or less / More than 65 knots	
Nevada Int	AMW NDB	Direct	2000	T-dn	300-1 / 300-1	300-1½
				C-d	600-1 / 600-1	600-1¼
				C-n	600-2 / 600-2	600-2
				S-dn-31	600-1 / 600-1	600-1
				A-dn	NA / NA	NA

Radar available.
Procedure turn E side of crs, 129° Outbnd, 309° Inbnd, 3000′ within 10 miles.
Minimum altitude over facility on final approach crs, 2500′.
Facility on airport. Crs and distance, breakoff point to runway, 310°—0.36 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile after passing AMW NDB, turn right, climbing to 3000′ on the 129° bearing from AMW NDB within 10 miles, make right turn and return to AMW NDB.
NOTES: (1) Use Des Moines, Iowa, altimeter setting. (2) Aircraft will be released for final approach 7 miles from NDB Inbnd on final approach crs. (3) When practical, close LFR flight plan prior to landing. (4) Lights on Runways 31–13 only.
MSA within 25 miles of facility: 000°–300°—2900′.

City, Ames; State, Iowa; Airport name, Ames Municipal; Elev., 926′; Fac. Class., MH (city owned); Ident., AMW; Procedure No. NDB (ADF) Runway 31, Amdt. 2; Eff. date, 28 Dec. 67; Sup. Amdt. No. ADF 1, Amdt. 1; Dated, 6 Aug. 66

ADF STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums		
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less	More than 2-engine, more than 65 knots
					65 knots or less / More than 65 knots	
AGS VOR	AGS RBn	Direct	3000	T-dn	300-1 / 300-1	*300-1½
Shell Bluff Int	AGS RBn	Direct	2000	C-dn	600-1 / 600-1	600-1¼
Trenton Int	AGS RBn (final)	Direct	1700	S-dn-17R	500-1 / 500-1	500-1
Mallard Int	AGS RBn (final)	Direct	1700	A-dn	800-2 / 800-2	800-2
Clarice Int	AGS RBn (final)	Direct	1700			

Procedure turn W side of crs, 347° Outbnd, 167° Inbnd, 2000′ within 10 miles.
Minimum altitude over facility on final approach crs, 1700′.
Crs and distance, facility to airport, 167°—4.9 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.9 miles after passing AGS RBn, turn right, intercept 170° crs from AGS RBn, climbing to 2000′ within 20 miles.
CAUTION: Antenna tower 1883′, 6 miles ENE of Bush Field.
*300-1 required on Runways 8–26.
♯Reduction below ¾ mile not authorized.
MSA within 25 miles of facility: 000°–090°—2100′; 090°–180°—2900′; 180°–270°—2900′; 270°–360°—1900′.

City, Augusta; State, Ga.; Airport name, Bush Field; Elev., 145′; Fac. Class., HW; Ident., AGS; Procedure No. NDB(ADF) Runway 17, Amdt. 8; Eff. date, 28 Dec. 67; Sup. Amdt. No. ADF 2, Amdt.; Dated, 29 Jan. 66

Mount Healthy Int	SI LOM	Direct	2200	T-dn	300-1 / 300-1	300-1½
New Baltimore Int	SI LOM (final)	Direct	3000	C-dn	400-1 / 400-1	400-1¼
Union Int	SI LOM	Direct	2800	S-dn-18	400-1 / 400-1	400-1
CVG VOR	SI LOM	Direct	2200	A-dn	800-2 / 800-2	800-2
LUK LFR	SI LOM	Direct	2700			

Radar available.
Procedure turn W side of crs, 360° Outbnd, 180° Inbnd, 2000′ within 10 miles.
Minimum altitude over facility on final approach crs, 2000′.
Crs and distance facility to airport, 180°—4 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4 miles after passing SI LOM, climb to 2000′ on a heading of 180° to Union Int. Hold S, 1-minute right turns, 360° Inbnd.
MSA within 25 miles of facility: 000°–090°—2800′; 090°–180°—2800′; 180°–270°—2300′; 270°–360°—2200′.

City, Covington; State, Ky.; Airport name, Greater Cincinnati; Elev., 890′; Fac. Class., LOM; Ident., SI; Procedure No. NDB(ADF) Runway 18, Amdt. 2; Eff. date, 28 Dec. 67; Sup. Amdt. No. ADF 2, Amdt. 3; Dated, 30 Jan. 66

PROCEDURE CANCELED, EFFECTIVE 28 DEC. 1967.

City, Huntsville; State, Ala.; Airport name, Huntsville-Madison County; Elev., 619′; Fac. Class., LOM; Ident., HS; Procedure No. 1, Amdt. 4; Eff. date, 7 Jan. 67; Sup. Amdt. No. 3; Dated, 30 Oct. 65

3. By amending the following very high frequency omnirange (VOR) procedures prescribed in § 97.11(c) to read:

VOR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums		
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less	More than 2-engine, more than 65 knots
					65 knots or less / More than 65 knots	
Augusta RBn	AGS VOR	Direct	2000	T-dn	300-1 / 300-1	*300-1½
				C-dn	600-1 / 600-1	600-1¼
				A-dn	800-2 / 800-2	800-2

Procedure turn W side of crs, 321° Outbnd, 141° Inbnd, 2000′ within 10 miles of AGS VOR.
Minimum altitude over facility on final approach crs, 1700′; over Daniel Int, 1700′.
Crs and distance, VOR to Daniel Int (7.5-mile DME Fix), 141°—7.5 miles; Daniel Int, to airport, 141°—8.2 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 8.2 miles after passing Daniel Int, turn right, climb to 2000′ on R 155° within 20 miles or if directed by ATC, climb to 2000′ proceeding to AGS LOM.
NOTE: Descent below 1700′ not authorized unless Daniel Int or 7.5-mile DME Fix is received.
CAUTION: Antenna tower 1963′, 6 miles ENE of Bush Field.
*300-1 required on Runways 8/26.
MSA within 25 miles of facility: 000°–090°—2100′; 090°–180°—2900′; 180°–270°—2900′; 270°–360°—1900′.

City, Augusta; State, Ga.; Airport name, Bush Field; Elev., 145′; Fac. Class., H-SVORTAC; Ident., AGS; Procedure No. VOR-1, Amdt. 7; Eff. date, 28 Dec. 67; Sup. Amdt. No. VOR-1, Amdt. 6; Dated, 9 Jan. 65

R 284° DLL VOR clockwise	R 010°, DLL VOR	7-miles DME Arc	3000	T-dn	300-1 / 300-1	NA
R 094° DLL VOR counterclockwise	R 010°, DLL VOR	7-miles DME Arc	3000	C-d	600-1 / 600-1	NA
7-mile DME Fix DLL VOR, R 010°	DLL VOR (final)	Direct	1900	C-n	600-2 / 600-2	NA
				A-dn	NA / NA	NA

Procedure turn W side of crs, 010° Outbnd, 190° Inbnd, 2900′ within 10 miles.
Minimum altitude over facility on final approach crs, 1900′.
Crs and distance, facility to airport, 190°—1.8 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 1.8 miles after passing DLL VOR, make right-climbing turn to 2900′ on R 010° within 10 miles, return to VOR.
NOTES: (1) When weather is below 1900-2, aircraft departing southeastbound, flight below 2900′ beyond 2 miles from airport is prohibited between radials 126° and 116° inclusive of the DLL VOR due to 2280′ tower 7 miles SE of airport. (2) Use Lone Rock altimeter setting. (3) Final approach from holding pattern at VOR not authorized. Procedure turn required. (4) Caution: Runways 4/22 unlighted.
MSA within 25 miles of facility: 000°–090°—2300′; 090°–180°—2300′; 180°–270°—2300′; 270°–360°—2300′.

City, Baraboo; State, Wis.; Airport name, Dell Aero Service; Elev., 995′; Fac. Class., L-BVORTAC; Ident., DLL; Procedure No. VOR-1, Amdt. 2; Eff. date, 28 Dec. 67; Sup. Amdt. No. VOR 1, Amdt. 1; Dated 11 June 66

VOR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition From—	To—	Course and distance	Minimum altitude (feet)	Ceiling and visibility minimums: Condition	2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots
MOP VOR	Rosebush Int (final)	Direct	2400	T-dn	300-1	300-1	300-1
MBS VOR	MOP VOR	Direct	2400	C-dn	700-1	700-1	700-1½
Riverdale Int	MOP VOR	Direct	2400	A-dn	NA	NA	NA
Wheeler Int	MOP VOR	Direct	2400				

Procedure turn not authorized. Final approach crs, 008° Outbnd, from MOP VOR.
Minimum altitude over Rosebush Int on final approach crs, 2400'.
Crs and distance, Rosebush Int to airport, 008°—6 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6 miles after passing Rosebush Int, make right turn, climb to 2400', and proceed direct to MOP VOR.
NOTES: (1) Use Saginaw, Mich. altimeter setting. (2) Dual VOR receivers required.
MSA within 25 miles of facility: 000°-360°—2400'.

City, Clare; State, Mich.; Airport name, Clare Municipal; Elev., 840'; Fac. Class., T-VOR; Ident., MOP; Procedure No. VOR-1, Amdt. 1; Eff. date, 28 Dec. 67; Sup. Amdt. No. VOR-1, Orig.; Dated, 18 Nov. 67

R 187°, UBS VORTAC clockwise	R 277°	10-mile DME orbit	1800	T-dn	300-1	300-1	200- ½
R 007°, UBS VORTAC counterclockwise	R 277°	10-mile DME orbit	1800	C-dn	600-1	600-1	600-1½
				A-dn*	NA	NA	NA
10-mile DME R 277°	UBS VORTAC	Direct	1800	DME minimums:			
				C-dn	800-1	800-1	800-1½

Radar available.
Procedure turn S side of crs, 277° Outbnd, 097° Inbnd, 1800' within 10 miles.
Minimum altitude over facility on final approach crs, 1800'; at 3-mile DME Fix, 786'.
Crs and distance, facility to airport, 097°—3.8 miles; 3-mile DME Fix to airport, 097°—3.8 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6.8 miles after passing UBS VORTAC, climb to 1800' R 097° within 15 miles.
NOTE: (1) Weather service not available to public. (2) Use Columbus approach control altimeter setting.
*AIR CARRIER NOTE: Alternate minimum dn 800-2 authorized for air carriers only.
MSA within 25 miles of facility: 000°-360°—1800'.

City, Columbus; State, Miss.; Airport name, Columbus-Lowndes County; Elev., 189'; Fac. Class., L-BVORTAC; Ident., UBS; Procedure No. VOR-1, Amdt. 6; Eff. date 28 Dec. 67; Sup. Amdt. No. VOR-1, Amdt. 5; Dated, 27 May 67

				T-dn	300-1	300-1	NA
				C-dn	700-1	700-1	NA
				S-dn	NA	NA	NA
				A-dn	NA	NA	NA

Procedure turn S side of crs, 297° Outbnd, 117° Inbnd, 1600' within 10 miles.
Minimum altitude over facility on final approach crs, 1600'.
Crs and distance, facility to airport, 117°—9.2 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished at 9.2 miles from HCM VOR, make right-climbing turn to 1600' direct to HCM VOR. Hold NW E 297°, 117° Inbnd HCM VOR 1-minute right turns.
NOTE: Weather source: Newport News, Va., FSS.
CAUTION: 60' trees surrounding air strip. 217' unmarked antenna 0.3 mile E of strip; 220' antenna 1 mile N of strip.
MSA within 25 miles of facility: 000°-180°—1800'; 180°-360°—2100'.

City, Gloucester; State, Va.; Airport name, Gloucester; Elev., 78'; Fac. Class., L-BVOR; Ident., HCM; Procedure No. VOR-1, Amdt. 1; Eff. date, 28 Dec. 67; Sup. Amdt. No. VOR-1, Orig.; Dated, 26 Aug. 67

Thomas Int	GSO VORTAC (final)	Direct	1900	T-dn	300-1	300-1	300-½
R 108° GSO VORTAC clockwise	R 210°, GSO VORTAC	7-mile DME Arc GSO, R 196° lead radial.	2400	C-dn	400-1	400-1	400-1½
				S-dn-8	400-1	400-1	400-1
R 283° GSO VORTAC counterclockwise	R 210°, GSO VORTAC	7-mile DME Arc GSO, R 226° lead radial.	2400	A-dn	800-2	800-2	800-2
7-mile DME Fix, R 210°	GSO VORTAC (final)	R 210°	1900				

Radar available.
Procedure turn E side of crs, 210° Outbnd, 030° Inbnd, 2400' within 10 miles.
Minimum altitude over facility on final approach crs, 1900'.
Crs and distance, facility to airport, 030°—3 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3 miles after passing GSO VOR, climb to 2400' on R 030° within 20 miles or, when directed by ATC, turn right, climb to 2400' and return to VOR.
MSA within 25 miles of facility: 000°-090°—3200'; 090°-180°—3100'; 180°-270°—3400'; 270°-360°—3100'.

City, Greensboro; State, N.C.; Airport name, Greensboro-High Point-Winston-Salem Regional; Elev., 926'; Fac. Class., H-BVORTAC; Ident., GSO; Procedure No. VOR Runway 5, Amdt. 4; Eff. date, 28 Dec. 67; Sup. Amdt. No. VOR 1, Amdt. 3; Dated, 2 Oct. 66

R 216°, HBG VORTAC clockwise	R 321°, HBG VORTAC	7-mile DME Arc HBG, R 315° lead radial.	2000	T-dn	300-1	300-1	NA
				C-dn	700-1	700-1	NA
				S-dn-18°	700-1	700-1	NA
R 030°, HBG VORTAC counterclockwise	R 321°, HBG VORTAC	7-mile DME Arc HBG, R 347° lead radial.	2000	A-dn	NA	NA	NA
				DME minimums:			
				C-dn	800-1	800-1	NA
7-mile DME Fix, R 321°	HBG VORTAC (final)	R 321°	2000	S-dn-18°	800-1	800-1	NA

Procedure turn W side of crs, 321° Outbnd, 141° Inbnd, 2000' within 10 miles.
Minimum altitude over facility on final approach crs, 2000'; over 7-mile DME Fix, 851'.
Crs and distance, facility to airport, 141°—9.7 miles; 7-mile DME Fix to airport, 141°—2.7 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 9.7 miles after passing HBG VOR, turn left, climb to 2000' and return to HBG VOR via R 141°.
NOTES: (1) Aircraft will cancel IFR with MCB FSS or HOU ARTCC prior to landing or upon reaching visual flight conditions. (2) Weather and communications remoted to MCB FSS. Use MCB altimeter setting. (3) CAUTION: Airspace Restricted Area (R-4401), 5 miles SE of airport. Trees in approach area all runways.
*Reduction not authorized.
‡Reduction below ¾ mile not authorized.
MSA within 25 miles of facility: 000°-090°—1900'; 090°-180°—1700'; 180°-270°—1900'; 270°-360°—1400'.

City, Hattiesburg; State, Miss.; Airport name, Municipal; Elev., 151'; Fac. Class., L-BVORTAC; Ident., HBG; Procedure No. VOR Runway 13, Amdt. 2; Eff. date, 28 Dec. 67; Sup. Amdt. No. VOR 1, Amdt. 1; Dated, 23 Oct. 66

VOR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition From—	To—	Course and distance	Minimum altitude (feet)	Ceiling and visibility minimums: Condition	2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots
HIB VOR	Carson Lake Int	Direct	2300	T-dn	300-1	300-1	300-1½
				C-dn	700-1	700-1	700-1½
				C-a	700-1½	700-1½	700-1½
				S-dn-18	700-1	700-1	700-1
				A-dn	800-2	800-2	800-2

Procedure turn W side of crs, 305° Outbnd, 125° Inbnd, 2300' within 10 miles of Carson Lake Int.
Minimum altitude over Carson Lake Int on final approach crs, 2300'.
Crs and distance, Carson Lake Int to airport, 125°—4.2 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.2 miles after passing Carson Lake Int, climb to 2900', proceed direct to HIB VOR.
NOTES: (1) Final approach from holding pattern at Carson Lake Int not authorized. Procedure turn required. (2) Dual VOR receivers required.
CAUTION: Runways 4/22 and 18/36 unlighted.
MSA within 25 miles of facility: 000°-090°—3100'; 090°-180°—2800'; 180°-360°—2200'.

City, Hibbing; State, Minn.; Airport name, Chisholm-Hibbing; Elev., 1352'; Fac. Class., L-BVOR; Ident., HIB; Procedure No. VOR Runway 13, Amdt. 1; Eff. date, 28 Dec. 67; Sup. Amdt. No. VOR 2, Orig.; Dated, 18 Feb. 65

				T-dn	300-1	300-1	300-1½
				C-dn	500-1	500-1	500-1½
				C-a	500-1½	500-1½	500-1½
				S-dn-31‡	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Procedure turn E side of crs, 125° Outbnd, 305° Inbnd, 2600' within 10 miles.
Minimum altitude over facility on final approach crs, 2600'.
Crs and distance, facility to airport, 305°—7.1 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 7.1 miles after passing VOR, climb to 3000' on R 305° within 10 miles, return to VOR.
CAUTION: Runways 13/31 and 4/22 unlighted.
‡Reduction not authorized for nonstandard REIL.
MSA within 25 miles of facility: 000°-090°—3100'; 090°-180°—2800'; 180°-360°—3200'.

City, Hibbing; State, Minn.; Airport name, Chisholm-Hibbing; Elev., 1352'; Fac. Class., L-BVOR; Ident., HIB; Procedure No. VOR Runway 31, Amdt. 4; Eff. date, 28 Dec. 67; Sup. Amdt. No. VOR 1, Amdt. 3; Dated, 6 Nov. 65

PROCEDURE CANCELED, EFFECTIVE 28 DEC. 1967.

City, Huntsville; State, Ala.; Airport name, Huntsville-Madison County; Elev., 619'; Fac. Class., L-BVOR; Ident., HSV; Procedure No. 1, Amdt. 11; Eff. date, 7 Jan. 67; Sup. Amdt. No. 10; Dated, 20 Oct. 66

R 075°, MEM VORTAC clockwise	R 164°	Via 10-mile DME Arc.	1900	T-dn	300-1	300-1	300-1½
R 257°, MEM VORTAC counterclockwise	R 164°	Via 10-mile DME Arc.	1900	C-dn	500-1	500-1	500-1½
				S-dn-34‡	500-1	500-1	500-1
10-mile DME fix, R 164°	MEM VORTAC (final)	Direct	1900	A-dn	900-2	900-2	900-2

Radar available.
Procedure turn E side of crs, 164° Outbnd, 344° Inbnd, 1900' within 10 miles.
Minimum altitude over facility on final approach crs, 1900'.
Crs and distance, facility to airport, R 344°—5.4 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.4 miles after passing MEM VORTAC, climb to 2900' on R 356° within 15 miles or, when directed by ATC, turn left and climb to 1900' on R 267° within 15 miles.
NOTE: TDZ-25, CL 25/17, VASI 27.
‡Reduction below ¾ mile (RVR 4000') not authorized.
MSA within 25 miles of facility: 000°-090°—3400'; 090°-180°—1700'; 180°-270°—1600'; 270°-360°—1800'.

City, Memphis; State, Tenn.; Airport name, Memphis Metropolitan; Elev., 331'; Fac. Class., H-BVORTAC; Ident., MEM; Procedure No. VOR Runway 36, Amdt. 28; Eff. date, 28 Dec. 67; Sup. Amdt. No. VOR Runway 36, Amdt. 19; Dated, 4 Feb. 67

R 108°, MBS VOR clockwise	R 236°, MBS VOR	Via 8-mile DME Arc.	2600	T-dn	300-1	300-1	300-1½
R 320°, MBS VOR counterclockwise	R 236°, MBS VOR	Via 8-mile DME Arc.	2200	C-dn	500-1	500-1	500-1½
				S-dn-5°	500-1	500-1	500-1
R 236°, MBS VOR 8-mile DME Fix	R 236°, MBS VOR 8-mile DME Fix (final).	Direct	1167	A-dn	800-2	800-2	800-2
				Minimums with DME:			
				C-dn	400-1	400-1	400-1½
				S-dn-5°*	400-1	400-1	400-1

Procedure turn S side of crs, 236° Outbnd, 056° Inbnd, 2200' within 10 miles.
Minimum altitude over 3-mile DME Fix on final approach crs, 1167'.
Facility on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6 mile after passing MBS VOR, climb to 2600' and proceed to Reese Int via MBS R 105°.
*500-¾ authorized with operative HIRL, except for 4-engine turbojets.
**400-¾ authorized with operative HIRL, except for 4-engine turbojets.
MSA within 25 miles of facility: 000°-270°—3600'; 270°-360°—2400'.

City, Saginaw; State, Mich.; Airport name, Tri-City; Elev., 667'; Fac. Class., L-BVORTAC; Ident., MBS; Procedure No. VOR Runway 5, Amdt. 6; Eff. date, 28 Dec. 67; Sup. Amdt. No. VOR Runway 5, Amdt. 5; Dated, 12 Oct. 67

VOR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition: From—	Transition: To—	Course and distance	Minimum altitude (feet)	Ceiling and visibility minimums: Condition	2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots
SIT LFR	BKA VOR	Direct	1700	T-d	500-2	500-2	500-2
20-mile DME Fix (R 330°)	10-mile DME Fix (R 330°)	150°–10 miles	4000	T-n	700-2	700-2	700-2
10-mile DME Fix (R 330°)	BKA VOR	150°–10 miles	1700	C-dn	700-2	700-2	700-2
9-mile DME Fix (R 090°)	4-mile DME Fix (R 090°)	270°–5 miles	4000	A-dn	800-2	800-2	800-2
4-mile DME Fix (R 090°)	BKA VOR	270°–4 miles	1700				

Procedure turn S side of crs, 181° Outbnd, 001° Inbnd, 1700′ within 10 miles.
Minimum altitude over facility on final approach crs, 1000′.
Crs and distance, facility to airport, 001°—12.9 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3 miles after passing BKA VOR, turn left, climbing to 1700′ on R 181° within 13 miles.
NOTE: Visual flight required from missed approach point to airport.
CAUTION: High terrain E of R 001° within 9.5 miles of VOR. Mount Edgecumbe 3274′, 13 miles N of VOR.
MSA within 25 miles of facility: 000°–090°—8000′; 090°–180°—4800′; 180°–270°—1000′; 270°–360°—4300′.

City, Sitka; State, Alaska; Airport name, Sitka; Elev., 19′; Fac. Class., H-BVORTAC; Ident., BKA; Procedure No. VOR-1, Amdt. 1; Eff. date, 23 Dec. 67; Sup. Amdt. No. VOR-1, Orig.; Dated, 4 Feb. 67

4. By amending the following very high frequency omnirange—distance measuring equipment (VOR/DME) procedures prescribed in § 97.15 to read:

VOR/DME STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition: From—	Transition: To—	Course and distance	Minimum altitude (feet)	Ceiling and visibility minimums: Condition	2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots
R 269°, GSO VORTAC clockwise	R 087°, GSO VORTAC	7-mile DME Arc GSO, R 022° lead radial.	2400	T-dn	300-1	300-1	200-½
R 103°, GSO VORTAC counter clockwise	R 087°, GSO VORTAC	7-mile DME Arc GSO, R 052° lead radial.	2400	C-dn S-dn-22	400-1 400-1	400-1 400-1	400-1½ 400-1
7-mile DME Fix, R 087°	GSO VORTAC (final)	R 087°	1900	A-dn	800-2	800-2	800-2

Radar available.
Procedure turn W side of crs, 087° Outbnd, 217° Inbnd, 2400′ within 10 miles of Atlantic 7-mile DME/Radar Fix.
Minimum altitude over Atlantic 7-mile DME/Radar Fix on final approach crs, 1900′.
Crs and distance, Atlantic 7-mile DME/Radar Fix to airport, 217°—2.9 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished upon reaching 4.1-mile DME Fix (R 087°) climb to 2500′, via R 087°/217° GSO within 20 miles, or when directed by ATC, climb to 2500′ and proceed to Thomas Int via GSO R 221°.
MSA within 25 miles of facility: 000°–090°—3500′; 090°–180°—3100′; 180°–270°—2400′; 270°–360°—5100′.

City, Greensboro; State, N.C.; Airport name, Greensboro-High Point-Winston-Salem Regional; Elev., 926′; Fac. Class., H-BVORTAC; Ident., GSO; Procedure No. VOR/DME Runway 23, Amdt. 1; Eff. date, 23 Dec. 67; Sup. Amdt. No. VOR/DME No. 1, Orig.; Dated, 3 Jan. 66

15-mile DME Fix (R 269°)	Rocky 9-mile DME Fix (final)	Direct (089°–6 miles)	1700	T-dn* C-d C-n A-dn	300-1 500-1½ 500-2 800-2	300-1 500-2 500-2 800-2	300-1 500-2 500-2 800-2

*Radar available.
Procedure turn S side of crs, 269° Outbnd, 089° Inbnd, 1700′ within 10 miles of Rocky 9-mile DME Fix.
Minimum altitude over Rocky 9-mile DME Fix on final approach crs, 1700′; over 6-mile DME Fix, 700′.
Crs and distance, Rocky 9-mile DME Fix to airport, 269°—4.5 miles; 6-mile DME Fix to airport, 269°—1.5 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.5 miles after passing Rocky 9-mile DME Fix, climb to 1600′, proceeding direct to Rocky Mount VORTAC.
NOTE: *Radar terminal area altitude 2600′ within 10 miles of Rocky Mount Airport.
‡Reduction not authorized.
MSA within 25 miles of facility: 000°–090°—1600′; 090°–180°—2000′; 180°–270°—1600′; 270°–360°—1700′.

City, Rocky Mount; State, N.C.; Airport name, Rocky Mount Municipal; Elev., 97′; Fac. Class., L-BVORTAC; Ident., RMT; Procedure No. VOR/DME-1, Amdt. 1; Eff. date, 23 Dec. 67; Sup. Amdt. No. VOR/DME-1, Orig.; Dated, 23 Jan. 66

5. By amending the following instrument landing system procedures prescribed in § 97.17 to read:

ILS STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition: From—	Transition: To—	Course and distance	Minimum altitude (feet)	Ceiling and visibility minimums: Condition	2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots
BHM VORTAC	LOM	Direct	2800	T-dn%	300-1	300-1	%200-½
Lewis Int	LOM	Direct	2800	C-dn	800-1	800-1	800-1½
Bessemer Int	LOM (final)	Direct	2800	S-dn-16°*	200-½	200-½	200-½
				A-dn	800-2	800-2	800-2

Radar available.
Procedure turn N side of SW crs, 232° Outbnd, 052° Inbnd, 2600′ within 10 miles.
Minimum altitude at glide slope intercept Inbnd, 2000′.
Altitude of glide slope and distance to approach end of runway at OM, 2000′—4.5 miles; at MM, 815′—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.5 miles after passing LOM, climb to 2000′ on 052° crs of LOC via ROE RBn to Trussville Int. Hold NE, 1-minute right turns or, when directed by ATC, turn left, climb to 3000′ and proceed to BHM VORTAC.
NOTE: VASI Runway 23.
%RVR Runway 5, 2400′ more than 2-engine; 3000′, 2-engine or less authorized.
‡RVR 2400′. Descent below 843′ not authorized unless approach lights are visible.
**400-¾ (RVR 4000′) required when glide slope not utilized. 400-½ (RVR 2400′) authorized with operative ALS, except for 4-engine turbojets.
*Runways 5/23 only.
MSA within 25 miles of LOM: 000°–360°—3900′.

City, Birmingham; State, Ala.; Airport name, Municipal; Elev., 643′; Fac. Class., ILS; Ident., I-BHM; Procedure No. ILS Runway 5, Amdt. 22; Eff. date, 23 Dec. 67; Sup. Amdt. No. ILS-5, Amdt. 21; Dated, 5 Nov. 66

Mount Healthy Int	SI LOM	Direct	2200	T-dn‡	300-1	300-1	300-½
New Baltimore Int	SI LOM (final)	Direct	2000	C-dn	400-1	400-1	400-1½
Union Int	SI LOM	Direct	2200	S-dn-18°	300-1	300-1	300-1
CVG VOR	SI LOM	Direct	2200	A-dn	800-2	800-2	800-2
Madeira RBn	SI LOM	Direct	2700	With glide slope inoperative: S-dn-18°*	400-1	400-1	400-1

Radar available.
Procedure turn W side of crs, 360° Outbnd, 180° Inbnd, 2000′ within 10 miles.
Minimum altitude at glide slope intercept Inbnd, 2000′.
Altitude of glide slope and distance to approach end of runway at OM, 1979′—4 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4 miles after passing SI LOM, climb to 2000′ on 8 crs of ILS to Union Int. Hold S, 1-minute, right turns, 360° Inbnd.
*200-½ authorized with operative HIRL, except for 4-engine turbojets.
**400-½ authorized with operative HIRL, except for 4-engine turbojets.
‡RVR 2400′ authorized Runways 18/36.
MSA within 25 miles of SI LOM: 000°–090°—2800′; 090°–180°—2800′; 180°–270°—2300′; 270°–360°—2800′.

City, Covington; State, Ky.; Airport name, Greater Cincinnati; Elev., 890′; Fac. Class., ILS; Ident., I-SIC; Procedure No. ILS Runway 18, Amdt. 4; Eff. date, 23 Dec. 67; Sup. Amdt. No. ILS-18, Amdt. 3; Dated, 6 Aug. 66

Mount Healthy Int	SI LOM	Direct	2200	T-dn‡	300-1	300-1	300-½
New Baltimore Int	SI LOM (final)	Direct	2000	C-dn	400-1	400-1	400-1½
Union Int	SI LOM	Direct	2800	S-dn-18°	400-1	400-1	400-1
Cincinnati VOR	SI LOM	Direct	2800	A-dn	800-2	800-2	800-2
Madeira RBn	SI LOM	Direct	2700				

Radar available.
Procedure turn W side of crs, 360° Outbnd, 180° Inbnd, 2000′ within 10 miles.
Minimum altitude over facility on final approach crs, 2000′.
Crs and distance, facility to airport, 180°—4 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4 miles after passing SI LOM, climb to 2000′ on 8 crs of ILS, to Union Int. Hold S, 1-minute, right turns, 360° Inbnd.
*400-¾ authorized with operative HIRL, except for 4-engine turbojets.
‡RVR 2400′ authorized Runways 18/36.
MSA within 25 miles of SI LOM: 000°–090°—2800′; 090°–180°—2800′; 180°–270°—2300′; 270°–360°—2300′.

City, Covington; State, Ky.; Airport name, Greater Cincinnati; Elev., 890′; Fac. Class., ILS; Ident., I-CVG; Procedure No. LOC (BC) Runway 18, Amdt. 4; Eff. date, 23 Dec. 67; Sup. Amdt. No. ILS-18 (BC), Amdt. 2; Dated, 6 Aug. 66

CVG VOR	CV LOM	Direct	3000	T-dn‡	300-1	300-1	300-½
New Baltimore Int	CV LOM	Direct	2300	C-dn	400-1	400-1	400-1½
Madeira RBn	CV LOM	Direct	2700	S-dn-36°	400-1	400-1	400-1
Dry Ridge Int	CV LOM	Direct	3400	A-dn	800-2	800-2	800-2
Union Int	Union Int	Direct	3000				
Mount Healthy Int	CV LOM (final)	Direct	2400				
	CV LOM	Direct					

Radar available.
Procedure turn E side of crs, 180° Outbnd, 360° Inbnd, 2600′ within 10 miles.
Minimum altitude over facility on final approach crs, 2000′.
Crs and distance, facility to airport, 360°—3.8 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.8 miles after passing CV LOM climb to 2000′ on the N crs of the ILS and proceed to the SI LOM. Hold N, 1-minute right turns, 180° Inbnd.
*400-¾ authorized with operative high-intensity runway lights, except for 4-engine turbojets.
**400-½ authorized with operative ALS, except for 4-engine turbojets.
‡RVR 2400′ authorized Runways 18-36.
MSA within 25 miles of CV LOM: 000°–090°—2800′; 090°–180°—2300′; 180°–270°—2800′; 270°–360°—2300′.

City, Covington; State, Ky.; Airport name, Greater Cincinnati; Elev., 890′; Fac. Class., ILS; Ident., I-SIC; Procedure No. LOC (BC) Runway 36, Amdt. 2; Eff. date, 23 Dec. 67; Sup. Amdt. No. ILS-36 (BC), Amdt. 1; Dated, 6 Aug. 66

ILS STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

From—	To—	Course and distance	Minimum altitude (feet)	Condition	Ceiling and visibility minimums: 3-engine or less: 65 knots or less	3-engine or less: More than 65 knots	More than 3-engine, more than 65 knots
PROCEDURE CANCELED, EFFECTIVE 28 DEC. 1967.							
City, Huntsville; State, Ala.; Airport name, Huntsville-Madison County; Elev., 619'; Fac. Class., ILS; Ident., I-HSV; Procedure No. ILS-18, Amdt. 5; Eff. date, 7 Jan. 67; Sup. Amdt. No. 4; Dated, 30 Oct. 65							
PROCEDURE CANCELED, EFFECTIVE 28 DEC. 1967.							
City, Huntsville; State, Ala.; Airport name, Huntsville-Madison County; Elev., 619'; Fac. Class., ILS; Ident., I-HSV; Procedure No. ILS-36 (back crs), Amdt. 2; Eff. date 30 Oct. 65; Sup. Amdt. No. 1; Dated, 27 June 64							
Wheeler Int	LOM	Direct	2200	T–dn	200–1	200–1	200–½
Western Int	LOM	Direct	2200	C–dn	400–1	400–1	400–1½
R 166°, MBS VOR clockwise	MBS VOR, R 231°	Via 15-mile DME Arc.	2600	S–dn–6° d	200–½	200–½	200–½
			2200	A–dn	600–2	600–2	600–2
MBS VOR	LOM	Direct	2200				
R 226°, MBS VOR counterclockwise	MBS VOR, R 231°	Via 12-mile DME Arc.	2200				
12-mile DME Fix MBS, R 231°	LOM (final)	Via LOC crs	2200				
Ashley Int	LOM (final)	360 mc and LOC crs.	2200				
Rhese Int	LOM (final)	110 mc and LOC crs.	2200				

Procedure turn S side of crs, 226° Outbnd, 046° Inbnd, 2200' within 10 miles.
Minimum altitude over facility on final approach crs, 2200'.
Minimum altitude at glide slope intercept Inbnd, 2200'.
Altitude of glide slope and distance to approach end of runway at OM, 2200'—5.6 miles; at MM, 934'—3.5 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.6 miles after passing the LOM, climb to 2600' and proceed to Reese Int via MBS VOR R 166° or, when directed by ATC, make left-climbing turn to 2200' and proceed to Wheeler Int.
*400–½ required when glide slope not utilized and 600–1 authorized with operative ALS, except for 4-engine turbojets.
‡When control tower inoperative, 200–½ required—600–1 when glide slope not utilized.
MSA within 25 miles of LOM: 000°–270°—2600'; 270°–360°—2400'.

City, Saginaw; State, Mich.; Airport name, Tri-City; Elev., 667'; Fac. Class., ILS; Ident., I-MBS; Procedure No. ILS Runway 5, Amdt. 1; Eff. date, 28 Dec. 67; Sup. Amdt. No. ILS Runway 5, Orig.; Dated, 13 Oct. 67

From—	To—	Course and distance	Minimum altitude (feet)	Condition	Ceiling and visibility minimums: 3-engine or less: 65 knots or less	3-engine or less: More than 65 knots	More than 3-engine, more than 65 knots
				Surveillance approach			
000°	360°	0–25 miles	2600	T–dn*‡§	200–1	200–1	200–½
330°	030°	25–35 miles	2600	C–dn	400–1	400–1	400–1½
030°	060°	25–35 miles	2700	S–dn–12, 30, 48	400–1	400–1	400–1
				A–dn	800–2	800–2	800–2

All bearings and distances are from radar site located on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, climb to 2600', proceed direct to DSM VOR, or when directed by ATC, climb to 3700', proceed direct to TNU VOR.
*When 1546' tower, 3.2 miles NNE of airport not visible on takeoffs to N and NW, climb to 2100' on 305° heading and takeoffs to NE climb to 2100' on 050° heading before turning toward tower.
‡Reduction below 1 mile not authorized Runway 30. 600–½ authorized Runway 12 with operative SALS, except for 4-engine turbojets.
§RVR 2400' authorized Runway 30.

City, Des Moines; State, Iowa; Airport name, Des Moines Municipal; Elev., 957'; Fac. Class and Ident., Des Moines Radar; Procedure No. Radar-1, Amdt. 1; Eff. date, 28 Dec. 67; Sup. Amdt. No. 1, Amdt. 5; Dated, 18 Feb. 67

These procedures shall become effective on the dates specified therein.

These amendments are made under the authority of sections 307(c), 313(a), and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(c), 1354(a), 1421; 72 Stat. 749, 752, 775).

Issued in Washington, D.C., on November 15, 1967.

W. E. ROGERS,
Acting Director, Flight Standards Service.

[F.R. Doc. 67-13777; Filed, Nov. 30, 1967; 8:45 a.m.]

Chapter II—Civil Aeronautics Board

PART 301—RULES OF PRACTICE IN AIR SAFETY PROCEEDINGS

PART 303—RULES OF PRACTICE IN AIRCRAFT ACCIDENT INVESTIGATION HEARINGS

PART 311—DISCLOSURE OF AIRCRAFT ACCIDENT INVESTIGATION INFORMATION

PART 320—RULES PERTAINING TO AIRCRAFT ACCIDENTS, INCIDENTS, OVERDUE AIRCRAFT, AND SAFETY INVESTIGATIONS

Transfer of Regulations

CROSS REFERENCE: For a document transferring the matter in Parts 301, 303, 311, and 320 of this chapter to Chapter III of this title and redesignating these parts as Parts 421, 431, 435, and 430, respectively, see F.R. Doc. 67-14055, *infra*.

Chapter III—National Transportation Safety Board

PART 421—RULES OF PRACTICE IN AIR SAFETY PROCEEDINGS

PART 430—RULES PERTAINING TO AIRCRAFT ACCIDENTS, INCIDENTS, OVERDUE AIRCRAFT, AND SAFETY INVESTIGATIONS

PART 431—RULES OF PRACTICE IN AIRCRAFT ACCIDENT INVESTIGATION HEARINGS

PART 435—DISCLOSURE OF AIRCRAFT ACCIDENT INVESTIGATION INFORMATION

Miscellaneous Amendments

The Department of Transportation Act, 80 Stat. 931, effective April 1, 1967, continued in effect the regulations of the Civil Aeronautics Board relating to the functions of the CAB that were transferred under the Act to the National Transportation Safety Board. The regulations, Parts 301, 303, 311, and 320 in Title 14 of the Code of Federal Regulations, were adopted by the NTSB (32 F.R. 7139, May 11, 1967) but were continued in Title 14 in Chapter II—Civil Aeronautics Board. This amendment transfers the parts from Chapter II to Chapter III—National Transportation Safety Board in Title 14 and redesignates Parts 301, 303, 311, and 320 as Parts 421, 431, 435, and 430 respectively. The amendment also amends the parts to substitute the phrases "National Transportation Safety Board" in lieu of "Civil Aeronautics Board", "Bureau of Aviation Safety" in lieu of "Bureau of Safety" and "General Counsel" in lieu of "Associate General Counsel, Rules and Rates."

Since the amendment is procedural in nature, notice and public procedure hereon are unnecessary and the amendment may be made effective upon publication in the FEDERAL REGISTER.

Accordingly, the National Transportation Safety Board hereby amends Parts 301, 303, 311, and 320 (14 CFR Parts 301, 303, 311, and 320) as follows, effective upon the date of publication in the FEDERAL REGISTER:

1. Parts 301, 303, 311, and 320 of Chapter II of Title 14 of the Code of Federal Regulations are hereby transferred to Chapter III of Title 14 and redesignated as Parts 421, 431, 435, and 430 respectively.

2. Parts 430, 431, and 435, as redesignated, are amended by striking the phrase "Bureau of Safety" and inserting in lieu thereof the phrase "Bureau of Aviation Safety" wherever it appears.

3. Part 430, as redesignated, is further amended by striking the phrase "Civil Aeronautics Board" and inserting in lieu thereof the phrase "National Transportation Safety Board" wherever it appears.

4. Part 435, as redesignated, is further amended by striking the phrase "Associate General Counsel, Rules and Rates Division" and inserting in lieu thereof the phrase "General Counsel" wherever it appears.

(Secs. 5(b), 5(k), 12(a), 80 Stat. 935, 936, 949; 49 U.S.C. 1654)

By the National Transportation Safety Board.

[SEAL] JOSEPH J. O'CONNELL, JR.,
Chairman.

NOVEMBER 24, 1967.

[F.R. Doc. 67-14056; Filed, Nov. 30, 1967; 8:48 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

Sodium Ampicillin

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and delegated by him to the Commissioner of Food and Drugs (21 CFR 2.120), § 146a.119(b) is revised to read as follows to provide for certification of an additional dosage size (2.0 grams) of the subject antibiotic drug when packaged for dispensing:

§ 146a.119 Sodium ampicillin.

* * * * *

(b) *Packaging.* In all cases the immediate container shall be a tight container as defined by the U.S.P. and shall be of such composition as will not cause any change in the strength, quality, or purity of the contents beyond any limit therefor in applicable standards, except that minor changes so caused that are normal and unavoidable in good packaging, storage, and distribution practice shall be disregarded. If it is packaged for dispensing, it shall be in immediate containers either 125 milligrams, 250 containers of colorless, transparent glass, and each such container shall contain either 125 milligrams, 250 milligrams, 500 milligrams, 1.0 gram, or 2.0 grams of ampicillin. If it is packaged for dispensing, it may be packaged in combination with a container of sterile water for injection U.S.P.

* * * * *

This order merely provides for certification of an additional dosage size of an antibiotic drug already on the market and is noncontroversial in nature; therefore, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: November 20, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-14070; Filed, Nov. 30, 1967; 8:49 a.m.]

Title 29—LABOR

Chapter XIV—Equal Employment Opportunity Commission

PART 1610—AVAILABILITY OF RECORDS

Administrative Decision and Review

Correction

In F.R. Doc. 67-13916 appearing at page 16261 of the issue for Wednesday, November 29, 1967, make the following change: In the second line of § 1610.23 (a), the word "delay" should read "deny".

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 1—Federal Procurement Regulations

PART 1-1—GENERAL

Procurement Responsibility and Authority

This amendment of the Federal Procurement Regulations adds a new Subpart 1-1.4 which deals with the procurement responsibility and authority of heads of procuring activities and contracting officers, including the selection, designation, termination of designation, and assignment of duties. It also covers the ratification of unauthorized contract awards. Subpart 1-1.4 is added which reads as follows:

Subpart 1–1.4—Procurement Responsibility and Authority

Sec.
1–1.400 Scope of subpart.
1–1.401 Responsibility of the head of the procuring activity.
1–1.402 Authority of contracting officers.
1–1.403 Requirements to be met before entering into contracts.
1–1.404 Selection, designation, and termination of designation of contracting officers.
1–1.404–1 Selection.
1–1.404–2 Designation.
1–1.404–3 Termination of designation.
1–1.404–4 Assignment of duties to contracting officers.
1–1.405 Ratification of unauthorized contract awards.

AUTHORITY: The provisions of this Subpart 1–1.4 issued under sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 1–1.4—Procurement Responsibility and Authority

§ 1–1.400 Scope of subpart.

This subpart deals with the procurement responsibility and authority of the head of the procuring activity and contracting officer as defined in §§ 1–1.206 and 1–1.207, and with the selection and designation of contracting officers.

§ 1–1.401 Responsibility of the head of the procuring activity.

The head of the procuring activity is responsible for the procurement of personal property and nonpersonal services (including construction) to the full extent that responsibility has been assigned to his activity.

§ 1–1.402 Authority of contracting officers.

Contracting officers are authorized to enter into and administer contracts for personal property and nonpersonal services (including construction) on behalf of the Government and make related findings and determinations within the limitations of the authority delegated to them. In the exercise of such authority, they are subject to the requirements in § 1–1.403 and any further requirements, consistent with the Federal Procurement Regulations, imposed by the contracting agency.

§ 1–1.403 Requirements to be met before entering into contracts.

No contract shall be entered into unless all applicable requirements of law, Executive orders and regulations have been met. The term "regulations" includes those issued by any regulatory agency whether or not incorporated or referenced in the Federal Procurement Regulations.

§ 1–1.404 Selection, designation, and termination of designation of contracting officers.

Contracting officers shall be selected, designated as such, and their designations terminated as provided in agency procedures. Such agency procedures shall conform to the provisions of this § 1–1.404.

§ 1–1.404–1 Selection.

In selecting individuals to serve as contracting officers or in positions which include authority to act as contracting officers, consideration shall be given to experience, training, education, business acumen, judgment, character, reputation, and ethics. In considering experience, training, and education, the following shall be evaluated:

(a) Experience in the field of procurement involved (e.g., supply, construction, etc.) gained in a Government or non-Government procurement office, or otherwise;

(b) Formal education or special training, including Government conducted or sponsored courses, in pertinent fields, such as business administration, law, accounting, engineering, architecture, or related fields; and

(c) Knowledge of applicable laws, Executive orders, and regulations.

§ 1–1.404–2 Designation.

Designation of individuals to act as contracting officers may be accomplished by delegation of authority to individuals or to positions. In the latter case, unless otherwise provided by the agency, any individual authorized to serve in such a position is a contracting officer. In either case, however, the instrument of designation shall include, or make specific reference to, any limitations on the scope of authority to be exercised, other than those contained in applicable laws, regulations, or directives. Appropriate records shall be maintained, whether designation be made by name or by reference to organizational title or position designation.

§ 1–1.404–3 Termination of designation.

Unless otherwise provided in the instrument designating an individual as a contracting officer (e.g. stipulation of a specified term or a specific purpose), the designation shall remain effective until the contracting officer is reassigned, his employment is terminated, or his designation is revoked. No revocation shall operate retroactively.

§ 1–1.404–4 Assignment of duties to contracting officers.

In the assignment of duties, including execution and administration of contracts, consideration shall be given to the ability, training, and experience of the contracting officer. Duties involving contracts of large dollar value and complexity shall be given only to personnel with commensurate experience, training, and ability.

§ 1–1.405 Ratification of unauthorized contract awards.

Execution of otherwise proper contracts made by individuals without contracting authority, or by contracting officers in excess of the limits of their delegated authority, may be later ratified. To be effective, such ratification must be in the form of a written document clearly stating that ratification of a previously unauthorized act is intended and must be signed by a person authorized to ratify such acts. Generally such ratification may be made only by an official on whom behalf the contract was made and then only (1) if he could have given authority to enter into the contract before it was awarded and (2) if he still has power to do so at the time of ratification.

Effective date. This amendment is effective upon publication in the FEDERAL REGISTER.

Dated: November 24, 1967.

LAWSON B. KNOTT, JR.,
Administrator of General Services.

[F.R. Doc. 67–14068; Filed, Nov. 30, 1967; 8:48 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter II—Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior

SUBCHAPTER F—AID TO FISHERIES

PART 254—JELLYFISH

On pages 8419 and 8420 of the FEDERAL REGISTER of June 13, 1967, there was published a notice and text of a proposed new Part 254 of Title 50, Code of Federal Regulations. The purpose of the new part was to provide for procedures to be used by the Secretary in providing financial assistance to State agencies to conserve and protect the fish and shellfish resources in the coastal waters of the United States and the Commonwealth of Puerto Rico, and to promote and safeguard water-based recreation for present and future generations.

Interested persons were given 30 days in which to submit written comments, suggestions or objections with respect to the proposed new part to the Director, Bureau of Commercial Fisheries, Department of the Interior, Washington, D.C. 20240. In addition to the notice in the FEDERAL REGISTER, every State fishery agency was independently notified by letter. Notifications also were sent to other non-Federal interests known to be interested in this program.

Several comments were received from administrators and researchers in these agencies. Consideration has been given to all comments and appropriate clarifying changes made in §§ 254.1 to 254.24 inclusive. No other changes being deemed necessary, the part as so proposed is hereby adopted. These regulations are effective upon publication in the FEDERAL REGISTER.

Sec.
254.1 Administration.
254.2 Definitions.
254.3 Submission of applications.
254.4 Availability of funds.
254.5 Vouchers.
254.6 Administrative funds.
254.7 Matching funds.
254.8 Capital and related expenditures.
254.9 Agreements.
254.10 Compacts.
254.11 Prosecution of work.
254.12 Economy and efficiency.
254.13 General information for the Secretary.
254.14 Personnel.
254.15 Record retention.
254.16 Reporting.
254.17 Safety and accident prevention.
254.18 Contracts.
254.19 Statements and payrolls.
254.20 Officials not to benefit.
254.21 Patents and inventions.
254.22 Pesticides.
254.23 Convict labor.
254.24 Nondiscrimination.

AUTHORITY: The provisions of this Part 254 issued under Pub. Law 89–720.

§ 254.1 Administration.

The Bureau of Commercial Fisheries shall administer the Jellyfish Act for the Secretary.

§ 254.2 Definitions.

As used in this part, terms shall have the meaning ascribed in this section.

(a) *Secretary.* The Secretary of the Interior or his authorized representatives.

(b) *Act.* Public Law 89–720, the Jellyfish Act, approved November 2, 1966.

(c) *State.* Any coastal State of the United States and the Commonwealth of Puerto Rico.

(d) *State agency.* The department(s), division(s), or commission(s) of a State empowered under its laws to manage or administer fish and shellfish resources or water-based recreation programs.

(e) *Coastal waters.* For the purposes of this Act, coastal waters include all or part of the mouth of a navigable or interstate stream or body of water, bays, sounds, lagoons, channels, estuaries, and other such waters inhabited by jellyfish or other such pests, or floating seaweed.

(f) *Jellyfish.* Jellyfish, commonly known as "sea nettles" (Chrysaora quinquecirrha), belonging to the phylum Coelenterata.

(g) *Other such pests.* All other species belonging to the phyla Coelenterata and Ctenophora which adversely affect fish and shellfish and water-based recreation of the coastal waters of the United States and the Commonwealth of Puerto Rico.

(h) *Floating seaweed.* Marine algae, commonly known as seaweed, which are detrimental to fish and shellfish, or water-based recreation.

(i) *Project.* Any undertaking involving research on, or the control or elimination of, jellyfish and other such pests or the control of floating seaweed.

§ 254.3 Submission of applications.

Project documents for grant-in-aid under section 1 of the Act shall be submitted by the State agency to the concerned Regional or Area Office of the Bureau of Commercial Fisheries.

(a) *Project proposal.* A project proposal shall be submitted for each project. The proposal shall include a description of new work to be accomplished, including objectives, procedures, costs, location, intention to subcontract, and time required for completion and any such other information as the Secretary requires.

(b) *Project agreement.* After the Secretary shall have approved a project proposal, a project agreement may be executed describing new work as prescribed under the Act. Such agreements shall set forth the responsibilities of the State, the anticipated benefits of the undertaking, the estimated cost, the term of the agreement, and such other conditions as may be appropriate. Project agreements constitute the basis for projects and shall conform to the documentation requirements prescribed by the Secretary.

(c) *Document signature.* Signature by an official(s) authorized in accordance with State law to commit a State agency to participate in the Act.

§ 254.4 Availability of funds.

Language appearing in Appropriation Acts providing funds for this program will govern the period during which the funds may be obligated by the United States.

(a) On July 1 of each year, or as soon thereafter as practicable, the Secretary shall notify the States of the appropriation available to carry out the purpose of the Act.

(b) Funding priority shall be given to those products having potential for controlling or eliminating sea nettles or floating seaweed.

(c) Payments shall be made to States as work described in project agreements progresses and is completed satisfactorily.

§ 254.5 Vouchers.

Vouchers showing amounts expended on each project and the Federal portion claimed to be due on account thereof shall be submitted to the Secretary by the State agency either after completion of each project or as the work progresses.

§ 254.6 Administrative funds.

The Bureau of Commercial Fisheries will finance its administrative cost from the appropriations made available by the Act. This administrative cost shall not exceed eight (8) percent of the appropriation and shall be considered part of the costs of projects for which agreements are executed.

§ 254.7 Matching funds.

The costs of projects, pursuant to the Act, shall be borne equally by the Federal Government and by the States. Eligible matching funds are those which are available to the State agency from any non-Federal source.

§ 254.8 Capital and related expenditures.

(a) The Secretary shall not enter into an agreement pursuant to the Act which includes amounts for the construction of permanent buildings.

(b) Payments received pursuant to the Act may be applied to capital expenditures, other than for permanent buildings, to the extent that such expenditures are provided for in projects approved by the Secretary.

§ 254.9 Agreements.

The Secretary shall not enter into an agreement with a non-Federal interest other than a State agency responsible for the management or administration of fish and shellfish resources or water-based recreation programs.

§ 254.10 Compacts.

The Secretary shall encourage any compact or agreement between two or more States for the purpose of carrying out a program of research, study, investigations, and control or elimination of jellyfish and other such pests, or floating seaweed in coastal waters.

§ 254.11 Prosecution of work.

(a) The State agency, or a subcontractor of the State agency, shall carry projects through to a stage of completion acceptable to the Secretary with reasonable promptness. Failure to render satisfactory progress reports or failure to complete the project to the satisfaction of the Secretary shall be cause to withhold further payments until the project provisions are satisfactorily met. Projects may be terminated upon determination by the Secretary that satisfactory progress has not been maintained. Projects will be subject at all times to Federal inspection.

(b) Research and/or development work shall be continuously coordinated by the State with studies conducted by others to avoid unnecessary duplication.

(c) All work shall be performed in accordance with applicable State laws, except when in conflict with Federal laws or regulations, in which case Federal laws or regulations shall prevail.

§ 254.12 Economy and efficiency.

No agreement shall be executed until the State has shown to the satisfaction of the Secretary that appropriate and adequate means shall be employed to achieve economy and efficiency in the completion of the project.

§ 254.13 General information for the Secretary.

Before any Federal funds may be obligated for any project the State shall furnish to the Secretary upon his request the authority of a State agency to participate in the benefits of the Act.

§ 254.14 Personnel.

The State or its subcontractor shall maintain an adequate and competent force of employees to initiate and carry project agreements to satisfactory completion. Personnel employed on projects shall be selected on the basis of their competence to perform the services required and shall conduct their duties in a manner acceptable to the Secretary.

§ 254.15 Record retention.

All records of accounts, reports, with supporting documentation thereto, shall be retained by the State for a period of 3 years after final payment is made. These records shall be available for Federal audit.

§ 254.16 Reporting.

Progress and final reports shall be submitted by the State in accordance with reporting requirements prescribed by the Secretary. Progress and final reports will be placed in depository for future reference. States are encouraged to publish, as technical literature, the findings, results, and conclusions relating to separately identifiable research projects undertaken pursuant to the Act.

§ 254.17 Safety and accident prevention.

In the performance of each project, the State or a subcontractor of the State shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation. The State shall be responsible that all safeguards, safety devices, and protective equipment are provided and will take any other needed actions reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the project.

§ 254.18 Contracts.

Supply, service, equipment, and construction contracts, other than research and development contracts and contracts for professional services, involving an expenditure of $2,500 or more entered into by a State agency for the execution of approved project activities shall be based upon free and open competitive bids. If a contract is awarded to other than the lowest responsible bidder, the payment of the Federal portion of the cost of the project shall be based on the lowest responsible bid, unless it is satisfactorily shown that it was advantageous to the project to accept a higher bid. Upon request, the State shall certify and promptly furnish to the Secretary a copy of each contract executed and copies of all bids received concerning the contract. Contracts for research and development and professional services may be negotiated: *Provided*, That the Secretary is satisfied that adequate steps are taken to insure economical and efficient services and the impartial selection of contractors.

§ 254.19 Statements and payrolls.

The regulations of the Secretary of Labor applicable to contractors and subcontractors (29 CFR Part 3), made pursuant to the Copeland Act, as amended (40 U.S.C. 276c), and to aid in the enforcement of the Anti-Kickback Act (18 U.S.C. 874) are made a part of the regulations in this part by reference. The State will comply with these regulations and any amendments or modifications thereof and the State's prime contractor will be responsible for the submission of statements required of subcontractors thereunder. The foregoing shall apply except as the Secretary of Labor may specifically provide for reasonable limitation, variations, tolerances, and exemptions.

§ 254.20 Officials not to benefit.

No member of or delegate to Congress or resident commissioner, shall be admitted to any share or any part of an agreement, or to any benefit that may arise therefrom; but, this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

§ 254.21 Patents and inventions.

Determination of the patent rights in any inventions or discoveries resulting from work under project agreements entered into pursuant to the Act shall be governed by the Statement of Government Patent Policy promulgated by the President in his memorandum of October 10, 1963 (3 CFR 1963 Supp. p. 238, 28 F.R. 10943).

§ 254.22 Pesticides.

In the use or development of chemicals to control jellyfish, floating seaweed, or other such pests the State agency or subcontractor shall be required to:

(a) Use registered chemicals as required under the Federal Insecticide, Fungicide and Rodenticide Act, as amended.

(b) Submit evidence of such registration to the Bureau of Commercial Fisheries in the form of an approved label.

(c) Submit to the Federal Committee on Pest Control, annually or as the Committee may specify, programs financed with Federal funds.

§ 254.23 Convict labor.

In connection with the performance of work, the State agrees not to employ any person undergoing sentence of imprisonment at hard labor.

§ 254.24 Nondiscrimination.

Each Project Agreement shall contain the applicable sections of Executive Order No. 11246, dated September 24, 1965, pertaining to nondiscrimination and shall also be subject to Public Law 88-352 and any regulations promulgated thereunder.

J. L. McHUGH,
Acting Director,
Bureau of Commercial Fisheries.

[F.R. Doc. 67-14034; Filed, Nov. 30, 1967; 8:46 a.m.]

Proposed Rule Making

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 1, 91]

[Docket No. 8166; Notice No. 67-21]

PROVISION OF CONTROLLED VISUAL FLIGHT IN POSITIVE CONTROL AREAS

Withdrawal of Notice of Proposed Rule Making

The purpose of this action is to withdraw Notice 67-21 which was published in the FEDERAL REGISTER on May 13, 1967 (32 F.R. 7220), and for which the comment period was extended on July 22, 1967 (32 F.R. 10981).

In Notice 67-21 the FAA proposed to amend Part 91 to permit the operation of aircraft by noninstrument rated pilots in VFR weather conditions within certain positive controlled airspace, between 18,000 and 24,000 feet in the central and northeastern United States. It was stated that the aircraft must be equipped with all of the instruments required for IFR flight, including a transponder for flight within positive controlled airspace.

The responses to the notice indicated that that proposal was unacceptable to almost all sectors of the aviation public. General aviation objected to the requirements for full IFR instrumentation and a transponder. Commercial aviation and the military departments objected on the basis that flight by noninstrument rated pilots within positive controlled airspace would derogate safety. The FAA believes that IFR instrumentation and a transponder should be required for all flight at high altitude within positive controlled airspace, and the proposal, together with the resulting comments, were made on that basis. The margin of safety in this proposed type of operation would be substantially less without the requirement for such equipment.

In consideration of the foregoing, effective immediately, the notice of proposed rule making published in the FEDERAL REGISTER (32 F.R. 7220) on May 13, 1967, and circulated as Notice No. 67-21, is hereby withdrawn.

This withdrawal is made under the authority of section 307 of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on November 22, 1967.

WILLIAM E. MORGAN,
Acting Director, Air Traffic Service.

[F.R. Doc. 67-14040; Filed, Nov. 30, 1967; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-CE-130]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Roscommon, Mich.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

As a result of the development of a public use instrument approach procedure to serve Roscommon County Airport, Roscommon, Mich., utilizing a privately owned radio beacon located on the airport as a navigational aid, it is necessary to designate a transition area at Roscommon, Mich., to protect aircraft executing this approach procedure. IFR air traffic into and out of Roscommon County Airport will be controlled by the Minneapolis Air Route Traffic Control Center through the Traverse City, Mich., Flight Service Station.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (32 F.R. 2148), the following transition area is added:

ROSCOMMON, MICH.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Roscommon County Airport (latitude 44°22'00" N., 84°40'00" W.); and within 2 miles each side of the 022° bearing from Roscommon County Airport, extending from the airport to 8 miles east of the airport; and that airspace extending upward from 1,200 feet above the surface within 5 miles south and 8 miles north of the 082° bearing from Roscommon County Airport, extending from the airport to 12 miles east of the airport; and within 5 miles each side of the 250° bearing from Roscommon County Airport, extending from the airport to the Lake City, Mich., transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued at Kansas City, Mo., on November 7, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 67-14041; Filed, Nov. 30, 1967; 8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2, 87]

[Docket No. 17880; FCC 67-1279]

AIR CARRIER AIRCRAFT RADIO STATIONS

Use of Certain Frequency

In the matter of amendment of Parts 2 and 87 to allow use of the frequency 122.8 Mc/s by air carrier aircraft radio stations, Docket No. 17880.

1. Notice of proposed rule making in the above-entitled matter is hereby given.

2. In the course of administering the Aviation Services—Part 87, it has come to the attention of the Commission that certain restrictions on the use of 122.8 Mc/s may be fostering a situation which is not in the best interest of aviation safety. The frequency 122.8 Mc/s is used at airports where there is no airdrome control radio station. With respect to aircraft radio stations, the Commission's rules authorize the use of 122.8 Mc/s for private aircraft stations only; however, air carrier aircraft under 10,000 pounds may be considered at the applicant's option as a private aircraft and use private aircraft frequencies even though engaged in air carrier operations. This option allows small air taxi aircraft flying into airports that have only 122.8 Mc/s to receive air/ground communications from aeronautical advisory stations.

3. With the rapid growth in aviation, the aircraft have become larger and larger so that the situation exists where air carrier aircraft over 10,000 pounds are operating at airports that have only 122.8 Mc/s. To deny these air carrier

aircraft access to what may be the only means of air/ground radio communications at a landing area creates a situation which could have a serious impact on aviation safety. Recently, the Commission granted a waiver of the rules to permit air carrier aircraft of Buker Airways, Inc., to use 122.8 Mc/s. In addition, a request has been received from Chartair, Inc., of Ithaca, N.Y., to make this frequency available to air carrier aircraft.

4. In view of the foregoing, it is proposed to amend Part 87—Aviation Services to make 122.8 Mc/s available to air carrier aircraft. The proposal will also make the frequency available for air carrier aircraft for plane to plane communications. This latter capability should assist in avoiding any mid-air collisions between private aircraft who are normally operating on 122.8 Mc/s and air carrier aircraft.

5. The proposed amendments, as set forth below, are issued pursuant to the authority contained in sections 4(i) and 303(b)(c) and (r) of the Communications Act of 1934, as amended.

6. Pursuant to the applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before December 26, 1967, and reply comments on or before January 5, 1968. All relevant and timely filed comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into consideration other relevant information before it, in addition to the specific comments invited by this Notice.

7. In accordance with the provisions set forth in § 1.419 of the Commission's rules, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: November 22, 1967.

Released: November 27, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

1. In § 2.1 the definition of aeronautical advisory station is amended to read as follows:

§ 2.1 Definitions.

* * * * *

Aeronautical advisory station. An aeronautical station used for advisory and civil defense communications primarily with private aircraft stations.

* * * * *

§ 2.106 [Amended]

2. Footnote US31 to the Table of Frequency Allocations, § 2.106, is amended to read as follows:

Except as provided below, the band 121.975–123.075 Mc/s is for use private aircraft stations.

The frequencies 122.80, 122.85, 122.95, 123.00, and 123.05 Mc/s may be assigned to aeronautical advisory stations.

The frequency 123.00 Mc/s may be assigned to aeronautical multicom stations.

Air carrier aircraft stations may use 122.00 Mc/s for communications with aeronautical stations of the Federal Aviation Administration and 123.6 Mc/s for communications with other aircraft and with aeronautical advisory stations.

Frequencies in the band 121.975–123.625 Mc/s may be used by aeronautical stations of the Federal Aviation Administration for communication with private aircraft stations only except that 123.0 Mc/s may also be used for communication with air carrier stations concerning weather information.

3. In § 87.5 the definition of aeronautical advisory station is amended to read as follows:

§ 87.5 Definition of terms.

* * * * *

Aeronautical advisory station. An aeronautical station used for advisory and civil defense communications primarily with private aircraft stations.

* * * * *

4. A new paragraph (f) is added to § 87.196 to read as follows:

§ 87.195 Frequencies available.

* * * * *

(f) The frequency 122.80 Mc/s is available to air carrier aircraft for communication (1) with aeronautical advisory stations in accordance with Subpart C of this part when communications service from FAA or other ground stations is not available or it is unable to be maintained and (2) between aircraft while in flight provided that harmful interference is not caused to air-ground communications and such communications pertain to safety of flight.

5. Paragraph (c) of § 87.201 is amended to read as follows:

§ 87.201 Frequencies available.

* * * * *

(c) These frequencies are available to private aircraft stations for communications (1) with aeronautical advisory stations in accordance with Subpart C of this part and (2) between aircraft while in flight provided that harmful interference is not caused to air-ground communications and such communications pertain to the safety of the flight:

122.80, 122.85, 122.95, and 123.05 Mc/s

In addition, brief keyed RF signals may be transmitted on these frequencies for the control of airport lights from aircraft on the condition that no harmful interference is caused to authorized voice communications.

* * * * *

6. A new subparagraph (3) is added to paragraph (d) of § 87.257 is amended to read as follows:

§ 87.257 Scope of service.

* * * * *

(d) * * *

(3) Communications between an aeronautical advisory station and air carrier aircraft shall be limited to the necessities of safety of life and property in the air.

* * * * *

[F.R. Doc. 67-14026; Filed, Nov. 30, 1967; 8:46 a.m.]

FEDERAL MARITIME COMMISSION

[46 CFR Part 514]

[Docket No. 67-57]

SIGNIFICANT VESSEL OPERATING COMMON CARRIERS IN DOMESTIC OFFSHORE TRADE

Reports of Rate Base and Income Account

Notice is hereby given that the Federal Maritime Commission is considering the promulgation of rules which will require vessel operating common carriers by water in the domestic offshore trades who have earned gross revenue in a trade of $1 million or more for their fiscal year as provided in this part (significant carriers) to file with the Commission, normally on an annual basis, statements setting forth rate bases and income accounts for that regulated trade. The Commission has now had several years of experience using the information reported under the rules of General Order 11 (46 CFR Part 512) and has determined that more detailed information is required from the significant common carriers by water subject to the Commission's General Order 5 (46 CFR Part 511) so that the Commission will be able to expedite the discharge of its duties under the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933. There are five major areas of change between the existing rules and those proposed herein. These areas are:

1. The substitution of a volume unit basis (Cargo Cube) for the combined weight and volume unit basis (Revenue Tons) as a cost allocation factor.

2. The segregation of costs into distinct mediums of carriage (Containerships, Breakbulk Vessels, and Other Vessels).

3. The identification within each of the mediums of carriage of costs related to at least two general categories of cargo (Reefer Cargo and Nonreefer Cargo).

4. The separation of vessel expense into sea time and port time segments and the further division of each of these into active and idle.

5. The determination of unit rates of cost for each segment of expense for each medium of carriage, and for each category of cargo.

The Commission recognizes that the submission of the more detailed information required by this proposal will, in some instances, add to the record-keeping burden of the carriers. It is considered, however, that this increased burden will be offset by a reduction of requests from the Commission and other parties for special cost information and a concurrent reduction in investigations and suspensions of proposed tariff changes pending receipt and study of special information.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553), sections 18, 21, and 43 of the Shipping Act, 1916 (46 U.S.C. 817, 820, and 841a), and sections 2, 4, and 7 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 844, 845(a), and 847), Title 46, CFR, is proposed to be amended by inserting a new Part 514 reading as follows:

PART 514—REPORTS OF RATE BASE AND INCOME ACCOUNT BY SIGNIFICANT VESSEL OPERATING COMMON CARRIERS IN THE DOMESTIC OFFSHORE TRADES

Sec.
514.1 Purpose.
514.2 General requirements.
514.3 Affidavit.
514.4 Access to working papers.
514.5 Definitions.
514.6 Forms and instructions.

AUTHORITY: The provisions of this Part 514 issued pursuant to secs. 18, 21, 43, Shipping Act, 1916; 46 U.S.C. 817, 820, and 841a; secs. 2, 4, and 7, Intercoastal Shipping Act, 1933; 46 U.S.C. 844, 845(a), 847.

§ 514.1 Purpose.

The purpose of the rules in this part is to require the filing of additional information by the significant common carriers by water subject to the Commission's General Order 5 (Part 511 of this chapter) so that the Commission will be able to expedite the discharge of its duties under the Shipping Act, 1916 and the Intercoastal Shipping Act, 1933.

§ 514.2 General requirements.

(a) All persons engaged in the operation of cargo vessels in the common carriage of persons or property in the domestic offshore trades (except persons engaged in intrastate operations in Alaska and Hawaii) and required by the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933, to file tariffs with the Federal Maritime Commission, who have earned gross revenue in a trade of $1 million or more for their fiscal year as provided in this part shall execute and file, in triplicate, with the Secretary of the Federal Maritime Commission, statements of rate base and income account for each such domestic offshore trade and any other domestic offshore trades serving the same nonconiguous area as defined in this part in lieu of the reports required by Part 512 of this chapter (Federal Maritime Commission General Order 11).

(b) Annual statements shall be filed within 120 days after the close of the carrier's first fiscal year beginning after December 31, 1967.

(c) Upon application the Commission may:

(1) Grant reasonable extensions of the time limit prescribed by this section for filing the statements and data required by this part: *Provided*, That:

(i) The application therefor is received a reasonable time before the statements and data are due, which shall ordinarily be considered a minimum of 15 days;

(ii) The application sets forth reasons which justify the extension requested;

(iii) The application states a specific date on or before which the statements and data will be filed; and

(iv) The application is not construed as constituting relief from possible penalties for late filing, unless granted;

(2) Relieve a carrier from full compliance with this part and submit other data as the Commission deems necessary: *Provided*, That:

(i) The application, showing good cause, and accompanied by a list of the data which the carrier proposes to submit in lieu of the required statements or the data themselves is filed a reasonable time (which shall ordinarily be considered a minimum of 60 days) before the statements and data under this part are due; or

(ii) When it finds it unnecessary to require full compliance with this part to carry out its regulatory functions.

(d) The Commission may require a carrier to file the statements and data required by this part within 90 days after the end of the first 6 months of the carrier's fiscal year, unless the carrier files with the Federal Maritime Commission within 30 days after the close of the 6-month period, certification to the effect that no significant changes have taken place during such period in route(s), service(s), number of vessels employed, types of vessels employed, costs of operations, volume of cargo carried, and amount of revenue earned.

(e) Where it is necessary to allocate property, revenue (except net passenger and other voyage revenue), costs, and expenses, the allocation shall be on a direct basis, if practicable, and if not, in the manner prescribed in § 514.6. All direct allocations shall be explained by footnotes to the appropriate schedule.

(f) All carriers subject to the reporting requirements of this part must comply fully with the instructions outlined herein, both as to the submission of the specified reports and as to compliance with the methods prescribed for their preparation. The carrier may present material prepared by alternative methods of allocation or other approaches to the problems inherent in this type of reporting, but such material will be in addition to, not in lieu of, the required statements and data. When such additional material is submitted, the methods used shall be explained and fully supported.

(g) The establishment of the rules and regulations prescribed in this part is without prejudice to the right of the Federal Maritime Commission to employ other bases for allocation and calculation in any instance where in its opinion the application of such rules and regulations create unreasonable results.

(h) With respect to the annual statements required by this part, all data must be based on amounts shown in the annual financial statements filed with the Federal Maritime Commission in compliance with General Order 5 (Part 511 of this chapter). Where any amount differs from those reported in the annual statements Forms FMC–63 or FMC–64, the difference shall be set forth and fully explained.

(i) All calculations required by allocations herein shall be carried to five places beyond the decimal point; e.g., 97.54321 percent.

(j) All schedules required under this part shall be accounted for on each submission, annual or 6-month, by actual inclusion of the schedule marked "None" or "Not Applicable", or by use of such notation(s), where appropriate, in a table of contents listing each exhibit and schedule by number and name. Supporting subschedules shall be so identified, shall refer to the schedule or schedules supported, and if one of a serial shall so indicate. Principal schedules shall identify any supporting subschedule(s).

§ 514.3 Certification.

The data required by this part shall be accompanied by a certification of the corporate officer responsible for the maintenance and accuracy of the books, accounts, and financial records of the carrier that:

(a) The books and accounts have been maintained consonant with an appropriate system of accounts in accordance with generally accepted accounting principles; and

(b) The exhibits and schedules have been prepared from the books and records of the carrier in accordance with this part.

§ 514.4 Access to working papers.

All working papers (irrespective of by whom prepared) in support of all exhibits and schedules submitted, as well as the books and records of the carrier and any related company performing services for the carrier in the trade, shall be made available upon request for examination by auditors representing the Federal Maritime Commission; and said auditors shall be permitted to make copies of such records to the extent they deem necessary.

§ 514.5 Definitions.

Various expressions, terms, and designations used herein may or may not not have additional meanings or usage. For the purposes of this part, however, these terms are expressly limited as follows:

(a) *Definitions relating to voyages.* (1) "Voyage" normally means a completed round voyage from port of origin and return to port of origin. In no case shall a voyage be split to reflect outward and inward services separately. However, when a vessel is reassigned to a new U.S. basing point, then the voyage is from the old U.S. port of origin to the new U.S. port of origin. Where a vessel performs outbound in the service and then proceeds to charter, the voyage will be considered to be terminated upon completion of the discharge of the last cargo in the service. The requirement respecting commencement and termination of a completed round voyage by a carrier party to an operating differential subsidy agreement may be observed by such carrier for the purposes of this part. Voyages generally are considered to be terminated and the next succeeding voyage or a layup period to commence on the completion of one of the following operations or events:

(i) The latest of:

(a) Crew paid off;

(b) Discharge of last of homeward cargo; or

(c) Completion of repairs (excluding annual overhaul and emergency repairs); or

(ii) Midpoint in time of operations simultaneously loading and unloading cargo; and

(iii) Usually this will be considered to have happened either at noon or midnight of the day on which the determining operation is completed.

(2) "Domestic Offshore Trades" means those trades engaged in by common carriers by water operating: (i) Between the United States and its territories, possessions, and Puerto Rico; (ii) between or within those territories, possessions, and Puerto Rico; (iii) between continental United States and Hawaii and Alaska; and (iv) between, but not within, Hawaii and Alaska.

(3) "The Service" means all voyages of cargo vessels performed by common carriers by water on which any cargo was carried in the trade.

(4) "The Trade" means the carriage in the service in cargo vessels by common carriers by water of cargo in a domestic offshore trade under the terms of tariffs, on file with and regulated by the Federal Maritime Commission. The trade will ordinarily encompass a group of ports served by a vessel or group of vessels having established voyage itineraries. A vessel or group of vessels serving different groups of ports on different voyages shall be considered to be in more than one trade except that a vessel serving an established group of ports that calls upon other ports on an occasional basis during the course of its regular voyage itinerary shall be considered to be in the trade of its regular ports. Examples of trades are carriages of cargo between:

(i) Any one of the following continental areas:

(a) North Atlantic (Maine to Hatteras);

(b) South Atlantic (Hatteras to Key West);

(c) Gulf (Key West to Brownsville);

(d) West Coast (Mexico to Canadian border); and

(ii) Any one of the following noncontiguous areas:

(a) Puerto Rico (all ports);

(b) Virgin Islands (all ports);

(c) Guam, Midway, and Wake Islands;

(d) American Samoa;

(e) Hawaii;

(f) Southeast Alaska, between the Canadian border and Dry Bay;

(g) South Central Alaska, from Dry Bay to but not including Kamishak Bay;

(h) Southwest Alaska from Kamishak Bay, west and south of the Alaska Peninsula to Attu Island, including Kodiak Island;

(i) Northwest Alaska, the remainder of Alaska, north of the Alaska Peninsula;

(iii) Between, but not within, the States of Hawaii and Alaska; and

(iv) Between or within those territories, possessions, and the Commonwealth of Puerto Rico.

(5) "Other Services" means all voyages performed by common carriers by water on which no cargo was carried in the trade.

(b) *Definitions relating to vessel classes.* (1) "Cargo vessel" means a self-propelled or non-self-propelled waterborne vessel which carries cargo, but does not include a vessel which carries or is authorized to carry more than 12 passengers. The means of propulsion of a non-self-propelled vessel is part of the cargo vessel.

(2) "Containership" means a vessel designed and constructed primarily for the carriage of rigid reusable containers, without wheels, normally of steel or aluminum construction and having an expected life in excess of 1 year. These containers are carried in holds constructed for their carriage and on deck. Containerships may also carry minor amounts of liquid or breakbulk cargoes in deep tanks or elsewhere.

(3) "Breakbulk vessel" means a vessel not designed and constructed primarily for the carriage of any specific types or units of cargo. It may carry a limited number of containers, wheeled vehicles, etc., as well as palletised cargo and minor amounts of liquid or gaseous cargo in drums and deep tanks.

(4) "Other vessel" means a vessel other than a containership or breakbulk vessel devoted primarily to the carriage of limited types of cargo such as railway cars, wheeled vehicles, lighters, or barges.

(c) *Definitions relating to cargo.* (1) "Cargo category" means a description of a characteristic of cargo related to its transportation and handling, and used as the point of reference for accumulating costs. For the purpose of this order two cargo categories are prescribed for use and additional cargo categories may be established and defined by the individual carriers as they deem necessary. The prescribed cargo categories are:

(i) "Reefer cargo" means cargo which is kept at a fixed or fixed range of temperatures while in the custody of the carrier. Reefer cargo may be carried on any of the vessel classes.

(ii) "Nonreefer cargo" means cargo which is not kept at a fixed or fixed range of temperatures while in the custody of the carrier. Nonreefer cargo may be carried on any of the vessel classes.

(2) "Trade cargo" means cargo included for cost accumulation in any of the cargo categories and which is carried by a cargo vessel in the trade: *Provided, however,* That if the gross revenue derived from the carriage of other cargo does not exceed 5 percent of the gross revenue derived from the service the other cargo may be considered as trade cargo for the purposes of this part.

(3) "Other cargo" means carriage in the service in cargo vessels of any cargo other than that in the trade. Other cargo shall include:

(i) "ICC cargo" which means cargo carried by a cargo vessel in the trade subject to tariffs on file with the Interstate Commerce Commission;

(ii) "Foreign cargo" which means cargo carried by a cargo vessel in the trade subject to tariffs on file with the Bureau of Compliance of the Federal Maritime Commission;

(iii) "Military cargo" which means cargo carried by a cargo vessel in the trade subject to rates and conditions of carriage negotiated with the Military Sea Transportation Service; and

(iv) "All other cargo" which means all other categories of cargo.

(d) *Definitions relating to operating statistics.* (1) "Cargo cube" means the product of the outside dimensions, expressed in cubic feet, of a unit of cargo regardless of the fact that revenue on the unit of cargo may be computed on a basis other than cargo cube. In computing the cargo cube for cargo carried in containers, the outside dimensions of the container shall be used regardless of the fact that it may not be completely filled. In computing the cargo cube for railroad cars, containers having attached wheels, Lash lighters, or any other similar device where the actual cargo capacity of the device is substantially different from the outside cube of the device itself, the outside cube of the device including its wheels shall be used for the purposes of this part. Empty devices, such as containers, etc., shall not be included in the computation of cargo cube.

(2) "Cargo cube handled" means the total of the cargo cube loaded on and unloaded from a cargo vessel.

(3) "Cargo cube miles" means the product of the cargo cube carried between each port of origin and destination multiplied by the number of nautical miles representing the shortest navigable distance between the two ports as set forth in:

(i) "Distance between ports"—Department of The Navy, Oceanographic Office;

(ii) "Distance between U.S. ports"—U.S. Department of Commerce, Coast and Geodetic Survey; or

(iii) If not listed in either of these publications, as approved by the Bureau of Financial Analysis of the Federal Maritime Commission.

In those instances where cargo is unloaded at a port other than that of its ultimate destination and then loaded onto another cargo vessel of the same carrier for the continuation of its carriage, the number of miles used in computing cargo cube miles shall be the sum of the direct mileage between the port or origin and the port of transshipment and the port of transshipment and the port of final destination. Where revenue derived from the carriage of passengers and other services is treated herein as a reduction of costs under § 514.6(c)(2) the cargo cube, if any, from which such revenue is derived shall be excluded from the cargo cube miles calculations required herein. Where the service of the carrier is solely between ports in the continental United States and domestic offshore ports, and where there are no significant differences between the distances from the various continental ports and the several domestic offshore ports and the ocean rates between said ports are identical, the cargo cube relationship may be used in lieu of the cargo cube mile relationship.

(4) "Cargo cube mile relationship" means the relationship between cargo cube miles for all cargo carried in the trade, on the one hand, and the total cargo cube miles for all cargo carried in the service, on the other. Normally the total of all cargo cube miles will be a figure of considerable magnitude; therefore, three digits shall be dropped from the total to provide the data in terms of thousands of cube miles.

(5) "Sea time active" means that time elapsed during the voyage when the vessel was directly underway from one port to another for the purpose of loading or discharging cargo at the port. This period would ordinarily encompass the period from casting off at the last loading berth at the port of departure to making fast to the first loading berth at the port of arrival except for time spent at anchor awaiting the availability of a loading berth or sea time idle periods as defined immediately following.

(6) "Sea time idle" means that time elapsed during a voyage, in excess of 24 hours, while the vessel was at sea but was not proceeding from port to port for the purpose of loading or discharging cargo. Examples are:

(i) Mechanical failure or damages sufficiently serious to require stopping the engines or diversion to an otherwise unscheduled port in order to make repairs;

(ii) Rescue operations requiring a diversion from the planned route.

(7) "Port time active" means that time elapsed during a voyage:

(i) From commencement thereof to departure from the port of origin;

(ii) From time of arrival to time of departure at each port of call including time at anchor awaiting a berth;

(iii) From time of arrival to voyage termination at the port of termination;

(iv) Less that time considered to be port time idle.

(8) "Port time idle" means that time elapsed during the port time portion of a voyage, in excess of 24 hours, when the vessel was kept in port as a matter of management decision or because of operating conditions at the port in which the vessel is held. Examples of port time idle would be holding a vessel at its home port in order to maintain announced sailing dates, voyage repairs, and strikes.

(e) *Definitions relating to costs.* (1) "Vessel operating expense" (which may be determined on a company-wide basis, for the service, or for the trade) means:

(i) For those carriers required to file FMC-64, the total of operating expense—terminated voyages, including port, cargo, freight brokerage, and other voyage expense;

(ii) For those carriers required to file FMC-63, basically the same data as outlined in subdivision (i) of this subparagraph, but in the format and detail set forth in Schedule VIII(A).

(2) "Vessel expense" means that part of vessel operating expense relating to use of the vessel itself. These expenses include:

(i) For those carriers required to file FMC-64 accounts 701-764;

(ii) For those carriers required to file FMC-63 accounts 402-428, 472-475, 481, and 485.

(3) "Vessel expense relationship" means the relationship between vessel expense allocated to the trade on the one hand and vessel expense of the service on the other.

(f) *Other definitions.* (1) "Related companies" means companies or persons that directly, or indirectly through one or more intermediaries, control, or are controlled by, or are under common control with, the accounting carrier. The term "Control" (in reference to a relationship between any person or persons and another person or persons) shall be construed to include actual as well as legal control, whether maintained or exercised through or by reason of the method of or circumstances surrounding organization or operation, through or by common directors, officers, or stockholders, a voting trust or trusts, a holding or investment company or companies, or through or by any other direct or indirect means; and to include the power to exercise control.

(2) "Stuffing" referred to by some carriers as platforming, means the activity of loading cargo into containers or unloading cargo from containers. This would include for cargo being loaded unloading the cargo from an incoming vehicle, if performed by the carrier; moving the cargo to the containers; and loading and closing the container. For cargo being unloaded stuffing would include the equivalent operations in reverse sequence.

(3) "Carrier trucking" means the performance by the carrier or its agents of any of the following activities:

(i) For outbound cargo:

(a) Picking up cargo at a shipper's premises within the port area and transporting it to the pier or a location contiguous to the pier for loading on a vessel;

(b) Picking up cargo at a shipper's premises within the port area and transporting it to the carrier's terminal or other location;

(c) Transporting cargo from the carrier's terminal or other location if they are noncontiguous to the pier; and

(ii) For inbound cargo:

(a) Transporting cargo from the pier to the carrier's terminal or other location if they are noncontiguous to the pier;

(b) Transporting cargo from the carrier's terminal or other location and delivering it within the port area; and

(c) Transporting cargo from the pier or a location contiguous to the pier and delivering it within the port area.

§ 514.6 Forms and instructions.

(a) *General.* (1) The information required by this part shall be submitted in the form of the prescribed exhibits and schedules and shall consist of: Exhibit A, Rate Base and supporting schedules, and Exhibit B, Income Account and supporting schedules.

(2) The required exhibits and schedules are described in the following paragraphs. Pro forma statements have been prepared by the Commission and may be obtained upon request from the Director, Bureau of Financial Analysis, Federal Maritime Commission, Washington, D.C. 20573. These pro forma statements are based on the Uniform System of Accounts for Maritime Carriers prescribed by the Maritime Administration and the Interstate Commerce Commission. For those carriers who are required to file FMC-63, a means has been provided whereby the accounts prescribed by the Interstate Commerce Commission for Carriers by Inland and Coastal Waterways may be reconciled with the requirements of these statements. For such carriers, alternative schedules have been provided where necessary, each identified by suffix A.

(b) *Rate Base (Exhibit A).*—(1) *Investment in vessels (Schedule I).* Each cargo vessel owned by the carrier and employed in the service shall be listed by name and class showing the original cost to the carrier, or if acquired by the carrier from a related company at the original cost to the first related company acquiring the vessel, plus the cost of betterments, conversions, and alterations, less the cost of any deductions, all as at the beginning of the year. All additions and deductions made during the period shall be shown gross and on a pro rata basis reflecting the number of days they were actually in use during the period. The result of these computations shall be called adjusted cost.

(i) The cargo vessels employed in the service may be subdivided into two categories:

(a) Those cargo vessels employed exclusively in the service for the entire period, inclusive of normal periodic layups, and which at no time during the period performed voyages other than in the service. For such vessels, the adjusted cost shall be included in the total to be allocated to the trade.

(b) Those cargo vessels employed in the service for less than the entire period. For such vessels the adjusted cost shall be allocated between voyages in the service and voyages in other services on the basis of the relationship that the number of calendar days in each bears to the total of both. The total number of days thereby derived will not normally equal the number of days in the reporting period because layup days are not included. Layup days of vessels in this category will normally be assigned between the respective services on the same basis as that employed in allocating the adjusted costs of such vessels; i.e., active calendar days. However, if one or more of the vessels normally employed in the service have been diverted temporarily to other services in lieu of incurring layup expense, no assignment of layup time to other services is required. On the other hand, if a vessel or vessels are permanently withdrawn from the service and laid up pending disposition, the period of layup shall be assigned to other services. In summary, an inequitable amount of layup days shall not be assigned to

the service or to the trade. That portion of the adjusted cost of the vessels not allocated to other services shall be included in the total to be allocated to the trade.

(ii) The total adjusted cost of each class of vessel employed in the service during the period which has not been allocated to other services as required by subdivision (i) (*b*) of this subparagraph shall be distributed between the trade and other cargo in the vessel expense relationship.

(2) *Reserve for depreciation—vessels (Schedule II)*. (i) Each cargo vessel, excluding chartered vessels, employed in the service shall be listed separately showing for each its depreciable life and residual value used for depreciation purposes. The accumulated reserve for depreciation as at the beginning of the year shall be reported and shall be allocated to the service and to the trade in the same manner and in the same proportion as is the cost to the vessel in Schedule I. If the depreciable life of any equipment installed on vessels differs from that of the vessel, the cost thereof and the depreciation basis shall be set forth separately.

(ii) For any vessels disposed of during the period, a deduction shall be made representing a daily proportion of the period following the date of disposal corresponding to the similar deduction as required by subparagraph (1) of this paragraph.

(3) *Other owned property and equipment (Schedule III)*. Actual investment in other fixed assets employed in the service as at the beginning of the year, representing original cost to the carrier, or if acquired by the carrier from a related company at the original cost to the first related company acquiring the asset shall be set forth. Additions and deductions during the period shall also be reported, and the carrier may assume that all such changes took place at midyear except for those involving substantial sums which shall be prorated on a daily basis. Assets shall be grouped in major categories as required by the appropriate annual financial statements FMC–63 or FMC–64. The basis of allocation to the rate base of each item reported shall be set forth and shall be based upon the use thereof within the trade. Any computations of percentages employed shall also be set forth. Assets employed in a general capacity, such as office furniture and fixtures, shall be allocated to the trade in the same manner as overhead expenses (paragraph (c) (7) of this section).

(4) *Reserve for depreciation—other owned property and equipment (Schedule IV)*. Reserves for depreciation, related to the other fixed assets employed in the service, as at the beginning of the year, shall be set forth. These reserves shall be proportionately reduced, as required by paragraph (c) (2) (ii) of this section for any significant deductions during the year. Grouping into major categories and allocation to the rate base shall be made on the same basis as the fixed asset to which the reserve for depreciation applies.

(5) *Working capital (Schedule V)*. Working capital shall be included on the average voyage expense basis computed as follows:

(i) Average voyage expense shall be determined on the basis of the actual expenses of operating and maintaining the vessels employed in the service (excluding layup expenses) for a period represented by the average length of time of all round voyages (excluding layup periods) terminated during the period on which any cargo was carried in the trade. The expense of operating and maintaining the vessels employed in the service shall include:

(*a*) Administrative and general expense (accounts 900–955 less accounts 670 and 695), allocated to the service in the same manner as overhead expenses (paragraph (c) (7) of this section); and

(*b*) Total vessel operating expense—terminated voyages (accounts 701–799 inclusive). For this purpose, if the average voyage, as determined above, is of less than 90 days' duration, the expense of hull and machinery and P & I Insurance (accounts 755 and 757, respectively) shall be determined to be that for 90 days: *Provided*, That such allowance for insurance expense shall not, in the aggregate, exceed the total actual insurance expense for the period.

(ii) The determination shall be made in the following manner:

(*a*) First, by dividing the sum of such expenses for the period involved applicable to the vessels in the service by the aggregate number of days consumed in all voyages of such vessels in the service terminating during such period;

(*b*) Second, by multiplying the quotient thus obtained by the number of days (excluding layup days) in the average voyage in the service; and

(*c*) Third, by multiplying the resulting product by the quotient of the total number of days (excluding layup days) consumed in voyages of vessels in the service terminating during the period divided by the number of calendar days within the period.

(iii) Where vessel operating expense is allocated as provided in paragraph (c) (2) of this section, working capital (average voyage expense) shall be computed on the basis of vessel operating expense (including passenger brokerage) of the service and then allocated to the trade in the relationship that vessel operating expense of the trade bears to vessel operating expense of the service. This schedule is not required of those carriers who annually file FMC–63 with the Federal Maritime Commission.

(6) *Working capital (Schedule V(A))*. Working capital for carriers who annually file FMC–63 with the Federal Maritime Commission shall be equal to one-twelfth of the expenses of the carrier during a 12-month period (one-sixth of the expenses of the carrier during a 6-month period), computed as follows: Add together the carrier's expenses during the period for vessel operating expense, inactive vessel expense, other shipping operations, and overhead expense, each as allocated to the trade and shown respectively on Schedules VIII(A), IX, X(A), and XI(A) and divided the total by 12 or 6 as may be appropriate.

(7) *Other assets (Schedule VI)*. Any other assets owned by the carrier and claimed as components of its rate base shall be set forth separately in a schedule and related to amounts shown in the annual financial statements FMC–63 or FMC–64. The basis of allocation to the trade shall be fully explained and supported by computations of percentages employed.

(8) *Capitalized leases (Schedules I–CL, II–CL, III–CL, and IV–CL)*. Where leases are recorded as purchases in accordance with Opinion No. 5 issued in September 1964 by the Accounting Principles Board of the American Institute of Certified Public Accountants, and are shown as assets in the annual financial reports of the carrier to its stockholders, the capitalized amounts and applicable reserves shall be set forth in schedules similar to those used in reporting owned assets; and an appropriate allocation of such capitalized amounts and applicable reserves shall be included in the rate base. The schedules used in reporting such leases recorded as purchases and their related reserves shall be designated I–CL, II–CL, III–CL, and IV–CL to correspond with Schedules I, II, III, and IV; and the basis of allocating such leases and reserves to the trade shall be set forth and explained on the pertinent schedule.

(9) *Property and equipment of related companies (Schedules I–RC, II–RC, III–RC, and IV–RC)*. Where vessels and other property and equipment owned by related companies are used in the trade by or on behalf of the carrier, under charter or other use agreement, formal or informal, the original cost of such assets to the first related company acquiring the asset and the applicable reserves shall be set forth in schedules similar to those used in reporting owned assets; an appropriate allocation of such cost and reserve shall be included in the rate base; and the profits of the related companies from such use shall be included in the income account as provided in paragraph (c) (12) of this section. The schedules used in reporting such assets owned by related companies and their related reserves shall be designated I–RC, II–RC, III–RC, and IV–RC to correspond with Schedules I, II, III, and IV; and the basis of allocating such assets and reserves to the trade shall be set forth and fully explained on the pertinent schedule.

(c) *Income account (Exhibit B)*—(1) *Operating Revenue (Schedule VII and VII(a))*. (i) Revenue allocated to the trade shall include only revenue earned from the common carriage of cargo in the domestic offshore trade on voyages terminated during the period, except that minor amounts of other cargo may be considered trade cargo in accordance with § 514.5(c) (2). Cargo cube and revenue amounts shall be reported separately for each of the 15 commodities producing the highest revenues in the trade or for the number of commodities comprising at least 50 percent of the revenue in the trade, whichever is greater, for the outbound portion of the voyage and for each of the 15 commodities producing the highest revenues in the trade or for the number of commodities comprising at least 50 percent of the revenue in the trade, whichever is greater, for the inbound portion of the voyage. However, no separate listing shall be made for any commodities of less than 20,000 cubic feet. Where the tariff for the carriage is on the basis of a container rate, regardless of the actual commodity carried in the container, the container shall be considered as a commodity. Where tariffs for the listed commodities are stated on a basis other than measurement, a statement of the tariff basis and the method and factors used to convert from the tariff basis to the measurement basis shall be included for each such commodity in footnotes on this schedule and where the same commodity is carried under several tariff designations such as potatoes refrigerated, potatoes nonrefrigerated, potatoes in bags, and potatoes in containers each of these designations shall be considered as an individual commodity. In those instances where a cargo cube is reported for containerized cargo, or for specialized cargo carried in railroad cars, vehicles, Lash lighters, or other similar devices the equivalent cargo cube shall also be reported based upon the inside or useable dimensions of these devices.

(ii) Revenue arising from the carriage of other cargo shall be reported showing the amounts earned and related cargo cube for ICC cargo, foreign cargo, military cargo, and all other cargo. In addition the carrier shall identify the categories of all other cargo by a footnote on the schedule.

(2) *Vessel Operating Expense (Schedule VIII)*. A vessel operating expense summary of all voyages terminated during the period in which any cargo was carried in the service shall be submitted for each class of vessel, as defined in § 514.5(b) (2), (3), and (4), setting forth allocations to the trade on the following bases:

(i) The total of vessel expense of each class of vessel, excluding the cost of fuel, shall be divided into four statuses: Sea time active, sea time idle, port time active, and port time idle, as defined in § 514.5(d) (5), (6), (7), and (8), respectively. This division shall be made on the basis of actual minutes spent in each status derived from deck logs or other operating data.

(*a*) Sea time active expense shall be divided between trade and other cargo in the service and within the trade further divided between reefer cargo and nonreefer cargo. This division shall be accomplished by first making any direct allocations which are appropriate and significant and by allocating the remainder in the cargo cube mile relationship.

(*b*) Port time active expense shall be determined individually for each port in the trade and in total for all other ports. Port time active expense for each port in the trade shall then be allocated directly to the extent appropriate and significant and the remainder in the cargo cube handled relationship by ports between the cargo categories.

(*c*) Sea time idle expense, port time idle expense and fuel costs determined in subdivision (ii) of this subparagraph to be applicable thereto shall be allocated to the cargo categories in the vessel expense relationship.

(ii) The total fuel cost for each class of vessel shall be divided into sea time active, sea time idle, port time active, and port time idle segments by dividing the total consumption of fuel at sea by the total minutes at sea to determine the average consumption rate per minute and by dividing the total consumption of fuel in port by the total minutes in port to determine the average consumption rate per minute. These average rates shall be applied to the minutes in each status to determine the total quantity of fuel consumed during each time status. The total fuel cost shall be prorated to the voyage time statuses in proportion to the quantity of fuel consumed. Fuel costs, shall also be determined individually for each port included in the trade and in total for all other ports in the service. The sea time active and port time active segments of fuel cost shall be allocated to cargo categories in the same proportions that sea time active and port time active expenses were allocated to cargo categories in subdivision (i) (*a*) and (*b*) of this subparagraph.

(iii) Port, cargo, freight brokerage, and other voyage expenses shall be allocated directly to the various applicable cargo categories, separately by ports at which incurred, to the extent practicable. In addition, all costs relating to stuffing or carrier trucking which have been recorded in any of the accounts of this group shall be allocated directly to stuffing and carrier trucking and further allocated in accordance with (*d*) of this subdivision. To the extent the costs are not directly allocable, they shall be allocated as follows:

(*a*) Port expense on a port-by-port basis for ports in the trade and in total for other ports in the service in the cargo cube handled relationship;

(*b*) Cargo expense comprising stevedoring and other cargo expense as follows:

(*1*) The stevedoring charges shall be subdivided into reasonable components such as: heavy lift, on-loading and off-loading of containers, special reefer cargo handling charges, automotive vehicles, etc. Each of these subdivisions shall be allocated to cargo categories in the cargo cube handled relationship, or on some other appropriate basis such as hundredweight or per container. The basis of allocation shall be described in a footnote on the schedule. The cost per unit of cargo shall be noted in each instance.

(*2*) Other cargo expense in the cargo cube handled relationship.

(*c*) Freight brokerage and other voyage expenses shall be allocated to the appropriate cargo categories in the cargo cube handled relationship.

(*d*) Costs of carrier trucking and costs of stuffing, individually on a port-by-port basis for ports in the trade and in total for other ports in the service in the appropriate cargo cube relationship or on any other appropriate basis such as hundredweight or number of containers receiving the service. The basis of allocation and the cost per unit shall be described on the schedule.

(iv) Passenger revenue less passenger brokerage and other voyage revenue earned in The Service shall be deducted from vessel operating expense and distributed between the trade and other cargo and within the trade to the various cargo categories in the cargo cube mile relationship.

(v) An analysis of the charter hire included in vessel expense of the service shall be submitted for each vessel class showing:

(*a*) The name of the vessel(s);

(*b*) From whom chartered;

(*c*) The owner(s);

(*d*) The period or periods of charter;

(*e*) The charter rate and total charter hire;

(*f*) The date of original construction;

(*g*) The original purchase price and the cost of subsequent conversions if known.

(3) *Vessel operating expense (Schedule VIII(A))*. This schedule shall be submitted by carriers who annually file FMC–63 with the Federal Maritime Commission. It is designed to summarize operating results and to provide for allocations to the trade where necessary because of the simultaneous carriage of other cargo. The principles of allocation are the same as those required by subparagraph (2) of this paragraph.

(4) *Inactive vessel expense (Schedule IX)*. Inactive vessel expense shall, in general, be allocated by vessel class to the trade on the same basis as the investment in such vessel is included in the rate base. However, when a vessel is definitely assigned to the service, any inactive vessel expense for that vessel may be allocated to the service. If such a vessel be temporarily chartered out to minimize layup expense, no layup expense incurred before or after such charter period need be allocated to the charter. Inactive vessel expense applicable to vessels not used in the service or withdrawn from the service and excluded from the rate base in accordance with paragraph (b) (1) (i) (*b*) of this section shall be excluded from the service. Inactive vessel expense, allocated to the trade, shall be prorated to the cargo categories in the trade in the vessel expense relationship by vessel class.

(5) *Other shipping operations (Schedule X)*. These operations (terminal, cargo handling, tug and lighter, and other shipping) may result in revenue, interdepartmental credits, and expenses. The revenue earned from serving others shall be directly assigned to other cargo. Interdepartmental credits shall be allocated in the same manner as are the contra interdepartmental charges included in the terminated voyage accounts as prescribed in subparagraph (2) of this paragraph. The subject expenses shall be allocated directly to the trade

and to the various applicable cargo categories, separately by ports at which incurred, to the extent practicable. To the extent they are not directly allocable:

(i) Expense of terminal operations, divided to the extent practicable in an appropriate manner between the various operations of the respective terminals, shall be allocated to the trade and cargo categories within the trade on the volume basis. Methods employed and formulae used shall be set forth in footnotes to the schedule.

(ii) Expense of cargo handling shall be as follows:

(*a*) The stevedoring charges shall be subdivided into reasonable components such as: heavy lift, on-loading and off-loading of containers, special reefer cargo handling charges, automotive vehicles, etc. Each of these subdivisions shall be allocated to cargo categories in the cargo cube handled relationship, or on some other appropriate basis such as hundredweight or per container. The basis of allocation shall be described in a footnote on the schedule. The cost per unit of cargo shall be noted in each instance.

(*b*) Other cargo expense in the cargo cube handled relationship.

(iii) Expense of tug and lighter shall be allocated on a port-by-port basis for ports in the trade and cargo categories within the trade and in total for other ports in the service in the cargo cube handled relationship.

(iv) Expense of other shipping operations, divided to the extent practicable in an appropriate manner between the various operations, shall be allocated to the trade and cargo categories within the trade, each on the pertinent volume basis. Methods employed and formulae used shall be set forth in footnotes to the schedule.

(6) *Other shipping operations (Schedule X(A))*. This schedule shall be submitted by carriers who annually file FMC–63 with the Federal Maritime Commission. Items related to shipping classified on Schedule X(A) as other shipping operations, shall be allocated to cargo categories using the same principles of allocation described in subparagraph (5) of this paragraph.

(7) *Overhead expenses (Schedule XI and XI(A))*. Overhead expenses comprising the total of administrative and general expenses, management and operating commissions, advertising, taxes—miscellaneous, less agency fees and commissions and brokerage earned, to the extent not directly allocable, shall be allocated to vessel operating expense, inactive vessel expense, other shipping operations (excluding any portion thereof effectively transferred to vessel operating expense by interdepartmental credits), and nonshipping operations in proportion to the costs of each of these items. The costs of nonshipping operations shall be those included in account 995, less any interest included therein, for carriers required to file FMC–64 and those included in account 523, less any depreciation included therein, for carriers required to file FMC–63. The amounts allocated to vessel operating expense, inactive vessel expense, and other shipping operations shall in turn be allocated to appropriate cargo categories in the same proportions as the sum of these expenses were allocated to cargo categories. Direct allocations of overhead shall be made where practicable, particularly with respect to advertising expense related to the operation of passenger and combination vessels. Any direct allocation shall be explained in detail in a footnote on the schedule.

(8) *Depreciation and amortization (Schedule XII)*. Depreciation and amortization of assets included in the rate base shall be allocated to the trade on the same bases as the specific assets. The expenses allocated to the trade shall then be further allocated to the cargo categories within the trade on a basis consistent with the methods of allocation in the preceding sentence.

(9) *Construction—differential subsidy refund (Schedule XIII)*. Construction—differential subsidy refunds paid or payable to the Maritime Administration in connection with vessels employed on a part-time basis in the service and applicable to the period for which a report is being made, calculated in accordance with the requirements of section 506 of the Merchant Marine Act, 1936, as amended, shall be taken into account. The construction—differential subsidy refund attributable to operations in the service shall be allocated to the trade and within the trade to the various cargo categories in the relationship that the revenue from those cargoes carried in the trade bears to the total revenue used to determine the amount of the refund. Whenever expenses applicable to the trade are increased due to construction—differential subsidy refunds, details of calculations with respect thereto and the proration to cargo categories must be reported on Schedule XIII.

(10) *Other income/expense (Schedule XIV)*. (i) Any other elements of income or expense wholly or partially applicable to the trade shall be fully explained and supported by a schedule showing details of allocation to the trade and cargo categories within the trade and reconciliation with amounts shown in the annual financial statements FMC–63 or FMC–64.

(ii) Operating—differential subsidy refunds under section 605(a) of the Merchant Marine Act, 1936, as amended, shall not be allocated to the trade.

(11) *Federal income tax (Schedule XV)*. Federal income taxes allocated to the trade shall be set forth together with the details of the computation thereof.

(12) *Profits of related companies (Schedule XVI)*. Net income, after Federal income taxes, earned by related companies of the carrier in performing services for the carrier in the trade shall be included and allocated to cargo categories in an appropriate manner. The methods employed in determining such net income and allocations shall be fully explained and supported by a footnote on the schedule.

Interested persons may participate in this rulemaking proceeding by filing with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before January 15, 1968, an original and 15 copies of their views or arguments pertaining to the proposed amended rules. All suggestions for changes in the text as set out above should be accompanied by drafts of the language thought necessary to accomplish the desired change and by statements and arguments in support thereof.

The Federal Maritime Commission, Bureau of Compliance, Office of Hearing Counsel shall participate in the proceeding and shall file reply to comments on or before February 5, 1968, by serving an original and 15 copies on the Federal Maritime Commission and one copy to each party who filed written comments. Answers to Hearing Counsel's replies shall be submitted to the Federal Maritime Commission on or before February 20, 1968.

By order of the Federal Maritime Commission.

[SEAL] THOMAS LISI, *Secretary.*

[F.R. Doc. 67–14063; Filed, Nov. 30, 1967; 8:48 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 67–274]

FINNISH MARKKA

Rates of Exchange

NOVEMBER 27, 1967.

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York for the Finnish markka between October 13, 1967, and October 27, 1967.

Treasury Decision 67–235 published as the rate of exchange for the Finnish markka for use during the calendar quarter beginning October 1 through December 31, 1967, $0.310618, as certified to the Secretary of the Treasury by the Federal Reserve Bank of New York under the provisions of section 522(c) of the Tariff Act of 1930, as amended (31 U.S.C. 372(c)).

For the dates listed below, the Federal Reserve Bank of New York certified rates for the Finnish markka which vary by 5 per centum or more from the rate $0.310618. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for customs purposes to convert Finnish currency into currency of the United States, conversion shall be at the daily rate certified by the Federal Reserve Bank of New York, as herewith published:

Finnish markka:	
October 16, 1967–October 27, 1967	$0.237500

Rates of exchange certified for the Finnish markka which vary by 5 per centum or more from the rate of $0.310618 during the balance of the calendar quarter ending December 31, 1967, will be published in a Treasury Decision for dates subsequent to October 27, 1967, and before January 1, 1968.

[SEAL] LESTER D. JOHNSON, *Commissioner of Customs.*

[F.R. Doc. 67–14059; Filed, Nov. 30, 1967; 8:48 a.m.]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

HOWARD A. BECK

Report of Appointment and Statement of Financial Interest

OCTOBER 31, 1967.

Pursuant to section 302(a) of Executive Order 10647, the following information on a WOC appointee in the Department of the Interior is furnished for publication in the FEDERAL REGISTER:

Name of appointee: Howard A. Beck.

Name of employing agency: Office of the Assistant Secretary—Water and Power Development Defense Electric Power Administration, Washington, D.C.

The title of the appointee's position: Deputy Director, DEPA Area 2.

The name of the appointee's private employer or employers: New York State Electric & Gas Corp., Binghampton, N.Y.

The statement of "financial interests" for the above appointee is set forth below.

STEWART L. UDALL, *Secretary of the Interior.*

APPOINTEE'S STATEMENT OF FINANCIAL INTERESTS

In accordance with the requirements of section 302(b) of Executive Order 10647, I am filing the following statement for publication in the FEDERAL REGISTER:

(1) Names of any corporations of which I am, or had been within 60 days preceding my appointment, on October 31, 1967, as Deputy Director, Area 2, Defense Electric Power Administration, an officer or director:

None.

(2) Names of any corporations in which I own, or did own within 60 days preceding my appointment, any stocks, bonds, or other financial interests:

New York State Electric and Gas Corp., Chenango & Unadilla Telephone Corp., Boston Fund, Inc.

(3) Names of any partnerships in which I am associated, or had been associated within 60 days preceding my appointment:

None.

(4) Names of any other businesses which I own, or owned within 60 days preceding my appointment:

None.

HOWARD A. BECK.

NOVEMBER 22, 1967.

[F.R. Doc. 67–14028; Filed, Nov. 30, 1967; 8:49 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

RESEARCH TRIANGLE INSTITUTE ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. Law 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C.

A copy of each comment filed with the Director of the Office of Scientific and Technical Equipment must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 68–00232–33–77040. Applicant: Research Triangle Institute, Post Office Box 12194, Research Triangle Park, N.C. 27709. Article: Mass Spectrometer, Model MS 902. Manufacturer: Associated Electrical Industries, United Kingdom. Intended use of article: Applicant states:

The major applications of this instrument will be the structural elucidation of complex biologically active compounds or drug metabolites, determination of isotope abundances, identification of chromatographic eluants and the precise identification of trace constituents of biological mixtures or organic reaction products * * * Furthermore, the Mass Spectrometer will be used to provide training for graduate students, post doctoral fellows.

Application received by Commissioner of Customs: November 9, 1967.

Docket No. 68–00229–33–46040. Applicant: University of California, Berkeley Campus, Berkeley, Calif. 94720. Article: Scanning Electron Microscope, Model Stereoscan II. Manufacturer: Cambridge Instrument Co., Ltd., United Kingdom. Intended use of article: The article will be used in the Electronics Research Laboratory for the examination of very delicate, living biological specimens. Application received by Commissioner of Customs: November 13, 1967.

Docket No. 68–00230–33–46040. Applicant: University of Iowa College of Medicine, Iowa City, Iowa 52240. Article: Electron Microscope, Model EM 300 with Anticontamination Device Type PW

6526/00. Manufacturer: Philips Electronics Instruments, Inc., The Netherlands. Intended use of article: Applicant states: "The instrument will be used in the medical research programs of the Departments of Medicine and Pathology." Various specific projects are listed by the applicant. Application received by Commissioner of Customs: November 13, 1967.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-14016; Filed, Nov. 30, 1967; 8:45 a.m.]

TULANE UNIVERSITY ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C.

A copy of each comment filed with the Director of the Office of Scientific and Technical Equipment must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 68-00225-00-46040. Applicant: Tulane University, Tulane University Station, New Orleans, La. 70118. Article: Electron Microscope Spare Parts, consisting of various electron tubes, gaskets, signal lamps, etc. Manufacturer: Siemens AG, West Germany. Intended use of article: The spare parts will be used as replacement parts for the applicant's Elmiskop model electron microscope. Application received by Commissioner of Customs: November 8, 1967.

Docket No. 68-00226-33-46040. Applicant: The University of Chicago School of Medicine, 950 East 59th Street, Chicago, Ill. 60637. Article: Electron Microscope, Model EM-300 with Anticontamination Device. Manufacturer: Philips Co., The Netherlands. Intended use of article: Applicant states:

The article will be used in Medical Research programs in the Department of Surgery, Section of Otolaryngology of the University of Chicago. The research programs include [those which are summarized below:]

(a) Comparative studies of the vestibular nuclei in vertebrates • • •

(b) Study of the ultrastructure of the vestibular nuclei of the fish • • •

(c) Investigation of the synaptic characteristics of the Tangential nucleus of the chick with different fixatives • • •

(d) Investigation of the development of the synapses of the cochlear and vestibular nuclei in vertebrates • • •

(e) Studies of the ultrastructure of the Trapezoid body in the cat • • • and other related investigation with the electron microscope.

Application received by Commissioner of Customs: November 9, 1967.

Docket No. 68-00227-01-77040. Applicant: Brandeis University, 415 South Street, Waltham, Mass. 02154. Article: Secondhand Mass Spectrometer, Model MS-2H (a modified version of AEI Model MS-2). Manufacturer: Associated Electrical Industries, Ltd., United Kingdom. Intended use of article: The article will be used to continue the fundamental research program previously carried out at the University of Leeds in England. Study of single collision phenomena between either ions and neutral molecules or excited molecules and neutral molecules in the gas phase will be conducted. Monoenergetic ion beams in the energy range 0.2-10eV will be produced to achieve velocity analysis of both reactant and product ions by a multiple-pulsed defocusing technique. Application received by Commissioner of Customs: November 9, 1967.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-14021; Filed, Nov. 30, 1967; 8:46 a.m.]

UNIVERSITY OF CALIFORNIA ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C.

A copy of each comment filed with the Director of the Office of Scientific and Technical Equipment must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 68-00215-01-10100. Applicant: University of California at Santa Cruz, Purchasing Department, Santa Cruz, Calif. 95060. Article: Chemical Reaction Analysis Apparatus, Temperature-Jump Pulse Generator with High Voltage Power Supply including discharge capacitor and Transient Spectrophotometer with ancillary equipment. Manufacturer: Messanlagen Studiengesellschaft MBH, West Germany. Intended use of article: The article will be used to study the elementary processes which are at the base of every chemical reaction. It will be used to measure the rate of proton-transfers in nonaqueous solutions and for the study of the formation and decomposition of highly reactive intermediates in certain classes of chemical reactions. Application received by Commissioner of Customs: October 31, 1967.

Docket No. 68-00216-33-11700. Applicant: Sloan-Kettering Institute for Cancer Research, 410 East 68th Street, New York, N.Y. 10021. Article: Automatic Smoking Machine. Manufacturer: Heinrich Borgwald, West Germany. Intended use of article: The article will allow testing of fresh smoke directly on to the experimental animal in research for tobacco carcinogenesis. Application received by Commissioner of Customs: November 1, 1967.

Docket No. 68-00217-75-76595. Applicant: University of Minnesota, Minneapolis, Minn. 55455. Article: Broad range split pole magnetic spectrograph with regulated power supply, Model 65B16. Manufacturer: Instrument A B Scanditronix, Sweden. Intended use of article: The article will be used to identify the types of particles produced in the nuclear reaction produced when the ion beam accelerated from a 20 MeV Tandem Van de Graaff machine bombards a suitable target. The magnetic spectrograph will be used to provide an accurately defined magnetic field in which a particle will be deflected. By recording the point where it emerges from the magnetic field, information about the particle and consequently about the reaction that produced it can be obtained. Application received by Commissioner of Customs: November 2, 1967.

Docket No. 68-00223-33-46040. Applicant: The Pennsylvania State University, University Park, Pa. 16802. Article: Electron Microscope, Model HU-11C plus spare cathode assembly. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: Applicant states:

The major projected research for which the instrument to be imported will be used consists of an analysis of the size, shape, and nucleotide order of DNA [Deoxyribonucleic acid] molecules of contrasting cytoplasmic organelles. Mitochondrial, and plasmid, DNA extracts from tissues of contrasting genetic forms will be used such that the DNA of each of these organelles can be compared with the others and the inherent variability within each type organelle can be assayed. • • •

Application received by Commissioner of Customs: November 7, 1967.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-14017; Filed, Nov. 30, 1967; 8:45 a.m.]

CORNELL UNIVERSITY MEDICAL COLLEGE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00093-33-46040. Applicant: Cornell University Medical College, 1300 York Avenue, New York, N.Y. 10021. Article: Electron Microscope EM 300. Manufacturer: N. V. Philips Gloeilampenfabrieken, The Netherlands. Intended use of article: Study of fine structure of normal and pathological human gastric mucosa involving enzyme histochemistry, immuno-histochemistry, and radioautography as well as standard stained sections. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article provides a guaranteed resolution of 5 Angstroms. The only known comparable domestic instrument, the Model EMU-4 electron microscope manufactured by the Radio Corporation of America (RCA), provides a guaranteed resolution of 8 Angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolution.) The additional revolving capability is pertinent to the purposes for which the foreign article is intended to be used. (2) The foreign article provides five accelerating voltages, 20, 40, 60, 80, and 100 kilovolts, whereas the RCA Model EMU-4 provides only two accelerating voltages, 50 and 100 kilovolts. It has been experimentally established that the lower accelerating voltages offered by the foreign article afford optimum contrast for unstained specimens and that the voltages intermediate between 50 and 100 kilovolts afford the maximum contrast for negatively stained specimens.

For the foregoing reasons, we find that the RCA Model EMU-4 electron microscope is not of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-14014; Filed, Nov. 30, 1967; 8:45 a.m.]

MAYO FOUNDATION

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00026-33-46040. Applicant: Mayo Foundation, 200 First Street Southwest, Rochester, Minn. 55901. Article: Electron Microscope Norelco Model EM 300, equipped with two 35 mm. and 70 mm. film cameras, desiccator and anticontamination device. Manufacturer: Philips Electronic and Pharmaceutical Corp., The Netherlands. Intended use of article: Applicant states: "Electron microscopy of biologic specimens (muscle and nerve) and of isolated negatively stained subcellular particles, for medical research." Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article provides a guaranteed resolution of 5 Angstroms. The only known comparable domestic instrument, Model EMU-4 electron microscope manufactured by the Radio Corporation of America (RCA), provides a guaranteed resolution of 8 Angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolution.) For the purposes for which the foreign article is intended to be used, we find that the greater resolving capabilities are pertinent. (2) The foreign article provides five accelerating voltages, 20, 40, 60, 80, and 100 kilovolts, whereas the RCA Model EMU-4 provides only two accelerating voltages, 50 and 100 kilovolts. It has been experimentally established that the lower accelerating voltage provided by the foreign article produces optimum contrast for unstained specimens and that the voltages intermediate between 50 and 100 kilovolts produce optimum contrast for negatively stained specimens.

For the foregoing reasons, we find that the RCA Model EMU-4 is not scientifically equivalent to the foreign article, for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-14015; Filed, Nov. 30, 1967; 8:45 a.m.]

UNIVERSITY OF COLORADO

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00107-33-46040. Applicant: University of Colorado, Institute for Developmental Biology, PSRB No. 1, Boulder, Colo. 80302. Article: Electron Microscope EM-300-S with Anticontamination Device. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: Research in cell biology in the areas of cell life cycle, nuclear function, nuclear-cytoplasmic interactions, and the structure, function, and replication of chromosomes. Comments: No comments have been received with respect to this application. Decision:

Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article provides a guaranteed resolution of 5 Angstroms. The only known comparable domestic instrument, the Model EMU-4 electron microscope manufactured by the Radio Corporation of America (RCA), provides a guaranteed resolution of 8 Angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolution.) The additional resolving capability is pertinent to the purposes for which the foreign article is intended to be used. (2) The foreign article provides five accelerating voltages, 20, 40, 60, 80, and 100 kilovolts, whereas the RCA Model EMU-4 provides only two accelerating voltages, 50 and 100 kilovolts. It has been experimentally established that the lower accelerating voltages offered by the foreign article afford optimum contrast for unstained specimens and that the voltages intermediate between 50 and 100 kilovolts afford the maximum contrast for negatively stained specimens.

For the foregoing reasons, we find that the RCA Model EMU-4 electron microscope is not of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-14015; Filed, Nov. 30, 1967; 8:45 a.m.]

UNIVERSITY OF HAWAII

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00040-33-46040. Applicant: University of Hawaii, Pacific Biomedical Research Center, Honolulu, Hawaii. Article: Electron Microscope, Philips EM 300. Manufacturer: N. V. Philips, The Netherlands. Intended use of article: Research on the structural basis of motility in cilia. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article provides a guaranteed resolution of 5 Angstroms. The only known comparable domestic instrument, Model EMU-4 electron microscope manufactured by the Radio Corporation of America (RCA), provides a guaranteed resolution of 8 Angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolution.) For the purposes for which the foreign article is intended to be used, we find that the greater resolving capabilities are pertinent. (2) The foreign article provides five accelerating voltages, 20, 40, 60, 80, and 100 kilovolts, whereas the RCA Model EMU-4 provides only two accelerating voltages, 50 and 100 kilovolts. It has been experimentally established that the lower accelerating voltage provided by the foreign article produces optimum contrast for unstained specimens and that the voltages intermediate between 50 and 100 kilovolts produce optimum contrast for negatively stained specimens.

For the foregoing reasons, we find that the RCA Model EMU-4 is not scientifically equivalent to the foreign article, for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-14019; Filed, Nov. 30, 1967; 8:45 a.m.]

UNIVERSITY OF ILLINOIS

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00077-33-46040. Applicant: University of Illinois, Purchasing Department, 223 Administration Building, Urbana, Ill. 61801. Article: Electron Microscope, Hitachi Perkin-Elmer, Model HU-125. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: Applicant states:

> The instrument will be used to study defects in crystals. Specifically an attempt will be made using transmission through thin specimens to resolve clusters of point defects which are small. We would like to resolve a single interstitial atom and a single impurity atom but we will probably be forced to examine clusters of such defects containing ten to a hundred atoms. Both metals and semiconductors will be examined. We wish to study the rate of formation of defect clusters. We wish to determine the influence of impurities on defect clustering. Such information is of practical value since age hardening and other metallurgical processes depend on the behavior of defects.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article provides a guaranteed resolution of 5 Angstroms. The only known comparable domestic instrument, the Model EMU-4 electron microscope manufactured by the Radio Corporation of America (RCA), provides a guaranteed resolution of 8 Angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolution.) For the purposes for which the foreign article is intended to be used, we find the greater resolving capabilities to be significant. (2) The foreign article provides a maximum accelerating voltage of 125 kilovolts, whereas the RCA Model EMU-4 provides a maximum accelerating voltage of 100 kilovolts. The higher voltage will permit the study of thicker samples which will be characteristic of bulk materials.

For the foregoing reasons, we find that the RCA Model EMU-4 is not of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-14020; Filed, Nov. 30, 1967; 8:45 a.m.]

UNIVERSITY OF WASHINGTON

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00100-33-46040. Applicant: University of Washington, Department of Zoology, Seattle, Wash. 98105. Article: Electron Microscope EM 300, anticontamination device, 70-mm. film holder. Manufacturer: N. V. Philips Electronic Instruments, Inc., The Netherlands. Intended use of article: Studies of: (1) Role of cytoplasmic filaments in cell movement; (2) fine structure of neurosecretory cells in the central nervous system; (3) fine structure of crustacean peripheral nerve fibers; (4) fine structure of ascidian smooth muscle; (5) fine structure of lamellibranch hearts; (6) fine structure of the circulatory system of molluscs; (7) correlation of ultrastructural changes with electrolyte transport in mammalian tissues in vitro; (8) ultrastructural aspects of hypothalamo-hypophysial mechanisms in photoperiodic responses of birds; (9) fine structure of squid chromatophore organs. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article provides a guaranteed resolution of 5 Angstroms. The only known comparable domestic instrument, the Model EMU-4 electron microscope manufactured by the Radio Corporation of America (RCA), provides a guaranteed resolution of 8 Angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolution.) The additional resolving capability is pertinent to the purposes for which the foreign article is intended to be used. (2) The foreign article provides five accelerating voltages, 20, 40, 60, 80, and 100 kilovolts, whereas the RCA Model EMU-4 provides only two accelerating voltages, 50 and 100 kilovolts. It has been experimentally established that the lower accelerating voltages offered by the foreign article afford optimum contrast for unstained specimens and that the voltages intermediate between 50 and 100 kilovolts afford the maximum contrast for negatively stained specimens.

For the foregoing reasons, we find that the RCA Model EMU-4 electron microscope is not of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-14021; Filed, Nov. 30, 1967; 8:45 a.m.]

National Bureau of Standards

NBS RADIO STATIONS

Notice of Change in Coding GEOALERTS Broadcast

Beginning January 1, 1968, a new coding system for GEOALERTS will be instituted for broadcast purposes. The new coding system is explained in Circular Letter RWC-101, September 13, 1967, International Ursigram and World Days Service, available from Chairman, IUWDS, ESSA, R44.2, Boulder, Colo. 80302. The new coding system will make possible the dissemination of more detailed information resulting from improved techniques in observation and prediction of geophysical events. Previous codes will be superseded.

Forecasts are made each day at 0400 u.t. (Universal Time) at the World Warning Agency. GEOALERTS for a given day are first broadcast at 0418 u.t. on station WWV, Fort Collins, Colo., then at 0448 u.t. on station WWVH, Maui, Hawaii, and these broadcasts are repeated at hourly intervals until the new alert is issued. Each message beginning with the letters GEO in Morse Code shall be understood to mean a solar or geophysical message, and will be followed by the coded information in three sets of letters repeated three times in slow International Morse Code.

The first set concerns either forecasts of the solar or geophysical event, or the observation and prediction for the next day of a stratospheric warming (STRATWARM). Letters which may occur in the first set and their meaning are as follows:

1st letter set.
- EEE (.) No alert (NIL).
- III(..) FLARES expected.
- SSS (...) PROTON FLARE expected.
- TTT (—) MAGSTORM expected.
- UUU (..—) FLARES and MAGSTORM expected.
- VVV (...—) PROTON FLARE and MAGSTORM expected.
- HHH (....) STRATWARM.
- DDD (—..) STRATWARM and FLARES expected.
- BBB (—...) STRATWARM and PROTON FLARE expected.
- MMM (——) STRATWARM and MAGSTORM expected.

The second and third sets of letters pertain to the occurrence of and approximate time of observed solar or geophysical events. The coding for the time and type of event is shown in the table given below:

	Day before that of issue (hours u.t.)				Day of issue	NIL
	00-06	06-12	12-18	18-24	00-04	
2d letter set: PROTON EVENT	MMM (— —)	TTT (—)	HHH (. . . .)	SSS (. . .)	III (. .)	EEE (.)
3d letter set: GEOMAGNETIC STORM	UUU (. . —)	AAA (. —)	BBB (— . . .)	DDD (— . .)	NNN (— .)	EEE (.)

For example, the following message (in International Morse code) "GEO SSS EEE DDD" signifies: "GEO=Solar geophysical message; SSS=PROTON FLARE expected; EEE=No PROTON EVENT between 0000 yesterday and 0400 u.t. today; DDD=GEOMAGNETIC STORM occurred (began) between 1800-2400 u.t. yesterday."

R. S. WALLEIGH,
Acting Director.

[F.R. Doc. 67-14104; Filed, Nov. 30, 1967; 8:50 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

DOW CHEMICAL CO.

Notice of Filing of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)), notice is given that a petition (PP 8F0660) has been filed by the Dow Chemical Co., Post Office Box 512, Midland, Mich. 48640, proposing tolerances for residues of the herbicide 4-amino-3,5,6,-trichloropicolinic acid from its application in the acid form, or in the form of its potassium, triethylamine, or triisopropanolamine salts expressed as 4-amino-3,5,6-trichloropicolinic acid, in or on raw agricultural commodities as follows: 800 parts per million in or on forage grasses; 10 parts per million in or on forage of barley, oats, and wheat; 1 part per million in or on straw of barley, oats, and wheat; 0.3 part per million in or on the grains of barley, oats, and wheat; and 0.1 part per million in or on sugarcane.

The analytical methods proposed for determining residues of the herbicide are the gas chromatographic methods of: (1) E. L. Bjerke, A. H. Kutschinski, and J. C. Ramsey, "Agricultural and Food Chemistry," vol. 15, p. 469 (1967); and (2) J. S. Leahy and T. Taylor, "Analyst," vol. 92, p. 371 (1967).

Dated: November 22, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-14071; Filed, Nov. 30, 1967; 8:49 a.m.]

SHELL CHEMICAL CO.

Notice of Withdrawal of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)), the following notice is issued:

In accordance with § 120.8 *Withdrawal of petitions without prejudice* of the pesticide regulations (21 CFR 120.8), the Shell Chemical Co., 1700 K Street NW., Washington, D.C. 20006, has withdrawn its petition (PP 6F0491), notice of which was published in the FEDERAL REGISTER of June 15, 1966 (31 F.R. 8381), proposing the establishment of a tolerance of 0.25 part per million for residues of the insecticide dimethyl phosphate of 3-hydroxy-*N*-methyl-cis-crotonamide in or on the raw agricultural commodity soybeans.

Dated: November 22, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-14072; Filed, Nov. 30, 1967; 8:49 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-201]

NUCLEAR FUEL SERVICES, INC., AND NEW YORK STATE ATOMIC AND SPACE DEVELOPMENT AUTHORITY

Notice of Receipt of Applications To Authorize Construction and Operation of Plant Addition for Recovery of Neptunium

Nuclear Fuel Services, Inc., and New York State Atomic and Space Development Authority filed applications on November 15, 1967, for the issuance of such amendment to Provisional Operating License No. CSF-1 (including any necessary construction permit, special nuclear material, source material or by-product material license, or amendment to any of the foregoing) as may be required to authorize, as part of the licensed operation of the production facility, the recovery of neptunium from the waste streams of the West Valley Reprocessing Plant. The proposed plant addition, designated by the applicants as the Neptunium Recovery Facility (NRF), will be located at the Western New York Nuclear Service Center, West Valley, N.Y., within the fenced area of the existing reprocessing plant from which unneutralized wastes could be piped to the NRF. Following extraction of neptunium, the wastes would be neutralized and piped to the existing waste storage tanks.

Copies of the applications are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 27th day of November 1967.

For the Atomic Energy Commission.

J. A. MCBRIDE,
Director, Division of Materials Licensing.

[F.R. Doc. 67-14013; Filed, Nov. 30, 1967; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 19306; Order E-26039]

TRANS CARIBBEAN AIRWAYS, INC.

Order of Investigation of Proposed Senior Citizen Standby Fare

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 28th day of November 1967.

By tariff[1] filed October 25, 1967, marked to become effective November 24, 1967, Trans Caribbean Airways, Inc. (Trans Caribbean), has proposed a one-way Senior Citizen Fare of $41 between New York/Newark and San Juan, P.R., on a standby basis. The regular one-way tourist fare is $60.75 and the regular one-way night tourist fare is $45. The tariff is marked to expire November 24, 1968. A similar tariff of Trans Caribbean became effective on July 6, 1966, and expired June 30, 1967.

In its letter of transmittal accompanying the instant filing Trans Caribbean states that the purpose of this filing is to reinstate the Senior Citizen Fare which expired June 30, 1967. Trans Caribbean further asserts that during the first experimental period 75 Senior Citizens' cards were issued. It maintains that a further experimental period is warranted to develop additional standby traffic and give present cardholders a further opportunity to utilize the fare.

Complaints requesting investigation and suspension of the proposal have been filed by Eastern Air Lines, Inc. (Eastern), and Pan American World Airways, Inc. (Pan American). In support of their requests, Eastern and Pan American assert that the tariff proposal is unreasonable, unjust, unduly preferential, and prejudicial, and unjustly discriminatory.[2]

Pan American contends that Trans Caribbean has had 1 year experience with this fare, yet has not presented any significant data based thereon. Eastern also asserts that Trans Caribbean has had substantial time within which to experiment with this fare and that no justification has been submitted to support a further extension. Eastern also points out that in Order E-23889, July 1, 1966, the Board dismissed Pan American's complaint against the $41 standby fare and indicated that it expected Trans Caribbean to maintain complete monthly records of traffic and revenues for use in any subsequent tariff filings. Eastern maintains that Trans Caribbean's failure to come forward with such data should not be rewarded by permitting the fare again to become effective. Eastern also alleges that the fare is unjustly discriminatory since age alone provides the basis for the discount fare.

On the basis of all facts and information before it, the Board concludes that this fare of Trans Caribbean may be unjustly discriminatory, unduly preferential, unduly prejudicial, unjust and unreasonable and should be investigated. There is an element of discrimination upon the basis of age involved in this proposal which, in many respects, presents questions of lawfulness similar to those involved in the reduced rate youth fare tariffs now under investigation in Docket 18936. Under the circumstances, we cannot conclude that dissimilar action is warranted for senior citizen fares than for youth fares.

The Board, however, has concluded that it will permit the tariff to become effective pending investigation. In this respect we note that youth fares are available pending investigation in Docket 18936; that the subject fares are distinguishable from those for standard service since they are offered on a standby basis; and that this fare does not appear to have had any significant diversionary effect on Trans Caribbean's competitors in the market. Under the circumstances, we will permit Trans Caribbean to continue its experiment with this fare, pending investigation. The carrier will be expected to maintain complete monthly records of traffic and revenues for use in the investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 404, and 1002 thereof:

It is ordered, That:

1. An investigation is instituted to determine whether the fare and provisions on 2nd Revised Page 5-N and 15th Revised Page 7-A of Trans Caribbean Airways, Inc.'s CAB No. 26 (Trans Caribbean Airways, Inc., series), and rules, regulations, or practices affecting such fare and provisions, are or will be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fare and provisions, and rules, regulations, and practices affecting such fare and provisions.

2. Except as granted herein the complaints of Pan American World Airways, Inc., in Docket 19222, and Eastern Air Lines, Inc., in Docket 19226 be dismissed.

3. The proceeding ordered herein be assigned for hearing before an Examiner of the Board at a time and place hereafter to be designated.

4. Copies of this order be served upon Trans Caribbean Airways, Inc., Eastern Air Lines, Inc., and Pan American World Airways, which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-14064; Filed, Nov. 30, 1967; 8:48 a.m.]

[1] Trans Caribbean Airways, Inc.'s CAB No. 26.

[2] Trans Caribbean filed an answer to the complaints, in which the carrier indicated that from September 1966 through June 1967, a total of 58 passengers utilized its Senior Citizen Fare, which resulted in total passenger revenue of $2,378.

CIVIL SERVICE COMMISSION

DIRECTOR OF PROGRAM DEVELOPMENT, DISTRICT OF COLUMBIA GOVERNMENT

Manpower Shortage

Under the provision of 5 U.S.C. 5723, the Civil Service Commission has found on November 13, 1967, that there is a manpower shortage for the single position of Director of Program Development, GS-301-18, District of Columbia government, Washington, D.C. The appointee may be paid for the expenses of travel and transportation to his first post of duty.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67-14049; Filed, Nov. 30, 1967; 8:47 a.m.]

TRAINING INSTRUCTOR (ELECTRICAL POWER GENERATION)

Manpower Shortage

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission has found, effective October 20, 1967, that there is a manpower shortage for the positions of Training Instructor (Electrical Power Generation) GS-1712-7 and 9.

The appointees to these positions may be paid for the expense of travel and transportation to the first post of duty.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67-14060; Filed, Nov. 30, 1967; 8:48 a.m.]

DIRECTOR, ARMED FORCES INSTITUTE

Manpower Shortage

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission has found, effective November 24, 1967, that there is a manpower shortage for the single position of Director, U.S. Armed Forces Institute, GS-1710-16, Department of Defense, Madison, Wis.

The appointee may be paid for the expenses of travel and transportation to his first post of duty.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67-14061; Filed, Nov. 30, 1967; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 17444, 17445; FCC 67R-494]

J. W. FURR (WMBC) AND JAMES W. EATHERTON

Memorandum Opinion and Order Enlarging Issues

In re applications of J. W. Furr (WMBC), Macon, Miss., Docket No. 17444, File No. BP-16794; James W. Eatherton, Macon, Miss., Docket No. 17445, File No. BP-17085; for construction permits.

1. In a memorandum opinion and order (FCC 67R-401, released September 25, 1967, 10 FCC 2d 32, 11 RR 2d 248), the Review Board denied a petition of the Broadcast Bureau for enlargement of issues. The basis for the Bureau's petition was applicant WMBC's showing of its proposed nighttime coverage of Columbus, Miss., its designated city, as depicted on pages 6 and 9 of its application (BP-16794). Although WMBC does not therein specify the "nighttime limit" in millivolts per meter, or describe how such limit was calculated, its depiction on page 6 reveals that its proposal would not provide service to all of Columbus at night (the Bureau, in its petition to enlarge, contends that WMBC's nighttime contour would encompass about 75 percent of the area within the city of Columbus). Responding to the Bureau's petition, WMBC submitted another showing, based upon engineering calculations utilizing the "50 percent exclusion" method[1] of determining its nighttime interference-free contour which depicted coverage of all but a small area of Columbus. The Board's document denying the Bureau's request was based on this latter showing.

2. By memorandum opinion and order (FCC 67R-416, released Oct. 5, 1967, 10 FCC 2d 215, 11 RR 2d 357), the Review Board stayed the effectiveness of its earlier memorandum opinion and order and permitted the filing of additional pleadings addressed to the showing to be utilized in establishing the nighttime limitation to WMBC's proposed Class IV station. The Board noted therein that § 73.182(o) (1) of the rules provides that "except in the case of Class IV stations on local channels", the "50 percent exclusion" method shall be utilized for the determination of objectionable interference;[2] that in Charles L. Hamilton, Sr. and Mildred B. Hamilton (KBAB), Docket No. 15317, the nighttime limitation of a Class IV station was calculated on the basis of taking into account the actual radiation of all co-channel stations within 500 miles of the proposed station; and that § 73.182(a) (4) of the rules, which relates to Class IV stations, provides that the actual nighttime limitation will be calculated, and the note thereto permits the utilization of an approximate method of determining the nighttime limitation, with a provision that stations beyond 500 miles will not be considered. In response to the Board's invitation for further pleadings the Broadcast Bureau filed comments on October 12, 1967, and WMBC filed a response on October 16, 1967.

3. The Bureau briefly states in its comments that, according to § 73.182(o) (1) of the rules, the "50 percent exclusion" method of computation cannot be employed by a Class IV station operating on the local channel.[3] WMBC, in its response, contends that although § 73.182 (a) (4) provides that actual nighttime limitations will be calculated, it does not prescribe the method of calculation, except that in a note, it is stated that "The following approximate method may be used"; and that the "approximate method" is the so-called zonal method which provides for a short-cut determination of the nighttime limit. WMBC further contends that § 73.182(a) (4) also provides that "On local channels, the separation required for the daytime protection shall also determine the nighttime separation"; that in the majority of cases, the nighttime limitation of a Class IV station is of little or no significance in allocations; and that this is the apparent reason for permitting a short-cut approximate determination of that

[1] This method is described at § 73.182(o) (1) of the rules.

[2] Section 73.182(o) (1) provides in pertinent part: "With respect to the root-sum-square values of interfering field intensities referred to in this section, except in the case of Class IV stations on local channels, calculation is accomplished by considering the signals in order of decreasing magnitude, adding the squares of the values and extracting the square root of the sum, excluding those signals which are less than 50 percent of the RSS value of the higher signals already included."

[3] Although no comments were filed by James W. Eatherton in response to the Board's memorandum opinion and order (FCC 67R-416), he filed comments with respect to the Bureau's petition for reconsideration of the Board's earlier memorandum opinion and order (FCC 67R-401). Eatherton therein supports the Bureau's position which is restated herein. The Bureau's petition for reconsideration was rendered moot by the Board's action staying the effectiveness of its earlier memorandum opinion and order. In its comments in support of the Bureau's petition to enlarge issues, Eatherton contends for the addition of a character issue against Furr. Aside from the fact that the request is improperly raised in a responsive pleading, it is the Board's opinion that the factual situation does not support addition of such an issue.

limitation. WMBC argues that it is apparently the contention of the Bureau and Eatherton that the "except" clause in § 73.182(c)(1) means that one is required either to use the approximate method permitted by the note to § 73.182 (a)(4) or some other unspecified method and that in no circumstances may the 50 percent RSS exclusion method be used. WMBC contends that in the absence of some "logical reason" why the method of computing the nighttime interference-free contour of a Class IV station should be different from the method used in computing the nighttime interference-free contour of all other stations, the interpretation of the "except" clause of § 73.182(c)(1) suggested by the Bureau and Eatherton is unreasonable; and that there is no apparent reason why the "except" clause should be interpreted to mean that Class IV stations are in all circumstances prescribed the method of computation used by all other classes of stations.

4. WMBC, in its pleading, adverts to the "logical reason" when it states that, because the daytime protection also determines the nighttime separation, the nighttime limitation of a Class IV station is of little or no significance in allocations and that this is the apparent reason for permitting a short-cut approximate determination of that limitation. Thus, WMBC recognizes a problem considered as early as the 1946 engineering conference on allocations in Docket 6741, the "Clear Channel" proceeding, where the conferring engineers, considering the establishment of rules for determining the nighttime limitation on local channels, expressed awareness that, although the standards ought to be engineeringly compatible, some deviation from the regular scheme might be required because of the great number of stations on local channels (Tr. 74–78; 534–535; 540; Exhibit No. 325, par. 1(E)2). The Commission subsequently amended its rules (Amendments to Standards of Good Engineering Practice Concerning Standard Broadcast Station, Mimeo No. 4484, adopted Jan. 31, 1947, published, 12 F.R. 934, Feb. 8, 1947), and provided, as to Class IV stations, substantially the same provisions which appear in its existing rules, namely, that the actual nighttime limitation will be calculated, but with a note stating that "The following approximate method may be used." Additionally, the foregoing amendment contains a section substantially duplicating the existing § 73.182 (c)(1) of the rules and the provision therein that, except in the case of Class IV stations on local channels, the 50 percent exclusion method shall be utilized for the determination of objectionable interference.

5. The phrase "actual nighttime limitation" was not defined in the amended engineering standards, nor is it defined in the present rules and regulations. However, when viewed in context of past and present standards and practices, it becomes apparent that "actual nighttime limitation" means the degree of interference which a station would suffer from the signals of all stations operating on the channel, computed in accordance with the RSS method. This method was employed in determining nighttime interferences to foreign stations under the provisions of the 1937 North American Regional Broadcasting Agreement (HARRAL). See Reporter Broadcasting Co., 4 RR 26, 33 Footnote 10, Brazos Broadcasting Corp., 4 RR 184, Louisiana Broadcasting Co., 4 RR 441, 451, Booth Radio Stations, Inc., 4 RR 614, 621, wherein references are made to the total "RSS". Before the 1947 amendments, the 70 percent rule was employed for determinations of nighttime interference to domestic stations (see page 7, Standards of Good Engineering Practice Concerning Standard Broadcast Stations, revised to July 20, 1940). Later, the present 50 percent exclusion rule was adopted, but it was not applicable to Class IV stations on local channels. These approximate methods of computation simplify the determination of nighttime interference. It is axiomatic that whenever all signals are not included in the computations, the RSS limitation will be less than if all of the signals were included. Thus, both the 50 percent and 70 percent rules involve less rigorous methods of computing the interference than that provided by the total RSS method (actual nighttime limitation).

6. The 70 percent rule of the engineering standards was changed in 1947 to the 50 percent exclusion rule (§ 73.182 (c)(1)) in order, inter alia, to achieve a more appropriate method of evaluating interference to certain classes of stations. However, as noted above, the rules specifically excluded the use of this method for Class IV stations on local channels. Nevertheless, an approximate method (zonal; note to § 73.182(a)(4)) was provided for Class IV stations. Here, WMBC desires to use the 50 percent exclusion method, which is not authorized by the rules for Class IV stations. Through the use of such method, its nighttime contour is expanded to its advantage. However, WMBC has not shown that its depiction of its nighttime proposed service contour is more appropriate than that which is obtained by the method permitted by the rules for Class IV stations. In view of all of the foregoing, it cannot be contended that the 50 percent exclusion method is an alternate method to be used for Class IV stations. For these reasons, WMBC's showing based upon such method cannot be accepted and an issue will be added to determine whether the nighttime interference-free contour of the operation proposed by WMBC would adequately cover the city of Columbus.*

Accordingly, it is ordered, That the memorandum opinion and order, FCC 67R–401, 10 FCC 2d 22, is set aside; that the Broadcast Bureau's petition to enlarge issues, filed on August 1, 1967, is granted; and that the Broadcast Bureau's petition for reconsideration, filed on September 27, 1967, is dismissed as moot.

It is further ordered, That the issues in this proceeding are enlarged by the addition of the following issue: To determine whether the nighttime limitation contours proposed by J. W. Furr (WMBC) would adequately cover the city sought to be served as required by § 73.188 (a)(1) and (b)(2) of the Commission's rules, and, if not, whether circumstances exist which would warrant a waiver of the requirements of said rule.

It is further ordered, That the burden of proceeding and burden of proof under the issue added herein will be on J. W. Furr (WMBC).

Adopted: November 22, 1967.

Released: November 29, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14075; Filed, Nov. 30, 1967; 8:47 a.m.]

* Cites additional matter merits comment. As indicated above, § 73.188(a)(6) of the rules provides that the actual nighttime limitation of a Class IV station will be calculated, and a note thereto permits the utilization of an approximate method of determining the nighttime limitation. When the latter method is not utilized and the actual limitation is to be calculated, we have found no support in our research for allowing this actual calculation to be limited to taking into account only the radiation of all co-channel stations within 500 miles of the proposed station, as was done in the KBAB proceeding cited in paragraph 2 above.

FEDERAL MARITIME COMMISSION

WILH. WILHELMSEN AND A/B SVENSKA ATLANT LINIEN AND LYKES BROS. STEAMSHIP CO., INC.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. W. J. Amoss, Jr., Vice President—Traffic, Lykes Bros. Steamship Co., Inc., 821 Gravier Street, New Orleans, La. 70150.

Agreement No. 8877, between Lykes Bros. Steamship Co., Inc., and Wilh. Wilhelmsen and A/B Svenska Atlant Linien, as one party, provides for discussion and agreement upon the spacing of sailings of their vessels and the coverage of ports in the trades between the United Kingdom and the United States in accordance with the terms and conditions set forth in the agreement.

Dated: November 28, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-14063; Filed, Nov. 30, 1967; 8:46 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-4389 etc.]

HUNT OIL CO. ET AL.

Findings and Order

NOVEMBER 22, 1967.

Findings and order after statutory hearing issuing certificates of public convenience and necessity, amending certificates, permitting and approving abandonment of service, terminating certificates, making successors co-respondents, redesignating proceedings, requiring filing of agreements and undertakings, and accepting related rate schedules and supplements for filing.

Each of the Applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce, for permission and approval to abandon service, or a petition to amend an existing certificate authorization, all as more fully described in the respective applications and petitions (and any supplements or amendments thereto) which are on file with the Commission.

The Applicants herein have filed related FPC gas rate schedules and propose to initiate or abandon, add or delete natural gas service in interstate commerce as indicated by the tabulation herein. All sales certificated herein are at rates either equal to or below the ceiling prices established by the Commission's statement of general policy No. 61–1, as amended, or involve sales for which permanent certificates have been previously issued.

Richard M. Finder, doing business as Texkan Oil Co. (Operator) et al., Applicant in Docket No. CI61–1158, proposes to continue in part the sale of natural gas heretofore authorized in Docket No. G–4389 to be made pursuant to Standard Oil Company of Texas, a division of Chevron Oil Co., FPC Gas Rate Schedule No. 1. The contract comprising said rate schedule has also been accepted for filing as a rate schedule of Applicant. The presently effective rate under the predecessor's rate schedule is in effect subject to refund in Docket No. RI60–266. A prior increased rate was collected by the predecessor for a locked-in period subject to refund in Docket No. G–19995. Therefore, Applicant will be made a co-respondent in the proceeding pending in Docket No. RI60–266; the proceeding will be redesignated accordingly; and Applicant will be required to file an agreement and undertaking to assure the refund of any amounts collected by him in excess of the amount determined to be just and reasonable in said proceeding.

Clinton Oil Co., Applicant in Docket No. CI67–1838, proposes to continue in part the sale of natural gas heretofore authorized in Docket No. G–11612 to be made pursuant to Continental Oil Co., FPC Gas Rate Schedule No. 140. The contract comprising said rate schedule will also be accepted for filing as a rate schedule of Applicant. The presently effective rate under the predecessor's rate schedule is in effect subject to refund in Docket No. G–20448. Therefore, Applicant will be made a co-respondent in the proceeding pending in Docket No. G–20448; the proceeding will be redesignated accordingly; and Applicant will be required to file an agreement and undertaking to assure the refund of any amounts collected by it in excess of the amount determined to be just and reasonable in said proceeding.

Okmar Oil Co. et al., Applicants in Docket No. CI68–287, propose to continue in part sales of natural gas heretofore authorized in Docket No. CI61–737 to be made pursuant to Shell Oil Co. FPC Gas Rate Schedule No. 243. The contract comprising said rate schedule will also be accepted for filing as a rate schedule of Applicants. The presently effective rate under the predecessor's rate schedule for sales from the Gilhula Creek Field, Ochiltree County, Tex., is in effect subject to refund in Docket No. RI65–475. At the time that the application was filed in Docket No. CI68–287, an increased rate proposed to be collected by the predecessor for sales from the Higgins Field, Lipscomb County, Tex., was suspended in Docket No. RI67–382. Applicants have indicated in their certificate application that they intend to be liable for all refunds in Docket No. RI65–475 from the time that the increased rate became effective subject to refund. Therefore, Applicants will be made co-respondents in the proceedings pending in Docket Nos. RI65–475 and RI67–382; the proceedings will be redesignated accordingly; and Applicants will be required to file an agreement and undertaking in Docket No. RI65–475 to assure the refund of all amounts collected in excess of the amount determined to be just and reasonable in said proceeding for sales from the acreage assigned to Applicants.

Petrodyne, Inc., et al., Applicants in Docket No. CI68–315 propose to continue in part the sale of natural gas heretofore authorized in Docket No. CI64–1381 to be made pursuant to Ashland Oil & Refining Co. FPC Gas Rate Schedule No. 162. Applicants have ratified the contract comprising said rate schedule, and the instrument of ratification will be accepted for filing as a rate schedule of Applicant. The presently effective rate under the predecessor's rate schedule is in effect subject to refund in Docket No. RI67–39. Therefore, Applicants will be made co-respondents in said proceeding; the proceeding will be redesignated accordingly; and Applicants will be required to file an agreement and undertaking to assure the refund of any amounts collected by them in excess of the amount determined to be just and reasonable in said proceeding.

The Commission's staff has reviewed each application and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

After due notice, no petitions to intervene, notices of intervention, or protests to the granting of any of the respective applications or petitions in this order have been received.

At a hearing held on November 16, 1967, the Commission on its own motion received and made a part of the record in these proceedings all evidence, including the applications, amendments, and exhibits thereto, submitted in support of the respective authorizations sought herein, and upon consideration of the record.

The Commission finds:

(1) Each Applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and will, therefore, be a "natural-gas company" within the meaning of said Act upon the commencement of the service under the respective authorizations granted hereinafter.

(2) The sales of natural gas hereinbefore described, as more fully described in the respective applications, amendments, and/or supplements herein, will be made in interstate commerce, subject to the jurisdiction of the Commission and such sales by the respective Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) The respective Applicants are able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) The sales of natural gas by the respective Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity and certificates therefore should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the certificate authorizations heretofore issued by the Commission in Docket Nos. G–4366, G–2881, G–9680, G–14156, CI62–823, CI62–294, CI63–386, CI63–503, CI64–106, CI66–851, and CI67–867 should be amended as hereinafter ordered and conditioned.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates heretofore issued in the following dockets should be amended to reflect the deletion of acreage where new certificates are issued herein or existing certificates are amended herein to authorize service from the subject acreage:

Amend to delete acreage	New certificate and/or amendment to add acreage
G-2658	G-15049
G-4269	CI61-1158
G-9182	CI68-291
G-11612	CI67-1838
G-14441	G-14156
CI60-502	CI68-226
CI61-737	CI68-287
CI64-28	CI68-314
CI64-1281	CI68-315
CI66-541	CI68-312

(7) The sales of natural gas proposed to be abandoned by the respective Applicants, as hereinbefore described, all as more fully described in the respective applications and in the tabulation herein, are subject to the requirements of subsection (b) of section 7 of the Natural Gas Act, and such abandonments should be permitted and approved as hereinafter ordered.

(8) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates of public convenience and necessity heretofore issued to the respective Applicants relating to the abandonments hereinafter permitted and approved should be terminated.

(9) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Richard M. Finder, doing business as Texkan Oil Co. (Operator) et al., should be made a co-respondent in the proceeding pending in Docket No. RI60-266, that said proceeding should be redesignated accordingly, and that he should be required to file an agreement and undertaking in said proceeding.

(10) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Clinton Oil Co. should be made a co-respondent in the proceeding pending in Docket No. G-20448, that said proceeding should be redesignated accordingly, and that Clinton Oil Co. should be required to file an agreement and undertaking.

(11) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Okmar Oil Co. et al., should be made co-respondents in the proceedings pending in Docket Nos. RI65-475 and RI67-382, that said proceedings should be redesignated accordingly, and that Okmar Oil Co. et al., should be required to file an agreement and undertaking in Docket No. RI65-475.

(12) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Petrodyne, Inc., et al., should be made co-respondents in the proceeding pending in Docket No. RI67-39, that said proceeding should be redesignated accordingly, and that Petrodyne, Inc., et al., should be required to file an agreement and undertaking.

(13) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the respective related rate schedules and supplements as designated in the tabulation herein should be accepted for filing as hereinafter ordered.

The Commission orders:

(A) Certificates of public convenience and necessity are issued upon the terms and conditions of this order, authorizing the sales by the respective Applicants herein of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary for such sales, all as hereinbefore described and as more fully described in the respective applications, amendments, supplements, and exhibits in this proceeding.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as Applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 4 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's regulations thereunder, and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against the respective Applicants. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. Nor shall the grant of the certificates aforesaid for service to the particular customers involved imply approval of all of the terms of the respective contracts particularly as to the cessation of service upon termination of said contracts, as provided by section 7(b) of the Natural Gas Act. Nor shall the grant of the certificates aforesaid be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) The grant of the certificates issued herein on all applications filed after April 15, 1965, and July 1, 1967, is upon the condition that no increase in rate which would exceed the ceiling prescribed for the given area by paragraphs (d)(1), (d)(2), and (d)(3) of the Commission's statement of general policy No. 61-1, as amended, shall be filed prior to the applicable dates as indicated by footnotes 22 and 3, respectively, in the attached tabulation.

(E) A certificate is issued herein in Docket No. CI66-633 authorizing Applicant to continue the sale of natural gas being rendered on June 7, 1964.

(F) The initial rate for the sale authorized in Docket No. CI68-290 shall be 15 cents per Mcf at 14.65 p.s.i.a., including tax reimbursement, plus B.t.u. adjustment; however, in the event that the Commission amends its policy statement No. 61-1, by adjusting the boundary between the Panhandle area and the "Other" Oklahoma area so as to increase the initial wellhead price for new gas in the area involved herein, Applicant thereupon may substitute the new rate reflecting the amount of such increase, and thereafter collect such new rate prospectively in lieu of the initial rate herein required.

(G) Applicant in Docket No. CI68-290 shall file a new billing statement reflecting the 15-cent rate at 14.65 p.s.i.a. as required by the regulations under the Natural Gas Act.

(H) The certificate heretofore issued in Docket No. G-4366 is amended to include the interest of the coowners and the related rate schedule is redesignated as Hunt Oil Co. (Operator) et al., as indicated in the tabulation herein.

(I) The certificates heretofore issued in Docket Nos. G-8881, G-14156, CI62-234, CI62-386, CI64-106, CI66-851, and CI67-887 are amended by adding thereto or deleting therefrom authorization to sell natural gas to the same purchasers and in the same areas as covered by the original authorizations pursuant to the rate schedule supplements as indicated in the tabulation herein.

(J) The acceptance for filing of the related rate filing in Docket No. CI63-396 is contingent upon Applicant's filing three copies of a billing statement for the first month's service showing the method of billing and prices used.

(K) The certificates heretofore issued in the following dockets are amended to reflect the deletion of acreage where new certificates are issued herein or existing certificates are amended herein to authorize service from the subject acreage:

Amend to delete acreage	New certificate and/or amendment to add acreage
G-2658	G-15049
G-4269	CI61-1158
G-9182	CI68-291
G-11612	CI67-1838
G-14441	G-14156
CI60-502	CI68-226
CI61-737	CI68-287
CI64-28	CI68-314
CI64-1281	CI68-315
CI66-541	CI68-312

(L) The certificates heretofore issued in Docket Nos. G-9880 and CI63-503 are amended by changing the certificate holders to the respective successors in interest as indicated in the tabulation herein.

(M) The certificate heretofore issued in Docket No. CI62-823 is amended to reflect the change in name from Patricia Louise Riley to Patricia Riley Dixon as indicated in the tabulation herein.

(N) Permission for and approval of the abandonment of service by the respective Applicants, as hereinbefore described, all as more fully described in the respective applications and in the tabulation herein are granted.

(O) Permission for and approval of the abandonments in Docket Nos. CI67-1621 and CI68-30 shall not be construed to relieve the respective Applicants of any refund obligations which may be ordered in the related rate suspension proceedings pending in Docket Nos. RI66-330 and RI66-331, respectively.

(P) The certificates heretofore issued in Docket Nos. G-4760, G-10728, G-15894, CI62-256, CI63-374, CI64-1006, CI65-1045, and CI67-1273 are terminated.

(Q) Richard M. Finder, doing business as Texkan Oil Co. (Operator) et al., is made a co-respondent in the proceeding pending in Docket No. RI60-266, and said proceeding is redesignated accordingly.[1]

(R) Clinton Oil Co. is made a co-respondent in the proceeding pending in Docket No. G-20448, and said proceeding is redesignated accordingly.[2]

(S) Okmar Oil Co. et al., are made co-respondents in the proceedings pending in Docket Nos. RI65-475 and RI67-382, and said proceedings are redesignated accordingly.[3]

(T) Petrodyne, Inc., et al., are made co-respondents in the proceeding pending in Docket No. RI67-39, and said proceeding is redesignated accordingly.[4]

(U) Within 30 days from the issuance of this order, Richard M. Finder, doing business as Texkan Oil Co. (Operator) et al., Clinton Oil Co. and Petrodyne, Inc., et al., shall execute, in the form set out below, and shall file with the Secretary of the Commission acceptable agreements and undertakings in Docket Nos. RI60-266, G-20448, and RI67-39, respectively, to assure the refunds of any amounts collected by them, together with interest at the rate of 7 percent per annum, in excess of the amounts determined to be just and reasonable in said proceedings. Unless notified to the contrary by the Secretary of the Commission within 30 days from the date of submission, such agreements and undertakings shall be deemed to have been accepted for filing.

(V) Within 30 days from the issuance of this order, Okmar Oil Co. et al., shall execute, in the form set out below, and shall file with the Secretary of the Commission an acceptable agreement and undertaking in Docket No. RI65-475 to assure the refund of all amounts collected, together with interest at the rate of 7 percent per annum, in excess of the amount determined to be just and reasonable in said proceeding with respect to sales from the acreage assigned to Okmar Oil Co. et al., from the time that the increased rate became effective subject to refund. Unless notified to the contrary by the Secretary of the Commission within 30 days from the date of submission, such agreement and undertaking shall be deemed to have been accepted for filing.

(W) Richard M. Finder, doing business at Texkan Oil Co. (Operator) et al., Clinton Oil Co., Okmar Oil Co., et al., and Petrodyne, Inc., et al., shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, and the agreements and undertakings filed by them in Docket Nos. RI60-266, G-20448, RI65-475, and RI67-39, respectively, shall remain in full force and effect until discharged by the Commission.

(X) The respective related rate schedules and supplements as indicated in the tabulation herein are accepted for filing; further the rate schedules relating to the successions herein are accepted and redesignated, subject to the applicable Commission regulations under the Natural Gas Act to be effective on the dates as indicated in the tabulation herein.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[1] Standard Oil Company of Texas, a division of Chevron Oil Co., and Richard M. Finder, d.b.a. Texkan Oil Co. (Operator) et al.

[2] Continental Oil Co. and Clinton Oil Co.

[3] Docket No. RI65-475, Shell Oil Co. (Operator) et al., Cabot Corp. (SW) (Operator) et al., Herman Geo. Kaiser (Operator) et al., Phillips Petroleum Co., V. F. Neuhaus, E. B. Hubbard, Jr. (Operator) et al., and Okmar Oil Co. et al.; Docket No. RI67-382, Shell Oil Co. and Okmar Oil Co. et al.

[4] Ashland Oil & Refining Co. and Petrodyne, Inc., et al.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted: Description and date of document	No.	Supp.
G-4366 D 8-8-67 [1] 9-11-67 [1] [2]	Hunt Oil Co. (Operator) et al.	United Gas Pipe Line Co., Cotton Valley Field, Webster Parish, La.	Supplement 9-15-67 [4]	25	11
G-8881 D 1-14-66	Big Injun Development Co.	Consolidated Gas Supply Corp., Grant District, Ritchie County, W. Va.	Notice of Partial Cancellation 12-25-65 [1] [5]	1	2
G-9880 E 9-21-67	David E. Barr (successor to J. G. Franks et al.).	Consolidated Gas Supply Corp., Sheridan District, Calhoun County, W. Va.	J. G. Franks, et al., FPC GRS No. 4.	3	
			Notice of succession 8-30-67.		
			Assignment 11-30-67 [1]	3	1
			Assignment 9-12-67 [1]	3	2
			Effective date: 9-1-67		
F G-14156 (G-14441) C 6-15-67	Union Oil Company of California.	El Paso Natural Gas Co., Aneth Field, San Juan County, Utah.	Supplemental agreement 9-15-67. [1]	117	5
			Assignment 12-27-66 [2]	117	1 to 5
			Effective date: 12-27-66.		
G-15048 A 5-5-66	B. B. Orr	Mississippi River Transmission Corp., Waskom Field, Harrison County, Tex.	Contract 4-25-66	2	
G-15049 (G-2658) F 5-5-66	B. B. Orr (successor to Bayview Oil Corp. (Operator) et al.[1a]).	do	Contract 4-25-51	3	
			Agreement 12-27-51	3	1
			Agreement 7-1-52	3	2
			Letter 7-22-52	3	3
			Letter 4-16-53	3	4
			Assignment 4-19-54	3	5
			Assignment 11-29-54	3	6
			Assignment 3-9-55	3	7
CI61-1158 (G-4269) F 1-31-61	Richard M. Finder, d.b.a. Texkan Oil Co. (Operator) et al. (successor to Standard Oil Co. of Texas, a division of Chevron Oil Co.).	Tennessee Gas Pipe Line Co., a division of Tenneco, Inc., Alta Mesa Field, Brooks County, Tex.	Contract 7-27-53 [1b]	15	
			Letter agreement 9-15-54.	15	1
			Letter agreement 4-16-56.	15	2
			Letter agreement 3-10-60. [3]	15	3
			Assignment 10-9-60 [2]	15	4
			Amendment 11-2-60 [2]	15	5
			Letter agreement 6-6-61. [3] [6]	15	6
CI62-823 9-13-67 [7]	Patricia Riley Dixon (formerly Patricia Louise Riley).	Cities Service Gas Co., Guymon-Hugoton Field, Texas County, Okla.	Patricia Louise Riley, FPC GRS No. 2.	1	
			Supplement No. 1	1	1
			Supplement 2-17-67 [1]	1	2
			Effective date: 2-24-67.		
CI63-226 (CI60-502) F 9-20-62	Tommy Ward Drilling Co. (Operator) et al. (successor to Shell Oil Co.).	Northern Natural Gas Co., Wilburton Field, Texas County, Okla.	Contract 2-4-62	2	
			Ratified 7-6-62	2	1
CI63-284 C 9-21-67 [8]	Mobil Oil Corp. (Operator) et al.	Arkansas Louisiana Gas Co., Red Oak Field, Pittsburg County, Okla.	Letter agreement 7-12-67. [3]	233	15
CI63-396 C 9-20-67 [9]	Glenn, Inc.	Equitable Gas Co., Central District, Doddridge County, W. Va.	Letter agreement 8-2-67. [3]	1	4
CI63-503 F 9-9-65	Clinton Oil Co. (Operator) et al. (successor to Raymond Oil Co., Inc. (Operator) et al.).	Cities Service Gas Co.; acreage in Kay County, Okla.	Contract 10-6-62	1	
			Amendment 1-15-63	1	1
			Assignment 7-15-63 (No. 47707)	1	2
			Assignment 7-15-63 (No. 47705)	1	3
			Assignment 7-15-63 (No. 47709)	1	4
			Assignment 7-15-63 (No. 47710)	1	5
			Assignment 7-15-63 (No. 48258)	1	6
			Assignment 7-15-63 (No. 48259)	1	7

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted		
			Description and date of document	No.	Supp.
D 7-13-67 [1]			Amendment 1-2-67 (Supersedes Raymond Oil Co., Inc. (Operator) et al. FPC GRS No. 5). Effective date: 7-15-63	1	6
CI66-109 D 6-14-67	Sunny DX Oil Co.	Northern Natural Gas Co., Hugoton-Anadarko Area, Grant County, Okla.	Letter agreement 7-5-67 [2]	236	3
CI66-251 (G-9155) F 6-21-67	Morris Oil & Gas Co., Inc.	Equitable Gas Co., Other Districts, Braxton County, W. Va.	Contract 3-20-51	12	----
CI66-261 C 6-21-67 [3]	W. G. Sampson et al.	Consolidated Gas Supply Corp., Washington Dist., W. Va.	Letter agreement 2-21-67 [2]	7	1
CI67-857 [4]	David E. Bunting	Consolidated Gas Supply Corp., Troy District, Calhoun County, W. Va.	Letter agreement 6-26-67 [2]	1	1
CI67-1035 (G-1080) B 6-13-67	Gulf Oil Corp.	Kansas-Nebraska Natural Gas Co., Inc., Armstrong Field, Logan County, Okla.	Notice of cancellation 4-10-67 [2]	239	6
CI67-1051 (G-1064-1066) B 6-10-67	Tennessee Oil Co.	Arkansas Louisiana Gas Co., acreage in La Flore County, Okla.	Notice of cancellation 5-10-67 [2]	2 46	4
CI67-1173 A 6-6-67	Tenneco Oil Co. (Operator) et al.		Contract 5-30-61 [2]	2	1
CI67-1233 (G-11612) F 6-20-67	Clinton Oil Co. (successor to Continental Oil Co.).	Cities Service Gas Co., Rhodes Field, Barber County, Kans.	Contract 8-10-50 [2] Assignment 12-20-66 [2]	11 11	1 1
CI67-261 A 6-11-67 [5]	Mallard Drilling Corp. and Central Oil Co.	Southern Natural Gas Co., Spider Field Area, De Soto Parish, La.	Effective date: 11-1-66. Rectified 7-11-67.	1	1
CI66-305 A 7-19-67	Humble Oil & Refining Co.	Arkansas Louisiana Gas Co., Macedonia Field, Sebastian County, Ark.	Contract 9-26-67 [2] Contract 10-21-63 Letter agreement 10-21-63. Letter agreement 6-17-67 [2]	435 435 435	1 2 3
CI66-267 (C161-767) F 6-20-67	Okmar Oil Co. et al. (successor to Shell Oil Co.).	Transwestern Pipeline Co., Gillihan Creek Field, Ochiltree County, and Higgins Field, Lipscomb County, Tex.	Contract 6-28-50 [2] Letter agreement 10-24-61. Letter agreement 2-14-62. Letter agreement 11-4-64. Letter agreement 1-28-65. Letter agreement 1-15-67.	15 15 15 15 1 15	1 2 3 4 5 6
			Assignment 6-15-67 [2] Assignment 6-15-67 [2] Conveyance 6-28-67 [2] Effective date: 6-1-67	15 15 15	7 8 9
CI66-268 (G-10726) B 6-15-67	W. B. Fontaine	United Gas Pipe Line Co., Pistol Ridge Field, Pearl River County, Miss.	Notice of cancellation [2]	1	3

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted		
			Description and date of document	No.	Supp.
CI66-309 (CI67-1278) B 5-19-67	Mesa Petroleum Co. (Operator) et al.	Northern Natural Gas Co., Lovedale Field, Harper County, Okla.	Notice of cancellation 5-12-67 [2]	17	1
CI66-360 A 5-26-67 [6]	The Superior Oil Co.	Panhandle Eastern Pipe Line Co., North Waynoka Field, Woods County, Okla.	Contract 4-28-67 [2]	136	----
CI66-391 (G-9155) F 5-21-67	Gordon Oil Co. (Operator) et al. (successor to Reagan J. Caraway (Operator) et al.).	Lone Star Gas Co., Sherman Field, Grayson County, Tex.	Contract 7-15-53 [2]. Amendment 11-15-66. Assignment 7-4-66 [2]. Effective date: 7-1-66. Assignment 6-26-67 [2]. Effective date: 8-1-67.	1 1 1	2 3 4
CI66-392 A 5-21-67 [7]	Stonestreet Oil & Gas Co.	Consolidated Gas Supply Corp., Center District, W. Va.	Contract 6-14-67 [2]	1	----
CI66-393 A 5-21-67 [8]	Jackson Pipe Line Construction Co.	Consolidated Gas Supply Corp., Pleasant District, Pleasant County, W. Va.	Contract 4-7-67 [2]	1	----
CI66-394 A 5-21-67 [9]	F. A. Deem et al. d.b.a. Alpha Oil & Gas Co. et al. (by Raymond N. Bass, Jr.).	Consolidated Gas Supply Corp., Union District, Ritchie County, W. Va.	Contract 7-10-67 [2]	13	----
CI66-395 A 5-22-67 [9]	Hunt & Co., agent for Diana Smith et al. d.b.a. Statewide Oil & Gas Co.	Consolidated Gas Supply Corp., Collins Settlement District, Lewis County; Banks District, Upshur County; and Ball Lick District, Preston County, W. Va.	Contract 8-10-67 [2]	280	----
CI66-396 A 5-22-67 [9]	Lock 3 Oil, Coal & Dock Co.	Consolidated Gas Supply Corp., Elk District, Harrison County, W. Va.	Contract 7-15-67 [2]	11	----
CI66-397 A 5-22-67 [9]	Homer Queen, agent for Queen Gas Co. et al. (Jean L. Haught, agent for Elizabeth Ervin Gas Co.	do	Contract 7-14-67 [2]	26	----
CI66-398 A 5-22-67 [9]	Texaco, Inc.	Consolidated Gas Supply Corp., Murphy District, Ritchie County, W. Va.	Contract 7-21-67 [2]	26	----
CI66-399 B 5-22-67	Producers Associated Transportation, Inc. [10]	Ohio Service Gas Co., Traffas Field, Barber County, Kans.	Notice of cancellation (Undated). [2]	247	6
CI66-400 A 5-19-67	Pan American Petroleum Corp.	Texas Eastern Transmission Corp., Bethany Field, Shelby County, Tex.	Contract 6-22-67 [2]	1	----
CI66-401 A 5-22-67 [9]	Ruth P. McElvain et al.	Arkansas Louisiana Gas Co., Wilburton Field, Latimer County, Okla.	Contract 2-10-67 [2] Assignment 2-10-67 [2]	501 501	1 ----
CI66-402 A 5-26-67 [9]	Columbian Fuel Corp.	El Paso Natural Gas Co., Basin Dakota Field, Rio Arriba County, N. Mex.	Contract 5-4-67 [2]	1	----
CI66-410 A 5-25-67 [9]	Apex Realty and Management Co., Inc. (successor to Pacific States Gas & Oil, Inc.).	Consolidated Gas Supply Corp., Ripley District, Jackson County, W. Va.; Equitable Gas Co., Glenville District, Gilmer County, W. Va.	Contract 5-17-67 [2]	86	----
CI66-412 (CI66-541) F 5-15-67	Fan A. American Petroleum, Corp.	Mississippi River Transmission Corp., Dubach Field, Lincoln Parish, La.	Contract 5-30-65 [2] Assignment 2-8-66 [2] Assignment 4-26-67 [2] Effective date: 5-1-67.	1 1 1	1 2 3
			Notice of cancellation 5-21-67. [2]	48	6

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted		
			Description and date of document	No.	Supp.
CI66-314 (CI64-28) F 9-25-67	Petrodyne, Inc. et al. (successor to Robert P. Lammerts).	Arkansas Louisiana Gas Co., Star Field, Blaine County, Okla.	Contract 11-21-60 [11]	1	----
			Letter Agreement 11-21-60.	1	1
			Letter Agreement 12-5-62.	1	2
			Letter Agreement 6-20-62.	1	3
			Letter Agreement 3-21-65.	1	4
			Supplemental Agreement 4-29-66.	1	5
			Letter Agreement 6-2-65.	1	6
			Assignment 7-14-67 [12]	1	7
CI66-315 (CI64-1281) F 9-25-67	Petrodyne, Inc. et al. (successor to Ashland Oil & Refining Co.).	Arkansas Louisiana Gas Co., Star Field, Kingfisher County, Okla.	Ratified 12-13-62 [13]	2	----
			Ammendatory Agreement 2-24-64.	2	1
			Contract 10-15-62	2	2
			Amendatory Agreement 10-15-62.	2	3
			Assignment 7-21-67 [14]	2	4
			Effective date: 6-1-67		
CI66-316 (CI65-1045) B 9-25-67	Benedum-Trees Oil Co.	Northern Natural Gas Co., East Balko Field, Beaver County, Okla.	Notice of cancellation 9-21-67. [15]	15	2
CI66-317 (CI63-574) B 9-25-67	Texaco, Inc.	Panhandle Eastern Pipe Line Co., Mohler Field, Meade County, Kans.	Notice of cancellation 9-22-67. [15]	304	2

[1] Amendment to the certificate filed to add interest of coowners.
[2] Corrects and amends certificate filing of Aug. 8, 1967.
[3] Jan. 1, 1970, moratorium pursuant to the Commission's statement of general policy No. 61-1, as amended.
[4] Evidences signatory status of coowners.
[5] Lease has expired (includes letter of concurrence from buyer, deleting 100 acres from the A. Weekley Lease).
[6] Effective date: Date of this order.
[7] From Franks et al. to William H. Ellis et al., doing business as Morristown Gas Co.
[8] From Ellis et al. to David Barr.
[9] Adds interest to Union's Nov. 29, 1967, contract. Interest previously held by Marathon Oil Co. and dedicated to Dec. 2, 1957, contract; on file as Marathon Oil Co. FPC GRS No. 44. Agreement also deletes this interest from the Dec. 2, 1957, Marathon contract.
[10] Assignment of interest from Marathon Oil Co. to Union Oil Company of California.
[11] Predecessor in interest to Hurley Oil & Gas Co.
[12] Basic contract between Standard Oil Company of Texas and Tennessee; currently on file as Standard Oil Company of Texas, A division of Chevron Oil Co. FPC GRS No. 1.
[13] Redetermines rate to provide for 17.2647 cents, Applicants current rate.
[14] Assigns partial interest of predecessor, Standard Oil Company of Texas, to Applicant.
[15] Adopts and amends basic contract.
[16] Provides for Valley Gas Transmission, Inc., to transport Applicant's gas to point of delivery with Tennessee.
[17] Effective date: Date of initial delivery (Applicant shall advise the Commission as to such date).
[18] Amendment to the certificate filed to reflect change in name.
[19] Reflects change in name from Patricia Louise Riley to Patricia Riley Dixon.
[20] The filing submitted on July 12, 1967, reflects the reversion of certain expired unproductive leases to lessors.
[21] Deletes 46.06 acres, Lease No. S-62928, due to expiration of lease. Lease on acreage in question has expired and was released on Feb. 27, 1967.
[22] Sale being rendered on June 7, 1964.
[23] Jan. 1, 1968, moratorium pursuant to the Commission's statement of general policy No. 61-1, as amended.
[24] Source of gas depleted.
[25] Rate effective subject to refund in Docket No. RI66-380.
[26] Basic contract between Arkansas Louisiana Gas Co. and Steve Goss et al.; on file as Steve Goss (Operator) et al., FPC GRS No. 1.
[27] Pertains to the Hill Unit, Le Flare County, Okla. Goss did not file for certificate authorization for this unit.
[28] Also on file as Continental Oil Co. FPC GRS No. 140.
[29] On file as Vanson Production Corp. (Operator), et al., FPC GRS No. 1.
[30] Eliminates indefinite pricing provisions from contract.
[31] Adopts the terms of the contract dated Oct. 21, 1963, between buyer and Shell Oil Co.
[32] On file as Shell Oil Co. FPC GRS No. 243.
[33] From Shell to Thomas C. Hower (Gilbula Creek Field).
[34] From Shell to Thomas C. Hower (Higgins Field).
[35] From Thomas C. Hower to Okmar Oil Co. et al.
[36] Contract price is 17 cents per Mcf; however, Applicant has stated its willingness to accept a permanent certificate at 15 cents per Mcf.
[37] On file as R. J. Caraway (Operator) et al., FPC GRS No. 2.
[38] Conveys interest of E. J. Caraway to Gordon Oil Co. (Operator) et al.
[39] Conveys interest of Homer D. Key to Gordon Oil Co. (Operator) et al.
[40] Rate in effect subject to refund in Docket No. RI66-384; last firm rate is 13 cents.
[41] Applicant will transport gas covered under Docket No. CI66-26 to Texas Eastern Transmission Corp. for the account of Humble. Applicant will not have title to the gas.
[42] Contract between Applicant and Humble Oil & Refining Co. which provides for gathering and dehydrating the subject gas.
[43] Application in Docket No. CI66-305 noticed Oct. 5, 1967, in Docket Nos. G-4680, et al., as a partial succession to the sale in Docket No. CI65-176; further review of the Commission's files reveals that the Applicant's predecessors have never filed to sell gas from the subject acreage.
[44] Assignment by which Pan American Petroleum Corp. et al., acquired the acreage subject to the Mar. 30, 1964, contract between Steve Goss et al. and Arkansas Louisiana Gas Co.
[45] Between Pacific States Gas & Oil, Inc., and Equitable Gas Co.; also on file as Pacific States Gas & Oil, Inc., FPC GRS No. 1. (National Go To Church Campaign, Inc., Applicant's predecessor never made certificate filing to cover the subject acreage.)
[46] From Pacific States Gas & Oil, Inc., to National Go To Church Campaign, Inc.
[47] From National Go To Church Campaign, Inc., to Apex Realty and Management Co., Inc.
[48] Basic contract on file as Robert P. Lammerts FPC GRS No. 1.
[49] Assignment whereby Applicant acquires subject acreage.
[50] Ashland Oil & Refining Co. ratifies contract dated Oct. 15, 1962 between buyer and Calvert Exploration Co.; on file as Ashland Oil & Refining Co. FPC GRS No. 168.

[F.R. Doc. 67-13976; Filed, Nov. 30, 1967; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[70-4599]

AMERICAN ELECTRIC POWER CO., INC.

Notice of Proposed Issue and Sale of Notes to Banks and to Dealer in Commercial Paper by Holding Company, Exemption From Competitive Bidding, and Capital Contribution to Subsidiary Companies

NOVEMBER 27, 1967.

Notice is hereby given that American Electric Power Co., Inc. ("AEP"), 2 Broadway, New York, N.Y. 10004, a registered holding company, has filed an application-declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(b) and 12 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

AEP requests that from the date of the granting of the application-declaration to December 31, 1969, it be authorized to issue, reissue, and sell, from time to time, short-term notes (including commercial paper) in an aggregate face amount of not more than $100 million, to be outstanding at any one time.

The proceeds from the sale of the short-term notes, including the commercial paper, are to be applied by AEP, together with other funds, to make additional investments in certain of its public-utility subsidiary companies, in the form of capital contributions, to assist them in financing the costs of their respective construction programs through 1969 and for other corporate purposes. AEP requests authority to make capital contributions from time to time prior to December 31, 1969, to four of its public-utility subsidiary companies, namely, Ohio Power Co. ("Ohio"), Kentucky Power Co. ("Kentucky"), Appalachian Power Co. ("Appalachian"), and Indiana & Michigan Electric Co. ("I&M"), aggregating $35 million to Ohio; $21,400,000 to Kentucky; $40 million to Appalachian; and $24 million to I&M. The construction program for AEP system is estimated at $605,800,000. The construction programs of the four subsidiary companies are—Ohio, $146,700,000; Kentucky, $90,900,000; Appalachian, $202,800,000; and I&M, $163,800,000.

The notes to be sold to banks in an aggregate face amount of $100 million, less the face amount of outstanding commercial paper notes, described below, will bear interest at the prime commercial rate then in effect, will mature no

more than 270 days from the date of issue or reissue thereof, and will be prepayable at any time without premium. As of November 1, 1967, AEP had outstanding $8 million of short-term notes payable to banks issued pursuant to the exemption provided by the first sentence of section 6(b) of the Act. Such notes, together with other notes, the issue and sale of which would normally be exempt under such section, will be included in the amount authorized herein. The names of the banks purchasing notes are to be supplied by amendment.

AEP also proposes to issue, reissue, and sell, from time to time, prior to December 31, 1969, commercial paper in the form of short-term promissory notes to an investment banker and dealer in commercial paper ("dealer"), up to $50 million face amount to be outstanding at any one time. The commercial paper notes will be of varying maturities with no such notes maturing more than 9 months after date of issue, and none will be prepayable prior to maturity. Such notes, in denominations of not less than $100,000 and not more than $5 million, will be issued and sold by AEP directly to the dealer at a discount which will not be in excess of the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and of the particular maturity, sold by issuers thereof to commercial paper dealers. Generally, the commercial paper will be sold by AEP at effective interest costs not expected to exceed the prime rate of commercial banks on the date of issue.

It is stated that no commission or fee will be payable in connection with the issue and sale of the commercial paper notes. The dealer, as principal, will reoffer such notes at a discount of one-eighth of 1 percent per annum less than the prevailing discount rate to AEP. The notes will be reoffered in a manner which will not constitute a public offering, to no more than 100 identified and designated customers in a list (nonpublic) prepared in advance by the dealer. No additions will be made to this customer list, which includes commercial banks, insurance companies, corporate pension funds, investment trusts, foundations, colleges and universities, municipal and State benefit funds, eleemosynary institutions, finance companies, and nonfinancial corporations which invest surplus funds in commercial paper. It is expected that AEP's commercial paper notes will be held by customers to maturity, but, if they wish to resell prior thereto, the dealer, pursuant to a verbal repurchase agreement, will repurchase the notes and reoffer the same to others in the group of 100 customers.

The filing states that, historically, the cost of commercial paper borrowing for companies of comparable credit to AEP has averaged approximately three-quarters of 1 percent per annum less than the commercial bank prime rate and that, based on the recent experience of other companies, AEP desires the flexibility of using commercial paper borrowings to supplement its bank borrowings. It is also stated that the use of commercial paper will afford greater flexibility in the timing by AEP of its permanent financing.

AEP will retire its short-term notes payable to banks and its commercial paper notes, on or about December 31, 1969, through the use of proceeds derived from the issue and sale of common stock, pursuant to a future declaration to be filed, and the use of other funds.

AEP requests an exception from the competitive bidding requirements of Rule 50 for the proposed issue and sale of its commercial paper pursuant to clause (a) (5) (B) thereof. AEP states that the proposed commercial paper notes will be sold only if lower effective interest costs are available. AEP further states that it is not practical to invite competitive bids for commercial paper and that current rates for commercial paper for such prime borrowers as AEP are published daily in financial publications.

The application states that no fees, commissions or other expenses are to be paid or incurred by AEP except for legal fees not to exceed $2,500. It is further stated that the capital contributions of AEP to Appalachian require authorizations of The State Corporation Commission of Virginia and the Public Service Commission of West Virginia, such authorizations to be filed by amendment; and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 14, 1967, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing in respect thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service thereof (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended, or as it may be further amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20 (a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14026; Filed, Nov. 30, 1967; 8:48 a.m.]

[File No. 1-5215]

ROTO AMERICAN CORP.

Order Suspending Trading

NOVEMBER 27, 1967.

The common stock, $1 par value, of Roto American Corp., being listed and registered on the National Stock Exchange pursuant to the provisions of the Securities Exchange Act of 1934 and the 7 percent cumulative preferred, $10 par value, being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to sections 15 (c) (5) and 19(a) (4) of the Securities Exchange Act of 1934, that trading in such securities on the National Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 28, 1967 through December 7, 1967, both dates inclusive.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14027; Filed, Nov. 30, 1967; 8:46 a.m.]

SILVER SHIELD CORP.

Order Suspending Trading

NOVEMBER 27, 1967.

In the matter of trading in securities of Silver Shield Corp. (formerly Silver Shield Mining & Milling Co.), Spokane, Wash.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Silver Shield Corp. otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period commencing November 27, 1967, at 5 p.m., e.d.t., through December 6, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14076; Filed, Nov. 30, 1967; 8:49 a.m.]

INTERSTATE COMMERCE COMMISSION

[Section 5a Application No. 48; Amdt. 6]

NIAGARA FRONTIER TARIFF BUREAU, INC.

Notice of Application for Approval of Amendment to Agreement

NOVEMBER 28, 1967.

The Commission is in receipt of a section 5a application in the above-entitled proceeding for approval of an amendment to the agreement therein approved.

Filed October 9, 1967, by Robert G. Gawley, Assistant General Manager, 681 Niagara Street, Buffalo, N.Y. 14201.

The amendment involves: (1) Changing the title of the chief executive officer from General Manager to Executive Vice President; (2) creates the office of and establishes the duties for an Assistant Secretary; and (3) makes other incidental changes in the agreement and governing bylaws by the changes in (1) and (2) above.

The amendment is docketed and may be inspected at the office of the Commission in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing within 20 days from the date of publication in the FEDERAL REGISTER. As provided by the general rules of practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved without public hearing.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-14065; Filed, Nov. 30, 1967; 8:48 a.m.]

[Notice 500]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 28, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 52579 (Sub-No. 92 TA) (Republication), filed November 6, 1967, published FEDERAL REGISTER issue of November 15, 1967, and republished this issue. Applicant: GILBERT CARRIER CORP., 1 Gilbert Drive, Secaucus, N.J. 07094. Applicant's representative: Aaron Hoffman (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials and supplies* used in the manufacture of wearing apparel, between Hialeah, Fla., on the one hand, and, on the other Passaic, N.J., and points in the New York, N.Y., commercial zone, as defined by the Commission, for 150 days. NOTE: Applicant intends to interline at New York, N.Y., commercial zone, but does not intend to tack with presently held authority. The purpose of this republication is to included tacking information. Supporting shipper: Country Club Casuals, Inc., 1650 East 16th Street, Hialeah, Fla. 33010. Send protests to: District Supervisor, Walter J. Grossmann, Interstate Commerce Commission, Bureau of Operations, 1060 Broad Street, Room 363, Newark, N.J. 07102.

No. MC 109482 (Sub-No. 11 TA), filed November 20, 1967. Applicant: BESTWAY FREIGHT LINES, INC., Post Office Box 1802, 500 South Western Oklahoma City, Okla. 73108. Applicant's representative: J. W. Boyles (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, and except dangerous explosive, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Dallas, Tex., and Lawton, Okla., from Dallas via Texas Highway 114 to its intersection with U.S. Highway 287 and from Dallas, over Interstate Highway 20 to its intersection with U.S. Highway 287, thence over U.S. Highway 287 from either such intersection to Wichita Falls, Tex., thence over U.S. Highway 281 and the parallel H. E. Bailey Turnpike to Lawton, Okla., serving (1) the termini in either direction, (2) Wichita Falls as a point of joinder with existing regular and irregular route authority in MC 109482, (3) Fort Sill, Okla., as an off-route point and (4) points in the commercial zones of Lawton and Fort Sill to provide joinder with applicant's existing regular and irregular route authority in MC 109482, for 180 days. NOTE: Applicant does intend to tack the authority here applied for to other authority held by it, and to interline MC 109482 at Wichita Falls, Tex., and at points in the commercial zones of Lawton and Fort Sill, Okla., and outside the city limits thereof. Supporting shippers: There are approximately 65 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 350, American General Building, 210 Northwest Sixth, Oklahoma City, Okla. 73102.

No. MC 113646 (Sub-No. 7 TA), filed November 20, 1967. Applicant: JEFFERSON TRUCKING COMPANY, South National City Road, Post Office, National City, Mich. 48748. Applicant's representative: William B. Elmer, 22644 Gratiot Avenue, Kaiser Building, East Detroit, Mich. 48021. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal building materials and accessories* used in the installation thereof, from Niles, Ohio, to points in Indiana, Illinois, Kentucky, Michigan, Missouri, Wisconsin, West Virginia, and points in New York except the following counties: Bronx, Duchess, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Sullivan, Ulster, and Westchester and points in Pennsylvania on and west of U.S. 219, for 180 days. Supporting shipper: National Gypsum Co., Gold Bond Building, Buffalo, N.Y. 14202. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 221 Federal Building, Lansing, Mich. 49333.

No. MC 111729 (Sub-No. 253 TA), filed November 20, 1967. Applicant: AMERICAN COURIER CORPORATION, 222-17 Northern Boulevard, De Bevoise Building, Bayside, N.Y. 11361. Applicant's representative: J. Kevin Murphy (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Business papers, records, and audit and accounting media* of all kinds (excluding plant removals), (a) Between Tonawanda, N.Y., on the one hand, and, on the other, Cleveland and Fostoria, Ohio, Buffalo, N.Y., and Clarksburg, W. Va.; (b) between points in Hillsboro County, N.H., on the one hand, and, on the other, points in Cumberland County, Maine, points in Suffolk County, Mass.; and points in New York and Nassau Counties, N.Y.; (c) between Washington, D.C., and Dulles Airport, Fairfax, Va., on the one hand, and, on the other, Springfield, and Reston, Va.; (2) *payroll checks*, (a) between Tonawanda, N.Y., on the one hand, and, on the other, Buffalo, N.Y., and Clarksburg, W. Va.; (b) from Tonawanda, N.Y., to Cleveland and Fostoria, Ohio; (c) between points in Hillsboro County, N.H., on the one hand, and, on the other, points in Cumberland County, Maine, points in Suffolk County, Mass.; and points in New York and Nassau Counties, N.Y.; (d) between Washington, D.C., and Dulles Airport,

Fairfax, Va., on the one hand, and, on the other, Springfield, and Reston, Va.; (3) *radiopharmaceuticals, radioactive drugs, and medical isotopes*, between Atlanta, Ga., on the one hand, and, on the other, points in Florida; (4) *exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies and advertising literature* moving therewith (excluding motion picture film used primarily for commercial theater and television exhibition), between Cleveland, Ohio, on the one hand, and, on the other, points in Indiana, for 180 days. Supporting shippers: Union Carbide Corp., 270 Park Avenue, New York, N.Y. 10017; Sanders Associates, Inc., 95 Canal Street, Nashua, N.H. 03060; Abbott Laboratories, North Chicago, Ill. 60064; Brunner-Booth Fotochrome Corp., 2300 Payne Avenue, Cleveland, Ohio 44114. Send protests to: E. N. Carignan, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 346 Broadway, New York, N.Y. 10013.

No. MC 124190 (Sub-No. 1 TA), filed November 22, 1967. Applicant: GRIFFIN MOBILE HOME TRANSPORTING CO., 9000 Southeast 29th Street, Oklahoma City, Okla. 73110. Applicant's representative: W. T. Brunson, 419 Northwest Sixth Street, Oklahoma City, Okla. 73102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *House trailers*, between plantsites of Chickasha Mobile Homes, Inc., at or near Chickasha, Okla., on the one hand, and on the other, points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin, and Wyoming, for 180 days. Chickasha Mobile Homes, Inc., Ronald Raczynski, Vice-President, Post Office Box 405, Chickasha, Okla. 73013. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 210 Northwest Sixth, Oklahoma City, Okla. 73102.

No. MC 129480 (Sub-No. 1 TA), filed November 15, 1967. Applicant: TRILINE EXPRESSWAYS, LTD., 827 46 Avenue SE., Calgary, Alberta, Canada. Applicant's representative: Hugh Sweeney, Suite 301 Medical Arts Building, Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials, lumber and lumber products, iron and steel articles including scrap metal*, between the port of entry on the international boundary line between the United States and Canada, located north of Portal, N. Dak., on the one hand, and on the other, Portal, N. Dak.; between the port of entry on the international boundary line between the United States and Canada, located north of Raymond, Mont., on the one hand, and on the other, Plentywood, Mont.; between the port of entry on the international boundary line between the United States and Canada, located north of Sweetgrass, Mont., on the one hand, and on the other, Sweetgrass, Mont.; between the port of entry on the international boundary line between the United States and Canada, located north of Eureka, Mont., on the one hand, and on the other, Eureka, Mont.; between the port of entry on the international boundary line between the United States and Canada, located north of Eastport, Idaho, on the one hand, and on the other, Eastport, Idaho; between the port of entry on the international boundary line between the United States and Canada, located north of Oroville, Wash., on the one hand, and on the other, Oroville, Wash., and between the port of entry on the international boundary line between the United States and Canada, located north of Sumas, Wash., on the one hand, and on the other, Sumas, Wash.; restricted to traffic moving from or to points in Canada, which traffic is interchanged with other carrriers at Portal, N. Dak.; Plentywood, Mont.; Sweetgrass, Mont.; Eureka, Mont.; Eastport, Idaho; Porthill, Idaho; Oroville, Wash., and Sumas, Washington, either before or after going through either or both the Canadian or U.S. Customhouses, for 120 days. NOTE: The applicant intends to interchange with other carriers at the points of origin and destination located within the States of North Dakota, Montana, Idaho, and Washington, as shown in the application. Supporting shippers: Cooper-Widman Ltd., Post Office Box 2069, Vancouver 3, British Columbia, Canada; Western Canada Steel Ltd., 450 Southeast Marine Drive, Vancouver 15, British Columbia, Canada; Forsley Sales Co., Post Office Box 2870, Great Falls, Mont. 59401; Interprovincial Steel Sales Ltd., Post Office Box 1670, Regina Saskatchewan, Canada; Reid Pump and Supply Co., Post Office Box 637, Wenatchee, Wash. 98801; The John Davidson Co., Ltd. 860 West First Street, North Vancouver, British Columbia, Canada. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 251 U.S. Post Office Building, Billings, Mont. 59101.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-14067; Filed, Nov. 30, 1967; 8:49 a.m.]

[Notice 56]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 28, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-69901. By order of November 15, 1967, the Transfer Board approved the transfer to Crabbs Transport, Inc., Enid, Okla., of certificates in Nos. MC-40270, MC-40270 (Sub-No. 1), and MC-40270 (Sub-No. 4), respectively issued May 29, 1941, August 8, 1963, and February 2, 1967, respectively to A. J. Crabbs, Enid, Okla., authorizing the transportation of: Farm implements and machinery and salt, in truckloads, between Independence and Kansas City, Mo., and Wichita and Hutchinson, Kans., on the one hand, and, on the other, points in a specified Oklahoma territory; animal and poultry feed and feed ingredients, between Enid, Okla., on the one hand, and, on the other, points in Kansas and Texas as excepted; feed and feed ingredients, between Afton, Okla., on the one hand, and, on the other, points in Arkansas, Missouri, Kansas, and Texas; and feed ingredients, from points in Arkansas and Missouri, to Enid, Okla., and points within 5 miles thereof. Rufus H. Lawson, Post Office Box 75124, Oklahoma City, Okla. 73107, attorney for applicants.

No. MC-FC-69935. By order of November 14, 1967, the Transfer Board approved the transfer to Gilbert Transfer Co., a corporation, 3045 Indiana Avenue, Winston-Salem, N.C., of the permit in No. MC-113874 (Sub-No. 1), issued November 21, 1963, to Samuel M. Gilbert and Robert E. Gilbert, a partnership, doing business as Gilbert Transfer Co., same address, authorizating the transportation of: Corrugated boxes, knocked down, and corrugated separators used in conjunction with such boxes, from Winston-Salem, N.C., to points in South Carolina and a specified Tennessee territory; and empty containers used in transporting the above specified commodities, in the reverse direction.

No. MC-FC-69990. By order of November 14, 1967, the Transfer Board approved the transfer to Knobloch Trucking Co., Inc., Brookhaven, N.Y., of permits Nos. MC-41498 and MC-41498 (Sub-No. 3), issued January 31, 1963, and August 27, 1965, to Fred Knobloch, Brookhaven, N.Y., authorizing the transportation of: Groceries and advertising matter pertaining thereto, from Bayonne and Jersey City, N.J., to Riverhead, N.Y., serving specified intermediate points; empty grocery containers, oleomargarine, and mayonnaise, from Riverhead, N.Y., to Bayonne and Jersey City, N.J., serving specified intermediate points; oleomargarine, pickles, salad dressing, table sauces, mustard, vegetable cooking oils, stearin, and advertising matter pertaining thereto, from Bayonne, N.J., to points in Nassau and Suffolk Counties, N.Y., as excepted; and such commodities as are dealt in by wholesale, chain, and retail food business houses and, in connection therewith, equipment, materials, and supplies used in the conduct of such business (except liquid commodities, in bulk, in tank vehicles), from Bayonne, N.J., to points in Nassau and Suffolk Counties, N.Y. Douglas Miller, Post Office Box 8, Malverne, N.Y. 11565, counsel for applicants.

No. MC-FC-70023. By order of November 15, 1967, the Transfer Board approved the transfer to Gensler, Inc., Shullsburg, Wis., of the operating rights in certificate No. MC-107840, issued March 11, 1957, to Forrest Gensler and Arden Gensler, Shullsburg, Wis., authorizing the transportation of: Materials, equipment, and supplies used or useful in the construction and maintenance of highways and buildings, in dump trucks, and other specified commodities, i.e., dirt, sand, gravel, fertilizer, etc., between points in Wisconsin, Illinois, and Iowa. Edward Solie, 4513 Vernon Boulevard, Madison, Wis. 53705, attorney for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-14068; Filed, Nov. 30, 1967; 8:49 a.m.]

10

FEDERAL REGISTER

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Saturday, December 2, 1967 • Washington, D.C.

Pages 16521–17416

(Part II begins on page 17001)

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Agencies in this issue—

Agricultural Stabilization and Conservation Service
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Federal Power Commission
Fish and Wildlife Service
Food and Drug Administration
Interior Department
Interstate Commerce Commission
Justice Department
Land Management Bureau
Maritime Administration
National Aeronautics and Space Administration
National Park Service
Post Office Department
Securities and Exchange Commission
State Department

Detailed list of Contents appears inside.

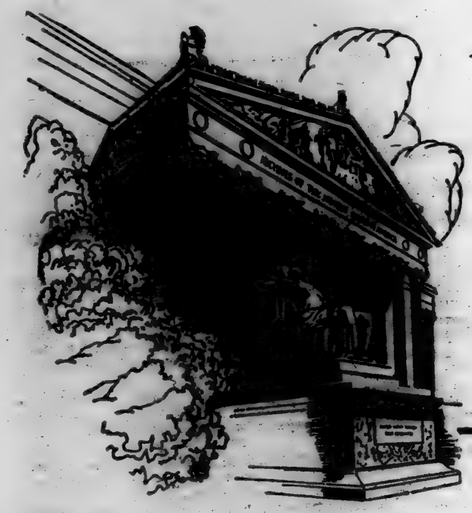

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Contents

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Rules and Regulations

Puerto Rico; allotment of direct-consumption portion of mainland sugar quota 1967 16525

AGRICULTURE DEPARTMENT

See Agricultural Stabilization and Conservation Service; Commodity Credit Corporation; Consumer and Marketing Service.

CIVIL AERONAUTICS BOARD

Proposed Rule Making

Charter flight; definition 16535

Notices

Hearings, etc.:

British United Airways (Services) Ltd 16540

Northwest Airlines, Inc., and West Coast Airlines, Inc 16540

Southern Airways, Inc 16540

COMMERCE DEPARTMENT

See also Maritime Administration.

Notices

Watches and watch movements; proposed formula for allocation of quotas for calendar year 1968 among producers located in Virgin Islands and Guam 16538

COMMODITY CREDIT CORPORATION

Rules and Regulations

Cotton; increase in interest rate ... 16528

Grains and similarly handled commodities; increase in interest rate 16528

CONSUMER AND MARKETING SERVICE

Rules and Regulations

Filberts grown in Oregon and Washington; modification of free and restricted percentages for 1967–68 fiscal year 16527

Handling limitations:

Lemons grown in California and Arizona 16526

Navel oranges grown in Arizona and designated part of California 16526

Milk handling:

Mississippi marketing area 16527

New Orleans, La. marketing area 16527

Shipment limitations:

Grapefruit grown in Florida ... 16525

Tangerines grown in Florida ... 16525

CUSTOMS BUREAU

Rules and Regulations

Customs and navigation laws; enforcement 16528

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Notices

Statement of organization 16542

FEDERAL AVIATION ADMINISTRATION

Notices

Policy regarding reports of near midair collisions 16539

FEDERAL HIGHWAY ADMINISTRATION

Proposed Rule Making

Federal motor vehicle standards; incomplete motor vehicles 16534

FEDERAL MARITIME COMMISSION

Notices

Costa Line and Fassio Line; agreement filed for approval 16543

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:

Amerada Petroleum Corp., et al. 16545

Constant, Charles H., and Cities Service Gas Co 16544

El Paso Natural Gas Co 16544

Mid States Gas Co., and Panhandle Eastern Pipe Line Co ... 16544

Sidwell Oil and Gas, Inc., et al. 16547

Transcontinental Gas Pipe Line Corp 16545

United Gas Pipe Line Co 16545

FISH AND WILDLIFE SERVICE

Rules and Regulations

Sport fishing in certain wildlife refuges:

Kansas 16532

Michigan 16532

FOOD AND DRUG ADMINISTRATION

Rules and Regulations

Certain pesticides; tolerances and exemptions from tolerances 16529

Food additives:

Closures with sealing gaskets for food containers 16529

Paper and paperboard (2 documents) 16530

New drugs; copies of records and reports 16531

Proposed Rule Making

Drugs; proposed official names ... 16533

Soda water; identity standard and proposed listing of quillaia as optional foaming agent 16533

Notices

Petitions regarding food additives and pesticides:

Albion, F. W., Laboratories, Inc. 16539

American Petroleum Institute ... 16538

Chemagro Corp 16539

Diamond Alkali Co 16539

Monsanto Co. (2 documents) ... 16539

Parke, Davis & Co 16539

Sun Chemical Corp 16539

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Food and Drug Administration.

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Land Management Bureau; National Park Service.

Notices

Watches and watch movements; proposed formula for allocation of quotas for calendar year 1968 among producers located in Virgin Islands and Guam; cross reference 16537

INTERSTATE COMMERCE COMMISSION

Notices

Motor carrier temporary authority applications 16549

JUSTICE DEPARTMENT

Rules and Regulations

Transfer of the Executive Office for U.S. Marshals to Administrative Division 16531

LAND MANAGEMENT BUREAU

Rules and Regulations

Public land orders:

California 16532

Wyoming 16531

Notices

Proposed classification of public lands for multiple-use management; correction:

Montana 16537

Oregon 16537

MARITIME ADMINISTRATION

Notices

Oceanic Steamship Co.; notice of application 16537

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Rules and Regulations

NASA procurement regulations ... 17002

(Continued on next page)

NATIONAL PARK SERVICE

Notices

Glacier National Park; notice of intention to negotiate concession contract 16537

POST OFFICE DEPARTMENT

Notices

International money orders; change in conversion rate 16537

SECURITIES AND EXCHANGE COMMISSION

Notices

Floor trading plan of N.Y. Stock Exchange; general rules and regulations 16549

Hearings, etc.:

Continental Vending Machine Corp. 16548
Fastline, Inc. 16548
Pakco Companies, Inc. 16548
Westec Corp. 16549

STATE DEPARTMENT

Notices

United Arab Republic; removal of travel restriction 16537

TRANSPORTATION DEPARTMENT

See Federal Aviation Administration; Federal Highway Administration.

TREASURY DEPARTMENT

See Customs Bureau.

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

3 CFR

EXECUTIVE ORDERS:

Dec. 5, 1913 (revoked by PLO 4327) 16531
Mar. 21, 1914 (revoked by PLO 4327) 16531
June 24, 1914 (revoked by PLO 4327) 16531

7 CFR

815 16525
905 (2 documents) 16525
907 16526
910 16526
982 16527
1094 16527
1103 16527
1421 16528
1427 16528

14 CFR

PROPOSED RULES:

214 16535
295 16535

19 CFR

23 16528

21 CFR

120 16529
121 (3 documents) 16529, 16530
130 16531
146 16531

PROPOSED RULES:

31 16533
138 16533

23 CFR

PROPOSED RULES:

255 16534

28 CFR

0 16531

41 CFR

Ch. 18 17002

43 CFR

PUBLIC LAND ORDERS:

4327 16531
4329 16532

50 CFR

33 (2 documents) 16532

Rules and Regulations

Title 7—AGRICULTURE

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

[Sugar Reg. 815.8, Amdt. 3]

PART 815—ALLOTMENT OF THE DIRECT-CONSUMPTION PORTION OF MAINLAND SUGAR QUOTA FOR PUERTO RICO

Calendar Year 1967

Basis and purpose. This amendment is issued under section 205(a) of the Sugar Act of 1948, as amended (hereinafter called the "Act"), for the purpose of amending Sugar Regulation 815.8 (32 F.R. 40, 6550, 10501), which established allotments of the direct-consumption portion of the mainland quota for Puerto Rico for the calendar year 1967.

The purpose of this amendment is to determine deficits in allotments and prorate such deficits to other allottees that are able to utilize additional allotments. On the basis of information received from the allottees pursuant to finding (11) of Sugar Regulation 815.8 (32 F.R. 40), Central San Francisco will be unable to utilize a 1967 allotment in excess of 1,344 short tons, raw value. Accordingly, a deficit of 34 short tons, raw value, is hereby determined in the allotment for Central San Francisco and prorated to the allottees able to utilize additional allotments. Central Roig Refining Co. has notified the Department that it would not be able to utilize an allotment larger than its present allotment.

Findings heretofore made and the order issued by the Secretary in the course of this proceeding (32 F.R. 40) provide that this order shall be revised without further notice or hearing by the Administrator, Agricultural Stabilization and Conservation Service for the purpose indicated above and such findings set forth the procedure for the revision of allotments.

Accordingly, allotments are herein established on the basis of and consistent with such findings.

Order. Pursuant to the authority vested in the Secretary of Agriculture by section 205(a) of the Act, and in accordance with paragraph (c) of § 815.8 of this chapter, it is hereby ordered that paragraph (a) of § 815.8 be amended to read as follows:

§ 815.8 Allotment of the direct-consumption portion of mainland sugar quota for Puerto Rico for the calendar year 1967.

(a) *Allotments.* The direct-consumption portion of the 1967 mainland sugar quota for Puerto Rico, amounting to 162,000 short tons, raw value, is hereby allotted as follows:

Allottee	Direct-consumption allotment (Short tons, raw value)
Central Aguirre Sugar Co., a trust	6,785
Central Roig Refining Co.	22,508
Central San Francisco	1,344
Puerto Rican American Sugar Refinery, Inc.	105,829
Western Sugar Refining Co.	25,504
Liquid sugar reserve for persons other than named above	30
Total	162,000

* * * * *

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153, secs. 205, 207, 209; 61 Stat. 926, 927, 928; 7 U.S.C. 1115, 1117, 1119)

Effective date. The allotments established by this amendment for most allottees are larger than the allotment previously established in S.R. 815.8 (32 F.R. 10501). To afford the allottees the opportunity to market the additional quantities of sugar in 1967, it is imperative that this order be effective as soon as possible. Accordingly, it is hereby determined and found that compliance with the 30-day effective date requirement in 5 U.S.C. 553 (80 Stat. 378) is impracticable and contrary to the public interest and, consequently, the amendment made herein shall become effective when published in the FEDERAL REGISTER.

Signed at Washington, D.C., this 28th day of November 1967.

ROLAND F. BALLOU,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 67-14126; Filed, Dec. 1, 1967; 8:46 a.m.]

[Tangerine Reg. 33, Amdt. 3]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of tangerines grown in Florida.

(a) *Order.* In § 905.502 (Tangerine Reg. 33, 32 F.R. 14923, 15869, 16199) the provisions of paragraph (a)(2) are amended by substituting in lieu thereof a new paragraph (a)(2) reading as follows:

§ 905.502 Tangerine Regulation 33.

(a) * * *

(2) During any week of the period December 4, 1967, through July 31, 1968, any handler may ship a quantity of tangerines which are smaller than the size prescribed in subparagraph (1)(ii) of this paragraph if (i) the number of standard packed boxes of such smaller tangerines does not exceed 35 percent of the total standard packed boxes of all sizes of tangerines shipped by such handler during the same week; and (ii) such smaller tangerines are of a size not smaller than 2 1/16 inches in diameter, except that a tolerance of 10 percent, by count, of tangerines smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in said U.S. Standards for Tangerines.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated, November 30, 1967, to become effective December 4, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-14147; Filed, Dec. 1, 1967; 8:49 a.m.]

[Grapefruit Reg. 66, Amdt. 1]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural

Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of grapefruit grown in Florida.

(a) *Order.* The provisions of § 905.495 (Grapefruit Reg. 66, 32 F.R. 12907) are amended in the following respects:

1. The following provisions are added as subdivision (vi) immediately after paragraph (a) (1) (v) and subparagraph (2) is amended to read as follows:

§ 905.45 Grapefruit Regulation 66.

(a) • • •
(1) • • •

(vi) During any week of the period December 4, 1967, through September 8, 1968, any handler may ship a quantity of pink seedless grapefruit which are smaller than the size prescribed in subdivision (v) of this subparagraph if (*a*) the number of standard packed boxes of such smaller grapefruit does not exceed 10 percent of the total standard packed boxes of all sizes of pink seedless grapefruit shipped by such handler during the same week; and (*b*) such smaller grapefruit are of a size not smaller than 3⅞ inches in diameter, except that a tolerance of 10 percent, by count, of pink seedless grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in said U.S. Standards for Florida grapefruit.

• • • • •

(2) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order; the term "week" shall mean the 7-day period beginning at 12:01 a.m., local time, on Monday of 1 calendar week and ending at 12:01 a.m., local time, on Monday of the following calendar week; and terms relating to grade, diameter, standard pack, and standard box, as used herein, shall have the same meaning as is given to the respective term in the U.S. Standards for Florida Grapefruit (7 CFR 51.750–51.783); "Improved No. 2" shall mean grapefruit grading at least U.S. No. 2 and also meeting the requirements of the U.S. No. 1 grade as to shape (form) and color.

• • • • •

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated, November 30, 1967, to become effective December 4, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67–14158; Filed, Dec. 1, 1967; 8:49 a.m.]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Navel Orange Reg. 136, Amdt. 1]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of Navel oranges grown in Arizona and designated part of California.

Order, as amended. The provisions in paragraph (b) (1) (i), (iii), and (iv) of § 907.436 (Navel Orange Reg. 136, 32 F.R. 16097) are hereby amended to read as follows:

§ 907.436 Navel Orange Regulation 136.

• • • • •

(b) *Order.* (1) • • •

(i) District 1: Unlimited movement;

• • • • •

(iii) District 3: Unlimited movement;
(iv) District 4: Unlimited movement.

• • • • •

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 29, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67–14127; Filed, Dec. 1, 1967; 8:48 a.m.]

[Lemon Reg. 297]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.597 Lemon Regulation 297.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 28, 1967.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period December 3, 1967, through December 9, 1967, are hereby fixed as follows:

(i) District 1: 9,300 cartons;
(ii) District 2: 46,500 cartons;
(iii) District 3: 139,500 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 29, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67–14146; Filed, Dec. 1, 1967; 8:49 a.m.]

PART 982—FILBERTS GROWN IN OREGON AND WASHINGTON

Modification of Free and Restricted Percentages for the 1967–68 Fiscal Year

The Filbert Control Board has recommended that the free and restricted percentages applicable to merchantable filberts acquired by handlers during the 1967–68 fiscal year (§ 982.217, 32 F.R. 13933, 32 F.R. 15669) be modified to conform to new supply and demand estimates. The modification would reduce the restricted percentage from the present 29 percent to 19 percent, and increase the free percentage from the present 71 percent to 81 percent. The Board is established under, and its recommendations are made pursuant to, the marketing agreement, as amended, and Order No. 982, as amended (7 CFR Part 982), regulating the handling of filberts grown in Oregon and Washington, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

A free percentage of 61 percent and a restricted percentage of 39 percent were issued based on an estimated 9,400 ton filbert crop and an estimated trade demand of 5,250 tons. A prior modification was made based on a preliminary revised estimated 1967 filbert crop of 7,400 tons which resulted in the free percentage being increased to 71 percent and the restricted percentage reduced to 29 percent. Based on a further analysis of producer deliveries, the Board has now revised the crop estimate from 7,400 tons to 6,800 tons and recommended a further increase, to 81 percent, in the free percentage, and a corresponding decrease, to 19 percent, in the restricted percentage.

After consideration of all relevant matter presented including that in the notice issued in connection with the designation of the free and restricted percentages for the 1967–68 fiscal year, the information applicable to the prior modification, the information and recommendation submitted by the Board, and other available information, it is found that to further revise § 982.217 (32 F.R. 13933, 15669) so as to modify the free and restricted percentages, as set forth below, will tend to effectuate the declared policy of the act.

§ 982.217 Free and restricted percentages for merchantable filberts during the 1967–68 fiscal year.

The following percentages are established for merchantable filberts for the fiscal year beginning August 1, 1967:

Free percentage	81
Restricted percentage	19

It is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice of this specific action and engage in public rule making procedure, and that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) Under this marketing program, the percentages designated for a particular fiscal year, and any modifications thereof, apply to all merchantable filberts handled from the beginning of the fiscal year; (2) the current fiscal year began August 1, 1967, and the modified percentages herein designated will automatically apply to such merchantable filberts handled after that date; (3) this action must be taken promptly to achieve its purpose of releasing supplies for consumption and providing the basis for pricing filberts during the remainder of the fiscal year; (4) handlers are aware of this action as recommended by the Board and require no advance notice to comply with this regulation; and (5) this action relieves restrictions on the handling of filberts.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 28, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division.

[F.R. Doc. 67–14099; Filed, Dec. 1, 1967; 8:46 a.m.]

Chapter X—Consumer and Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order No. 94]

PART 1094—MILK IN NEW ORLEANS, LA., MARKETING AREA

Order Suspending Certain Provisions

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the New Orleans, La., marketing area (7 CFR Part 1094), it is hereby found and determined that:

(a) The following provisions of the order no longer tend to effectuate the declared policy of the Act for the months of December 1967 and January 1968:

(1) In § 1094.51(a), in the language preceding subparagraph (1), the words "and plus or minus a supply-demand adjustment calculated for each month pursuant to subparagraphs (1) through (6) of this paragraph:"; and

(2) Section 1094.51(a) (6).

(b) Thirty days notice of the effective date hereof are impractical, unnecessary, and contrary to the public interest in that:

(1) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date.

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(3) This suspension has been requested by a cooperative association representing the majority of producers on the New Orleans market. The cooperative association contends that the present supply-demand adjustor does not properly reflect market conditions and has proposed a revised supply-demand adjustor for consideration at a public hearing. This provision was previously suspended for the months of October and November 1967 (32 F.R. 13855).

(4) The amounts of price adjustment made by the supply-demand adjustor in 1967 prior to its suspension varied from minus 18 cents to minus 45 cents. Unless the supply-demand adjustment is suspended it is likely to unduly depress returns to producers.

Since additional time will be needed to hold a hearing and complete the procedure to revise the supply-demand adjustor, suspension of the present supply-demand provision should be continued for the months of December 1967 and January 1968.

Therefore, good cause exists for making this order effective for the months of December 1967 and January 1968.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the months of December 1967 and January 1968.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: December 1, 1967.

Signed at Washington, D.C., on November 29, 1967.

RODNEY E. LEONARD,
Deputy Assistant Secretary.

[F.R. Doc. 67–14101; Filed, Dec. 1, 1967; 8:47 a.m.]

[Milk Order No. 103]

PART 1103—MILK IN MISSISSIPPI MARKETING AREA

Order Suspending Certain Provisions

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Mississippi marketing area

(7 CFR Part 1103), it is hereby found and determined that:

(a) The following provisions of the order do not tend to effectuate the declared policy of the Act for the months of December 1967 and January 1968:

(1) In the introductory text of § 1103.51(a) the provision "and plus or minus a supply-demand adjustment beginning in October 1967 computed pursuant to subparagraphs (1), (2), and (3) of this paragraph"; and

(2) In § 1103.51(a), subparagraph (3).

(b) Thirty days notice of the effective date hereof are impractical, unnecessary, and contrary to the public interest in that:

(1) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date.

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(3) This suspension order will continue to suspend the supply-demand adjustor established in this order pursuant to amendment December 1, 1966 (31 F.R. 14586), and suspended October 1, 1967 (32 F.R. 13713). The amendment provided that the supply-demand adjustor would not be effective until October 1, 1967, and that thereafter the Class I milk price would be adjusted each month in relation to supply and demand conditions in the market.

(4) This suspension has been requested by cooperative associations representing a majority of producers supplying the Mississippi market. The associations contend that the present provision does not properly reflect market conditions and have made a proposal for a hearing to consider revision of the supply-demand adjustor.

(5) During the period since the provision became part of the order, the substantial month-to-month variations of the calculated adjustment figures, primarily in the negative range (although not effective), are reason for doubt as to whether the provision as now constructed reliably reflects market conditions. Unless the provision is suspended the supply-demand adjustor could unduly depress returns to producers.

Since additional time will be needed to hold a hearing and complete the necessary procedures to revise the supply-demand adjustor, suspension of the provision should be continued for the months of December 1967 and January 1968.

Therefore, good cause exists for making this order effective December 1, 1967 through January 1968.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the months of December 1967 and January 1968.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: December 1, 1967.

Signed at Washington, D.C., on November 29, 1967.

RODNEY E. LEONARD,
Deputy Assistant Secretary.

[F.R. Doc. 67-14100; Filed, Dec. 1, 1967; 8:47 a.m.]

Chapter XIV—Commodity Credit Corporation

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[Amdt. No. 16]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—Provisions for Participation of Commercial Banks in Pools of CCC Price Support Loans on Certain Commodities

INCREASE IN INTEREST RATE

The regulations issued by the Commodity Credit Corporation published in 29 F.R. 3614, as amended by 29 F.R. 4991, 8396, 15281, and 18212, 30 F.R. 14310, and 15582, 31 F.R. 474, 10179, and 13641, 32 F.R. 122, 3339, 5462, 6342, 10431, and 13713, containing the terms and conditions for participation of commerical banks in pools of CCC price support loans on certain commodities, are hereby further amended to change from 5.125 to 5.375 percent per annum, effective December 1, 1967, the rate of interest on certificates evidencing participation in financing price support loans.

Section 1421.3825(a) is amended to read as follows:

§ 1421.3825 Rate of interest and basis of computation of interest earned.

(a) *Rate of interest.* Certificates shall earn interest at the rate of 4.375 percent per annum through and including July 14, 1967, 4.875 percent per annum from July 15, 1967, through and including September 30, 1967, 5.125 percent per annum from October 1, 1967, through and including November 30, 1967, and 5.375 percent per annum thereafter.

(Secs. 4 and 5, 62 Stat. 1070, 1072, as amended; 15 U.S.C. 714 b and c)

Signed at Washington, D.C., on November 30, 1967.

H. D. GODFREY,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 67-14151; Filed, Dec. 1, 1967; 8:49 a.m.]

[Amdt. No. 12]

PART 1427—COTTON

Subpart—Participation of Financial Institutions in Cotton Loan Pools

INCREASE IN INTEREST RATE

The regulation issued by the Commodity Credit Corporation published in 30 F.R. 7814, as amended by 30 F.R. 14310 and 15582, 31 F.R. 474, 10179, and 13641, 32 F.R. 122, 3340, 5462, 6342, 10431, and 13714, containing the terms and conditions for participation of financial institutions in pools of CCC price support loans on cotton are hereby further amended to change from 5.125 to 5.375 percent per annum, effective December 1, 1967, the rate of interest on certificates evidencing participation in financing price support loans.

Section 1427.2239(a) is amended to read as follows:

§ 1427.2239 Rate of interest and basis of computation of interest earned.

(a) *Rate of interest.* Certificates shall earn interest at the rate of 4.375 percent per annum through and including July 14, 1967, 4.875 percent per annum from July 15, 1967, through and including September 30, 1967, 5.125 percent per annum from October 1, 1967, through and including November 30, 1967, and 5.375 percent per annum thereafter.

(Secs. 4 and 5, 62 Stat. 1070, 1072, as amended; 15 U.S.C. 714 b and c)

Signed at Washington, D.C., on November 30, 1967.

H. D. GODFREY,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 67-14150; Filed, Dec. 1, 1967; 8:49 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 67-275]

PART 23—ENFORCEMENT OF CUSTOMS AND NAVIGATION LAWS

Remission or Mitigation of Certain Fines, Penalties, and Forfeitures

Section 23.25(a) of the Customs Regulations delegates to the collectors of customs (now district directors of customs) the authority to mitigate or remit fines, penalties, and forfeitures of merchandise valued up to certain specified amounts. It has been determined that the authority to remit forfeitures of merchandise other than imported merchandise, which is presently limited by § 23.25(a)(3) of the Customs Regulations to merchandise valued at $2,000 or less, should in the case of the forfeiture of motor vehicles, be extended to such motor vehicles valued not in excess of $20,000.

Accordingly, subparagraph (3) of § 23.25(a) is amended to read as follows:

§ 23.25 Remission, mitigation, or cancellation by collectors.

(a) • • •

(3) Forfeiture of merchandise, other than imported merchandise, when the merchandise is valued at $2,000 or less or, in the case of a motor vehicle when it is valued at $20,000 or less and no liability outside the purview of any subparagraph of this paragraph (a) has been incurred in connection with the same offense.

• • • • • •

(Secs. 618, 624, 46 Stat. 757, 759; 19 U.S.C. 1618, 1624)

[SEAL] LESTER D. JOHNSON,
Commissioner of Customs.

Approved: November 21, 1967.

MATTHEW J. MARKS,
Acting Assistant Secretary of the Treasury.

[F.R. Doc. 67-14106; Filed, Dec. 1, 1967; 8:47 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

O,O-Diethyl O-(2-Isopropyl-4-Methyl-6-Pyrimidinyl) Phosphorothioate

A petition (PP 7F0535) was filed with the Food and Drug Administration by Geigy Chemical Corp., Ardsley, N.Y. 10502, proposing the establishment of tolerances for residues of the insecticide O,O-diethyl O-(2-isopropyl-4-methyl-6-pyrimidinyl) phosphorothioate in or on raw agricultural commodities as follows: 40 parts per million in or on peanut forage; 10 parts per million in or on peanut hulls and hay; 0.75 part per million in or on brussels sprouts, peanuts, and sugarcane; and 0.1 part per million in or on potatoes and sweetpotatoes.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purposes for which the tolerances are being established.

Based on consideration given the data submitted in the petition, and other relevant material, the Commissioner of Food and Drugs concludes that the tolerances established by this order will protect the public health. Therefore, by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and delegated by him to the Commissioner (21 CFR 2.120), § 120.153 is amended to establish the subject tolerances by revising the third, fifth, and eighth paragraphs and by adding a new paragraph to the end of the section, as follows:

§ 120.153 Tolerances for residues of *O,O*-diethyl *O*-(2-isopropyl-4-methyl-6-pyrimidinyl) phosphorothioate.

• • • • • •

40 parts per million in or on alfalfa (fresh), clover (fresh), corn forage, peanut forage, pineapple forage.

• • • • • •

10 parts per million in or on alfalfa hay, bean hay, clover hay, grass hay, peanut hulls and hay, peavine hay, sorghum forage, sugar beet tops.

• • • • • •

0.75 part per million in or on apples, apricots, beans (snap), beet roots, beet tops, blackberries, blueberries, boysenberries, broccoli, brussels sprouts, cabbage, carrots, cauliflower, celery, cherries, citrus, collards, corn (kernels and cob with husks removed), cranberries, cucumbers, dewberries, endive (escarole), figs, grapes, hops, kale, lettuce, lima beans, loganberries, melons, nectarines, onions, parsley, parsnips, peaches, peanuts, pears, peas with pods (determined on peas after removing any shell present when marketed), peppers, pineapples, plums (fresh prunes), radishes, raspberries, sorghum grain, spinach, strawberries, sugar beet roots, sugarcane, summer squash, Swiss chard, tomatoes, turnip roots, turnip tops, watercress, winter squash.

• • • • • •

0.1 part per million in or on potatoes, sweetpotatoes.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: November 24, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-14111; Filed, Dec. 1, 1967; 8:47 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

MISCELLANEOUS AMENDMENTS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 7B2184) filed by W. R. Grace & Co., Dewey & Almy Chemical Division, 62 Whittemore Avenue, Cambridge, Mass. 02140, and other relevant material, has concluded that § 121.2550 of the food additive regulations should be amended to provide for use of the additional optional substance specified below in the formulation of closure-sealing gaskets for food containers. The Commissioner has also concluded that the below-identified items in §§ 121.2520 and 121.2571 should be revised as indicated to effect consistency of nomenclature with the amendment herein to § 121.2550.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), Part 121 is amended in Subpart F in the following respects:

1. Section 121.2520(c)(5) is amended by revising the item "Polyoxyethylene (20 mols) oleyl alcohol" to read as follows and by realphabetizing it accordingly:

§ 121.2520 Adhesives.

• • • • • •

(c) • • •

(5) • • •

COMPONENTS OF ADHESIVES	
Substances	*Limitations*
• • •	• • •
*a-cis-9-*Octadecenyl-*omega-*hydroxypoly (oxyethylene); the octadecenyl group is derived from oleyl alcohol and the poly (oxyethylene) content averages 20 moles.	----------
• • •	• • •

2. Section 121.2550(b)(5) is amended by alphabetically inserting in the list of substances in Table 1 a new item, as follows:

§ 121.2550 Closures with sealing gaskets for food containers.

• • • • • •

(b) • • •

(5) • • •

TABLE 1

List of substances	*Limitations (expressed as percent by weight of closure - sealing gasket composition)*
• • •	• • •
*a-cis-9-*Octadecenyl-*omega-*hydroxypoly (oxyethylene); the octadecenyl group is derived from oleyl alcohol and the poly (oxyethylene) content averages 20 moles.	0.5 percent.
• • •	• • •

3. Section 121.2571(b)(2) is amended by revising the item "Polyoxyethylated (minimum 20 mols) oleyl alcohol" to read as follows and by realphabetizing it accordingly:

§ 121.2571 Components of paper and paperboard in contact with dry food.

• • • • • •

(b) * * *
(2) * * *

List of substances	Limitations
* * *	* * *
α-cis-9-Octadecenyl-ω-hydroxypoly-(oxyethylene); the octadecenyl group is derived from oleyl alcohol and the poly(oxyethylene) content averages not less than 20 moles.	* * *
* * *	

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: November 24, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-14112; Filed, Dec. 1, 1967; 8:47 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

PAPER AND PAPERBOARD

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 7E2083) filed by Humble Oil & Refining Co., Post Office Box 2180, Houston, Tex. 77001, and other relevant material, has concluded that the analytical procedure and ultraviolet absorbance limits prescribed in § 121.2526 for dienes and olefins used in the production of petroleum alicyclic hydrocarbon resins employed as components of paper and paperboard used in contact with aqueous and fatty foods should be revised to permit background interference correction.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), § 121.2526(b)(2) is amended by revising the item "Petroleum alicyclic hydrocarbonresins" to read as follows:

§ 121.2526 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * * *

(b) * * *
(2) * * *

List of substances	Limitations
* * *	* * *
Petroleum alicyclic hydrocarbon resins, or the hydrogenated product thereof, meeting the following specifications: Softening point 97° C. minimum, as determined by ASTM Method E 28-58T; aniline point 120° C. minimum, as determined by ASTM Method D 611-64; and specific gravity 0.96-0.99 (20° C./20° C.). Such petroleum hydrocarbon resins are produced by the catalytic polymerization of dienes and olefins from low-boiling distillates of cracked petroleum stocks that contain no material boiling over 200° C. and that meet the ultraviolet absorbance limits prescribed in § 121.1156(b) when subjected to the analytical procedure described in § 121.2156(b), modified as follows: Treat the product as in the first paragraph under "Procedure" in § 121.1268(b)(2). Then proceed with § 121.1156(b) starting with the paragraph commencing with "Promptly complete transfer of the sample * * *".	* * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: November 24, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-14113; Filed, Dec. 1, 1967; 8:47 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

PAPER AND PAPERBOARD

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 5B1469) filed by Union Carbide Corp., Post Office Box 65, Tarrytown, N.Y. 10591, and other relevant material, has concluded that the food additive regulations should be amended to provide for the safe use of glyoxal as a component of the food-contact surface of paper and paperboard intended for use in contact with aqueous and fatty foods. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), § 121.2526(b)(2) is amended by alphabetically inserting in the list of substances a new item, as follows:

§ 121.2526 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * * *

(b) * * *
(2) * * *

List of substances	Limitations
* * *	* * *
Glyoxal	For use only as an insolubilizing agent in starch- and protein-based coatings that contact nonalcoholic foods, and limited to use at a level not to exceed 0.8 percent by weight of the dry coating solids.
* * *	* * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: November 24, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-14114; Filed, Dec. 1, 1967; 8:48 a.m.]

SUBCHAPTER C—DRUGS

PART 130—NEW DRUGS

PART 146—ANTIBIOTIC DRUGS; PROCEDURAL REGULATIONS

Copies of Records and Reports

The Commissioner of Food and Drugs has concluded that the third copy of certain records and reports submitted concerning new drugs and antibiotic drugs is no longer necessary for the purposes of the Food and Drug Administration and that the regulations should be accordingly amended as set forth below.

Therefore, under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 505, 507, 701(a), 52 Stat. 1052, as amended, 1055, 59 Stat. 463, as amended; 21 U.S.C. 355, 357, 371(a)) and delegated by him to the Commissioner (21 CFR 2.120), Parts 130 and 146 are amended as follows:

1. Section 130.13 is amended by revising the introductory text of paragraph (b) to read as follows:

§ 130.13 Records and reports concerning experience on drugs for which an approval is in effect.

* * * * * *

(b) The applicant shall submit to the Food and Drug Administration copies of the records and reports described in paragraph (a) of this section (except routine assay and control records) appropriately identified with the new-drug application(s) to which they relate, as follows. Such copies, including form FD-1639, shall be submitted in duplicate, except that other individual patient case reports may be submitted in single copy.

* * * * * *

§ 130.35 [Amended]

2. Section 130.35 *Records and reports on new drugs and antibiotics for use by man for which applications or certification forms 5 and 6 became effective or were approved prior to June 30, 1963* is amended by changing "triplicate" to "duplicate" in the first sentence of paragraph (a).

§ 146.14 [Amended]

3. Section 146.14 *Records and reports concerning experience with antibiotic drugs for which a certificate or release has been issued* is amended by changing "triplicate" to "duplicate" in the first sentence of paragraph (b).

Since this order relaxes existing requirements and raises no points of controversy, notice and public procedure and delayed effective date are unnecessary prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

(Secs. 505, 507, 701(a), 52 Stat. 1052, as amended, 1055, 59 Stat. 463, as amended; 21 U.S.C. 355, 357, 371(a))

Dated: November 24, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-14115; Filed, Dec. 1, 1967; 8:48 a.m.]

Title 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice

[Order No. 386-67]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Transferring the Executive Office for U.S. Marshals to the Administrative Division

NOVEMBER 28, 1967.

By virtue of the authority vested in me by sections 509 and 510 of Title 28 and section 301 of Title 5 of the United States Code, Part 0 of Chapter I of Title 28 of the Code of Federal Regulations is amended as follows:

§ 0.17 [Revoked]

1. Section 0.17 is revoked.

2. A new paragraph (d) is added after paragraph (c) in § 0.75 of Subpart O to read as follows:

§ 0.75 General functions.

* * * * * *

(d) Supervision of the Executive Office for U.S. Marshals, established by Order No. 137-56 of November 23, 1956.

All records, property, personnel, and funds available to the Deputy Attorney General for these functions are hereby transferred or allocated to the Administrative Division.

Dated: November 28, 1967.

RAMSEY CLARK,
Attorney General.

[F.R. Doc. 67-14125; Filed, Dec. 1, 1967; 8:48 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4327]

[Wyoming 0313690]

WYOMING

Partial Revocation of Public Water Reserves

By virtue of the authority vested in the President by section 1 of the act of June 25, 1910 (36 Stat. 847; 43 U.S.C. 141), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. The Executive orders of December 5, 1913, March 21, 1914, and June 24, 1914, creating Public Water Reserves No. 12, Wyoming No. 3, No. 18, Wyoming No. 4, and No. 20, Wyoming No. 5, are hereby revoked so far as they affect the following described lands:

SIXTH PRINCIPAL MERIDIAN

PUBLIC LAND

T. 34 N., R. 72 W.,
Sec. 13, SE¼SE¼;
Sec. 14, N½NW¼.
T. 36 N., R. 72 W.,
Sec. 8, NW¼NE¼;
Sec. 17, SW¼SW¼.
T. 37 N., R. 72 W.,
Sec. 10, NW¼NE¼.
T. 34 N., R. 73 W.,
Sec. 5, NE¼SW¼, W½SE¼;
Sec. 21, SW¼NE¼.
T. 36 N., R. 73 W.,
Sec. 12, SE¼SE¼;
Sec. 13, NW¼SW¼;
Sec. 24, NW¼NW¼.
T. 39 N., R. 74 W.,
Sec. 2, NW¼SW¼;
Sec. 3, NE¼SE¼, SW¼SE¼;
Sec. 4, SE¼SE¼.
T. 40 N., R. 74 W.,
Sec. 11, S½NE¼, N½SE¼.
T. 36 N., R. 75 W.,
Sec. 3, lot 3.
T. 35 N., R. 77 W.,
Sec. 35, N½NW¼.

PATENTED LAND

T. 36 N., R. 72 W.,
Sec. 17, NW¼SW¼.
T. 34 N., R. 73 W.,
Sec. 5, lot 2, NW¼SW¼;
Sec. 9, SE¼NE¼.
T. 35 N., R. 74 W.,
Sec. 11, N½NE¼, SE¼NE¼.
T. 40 N., R. 74 W.,
Sec. 12, NE¼SE¼.
T. 34 N., R. 75 W.,
Sec. 2, SW¼SW¼;
Sec. 3, SE¼SE¼;
Sec. 10, NE¼NE¼;
Sec. 11, NW¼NW¼.

The areas described, including the public and patented lands, aggregate 1,440.94 acres in Converse County, of which 480.09 acres are patented lands.

The lands are located in east-central Wyoming. The vegetative cover is represented by associations of sagebrush, native grasses and forbs.

2. Until 10 a.m. on May 29, 1967, the State of Wyoming shall have a preferred right of application to select the public lands as provided by R.S. 2276, as amended (43 U.S.C. 852). After that time the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on May 29, 1967, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The public lands will be open to location for nonmetalliferous minerals at 10 a.m. on May 29, 1967. They have been open to applications and offers under the mineral leasing laws, and to location under the U.S. mining laws for metalliferous minerals.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Cheyenne, Wyo.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

NOVEMBER 27, 1967.

[F.R. Doc. 67-14087; Filed, Dec. 1, 1967; 8:46 a.m.]

[Public Land Order 4329]

[Sacramento 295]

CALIFORNIA

Withdrawal for National Forest Recreation Area

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws (Title 30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

STANISLAUS NATIONAL FOREST

MOUNT DIABLO MERIDIAN

Italian Bar Recreation Area

T. 3 N., R. 15 E.,
Sec. 32, S½SW¼NE¼, SE¼NE¼, NE¼SW¼, and N½NW¼SE¼.

The areas described aggregate approximately 120 acres in Tuolumne County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest land under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

NOVEMBER 28, 1967.

[F.R. Doc. 67-14088; Filed, Dec. 1, 1967; 8:46 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Kirwin National Wildlife Refuge, Kans.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

KANSAS

KIRWIN NATIONAL WILDLIFE REFUGE

Sport fishing on the Kirwin National Wildlife Refuge, Kans., is permitted from January 1, through December 31, 1968, inclusive, on all areas not designated by signs as closed to fishing. These open areas, comprising 5,000 acres, are delineated on maps available at refuge headquarters, 5 miles west of Kirwin, Kans., and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103. Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1968.

MERLE O. BENNETT,
Refuge Manager, Kirwin National Wildlife Refuge, Kirwin, Kans.

NOVEMBER 27, 1967.

[F.R. Doc. 67-14085; Filed, Dec. 1, 1967; 8:45 a.m.]

PART 33—SPORT FISHING

Seney National Wildlife Refuge, Mich.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

MICHIGAN

SENEY NATIONAL WILDLIFE REFUGE

Winter sport fishing on the Seney National Wildlife Refuge, Seney, Mich., is permitted on an area comprising 5,700 acres or 100 percent of the total water area of the refuge. These areas are delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn. 55408. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season, during daylight hours only, extends from January 1, 1968, through February 29, 1968.

(2) Boating and the use of minnows for bait are prohibited, except on the Manistique River.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through February 29, 1968.

JOHN E. WILBRECHT,
Refuge Manager, Seney National Wildlife Refuge, Seney, Mich. 49883.

NOVEMBER 22, 1967.

[F.R. Doc. 67-14086; Filed, Dec. 1, 1967; 8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 31]

SODA WATER, IDENTITY STANDARD

Proposed Listing of Quillaia as Optional Foaming Agent

Notice is given that a petition has been filed by the National Soft Drink Association, 1128 16th Street NW., Washington, D.C. 20036, proposing that the standard of identity for soda water (21 CFR 31.1) be amended to list quillaia (Quillaja saponaria Mol.) as an optional foaming agent.

Grounds set forth in the petition in support of the proposal are that quillaia when used in very small amounts in certain soda water products, such as root beer, birch beer, and cream soda, has proved desirable in producing a head of foam that contributes to the consumer appeal of such beverages without affecting their taste. Quillaia's safe use as a food additive was provided for by an order published in the FEDERAL REGISTER of September 6, 1967 (32 F.R. 12751) adding it to § 121.1163 *Natural flavoring substances and natural substances used in conjunction with flavors* (21 CFR 121.1163).

Accordingly, it is proposed that § 31.1 (b) (7) be revised to read as follows to add quillaia:

§ 31.1 Soda water; identity; label statement of optional ingredients.

* * * * * *

(b) * * *

(7) One or more of the foaming agents ammoniated glycyrrhizin, gum ghatti, licorice or glycyrrhiza, yucca (Joshua-tree), yucca (Mohave), quillaia (soapbark) (Quillaja saponaria Mol.).

* * * * * *

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) in accordance with the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (21 CFR 2.120), all interested persons are invited to submit their views in writing, preferably in quintuplicate, regarding this proposal. Such views and comments should be addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, within 60 days following the date of publication of this notice in the FEDERAL REGISTER and may be accompanied by a memorandum or brief in support thereof.

Dated: November 24, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-14116; Filed, Dec. 1, 1967; 8:48 a.m.]

[21 CFR Part 138]

DRUGS

Proposed Official Names

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 508, 76 Stat. 1789; 21 U.S.C. 358) and the administrative procedure provisions of 5 U.S.C. 553 (80 Stat. 383, as amended 81 Stat. 54), and under the authority delegated to the Commission of Food and Drugs by the Secretary of Health, Education, and Welfare (21 CFR 2.120), the Commissioner proposes that § 138.2 be amended by adding the following as official names for drugs. The Commissioner also proposes that § 138.2 be revised to alphabetize the items by official name instead of by chemical name and to add a column giving molecular formulas.

The proposed names are as follows:

§ 138.2 Drugs; official names.

* * * * *

Official name	Chemical name or description	Molecular formula
Aceclidine	3-Quinuclidinol acetate (ester); 3-acetoxyquinuclidine	$C_9H_{15}NO_2$
Alcuronium	*N,N'*-Diallylnortoxiferinium; diallylbisnortoxiferin	$C_{42}H_{48}N_2O_2$
Ambuside	*N*¹-Allyl-4-chloro-4-[(3-hydroxy-2-butenylidene)amino]-m-benzenedisulfonamide; 2-allylsulfanyl-5-chloro-4-sulfamyl-*N*-(3-hydroxy-3-buten-ylidene) aniline.	$C_{13}H_{16}ClN_3O_5S_2$
Aprotinin	Arg-Pro-Asp (tentative)-Phe-HCys-Leu-Glu (tentative)-Pro-Pro-Tyr-Thr-Gly-Pro-HCys-Lys-Ala-Arg-Ile-Ile-Arg-Tyr-Phe-Tyr-Asp-Asn-Lys-Ala-Gly-Leu-HCys-GluN-Thr-Phe-Val-Tyr-Gly-Gly-Hcys-Arg-Ala-Lys-Arg-AspN-AspN-Phe-Lys-Ser-Ala-Glu-AspN-HCys-Met-Arg-Thr-HCys-Gly-Gly-Ala.	$C_{318}H_{478}N_{90}O$
Atolide	2-amino-4'-(diethylamino)-*o*-benzotoluidide	$C_{18}H_{23}N_3O$
Azaperone	4'-Fluoro-4-[4-(2-pyridyl)-1-piperazinyl]butyrophenone; 1-[3-(4-fluorobenzoyl)-propyl]-4-(2-pyridyl)piperazine.	$C_{19}H_{22}FN_3O$
Benazoline	2-[(2-Methylbenzo(*b*)thien-3-yl)methyl]-2-imidazoline; 2-methyl-3-(Δ²-imidazolinylmethyl)benzo(*b*)thiophene.	$C_{13}H_{14}N_2S$
Bensalan	3,5-Dibromo-*N*-(*p*-bromobenzyl) salicylamide	$C_{14}H_{10}Br_3NO_2$
Benzoxiquine	8-Quinolinol benzoate (ester); 8-benzoyl-oxyquinoline	$C_{16}H_{11}NO_2$
Boxidine	1-[3-[(4'-(Trifluoromethyl)-4-biphenylyl]-oxy]ethyl]pyrrolidine	$C_{19}H_{18}F_3NO$
Buthiazide	6-Chloro-3,4-dihydro-2-isobutyl-2*H*-1,2,4-benzothiadiazine-7-sulfonamide 1,1-dioxide.	$C_{11}H_{16}ClN_3O_4S_2$
Calcitonin	Hormone from the thyroid gland, a polypeptide of molecular weight less than 10,000.	----------
Canrenone	17-Hydroxy-3-oxo-17α-pregna-4,6-diene-21-carboxylic acid gamma-lactone; 17α-(2-carboxyethyl)-17β-hydroxyandrosta-4,6-dien-3-one lactone.	$C_{22}H_{28}O_3$
Captamine	2-(Dimethylamino)ethanethiol; *N*-(2-mercaptoethyl)dimethylamine.	$C_4H_{11}NS$
Carbadox	Methyl-3-(3-quinoxalinylmethylene)carbazate-*N*¹,*N*⁴-dioxide	$C_{11}H_{10}N_4O_4$
Cephalexin	7-(2-Amino-2-phenylacetamido)-3-methyl-8-oxo-5-thia-1-azabicyclo[4.2.0]oct-2-ene-2-carboxylic acid.	$C_{16}H_{17}N_3O_4S$
Cinnamedrine	α-[1-(Cinnamylmethylamino)-ethyl] benzyl alcohol; 2-(*N*-cinnamylmethylamino)-1-phenylpropanol; *dl*-hydroxymethylcinnamyl aminopropylbenzine.	$C_{19}H_{23}NO$
Cinperene	2-(1-Cinnamyl-4-piperidyl)-2-phenylglutarimide; 1-cinnamyl-4-(2,6-dioxo-3-phenyl-3-piperidyl) piperidine.	$C_{26}H_{28}N_2O_2$
Clofazimine	3-(*p*-Chloroanilino)-10-(*p*-chlorophenyl)-2,10-dihydro-2-(isopropylimino)phenazine.	$C_{27}H_{22}Cl_2N_4$
Clorexolone	6-Chloro-2-cyclohexyl-3-oxo-5-isoindoline-sulfonamide; 5-chloro-2-cyclohexyl-1-oxo-6-sulfamoylisoindoline.	$C_{14}H_{17}ClN_2O_3S$
Cyclophenazine	10-[3-(4-Cyclopropyl-1-piperazinyl) propyl]-2-(trifluoromethyl)phenothiazine; 10-[3-(4-cyclopropylpiperazino)-propyl]-2-trifluorometh iphenothiazine.	$C_{23}H_{24}F_3N_3S$
Cyprosimide	1-(*p*-Chlorophenyl)-4,5-cyclopropanedicarboximide	$C_{11}H_8ClNO_2$
Diapamide	4-Chloro-*N*-methyl-5-(methylsulfamoyl) benzamide	$C_9H_{11}ClN_2O_3S$
Difluanine	1-(2-Anilinoethyl)-4-[4,4-bis(*p*-fluorophenyl)butyl]piperazine; 1-[4,4-di(4-fluorophenyl) butyl]-4-(2-anilinoethyl)piperazine.	$C_{28}H_{33}F_2N_3$
Difucortelona	6α,9-Difluoro-11β,21-dihydroxy-16α-methylpregna-1,4-diene-3,20-dione.	$C_{22}H_{28}F_2O_4$
Doxycycline	4-(Dimethylamino)-1,4,4a,5,5a,6,11,12a-octahydro-3,5,10,12,12a-pentahydroxy-6-methyl-1,11-dioxo-2-naphthacenecarboxamide.	$C_{22}H_{24}N_2O_8$
Estradiol	DL-*trans*-2-Methoxy-3-oxa-19-nor-17α-pregna-1,3,5-trien-20-yn-17-ol	$C_{20}H_{26}O_3$
Ethonam	Ethyl-1-(1,2,3,4-tetrahydro-1-naphthyl)imidazole-5-carboxylate; 1-(1,2,3,4-tetrahydro-1-naphthyl)-5-ethoxycarbonyl) imidazole.	$C_{16}H_{18}N_2O_2$
Fenalamide	Ethyl-*N*-[2-(diethylamino)ethyl]-2-ethyl-2-phenylmalonamate; phenylethylmalonic acid monethyl ester diethylaminoethylamide.	$C_{24}H_{32}N_2O_3$
Fenclonine	DL-3-(*p*-Chlorophenyl) alanine	$C_9H_{10}ClNO_2$
Fenestrel	5-Ethyl-6-methyl-4-phenyl-3-cyclohexene-1-carboxylic acid; 2-methyl-2-ethyl-4-phenyl-4-cyclohexenecarboxylic acid.	$C_{16}H_{20}O_2$
Fludorex	β-Methoxy-*N*-methyl-*m*-(trifluoromethyl) phenethylamine	$C_{11}H_{14}F_3NO$
Fonazine	10-[3-(Dimethylamino)propyl]-*N*, *N*-dipethylphenothiazine-2-sulfonamide.	$C_{19}H_{29}N_3O_2S_2$
Fursalan	3,5-Dibromo-*N*-(tetrahydrofurfuryl) salicylamide; 3,5-dibromosalicyl-*N*-tetrahydrofurfurylamide.	$C_{12}H_{13}Br_2NO_3$
Hetacillin	6-(2,2-Dimethyl-5-oxo-4-phenyl-1-imidazolidinyl)-3,3-dimethyl-7-oxo-4-thia-1-azabicyclo[3.2.0]heptane-2-carboxylic acid.	$C_{17}H_{19}N_3O_4S$
Ibuproden	*p*-Isobutylhydratropic acid; 2-(*p*-isobutylphenyl)propionic acid	$C_{13}H_{18}O_2$
Kitasamycin	An antibiotic substance obtained from cultures of *Streptomyces kitasatoensis*.	$C_{35-36}H_{58-60}O_{11-12}N_2$
Mafenide	α-Amino-*p*-toluenesulfonamide	$C_7H_{10}N_2O_2S$
Meferamide	*N*-[2-(Diethylamino)ethyl]-2-(*p*-methoxyphenoxy) acetamide	$C_{15}H_{24}N_2O_3$

Official name	Chemical name or description	Molecular formula
Menocteone	2-(3-Cyclohexylbutyl)-3-hydroxy-1,4-naphthoquinone	$C_{20}H_{26}O_3$
Metalol	4'-[1-Hydroxy-2-(methylamino)propyl] methanesulfonanilide	$C_{11}H_{18}N_2O_4S$
Mitocromin	An antibiotic substance produced by *Streptomyces viridochromogenes*.	
Mitomalcin	An antibiotic substance produced by *Streptomyces malayensis*.	
Molindone	3-Ethyl-4,7-dihydro-2-methyl-5-(morpholinomethyl)indol-4(5*H*)-one.	$C_{15}H_{22}N_2O_2$
Nadide	3-Carbamoyl-1-β-D-ribofuranosylpyridinium hydroxide, P'-ester with adenosine-5'-pyrophosphate, inner salt; codehydrogenase I.	$C_{21}H_{27}N_7O_{14}P_2$
Naimexone	7,7a,8,9-Tetrahydro-3,7a-dihydroxy-10-(3-methyl-2-butenyl)-4*H*-8,9a-ethanocarbazolo[1,2-*b*][1,2]oxazin-5(6*H*)-one.	$C_{21}H_{25}NO_4$
Nifurimide	(±)-4-Methyl-1-[(5-nitrofurfurylidene)amino]-2-imidazolidinone	$C_9H_{10}N_4O_4$
Norfluzone	1,1,1,3-Tetrafluoroacetone	$C_3H_4F_4$
Octodrine	1,5-Dimethylhexylamine	$C_8H_{19}N$
Pentagastrin	*N*-(*p*-Carbamoylphenethyl)-3-[5-[2-[3-(carboxyazaniu)propionamido]-3-indol-3-ylpropionamido]-4-(methylthio)butyramido; succinamic acid *N*-tert-butyl ester; *N*-tert-butyloxycarbonyl-β-alanyl-L-tryptophyl-L-methionyl-L-aspartyl-L-phenylalanine amide.	$C_{72}H_{98}O_{19}N_{18}S$
Pimozide	1-[1-[4,4-Bis(*p*-fluorophenyl) butyl]-4-piperidyl]-2-benzimidazolinone; 1-[4,4-bis(*p*-fluorophenyl)-butyl-4-(2-oxo-1-benzimidazolinyl)piperidine.	$C_{28}H_{29}F_2N_3O$
Prednival	11β,17,21-Trihydroxypregna-1,4-diene-3,20-dione 17-valerate	$C_{26}H_{32}O_6$
Quinterenol	8-Hydroxy-5-[(isopropylamino)methyl]-5-quinolinemethanol	$(C_{13}H_{18}N_2O_2)_3$
Ribamindol	2-Diethylaminoethanol ribonucleate	
Ronidazole	(1-Methyl-5-nitroimidazol-2-yl)methylcarbamate	$C_6H_8N_4O_4$
Silandrone	17β-(Trimethylsiloxy)androst-4-en-3-one	$C_{22}H_{36}O_2Si$
Sota el	4'-(2-Hydroxy-3-(isopropylamino ethyl)methanesulfonanilide	$C_{13}H_{22}N_2O_4S$
Sulfadoxine	*N*'-(5,6-Dimethoxy-4-pyrimidinyl) sulfanilamide	$C_{12}H_{14}N_4O_4S$
Tenamycin	An antibiotic compound derived from *Streptomyces tenebrarius*.	
Thiosalan	3,4',5-Tribromo-2-mercaptobensanilide; 3,4',5-tribromothiosalicylanilide.	$C_{13}H_7Br_3NOS$
Tibrofan	4,4',5-Tribromo-2-thiophenecarboxanilide; 4,5-dibromothiophene-2-carboxyl-4-bromanilide.	$C_{11}H_5Br_3NOS$
Verapamil	5-[(3,4-Dimethoxyphenethyl)methylamino]-2-(3,4-dimethoxyphenyl)-2-isopropylvaleronitrile.	$C_{27}H_{38}N_2O_4$
Veloscine	3-(Cyclopropylmethyl)-1,2,3,4,5,6-hexahydro-cis-4,11-dimethyl-2,6-methano-3-benzazocine.	$C_{15}H_{23}N$
Zolamine	2-[[2-Dimethylamino)ethyl](*p*-methoxybensyl) amino]thiasole	$C_{15}H_{21}N_3OS$

Any interested person may, within 60 days from the date of publication of this notice in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written comments (preferably in quintuplicate) on this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: November 20, 1967.

JAMES L. GODDARD,
Commissioner of Food and Drugs.

[F.R. Doc. 67-14073; Filed, Dec. 1, 1967; 8:45 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[23 CFR Part 255]

[Docket No. 21; Notice No. 67-6]

FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Incomplete Motor Vehicles

The National Highway Safety Bureau is considering amending Part 255, Initial Federal Motor Vehicle Safety Standards, by adding a definition of incomplete motor vehicles and specifying labeling requirements for these vehicles.

We are informed that many trucks and buses and some multipurpose vehicles are produced in substantially two stages and often by two separate manufacturers. The first stage is the manufacture of a chassis or like assemblage capable of being driven, drawn, or self-propelled but intended by its manufacturer for subsequent conversion or completion before ultimate use on the public streets, roads, and highways. Such a chassis or like assemblage is defined in the proposed regulation as an "incomplete vehicle" and is considered a motor vehicle within the meaning of section 102(3) of the National Traffic and Motor Vehicle Safety Act of 1966 ("the Act"). Generally, the second stage of production consists of subsequent conversion of the incomplete vehicle into its final form, often by another manufacturer. Therefore, both the manufacturer of the incomplete vehicle and the manufacturer who produces the vehicle in its final form for use on public streets, roads, or highways are manufacturers of motor vehicles within the meaning of the Act and subject to the obligations imposed by the Act upon manufacturers of motor vehicles. Thus, the manufacturer of the incomplete motor vehicle is responsible for that vehicle's conformance with standards applicable to the incomplete motor vehicle; and the manufacturer of the completed vehicle is responsible for all standards applicable to the completed vehicle in effect at the time the vehicle is assembled and completed from the incomplete motor vehicle.

The proposed regulation is based on the premise that an "incomplete vehicle," as defined, is a separable type of vehicle. Because the incomplete vehicle is not in its final form for use on the public highways, and is intended for subsequent completion it will not be able to meet safety standards which describe performance requirements for aspects of the vehicle that have not yet been completed. The purpose of the proposed regulation is to require the incomplete vehicle to meet all existing standards insofar as those standards describe performance requirements against which the incomplete vehicle can be evaluated. When completed in final form the vehicle is required to meet all standards then in effect.

A basic problem that has confronted manufacturers of incomplete vehicles and manufacturers of the vehicle in final form for use on the highways is uncertainty regarding the standards applicable to each stage of vehicle production and the dates from which the applicability of standards are to be determined. Thus, we are advised that numbers of incomplete vehicles manufactured prior to January 1, 1968, i.e. during a period when no Federal Motor Vehicle Safety Standards were operative, will not be completed until subsequent to January 1, 1968, when Federal Motor Vehicle Safety Standards will be operative. However, the character of the incomplete vehicle is a substantial factor influencing the kind and character of components used in the final manufacture of the vehicle. Under these circumstances it does not appear appropriate to require that vehicles assembled from incomplete vehicles manufactured prior to the effective date of the initial safety standards shall meet all standards in effect on the date of completion. On the other hand, where the incomplete vehicle is manufactured subsequent to January 1, 1968, when the initial standards will be operative, it appears to be reasonable, practicable, and appropriate to require that the completed vehicle meet all standards then in effect.

Consequently, the proposed rule provides that vehicles assembled from incomplete vehicles must meet all standards in effect on the date of completion; except that a completed vehicle utilizing an incomplete vehicle manufactured prior to January 1, 1968, which is completed on or before June 30, 1968, will not be subject to the standards. This 6-month period is deemed a sufficient period within which to allow orderly completion of incomplete vehicles manufactured prior to 1968.

In order to provide a means of identifying the incomplete vehicle, its date of production and the Federal Motor Vehicle Safety Standards applicable to the stage of completion of the incomplete motor vehicle, the proposed regulation provides that the manufacturer of the incomplete motor vehicle manufactured subsequent to January 1, 1968, shall affix a label to the incomplete motor vehicle which would supply this information.

Interested persons are invited to participate in the making of the amendment by submitting such written data, views, or arguments as they may desire. Comments must identify the docket number and the notice number and be submitted in ten (10) copies to the National Highway Safety Bureau, Attention: Rules Docket—Room 512, Federal Highway Administration, U.S. Department of Transportation, Washington, D.C. 20591. All comments received on or before the close of business December 22, 1967, will be considered by the Secretary before taking action upon the proposed amendment. The proposals contained in this notice may be changed if warranted by comments received. All comments will be available in the Rules Docket for examination by interested persons both before and after the closing date for comments.

In consideration of the foregoing, it is proposed to amend Part 255, Initial Federal Motor Vehicle Safety Standards, effective January 1, 1968, as follows:

1. Add the following definition to section 255.3(b): "Incomplete vehicle" means a chassis-cab, or like assemblage capable of being driven, drawn, or self-propelled, or readily convertible to such capability by the addition of wheels, or other items of running gear, that is intended by its manufacturer for completion as a multipurpose passenger vehicle, truck, or bus, and lacks one or more major components or items of equipment necessary for use in the form for which the completed vehicle is intended to be used on the public streets, roads, and highways.

2. Revise § 255.7(a) to read as follows:

(a) *General.* Except as provided in (b) through (e), each standard set forth in Subpart B applies according to its terms to motorcycles and trailers regardless of weight and to all other motor vehicles over 1,000 pounds curb weight; or items of motor vehicle equipment, the manufacture of which is completed on or after the effective date of the standard.

3. Redesignate § 255.7 (b) and (c) as (d) and (e), respectively.

4. Add the following new paragraphs to § 255.7 following paragraph (a):

(b) *Incomplete vehicles.* Incomplete vehicles as defined in § 255.3(b), manufactured subsequent to January 1, 1968, shall meet all standards in effect on the date of manufacture of the incomplete vehicle as are applicable to the stage of completion of the incomplete vehicle.

(c) *Vehicles manufactured from incomplete vehicles.* Multipurpose passenger vehicles, trucks, and buses assembled from incomplete vehicles, as defined in § 255.3(b), must meet all applicable standards in effect on the date of completion of manufacture of the vehicle for use on the public highways except that no standards shall be applicable to such vehicles completed on or before June 30, 1968, from incomplete motor vehicles manufactured prior to January 1, 1968.

5. Add the following new section following § 255.11.

§ 255.13 Labeling of incomplete motor vehicles.

Each incomplete motor vehicle manufactured subsequent to January 1, 1968, shall, at the time of sale conspicuously display a label affixed by its manufacturer that:

(a) Identifies it as an incomplete motor vehicle and shows the date of production;

(b) Identifies the Federal Vehicle Safety Standards, with which its manufacturer states the incomplete motor vehicle fully complied for the range of potential end uses for such vehicle when finally completed for use on the public streets or highways as of the date appearing on the label; and

(c) States in substance that the incomplete vehicle may be used on the public highways for the purpose of transit between its manufacturer and subsequent manufacturers (including distribution incidental thereto) and for no other purpose, until such time as the incomplete vehicle has been completed by the final manufacturer in conformity with all Federal Motor Vehicle Safety Standards applicable to that class of vehicle. This provision does not relieve the final manufacturer of the vehicle from the certification requirements provided for in section 114 of the National Traffic and Motor Vehicle Safety Act of 1966 or regulations issued pursuant to that section. Further, this provision should not be construed to relieve the manufacturer or shipper from any applicable requirement imposed upon such incomplete motor vehicles by Federal, State, or local authority.

This notice is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1407) and the delegation of authority of March 31, 1967 (32 F.R. 5606), April 6, 1967 (32 F.R. 6495), July 27, 1967 (32 F.R. 11276), and October 13, 1967 (32 F.R. 14277).

Issued in Washington, D.C. on November 30, 1967.

LOWELL K. BRIDWELL,
Federal Highway Administrator.

[F.R. Doc. 67-14157; Filed, Dec. 1, 1967; 8:49 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 214, 295]

[Docket No. 19309; EDR-129]

FOREIGN AIR CARRIER PERMITS AUTHORIZING CHARTER TRANSPORTATION ONLY AND TRANSATLANTIC SUPPLEMENTAL AIR TRANSPORTATION

Definition of Charter Flight

NOVEMBER 28, 1967.

Notice is hereby given that the Civil Aeronautics Board has under consideration certain amendments to Parts 214 and 295 of the Economic Regulations which would modify the definition of charter flight set forth in those parts.

The principal features of the proposed amendments to Parts 214 and 295 are further described in the explanatory statement. The proposed amendments are set forth in the proposed rule. They are proposed under the authority of sections 204(a), 401, and 402 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 754 (as amended by 76 Stat. 143), 757; 49 U.S.C. 1324, 1371, and 1372).

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant matter in communications received on or before December 22, 1967, will be considered by the Board. In addition, all interested persons are invited to submit twelve (12) copies of written data, views or arguments pertaining solely to the communications to be filed by other persons pursuant to the invitation set forth above. All relevant communications of this nature received on or before January 6, 1968, will be considered by the Board before taking action.

Upon receipt by the Board, copies of the above communications will be available for examination by interested persons in the Docket Section of the Board, Room 710 Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

Explanatory statement. When the Board in 1964 reissued Part 295 of its Economic Regulations entitled Transatlantic Supplemental Air Transportation, it for the first time authorized the carriage of split charters and provided in the definition of "charter flight" (§ 295.2 (b)) that one-half of the capacity of an aircraft could be engaged by one charter group in transatlantic charters.[1] Subsequently, the Board reissued Part 208, the terms and conditions for supplemental air carriers to operate in geographic areas other than the transatlantic markets, and provided therein for the carriage of up to three groups on one aircraft, with each group consisting of 40 or more passengers.[2]

On March 14, 1967, Trans International Airlines, Inc. (TIA), a supplemental air carrier, filed a petition for rule making (Docket 18268) asking that the Board amend Part 295, the part governing transatlantic supplemental air transportation, so as to conform the definition of split charter therein to the definition in Part 208 which, as noted above, governs supplemental air transportation in all geographic areas other than the transatlantic. TIA asserts, inter alia, that the transatlantic market is one of the most lucrative markets in the world; and that there is no reason to deny the transatlantic chartering public the benefits of split charter operations envisioned by Part 208.

On October 18, 1967, Saturn Airways, Inc., filed a petition for rule making also requesting modification of the definition of "charter flight" in § 295.2(b) (Docket 19134). It urges the Board to leave unchanged the number of groups permitted on one aircraft but to liberalize the rule by providing only that each group consist of 60 or more passengers. In this way, it is claimed, the Board would provide needed flexibility in the size of each

[1] Transatlantic Charter Investigation, Order E-20776, dated Apr. 20, 1964.

[2] Supplemental Air Service Proceeding, Order E-23980, Mar. 11, 1966; Orders E-24287/9, served Sept. 20, 1966.

group in transatlantic charter transportation and update the regulation applicable thereto in a market which is now served by supplemental air carriers almost exclusively with large capacity jet equipment. The carrier also contends, inter alia, that at least two supplemental carriers plan to use 250-passenger stretched DC-8 aircraft across the North Atlantic next summer; and that the modification requested is necessary to enable the supplementals to achieve maximum use of the stretched version of DC-8 equipment in the coming year and in subsequent years; and that there is no reason to continue the rigid requirement for equal size groups in transatlantic split charter operations in view of the provision in Part 208 for flexible size split charters in all other markets (the domestic market and international areas other than the transatlantic).[3] This carrier further states that since none of the IATA group fares provides for aggregations of greater than 50 passengers, the establishment in Part 295 of dual passenger charter groups with a minimum of 60 passengers in each group should not cause substantial diversion of traffic from the IATA scheduled carriers. Finally, Saturn asks for expeditious action on its petition since, it alleges, it needs this new authority for the 1968 transatlantic charter season.

We believe that these petitions for rule making may have merit and that they warrant consideration in a rule-making proceeding.[4] The rule we are proposing would amend the definition of split charter in Part 295 (§ 295.2(b)(2)) by deleting the existing rigid requirement that each group be comprised of one-half of the capacity of an aircraft and substituting therefor the more flexible requirement of Part 208, namely, authorization of up to three groups on one aircraft with each group containing 40 or more passengers.

[3] As noted above, Part 208 authorizes up to three groups on one aircraft with each group containing 40 or more passengers.

[4] Dockets 18366 and 19134, the petitions for rule making filed by TIA and Saturn, respectively, will be consolidated into the rule-making proceeding (Docket 19939) which is being instituted by this notice.

Since Part 214, which sets forth the terms and conditions of foreign air carrier permits authorizing charter transportation only, contains a similar definition of charter flight, we are proposing the same split charter authority for the foreign charter carriers as the supplemental air carriers.

The Board will also consider as within the scope of this rule-making proceeding alternative amendments to liberalize the split charter definitions contained in §§ 295.2(b)(2) and 214.2(b)(2), e.g., provisions for up to two charter groups on one aircraft with at least 60 passengers in each group, as proposed by Saturn.

Proposed rule. It is proposed to amend Parts 214 and 295 of the Economic Regulations (14 CFR Parts 214, 295) as follows:

1. Amend § 214.2(b) to read in part as follows:

§ 214.2 Definitions.

* * * * *

(b) "Charter flight" means air transportation performed by a direct foreign air carrier on a time, mileage, or trip basis where

* * * * *

(2) Less than the entire capacity of an aircraft has been engaged by a person for his own use or by a representative or representatives of a group for the use of such group and the remaining portion of the capacity of such aircraft has been engaged by another person for his own use or by a representative or representatives of a second group (provided no such representative is professionally engaged in the formation of groups for transportation or in the solicitation or sale of transportation services): *Provided*, That the definition of "charter flight" in subparagraph (2) of this paragraph shall not apply with respect to any foreign air carrier to the extent that its permit authorizes it to engage in "planeload" charter foreign air transportation of persons:

Provided, also, That with respect to subparagraph (2) of this paragraph, a maximum of three groups may be chartered on one aircraft and each group shall consist of 40 or more passengers:

And provided further, That with the consent of the charterer, the direct foreign air carrier may utilize any unused space for the transportation of (i) the carrier's own personnel and property and/or (ii) the directors, officers, and employees of an air carrier or another foreign air carrier traveling pursuant to a pass interchange arrangement.

* * * * *

2. Amend § 295.2(b) to read in part as follows:

§ 295.2 Definitions.

As used in this part, unless the context otherwise requires—

* * * * *

(b) "Charter flight" means air transportation performed by a direct air carrier on a time, mileage, or trip basis where (1) * * *

* * * * *

or (2) Less than the entire capacity of an aircraft has been engaged by a person for his own use or by a representative or representatives of a group for the use of such group and the remaining portion of the capacity of such aircraft has been engaged by another person for his own use or by a representative or representatives of a second group (provided no such representative is professionally engaged in the formation of groups for the transportation or in the solicitation or sale of transportation services): *Provided*, That with respect to subparagraph (2) of this paragraph, a maximum of three groups may be chartered on one aircraft and each group shall consist of 40 or more passengers: *And provided further*, That subparagraph (2) of this paragraph shall not be construed to apply to the charter of less than the entire capacity of an aircraft by a tour operator.

With the consent of the charterer, the direct air carrier may utilize any unused space for the transportation of (1) the carrier's own personnel and property and/or (2) the directors, officers, and employees of a foreign air carrier or another air carrier traveling pursuant to a pass interchange arrangement.

* * * * *

[F.R. Doc. 67-14107; Filed, Dec. 1, 1967; 8:47 a.m.]

Notices

DEPARTMENT OF STATE

[Public Notice 291]

UNITED ARAB REPUBLIC

Removal of Restriction on Travel

Public Notice 270 is amended to remove the restriction on travel by U.S. citizens to, in or through the United Arab Republic.

For the Secretary of State.

[SEAL] IDAR RIMESTAD,
Deputy Under Secretary For Administration.

NOVEMBER 20, 1967.

[F.R. Doc. 67-14096; Filed, Dec. 1, 1967; 8:46 a.m.]

POST OFFICE DEPARTMENT

Change in Conversion Rate

INTERNATIONAL MONEY ORDERS

Effective December 4, 1967, the conversion rate for postal money orders issued in the United States for payment in Great Britain and Northern Ireland, Guyana, and Ireland will be $2.41=1 pound sterling; the rate for orders issued for payment in New Zealand will be $1.13 U.S. currency=1 New Zealand dollar.

These new conversion tables will be published in Part 171 of Title 39, Code of Federal Regulations, at the earliest possible date.

(5 U.S.C. 301, 39 U.S.C. 501, 505)

TIMOTHY J. MAY,
General Counsel.

NOVEMBER 30, 1967.

[F.R. Doc. 67-14177; Filed, Dec. 1, 1967; 10:48 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR 1896]

OREGON

Notice of Proposed Classification of Public Lands for Multiple-Use Management

Correction

In F.R. Doc. 67-13115, appearing at page 15494 of the issue for Tuesday, November 7, 1967, the following corrections should be made in the third column on page 15494:

1. "T. 23 S., R. 30 E." should be corrected to read "T. 23 S., R. 29 E.".
2. The first "T. 23 S., R. 33 E." should read "T. 23 S., R. 30 E.".

[Montana 5687]

MONTANA

Proposed Classification of Public Lands for Multiple-Use Management

Correction

In F.R. Doc. 67-13233, appearing at page 15503 of the issue for Thursday, November 9, 1967, the following corrections should be made:

1. The 14th township and range description which now reads "T. 7 S., R. 49 E." should read "T. 8 S., R. 49 E.".
2. The entry under "T. 9 S., R. 52 E." which now reads "Secs. 23 and 26, inclusive;" should read "Secs. 23 to 26, inclusive;".

National Park Service

GLACIER NATIONAL PARK, MONT.

Notice of Intention To Negotiate Concession Contract

Pursuant to the provisions of section 5, the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with the Glacier Park Boat Co., Inc., authorizing it to provide concession facilities and services for the public at Glacier National Park, Mont., for a period of 5 years from January 1, 1968, through December 31, 1972.

The foregoing concessioner has performed its obligations under the existing contract to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the date of publication of this notice.

Interested parties should contact the Chief of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

LESLIE P. ARNBERGER,
Acting Assistant Director, National Park Service.

NOVEMBER 28, 1967.

[F.R. Doc. 67-14099; Filed, Dec. 1, 1967; 8:46 a.m.]

Office of the Secretary

WATCHES AND WATCH MOVEMENTS

Proposed Formula for Allocation of Quotas for Calendar Year 1968 Among Producers Located in the Virgin Islands and Guam

CROSS REFERENCE: For a document issued jointly by the Department of Commerce and the Department of the Interior relating to allocation of quotas of watches and watch movements for the calendar year 1968 among producers located in the Virgin Islands and Guam, see F.R. Doc. 67-14097, Commerce Department, *infra*.

DEPARTMENT OF COMMERCE

Maritime Administration

OCEANIC STEAMSHIP CO.

Notice of Application

Notice is hereby given that the Oceanic Steamship Co. has filed application dated October 18, 1967, for a waiver under section 804, Merchant Marine Act, 1936, as amended to permit its parent company, Matson Navigation Co., to engage in operations under a basic shoreside container service agreement No. FMC 9626 with Nippon Yusen Kaisha, a Japanese company. The agreement involves the inauguration, expansion and conduct of complete shoreside container services in Japan and on the Pacific Coast of North America (including Hawaii) for container vessels operated in transpacific trades.

Any person, firm, or corporation having an interest in this application, who desires to offer views and comments thereon for consideration by the Maritime Administration, should submit same in writing, in triplicate, to the Secretary, Maritime Administraton, Washington, D.C., by the close of business on December 18, 1967. The Maritime Administration will consider these views and comments and take such action with respect thereto as may be deemed appropriate.

By order of the Acting Maritime Administrator.

Dated: November 29, 1967.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 67-14100; Filed, Dec. 1, 1967; 8:47 a.m.]

Office of the Secretary

WATCHES AND WATCH MOVEMENTS

Proposed Formula for Allocation of Quotas for Calendar Year 1968 Among Producers Located in the Virgin Islands and Guam

Interested parties may refer to the following previously published FEDERAL REGISTER notices for the background history of duty-free watch quota allocations issued pursuant to the authority granted the Secretaries of Commerce and of the Interior by Public Law 89-805:

Temporary procedures.	31 F.R. 16579	Dec. 28, 1966.
Notice of public hearings to consider allocation of quotas.	32 F.R. 473	Jan. 17, 1967
Interim allocation statement.	32 F.R. 4176	Mar. 17, 1967
Adjusted quota allocations for the Virgin Islands and allocation for American Samoa.	32 F.R. 8316	June 9, 1967
Clarification and implementation of policy prohibiting transfers of duty-free quotas.	32 F.R. 11040	July 28, 1967
Adjusted quota allocations for Guam and adjusted allocation for Virgine Watch Co., Inc., V. I.	32 F.R. 11294	Aug. 3, 1967

The Departments of Commerce and the Interior are considering the basis upon which duty-free quotas for watches and watch movements should be allocated among producers in the Virgin Islands and Guam for calendar year 1968. The experience acquired in administering such quotas during calendar year 1967, has indicated that the formula utilized in making the allocations should be modified in order to foster a greater contribution to the economy of the islands by quota holders during calendar year 1968. Accordingly, notice is hereby given that the Departments propose to make allocations for calendar year 1968 on the following basis:

Prior to January 1, 1968, each watch producer located in the Virgin Islands and Guam which received a duty-free watch quota allocation for calendar year 1967, will receive an initial quota allocation for calendar year 1968 equal to 50 percent of the number of watch units assembled by such firm in the particular territory and entered duty-free into the customs territory of the United States during the first 10 months of calendar year 1967: *Provided, however*, That any firm which would receive an initial quota of less than 6,000 units under the operation of this provision, will not be eligible to receive a quota for calendar year 1968. The annual quotas for calendar year 1968 will be allocated as soon as feasible on or after April 1, 1968, on the basis of the following formula:

(a) The number of units assembled by each firm in the particular territory during calendar year 1967 and entered by it duty-free into the customs territory of the United States on or prior to December 31, 1967, and

(b) The total dollar amount of wages subject to FICA deductions paid by such firm in the particular territory during calendar year 1967 which are attributable to its watch operation.

In making allocations under this formula, equal weight will be assigned to production and shipment history and to wages subject to FICA deductions paid. Any firm failing to enter duty-free into the customs territory of the United States on or prior to April 1, 1968, a number of watch units assembled by it in the particular territory equal to, or greater than, 30 percent of the number of units initially allocated to such firm for duty-free entry from that territory will be given an opportunity to show cause why the duty-free quota which it would be entitled to receive under the above formula for calendar year 1968 should not be cancelled or reduced by the Departments. In the event of such a cancellation or reduction, the Departments shall promptly reallocate the quota involved among those firms most qualified. Consideration may be given to inviting competitive applications for such reallocations.

Allocations among eligible watch producers located in the Virgin Islands and Guam during calendar year 1969 may take into account the nature of the watch assembly operations which the firm performed in the course of normal watch assembly operations in the particular territory on the watch units entered into the customs territory of the United States during calendar year 1968. Each of the eighteen operations listed below has been assigned a specific number of points designed to reflect the relative degree of skill and amount of time required to perform the particular operation:

(1) Dial side assembly; 6 points.
(2) Train assembly; 6 points.
(3) Barrel subassembly; 3 points.
(4) Barrel bridge subassembly; 3 points.
(5) Barrel and barrel bridge assembly; 3 points.
(6) Automatic mechanism subassembly; 6 points.
(7) Automatic bridge assembly; 4 points.
(8) Escapement assembly; 4 points.
(9) Balance subassembly; 22 points.
(10) Balance assembly; 6 points.
(11) Leveling, centering, and vibrating; 12 points.
(12) Timing on rate recorder; 6 points.
(13) Calendar mechanism subassembly; 4 points.
(14) Calendar mechanism assembly; 2 points.
(15) Dialing and hands; 4 points.
(16) Rack timing; 2 points.
(17) Changing stem and assembling crown; 1 point.
(18) Final inspection—dial side and train side; 6 points.

In making allocations for calendar year 1969, the Departments have not as yet determined what weight may be assigned to watch assembly operations in relation to production and shipment history and to wages subject to FICA deductions paid.

Interested parties may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire on the proposed rule set out above. All communications should be submitted within 15 days from the publication date of this notice in the FEDERAL REGISTER, and addressed to the:

Business and Defense Services Administration, U.S. Department of Commerce, Washington, D.C. 20230. Attention: Scientific, Photographic, and Business Equipment Division.

Such communications shall be submitted in an original and three copies and must include the following information:

(a) The name, address, and telephone number of the party submitting the brief.

(b) The name, address, telephone number, and official position of the person submitting the brief on behalf of the party referred to in subparagraph (a).

LAWRENCE C. MCQUADE,
Assistant Secretary for Domestic and International Business, Department of Commerce.

HARRY R. ANDERSON,
Assistant Secretary for Public Land Management, Department of the Interior.

NOVEMBER 28, 1967.

[F.R. Doc. 67-14097; Filed, Dec. 1, 1967; 8:46 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

AMERICAN PETROLEUM INSTITUTE

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 8A2327) has been filed by American Petroleum Institute, 1271 Avenue of the Americas, New York, N.Y. 10020, proposing that § 121.1146 *White mineral oil* and § 121.1166 *Petrolatum* be amended to provide for the safe use of (1) white mineral oil and petrolatum as release agents and as sealing and polishing agents in the manufacture of confectionery and (2) petrolatum in molding starch used in the manufacture of confectionery.

Dated: November 24, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-14117; Filed, Dec. 1, 1967; 8:46 a.m.]

CHEMAGRO CORP.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 8H2235) has been filed by the Chemagro Corp., Post Office Box 4913, Hawthorn Road, Kansas City, Mo. 64120, proposing an amendment to § 121.240 to establish a tolerance of 1.5 parts per million for residues of the insecticide *O,O*-dimethyl *S*-{4-oxo-1,2,3-benzotriazin-3(4H)-ylmethyl} phosphorodithioate in or on sugarcane bagasse for feed of cattle, goats, and sheep, such residues resulting from application of the insecticide to the growing sugarcane crop.

Dated: November 24, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-14118; Filed, Dec. 1, 1967; 8:46 a.m.]

DIAMOND ALKALI CO.

Notice of Withdrawal of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), the following notice is issued:

In accordance with § 120.8 *Withdrawal of petitions without prejudice* of the pesticide regulations (21 CFR 120.8), Diamond Alkali Co., Union Commerce Building, Cleveland, Ohio 44115, has withdrawn its petition (PP 7F0599), notice of which was published in the FEDERAL REGISTER of June 2, 1967 (32 F.R. 7983), proposing the establishment of tolerances for residues of the fungicide tetrachloroisophthalonitrile in or on certain raw agricultural commodities.

Dated: November 24, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-14119; Filed, Dec. 1, 1967; 8:46 a.m.]

F. W. ALBION LABORATORIES, INC.

Notice of Withdrawal of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), F. W. Albion Laboratories, Inc., 2392 B Avenue, Ogden, Utah 84402, has withdrawn its petition (FAP 763), notice of which was published in the FEDERAL REGISTER of November 5, 1963 (28 F.R. 11797), proposing the issuance of a regulation to provide for the safe use of a formulation containing tetrasodium ethylenediaminetetraacetic acid and sodium tripolyphosphate for the control of urinary calculi in wether lambs and in steers.

Dated: November 24, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-14120; Filed, Dec. 1, 1967; 8:46 a.m.]

MONSANTO CO.

Notice of Withdrawal of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), the following notice is issued:

In accordance with § 120.8 *Withdrawal of petitions without prejudice* of the pesticide regulations (21 CFR 120.8), Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166, has withdrawn its petition (PP 7F0807), notice of which was published in the FEDERAL REGISTER of June 21, 1967 (32 F.R. 8825), proposing the establishment of a tolerance of 0.2 part per million for negligible residues of the herbicide *S*-2, 3-dichlorallyl diisopropylthiocarbamate in or on the raw agricultural commodities alfalfa, barley, clover, corn, flax, lentils, peas, potatoes, safflower, soybeans, and sugar beets.

Dated: November 24, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-14121; Filed, Dec. 1, 1967; 8:46 a.m.]

MONSANTO CO.

Notice of Withdrawal of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), the following notice is issued:

In accordance with § 120.8 *Withdrawal of petitions without prejudice* of the pesticide regulations (21 CFR 120.8), Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166, has withdrawn its petition (PP 7F0617), notice of which was published in the FEDERAL REGISTER of July 19, 1967 (32 F.R. 10815), proposing the establishment of a tolerance of 0.2 part per million for residues of the herbicide *a*-chloro-*N,N*-diallylacetamide in or on the raw agricultural commodities: Cabbage, castor beans, celery, corn (field, sweet, and popcorn), limas beans, onions, peas, potatoes, snap beans, sorghum (grain and forage), soybeans, sugarcane, sweet potatoes, and tomatoes.

Dated: November 24, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-14122; Filed, Dec. 1, 1967; 8:46 a.m.]

PARKE, DAVIS & CO.

Notice of Withdrawal of Petition for Food Additive Chloramphenicol

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Parke, Davis & Co., Joseph Campau Avenue at the River, Detroit, Mich. 48232, has withdrawn its petition, notice of which was published in the FEDERAL REGISTER of June 28, 1967 (32 F.R. 9177), proposing the issuance of a regulation to provide for the safe use of chloramphenicol tablets for the treatment of infectious diarrhea (white scours, colibacillosis, pneumonia enteritis) in nonruminating calves.

Dated: November 24, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-14123; Filed, Dec. 1, 1967; 8:46 a.m.]

SUN CHEMICAL CORP.

Notice of Withdrawal of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Sun Chemical Corp., 750 Third Avenue, New York, N.Y. 10017, has withdrawn its petition (FAP 7B2158), notice of which was published in the FEDERAL REGISTER of April 25, 1967 (32 F.R. 6413), proposing the issuance of a regulation to provide for the safe use of cyanoguanidine-formaldehyde resins as a drainage aid in the manufacture of paper and paperboard used for packaging dry, aqueous, and fatty foods.

Dated: November 24, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-14124; Filed, Dec. 1, 1967; 8:46 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 8585]

REPORTS OF NEAR MIDAIR COLLISIONS

Statement of Policy

The Federal Aviation Administration is establishing a 1-year study of the causes of near midair collisions. Success of the study depends on a full report of

each near midair collision during the year. To encourage persons involved in near midair collisions to make such reports, the Administrator will take no enforcement or other adverse action, remedial or disciplinary, against any person involved in a near midair collision that is reported to the FAA during the period of this program. This action is taken under his statutory mandate to promote safety in flight. Furthermore, the Administrator will, upon written request of the person making the report, withhold that report, and the identity of these persons involved, from public disclosure in accordance with section 1104 of the Federal Aviation Act of 1958.

By obtaining full, frank, and complete cooperation from persons involved in near midair collisions, the FAA should be in a position to obtain the necessary information for use in evaluation and development of air traffic control procedures, separation criteria, and pertinent Federal Aviation Regulations. Therefore, it is the policy of the Federal Aviation Administration that if any pilot of an aircraft, Air Traffic Controller, or other person involved, in a near midair collision reports the facts, conditions, and circumstances thereof to the FAA—

(a) The Administrator will not subject any person involved in the near midair collision to enforcement or other adverse action, remedial or disciplinary, even though a violation of the Federal Aviation Regulations is disclosed by the report or subsequent investigation; and

(b) Upon written request of the person submitting the report, the Administrator will, to the extent authorized by section 1104 of the Federal Aviation Act of 1958, withhold the identity of the persons involved in the near midair collision and the information contained in that report from public disclosure.

This policy applies to near midair collisions which occur from January 1, 1968, to December 31, 1968, inclusive.

Issued under the authority of sections 205, 307(c), 312(c), 313(a), 601(a), 701(a), and 1104 of the Federal Aviation Act of 1958; 49 U.S.C. 1346, 1348(c), 1353(c), 1354(a), 1321(a), 1441(a), and 1504.

Issued in Washington, D.C., on November 27, 1967.

WILLIAM F. MCKEE,
Administrator.

[F.R. Doc. 67-14096; Filed, Dec. 1, 1967; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 19360]

BRITISH UNITED AIRWAYS (SERVICES) LTD.

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference on the above-entitled application is assigned to be held on December 19, 1967, at 10 a.m., e.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner William F. Cusick.

Dated at Washington, D.C., November 28, 1967.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 67-14108; Filed, Dec. 1, 1967; 8:47 a.m.]

[Docket No. 19310; Order E-26048]

NORTHWEST AIRLINES, INC. AND WEST COAST AIRLINES, INC.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 29th day of November 1967.

By tariff revisions filed November 1 and marked to become effective December 1, 1967, Northwest Airlines, Inc. and West Coast Airlines, Inc., propose to cancel joint jet first-class and coach fares now in effect variously between New York, Philadelphia, Washington, Pittsburgh, Cleveland, Detroit, and Milwaukee, on the one hand, and Pasco, Walla Walla, and Yakima, on the other. The cancellation would result in the applicable fares being the combination of Northwest's local fares between the eastern cities and Spokane, plus West Coast's local fares between Spokane and the beyond points in Washington. The proposal would increase fares ranging from 15 to 25 percent, and involve increases as much as $27.

The carriers have filed no substantive support for their proposed cancellation of the joint fares or why the sum of the local fares should be permitted to become the effective fares in these markets. In view of the significant fare increases which would be effected by this proposal, and the issue inherent herein as to the need in the public interest of maintaining joint fares in these markets, the Board finds that the tariff proposal and the resulting fares may be unjust and unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, and in derogation of the carrier's duty to establish, observe, and enforce just and reasonable joint fares.[1]

The Board finds that its action herein is necessary and appropriate in order to carry out the provisions and objectives of the Federal Aviation Act of 1958, and particularly sections 102, 204(a), 403, 404, and 1002 thereof.

Accordingly, it is ordered, That:

1. An investigation be instituted to determine whether the proposed cancellations described in Appendix A hereto,[2] and the fares which would apply if such cancellations are permitted to become effective, and rules, regulations, and practices affecting such fares, are or will be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fares, and rules, regulations, or practices affecting such fares;

2. Pending hearing and decision by the Board, the provisions described in Appendix A hereto are suspended and their use deferred to and including February 28, 1968, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The proceeding ordered herein be assigned for hearing before an Examiner of the Board at a time and place hereafter to be designated; and

4. Copies of this order be filed with the aforesaid tariff and be served upon Northwest Airlines, Inc., and West Coast Airlines, Inc., which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-14109; Filed, Dec. 1, 1967; 8:47 a.m.]

[Docket No. 18610; Order E-26044]

SOUTHERN AIRWAYS, INC.

Route Realignment Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 28th day of November 1967.

By Order E-25652 dated September 8, 1967, the Board disposed of various petitions for reconsideration and modification of Orders E-25230 and E-25325 and motions to consolidate various applications with the above-indicated proceeding. By Order E-25665 dated September 11, 1967, the Board expanded the issues in this proceeding to consider whether Southern's proposed route should be extended beyond Miami to Key West via Marathon and whether National's authority to serve Key West should be suspended for an additional period. Delta, National, and Southern filed petitions for reconsideration and clarification of Order E-25652; Southern petitioned for reconsideration of Order E-25665; Southeast petitioned for reconsideration to exclude the issue of service to Florida points;[1] National filed a motion to amend its application in Docket 18699 and consolidate its applications under Dockets 19024, 19025, and 19026. Delta moved to consolidate its application in 19096. Eastern requested consolidation of its application in Docket 19136. Northwest proposed consolidation of its Docket 19119. Southern moved to consolidate its applications in Dockets 17689 and 19137. Southeast requested consolidation of its Docket 19130, and the city of Gainesville moved to consolidate its application in Docket 19116. Several of the motions for consolidation were contingent upon the final definition of the scope of the proceeding. Answers to the petitions for reconsideration and motions to consolidate were filed by Delta, Eastern, National, Southern, Jackson-Madison County Airport Authority, Titusville-Cocoa Airport Authority, and Bureau Counsel.[2]

Southern's request that the Board amend the existing pretrial restriction requiring one stop on all flights between Memphis and Nashville and impose additional restrictions on Eastern's beyond-area service proposed in Docket 18758, consolidated herein, are matters previously presented to the Board and disposed of in Order E-25652. Southern also requests clarification of the scope of the proceeding to insure consideration of the possible designation of Fort Lauderdale as a coterminal point, a separate intermediate point, or a hyphenated point. The form of designation of a point to receive certificated service is inherent in the issue of service to that point. No expansion of issues is necessary for this purpose.

As urged by Southern, the issue of service to Key West includes the form of route description to authorize such service, if found required. The issue of continued suspension of National's authority to serve Key West will be modified to include the issue of the termination of National's authority at that point.

National's application in Docket 18699 (amended) proposes new service between Atlanta, on one hand, and Birmingham, Huntsville, and Memphis, on the other. Since there is no issue of additional authority by Southern between these points, consideration of National's service would involve new issues and expand the scope of the proceeding. Accordingly, an additional pretrial condition will be appended to the consolidation of Docket 18699 (amended) to proscribe the transportation of passengers in single-plane service between Atlanta, on one hand, and Birmingham, Huntsville, and Memphis, on the other. However, Delta's request for a pretrial condition against National's service between Atlanta, on one hand, and West Palm Beach, Tampa, and Fort Myers, on the other, is without merit. There is no issue of nonstop service between these points, and beyond-segment services are inherent in any route extension.

National's petition for reconsideration, its application in Docket 19024 proposing the hyphenation of the Kennedy Space Center with Melbourne on its route 39, and its application in Docket 19026 for a route between Orlando, Kennedy Space Center, Mississippi Test Facility and (a) beyond Mississippi Test Facility the terminal point Huntsville and (b) beyond Mississippi Test Facility the terminal point New Orleans involve service between the Kennedy Space Center and New Orleans. When we included the issue of a new segment 8 for Southern between Huntsville and the Mississippi Test Facility and beyond (a) to New Orleans and (b) to Orlando, we did so pursuant to the proposal of Southern which included a restriction against single-plane service between Orlando and New Orleans. Also placed in issue at that time (Order E-25652) was whether the Kennedy Space Center should be served as a separate intermediate point or as Orlando/Kennedy Space Center (to be served through TI-CO Airport). Thus, if it is found that Kennedy Space Center should be served jointly with Orlando, single-plane service could not be operated to or from New Orleans. To avoid inconsistency, broadening the scope of the proceeding, and consolidating other applications proposing similar service, the pretrial condition against single-plane service shall apply between Miami, Orlando, and Kennedy Space Center, on one hand, and New Orleans, on the other, and the motions to consolidate Dockets 19024, 19096, 19136, and 19137 to the extent that they propose service between these points will be denied. Docket 19026 will be consolidated subject to a pretrial restriction against single-plane service between Orlando and Kennedy Space Center, on one hand, and New Orleans, on the other.

Eastern's application in Docket 18758, consolidated herein by Order E-25652, proposes service to Kennedy Space Center as an intermediate point between Melbourne and Orlando on segments 1 and 5 of route 10. The limitation of consideration of such service to segment 5 of route 10 would permit consideration of Eastern's proposed service between Kennedy Space Center and Huntsville or Atlanta. Consideration of service to Kennedy Space Center on segment 1 of route 10 would involve service between Kennedy Space Center and Jacksonville, where service by Southern is not in issue. This issue is beyond the intended scope of the proceeding and if allowed to stand, would require consolidation of other applications. Accordingly, consideration of Eastern's application in Docket 18758 will be limited to the designation of Kennedy Space Center as an intermediate point on segment 5 of route 10 and motions to consolidate applications of Delta in Docket 19096, Eastern in Docket 19136, Southern in Docket 17689, and National in Docket 19025, insofar as they propose service over the segment between Kennedy Space Center and Jacksonville, will be denied.

The existing pretrial restriction to the consolidation of Eastern's application in Docket 18758 proscribes nonstop service between the Kennedy Space Center and points on Eastern's route 10 not served by Southern. Petitioners request that this condition be modified to apply to route 10 points not served by Southern at the present time. Such a modification would preclude consideration of nonstop service between Kennedy Space Center, on one hand, and Orlando, Tallahassee, Miami, and Fort Lauderdale, on the other, which services are in issue in this proceeding. Accordingly, the pretrial condition will be modified to prohibit nonstop services between Kennedy Space Center and points on Eastern's route 10 points north or west of Tallahassee which are not served by Southern.

Southeast's request that the Board sever all issues of service to Florida points must be denied. The fact that the Board consolidated issues of service outside the area presently served by Southern does not establish that Southern has been selected to provide such service. The purpose of the proceeding is to permit the introduction of all evidence, pro and con, bearing on the issue which will enable the Board to reach a proper conclusion. We shall consolidate Southeast's application in Docket 19130 proposing service betweeen Miami/Fort Lauderdale, Kennedy Space Center, and Orlando.

The contention of the Titusville-Cocoa Airport Authority that the Board consider all or none of the issues of service to the Kennedy Space Center in this proceeding must be denied. The instant case is the proper forum for consideration of the needs of service in the area served or proposed to be served by Southern. The fact that service to and from points beyond the area cannot be placed in issue is insufficient to deny consideration of proposals for service within the scope of the proceeding.

Eastern requests that the Board append a pretrial condition to the effect that any service provided by Southern to Florida points as a result of this proceeding shall be without benefit of subsidy support. The proposed restriction at this time is unnecessary. From Order E-25230 it is clear that such services would be ineligible for subsidy. Eastern also requests that additional pairs of points be included in the one-stop restriction applicable to the services of Southern in issue. Consistent with our statement in Order E-25230 that we do not intend to consider liberalized operating authority in those markets where Southern now has specific operating restrictions, ordering paragraph 3 of Order E-25652 will be amended to include the following pairs of points: Atlanta and Memphis, Atlanta and New Orleans, Memphis and New Orleans, Atlanta and Jacksonville, and Atlanta and Charlotte.

The request of the city of Gainesville for consolidation of its application in Docket 19116 involving service to that city will be denied. There is no showing that such service would result in financial improvement for Southern and it clearly would enlarge the scope of the proceeding.

Delta's application in Docket 19096, insofar as it proposes service between Charlotte, Columbia, and Charleston, between Atlanta and Nashville, and between Miami/Fort Lauderdale, Orlando, Kennedy Space Center, Tallahassee, Atlanta, Birmingham, Huntsville, and Memphis, subject to a restriction against single-plane service between Atlanta and

[1] The Board recognizes that the existing joint fares are generally lower than the fares for Northwest's segment, and would consider appropriate adjustments in the joint fares which would result in reasonable joint rates.

[2] Filed as part of the original document.

[1] Southeast filed a motion for leave to file an unauthorized document, i.e., its late petition for reconsideration, alleging matters which justify the granting of such motion.

[2] Delta, Northwest, and Eastern filed motions for leave to file unauthorized documents, i.e., replies to answers. These motions are denied. The replies, even if allowed, on their merits would not alter our findings herein.

Huntsville and a one-stop restriction between Atlanta and Memphis, involves service within the existing scope of the proceeding. Other proposals in its application to the extent not already denied involve services beyond those proposed by Southern or in issue herein.

Northwest's proposal in Docket 19119 for a route between Atlanta, Kennedy Space Center, Orlando, and Miami/Fort Lauderdale involves service within the scope of the proceeding and the application will be consolidated, subject to a one-stop restriction on flights between Atlanta and Miami/Fort Lauderdale.

Accordingly, it is ordered:

1. That National's application in Docket 18699 (amended) be subject to the additional restriction against single-plane service between Atlanta, on one hand, and Birmingham, Huntsville, and Memphis, on the other; and that National's application in Docket 19026 be consolidated, subject to a pretrial restriction against single-plane service between Orlando and Kennedy Space Center, on one hand, and New Orleans, on the other.

2. That ordering paragraph 5 of Order E-25652, in which we consolidated Eastern's application in Docket 18758, be amended to limit consideration of service to Kennedy Space Center to segment 5 of route 10 and, further, to prohibit nonstop service by Eastern between the Kennedy Space Center and points on route 10 north or west of Tallahassee which are not served by Southern as of the date of this order;

3. That the following applications be consolidated: Delta's application in Docket 19096, insofar as it proposes service between Charlotte, Columbia, and Charleston, between Atlanta and Nashville, and between Miami/Fort Lauderdale, Orlando, Kennedy Space Center, Tallahassee, Atlanta, Birmingham, Huntsville, and Memphis, subject to a restriction against single-plane service between Atlanta and Huntsville and a one-stop restriction between Atlanta and Miami/Fort Lauderdale; Northwest's application in Docket 19119, subject to a one-stop restriction on service between Atlanta and Miami/Fort Lauderdale; and Southeast's application in Docket 19130;

4. That ordering paragraph 3 of Order E-25652 be amended by adding the following pairs of points: Atlanta and Memphis, Atlanta and New Orleans, Memphis and New Orleans, Atlanta and Jacksonville, and Atlanta and Charlotte;

5. That ordering paragraph (c) of Order E-25665 be amended to include the issue of whether National's authority to serve Key West should be terminated; and

6. That the petitions for reconsideration and motions to consolidate in all other respects be denied.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 67-14110; Filed, Dec. 1, 1967; 8:47 a.m.]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

STATEMENT OF ORGANIZATION

Pursuant to the authority contained in 5 U.S.C. 552 and 559, there is hereby published the Statement of Organization of the Equal Employment Opportunity Commission.

Subpart A—Organizational Structure of the Equal Employment Opportunity Commission

1.1 Organization Units.

Subpart B—Office of the Chairman

1.5 Chairman.

Subpart C—Office of the Vice Chairman

1.10 Vice Chairman.

Subpart D—Office of Commissioners

1.20 Commissioners.

Subpart E—Congressional Liaison Staff

1.30 Congressional Liaison.

Subpart F—Public Affairs Staff

1.40 Public Affairs.

Subpart G—Program Review Staff

1.50 Program Review.

Subpart H—Office of the General Counsel

1.60 General Counsel.

Subpart I—Office of Executive Director

1.70 Executive Director.
1.71 Deputy Director.
1.72 Liaison Staff.
1.73 Office of Administration.
1.74 Office of Research.
1.75 Office of Technical Assistance.
1.76 Office of Compliance.
1.77 Regional Offices.

Subpart A—Organizational Structure of the Equal Employment Opportunity Commission

1.1 *Organizational Units.* The Equal Employment Opportunity Commission consists of the following Principal Offices, Staffs, Subordinate Offices, and Divisions:

PRINCIPAL OFFICES

Office of the Chairman.
Office of the Vice Chairman.
Offices of the Commissioners.

STAFFS

Congressional Liaison Staff.
Public Affairs Staff.
Program Review Staff.

SUBORDINATE OFFICES

Office of the Executive Director.
Office of the Deputy Director.
Office of the General Counsel.
Office of Administration.
Liaison Staff.
Office of Research.
Office of Technical Assistance.
Office of Compliance.
Regional Offices.

DIVISIONS

Budget Division.
Administrative Services Division.
Personnel Division.
Technical Studies Division.
Technical Assistance Division.
Education Programs Division.
Analysis and Advice Division.
Investigations Division.
Conciliation Division.

Subpart B—Office of the Chairman

1.5 *Chairman.* The Chairman is the Chief Executive Officer of the Commission. He is appointed by the President and confirmed by the Senate. He is responsible for the administrative operations and for the appointment, in accordance with the civil service laws, of such officers, agents, attorneys, and employees as the Commission deems necessary to assist it in the performance of its functions. The Chairman serves as presiding officer in Commission deliberations and guides the operations of the Commission.

The Chairman is aided in his duties by five subordinate areas: Congressional Liaison Staff, Public Affairs Staff, Program Review Staff, Office of the General Counsel, and the Office of the Executive Director.

Subpart C—Office of the Vice Chairman

1.10 *Vice Chairman.* A second of the five Commissioners, appointed by the President and confirmed by the Senate, is designated the Vice Chairman. He acts as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office. The Vice Chairman participates in the deliberations and guides the operations of the Commission.

The purpose of the Equal Employment Opportunity Commission is to obtain compliance with Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on race, color, religion, sex, and national origin in industries affecting interstate commerce. The five-member Commission performs its tasks through a system of formal and informal remedial procedures. If voluntary compliance is not obtained, the Commission may recommend to the Attorney General institution of a suit to enjoin a pattern or practice of discrimination.

Subpart E—Congressional Liaison Staff

1.30 *Congressional Liaison.* The Congressional Liaison Staff keeps members of Congress and the appropriate legislative and appropriations committees informed on matters relating to Commission activities. It maintains liaison to secure congressional acceptance and support of the Commission's program and to apprise the Commission of the intent and thinking of Congress.

Subpart F—Public Affairs Staff

1.40 *Public Affairs.* The Public Affairs Staff advises of means, media, and programs which will best promote the general interests of the Commission. It assures that the public-at-large is informed of its rights under Title VII.

Subpart G—Program Review Staff

1.50 *Program Review.* The Program Review Staff is responsible for the review and analysis of regional operations. It recommends new programs and changes in Commission policies, procedures, practices, and operations.

Subpart H—Office of General Counsel

1.60 *General Counsel.* The Office of General Counsel provides legal advice and counsel on all phases of the work of the Commission. It also works closely with the Attorney General on all litigation arising under Title VII.

Subpart I—Office of the Executive Director

1.70 *Executive Director.* The Executive Director is responsible for the development of program needs, estimated fund requirements, and operating plans and procedures. He is responsible for the evaluation of program achievements. He represents the Commission with the Bureau of the Budget.

The Executive Director is in charge of five subordinate areas: Office of the Deputy Director, Liaison Staff, Office of Administration, Office of Research, Office of Compliance, and the Regional Offices.

1.71 *Deputy Director.* The Deputy Director serves as the Deputy to the Executive Director in the direction of the administrative activities of the Commission. He is responsible for the direction and supervision of the Regional Directors in the field offices.

1.72 *Liaison Staff.* The Liaison Staff is responsible for maintaining continuing liaison with officials of Federal as well as State and local Fair Employment Practice agencies.

1.73 *Office of Administration.* The Office of Administration is responsible for the administrative functions of the Commission, which include budget preparation and execution, handling of fiscal and auditing matters, personnel management and utilization, procurement and personal service contracting, and supply and office management.

There are three Divisions within the Office of Administration: The Budget Division, the Administrative Services Division, and the Personnel Division.

The Budget Division is responsible for formulating and developing fiscal and budget policies and programs.

The Administrative Services Division manages, directs, supervises, and administers a variety of office service functions for the Washington office. It also provides policy and procedural guidance to the regional offices.

The Personnel Division is responsible for planning and directing a comprehensive personnel management program.

1.74 *Office of Research.* The Office of Research is responsible for determining the quantitative information required by the Commission in planning and carrying out its functions, for developing the necessary procedures and reporting systems for obtaining this information, and for conducting in-depth technical studies to supplement the activities of the other operating segments of the Commission.

There is one major division within the Office of Research: The Technical Studies Division. It conducts research studies required by the operating programs of the Commission; and in-depth analyses of economic factors, local customs, and other behavioral determinants for use in planning and developing the action programs of the Commission.

1.75 *Office of Technical Assistance.* The Office of Technical Assistance participates in the development of the policies and programs of the Commission with specific responsibility for implementing programs of technical assistance and education.

The Office of Technical Assistance has two divisions: The Technical Assistance Division and the Education Programs Division.

The Technical Assistance Division is primarily responsible for providing assistance to employers, unions, and employment agencies in the development of affirmative action policies and procedures to achieve compliance with Title VII.

The Education Programs Division is responsible for providing detailed analyses of employment practices, patterns, and trends. It prepares educational brochures, exhibits, and materials for persons and groups affected by the provisions of Title VII so as to maximize the degree of voluntary compliance.

1.76 *Office of Compliance.* The Office of Compliance is responsible for developing policies, standards, and procedures for determining and conciliating charges of employment discrimination. It attempts to resolve charges of discrimination where reasonable cause is found either on a voluntary basis or by recommending referral to the Attorney General.

The Office of Compliance has three subordinate divisions: The Analysis and Advice Division, the Investigations Division, and the Conciliation Division.

The Analysis and Advice Division is responsible for the review of investigative and conciliation reports and for furnishing instructions and guidance thereon.

The Investigations Division is responsible for developing, directing, and conducting investigations.

The Conciliation Division is responsible for seeking the voluntary resolution of charges of employment discrimination and, in appropriate cases, where voluntary compliance is not achieved, for recommending the referral of cases to the Attorney General for the institution of suits under section 707 of Title VII.

1.77 *Regional Offices.* The Regional Offices are responsible for carrying out the Commission's activities and programs at the local level. The location of the Regional Offices, their Directors, and the areas of their jurisdiction are as follows:

FIELD OFFICES—EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Area	Director	Address
Colorado, New Mexico, Wyoming, Arizona, Utah.	Tom E. Robles	500 Gold Street SW., Albuquerque, N. Mex. 87101.
Florida, Georgia, Puerto Rico, North Carolina, South Carolina.	Donald E. Hollowell	3776 Peachtree Street NW., Atlanta, Ga. 30308.
Oklahoma, Texas	Lee G. Williams	300 East Eighth Street, Austin, Tex. 78701.
Illinois, Minnesota, North Dakota, South Dakota, Wisconsin.	Elmer W. McLain	219 South Dearborn Street, Chicago, Ill. 60604.
Indiana, Kentucky, Michigan, Ohio	Chester J. Gray	2265 Ontario Street, Cleveland, Ohio, 44115.
Iowa, Kansas, Missouri, Nebraska	Charles E. Clark	911 Walnut Street, Kansas City, Mo. 64106.
Southern California, Hawaii, Nevada	Lorenzo H. Traylor	300 North Los Angeles Street, Los Angeles, Calif. 90012.
Arkansas, Louisiana, Mississippi	Glenn P. Clasen	333 St. Charles Avenue, New Orleans, La. 70130.
Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New York, New Jersey, Pennsylvania, Rhode Island, Vermont.	Manuel Diaz	346 Broadway, New York, N.Y. 10013.
Alaska, Northern California, Idaho, Montana, Oregon, Washington.	Frank A. Quinn	450 Sansome Street, San Francisco, Calif. 94111.
Maryland, Virginia, West Virginia, District of Columbia.	Maria B. Poston	Suite 410, 1717 H Street NW., Washington, D.C. 20006.
Alabama, Tennessee	John Heneghan (Acting)	2121 Eighth Avenue North, Birmingham, Ala. 35203.

Effective date. The above provisions shall become effective July 4, 1967.

Dated: November 28, 1967.

C. L. ALEXANDER Jr., *Chairman.*

[F.R. Doc. 67-14077; Filed, Dec. 1, 1967; 8:45 a.m.]

FEDERAL MARITIME COMMISSION

COSTA LINE AND FASSIO LINE

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter)

and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. Burton H. White, Burlingham, Underwood, Barron, Wright & White, 25 Broadway, New York, N.Y. 10004.

Agreement No. 9678, between Costa Line and Fassio Line, provides for the spacing of sailings of vessels by the parties in the eastbound and westbound trades between Italian ports and U.S. North Atlantic ports. The parties agree to maintain alternate weekly sailings and to cooperate in the advertising and arrangement of sailing schedules.

Dated: November 29, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-14176; Filed, Dec. 1, 1967; 10:25 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP68-156]

CHARLES H. CONSTANT AND CITIES SERVICE GAS CO.

Notice of Application

NOVEMBER 27, 1967.

Take notice that on November 9, 1967, Charles H. Constant (Applicant), R.R. No. 2, Blackwell, Kay County, Okla. 74631, filed in Docket No. CP68-156 an application pursuant to section 7(a) of the Natural Gas Act for an order of the Commission directing Cities Service Gas Co. (Respondent) to establish physical connection of its transmission facilities with the distribution facilities to be constructed by Applicant and to sell and deliver to Applicant volumes of natural gas for distribution and resale in a community located in the vicinity of Blackwell, Kay County, Okla., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks to have the Commission order Respondent to establish physical connection of its transmission facilities with the distribution facilities to be constructed by Applicant, which distribution facilities will be a cooperative enterprise serving 17 persons.

The estimated third year peak day and annual requirements of Applicant's distribution system are 9 Mcf and 900 Mcf, both at 14.73 p.s.i.a., respectively.

The total estimated cost of Applicant's proposed system is $900.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 20, 1967.

KENNETH F. PLUMB,
Assistant Secretary.

[F.R. Doc. 67-14075; Filed, Dec. 1, 1967; 8:45 a.m.]

[Docket No. CP68-154]

EL PASO NATURAL GAS CO.

Notice of Application

NOVEMBER 27, 1967.

Take notice that on November 14, 1967, El Paso Natural Gas Co. (Applicant), Post Office Box 1492, El Paso, Tex. 79999, filed in Docket No. CP68-154 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities for the transportation and sale of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant specifically proposes to construct and operate approximately 0.8 mile of 4½-inch O.D. pipeline looping the initial segment of its existing 1.4-mile combination 3½-inch O.D. and 2⅜-inch O.D. lateral serving the Paul Lime Plant, Inc., an existing direct sale customer of Applicant, and to add a 4½-inch O.D. orifice type meter run at and make minor modifications to its Paul Lime Meter Station. Applicant states that the proposed construction is necessitated by Paul Lime Plant, Inc.'s adding a lime kiln at its plant located near Douglas, Ariz., with a resulting increase in natural gas requirements.

The total estimated cost of the proposed facilities is $21,783, which will be financed out of working funds.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before December 20, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Assistant Secretary.

[F.R. Doc. 67-14079; Filed, Dec. 1, 1967; 8:45 a.m.]

[Docket No. CP68-88]

MID STATES GAS CO., INC., AND PANHANDLE EASTERN PIPE LINE CO.

Order Severing Part of Application, Permitting Intervention and Fixing Date of Hearing

NOVEMBER 27, 1967.

Notice of application in the above-numbered docket was issued by the Secretary of the Commission on August 4, 1967, and published in the FEDERAL REGISTER on August 11, 1967 (32 F.R. 11657).

Applicant herein seeks an order of the Commission, pursuant to section 7(a) of the Natural Gas Act, directing Panhandle Eastern Pipe Line Co. to establish physical connections of its transportation facilities with the facilities proposed to be constructed by Applicant and to sell and deliver to Applicant its natural gas requirements for the towns of Lizton, Jamestown, Advance, and Fishers and environs, all in the State of Indiana.

The Applicant proposes to construct and operate municipal natural gas distributing systems in the town of Lizton, Hendricks County; the towns of Jamestown and Advance, Boone County; and the town of Fishers, Hamilton County, Ind.

In addition to said distribution systems, which are estimated to cost a total of $210,595, Applicant proposes to construct 3-inch and 2-inch lateral lines as follows at a cost of $169,405:

(1) Approximately 7.8 miles of 3-inch lateral line serving the towns of Lizton and Jamestown, and approximately 5.2 miles of 2-inch lateral extending from Jamestown to serve the town of Advance.

(2) Approximately 1.2 miles of 2-inch lateral serving the town of Fishers.

Respondent filed no answer to the application. However, on August 30, 1967, Indiana Gas & Water Co., Inc. (Indiana Gas), filed a petition for leave to intervene and protest to the granting of that part of the application which relates to the town of Fishers. As grounds for intervention and protest, Indiana Gas states that it holds a necessity certificate issued by the Public Service Commission of Indiana authorizing it to render gas distribution service in the rural area adjacent to Fishers. It states that it operates in said area by means of existing facilities from which natural gas purchased from Panhandle is distributed and sold to consumers in said area. Because of the proximity of its existing facilities to Fishers, Indiana Gas claims it can more easily and at lower rates to the consumer provide gas service in Fishers than can the Applicant.

The Commission finds:

(1) The participation of Indiana Gas & Water Co., Inc., in this proceeding may be in the public interest.

(2) Since the petition to intervene and the protest is only to the granting of that part of the application which relates to the town of Fishers, good cause exists for severance of that part of the application from the rest and fixing a date for formal hearing thereon.

The Commission orders:

(A) The Indiana Gas & Water Co., Inc., is hereby permitted to intervene in the above-entitled proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of said intervener shall be limited to matters affecting asserted rights and interests as specifically set forth in its petition to intervene: *And, provided, further,* That the admission of said intervener shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) That part of the application herein relating to the proposed natural gas service to the town of Fishers, Ind., is hereby severed from the rest of the application and is set for hearing to commence on December 12, 1967, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, concerning the matters involved in and the issues presented by that part of the application herein relating to Fishers.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-14080; Filed, Dec. 1, 1967; 8:45 a.m.]

[Docket No. CP68-155]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

NOVEMBER 27, 1967.

Take notice that on November 14, 1967, Transcontinental Gas Pipe Line Corp. (Applicant), Post Office Box 1396, Houston, Tex. 77001, filed in Docket No. CP68-155 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and the sale and delivery of additional volumes of natural gas to resale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to construct and operate, together with appurtenant facilities: 40,500 additional horsepower at existing compressor stations; approximately 11.3 miles of 42-inch pipeline loop; approximately 142.7 miles of 20-inch sales lateral in Virginia and North Carolina; approximately 15.2 miles of 10-inch branch line off the aforesaid sales lateral; and 10 additional sales meter and regulator stations. Applicant also seeks authorization to sell and deliver under its Rate Schedule CD-2 contracted additional pipeline service totaling 130,300 Mcf per day to four existing customers and one distribution subsidiary of an existing customer.

The total estimated cost of the proposed facilities is $36,000,000, which will be financed initially through short-term loans and cash on hand.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 21, 1967.

Take further notice, that pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Assistant Secretary.

[F.R. Doc. 67-14081; Filed, Dec. 1, 1967; 8:45 a.m.]

[Docket No. CP68-159]

UNITED GAS PIPE LINE CO.

Notice of Application

NOVEMBER 27, 1967.

Take notice that on November 17, 1967, United Gas Pipe Line Co. (Applicant), Post Office Box 1407, Shreveport, La. 71102, filed in Docket No. CP68-159 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas to the city of Chireno, Nacogdoches County, Tex., for resale and distribution, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell and deliver volumes of natural gas to the city of Chireno for resale and distribution through the city's proposed distribution system. The estimated third year peak day and annual requirements of the city of Chireno are 3,500 Mcf, and 221,750 Mcf, respectively.

Applicant states that the facilities necessary to render the aforementioned service are set forth in the application simultaneously filed jointly by Applicant and Texas Eastern Transmission Corp. in Docket No. CP68-160.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 21, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Assistant Secretary.

[F.R. Doc. 67-14082; Filed, Dec. 1, 1967; 8:45 a.m.]

[Docket No. G-9314 etc.]

AMERADA PETROLEUM CORP. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

NOVEMBER 24, 1967.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service heretofore authorized as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 15, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no protest or petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a protest or petition for leave to intervene is timely

[1] This notice does not provide for consolidation for hearing of the several matters covered herein, nor should it be so construed.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
G-6814 D 11-16-67	Amerada Petroleum Corp., Post Office Box 2040, Tulsa, Okla. 74102.	Colorado Interstate Gas Co., Acreage in Baca County, Colo.	(1)	
G-9468 C 11-15-67	Sun Oil Co. (Mid-Continent Division), 1608 Walnut St., Philadelphia, Pa. 19103.	Cities Service Gas Co., Hardtner Field, Barber County, Kans.	14.0	14.65
G-11570 F 11-15-67	Mobil Oil Corp. (successor to Lone Star Gas Co., et al.), Post Office Box 2444, Houston, Tex. 77001.	Texas Eastern Transmission Corp., Greenwood-Waskom Field, Harrison County, Tex.	15.204	15.025
G-13004 D 11-20-67	do	Transcontinental Gas Pipe Line Corp., West Grayden Field, Vernon Parish, La.	(2)	
C168-180 D 11-6-67	do	Natural Gas Pipeline Co. of America, West Cruse and Putnam Fields, Dewey and Custer Counties, Okla.	(2)	
C168-171 C 11-6-67	Pan American Petroleum Corp. (Operator) et al., Post Office Box 591, Tulsa, Okla. 74102.	El Paso Natural Gas Co., Eumont, Eumont-Hare, Jalmat, Langlie-Mattix, Monument, Penrose-Skelly, Rhodes-Yates, Terry-Blinebry, Terry-Penrose-Skelly, Vacuum, Wantz-Abo, Wasson, Wasson-Denver, Wilson, Young, Young-Deep, Yates, Lea County, N. Mex.	13.0	15.025
C168-172 C 11-6-67	do	El Paso Natural Gas Co., San Juan Basin, San Juan County, N. Mex.	13.0	15.025
C168-173 C 11-13-67	Tenneco Oil Co. et al., Post Office Box 2511, Houston, Tex. 77001.	Northern Natural Gas Co., North Woodward Field, Woodward County, Okla.	17.5	14.65
C167-764 C 11-13-67	Sun Oil Co. (Mid-Continent Division).	Cities Service Gas Co., Equihunk Gas Co, Meade District, Upshur County, W. Va.	21.0	15.325
C167-841 C 11-7-67	B. B. Talkington et al., d.b.a. Talkington Bros., c/o Troy M. Brady, Jr., Post Office Box 871, Buckhannon, W. Va. 26201.	Natural Gas Pipeline Co. of America, acreage in Wise County, Tex.	14.5	14.65
C167-1467 C 11-6-67	Longhorn Production Co. (Operator) et al., Meadows Bldg., Dallas, Tex. 75206.	Consolidated Gas Supply Corp., Troy District, Gilmer County, W. Va.	25.0	15.325
C167-1625 C 11-13-67	Hyperion Oil & Gas, agent for W. E. Oil & Gas Producers et al., 630 Rockwood Ave., Cheswick, Ohio 45618.	Panhandle Eastern Pipe Line Co., acreage in Hemphill County, Tex.	17.0	14.65
C168-202 (C168-203) F 11-6-67	The Shamrock Oil & Gas Co., (successor to Shell Oil Co.), Post Office Box 631, Amarillo, Tex. 79105.			

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.
See footnotes at end of table.

[1] Gas production is no longer available from subject acreage.
[2] Dakota sd sands and Niobrara and Greenhorn gs limestones below the Sub-Alliance Sand, the top of which is at an ordinary subsea elevation of 3,154 feet.
[3] Applicant filed several amendments to reflect the deletion of acreage by several assignments to Mesa Petroleum Co., Marion Corp., W. C. Pickens, and the acreage released to landowners. Applicant states subject acreage was nonproducing and no deliveries have ever taken place.
[4] Includes 0.5 cent per Mcf upward B.t.u. adjustment. Subject to upward and downward B.t.u. adjustment.
[5] Subject to upward B.t.u. adjustment.
[6] National Fuels Corp. purchases liquids extracted from Applicant's gas at the Ringwood Gasoline Plant.

filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given: *Provided, however*, That pursuant to § 2.56, Part 2, Statement of General Policy and Interpretations, Chapter I of Title 18 of the Code of Federal Regulations, as amended, all permanent certificates of public convenience and necessity granting applications, filed after July 1, 1967, without further notice, will contain a condition precluding any filing of an increased rate at a price in excess of that designated for the particular area of production for the period prescribed therein unless at the time of filing such certificate application, or within the time fixed herein for the filing of protests or petitions to intervene the Applicant indicates in writing that it is unwilling to accept such a condition. In the event Applicant is unwilling to accept such condition the application will be set for formal hearing.

Under the procedure herein provided for, unless otherwise advised it will be unnecessary for Applicants to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[1] Wells have ceased to produce; in addition all leases covered by subject contract will be allowed to expire by their own terms.
[2] Subject to upward and downward B.t.u. adjustment.
[3] Per gas produced from above the Oriskany Sand.
[4] Per gas produced from above the Oriskany Sand.
[5] Contract provides for 17 cents per Mcf; however, Applicant states its willingness to accept permanent certificate at 15 cents per Mcf plus B.t.u. adjustment.

[F.R. Doc. 67-14669; Filed, Dec. 1, 1967; 8:45 a.m.]

[Docket No. R169-220 etc.]

SIDWELL OIL AND GAS, INC., ET AL.

Order Accepting Superseding Contract and Amendatory Agreements, Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

NOVEMBER 24, 1967.

The above-named Respondents have tendered for filing proposed changes in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are designated as follows:

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
R169-220	Sidwell Oil & Gas, Inc. (Operator) et al., Post Office Box 2475, Pampa, Tex. 79065.	4	2	Colorado Interstate Gas Co. (Meade County, Kans.).	$3,960	11-1-67	[2] 12-2-67	5-2-68	[3] 17.6	[3] [4] 18.7	
R169-230	Cities Service Oil Co. (Operator) et al., Cities Service Bldg., Bartlesville, Okla. 74003.	170	[5] 15	Northern Natural Gas Co. (Intermediate Zone, Hugoton Area, Texas County, Okla.) (Panhandle Area).	2,400	10-30-67	[2] 11-30-67	4-30-68	[3] 12.0	[4] [6] 14.0	
	do	171	15	Northern Natural Gas Co. (Deep Zone, Hugoton Area, Texas County, Okla.) (Panhandle Area).	4,800	10-30-67	[2] 11-30-67	4-30-68	[3] 12.0	[4] [6] 16.0	
R169-231	Sunray DX Oil Co., Post Office Box 2039, Tulsa, Okla. 74101.	286	3	Panhandle Eastern Pipe Line Co. (Tangier Field, Ellis and Woodward Counties, Okla.) (Panhandle Area).	4,723	10-31-67	[2] 1-1-68	6-1-68	[10] 17.0	[4] [10] 18.0	
R169-232	The California Co., a division of Chevron Oil Co. (Operator), 1111 Tulane Ave., New Orleans, La. 70112.	11 62		Texas Eastern Transmission Corp. (Hico-Knowles, Terryville, Tremont, and North Choudrant Fields, Lincoln and Ouachita Parishes, La.) (North Louisiana).		10-27-67	[2] 12-2-67	(Accepted)	[3]	[3]	
		62	[5] 1			10-27-67	[2] 12-2-67	(Accepted)	[3]	[3]	
		62	3		180,320	10-27-67	[2] 12-2-67	5-2-68	[4] [9] [11] 16.7736	[4] [8] [9] [11] 18.5	
R169-233	Placid Oil Co., 2600 First National Bank Bldg., Dallas, Tex. 75202.	21	3	Texas Gas Transmission Corp. (Blackburn Field, Webster and Claiborne Parishes, La.) (North Louisiana).	128	11-2-67	[2] 1-1-68	6-1-68	[9] 18.25	[4] [9] [12] 19.75	
R169-234	Wessely Petroleum, Ltd., 2002 Republic National Bank Bldg., Dallas, Tex. 75201.	5	5	Colorado Interstate Gas Co. (Laverne Field, Harper County, Okla.) (Panhandle Area).	5,712	10-30-67	[2] 12-1-67	5-1-68	[9] 18.0	[4] [9] [13] 20.4	
R169-235	Amerada Petroleum Corp., Post Office Box 2040, Tulsa, Okla. 74102, Attn: Mr. W. H. Bourne.	65	10	United Gas Pipe Line Co. (South Elton Field, Jefferson Davis Parish, La.) (South Louisiana).	1,803	10-30-67	[9] 11-30-67	4-30-68	[4] [9] [14] 18.0	[4] [9] [14] 17.0	
R169-236	Gulf Oil Corp. (Operator) et al., Post Office Box 1589, Tulsa, Okla. 74102, Attn: Arthur F. Whitt, Esq.	181	3	United Gas Pipe Line Co. (Hayes Field, Calcasieu and Jefferson Davis Parishes, La.) (South Louisiana).	227,500	11-2-67	[9] 12-2-67	5-2-68	[4] [9] [15] 17.0	[4] [9] [15] 20.5	

[2] The stated effective date is the effective date proposed by Respondents.
[3] Respondent filing from initial certificated rate to initial contract rate.
[4] Pressure base is 14.65 p.s.i.a.
[5] Includes base rate of 16 cents plus upward B.t.u. adjustment before increase and 17 cents plus upward B.t.u. adjustment after increase. Base rate subject to upward and downward B.t.u. adjustment.
[6] Applicable to acreage added by Supplement No. 14 to Cities FPC Gas Rate Schedule No. 170.
[7] Respondent filing from initial certificated rate to present contract rate.
[8] Subject to a downward B.t.u. adjustment.
[9] Periodic rate increase.
[10] Subject to upward and downward B.t.u. adjustment.
[11] Contract dated June 8, 1967, supersedes contract dated Sept. 24, 1947, comprising California's FPC Gas Rate Schedule No. 1. Provides for 16.75 cents price until Nov. 1, 1970, 17.25 cents from Nov. 1, 1970 to Nov. 1, 1975, and 17.75 cents thereafter. Such prices are exclusive of tax reimbursement. Provides for 5-year makeup period, extends contract to life of lease and 600 p.s.i.g. delivery pressure. Also dedicates additional acreage and extends dedication down to top of Smackover Formation (as yet no additional reserves). Additional certificate required to dedicate additional reserves.
[12] Letter agreement dated June 8, 1967, provides for tax reimbursement.
[13] Letter agreement dated June 8, 1967, provides for increased contract quantity in the event property is subjected to drainage by other operators.
[14] Renegotiated rate increase.
[15] Pressure base is 15.025 p.s.i.a.
[16] Applies only to gas from presently certificated acreage.
[17] Includes 1.75 cents tax reimbursement.
[18] Two-step periodic rate increase.
[19] Includes base rate of 15 cents plus upward B.t.u. adjustment before increase and 17 cents plus upward B.t.u. adjustment after increase. Base rate subject to upward and downward B.t.u. adjustment.
[20] The stated effective date is the first day after expiration of the statutory notice.
[21] From settlement rate to contractually provided for periodic rate.
[22] Settlement rate as approved by Commission order issued Feb. 1, 1968, in Docket Nos. G-9385 et al. Moratorium on filing increased rates expired July 1, 1967.
[23] Inclusive of tax reimbursement.
[24] "Fractured" rate. Seller contractually due a base rate of 21 cents plus reimbursement of the 2.3 cents Severance Tax imposed on seller.
[25] Settlement rate as approved by Commission order issued Apr. 25, 1963, in Docket Nos. G-9520 et al. Moratorium on filing increased rates expired Nov. 1, 1967, for subject rate schedule.

[1] Does not consolidate for hearing or dispose of the several matters herein.

Amerada Petroleum Corp. (Amerada) requests that its proposed rate increase be permitted to become effective as of October 27, 1967. Gulf Oil Corp. (Operator) et al. (Gulf), request an effective date of December 1, 1967, for their proposed rate increase. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit earlier effective dates for Amerada and Gulf's rate filings and such requests are denied.

The California Co., a division of Chevron Oil Co. (Operator) (California) has submitted a superseding contract dated June 8, 1967,[2] and two letter agreements dated June 8, 1967,[3] which are the basis for the rate proposed in the related rate change filing. We believe that it would be in the public interest to accept for filing California's superseding rate schedule and two amendatory agreements to become effective on December 8, 1967, the proposed effective date, but not the proposed rate contained therein which is suspended as hereinafter ordered.

California's aforementioned superseding contract, as amended by the letter agreements, in addition to providing for the increased price of 18.5 cents per Mcf, provides for other contractual changes, dedicates additional acreage and extends the present dedication from the Taylor Sand to the top of the Smackover Formation. However, no additional reserves are dedicated at the present time and California has not filed a certificate application, as yet, for the additional acreage dedication. The notice of change in rate only pertains to the gas previously dedicated as covered by the present certificate authorization. Since the proposed rate exceeds the area increased rate ceiling of 14 cents per Mcf for North Louisiana as announced in the Commission's statement of general policy No. 61–1, as amended, it should be suspended for 5 months from December 8, 1967, the proposed effective date. However, California is advised that acceptance of its superseding contract and related agreements does not constitute authorization under section 7 of the Natural Gas Act and before gas can be sold in interstate commerce from the additional acreage dedicated to the superseding contract, certificate authorization will be required.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61–1, as amended (18 CFR 2.56).

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) Good cause has been shown for accepting for filing California's proposed superseding contract dated June 8, 1967, designated as California's FPC Gas Rate Schedule No. 42, and amendatory agreements dated June 8, 1967, designated as Supplement Nos. 1 and 2 to California's FPC Gas Rate Schedule No. 42, and for permitting such rate schedule and supplements to become effective on December 8, 1967, the proposed effective date.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the proposed changes, and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered (except for the supplements set forth in paragraph (1) above).

The Commission orders:

(A) California's superseding contract, designated as California's FPC Gas Rate Schedule No. 42, and amendatory agreements designated as Supplement Nos. 1 and 2 to California's FPC Gas Rate Schedule No. 42, are accepted for filing and permitted to become effective on December 8, 1967, the proposed effective date.

(B) The acceptance for filing of California's superseding contract and amendatory agreements shall not be construed as a waiver of the requirements of section 7 of the Natural Gas Act, as amended. Certificate authorization is required for the sale of gas in interstate commerce from the additional acreage dedicated to the superseding contract.

(C) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR ch. I), public hearings shall be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in the above-designated supplements (except the supplements set forth in paragraph (A) above).

(D) Pending hearings and decisions thereon, the above-designated rate supplements are hereby suspended and the use thereof deferred until the date indicated in the "Date Suspended Until" column, and thereafter until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(E) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(F) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)), on or before January 15, 1968.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-14084; Filed, Dec. 1, 1967; 8:45 a.m.]

[2] Designated as California's FPC Gas Rate Schedule No. 42.

[3] Designated as Supplement Nos. 1 and 2 to California's FPC Gas Rate Schedule No. 42.

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-4421]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

NOVEMBER 28, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cent par value of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 29, 1967, through December 8, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14091; Filed, Dec. 1, 1967; 8:46 a.m.]

FASTLINE, INC.

Order Suspending Trading

NOVEMBER 28, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Fastline, Inc., New York, N.Y., otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 29, 1967, through December 8, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14092; Filed, Dec. 1, 1967; 8:46 a.m.]

[File No. 0-692]

PAKCO COMPANIES, INC.

Order Suspending Trading

NOVEMBER 28, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Pakco Companies, Inc., and all other securities of Pakco Companies, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 29, 1967, through December 8, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14093; Filed, Dec. 1, 1967; 8:46 a.m.]

[File No. 1-4371]

WESTEC CORP.

Order Suspending Trading

NOVEMBER 28, 1967.

The common stock, 10 cents par value, of Westec Corp., being listed and registered on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Westec Corp., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the American Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 29, 1967, through December 8, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14094; Filed, Dec. 1, 1967; 8:46 a.m.]

FLOOR TRADING PLAN OF NEW YORK STOCK EXCHANGE

General Rules and Regulations

The Securities and Exchange Commission announced that pursuant to the provisions of the Securities Exchange Act of 1934, and particularly sections 11(a), 23(a), and Rule 11a–1 (17 CFR 240.-11a–1) thereunder it has declared effective as of December 11, 1967, amendments to the Floor Trading Plan of the New York Stock Exchange.

These amendments provide that when liquidating a position no more than three registered traders may be in the trading crowd for one stock at the same time except where permitted by the floor governor under certain circumstances. All orders in stocks for the account of a member will be required to be sent to the floor through a clearing firm's order room or other facilities regularly used for transmission of public customers' orders to the floor. Also, in the case of sales involving 5,000 shares or more, members will be prohibited from initiating an off-floor order in the stock for their own account for a period of 3 minutes following the print of the trade on the ticker tape. Exceptions will be permitted in cases such as bona fide arbitrage, error transactions, in difficult market situations, and in other cases relating to block transactions as set forth in the amendment. Finally, a new report form will be required to be filed by members who are not registered floor traders concerning certain of their transactions.

The text of the Commission's action declaring effective the amendments to the Floor Trading Plan of the New York Stock Exchange is as follows:

The Securities and Exchange Commission acting pursuant to the Securities Exchange Act of 1934, particularly sections 11(a) and 23(a) thereof, as amended, and Rule 11a–1 (17 CFR 240.11a–1) under the Act, deeming it necessary for the exercise of the functions vested in it and having due regard for the maintenance of fair and orderly markets, for the public interest, and for the protection of investors, hereby declares the Floor Trading Plan of the New York Stock Exchange, as amended, which amendments were filed on October 19, 1967, effective December 11, 1967. If at any time it appears to the Commission to be necessary or appropriate in the public interest, for the protection of investors, or for the maintenance of fair and orderly markets, or that the Floor Trading Plan as amended has not eliminated harmful effects of floor trading, the Commission may suspend or terminate the effectiveness of the amended plan by sending at least 60 days written notice to the New York Stock Exchange. The New York Stock Exchange shall have the opportunity to submit any written data, facts, arguments or modifications in its plan within such 60-day period in such form as the Commission deems appropriate under the circumstances. The Commission has been informed that all persons subject to the Floor Trading Plan of the New York Stock Exchange, as amended, have had actual notice thereof and, the Commission finds that notice and procedure pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. § 553) are impracticable and unnecessary and that such Plan, as amended, may be, and is hereby, declared effective on December 11, 1967.

(Secs. 11(a) and 23(a), 48 Stat. 891, 901, as amended, 15 U.S.C. 78k, 78w)

By the Commission.

ORVAL L. DUBOIS, *Secretary.*

NOVEMBER 17, 1967.

[F.R. Doc. 67-14090; Filed, Dec. 1, 1967; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 501]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 29, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 20992 (Sub-No. 18 TA), filed November 21, 1967. Applicant: DOTSETH TRUCK LINE, INC., Knapp, Wis. 54749. Applicant's representative: W. T. Doar, Jr., New Richmond, Wis. 54017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Assembled wood forage boxes with self-unloading metal parts kits* and *farm wagons* all of which require special equipment, from Glenwood City, Wis., to points in Wisconsin, Minnesota, Iowa, South Dakota, and North Dakota, for 180 days. Supporting shipper: Gehl Bros. Manufacturing Co., West Bend, Wis. 53095. Send protests to: District Supervisor A. E. Rathert, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401.

No. MC 30844 (Sub-No. 241 TA), filed November 17, 1967. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Post Office Box 5000, Waterloo, Iowa 50704. Applicant's representative: Larry L. Strickler (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite

and storage facilities utilized by Oscar Mayer & Co., Inc., at Davenport, Iowa, to points in Indiana (except points within the Chicago, Ill., commercial zone, as defined by the Commission), Kentucky, Michigan, and Ohio, for 180 days. Supporting shipper: Oscar Mayer & Co., 910 Mayer Avenue, Madison, Wis. 53701. Send protests to: Chas. C. Biggers, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Davenport, Iowa 52801.

No. MC 73429 (Sub-No. 1 TA), filed November 21, 1967. Applicant: WILLIAM M. FORD, R.F.D. No. 1, Stewartstown, Pa. 17363. Applicant's representative: Donald E. Freeman, Post Office Box 806, Westminster, Md. 21157. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brewer's grain*, in bags, from Philadelphia, Pa., to Cardiff, Md., and *peanut meal*, in bags, from Suffolk, Va., to Cardiff, Md., for 180 days. Supporting shipper: John M. Dooley & Son, Cardiff, Md. 21040. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 1125 Federal Building, 31 Hopkins Plaza, Baltimore, Md. 21201.

No. MC 95876 (Sub-No. 76 TA), filed November 24, 1967. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, Post Office Box 344, St. Cloud, Minn. 56301. Applicant's representative: Grant J. Merritt, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood paneling, hardboard, wallboard, or wood particle board and materials, supplies, and accessories* used in connection therewith, from Phillips, sas, Minnesota, Montana, Nebraska, Wis., to points in Colorado, Iowa, Kan- New Mexico, North Dakota, South Dakota, and Wyoming, for 180 days. Supporting shipper: Conwed Corp., Cloquet, Minn. 55720. Send protests to: C. H. Bergquist, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building and U.S. Courthouse, 100 South Fourth Street, Minneapolis, Minn. 55401.

No. MC 117416 (Sub-No. 25 TA), filed November 21, 1967. Applicant: NEWMAN AND PEMBERTON CORPORATION, 2007 University Avenue NW., Knoxville, Tenn. 37921. Applicant's representative: J. R. Newman, 2007 University Avenue NW., Knoxville, Tenn. 37921. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials and materials* used in the installation thereof, from Bardstown, Ky., to points in Florida, Georgia, Alabama, North Carolina, South Carolina, and Tennessee, for 150 days. Supporting shipper: Bird & Son, Inc., East Walpole, Mass. Send protests to: J. E. Gamble, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 706 U.S. Courthouse, Nashville, Tenn. 37203.

No. MC 125899 (Sub-No. 11 TA), filed November 21, 1967. Applicant: JOHN McCABE, 1804 South 27th Avenue, Phoenix, Ariz. 85009. Applicant's representative: P. H. Dawson, 4453 East Piccadilly, Phoenix, Ariz. 85018. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Stone, including building stone*, from points in California to points in Oregon, Washington, and Idaho, for 180 days. Supporting shippers: A. G. Sudekum, Blythe, Calif.; Carrere Rock Co., Elsinore, Calif. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 3427 Federal Building, Phoenix, Ariz. 85025.

No. MC 127616 (Sub-No. 13 TA), November 21, 1967. Applicant: HANSON M. SAVAGE, doing business as SAVAGE TRUCKING COMPANY, Box 105, Chester Depot, Vt. 05144. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, in bulk, from points in Windsor and Bennington County, Vt., to Berlin and Groveton, N.H., Mechanicville and Ticonderoga, N.Y., and Westbrook, Maine, for 180 days. Supporting shipper: National Lumber Corp. of Vermont, Route 11, Chester, Vt. 05143. Send protests to: Martin P. Monaghan Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 38, Montpelier, Vt. 05602.

No. MC 127951 (Sub-No. 4 TA), filed November 15, 1967. Applicant: SOUTHEASTERN CARRIERS, INC., 2400 Northwest 75th Street, Miami, Fla. 33147. Applicant's representative: Bernard C. Pestcoe, Suite 708, City National Bank Building, 25 West Flagler Street, Miami, Fla. 33130. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bath enclosures, screen (roll-formed), patio doors, electric fans, ladders, plastic vinyl extrusions, windows, carpeting and foram padding, outdoor aluminum furniture and pads (tubular), shower doors, aluminum extrusions, aluminum and steel bifold doors, jalousies, wood and mica cabinets, molded expanded polystyrene picnic chests and swim toys, welded aluminum tubing, plastic Christmas trees, aluminum ornamental furniture, buffet cushions, pads, tables and accessories, serving carts and bars, and steel ironing boards*, from Miami, Fla., to Kansas City, Mo., Denver, Colo., Little Rock, Ark., Detroit, Mich., Hartford, Conn., points in Massachusetts and Wisconsin; with intermediate drop-off points in the following States: Louisiana, Missouri, Alabama, Georgia, Arkansas, Tennessee, North Carolina, Virginia, Kentucky, Mississippi, Oklahoma, Ohio, Illinois, Indiana, Maryland, Pennsylvania, New Jersey, Connecticut, Rhode Island, Kansas, Delaware, New York, and Texas, for 180 days. Supporting shipper: Keller Industries, Inc., 18000 State Road 9, Miami, Fla. 33162. Send protests to: Joseph B. Teichert, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1226, 51 Southwest First Avenue, Miami, Fla. 33130.

No. MC 128822 (Sub-No. 2 TA), filed November 24, 1967. Applicant: RITTER & SMITH TRUCKING, INC., 1910 Halethorpe Farm Road, Baltimore, Md. 21227. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated metal pipe and accessories*, from Halethorpe (Baltimore), Md., to points in Ohio, located on and east of U.S. Highway 23, for 180 days. Supporting shipper: Armco Steel Corp., Metal Products Division, 1910 Halethorpe Farms Road, Baltimore, Md. 21227. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 1125 Federal Building, Baltimore, Md. 21201.

No. MC 129452 (Sub-No. 1 TA), filed November 21, 1967. Applicant: NUCLEAR DIAGNOSTIC LABORATORIES, INC., 1000 Lower South Street, Peekskill, N.Y. 10566. Applicant's representative: Petter J. Pastorelli (the same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Radioactive waste materials*, from points in New Jersey and Connecticut to West Valley, N.Y., for 150 days. Supporting shippers: Norwalk Hospital, Norwalk, Conn.; Atomic Disposal Co., Midlothian, Ill. Send protests to: Stephen P. Tomany, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 346 Broadway, New York, N.Y. 10013.

No. MC 129468 (Sub-No. 1 TA), filed November 21, 1967. Applicant: DOY REIDHEAD, Box 364, Show Low, Ariz. 85901. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Show Low and Nutrioso, Ariz., to points in Oklahoma, Texas, and New Mexico, for 180 days. Supporting shipper: Reidhead Lumber Co., Inc., Box E, Show Low, Ariz. 85901. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 3427 Federal Building, Phoenix, Ariz. 85025.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-14105; Filed, Dec. 1, 1967; 8:47 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—DECEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during December.

3 CFR — Page
EXECUTIVE ORDERS:
Dec. 5, 1913 (revoked by PLO 4327) 16531
Mar. 21, 1914 (revoked by PLO 4327) 16531
June 24, 1914 (revoked by PLO 4327) 16531

5 CFR
210 16474
213 16477
315 16474
351 16474
352 16474
353 16475
430 16475
511 16475
531 16475
713 16476
731 16476
752 16476
754 16476
771 16477
772 16477
831 16477
891 16477

7 CFR
401 16478
724 16478
725 16479
815 16525
905 16525
907 16526
910 16526
982 16527
1062 16479
1073 16480
1094 16527
1103 16527
1106 16480
1126 16480
1421 16528
1427 16528

14 CFR
39 16481
61 16481
71 16482, 16483
91 16483
97 16484
121 16481
301 16491
303 16491
311 16491
320 16491
421 16491
430 16491
431 16491
435 16491
PROPOSED RULES:
1 16495
71 16495
91 16495
214 16535
295 16535

19 CFR
23 16528

21 CFR
120 16529
121 16529, 16530
130 16531
146 16531
146a 16491
PROPOSED RULES:
31 16533
138 16533

23 CFR
PROPOSED RULES:
255 16534

28 CFR
0 16531

29 CFR
1610 16491

41 CFR
1-1 16491
Ch. 18 17002

43 CFR
PUBLIC LAND ORDERS:
4327 16531
4329 16532

46 CFR
PROPOSED RULES:
514 16496

47 CFR
PROPOSED RULES:
2 16495
87 16495

50 CFR
33 16532
254 (2 documents) 16492

FEDERAL REGISTER

VOLUME 32 • NUMBER 233

Saturday, December 2, 1967 • Washington, D.C.

PART II
Section 1

THE UNIVERSITY OF MICHIGAN
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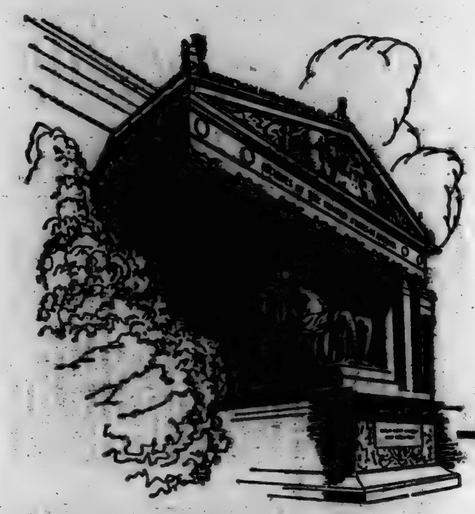

NASA PROCUREMENT REGULATIONS

[41 CFR Parts 18-1—18-7]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 18—National Aeronautics and Space Administration Procurement Regulations

REVISION OF CHAPTER

Chapter 18 of Title 41 of the Code of Federal Regulations is revised in its entirety as set forth below through Change 9 of the NASA Procurement Regulations.

PART 18–1—GENERAL PROVISIONS

Subpart 18–1.1—Introduction

Sec.
18–1.100 Scope of subpart.
18–1.101 Purpose of this chapter.
18–1.102 Applicability.
18–1.103 Arrangement of chapter.
18–1.107 Dissemination and effective date of this chapter and revisions.
18–1.109 Deviations and other procurement publications.
18–1.109–1 Applicability.
18–1.109–2 Approval of deviations.
18–1.109–3 Requests for deviations.
18–1.110 Reports of contracts.
18–1.111 Reports of noncompetitive practices.
18–1.112 Relationship to ASPR and FPR.
18–1.113 Code of conduct.
18–1.113–1 Government personnel.
18–1.113–2 Organizational conflicts of interest.
18–1.114 Reporting of identical bids.
18–1.115 Noncollusive bids and proposals.

Subpart 18–1.2—Definition of Terms

18–1.201 Definitions.
18–1.202 Administrator.
18–1.203 Change order.
18–1.204 Construction contractor.
18–1.205 Contract modification.
18–1.206 Contracting offices.
18–1.207 Contracts.
18–1.208 Director of procurement.
18–1.209 Executive agency.
18–1.210 Federal agency.
18–1.211 Field installation.
18–1.212 Field procurement office.
18–1.213 Government instrumentality.
18–1.214 Head of a field installation.
18–1.215 Head of the agency.
18–1.216 Includes.
18–1.217 Installation.
18–1.218 Manufacturer.
18–1.219 May.
18–1.220 NASA.
18–1.221 Negotiate and negotiation.
18–1.222 Office of procurement.
18–1.223 Possessions.
18–1.224 Procurement.
18–1.225 Procurement office.
18–1.226 Procurement officer.
18–1.227 Regular dealer.
18–1.229 Service contractor.
18–1.230 Shall.
18–1.231 Small business concern.
18–1.232 Supplemental agreement.
18–1.233 Supplies and property.
18–1.234 United States.

Subpart 18–1.3—General Policies

18–1.300 Scope of subpart.
18–1.301 Methods of procurement.
18–1.302 Sources of supply.
18–1.302–1 Government agencies.
18–1.302–2 Sources outside the Government.
18–1.302–3 Production and research and development pools.
18–1.302–50 Contracts between NASA and Government employees.
18–1.302–51 Proposed subcontracts between NASA contractors and Government employees.
18–1.304 Restrictions on data and other information.
18–1.304–1 Selection of items involving proprietary data.
18–1.304–2 Treatment of technical data.
18–1.304–3 Technical and other data involved in formal advertising.
18–1.304–4 Financial and management information included in proposals.
18–1.305 Time of delivery or performance.
18–1.305–1 Scope.
18–1.305–2 General.
18–1.305–3 Terms.
18–1.305–4 Time of delivery clauses.
18–1.306 Approval signature.
18–1.307 Priorities, allocations, and allotments.
18–1.307–1 NASA program.
18–1.307–2 Required use of priorities, allocations, and allotments clause.
18–1.308 Records of contract actions.
18–1.309 Solicitations for information or planning purposes.
18–1.310 Liquidated damages.
18–1.311 Buying in.
18–1.312 Voluntary refunds.
18–1.314 Disputes and appeals.
18–1.315 Procurement of jewel bearings.
18–1.316 Disclosure of contractor performance data to other government agencies and foreign governments.
18–1.317 Lease versus purchase criterion.
18–1.318 Contracts using annual funds.
18–1.319 Renegotiation performance reports.
18–1.319–1 Renegotiation board.
18–1.319–2 Renegotiation information for contract file.
18–1.319–3 Performance reports.
18–1.319–4 Procedures for handling requests for performance reports.
18–1.320 Security requirements.
18–1.327 Use of excess aluminum in national stockpile.
18–1.327–1 Government use program.
18–1.327–2 Contract clause.
18–1.327–3 Construction.
18–1.350 Nondiscrimination clause—Government leases.
18–1.350–1 Policy.
18–1.350–2 Use of clause.
18–1.350–3 Lease amendments and renewals.
18–1.350–4 Invitation for bids or request for proposals involving leases.
18–1.350–5 Deviations.
18–1.351 Procurement of potentially hazardous items.
18–1.352 Special considerations in research and development contracts.
18–1.353 Construction contracts—disclosure of Government estimate.
18–1.354 Procurements requiring immediate "on call" contractor performance.
18–1.355 Civil Rights Act of 1964—nondiscrimination in federally assisted programs.
18–1.356 Procurement request.
18–1.357 Procurement of liquid hydrogen.
18–1.358 Funding by letter of credit.
18–1.358–1 Contractor financing by letter of credit.
18–1.358–2 Form of agreement for special bank account.

Subpart 18–1.5—Contingent or Other Fees

18–1.500 Scope of subpart.
18–1.502 Applicability.
18–1.503 Covenant against contingent fees clause.
18–1.504 Improper influence.
18–1.505 General principles and standards applicable to the covenant.
18–1.505–1 Contingent character of the fee.
18–1.505–2 Exceptions to the prohibition of the covenant.
18–1.505–3 Bona fide employee.
18–1.505–4 Bona fide established commercial or selling agency maintained by the contractor for the purpose of securing business.
18–1.505–5 Fees for information.
18–1.506 Representation and agreement required from prospective contractors.
18–1.506–1 Interpretation of the representation.
18–1.507 Use of Standard Form 119.
18–1.507–1 Statement in lieu of form.
18–1.507–2 Exceptions.
18–1.507–50 Additional provision.
18–1.508 Enforcement.
18–1.508–1 Failure or refusal to furnish Standard Form 119.
18–1.508–2 Misrepresentations or violations of the covenant against contingent fees.
18–1.509 Preservation of records.
18–1.550 Responsibility for protecting information contained in completed Standard Form 119.

Subpart 18–1.6—Debarred, Ineligible, and Suspended Bidders

18–1.600 Scope of subpart and definitions.
18–1.600–1 Scope.
18–1.600–2 Definition of affiliates.
18–1.601 Establishment and maintenance of a list of firms or individuals debarred or ineligible.
18–1.601–1 General.
18–1.601–2 Information contained in NASA list.
18–1.601–3 Joint consolidated list.
18–1.601–4 Protection of lists.
18–1.601–50 Authority for making determinations.
18–1.601–51 Compliance with NASA list and joint consolidated list.
18–1.602 Limitation.
18–1.603 Grounds for listing and treatment to be accorded listed concerns.
18–1.604 Debarment of bidders.
18–1.604–1 Authority in NASA to debar firms and individuals.
18–1.604–2 Causes for debarment.
18–1.604–3 Period and scope of debarment.
18–1.604–4 Notice of debarment.
18–1.604–50 Reporting procedures.
18–1.605 Suspension of bidders.
18–1.605–1 General.
18–1.605–2 Authority in NASA to suspend firms or individuals.
18–1.605–3 Causes for suspension.
18–1.605–4 Period and scope of suspension.
18–1.605–5 Restrictions during period of suspension.
18–1.605–6 Notice of suspension.
18–1.605–50 Reporting procedures.
18–1.606 Limited debarment or suspension.
18–1.607 Interchange of debarment information.

Subpart 18–1.7—Small Business Concerns

18–1.700 Scope of subpart.
18–1.701 Definitions.
18–1.701–1 Small business concern.
18–1.701–4 Manufacturing industry employment size standards.
18–1.702 General policies.
18–1.703 Determination of status as small business concern.
18–1.704 Small business officials.
18–1.704–1 NASA Headquarters.
18–1.704–2 Field installations.
18–1.704–3 Small business specialists.
18–1.705 Cooperation with the small business administration.
18–1.705–1 General.
18–1.705–2 Small business administration representatives.
18–1.705–3 Access to procurement information.
18–1.705–4 Certificates of competency.
18–1.705–5 Performance of contract by Small Business Administration.
18–1.706 Set-asides for small business.
18–1.706–1 General.
18–1.706–2 Review, withdrawal, or modification of set-asides or set-asides proposals.
18–1.706–3 Small business class set for construction, repair, and alteration work.
18–1.706–4 Reporting for Department of Commerce procurement synopsis.
18–1.706–5 Total set-asides.
18–1.706–6 Partial set-asides.
18–1.706–7 Automatic dissolution of set-asides.
18–1.706–8 Contract authority.
18–1.706–9 Maintenance of records.
18–1.707 Subcontracting with small business concerns.
18–1.707–1 General.
18–1.707–2 Small business subcontracting program.
18–1.707–3 Required clauses.
18–1.707–4 Responsibility for reviewing the subcontracting program.
18–1.707–5 Reports on NASA Form 534.
18–1.707–6 Subcontracting studies and surveys.
18–1.707–7 Small business administration review of agency records.

Subpart 18–1.8—Labor Surplus Area Concerns

18–1.800 Scope of subpart.
18–1.801 Definitions.
18–1.801–1 Labor surplus area concern.
18–1.801–2 Labor surplus area.
18–1.801–3 Small business concern.
18–1.802 General policy.
18–1.803 Application of policy.
18–1.804 Partial set-asides for labor surplus area concerns.
18–1.804–1 General.
18–1.804–2 Set-aside procedures.
18–1.804–3 Withdrawal of set-asides.
18–1.804–4 Contract authority.
18–1.805 Subcontracting with labor surplus area concerns.
18–1.805–1 General policy.
18–1.805–2 Labor surplus area subcontracting program.
18–1.805–3 Required clauses.
18–1.805–4 Review of subcontracting program.
18–1.806 Depressed industries.
18–1.806–1 General.
18–1.806–2 Apparel industry (notification No. 58).
18–1.806–3 Petroleum and petroleum products industry (notification No. 56).
18–1.806–4 Shipbuilding and repairing industry (notification No. 57).
18–1.806–5 Textile industry (notification No. 38).

Subpart 18–1.9—Responsible Prospective Contractors

18–1.900 Scope of subpart.
18–1.901 Applicability.
18–1.902 General policy.
18–1.903 Minimum standards for responsible prospective contractors.
18–1.903–1 General standards.
18–1.903–2 Special standards.
18–1.903–3 Ability to meet certain minimum standards.
18–1.904 Determinations of responsibility and nonresponsibility.
18–1.905 Procedures for determining responsibility of prospective contractors.
18–1.905–1 General.
18–1.905–2 When information will be obtained.
18–1.905–3 Sources of information.
18–1.905–4 Preaward surveys.
18–1.905–50 Procedures for requesting preaward surveys.
18–1.905–51 Conditions which normally do not require a preaward survey.
18–1.905–52 NASA conducted preaward surveys.
18–1.906 Subcontractor responsibility.

Subpart 18–1.10—Publicizing Procurement Actions

18–1.1001 General policy.
18–1.1002 Dissemination of information relating to invitations for bids and requests for proposals.
18–1.1002–1 Availability of invitations for bids and requests for proposals.
18–1.1002–2 Limited availability of certain specifications, plans, and drawings.
18–1.1002–4 Displaying in public place.
18–1.1002–5 Information releases to newspapers and trade journals.
18–1.1003 Synopses of proposed procurements.
18–1.1003–1 Department of Commerce synopsis.
18–1.1003–2 General requirements.
18–1.1003–3 Time of publicizing.
18–1.1003–4 Preinvitation notices.
18–1.1003–5 Publication of procurements of less than $10,000.
18–1.1003–6 Synopsis of subcontract opportunities.
18–1.1003–7 Information regarding specifications, plans, and drawings.
18–1.1003–8 Responsibility of small business specialists.
18–1.1003–9 Preparation and transmittal.
18–1.1004 Disclosure of information prior to award.
18–1.1005 Publicizing award information.
18–1.1005–1 Synopsis of contract awards.
18–1.1006 Classification codes.
18–1.1006–1 Codes for services.
18–1.1006–2 Codes for supplies.
18–1.1007 Release of procurement information.
18–1.1007–1 Members of Congress.
18–1.1007–2 Paid advertisements in newspapers and trade journals.
18–1.1050 Furnishing additional procurement information to public.
18–1.1050–1 Policy.
18–1.1050–2 Procedures.

Subpart 18–1.12—Specifications, Plans, and Drawings

18–1.1200 Application.
18–1.1201 General.
18–1.1202 Mandatory specifications.
18–1.1203 Availability of specifications, standards, plans, and drawings.
18–1.1204 Packaging requirements.
18–1.1205 Purchase descriptions.
18–1.1205–1 General.
18–1.1205–2 Brand name or equal purchase descriptions.
18–1.1205–3 Invitation for bids—"brand name or equal" purchase descriptions.
18–1.1205–4 Bid evaluation and award—"brand name or equal" purchase descriptions.
18–1.1205–5 Procedure for negotiated procurements.
18–1.1207 Alternate articles or qualities.
18–1.1208 Procurement of used and reconditioned material and former Government surplus property.

Subpart 18–1.13—Transportation

18–1.1300 Scope of subpart.
18–1.1301 General.
18–1.1302 Place of delivery.
18–1.1302–1 Shipments within the United States.
18–1.1302–2 Shipments from the United States for overseas delivery.
18–1.1302–3 Shipments originating outside the United States.
18–1.1303 Quantity analysis.
18–1.1304 Commodity description.
18–1.1305 Delivery terms.
18–1.1305–1 General.
18–1.1305–2 F.O.B. origin or destination.
18–1.1305–3 F.O.B. destination.
18–1.1305–4 F.O.B. origin.
18–1.1305–5 Destination unknown.
18–1.1306 Consignment and marking instructions.
18–1.1307 Scheduling of deliveries to permit consolidation of shipments.
18–1.1308 Transit privileges.
18–1.1309 Volume movements within the United States.
18–1.1310 Shipments requiring special handling.
18–1.1311 Mode of transportation.
18–1.1312 Transportation rates and related costs.
18–1.1312–1 Use in evaluation of bids and proposals.
18–1.1312–2 Source of transportation rates and related costs.
18–1.1313 Section 22 of the Interstate Commerce Act.
18–1.1313–1 General.
18–1.1313–2 Application to commercial bills of lading.
18–1.1313–3 Application to household goods.
18–1.1313–4 Penalty.
18–1.1314 Insurance.
18–1.1315 Loss and damage in-transit.
18–1.1316 Prepaid transportation charges.
18–1.1350 Charter of aircraft.

Subpart 18–1.14—Transportation by Ocean Carrier

18–1.1400 Scope.
18–1.1401 Definitions.
18–1.1402 Preference for private U.S. vessels.
18–1.1402–1 Policy.

FEDERAL REGISTER, VOL. 32, NO. 233—SATURDAY, DECEMBER 2, 1967

Sec.
18–1.1402–2 Shipment to which policy is not applicable.
18–1.1402–3 Procedures.
18–1.1410 Nonuse of foreign-flag vessels engaged in Cuban and North Vietnam trade.

Subpart 18–1.15—Options

18–1.1500 Scope of subpart.
18–1.1501 Definition of option.
18–1.1502 Applicability.
18–1.1503 Procedures.
18–1.1504 Exercise of options.
18–1.1505 Examples of option clauses.

Subpart 18–1.16—Novation Agreements

18–1.1600 Scope of subpart.
18–1.1601 Definition.
18–1.1602 Agreement to recognize a successor in interest.
18–1.1603 Agreement to recognize change of name of contractor.
18–1.1650 Procedures.
18–1.1651 Novation agreement formats and related NASA documents.
18–1.1651–1 Successor in interest agreement format.
18–1.1651–2 Change of name agreement format.
18–1.1651–3 Sample letter requesting issuance of administrative change.
18–1.1651–4 Sample administrative change order format.

Subpart 18–1.50—Integration of Quality Requirements in NASA Procurements

18–1.5000 Scope of subpart.
18–1.5001 Policy.
18–1.5002 Classification of NASA procurements.
18–1.5003 Responsibilities of NASA personnel.
18–1.5004 Procedures.
18–1.5005 Technical factors.

Subpart 18–1.51—Integration of Reliability Requirements into NASA Procurements

18–1.5100 Scope of subpart.
18–1.5101 Policy.
18–1.5102 Definitions.
18–1.5103 Application.
18–1.5104 Responsibilities.
18–1.5105 Procedures.
18–1.5106 Technical factors (requests for proposals and work statements).

AUTHORITY: The provisions of this Part 18–1 issued under 42 U.S.C. 2473(b)(1).

Subpart 18–1.1—Introduction

§ 18–1.100 Scope of subpart.

This subpart sets forth introductory information pertaining to the purpose, applicability, and content of this chapter.

§ 18–1.101 Purpose of this chapter.

This chapter, issued by the Director of Procurement under authority delegated by the Administrator, establishes for the National Aeronautics and Space Administration (NASA) uniform policies and procedures relating to the procurement of property and services under the authority of the National Aeronautics and Space Act of 1958, as amended (Public Law 85–568; 42 U.S.C. 2451 et seq.), Chapter 137, Title 10, of the United States Code, or other statutory authority.

§ 18–1.102 Applicability.

This chapter applies to all purchases and contracts made by NASA, within or outside the United States, for the procurement of property or services which obligate appropriated funds, unless otherwise specified herein.

§ 18–1.103 Arrangement of chapter.

This chapter is divided into parts, each one of which covers a separate aspect of procurement; and each part is further subdivided into subparts, sections, and paragraphs.

§ 18–1.107 Dissemination and effective date of this chapter and revisions.

(a) The NASA Procurement Regulation, and Revisions thereof, will be distributed directly to NASA installations by the U.S. Government Printing Office. The number of copies of the Regulation, and Revisions thereof, will be distributed on the basis of the requirements furnished by each Headquarters Staff Office, Headquarters Program Office, and NASA field installation, to the Office of Procurement, NASA Headquarters (Code KDP).

(b) Heads of field installations will ensure that copies of the NASA Procurement Regulation are distributed to all interested NASA activities and individuals within their installation.

(c) Copies of the NASA Procurement Regulation, and Revisions thereof, may be purchased by private concerns and individuals from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(d) Compliance with a revision of this Chapter 18 shall be permissive effective with the date of issuance thereof, and shall be mandatory effective 60 days thereafter, except (1) as may be otherwise prescribed in the revision, and (2) that procurements initiated after receipt of new or revised clauses should, to the maximum practicable extent, include such clauses prior to the mandatory date.

(e) Unless otherwise stated, invitations for bids which have been issued and bilateral agreements upon which negotiations have been completed prior to the receipt of new or revised contract clauses need not be amended to include the new or revised clauses if such amendment would unduly delay the procurement action.

§ 18–1.109 Deviations and other procurement publications.

§ 18–1.109–1 Applicability.

A deviation shall be considered to be any of the following:

(a) When a prescribed contract clause is set forth verbatim in NASA procurement regulations, use of a contract clause or a schedule provision covering the same subject matter which varies from, or has the effect of altering, the prescribed NASA clause, or changing its application;

(b) When a Standard, NASA, or other form is prescribed by NASA procurement regulations, use of any other form for the same purpose;

(c) Alteration of a Standard or NASA form except as authorized by NASA procurement regulations;

(d) When limitations are imposed by NASA procurement regulations upon the use of a contract clause, form, procedure, type of contract, or any other procurement action, the imposition of lesser or greater limitations; or

(e) When a policy, procedure, method or practice of conducting procurement actions is prescribed in NASA procurement regulations, any policy, procedure, method or practice inconsistent therewith.

§ 18–1.109–2 Approval of deviations.

Deviations from NASA procurement regulations will be authorized only when essential to effect necessary procurement or where special circumstances make such deviations clearly in the best interest of the Government. Such deviations will be approved only by the Director of Procurement, or his authorized representative:

§ 18–1.109–3 Requests for deviations.

Requests for authority to deviate from the provisions of this chapter and other procurement publications shall be submitted to the Office of Procurement (Code KDP). Such requests shall be signed by the Procurement Officer of a field installation (or the Director in the case of the Headquarters Contracts Division and the Grants and Research Contracts Division) or his deputy. Such requests shall be submitted as far in advance as the exigencies of the situation will permit. Each request for a deviation shall contain the following:

(a) A clear statement of the deviation desired;

(b) The reasons the deviation is considered necessary or would be in the best interest of the Government;

(c) The name of the contractor and identification of the contract affected;

(d) A statement as to whether the deviation has been requested previously, and, if so, circumstances of the previous request; and

(e) Any pertinent background information which will contribute to a full understanding of the desired deviation.

An information copy of each request for deviation shall be furnished the cognizant Program Director.

§ 18–1.110 Reports of contracts.

(a) Special reports concerning NASA contracts prescribed by NASA Headquarters are designed to meet statutory and other Congressional requirements, requirements of other Government agencies, and to provide all levels of management with data on which to formulate procurement policy as well as to determine the extent of compliance with prescribed policy.

(b) Basic recurring reports are set forth in Subpart 18–16.9. The statistics furnished in these reports are also used in the preparation of reports furnished to the President, the Congress, other Government agencies, and management within NASA. The accuracy, completeness, and timeliness of all reports are fully dependent on careful preparation and prompt submission.

§ 18–1.111 Reports of noncompetitive practices.

(a) Unless bids or proposals are genuinely competitive, contract prices tend to be higher than they should be. If the Administrator, NASA, or his representative considers that any bid received after formal advertising evidences a violation of the antitrust laws, he is required by 10 U.S.C. 2305(d) to refer such bids to the Attorney General of the United States for appropriate action (see § 18–2.404–1(b)(6) of this chapter). Similarly, evidence of such violations in negotiated procurements will be referred to the Attorney General (see § 18–3.215–2 of this chapter). Practices which are designed to eliminate competition or restrain trade and which may evidence possible violations of such laws include collusive bidding, follow-the-leader pricing, rotated low bids, uniform estimating systems, sharing of the business, identical bids, or similar actions.

(b) When bids or proposals are received and, in the opinion of the contracting officer, are indicative of possible antitrust violations, he shall report such circumstances to the General Counsel, NASA, Headquarters, through the Office of Procurement (Code KDP). Reports of such bids or proposals should not be submitted automatically, but only when there is some reason to believe that those bids or proposals may not have been arrived at independently. Such reports shall be submitted with conformed copies of bids or proposals, contract documents, and other supporting data, and shall set forth:

(1) The noncompetitive pattern or situation under consideration;

(2) Purchase experience in the same product or service for a reasonable period of time (one or more years) prior to the receipt of the bids or proposals under consideration, including unit and total contract price and abstracts of bids;

(3) Community of financial interest among bidders, insofar as it is known;

(4) The extent, if any, to which specification requirements or patents restrict competition;

(5) Information which may be available with respect to the pricing system employed in bids or proposals believed to reflect noncompetitive practices; and

(6) Any other information considered pertinent.

(c) Evidence of noncompetitive bid practices which, in the opinion of the General Counsel, NASA Headquarters, may violate the antitrust laws shall be forwarded to the Attorney General of the United States.

(d) The reports required by this § 18–1.111 are separate and apart from the reporting requirement contained in § 18–1.114.

§ 18–1.112 Relationship to ASPR and FPR.

(a) Since NASA is governed by the same procurement law as the Department of Defense (Chapter 137, Title 10 U.S.C.), and both agencies deal to a considerable extent with the same segment of industry, it is NASA policy to prescribe procurement regulations which, to the maximum practicable extent, are consistent with policies and procedures adopted by the Department of Defense in the Armed Services Procurement Regulation (ASPR).

(b) NASA and the General Services Administration have also reached agreement concerning the relationship between the Federal Procurement Regulation (FPR) and the NASA Procurement Regulation. NASA has agreed to participate in the publication program established by the FPR system.

§ 18–1.113 Code of conduct.

§ 18–1.113–1 Government personnel.

(a) A number of Federal statutes prohibit certain acts by Government personnel and special Government employees as defined in 18 U.S.C. 202 in relation to procurement activities for the Government. Among these statutes are the following: (1) 18 U.S.C. 201 relating to bribes in order to secure a Government contract; (2) 18 U.S.C. 203 relating to compensation for services rendered in connection with any proceeding or claim in which the United States has an interest; (3) 18 U.S.C. 205 relating to acting as an agent or attorney for prosecuting any claim against the United States; (4) 18 U.S.C. 208 relating to transacting business as an officer or agent of the United States with firms of which such officer or agent, his spouse, minor child, or partner is an official or in which he has a pecuniary interest; and (5) 18 U.S.C. 209 relating to compensation from non-Government sources in connection with Government services. These statutory prohibitions, and their application to NASA personnel, are discussed in NHB 1900.1 "Standards of Conduct for NASA Employees."

All NASA personnel involved in procurement actions shall become familiar with these statutory prohibitions. Any questions concerning them shall be referred to legal counsel. In addition to criminal penalties, the statutes provide that transactions entered into in violation of these prohibitions are voidable (18 U.S.C. 218).

(b) Aside from such statutory prohibitions, as set forth in paragraph (a) of this section, procurement personnel shall maintain the highest standards of conduct in connection with dealings on behalf of the Government. Such conduct must at all times be beyond reproach and must be such that each individual involved in NASA procurement activities would have no reticence in making a full public disclosure of all actions taken in connection with such activities.

§ 18–1.113–2 Organizational conflicts of interest.

(a) NASA Management Manual Instruction 3–3–16, dated December 9, 1963, Subject: Avoiding Conflict-of-Interest Situations in the Placing of NASA Contracts, is set forth in this chapter as Appendix G.

(b) Appendix G provides guidelines for avoiding situations where the placing of a contract may give rise to conflicts of interest and describes examples of various organizational conflicts of interest which might come into being and methods for avoidance of such conflicts. It provides that action must be taken to avoid placing a contractor in a position where his judgment might be biased or where he would have an unfair competitive advantage within the scope and in-

tent of the rules. All prospective contractors, in such situations, will be advised of the extent of applicability of these rules by a notice in solicitations and by a clause in resulting contracts. Such clause shall spell out the specific extent of any future restrictions on the contractor which are imposed by the contract. A standard form of notice for use in solicitations or contract clause is not prescribed in this chapter since such notices in solicitations and contract clauses must be adapted to apply the principle of these rules to the specific facts of each contractual situation. The rules for avoidance of organizational conflict, as such, do not impose any contractual obligation on the contractor. Such obligation is imposed only by the contract clause designed to carry out such rules. The contracting officer shall not impose restrictions on any contractor in reliance on these rules in the absence of a specific contractual agreement with the contractor, without the approval of the Head of the Field Installation. Contracting officers will forward to the Office of Procurement (Code KDP) a copy of each such notice included in solicitations and clause incorporated in contracts.

§ 18–1.114 Reporting of identical bids.

(a) *General.* Executive Order 10936 dated April 24, 1961, as implemented by the Department of Justice, requires a report to be submitted to the Attorney General on each formally advertised procurement (including small business restricted advertising) over $10,000 which involves identical bids.

(b) *Definitions.* (1) Identical bids are two or more bids for the same line item which:

(i) Are identical on their face (regardless of such evaluation factors as discount, transportation, etc.) either as to unit price or total line item amount; or

(ii) Are identical as evaluated as to either unit price or total line item amount.

(2) The term "line item" means each object of procurement specified in an invitation for bids which, under the terms of the invitation, is susceptible to a separate contract award. The reporting requirements herein established for line items are applicable to invitations calling for line item bidding, even though such bids contain qualifying or restrictive limitations on award (e.g., all-or-none bids; lump sum awards in the case of construction contracts; award on one item conditioned on award of other items).

(c) *Information to be obtained from bidders.* Each invitation for bids for a procurement estimated to exceed $10,000 will include substantially the following:

PARENT COMPANY AND EMPLOYER IDENTIFICATION NUMBER (MARCH 1963)

(a) Bidder represents that he [ ] is, [ ] is not, owned or controlled by a parent company. For this purpose a parent company is defined as one which either owns or controls the activities and basic business policies of the bidder. To own another company means the parent company must own at least a majority (more than 50 percent) of the voting rights in that company. To control another company such ownership is not required; if another company is able to formulate, determine or veto basic business policy decisions of the bidder, such other company is considered the parent of the bidder. This control may be exercised through the use of dominant minority voting rights, use of proxy voting, contractual arrangements, or otherwise.

(b) If the bidder is owned or controlled by a parent company, insert in the space below the name and main office of the parent company.

(Name) (Address)

(c) Bidder will provide in the applicable space below, if he has no parent company, his own Employer's Identification Number (E.I. No.) (Federal Social Security Identification Number as used on Federal TAX Returns); or, if he has a parent company, the E.I. No. of his parent company.

Bidder's E.I. No.....

Parent Company's E.I. No.....

The information required by this paragraph (c) will be included on reports of identical bids. If identical bids are involved and bidders fail to provide this information, one inquiry will be made to obtain such information. Failure on the part of bidders to provide the information in this paragraph on invitation for bids shall be indicated on all reports of identical bids, but shall not be considered a basis for rejection of bids.

(d) *Reportable bids.* All identical bids shall be reported when the bid value of all line items covered by the invitation for bids exceeds $10,000 (based on the apparent low bid for each line item), regardless of whether:

(1) They were the low bids;

(2) Award is made on the line item;

(3) The invitation was canceled; or

(4) Any other disposition was made subsequent to public opening of the bids.

(e) *Conditions under which identical bids are not reportable.* Reports shall not be submitted when:

(1) Bids are received only from foreign sources on invitations for bids involving delivery and performance outside the United States, its possessions, or Puerto Rico;

(2) There is no line item on which the apparent low bids exceed $2,500 (line item evaluation computations beyond those normally made to determine low bidders are not required); or

(3) No identical bids are discovered in the normal process of evaluating bids for award and no identical bids are apparent on the face of the bid.

(f) *Information to be reported.* When a procurement invitation results in the submission of identical bids to be reported under paragraph (d) of this section, a report shall be submitted showing the entire bid proceeding for each line item in which identical bids are received. A copy of the invitation for bids and a copy of the completed abstract of all bids received shall be filed with the report, except that an abstract will not be furnished if the number of line items on the invitation for bids exceeds 100. In such case, the report shall be annotated to indicate both the number of line items and the total number of bidders on the invitation.

(g) *Submission of reports.* (1) Identical Bid reports shall be submitted on Department of Justice Form DJ–1500 (Federal Stock No. 7640–823–7870), available from General Services Administration stores and depots. Instructions for completing this form are printed as the cover sheet of each pad of the forms. Reports shall be made within 20 days following the final disposition of all bids received in response to the invitation for bids involved. Two completed copies of the report, with attachments, and of the completed bid, shall be sent directly to the Attorney General (Code AT–IBR), Washington, D.C. One copy of the completed report (including abstract of bids, if appropriate) shall be retained by the reporting installation.

(2) This reporting requirement is in addition to and will not be deemed a substitute for the reports of noncompetitive practices required by § 18–1.111.

§ 18–1.115 Noncollusive bids and proposals.

(a) In order to promote full and free competition for Government contracts, the following certification shall be included in all (1) invitations for bids and (2) requests for proposals or quotations (other than for small purchases made in accordance with Subpart 18–3.6 of this chapter and other than requests for technical proposals in connection with two-step formal advertising) involving firm fixed-price contracts and fixed-price contracts with escalation:

CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (JUNE 1964)

(a) By submission of this bid or proposal, each bidder or offeror certifies, and in the case of a joint bid or proposal, each party thereto certifies as to its own organization, that in connection with this procurement:

(1) The prices in this bid or proposal have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or offeror or with any competitor;

(2) Unless otherwise required by law, the prices which have been quoted in this bid or proposal have not been knowingly disclosed by the bidder or offeror and will not knowingly be disclosed by the bidder or offeror prior to opening, in the case of a bid, or prior to award, in the case of a proposal, directly or indirectly to any other bidder or offeror or to any competitor; and

(3) No attempt has been made or will be made by the bidder or offeror to induce any other person or firm to submit or not to submit a bid or proposal for the purpose of restricting competition.

(b) Each person signing this bid or proposal certifies that:

(1) He is the person in the bidder's or offeror's organization responsible within that organization for the decision as to the prices being bid or offered herein and that he has not participated, and will not participate, in any action contrary to (a)(1) through (a)(3) above; or

(2) (a) He is not the person in the bidder's or offeror's organization responsible within that organization for the decision as to the prices being bid or offered herein but that he has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated, and will not participate, in any action contrary to (a)(1) through (a)(3) above, and as their agent does hereby so certify; and (b) he has not participated, and will not participate, in any action contrary to (a)(1) through (a)(3) above.

(c) This certification is not applicable to a foreign bidder or offeror submitting a bid or proposal for a contract which requires performance or delivery outside the United States, its possessions, and Puerto Rico.

(d) A bid or proposal will not be considered for award where (a)(1), (a)(3), or (b) above has been deleted or modified. Where (a)(2) above has been deleted or modified, the bid or proposal will not be considered for award unless the bidder or offeror furnishes with the bid or proposal a signed statement which sets forth in detail the circumstances of the disclosure and the Administrator, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

(b) The fact that a firm (1) has published price lists, rates, or tariffs covering items being procured by the Government, (2) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (3) has sold the same items to commercial customers at the same prices being offered the Government does not constitute, without more, a disclosure within the meaning of paragraph (a)(2) of the Certificate.

(c) It is not required that a separate written authorization be given to the signer of the bid or proposal for each procurement involved where the signer makes the certification provided in paragraph (b)(2) of the Certificate, provided that with respect to any blanket authorization given, (1) the procurement to which the Certificate applies is clearly within the scope of such authorization, and (2) the person giving such authorization is the person responsible within the bidder's or offeror's organization for the decision as to the prices being bid or offered at the time the Certificate is made in a particular procurement.

(d) After the execution of an initial certificate and the award of a contract in connection therewith, the contractor need not submit additional certificates in connection with proposals submitted on "Work orders" or similar ordering instruments issued pursuant to the terms of that contract, where the Government's requirements cannot be met from another source.

(e) The authority to make the determination described in paragraph (d) of the above certification shall be exercised by the Director of the Installation or his deputy.

(f) Where a certification is suspected of being false or there is indication of collusion, the matter shall be processed in accordance with § 18–1.111. For rejection of bids which are suspected of being collusive and for the negotiation of procurements subsequent to such rejection, see §§ 18–2.404–1(b)(6) and 18–3.215–2 of this chapter.

Subpart 18–1.2—Definition of Terms

§ 18–1.201 Definitions.

As used throughout this chapter, the words and terms defined in this subpart shall have the meanings set forth in this subpart, unless (a) the context in which they are used clearly requires a different meaning or (b) a different definition is prescribed for a particular part or portion thereof.

§ 18–1.202 Administrator.

"Administrator" means the Administrator or Deputy Administrator of NASA.

§ 18–1.203 Change order.

"Change order" means a written order signed by the contracting officer, directing the contractor to make changes which the changes clause of the contract authorizes the contracting officer to order without the consent of the contractor.

§ 18–1.204 Construction contractor.

"Construction contractor" means a person (or firm) who, before being awarded a contract, satisfies the contracting officer that he qualifies as one:

(a) Who owns, operates, or maintains a place of business regularly engaged in the construction, alteration, or repair of buildings, structures, communication facilities, or other engineering projects, including the furnishing and installing of necessary equipment; or

(b) Who, if newly entering into a construction activity, has made all necessary prior arrangements for personnel, construction equipment, and required licenses to perform construction work.

§ 18–1.205 Contract modification.

"Contract modification" means any written alteration in the specification, delivery point, rate of delivery, contract period, price, quantity, or other contract provisions of an existing contract, whether accomplished by unilateral action in accordance with a contract provision, or by mutual action of the parties to the contract. It includes (a) bilateral actions such as supplemental agreements, and (b) unilateral actions such as change orders, administrative changes, notices of termination, and notices of the exercise of a contract option.

§ 18–1.206 Contracting officer.

"Contracting officer" means any employee of NASA who is currently designated a contracting officer with the authority to enter into and administer contracts and make determinations and findings with respect thereto, or with any part of such authority. The term also includes the authorized representative of the contracting officer acting within the limits of his authority.

§ 18–1.207 Contracts.

"Contracts" means all types of agreements and orders for the procurement of supplies or services. It includes awards and notices of award; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job orders, task orders, or task letters thereunder; letter contracts; and purchase orders. It also includes supplemental agreements with respect to any of the foregoing.

§ 18–1.208 Director of procurement.

"Director of Procurement" means the Director of the Procurement Office (Code KD), Office of Industry Affairs, NASA Headquarters.

§ 18–1.209 Executive agency.

"Executive agency" means any executive department or any independent establishment in the Executive Branch of the Government, including any wholly owned Government corporation, the National Aeronautics and Space Administration, and the Departments of the Army, Navy, and Air Force.

§ 18–1.210 Federal agency.

"Federal agency" means any executive agency or any establishment in the Legislative or Judicial Branches of the Government (except the Senate, the House of Representatives, and the architect of the Capitol and any activities under his direction).

§ 18–1.211 Field installation.

"Field installation" means Ames Research Center, Electronics Research Center, Flight Research Center, Goddard Space Flight Center, John F. Kennedy Space Center, Langley Research Center, Lewis Research Center, Manned Spacecraft Center, George C. Marshall Space

Flight Center, NASA Pasadena Office, Wallops Station, and any other field installation hereafter established by NASA.

§ 18–1.212 Field procurement office.

"Field procurement office" means any NASA procurement office other than procurement offices at NASA Headquarters.

§ 18–1.213 Government instrumentality.

"Government instrumentality" means any of the following:

(a) An instrumentality of the U.S. Government;

(b) An agency or instrumentality of a State or local government, possession, or Puerto Rico;

(c) An agency or instrumentality of a foreign government.

§ 18–1.214 Head of a field installation.

"Head of a field installation" means the Director of a field installation.

§ 18–1.215 Head of the agency.

"Head of the agency" means the Administrator or Deputy Administrator of NASA.

§ 18–1.216 Includes.

"Includes" means "includes but is not limited to."

§ 18–1.217 Installation.

"Installation" means NASA Headquarters and field installations.

§ 18–1.218 Manufacturer.

"Manufacturer" means a person (or firm):

(a) Who owns, operates, or maintains a factory or establishment that produces on the premises the materials, articles, or equipment required under the contract and of the general character described by the specifications; or

(b) Who, if newly entering into a manufacturing activity, has made all necessary prior arrangements for manufacturing space, equipment, and personnel to perform the manufacturing operations required for contract performance; and

(c) Who, before being awarded a contract, satisfies the contracting officer that he qualified under paragraphs (a) or (b) of this section.

§ 18–1.219 May.

"May" is permissive. However, the words "no person may * * *" mean that no person is required, authorized, or permitted to do the act prescribed.

§ 18–1.220 NASA.

"NASA" means the National Aeronautics and Space Administration.

§ 18–1.221 Negotiate and negotiation.

"Negotiate and negotiation," when applied to the making of purchases and contracts, refer to making purchases and contracts without formal advertising.

§ 18–1.222 Office of Procurement.

"Office of Procurement" means the Procurement Office (Code KD), Office of Industry Affairs, NASA Headquarters.

§ 18–1.223 Possessions.

"Possessions" in a geographic sense includes the Virgin Islands, the Canal Zone, Swan Islands, Guantanamo Bay, Johnston Islands, American Samoa, Guam, Wake Island, Midway Island, and the guano islands but does not include Puerto Rico, leased bases, occupied Japanese islands, or trust territories.

§ 18–1.224 Procurement.

"Procurement" includes purchasing, renting, leasing, or otherwise obtaining supplies or services. It also includes all functions that pertain to the obtaining of supplies and services, including description but not determination of requirements, selection, and solicitation of sources, preparation and award of contract, and all phases of contract administration.

§ 18–1.225 Procurement office.

"Procurement office" means the offices at NASA Headquarters and NASA field installations charged with the responsibility for making and administering purchases and contracts.

§ 18–1.226 Procurement officer.

"Procurement officer" means the Head of a procurement office.

§ 18–1.228 Regular dealer.

"Regular dealer" means a person (or firm):

(a) Who owns, operates, or maintains a store, warehouse, or other establishment in which materials, articles, or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and sold to the public in the usual course of business; or

(b) In the case of articles of particular kinds (lumber and timber products, coal, machine tools, raw cotton, petroleum, green coffee, tea, agricultural liming materials, or hay, grain, feed, or straw), who satisfies the requirements of the Regulations of the Secretary of Labor (41 CFR 201.101(b) and 201.603(f)) under the Walsh-Healey Public Contracts Act; and

(c) Who, before being awarded a contract, satisfies the contracting officer that he is engaged in an established regular business, meeting all the criteria of paragraph (a) or (b) of this section.

It is not enough in the case of a regular dealer to show only that arrangements have been made to set up such a business. Before an award can be made, the dealer must show that he is an established going business regularly dealing in the particular articles, or articles of the general character sought by the Government.

§ 18–1.229 Service contractor.

"Service contractor" means a person (or firm) who, before being awarded a contract, satisfies the contracting officer that he qualifies as one:

(a) Who owns, operates, or maintains a place of business regularly engaged in performing nonpersonal services, such as the repair, maintenance, or rebuilding of personal property; the packing, crating, or moving of material; the operation of equipment or facilities; the rental of equipment or facilities; or the performance of administrative, professional, or technical functions; or

(b) Who, if newly entering into a service activity, has made all necessary prior arrangements for personnel, service equipment, and required licenses to perform services.

§ 18–1.230 Shall.

"Shall" is imperative.

§ 18–1.231 Small business concern.

See § 18–1.701–1.

§ 18–1.232 Supplemental agreement.

"Supplemental agreement" means any contract modification which is accomplished by the mutual action of the parties.

§ 18–1.233 Supplies and property.

(a) "Supplies" or "property" means all property except land or interests in land. It includes public works, buildings, and facilities; aircraft, missiles, satellites, and other aeronautical and space vehicles, together with related equipment, devices, components, and parts; machine tools; and the alteration or installation of any of the foregoing. "Supplies" as used in this chapter is synonymous with "property" as described in 10 U.S.C. 2303(b).

(b) The terms "supplies" and "property" are used interchangeably in this chapter unless otherwise specifically provided. These terms as used in this chapter have the same meaning as the term "supplies" used in ASPR. The terms "personal property and nonpersonal services" as used in the FPR have the same meaning as "supplies and services" or "property and services" used herein.

§ 18–1.234 United States.

"United States," when used in a geographic sense, means the 50 States and the District of Columbia.

Subpart 18–1.3—General Policies

§ 18–1.300 Scope of subpart.

This subpart sets forth general policies with respect to the procurement of supplies and services by formal advertising and by negotiation.

§ 18–1.301 Methods of procurement.

(a) *Competition.* All procurements, whether by formal advertising or by negotiation, shall be made on a competitive basis to the maximum practicable extent.

(b) *Formal advertising.* Procurements shall be made by formal advertising in all cases in which the use of such method is feasible and practicable under the existing conditions and circumstances. Procurement by formal advertising shall be effected in accordance with Part 18–2 of this chapter.

(c) *Negotiation.* If the use of formal advertising is not feasible and practicable, procurements may be negotiated in accordance with Part 18–3 of this chapter.

§ 18–1.302 Sources of supply.

§ 18–1.302–1 Government agencies.

Prior to taking procurement action, in accordance with this chapter, installations shall ensure that they comply with applicable laws and regulations relative to obtaining supplies or services from Government sources and from contracts of other Government agencies. To the extent practicable, supplies shall be obtained from surplus property in the hands of disposal agencies and surplus or excess stocks in the hands of any Government agency. Releasable industrial equipment which is available from the Department of Defense reserves should be utilized to the extent feasible (see Subpart 18–13.50).

§ 18–1.302–2 Sources outside the Government.

Irrespective of whether the procurement of supplies or services from sources outside the Government is to be effected by formal advertising or by negotiation, competitive proposals ("bids" in the case of procurement by formal advertising, "proposals" in the case of procurement by negotiation) shall be solicited from all such qualified sources deemed necessary by the contracting officer to assure full and free competition consistent with the procurement of the types of supplies and services necessary to meet NASA's requirements.

§ 18–1.302–3 Production and research and development pools.

(a) *Description.* A production or research and development pool is a group of concerns (1) who have associated together for the purpose of obtaining and performing jointly, or in conjunction with each other, contracts for supplies or services or for research and development for defense use, or to effectuate the purposes of the Small Business Act; (2) who have entered into a pool agreement governing their organization, relationship, and procedure; and (3) whose agreement has been approved either in accordance with section 708 of the Defense Production Act of 1950, as amended (Defense Production Pool), 50 U.S.C. App. 2158, or in accordance with section 9(d) or 11, of the Small Business Act, 15 U.S.C. 631–647 (Small Business Pools). Pool participants are exempt from the "manufacturer or regular dealer" requirement of the Walsh-Healey Public Contracts Act (see Subpart 18–12.6), of this chapter.

(b) *General rule.* Except as provided in this section, a pool shall be treated for purposes of Government procurement on exactly the same basis as any other prospective or actual contractor.

(c) *Ascertainment of status.* The contracting officer is responsible for ascertaining whether a group of firms seeking to do business with the Government is a pool. In ascertaining the status of a group representing itself as a pool, contracting officers may rely on a copy of the Small Business Administration (SBA) or Office of Emergency Plans (OEP) (formerly OCDM) notification of approval of the pool. If the contracting officer has any questions as to whether a given pool has been approved, he shall consult the regional office of the SBA. The Director of Procurement will expeditiously disseminate to field installations information received from SBA or OEP concerning the approval of production and research and development pools. In any case where the award of a contract to a group representing itself as a production or research and development pool is contemplated, and the contracting officer does not have data available as to the status of the pool, the group shall be requested to furnish to the contracting officer the following:

(1) A copy of the SBA or OEP notification of approval of the pool; and

(2) A list of the member companies of the pool and a statement regarding the type of organization and plan of operation of the pool.

(d) *Contracting with pools.* (1) A bid or proposal of a pool is not eligible for award to the pool unless submitted either by the pool in its own name or by an individual member expressly disclosing that it is on behalf of the pool. Except for contracts to be awarded to incorporated pools, the contracting officer shall, prior to award to a pool, require to be deposited with him a certified copy of a power of attorney from each member of the pool who is to participate in the performance of the contract authorizing an agent to execute the bid, proposal, or contract on behalf of such member. A copy of each such power of attorney shall be appended to each executed copy of the contract retained by the Government.

(2) Membership in a pool shall not of itself preclude individual members from submitting bids or proposals as individuals on appropriate procurements. Bids or proposals submitted by an individual member of a pool shall not be considered when the individual member has participated in the bid or proposal submitted by the pool.

(e) *Responsibility of pool member.* Where a member of a production pool has submitted a bid or proposal in his own name and not on behalf of a pool, the pool agreement shall be a factor to be considered in determining the pool member's responsibility, pursuant to Subpart 18–1.9.

§ 18–1.302–50 Contracts between NASA and Government employees.

(a) Procurement contracts between the Government and its employees or business organizations substantially owned or controlled by Government employees will not knowingly be entered into, except in those cases in which the needs of the Government cannot reasonably be otherwise supplied. The specific approval of the Director of Procurement must be obtained for any such contract.

(b) Surplus personal property shall not be sold to persons known to be officers or employees of the Federal Government, except as specifically authorized by the Director of Procurement.

§ 18–1.302–51 Proposed subcontracts between NASA contractors and Government employees.

In the approval of subcontracts under NASA prime contracts, NASA contracting officers shall consider the policy restrictions of § 18–1.302–50 to apply to subcontracts.

§ 18–1.304 Restrictions on data and other information.

§ 18–1.304–1 Selection of items involving proprietary data.

In some cases the procurement of an item would involve proprietary data (see § 18–9.501(b)) or other factors which would restrict sources of procurement or limit competition, but alternative items may be procured which would meet the needs of NASA. In such cases, consideration will be given, in selecting the item to be procured, to the relative advantages for aeronautical and space purposes of the item which involves such proprietary data or other factors as against the disadvantages of a restricted source of supply and possibly increased cost to the Government because of lack of competition. However, when a particular item best meets the needs of NASA, the contracting officer will not refrain from procuring the item solely because it would involve such restrictions or limitations.

§ 18–1.304–2 Treatment of technical data.

(a) *General.* Technical data (such as plans, designs, suggestions, improvements or concepts) acquired by NASA may have been obtained under conditions which restrict NASA's right to use the data. Therefore, care must be taken when considering the use of technical data for procurement purposes to assure that NASA has sufficient rights to use the data in the manner desired. One of the principal ways in which NASA receives technical data is by means of pro-

posals. NASA has a continuing interest in receiving and evaluating proposals which are pertinent to its potential needs in carrying out its objectives and missions. Some proposals are offered and received under conditions which may prevent NASA from using the technical data contained therein other than for evaluation purposes. Proposals received by NASA are of two types—solicited and unsolicited.

(b) *Solicited proposals.* A solicited proposal is a written offer to perform work which results from a formal written request for proposals or request for quotations issued by NASA. For the policy and procedure concerning restrictions on the disclosure and use of technical data in solicited proposals see § 18–9.109.

(c) *Unsolicited proposals.* An unsolicited proposal is a written offer to perform work which does not result from a formal written request for proposals issued by NASA.

(1) *Policy for unsolicited proposals.* It is the policy of NASA to use technical data included in unsolicited proposals for evaluation purposes only. However, due to the administrative problems involved in handling the large number of unsolicited proposals received, the Government cannot assume liability for disclosure or use of such technical data unless it is marked by the submitter in accordance with the following provisions. Each proposal containing technical data, which the submitter intends to be used by NASA for evaluation purposes only, should be marked on the cover sheet with the following legend and shall specify the pages of the proposal which are to be restricted in accordance with the conditions of the legend:

Technical data contained in pages ---------- of this proposal shall not be used or disclosed, except for evaluation purposes: *Provided*, That if a contract is awarded to this submitter as a result of or in connection with the submission of this proposal, the Government shall have the right to use or disclose this technical data to the extent provided in the contract. This restriction does not limit the Government's right to use or disclose any technical data obtained from another source without restriction. (February 1966)

Contracting officers shall not refuse to consider any proposal merely because technical data submitted with that proposal is marked. Technical data so marked shall be used only to evaluate proposals and shall not otherwise be used or disclosed without the written permission of the submitter except under the conditions provided in the legend. Unsolicited proposals submitted with restrictive legends or statements differing from the above legend will be treated under the terms of the above legend.

(2) *NASA notice for unsolicited proposals.* In order to assure that unsolicited proposals are handled in accordance with the policy set forth in subparagraph (1) of this paragraph (c), the following notice shall be affixed to each unsolicited proposal (including those containing the legend set forth in subparagraph (1)) when it is received by NASA. This notice in no way alters any obligation of the Government. The notice can be applied to the unsolicited proposal either as a stamp or in the form of a cover sheet.

NASA NOTICE OF DOCUMENT HANDLING (FEBRUARY 1967)

This unsolicited proposal shall be used and duplicated only for evaluation purposes and this NASA notice shall be applied to any reproduction of this document or abstract thereof.

For further information on NASA policy regarding technical data submitted in unsolicited proposals, see § 18–1.304.

In the event this document is disclosed outside the Government to obtain a NASA evaluation, notice is hereby given to the recipient that it is NASA's policy to use technical data included in this proposal for evaluation purposes only and the recipient receives the proposal under the condition that it will be used and disclosed only for purposes of furnishing an evaluation to the Government. This restriction does not apply to technical data obtained from another source without restriction.

(3) *Disclosure of unsolicited proposals outside Government.* In some instances it may be necessary to disclose unsolicited proposals outside the Government in order to obtain a NASA evaluation. In such cases, the NASA notice set forth in subparagraph (2) of this paragraph (c) will provide the outside recipient evaluator with notice of NASA's policy and the conditions under which the proposal is to be used. In addition, an arrangement shall be made with the recipient whereby he agrees to receive the proposal under the condition that he will use and disclose the proposal only for the purposes of furnishing an evaluation to the Government. When it is anticipated that a contractor will be requested to perform unsolicited proposal evaluations for NASA, the following clause shall be inserted in the contract:

CONTRACTOR'S TREATMENT OF UNSOLICITED PROPOSALS (FEBRUARY 1967)

In the performance of work under this contract NASA may request the Contractor to evaluate for NASA unsolicited proposals received by NASA. It is NASA's policy to use technical data included in unsolicited proposals for evaluation purposes only. This restriction does not apply to technical data obtained from another source without restriction. Unsolicited proposals submitted to the Contractor for NASA evaluation will include a notice to the Contractor of this NASA policy and the conditions under which NASA has received the proposal and the Contractor agrees to abide by these same conditions when carrying out evaluations of the proposal on behalf of NASA.

Any legend or notice placed on the proposal by either NASA or the submitter of the proposal shall be applied to any reproduction or abstract thereof.

Unless authorized by the Contracting Officer, the Contractor shall not contact the submitters of the unsolicited proposals furnished to the Contractor under this contract for NASA evaluation purposes.

(d) *Evaluation and testing of equipment and material.* Should evaluation of a proposal include the evaluation and testing of equipment or material, neither the Government nor any person acting on behalf of the Government assumes any liability to the submitter of the proposal, or any person acting on his behalf, in connection with any damage, loss, injury, or destruction resulting from such evaluation and testing. Nothing contained herein shall preclude the Government from asserting any action against the submitter or any person acting on his behalf arising out of the above circumstances.

§ 18–1.304–3 Technical and other data involved in formal advertising.

See § 18–2.404–4.

§ 18–1.304–4 Financial and management information included in proposals.

In no event will any cost breakdown, profit, overhead rates, financial, or management information be disclosed outside the Government, except to evaluate the proposal in which such information is submitted. Regarding disclosure to other offerors, see § 18–3.106–3(b)(1).

§ 18–1.305 Time of delivery or performance.

§ 18–1.305–1 Scope.

This § 18–1.305 prescribes policy and procedure regarding requirements as to time of delivery or performance of contracts for supplies or services, excluding construction.

§ 18–1.305–2 General.

(a) The time of delivery or of performance is an essential element of a contract and must be clearly set forth in invitations for bids and requests for proposals. Time schedules for delivery or performance shall be designed to meet the requirements of the particular procurement, all relevant factors considered, and must be realistic. Schedules which are unreasonably tight or difficult of attainment tend to restrict competition, are inconsistent with small business policies, and may result in higher contract prices. Therefore, before issuing an invitation for bids or request for proposals, the contracting officer shall question any delivery or performance schedule which appears unrealistic, and, if necessary, initiate action to make appropriate adjustments, with due attention to relevant factors including the following:

(1) Urgency of need for the supplies or services;

(2) Production time in view of quantity, complexity of design, etc.;

(3) Market conditions;

(4) Transportation time;

(5) Industry practices;

(6) Capabilities of small business concerns;

(7) Time for obtaining and evaluating bids or offers, and for awarding contracts;

(8) Time for contractors to comply with any conditions precedent to performance; and

(9) Time for the Government to perform its obligations under the contract (e.g., furnishing of Government property to the contractor, approval of preproduction samples, and inspection.)

(b) Where timely delivery or performance is unusually important to the Government, a liquidated damages provision may be used as provided for in § 18–1.310.

(c) Except where clearly unnecessary, invitations for bids and requests for proposals shall inform bidders or offerors of the basis on which their bids or proposals will be evaluated with respect to time delivery or performance.

§ 18–1.305–3 Terms.

(a) Delivery schedules may be expressed in terms of:

(1) Specific calendar dates (e.g., on or before July 1, 1964);

(2) Specified periods from date of contract (i.e., date of award or acceptance by the Government, or date shown on contract document as effective date of contract); or

(3) Specified periods from date of receipt by contractor of notice of award or acceptance by the Government (including notice by receipt of contract document executed by the Government).

The full period which the Government holds out as being available for contract performance should not be curtailed to the prejudice of the contractor by delay in giving notice of award. Accordingly, one of the provisions in paragraph (b) or (c) of this section shall be used in advertised procurements and may be suitably modified and used in appropriate negotiated procurements (other than small purchases).

(b) Where the delivery schedule is in terms of specific calendar dates, invitations for bids shall include one of the following provisions:

(i) The foregoing delivery requirements are based on the assumption that the Government will make award by (contracting officer, insert calendar date). Each delivery date in the delivery schedule set forth herein will be extended by the number of calendar days after the above date that the contract is in fact awarded. Attention is directed to paragraph 8(d) of the Terms and Conditions of the Invitation for Bids, which provides that a written award mailed or otherwise furnished to the successful bidder results in a binding contract. Therefore, in computing the available time for performance, the bidder should take into consideration the time required for notice of award to arrive through the ordinary mails. (February 1962)

(ii) The foregoing delivery requirements are based on the assumption that the successful bidder will receive the notice of award by (contracting officer, insert calendar date). The Government will extend each delivery date in the delivery schedule set forth herein by the number of calendar days after the above date that the contractor receives notice of award: *Provided*, That the contractor promptly acknowledges such receipt. (February 1962)

(c) Where the delivery schedule is based on the date of contract (see paragraph (a)(2) of this section), the invitations for bids will include the following provision:

Attention is directed to paragraph 8(d) of the Terms and Conditions of the Invitation for Bids, which provides that a written award mailed or otherwise furnished to the successful bidder results in a binding contract. Any award hereunder, or a preliminary notice thereof, will be mailed or otherwise furnished to the bidder the day the award is dated. Therefore, in computing the time available for performance, the bidder should take into consideration the time required for the notice of award to arrive through the ordinary mails. However, a bid offering delivery based on date of receipt by the contractor of the contract or notice of award (rather than the contract date) will be evaluated by adding the maximum number of days normally required for delivery of the award through the ordinary mails. If, as so computed, the delivery date offered is later than the delivery date required in the invitation, the bid will be considered nonresponsive and rejected. (February 1962)

(d) Where the delivery schedule is based on the date of the contract (see paragraphs (a)(2) and (c) of this section), the contract, notice of award, acceptance of proposal, or other contract document executed by the Government shall be mailed or otherwise furnished the contractor on the day it is dated.

(e) Where the delivery schedule is based on date of receipt by the contractor of notice of award (see paragraph (a)(3) of this section), or where it is expressed in terms of specific calendar dates on the assumption that notice of award will be received by a specified date (see paragraph (b), clause ii of this section), the notice of award, acceptance of proposal, or other contract document executed by the Government shall be sent by certified mail, return receipt requested, or shall be accompanied by a date of receipt acknowledgement card.

(f) When the required delivery schedule in the invitations for bids is based on date of the contract (see paragraph (a)(2) of this section), a bid offering delivery based on date of receipt by the contractor of the contract or notice of award (see paragraph (a)(3) of this section):

(1) Shall be evaluated by adding the maximum number of days normally required for delivery of the award through the ordinary mails; and

(2) If the delivery date offered by the bid (computed in accordance with subparagraph (1) of this paragraph) is later than the delivery date required in the invitation for bids, the bid shall be considered nonresponsive and rejected; but

(3) If award is made under subparagraph (1) of this paragraph, under the terms of the contract the delivery date will be the number of days, after actual receipt by the contractor of the notice of award, which were specified in the bid.

§ 18–1.305–4 Time of delivery clauses.

(a) Examples of time of delivery clauses for invitations for bids are set forth in paragraphs (b) and (c) of this section. They may be modified or other clauses may be used to state particular delivery requirements or any special procedures to be used in the evaluation, rejection, or award process as regards time of delivery. These clauses also may be suitably modified and used as appropriate in negotiated procurements.

(b) The following clause may be used where delivery by a particular time is essential to meet the Government's requirements:

TIME OF DELIVERY (FEBRUARY 1962)

Delivery is REQUIRED to be made in accordance with the following schedule:

Item No.	Quantity	Time (conditions to be specified by Contracting Officer (see (d) below))

Bids offering delivery of each quantity within the applicable delivery period specified above will be evaluated equally as regards time of delivery. Bids offering delivery of a quantity under such terms or conditions that delivery will not clearly fall within the applicable delivery period specified above will be considered nonresponsive and will be rejected. Where a bidder offers an earlier delivery schedule than that called for above, the Government reserves the right to award either in accordance with the required schedule or in accordance with the schedule offered by the bidder. If the bidder offers no other delivery schedule, the delivery schedule stated above shall apply.

BIDDER'S PROPOSED DELIVERY SCHEDULE

(TO BE COMPLETED BY BIDDER)

Item No.	Quantity	Time (conditions to be specified by Contracting Officer (see (d) below))

(c) The following clause may be used where delivery by a certain time is DESIRED although not essential, but delivery by a specified later time is necessary to meet the Government's requirements.

TIME OF DELIVERY (FEBRUARY 1962)

Delivery is DESIRED by the Government in accordance with the following schedule:

Item No.	Quantity	Time (conditions to be specified by Contracting Officer (see (d) below))

If the bidder is unable to meet the above delivery schedule, he may, without prejudice to the evaluation of his bid, set forth his Proposed Delivery Schedule below; but such delivery schedule must not extend the delivery period beyond the time of delivery called for in the following REQUIRED delivery schedule:

REQUIRED DELIVERY SCHEDULE

Item No.	Quantity	Time (conditions to be specified by Contracting Officer (see (d) below))

Bids offering delivery of a quantity under such terms or conditions that delivery will not clearly fall within the applicable REQUIRED delivery period specified above will be considered nonresponsive and will be rejected.

If the bidder does not propose a different delivery schedule, the Government's DESIRED delivery schedule shall apply:

BIDDER'S PROPOSED DELIVERY SCHEDULE

(TO BE COMPLETED BY BIDDER)

Item No.	Quantity	Time (conditions to be specified by Contracting Officer (see (d) below))

(d) In the blank spaces entitled "Time" under the clauses set forth in paragraphs (b) and (c) of this section, the contracting officer shall insert one of the following phrases, as appropriate:

(1) "[On] (on or before) the date(s) specified below."

(2) "Within the number of days stated below after date of contract."

(3) "Within the number of days stated below after the date of receipt of a written notice of award."

(4) "Within the periods specified below." (When this phrase is inserted, the wording "during the month(s) of ----------," or "not sooner than ---------- and not later than ----------" should be used to specify the periods.)

§ 18–1.306 Approval signature.

Approval signatures on contracts or purchase authorizations shall be minimized to the greatest practical extent and, in the event that multiple approval signatures are required, they shall, where possible, be obtained concurrently.

§ 18–1.307 Priorities, allocations and allotments.

§ 18–1.307–1 NASA program.

(a) *General.* In the interest of maintaining a minimum priorities and allocations system as a mobilization preparedness measure, it is national policy to require contractors to use ratings and allotment authority to support military procurement, to the extent required by the Business and Defense Services Administration (BDSA). In addition to direct procurement and construction of the Department of Defense, the Office of Emergency Plans (formerly OCDM) has authorized BDSA to provide priorities authority for all procurement and construction programs of NASA. The Department of Defense is the claimant agency to the Office of Emergency Plans for NASA.

(b) *Implementation.* Department of Defense implementation of all rules and regulations published by BDSA, with respect to which the Department of Defense is delegated administrative responsibility, is contained in the DOD Priorities and Allocations Manual. NASA implementation is published in Part 18–52 of this chapter.

(c) *Operating responsibility.* NASA installations shall comply with the priorities and allocations program, including the Defense Materials Systems, as set forth in:

(1) The DOD Priorities and Allocations Manual;

(2) The rules and regulations published by BDSA; and

(3) Instructions set forth in Part 18–52 of this chapter.

§ 18–1.307–2 Required use of priorities, allocations, and allotments clause.

The following clause shall be inserted in or attached to all ratable contracts, except that no such clause need be attached to those purchase orders of less than $500 which are not rated. Ratable contracts are those contracts for supplies which are required to be supported with rating and allotment authority (see the DOD Priorities and Allocations Manual).

PRIORITIES, ALLOCATIONS, AND ALLOTMENTS (SEPTEMBER 1963)

The contractor shall follow the provisions of DMS Reg. 1 and all other applicable regulations and orders of the Business and Defense Services Administration in obtaining controlled materials and other products and materials needed to fill this order.

§ 18–1.308 Records of contract actions.

(a) Each contract file shall contain documentation of actions taken with respect to the contract, including final disposition, sufficient to constitute a full history of the transaction which will permit ready reconstruction of all of the stages of the transaction to:

(1) Support actions taken by various personnel in the procurement cycle;

(2) Provide information for reviews conducted by the field installation concerned, the General Accounting Office, or others;

(3) Supply data for use in preparing replies to Congressional inquiries; and

(4) Furnish essential facts in the event of litigation.

To the extent that retained copies of documents do not represent all actions taken, suitable memoranda or summary statements of undocumented actions should be prepared promptly and be retained in the contract file in chronological order.

(b) Each contract file shall include the following data, in the appropriate order and to the extent applicable:

(1) A copy of the procurement request;

(2) A copy of the Determination and Findings statement and justifications for authority to negotiate (see Subpart 18–3.2, of this chapter);

(3) A copy of the procurement plan (see § 18–3.852 of this chapter);

(4) The list of sources solicited or justification for limiting such sources;

(5) Any small business or labor surplus set-aside determinations;

(6) A copy of the invitation for bids or the request for proposals, including the drawings and specifications or an identifiable reference thereto;

(7) The Security Requirements Check List (DD Form 254);

(8) All bids or proposals received with an abstract thereof;

(9) The bidders' Statements of Contingent Fees;

(10) All preaward surveys;

(11) Selection of the successful contractor, including—

(i) The reasons for selection;

(ii) Statement of the Source Evaluation Board (see, § 18–3.856–2 of this chapter);

(iii) The contracting officer's determination of the contractor's responsibility; and

(iv) Any Small Business Administration Certificate of Competency (see § 18–1.706–6);

(12) All price and cost data submitted or used;

(13) A full record of negotiations, including but not limited to—

(i) Participants;

(ii) Dates of meetings or phone calls;

(iii) Government-furnished materials or facilities provided;

(iv) Subcontracting;

(v) Terms and conditions agreed to;

(vi) Deviations, if any, from prescribed contract clauses;

(vii) Technical recommendations; and

(viii) Justification for final price;

(14) Justification for type of contract used (see § 18–3.804, of this chapter);

(15) Any exceptions or exemptions from the Buy American Act or Appropriation Act restrictions (see Part 18–6 of this chapter);

(16) A copy of the contract or award;

(17) Required approvals of contract;

(18) All pertinent correspondence;

(19) Copies of all change orders, and supplements, with supporting documents;

(20) Comprehensive termination data;

(21) Copies of royalty reports received;

(22) Final release upon completion of the contract; and

(23) Evidence of legal review where required, and copy of comments, if any, made by legal counsel;

(24) Any additional documents considered necessary to present a complete résumé of the contract action.

(c) This does not apply in the case of small purchases (see § 18–3.603–2(c), of this chapter).

§ 18–1.309 Solicitations for information or planning purposes.

It is the general policy of NASA to solicit bids, proposals, or quotations only when there is a definite intention to award a contract. However, in some cases solicitation for information or planning purposes may be justified. Requests for quotations (Standard Form 18) will be used for this purpose. In such cases, the request for quotations shall clearly state its purposes, explaining that the Government does not intend to award a contract on the basis of the request or otherwise pay for the information solicited. The foregoing does not prohibit the allowance, in accordance with § 18–15.205–3 of this chapter, of the cost of preparing such quotations.

§ 18–1.310 Liquidated damages.

(a) This applies to procurement by formal advertising and procurement by negotiation. Liquidated damages provisions normally will not be utilized but may be used where both (1) the time of delivery or performance is such an important factor in the award of the contract that the Government may reasonably expect to suffer damages if the delivery or performance is delinquent, and (2) the extent or amount of such damages would be difficult or impossible to ascertain or prove. Where a liquidated damages provision is to be used in a supply or service contract, insert the clause set forth in § 18–7.105–8, of this chapter.

(b) The rate of assessment of liquidated damages must be reasonable, considered in the light of procurement requirements on a case-by-case basis, since liquidated damages fixed without reference to probable actual damages may be held to be a penalty and therefore unenforceable.

(c) The law imposes the duty upon a party injured by another to mitigate the damages which result from such wrongful action. Therefore, where a liquidated damages provision is included in a contract and a basis for termination for default exists, appropriate action should be taken expeditiously by the Government to obtain performance by the contractor or to terminate the contract. If delivery or performance is desired after termination for default, efforts must be made to obtain either delivery or performance elsewhere within a reasonable time. For these reasons, particularly close administration over contracts containing liquidated damages provisions is imperative.

(d) When any contract includes a provision for liquidated damages for delay, the Comptroller General, on the recommendation of the Administrator, NASA, is authorized and empowered to remit the whole or any part of such damages as he may consider to be just and equitable. Recommendations concerning remissions of liquidated damages will be forwarded by the contracting officer, with appropriate documentation, via the Director of the field installation to the Director of Procurement for submission to the Administrator.

§ 18–1.311 Buying in.

"Buying in" refers to the practice in procurements involving price competition, of attempting to obtain a contract award by knowingly offering a price less than anticipated costs with the expectation of either (a) increasing the contract price during the period of performance through change orders or other means, or (b) receiving future "follow-on" contracts at prices high enough to recover any losses on the original "buy-in" contract. Such a practice is not favored since its long term effects may diminish competition and it may result in poor contract performance. Where there is reason to believe that "buying in" has occurred, contracting officers shall assure that amounts thereby excluded in the development of the original contract price are not recovered in the pricing of change orders or in follow-on procurements subject to cost analysis.

§ 18–1.312 Voluntary refunds.

(a) *General.* A voluntary refund is a payment or credit, not required by any contractual or other legal obligation, made to the Government by a contractor or subcontractor either as a payment or as an adjustment under one or more contracts or subcontracts. It may be unsolicited or it may be made in response to a request by the Government. Where it is desired to solicit a voluntary refund from a subcontractor, the prime contractor should be encouraged to facilitate the making of such refund. In deciding whether to solicit a voluntary refund or to accept an unsolicited refund, the contracting officer shall ask legal counsel to review the contract or contracts and all data relevant thereto to determine whether the Government's rights would be jeopardized or impaired by the contracting officer's proposed action.

(b) *Solicited refunds.* Voluntary refunds may be requested during or after contract performance. They shall be requested only when it is considered that the Government was overcharged under a contract or was inadequately compensated for the use of Government-owned property or in the disposition of contractor inventory charged against the contract, and retention by the contractor or subcontractor of the amount in question would be contrary to good conscience and equity. The decision to solicit a voluntary refund shall be made by the Deputy Administrator or his designee after coordination with the Director of Procurement.

(c) *Disposition of voluntary refunds.* (1) If a refund is offered prior to final payment, it is preferable that the contract price be appropriately modified to reflect the refund. In such a case, the amount of the refund shall be credited to the applicable appropriation cited in the contract.

(2) In cases where the refund is to be made by check rather than by an adjustment in the contract price, the check shall be made payable to the National Aeronautics and Space Administration and shall be forwarded immediately to the financial management office of the appropriate installation. When forwarded, the check shall be accompanied by a letter identifying it as a voluntary refund, giving the number of the contract or contracts involved and, where possible, giving the account number of the appropriation to which the refund should be credited.

§ 18–1.314 Disputes and appeals.

(a) When a dispute cannot be settled by agreement and a decision under the "Disputes" clause is necessary, the contracting officer shall review the available facts pertinent to the dispute before making his final decision. When there is any doubt as to whether the issue in dispute is subject to the disputes procedure, a decision will be made pursuant to the "Disputes" clause. The disputes procedure shall not be invoked in cases when a dispute is clearly not subject to the procedure. The contracting officer shall obtain, from assigned legal and other advisors, such advice and assistance as is required to render a decision. The decision must be that of the contracting officer (or his representative if such representative has been authorized by the contracting officer to make final decisions pursuant to the "Disputes" clause); however, prior to making the decision, the contracting officer (or representative authorized to render final decisions) may consult with any other Government personnel involved in the dispute.

(b) The final decision should include a statement of facts sufficient to enable the contractor to understand both the decision and the basis therefor. Normally, the decision should (1) recite the contractor's claim or otherwise describe the nature of the dispute, with necessary references to pertinent contract provisions; (2) state the facts relevant to the dispute on which the parties are in agreement and, as clearly as possible, the facts on which they are in disagreement; and (3) set forth the contracting officer's decision and the basis therefor.

(c) When a final decision of the contracting officer involves a dispute that is subject to the procedure of a "Disputes" clause, or when there is doubt as to whether the decision is subject to such procedure, a paragraph substantially as follows shall be included in such decision:

This is the final decision of the Contracting Officer on the question involved in this dispute. Decisions on disputed questions of fact and on other questions that are subject to the procedure of the Disputes clause may be appealed in accordance with the provisions of the Disputes clause. If you decide to make such an appeal from this decision, written notice thereof (in triplicate) must be mailed or otherwise furnished to the Contracting Officer within 30 days from the date you receive this decision. Such notice should indicate that an appeal is intended and should reference this decision and identify the contract by number. The NASA Board of Contract Appeals is the authorized representative of the Administrator for hearing and determining such disputes. The rules of the NASA Board of Contract Appeals are set forth in Part 54 of the NASA Procurement Regulation (41 CFR 18–54, as amended in 29 F.R. 16769, Dec. 5, 1964, and 30 F.R. 139, Jan. 7, 1965).

(d) After an appeal has been filed, a controversy may be disposed of by agreement. However, processing of the appeal shall not be suspended by such efforts except upon order, or as otherwise authorized, by the NASA Board of Contract Appeals.

(e) In the event of an appeal, any amount determined to be payable in the decision of the contracting officer, less any portion previously paid, normally should be paid promptly following the contracting officer's decision, without prejudice to the rights of either party in the event of a subsequent appeal.

§ 18–1.315 Procurement of jewel bearings.

(a) In order to promote the use of the mobilization base established at the

Government-owned Turtle Mountain Bearing Plant, Rolla, N. Dak., all NASA purchases of jewel bearings shall be made from that plant in all cases where it can meet purchase requirements. In addition, all procurements of items containing jewel bearings shall provide, in the solicitations and resulting contracts, a requirement that jewel bearings in the quantities, and of the types and sizes necessary for the end items to be supplied under the contract, be purchased from the Turtle Mountain Plant and be incorporated in the delivered items, subject to the criteria provided in paragraphs (b), (c), and (d) of this section, except:

(1) When quantity requirements, quality standards, or delivery requirements cannot be satisfied by bearings manufactured at the Turtle Mountain Plant;

(2) For purchases of commercial end items having jeweled components, and the quantities of such end items or components are such that the contracting officer either knows or reasonably expects that all such end items or components are already manufactured and available from the stock of any dealer, wholesaler, distributor, or manufacturer; or

(3) For bearings used in items that are to be procured and used outside the United States, its possessions, and Puerto Rico.

(p) In order to assure that all bidders or offerors are competing on the same basis, it is necessary that the solicitation for items containing jewel bearings clearly state:

(4) The successful contractor will be required to purchase Turtle Mountain source bearings at prices established in the U.S. Government Jewel Bearing Price List then in effect, and to incorporate such bearings in the items to be delivered; and

(5) Bids or proposals are to be predicated on this requirement. If it should occur, after award, that the Turtle Mountain Plant rejects the contractor's purchase order entirely or in part, the contractor shall be required to so notify the contracting officer who will effect an equitable adjustment in the contract price to reflect any costs or savings accruing to contractor by reason of any price differential for such bearings, pursuant to the clause of this contract entitled "Changes."

(c) To the extent Turtle Mountain bearings are fungible with other bearings and it is not practical or would be costly to segregate jewel bearing inventories or work in process for items to be furnished the Government from that to be furnished commercial customers, or for other similar reasons, it may be in the Government's interest to waive the use requirements at the discretion of the contracting officer. No waiver will be granted to prospective contractors prior to award and no assurance will be given prior to award to any prospective contractors that such waiver will be granted after award. Minor inconvenience to contractors alone will not satisfy the need for demonstrating that the Government's interests are served by such waiver. When the use requirement is waived, an equitable adjustment for cost savings resulting therefrom shall be made.

(d) In circumstances where a procurement is not exempt from the procedure but it would be impractical or contrary to the Government's best interest to require actual use of all of the Turtle Mountain bearings required to be purchased, the contracting officer may provide in the solicitation and resulting contract that a minimum fixed percentage of the total bearings requirements be of Turtle Mountain origin, or that Turtle Mountain bearings be purchased for and used in a certain number of the total items to be supplied.

(e) In all procurements subject to these procedures, the following clause is required for use:

REQUIRED SOURCE FOR JEWEL BEARINGS (NOVEMBER 1964)

Jewel bearings required in the performance of this contract shall be procured from the Turtle Mountain Jewel Bearing Plant, Rolla, N. Dak., at prices established in the Official U.S. Government Jewel Bearing Price List dated (insert latest effective date). The Contractor agrees that the delivery dates specified for the quantities and types of jewel bearings so ordered will be reasonably related to manufacturing schedules and delivery requirements of this contract. The Contractor agrees to notify the Contracting Officer promptly of the rejection of his (or any subcontractor) purchase order in whole or in part by the Turtle Mountain Plant and further agrees to an equitable adjustment in the contract price pursuant to the "Changes" clause of this contract to reflect any costs or savings to the Contractor (or subcontractor) resulting from such rejection. The Contractor further agrees to incorporate or to have his subcontractors incorporate the purchased Turtle Mountain jewel bearings in the items to be delivered under this contract.[1] The requirement for use (but not the requirement for purchase) of such bearings may be waived in the discretion of the Contracting Officer when such waiver is determined by him to be in the Government's interest, and where agreement is reached for an equitable adjustment in the contract price by reason of such waiver.

§ 18–1.316 Disclosure of contractor performance data to other government agencies and foreign governments.

(a) Subject to any applicable security requirements, NASA installations shall honor the requests of other Government agencies for readily available information relating to the performance of prime contractors. The agency requesting the information shall be advised that it will be responsible for any further release of such information.

(b) Requests from foreign governments should similarly be honored. When such information is furnished to a foreign government, a copy of the request from the foreign government and the information furnished will be forwarded to the Assistant Administrator for International Affairs, NASA Headquarters.

(c) If there is any question as to the propriety of divulging the information to other Government agencies or to any foreign government for any reason, including the security aspect, the request shall be forwarded to the Director of Procurement for consideration, with an explanation of the reasons why the release of such information is questioned. The Director of Procurement will, prior to approving the release of information, obtain the concurrence of:

(1) The General Counsel;

(2) The Assistant Administrator for International Affairs, if the request for information is from a foreign government; and

(3) The Director, Security Division, NASA Headquarters, if the information appears to involve a problem of security.

§ 18–1.317 Lease versus purchase criterion.

(a) There are many situations in which the Government's equipment requirements may be more economically filled by lease than by purchase. This is particularly true in the case of certain expensive commercial equipments. The decision to lease rather than purchase must be made on a case-by-case basis. Leasing should be used where it is in the Government's interest. The criteria to be considered in each case include the following:

(1) The Government requirement is of short duration, and purchase would be costlier than leasing (generally, long-term leasing should be avoided in the absence of compelling circumstances);

(2) The probability that the equipment will become obsolete and that replacement within a short period will be necessary;

(3) The equipment is special or technical, and the lessor will provide the equipment, as well as maintenance and repair services, at a lower cost than would otherwise be available to the Government.

(b) Lease versus purchase decisions should be based on an economic analysis and the contract file documented to support the final decision. (See §§ 18–3.501 (b) (49) and 18–3.804–3(c) (2).)

§ 18–1.318 Contracts using annual funds.

(a) *Authorization to span fiscal years.* When an appropriation act so provides, contracts for maintenance and operation of facilities, and contracts for support services may be entered into for periods not in excess of 12 months beginning at any time during the fiscal year covered by such act. This authority should be used to reduce the number of contracts that would otherwise have to be placed at the beginning of the new fiscal year. However, it shall not be used to place contracts that exceed a 12-month period.

(b) *Contracts conditioned upon the availability of funds.* When it is necessary to initiate a procurement properly chargeable to funds of a new fiscal year prior to the availability of such funds, the following clause shall be included in the invitation for bids or other solicitation and the resultant contract:

AVAILABILITY OF FUNDS (FEBRUARY 1967)

Funds are not presently available for this procurement. The Government's obligation hereunder is contingent upon the availability of appropriated funds from which payment for the contract purposes can be made. No legal liability on the part of the Government for payment of any money shall arise unless and until funds are made available to the Contracting Officer for this procurement and notice of such availability, to be confirmed in writing by the Contracting Officer, is given to the Contractor.

(c) The authority set forth in paragraph (b) of this section shall be used only for administrative operations and continuing services (such as rentals, utilities, and items of supply) which are necessary for normal operation and for which the Congress consistently appropriates funds. When this authority is used, the supplies or services shall not be accepted by the Government until funds are available to the contracting officer for the procurement and until the contracting officer has given notice to the contractor (to be confirmed in writing) of such availability. Appropriate records will be maintained to insure adequate administrative control of funds.

§ 18–1.319 Renegotiation performance reports.

The provisions of this § 18–1.319 are applicable to all controls except, (a) purchase orders made pursuant to the provisions of Subpart 18–3.6; (b) delivery orders placed under Federal Supply Schedule contracts; and (c) those contracts known to be exempt from renegotiation.

§ 18–1.319–1 Renegotiation board.

Pursuant to the Renegotiation Act of 1951, as amended (50 U.S.C. App. 1211–1233), the Renegotiation Board reviews profits of NASA contractors performing renegotiable contracts and subcontracts aggregating more than $1 million in a fiscal year in order to eliminate any excessive profits therefrom. Such review involves consideration of financial statements and other information furnished by both contractors and NASA.

§ 18–1.319–2 Renegotiation information for contract file.

The contracting officer shall include in the file of each contract information pertaining to the extent and effectiveness of competition obtained in the negotiation and award of the contract, the reasonableness of the prices, fees, and profits negotiated, any incentive and target formulae incorporated in the contract, the extent of risk assumed by the contractor, the contractor's efficiency in performance of the contract, and any other information which would facilitate compilation of the Renegotiation performance reports described in § 18–1.319–3. This is particularly important in the case of incentive-type contracts where the question may be raised as to whether additional profits paid to the contractor by operation of the incentive provisions have been earned. Incentive-type contract information should be complete but succinct. To insure the collection of accurate and detailed information, the aforementioned data shall be included in the contract file as soon as it becomes available.

§ 18–1.319–3 Performance reports.

(a) Performance reports should provide complete, accurate, and objective data to the Renegotiation Board. When the Board requests contractor performance reports, the procuring installation concerned shall furnish information substantially in accordance with the following checklist, including any favorable recommendations giving due credit for better than average contract performance and any unfavorable recommendations because of unsatisfactory performance. Extensive performance data shall be accumulated on incentive-type contracts in sufficient detail so that the report will clearly show, as to the basis for payment of any increments of profit or fee provided as a part of the incentive arrangement in the contract, whether such increments were earned as the result of the contractor's performance or as the result of unreliable cost estimates or unrealistic performance targets when the incentive arrangements were negotiated.

(1) Date of report;

(2) Installation making report;

(3) Source and date of request for report;

(4) Name and address of contractor (if subsidiary or division, show name of parent company);

(5) Period covered by report;

(6) List of contracts being performed during the period concerned, showing as to each:

(i) Contract number;

(ii) Date;

(iii) Total amount of contract;

(iv) Brief description of the scope of work, service, product, etc.;

(v) Method of procurement (advertised or negotiated, and extent of competition);

(vi) Type of contract;

(vii) Total billings during period, and

(viii) Principal place of performance.

(7) Brief description of manufacturing techniques and type of work normally performed by contractor (e.g., production, fabrication, assembly) and relative complexity of the work. State the percentage of work subcontracted;

(8) Information concerning contractor performance, including extent to which:

(i) The product or service exceeded, met, or fell below the contractor requirements;

(ii) Delivery schedules were met (indicate reasons for failures to meet schedules, and compliance with requests for early deliveries, if any);

(iii) Rejections and spoilage rates were high or low and reasons therefor;

(iv) Contractor met targets under incentive contracts and reasons therefor;

(v) Contractor was economical in use of materials, facilities, and manpower, and was otherwise effective in controlling production costs;

(vi) Contractor made effective use of his facilities (state whether he expanded facilities to undertake renegotiable business, and if so, was such expansion excessive); and

(vii) Strikes, stoppages, or other significant developments in labor management affected contract performance;

(9) Information concerning reasonableness of costs and profits, including:

(i) The basis for use of a particular type of contract in significant contracts (if an incentive contract, describe also the basis for negotiation of target and cost sharing formulae);

(ii) Adequacy and reliability of cost information furnished by the contractor;

(iii) Unusual risks assumed by contractor in particular contracts, e.g., close pricing, labor and material cost increases, engineering changes, shortage of materials, inventory spoilage and obsolescence, cutbacks, terminations, and quality or performance guarantees (explain extent to which risks were reduced or minimized by types of contracts used);

(iv) Contingencies included in quoted prices;

(v) Experience as to profits received by contractor in significant contracts, especially incentive contracts, with appraisal as to whether or not profits were earned by contractor's efforts (state whether any important contracts were negotiated with no profit or at less than normal profit);

(vi) Significant refunds and voluntary price reductions, with circumstances of each;

(vii) Evaluation of contractor as a high, average, or low cost producer;

(viii) Partial financing by prompt payments under cost-plus-fixed-fee contracts;

(ix) Reasonableness of contractor's pricing policies;

(x) Return on invested capital (where applicable);

(xi) Comparison of prices with competitors' prices for same or similar products or services;

(xii) Reason for cost overruns and underruns in cost-reimbursement type contracts;

(xiii) Assistance given contractor by NASA technical and engineer personnel which reduces the contractor's risk;

[1] Where less than total purchase and usage of Turtle Mountain bearings is to be required, substitute "The Contractor" further agrees to purchase and incorporate Turtle Mountain bearings in items to be delivered under this contract equivalent to at least _____ percent of the total quantity of bearings required to perform this contract. (Percentage to be inserted by Contracting Officer.) In lieu of a percentage, the clause may refer to specific quantities of items listed in the schedule for which Turtle Mountain bearings must be purchased and used.

(xiv) Information concerning the nature and effectiveness of the contractor's cost reduction program and what consideration was given to the contractor's cost reduction program in determining profit and fee on negotiated contracts.

(10) List of capital funds and facilities employed by contractor, with particular reference to their source, e.g., contractor's equity capital, borrowed or rented, Government-financed, or Government-furnished;

(11) Extent to which the contractor has complied with Government policies, such as the small business program, labor surplus area program, competition in subcontracting, "make-or-buy" program, and nondiscrimination;

(12) Full information as to any terminations for default or for the convenience of the Government, to include the status of appeals or claims, if any, and the extent to which payments were made during the period concerned;

(13) Status of price revision actions and the basis for any revision completed in the period concerned;

(14) Such pertinent information on subcontracts, as is available;

(15) Appraisal of contractor's contribution to the aerospace effort, with particular emphasis on work done by him in development of new material, invention of new devices, management of large systems contracts as prime or associate contractor;

(16) A current appraisal of contractor's performance and recommendation as to reasonableness of contractor's profits and fees for the period under consideration under the listed contracts, and

(17) Such other information as may be particularly requested by the Renegotiation Board.

§ 18–1.819–4 Procedures for handling requests for performance reports.

(a) The Renegotiation Board has been requested to submit its requests for performance reports to the Director of Procurement, NASA Headquarters.

(b) Requests for performance reports received by the Director of Procurement will be forwarded to the installation(s) concerned. Where only one installation is involved, that installation will be instructed to submit its report directly to the cognisant regional office of the Renegotiation Board. A copy of such performance report will be forwarded to the Director of Procurement (Code KDM).

(c) Where more than one installation is involved, such installations will be instructed to submit their reports to the Director of Procurement (Code KDM). The Director of Procurement (Code KDM) will review such reports prior to forwarding them to the Renegotiation Board to ensure that the reports are consistent with each other or that discrepancies are appropriately explained.

§ 18–1.820 Security requirements.

When NASA contractors or their employees require access to classified information, or originate classified information, at any stage in the performance of NASA contracts, the NASA installation shall follow the security procedures set forth in NASA Management Instruction 1650.1.

§ 18–1.827 Use of excess aluminum in national stockpile.

§ 18–1.827–1 Government Use Program.

(a) It has been determined to be in the public interest to establish a Government Use Program requiring, to the maximum practicable extent, purchase of excess aluminum in the Government stockpile by Government contractors, directly or through subcontractors or suppliers, equal in weight to the weight of aluminum products defined in § 18–1.827–2, purchased by the Government or used in the production of items delivered under Government contracts. In implementation of this program all contracts in the categories listed below, shall contain the clause in § 18–1.827–2, or, in the case of construction contracts, the clause as modified in § 18–1.827–3:

(1) Purchases in the amount of $500 or more of aluminum products as defined in § 18–1.827–2.

(2) Purchases of supplies or construction in the amount of $25,000 or more where the aluminum products used in the production of items delivered under the contract or in the production of items incorporated in construction performed under the contract are estimated by the contracting officer to approximate 10,000 pounds or more.

(b) These provisions do not apply to procurements of supplies or construction effected by purchasing activities located outside, for use outside, the United States, its possessions, and Puerto Rico. These provisions are applicable to new procurements that are effected by amendments to an existing contract. In such cases, only the new procurement portion of the total contract is considered in determining whether the clause is required and, if required, the extent of its applicability. All contracts entered into, including this clause, shall be reported to:

Director, Industry Materials Division, Defense Materials Service, General Services Administration, Washington, D.C. 20405.

Such reports shall include the name of the contractor, the contract number, the delivery period, and the estimated amount of aluminum which will be required to fulfill the contract.

§ 18–1.827–2 Contract clause.

REQUIRED SOURCE FOR ALUMINUM INGOT (AUGUST 1966)

(a) As used in this clause (i) the term "aluminum products" means aluminum or aluminum alloy in its last commercial form delivered by the producer, mill, or foundry as an end item under this contract, or used to produce an end item under this contract, such as by way of example (but not limited to) wrought aluminum products; forgings and castings; rolled bar, rod, structural shapes, and bare wire; aluminum conductor steel reinforced and bare aluminum cable; insulated or covered wire or cable; extruded bar, rod, shapes, and tube (extruded, drawn, and welded tube); sheet, strip and plate; pig or ingot; granular or shot; slab; foil; and powder, flake, or paste; and (ii) the term "supplier" includes vendors, materialmen, warehousemen, distributors, or manufacturers of aluminum products or other items containing aluminum in any form.

(b) Except as provided in (c) below, the Contractor (or subcontractor or supplier, where applicable) shall purchase from the General Services Administration (GSA) a quantity of aluminum pig or ingot equal in weight to the gross weight of aluminum products constituting, or used in the production of, the items to be delivered under this contract. Such purchase shall be in accordance with the terms and conditions of sale prescribed therefor by GSA. Each order placed with GSA pursuant to this clause shall state that it is placed in accordance therewith and shall be sent to:

Director, Industry Materials Division, Defense Materials Service, General Services Administration, Washington, D.C. 20405.

Aluminum purchased pursuant to this clause may be used in any manner the Contractor desires and need not be earmarked in any way after delivery to the Contractor, nor physically inseparated in the items to be delivered hereunder.

(c) To the extent the Contractor (or subcontractor or supplier, where applicable) places subcontracts or purchase orders for aluminum products or for items other than aluminum products and containing aluminum in any form, he is not required with respect to such subcontracts or purchase orders to incorporate this clause, except paragraph (d);

(i) In any such subcontract or purchase order for aluminum products in the total amount of $500 or more; or

(ii) In any such subcontract or purchase order in the total amount of $25,000 or more for any items containing aluminum in any form where the quantity of aluminum products used in the production of such items is estimated to be 10,000 pounds or more; or

(iii) Construction, where the materials are to be supplied by the subcontractor and the total value of such materials containing aluminum (in any form) is estimated to be $25,000 or more, and where the quantity, of aluminum products used in the production of such items is estimated to be 10,000 pounds or more.

(d) The Contractor shall furnish to the GSA, calendar quarter summaries (within 30 days following the close of the applicable quarter) of all subcontracts and purchase orders placed by him pursuant to (c)(i) above that will identify (i) each aluminum product supplier involved, (ii) the quantity (by weight) of aluminum products, and (iii) the contract number applicable to specific quantities. The requirements of this paragraph (d) are applicable only to the prime Contractor and not to any subcontractor or other supplier hereunder. This reporting requirement has been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(e) The requirements of this clause are not intended to preclude basic agreements or other arrangements between the parties to any contracts (subcontracts or purchase orders) subject to this clause that will permit reference in such contracts to the applicability of the requirements of this clause, without the need for physically incorporating this clause in its entirety in each affected subcontract or purchase order.

(f) In placing subcontracts and purchase orders subject to the clause, the Contractor and all subcontractors and suppliers are authorized and encouraged to consolidate aluminum product purchases hereunder with other rated order purchases (AGM, DO, or DX) and other identifiable Government orders so as to apply the requirements of this clause to the total purchase. Otherwise, it is required either that aluminum product purchases subject to this clause be separately made, or, if consolidated with other aluminum product purchases, that the quantities (by weights) of aluminum products subject to this clause be separately set forth in the purchase document and identified as subject to this clause.

(g) Required purchases of aluminum from GSA by Contractors, subcontractors, or suppliers, shall be made within 90 days from the date (i) of final delivery pursuant to a contract, subcontract, or purchase order containing the requirements of this clause, or (ii) when the Contractor, subcontractor, or supplier, has completed deliveries of aluminum products aggregating 100,000 pounds, whichever is earlier: *Provided, however,* That any Contractor, subcontractor, or supplier, may defer required purchases of aluminum for the purpose of consolidating purchases to meet the requirement of two or more contracts, subcontracts, or purchase orders containing this clause until 90 days after the aggregate purchase requirements of such contracts, subcontracts, or purchase orders equal the minimum order quantities established by GSA (approximately 10,000 pounds or more). Successive consolidated purchases thereafter may be made at any time within 90-day intervals. The 90-day limitations may be extended upon approval in writing by the GSA.

(h) Certain producers of aluminum have entered into contracts with GSA effective as of November 1966 under which they have made long term commitments to purchase certain minimum and maximum quantities of aluminum from that Agency. The obligations of such producers under this clause shall be governed by the provisions of those contracts to the extent of any inconsistency.

(i) All purchases made pursuant to this clause, other than from GSA, which are rated (ACM, DO, or DX) in accordance with DMS Regulation 1, MPA Order M–5A and EDSA Regulation 2, and are subject to the provisions of those regulations concerning the maintenance of records, rights of inspection and audit, and the penalty provisions contained therein for willful noncompliance.

§ 18–1.827–3 Construction.

The clause contained in § 18–1.827–2 shall be modified by deletion of paragraph (c) thereof and substitution of the following paragraph in all contracts for construction:

(c) To the extent the Contractor or subcontractor or supplier, where applicable places subcontracts or purchase orders for aluminum products, or for items other than aluminum products and containing aluminum in any form, or for construction where the subcontractor is to furnish materials containing aluminum in any form, he is not required with respect to such subcontracts or purchase orders to purchase aluminum from the GSA. However, he agrees to incorporate this clause, except paragraph (d):

(i) In any such subcontract or purchase order for aluminum products in the total amount of $500 or more; or

(ii) In any such subcontract or purchase order in the total amount of $25,000 or more for any items containing aluminum in any form where the quantity of aluminum products used in the production of such items is estimated to be 10,000 pounds or more; or

(iii) Construction, where the materials are to be supplied by the subcontractor and the total value of such materials containing aluminum (in any form) is estimated to be $25,000 or more, and where the quantity, of aluminum products used in the production of such items is estimated to be 10,000 pounds or more.

§ 18–1.850 Nondiscrimination clause—government leases.

§ 18–1.850–1 Policy.

It is NASA policy to include a "Facilities Nondiscrimination" clause in leases on which NASA is the lessee. This policy has been adopted because Federal employees belonging to minority groups and other members of minority groups doing business with the Federal Government in some parts of the country have been denied the use of public facilities located in buildings where the Government leases office space.

§ 18–1.850–2 Use of clause.

The following "Facilities Nondiscrimination" clause shall be incorporated in all future leases where (a) the total rental is in excess of $10,000 per year, or (b) the total rental under the new lease, combined with the total rental under all other NASA leases of space in the same building, exceeds $10,000 per year.

FACILITIES NONDISCRIMINATION (AUGUST 1963)

(1) As used in this clause, the term "facility" means stores, shops, restaurants, cafeterias, restrooms, and any other facility of a public nature in the building in which the space covered by this lease is located.

(2) The lessor agrees that he will not discriminate by segregation or otherwise against any person or persons because of race, creed, color, or national origin in furnishing, or by refusing to furnish, to such person or persons the use of any facility, including any and all services, privileges, accommodations, and activities provided thereby. Nothing herein shall require the furnishing to the general public of the use of any facility customarily furnished by the lessor solely to tenants, their employees, customers, patients, clients, guests, and invitees.

(3) It is agreed that the lessor's noncompliance with the provisions of this clause shall constitute a material breach of this lease. In the event of such noncompliance, the Government may take appropriate action to enforce compliance, may terminate this lease, or may pursue such other remedies as may be provided by law. In the event of termination, the lessor shall be liable for all excess costs of the Government in acquiring substitute space, including but not limited to the cost of moving to such space. Substitute space shall be obtained in as close proximity to the lessor's buildings as is feasible and moving costs will be limited to the actual expenses thereof as incurred.

(4) It is agreed that from and after the date hereof the lessor will, at such time as any agreement is to be entered into or a concession is to be permitted to operate, include or require the inclusion of, the foregoing provisions of this clause in every such agreement or concession pursuant to which any person other than the lessor operates or has the right to operate any facility. Nothing herein contained, however, shall be deemed to require the lessor to include or require the inclusion of the foregoing provisions of this clause in any existing agreement or concession arrangement or one in which the contracting party other than the lessor has the unilateral right to renew or extend the agreement or arrangement, until the expiration of the existing agreement or arrangement and the unilateral right to renew or extend. The lessor also agrees that he will take any and all lawful actions as expeditiously as possible, with respect to any such agreement as NASA may direct as a means of enforcing the intent of this clause, including, but not limited to, termination of the agreement or concession and institution of court action.

§ 18–1.850–3 Lease amendments and renewals.

(a) Prior to executing any amendment to a lease or exercising a lease renewal option, where the total rental exceeds $10,000 per year, the lessor shall be requested to enter into a supplemental agreement to incorporate in the lease, as part of the rental consideration, the "Facilities Nondiscrimination" clause set forth in § 18–1.850–2.

(b) The "Facilities Nondiscrimination" clause shall also be incorporated when the total aggregate rental of multiple NASA leases in a building is in excess of $10,000 per year.

(c) If agreement cannot be reached, the matter shall be submitted to the Director of Procurement with the recommendations of the Director of the installation, at least 30 days prior to the date on which the amendment is to be executed or the notice of renewal must be issued.

§ 18–1.850–4 Invitation for bids or request for proposals involving leases.

The "Facilities Nondiscrimination" clause, as set forth in § 18–1.850–2, shall be preceded by a paragraph substantially as follows, in all invitations for bids or requests for proposals involving leases:

If the total rental under this lease exceeds $10,000 per year, or if the total rental under this lease combined with the total rental under all other NASA leases of space in the building in which the space covered by this lease is located exceeds $10,000 per year, the lessor agrees to comply with the following provisions: (August 1963)

§ 18–1.850–5 Deviations.

Any proposed deletions or changes in the foregoing provisions required by this section shall be processed as deviations in accordance with § 18–1.109.

§ 18–1.851 Procurement of potentially hazardous items.

(a) Many of NASA's procurements involve items which are potentially hazardous; e.g., squibs used in initiating rocket motors. In order to minimize personal injury and property damage, it is the general policy of NASA to acquire detailed design information and drawings for potentially hazardous items for the benefit of users of the equipment on NASA contracts.

(b) Any invitation for bids or request for proposals involving the procurement of potentially hazardous items shall contain as a line item, and the resulting contract shall contain as a line item of the schedule, a requirement for the contractor or subcontractor to furnish complete design information and drawings showing all details of construction, including materials, for those items or components which are designated as potentially hazardous. NASA has desig-

nated the following as "potentially hazardous":

Electrosensitive initiating devices (squibs).

(c) The invitation for bids or request for proposals and contract shall also contain:

(1) Appropriate provisions concerning rights to use the design information, data, etc., in accordance with § 18–9.204–52, and

(2) The following clause:

POTENTIALLY HAZARDOUS ITEMS (SEPTEMBER 1964)

(a) The Contractor agrees to furnish complete design information and drawings showing all details of construction, including materials, for the items or components which are designated in the Schedule of this contract as potentially hazardous to employees and subcontractors who are to perform any work in connection with installing such items or components in combination with other equipment, or in testing such items or components either alone or in combination with other components, items or equipment, or in handling such items or components; and to inform such employees or subcontractors of the potentially hazardous nature of such items or components; before requesting or directing the performance of such work.

(b) The Contractor shall include this clause including this paragraph (b) in each subcontract he awards under the contract which calls for the manufacture or handling of the items or components designated in paragraph (a) as potentially hazardous.

§ 18–1.352 Special considerations in research and development contracts.

Research and development contracts shall, when source selection has been substantially predicated upon the possession by a given contractor of special capabilities, as represented by either key personnel or facilities, contain substantially the following clause setting forth the designated personnel and facilities:

KEY PERSONNEL AND FACILITIES (JUNE 1967)

The personnel and/or facilities listed below (or as specified in the Schedule of this contract) are considered to be essential to the work being performed hereunder. Prior to diverting any of the specified individuals or facilities to other programs the Contractor shall notify the Contracting Officer reasonably in advance and shall submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the program. No diversion shall be made by the Contractor without the written consent of the Contracting Officer: *Provided*, That the Contracting Officer may ratify in writing such diversion and such ratification shall constitute the consent of the Contracting Officer required by this clause. The personnel and/or facilities listed below (or as specified in the Schedule of this contract) may, with the consent of the Contracting parties, be amended from time to time during the course of the contract to either add or delete personnel and/or facilities, as appropriate.

§ 18–1.353 Construction contracts—disclosure of Government estimate.

(a) Except as provided in paragraph (c) of this section, in contracting for construction, access to or disclosure of information concerning the Government estimate shall be limited to Government personnel whose official duties require knowledge of the estimate.

(b) If the nature of the information contained in the Government estimate requires security classification, it shall be handled in accordance with applicable security regulations.

(c) When the nature of the information contained in the Government estimate does not require security classification, access to or disclosure of information concerning the Government estimate shall be furnished in accordance with the following:

(1) If the procurement is to be made by means of formal advertising, a copy of the Government estimate shall be sealed and kept locked with the bids until bid opening. Immediately after the bids have been opened, read, and recorded, the estimate shall be opened, read, and recorded in the same manner as the bids.

(2) In the case of a negotiated procurement, after the award has been made, the Government estimate may be furnished to individuals or firms upon their request.

§ 18–1.354 Procurements requiring immediate "on call" contractor performance.

(a) Frequently it becomes essential to the needs of NASA to contract for certain services which require immediate performance by a contractor after a minimum prior notice to proceed. Typical of such requirements are contracts for engineering services; maintenance, repair, or overhaul of specialized equipment; and printing or reproduction and data processing services to be furnished on a "call basis" where time is of the essence to meet priority requirements.

(b) When soliciting prospective contractors to perform services of this nature, the NASA policy of obtaining competition to the maximum practicable extent will be observed. Geographic limitations imposed on prospective contractors are apt to appear arbitrary to the business community and therefore are proper only in those cases where such limitations are demonstrably justifiable. Even in those circumstances, however, no firm desiring to compete for the procurement shall be denied the opportunity to do so, merely because it is located outside the geographic area. Such firms will be permitted to submit bids or proposals and will be considered for award, if otherwise qualified, provided they can substantiate their capability to establish a facility in a location which complies with any such required geographical limitation (see § 18–1.902–1(c)).

(c) A preferred method of obtaining services or supplies, which are required on a prompt response basis, is by clearly setting forth in the request for proposals or invitation for bids such requirement in terms of maximum time which may elapse between placement of the "order" or "call" and delivery date. Such time limitations, when required by the nature of the procurement, will normally meet the needs of NASA for prompt delivery without introducing any unnecessarily restrictive criteria on the competitive field of prospective contractors.

(d) Invitations for bid or requests for proposal which contemplate either a geographical area or time of performance limitation will be reviewed and approved by the Procurement Officer, or his designee, prior to distribution.

§ 18–1.355 Civil Rights Act of 1964—nondiscrimination in federally assisted programs.

(a) Section 602 of the Civil Rights Act of 1964 (Public Law 88–352; 42 U.S.C. 2000 d–1) requires that each Government agency which is empowered to extend Federal financial assistance shall issue rules or regulations effectuating Title VI (sec. 601–605) of the Act with respect to the Federal financial assistance programs or activities administered by the agency. NASA's Regulation is published in the FEDERAL REGISTER of January 9, 1965 (30 F.R. 301–305, 14 CFR Part 1250).

(b) The following NASA Grants and Contracts are within the purview of Title VI of the Act:

(1) Grants made under the authority of Public Law 85–934, approved September 6, 1958 (42 U.S.C. 1891–1893).

(2) Contracts with nonprofit institutions of higher education or with nonprofit organizations whose primary purpose is the conduct of scientific research wherein title to equipment purchased with funds under such contracts may be vested in such institutions or organizations under the authority of section 2 of Public Law 85–934, approved September 6, 1958 (42 U.S.C. 1892).

(3) Training grants made under the authority of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2451–2460, 2472–2473).

(4) Facilities grants made under authority in annual NASA authorization and appropriation acts.

(c) Further implementation, setting forth procedures and guidance, and assigning responsibilities to NASA officials, is contained in NASA Management Instruction 2090.1. For requirements for obtaining an Assurance of Compliance (NASA Form 1206), see §§ 18–2.501(e) and 18–4.5103(c).

§ 18–1.356 Procurement request.

(a) Procurement requests will be prepared and submitted to the procurement office in accordance with the provisions of NASA Management Instruction 5101.12.

(b) Except in unusual circumstances, the procurement office will not issue invitations for bids or requests for proposals until an approved procurement request, containing a certification that funds are available, has been received. However, the procurement office may take all necessary actions up to the point of contract obligation prior to the receipt of the approved procurement request certifying that funds are available, when:

(1) Such action is necessary to meet critical program schedules;

(2) It has been established that program authority has been issued and that funds to cover the procurement will be available prior to the date set for contract award or contract modification; and

(3) The Procurement Officer authorizes such action prior to the issuance of the invitation for bids or request for proposals.

(c) The procurement request shall be assigned within the procurement office to a negotiator who will be responsible to the contracting officer for conducting the business aspects of the transaction. The negotiator will review the request to ensure that it complies with NASA Management Instruction 5101.12, this chapter, and that the information contained in the request is in sufficient detail to prepare the invitation for bids or the request for proposals. Uncertain requirements or inconsistencies in the procurement request will be discussed with the initiator of the request and clarified prior to the initiation of procurement action.

§ 18–1.357 Procurement of liquid hydrogen.

(a) To ensure that adequate supplies of liquid hydrogen are readily available to meet current and future program requirements, NASA has established contractual arrangements with primary supply sources located at Michoud, La., and at Sacramento and Long Beach, Calif. These contracts will be used to the maximum extent practicable in supplying both in-house and contractor requirements for liquid hydrogen.

(b) Responsibility for administration of the sources and management of production and distribution operations have been vested in:

(1) The Marshall Space Flight Center for the Louisiana source; and

(2) The NASA Pasadena Office, for the California sources.

(c) Requests for furnishing liquid hydrogen will be submitted to either the Marshall Space Flight Center or to the NASA Pasadena Office. The supply source used will be the one located nearest the receiving destination.

§ 18–1.358 Funding by letter of credit.

Any contract with a nonprofit institution (including an educational institution) which, in accordance with the policy established in FMM 9280, is to provide for letter of credit funding and the use of a special bank account, shall contain the clause set forth in § 18–1.358–1. When deemed desirable, this clause may be modified to give the Government security other than that provided therein. The form of "Agreement for Special Bank Account," set forth in § 18–1.358–2 shall be used to establish the special bank account to cover funds provided by Letter of Credit.

§ 18–1.358–1 Contractor financing by letter of credit.

Except as provided in § 18–1.358, the following clause shall be used when a contract is to provide for advance funding by the Letter of Credit Method.

CONTRACTOR FINANCING BY LETTER OF CREDIT (MARCH 1967)

(a) The letter of credit procedures set forth in paragraphs 9280–1 through 9280–8 of the NASA Financial Management Manual shall be used by the contractor to obtain funds for allowable costs under this contract.

(b) The initial Letter of Credit will be issued in an amount determined by the Contracting Officer based on the needs of the Contractor. Subsequent amendments to the Letter of Credit will be on the basis of quarterly NASA Form 1081 reports submitted by the contractor and as approved by the Contracting Officer. In no instance will the initial Letter of Credit, any amendments thereto, or the aggregate of such initial Letter of Credit and any amendments, exceed the amount of the contract, as from time to time amended, less the amount of withholding provided therein.

(c) The funds in the special bank account shall be withdrawn by the Contractor solely for the purposes of making payments for items of allowable cost as defined in this contract, or to reimburse the Contractor for such items of allowable cost and for making payments for such other costs as the Contracting Officer otherwise has authority to approve, and does approve in writing.

(d) The Contractor may draw on the Letter of Credit using payment vouchers as follows:

(1) Payment vouchers may be executed only for the purpose of obtaining funds in the minimum amounts necessary for the following purposes: (i) Making payments for items of allowable costs as defined in this contract; (ii) reimbursing the Contractor for such items of allowable costs; and (iii) for making payments for such other costs as the Contracting Officer otherwise has authority to approve, and does approve in writing; and the funds so obtained may be used only for such purposes.

(2) Payment vouchers drawn should be timed to be in accordance with the actual cash requirements of the contractor in carrying out the purpose of the contract.

(e) NASA Form 1081 shall be submitted by the 20th of the month following the quarter being reported.

(f) Credits obtained under the Letter of Credit shall be in the special bank account with the bank executing the "Agreement for Special Bank Account". This account shall be separate from all other bank accounts and shall be so designated as to indicate clearly to the bank its special character and purpose. Withdrawals from this account shall be by the Contractor's check only; unless and until the Contracting Officer determines, and notifies the bank in writing, that such check shall be countersigned on behalf of the Government by the Contracting Officer.

(g) The Contractor may at any time repay all or any part of the funds or credit obtained under the Letter of Credit. When so requested in writing by the Contracting Officer, the Contractor shall repay to the Government such part of the unliquidated balance of advance payments as shall, in the opinion of the Contracting Officer, be in excess of the Contractor's current needs or in excess of the contract price or estimated cost as revised from time to time. In the event the Contractor fails to make repayment in accordance with such written request by the Contracting Officer, the amount of unliquidated advance payments requested may be withdrawn from the special bank account by checks payable to the Treasurer of the United States signed solely by the Contracting Officer.

(h) If upon completion or termination of this contract all amounts obtained by the Contractor under the Letter of Credit have not been fully liquidated by authorized charges under the contract, the balance thereof shall be deducted from any sums otherwise due or which may be due to the Contractor from the Government, and any excess funds shall be repaid by the Contractor to the Government upon demand.

(i) Before a withdrawal against the Letter of Credit is made hereunder, an "Agreement for Special Bank Account," in the form prescribed by the Contracting Officer, must be executed by and between the Contracting Officer, the Contractor and the bank in which the special account is to be established. Such bank shall be a member of the Federal Reserve System, or an "insured" bank within the meaning of the Act creating the Federal Deposit Insurance Corporation (Act of Aug. 23, 1935, 49 Stat. 694, as amended; 12 U.S.C. 264).

(j) Notwithstanding any other provisions of this contract, the Contractor shall not transfer, pledge, or otherwise assign this contract or any interest therein, or any claim arising thereunder, to any party or parties, bank, trust company, or other financing institution.

(k) The Government shall have a lien upon any balance in the special bank account paramount to all other liens, which lien shall secure the repayment of any funds obtained under the Letter of Credit.

(l) Any and all advance payments made under this contract shall be secured by a lien in favor of the Government, paramount to all other liens, upon the supplies or other things covered by this contract and on all material and other property acquired for or allocated to the performance of this contract, except to the extent that the Government by virtue of any other provision of this contract, or otherwise, shall have valid title to such supplies, materials, or other property as against other creditors of the Contractor. The Contractor shall identify by marking or segregation all property which is subject to a lien in favor of the Government by virtue of any provision of this contract in such a way as to indicate that it is subject to such lien and that it has been acquired for or allocated to the performance of this contract. If for any reason such supplies, materials, or other property are not identified by marking or segregation, the Government shall be deemed to have a lien to the extent of the Government's interest under this contract on any mass of property with which such supplies, materials, or other property are commingled. The Contractor shall maintain adequate accounting control over such property on his books and records. If at any time during the progress of the work on the contract it becomes necessary to deliver any item or items and materials upon which the Government has a lien as aforesaid to a third person, the Contractor shall notify such third person of the lien herein provided and shall obtain from such third person a receipt, in duplicate, acknowledging, inter alia, the existence of such lien. A copy of each receipt shall be delivered by the Contractor to the Contracting Officer. If this contract is terminated in whole or in part and the Contractor is authorized to sell or retain termination inventory acquired for or allocated to this contract, such sale or retention shall be made only if approved by the Contracting Officer, which approval shall constitute a release of the Government's lien hereunder to the extent that such termination inventory is sold or retained, and to the extent that the proceeds

of the sale, or the credit allowed for such retention on the Contractor's termination claim, is applied in reduction of advance payments then outstanding hereunder.

§ 18–1.858–2 Form of agreement for special bank account.

The following form shall be used to establish the special bank account or accounts for funds provided to a contractor by the Letter of Credit method.

AGREEMENT FOR SPECIAL BANK ACCOUNT

Agreement entered into this _____ day of _____, 19__, between the United States of America, hereinafter called the Government, represented by the Contracting Officer executing this agreement, _____, a corporation under the laws of the State of_____, hereinafter called the Contractor, and _____, a banking corporation under the laws of _____, located at _____, hereinafter called the Bank.

RECITALS

(a) Under date of _____, 19__, the Government and the Contractor entered into Contract(s) No. _____, or a Supplemental Agreement thereto, providing for the making of advance payments to the Contractor. Copy of such advance payment provisions has been furnished to the Bank.

(b) Said Contract or Supplemental Agreement requires that amounts advanced to the Contractor thereunder be deposited in a Special Bank Account or accounts at a member bank or banks of the Federal Reserve System or any "insured" bank within the meaning of the Act creating the Federal Deposit Insurance Corporation (Act of Aug. 23, 1935; 49 Stat. 684, as amended; 12 U.S.C. 264), separate from the Contractor's general or other funds; and, the Bank being such a bank, the parties are agreeable to so depositing said amounts with the Bank.

(c) This Special Bank Account shall be designated "_____ (Name of Contractor) _____ Special Bank Account (Department)."

COVENANTS

In consideration of the foregoing, and for other good and valuable considerations, it is agreed that—

(1) The Government shall have a lien upon the credit balance in said account to secure the repayment of all advance payments made to the Contractor, which lien shall be superior to any lien or claim of the Bank with respect to such account.

(2) The Bank will be bound by the provisions of said contract or contracts relating to the deposit and withdrawal of funds in the above Special Bank Account, but shall not be responsible for the application of funds withdrawn from said account. After receipt by the Bank of written directions from the Contracting Officer, or from the Administering Office designated in the advance payment contract mentioned above, or from the duly authorized representative of the Contracting Officer or the Administering Office, the Bank shall act thereon and shall be under no liability to any party hereto for any action taken in accordance with the said written directions. Any written directions received by the Bank through the Contracting Officer upon National Aeronautics and Space Administration stationery and purporting to be signed by, or by the direction of _____ or his duly authorized representative, shall, in so far as the rights, duties and liabilities of the Bank are concerned, be conclusively deemed to have been properly issued and filed with the Bank by the National Aeronautics and Space Administration.

(3) The Government, or its authorized representatives, shall have access to the books and records maintained by the Bank with respect to such Special Bank Account at all reasonable times and for all reasonable purposes, including (but without limiting the generality thereof) the inspection or copying of such books and records and any and all memoranda, checks, correspondence, or documents appertaining thereto. Such books and records shall be preserved by the Bank for a period of six (6) years after the closing of this Special Bank Account.

(4) In the event of the service of any writ of attachment, levy of execution, or commencement of garnishment proceedings, with respect to the Special Bank Account, the Bank will promptly notify _____ (Administering Office)

In witness whereof the parties hereto have caused this agreement to be executed as of the day and year first above written.

(Signatures and Official Titles)

Subpart 18–1.5—Contingent or Other Fees

§ 18–1.500 Scope of subpart.

This subpart sets forth the procedures to be followed and prescribes the form to be used for obtaining information concerning contingent or other fees paid by contractors for soliciting or securing contracts.

§ 18–1.502 Applicability.

This subpart applies to all contracts.

§ 18–1.503 Covenant against contingent fees clause.

Every contract, except when Standard Forms 19 and 19A are used for formally advertised construction contracts, shall contain the following clause:

COVENANT AGAINST CONTINGENT FEES (FEBRUARY 1965)

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

§ 18–1.504 Improper influence.

The term "improper influence" means influence, direct or indirect, which induces or tends to induce consideration or action by any employee or officer of the United States with respect to any Government contract on any basis other than the merits of the matter.

§ 18–1.505 General principles and standards applicable to the covenant.

The principles and standards set forth in this subpart are intended to be used as a guide in the negotiation, award, administration, and enforcement of all contracts.

§ 18–1.505–1 Contingent character of the fee.

Any fee, whether called commission, percentage, brokerage, or contingent fee, or otherwise denominated, is within the purview of the covenant if, in fact, any portion thereof is dependent upon success in obtaining or securing the Government contract or contracts involved. The fact, however, that a fee of a contingent nature is involved does not preclude a relationship which qualifies under the exceptions to the prohibition of the covenant.

§ 18–1.505–2 Exceptions to the prohibition of the covenant.

Excepted from the prohibition of the covenant are "bona fide employees" and "bona fide established or selling agencies maintained by the contractor for the purpose of securing business."

§ 18–1.505–3 Bona fide employee.

The term "bona fide employee," for the purpose of the exception to the prohibition of the covenant, means an individual (including a corporate officer) employed in good faith by a concern to devote his full time to such concern and no other concern and over whom the concern has the right to exercise supervision and control as to time, place, and manner of performance of work. It is recognized that a concern, especially a small business concern, may employ an individual who represents other concerns. The factors set forth in § 18–1.505–4, except paragraph (d) thereof, shall be applied to determine whether such an individual comes within the exception to the prohibition of the covenant. (However, in applying such factors, the word "employee" shall be substituted for the word or words "agent" and "selling agency" as they appear throughout § 18–1.505–4, except paragraph (d) thereof.)

(a) A person may be a bona fide employee whether his compensation is on a fixed salary basis or, when customary in the trade, on a percentage, commission, or other contingent basis or a combination of the foregoing.

(b) The hiring must contemplate some continuity and it may not be related only to the obtaining of one or more specific Government contracts.

(c) An employee is not "bona fide" who seeks to obtain any Government contract or contracts for his employer through the use of improper influence or who holds himself out as being able to obtain any Government contract or contracts through improper influence.

§ 18–1.505–4 Bona fide established commercial or selling agency maintained by the contractor for the purpose of securing business.

In determining whether an agency is a "bona fide established commercial or selling agency maintained by the contractor for the purpose of securing business," the factors set forth in paragraphs (a) through (e) of this section shall be considered. They are necessarily incapable of exact measurement or precise definition, and it is neither possible nor desirable to prescribe the relative weight to be given any single factor as against any other factor or as against all other factors. The conclusions to be reached in a given case will necessarily depend upon a careful evaluation of the agreement and other attendant facts and circumstances.

(a) The fees charged should not be inequitable and exorbitant in relation to the services actually rendered. That is, the compensation should be commensurate with the nature and extent of the services and should not be excessive as compared with the fees customarily allowed in the trade concerned for similar services related to commercial (non-Government) business. In evaluating reasonableness of the fee, the services of the agent other than actual solicitation should be considered; for example, technical, consultant, or managerial services, and assistance in the procurement of essential personnel, facilities, equipment, materials, or subcontractors for performance of the contract.

(b) The selling agency should have adequate knowledge of the products and the business of the concern represented, as well as other qualifications necessary to sell the products or services on their merits.

(c) There should ordinarily be a continuity of relationship between the contractor and the agency. The fact that the agency has represented the contractor over a considerable period of time is a factor for favorable consideration. It is not intended, however, to disqualify a newly established contractor-agent relationship where a continuing relationship is contemplated by the parties.

(d) It should appear that the agency is an established concern. The agency may be either one which has been in business for a considerable period of time or a new agency which is a presently going concern and which is likely to continue in business as a commercial or selling agency in the future. The business of the agency should be conducted in the agency name and characterized by the customary indications of the conduct of a regular business.

(e) The fact that a selling agency confines its selling activities to the field of Government contracts does not, in and of itself, disqualify it under the covenant. The fact, however, that the selling agency is employed to secure business generally, that is, to represent the concern in connection with sales to the Government as well as regular commercial sales to non-Government activities, is a factor entitled to favorable consideration in evaluating the case as one coming within the authorized exception. Arrangements confined, however, to obtaining Government contracts, particularly those involving a selling agency organized immediately prior to or during periods of expanded procurement resulting from conditions of national emergency, must be closely scrutinized. However, any agency or agent is not "bona fide" which seeks to obtain any Government contract or contracts for its principals through the use of improper influence or which holds itself out as being able to obtain any Government contract or contracts through improper influence.

§ 18–1.505–5 Fees for information.

Contingent fees paid for information leading to obtaining a Government contract or contracts are included in the prohibition and, accordingly, are in breach of the covenant unless the agent qualifies under the exception as a bona fide employee or a bona fide established commercial or selling agency maintained by the contractor for the purpose of securing business.

§ 18–1.506 Representation and agreement required from prospective contractors.

(a) Except as provided in § 18–1.507–2, contracting officers shall inquire of and secure a written representation from prospective contractors as to whether they have employed or retained any company or person (other than a full-time employee working solely for the prospective contractor) to solicit or secure the contract, and shall secure a written agreement to furnish information relating thereto as required by the contracting officer.

(b) When an invitation for bids is issued, the requirements of paragraph (a) of this section shall be accomplished by requiring the bidder to check the appropriate boxes in the following statement to be included in the invitation or bid form (also, see § 18–1.507–50):

Bidder or offeror represents: (a) That he [ ] has, [ ] has not, employed or retained any company or person (other than a full-time bona fide employee working solely for the bidder or offeror) to solicit or secure this contract, and (b) that he [ ] has, [ ] has not, paid or agreed to pay to any company or person (other than a full-time bona fide employee working solely for the bidder or offeror) any fee, commission, percentage, or brokerage fee, contingent upon or resulting from the award of this contract, and agrees to furnish information relating to (a) and (b) above as requested by the Contracting Officer. (For interpretation of the representation, including the term "bona fide employee," see Code of Federal Regulations, Title 44, Part 180.) (JANUARY 1964)

(c) When a procurement is to be effected by negotiation, the requirements of paragraph (a) of this section will be accomplished by requiring the offeror either to (1) check the appropriate boxes in the above statement, or (2) execute a written representation which substantially conforms with the above statement. This may be accomplished by including the above statement in the request for proposals or quotations or by obtaining an appropriate statement during the course of negotiations (also see § 18–1.507–50).

§ 18–1.506–1 Interpretation of the representation.

(a) For the purpose of the representation and agreement required from the prospective contractor, as described in § 18–1.506, the definition of "bona fide employee" is as specified in § 18–1.505–3.

(b) The fact that the prospective contractor retains a person who does not devote his full time solely to the prospective contractor does not necessarily mean that the relationship involved is in violation of the covenant against contingent fees or that there is any stigma attached to the contractor-agent relationship. It does mean, however, that the prospective contractor must fill out the representation in the affirmative and, as required, furnish information with respect to such employment or retainer.

(c) If the representation would otherwise be answered in the affirmative, the fact that the person employed or retained by the bidder or contractor is an attorney, or a public relations consultant, or has any other special or professional title, does not permit answering in the negative.

§ 18–1.507 Use of Standard Form 119.

Except as provided in § 18–1.507–3, Standard Form 119 shall be used without deviation when either part of the inquiry provided for by § 18–1.506 is answered in the affirmative. The form shall also be used without deviation in any other case when the contracting officer desires to obtain such information. When, after use of the form, further information is required, it may be obtained in any appropriate manner. Normally, submission of the form will be required only of successful bidders and contractors.

§ 18–1.507–1 Statement in lieu of form.

Any bidder or proposed contractor who has previously furnished a Standard Form 119 to the office issuing the invitation or negotiating the contract may be permitted to accompany his bid with, or submit in connection with the proposed contract, a signed statement:

(a) Indicating when such completed form was previously furnished;

(b) Identifying by number the previous invitation or contract in connection with which such form was submitted; and

(c) Representing that the statements in such previously furnished form are applicable to such subsequent bid or contract.

In such case, submission of an additional completed Standard Form 119 need not be required. See § 18–1.507–50.

§ 18–1.507–2 Exceptions.

The inquiry and agreement specified in § 18–1.506 need not be made and submission of Standard Form 119 need not be requested in connection with the following:

(a) Any advertised contract in which the aggregate amount involved does not exceed $25,000;

(b) Any negotiated contract in which the aggregate amount involved does not exceed $5,000;

(d) Any negotiated contract for perishable subsistence supplies in which the aggregate amount involved does not exceed $25,000;

(d) Any contract for services which are required to be performed by an individual contractor in person under Government supervision and paid for on a time basis;

(e) Any contract for public utility services furnished by a public utility company where the utility company's rates for the services furnished are subject to regulation by Federal, State, or other regulatory body and the public utility company is the sole source of supply; and

(f) Contracts to be made in foreign countries.

§ 18–1.507–50 Additional provision.

(a) In addition to the statement to be included in the invitation or bid form required by § 18–1.506, contracting officers may add the following provision to the invitation or bid form:

If the bidder, by checking the appropriate box provided therefor in his bid, has represented that he has employed or retained a company or person (other than a full-time bona fide employee) to solicit or secure this contract, he may be requested by the Contracting Officer to furnish with his bid a completed Standard Form No. 119 (Contractor's Statement of Contingent or Other Fees for Soliciting or Securing Contract). If the bidder has previously furnished a complete Standard Form No. 119 to the office issuing this invitation for bids, he may accompany his bid with a signed statement, in lieu of Standard Form 119, (a) indicating what such completed Form was previously furnished; (b) identifying by number the previous invitation for contract in connection with which such Form was submitted; and (c) representing that the statements in such previously furnished Form are applicable to this bid. (February 1962.)

(b) The statement, in paragraph (a) of this section, suitably modified, may be included in the request for proposals or quotations, in addition to the statement provided for in § 18–1.506(c).

§ 18–1.508 Enforcement.

The contracting officer shall take the necessary steps to ensure that the indicated successful bidder or proposed contractor has furnished a representation (negative or affirmative) and agreement as prescribed in § 18–1.506.

(a) If the indicated successful bidder or proposed contractor makes such representation in the negative, such representation may be accepted and award made or offer accepted in accordance with the procedures set forth in this chapter.

(b) If the indicated successful bidder or proposed contractor makes such representation in the affirmative, a completed Standard Form 119 shall be requested from the bidder or proposed contractor. In the case of formal advertising, the making of an award in accordance with the procedures set forth in this chapter need not be delayed pending receipt of the form. In the case of negotiation, if the proposed contractor makes such representation in the affirmative, he shall be required to file a completed Standard Form 119 prior to acceptance of the offer or execution of the contract, unless the Director of Procurement considers that the interest of the Government will be prejudiced by the suspension of negotiations pending receipt and consideration of an executed Standard Form 119.

(c) If the indicated successful bidder or proposed contractor fails to furnish the representation and agreement as set forth in § 18–1.506, such failure shall be considered a minor informality and, prior to award, such bidder or proposed contractor shall be afforded a further opportunity to furnish such representation and agreement. A refusal or failure to furnish such representation and agreement after such opportunity has been afforded shall require rejection of the bid or offer.

§ 18–1.508–1 Failure or refusal to furnish Standard Form 119.

If the otherwise successful bidder or contractor, upon request, fails or refuses to furnish a completed Standard Form 119, or a statement in lieu thereof as provided in § 18–1.507–1, one of the following actions shall be taken:

(a) If an award has not been made or an offer accepted, the matter shall be referred to the procurement officer for a determination as to whether the bid or offer should be rejected; or

(b) If the contract has been awarded or offer accepted, the matter shall be referred to the Director of Procurement, supported by a statement and summary of all pertinent facts and appropriate recommendations, for a determination as to what actions should be taken, such as making an independent investigation or considering the eligibility of the contractor as a future contractor.

§ 18–1.508–2 Misrepresentations or violations of the covenant against contingent fees.

In case of misrepresentation, or violation or breach of the covenant against contingent fees, or some other relevant impropriety, one or more of the following actions shall be taken:

(a) If an award has not been made or an offer accepted, the matter shall be referred to the procurement officer for a determination as to whether the bid or offer should be rejected; or

(b) If an award has been made or an offer accepted, the matter shall be referred to the Director of Procurement, supported by a statement and summary of all pertinent facts and appropriate recommendations, for a determination as to what actions should be taken, such as—

(1) Enforcing the covenant in accordance with its terms; that is, as the best interest of the Government may appear, annul the contract without liability or recover the full amount of the fee involved;

(2) Considering the eligibility of the contractor as a future contractor; or

(3) Referring the case to the Department of Justice.

§ 18–1.509 Preservation of records.

Contracting officers shall preserve, for enforcement or report purposes, at least one executed copy of any representation and completed Standard Form 119, or statement in lieu of the form, with a record of any other pertinent data, including data as to action taken.

§ 18–1.550 Responsibility for protecting information contained in completed Standard Form 119.

Information contained in completed Standard Form 119 shall be considered private and personal. Personnel having access to this information shall not discuss or transmit the information gained by them to any other person not entitled or authorized to have access to such information.

Subpart 18–1.6—Debarred, Ineligible, and Suspended Bidders

§ 18–1.600 Scope of subpart and definitions.

§ 18–1.600–1 Scope.

This subpart prescribes policies and procedures relating to the debarment of bidders for any cause, ineligibility of bidders under section 1(a) of the Walsh-Healey Public Contracts Act (41 U.S.C. 35(a)), and the suspension of bidders for alleged fraud or other criminal conduct.

§ 18–1.600–2 Definition of affiliates.

Business concerns are considered affiliates of each other when, either directly or indirectly:

(a) One concern or individual controls or has the power to control another; or

(b) A third party controls or has the power to control both.

In determining whether concerns are independently owned and operated and whether or not affiliation exists, consideration is given to all appropriate factors, including common ownership, common management, and contractual relationships.

§ 18–1.601 Establishment and maintenance of a list of firms or individuals debarred or ineligible.

§ 18–1.601–1 General.

NASA shall establish and maintain a list of firms and individuals whom it has debarred or suspended, to whom contract awards of any character, including sales, will not be made, and from whom bids or proposals will not be solicited as provided in this subpart. This list will supplement the Joint Consolidated List referred to in § 18–1.601–3. The Office of Procurement (Code KDP) is responsible for the establishment and maintenance of the NASA list and will issue copies of this list to each procurement office.

§ 18–1.601–2 Information contained in NASA list.

The NASA list shall show as a minimum the following information:

(a) The names (in alphabetical order) of those firms or individuals debarred, ineligible, or suspended with appropriate cross-references where more than one name is involved in a single action;

(b) The basis of authority for each action;

(c) The extent of restrictions imposed; and

(d) The termination date for each debarred listing.

§ 18–1.601–3 Joint consolidated list.

The Department of the Army is responsible, as prescribed in 32 CFR 1.601–3, for the issuance of a Joint Consolidated List of firms and individuals ineligible, disqualified, debarred, suspended, or otherwise prohibited from entering into contractual relationship with the departments of the Army, the Navy, and the Air Force. For the purposes of economy and uniformity, since the Military Departments contract essentially with the same segments of industry as NASA, the Joint Consolidated List is hereby adopted by NASA for its use, as supplemented by the list established and maintained by NASA. The Joint Consolidated List contains, as a minimum, the same type of information included in the NASA list (see § 18–1.601–2). Arrangements have been made with the Department of the Army to furnish NASA Headquarters with copies of the Joint Consolidated List. The Office of Procurement (Code KDP) will issue copies of this list to each procurement office.

§ 18–1.601–4 Protection of lists.

The NASA list shall be marked with and treated in accordance with the protective term, "Limit Access to Government Personnel," unless details are included which require a security classification. The Joint Consolidated List shall be treated in accordance with the protective term set forth thereon and shall be protected to prevent inspection of the contents by anyone other than Government personnel required to have access thereto. All correspondence relating to the NASA list and the Joint Consolidated List shall be marked and treated in accordance with the protective term, "Limit Access to Government Personnel," unless details are included which require a security classification, except that correspondence furnished to firms or individuals in accordance with § 18–1.604–4 or § 18–1.605–6 will not include any protective markings.

§ 18–1.601–50 Authority for making determinations.

(a) The Administrator or his authorized representative shall, upon appropriate recommendation, determine whether a firm or individual will be administratively debarred or suspended and included in the NASA list. The Administrator, by NASA Management Instruction 5101.11, has designated the Director of Procurement as an authorized representative of the Administrator for the purpose of making final determinations in respect to NASA debarments made pursuant to §§ 18–1.603(a)(1)(iii) and 18–1.604–1(b) and suspensions made pursuant to §§ 18–1.603(a)(4) and 18–1.605–2(b), including modifications and removals thereto. The debarment or suspension of firms or individuals is an administrative determination within the discretion of the Administrator or his authorized representative and each case will be decided upon its individual merits. The placement of a firm or individual on the list will be for the purpose of protecting the interest of the Government and not for punishment.

(b) In taking any action to debar or suspend a firm or an individual, the Director of Procurement will refer the proposed action to the Director, Inspections Division, NASA Headquarters, for comment and any necessary investigation. In addition, such action will be coordinated with the General Counsel and other staff offices or divisions, as appropriate.

§ 18–1.601–51 Compliance with NASA list and joint consolidated list.

NASA procurement personnel shall comply with the prohibitions contained in the NASA list and the Joint Consolidated List.

§ 18–1.602 Limitation.

No firm or individual will be included on the NASA list for causes or conditions other than those set forth in this subpart.

§ 18–1.603 Grounds for listing and treatment to be accorded listed concerns.

(a) A firm or individual may be listed for any of several reasons. The particular reason for listing determines the consequences thereof. The various types of listing and the treatment to be accorded each type are set forth below:

(1) Type A includes debarments in any of the following categories:

(i) Those listed by the Comptroller General pursuant to section 3 of the Walsh-Healey Public Contracts Act (41 U.S.C. 37) for violating the requirements of that Act;

(ii) Those listed by the Comptroller General pursuant to section 3 of the Davis-Bacon Act (40 U.S.C. 276a–2(a)) for violating the requirements of that Act; and

(iii) Those whom the Administrator or his authorized representative has determined to debar for any of the causes and under all of the conditions set forth in § 18–1.604.

Bids or proposals shall not be solicited from, nor invitations for bids or requests for proposals furnished to, nor contracts awarded to, firms or individuals who are listed as Type A and who are debarred because of Walsh-Healey or Davis-Bacon violations (subdivisions (i) and (ii) of this subparagraph). The same rules apply with respect to Type A listings within subdivision (iii) of this subparagraph, except as set forth in paragraph (d) of this section, or unless the listing indicates that the debarment is not to apply to procurement contracts or sales contracts (see § 18–1.606).

(2) Type B includes firms or individuals whom the Secretary of Labor has determined to be ineligible because they do not qualify as "manufacturers" or "regular dealers" within the meaning of section 1(a) of the Walsh-Healey Public Contracts Act (41 U.S.C. 35(a)). Under that Act, procurement contracts in excess of $10,000 shall not be awarded to firms or individuals under Type B listings for those materials, articles, or equipment with respect to which the firm or individual has been found to be ineligible. NASA, as a matter of policy, applies the same rule to contracts of $10,000 or less. However, bids or proposals may be solicited, and contracts in any amount may be awarded, for commodities with respect to which the firm or individual has not been declared ineligible. In connection with ineligibil-

ity under the Walsh-Healey Act (Type B listings only), the name of an individual may be listed as affiliated with an ineligible firm. This listing is intended only to prevent such individuals from evading ineligibility merely by changing their business names and addresses. It does not prohibit other firms in which such individuals have an interest, and which are qualified manufacturers or regular dealers, from receiving contracts subject to the Walsh-Healey Public Contracts Act.

(3) Type C includes firms or individuals whom the Administrator, pursuant to section 3(b) of the Buy American Act (41 U.S.C. 10b(b)), has found to have failed to comply with the Buy American Act clause required for construction contracts (see § 18–6.205 of this chapter). Bids or proposals for the construction, alteration, or repair of public buildings or public works in the United States or elsewhere shall not be solicited from firms or individuals under Type C listings; nor shall contracts for such work be awarded to such firms or individuals. However, firms or individuals under Type C listings may be solicited for bids or proposals and may be awarded contracts for other than the construction, alteration, or repair of public buildings or public works.

(4) Type D includes firms or individuals whom the Administrator or his authorized representative has determined to suspend for any of the causes and under all of the conditions set forth in § 18–1.605. Firms or individuals under Type D listings shall not be solicited for bids or proposals, nor awarded contracts, except as set forth in paragraph (d) of this section, or where the listing indicates that the suspension does not apply to procurement contracts or sales contracts (see § 18–1.606).

(5) Type E includes firms or individuals who have been reported by the Secretary of Labor to have violated labor standards provisions of any of the following statutes:

(i) Anti-Kickback Act (48 Stat. 948) as amended (40 U.S.C. 276(c));

(ii) Work Hours Act of 1962 (40 U.S.C. 327–333);

(iii) National Housing Act (53 Stat. 804) as amended (12 U.S.C. 1703);

(iv) Hospital Survey and Construction Act (60 Stat. 1040);

(v) Federal Airport Act (60 Stat. 170) as amended (49 U.S.C. 1101);

(vi) Housing Act of 1949 (63 Stat. 413) (42 U.S.C. 1441);

(vii) School Survey and Construction Act of 1950 (64 Stat. 967) (20 U.S.C. 251);

(viii) Federal Civil Defense Act of 1950 (64 Stat. 1245) as amended (50 U.S.C. 1245);

(ix) Defense Housing and Community Facilities and Services Act of 1951 (65 Stat. 293) as amended (42 U.S.C. 1591); and

(x) Area Redevelopment Act of 1961 (75 Stat. 47) (42 U.S.C. 2501).

Concerns under Type E listings shall not be awarded contracts which are subject to any of the foregoing statutes.

(6) Type F includes firms or individuals who have been reported by the Executive Vice Chairman of the President's Committee on Equal Employment Opportunity as ineligible for Government contracts for noncompliance with (i) the Equal Opportunity clause set forth in § 18–12.802–1, or (ii) the Equal Opportunity in Federally Assisted Construction Contracts clause set forth in § 18–12.802–2. Firms or individuals under Type F listings shall not be awarded contracts or be solicited for bids (see § 18–12.806–6).

(b) Administration of current contracts in all phases may be continued with a firm or individual, notwithstanding the listing of such firm or individual, unless otherwise prescribed by the Administrator or his authorized representative. However, payment of all or any part of funds due or to become due shall be withheld when such action is determined to be in the best interest of the Government by the Administrator or his authorized representative. When it appears necessary to withhold payments to protect the interests of the Government, action to withhold payment under the contract shall be initiated promptly by the contracting officer and the matter shall be referred to the Office of Procurement for decision. No payments shall be made pending this decision.

(c) When a listed firm or an individual is proposed as a subcontractor, the contracting officer shall decline to consent to subcontracting with such firm or individual in any instance in which consent is required of the Government before the subcontract is made. If award of a subcontract to a listed firm or individual is considered in the best interest of the Government, the contracting officer, prior to approving such award, shall submit a written recommendation to the Office of Procurement, citing complete and detailed justification for the award. Based on such justification, the Director of Procurement may authorize an exception to the restrictions imposed by the listings. In the case of subcontracts already in effect, prime contractors may not be required to terminate subcontracts with a listed firm or individual unless provisions of the prime contract reserve to the Government such control over subcontracting permitting the Government to require their termination. If the Government has such control, the contracting officer shall decide whether such subcontracts should be continued or terminated and forward his recommendations to the procurement officer (see § 18–1.226) for an appropriate determination. The procurement officer shall decide whether it is in the best interests of the Government to continue or terminate such subcontractors, unless otherwise prescribed by the Director of Procurement.

(d) The Administrator or his authorized representative may authorize exceptions to the restrictions imposed by Type A(iii) listings and Type D listings, including Type (Aiii) listings and Type D listings contained in the Joint Consolidated List, when it is determined that such action is in the best interest of the Government. In such cases, when it is considered necessary or advisable to solicit bids or proposals from, or to award a contract to, a listed firm or individual, the contracting officer shall submit a written recommendation to the Office of Procurement, citing complete and detailed justification for the proposed action. The recommendation will be based on such factors as (1) urgent delivery or performance schedules, or (2) inability to secure the supplies or services from other sources due to lead time, proprietary data, or lack of procurement data.

§ 18–1.604 Debarment of bidders.

§ 18–1.604–1 Authority in NASA to debar firms and individuals.

(a) The Administrator may, in the public interest, debar a firm or individual for any of the causes set forth in § 18–1.604–2.

(b) The Director of Procurement, as an authorized representative of the Administrator, is authorized to debar in the public interest a firm or an individual for any of the causes set forth in § 18–1.604–2, except for paragraph (6) thereof, in accordance with the procedures set forth in this Subpart 18–1.6.

§ 18–1.604–2 Causes for debarment.

(a) Conviction by or a judgment obtained in a court of competent jurisdiction for:

(1) Commission of fraud or a criminal offense as an incident to obtaining, attempting to obtain, or in the performance of a public contract;

(2) Violation of the Federal antitrust statutes arising out of the submission of bids or proposals; or

(3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty, which seriously and directly affects the question of present responsibility as a Government contractor.

If the conviction or judgment is reversed on appeal, the debarment shall be removed upon receipt of notification thereof. The foregoing does not necessarily require that a firm or individual be debarred. The decision to debar is discretionary; the seriousness of the offense and all mitigating factors shall be considered in making the decision to debar.

(b) Clear and convincing evidence of violation of contract provisions, as set forth below, when the violation is of a character so serious as to justify debarment action:

(1) Willful failure to perform in accordance with the specifications or delivery requirements in a contract;

(2) A history of failure to perform, or of unsatisfactory performance, in accordance with the terms of one or more contracts: *Provided*, That such failure or unsatisfactory performance is within a

reasonable period of time preceding the determination to debar (failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered as a basis for debarment); or

(3) Violation of the contractual provision against contingent fees.

(c) Any other causes affecting responsibility as a Government contractor of such serious and compelling nature as may be determined by the Administrator to justify debarment: *Provided*, That no firm or individual shall be debarred for failure to comply with (1) the Equal Opportunity clause set forth in § 18–12.802–1 or (2) the Equal Opportunity in Federally Assisted Construction Contracts clause set forth in § 18–12.802–2, except as prescribed under § 18–12.806–3.

(d) Debarment for any of the above causes by some other executive agency of the Government. Such debarment may be based entirely upon the record of facts obtained by the original debarring agency, or upon a combination of additional facts with the record of facts of the original debarring agency.

§ 18–1.604–3 Period and scope of debarment.

(a) *Period of debarment.* All debarments by NASA shall be for a reasonable, specified period of time, commensurate with the seriousness of the cause therefor. As a general rule, a period of debarment will not exceed 3 years. In the event debarment is preceded by suspension, consideration shall be given to such period of suspension in determining the period of debarment. Prior to the expiration of the debarment period of any firm or individual who has been debarred by NASA for any of the causes set forth in § 18–1.604–2, the Director of Procurement will cause all of the facts and circumstances relating to the debarment to be reviewed. The debarment shall be removed at the expiration of the specified period, unless, on the basis of an evaluation of newly developed facts, it is determined that debarment for an additional period is required in order to protect the Government's interests. Where debarment for an additional period is considered necessary, notice of the proposed debarment shall be furnished the firm or individual in accordance with § 18–1.604–4. The debarment of a firm or individual may be modified by reducing the period thereof when the circumstances justify such action. With respect to debarment for violation of the (1) Equal Opportunity clause set forth in § 18–12.802–1, or (2) the Equal Opportunity in Federally Assisted Construction Contracts clause set forth in § 18–12.802–2 (Type F), the names of such firms or individuals shall be removed from the NASA list (§ 18–1.601–1) upon receipt of notification from the Executive Vice Chairman of the President's Committee on Equal Employment Opportunity that the eligibility of such firms or individuals has been reestablished.

(b) *Scope of debarment.* (1) Debarment may include all known affiliates of a firm or individual. For the definition of an affiliate, see § 18–1.600–2.

(2) An attempt shall be made to determine who are the affiliates of any firm or individual who is proposed to be debarred. Consideration shall be given to initiating debarment against such affiliates whenever the facts and circumstances justify debarment of the firm or individual concerned would also justify debarment of such affiliates.

(3) The fraud or criminal conduct of an individual may be imputed to the business firm with which he is connected whenever the impropriety involved was performed in the course of official duty or with the knowledge or approval of the business firm.

§ 18–1.604–4 Notice of debarment.

(a) The firm or individual proposed for debarment shall be furnished with a written notice of the proposed debarment by the Director of Procurement, stating as a minimum:

(1) The fact that debarment is being considered;

(2) The reasons for the proposed debarment; and

(3) The period of time to be afforded to present information for consideration. Information in opposition to a proposed debarment may be presented in person, in writing, or through representation. The period of time to be afforded to present information for consideration shall be limited to 30 days unless the firm or individual requests and justifies additional time. When no additional time is requested, the debarment determination, including the notice to the firm or individual, shall be completed within 90 days. When additional time is requested and it is determined to grant such additional time, the 90-day period shall be adjusted accordingly. If the firm or individual is not under suspension, pursuant to § 18–1.605, the notice of proposed debarment will inform the firm or individual that no contracts shall be awarded to such firm or individual pending the debarment determination.

(b) If the firm or individual proposed for debarment has affiliates who are also proposed to be debarred, the procedures set forth in paragraph (a) of this section shall be applied to such affiliates.

(c) If debarment is effected, the firm or individual and the affiliates that have been debarred will be notified by the Director of Procurement, in writing, within 10 days after determination of debarment has been made. This notice will:

(1) Reference the earlier notice of proposed debarment;

(2) Specify the reasons for debarment; and

(3) State the period of debarment, including effective dates.

If, following the notice of proposed debarment, a determination is made that debarment will not be effected, the Director of Procurement will notify the firm or individual in writing accordingly.

(d) Copies of the notice of debarment and of any removals from such debarment will be furnished to the General Services Administration.

(e) All inquiries or correspondence from or in behalf of debarred contractors concerning their status, reasons for debarment action, etc., shall be forwarded to the Office of Procurement (Code KDP) for appropriate action.

§ 18–1.604–50 Reporting procedures.

(a) Procurement officers may submit reports recommending debarment of a firm or individual for any of the causes set forth in § 18–1.604–2. Such actions shall be coordinated with local counsel.

(b) Reports recommending debarment shall be submitted in triplicate to the Office of Procurement (Code KDP). Each such report shall contain a complete statement of the facts concerning the firm's or individual's dereliction, including affidavits, depositions, records of action, if applicable, and any other relevant data. Names and addresses of all persons having knowledge of the circumstances shall be included. Such reports shall include the names and addresses of all known affiliates of reported firms or individuals, together with the nature of such affiliation.

§ 18–1.605 Suspension of bidders.

§ 18–1.605–1 General.

Suspension of a firm or an individual is a drastic action which must be based upon adequate evidence rather than mere accusation. In assessing adequate evidence, consideration should be given to how much credible information is available, its reasonableness in view of surrounding circumstances, corroboration or lack thereof as to important allegations, and inferences which may be drawn from the existence or absence of affirmative facts. This assessment should include an examination of basic documents, such as contracts, inspection reports, and correspondence. The suspension of a firm or individual is an administrative determination which may be modified when determined to be in the interest of the Government.

§ 18–1.605–2 Authority in NASA to suspend firms or individuals.

(a) The Administrator may, in the interest of the Government, suspend a firm or individual for any of the causes set forth in § 18–1.605–3.

(b) The Director of Procurement, as an authorized representative of the Administrator, is authorized to suspend in the interest of the Government a firm or individual for any of the causes set forth in § 18–1.605–3, except for paragraph (2) thereof, in accordance with the procedures set forth in this Subpart 18–1.6.

§ 18–1.605–3 Causes for suspension.

A firm or individual may be suspended, whenever such suspension is determined to be in the interest of the Government, for the following causes:

(a) Whenever the firm or individual is suspected of—

(1) Commission of fraud or a criminal offense as an incident to obtaining, attempting to obtain, or in the performance of a public contract;

(2) Violation of the Federal antitrust statutes arising out of the submission of bids and proposals; or

(3) Commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which seriously and directly affects the question of present responsibility as a Government contractor.

(b) Any other causes of such serious and compelling nature as may be determined to justify suspension: *Provided*, That no firm or individual shall be suspended for failure to comply with the Equal Opportunity clause set forth in § 18–12.802–1, or the Equal Opportunity in Federally Assisted Construction Contracts clause set forth in § 18–12.802–2, except as prescribed under § 18–12.806–3.

§ 18–1.605–4 Period and scope of suspension.

(a) *Period of suspension.* All suspensions made by NASA shall be for a temporary period pending the completion of investigations and such legal proceedings as may ensue.

(1) In the event a firm or individual is suspended for any cause set forth in § 18–1.605–3(1) and prosecutive action is not initiated by the Department of Justice within 12 months from the date of the notice of suspension, the suspension shall be terminated unless an Assistant Attorney General requests continuation of the suspension. If such a request is received, the suspension may be continued for an additional 6 months. Notice of the proposed removal of the suspension shall be given to the Department of Justice 30 days prior to the expiration of the 12-month period. In no event shall suspension continue beyond 18 months unless prosecutive action has been initiated within that period. Where prosecutive action is initiated, the suspension may continue until legal proceedings are completed.

(2) In the event a firm or an individual is suspended by the Administrator for any cause in accordance with § 18–1.605–3(2), the period of suspension shall not exceed 90 days. The period of suspension may be extended for additional periods of 90 days upon a determination by the Administrator of the reasons and necessity therefor. However, in no event shall the total of any suspension under this § 18–1.605–4 exceed one year or be in addition to any period of suspension under subparagraph (1) of this paragraph.

(3) Upon the completion of the legal proceedings under subparagraph (1) of this paragraph or investigation under subparagraph (2) of this paragraph the suspension shall be removed and, if appropriate, changed to a debarment in accordance with § 18–1.604–2(a). Firms or individuals released from suspension and not debarred shall be replaced on appropriate bidders lists.

(b) *Scope of suspension.* (1) Suspension may include all known affiliates of a firm or individual. For the definition of an affiliate, see § 18–1.600–2.

(2) An attempt shall be made to determine who are the affiliates of any firm or individual who is proposed to be suspended. Consideration shall be given to suspending such affiliates whenever the facts and circumstances justifying suspension of the firm or individual concerned would also justify suspension of such affiliates.

(3) The fraud or criminal conduct of an individual may be imputed to the business firm with which he is connected whenever the impropriety involved was performed in the course of official duty or with the knowledge or approval of the business firm.

§ 18–1.605–5 Restrictions during period of suspension.

Suspended firms or individuals shall be subject to the provisions of § 18–1.603 (a) (4), (b), and (c).

§ 18–1.605–6 Notice of suspension.

(a) The firms or individuals who have been suspended will be furnished a written notice, by the Director of Procurement, of the suspension within 10 days after the effective date of the suspension. The notice of suspension will state:

(1) That the suspension is based on information that the firm or individual has committed irregularities of a serious nature in business dealings with the Government or that the suspension is based on irregularities which seriously reflect on the propriety of further dealings of the firm or individual with the Government, together with a description of the nature of those irregularities, in general terms, without disclosing the Government's evidence;

(2) That the suspension is for a temporary period pending the completion of an investigation and such legal proceedings as may ensue; and

(3) That bids and proposals will not be solicited from such firms or individuals and if received will not be considered, and awards of contracts may not be made, unless it is determined to be in the best interest of the Government by the Administrator or his authorized representative to do so.

(b) Copies of the notice of suspension and of any removal from such suspension shall be furnished to the Department of Justice.

(c) All inquiries or correspondence from or in behalf of suspended firms and individuals concerning their status, reasons for suspension, and so forth, shall be forwarded to the Office of Procurement (Code KDP) for appropriate action. Information beyond that stated in the notice of suspension concerning the reasons for suspension shall not be furnished to the contractor or his representatives until the Department of Justice has been advised of the inquiry.

§ 18–1.605–50 Reporting procedures.

(a) Procurement officers may submit reports recommending suspension of a firm or individual for any of the causes set forth in § 18–1.605–3. Such actions shall be coordinated with local counsel.

(b) Reports recommending suspension shall be submitted in triplicate to the Office of Procurement (Code KDP). Such reports shall contain a complete statement of the pertinent facts indicating alleged criminal conduct, fraudulent activity, or suspicion thereof, and shall be supported by appropriate exhibits, including copies of any contracts involved and any assignments of claims thereunder. Such reports shall include the names and addresses of all known affiliates of reported firms or individuals, together with the nature of such affiliation.

§ 18–1.606 Limited debarment or suspension.

When it is determined to debar or suspend a concern pursuant to § 18–1.604 or 18–1.605, the Administrator or his authorized representative shall decide whether the debarment or suspension should extend to procurement contracts or sales contracts or to both. If the debarment or suspension is limited to either procurement contracts or sales contracts, the listing should so indicate. Likewise, a decision may be made to except from an administrative debarment or suspension a particular commodity or commodities or a particular division or subsidiary or other appropriate organizational element of the contractor where such action is considered to be in the best interests of the Government.

§ 18–1.607 Interchange of debarment information.

(a) The General Services Administration, in accordance with FPR 1–1.607(a), is charged with compiling from the notice of debarments furnished it by NASA and other executive agencies a combined list of such debarments, including the basis of action, and distributing a copy of such list to NASA and all other executive agencies.

(b) The list furnished by General Services Administration shall be for information purposes only; it is not intended to take the place of, or be an addition to, the lists used by NASA.

(c) The Office of Procurement will check the combined list of debarred bidders furnished by the General Services Administration and consider firms or individuals listed thereon for inclusion upon the NASA list, in accordance with the provisions of this Subpart 18–1.6.

(d) On specific request of the Director of Procurement, the General Services Administration has agreed to furnish to NASA, in accordance with FPR 1–1.607 (b), a copy of the notice reflecting the basis for debarment action taken by another agency pursuant to its regulations or under the Buy American Act (41 U.S.C. 10a–d) (see § 18–1.603(a)(3) Type C listing). If desired, the Director of Procurement may make a direct inquiry concerning any debarment case to the agency which originated the action.

Subpart 18–1.7—Small Business Concerns

§ 18–1.700 Scope of subpart.

(a) To implement the Small Business Act of 1958, as amended (15 U.S.C. 631 et seq.), and the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2451–2459), this subpart sets forth:

(1) Policy regarding small business concerns;

(2) Policy governing relationships with the Small Business Administration;

(3) Small business set-aside procedures;

(4) Small business subcontracting policies;

(5) Procedures concerning use of Small Business Administration certificates of competency; and

(6) Information concerning size standards of the Small Business Administration.

(b) This Subpart § 18–1.7 applies only in the United States, its possessions and Puerto Rico.

§ 18–1.701 Definitions.

The definitions of small business concerns are promulgated by the Small Business Administration (SBA). As used throughout this subpart, the following terms shall have the meanings set forth below.

§ 18–1.701–1 Small business concern.

(a) (1) *General definition.* A small business concern for the purpose of Government procurement is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is bidding on Government contracts and can further qualify under the criteria set forth in this Subpart. When computing the size status of a bidder or offeror, the number of employees, annual sales or receipts, or other applicable standards of the bidder or offeror and all of its affiliates shall be included. "Concern" means any business entity organized for profit with a place of business in the United States, its possessions or Puerto Rico, including but not limited to an individual, partnership, corporation, joint venture, association, or cooperative.

(2) *Industry small business size standards.* In addition to being independently owned and operated, and not dominant in the field of operation in which it is bidding on Government contracts, a small business concern in order to qualify as such must meet the appropriate small business size standards established for the industries set forth in subdivisions (i) through (v) of this subparagraph. Contracting officers shall use the Standard Industrial Classification Manual, including the 1963 supplement thereto, prepared by the Bureau of the Budget, as a guide to determine the appropriate industry classification for each item or service to be procured. If a procurement calls for more than one item, the bidder must meet the size standard for each item for which it submits a bid. The determination of the appropriate classification of a product shall be made by the contracting officer and his determination shall be final unless appealed in the manner provided in § 18–1.703(b)(4). When an item is classified into two or more industries with different small business size standards, the smallest of such size standards shall be used. When more than one item is being procured and two or more industries with different size standards are involved, the bidder must meet the small business size standard for each item for which he submits a bid. Contracting officers may obtain advice from the SBA Regional Office serving the area in which the procurement office is located, when in doubt concerning the appropriate small business size standard to be prescribed for a particular procurement. The term "annual receipts" as used throughout this Part 18–1 means the annual receipts, less returns and allowances, of a concern and its affiliates during its most recently completed fiscal year. If no standard for an industry, field of operation, or activity; e.g., animal specialities, fin fish, anthracite mining, management-logistics support (outside of the several States, Commonwealth of Puerto Rico, Virgin Islands or the District of Columbia) has been set forth in subdivisions (i) through (vi) of this paragraph (a)(2), a concern bidding on a Government contract is a small business if including its affiliates, it is independently owned and operated, is not dominant in the field of operation in which it is bidding on Government contracts, and has 500 employees or less.

(i) *Construction industries.* In bidding on a contract for construction, alteration, or repair (including painting and decorating) of buildings, roads, or other real property, the average annual receipts of the concern and its affiliates for its preceding three fiscal years must not exceed $7,500,000, except that if the concern is located in Alaska, such receipts must not exceed $9,375,000. In bidding on a contract for dredging, the average annual receipts of the concern and its affiliates for its preceding, three fiscal years must not exceed $5 million, except that if the concern is located in Alaska, such receipts must not exceed $6,250,000.

(ii) *Manufacturing industries*—(a) *Food canning and preserving industry.* In bidding on a contract for food canning and preserving, the number of employees of the concern and its affiliates must not exceed 500 persons exclusive of "agricultural labor" as defined in 26 U.S.C. 3306(K).

(b) *Petroleum industry.* In bidding on a contract for petroleum, other than lubricants and miscellaneous petroleum products, the number of employees of the concern and its affiliates must not exceed 1,000 employees and it must not have more than 30,000 barrels per day crude oil capacity from owned or leased facilities. ("Crude oil capacity" means the maximum daily average crude throughput of a refinery in complete operation with allowances for necessary shutdown time for routine maintenance, repairs, etc. It approximates the maximum daily average crude runs to stills that can be maintained for an extended period.)

(c) *Manufacturing industries listed in § 18–1.701–4.* In bidding on a contract for a product classified within an industry listed in § 18–1.701–4, the number of employees of the concern and its affiliates must not exceed the small business size standard established therein for that industry.

(d) *Manufacturing industries not listed in § 18–1.701–4.* In bidding on a contract for a product classified within an industry not set forth in this subdivision (ii) or in § 18–1.701–4, the number of employees of the concern and its affiliates must not exceed 500 persons.

(iii) *Nonmanufacturing industry.* One who submits bids or offers in his own name but who proposes to furnish a product not manufactured by himself shall be deemed to be a small business concern only if (a) he is a small business concern within the meaning of § 18–1.701–1, (b) he employs not more than 500 persons, and (c) in the case of a procurement set-aside for small business (see § 18–1.706) or involving equal low bids (see § 18–2.407–8 of this chapter), or otherwise involving the preferential treatment of small business, he agrees to furnish in the performance of the contract end items manufactured or produced in the United States, its possessions, or Puerto Rico, by small business concerns: *Provided*, That this subdivision does not apply to construction or service contracts. However, if the goods to be furnished are wool, worsted, knitwear, duck, webbing, and thread (spinning and finishing), nonmanufacturers (dealers and converters) shall furnish such products which have been manufactured or produced by a small weaver (small knitter for knitwear) and, if finishing is required, by a small finisher.

(iv) *Services industries.* (a) For services not elsewhere defined in this subpart, the average annual sales or receipts of the concern and its affiliates for the preceding 3 fiscal years must not exceed $1 million ($1,250,000 if located in Alaska).

(b) Any concern bidding on a contract for engineering services is classified as small if its average annual sales or receipts for its preceding 3 fiscal years do not exceed $5 million ($6,250,000 if located in Alaska).

(c) Any concern bidding on a contract for motion picture production or motion picture services is classified as small if its average annual sales or receipts for its preceding 3 fiscal years do not exceed $5 million ($6,250,000 if located in Alaska).

(d) Any concern bidding on a contract for janitorial and custodial services is classified as small if its average annual sales or receipts for its preceding 3 fiscal years do not exceed $3 million.

(e) Any concern bidding on a contract for base maintenance is classified as

small if its average annual sales or receipts for its preceding 3 fiscal years do not exceed $5 million. "Base maintenance" means furnishing at an installation within the several States, Commonwealth of Puerto Rico, Virgin Islands, or the District of Columbia, three or more of the following services: janitorial and custodial services, protective guard services, commissary services, fire prevention services, refuse collection services, safety engineering services, messenger services, grounds maintenance, and landscaping services, and air-conditioning and refrigeration maintenance: *Provided, however,* That whenever the contracting officer determines prior to the issuance of bids that the estimated value of one of the foregoing services constitutes more than 50 percent of the estimated value of the entire contract, the contract shall not be classified as base maintenance but in the industry in which such service is classified.

(v) *Transportation industry*—(a) *General.* Except as provided in subdivisions (b) and (c) for passenger or freight transportation, the number of employees of the concern and its affiliates must not exceed 500 persons.

(b) *Air transportation.* For air transportation, the number of employees of the concern and its affiliates must not exceed 1,000 persons.

(c) *Trucking (local and long distance), warehousing, packing, and crating, and/or freight forwarding.* For trucking (local and long distance), warehousing, packing, and crating, and/or freight forwarding, the annual receipts of the concern and its affiliates must not exceed $3 million except that if the concern is located in Alaska, such receipts must not exceed $3,750,000. No such concern, however, will be denied small business status for the purpose of Government procurement solely because of its contractual relationship with a large interstate van line, if (1) the concern's annual receipts have not exceeded $3 million during its most recently completed fiscal year ($3,750,000 if located in Alaska), and (2) not more than fifty percent (50%) of such annual receipts are directly attributable to the concern's relationship with an interstate van line.

(vi) *Research, development, or testing industries.* For research, development, or testing, which requires delivery of a manufactured product, a concern must (a) qualify as a small business manufacturer within the meaning of b above for the industry in which the product is classified, or (b) qualify as a small business nonmanufacturer within the meaning of subdivision (iii) of paragraph (a)(2). For research, development, or testing, which does not require delivery of a manufactured product, the number of employees of the concern and its affiliates must not exceed 500 persons.

(3) *Small business subcontractors.* In connection with subcontracts of $2,500 or less, any concern shall be considered a small business concern if it, with its affiliates, has not more than 500 employees. In connection with subcontracts exceeding $2,500, any concern shall be considered a small business concern if it qualifies as such under subparagraphs (1) and (2) of this paragraph.

(b) *Dominance in field of operations.* A concern is not "dominant in its field of operations" when it does not exercise a controlling or major influence in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration is given to all appropriate factors including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, and license agreements, facilities, sales territory, and nature of business activity.

(c) *Affiliates.* Business concerns are affiliates of each other when either directly or indirectly (1) one concern controls or has the power to control the other, or (2) a third party controls or has the power to control both. In determining whether concerns are independently owned and operated and whether or not affiliation exists, consideration is given to all appropriate factors including common ownership, common management, and contractual relationship.

(d) *Number of employees.* In connection with the determination of small business status, except as the SBA otherwise determines in a particular industry or part thereof, "number of employees" means the average employment of any concern including the employees of its domestic and foreign affiliates based on the number of persons employed on a full-time, part-time, temporary, or any other basis during the pay period ending nearest the last day of the third month in each calendar quarter for the preceding four quarters. If a concern has not been in existence for four full calendar quarters, "numbers of employees" means the average employment of such concern and its affiliates during the period such concern has been in existence based on the number of persons employed during the pay period ending nearest the last day of each month.

(e) *Small business certificate.* A small business certificate is a certificate issued by SBA pursuant to the authority contained in sections 3 and 8(b)(6) of the Small Business Act (15 U.S.C. 637) certifying that the holder of the certificate is a small business concern for the purpose of Government procurement and in accordance with the terms of the certificate.

§ 18–1.701–4 Manufacturing industry employment size standards.

The Standard Industrial Classification Manual (and the 1963 supplement thereto) index provides an alphabetical list of products and the industry with which the product is associated, which includes references to the Classification Code set forth below.

Classification code	Industry	Employment size standard (Number of employees)[1]
	Major Group 19—Ordnance and Accessories	
1926	Guided missiles and space vehicles, completely assembled	1,000
1931	Tanks and tank components	1,000
1951	Small arms	1,000
1961	Small arms ammunition	1,000
	Major Group 20—Food and Kindred Products	
2032	Canned specialties	1,000
2043	Cereal preparations	1,000
2046	Wet corn milling	750
2052	Biscuit, crackers, and pretzels	750
2062	Cane sugar refining	750
2063	Beet sugar	750
2085	Distilled, rectified, and blended liquors	750
2088	Vegetable oil mills, except cottonseed and soybean	1,000
2096	Shortening, table oils, margarine and other edible fats and oils, not elsewhere classified	750
	Major Group 21—Tobacco Manufactures	
2111	Cigarettes	1,000
	Major Group 22—Textile Mill Products	
2211	Broad woven fabric mills, cotton	1,000
2261	Finishers of broad woven fabrics of cotton	1,000
2271	Woven carpets and rugs	750
2296	Tire cord and fabric	1,000
	Major Group 26—Paper and Allied Products	
2611	Pulp mills	750
2621	Paper mills, except building paper mills	750
2631	Paperboard mills	750
2646	Pressed and molded pulp goods	750
2654	Sanitary food containers	750
2661	Building paper and building board mills	750
	Major Group 28—Chemicals and Allied Products	
2812	Alkalies and chlorine	1,000
2813	Industrial gases	1,000
2815	Dyes, dye (cyclic) intermediates, and organic pigments (lakes and toners)	750
2816	Inorganic pigments	1,000
2818	Industrial organic chemicals, not elsewhere classified	1,000
2819	Industrial inorganic chemicals, not elsewhere classified	750
2821	Plastic materials, synthetic resins, and nonvulcanizable elastomers	750
2822	Synthetic rubber (vulcanizable elastomers)	1,000
2823	Cellulosic man-made fibers	1,000
2824	Synthetic organic fibers, except cellulosic	1,000
2833	Medicinal chemicals and botanical products	750
2834	Pharmaceutical preparations	750
2841	Soap and other detergents, except specialty cleaners	750
2892	Explosives	750
	Major Group 29—Petroleum Refining and Related Industries	
2911	Petroleum refining [2]	1,000
2952	Asphalt felts and coatings	750

See footnotes at end of table.

Classification code	Industry	Employment size standard (Number of employees)[1]
	Major Group 30—Rubber and Miscellaneous Plastics Products	
3011	Tires and inner tubes	1,000
3021	Rubber footwear	1,000
3031	Reclaimed rubber	750
	Major Group 32—Stone, Clay, and Glass Products	
3211	Flat glass	1,000
3221	Glass containers	750
3229	Pressed and blown glass and glassware, not elsewhere classified	750
3241	Cement, hydraulic	750
3261	Vitreous china plumbing fixtures and china and earthware fittings and bathroom accessories	750
3275	Gypsum products	1,000
3292	Asbestos products	750
3296	Mineral wool	750
3297	Nonclay refractories	750
	Major Group 33—Primary Metal Industries	
3312	Blast furnaces (including coke ovens), steel works, and rolling mills	1,000
3313	Electrometallurgical products	750
3315	Steel wire drawing and steel nails and spikes	1,000
3316	Cold rolled sheet, strip and bars	1,000
3317	Steel pipe and tubes	1,000
3331	Primary smelting and refining of copper	1,000
3332	Primary smelting and refining of lead	1,000
3333	Primary smelting and refining of zinc	750
3334	Primary production of aluminum	1,000
3339	Primary smelting and refining of nonferrous metals, not elsewhere classified	750
3351	Rolling, drawing, and extruding of copper	750
3352	Rolling, drawing, and extruding of aluminum	750
3356	Rolling, drawing, and extruding of nonferrous metals, except copper and aluminum	750
3357	Drawing and insulating of nonferrous wire	1,000
3399	Primary metal industries, not elsewhere classified	750
	Major Group 34—Fabricated Metal Products, Except Ordnance, Machinery, and Transportation Equipment	
3411	Metal cans	1,000
3431	Enameled iron and metal sanitary ware	750
	Major Group 35—Machinery, Except Electrical	
3511	Steam engines; steam, gas, and hydraulic turbines; and steam, gas, and hydraulic turbine generator set units	1,000
3519	Internal combustion engines, not elsewhere classified	1,000
3531	Construction machinery and equipment	750
3562	Ball and roller bearings	750
3571	Computing and accounting machines, including cash registers	1,000
3572	Typewriters	1,000
3585	Refrigeration machinery, except household; and complete air conditioning units	750
	Major Group 36—Electrical Machinery, Equipment, and Supplies	
3612	Power, distribution, and specialty transformers	750
3613	Switchgear and switchboard apparatus	750
3621	Motors and generators	1,000
3623	Industrial controls	750
3624	Carbon and graphite products	750
3631	Household cooking equipment	750
3632	Household refrigerators and home and farm freezers	1,000
3633	Household laundry equipment	1,000
3634	Electric housewares and fans	750
3635	Household vacuum cleaners	750
3636	Sewing machines	750
3641	Electric lamps	1,000
3651	Radio and television receiving sets, except communication types	750
3652	Phonograph records	750
3661	Telephone and telegraph apparatus	1,000
3662	Radio and television transmitting, signaling, and detection equipment and apparatus	750
3671	Radio and television receiving type electron tubes, except cathode ray	1,000
3672	Cathode ray picture tubes	750
3673	Transmitting, industrial, and special purpose electron tubes	750
3691	Primary batteries, dry and wet	1,000
3694	Electrical equipment for internal combustion engines	750
	Major Group 37—Transportation Equipment	
3717	Motor vehicles and parts [3]	1,000
3721	Aircraft [4]	1,000
3722	Aircraft engines and engine parts [4]	1,000
3728	Aircraft propellers and propeller parts	1,000
3729	Aircraft parts and auxiliary equipment, not elsewhere classified [4]	1,000
3731	Ship building and repairing [5]	1,000
3741	Locomotives and parts	1,000
3743	Railroad and street cars	750
	Major Group 39—Miscellaneous Manufacturing Industries	
3982	Linoleum, asphalted-felt-base, and other hard surface floor coverings, not elsewhere classified	750

[1] The "number of employees" means the average employment of any concern and its affiliates based on the number of persons employed during the pay period ending nearest the last day of the third month in each calendar quarter for the preceding four quarters.

[2] Together with its affiliates does not employ more than 1,000 persons and does not have more than 30,000 barrels-per-day capacity from owned and leased facilities.

[3] The three Standard Industrial Classification Industries (3711, 3713, and 3716) have been combined because of a major problem of defining the reporting unit in terms of these industries. This difficulty arises from the fact that many large establishments have integrated operations which include the production of parts or bodies and the assembly of complete vehicles at the same location.

[4] Includes maintenance as defined in the Federal Aviation regulations (14 CFR 1.1) but excludes contracts solely for preventive maintenance as defined in 14 CFR 1.1. As defined in the Federal Aviation Regulations:

"'Maintenance' means inspection, overhaul, repair, preservation, and the replacement of parts, but excludes preventive maintenance."

"'Preventive maintenance' means simple or minor preservation operations and the replacement of small standard parts not involving complex assembly operations."

[5] Guided missile engines and engine parts are classified in SIC 3729. Missile control systems are classified in SIC 3662.

[6] Shipbuilding and repairing industry includes establishments primarily engaged in building and repairing all types of ships, barges, canal boats, and lighters, of 5 gross tons and over, whether propelled by sail or motor power or towed by other craft. Establishments primarily engaged in fabrication or repairing structural assemblies or components for ships, or subcontractors engaged in ship painting, joinery, carpentry work, electrical wiring installation, etc., are not included. The size standard for boatbuilding and repairing (establishments primarily engaged in building and repairing all types of boats, except rubber boats, under 5 gross tons) is 500.

§ 18–1.702 General policies.

(a) It is the policy of NASA to place a fair proportion of its total purchases and contracts for supplies and services with small business concerns, and to afford small business concerns an equitable opportunity to compete for contract awards. In the area of research and development contracts, it is NASA policy to award such contracts to those organizations determined by responsible personnel to have a high degree of competence in the specific branch of science or technology required for the successful conduct of the work. It is in the national interest that the number of firms engaged in research and development work for NASA be expanded and that there be an increase in the extent of participation in such work by competent small business firms.

(b) Each NASA installation having procurement authority shall implement this policy by:

(1) Maintaining bidders lists on a current basis and reviewing them to ensure that all small business firms who have made acceptable application to NASA or who appear from other information (including recommendation by the SBA) to be qualified are included therein;

(2) Acquiring descriptive data, brochures, or other information concerning small business firms who appear competent to perform research and development work in fields in which NASA is interested and furnish such information to technical personnel;

(3) To the extent feasible—

(i) Dividing procurements of supplies and services into reasonably small lots of not less than economic production runs in order to permit bidding on quantities less than the total requirements;

(ii) Allowing the maximum amount of time practicable for preparation and submission of bids and proposals; and

(iii) Establishing delivery schedules suitable for small business participation.

(4) Providing to authorized SBA representatives, upon request, information necessary to understand NASA needs concerning research and development programs under consideration for specific future procurement actions. The SBA may provide pertinent information concerning potential small business sources developed through its investigation of the capabilities of specific firms in the particular field of research and development covered by the programs. Full evaluation shall be given to any such information in selecting qualified sources;

(5) Disseminating widely information relating to NASA purchasing methods and practices; and

(6) Freely interchanging ideas and information, including statistical data, with appropriate SBA levels, relating to programs for limiting suitable procurements to small business concerns; and making maximum use of the capacity of small firms in such programs in order to accomplish the purpose of this policy. As to subcontracting, see § 18–1.707.

(c) Records of the total value of all contracts placed with small business concerns during each fiscal year, and reports based thereon, are maintained by NASA through its agencywide procurement reporting system described in Subpart 18–16.9 of this chapter. Accordingly, each NASA procurement office shall, when soliciting bids or proposals,

state the applicable small business size standard (or standards in the case where more than one item is being procured and two or more industries with different size standards are involved) and request from any bidder or offeror, a statement as to whether such bidder or offeror meets the prescribed size standard(s).

§ 18–1.706 Determination of status as small business concern.

(a) Each bidder and offeror shall be required to state in its bid or offer whether or not it is a small business concern. Except as provided in paragraph (b) of this section, the contracting officer shall accept at face value, for the particular procurement involved, a representation by the bidder or offeror that it is a small business concern (see §§ 18–1.701–1 and 1.701–4).

(b) Statements by a bidder or offeror that he is a small business concern shall be effective, even though questioned in accordance with the terms of this paragraph (b), unless the SBA, in response to such question and pursuant to the procedures in subparagraph (3) of this paragraph, determines that the bidder or offeror in question is not a small business concern. The controlling point in time for a determination concerning the size status of a questioned bidder or offeror shall be the date of award, except that no bidder or offeror shall be eligible for award as a small business concern unless he has in good faith represented himself as small business prior to the opening of bids or closing date for submission of offers (see § 18–3.405 of this chapter with respect to minor informalities and irregularities in bids).

(1) Any bidder or offeror may, prior to award of a contract involving small business set-asides, question the small business status of any apparently successful bidder or offeror by sending a written protest to the contracting officer responsible for the particular procurement. The protest shall contain the basis for the protest together with specific detailed evidence supporting the protestant's claim that such bidder or offeror is not a small business. Such protest must be received by the contracting officer prior to the close of business on the 5th working day after bid opening date or closing date for the receipt of proposals. A protest received after such time shall be considered timely, if in the case of mailed protests, such protest is sent by registered or certified mail and the postmark thereon indicates that the protest would have been delivered within this time limit but for delays beyond the control of the protestant or, in the case of telegraphed protests, the telegram date and time line indicates that the protest would have been delivered within this time limit but for delays beyond the control of the protestant. A protest received after award of a contract, even though timely will not be considered a "protest" and will be returned to the sender with an explanation of why it could not be acted upon. Any contracting officer who receives a timely protest shall forward such protest record to the SBA regional office serving the area in which the protested concern is located. The SBA will promptly notify the contracting officer of the date of its receipt of any such protest and will advise the questioned bidder or offeror that his small business status is under review.

(2) A contracting officer may, any time prior to award, question the small business status of the apparently successful bidder or offeror by sending a written notice to the SBA regional office of the region in which the bidder or offeror has his principal place of business. Such notice shall contain a statement of the basis for the question together with available supporting facts. SBA will advise the bidder or offeror in question that his small business status is under review.

(3) The SBA Regional Director will determine the small business status of the questioned bidder or offeror and notify the contracting officer and the bidder or offeror of his determination, and award may be made on the basis of that determination. Such decision is final unless appeal in accordance with subparagraph (4) of this paragraph (b) and the procuring activity is notified of the appeal prior to award. If an award was made prior to the time the contracting officer receives notice of the appeal, the contract shall be presumed to be valid and any determination rendered shall be considered in future procurements. If the SBA Regional Director's determination is not received by the contracting officer within 10 working days after SBA's receipt of the protest or notice questioning small business status, it shall be presumed that the questioned bidder or offeror is a small business concern. This presumption will not be used as a basis for making an award to the questioned bidder or offeror without first ascertaining when a size determination can be expected from SBA, and where practicable, waiting for such determination, unless further delay in award would be disadvantageous to the Government. Pending SBA determination or expiration of the 10-day period, whichever is earlier, procurement action shall be suspended provided that such 10-day suspension period shall not apply to any urgent procurement action which, as determined by the contracting officer, must, in order to protect the public interest, be awarded without delay and as to which he inserts in the contract file a statement signed by him justifying this determination.

(4) An appeal from a size determination made by an SBA Regional Director may be taken before the close of business on the 5th working day after the receipt of such decision. Unless such written notice of appeal is received by the SBA Size Appeals Board, Washington, D.C., within this time and the contracting officer has been notified of such appeal prior to award, the appellant will be deemed to have waived its rights of appeal insofar as the pending procurement is concerned.

(5) The determination of the appropriate classification of a product establishing the small business definition to be used in a specific procurement shall be made by the contracting officer and his determination shall be final unless appealed in accordance with subparagraph (6) of this paragraph (b).

(6) An appeal from product classification determination establishing the size definition used in a specific procurement made by a contracting officer may be taken not less than 10 days before bid opening date or closing date for submission of proposals wherein the bid opening or closing date is more than 30 days after the issuance of the IFB or RFP, or not less than 5 working days before the bid opening date or closing date for submission of proposals in cases wherein the bid opening date or closing date for submission of proposals is 30 days or less after the issuance of an IFB or an RFP. Such appeals shall be directed to the SBA Size Appeals Board, Washington, D.C.

§ 18–1.704 Small business officials.

§ 18–1.704–1 NASA Headquarters.

The Director of Procurement is responsible for the general supervision and coordination of the NASA Small Business Program. Within the Office of Procurement the Small Business Advisor is responsible for developing the NASA small business program, advising the Director of Procurement and other NASA officials on small business problems, and representing NASA before other Government agencies on matters primarily affecting small business.

§ 18–1.704–2 Field installations.

The Director of each field installation having procurement responsibilities shall designate a qualified individual in the procurement office as a "Small Business Specialist" to provide a central point of contact to which small business concerns may direct inquiries concerning participation in the NASA procurement program and small business matters. The small business specialist shall also perform such other functions as he is specifically directed to perform by this Subpart 18–1.7 or which the Procurement Officer may prescribe for the purpose of implementing the small business program, including the assignment of responsibility for the Labor Surplus Area Program described in Subpart 18–1.8 of this chapter. When the Director of a field installation considers that the volume of procurement or the functions relating to procurement at the installation does not warrant a full-time small business specialist, he may assign such duties to procurement personnel on a part-time basis.

§ 18–1.704–3 Small business specialists.

The Small Business Specialist appointed pursuant to § 18–1.704–2, shall perform the following duties, as determined appropriate to the installation by the Procurement Officer:

(a) He shall maintain a program designed to locate capable small business sources for current and future procurements, through SBA or other methods.

(b) He shall coordinate inquiries and requests for advice from small business concerns on procurement matters.

(c) Prior to issuance of solicitations or contract modification for additional supplies or services in excess of $2,500, he shall determine that small business concerns will receive adequate consideration including initiation of set-asides (§ 18–1.706). This determination may be made jointly with the contracting officer or may be in the form of a recommendation to him.

(d) He shall review procurement programs for possible breakout of items suitable for procurement from small business concerns.

(e) He shall advise small business concerns with respect to the financial assistance available under existing law and regulations and assist such concerns in applying for financial assistance. He shall also assure that requests by small business concerns for proper assistance are not treated as a handicap in securing the award of contracts.

(f) He shall participate in determinations concerning responsibility of a prospective contractor (see § 18–1.904) whenever small business concerns are involved.

(g) He shall participate in the evaluation of a prime contractor's small business subcontracting program (see § 18–1.707–4).

(h) He shall assure that participation of small business concerns is accurately reported.

(i) He shall make available to SBA copies of solicitations when so requested.

(j) He shall act as liaison between the contracting officer and SBA Regional Offices and representatives in connection with set-asides, certificates of competency and any other matters in which the Small Business Program may be involved. Procurements estimated to cost $100,000, or more, in which certificates of competency are requested, shall be reported to the Office of Procurement, Attention: Small Business Advisor. The report should contain a description of the requirement, a list of the bidders or proposers, and the contract prices specified in the bids or proposals as submitted and the reason for the proposed rejection of an otherwise acceptable small business bid or proposal. Pertinent dates such as the required date for the completion of the procurement, the date of the request for the certificate of competency, etc., should also be furnished.

(k) He shall, in cooperation with the contracting officer and technical personnel, seek and develop information on the technical competence of small business concerns for research and development contracts. He shall regularly bring to the attention of the contracting officers and technical personnel descriptive data, brochures, and other information as to small business concerns that are apparently competent to perform research and development work in fields in which NASA is interested.

§ 18–1.705 Cooperation with the Small Business Administration.

§ 18–1.705–1 General.

All NASA procurement offices are responsible for consulting and cooperating with the SBA in carrying out the purposes of the Small Business Act.

§ 18–1.705–2 Small Business Administration representatives.

The SBA may assign one or more representatives on a full or part-time basis to any NASA procurement office to act in its behalf in carrying out SBA responsibilities under the Small Business Act, as amended.

§ 18–1.705–3 Access to procurement information.

Upon request, and subject to applicable security regulations, SBA representatives will be given access to available or reasonably obtainable information, including technical data (including drawings and specifications), procurement history, bidders lists, and planned requirements immediately upon receipt by the procurement office. The SBA representative will be furnished such other available or reasonably obtainable information as may be required for the SBA referral program.

§ 18–1.705–4 Certificates of competency.

(a) The SBA has statutory authority to certify the competency of any small business concern as to capacity and credit. "Capacity" means the overall ability of a prospective small business contractor to meet quality, quantity, and time requirements of a proposed contract and includes ability to perform, organization, experience, technical knowledge, skills, "know-how," technical equipment, and facilities or the ability to obtain them. Contracting officers shall accept SBA certificates of competency as conclusive of a prospective contractor's capacity (see § 18–1.903–1(d)) and credit (see § 18–1.903–1(b)), unless the contracting officer has substantial doubts as to the firm's ability to perform, in which case he shall, prior to award, promptly refer the matter through normal channels to the Director of Procurement, including all supporting facts and an indication of the degree of urgency of the proposed award. In such cases, the SBA may be requested to consider the withdrawal of the certificate, and, in any event, the contracting officer will be informed by the Director of Procurement of the final decision.

(b)(1) If a bid or proposal of a small business concern is to be rejected solely because the contracting officer has found the concern to be nonresponsible as to capacity or credit, SBA shall be notified of the circumstances. If a partial set-aside is involved and the bid of a small business concern on the unreserved portion is to be rejected for lack of capacity or credit and the same small business concern is entitled to consideration on the reserved portion of the set-aside if a certificate of competency is issued by the SBA, the entire quantity of the procurement (reserved and unreserved) for which that small business concern may be entitled, if competent, shall be referred to SBA and the referral papers so noted, in which event SBA may certify the small business concern for the maximum quantity for which it is eligible under the procurement. The award shall be withheld until SBA action concerning issuance of a certificate of competency or until 15 working days after SBA is so notified, whichever is earlier, subject to the following:

(i) This procedure is not mandatory where the contracting officer certifies in writing that award must be made without delay and promptly advises the SBA representative thereof, and includes in the contract file a statement signed by him which justifies the certificate. A copy of the statement shall be furnished to the SBA representative.

(ii) This procedure does not apply to proposed awards of not more than $2,500.

(iii) This procedure is optional, within the discretion of the contracting officer, as to proposed awards of more than $2,500, but less than $10,000.

(iv) This procedure does not apply where the contracting officer has found a small business concern nonresponsible for a reason other than lack of capacity or credit. Thus, it does not apply where a concern does not satisfy the criteria of responsibility in § 18–1.903–1 (a), (f), (g), and (h). Where the contracting officer determines that a concern does not meet the requirements of § 18–1.903–1(e) as to a satisfactory record of performance, the procedure is mandatory only if the unsatisfactory record of performance was due solely to inadequate capacity or credit. However, if the contracting officer has any doubt as to whether the unsatisfactory record of performance can reasonably be attributed solely to lack of capacity or credit, the matter shall be discussed with the local SBA representative. If the local SBA representative is of the opinion that the unsatisfactory record of performance is attributable solely to a lack of capacity or credit, and the contracting officer disagrees, the contracting officer shall forward the matter to the Director of Procurement for resolution and final decision. The contracting officer will be informed of the final decision by the Director of Procurement.

To assist the SBA in determining the capacity and credit of small busines concerns involved in a particular procurement, the procurement office shall make available to the SBA all pertinent technical and financial information with respect to the small business concern involved, including but not limited to copies of the invitation for bids or request for proposals, drawings, specifications, preaward surveys, and abstracts of bids.

(c) In procurements where the highest competence obtainable or the best scientific approach is needed, such as in certain negotiated procurements of research and development, highly com-

plex equipment, or personal or professional services, the certificate of competency procedure is not applicable to the selection of the source offering the highest competence obtainable or the best scientific approach. However, if a small business concern has been selected on the basis of the highest competence obtainable or best scientific approach and, prior to award, the contracting officer determines that the concern is not responsible because of lack of capacity or credit, the certificate of competency procedure in paragraph (b) of this section is applicable.

§ 18–1.705–5 Performance of contract by Small Business Administration.

In accordance with section 8a of the Small Business Act (15 U.S.C. 637(a)), in any case in which the Administrator, SBA, certifies to the Administrator, NASA, that the SBA is competent to perform any specific contract, the contracting officer is authorized, in his discretion, to award the contract to the SBA upon such terms and conditions, consistent with these regulations, as may be agreed upon between the SBA and the contracting officer.

§ 18–1.706 Set-asides for small business.

§ 18–1.706–1 General.

(a) Subject to any applicable preferences for labor surplus area set-asides and the following criteria, any individual procurement or class of procurements or an appropriate part thereof, shall be set aside for the exclusive participation of small business concerns when such action is determined by the Small Business Specialist and the contracting officer (upon the initiation of either) to be in the interest of maintaining or mobilizing the Nation's full productive capacity, or assuring that a fair proportion of Government procurement is placed with small business concerns. If the Small Business Specialist is not available, the foregoing determination may be made by the contracting officer.

(b) The Small Business Specialist shall be afforded an opportunity to make recommendations that current and future procurements, or portions thereof, of selected items or services, or groups of like items or services, shall be set aside for exclusive small business participation. Such set-asides, when approved by the contracting officer, shall be known as class set-asides. Concurrence in a class set-aside shall not be dependent upon the existence of a current procurement if future procurements can be clearly foreseen. Class set-asides shall apply only to the installation making the set-aside determination, and shall not apply to an individual procurement for which small purchase procedures are to be used. A class set-aside agreement should specifically identify the items or services subject thereto, and provide for annual joint review by the Small Business Specialist and the contracting officer, to determine whether it should be withdrawn (see § 18–1.706–3). Any class of procurements proposed to be partially set aside shall specify that it does not apply to any individual procurement not severable into two or more economic production runs or reasonable lots. Records of individual procurements under each class set-aside shall be maintained by individual purchasing activities and shall include the solicitation number and date, item or service, estimated dollar amount of the procurement, and estimated dollar amount of the set-aside. Such record shall be made available to the Small Business Specialist.

§ 18–1.706–2 Review, withdrawal, or modification of set-asides or set-aside proposals.

(a) Prior to issuing solicitations, each individual procurement governed by a class set-aside shall be carefully reviewed to ensure that any changes in the magnitude of anticipated requirements, specifications, delivery requirements, or competitive market conditions, since the initial approval of the class set-aside is not of such material nature as to result in the probable payment of an unreasonable price by the Government or in a change in small business capability. If, prior to award of a contract involving an individual or class set-aside, the contracting officer considers that procurement of the set-aside from a small business concern would be detrimental to the public interest (e.g., because of unreasonable price), he may request the withdrawal of the set-aside determination in writing addressed to the Procurement Officer of the installation with a copy to the Small Business Specialist stating the reasons for requesting the withdrawal. The Small Business Specialist will review the class set-aside and the procedure set forth in § 18–1.706–2(c) shall be followed. Similarly, a class set-aside may be modified with the concurrence of the Small Business Specialist to withdraw one or more individual procurements.

(b) Upon a recommendation of the Small Business Specialist that an individual procurement or class of procurements, or portion thereof, be set aside, the contracting officer shall promptly either (1) concur in the recommendation, or (2) disapprove the recommendation, stating in writing his reasons for disapproval.

(c) If the contracting officer disagrees with the recommendation of the Small Business Specialist regarding a small business set-aside for an individual procurement or class of procurements or a portion thereof he shall forward the file to the Procurement Officer with a written statement setting forth his reasons for disagreement with a copy to the Small Business Specialist, or if the Small Business Specialist disagrees with the contracting officer regarding a withdrawal or modification of a set-aside determination, the Small Business Specialist may appeal in writing to the Procurement Officer at the installation within two days for decision. The decision by the Procurement Officer shall be final and a memorandum thereof placed in the contract file. In the event the decision by the Procurement Officer sustains the action of the contracting officer, the Procurement Officer shall forward, for information and management purposes, complete documentation of the case to the Director of Procurement, NASA Headquarters. Documentation of the case transmitted to the Director of Procurement shall include, as a minimum, a copy of the IFB or RFP, a list of those solicited, indicating if the invitee is small or large business by SBA definition, copies of the reasons, in writing, for or against set-aside or withdrawal or modification of a set-aside submitted by the Small Business Specialist and the contracting officer, a copy of the Procurement Officer's decision and a complete abstract of all bids or proposals received indicating the successful bidder together with any other material considered by the Procurement Officer in arriving at his decision. The Procurement Officer's transmittal letter or memorandum will contain an affirmative statement that the enclosures constitute the complete file reviewed and considered by him in making his decision.

§ 18–1.706–3 Small business class set-aside for construction, repair, and alteration work.

A class set-aside for small business is considered to have been made for each proposed procurement for construction, repair, and alteration work in an estimated amount ranging from $2,500 to $500,000. Accordingly, the contracting officer shall set aside for small business each such proposed procurement. If, in his judgment, the particular procurement falling within the dollar limits specified in this § 18–1.706–3 is unsuitable for a set-aside for exclusive small business participation, the procedure set forth in § 18–1.706–2 above shall apply. Proposed procurements for construction, repair, and alteration work in an estimated amount of more than $500,000 shall be processed on a case-by-case basis pursuant to § 18–1.706–1(a).

§ 18–1.706–4 Reporting for Department of Commerce procurement synopsis.

See § 18–1.1003–4.

§ 18–1.706–5 Total set-asides.

(a) Subject to any applicable preference for labor surplus area set-asides the entire amount of an individual procurement or class of procurements (including but not limited to contracts for maintenance, repair, and construction) shall be set aside for exclusive small business participation (see § 18–1.706–1) where there is a reasonable expectation that bids or proposals will be obtained from a sufficient number of responsible small business concerns so that awards will be made at reasonable prices. Total set-asides shall not be made unless such a reasonable expectation exists; however, see § 18–1.706–6 as to partial set-asides. While the past procurement history of

the item or similar items is important, it is not the only controlling factor which should be considered in determining whether a reasonable expectation exists.

(b) Contracts for total small business set-asides may be entered into by conventional negotiation or by a special method of procurement known as "Small Business Restricted Advertising." The latter method shall be used whenever possible. Invitations for bids shall be restricted to small business concerns. Small Business Restricted Advertising, including awards thereunder, shall be conducted in the same way as prescribed for formal advertising in Part 18–2 of this chapter, except that bids and awards shall be restricted to small business concerns. Bids received from firms which do not qualify as small business concerns shall be considered nonresponsive and shall be rejected.

(c) In procurements involving total set-asides for small business, each invitation for bids or request for proposals shall contain substantially the following Notice. The applicable size standard shall be set forth in the Schedule.

NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE (MAY 1965)

(a) *Restriction.* Bids or proposals under this procurement are solicited from small business concerns only and this procurement is to be awarded only to one or more small business concerns. This action is based on a determination by the contracting officer, alone or in conjunction with a representative of the Small Business Administration, that it is in the interest of maintaining or mobilizing the Nation's full productive capacity, or in the interest of assuring that a fair proportion of Government procurement is placed with small business concerns. Bids or proposals received from firms which are not small business concerns shall be considered nonresponsive and shall be rejected.

(b) *Definition.* A "small business concern" is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is bidding on Government contracts, and can further qualify under the criteria set forth in regulations of the Small Business Administration (13CFR 121.3–8.) In addition to meeting these criteria, a manufacturer or a regular dealer submitting bids or proposals in his own name must agree to furnish in the performance of the contract end items manufactured or produced in the United States, its possessions, or Puerto Rico, by small business concerns: *Provided*, That this additional requirement does not apply in connection with construction or service contracts.

§ 18–1.706–6 Partial set-asides.

(a) Subject to any applicable preference for labor surplus area set-asides as provided in § 18–1.802(a)(2), a portion of a procurement, not including construction, shall be set aside for exclusive small business participation (see § 18–1.706–1) where:

(1) The procurement is not appropriate for total set-aside pursuant to § 18–1.706–5;

(2) The procurement is severable into two or more economic production runs or reasonable lots; and

(3) One or more small business concerns are expected to have the technical competency and productive capacity to furnish a severable portion of the procurement at a reasonable price, except that a partial set-aside shall not be made if there is a reasonable expectation that only two concerns (one large and one small) with technical competency and productive capacity will respond with bids or proposals; when the contracting officer is uncertain whether the latter situation exists, he may make advance written inquiries to all known sources to determine the number of interested concerns.

Similarly, a class of procurement (including but not limited to contracts for maintenance, repair, and construction) may be partially set aside in accordance with § 18–1.706–2(c).

(b) Where a portion of a procurement is to be set aside for small business pursuant to paragraph (a) of this section, the procurement shall be divided into a set-aside portion and a non-set-aside portion, each of which shall be not less than an economic production run or reasonable lot. Insofar as practical, the set-aside portion will be such as to make the maximum use of small business capacity. Delivery and other terms applicable to the set-aside portion of an item and those applicable to the non-set-aside portion of that item shall be comparable.

(c) In advertised procurements involving partial set-asides for small business, invitations for bids shall contain substantially the following notice. The applicable size standard shall be set forth in the Schedule. In negotiated procurements whichever notice is used will be appropriately modified for use with request for proposals.

NOTICE OF PARTIAL SMALL BUSINESS SET-ASIDE (MAY 1965)

(a) *General.* A portion of this procurement, as identified elsewhere in the Schedule, has been set aside for award only to one or more small business concerns. Negotiations for award of this set-aside portion will be conducted only with responsible small business concerns who have submitted responsive bids on the non-set-aside portion at a unit price within 120 percent of the highest award made on the non-set-aside portion. Negotiations shall be conducted with such small business concerns in the following order of priority:

Group 1. Small business concerns which are also persistent labor surplus area concerns.

Group 2. Small business concerns which are also substantial labor surplus area concerns.

Group 3. Small business concerns which are not labor surplus area concerns.

Within each of the above groups, negotiations with such concerns will be in the order of their bids on the non-set-aside portion, beginning with the lowest responsive bid. The set-aside shall be awarded at the highest unit price awarded on the non-set-aside portion, adjusted to reflect transportation and other cost factors which are considered in evaluating bids on the non-set-aside portion, except where a responsive bid has been submitted on the non-set-aside portion at a unit price which when so adjusted is lower than the adjusted highest unit price awarded on the non-set-aside portion but could not be accepted because of quantity limitations or other consideration (such as the bidder's responsibility). In the latter case if the quantity limitation or other considerations do not preclude consideration of the unit price of such unaccepted bid at the time of negotiation for the set-aside portion, a quantity of the set-aside portion equal to the quantity of such unaccepted bid shall be offered to eligible concerns in their order of priority at the adjusted unit price of such unaccepted bid. If no eligible bidder will take the entire quantity so offered at the adjusted unit price of the unaccepted bid, then all eligible concerns in their order of priority shall be offered any lesser portion at the same price. (In the event more than one such unaccepted bid is involved, the same procedure shall be applied successively to each such bid on negotiation for the set-aside portion.) Subject to the conditions set forth below any remaining quantity of the set-aside portion shall be offered to eligible concerns in their order of priority at the adjusted highest unit price awarded on the non-set-aside portion. If such an unaccepted bid is submitted by a concern eligible to participate in the set-aside, such concern must accept a quantity of the set-aside portion equal to the quantity of the unaccepted bid at the adjusted unit price of the unaccepted bid before any portion of the set-aside may be awarded to that concern at a higher price. If such an unaccepted bid is submitted by a concern not eligible to participate in the set-aside, a quantity of the set-aside portion equal to the quantity of the unaccepted bid must be awarded at the adjusted unit price of such unaccepted bid before any portion of the set-aside is awarded to any eligible concern at a higher price. The Government reserves the right not to consider token bids or other devices designed to secure an unfair advantage over other bidders eligible for the set-aside portion. The partial set-aside of this procurement for small business concerns is based on a determination by the Contracting Officer, alone or in conjunction with a representative of the Small Business Administration, that it is in the interest of maintaining or mobilizing the Nation's full productive capacity, or in the interest of assuring that a fair portion of Government procurement is placed with small business concerns.

(b) *Definitions.* (1) A "small business concern" is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is bidding on Government contracts, and can further qualify under the criteria set forth in regulations of the Small Business Administration (Code of Federal Regulations, Title 13, Sec. 121.3–8). In addition to meeting these criteria, a manufacturer or a regular dealer submitting bids or proposals in his own name must agree to furnish in the performance of the contract end items manufactured or produced in the United States, its possessions, or Puerto Rico, by small business concerns:

Provided, That this additional requirement does not apply in connection with construction or service contracts.

(2) A "labor surplus area" is a geographical area which is:

(i) Classified by the Department of Labor as an "Area of Substantial Labor Surplus" or as an "Area of Substantial and Persistent Labor Surplus" (also called "Area of Substantial and Persistent Unemployment") and listed as such by that Department in conjunction with its publication, "Area Labor Market Trends"; or

(ii) Not classified as in (i) above, but which is individually certified as an area of persistent or substantial labor surplus by the Department of Labor at the request of any prospective contractor.

(3) "Labor surplus area concern" includes:

(i) Persistent labor surplus area concerns which agree to perform or cause to be performed any contracts awarded to them as labor surplus area concerns substantially in "Areas of Substantial and Persistent Labor Surplus" (also called "Areas of Substantial and Persistent Unemployment"); and

(ii) Substantial labor surplus area concerns which agree to perform or cause to be performed any contracts awarded to them as labor surplus area concerns substantially in "Areas of Substantial Labor Surplus."

A concern shall be deemed to perform a contract substantially in "Areas of Substantial and Persistent Labor Surplus" (also called "Areas of Substantial and Persistent Unemployment") if the costs that it incurs on account of manufacturing or production (by itself or its first-tier subcontractors) in such areas amount to more than 50 percent of the contract price. A concern shall be deemed to perform a contract substantially in "Areas of Substantial Labor Surplus" if the costs that it incurs on account of manufacturing or production (by itself or its first-tier subcontractors) in such areas or in "Areas of Substantial or Persistent Labor Surplus" (also called "Areas of Substantial and Persistent Unemployment") amount—to more than 50 percent of the contract price.

(4) "Unit price" shall include evaluation factors added for the rent-free use of Government property.

(c) *Identification of areas of performance.* Each bidder desiring to be considered for award as a small business labor surplus area concern on the set-aside portion of this procurement shall identify in his bid the geographical areas in which he proposes to perform or cause to be performed, a substantial proportion of the production of the contract. If the Department of Labor classification of any such area changes after the bidder has submitted his bid, the bidder may change the areas in which he proposes to perform: *Provided*, That he so notifies the Contracting Officer before award of the set-aside portion. Priority for negotiation will be based upon the labor surplus classification of the designated production areas as of the time of the proposed award.

(d) *Agreement.* The bidder agrees that, if awarded a contract as a small business persistent labor surplus area concern under the set-aside portion of this procurement, he will perform, or cause to be performed, a substantial proportion of the production in areas classified at the time of award, or at the time of performance of the contract, as persistent labor surplus area; and that if awarded a contract as a small business substantial labor surplus area concern under the set-aside portion of this procurement, he will perform, or cause to be performed, a substantial proportion of the production in areas classified at the time of award, or at the time of performance of the contract, as substantial or persistent labor surplus areas.

Where the definition of a small business concern for a given industry, as prescribed by SBA and promulgated by NASA, differs from that set forth in the above Notice, the Notice shall be appropriately modified to reflect such definition.

(d) Where it is anticipated that bids may be received which appear designed to take unfair advantage of bona fide bidders, by devices such as unrealistically low bids on mere token quantities, the Notice set forth below may be used instead of that in paragraph (c) of this section.

NOTICE OF PARTIAL SMALL BUSINESS SET-ASIDE
(MAY 1965)

(a) *General.* This procurement has been divided into two parts. All concerns, whether small business or not, may participate in accordance with customary procedures in that portion of this procurement herein called the "non-set-aside" portion. The quantities of the non-set-aside portion are set forth elsewhere in this Schedule. The other portion of the items to be procured has been set aside for participation by small business concerns. This is called the "set-aside portion" and awards therefor are made in accordance with special procedures set forth in paragraph (c) of this Notice. This apportionment is based on a determination by the Contracting Officer, alone or in conjunction with a representative of the Small Business Administration, that it is in the interest of maintaining or mobilizing the Nation's full production capacity, or in the interest of assuring that a fair proportion of Government procurement is placed with small business concerns. "Small business concern" is defined in paragraph (d) of this Notice.

(b) *Non-set-aside portion and award procedure.*

(1) A bidder which is not a small business concern shall submit a bid only for the non-set-aside portion of the procurement. Award thereof will be made in accordance with customary procedures.

(2) A bidder which is a small business concern and is interested in receiving an award for a quantity of an Item not exceeding the quantity set forth in the non-set-aside portion of the procurement, should submit a bid in the same manner as other concerns bidding only on the non-set-aside portion. If such a bidder is interested in receiving an award for a quantity of an Item in addition to the quantity set forth in the non-set-aside portion, he must bid the entire quantity of the non-set-aside portion of the Item, and indicate such additional quantity of the Item as he desires by so specifying on the Bidder's Statement of Set-Aside Quantity Desired. Thus, the Bidder's Statement of Set-Aside Quantity Desired is not to be used unless the bidder has bid the entire quantity of an Item under the non-set-aside portion. However, a small business concern which receives no award, or receives an award for less than the total quantity of an Item for which it submitted a bid under the non-set-aside portion, may be eligible for an award of the quantity it bid, or the unawarded quantity thereof, under the following procedure governing the set-aside portion.

(c) *Set-aside portion and award procedure.* Award of the set-aside portion of this procurement will be made after award has been completed on the non-set-aside portion. It will be made only to small business concerns which are found to be eligible in accordance with (1) below; on the basis of priorities for award set forth in (2) below; for quantities as provided in (3) below; and at prices determined in accordance with (4) below.

(1) *Eligibility.* To be eligible for consideration for the set-aside portion of an Item, the small business concern must have submitted a responsive bid on such Item in accordance with the requirements of (b)(2) above at a unit price no greater than 120 percent of the highest unit price for such Item awarded under the non-set-aside portion. However, see (5) below when separate quantities are offered at different prices, (6) below when separate quantities are offered at tie-in prices, and (7) below when all-or-none bids are offered for more than one Item.

(2) *Priorities.* Negotiations for the set-aside portion will be conducted with eligible concerns in the following order of priority:

Group 1. Small business concerns which are also persistent labor surplus area concerns.

Group 2. Small business concerns which are also substantial labor surplus area concerns.

Group 3. Small business concerns which are not labor surplus area concerns.

Within each of the above groups, negotiation for each Item will be conducted with eligible concerns in the order of their bids on the non-set-aside portion, beginning with the lowest responsive bid. However, see (5) below for the method of determining the bid when separate quantities are offered at different prices, (6) below when separate quantities are offered at tie-in prices, and (7) below when all-or-none bids are offered for more than one Item.

(3) *Quantity.* The quantity of the set-aside portion of an Item which may be awarded to an eligible concern shall be as follows:

(i) Where a concern has not specified a quantity of the Item on the Bidder's Statement of Set-Aside Quantity Desired, the quantity shall be no greater than the quantity of such concern's bid on the non-set-aside portion of that Item, less the quantity, if any, of that Item awarded to that concern under the non-set-aside portion.

(ii) Where a concern has specified a quantity of the Item on the Bidder's Statement of Set-Aside Quantity Desired, the quantity shall be no greater than the total of the entire non-set-aside portion of the Item and the quantity thereof specified on the Bidder's Statement of Set-Aside Quantity Desired, less the quantity, if any, of that Item awarded to that concern under the non-set-aside portion.

(4) *Price.* The set-aside portion shall be awarded at the highest unit price awarded on the non-set-aside portion, adjusted to reflect transportation and other cost factors which were considered in evaluating bids on the non-set-aside portion (see (6) and (7) below for the determination of the highest unit price when the highest award is made as a result of tie-in bids or all-or-none type of qualification for more than one item) except where a responsive bid has been submitted on the non-set-aside portion at a unit price which when so adjusted is lower than the adjusted highest unit price awarded on the non-set-aside portion but could not be accepted because of quantity limitations or other considerations (such as the bidder's responsibility). In the latter case if the quantity limitation or other considerations do not preclude consideration of the unit price of such unaccepted bid at the time of negotiation for the set-aside portion, a quantity of the set-aside portion equal to the quantity of such unaccepted bid shall be offered to eligible concerns in their order of priority at the adjusted unit price of such unaccepted bid. If no eligible bidder will take the entire quantity so offered at the adjusted unit price of the unaccepted bid, then all eligible concerns in their order of priority shall be offered any lesser portion at the same price. (In the event more than one such unaccepted bid is involved, the same procedure shall be applied successively to each such bid on negotiation for the set-aside portion.) Subject to the conditions set forth below any remaining quantity of the set-aside portion shall be offered to eligible concerns in their order of priority at the adjusted highest unit price awarded on the non-set-aside portion. If such an unaccepted bid is submitted by a concern eligible to participate in the set-aside, such concern must accept a quantity of the set-aside portion equal to the quantity of the unaccepted bid at the adjusted unit price of the unaccepted bid before any portion of the set-aside may be awarded to that concern at a higher price. If such an unaccepted bid is submitted by a concern not eligible to participate in the set-aside, a quantity of the set-aside portion equal to the quantity of the unaccepted bid must be awarded at the adjusted unit price of such unaccepted bid before any portion of the set-aside is awarded to any eligible concern at a higher price. The Government reserves the right not to consider token bids or other devices designed to secure an unfair advantage over other bidders eligible for the set-aside portion.

(5) *Separate quantities at different prices.* Where a concern has submitted a bid for separate quantities of the non-set-aside portion of an Item at different prices, without conditioning the Government's right to accept one or more such quantities upon its concurrent acceptance of another quantity of the Item, each separate quantity shall be considered as a separate bid for the purpose of determining under (c)(2) above the with respect to the 120-percent limit prescribed in (c)(1) above, and for the purpose of determining under (c)(2) above the standing of that bid in the order of negotiations for the set-aside portion of that Item.

(6) *Separate quantities at tie-in prices.* Where a concern has submitted a bid for separate quantities of the non-set-aside portion of an Item at different prices, and has conditioned the Government's right to accept any one or more of such quantities upon its concurrent acceptance of another quantity of the Item, the weighted average of the prices for such conditioned quantities shall be considered the unit price for the purpose of determining, with respect to such conditioned quantities, (i) the eligibility of the firm with respect to the 120 percent limit of (c)(1) above, (ii) the priority status of the firm under (c)(2) above, and (iii) the highest unit price for awards under (c)(4) above if the highest award on the non-set-aside portion was made on such conditioned bid.

(7) *All-or-none bids.* Where a concern has submitted an "all-or-none" bid for more than one Item and thereby has conditioned the Government's right to award any item upon its concurrent award of another Item, the unit price for each Item on an "all-or-none" basis shall be considered independent unit prices for the purpose of determining the eligibility and priority status of the concern for the set-aside portion of each Item. In no event will a set-aside award be made for an Item to such bidder at a higher unit price than his "all-or-none" unit price for the Item on the non-set-aside portion.

(d) *Definitions.*

(1) A "small business concern" is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is bidding on Government contracts, and can further qualify under the criteria set forth in regulations of the Small Business Administration (13 CFR 121.3-8). In addition to meeting these criteria, a manufacturer or a regular dealer submitting bids or proposals in his own name must agree to furnish in the performance of the contract end items manufactured or produced in the United States, its possessions, or Puerto Rico, by small business concerns: *Provided*, That this additional requirement does not apply in connection with construction or service contracts.

(2) The term "labor surplus area" means a geographical area which is a persistent labor surplus area or a substantial labor surplus area, or both, as defined below:

(i) "Persistent Labor Surplus Area" means an area which (A) is classified by the Department of Labor as an "Area of Substantial and Persistent Labor Surplus" (also called "Area of Substantial and Persistent Unemployment") and is listed as such by that Department in conjunction with its publication "Area Labor Market Trends," or (B) is certified as an area of substantial and persistent labor surplus by the Department of Labor pursuant to a request by a prospective contractor.

(ii) "Substantial Labor Surplus Area" means an area which (A) is classified by the Department of Labor as an "Area of Substantial Labor Surplus" (also called "Area of Substantial Unemployment") and which is listed as such by that Department in conjunction with its publication "Area Labor Market Trends," or (B) is certified as an area of substantial labor surplus by the Department of Labor pursuant to a request by a prospective contractor.

(3) The term "labor surplus area concern" includes persistent labor surplus area concerns and substantial labor surplus area concerns as defined below:

(i) "Persistent labor surplus area concern" means a concern that agreed to perform, or cause to be performed, a substantial proportion of a contract in persistent labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in persistent labor surplus areas if the costs that the concern will incur on account of manufacturing or production performed in such areas (by itself or its first-tier subcontractors) amount to more than 50 percent of the contract price.

(ii) "Substantial labor surplus area concern" means a concern that agrees to perform or cause to be performed, a substantial proportion of a contract in substantial labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in substantial labor surplus areas if the costs that the concern will incur on account of manufacturing or production performed in substantial labor surplus areas or in substantial and persistent labor surplus areas (by itself or its first-tier subcontractors) amount to more than 50 percent of the contract price.

(4) "Unit price" shall include evaluation factors added for the rent-free use of Government property.

(e) *Identification of areas of performance.* Each bidder desiring to be considered for award as a small business labor surplus area concern on the set-aside portion of this procurement shall identify in his bid the geographical areas in which he proposes to perform, or cause to be performed, a substantial proportion of the production of the contract. If the Department of Labor classification of any such area changes after the bidder has submitted his bid, the bidder may change the areas in which he proposes to perform: *Provided*, That he so notifies the Contracting Officer before award of the set-aside portion. Priority for negotiation will be based upon the labor surplus classification of the designated production areas as of the time of the proposed award.

(f) *Agreement.* The bidder agrees that, if awarded a contract as a small business persistent labor surplus area concern under the set-aside portion of this procurement, he will perform, or cause to be performed, a substantial proportion of the production in areas classified at the time of award, or at the time of performance of the contract, as persistent labor surplus areas; and that if awarded a contract as a small business substantial labor surplus area concern under the set-aside portion of this procurement, he will perform, or cause to be performed, a substantial proportion of the production in areas classified at the time of award, or at the time of performance of the contract, as substantial or persistent labor surplus areas.

(g) *Token bids.* Notwithstanding the provisions of this Notice, the Government reserves the right, in determining eligibility or priority for set-aside negotiations, not to consider token bids or other devices designed to secure an unfair advantage over other bidders eligible for the set-aside portion.

(h) *Instruction for indicating portion of set-aside quantity desired.* The quantity of each item which has been set aside is set forth on the attached Bidder's Statement of Set-Aside Quantity Desired, which is to be filled in only by small business concerns, as provided in (b)(2) above. Furthermore, it is to be used by such a bidder only when (1) he has submitted a bid for the entire non-set-aside quantity of an Item, and (2) he desires a total quantity in excess of the non-set-aside quantity thereof. Whether or not a small business concern may participate in the set-aside portion is dependent on its eligibility in accordance with (c) above. It should be noted, however, that to be eligible for the set-aside portion the bidder need not have filled in the Bidder's Statement of Set-Aside Quantity Desired. The latter should only be filled in where the bidder desires a quantity in excess of the non-set-aside quantity.

BIDDER'S STATEMENT OF SET-ASIDE QUANTITY DESIRED

1	2	3
Item No.	Quantity set-aside	Portion of set-aside quantity desired

[The issuing office will identify by line item number the supplies being procured as to which a portion is set aside and will designate the quantity set aside for each such item. The portion of set-aside quantity desired column will be left blank for the bidder or offeror to fill in. Where the definition of a small business concern for a given industry, as prescribed by the Small Business Administration and promulgated within the Department of Defense, differs from that set forth in the Notice above, the Notice shall be appropriately modified to reflect such definition.]

(e) (1) After the award price for the non-set-aside portion has been determined, negotiations may be conducted for the set-aside portion. Procurement of the set-aside portion shall in all instances be effected by negotiation. Negotiations shall be conducted only with those bidders or offerors who have submitted responsive bids or proposals on the non-set-aside portion at a unit price no greater than 120 percent of the highest award made or to be made on the non-set-aside portion and who are determined to be responsible prospective contractors for the set-aside portion of

the procurement. Negotiations shall be conducted with small business concerns in the order of priority as indicated in the foregoing notices: *Provided*, That, where equal low bids are received on the non-set-aside portion from concerns which are equally eligible for the set-aside portion, the concern which is awarded the non-set-aside portion (under the equal low bid procedures of § 18–3.407–6 of this chapter) shall have first priority with respect to negotiations for the set-aside portion. The set-aside portion will be awarded at the highest unit price awarded or to be awarded for the non-set-aside portion.

(2) When the award price for the non-set-aside portion has been determined and where an award will be made to a small business concern and the same small business concern is entitled to receive the set-aside portion of a solicitation, the set-aside portion may be added to the basic contract by supplemental agreement. The supplemental agreement shall include the Examination of Records clause, applicable to the set-aside portion only.

§ 18–1.706–7 Automatic dissolution of set-asides.

If the entire set-aside portion is not procured by the method set forth in § 18–1.706–5, as to total set-asides, or in § 18–1.706–6, as to partial set-asides, the determination referred to in § 18–1.706–1 is automatically dissolved as to the unawarded portion of the set-aside and such unawarded portion may be procured by advertising or negotiation, as appropriate, in accordance with existing regulations. (See § 18–3.201–2(c) of this chapter as to negotiation.)

§ 18–1.706–8 Contract authority.

Contracts for total or partial set-asides entered into by conventional negotiation (see §§ 18–1.706–5(b) and 18–1.706–6(d)) or by "Small Business Restricted Advertising" (see § 18–1.706–5(b)) are negotiated procurements and shall cite as authority 10 U.S.C. 2304(a)(1). (See § 18–3.201–2(b) and NASA Management Instruction 5101.6.)

§ 18–1.706–9 Maintenance of records.

Records pertaining to the initiation of individual procurements under each class set-aside shall be maintained by small business specialists at each procurement office. Such records shall include:

(a) Invitation for bids or request for proposals number and date;

(b) Item or service;

(c) Unilateral or joint class set-aside and number;

(d) Estimated amount of procurement; and

(e) Estimated amount of set-aside.

A copy of each such record shall be made available by each procurement office to SBA upon request.

§ 18–1.707 Subcontracting with small business concerns.

§ 18–1.707–1 General.

(a) It is the policy of the Government to enable small business concerns to be considered fairly as subcontractors to contractors performing work or rendering services as prime contractors or subcontractors under Government procurement contracts, and to ensure that prime contractors and subcontractors having small business subcontracting programs will consult through the procurement office with the SBA upon its request.

(b) The SBA is not authorized, however, to prescribe the extent to which any contractor or subcontractor shall subcontract or specify the concerns to which subcontracts shall be granted, nor is authority vested in the SBA respecting the administration of individual prime contracts or subcontracts.

§ 18–1.707–2 Small business subcontracting program.

The Government's small business subcontracting program requires Government prime contractors to assume an affirmative obligation with respect to subcontracting with small business concerns. In contracts which range from $5,000 to $500,000, the contractor undertakes the obligation of accomplishing the maximum amount of small business subcontracting which is consistent with the efficient performance of the contract. This undertaking is set forth in the contract clause prescribed in § 18–1.707–3(a). In contracts which may exceed $500,000, the contractor is required, pursuant to the clause set forth in § 18–1.707–3(b), to undertake a number of specific responsibilities designed to ensure that small business concerns are considered fairly in the subcontracting role and to impose similar responsibilities on major subcontractors. (The liaison officer required by the latter clause also may serve as liaison officer for labor surplus area matters.)

§ 18–1.707–3 Required clauses.

(a) The "Utilization of Small Business Concerns" clause set forth below shall be included in all contracts in amounts which may exceed $5,000 except:

(1) Contracts which, including all subcontracts thereunder, are to be performed entirely outside the United States, its possessions, and Puerto Rico; and

(2) Contracts for services which are personal in nature.

UTILIZATION OF SMALL BUSINESS CONCERNS (JULY 1962)

(a) It is the policy of the Government as declared by the Congress that a fair proportion of the purchases and contracts for supplies and services for the Government be placed with small business concerns.

(b) The Contractor agrees to accomplish the maximum amount of subcontracting to small business concerns that the Contractor finds to be consistent with the efficient performance of this contract.

(b) The "Small Business Subcontracting Program" clause set forth in this paragraph shall be included in all contracts which may exceed $500,000, which contain the clause required by paragraph (a) of this section and which, in the opinion of the contracting officer, offer substantial subcontracting possibilities. Prime contractors who are to be awarded contracts that do not exceed $500,000 but which, in the opinion of the contracting officer, offer substantial subcontracting possibilities, shall be urged to accept the clause.

SMALL BUSINESS SUBCONTRACTING PROGRAM (MAY 1965)

(a) The Contractor agrees to establish and conduct a small business subcontracting program which will enable small business concerns to be considered fairly as subcontractors and suppliers under this contract. In this connection, the Contractor shall:

(1) Designate a liaison officer who will (i) maintain liaison with the Government on small business matters, (ii) supervise compliance with the "Utilization of Small Business Concerns" clause, and (iii) administer the Contractor's "Small Business Subcontracting Program."

(2) Provide adequate and timely consideration of the potentialities of small business concerns in all "make-or-buy" decisions.

(3) Assure that small business concerns will have an equitable opportunity to compete for subcontracts, particularly by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of small business concerns. Where the Contractor's lists of potential small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

(4) Maintain records showing (i) whether each prospective subcontractor is a small business concern (ii) procedures which have been adopted to comply with the policies set forth in this clause and (iii) with respect to the letting of any subcontract (including purchase orders) exceeding $10,000 information substantially as follows:

(A) Whether the award went to large or small business.

(B) Whether less than three or more than two small business concerns were solicited.

(C) The reason for nonsolicitation of small business if such was the case.

(D) The reason for small business failure to receive the award if such was the case when small business was solicited.

The records maintained in accordance with (iii) above may be in such form as the individual Contractor may determine, and the information shall be summarized quarterly and submitted by the purchasing department of each individual plant or division to the Contractor's cognizant small business liaison officer. Such quarterly summaries will be considered to be management records only and need not be submitted routinely to the Government; however, records maintained pursuant to this clause will be kept available for review.

(5) Notify the Contracting Officer before soliciting bids or quotations on any subcontract (including purchase orders) in excess of $10,000 if (i) no small business concern is to be solicited, and (ii) the Contracting Officer's consent to the subcontract (or ratification) is required by a "Subcontracts" clause in this contract. Such notice will state the Contractor's reasons for nonsolicitation of small business concerns, and will be given as early in the procurement cycle as possible so that the Contracting Officer may give the Small Business Administration timely notice to permit the SBA a

reasonable period to suggest potentially qualified small business concerns through the Contracting Officer. In no case will the procurement action be held up when to do so would, in the Contractor's judgment delay performance under the contract.

(6) Include the "Utilization of Small Business Concerns" clause in subcontracts which offer substantial small business subcontracting opportunities.

(7) Cooperate with the Contracting Officer in any studies and surveys of the Contractor's subcontracting procedures and practices that the Contracting Officer may from time to time conduct.

(8) Submit NASA Form 524 reports to the Office of Procurement, NASA Headquarters, Washington, D.C. 20546, in accordance with the instructions contained therein. The reporting requirements of this subparagraph (8) do not apply to small business contractors or subcontractors.

(b) A "small business concern" is a concern that meets the pertipent criteria established by the Small Business Administration and set forth in paragraph 1.701 of the NASA Procurement Regulation.

(c) The "Small Business Subcontracting Program (Maintenance, Repair, and Construction)" clause below shall be included in all contracts for maintenance, repair, and construction work which may exceed $500,000, which contain the clause required in paragraph (a) of this section and which in the opinion of the contracting officer, offer substantial subcontracting possibilities.

SMALL BUSINESS SUBCONTRACTING PROGRAM (MAINTENANCE, REPAIR, AND CONSTRUCTION) (MAY 1965)

(a) The Contractor agrees to establish and conduct a small business subcontracting program which will enable small business concerns to be considered fairly as subcontractors, including suppliers, under this contract. In this connection, the Contractor shall designate an individual to (i) maintain liaison with the Government on small business matters, and (ii) administer the Contractor's Small Business Subcontracting Program.

(b) Prior to completion of the contract and as soon as the final information is available, the Contractor shall submit a completed NASA Form 524 to the Government addressee prescribed thereon. This subparagraph (b) is not applicable if the Contractor is a small business concern.

(c) The Contractor further agrees (i) to insert the "Utilization of Small Business Concerns" clause in subcontracts which offer substantial subcontracting opportunities, and (ii) to insert in each such subcontract exceeding $500,000 a clause conforming substantially to the language of this clause except that subcontractors shall submit NASA Form 524 direct to the Government addressees prescribed on the Form. The Contractor will notify the Contracting Officer of the name and address of each subcontractor that will be required to submit a report on NASA Form 524.

§ 18–1.707–4 Responsibility for reviewing the subcontracting program.

To ensure compliance with the provisions of the clauses set forth in § 18–1.707–3, the Small Business Specialist at the NASA installation administering the contract is responsible for assisting the contracting officer in reviewing and determining the adequacy of a contractor's small business subcontracting program. When more than one NASA installation is doing business with the same contractor, the Small Business Adviser, NASA Headquarters, will assign the responsibility to an installation to conduct the review. Where the preponderance of Government contracts in a contractor's plant is with the Department of Defense, the Small Business Adviser may arrange to utilize the reviews conducted by the cognizant Military Departments. In those cases where NASA conducts the review, reports of findings shall be forwarded to the Small Business Adviser, NASA Headquarters, and any deficiencies in the contractor's small business subcontracting program will be brought to the attention of the contractor's designated small business liaison officer with a request for corrective action.

§ 18–1.707–5 Reports on NASA Form 524.

In accordance with § 18–1.707–3, all business concerns which participate in the Small Business Subcontracting Program shall provide the information on NASA Form 524, to be submitted in duplicate, in accordance with the instructions provided on the form. The reports shall be submitted directly to the Procurement Office (Code KD), NASA Headquarters, Washington, D.C. 20546. Contracting officer shall furnish contractors supplies of NASA Form 524.

§ 18–1.707–6 Subcontracting studies and surveys.

Each procurement office shall assist the SBA to obtain such reasonably obtainable information and records concerning the subcontracting of its prime contractors and its subcontractors having contracts that contain the Small Business Subcontracting Program clause, as the SBA may deem necessary. Accordingly, the contracting officer or his representative, separately, or together with a representative of the SBA, may periodically conduct studies and surveys of the contractor's subcontracting procedures and practices and those of his subcontractors. Such studies and surveys may originate with the procurement office in order to have available the pertinent data concerning subcontracting by its primes, or, if such data is not currently available, the studies and surveys may originate upon the request of the SBA for such data. On the basis of the foregoing studies, surveys, and records, the SBA may make recommendations to the procurement office regarding methods for increasing small business participation in subcontract awards. The SBA and the procurement office will freely interchange, at the operating level, information resulting from these surveys.

§ 18–1.707–7 Small Business Administration review of agency records.

To the extent that subcontracting records are maintained in procurement offices, such records shall be made available to the Small Business Administration, upon request, for review.

Subpart 18–1.8—Labor Surplus Area Concerns

§ 18–1.800 Scope of subpart.

This subpart sets forth policies and procedures with respect to the placement of contracts by NASA in order to aid persistent or substantial labor surplus areas in the United States, its possessions, and Puerto Rico. This subpart implements Defense Manpower Policy No. 4 (Revised), June 6, 1960 (32A CFR Ch. 1), and Amendment No. 1, thereto, of December 29, 1962. Defense Manpower Policy No. 4 states the policy of the Government to encourage the placing of contracts and facilities in areas of persistent or substantial labor surplus, and to assist such areas in making the best use of their available resources.

§ 18–1.801 Definitions.

§ 18–1.801–1 Labor surplus area concern.

"Labor surplus area concern" includes—

(a) Persistent labor surplus area concerns which will perform or cause to be performed any contracts awarded to them as labor surplus area concerns substantially in "Areas of Substantial and Persistent Labor Surplus"; and

(b) Substantial labor surplus area concerns which will perform or cause to be performed any contracts awarded to them as labor surplus area concerns substantially in "Areas of Substantial Labor Surplus."

A concern shall be deemed to perform a contract substantially in "Areas of Substantial and Persistent Labor Surplus" if the costs that it incurs on account of manufacturing or production (by itself or its first tier subcontractors) in such areas amount to more than 50 percent of the contract price. A concern shall be deemed to perform a contract substantially in "Areas of Substantial Labor Surplus" if the costs that it incurs on account of manufacturing or production (by itself or its first tier subcontractors) in such areas or in "Areas of Substantial or Persistent Labor Surplus" amount to more than 50 percent of the contract price.

Example A. ABC Company, manufacturing in a full employment area, bids on a contract at $1,000. ABC Company will incur the following costs:

Direct labor	$300
Overhead	200
Purchase of materials from XYZ, which manufacturers the materials in a labor surplus area	510

ABC Company qualifies as a labor surplus area concern.

Example B. DEF Company, manufacturing in a labor surplus area, bids on a contract at $1,000. DEF Company will incur the following costs:

Direct labor	$200
Overhead	200
Purchase of materials from UVW, which is located in a labor surplus area but which merely distributes the materials from stocks on hand (the materials having been manufactured by UVW's supplier)	550

DEF Company does not qualify as a labor surplus area concern regardless of whether UVW's supplier manufactures in a labor surplus area.

Example C. GHI Company, manufacturing in a labor surplus area, bids on a contract at $1,000. GHI Company will incur the following costs:

Direct labor	$330
Overhead	275
Purchase of materials from RST, which manufactures the materials in a full employment area	425

GHI Company qualifies as a labor surplus area concern.

§ 18–1.801–2 Labor surplus area.

"Labor surplus area" means a geographical area which at the time of award is—

(a) Classified by the Department of Labor as an "Area of Substantial Labor Surplus" or as an "Area of Substantial and Persistent Labor Surplus" (also called "Area of Substantial and Persistent Unemployment") (herein referred to as an area of persistent labor surplus) and listed as such by that Department in conjunction with its publication "Area Trends in Employment and Unemployment"; or

(b) Not classified as in paragraph (a) of this section, but which is individually certified as an area of persistent or substantial labor surplus by the Department of Labor at the request of any prospective contractor.

§ 18–1.801–3 Small business concern.

See Subpart 18–1.7 for definition.

§ 18–1.802 General policy.

Except as provided in § 18–1.806 with respect to depressed industries, it is the policy of the National Aeronautics and Space Administration to aid labor surplus areas by placing contracts with labor surplus area concerns, to the extent consistent with procurement objectives and where such contracts can be awarded at prices no higher than those obtainable from other concerns, and by encouraging prime contractors to place subcontracts with concerns which will perform substantially in labor surplus areas. The contracting officer is responsible for compliance with the policy and procedures relating to labor surplus areas and for determining the final action to be taken with respect to individual procurement actions. The labor surplus area functions should generally be performed by the small business specialist or the individual designated to perform the small business functions where a full-time small business specialist is not warranted (see § 18–1.704–2). To accommodate the small business policies of Subpart 18–1.7, preference shall be given in the following order of priority to (a) persistent labor surplus area concerns which are also small business concerns, (b) other persistent labor surplus area concerns, (c) substantial labor surplus area concerns which are also small business concerns, (d) other substantial labor surplus area concerns and (e) small business concerns which are not labor surplus area concerns. But in no case will price differentials be paid for the purpose of carrying out this policy.

§ 18–1.803 Application of policy.

(a) Within the policy set forth in § 18–1.802, the following shall be applied to procurements which are estimated to exceed $10,000 and may, if deemed practicable by the contracting officer, be applied to procurements between $2,500 and $10,000:

(1) Negotiated procurements shall, where procurement objectives permit, be awarded to labor surplus area concerns: *Provided,* That in no case shall price differentials be paid for the purpose of carrying out this policy;

(2) Where appropriate, procurements shall be made from labor surplus area concerns by partial set-aside procedures, in accordance with § 18–1.804, and such set-asides shall be given preference over any small business set-aside (but no total set-aside shall be made for labor surplus area concerns);

(3) Information identifying labor surplus areas shall be disseminated promptly to procurement personnel;

(4) Department of Labor certification (see § 18–1.801–2(b) shall be considered conclusive with respect to the particular procurement concerned;

(5) Even though less than a complete bidders' list is to be used pursuant to § 18–2.205–4, all prospective contractors in labor surplus areas shall be solicited, except that only a pro rata number of prospective labor surplus area concerns may be solicited when the bidders' list is composed predominantly of labor surplus area concerns and the estimated award is not expected to be more than $25,000;

(6) Subcontracting with concerns in labor surplus areas shall be encouraged in accordance with § 18–1.805.

(b) Procurements placed in labor surplus areas as a result of preference procedures shall be reported on NASA Form 507, Individual Procurement Action Report, in accordance with procedures prescribed in § 18–16.901.

(c) Any preference under the "Buy American Act" due to performance in labor surplus areas (see § 18–6.104–4) shall be in addition to the assistance accorded pursuant to this Subpart.

(d) The Office of Procurement shall cooperate with the Departments of Labor and Commerce, the Small Business Administration, and the Office of Emergency Planning to achieve the objectives of this Subpart.

§ 18–1.804 Partial set-asides for labor surplus area concerns.

§ 18–1.804–1 General.

(a) In accordance with the policies and procedures set forth in § 18–1.802 and § 18–1.803, a portion of each procurement shall be set aside for labor surplus area concerns if:

(1) The procurement is severable into two or more economic production runs or reasonable lots; and

(2) One or more labor surplus area concerns are expected to qualify as labor surplus area concerns and to have the technical competency and productive capacity to furnish a severable portion of the procurement at a reasonable price, except that a partial set-aside shall not be made if there is a reasonable expectation that bids or proposals will be received from only two concerns with technical competency and productive capacity (one concern which will not qualify as a labor surplus area concern and one concern which will qualify as a labor surplus area concern).

(b) In determining whether a proposed procurement is susceptible to division into two or more economic production runs or reasonable lots, consideration should be given to the following factors and any others deemed appropriate:

(1) Price and procurement history of the items;

(2) Open industry capacity;

(3) Startup cost including special tooling requirements;

(4) Delivery schedule; and

(5) Nature of item and quantity being procured.

Before a portion or portions constituting more than 50 percent of the total requirement may be set-aside, a determination must be made that there is a reasonable expectation the action proposed will not result in the payment of a price differential. The determination and supporting information will be made part of the contract file.

(c) In furtherance of the policy to assure that a fair proportion of procurement is placed with small business concerns, each labor surplus area set-aside shall provide that, in addition to labor surplus area concerns, small business concerns not performing in such areas are also eligible for participation in the set-aside for such quantities thereof as are not awarded to labor surplus area concerns. In this respect, see applicable provisions of §§ 18–1.804–2(b) for notice to bidders or offerors, and 18–1.804–2(c) for conduct of set-aside negotiations.

(d) None of the following is, in itself, sufficient cause for not making a set-aside:

(1) A large part of previous procurements of the item in question has been placed with labor surplus area concerns;

(2) A period of less than 30 days from the date of issuance of invitation for bids or requests for proposals is prescribed for the submission of bids or proposals;

(3) The procurement is classified; or

(4) Labor surplus area concerns are receiving a fair proportion of contracts.

§ 18–1.804–2 Set-aside procedures.

(a) Where a portion of a procurement is to be set aside pursuant to § 18–1.804–1, the procurement shall be divided into a non-set-aside portion and a set-aside portion, each of which shall be not less than an economic production run or reasonable lot. Insofar as practical, the set-aside portion will be such as to make the maximum use of the capacity of labor surplus area concerns. Delivery terms and other terms applicable to the set-aside portion of an item and those applicable to the non-set-aside portion of that item shall be comparable.

(b) In advertised procurements involving set-asides pursuant to this subpart, each invitation for bids shall contain substantially the following notice. In negotiated procurements, the notice shall be appropriately modified for use with requests for proposals. The notice shall be made a part of each contract under the set-aside portion of the procurement.

NOTICE OF LABOR SURPLUS AREA SET-ASIDE
(JUNE 1967)

(a) *General.* A portion of this procurement, as identified elsewhere in the Schedule, has been set aside for award only to one or more labor surplus area concerns, and, to a limited extent, to small business concerns which do not qualify as labor surplus area concerns. Negotiations for award of the set-aside portion will be conducted only with responsible labor surplus area concerns (and small business concerns to the extent indicated below) who have submitted responsive bids or proposals on the non-set-aside portion at a unit price no greater than 120 percent of the highest unit price at which an award is made on the non-set-aside portion. Negotiations for the set-aside portion will be conducted with such bidders in the following order of priority:

Group 1. Persistent labor surplus area concerns which are also small business concerns.

Group 2. Other persistent labor surplus area concerns.

Group 3. Substantial labor surplus area concerns which are also small business concerns.

Group 4. Other substantial labor surplus area concerns.

Group 5. Small business concerns which are not labor surplus area concerns.

Within each of the above groups negotiations with such concerns will be in the order of their bids on the non-set-aside portion, beginning with the lowest responsive bid. The set-aside portion shall be awarded at the highest unit price awarded on the non-set-aside portion, adjusted to reflect transportation and other cost factors which are considered in evaluating bids on the non-set-aside portion except where a responsive bid has been submitted on the non-set-aside portion at a unit price which when so adjusted is lower than the adjusted highest unit price awarded on the non-set-aside portion but could not be accepted because of quantity limitations or other consideration' (such as the bidder's responsibility). In the latter case if the quantity limitation or other considerations do not preclude consideration of the unit price of such unaccepted bid at the time of negotiation for the set-aside portion, a quantity of the set-aside portion equal to the quantity of such unaccepted bid shall be offered to eligible concerns in their order of priority at the adjusted unit price of such unaccepted bid. If no eligible bidder will take the entire quantity so offered at the adjusted unit price of the unaccepted bid, then all eligible concerns in their order of priority shall be offered any lesser portion at the same price. (In the event more than one such unaccepted bid is involved, the same procedure shall be applied successively to each such bid on negotiation for the set-aside portion.) Subject to the conditions set forth below any remaining quantity of the set-aside portion shall be offered to eligible concerns in their order of priority at the adjusted highest unit price awarded on the non-set-aside portion. If such an unaccepted bid is submitted by a concern eligible to participate in the set-aside, such concern must accept a quantity of the set-aside portion equal to the quantity of the unaccepted bid at the adjusted unit price of the unaccepted bid before any portion of the set-aside may be awarded to that concern at a higher price. If such an unaccepted bid is submitted by a concern not eligible to participate in the set-aside, a quantity of the set-aside portion equal to the quantity of the unaccepted bid must be awarded at the adjusted unit price of such unaccepted bid before any portion of the set-aside is awarded to any eligible concern at a higher price. The Government reserves the right not to consider token bids or other devices designed to secure an unfair advantage over other bidders eligible for the set-aside portion.

(b) *Definitions.*

(1) The term "labor surplus area" means a geographical area which is a persistent labor surplus area or a substantial labor surplus area, or both, as defined below:

(i) "Persistent labor surplus area" means an area which (A) is classified by the Department of Labor as an "Area of Substantial and Persistent Labor Surplus" (also called "Area of Substantial and Persistent Unemployment") and is listed as such by that Department in conjunction with its publication "Area Trends in Employment and Unemployment," or (B) is certified as an area of substantial and persistent labor surplus by the Department of Labor pursuant to a request by a prospective contractor.

(ii) "Substantial labor surplus area" means an area which (A) is classified by the Department of Labor as an "Area of Substantial Labor Surplus" (also called "Area of Substantial Unemployment") and which is listed as such by that Department in conjunction with its publication "Area Trends in Employment and Unemployment," or (B) is certified as an area of substantial labor surplus by the Department of Labor pursuant to a request by a prospective contractor.

(2) The term "labor surplus area concern" includes persistent labor surplus area concerns and substantial labor surplus area concerns as defined below:

(i) "Persistent labor surplus area concern" means a concern that agrees to perform, or cause to be performed, a substantial proportion of a contract in persistent labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in persistent labor surplus areas if the costs that the concern will incur on account of manufacturing or production performed in such areas (by itself or its first-tier subcontractors) amount to more than 50 percent of the contract price.

(ii) "Substantial labor surplus area concern" means a concern that agrees to perform, or cause to be performed, a substantial proportion of a contract in substantial labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in substantial labor surplus areas if the costs that the concern will incur on account of manufacturing or production performed in substantial and persistent labor surplus areas (by itself or its first-tier subcontractors)

amount to more than 50 percent of the contract price.

(3) A "small business concern" is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is bidding on Government contracts, and can further qualify under the criteria set forth in regulations of the Small Business Administration (13 CFR 121.3-8). In addition to meeting these criteria, a manufacturer or a regular dealer submitting bids or proposals in his own name must agree to furnish in the performance of the contract and items manufactured or produced in the United States, its possessions, or Puerto Rico, by small business concerns: *Provided*, That this additional requirement does not apply in connection with construction or service contracts.

(4) "Unit price" shall include evaluation factors added for the rent-free use of Government property.

(c) *Identification of Areas of Performance.* Each bidder desiring to be considered for award as a labor surplus area concern on the set-aside portion of this procurement shall identify in his bid the geographical areas in which he proposes to perform, or cause to be performed, a substantial proportion of the production of the contract. If the Department of Labor classification of any such area changes after the bidder has submitted his bid, the bidder may change the areas in which he proposes to perform: *Provided*, That he so notifies the Contracting Officer before award of the set-aside portion. Priority for negotiation will be based upon the labor surplus classification of the designated production areas as of the time of the proposed award.

(d) *Agreement.* The bidder agrees that, if awarded a contract as a persistent labor surplus area concern under the set-aside portion of this procurement, he will perform, or cause to be performed, a substantial proportion of the production in areas classified at the time of award, or at the time of performance of the contract, as persistent labor surplus areas; and that if awarded a contract as a substantial labor surplus area concern under the set-aside portion of this procurement, he will perform, or cause to be performed, a substantial proportion of the production in areas classified at the time of award, or at the time of performance of the contract, as substantial or persistent labor surplus areas.

(c) (1) After the award price for the non-set-aside portion has been determined, negotiations may be conducted for the set-aside portion. Procurement of the set-aside portion shall in all instances be effected by negotiation. Negotiations shall be conducted only with those bidders or offerors who have submitted responsive bids or proposals on the non-set-aside portion at a unit price no greater than 120 percent of the highest award made or to be made on the non-set-aside portion and who are determined to be responsible prospective contractors for the set-aside portion of the procurement. Negotiations shall be conducted in the order of priority indicated in the foregoing notice: *Provided*, That, where equal low bids are received on the non-set-aside portion from concerns which are equally eligible for the set-aside portion, the concern which is awarded the non-set-aside portion (under the equal low bid procedures of § 18-2.407-6) shall have first priority with respect to negotiations for the set-aside portion. The set-aside portion shall be awarded at the highest unit price awarded or to be awarded for the non-set-aside portion. A bidder or offeror entitled to receive the award for quantities of an item under the non-set-aside portion and who accepts the award of additional quantities under the set-aside portion shall not be requested to accept a lower price because of the increased quantities of the award, nor shall negotiation be conducted with a view to obtaining such a lower price based solely upon receipt of award of both portions of the procurement. This does not prevent acceptance by the contracting officer of voluntary reductions in price prior to award, acceptance of refunds, or the change of prices after award by negotiation of a contract modification. If the entire set-aside portion cannot be awarded by the method described herein, any unawarded portion may be procured by advertising or negotiations, as appropriate, in accordance with existing regulations (see §§ 18-2.201-2(a) and 18-3.210-3 as to negotiation).

(2) When the award price for a non-set-aside portion has been determined and where an award will be made to a labor surplus area concern and the same labor surplus area concern is entitled to receive a set-aside portion of the solicitation, the set-aside portion may be added to the basic contract by supplemental agreement. The supplemental agreement shall include the "Examination of Records" clause, applicable to the set-aside portion only.

§ 18-1.804-3 Withdrawal of set-asides.

If, prior to the award of a contract involving a labor surplus set-aside, the contracting officer considers that the set-aside is detrimental to the public interest, e.g., because of unreasonable prices, the contracting officer shall withdraw the set-aside and complete the procurement by advertising or negotiation as appropriate in accordance with existing regulations. A signed memorandum setting forth the basis of the withdrawal of any set-aside shall be made and retained.

§ 18-1.804-4 Contract authority.

Contracts for set-aside made under this Subpart 8 shall cite as authority 10 U.S.C. 2304(a)(1). For reporting purposes see § 18-3.201-3(a) for contracts awarded to labor surplus area concerns and § 18-3.201-2(b) for contracts awarded to small business concerns which are not labor surplus area concerns. (See NASA Management Instruction 5101.6.)

§ 18-1.805 Subcontracting with labor surplus area concerns.

§ 18-1.805-1 General policy.

In furtherance of the general policy stated in § 18-1.802, prime contractors shall be encouraged to place subcontracts with concerns which will perform a substantial proportion of the work in areas of labor surplus, where this can be done consistent with efficient performance of contracts and at prices no higher than are obtainable elsewhere.

§ 18-1.805-2 Labor surplus area subcontracting program.

The Government's labor surplus area subcontracting program requires Government prime contractors to assume an affirmative obligation with respect to subcontracting with labor surplus area concerns. In contracts which range from $5,000 to $500,000, the contractor undertakes the simple obligation of using his best efforts to place his subcontracts with concerns which will perform such subcontracts substantially in areas of persistent or substantial labor surplus where this can be done, consistent with the efficient performance of the contract, at prices no higher than are obtainable elsewhere. This undertaking is set forth in the contract clause prescribed in § 18-1.805-3(a). In contracts which may exceed $500,000, the contractor is required, pursuant to the clause set forth in § 18-1.805-3(b), to undertake a number of specific responsibilities designed to insure achievement of the objectives referred to above and to impose similar responsibilities on major subcontractors.

§ 18-1.805-3 Required clauses.

(a) The "Utilization of Concerns in Labor Surplus Areas" clause set forth below shall be inserted in all contracts in amounts which may exceed $5,000, except—

(1) Contracts with foreign contractors which, including all subcontracts thereunder, are to be performed entirely outside the United States, its possessions, and Puerto Rico; and

(2) Contracts for construction.

UTILIZATION OF CONCERNS IN LABOR SURPLUS AREAS (SEPTEMBER 1963)

It is the policy of the Government to place contracts with concerns which will perform such contracts substantially in areas of persistent or substantial labor surplus where this can be done, consistent with the efficient performance of the contract, at prices no higher than are obtainable elsewhere. The Contractor agrees to use his best efforts to place his subcontracts in accordance with this policy. In complying with the foregoing and with paragraph (b) of the clause of this contract entitled "Utilization of Small Business Concerns," the Contractor in placing his subcontracts shall observe the following order of preference: (i) Persistent labor surplus area concerns which are also small business concerns; (ii) other persistent labor surplus area concerns; (iii) substantial labor surplus area concerns which are also small business concerns; (iv) other substantial labor surplus area concerns; and (v) small business concerns which are not labor surplus area concerns.

(b) The "Labor Surplus Area Subcontracting Program" clause below shall be included in all contracts which may exceed $500,000, but which contain the clause required by paragraph (a) of this section and which, in the opinion of the contracting officer, offer substantial subcontracting possibilities. Prime contractors who are to be awarded contracts that do not exceed $500,000, which in the

opinion of the contracting officer offer substantial subcontracting possibilities, shall be urged to accept the following clause:

LABOR SURPLUS AREA SUBCONTRACTING PROGRAM (MAY 1965)

(a) The Contractor agrees to establish and conduct a program which will encourage labor surplus area concerns to compete for subcontracts within their capabilities. In this connection, the Contractor shall—

(1) Designate a liaison officer who will (i) maintain liaison with duly authorized representatives of the Government on labor surplus area matters, (ii) supervise compliance with the "Utilization of Concerns in Labor Surplus Areas" clause, and (iii) administer the Contractor's Labor Surplus Area Subcontracting Program;

(2) Provide adequate and timely consideration of the potentialities of labor surplus area concerns in all "make-or-buy" decisions;

(3) Assure that labor surplus area concerns will have an equitable opportunity to compete for subcontracts, particularly by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of labor surplus area concerns;

(4) Maintain records showing procedures which have been adopted to comply with the policies set forth in this clause; and

(5) Include the "Utilization of Concerns in Labor Surplus Areas" clause in subcontracts which offer substantial labor surplus area subcontracting opportunities.

(b) A "labor surplus area concern" is a concern which will perform, or cause to be performed, a substantial proportion of any contract awarded to it in "Areas of Substantial and Persistent Labor Surplus" or in "Areas of Substantial Labor Surplus," as designated by the Department of Labor. A concern shall be deemed to perform a substantial proportion of a contract in a labor surplus area if the costs that the concern will incur on account of manufacturing or production (by itself or its first-tier subcontractors) in such areas amount to more than 50 percent of the price of such contract.

(c) The Contractor further agrees, with respect to any subcontract hereunder which is in excess of $500,000 and which contains the clause entitled "Utilization of Concerns in Labor Surplus Areas," that he will insert provisions in the subcontract which will conform substantially to the language of this clause, including this paragraph (c), and that he will furnish the names of such subcontractors to the Contracting Officer.

§ 18-1.805-4 Review of subcontracting program.

The adequacy of the contractor's Labor Surplus Area Subcontracting Program shall be reviewed by the procurement office concerned, and any deficiencies shall be brought to the attention of the contractor's liaison officer with a request for corrective action in accordance with the provisions of § 18-3.903.

§ 18-1.806 Depressed industries.

§ 18-1.806-1 General.

When an entire industry is depressed, the Office of Emergency Planning may, under Defense Manpower Policy No. 4, establish appropriate measures on an industry-wide, rather than on an area, basis. Designations of such industries are made by Office of Emergency Planning Notifications, and such industries will be given special treatment as specified therein. §§ 18-1.806-2 through 18-1.806-5 reflect pertinent requirements of such notifications with respect to the industries indicated. No price differential will be paid to carry out policies of these notifications.

§ 18-1.806-2 Apparel industry (notification No. 55, 17 F.R. 6675).

(a) As used in this section the "apparel industry" means all of the industry identified in the "Standard Industrial Classification Manual" under Major Group 23 except Group No. 239.

(b) There shall be no labor surplus area set-asides in this industry.

§ 18-1.806-3 Petroleum and petroleum products industry (notification No. 56, 17 F.R. 9053).

There shall be no labor surplus area set-asides in this industry.

§ 18-1.806-4 Shipbuilding and repairing industry (notification No. 57, 17 F.R. 7868).

(a) As used in this section, the "shipbuilding and repairing industry" (Industry Category 3731) includes establishments primarily engaged in building and repair of all types of ships, barges, canal boats, and lighters of 5 gross tons and over, whether propelled by sail or motor power or towed by other craft. Establishments primarily engaged in fabricating or repairing structural assemblies or components for ships, or subcontractors engaged in ship painting, joinery, carpentry work, electrical wiring installation, etc., are not included.

(b) There shall be no labor surplus area set-asides in this industry. In placing contracts, preference shall be given, where practicable, to contractors who can perform the contracts without substantial use of overtime labor and without constructing new facilities. So as to spread work among a large number of private yards, bids or proposals shall be invited and contracts awarded on a small-lot basis rather than on a large-lot basis, to the extent practicable.

§ 18-1.806-5 Textile industry (notification No. 58, 17 F.R. 4995).

(a) As used in this section, the "textile industry" means all of the industry identified in the "Standard Industrial Classification Manual" under Major Group 22 (Textile Mill Products) and Industry Nos. 2391 and 2392 (Curtains and draperies, and housefurnishings), except that it does not include Industry No. 2274 (Linoleum, asphalt-felt base, and other hard-surface floor covering, not elsewhere classified), and Industry No. 2298 (Cordage and twine).

(b) No preference shall be given to any area or city in placing contracts in this industry. For the purpose of maintaining the effective functioning of the textile industry as a whole, procurement offices shall try to place contracts with manufacturers whose weaving operations (in the case of weaving of integrated mills) or whose spinning operations (in the case of spinning mills) during the period of performance of such contracts will not exceed 80 hours per week (not including other supporting activities).

(c) In all procurements from the textile industry which are estimated to exceed $10,000, partial set-asides, exclusively for textile industry concerns whose "weaving" or "spinning" operations (as described in paragraph (b) of this section) will not exceed 80 hours per week, shall be made substantially in accordance with the procedures set forth in § 18-1.804, except that all "textile industry concerns whose weaving or spinning operations will not exceed 80 hours per week" will be treated as "labor surplus area concerns." The notice set forth in § 18-1.804-2(b) shall be designated "Notice of 80-Hour Week Set-Aside" and appropriately modified for use in accordance with this paragraph (c).

Subpart 18–1.9—Responsible Prospective Contractors

§ 18–1.900 Scope of subpart.

This subpart sets forth:

(a) General policy with respect to responsibility of prospective contractors;

(b) Minimum standards for responsible prospective contractors;

(c) Procedures for determining responsibility of prospective contractors;

(d) Policy and procedures with respect to preaward surveys; and

(e) Policy concerning subcontractor responsibility.

§ 18–1.901 Applicability.

This subpart applies to procurements from contractors located in the United States, its possessions, and the Commonwealth of Puerto Rico; and will be applied in other places except where it is inconsistent with the laws and customs of the place where the prospective contractor is located. It is not applicable to procurements from:

(a) Other governments, including State and local governments;

(b) Canadian Commercial Corporation;

(c) Other U.S. Government agencies or their instrumentalities (such as Federal Prison Industries, Inc.); or

(d) National Industries for the Blind.

§ 18–1.902 General policy.

Contracts shall be awarded only to responsible prospective contractors. A responsible prospective contractor is one who meets the minimum standards set forth in § 18–1.903, and such additional standards as may be prescribed for specific procurements. The award of a contract to a supplier based on lowest evaluated price alone can be false economy if there is subsequent default, late deliveries, or other unsatisfactory performance resulting in additional procurement or administrative costs. While it is important that Government purchases be made at the lowest price, this does not require an award to a marginal supplier solely because he submits the lowest bid or offer. A prospective contractor must demonstrate affirmatively his responsibility, including, when necessary, that of his proposed subcontractors. The contracting officer shall make a determination of nonresponsibility if, after compliance with §§ 18–1.905 and 18–1.906, the information thus obtained does not indicate clearly that the prospective contractor is responsible. Recent unsatisfactory performance, in either quality or timeliness of delivery, whether or not default proceedings were instituted, is an example of a problem which the contracting officer must consider and resolve as to its impact on the current procurement prior to making an affirmative determination of responsibility. Doubt as to productive capacity or financial strength which cannot be resolved affirmatively shall require a determination of nonresponsibility.

§ 18–1.903 Minimum standards for responsible prospective contractors.

§ 18–1.903–1 General standards.

A prospective contractor must meet the following minimum standards as they relate to the particular procurement under consideration:

(a) Have adequate financial resources or the ability to obtain such resources as required during performance of the contract (see §§ 18–1.904(d) and 18–1.905–2, and for Small Business Administration (SBA) certificates of competency, see § 18–1.705–4);

(b) Be able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing business commitments, commercial as well as governmental (for SBA certificates of competency, see § 18–1.705–4);

(c) Have a satisfactory record of performance (contractors who are seriously delinquent in current contract performance, when the number of contracts and the extent of delinquencies of each are considered, shall, in the absence of evidence to the contrary or circumstances properly beyond the control of the contractor, be presumed to be unable to fulfill this requirement). Past unsatisfactory performance, due to failure to apply necessary tenacity or perseverance to do an acceptable job, shall be sufficient to justify a finding of nonresponsibility and in the case of small business concerns, shall not require submission of the case to the Small Business Administration; see §§ 18–1.705–4(b)(4) and 18–1.905–2;

(d) Have a satisfactory record of integrity;

(e) Be otherwise qualified and eligible to receive an award under applicable laws and regulations; e.g., Subpart 6; § 18–12.6.

(f) Have the necessary experience, organization, operational controls, technical qualifications, skills, and facilities, or the ability to obtain them, including the ability to subcontract effectively (this standard includes, where appropriate, such elements as adequacy of production control procedures; quality assurance measures, including those applicable to materials produced or services performed by subcontractors (see § 18–1.906));

(g) Have the necessary production, construction, and technical equipment and facilities, or the ability to obtain them. Where a prospective contractor proposes to use the facilities or equipment of another concern, not a subcontractor, or of his affiliate (see § 18–1.904(d)), all existing business arrangements, firm or contingent, for the use of such facilities or equipment shall be considered in determining the ability of the prospective contractor to perform the contract;

(h) Display a willingness to conform to the Equal Opportunity clause, or, if applicable, the Equal Opportunity in Federally Assisted Construction Contracts clause (see § 18–12.802); and

(i) Be a manufacturer, regular dealer, construction contractor, or service contractor, as defined in §§ 18–1.218, 18–1.228, 18–1.204, and 18–1.229 respectively.

§ 18–1.903–3 Special standards.

When the situation warrants, contracting officers shall develop with the assistance of technical personnel or other specialists, special standards of responsibility to be applicable to a particular procurement or class of procurements. Such special standards may be particularly desirable where a history of unsatisfactory performance has demonstrated the need for insuring the existence of unusual expertise or specialized facilities necessary for adequate contract performance. The resulting standards shall form a part of the solicitation and shall be applicable to all bidders or offerors.

§ 18–1.903–4 Ability to meet certain minimum standards.

Except to the extent that a prospective contractor proposes to perform the contract by subcontracting (see § 18–1.906), acceptable evidence of his ability to obtain financial resources, experience, organization, technical qualifications, skills, and facilities (see § 18–1.903–1 (a) and (f)) generally shall be a commitment or explicit arrangement which will be in existence at the time the contract is to be awarded for the rental, purchase, or acquisition of such resources, equipment, facilities, or personnel.

§ 18–1.904 Determinations of responsibility and nonresponsibility.

(a) Prior to the award of a contract to any person or firm, the contracting officer shall first determine that such person or firm is responsible within the meaning of §§ 18–1.902 and 18–1.903. The signing of the contract shall be considered to be a certification by the contracting officer that he has determined that the prospective contractor is responsible with respect to that contract.

(b) When the contract is estimated to exceed $10,000 and the contracting officer considers that a statement of responsibility is advisable, the contracting officer shall prepare a written statement of the facts upon which he bases his determination of responsibility. Relevant factors for consideration in determining whether such a statement is advisable would include the value, importance, or technical aspects of the procurement, or lack of previous experience with the prospective contractor. However, when a preaward survey is made in connection with a contract that exceeds $10,000, the contracting officer shall prepare a written statement of the facts upon which he bases his determination of responsibility. When the contracting officer prepares a statement, any supporting documents or records, including preaward surveys, SBA certificates of competency, and other information to support determinations of the responsibility of subcontractors will be attached to the statement.

(c) When a bid or offer, on which an award would otherwise be made, is rejected because the prospective contractor is found to be nonresponsible, a statement of nonresponsibility shall be made.

(d) Affiliated concerns (see § 18–1.701–1(c)) shall be considered as separate entities in determining whether the one which is to perform the contract meets the applicable standards for a responsible prospective contractor.

§ 18–1.905 Procedures for determining responsibility of prospective contractors.

§ 18–1.905–1 General.

(a) Generally, determinations of responsibility and nonresponsibility shall be made only on those prospective contractors who are within the range of consideration for award of the contract.

(b) Before making determinations of responsibility, the contracting officer shall have in his possession, or obtain, information sufficient to satisfy himself that a prospective contractor currently meets the minimum standards set forth in § 18–1.903 to the extent that such standards are applicable to a specific procurement.

(c) Maximum practicable use shall be made of current information on file or within the knowledge of personnel within NASA and, when practicable, within other Government agencies. Free interchange with other Government agencies of information pertinent to determinations of responsibility is encouraged. NASA installations shall develop and maintain such pertinent records and experience data as may be useful for the guidance of contracting officers and other personnel concerned. Special attention shall be paid to contractors whose past performance is questionable and new contractors whose reliability is yet unestablished. Upon the request of any NASA contracting officer or other Government agency, information available in such records and data shall be expeditiously furnished.

§ 18–1.905–2 When information will be obtained.

Generally, information regarding the responsibility of a prospective contractor (including, in accordance with §18–1.905–4, preaward survey information when considered necessary) shall be obtained promptly after bid opening or receipt of proposals. However, in negotiated procurements, especially those involving research and development, such information may be obtained before the issuance of requests for proposals. Notwithstanding the foregoing, information regarding financial resources and performance capability shall be obtained on as current a basis as feasible with relation to the date of contract award.

§ 18–1.905–3 Sources of information.

Information regarding the responsibility of prospective contractors shall be the following sources:

(a) The "Joint Consolidated List of Debarred, Ineligible, and Suspended Contractors" (see § 18–1.601);

(b) From the prospective contractor—including representations and other information contained in or attached to bids and proposals; replies to questionnaires; financial data, such as balance sheets, profit and loss statements, cash forecasts, financial history of the contractor and affiliated concerns; current and past performance records; personnel records; and lists of tools, equipment, and facilities; written statements or commitments concerning financial assistance and subcontracting arrangements; and analyses of operational control procedures. Where it is considered necessary by the contracting officer to prevent practices prejudicial to fair and open competition or for other reasons, prospective contractors may be required to submit affidavits concerning their ability to meet any of the minimum standards set forth in § 18–1.903;

(c) Existing information within NASA—including records on file and knowledge of personnel within the procurement office making the procurement, other procurement offices, related activities, contract administration offices, audit activities; and offices concerned with contract financing;

(d) Publications—including credit ratings, trade and financial journals; business directories and registers;

(e) Other sources—including suppliers, subcontractors, and customers of the prospective contractor; banks and financial companies; commercial credit agencies; Government departments and agencies; purchasing and trade associations; better business bureaus and chambers of commerce.

§ 18–1.905–4 Preaward surveys.

(a) *General.* A preaward survey is an evaluation of a prospective contractor's capability to perform under the terms of a proposed contract. Such evaluation shall be used by the contracting officer in determining the prospective contractor's responsibility. The evaluation may be accomplished by use of (1) data on hand, (2) data from another Government agency or commercial source, (3) an on-site inspection of plant and facilities to be used for performance on the proposed contract, or (4) any combination.

(b) *Circumstances under which performed.* (See § 18–1.905–50(a).)

(c) *Workload and financial capacity.* Regardless of the apparent sufficiency of information available to the procurement office indicating responsibility with respect to the standards set forth in § 18–1.903–1 (a), and (b) in procurements which are significant either in dollar value or in the critical nature of the requirement, consideration shall be given to requesting the survey activity to verify information regarding current workload and financial capacity.

(d) *Coordination.* Preaward surveys may be conducted by one NASA installation for another or by other Government agencies for NASA. In this regard, NASA activities will give primary consideration to maximum utilization of the Defense Contract Administration Services Regions, or a military department as appropriate, for performance of preaward surveys. This will eliminate duplication of effort, achieve economy and increase efficiency.

§ 18–1.905–50 Procedures for requesting preaward surveys.

(a) When the contracting officer determines that a preaward survey is required, he shall request a survey on DD Form 1524 in the detail commensurate with the dollar value and complexity of the procurement. In requesting a preaward survey, the contracting officer shall call to the attention of the survey activity any factors which should receive special emphasis. The factors selected by the contracting officer shall be applicable to all firms responding to the solicitation and shall be considered in all preaward surveys performed for the same solicitation. In the absence of specific instructions from the procurement office, the scope of the preaward survey shall be determined by the office conducting the survey.

(b) If a complete survey of financial responsibilities is required, the appropriate blocks in Part I, section III of DD Form 1524 will be checked.

(c) Requests for surveys may be submitted to the NASA installation located nearest to the prospective contractor, to the military department, or the appropriate Defense Contract Administration activity with which NASA has a service agreement (see § 18–1.905–4). The survey shall be requested on Preaward Survey of Prospective Contractor (DD Form 1524) indicating in Part I, section III thereof the scope of the survey desired. Factors requiring emphasis not enumerated in Part I, section III should be listed by the procurement office under item "14" of that section. A survey may be requested by telegraphic communication containing the data required by Part I, sections I, II, and III of the Form. A survey may be requested by telephone but shall be confirmed immediately on DD Form 1524. Unless previously furnished, a copy of the solicitation and such drawings and specifications as deemed necessary by the procurement office, shall be supplied with the preaward survey request. The procurement office shall forward any information indicating previous unsatisfactory contract performance with the preaward survey request, except where it is known that the survey activity already has this information.

§ 18–1.905–51 Conditions which normally do not require a preaward survey.

Normally, preaward surveys are not required when:

(a) The data is available from other sources;

(b) The contract is for study or research only;

(c) The contract will be a firm fixed-price contract for off-the-shelf items when the contract amount is less than $100,000;

(d) The pending contract will be a definitive contract superseding a letter contract;

(e) An order is to be placed under an existing Government contract;

(f) The prospective contractor has proved his reliability by recent and sustained or existing satisfactory performance; or

(g) When the source has been recommended by the NASA Source Evaluation Board (see § 18–3.804–3).

§ 18–1.905–52 NASA conducted preaward surveys.

(a) Upon receipt of the request for preaward surveys, the NASA survey officer shall:

(1) Familiarize himself with the terms of the invitation for bid or request for proposal;

(2) Review information available from other sources relative to the contractor;

(3) Make an on-site survey of the plant concerned; and

(4) Complete the DD Form 1524 as required.

(b) Upon completion of the survey, the survey officer shall prepare a narrative report of survey information and conclusions. In preparing the report, the survey officer should ensure that all the information required by the contracting officer and, in each area of investigation, a definite statement as to responsibility and capability of the contractor, have been included. The reports should be brief, clear, and complete, and should not include matters other than those specifically requested by the contracting officer except as indicated in § 18–1.905–4.

§ 18–1.906 Subcontractor responsibility.

(a) To the extent that a prospective contractor proposes to perform the contract by subcontracting, determinations of prospective subcontractor's responsibility may be necessary in order to determine the responsibility of the prospective prime contractor. Determinations concerning prospective subcontractors' responsibility shall generally be a function performed by the prospective prime contractor. (See § 18–1.603(c) relating to subcontractors listed on the "Joint Consolidated List of Debarred, Ineligible, and Suspended Contractors.") A prospective prime contractor may be required to (1) indicate, in writing, the responsibility of proposed subcontractors, or (2) show evidence of an acceptable and effective purchasing and subcontracting system which encompasses a method for determining subcontractor capability.

(b) Notwithstanding the general responsibility of a prospective contractor to demonstrate the responsibility of his prospective subcontractors, it may be in the Government's best interest to make a direct determination of the responsibility of one or more prospective subcontractors prior to award of the prime contract. Examples of when this may be particularly suitable or the procurements of (1) supplies or services which are so urgently needed that it is necessary for the Government to go beyond the normal process in determining contractor responsibility, and (2) supplies or services, a substantial portion of which will be subcontracted. The determination of responsibility of a proposed subcontractor by the Government shall be based on the same factors as are applicable in a determination of responsibility of a prospective prime contractor.

Subpart 18–1.10—Publicizing Procurement Actions

§ 18–1.1001 General policy.

It is NASA policy to increase competition by publicizing procurements which offer competitive opportunities for prospective prime contractors or subcontractors, thus assisting small business and labor surplus area concerns and broadening industry participation in NASA procurement programs.

§ 18–1.1002 Dissemination of information relating to invitations for bids and requests for proposals.

§ 18–1.1002–1 Availability of invitations for bids and requests for proposals.

A reasonable number of copies of invitations for bids and requests for proposals, which are required to be publicized in the Commerce Business Daily, including specifications and other pertinent information, shall be maintained by the issuing office. Upon request, prospective contractors not initially solicited may be mailed or otherwise provided copies of such invitations for bids or requests for proposals to the extent they are available. Where a solicitation for proposals has been limited as a result of a determination that only a specified firm or firms possess the capability to meet the requirements of a procurement, requests for proposals shall be mailed or otherwise provided upon request to firms not solicited, but only after advice has been given to the firm making the request as to the reasons for the limited solicitation and the unlikelihood of any other firm being able to qualify for a contract award under the circumstances. In addition, to the extent that invitations for bids or requests for proposals are available, they shall be provided on a "first come-first served" basis, for pick up at the contracting office, to publishers, trade associations, procurement information services, and other members of the public having a legitimate interest therein; otherwise, the procurement office may limit the availability of such information to perusal at such office. In determining the "reasonable number" of copies to be maintained, the contracting officer shall consider, among other things, the extent of initial solicitation, reproduction costs, the nature of the procurement, whether access to classified matter is involved, the anticipated requests for copies based upon responses to synopses and other means of publication in previous similar situations, and the fact that publishers and others who disseminate information regarding proposed procurements normally do not require voluminous specifications or drawings. With regard to classified procurements, the foregoing instructions apply to the extent consistent with NASA security instructions and procedures.

§ 18–1.1002–2 Limited availability of certain specifications, plans, and drawings.

Where the procurement office is not in possession of complete sets of specifications, plans, and drawings, or the drawings and specifications are classified, or are so voluminous that display and distribution in accordance with § 18–1.1002 is impracticable, the solicitation shall contain notice of this fact and of the locations at which the specifications, plans, or drawings may be examined.

§ 18–1.1002–4 Displaying in public place.

A copy of each solicitation for an unclassified procurement in excess of $2,500 shall be displayed at the contracting office, and, if appropriate, at some additional public place from the date issued until 7 days after bids or proposals have been opened.

§ 18–1.1002–5 Information releases to newspapers and trade journals.

A brief announcement of the proposed purchase may be made available to newspapers, trade journals, and magazines for publication without cost to the Government.

§ 18–1.1003 Synopses of proposed procurements.

§ 18–1.1003–1 Department of Commerce synopsis.

(a) The "Commerce Business Daily, Synopsis of U.S. Government Proposed Procurement, Sales, and Contract Awards," informally known as "Department of Commerce Synopsis" or "Synopsis," is published daily, except Saturdays, Sundays, and holidays, by the U.S. Department of Commerce, Chicago, Ill. Section 8 of the Small Business Act (15 U.S.C. 637(e)) empowers the Secretary of Commerce to obtain notice of certain proposed procurement actions from any Federal department, establishment, or agency engaged in procurement of supplies and services in the United States; and to publicize such notices in the Department of Commerce Synopsis immediately after the necessity for the procurement is established.

(b) The primary purpose of the Department of Commerce Synopsis is to provide industry with information concerning current Government contracting and subcontracting opportunities, including information as to the identity and location of Government contracting offices and prime contractors having current or potential need for certain types of products or services.

(c) The Department of Commerce Synopsis is available on an annual subscription basis, and subscriptions can be entered at any Department of Commerce office. Complimentary subscriptions are available to participating Government activities upon request.

§ 18–1.1003–2 General requirements.

(a) Except for procurements described in paragraphs (b) and (c) of this section, every proposed advertised or negotiated procurement, including modifications to existing contracts when new funds are obligated for additional supplies and services, made in the United States, its possessions, and Puerto Rico which may result in an award in excess of $10,000 shall be publicized promptly in the Commerce Business Daily "Synopsis of U.S. Government Proposed Procurement, Sales, and Contract Awards". Modifications to an existing contract resulting from price changes, engineering changes, overruns, definitization of letter contracts, and other similar transactions need not be publicized in the Commerce Business Daily. In addition to the information normally included in a synopsis, the names and addresses of all firms which have been invited by NASA to submit proposals shall be furnished to the Department of Commerce for each proposed negotiated procurement which may result in an award of $100,000 or more where it would be in the Government's interest or where subcontracting opportunities exist. A copy of each synopsis sent to the Department of Commerce shall be furnished to the Office of Procurement (Code: KD–2) and to the Office of Public Affairs, NASA Headquarters (Attention: Public Information Division) as required by this § 18–1.1003–2.

(b) Classified procurements, where the information necessary to be included in the Synopsis would disclose classified information or where the mere disclosure of the Government's interest in the area of the proposed procurement would violate security requirements, shall not be publicized in the Synopsis. All other classified procurements shall be publicized in the Synopsis, even though access to classified matter might be necessary in order to submit a proposal or to perform the contract (see § 18–1.1003–9(e)(3)). The intent of the exception for classified procurement in the synopsis requirements of Public Law 87–305 is not to exempt every classified procurement from publicizing, but to provide a safeguard against violating security requirements.

(c) The following need not be publicized in the Synopsis:

(1) See paragraph (b) of this section;

(2) Procurement of perishable subsistence supplies;

(3) Procurement of electric power or energy, gas (natural or manufactured), water or other utility services;

(4) Procurement (whether advertised or negotiated) which is of such urgency that the Government would be adversely affected by the delay involved in permitting the date set for receipt of bids, proposals, or quotations to be more than 15 calendar days from the date of transmittal of the synopsis or the date of issuance of the solicitation, whichever is earlier;

(5) Procurement to be made by an order placed under an existing contract;

(6) Procurement to be made from or through another Government department or agency, or a mandatory source of supply such as an agency for the blind under the blind-made products program;

(7) Procurement of personal or professional services to be negotiated under § 18–3.204;

(8) Procurement from educational institutions to be negotiated under § 18–3.205; and

(9) Procurement in which only foreign sources are to be solicited.

§ 18–1.1003–3 Time of publicizing.

To allow concerns which are not on current bidders lists ample time to prepare bids, proposals, or quotations, procurement offices should, when feasible, synopsize proposed procurements at least 10 days before this issuance of solicitations, in accordance with § 18–1.1003–9(b)(8).

§ 18–1.1003–4 Preinvitation notices.

Where preinvitation notices (see § 18–2.205–4) are used, the preinvitation information included in that notice shall be included in the synopsis. This information need not be republished in the synopsis when the invitation for bids is issued. However, if the preinvitation notice contains a set-aside provision which is later canceled (e.g., because of a lack of small business response) then, the procurement shall be synopsized the second time at the time the solicitation is issued.

§ 18–1.1003–5 Publication of procurements of less than $10,000.

When recommended by procurement personnel or the small business specialist, and approved by the contracting officer, proposed procurements of less than $10,000 may be publicized in the Commerce Business Daily.

§ 18–1.1003–6 Synopsis of subcontract opportunities.

(a) *By contracting officers.* (1) In order to broaden the opportunity in negotiated procurement for subcontracting by small business concerns and others, contracting officers, shall, unless not in the Government's interest or subcontracting opportunities do not exist, publish in the Commerce Business Daily the names and addresses of firms to whom requests for proposals have been issued. This procedure will offer opportunity to small business concerns and others interested in subcontracting to make direct contact with prospective prime contractors at an early stage in the procurement. An addition to the regular synopsis prepared in accordance with § 18–1.1003–9 shall be made as set forth in § 18–1.1003–9(f).

(2) Contracting officers shall, unless not in the Government's interest or subcontracting opportunities do not exist, publish in the Commerce Business Daily the names and addresses of firms which have submitted acceptable technical proposals in the first step of two-step formal advertising and will therefore be issued invitations for bids in the second step (see § 18–2.503). Such lists should be followed by a statement substantially as follows:

It is suggested that small business firms or others interested in subcontracting opportunities in connection with this procurement make direct contact with the above firms.

(b) *By prime contractors and subcontractors.* Prime contractors and subcontractors should be encouraged to use the Commerce Business Daily to publicize opportunities in the field of subcontracting stemming from their Government business. Prime contractors and their subcontractors will be advised to mail subcontract information directly to the U.S. Department of Commerce, Commerce Business Daily, Post Office Box 5999, Chicago, Ill. 60680, under the heading "Subcontracting Assistance Wanted" and in the form of the following example.

XYZ CO. ATTN JOHN Z. SMITH, TELE. NO. RANDOLPH 6–1111, 103 FIRST AVE., CHICAGO, ILL. 60607, seeks Subcontractor on items to be used in connection with Contract No. ------ awarded ----------
(Date)
COILS, INDUCTION, DWG. NO. 10–742 ---------- $10,000 each.

(Name, description, and quantity of other items or services may be included as long as contract assistance is desired under the same contract number)—if interested, make inquiry before ---------- to above contractor. (Date)

§ 18–1.1003–7 Information regarding specifications, plans, and drawings.

(a) Where distribution of applicable specifications, plans, or drawings with the solicitation is impracticable, the synopsis shall contain notice of this fact and of the locations at which the specifications, plans, or drawings may be examined or obtained.

FEDERAL REGISTER, VOL. 32, NO. 233—SATURDAY, DECEMBER 2, 1967

(b) Where the specifications, plans, and drawings available do not fully provide manufacturing or construction details necessary to describe a requirement the synopsis shall contain notice of this fact.

(c) Notices of the situations in paragraphs (a) and (b) of this section shall be prepared in accordance with § 18–1.1003–9(f).

§ 18–1.1003–8 Responsibility of small business specialists.

Small business specialists in each procurement office are responsible for screening all proposed procurements and for recommending action to be taken with respect to publicizing such procurements in accordance with the requirements of this § 18–1.1003. In those offices where no small business specialist is assigned, the contracting officer or other designated representative shall accomplish the foregoing.

§ 18–1.1003–9 Preparation and transmittal.

(a) Each procurement office shall transmit a synopsis of proposed procurements as follows:

(1) When teletypewriter service is available and time or other considerations indicate that mail service should not be used, all synopses shall be forwarded daily as soon as practical via teletypewriter covering invitations for bids, requests for proposals or quotations issued on that day, or at the earliest practical time prior to issuance of the invitation for bids, requests for proposals or quotations, as is deemed appropriate, to the following address:

Synopsis, Commerce Department, Field Services, Chicago, Ill. 60604.

(2) When the use of mail services does not interfere with the intent of allowing interested firms ample time to submit bids, proposals, or quotations, or when teletypewriter service is not available, synopses shall be dispatched by airmail or ordinary mail, whichever is considered most expeditious, addressed as follows:

U.S. Department of Commerce, Commerce Business Daily, Post Office Box 5999, Chicago, Ill. 60680.

(b) Each synopsis shall be prepared as follows:

(1) Lines in the text commencing flush with left margin will not exceed 69 typewritten spaces. Double spaced lines will be used to describe each procurement action. Descriptions of different procurement actions will be distinguished by indenting the first five spaces.

(2) The first line of the text of the message will state the number of the synopsis being sent. Synopses will be numbered consecutively by the purchasing office during the calendar year. New numerical series beginning with number one will start as of the first working day of January of each year. Double space between this line and the next line.

(3) The second line of the text of the message will state name and location of the procurement office straight across the page, not to exceed 69 typewritten spaces. No abbreviations are to be used except for name of State. If more than one line is required for name and location of procurement office, double space and continue on subsequent line or lines if necessary, double spacing between each line. The address may include an attention phrase directed to an official by name or title.

(4) Four spaces below the preceding line entry (name and address of purchasing office), indent five spaces. Using the codes set forth in § 18–1.1006, select the code applicable to the procurement action and insert as appropriate. If more than one classification is applicable to the procurement action, enter the code accounting for the largest dollar volume of the procurement. Two hyphens will be inserted after the code followed by a description of the supplies or services being procured stated in narrative paragraph form, double spaced, with each line commencing flush with the left margin. The length of the lines in the description will not exceed 69 typewritten spaces. The description will be clear, concise, and with a minimum number of words but sufficient for understanding by interested parties. It will include, as appropriate, commonly used names of supply items, basic materials from which fabricated, general size or dimensions, citations of specification or drawing numbers, or other data. The Federal stock number will also be included where one has been assigned. In the absence of a Federal stock number, the service stock number will be included where one has been assigned. However, where more than six items are listed in the synopsis, stock numbers will be listed only for the six items of highest value. No abbreviations will be used in describing supplies or services, although standard abbreviations may be used in listing the quantity purchase reference numbers, specifications and bid opening date. Punctuation symbols will be used as in normal correspondence. Fractions on typewriter keys will not be used but fractions may be expressed by (number)/(number) e.g., 11/16, ¼, ½. The symbols # or @ or ° may not be used since they are not used in teletypewriter operation.

(5) Following the complete description of the supplies or services which will end with a period, two hyphens will be used to set off the quantity to be procured. The quantity usually will be stated in numerals followed by the unit (abbreviations of units are permissible, e.g., lbs., ea., doz.). Whenever it is necessary to use "Indefinite Quantity," the description should include a statement as to the duration of the contract or period covered.

(6) The quantity will be followed by two hyphens before indicating the place of delivery as follows: "Deliveries to _____". Places of delivery should be stated specifically when there are not more than three destinations. When delivery points are more numerous, they will be grouped, if practicable, to show the general geographic area, e.g., "West Coast", "East Coast", or other appropriate regional description. Otherwise, the places of delivery will be stated as "Various Destinations" or "Destination(s) to be furnished".

(7) The places of delivery will be followed by two hyphens before commencing with the invitation for bids number or other purchase reference number, which may consist of letters, numerals, or abbreviations separated by hyphens or spaces. Invitation for bids numbers shall be identified and followed by the letter "B"; request for proposals and request for quotations numbers shall be followed by the letter "Q." Purchase reference numbers should not be broken or appear on one line carried over on the subsequent line, as the insertion of a hyphen for the carryover would change the reference number.

(8) Two hyphens will be used following the invitation for bids number or purchase reference number to set off the bid opening date or the advance notification date. If the synopsis is published prior to issuance of the invitation for bids or request for proposals or quotations, the synopsis shall include a statement to the effect that requests for such invitations, proposals or quotations should be received not later than 10 days from the date of publication of such synopsis in order to enable the procurement office to mail such invitation for bids, request for proposals, or request for quotations directly to the inquirer at the time of issuance thereof.

(9) On the last page of each issue the Commerce Business Daily publishes footnote information identified as "cuts," which applies to specific procurement situations and which is used in repetitive instances in certain synopses appearing in the publication. Some existing "cuts" are similar to the examples stated in paragraph (a) of this section. Where existing "cuts" include exact wordage applicable to a given synopsis, purchasing offices may incorporate into the body of the letter of teletypewriter transmittal a reference "See Cut No. ____ on the last page of this issue * * *", in lieu of typing out the specific text of the particular entry. Any reference in the transmittal to certain standard "boilerplate" notices in the Commerce Business Daily will be made by title, when applicable. When the procurement situation of a given synopsis deviates from the standard "boilerplate" language, appropriate emphasis should be made in the text of the transmitted synopsis.

NOTE: The purpose of using "cuts" is to reduce the costs of preparing, transmitting and printing synopses. In order to promote cost reduction, contracting officers are urged to use references to "cuts" in preparing synopses, when applicable. If an existing "cut" does not cover a frequently recurring situation, contracting officers of each installation

may request the Commerce Business Daily to establish a new "cut." Requests shall be addressed to:

U.S. Department of Commerce, Commerce Business Daily, Post Office Box 5999, Chicago, Ill. 60680.

From time to time a list of currently existing "cuts" will be published in a U.S. Department of Commerce Bulletin.

(c) In addition to the foregoing, where the proposed procurement is to be effected in accordance with a small business set-aside (see § 18–1.706) or labor surplus area set-aside (see § 18–1.804), the synopsis shall (1) where there is a 100 percent small business set-aside, state that "The proposed procurement(s) listed herein is (are) under 100 percent small business set-aside," or (2) where there is a partial small business or labor surplus area set-aside, state that "An additional quantity of ____ is being reserved for _____ (insert "small business" or "labor surplus area" as appropriate) under a partial determination."

NOTE: To avoid confusion, separate messages should be sent covering proposed procurements which are under 100 percent small business set-aside so that they will be placed in the Department of Commerce's Notice to Small Firm Section.

(d) Notices of specific procurements of research or development projects may state that only those sources which have been technically evaluated will be requested to submit proposals. When it is intended to award a contract based on earlier unsolicited proposals for research and development work the notice shall so state. The name of the proposed contractor shall be given and a brief description of the work proposed, provided that information submitted in confidence is not revealed. The notice may state that a contract is in process of being awarded and therefore, other proposals cannot be considered for this procurement.

(e) Certain procurements involve demands on the contractor which may make it virtually impossible for concerns not having special capabilities or qualifications to compete realistically for the contract. So as to alert such concerns to the need for special capabilities or qualifications and thus permit them to avoid improvement expenditures for bid preparation and the like, procurements for which (1) it is impracticable to distribute plans, drawings, or specifications, (2) adequate plans, drawings, or specifications to describe requirements are not available, (3) security clearance is required, or (4) other circumstances exist which should be brought to the attention of prospective sources for consideration in order to clearly indicate those qualifying factors affecting the procurement, should be so identified in the synopsis. Appropriate notations for inclusion in the synopsis, such as set forth below, should be devised to meet the needs of specific situations.

(1) Availability of specifications, plans, or drawings.

It will be impracticable to distribute the applicable _____ _____ (Insert "specifications," "plans," "drawings" or other appropriate words) with the solicitation. This data may be examined or obtained at _____ _____ (Be specific)

(2) Complete data not available.

Available specifications, plans, or drawings, relating to the procurement described below do not fully provide all necessary manufacturing and construction details.

(3) Security requirements.

Security clearance will be required of all bidders or offerors (or of the successful bidder or offeror).

(4) Availability of background research report.

This procurement of basic research is a continuation of an effort conducted for the past _____. A research report (Insert period) containing findings to date is not available to the Government.

(5) Production requirements.

The production of the supplies listed requires a substantial initial investment or an extended period of preparation for manufacture.

(6) Standardization requirements.

This procurement is for technical equipment. A determination has been made in accordance with 10 U.S.C. 2304(a)(13) that standardization and interchangeability of parts are necessary in the public interest. Therefore, to achieve standardization, it is proposed that Requests for Proposals need be issued only to the following firms:

_____	_____
(Name of firm)	(Address)

(f) Where the contracting officer determines in accordance with § 18–1.1003–6(a) that the names of firms to whom requests for proposals have been issued should be included in the synopsis, such synopsis shall contain substantially the following statement:

Requests for Proposals have been issued to the following firms:

_____ (Name of firm) _____ (Address)

It is suggested that small business firms or others interested in subcontracting opportunities in connection with this procurement make direct contact with the above firms.

(g) Each reporting office will discuss the instructions contained in this paragraph with its communications office so that the manner in which the message is to be transmitted is understood by the office preparing the message and the communications office.

§ 18–1.1004 Disclosure of information prior to award.

(a) A high level of business security must be maintained in order to preserve the integrity of the procurement process. Occasionally, it is necessary to contact potential contractors and others outside NASA to obtain information regarding wage rates, material costs, and the like, in order to prepare Government estimates in connection with proposed procurements; however, these estimates and other details regarding such proposed procurements shall not be publicized nor discussed with prospective contractors.

(b) Maximum information may be made available to the public except (1) advance information on proposed plans regarding procurements, which information would provide undue or discriminatory advantage to private or personal interests, (2) information which is received in confidence, (3) information which requires protection in the public interest or (4) information as to referrals (for technical review, contracting authority, or other reasons) or recommendations made with respect thereto in connection with any given procurement. This policy applies to all Government personnel who participate directly or indirectly in any stage of the procurement cycle. Information submitted by the bidder or offeror in confidence, and information which might jeopardize the position of the Government or any prospective contractor shall not be released, except as provided in §§ 18–1.1007 and 18–3.106 (see § 18–1.705–4 as to information to be released to the SBA).

§ 18–1.1005 Publicizing award information.

§ 18–1.1005–1 Synopsis of contract awards.

(a) *General.* Awards of all unclassified contracts to be performed in whole or in part within the United States, exceeding $25,000 in amount, shall be published in the Commerce Business Daily "Synopsis of U.S. Government Proposed Procurement, Sales, and Contract Awards."

(b) *Preparation and transmittal.* (1) Procurement offices shall prepare and forward single copies of synopses of contract awards, using the same format as prescribed for synopses of proposed procurements in § 18–1.1003–9, to the address below, by airmail or ordinary mail whichever is considered most expeditious, before the close of business at the end of each week.

U.S. Department of Commerce, Commerce Business Daily, Post Office Box 5999, Chicago, Ill. 60680.

(2) The synopsis of contract awards shall contain the following information:

(i) The name and address of procurement office;

(ii) The classification code applicable to the procurement action;

(iii) A clear and concise description of the supplies or services being procured, such description to be followed by the contract number and date and, in parentheses, by the applicable number of the invitation for bids or request for proposals;

(iv) The quantity of each item;

(v) The dollar amount of the award;

(vi) The name and full address of the contractor;

(vii) For f.o.b. destination procurement when total shipments from a point of origin to a point of destination will exceed 200,000 pounds and destinations are firm—

(a) Origin point of shipment when different from (vi) above;

(b) Destination of shipment; and

(c) Scheduled delivery period (beginning and ending dates); and

(viii) When requested by the prime contractor, a statement of the industries, crafts, processes, or component items in or for which subcontracts are available and subcontractors are desired, together with the general area, if any, indicated by the prime contractor, such as Southeast States, West Coast, New England.

(3) Procurement offices shall forward, by mail, one copy of the synopsis of contract award as prepared in § 18–1.1005–1 (b) to the Director of Procurement (Code: KD–2) and a copy to the Public Affairs Office of the installation.

§ 18–1.1006 Classification codes.

The classification codes to be shown in synopses messages, as required by § 18–1.1002–9(b)4 for proposed procurements and § 18–1.1005–1(b)2 for contract awards, shall be in accordance with this paragraph § 18–1.1006. Services (including construction and experimental, developmental, test, and research work) shall be coded with the applicable letter code set forth in § 18–1.1006–1. Supplies shall be coded with the applicable two-digit numerical code set forth in §18–1.1006–2.

§ 18–1.1006–1 Codes for services.

The code letters to be used for services are as follows:

Code	Description of Services
A.	Experimental, developmental, test, and research work (research includes both basic and applied research).
J.	Maintenance and repair of equipment.
K.	Modification, alteration, and rebuilding of equipment.
L.	Technical representative services (Example: Services of technical specialists required to advise and assist with respect to the installation, checking, operation, and maintenance of complex equipment).
M.	Operation and maintenance of Government-owned facility.
N.	Installation of equipment (use code K if the procurement also involves modification, alteration, or rebuilding of the equipment).
P.	Salvage services (services required to salvage property of any kind).
Q.	Medical services.
R.	Architect, engineer, expert, and consultant services.
S.	Housekeeping services. Examples: Utility services (gas, electric, telephone, etc.). Laundry and dry cleaning services. Custodial—janitorial service. Insect and rodent control. Packing and crating. Storage services. Garbage and trash collection. Food service. Fueling service. Fire protection. Building and grounds maintenance. Care of remains—funeral services. Guard services.
T.	Photographic, mapping, printing, and publication services. Examples: Film processing. Cataloging. Charting. Reproduction. Technical writing. Art. Printing.
U.	Training services.
V.	Transportation services. Examples: Passenger and cargo transportation. Vessel charter. Vessel operation. Tug service. Stevedoring service. Vehicle hire. Railway equipment charter.
W.	Lease or rental, except transportation equipment. Examples: Lease of ADP or EAM equipment. Lease of earth-moving equipment.
Y.	Construction (includes construction, alteration, and repair of buildings, structures, and improvements to real property, including roads, bridges, tunnels, sewers, power lines, railways, docks, levees and canals).
Z.	Miscellaneous (includes services which do not fall within any of the above).

§ 18–1.1006–2 Codes for supplies.

The two-digit code numbers to be used for supplies are as set forth below. The numbers and descriptions used are the same as the 76 assigned commodity groups of the Federal Supply Classification system as shown in the Cataloging Handbook, H 2–1, Federal Supply Classification, Part 1, Groups and Classes. This handbook, together with Cataloging Handbooks H 2–2 (Numeric Index of Classes) and H 2–3 (Alphabetic Index), will be helpful in determining the proper code to be assigned to supply items in synopses messages. These handbooks may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Code	Description of Supplies
10.	Weapons.
11.	Nuclear ordnance.
12.	Fire control equipment.
13.	Ammunition and explosives.
14.	Guided missiles.
15.	Aircraft; and airframe structural components.
16.	Aircraft components and accessories.
17.	Aircraft launching, landing, and ground handling equipment.
18.	Space vehicles.
19.	Ships, small craft, pontoons, and floating docks.
20.	Ship and marine equipment.
22.	Railway equipment.
23.	Motor vehicles, trailers, and cycles.
24.	Tractors.
25.	Vehicular equipment components.
26.	Tires and tubes.
28.	Engines, turbines, and components.
29.	Engine accessories.
30.	Mechanical power transmission equipment.
31.	Bearings.
32.	Woodworking machinery and equipment.
34.	Metalworking machinery.
35.	Service and trade equipment.
36.	Special industry machinery.
37.	Agricultural machinery and equipment.
38.	Construction, mining, excavating, and highway maintenance equipment.
39.	Materials handling equipment.
40.	Rope, cable, chain, and fittings.
41.	Refrigeration and air-conditioning equipment.
42.	Fire-fighting, rescue, and safety equipment.
43.	Pumps and compressors.
44.	Furnace, steam plant, and drying equipment; and nuclear reactors.
45.	Plumbing, heating, and sanitation equipment.
46.	Water purification and sewage treatment equipment.
47.	Pipe, tubing, hose, and fittings.
48.	Valves.
49.	Maintenance and repair shop equipment.
51.	Hand tools.
52.	Measuring tools.
53.	Hardware and abrasives.
54.	Prefabricated structures and scaffolding.
55.	Lumber, millwork, plywood, and veneer.
56.	Construction and building materials.
58.	Communication equipment.
59.	Electrical and electronic equipment components.
61.	Electric wire, and power and distribution equipment.
62.	Lighting fixtures and lamps.
63.	Alarm and signal systems.
65.	Medical, dental, and veterinary equipment and supplies.
66.	Instruments and laboratory equipment.
67.	Photographic equipment.
68.	Chemicals and chemical products.
69.	Training aids and devices.
71.	Furniture.
72.	Household and commercial furnishings and appliances.
73.	Food preparation and serving equipment.
74.	Office machines and data processing equipment.
75.	Office supplies and devices.
76.	Books, maps, and other publications.
77.	Musical instruments, phonographs, and home-type radios.
78.	Recreational and athletic equipment.
79.	Cleaning equipment and supplies.
80.	Brushes, paints, sealers, and adhesives.
81.	Containers, packaging, and packing supplies.
83.	Textiles, leather, and furs.
84.	Clothing and individual equipment.
85.	Toiletries.
87.	Agricultural supplies.
88.	Live animals.
89.	Subsistence.
91.	Fuels, lubricants, oils, and waxes.
93.	Nonmetallic fabricated materials.
94.	Nonmetallic crude materials.
95.	Metal bars, sheets, and shapes.
96.	Ores, minerals, and their primary products.
99.	Miscellaneous.

§ 18–1.1007 Release of procurement information.

§ 18–1.1007–1 Members of Congress.

In addition to having access to that information available to members of the public, Members of Congress, upon their request, shall be given detailed information regarding any particular NASA procurement. The information given shall be responsive to the Congressional request; however, where responsiveness would result in disclosure of classified matter, business confidential information, or information which would be prejudicial to competitive procurement, the proposed reply, with full documentation, will be promptly prepared and forwarded by the most expeditious means to the Assistant Administrator for Legislative Affairs, NASA Headquarters, for approval and release.

§ 18–1.1007–2 Paid advertisements in newspapers and trade journals.

Use of paid advertisements for procurement purposes is not currently authorized within NASA (§ 18–2.203–3 of this chapter).

§ 18–1.1050 Furnishing additional procurement information to public.

§ 18–1.1050–1 Policy.

In addition to publicizing procurements and contract awards in the Commerce Business Daily, it is NASA policy to furnish the public, upon request, through the public affairs office of the NASA installation receiving the request, information on specific current NASA procurements, including:

(a) The names of firms invited to submit bids or proposals;

(b) The names of firms which attended preproposal briefing conferences when held; and

(c) After the date established for receipt of bids or proposals, the names of firms which submitted bids or proposals.

(d) Contract award information as required to be publicized in the Commerce Business Daily under the provisions of § 18–1.1005–1.

Exceptions to this policy will be permitted only when the Director of Procurement or the Director of the field installation concerned determines that the disclosure of such information would be prejudicial to the interests of NASA.

§ 18–1.1050–2 Procedures.

(a) Contracts requiring approval by the Director of Procurement, in accordance with Subpart 18–50.1, will not be distributed, or any information given to any source outside of NASA that the contract has been approved, until 24 hours after the Assistant Administrator for Public Affairs and the Assistant Administrator for Legislative Affairs, NASA Headquarters, have been advised that the contract has been consummated.

(b) For procurements other than those enumerated in paragraph (a) of this section, unclassified public information requested will be furnished through the Public Information Office of the NASA installation receiving the request. When press releases or public announcements are made, for procurements of $10,000 or more, they shall include the following information:

(1) For awards after formal advertising, state that the contract was awarded after competition by formal advertising and include the number of bids solicited and the number received, and state in general terms the basis for selection, e.g., the lowest responsible bidder.

(2) For awards after procurement by negotiation, include the information contained in the notice prescribed by § 18–3.106–3(b) and where the award was made after competitive negotiation (either price or design competition), include a statement to this effect and state in general terms the basis for selection.

Subpart 18–1.12—Specifications, Plans, and Drawings

§ 18–1.1200 Application.

The policies and procedures of 32 CFR Part 12, Subpart A, and of FPR 1–1.308 through 1–1.307, inclusive, are hereby made applicable to NASA, except that:

(a) Military specifications approved by the Department of Defense for its use, as set forth in 32 CFR 1.1202, are not mandatory for use by the National Aeronautics and Space Administration; and

(b) The Defense Standardization Program, established by the Department of Defense, and referenced in 32 CFR 1.1202, is not applicable to the National Aeronautics and Space Administration.

§ 18–1.1201 General.

(a) Plans, drawings, specifications, or purchase descriptions for procurements shall state only the actual minimum needs of the Government and describe the supplies and services in a manner which will encourage maximum competition and eliminate, insofar as is possible, any restrictive features which might limit acceptable offers to one supplier's product, or the products of a relatively few suppliers. Items to be procured shall be described by reference to the applicable specifications or by a description containing the necessary requirements. When specifications are cited, all amendments or revisions thereof, applicable to the procurement, should be identified and the identification shall include the dates thereof. Drawings and data furnished with solicitations shall be clear and legible.

(b) Many specifications cover several grades or types, and provide for several options in methods of inspection, etc. When such specifications are used, the solicitation shall state specifically the grade, type, or method of inspection, etc., on which bids or offers are to be based.

§ 18–1.1202 Mandatory specifications.

(a) Except as provided in paragraph (b) of this section, Federal specifications are mandatory for use by NASA in the procurement of supplies and services covered by such specifications, unless determined by NASA to be inapplicable for its use.

(b) Federal specifications need not be used for the following unless required by agency instructions:

(1) Purchase incident to research and development;

(2) Purchase of items for test or evaluation;

(3) Purchase of laboratory test equipment for use by Government laboratories;

(4) Purchase of items in an amount not to exceed $2,500 (multiple small purchases of less than $2,500 of the same item shall not be made for the purpose of avoiding the use of Federal specifications);

(5) Purchase of one-time procurement items; or

(6) Purchase of items for which it is impracticable or uneconomical to prepare a specification (repetitive use of a purchase description containing the essential characteristics of a specification will be construed as evidence of improper use of this exception).

(c) Whenever a specification is found to be inadequate, immediate action shall be taken to effect the issuance of an amendment or a revision in accordance with established procedures to obviate the necessity for repeated departures from the specification.

§ 18–1.1203 Availability of specifications, standards, plans, and drawings.

Each solicitation shall be accompanied by the applicable specifications, standards, plans, drawings, and other pertinent documents, or shall state where such documents may be obtained or examined, in accordance with this paragraph. If the applicable specifications, standards, plans, drawings, and other pertinent documents are not furnished, the solicitation shall include a provision substantially similar to paragraph (a) or (b) of this section, as appropriate.

(a) *Availability of specifications, standards, plans, drawings, and other pertinent documents.* The specifications, standards, plans, drawings, and other pertinent documents cited in this Invitation for Bids/Request for Proposals may be obtained by submitting a request to:

_____
(Installation)

_____
(Complete Address)

Requests should give the number of the Invitation for Bids/Request for Proposal, and the title and number of the specification, standard, plan, drawing, or other pertinent document requested, exactly as cited in this Invitation/Request.

(b) *Availability of specifications, standards, plans, drawings, and other pertinent documents.* The specifications, standards, plans, drawings, and other pertinent documents cited in this Invitation for Bids/Request for Proposals may be examined at the following locations:

(Insert Complete Address)

§ 18–1.1304 Packaging requirements.

(a) Appropriate preservation, packaging, packing, and marketing requirements will be included in contracts as applicable. The services of packaging technicians shall be used to the maximum extent practicable, for example, for the following purposes:

(1) Development or establishment of preservation, packaging, packing, and marking requirements for individual procurements; and

(2) Assistance in evaluating the reasonableness of contractors' packaging, packing, and marking cost estimates or charges.

(b) Unrealistic preservation, packaging, packing, and marking requirements should be reported and changes recommended to the activity originating the requirement and to the contracting officer.

§ 18–1.1306 Purchase descriptions.

§ 18–1.1306–1 General.

(a) A purchase description may be used in lieu of a specification when authorized by § 18–1.1202(b) and, subject to the restriction on repetitive use in § 18–1.1202(b)(6), where no applicable specification exists. A purchase description should set forth the essential characteristics and functions of the items or materials required. Purchase descriptions shall not be written so as to specify a product, or a particular feature of a product, peculiar to one manufacturer and thereby preclude consideration of a product manufactured by another company, unless it is determined that the particular feature is essential to the Government's requirements, and that similar products of other companies lacking the particular feature would not meet the minimum requirements for the item. Generally, the minimum acceptable purchase description is the identification of a requirement by use of brand name followed by the words "or equal." This technique should be used only as a last resort when an adequate specification or more detailed description cannot feasibly be made available in time for the procurement under consideration. Purchase descriptions of services to be procured should outline to the greatest degree practicable the specific services the contractor is expected to perform.

(b) The words "or equal" should not be added when it has been determined in accordance with paragraph (a) of this section that only a particular product meets the essential requirements of the Government, as, for example, (1) where the required supplies can be obtained only from one source; or (2) procurements negotiated under § 18–3.207 for specified medicines or medical supplies where it has been determined that only a particular brand name product will meet the essential requirements of the Government.

§ 18–1.1206–2 Brand name or equal purchase descriptions.

(a) Purchase descriptions which contain references to one or more brand name products followed by the words "or equal" may be used only when authorized by § 18–1.1202(b) and in accordance with §§ 18–1.1206–3 and 18–1.1206–4. The term "brand name product" means a commercial product described by brand name and make or model number or other appropriate nomenclature by which such product is offered for sale to the public by the particular manufacturer, producer, or distributor. Where feasible, all known acceptable brand name products should be referenced. Where a "brand name or equal" purchase description is used, prospective contractors must be given the opportunity to offer products other than those specifically referenced by brand name if such other products will meet the needs of the Government in essentially the same manner as those referenced.

(b) "Brand name or equal" purchase descriptions should set forth those salient physical, functional, or other characteristics of the referenced products which are essential to the needs of the Government. For example, where interchangeability of parts is required, such requirement should be specified. Purchase descriptions should contain the following information to the extent available, and include such other information as is necessary to describe the item required:

(1) Complete common generic identification of the item required;

(2) Applicable model, make, or catalog number for each brand name product referenced, and identity of the commercial catalog in which it appears; and

(3) Name of manufacturer, producer, or distributor of each brand name product referenced (and address if company is not well known).

(c) When necessary to describe adequately the item required, an applicable commercial catalog description, or pertinent extracts therefrom, may be used if such description is identified in the invitation for bids or request for proposals as being that of the particular named manufacturer, producer, or distributor. The contracting officer will insure that a copy of any catalogs referenced (except parts catalogs) is available on request for review by bidders at the purchasing office.

§ 18–1.1206–3 Invitation for bids—"brand name or equal" purchase descriptions.

(a) Except as provided in paragraph (c) of this section, when a "brand name or equal" purchase description is included in an invitation for bids, the following shall be inserted after each item so described in the invitation, for completion by the bidder:

Bidding on:
Manufacturer's Name.....
Brand ..... No. .....

(b) In addition, the following clause shall be included in the invitation:

BRAND NAME OR EQUAL (JUNE 1966)

(As used in this clause, the term "brand name" includes identification of products by make and model.)

(a) If items called for by this Invitation for Bids have been identified in the Schedule by a "brand name or equal" description, such identification is intended to be descriptive, but not restrictive, and is to indicate the quality and characteristics of products that will be satisfactory. Bids offering "equal" products will be considered for award if such products are clearly identified in the bids and are determined by the Government to be equal in all material respects to the brand name products referenced in the Invitation for Bids.

(b) Unless the bidder clearly indicates in his bid that he is offering an "equal" product, his bid shall be considered as offering a brand name product referenced in the Invitation for Bids.

(c) (1) If the bidder proposes to furnish an "equal" product, the brand name, if any, of the product to be furnished shall be inserted in the space provided in the Invitation for Bids, or such product shall be otherwise clearly identified in the bid. The evaluation of bids and the determination as to equality of the product offered shall be the responsibility of the Government and will be based on information furnished by the bidder or identified in his bid, as well as other information reasonably available to the purchasing activity. CAUTION TO BIDDERS: The procurement office is not responsible for locating or securing any information which is not identified in the bid and reasonably available to the purchasing activity. Accordingly, to insure that sufficient information is available, the bidder must furnish as a part of his bid all descriptive material (such as cuts, illustrations, drawings, or other information) necessary for the procurement office to (i) determine whether the product offered meets the requirements of the Invitation for Bids and (ii) establish exactly what the bidder proposes to furnish and what the Government would be binding itself to purchase by making an award. The information furnished may include specific references to information previously furnished or to information otherwise available to the procurement office.

(2) If the bidder proposes to modify a product so as to make it conform to the requirements of the Invitation for Bids, he shall (i) include in his bid a clear description of such proposed modifications and (ii) clearly mark any descriptive material to show the proposed modifications.

(3) Modifications proposed after bid opening to make a product conform to a brand name product referenced in the Invitation for Bids will not be considered.

(d) (1) Where component parts of an end item are described in the invitation for bids by a "brand name or equal" purchase description and the contracting officer determines that application of the clause in paragraph (b) of this section to such component parts would be impracticable, the requirements of paragraph (a) of this section shall not apply with respect to such component parts. In such cases, if the clause is included in the Invitation for Bids for other reasons, a statement substantially as follows also shall be included:

The clause entitled "Brand Name or Equal" does not apply to the following component parts:
(List the component parts as to which the clause does not apply.)

(2) In the alternative, if the contracting officer determines that the clause in paragraph (b) of this section should apply to only certain such component parts, the requirements of paragraph (a) of this section shall apply to such component parts and a statement substantially as follows also shall be included:

The clause entitled "Brand Name or Equal" applies to the following component parts:
(List the component parts to which the clause applies.)

(d) When an invitation for bids contains "brand name or equal" purchase descriptions, bidders who offer brand name products referenced in such descriptions shall not be required to furnish bid samples of the referenced brand name products; however, invitations for bids may require the submission of bid samples in the case of bidders offering "or equal" products.

§ 18–1.1206–4 Bid evaluation and award—"brand name or equal" purchase descriptions.

(a) Bids offering products which differ from brand name products referenced in a "brand name or equal" purchase description shall be considered for award where the contracting officer determines in accordance with the terms of the clause in § 18–1.1206–3(b) that the offered products are equal in all material respects to the products referenced. Bids shall not be rejected because of minor differences in design, construction, or features which do not affect the suitability of the products for their intended use.

(b) Award documents shall identify, or incorporate by reference an identification of, the specific products which the contractor is to furnish. Such identification shall include any brand name and make or model number, descriptive material, and any modifications of brand name products specified in the bid. Included in this requirement are those instances where (1) the description of the end item contains "brand name or equal" purchase descriptions of component parts or of accessories related to the end item and (2) the clause in § 18–1.1206–3(b) was applicable to such component parts or accessories (see § 18–1.1206–3(c)).

§ 18–1.1206–5 Procedure for negotiated procurements.

(a) The policies and procedures prescribed in §§ 18–1.1206–3 through 18–1.1206–4 for formally advertised procurements shall be generally applicable to negotiated procurements.

(b) The clause in § 18–1.1206–3(b) may be adapted for use in negotiated procurements. If use of the clause is not practicable (as may be the case in exigency purchases), suppliers shall be suitably informed that proposals offering products different from the products referenced by brand name will be considered if the contracting officer determines that such offered products are equal in all significant and material respects to the products referenced.

§ 18–1.1207 Alternate articles or qualities.

Invitations for bids and requests for proposals may provide for alternate bids or proposals on different articles or qualities of material, e.g., where two or more articles will be equally acceptable to the Government depending upon relative price. However, the alternate articles or qualities must be precisely described to assure that the same degree of competition is obtainable on the alternate bids or offers as is obtained on the basic articles described.

§ 18–1.1208 Procurement of used and reconditioned material and former government surplus property.

(a) Generally, all supplies or components thereof, including former Government property, purchased by NASA shall be new (not used or reconditioned, and not of such age or so deteriorated as to impair their usefulness or safety). However, the needs of the Government may sometimes be met, and economies effected, through the purchase of items which are not new. Solicitations and the resulting contracts shall include a clause, substantially as set forth below, except when the clause would serve no useful purpose. This clause is appropriate for use not only in supply contracts, but also in service contracts which may involve an incidental furnishing of parts, such as contracts for overhaul, maintenance, or repair.

NEW MATERIAL (JUNE 1966)

Except as to any supplies and components which the Specification or Schedule specifically provides need not be new, the Contractor represents that the supplies and components including any former Government property identified pursuant to the "Government Surplus" clause of this contract to be provided under this contract are new (not used or reconditioned, and not of such age or so deteriorated as to impair their usefulness or safety.) If at any time during the performance of this contract, the Contractor believes that the furnishing of supplies or components which are not new is necessary or desirable, he shall notify the Contracting Officer immediately, in writing, including the reasons therefor and proposing any consideration which will flow to the Government if authorization to use such supplies is granted.

(b) In all procurements in which the contracting officer has determined that supplies and components which are used or reconditioned but which fully comply with the specifications and other contract requirements are acceptable, the solicitation and resulting contract shall include provisions clearly indicating the supplies or components which need not be new, and details concerning their acceptability. In determining whether such supplies and components may be purchased, the following criteria shall be considered:

(1) Safety of persons or property;

(2) Final cost to the Government (including maintenance, inspection, testing, and useful life);

(3) Performance requirements; and

(4) Availability and cost of new supplies and components (for example, out-of-production items).

(c) Items previously sold as Government surplus shall not be accepted unless it is determined that the surplus property offered fully meets the applicable specifications and other contract requirements. In addition, care must be exercised to insure that the prices paid for such items are reasonable giving due consideration to overall cost savings to the Government without affecting quality. Where a contract calls for material to be furnished at cost, the allowable charge for any Government surplus property furnished shall be the cost at which the contractor or his affiliate acquired the property.

(d) The solicitations and resulting contracts shall include a clause substantially as set forth below except when the clause would serve no useful purpose.

GOVERNMENT SURPLUS (JUNE 1966)

(a) In the event the bid or proposal is based on furnishing items or components which are former Government surplus property or residual inventory resulting from terminated Government contracts, a complete description of the items or components, quantity to be used, name of Government agency from which acquired, and date of acquisition shall be set forth on a separate sheet to be attached to bid or proposal. Notwithstanding any information provided in accordance with this provision, items furnished by the Contractor must comply in all respects with the specifications contained herein.

(b) Except as disclosed by the Contractor in (a) above, no property of the type described herein shall be furnished under this contract unless approved in writing by the Contracting Officer.

Subpart 18–1.13—Transportation

§ 18–1.1300 Scope of subpart.

This subpart prescribes policies and procedures for the application of proper transportation and traffic management considerations in the procurement of property.

§ 18–1.1301 General.

Proper consideration of transportation factors in awarding and administering contracts is important in order to ensure that procurements are made on the basis most advantageous to the Government, and that supplies arrive at the right place at the right time and in good condition. To this end, requiring offices should consider the mode of transportation in preparing procurement requests and should include any relevant information and instructions that will enable the procurement office to give full consideration to transportation matters. Contracting officers shall secure advice and assistance on the transportation matters as needed for solicitations and awards and the administration, modification, and termination of contracts, including the movement of Government property to, from, and between plants of contractors and subcontractors. Such advice and assistance, including freight rates, transportation costs, time in transit, port capabilities, etc., will be obtained from the installation transportation officer, unless other provision has been made in a delegation of contract administration services functions.

§ 18–1.1302 Place of delivery.

The term "United States" as used in this section does not include Alaska or Hawaii.

§ 18–1.1302–1 Shipments within the United States.

Unless there are valid reasons to the contrary, the procurement of supplies from sources within the United States for ultimate delivery to destinations within the United States shall be in accordance with the following policy with respect to place of delivery:

(a) When it is estimated that all shipments under a contract will weigh less than 20,000 pounds each (less than 5,000 pounds each if air movement is contemplated) delivery shall be on the basis of f.o.b. destination (see § 18–1.1305–3); and.

(b) When it is estimated that a contract will require one or more shipments of 20,000 pounds or more (5,000 pounds or more if air movement is contemplated) to any single destination, delivery shall be on the basis of f.o.b. origin or f.o.b. destination (§ 18–1.1305–2), whichever is more advantageous to the Government. Solicitations shall provide that bids or proposals may be submitted on the basis of either or both f.o.b. origin and f.o.b. destination and that they will be evaluated on the basis of the lowest overall cost to the Government.

Where sufficient reasons exist and the policy stated in (1) and (2) above is not followed, the contract file shall be documented in accordance with § 18–1.308 to include such reasons.

§ 18–1.1302–2 Shipments from the United States for overseas delivery.

(a) When Government procurement involves shipments from the United States overseas, delivery f.o.b. origin may afford not only the economies of lower freight rates available to the Government within the United States (see § 18–1.1309), but also flexibility for selection of the port of export and the ocean transportation providing the lowest overall cost to the Government.

(b) Unless there are valid reasons to the contrary, purchases of supplies originating within the United States for ultimate delivery to destinations outside the United States shall be made on the basis of f.o.b. origin (see § 18–1.1305–4). This policy applies to supplies and equipment to be shipped either directly to a port area for export or to a storage or holding area for subsequent forwarding to a port area for export. Justification for the solicitation of bids or proposals on other than an f.o.b. origin basis shall be recorded and the contract file documented accordingly, as required by § 18–1.308.

(c) Export cargo involves considerations of operational and cost factors from point of origin within the United States to overseas port destination. The lowest cost of shipment can be determined only by evaluating and comparing the various prospective landed costs (including inland, terminal, and ocean costs). NASA has certain export licensing privileges for the moving of commodities to foreign destinations. Advice should be obtained from the transportation officer in order to make full use of these privileges.

§ 18–1.1302–3 Shipments originating outside the United States.

Procurement of supplies originating outside the United States for ultimate delivery to destinations within the United States, regardless of the quantity of the shipments, shall be on the basis of f.o.b. origin (§ 18–1.1305–4) or f.o.b. destination (§ 18–1.1305–3), whichever is more advantageous to the Government. The contracting officer will request the advice of the transportation officer in determining the most appropriate place of delivery to be specified in procurement documents, giving full consideration to the possible use of Government transportation facilities, reduced rates available, special licensing or custom requirements, and availability of American-flag shipping services between the points involved (see Subpart 18–1.41).

§ 18–1.1303 Quantity analysis.

When additional quantities of the item being procured can be transported at no increase in transportation cost, and there would be no impairment to the program schedule, the procurement office should ascertain from the requiring office whether there is a known requirement for additional quantities.

§ 18–1.1304 Commodity description.

A complete description of the commodity being procured, including packing and packaging instructions, shall be included in the solicitation not only to enable the supplier to bid or quote properly on the requirement but also for determination of proper transportation charges. In no case shall the manufacturer's part number be shown without the appropriate descriptive nomenclature. Dangerous and hazardous items will be clearly identified as such in the description.

§ 18–1.1305 Delivery terms.

§ 18–1.1305–1 General.

Solicitations for supplies shall include as much of the following information as is pertinent to the particular procurement and shall require prospective suppliers to furnish the Government such of the following as may be appropriate:

(a) Proposed method of shipment, such as rail, truck, air, or water (see § 18–1.1311);

(b) Minimum size of shipments, such as carloads, truckloads, less-than-carloads, less-than-truckloads, and, where appropriate for evaluation or other purposes, a provision substantially as set forth in § 18–2.202–3(b)(2);

(c) Guaranteed maximum shipping weights, and dimensions if applicable (if shipping weights and dimensions of items to be procured are not shown in the solicitation and could vary among prospective suppliers with a resultant variation in transportation costs, which costs are to be a factor in evaluating f.o.b. origin bids, the schedule will provide for insertion by the suppliers of the applicable guaranteed maximum shipping weights (and dimensions, if applicable) in spaces provided after each item, or elsewhere in the schedule, and a provision substantially as set forth in § 18–2.202–3(b)(3) shall be included;

(d) Packing, crating, marking, and other preparations;

(e) Where transit privileges may apply, the information required by § 18–1.1308;

(f) Special shipping documentation requirements, safety and security requirements; and

(g) Any other shipping information required for evaluation.

§ 18–1.1305–2 F.O.B. origin or destination.

Solicitations for supplies which provide that bids or proposals may be submitted on the basis of either f.o.b. origin or f.o.b. destination, or both, shall include as much of the information contained in §§ 18–1.1305–4 and 18–1.1305–3 as is pertinent to the particular procurement and shall state that they will be evaluated on the basis of the lowest overall cost to the Government.

§ 18–1.1305–3 F.O.B. destination.

(a) Generally, solicitations for supplies to be procured f.o.b. destination shall provide that supplies and equipment shall be delivered, all transportation costs paid by the contractor, to the specific destination. The solicitation shall inform prospective suppliers of any known shortage of transportation facilities at destination or other factors which may affect the supplier's transportation costs. When only f.o.b. destination bids are desired, the invitation for bids shall specify that bids submitted on a basis other than f.o.b. destination will be rejected as nonresponsive.

(b) In contracts which provide for delivery f.o.b. destination, the contractor's responsibilities shall include:

(1) Preparation and distribution of commercial bill of lading;

(2) Delivering shipment in good order to the point of delivery specified in the contract;

(3) Responsibility for any loss or damage, or both, to the supplies prior to their receipt by the consignee at the named point of delivery;

(4) Furnishing a delivery schedule and designating mode of transportation; and

(5) Paying and bearing all charges to the point of delivery specified in the contract.

§ 18–1.1305–4 F.O.B. origin.

(a) Generally, solicitations for supplies to be procured f.o.b. origin shall provide for delivery f.o.b. carrier's equipment, wharf, or freight station at NASA's option, at a shipping point to be specified by the bidder or offeror at or near the contractor's or subcontractor's plant. When destinations are known, or unknown, but tentative destinations are designated (see § 18–1.1305–5), solicitations shall state that bids or proposals will be evaluated on the basis of the lowest overall cost to the Government, taking into account transportation costs to NASA from point of origin to the designated domestic or overseas destinations. Other requirements applicable to f.o.b. origin procurements, where transit privileges may apply, are set forth in § 18–1.1308. Contracting officers should ascertain from the appropriate transportation officer the applicable transportation rates and port handling charges required for use in evaluating bids or proposals (see § 18–1.1312). When only f.o.b. origin bids are desired, the invitations for bids shall specify that bids submitted on a basis other than f.o.b. carrier's equipment, wharf, or freight stations at a specified shipping point at or near the contractor's or subcontractor's plant will be rejected as nonresponsive.

(b) In contracts which provide for delivery f.o.b. origin it shall be the responsibility of the contractor to:

(1) Pack and mark to comply with contract specifications; or, in the absence of such specifications, prepare shipment in conformance with carrier requirements to protect the personal property and assure assessment of the lowest applicable transportation charge.

(2) Order specified carrier equipment when requested by the Government; otherwise, order appropriate carrier equipment not in excess of capacity to accommodate shipment.

(3) Deliver shipments in good order and condition to the carrier, and load, stow, trim, block, and/or brace carload or truckload (when loaded by the contractor) shipments on or in carrier's conveyance as required by carrier rules and regulations.

(4) Be responsible for any loss or damage, or both, to the personal property occurring prior to delivery of shipment to carrier; and also for any loss or damage resulting from improper packing and marking, and, when loaded by contractor, resulting from improper loading, stowing, trimming, blocking, and/or bracing of shipment on or in carrier's conveyance.

(5) Complete Government bill of lading supplied by the ordering agency; or, when Government bill of lading is not supplied, prepare commercial bill of lading or other transportation receipt. The bill of lading shall show thereon:

(i) Description of shipment in terms of the governing freight classification or tariff under which lowest freight rates are applicable;

(ii) The seals affixed to the conveyance, including number thereof, or other identification;

(iii) Length and capacity of cars or trucks ordered and furnished;

(iv) Other pertinent information required to effect prompt delivery to the consignee, including name, delivery and postal address of consignee, routing, etc.;

(v) Special instructions or annotations requested by the ordering agency for commercial bills of lading; for example, "To be converted to a Government bill of lading," or "This shipment is the property of, and the freight charges paid to the carrier(s) will be reimbursed by, the Government," and

(vi) Signature of carrier's agent and date shipment is received.

(6) Distribute the several parts of the bills of lading, or other transportation receipts, as directed by the ordering agency.

§ 18–1.1305–5 Destination unknown.

When the exact destinations of the supplies being procured are not known at the time bids or proposals are solicited, but the general location of the destination, such as East Coast, Middle West, or West Coast, is known, a definite place or places shall be designated as the point to which transportation costs will be computed—but only for the purpose of evaluating bids or proposals. The solicitations shall specify that bids or proposals should be submitted f.o.b. origin and that shipments will be made on Government bills of lading. The solicitation shall state:

> For the purpose of evaluating bids or proposals, and for no other purpose, the final destination(s) for the supplies will be considered to be as follows: (the final destination(s)).

Invitations for bids shall contain a statement that bids submitted on a basis other than f.o.b. origin will be rejected as nonresponsive.

§ 18–1.1306 Consignment and marking instructions.

Complete consignment and marking instructions, to the extent that they are known at the time the contract is awarded, should be included in contracts to assist in ensuring that material will be delivered to the proper destinations without delay. In those cases where complete consignment information is not initially known, additional instructions to the contractor shall be furnished as soon as such information becomes known. In contracts which provide for delivery f.o.b. origin and shipment under Government bills of lading, consignment instructions may be limited to the mail address of the consignee (receiving activity), provided the contract instructions state that "Shipment other than mail shall be consigned as indicated on the Government bill of lading furnished to the contractor." Various receiving activities may have different consignment points for the various transportation media, or for particular carriers within a medium, depending on the weight, shape, size, or nature of the shipment involved.

§ 18–1.1307 Scheduling of deliveries to permit consolidation of shipments.

The accumulation of small shipments into carload or truckload lots will result in lower transportation costs. Even the accumulation of small shipments into less than full-load shipments may result in lower transportation costs. Upon review of the procurement request, and in conjunction with the requiring or requisitioning activity, consideration shall be given to the revision of delivery schedules (when feasible) to provide for deliveries in larger quantities. In some cases, delivery schedules for supplies and equipment to multiple destinations can be consolidated and the stop-off-in-transit privilege used for partial unloading at one or more points directly en route between the point of origin and the last destination point without jeopardizing the delivery date at destination.

§ 18–1.1308 Transit privileges.

(a) Transit privileges afford an opportunity to stop carload or truckload shipments at specific intermediate points enroute to the final destination in order to store, process, or fabricate, or for other purposes as specified in carriers' applicable tariffs. A single through rate from origin to final destination, plus a transit or other related charge, if applicable, is charged in lieu of a combination of rates to and from the transit point which would result in higher costs. Consideration should be given to possible benefits to the Government through the use of

such transit arrangements. Transportation officers can furnish the necessary information and analysis of situations where such transit arrangements may be beneficial.

(b) When it is considered that transit privileges may be applicable and advantageous to the Government, solicitations shall include a statement that any applicable transit privileges will be considered in the evaluation of bids and proposals for purposes of determining the lowest overall cost to the Government.

(c) If it is the intent of the Government that supplies delivered f.o.b. origin be shipped in carload quantities to an intermediate point for storage or other purpose specified in carrier's applicable tariffs and later shipped in carload quantities to final destination and both the first destination (intermediate point) and the final destination are reasonably firm, both destinations shall be named in the solicitation. In such cases the solicitation also shall state that bids or proposals will be evaluated on the basis of the lowest overall cost to the Government, including transportation costs to NASA from point of origin to final destination, taking into account any applicable transit privileges.

(d) If the nature of the procurement is such that carload or truckload shipments may be made by the contractor from one point (such as a subcontractor's plant) to another point for processing or fabrication and delivery to the Government, solicitations shall provide for the furnishing of such information by the bidder or contractor as will enable the Government to benefit from any transit privilege that might apply in shipment to final destination. Such solicitations will also include the statement described in paragraph (b) of this section.

§ 18–1.1309 Volume movements within the United States.

(a) A volume movement is the aggregate of one or more freight shipments totaling 200,000 pounds or more, which is to move during the contract period, from one point of origin to one point of destination.

(b) Contracting officers and contract administrators shall, after contract award and as soon as performance schedules and planned destinations have been established, refer a copy of all contracts which will generate volume movements to the transportation officer serving the procuring activity. The installation transportation officer will review the contracts and advise NASA Headquarters (Code BL) of such volume movements.

(c) Reporting of volume movements will permit a determination of the reasonableness of applicable current rates and, when appropriate, negotiation of adjusted or modified rates in accordance with NASA Management Instruction 6120.1. Government traffic frequently possesses more favorable transportation characteristics (greater volume, heavier loading, less likelihood of damage, etc.) than commercial traffic and may therefore be susceptible to special rate adjustments under provisions of section 22 of the Interstate Commerce Act (see § 18–1.1313).

§ 18–1.1310 Shipments requiring special handling.

The transportation officer should be consulted prior to the procurement of items which may require special handling because of unusual size, weight, shape, or other reasons in order that any transportation problems may be considered. These transportation problems may create additional costs, such as the use of special equipment, blocking and bracing, circuitous routing, route modification, special facilities construction, etc., and may all be a part of the total transportation costs, in conjunction with the freight rate.

§ 18–1.1311 Mode of transportation.

Preferential treatment shall not be accorded to any mode of transportation of any particular carrier. However, where, for valid reasons, use of particular types of carriers is necessary to meet program requirements, solicitations shall provide that only bids or proposals involving the specified types of carriers will be considered. Generally, the transportation officer of the installation is the proper authority to specify the mode and routing of shipments. The transportation officer should be advised of any urgency for the material so that the appropriate means of transportation may be selected.

§ 18–1.1312 Transportation rates and related costs.

§ 18–1.1312–1 Use in evaluation of bids and proposals.

In the evaluation of f.o.b. origin bids and proposals the contracting officer should consider the best available transportation rates and related costs. Those in effect or to become effective prior to the expected date of initial shipment and on file or published at the date of the bid opening shall be used. Transportation rates and related costs filed or published after the bid opening, or the date proposals are due, shall not be used in the evaluation unless they cover traffic for which no applicable transportation rate or related cost was in existence on the bid opening or the date proposals were due.

§ 18–1.1312–2 Source of transportation rates and related costs.

Contracting officers should obtain transportation and traffic management advice covering freight rates, transportation costs, transit times, and other transportation factors and guidance from the transportation officer serving the NASA installation. Requests for such information shall include the bid opening or proposal due date and the expected date of initial shipment, if established.

§ 18–1.1313 Section 22 of the Interstate Commerce Act.

§ 18–1.1313–1 General.

Section 22 of the Interstate Commerce Act (49 U.S.C. 22) grants commercial carriers the privilege of offering reduced transportation rates to the Government. In appropriate situations NASA will seek to obtain such reduced rates rather than pay the published tariff. These rates are often referred to as "Section 22 quotations." NASA policy in this matter and the respective responsibilities of the Director of Transportation and Logistics, NASA Headquarters, and installation transportation officers are set forth in NASA Management Instruction 6120.1. The contracting officer should request advice and assistance from the installation transportation officer in the application of this policy. In general, Section 22 quotations may be considered appropriate in the following situations:

(a) When volume movements (as defined in § 18–1.1309(a)) are expected;

(b) When shipments will be made on a recurring basis between designated points and substantial savings in transportation costs appear possible even though a volume movement is not involved;

(c) When a current rate charge or freight classification is considered unreasonable or improper; and

(d) When transit arrangements (as described in § 18–1.1308) are feasible and advantageous.

In some cases the carrier may voluntarily offer reduced rates which are considered acceptable. In other cases NASA may seek to negotiate with the carrier for reduced rates. Installation transportation officers and the Director of Transportation and Logistics, NASA Headquarters, are responsible for evaluating and/or negotiating rates under Section 22. It is not intended that NASA contractors conduct such negotiations with commercial carriers.

§ 18–1.1313–2 Application to commercial bills of lading.

(a) *Cost-reimbursement type contracts.*

Reduced transportation rates accorded the Government under section 22 of the Interstate Commerce Act may be applied to commercial bills of lading covering property moving under cost-reimbursement type Government contracts when the contract provides for direct reimbursement by the Government of all transportation costs and such costs are allowable in accordance with Part 18–15 of this chapter. To properly identify shipments under commercial bills of lading to which such reduced rates apply, the following statement shall be placed on the bill of lading:

> Transportation hereunder is for the Government, and the actual, total transportation charges paid to the carrier(s) are to be reimbursed by the Government.

(b) *Fixed-price contracts.* Section 22 quotations do not apply under fixed-price contracts awarded on f.o.b. destination basis (delivered price). Inadvertent or erroneous use of Section 22 rates by contractors or carriers under such conditions could lead to profits to con-

tracts not contemplated by, or accruing to, the Government.

§ 18–1.1313–3 Application to household goods.

Section 22 quotations may apply on the movement of household goods and personal effects when the relocation of contractor employees is for the convenience of and at the direction of the Government and the total transportation costs are to be reimbursed by the Government. When such reduced rates are applicable:

(a) Contracting officers will ensure:

(1) That contract provisions require the contractor to utilize carriers offering acceptable service with application of reduced rates; and

(2) That affected contractors are provided adequate instructions on the household goods program and the name and location of the transportation officer designated to furnish support and guidance.

(b) Transportation officers will:

(1) Provide transportation advice and assistance to contracting officers and affected contractors for shipment of household goods; and

(2) Furnish affected contractors a list of carriers (by place of origin) providing service under special quotations, cite applicable tariffs, and advise them of the statement to be shown on carriers' commercial bill of lading.

§ 18–1.1313–4 Penalty.

It is a criminal offense under section 22(C) of the Interstate Commerce Act for any contractor to issue false statements for the purpose of obtaining special rates from which the contractor would solely benefit.

§ 18–1.1314 Insurance.

(a) Normally, the Government does not procure insurance but is a self-insurer of its property while in possession of commercial carriers and, except for the legal liability of the carrier, assumes the risk of loss. However, insurance will be required when it is mandatory by law. In special instances, the Government may, if deemed necessary and desirable and in the best interest of the Government, (1) procure insurance on its property when there is no statutory prohibition, or (2) require the carrier under the contract to assume full responsibility for loss or damage to the Government property in its possession and to provide insurance to cover the carrier's assumed responsibility.

(b) When special considerations dictate the need for insurance and it is proposed that the Government directly procure insurance coverage for its benefit, the contracting officer shall ascertain that there is no statutory prohibition and that funds are available therefor and shall document the need and authorization.

(c) When a commercial carrier is required to assume full responsibility for loss or damage to Government property in its possession, and the carrier is required to provide appropriate insurance to cover its assumed responsibility, the cost of such insurance to the carrier shall be included in and properly considered a part of the transportation cost.

§ 18–1.1315 Loss and damage in-transit.

Contracting officers, property administrators, contractors, and transportation officers shall be responsible for reporting and adjusting claims for loss and damage of Government property in transit pursuant to the provisions of NASA Management Instruction 6220.1.

§ 18–1.1316 Prepaid transportation charges.

(a) Contracts for delivery f.o.b. origin will normally provide for transportation on Government bills of lading. However, contracts for delivery f.o.b. origin may provide for transportation on commercial bills of lading to domestic destinations, in accordance with the provisions set forth in this section.

(b) The contracting officer may authorize the contractor to prepay the transportation charges: *Provided*, That the amount claimed for such transportation charges is less than $25. The contractor shall be instructed to list transportation charges separately on his invoice for reimbursement. When prepaid parcel post shipments are made, the supplier will list the amount claimed and the weight of shipment as a separate item on the invoice. Insurance and registry fees will not be allowed unless specifically authorized. This procedure will be used only for shipments of unclassified items to domestic destination.

(c) The authority provided in paragraph (b) of this section may also be used to authorize the contractor to prepay transportation charges under a contract originally calling for transportation on a Government bill of lading. In such case, amendment of the contract is not required.

(d) Property transported pursuant to paragraph (b) of this section becomes Government property when loaded on the carrier's equipment, unless otherwise provided in the contract. Once the property becomes Government property, the risk of loss thereof and damage thereto is assumed by the Government, and loss or damage claims will be the responsibility of the Government.

§ 18–1.1350 Charter of aircraft.

See NASA Management Instruction 6550.1, paragraph 6f(4).

Subpart 18–1.14—Transportation by Ocean Carriers

§ 18–1.1400 Scope.

This subpart sets forth policy and procedures (a) providing preference for private U.S. vessels as ocean carriers, in accordance with the requirements of the Cargo Preference Act, and (b) providing for nonuse of foreign-flag vessels that have engaged in trade with Cuba or North Viet Nam.

§ 18–1.1401 Definitions.

(a) "Dry bulk carriers" are irregularly scheduled vessels for the carriage of full cargo offers. Cargoes under this category include grain, coal, lumber, pitch, salt, sugar, etc.

(b) "Dry cargo liners" are vessels more or less scheduled in specific trade routes and used for the carriage of heterogeneous marked cargoes in parcel lots, including part cargoes of such bulk as grain, coal, sugar, etc. Petroleum, vegetable oils, and similar bulk liquids can be carried in dry cargo liners which are equipped with deep tanks.

(c) "Tankers" are vessels used for the carriage of bulk liquid commodities, such as liquid petroleum products, molasses, vegetable oils, etc.

(d) "Government vessels" are (1) those vessels owned by the U.S. Government and operated directly by the Government or for the Government by an agent or contractor, and (2) those privately owned U.S.-flag vessels under bareboat charter (without crews and maintenance) to the Government.

(e) "Foreign-flag vessels" are vessels of foreign registry, including vessels owned by U.S. citizens but registered in a nation other than the United States.

(f) "Private U.S. vessels": The term "private U.S. vessel" applies to the following vessels documented under U.S.-flag registry, except as otherwise provided by the Cargo Preference Act quoted below:

(1) Privately owned and operated;

(2) Privately owned and time-chartered or voyage-chartered (but not bareboat-chartered) to the Government; and

(3) Government-owned and barefoot-chartered (without crews and maintenance) to private operators.

(g) "U.S.-flag vessels" when used independently means both Government vessels and private U.S. vessels. The Cargo Preference Act states in part: "the term privately owned U.S.-flag commercial vessels shall not be deemed to include any vessel which, subsequent to September 21, 1961, shall have been either (1) built outside the United States, (2) rebuilt outside the United States, or (3) documented under any foreign registry, until such vessels shall have been documented under the laws of the United States for a period of 3 years: *Provided, however*, That the provisions of this amendment shall not apply where (i) prior to September 21, 1961, the owner of a vessel, or contractor for the purchase of a vessel, originally constructed in the United States and rebuilt abroad, has notified the Maritime Administration in writing of its intent to document such vessel under U.S. registry, and such vessel is so documented on its first arrival at a U.S. port not later than 1 year subsequent to September 21, 1961, or (ii) where prior to September 21, 1961, the owner of a vessel under U.S. registry has made a contract for the rebuilding abroad of such vessel and has notified the Maritime Administration of such contract, and such rebuilding is completed and such vessel is thereafter documented under U.S. registry on its first arrival at a U.S. port not later than 1 year subsequent to September 21, 1961 * * *"

§ 18–1.1402 Preference for private U.S. vessels.

§ 18–1.1402–1 Policy.

(a) The Cargo Preference Act (68 Stat. 832, as amended by 75 Stat. 565; 46 U.S.C. 1241(b)) establishes a policy of preference for private U.S. vessels as follows: "Whenever the United States shall procure, contract for, or otherwise obtain for its own account, or shall furnish to or for the account of any foreign nation without provision for reimbursement, any equipment, materials, or commodities, within or without the United States, or shall advance funds or credit or guarantee the convertibility of foreign currencies in connection with the furnishing of such equipment, materials, or commodities, the appropriate agency or agencies shall take such steps as may be necessary and practicable to assure that at least 50 per centum of the gross tonnage of such equipment, materials, or commodities (computed separately for dry bulk carriers, dry cargo liners, and tankers), which may be transported on ocean vessels shall be transported on privately owned U.S.-flag commercial vessels, to the extent such vessels are available at fair and reasonable rates for U.S.-flag commercial vessels, in such manner as will insure a fair and reasonable participation of U.S.-flag commercial vessels in such cargoes by geographic areas * * *."

(b) In complying with the policy stated in paragraph (a) of this section, shipments of at least 50 percent of all ocean tonnage during each fiscal year will be made on private U.S. vessels without deduction of any tonnage which may be made the subject of a waiver or exclusion by reason of the unavailability of private U.S. vessels at fair and reasonable rates and which tonnage might otherwise be treated as a deduction from aggregate tonnage.

(c) The provisions of this Subpart 18–14 are intended to encourage the use of the American merchant marine and application of the 50 percent requirement shall not prevent the use of private U.S. vessels for carriage of up to 100 percent of U.S. Government cargo when price differentials are not involved.

(d) For purposes of compliance with the policy stated in paragraph (a) of this section, the term "geographic area" shall mean one of the following areas from which the shipment originates:

(1) United States;

(2) Europe and Africa;

(3) Near East and South Asia;

(4) Latin America and Canada;

(5) Far East, including Oceania.

(e) This policy shall apply not only to supplies owned by the Government which may be in the possession of either the Government or a contractor or subcontractor (of any tier), but also to supplies not owned by the Government at the time of shipment but which are for use of the Government, contracted for, and requiring subsequent delivery to NASA.

(f) Opportunities shall be afforded to all categories of vessels to participate in carrying cargo to be shipped in accordance with this policy.

§ 18–1.1402–2 Shipments to which policy is not applicable.

By reason of statutory exemptions or requirements, the policies set forth in this Subpart 18–14 do not cover the following types of ocean shipments:

(a) Shipments aboard vessels of the Panama Canal Company (Cargo Preference Act).

(b) Shipments of supplies involving ocean transportation between foreign countries when supplies are procured with local currency funds made available, or derived from funds made available, in the Act of September 4, 1961, Public Law 87–195; 75 Stat. 424.

(c) Shipments falling within the purview of Public Res. 17, 73d Congress, 48 Stat. 500, as amended (15 U.S.C. 616a), relating to certain loans to foster export of agriculture or other products.

(d) Shipments of fresh fruit and the products thereof under Title I of the Act of July 10, 1954, 68 Stat. 455, as amended, 7 U.S.C., 1701–1709 (sales of surplus agriculture commodities for foreign currencies) (sec. 3, Act of Aug. 3, 1956, 70 Stat. 988).

(e) Shipments of classified supplies when the classification prohibits the use of non-Government vessels.

(f) Shipments which originate or terminate in the following exempt areas:

(1) Alaska north of Cape Prince of Wales.

(2) Greenland, except Narsarssuak.

(3) Northern and Eastern Canada from Goose Bay, Labrador to Alaska.

(4) Ports and facilities under security restrictions in otherwise nonexempt areas.

(5) Antarctica.

(g) Other exceptions established by law.

§ 18–1.1402–3 Procedures.

(a) In each procurement which may involve the ocean transportation of supplies subject to the requirements of the Cargo Preference Act, the contracting officer shall obtain assistance from the transportation officer of the field installation in developing appropriate shipping instructions and delivery terms for inclusion in the invitations for bids or requests for proposals.

(b) *Contract clause.* All contracts which may involve the ocean transportation of supplies subject to the requirements of the Cargo Preference Act shall contain the following clause except where the ocean transportation will be procurred by the Government:

USE OF U.S.-FLAG VESSELS (JUNE 1966)

(a) After the date of award of this contract, the Contractor shall use U.S.-flag services, and no others, in the overseas transportation by ocean of any supplies to be furnished hereunder: *Provided, however*, That if such services are not available for timely shipment at fair and reasonable rates, the Contractor shall so notify the Contracting Officer and request authorization in writing to ship by foreign-flag ocean carriers or for designation of available U.S.-flag services. The contract price shall be equitably adjusted to reflect the difference in cost to the Contractor, if any, between shipping by U.S.-flag services and by foreign-flag services.

(b) Promptly after each shipment the contractor will furnish the Contracting Officer one copy of the applicable shipping document indicating for each shipment made under this contract the name and nationality of the vessel and the measurement tonnage (40 cubic feet equals 1 measurement ton) of dry cargo, or long tons (2,240 pounds equals 1 long ton) of bulk liquid cargo shipped on such vessels.

(c) In the event of notification by the contractor in accordance with the clause set forth in paragraph (a) of this section that a private U.S. vessel is not available, the contracting officer will seek assistance from the transportation officer of the field installation.

(d) For purposes of determining the availability of private U.S. vessels at fair and reasonable rates, rates filed and published in accordance with the requirements of the Federal Maritime Commission shall be accepted as fair and reasonable. When applicable rates are not named in published tariffs, a determination as to whether the rates are fair and reasonable shall be obtained from the U.S. Maritime Administration.

(e) If shipment by foreign-flag commercial vessel is authorized by the contracting officer in accordance with the clause set forth in paragraph (a) of this section, the contracting officer shall ensure that, where appropriate, the contract price is equitably adjusted.

(f) A register will be established and maintained by the transportation officer in each field installation to reflect adherence to the Cargo Preference Act. Where there is no transportation officer available, it will be maintained by the procurement office. Such registers shall contain pertinent details of ocean shipments, including, but not limited to, the countries of origin and destination of shipments, commodity descriptions, and gross weight maintained separately by category of vessel (dry bulk carrier, dry cargo liner, and tanker). Registers shall be maintained on a current basis and organized so that adherence to the Cargo Preference Act can be ascertained at all times. Insofar as practicable, compliance with the 50 percent minimum requirements of the Cargo Preference Act shall be maintained on a quarter-year basis. Any deficiencies to maintain such compliance shall be corrected by the end of the fiscal year.

(g) On the basis of the registers maintained in accordance with paragraph (f) of this section, reports reflecting actual ocean shipments (except any shipments via the Military Sea Transportation Service) shall be submitted to the Operating Agreements and Traffic Division, Maritime Commission, Department of Commerce, Washington, D.C. 20235, on a quarterly basis. Such report will be made by the transportation officers and contracting officers responsible for maintaining the registers described in paragraph (f) of this section. The format to be used is set forth below:

REPORT OF CARRIAGE OF NASA CARGO FOR THE QUARTER ..... TO .....

Carrier: ( ) Dry bulk, in L/T; ( ) Dry cargo liner, in M/T; ( ) Tanker in L/T

From*	To*	Total	Private U.S. vessels	Government vessels		Foreign flag vessels	
				Used due to nonavailability of private U.S. vessels.	Other	Used due to nonavailability of private U.S. vessels.	Other

*Identify by Roman numeral corresponding to geographic areas listed in § 18–1.1402–1(d).

§ 18–1.1410 Nonuse of foreign-flag vessels engaged in Cuban and North Vietnam trade.

(a) Supplies owned by or procured under any contract of NASA will not be shipped from any U.S. port on a foreign-flag vessel which has called at a Cuban port on or after January 1, 1963, or a North Vietnam port on or after January 25, 1966, unless the Secretary of Commerce has made an exception applicable to such vessel. For the purpose of this § 18–1.1410, the term "United States" includes the 50 States, Puerto Rico, possessions of the United States, and the District of Columbia.

(b) Contracting officers shall include the following clause in any contract which may involve the use of foreign-flag vessels in the ocean transportation from a U.S. port of supplies to be delivered under the contract or to be incorporated in supplies or other end product of the contract:

NONUSE OF FOREIGN-FLAG VESSELS ENGAGED IN CUBAN AND NORTH VIETNAM TRADE (JUNE 1966)

(a) If, after the date of award, any supplies to be furnished or any materials to be incorporated in such supplies or in a construction project will require ocean transportation from the United States in the performance of this contract, the Contractor shall not use any foreign-flag vessel which the Maritime Commission has listed in the FEDERAL REGISTER as having called at a Cuban port on or after January 1, 1963, or a North Vietnam port on or after January 25, 1966, unless an exception has been made by the Secretary of Commerce.

(b) For purposes of this clause, the term "United States" includes the 50 States, Puerto Rico, possessions of the United States, and the District of Columbia.

(c) The Contractor shall include the substance of this clause, including this paragraph (c) in each subcontract or purchase order hereunder which may involve ocean transportation from the United States.

(c) The contracting officer may refer any questions in connection with the clause in paragraph (b) of this section to the Military Sea Transportation Service, Washington, D.C. 20390.

Subpart 18–1.15—Options

§ 18–1.1500 Scope of subpart.

This subpart applies to contracts for supplies and services other than for (a) the construction, alterations, or repair of building, bridges, roads, or other kinds of real property, and (b) research and development. It does not preclude the use of appropriate option provisions in such construction and research and development contracts.

§ 18–1.1501 Definition of option.

An "Option" is a provision in a contract under which, for a specified time, the Government may elect to purchase, at an established price or at a price that can be established by reference to some specific method of calculation which will make the price certain, additional quantities of the supplies or services called for by the contract, or may elect to extend the period of performance of the contract.

§ 18–1.1502 Applicability.

(a) Option clauses may be included in contracts where increased requirements within the period of contract performance are foreseeable, or where continuing performance beyond the original period of contract performance may be in the best interest of the Government. Since options require offerors to guarantee prices for definite periods of time with no guarantee that orders will be placed, their improper use could result in prices which are unfair to either the Government or the contractor. Option clauses may require that option quantities be offered at prices no higher than those for the initial quantities or they may allow option quantities to be offered without such limitation as to price. When additional requirements are foreseeable and subsequent competition would be impracticable because of such factors as production lead time and delivery requirements, the use of options which require prices no higher than those for the initial quantities may be preferable to later negotiating a price with the contractor (in lieu of exercising such an option) at a time when he is the only practical source. An option normally should not be used where it can reasonably be foreseen that (1) supplies will have to be procured at some future date in such a quantity that would constitute an economic production run, and (2) startup costs, production lead time, and probable delivery requirements would not preclude adequate future competition.

(b) Option provisions and clauses shall not be included in contracts when—

(1) The supplies or services being purchased are readily available on the open market;

(2) The contractor would be required to incur undue risks: e.g., the price or availability of necessary materials or labor is not reasonably foreseeable;

(3) An indefinite quantity contract or requirements contract is appropriate except that options for continuing performance may be used in such contracts;

(4) Market prices for the supplies or services involved are likely to change substantially; or

(5) The option quantities represent known firm requirements for which procurement funds are available. (See funding requirements and controls set forth in NASA Management Instruction 9050.3 and Financial Management Manual 16080.)

§ 18–1.1503 Procedures.

(a) When a contract is to contain an option clause, the solicitation must contain an appropriate option provision. If the contract is to be negotiated, the determination and findings shall set forth the approximate quantity to be awarded and the extent of the increase to be permitted by the option. The contract shall limit the additional quantities of supplies or services which may be procured, or the duration of the period for which performance of the contract may be extended, under the option and will fix the period within which the option may be exercised. This period shall be set so as to afford the contractor adequate notice of the requirement for performance under the option but with respect to service contracts may extend beyond the contract completion date when exercise of the option would obligate funds not available in the fiscal year in which the contract would otherwise be completed. In fixing the period within which the option may be exercised, consideration shall be given to (1) necessary lead time in order to assure continuous production and (2) the time required for additional funding and other necessary approval action. The period specified for exercising the option shall in all cases be kept to a minimum. When a solicitation contains an option which requires the offering of additional quantities of supplies at unit prices no higher than those for the initial quantities, it shall provide that the option quantities shall not exceed 50 percent of the initial quantity. When unusual circumstances exist, however, the Procurement Officer or his designee may approve a greater percentage or quantity. The quantities and the period under option and the period during which the option may be exercised shall be justified and documented by the contracting officer in the contract file.

(b) Solicitations containing option provisions generally shall state that evaluation will be on the basis of the quantity to be awarded exclusive of the option quantity. However, where it is anticipated that the Government may elect to exercise the option at time of award, solicitations shall state that if the Government does so elect, evaluation will be on the basis of total quantity to be awarded, including the option quantity, but if the Government does not so elect, evaluation will be on the basis of the quantity to be awarded exclusive of the option quantity.

(c) Solicitations which allow the offer of option quantities at unit prices which differ from the unit prices for the basic contract quantities shall also state that varying prices may be offered for the option quantities depending on the quantities actually ordered and the date or dates when ordered.

(d) Where exercise of the option would result in increased quantities of supplies, the option may be expressed in terms of (1) percentage of specific contract line items, (2) a number of additional units of specific contract line items, or (3) additional numbered line items identified as the option quantity with the same nomenclature as line items initially included in the contract. Where exercise of the option would result in an increase in the performance of services by the contractor, the option may similarly be expressed in terms of percentages, increase in specific line items, or additional numbered line items, expressed in terms of the units of work initially used in the contract such as man hours, man years, square feet, pounds or tons handled. Where exercise of the option would result in an extension of duration of the contract, the option may be expressed in terms of an extended terminal date or of an additional time period, such as days, weeks, or months.

§ 18–1.1504 Exercise of options.

(a) The exercise of an option by the Government requires the contracting officer's written notification to the contractor within the time period specified in the contract.

(b) Where the contract provides for price escalation and the contractor requests revision of price pursuant to such provision, or the provision applies only to the option quantity, the effect of escalation on prices under the option must be ascertained before the option is exercised.

(c) Options should be exercised "only" if it is determined that—

(1) Funds are available;

(2) The requirement covered by the option fulfills an existing need of the Government; and

(3) The exercise of the option is most advantageous to the Government, price and other factors considered.

(d) Insofar as price is concerned, the determination under paragraph (c)(3) of this section shall be made on the basis of one of the following:

(1) A new solicitation fails to produce a better price than that offered by the option. When the contracting officer anticipates that the option price will be the best price available, he should not use this method of testing the market but should use one of the methods in subparagraphs (2), (3), or (4) of this paragraph (d) (see § 18–1.309).

(2) An informal investigation of prices, or other examination of the market, indicates clearly that a better price than that offered by the option cannot be obtained.

(3) The time between the award of the contract containing the option and the exercise of the option is so short that it indicates the option price is the lowest price obtainable, considering such factors as market stability and a comparison of the time since award with the usual duration of contracts for such supplies and services.

(4) Established prices are readily ascertainable and clearly indicate that formal advertising or informal solicitation can obviously serve no useful purpose.

(e) Insofar as the "other factors" mentioned in paragraph (c)(3) of this section are concerned, the determination should, among other things, take into account the Government's need for continuity of operations and potential costs to the Government of disrupting operations, including the cost of relocating necessary Government furnished equipment (as, for example, in certain repair and overhaul contracts for complex equipment).

(f) When it has been determined that an option may properly be exercised in accordance with the principles set forth herein, such determination shall be set forth in writing and made a part of the contract file. Written notification to the contractor of the exercise of the option and any contract modification resulting therefrom shall cite the option clause contained in the original contract as authority for the procurement of the option quantity; and no citation under 10 U.S.C. 2304(a) is required. Reporting, however, shall be in accordance with the instructions applicable to NASA Form 507 (Individual Procurement Action Report) (see § 18–18.901).

§ 18–1.1505 Examples of option clauses.

(a) A clause substantially as follows may be used where the contract expresses the option quantity as a percentage of the basic contract quantity or as an additional quantity of a specific line item.

OPTION FOR INCREASED QUANTITY
(FEBRUARY 1965)

The Government may increase the quantity of supplies called for herein by the amount stated in the Schedule and at the unit price specified therein. The Contracting Officer may exercise this option, at any time within the period specified in the Schedule, by giving written notice to the Contractor. Delivery of the items added by the exercise of this option shall continue immediately after, and at the same rate as, delivery of like items called for under this contract unless the parties otherwise agree.

(b) A clause substantially as follows may be used where the contract identifies the option quantity as a separately priced line item having the same nomenclature as a corresponding basic contract line item.

OPTION FOR INCREASED QUANTITY—LINE ITEM
(FEBRUARY 1965)

The Government may increase the quantity of supplies called for herein by requiring the delivery of the numbered line item identified in the Schedule as an option item, in the quantity and at the price set forth therein. The Contracting Officer may exercise this option, at any time within the period specified in the Schedule, by giving written notice to the contractor. Delivery of the items added by the exercise of this option shall continue immediately after, and at the same rate as, delivery of like items called for under this contract unless the parties otherwise agree.

(c) A clause substantially as follows may be used where it is intended to extend the services described in the schedule.

OPTION TO EXTEND SERVICES
(FEBRUARY 1965)

The Government may require the Contractor to continue to perform any or all items of services under this contract within the limits stated in the Schedule. The Contracting Officer may exercise this option, at any time within the period specified in the Schedule, by giving written notice to the Contractor. The rates set forth in the Schedule shall apply to any extension made pursuant to this option provision.

(d) A clause substantially as follows may be used to provide for continuing performance of the contract beyond its original term.

OPTION TO EXTEND THE TERM OF THE CONTRACT
(FEBRUARY 1965)

This contract is renewable, at the option of the Government, by the Contracting Officer giving written notice of renewal to the Contractor within the period specified in the Schedule; *Provided*, That the Contracting Officer shall have given preliminary notice of the Government's intention to renew at least sixty (60) days before this contract is to expire. (Such a preliminary notice will not be deemed to commit the Government to renewals.) If the Government exercises this option for renewal, the contract as renewed shall be deemed to include this option provision. However, the total duration of this contract, including the exercise of any options under this clause, shall not exceed ..... years.

Subpart 18–1.16—Novation Agreements

§ 18–1.1600 Scope of subpart.

This subpart prescribes the policy and procedures for (a) recognition of a successor in interest to Government contracts when such interests are acquired incidental to a transfer of all the assets of a contractor or the part of his assets involved in the performance of the contracts, (b) a change of name of a contractor, and (c) single installation execution of novation agreements affecting more than one installation.

§ 18–1.1601 Definition.

For the purposes of this subpart, the following definition applies. A novation agreement is a contractual amendment by which the Government recognizes a successor in interest to a Government contract or a change of name of a contractor. The successor in interest assumes all the obligations under the contract and the transferor guarantees the performance of the contract by the transferee. Where only a change of name is made the rights and obligations of the parties remain unaffected.

§ 18–1.1602 Agreement to recognize a successor in interest.

(a) The transfer of a Government contract is prohibited by law (41 U.S.C. 15). However, the Government may recognize a third party as the successor in interest to a Government contract when the third party's interest is incidental to the transfer of all the assets of the contractor, or all of that part of the contractor's assets involved in the performance of the contract. Examples include, but are not limited to:

(1) Sale of such assets;

(2) Transfer of such assets pursuant to merger or consolidation of corporations; and

(3) Incorporation of a proprietorship or partnership.

(b) When it is consistent with the Government's interest to recognize a successor in interest to a Government contract, the designated installation shall execute an agreement with the transferor and the transferee, which shall ordinarily provide in part that:

(1) The transferee assumes all the transferor's obligations under the contract;

(2) The transferor waives all rights under the contract as against the Government;

(3) The transferor guarantees performance of the contract by the transferee (a satisfactory performance bond from either the transferor or the transferee may be accepted in lieu of such guarantee); and

(4) Nothing in the agreement shall relieve the transferor or the transferee from compliance with any Federal law.

The agreement shall have the concurrence of legal counsel, prior to execution. A format for such an agreement for use when the transferor and transferee are corporations, and all the assets of the transferor are transferred, is set forth in § 18–1.1651–d. This format may be adapted to fit specific cases and may be used as a guide in preparing similar agreements for use in other situations.

(c) Prior to the execution of such agreement, one copy of each of the following, as applicable, shall be deposited by the contractor with the designated installation:

(1) A properly authenticated copy of the instrument by which the transfer of assets was effected, as, for example, a bill of sale, certificate of merger, indenture of transfer, or decree of court;

(2) A list of all contracts which have not been finally settled between NASA and the transferor, showing for each contract the contract number, the name and address of the installation involved, the total dollar value of the contract as amended, the type of contract, and the balance remaining unpaid;

(3) A certified copy of the resolutions of the Boards of Directors of the corporate parties authorizing the transfer of assets;

(4) A certified copy of the minutes of any stockholders' meetings of the corporate parties necessary to approve the transfer of assets;

(5) A properly authenticated copy of the certificate and articles of incorporation of the transferee if such corporation was formed for the purpose of receiving the assets involved in the performance of the Government contracts;

(6) An opinion of counsel for the transferor and transferee that the transfer was properly effected in accordance with applicable law and the effective date of transfer;

(7) Evidence of the capability of the transferee to perform the contracts;

(8) Balance sheets of the transferor and the transferee as of dates immediately prior to and after the transfer of assets;

(9) Evidence of security clearance requirements; and

(10) Consent of sureties on all contracts listed under subparagraph (2) of this paragraph on which bonds were required.

§ 18–1.1603 Agreement to recognize change of name of contractor.

(a) When only a change of name is involved, so that the rights and obligations of the parties remain unaffected, an agreement between the designated installation and the contractor shall be executed effecting the amendment of all existing contracts between the parties so as to reflect the contractor's change of name. A format for such an agreement, which shall be adapted for specific cases, is set forth in § 18–1.1651–2.

(b) Prior to the execution of such agreement, one copy of each of the following shall be deposited by the contractor with the designated installation:

(1) A copy of the instrument by which the change of name was effected, authenticated by a proper official of the State having jurisdiction;

(2) An opinion of counsel for the contractor that the change of name was properly effected in accordance with applicable law; and

(3) A list of all contracts which have not been finally settled between NASA and the contractor, showing for each contract the contract number and the name and address of the installation involved.

(c) Each agreement shall have the concurrence of legal counsel, prior to execution.

§ 18–1.1650 Procedures.

(a) Any NASA installation, upon being notified of a successor in interest to, or change in name of, one of its contractors, shall promptly communicate with the contractor in writing. The contractor shall be requested to furnish the pertinent documentation enumerated in § 18–1.1602(c) or § 18–1.1603(b) as required, to the NASA installation with which it has the largest dollar amount of unliquidated obligations.

(b) To avoid duplication of effort on the part of NASA installations in preparing and executing agreements to recognize a change of name or successor in interest, only one supplemental agreement will be prepared to effect necessary changes for all contracts between NASA and the contractor involved. The installation which is indicated by the contractor as having the greatest dollar amount of unliquidated obligations shall take all necessary and appropriate action with respect to either recognizing or not recognizing the successor in interest, or recognizing a change of name, including without limitation the following:

(1) Drafting and executing a supplemental agreement to one of the contracts affected but covering all applicable outstanding and incomplete contracts affected by the transfer of assets or change of name; and

(2) Instituting and monitoring procedures for security clearance.

A supplemental agreement number need not be obtained for contracts other than for the one under which the supplemental agreement is written. Each supplemental agreement will contain a list of the contracts affected and, for distribution purposes, the names and addresses of the installations having contracts subject to the supplemental agreement.

(c) Prior to execution, the agreement and supporting documents shall be reviewed for legal sufficiency by the legal office at the designated installation.

(d) After execution of the supplemental agreement, the designated installation shall:

(1) Forward two authenticated copies of the supplemental agreement to the Office of Procurement. One copy shall be addressed to the attention of Code KDR and one copy to the attention of Code KDO; and

(2) Advise each of the affected installations, by letter, of the consummation of the supplemental agreement and request that an administrative change be issued for each affected contract. (A copy of the supplemental agreement should be enclosed—see § 18–1.1651–3.)

(e) For each such affected contract, the contracting officer shall prepare an administrative change (see § 18–1.1651–4) acknowledging the change in name or successor in interest. The administrative change will receive the same distribution as the affected contract. It will indicate the nature of the transaction, the result attained, and will cite the number of the contract with which the original relevant documents and supplemental agreement are filed.

§ 18–1.1651 Novation agreement formats and related NASA documents.

§ 18–1.1651–1 Successor in interest agreement format.

The following form may be used as appropriate to recognize a corporate successor in interest, in accordance with § 18–1.1602:

AGREEMENT (_____, 196–)

This Agreement, entered into as of _____, 19–, by and between the ABC Corporation, a corporation duly organized and existing under the laws of the State of _____ with its principal office in the City of _____ (hereinafter referred to as the "Transferor"); the XYZ Corporation [formerly known as the LMN Corporation], a corporation duly organized and existing under the laws of the State of _____ with its principal office in the City of _____ (hereinafter referred to as the "Transferee"); and the United States of America (hereinafter referred to as the "Government").

WITNESSETH:

Whereas, the Government, represented by Contracting Officers of the National Aeronautics and Space Administration, has entered into certain contracts, letter contracts, and purchase orders with the Transferor [namely: _____] or [as set forth in the attached list marked "Exhibit A" to this Agreement and herein incorporated by reference;] and the term "the contracts" as hereinafter used means the above contracts, letter contracts, and purchase orders, and all other contracts, letter contracts, and purchase orders, including amendments and change orders thereto, heretofore made between the Government, represented by Contracting Officers of the National Aeronautics and Space Administration, and the Transferor (whether or not performance and payment have been completed and releases executed, if the Government or the Transferor has any remaining rights, duties, or obligations thereunder);

Whereas, as of _____, 19–, the Transferor assigned, conveyed, and transferred to the Transferee all the assets of the Transferor by virtue of a [term descriptive of the legal transaction involved] between the Transferor and the Transferee;

Whereas, the Transferee, by virtue of said assignment, conveyance, and transfer, has acquired all the assets of the Transferor;

Whereas, by virtue of said assignment, conveyance, and transfer, the Transferee has assumed all the duties, obligations, and liabilities of the Transferor under the Contracts;

Whereas, the Transferee is in a position fully to perform the Contracts, and such duties and obligations as may exist under the Contracts.

Whereas, it is consistent with the Government's interest to recognize the Transferee as the successor party to the Contracts;

Whereas, there has been filed with the Government evidence of said assignment, conveyance, or transfer [add if desired, "in the form of a certified copy of the list of the documents required by NASA Procurement Regulation § 18–1.1608"];

[Where a change of name is also involved, such as a prior or concurrent change of name of the transferee, an appropriate recital shall be used; for example:

Whereas, there has been filed with the Government a certified dated _____, 19–, signed by the Secretary of State of the State of _____, to the effect that the corporate name of LMN Corporation was changed to XYZ Corporation on _____, 19–];

Now therefore, in consideration of the premises, the parties hereto agree as follows:

1. The Transferor hereby confirms said assignment, conveyance, and transfer to the Transferee, and does hereby release and discharge the Government from, and does hereby waive, any and all claims, demands, and rights against the Government which it now has or may hereafter have in connection with the Contracts.

2. The Transferee hereby assumes, agrees to be bound by, and undertake to perform each and every one of the terms, covenants, and conditions contained in the contracts. The Transferee further assumes all obligations and liabilities of, and all claims and demands against, the Transferor under the Contracts in all respects as if the Transferee were the original party to the Contracts.

3. The Transferee hereby ratifies and confirms all actions heretofore taken by the Transferor with respect to the Contracts with the same force and effect as if the action had been taken by the Transferee.

4. The Government hereby recognizes the Transferee as the Transferor's successor in interest in and to the Contracts. The Transferee hereby becomes entitled to all right, title, and interest of the Transferor in and to the Contracts in all respects as if the Transferee were the original party to the Contracts. The term "Contractor" as used in the Contracts shall be deemed to refer to the Transferee rather than to the Transferor.

5. Except as expressly provided herein, nothing in this Agreement shall be construed as a waiver of any rights of the Government against the Transferor.

6. Notwithstanding the foregoing provisions, all payments and reimbursements heretofore made by the Government to the Transferor and all other action heretofore taken by the Government, pursuant to its obligations under any of the Contracts, shall be deemed to have discharged pro tanto the Government's obligations under the Contracts. All payments and reimbursements made by the Government after the date of this Agreement in the name of or to the Transferor shall have the same force and effect as if made to said Transferee and shall constitute a complete discharge of the Government's obligations under the Contracts to the extent of the amounts so paid or reimbursed.

7. The Transferor and the Transferee hereby agree that the Government shall not be obligated to pay or reimburse either of them for, or otherwise give effect to, any costs, taxes, or other expenses, or any increases therein, directly or indirectly arising out of or resulting from (i) said assignment, conveyance, and transfer, or (ii) this Agreement, other than those which the Government, in the absence of said assignment, conveyance, and transfer, or this Agreement, would have been obligated to pay or reimburse under the terms of the Contracts.

8. The Transferor hereby guarantees payment of all liabilities and the performance of all obligations which the Transferee (i) assumes under this Agreement, or (ii) may hereafter undertake under the Contracts as they may hereafter be amended or modified in accordance with the terms and conditions thereof.

9. Except as herein modified, the Contracts shall remain in full force and effect.

In witness whereof, each of the parties hereto has executed this Agreement as of the day and year first above written.

UNITED STATES OF AMERICA
By _____
Title _____

[CORPORATE SEAL] ABC CORPORATION
By _____
Title _____

[CORPORATE SEAL] XYZ CORPORATION
By _____
Title _____

CERTIFICATE

I, _____, certify that I am the Secretary of ABC Corporation, named above, that _____, who signed this Agreement on behalf of said corporation, was then _____ of said corporation; and that this Agreement was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

Witness by hand and seal of said corporation this _____ day of _____, 19–.

By _____
[CORPORATE SEAL]

CERTIFICATE

I, _____, certify that I am the Secretary of XYZ Corporation, named above, that _____, who signed this Agreement on behalf of said corporation, was then _____ of said corporation; and that this Agreement was duly signed for and in behalf of said corporation by authority of its governing body and within the scope of its corporate powers.

Witness my hand and the seal of said corporation this _____ day of _____, 19–.

By _____
[CORPORATE SEAL]

§ 18–1.1651–2 Change of name agreement format.

The following form may be used as appropriate to recognize a change in name, in accordance with § 18–1.1603:

AGREEMENT (_____, 196–)

This Agreement, entered into as of _____, 19–, by and between the ABC Corporation (formerly the XYZ Corporation and hereinafter sometimes referred to as the "Contractor"), a corporation duly organized and existing under the laws of the State of _____, and the United States of America, represented by the National Aeronautics and Space Administration, (hereinafter referred to as the "Government").

WITNESSETH:

Whereas, the Government, represented by Contracting Officers of the National Aeronautics and Space Administration, has entered into certain contracts, letter contracts, and purchase orders with the XYZ Corporation [namely: _____] or [as set forth in the attached list marked "Exhibit A" to this Agreement and herein incorporated by reference;] and the term "the Contracts" as hereinafter used means the above contracts, letter contracts, and purchase orders, and all other contracts, letter contracts, and purchase orders, including amendments and change orders thereto, entered into between the Government, represented by Contracting Officers of the National Aeronautics and Space Administration, and the Contractor (whether or not performance and payment have been completed and releases executed, if the Government or the Contractor has any remaining rights, duties, or obligations thereunder);

Whereas the XYZ Corporation, by an amendment to its certificate of incorporation, dated _____, 19–, has changed its corporate name to the ABC Corporation;

Whereas, a change of corporate name only is accomplished by said amendment, so that rights and obligations of the Government and of the Contractor under the Contracts are unaffected by said change; and

Whereas, there has been filed with the Government documentary evidence of said change in corporate name;

Now therefore, in consideration of the premises, the parties hereto agree that the Contracts covered by this Agreement are hereby amended by deleting therefrom the name "XYZ Corporation" wherever it appears in the Contracts and substituting therefor the name "ABC Corporation."

In witness whereof, each of the parties hereto has executed this Agreement as of the day and year first above written.

UNITED STATES OF AMERICA
By _____
Title _____

[CORPORATE SEAL] ABC CORPORATION
By _____
Title _____

CERTIFICATE

I, _____, certify that I am the Secretary of ABC Corporation, named above; that _____, who signed this Agreement on behalf of said corporation, was then _____ of said corporation; and that this Agreement was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

Witness my hand and the seal of said corporation this _____ day of _____, 19–.

By _____
[CORPORATE SEAL]

§ 18–1.1651–3 Sample letter requesting issuance of administrative change.

The following sample letter format is appropriate to give notice of execution of a novation agreement and to request issuance of an administrative change, in accordance with § 18–1.1650(d).

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
GODDARD SPACE FLIGHT CENTER,
Greenbelt, Md., October 15, 1963.

Subject: Novation Agreement.
To: Procurement Officer, Langley Research Center.

1. Your attention is invited to the attached supplemental agreement wherein a transfer of the business of ABC Corporation to XYZ Corporation is recognized.

2. In accordance with NASA Procurement Regulation 1.1650 contracting officer(s) presently responsible for affected contracts placed by your installation, which are listed in the supplemental agreement, should immediately issue a Change Order to each such contract to reflect the change.

JOHN J. JONES,
Procurement Officer,
Goddard Space Flight Center.

§ 18–1.1651–4 Sample administrative change format.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

ADMINISTRATIVE CHANGE

Contract No. _____
Change Order No. _____
Date _____
Contractor _____
Subject _____
(Insert type of transaction—merger, etc.)

Pursuant to the provisions of the clause of Modification No. _____ of Contract No. _____ (This reference will be to the Modification actually recognizing the transfer.)

It is hereby acknowledged that said Contract Modification (insert, as appropriate, "effecting recognition of XYZ Corporation as a successor in interest applies in accordance with all of its terms and conditions to this contract," or "effecting recognition of a change of the contractor's name from ABC Corporation to XYZ Corporation applies in accordance with all of its terms and conditions to this contract").

_____

Except as hereby modified, all the terms, convenants, and conditions of said contract as heretofore modified or amended shall remain in full force and effect.

THE UNITED STATES OF AMERICA
By _____
(Signature)

_____
(Contracting Officer)

Subpart 18–1.50—Integration of Quality Requirements in NASA Procurements

§ 18–1.5000 Scope of subpart.

(a) This subpart sets forth procurement procedures for implementing NASA quality assurance policies of NASA Management Instruction 5330.1 and detailing the application of the following NASA Quality Publications:

(1) "Quality Program Provisions for Space System Contractors (NPC 200–2)";

(2) "Inspection System Provisions for Suppliers of Space Materials, Parts, Components, and Services (NPC 200–3);" and

(3) "Quality Requirements for Hand Soldering of Electrical Connections (NPC 200–4)."

(b) Arrangements for use of Government inspection agencies for quality assurance functions at NASA suppliers' plants are described in Part 18–14 of this chapter, including application of "Quality Assurance Provisions for Government Agencies (NPC 200–1A)."

§ 18–1.5001 Policy.

(a) Quality is a factor for consideration in each step of the procurement process. The inclusion in procurements of realistic quality requirements and the appropriate technical application of the NASA Quality Publications are essential to accomplish NASA program objectives.

(b) Quality requirements shall be definitized and included in the procurement documents as early as possible.

§ 18–1.5002 Classification of NASA procurements.

For purposes of quality requirements, procurements by NASA are classified in the following three general categories:

(a) Category 1—Space systems, major subsystems, and complex assemblies, as described in Quality Publication NPC 200–2; and test and check-out equipment, instrumentation, and launch facilities used in launching, operating and maintaining vehicles or craft in space, including those for static test.

(b) Category 2—Materials, parts, components, and services for the space systems listed in Category 1; and test equipment used for ground testing but not included in Category 1.

(c) Category 3—All other procurements.

§ 18–1.5003 Responsibilities of NASA personnel.

(a) *Originators of procurement requests.* Originators of procurement requests shall consult as early as possible with installation personnel responsible for quality assurance to determine or obtain appropriate quality assurance provisions for incorporation in such requests.

(b) *Installation personnel responsible for quality assurance.* Installation personnel responsible for quality assurance shall:

(1) For Category 1 procurements—Prepare quality program requirements in accordance with applicable provisions of NPC 200–2. Prepare pertinent portions of the work statement using available quality data, pertinent NASA quality information, and the provisions of § 18–1.5005 (a) and (c).

(2) For Category 2 procurements—Prepare inspection system requirements in accordance with applicable provisions of NPC 200–3, applicable portions of 200–2, available quality data, high-reliability specification guidelines, pertinent NASA quality information, and the provisions of § 18–1.5005 (b) and (c).

(3) For Category 3 procurements—Cite applicable quality requirements, such as the NASA Quality Publication(s) (or portions thereof), Government or non-Government specifications and standards, or other criteria prepared especially for the procurement being requested.

(4) For all categories—

(i) Cite the applicable specifications, quality standards, design quality criteria, and other documents which identify and quantify quality requirements, including standard contract clauses established in this chapter, or as appropriate by the NASA installations; and

(ii) Cite the appropriate types and places of performance of Government quality assurance functions (i.e., quality or inspection system evaluation, in-process inspection, end-item inspection, and acceptance inspection), indicating whether their accomplishment shall be by the NASA installation or delegated agency or both. (See Part 18–14 of this chapter for application of NPC 200–1A.)

(c) *Contracting officers.* In accordance with paragraph (a) of this section, officers, with or through installation personnel responsible for quality assurance shall:

(1) Review each procurement document to ensure that definitive quality requirements are included;

(2) Determine, if quality requirements have been omitted or appear to be inadequate, the applicable quality requirements by consultation and verification with quality assurance personnel and the originator of the procurement;

(3) Advise all prospective contractors of the quality requirements for the particular procurement;

(4) Ensure that the provisions of the contract are specific as to the contractor's responsibility for meeting quality requirements;

(5) Ensure that the contractor meets the terms and conditions of the contract relative to quality requirements;

(6) Ensure that responsibility is assigned for performance of Government quality assurance functions at suppliers' plants to a NASA installation or to another agency, or both; and

(7) Notify the contractor, the Government agency, and the assigned representatives of the NASA installation as to quality assurance functions delegated to the Government agency and the functions to be performed by the NASA installation in accordance with Part 18–14 of this chapter. Letters outlining delegated functions shall be specific as to the quality assurance effort required, and those outlining functions to be performed by the NASA installation at plant sites shall set forth the duties, responsibilities, and authority of installation personnel assigned to perform these functions.

(d) *Detailed implementation.* Detailed procedures (e.g., for routing of procurement requests and quality assurance documents, specifying the copies required for review and comment and the means of obtaining and distributing the Quality Assurance Provisions) shall be established by the individual NASA installations.

§ 18–1.5004 Procedures.

This section specifies certain required actions with regard to quality assurance at different stages of the procurement process.

(a) *Procurement requests.* Each procurement request shall contain the quality requirements established for that procurement and be complete with respect to the requirements of § 18–1.5003.

(b) *Procurement plan.* The procurement plan shall include:

(1) The general quality requirements intended to be made a part of the contract; and

(2) A statement as to the type and extent of Government quality assurance functions to be performed by the NASA installation and, as applicable, the delegated agency.

(c) *Invitations for bids and requests for proposals.* Invitations for bids and requests for proposals shall include:

(1) The detailed quality requirements applicable to the procurement with reference to the specific provisions of NASA Quality Publications and other applicable documents;

(2) A requirement, in requests for proposals, that prospective contractors briefly describe the quality system to be used. Where NPC 200–2 is to be invoked for a major system, proposals should include a preliminary quality program plan with details matching the degree of definitization in the technical proposal; and

(3) Copies of NASA Quality Publications NCP 200–2 and 200–3 and 200–4 (including referenced specifications) as applicable, and a statement that the quantity of these publications required for performance of the contract will be furnished to the Contractor by the contracting officer. (Installations receiving requests for these publications from individuals or firms other than as specified herein should advise the requesters that the publications are available from the Superintendent of Documents, Washington, D.C.)

(d) *Bidders' conferences.* When bidders' conferences or oral briefings are held, installation personnel responsible for quality assurance will present quality requirements of the procurement.

(e) *Evaluation of proposals.* Technical evaluation shall include consideration of each prospective contractor's quality system, capability, and past performance prior to final recommendation for award. In addition, these quality factors are items to be considered during preaward surveys in accordance with § 18–1.905–50. Prospective contractors not meeting minimum quality standards may be considered nonresponsive. These actions are required regardless of the evaluation method used. Installation personnel responsible for quality assurance will participate.

(f) *Contract negotiations.* Installation personnel responsible for quality assurance should participate in contract negotiation meetings to provide technical support in the quality area to NASA contract negotiators.

(g) *Preparation of contract.* The contract is the only instrument which binds the contractor and the Government. Therefore, the contract will include the specific terms and conditions of all NASA quality requirements that have been established for the procurement.

(h) Quality assurance, Inspection and Acceptance. (See Part 18–14 of this chapter.)

§ 18–1.5005 Technical factors.

The following shall be considered and appropriate provisions made in the work statement when NPC 200–2 and 200–3 or portions thereof are invoked.

(a) *NASA NPC 200–2.*

Paragraph number	*Description of action*
1.2	NPC 200–2 shall be invoked by reference (e.g., "The contractor shall establish and maintain an effective quality program to satisfy, as a minimum, the requirements of NASA Quality Publication NPC 200–2").
1.4	Detailed reliability requirements shall be stated.
1.5	The prime contractor may be required to submit quality program plans for major subcontractors to the NASA installation for review, notwithstanding the requirement for the contractor's quality program to cover the full scope of contracted work. Major subcontractors may be defined in generic terms for a particular procurement.
2.2	Any deviations from Appendix B for documents requiring approval, review, or information shall be considered.
2.2.1	The time for submission and approval of all documents requiring NASA approval shall be specified.
4.2.2	Existing preferred parts lists desired to be cited in the contract, or required to be established by the contractor, shall be identified or described.
4.3.1	Any additional requirements for documentation and submission of qualification test procedures shall be specified.
4.3.5	The agreed-upon intervals desired for submission of the qualification status list shall be specified.
4.4, 14.2.1	Requirements for mechanized or electronic data processing shall be stated.
5.3.1	When the prime contractor invokes NPC 200–2 or 200–3 in subcontracts, the subcontractor shall furnish required documentation to him. The prime contractor shall forward copies to the NASA installation and designated representatives as specified in the contract. The use of a contractor's equivalent specification in lieu of NPC 200–2 is permissible, provided that it has been submitted to the NASA installation for review 2 weeks prior to its use in procurement documents.
14.3	The extent of laboratory facilities to be established and failure analysis function to be performed by the contractor at the launch site shall be stated. Time periods for notification of failures and malfunctions and for initiation of corrective action shall be stated.

(b) *NASA NPC 200–3*

Paragraph number	*Description of action*
1.2	NPC 200–3 should be invoked by reference (e.g., "The supplier shall establish and maintain an inspection system which satisfies the requirements of NASA Quality Publication NPC 200–3").
1.4	Detailed reliability requirements shall be stated.
1.5	Inspection plans for major subcontractors (major subcontracts may be defined in generic terms for a particular procurement) may be required to be submitted by the prime contractor to the NASA installation for review notwithstanding the requirement for the contractor's inspection plan to cover the full scope of contracted work.
3.1	When the prime contractor invokes NPC 200–3 in subcontracts, the subcontractor shall furnish required documentation to him. The prime contractor shall forward copies to the NASA installation and designated representatives as specified in the contract. The use of a contractor's equivalent specification in lieu of NPC 200–3 is permissible, provided that it has been submitted to the NASA installation for review 2 weeks prior to its use in procurement documents.
	The applicability of paragraph 5.7, "Identification," of NPC 200–3, shall be stated.
3.5	Requirements for test specimens of raw materials to be provided with fabricated articles shall be stated.
3.6	Inspections and tests desired but not contained in specifications and standards referenced in the contract shall be stated.
3.12	Requirements for sampling inspection, if applicable, or special instructions for screening inspection in lieu of sampling, shall be stated.
3.13	Requirements for mechanical or electronic processing of data shall be stated.

(c) *NASA NPC 200–4.*

Paragraph number	*Description of action*
Preface	NPC 200–4 shall be invoked by reference (e.g., "The contractor shall conform to the requirements of NASA Quality Publication NPC 200–4 when performing hand soldering of electrical connections").

Subpart 18–1.51—Integration of Reliability Requirements Into NASA Procurements

§ 18–1.5100 Scope of subpart.

This subpart establishes procedures for implementing reliability policies prescribed in NASA Management Instruction 5320.1 with the procurement of systems, by:

(a) Establishing general principles of systematic reliability assurance actions on NASA procurements;

(b) Detailing the application of NASA Reliability Publication "Reliability Program Provisions for Space Systems Contractors" (NPC 250–1); and

(c) Defining the level at which reliability program requirements are to be placed on contractors.

§ 18–1.5101 Policy.

NASA reliability policy, as reflected in NASA Management Instruction 5320.1, is that:

(a) Every practical means shall be employed to achieve high system reliability at the earliest possible stage of system development;

(b) Reliability program requirements shall be placed on NASA system contractors; and

(c) Contractor performance in achieving system reliability will be guided and monitored by the cognizant NASA field installation.

§ 18–1.5102 Definitions.

For the purpose or this subpart, the following definitions apply:

(a) Major system element—Any element of a system considered by the cognizant NASA installation to be sufficiently critical to reliability of the system to require use of a formal reliability program from its design through end use.

(b) Reliability—The probability that a system, subsystem, component, or part will perform its required functions under defined conditions at a designated time and for a specified operating period.

(c) Reliability program—A series of tasks, systematized under a comprehensive plan, which is designed to achieve the required level of reliability in the design and development of a hardware end item.

(d) Reliability assurance—A planned and systematic pattern of all actions necessary to provide adequate confidence that a space system or portion thereof (including test equipment) will perform reliably in actual operation. This includes actions to—

(1) Plan for achievement of satisfactory reliability when formulating procurement documents;

(2) Plan and execute reliability programs pertinent to each phase of the work from design through end use of the system hardware;

(3) Monitor and guide contractor reliability efforts; and

(4) Ascertain and ensure that the necessary level of reliability is being attained.

§ 18–1.5103 Application.

(a) The procedures prescribed in this subpart are applicable to:

(1) New procurements of complete space systems; principal systems making up a space system (e.g., launch vehicles, spacecraft, test equipment, etc.); critical subsystems; or critical components; where the cost of the procurement is estimated in the Procurement Plan to exceed $1 million. (See paragraph (b) of this section for smaller procurements of critical items.) It is not necessarily applicable to smaller procurements, to procurements of noncritical subsystems, or to procurements where the contractor does not have design responsibility.

(2) Amendments to existing contracts of the types stated in subparagraph (1) of this paragraph (a) which after amendment exceed $1 million. In applying NPC 250–1 to existing contracts, cognizant personnel shall exercise discretion to prescribe only those program requirements still considered timely in light of project completion status and to prescribe them to the extent that anticipated benefits are considered to be commensurate with cost.

(b) For procurements of $1 million or less where the contractor has design responsibility for a space system or for critical hardware, end items, or equipment to serve as part of a space system (including critical test equipment), the cognizant NASA installation shall:

(1) Determine and impose selected applicable reliability program requirements (e.g., design review, design specifications, failure analysis, parts and materials program, qualification and flight assurance testing); and

(2) Follow those procedures set forth in § 18–1.5104(a) considered by the installation to be applicable.

§ 18–1.5104 Responsibilities.

(a) *Originators of procurement requests.* Originators of procurement requests shall consult as early as possible with appropriate reliability assurance personnel to determine the extent of applicability of NASA Reliability Publication NPC 250–1 to the procurement and shall:

(1) Summarize, in the procurement request, the extent to which the reliability program provisions of NPC 250–1 will be placed on the contractor;

(2) Cite, in the procurement request, applicable specifications, standards, design reliability criteria, or other documents which further define reliability requirements;

(3) Assist contracting officers in the preparation of procurement plans to ensure that the plans include necessary provisions for reliability assurance;

(4) Provide in the Statement of Work detailed guidance on the extent of applicability of the provisions of NPC 250–1 and other reliability documents of the contract (for technical factors requiring definitization, see § 18–1.5106); and

(5) Provide to the contracting officer necessary copies of items described in subparagraph (2) of this paragraph for inclusion in the request for proposal, or advise the contracting officer as to where they can be obtained.

(b) *Contracting officers.* Contracting officers, with or through appropriate reliability assurance personnel, shall:

(1) Review the reliability assurance requirements established by the originator of each procurement;

(2) Determine the applicable requirements where reliability assurance requirements appear to be inadequate or have been omitted (this will be accomplished in coordination with, and with verification by, the originator);

(3) Advise all prospective contractors for the procurement in question of reliability requirements and reliability program requirements for the particular procurement;

(4) Ensure that the provisions of the contract are specific as to the contractor's responsibility for meeting reliability requirements; and

(5) Ensure that the contractor meets the terms and conditions of the contract relative to reliability requirements.

(c) *Reliability assurance personnel.* Reliability assurance personnel shall:

(1) Advise and assist originators of procurement requests in performing the functions prescribed in paragraph (a) of this section;

(2) Advise and assist contracting officers in the functions prescribed in paragraph (b) of this section;

(3) Advise and assist installation project personnel in guidance and monitorship of contractor reliability programs; and

(4) Take other actions as necessary to ensure that the system being procured meets required levels of reliability.

§ 18–1.5105 Procedures.

(a) *Processing of procurement documents for procurements of systems expected to exceed $1 million.*—(1) *Procurement requests.* The procurement requests for a system will include, in the description of the procurement, a statement of reliability requirements, in accordance with § 18–1.5104(a) (1) and (2).

(2) *Procurement plans.* The procurement plans for a system will contain provisions for reliability assurance, including a summary of reliability program requirements.

(3) *Review of procurement plans.* Section 18–2.852–2(a)(3) provides for review by the Assistant Administrator for Programing, NASA Headquarters, of procurement plans to be approved by the Deputy Administrator (where the contract is anticipated to exceed $5 million).

(4) *Requests for proposals.* Requests for proposals will include:

(i) Detailed definitization of the reliability program requirements and reliability goals for the contract, including extent of applicability of NPC 250–1, and copies of other pertinent documents which define reliability program requirements. (For technical factors requiring decisions or elaboration in work statements, see §§ 18–1.5104(a)(iv) and 18–1.5106.)

(ii) Definition of the degree of detail desired in the propcsal to describe the contractor's qualifications in the reliability area and his proposed reliability program. Where only limited detail is desired in the proposal, a requirement for an intermediate reliability program plan will be included for the prospective contractor(s) selected for negotiation.

(iii) Directions for obtaining additional copies (if available) of documents provided in subdivision (ii) of this subparagraph. This will include a statement that the quantity of NPC 250–1 required for performance of the contract will be provided to the contractor by the contracting officer and that additional copies may be obtained from the Superintendent of Documents, U.S. Government Printing Office.

(5) *Proposal evaluation documentation.* Section 18–3.804–2(b) of this chapter relating to source evaluation procedures in procurements not involving source evaluation boards, specifies that the documentation of technical evaluations of proposals shall include an evaluation of the company's proposed method of achieving the reliability required.

(6) *Reliability representation on source evaluation boards.* Paragraph 300 of the Source Evaluation Board Manual (NPC 402) provides for the participation of the designee of the Director of Reliability and Quality Assurance, NASA Headquarters, in Source Evaluation Board proceedings.

(b) *Monitoring of reliability effort.* The following measures, used in appropriate combinations, are considered effective tools for use by cognizant NASA installations in the guidance and monitoring of contractor reliability efforts:

(1) Use of resident NASA technical representatives in hardware contractor facilities (or, as a minimum, use of frequent reliability surveys by nonresident NASA teams);

(2) Conducting in-house reliability studies; and

(3) Use of independent reliability assessment contractors to assist NASA in assessment of system reliability or evaluation of the effectiveness of the hardware contractor's reliability program.

(c) *Inclusion of NPC 250–1 in the contract.* NASA Reliability Publication NPC 250–1 will be invoked in the contract via an appropriate contract clause designed to clarify any ambiguities which may exist. A sample clause is as follows:

> In performance of work under the contract, the Contractor shall implement a reliability program in accordance with NASA Reliability Publication NPC 250–1 [indicate edition] as further definitized in the Statement of Work. Guidance and monitoring of the Contractor's reliability effort, as well as approval or review authority for reliability program documentation, shall be the responsibility of the Contracting Officer, his authorized technical representatives, or their designees. The Contracting Officer will advise the Contractor, as well as appropriate NASA representatives and the Government inspection agency, by letter as to the identity (title, organization, and location) of his authorized technical representatives and the specific office or offices to which various items of required reliability program documentation shall be submitted.

§ 18–1.5106 Technical factors (requests for proposals and work statements).

Procurement requests and work statements will provide guidance on the following technical factors when NASA Reliability Publication NPC 250–1 is invoked:

(a) NASA Reliability Publication NPC 250–1 prescribes that the contractor's reliability organization will monitor certain tasks, the actual conduct of which is a part of the overall technical project effort. In the preparation of Statements of Work, the originator of the procurement request shall specify that these tasks are requirements unless specifically modified or waived. Paragraph references to NPC 250–1 in this category where additional guidance should be included in the Statement of Work are as follows:

NASA NPC 250–1 paragraph number	*Description of action*
3.5—Maintainability and elimination of human-induced failure.	Define the extent of effort required in these areas with respect to the overall space system and each of its various elements (requirements will often differ from element to element within the system). Where the system involves subsystems capable of being maintained by personnel while in use or where flight safety of personnel is involved, append, or otherwise provide, appropriate documents giving detailed guidance to the contractor on requirements in this area.
3.8—Standardization of design practices...	Make clear that the standards effort will be limited to that required to modify existing contractor standards to meet system requirements and that it is not necessarily intended to have the contractor set up a complete new standards system at NASA expense. Also, provide any NASA design criteria which the contractor will be required to use.
4.3—Testing	The Statement of Work should clearly specify the requirement for: (A) An integrated test program which includes all tests (with specified exceptions) under the contract. Also indicate that tests (except reliability demonstrations) which include reliability inputs, or produce, along with other results, data for evaluation of reliability, should be referred to as the appropriate type of performance test, and not be termed a "reliability" test. (B) Qualification testing of all elements of the system (consistent with project requirement). Indicate required levels of overstress to be employed in these tests where appropriate and specifically require the contractor to submit separate test specifications for each qualification test (containing appropriate overstress requirements), which will be subject to NASA review prior to use. (C) Flight assurance testing requirements at appropriate levels of assembly, together with guidance on required levels of stress to be employed, and configuration control requirements. Require the contractor to submit a separate specification for each flight assurance test, which will be subject to NASA review prior to use.
5.1—General documentation	State whether the contractor is required to establish a data center, and clearly define the scope of effort required of the prime contractor and of subcontractors (as required to be consistent with the system data center). Also make clear that the "unified file" of reliability information is a requirement only where the overall data center is not required.

(b) Additional guidance as to the extent of applicability of reliability task requirements will be given for the following paragraphs of NPC 250–1:

NASA NPC 250–1 paragraph number	*Description of action*
2.2.2—Preliminary reliability program plan (see also appendix B).	Indicate the degree of detail desired in the proposed reliability program and in the submittal of information on the contractor's qualifications.
2.2.3—Intermediate reliability program plan (see also appendix C).	Indicate any desired variations from the procedure prescribed in NPC 250–1. Where it is desired to omit this submittal, prescribe that the requirements of this paragraph be combined with those of paragraph 2.2.2 in preparing the proposal.
2.4—Reliability program control	Give specific guidance on those aspects of control for which the NSA installation has special requirements and, if appropriate, for the preferred system of control.
2.6—Subcontractor and supplier control	List those elements of the system considered by NASA to be "major" in terms of the need for reliability control by a formal reliability program. The list may be identified as "suggested" where it is desired to obtain contractor inputs for subsequent negotiation.
2.6.2—Resident representatives	Indicate those of the system elements listed as "major" which are considered by NASA to require use of resident prime contractor representatives in subcontractor facilities. This list may be identified as "suggested" where it is desired to defer the final decision until specific information on subcontracts is proposed.
2.7—Government-furnished property	Indicate which elements, if any, of the system will be Government-furnished property and provide information on the characteristics, including reliability, of each to enable the contractor to plan and propose his reliability program with appropriate consideration for Government-furnished property.
3.3—Reliability prediction and estimation	Specify the milestone or time at which the initial prediction is required and the succeeding major or intermediate milestone at which revised predictions are required. Also, if appropriate to installation or program requirements, prescribe the method of prediction to be used and furnish detailed supplemental guidance.
3.7—Failure reports	If a specific format and numbering system is to be prescribed by NASA, so indicate.
3.9.2—Parts selection	Where the requirements of the program dictate use of parts already proven for other systems, data on such parts should be provided to enable the contractor to limit the scope of his parts selection effort.
3.9.3—Parts and materials specifications	Provide or cite available specifications for proven parts. Where it is desired to limit the scope of contractor effort in this area, provide appropriate guidance.
4.3.4—Reliability demonstration tests	Provide specific guidance as to type, conditions, and duration of demonstration testing consistent with program requirements.
4.4—Reliability assessment	Make clear that the "assessment" is an evolution of the "prediction" and not an overlapping task. Indicate major and intermediate milestones at which initial and revised assessments are required.
5—Documentation of reliability program	Indicate the specific documentation requirements appropriate to the program (see appendix F of NPC 250–1), including the number of copies of each document required for submittal.

PART 18–2—PROCUREMENT BY FORMAL ADVERTISING

Sec.
18–2.000 Scope of part.

Subpart 18–2.1—Use of Formal Advertising

18–2.101 Meaning of formal advertising.
18–2.102 Policy.
18–2.102–1 General.
18–2.102–2 Classified procurements.
18–2.103 General requirements for formally advertised contracts.
18–2.104 Types of contracts.
18–2.104–1 General.
18–2.104–2 Firm fixed-price contracts.
18–2.104–3 Fixed-price contracts with escalation.
18–2.104–4 Indefinite delivery-type contracts.
18–2.105 Solicitation for informational or planning purposes.
18–2.150 Procurement request.

Subpart 18–2.2—Solicitation of Bids

18–2.200 Scope of subpart.
18–2.201 Preparation of invitations for bids.
18–2.201–1 Supply and service contracts.
18–2.201–2 Construction contracts.
18–2.202 Miscellaneous rules for solicitation of bids.
18–2.202–1 Bidding time.
18–2.202–2 Telegraphic bids.
18–2.202–3 Place and method of delivery of supplies.
18–2.202–4 Bid samples.
18–2.202–5 Descriptive literature.
18–2.203 Methods of soliciting bids.
18–2.203–1 Mailing or delivering to prospective bidders.
18–2.203–2 Displaying in public place.
18–2.203–3 Publicity in newspapers and trade journals.
18–2.203–4 Synopses of invitations for bids.
18–2.204 Records of invitations for bids and records of bids.
18–2.205 Bidders mailing lists.
18–2.205–1 Establishment of lists.
18–2.205–2 Removal of names from bidders mailing lists.
18–2.205–3 Reinstatement on bidders mailing lists.
18–2.205–4 Excessively long bidders lists.
18–2.205–5 Release of bidders mailing lists.
18–2.206 Small business and labor surplus area set-asides.
18–2.207 Amendment of invitations for bids.
18–2.208 Cancellation of invitations before opening.
18–2.210 Release of procurement information.

Subpart 18–2.3—Submission of Bids

Sec.
18–2.301 Responsiveness of bids.
18–2.302 Time of bid submission.
18–2.303 Late bids.
18–2.303–1 General.
18–2.303–2 Consideration for award.
18–2.303–3 Mailed bids.
18–2.303–4 Telegraphic bids.
18–2.303–5 Hand-carried bids.
18–2.303–6 Notification to late bidders.
18–2.303–7 Disposition of late bids.
18–2.303–8 Records.
18–2.304 Modification or withdrawals of bids.
18–2.305 Late modifications and withdrawals.

Subpart 18–2.4—Opening of Bids and Award of Contract

18–2.401 Receipt and safeguarding of bids.
18–2.402 Opening of bids.
18–2.402–1 Unclassified bids.
18–2.402–2 Classified bids.
18–2.403 Recording of bids.
18–2.404 Rejection of bids.
18–2.404–1 Cancellation of invitation after opening.
18–2.404–2 Rejection of individual bids.
18–2.404–3 Notice to bidders of rejection of all bids.
18–2.404–4 Restrictions on disclosure of descriptive literature.
18–2.404–5 All or none qualifications.
18–2.405 Minor informalities or irregularities in bids.
18–2.406 Mistakes in bids.
18–2.406–1 General.
18–2.406–2 Apparent clerical mistakes.
18–2.406–3 Other mistakes disclosed before award.
18–2.406–4 Disclosure of mistakes after award.
18–2.407 Award.
18–2.407–1 General.
18–2.407–2 Responsible bidder.
18–2.407–3 Discounts.
18–2.407–4 Price escalation.
18–2.407–5 Other factors to be considered.
18–2.407–6 Equal low bids.
18–2.407–7 Requirements in lieu of standard Form 1036.
18–2.407–8 Protests against award.
18–2.408 Information to bidders.
18–2.408–1 Unclassified awards.
18–2.408–2 Classified awards.
18–2.409 Synopses of contract awards.

Subpart 18–2.5—Two-Step Formal Advertising

18–2.501 General.
18–2.502 Conditions for use.
18–2.503 Procedures.
18–2.503–1 Step one.
18–2.503–2 Step two.

AUTHORITY: The provisions of this Part 18–2 issued under 42 U.S.C. 2473(b)(1).

§ 18–2.000 Scope of part.

(a) This Part 18–2 sets forth the (1) basic requirements for procurement of supplies and services (including construction) by formal advertising, (2) information to be contained in solicitations of bids, (3) methods of soliciting bids, (4) policies with respect to the submission of bids, and (5) requirements with respect to the opening and evaluation of bids and the awarding of contracts.

Subpart 18–2.1—Use of Formal Advertising

§ 18–2.101 Meaning of formal advertising.

(a) Formal advertising means procurement by competitive bids and awards, as prescribed in this part, and involves the following basic steps:

(1) Preparation of the invitation for bids, by describing the requirements of the Government clearly, accurately, and completely, but avoiding unnecessarily restrictive specifications or requirements which might unduly limit the number of bidders. The term "invitation for bids" means the complete assembly of related documents, whether attached or incorporated by reference, provided prospective bidders for the purpose of bidding;

(2) Publicizing the invitation for bids, through distribution to prospective bidders, posting in public places, and such other means as may be appropriate, in sufficient time to enable prospective bidders to prepare and submit bids before the time set for public opening;

(3) Submission of bids by prospective contractors; and

(4) Awarding the contract, after bids are publicly opened, to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Government, price and other factors considered (or rejecting all bids).

§ 18–2.102 Policy.

§ 18–2.102–1 General.

(a) Chapter 137 of Title 10 of the United States Code (See 10 U.S.C. 2304 (a)), which is applicable to procurements by NASA, provides that purchases of and contracts for supplies or services shall be made by formal advertising in all cases in which the use of such method is feasible and practicable under the existing conditions and circumstances. It further provides that, if the use of formal advertising is not feasible and practicable, negotiation of contracts is authorized under certain circumstances enumerated therein. The circumstances are set forth in Subpart 18–3.2, of this chapter. In accordance with this requirement, procurements shall generally be made by soliciting bids from all qualified sources of supplies or services deemed necessary by the contracting officer to assure full and free competition consistent with the procurement of the required supplies or services. Current lists of bidders shall be maintained in accordance with § 18–2.205.

(b) Chapter 137 of Title 10 of the United States Code (10 U.S.C. 2306(f)) provides that a contractor or subcontractor shall be required to submit cost or pricing data for certain contract modifications, and shall be required to certify that, to the best of his knowledge and belief, the cost or pricing data he submitted was accurate, complete, and current. To insure compliance with this requirement, contracting officers shall follow the instructions set forth in § 18–3.807–3 before agreeing to a price adjustment of a formally advertised contract.

§ 18–2.102–2 Classified procurements.

Formal advertising shall be used for classified procurements if, after due consideration of security requirements, it is concluded that such requirements will not be violated.

§ 18–2.103 General requirements for formally advertised contracts.

No contract shall be made as a result of formal advertising unless:

(a) Bids have been solicited as required by Subpart 18–2.2;

(b) Bids have been submitted as required by Subpart 18–2.3;

(c) Determination has been made as to the responsible bidder whose bid is responsive to the invitation for bids and is most advantageous to the Government, price and other factors considered, and award is made as prescribed in Subpart 18–2.4; and

(d) Such clearances and approvals, if any, required under Subpart 18–50.1 of this chapter have been obtained.

§ 18–2.104 Types of contracts.

§ 18–2.104–1 General.

Contracts awarded after formal advertising shall be of the firm fixed-price type, except that fixed-price contracts with escalation may be used, subject to the provisions of §§ 18–2.104–3 and 18–2.407–4, where such flexibility is necessary and feasible.

§ 18–2.104–2 Firm fixed-price contracts.

See § 18–3.404–2.

§ 18–2.104–3 Fixed-price contracts with escalation.

Escalation clauses are not normally desirable, but in appropriate cases clauses providing for upward and downward revision of prices may be used, in accordance with § 18–3.404–3, in order to protect the interest of both the Government and contractor. In addition, where the contracting officer, on the basis of his knowledge of the market or previous advertisements for like items, expects that a requirement for firm fixed-price bids will unnecessarily restrict competition or unreasonably increase bid prices, invitation for bids may include an approved escalation clause. Any escalation clause shall provide an escalation ceiling identical for all bidders so that each bidder is afforded an equal opportunity to bid on the escalation basis. In evaluating bids, see § 18–2.407–4.

§ 18–2.104–4 Indefinite delivery-type contracts.

See § 18–3.409.

§ 18–2.105 Solicitation for informational or planning purposes.

See § 18–1.309.

§ 18–2.150 Procurement request.

A procurement request (NASA Form 404 or similar form) will be prepared and processed in accordance with the provisions of § 18–1.356.

Subpart 18–2.2—Solicitation of Bids

§ 18–2.200 Scope of subpart.

This subpart prescribes procedures for the (a) preparation of invitations for bids, (b) solicitation of bids, and (c) publicizing of proposed procurements.

§ 18–2.201 Preparation of invitations for bids.

§ 18–2.201–1 Supply and service contracts.

(a) Invitations for bids for procurements of supplies or services (excluding procurements exclusively for construction) shall be made by using Standard Forms 32, 33, 33A, and NASA Form 250. (See § 18–16.101.) The following directions shall be observed by the procurement office in filling out Standard Form 33:

(1) Invitation number. Invitations for bids shall be numbered consecutively, preceded by the applicable letter symbol of the installation concerned.

(2) In stating the time of opening, give the hour. Prevailing local time shall be used, and appropriate identification of the local time system under which the installation is operating shall be included; e.g., 11 a.m., e.s.t. See § 18–2.201–1 concerning bidder time.

(3) Identify in the Schedule block of Standard Form 33, such other provisions, representations, certifications and specifications as are attached to Standard Form 33, including NASA Form 250, but excluding Standard Forms 32 and 33A which are already identified as being attached. Such identification shall include the titles, dates, and number of pages of such attached documents, except that published numbered forms may be identified by the form number and date.

(4) In the Schedule block or on continuation pages, describe each item of supplies or services to be furnished in sufficient detail to permit full and free competition. Such description shall comply with § 18–1.1200.

(b) In preparing invitations for bids for supplies or services (excluding procurements exclusively for construction), consideration shall be given to the factors listed below which are not provided for on the face of Standard Form 33. To the extent such factors are applicable to a proposed procurement, they shall be included on additional pages and attached to the Standard Form 33.

(1) Requisition or other purchase authority or appropriation and accounting data.

(2) The time of delivery or performance requirements (See § 18–1.305).

(3) Permission, if any, to submit telegraphic bids (See § 18–2.202–2).

(4) Permission, if any, to submit alternative bids, including alternative material or design and the basis upon which award will be made in such case.

(5) Bid guarantee, performance and payment bond requirements, if any. If a bid bond or other form of guarantee is required, the solicitation shall include the provision required by § 18–10.102–4.

(6) Any authorized special provisions relating to Government-furnished property proposed to be furnished for the performance of the contract.

(7) Where the contracting officer has reason to believe that Government property may be used, a provision that if the bidder plans to use, in performing the work bid upon, any items of Government property in the bidder's possession under a facilities contract or other agreement independent of the invitation for bids, the bidder shall so state in the bid and, upon request of the contracting officer, shall submit evidence that a facilities contract or other separate agreement authorizes the bidder to use each item of such Government property for performing the work bid upon.

(8) When considered necessary by the contracting officer, a requirement that all bids must allow a period for acceptance by the Government of not less than a minimum period stipulated in the invitation for bids, and that bids offering less than the minimum stipulated acceptance period shall be rejected. The minimum period so stipulated should be no more than reasonably required for evaluation of bids and other preaward processing. To accomplish the foregoing, a paragraph substantially as follows may be included in the invitation for bids:

BID ACCEPTANCE PERIOD (JULY 1965)

Bids offering less than _____ days for acceptance by the Government from the date set for opening will be considered nonresponsive and will be rejected.

(9) In unusual cases, where bidders are required to have special technical qualifications due to the complexity of the equipment being procured or for some other special reason, a statement of such qualifications.

(10) Any authorized special provisions necessary for the particular procurement, relating to such matters as progress payments, patent licenses, liquidated damages, Buy American Act, etc.

(11) In the case of procurements of supplies which also involve the performance of construction, alteration of repair work to an extent which makes Labor Standards applicable as provided in § 18–12.402, any applicable wage determinations of the Secretary of Labor.

(12) If Government costs or expenditures other than bid prices are to be considered in the evaluation of bids, such factors must be identified and included.

(13) Whether provision will be made for price escalation, and if so, include a price escalation clause and a provision reflecting the requirements of § 18–2.407–4(b).

(14) Directions for obtaining copies of any documents, such as plans, drawings, and specifications, which have been incorporated by reference.

(15) A statement that the "Equal Opportunity" clause is not applicable to contracts (i) not exceeding $10,000, (ii) where work is to be performed entirely outside the United States and no recruitment of workers within the United States is involved, (iii) for standard commercial supplies or raw materials not exceeding $100,000, or (iv) specifically exempted by the Executive Vice Chairman of the President's Committee on Equal Employment Opportunity, with the approval of the Vice Chairman of the Committee.

(16) A statement that the "Contract Work Hours Standards Act—Overtime Compensation" clause is not applicable to contracts if the aggregate amount of the bid is $2,500 or less (see § 18–12.302–2).

(17) If the contract is to involve construction work (subject to the Davis-Bacon Act) at the Cape Kennedy, Patrick Air Force Base, or Merritt Island Launch Area complex, the "Employee Compensation" clause and "Table of Employee Compensation".

(18) If the contract is to involve construction work (subject to the Davis-Bacon Act) at the Mississippi Test Facility, the "Employee Compensation" clause and "Table of Employee Compensation" (see § 18–12.403–5).

(19) A reference prominently placed in the invitation to Condition 6 entitled, "Late Bids and Modifications or Withdrawals", of Standard Form 33A.

(20) When the procurement involves a set-aside for small business concerns, the following provision will be placed on the face of the invitation or on a cover sheet:

This is a _____ percent set-aside for small business concerns. (July 1965)

(21) When the procurement involves a set-aside for labor surplus area concerns, the following provision will be placed on the face of the invitation, or on a cover sheet:

This is a _____ percent set-aside for labor surplus area concerns. (July 1965)

(22) In accordance with Subpart 18–1.12, a provision concerning the use of new material (except in the case of construction) and a provision concerning the use of former Government surplus property.

(23) Quality assurance requirements applicable to the procurement in accordance with Subpart 18–1.50.

(24) If the resulting contract is expected to exceed $100,000, the "Contractor and Subcontractor Cost or Pricing Data" clause (see § 18–3.807–4).

(25) Statement that the selected contractor will or will not require access to classified information (see NASA Management Instruction 1650.1, paragraph 12).

(26) Statement that special instructions for waived inventions will not be applied (see § 18–9.101–3(h)).

(27) Clear statement of option provisions (see Subpart 18–1.15).

(28) If leases are involved, the "Facilities Nondiscrimination" clause set forth in § 18–1.350–2 and § 18–1.350–4.

(29) If the contract is to be conditioned on the availability of funds, a clear statement of such condition.

(30) If the "Equal Employment" clause is not applicable to the proposed procurement (see § 18–12.803), or if the

proposed procurement is exempted from the clause (see § 18–12.804), include a statement substantially as follows:

Representation No. 6, "Equal Opportunity" of Standard Form 33 is not applicable to this Procurement. (July 1965)

(31) Any additional contract clauses, provisions or conditions required by law or this chapter.

(32) A statement that prospective bidders may submit inquiries by writing or calling (collect calls not accepted) (insert name and address; telephone area code, number and extension).

(c) In addition to the factors listed in paragraphs (a) and (b) of this section, the following factors shall be considered in preparing invitations for bids for the procurement of supplies and services not involving construction:

(1) Minimum acceptable discount period (see § 18–2.407–3).

(2) Any provision for variation in quantity of supplies and services to be furnished.

(3) Any requirement for prior testing and qualification of a product.

(4) When needed for the purpose of bid evaluation, preaward surveys, or inspection, a requirement that bidders state the place (including the street address) from which the supplies will be furnished or where the services will be performed. Where it is reasonably anticipated that producing facilities will be used in the performance of the contract, or where the Government requires the information, bidders will be required to state (i) the full address of principal producing facilities (if designation of such address is not feasible, a full explanation should be required) and (ii) names and addresses of owners and operators, if other than bidder.

(5) All applicable information and requirements concerning place and method of delivery and shipping instructions contained in § 18–2.202–3.

(6) Preservation, packaging, packing, and marking requirements, if any.

(7) Place, method, and conditions of inspection.

(8) If no award will be made for less than the full quantities advertised, a statement to that effect.

(9) If award is to be made by specified groups of items or in the aggregate, a statement to that effect.

(10) Any applicable requirements for samples or descriptive literature (see § 18–2.202–4 and § 18–2.202–5).

(11) A provision covering the required source for jeweled bearings (see § 18–1.318).

(12) When the contracting officer determines that it is necessary to consider the advantages or disadvantages to the Government that might result from making more than one award (multiple awards) (see § 18–2.407–5(c)), a provision substantially as follows:

EVALUATION OF BIDS (JULY 1965)

In addition to other factors, bids will be evaluated on the basis of advantages or disadvantages to the Government that might result from making more than one award (multiple awards). For the purpose of making this evaluation, it will be assumed that the sum of $50 would be the administrative cost to the Government for issuing and administering each contract awarded under this invitation, and individual awards will be for the items and combination of items which result in the lowest aggregate price to the Government, including such administrative costs.

(13) If the procurement includes the furnishing of electrosensitive initiating devices (squibs) or any other item or component designated in the procurement request as a potentially hazardous item, the requirements set forth in § 18–1.351.

(14) The number of copies of sellers' invoices desired, including original, if more or less than four.

(15) Any requirement for preproduction samples or tests, including a statement that the Government reserves the right to waive the requirement as to those bidders offering a product which has been previously procured or tested by the Government, and a statement that bidders offering such products, who wish to rely on such prior procurement or tests, must furnish with the bid information from which it may be clearly established that prior Government approval is presently appropriate for the pending procurement.

§ 18–2.201–2 Construction contracts.

(a) Invitations for bids for construction contracts estimated not to exceed $2,000 shall be made by using Standard Form 18. Standard Form 22 also may be used (see § 18–16.401–2(a)).

(b) Invitations for bids for construction contracts estimated to exceed $2,000 but not to exceed $10,000 shall be made by using Standard Form 19 and 19–A. See §§ 18–16.401–3(b) and 18–16.401–3 for special instructions. Standard Form 22 also may be used.

(c) Invitations for bids for construction contracts estimated to exceed $10,000 shall be made by using Standard Form 20, 21, 22, and 23. There also shall be attached to the invitation, Standard Form 19–A, 23–A, and NASA Form 904. Amendments to invitations for bids may be made by using DD Form 1260 (see § 18–16.401–1).

(d) To the extent applicable, procurement offices shall observe the instructions contained in § 18–2.201–1 (a) and (b) in filling out the construction contract forms. In addition to any of the factors listed in § 18–2.201–1, consideration shall be given to the following additional factors in preparing the invitations for bids:

(1) Statement of arrangements to be made for inspecting the site, including designation of the person or persons, if any, with whom such arrangements may be made and who will answer questions or furnish information.

(2) Information which may affect performance of the work such as boring samples, original boring logs, etc.

(3) Information concerning the furnishing of utilities during construction.

(4) Information concerning prebid conference.

(5) If it is necessary to advertise before receipt of a wage rate determination, a notice that the schedule of minimum wage rates to be paid under the contract will be published as an amendment to the invitation for bids.

(6) A provision substantially as follows:

MODIFICATIONS PRIOR TO DATE SET FOR OPENING BIDS (JULY 1965)

The right is reserved, as the interest of the Government may require, to revise or amend the specifications or drawings or both prior to the date set for opening bids. Such revisions and amendments, if any, will be announced by an amendment or amendments to this Invitation for Bids. If the revisions and amendments are of a nature which requires material changes in quantities or prices bid or both, the date set for opening bids may be postponed by such number of days as in the opinion of the issuing officer will enable bidders to revise their bids. The amendment will include an announcement of the new date for opening bids.

(7) A provision substantially as follows:

GOVERNMENT'S PRIVILEGE IN MAKING AWARDS (JULY 1965)

The Government reserves the right to make award of any or all Schedules of any bid, unless the bidder qualifies such bid by specific limitation; also to make award to the bidder whose aggregate bid on any combination of bid Schedules is low. For the purpose of this Invitation for Bids, the word "item" as used in paragraph 10(c) of Standard Form 22 shall be considered to mean "Schedule."

(8) A provision in accordance with § 18–1.114 concerning parent company relationship and employee identification number.

(9) The "Certificate of Independent Price Determination" as required by § 18–1.115.

(10) A reference prominently placed in the invitation to Instruction 7, "Late Bids and Modifications or Withdrawals," of Standard Form 22.

§ 18–2.202 Miscellaneous rules for solicitation of bids.

§ 18–2.202–1 Bidding time.

(a) *Policy.* Consistent with the needs of the Government for obtaining the supplies or services, all invitations for bids shall allow sufficient bidding time (i.e., the period of time between the date of distribution of an invitation for bids and the date set for opening of bids) to permit prospective bidders to prepare and submit bids. This will facilitate competition on reasonable and equal terms. Undue limitation of bidding time tends to restrict competition. Also, when prospective bidders do not have adequate time for computing prices and obtaining needed information on which to base their bids, higher prices to the Government may result from inclusion of unnecessary contingency allowances or the unwillingness of some to submit bids.

(b) *Factors to be considered.* The urgency of the Government's need for the items or services, the complexity of the invitation, the extent of subcontracting anticipated, the use of preinvitation

notices, the geographic distribution of bidders, the normal time for mail transmission of both invitations and bids, and other related factors must be considered in establishing bidding time. For example, a bidding time of 30 days may be inadequate when bidders are required to prepare special drawings, designs, and samples, or to obtain quotations from several suppliers and subcontractors, as frequently is the case in construction and production contracts. Conversely, a bidding time of 15 days may be adequate when bids would reasonably be expected to be based on stocks on hand, or current regular production, or service personnel and facilities regularly available (as in the case of maintenance and repair of structures, and similar work).

(c) *Minimum bidding time.* As a general rule, bidding time shall be not less than 15 calendar days when procuring standard commercial articles and services and not less than 30 calendar days when procuring other than standard commercial articles or services. This rule need not be observed in special circumstances, or where the urgency for the supplies or services does not permit such delay.

§ 18–2.202–2 Telegraphic bids.

As a general rule, telegraphic bids will not be authorized. However, when in the judgment of the contracting officer the date for the receipt of bids will not allow bidders sufficient time to prepare and submit bids on the prescribed forms, or when prices are subject to frequent changes, telegraphic bids may be authorized. When such bids are authorized, the schedule of the invitation for bids will contain the following provision:

TELEGRAPHIC BIDS

Telegraphic bids may be submitted in response to this Invitation for Bids. Telegraphic bids must be received in this office prior to the time specified for opening of bids. Such bids must specifically refer to this Invitation for Bids; must include the item or subitems, quantities, and unit prices for which the bid is submitted and the time and place of delivery; and must contain all the representations and other information required by the Invitation for Bids together with a statement that the bidder agrees to all the terms, conditions and provisions of the invitation. Failure to furnish, in the telegraphic bid, the representations and information required by the Invitation for Bids may necessitate rejection of the bid. Signed copies of the Invitation for Bids must be furnished in confirmation of the telegraphic bids. (July, 1965)

§ 18–2.202–3 Place and method of delivery of supplies.

(a) Invitations for bids solicited f.o.b. origin shall state that bids will be evaluated on the basis of bid price plus transportation cost to the Government from point or origin to one or more designated destinations. Invitations for bids solicited f.o.b. destination should inform prospective suppliers of any known lack of transportation facilities at destination or other factors which may affect the supplier's transportation costs.

(b) Invitations for bids solicited f.o.b. origin or destination shall include as much of the following information as is pertinent to the particular procurement and shall require bidders to furnish the Government such of the following information as may be appropriate:

(1) Method of shipment, such as rail, water, air, or truck.

(2) When minimum size of shipment requirements are appropriate, a provision substantially as follows:

MINIMUM SIZE OF SHIPMENT (JULY 1965)

The Government desires that the minimum size of shipments be carload or truckload lots. If the bidder is unable to tender delivery in carload or truckload lots, he may set forth below the minimum size of shipments he will tender for delivery:

[Minimum size of shipments to be completed by bidder]

If the bidder does not indicate otherwise, he must tender delivery in carload or truckload lots. Bids will be evaluated to take into account the transportation costs to the Government. If delivery is tendered in smaller quantities than set forth above, the contract price shall be reduced by the difference between the actual cost of transportation and the cost the Government would have incurred had the minimum size of shipment been compiled with.

(3) If shipping weights (and dimensions, if applicable) of items to be procured are not shown in the solicitation and may vary among prospective suppliers with a resultant variation in transportation costs and such costs are made a factor in bid evaluation, a provision substantially as follows:

GUARANTEED MAXIMUM SHIPPING WEIGHTS (AND DIMENSIONS IF APPLICABLE) (JULY 1965)

Each bid will be evaluated to the destination specified by adding to the f.o.b. origin price all transportation costs to said destination. The guaranteed maximum shipping weights (and dimensions if applicable) are required for determination of transportation costs. Bidder must state the weights (and dimensions if applicable) in his bid or it will be rejected. If delivered items exceed the guaranteed maximum shipping weights (and dimensions if applicable), the bidder agrees that the contract price shall be reduced by an amount equal to the difference between the transportation costs computed for evaluation purposes based on bidder's guaranteed maximum shipping weights (and dimensions if applicable) and the transportation costs that should have been used for bid evaluation purposes based on correct shipping data.

(4) Packing, crating, and other preparations;

(5) Transit privileges (traffic management personnel can furnish necessary information and analyses of situations where transit privileges may be beneficial).

(6) Any other shipping information required for evaluation.

(c) When the exact destination of the supplies being purchased is not known at the time bids are solicited, but the general geographical section in which delivery will be made is known, such as East Coast, Middle West, or West Coast, for purposes of evaluation of bids only, a definite place(s) or zone(s) shall be designated in the known geographical sector of delivery as the point to which transportation costs will be computed in determining the low bidder. However, the invitation should specify that bids will be submitted f.o.b. origin and that shipment will be made on Government bill of lading. So that prospective bidders may understand the method of evaluation to be used, the invitation shall contain a provision substantially as follows:

For the purpose of evaluating bids (and for no other purpose), the final destinations for the supplies will be considered to be as follows: [insert destination(s)].

Invitations for bids shall contain a statement that bids submitted on a basis other than f.o.b. origin will be rejected as nonresponsive.

§ 18–2.202–4 Bid samples.

(a) *Definition.* The term "bid sample" means a sample required by the invitation for bids to be furnished by a bidder as part of his bid to show the characteristics of a product offered in his bid. Such samples will be used only for the purpose of determining the responsiveness of the bid and will not be considered on the issue of a bidder's ability to produce the required items.

(b) *Policy.* Bidders shall not be required to furnish a bid sample of a product they propose to furnish unless there are certain characteristics of the product which cannot be described adequately in the applicable specification or purchase description, thus necessitating the submission of a sample to assure procurement of an acceptable product. It may be appropriate to require bid samples, for example, where the procurement is of products that must be suitable from the standpoint of balance, facility of use, general "feel", color, or pattern, or that have certain other characteristics which cannot be described adequately in the applicable specifications. Where, however, based on this criteria, the use of bid samples is justified, the samples may be examined for any required characteristics, whether or not such characteristics may be adequately described in the specifications. Invitations shall list all of the characteristics for which the sample will be examined and bids will be rejected as nonresponsive if the sample fails to conform to each of the listed characteristics. Where more than a minor portion of the characteristics of the product cannot be adequately described in the specification, the product should be procured by two-step formal advertising or by negotiation, as appropriate.

(c) *Justification.* The reason why acceptable products cannot be procured without the submission of bid samples shall be set forth and filed in the contract file, except where such submission is required by the formal specifications (Federal, Military, or other) applicable to the procurement.

(d) *Requirements of invitation for bids.* When bid samples are required, the invitation for bids shall (1) state the number and, if appropriate, the size

of the samples to be submitted and otherwise fully describe the samples required, (2) state clearly the purpose for which the samples are needed and the criteria against which they will be tested or evaluated, and (3) include a provision in accordance with paragraph (e) of this section. Where samples are not considered necessary and a waiver of the sample requirements of a specification has been authorized, a statement shall be included in the invitation for bids that notwithstanding the requirements of the specifications, samples will not be required.

(e) *Invitation for bids provision.* When bid samples are required, a provision substantially as follows (modified, if appropriate, in accordance with paragraph (f) of this section), shall be included in the invitation for bids:

BID SAMPLES (JULY 1966)

(a) Bid samples, in the quantities, sizes, etc., required for the items so indicated in this Invitation for Bids, must be furnished as a part of the bid and must be received before the time set for opening bids. Samples will be evaluated to determine compliance with all characteristics listed for examination in the Invitation.

(b) Failure of samples to conform to all such characteristics will require rejection of the bid. Failure to furnish samples by the time specified in the Invitation for Bids will require rejection of the bid, except where a late sample was transmitted by mail and it is established under the provision for considering late bids, as set forth elsewhere in this Invitation, that the sample was timely mailed.

(c) Products delivered under any resulting contract shall strictly comply with the approved sample as to the characteristics listed for examination and shall conform to the specifications as to all other characteristics.

(f) *Waiver of requirement for bid samples.* (1) The provision prescribed in paragraph (e) of this section may be modified to provide that the requirement for furnishing samples may be waived as to a bidder who offers a product previously or currently being procured or tested by NASA and found to comply with specification requirements conforming in every material respect with those in the current invitation for bids so that further evaluation or testing would not add to the Government's knowledge of the acceptability of the product. When provision is to be made for such waiver, the invitation for bids provision in paragraph (e) of this section shall be modified by adding substantially the following at the end of paragraph (b) of this section:

However, the requirement for furnishing samples may be waived as to a bidder if (i) the bidder states in his bid that the product he is offering to furnish is the same as a product he has offered to (insert name of the NASA installation) on a previous procurement and (ii) the Contracting Officer determines that such product was previously procured or tested by the (insert name of the NASA installation) and found to comply with specification requirements conforming in every material respect to those in this Invitation for Bids. (January 1964)

(2) Where considered necessary because of the nature of the products, the provision in subparagraph (1) of this paragraph may be limited to provide for waiving the requirement only if the product offered is produced at the same plant at which the product previously procured or tested was produced.

(g) *Unsolicited samples.* If bid samples are not required by the invitation for bids, but samples are furnished with a bid, they will not be considered as qualifying the bid and will be disregarded, unless it is clear from the bid or accompanying papers that it was the bidder's intention so to qualify the bid.

(h) *Disposition of samples.* Samples, if not destroyed in testing, shall be returned to bidders at their request and expense, unless otherwise specified in the invitation for bids. See paragraph 3(b) of Standard Form 33–A, entitled, "Bidding Instructions, Terms, and Conditions" (December 1964 Ed.).

§ 18–2.202–5 Descriptive literature.

(a) *Definition.* As used in this § 18–2.202–5, the term "descriptive literature" means information, such as cuts, illustrations, drawings, and brochures, which show the characteristics or construction of a product or explain its operation, furnished by a bidder as a part of his bid to describe the products offered in his bid. The term includes only information required to determine acceptability of the product, and excludes other information such as that furnished in connection with the qualifications of a bidder or for use in operating or maintaining equipment.

(b) *Policy.* Bidders shall not be required to furnish descriptive literature as a part of their bids unless the procurement office deems that such literature is needed to enable it to determine before award whether the products offered meet the specification requirements of the invitation for bids and to establish exactly what the bidder proposes to furnish. It may be appropriate to require descriptive literature in the procurement of highly technical or specialized equipment, or where considerations such as design or style are important in determining acceptability of the product.

(c) *Justification.* The reasons why acceptable products cannot be procured without the submission of descriptive literature shall be set forth and filed in the contract file, except where such submission is required by the formal specifications (Federal, Military, or other) applicable to the procurement.

(d) *Requirements of invitation for bids.* (1) When descriptive literature is required, the invitation for bids shall clearly state what descriptive literature is to be furnished, the purpose for which it is required, the extent to which it will be considered in the evaluation of bids, and the rules which will apply if a bidder fails to furnish it before bid opening or if the literature furnished does not comply with the requirements of the invitation for bids. Where descriptive literature is not considered necessary and a waiver of the literature requirements of a specification has been authorized, a statement shall be included in the invitation for bids that notwithstanding the requirements of the specifications, descriptive literature will not be required.

(2) Except as provided in subparagraph (3) of this paragraph, if bidders are to furnish descriptive literature as a part of their bids, a provision substantially as follows (modified, if appropriate, in accordance with paragraph (e)(1) of this section) shall be included in the invitation for bids:

REQUIREMENT FOR DESCRIPTIVE LITERATURE (JANUARY 1964)

(a) Descriptive literature as specified in this Invitation for Bids must be furnished as a part of the bid and must be received before the time set for opening bids. The literature furnished must be identified to show the item in the bid to which it pertains. The descriptive literature is required to establish, for the purposes of bid evaluation and award, details of the products the bidder proposes to furnish as to (_____[1]).

(b) Failure of descriptive literature to show that the product offered conforms to the specifications and other requirements of this Invitation for Bids will require rejection of the bid. Failure to furnish the descriptive literature by the time specified in the Invitation for Bids will require rejection of the bid, except that if the material is transmitted by mail and is received late, it may be considered under the provisions for considering late bids, as set forth elsewhere in this Invitation for Bids.

(3) When a brand name or equal purchase description is used, the requirements of this § 18–2.202–5 are met by inserting in the invitation for bids the Brand Name or Equal provision authorized by Subpart 18–1.12 of this chapter.

(e) *Waiver of requirements for descriptive literature.* (1) The provision prescribed in paragraph (d)(1) of this section may me modified to provide that the requirements for furnishing descriptive literature may be waived as to a particular bidder if (i) the bidder states in his bid that the product he is offering to furnish is the same as a product previously or currently being furnished NASA, and (ii) it is determined by the contracting officer that such product complies with the specification requirements of the current invitation for bids. When provision is to be made for such waiver, the invitation for bids provision in paragraph (d)(2) of this section shall be modified by adding substantially the following at the end of paragraph (b) of this section:

However, the requirements for furnishing descriptive literature may be waived as to a bidder if (i) the bidder states in his bid that the product he is offering to furnish is the same as a product he has previously furnished to (insert name of the NASA installation) under a prior contract and the bidder identifies the contract, and (ii) the Contracting Officer determines that such product

[1] The contracting officer shall insert significant elements such as design, materials, components, or performance characteristics; or methods of manufacture, construction, assembly, or operation, as appropriate.

meets the requirements of this Invitation for Bids. (January 1964)

(2) If the invitation for bids contains a provision for waiver in accordance with subparagraph (1) of this paragraph, a bidder may submit his bid either on the basis of the descriptive literature to be furnished or on the basis of a previously procured product. If he elects to submit his bid on one basis, he is precluded from having his bid considered on the alternative basis after bids are opened.

(f) *Unsolicited descriptive literature.* If the furnishing of descriptive literature is not required by the invitation for bids, but such literature is furnished with a bid, it will not be considered as qualifying the bid, and will be disregarded, unless it is clear from the bid or accompanying papers that it was the bidder's intention so to qualify the bid.

(g) See § 18–2.404–4 for requirements with respect to restrictions on the public disclosure of descriptive literature submitted by a bidder.

§ 18–2.203 Methods of soliciting bids.

§ 18–2.203–1 Mailing or delivering to prospective bidders.

Invitations for bids or preinvitation notices (see § 18–2.205–4(c)) shall be mailed (or delivered) to a sufficient number of prospective bidders so as to elicit adequate competition. Invitations for bids may be mailed for informational purposes to other Government agencies, including procurement information offices.

(b) In the case of construction contracts, copies of the invitation for bids, including plans and specifications, if available, may be furnished upon request to nonbidders having a direct interest in the bidding, such as subcontractors, materialmen, and suppliers of equipment for installation or use by the prime contractor on the project. Such copies may also be furnished to any established trade publication or association requesting them, provided that the activities of the publications or associations are not restricted to publishing bid information for which a charge is made.

§ 18–2.203–2 Displaying in public place.

Copies of unclassified invitation for bids shall be displayed at the procurement office of the installation and at such other public places as are determined to be appropriate and desirable. (See § 18–1.1002 with respect to provision of invitations for bids at the procurement office.)

§ 18–2.203–3 Publicity in newspapers and trade journals.

(a) *Free publicity.* A brief announcement of the proposed procurement, or copies of unclassified invitations for bids, may be made available for free publication to newspapers and to trade journals and magazines.

(b) *Paid advertisements.* Use of paid advertisements for procurement purposes is not currently authorized within NASA.

§ 18–2.203–4 Synopses of invitations for bids.

Synopses of invitations for bids shall be prepared and publicized in the Department of Commerce publication, Commerce Business Daily, in accordance with Subpart 18–1.10 of this regulation.

§ 18–2.204 Records of invitations for bids and records of bids.

Each procurement office shall retain a record of every invitation for bids issued and distributed by it and of each abstract or record of bids. The file of the invitation for bids should show the distribution which was made and the date thereof.

§ 18–2.205 Bidders mailing lists.

§ 18–2.205–1 Establishment of lists.

(a) Bidders mailing lists shall be established by each NASA procurement office to assure access to adequate sources of supplies and services except where the requirements of the procurement office can be obtained within the local trade area through utilization of the simplified small purchase procedures (Subpart 18–3.6, of this chapter), or are nonrecurring.

(b) All eligible and qualified suppliers or concerns which have submitted bidders mailing list applications, or which the procurement office considers capable of filling the requirements of a particular procurement, shall be placed on the appropriate bidders mailing list. When new prospective suppliers are placed on the bidders mailing list, they shall be notified. The issuance of a solicitation within a reasonable time may be considered appropriate notification. Also, those suppliers not meeting the criteria for placement on the bidders mailing list shall be notified accordingly.

(c) Bidders Mailing List Application (Standard Form 129) shall be used for obtaining information needed in the establishment and maintenance of bidders mailing lists as prescribed in § 18–16.810.

§ 18–2.205–2 Removal of names from bidders mailing lists.

(a) The name of each concern failing to respond to an invitation for bids or preinvitation notice (see § 18–2.205–4(c)) may be removed from the bidders mailing list without notice to the concern, but only for the item or items involved in such invitation or notice. When a concern fails to respond to two consecutive invitations for bids or preinvitation notices, its name shall be removed from the bidders mailing list to the extent indicated, except that, in individual cases, concerns thus failing to respond may be retained on a bidders mailing list if such retention is considered to be in the best interests of the Government. Both actual bids and written requests for retention on the bidders mailing lists are "responses" to invitations for bids or preinvitation notices.

(b) The names of concerns which have been (1) debarred from entering into Government contracts or (2) otherwise determined to be ineligible to receive an award of a Government contract shall be removed from the bidders mailing lists to the extent required by such debarment or determination of ineligibility.

§ 18–2.205–3 Reinstatement on bidders mailing lists.

Concerns which have been removed from bidders mailing lists may be reinstated upon request or by filing a new application on Standard Form 129. No concern which is debarred or ineligible shall be reinstated during the period of debarment or ineligibility.

§ 18–2.205–4 Excessively long bidders lists.

(a) *General.* To prevent excessive administrative costs of a procurement, mailing lists should be used in a way which will promote competition commensurate with the dollar value of the purchase to be made. As much of the mailing list will be used as is compatible with efficiency and economy in securing adequate competition as required by law. Where the number of bidders on a mailing list is considered excessive in relation to a specific procurement, the number of firms to be solicited may be reduced by any method consistent with the foregoing, including those described in paragraphs (b) and (c) of this section. The fact that less than an entire mailing list is used shall not, in itself, preclude furnishing of bid sets to others upon request therefor, or consideration of bids received from bidders who were not invited to bid.

(b) *Rotation of lists.* Mailing lists may be rotated, but to do so will require considerable judgment as to whether the size of the transaction justifies rotation. Consideration also should be given as to whether time permits utilization of the preinvitation notice under paragraph (c) of this section. In rotating a list, the interests of small business and the existence of labor surplus areas shall be considered. Whenever the rotation method is employed, the successful bidder on the previous procurement for the same or similar items and those prospective suppliers who have been added to the bidders mailing list since the last procurement shall be solicited, in addition to those bidders comprising that segment of the list selected for use in a particular procurement, except where such action would be precluded by use of the small business total set-aside procedures.

(c) *Preinvitation notices.* In lieu of initially forwarding complete bid sets, the procurement office may send preinvitation notices to concerns on the mailing list. The notice shall:

(1) Specify the date by which bidders should return the notice in order to receive a complete bid set;

(2) Describe the requirement, or include the schedule of the invitation for bids, so as to furnish a complete item description and a condensation of other essential information which will provide concerns with an intelligible basis for

judging whether they have an interest in the procurement; and

(3) Expressly notify concerns that if no bid is to be submitted, they should notify the issuing office in writing if future invitations are desired for the type of supplies or services involved.

Drawings, plans, and specifications normally will not be furnished with the preinvitation notice. The return date of the notice must be sufficiently in advance of the mailing date of the invitation for bids to permit an accurate estimate of the number of bid sets required. Bid sets will be sent to concerns which request them. This procedure is particularly suitable in procurements where lengthy invitations for bids and long bidders lists are common.

§ 18–2.205–5 Release of bidders mailing lists.

(a) When invitations for bids for construction contracts have been issued, trade journals, prospective subcontractors, material suppliers, and others having a bona fide interest in such information, may be supplied, upon request, with a list of all prospective bidders furnished copies of the plans and specifications.

(b) A list of firms which have submitted acceptable technical proposals in the first step of two-step formal advertising will be listed in the Commerce Business Daily for the benefit of prospective subcontractors in accordance with § 18–1.1003–3(b).

§ 18–2.206 Small business and labor surplus area set-asides.

See Subparts 18–1.7 and 18–1.8.

§ 18–2.207 Amendment of invitations for bids.

(a) If, after issuance of invitations for bids but before the time set for opening of bids, it becomes necessary to make changes in quantities, specifications, delivery schedules, opening dates, etc., or to correct a defective or ambiguous invitation, such changes shall be accomplished by issuance of an amendment to the invitation for bids. The amendment shall be sent to each concern to whom the invitation for bids has been furnished and shall be displayed in the bid room.

(b) Each amendment issued to an invitation for bids shall:

(1) Be serially numbered, using a separate series of numbers for each invitation for bids concerned;

(2) Include the number of the invitation for bids concerned;

(3) Clearly state the changes made in the invitation for bids and the extension of the opening date, if any. If no extension of the time set for opening is involved, the amendment shall so state;

(4) Include instructions to bidders for acknowledging receipt of the amendment and information concerning the effect of failure to acknowledge or return the amendment.

(c) Before issuing an amendment to an invitation for bids, the period of time remaining until the time set for opening and the need for extending this period by postponing the time set for opening must be considered. Where only a short time remains before the time set for opening, consideration should be given to notifying bidders of an extension of time by telegraph or telephone. Such notification should be confirmed in the amendment.

(d) Any information given to a prospective bidder concerning an invitation for bids shall be furnished promptly to all other prospective bidders, as an amendment to the invitation; if such information is necessary to bidders in submitting bids on the invitation; or if the lack of such information would be prejudicial to uniformed bidders. No award shall be made on the invitation unless such amendment has been issued in sufficient time to permit all prospective bidders to consider such information in submitting or modifying their bids.

§ 18–2.208 Cancellation of invitations before opening.

(a) Cancellation of an invitation for bids usually involves the loss of time, effort, and money spent by the Government and bidders in carrying the procurement process up to the point of cancellation. Invitations for bids should not be canceled unless cancellation is clearly in the public interest, such as where there is no longer a requirement for the material or service, or where amendments to the invitation would be of such magnitude that a new invitation is desirable. Where an invitation is canceled, bids which have been received shall be returned unopened to the bidders and a notice of cancellation shall be sent to all prospective bidders to whom invitations for bids were issued.

(b) The notice of cancellation shall identify the invitation for bids; briefly explain the reason the invitation is being canceled; and, when appropriate, assure prospective bidders that they will be given an opportunity to bid on any resolicitation of bids for any future requirements for the type of material or services involved. The cancellation of an invitation for bids shall be recorded in accordance with § 18–2.403.

§ 18–2.210 Release of procurement information.

After issuance of the solicitation for bids or publicizing in the Commerce Business Daily, discussions with prospective contractors regarding a potential procurement and the transmission of technical or other information shall be conducted only by the contracting officer or by others specifically authorized. Such personnel shall not furnish any information to a potential supplier which alone or together with other information may afford him an advantage over others. However, general information which would not be prejudicial to other bidders may be furnished upon request, e.g., explanation of a particular contract clause or a particular condition of the schedule in the invitation for bids. When necessary to clarify ambiguities, or correct mistakes or omissions, an appropriate amendment to the solicitation shall be furnished in a timely manner to all to whom the solicitation has been furnished (see § 18–2.207).

Subpart 18–2.3—Submission of Bids

§ 18–2.301 Responsiveness of bids.

(a) To be considered for award, a bid must comply in all material respects with the invitation for bids, so that, both as to the method and timeliness of submission and as to the substance of any resulting contract, all bidders may stand on an equal footing and the integrity of the formal advertising system may be maintained.

(b) Telegraphic bids shall not be considered unless permitted by the invitation for bids.

(c) Bids should be filled out, executed, and submitted in accordance with the instructions which are contained in the invitation for bids. If a bidder uses his own bid form or a letter to submit a bid, the bid may be considered only if (1) the bidder accepts all the terms and conditions of the invitation, and (2) award on the bid would result in a binding contract, the terms and conditions of which do not vary from the terms and conditions of the invitation.

§ 18–2.302 Time of bid submission.

Bids shall be submitted so as to be received in the office designated in the invitation for bids not later than the exact time set for opening of bids. Where telegraphic bids are authorized, a telegraphic bid received in such office by telephone from the receiving telegraph office not later than the time set for opening of bids shall be considered if such bid is confirmed by the telegraph company by sending a copy of the telegram which formed the basis for the telephone call.

§ 18–2.303 Late bids.

§ 18–2.303–1 General.

Bids received at the office designated in the invitation for bids after the exact time set for opening of bids are "late bids." Late bids shall not be considered for award except as authorized in this paragraph § 18–2.303.

§ 18–2.303–2 Consideration for award.

A late bid shall be considered for award only if:

(a) It received before award; and either

(b) It was sent by registered mail, or by certified mail for which an official dated post office stamp (postmark) on the original Receipt for Certified Mail has been obtained, or by telegraph if authorized, and it is determined that the lateness was due solely to a delay in the mails (based on evidence pursuant to § 18–2.303–3), or to a delay by the telegraph company for which the bidder was not responsible; or

(c) If submitted by mail (or by telegram where authorized), it was received at the Government installation in sufficient time to be received at the office designated in the invitation by the time set for opening and, except for delay due to mishandling on the part of the Government at the installation, would have been received on time at the office designated. The only evidence acceptable to establish timely receipt at the Government installation is that which can be established upon examination of an appropriate date or time stamp (if any) of such installation, or of other documentary evidence of receipt at such installation (if readily available) within the control of such installation or of the post office serving it.

§ 18–2.303–3 Mailed bids.

(a) *Registered mail.* The time of mailing of a late bid mailed by registered mail may be determined by the date in the postmark on the registered mail receipt or registered mail wrapper. The time of mailing shall be deemed to be the last minute of the date shown in such postmark unless the bidder furnishes evidence from the post office station of mailing which establishes an earlier time. Such evidence, if appropriately verified in writing by the post office station of mailing, may consist of any entry in ink on the registered mail receipt showing the time of mailing and the initials of the postal employee receiving the item and making the entry. If the postmark does not show a date, the bid shall be deemed to have been mailed too late unless the bidder furnishes evidence from the post office station of mailing which establishes timely mailing.

(b) *Certified mail.* The time of mailing of a late bid mailed by certified mail for which a postmarked Receipt for Certified Mail was obtained shall be deemed to be the last minute of the date shown in the postmark on such receipt except where:

(1) The Receipt for Certified Mail identifies the post office station of mailing and the bidder furnishes evidence from such station that the business day of that station ended at an earlier time, in which case the time of mailing shall be deemed to be the last minute of the business day of that station; or

(2) An entry in ink on the Receipt for Certified Mail, showing the time of mailing and the initials of the postal employee receiving the item and making the entry, is appropriately verified in writing by the post office station of mailing, in which case the time of mailing shall be the time shown in the entry. If the postmark does not show a date, the bid shall be deemed to have been mailed too late.

(c) *Delivery time.* Information concerning the normal time for mail delivery shall be obtained by the contracting officer from the postmaster, superintendent of mails, or a duly authorized representative for that purpose, of the post office serving that installation. When time permits, such information shall be obtained in writing.

§ 18–2.303–4 Telegraphic bids.

A late telegraphic bid shall be presumed to have been filed with the telegraph company too late to be received in time, except where the bidder demonstrates by clear and convincing evidence, which includes substantiation by an authorized official of the telegraph company, that the bid, as received at the office designated in the invitation for bids, was filed with the telegraph company in sufficient time to have been delivered by normal transmission procedure so as not to have been late (see § 18–2.302).

§ 18–2.303–5 Hand-carried bids.

A late hand-carried bid, or any other late bid not submitted by mail or telegraph, shall not be considered for award.

§ 18–2.303–6 Notification to late bidders.

Where a late bid is received and it is clear from available information that under § 18–2.303–2 such late bid cannot be considered, the contracting officer or his authorized representative shall promptly notify the bidder that his bid was received late and will not be considered. (See also § 18–2.303–7.) However, where a late bid is transmitted by registered mail and received before award but it is not clear from available information whether the bid can be considered, or in any case of a late bid transmitted by certified mail received before award, the bidder shall be promptly notified substantially as follows:

Your bid in response to Invitation for Bids No. ------, dated ----------, was received after the time for opening specified in the Invitation. Accordingly, your bid will not be considered for award unless (1) there is received from you by ---------- clear and convincing evidence from the post office station of mailing which establishes the date (and time, if possible) that the bid was deposited with that station, and (2) it is determined by the Government that late receipt was due solely to a delay in the mail for which you are not responsible. In the case of certified mail, the original postmarked Receipt for Certified Mail must be furnished and is the only evidence acceptable under (1) above, except that, where the Receipt for Certified Mail identifies the post office station of mailing, evidence from such station of its closing time or written verification by such station of an approved time entry on the receipt are also acceptable. (July 1968)
(Date)

The foregoing notification shall be appropriately modified in the case of late telegraphic bids.

§ 18–2.303–7 Disposition of late bids.

A late bid which is not for consideration for award shall be held unopened until after award and then returned to the bidder, unless other disposition is requested or agreed to by the bidder. However, an unidentified late bid may be opened solely for purposes of identification as provided in § 18–2.401.

§ 18–2.303–8 Records.

The following, if available, shall be included in the files of the procurement office with respect to each late bid:

(a) A statement of the date and hour of mailing or filing;

(b) A statement of the date and hour of receipt;

(c) The determination of whether or not the late bid was considered for award, with supporting facts;

(d) A statement of the disposition of the late bid; and

(e) The envelope, or other covering, if the late bid was considered for award.

§ 18–2.304 Modification or withdrawal of bids.

(a) Bids may be modified or withdrawn by written or telegraphic notice received in the office designated in the invitation for bids not later than the exact time set for opening of bids. A telegraphic modification or withdrawal of a bid received in such office by telephone from the receiving telegraph office not later than the time set for opening of bids shall be considered if such message is confirmed by the telegraph company by sending a copy of the telegram which formed the basis for the telephone call. Modifications received by telegram (including a record of those telephoned by the telegraph company) shall be sealed in an envelope by a proper official who shall write thereon the date and time of receipt and by whom, the invitation for bid number, and his signature. No information contained therein shall be disclosed before the time set for bid opening. See § 18–2.401 with respect to the receipt and safeguarding of modifications.

(b) A bid may be withdrawn in person by a bidder or his authorized representative, provided his identity is made known and he signs a receipt for the bid, but only if the withdrawal is prior to the exact time set for opening of bids.

§ 18–2.305 Late modifications and withdrawals.

(a) Modifications of bids and requests for withdrawal of bids which are received in the office designated in the invitation for bids after the exact time set for opening are "late modifications" and "late withdrawals," respectively. A late modification or late withdrawal shall be subject to the rules and procedures applicable to late bids set forth in § 18–2.303. However, a late modification of the otherwise successful bid shall be opened at any time it is received; and if in the judgment of the contracting officer it makes the terms of the bid more favorable to the Government, it shall be considered.

(b) Where a late modification or late withdrawal is received and it is clear from available information that under paragraph (a) of this section such late modification or late withdrawal cannot be considered, the contracting officer or his authorized representative shall promptly notify the bidder that his modification or withdrawal was received late and will not be considered. However, where a late modification or late withdrawal is transmitted by registered mail and received before award but it is not clear from available information whether the modification or withdrawal can be considered, or in any case of a late modification or withdrawal transmitted by certified mail and received before award which cannot be considered under the provision in paragraph (a) of this section, the bidder shall be promptly notified substantially as follows:

> Your (modification) (request for withdrawal) of your bid in response to Invitation for Bids No. ——, dated ——— was received after the time for opening specified in the Invitation. Accordingly, your (modification) (request for withdrawal) will not be considered effective unless (1) there is received from you by ——— clear
> (Date)
> and convincing evidence from the post office station of mailing which establishes the date (and time, if possible) that the (modification) (request for withdrawal) was deposited with that station, and (2) it is determined by the Government that late receipt was due solely to a delay in the mail for which you are not responsible. In the case of certified mail, the original postmarked Receipt for Certified Mail must be furnished and is the only evidence acceptable under (1) above, except that, where the Receipt for Certified Mail identifies the post office station of mailing, evidence from such station of its closing time or written verification by such station of an approved time entry on the receipt are also acceptable. (July 1965)

The foregoing notification shall be appropriately modified in the case of late telegraphic modifications or withdrawals.

(c) Records of late modifications and late withdrawals shall be maintained in accordance with the record requirements for late bids set forth in § 18–2.303–8.

Subpart 18–2.4—Opening of Bids and Award of Contract

§ 18–2.401 Receipt and safeguarding of bids.

(a) All bids (including modifications) received prior to the time set for opening shall be kept unopened, except as stated in paragraph (b) of this section, and secure in a locked bid box or other locked receptacle. Prior to bid opening, information concerning the identity and number of bids received shall be made available only to Government employees who have a proper need for such information. Descriptive literature or bid samples, when submitted, shall be handled with sufficient care to prevent disclosure of characteristics before bid opening.

(b) Unidentified bids may be opened solely for the purpose of identification and then only by a contracting officer or a representative specifically authorized by a contracting officer to open bids. If a sealed bid is opened by mistake, the person who opens the bid shall immediately write his signature and position title on the envelope and deliver it to the contracting officer, who shall immediately write on the envelope an explanation of the opening, the date and time opened, the invitation for bid number, and his signature. Bids opened by mistake or for identification purposes shall be resealed in the envelope and no information contained therein shall be disclosed prior to the public bid opening.

§ 18–2.402 Opening of bids.

§ 18–2.402–1 Unclassified bids.

(a) Only NASA contracting officers or representatives specifically authorized by them to open bids shall act as bid opening officers. The bid opening officer shall decide when the time set for bid opening has arrived and shall so declare to those present. All bids received prior to the time set for opening shall then be publicly opened, and, when practicable, read aloud to the persons present, and be recorded. If it is impracticable to read the entire bid, as where many items are involved, the total amount of the bid shall be read, if feasible. The original of each bid shall be carefully safeguarded, particularly until the abstract of bids required by § 18–2.403 has been made and its accuracy verified.

(b) While the performance of the procedure set forth in paragraph (a) of this section may be delegated to assistants, NASA contracting officers remain fully responsible for the actions of such assistants.

(c) Examination of bids by interested persons shall be permitted if it does not interfere unduly with the conduct of Government business. However, original bids shall not be allowed to pass out of the hands of a Government official unless duplicate copies of such bids are not available for public inspection. In such cases, the original bids may be examined by the public only under the immediate supervision of a Government official and under conditions which preclude possibility of a substitution, addition, deletion, or alteration in the bids. However, see § 18–2.404–4 with respect to public disclosure of descriptive literature submitted by a bidder on a restrictive basis.

§ 18–2.402–2 Classified bids.

The opening of classified bids shall not be accessible to the general public. Such opening may be witnessed and the results recorded by those bidder representatives (a) who have been previously cleared from a security standpoint and (b) who represent bidders which were invited to bid on the procurement. Bids shall be made available only to those persons authorized to attend the opening of bids. The procedures set forth in § 18–2.402–1 for safeguarding unclassified bids are also applicable to classified bids. No public record shall be made of bids or bid prices received on classified invitations for bids.

§ 18–2.403 Recording of bids.

The invitation number, bid opening date, general description of the procurement item, names of bidders, prices bid, and any other information required for bid evaluation, shall be entered in an abstract or record which, except in the case of a classified procurement, shall be available for public inspection. When the items are too numerous to warrant the recording of all bids completely, an entry shall be made of the invitation number, opening date, general description of the procurement items, and the total price

bid where definite quantities are involved. The record or abstract shall be completed as soon as practicable after the bids have been opened and read. The bid-opening officer shall certify the accuracy of the record or abstract. If the invitation for bids is canceled before the time set for bid opening, this fact shall be recorded, together with a statement of the number of concerns invited to bid and the number of bids received. Copies of the abstract on unclassified bids exhibited to the public shall not contain information such as debarment, failure to meet minimum standards of responsibility, apparent collusion of bidders, or other notations not proper for the knowledge of the general public.

§ 18–2.404 Rejection of bids.

§ 18–2.404–1 Cancellation of invitation after opening.

(a) The preservation of the integrity of the competitive bid system dictates that, after bids have been opened, award must be made to that responsible bidder who submitted the lowest responsive bid, unless there is a compelling reason to reject all bids and cancel the invitation. Every effort shall be made to anticipate changes in a requirement prior to the date of opening and to notify all prospective bidders of any resulting modification or cancellation, thereby permitting bidders to change their bids and preventing unnecessary exposure of bid prices. As a general rule, after opening, an invitation for bids should not be canceled and readvertised due solely to increased requirements for the items being procured. Awards should be made on the initial invitation for bids and the additional quantity should be treated as a new procurement.

(b) Invitations for bids may be canceled after opening but prior to award, and all bids rejected, where such action is consistent with paragraph (a) of this section and the contracting officer determines in writing that cancellation is in the best interest of the Government for reasons such as the following:

(1) Inadequate, ambiguous, or otherwise deficient specifications were cited in the invitation for bids;

(2) The supplies or services are no longer required;

(3) The invitation for bids did not provide for consideration of all factors of cost to the Government, such as cost of transporting Government-furnished property to bidders' plants;

(4) Bids received indicate that the needs of the Government can be satisfied by a less expensive article differing from that on which the bids were invited;

(5) All otherwise acceptable bids received are at unreasonable prices. (See § 18–3.215 concerning authority to negotiate in such situations.);

(6) The bids were not independently arrived at in open competition, were collusive, or were submitted in bad faith. (See § 18–3.215 concerning authority to negotiate in such situations; and §§ 18–1.111 and 18–1.114 for reports to be made to the Department of Justice.);

(7) The bids received did not provide competition which was adequate to insure reasonable prices; or

(8) Specifications have been revised.

Determinations to cancel invitations for bids shall state the reasons therefor.

(c) Should administrative difficulties be encountered after bid opening which may delay award beyond bidders' acceptance periods, the several lowest bidders should be requested, before expiration of their bids, to extend the bid acceptance period (with consent of sureties if any) in order to avoid the need for readvertisement.

§ 18–2.404–2 Rejection of individual bids.

(a) Any bid which fails to conform to the essential requirements of the invitation for bids, such as specifications, delivery schedule, or permissible alternates thereto, shall be rejected as nonresponsive.

(b) Ordinarily, a bid shall be rejected where the bidder imposes conditions which would modify requirements of the invitation for bids or limit his liability to the Government so as to give him an advantage over other bidders. For example, bids shall be rejected in which the bidder:

(1) Attempts to protect himself *against future changes* in conditions, such as increased costs if total price to the Government cannot be determined for bid evaluation;

(2) Fails to state a price and, in lieu thereof, states that price shall be "price in effect at time of delivery";

(3) States a price but qualifies such price as being subject to "price in effect at time of delivery";

(4) Where not authorized by the invitation, conditions or qualifies his bid by stipulating that the bid is to be considered only if, prior to date of award, bidder receives (or does not receive) award under a separate procurement;

(5) Limits rights of Government under any contract clause; or

(6) Requires that Government is to determine that bidder's product meets Government specification.

A low bidder may be requested to delete objectionable conditions from his bid provided these conditions do not go to the substance, as distinguished from the form, of the bid, or work an injustice on other bidders. A condition goes to the substance of a bid where it affects price, quantity, quality, or delivery of the items offered.

(c) Any bid may be rejected if the contracting officer determines in writing that it is unreasonable as to price.

(d) Bids received from any person or concern debarred or ineligible shall be rejected if the period of debarment or ineligibility has not expired (see Subpart 18–1.6).

(e) Low bids received from concerns determined to be not responsible, pursuant to Subpart 18–1.9, shall be rejected (but, if the bidder is a small business concern, see § 18–1.705–6 with respect to certificates of competency).

(f) Where a bid guarantee is required and a bidder fails to furnish it in accordance with the requirements of the invitation for bids, the bid shall be rejected, except as otherwise provided in § 18–10.102–5.

(g) The originals of all rejected bids and any written findings with respect to such rejections shall be preserved with the papers relating to the procurement.

§ 18–2.404–3 Notice to bidders of rejection of all bids.

When it is determined to reject all bids, the contracting officer shall notify each bidder that all bids have been rejected, stating the reason for such action.

§ 18–2.404–4 Restrictions on disclosure of descriptive literature.

(a) When a bid is accompanied by descriptive literature (as defined in § 18–2.202–5(a)), and the bidder imposes a restriction that such literature may not be publicly disclosed, such restriction renders the bid nonresponsive if it prohibits the disclosure of sufficient information to permit competing bidders to know the essential nature and type of the products offered or those elements of the bid which relate to quantity, price and delivery terms. The provisions of this paragraph (a) do not apply to unsolicited descriptive literature submitted by a bidder if such literature does not qualify the bid (see § 18–2.202–5(f)).

(b) Descriptive literature restricted by a bidder against public disclosure shall not be disclosed in a manner which would contravene the restriction without the written permission of the bidder.

§ 18–2.404–5 All or none qualifications.

Unless the invitation for bids so provides, a bid is not rendered nonresponsive by the fact that the bidder specifies that award will be accepted only on all, or specified group, of the items included in the invitation for bids. However, bidders shall not be permitted to withdraw or modify "all or none" qualifications after bid opening since such qualifications are substantive and affect the rights of other bidders.

§ 18–2.405 Minor informalities or irregularities in bids.

A minor informality or irregularity is one which is merely a matter of form, and not of substance, or pertains to some immaterial or inconsequential defect or variation of a bid from the exact requirement of the invitation for bids, the correction or waiver of which would not be prejudicial to other bidders. The defect or variation in the bid is immaterial and inconsequential when its significance as to price, quantity, quality, or delivery is trivial or negligible when contrasted with the total cost or scope of the supplies or services being procured. The contracting officer shall either give the bidder an opportunity to correct any deficiency resulting from a minor informality of irregularity in a bid or shall waive such

deficiency, whichever is to the advantage of the Government. Examples of minor informalities or irregularities include:

(a) Failure of bidder to return the number of copies of signed bids required by the invitation for bids;

(b) Failure of bidder to furnish required information concerning the number of his employees;

(c) Failure of bidder to sign his bid, but only if—

(1) The unsigned bid is accompanied by other material indicating the bidder's intention to be bound by the unsigned bid document, such as the submission of a bid guarantee with bid, or a letter signed by the bidder with the bid referring to and clearly identifying the bid itself; or

(2) The firm submitting the bid has formally adopted or authorized, before the date set for opening of bids, the execution of documents by typewritten, printed, or stamped signature, and submits evidence of such authorization and the bid carries such a signature;

(d) Failure of a bidder to acknowledge receipt of an amendment to an invitation for bids, but only if—

(1) The bid received clearly indicates that the bidder received the amendment, such as where the amendment added another item to the invitation for bid and the bidder submitted a bid thereon, or

(2) The amendment involves only a matter of form or is one which has either no effect or merely a trivial or negligible effect on price, quantity, quality, or delivery of the item bid upon, or the relative standing of bidders, such as an amendment correcting a typographical mistake in the name of the NASA installation.

§ 18–2.406 Mistakes in bids.

§ 18–2.406–1 General.

After the opening of bids, contracting officers shall examine all bids for mistakes. In cases of apparent mistakes, and in cases where the contracting officer has reason to believe that a mistake may have been made, he shall request from the bidder a verification of the bid, calling attention to the suspected mistake. If the bidder alleges a mistake, the matter shall be processed in accordance with this § 18–2.406. Such actions shall be taken prior to award.

§ 18–2.406–2 Apparent clerical mistakes.

Any clerical mistake, apparent on the face of a bid, may be corrected by the contracting officer prior to award, if he has first obtained from the bidder verification of the bid actually intended. Examples of such apparent mistakes are obvious misplacement of a decimal point; obvious incorrect discounts (for example, 1 percent 10 days, 2 percent 20 day, 5 percent 30 days); obvious reversal of the price f.o.b. destination and the price f.o.b. origin; and obvious mistake in designation of unit. Correction shall be reflected in the award document.

§ 18–2.406–3 Other mistakes disclosed before award.

(a) In lieu of submission to the General Accounting Office for decision, the Comptroller General, by Decision B–140233, has granted to NASA the authority to make the administrative determinations described below in connection with mistakes in bids, other than apparent clerical mistakes, alleged after opening of bids and prior to award. The authority contained herein to permit correction of bids is limited to bids which, as submitted, are responsive to the invitation for bids, and may not be used to permit correction of bids to make them responsive. This authority is in addition to that in § 18–2.406–2, or that which may be otherwise available.

(1) A determination may be made permitting the bidder to withdraw his bid where the bidder requests permission to do so and clear and convincing evidence establishes the existence of a mistake. However, if the evidence is clear and convincing both as to the existence of a mistake and as to the bid actually intended, and if the bid, both as uncorrected and corrected, is the lowest received, a determination may be made to correct the bid and not permit its withdrawal.

(2) A determination may be made permitting the bidder to correct his bid where the bidder requests permission to do so and clear and convincing evidence establishes both the existence of a mistake and the bid actually intended. However, if such correction would result in displacing one or more lower acceptable bids, the determination shall not be made unless the existence of the mistake and the bid actually intended are ascertainable substantially from the invitation and bid itself. If the evidence is clear and convincing only as to the mistake, but not as to the intended bid, a determination permitting the bidder to withdraw his bid may be made.

(3) If the evidence does not warrant a determination under subparagraph (1) or (2) of this paragraph, a determination may be made that a bidder may neither withdraw nor correct his bid, and the bid shall be considered for award in the form submitted.

(b) Mistakes in bid cases covered by subparagraphs (1), (2), or (3) of paragraph (a) of this section shall be referred by the contracting officer to the Office of Procurement (Code KDI) for determination.

(c) Each proposed determination shall have the concurrence of the Office of General Counsel prior to issuance.

(d) Suspected or alleged mistakes in bids shall be processed as follows:

(1) Whenever the contracting officer suspects that a mistake may have been made in a bid, he shall immediately request the bidder to verify the bid. Such request shall inform the bidder why the request for verification is made—that a mistake is suspected and the basis for such suspicion; e.g., that the bid is significantly out of line with the next low or other bids or with the Government's estimate. If the time for acceptance of bids is likely to expire before a decision can be made, the contracting officer shall request all bidders whose bids may become eligible for award to extend the time for acceptance of their bids. If the bidder whose bid is believed erroneous does not grant such extension of time and a decision cannot be reached before expiration of the time for acceptance, even if handled by telegraph or telephone as provided in subparagraph (4) of this paragraph, the bid shall be considered as originally submitted.

(2) If the bidder verifies his bid, the contracting officer shall consider it as originally submitted. If the bidder alleges a mistake, the contracting officer shall advise him to support his allegation by statements concerning the alleged mistake and by all pertinent evidence, such as the bidder's file copy of the bid, his original worksheets and other data used in preparing the bid, subcontractors' and suppliers' quotations, if any, published price lists, and any other evidence which will serve to establish the mistake, the manner in which it occurred, and the bid actually intended.

(3) Where the bidder furnishes evidence in support of an alleged mistake, the case shall be referred to the Office of Procurement (Code KDI), together with the following data:

(i) All evidence furnished by the bidder including his written request to withdraw or modify the bid;

(ii) A copy of the signed bid, of the invitation for bids, and any specifications or drawings relevant to the alleged mistake;

(iii) An abstract or record of the bids received;

(iv) A written statement by the contracting officer setting forth—

(a) The expiration date of the bid in question and of the other bids submitted;

(b) Specific information as to how and when the mistake was alleged;

(c) A summary of the evidence submitted by the bidder;

(d) In the event only one bid was received, a quotation of a recent contract price for the supplies or services involved, or, in the absence of a recent comparable contract, the contracting officer's estimate of a fair price for the supplies or services and the basis for such estimate;

(e) Any additional evidence considered pertinent including copies of all correspondence between the contracting officer and the bidder concerning the alleged mistake; and

(f) The course of action with respect to the bid that the contracting officer considers proper on the basis of the evidence.

(4) When time is of the essence, because of the expiration of bids or otherwise, the contracting officer may refer the case by telegraph or telephone to the Office of Procurement. Ordinarily, however, contracting officers will not refer mistake in bid cases to the Office of Procurement by telegraph or telephone, particularly when the determinations set forth in paragraphs (a)(2) or (a)(3)

of this section are applicable, since actual examination of the evidence is generally necessary to determine the proper action to be taken.

(5) Where the bidder fails or refuses to furnish evidence in support of a suspected or alleged mistake, the contracting officer shall consider the bid as submitted unless the amount of the bid is so far out of line with the amounts of other bids received or with the amount estimated by the Government or determined by the contracting officer to be reasonable, or there are other indications of error so clear, as reasonably to justify the conclusion that acceptance of the bid would be unfair to the bidder or to other bona fide bidders, in which case it may be rejected. The attempts made to obtain the information required and the action taken with respect to the bid shall be fully documented.

(e) Nothing contained in this § 18–2.406–3 shall deprive the Comptroller General of his statutory right to question the correctness of any administrative determination made hereunder nor deprive any bidder of his right to have the matter determined by the Comptroller General should he so request. All doubtful cases will be submitted to the Comptroller General for advance decision.

(f) A record shall be kept of all administrative determinations made in accordance with this § 18–2.406–3, including a complete statement of the facts involved, and the action taken in each case. Copies of all such administrative determinations shall be included in the case file. Where a contract is awarded, a copy of any related determination shall be retained in the contract file.

§ 18–2.406–4 Disclosure of mistakes after award.

(a) When a mistake in a contractor's bid is not discovered until after the award, the mistake may be corrected by supplemental agreement if correcting the mistake would make the contract more favorable to the Government without changing the essential requirements of the contract. All other cases shall be referred to the Office of Procurement. They will either be decided by the Director of Procurement under paragraphs (b) and (c) of this section, be referred by the Director of Procurement to the Comptroller General, or be processed in accordance with Part 18–17 of this chapter.

(b) In lieu of submission to the General Accounting Office for decision, the Comptroller General, by Decision B–140233, dated February 3, 1961, has granted to NASA the authority to make the administrative determinations described below in connection with mistakes in bids alleged or disclosed after award. This authority is in addition to that provided by Public Law 85–804 (50 U.S.C. 1431–1435) (see Part 18–17 of this chapter), or that which otherwise may be available.

(1) A determination may be made to rescind a contract where the original contract price does not exceed $1,000.

(2) A determination may be made to reform a contract, irrespective of amount:

(i) To delete the item or items involved in the mistake where such deletion does not reduce the contract price by more than $1,000; or

(ii) To increase the price where such increase does not exceed $1,000 and if the contract price, as corrected, does not exceed that of the next lowest acceptable bid under the original invitation for bids.

(c) Determinations under paragraph (b) of this section may be made only on the basis of clear and convincing evidence that a mistake in bid was made, and either that the mistake was mutual or that the unilateral mistake made by the contractor was so apparent as to have charged the contracting officer with notice of the probability of the mistake. Relief requested by a contractor due to an alleged mistake may be denied regardless of the monetary amount involved where it is determined the evidence is not clear and convincing:

(1) That a mistake in bid or proposal was made by the contractor, or

(2) That the mistake was mutual or the contracting officer was or should have been on notice of the error prior to the award of the contract.

(d) The Director of Procurement is the NASA official authorized to make determinations under this 18–2.406–4. This authority may not be redelegated.

(e) Each proposed determination shall have the concurrence of the Office of General Counsel.

(f) Mistakes disclosed after award shall be processed as follows:

(1) Whenever a mistake in bid is alleged or disclosed after award, the contracting officer shall advise the contractor to support the alleged error by written statements and by all pertinent evidence, such as the contractor's file copy of the bid, his original work sheets and other data used in preparing the bid, subcontractors' and suppliers' quotations (if any), published price lists, and any other evidence which will serve to establish the mistake, the manner in which it occurred, and the bid actually intended.

(2) Where the contractor furnishes evidence in support of an alleged mistake, the contracting officer may either correct the mistake if authorized under paragraph (a) of this section, or refer the case to the Office of Procurement together with the following data:

(i) All evidence furnished by the contractor;

(ii) A copy of the contract, including a copy of the bid and any specifications or drawings relevant to the alleged mistake, and any change orders or supplemental agreements thereto;

(iii) An abstract or record of the bids received;

(iv) A written statement by the contracting officer setting forth—

(a) Specific information as to how and when the mistake was alleged or disclosed;

(b) A summary of the evidence submitted by the contractor;

(c) His opinion whether a bona fide mistake was made in the bid and whether he was, or should have been, on constructive notice of the mistake before the award, together with the reasons or data upon which his opinion is based;

(d) In the event that only one bid was received, a quotation of a recent contract price for the supplies or services involved, or, in the absence of a recent comparable contract, the contracting officer's estimate of a fair price for the supplies or services, and the basis for such estimate;

(e) Any additional evidence considered pertinent, including copies of all relevant correspondence between the contracting officer and the contractor concerning the alleged mistake;

(f) The course of action with respect to the alleged mistake that the contracting officer considers proper on the basis of the evidence, and, if other than a change in contract price is recommended, the manner by which the item will otherwise be procured; and

(g) The status of performance and payments under the contract, including contemplated performance and payments.

(g) Nothing contained in this § 18–2.406–4 shall deprive the Comptroller General of his statutory right to question the correctness of any administrative determination made hereunder or deprive any contractor of his right to have the matter determined by the Comptroller General should he so request.

(h) The Office of Procurement shall maintain a record of all administrative determinations made in accordance with this § 18–2.406–4, the facts involved, and the action taken in each case. A copy of the determination shall be attached to each copy of any contract rescission or reformation resulting therefrom.

(i) When administrative determination is precluded by the limitations set forth in this § 18–2.406–4, the matter may be considered in accordance with Part 18–17 of this chapter, or submitted to the Comptroller General for decision.

(j) Nothing contained in this § 18–2.406–4 shall prevent the submission by the Director of Procurement of any doubtful case to the Comptroller General. If a contractor's request for correction of an alleged mistake is denied by the Director of Procurement, the contracting officer shall so notify the contractor.

§ 18–2.407 Award.

§ 18–2.407–1 General.

Unless all bids are rejected, award shall be made by the contracting officer by written notice, within the time for acceptance specified in the bid or extension thereof, to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Government, price and other factors considered. (For discussion of other factors to be considered, see *§ 18–2.407–3.*) Award shall not be made until all required approvals have been obtained. Awards shall

be made by mailing or otherwise furnishing to the successful bidder a properly executed award document or notice of award. When an advanced notice of award is issued, it shall be be followed as soon as possible by the formal award. When more than one award results from any single invitation for bids, separate award documents shall be executed, each bearing its own separate number. When an award is made to a bidder for less than all the items which may be awarded to that bidder and additional items are being withheld for subsequent award, the first award to that bidder shall state that the Government may make subsequent awards on such additional items within the bidder's bid acceptance period. All provisions of the invitation for bids, including any acceptable additions or changes made by a bidder in the bid, shall be clearly and accurately set forth (either expressly or by reference) in the award document, since the award is an acceptance of the bid, and the bid and the award constitute the contract.

§ 18–2.407–2 Responsible bidder.

Before awarding the contract, the contracting officer shall determine that a prospective contractor is responsible (see Subpart 18–1.9).

§ 18–2.407–3 Discounts.

(a) Prior to issuing an invitation for bids (other than for construction), a determination shall be made as to what minimum period for prompt payment discounts will be considered in the evaluation of bids and such minimum period shall be stated in the invitation for bids. In determining the minimum period for a particular procurement, consideration shall be given to:

(1) The place of delivery, inspection, and acceptance in relation to the place of payment of invoices or vouchers;

(2) The number of days required to process invoices or vouchers from receipt through payment in the normal course of business; and

(3) The need for prolonged acceptance testing or other unusual circumstances tending to retard the normal processing of invoices or vouchers.

Generally, the minimum period will be expressed in multiples of 10 days; e.g., "10 calendar days," "20 calendar days," or "30 calendar days," since these time intervals coincide with the discount terms generally offered by industry.

(b) In determining which of several bids received is the lowest, any discount offered shall be deducted from the bid price on the assumption that the discount will be taken, unless the discount offered is for a lesser period than the minimum number of days specified in the invitation for bids (see § 18–2.407–3(a)). In evaluating equal bids offering discounts meeting the minimum discount period required by the invitation, a bid offering a longer discount period shall not be considered as being more advantageous to the Government. If a bid offers a prompt payment discount, but fails to specify the period in which the discount may be taken, the discount may be considered since award to the bidder gives the Government the right to deduct the discount from any payment made with reasonable promptness.

(c) If a bid offers a prompt payment discount for a period less than that specified in the invitation for bids, the discount shall not be considered in the evaluation of bids. If a bid would have been the lowest bid received if the discount offered were considered, but award is not made thereon because the offered discount cannot be considered, a notation to that effect shall be made upon the abstract or record of bids.

(d) In any case, the offered discount of the successful bidder shall form a part of the award, whether or not such discount was considered in the evaluation of his bid, and such discount shall be taken if payment is made within the discount period.

§ 18–2.407–4 Price escalation.

(a) Where an invitation for bids does not contain a price escalation clause, bids received which quote a price and contain a price escalation provision, with a ceiling (usually expressed in terms of a maximum percentage increase) above which the price will not escalate, shall be evaluated on the maximum possible escalation of the quoted base price. Bids which contain escalation with no ceiling shall be rejected unless a clear basis for evaluation exists.

(b) Where an invitation for bids contains a price escalation clause and no bidder takes exception to the escalation provisions, bids shall be evaluated on the basis of the quoted prices without the allowable escalation being added. Where a bidder increases the maximum percentage of escalation stipulated in the invitation for bids or limits the downward escalation provisions of the invitation, the bid will be rejected as nonresponsive. Where a bidder deletes the escalation clause from his bid, the bid shall be rejected as nonresponsive since the downward escalation provisions are thereby limited. Where a bidder decreases the maximum percentage of escalation stipulated in the invitation for bids, the bid shall be evaluated at the base price on an equal basis with bids that do not reduce the stipulated ceiling. However, if after evaluation the bidder offering the lower ceiling is in a position to receive the award, the award shall reflect the lower ceiling.

§ 18–2.407–5 Other factors to be considered.

The factors set forth below, among others, may be for consideration in evaluating bids for award:

(a) Foreseeable cost or delays to the Government resulting from differences in inspection, location of supplies, transportation, etc. If bids are on an f.o.b. origin basis, transportation costs to the designated destination points shall be considered in determining the lowest cost to the Government.

(b) Changes made or requested by the bidder in any of the provisions of the invitation for bids to the extent that any such change does not constitute ground for rejection of the bid under the provisions of § 18–2.404.

(c) Advantages or disadvantages to the Government that might result from making multiple awards (see § 18–2.201–1(c)(12)).

(d) Federal, State and local taxes (see Part 18–11).

(e) Origin of supplies, whether domestic or foreign, and, if foreign, the application of the Buy American Act or any other prohibition on foreign purchases (see Part 18–6).

§ 18–2.407–6 Equal low bids.

(a) In furtherance of the small business and labor surplus area policies set forth in Subparts 18–1.7 and 18–1.8, award shall be made in accordance with the following order of priority when two or more low bids are equal in all respects (taking into consideration cost of transportation, cash discounts, and any other factors properly to be considered):

(1) Persistent labor surplus area concerns (as defined in § 18–1.801–1(a)) that are also small business concerns (as defined in Subpart 18–1.7).

(2) Other persistent labor surplus area concerns.

(3) Substantial labor surplus area concerns (as defined in § 18–1.801–1(b)) that are also small business concerns.

(4) Other substantial labor surplus area concerns.

(5) Other small business concerns.

(6) Other concerns.

(b) If the application of paragraph (a) of this section results in two or more bidders being eligible for award and such bidders are not small business concerns, the award shall be made to the bidder who will make the most extensive use of small business subcontractors. If two or more bidders still remain equally eligible for award, award shall be made by a drawing by lot limited to such bidders. If time permits, the bidders involved shall be given an opportunity to be present at the drawing by lot. Such drawing shall be witnessed by at least three persons, and the contract file shall contain the names and addresses of those witnesses.

(c) In the case of a contract to be awarded on the basis of the priorities specified in this § 18–2.407–6, the contracting officer shall, prior to award, obtain from the bidder a written statement that he will perform, or cause to be performed, the contract in accordance with the circumstances justifying the priority.

§ 18–2.407–7 Requirements in lieu of Standard Form 1036.

(a) Under General Regulation No. 51, Supplement No. 14, dated Febuary 11, 1962, the General Accounting Office discontinued the requirement for preparation of Standard Form 1036, Statement and Certificate of Award, by agencies whose records are subject to site or comprehensive audit by that office. Accordingly, this form is not required in connection with NASA contracts, since NASA is subject to site audit by the General Accounting Office; and the supporting documents which would be used as a basis for preparation of Standard Form 1036 are retained in the procurement office and made available to the General Accounting Office for audit purposes.

(b) While the use of Standard Form 1036 is not required, it is still necesary to record the method of purchase and the basis for award. The contracting officer shall maintain records that will show evidence of compliance with § 18–2.103, and which will state that the accepted bid was the lowest bid received, or list all lower bids and set forth reasons for their rejection. These reasons shall be set forth in such detail as is necessary to justify the award. For the purpose of these records, the lowest bid received is considered to be that bid which is lowest after a consideration of price factors only. The cost of transportation to the destination indicated in the invitation for bids, any acceptable discount offered by a bidder, and if the invitation so specifies any other Government cost factors, shall be considered pfice factors in determining the lowest bidder for purposes of these records. In each case where an award is made after receipt of equal low bids, the record shall set forth the manner in which the tie was broken. Where an award involves a mistake in bid and the matter has been resolved by administrative action, a copy of the bidder's verification in the case of an apparent mistake, or the written administrative determination concerned, shall be retained in the contract file. Where an award involves a mistake in bid on which the Comptroller General has rendered a decision, the file shall contain a citation by number and date of the decision and a copy thereof shall be retained in the contract file.

§ 18–2.407–8 Protests against award.

(a) *General.* (1) Contracting officers shall consider all protests or objections to the award of a contract, whether received before or after award. If the protest is oral and the matter cannot otherwise be resolved, written confirmation of the protest shall be requested. The protester shall be notified in writing of the final decision on the written protest.

(2) Every effort shall be made to resolve protests at the field installation. It is the responsibility of the contracting officer to decide whether a protest has a valid basis and to take appropriate action when possible without referral to NASA Headquarters. Such action may be taken only with the concurrence of local counsel and shall be followed by a written explanation to NASA Headquarters accompanied by a copy of any pertinent correspondence. However, in the following cases written protests received by the contracting officer should be referred to NASA Headquarters:

(i) The protesting party requests referral to higher authority;

(ii) The protest is known to have been lodged directly with the Comptroller General, a member of Congress, the Small Business Administration, or NASA Headquarters;

(iii) The contracting officer entertains some doubt as to proper action regarding the protest or believes it to be in the best interest of the Government that the protest be considered by NASA Headquarters or the Comptroller General.

(3) In referring a protest to NASA Headquarters, a completely documented case shall be submitted to the Office of Procurement (Code KDG) including the following:

(i) The letter or other document which initiated the protest, together with all supporting evidence submitted by the person making the protest;

(ii) Relevant letters or other written statements, received from other persons or bidders affected by or involved in the protest, that set forth the facts with respect to their position in the matter, together with any additional supporting evidence;

(iii) A copy of the bid of the protesting bidder and a copy of the bid of the bidder to whom award has been made or who is being considered for award, if relevant to the protest;

(iv) A copy of the invitation for bids, including, where practicable, pertinent specifications, if relevant to the protest;

(v) A copy of the abstract of bids;

(vi) Any other documents which are relevant to the protest; and

(vii) A statement signed by the contracting officer setting forth his findings, actions, and recommendations in the matter, together with any additional information and evidence considered to be necessary in determining the validity of the protest. If the award of a contract was made pending resolution of the protest, the contracting officer's statement shall include the determination prescribed in paragraph (b)(3) of this section.

(4) Where protests are made directly to NASA Headquarters or where NASA Headquarters receives notice of protests made directly to the Comptroller General, a member of Congress, or the Small Business Administration, the contracting officer shall be requested to furnish information. This will usually require submittal of a completely documented case as prescribed in subparagraph (3) of this paragraph (a).

(5) Protests received by NASA Headquarters, in accordance with paragraphs (a)(2) and (4) of this section, will be acted upon by the Office of Procurement. Where substantial doubt exists as to the validity of a protest, the views of the Comptroller General will be obtained.

(6) Where a protest affects another bidder, a contractor, or any other party having a legitimate interest, the contracting officer normally should give prompt notice of the protest to such parties in order that they may take appropriate action on their own behalf. The extent of information to be furnished the affected parties in any particular case will be governed by such matters as legal considerations, the interest of the Government, equitable consideration for the interests of affected parties, and mitigation of losses or other injuries to any and all parties concerned. Affected parties shall be advised that such a notice of protest in no way relieves them of any obligations, under a contract or otherwise, but is intended primarily to afford them a fair opportunity to be heard by, and to present evidence for the consideration of, the agency which will render a decision in the case.

(b) *Protests before award.* If award has not been made, the contracting officer may require that written confirmation of an oral protest be submitted by a specified time and inform the protester that award will be withheld until the specified time. If the written protest is not received by the time specified, the oral protest may be disregarded and award may be made in the normal manner unless the contracting officer, upon investigation, finds that remedial action is required, in which event such action shall be taken.

(1) In appropriate cases, notice of a protest will be given to bidders affected thereby. For example, when a protest against the making of an award is received and the contracting officer determines to withhold the award pending disposition of the protest, each bidder to whom award is proposed and each bidder whose bid might become eligible for award should be informed of the protest and requested, before expiration of the time for acceptance of their bids, to extend the time for acceptance (with consent of sureties, if any) in order to avoid the need for readvertisement. In the event of failure to obtain such extension of bids, then consideration should be given to proceeding with award under paragraph (b)(3) of this section.

(2) Where a protest has been lodged with NASA, the views of the Comptroller General regarding the protest may be obtained before award whenever such action is considered to be desirable. Where it is known that a protest against the making of an award has been lodged directly with the Comptroller General, a determination to make award need not be withheld pending final disposition by the Comptroller General of a protest, but a notice of intent to make award in such circumstances shall be furnished the Comptroller General, and formal or informal advice should be obtained concerning the current status of the case prior to making the award.

(3) Where a written protest against the making of an award is received, or if it is known that a protest has been made to the Comptroller General, a member of Congress, the Small Business Administration, or NASA Headquarters,

award shall not be made until the matter is resolved, unless the contracting officer determines that:

(i) The items to be procured are urgently required;

(ii) Delivery or performance will be unduly delayed by failure to make award promptly; or

(iii) A prompt award will otherwise be advantageous to the Government.

If award is made under subdivisions (i), (ii), or (iii) of this subparagraph (3), the contracting officer shall document the file to explain the need for an immediate award, and shall give written notice of the decision to proceed with the award to the protester and, as appropriate, to others concerned.

(4) The determination required by paragraph (b)(3) of this section shall be referred to the Office of Procurement for approval prior to award if an unresolved protest against such award has been, or is expected to be, referred to NASA Headquarters in accordance with paragraph (a)(2) of this section, or if information on a protest is being prepared by the contracting office at the request of NASA Headquarters in accordance with paragraph (a)(4) of this section.

(c) *Protests after award.* The general instructions in paragraph (a) of this section are applicable to protests received after award.

§ 18–2.408 Information to bidders.

§ 18–2.408–1 Unclassified awards.

In the case of all unclassified formally advertised contracts, the procurement office shall as a minimum (subject to any restrictions in Subpart 18–1.6), (a) notify unsuccessful bidders promptly of the fact that their bids were not accepted, and (b) extend the appreciation of the procurement office for the interest the unsuccessful bidder has shown in submitting a bid. Notification to unsuccessful bidders may be either orally or in writing through the use of a form postal card or other appropriate means. Should additional information be requested, the procurement office shall provide the unsuccessful bidders with the name and address of the successful bidder, together with the contract price, and should also inform the inquirers as to the location where a copy of the abstract of bids is available for inspection. However, when multiple awards have been made and furnishing the names, addresses, and contract prices of the successful bidders would require so large an amount of work as to interfere with normal operations of the procurement office, only information concerning location of the abstract of bids need be given. In addition, when an inquiry is made by an unsuccessful bidder who is lower in price than the successful bidder, sufficient information shall be furnished in the reply to the unsuccessful bidder to fully explain the basis for award. Where request is received concerning an unclassified invitation for bids from an inquirer who is neither a bidder nor a representative of a bidder, the procurement office should make every effort to furnish the names of successful bidders and, if requested, the prices at which awards were made. However, where such requests require so large amount of work as to interfere with the normal operations of the procurement office, the inquirer will be advised where a copy of the abstract of bids may be seen.

§ 18–2.408–2 Classified awards.

In the case of all classified formally advertised contracts, the procurement office shall (a) notify unsuccessful bidders promptly of the fact that their bids were not accepted, and (b) extend the appreciation of the procurement office for the interest the unsuccessful bidder has shown in submitting a bid. Information with respect to the name of the successful bidder and the contract price will be furnished only to unsuccessful bidders or their properly cleared representatives and then only upon request. No information regarding a classified award may be furnished by telephone.

§ 18–2.409 Synopses of contract awards.

See §18–1.1004.

Subpart 18–2.5—Two-Step Formal Advertising

§ 18–2.501 General.

Two-step formal advertising is a method of procurement designed to expand the use and obtain the benefits of formal advertising where inadequate specifications preclude the use of conventional formal advertising. It is especially useful in procurements requiring technical proposals, especially those for complex items. It is conducted in two steps:

(a) Step one consists of the request for, and submission, evaluation, and if necessary, discussion of a technical proposal, without pricing, to determine the acceptability of the supplies or services offered. As used in this context, the word "technical" has a broad connotation and includes engineering approach, special manufacturing processes, and special testing techniques. When it is necessary in order to clarify basic technical requirements, related requirements such as management approach, manufacturing plan, or facilities to be utilized may be clarified in this step. Conformity to the technical requirements is resolved in this step, but capacity and credit, as defined in § 18–1.705–6, are not.

(b) Step two is a formally advertised procurement confined to those who submitted acceptable technical proposals in step one. Bids submitted in step two are evaluated and the awards made in accordance with Subparts 18–2.3 and 18–2.4.

Two-step formal advertising requires that the contracting officer work closely with technical personnel and that he utilize their specialized knowledge in determining the technical requirements of the procurement, in determining the criteria to be used in evaluating technical proposals, and in making such evaluation. An objective of this method is to permit the development of a sufficiently descriptive and not unduly restrictive statement of the Government's requirement, including an adequate technical data package, so the subsequent procurements may be made by conventional formal advertising.

§ 18–2.502 Conditions for use.

Two-step formal advertising shall be used in preference to negotiation when all of the following conditions are present, unless other factors require the use of negotiation;

(a) Available specifications or purchase descriptions are not sufficiently definite or complete or may be too restrictive, and the listing of the salient characteristics in a "brand name or equal" description would likewise be too restrictive, to permit full and free competition without technical evaluation, and any necessary discussion, of the technical aspects of the requirement to insure mutual understanding between each source and the Government;

(b) Definite criteria exist for evaluating technical proposals, such as design, manufacturing, testing, and performance requirements, and special requirements for operational suitability and ease of maintenance;

(c) More than one technically qualified source is expected to be available;

(d) Sufficient time will be available for use of the two-step method; and

(e) A firm fixed-price contract or a fixed-price contract with escalation will be used.

§ 18–2.503 Procedures.

§ 18–2.503–1 Step one.

(a) A request for technical proposals shall be distributed to qualified sources in accordance with § 18–1.302–2. In addition, the request shall be synopsized in accordance with Subpart 18–1.10 of this chapter and publicly posted in accordance with § 18–2.203–2. The request may be in the form of a letter and shall contain, as a minimum, the following information:

(1) The best practicable description of the supplies or services required;

(2) Notification of the intent to conduct the procurement in two steps and the actions involved;

(3) The requirements of the technical proposal, i.e., the necessary details such as drawings, data, presentations, etc., to be submitted;

(4) The criteria for evaluating the technical proposal (§ 18–2.502(b));

(5) A statement that the technical proposals shall not include prices or pricing information;

(6) The date by which the proposal must be received and a statement substantially as follows:

LATE TECHNICAL PROPOSALS. (JANUARY 1964)

The Government reserves the right to consider technical proposals or modifications thereof received after the date specified for receipt.

(7) A statement that the Government may discuss the technical aspects of the proposal with the concern submitting the proposal;

(8) A statement that in the second step of the procurement only bids based upon technical proposals determined to be acceptable, either initially or as a result of discussions, will be considered for award, and that each bid in the second step must be based on the bidder's own technical proposal;

(9) A statement that sources submitting unacceptable technical proposals will be so notified upon completion of the technical evaluation; and

(10) A statement either that only one technical proposal may be submitted by each offeror or that multiple technical proposals may be submitted. When compliance with specifications permits utilization of essentially different technical approaches, it is generally in the interest of the Government to authorize the submission of multiple proposals. If multiple proposals are authorized the request shall include a statement substantially as follows:

MULTIPLE TECHNICAL PROPOSALS

(JANUARY 1964)

In the first step of this two-step procurement, offerors are authorized and encouraged to submit multiple technical proposals presenting different basic approaches. Each technical proposal submitted will be separately evaluated and the offeror will be notified as to its acceptability.

(b) *Upon receipt of technical proposals:*

(1) Every precaution shall be taken to safeguard technical proposals against disclosure to unauthorized persons;

(2) Technical proposals submitting data marked in accordance with § 18–3.109 of this chapter will be accepted and handled in accordance with that section; and

(3) Any references to price or cost will be removed.

(c) Technical evaluation of the proposals shall be based upon the criteria contained in the request for technical proposals and such evaluation shall not include consideration of capacity or credit (see § 18–1.705–6). Upon completion of the technical evaluation, each proposal shall be categorized as acceptable or unacceptable. Proposals shall not be categorized as unacceptable when a reasonable effort on the part of the Government to obtain clarification or additional information could bring the proposals to an acceptable status and thus increase competition. The contracting officer shall arrange for any necessary discussions with sources submitting technical proposals. When, after discussion, clarification, and submission of necessary documentation for incorporation in the proposal, technical proposals are determined to be acceptable, they shall be so categorized. If, however, it is determined at any time that, a technical proposal is not reasonably susceptible to being made acceptable, it should be classified as unacceptable and further discussion of it is unnecessary.

(d) Upon final determination that a technical proposal is unacceptable, the contracting officer shall promptly notify the source submitting the proposal of that fact. The notice shall state that revision of his proposal will not be considered, and shall indicate, in general terms, the basis for the determination for example, that rejection was based on failure to furnish sufficient information or on an unacceptable engineering approach.

(e) If, as a result of the evaluation of technical proposals, it appears necessary to discontinue two-step formal advertising, a statement setting forth the full facts and circumstances shall be made a part of the contract file. Each source will be notified in writing of the discontinuance and the reason therefor. When step one results in no acceptable technical proposal or only one acceptable technical proposal, the procurement may be continued by negotiation under the authority of § 18–3.210–2(c). (But see § 18–3.210–3.)

§ 18–2.503–2 Step two.

Upon completion of step one, a formally advertised procurement in accordance with Subparts 18–2.2, 18–2.3, and 18–2.4 will be conducted, except that invitations for bids:

(a) Will be issued only to and considered only from those sources whose technical proposals have been evaluated and determined to be acceptable under step one;

(b) Will include the following statement—

This invitation for bids is issued pursuant to two-step formal advertising set forth in Subpart 18–2.5, of this chapter.

Bids will be considered only from those firms who have submitted acceptable technical proposals pursuant to the first step of such procedures, as initiated by (identify the request for technical proposals). Any bidder who has submitted multiple technical proposals in the first step of this two-step procurement may submit a separate bid covering each technical proposal which has been determined acceptable by the Government. (January 1964)

(c) Will prominently state that the supplies or services to be procured will be in accordance with the specifications and the bidder's technical proposal, as finally accepted, under the request for technical proposals. This may be accomplished in the Schedule item description by a provision substantially in the form of the following example:

Radar Antenna, in accordance with Exhibit No. ____ dated ____ (use other description of specifications as appropriate) and your Technical Proposal ____ (insert specific identification of the bidder's proposal including any revision thereof as finally accepted) incorporated herein by reference. Nothing contained in said Technical Proposal shall constitute a waiver of any of the provisions of said Exhibit (or specifications).

(d) Will not be synopsized or publicly posted except that the names of firms which have submitted acceptable technical proposals in the first step of two-step formal advertising will be listed in the Commerce Business Daily for benefit of prospective subcontractors in accordance with § 18–1.1002–3(b).

PART 18–3—PROCUREMENT BY NEGOTIATION

Subpart 18–3.1—Use of Negotiation

Sec.
18–3.100 Scope of subpart.
18–3.101 General requirements for negotiation.
18–3.102 Factors to be considered in negotiated procurements.
18–3.103 Records and reports of negotiated contracts.
18–3.104 Aids to small business in negotiated procurement.
18–3.105 Aids to labor surplus area concerns in negotiated procurement.
18–3.106 Dissemination of procurement information.
18–3.106–1 Synopses of proposed procurements.
18–3.106–2 Synopses of contract awards.
18–3.106–3 Award information to unsuccessful offerors.
18–3.106–4 Disclosure of information prior to selection of contractor.
18–3.106–5 Release of contractor award information.
18–3.109 Restrictions on data and other information included solicited proposals.
18–3.110 Solicitations for informational or planning purposes.
18–3.111 Protests against award.
18–3.112 Disclosure of mistakes after award.

Subpart 18–3.2—Circumstances Permitting Negotiation

18–3.200 Scope of subpart.
18–3.201 National emergency.
18–3.201–1 Authority.
18–3.201–2 Application.
18–3.201–3 Limitation.
18–3.202 Public exigency.
18–3.202–1 Authority.
18–3.202–2 Application.
18–3.202–3 Limitation.
18–3.203 Purchases not in excess of $2,500.
18–3.203–1 Authority.
18–3.203–2 Application.
18–3.204 Personal or professional services.
18–3.204–1 Authority.
18–3.204–2 Application.
18–3.204–3 Limitation.
18–3.205 Services of educational institutions.
18–3.205–1 Authority.
18–3.205–2 Application.
18–3.205–3 Limitation.
18–3.206 Purchases outside the United States.
18–3.206–1 Authority.
18–3.206–2 Application.
18–3.207 Medicines or medical supplies.
18–3.207–1 Authority.
18–3.207–2 Application.
18–3.207–3 Limitation.
18–3.209 Perishable or nonperishable subsistence supplies.
18–3.209–1 Authority.
18–3.210 Supplies or services for which it is impracticable to secure competition by formal advertising.
18–3.210–1 Authority.
18–3.210–2 Application.
18–3.210–3 Limitation.
18–3.211 Experimental, developmental, or research work.
18–3.211–1 Authority.
18–3.211–2 Application
18–3.211–3 Limitation.
18–3.211–4 Reports.
18–3.212 Classified purchases.
18–3.212–1 Authority.
18–3.212–2 Application.
18–3.212–3 Limitation.
18–3.213 Technical equipment requiring standardization and interchangeability of parts.
18–3.213–1 Authority.
18–3.213–2 Application.
18–3.213–3 Limitation.
18–3.214 Technical or specialized supplies requiring substantial initial investment or extended period of preparation for manufacture.
18–3.214–1 Authority.
18–3.214–2 Application.
18–3.214–3 Limitation.
18–3.215 Negotiation after advertising.
18–3.215–1 Authority.
18–3.215–3 Limitation.
18–3.217 Otherwise authorized by law.
18–3.217–1 Authority.
18–3.217–2 Application.
18–3.218 Construction Work.
18–3.218–1 Application.
18–3.218–2 Limitation.
18–3.218–3 Citation of authority to negotiate.

Subpart 18–3.3—Determinations and Findings

18–3.300 Scope of subpart.
18–3.301 Nature of determinations and findings.
18–3.302 Determinations and findings to be made by the Administrator.
18–3.303 Determinations and findings to be made by the Director of Procurement.
18–3.304 Determinations and findings to be made by a contracting officer.
18–3.305 Forms of determinations and findings.
18–3.305–1 Individual contracts under 10 U.S.C. 2304(a)(11).
18–3.305–2 Class of contracts under 10 U.S.C. 2304(a)(11).
18–3.305–3 Individual contract under 10 U.S.C. 2304(a)(14).
18–3.306 Procedure with respect to determinations and findings.
18–3.306–1 Justification required.
18–3.306–2 Preparation and submission.
18–3.307 Filing of determinations and findings.
18–3.308 Retention of data with respect to negotiation.

Subpart 18–3.4—Types of Contracts

18–3.400 Scope of subpart.
18–3.401 Type of contracts.
18–3.402 Basic principles for use of contract types.
18–3.403 Negotiation of contract type.
18–3.404 Fixed-price contracts.
18–3.404–1 General.
18–3.404–2 Firm fixed-price contract.
18–3.404–3 Fixed-price contract with escalation.
18–3.404–4 Fixed-price incentive contracts.
18–3.404–5 Prospective price redetermination at a stated time or times during performance.
18–3.404–7 Retroactive price redetermination after completion.
18–3.405 Cost-reimbursement type contracts.
18–3.405–1 General.
18–3.405–2 Cost contract.
18–3.405–3 Cost-sharing contract.
18–3.405–4 Cost-plus-incentive-fee contract.
18–3.405–5 Cost-plus-a-fixed-fee contract.
18–3.405–6 Cost-plus-award-fee contract.
18–3.406 Other types of contracts.
18–3.406–1 Time and materials contracts.
18–3.406–2 Labor-hour contract.
18–3.407 Additional incentives.
18–3.407–1 General.
18–3.407–2 Contracts with performance incentives.
18–3.408 Letter contract.
18–3.409 Indefinite delivery type contracts.
18–3.410 Other types of agreements.
18–3.410–1 Basic agreement.
18–3.410–2 Basic ordering agreement.
18–3.450 Incentive contracts.

Subpart 18–3.5—Solicitation of Proposals and Quotations

18–3.500 Scope of subpart.
18–3.501 Preparation of request for proposals or request for quotations.

Subpart 18–3.6—Small Purchases

Sec.
18–3.600 Scope of subpart.
18–3.601 Purpose.
18–3.602 Policy.
18–3.603 Competition.
18–3.603–1 Solicitation.
18–3.603–2 Data to support small purchases.
18–3.604 Imprest fund.
18–3.605 Purchase order forms.
18–3.605–1 Standard Form 44.
18–3.605–2 Standard Forms 147 and 148.
18–3.605–3 NASA Form 177.
18–3.605–4 Ship and Quote Form.
18–3.606 Blanket purchase agreement method.
18–3.606–1 General.
18–3.606–2 Establishment of blanket purchase agreement.
18–3.606–3 Conditions for use.
18–3.606–4 Fiscal control.
18–3.606–5 Further guidance.
18–3.607 Use of other NASA Forms.

Subpart 18–3.7—Negotiated Overhead Rates

18–3.700 Scope of subpart.
18–3.701 Definitions.
18–3.701–1 Negotiated final overhead rate.
18–3.701–2 Provisional overhead rate.
18–3.701–3 Overhead (indirect costs).
18–3.701–50 Negotiating authority.
18–3.702 Purpose.
18–3.703 Primary use.
18–3.704 Contract clauses.
18–3.704–1 Contracts with concerns other than educational institutions.
18–3.704–2 Contracts with educational institutions.
18–3.705 Policy.
18–3.706 Procedure.
18–3.707 Coordination.
18–3.708 Ceilings on indirect costs.

Subpart 18–3.8—Price Negotiation Policies and Techniques

18–3.800 Scope of subpart.
18–3.801 Basic policy.
18–3.801–1 General.
18–3.801–2 Responsibility of contracting officers.
18–3.801–3 Responsibility of other personnel.
18–3.802 Preparation for negotiation.
18–3.802–1 Product or service.
18–3.802–2 Selection of sources.
18–3.802–3 Noncompetitive procurement.
18–3.802–4 Requests for proposals.
18–3.803 Type of contract.
18–3.804 Evaluation of proposals.
18–3.804–1 General.
18–3.804–2 Evaluation procedures not involving source evaluation board.
18–3.804–3 Evaluation procedures—use of Source Evaluation Board.
18–3.804–4 Disclosure of information prior to selection of contractor.
18–3.805 Conduct of negotiations.
18–3.805–1 General.
18–3.806 Cost, profit, and price relationships.
18–3.807 Pricing techniques.
18–3.807–1 General.
18–3.807–2 Requirement for price or cost analysis.
18–3.807–3 Cost and pricing data.
18–3.807–4 Contractor and subcontractor cost or pricing data clause.
18–3.807–5 Defective cost or pricing data.
18–3.807–6 Refusal to provide cost or pricing data.
18–3.807–7 Unacceptable substitutes for pricing negotiations.
18–3.807–8 Evaluation and pricing of individual contracts.
18–3.807–9 Specified contingencies.
18–3.807–10 Subcontracting considerations in cost analysis.
18–3.808 Profit or fee.
18–3.808–1 General.
18–3.808–2 Factors for determining fee or profit.
18–3.808–4 Minimal fees or cost-sharing arrangements
18–3.808–5 Fee limitation for experimental, developmental, or research work.
18–3.809 Audit as a pricing aid.
18–3.810 Exchange of information.
18–3.811 Record of negotiation.
18–3.813 Precontract planning and start-up and other nonrecurring costs.
18–3.850 Initiation of the procurement request.
18–3.852 Procurement plans.
18–3.852–1 Requirement for preparation of procurement plans.
18–3.852–2 Approval of procurement plans.
18–3.852–3 Contents of the procurement plan.
18–3.852–5 Assistance in providing for reliability assurance in procurement plans.
18–3.852–6 Requests for proposals.
18–3.853 Award and preparation of the contract.
18–3.854 Release of contract award information.
18–3.854–1 General.
18–3.854–2 Definitive contracts.
18–3.854–3 Letter contracts.
18–3.854–4 Unsuccessful offerors.

Subpart 18–3.9—Subcontracting Policies and Procedures

18–3.900 Scope of subpart.
18–3.901 General.
18–3.902 "Make-or-Buy" program.
18–3.902–1 General.
18–3.902–2 Price adjustments.
18–3.902–50 Special considerations research and development contracts.
18–3.903 Review of subcontracting and contractor's purchasing systems.
18–3.903–1 Contract clauses.
18–3.903–2 Consent to subcontracts.
18–3.903–3 Approval of purchasing system.
18–3.903–4 Review of individual subcontracts.
18–3.903–5 Disputes provisions in subcontracts.
18–3.903–50 Headquarters review of major subcontracts.

AUTHORITY: The provisions of this Part 18–3 issued under 42 U.S.C. 2473(b)(1).

Subpart 18–3.1—Use of Negotiation

§ 18–3.100 Scope of subpart.

This subpart deals with the nature and use of negotiation as distinguished from formal advertising, and with limitations upon that use.

§ 18–3.101 General requirements for negotiation.

(a) Procurement shall be made by formal advertising whenever such method is feasible and practicable under the existing conditions and circumstances, even though negotiation may be authorized under Subpart 18–3.2. Among the factors to be considered in determining whether formal advertising is feasible and practicable are:

(1) The number and location of potential suppliers;

(2) The adequacy of the specifications for advertising;

(3) The nature of the items being purchased;

(4) The time available; and

(5) The type of contract contemplated.

(b) No contract shall be entered into by negotiation unless or until the following requirements have been satisfied.

(1) Formal advertising is not feasible and practicable;

(2) The contemplated procurement comes within one of the circumstances permitting negotiation set forth in 10 U.S.C. 2304(a);

(3) Any necessary determinations and findings have been made;

(4) Prescribed clearances or approvals have been obtained;

(5) The prospective contractor has been determined to be responsible; and

(6) Other requirements of this chapter have been met.

§ 18–3.102 Factors to be considered in negotiated procurements.

(a) In all negotiated procurements in excess of $2,500 in which rates or prices are not fixed by law or regulation and in which time of delivery will permit, proposals shall be solicited from the maximum number of qualified sources consistent with the nature and requirements of the supplies or services to be procured. In any procurement publicized under § 18–1.1003, sources which have not been solicited, but which are not otherwise barred by law or regulation, shall be promptly furnished a copy of the solicitation on request; and shall be permitted to submit a proposal in response thereto. All proposals shall be supported by statements and analyses of estimated costs or other evidence of reasonable prices and other matters deemed necessary by the contracting officer. In all such negotiated procurements, including those subject to Source Evaluation Board procedures (see § 18–3.804–3), written or oral discussions shall be conducted with all responsible offerors who submit proposals within a competitive range, price and other factors considered: *Provided, however,* That written or oral discussions need not be conducted for:

(1) Procurements in implementation of authorized set-aside programs; or

(2) Procurements where it can be clearly demonstrated, from the existence of adequate competition or accurate prior cost experience with the product, that acceptance of an initial proposal without discussion would result in fair and reasonable prices and where the request for proposals notifies all offerors of the possibility that award may be made without discussion.

For procurements of $2,500 or less, see Subpart 18–3.6.

(b) During the course of negotiations, contracting officers and their negotiators shall give due attention to the following and any other appropriate factors:

(1) Comparison of prices quoted, and consideration of other prices for the same or similar supplies or services, with due regard to production costs, including extra-pay shift, multishift and overtime costs, and any other factor relating to price, such as profits, costs of transportation, and cash discounts;

(2) Comparison of the business reputations, capabilities, and responsibilities of the respective persons or firms who submit proposals;

(3) Consideration of the quality of the supplies or services offered, or of the quantity of the same or similar supplies or services previously furnished, with particular regard to the satisfaction of technical requirements;

(4) Consideration of delivery requirements;

(5) Discriminating use of price and cost analyses;

(6) Investigation of price aspects of any important subcontract;

(7) Individual bargaining, by mail or by conference;

(8) Consideration of cost sharing;

(9) Effective utilization in general of the most desirable type of contract;

(10) Consideration of the size of the business concern;

(11) Consideration as to whether the prospective supplier requires expansion or conversion of plant facilities;

(12) Consideration as to whether the prospective supplier is located in a surplus labor area;

(13) Consideration as to whether the prospective supplier will have an adequate supply of qualified labor;

(14) Consideration of the extent of subcontracting;

(15) Consideration of the existing and potential workload of the prospective supplier;

(16) Consideration of broadening the industrial base by the development of additional suppliers;

(17) Consideration of whether the contractor requires Government-furnished property, machine tools, or facilities; or Government-operated test facilities; and

(18) Advantages or disadvantages to the Government that might result from making multiple awards.

(19) Consideration of the rules for the avoidance of organizational conflicts of interest (see § 18-1.113-2 and Appendix G).

(20) Consideration of the nature and effectiveness of the prospective contractor's cost reduction program. For those contractors who are participants in the NASA-Contractor Cost Reduction Program, information concerning an evaluation of their cost reduction program may be obtained from the installation cost reduction officer. This information shall be obtained for each proposed procurement in excess of $1 million. In order to obtain this information and evaluate the effectiveness of a prospective contractor's cost reduction program, a statement substantially as follows will be included in the request for proposals:

COST REDUCTION PROGRAM (JULY 1965)

Offerors should submit information on their cost reduction programs in sufficient detail to indicate the nature and effectiveness of their programs. Information should be provided on each of the eight criteria spelled out in the "Guidelines for the NASA Contractor Cost Reduction Program," dated June 3, 1964. Such information should indicate not only that policies have been established to conform to the eight criteria, but also that those policies have been effectively implemented, with illustrative examples, where appropriate. In lieu of furnishing such information, offerors who are participants in the NASA-Contractor Cost Reduction Program or who have already furnished this information in connection with a previous procurement, may so indicate. Offerors who do not have a cost reduction program should so state.

Copies of the Guidelines may be obtained from the cost reduction officer and should be included in the request for proposals. On receipt of the proposals, the contracting officer will:

(i) Obtain a documented evaluation from the installation cost reduction officer in those cases where the offeror has indicated that he is a participant in the NASA-Contractor Cost Reduction Program or that such information has previously been furnished, or

(ii) Furnish to the installation cost reduction officer for evaluation the cost reduction information submitted by the offeror(s).

§ 18-3.103 Records and reports of negotiated contracts.

See § 18-1.110 of this chapter.

§ 18-3.104 Aids to small business in negotiated procurement.

See Subpart 18-1.7 of this chapter.

§ 18-3.105 Aids to labor surplus area concerns in negotiated procurement.

See Subpart 18-1.8 of this chapter.

§ 18-3.106 Dissemination of procurement information.

§ 18-3.106-1 Synopses of proposed procurements.

Procedures with regard to synopses of proposed procurements are set forth in § 18-1.1003 of this chapter.

§ 18-3.106-2 Synopses of contract awards.

Procedures with regard to preparation of synopses of contract awards are set forth in § 18-1.1004.

§ 18-3.106-3 Award information to unsuccessful offerors.

(a) *Preaward notice of unacceptable offers.* The following policies and procedures shall be observed in making information available to unsuccessful offerors:

(1) Except as provided in subparagraph (2) of this paragraph (a), in any procurement in excess of $10,000 in which it appears that the period of evaluation of proposals is likely to exceed 30 days or in which a limited number of offerors has been selected for additional negotiation, the contracting officer, upon determination that a proposal is unacceptable, shall provide prompt notice of the fact to the offeror submitting the proposal. Such notice need not be given where disclosure will prejudice the Government's interest or where the proposed contract is—

(i) Negotiated pursuant to 10 U.S.C. 2304(a) (4), (5), or (6) (see § 18-3.204, § 18-3.205, or § 18-3.206);

(ii) Negotiated with a foreign supplier when only foreign sources of supplies or services have been selected.

In addition to stating that the proposal has been determined unacceptable, notice to the offeror shall indicate, in general terms, the basis for such determination and shall advise that, since further negotiation with him concerning this procurement is not contemplated, a revision of his proposal will not be considered.

(2) In the case of procurements for which a Source Evaluation Board has been appointed and one or more than one offeror has been selected for negotiations, those offerors not selected for either preliminary negotiations or final negotiations will be notified, upon elimination by the Source Selection Official, of that fact in writing.

(b) *Postaward notice of unaccepted offers.* (1) Promptly after making all awards in any procurement in excess of $10,000, the contracting officer shall give written notice to the unsuccessful offerors that their proposals were not accepted, except that such notice need not be given where notice has been provided pursuant to (a) above or the contract is negotiated pursuant to 10 U.S.C. 2304(a) (4), (5), or (6) (see § 18-3.204, § 18-3.205, or § 18-3.206), or is negotiated with a foreign supplier when only foreign sources of supplies or services have been solicited. Such notice shall also include:

(i) The number of prospective contractors solicited;

(ii) The number of proposals received;

(iii) The name and address of each offeror receiving an award; and

(iv) The items, quantities, and unit prices of each award; *Provided*, That, where the number of items or other factors makes the listing of unit prices impracticable, only the total contract price need be furnished.

Additional information as to why an offeror's proposal was not accepted should be provided to the offeror upon his written request to the contracting officer, except where the price information in subdivision (iv) of this paragraph (b) (1) readily reveals such reason, but in no event will any offeror's confidential business information be revealed, nor will a discussion be had of relative merits of the proposals. For guidelines relating to the provision of additional information see paragraph (d) of this section.

(2) In procurements of $10,000 or less and subject to the exceptions in subparagraph (1) of this paragraph (b), the information described in subparagraph (1) shall be furnished to unsuccessful offerors upon request.

(c) *Classified information.* Classified information shall be furnished only in accordance with regulations governing classified information.

(d) *Debriefing.* It is NASA policy to provide a debriefing to unsuccessful offerors in competitive procurements where Source Evaluation Board procedures are employed and when requested in writing. Such debriefing should be confined to a discussion of the unsuccessful offeror's proposal in relation to the Government's requirement. Care should be taken to avoid comparison of one company's proposal with another and disclosure of information contained in other offers or the Government's estimate. The policies and procedures governing debriefing are more fully set forth in NASA Management Instruction 5103.1.

§ 18-3.106-4 Disclosure of information prior to selection of contractor.

The policies and procedures governing the disclosure of information prior to selection of a contractor are set forth in § 18-3.804-4.

§ 18-3.106-5 Release of contractor award information.

The policies and procedures governing the release of contract award information are set forth in § 18-3.854.

§ 18-3.109 Restrictions on data and other information included in solicited proposals.

(a) *Technical data in solicited proposals.* Requests for proposals may require the offeror, including his subcontractor offerors, if any, to submit with the proposal technical data (such as plans, designs, suggestions, improvements, or concepts) which the offeror, or his subcontractor offeror, does not want used or disclosed for any purpose other than evaluation of the proposals. Each proposal containing technical data which the offeror or his proposed subcontractors so wish to restrict shall be marked on the cover sheet with the following legend specifying the pages of the proposal which are to be restricted in accordance with the conditions of the legend:

Technical data contained in pages ------ of this proposal furnished in connection with RFP No. ------ shall not be used or disclosed, except for evaluation purposes: *Provided*, That if a contract is awarded to this offeror as a result of or in connection with the submission of this proposal, the Government shall have the right to use or disclose this technical data to the extent provided in the contract. This restriction does not limit the Government's right to use or disclose any technical data obtained from another source without restriction. (February 1966)

Contracting officers shall not refuse to consider any proposal merely because technical data submitted with the proposal is marked. Technical data so marked shall be used only to evaluate proposals and shall not otherwise be used or disclosed without the written permission of the offeror except under the conditions provided in the legend. Solicited proposals submitted with restrictive legends or statements differing from the above legend will be treated under the terms of the above legend. The Government assumes no liability for disclosure or use of unmarked technical data and may use or disclose the data for any purpose.

(b) *Technical data in solicited quotations.* The provisions in paragraph (a) of this section are also applicable to quotations. The legend in paragraph (a) of this section shall be appropriately modified when used on quotations.

(c) *Financial and management information in solicited proposals and quotations.* For treatment of financial and management information in solicited proposals and quotations, see § 18-1.304-4.

(d) *Technical and other data involved in formal advertising.* See § 18-3.404-4.

(e) *Technical data in unsolicited proposals.* The policy and procedures concerning restrictions on the disclosure and use of technical data in unsolicited proposals are set forth in § 18-1.304-2.

§ 18-3.110 Solicitations for informational or planning purposes.

See § 18-1.309.

§ 18-3.111 Protests against award.

Protests against award of negotiated procurements shall be treated substantially in accordance with § 18-2.407-8 and will be acted upon by the Director of Procurement with the concurrence of the Office of General Counsel. However, when the selection of a contractor has been made by the Administrator, either after proceedings of a Source Evaluation Board or otherwise, the final action will be directed by the Administrator.

§ 18-3.112 Disclosure of mistakes after award.

When a mistake in a contractor's proposal is not discovered until after award, the authority to correct mistakes contained in § 18-2.406-4 may be utilized in accordance with the limitations and procedure set forth therein.

Subpart 18-3.2—Circumstances Permitting Negotiation

§ 18-3.200 Scope of subpart.

Subject to the limitations prescribed in Subpart 18-3.1 and pursuant to the authority of 10 U.S.C. 2304(a), procurement may be effected by negotiation under any one of the exceptions contained in 10 U.S.C. 2304(a)(1) through (17) set forth and discussed in this Subpart 18-3.2.

§ 18-3.201 National emergency.

§ 18-3.201-1 Authority.

Pursuant to 10 U.S.C. 2304(a)(1), purchases and contracts may be negotiated if:

it is determined that such action is necessary in the public interest during a national emergency declared by Congress or the President.

§ 18-3.201-2 Application.

For the duration of the national emergency declared pursuant to Presidential Proclamation 2914, the Administrator, by NASA Management Instruction 5101.-6, has determined that it is necessary in the public interest to negotiate purchases and contracts without formal advertising during the period of the national emergency if they fall within one of the following three categories:

(a) Procurements made in furtherance of the policy of encouraging the placing of contracts in labor surplus areas as enunciated in current Defense Manpower Policy No. 4;

(b) Procurement made in furtherance of the NASA Small Business Program after a unilateral determination by the contracting officer to set aside all or a part of the procurement for the exclusive participation of small business concerns; or

(c) Procurement of the unawarded portion of the total requirement set aside for small business concerns when no other negotiating authority is appropriate.

§ 18-3.201-3 Limitation.

(a) This authority shall not be used when negotiation is authorized by the provisions of § 18-3.206.

(b) Each procurement negotiated pursuant to the determination referred to in § 18-3.201-2 shall be supported by a memorandum for the contract file, signed by the contacting officer, specifying the pertinent provision of the determination used as authority for negotiating the contract.

§ 18-3.202 Public exigency.

§ 18-3.202-1 Authority.

Pursuant to the authority of 10 U.S.C. 2304(a)(2), purchases and contracts may be negotiated if:

the public exigency will not permit the delay incident to advertising.

§ 18-3.202-2 Application.

This authority may be used only where the need is compelling and of unusual urgency, as when the Government would be seriously injured, financially or otherwise, if the supplies or services were not furnished by a certain date, and when they could not be procured by that time by means of formal advertising. This authority may be used in appropriate cases even though the urgency could or should have been foreseen. Examples of situations where this authority could be invoked are:

(a) Supplies or services needed at once because of a fire, explosion, or other disaster; and

(b) The breakdown of a piece of operating machinery or equipment requiring immediate repair or replacement in order that a critical research program will not be delayed.

§ 18-3.202-3 Limitation.

Every contract negotiated under this authority shall be accompanied with a determination and findings signed by the contracting officer justifying its use, which shall become part of the contract file. The findings shall set forth those facts and circumstances that clearly and convincingly establish, with respect to the use of this authority, that formal advertising would not be feasible and practicable. The authority of 10 U.S.C. 2304(a)(2) shall not be used if negotiation is authorized under 10 U.S.C. 2304(a)(3) or 2304(a)(6).

§ 18–3.203 Purchases not in excess of $2,500.

§ 18–3.203–1 Authority.

Pursuant to 10 U.S.C. 2304(a)(3), purchases and contracts may be negotiated if:

the aggregate amount involved is not more than $2,500.

§ 18–3.203–2 Application.

Contracts or purchases aggregating $2,500 or less shall be made under this authority rather than under any other authority for negotiation which might otherwise be applicable, except that this authority shall not be used where 10 U.S.C. 2304(a)(6) is applicable. In arriving at the "aggregate amount involved" there must be included all supplies and services which would properly be grouped together in a single transaction and which would be included in a single advertisement for bids if the procurement were being effected by formal advertising. Purchases or contracts aggregating more than $2,500 shall not be broken down into several purchases or contracts of less than $2,500. (However, see § 18–3.606 for guidance in connection with the use of blanket purchase orders.)

§ 18–3.204 Personal or professional services.

§ 18–3.204–1 Authority.

Pursuant to 10 U.S.C. 2304(a)(4), purchases and contracts may be negotiated if:

for personal or professional services.

§ 18–3.204–2 Application.

(a) This authority shall be used only when all of the following conditions have been satisfied:

(1) If personal services, they are required to be performed by an individual contractor in person (not by a concern); if professional services, they may be performed either by an individual contractor in person or a concern;

(2) The services are of a professional nature or are to be performed under Government supervision and paid for on a time basis; and

(3) Procurement of the services is authorized by law and is effected in accordance with the requirements of any such law.

(b) Under section 203(b)(9) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473(b)(9)), NASA is authorized:

to obtain services as authorized by 5 U.S.C. 55a, at rates not to exceed $100 per diem for individuals.

5 U.S.C. 55a, in turn, provides authority to procure:

the temporary (not in excess of one year) or intermittent services of experts or consultants or organizations thereof, including stenographic reporting services, by contract • • •.

§ 18–3.204–3 Limitation.

It is NASA policy to obtain the personal services of experts and consultants by appointment rather than by contract. The policies, responsibilities and procedures pertaining to the appointment of experts and consultants are set forth in Federal Personnel Manual (FPM), Supp. 32.

§ 18–3.205 Services of educational institutions.

§ 18–3.205–1 Authority.

Pursuant to the authority of 10 U.S.C. 2304(a)(5), purchases and contracts may be negotiated if:

for any service to be rendered by any university, college, or other educational institution.

§ 18–3.205–2 Application.

The following are illustrative of circumstances with respect to which this authority may be used:

(a) Educational or vocational training services to be rendered by any university, college, or other educational institution in connection with the training and education of personnel, and for necessary material, services, and supplies furnished by any such institution in connection therewith;

(b) Experimental, developmental, or research work (including services, tests, and reports necessary or incidental thereto) to be conducted by any university, college, or other educational institution, and reports furnished in connection therewith; and

(c) Analyses, studies, or reports (statistical or otherwise) to be conducted by any university, college, or other educational institution.

§ 18–3.205–3 Limitation.

This authority shall not be used when negotiation is authorized by the provisions of §§ 18–3.203 and 18–3.206.

§ 18–3.206 Purchases outside the United States.

§ 18–3.206–1 Authority.

Pursuant to 10 U.S.C. 2304(a)(6), purchases and contracts may be negotiated if:

for property or services to be procured and used outside the United States, its possessions, and Puerto Rico.

§ 18–3.206–2 Application.

This authority shall be used only for the procurement of property or services which are actually purchased from sources outside, and used outside, the United States, its possessions, and Puerto Rico (irrespective of the place of negotiation or execution of the contract), such as property or services (including construction) for overseas installations or for the use of overseas personnel. When this authority is available for the negotiation of a contract, no other negotiating authority shall be used.

§ 18–3.207 Medicines or medical supplies.

§ 18–3.207–1 Authority.

Pursuant to 10 U.S.C. 2304(a)(7), purchases and contracts may be negotiated if:

for medicine or medical supplies.

§ 18–3.207–2 Application.

This authority shall be used only when the following two requirements have been satisfied:

(a) Such supplies are peculiar to the field of medicine, including technical equipment such as surgical instruments, surgical and orthopedic appliances, X-ray supplies and equipment, and the like, but not including prosthetic equipment; and

(b) Whenever it is determined to be practicable, such advance publicity as is considered suitable with regard to the supplies involved and other relevant considerations shall be given for a period of at least 15 days before making a purchase of or contract for supplies or services under this authority for more than $10,000.

§ 18–3.207–3 Limitation.

Every contract negotiated under this authority shall be accompanied with a determination and findings, signed by the contracting officer, justifying its use, which shall become part of the contract file. The findings shall set forth those facts and circumstances that clearly and convincingly establish, with respect to the use of this authority, that formal advertising would not be feasible and practicable. This authority shall not be used when negotiation is authorized by the provisions of § 18–3.203 or § 18–3.206.

§ 18–3.209 Perishable or nonperishable subsistence supplies.

§ 18–3.209–1 Authority.

Pursuant to 10 U.S.C. 2304(a)(9), purchases and contracts may be negotiated if:

for perishable or nonperishable subsistence supplies.

§ 18–3.210 Supplies or services for which it is impracticable to secure competition by formal advertising.

§ 18–3.210–1 Authority.

Pursuant to 10 U.S.C. 2304(a)(10), purchases and contracts may be negotiated if:

for property or services for which it is impracticable to obtain competition.

§ 18–3.210–2 Application.

The following are illustrative of circumstances with respect to which this authority may be used:

(a) When supplies or services can be obtained from only one person or firm ("sole source of supply");

(b) When competition is precluded because of the existence of patent rights, copyrights, secret processes, control of basic raw material, or similar circumstances (however, the mere existence of such rights or circumstances does not in and of itself justify the use of the authority of this section);

(c) When bids have been solicited pursuant to the requirements of formal advertising, and no responsive bid has been

received from a responsible bidder, or when step one of two-step formal advertising results in no acceptable technical proposal or only one acceptable technical proposal;

(d) When bids have been solicited pursuant to the requirements of formal advertising, and the responsive bid or bids do not cover the quantitative requirements of the solicitation of bids, in which case negotiation is permitted for the remaining requirements of the solicitation of bids;

(e) When the contemplated procurement is for electric power or energy, gas (natural or manufactured), water, or other utility services, or when the contemplated procurement is for construction of a part of a utility system and it would not be practicable to allow a contractor other than the utility company itself to work upon the system;

(f) When the contemplated procurement is for training film, motion picture productions, or manuscripts;

(g) When the contemplated procurement is for technical, nonpersonal services in connection with the assembly, installation, or servicing (or the instruction of personnel therein) of equipment of a highly technical or specialized nature;

(h) When the contemplated procurement is for studies or surveys other than those which may be negotiated under § 18–3.205 or § 18–3.211;

(i) When the contemplated procurement involves maintenance, repair, alterations, or inspection, in connection with any one of which types of services the exact nature or amount of the work is not known;

(j) When the contemplated procurement is for stevedoring, terminal, warehousing, or switching services, and when either the rates are established by law or regulation or the rates are so numerous or complex that it is impracticable to set them forth in the specifications of a formal solicitation of bids;

(k) When the contemplated procurement is for commercial ocean or air transportation, including time charters, space charters, and voyage charters over trade routes not covered by common carriers (as to which, negotiation is authorized under the provisions of § 18–3.217 and section 321 of the Transportation Act of Sept. 18, 1940, 49 U.S.C. 65), and including services for the operation of Government-owned vessels or aircraft;

(l) When the contract is for services related to the procurement of perishable subsistence such as protective storage, icing, processing, packaging, handling, and transportation, whenever it is impracticable to advertise for such services a sufficient time in advance of the delivery of the perishable subsistence;

(m) When it is impossible to draft, for a solicitation of bids, adequate specifications or any other adequately detailed description of the required supplies or services;

(n) When the contract is for storage (and related services) of household goods; or

(o) When the contemplated procurement is for parts or components being procured as replacement parts in support of equipment specially designed by the manufacturer, where data available is not adequate to assure that the part or component will perform the same function in the equipment as the part or component it is to replace.

(p) When the contract is a facilities contract as defined in § 18–13.101–17 and the performance required can be obtained from only one person or firm; or

(q) When the contemplated procurement involves construction where a contractor or group of contractors is already at work on the site, and it would not be practicable to allow another contractor or an additional contractor to work on the same site or when the amount is too small to interest other contractors to mobilize and demobilize.

§ 18–3.210–3 Limitation.

Every contract that is negotiated under this authority shall be accompanied with a determination and findings signed by the contracting officer justifying its use, which shall become part of the contract file. The findings shall set forth those facts and circumstances that clearly and convincingly establish, with respect to the use of this authority, that formal advertising would not be feasible and practicable. This authority shall not be used when negotiation is authorized by any other authority set forth in §§ 18–3.201 through 18–3.217, except that this authority shall be used in preference to § 18–3.212.

§ 18–3.211 Experimental, developmental, or research work.

§ 18–3.211–1 Authority.

Pursuant to 10 U.S.C. 2304(a)(11), purchases and contracts may be negotiated if:

for property or services that he (the Administrator) determines to be for experimental, developmental, or research work, or for making or furnishing property for experiment, test, development, or research.

§ 18–3.211–2 Application.

The following are illustrative of procurements with respect to which this authority may be used:

(a) Contracts relating to theoretical analysis, exploratory studies, and experiment in any field of science or technology;

(b) Developmental contracts calling for the practical application of investigative findings and theories of a scientific or technical nature;

(c) Contracts for such quantities and kinds of equipment, supplies, parts, accessories, or patent rights thereto, and drawings or designs thereof, as are necessary for experiment, development, research, or test; or

(d) Contracts for services, tests, and reports necessary or incidental to experimental, developmental, or research work.

§ 18–3.211–3 Limitation.

(a) This authority shall not be used for negotiated contracts with educational institutions where the authority provided by 10 U.S.C. 2304(a)(5) is applicable.

(b) This authority shall not be used for quantity production, except that such quantities may be purchased hereunder as are necessary to permit complete and adequate experiment, development, research, or test. Accordingly, research or development contracts which call for the production of a reasonable number of experimental or test models, or prototypes, shall not be regarded as contracts for quantity production.

(c) This authority shall not be used when negotiation is authorized by the provisions of § 18–3.203 or § 18–3.206.

(d) In order for this authority to be used, the required determination must be made in accordance with the requirements of Subpart 18–3.3. Where property or supplies are procured under this authority, the findings required by Subpart 18–3.3 shall set forth those facts and circumstances that clearly and convincingly establish, with respect to the use of this authority, that formal advertising would not be feasible and practicable.

§ 18–3.211–4 Reports.

For implementation of the statutory reporting requirement to Congress, see § 18–1.110 of this chapter.

§ 18–3.212 Classified purchases.

§ 18–3.212–1 Authority.

Pursuant to 10 U.S.C. 2304(a)(12), purchases and contracts may be negotiated if:

for property or services whose procurement he (the Administrator) determines should not be publicly disclosed because of their character, ingredients, or components.

§ 18–3.212–2 Application.

This authority may be used for purchases or contracts classified "Confidential" or higher.

§ 18–3.212–3 Limitation.

In order for this authority to be used, the required determination and findings must be made in accordance with the requirements of Subpart 18–3.3. The determination and findings shall set forth those facts and circumstances that are clearly illustrative of the conditions described for use of this authority. The determination and findings shall also set forth those facts and circumstances that clearly and convincingly establish that formal advertising would not be feasible and practicable. This authority shall not be used when negotiation is authorized by any other authority set forth in §§ 18–3.201 through 18–3.217.

§ 18–3.213 Technical equipment requiring standardization and interchangeability of parts.

§ 18–3.213–1 Authority.

Pursuant to 10 U.S.C. 2304(a)(13), purchases and contracts may be negotiated if:

for equipment that he (the Administrator) determines to be technical equipment whose standardization and the interchangeability of whose parts are necessary in the public

interest and whose procurement by negotiation is necessary to assure that standardization and interchangeability.

§ 18–3.213–2 Application.

(a) This authority may be used for procuring additional units and replacement items of technical equipment and spare parts by negotiation in order to assure standardization of equipment and interchangeability of parts where, in special situations or in particular localities, such standardization and interchangeability are determined necessary. For example, this authority could be utilized whenever it is necessary:

(1) To limit the variety and quantity of spare parts that must be carried in stock;

(2) To make possible, by standardization, the availability of spare parts that may be interchanged among items of damaged or worn equipment; or

(3) To procure from selected suppliers technical equipment which is available from a number of suppliers, but which would have such varying performance characteristics (notwithstanding detailed specifications and rigid inspection) as would prevent standardization and interchangeability of parts.

(b) Before making a determination to procure specified makes and models under this authority, consideration shall be given to:

(1) The practicability of interchanging parts and cannibalizing equipment;

(2) The probability that future procurement of the selected item of equipment can be effected at reasonable prices;

(3) Whether the standardization will appreciably reduce the variety and quantity of parts that must be carried in stock;

(4) The value of similar equipment and its supporting parts on hand;

(5) Possible savings in training personnel and publishing technical literature;

(6) Whether the standardization will adversely affect existing specifications and standards; and

(7) The degree to which the current design of the specified make and model has been changed from the design of equipment of the same make and model now in the supply system.

(c) Actions taken under this authority shall be reviewed at least once every 2 years to determine whether the standardization should be continued, revised, or canceled.

(d) This authority may be used in situations where only one or a limited quantity of a particular item is to be purchased and where compatibility with existing equipment and interchangeability of parts is essential. The fact that this authority is used in such a case does not mean that a subsequent purchase of similar equipment will necessarily require the use of negotiation for purposes of standardization. The facts involved in each of such case must be examined to determine whether compatibility with other equipment and interchangeability of parts are essential objectives.

§ 18–3.213–3 Limitation.

This authority shall not be used for initial procurements of equipment and spare parts, or for the purpose of selecting arbitrarily the equipment of certain suppliers; nor shall it be used unless the Administrator has determined, in accordance with the requirements of Subpart 18–3.3 that:

(a) The equipment constitutes technical equipment;

(b) Standardization of such equipment and interchangeability of its parts are necessary in the public interest; and

(c) Procurement of such equipment or of its parts by negotiation is necessary to assure that standardization and interchangeability.

§ 18–3.214 Technical or specialized supplies requiring substantial initial investment or extended period of preparation for manufacture.

§ 18–3.214–1 Authority.

Pursuant to 10 U.S.C. 2304(a)(14), purchases and contracts may be negotiated if:

for technical or special property that he (the Administrator) determines to require a substantial initial investment or an extended period of preparation for manufacture, and for which he determines that formal advertising would be likely to result in additional cost to the Government by reason of duplication of investment or would result in duplication of necessary preparation which would unduly delay the procurement of the property.

§ 18–3.214–2 Application.

This authority may be used for the procurement of technical or specialized supplies or equipment or major components thereof, and any supplies of a technical or specialized nature which may be necessary for the use or operation of such supplies or equipment. Such procurement generally involves:

(a) High starting costs which already have been paid for by the Government or by the supplier;

(b) Preliminary engineering and development work that would not be useful to or usable by any other supplier;

(c) Elaborate special tooling already acquired;

(d) Substantial time and effort already expended in developing a prototype or an initial production model; and

(e) Important design changes which will continue to be developed by the supplier.

In general, this authority shall be used in situations where it is preferable to place a production contract with the supplier who had developed the equipment, and thereby either assure to the Government the benefit of the techniques, tooling, and equipment already acquired by that supplier, or avoid undue delay arising from a new supplier having to acquire such techniques, tooling, and equipment. However, this exception should not be used to avoid duplication of private investment unless this duplication would be likely to result in additional cost to the Government or would result in duplication of necessary preparation which would unduly delay the procurement.

§ 18–3.214–3 Limitation.

This authority shall not be used unless and until the Administrator has determined, in accordance with the requirements of Subpart 18–3.3, that:

(a) The supplies are of a technical or specialized nature requiring a substantial investment or an extended period of preparation for manufacture; and

(b) Procurement by formal advertising either—

(1) Would be likely to result in additional cost to the Government by reason of duplication of investment; or

(2) Would result in duplication of necessary preparation which would unduly delay procurement.

§ 18–3.215 Negotiation after advertising.

§ 18–3.215–1 Authority.

Pursuant to 10 U.S.C. 2304(a)(15), purchases and contracts may be negotiated if:

for property or services for which he (the Administrator) determines that the bid prices received after formal advertising are unreasonable as to all or part of the requirements, or were not independently reached in open competition, and for which (i) he has notified each responsible bidder of intention to negotiate and given him reasonable opportunity to negotiate; (ii) the negotiated price is lower than the lowest rejected bid of any reasonable bidder, as determined by the head of the agency; and (iii) the negotiated price is the lowest negotiated price offered by any responsible supplier.

§ 18–3.215–2 Limitation.

This authority shall not be used unless the Administrator has determined, in accordance with the requirements of Subpart 18–3.3, that the bid prices, after formal advertising for such supplies or services, are unreasonable or were not independently reached in open competition. Also, after such determination by the Administrator and after rejection of all bids, no contract shall be negotiated under this authority unless:

(a) Prior notice of intention to negotiate and a reasonable opportunity to negotiate have been given by a contracting officer to each responsible bidder who submitted a bid in response to the invitation for bids;

(b) The negotiated price is lower than the lowest rejected bid price of a responsible bidder, as determined by the Administrator; and

(c) The negotiated price is the lowest negotiated price offered by any responsible supplier.

Moreover, any evidence of bids not independently reached shall be forwarded

to the Department of Justice (see § 18–1.111 of this chapter).

§ 18–3.217 Otherwise authorized by law.

§ 18–3.217–1 Authority.

Pursuant to 10 U.S.C. 2304(a)(17), purchases and contracts may be negotiated if:

otherwise authorized by law.

§ 18–3.217–2 Application.

The following are examples of other statutes which authorize negotiation:

(a) *Small Business Act (Public Law 85–536 as amended—15 U.S.C. 631–647).* Contracts for partial or total set-asides for small business made pursuant to a joint determination by the NASA and Small Business Administration (including contracts entered into pursuant to "Small Business Restricted Advertising") shall cite as authority 10 U.S.C. 2304(a)(17) and section 15 of the Small Business Act (15 U.S.C. 642).

(b) *Section 321 of the Transportation Act of 1940 (49 U.S.C. 65).* This law permits negotiation for transportation services when the services required can be procured from any common carrier.

§ 18–3.218 Construction work.

§ 18–3.218–1 Application.

Contracts to construct or repair any building, road, sidewalk, sewer, main, or similar item are subject to 10 U.S.C. 2304(c).

§ 18–3.218–2 Limitation.

(a) *Work in the United States.* Contracts for construction work to be performed within the United States shall be formally advertised and may not be negotiated unless authorized pursuant to 10 U.S.C. 2304(a) (1), (2), (3), (10), (11), (12), or (15).

(b) *Work outside of the United States.* Contracts for construction work to be performed outside of the United States shall be formally advertised and may not be negotiated unless authorized pursuant to subsections (1) through (17) of 10 U.S.C. 2304(a), as appropriate (note that such contracts to be performed in possessions of the United States or Puerto Rico may not be negotiated pursuant to 10 U.S.C. 2304(a)(6)).

§ 18–3.218–3 Citation of authority to negotiate.

Negotiated contracts for construction work shall cite as authority for their negotiation the applicable subsection of 10 U.S.C. 2304(a).

Subpart 18–3.3—Determinations and Findings

§ 18–3.300 Scope of subpart.

This subpart enumerates the procedures to be followed in making the determinations and findings referred to in 10 U.S.C. 2304(a) and Subpart 18–3.2.

§ 18–3.301 Nature of determinations and findings.

(a) Determinations and findings required in connection with negotiated contracts fall into three categories, based on the official authorized to make such determinations and findings:

(1) Those which the Administrator or Deputy Administrator of NASA must make;

(2) Those to be made by the Director of Procurement; and

(3) Those which may be made by a contracting officer.

The determinations and findings which fall into each of the above categories are listed in §§ 18–3.302, 18–3.303, and 18–3.304.

(b) Determinations and findings ordinarily will be made only with respect to individual purchases or contracts. However, in special cases, based on the recommendation of the head of a field installation and with the concurrence of the Director of Procurement, the Administrator may make determinations and findings for classes of purchases or contracts. Class determinations and findings shall be restricted to circumstances where greater operational flexibility in the processing of determinations and findings is necessary to minimize delays to a research and development project or program where several negotiated contracts may be issued in furtherance of the project or program. Before negotiating a contract under the authority of a class determination and findings, for procurements under 10 U.S.C. 2304(a)(11) for property and supplies, and for any procurements under 10 U.S.C. 2304(a)(12), the contracting officer shall establish that procurement by formal advertising is not feasible and practical (see § 18–3.101(b)). Each class determination and findings shall specify an effective period, which shall not exceed 1 year except that it will continue in effect for those contracts for which negotiations have been substantially completed and the resulting contract is expected to be awarded in a timely manner.

§ 18–3.302 Determinations and findings to be made by the Administrator.

The following determinations (or similar approvals) and written findings in support thereof are required to be made by the Administrator or Deputy Administrator:

(a) The determinations required by 10 U.S.C. 2304(a) (1) and (11) through (16) except that determinations under section 2304(a)(11) with respect to contracts requiring the expenditure of not more than $100,000 may be made by the contracting officer (see § 18–3.304);

(b) The determinations required under 10 U.S.C. 2306(f) with respect to waiving the requirement for submission by contractors and subcontractors of cost and pricing data and the certification thereof (except that in the case of a contract with a foreign government or agency thereof, the Deputy Associate Administrator for Industry Affairs and the Director of Procurement are each delegated the authority to make these determinations); and

(c) Determinations and findings for classes of purchases or contracts.

§ 18–3.303 Determinations and findings to be made by the Director of Procurement.

The following individual determinations (or similar approvals) and written findings in support thereof are authorized to be made by the Director of Procurement:

(a) Determinations with respect to advance payments as required by 10 U.S.C. 2307(c) and 2310(b); and

(b) Determinations required under 10 U.S.C. 2306(f) with respect to waiving the requirement for submission of cost and pricing data and the certification thereof in the case of a contract with a foreign government or agency thereof; and

(c) Any other determinations and findings not required to be made by higher authority.

§ 18–3.304 Determinations and findings to be made by a contracting officer.

The following individual determinations and findings may be made by a contracting officer, subject to any limitations imposed by the designating official:

(a) Determinations and findings under 10 U.S.C. 2304(a)(11) with respect to contracts requiring the expenditure of not more than $100,000;

(b) Determinations and findings justifying negotiations on the basis of public exigency under 10 U.S.C. 2304(a)(2) as required by § 18–3.202–3.

(c) Determinations and findings justifying negotiation under 10 U.S.C. 2304(a)(7) as required by § 18–3.207–3.

(d) Determinations and findings required by 10 U.S.C. 2306(c) prior to the making of any cost, cost-plus-fixed-fee, or incentive contract shall set forth those facts and circumstances that clearly indicate why the type of contract selected is likely to be less costly than any other type or that it is impracticable to obtain property or services of the kind or quality required except under such a contract;

(e) Determinations and findings required by 10 U.S.C. 2306(d) of the estimated costs of contracts or projects on the basis of which maximum allowable fee percentages are measured;

(f) Determinations and findings required by 10 U.S.C. 2306(f) with respect to significant sums by which contracts may be adjusted; and

(g) Any other determinations and findings called for by this chapter and not required to be made by higher authority.

§ 18–3.305 Forms of determinations and findings.

Each determination and findings authorizing negotiation under the authority of 10 U.S.C. 2304(a)(11)–(15) shall set forth the facts and circumstances that are clearly illustrative of the conditions described for use of the particular authority. Determinations and findings authorizing negotiation shall set forth those facts and circumstances that clearly and convincingly establish that formal advertising would not be feasible and practicable. Instructions for the preparation of determinations and findings and sample determinations and findings under 10 U.S.C. 2304(a)(11) and 10 U.S.C. 2304(a)(14) are set forth in this § 18–3.305.

§ 18–3.305–1 Individual contracts under 10 U.S.C. 2304(a)(11). (See §§ 18–3.211 and 18–3.301(b).)

(a) *Findings.* In the first paragraph under "Findings" describe briefly and clearly the scope and nature of the work to be performed. In the second paragraph, set forth the facts and circumstances that are clearly illustrative of the conditions set forth in 10 U.S.C. 2304(a)(11) for use of this authority. (See §§ 18–3.211 and 18–3.211–2.) In the third paragraph, set forth those facts and circumstances that clearly and convincingly establish, with respect to the use of this authority, that formal advertising would not be feasible and practicable.

(b) *Determination.* Following the format set forth in the sample below, use the appropriate terms to state precisely whether the proposed procurement is for experimental, developmental, or research work or the making or furnishing of property for experiment, test, development, or research; or for a combination of these.

(c) *Sample format.*

DETERMINATION AND FINDINGS

Decision To Negotiate an Individual Contract Under 10 U.S.C. 2304(a)(11)

FINDINGS

1. The proposed procurement is to develop and obtain a compressor unit to provide high pressure helium to the hypervelocity jets of the Hypersonic Aerothermal Dynamics Facility for the investigation of the aeroelastic problems of Dynascar-type vehicles during exit and reentry and the reentry problems of other vehicles, such as Apollo or lunar space vehicles, where the largest flight dynamic pressure may be encountered.

2. The proposed contract will require the contractor to do development work in the design and engineering of the compressor unit. Research work will be necessary to support the development stage of the work, primarily to determine the type of components to be included in the unit to insure performance requirements.

3. Formal advertising is not feasible and practicable for this procurement because it is impossible to describe in precise detail or by definite drawings and specifications the nature of the work to be done; only the ultimate objectives and the general scope of the work can be outlined.

DETERMINATION

On the basis of the above findings, I hereby determine that the proposed procurement is for developmental and research work, and for the making of property for research.

Upon the basis of the determination and findings above, I hereby decide that this contract will be negotiated pursuant to 10 U.S.C. 2304(a)(11).

DATE .....

§ 18–3.305–2 Class of contracts under 10 U.S.C. 2304(a)(11). (See §§ 18–3.211 and 18–3.301(b).)

(a) *Findings.* In the first paragraph identify the program, the project, and the project number (using the NASA Financial Management Manual 9100) to which the contemplated procurements are oriented. A statement also will be included in the first paragraph that the determination and findings cover only the procurement requirements that are provided for and further defined under the program/project cited, except for such items of property or supplies for which formal advertising is feasible and practicable. In the second paragraph, under "Findings," describe briefly and clearly the scope and nature of the work to be performed. When property and services are to be procured under a "Class Determination and Findings," a statement will be made that the "Determination and Findings" does not apply to those items of property or supplies for which formal advertising is feasible and practicable. In the third paragraph, set forth the facts and circumstances that are clearly illustrative of the conditions set forth in 10 U.S.C. 2304(a)(11) for use of this authority (see §§ 18–3.211 and 18–3.211–2). In the fourth paragraph, set forth facts and circumstances that clearly and convincingly establish, with respect to the use of this authority, that formal advertising would not be feasible and practicable.

(b) *Determination.* Following the format set forth in the sample below, use the appropriate terms to state whether the proposed class of contracts will be for experimental, developmental, or research work; or the making or furnishing of property or supplies for experiment, test, development, or research; or for a combination of these. A statement of the period (not to exceed one year) for which the determination and findings will be effective will be included.

(c) *Sample format.*

DETERMINATION AND FINDINGS

Decision To Negotiate a Class of Contracts Under 10 U.S.C. 2304(a)(11)

FINDINGS

1. This procurement will consist of one or more contracts for the accomplishment of the Advanced Technology Program for Liquid Propellant Rocket Engines, except for such items of property or supplies for which formal advertising is feasible and practicable and will cover only procurement requirements that are provided for and further defined under the following project citation:

RA Engine Project:
Project Nr XX-XX-XXX-XXX.

2. The proposed class of contracts is for the Advanced Technology Program for Liquid Propellant Rocket Engines, which has as its goal the development of the necessary technology for reliable rocket engines that are needed for launch vehicles and for spacecraft, except for such items of property or supplies for which formal advertising is feasible and practicable. These procurements will involve study and analysis of problems and possible solutions relating to new and unproven concepts in the field of liquid propellant rocket engine systems, sub-systems, components, instruments, propellants, fabrication techniques, materials, storage and environmental factors, and aerothermochemistry and heat transfer properties. The procurements will also involve the experimental demonstration of the feasibility of new and unproven concepts and development of the technology required to bring new or unproven concepts into practical use.

3. The proposed procurements will require contractors to study, analyse, and investigate problems in the field of liquid propellant rocket engine systems, and, on the basis of experiments, demonstrate the feasibility of the new concepts which result from these studies.

4. Formal advertising is not feasible and practicable for these procurements because it is impossible to describe in precise detail, or by any definite drawings or specifications, the nature of the work to be performed under the proposed contracts; only the ultimate objective and the general scope of the work can be outlined.

DETERMINATION

On the basis of the above findings, I hereby determine that the proposed class of contracts is for experimental and research work and for the making of property for experiment, test, development, or research; or for a combination of these.

Upon the basis of the determination and findings above, I hereby decide that this class of contracts will be negotiated pursuant to 10 U.S.C. 2304(a)(11).

This class determination shall remain in effect until June 30, 1968.

DATE .....

§ 18–3.305–3 Individual contract under 10 U.S.C. 2304(a)(14). (See § 18–3.214).

(a) *Findings.* In the first paragraph, under "Findings," describe briefly and clearly the supplies or property being procured. Such description must include a statement that the supplies or property are technical or specialized in nature and must explain why they are so categorized. The second paragraph must establish either one or, preferably both of the following:

(1) That furnishing the supplies or property requires a substantial initial investment and that such investment (or a substantial part of it) has already been made by one source (or by the Government in such source), so that procurement by formal advertising would be likely to result in additional cost to the Government by reason of duplication of investment;

(2) That furnishing the supplies or property requires an extended period of preparation for manufacture, that one source has already made such preparation (or a large part of it), and that procurement by formal advertising would result in duplication of necessary preparation which would unduly delay the procurement of the supplies or property.

In the case of subparagraphs (1) of this paragraph, provide estimates of the original investment and the amount that would have to be duplicated at the expense of the Government. In the case of subparagraph (2) of this paragraph, show that such delay would be prejudicial to the mission of NASA. In both cases, use specific facts relating to the particular procurement, not unsupported statements of general applicability.

(b) *Determination.* Use the following Determination in its entirety, where applicable; otherwise delete the inapplicable portions. For example, the supplies might be either technical or specialized, in which case only one term would be used; or the procurement might involve substantial investment but not an extended period of preparation, in which case irrelevant language would be deleted and the remainder combined in one sentence.

DETERMINATION

On the basis of the above findings, I hereby determine that the proposed contract is for supplies or property of a technical and specialized nature requiring a substantial initial investment and an extended period of preparation for manufacture and that procurement by formal advertising:

(1) Would be likely to result in additional cost to the Government by reason of duplication of investment; and

(2) Would result in duplication of necessary preparation which would unduly delay the procurement.

§ 18–3.306 Procedure with respect to determinations and findings.

Determinations and findings for authority to negotiate required by §§ 18–3.202, 18–3.207, and 18–3.210 through 18–3.215 shall be signed by the appropriate official prior to issuance of a request for proposals or quotations. Any modifications of such determinations and findings subsequently found to be necessary will not require cancellation of the request for proposals or quotations, provided the determinations and findings as modified, support negotiation under any one of the authorities cited in §§ 18–3.201 through 18–3.217. Where the facts continue to support the negotiation but under an exception for which determination and findings is not required, cancellation of the determination and findings will not require cancellation of the request for proposals or quotations. Where a determination and findings is executed by the Administrator or Deputy Administrator, NASA, and is not used, the initiating activity should return the determination and findings to the Director of Procurement (Code KDR), explaining the circumstances why the determination is no longer required.

§ 18–3.306–1 Justification required.

When a determination for authority to negotiate is required to be made in NASA Headquarters pursuant to the provisions of Subparts 18–3.2 and 18–3.3 including authority to negotiate a class of contracts, an original and one copy of NASA Form 543, "Justification for Negotiation," shall be submitted with the proposed determination and findings. The original shall be returned to the installation with the determination and findings and the copy shall be retained for Headquarters files. However, when the determination required to be made in NASA Headquarters is for authority to negotiate procurements resulting from unsolicited proposals, in lieu of attaching to NASA Form 543, a "Justification for Noncompetitive Procurement," as required under Item 10 of the Form when only one source is to be solicited, a "Justification for Acceptance of Unsolicited Proposal," as required under Subpart 18–4.4 shall be attached to NASA Form 543. In addition, the unsolicited proposal control number assigned by the Office of University Affairs shall be set forth in Item 11 of the NASA Form 543.

§ 18–3.306–2 Preparation and submission.

(a) Procurement offices shall submit four copies of the proposed determination and findings with two copies of the NASA Form 543, "Justification for Negotiation," and two copies of any required procurement plan (see § 18–3.852–1) to the Director of Procurement for review and signature of appropriate authorities.

(b) When approval of the procurement plan by NASA Headquarters is required (see § 18–3.852–2), the submission of the determination and findings under § 18–3.306–1 shall be made concurrently with the submission of the procurement plan for approval by NASA Headquarters, with two copies of the procurement plan designated for use with the determination and findings.

§ 18–3.307 Filing of determinations and findings.

A copy of each determination and findings shall be filed with the contract to which it applies. Each determination and findings made pursuant to the authority of sections 2304(a)(11) through (16); 2306(c), 2306(f) and 2307(c) of Title 10 U.S.C. shall be retained in the files of the NASA installation concerned for a period of 6 years following the date of each respective determination.

§ 18–3.308 Retention of data with respect to negotiation.

In each case where a purchase or contract is negotiated except under §§ 18–3.202 to 18–3.206 inclusive, data with respect to the negotiation shall be preserved in the files of the NASA installation concerned for a period of 6 years following final payment on such contract. With respect to the retention of data to support small purchases, see § 18–3.603–2(c).

Subpart 18–3.4—Types of Contracts

§ 18–3.400 Scope of subpart.

This subpart (a) describes and defines the types of contracts approved for procurement by negotiation, (b) defines the areas of applicability in which each type of contract is appropriate for use, (c) sets forth considerations and policies governing the choice of type of contract, and (d) imposes conditions on the use of certain of the available types of contracts.

§ 18–3.401 Types of contracts.

(a) To provide the flexibility needed in the purchase of a large variety and volume of complex equipment, supplies and services, including research and development, a wide selection of types of contracts is available to the contracting parties. The respective contract types vary as to (1) the degree and timing of responsibility assumed by the contractor for the costs of performance, and (2) the amount and type of profit incentive offered the contractor to achieve or exceed specified standards or goals. With regard to degree of cost responsibility, the various types of contracts may be arranged in order of decreasing contractor responsibility for the costs of performance. At one end is the firm fixed-price contract under which the parties agree that the contractor assumes full responsibility in the form of profits or losses, for all costs under or over the firm fixed-price. At the other end of this range is the cost-plus-a-fixed-fee contract where profit, rather than price, is fixed and the contractor's cost responsibility is therefore minimal. In between are the various incentive contracts which provide for varying degrees of contractor cost responsibility, depending upon the degree of uncertainty involved in contract performance.

(b) Pursuant to the authority of 10 U.S.C. 2306, a contract negotiated under this Part 18–3 may be of any type or combination of types described herein which will promote the best interests of the Government, subject to the restrictions described in this subpart. Types of contracts not described herein shall not be used, unless pursuant to a deviation under § 18–1.109. The cost-plus-a-percentage-of-cost system of contracting shall not be used. Accordingly, all prime contracts (including letter contracts) on other than a firm fixed-price basis shall prohibit cost-plus-a-percentage-of-cost subcontracts by an appropriate clause.

§ 18–3.402 Basic principles for use of contract types.

(a) *General.* (1) Profit, generally, is the basic motive of business enterprise. Both the Government and its contractors should be concerned with harnessing this motive to work for the truly effective and economical contract performance required in the national interest. To this end, the parties should seek to negotiate and use the contract type best calculated to stimulate outstanding performance. The objective should be to insure that outstandingly effective and economical performance is met by high profits, mediocre performance by mediocre profits, and poor performance by low profits or losses. The proper application of these objectives on a contract by contract basis should normally result in a range of profit rates.

(2) Success in harnessing the profit motive begins with the negotiation of sound performance goals and standards. This objective is met if the contractor either benefits or loses in relation to achieving or failing to achieve realistic targets. Where award is based on effective price competition, there is reasonable assurance that the contract price represents a realistic pricing standard, including a profit factor which reflects an appropriate return to the contractor for the financial risk assumed in undertaking performance at the competitive price. In the absence of competitive forces, however, the contract type selected should provide for a profit factor that will tie profits to the contractor's efficiency in controlling costs and meeting desired standards of performance, reliability, quality, and delivery. Therefore, in noncompetitive situations, the degree to which available cost estimates are realistic should be carefully considered in determining which type of contract should be selected and how it should be used—especially where the contractor is to assume substantial cost responsibility. If estimated costs are negotiated on the basis of a full consideration of all significant cost or pricing data that are reasonably available at the time of negotiation, a contract type providing a high profit potential and concomitant contract risks may be entirely appropriate even though there is a possibility that actual costs will vary widely from the estimate.

(3) The policies in subparagraphs (1) and (2) of this paragraph require that the contractor assume a reasonable degree of cost responsibility as early in contract performance as is possible. This can be achieved only through vigorous contract administration and effort on the part of both parties to assure timely pricing. Particularly in fixed-price type contracts providing for price revisions, delays in pricing actions by either party may distort the type of contract which has been agreed upon, and such delays must be avoided.

(4) Where a contract type providing for a reasonable degree of contractor cost responsibility cannot be negotiated on a timely basis, due to the contractor's unwillingness to assume reasonable risk, profits should be negotiated so as to reflect this fact (see § 18–3.808).

(b) *Preferred contract types.* (1) The firm fixed-price contract is the most preferred type because the contractor accepts full cost responsibility, and the relationship between cost control and profit dollars is established at the outset of the contract. Accordingly, whenever a reasonable basis for firm pricing exists (see § 18–3.404–2), the firm fixed-price contract shall be used, because its use under these circumstances will provide the contractor with a maximum profit incentive to control the costs of performance. Similarly, a profit incentive to control costs can be achieved through use of the fixed-price incentive contract, and to a lesser degree, the cost-plus-incentive-fee contract, where appropriate target costs and incentive arrangements can be negotiated (see §§ 18–3.404–4 and 18–3.405–4).

(2) In many procurement situations objectives other than cost control, for example, performance and time goals in the case of development projects, may also be significant. Such objectives may be (i) performance with a view toward a better or more reliable product; (ii) delivery when it is necessary to obtain supplies or services with the utmost speed to meet operational needs; or (iii) a combination of any of the objectives of cost, performance, and delivery (see § 18–3.407). A contractual arrangement can be used to provide incentive to obtain these objectives in addition to effective cost control. Thus, by providing for increased profit for exceeding predetermined target levels and decreased profit for failing to meet target levels, an additional incentive is created for maximum effort on the part of the contractor to accomplish the desired objectives. When additional objectives are made a part of the various types of incentive contracts described in this Subpart 18–3.4 (§§ 18–3.404–4 and 18–3.405–4), particular care must be taken by the contracting officer to maintain an appropriate balance between the various incentives, by weighting incentive objectives to apportion the total incentive profits or fee in accordance with the emphasis desired by, and maximum benefit to, the Government. Without proper balancing of the incentive objectives, the Government may receive at unwarranted expense, a product of greater quality than desired or delivery before needed. Additional guidance on the selection, approval and administration of incentive contract provisions is set forth in § 18–3.450.

§ 18–3.403 Negotiation of contract type.

(a) *General.* The selection of contract type is generally a matter for negotiation and requires the exercise of judgment. Type of contract and pricing are interrelated and should be considered together in negotiation in accordance with § 18–3.803. Because the type of contract affects the resulting price to the Government, use of an appropriate type is of primary importance in obtaining fair and reasonable prices. Each contract file shall include documentation to show why the particular contract type was used, except for the following:

(1) Small purchases (Subpart 18–3.6);

(2) Repetitive types of procurement usually accomplished on a firm fixed-price basis, such as subsistence procurement; or

(3) Awards made on the set-aside portion of formally advertised procurements partially set aside for either small business, labor surplus or disaster areas.

Although no absolute rules can be laid down, there are many factors which should be considered in the use of an appropriate type of contract, including those which follow:

(1) *Price analysis.* See § 18–3.807–2(b). Price analysis may provide a basis for selection of contract type. The degree to which price analysis can provide a realistic pricing standard should be carefully considered, even where there may not be full and free competition.

(2) *The cost estimate.* In the absence of effective price competition and where price analysis is not sufficient, the cost estimates of the offeror and of the Government are the bases for negotiation of many pricing arrangements. As a minimum, the uncertainties involved in performing at the cost estimated, and their possible impact on costs, must be identified and evaluated so that a pricing arrangement can be negotiated which imposes a reasonable degree of cost responsibility upon the contractor. The following are some of the considerations which may influence the estimate and hence, the selection of contract type—

(i) Type and complexity of the item;

(ii) Stability of design, which in turn may influence such subordinate considerations as the adequacy and firmness of specifications, and the availability of relevant historical pricing data and prior production experience;

(iii) Prospective period of contract performance and length of production run at the time of negotiation;

(iv) Extent and nature of subcontracting contemplated; and

(v) Adequacy of the contractor's estimating system.

(3) *Urgency of the requirement.* In certain procurements the best interests of the Government may dictate that the urgency of the requirement be a primary consideration in selection of contract type.

(4) *Technical capability and financial responsibility of the contractor.*

(5) *Adequacy of the contractor's accounting system.* Before reaching agreement on price and contract type, determination should be made that the contractor's accounting system will permit timely development of all necessary cost data in the form required by the specific contract type contemplated. This may be particularly critical where the contract type requires revision of price while performance is in progress, or where a cost-reimbursement type of contract is being considered and all current or past experience with the contractor has been on a fixed-price basis (see § 18–3.809).

(6) *Other concurrent contracts.* If performance under a proposed procurement involves operations which concurrently are required in performance of other work, the nature of the pricing arrangements on the other work may be important in selecting the contract type for the proposed procurement. This factor may not be so important where close controls exist that will assure proper allocation of costs.

(b) *Research.* In the majority of research programs, including preliminary explorations and studies, the work to be performed cannot be described precisely. Hence, the negotiation of cost-plus-a-fixed-fee or cost-sharing contracts frequently is necessary. However, where the level of contractor effort desired can be identified and agreed upon in advance of performance, negotiation of a firm fixed-price contract should be considered.

(c) *Development and test.* Where possible, a final commitment to undertake specific product development and test should be avoided until preliminary exploration and studies have indicated a high degree of probability that the development is feasible and the Government generally has determined both its minimum requirements for product performance and schedule completion and its desired performance and schedule completion objectives. The precision with which the performance objectives can be defined will largely determine the type of contract employed, with firm-fixed-price contracts receiving first consideration. In all major system developments, and in other development programs where use of cost and performance incentives are considered desirable and administratively practicable, fixed-price-incentive and cost-plus-incentive-fee contracts are to be considered in that order of preference. The solicitation should describe the Government's minimum requirements for product performance and schedule completion, its desired performance and schedule completion objectives, and the type of contract contemplated. The Government's minimum requirements for product performance and schedule completion generally should not be considered subject to negotiation. The solicitation should emphasize the factors for which evaluation information is essential to the Government's rating of the proposal and those factors which are considered most important. When incentive contracts are to be used, contractors shall be required to submit targets and incentive sharing arrangements for meeting or surpassing the Government's requirements for performance and for schedule completion, together with an estimate of the cost thereof. The targets proposed by each offeror, the estimated cost thereof, and the sharing arrangements proposed should, to the extent practical, be considered by the Government in the contractor selection process. When this approach to contractor selection has been used, the resulting development program should be performed under an incentive contract which includes performance, schedule completion, and cost targets, the requisite test procedures by which attainment of performance targets will be measured, and provisions for varying profits to the extent targets are or are not met. In order to provide maximum incentive, the swing of profit variation should in each case be as wide as practical (see § 18–3.405–4(b)). The introduction of incentives into development is of such compelling importance that, to the extent practical, firms not willing to negotiate appropriate incentive provisions may be excluded from consideration for the award of development contracts.

§ 18–3.404 Fixed-price contracts.

§ 18–3.404–1 General.

Fixed-price contracts are of several types so designed as to facilitate proper pricing under varying circumstances. The fixed-price type contracts provide for a firm price, or under appropriate circumstances may provide for an adjustable price, for the supplies or services which are being procured. In providing for an adjustable price, the contract may fix a ceiling price, target price (including target cost), or minimum price. Unless otherwise provided in the contract, any such ceiling, target, or minimum price is subject to adjustment only if required by the operation of any contract clause which provides for equitable adjustment, escalation, or other revision of the contract price upon the occurrence of an event or a contingency.

§ 18–3.404–2 Firm fixed-price contract.

(a) *Description.* The firm fixed-price contract provides for a price which is not subject to any adjustment by reason of the cost experience of the contractor in the performance of the contract. This type of contract, when appropriately applied as set forth in paragraph (b) of this section, places maximum risk upon the contractor. Because the contractor assumes full responsibility, in the form of profits or losses, for all costs under or over the firm fixed price, he has a maximum profit incentive for effective cost control and contract performance. Use of the firm fixed-price contract imposes a minimum administrative burden on the contracting parties.

(b) *Application.* The firm fixed-price contract is suitable for use in procurements when reasonably definite design or performance specifications are available and whenever fair and reasonable prices can be established at the outset, such as where:

(1) Adequate competition has made initial proposals effective;

(2) Prior purchases of the same or similar supplies or services under competitive conditions or supported by valid cost or pricing data provide reasonable price comparisons;

(3) Cost or pricing information is available permitting the development of realistic estimates of the probable costs of performance;

(4) The uncertainties involved in contract performance can be identified and reasonable estimates of their possible impact on costs made, and the contractor is willing to accept a firm fixed price at a level which represents assumption of

a reasonable proportion of the risk involved; or

(5) Any other reasonable basis for pricing can be used consistent with the purpose of this type of contract.

The firm fixed-price contract is particularly suitable in the purchase of standard or modified commercial items, or aerospace items for which sound prices can be developed.

§ 18–3.404–3 Fixed-price contract with escalation.

(a) *Description.* The fixed-price contract with escalation provides for the upward and downward revision of the stated contract price upon the occurrence of certain contingencies which are specifically defined in the contract. The risks in a fixed-price contract are reduced by the inclusion of escalation provisions in which the parties agree to revise the stated price upon the happening of a prescribed contingency. Where escalation is agreed upon, upward adjustments shall be limited by the establishment of a reasonable ceiling, and provisions will be included for downward adjustments in those instances where the prices or rates fall below the base levels provided in the contract. In the establishment of the base levels from which escalation will operate, contingency allowances shall be eliminated from the base to be set forth in the contract to the extent that escalation is provided for any particular contingency. Generally, escalation provisions are of two broad types:

(1) Price escalation provides for adjustment of the contract price on the basis of increases or decreases from an agreed upon level in published or established prices of specific items or in price levels of the contract end items.

(2) Labor and material escalation provides for adjustment of the contract price on the basis of increases or decreases from agreed standards or indices in wage rates, specific material costs, or both.

(b) *Application.* Use of this type of contract is appropriate where serious doubt exists as to the stability of market and labor conditions which will exist during an extended period of production and where contingencies which would otherwise be included in a firm fixed-price contract are identifiable and can be covered separately by escalation. Its usefulness is limited by the difficulties inherent in its administration. To the extent possible, escalation should be restricted to industry-wide contingencies, and labor and material escalation should be limited to contingencies beyond the normal control of the contractor.

§ 18–3.404–4 Fixed-price incentive contracts.

(a) *Description.*—(1) *General.* The fixed-price incentive contract is a fixed-price type contract with provision for adjustment of profit and establishment of the final contract price by a formula based on the relationship which final negotiated total cost bears to total target costs.

(2) *Firm target.* Under this type of incentive contract there is negotiated at the outset a target cost, a target profit, a price ceiling (but not a profit ceiling or floor), and a formula for establishing final profit and price. After performance of the contract, the final cost is negotiated and the final contract price is then established in accordance with the formula. Where the final cost is less than target cost, application of the formula results in a final profit greater than the target profit; conversely, where final cost is more than target cost, application of the formula results in a final profit less than the target profit, or even a net loss. Thus, within the price ceiling, the formula provides for the Government and the contractor to share the responsibility for costs greater or less than those originally estimated, as determined by a comparison of negotiated final cost with target cost. Because the profit resulting from application of the formula is in inverse relationship to costs, the formula provides the contractor in advance with a calculable profit incentive to control costs. To provide an incentive consistent with the circumstances, the formula should reflect the relative risks involved in contract performance. Thus, it is appropriate in certain procurements to establish a formula which provides for contractor assumption of a considerable or major share of total cost responsibility. In such circumstances, when a major share of total cost responsibility is assumed by the contractor, every consideration will be given to establishing target profits which reflect assumption of such responsibility.

(3) *Successive targets.* Under this type of incentive contract, there is negotiated at the outset an initial target cost, an initial target profit, a price ceiling, a formula for fixing the firm target profit, and a production point at which the formula will be applied. Generally, the production point will be prior to delivery or shop completion of the first item. This formula does not apply for the life of the contract but simply is used to fix the firm target profit for the contract. The initial formula shall also provide for a ceiling and floor on the firm target profit. To provide an incentive consistent with the circumstances, the formula for fixing the firm target profit should reflect the relative risk involved in establishing an incentive arrangement where cost and pricing information were not sufficient to permit the negotiation of firm targets at the outset (see paragraph (b)(3) of this section). Thus it normally will not provide for as great a degree of contractor cost responsibility as would a formula for establishing final profit and price. When the production point for applying the formula is reached, the firm target cost is then negotiated, consideration being given to experienced cost and all other pertinent factors, and the firm target profit is automatically determined in accordance with the formula. At this point, two alternatives are possible. First, a firm fixed price may be negotiated using as a guide the firm target cost plus the firm target profit. Second, if use of the firm fixed price is determined to be inappropriate, a formula for establishing final profit and price may be negotiated, using the firm target profit and the firm target cost. As in the firm target type of contract described in paragraph (a)(2) of this section, the final cost is negotiated at the completion of the contract and the final contract price is then established in accordance with the formula for establishing final profit and price.

(4) *Billing price.* In either of the types of contract set forth in subparagraphs (2) and (3) of this paragraph, a billing price will be established as an interim basis for payment. This billing price may be adjusted within the ceiling limits, upon request of either party to the contract, when it becomes apparent that final negotiated costs will be substantially different from the target cost.

(b) *Application.* (1) Fixed-price incentive contracts are appropriate for use when design, specifications and performance requirements are reasonably firm, and item performance levels and scheduled deliveries are known to be attainable without extensive research and development effort or advancement of the state of the art, but cost and production experience are sufficient for the establishment of reasonable firm fixed prices, and the supplies or services being procured are of such a nature that assumption of a degree of cost responsibility by the contractor is likely to provide him with a positive profit incentive for effective cost control and contract performance. It may also be appropriate to negotiate additional incentive provisions covering performance levels and more timely delivery (see § 18–3.407–2). Contract performance requirements must be such that there is reasonable opportunity for the incentive provisions to have a meaningful impact on the manner in which the contractor manages the work.

(2) The firm target type of incentive contract, described in paragraph (a)(2) of this section, is appropriate for use whenever a firm target and a formula for establishing final profit and price can be negotiated at the outset which will provide a fair and reasonable incentive.

(3) The successive targets type of incentive contract, described in paragraph (a)(3) of this section, is appropriate for use whenever available cost and pricing information is not sufficient to permit the negotiation of realistic firm targets at the outset. However, enough information should be available to permit negotiation of initial targets, and there should be reasonable assurance that additional reliable information will be available at an early point in the performance of the contract so as to permit negotiation of either a firm fixed price, or firm targets and a formula for establishing final profit and price, which will provide a fair and reasonable incentive. The additional information need not in all cases come from experience under the contract itself, but may be drawn from experience on

any other contracts for the same or similar items.

(c) *Limitations.* Fixed-price incentive contracts shall not be used unless the contractor's accounting system is adequate for price revision purposes and permits satisfactory application of the profit and price adjustment formulas. In no case should such contracts be used where (1) cost of pricing information adequate for firm targets is not available at the time of initial contract negotiation or at a very early point in performance, or (2) the sole or principal purpose is to shift substantially all cost responsibility to the Government. In no case shall the firm target profit or the formula for final profit and price be established prior to the negotiation of the firm target cost. Neither type of fixed-price incentive contract shall be used unless a determination has been made, in accordance with the requirements of Subpart 18–3.3 that:

(i) Such method of contracting is likely to be less costly than other methods, or

(ii) It is impractical to secure supplies or services of the kind or quality required without the use of such type of contract.

Additional guidance on the selection, approval and administration of incentive contract provisions is set forth in § 18–3.450.

§ 18–3.404–5 Prospective price redetermination at a stated time or times during performance.

(a) *Description.* This type of contract provides for a firm fixed price for an initial period of contract deliveries or performance and for prospective price redetermination either upward or downward at a stated time or times during the performance of the contract. It also may provide for a price ceiling, where appropriate. Once established, ceiling prices are subject to adjustment only by reason of the operation of other contract clauses (see § 18–3.404–1).

(b) *Application.* This type of contract is appropriate in procurements calling for quantity production or services where it is possible to establish fair and reasonable firm fixed prices for an initial period, but not for subsequent periods of contract perfofmance. This initial period should be the longest period for which it is possible to establish fair and reasonable firm fixed prices at the time of original negotiation. The length of the prospective pricing periods should depend on the circumstances of each case and should generally be at least 12 months each. Ceiling prices, where appropriate, should be based on the evaluation of the uncertainties involved in contract performance, and their possible impact on cost, and should be negotiated at a level which represents contractor assumption of a reasonable degree of risk.

(c) *Limitations.* This type of contract shall not be used unless:

(1) It has been established through negotiations that a firm fixed-price contract does not fulfill the requirements established by the conditions surrounding the procurement;

(2) The contractor's accounting system is adequate for price redetermination purposes;

(3) The prospective pricing period can be made to conform with the operation of the contractor's accounting system; and

(4) Reasonable assurance exists that price redetermination action will be taken promptly at the time or times specified.

§ 18–3.404–7 Retroactive price redetermination after completion.

(a) *Description.* This type of contract provides for a ceiling price and retroactive price redetermination after completion of the contract. The redetermined price should be negotiated so as to give weight to the management effectiveness and ingenuity exhibited by the contractor during performance, and the basis for such negotiation should be fully discussed with the contractor when this type of contract is negotiated. Because the price is redetermined on a completely retroactive basis, this contract type (except for the price ceiling) does not provide the contractor with a calculable incentive for effective cost control. Once established, the ceiling price is subject to adjustment only if required by the operation of other contract clauses (see § 18–3.404–1).

(b) *Application.* This type of contract is appropriate in procurements where it is established at the time of negotiation that a fair and reasonable firm fixed price cannot be negotiated and the amount involved is so small or the time for performance so short that use of any other type of contract is impracticable. Even in these situations, however, it should be used only after negotiation of a billing price as fair and reasonable as the circumstances of the particular procurement permit. Based on an evaluation of the circumstances involved in contract performance, and their possible impact on cost, the ceiling price should be negotiated at a level which represents contractor assumption of a reasonable degree of risk.

(c) *Limitations.* This type of contract shall not be used unless the procurement is for research and development at an estimated cost of $100,000 or less, and

(1) The contractor's accounting system is adequate for price redetermination purposes;

(2) Reasonable assurance exists that price redetermination action will be taken promptly at the time specified;

(3) A ceiling price is established; and

(4) Written approval has been received from the procurement officer.

§ 18–3.405 Cost-reimbursement type contracts.

§ 18–3.405–1 General.

(a) *Description.* The cost-reimbursement type of contract provides for payment to the contractor of allowable costs incurred in the performance of the contract, to the extent prescribed in the contract. This type of contract establishes an estimate of total cost for the purpose of (1) obligation of funds, and (2) establishing a ceiling which the contractor may not exceed (except at his own risk) without prior approval or subsequent ratification of the contracting officer.

(b) *Application.* The cost-reimbursement type contract is suitable for use only when the uncertainties involved in contract performance are of such magnitude that cost of performance cannot be estimated with sufficient reasonableness to permit use of any type of fixed-price contract. In addition, it is essential that (1) the contractor's cost accounting system is adequate for the determination of costs applicable to the contract and (2) appropriate surveillance by Government personnel during performance will give reasonable assurance that inefficient or wasteful methods are not being used. While cost-reimbursement contracts are particularly useful for procurements involving substantial amounts, e.g., estimated cost of $100,000 or more, the parties may agree in a given case to use this type of contract to cover transactions in which the estimated costs are less than $100,000.

(c) *Limitations.* The cost-reimbursement type contract may be used only after a determination, in accordance with the requirements of Subpart 18–3.3, that—

(1) Such method of contracting is likely to be less costly than other methods, or

(2) It is impractical to secure supplies or services of the kind or quality required without the use of such type of contract.

§ 18–3.405–2 Cost contract.

(a) *Description.* The cost contract is a cost-reimbursement type contract under which the contractor receives no fee.

(b) *Application.* The following are illustrative situations in which the use of this type of contract may be appropriate:

(1) Research and development work, particularly with nonprofit educational institutions or other nonprofit organizations; and

(2) Facilities contracts.

§ 18–3.405–3 Cost sharing contract.

(a) *Definition.* A cost sharing contract is a type of contract, used for research and development projects jointly sponsored by the Government and the contractor, under which the contractor receives no fee and is reimbursed only for an agreed portion of allowable costs.

(b) *Policy.* (1) It is the policy of NASA to utilize this form of contract only in research and development projects sponsored jointly by the Government and the contractor when it is probable that the contractor will receive contribution in the form of present or future commercial benefits, except in the case of contracts with nonprofit institutions and foreign governments. It is the responsibility of

the procurement officer to develop evidence to assure that commercial benefits may reasonably be expected to result, such as: increased technical knowledge useful in commercial operations; adding to technical know-how and training to employees; opportunity to benefit through patent rights; and use of background knowledge in future production contracts.

(2) The application of cost sharing principles and the negotiation of cost sharing provisions are in no way precluded by the above restriction stated in subparagraph (1) of this paragraph when, for example: incentive provisions in a contract include an arrangement whereby the contractor's profit or fee is decreased if costs exceed a stipulated target amount; costs are to be incurred by a contractor in the performance of a contract which are in excess of a mutually agreed upon ceiling cost; in a CPFF contract cost overrun situation, or in any situation where such cost sharing principles can be applied and negotiated without violating the integrity of the competitive procurement processes.

(3) Competition in procurement and support of the Small Business Program are two prime objectives of NASA. In consonance with these objectives, awards of cost sharing contracts should not be made solely on the basis of ability or willingness to cost share but should be made primarily on the basis of the contractor's competence only after adequate competition among large and small business.

(4) To ensure against any implication of inviting or inducing contractors to cost share, installations will avoid formal or informal statements wherein a specified amounts is announced as available for a development when the request for proposals clearly indicates a scope of work which may require a larger amount of funds than the announced available funding. Additionally, prospects of preferred consideration for award of a possible future contract should not be offered as an inducement to contractors to enter into cost sharing arrangements.

(c) *Approval.* Cost sharing contracts will not be used unless the decision to use a cost sharing contract has been individually approved by the Procurement Officer.

§ 18–3.405–4 Cost-plus-incentive-fee contract.

(a) *Description.* The cost-plus-incentive-fee contract is a cost-reimbursement type contract with provision for a fee which is adjusted by formula in accordance with the relationship which total allowable costs bear to target cost. Under this type of contract, there is negotiated initially a target cost, a target fee, a minimum and maximum fee, and a fee adjustment formula. After performance of the contract, the fee payable to the contractor is determined in accordance with the formula. The formula provides, within limits, for increases in fee above target fee when total allowable costs are less than target costs, and decreases in fee below target fee when total allowable costs exceed target costs. The provision for increase or decrease in the fee is designed to provide an incentive for maximum effort on the part of the contractor to manage the contract effectively.

(b) *Application.* The cost-plus-incentive-fee contract is suitable for use primarily for development and test when a cost-reimbursement type of contract is found necessary in accordance with § 18–3.405–1(b), and when a target and a fee adjustment formula can be negotiated which are likely to provide the contractor with a positive profit incentive for effective management. In particular, where it is highly probable that the development is feasible and the Government generally has determined its desired performance objectives, the cost-plus-incentive-fee contract should be used in conjunction with performance incentives in the development of major systems, and in other development programs where use of the cost and performance incentive approach is considered both desirable and administratively practical (see §§ 18–3.403(c) and 18–3.407–2(b)). Range of fee and the fee adjustment formula should be negotiated so as to give appropriate weight to basic procurement objectives. For example, in an initial product development contract, it may be appropriate to negotiate a cost-plus-incentive-fee contract providing for relatively small increases or decreases in fee tied to the cost incentive feature, balanced by the inclusion of performance incentive provisions providing for significant upward or downward fee adjustment as an incentive for the contractor to meet or surpass negotiated performance targets. Conversely, in subsequent development and test contracts, it may be more appropriate to negotiate an incentive formula where the opportunity to earn additional fee is based primarily on the contractor's success in controlling costs. With regard to the cost incentive provisions of a contract, the minimum and maximum fees, and the fee adjustment formula, should be negotiated so as to provide an incentive which will be effective over variations in costs throughout the full range of reasonably foreseeable variations from target cost. Whenever this type of contract, with or without the inclusion of performance incentives, is negotiated so as to provide incentive up to a high maximum fee, the contract also shall provide for a low minimum fee, which may even be a "zero" fee or, in rare cases, a "negative" fee.

§ 18–3.405–5 Cost-plus-a-fixed-fee contract.

(a) *Description.* The cost-plus-a-fixed-fee contract is a cost reimbursment type of contract which provides for the payment of a fixed fee to the contractor. The fixed fee once negotiated does not vary with actual cost, but may be adjusted as a result of any subsequent changes in the work or services to be performed under the contract. Because the fixed fee does not vary in relation to the contractor's ability to control costs, the cost-plus-a-fixed-fee contract provides the contractor with only a minimum incentive for effective management control of costs.

(b) *Application.* The cost-plus-a-fixed-fee contract is suitable for use when:

(1) A cost-reimbursement type of contract is found necessary in accordance with § 18–3.405–1(b);

(2) The parties agree that the contract should be fee bearing;

(3) The contract is for the performance of research, or preliminary exploration or study, where the level of effort required is unknown; or

(4) The contract is for development and test where the use of a CPIF is not practical.

(c) *Limitations.* (1) This type of contract normally should not be used in the development of space systems and equipment, once preliminary exploration and studies have indicated a high degree of probability that the development is feasible and the Government generally has determined its desired performance objectives and schedule of completion (see § 18–3.405–4).

(2) 10 U.S.C. 2306(d) provides that in the case of a cost-plus-a-fixed fee contract the fee shall not exceed ten percent (10%) of the estimated cost of the contract, exclusive of the fee, as determined by the Administrator at the time of entering into such contract (except that a fee not in excess of fifteen percent (15%) of such estimated cost is authorized in any such contract for experimental, developmental, or research work and that a fee inclusive of the contractor's cost and not in excess of six percent (6%) of the estimated cost, exclusive of fees, as determined by the Administrator at the time of entering into the contract, of the project to which such fee is applicable is authorized in contracts for architectural or engineering services relating to any public works or utility projects).

(3) In addition to the statutory limitations, fees under cost-plus-a-fixed-fee type contracts, except for Architect-Engineer contracts, are subject to the administrative limitations set forth below:

(i) Ten percent of the estimated cost, exclusive of fee, of any cost-plus-a-fixed-fee contract for experimental, developmental, or research work; or

(ii) Seven percent of the estimated cost, exclusive of fee, of any other cost-plus-a-fixed-fee contract.

(4) Fixed-fees within the limitations imposed by 10 U.S.C. 2306(d) and in excess of those cited in subparagraph (3) of this paragraph will be submitted to the Director of Procurement for approval. The request for approval shall include a detailed justification setting forth the rationale supporting the proposed fee in terms of the factors prescribed in § 18–3.808–2.

(5) Pursuant to 10 U.S.C. 2311, authority to make the determinations of the estimated costs of a contract or project on which the allowable fee percentage is measured, has been delegated

to the contracting officer (see § 18–3.304(v)).

(6) The administrative limitations on subcontract fees are set forth in § 18–3.807–10(d).

(d) *Completion or term form.* The cost-plus-a-fixed-fee contract can be drawn in one of two basic forms, Completion or Term.

(1) The Completion form is one which describes the scope of work to be done as a clearly-defined task or job with a definite goal or target expressed and with a specific end-product required. This form of contract normally requires the contractor to complete and deliver the specified end-product (in certain instances, a final report of research accomplishing the goal or target) as a condition for payment of the entire fixed-fee established for the work and within the estimated cost if possible; however, in the event the work cannot be completed within the estimated cost, the Government can elect to require more work and effort from the contractor without increase in fee provided it increases the estimated cost.

(2) The Term form is one which describes the scope of work to be done in general terms and which obligates the contractor to devote a specified level of effort for a stated period of time for the conduct of research and development. Under this form, the fixed-fee is payable at the termination of the agreed period of time on certification of the contractor that he has exerted the level of effort specified in the contract in performing the work called for, and such performance is considered satisfactory by the Government. Renewals for further periods of performance are new procurement and involve new fee and cost arrangements.

(3) The Completion form of contract, because of differences in obligation assumed by the contractor, is to be preferred over the Term form whenever the work itself or specific milestones can be defined with sufficient precision to permit the development of estimates within which prospective contractors can reasonably be expected to complete the work. A milestone is a definable point in a program when certain objectives can be said to have been accomplished.

(4) In the case of research and exploratory development work, it is rarely possible to define the scope of work with the degree of precision necessary for contracting on a completion basis because of the nature of the work to be performed. Hence in such cases, the Term form of contract may be considered preferable in that it provides more flexibility for effective conduct of the research effort.

(5) In no event should the Term form of contract be used unless the contractor is obligated by the contract to provide a specific level-of-effort within a definite period of time.

§ 18–3.405–6 Cost-plus-award-fee contract.

(a) *Description.* The cost-plus-award-fee contract is a cost reimbursement type contract with incentive fee provision which includes:

(1) A target cost;

(2) A base fee commensurate with minimum acceptable performance;

(3) Criteria against which the contractor's performance will be evaluated;

(4) An additional adjustment to the base fee, not to exceed a stipulated maximum, which is awarded on the basis of the subjective evaluation by NASA of contractor performance; and

(5) Specific provision that the determination of fee adjustment shall not be subject to the contract article entitled "Disputes."

(b) *Application.* The cost-plus-award-fee contract is suitable for use when:

(1) A cost reimbursement type of contract is found necessary in accordance with § 18–3.405–1;

(2) The work to be performed is such that specific quantitative or objective measurement is not feasible and effective incentive arrangements cannot be devised on the basis of cost (§ 18–3.405–4), performance (§ 18–3.407–2) or schedule (§ 18–3.407–2);

(3) NASA procurement objectives will be advanced if the contractor is effectively motivated to exceptional performance; and

(4) Any added administrative effort and costs required to monitor and evaluate performance are justified by the benefits expected.

(c) *Considerations of concept.* The opportunity for increase in earned fees is intended to motivate the contractor to effectively manage the required work, to control costs, and to improve the timeliness, quality, and quantity of performance. Where cost is of primary concern to NASA, the contract may provide for a combination incentive fee—award fee arrangement by setting forth a cost-based incentive separately stated from the award fee arrangement, which would then be concentrated on performance aspects. The award fee should be earned by the contractor by exceptional performance, surpassing minimum acceptable levels and should be commensurate with the benefits accruing to NASA from the contractor's performance. The contract terms generally obligate the contractor to devote a specified level of effort for a stated period of time to satisfy the various areas of the scope of the work; it follows that the award of additional fee for exceptional performance in designated areas should be contingent upon an acceptable level of performance for all other contract requirements. Although the determination of the amount of award fee earned is a unilateral one based on subjective evaluations, the decision may be aided by such quantifying devices as adjectival ratings, point systems, or percentages of achievement. Ordinarily, the award fee adjustments will be increases only, and contract arrangements for decrease adjustment of base fee (e.g., if certain criteria or levels of performance are not met) must be carefully scrutinized prior to approval for use. Such arrangement must provide that the contractor will be informed of the reasons for decrease in fee, and will be given specific opportunity to submit information in his behalf prior to decision by the official responsible for adjustment of fee.

(d) *Limitations.* (1) The cost-plus-award-fee contract shall not be used (i) in procurements in which all factors affected by the incentive (e.g., cost, delivery performance) can be measured or objectively evaluated, or (ii) where the contract amount, term of performance or the benefits expected of the incentive are insufficient to warrant the additional administrative effort or cost.

(2) The maximum fee, which is the total of base fee, award fee, and any other incentive fee payable under the contract, is subject to the administrative limitations in § 18–3.450(f).

(e) *NASA Incentive Contracting Guide (NPC 403).* Additional guidance on the negotiation and administration of cost-plus-award-fee contracts is contained in Part 7 of the NASA Incentive Contracting Guide (NPC 403).

§ 18–3.406 Other types of contracts.

§ 18–3.406–1 Time and materials contracts.

(a) *Description.* The time and materials type of contract provides for the procurement of supplies or services on the basis of (1) direct labor hours at specified fixed hourly rates (which rates include direct and indirect labor, overhead, and profit) and (2) material at cost. Material handling costs may be included in the charge for "material at cost," to the extent they are clearly excluded from any factor of the charge computed against direct labor hours. This type of contract does not afford the contractor with any positive profit incentive to control the cost of materials or to manage his labor force effectively.

(b) *Application.* The time and materials contract is used only where it is not possible at the time of placing the contract to estimate the extent or duration of the work or to anticipate costs with any reasonable degree of confidence. Particular care should be exercised in the use of this type of contract since its nature does not encourage effective management control. Thus it is essential that this type of contract be used only where provision is made for adequate controls, including appropriate surveillance by Government personnel during performance, to give reasonable assurance that inefficient or wasteful methods are not being used. This type of contract may be used in the procurement of (1) engineering and design services in connection with the production of supplies; (2) the engineering, design and manufacture of dies, jigs, fixtures, gauges, and special machine tools; (3) repair, maintenance or overhaul work; and (4) work to be performed in emergency situations.

(c) *Limitation.* Because this type of contract does not encourage effective cost control and requires almost constant Government surveillance, it may

be used only after determination that no other type of contract will suitably serve. This type of contract shall establish a ceiling price which the contractor exceeds at his own risk. The contracting officer shall document the contract file to show valid reasons for any change in the ceiling and to support the amount of such change.

(d) *Optional method of pricing material.* When the nature of the work to be performed requires the contractor to furnish material which is regularly sold to the general public in the normal course of business by the contractor, the contract may provide for charging material on a basis other than at cost if:

(1) The total estimated contract price does not exceed $25,000 or the estimated price of material so charged does not exceed twenty percent (20%) of the estimated contract price;

(2) The material to be so charged is identified in the contract;

(3) No element of profit on material so charged is included in the profit in the fixed hourly labor rates; and

(4) The contract provides that the price to be paid for such material shall be on the basis of an established catalog or list price, in effect when material is furnished, less all applicable discounts to the Government: *Provided*, That in no event shall such price be in excess of the contractor's sales price to his most favored customer for the same item in like quantity, or the current market price, whichever is lower.

§ 18–3.406–2 Labor-hour contract.

(a) *Description.* The labor-hour type of contract is a variant of the time and materials type contract differing only in that materials are not supplied by the contractor.

(b) *Application.* See § 18–3.406–1(b).

(c) *Limitations.* See § 18–3.406–1(c).

§ 18–3.407 Additional incentives.

§ 18–3.407–1 General.

In addition to the profit incentives to control costs, inherent in many of the contract types, and combinations thereof, described in § 18–3.404 through § 18–3.406, there are other means of providing profit incentives to contractors, which are described in § 18–3.407–2, to obtain extra management attention and effort. Increases in profits or fees resulting from the use of incentive provisions are made only because cost, performance, or other contractual goals or standards have been surpassed.

§ 18–3.407–2 Contracts with performance incentives.

(a) *Description.* A contract with a performance incentive is one which incorporates an incentive to the contractor to surpass stated performance targets by providing for increases in the fee or profit to the extent that such targets are surpassed and for decreases to the extent that such targets are not met. Salient features and considerations in the use of this type of contract are as follows:

(1) "Performance", as used in this § 18–3.407–2, refers not only to the performance of the article being procured, but to the performance of the contractor as well. Performance which is the minimum which the Government will accept shall be mandatory under the terms of the Completion form contract and shall warrant only the minimum profit or fee related thereto. Performance which meets the stated targets will warrant the "target" profit or fee. Performance which surpasses these targets will be rewarded by additional profit or fee. The incentive feature (providing for increases or decreases, as appropriate) is applied to performance targets rather than performance requirements.

(2) The incentive, when applied to the product, should relate to specific performance characteristics, such as thrust of an engine, maneuverability of a vehicle, and fuel economy. However, high overall performance of the end item is the primary objective of such contracts. Accordingly, the incentive feature should reflect a balancing of the various characteristics which together account for overall performance so that no one characteristic will be exaggerated to the detriment of the end item as a whole. When applied to the performance of the contractor, the incentive should relate to specific performance areas or milestones, such as delivery or test schedules, quality controls, maintenance requirements, and reliability standards.

(3) Since performance tests generally are essential in order to determine the degree of attainment of performance targets, the contract must be as specific as possible in establishing test criteria, such as conditions of testing, precision of instrumentation, and interpretation of test data.

(4) It is essential that there be explicit agreement between the Government and the contractor as to the effect on performance of contract changes (e.g., pursuant to the Changes clause).

(5) Care must be exercised, in establishing performance criteria, to give recognition to the fact that the contractor should not be rewarded or penalized for attainments of Government-furnished components.

(6) In establishing incentives in connection with delivery schedules, it is important to determine the Government's primary objectives in a given contract. In some instances, earliest possible delivery is of paramount importance. In others, early quantity production is essential. One the other hand, it may be that maintaining an established delivery schedule is all that is desired, and that a bettering of such schedule may disrupt continuity of production or run counter to funding limitations.

(b) *Application.* Contracts with performance incentives are suitable for use in procurements where it is desired to provide the contractor with an incentive in the form of financial reward for surpassing stated performance targets, counterbalanced by a penalty in the form of decreased profit or fee for failure to achieve such targets. Performance incentives are particularly appropriate for inclusion in contracts for major equipment, both in development when desired performance objectives are known and the fabrication of prototypes for test and evaluation is required, and in production where there is potential for improved performance that would be highly desirable to the Government. Effort always should be made in these procurement situations to include a performance incentive in the contract. Performance incentives present complex problems in contract administration and should be negotiated and administered by contracting officers with the full cooperation of Government engineering and pricing specialists.

(c) *Limitations.* Performance incentives, when related to the performance of the product, may result in increased costs and shall always be coupled with a balancing of range of fee or profit on the cost and performance aspects, negotiated so as to give appropriate weight to basic procurement objectives. Where incentives relating to the performance of the product are included in a contract, and earliest possible delivery is of considerable importance to the Government, the contract normally should include a performance incentive relating to time of performance or for expedited delivery schedules.

§ 18–3.408 Letter contract.

(a) *Definition.* A letter contract is a written preliminary contractual instrument which authorizes immediate commencement of work or services.

(b) *Policy.* The policy of the National Aeronautics and Space Administration is not to issue letter contracts. Exceptions to this policy will be permitted only in those cases where all matters of a substantive nature, such as statements of work, delivery schedules, general and special clauses, and estimated costs and fee, have been resolved and agreed upon.

(c) *Application.* A letter contract may be entered into only when: (1) The urgency of the requirement necessitates that the contractor be given a binding commitment so that work can commence immediately, (2) preparation of a definitive contract in sufficient time to meet mission requirements is not possible, and (3) prior approval of the Deputy Administrator has been obtained (see § 18–50.105(c)).

(d) *Limitations.* (1) A letter contract shall not be entered into without competition when competition is practicable;

(2) A letter contract shall be superseded by a definitive contract at the earliest practicable date; and

(3) The maximum fund liability of the Government stated in the letter contract will be limited to only that amount determined essential to cover the contractor's requirements for funds prior to definitization. In no event shall total funds placed on a letter contract exceed fifty percent (50%) of the estimated total amount of the definitive contract.

(e) *Information to be furnished when requesting authority to issue a letter contract.* Request for authority to issue a letter contract shall be forwarded by the Director of the field installation, with his concurrence in the request, to the cognizant Program Director for submission to the Deputy Administrator via the Director of Procurement and shall include the following:

(1) Name and address of proposed contractor;

(2) Location where contract is to be performed;

(3) Contract number, including modification number if applicable;

(4) Brief description of the work or services to be performed;

(5) Performance or delivery schedule;

(6) Amount of letter contract;

(7) Estimated total amount of definitive contract;

(8) Type of definitive contract to be executed (fixed-price, cost-plus-incentive-fee, etc.);

(9) Statement that the definitive contract will contain all required clauses or that deviations therefrom have been approved;

(10) Statement by the contracting officer that all matters of a substantive nature have been resolved. This statement will be made a part of the Headquarters procurement file and must be received prior to the issuance of any approval to the requesting installation;

(11) Statement as to the necessity and advantage to the Government of the use of the proposed letter contract.

Promptly upon receipt of a request to issue a letter contract, the Program Director will obtain the concurrence or comments of the cognizant Institutional Director and forward the request with his recommendations to the Director of Procurement. The Director of Procurement will review the request, confer with the Program Director as necessary, and, if both he and the Program Director concur with the request, forward it to the Deputy Administrator for approval.

(f) *Approval for modifications to letter contracts.* Letter contracts shall not be modified to extend the period of performance or to increase the dollar amount without the prior approval of the Deputy Administrator. Requests for authority to issue such modifications to letter contracts shall be processed in the same manner as requests for authority to issue letter contracts (see paragraph (e) of this section) and shall include the following:

(1) Name and address of the contractor;

(2) Description of the work or services to be performed;

(3) Date originally approved;

(4) Date letter contract was executed; and

(5) Complete justification for the requested modification to include the reasons why the definitive contract cannot be executed without such amendment.

§ 18–3.409 Indefinite delivery type contracts.

One of the following indefinite delivery type contracts may be used for procurement where the exact time of delivery is not known at time of contracting.

(a) *Definite quantity contracts.*—(1) *Description.* This type of contract provides for a definite quantity of specified supplies or for the performance of specified services for a fixed period, with deliveries or performance at designated locations upon order. Depending on the situation, the contract may provide for (i) firm-fixed-prices, (ii) price escalation, or (iii) price redetermination.

(2) *Applicability.* This type of contract is particularly suitable for use where it is known in advance that a definite quantity of supplies or services will be required during a specified period and are regularly available or will be available after a short lead time. Advantages of this type of contract are that it permits stocks to be maintained at minimum levels and permits direct shipment to the user.

(b) *Requirements contract.*—(1) *Description.* This type of contract provides for filling all actual purchase requirements of specific supplies or services of designated activities during a specified contract period with deliveries to be scheduled by the timely placement of orders upon the contractor by activities designated either specifically or by class. Depending on the situation, the contract may provide for (i) firm fixed prices, (ii) price escalation, or (iii) price redetermination. An estimated total quantity is stated for the information of prospective contractors, which estimate should be as realistic as possible. The estimate may be obtained from the records of previous requirements and consumption, or by other means. Care should be used in writing and administering this type of contract to avoid imposition of an impossible burden on the contractor. Therefore, the contract shall state, where feasible, the maximum limit of the contractor's obligation to deliver and, in such event, shall also contain appropriate provision limiting the Government's obligation to order. When large individual orders or orders from more than one activity are anticipated, the contract may specify the maximum quantities which may be ordered under each individual order or during a specified period of time. Similarly, when small orders are anticipated, the contract may specify the minimum quantities to be ordered.

(2) *Applicability.* A requirements contract may be used for procurements where it is impossible to determine in advance the precise quantities of the supplies or services that will be needed by designated activities during a definite period of time. Advantages of this type of contract are:

(i) Flexibility with respect to both quantities and delivery scheduling;

(ii) Supplies or services need be ordered only after actual needs have materialized;

(iii) Where production lead time is involved, deliveries may be made more promptly because the contractor is usually willing to maintain limited stocks in view of the Government's commitment;

(iv) Price advantages or savings may be realized through combining several anticipated requirements into one quantity procurement; and

(v) It permits stocks to be maintained at minimum levels and allows direct shipment to the user.

Generally, the requirements contract is appropriate for use when the item of service is commercial or modified commercial in type and when a recurring need is anticipated.

(c) *Indefinite quantity contract.*—(1) *Description.* This type of contract provides for the furnishing of an indefinite quantity, within stated limits, of specific supplies or services, during a specified contract period, with deliveries to be scheduled by the timely placement of orders upon the contractor by activities designated either specifically or by class. Depending on the situation, the contract may provide for (i) firm fixed prices; (ii) price escalation; or (iii) price redetermination. The contract shall provide that during the contract period the Government shall order a stated minimum quantity of the supplies or services and that the contractor shall furnish such stated minimum and, if and as ordered, any additional quantities not exceeding a stated maximum which should be as realistic as possible. The maximum may be obtained from the records of previous requirements and consumption, or by other means. When large individual orders or orders from more than one activity are anticipated, the contract may specify the maximum quantities which may be ordered under each individual order or during a specified period of time. Similarly, when small orders are anticipated, the contract may specify the minimum quantities to be ordered.

(2) *Applicability.* An indefinite quantity contract may be used where it is impossible to determine in advance the precise quantities of the supplies or services that will be needed by designated activities during a definite period of time and it is not advisable for the Government to commit itself for more than a minimum quantity. Advantages of this type of contract are:

(i) Flexibility with respect to both quantities and delivery scheduling;

(ii) Supplies or services need be ordered only after actual needs have materialized;

(iii) The obligation of the Government is limited; and

(iv) It permits stocks to be maintained at minimum levels and allows direct shipment to the user.

The indefinite quantity contract should be used only when the item or service is commercial or modified commercial in type and when a recurring need is anticipated.

§ 18–3.410 Other types of agreements.

§ 18–3.410–1 Basic agreement.

(a) *Description.* A basic agreement is not a contract. It is a written instrument

of understanding executed between NASA and a contractor which sets forth the negotiated contract clauses which shall be applicable to future procurements entered into between the parties during the term of the basic agreement. A basic agreement will apply to a particular procurement by the execution of a formal contractual document which will provide for the scope of the work, price, delivery, and additional matters peculiar to the requirements of the specific procurement involved, and shall incorporate by reference or append the contract clauses agreed upon the basic agreement as required or applicable. Basic agreements may be used with fixed-price or cost-reimbursement type contracts.

(b) *Applicability.* (1) Basic agreements are appropriate for use when (i) past experience and future plans indicate that a substantial number of separate contracts may be entered into with a contractor during the term of the basic agreement, and (ii) substantial recurring negotiating problems exist with a particular contractor.

(2) A basic agreement shall be modified only by a modification of the basic agreement itself and shall not be modified or superseded by individual contracts or purchase orders entered into under and subject to the terms of such basic agreement. To minimize modification, revisions to this chapter involving changes in authorized contract clauses utilized in basic agreements will provide appropriate direction with respect to any required modifications of basic agreements and to the extent possible, modifications will be required only in matters resulting from changes in statutes or Executive orders. As a minimum, basic agreements shall be reviewed annually before the anniversary of their effective date and revised to conform with the current requirements of this chapter. Modifications shall not have retroactive effect.

(3) Basic agreements shall provide for discontinuance of their future application upon 30 days written notice by either party. Discontinuance of a basic agreement will not affect any individual contract referencing the basic agreement (or the clauses appended thereto) entered into prior to the effective date of discontinuance.

(4) A basic agreement shall be used to cover all subsequent procurements which fall within its scope. Provisions of the basic agreement, including supplements thereto, shall be incorporated into the formal contractual document covering the particular procurement by referring therein to the number of the basic agreement and each of its supplements.

(5) Except as provided in subparagraph (6) of this paragraph when an existing contract is amended to effect new procurement, the supplemental agreement shall:

(i) Incorporate the most recent basic agreement, including supplements thereto, to apply only to the work added by the supplemental agreement; or

(ii) It is in the interest of the Government, incorporate the most recent basic agreement, including supplements thereto, to apply to the entire contract as of the date of the supplemental agreement.

An existing contract may be amended by a supplemental agreement effecting new procurement without incorporating the most recent basic agreement only if all clauses then required by statute, Executive order, and this chapter are included in the contract or the proposed supplemental agreement.

(6) Supplemental agreements negotiated pursuant to the terms of an existing contract and not involving new procurement may, if determined to be in the interest of the Government, amend the existing contract to conform to a subsequently executed or supplemented basic agreement.

(7) Clauses pertaining to subjects not covered in a basic agreement but applicable to the contract being negotiated and clauses required by statute Executive order or this chapter which have become effective after the making of the basic agreement shall be included in the contract as if no basic agreement existed.

(8) Where a clause which was included in the basic agreement pursuant to a deviation must be replaced by a revised clause, the revised clause may deviate to the same extent as the original clause if the revision is not related to the deviation, and if the deviation has not expired or been rescinded.

(9) If a letter contract has been entered into under a basic agreement which thereafter was superseded by a new basic agreement, or amended by supplemental agreement, the contractual instrument which definitizes such letter contract shall incorporate the superseding basic agreement or supplemental agreement, as applicable. If the basic agreement has been terminated without being superseded, or has expired, the definitive contract which supersedes the letter contract shall incorporate the clauses required by statute, Executive order, or this chapter.

(c) *Content and form.* Basic agreements shall contain a set of "General Provisions." These general provisions shall include three groups of clauses. The first group, identified as "Section A," shall include all of the clauses made mandatory by statute, Executive order, and this chapter for use in negotiated research and development contracts. The second group, identified as "Section B", shall add clauses and/or modifications to the "Section A" clauses made mandatory by statute, Executive order, and this chapter for use in negotiated supply contracts. The third group, identified as "Section C", shall consist of clauses which may be made a part of each formal contractual document, depending upon their applicability to the particular procurement. The format set forth below may be adapted to fit specific circumstances.

BASIC AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND _____

This Agreement is entered into as of the _____ day of _____ 19__ between the United States of America, hereinafter called the "Government," represented by the Contracting Officer, _____ and _____, a corporation organized and existing under the laws of the State of _____, hereinafter called "Contractor."

The clauses and provisions of sections A, B, and C hereinafter set forth have been agreed upon by the parties hereto for use in negotiated _____ type contracts between the parties, entered into on or after the date of this Agreement, and prior to its termination. It is further agreed that (1) the clauses and provisions set forth in section A and B are mandatory clauses and shall, by reference or attachment, be incorporated in every contract which makes reference to this Agreement, and (ii) the clauses and provisions set forth in section C are to be incorporated in individual contracts only when applicable and agreed to by the parties.

This agreement, including sections A, B, and C hereof, may be amended only by mutual agreement of the parties, and the Agreement may be terminated in its entirety by either party upon thirty (30) days written notice to the other party, except that this Agreement may be terminated by the Government at any time if the parties fail to agree upon any deletion, amendment, or addition to this Agreement which is required by statute, Executive order, or the NASA Procurement Regulation. No deletion, modification, addition to, or termination of this Agreement shall affect any contracts heretofore entered into between the parties in which this Agreement or a portion thereof has been incorporated by reference.

This Agreement shall be reviewed, as a minimum, annually before the anniversary of its effective date, and revised to conform with all requirements of statutes, Executive orders, and the NASA Procurement Regulation. This revision shall be evidenced by an agreement modifying this Basic Agreement or by the issuance of a superseding Basic Agreement.

This Agreement shall not be referred to by the Contractor in bids submitted in response to invitations for bids nor become a part of any contract placed through the process of formal advertising.

In witness whereof, the parties hereto have executed this Agreement as of the day and year first above written:

UNITED STATES OF AMERICA

By _____
(Signature of Contracting Officer)

_____
(Typed or printed name)

_____
(Name of company)

By _____
(Signature of Authorized Individual)

_____
(Typed or printed name)

Title _____

(d) *Limitations.* (1) Basic agreements shall neither cite appropriations to be charged nor be used alone for the purpose of obligating funds.

(2) Basic agreements shall not in any manner provide for or imply any agreement on the part of the Government to place future orders or contracts with the contractor involved, nor shall they be used in any manner to restrict competition.

(e) The Director of Procurement, NASA Headquarters, is responsible for negotiation of all basic agreements. Procurement offices may not enter into basic agreements without the prior written authorization of the Director of Procurement.

(f) Where a procurement office is authorized to enter into a basic agreement with a particular contractor, an introductory paragraph to the basic agreement shall include the "Approval of Contract" clause set forth in § 18–7.104–51 with the word "contract" deleted from the title and text of the clause and the word "basic agreement" inserted in lieu thereof.

(g) Proposed basic agreements together with the contractor's comments shall be coordinated with all other field installation procurement offices and with Headquarters Contracts Division (Code DHC) for comments.

(h) Basic agreements submitted to the Director of Procurement for approval, shall include the following information:

A memorandum of negotiation describing each deviation from the NASA Procurement Regulation as it appears in the basic agreement together with supporting data required by § 18–1.109–3 (a), (b), (d) and (e);

(2) A listing of all nonstandard clauses used, the genesis of such clauses, and the reasons for use in the basic agreement;

(3) A résumé of all salient features of the agreement which will facilitate the review and approval consideration, and

(4) Documentation of the coordination effected between the negotiator and the procurement offices of other NASA field installations.

§ 18–3.410–2 Basic ordering agreement.

(a) *Description.* A basic ordering agreement is not a contract. It is an agreement which is similar to a basic agreement (see § 18–3.410–1) except that it also includes a description, as specific as practicable, of the supplies to be furnished or services to be performed when ordered and a description of the method for determination of the prices, consistent with the contract types authorized by this part, to be paid to the contractor for such supplies of services. Either the specific terms and conditions of delivery or a description of the method for their determination shall be set forth in the basic ordering agreement. The basic ordering agreement shall list one or more installations which are authorized to issue orders under the agreement. Any installation so named may issue orders specifying the supplies or services required, which orders may be accepted by the contractor by whatever manner of acceptance is indicated in the basic ordering agreement. Each order will incorporate by reference the provisions of the basic ordering agreement.

(b) *Applicability.* The basic ordering agreement may be used as a means of expediting procurement where specific items, quantities, and prices are not known at the time of execution of the agreement but where past experience or future plans indicate that a substantial number of requirements for items or services of the type covered by the basic ordering agreement will result in procurements from the contractor during the term of the agreement. Under proper circumstances, use of the procedures under the agreement is advantageous and economical in ordering parts for equipment support since such procedures substantially shorten the administrative time required for placing such articles in a production status, thereby not only decreasing the amount of support inventory required to be carried but also decreasing the possibility that parts procured will become obsolete as a result of design changes in the equipment.

(c) *Limitations.* (1) Supplies or services may be ordered under a basic ordering agreement only if it is determined at the time the order is placed that it is impracticable to obtain competition by either formal advertising or negotiation for such supplies or services.

(2) The Government shall neither make any final commitment nor authorize any work by the contractor pursuant to an order under a basic ordering agreement until prices have been established, unless the order establishes a monetary limitation on the obligation of the Government and either—

(i) The order is subject to provisions contained in the basic ordering agreement which set forth adequate procedures for arriving at prices as early in contract performance as practical, but in no event shall such procedures permit the price of the entire order to be established on a retroactive basis (however, incentive provisions consistent with this part are permitted); or

(ii) The need for the supplies or services is compelling and of unusual urgency, as when the Government would be seriously injured, financially or otherwise, if the supplies or services were not furnished by a certain date and when they could not be furnished by that date if the contractor is not allowed to proceed with work until prices have been established. The circumstances listed in § 18–3.202–2 are indicative of instances in which the contractor may be permitted to proceed with work prior to establishment of prices.

As a general rule, prices should be established prior to authorizing the contractor to begin work. However, where the contractor is allowed to begin work prior to pricing in accordance with this section, the contractor and the contracting officer shall proceed with pricing as soon as practicable. The basic ordering agreement shall provide that failure to reach agreement on price in such circumstances will constitute a dispute subject to the procedures of the "Disputes" clause.

(3) Each order issued under a basic ordering agreement shall be subject to such reviews, approvals, and determinations and findings (including those pertaining to types of contracts) specified in this chapter as would be applicable if the order were a contract entered into apart from the basic ordering agreement.

(4) Basic ordering agreements shall not be modified or superseded by an individual order issued thereunder except that:

(i) Individual orders issued under a basic ordering agreement must contain all clauses required by statutes or Executive orders which have become effective after the making of the basic ordering agreement.

(ii) All cross references to the clauses which are made obsolete by the clauses referred to in subdivision (i) shall be appropriately modified to correct the cross references.

(iii) Individual orders must contain all clauses promulgated by regulations after the effective date of the basic ordering agreement which the Director of Procurement has directed to be included in all existing contracts by amendment at the time of promulgation of such clauses, or has specifically directed to be included in all existing basic ordering agreements by amendment.

(iv) New Technology clause may be included in an order issued under a basic ordering agreement when the contractor requests its inclusion.

Basic ordering agreements shall be reviewed at least annually, before the anniversary of their effective dates, and revised to conform with the current requirements of this chapter. Modifications shall not have retroactive effect.

(5) The contracting officer issuing an order under a basic ordering agreement shall be responsible for assuring compliance with the provisions of paragraph (c) (1), (2), (3), and (4) of this section.

§ 18–3.450 Incentive contracts.

(a) *Policy.* It is NASA policy to make judicious and effective use of incentive contracts of both the cost and the performance type. Particular care and judgment are required in choosing procurements appropriate for incentive contracts, and in framing and negotiating the specific incentive terms. The procedures set forth in this § 18–3.450 are established to:

(1) Effectively seek out procurements that lend themselves to the use of contract incentive provisions;

(2) Avoid the use of incentive provisions in situations where they are unsuited and where their use could have adverse results; and

(3) Ensure, in connection with contracts in which incentive provisions are to be included, that the skills necessary to draft and negotiate the appropriate incentive provisions are available to NASA procurement offices.

(b) *Responsibilities of the Director of Procurement.* In order to implement the policy objectives of paragraph (a) of this section for use of incentive contracts, the

Director of Procurement will perform the following functions:

(1) Review, with Headquarters Program Offices and with NASA field installations, as necessary, forthcoming procurements in order to select, well in advance, those procurements which appear to lend themselves to the inclusion of incentive features;

(2) Provide or arrange for guidance and technical assistance to procurement offices in connection with the drafting and negotiation of incentive provisions in those contracts approved in advance by the Director of Procurement, for application of incentive provisions;

(3) Review and make recommendations to field installations with regard to proposals made by them as to the use of incentive provisions in forthcoming contracts;

(4) Appraise the capability within NASA to select, negotiate, and administer incentive contracting and assist in making required training arrangements;

(5) Study, in conjunction with the Director of Financial Management, and the Director, Management Information Systems Division, NASA Headquarters, the linking of incentive provisions to PERT-Cost;

(6) Maintain close contact with the Department of Defense in the incentives field and keep informed of other studies, literature, or developments within the Government and industry bearing on incentive contracting;

(7) Develop more precise policy guidelines governing use of incentive provisions; and

(8) Report quarterly to the Deputy Administrator regarding the progress being made within NASA to utilize incentive provisions.

In carrying out the functions specified in this paragraph (b), the Director of Procurement will utilize the assistance of the Headquarters Program Offices, the Office of the General Counsel, and the Audit Division.

(c) *Advance approval of incentives.* (1) The advance approval of the cognizant program director will be obtained on the NASA prenegotiation position in procurement actions which exceed the monetary limitations in § 18–50.105(b)(9) and which contemplate the use of an incentive or award fee type of contract, prior to the discussion of incentive arrangements in negotiations, and in addition to any required approval of a procurement plan. The request for advance approval will be submitted immediately upon the establishment of a tentative NASA prenegotiation position, which may occur prior to the issuance of requests for proposals or which may result from the review and evaluation of offerors' responses to requests for proposals. The following information will be submitted in support of each request for approval of a prenegotiation position:

(i) Brief description of procurement action.

(ii) Proposed contractor(s).

(iii) Procurement objectives which will be aided by the planned incentives.

(iv) Type of contract contemplated.

(v) Kind of incentive (performance schedule, cost, award fee, multiple).

(vi) A. Estimated target cost. B. Range of confidence in target cost, i.e., the most pessimistic and the most optimistic estimates of cost expectancy.

(vii) Target, maximum, and minimum fee (if CPIF); target profit and ceiling price (if FPI).

(viii) *Performance incentive:* Goals, minimum acceptable performance; target performance; method of measurement or test; increments of reward/penalty value.

(ix) *Schedule incentive:* Planned delivery or milestones in terms of the earliest desirable target and latest acceptable dates; increments of reward/penalty value.

(x) *Cost incentive:* Sharing formula, fee swing.

(xi) *Award fee:* Basic fee; award increments; suggested criteria; rating, evaluation and award periods.

(xii) *Multiple:* Relative weighting; trade-offs; dependencies, i.e., the extent to which the incidence of the several individual incentives depends upon the attainment to some degree of other targets; overlap, i.e., arrangements by which the effect of one or more of the incentives may be extended beyond the reward or penalty range implied by the relative weight assigned.

(xiii) If the action is a conversion of a CPFF contract, discuss the treatment of existing cost overrun or underrun, effective point or date of conversion, and whether conversion will apply only to work to be done or will have retroactive effect.

(xiv) Graphic illustrations of incentive arrangement, including graphics of total contract and details of cost, performance, schedule, or award fee relationships.

Where the planned fee in the prenegotiation position exceeds the limitations set forth in § 18–3.450(f), justification for such fee will be set forth as a separate paragraph in the request, for review and approval of the Director of Procurement. The advance approval shall not be construed as requiring the preparation of an incentive contract, if in the course of negotiations the exercise of good business judgment requires a different contractual arrangement. However, the decision, that an incentive arrangement previously approved will not be used, will be coordinated with the approving authority prior to the commitment of NASA to a position in negotiations.

(2) Every procurement plan shall contain a discussion of the feasibility of applying incentive provisions, as well as a recommendation regarding the use of such provisions in the particular procurement. Approval of a procurement plan does not constitute approval of the prenegotiation position required by § 18–3.450(c)(1).

(3) The Director of Procurement will make available such assistance as may be necessary in support of field procurement office capability to draft, negotiate, and administer the incentive provisions.

(4) Requests for contract approval pursuant to § 18–50.105(b)(4) will be supported by a summary of the incentive arrangements covering the points specified in § 18–3.450(c)(1), with the addition of a brief discussion of any departures from the approved prenegotiation position and of the probable effect on procurement objectives of trade-offs made in negotiation.

(d) *Technical assistance.* The selection, drafting, negotiation, and administration of contract incentives require a team effort in which substantial technical assistance must be provided to procurement and legal personnel. The contracting officer shall obtain such assistance from technical personnel in his organization and shall be satisfied that the project director or comparable official is in agreement with the incentive approach being followed in any given case. Any differences of opinion shall be brought to the attention of the Director of Procurement.

(e) *Contract clauses.* (1) § 18–7.108 sets forth a standard incentive price revision clause for fixed-price incentive contracts with cost incentives.

(2) The following clause normally will be included in cost-type-incentive-fee contracts and will be preceded by the "Alterations in Contract" clause (§ 18–7.105–1). However, the clause may be modified by the contracting officer to meet the requirements of a particular procurement:

MEANING OF TERMS (DECEMBER 1964)

For the purpose of this cost-plus-incentive-fee contract, certain terms in this contract have the following meanings:

(a) "Estimated Cost" means "target cost" except in the following instances:

(1) Where the term first appears in the second sentence of the clause of this contract entitled "Changes."

(2) Wherever it appears in the clause of this contract entitled "Limitation of Cost."

(3) Wherever it appears in the clause of this contract entitled "Estimated Cost and Fixed-Fee."

(4) If this contract is incrementally funded, wherever the term appears in the clause "Limitation of Government's Obligation."

(5) If the "Government Property" clause is used, wherever the term appears.

(b) "Fixed-Fee" means "Fee."

(c) "Allowable Cost, Fixed-Fee, and Payment" means "Allowable Cost, Incentive-Fee, and Payment."

Where a contract which is not solely of the cost-plus-incentive-fee type (e.g., one which also provides for a fixed-fee), the first sentence of the clause shall be changed to read as follows:

For the purpose of the cost-plus-incentive-fee portions of this contract, certain terms in this contract have the following meanings:

(f) *Administrative requirements as to incentive fees.* The negotiation of a cost-type-incentive contract (CPIF—Cost-Plus-Incentive-Fee, CPAF—Cost-Plus-Award-Fee) will establish the target cost, target fee (basic fee for CPAF contracts), minimum and maximum fee, and the method for computing increases or decreases from target or basic fee, and may provide for a negative fee, if appropriate to the reward and penalty concepts of the incentive arrangements in the contract. The statutory limitations in 10 U.S.C. 2306(d) apply only to fixed-fees. Incentive fee arrangements (CPIF and CPAF) which contain provisions for

maximum fees which exceed (1) 15 percent of the target cost in contracts for experimental, developmental, or research work, or (2) 10 percent of the target cost in other contracts will require the approval of the Director of Procurement prior to award of the contract. Requests for approval of such fees will be submitted to the Director of Procurement through the cognizant Program Director and shall be supported by complete justification, including a discussion of any exceptional circumstances where lower rates of fee will not provide sufficient range for effective operation of the incentive arrangements toward the attainment of procurement objectives. The request for approval of such fees may be included as a part of the request for contract approval under the provisions of § 18–50.105(b)(1). (See § 18–3.450(c)(1) relating to approval of fee in prenegotiation planning.) This paragraph is not applicable to contracts for architect-engineering services.

(g) *Reports on status of incentive contracts.* Monthly reports on the status of existing and potential incentive contracts will be submitted in accordance with the instructions in § 18–16.903.

Subpart 18–3.5—Solicitation of Proposals and Quotations

§ 18–3.500 Scope of subpart.

This Subpart 18–3.5 applies only to negotiated procurements in excess of $2,500 (see Subpart 18–3.6 for small purchases).

§ 18–3.501 Preparation of request for proposals or request for quotations.

(a) Forms used for requesting proposals or quotations on negotiated procurements shall be in accordance with Part 18–16 (see also § 18–1.309).

(b) When written proposals or quotations for contemplated negotiated procurements for supplies or services, including research and development, are solicited, the request for proposals or the request for quotations, normally should contain the following information, if applicable to the procurement involved:

(1) Request for proposals or request for quotations number and date of issuance;

(2) Title and/or number of the program or project (e.g., "Apollo S–IC Instrumentation");

(3) Name and address of procurement office issuing the request; identification of the individual responsible for supplying additional information or answering inquiries; complete address of person to receive proposals; number of copies of proposal required to be submitted;

(4) Closing date and time;

(5) Provision for late proposals, late quotations or late modifications of proposals (see § 18–3.802–4(c));

(6) Requirements for stipulation of a time within which the Government may accept the proposal;

(7) Number of pages and list of enclosures;

(8) Item description or statement of work;

(9) Type of contract contemplated (see § 18–3.803);

(10) Requirement for statement on contingent fees (see § 18–1.506(c));

(11) Statement on Buy American Act (§ 18–6.104–2) and requirement for Buy American Certificate (§ 18–6.104–3);

(12) Requirement that the offeror state whether he operates as an individual, partnership or corporation (showing State where incorporated);

(13) Statement that the selected contractor will or will not require access to classified information (see NASA Management Instruction 1650.1).

(14) Time of delivery or performance requirements (see § 18–1.305);

(15) Requirement that the proposal or quotation state the intended place of performance, including the street address, and the names and addresses of owner and operator of producing facilities, if other than offeror, when it is reasonably expected that such facilities will be used in the performance of the contract;

(16) Place and method of delivery;

(17) Provisions to be made for reliability assurance (see § 18–1.5105);

(18) A description of the quality assurance system to be used (see § 18–1.5004(c));

(19) Place, method, and conditions of inspection, test, and acceptance (see § 18–14.101 et seq.);

(20) Identification of the special factors, such as Government cost or other expenditures, including reliability and maintainability requirements, which will be considered in evaluating the proposals, together with an indication of the relative importance to be given these factors, where applicable (see § 18–3.804–3);

(21) Method and format of price quotation desired (fixed-price or cost type, if known at the time), including a reference to the necessity for cost or price breakdown (see § 18–3.501(c)(2)(ix));

(22) Description of information required to support proposed prices; e.g., subcontract structure, purchasing system, royalty, and cost and price information (see Subparts 18–3.8, 18–3.9, and 18–9.1);

(23) Information as to requirements for Certificate of Current Cost or Pricing Data (see § 18–3.807–3);

(24) Statement that special instructions for waived inventions will not be applied, or requirement for statement as to waived inventions (see § 18–9.101–3(a) or § 18–9.101–3(c));

(25) Notice to offerors of the Government's desires as to the use of incentive considered applicable, objectives of the incentive performance goals, schedule milestones, critical delivery parameters, and similar information intended to elicit contractor response to the procurement

objectives but without premature disclosures prejudicial to the Government's prenegotiation position (see § 18–3.450);

(26) Notice to offerors of the possibility that award may be made without discussion of proposals (see § 18–3.102);

(27) The Certification of Independent Price Determination required by (§ 18–1.115);

(28) Contract clauses required by law or this chapter, copies of applicable standard or NASA forms which will form a part of the contract, and any report forms or handbooks required to be used or followed in complying with the terms of the contract;

(29) Directions for obtaining copies of any documents, such as plans, drawings and specifications, which have been incorporated by reference (see § 18–1.1201);

(30) Instructions for disposition of drawings and specifications supplied with the request for proposals or request for quotations;

(31) Statement of information required to facilitate evaluation of technical and financial capabilities and a statement covering special technical capabilities which offerors must possess (see § 18–3.804);

(32) Instruction reflecting desirability of a separation between the contractor's "Business Management Quotation" and "Technical Quotation." For evaluation purposes separate quotations, where time permits, should be received; therefore, the format should be flexible enough to permit separate requirements (see § 18–3.802–4(a));

(33) List of any Government-furnished property (showing location and condition) including Government-owned tooling, which will be furnished for the performance of the contract, and any special provisions relating thereto;

(34) Requirement that information be furnished with respect to any Government-owned facilities, industrial equipment, or special tooling intended to be used in the performance of the contract, the value thereof, identification of the Government contract under which acquired, rental provisions, and other relevant information (see § 18–13.407);

(35) Requirement that additional facilities to be provided by the Government in accordance with § 18–13.102–3 be described and identified by category, such as "Land," "Buildings," "Machinery," "Equipment," etc., (see § 18–13.5105 for format);

(36) Requirement that additional special test equipment to be provided by the Government be described and its intended use, estimated cost, and proposed location be shown;

(37) Clear statement of option provisions;

(38) Requirement for the contractor to furnish data, when the requirement for data is known in advance of making the contract and delivery of data is definitely to be required in the performance of the contract (see Subpart 18–9.2 for detailed instructions and required clauses; see also § 18–3.852–3);

(39) Special provisions necessary for the particular procurement, relating to such matters as patent licenses (see Part 18–9) liquidated damages (see § 18–1.310); progress payments (see § 18–7.104–35);

(40) Requirement for information to be furnished on management engineering and consultant services specified in § 18–4.5205–2;

(41) When the NASA PERT System is to be applicable to the procurement (see § 18–7.204–55), inclusion of the following provision:

NASA PERT SYSTEM (APRIL 1962)

A proposed time schedule for performance of the work should be set out by phases or parts of the project, and show interrelationships among phases. This proposed schedule should be supported by an accompanying PERT network, prepared in general conformity with the instructions of the NASA PERT Handbook.

Prospective contractors are advised that the successful contractor will be required to implement the NASA PERT System and report program progress biweekly.

(42) A statement as follows:

UNNECESSARILY ELABORATE CONTRACTOR'S PROPOSALS (NOVEMBER 1965)

Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective proposal are not desired and may be construed as an indication of the offeror's lack of cost consciousness. Elaborate art work, expensive paper and bindings and expensive visual or other presentation aids are neither necessary nor desired.

The above statement shall be appropriately modified where included in a request for quotations;

(43) If the contract is to be conditioned on the availability of funds, a clear statement of such condition (see § 18–1.318);

(44) Requirement for submission of a proposed "Make or Buy" program (see § 18–3.902);

(45) In accordance with the policy of § 18–3.109, the following statement and legend shall be included in all requests for proposals and requests for quotations:

The proposal submitted in response to this request may contain technical data which the offeror, or his subcontractor offeror, does not want used or disclosed for any purpose other than evaluation of the proposal. The use and disclosure of any such technical data may be so restricted: *Provided*, The offeror marks the cover sheet of the proposal with the following legend, specifying the pages of the proposal which are to be restricted in accordance with the conditions of the legend:

Technical data contained in pages _____ of this proposal furnished in connection with RFP No. _____ shall not be used or disclosed, except for evaluation purposes, provided that if a contract is awarded to this offeror as a result of or in connection with the submission of this proposal, the Government shall have the right to use or disclose this technical data to the extent provided in the contract. This restriction does not limit the Government's right to use or disclose any technical data obtained from another source without restriction.

Proposals submitted with restrictive legends or statements differing from the above legend will be treated under the terms of the above legend. The Government assumes no liability for disclosure or use of unmarked technical data and may use or disclose the data for any purpose. (February 1966)

(46) Statement of labor surplus area or small business set-asides (see Subparts 18–1.7 and 18–1.8);

(47) Requirement for furnishing the Equal Opportunity representation (see § 18–12.802–4);

(48) If leases are involved, the Facilities Nondiscrimination paragraph set forth in § 18–1.350–4;

(49) When the use of Automatic Data Processing equipment is applicable to the procurement (see § 18–3.804–2(c)(3)), inclusion of the following provision:

The Government reserves the right to require the preparation and submission of feasibility and lease versus purchase studies by the successful contractor if the use of Automatic Data Processing Equipment is proposed.

(50) The name and address of cognisant Government Audit Agency and cognisant Government Inspection Agency;

(51) Statement as to requirement for jewel bearings (see § 18–1.315);

(52) Requirements set forth in § 18–1.351, if the procurement includes the furnishing of electrosensitive initiating devices (squibs) or any other item or component designated in the procurement request as a potentially hazardous item;

(53) Requirement for representation as to small business and statement whether or not the offeror has previously been denied a Small Business Certificate (see § 18–1.903);

(54) Instructions that offeror promptly acknowledge receipt of the request for proposal or request for quotation and advise whether he intends to submit a proposal or offer;

(55) Statement that this request for proposal or request for quotation does not commit the Government to award a contract, the Government reserving the right to reject any or all proposals, or to negotiate separately with any source considered qualified; and that the Contracting Officer is the only individual who can legally commit the Government to the expenditure of public funds in connection with the proposed procurement (see § 18–3.801);

(56) Statement that this request for proposal or request for quotation does not commit the Government to pay any costs incurred in the submission of the quotation or in making necessary studies or designs for the preparation thereof, nor to procure or contract for services or supplies. Further, no costs may be incurred in anticipation of a contract with the exception that any such costs incurred at the proposer's risk may later be charged to any resulting contract to

the extent that they would have been allowable if incurred after the date of the contract and to the extent authorized by the contracting officer (see § 18–15.205–30).

(57) The following provision shall be included in all requests for proposals to be evaluated pursuant to NASA Source Evaluation Board procedures, when award of a cost-reimbursement type contract (with or without incentive arrangements) is contemplated:

Once the prospective contractor has been selected, the estimated costs submitted with its proposal shall not be subject to increase, except for changes in certified cost or pricing data submitted with the proposal, unless changes are made in the requirements of the request for proposals. Furthermore, increases shall be considered only in regard to those requirements that are actually affected by the changes (whether the changes result in an increase or decrease in the requirements and whether they are initiated by the Government or the offeror), and then only to the extent that such changes are specifically identified and justified. Negotiation of such increases will be conducted separately, and not as part of a combined overall negotiation of the estimated cost and fee of the proposed contract. (February 1967)

(58) A statement requesting prospective offerors to list the names and telephone numbers of persons authorized to conduct negotiations;

(59) Requirements for performance and payment bonds (see Subpart 18–10.1).

(60) Requests for proposals and requests for quotations for contracts in excess of $1 million, where the conduct of research, experimental, design, engineering, or developmental work is contemplated, and in such contracts of lesser dollar value if deemed appropriate by the contracting officer and the technology utilization officer of the installation concerned, shall contain the following requirement:

PLAN FOR NEW TECHNOLOGY REPORTING (JUNE 1966)

Each offeror shall submit with his proposal a plan which he proposes to use in carrying out the provisions of the "New Technology" clause of the contracts. The plan shall describe:

(a) The size and nature of the scientific and technological efforts in which inventions, discoveries, improvements and innovations may be expected. Include the scientific disciplines involved in these efforts, and summarize the technical problems to be solved which you feel are most likely to generate new technology.

(b) The emphasis given to new technology reporting by the top levels of management of the organization, and the specific means (e.g., company directives, newsletters, briefings) to be used to communicate such emphasis to the organization.

(c) The organizational placement and qualifications of (i) the individual(s) assigned as Company Technology Utilization/New Technology Representative(s), and their staffs, and of (ii) any others having substantial and specific responsibilities for new technology reporting. Describe all significant organizational relationships.

(d) Plans for both the initial and the continuing indoctrination of senior project personnel, supervision, and of other appropriate technical personnel in the benefits, responsibilities and details of new technology reporting.

(e) The plans for conducting the "frequent periodic reviews" required by the "New Technology" Clause. Include plans for supplementing existing company invention reporting system(s) to insure reporting of that "new technology," which does not constitute invention (any new or improved products, devices, materials, processes, methods, scientific or technical computer programs, techniques, compositions, systems, machines, apparatuses, articles, fixtures, and tools, are reportable, whether or not they constitute invention).

(f) The details of actual documentation of reportable items, and the methods by which they will be reported. Include plans for (i) submission of sufficient detail to permit evaluation of the novelty and potential usefulness of the reportable items, (ii) avoiding unnecessary redocumentation by inclusion of existing documents or abstracts therefrom.

(g) Level of effort anticipated. (Quarterly/monthly rates and estimated disclosure output rates are desirable.)

(61) A statement on the first sheet or on a cover sheet of the request for proposals that: "Proposals must set forth full, accurate, and complete information as required by this request for proposal (including attachments). The penalty for making false statements in proposals is prescribed in 18 U.S.C. 1001." This statement should be suitably modified when Quotations are requested.

(c) In addition to the information specified in § 18–3.501(b), for contracts in excess of $1 million the request for proposal should contain requirements for the following information to be furnished by the offeror in his proposal, if applicable. This information may be required in the request for proposal for inclusion in contracts of lesser dollar value if deemed appropriate.

(1) *Technical proposal.* (i) Method by which offeror proposes to solve the technical problems of the project; descriptions, sketches, and plans of attack in sufficient detail to permit engineering evaluation of the proposal;

(ii) Specification of exceptions to proposed technical requirements;

(iii) Statement of background experience in fields relating to the procurement;

(iv) Names and résumés of experience of key technical personnel who will be employed on the project and extent to which each will participate in the performance of the project; an organization chart of the segment of offeror's organization which will be directly assigned to the project, listing names and job categories;

(v) Description and location of the company-owned research, test and production equipment and facilities which will be available for use on the project; separate list of any additional facilities or equipment required in the performance of the work; separate list of existing Government facilities available to the contractor and required for use on the project (see § 18–3.405–3);

(vi) Hourly time estimates (without pricing information) by labor class for each phase or segment of the project; extent to which these estimates are based on the use of employees presently on the offeror's payrolls who will be available for the work as required; indication of number and types of personnel necessary to be hired and arrangements made to obtain them.

(2) *Business management proposal.* (i) Organization proposed for carrying out the project, including organization charts showing interrelationship of business management, technical management and subcontract management, lower levels through intermediate management to top level management.

(ii) Résumé of experience of all key personnel who will conduct the managerial affairs of the project;

(iii) Contractual procedures proposed for the project to effect administrative and engineering changes, describing differences from existing procedures;

(iv) Extent to which offeror has invested corporate funds in research and development work in the project area or directly related areas and plans for future expenditures for such work; extent, if any, to which offeror is willing to participate in the cost of the project (see § 18–3.451);

(v) Statement as to capacity at which company-owned research, test, and production equipment and facilities required in the performance of the work are currently working; extent to which such facilities and equipment could handle the additional workload imposed by this project; cost of any additional facilities or equipment required in the performance of the work with information as to whether such additional facilities or equipment will be contractor-furnished or Government-furnished; statement of value of existing Government facilities available to offeror and required for use on the project, showing the Government agencies and facilities contracts involved;

(vi) Statement of past performance and experience including: (A) List of Government contracts in excess of $1 million received in past 3 years or currently in negotiation involving mainly research and development work, showing each contract number, Government agency placing the contract, type of contract, and brief description of the work; (B) For each cost-type contract, specify amounts of cost overruns or underruns, reasons therefor, and percentage of fixed fee; (C) For each contract, give record of contract completion as against completion date anticipated at time of entering into contract, giving explanations for completion delays; (D) Identify and explain any terminations for default or Government convenience;

(vii) Balance sheet for offeror's last fiscal year, accompanied by profit and loss statement;

(viii) Detailed cost or price proposal, furnished as a separate, detachable element of the business management proposal.

(ix) In soliciting proposals for support services requiring price quotations

for a cost reimbursement type contract the request for proposals should set forth available data respecting the quantity and quality of supplies and services required. These data should be set forth in terms of man-hours of identifiable categories of labor, including experience and related qualifications, and in terms of quantities of supplies, all exclusive of costs. To be responsive, a proposer must submit a detailed cost or price proposal based on the effort described or estimated in the request for proposals. If the proposer feels that the work can be accomplished more efficiently with organizational plans, staffing, management, or equipment other than those indicated in the request for proposal, he may also submit an alternate proposal, supported by a detailed cost or price proposal;

(x) Statement as to the nature and effectiveness of the prospective contractor's cost reduction program (see § 18–3.102(b)(20)).

(c) Request for proposals for procurements which are subject to Title VI of the Civil Rights Act of 1964 (Public Law 88–352; 42 U.S.C. 2000d–1) shall include a requirement for obtaining an "Assurance of Compliance" (NASA Form 1206) in accordance with the requirement of NASA Management Instruction 2090.1. See § 18–1.355(b) for procurements which are subject to the Act.

(d) Requests for proposals which are subject to the review and approval of a Source Evaluation Board should be developed in accordance with the above paragraphs and the requirements of paragraph 512 of the NASA Source Evaluation Board Manual (NPC 402).

Subpart 18–3.6—Small Purchases

§ 18–3.600 Scope of subpart.

This subpart prescribes policies and procedures for the purchase of supplies and nonpersonal services from commercial sources when the aggregate amount involved in any one transaction does not exceed $2,500. Such purchases shall be termed "small purchases." This Subpart 18–3.6 is not applicable to the procurement of supplies or services initially estimated to exceed $2,500 even though awards under such procurements do not exceed $2,500.

§ 18–3.601 Purpose.

The objectives of the simplified purchase methods prescribed herein are to reduce the administrative costs in accomplishing small purchases, to improve opportunities for small business concerns to obtain a fair proportion of Government purchases and contracts, and to eliminate costly and time-consuming paper processes.

§ 18–3.602 Policy.

(a) Small purchases shall be made by negotiation, except under special circumstances where it is clearly in the best interest of the Government to accomplish such purchases by more formal methods.

(b) The objective of helping small concerns to participate in Government contracting has wide potential application where small purchases are concerned, and, accordingly, placement of small purchases with small concerns is specifically encouraged, consistent, of course, with other valid considerations, such as price feasibility.

(c) When quotations are received on a number of related items (such as hardware items, spare parts for vehicles, or office supplies, etc.), one purchase order shall normally be issued to the firm quoting the lowest aggregate prices rather than issuing more than one purchase order on the basis of accepting the lowest quotation on each item.

(d) In arriving at the aggregate amount involved in any one transaction, there must be included all supplies and services which would properly be grouped together in a single transaction and which would be included in a single advertisement for bids if the procurement were being effected by formal advertising. Requirements aggregating more than $2,500 shall not be broken down into several purchases which are less than $2,500 merely for the purpose of permitting negotiation or utilizing the small purchase methods authorized under this Subpart 18–3.6.

(e) Any one of the purchase forms or methods set forth in this Subpart 18–3.6 which is determined the most suitable to the immediate requirement and which will accomplish the procurement in the most efficient and economical manner shall be utilized.

§ 18–3.603 Competition.

§ 18–3.603–1 Solicitation.

(a) Reasonable competition means obtaining a sufficient number of quotations from qualified sources of supply so as to assure that the procurement is fair to the Government, price and other factors considered, including the administrative cost of the purchase. In arriving at the number of quotations to be solicited, due consideration will be given to the cost of the proposed solicitation in relation to the potential benefits to be derived by the Government consistent with good business.

(b) Reasonable coverage of the market for small purchases does not ordinarily require going outside the trade area in which the procurement office is located to obtain quotations. However, competition shall not be limited to suppliers of well-known and widely distributed makes or brands, nor shall quotations be solicited purely on a selective personal preference basis. New supply sources, disclosed through trade journals or other media, shall be continuously reviewed and, when appropriate, added to the list of available sources.

(c) The following factors influence the number of quotations required in connection with any particular purchase:

(1) The nature of the article or service to be procured, and whether highly competitive and readily available in several makes or brands, or relatively noncompetitive;

(2) Information obtained in making recent purchases of the same or similar item;

(3) The urgency of the proposed purchase;

(4) The dollar value of the proposed purchase; and

(5) Past experience concerning specific dealers' prices.

(d) Solicitation of quotations may be effected orally or in writing. Written solicitation should be used only in circumstances where:

(1) The suppliers are located outside the local area;

(2) Special specifications are involved;

(3) A large number of items is included in a single proposed procurement; or

(4) Obtaining oral quotations is not considered efficient.

(e) Where it is the practice for suppliers to furnish standing price quotations on supplies or services required on an intermittent and recurring basis, this information may be used in lieu of obtaining individual quotations each time a purchase is contemplated. In such cases, the purchaser shall assure that the price information is current and that the Government obtains the benefit of maximum discounts.

§ 18–3.603–2 Data to support small purchases.

(a) The manner of securing quotations and the nature and extent of information to be required for small purchases should be limited to only that deemed necessary to conclude purchase action.

(b) The following are illustrative of the extent to which quotation information should be recorded:

(1) Oral solicitations—When oral price quotations are obtained, informal records should be established which will reflect clearly the propriety of placing the order at the price paid with the supplier concerned. In most cases, this will consist merely of showing the names of the suppliers contacted and the prices and other terms and conditions quoted by each. Handwritten notations on the Government purchase action request form, or whatever medium the purchaser is using as his basis for making the purchase, are satisfactory for this purpose.

(2) Written solicitations—Retention in the purchase files of written quotations received, or references to printed price lists used, will usually suffice as the record supporting the price paid.

(c) Purchase data collected or compiled during the course of arranging the purchase are for administrative and guidance value in making the purchase and issuing the appropriate purchase document. The retention of such data in the purchase files for use in subsequent reference, or as administratively required for management review, should be limited in time and quantity to the minimum necessary for such use.

§ 18–3.604 Imprest Fund.

For use of Imprest Funds, see NASA FMM 65001–65015.

§ 18–3.605 Purchase order forms.

§ 18–3.605–1 Standard Form 44.

(a) *General.* Purchase Order-Invoice-Voucher (Standard Form 44) consists of four copies; i.e., a seller's invoice, seller's copy of invoice, receiving report, and memorandum copy. The use of an additional copy is authorized when essential to operating procedures.

(b) *Limitations on use.* Standard Form 44 is authorized for accomplishing small purchases only when all of the following conditions are satisfied:

(1) The transaction is not in excess of $2,500;

(2) The supplies or services are immediately available from the local trade area;

(3) One delivery and one payment will be made; and

(4) Its use is determined to be more economical and efficient than other small purchase methods.

(c) *Examples of use.* Examples as to the appropriate use of Standard Form 44 are as follows:

(1) Over-the-counter purchases;

(2) Purchases made by authorized individuals while away from the purchasing office; and

(3) Purchases at isolated stations.

§ 18–3.605–2 Standard Forms 147 and 148.

(a) *Authorized forms.* Order-Invoice-Voucher (Standard Form 147) and Order-Invoice-Voucher, Continuation Sheet (Standard Form 148), provide in one set of forms a purchase or delivery order, vendor's invoice, receiving report, and public voucher, with requisite space for purchase data, vendor's invoicing, and allied budget, accounting, and voucher payment data. These forms are designated primarily for use when single delivery, single payment transactions are contemplated at the time of issuance, and are for use when, in the judgment of the procuring office, the use of a combined order-invoice, receiving report, and voucher will simplify the procurement process. Primary uses of Standard Form 147 are (1) as a purchase order for small purchases and (2) as a delivery order for ordering or scheduling delivery against an established contract. The use of Standard Form 147 as a delivery order against a blanket purchase order is in keeping with its intended use.

(b) *Availability of form.* (1) Standard Form 147 is available in six-part sets from General Services Administration regional offices, where overprinting is not required and may be ordered in the same manner as other standard forms.

(2) Standard Forms 147 and 148 may be ordered overprinted with agency name, address, and serial number; and with special weight paper, length of carbons, or other items as specified by the ordering agency. The format of the form, the color of the paper, and the number of copies shall not be changed.

(c) *Special instructions.* (1) The use of the forms contemplates that the vendor will utilize copy 1 (original) as his invoice in billing the Government. However, in furtherance of the policy of encouraging vendors to make consolidated periodic billings in instances where several orders have been placed with the same dealer in the same billing period, agencies are requested to instruct vendors to make consolidated periodic billings on their own invoices or statement forms supported by originals of the Standard Forms.

(2) When procurement documented on the forms is paid for in cash, Copy 1 of Standard Form 147 should be marked paid and signed and dated by the vendor or agent on the face thereof in the usual commercial manner. The vendor's certificate need not be signed when the form is receipted for cash payment. Cash register receipts or other commercial receipts may be attached in lieu of signature by the vendor.

§ 18–3.605–3 NASA Form 177.

NASA Form 177 may be used to make small purchases in lieu of Standard Form 44 or 147 where its use is determined to be more efficient or economical by the procuring installation.

§ 18–3.605–4 Ship and quote form.

The NASA Ship and Quote form may be used to make small purchases in lieu of Standard Form 44, 147, or NASA Form 177 where the following conditions apply:

(a) The material or supplies to be ordered to not exceed $250, except that the procurement officer may authorize use of this form for small purchases in excess of $250 where he determines in writing that its use is more efficient or economical than other methods;

(b) The current price can be established with reasonable accuracy by reference to catalogs, price lists, recent purchases, or advertisements;

(c) The specifications are clear and capable of only one interpretation; and

(d) The order is for supplies or minor equipment (tools, etc.) or for minor services, and the supplier's standard commercial guarantee is acceptable.

§ 18–3.606 Blanket purchase agreement method.

§ 18–3.606–1 General.

The blanket purchase agreement method provides a means of establishing "charge accounts" with qualified sources of supply to cover anticipated small purchases, as required, of readily available items of the same general category. It obviates the need for the issuance of a multiplicity of individual purchase instruments for small quantities of supplies. To the extent practicable, blanket purchase agreements for like items should be placed concurrently with more than one supplier. All potential sources in the local trades area shall be given an equal opportunity to furnish supplies or services under blanket purchase agreements. In carrying out this policy, the following procedures should be followed:

(a) Generally, not less than three or more than four blanket purchase agreements should be placed concurrently for like items; and

(b) Requests exceeding $250 should be placed after negotiating with each blanket purchase agreement holder, unless special circumstances do not permit. In such instances the file should indicate the nature of these special circumstances.

§ 18–3.606–2 Establishment of blanket purchase agreement.

Blanket purchase agreements may be established by the issuance of a purchase order which shall provide that:

(a) The supplier shall furnish the supplies or services, described therein in general terms, if and when requested by the contracting officer or his authorized representative during a specified period and within a stipulated aggregate amount: *Provided, however*, That no individual request shall exceed $2,500;

(b) The Government is obligated only to the extent of such requests as are actually made against the blanket purchase agreement;

(c) The supplier's established price lists and discounts shall apply to all requests issued against the blanket purchase agreement;

(d) Requests shall generally be made orally, except that informal correspondence may be used when more convenient;

(e) All delivery tickets issued by the supplier shall fully identify the blanket purchase agreement, the date the request was made, the items, the prices, and other relevant data, and be signed by the Government employee who received the items; and

(f) The supplier shall submit an itemized invoice not less frequently than once each month, or upon expiration of the blanket purchase agreement, whichever occurs first, covering all deliveries made under the blanket purchase agreement not previously invoiced and paid for, with payment to be made on the basis of this invoice.

§ 18–3.606–3 Conditions for use.

Blanket purchase agreements are authorized when:

(a) There is a repetitive need for small quantities of supplies or services of closely related types, such as electrical supplies, plumbing supplies, repair parts or services, or miscellaneous items of hardware;

(b) The maximum period of time covered by a blanket purchase agreement shall not exceed 12 months.

(c) No individual request issued against one blanket purchase agreement shall exceed $2,500; and

(d) The use of individual purchase instruments is deemed administratively costly to the Government.

§ 18–3.606–4 Fiscal control.

The contracting officer shall maintain informal records of the requests made against each blanket purchase agreement, so as to ensure that the value of requests made does not exceed available funds and that the designated monetary limitations are not exceeded.

§ 18–3.606–5 Further guidance.

For further guidance in connection with the use of blanket purchase agreements, see FPR 1–3.606.

§ 18–3.607 Use of other NASA forms.

Where necessary, small purchases may also be effected by the use of a negotiated (two-party) formal contract, as, for example, where the procurement is (a) classified or (b) requires specific contract provision relating to technical inspection or test, specifications changes, Government-furnished property, insurance, patents, price adjustments, or the like.

Subpart 18–3.7—Negotiated Overhead Rates

§ 18–3.700 Scope of subpart.

This subpart prescribes policy and procedures with respect to the establishment and use of negotiated overhead rates in NASA cost-reimbursement type contracts and subcontracts.

§ 18–3.701 Definitions.

§ 18–3.701–1 Negotiated final overhead rate.

The term negotiated final overhead rate as used in this Part 18–3, means a percentage or dollar factor which expresses the ratio mutually agreed upon by NASA and the contractor, at the close of a regularly stated period (preferably the contractor's fiscal year), of allowable indirect expense incurred in the period to direct labor, manufacturing cost, cost of sales, or other appropriate base of this same period. Such rates are used as a means of determining the amount of reimbursement under a contract for the applicable indirect cost and are designated "postdetermined" overhead rates. In certain circumstances involving educational institutions, negotiated final overhead rates may be used as a means of determining the amount of reimbursement for the applicable indirect costs to be incurred during a future period of contract performance; in such cases, they are termed "predetermined" overhead rates. (See § 18–3.704–2(b).)

§ 18–3.701–2 Provisional overhead rate.

The term provisional overhead rate as used in this Part 18–3, means a tentative overhead rate established for interim billing purposes pending negotiation of the final overhead rate. Provisional overhead rates are incorporated in the contract and require an amendment to change.

§ 18–3.701–3 Overhead (indirect costs).

The term overhead (indirect costs) as used in this Part 18–3, includes, but is not limited to, the general groups of indirect expenses such as those generated in manufacturing departments, engineering departments, tooling departments, general and administrative departments, and, if applicable, indirect costs accumulated by cost centers within these general groups. In the case of contractors using fund accounting systems (e.g., educational institutions), the term includes, but is not limited to, the general groups of expenses, such as general administration and general expense, maintenance and operation of physical plant, library expenses, and use charges for buildings and equipment.

§ 18–3.701–50 Negotiating authority.

The term negotiating authority as used in this Part 18–3, means the office designated by the Office of Procurement to conduct the negotiation of final overhead rates with a contractor.

§ 18–3.702 Purpose.

The major purposes of negotiated final overhead rates are: (a) to effect uniformity of approach in cases where more than one contract or one or more field installations and the Department of Defense are involved with the same contractor; (b) to effect economy in administrative effort; and (c) to promote timely settlement of reimbursement claims.

§ 18–3.703 Primary use.

Negotiated final overhead rates are authorized for use primarily in cost-reimbursement type contracts for research and development with commercial organizations and non-profit or educational institutions. They may also be used in other cost-reimbursement type contracts after a determination is made by the procurement officer that their use is advantageous to the Government. Where it is not apparent that any one of the major purposes enumerated in § 18–3.702 results, or will result, by the use of negotiated final overhead rates, indirect costs will be negotiated on the basis of an advisory audit report.

§ 18–3.704 Contract clauses.

§ 18–3.704–1 Contracts with concerns other than educational institutions.

When it has been determined that negotiated overhead rates are to be used pursuant to this Part 18–3, insert the following clause:

NEGOTIATED OVERHEAD RATES (NOVEMBER 1964)

(a) Notwithstanding the provisions of the clause of this contract entitled "Allowable Cost, Fixed Fee, and Payment," the allowable indirect costs under this contract shall be obtained by applying negotiated overhead rates to bases agreed upon by the parties as specified below.

(b) The Contractor, as soon as possible but not later than ninety (90) days after the expiration of each period specified in the Schedule, shall submit to the Contracting Officer, with a copy to the cognizant audit activity and the Office of Procurement, NASA Headquarters, a proposed final overhead rate or rates for that period based on the contractor's actual cost experience during that period, together with supporting cost data. Negotiation of final overhead rates by the Contractor and the negotiating authority shall be undertaken as promptly as practicable after receipt of the Contractor's proposal.

(c) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with Part 15, Subpart 2, of the NASA Procurement Regulation as in effect on the date of this contract.

(d) The results of each negotiation shall be set forth in a modification to this contract which shall specify (i) the agreed final rates, (ii) the bases to which the rates apply, and (iii) the periods for which the rates apply.

(e) Pending establishment of final overhead rates for any period, the Contractor shall be reimbursed either at negotiated provisional rates as provided in the Schedule or at billing rates acceptable to the Contracting Officer subject to appropriate adjustment when the final rates for that period are established. To prevent substantial over or under payment, the provisional or billing rates may, at the request of either party, be revised by mutual agreement, either retroactively or prospectively. Any such revision of negotiated provisional rates provided in the Schedule shall be set forth in an amendment to this contract.

(f) Any failure by the parties to agree on any final rate or rates under this clause shall be considered a dispute concerning a question of fact for decision by the Contracting Officer within the meaning of the "Disputes" clause of this contract.

(g) Nothing in this clause shall preclude the Contracting Officer from negotiating final overhead rates for this contract for any period not exceeding six (6) months when necessary to close out this contract.

§ 18–3.704–2 Contracts with educational institutions.

(a) Insert the following clause in contracts with educational institutions where postdetermined overhead rates are to be used pursuant to this Part 18–3.

NEGOTIATED OVERHEAD RATES (POSTDETERMINED) (JANUARY 1964)

(a) Notwithstanding the provisions of the clause of this contract entitled "Allowable Cost and Payment," the allowable indirect costs under this contract shall be obtained by applying negotiated overhead rates to bases agreed upon by the parties, as specified below.

(b) The contractor, as soon as possible but not later than six (6) months after the expiration of each period specified in the Schedule shall submit to the Contracting Officer, with a copy to the cognizant audit activity and the Office of Procurement, NASA Headquarters, a proposed final overhead rate or rates for that period based on the contractor's actual cost experience during that period, together with supporting cost data. Negotiation of final overhead rates by the contractor and the negotiating authority shall be undertaken as promptly as practicable after receipt of the contractor's proposal.

(c) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with Part 15, Subpart 3, of the NASA Procurement Regulation as in effect on the date of this contract.

(d) The results of each negotiation shall be set forth in a modification to this contract which shall specify (i) the agreed final rates, (ii) the bases to which the rates apply, and (iii) the periods for which the rates apply.

(e) Pending establishment of final overhead rates for any period, the contractor shall be reimbursed either at negotiated provisional rates as provided in the Schedule or at billing rates acceptable to the Contracting Officer subject to appropriate adjustment when the final rates for that period are established. To prevent substantial over- or under-payment, the provisional or billing rates may, at the request of either party, be revised by mutual agreement either retroactively or prospectively. Any such revision of negotiated provisional rates provided in the Schedule shall be set forth in an amendment to this contract.

(f) Any failure by the parties to agree on any final rate or rates under this clause shall be considered a dispute concerning a question of fact for decision by the Contracting Officer within the meaning of the "Disputes" clause of this contract.

(b) Provision may be made in cost reimbursement type research and development contracts with educational institutions for payment of reimbursable indirect costs on the basis of predetermined overhead rates, provided that this basis is used with respect to all contracts with an institution. Insert the following clause in contracts with educational institutions where such negotiated overhead rates are to be used pursuant to this Part 18–3.

NEGOTIATED OVERHEAD RATES (PREDETERMINED) (MAY 1964)

(a) Notwithstanding the provisions of the clause of this contract entitled "Allowable Cost and Payment," the allowable indirect costs under this contract shall be obtained by applying predetermined overhead rates to bases agreed upon by the parties as specified below.

(b) The contractor, as soon as possible but not later than three (3) months after the expiration of his fiscal year, shall submit to the Contracting Officer, with a copy to the cognizant audit activity and the Office of Procurement, NASA Headquarters, a proposed predetermined overhead rate or rates based on the contractor's actual cost experience during that fiscal year, together with supporting cost data. Negotiation of predetermined overhead rates by the contractor and the negotiating authority shall be undertaken as promptly as practicable after receipt of the contractor's proposal.

(c) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with Part 15, Subpart 3, of the NASA Procurement Regulation as in effect on the date of this contract.

(d) The results of each negotiation shall be set forth in an amendment to this contract, which shall specify (i) the agreed predetermined overhead rates, (ii) the bases to which the rates apply, (iii) the fiscal year unless the parties agree to a different period for which the rates apply, and (iv) the specific items treated as direct costs or any changes in the items previously agreed to be direct costs.

(e) Pending establishment of predetermined overhead rates for any fiscal year or different period agreed to by the parties, the contractor shall be reimbursed either at the rates fixed for the previous fiscal year or other period or at billing rates acceptable to the Contracting Officer, subject to appropriate adjustment when the final rates for that fiscal year or other period are established.

(f) Any failure by the parties to agree on any predetermined overhead rate or rates under this clause shall not be considered a dispute concerning a question of fact for decision by the Contracting Officer within the meaning of the "Disputes" clause of this contract. If for any fiscal year or other period specified in the Schedule of this contract the parties fail to agree to a predetermined overhead rate or rates it is agreed that the allowable indirect costs under this contract shall be obtained by applying negotiated final overhead rates in accordance with the terms of the "Negotiated Overhead Rates (Postdetermined)" clause set forth in 3.704–2 of the NASA Procurement Regulation as in effect on the date of this contract.

(g) Allowable indirect costs for the period until the end of the contractor's fiscal year during which performance begins shall be obtained by applying the predetermined overhead rate set forth in the Schedule to the bases set forth therein.

(c) When predetermined overhead rates are to be used and no such rate or rates have been established for the contractor's current fiscal year, the contracting officer shall obtain from the contractor during the contract negotiations a proposal for a predetermined overhead rate or rates to be applied until the end of such fiscal year. As far as practicable, such proposal should be based on the contractor's cost experience under similar contracts together with supporting cost data. The overhead rate or rates for such initial period shall be predetermined by negotiation and set forth in the contract schedule. The schedule shall also include the bases to which the rates apply and the period for which the rates apply. Pending establishment of predetermined overhead rates for the initital period, the contractor shall be reimbursed at billing rates acceptable to the contracting officer subject to appropriate adjustment when the final rates for that period are established.

§ 18–3.705 Policy.

Since many NASA contractors are under the negotiated overhead rate procedure with the Department of Defense, it is the policy of NASA to participate in joint negotiations with the Department of Defense. The NASA participant will be the Office of Procurement (Code KDC), or the NASA procurement office designated by the Office of Procurement, NASA Headquarters.

(a) NASA contractors not under the Department of Defense negotiated overhead rate procedure will be under NASA

cognisance and the negotiations will be conducted by the Office of Procurement, or by the procurement office designated as the negotiating authority by the Office of Procurement (Code KDC), with selected field installations participating.

(b) A contractor currently under Department of Defense cognisance may eventually be transferred to NASA cognisance because of the shift in procurement predominance. Such transfer will be arranged by the Office of Procurement (Code KDC) which will designate the negotiating authority.

§ 18–3.706 Procedure.

(a) When a contractor is under NASA cognisance, the procedure for the establishment and use of negotiated final overhead rates will generally consist of submission by the contractor of an overhead rate proposal, obtaining and advisory audit report from the cognizant auditor, holding a prenegotiation conference for review of the contractor's proposal and the advisory audit report, conduct of negotiation, preparation of a negotiation report or summary, and execution of contract amendments.

(b) The contractor shall submit a copy of his proposal to the contracting officers of each NASA installation with which he has contracts, with a copy to the cognizant audit activity and the Office of Procurement (Code KDC).

(c) The cognizant audit activity will review the contractor's overhead rate proposal using Part 18–15 of this chapter as a basis for determining allowable costs. An advisory audit report will be submitted to the Procurement Officer of each NASA field installation having a contract with the contractor and a copy to the cognizant NASA Regional Audit Office and to the Office of Procurement (Code KDC). Such report shall set forth the findings of the audit activity including the results of discussion of such findings with the contractor.

(d) A prenegotiation conference will be held by the negotiating authority with attendance by the auditor, representatives of NASA field installations, as designated by the Office of Procurement, and other Government procurement and audit activities interested in/or planning to attend the negotiations. This conference will relate to the areas of difference between the advisory audit report and the contractor's proposal, any other factors pertaining to the negotiations, decide upon the approach to the negotiations and establish a consolidated negotiation position. As a further aid to the negotiating authority, a representative of the audit activity and/or a representative of the NASA Audit Division will, upon request, attend the negotiation conference.

(e) The negotiation conference will be conducted by the negotiating authority designated by the Office of Procurement (Code KDC). The allowability of costs and methods of cost allocation will be governed by Part 18–15 of this chapter. An agreement will be negotiated on final overhead rates, the specific items treated as direct charges and the provisional overhead rates if such rates are to be specified in the contract.

(f) At the completion of the negotiation, the NASA negotiating authority will prepare a negotiation report listing the names, titles, and organizations of those in attendance, the rates negotiated, the reasons for variation from the audit report, if any, the period of rate applicability, the basis for the determination of such rates and, where applicable, the provisional rates agreed upon for application in the succeeding period. Such report shall become the basis for amending the affected contracts and shall become a part of the contract file. Sufficient copies of the report shall be forwarded by the negotiating authority to the Office of Procurement (Code KDC), for distribution to all interested activities.

(g) Contract amendments will incorporate the negotiated final overhead rates, the bases to which they apply, and the period of rate applicability.

§ 18–3.707 Coordination.

(a) Because of the preponderance of contractors now subject to the negotiated overhead rate procedure with the Department of Defense, arrangements have been made with the Department of Defense to advise the Office of Procurement (Code KDC), of a pending overhead rate negotiation. All NASA field installations having an interest will be notified by the Office of Procurement of the scheduled negotiation. The notification will designate the NASA participant in such negotiations. The Office of University Affairs, generally will be the designated NASA participant in negotiations with educational institutions and nonprofit organizations. Should it be impossible for the designated participant to attend, the Office of Procurement (Code KDC) shall be notified and arrangements will be made to ensure that a NASA participant is in attendance.

(b) In cases where NASA becomes the sponsoring agency and has the responsibility for conducting the negotiation, the Office of Procurement, or a designee of that office, will be responsible for notifying all interested NASA field installations, the Office of Naval Material, Navy Department; The Chief, Pricing and Financial Division, Air Force Systems Command, Department of the Air Force; and the Chief, Procurement Support Division, Army Material Command, Department of the Army; who will, in turn, notify the respective procurement activities within their agencies.

(c) Currently, the Department of Defense prepares and distributes a "Master List of Commercial Contractors, Nonprofit Institutions and Educational Organizations Operating Under Negotiated Overhead Rates for Cost Type Contracts" which indicates the Government agency sponsoring the negotiation. This list will be supplemented by the Office of Procurement (Code KDC) to include those contractors for which NASA becomes the sponsoring agency. As changes are made in the list, the field installations will be advised.

§ 18–3.708 Ceilings on indirect costs.

(a) Cost-sharing arrangements are occasionally made wherein cost participation by the contractor is evidenced by an agreement to accept overhead rates which are lower than the anticipated actual overhead rates. In such cases, a negotiated ceiling overhead rate may be used for application prospectively.

(b) In other cases, it may be desirable to provide for a ceiling on overhead rates beyond which the contractor will absorb the costs. For example: (1) The proposed contractor is a new company or has been recently reorganized and there may be no past record of indirect costs incurred, or (2) the proposed contractor may have a recent record of rapidly increasing overhead rates due, perhaps, to a declining volume of sales without a commensurate decline in indirect expense, or (3) the proposed contractor may be seeking to enhance its competitive position in a particular procurement by basing its proposal on overhead rates lower than those which reasonably may be expected to occur during contract performance and which would likely cause a cost overrun. When any of the foregoing circumstances are apparent with either a proposed prime or subcontractor, reasonable, realistic and equitable ceilings should be negotiated on overhead rates.

(c) In the cases cited in paragraphs (a) and (b) of this section, the Government will not be obligated to pay any additional amount on account of overhead above the negotiated ceiling rates. In the event overhead rates resulting from an audit of allowable costs are less than the negotiated ceiling rates, the ceiling rates will be reduced in conformity with the lower rates.

(d) A copy of each contract providing for a ceiling on overhead rates will be forwarded to the Office of Procurement (Code KDC).

Subpart 18–3.8—Price Negotiation Policies and Techniques

§ 18–3.800 Scope of subpart.

This subpart sets forth the price negotiation policies and techniques applicable to negotiated prime contracts and those subcontracts which are subject to consent or review and policies and procedures applicable to the initiation of procurement requests and solicitation and evaluation of proposals. The principles in this subpart apply to negotiation of prices on all types of contracts and to revised prices as well as initial prices.

§ 18–3.801 Basic policy.

§ 18–3.801–1 General.

It is the policy of NASA to procure supplies and services from responsible sources at fair and reasonable prices calculated to result in the lowest ultimate overall cost to the Government. Sound pricing depends primarily upon the exercise of sound judgment by all personnel concerned with the procurement.

§ 18–3.801–2 Responsibility of contracting officers.

(a) Contracting officers acting within the scope of their appointments (and in some cases acting through their authorized representatives) are the exclusive agents of NASA to enter into and administer contracts on behalf of the Government in accordance with NASA procurement instructions. Each contracting officer is responsible for performing or having performed all administrative actions necessary for effective contracting. The contracting officer shall exercise reasonable care, skill, and judgment and shall avail himself of all organizational tools (such as the advice of specialists in the fields of contracting, finance, law, contract audit, program management, system reliability, engineering, traffic management, and cost analysis) necessary to accomplish the purpose as, in his discretion, will best serve the interests of the Government.

(b) To the extent services of specialists are utilized in the negotiation of contracts, the contracting officer must coordinate a team of experts, requesting advice from them, evaluating their counsel, and availing himself of their skills as much as possible. The contracting officer shall obtain simultaneous coordination of the specialist efforts to the greatest practical extent. He shall not, however, transfer his own responsibilities to them. Thus, the final negotiation of price, including price redetermination and evaluation of cost estimates, remains the responsibility of the contracting officer.

(c) When a contractor insists on a price or demands a profit or fee which the contracting officer considers unreasonable, the contracting officer shall, in coordination with the initiator of the purchase request, determine the feasibility of developing an alternate source of supply and take such action within his authority may be appropriate in the circumstances. If, after exhausting this course of action, a satisfactory solution has not been obtained, the contracting officer shall refer the prospective procurement to higher echelons of the procurement organization. Such referral shall include a complete statement of the attempt made to resolve the matter. With regard to a contractor's refusal to provide cost or pricing data, see § 18–3.807–8.

§ 18–3.801–3 Responsibility of other personnel.

Personnel, other than the contracting officer, who establish the requirements for the product or services to be procured, can influence the degree of competition obtainable as well as have a material effect upon prices. Failure to finalize requirements in sufficient time to allow (a) a reasonable period for preparation of requests for proposals; (b) preparation of quotations by offerors; (c) contract negotiations and preparation; and (d) adequate performance lead time, causes delinquency in performance and uneconomical prices. Requirements issued on an urgent basis or with unrealistic performance schedules should be avoided since they generally increase price or restrict desired competition. Personnel determining requirements, specification, reliability and quality assurance, adequacy of sources of supply, and like matters, have responsibility in such areas, equal to that of the contracting officer, for timely, sound, and economical procurement.

§ 18–3.802 Preparation for negotiation.

§ 18–3.802–1 Product or service.

Knowledge of the product or service, and its use is essential to sound pricing. Before soliciting quotations, every contracting officer should develop, where feasible, an estimate of the proper price level or value of the product or service to be purchased. Such estimates may be based on a physical inspection of the product and review of such items as drawings, specifications, job process sheets, and prior procurement data. When necessary, requirements and technical specialists should be consulted. The primary responsibility for the adequacy of specifications and for the delivery requirements must necessarily rest with requirements and technical groups. However, the contracting officer should be aware of the effect which these factors may have on prices and competition and should, prior to award, inform requirements and technical groups of any unsatisfactory effect which their decisions have on prices or competition.

§ 18–3.802–2 Selection of sources.

(a) *Competition.* It is NASA policy that competition will be obtained whenever possible. Companies that have indicated their interest by filing Standard Form 129, "Bidder's Mailing List Application," and any other companies that are known to be competent in the field involved, should be considered for a pending procurement. No company shall be precluded from submitting a proposal merely because it was not initially furnished a request for proposals.

(b) *Locating prospective contractors.* There shall be a continuing effort by NASA procurement and technical personnel to search for and develop information on potential sources. The negotiator shall submit proposed procurements in excess of 2,500, which are to be awarded on a competitive basis, to the small business specialist for screening before requests for proposals are issued, in order that small business concerns may be given an equitable opportunity to compete for procurements for which they might qualify. However, see § 18–1.705–3 of this chapter. Prior to making a determination as to which firms will be solicited, the negotiator shall review the source list of companies which have filed Standard Form 129 and any other information, including brochures, surveys, discussions, or correspondence, indicating the companies' interest and ability in the field of procurement. The names of additional companies which are known to be interested and competent in the field shall be added.

(c) *Appraising prospective contractors.* When the preparation of proposals requires extensive work and expense to companies, especially in the case of research and development, the source list should be screened by technical personnel, the negotiator, and small business personnel, and requests for proposals sent only to those companies which not only are technically qualified but are known to have the experience, management capabilities, and facilities to perform the contract. In those circumstances where the number of eligible companies is excessively large, proposal requests need only be sent to a representative number of companies which will assure effective competition: *Provided, however,* That in subsequent procurements the list will be revised to provide all qualified firms an equal opportunity to submit proposals.

§ 18–3.802–3 Noncompetitive procurement.

(a) While competition must be obtained whenever possible, there are circumstances where one institution or company has exclusive or predominate capability by reason of experience, specialized facilities, or technical competence to perform the work within the time required and at reasonable prices. In such a circumstance, the initiating technical office may recommend, for approval by the appropriate authority listed in paragraph (d) of this section, that only one institution or company is qualified to perform the work or services and that a proposal be solicited only from this source. This recommendation shall be in writing and will be contained in a separate document entitled "Justifi-

cation for Noncompetitive Procurement" and shall set forth full and complete justification for the selection in accordance with paragraph (c) of this section, except as otherwise authorized by paragraph (d)(1) of this section. In those cases where the initiating technical office does not make such a recommendation, the recommendation may be made by the procurement office, if deemed appropriate. In such a case, the recommendation will be prepared for the signature of an appropriate individual, consistent with the approval requirements of paragraph (d) of this section, and shall have the concurrence of the cognisant technical office before submission to the approving authority specified in paragraph (d) of this section, except that such concurrence may be waived in the case of small purchases (see paragraph (d)(1) of this section).

(b) The provisions of this § 18–3.802–3 do not apply to: (1) procurements of $250 or less; (2) procurements from or through other Government agencies; (3) procurements of utility services where the services are available from only one source; (4) procurements of architect-engineer services; (5) procurements of industrial facilities required in support of related procurement contracts; (6) procurements of scientific experiments selected for flight pursuant to NASA Management Instruction 7100.1; or (7) procurements based on unsolicited proposals where a "Justification for Acceptance of Unsolicited Proposal" is provided in accordance with Subpart 18–4.4.

(c) Justification for Noncompetitive Procurement:

(1) The document entitled "Justification for Noncompetitive Procurement" shall:

(i) Fully express the circumstances which operate to make competitive negotiation impractical or not feasible;

(ii) Explain with particularity the exclusive or predominant capability the proposed contractor possess which meet the requirements of the procurement; and

(iii) Contain, in the first sentence of the document, an appropriate recommendation (e.g., "I recommend that we negotiate with the _____ (Name of company) _____ only for the detailed documentation and fabrication of _____ (Item being procured)

(2) Each "Justification" shall reflect the degree of consideration which has been given to other sources in the particular field and the reasons they lack the capability which the proposed contractor evidences. The following illustrations represent factors which should be considered, as appropriate, in preparing the "Justification":

(i) What capability does the proposed contractor have which is important to the specific effort and makes him clearly more desirable than another firm in the same general field?

(ii) What prior experience of a highly specialized nature does he possess which is vital to the proposed effort?

(iii) What facilities and test equipment does he have which are specialized and vital to the effort?

(iv) Does he have a substantial investment of some kind which would have to be duplicated at Government expense by another source entering the field?

(v) If schedules are involved, why are they critical and why can the proposed contractor best meet them?

(vi) If lack of drawings or specifications is a guiding factor, why is the proposed contractor best able to perform under these conditions? Why are drawings and specifications lacking? What is the leadtime required to get drawings and specifications suitable for competition?

(vii) Are Government-owned facilities involved?

(viii) Is the effort a continuation of previous effort performed by the proposed contractor?

(ix) Does the proposed contractor have personnel considered predominant experts in the particular field?

(x) Is competition precluded because of the existence of patent rights, copyrights or secret processes?

(xi) Are parts or components being procured as replacement parts in support of equipment specially designed by a manufacturer, where data available is not adequate to assure that the parts or components will perform the same function in the equipment as those parts or components being replaced?

(d) Review and approval. The "Justification" shall, as a minimum requirement, be reviewed and approved as follows:

(1) For small purchases in excess of $250, but not in excess of $2,500, the "Justification" may be in the form of a statement and shall be submitted for the signature of the contracting officer.

(2) For procurements in excess of $2,500, but not in excess of $100,000, the "Justification" shall be submitted for the approval of the Procurement Officer or his designee after prior review and written concurrence by the initiating technical individual's immediate superior.

(3) For procurements in excess of $100,000, but not in excess of $1 million, the "Justification" shall be submitted for the approval of the Procurement Officer or his designee after prior review and written concurrence by the head of the cognisant technical division or laboratory, as applicable.

(4) For procurements in excess of $1 million but not in excess of $5 million, the "Justification" shall be submitted for the approval of the Director of the Installation or his Deputy after prior review and written concurrences by the Director or Assistant Director of the cognisant technical directorate, cognisant Program Manager, or cognisant staff official, as applicable, who reports directly to the Director of the Installation, and by the Procurement Officer.

(5) For procurements in excess of $5 million, the "Justification" shall be submitted for the signature of the Director of the Installation after prior review and written concurrences by the Director or Assistant Director of the cognisant technical directorate, cognisant Program Manager, or cognisant staff official, as applicable, who reports directly to the Director of the Installation and by the Procurement Officer. The "Justification" shall contain additional signature blocks for approval by the Administrator and for concurrences by the Director of Procurement, the Assistant Administrator for Industry Affairs, the cognisant Program Associate Administrator, and the Deputy Administrator.

Each individual signing the "Justification" will indicate his position title.

(e) The "Justification for Noncompetitive Procurement" will be attached to the Procurement Plan in accordance with § 18–3.852–3 and will be made a part of the contract file. (See §§ 18–1.306 and 18–16.853.)

§ 18–3.802–4 Requests for proposals.

(a) *Preparation and submission.* Requests for proposals, including modifications thereof, shall be prepared by the procurement office, with assistance from technical or other offices as required and be signed by the contracting officer. The request for proposals has a twofold purpose: (1) To convey to prospective contractors the information they need to prepare a proposal properly, and (2) to solicit the information that procurement and technical personnel need to appraise the proposals of prospective contractors. The request for proposals shall contain all information necessary to enable a prospective offeror to prepare a proposal properly (see Subpart 18–3.5, which contains a list of items that should be considered in preparing a request for proposals or a request for quotations). Requests for proposals, including requests for revised proposals, shall be in writing and shall specify a date for their submission. When advisable, particularly in the case of research and development, proposals shall be requested in two parts: (1) An unpriced technical proposal and (2) a cost proposal cross-referenced to the technical proposal. Any extension of time granted to one prospective contractor shall be granted uniformly to all. Each request for proposals shall be issued to prospective contractors at the same time, and no contractor shall be given an advantage.

(b) *Advance information copies.* Two copies of each request for proposals and changes to such request for proposals prepared pursuant to a procurement plan approved under § 18–3.852–2(a)(3) shall be forwarded to the Director of Procurement (Code KDR). These copies shall be forwarded at the earliest practicable date following completion of the final draft of the request for proposals. However, submission to the Director of Procurement shall in no event be later than the date the request for proposals is mailed to prospective proposers. The transmittal to the Director of Procurement shall identify the procurement plan to which the request for proposals applies. This requirement is in addition to the requirements of § 18–50.104.

(c) *Late proposals and late unsolicited revisions to proposals.* (1) Except with respect to procurements estimated not to exceed $2,500, written requests for proposals shall contain the following provision:

LATE PROPOSALS (JUNE 1963)

The Government reserves the right to consider proposals or modifications thereof received after the date indicated for such purpose, but before award is made, should such action be in the interest of the Government.

(2) Proposals, or modifications thereof, received from qualified firms after the latest date specified for receipt may be considered if there is a probability of a significant reduction in cost to the Government, or technical improvements, as compared with proposals previously received. In such case, the negotiator shall investigate the circumstances surrounding the submission of the late proposal or modification and evaluate its content. He shall then submit his recommendations and findings to the contracting officer, in writing, as to whether, in his opinion:

(i) The company submitting the proposal has an excusable reason for late submission;

(ii) There is an advantage to the Government to consider the proposal;

(iii) All companies submitting proposals should be resolicited; and

(iv) Time of performance permits such resolicitation.

The contracting officer shall thereupon determine whether the proposal should be considered or rejected, or a resolicitation of proposals should be made.

(3) When the failure of a proposal to arrive on time is due solely to delay in the mails for which the offeror was not responsible or when only one proposal is received, the contracting officer may consider the proposal.

(4) Offerors submitting late proposals that will not be considered will be notified by the contracting officer that his proposal was received late and will not be considered.

(5) The provisions of subparagraphs (1) through (4) of this paragraph are also applicable to late quotations. In the case of a request for quotations, the provisions set forth in subparagraph (1) of this paragraph will be appropriately modified.

§ 18–3.803 Type of contract.

(a) The selection of an appropriate type of contract and the negotiation of prices, or estimated costs and fee, are related and should be considered together. The objective is to negotiate a type of contract and a price that includes reasonable contractor risk and provides the contractor with the greatest incentive for efficient and economical performance. When negotiations indicate the need for using other than a firm fixed-price contract, there should be compatibility between the type of contract selected and the contractor's accounting system. In view of the exploratory nature of research and development, and the uncertainties inherent in its successful accomplishment, cost-reimbursement type contracts normally will be utilized in accomplishing such procurements. Exception may be made when negotiating contracts of low monetary value where audit is impracticable or in contracts where the work to be performed can be described with a reasonable degree of definiteness and sufficient cost or pricing information is available to ensure that the contract price will be fair and reasonable.

(b) In the course of a procurement program, a series of contracts, or a single contract running for a lengthy term, the circumstances which make for selection of a given type of contract at the outset will frequently change so as to make a different type more appropriate during later periods. In particular, the repetitive or unduly protracted use of a cost-plus-a-fixed-fee or time and materials contract is to be avoided where experience has provided a basis for firmer pricing which will promote more efficient performance and will place a more reasonable degree of risk on the contractor. Thus, in the case of a time and materials contract, continuing consideration should be given to converting to another type of contract as early in the performance periods as practicable.

§ 18–3.804 Evaluation of proposals.

§ 18–3.804–1 General.

Evaluation of proposals by all personnel concerned with the procurement will be completed expeditiously. The evaluation of proposals received may be accomplished in a number of different ways. Evaluation of proposals for scientific experiments to be flown aboard NASA satellites will be accomplished in accordance with NASA Management Instruction 7100.1. Other methods of evaluation used by NASA, together with policies and procedures regarding their use, are set forth in §§ 18–3.804–2 and 18–3.804–3.

§ 18–3.804–2 Evaluation procedures not involving source evaluation board.

The evaluation procedures set forth in paragraphs (a) through (d) shall be utilized except where the procedures set forth in § 18–3.804–3 apply.

(a) *Responsibility of contracting officer.* (See § 18–3.801–2.)

(b) *Technical evaluation.* Generally, procurement personnel are not qualified to evaluate proposals from a technical viewpoint and must rely on scientific and engineering personnel for this function. In research and development contracting, awards should usually be made to those companies that have the highest competence in the specific field of science or technology involved, although awards should not be made on the basis of research and development capabilities that exceed those needed for the successful performance of the work. It is imperative therefore that technical evaluations and recommendations be fully documented and reviewed by responsible personnel. Technical evaluation should include the following:

(1) The contractor's understanding of the scope of the work as shown by the scientific and technical approach proposed;

(2) Availability and competence of experienced engineering, scientific, or other technical personnel;

(3) Availability of necessary research, test, and production facilities;

(4) Experience or pertinent novel ideas in the specific branch of science or technology involved;

(5) The contractor's willingness to devote his resources to the proposed work with appropriate diligence; and

(6) The contractor's proposed method of achieving the reliability required.

In making this evaluation, technical personnel may be given access to portions of the business proposals upon request. After evaluation and preparation of written recommendations as to selection of source by the technical personnel, proposals shall be returned to the negotiator. The contracting officer is responsible for reviewing the justification in support of the recommendations of technical personnel to determine that the justification is adequate and that the documentation is complete.

(c) *Business evaluation.* (1) *Price and cost analysis.* Each proposal requires some form of price or cost analysis. The contracting officer must exercise judgment in determining the extent of analysis in each case. On high-dollar value procurements, particularly where effective competition has not been obtained, the analysis should be thorough, and the record carefully documented to disclose the extent to which the various elements of costs, fixed fee, or profit contained in the contractor's proposals were analyzed. The negotiation memorandum should also reflect the consideration given to the recommendations of the price analyst and the basis for nonacceptance or departure from the recommendations during the course of negotiations.

(2) *Automatic data processing equipment.* In evaluating proposals containing a significant amount of cost for Automatic Data Processing (ADP) the contracting officer should obtain from the prospective contractor a feasibility study and a lease-versus-purchase study covering the acquisition of such equipment or service. The contracting officer will obtain the recommendations of the price analyst and appropriate ADP technical personnel as to the adequacy of the studies and the prospective contractor's determinations resulting from the studies. Particular attention should be given to those proposals containing a high-dollar amount for rental of ADP equipment or complete systems to be used solely for performance of the contract. Current Bureau of the Budget criteria (NHB 2410.1) should be used, where applicable, as a guide in evaluating the contractor's studies. Prospective contractors should be encouraged to;

(i) Use ADP machine time available within a reasonable geographic distance;

(ii) Use telecommunications links to remote Government-owned or leased ADP systems, and

(iii) Purchase ADP equipment in preference to leasing the equipment where the financial advantage is the sole or overriding factor.

(3) *Other factors.* The contracting officer must appraise the management capability of the offeror to perform the required work in a timely manner. In making this appraisal, he must consider such factors as the company's management organization, past performance, reputation for reliability, and availability of the required facilities, and cost controls, including the nature and effectiveness of its cost reduction program (see § 18–3.102(b)(xx)).

§ 18–3.804–3 Evaluation procedures—use of Source Evaluation Board.

(a) Source Evaluation Board procedures are appropriate for competitive negotiated procurements, except Architect-Engineer services and contracts for which the procedures have been specifically waived, when:

(1) The estimated cost of the contract will exceed $1 million;

(2) The estimated cost of the contract will not exceed $1 million, but it is likely that the source selected will receive other contracts for later phases of the same project which, cumulatively, would total more than $1 million. (Examples of this category include feasibility studies and project definition contracts under approved programs or programs for which approval will be requested); or that

(3) A Source Selection Official determines that the use of the Source Evaluation Board procedures is desirable.

(b) The detailed procedures regarding the designation and operation of Source Evaluation Boards are set forth in NPC 402. (See NASA Management Instruction 1152.2.)

§ 18–3.804–4 Disclosure of information prior to selection of contractor.

During the course of evaluation proceedings, whether or not a Source Evaluation Board is utilized, NASA personnel participating in any way in evaluating proposals shall not reveal any information concerning the evaluation under way to anyone who is not also participating in the same evaluation proceedings, and then only to the extent that such information is required in connection with such proceedings. When other Government or Jet Propulsion Laboratory personnel participate in evaluation proceedings, they will be instructed to observe these restrictions. Following selection of a contractor, information will be provided to unsuccessful offerors in accordance with § 18–3.106–3.

§ 18–3.805 Conduct of negotiations.

§ 18–3.805–1 General.

(a) After evaluation of proposals written or oral discussions shall be conducted with all responsible offerors who submit proposals within a competitive range, price and other factors considered, in accordance with § 18–3.102(a), and due attention will be given to the factors cited in §18–3.102(b).

(b) Procurement personnel, as well as other personnel concerned with the procurement, shall ensure that contract negotiations are completed expeditiously. However, all details of the negotiation must be completed before the contract is actually placed. This includes, to the extent applicable:

(1) Arrangements regarding Government-furnished property;

(2) Determination that the prospective contractor is responsible, including completion of preaward surveys where required;

(3) Arrangements with other Government agencies for the use of facilities under their control;

(4) Where the contract will be administered by another Government agency, any necessary arrangements with the responsible activity of that agency; and

(5) Where the contract will involve access to classified information, verification that required security clearance has been obtained.

(6) The requirement for the furnishing of data by the contractor in the performance of the contract, both for technical evaluation and for competitive reprocurement where follow-on procurement is probable, in those situations where the appropriate technical office has requested that the contracting officer obtain such data; and

(7) If the offeror's proposal contains technical data marked with a restrictive legend, whether the Government desires rights to use such data (§§ 18–3.109 and 18–9.202–6).

(c) *Auction techniques.* Whenever negotiations are conducted with more than one offeror, auction techniques are strictly prohibited. An example would be indicating to an offeror a price which must be met to obtain further consideration. On the other hand, it is permissible to inform an offeror that his price is considered by the Government to be too high to be within the zone of consideration. After receipt of proposals, no information regarding the number or identity of the offerors participating in the negotiations shall be made available to the public or to any one whose official duties do not require such knowledge (see § 18–1.1050). Whenever negotiations are conducted with several offerors, while such negotiations may be conducted successively, all offerors selected to participate in such negotiations (see paragraph (a) of this section) shall be offered an equitable opportunity to submit such price, technical, or other revisions in their proposals as may result from the negotiations. All such offerors shall be informed of the specified date (and time if desired) of the closing of negotiations and that any revisions to their proposals must be submitted by that date. All such offerors shall be informed that any revision received after such date will be treated as a late proposal in accordance with the "Late Proposals" provisions of the request for proposals. All such offerors shall also be informed that after the specified date for the closing of negotiation no information other than notice of unacceptability of proposal, if applicable (see § 18–3.106), will be furnished to any offeror until award has been made.

(d) In selecting the contractor for a cost-reimbursement type contract, estimated costs of contract performance and proposed fees should not be considered as controlling, since in this type of contract advance estimates of cost may not provide valid indicators of final actual costs. There is no requirement that cost-reimbursement type contracts be awarded on the basis of either (1) the lowest proposed cost, (2) the lowest proposed fee, or (3) the lowest total estimated cost plus proposed fee. This is not to say that potential contract cost is to be ignored. Potential costs should be based on what knowledge can be derived of the costliness of the particular contractor's operations and should not rely principally on the contractor's submitted cost estimate. The award of cost-reimbursement type contracts primarily on the basis of estimated costs may encourage the submission of unrealistically low estimates and increases the likelihood of cost overruns. The cost estimate is important to determine the prospective contractor's understanding of the project and ability to organize and perform the contract. The agreed fee must be within the limits prescribed by law and regulation and appropriate to the work to be performed (see § 18–3.808). Beyond this, however, the primary consideration in determining to whom the award shall be made is which contractor can perform the contract in a manner most advantageous to the Government.

§ 18–3.806 Cost, profit, and price relationships.

(a) Where products are sold in the open market, costs are not necessarily the controlling factor in establishing a particular seller's price. Similarly, where competition may be ineffective or lacking, estimated costs plus estimated profit are not the only pricing criteria. In some cases, the price appropriately may represent only a part of the seller's cost and include no estimate for profit or fee, as in research and development projects where the contractor is willing to share part of the costs. In other cases, price may be controlled by competition as set forth in § 18–3.805–1. The objective of the contracting officer shall be to negotiate fair and reasonable prices in which due weight is given to all relevant factors, including those in § 18–3.102.

(b) Profit or fee is only one element of price and represents a much smaller proportion of the total price than do such other estimated elements as labor and material. While the public interest requires that excessive profits be avoided, the contracting officer should not be-

come so preoccupied with particular elements of a contractor's estimate of cost and profit that the most important consideration, the total price itself, is distorted or diminished in its significance. Government procurement is concerned primarily with the reasonableness of the price which the Government ultimately pays, and only secondarily with the eventual cost and profit to the contractor.

§ 18–3.807 Pricing techniques.

§ 18–3.807–1 General.

(a) *Policies.* Policies set forth in this Subpart 18–3.8 may be applied in a variety of ways in the evaluation of offerors' or contractors' proposals and in the negotiation of contract prices. The following paragraphs describe the principal price and cost evaluation techniques and the circumstances under which each may be used. They are equally applicable to initial and subsequent price negotiations.

(b) *Adequate price competition and catalog or market prices.* For the purpose of this § 18–3.807, the terms "adequate price competition" and "established catalog or market prices of commercial items sold in substantial quantities to the general public" shall be construed in accordance with the following general guidelines.

(1) *Adequate price competition.* (i) Price competition exists if offers are solicited and (*a*) at least two responsible offerors (*b*) who can satisfy the purchaser's (e.g., the Government's) requirements (*c*) independently contend for a contract to be awarded to the responsive and responsible offeror submitting the lowest evaluated price (*d*) by submitting priced offers responsive to the expressed requirements of the solicitation. Whether there is price competition for a given procurement is a matter of judgment to be based on evaluation of whether each of the foregoing conditions in (*a*) and (*d*) of this subparagraph (1)(i) are satisfied. Generally, in making this judgment, the smaller the number of offerors, the greater the need for close evaluation.

(ii) If conditions in subdivision (i) are met, price competition may be presumed to be "adequate" unless the purchaser (e.g., the contracting officer) finds that:

(*a*) The solicitation was made under conditions that unreasonably deny to one or more known and qualified offerors an opportunity to compete;

(*b*) The low competitor has such a determinative advantage over the other competitors that he is practically immune to the stimulus of competition in proposing a price (e.g., a determinative advantage because substantial costs, such as start-up or other nonrecurring expenses, have already been absorbed in connection with previous sales, thus placing the competitor in a preferential position); or

(*c*) The lowest final price is not reasonable and supports such finding by an enumeration of the facts upon which it is based: *Provided*, That such finding is approved by the Procurement Officer or his deputy.

(iii) A price is "based on" adequate price competition if it results directly from such competition or, if price analysis (not cost analysis) shows clearly that the price is reasonable in comparison with current or recent prices for the same or substantially the same items procured in comparable quantities under contracts awarded as a result of adequate price competition (e.g., (*a*) exercise of an option in a contract for which there was adequate price competition if the option price has been determined to be reasonable and the option price is not greater than the contract price; or (*b*) an item is normally procured competitively but in a particular situation only one offer is solicited or received, and the price clearly is reasonably in comparsion with recent purchases of comparable quantities for which there was adequate price competition.)

(2) *Established catalog or market prices of commercial items sold in substantial quantities to the general public.* Application of this exception also requires judgment and analysis on a case-by-case basis. In making this judgment, the various elements of the term must be considered and a price must meet all these conditions in order to be considered for exception. In other words, the price must be, or be based on: (i) an established catalog or market price, (ii) of commercial items, (iii) sold in substantial quantities, (iv) to the general public. The following criteria should be applied in determining whether an item falls within the scope of this exception:

(i) An "established catalog price" is a price included in a catalog, price list, schedule, or other form that (*a*) is regularly maintained by the manufacturer or vendor, (*b*) is either published or otherwise available for inspection by customers and (*c*) states prices at which sales are currently, or were last, made to a significant number of buyers constituting the general public. An "established market price" is a current price, established in the usual and ordinary course of trade between buyers and sellers free to bargain, which can be substantiated from sources independent of the manufacturer or vendor.

(ii) A "commercial item" is an item of either supplies or services, of a class or kind which (*a*) is regularly used for other than Government purposes, and (*b*) is sold or traded in the course of conducting normal business operations.

(iii) Supplies are "sold in substantial quantities" when the facts or circumstances are sufficient to support a reasonable conclusion that the quantities regularly sold are sufficient to constitute a real commercial market for the item. Nominal quantities, such as models, specimens, samples, and prototype or experimental units, cannot be considered as meeting this requirement. Services are sold in substantial quantities if they are customarily provided by the contractor, with personnel regularly employed, and with equipment, if any is necessary, regularly maintained, solely or principally, for the purpose of providing such services.

(iv) An item is sold "to the general public" if it is sold to other than affiliates of the seller for end use by other than the Government. Items sold to affiliates of the seller and sales for end use by the Government are not sales to the general public.

A price may be considered to be "based on" established catalog or market prices of commercial items sold in substantial quantities to the general public if the item being purchased is sufficiently similar to such a commercial item to permit the difference between the prices of the items to be identified and justified without resort to cost analysis. The foregoing criteria require positive demonstration by convincing evidence to support the application of this exception. It is not enough that an item be listed in a catalog or price list, or be offered for sale to the general public, or be intended to become a commercial item, but tangible and substantial sales activity must be shown to result from such listing, offering, or intention. The listing of an item in the Federal Supply Schedules is an offer to furnish the item to Government agencies at stipulated price and delivery terms, and does not, of itself, meet the criteria for exception.

§ 18–3.807–2 Requirement for price or cost analysis.

(a) *General.* Some form of price or cost analysis is required in connection with every negotiated procurement action. The method and degree of analysis, however, is dependent on the facts surrounding the particular procurement and pricing situation. When cost or pricing data is required to be submitted under the conditions described in § 18–3.807–3, cost analysis shall be performed in accordance with paragraph (c) of this section. The extent of the cost analysis, however, should be that necessary to assure reasonableness of the pricing result, and to establish a sound basis for negotiation, taking into consideration the amount of the proposed contract and the cost and time needed to accumulate the necessary data for analysis. Price analysis shall be used in all other instances to determine the reasonableness of the proposed contract price. Price analysis may also be useful in confirming the overall reasonableness of a proposed price where the determination of reasonableness was developed through cost analysis.

(b) *Price analysis.* (1) Price analysis is the process of examining and evaluating a prospective price without evaluation of the separate cost elements and proposed profit of the individual prospective supplier whose price is being evaluated. Price analysis may be accomplished in various ways including the following:

(i) The comparison of the price quotations submitted;

(ii) The comparison of prior quotations and contract prices with current quotations for the same or similar end items (to provide a suitable basis for comparison, appropriate allowances must be made for differences in such factors as specifications, quantities ordered, time for delivery, Government-furnished materials, and experienced trends of improvements in production efficiency. It must be recognized that such comparison may not detect an unreasonable current quotation unless the reasonableness of the prior price was established and unless changes in the general level of business and prices have been considered);

(iii) The use of rough yardsticks (such as dollars per pound, per horsepower, or other units) to point up apparent gross inconsistencies which should be subjected to greater pricing inquiry;

(iv) The comparison of prices set forth in published price lists issued on a competitive basis, published market prices of commodities and similar indices together with discount or rebate arrangements; and

(v) The comparison of proposed prices with estimates of cost independently developed by personnel within the purchasing installation.

(2) Price analysis techniques should be used to support or supplement cost analysis wherever appropriate.

(c) *Cost analysis.* (1) Cost analysis is the review and evaluation of a contractor's cost or pricing data (§ 18–3.807–3) and of the judgmental factors applied in projecting from the data to the estimated costs, in order to form an opinion on the degree to which the contractor's proposed costs represent what performance of the contract should cost, assuming reasonable economy and efficiency. It includes the appropriate verification of cost data, the evaluation of specific elements of costs, and the projection of these data to determine the effect on prices of such factors as:

(i) The necessity for certain costs;

(ii) The reasonableness of amounts estimated for the necessary costs;

(iii) Allowances for contingencies;

(iv) The basis used for allocation of overhead costs; and

(v) The appropriateness of allocations of particular overhead costs to the proposed contract.

(2) Appropriate consideration should be given to Part 18–15, which contains general cost principles and procedures for the determination and allowance of costs in connection with the negotiation of cost-reimbursement type contracts, as well as guidelines for use, where appropriate, in the evaluation of costs in connection with negotiated fixed-price type contracts.

(3) Among the evaluations that should be made where the necessary data are available, are comparisons of a contractor's or offeror's current estimated costs with:

(i) Actual costs previously incurred by the contractor or offeror;

(ii) His last prior cost estimate for the same or similar item or a series of prior estimates;

(iii) Current cost estimates from other possible source; and

(iv) Prior estimates or historical costs of other contractors manufacturing the same or similar items.

(4) Forecasting future trends in costs from historical cost experience is of primary importance. In periods of either rising or declining costs, an adequate cost analysis must include some evaluation of the trends. In cases involving production of recently developed, complex equipment, even in periods of relative price stability, trend analysis of basic labor and materials costs should be undertaken, and in contracts extending over a period of several years, trend analysis should be made of overhead forecasts for the life of the contract.

§ 18–3.807–3 Cost and pricing data.

(a) When there is adequate price competition, cost or pricing data need not be requested. However, in the absence of adequate price competition or other basis for assuring reasonableness of price, the negotiating team must analyze the contractors' proposals and must be in possession of accurate, complete, and current cost or pricing data before decisions are made on contract prices. Accordingly, the contractor should be required to furnish such data promptly as it becomes available throughout the negotiation process.

(b) Title 10 U.S.C. section 2306(f) (P.L. 87–653, Sept. 10, 1962) requires that, in certain cases, contractors and subcontractors certify as to the accuracy, completeness, and currency of cost or pricing data submitted to the Government in support of contract negotiations and price adjustments and prescribes that any prime contract, or change or modification thereunder, under which a certificate is required, will contain a provision that the price, including profit or fee, will be adjusted to exclude any significant sums by which such price was increased because the contractor, or any subcontractor required to furnish such a certificate, furnished cost or pricing data which was inaccurate, incomplete, or noncurrent.

(c) Contracting officers shall require contractors to submit, in writing, in the situations described below, accurate, complete, and current cost or pricing data and to certify, using the certificate form in paragraph (b) of the "Contractor and Subcontractor Cost or Pricing Data" clause set forth in § 18–3.807–4, as to the accuracy, completeness, and currency of such data, except in cases in which the contracting officer has made a written determination that the price or price adjustment is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation, prior to:

(1) The award of any negotiated prime contracts where the price is expected to exceed $100,000;

(2) The pricing of any change or modification to a prime contract, both formally advertised and negotiated, where the price adjustment is expected to exceed $100,000;

(3) The award of any subcontract at any tier where the prime contractor and each higher tier subcontractor have been required to furnish a certificate, if the price of such subcontract is expected to exceed $100,000; and

(4) The pricing of any change or modification to a subcontract for which the price adjustment is expected to exceed $100,000 and where the prime contractor and each higher tier subcontractor have been required to furnish a certificate.

Any contractor who has been required to submit and certify cost or pricing data in accordance with this paragraph shall also be required to obtain cost or pricing data from his subcontractors under the circumstances set forth in the clause in § 18–3.807–4.

(d) The requirement for submission and certification of data may be waived in exceptional cases where the Administrator (or, in the case of a contract with a foreign government or agency thereof, the Assistant Administrator for Industry Affairs or the Director of Procurement) authorizes it through a written determination. The determination will set forth the procedures followed in attempting to obtain cost and pricing data, including any direct requests therefor, the contractor's reasons for refusing to submit cost and pricing data or reasons why data submitted by the contractor could not be used, and other efforts made by NASA to obtain confirmation of the accuracy of pricing from sources other than the contractor.

(e) Where it is reasonably expected that a resulting contract will be in excess of $100,000, the request for proposals shall include the "Contractor and Subcontractor Cost or Pricing Data" clause set forth in § 18–3.807–4. Offerors will be advised that pursuant to the provisions of Public Law 87–653, dated September 10, 1962, the successful contractor will be required to certify (using the form of certificate set forth in paragraph (b) of the "Contractor and Subcontractor Cost or Pricing Data" clause) that the cost or pricing data which he is required to furnish is accurate, complete, and current, except in those cases in which the contracting officer's written determination has been made, pursuant to paragraph (c) of this section.

(f) The certificate as set forth in the "Contractor and Subcontractor Cost or Pricing Data" clause shall be obtained from the contractor as soon as practicable after agreement on the related negotiated price or price adjustment. Generally, the date on which the certificate is executed should be the date on which agreement is reached on the contract price.

(g) In any case where, despite the willingness of a number of commercial purchasers to buy an item at the established catalog or market price, the purchaser (e.g., the contracting officer) finds that such price is not reasonable and

supports such finding by an enumeration of the facts upon which it is based, cost or pricing data will be requested if necessary to establish a reasonable price. In addition, cost or pricing data will be requested, if necessary, where there is such a disparity between the quantity being procured and the quantity for which there is such a catalog or market price that pricing cannot reasonably be accomplished by comparing the two. Where an item is substantially similar to a commercial item for which there is an established catalog or market price at which substantial quantities are sold to the general public, but the offered price of the former is not considered to be "based on" the price of the latter in accordance with § 18–3.807–1(b)(2), any requirement for cost or pricing data should be limited to that pertaining to the differences between the items if this limitation is consistent with assuring reasonableness of pricing result.

(h) Cost or pricing data shall not be requested prior to the award of any contract anticipated to be for $2,500 or less and generally should not be requested for modifications in those amounts. In procurements where it is anticipated that the contract award or modification will be between $2,500 and $10,000, cost or pricing data generally should not be requested. In almost all awards between $2,500 and $10,000 and modifications of $10,000 or less, the administrative costs will out-weigh the pricing benefits which might otherwise accrue and some form of price analysis is almost always adequate in these situations. With respect to procurements where the amount of the award or modification is anticipated to be between $10,000 and $100,000, cost analysis and the obtaining of cost or pricing data from contractors shall be limited to cases where no satisfactory method of price analysis can be found.

(i) "Cost or pricing data" as used in this Subpart 18–3.8 refers to that portion of the contractor's submission which is factual. The requirement for "cost or pricing data" subject to certification is satisfied when all facts reasonably available to the contractor up to the time of agreement on price and which might reasonably be expected to affect the price negotiations are accurately disclosed to the contracting officer or his representative. The definition of cost or pricing data embraces more than historical accounting data; it also includes, where applicable, such factors as vendor quotations, nonrecurring costs, changes in production methods and production or procurement volume, unit cost trends such as those associated with labor efficiency, and make-or-buy decisions or any other management decisions which will effect costs under the proposed contract. In short, cost or pricing data consist of all facts which can reasonably be expected to contribute to sound estimates of future costs as well as to the validity of costs already incurred. Cost or pricing data, being factual, is that type of information which can be verified. Because the contractor's certificate pertains to "cost or pricing data," it does not make representations as to the accuracy of the contractor's judgment as to the estimated portion of future costs or projections. It does, however, apply to the data upon which the contractor's judgment is based. This distinction between fact and judgment should be clearly understood.

§ 18–3.807–4 Contractor and subcontractor cost or pricing data clauses.

The following clause shall be inserted in all contracts over $100,000 and in all contract modifications over $100,000 even though the original amount of the contract is $100,000 or less:

CONTRACTOR AND SUBCONTRACTOR COST OR PRICING DATA (DECEMBER 1964)

(a) (1) The Contractor shall require, under the situations described in (2) below, unless exempted under the exceptions set forth in (3) below, each subcontractor under this contract to submit cost or pricing data and to certify that, to the best of his knowledge and belief, such cost or pricing data are accurate, complete, and current.

(2) The cost or pricing data called for under (1) above shall be submitted prior to (i) the award of each subcontract the price of which is expected to exceed $100,000 and (ii) the negotiation of the price of each change or modification to a subcontract under this contract for which the price adjustment is expected to exceed $100,000.

(3) Cost or pricing data need not be furnished pursuant to this paragraph (a) where (i) the Contractor has not been required to furnish cost or pricing data and to certify that it is accurate, complete, and current; or (ii) the Contractor has determined, in writing, that the price or price adjustment is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(4) In submitting the cost or pricing data, the subcontractor shall use the form of certificate set forth in paragraph (b) below and certify that the data are accurate, complete, and current. Such cost or pricing data and certificate of current cost or pricing data shall be submitted by subcontractors to the prime Contractor (or to their immediate next higher tier subcontractor, for delivery to the Contractor through successive higher tiers of subcontractors). Such data and certificates shall become a part of the prime contract records.

(b) The certificate required by this clause shall be in the form set forth below. The date of execution shown in the certificate shall be prior to and as close as practicable to the date of agreement of the related negotiated price or price adjustment. When the certificate is to be submitted by a subcontractor, the words "Contracting Officer or his representative" shall be deleted and the name of the firm requiring the certificate shall be inserted. Title 18 U.S.C. section 1001 prescribes criminal penalties for making false representations to the Government.

CERTIFICATE OF CURRENT COST OR PRICING DATA (DECEMBER 1964)

This is to certify that, to the best of my knowledge and belief, cost or pricing data[1] submitted to the Contracting Officer or his representative in support of _____ _____[2] are accurate, complete, and current as of the date of execution of this certificate.

Firm _____
Name _____
Title _____

_____[3]
(Date of Execution)

[1] For definition of cost or pricing data see NASA PR 3.807–3(i).

[2] Describe the proposal, quotation, request for price adjustments, or other submissions involved, giving appropriate identifying number (e.g., RFP No. _____).

[3] As a general rule, this date should be the date when the contract price was agreed to. It is not intended that personal knowledge of the contractor's negotiator limits the responsibility of the contractor if the contractor has available at the time of the agreement information showing that the negotiated price is not based on accurate, complete, and current data. Contractors are expected to make a reasonable check to ascertain whether the concern had any information not personally known to the contractor's negotiator at the time of the agreement and in accordance with NASA PR 3.807–8 should be disclosed to the contracting officer for his consideration. Contractors are not expected to make a complete recheck of all data or develop a new cost estimate after the date of agreement and prior to the execution of the contract. However, execution of a Certificate of Current Cost or Pricing Data is not intended to relieve a contractor of the responsibility for disclosing circumstances or event, happening subsequent to the date of certification but known to the contractor prior to the date of contract execution, which could reasonably be expected to have a significant bearing on costs under the proposed contract.

(c) For purposes of verifying that cost or pricing data required to be submitted and certified to, either during negotiation of this contract or pursuant to the provisions of this clause, are accurate, complete, and current, the Contracting Officer, or his authorized representatives, shall—until the expiration of three years from the date of final payment under this contract—have access to and the right to examine those books, records, documents, and other evidence which will permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein, which were available to the Contractor as of the date of execution of the Certificate of Current Cost or Pricing Data.

(d) Whenever the price of any change or modification to this contract is expected to exceed $100,000, except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation, the Contractor agrees to furnish the Contracting Officer cost or pricing data and shall certify, using the certificate set forth in paragraph (b) above, that to the best of his knowledge and belief such cost or pricing data are accurate, complete, and current as of a date prior to and as close as practicable to the date of agreement of the price adjustment.

(e) The Contractor agrees to insert paragraph (c), without change and the substance of paragraphs (a), (b), (d), and (e) of this clause in each subcontract hereunder in excess of $100,000, and in each subcontract of $100,000 or less at the time of making a change or modification thereto in excess of $100,000.

(f) Whenever the Contractor was required to furnish a certificate of current cost or pricing data, either during negotiation of this contract or pursuant to the provisions of this

clause, or whenever a subcontractor hereunder was required to furnish such a certificate pursuant to the provisions of this clause or of a clause in the subcontract, and the Contracting Officer determines that the price of this contract, including any profit or fee, or that any price adjustment negotiated for any change or modification to this contract, has been increased by any significant sums because such cost or pricing data was inaccurate or incomplete or was not current as of the date set forth in the certificate applicable to such data, such price or price adjustment shall be reduced accordingly and the contract shall be modified in writing to reflect such reduction.

(g) Failure of the Contractor and the Contracting Officer to agree on a reduction shall be a dispute concerning a question of fact within the meaning of the Disputes clause of this contract.

§ 18–3.807–5 Defective cost or pricing data.

Where any price to the Government, including profit or fee and including price adjustments, must be negotiated largely on the basis of cost or pricing data furnished by the contractor, it is essential that all data that might reasonably affect the price negotiations be disclosed and that such data be accurate, complete, and current. If an agreed price includes amounts which can only be attributed to erroneous or incomplete cost or pricing data, it is not a fair price and the resultant profits are not earned profits. Where negotiations are to be conducted on the basis of full disclosure, failure of one party to proceed on that basis undercuts full mutual assent to the price negotiated so that, in this sense, the price is not fully agreed to, and fairness warrants its adjustment. Paragraph (f) of the Contractor and Subcontractor Cost or Pricing Data clause set forth in § 18–3.807–4 is designed to give the Government in such a case an enforceable contract right to a price adjustment, that is, to a reduction in the price to what it demonstrably would have been if the contractor had not failed to disclose significant and reasonably available data or had not furnished defective data.

§ 18–3.807–6 Refusal to provide cost or pricing data.

(a) If cost or pricing data from the contractor is required to permit adequate analysis of the contractor's proposal in accordance with § 18–3.807–3 and the contractor has refused to provide such data, the contracting officer shall use those means available to him to attempt to secure such data. If the contractor persists in his refusal to provide necessary data, the contracting officer shall withhold making the award or price adjustment. In such event, he shall refer the procurement action to higher echelons of the procurement organization (see § 18–3.807–3(d)). Such referral shall include a complete statement of the attempts made to resolve the matter, including (1) steps taken to secure essential cost data, (2) efforts to secure the contractor's cooperation in the establishment of a satisfactory business relationship, (3) any assurances offered, such as agreements to adequately safeguard information furnished, and (4) a statement concerning the practicability of obtaining the supplies or services from another source of supply.

§ 18–3.807–7 Unacceptable substitutes for pricing negotiations.

A certificate of Current Cost or Pricing Data shall not be considered a substitute for examination and analysis of the contractor's proposal. Nor shall contracting officers rely on profit-limiting statutes as remedies for ineffective pricing.

§ 18–3.807–8 Evaluation and pricing of individual contracts.

Each contract shall be priced separately and independently, and no consideration shall be given to losses or profits realized or anticipated in the performance of other contracts. This prohibition neither prevents the negotiation of overhead and other rates applicable to several contracts during annual or other specific periods nor prohibits forward pricing agreements applicable to several contracts. A proposed price reduction under another contract or other contracts shall not, however, be used as an evaluation factor.

§ 18–3.807–9 Specified contingencies.

When a contract is to include a provision for adjustment of price upon the happening of a specified contingency (e.g., escalation clauses, Government-furnished property clauses, tax clauses), the contract price should not include any amount on account or such contingency.

§ 18–3.807–10 Subcontracting considerations in cost analysis.

(a) The amount and quality of subcontracting may be a major factor influencing price. Since a large proportion of the procurement dollar is spent by prime contractors in subcontracting for work, raw materials, parts, and components, efficient purchasing practices by a contractor will contribute heavily toward efficient and economic production. While basic responsibility rests with the prime contractor for decisions to make or buy, for selection of subcontractors, and for subcontract prices and subcontract performance, the contracting officer must have adequate knowledge of these elements and their effect on prime contract prices. Therefore, contractors' "make-or-buy" programs and proposed subcontracts should be reviewed in accordance with Subpart 18–3.9 and the information derived from such review should be used in negotiating prime contract prices. Even when not specifically required by Subpart 18–3.9, the contracting officer should, where appropriate, elicit from the offeror or contractor information concerning:

(1) The purchasing and subcontract management practices of the prime contractor;

(2) The principal subsystems or components to be subcontracted and the contemplated subcontractors, including (i) the degree of competition obtained, (ii) cost or price analyses or price comparisons accomplished, including accurate, complete, and current cost or pricing data, and (iii) the extent of subcontract supervision;

(3) The types of subcontracts; i.e., firm fixed-price or other; and

(4) The estimated total extent of subcontracting, including procurement of purchased parts and materials.

(b) In the review of subcontracting, there should be assurance that the contractors obtain competition, if available from qualified sources in their award of subcontracts to the extent consistent with the procurement of the required services or supplies. Contractors shall be required to undertake appropriate price analysis (see § 18–3.807–2(b)) in all significant subcontract transactions, and to undertake cost analysis (see § 18–3.807–2(c)) if competition is not available or does not yield reasonable subcontract prices.

(c) It is particularly important in negotiating revision of prime contract prices under price redetermination contracts that there be substantial assurance that there was initial close pricing of subcontracts placed on a price redetermination or fixed-price incentive basis. Where the prime contract provides for price redeterminaton, contracting officers should be alert to the risk of establishing firm redetermined prime contract prices while a major subcontract is still subject to price redetermination and may eventually be redetermined at a price far lower than that ascribed to it in redetermining the prime contract price, with consequent profits to the contractor far in excess of those contemplated in the prime contract price negotiation. However, in some cases, it may be appropriate to negotiate firm contract prices even though the contractor has not yet established final subcontract prices, if the contracting officer can justify as reasonable the amount included for subcontracting, e.g., where fairly definite cost data on subcontract prices is available. In other cases, where certain subcontracts are subject to redetermination and available cost data on these subcontracts is highly indefinite but other circumstances require prompt negotiation of revised prime contract prices, the contract modification which evidences the revised contract prices should provide for adjustment of the total amount paid or to be paid under the contract on account of subsequent redetermination of the specified subcontracts. This may be done by including in the contract modification a provision substantially as follows:

> Promptly upon the establishment of firm prices for each of the subcontracts listed below, the Contractor shall submit, in such form and detail as the Contracting Officer may reasonably require, a statement of costs incurred in the performance of such subcontract and the firm price established therefor. Thereupon, notwithstanding any other provisions of this contract as amended by this modification, the Contractor and the Contracting Officer shall negotiate an equitable adjustment in the total amount paid or to be paid under this contract to reflect such subcontract price revision. The equitable adjustment shall be evidenced by a modification to this contract, signed by the Contractor and the Contracting Officer.
>
> (List subcontracts) (October 1963)

(d) (1) In considering cost-plus-fixed-fee subcontracts, while negotiating prime contracts where cost analysis is performed, the contracting officer will make every effort to ensure, and in consenting to cost-plus-fixed-fee subcontracts the contracting officer shall ensure, that fees under such subcontracts, never exceed:

(i) Ten percent (10%) of the estimated cost, exclusive of fee, in the case of any subcontract for experimental, developmental, or research work; or

(ii) Seven percent (7%) of the estimated cost, exclusive of fee, in the case of any other subcontract; except that subcontracts for architectural or engineering services are subject to the statutory limitations set forth in § 18–4.204–1(b);

unless the payment of higher fees is approved by the Procurement Officer. However, such fixed-fees shall not exceed the statutory limitations set forth in 10 U.S.C. 2306(d).

(2) For cost-plus-incentive-fee subcontracts, incentive fee arrangements are subject to the provisions of § 18–3.450 (f), except that in consenting to such subcontracts, maximum fees which exceed (i) 15 percent of the target cost in subcontracts for experimental, developmental, or research work, or (ii) 10 percent of the target cost in other contracts require the approval of the procurement officer.

§ 18–3.808 Profit or fee.

§ 18–3.808–1 General.

A fair and reasonable provision for profit or fee cannot be made by simply applying a certain predetermined percentage to the cost estimate or selling price of a product. Rather, the profit or fee should be first established as a dollar amount, after considering the factors set forth in this § 18–3.808. Therefore, where a fee is involved and it is necessary to determine the percentage relationship between the fee and the estimated cost of the contract in order to comply with administrative and statutory limitations on fees for cost-reimbursement type contracts, the percentage shall be determined only after the dollar amount of the fee has been established for negotiation purposes and the negotiation memorandum shall adequately reflect this process.

§ 18–3.808–2 Factors for determining fee or profit.

The factors set forth in paragraphs (a) through (i) below should be considered in determining profit or fee in all contracts, whether for supplies or services; for construction work; or for experimental, developmental, or research work; and whether of the fixed-price type or of the cost-reimbursement type unless otherwise specified in the particular factor. All of the following factors, as set forth in paragraphs (a) through (i) of this section, should be evaluated in the light of the basic policy set forth in § 18–3.801–1 which provides that supplies and services shall be procured from responsible sources at fair and reasonable prices calculated to result in the lowest overall cost to the Government.

(a) *Effect of competition.* When competition is effective and proposals are on a firm fixed-price basis, the contracting officer normally need not consider in detail the amount of estimated profit included in a price. When effective competition is lacking and in all cases where cost analysis is performed in accordance with § 18–3.807–2(c), the estimate for profit, target profit or fee, or the proposed fixed fee should be analyzed in the same manner as all other elements of price, evaluating the factors set forth in this § 18–3.808.

(b) *Degree of risk.* (1) The degree of risk assumed by the contractor should influence the amount of profit or fee a contractor is entitled to anticipate. For example, where a portion of the risk has been shifted to the Government through cost-reimbursement or price redetermination provisions, unusual contingency provisions, or other risk-reducing measures, the amount of profit or fee should be less than where the contractor assumes all risk.

(2) Some cost-plus-a-fixed-fee contracts and task orders for research and development call for the delivery of prototypes or other "hardware." Other such contracts or task orders require only that the contractor exert his "best efforts" to deliver the required end item. Frequently this is because the contractor is not willing to assume the additional burden of incurring substantial cost overruns without additional fee in order to complete performance. When the contract calls for delivery of developed models in accordance with well-defined performance or design characteristics or a predetermined delivery schedule, or both, in contrast to an obligation only to exert his "best efforts" to develop and deliver such models, payment of the fee should be conditioned on performance in accordance with the contractor's obligation to deliver, and in such cases the contractor may be entitled to a larger fee both because of the risk inherent in his commitment and because of the successful completion of the work.

(c) *Nature of work to be performed.* A major consideration in the determination of the amount of profit or fee, particularly in connection with experimental, developmental, or research work, is the difficulty or complexity of the work to be performed and any unusual demands of the contract, such as whether the project involves a new approach unrelated to existing equipment or only refinements on existing equipment, whether the caliber or class of engineer involved is that of an "idea-man," or whether the contractor is to be required by the contract to assign to the work unusually skilled talent.

(d) *Extent of government assistance.* NASA encourages its contractors to perform their contracts with the minimum of financial, facilities, or other assistance from the Government. Where extraordinary financial, facilities, or other assistance must be furnished to a contractor by the Government, such extraordinary assistance should have an influence in determining what constitutes a fair and reasonable profit or fee.

(e) *Extent of the contractor's investment.* The extent of a contractor's total investment (i.e., both equity and borrowed capital) in the performance of the contract will be taken into consideration in determining the amount of the fee or profit.

(f) *Character of contractor's business.* Recognition must be given to the type of business normally carried on by the contractor, the complexity of manufacturing techniques, the rate of capital turnover, and the effect of each individual procurement upon such business. For example, where a contractor is engaged in an industry where the turnover of working capital is slow, generally the profit objective on individual contracts is higher than in those industries where the turnover is more rapid.

(g) *Contractor's performance.* In addition to the factors set forth in § 18–3.102, the contractor's past and present performance should be evaluated in such areas as quality of product, quality control, scrap and spoilage, efficiency in cost control (including need for and reasonableness of cost incurred), meeting performance schedules, timely compliance with contractual provisions, creative ability in product development (giving consideration to commercial potential of product), engineering (including inventive, design simplification, and development contributions), management of subcontract programs, management of Government property, and any unusual services furnished by the contractor. Where a contractor has consistently achieved excellent results in the foregoing areas in comparison with other contractors in similar circumstances, such performance merits a proportionately greater opportunity for profit or fee. Conversely, a poor record in this regard should be reflected in determining what constitutes a fair and reasonable profit or fee.

(h) *Subcontracting.* (1) In negotiating the profit or fee, subcontracting as a factor shall be segregated for separate evaluation, particularly as it bears on the contractor's technical supervision and management responsibility, financial investment, and degree of risk, as outlined in § 18–3.808. The degree and nature of subcontract programs vary on a broad spectrum. While it is not possible to define the exact profit or fee treatment to be accorded each situation, the general guidelines in subparagraph (2) of this paragraph shall be taken into consideration.

(2) The evaluation of a contractor's subcontracting program should not con-

sist merely of applying arbitrary percentages of profit to subcontract prices in negotiating the prime contract price. A relatively large amount of subcontracting by itself need not result in negotiation of correspondingly lesser profit or fee since the character and circumstances of the subcontracting must be taken into account. Although purchased material and subcontracted work are usually properly included in the base upon which profit or fee is computed, instances may arise in which a significant portion or portions of a contract are subtracted in such a way that only a minimum amount of responsibility or risk remains with the prime contractor. In such case, in order to prevent unreasonable pyramiding of profit or fee, the amount of profit or fee attributable to the subcontracted work should be substantially less than where the contractor uses his own resources and retains substantial responsibility or risk. Of primary importance is the degree to which the subcontracting provides a better component or subsystem and lower costs, with timely performance (recognizing the distinction between the prime contractor who elects to buy rather than make in the interest of providing a better and less expensive component or subsystem than the prime contractor who buys because he has no in-house capability) and in which the contractor assumes heavy managerial and technical effort, responsibility, and risk. Particular attention should be given to the contractor's managerial and technical effort, responsibility and risk with respect to subcontracts under major systems contracts where a substantial portion of total contract cost is attributable to subcontracting of major components or subsystems. Consideration must be given to the relationship which the prime contractor's estimated profit or fee on subcontracted work bears to his cost of placing and managing such subcontracted work.

(3) In establishing a contractor's fee or profit, favorable consideration shall be given to:

(i) The company's policies and procedures which energetically support Government Small Business and Labor Surplus Area Programs;

(ii) Any unusual efforts which the contractor displays in subcontracting with small business and labor surplus area concerns, particularly for developmental type work likely to result in later production opportunities; and

(iii) Effectiveness of the company in subcontracting with and furnishing assistance to such concerns, as compared to other comparable contractors. In this connection, it is the responsibility of the contracting officer to examine the contractor's past and present effectiveness and plans for seeking out qualified small business and labor surplus area concerns, and to require the contractor during negotiations to document his past, present, and planned performance in these areas.

(i) *Unrealistic estimates.* If records reveal that a contractor's actual costs are consistently lower than his estimated costs (indicating a practice of excessive estimates), and if the contractor refuses to provide what seems to be a reasonable estimate of costs, a lower profit or fee should be considered.

(j) *Cost reduction program accomplishments.* Accomplishments of contractors who successfully reduce the cost of space research, development, and procurement under a cost reduction program should be taken into account in determining the amount of fee or profit.

§ 18–3.808–4 Minimal fees or cost sharing arrangements.

In certain circumstances, as where experimental, developmental, or research work is attractive because of direct or potential commercial applications, consideration should be given to using a contract providing for only a nominal or token fee, or no fee, or on a cost-sharing basis.

§ 18–3.808–5 Fee limitation for experimental, developmental, or research work.

In connection with the administrative and statutory limitations on fixed fees set forth in §§ 18–3.302(2) and 18–3.405–5(c)(2), the existence of the administrative limitation of 10 percent for research and development work should not prevent the negotiation of fixed fees up to the level of the statutory limitation of 15 percent in the appropriate circumstances. Such cases, however, shall be fully documented through factual support including specific details of prior experience with the contractor, the complexity of the work to be performed, and the details in connection with all of these factors. Contractors proposing such fees should be required to support their proposals in a similar manner.

§ 18–3.809 Audit as a pricing aid.

(a) *General.* Audit services should be utilized as a pricing aid by the contracting officer to the fullest extent appropriate when the dollar amount involved is sufficiently large, or special circumstances exist, to warrant the time and expense required for the particular type of advisory audit, special survey, or audit analysis of price or cost desired. Judicious use of audit services will expedite proper pricing. The determination as to the necessity of an audit report for pricing purposes is the responsibility of the contracting officer. When requesting audit services, the contracting officer shall state the purpose for which the report is to be used and define any specific areas of audit examination which should be given special attention.

(b) *Application.* Except for contracts containing retroactive price revision clauses, pricing techniques are concerned mainly with estimates of future costs. Therefore, audit reports for either retroactive or prospective pricing should not only establish costs accrued to a specific cutoff point for price proposal purposes but also should include cost trends and other available information which would be of assistance to the contracting officer in price negotiation. Such audit reports will serve a useful purpose in:

(1) The evaluation of contingency allowances, overhead allocations, purchasing management efficiency, and similar cost elements;

(2) Both the initial and subsequent pricing of contracts containing price revision clauses;

(3) Establishing limitations on costs and price revision adjustments; and

(4) Establishing negotiated overhead rates for cost-reimbursement type contracts.

(c) *Conditions for use.* Close coordination between audit and procurement personnel will assist in determining the necessity of special surveys relating to contractors' accounting or purchasing systems. Some of the conditions under which the contracting officer should consider the use of audit services include:

(1) Inadequate knowledge concerning the contractor's accounting policies, cost systems, or substantially changed methods or levels of operation;

(2) Previous unfavorable experience indicating doubtful reliability of the contractor's estimating, accounting, or purchasing methods;

(3) Procurement of a new product for which cost experience is lacking; and

(4) Contract performance requiring a substantial period of time.

§ 18–3.810 Exchange of information.

In appropriate cases it is desirable to exchange and coordinate specialized information regarding a contractor between NASA procurement offices and between NASA and other Government agencies, since it will provide uniformity of treatment of major issues and it may aid in the resolution of particularly difficult or controversial issues.

§ 18–3.811 Record of negotiation.

(a) At the conclusion of each negotiation of an initial or revised price, the negotiator shall promptly prepare a memorandum setting forth the principal elements of the contract negotiations for inclusion in the contract file and for the use of any reviewing authorities. The memorandum shall be in sufficient detail to reflect the most significant considerations controlling the establishment of the price, estimated costs and fee, and other terms of the contract. In this connection, see Subpart 18–50–1, which prescribes the type of information to be included.

(b) In each procurement action in any of the categories listed in § 18–3.807–3(c), the memorandum will include an explanation of why cost or pricing data was, or was not, required. If the contractor was not required to submit cost or pricing data, the explanation will contain a specific statement of the factors considered and the evidence supporting the findings on which the determination was made that the price resulted from or was based on adequate price competition, established catalog or market prices of commercial items sold in substantial

quantities to the general public, or prices set by law or regulation.

§ 18–3.813 Precontract planning and startup and other nonrecurring costs.

(a) Estimates of precontract planning and startup costs include such costs as preproduction engineering, special tooling, special plant rearrangement, training programs, and such nonrecurring costs as initial rework, initial spoilage, and pilot runs.

(b) Since an offeror may propose a price which does not include all nonrecurring costs for the purpose of obtaining the initial contract and of gaining an advantage over competitors in negotiations for future procurements, it is important to know whether the offeror intends to absorb any portion of these costs or whether he plans to recover them in connection with subsequent pricing actions under the proposed or future contracts. This information is needed in evaluating competing proposals to determine which proposal is most likely to result in the lowest overall cost to the Government, particularly where the successful offeror is likely to become in effect, a sole source for follow-on procurements (including spare parts or other support items).

(c) When it is anticipated that such costs will be a significant factor in the evaluation of proposals for the procurement of an item, the request for proposals shall require the offeror to provide the following information:

(1) An estimate of the total of such costs;

(2) The extent to which these costs are included in the proposed price; and

(3) The intent to absorb, or plan for recovery of, any remaining costs. When entering into a contract with an offeror who has indicated that he intends to absorb any portion of these costs, the contract shall expressly provide that such portion will not be charged to the Government in any future noncompetitive procurement or other pricing action.

§ 18–3.850 Initiation of the procurement request.

A procurement request (NASA Form 404, or similar form) will be prepared and processed in accordance with the provisions of § 18–1.356.

§ 18–3.852 Preparation and approval of procurement plans.

A procurement plan is a detailed outline of the method by which the contracting officer expects to accomplish the procurement task. The plan is an administrative tool designed to enable the contracting officer to plan effectively for the placement and accomplishment of assigned procurements by analyzing the requirement for, and determining the method to be used in, placing the procurement. It also furnishes justification for the contemplated method of procurement for use in connection with the review and approval of higher authority when applicable. Although adequate planning prior to procurement action is always a prerequisite, the preparation of a more formal procurement plan is required in certain cases. A description of what such a procurement plan should contain and the situation in which preparation and approval of such a plan are required are set forth in §§ 18–3.852–1 through 18–3.852–5.

§ 18–3.852–1 Requirement for preparation of procurement plans.

(a) Except as otherwise authorized by paragraph (b) of this section, contracting officer shall prepare a procurement plan, with the advice and assistance of the cognizant technical division, on each negotiated procurement which is estimated to exceed $100,000. Such plans shall be prepared prior to solicitation of proposals. Field installations may require the preparation of a procurement plan for negotiated procurements that are not anticipated to exceed $100,000.

(b) Procurement plans are not required to be prepared for:

(1) Procurements of scientific experiments selected for flight, pursuant to NASA Management Instruction 7100.1;

(2) Procurements of architect-engineer services;

(3) Procurements based on unsolicited proposals;

(4) Procurements contemplated with nonprofit institutions or organizations for basic research;

(5) Procurements of utility services where the services are available from only one source;

(6) Procurements made from or through other government agencies; and

(7) Procurements of industrial facilities required in support of related procurement contracts.

§ 18–3.852–2 Approval of procurement plans.

(a) Procurement plans, for other than nonpersonal services, require the following approval:

(1) If the contract is not anticipated to exceed $1 million, the procurement plan shall be approved by the Procurement Officer of the installation, after concurrence by the chief of the cognizant technical division. The approval authority of the Procurement Officer may be redelegated to selected procurement personnel of the installation.

(2) If the contract is anticipated to exceed $1 million but not to exceed $5 million, the procurement plan shall be approved by the Director of the field installation. Where factors exist which make review at Headquarters desirable, the Director of the field installation may forward the procurement plan with his recommendation to NASA Headquarters for approval in accordance with subparagraph (3) of this paragraph. Referral of procurement plans to Headquarters is desirable where technical responsibility remains in Headquarters.

(3) If the contract is anticipated to exceed $5 million, the procurement plan shall be forwarded to NASA Headquarters for approval in accordance with the procedures set forth in paragraph VII, D.2., "NASA Basic Administrative Processes".

(b) In the case of contracts for feasibility studies or preliminary work where it is likely that the source selected will receive other contracts for later phases of the same project, for purposes of applying the provisions of paragraph (a) of this section, the dollar amount of such contracts shall be considered to be the total dollar amount estimated for the entire project rather than the amount estimated for the initial contract.

(c) Procurement plans for nonpersonal services shall be approved in accordance with the procedures set forth in paragraph 6c, "NASA Policy and Procedures for Use of Contracts for Nonpersonal Services" (NPC–401).

§ 18–3.852–3 Contents of the procurement plan.

(a) Procurement plans requiring approval by NASA headquarters or the director of a field installation. Each procurement plan prepared for approval by NASA headquarters or a director of a field installation shall contain the information outlined below, developed in depth, using the same subject (or paragraph) headings and numbers as those indicated. Where a subject is not treated in the plan, the words "not applicable," or a suitable explanation, will follow the subject heading in the plan. Each heading or subheading may include as many paragraphs or further breakdowns as necessary for a particular plan. Centered at the top of the first page of the plan will be the words "Procurement Plan for" followed by sufficient wording to identify the procurement. The Procurement Plan Contents Checklist (NASA Form 1188) will accompany each procurement plan forwarded to an approving authority, with a copy of the original form attached to each copy of the plan. The form, listing the subject headings prescribed herein, will be placed at the beginning of the plan to serve as a table of contents. It should be filled in to indicate the number of the page on which each subject begins or to show the notation "N/A" for inapplicable. In developing the procurement plan, the format set forth below shall be followed:

PROCUREMENT PLAN FOR ------

1. Description of the Proposed Procurement.

a. Purpose and Description of Work, Supplies, or Services (including Quantities). In addition to a general description of the scope of the work, describe how it is intended to state the contractor's obligation—whether to comply with detailed specifications, meet performance requirements (with or without detailed specifications), perform a "mission," or furnish a level of effort, etc. Indicate whether the contract will contain any provision for further requirements such as options, provisioning of spare parts, installation services, etc., and briefly describe the substance of such provisions. In the case of nonpersonal services, demonstrate that the criteria of NPC 401 (NASA Policy and Procedures for Use of Contracts for Nonpersonal Services) have been met and reference the Justification for Contracting for Nonpersonal Services which will be attached to the plan.

b. Program and Project (including Identification of Project Approval Document). Identify the program and project, including project number. Also show the date of project approval and name and title of approving authority.

c. Responsible Technical Office. Identify the office that will be responsible for the technical monitoring of the contract.

d. Installation's Plan for Technical Monitoring.

e. Relation to Other Procurements—Past, Present, and Future. Briefly describe prior, present, and future phases of the project and any closely related procurements under the same or other projects. If more appropriate, include in paragraph a. above and reference it here.

f. Performance Milestones (if known) and Delivery Schedule. Describe the schedule for performance or delivery under the contract and discuss critical pacing items. Indicate the consideration given to the factors in § 18–1.306—Time of Delivery or Performance.

g. Total Estimated Cost.

2. Funding.

a. Approved Project Funding by Fiscal Year.

b. Funding of Proposed Procurement by Fiscal Year. Identify as AO, R&D, or C of F; the dollar amounts in each; and the portion of work to which each relates.

c. Funding of Follow-on Procurements by Fiscal Year.

d. Contingencies or Reserves Required by Fiscal Year.

3. Sources.

a. Known Sources and Competitive Situation. Include a comprehensive list of known sources, prepared in accordance with § 18–3.809–2 and a discussion of the competitive situation believed to exist.

b. Sources To Be Solicited and Reasons for Omission of Known Sources. Where all known sources are not to be solicited, give the basis for selection of firms to be solicited, unless paragraph (d) below applies.

c. Synopsizing or Explanation of Exception. State whether or not a synopsis will be prepared in accordance with the provisions of § 18–1.1003 and, if not, the reasons therefor.

d. Justification for Noncompetitive Procurement. If a single source is to be solicited, a Justification for Noncompetitive Procurement will be prepared in accordance with § 18–3.852–2 and attached to the procurement plan. It should be referenced in this paragraph. In addition, in all cases of noncompetitive procurement, a draft of a press release announcing contractor selection will be obtained from the local public information office and forwarded as an attachment to the procurement plan. However, the press release will not be referenced in the plan itself.

4. Justification and Authorization for Negotiation.

a. Determination and Findings. A copy of the applicable Determination and Findings under 10 U.S.C. 2304(a) (or a proposed Determination and Findings prepared for the signature of the Deputy Administrator, when appropriate) should be added to the plan and referenced here.

b. Justifications Relating to Class D&F's. In case a Class Determination and Findings is used, include a statement setting forth the facts and circumstances that clearly and convincingly establish that formal advertising is not feasible and practicable for the particular procurement; also include a complete statement of facts and circumstances which establish the applicability of the Class D&F.

5. Type of Contract.

a. Recommended Type. State the type of contract recommended and why.

b. D&F for Method of Contracting. When applicable, attach a copy of the Determination and Findings under 10 U.S.C. 2304(c), prepared in accordance with § 18–3.304(d).

c. Special Requirements. If the type of contract proposed requires any special approvals or determinations pursuant to ASPR provisions incorporated by reference in § 18–3.400, attach a copy or include a request for NASA Headquarters approval, as appropriate, and reference it here.

d. Incentive Consideration. Discuss the feasibility of applying incentive provisions and describe any incentive provisions proposed. Discuss the types of incentives (cost, performance, schedule) considered most suitable for the accomplishment of the procurement objectives and, in general terms, their relative weights. If the procurement plan contemplates using a cost-plus-fixed-fee type of contract, discuss any provision for conversion to an incentive type, including approximate time of conversion and the basis for determining the time.

e. Letter Contract and Complete Justification. If a letter contract is contemplated, so state and explain the special circumstances which are believed to justify its use. The policy of NASA is not to issue letter contracts. Exceptions to this policy require the advance approval of the Associate Administrator and will be permitted only after agreement has been reached with the contractor on all matters of a substantive nature. Approval of a procurement plan which contemplates the use of a letter contract will not be construed as authorization to issue a letter contract.

6. Oral Briefing of Prospective Contractors. Include a recommendation, with a supporting explanation, as to whether an oral briefing of prospective contractors should be held and, if so, whether this briefing should take place before or after the issuance of requests for proposals.

7. Method of Evaluating Proposals.

a. Recommended Method. Recommend which method set forth in § 18–3.804 should be utilized and the reasons. In a competitive procurement, except in the case of a procurement plan required to be approved by the procurement officer of the installation pursuant to § 18–3.852–5(a)(1), the plan will provide for the use of a Source Evaluation Board.

b. Special Problems. A description of any special problems relating to the evaluation.

c. Source Evaluation Board Appointment Letter. The letter which establishes the composition of the Source Evaluation Board and appoints the members will be prepared for signature and forwarded as an attachment to the procurement plan. It will be referenced in this paragraph of the plan.

8. Government Property—Description, Monetary Evaluation, and Basis for Requirement.

a. Facilities. Indicate the magnitude and describe existing facilities which will be Government-furnished and/or any new facilities which may be constructed or otherwise acquired on behalf of the Government for contractor performance and the proposed location thereof. State whether any difficulty is anticipated in identifying specific items to be listed in the contract schedule. If a separate facilities contract will be awarded or amended, so indicate and state the projected schedule for action. Include the estimated cost of new facilities or modifications to existing facilities and the estimated date of readiness for use. If nonseverable facilities are involved, include plan for complying with requirements of § 18–18.406.

b. Other Property Government-furnished. Describe any other significant items such as propellants and pressurants, materials, communication services, etc., which may be furnished by the Government in performance of the work.

9. Reliability and Quality Assurance.

a. Reliability Assurance. Include a summary of the reliability assurance requirements (see Subpart 18–1.51 of this chapter). The latter should include the following information: (i) Major areas of reliability program emphasis (or deemphasis) commensurate with the nature and status of the project; (ii) provision for responsibility for reliability program implementation; and (iii) planned funding (best estimates by fiscal year).

b. Quality Assurance. Include a summary of the general quality assurance requirements (see Subpart 18–1.50 of this chapter).

10. Management Information Systems. State what management information systems are to be required, such as financial management, PERT, Line of Balance, manpower reporting, etc.; and explain any unusual or unique factors.

11. Precontract Costs. State whether any work has been done by the proposed contractor, or is contemplated prior to the date the contract becomes binding, and, if so, the estimated cost of such work and the means proposed for making it compensable under the contract.

12. Technical Data for Reprocurement. State whether follow-on procurement will be likely, and if so, the kinds and amounts of technical data which will be required to be furnished by the contractor in order to reprocure from sources other than the firm performing the contract, or include a statement, prepared by the appropriate technical office, setting forth the reasons why data for such purposes will not be required. (See Subpart 18–9.2.)

13. Other Pertinent Data. Include here any other pertinent data that would be helpful to the approving authority in appraising the plan for carrying out the procurement. Examples are: (i) Background information not otherwise covered; (ii) basis for urgency, with related detail; (iii) special provisions contemplated; (iv) estimated cost of each major segment of the procurement; (v) anticipated labor problems where the nature of the work and local conditions might precipitate jurisdictional strikes; (vi) a recommendation as to what labor provisions, if any, should be included in a contract where the work relates both to supplies subject to the Walsh Healey Act and to construction subject to the Davis-Bacon and other acts (state estimated proportion of each type of work); and (vii) information relating to the special requirements of a particular Program Office, such as the Apollo Configuration Management System, Logistics Support Plan, Documentation Management Provisions, Program Definition Phase procedures, and Work Structure Breakdown (identification of the relationship of the work to the program as a whole and to the portions of the program with which it directly interfaces).

14. Procurement Action Schedule. Establish a realistic time schedule for completing the major phases of procurement action, stated in terms of the length of time allotted to each phase. However, in the event that work must be commenced by a certain date, include also the date by which each phase must be completed in order to avoid use of a letter contract (except as provided for in the plan) or a contractor's incurrence of precontract costs. The schedule should cover the entire time from receipt of purchase request (or whatever initiated procurement action) to execution of contract or, when required, Headquarters approval of contract.

15. Legal Review of Procurement Plan. Include a statement to the effect that the procurement plan has been reviewed by Counsel for the procurement office (or will

be reviewed prior to forwarding to the approving authority) and make reference to Counsel's comments attached.

Particular attention should be given to each plan prepared to ensure, not only that both its technical and business aspects are sound, but that each of the above subjects included in the plan is fully presented and explained, so as to be understandable to personnel outside the preparing installation.

(b) *Procurement plans requiring approval by the procurement officer.* Procurement plans prepared for the approval of the Procurement Officer in accordance with § 18–3.852–2(a) are not subject to the requirement set forth in paragraph (a) of this section. Such plans may be prepared in accordance with the procedures prescribed by each installation: *Provided*, That each plan shall contain, as a minimum, the following information:

(1) Purpose and description of the proposed procurement;

(2) Program and project titles;

(3) Responsible technical office;

(4) Delivery schedule or period of performance;

(5) Estimated dollar amount of the procurement and funding data;

(6) Sources to be solicited and reasons for omission of other known sources, if any;

(7) Synopsizing or explanation of exception;

(8) Justification for noncompetitive procurement (may be referenced in and attached to the Plan);

(9) Determination and findings for negotiation authority (referenced in and attached to the Plan);

(10) Type of contract contemplated and rationale, if not firm fixed price;

(11) Determination and findings for method of contracting (referenced in and attached to the Plan);

(12) Incentive consideration (unless firm fixed-price contract is contemplated);

(13) Considerations as to Small Business participation;

(14) Government Property—description, monetary evaluation, and basis for requirement;

(15) Precontract costs (if any);

(16) Management information systems (if appropriate);

(17) Reliability and quality assurance (if appropriate);

(18) Technical data for reprocurement; and

(19) Procurement action schedule.

§ 18–3.852–5 Assistance in providing for reliability assurance in procurement plans.

When system hardware costing over $1 million is involved, as defined in Part 18–1.51, of this chapter reliability personnel at the field installation involved shall assist in the preparation of the procurement plan with respect to arrangements to be made for reliability monitoring. In the absence of such reliability personnel, the field installation shall seek the advice and assistance of the Director of Reliability and Quality Assurance, NASA Headquarters, or his designee, in the preparation of procurement plans.

§ 18–3.852–6 Requests for proposals.

For requests for proposals prepared pursuant to a procurement plan approved under § 18–3.852–5(a)(3), see § 18–3.802–3(b).

§ 18–3.853 Award and preparation of the contract.

(a) In determining to whom the contract shall be awarded, the contracting officer shall consider not only technical competence, but all other pertinent factors including management capabilities, cost controls and accomplishments of contractors who successfully reduce the cost of space research, development, and procurement (see § 18–3.102(b)(20)), and past performance in adhering to contract requirements, weighing each factor in accordance with the requirements of the particular procurement (see § 18–1.903).

(b) When negotiations have been completed, a contract embodying the agreement will be prepared by the procurement office for execution by the contractor and the contracting officer.

§ 18–3.854 Release of contract award information.

§ 18–3.854–1 General.

Because of public and Congressional interest in NASA contracts, a particular effort must be made to furnish information to the public and Congress concerning firms which receive contract awards and their geographical locations.

§ 18–3.854–2 Definitive contracts.

Contracts requiring approval by the Director of Procurement, in accordance with Subpart 18–50.1 of this chapter, will not be distributed, or information given to any source outside of NASA that the contract has been approved, until 24 hours after the Assistant Administrator for Public Affairs and the Assistant Administrator for Legislative Affairs, NASA Headquarters, have been advised that the contract has been consummated.

§ 18–3.854–3 Letter contracts.

(a) *Policy.* Notification of the issuance of letter contracts shall be furnished immediately to the Assistant Administrator for Public Affairs and the Assistant Administrator for Legislative Affairs, NASA Headquarters, in accordance with the procedures in paragraph (b) of this section, when:

(1) It is estimated that the total amount of the definitive contract will exceed $50,000; or

(2) It is estimated that the total amount of the definitized supplemental agreement will exceed $50,000 (where a letter contract initiates additional work or services to be definitized by a supplemental agreement under an existing contract).

(b) *Procedures.*—(1) *Contracting offices.* When a proposed letter contract as described above has been signed by the contracting officer, the contracting office will furnish to the installation Public Information Office, at the time the letter contract is transmitted to the contractor for signature, the following information:

(i) Date and hour letter contract is transmitted to contractor;

(ii) Whether the letter contract initiates a new contract or additional work or services under an existing contract;

(iii) Dollar amount authorized for the letter contract and estimated total cost of the contract or supplemental agreement;

(iv) Name and address of the contractor;

(v) Location where the work is to be performed, if known; and

(vi) Brief description of the work, including identification of the program and project.

(2) *Public information office.* Upon receipt of the information described in subparagraph (1) of this paragraph, the installation Public Information Office will transmit the information immediately, by TWX or more expeditious means (if appropriate), to the Assistant Administrator for Legislative Affairs and the Assistant Administrator for Public Affairs, NASA Headquarters. The information will not be otherwise released by the installation Public Information Office until clearance has been received from NASA Headquarters.

§ 18–3.854–4 Unsuccessful offerors.

For releasing information to unsuccessful offerors, see § 18–3.106–3.

Subpart 18–3.9—Subcontracting Policies and Procedures

§ 18–3.900 Scope of subpart.

This subpart sets forth policies and procedures for the evaluation, review, and approval of contractors' "make-or-buy" programs, purchasing systems, and proposed subcontracts.

§ 18–3.901 General.

(a) Information as to the contractor's "make-or-buy" program, purchasing system, and proposed subcontracts may be important to:

(1) Negotiation of reasonable contract prices;

(2) Assurance of satisfactory contract performance; or

(3) Carrying out of Government policies regarding small business (see Subpart 18–1.7 of this chapter), labor surplus areas, acquisition and use of Government facilities, or other policies which may be appropriate to the particular procurement.

Therefore, Government surveillance of contractors' "make-or-buy" programs and proposed subcontracts is required, as set forth in this subpart. Where "make-or-buy" decisions and subcontracting will have a substantial impact on any of the above-mentioned factors, the contractor's "make-or-buy" program and subcontracting should, to the extent practicable, be evaluated and agreed upon during negotiations.

(b) The subcontracting policies and procedures in this subpart should generally be applied to those procurements where (1) the item, system, or work is complex, the dollar value is substantial, or competition is restricted, and (2) either (i) a cost-reimbursement, price redetermination, or incentive type contract is to be used, or (ii) "make-or-buy" decisions are expected to have a substantial impact on negotiations.

§ 18–3.902 "Make-or-buy" program.

§ 18–3.902–1 General.

(a) A "make-or-buy" program is that part of a contractor's written plan for the development or production of an end item which outlines the subsystems and major components, assemblies, subassemblies, and parts to be manufactured (including testing, treating, and assembling) in its own facilities and those which will be obtained elsewhere by subcontract. A "make" item is any item produced, or work performed, by the contractor or his affiliate, subsidiary, or division.

(b) (1) Where the nature of the procurement is such that, in view of the factors referred to in § 18–3.901(b), review of the "make-or-buy" program is appropriate or is otherwise considered essential, the prospective contractor will be required to submit his proposed "make-or-buy" program, together with sufficient data to permit the contracting officer to evaluate such factors in paragraph (e) of this section as are pertinent.

(2) At the time a request for proposal is issued, contracting officers will request potential suppliers to furnish "make-or-buy" programs on all negotiated procurements, except as otherwise provided in subparagraph (3), (4), or (5) of this paragraph.

(3) A "make-or-buy" program will not be required when a proposed contract has a total estimated cost of less than $1 million, unless the contracting officer specifically determines that a "make-or-buy" program is appropriate.

(4) Except where their performance involves significant fabrication of hardware items, research and development contracts are not subject to the "make-or-buy" requirements of this Subpart.

(5) A "make-or-buy" program will not be required if the contracting officer determines that none of the factors in § 18–3.901(b) is applicable.

(6) The requirement for submission of a "make-or-buy" program is an important factor to be considered in establishing a realistic date for submission of proposals.

(c) The contractor will be informed that the program he submits should be confined to important items which, because of their complexity, quantity, cost, or requirement for additional Government facilities, normally would require company management review of the "make-or-buy" decision. "Detail parts" or "off-the-shelf" items will not be incorporated in a "make-or-buy" program unless their potential impact on program or schedule makes their inclusion necessary. If the design status of the end item being procured is not sufficiently advanced to permit accurate precontract identification of all items that may be subject to "make-or-buy" decisions, the contractor shall be notified that such items must be submitted, when identifiable, under the terms of the contract clause entitled "Changes to Make-or-Buy Program."

(d) The contractor will submit, with his proposal, a "make-or-buy" program of important items, including, in addition to information required by paragraph (b)(1) of this section:

(1) A description by which each such item can be readily identified;

(2) A recommendation to make or buy the item or defer the decision, and the reasons therefor;

(3) When feasible, the names of proposed subcontractors, including the specific division, plant, and plant location in which the subcontractor proposes to perform the work; and

(4) The important items to be made by the contractor, including a designation of the specific division, plant, and plant location in which the contractor proposes to perform the work.

(e) "Make-or-buy" programs will be evaluated and agreed upon by the contractor and the contracting officer at the earliest practicable time during negotiations. In reviewing the "make-or-buy" program during negotiations, the effect of the following factors on the interests of the Government shall be considered:

(1) The effect of the contractor's plan to make or buy, as the case may be, on price, quality, delivery, and performance;

(2) Whether the contractor plans to broaden his base of subcontractors through competition;

(3) Whether the contractor has properly considered the competence, abilities, experience, and capacities available within other firms;

(4) Whether small business and labor surplus area concerns are given an equitable opportunity to compete for subcontracts;

(5) Whether the contractor or major subcontractors propose to do work in plant, the nature of which differs significantly from their normal in-plant operations or for which they are not historically suited;

(6) Whether production of the item or performance of the work will create a requirement, either directly or indirectly, for additional facilities to be furnished by the Government, or for the continued use of Government-owned facilities by the contractor or by subcontractors;

(7) Whether the contractor proposes to ask the Government to furnish additional facilities to do a type of work in plant for which there is capacity elsewhere which is competitive in quality, delivery, and overall cost, and is acceptable as a source to the contractor;

(8) Whether the item or work has been subcontracted on this or previous contracts; and

(9) Other factors, such as the nature of the item, experience with similar items, future requirements, engineering, tooling, starting load costs, market conditions, and the availability of personnel and material.

(f) The contracting officer will review the "make-or-buy" program to determine if all appropriate items are included and if it contains items that should be deleted because of their relatively minor importance. In all considerations relative to a "make-or-buy" program, the contracting officer will obtain the advice and assistance of all appropriate personnel (including technical, pricing, and small business personnel) whose knowledge would contribute to the adequacy of all facets of the review. Before agreeing to a "make-or-buy" program (or consenting to any changes therein which, in the opinion of the contracting officer, would reduce the anticipated participation of small business), the contracting officer shall invite the advice and counsel of the SBA by permitting SBA representatives regularly assigned to the installation to review all pertinent facts and make recommendations thereon. Such review should be concurrent with the review by the contracting officer. Where urgent circumstances do not permit such a current review, or where SBA fails to respond on a timely basis, the contracting officer shall include an explanatory statement in the contract file and shall furnish a copy to the SBA representative.

(g) Proposed "make" items shall not be agreed to when the products or service under consideration:

(1) Are not regularly manufactured or provided by the contractor, and in the opinion of the contracting officer are available—quality, quantity, delivery, and other essential factors considered—from other firms at prices no higher than if the contractor should make or provide the product or service; or

(2) Are regularly manufactured or provided by the contractor, and are available—quality, quantity, delivery, and other essential factors considered—from other firms at prices lower than if the contractor should make or provide the product or services:

Provided, That such items may be agreed to, notwithstanding subparagraphs (1) and (2) of this paragraph, if in the opinion of the contracting officer the overall cost of the contract to the Government would be increased if the item were "bought."

(h) After agreement on the program is reached, the contracting officer shall notify the contractor of the Government's approval of the program and shall inform the contractor of any requirement for further review during performance of the contract. For example, if follow-on procurement occurs, the contracting officer and the contractor will review the existing "make-or-buy" program to determine whether it should be revised.

(i) The following clause shall be incorporated in all cost reimbursement, price redetermination, or incentive type contracts as to which a "make-or-buy" program has been agreed upon:

CHANGES TO MAKE-OR-BUY PROGRAM (MARCH 1968)

The Contractor agrees to perform this contract in accordance with the "make-or-buy" program attached to this contract except as hereinafter provided. If the Contractor desires to change the "make-or-buy" program, he shall notify the Contracting Officer in writing of the proposed change reasonably in advance and shall submit justification in sufficient detail to permit evaluation of the proposed change. Changes in the place of performance of work or any "make" item in the "make-or-buy" program are subject to this requirement. With respect to items deferred at the time of negotiation of this contract for later additions to the "make-or-buy" program, the Contractor shall notify the Contracting Officer of each proposed addition at the earliest possible time, together with justification in sufficient detail to permit evaluation. The Contractor shall not, without the written consent of the Contracting Officer, make changes or additions to the program: *Provided*, That in his discretion the Contracting Officer may ratify in writing any changes or additions and such ratification shall constitute the consent of the Contracting Officer required by this clause. The "make-or-buy" program attached to this contract shall be deemed to be modified in accordance with the written consent or ratification by the Contracting Officer.

(j) On applicable contracts, the office responsible for performing contract administration will establish a procedure with the contractor to ensure timely compliance with the terms of the contract clause. This procedure will include provisions for processing changes to the established "make-or-buy" program and for obtaining "make-or-buy" decisions for items reserved for deferred decisions or unidentified at the time of contract negotiation. The responsible contract administration officer will (1) receive requests from the contractor for changes in, or additions to, the established "make-or-buy" structure, (2) evaluate the contractor's proposals, and (3) forward them, with his recommendations, to the appropriate NASA contracting officer. When reviewing proposed changes in, or additions to, the established "make-or-buy" program, the NASA contracting officer shall consult with appropriate personnel, as provided in paragraph (f) of this section.

(k) Approval of the contractor's purchasing system shall not constitute approval of the "make-or-buy" program where the latter is required.

(l) When a "make-or-buy" program is agreed upon with a contractor, or there are changes or additions to a "make-or-buy" program, the consideration given each item on such program will be documented in the contract file. If a contract (including supplemental agreements for new procurement), except those specifically exempted by paragraph (b) of this section, does not include the clause entitled "Changes to Make-or-Buy Program," the contracting officer will document the contract file with a written statement of facts to sustain and make clear the appropriateness of the determination not to include the clause. Such determination will be based on one of the following:

(1) The contract is on a firm fixed-price basis;

(2) The contract is not exempt but there are no items which can be identified as requiring a "make-or-buy" program as defined in paragraph (a) of this section; or

(3) A deviation has been approved pursuant to § 18–1.109.

§ 18–3.902–2 Price adjustments.

(a) There may be cases where it is proper to agree that an item of significant value will be "bought" even though it would usually be more economical to have it "made" or vice versa. For instance, the contractor may have a unique capability for low-cost manufacture of a substantial component but his capacity may already be full during the period necessary for contract performance, so the component must be subcontracted. Therefore, the agreed-upon "make-or-buy" program may specifically call for what would usually be the more costly treatment of the item and the consequent higher costs may be explicitly recognized in establishing the best obtainable contract price. Unforeseen changes in the circumstances, however, may arise during contract performance and may induce the contractor to propose changing the item from "buy" to "make" (or vice versa). If such a change is made, the element of the contract price which was intended to compensate the contractor for the higher costs flowing from the initial "make-or-buy" decision will instead constitute windfall profits to the contractor and unwarranted costs to the Government.

(b) In procurements where the prospective contractor's "make-or-buy" program is reviewed pursuant to § 18–3.902, if a situation of the kind described in paragraph (a) of this section obtains, the clause set forth below shall be included in the contract (unless it is a cost-reimbursement type contract) and any "make-or-buy" items of the kind described in paragraph (a) of this section shall be specifically designated in the schedule (or elsewhere in the contract) both as being either a "make" item or a "buy" item and as being subject to this clause.

PRICE ADJUSTMENT FOR MAKE-OR-BUY CHANGES (MARCH, 1963)

This clause applies only to items that are designated elsewhere in the contract as being "make" items or "buy" items subject to this clause. If the Contractor desires to "make" any designated "buy" item or to "buy" any designated "make" item, he will give written notice to the Contracting Officer of the proposed change reasonably in advance and will include significant and reasonably available cost and pricing data in sufficient detail to permit evaluation of the proposed change. Promptly thereafter, if the Contractor proceeds with the change, the Contractor and the Contracting Officer will negotiate an equitable reduction in the contract price to reflect any decrease in costs which should reasonably result from the change, and the contract will be modified in writing accordingly. Failure to agree on an equitable reduction shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract.

§ 18–3.902–50 Special considerations research and development contracts.

Research and development contracts shall, when source selection has been substantially predicated upon the possession by a given contractor of special capabilities, as represented by either key personnel or facilities, contain a schedule setting forth the designated personnel and facilities and the following clause shall be incorporated in such contracts:

KEY PERSONNEL AND FACILITIES (MARCH 1968)

The personnel and/or facilities specified in the schedule attached to this contract are considered to be essential to the work being performed hereunder. Prior to diverting any of the specified individuals or facilities to other programs the Contractor shall notify the Contracting Officer reasonably in advance and shall submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the program. No diversion shall be made by the Contractor without the written consent of the Contracting Officer: *Provided*, That the Contracting Officer may ratify in writing such diversion and such ratification shall constitute the consent of the Contracting Officer required by this clause. The schedule attached to this contract may, with the consent of the contracting parties, be amended from time to time during the course of the contract to either add or delete personnel and/or facilities, as appropriate.

§ 18–3.903 Review of subcontracting and contractor's purchasing systems.

Examination of the contractor's purchasing system and plans for subcontracting, review of proposed subcontract sources and prices in the light of the factors indicated in § 18–3.901, and discussions with the contractor to bring about any adjustments which may be needed to clear the way for formal subcontract approval should generally be accomplished as part of the negotiation of the prime contract. Any resulting purchasing system approvals will be granted in accordance with § 18–3.903–3.

§ 18–3.903–1 Contract clauses.

(a) The "Subcontracts" clauses, covering Government consent to subcontracts, are set forth in this chapter as follows:

(1) For fixed-price supply contracts which include a price redetermination or incentive provision, in § 18–7.104–23(a) of this chapter;

(2) For cost-reimbursement type supply contracts, in § 18–7.203–3 of this chapter;

(3) For fixed-price research and development contracts which include a price redetermination or incentive provision, in § 18–7.303–12 of this chapter;

(4) For cost-reimbursement type research and development contracts, § 18–7.402–3 of this chapter; and

(5) For cost-reimbursement type research and development contracts with nonprofit institutions (including educational institutions), § 18–7.451–3 of this chapter.

(b) § 18–7.104–23(b) sets forth a subcontract clause which may be used in fixed-price supply contracts which do not include a price redetermination or incentive provision. Such clause may also be used in fixed-price research and development contracts which do not include a price redetermination or incentive provision (see § 18–7.303–12 of this chapter).

§ 18–3.903–2 Consent to subcontracts.

(a) The contracting officer's consent to subcontracts, required by the subcontract clause set forth in the contract, shall be accorded by individual consent on a subcontract-by-subcontract basis. However, where the contractor's purchasing system has been approved, in whole or in part, such consent is not required for subcontracts within the scope of such approval, except in the case of cost-reimbursement type contracts containing one of the contract clauses set forth in § 18–7.203–3, § 18–7.402–3, or § 18–7.451–3 of this chapter; individual consent cannot be waived with respect to those types of subcontracts for which individual consent is specifically required to be obtained pursuant to such clauses.

(b) The purposes of subcontract consent requirements are usually best served if review and analysis of the contractor's purchasing system and of his proposed subcontracts are carried out in conjunction with negotiation of the prime contract (and concurrently with any review of the contractor's "make-or-buy" program as required by § 18–3.903). Although consent to subcontracts cannot always be formally accomplished prior to execution of the prime contract (since definitive subcontracts are not generally entered into until after execution of the prime), the review, analysis, and discussion leading up to such formal consent should, where feasible, be conducted during the negotiation process.

(c) Purchases by a contractor from General Services Administration supply sources under a written authorization by the contracting officer (see § 18–5.906 of this chapter) shall be treated as having been made with the consent of the contracting officer.

(d) The responsibility for subcontract selection, pricing, and administration rests with the prime contractor. Contracting officers must exercise the degree of review and surveillance necessary to assure that the contractor's responsibilities are being discharged effectively. Consequently the responsibilities of contracting officers do not end with the consent to subcontracts. When a proposed subcontract is of substantial magnitude, or may reasonably be anticipated to have a significant impact on performance under the prime contract, contracting officers must concern themselves with the effectiveness of subcontract administration. In appropriate circumstances, contracting officers may require, as a condition to consent, the submission of the prime contractor's plan for administration of the subcontract and the proposed method for measuring the efficiency and effectiveness of the subcontractor in the areas of cost, quality, and schedule.

§ 18–3.903–3 Approval of purchasing system.

(a) The effectiveness of a potential contractor's purchasing system and his system for management of subcontracts will be regarded as one of the essential criteria in determining responsibility pursuant to § 18–1.903 of this chapter. Performance during the course of a contract, in the areas of purchasing and subcontract management, will be a relevant consideration in determining future awards. When an award is contemplated, the NASA contracting officer shall assure himself as to the adequacy of a contractor's purchasing system and subcontractor management either by reference to a survey previously conducted or by a review in accordance with the minimum standards prescribed in § 18–3.903–3(g) to the extent appropriate in the light of the contractor's proven procurement ability and the dollar value of the proposed contract.

(b) The Director of Procurement will establish a list of major contractors whose purchasing systems will be surveyed, and he will be responsible for directing the accomplishment of such surveys. Normally, performance of surveys will be assigned to a field installation, taking into consideration such factors as availability and qualifications of personnel, dollar volume of contracts with the contractor, and location of facilities to be surveyed. When unusual or special problems are expected or known to exist, the Director of Procurement may elect to have representatives of the Office of Procurement perform or participate in the survey. Selection of a contractor to be surveyed will be based on the dollar volume of current and anticipated contracts with NASA and the factors set forth in § 18–3.901(b).

(c) Procurement officers desiring to have a contractor's purchasing system approved by NASA shall forward a request for such approval to the Director of Procurement with appropriate justification therefor. The Director of Procurement will notify the procurement office whether or not the recommended contractor's purchasing system will be surveyed and, if the survey is to be accomplished, he will also notify other procurement officers of such action.

(d) Prior to the initiation of a survey, the Director of Procurement will ascertain whether another agency of the Government has surveyed the particular contractor's purchasing system. Where such a survey has been conducted, the agency conducting the survey will be requested to furnish NASA with a copy of the survey and the results thereof (including any updating accomplished). Maximum use shall be made of such evaluation to determine the need for further action by NASA and to preclude needless multiplicity of surveys.

(e) A list of those contractors who have had their purchasing systems approved and those to be reviewed by the Director of Procurement, as well as those contractors who have had their purchasing systems approved by other Government agencies where such approvals are to be used by NASA, will be maintained by the Office of Procurement and distributed to all procurement offices.

(f) A survey and approval of a contractor's purchasing system, as contemplated by this § 18–3.903–3, will not be made in conjunction with the review established by § 18–3.903. The survey and approval for individual contracts prescribed by this paragraph will be a part of the continuing systems survey which relates to the contractor's performance under all NASA contracts.

(g) A survey of a contractor's purchasing system shall include a review of such factors as:

(1) The degree of competition obtained by the contractor's purchasing methods (competition implies not only the solicitation of a sufficient number of sources supplemented by procedures calling for continuing exploration of potential new sources, but also the establishment of procedures providing for all other elements of free and open competition. Government experience has demonstrated that notification to unsuccessful bidders of awards of contracts on which they bid, of the names of the successful bidders, and, to the extent feasible, of the factors upon which selection and rejection were based, tends to develop more responsive bidding and minimizes the discouragement of potential sources because of failure to receive an award);

(2) The contractor's pricing policies and techniques, including, when necessary, his methods of obtaining current, complete, and accurate cost and pricing data and his use of available techniques, such as price, cost, and value analysis;

(3) The contractor's method of evaluating subcontractors' responsibility, including provision for continuing evaluation of existing subcontractors and the development of additional sources;

(4) The extent to which the purchasing system is consistent with any contract requirements covering small business and labor surplus area concerns;

(5) The treatment accorded affiliates of the contractor or other concerns having close working arrangements with the contractor;

(6) The effectiveness of the contractor's subcontract management, including, but not limited to, the extent to which the contractor obtains assurance that his principal subcontractors apply sound pricing practices and a satisfactory purchasing system in dealing with lower-tier subcontractors and the extent to which coordination with subcontractors is effected to assure rigid adherence to quality standards and maintenance of required delivery schedules;

(7) Types of contracts used;

(8) The extent to which the contractor's purchasing department is integrated within the contractor's operations and whether adequate coordination exists with other departments, particularly engineering, accounting, and estimating; and

(9) The contractor's procurement policies and procedures pertaining to such items as "make-or-buy" program, control of property, administration of subcontracts, etc.

(h) Approval of a contractor's purchasing system may be unqualified or may be limited. For example, the purchasing system may be approved except for subcontracts in excess of a stated amount or except for subcontracts for stated work which is of such critical nature that extraordinary Government surveillance is called for. (Or it may be decided to either raise or lower the dollar limitation on subcontracts to be submitted for contracting officer consent as provided for in § 18–3.903–4 or to retain the contractually stated limitation.) In no case shall approval of the contractor's purchasing system waive the requirement for consenting to individual subcontracts under cost-reimbursement type contracts where such individual consent is required by the Subcontracts clause contained in the contract (see § 18–3.903–2(a)).

(i) Upon completion of the survey and evaluation of the results thereof, the contractor shall be notified in writing of the conclusions developed, recommendations for resolution of any discovered deficiencies, and any limitations on the approval. The notice shall state that the approval does not (1) relieve the prime contractor of any of his obligations under the contract, (2) restrict the Government from subsequently withdrawing the approval in whole or in part, or (3) cover any changes of a material nature which the contractor may subsequently make in his purchasing system.

(j) After approval of the contractor's purchasing system, periodic examination of the contractor's operations under such system shall be conducted regularly to determine whether any substantial changes in procedures, initiated by the contractor or as a result of recommendations by the Government, have occurred, as well as to evaluate the contractor's performance under the purchasing system.

(k) Surveys of contractors' purchasing systems and the results thereof (including periodic updatings as contemplated by paragraph (j) of this section) conducted by NASA, as well as those conducted by other Government agencies that are being utilized by NASA, shall be distributed to all procurement offices.

§ 18–3.903–4 Review of individual subcontracts.

(a) In reviewing or consenting to individual subcontracts, the contracting officer should give appropriate consideration to the following:

(1) Whether the decision to enter into the proposed subcontract is consistent with the contractor's approved "make-or-buy" program, if any (see § 18–3.902);

(2) Whether the proposed subcontract will require the use of Government-furnished facilities;

(3) The responsibility of the proposed subcontractor (§ 18–1.906 of this chapter);

(4) Basis for selecting proposed subcontractor, including the degree of competition obtained;

(5) Cost or price analysis or price comparisons accomplished, with particular attention to whether cost or pricing data is current, complete, and correct;

(6) Extent of subcontract supervision;

(7) Type of contract used (see § 18–3.400);

(8) Estimated total extent of subcontracting, including procurement of parts and materials; and

(9) The extent to which the prime contractor has assured the adequacy of the subcontractor's purchasing system.

(b) In reviewing subcontracts, careful and thorough evaluation is particularly necessary when:

(1) The prime contractor's purchasing system or performance thereunder is considered inadequate;

(2) Subcontracts are for items for which there is no competition or for which the proposed prices appear unreasonable;

(3) Close working arrangements or business or ownership affiliations exist between the prime and the subcontractor which may preclude the free use of competition or result in higher subcontract prices than would otherwise be obtained;

(4) A subcontract is being proposed at a price less favorable than that which has been given by the subcontractor to the Government, all other factors such as manufacturing period and quantity being comparable; or

(5) A subcontract is to be placed on a cost-reimbursement, time and materials, labor-hour, fixed-price incentive, or fixed-price redeterminable basis.

(6) A lease is proposed involving the rental of equipment or floor space for an extended period of time. The contractor's decision to lease should be supported by a lease versus purchase study. Where subcontracts have been placed on a cost-reimbursement, time and materials, or labor-hour basis, contracting officers should be skeptical of approving the repetitive or unduly protracted use of such types of subcontracts.

(c) Consent to the placement of individual subcontracts will be limited or qualified to the extent deemed appropriate by use of the following statement:

> Consent to the placement of this subcontract is hereby given, but such consent shall not relieve the prime Contractor of any obligation under the prime contract, shall be without prejudice to any right or claim of the Government thereunder, and shall not create any obligation on the part of the Government to the subcontractor under this subcontract, nor shall it be interpreted to constitute approval for the subcontractor to receive classified information.

(d) Each subcontract will contain all of the clauses required by law and the prime contract. It should also contain any clauses needed to carry out the requirements of the prime contract, even though the prime contract does not include a "flow-down" provision (a flow-down provision is one which specifies that a clause, or part thereof, shall be included in subcontracts in the exact wording or with such variations as may be authorized by the clause itself). Consent to the placement of individual subcontracts will not be granted if the proposed subcontract omits, restricts, or in any way qualifies any of the clauses subject to prime contract "flow-down" provisions, except as may be authorized by the clause itself or when otherwise authorized pursuant to § 18–1.109. In addition to assuring inclusion of required clauses, care should be taken to avoid inclusion in the subcontract of prime contract provisions which are not applicable to the subcontract. The provisions of this chapter will be referred to, as a guide, in determining the need for particular contract clauses.

(e) Execution of the certificate of current cost or pricing data set forth in § 18–3.807–4 is to be regarded as a condition precedent to subcontract consent when such certificate is required as specified in § 18–3.807–3(c). In the event of a subcontractor's refusal to provide cost or pricing data and certification, the provisions of § 18–3.807–6 shall be complied with.

(f) The criteria in ASPR 3–406.1(b) should be applied in reviewing time and

material and labor-hour subcontracts respectively. Such subcontracts will not be consented to unless the prime contractor establishes adequate controls to insure proper pricing and prevent wasteful operations or it has been established that the subcontractor's internal controls and accounting methods are adequate for the proposed subcontract (see § 18–3.903–4(b)).

(g) The contractor will be required to furnish complete justification for proposed subcontract awards, giving adequate information with respect to price or cost analysis accomplished, and the currency, completeness, and correctness of cost or pricing data obtained from the proposed subcontractors (see § 18–3.903–4(a)(5)). Particular emphasis will be placed on substantiating the basis for noncompetitive subcontracts and on validating the reasonableness of the prices resulting therefrom. In general, the policies in § 18–3.809 relating to the use of audit services as a pricing aid also apply to subcontract price or cost analysis. It is the responsibility of the contractor to use his own audit staff in connection with subcontract pricing; however, audit information supplied by Government auditors will be used to the fullest practicable extent when:

(1) The prime contractor has been refused access to the records and books of account by the subcontractor and all reasonable steps, including top management participation, have been taken to secure such information;

(2) The subcontractor is currently being audited by Government auditors in connection with other existing prime or subcontracts;

(3) The subcontractor holds subcontracts with two or more prime Government contractors and Government audit would be more economical and provide consistent audit treatment and orderly audit administration; or

(4) The prime contractor has a substantial or controlling financial interest in the subcontractor.

§ 18–3.903–5 Disputes provisions in subcontracts.

(a) Although consent by a contracting officer to a subcontract in and of itself does not constitute agreement with the terms and conditions of the subcontract, a contracting officer shall not consent to provisions in subcontracts purporting to give the subcontractor a direct right to obtain a decision of the contracting officer or a direct right of appeal to the NASA Board of Contract Appeals. The Government is entitled to the management services of the prime contractor in adjusting disputes between the prime contractor and his subcontractors. Contracting officers should act only in disputes arising under the prime contract, and then only with and through the prime contractor, even if a subcontractor is affected by the dispute between the Government and the prime contractor. Contracting officers should not participate in disputes between a prime contractor and his subcontractors.

(b) A contracting officer should not, however, refuse consent to a subcontract, particularly under a cost-reimbursement type contract, merely because it contains a clause that allows the subcontractor, if he is affected by a dispute arising under the prime contract, an indirect appeal to the NASA Board of Contract Appeals (1) by asserting the prime contractor's right to take such an appeal, or (2) by having the prime contractor prosecute such an appeal, on behalf of the subcontractor. Such a clause should not attempt to obligate the contracting officer or the Board to decide questions that do not arise between the Government and the prime contractor, or that are not cognizable under the "Disputes" clause of the prime contract, and should not attempt to obligate the contracting officer to notify or deal directly with the subcontractor. Such a clause may appropriately provide that the prime contractor and subcontractor will be equally bound by the contracting officer's or Board's decision on a dispute.

(c) The prime contractor and his subcontractor may agree to arbitration to settle disputes. The results of such arbitration and the cost resulting therefrom, however, are no more binding on the Government than are the results of a judicial determination or voluntary settlement; they are subject to independent review and approval under the prime contract. The contracting officer shall not consent to provisions in subcontracts purporting to make the results of arbitration (or judicial determinations or voluntary settlements) binding on the Government.

§ 18–3.903–50 Headquarters review of major subcontracts.

(a) Procurement officers shall furnish advance notification to the Director of Procurement of the placement, under NASA prime contracts, of all first-tier subcontracts, the dollar value of which is either estimated to be $5 million or more, or which may be anticipated to aggregate $5 million or more with addons.

(b) Procedures: (1) When a field installation intends to consent to a proposed subcontract of the type described in paragraph (a) of this section, the information prescribed by subparagraph (4) of this paragraph shall be transmitted to the Director of Procurement by electrical means, immediately subsequent to completion of review and prior to the issuance of consent.

(2) In the case of subcontracts contemplated under a prime contract issued by the Headquarters Contracts Division (Code DHC), such information shall be forwarded to the Director of Procurement by the most expeditious means.

(3) Prime contracts shall be advised that no arrangement as to subcontract award is to be made prior to receipt of consent from the NASA contracting officer or his authorized representative.

(4) The following information shall be transmitted to the Director of Procurement:

(i) Identification of the prime contract—contractor, contract number, type of contract, status (definitive or letter contract), price or estimated cost, and brief description of items or services to be provided;

(ii) Identification of the subcontract—subcontractor, type of subcontract, price or estimated cost, brief description of items or services to be provided, and scope of subcontract work (to be described in clear and concise language);

(iii) Verification of consistency of subcontracted effort with the "make-or-buy" program of the prime contractor (proposed deviation from such program will be briefly justified);

(iv) Enumeration of sources considered or solicited for the subcontract;

(v) Justification of the selected source; and

(vi) Brief summarization of installation findings, highlighting unusual or sensitive aspects and commenting on adequacy of pricing.

(5) Immediately upon receipt of the information prescribed above, the Director of Procurement will forward a copy of such information to the appropriate Headquarters Program Office(s) for review.

(6) The Director of the appropriate Headquarters Program Office(s) and the Director of Procurement will review such information within the purview of their assigned responsibilities. This review will be accomplished with the minimum of delay so that the installation concern may be advised within 7 work days following the transmission of the subcontract data whether there are any limitations or objections to consenting to the placement of the subcontract.

(7) Upon expiration of 7 work days following transmission of the information specified in subparagraph (4) of this paragraph, or upon receipt of notification from the Director of Procurement, whichever is sooner, and unless otherwise advised, the NASA contracting officer or his authorized representative may consent to the placement of the proposed subcontract.

(8) Nothing contained herein is intended to relieve the contracting officer of his primary responsibilities in the review of proposed subcontracts.

(9) The procedures specified herein shall be made equally applicable to Department of Defense contracting officers performing contract administration functions on behalf of NASA in accordance with field service agreements entered into between NASA and the Military Departments. In order to accomplish this objective, requests made pursuant to such agreements for the performance of contract administration functions which include review of subcontracts will specify this requirement. For the agreement with the Department of the Army, see NASA Management Instruction 1052.17; with the Department of the Navy, see NASA Management Instruction 1052.16; and with the Department of the Air Force, see NASA Management Instruction 1052.12.

PART 18–4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Subpart 18–4.1—Construction [Reserved]

Subpart 18–4.2—Architect-Engineer Services

Sec.
18–4.200 Scope of subpart.
18–4.201 Definitions.
18–4.202 Policy.
18–4.203 Architect-engineer selection board.
18–4.203–1 Establishment.
18–4.203–2 Functions.
18–4.203–3 Action by director of field installations.
18–4.203–4 Simplified procedures for procurement estimated to cost $10,000 or less.
18–4.203–5 Selection of architect-engineers for master planning.
18–4.204 Negotiation propedures.
18–4.204–1 General.
18–4.204–2 Conduct.
18–4.204–3 Independent government estimate.
18–4.204–4 Architect-engineer's estimate.
18–4.204–5 Fair and reasonable fee.
18–4.204–6 Procurements requiring headquarters approval.
18–4.204–7 Record of negotiation.
18–4.205 Contracting with architect-engineer firms for construction work.
18–4.205–1 Policy.
18–4.205–3 Procedure.
18–4.205–4 Exceptions.

Subpart 18–4.4—Unsolicited proposals

18–4.401 General.
18–4.402 Policy.
18–4.402–1 General.
18–4.402–2 Preliminary review.
18–4.402–3 Comprehensive evaluation.
18–4.402–4 Method of procurement.
18–4.403 Procedure.

Subpart 18–4.50—Utility Services

18–4.5000 Scope of subpart.
18–4.5001 Definition.
18–4.5002 Policy.
18–4.5003 Determination of requirements.
18–4.5004 Headquarters participation in negotiations.
18–4.5004–1 All utilities except communications.
18–4.5004–2 Communications.
18–4.5005 Contract requirements.
18–4.5005–1 Procurement without contract.
18–4.5005–2 Memorandum of understanding.
18–4.5005–3 GSA area-wide public utility contracts.
18–4.5005–4 DoD area-wide communications contracts.
18–4.5004–5 Negotiated utility services contracts.
18–4.5006 Contracts requiring headquarters approval.
18–4.5007 Headquarters requirement for copies of contracts.
18–4.5008 Changes in rates.
18–4.5009 Sales of utility services.
18–4.5009–1 Eligible purchasers.
18–4.5009–2 Prerequisites.
18–4.5009–3 Headquarters participation in negotiations.

Subpart 18–4.51—Negotiation, Award, and Administration of Basic Research Grants

18–4.5100 Scope of subpart.
18–4.5101 Authority.
18–4.5102 Definitions.
18–4.5103 Policy.
18–4.5104 Criteria for selecting the grant as the instrument for research support.
18–4.5104–1 Selection.
18–4.5104–2 Payments.
18–4.5104–3 Simplicity and economy in execution and administration.
18–4.5104–4 Cost-sharing.
18–4.5104–5 Control of purchases.
18–4.5105 Vesting of title to research equipment.
18–4.5106 Administration of grants.
18–4.5106–1 Grant agreement.
18–4.5106–2 Determination of amount.
18–4.5106–3 Detailed procedures.
18–4.5107 Reporting of grants.
Appendix A.

Subpart 18–4.52—Management Engineering or Consultant Service

18–4.5200 Scope of subpart.
18–4.5201 Applicability.
18–4.5202 Definitions.
18–4.5203 Policy.
18–4.5204 Scope.
18–4.5205 Procedures.
18–4.5205–1 Request for approval.
18–4.5205–2 Negotiation of contracts.
18–4.5205–3 Contract award and approval.
18–4.5205–4 Copies of reports and recommendations.
18–4.5206 Format for requesting approval for use of management engineering or consultant services.

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Subpart 18–4.1—Construction [Reserved]

Subpart 18–4.2—Architect-Engineer Services

§ 18–4.200 Scope of subpart.

This subpart prescribes procedures for the procurement by contract of professional services of architects and engineers (referred to hereafter as architect-engineer services). Procedures for procuring architect-engineer services through the construction organization of the Corps of Engineers, Department of the Army, are set forth in NASA Management Instruction 1052.86.

§ 18–4.201 Definitions.

As used in this Subpart 18–4.1, the following terms shall apply:

(a) "Architect-engineer services" consist of services required in connection with:

(1) Preparation of designs, plans, drawings, and specifications for a proposed construction project (referred to as Title I Services); and

(2) Supervision and inspection of the construction work (referred to as Title II Services).

(b) Title I Services include:

(1) Preparation of necessary topographical and other field surveys, test borings, and other subsurface investigations;

(2) Preparation of preliminary studies, sketches, layout plans, and reports, including estimates of cost of the proposed project and of all structures, utilities, and appurtenances thereto;

(3) Adaptation of Government designs, drawings, specifications, and standards for buildings and other structures as necessary;

(4) Preparation of final designs, working drawings, specifications, and cost estimates of the proposed project;

(5) Assistance to the contracting officer in preparing invitations for bids or requests for proposals for the required construction work and in evaluating bids or proposals received;

(6) Review and approval of all shop and working drawings submitted by the construction contractor; and

(7) Advice during the construction period relative to interpreting the plans and specifications in the event inspection of the construction is performed by the Government.

(c) Title II Services include complete supervision and inspection of the construction work and preparation of record drawings to show the construction as actually accomplished.

§ 18–4.202 Policy.

The selection of architects-engineers for professional services shall be based on the professional qualifications necessary for satisfactory performance of the required services and not on the basis of the evaluation of competitive bids or proposals.

§ 18–4.203 Architect-engineer selection board.

§ 18–4.203–1 Establishment.

The director of each field installation shall establish an architect-engineer selection board to be composed of not less than three members who, collectively, have experience in engineering, construction, and procurement matters. Members shall be appointed from employees from within the field installation, one of whom shall be designated as chairman.

§ 18–4.203–2 Functions.

(a) Except as otherwise provided in § 18–4.203–4, the architect-engineer selection board shall perform the following functions:

(1) Collect and maintain data on architect-engineer firms, including information on the qualifications of their members and key employees, past experience on various types of construction projects, and standing in the profession. (U.S. Government Architect-Engineer Questionnaire—Standard Form 251—will be used for this purpose.)

(2) When procurement by contract of architect-engineer services for a particular project is contemplated, review the qualifications of an adequate number of architect-engineer firms and evaluate the architect-engineer firms in accordance with paragraph (b) below. (In making this review and technical evaluation, correspondence and conferences with architect-engineer firms under consideration shall be conducted to the extent deemed necessary.)

(3) Prepare a report for submission to the director of the field installation, recommending, in the order of preference, a minimum of three firms which, after careful evaluation, are considered the best qualified to perform the required services. (This report shall include sufficient details as to the extent of the evaluation and review made and the considerations upon which the recommendations were based.)

(b) In evaluating architect-engineer firms, the architect-engineer selection board shall consider the following factors:

(1) Specialized experience of the firm in the field or fields required;

(2) Capacity of the firm to perform the work within the required time;

(3) Past record of performance on contracts with NASA, other Government agencies, and private industry including such factors as control of costs, quality of work, and ability to meet schedules; and

(4) Geographic location of the firm and its familiarity with the area in which the project is located.

Since it is NASA policy to encourage additional firms to participate in the performance of architect-engineer services for NASA, the architect-engineer selection board shall, to the fullest extent practicable, give favorable consideration to qualified firms not having prior performance experience with NASA.

§ 18–4.203–3 Action by directors of field installations.

Except as otherwise provided in § 18–4.203–4, the director of the field installation shall review the recommendations of the architect-engineer selection board and shall:

(a) Approve the recommended list of qualified architect-engineer firms as submitted;

(b) Rearrange the order of preference; or

(c) Return the recommendations to the board for such action as he may consider necessary.

The director of the field installation shall advise the board of the final action and shall furnish the contracting officer with a copy of the report and final action thereon which will serve as authorization to commence negotiation. The list of qualified firms in order of preference is for internal use of NASA, and such information shall not be made known to the firms under consideration.

§ 18–4.203–4 Simplified procedures for procurement estimated to cost $10,000 or less.

When authorized by the director of the field installation, one of the simplified procedures set forth in this § 18–4.203–4 may be used in selecting architect-engineer firms to perform services that are estimated to cost $10,000 or less, in lieu of the architect-engineer selection board performing the functions prescribed by § 18–4.203–2(a) (2) and (3), and actions prescribed by § 18–4.203–3.

(a) *Selection by the board.* After reviewing and evaluating architect-engineer firms in accordance with §§ 18–4.203–2(a)(2) and 18–4.203–2(b), the board will prepare a report for submission to the contracting officer listing, in the order of preference, a minimum of three firms which, after careful evaluation, are considered the best qualified to perform the required services. (This report will include sufficient details as to the extent of the evaluation and review made and the considerations upon which the selections were based.) This report will be forwarded to the contracting officer and will serve as authorization to commence negotiation.

(b) *Selection by the chairman of the board.* When, in the judgment of the chairman of the board, it is considered that board action is not required in connection with a particular selection of architect-engineer firms, the following procedures will be followed:

(1) The chairman of the board will perform the functions required by § 18–4.203–2(a)(2).

(2) The chairman of the board will prepare a report in the same manner as that prescribed by § 18–4.203–2(a)(3), except that the report will be submitted to the director of the field installation or his designee for concurrence.

(3) The Director of the field installation or his designee will review the report from the chairman of the board, and concur with the selection made by the chairman, or return the report to the chairman for such action as may be considered necessary.

(4) Upon receipt of a concurred report, the chairman of the board will furnish the contracting officer with a copy of the report. Such report will serve as authorization to commence negotiation.

§ 18–4.203–5 Selection of architect-engineers for master planning.

(a) *Definition of master plan.* A master plan is an integrated series of documents which present in graphic, narrative, and tabular form the present composition of the installation and the plan for its orderly and comprehensive development to perform its various missions in the most efficient and economical manner.

(b) *Selection.* Where it is proposed to select an architect-engineer to develop a master plan in connection with the establishment of a new NASA activity or installation, the report prepared by the architect-engineer selection board, in accordance with § 18–4.203–2(a)(3), will be forwarded by the director of the field installation, with his concurrence in the selection, to the cognizant Institutional Director, NASA Headquarters, for the approval of the Administrator and the concurrences of the Deputy Administrator. The cognizant Institutional Director will refer the report for review to the Office of Procurement (Code KD), the Office of Construction (Code KC), and to other offices as appropriate under the circumstances. After receipt of comments and recommendations from the reviewing offices, the cognizant Institutional Director will revise, modify or concur in the report, as appropriate, and forward it to the Administrator via the Deputy Administrator.

§ 18–4.204 Negotiation procedures.

§ 18–4.204–1 General.

(a) The contracting officer is responsible for conducting the negotiations and for the results thereof. In discharging his responsibilities, the contracting officer shall use the services of technical, legal, financial, pricing, and other specialists in NASA, as required. Negotiations shall be directed toward:

(1) Making certain that the proposed contractor has a clear understanding of the essential details of the required work;

(2) Determining that the proposed contractor will make available the necessary personnel and organization to accomplish the work within the required time; and

(3) Effecting mutual agreement on the provisions of the contract and on a fair and reasonable fee (contract price) for the required work.

(b) *Limitation on fee.* Pursuant to 10 U.S.C. 2306(d), the amount of the fee that may be paid to an architect-engineer under a cost-plus-a-fixed-fee contract for the production and delivery of the designs, plans, drawings and specifications required for the accomplishment of any public works or utilities project may not exceed 6 percent of the estimated cost of such project, exclusive of the amount of such fee. In addition, it is NASA policy to apply this statutory limitation to the fee paid to an architect-engineer for the performance of such services under a fixed-price contract. The architect-engineer services subject to this limitation are those described in § 18–4.201(b) (1), (3), and (4). This limitation shall be applied on an individual contract basis.

§ 18–4.204–2 Conduct.

Negotiations shall be conducted initially with the architect-engineer firm given first preference under the procedures set forth in § 18–4.203. If a mutually satisfactory contract cannot be negotiated with such firm, the negotiations shall be terminated and the firm notified. Negotiations then shall be initiated with the firm given second preference and this procedure shall be continued until a mutually satisfactory contract has been negotiated.

§ 18–4.204–3 Independent government estimate.

Prior to the initiation of negotiations, the contracting officer shall develop an independent Government estimate of the cost of the required architect-engineer services, based on a detailed analysis of the costs expected to be generated by the work. Information, such as hourly pay rates and overhead and general and

administrative expense loading factors, may be requested from the architect-engineer firm under consideration to the extent required in preparing the Government estimate. The independent Government estimate shall be revised as required during negotiations to reflect changes in, or clarification of, the scope of the work to be performed by the architect-engineer. A cost estimate, based on the application of percentage factors to cost estimates of the various segments of the construction project, may be developed for comparison purposes, but such a cost estimate shall not be used as a substitute for the independent Government estimate.

§ 18–4.204–4 Architect-engineer's estimate.

The contracting officer shall request the architect-engineer firm to submit its proposed fee and supporting detailed cost breakdown. Such request shall be made prior to the initiation of negotiations, where practicable, or promptly after agreement on the scope of the work to be performed has been reached during negotiations. Revisions of the proposed fee and supporting detailed cost breakdown shall be requested as required during negotiations to reflect changes in, or clarification of, the scope of the work to be performed by the architect-engineer.

§ 18–4.204–5 Fair and reasonable fee.

The contracting officer shall negotiate a fee considered fair and reasonable based on a comparative study of the independent Government estimate and the architect-engineer's estimate. Significant differences between elements of the two estimates and between the overall estimates shall be investigated, and the contracting officer shall satisfy himself as to the reasons therefor.

§ 18–4.204–6 Procurements requiring headquarters approval.

Contracts for architect-engineer services that require the prior approval of the Director of Procurement are specified in § 18–50.105(b)(iii) of this chapter. The request for approval shall include all information required to be developed by this § 18–4.204 and, in particular, shall set forth the detailed cost breakdown on which the determination was based that the proposed fee is fair, reasonable and consistent with the provisions of § 18–4.204–1(b).

§ 18–4.204–7 Record of negotiation.

Promptly at the conclusion of each negotiation, the contracting officer shall prepare a memorandum, setting forth the principal elements of the contract negotiations, for use of reviewing authorities and for inclusion in the contract file. The memorandum shall contain sufficient detail to reflect the significant considerations controlling the establishment of the fee and other terms of the contract. § 18–50.106 of this chapter prescribes the type of information to be included.

§ 18–4.205 Contracting with architect-engineer firms for construction work.

§ 18–4.205–1 Policy.

Except as provided in § 18–4.205–3, the award of a contract for architect-engineer services for a particular facility and the award of a contract for the related construction work to the same firm, its subsidiaries, or affiliates is prohibited. This policy prevents the development of situations where architect-engineer firms might be discouraged from furnishing their best professional services and from rendering unbiased decisions during the design and construction periods. Accordingly, bids or proposals for the construction of a facility shall not be solicited from the firm furnishing architect-engineer services for that facility, its subsidiaries, or affiliates; and unsolicited bids or proposals from that firm, its subsidiaries, or affiliates shall not be considered.

§ 18–4.205–2 Procedure.

An architect-engineer firm, selected for negotiation of an architect-engineer services contract under the procedures set forth in § 18–4.203, shall be advised of the policy set forth in § 18–4.205–1 prior to the initiation of negotiations, if that firm possesses construction capabilities either within its own organization or through subsidiaries or affiliates. The firm shall have the option of either:

(a) Declining to enter into contract negotiations in order to be eligible to compete for the related construction contract; or

(b) Entering into contract negotiations with the clear understanding that, if such negotiations are successful, the firm, its subsidiaries or affiliates will be ineligible to compete for the related construction contract.

§ 18–4.205–3 Exceptions.

The policy set forth in § 18–4.205–1 is not applicable to:

(a) Those cases where the Director of Procurement specifically authorizes, prior to the initiation of negotiations, the use of a cost-plus-a-fixed-fee contract for both the design and construction of a specialized facility; or

(b) Those cases in which a contract is awarded on the basis of performance specifications for the construction of a facility, and the contract requires the contractor to furnish construction drawings, specifications, or site adaptation drawings of the facility.

Requests for authorization, pursuant to paragraph (a) of this section, shall be in sufficient detail to establish the need for procuring both design and construction under one contract. In neither of the excepted cases in paragraphs (a) and (b) of this section shall the firm that prepared the drawings and specifications be engaged to supervise and inspect, on behalf of the Government, the construction of the facility involved.

Subpart 18–4.4—Unsolicited Proposals

§ 18–4.401 General.

(a) It is NASA's policy to inform organizations and individuals of scientific and technological areas encompassed by NASA's mission, and to encourage the submission of unsolicited proposals containing relevant new ideas. An unsolicited proposal is a written offer to perform work which does not result from a formal written request for proposals issued by NASA. However, inquiries regarding NASA interest in supporting research and development in a particular technical area shall not be construed as proposals. Unsolicited proposals are offered in the hope that NASA will support the proposer in research or development activities, or the testing of new products. Many of the proposals eventually become a part of a NASA program; others may have little or no value.

(b) Proposals for flight experiments to be carried on earth satellites or spacecraft present special problems of coordination, evaluation and selection. NASA handbook, "Opportunities for Participation in Space Flight Investigations" (NHB 8030.1A) provides detailed instructions for the preparation and submission of flight experiment proposals. Prospective submitters should be furnished a copy of this handbook upon request.

(c) All proposals should be specific and, as a minimum, include the information set forth in subparagraphs (1) through (18) of this paragraph. Although it is desired that unsolicited proposals be prepared in conformance with the standards set forth in subparagraphs (1) through (18) of this paragraph, NASA may accept unsolicited proposals for evaluation purposes which do not conform thereto:

(1) Name and address of the organization submitting the proposal;

(2) Date of preparation or submission;

(3) Type of organization (profit, nonprofit, educational, other);

(4) Concise title and abstract of the proposed effort or activity for which support is being sought;

(5) An outline and discussion of the purpose of the proposed effort or activity, the method of attack upon the problem, and the nature and extent of the anticipated results;

(6) Names of the key personnel to be involved (name of principal investigator, if applicable), brief biographical information, including principal publications and relevant experience;

(7) Proposed starting and completion dates;

(8) Equipment, facility and personnel requirements;

(9) Proposed budget, including separate cost estimates for salaries and wages, equipment, expendable supplies, services, travel, subcontracts, other direct costs, and overhead;

(10) Names of any other Federal agencies receiving the proposal and/or funding the proposed effort or activity;

(11) Brief description of the proposer's facilities, particularly those which would be used in the proposed effort or activity;

(12) Brief outline of the proposer's previous work and experience in the field;

(13) If available, a descriptive brochure and a current financial statement;

(14) If proposed effort or activity requires or may generate classified security information, the security status of the organization and the major investigators, and identification of the cognizant security office;

(15) Period for which proposal is valid;

(16) Names and telephone numbers of proposer's primary business and technical personnel whom NASA may contact during evaluation and/or negotiation;

(17) Each proposal containing technical data, which the submitter intends to be used by NASA for evaluation purposes only, may be marked on the cover sheet with the legend prescribed in § 18–1.304–2(c)(1);

(18) Signature of a responsible official of the proposing organization or a person authorized to contractually obligate such organization.

(d) Proposals should be submitted well in advance of the desired beginning of support, and in ample copies to allow simultaneous study by all reviewers.

(e) All unsolicited proposals from educational and nonprofit scientific institutions, proposals to NASA Headquarters from other sources, and requests for additional information regarding the preparation of unsolicited proposals should be submitted to:

National Aeronautics and Space Administration, Office of University Affairs (Code Y), Washington, D.C. 20546.

When unsolicited proposals are received initially by NASA field installations, copies of such proposals will be furnished to the Office of University Affairs in accordance with instructions issued by that office.

§ 18–4.402 Policy.

§ 18–4.402–1 General.

All unsolicited proposals shall be processed in an expeditious manner. Proposals shall be acknowledged as soon after receipt as possible. Submitters shall be notified as to the ultimate disposition of their proposals.

§ 18–4.402–2 Preliminary review.

Prior to making a comprehensive evaluation of a document apparently submitted as an unsolicited proposal, the initial receiving office shall determine that the document:

(a) Contains sufficient technical and cost information to enable meaningful evaluation;

(b) Has been approved by a responsible official of the proposing organization or a person authorized to contractually obligate such organization;

(c) Does not merely offer to perform standard services or to provide "off-the-shelf" articles.

If the document does not meet these requirements, a comprehensive evaluation need not be made, and the document may be considered and handled as correspondence or advertising. In such cases a prompt reply shall be sent to the submitter, indicating how the document is being interpreted and the reason(s) for not considering it a proposal.

§ 18–4.402–3 Comprehensive evaluation.

Every unsolicited proposal that is circulated for comprehensive evaluation shall have attached or imprinted a legend identifying it as an unsolicited proposal, and stating that it may be used only for purposes of evaluation (§ 18–1.304–2(c)(2)). In evaluating a proposal, the evaluating office(s) shall consider, in addition to any other criteria, the following factors:

(a) The overall scientific, technical merit of the proposed effort;

(b) The potential contribution which the proposed effort is expected to make to NASA's specific program objective(s), if supported at this time;

(c) The unique capabilities, related experience, facilities, instrumentation, or techniques which the proposer possesses and offers, and which are considered to be integral factors for achieving the scientific, technical, or technological objective(s) of the proposal;

(d) The unique qualifications, capabilities and experience of the proposed principal investigator and/or key personnel.

Comprehensive evaluations shall be coordinated according to procedures to be established by the Office of University Affairs. If a proposal is not to be accepted, the submitter shall be informed by a suitable letter. A copy of such letter and associated proposal shall be retained in the files of the Office of University Affairs.

§ 18–4.402–4 Method of procurement.

(a) *Competitive procurement.* It is NASA's policy to obtain competition whenever possible (§ 18–3.802–2). However, data and other information submitted with an unsolicited proposal shall be treated in accordance with the policy set forth in § 18–1.304. Therefore, when a received document qualifies as an unsolicited proposal, but its substance is available to NASA without restriction from another source, or its substance closely resembles that of a pending competitive solicitation or otherwise is not sufficiently unique to justify acceptance, NASA's policy of obtaining competition applies. When procurement is intended and competition is feasible, the proposal shall be rejected, as in § 18–4.402–3, and all readily available copies (excluding the Office of University Affairs official proposal file copy) shall be returned to the submitter.

(b) *Noncompetitive procurement.* (1) A favorable technical evaluation of an unsolicited proposal is not, in itself, sufficient justification for negotiating on a noncompetitive basis with the submitter. When an unsolicited proposal has received a favorable technical evaluation and it is determined that the substance thereof is not available to NASA without restriction from another source or competition is otherwise precluded, the subject matter of such proposal may be procured from the proposer on a noncompetitive basis. The technical office sponsoring the procurement shall support its recommendation with a "Justification for Acceptance of Unsolicited Proposal." The "Justification" shall include the findings set forth in subdivisions (i)–(iii) as follows:

(i) The procurement is to provide support to an educational institution for the development or improvement of that institution's capability to contribute to the national aeronautical and space program; and the proposal was selected on the basis of its overall merit, cost and potential contribution to NASA program objectives, after a thorough evaluation and comparison with other proposals for similar support;

(ii) The procurement is for basic scientific or engineering research; and the proposal was selected on the basis of its overall merit, cost and contribution to NASA program objectives, after a thorough evaluation and comparison with other proposals in the same or related fields; or

(iii) The procurement is for services other than basic research (e.g. development, feasibility studies, etc.); the proposal contains technical data or offers unique capabilities that are not available from another source; and it is not feasible or practical to define the Government's requirement in such a way as to avoid the necessity of using the technical data contained in the proposal.

(2) In addition the "Justification" shall include the facts and circumstances that support the recommended action. The following illustrations represent factors which should be considered, as appropriate, in preparing the "Justification":

(i) The scientific/technical merits of the unsolicited proposal and its potential contribution to NASA's program objectives;

(ii) The qualifications, capabilities and related experience of the submitter, principal investigator, and/or key personnel;

(iii) Unique facilities, instrumentation, or techniques; and

(iv) Circumstances that operate to preclude competitive negotiation.

§ 18–4.403 Procedure.

(a) The Office of University Affairs will develop guidelines for, and participate in, the receipt, proper handling and disposition of unsolicited proposals from all non-NASA sources.

(b) If a Program Office or a field installation determines that (1) an unsolicited proposal, or a revised version thereof, is technically and programmatically acceptable; (2) funds are available; and (3) project approval, as may be required, has been obtained, a procurement request (NASA) Form 404, or similar form may be initiated. The procurement request shall be prepared and processed in accordance with the applicable provisions of § 18–1.356 and NASA Management Issuance 5101.12.

(c) When it has been determined under the provisions of § 18–4.402–4(b) that it is necessary to negotiate exclusively with the submitter, the initiating technical office shall submit with the procurement request its recommendation for single source procurement for approval by the appropriate authority. This recommendation shall be in writing and will be contained in a separate document entitled "Justification for Acceptance of Unsolicited Proposal" (§ 18–4.402–4(b)). The Justification shall be subject to the same approval requirements as set forth in § 18–3.802–3(d) for "Justifications for Noncompetitive Procurements."

(d) A "Justification for Acceptance of Unsolicited Proposal" is not required for (1) procurements of $250 or less, or (2) procurements of scientific experiments selected for flight pursuant to NASA Management Instruction 7100.1.

(e) Formal RFP's or RFQ's shall not be issued to obtain additional information required for the negotiation of contracts based on unsolicited proposals accepted pursuant to NMI 7100.1. The proposal itself constitutes the basis for negotiation and any further technical or budgetary information requested or received shall be considered to supplement, amend or revise the original accepted proposal.

Subpart 18–4.50—Utility services

§ 18–4.5000 Scope of subpart.

This subpart prescribes policy and procedures for the procurement and sale of utility services.

§ 18–4.5001 Definitions.

As used in this subpart, the following terms have the meaning stated below:

(a) "Utility services" includes electric, gas, water, steam, sewage, and communication services.

(b) "Communications services" include without limitation the transmission, emission, or reception of signals, signs, writings, images, soundings, or intelligence of any nature by wire, radio, optical, or any electrical or electromagnetic means.

(c) "Telecommunications facilities" includes equipment (modems, terminal and switching facilities) used for such modes of transmission as telephone, telegraph, teletypewriter, data, facsimile, video, audio, and such corollary items as card transceivers, magnetic tape terminals, TV cameras, monitors, distribution systems, and communication security facilities.

(d) "Communications security facility" is any facility which is used for the operation, maintenance, and/or storage of any cryptographic document, device, or equipment associated with transmission security, cryptosecurity, or physical security measures.

(e) "Operational communications" are those lines and facilities carrying mission related information for the conduct of NASA technical missions, programs, and projects. They interconnect such facilities as NASA's foreign and domestic tracking, telemetry, and command control sites; launch areas; test sites; and, mission control centers.

(f) "Administrative communications" are those lines and facilities carrying nonoperational information for the conduct of day-to-day business. They interconnect NASA Headquarters, field installations, and other activities. Also included in this definition are local facilities and field installation communications systems, but not self-contained services such as local fire alarms, warning systems, paging devices, etc.

(g) "General purpose communications" are administrative or operational communications used to meet ordinary requirements for which rates have not been established.

(h) "Special purpose communications" are administrative or operational communications used to meet unique, one of a kind, or project oriented requirements for which rates have not been established.

(i) "Long lines" refers to communication lines extending beyond the boundaries of the installation as opposed to "Local Support" which refers to communications within the boundaries of the installation.

§ 18–4.5002 Policy.

(a) It is NASA policy to obtain utility services from existing sources when such sources are adequate and economical arrangements can be made for their use. In each case and after fully investigating all sources, the required services shall be obtained at the lowest possible cost to the Government. To the extent consistent with this policy, use should be made of:

(1) General Services Administration area-wide utility contracts (see Subpart 18–5.8).

(2) Department of Defense area-wide communication contracts (see Subpart 18–5.8).

(3) Utility services available from other Government agencies, on a cross-servicing basis.

(b) Administrative long-line telephone communications will be obtained by NASA through General Services Administration's Federal Telecommunications System (FTS) (see paragraph (d)(2) of this section).

(c) Generally, leased communication services will be procured from a franchised communication common carrier whenever possible. However, in those areas where nonregulated industry offers the same communications services or equipment as offered by the regulated common carriers, full consideration must be given to competitive procurement.

(d) NASA's policy for providing certain communications services to contractors is as follows:

(1) NASA may provide administrative telephone communications services to industrial and scientific organizations

conducting research and development, fabrication of equipment, or operation and maintenance of facilities for NASA.

(2) Where the requirement is for administrative long-line telephone service, the service will be provided through the General Services Administration's Federal Telecommunications System, and may be furnished at no cost to the above-mentioned contractors where the circuit terminates on a NASA installation and is determined to be in the best interest of the Government. The Office of Tracking and Data Acquisition (Code TN) will make the implementation arrangements for FTS with the General Services Administration.

(3) When long-line communications services, other than administrative long-line telephone communications services, are furnished at no cost, the contractor will use the services for the conduct of NASA business between:

(i) Locations of the same contractor;

(ii) The contractor and other NASA contractors; and

(iii) The contractor and NASA or other Government agencies.

(4) Local support services to be used solely for the conduct of business may be provided at no cost when it is determined to be in the best interest of the Government. The Office of Tracking and Data Acquisition will also coordinate the implementation for local service as applicable under NASA Management Instruction 2520.1.

(5) Operational communications services may be provided to contractors in the conduct of NASA business at a minimum total cost consistent with requirements for capacity, effectiveness, efficiency, reliability, and security. The decision to provide communications services to contractors will be made in accordance with the policies established by the NASA installations.

(e) The provisions of paragraphs (a) through (d) of this section do not cover the procurement of communications security facilities. Such facilities, other than crypto equipment will be procured under the supervision of the Director, Security Division (Code BZ). Crypto equipment will be obtained from and through the NASA Crypto Custodian (Code DHA). Reference manual NPC C106 (classified) and NASA Management Instructions 1136.4 and 1136.10.

§ 18–4.5003 Determination of requirements.

Installation requirements for utility services shall be determined by technically qualified personnel. They will furnish the contracting officer with a full description of the load data pertaining thereto as is necessary for the contracting officer to procure the required services.

§ 18–4.5004 Headquarters participation in negotiations.

§ 18–4.5004–1 All utilities except communications.

(a) Except as provided in paragraph (c) of this section, the contracting officer shall submit the following information on a proposed procurement to the Office of Procurement (Code KDF), prior to initiating negotiation procedures:

(1) A full description of the services required, including data on estimated maximum demand, average monthly consumption, and duty cycle;

(2) Identification of all available sources of supply and a statement as to the ability of each source to provide the required services;

(3) Location and description of each proposed supplier's facilities at the nearest point of service;

(4) A description of the facilities needed by each proposed supplier and by the Government to obtain the required services from each source of supply;

(5) Copies of all applicable published rate schedules and any special rate schedules accorded by contract to users with similar requirements;

(6) Date initial service is required;

(7) Known or estimated time schedule for growth of requirements;

(8) An estimate of the annual cost of the services to be procured;

(9) Lease versus purchase considerations; and

(10) Identification of any unusual factors affecting the procurement.

(b) Based upon a review of the information submitted in accordance with paragraph (a) of this section, the Office of Procurement (Code KDF) will determine whether NASA Headquarters participation in the negotiation proceedings in an advisory capacity to the contracting officer is considered desirable. The contracting officer will be informed promptly of the decision of the Office of Procurement (Code KDF).

(c) The requirements of paragraph (a) of this section are not applicable when:

(1) The estimated annual cost of the services to be procured is $50,000 or less; or

(2) The contract period will be less than six months and the proposed contract will not require the Government to pay a nonrecurring, nonrefundable fee of more than $1,000 to cover the costs of connecting the contractor's facilities to, and disconnecting them from, the Government's facilities.

§ 18–4.5004–2 Communications.

(a) Except as provided in paragraphs (d) and (e) of this section, the contracting officer shall submit the following information on a proposed procurement to the Office of Procurement (Code KDF) and a copy of the information to the Office of Tracking and Data Acquisition (Code TN), prior to initiating negotiation procedures:

(1) Lease versus purchase considerations;

(2) In the case of leased communications services from regulated common carriers, information relative to a common carrier's submission of a special construction proposal; the application of the special assembly feature of a tariff; the application of estimated rates (pending tariff filing); and, action taken to cancel or terminate services subject to a termination liability; and

(3) In the case of communications services, information relative to the installation consideration that a separately negotiated contract is more advantageous to the Government than the General Services Administration (GSA) or Department of Defense (DoD) area-wide communication contracts along with a request for a waiver of the requirement to use either the GSA or DoD area-wide communications contract. In determining whether a GSA or DoD area-wide communications contract is adequate to meet the requirements of the using installation, consideration should be given to (i) the area-wide contract rates viewed in light of the magnitude of the services required, (ii) any unusual characteristics of the service required, (iii) any special equipment or facility requirements, and (iv) any special technical contracts.

(b) Based upon a review of the information submitted in accordance with paragraph (a) of this section, the Office of Procurement (Code KDF) will promptly notify the contracting officer of the desirability of NASA Headquarters participation in the negotiation proceedings in an advisory capacity.

(c) Each NASA installation is responsible for providing the Office of Tracking and Data Acquisition (Code TN) its administrative telecommunications requirements in accordance with NASA Management Instruction 2520.1.

(d) All NASA installations requiring general purpose administrative communications services contracts will submit a written request for the services to the Office of Procurement (Code KDF) and will furnish a copy of the request to Office of Tracking and Data Acquisition (Code TN). The Office of Tracking and Data Acquisition will coordinate with the General Services Administration to contract for the services where:

(1) An area-wide contract is not available; and

(2) Service requirements involve annual recurring charges or termination liabilities in excess of $50,000; or

(3) Rates have not been established by a Federal, State, or other regulatory body.

Where requirements are not within the above limitations, NASA installations are authorized to enter into general purpose contracts. A copy of such contracts will be furnished to the Office of Procurement (Code KDF) and two copies furnished to the Office of Tracking and Data Acquisition (Code TN) who in turn will furnish one copy to GSA.

(e) NASA installations requiring special purpose administrative communications services contracts will submit a written request for the services to the Office of Procurement (Code KDF) and will furnish a copy of the request to the Office of Tracking and Data Acquisition (Code TN). The Office of Tracking and Data Acquisition will coordinate with the General Services Administration prior to contracting for the services where:

(1) Nonstandard or special services involving annual recurring charges or termination liabilities are in excess of $50,000; or

(2) It involves establishment of new rate centers; and

(3) It involves establishment of new tariffs.

§ 18–4.5005 Contract requirements.

§ 18–4.5005–1 Procurement without contract.

(a) Electric, gas, water, steam, sewage, and telecommunications services may be procured without a written contract when all the following conditions apply:

(1) The services are to be furnished at rates, terms, and conditions based on an established rate schedule approved by a Federal, State, or other public regulatory body;

(2) The estimated annual cost of the services to be procured is $2,500 or less;

(3) Neither a connection, termination, installation, or similar charge, nor a deposit, other than a meter deposit, required of all customers, is involved;

(4) The utility supplier does not require the execution of a contract or application form; and

(5) It is not deemed advantageous to the Government to negotiate and execute a contract.

§ 18–4.5005–2 Memorandum of understanding.

A memorandum of understanding, specifying the services to be provided and the conditions under which they will be supplied, shall be used when procuring utility services from another Government agency by cross-servicing.

§ 18–4.5005–3 GSA area-wide public utility contracts.

Policies and procedures governing the procurement of utility services by use of General Services Administration area-wide public utility contracts are set forth in Subpart 18–5.8.

§ 18–4.5005–4 DoD area-wide communications contracts.

Policies and procedures governing the procurement of communications services by use of the DoD area-wide communications contracts are set forth in Subpart 18–5.8.

§ 18–4.5005–5 Negotiated utility services contracts.

When the conditions set forth in §§ 18–4.5005–1 through 18–4.5005–4 are not applicable to a proposed procurement of utility services, a separate contract may be negotiated using the contract clauses set forth in Subpart 18–7.50 and the contract forms prescribed in Subpart 18–16.5, except in contracts for communication services.

§ 18–4.5006 Contracts requiring headquarters approval.

A proposed contract or memorandum of understanding for utility services, or a modification thereto, shall be submitted to the Office of Procurement (Code KDF) for approval in accordance with Subpart 18–50.1 when:

(a) It involves an annual cost in excess of $50,000;

(b) It involves payment of a connection charge, deposit (other than a meter deposit or membership fee, in the case of a cooperative, required of all customers), termination charge, installation charge, or other special service charge, except as provided in § 18–4.5004(c)(2);

(c) It involves services available from two or more sources of supply;

(d) It uses NASA Form 550 (see § 18–16.501–50) and involves proposed deviations from the provisions of the form (other than changes required to be made when applicable or authorized by Subpart 18–7.50); and

(e) It involves an exchange or interchange of utility services.

§ 18–4.5007 Headquarters requirement for copies of contracts.

(a) The contracting officer shall forward to the Office of Procurement (Code KDF) one copy of each contract, service authorization form, memorandum of understanding, or modification thereto, promptly after execution.

(b) When contractual approval by NASA Headquarters is required (in accordance with § 18–4.5006), the original and three copies of the contractual document shall be forwarded to the Office of Procurement in accordance with the provisions of § 18–50.106.

§ 18–4.5008 Changes in rates.

(a) When the contractor furnishes written notice to the contracting officer of a filing of an application for rate changes, as provided for in the clause entitled "Public Regulation and Change of Rates" (§ 18–7.5001–11), or whenever the contractor requests that rate changes be negotiated, as provided for in the clause entitled "Change of Rates," (§ 18–7.5003–2), the contracting officer will notify the Office of Procurement (Code KDF). If the rate change affects communications services, he will also notify the Office of Tracking and Data Acquisition (Code TN). The notification shall include sufficient information to permit a determination of the monetary effect of the proposed changes and a recommendation of action to be taken under subparagraph (1) or (2) of this paragraph, and the basis therefor.

(1) When a notice is received of a filing of an application for rate changes before the local regulatory body, the contracting officer will make a recommendation as to whether or not the Government should intervene in the hearing on the application. If it is recommended that the Government intervene in the hearing, the recommendation shall be accompanied by a statement setting forth the basis for such intervention and the extent to which the installation can support the intervention through the presentation of testimony, preparation of exhibits, and the furnishing of legal counsel.

(2) When a notice is received that the contractor requests that rate changes be negotiated, the contracting officer will make a recommendation as to the position to be taken by the Government with respect to the rate changes and the extent to which installation personnel are available to support this position.

(b) The Office of Procurement will furnish the contracting officer a recommendation concerning the proposed rate changes and the extent to which NASA Headquarters will participate in the intervention before the local regulatory body or in negotiations with the contractor. Prior to recommending any action concerning the proposed rate changes, the Office of Procurement will, as necessary, coordinate with other staff offices or divisions, or other Government agencies. The contracting officer shall await the recommendations of the Office of Procurement for at least 15 days prior to taking any action concerning the proposed rate changes.

§ 18–4.5009 Sales of utility services.

Electricity, gas, water, sewage disposal, and steam may be sold under the conditions specified in the following paragraphs.

§ 18–4.5009–1 Eligible purchasers.

The eligibility to buy utility services from a NASA installation is determined as follows:

(a) Any Federal agency, mixed ownership (Government) corporation (as defined in the Government Corporation Control Act, 31 U.S.C. 856), or any bureau or office thereof, located at or in the immediate vicinity of a NASA installation is an eligible purchaser.

(b) The Office of Procurement (Code KDF) will determine the eligibility of all other prospective purchasers. Requests for furnishing utility services to other purchasers, together with complete justification, shall be forwarded to the Office of Procurement (Code KDF) for decision.

§ 18–4.5009–2 Prerequisites.

All of the following conditions must be met before an installation is authorized to enter into a specific agreement for the sale of utility services to an eligible purchaser:

(a) The sale will not disrupt present or contemplated service to the installations;

(b) All modifications to existing facilities and installations of additional facilities required to provide service to the purchaser will be made at the purchaser's expense;

(c) The rate charged to the purchaser will cover at least the increased cost to the installation of supplying the service;

(d) The sale of utility services is not prohibited by the contract under which the installation purchases the services; and

(e) The sale of utility services is confined to sales for consumption, not for resale.

§ 18–4.5009–3 Headquarters participation in negotiations.

(a) The contracting officer will notify the Office of Procurement (Code KDF) whenever it is desired to sell utility services.

(b) The Office of Procurement (Code KDF) will provide the technical guidance to consummate the sale.

(c) Each proposed agreement shall be submitted to the Office of Procurement (Code KDF) for approval.

Subpart 18–4.51—Negotiation, Award, and Administration of Basic Research Grants

§ 18–4.5100 Scope of subpart.

(a) This subpart establishes policies and procedures for (1) the negotiation, award, and administration of basic research grants to nonprofit educational institutions and to nonprofit organizations operated primarily for scientific purposes; and (2) the vesting of title to research equipment, purchased with grant or contract funds, in nonprofit institutions or organizations.

(b) Except with regard to vesting of title to research equipment, the policies and procedures applicable to the negotiation, award, and administration of research contracts, including prescribed forms and clauses, and administrative requirements regarding approval of such contracts, are set forth in other parts of this chapter.

§ 18–4.5101 Authority.

Under the Act of September 6, 1958 (42 U.S.C. 1891–1893), entitled "An Act To Authorize the Expenditure of Funds Through Grants for Support of Scientific Research and for Other Purposes," NASA is authorized to make grants for basic scientific research at nonprofit institutions of higher education or at nonprofit organizations whose primary purpose is the conduct of scientific research. This Act also provides discretionary authority for vesting title to equipment purchased with grant or contract funds in these institutions and organizations, under grants or contracts for the conduct of basic or applied scientific research, without further obligation to the Government, or on such terms and conditions as NASA deems appropriate.

§ 18–4.5102 Definitions.

For purposes of this subpart, the following terms shall have the meanings set forth below.

(a) *Grant.* An award of funds included in a written agreement executed by the Administrator or his duly authorized representative.

(b) *Basic research.* Research directed toward the increase of knowledge in science wherein the primary aim of the investigator is to gain a fuller knowledge or understanding of the subject under study.

(c) *Nonprofit institution or organization.* Any corporation, foundation, trust, or institution operated for educational or primarily scientific purposes which is not organized for profit and no part of whose net earnings inures to the profit of any private shareholder or individual.

§ 18–4.5103 Policy.

(a) NASA policy is to use the grant instrument to sponsor required basic research at nonprofit institutions or organizations when it is desired (1) to provide latitude to investigators that will encourage maximum creativity, and (2) to have the minimum administration consistent with the public interest.

(b) In addition, it is NASA policy to provide appropriate continuity of support in research sponsored under grants. In general, initial obligation of funds shall not be made for a period of more than 5 years. Insofar as is practicable, notice of termination or extension of support shall be given at least 1 year in advance.

(c) Grants shall not be made unless an Assurance of Compliance (NASA Form 1206) has been obtained in accordance with the requirements of NASA Management Issuance 2090.1.

§ 18–4.5104 Criteria for selecting the grant as the instrument for research support.

§ 18–4.5104–1 Selection.

Selection of the grant as the instrument of research support shall be made after full consideration is given to the nature of the proposed research, the manner in which it will be performed, and the magnitude and extent of the support. Grants may be made only to support basic scientific research. Some of the significant factors to be considered in selecting the instrument of research support are set forth in §§ 18–4.5104–2 through 18–4.5104–5.

§ 18–4.5104–2 Payments.

Use of a grant as the instrument of research support permits payments to be made automatically in advance—either on a lump-sum or a periodic basis, depending on the size of the total grant and the estimated timing of financial requirements. Submission of vouchers by grantees is unnecessary. In contrast, under contracts the contractors must submit vouchers or invoices, and special Government determination and administrative requirements apply if advance payments are to be made.

§ 18–4.5104–3 Simplicity and economy in execution and administration.

Under a NASA grant the need for Government supervision and for periodic progress reports by the investigator will be minimal. Economies also result from modification of accounting and auditing procedures normally applicable to research contracts.

§ 18–4.5104–4 Cost-sharing.

Use of a grant simplifies administrative procedures, both prior to and after award, in cases in which other governmental and nongovernmental organizations will make contributions to the basic research project.

§ 18–4.5104–5 Control of purchases.

The grant instrument should not be used, however, when it is practicable and desirable to have close control of purchases of research equipment and capital property items.

§ 18–4.5105 Vesting of title to research equipment.

(a) Title to all or any part of the equipment purchased with basic research grant funds, or basic or applied research contract funds, may be vested in the nonprofit institution or organization that has conducted or will conduct the research.

(b) Contracting officers, in conjunction with cognisant technical personnel, shall:

(1) Determine in writing those instances where it is desirable to vest title to equipment purchased with grant or applicable contract funds in grantees or contractors; and

(2) Be responsible for determining, after the conclusion of research and after appropriate coordination (including consideration of the needs of NASA installations), those instances in which NASA will require a transfer of title to NASA of items of equipment costing in excess of $1,000, or, in certain cases, as specified in the contract "Government Property" clause, of research equipment costing a contractor in excess of $3,000 (see § 18–13.506–2 of this chapter).

(c) Vesting of title may be effected in the grant agreement or in the contract and may be inclusive or specific. Prior to the vesting of title in the grantee or contractor, it must be determined that such action furthers the objectives of NASA. This determination may be based on, but is not restricted to, consideration of such factors as the following:

(1) That the equipment will continue to be utilized on research of interest to the Government;

(2) That the retention of title in NASA will create an administrative burden not warranted by the value of the equipment;

(3) That the administration and keeping of records by the nonprofit institution or organization will become prohibitively complicated or expensive; or

(4) That the expense involved in redistributing or relocating particular equipment will be excessive as compared to the value of the equipment.

(d) In connection with a contract, when it is anticipated that title to equipment may be vested in the contractor in accordance with this Subpart 18–4.51, the alternate paragraph (c) of the "Government-Furnished Property" clause in § 18–13.505–2 of this chapter shall be included in fixed-price contracts using the long form clause, and the addition to paragraph (c)(1) of the "Government Property" clause in § 18–13.506–2 of this chapter shall be included in cost-reimbursement contracts using the long form clause.

§ 18–4.5106 Administration of grants.

§ 18–4.5106–1 Grant agreement.

(a) The grant agreement shall be brief in format, containing only those provisions necessary to protect the fundamental interests of the Government, including provision for acquisition by the Government of title to and rights in inventions arising out of the research, and for revocation of the grant, if necessary, after consultation between the grantee institution and NASA.

(b) The grant agreement shall provide for audit of grants by NASA or its representatives at all reasonable times during the life of the grant and for 3 years thereafter. In this connection, the NASA audit program for grants shall involve sample audits on a selective basis. The Government's audit of NASA grants shall be for the purpose of appraising and evaluating the grantee's performance from a business management standpoint and not for the purpose of adjustment of grant amounts.

§ 18–4.5106–2 Determination of amount.

(a) Regulations governing contracts generally are not appropriate for application to grants. However, in general, in determining the initial amount of a grant the same factors shall be taken into consideration as are considered in making a contract. Accordingly, the cost principles set forth in Subpart 18–15.2 of this chapter shall be used as a guide.

(b) In no case shall an indirect cost rate used for determining grant amounts exceed, in equivalence, the most recently determined proper indirect cost rate at the grantee institution for comparable research contracts of the Government.

(c) Grant amounts determined at the time of the award shall not be adjusted other than in case of revocation or in the event grant funds are not committed by the grantee prior to completion of the research involved.

§ 18–4.5106–3 Detailed procedures.

The procedures set forth in Appendix A to this Subpart 18–4.51 shall be used in the detailed administration of grants in accordance with the policies of this subpart.

§ 18–4.5107 Reporting of grants.

Pursuant to section 3 (42 U.S.C. 1893) of the Act of September 6, 1958 (P.L. 85–934), an annual report shall be made to the appropriate committees of both Houses of Congress on or before June 30 of each year. Such report shall set forth for the preceding year:

(a) The number of grants made pursuant to section 1 of the Act (42 U.S.C. 1891);

(b) The dollar amount of such grants; and

(c) The institutions in which title to equipment was vested pursuant to section 2 of the Act (42 U.S.C. 1891).

Appendix A: Administration of Research Grants.

1. *General.* NASA assumes that, once a grant is made, the principal investigator, operating within the policies of the grantee institution, is in the best position to determine the means by which the research may be conducted most effectively. Accordingly, the primary responsibility for the administration of any grant is one that is shared by the grantee and the principal investigator. NASA wishes to avoid any action that might diminish the responsibility of the grantee and the investigator for making sound scientific and administrative judgments. Grantees and investigators are encouraged to seek the advice and opinions of NASA on problems that may arise. Unless otherwise stated, the giving of such advice should not imply that the responsibility for final decisions has shifted to NASA. The primary concern of NASA is that granted funds be used in a manner that will make a maximum contribution to the progress of science—and it is expected that grantees and investigators will also direct their efforts to this end. Grant funds may not be used to purchase land, or any interest therein, to acquire or construct facilities, or to procure passenger-carrying vehicles or other articles of nonscientific nature.

2. *Grant agreement.* A NASA grant is consummated by an agreement signed by the Administrator, NASA, or his duly authorized representative. (See Attachment 1 to this appendix.) Normally, this agreement will contain a minimum of express conditions which, upon acceptance of the grant, will bind the grantee. These conditions may relate to the general nature and scope of the research, revocation of the grant, and patent rights. The simplicity of the NASA grant agreement does not preclude the possibility of collateral understandings and informal agreements which may, in special instances, accompany the formal grant or accumulate as the occasion demands, during the life of the grant.

3. *Grant period.*

(a) Normally, NASA grants are made for periods up to 5 years. As stated in the grant instrument, the period is approximate; the beginning and ending dates are not specified. The grant period begins approximately on the date of the grant and extends for approximately the length of time specified. However, when progress of research under the grant is delayed and circumstances

make it necessary to request an extension of the grant period without additional funds, the policy of NASA is to permit extensions in time, upon written request.

(b) When it appears that the research contemplated will be completed within a reasonably short period of time after the approximate ending date, a request for extension of the grant period will be unnecessary. If it appears, however, that the time required for completion of the research will exceed 6 to 8 months, it is requested that NASA be informed and an extension requested.

4. *Grant payments.* Payments will be made in a lump-sum payment in advance or on a periodic basis depending on the relative size of the total grant and the estimated timing of financial requirements. If payments are to be made on a periodic basis, the schedule of payments will be set forth in the grant instrument. NASA will, at any time, consider a request initiated by the grantee or the principal investigator for a revised schedule of payments.

5. *Adherence to original budget estimates.* NASA believes that the principal investigator, operating within the established policies of the grantee institution, is the individual best qualified to determine the manner in which the grant funds may be used most effectively to accomplish the proposed research. Therefore, once the grant has been made, the investigator and the institution are free to spend the funds for the proposed research without strict adherence to the original budget estimates, except that under no circumstances may grant funds be used to acquire any interest in land. NASA will, however, appreciate being kept informed of contemplated major deviations from the budget estimates and the reasons therefor.

6. *Reports and publications.*

(a) *Technical reports.* (1) Status reports, comprising a concise statement of the research performed and appropriate expenditures under the grant in such reasonable detail as may be desired by NASA, are required semiannually unless otherwise agreed.

(2) Upon completion of the research supported by a NASA grant, a complete report (or reports) of the work is required. Citation of publications resulting from the research may serve as all or part of this final report. Research results not intended for publication in technical journals must be in the format prescribed for NASA Technical Notes. In addition, the grantee will report to NASA whether or not any inventions required to be reported under the grant have been made in the performance of work under the grant.

(b) *Fiscal reports.* A final fiscal report for information purposes is required for each grant. Report forms for this purpose are forwarded to the business office of the grantee institution, together with the copy of the grant instrument; additional forms may be requested. Two copies of the final fiscal report should be forwarded to NASA after work under the grant has been completed.

(c) *Publication.* (1) It is the intent of NASA that all useful research information obtained as a result of NASA sponsorship be given the widest practicable dissemination through publication media, as the author of the report may elect.

(2) Reports for publication as NASA Technical Notes should be submitted in three copies, one of which is the original typed manuscript suitable for photo-offset reproduction without further editing or retyping. The style and format must correspond closely to the editorial standards of NASA Technical Notes, and all illustrations must be on glossy photographic prints, with an image of 6½ x 8½ inches.

(3) If the author elects publication in a learned journal, three copies of the manuscript are required by NASA in advance of submission to the journal, for information purposes only, since permission to publish is not required. Proper acknowledgement of NASA sponsorship will be included. Twenty reprints of published articles are also required. It is understood that illustrations and texts of such reports, research notes, and other information and scientific data resulting from a grant may be published, reproduced, or used by or for the Government for governmental purposes without limitation.

7. *Equipment.* Title to equipment purchased with grant funds will vest in the grantee institution subject to the right of NASA to require transfer to it, at the conclusion of the research, of items costing in excess of $1,000.

8. *Security.* When the principal investigator judges that information developed should be classified, he should notify NASA immediately.

9. *Patents.* Disposition of patent and other rights in any inventions or discoveries made or conceived during the research shall be the responsibility of NASA; the grantee shall give NASA reasonable notice of any invention and cooperate with NASA to secure any patent rights which may flow therefrom.

10. *Acknowledgment.* The following acknowledgment of NASA support will be made in publications based on work aided by NASA:

"This research was supported in whole or in part by the National Aeronautics and Space Administration under Grant No. -------."

11. *Revocation of grants.*

(a) NASA grants may be revoked in whole or in part by NASA after consultation with the principal investigator and the grantee, except that a revocation shall not affect any financial commitment which in the judgment of NASA and the grantee had become firm prior to the effective date of the revocation. Upon revocation, the grantee shall reduce, insofar as is possible, the amount of outstanding commitments and repay to NASA, by check made payable to the Treasurer of the United States, the uncommitted balance of all funds that have been paid to the grantee by NASA under the terms of the particular grant concerned.

(b) The grantee shall communicate with NASA whenever he has reason to believe that circumstances may necessitate revocation of the grant. It is expected that the most common cause for revocation will be the inability of the grantee to carry out the research for which the grant is made or to adhere to the other conditions set forth in the grant instrument. As a general rule, the availability of the services of the principal investigator named in the grant instrument is one of the conditions of the grant. Consequently, NASA should be informed immediately whenever it appears that the principal investigator will find it impossible to continue to direct the research.

12. *Transfer of grants to other institutions.* When the principal investigator changes his organizational affiliation and desires support for his research at his new location, he must submit a new proposal via the appropriate officials of the new institution. Although such proposal will be reviewed in the normal manner, every effort will be made to expedite a decision. Regardless of the action taken on the new proposal, final reports on the original grant, describing the scientific progress and expenditure to date, will be required.

13. *Accounting procedures.* While no particular classification of accounts is required, it is expected that grantees will maintain records for each grant, in accordance with generally accepted accounting practices, that will permit preparation of the required fiscal report and make possible the determination that grant funds were used for the general purpose for which the grant was made.

Attachment 1 to Appendix A

(COVER)

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Washington, D.C. 20546

Research Grant

No. NsG-------

TO

(Institution)

(Address)

This grant is for research to be conducted for a period of

Approximately ----------
Beginning About ----------
Total Amount of Grant $-----

The purpose of this grant is to support basic scientific research in furtherance of the objectives of the National Aeronautics and Space Administration, and it is awarded in accordance with the authority to make such grants as set forth in P. L. 85-934 (72 Stat. 1793).

(COVER)

THE UNITED STATES OF AMERICA

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Washington, D.C. 20546

Research Grant

No. NsG-------

The National Aeronautics and Space Administration (NASA) hereby grants the sum of

$--------

to

---

for the support of basic scientific research entitled:

---

under the direction of

---

for a period of approximately --------
beginning about --------

This grant will be administered in accordance with NASA policies and procedures for research grants as set forth in "NASA Policy for Administration of Research Grants," attached hereto and incorporated herein by reference, and in conformity with other understandings between NASA and the grantee relating to this grant.

Title to all equipment purchased with funds supplied herewith shall vest in the grantee. It is a condition of this grant that the grantee promptly inform NASA of the purchase with grant funds of items of research equipment costing in excess of one thousand dollars ($1,000). The Government reserves the right to require transfer to it of items purchased at a cost in excess of this amount. This right may be exercised only within the ninety (90) days next following receipt of the final report on the research supported herewith; any charges for packing, crating, and shipping which may be involved will be at the expense of the Government.

It is a condition of this grant that it may be revoked in whole or in part by NASA after consultation with the principal investigator(s) and the grantee. In the event of revocation, the grantee shall refund to NASA any unexpended grant funds, except such portion thereof as may be required by the grantee to meet commitments which, in the judgment of NASA and the grantee, had become firm prior to the effective date of revocation and are otherwise appropriate.

Since this grant is subject to section 305 of the National Aeronautics and Space Act of 1958, it is a further condition of this grant that the grantee shall furnish a written report containing full and complete technical information concerning any invention made in the performance of any work under this grant to NASA promptly upon the making of such invention. The term invention includes any invention, discovery, improvement, or innovation (whether or not patentable). The Administrator, NASA, shall have the sole power to determine the disposition of the title to and rights under any such invention. The grantee agrees to furnish such additional factual information required by NASA concerning the circumstances under which such invention was made, and to take such further steps as are necessary to enable the Administrator, NASA, to file patent applications on any such inventions.

Finally, it is a condition hereof that the grantee grant to the Government, wherever he has the power to do so, the right to publish, translate, reproduce, deliver, and dispose of all data, including reports, drawings, blueprints, and technical information, which are delivered to the Government under this grant, and to authorize others to do so.

Until further notice, it is contemplated that this grant will be paid in accordance with the following schedule:

(Date)

(Amount)

THE UNITED STATES OF AMERICA

By ---
(Name)

(Title)

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

ACCEPTANCE

--- is pleased to accept this research grant.
(Grantee)

By ---
(Signature of Authorized Official)

(Title)

Subpart 18–4.52—Management Engineering or Consultant Services

§ 18–4.5200 Scope of subpart.

This Subpart 18–4.52 sets forth the policy and procedures for negotiating contracts with firms and organizations for management engineering or consultant services. The policies and procedures for obtaining the services of individual experts and consultants are set forth in NASA Management Instruction 1052.87 and the Federal Personnel Manual (FPM), NASA Supp. 32.

§ 18–4.5201 Applicability.

The provisions of this subpart are applicable to NASA Headquarters offices and field installations. In addition, the office charged with administration of the NASA contract for the operation of the Jet Propulsion Laboratory shall ensure that proposed JPL subcontracts for management engineering or consultant services are processed in accordance with the procedures set forth herein.

§ 18–4.5202 Definitions.

The following definitions apply to this subpart.

(a) The term "firms and organizations" includes:

(1) Any business enterprise, association, foundation, or educational institution; and

(2) Any unit of government outside the Federal Government of the United States.

(b) The term "negotiating contracts for management engineering or consulting services" includes the negotiation of contract modifications or amendments directed in full or in part toward the procurement of management engineering or consulting services.

(c) The term "management engineering or consultant services" includes:

(1) Any examination, survey, study, review, analysis, assistance, consultation, or advice having as its purpose improvement in the effectiveness, efficiency, and economy of NASA management operations; and

(2) Any effort to improve the NASA organizational structure, business systems, industrial processes, performance standards, methods, procedures, plant or office layout, managerial skills, or general administration, as well as analysis leading directly to any of these services.

The terms "management engineering or consultant services" does not include services for research and development; nor does it include reliability studies, plant operation and maintenance services, architect-engineering services, stenographic services, or services of consulting physicians.

§ 18–4.5203 Policy.

It is NASA policy to utilize firms and organizations outside the Government for management engineering or consultant services to improve NASA management only when such services are necessary and:

(a) Comparable services are not obtainable within NASA or from other Government organizations; and such services are not readily available through Civil Services; or

(b) An assessment of NASA management practices by firms or organizations outside the Government organizational structure demonstrably would prove more beneficial than an intragovernmental study.

§ 18–4.5204 Scope.

The functions for which management consulting firms and other organizations may be of assistance to NASA include, but are not limited to, the following:

(a) Conducting training programs to increase the competence and effectiveness of NASA employees;

(b) Reviewing NASA support and operating programs (for example, procurement and supply) to increase the responsiveness of such programs to NASA needs;

(c) Modernizing NASA systems and procedures;

(d) Strengthening NASA organization and management structure, planning, and controls; and

(e) Organizing new programs or services.

§ 18–4.5205 Procedure.

§ 18–4.5205–1 Request for approval.

(a) When a NASA field installation considers that management engineering or consultant services are necessary and desirable, in accordance with the policy

stated in § 18–4.5203, the installation shall, prior to solicitation, secure the approval of the Institutional Director. Requirements originating within NASA Headquarters may be approved by that senior official of the originating element who reports directly to General Management. Requests for approval to procure such services will be prepared in quintuplicate in the format set forth in §18–4.5206. Prior to approval, the Institutional Director, or other Headquarters official as designated above, will forward two copies of the request to the Organization and Management Planning Division (Code DX) for concurrence. The approval cycle in Headquarters normally will require less than 2 calendar weeks.

(b) The Organization and Management Planning Division, NASA Headquarters, will analyze and evaluate the request as to:

(1) The necessity for the task (taking into account, for example, whether the task is required to be initiated immediately or should be deferred; and whether the problem involved is likely to be affected by other current NASA plans);

(2) The proposed method of accomplishment as compared to alternative feasible methods (whether, for example, instead of contracting for management consultant or advisory services, it would be more expeditious and less costly for NASA to hire experts temporarily on a per diem basis);

(3) The significance of the problem and the extent to which it relates to NASA functions generally and to different NASA organizational elements; and

(4) Other pertinent considerations.

§ 18–4.5205–2 Negotiation of contracts.

(a) Unless noncompetitive negotiation is authorized (see § 18–3.802–2(d)), negotiation of contracts shall be conducted with a sufficient number of firms or organizations to permit NASA to evaluate, prior to making award, the comparative merits of qualified sources and of different approaches to the task.

(b) Contracting officers shall include in the request for proposals a requirement that each offeror furnish the following information with his price quotation, notwithstanding the type of contract anticipated:

(1) The name(s) and qualifications of principal members of the contractor organization who will be responsible for the project;

(2) The title of each official and the number of employees who will participate;

(3) The estimated number of man-hours that each official and employee will contribute to the proposed project, and

(4) The standard billing rate per hour for each official and employee. The contract shall establish requirements to ensure that the proposal of the successful offeror will be adhered to (as negotiated and agreed to) in each of the above respects.

(c) In addition, the request for proposals and the resulting contract shall contain the following provisions.

(1) That the contractor warrants the rates quoted are not in excess of those charged nongovernmental clients for the same services performed by the same individuals;

(2) That the Government has the right to the working papers used by the participating officials and employees of the firm or organization in connection with the project;

(3) That publication or distribution of the study, data, or other related material is prohibited, except to the extent authorized by the contracting officer; and

(4) That the contractor agrees that any reports regarding organizational matters (as required by the contract) shall include, when feasible, in addition to the recommendations, alternative methods to be considered and the pros and cons of each alternative.

§ 18–4.5205–3 Contract award and approval.

Unless otherwise required by Subpart 18–50.1 of this chapter, or by direction of the Institutional Director, awards may be made without further reference to Headquarters after the approval required by § 18–4.5205–1 has been obtained.

§ 18–4.5205–4 Copies of reports and recommendations.

Upon completion of the services required, the initiating office shall forward one copy of all reports or recommendations made by the consulting firm or organization to the Organization and Management Planning Division, NASA Headquarters, and four copies to the cognizant Institutional Director or other Headquarters official approving the request as set forth in § 18–4.5205–1.

§ 18–4.5206 Format for requesting approval for use of management engineering or consultant services.

REQUEST FOR APPROVAL TO PROCURE MANAGEMENT ENGINEERING OR CONSULTANT SERVICES

Date .....

1. It is requested that approval be granted to solicit proposals and contract for: (Give detailed description of statement of work to be performed.)

2. The desired goals or results of this work are:

3. It is believed that this work will be beneficial to NASA and the Government for the following reasons (list reasons in concise language).

4. Statement of those organizational groups within NASA or other Government agencies known to have any degree of capability in the field this work encompasses.

5. Give reasons or opinions why this work could not or should not be conducted by NASA or other Government personnel.

6. State type and extent of agency participation necessary; that is, if agency personnel will be required to work with those providing service; describe how many, types, tasks, etc. Also give description of type of support required, if any, such as office or other space, supplies, materials, etc.

7. Describe any travel anticipated or required in connection with the service.

8. Give estimate of time and number of personnel (all types) and any additional items or facilities required to produce desired results.

9. Give estimated costs and source of funds.

10. If the request is for one designated firm or organization to undertake the work, identify the firm or organization in detail, give special qualifications, and reasons justifying the selection.

11. If the request is not limited to one firm or organization, list the sources proposed for solicitation.

12. Give an opinion as to the effect on NASA if the request is not approved.

PART 18–5—INTERDEPARTMENTAL PROCUREMENT

Subpart 18–5.1—Procurement Under Federal Supply Schedule Contracts

Sec.
18–5.100 Scope of subpart.
18–5.101 General.
18–5.101–1 Federal supply schedule contracts.
18–5.101–2 Procurement offices.
18–5.102 Mandatory federal supply schedules.
18–5.103 Federal supply schedules not mandatory.
18–5.104 Order for supplies or services.
18–5.105 Federal supply schedules with multiple source provisions.
18–5.105–1 Description.
18–5.105–2 General.
18–5.105–3 Justifications.
18–5.105–4 Responsibility of procurement office.

Subpart 18–5.4—Procurement of Prison-Made Supplies

18–5.400 Applicability.
18–5.401 General.
18–5.402 Preference as between prison-made and blind-made supplies.
18–5.403 Schedule of supplies which are prison-made.
18–5.404 Mandatory procurement of prison-made supplies.
18–5.404–1 Mandatory procurement from Federal Prison Industries, Inc.
18–5.404–2 Mandatory procurement of prison-made supplies from General Services Administration stores depots.
18–5.405 Nonmandatory procurement of prison-made supplies.
18–5.406 Procurement procedure.
18–5.406–1 Procurement from Federal Prison Industries, Inc.
18–5.406–2 Procurement from General Services Administration stores depots.
18–5.407 Exceptions.
18–5.408 Clearances.

Subpart 18–5.5—Procurement of Blind-Made Supplies

18–5.500 Applicability.
18–5.501 General.
18–5.502 Schedule of supplies which are blind-made.
18–5.503 Mandatory procurement of blind-made supplies.
18–5.504 Procurement procedure.
18–5.504–1 Through National Industries for the Blind.
18–5.504–2 From General Services Administration stores depots.
18–5.505 Clearances.
18–5.506 Optional procurement of blind-made supplies.
18–5.550 Procurement of services from agencies for the blind.

Subpart 18–5.7—Procurement From or Through Another Federal Agency

18–5.700 Scope of subpart.
18–5.701 Procuring materials from the Department of the Air Force missile procurement fund.
18–5.701–1 Requests for procurement.
18–5.701–2 Delivery requests.
18–5.701–3 Receiving procedures.
18–5.701–4 Billing.
18–5.702 Procurement of jewel bearings.
18–5.703 Procurement of helium.
18–5.704 Acquisition of mercury.

Subpart 18–5.8—Procurement of Certain Utility Services by Use of General Service Administration Area-Wide Public Utility Contracts and Department of Defense Area-Wide Communications Contracts

18–5.800 Scope of subpart.
18–5.801 General.
18–5.804 Ordering under GSA area-wide public utility contracts.
18–5.850 Use of DoD area-wide communications.

Subpart 18–5.9—Use of General Services Administration Supply Sources by Prime Contractors in Performing Cost-Reimbursement Type Contracts

18–5.900 Scope and applicability of subpart.
18–5.901 Policy.
18–5.902 Limitation.
18–5.903 Authorization.
18–5.903–1 Basic authority.
18–5.903–2 Format and contents of authorizations.
18–5.903–3 Distribution.
18–5.904 Procedure.
18–5.904–1 Purchase orders under Federal Supply Schedule contracts.
18–5.904–2 Purchase orders for GSA stores stock.
18–5.904–3 Acquisition of filing cabinets by contractors.
18–5.905 Furnishing information to contractors.
18–5.906 Format for authorization for contractors to use GSA supply sources.
18–5.907 Contract clause.

Subpart 18–5.10—Procurement Through the Military Departments

18–5.1000 Scope of subpart.
18–5.1001 Authorization and policy.
18–5.1002 NASA-defense purchase request and acceptance.
Sec.
18–5.1002–1 Preparation and use of form.
18–5.1002–2 Retention of property.
18–5.1002–3 Acceptance by Military Department.
18–5.1003 Changes in estimated total prices.
18–5.1004 Inquiries.
18–5.1005 Payments.

Subpart 18–5.51—Procurement of Items Designated as Potentially Hazardous

Sec.
18–5.5100 Scope.
18–5.5101 Policy.

AUTHORITY: The provisions of this Part 18–5 issued under 42 U.S.C. 2473(b)(1).

Subpart 18–5.1—Procurement Under Federal Supply Schedule Contracts

§ 18–5.100 Scope of subpart.

This subpart sets forth the policy and procedure relating to procurement from Federal Supply Schedules.

§ 18–5.101 General.

§ 18–5.101–1 Federal supply schedule contracts.

The Federal Supply Service, General Services Administration, establishes Federal Supply Schedule Contracts for common use classes of supplies and services available directly from contractors at stated prices for a given period of time subject to stated minimum and maximum order limitations. The Federal Supply Schedule Checklist and Guide (referred to herein as "the Checklist"), issued semiannually, contains a listing of current Schedules and information pertinent thereto, together with the distribution code number for each Schedule and catalog. Copies of the Checklist and Schedules are available to procurement offices from the General Services Administration regional offices upon request. Requests should be submitted on GSA Form 457. In certain cases, individual Federal Supply Schedules will contain further qualifications to the coverage set forth in the Checklist. In the event of any conflict between the provisions of the Checklist and those of any Schedule those of the Schedule shall govern.

§ 18–5.101–2 Procurement offices.

Prior to initiating procurements from commercial sources, NASA procurement offices shall determine whether or not the required supplies or services are available from a Federal Supply Schedule. This information may be readily determined from the Checklist or the applicable Federal Supply Schedule.

§ 18–5.102 Mandatory federal supply schedules.

Supplies or services listed in a Federal Supply Schedule shall be obtained under the contracts summarized therein if the Schedule provides that such contracts are for mandatory use as primary sources of supply by executive agencies generally and NASA has not been listed therein as exempt, subject to the following exceptions:

(a) *Delivery requirements.* (1) When the delivery period offered in the Federal Supply Schedule does not meet the delivery requirements of the procurement office, procurement need not be made from the Federal Supply Schedules. However, delivery dates shown in Federal Supply Schedules are based upon the average capability of the contractor and are usually conservative. Contractors, in most instances, are able to make delivery within a shorter period of time than the maximum provided in the Schedule. Therefore, when the delivery requirements of the procurement office are less than the maximum shown in the Schedule, the contractor should be queried as to whether the delivery requirements can be met. This procedure shall be followed except in those cases where transportation time from the contractor's shipping point, or time required for inquiry and reply, make conformance impracticable. Where a multiple award Schedule item is involved, purchase must be made under the Schedule unless it is established, in accordance with the Schedule provisions, that none of the Schedule contractors whose products are acceptable can meet the delivery time requirement.

(2) Most Federal Supply Schedule contracts executed after July 1962 include a provision requiring contractors to reply to Government requests for earlier delivery within 3 working days. Such replies are to be made by the same method of communication as that used by the procurement office for its request. This contract provision also provides that earlier deliveries offered by contractors and accepted by the procurement offices will be binding on the contractors. Failure to meet maximum Federal Supply Schedule delivery dates (or delivery dates that are less than the maximum as agreed to by contractors under contracts containing the above-mentioned provision) constitutes a breach of contract and the order may be terminated for default in whole or in part by the procurement office. Where the contract does not include the aforementioned provision (generally contracts entered into prior to July 1962), if the contractor has affirmed his inability to provide earlier delivery or has failed to respond to the query within 3 days, procurement may be made from other sources for delivery earlier than the maximum specified in the Schedule. In such cases, an appropriate record justifying the action should be placed in the contract file.

(b) *Similar items.* Each Federal Supply Schedule contract provides for and each Schedule contains a provision permitting procurement elsewhere in cases where the specific supplies or services listed in the Schedule will not meet a specific requirement. Procurement offices procuring from other sources similar items (i.e., those having the same general characteristics and intended use) will furnish the GSA office issuing the Schedule a written statement identifying the supplies or services purchased, and explaining why the similar items listed in the applicable Schedule will not meet the specific requirements. This statement, signed by the Procurement Officer, or his designee, shall be furnished the GSA office issuing the Schedule within 15 calendar days after date of the purchase.

(c) *Maximum dollar limitations.* Federal Supply Schedules stipulate maximum dollar limitations above which agencies may not submit orders and contractors may not accept orders. The maximum limitation varies between Schedules. The value of a single order or a series of orders placed within a short time, may not exceed this limitation.

(d) *Minimum requirements.* Federal Supply Schedules stipulate dollar amounts or quantitative values below which agencies need not submit orders and contractors are not obligated to accept orders. In determining such dollar amounts or quantitative values, all requirements which would normally be included in a single order to a contractor shall be considered.

(e) *Geographic location.* Federal Supply Schedules delineate geographic applicability on a national, zone, regional, or other area basis. The location of the activity to which delivery of the articles will be made or the location at which service will be performed shall govern, and not the location of the office which places the order with the contractor.

(f) *Public exigency.* Federal Supply Schedule contracts permit purchase elsewhere, where necessary, in cases of public exigency. However, ordering personnel should be alerted to situations where proximity of the contractor's production and distribution facilities to the point of use result in the contractor's facility being an immediate source of supply to meet the exigency.

(g) *Opportunity to buy supplies and services for less than listed prices from Federal Supply Schedule contractors.* NASA procurement offices shall not solicit bids, proposals, or otherwise test the market, for comparison with Schedule prices for items required to be purchased from mandatory Federal Supply Schedules. However, if an opportunity arises for NASA to purchase listed supplies and services from a Federal Supply Schedule contractor at a price substantially more favorable to the Government than the price listed, the procurement will be accomplished at the more favorable price. Immediately subsequent thereto, a copy of the contract shall be furnished to the office which issued the applicable Federal Supply Schedule. This office is identified on the cover of the Schedule.

(h) *Price exceeds $100,000.* The General Services Administration (GSA) has made the cost and pricing data requirements of 10 U.S.C. 2306(f) applicable to negotiated procurements of the GSA by the inclusion of such cost and pricing data requirements in Subpart 1–3.8 of the Federal Procurement Regulations (FPR). NASA is advised that these regulations are applied to Federal Supply Schedule contracts. Accordingly, when NASA purchases from Federal Supply Schedules, NASA will assume that Federal Supply Schedule contractors have furnished GSA with acceptable cost or pricing data and certification, or the Federal Supply Schedule contractor has qualified under the statutory exceptions. Specific verification generally will not be required from GSA to evidence compliance with the statute. Requests for evidence of compliance will not be made of GSA without the Procurement Officer's prior submission of such request, together with written justification therefor, to the Director of Procurement (Code KDR) for approval.

§ 18–5.103 Federal supply schedules not mandatory.

Supplies or services available from a Federal Supply Schedule which is optional for use by executive agencies generally (or in which NASA is listed as exempt) shall be ordered therefrom if:

(a) The Schedule or the contractor's price list identifies the item by Federal stock number;

(b) Delivery requirements can be met (See § 18–5.102(a));

(c) The order is within the maximum and minimum limitations of the Schedule; and

(d) The price is determined to be fair and reasonable.

Exception from the foregoing is permitted only where the contracting office has actual knowledge that the purchase can be made more advantageously to the Government from a source other than the Supply Schedule, after allowing for the burdens and cost of a new procurement under applicable prescribed procedures. The contracting office shall not solicit bids, proposals, quotations, or otherwise test the market for comparison with the Schedule price. Where a procurement from a source of supply other than the non-mandatory Schedule indicates that such source might be more advantageous to the Government as a general source, the name and address of the supplier together with other details of the procurement action shall be forwarded to the General Services Administration through the Regional Office of the GSA region in which the procuring activity is located. The provisions of § 18–5.102(a) are applicable when determining whether a contractor can meet delivery requirements.

§ 18–5.104 Order for supplies or services.

NASA Form 177 should be used as a delivery order in purchasing supplies or services from Federal Supply Schedule contractors.

§ 18–5.105 Federal supply schedules with multiple source provisions.

§ 18–5.105–1 Description.

(a) Multiple-award Federal Supply Schedules cover contracts made with more than one supplier for comparable items at either the same or different prices for delivery to the same geographical area. These schedules are identified by the inclusion, in the Special Provisions, of a paragraph entitled "Multiple Awards."

(b) Federal Supply Schedule contracts are made on a multiple award basis when one or both of the following circumstances apply:

(1) The most effective utilization of industry production and distribution facilities in meeting the needs of the Government can be accomplished through making multiple awards and such awards are otherwise advantageous to the Government. (Considerations in determining that multiple awards should be made include price, quality, facility of delivery, availability of production and distribution facilities, technical advice or service in connection with products involved, and other pertinent factors.)

(2) In the absence of prescribed standards or specifications, selectivity, with respect to the choice of one item from a group of comparable items, is to the advantage of the Government in terms of suitability to accomplish or produce required end results.

§ 18–5.105–2 General.

The provisions of § 18–5.103 shall be applied in determining whether an order should be placed under a multiple-award schedule. Each purchase made from a multiple-award schedule must be made at the lowest delivered price available under that schedule, unless the procurement office fully justifies the purchase of a higher priced item.

§ 18–5.105–3 Justifications.

(a) Justifications of purchases made at prices other than the lowest delivered price available should be based on specific or definitive needs which are clearly associated with the achievement of program objectives. Mere personal preference cannot be regarded as an appropriate basis for a justification. Justifications should be clear and fully expressed. Recital of, or reference to, one of the factors set forth in paragraph (b) of this section is not sufficient.

(b) The following examples illustrate factors that may be used in support of justifications, when used with assertions that are fully set forth and documented.

(1) Special features of one item, not provided by comparable items, are required in effective program performance.

(2) An actual need exists for special characteristics to accomplish identified tasks.

(3) It is essential that the item selected be compatible with items or systems already existing within using offices.

(4) Trade-in considerations favor a higher priced item and produce the lowest net cost.

(5) Time of delivery in terms of actual need cannot be met by a lower priced contractor.

(6) Justifications which incorporate features of the following examples must be based on objective factors which adequately establish the advantages inherent in purchase of the higher priced item when:

(i) Probable life of the item selected, as compared to that of a comparable item at a lower cost, is sufficiently greater so that the additional purchase price is economically warranted;

(ii) Warranty conditions of a higher priced item are sufficiently advantageous to justify the added cost; and

(iii) Greater maintenance availability, lower overall maintenance costs, or the elimination of problems anticipated with respect to machines or systems, especially at isolated use points, will produce longrun savings greater than the difference in purchase prices.

§ 18–5.105–4 Responsibility of procurement office.

The possibilities of selectivity among items listed in multiple-award Federal Supply Schedules do not relieve the procurement office of its responsibility to place its orders at the lowest delivered prices available (after application of Buy American differentials, when appropriate, as set forth in the Federal Supply Schedule under the paragraph "Foreign Origin") unless there are factors for consideration which definitely justify the purchase at other than the lowest price. This responsibility exists whether or not the value of an order is more or less than the applicable open market limitation. When orders are placed with Schedule contractors at other than the lowest schedule price available for the type of services or supplies required, the procurement office shall include in the contract file a memorandum for record setting forth the facts and conclusions justifying the order.

No. 233—Pt. II—Sec. 1——10

Subpart 18–5.4—Procurement of Prison-Made Supplies

§ 18–5.400 Applicability.

This subpart is applicable to supplies procured within the United States.

§ 18–5.401 General.

Supplies of the classes listed in the "Schedule of Products Made in Federal Penal and Correctional Institutions" shall be purchased in accordance with the policies and procedures set forth in this subpart.

§ 18–5.402 Preference as between prison-made and blind-made supplies.

In any case where similar supplies are manufactured or offered for sale both by Federal penal and correctional institutions and by agencies for the blind, the supplies must be purchased from Federal Prison Industries, Inc., to the extent available.

§ 18–5.403 Schedule of supplies which are prison-made.

Supplies which are manufactured by Federal penal and correctional institutions are in strict conformity with Federal Specifications. These supplies are listed in the "Schedule of Products Made in Federal Penal and Correctional Institutions" (referred to in this Subpart 18–5.4 as the "Schedule"). Copies of the Schedule are available from Federal Prison Industries, Inc., c/o Department of Justice, Washington, D.C. 20537.

§ 18–5.404 Mandatory procurement of prison-made supplies.

§ 18–5.404–1 Mandatory procurement from Federal Prison Industries, Inc.

Supplies listed in the Schedule shall be procured directly from Federal Prison Industries, Inc., when:

(a) Supplies require overseas packaging or packing;

(b) Supplies are required in carload lots, as described in the Consolidated Freight Classification for the commodity concerned; or

(c) Supplies are required in less than carload lots, but are not stocked by General Services Administration Stores Depots.

§ 18–5.404–2 Mandatory procurement of prison-made supplies from General Services Administration stores depots.

Supplies listed in the Schedule which are required in less than carload lots and which are stocked by General Services Administration Stores Depots shall be procured from such Depots, except that procurement shall be made directly from Federal Prison Industries, Inc., when (a) the procurement office is so located that it is more practical and economical to procure directly from Federal Prison Industries, Inc., rather than from or through the General Services Administration, or (b) the General Services Administration Stores Depot is temporarily unable to furnish the required supplies, in which instance the depot will so advise the procurement office so that the procurement may be made directly from Federal Prison Industries, Inc.

§ 18–5.405 Nonmandatory procurement of prison-made supplies.

Contracting officers are encouraged to utilize the facilities of Federal Prison Industries, Inc., to the maximum extent practicable in the procurement of supplies which are not listed in the Schedule, but which are nevertheless of a type manufactured in Federal penal and correctional institutions.

§ 18–5.406 Procurement procedure.

§ 18–5.406–1 Procurement from Federal Prison Industries, Inc.

Procurement directly from Federal Prison Industries, Inc., will be made by placing a purchase order with the Federal Prison Industries, Inc., c/o Department of Justice, Washington, D.C. 20537.

§ 18–5.406–2 Procurement from General Services Administration stores depots.

The Federal Standard Requisitioning and Issue Procedure (Federal Property Management Regulation, Subpart 101–26.2) shall be used to obtain prison-made supplies from General Services Administration Stores Depots.

§ 18–5.407 Exceptions.

Supplies listed in the Schedule may be procured through National Industries for the Blind or from commercial sources under any of the following conditions:

(a) Immediate delivery or performance is required by public exigency;

(b) Suitable used supplies can be obtained; or

(c) The total cost of the order is $25 or less.

§ 18–5.408 Clearances.

In addition to the exceptions provided in § 18–5.407, supplies of the types listed in the Schedule may be purchased through National Industries for the Blind or from commercial sources if such procurement is specifically authorized in clearances issued by Federal Prison Industries, Inc., as set forth in paragraphs (a) and (b) of this section.

(a) General clearances are issued by Federal Prison Industries, Inc., when classes of supplies are not available from Federal penal and correctional institutions, or when it is otherwise in the best interest of the Government to allow procurement of those classes of supplies from agencies for the blind or from commercial sources. Purchase orders or contracts written pursuant to a general clearance need not be supported by a copy of the clearance, but the clearance number must be cited on the purchase order or contract as well as on the initial voucher.

(b) Formal clearances are issued in response to requests initiated by purchasing offices desiring to procure from agencies for the blind or from commercial sources supplies of the type listed in the Schedule when such supplies are not covered by a general clearance. Requests for formal clearances shall be addressed to Federal Prison Industries, Inc., c/o Department of Justice, Washington, D.C., 20537. Actual purchase of the required supplies shall not be consummated prior to the issuance of the formal clearance. A copy of the clearance certificate must be attached to the initial voucher.

Subpart 18–5.5—Procurement of Blind-Made Supplies

§ 18–5.500 Applicability.

This subpart is applicable to supplies procured within the United States.

§ 18–5.501 General.

Supplies listed in the Schedule of Blind-Made Products shall be procured in accordance with the policies and procedures set forth in this subpart.

§ 18–5.502 Schedule of supplies which are blind-made.

Supplies manufactured by agencies for the blind are listed in the Schedule of Blind-Made Products, hereinafter referred to as the Schedule, copies of which may be obtained from the General Services Administration Regional Offices or Depots. Items available from stocks at General Services Administration Stores Depots are so identified in the Schedule. Requests for copies of the Schedule will be submitted on GSA Form 457, will specify the exact organizational mailing address, and will request placement on the mailing lists for revisions.

§ 18–5.503 Mandatory procurement of blind-made supplies.

Except as provided in § 18–5.402 supplies listed in the Schedule shall be procured as follows:

(a) Orders for centrally managed supplies shall be placed through the National Industries for the Blind (NIB) in accordance with § 18–5.504–1.

(b) Orders for supplies which have been decentralized for local purchase shall be submitted to the General Services Administration Stores Depot which can best serve the Procurement Office, except that when one of the following conditions is present, procurement shall be through the NIB:

(1) Supplies require overseas packaging or packing;

(2) Supplies are required in carload lots, as described in the Consolidated Freight Classification for the Commodity concerned;

(3) Supplies are stocked by General Services Administration Stores Depots, but the procurement office is so located that it is more practical and economical to purchase directly from the agency for the blind which manufactures the supplies, rather than from the stores depot;

(4) The Schedule indicates that the supplies are not stocked by General Services Administration Stores Depots; or

(5) Delivery requirements cannot be met.

(c) Supplies listed in the Schedule may be procured from commercial sources under any of the following conditions:

(1) Necessity requires delivery within 2 weeks and the NIB cannot give assurance of positive availability; or

(2) The procurement is for $25 or less.

§ 18–5.504 Procurement procedure.

§ 18–5.504–1 Through National Industries for the Blind.

When procurement of blind-made supplies is to be effected through the NIB, such procurement shall be made by submitting directly to the National Industries for the Blind, 15 West 16th Street, New York, N.Y. 10011, a request, in letter form, for an allocation. Upon receipt of the request, requirements will be allocated by NIB, and the procurement office will be notified of the name and location of the agency designated to manufacture the requirements. Upon receipt of such notification, a purchase order shall be issued to the designated agency for the blind and a copy thereof will be forwarded to the NIB. Such orders may be issued without limitation as to dollar amount. A certification of fund availability must be obtained before an order may be issued.

§ 18–5.504–2 From General Services Administration stores depots.

The Federal Standard Requisitioning and Issue Procedure (Federal Property Management Regulation, Subpart 101–26.2) shall be used in obtaining blind-made supplies from General Services Administration stores depots.

§ 18–5.505 Clearances.

Except as provided in § 18–5.503(a) procurement offices may procure supplies of the types listed in the Schedule from commercial sources if (a) such procurement is specifically authorized in clearances issued by NIB, and (b) if purchase action is initiated within thirty days from the date of the authorization of such additional period as may be authorized by the NIB.

§ 18–5.506 Optional procurement of blind-made supplies.

Supplies of any type or classification may be procured from agencies for the blind in any quantity, including less than carload lots, when such agency is the low bidder or offeror in response to an invitation for bids or request for proposals.

§ 18–5.550 Procurement of services from agencies for the blind.

Services, as distinguished from supplies, will not be procured pursuant to the procedure of this subpart. The provisions of this subpart do not apply to labor or services or anything other than tangible articles produced by the blind.

Subpart 18–5.7—Procurement From or Through Another Federal Agency

§ 18–5.700 Scope of subpart.

This subpart established policies and procedures for the procurement of special items of supplies from other Federal agencies.

§ 18–5.701 Procuring materials from the Department of the Air Force missile procurement fund.

The Department of the Air Force has assigned the operational authority and responsibility for the procurement and distribution of missile propellants and related items to the San Antonio Air Materiel Area (SAAMA), Kelly Air Force Base, Tex. Propellants, oxidizers, fuels, pressurants, and related materials are financed under a single Air Force appropriation designated the "Missile Procurement Fund" (MPF). Supplies are obtained by SAAMA from Government-owned contractor-operated plants and by consolidated procurements from industry. NASA, other Government agencies, and contractors (where materials are Government-furnished) may acquire from SAAMA the items listed in § 18–52.508 on a reimbursable basis. The Air Force MPF shall be utilized as a supply source for propellants whenever there are economic or other advantages to the Government. Field installations and offices obtaining supplies from the missile procurement fund shall comply with the reporting requirements of § 18–52.500.

§ 18–5.701–1 Requests for procurement.

To obtain the materials listed in § 18–52.508 from the Air Force MPF, NASA procurement offices will execute a NASA-Defense Purchase Request (NASA Form 523) in accordance with § 18–5.1002 and forward it to Headquarters, San Antonio Air Material Area, Kelly Air Force Base, Tex., Attention: SAOS. The following additional information should also be provided on the form:

(a) Contract number (when material is required for use by a NASA contractor);

(b) Delivery address; and

(c) Mode of transportation (rail, trailer, barge, etc.)

When the purchase request covers requirements for materials which have not been previously forecast, as provided by Subpart 18–52.5 of this chapter, or covers significant changes to previously reported requirements, the SAAMA should be notified immediately of such requirements.

§ 18–5.701–2 Delivery requests.

(a) A delivery request is a call on the Air Force, made against a purchase request (NASA Form 523), which specifies the time and place of delivery. On the basis of the estimated requirements (see Subpart 18–52.5), the Air Force will notify NASA field installations and contractors of the name and address of the Air Force office or producing contractor's plant to which requests for delivery of materials shall be made. Delivery requests may be placed by any means of communication that time justifies; however, all verbal requests for delivery must be confirmed by a written request within 24 hours. The delivery request, both oral and written, must cite the NASA-Defense Purchase Request number under which the material is being ordered and contain the following information:

(1) Nomenclature and Federal Stock Number;

(2) Quantity;

(3) Program, project, and task;

(4) Contract number (when the material is required for use by a NASA contractor);

(5) Delivery address;

(6) Dates of delivery;

(7) Mode of transportation; and

(8) Location of weighing stations and scales (if weighing of the products prior to delivery is required).

(b) Each delivery request shall be numbered in the following manner to simplify identification and control. The number shall consist of the last two digits of the calendar year (i.e. 67) followed by a dash (—) and a numerical designator of the month submitted (i.e., 8 for August) and a dash (—) and a consecutive running system beginning with 1. For example, a request number would appear as follows: 67–8–1. The next request would be written 67–8–2, etc. Changes to a request would be identified by adding an alphabetical designator beginning with A to the number. For example, the first change to request number 67–8–2 would be written 67–8–2A, etc. The above numbering system is not intended to replace or to interfere with existing NASA purchase order numbering or internal budget or accounting numbering procedures.

§ 18–5.701–3 Receiving procedures.

(a) *Receiving documents.* Receipt of materials will be evidenced by the signature of an individual authorized by NASA to receive materials from the Air Force on:

(1) USAF Propellant Sale/Return Slip (AF Form 857)—when materials are received directly from the Air Force inventory.

(2) Materiel Inspection and Receiving Report (DD Form 250)—when materials are received directly from a commercial producer's plant; or

(3) Other receiving forms—when materials are received from or through other Government agencies.

Every effort should be made to ensure that the NASA-Defense Purchase Request number is recorded on the receiving document prior to signing.

(b) *Weighing facilities.* Local weighing facilities (NASA-owned, contractor-owned, commercial or State operated) may be used to determine quantities of product received. If a discrepancy exists between the quantities shown on receiving documents and the quantities actually received:

(1) A certified weighing ticket evidencing actual weight at destination will be obtained; and

(2) A copy of the receiving document (AF Sale/Return Slip or DD Form 250) and the original weighing ticket will be forwarded to Headquarters, San Antonio Air Materiel Area, Kelly Air Base, Tex., Attention: SACAOM, identifying the discrepancy.

(c) *Distribution of receipts.* Copies of all receiving documents except the USAF Propellant Sale/Return Slip (Form 857) shall be transmitted to the Headquarters, San Antonio Air Materiel Area, Kelly Air Force Base, Tex., Attention: SACAOM. Receiving documents may be accumulated and submitted on the 10th, 20th, and last day of each month.

§ 18–5.701–4 Billing.

The costs for materials obtained through the Air Force Missile Procurement Fund are reimbursable. After delivery, a Standard Form 1080 (Voucher for Transfers Between Appropriations and/or Funds (Disbursement)), supported by documentary evidence of delivery, will be submitted by Headquarters, SAAMA to the NASA installation designated in the NASA-DoD Purchase Request (NASA Form 523).

§ 18–5.702 Procurement of jewel bearings.

See § 18–1.315.

§ 18–5.703 Procurement of helium.

(a) NASA is required under the provisions of Public Law 86–777 (50 U.S.C. 167a et seq.) to obtain its major requirements for helium from the Secretary of Interior.

(b) Each procurement office shall attempt to obtain its requirements for helium (gaseous or liquid) from the Secretary of the Interior (Bureau of Mines) prior to placing contracts with a private contractor for supply of helium.

(c) Questions regarding the application of this policy should be directed to the Office of Procurement (Code KDM).

§ 18–5.704 Acquisition of mercury.

(a) NASA is prohibited from purchasing mercury in quantities of 76 pounds or more from commercial sources without prior clearance from the General Services Administration.

(b) Mercury, prime virgin, 99.9 percent pure (not triple distilled), in 76-lb. flasks, with unit acquisition cost of $235.60 per flask, is available for transfer from the Atomic Energy Commission excess personal property with reimbursement at fair-market value.

(1) Requests for mercury shall be made on Standard Form 122, "Transfer Order Excess Personal Property," submitted in quadruplicate to the General Services Administration, Utilization and Disposal Service, Personal Property Division, 1776 Peachtree Street NW., Atlanta, Ga. 30309. Orders will show the holding agency as the Atomic Energy Commission, Oak Ridge Operations Office, Post Office Box E, Oak Ridge, Tenn. The unit of issue is 76-lb. flask.

(2) Request for clearance to purchase quantities of 76 pounds or more from other sources than the Atomic Energy Commission shall be submitted to the General Services Administration Regional Office referred to in subparagraph (1) of this paragraph (b) and shall be accompanied by a statement of the reasons that make the available excess mercury unsuitable for use by requesting installation. General Services Administration has stated that requests for clearance will receive prompt review and requesting installations will be notified as to the approval or disapproval of such requests.

Subpart 18–5.8—Procurement of Certain Utility Services by Use of General Services Administration Area-Wide Public Utility Contracts and Department of Defense Area-Wide Communications Contracts

§ 18–5.800 Scope of subpart.

This subpart prescribes policy and procedures for the procurement of certain utility services by use of General Services Administration (GSA) area-wide public utility contracts and Department of Defense (DoD) area-wide communications contracts.

§ 18–5.801 General.

(a) The General Services Administration enters into indefinite delivery type area-wide contracts with various utility companies for the furnishing of electric, natural and manufactured gas distributed by pipes, steam sewage, water, telephone, and teletypewriter services to all, or substantially all, Government agencies located within specified areas. GSA area-wide public utility contracts provide that the contractor will, upon receipt of an order in the form prescribed by the contract, furnish without further negotiation as to rates and charges, the services involved in accordance with such of his established and filed rate schedules as are applicable to the service.

(b) The Department of Defense enters into indefinite delivery type area-wide contracts with various communication companies for the furnishing of communications to all, or substantially all, Department of Defense installations. DoD area-wide communications contracts provide that the contractor will upon receipt of an order in the form prescribed by the contract, furnish, without further negotiations as to rates and charges, the service involved in accordance with such of his established and filed rate schedules as are applicable to the service.

(c) Where an installation considers that a DoD area-wide communications contract is more advantageous to the Government than the GSA area-wide public utility contract, a request for a waiver of the requirement to use the GSA area-wide public utility contract will be submitted to the Office of Procurement (Code KDF) and a copy of the request furnished the Office of Tracking and Data Acquisition (Code TN).

(d) Where an installation considers that a separately negotiated contract is more advantageous to the Government than the GSA area-wide public utility contract, for a utility service other than communications, a request will be submitted to the Office of Procurement (Code KDF), for a waiver of the requirement to use the GSA area-wide public utility contract. The request shall explain why the separately negotiated contract is considered to be more advantageous to the Government than the area-wide contract.

(e) Where an installation considers that a separately negotiated contract for communications services is more advantageous to the Government than the GSA area-wide public utility contract or the DoD area-wide communications contract, a request for a waiver of the requirement to use the GSA contract or the DoD contract (in that order) will be submitted to the Office of Procurement (Code KDF) and a copy of the request furnished the Office of Tracking and Data Acquisition (Code TN). The request shall explain why the separately negotiated contract is considered to be more advantageous to the Government than either the GSA or DoD area-wide contracts.

§ 18–5.804 Ordering under GSA area-wide public utility contracts.

When utility services are procured under GSA area-wide public utility contracts, the method of ordering prescribed in the appropriate GSA area-wide contract will be used. The form prescribed for ordering may be modified to satisfy fiscal and administrative requirements of NASA, and to contain such additional contract provisions as may be contemplated or permitted by the GSA area-wide contract, except that it shall not be modified for use as a public voucher in lieu of Standard Form 1034.

§ 18–5.850 Use of DoD area-wide communications.

When the decision is made to procure communications services under DoD

area-wide contracts in accordance with § 18–6.803(b), the method of ordering prescribed in the appropriate DoD area-wide contract will be used. This form may be modified to satisfy fiscal and administrative requirements of NASA, and to contain such additional contract provisions as may be contemplated or permitted by the DoD area-wide contract, except that it shall not be modified for use as a public voucher in lieu of Standard Form 1034.

Subpart 18–5.9—Use of General Services Administration Supply Sources by Prime Contractors in Performing Cost-Reimbursement Type Contracts

§ 18–5.900 Scope and applicability of subpart.

(a) This subpart prescribes policies and procedures for the guidance of contracting officers in authorizing the use of General Services Administration (GSA) supply sources (Federal Supply Schedule contracts and GSA stores stock) by prime contractors in performing cost-reimbursement type contracts.

(b) This subpart applies only to the procurement of supplies to be delivered in the United States, its possessions, or Puerto Rico.

§ 18–5.901 Policy.

In appropriate cases, the contracting officer should authorize contractors to utilize GSA supply sources in performing cost-reimbursement type contracts. Before issuing such an authorization, the contracting officer shall determine that it is in the best interest of the Government, considering price, delivery, contract administration, and any other significant factors, including recommendations of the contractor.

§ 18–5.902 Limitation.

Contractors shall not be authorized to utilize GSA supply sources in connection with the performance of fixed-price type contracts, even though such contracts provide for price adjustment, escalation, redetermination, or cost-reduction incentive.

§ 18–5.903 Authorization.

§ 18–5.903–1 Basic authority.

Contractors shall be authorized to utilize General Services Administration supply sources only when:

(a) Title to property purchased under Federal Supply Schedule contracts will pass to and vest in the Government directly from the Federal Supply Schedule contractor (rather than through the prime contractor);

(b) Title to Government-owned property ordered from General Services Administration stores stock will remain in the Government, or

(c) Equipment ordered on a lease or rental basis under Federal Supply Schedule contracts will be used solely in the performance of cost-reimbursement type Government contracts.

§ 18–5.903–2 Format and contents of authorizations.

Authorizations shall be in writing and shall cite the contract number, specify any applicable limitations on the authority, such as the period of eligibility, and contain any other pertinent information, including requirements relative to ordering, receiving, inspection, and payment. The written authorization shall be in substantially the same format as that set forth in § 18–5.906.

§ 18–5.903–3 Distribution.

Copies of each authorization shall be forwarded by the contracting officer to the General Services Administration, Federal Supply Service, Office of Supply Operation, General Services Building, Washington, D.C. 20405, and to the GSA regional office serving the geographical area in which the facilities of the authorized prime contractor are located.

§ 18–5.904 Procedure.

§ 18–5.904–1 Purchase orders under Federal Supply Schedule contracts.

Orders by contractors under Federal Supply Schedule contracts shall be placed in accordance with the provisions of the applicable Federal Supply Schedule and the authorization. Such orders shall be accompanied by a copy of the authorization (unless a copy was previously furnished to the Federal Supply Schedule contractor) and shall contain the statement set forth in paragraph 2.a of the format for authorization set forth in § 18–5.906.

§ 18–5.904–2 Purchase orders for GSA stores stock.

Orders by contractors for GSA stores stock shall be placed in accordance with the authorization. Such orders shall contain the statement set forth in § 18–5.906, paragraph 2 of the form.

§ 18–5.904–3 Acquisition of filing cabinets by contractors.

(a) The moratorium declared by the President, in his letter of January 9, 1965, on acquisition by Government Agencies of filing cabinets covers requirements provided directly to NASA contractors (through GSA Federal Supply Service) where title to such equipment vests in the Government.

(b) Prior to ordering additional filing cabinets, NASA contractors are required to take the following prerequisite actions:

(1) Transfer inactive records to contractor storage areas;

(2) Dispose of unnecessary records in accordance with their corporate procedures;

(3) Use less expensive shelf filing methods;

(4) Take other actions which will reduce needs for filing cabinets; and

(5) Furnish statement to cognizant contracting officer that the above prerequisite actions have been taken and that sufficient additional filing capacity has not been produced.

(c) The contractor will then submit his request to the NASA contracting officer who, after conferring with the Records Management Officer, Supply Officer, and Project Officer, will certify on all letter requests that the prerequisite actions have been taken by the contractor and that such actions have not produced the required filing cabinets. Such certification will be forwarded with a letter request to the appropriate GSA Regional Administrator.

(d) If the need for the filing cabinets is approved by GSA, excess items of the type requested will be furnished, if available, through appropriate property accountability channels.

(e) Approved requests which cannot be filled from excess will be returned to the originating contractor with GSA Form 2084, Clearance to Acquire Correspondence Filing Cabinets, reflecting an FC (file cabinet) clearance number authorizing submission of a requisition to the GSA regional office. When mailed, the requisition will have the clearance number noted, and include a copy of the clearance document.

§ 18–5.905 Furnishing information to contractors.

Contracting officers shall assist contractors in obtaining pertinent Federal Supply Schedules, the GSA Stores Stock Catalog and appropriate supplements thereto, and other relevant information.

§ 18–5.906 Format for authorization for contractors to use GSA supply sources.

Subject: Authorization to Lease, Rent, or Purchase from General Services Administration Supply Sources

---

(Contractor's name)

(Address)

1. You are hereby authorized to act for the Government in the following matters:

a. The purchasing of property for acquisition under Contract No. ------ which is available for purchase by Government agencies either directly from the General Services Administration Stores Depots or under Federal Supply Schedules, subject to the limitations set forth herein.

b. The leasing or rental of equipment for use on Contract No. ------ which is available for lease or rental by Government agencies under Federal Supply Schedules, subject to the limitations set forth herein.

c. The issuance of tax exemption certificates in lieu of the payment of State or other taxes for which the Government is not liable on property purchased under this authorization.

2.a. *Purchase Orders Under Federal Supply Schedule Contracts.* Orders shall be placed in accordance with the terms and conditions of the attached Federal Supply Schedule and this authorization. A copy of this authorization shall be attached to the order (unless a copy was previously furnished to the Federal Supply Schedule contractor) and shall contain the following statement:

This order is placed on behalf of the National Aeronautics and Space Administration, in furtherance of U.S. Government Contract No. (Insert contract number), pursuant to written authorization dated------ ------[1] [ ]. Title to property purchased hereunder shall vest in the U.S. Government. In the event of any inconsistency between the terms and conditions of this order and those of the Federal Supply Schedule contract, the latter will govern.

b. *Orders for Items in the General Services Administration Stores Stock Catalog.* Orders shall be placed in accordance with the attached General Services Administration Stores Stock Catalog and this authorization. Include the address to which billings are to be sent. Bills are not issued by General Services Administration until after shipment has been made, and should therefore be paid promptly. Necessary adjustments, if any, will be made by General Services Administration subsequent to payment. All orders shall contain the following statement:

This order is placed on behalf of the National Aeronautics and Space Administration, in furtherance of U.S. Government Contract No. (Insert contract number), pursuant to written authorization dated ------[1] [ ]. Title to property delivered hereunder shall remain in the U.S. Government.

3. (Other provisions.)

4. This authority hereby granted is not transferable or assignable.

(Contracting Officer)

[1] Insert "a copy of which is attached," or "a copy of which you have on file," or other suitable language, as appropriate.

§ 18–5.907 Contract clause.

Insert the following clause in all cost-reimbursement type contracts under which the contractor may acquire supplies for the account of the Government. The last sentence of paragraph (b) of the clause shall be deleted in the case of facilities contracts which do not contain one of the "Government Property" clauses set forth in § 18–13.5 of this chapter.

GENERAL SERVICES ADMINISTRATION SUPPLY SOURCES (FEBRUARY, 1962)

(a) The Contracting Officer may at any time, when he determines that it is in the best interest of the Government to do so, issue to the Contractor and the Contractor agrees to accept, an authorization to utilize General Services Administration supply sources in the performance of this contract. Such authorization shall be in writing and shall cite the number of this contract; specify any applicable limitations on the authority, including the period of eligibility; and contain any other pertinent information, such as requirements relative to ordering, receiving, inspection, and payment.

(b) Title to all property acquired from General Services Administration stores stock pursuant to an authorization issued under paragraph (a) above, for the cost of which the Contractor is entitled to be reimbursed under this contract, shall remain in the Government. Title to all property purchased from Federal Supply Schedule contractors pursuant to an authorization issued under paragraph (a) above, for the cost of which the Contractor is entitled to be reimbursed under this contract, shall pass to and vest in the Government upon delivery of such property to the Contractor by the Federal Supply Schedule contractor. All property acquired by the Contractor pursuant to paragraph (a) above shall be subject to the provisions of paragraphs (b) through (k) of the clause of this contract entitled "Government Property," unless this contract is for research and development with a nonprofit institution executed on a no-fee basis using the "Government-Furnished Property (Long Form)" clause in which case paragraphs (c) through (n) of that clause shall apply.

Subpart 18–5.10 — Procurement Through the Military Departments

§ 18–5.1000 Scope of subpart.

This subpart sets forth policies and procedures, developed jointly by the National Aeronautics and Space Administration and the Department of Defense, with reference to procurement of supplies or services by NASA from or through the Military Departments.

§ 18–5.1001 Authorization and policy.

(a) NASA is authorized by the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 et seq.) to use the procurement services, personnel, equipment, and facilities of the Military Departments with their consent, with or without reimbursement, and on a similar basis to cooperate with the Military Departments in the use of procurement services, equipment and facilities.

(b) The Military Departments have agreed to cooperate fully with NASA in making their procurement services, equipment, personnel, and facilities available on the basis of mutual agreement.

(c) The Military Departments have agreed not to claim reimbursement for administrative costs incident to procurements for NASA, except as may be otherwise agreed prior to the time the services are performed.

(d) When procuring supplies or services for NASA or performing field service functions in support of NASA contracts, the Military Department concerned has agreed to use its own methods, except when otherwise required by the terms of the agreement involved.

(e) The Military Departments normally will use their own funds when procuring supplies or services for NASA, or performing services, and will not cite NASA funds on any Defense obligation or payment document.

§ 18–5.1002 NASA-Defense Purchase Request and acceptance.

§ 18–5.1002–1 Preparation and use of form.

(a) The NASA-Defense Purchase Request (NASA Form 523) shall be used by NASA procurement offices for requesting procurement of supplies or services from all activities of the Military Departments. Individual NASA-Defense Purchase Requests shall be prepared in accordance with the instructions on the reverse of NASA Form 523 and shall be numbered in accordance with § 18–50.303. The form shall not be used for requesting:

(1) Block transfers of excess property between NASA and the Military Departments;

(2) Performance by the Military Departments of field service functions related to NASA contracts; or

(3) Items which the Military Departments normally purchase and stock for military use or in-house services, except when a DoD activity is willing to accept the form for these purposes. Supplies and services of this nature may be requisitioned using appropriate DoD forms when they are provided by and are acceptable to or preferred by the Military Department supplying activity or as otherwise mutually agreed upon by the parties.

(b) Except as prescribed in § 18–5.5002, when procurement from or through the Air Force is requested, NASA Form 523 shall be sent to Headquarters, AF Systems Command, SCCPR, Andrews Air Force Base, Washington, D.C. 20331.

(c) *NASA—Defense Purchase Request (NASA Form 523).*

(d) *Instructions for completing NASA Form 523.* The NASA-Defense Purchase Request is to be used by NASA to request the procurement of supplies or services by any activity of the Department of Defense. These instructions pertain to preparation and use of the form by NASA activities.

(1) *Block 5.* The original and five copies of the purchase request, each complete with all attachments, shall be forwarded to the DoD activity shown in this block.

(2) *Block 7b.* Describe the required services or supplies accurately and in sufficient detail to enable the purchasing activity to understand the requirement. When applicable, the particular NASA program and/or project to which the request or amendment pertains shall be indicated. Attachments may be used as required. For items of hardware stocked by the DoD, the item identification of the Army, Navy, or Air Force and the Federal stock number shall be entered if known. When applicable, give the specification number, manufacturer's part number, and other descriptive data, such as the desired grade, style, type, color, size, rating, etc.

(3) *Block 8.* Attachments should be prepared in sufficient quantity so that each copy of a request is complete with a copy of every attachment listed therein.

(i) Shipping instructions. When names and addresses of consignees of all supplies to be delivered are not contained herein, or otherwise furnished, request for the issuance of shipping instructions shall be made to the appropriate NASA originating office not less than 30 days prior to date on which any of the articles is to be ready for shipment. Three copies of shipping documents shall be forwarded to the NASA originating office and each consignee.

(ii) Disposition of property. Include instructions for the disposition of any nonexpendable or other residual property purchased with NASA funds.

(iii) Priority rating. Include applicable priority rating and claimant program identification (example: Priority Rating DO–A2). In procurement for DX programs, identification shall also include the unclassified program name.

(4) *Block 10:* If this request or any part of the supplies or services covered by this request is subject to section 305 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457), a copy of the New Technology or Property Rights in Inventions clause together with appropriate instructions for the inclusion of the clause in contracts shall be furnished the purchasing activity in accordance with § 18–9.101–3(g) or § 18–9.101–5.

(5) *Block 12.* Cite appropriation symbol, cost coding, or any other accounting data to be included in the ensuing documentation.

(6) *Security Classification.* If the purchase request or any part thereof is classified, DD Form 254, "Security Requirements Check List," or other written notice of security requirements shall be prepared.

(7) *Changes.* All changes that affect the contents of the purchase request must be processed as a purchase request amendment. This includes such changes as a decrease in quantity, increase or decrease in funds, change in the specifications or in the part, stock or drawing numbers, etc. Such changes may be made initially by expeditious means such as telegraph or telephone communication, but each change shall be confirmed by a purchase request amendment. The original and five copies of purchase request amendments shall be forwarded to the DoD recipient of the original purchase request. In preparing an amendment, Blocks 1 through 6 must always be completed. Only those remaining blocks of the form that are applicable to the change or revision of the data in the purchase request or prior amendments thereto need be filled in. The unused blocks, however, should have "N/C" inserted to reflect no change.

§ 18–5.1002–2 Retention of property.

In preparing a NASA-Defense Purchase Request, consideration shall be given to NASA's subsequent need for any nonexpendable equipment items acquired by the Military Departments which are reimbursed from NASA funds. When it is determined that retention of such equipment would be to NASA's advantage, the following clause shall be incorporated in the purchase request:

> Title to all nonexpendable equipment having a unit cost in excess of $100 acquired in connection with this purchase request and for which reimbursement is made from NASA funds shall remain in NASA. All such items shall be identified and marked as NASA property. Records shall be maintained to the extent that periodic inventory reports can be submitted to NASA upon request. Listings of all excess, residual, and termination inventories shall be submitted to the NASA originating office for disposition instructions. (May 1961)

§ 18–5.1002–3 Acceptance by Military Department.

(a) Except as provided in § 18–5.1002–3(c), within 30 days after receipt of NASA-Defense Purchase Request, the Military Department concerned will forward to the initiator of the request a DD Acceptance of MIPR form, DD Form 448–2, in quadruplicate in accordance with instructions contained in ASPR 5–1109. Each DD Acceptance Form will show the action being taken or to be taken to fill the requirement and the name and complete address of the Department of Defense procurement activity for future direct contact by the initiator.

(b) To the extent feasible, all documents including acceptances, contracts, correspondence, shipping documents, work or project orders, and Standard Form 1080 (Voucher for Transfer between Appropriations and/or Funds) billings will reference the NASA-Defense Purchase Request number and the item number when appropriate.

§ 18–5.1003 Changes in estimated total prices.

When a Military Department determines that the estimated total price (Block 9, NASA Form 523) of the items to be procured for NASA is not sufficient to cover the required reimbursement, or is in excess of the amount required, a request for an amendment will be forwarded to the NASA originating office. The request will indicate a specific dollar amount, rather than a percentage, and will include justification for any upward adjustment requested. Upon approval of the request, an amendment to the NASA-Defense Purchase Request shall be forwarded by the NASA procurement office concerned to the DoD procuring activity.

§ 18–5.1004 Inquiries.

Inquiries and correspondence shall be directed to the DoD procuring activity referenced on the DD Form 448–2.

§ 18–5.1005 Payments.

Except when agreements provide that reimbursement is not required, payments to the Military Departments for supplies and services furnished to or procured for NASA shall be effected on the basis of Standard Form 1080 billings submitted to the NASA office designated in Block 11 of the NASA-Defense Purchase Request. Billings shall be supported in the same manner as billings between Military Departments.

Subpart 18–5.51 — Procurement of Items Designated as Potentially Hazardous

§ 18–5.5100 Scope.

This Subpart 18–5.51 provides policies and procedures for the procurement of items designated as potentially hazardous from or through other Government agencies.

§ 18–5.5101 Policy.

(a) If the order or request or other appropriate document communicating NASA's requirements involves the procurement of items designated as potentially hazardous, copies of required provisions and clauses (see §§ 18–1.351, 18–3.850, and 18–9.204–52), together with instructions for their inclusion in IFB's, RFP's, and contracts, shall be furnished to the Government agency.

(b) If the order or request or other appropriate document communicating NASA's requirements involves the delivery of items designated as potentially hazardous to the Government or to a Government contractor or subcontractor, the Government agency receiving the request shall be requested to furnish the data required by §§ 18–1.351, 18–3.850, and 18–9.204–52.

PART 18–6—FOREIGN PURCHASES

Subpart 18–6.1—Buy American Act—Supply and Service Contracts

Sec.
18–6.100 Scope of subpart.
18–6.101 Definitions.
18–6.102 Statutory requirements.
18–6.103 Exceptions.
18–6.103–1 Use outside the United States.
18–6.103–2 Nonavailability in the United States.
18–6.103–3 Unreasonable cost or inconsistency with the public interest.
18–6.103–4 Scrap.
18–6.103–5 Canadian supplies.
18–6.104 Procedures.
18–6.104–1 Applicability.
18–6.104–2 Solicitation of bids and proposals.
18–6.104–3 Certificate.
18–6.104–4 Evaluation of bids and proposals.
18–6.104–5 Contract clause.
18–6.105 List of excepted articles, materials, and supplies.

Subpart 18–6.2—Buy American Act—Construction Contracts

18–6.200 Scope of subpart.
18–6.201 Definitions.
18–6.201–1 Construction.
18–6.201–2 Construction materials.
18–6.201–3 Components.
18–6.201–4 United States.
18–6.201–5 Domestic construction material.
18–6.201–6 Nondomestic construction material.
18–6.202 Statutory requirements.
18–6.203 Exceptions.
18–6.203–1 Nonavailability in the United States.
18–6.203–2 Unreasonable costs or impracticability.
18–6.204 Procedures.
18–6.204–1 Applicability.
18–6.204–2 Solicitation of bids and proposals.
18–6.204–3 Evaluation of bids and proposals.
18–6.204–4 Small business.
18–6.205 Penalty for violation.
18–6.206 List of excepted articles, materials, and supplies.
18–6.207 Contract clauses.

Subpart 18–6.4—Purchases From Soviet-Controlled Areas

18–6.401 Restrictions.
18–6.401–1 General policy.
18–6.401–2 Soviet-controlled areas.
18–6.401–3 Certain supplies of foreign origin.
18–6.401–4 Certain supplies from Hong Kong, Macao, and Soviet-controlled areas.
18–6.401–5 Supplies from North Korea or China.
18–6.402 Exceptions.
18–6.406 Contract clause.

Subpart 18–6.6—Duty and Customs

18–6.601 Duties and customs on foreign purchases.

Subpart 18–6.7—Foreign Contract Procurement

18–6.700 Scope of subpart.
18–6.701 Definition of foreign contract procurement.
18–6.702 Policy.
18–6.703 Assignment of responsibility for contract negotiation.
18–6.704 Procedure.
18–6.705 Assignment of contract administration.
18–6.706 Contracts with foreign nationals.

Subpart 18–6.8—Balance of Payments Programs—Offshore Procurement

18–6.801 Use of excess foreign currencies.
18–6.801–1 Excess currencies, fiscal year 1968.
18–6.801–2 Obligations incurred in excess currency countries.
18–6.801–3 Obligations incurred in certain additional countries.

AUTHORITY: The provisions of this Part 18–6 issued under 42 U.S.C. 2473(b)(1).

Subpart 18–6.1—Buy American Act—Supply and Service Contracts

§ 18–6.100 Scope of subpart.

This subpart implements the Buy American Act (41 U.S.C. 10a–d) and the policies set forth in Executive Order 10582, dated December 17, 1954, with respect to supply and service contracts.

§ 18–6.101 Definitions.

As used in this subpart, the terms and meanings are set forth below.

(a) "End products" means articles, materials, and supplies which are to be acquired for public use. As to a given contract, the end products are the items to be delivered to the Government, as specified in the contract, including supplies to be acquired by the Government for public use in connection with service contracts.

(b) "Components" means those articles, materials, and supplies which are directly incorporated in end products.

(c) "United States" means the States, the District of Columbia, Puerto Rico, American Samoa, the Canal Zone, the Virgin Islands, Guam, and any areas subject to the complete sovereignty of the United States.

(d) "Domestic source end product" means an unmanufactured end product which has been mined or produced in the United States, or an end product manufactured in the United States if the cost of its components which are mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. A component shall be considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind (1) determined by the Government to be not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality, or (2) as to which the Administrator has determined that it would be inconsistent with the public interest to apply the restrictions of the Buy American Act.

(e) "Canadian end product" means an unmanufactured end product, mined or produced in Canada, or an end product manufactured in Canada if the cost of its components which are mined, produced, or manufactured in Canada or the United States exceeds 50 percent of the cost of all its components.

(f) "Foreign end product" means an end product other than a domestic source end product.

(g) "Domestic bid" means a bid or offered price for a domestic source end product, including transportation to destination.

(h) "Foreign bid" means a bid or offered price for a foreign end product, including transportation to destination, and duty (whether or not a duty-free entry certificate may be issued).

§ 18–6.102 Statutory requirements.

Except as provided in § 18–6.103, the Buy American Act requires that in the procurement of supplies and services only domestic source end products shall be acquired for public use. In determining whether an end product is a domestic source end product, only the end product and its components shall be considered.

§ 18–6.103 Exceptions.

§ 18–6.103–1 Use outside the United States.

The restrictions of the Buy American Act do not apply to articles, materials or supplies for use outside the United States.

§ 18–6.103–2 Nonavailability in the United States.

(a) The Buy American Act does not apply to articles, materials or supplies of a class or kind which the Government has determined are not mined, produced or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality. Such classes or kinds of articles, materials, or supplies are included in the list set forth in § 18–6.105.

(b) Contracting officers are authorized to make additional determinations of nonavailability both prior to entering into contracts and in the course of contract administration: *Provided, however,* That in the latter case the Government receives adequate consideration. A copy of each determination of nonavailability will be included in the contract file.

(c) The following is the format for nonavailability determinations made by contracting officers:

DETERMINATION OF NONAVAILABILITY

Pursuant to the authority contained in section 2, Title III, of the Act of March 8, 1933 (popularly called the Buy American Act (41 U.S.C. 10a–d)), and authority delegated to me by 6.103–2(b), I hereby find:

a. (Insert a description of the item or items to be procured, including unit, quantity, and estimated cost inclusive of duty and transportation costs to destination.)

b. (Enter the name and address of proposed contractor or supplier, and country of origin of the item or items.)

c. (Include a brief statement of the necessity for the procurement.)

d. (Include a statement of facts establishing the nonavailability of a similar item or items of domestic origin. If there is no known domestic item or items which can be used as a reasonable substitute, a statement to this effect will be made.)

Based upon these findings, it is determined that the above described item(s) is (are) not mined, produced, or manufactured, or the articles, materials, or supplies from which it (they) is (are) manufactured, are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available quantities and of a satisfactory quality.

Accordingly, the requirement of the Buy American Act that procurement be made from domestic sources and that it be of domestic origin is not applicable to this procurement, since said procurement is within the nonavailability exception stated in the Buy American Act. Authority is granted to procure the above-described item(s) of foreign origin (country of origin) at an estimated total cost of $....., including duty and transportation costs to destination.

(Date)

.....
(Contracting Officer)

§ 18–6.103–3 Unreasonable costs or inconsistency with the public interest.

When it is determined by the Administrator that the cost of a domestic source end product would be unreasonable or that its acquisition would be inconsistent with the public interest, the restrictions of the Buy American Act do not apply (see §§ 18–6.103–5 and 18–6.104–4).

§ 18–6.103–4 Scrap.

Scrap generated in, collected in, and prepared for processing in the United States shall be considered as of domestic origin.

§ 18–6.103–5 Canadian supplies.

(a) The Administrator, by NASA Management Instruction 3–2–11, has determined that it would be inconsistent with the public interest to apply the restrictions of the Buy American Act to the acquisition of certain supplies mined, produced, or manufactured in Canada. Accordingly, contracting officers shall:

(1) Evaluate all bids and proposals offering Canadian end products on a parity with bids and proposals offering domestic source end products, except that applicable duty (whether or not a duty-free entry certificate may be issued) shall be included in evaluating such bids and proposals offering Canadian end products; and

(2) Treat all components mined, produced, or manufactured in Canada as though they were mined, produced, or manufactured in the United States, except that, in evaluating bids and proposals containing such components, applicable duty (whether or not a duty-free entry certificate may be issued) shall be included.

(b) The procedures set forth in paragraph (a) of this section do not apply to or affect (1) items listed in § 18–6.105 or (2) items determined to be nonavailable in accordance with the procedures set forth in § 18–6.103–2.

§ 18–6.104 Procedures.

§ 18–6.104–1 Applicability.

The procedures in this § 18–6.104 apply to all contracts involving the procurement of supplies, except contracts exclusively for articles, materials, or supplies for use outside the United States. For Canadian supplies, see § 18–6.103–5(a).

§ 18–6.104–2 Solicitation of bids and proposals.

Invitations for bids and requests for proposals shall state that specific information as to articles, materials, and supplies excepted from the Buy American Act (see § 18–6.105) is available to prospective contractors upon request.

§ 18–6.104–3 Certificate.

Invitations for bids and requests for proposals shall require that each bid or proposal include a certificate substantially as follows:

BUY AMERICAN CERTIFICATE (JANUARY 1964)

The bidder or offeror hereby certifies that each end product, except the end products excluded below, is a domestic source end product (as defined in the contract clause entitled Buy American Act); and that components of unknown origin have been considered to have been mined, produced, or manufactured outside the United States

Excluded Items: ----------

§ 18–6.104–4 Evaluation of bids and proposals.

(a) The Administrator, by NASA Management Manual Instruction 3–8–10, has determined that where the procedures outlined in paragraphs (b), (c), and (d) of this section, result in the acquisition of foreign end products, the acquisition of domestic source end products would be (1) unreasonable in cost or (2) inconsistent with the public interest (see § 18–6.103–3). These procedures do not apply to the evaluation of bids and proposals offering Canadian end products; such bids and proposals shall be evaluated as provided in § 18–6.103–5(a)(1).

(b) Except as provided in § 18–6.103–5(a)(1), bids and proposals shall be evaluated so as to give preference to domestic bids. Award shall be made to the low acceptable bidder, after applying the procedures set forth in paragraph (c) of this section, except for bids or proposals requiring decision of the Administrator, in accordance with paragraph (d) below. When more than one line item is offered in response to an invitation for bids or request for proposals, the appropriate percentage factor set forth in paragraph (c) of this section shall be applied, for evaluation purposes, on an item-by-item basis, except that such percentage factor may be applied to any group of items when the invitation for bids or request for proposals specifically provides that award may be made on a particular group of items.

(c) For purposes of evaluating bids and proposals, a factor of 6 percent of the amount of each foreign bid or proposal (which does not offer Canadian end products) shall be added to such bid or proposal. If, after applying such 6 percent factor, the low acceptable domestic bid or proposal is the low bid or proposal, award shall be made to the low domestic bidder or offeror. If, after applying such 6 percent factor, the low acceptable foreign bid or proposal is the low bid or proposal, award shall be made to such low foreign bidder or offeror, except that:

(1) When the firm submitting the low acceptable domestic bid or proposal is a small business or labor surplus area concern, or both, and its bid or proposal exceeds $100,000, the proposed award shall be submitted through the Office of Procurement to the Administrator for decision; or

(2) When the firm submitting the low acceptable domestic bid or proposal is a small business or labor surplus area concern, or both, and its bid or proposal is $100,000 or less, a factor of 12 percent (in lieu of the 6 percent factor) of the amount of the low foreign bid or proposal shall be added to such low foreign bid or proposal, and award made to the low bidder or offeror: *Provided, however,* That when small purchase procedures (see Subpart 18–3.6) are used, the 6 percent factor shall apply.

(d) The proposed award shall be submitted to the Administrator for decision if:

(1) Required by paragraph (c)(1) of this section;

(2) Rejection of an acceptable low foreign bid or proposal is considered necessary to protect essential national security interests, such as maintenance of a mobilization base; or

(3) Rejection of any bid or proposal is considered necessary for other reasons of the national interest.

(e) The following are examples of evaluation of bids and proposals in accordance with the provisions of paragraphs (b) and (c) of this section:

Example 1: Price differential of 6 percent or less between low foreign (non-Canadian) and low domestic bid or proposal:

	Low domestic bid	Low foreign bid
Cost to destination	$20,000	$19,000
Import duty		600
Total	20,000	19,600
6 percent differential		1,176
Total	20,000	20,776

The low domestic bid is not unreasonable; award would be made to the low domestic bidder (see paragraph (c) of this section).

Example 2: Price differential in excess of 6 percent between low foreign (non-Canadian) and low domestic bid or proposal, and small business and/or labor surplus area concerns are not involved.

	Low domestic bid	Low foreign bid
Cost to destination	$20,000	$17,000
Import duty		500
Total	20,000	17,500
6 percent differential		1,050
Total	20,000	18,550

The low domestic bid is unreasonable; award would be made to the low foreign bidder (see paragraph (c) of this section).

Example 3: Low domestic bidder or offeror is a small business and/or labor surplus area concern; the low domestic bid or proposal exceeds the low foreign (non-Canadian) bid or proposal by more than 6 percent, and small purchases procedures are not involved.

Item	Low Foreign Bids (Include transportation to destination and duty) A Company	B Company	Low Domestic Bids (Include transportation to destination) C Company	D Company	E Company	Difference (percent)
1	$30,000		$36,000			20
2	40,000		46,000			15
3		$20,000		$22,200		11
4	30,000				$22,600	13
5		30,000		33,700		9
6	20,000		22,000			10
7	10,000		10,700			7
8	5,000				6,800	30
			102,700			

A. In the case of Items 1, 3, 6, and 7 in the example, proposed awards would be submitted to the Director of Procurement for decision by the Administrator since (1) the low acceptable domestic bid exceeds the low acceptable foreign bid plus 6 percent on an item-by-item basis, (2) the low domestic bidder is a small business or labor surplus area concern, and (3) its bid exceeds $100,000 (see paragraph (c)(1) of this section).

B. In the case of Items 2 and 5 in the example, award would be made to the low domestic bidder, since (1) the differential is less than 12 percent on an item-by-item basis, (2) the low domestic bidder is a small business or labor surplus area concern, and (3) its bid is less than $100,000 (see paragraph (c)(2) of this section).

C. In the case of Items 4 and 8 in the example, award would be made to the low foreign bidder, since (1) the differential exceeds 12 percent on an item-by-item basis, (2) the low domestic bidder is a small business or labor surplus area concern, and (3) its bid is less than $100,000 (see paragraph (c)(2) of this section).

§ 18–6.104–5 Contract clause.

In accordance with the requirements of Subpart 18–6.1, insert the clause set forth below.

BUY AMERICAN ACT (SEPTEMBER 1961)

(a) In acquiring end products, the Buy American Act (41 U.S.C. 10a–d) provides that the Government give preference to domestic source end products. For the purpose of this clause:

(i) "Components" means those articles, materials, and supplies which are directly incorporated in the end products;

(ii) "End products" means those articles, materials, and supplies which are to be acquired under this contract for public use; and

(iii) A "domestic source end product" means (A) an unmanufactured end product which has been mined or produced in the United States and (B) an end product manufactured in the United States if the cost of the components thereof which are mined, produced, or manufactured in the United States or Canada exceeds 50 percent of the cost of all its components. For the purposes of this (a)(iii)(B), components of foreign origin of the same type or kind as the products referred to in (b) (ii) or (iii) of this clause shall be treated as components mined, produced, or manufactured in the United States.

(b) The Contractor agrees that there will be delivered under this contract only domestic source end products, except end products:

(i) Which are for use outside the United States;

(ii) Which the Government determines are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality;

(iii) As to which the Administrator determines the domestic preference to be inconsistent with the public interest; or

(iv) As to which the Administrator determines the cost to the Government to be unreasonable.

(The foregoing requirements are administered in accordance with Executive Order No. 10582, dated Dec. 17, 1954.)

§ 18–6.105 List of excepted articles, materials and supplies.

The articles, materials, and supplies listed below may be acquired for public use without regard to country of origin, except as provided in Subpart 18–6.4. The Administrator, by NASA Management Manual Instruction 3–3–10, has determined that it would be inconsistent with the public interest to apply the restrictions of the Buy American Act to petroleum included in the list below. The remaining articles, materials, and supplies in the list below are included on the basis of nonavailability (see § 18–6.103–2(a)).

Acetylene, black.
Antimony, as metal or oxide.
Asbestos, amosite.
Bismuth.
Books, trade, text, technical, or scientific; newspapers; magazines; periodicals; printed briefs and films; not printed in the United States and for which domestic editions are not available.
Cadmium, ores and flue dust.
Calcium cyanamide.
Chalk, English.
Chrome ore or chromite.
Cobalt, in cathodes, rondelles, or other primary forms.
Cork, wood or bark and waste.
Diamonds, industrial.
Graphite, natural, crystalline, crucible grade.
Jute and jute burlaps.
Lac.
Logs, veneer, and lumber from Alaskan yellow cedar, angelique, balsa, ekki, greenheart, lignum vitae, mahogany, and teak.
Mica.
Nickel, primary, in ingots, pigs, shot, cathodes, or similar forms; nickel oxide and nickel salts.
Petroleum, crude oil; petroleum, finished products; and petroleum, unfinished oils.
Platinum and platinum group metals refined, as sponge, powder, ingots, or cast bars.
Quartz crystals.
Rubber, crude and latex.
Shellac.
Tin, in bars, blocks, and pigs.
Wax, carnauba.

Subpart 18–6.2—Buy American Act—Construction Contracts

§ 18–6.200 Scope of subpart.

This subpart implements the Buy American Act (41 U.S.C. 10 a–d) and the policies set forth in Executive Order 10582, dated December 17, 1954, with respect to construction contracts.

§ 18–6.201 Definitions.

As used in this subpart, the terms and meanings are set forth below.

§ 18–6.201–1 Construction.

"Construction" means construction, alteration, or repair of any public building or public work in the United States.

§ 18–6.201–2 Construction materials.

"Construction materials" means articles, materials, and supplies which are brought to the construction site for incorporation in the building or work.

§ 18–6.201–3 Components.

"Components" means those articles, materials, and supplies which are directly incorporated in construction materials.

§ 18–6.201–4 United States.

"United States" means the States, the District of Columbia, Puerto Rico, American Samoa, the Canal Zone, the Virgin Islands, Guam, and any areas subject to the complete sovereignty of the United States.

§ 18–6.201–5 Domestic construction material.

"Domestic construction material" means an unmanufactured construction material which has been mined or produced in the United States, or a manufactured construction material which has been manufactured in the United States if the cost of its components which are mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. A component shall be considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the construction material in which it is incorporated is manufactured in the United States and the component is of a class or kind determined by the Government to be not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

§ 18–6.201–6 Nondomestic construction material.

"Nondomestic construction material" means a construction material other than a domestic construction material.

§ 18–6.202 Statutory requirements.

Except as provided in § 18–6.203, the Buy American Act requires that in the performance of contracts for construction, only domestic construction materials shall be used. In determining whether construction material is domestic construction material, only the construction material and its components shall be considered.

§ 18–6.203 Exceptions.

§ 18–6.203–1 Nonavailability in the United States.

(a) The Buy American Act does not apply to articles, materials, or supplies of a class or kind which the Government has determined are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality (see § 18–6.206).

(b) The authority to make additional determinations of nonavailability, is described in § 18–6.103–2(b).

(c) The format for nonavailability determinations is set forth in § 18–6.103–2(c).

§ 18–6.203–2 Unreasonable costs or impracticability.

The restrictions of the Buy American Act do not apply when it is determined by the Administrator that the use of a particular domestic construction material would (1) unreasonably increase the cost, or (2) be impracticable (See § 18–6.204–3).

§ 18–6.204 Procedures.

§ 18–6.204–1 Applicability.

The procedures in this § 18–6.204 apply to all contracts for construction in the United States, except contracts executed on Standard Form 19.

§ 18–6.204–2 Solicitation of bids and proposals.

Invitations for bids and requests for proposals for construction shall include the following provision:

INFORMATION REGARDING BUY AMERICAN ACT (JANUARY 1964)

(a) The Buy American Act (41 U.S.C. 10a–d) generally requires that only domestic construction materials be used in the performance of this contract. This requirement does not apply to construction materials or their components as set forth below:

(Insert list here, including the items set forth in § 18–6.206)

(b) (1) Furthermore, bids or proposals offering the use of additional nondomestic construction materials may be acceptable for award if the Government determines that the use of comparable domestic construction materials is impracticable or would unreasonably increase the cost or that domestic construction materials (in sufficient and reasonably available commercial quantities and of a satisfactory quality) are unavailable. Reliable evidence shall be furnished justifying such use of additional nondomestic construction materials.

(2) Where it is alleged that the use of domestic construction materials would unreasonably increase the cost:

(i) data shall be included, based on a reasonable canvass of suppliers, demonstrating that the cost of each such domestic construction material would exceed by more than 6 percent the cost of the comparable nondomestic construction material. (All costs of delivery to the construction site shall be included, as well as any applicable duty.)

(ii) for evaluation purposes, 6 percent of the cost of all additional nondomestic construction materials which qualify under (1) above will be added to the bid or proposal.

(3) When offering additional nondomestic construction materials, bids or proposals may also offer, at stated prices, any available comparable domestic construction materials, so as to avoid the possibility that failure of a nondomestic construction material to be acceptable under (1) above will cause rejection of the entire bid.

§ 18–6.204–3 Evaluation of bids and proposals.

(a) *Determination.* The Administrator, by NASA Management Manual Instruction 3–3–10, has determined that where the procedures set forth in paragraph (b) below result in the use of nondomestic construction materials, the use of domestic construction materials would unreasonably increase the cost (see § 18–6.203–2).

(b) *Unreasonable cost.* If a bid or proposal is submitted in accordance with paragraph (b) of the provision set forth in § 18–6.204–2, and if such bid or proposal would be the low acceptable bid or proposal but for the Buy American Act, award shall be made on such bid or proposal if all the following conditions are satisfied:

(1) The bid or proposal specifically designates the nondomestic construction materials (not listed as exceptions in the invitation for bids or request for proposals) proposed for use;

(2) As to each such nondomestic construction material, accompanying data show that the cost of any available acceptable domestic construction material, delivered at the construction site, would exceed by more than 6 percent the cost of the designated nondomestic construction material delivered at the construction site (including any applicable duty);

(3) As to each such nondomestic construction material, the contracting officer is satisfied that the showing required by subparagraph (2) of this paragraph is correct as of the date of the opening of bids or proposals; and

(4) The bid or proposal is low after adding, for evaluation purposes, to such bid or proposal 6 percent of the cost of all nondomestic construction materials (delivered at the construction site and including any applicable duty) which are offered in such bid or proposal and which qualify under subparagraphs (1) through (3) of this paragraph.

(c) *Impracticability.* If a bid or proposal is submitted in accordance with paragraph (b) of the provisions set forth in § 18–6.204–2, and if such bid or proposal would be the low acceptable bid or proposal but for the Buy American Act, the proposed award shall be submitted together with all pertinent information and full justification for such action to the Director of Procurement for decision by the Administrator, if the following conditions exist:

(1) The bid or proposal specifically designates the nondomestic construction materials (not listed as exceptions in the

invitation for bids or request for proposals) proposed for use; and

(2) As to each such nondomestic construction material, accompanying data show that it would be impracticable to use domestic construction materials.

(d) If a contract is to be awarded under paragraph (b) or (c) of this section, the contracting officer shall place in the contract file (1) a copy of the data and justification in the case of an exception under paragraph (b) of this section, or (2) a copy of the Administrator's finding of impracticability in the case of an exception under paragraph (c) of this section, and copies thereof shall be available for public inspection.

§ 18–6.204–4 Small business.

Nothing in § 18–6.204–3 shall affect the authority or responsibility of the NASA to place a fair proportion of its total contracts with small business concerns.

§ 18–6.205 Penalty for violation.

If the Administrator finds that in the performance of a construction contract there has been a failure to comply with the clause in the contract entitled "Buy American Act," he shall make public his findings, including therein the name of the contractor obligated under the contract, and no other contract for construction in the United States or elsewhere shall be awarded to such contractor, or to subcontractors, materialmen, or suppliers with whom such contractor is associated or affiliated within a period of three years after such finding is made public.

§ 18–6.206 List of excepted articles, materials, and supplies.

The articles, materials, and supplies listed below may be used in construction without regard to country of origin, except as provided in Subpart 18–6.4, on the basis of the nonavailability provision of the Buy American Act (see § 18–6.203–1).

Antimony, as metal or oxide.
Asbestos, amosite.
Bismuth.
Cadmium, ores and flue dust.
Chalk, English.
Chrome ore or chromite.
Cobalt, in cathodes, rondelles, or other primary forms.
Cork, wood or bark and waste.
Damar gum.
Graphite, natural, crystalline, crucible grade.
Jute and jute burlap.
Kaurigum.
Lac.
Logs, veneer, and lumber from Alaskan yellow cedar, angelique, balsa, ekki, greenheart, lignum vitate, mahogany, and teak.
Mica.
Nickel, primary, in ingots, pigs, shot, cathodes, or similar forms; nickel oxide and nickel salts.
Rubber, crude and latex.
Shellac.
Tin, in bars, blocks, and pigs.

§ 18–6.207 Contract clauses.

(a) The clause set forth below shall be included in all contracts for construction, and any articles, materials, and supplies which have been the subject of additional determinations pursuant to § 18–6.203–1 shall be listed thereunder.

NONDOMESTIC CONSTRUCTION MATERIALS (SEPTEMBER 1962)

The requirements of the clause of this contract entitled "Buy American Act" do not apply to construction materials or their components as set forth below:

(Insert list here including the items set forth in § 18–6.206)

(b) If a contract is to be awarded under § 18–6.204–3 (b) or (c) and the use of designated nondomestic construction materials is to be permitted, the designated nondomestic construction materials shall be listed under the clause required by paragraph (a) of this section.

(c) The clause set forth below shall be inserted in all contracts for construction except those executed on Standard Form 19 and NASA Form 177.

BUY AMERICAN (SEPTEMBER 1962)

(a) *Agreement.* In accordance with the Buy American Act (41 U.S.C. 10a–d) and Executive Order 10582, December 17, 1954 (3 CFR Supp.), the Contractor agrees that only domestic construction material will be used (by the Contractor, subcontractors, materialmen, and suppliers) in the performance of this contract, except for nondomestic material listed in the contract.

(b) *Domestic construction material.* "Construction material" means any article, material, or supply brought to the construction site for incorporation in the building or work. An unmanufactured construction material is a "domestic construction material" if it has been mined or produced in the United States. A manufactured construction material is "domestic construction material" if it has been manufactured in the United States and if the cost of its components which have been mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. "Component" means any article, material, or supply directly incorporated in a construction material.

(c) *Domestic component.* A component shall be considered to have been "mined, produced or manufactured in the United States" (regardless of its sources in fact) if the article, material, or supply in which it is incorporated was manufactured in the United States and the component is of a class or kind determined by the Government to be not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

Subpart 18–6.4—Purchases From Soviet-Controlled Areas

§ 18–6.401 Restrictions.

§ 18–6.401–1 General policy.

Generally, supplies originating from sources within Soviet-controlled areas shall not be acquired for public use, notwithstanding the provisions of Subparts 18–6.1 and 18–6.2 and NASA contractors and subcontractors shall not acquire for use in the performance of any NASA contract or subcontract thereunder any supplies or services originating from Soviet-controlled areas.

§ 18–6.401–2 Soviet-controlled areas.

For the purpose of this subpart, Soviet-controlled areas are the following:

Albania.
Bulgaria.
China, excluding Taiwan (Formosa), but including Manchuria, Inner Mongolia, the provinces of Tsinghai and Sikang, Sinkiang, Tibet, the former Kwantung Leased Territory, the present Port Arthur Naval Base Area, and Liaoning Province.
Communist-controlled area of Viet Nam and Communist-controlled area of Laos.
Cuba.
Czechoslovakia.
East Germany (Soviet Zone of Germany and the Soviet Sector of Berlin).
Estonia.
Hungary.
Latvia.
Lithuania.
North Korea.
Outer Mongolia.
Poland and Dahzig.
Rumania.
Union of Soviet Socialist Republics.

§ 18–6.401–3 Certain supplies of foreign origin.

The following supplies, if of foreign origin and however processed, shall be presumed to have originated from Soviet-controlled (Chinese) sources and shall not be acquired for public use unless (a) such supplies have been lawfully imported into the United States, its possessions, or Puerto Rico, or (b) the supplies are acquired directly from the countries indicated:

Bamboo, split	None.
Braids, straw	Italy, Japan.
Bristles, hog, including such bristles in knots or other processed condition.	None.
Brushes, paint (including parts thereof) containing hog bristles, if any such bristle is more than 1½ inches in total length or more than 1¼ inches in length out of the ferrule.	None.
Eggs, poultry:	
Whole in the shell, other than chicken	None.
Whole, dried	None.
Albumen, dried	None.
Yolks, dried	None.
Floor coverings, grass and straw, including sea-grass mats and squares.	Japan.
Fur skins:	
Goat and kid	Argentina, Ethiopia (including Eritrea), Iran, Iraq.
Kolinsky	Republic of Korea.
Weasel	Canada.
Garments, Chinese type	None.
Jade, stones, cut but not set and suitable for use in jewelry.	None.
Menthol, natural and synthetic (other than racemic)	Brazil.
Silk, piece goods, tussah and muga	None.
Silk, tussah and muga	None.
Tea, Chinese type	Formosa.
Tung oil	Argentina, Brazil, Paraguay.
Walnuts	France, Iran, Italy, Turkey.

§ 18–6.401–4 Certain supplies from Hong Kong, Macao, and Soviet-controlled areas.

The following supplies, however processed, which are or were located in or transported from or through Hong Kong, Macao, or any Soviet-controlled area (see § 18–6.401–2), shall be presumed to have originated from Soviet-controlled (Chinese) sources, and shall not be acquired for public use unless such supplies have been lawfully imported into the United States, its possessions, or Puerto Rico:

Agar-agar.
Bamboo:
  Bags, baskets, and other manufactures, excluding furniture.
  Poles and sticks.
Brocades and brocade articles.
Camphor, natural and synthetic.
Camphor oil, natural and synthetic.
Carpets.
Castor oil.
Chinaware, other than Dresden ware and Meissen ware.
Citronella oil.
Cotton manufactures.
Cotton waste.
Earthenware.
Edible marine products.
Embroideries and embroidered articles.
Feather manufactures.
Glass, sheet (window).
Graphite.
Hair nets, regardless of the material from which made.
Handkerchiefs.
Hardware manufactures, including furniture other than bentwood furniture.
Hats, paper.
Honey.
Ivory manufactures.
Lace and lace articles.
Linen manufactures, excluding wearing apparel other than wearing apparel made in whole or in part of brocade, embroidery, or lace.
Ores and metals:
  Antimony.
  Bismuth.
  Quicksilver.
  Molybdenum.
  Tin.
  Tungsten.
Peanuts and peanut products.
Poultry, including pigeons, frozen or otherwise prepared or preserved.
Ramie.
Rugs.
Sea-grass and straw manufactures, excluding floor covering.
Sesame, oil and seed.
Shoes, leather-soled with non-leather upper, except ladies' high-heel shoes.
Silk:
  Raw and manufactures other than Western style suits and Indian saris.
  Waste.
Skins, deer and goat.
Stones, semiprecious, and manufacture thereof, including jewelry.
Tapestries, including needlework tapestries.
Tapioca, including tapioca flour.

§ 18–6.401–5 Supplies from North Korea or China.

All supplies, however processed, which are or were located in or transported from or through North Korea or China (as described in § 18–6.401–2) shall be presumed to have originated from Soviet-controlled (Chinese) sources, and shall not be acquired for public use unless such supplies have been lawfully imported into the United States, its possessions, or Puerto Rico.

§ 18–6.402 Exceptions.

(a) Exceptions from the general policy will be made only in accordance with paragraphs (b) and (c) of this section. Moreover, such exceptions shall be made only in cases of emergency, or where supplies are not available from any other source and a substitute supply is not acceptable, or in other unusual situations.

(b) Supplies other than those whose procurement is prohibited by §§ 18–6.401–3, 18–6.401–4, and 18–6.401–5, originating from sources within Soviet-controlled areas (see § 18–6.401–2), may be procured only when:

(1) The purchase is for $2,500 or less and the contracting officer determines there is a need for an exception in accordance with the procedures set forth in paragraphs (d) (1) (i) or (2) (i) of this section; or

(2) The purchase is for more than $2,500 and an exception is approved by the Administrator in accordance with the procedures set forth in paragraph (d) (1) (ii) or (2) (ii) of this section.

(c) Supplies whose procurement is prohibited by §§ 18–6.401–3, 18–6.401–4,

and 18–6.401–5 may be acquired if the acquisition is approved by an authorized Treasury Department representative. Where a request for such approval has been denied by a Treasury Department representative, an appeal may be made by the Administrator to the Secretary of the Treasury when unusual circumstances appear to warrant a departure from the general policy. Such appeals, with all pertinent information, shall be submitted through the Office of Procurement (Code KDR).

(d) *Procedures.* (1) When it is proposed to procure supplies originating from sources within Soviet-controlled areas for public use within the United States (as defined in § 18–6.101(c)), or when a construction contractor proposes to use such supplies in the performance of a contract for construction within the United States (as defined in § 18–6.201–1), the following procedures shall be followed:

(i) If the proposed procurement of such supplies does not exceed $2,500, the contracting officer shall make a determination of nonavailability, as authorized in § 18–6.103–2 or § 18–6.203–1. This determination shall include, in addition to the findings outlined in the determination format set forth in § 18–6.103–2(c), a finding to the effect that there is no known item or items from sources within non-Soviet-controlled areas which can be used as a reasonable substitute. Such determination shall be made a part of the contract file.

(ii) If the proposed procurement of such supplies exceeds $2,500, the contracting officer shall prepare a determination of nonavailability for signature by the Administrator. The format of the determination set forth in § 18–6.103–2(c) shall be used and such determination shall include, as an additional finding, a statement to the effect that there is no known item or items from sources within non-Soviet-controlled areas which can be used as a reasonable substitute. Such determination shall be forwarded, in triplicate, to the Office of Procurement.

(2) When it is proposed to procure supplies originating from sources within Soviet-controlled areas for public use elsewhere than within the United States (as defined in § 18–6101(c)), or when a construction contractor proposes to use such supplies in the performance of a contract for construction elsewhere than within the United States, the following procedures shall be followed:

(i) If the proposed procurement of such supplies does not exceed $2,500, the contracting officer shall make a written finding setting forth the unusual situation, such as an emergency or the nonavailability of acceptable substitute supplies of domestic or non-Soviet-controlled area origin, which justifies the procurement of supplies originating in a Soviet-controlled area. Such finding shall be made a part of the contract file.

(ii) If the proposed procurement of such supplies exceeds $2,500, the contracting officer shall make a written finding, as described in subdivision (i) of this subparagraph. Such finding shall be forwarded, in triplicate, to the Office of Procurement for approval by the Administrator of the exception authorizing the proposed procurement.

§ 18–6.403 Contract clause.

(a) Except as provided in paragraph (b) of this section, in contracts for supplies, services, or construction, where acceptance is to take place outside the United States, its possessions, or Puerto Rico, the Soviet-controlled areas listed in § 18–6.401–2 shall be set forth in the contract schedule and the following clause shall be included in the contract:

SOVIET-CONTROLLED AREAS (SEPTEMBER 1962)

(a) The Contractor shall not acquire for use in the performance of this contract any supplies or services originating from sources within Soviet-controlled areas, as listed in the Schedule of this contract, or transported from or through Hong Kong or Macao, without the written approval of the Contracting Officer.

(b) The Contractor agrees to insert the provisions of this clause, including this subparagraph (b) and the Soviet-controlled areas listed in the Schedule, in all subcontracts hereunder.

(b) The requirements of paragraph (a) of this section do not apply to purchase orders for small purchases (see Subpart 18–3.6) when there is other reasonable assurance of compliance with the policy set forth in this subpart.

Subpart 18–6.6—Duty and Customs

§ 18–6.601 Duties and customs on foreign purchases.

Ordinarily, duty must be paid in connection with the importation of supplies purchased by NASA outside the United States as provided in the tariff schedules set forth in 19 U.S.C. 1202 (Public Law 87–456, title III, sec. 303(c), approved May 24, 1962; 76 Stat. 78). However, many items are listed in the schedules as being duty-free. Schedule 8 of § 1202 is specifically directed to items which may be imported duty-free under conditions set forth in connection with the various items listed therein. Particular attention is invited to the following authorized exemptions:

(a) Item 832 of Part 3 of Schedule 8 provides that "emergency war materials purchased abroad" may be imported duty-free upon certification by the Military Departments to the Commissioner of Customs. Accordingly, when a Military Department makes a purchase on behalf of NASA, or when NASA is making a purchase for a Military Department, the above duty-free exemption authority shall be used to the maximum extent practicable. The policies and procedures for effecting duty-free entry of such materials are set forth in ASPR, section VI, Part 6;

(b) Item 864.30 of Part 5, Schedule 8 provides for the duty-free exemption of "articles intended solely for testing, experimental or review purposes including plans, specifications, drawings, photographs, and similar articles for use in connection with experimental study" subject to the limitations set forth in headnote 1, under Item 862.20 of Part 5, Schedule 8; and

(c) Certain supplies (not including equipment) for vessels or aircraft operated by the United States are exempt from duty under 19 U.S.C. 1309.

Subpart 18–6.7—Foreign Contract Procurement

§ 18–6.700 Scope of subpart.

This subpart prescribes policy and procedures relating to the negotiation of foreign contracts.

§ 18–6.701 Definition of foreign contract procurement.

The term "foreign contract procurement" as used in this subpart means the procurement by negotiation of supplies or services, including construction work and contracts for research and development, where the work is to be performed outside the United States, its possessions, and the Commonwealth of Puerto Rico, by a foreign government or instrumentality thereof, or a foreign private contractor. The term does not include the following:

(a) Negotiation of government-to-government agreements;

(b) Negotiation of contracts with domestic concerns which involves work to be performed outside the United States, its possessions, and the Commonwealth of Puerto Rico;

(c) Contracts with the Canadian Commercial Corporation pursuant to Basic Agreement No. NASw–301; or

(d) Procurement of books and periodicals from foreign sources of supply.

§ 18–6.702 Policy.

Foreign contract procurement is a specialized area which often requires involved negotiation with instrumentalities of foreign governments. Some of the requirements for contract clauses imposed by the United States laws conflict with statutory prohibitions imposed by foreign countries. The resolution of these issues generally involves close coordination between the Office of International Affairs and the Office of General Counsel, NASA Headquarters, and the Department of State. Accordingly, it is the policy of NASA that the responsibility for foreign contract procurement be centralized at NASA Headquarters.

§ 18–6.703 Assignment of responsibility for contract negotiation.

The Headquarters Contracts Division (Code DHC) in conjunction with the Offices of International Programs and General Counsel is responsible for negotiating and executing contracts with foreign governments and private foreign organizations. This assignment of responsibility is specifically limited to foreign contract procurement, as defined in § 18–6.701.

§ 18–6.704 Procedure.

A Headquarters or field installation technical office requiring a foreign contract procurement to be made will submit a properly approved Purchase Request (NASA Form 404 or similar form), through channels, to the Headquarters Contracts Division, NASA Headquarters (Code DHC), for procurement action. In accordance with § 18–7.000, contract forms and clauses to be used in foreign contract procurement will be as prescribed on a case-by-case basis by the Director of Procurement.

§ 18–6.705 Assignment of contract administration.

(a) *General.* Assignment of contract administration responsibility will be made by agreement between the initiating office and the Headquarters Contracts Division. Since principal responsibility for the monitoring of contractor progress and performance generally rests with a field installation, the Headquarters Contracts Division normally will designate the procurement officer of the cognizant field installation as his authorized representative for purposes of contract administration.

(b) *Contracts performed in Canada.* (1) When, in accordance with the provisions of Subpart 18–51.3, contract administration and related support service functions of the Defense Contract Administration Services are desired on a contract to be performed in Canada (whether placed with Canadian Commercial Corporation or direct with a Canadian firm), a letter of delegation shall be issued to:

Defense Contract Administration Services Office, Ottawa, 128 Slater Street, MacDonald Building, Ottawa 4, Ontario, Canada.

(2) In order that DCASO, Ottawa may utilize the capabilities of the Canadian Government agencies in the performance of contract administration services functions, each letter of delegation shall provide that the DCASO, Ottawa is delegated authority to act as the Contracting Officer's representative with power of further delegation for the performance of the requested services.

(3) A copy of each letter of delegation issued to the DCASO, Ottawa shall be furnished:

NASA/DCASR Representative, Defense Contract Administration Services Region, Detroit, 1580 East Grand Boulevard, Detroit, Mich. 48211.

§ 18–6.706 Contacts with foreign nationals.

(a) Proposals by NASA staff members which involve program or contract possibilities with foreign nationals shall be coordinated with the Office of International Affairs, NASA Headquarters, before any contacts are made with foreign nationals.

(b) Informal discussions between NASA staff members and foreign nationals could give rise to expectations concerning program or contract possibilities which are not supported by program requirements. Such situations must be avoided to preclude possible embarrassment to the United States, as well as to NASA.

(c) Requests or offers by foreign nationals to NASA staff members on program or contract matters shall be reported promptly to the Office of International Affairs.

Subpart 18–6.8—Balance of Payments Programs—Offshore Procurement

§ 18–6.801 Use of excess foreign currencies.

It is the policy of NASA to utilize all possible actions to minimize payments and maximize receipts entering into the balance of payments. In carrying out this policy, procurement offices should to the maximum extent practicable ensure that contracts and other obligations incurred in the countries named below are made payable in foreign currencies rather than U.S. dollars. The expenditure, in these countries, of foreign currencies rather than U.S. dollars provides a saving in the budget and improves the balance of payments situation. In the following countries the Treasury Department has determined that our supply of currencies is to be considered excess to our normal requirements:

Burma.	Tunisia.
India.	United Arab Republic (Egypt).
Israel.	Yugoslavia.
Pakistan.	Ceylon.
Poland.	
Guinea.	

§ 18–6.801–1 Excess currencies, fiscal year 1968.

It is expected that currencies of the countries listed above will continue to be designated as excess to our normal requirements for fiscal year 1968. In addition, it is also expected that Brazil will be designated as an excess currency country upon the signing of the contemplated sixth agreement under Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480).

§ 18–6.801–2 Obligations incurred in excess currency countries.

NASA procurement offices should establish procedures to ensure that contracts and other obligations incurred in the countries named above are made payable in foreign currencies rather than in U.S. dollars, no matter what appropriation or fund is to be used for payment. This should include contracts with American contractors, to the extent that the contractor may be expected to require such currencies for necessary expenses in the country involved.

§ 18–6.801–3 Obligations incurred in certain additional countries.

In addition to the countries named above, the supply of currencies available for U.S. programs in the following countries, although in no case sufficient to be declared an excess currency country, is above our immediate needs:

Taiwan.	Uruguay.
Colombia.	Syria.
Finland.	Brazil.
Morocco.	Congo (Leopoldville).
Indonesia.	Sudan.
Turkey.	

A special effort should be made to make sure that contracts and other obligations incurred in these countries are also made payable in foreign currencies rather than U.S. dollars, whenever possible, in the same manner as for the excess currency countries.

PART 18–7—CONTRACT CLAUSES

Sec.
18–7.000 Scope of part.

Subpart 18–7.1—Clauses for Fixed-Price Supply Contracts

18–7.100 Scope of subpart.
18–7.102 Applicability.
18–7.103 Required clauses.
18–7.103–1 Definitions.
18–7.103–2 Changes.
18–7.103–3 Extras.
18–7.103–4 Variation in quantity.
18–7.103–5 Inspection.
18–7.103–6 Responsibility for supplies.
18–7.103–7 Payments.
18–7.103–8 Assignment of claims.
18–7.103–9 Additional bond security.
18–7.103–10 Federal, State, and local taxes.
18–7.103–11 Default.
18–7.103–12 Disputes.
18–7.103–13 Renegotiation.
18–7.103–17 Walsh-Healy Public Contracts Act.
18–7.103–18 Equal opportunity.
18–7.103–19 Officials not to benefit.
18–7.103–20 Covenant against contingent fees.
18–7.103–21 Termination for convenience of the Government.
18–7.103–22 Authorization and consent.
18–7.103–23 Notice and assistance regarding patent and copyright infringement.
18–7.103–53 Interest.
18–7.104 Clauses required to be used when applicable.
18–7.104–1 Clauses for contracts involving construction work.
18–7.104–2 Soviet-controlled areas.
18–7.104–3 Buy American Act.
18–7.104–4 Notice to the Government of labor disputes.
18–7.104–5 Patent indemnity.
18–7.104–6 Filing of patent applications.
18–7.104–7 New technology.
18–7.104–9 Rights in data.
18–7.104–10 Ground and flight risk.
18–7.104–12 Security requirements.
18–7.104–14 Utilization of small business concerns.
18–7.104–15 Examination of records.
18–7.104–17 Convict labor.
18–7.104–18 Priorities, allocations, and allotments.
18–7.104–20 Utilization of concerns in labor surplus areas.
18–7.104–21 Limitation on withholding of payments.
18–7.104–22 Small business subcontracting program.
18–7.104–23 Subcontracts.
18–7.104–24 Government-furnished property.
18–7.104–25 Special tooling.
18–7.104–26 Changes to make-or-buy program.
18–7.104–27 Payment for overtime and shift premiums.
18–7.104–35 Progress payments.
18–7.104–36 Preference for U.S.-flag air and ocean services.
18–7.104–38 Labor surplus area subcontracting program.
18–7.104–40 Competition in subcontracting.
18–7.104–41 Contractor and subcontractor cost or pricing data.
18–7.104–42 Audit and records.
18–7.104–50 Data requirements.
18–7.104–51 Approval of contract.
18–7.104–56 Order of precedence.
18–7.104–57 Liability for Government property furnished for repair or other services.
18–7.104–58 Safety and health.
18–7.104–59 Nonuse of foreign-flag vessels engaged in Cuban trade or North Vietnam trade.
18–7.104–60 Report on NASA subcontracts.
18–7.104–61 Rights in data for potentially hazardous items.
18–7.104–62 Potentially hazardous items.
18–7.104–63 Disclosure of unsolicited proposals outside of Government.
18–7.105 Additional clauses.
18–7.105–1 Alterations in contract.
18–7.105–5 Liquidated damages.
18–7.105–6 Bill of materials.
18–7.105–8 Stop work orders.
18–7.105–55 Commercial warranty.
18–7.105–56 Guaranty.
18–7.106 Price escalation clauses (established prices).
18–7.106–1 Escalation clause for basic steel, aluminum, brass, bronze, or copper mill products.
18–7.106–2 Escalation clause for nonstandard steel items.
18–7.106–3 Escalation clause for standard supplies.
18–7.106–4 Escalation clause for semistandard supplies.
18–7.107 Price escalation clause (labor and material).
18–7.108 Incentive price revision clause.
18–7.109 Price redetermination clauses.
18–7.109–1 General.
18–7.109–2 Prospective periodic price redetermination at stated intervals.
18–7.109–4 Retroactive price redetermination after completion.

Subpart 18–7.2—Clauses for Cost-Reimbursement Type Supply Contracts

18–7.200 Scope of subpart.
18–7.202 Applicability.
18–7.203 Required clauses.

Sec.
18–7.203–1 Definitions.
18–7.203–2 Changes.
18–7.203–3 Limitation of cost.
18–7.203–4 Allowable cost, fixed fee and payment.
18–7.203–5 Inspection of supplies and correction of defects.
18–7.203–6 Assignment of claims.
18–7.203–7 Records.
18–7.203–8 Subcontracts.
18–7.203–9 Utilization of small business concerns.
18–7.203–10 Termination.
18–7.203–11 Excusable delays.
18–7.203–12 Disputes.
18–7.203–13 Renegotiation.
18–7.203–15 Convict labor.
18–7.203–16 Contract Work Hours Standards Act—Overtime compensation.
18–7.203–17 Walsh-Healy Public Contracts Act.
18–7.203–18 Equal opportunity.
18–7.203–19 Officials not to benefit.
18–7.203–20 Covenant against contingent fees.
18–7.203–21 Government property.
18–7.203–22 Insurance—liability to third persons.
18–7.203–23 Authorization and consent.
18–7.203–24 Notice and assistance regarding patent and copywrite infringement.
18–7.203–26 Utilization of concerns in labor surplus areas.
18–7.203–27 Payment for overtime and shift premiums.
18–7.203–28 Competition in subcontracting.
18–7.203–29 Audit and records.
18–7.203–50 Payment of royalties.
18–7.203–51 Estimated cost and fixed fee.
18–7.203–52 Payment of fixed fee.
18–7.203–53 Interest.
18–7.204 Clauses required to be used when applicable.
18–7.204–1 Clauses for contracts involving construction work.
18–7.204–2 Soviet-controlled areas.
18–7.204–3 Buy American Act.
18–7.204–4 Notice to the Government of labor disputes.
18–7.204–6 Filing of patent applications.
18–7.204–7 New technology.
18–7.204–9 Rights in data.
18–7.204–12 Security requirements.
18–7.204–15 Priorities, allocations, and allotments.
18–7.204–16 Negotiated overhead rates.
18–7.204–18 Limitation on withholding of payments.
18–7.204–19 Small business subcontracting program.
18–7.204–20 Changes to make-or-buy program.
18–7.204–21 Flight risks.
18–7.204–26 Preference for U.S.-flag air and ocean services.
18–7.204–28 GSA supply sources.
18–7.204–30 Contractor and subcontractor cost or pricing data.
18–7.204–31 Scientific and technical information service.
18–7.204–50 Data requirements.
18–7.204–51 Approval of contract.
18–7.204–53 Limitation of Government's obligation.
18–7.204–55 NASA PERT System.
18–7.204–56 NASA financial management reporting.
18–7.204–58 Safety and health.
18–7.204–59 Nonuse of foreign-flag vessels engaged in Cuban trade.
18–7.204–60 Report on NASA subcontracts.
18–7.204–61 Rights in data for potentially hazardous items.
18–7.204–62 Potentially hazardous items.
18–7.204–63 Disclosure of unsolicited proposals outside of government.
18–7.205 Additional clauses.
18–7.205–1 Alterations in contract.
18–7.205–4 Bill of materials.
18–7.205–5 Federal, State, and local taxes.
18–7.205–50 Notice of delay.
18–7.205–51 Program progress reports.
18–7.205–52 Date of incurrence of costs.
18–7.205–53 Contractor's independent research program.
18–7.205–54 Reports of work.

Subpart 18–7.3—Clauses for Fixed-Price Research and Development Contracts

18–7.300 Scope of subpart.
18–7.301 Applicability.
18–7.302 Required clauses.
18–7.302–1 Definitions.
18–7.302–2 Payments.
18–7.302–3 Standards of work.
18–7.302–4 Inspection.
18–7.302–5 Assignments of claims.
18–7.302–6 Examination of records.
18–7.302–7 Federal, State, and local taxes.
18–7.302–8 Utilization of small business concerns.
18–7.302–9 Default.
18–7.302–10 Termination for the convenience of the Government.
18–7.302–11 Disputes.
18–7.302–12 Renegotiation.
18–7.302–13 Buy American Act.
18–7.302–14 Convict labor.
18–7.302–15 Walsh-Healey Public Contracts Act.
18–7.302–16 Contract Work Hours Standards Act—Overtime compensation.
18–7.302–17 Equal opportunity.
18–7.302–18 Officials not to benefit.
18–7.302–19 Covenant against contingent fees.
18–7.302–21 Authorization and consent.
18–7.302–22 Notice and assistance regarding patent and copyright infringement.
18–7.302–23 New technology or property rights in inventions.
18–7.302–24 Rights in data.
18–7.302–25 Security requirements.
18–7.302–26 Utilization of concerns in labor surplus areas.
18–7.302–53 Interest.
18–7.302–54 Reports of work.
18–7.302–55 Scientific and technical information service.
18–7.303 Clauses required to be used when applicable.
18–7.303–1 Clauses for contracts involving construction work.
18–7.303–2 Filing of patent applications.
18–7.303–6 Priorities, allocations, and allotments.
18–7.303–7 Government-furnished property.
18–7.303–8 Soviet-controlled areas.
18–7.303–9 Notice to the Government of labor disputes.
18–7.303–10 Limitation on withholding of payments.
18–7.303–11 Small business subcontracting program.
18–7.303–12 Subcontracts.
18–7.303–13 Changes to make-or-buy program.
18–7.303–14 Payment for overtime and shift premiums.
18–7.303–17 Ground and flight risk.
18–7.303–23 Progress payments.
18–7.303–25 Labor surplus area subcontracting program.
18–7.303–27 Competition in subcontracting.
18–7.303–28 Contractor and subcontractor cost or pricing data.
18–7.303–29 Audit and records.
18–7.303–50 Data requirements.
18–7.303–51 Approval of contract.
18–7.303–52 Preference for U.S.-flag air and ocean services.
18–7.303–54 Materials reports.
18–7.303–55 NASA PERT System.
18–7.303–56 NASA financial management reporting.
18–7.303–57 Key personnel and facilities.
18–7.303–58 Safety and health.
18–7.303–59 Nonuse of foreign-flag vessels engaged in Cuban trade.
18–7.303–60 Report on NASA subcontracts.
18–7.303–61 Rights in data for potentially hazardous items.
18–7.303–62 Potentially hazardous items.
18–7.303–63 Disclosure of proposals outside government.
18–7.304 Additional Clauses.
18–7.304–1 Changes.
18–7.304–2 Alterations in contract.
18–7.304–4 Bill of materials.
18–7.304–50 Notice of delay.
18–7.304–51 Program progress reports.
18–7.304–59 Price escalation.
18–7.304–60 Incentive price revision.
18–7.304–61 Special tooling.
18–7.350 Short form clauses for fixed-price research contracts with nonprofit institutions.
18–7.350–1 Definitions.
18–7.350–2 Payment.
18–7.350–3 Technical reports and data.
18–7.350–4 Government-furnished property.
18–7.350–5 Release of information.
18–7.350–6 Security.
18–7.350–7 Property rights in inventions.
18–7.350–8 Disputes.
18–7.350–9 Termination at the option of the Government.
18–7.350–10 Authorization and consent.
18–7.350–11 Notice and assistance regarding patent and copyright infringement.
18–7.350–12 Buy American Act.
18–7.350–13 Examination of records.
18–7.350–14 Equal opportunity.
18–7.350–15 Covenant against contingent fees.
18–7.350–16 Officials not to benefit.
18–7.350–17 Convict labor.
18–7.350–18 Audit and records.
18–7.350–19 Additional clauses.

Subpart 18–7.4—Clauses for Cost-Reimbursement Type Research and Development Contracts

18–7.400 Scope of subpart.
18–7.401 Applicability.
18–7.402 Required clauses for contracts with fee.
18–7.402–1 Definitions.
18–7.402–2 Limitation of cost.
18–7.402–3 Allowable cost, fixed fee and payment.
18–7.402–4 Standards of work.
18–7.402–5 Inspection and correction of defects.
18–7.402–6 Assignment of claims.
18–7.402–7 Records.
18–7.402–8 Subcontracts.
18–7.402–9 Utilization of small business concerns.
18–7.402–10 Termination.
18–7.402–11 Disputes.
18–7.402–12 Renegotiation.
18–7.402–13 Buy American Act.
18–7.402–14 Convict labor.
18–7.402–15 Walsh-Healey Public Contracts Act.
18–7.402–16 Contract Work Hours Standards Act—Overtime compensation.
18–7.402–17 Equal opportunity.
18–7.402–18 Officials not to benefit.

Sec.
18–7.402–19 Covenant against contingent fees.
18–7.402–20 Authorization and consent.
18–7.402–21 Notice and assistance regarding patent and copyright infringement.
18–7.402–22 New technology.
18–7.402–23 Rights in data.
18–7.402–24 Security requirements.
18–7.402–25 Government property.
18–7.402–26 Insurance—liability to third persons.
18–7.402–27 Utilization of concerns in labor surplus areas.
18–7.402–28 Payment for overtime and shift premiums.
18–7.402–29 Competition in subcontracting.
18–7.402–30 Audit and records.
18–7.402–50 Payment of royalties.
18–7.402–51 Estimated cost and fixed fee.
18–7.402–52 Payment of fixed fee.
18–7.402–53 Interest.
18–7.402–54 Reports of work.
18–7.402–55 Scientific and technical information service.
18–7.403 Clauses required to be used when applicable.
18–7.403–1 Clauses for contracts involving construction work.
18–7.403–2 Filing of patent applications.
18–7.403–6 Excusable delays.
18–7.403–7 Priorities, allocations, and allotments.
18–7.403–8 Soviet-controlled areas.
18–7.403–9 Negotiated overhead rates.
18–7.403–10 Notice to the Government of labor disputes.
18–7.403–11 Contractor and subcontractor cost or pricing data.
18–7.403–12 Limitation on withholding of payments.
18–7.403–13 Small business subcontracting program.
18–7.403–14 Changes to make-or-buy program.
18–7.403–16 Flight risks.
18–7.403–23 GSA supply sources.
18–7.403–24 Labor surplus area subcontracting program.
18–7.403–50 Data requirements.
18–7.403–51 Approval of contract.
18–7.403–52 Preference for U.S. flag air and ocean services.
18–7.403–53 Limitation of Government's obligation.
18–7.403–54 Materials reports.
18–7.403–55 NASA PERT system.
18–7.403–56 Financial management reporting.
18–7.403–57 Key personnel and facilities.
18–7.403–58 Safety and health.
18–7.403–59 Nonuse of foreign-flag vessels engaged in Cuban trade.
18–7.403–60 Report on NASA subcontracts.
18–7.403–61 Rights in data for potentially hazardous items.
18–7.403–62 Potentially hazardous items.
18–7.403–63 Disclosure of unsolicited proposals outside of government.
18–7.404 Additional clauses.
18–7.404–1 Changes.
18–7.404–2 Alterations in contract.
18–7.404–4 Bills of materials.
18–7.404–5 Stop work orders.
18–7.404–51 Program progress reports.
18–7.404–52 Date of incurrence of costs.
18–7.404–53 Contractor's independent research program.
18–7.404–57 Federal, State, and local taxes.
18–7.450 Clauses for Cost-Reimbursement Research and Development Contracts With Nonprofit Institutions (Including Educational Institutions).
18–7.450–1 Applicability.
18–7.451 Required clauses.
18–7.451–1 Definitions.
18–7.451–2 Limitation of cost.
18–7.451–3 Allowable cost and payment.
18–7.451–4 Standards of work.
18–7.451–5 Inspection.
18–7.451–6 Assignment of claims.
18–7.451–7 Records.
18–7.451–8 Subcontracts.
18–7.451–9 Utilization of small business concerns.
18–7.451–10 Termination for the convenience of the Government.
18–7.451–11 Disputes.
18–7.451–12 Renegotiation.
18–7.451–13 Buy American Act.
18–7.451–14 Convict labor.
18–7.451–15 Walsh-Healey Public Contracts Act.
18–7.451–16 Contract Work Hours Standards Act—Overtime compensation.
18–7.451–17 Equal opportunity.
18–7.451–18 Officials not to benefit.
18–7.451–19 Covenant against contingent fees.
18–7.451–20 Authorization and consent.
18–7.451–21 Notice and assistance regarding patent and copyright infringement.
18–7.451–22 New technology or property rights in inventions.
18–7.451–23 Rights in data.
18–7.451–24 Security requirements.
18–7.451–25 Government property.
18–7.451–26 Insurance liability to third persons.
18–7.451–27 Utilization of concerns in labor surplus areas.
18–7.451–28 Payment of overtime and shift premiums.
18–7.451–29 Competition in subcontracting.
18–7.451–30 Audit and records.
18–7.451–50 Payment of royalties.
18–7.451–51 Estimated cost.
18–7.451–54 Reports of work.
18–7.451–55 Scientific and technical information service.
18–7.452 Clauses required to be used when applicable.
18–7.452–1 Clauses for contracts involving construction work.
18–7.452–2 Filing of patent applications.
18–7.452–7 Priorities, allocations, and allotments.
18–7.452–8 Soviet-controlled areas.
18–7.452–9 Negotiated overhead rates.
18–7.452–10 Notice to the Government of labor disputes.
18–7.452–11 Contractor and subcontractor cost of pricing data.
18–7.452–12 Limitation on withholding of payments.
18–7.452–13 Small business subcontracting program.
18–7.452–14 Changes to make-or-buy program.
18–7.452–23 GSA supply sources.
18–7.452–24 Labor surplus area subcontracting program.
18–7.452–50 Data requirements.
18–7.452–51 Approval of contract.
18–7.452–52 Preference for U.S. flag, air and ocean services.
18–7.452–53 Limitation of Government's obligation.
18–7.452–54 Materials reports.
18–7.452–55 NASA PERT System.
18–7.452–56 NASA financial management reporting.
18–7.452–57 Key personnel and facilities.
18–7.452–58 Safety and health.
18–7.452–59 Nonuse of foreign-flag vessels engaged in Cuban trade.
18–7.452–60 Report on NASA subcontracts.
18–7.452–61 Rights in data for potentially hazardous items.
18–7.452–62 Potentially hazardous items.
18–7.452–63 Disclosure of unsolicited proposals outside of government.
18–7.453 Additional clauses.
18–7.453–1 Changes.
18–7.453–2 Alterations in contract.
18–7.453–4 Bill of materials.
18–7.453–50 Notice of delay.
18–7.453–51 Program progress reports.
18–7.453–52 Date of incurrence of costs.
18–7.453–53 Contractor's independent research program.
18–7.453–57 Federal, State, and local taxes.
18–7.453–58 Excusable delays.
18–7.460 Short Form Clauses for Cost-Reimbursement Type Research Contract With Nonprofit Institutions (Including Educational Institutions).
18–7.460–1 Definitions.
18–7.460–2 Limitation of cost—allowable cost and payment.
18–7.460–3 Government property.
18–7.460–4 Subcontracts.
18–7.460–5 Insurance—liability to third persons.
18–7.460–6 Records.
18–7.460–7 Release of information.
18–7.460–8 Property rights in inventions.
18–7.460–9 Data and inspection.
18–7.460–10 Authorization and consent.
18–7.460–11 Notice and assistance regarding patent and copyright infringement.
18–7.460–12 Security.
18–7.460–13 Disputes.
18–7.460–14 Termination.
18–7.460–15 Buy American Act.
18–7.460–16 Equal opportunity.
18–7.460–17 Covenant against contingent fees.
18–7.460–18 Officials not to benefit.
18–7.460–19 Convict labor.
18–7.460–20 Audit and records.
18–7.461 Additional clauses.

Subpart 18–7.5—Clauses for Personal Services Contracts [Reserved]

Subpart 18–7.7—Clauses for Facilities Contracts

18–7.701 Applicability.
18–7.702 Required clauses for facilities acquisition contracts.
18–7.702–1 Definitions.
18–7.702–2 Representations and warranties.
18–7.702–3 Inspection.
18–7.702–4 Government bills of lading.
18–7.702–5 Limitation of cost.
18–7.702–6 Records.
18–7.702–7 Title.
18–7.702–8 Access.
18–7.702–9 Liability for the facilities.
18–7.702–10 Indemnification of the Government.
18–7.702–11 Failure to perform.
18–7.702–12 Disputes.
18–7.702–13 Security requirements.
18–7.702–14 Assignment of claims.
18–7.702–15 Officials not to benefit.
18–7.702–16 Covenant against contingent fees.
18–7.702–17 Payment for overtime and shift premiums.
18–7.702–18 Convict labor.
18–7.702–19 Equal opportunity.
18–7.702–20 Contract Work Hours Standards Act—Overtime compensation.
18–7.702–21 Interest.
18–7.702–22 Supersedure.
18–7.702–23 Competition in subcontracting.
18–7.702–24 Facilities to be provided.
18–7.702–25 Late delivery, diversion, and substitution.
18–7.702–26 Changes.
18–7.702–27 Excusable delays.

Sec.
18–7.702–28 Allowable cost and payment.
18–7.702–29 Insurance—liability to third persons.
18–7.702–30 Stop work orders.
18–7.702–31 Termination of work.
18–7.702–32 Authorization and consent.
18–7.702–33 Notice and assistance regarding patent and copyright infringement.
18–7.702–34 License for subsequent use.
18–7.702–35 Subcontracts.
18–7.702–36 Small business subcontracting program.
18–7.702–37 Utilization of concerns in labor surplus areas.
18–7.702–38 Buy American Act.
18–7.702–39 Renegotiation.
18–7.702–40 Notice to the Government of labor disputes.
18–7.702–41 Walsh-Healey Public Contracts Act.
18–7.702–42 GSA supply sources.
18–7.702–43 Limitation on withholding of payments.
18–7.702–44 Utilization of small business concerns.
18–7.702–45 Payment of royalties.
18–7.702–46 Audit and records.
18–7.703 Required clauses for facilities use contracts.
18–7.703–1 Definitions.
18–7.703–2 Representations and warranties.
18–7.703–3 Inspection.
18–7.703–4 Government bills of lading.
18–7.703–5 Limitation of cost.
18–7.703–6 Records.
18–7.703–7 Title.
18–7.703–8 Access.
18–7.703–9 Liability for the facilities.
18–7.703–10 Indemnification of the Government.
18–7.703–11 Failure to perform.
18–7.703–12 Disputes.
18–7.703–13 Security requirements.
18–7.703–14 Assignment of claims.
18–7.703–15 Officials not to benefit.
18–7.703–16 Covenant against contingent fees.
18–7.703–17 Payment for overtime and shift premiums.
18–7.703–18 Convict labor.
18–7.703–19 Equal opportunity.
18–7.703–20 Contract Work Hours Standards Act—Overtime compensation.
18–7.703–21 Interest.
18–7.703–22 Supersedure.
18–7.703–23 Competition in subcontracting.
18–7.703–24 Use and charges.
18–7.703–25 Costs and payment.
18–7.703–26 Location of the facilities.
18–7.703–27 Maintenance.
18–7.703–28 Property control.
18–7.703–29 Notice of use of the facilities.
18–7.703–30 Period of this contract.
18–7.703–31 Termination of the use of the facilities.
18–7.703–32 Disposition of the facilities.
18–7.703–33 Property reporting.
18–7.703–34 Audit and records.
18–7.704 Required clauses for consolidated facilities contracts.
18–7.704–1 Definitions.
18–7.704–2 Representations and warranties.
18–7.704–3 Inspection.
18–7.704–4 Government bills of lading.
18–7.704–5 Limitation of cost.
18–7.704–6 Records.
18–7.704–7 Title.
18–7.704–8 Access.
18–7.704–9 Liability for the facilities.
18–7.704–10 Indemnification of the Government.
18–7.704–11 Failure to perform.
18–7.704–12 Disputes.
18–7.704–13 Security requirements.
18–7.704–14 Assignment of claims.
18–7.704–15 Officials not to benefit.
18–7.704–16 Covenant against contingent fees.
18–7.704–17 Payment for overtime and shift premiums.
18–7.704–18 Convict labor.
18–7.704–19 Equal opportunity.
18–7.704–20 Contract Work Hours Standards Act—Overtime compensation.
18–7.704–21 Interest.
18–7.704–22 Supersedure.
18–7.704–23 Competition in subcontracting.
18–7.704–24 Facilities to be provided.
18–7.704–25 Late delivery, diversion, and substitution.
18–7.704–26 Changes.
18–7.704–27 Excusable delays.
18–7.704–28 Allowable cost and payment.
18–7.704–29 Insurance—liability to third persons.
18–7.704–30 Stop work orders.
18–7.704–31 Termination of work.
18–7.704–32 Authorization and consent.
18–7.704–33 Notice and assistance regarding patent and copyright infringement.
18–7.704–34 License for subsequent use.
18–7.704–35 Subcontracts.
18–7.704–36 Small business subcontracting program.
18–7.704–37 Utilization of concerns in labor surplus areas.
18–7.704–38 Buy American Act.
18–7.704–39 Renegotiation.
18–7.704–40 Notice to the Government of labor disputes.
18–7.704–41 Walsh-Healey Public Contracts Act.
18–7.704–42 GSA supply sources.
18–7.704–43 Limitation on withholding of payments.
18–7.704–44 Utilization of small business concerns.
18–7.704–45 Payment of royalties.
18–7.704–46 Use and charges.
18–7.704–47 Location of the facilities.
18–7.704–48 Maintenance.
18–7.704–49 Property control.
18–7.704–50 Notice of use of the facilities.
18–7.704–51 Terminitation of use of the facilities.
18–7.704–52 Period of this contract.
18–7.704–53 Disposition of the facilities.
18–7.704–54 Property reporting.
18–7.704–55 Audit and records.
18–7.705 Clauses required to be used when applicable.
18–7.705–1 Rights in data.
18–7.705–2 Filing of patent applications.
18–7.705–3 Priorities, allocations, and allotments.
18–7.705–4 Contractor and subcontractor cost and pricing data.
18–7.705–5 Labor standards for construction work.
18–7.705–6 Improvements to buildings or land owned by the Government.
18–7.705–7 New technology.
18–7.705–9 Changes to make-or-buy program.
18–7.705–10 Rights in data for potentially hazardous items.
18–7.705–11 Potentially hazardous items.

Subpart 18–7.9—Clauses for Time and Material and Labor Hour Contracts

18–7.900 Scope of subpart.
18–7.901 Required clauses.
18–7.901–1 Definitions.
18–7.901–2 Changes.
18–7.901–3 Excusable delays.
18–7.901–4 Termination.
18–7.901–5 Government property.
18–7.901–6 Payments.
18–7.901–7 Assignment of claims.
18–7.901–8 Disputes.
18–7.901–9 Convict labor.
18–7.901–10 Subcontracts.
18–7.901–11 Contract Work Hours Standards Act—overtime compensation.
18–7.901–12 Walsh-Healey Public Contracts Act.
18–7.901–13 Equal opportunity.
18–7.901–14 Officials not to benefit.
18–7.901–15 Covenant against contingent fees.
18–7.901–16 Audit and records.
18–7.901–17 Records.
18–7.901–19 Notice and assistance regarding patent and copyright infringement.
18–7.901–20 Authorization and consent.
18–7.901–21 Inspection and correction of defects.
18–7.901–22 Insurance—liability to third persons.
18–7.901–23 Interest.
18–7.901–24 Renegotiation.
18–7.902 Clauses to be used when applicable.
18–7.902–1 Utilization of small business concerns.
18–7.902–2 Utilization of concerns in labor surplus areas.
18–7.902–3 Security requirements.
18–7.902–4 Priorities, allocations, and allotments.
18–7.902–5 Buy American Act.
18–7.902–6 Notice to the government of labor disputes.
18–7.902–7 Filing of patent applications.
18–7.902–8 New technology.
18–7.902–9 Data.
18–7.902–10 Alterations in contract.
18–7.902–11 Limitation on withholding of payments.
18–7.902–12 Soviet controlled areas.
18–7.902–13 Flight risks.
18–7.902–15 Payment of royalties.
18–7.902–20 Contractor and subcontractor cost or pricing data.
18–7.902–21 Order of precedence.
18–7.902–50 Competition in subcontracting.
18–7.902–51 Approval of contract.
18–7.902–52 Liability for government property furnished for repair or other services.
18–7.902–53 New material.
18–7.902–54 Government surplus.
18–7.902–55 NASA financial management reporting.
18–7.902–56 Safety and health.
18–7.902–57 Report on NASA subcontracts.
18–7.902–58 Potentially hazardous items.

Subpart 18–7.50—Clauses for Negotiated Utility Service Contracts

18–7.5000 Scope of subpart.
18–7.5001 Required clauses—contracts for more than $2,500.
18–7.5001–1 Definitions.
18–7.5001–2 Payments.
18–7.5001–3 Assignment of claims.
18–7.5001–4 Disputes.
18–7.5001–5 Equal opportunity.
18–7.5001–6 Officials not to benefit.
18–7.5001–7 Covenant against contingent fees.
18–7.5001–8 Termination.
18–7.5001–9 Convict labor.
18–7.5001–10 Rates.
18–7.5001–11 Public regulation and change or rates.
18–7.5001–12 Change in class of service.
18–7.5001–13 Contractor's facilities.
18–7.5001–14 Technical provisions.
18–7.5002 Clauses required to be used when applicable.

Sec.	
18–7.5002–1	Federal, State, and local taxes.
18–7.5002–2	Contract Work Hours Standards Act—Overtime compensation.
18–7.5002–3	Examination of records.
18–7.5002–4	Approval of contract.
18–7.5003	Additional clauses.
18–7.5003–1	Renewal of contract.
18–7.5003–2	Public regulation and change of rates.
18–7.5003–3	Connection charge.
18–7.5003–4	Termination charge.
18–7.5003–5	Multiple service locations.
18–7.5004	Required clauses—contracts for $2,500 or less annually.
18–7.5004–1	Definitions.
18–7.5004–2	Payments.
18–7.5004–3	Assignment of claims.
18–7.5004–4	Disputes.
18–7.5004–5	Equal opportunity.
18–7.5004–6	Officials not to benefit.
18–7.5004–7	Covenant against contingent fees.
18–7.5004–8	Termination.
18–7.5004–9	Convict labor.
18–7.5004–10	Rates.
18–7.5004–11	Public regulation and change of rates.
18–7.5004–12	Contractor's facilities.

AUTHORITY: The provisions of this Part 18–7 issued under 42 U.S.C. 2473(b)(1).

§ 18–7.000 Scope of part.

This part sets forth uniform clauses to be used in contracts for property and services entered into by NASA, except in contracts to be performed outside the United States, its possessions, and Puerto Rico (hereafter referred to as foreign contracts). The clauses to be used in foreign contracts shall be as prescribed on a case-by-case basis in accordance with the provisions of Subpart 18–6.7.

Subpart 18–7.1—Clauses for Fixed-Price Supply Contracts

§ 18–7.100 Scope of subpart.

This subpart sets forth uniform clauses for use in fixed-price supply contracts as defined in § 18–7.102.

§ 18–7.102 Applicability.

As used throughout this subpart, the term "fixed-price supply contract" means any contract entered into either by formal advertising or by negotiation, including letter contracts (except notices of award, contracts placed under Small Purchases Procedures, and amendments or supplemental agreements which do not effect new procurement), at a fixed price (with or without provision for price redetermination, escalation, or other form of price revision), and for supplies other than construction, alteration, or repair of buildings, bridges, roads, or other kinds of real property; experimental, developmental, or research work, or facilities to be provided by the Government under a facilities contract as defined in § 18–13.101–17.

§ 18–7.103 Required clauses.

The following clauses shall be inserted in all fixed-price supply contracts.

§ 18–7.103–1 Definitions.

DEFINITIONS (SEPTEMBER 1962)

As used throughout this contract, the following terms shall have the meanings set forth below:

(a) The term "Administrator" means the Administrator or Deputy Administrator of the National Aeronautics and Space Administration; and the term "his duly authorized representative" means any person or persons or board (other than the Contracting Officer) authorized to act for the Administrator.

(b) The term "Contracting Officer" means the person executing this contract on behalf of the Government, and any other officer or civilian employee who is a properly designated Contracting Officer; and the term includes, except as otherwise provided in this contract, the authorized representative of a Contracting Officer acting within the limits of his authority.

(c) Except as otherwise provided in this contract, the term "subcontracts" includes purchase orders under this contract.

(d) The term "NASA" means the National Aeronautics and Space Administration.

Additional definitions may be included, provided they are not inconsistent with the foregoing clause or the provisions of this chapter.

§ 18–7.103–2 Changes.

CHANGES (SEPTEMBER 1962)

The Contracting Officer may at any time by a written order, and without notice to the sureties, make changes, within the general scope of this contract, in any one or more of the following: (i) Drawings, designs, or specifications, where the supplies to be furnished are to be specially manufactured for the Government in accordance therewith; (ii) method of shipment or packing; and (iii) place of delivery. If any such change causes an increase or decrease in the cost of, or the time required for, the performance of any part of the work under this contract, whether changed or not changed by any such order, an equitable adjustment shall be made in the contract price or delivery schedule, or both, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within 30 days from the date of receipt by the Contractor of the notification of change: *Provided, however,* That the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Where the cost of property made obsolete or excess as a result of a change is included in the Contractor's claim for adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of such property. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes." However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

In the foregoing clause the period of "30 days" within which any claim for adjustment must be asserted may be varied not to exceed "60 days."

§ 18–7.103–3 Extras.

EXTRAS (SEPTEMBER 1962)

Except as otherwise provided in this contract, no payment for extras shall be made unless such extras and the price therefor have been authorized in writing by the Contracting Officer.

§ 18–7.103–4 Variation in quantity.

VARIATION IN QUANTITY (SEPTEMBER 1962)

No variation in the quantity of any item called for by this contract will be accepted unless such variation has been caused by conditions of loading, shipping, or packing, or allowances in manufacturing processes, and then only to the extent, if any, specified elsewhere in this contract.

§ 18–7.103–5 Inspection.

INSPECTION (SEPTEMBER 1962)

(a) All supplies (which term throughout this clause includes without limitation raw materials, components, intermediate assemblies, and end products) shall be subject to inspection and test by the Government, to the extent practicable at all times and places including the period of manufacture, and in any event prior to acceptance.

(b) In case any supplies or lots of supplies are defective in material or workmanship or otherwise not in conformity with the requirements of this contract, the Government shall have the right either to reject them (with or without instructions as to their disposition) or to require their correction. Supplies or lots of supplies which have been rejected or required to be corrected shall be removed or, if permitted or required by the Contracting Officer, corrected in place by and at the expense of the Contractor promptly after notice, and shall not thereafter be tendered for acceptance unless the former rejection or requirement of correction is disclosed. If the Contractor fails promptly to remove such supplies or lots of supplies which are required to be removed, or promptly to replace or correct such supplies, or lots of supplies, the Government either (i) may by contract or otherwise replace or correct such supplies and charge to the Contractor the cost occasioned the Government thereby, or (ii) may terminate this contract for default as provided in the clause of this contract entitled "Default." Unless the Contractor corrects or replaces such supplies within the delivery schedule, the Contracting Officer may require the delivery of such supplies at a reduction in price which is equitable under the circumstances. Failure to agree to such reduction of price shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(c) If any inspection or test is made by the Government on the premises of the Contractor or a subcontractor, the Contractor without additional charge shall provide all reasonable facilities and assistance for the safety and convenience of the Government inspectors in the performance of their duties. If Government inspection or test is made at a point other than the premises of the Contractor or a subcontractor, it shall be at the expense of the Government except as otherwise provided in this contract: *Provided,* That in case of rejection the Government shall not be liable for any reduction in value of samples used in connection with such inspection or test. All inspections and tests by the Government shall be performed in such a manner as not to unduly delay the work. The Government reserves the right to charge to the Contractor any additional cost of Government inspection and test when supplies are not ready at the time such inspection and test is requested by the Contractor or when reinspection or retest is necessitated by prior rejection. Acceptance or rejection of the supplies shall be made as promptly as practicable after delivery, except as otherwise provided in this contract; but failure to inspect and accept or reject supplies shall neither relieve the Contractor from responsibility for such supplies as are not in accordance with the contract requirements nor impose liability on the Government therefor.

(d) The inspection and test by the Government of any supplies or lots thereof does not relieve the Contractor from any responsibility regarding defects or other failures to meet the contract requirements which may be discovered prior to acceptance. Except as otherwise provided in this contract, acceptance shall be conclusive except as regards latent defects, fraud, or such gross mistakes as amount to fraud.

(e) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the supplies hereunder. Records of all inspection work by the Contractor shall be kept complete and available to the Government during the performance of this contract and for such longer period as may be specified elsewhere in this contract.

§ 18–7.103–6 Responsibility for supplies.

RESPONSIBILITY FOR SUPPLIES (SEPTEMBER 1962)

Except as otherwise provided in this contract, (i) the Contractor shall be responsible for the supplies covered by this contract until they are delivered at the designated delivery point, regardless of the point of inspection; (ii) after delivery to the Government at the designated point and prior to acceptance by the Government or rejection and giving notice thereof by the Government, the Government shall be responsible for the loss or destruction of or damage to the supplies only if such loss, destruction, or damage results from the negligence of officers, agents, or employees of the Government acting within the scope of their employment; and (iii) the Contractor shall bear all risks as to rejected supplies after notice of rejection, except that the Government shall be responsible for the loss, or destruction of, or damage to the supplies only if such loss, destruction, or damage results from the gross negligence of officers, agents, or employees of the Government acting within the scope of their employment.

§ 18–7.103–7 Payments.

Insert the following clause except that in letter contracts insert clause 4 of NASA Form 551–3 set forth in § 18–16.859–4(d).

PAYMENTS (SEPTEMBER 1962)

The Contractor shall be paid, upon the submission of proper invoices or vouchers, the prices stipulated herein for supplies delivered and accepted or services rendered and accepted, less deductions, if any, as herein provided. Unless otherwise specified, payment will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or, when requested by the Contractor, payment for accepted partial deliveries shall be made whenever such payment would equal or exceed either $1,000 or 50 percent of the total amount of this contract.

In contracts for the furnishing of transportation and accessorial services, the words "properly certified" shall be substituted for the word "proper" in the clause set forth in this section.

§ 18–7.103–8 Assignment of claims.

ASSIGNMENT OF CLAIMS (SEPTEMBER 1962)

(a) Pursuant to the provisions of the Assignment of Claims Act of 1940, as amended (31 U.S.C. 203, 41 U.S.C. 15), if this contract provides for payments aggregating $1,000 or more, claims for moneys due or to become due the Contractor from the Government under this contract may be assigned to a bank, trust company, or other financing institution, including any Federal lending agency, and may thereafter be further assigned and reassigned to any such institution. Any such assignment or reassignment shall cover all amounts payable under this contract and not already paid, and shall not be made to more than one party, except that any such assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in such financing. Unless otherwise provided in this contract, payments to an assignee of any moneys due or to become due under this contract shall not, to the extent provided in said Act, as amended, be subject to reduction or setoff. (The preceding sentence applies only if this contract is made in time of war or national emergency as defined in said Act and is with the Department of Defense, the General Services Administration, the Atomic Energy Commission, the National Aeronautics and Space Administration, the Federal Aviation Agency, or any other department or agency of the United States designated by the President pursuant to clause 4 of the proviso of section 1 of the Assignment of Claims Act of 1940, as amended by the Act of May 15, 1951, 65 Stat. 41.)

(b) In no event shall copies of this contract or of any plans, specifications, or other similar documents relating to work under this contract, if marked "Top Secret," "Secret," or "Confidential," be furnished to any assignee of any claim arising under this contract or to any other person not entitled to receive the same. However, a copy of any part or all of this contract so marked may be furnished, or any information contained therein may be disclosed, to such assignee upon the prior written authorization of the Contracting Officer.

In negotiated procurement, where a contractor is indebted to the Government as a result of dealings with NASA or other Government agencies, the last sentence before the sentence in parentheses of paragraph (a) of the "Assignment of Claims" clause, which is commonly referred to as the "no-set-off" provision, shall be omitted if such action is requested by other Government agencies or if it otherwise appears to be appropriate to protect the interests of the Government. In any event, the "no-set-off" provision shall be omitted from contracts for transportation services provided by common carriers who are subject to the Interstate Commerce Act, as amended, or the Civil Aeronautics Act of 1938. The assignee is required by the Assignment of Claims Act, as amended, to "file written notice of the assignment together with a true copy of the instrument of assignment with (a) the contracting officer or the head of his department or agency; (b) the surety or sureties upon the bond or bonds, if any, in connection with such contract; and (c) the disbursing officer, if any, designated in such contract to make payment." When Standard Form 32 is used, the form need not be changed to delete the parenthetical sentence at the end of paragraph (a) of the clause.

§ 18–7.103–9 Additional bond security.

ADDITIONAL BOND SECURITY (SEPTEMBER 1962)

If any surety upon any bond furnished in connection with this contract becomes unacceptable to the Government, or if any such surety fails to furnish reports as to his finan-

cial condition from time to time as requested by the Government, the Contractor shall promptly furnish such additional security as may be required from time to time to protect the interests of the Government and of persons supplying labor or materials in the prosecution of the work contemplated by this contract.

§ 18–7.103–10 Federal, State, and local taxes.

Insert the appropriate clause set forth in § 18–11.401–1 or § 18–11.401–2(b) of this chapter.

§ 18–7.103–11 Default.

In accordance with the requirements of § 18–8.707, insert the clause set forth therein.

§ 18–7.103–12 Disputes.

DISPUTES (SEPTEMBER 1962)

(a) Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contracting Officer shall be final and conclusive unless, within thirty (30) days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the Administrator. The decision of the Administrator or his duly authorized representative for the determination of such appeals shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the decision of the Contracting Officer.

(b) This "Disputes" clause does not preclude consideration of law questions in connection with decisions provided for in paragraph (a) above: *Provided*, That nothing in this contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

§ 18–7.103–13 Renegotiation.

RENEGOTIATION (SEPTEMBER 1962)

(a) To the extent required by law, this contract is subject to the Renegotiation Act of 1951 (50 U.S.C. App. 1211, et seq.), as amended, and to any subsequent act of Congress providing for the renegotiation of contracts. Nothing contained in this clause shall impose any renegotiation obligation with respect to this contract or any subcontract hereunder which is not imposed by an act of Congress heretofore or hereafter enacted. Subject to the foregoing, this contract shall be deemed to contain all the provisions required by section 104 of the Renegotiation Act of 1951, and by any such other act, without subsequent contract amendment specifically incorporating such provisions.

(b) The Contractor agrees to insert the provisions of this clause, including this paragraph (b), in all subcontracts, as that term is defined in section 103g of the Renegotiation Act of 1951, as amended.

§ 18–7.103–17 Walsh-Healey Public Contracts Act.

Insert the clause set forth in § 18–12.604.

§ 18–7.103–18 Equal opportunity.

Insert one or the other of the following clauses, as required by and in accordance with the instructions in § 18–12.802 (a) the Equal Opportunity clause set forth in § 18–12.802–1, or (b) the Equal Opportunity in Federally Assisted Construction Contracts clause set forth in § 18–12.802–2.

§ 18–7.103–19 Officials not to benefit.

OFFICIALS NOT TO BENEFIT (SEPTEMBER 1962)

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

§ 18–7.103–20 Covenant against contingent fees.

Insert the clause set forth in § 18–1.503.

§ 18–7.103–21 Termination for convenience of the Government.

Insert the clause set forth in § 18–8.701.

§ 18–7.103–22 Authorization and consent.

Insert the clause set forth in § 18–9.103(a).

§ 18–7.103–23 Notice and assistance regarding patent and copyright infringement.

Insert the clause set forth in § 18–9.105.

§ 18–7.103–53 Interest.

INTEREST (JANUARY 1963)

Notwithstanding any other provision of this contract, unless paid within 30 days all amounts that become payable by the contractor to the Government under this contract (net of any applicable tax credit under the Internal Revenue Code) shall bear interest at the rate of 6 percent per annum from the date due until paid. Amounts shall be due upon the earliest one of (i) the date fixed pursuant to this contract, (ii) the date of the first demand for payment, (iii) the date of a supplemental agreement fixing the amount, or (iv) if this contract provides for revision of prices, the date of written notice to the contractor stating the amount of refund payable in connection with a pricing proposal or in connection with a negotiated pricing agreement not confirmed by contract supplement.

§ 18–7.104 Clauses required to be used when applicable.

§ 18–7.104–1 Clauses for contracts involving construction work.

(a) In accordance with the requirements of Subpart 18–12.4, insert in fixed-price supply contracts which involve construction work the clauses listed below, which are set forth in § 18–12.403–1:

Davis-Bacon Act
Contract Work Hours Standards Act—Overtime Compensation.
Apprentices.
Payrolls and Payroll Records.
Compliance With Copeland Regulations.
Withholding of Funds.
Subcontracts.
Contract Termination—Debarment.

(b) In accordance with the requirements of § 18–6.207, insert in all contracts for construction, except those executed on Standard Form 19 and NASA Form 177W, the clause entitled "Buy American," as set forth in § 18–6.207(c).

§ 18–7.104–2 Soviet-controlled areas.

In accordance with the requirements of § 18–6.403, insert the clause set forth therein and include in the Schedule of the contract the list of Soviet-controlled areas set forth in § 18–6.401–2.

§ 18–7.104–3 Buy American Act.

In accordance with the requirements of Subpart 18–6.1, insert the clause set forth in § 18–6.104–5.

§ 18–7.104–4 Notice to the Government of labor disputes.

Wherever work is to be performed and a work stoppage would result in delay in an urgent NASA program, insert the following clause:

NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (SEPTEMBER 1962)

(a) Whenever the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice thereof, including all relevant information with respect thereto, to the Contracting Officer.

(b) The Contractor agrees to insert the substance of this clause, including this paragraph (b), in any subcontract hereunder as to which a labor dispute may delay the timely performance of this contract; except that each such subcontract shall provide that in the event its timely performance is delayed or threatened by delay by any actual or potential labor dispute, the subcontractor shall immediately notify his next higher tier subcontractor, or the prime contractor, as the case may be, of all relevant information with respect to such dispute.

§ 18–7.104–5 Patent indemnity.

Under the circumstances specified in § 18–9.104, the clause set forth therein may be included in the contract.

§ 18–7.104–6 Filing of patent applications.

In accordance with the requirements of § 18–9.107, insert the clause set forth therein.

§ 18–7.104–7 New technology.

In accordance with the requirements of § 18–9.101–2, insert the clause set forth in § 18–9.101–4.

§ 18–7.104–9 Rights in data.

In accordance with the requirements of § 18–9.203, insert the clause in § 18–9.203–1, as amended by § 18–9.203–2 and, if applicable, by § 18–9.203–3.

§ 18–7.104–10 Ground and flight risk.

In all negotiated fixed-price type contracts for the production, modification, maintenance, or overhaul of aircraft, insert the clause set forth in § 18–10.404.

§ 18–7.104–12 Security requirements.

Insert the following clause in all contracts which are classified "Confidential" or higher and in other contracts which may require access to classified information or material:

SECURITY REQUIREMENTS (SEPTEMBER 1962)

(a) The provisions of this clause shall apply to the extent that this contract involves access to information classified "Confidential" or higher.

(b) NASA shall notify the Contractor of the security classification of this contract and the elements thereof, and of any subsequent revisions in such security classification, by the use of a Security Requirements Checklist (DD Form 254), or other written notification.

(c) The Contractor agrees to execute, if he has not already done so, a Security Agreement (DD Form 441) with the Government, represented by the Military Department assigned security cognizance over the Contractors' facility. To the extent the Government has indicated, as of the date of this contract, or thereafter indicates a security classification under this contract as provided in paragraph (b) above, the Contractor shall safeguard all classified elements of this contract and shall provide and maintain a system of security controls within his own organization in accordance with the requirements of:

(i) The Security Agreement (DD Form 441), including the Industrial Security Manual for Safeguarding Classified Information in effect on the date of this contract, and any modification to the Security Agreement for the purpose of adapting the Manual to the Contractor's business; and

(ii) Any amendments to said manual made after the date of this contract, notice of which has been furnished to the Contractor by the Security Office of the Military Department assigned security cognizance over the facility.

(d) Representatives of the Military Department having security cognizance over the facility, and representatives of NASA, shall have the right to inspect at reasonable intervals the procedures, methods, and facilities utilized by the Contractor in complying with the security requirements under this contract. Should the Government, through these representatives, determine that the Contractor is not complying with the security requirements of this contract, the Contractor shall be informed in writing by the Security Office of the cognizant Military Department of the proper action to be taken in order to effect compliance with such requirements.

(e) If, subsequent to the date of this contract, the security classifications or security requirements under this contract are changed by the Government as provided in this clause and the security costs under this contract are thereby increased or decreased, the contract price shall be subject to an equitable adjustment by reason of such increased or decreased costs. Any such equitable adjustment shall be accomplished in the same manner as if such changes were directed under the "Changes" clause of this contract.

(f) The Contractor agrees to insert, in all subcontracts hereunder which involve access to classified information, provisions which shall conform substantially to the language of this clause, including this paragraph (f) but excluding the last sentence of paragraph (e) of this clause.

(g) The Contractor also agrees that he shall determine that any subcontractor proposed by him for the furnishing of supplies and services which will involve access to classified information in the Contractor's custody has been granted an appropriate facility security clearance, which is still in effect, prior to being accorded access to such classified information.

§ 18–7.104–14 Utilization of small business concerns.

In accordance with the instructions in § 18–1.707–3(a), insert the clause contained therein.

§ 18–7.104–15 Examination of records.

Insert the following clause in all negotiated fixed-price supply contracts in excess of $2,500.

EXAMINATION OF RECORDS (SEPTEMBER 1962)

(a) The Contractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three (3) years after final payment under this contract, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to this contract.

(b) The Contractor further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three (3) years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract. The term "subcontract" as used in this clause excludes (i) purchase orders not exceeding $2,500 and (ii) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

§ 18–7.104–17 Convict labor.

In accordance with the requirements in Subpart 18–12.2, insert the clause set forth in § 18–12.203.

§ 18–7.104–18 Priorities, allocations, and allotments.

In accordance with the requirements of § 18–1.307–2, insert the clause set forth therein.

§ 18–7.104–20 Utilization of concerns in labor surplus areas.

In accordance with the requirements of § 18–1.805–3(a), insert the clause set forth therein.

§ 18–7.104–21 Limitation on withholding of payments.

(a) Except as provided in paragraph (b) of this section, insert the following clause in contracts which include more than one clause or Schedule provision authorizing the temporary withholding of amounts otherwise payable to the contractor for supplies delivered or services performed:

LIMITATION ON WITHHOLDING OF PAYMENTS (SEPTEMBER 1962)

If more than one clause or Schedule provision of this contract authorizes the temporary withholding of amounts otherwise payable to the Contractor for supplies delivered or services performed, the total of the amounts so withheld at any one time shall not exceed the greatest amount which may be withheld under any one such clause or Schedule provision at that time: *Provided*, That this limitation shall not apply to—

(i) Withholdings pursuant to any clause relating to wages or hours of employees;

(ii) Withholdings not specifically provided for by this contract; and

(iii) The recovery of overpayments.

(b) The clause set forth in paragraph (a) of this section is not required in letter contracts or where:

(1) The contracting officer determines that the withholding limitation in the said clause is incompatible with the purpose of the particular withholding provisions involved; or

(2) All of the contract clauses or Schedule provisions (in excess of one) which provide for the withholding of payments either (i) are exempt from the limitations in the clause set forth in paragraph (a) of this section under the proviso thereof, or (ii) provide that their withholding provisions do not require any additional withholdings where the amounts required to be withheld under them are being withheld under other provisions of the contract.

If it is determined that the withholding limitation in the clause set forth in paragraph (a) of this section is incompatible with the purpose of particular withholding provisions, the said clause may be omitted or modified to make it inapplicable to such withholding provisions.

§ 18–7.104–22 Small business subcontracting program.

In accordance with the requirements of § 18–1.707, insert the clause set forth in § 18–1.707–3(b).

§ 18–7.104–23 Subcontracts.

(a) The clause set forth below shall be included in contracts which include a price redetermination or incentive provision.

SUBCONTRACTS (SEPTEMBER 1962)

(a) The Contractor shall give specific advance notification to the Contracting Officer of any proposed subcontract hereunder which (i) is on a cost or cost-plus-a-fixed-fee basis, or (ii) is on a fixed-price basis exceeding in dollar amount either $25,000 or five percent (5%) of the total amount of this contract.

(b) The Contractor shall not, without the prior written consent of the Contracting Officer, place any subcontract which (i) is on a cost or cost-plus-a-fixed-fee basis, or (ii) is on a fixed-price basis exceeding in dollar amount either $25,000 or five percent (5%) of the total amount of this contract, or (iii) provides for the fabrication, purchase, rental, installation or other acquisition, of any item of industrial facilities, or of special tooling having a value in excess of $1,000, or (iv)

is on a time and material or labor-hour basis. The Contracting Officer may, in his discretion, ratify in writing any such subcontract; such action shall constitute the consent of the Contracting Officer as required by this paragraph (b).

(c) The Contractor agrees that no subcontract placed under this contract shall provide for payment on a cost-plus-percentage-of-cost basis.

(d) The Contracting Officer may, in his discretion, specifically approved in writing any of the provisions of a subcontract. However, such approval or the consent of the Contracting Officer obtained as required by this clause shall not be construed to constitute a determination of the acceptability of the subcontract price, unless such approval specifically provides that it constitutes a determination of the acceptability of the subcontract price.

(e) The Contracting Officer may approve all or any part of the contractor's purchasing system and from time to time rescind or reinstate such approval. Such approval shall be deemed to fulfill the requirements for obtaining the Contracting Officer's consent to subcontracts as prescribed in paragraph (b) above.

(b) If the contract does not include a price redetermination or incentive provision, the clause set forth below may be included in the contract:

SUBCONTRACTS (SEPTEMBER 1962)

No contract shall be made by the Contractor with any other party for furnishing any of the completed or substantially completed articles, spare parts, or work herein contracted for without the written approval of the Contracting Officer as to sources.

§ 18–7.104–24 Government-furnished property.

In accordance with the requirements of § 18–13.502, insert the appropriate clause set forth therein.

§ 18–7.104–25 Special tooling.

In accordance with the requirements of § 18–13.504, insert the clause therein.

§ 18–7.104–26 Changes to make-or-buy program.

In accordance with the requirements of Subpart 18–3.9, insert the clause set forth in § 18–3.902(a).

§ 18–7.104–27 Payment for overtime and shift premiums.

In accordance with the requirements of § 18–12.102, insert the clause set forth in § 18–12.102–3(h)(2).

§ 18–7.104–35 Progress payments.

The policies and procedures set forth in 32 CFR 163.73 concerning the use of progress payments in formally advertised procurements shall be followed by NASA procurement offices. The provisions to be included in the invitation for bids and the "Progress Payments" clauses authorized for use pursuant to 32 CFR 163.73 are authorized for use in accordance with the instructions contained therein, except that the short form "Progress Payments" clauses set forth in paragraphs (a) and (b) of this section may be used in lieu of the ASPR clauses whenever it is estimated that the procurement will be less than $100,000.

(a) *Progress payments labor and material clause (short form).*

PROGRESS PAYMENTS (SHORT FORM CLAUSE BASED ON BOTH DIRECT LABOR AND MATERIAL COSTS OR WHEN LIMITED TO EITHER LABOR OR MATERIAL) (SEPTEMBER 1962)

Upon request of the Contractor, progress payments shall be made to the Contractor from time to time as work progresses, in amounts approved by the Contracting Officer, upon the following terms and conditions:

(a) *Computation of Amounts.*

(1) Unless a smaller amount is requested, each progress payment shall be 85 percent of the Contractor's cumulative costs of direct labor performed and material acquired [strike out inapplicable language if limited to a single direct cost] for performance of this contract; less the sum of previous progress payments. In no event, however, may the amount of unliquidated progress payments exceed _____ percent of the total contract price of items and services not yet delivered, invoiced to and accepted by the Government; also, the aggregate amount of progress payments made may not exceed _____ percent of the total contract price. [These percentages shall be the same as in (b) below.]

(2) Contractor's costs above mentioned must be reasonable, allocable to this contract, and consistent with generally accepted accounting principles.

(b) *Recovery of Progress Payments.* Except as otherwise provided in this contract, payment by the Government for materials delivered, invoiced to, and accepted by the Government shall be reduced by _____ percent and the amount of the reduction applied against progress payments previously made until such time as the total of all progress payments has been liquidated. [The percentage to be inserted here and in (a)(1) above should be calculated as those in the following example: If the base for progress payments is 85 percent of the cost of direct labor and material and if estimated costs of direct labor and material are 70 percent of total estimated costs, liquidation would be at a rate not less than 59.5 percent (85 x 70) of the contract price or delivered items.]

(c) *Reduction or Suspension.* The Government reserves the right to withhold or reduce progress payments and to increase the liquidation rate if in the opinion of the Contracting Officer the Contractor is in such unsatisfactory financial condition or has so failed to make progress as to endanger contract performance and recoupment of progress payments.

(d) *Title to Material and Work.* When any progress payment is made under this contract, title to material acquired and work performed under this contract shall vest in the Government, and title to all like property thereafter acquired or produced by the Contractor and properly chargeable to this contract under generally accepted accounting practices shall vest in the Government. The Contractor shall repay to the Government an amount equal to that portion of the unliquidated progress payments, allocable to material lost, stolen, destroyed, or damaged. Upon completion of performance of all obligations of the Contractor under this contract, title to all property not delivered to and accepted by the Government under this contract and to which title had vested in the Government under this contract shall vest in the Contractor.

(e) *Records and Reports.* The Contractor shall maintain reasonable controls for proper administration of this clause and shall furnish such statements and information as may reasonably be requested by the Contracting Officer. The Government shall be afforded reasonable opportunity to examine the Contractor's books, records, and accounts.

(f) *Default.* If this contract is terminated for default, the Contractor shall, upon demand, pay to the Government the amount of unliquidated progress payments, less any amounts payable to the Contractor in accordance with the Default clause.

(g) *Reservation of Rights.* The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

(b) *Progress payments total costs clause (short form).*

PROGRESS PAYMENTS (SHORT FORM "TOTAL COSTS" CLAUSE) (SEPTEMBER 1962)

Upon request of the Contractor, progress payments shall be made to the Contractor from time to time as work progresses, in amounts approved by the Contracting Officer upon the following terms and conditions:

(a) *Computation of Amounts.*

(1) Unless a smaller amount is requested, each progress payment shall be 70 percent of the Contractor's cumulative total costs under this contract, less the sum of any previous progress payments. In no event, however, may the aggregate amount of progress payments made exceed 70 percent of the total contract price.

(2) The Contractor's costs must be reasonable, allocable to this contract, consistent with sound and generally accepted accounting principles, and may include depreciation or amortization allowance. Such costs shall exclude amounts for materials to which the Contractor has not acquired title.

(3) At no time shall unliquidated progress payments exceed 70 percent of the total contract price of the items and services not yet delivered and invoiced to and accepted by the Government.

(b) *Recovery of Progress Payments.* Except as otherwise provided in this contract, payments by the Government for materials delivered, invoiced, and accepted shall be reduced by 70 percent of the contract price of such items and the amount of the reduction applied against progress payments previously made until such time as the total of all progress payments has been recovered.

(c) *Reduction or Suspension.* The Government reserves the right to withhold or reduce progress payments and to increase the liquidation rate if in the opinion of the Contracting Officer the Contractor is in such unsatisfactory financial condition or has so failed to make progress as to endanger contract performance and recoupment of progress payments.

(d) *Title to Material and Work.* When any progress payment is made under this contract, title to material acquired and work performed under this contract shall vest in the Government, and title to all like property thereafter acquired or produced by the Contractor and properly chargeable to this contract under generally accepted accounting principles shall vest in the Government. The Contractor shall repay to the Government an amount equal to that portion of the unliquidated progress payments allocable to material lost, stolen, destroyed, or damaged. Upon completion of performance of all obligations of the Contractor under this contract, title to all property and work not delivered to and accepted by the Government under this contract and to which title had vested in the Government under this contract shall vest in the Contractor.

(e) *Records and Reports.* The Contractor shall maintain reasonable controls for proper administration of this clause and shall furnish such statements and information as may reasonably be requested by the Contract-

ing Officer. The Government shall be afforded reasonable opportunity to examine the Contractor's books, records, and accounts.

(f) *Default.* If this contract is terminated for default, the Contractor shall, upon demand, pay to the Government the amount of unliquidated progress payments, less any amounts payable to the Contractor in accordance with the default clause.

(g) *Reservation of Rights.* The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

§ 18–7.104–36 Preference for U.S.-flag air and ocean services.

Under the circumstances stated in Subpart 18–1.14, insert the clause set forth in § 18–1.1403 in the contract.

§ 18–7.104–38 Labor Surplus Area Subcontracting Program.

In accordance with the requirements of § 18–1.805–3(b), insert the clause set forth therein.

§ 18–7.104–40 Competition in subcontracting.

Insert the following clause in all negotiated contracts over $10,000, except in firm fixed-price contracts where award is on the basis of effective price competition, or where prices are established by law or regulation.

COMPETITION IN SUBCONTRACTING (SEPTEMBER 1962)

The Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the contract.

§ 18–7.104–41 Contractor and subcontractor cost or pricing data.

In accordance with the requirements of § 18–3.807–3, insert the clause set forth in § 18–3.807–4.

§ 18–7.104–42 Audit and records.

Insert the following clause in all fixed-price incentive contracts and fixed-price contracts providing for price redetermination.

AUDIT AND RECORDS (AUGUST 1964)

(a) The Contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this contract. The foregoing constitute "records" for the purposes of this clause.

(b) The Contractor's plants, or such part thereof as may be engaged in the performance of this contract, and his records shall be subject at all reasonable times to inspection and audit by the Contracting Officer or his authorized representative.

(c) The Contractor shall preserve and make available his records (i) until the expiration of 3 years from the date of final payment under this contract, and (ii) for such longer period, if any, as is required by applicable statute, or by other clauses of this contract, or by (A) or (B) below.

(A) If this contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of 3 years from the date of any resulting final settlement.

(B) Records which relate to (i) appeals under the "Disputes" clause of this contract or (ii) litigation or the settlement of claims arising out of the performance of this contract, shall be retained until such appeals, litigation, or claims have been disposed of.

(d) The Contractor shall insert the substance of this clause in each subcontract hereunder that is not on a firm fixed-price basis.

§ 18–7.104–50 Data requirements.

In accordance with the requirements of § 18–9.202, insert the clause set forth in § 18–9.202–1(e).

§ 18–7.104–51 Approval of contract.

Insert the following clause in the contract when approval thereof by the Director of Procurement is required.

APPROVAL OF CONTRACT (SEPTEMBER 1962)

This contract shall be subject to the written approval of the Director of Procurement, NASA Headquarters, or his duly authorized representative, and shall not be binding until so approved.

§ 18–7.104–56 Order of precedence.

The following clause may be modified to change the order or to add or delete items to meet the needs of a particular procurement. In procurements which are preceded by an invitation for bid, insert the following as a new item (b), "Bidding Instructions, Terms and Conditions of the Invitation for Bids". For procurements preceded by a request for proposal or quotation, insert the following as a new item (b), "Terms and Conditions of the Solicitation." In either case, redesignate the present paragraphs (b), (c), and (d), as (c), (d), and (e).

ORDER OF PRECEDENCE (NOVEMBER 1965)

In the event of an inconsistency in this contract, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) The Schedule; (b) General Provisions; (c) the other provisions of the contract whether incorporated by reference or otherwise; and (d) the Specifications.

§ 18–7.104–57 Liability for Government property furnished for repair or other services.

In accordance with the requirements of § 18–13.502–50, insert the clause set forth therein.

§ 18–7.104–58 Safety and health.

In accordance with the requirements of Subpart § 18–10.50, insert the clause set forth in § 18–10.5004.

§ 18–7.104–59 Nonuse of foreign-flag vessels engaged in Cuban or North Vietnam Trade.

In accordance with the requirements of § 18–1.1410, insert the clause set forth therein.

§ 18–7.104–60 Report on NASA subcontracts.

In accordance with the requirements of § 18–16.904–3, insert the clause set forth therein.

§ 18–7.104–61 Rights in data for potentially hazardous items.

In accordance with the requirements of § 18–9.204–52, insert the clause set forth in § 18–9.204–52(c).

§ 18–7.104–62 Potentially hazardous items.

In accordance with the requirements of § 18–7.351, insert the clause set forth therein.

§ 18–7.104–63 Disclosure of unsolicited proposals outside Government.

In accordance with the requirements of § 18–1.304–2(c)(3), insert the clause set forth therein.

§ 18–7.105 Additional clauses.

The clauses set forth in this § 18–7.105 shall be inserted in fixed-price supply contracts if it is desired to cover the subject matter thereof.

§ 18–7.105–1 Alterations in contract.

Alterations in contract provisions may be made only in accordance with the provisions of § 18–1.109. When alterations are necessary, they shall be set forth either in the Schedule or on an attachment sheet, preceded by the following clause:

ALTERATIONS IN CONTRACT (SEPTEMBER 1962)

The following alterations have been made in the provisions of this contract.

§ 18–7.105–5 Liquidated damages.

When a liquidated damages provision is to be included in the contract, the following clause shall be inserted as paragraph (f) of the "Default" clause (see § 18–8.707) and the present paragraph (f) of that clause redesignated "(g)." In addition, an appropriate implementing provision setting forth the amount of liquidated damages shall be included in the Schedule.

(f) (i) In the event the Government exercises its right of termination as provided in paragraph (a) above, the Contractor shall be liable to the Government for excess costs as provided in paragraph (b) above and, in addition, for liquidated damages, in the amount set forth elsewhere in this contract, as fixed, agreed, and liquidated damages for each calendar day of delay, until such time as the Government may reasonably obtain delivery or performance of similar supplies or services.

(ii) If the contract is not so terminated, notwithstanding delay as provided in paragraph (a) above, the Contractor shall continue performance and be liable to the Government for such liquidated damages for each calendar day of delay until the supplies are delivered or services performed.

(iii) The Contractor shall not be liable for liquidated damages for delays due to causes which would relieve him from liability for excess costs as provided in paragraph (c) of this clause. (September 1962)

§ 18–7.105–6 Bill of materials.

A bill of materials consist of a report by a supplier which specifies the quantities of various materials required to produce a designated quantity of supplies of a particular kind. A bill of materials, with respect to all or part of the supplies to be furnished pursuant to a contract, will be required only if the con-

tracting officer determines that such bill is necessary to develop materials or components requirements for production and maintenance programs, or for other specified purposes. In such event, the contract shall specify, with respect to such bill, the following:

(a) The supplies or parts thereof to be covered by the bill of materials;

(b) The type of bill or bills (detailed, modified, expanded summary, or abbreviated summary) to be furnished, with applicable instructions;

(c) The compensation to be paid the contractor for furnishing such bill and any revisions thereto, or a statement that the price of the item to which the bill relates includes compensation for the furnishing of such bill;

(d) The number and kind of copies of such bill to be furnished; and

(e) Delivery dates.

In such event, the contract shall also include the following clause:

BILL OF MATERIALS (SEPTEMBER 1962)

(a) With respect to the supplies to be delivered pursuant to the contract, for which a Bill of Materials is required, the Contractor shall furnish a Bill of Materials in the required number of copies on Department of Defense Forms 346 and 347, if applicable, or authorized reproductions thereof, in accordance with the instructions specified in the Schedule.

(b) The contractor shall furnish to the Government, at such intervals as designated in the Schedule, revised pages of the Bill of Materials incorporating the effect of any changes, pursuant to the clause hereof entitled "Changes," in the quantity of any material or part, or any other information contained in the Bill of Materials, or a statement that no revision is necessary. A final revision, or statement that no revision is necessary, shall be furnished upon completion of performance of the contract.

(c) The Bill of Materials and all revisions or statements subsequent thereto shall be subject to inspection and acceptance by the Government.

Where a bill of materials is procured by contract separate from the supplies to which such bill of materials relates, such contract shall include such of the terms mentioned above as may be appropriate and shall specify that the bill of materials shall be furnished on DD Forms 346 and 347, if applicable, or authorized reproductions thereof. The contractor shall not be required to obtain data for the bill of materials in greater detail from a subcontractor than he is to furnish under the terms of the above clause.

§ 18–7.105–8 Stop work orders.

(a) *Use of clause.* The clause set forth in paragraph (c) of this section is authorized for use in any negotiated fixed-price type contract under which work stoppage may be required for reasons such as advancements in the state of the art, performance or engineering break-throughs, or realignment of programs. This clause is not authorized for use in research contracts with educational nonprofit institutions.

(b) *Use of orders.* (1) Inasmuch as stop work orders may result in increased costs to the Government by reason of standby costs, such orders will be issued only with prior approval of the procurement officer. Generally, use of a stop work order will be limited to those situations where it is advisable to suspend work pending a decision by the Government and a supplemental agreement providing for such suspension is not feasible. Although a stop work order may be used pending a decision to terminate for convenience, it will not be used pending a decision to terminate for default, nor will it be used in lieu of the issuance of a termination notice after a decision to terminate has been made.

(2) Stop work orders should include (i) a clear description of the work to be suspended; (ii) instructions as to the issuance of further orders by the contractor for material or services; (iii) guidance as to action to be taken on subcontracts; and (iv) other suggestions to the contractor for minimizing costs. Promptly after issuance, stop work orders should be discussed with the contractor and should be modified, if necessary, in the light of such discussions.

(3) As soon as feasible after a stop work order is issued, (i) the contract will be terminated; or (ii) the stop work order will either be canceled or—if necessary and if the contractor agrees—be extended beyond the period specified in the order. In any event, this must be done before the specified stop work period expires. When an extension of the stop work order is necessary, it shall be evidenced by a supplemental agreement. Any cancellation of a stop work order shall be subject to the same approvals as were required for the issuance of the order.

(c) *Clause.*

STOP WORK ORDER (JUNE 1965)

(a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of ninety (90) days after the order is delivered to the Contractor, and for any further period to which the parties may agree. Any such order shall be specifically identified as a Stop Work Order issued pursuant to this clause. Upon receipt of such an order, the Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of ninety (90) days after a stop work order is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either—

(i) Cancel the stop work order, or

(ii) Terminate the work covered by such order as provided in the "Termination for Convenience" clause of this contract.

(b) If a stop work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. An equitable adjustment shall be made in the delivery schedule or contract price, or both, and the contract shall be modified in writing accordingly, if—

(i) The stop work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract, and

(ii) The Contractor asserts a claim for such adjustment within thirty (30) days after the end of the period of work stoppage: *Provided*, That, if the Contracting Officer decides the facts justify such action, he may receive and act upon any such claim asserted at any time prior to final payment under this contract.

Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract.

(c) If a stop work order is not canceled and the work covered by such order is terminated for the convenience of the Government, the reasonable costs resulting from the stop work order shall be allowed in arriving at the termination settlement.

§ 18–7.105–55 Commercial warranty.

The commercial warranty clauses set forth below are authorized for use in negotiated procurements when, in the discretion of the contracting officer, the benefits of warranties normally granted to a contractor's commercial customers should be obtained by the Government. These clauses are not appropriate for use in IFB's because bidders may offer different commercial warranties, thereby precluding equal evaluation of bids. Use of either clause (a) or clause (b), as appropriate, is authorized.

COMMERCIAL WARRANTY (JUNE 1967)

(a) Notwithstanding the provisions of the "Inspection" clause of this contract, the Contractor agrees that the articles delivered under this contract shall be covered by the same warranties as the Contractor customarily offers in connection with the sale of these articles on the commercial market. In the event that differing warranties covering these articles are customarily offered to other purchasers by the Contractor, it is agreed that such warranties shall apply to this contract as are available to the Contractor's most favored purchaser.

WARRANTY (SEPTEMBER 1962)

(b) Notwithstanding the provisions of the "Inspection" clause of this contract, the Contractor agrees that the articles delivered under this contract shall be covered by the same warranties as the Contractor customarily offers in connection with the sale of these articles on the commercial market. In the event that differing warranties covering these articles are customarily offered to other purchasers by the Contractor, it is agreed that such warranties shall apply to this contract as are available to the Contractor's most favored purchaser. In addition to any other obligations imposed upon the Contractor under any such warranties, and regardless of whether a similar right is customarily offered to other purchasers, the Contractor shall, if so required by the Government within a reasonable time after the giving of notice of defect in accordance with such warranties, correct or replace the defective or nonconforming article with all possible speed at the Contractor's cost, including shipping costs, not exceeding usual charges, from the delivery point to the Contractor's plant and return.

§ 18–7.105–56 Guaranty.

The clause set forth in this section is authorized for use when, in the discretion of the contracting officer, the need for such a guaranty is felt to outweigh the price increase, if any, which the inclusion of such a clause might entail. The period of time within which notice of defect must be given may be varied.

GUARANTY (SEPTEMBER 1962)

Notwithstanding the provisions of the "Inspection" clause of this contract, the Contractor gurantees that at the time of delivery thereof the articles provided for under this contract will be free from any defects in material or workmanship and will conform to the requirements of this contract. Notice of any such defect or nonconformance shall be given by the Government to the Contractor within one (1) year of the delivery of the defective or nonconforming article. If required by the Government within a reasonable time after such notice, the Contractor shall with all possible speed correct or replace the defective or nonconforming article or part thereof. When such correction or replacement requires transportation of the article or part thereof, shipping costs, not exceeding usual charges, from the delivery point to the Contractor's plant and return, shall be borne by the Contractor; the Government shall bear all other shipping costs. This guaranty shall then continue as to corrected or replacing articles or if only parts of such articles are corrected or replaced, to such corrected or replacing parts, until one (1) year after date of redelivery. If the Government does not require correction or replacement of a defective or nonconforming article, the Contractor, if required by the Contracting Officer within a reasonable time after the notice of defect or nonconformance, shall repay such portion of the contract price of the article as is equitable in the circumstances.

§ 18–7.106 Price escalation clauses (established prices).

This § 18–7.106 sets forth uniform clauses for use when it is desired to provide for price escalation in the event of changes in the contractor's established prices. Each clause is preceded by a statement of the conditions under which it may be used.

§ 18–7.106–1 Escalation clause for basic steel, aluminum, brass, bronze, or copper mill products.

The "Pfice Escalation" clause set forth in this § 18–7.106–1 is authorized for use in advertised or negotiated fixed-price supply contracts for basic steel, aluminum, brass, bronze, or copper mill products, such as sheets, plates and bars, when an established price exists for the particular supply being procured. The percentage figure to be used in paragraph (d)(3) of this clause shall not exceed 10 percent.

PRICE ESCALATION (SEPTEMBER 1962)

(a) The Contractor warrants that the unit prices stated herein, excluding any part of the prices which reflects requirements for preservation, packaging and packing, beyond standard commercial practice, are not in excess of the Contractor's applicable established prices in effect on the date set for opening of bids (or the contract date, if this is a negotiated contract rather than one entered into by means of formal advertising) for like quantities of the supplies covered by this contract.

(b) The Contractor shall promptly notify the Contracting Officer as to the amount and effective date of each decrease in any established price, and each applicable unit price shall be decreased by the amount of the decrease in the applicable established price. Any such decrease in a unit price shall apply to those supplies delivered on and after the effective date of each applicable decrease in the Contractor's established price, and this contract shall be amended accordingly. The Contractor shall certify on each invoice submitted under the contract that each unit price stated therein reflects all decreases, if any, which the Contractor had made in the established price applicable thereto, since the date set for opening of bids (or the contract date, if this is a negotiated contract rather than one entered into by formal advertising), or shall certify on the final invoice that all such decreases have been applied to supplies delivered on and after the effective date of each such decrease in the Contractor's established prices.

(c) The Contractor may from time to time after the date of this contract and during the performance hereof, by written notice to the Contracting Officer, request an upward adjustment in any of the contract unit prices to be effective as of a date to be specified by the Contractor. Such request shall be acted upon in accordance with the following provisions of this clause.

(d) An upward adjustment in a contract unit price may be made under this clause only in accordance with the following conditions.

(1) Such an upward adjustment shall be made only if the Contractor's applicable established price has increased subsequent to the date set for opening of bids (or the contract date, if this is a negotiated contract rather than one entered into by means of formal advertising).

(2) No unit price shall be increased by an amount greater than the amount of the increase in the Contractor's applicable established price.

(3) The aggregate of the increases in any unit price made under this clause shall not exceed _____ percent of the original applicable contract unit price.

(4) No adjusted unit price shall be effective earlier than the effective date of the increase in the applicable established price, but if the Contractor's request for adjustment is received by the Contracting Officer more than ten (10) days after the effective date of the increase in the Contractor's applicable rate, no adjusted unit price shall be effective earlier than the date of receipt by the Contracting Officer of such request.

(5) No upward adjustment in unit prices hereunder shall apply to supplies which were required by the contract delivery schedule to be delivered prior to the effective date of the related increase in the applicable established price, unless the Contractor's failure to deliver supplies in accordance with the delivery schedule results from causes beyond the control and without the fault or negligence of the Contractor, within the meaning of paragraph (c) of the clause of this contract entitled "Default," in which case the contract shall be amended to make an equitable extension of the delivery schedule.

(e) In the event the requested upward adjustment in any contract unit price is acceptable to the Contracting Officer, he shall so notify the Contractor, and the contract shall be amended accordingly. In the event the requested upward adjustment is not acceptable to the Contracting Officer, or if the Contracting Officer does not reach an agreement with the Contractor with respect to a price increase, the Contracting Officer may, within 30 days after receipt of the Contractor's request, cancel without liability to either party the Contractor's right to proceed with performance of that portion of the contract which is undelivered at the time of such cancellation, except that the Contractor may make delivery of all or any of the supplies which a duly authorized officer of the company shall certify were completed or in the process of manufacture at the time of receipt of notice of such cancellation. In such event the Government shall pay for all supplies so delivered at the applicable unit price contained in the Contractor's request, and the contract shall be amended accordingly: *Provided*, That such certification is made within 10 days after receipt of notice of such cancellation: *And provided further*, That such requested increase satisfies all of the conditions and does not exceed the limitations of paragraph (d). In the event this contract is for standard steel supplies, they shall be deemed to be in the process of manufacture when the steel therefor is in any state of processing after the beginning of the furnace melt.

(f) During the period after the Contractor has requested an upward adjustment, and prior to an agreement between the parties with respect to the request, or cancellation of the contract pursuant to paragraph (e), the Contractor shall continue deliveries according to the terms of the contract. The Contractor shall be paid for such deliveries at the applicable increased unit prices as requested: *Provided*, That such requested increases satisfy all the conditions and do not exceed the limitations of paragraph (d): *And provided further*, That if the parties agree on an increase less than that requested, payments previously made at the requested amount shall be adjusted accordingly. If the Contracting Officer neither reaches an agreement with the Contractor on the requested adjustment, nor cancels the contract, the Contractor shall continue deliveries according to the terms of the contract, and the Contractor shall be paid therefor at the applicable increased unit prices as requested: *Provided*, That such requested increases satisfy all the conditions and do not exceed the limitations of paragraph (d).

§ 18–7.106–2 Escalation clause for nonstandard steel items.

The "Price Escalation" clause set forth in this § 18–7.106–2 is authorized for use in advertised or in negotiated fixed-price supply contracts when:

(a) The contractor is a steel producer and actually manufactures the standard steel mill item referred to in paragraph (d) of the clause; and

(b) The items being procured are nonstandard steel items made wholly or in major part of standard steel mill items. When this clause is included in invitations for bids, Note (8) of the clause is inapplicable and shall be omitted. Invitations for bids or requests for proposals shall instruct bidders or offerors, as appropriate, to complete all blanks in accordance with the applicable notes.

PRICE ESCALATION (SEPTEMBER 1962)

(a) The Contractor represents that the unit prices set forth in this contract do not include any contingency allowance to cover the possibility of increased costs of performance resulting from increases in either (i) the Contractor's rates of pay for labor employed by it, or (ii) the prices which the Contractor charges his manufacturing shops for the steel required in the performance of this contract.

(b) Each contract unit price shall be subject to revision, pursuant to the provisions of this clause, to reflect changes in the cost of labor and steel. For the purpose of any such price revision, the proportion of the contract unit price attributable to costs of labor not otherwise included in the price of

the steel item identified in paragraph (d) below shall be _____ percent, and the proportion of the contract unit price attributable to the cost of steel shall be _____ percent. [See Note (1).]

(c) For the purposes of this paragraph, the term "labor index" shall mean the average straight time hourly earnings of the Contractor's employees in the _____ shop of the Contractor's plant [See Note (2)] for any particular month. The word "month" as used herein means "calendar month": *Provided, however,* That if the Contractor's accounting period does not coincide with the calendar month, then such accounting period shall be used throughout the clause in lieu of "month." Unless otherwise specified in this contract, the labor index shall be computed by dividing the total straight time earnings of the Contractor's employees in the particular shop identified above for any given month by the total number of straight time hours worked by such employees in that month. Any revision in a contract unit price to reflect changes in the cost of labor shall be computed solely by reference to the "base labor index," which shall be the average of the labor indices for the 3 months consisting of the month of _____, 19__, [See Note (3)] the month immediately preceding, and the month immediately following, and to the "current labor index," which shall be the average of the labor indices for the month in which delivery of supplies is required to be made in accordance with the terms of the contract and the month preceding.

(d) Any revision in a contract unit price to reflect changes in the cost of steel shall be computed solely by reference to the "base steel index," which shall be the Contractor's established or published price to the public [see Note (3)] including all applicable extras of $_____ per _____ see [Note (4)] for _____ [see Note (5)] on _____, 19__ [see Note (6)] and the "current steel index," which shall be the Contractor's established or published price to the public [see Note (3)] of said item including all applicable extras in effect _____ days [see Note (7)] prior to the first day of the month in which delivery of supplies is required to be made in accordance with the terms of the contract.

(e) Each contract unit price shall be revised for each month in which, by the terms of this contract, delivery of supplies is required to be made, and such revised contract unit price shall apply to the deliveries of those quantities of supplies required to be made in that month regardless of when actual delivery be made of said quantities of supplies. Each revised contract unit price for any month shall be computed by adding together the following three amounts: (i) the amount (representing the adjusted cost of labor) obtained by multiplying _____ percent of the contract unit price by a fraction, the numerator of which shall be the current labor index and the denominator of which shall be the base labor index; (ii) the amount (representing the adjusted cost of steel) obtained by multiplying _____ percent of the contract unit price by a fraction, the numerator of which shall be the current steel index and the denominator of which shall be the base steel index; and (iii) the amount equal to _____ percent of the original contract unit price (representing that portion of such unit price which relates neither to the cost of labor nor to the cost of steel and which is therefore not subject to revision) [see Note (1)]: *Provided, however,* That any revised contract unit price made pursuant to the provisions of this clause shall in no event exceed 110 percent of the original contract unit price. All computations shall be made to the nearest one-hundredth of one cent.

(f) Pending revisions of the contract unit prices, if any, to be made pursuant to this clause, the Contractor shall be paid the contract unit prices for deliveries made. Within thirty (30) days after the final delivery of supplies, or within such further period of time as may be authorized by the Contracting Officer, the Contractor shall furnish a statement setting forth and certifying the correctness of (i) the average straight time hourly earnings of the Contractor's employees in the shop of the Contractor identified in paragraph (c) above which earnings are relevant to the computations of the "base labor index" and the "current labor index," and (ii) the Contractor's established or published prices to the public [see Note (3)] including all applicable extras, for like quantities of the item identified in paragraph (d) above, which prices are relevant to the computation of the "base steel index" and the "current steel index." Upon request of the Contracting Officer or his duly authorized representative, the Contractor shall make available his records used in the computation of the labor indices. After the receipt of such certificate by the Contracting Officer, the revised contract unit prices shall be computed in accordance with the provisions of this clause, and this contract shall be amended accordingly.

(g) In the event of any total or partial termination of any item of this contract for the convenience of the Government, the month in which notice of such termination is received by the Contractor, if prior to the month in which delivery is required by this contract, shall be considered the month in which delivery of such terminated or partially terminated item is required for the purpose of determining the current labor and materials indices under paragraphs (c) and (d) hereof: *Provided, however,* That as to the quantity of such item which is not terminated for convenience, the month in which delivery is required by this contract shall continue to apply for determining said indices. In the case of termination of any item for default on the part of the Contractor, any price revision shall be limited to the quantity of each item which has been delivered by the Contractor and accepted by the Government prior to receipt by the Contractor of notice of termination for default.

(h) As used in this clause the phrase "the month in which delivery of supplies is required to be made in accordance with the terms of this contract" shall mean any month in which under the terms of this contract a specific quantity of units of the supplies called for by this contract is required to be delivered: *Provided, however,* That in case the failure of the Contractor to make delivery of such quantity shall have arisen out of causes beyond the control and without the fault or negligence of the Contractor, within the meaning of paragraph (c) of the clause of this contract entitled "Default," the quantity not delivered shall be required to be delivered as promptly as possible after the cessation of the cause of such failure, and the delivery schedule set forth in this contract shall be amended accordingly.

(i) Failure to agree upon any determination to be made under this clause shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

NOTES

(1) Bidder insert the same percentage figures for the corresponding blanks in paragraphs (b) and in (e) (i) and (ii). In paragraph (e) (iii), bidder insert the percentage representing the difference between the sum of the percentages inserted in paragraph (b) and 100 percent.

(2) Bidder identify the shop and plant in which the standard steel mill item identified in paragraph (d) will be finally fabricated or processed into the contract item.

(3) Bidder insert the month of bid opening, or the month in which the Contractor submitted his proposal if this is a negotiated contract.

(4) Bidder insert the unit price and unit of measure of the standard steel mill item used by the Contractor in the manufacture of the contract item.

(5) Bidder identify the standard steel mill item used by the Contractor in the manufacture of the contract item.

(6) Bidder insert the date set for bid opening, or the date of the Contractor's quotation if this is a negotiated contract.

(7) Bidder insert the number of days which represents the Contractor's best estimate of the period of time required for processing the standard steel mill item in the shop identified in paragraph (c).

(8) In negotiated procurements of nonstandard steel items, when there is no established or published price to the public, or when it is not desirable to use such price this paragraph may refer to another appropriate price basis, such as an established interplant price.

§ 18–7.106–3 Escalation clause for standard supplies.

The "Price Escalation" clause set forth in this § 18–7.106–3 is authorized for use in negotiated fixed-price supply contracts for standard supplies for which established prices exist. This clause may be used only when the total contract price is over $5,000 and delivery is not to be completed within 6 months after the contract date. The percentage figure to be used in paragraph (d) (3) of the clause shall not exceed 10 percent. If any standard trade discounts offered by the contractor against his list or catalog price are taken into account in negotiating the contract unit price, the contracting officer's file should contain a statement setting forth the list or catalog price and the discounts. The discounts referred to do not include prompt payment or cash discounts.

PRICE ESCALATION (SEPTEMBER 1962)

(a) The Contractor warrants that the unit prices stated herein, excluding any part of the prices which reflects requirements for preservation, packaging, and packing beyond standard commercial practice, are not in excess of the Contractor's applicable established prices in effect on the contract date for like quantities of the supplies covered by this contract. The term "established price" as used in this clause is the net price after applying any applicable standard trade discounts offered by the Contractor from his list or catalog price.

(b) The Contractor shall promptly notify the Contracting Officer as to the amount and effective date of each decrease in any applicable established price, and each applicable contract unit price shall be decreased by the same percentage that the applicable established price is decreased. Any such decrease in a unit price shall apply to those supplies delivered on and after the effective date of each applicable decrease in the Contractor's established price, and this contract shall be amended accordingly. The Contractor shall certify on each invoice submitted under the contract that each unit price stated therein reflects all decreases, if any, which the Contractor had made in the established price applicable thereto, since the contract date, or shall certify on the final invoice that all such decreases have been applied to supplies delivered on and after the effective date of each such decrease in the Contractor's established prices.

(c) The Contractor may from time to time after the date of this contract and during the performance hereof, by written notice to the Contracting Officer, request an upward adjustment in any of the contract unit prices to be effective as of a date to be specified by the Contractor. Such request shall be acted upon in accordance with the following provisions of this clause.

(d) An upward adjustment in a contract unit price may be made under this clause only in accordance with the following conditions:

(1) Such an upward adjustment shall be made only if the Contractor's applicable established price has increased subsequent to the contract date.

(2) No unit price shall be increased by a percentage greater than the percentage increase in the Contractor's applicable established price.

(3) The aggregate of the increases in any unit price made under this clause shall not exceed _____ percent of the original applicable contract unit price.

(4) No adjusted unit price shall be effective earlier than the effective date of the increase in the applicable established price, or the date of receipt by the Contracting Officer of the Contractor's request for adjustment, whichever is the later.

(5) No upward adjustment in unit prices hereunder shall apply to supplies which were required by the contract delivery schedule to be delivered prior to the effective date of the related increase in the applicable established price, unless the Contractor's failure to deliver supplies in accordance with the delivery schedule results from causes beyond the control and without the fault or negligence of the Contractor, within the meaning of paragraph (c) of the clause of this contract entitled "Default," in which case the contract shall be amended to make an equitable extension of the delivery schedule.

(e) In the event the requested upward adjustment in any contract unit price is acceptable to the Contracting Officer, he shall so notify the Contractor, and the contract shall be amended accordingly. In the event the requested upward adjustment is not acceptable to the Contracting Officer, or if the Contracting Officer does not reach an agreement with the Contractor with respect to a price increase, the Contracting Officer may, within 30 days after receipt of

stated therein reflects all decreases, if any, which the Contractor had made in the established price applicable thereto, since the contract date; or shall certify on the final invoice that all such decreases have been applied to supplies delivered on and after the effective date of each such decrease in the Contractor's established prices.

(c) The Contractor may from time to time after the date of this contract and during the performance hereof, by written notice to the Contracting Officer, request an upward adjustment in any of the contract unit prices to be effective as of a date to be specified by the Contractor. Such request shall be acted upon in accordance with the following provisions of this clause.

(d) An upward adjustment in a contract unit price may be made under this clause only in accordance with the following conditions:

(1) Such an upward adjustment shall be made only if the Contractor's applicable established price has increased subsequent to the contract date.

(2) No unit price shall be increased by a percentage greater than the percentage increase in the Contractor's applicable established price.

(3) The aggregate of the increases in any unit price made under this clause shall not exceed _____ percent of the original applicable contract unit price.

(4) No adjusted unit price shall be effective earlier than the effective date of the increase in the applicable established price, or the date of receipt by the Contracting Officer of the Contractor's request for adjustment, whichever is the later.

(5) No upward adjustment in unit prices hereunder shall apply to supplies which were required by the contract delivery schedule to be delivered prior to the effective date of the related increase in the applicable established price, unless the Contractor's failure to deliver supplies in accordance with the delivery schedule results from causes beyond the control and without the fault or negligence of the Contractor, within the meaning of paragraph (c) of the clause of this contract entitled "Default," in which case the contract shall be amended to make an equitable extension of the delivery schedule.

(e) In the event the requested upward adjustment in any contract unit price is acceptable to the Contracting Officer, he shall so notify the Contractor, and the contract shall be amended accordingly. In the event the requested upward adjustment is not acceptable to the Contracting Officer, or if the Contracting Officer does not reach an agreement with the Contractor with respect to a price increase, the Contracting Officer may, pursuant to the clause of the contract entitled "Termination for Convenience of the Government," terminate the Contractor's right to proceed with performance of that portion of the contract which is undelivered at the time of such cancellation.

(f) During the period after the Contractor has requested an upward adjustment, and prior to an agreement between the parties with respect to the request, or cancellation of the contract pursuant to paragraph (e), the Contractor shall continue deliveries according to the terms of the contract. The Contractor shall be paid for such deliveries at the applicable increased unit prices as requested: *Provided,* That such requested increases satisfy all the conditions and do not exceed the limitations of paragraph (d): *And provided further,* That if the parties agree on an increase less than that requested, payments previously made at the requested amount shall be adjusted accordingly. If the Contracting Officer neither reaches an agreement with the Contractor on the requested adjustment, nor cancels the contract, the Contractor shall continue deliveries according to the terms of the contract, and the Contractor shall be paid therefor at the applicable increased unit prices as requested: *Provided,* That such requested increases satisfy all the conditions and do not exceed the limitations of paragraph (d).

§ 18–7.106–4 Escalation clause for semistandard supplies.

The "Price Escalation" clause set forth in this § 18–7.106–4 is authorized for use in negotiated fixed-price supply contracts for semistandard supplies, the prices of which can be reasonably related to the prices of nearly equivalent standard supplies for which established prices exist. This clause may be used only when the total contract price is over $5,000 and delivery is not to be completed within 6 months after the contract date. A clear understanding should be set forth in writing prior to making the contract as to the identity of the standard supply items which are applicable. The percentage figure to be used in paragraph (d) (3) of the clause shall not exceed 10 percent. If any standard trade discounts offered by the contractor against his list or catalog price are taken into account in negotiating the contract unit price, the contracting officer's file should contain a statement setting forth the list or catalog price and the discounts. The discounts referred to do not include prompt payment or cash discounts. When the supplies being purchased are standard supplies in all respects except for preservation, packaging, and packing requirements, the following clause should not be used; in such cases the escalation clause for standard supplies in § 18–7.106–3 is the appropriate clause.

PRICE ESCALATION (SEPTEMBER 1962)

(a) The Contractor warrants that the supplies covered by this contract are supplies which the Contractor customarily offers for sale commercially except for modifications in accordance with the specifications of this contract, and that as of the contract date any differences between the unit prices stated herein and the Contractor's established prices for like quantities of the supplies which are the nearest commercial equivalents of the supplies covered by this contract (herein referred to as "the established prices") are due to compliance with such specifications, and to compliance with any requirements which this contract may contain for preservation, packaging, and packing beyond standard commercial practice. The term "established price" as used in this clause is the net price after applying any applicable standard trade discounts offered by the Contractor from his list or catalog price.

(b) The Contractor shall promptly notify the Contracting Officer as to the amount and effective date of each decrease in any applicable established price, and each applicable contract unit price shall be decreased by the same percentage that the applicable established price is decreased. Any such decrease in a unit price shall apply to those supplies delivered on and after the effective date of each applicable decrease in the Contractor's established price, and this contract shall be amended accordingly. The Contractor shall certify on each invoice submitted under the contract that each unit price stated therein reflects all decreases, if any, which the Contractor had made in the established price applicable thereto, since the contract date, or shall certify on the final invoice that all such decreases have been applied to supplies delivered on and after the effective date of each such decrease in the Contractor's established prices.

(c) The Contractor may from time to time after the date of this contract and during the performance hereof, by written notice to the Contracting Officer, request an upward adjustment in any of the contract unit prices to be effective as of a date to be specified by the Contractor. Such request shall be acted upon in accordance with the following provisions of this clause.

(d) An upward adjustment in a contract unit price may be made under this clause only in accordance with the following conditions:

(1) Such an upward adjustment shall be made only if the Contractor's applicable established price has increased subsequent to the contract date.

(2) No unit price shall be increased by a percentage greater than the percentage increase in the Contractor's applicable established price.

(3) The aggregate of the increases in any unit price made under this clause shall not exceed _____ percent of the original applicable contract unit price.

(4) No adjusted unit price shall be effective earlier than the effective date of the increase in the applicable established price, or the date of receipt by the Contracting Officer of the Contractor's request for adjustment, whichever is the later.

(5) No upward adjustment in unit prices hereunder shall apply to supplies which were required by the contract delivery schedule to be delivered prior to the effective date of the related increase in the applicable established price, unless the Contractor's failure to deliver supplies in accordance with the delivery schedule results from causes beyond the control and without the fault or negligence of the Contractor, within the meaning of paragraph (c) of the clause of this contract entitled "Default," in which case the contract shall be amended to make an equitable extension of the delivery schedule.

(e) In the event the requested upward adjustment in any contract unit price is acceptable to the Contracting Officer, he shall so notify the Contractor, and the contract shall be amended accordingly. In the event the requested upward adjustment is not acceptable to the Contracting Officer, or if the Contracting Officer does not reach an agreement with the Contractor with respect to a price increase, the Contracting Officer may, pursuant to the clause of the contract entitled "Termination for Convenience of the Government," terminate the Contractor's right to proceed with performance of that portion of the contract which is undelivered at the time of such termination.

(f) During the period after the Contractor has requested an upward adjustment, and prior to an agreement between the parties with respect to the request, or termination of the contract pursuant to paragraph (e), the Contractor shall continue deliveries according to the terms of the contract. The Contractor shall be paid for such deliveries at the applicable increased unit prices as requested: *Provided,* That such requested increases satisfy all the conditions and do not exceed the limitations of paragraph (d): *And provided further,* That if the parties agree on an increase less than that requested, payments previously made at the requested

amount shall be adjusted accordingly. If the Contracting Officer neither reaches an agreement with the Contractor on the requested adjustment, nor terminates the contract, the Contractor shall continue deliveries according to the terms of the contract, and the Contractor shall be paid therefor at the applicable increased unit prices as requested: *Provided*, That such requested increases satisfy all the conditions and do not exceed the limitations of paragraph (d).

§ 18–7.107 Price escalation clause (labor and material).

(a) The "Price Escalation" clause set forth in this § 18–7.107 is authorized for use in negotiated fixed-price supply contracts where (1) the price exceeds $50,000, (2) the period of performance exceeds 6 months, (3) there is no major element of design engineering or developmental work involved in producing the items being procured, and (4) one or more identifiable labor or material cost factors are subject to change.

(b) The Schedule shall describe in detail the types of labor and materials subject to escalation, the labor rates (including fringe benefits, if any), and unit prices of materials, which may be increased or decreased, and the quantities of labor and specified materials allocable to each unit of supplies to be delivered under the contract. The following sample format illustrates a type of schedule description that may be used:

The following types of labor and material are subject to price escalation pursuant to clause __ of this contract.

CONTRACT ITEM NO. 1

Types of labor and materials	Rates of pay and material prices	Quantities and direct costs per unit of procurement
Drill press operator.	$3.00/hour—no fringe benefits included.	20 min.—$1.00.
Welder	$2.75/hour. 0.05/hour—vacation pay. 0.20/hour—pension plan.	
	$3.00	10 min.—$0.50.
Copper sheet	$0.40 lb	2 lb.—$0.80.
Purchased parts:		
(1) ABC tube X5721.	$1.00 each	3 ea.—$3.00.
(2) XYZ part No. 9346.	$0.50 each	10 ea.—$5.00.

The percentage figure to be used in subparagraph (d) (vi) of the clause will not exceed 10 percent.

(c) In negotiating adjustments under the clause, the contracting officer will consider work in process and materials on hand at the time of changes in labor rates or materials prices since these elements may have a significant impact on equitable price adjustments.

PRICE ESCALATION (SEPTEMBER 1962)

(a) The Contractor warrants that the prices set forth in this contract do not include any allowance for any contingency to cover increased costs of performance resulting from increases in (i) the Contractor's rates of pay for labor or (ii) the unit prices for materials, set forth in the Schedule.

(b) If at any time during the performance of this contract there is an increase or decrease in the rates of pay for labor or unit prices for materials set forth in the Schedule, the Contractor shall notify the Contracting Officer thereof within 60 days of such increase or decrease or within such further period as may be approved in writing by the Contracting Officer, but in any event not later than final payment under the contract. Such notice shall include the Contractor's proposal for an equitable adjustment in the contract unit prices to be negotiated in accordance with paragraph (c) below and shall be accompanied by data, in such form as the Contracting Officer may require, explaining (i) the cause, (ii) the effective date, and (iii) the amount, both of the increase or decrease and of the Contractor's proposal for an equitable adjustment.

(c) Promptly upon receipt of any notice and data described in (b) above, the Contractor and the Contracting Officer shall negotiate an equitable adjustment, and the effective date thereof, in the contract unit prices to reflect any change in the cost of performance of this contract due to the increase or decrease in rates of pay for labor or unit prices for materials set forth in the Schedule: *Provided, however*, That such negotiations may be postponed by the Contracting Officer until an accumulation of such increases and decreases results in an adjustment allowable under (d)(v). The equitable adjustment, and the effective date thereof, shall be set forth in an amendment or supplemental agreement to this contract. Such amendment or supplemental agreement shall also revise the rates of pay for labor or unit prices for materials set forth in the Schedule to reflect the increase or decrease therein. Failure of the parties to agree to an adjustment under this clause shall be deemed to be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes." Pending agreement on, or determination of, any such adjustment and its effective date, the Contractor shall continue performance.

(d) Notwithstanding any other provision of this clause, any price adjustment under this clause shall be subject to the following limitations:

(i) There shall be no adjustment for supplies whose production cost is not affected by a change in the rates of pay for labor or unit prices for materials set forth in the Schedule;

(ii) There shall be no adjustment other than for increases or decreases in the rates of pay for labor or unit prices for materials set forth in the Schedule;

(iii) There shall be no adjustment for any increase or decrease in the quantities of labor or materials set forth in the Schedule for each item to be delivered hereunder;

(iv) No upward adjustment shall apply to supplies which were required by the contract delivery schedule to be delivered prior to the effective date of the adjustment, unless the Contractor's failure to deliver supplies in accordance with the delivery schedule results from causes beyond the control and without the fault or negligence of the Contractor within the meaning of the clause of this contract entitled "Default," in which case the contract shall be amended to make an equitable extension of the delivery schedule;

(v) Except as provided in (e) below, there shall be no adjustment for any change in rates of pay for labor or unit prices for materials which would not result in a net change of at least three percent of the then current total contract price; and

(vi) There shall be no adjustment upward which would cause any adjusted contract unit price to exceed ------ percent of the corresponding original contract unit price.

(e) If, after delivery of the last unit called for by this contract, either party requests negotiation pursuant to (c) above, the limitations of (d)(v) shall not apply.

(f) The final invoice submitted under this contract shall include a certification that the Contractor has not experienced a decrease in rates of pay for labor or unit prices for materials set forth in the Schedule or that he has given notice of all such decreases in compliance with (b) above.

(g) The Contracting Officer may examine the contractor's books, records, and other supporting data relevant to the costs of labor and materials during all reasonable times until 3 years after final payment under this contract.

§ 18–7.108 Incentive price revision clause.

When, in accordance with the provisions of Subpart 18–3.4, the fixed-price incentive contract described in 3.404(a)(2) is to be used, the following clause shall be made a part of the contract. As to each item which is to be subject to incentive price revision, the contract schedule shall set forth the target cost, target profit, and target price. Paragraph (d)(2) of the following clause may be modified to provide, within the price ceiling, for a ceiling, a floor, or both on the final profit.

INCENTIVE PRICE REVISION (SEPTEMBER 1962)

(a) *Definitions.* As used in this clause, the following terms shall have the meanings set forth below:

(i) The term "target price" means the unit price of any supplies or services under this contract, which is subject to adjustment in accordance with this clause, and is composed of "target cost" and "target profit."

(ii) The term "target cost" means that part of the target price which, at the time of its negotiation, was agreed to as the estimate of the unit cost of the supplies or services being procured.

(iii) The term "target profit" means that part of the target price which, at the time of its negotiation, was agreed to as the unit profit for furnishing the supplies or services at a cost equal to the target cost.

(iv) The term "total target price" means the sum of the target prices.

(v) The term "total target cost" means the sum of the target costs.

(vi) The term "total target profit" means the sum of the target profits.

(vii) The term "total adjusted cost" means the final negotiated cost of all supplies or services which are subject to price revision under this clause.

(viii) The term "total adjusted price" means the final contract price, as computed in accordance with this clause, for all supplies or services which are subject to price revision under this clause.

(b) *General.* The supplies or services identified in the Schedule as Items ------ are subject to price revision in accordance with the provisions of this clause: *Provided*, That in no event shall the total adjusted price of such items exceed ------ percent (------%) of the total target cost. Any supplies or services which are to be ordered separately under, or otherwise added to, this contract, and which are to be subject to price revision in accordance with the provisions of this clause, shall be identified as such in a modification to this contract.

(c) *Submission of Data.* Within ------ (------) days after the end of the month in which the Contractor has delivered the last unit of supplies and completed the services called for by those items listed in paragraph (b) above, the Contractor shall submit, in such form as the Contracting Officer may require, (i) a detailed statement of all costs incurred up to the end of that month in performing all work under such items, and (ii) an estimate of costs of such further performance, if any, as may be necessary to complete performance of all work with respect to such items.

(d) *Price Revision.* Upon submission of the data required by paragraph (c) above, the Contractor and the Contracting Officer shall promptly establish the total adjusted price in accordance with the following:

(1) On the basis of the information required by paragraph (c) above, together with any other pertinent information, there shall be established by negotiation the total adjusted cost reasonably incurred or to be incurred for and properly allocable to the supplies delivered (or services performed) and accepted by the Government, which are subject to price revision under this clause.

(2) The total adjusted price shall be established by adding to the total adjusted cost an allowance for profit determined as follows:

When the total adjusted cost is—	*The allowance for profit is—*
Equal to the total target cost,	Total target profit.
Greater than the total target cost.	Total target profit less ------ percent (------%) of the amount by which the total adjusted cost exceeds the total target cost.
Less than the total target cost.	Total target profit plus ------ percent (------%) of the amount by which the total adjusted cost is less than the total target cost.

(e) *Records.* (1) The Contractor shall maintain books, records, documents, and other evidence, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this contract. The Contractor shall segregate the costs of any supplies or services for which the price is fixed and not subject to revision under this clause. Each subcontract placed by the Contractor hereunder on other than a firm fixed-price basis in connection with the furnishing of the supplies or services identified in paragraph (b) above as being subject to price revision (i) shall provide that the subcontractor shall maintain books, records, documents, and other evidence, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of such subcontract, and (ii) shall require each such subcontractor to insert the entire substance of this subparagraph, including this (ii), in all his subcontracts which are on other than a firm fixed-price basis.

(2) The Government may at all reasonable times make such examination or audit as the Contracting Officer may require of the Contractor's books, records, documents, and other evidence, pertinent to the performance of this contract.

(f) *Certification.* An authorized responsible official of the Contractor shall certify on each statement of costs submitted to the Contracting Officer pursuant to (c) above that the incurred costs are based upon records of the Contractor, that such records reflect generally accepted accounting principles and practices normally followed by the Contractor, that such costs are correct to the best of his knowledge and belief, and that the accompanying estimate of costs to complete is considered reasonable.

(g) *Subcontracts.* (1) No subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis; and the Contractor shall not, without the prior written consent of the Contracting Officer, place any subcontract which is on a cost-plus-a-fee basis and which would involve a total price in excess of $10,000, including the fee. The Contracting Officer may, in his discretion, ratify in writing any such cost-plus-a-fee subcontract and such action shall constitute the consent of the Contracting Officer as required by this subparagraph (1).

(2) Each subcontract placed by the Contractor hereunder (i) shall provide that the Government may at all reasonable times make such examination or audit as the Contracting Officer may require of the subcontractor's books, records, documents, and other evidence, pertinent to the performance of the subcontract, and (ii) shall require each such subcontractor whose subcontract is on other than a firm fixed-priced basis to insert the entire substance of this subparagraph, including this (ii), in all his subcontracts. The term "subcontract," as used in this subparagraph (2) only, excludes firm fixed-price subcontracts not in excess of $2,500 and subcontracts for utility services at rates established for uniform application to the general public.

(h) *Contract Modifications.* The total adjusted price, as determined in accordance with paragraph (d) above, shall be evidenced by a modification to this contract signed by the Contractor and the Contracting Officer and shall apply to supplies delivered and to services performed under this contract.

(i) *Adjustment of Payments.* Pending execution of the contract modification referred to in paragraph (h) above, the Contractor shall submit invoices or vouchers in accordance with billing prices as provided in this paragraph. The billing prices shall be the target prices set forth in this contract: *Provided*, That if at any time it appears that the then current billing prices do not provide for payments consistent with the provisions of subparagraph (j)(3) below, the parties may agree to revise billing prices, which shall be reflected in a modification to this contract. Billing prices are for the sole purpose of providing for interim payments and shall not affect the determination of the total adjusted price under paragraph (d) above. After execution of the contract modification referred to in paragraph (h) above, the total amount paid or to be paid on all invoices or vouchers shall be adjusted to reflect the total adjusted price and any additional payments, refunds, or credits resulting therefrom shall be promptly made.

(j) *Limitation on Payments.* (1) This paragraph (j) shall not apply after final price revision to the full extent permitted by this contract.

(2) Within forty-five (45) days after the end of each quarter of the Contractor's fiscal year, beginning for the quarter in which a delivery is first made (or services are first performed) and accepted by the Government under this contract, and as of the end of each quarter, the Contractor shall submit to the Contracting Officer a cumulative statement setting forth:

(i) The total contract price of all supplies delivered (or services performed) and accepted by the Government for which final prices have been established;

(ii) The total costs (estimated to the extent necessary) reasonably incurred for and properly allocable solely to the supplies delivered (or services performed) and accepted by the Government for which final prices have not been established;

(iii) That portion of the total target profit which is in direct proportion to the supplies delivered (or services performed) and accepted by the Government for which final prices have not been established, increased or decreased in accordance with the incentive profit formula set forth in (d)(2) above when the amount of costs stated under (ii) above differs from the aggregate target costs of such supplies or services; and

(iv) The total amount of all invoices or vouchers for supplies delivered (or services performed) and accepted by the Government (including amounts applied or to be applied to liquidate progress payments).

(3) Notwithstanding any provision of this contract authorizing greater payments, if on any quarterly statement the amount of (2)(iv) above exceeds the sum of (2)(i), (ii), and (iii) above, the Contractor shall immediately refund or credit to the Government against existing unpaid invoices or vouchers covered by such statement the amount of such excess less (i) the cumulative total of any previous refunds or credits under this clause (exclusive of any tax credits under sec. 1481 of the Internal Revenue Code of 1954) and (ii) any applicable tax credits under section 1481 of the Internal Revenue Code of 1954. If any portion of such excess has been applied to the liquidation of progress payments, such amount (less all tax credits under the Internal Revenue Code) may be added or restored to the unliquidated progress payment account, to the extent consistent with the progress payments clause of this contract, instead of direct refund thereof.

(4) The Contractor shall (i) insert in each price redetermination or incentive price revision subcontract hereunder the substance of this "Limitation on Payments" provision, including this subparagraph (4), modified to omit mention of the Government and redact the position of the Contractor as purchaser and of the subcontractor as vendor, and to omit that portion of subparagraph (3) relating to tax credits, and (ii) include in each cost-reimbursement type subcontract hereunder a requirement that each price redetermination and incentive price revision subcontract thereunder will contain the substance of this "Limitation on Payments" provision, including this subparagraph (4) modified as outlined in (i) above.

(k) *Disagreements.* If the Contractor and the Contracting Officer fail to agree upon the total adjusted price within 60 days after the date on which the data required by (c) above are to be submitted, or within such further time as may be specified by the Contracting Officer, such failure to agree shall be deemed to be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes," and the Contracting Officer shall promptly issue a decision thereunder.

(l) *Termination.* If this contract is terminated prior to establishment of the total adjusted price, prices of supplies or services subject to price revision under this clause shall be established pursuant to this clause for (i) completed supplies accepted by the Government and services performed and accepted by the Government, and (ii) in the event of a partial termination, supplies and services which are not terminated. All other

No. 233—Pt. II——2

elements of the termination shall be resolved pursuant to other applicable provisions of this contract.

In the event the contract calls for spare parts or other supplies or services, which are to be ordered under a provisioning document or Government option, and the prices of such supplies or services are to be made subject to incentive price revision in accordance with the above clause, the following provision (m) shall be included in such clause:

(m) *Spare Parts.* Spare parts, other supplies, or services, which are to be furnished under this contract pursuant to a provisioning document or Government option, shall be subject to price revision in accordance with the provisions of this clause, and any prices established for such spare parts, other supplies, or services, pursuant to such provisioning document or Government option, shall be deemed to be target prices. Target cost and profit covering such spare parts, other supplies, or services may be established either separately, in the aggregate, or in any combination thereof, as the parties may agree.

§ 18–7.109 Price redetermination clauses.

§ 18–7.109–1 General.

When it is determined, in accordance with § 18–3.403, to use a fixed-price contract providing for redetermination of price, the applicable clause of those set forth in this section shall be used.

§ 18–7.109–2 Prospective periodic price redetermination at stated intervals.

(a) *Description, applicability, and limitations.*

See § 18–3.404–5.

(b) *Clause.*

PRICE REDETERMINATION (TYPE A) (NOVEMBER 1965)

(a) *General.* The unit prices and the total price set forth in this contract shall be periodically redetermined in accordance with the provisions of this clause.[1] The prices for supplies delivered and services performed prior to the first effective date of price redetermination shall remain fixed.

(b) *Price Redetermination Periods.* For the purpose of price redetermination the performance of this contract is divided into successive periods. The first period shall extend from the date of this contract to ----------,[2] and the second and each succeeding period shall extend for ------ (------) months from the end of the last preceding period, except that the final period may be varied by agreement of the parties. The first day of the second and each succeeding period shall be the effective date of price redetermination for the period.

(c) *Price Redetermination.* Not more than ------[3] days nor less than ------[3] days before the end of each redetermination period, except the last, and as otherwise provided in (iii) below, the Contractor shall submit:

(i) Proposed prices for supplies which may be delivered or services which may be performed in the next succeeding period under this contract, together with—

(A) An estimate and breakdown of the costs of such supplies or services on DD Form 784 or in any other form on which the parties may agree;

(B) Sufficient data to support the accuracy and reliability of such estimate; and

(C) An explanation of the differences between such estimate and the original (or last preceding) estimate for the same supplies or services;

(ii) A statement of all cost incurred in the performance of this contract through the end of the ------[4] month prior to the date of the submission of proposed prices, on DD Form 784 or in any other form on which the parties may agree, together with sufficient supporting data to disclose unit costs and cost trends for—

(A) Supplies delivered and services performed; and

(B) Inventories of work in process and undelivered contract supplies on hand (estimated to the extent necessary);

(iii) Supplemental statements of costs incurred subsequent to the date set forth in (ii) above for—

(A) Supplies delivered and services performed; and

(B) Inventories of work in process and undelivered contract supplies on hand (estimated to the extent necessary);

as and to the extent that such information becomes available prior to the conclusion of negotiations on redetermined prices; and

(iv) Any other relevant data which may reasonably be required by the Contracting Officer.

Upon receipt of the data required by this subparagraph (c), the Contractor and the Contracting Officer shall promptly negotiate to redetermine fair and reasonable contract prices for supplies which may be delivered and services which may be performed in the period following the effective date of price redetermination. Where the Contractor fails to submit the data as required above within the time specified, payments under this contract may be suspended by the Contracting Officer until the data are furnished.

(d) *Subcontracts.* No subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis; and the Contractor shall not, without the prior written consent of the Contracting Officer, place any subcontract which is on a cost-plus-a-fee basis and which would involve an estimated amount in excess of $10,000, including the fee. The Contracting Officer may, in his discretion, ratify in writing any such cost-plus-a-fee subcontract and such action shall constitute the consent of the Contracting Officer as required by this paragraph (d).

(e) *Contract Modifications.* Each negotiated redetermination of prices shall be evidenced by a modification to this contract, signed by the Contractor and the Contracting Officer, setting forth the redetermined prices for supplies delivered and services performed hereunder during the applicable price redetermination period.

(f) *Adjustment of Payments.* Pending execution of the contract modification referred to in paragraph (e) above, the Contractor shall submit invoices or vouchers in accordance with billing prices as provided in this paragraph. The billing prices shall be the prices set forth in this contract: *Provided*, That, if at any time it appears that the then current billing prices do not provide for payments consistent with the provisions of subparagraph (g)(3) below, the parties may agree to greater or lesser billing prices, which shall be reflected in an amendment or supplemental agreement to this contract. Billing prices are for the sole purpose of providing for interim payments and shall not affect the redetermination of prices under this clause. After execution of the contract modification referred to in paragraph (e) above, the total amount paid or to be paid on all invoices or vouchers shall be adjusted to reflect the agreed prices, and any additional payments, refunds, or credits, resulting therefrom shall be promptly made.

(g) *Limitation on Payments.* (1) This paragraph (g) shall apply only during a period for which firm prices have not been established.

(2) Within 45 days after the end of each quarter of the Contractor's fiscal year, beginning for the quarter in which a delivery is first made (or services are first performed) and accepted by the Government under this contract, and as of the end of each quarter, the Contractor shall submit to the Contracting Officer a statement cumulative from the inception of the contract, setting forth:

(i) The total contract price of all supplies delivered (or services performed) and accepted by the Government for which final prices have been established;

(ii) The total costs (estimated to the extent necessary) reasonably incurred for and properly allocable solely to the supplies delivered (or services performed) and accepted by the Government for which final prices have not been established;

(iii) That portion of the total interim profit (used in establishing the initial contract price or agreed to for the purpose of this paragraph (g), Limitation on Payments), which is in direct proportion to the supplies delivered (or services performed) and accepted by the Government for which final prices have not been established; and

(iv) The total amount of all invoices or vouchers for supplies delivered (or services performed) and accepted by the Government (including amounts applied or to be applied to liquidate progress payments);

Provided, That such statement need not be submitted for any quarter for which either no costs are to be reported under (ii) above or revised billing prices have been established in accordance with paragraph (g) above and do not exceed the existing contract price, the Contractor's price-redetermination offer, or a price based on the most recent quarterly statement, whichever is least.

(3) Notwithstanding any provision of this contract authorizing greater payments, if on any quarterly statement the amount of (2) (iv) above exceeds the sum of (2) (i), (ii), and (iii) above, the Contractor shall immediately refund or credit to the Government against existing unpaid invoices or vouchers covered by such statement the amount of such excess less (i) the cumulative total of any previous refunds or credits referred to in paragraph (e) above, the total amount paid or to be paid on all invoices or vouchers shall be adjusted to reflect the agreed prices, and any additional payments, refunds, or credits, resulting therefrom shall be promptly made.

(g) *Limitation on Payments.* (1) This paragraph (g) shall apply only during a period for which firm prices have not been established.

(2) Within 45 days after the end of each quarter of the Contractor's fiscal year, beginning for the quarter in which a delivery is first made (or services are first performed) and accepted by the Government under this contract, and as of the end of each quarter, the Contractor shall submit to the Contracting Officer a statement cumulative from the inception of the contract, setting forth:

(i) The total contract price of all supplies delivered (or services performed) and accepted by the Government for which final prices have been established;

(ii) The total costs (estimated to the extent necessary) reasonably incurred for and properly allocable solely to the supplies delivered (or services performed) and accepted by the Government for which final prices have not been established;

(iii) That portion of the total interim profit (used in establishing the initial contract price or agreed to for the purpose of this paragraph (g), Limitation on Payments), which is in direct proportion to the supplies delivered (or services performed) and accepted by the Government for which final prices have not been established; and

(iv) The total amount of all invoices or vouchers for supplies delivered (or services performed) and accepted by the Government (including amounts applied or to be applied to liquidate progress payments);

Provided, That such statement need not be submitted for any quarter for which either no costs are to be reported under (ii) above or revised billing prices have been established in accordance with paragraph (g) above and do not exceed the existing contract price, the Contractor's price-redetermination offer, or a price based on the most recent quarterly statement, whichever is least.

(3) Notwithstanding any provision of this contract authorizing greater payments, if on any quarterly statement the amount of (2) (iv) above exceeds the sum of (2) (i), (ii), and (iii) above, the Contractor shall immediately refund or credit to the Government against existing unpaid invoices or vouchers covered by such statement the amount of such excess less (i) the cumulative total of any previous refunds or credits under this clause (exclusive of any applicable tax credits under sec. 1481 of the Internal Revenue Code of 1954) and (ii) any applicable tax credits under section 1481 of the Internal Revenue Code of 1954. If any portion of such excess has been applied to the liquidation of progress payments, such amount (less all tax credits under the Internal Revenue Code) may be added or restored to the unliquidated progress payment account, to the extent consistent with the progress payments clause of this contract, instead of direct refund thereof.

(4) The Contractor shall (i) insert in each price redetermination or incentive price revision subcontract hereunder the substance of this "Limitation on Payments" provision, including this subparagraph (4), modified to omit mention of the Government and reflect the position of the Contractor as purchaser and of the subcontractor as vendor, and to omit that portion of subparagraph (3) relating to tax credits, and (ii) include in each cost-reimbursement type subcontract hereunder a requirement that each price redetermination and incentive price revision subcontract thereunder will contain the substance of this "Limitation on Payments" provision, including this subparagraph (4), modified as outlined in (i) above.

(h) *Disagreements.* If the Contractor and the Contracting Officer fail to agree upon redetermined prices for any price redetermination period within sixty (60)[5] days after the date on which the data required by (c) above is to be filed, or within such further time as may be agreed upon by the parties, the failure to agree upon redetermined prices shall be deemed to be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes," and the Contracting Officer shall promptly issue a decision thereunder. For the purpose of (e), (f), and (g) above, and pending final settlement of the disagreement on appeal, or by failure to appeal, or by agreement, such a decision shall be treated as an executed contract modification. Pending such final settlement, price redetermination for subsequent periods, if any, shall continue to be negotiated as hereinbefore provided.

(i) *Termination.* If this contract is terminated, prices shall continue to be established pursuant to this clause (i) for completed supplies accepted by the Government and services performed and accepted by the Government, and (ii) in the event of a partial termination, for supplies and services which are not terminated. All other elements of the termination shall be resolved pursuant to other applicable provisions of this contract.

§ 18–7.109–4 Retroactive price redetermination after completion.

(a) *Description, applicability, and limitations.*

See § 18–3.404–7.

(b) *Clause.*

PRICE REDETERMINATION (TYPE B) (NOVEMBER 1966)

(a) *General.* The unit prices and the total price set forth in this contract shall be redetermined in accordance with the provisions of this clause: *Provided*, That in no event shall the total amount paid under this contract exceed ------- dollars ($ -------).

(b) *Price Redetermination.* Within ------ (------) days after delivery of all supplies to be delivered and completion of all services to be performed under this contract, the Contractor shall submit (i) proposed prices, (ii) a statement of all costs incurred in the performance of this contract, on DD Form 784 or any other form on which the parties may agree, and (iii) any other relevant data which may reasonably be required by the Contracting Officer. Upon receipt of the required data, the Contractor and the Contracting Officer shall promptly negotiate to redetermine fair and reasonable contract prices for supplies delivered and services performed by the Contractor under this contract. Where the Contractor fails to submit the required data within the time specified, payment of all invoices may be suspended by the Contracting Officer until the data are furnished.

(c) *Subcontracts.* No subcontract under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis; and the Contractor shall not, without the prior written consent of the Contracting Officer, place any subcontract which is on a cost-plus-a-fee basis and which would involve an estimated amount in excess of $10,000 including the fee. The Contracting Officer may, in his discretion, ratify in writing any such cost-plus-a-fee subcontract and such action shall constitute the consent of the Contracting Officer as required by this paragraph (c).

(d) *Contract Modification.* The negotiated redetermination of price shall be evidenced by a modification to this contract, signed by the Contractor and the Contracting Officer, setting forth the redetermined prices which shall apply to supplies delivered and to services performed by the Contractor hereunder.

(e) *Adjustment of Payments.* Pending execution of the contract modification referred to in paragraph (d) above, the Contractor shall submit invoices or vouchers in accordance with billing prices as provided in this paragraph. The billing prices shall be the prices set forth in this contract: *Provided*, That, if at any time it appears that the then current billing prices do not provide for payments consistent with the provisions of subparagraph (f)(3) below, the parties may agree to greater or lesser billing prices, which shall be reflected in an amendment or supplemental agreement to this contract. Billing prices are for the sole purpose of providing for interim payments and shall not affect the redetermination of prices under this clause. After execution of the contract modification referred to in paragraph (d) above, the total amount paid or to be paid on all invoices or vouchers shall be adjusted to reflect the agreed prices, and any additional payments, refunds, or credits, resulting therefrom shall be promptly made.

(f) *Limitation on Payments.* (1) This paragraph (f) shall apply until final price redetermination to the full extent permitted by this contract.

(2) Within 45 days after the end of each quarter of the Contractor's fiscal year, beginning for the quarter in which a delivery is first made (or services are first performed) and accepted by the Government under this contract, and as of the end of each quarter, the Contractor shall submit to the Contracting Officer a statement cumulative from the inception of the contract, setting forth:

(i) The total contract price of all supplies delivered (or services performed) and accepted by the Government for which final prices have been established;

(ii) The total costs (estimated to the extent necessary) reasonably incurred for and properly allocable solely to the supplies delivered (or services performed) and accepted by the Government for which final prices have not been established;

(iii) That portion of the total interim profit (used in establishing the initial contract price or agreed to for the purpose of this paragraph (f), Limitation on Payments), which is in direct proportion to the supplies delivered (or services performed) and accepted by the Government for which final prices have not been established; and

(iv) The total amount of all invoices or vouchers for supplies delivered (or services performed) and accepted by the Government (including amounts applied or to be applied to liquidate progress payments).

(3) Notwithstanding any provision of this contract authorizing greater payments, if on any quarterly statement the amount of (2) (iv) above exceeds the sum of (2) (i), (ii), and (iii) above, the Contractor shall immediately refund or credit to the Government against existing unpaid invoices or vouchers covered by such statement the amount of such excess less (i) the cumulative total of any previous refunds or credits under this clause (exclusive of any applicable tax credits under sec. 1481 of the Internal Revenue Code of 1954) and (ii) any applicable tax credits under section 1481 of the Internal Revenue Code of 1954. If any portion of such excess has been applied to the liquidation of progress payments, such amount (less all tax credits under the Internal Revenue Code) may be added or restored to the unliquidated progress payment account, to the extent consistent with the progress payments clause of this contract, instead of direct refund thereof.

(4) The Contractor shall (i) insert in each price redetermination or incentive price revision subcontract hereunder the substance of this "Limitation on Payments" provision, including this subparagraph (4), modified to omit mention of the Government and reflect the position of the Contractor as purchaser and of the subcontractor as vendor, and to omit that portion of subparagraph (3) relating to tax credits, and (ii) include in each cost-reimbursement type subcontract hereunder a requirement that each price redetermination and incentive price revision subcontract thereunder will contain the substance of this "Limitation on Payments" provision, including this subparagraph (4), modified as outlined in (i) above.

(g) *Disagreements.* If the Contractor and the Contracting Officer fail to agree upon redetermined prices within sixty (60)[1] days after the date on which the data required by (b) above is to be filed, or within such further time as may be agreed upon by the parties, the failure to agree upon redetermined prices shall be deemed to be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes," and the Contracting Officer shall promptly issue a decision thereunder. For the purpose of paragraphs (d), (e), and (f) above, and pending final settlement of the disagreement on appeal, or by failure to appeal, or by agreement, such a decision shall be treated as an executed contract modification.

(h) *Termination.* If this contract is terminated prior to price redetermination, prices shall be established pursuant to this clause for completed supplies and services which are not terminated. All other elements of the termination shall be resolved pursuant to other applicable provisions of this contract.

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[1] Where a ceiling is applicable, the following proviso shall be added: "*Provided*, That in no event shall the total amount paid under this contract exceed _____ dollars ($_____)". Alternatively, the contract may provide ceiling amounts for each or any of the price redeterminations under the contract.

[2] This point may be expressed in terms of units delivered, or as a calendar date, but in either case the period shall generally end on the last day of a month.

[3] Insert in the blanks numbers of days so that the Contractor's submission will be late enough to reflect recent cost experience (having in mind the Contractor's accounting system), but early enough to permit review, audit if necessary, and negotiation prior to the start of prospective period.

[4] Insert the word "first," except the word "second" may be inserted if necessary to achieve compatibility with the contractor's accounting system.

[5] This period may be varied by the parties at the time of negotiating the contract.

[1] This period may be varied by the parties at the time of negotiating the contract.

Subpart 18–7.2—Clauses for Cost-Reimbursement Type Supply Contracts

§ 18–7.200 Scope of subpart.

This subpart sets forth uniform contract clauses for use in cost-reimbursement type supply contracts as defined in § 18–7.202.

§ 18–7.202 Applicability.

As used throughout this subpart, the term "cost-reimbursement type supply contract" means any contract, including letter contracts (except notices of award, contracts placed under Small Purchases Procedures, and amendments or supplemental agreements which do not effect new procurement), entered into on a cost or cost-plus-fixed-fee basis (see § 18–3.400) for supplies other than (a) the construction, alteration, or repair of buildings, bridges, roads, or other kinds of real property; (b) experimental, developmental, or research work; or (c) facilities to be provided by the Government under a facilities contract as defined in § 18–13.101–17.

§ 18–7.203 Required clauses.

The clauses set forth in this § 18–7.203 shall be inserted in all cost-reimbursement type supply contracts.

§ 18–7.203–1 Definitions.

Insert the clause set forth in § 18–7.103–1. Additional definitions may be included, provided they are not inconsistent with such clause or the provisions of this chapter.

§ 18–7.203–2 Changes.

CHANGES (SEPTEMBER 1962)

The Contracting Officer may at any time, by a written order, and without notice to the sureties, if any, make changes, within the general scope of this contract, in any one or more of the following: (i) Drawings, designs, or specifications, where the supplies to be furnished are to be specially manufactured for the Government in accordance therewith; (ii) method of shipment or packing; (iii) place of delivery; and (iv) the amount of Government-furnished property. If any such change causes an increase or decrease in the estimated cost of, or the time required for performance of any part of the work under this contract, whether changed or not changed by any such order, or otherwise affects any other provision of this contract, an equitable adjustment shall be made (i) in the estimated cost or delivery schedule, or both, (ii) in the amount of any fixed fee to be paid to the Contractor, and (iii) in such other provisions of the contract as may be so affected, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within sixty (60) days from the date of receipt by the Contractor of the notification of change: *Provided, however,* That the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes." However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

In the foregoing clause, the period of "sixty (60) days" within which any claim for adjustment must be asserted may be reduced to a period of not less than "thirty (30) days."

§ 18–7.203–3 Limitation of cost.

Insert the following clause except that in letter contracts insert clause 3 of NASA Form 551–3 set forth in § 18–16.859–4(d).

LIMITATION OF COST (SEPTEMBER 1962)

(a) It is estimated that the total cost to the Government, exclusive of any fixed fee, for the performance of this contract will not exceed the estimated cost set forth in the Schedule, and the Contractor agrees to use his best efforts to perform the work specified in the Schedule and all obligations under this contract within such estimated cost. If at any time the Contractor has reason to believe that the costs which he expects to incur in the performance of this contract in the next succeeding thirty (30) days, when added to all costs previously incurred, will exceed eighty-five percent (85%) of the estimated cost then set forth in the Schedule, or if at any time the Contractor has reason to believe that the total cost to the Government, exclusive of any fixed fee, for the performance of this contract will be substantially greater or less than the then estimated cost thereof, the Contractor shall notify the Contracting Officer in writing to that effect, giving the revised estimate of such total cost for the performance of this contract.

(b) The Government shall not be obligated to reimburse the Contractor for costs incurred in excess of the estimated cost set forth in the Schedule, and the Contractor shall not be obligated to continue performance under the contract or to incur costs in excess of the estimated cost set forth in the Schedule, unless and until the Contracting Officer shall have notified the Contractor in writing that such estimated cost has been increased and shall have specified in such notice a revised estimated cost which shall thereupon constitute the estimated cost of performance of this contract. When and to the extent that the estimated cost set forth in the Schedule has been increased, any costs incurred by the Contractor in excess of such estimated cost prior to the increase in estimated cost shall be allowable to the same extent as if such costs had been incurred after such increase in estimated cost.

§ 18–7.203–4 Allowable cost, fixed fee and payment.

(a) *Allowable cost, fee, and payment.* Insert the following clause in all cost-reimbursement type contracts, except as provided in paragraph (b) of this section. Additional instructions for use of the clause are set forth in paragraph (c) of this section.

ALLOWABLE COST, FIXED FEE, AND PAYMENT (JULY 1965)

(a) For the performance of this contract, the Government shall pay to the Contractor:

(i) The cost thereof (hereinafter referred to as "allowable cost") determined by the Contracting Officer to be allowable in accordance with—

(A) Part 15, Subpart 2 of the NASA Procurement Regulation as in effect on the date of this contract; and

(B) The terms of this contract; and

(ii) Such fixed fee, if any, as may be provided for in the Schedule.

(b) Once each month (or at more frequent intervals, if approved by the Contracting Officer), the Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as such representative may require, an invoice or public voucher supported by a statement of cost incurred by the Contractor in the performance of this contract and claimed to constitute allowable cost.

(c) Promptly after receipt of each invoice or voucher the Government shall, subject to the provisions of (d) below, make payment thereon as approved by the Contracting Officer. Payment of fee shall be made to the Contractor as specified in the Schedule: *Provided, however,* That whenever in the opinion of the Contracting Officer, the Contractor's performance or cost then incurred indicates that target fee will not be achieved, payment of fee will be based on such lesser fee, not lower than the minimum fee, as the Contracting Officer may determine to be appropriate; and provided further, that after payment of eighty-five percent (85%) of the applicable fee, further payment on account of the fee shall be withheld until a reserve of either fifteen percent (15%) of the applicable fee, or one hundred thousand dollars ($100,000), whichever is less, shall have been set aside. When the Contracting Officer has ordered that fee payments be reduced in accordance with the foregoing, he may increase the basis for payment to an amount not to exceed the target fee upon an affirmative showing by the Contractor that such action is justified and equitable.

(d) At any time or times prior to final payment under this contract, the Contracting Officer may have the invoices or vouchers and statements of cost audited. Each payment theretofore made shall be subject to reduction for amounts included in the related invoice or voucher which are found by the Contracting Officer, on the basis of such audits, not to constitute allowable cost. Any payment may be reduced for overpayments, or increased for underpayments, on preceding invoices or vouchers.

(e) On receipt and approval of the invoice or voucher designated by the Contractor as the "completion invoice" or "completion voucher" and upon compliance by the Contractor with all the provisions of this contract (including, without limitation, the provisions relating to patents and the provisions of (f) below), the Government shall promptly pay to the Contractor any balance of allowable cost, and any part of the fee which has been withheld pursuant to (c) above or otherwise not paid to the Contractor. The completion invoice or voucher shall be submitted by the Contractor promptly following completion of the work under this contract but in no event later than one (1) year (or such longer period as the Contracting Officer may in his discretion approve in writing) from the date of such completion.

(f) The Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor or any assignee under this contract shall be paid by the Contractor to the Government, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract. Reasonable expenses incurred by the Contractor for the purpose of securing such refunds, rebates, credits, or other amounts shall be allowable costs hereunder when approved by the Contracting Officer. Prior to final payment under this contract, the Contractor and each assignee under this contract whose assignment is in effect at the time of final payment under this contract shall execute and deliver:

(i) An assignment to the Government, in form and substance satisfactory to the Contracting Officer, of refunds, rebates, credits, or other amounts (including any interest thereon) properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract; and

(ii) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions—

(A) Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible of exact statement by the Contractor;

(B) Claims, together with reasonable expenses incidental thereto, based upon liabilities of the Contractor to third parties arising out of the performance of this contract: *Provided,* That such claims are not known to the Contractor on the date of the execution of the release: *And provided further,* That the Contractor gives notice of such claims in writing to the Contracting Officer not more than six (6) years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier;

(C) Claims for reimbursement of costs, including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of this contract relating to patents; and

(D) When there is included in this contract a clause entitled "Data Requirements," claims pursuant to such clause when a written request by the Contracting Officer to furnish data is made within the 1-year period after final payment.

(g) Any cost incurred by the Contractor under the terms of this contract which would constitute allowable cost under the provisions of this clause shall be included in determining the amount payable under this contract, notwithstanding any provisions contained in the specifications or other documents incorporated in this contract by reference, designating services to be performed or materials to be furnished by the Contractor at his expense or without cost to the Government.

In paragraph (f)(ii)(B) of the above clause the period of years may be increased to correspond with any statutory period of limitation applicable to claims of third parties against the contractor: *Provided,* That a corresponding increase is made in the period for retention of records required in paragraph (a)(4) of the "Records" clause set forth in § 18–7.203–7.

(b) *Allowable cost, incentive fee, and payment.* When the contract provides for incentives which may result in the revision of the fee, the following clause will be used, except in cost-plus-award-fee type contracts. Additional instructions for use of the clause set forth in paragraph (c) of this section.

ALLOWABLE COST, INCENTIVE FEE, AND PAYMENT (JUNE 1967)

(a) (1) For the performance of this contract, the Government shall pay to the Contractor—

(i) The cost thereof (hereinafter referred to as "allowable cost") determined by the Contracting Officer to be allowable in accordance with—

(A) Part 15, Subpart 2 of the NASA Procurement Regulation as in effect on the date of this contract; and

(B) The terms of this contract; and

(ii) A fee determined as provided in the Schedule to this contract.

(2) The target cost and target fee of this contract are set forth in the Schedule and shall be subject to adjustment in accordance with (h) and (i) below. As used throughout this contract the term—

(i) "Target cost" means the estimated cost of this contract initially negotiated, adjusted in accordance with (h) below; and

(ii) "Target fee" means the fee which was initially negotiated on the assumption that this contract would be performed and delivered as stipulated in the Schedule, for a cost equal to the estimated cost of this contract initially negotiated, adjusted in accordance with (h) below.

(b) Once each month (or at more frequent intervals, if approved by the Contracting Officer), the Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as such representative may require an invoice or public voucher supported by a statement of cost incurred by the Contractor in the performance of this contract and claimed to constitute allowable cost.

(c) Promptly after receipt of each invoice or voucher and statement of cost, the Government shall, except as otherwise provided in this contract, subject to the provisions of (d) below, make payment thereon as approved by the Contracting Officer. Payment of fee shall be made to the Contractor as specified in the Schedule: *Provided, however,* That whenever in the opinion of the Contracting Officer, the Contractor's performance or cost then incurred indicates that target fee will not be achieved, payment of fee will be based on such lesser fee, not lower than the minimum fee, as the Contracting Officer may determine to be appropriate; and provided further, that after payment of eighty-five percent (85%) of the applicable fee, further payment on account of the fee shall be withheld until a reserve of either fifteen percent (15%) of the applicable fee, or one hundred thousand dollars ($100,000), whichever is less, shall have been set aside. When the Contracting Officer has ordered that fee payments be reduced in accordance with the foregoing, he may increase the basis for payment to an amount not to exceed the target fee upon an affirmative showing by the Contractor that such action is justified and equitable.

(d) At any time or times prior to final payment under this contract, the Contracting Officer may have the invoices or vouchers and statements of cost audited. Each payment theretofore made shall be subject to reduction for amounts included in the related invoice or voucher which are found by the Contracting Officer, on the basis of such audits, not to constitute allowable cost. Any payment may be reduced for overpayments, or increased for underpayments, on preceding invoices or vouchers.

(e) On receipt and approval of the invoice or voucher designated by the Contractor as the "completion invoice" or "completion voucher" and upon compliance by the Contractor with all the provisions of this contract (including, without limitation, the provisions relating to patents and the provisions of (f) below), the Government shall promptly pay to the Contractor any balance of allowable cost, and any part of the fee which has been withheld pursuant to (c) above or otherwise not paid to the Contractor. The completion invoice or voucher shall be submitted by the Contractor promptly following completion of the work under this contract but in no event later than one (1) year (or such longer period as the Contracting Officer may in his discretion approve in writing) from the date of such completion.

(f) The Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor or any assignee under this contract shall be paid by the Contractor to the Government, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract. Reasonable expenses incurred by the Contractor for the purpose of securing such refunds, rebates, credits, or other amounts shall be allowable costs hereunder when approved by the Contracting Officer. Prior to final payment under this contract, the Contractor and each assignee under this contract whose assignment is in effect at the time of final payment under this contract shall execute and deliver:

(i) An assignment to the Government, in form and substance satisfactory to the Contracting Officer, of refunds, rebates, credits, or other amounts (including any interest thereon) properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract; and

(ii) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions—

(A) Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible of exact statement by the Contractor;

(B) Claims, together with reasonable expenses incidental thereto, based upon liabilities of the Contractor to third parties arising out of the performance of this contract: *Provided,* That such claims are not known to the Contractor on the date of the execution of the release: *And provided further,* That the Contractor gives notice of such claims in writing to the Contracting Officer not more than six (6) years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier;

(C) Claims for reimbursement of costs, including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of this contract relating to patents; and

(D) When there is included in this contract a clause entitled "Data Requirements," claims pursuant to such clause when a written request by the Contracting Officer to furnish data is made within the 1-year period after final payment.

(g) Any cost incurred by the Contractor under the terms of this contract which would constitute allowable cost under the provisions of this clause shall be included in determining the amount payable under this contract, notwithstanding any provisions contained in the specifications or other documents incorporated in this contract by reference, designating services to be performed or materials to be furnished by the Contractor at his expense or without cost to the Government.

(h) When the work under this contract (including any supplies or services which are ordered separately under, or otherwise added to, this contract) is increased or decreased by contract modification or when any equitable adjustment in the target cost is authorized under any other clause of this contract, equitable adjustments in the target cost, target fee, minimum fee, maximum fee, or any or all of them, as appropriate, shall be set forth in an amendment or supplemental agreement to this contract.

(i) The fee payable hereunder shall be the target fee adjusted in accordance with the Schedule.

(j) For the purpose of the adjustment of the fee in accordance with (i) above, the term "total allowable cost" shall not include allowable costs arising out of:

(i) Any of the causes specifically enumerated in the clause hereof entitled "Excusable Delays" to the extent they are without the

fault or negligence of the Contractor or any subcontractor; or

(ii) The taking effect, after the negotiation of the target cost of this contract, of a statute, court decision, written ruling or regulation which results in the Contractor's being required to pay or bear the burden of any tax or duty, or increase in the rate thereof.

(c) *Additional instructions.* (1) Whenever, pursuant to paragraph (c) of the clauses set forth in paragraphs (a) and (b) of this section, vouchers or invoices which are submitted for approval include amounts for progress payments made to fixed-price type subcontractors, the payment to the prime contractor may include the full amount of the progress payment made to the subcontractor.

(2) In paragraph (f)(ii)(B) of the clauses set forth in paragraphs (a) and (b) of this section, the period of years may be increased to correspond with any statutory period of limitation applicable to claims of third parties against the contractor; provided, that a corresponding increase is made in the period for retention of records required in paragraph (a)(4) of the clause set forth in § 18–7.203–7.

(3) The detailed arrangements for increase/decrease of target fee (or adjustment of base fee in award fee contracts) shall be set forth in the contract Schedule.

(4) Paragraph (c) of the clause set forth in paragraph (b) of this section states that payment of fee shall be made to the contractor as specified in the Schedule. Generally the Schedule should provide that payment of fee will be based on target fee.

(5) In the case of cost-sharing contracts and cost-reimbursement type contracts without fee, use the clause set forth in paragraph (a) of this section modified as follows:

(i) Change the title of the clause to read "Allowable Cost and Payment."

(ii) Insert the following sentence in lieu of the second sentence of paragraph (c) of the clause.

After payment of an amount equal to eighty percent (80%) of (Government's share of) the total estimated cost of performance of this contract set forth in the Schedule, further payment on account of allowable cost shall be withheld until a reserve of either one percent (1%) of (the Government's share of) such total estimated cost, or one hundred thousand dollars ($100,000), whichever is less, shall have been set aside.

If the contract does not provide for cost-sharing, delete the parenthetical reference to the Government's share from the above sentence.

(iii) Delete the words "and any part of the fixed fee" from paragraph (e); and

(iv) In contracts which provide for cost-sharing, delete paragraph (a)(ii).

(6) In the case of cost-plus-award-fee contracts, use the clause set forth in paragraph (a) of this section, modified as follows:

(i) Substitute the words "base fee" for "fixed fee" wherever they appear; and

(ii) Add a new subparagraph (h) as follows:

(h) In addition to the base fee, if any, the Contractor shall be paid such additional fee as may be awarded in accordance with the provisions of the Schedule.

(7) In the case of combined cost-plus-incentive-fee/cost-plus-fixed-fee contracts use the clause set forth in paragraph (b) of this section, modified as follows:

(i) In subparagraph (c) delete "not lower than the minimum fee" and substitute therefore "not lower than the sum of the fixed fee and minimum fee";

(ii) In subparagraph (c) delete "not to exceed the target fee" and substitute therefor "not to exceed the sum of the fixed fee and target fee"; and

(iii) In subparagraph (h), delete "When the work under this contract" and substitute "When work subject to the incentive-fee portion of this contract".

(8) The contracting officer shall determine to his satisfaction that the estimated cost of the contract initially negotiated does not include amounts for the contingencies identified in paragraph (j) of the clause set forth in paragraph (b) of this section.

§ 18–7.203–5 Inspection of supplies and correction of defects.

INSPECTION OF SUPPLIES AND CORRECTION OF DEFECTS (SEPTEMBER 1962)

(a) All supplies (which term throughout this clause includes without limitation raw materials, components, intermediate assemblies, and end products) shall be subject to inspection and test by the Government, to the extent practicable at all times and places including the period of manufacture, and in any event prior to acceptance. The Contractor shall provide and maintain an inspection system acceptable to the Government covering the supplies, fabricating methods, and special tooling hereunder. The Government, through any authorized representative, may inspect the plant or plants of the Contractor or of any of his subcontractors engaged in the performance of this contract. If any inspection or test is made by the Government on the premises of the Contractor or a subcontractor, the Contractor shall provide and shall require subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the Government inspectors in the performance of their duties. All inspections and tests by the Government shall be performed in such a manner as will not unduly delay the work. Except as otherwise provided in this contract, acceptance of any supplies or lots of supplies shall be made as promptly as practicable after delivery thereof and shall be deemed to have been made no later than sixty (60) days after the date of such delivery, if acceptance has not been made earlier within such period.

(b) At any time during performance of this contract, but not later than six (6) months (or such other period as may be provided in the Schedule) after acceptance of the supplies or lots of supplies last delivered in accordance with the requirements of this contract, the Government may require the Contractor to remedy by correction or replacement as directed by the Contracting Officer, any supplies or lots of supplies which at the time of delivery thereof are defective in material or workmanship or otherwise not in conformity with the requirements of this contract. Except as otherwise provided in paragraph (c) hereof, the cost of any such replacement or correction shall be included in Allowable Cost determined as provided in the clause of this contract entitled "Allowable Cost, Fixed Fee and Payment," but no additional fee shall be payable with respect thereto. Such supplies or lots of supplies shall not be tendered thereafter for acceptance unless the former requirement of correction is disclosed. If the Contractor fails to proceed with reasonable promptness to replace or correct such supplies or lots of supplies, the Government (i) may by contract or otherwise replace or correct such supplies and charge to the Contractor any increased cost occasioned the Government thereby, or may reduce any fixed fee payable under this contract (or require repayment of any fixed fee theretofore paid) in such amount as may be equitable under the circumstances, or (ii) in the case of supplies not delivered, may require the delivery of such supplies, and shall have the right to reduce any fixed fee payable under this contract (or to require repayment of any fixed fee theretofore paid) in such amount as may be equitable under the circumstances, or (iii) may terminate this contract for default as provided in the clause of this contract entitled "Termination." Failure to agree to the amount of any such increased cost to be charged to the Contractor or to such reduction in, or repayment of, the fixed fee shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(c) Notwithstanding the provisions of paragraph (b) hereof, the Government may at any time require the correction or replacement by the Contractor, without cost to the Government, of supplies or lots of supplies which are defective in material or workmanship, or otherwise not in conformity with the requirements of this contract, if such defects or failures are due to fraud, lack of good faith, or willful misconduct on the part of any of the Contractor's directors or officers, or on the part of any of his managers, superintendents, or other equivalent representatives, who has supervision or direction of (i) all or substantially all of the Contractor's business, or (ii) all or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed, or (iii) a separate and complete major industrial operation in connection with the performance of this contract. The Government may at any time also require correction or replacement by the Contractor, without cost to the Government, of any such defective supplies or lots of supplies if the defects or failures are caused by one or more individual employees selected or retained by the Contractor after any such supervisory personnel has reasonable grounds to believe that any such employee is habitually careless or otherwise unqualified.

(d) Corrected supplies or replaced supplies shall be subject to the provisions of this clause in the same manner and to the same extent as supplies originally delivered under this contract.

(e) The Contractor shall make his records of all inspection work available to the Government during the performance of this contract and for such longer period as may be specified in this contract.

(f) Except as provided in this clause and as may be provided in the Schedule, the Contractor shall have no obligation or liability to correct or replace supplies or lots of supplies which at the time of delivery are defective in material or workmanship or

otherwise not in conformity with the requirements of this contract.

(g) Except as otherwise provided in the Schedule, the Contractor's obligation to correct or replace Government-furnished property (which is property in the possession of or acquired directly by the Government and delivered or otherwise made available to the Contractor) shall be governed by the provisions of the clause of this contract entitled "Government Property."

§ 18–7.203–6 Assignment of claims.

In accordance with the requirements of § 18–7.103–8, insert the clause set forth therein.

§ 18–7.203–7 Records.

(a) Except as provided in paragraph (b) of this section, insert the following clause.

RECORDS (AUGUST 1964)

(a) (1) The Contractor agrees to maintain books, records, documents, and other evidence pertaining to the costs and expenses of this contract and in the case of Facilities contracts the use of and charges for the use of Facilities (hereinafter collectively called the "records") to the extent and in such detail as will properly reflect all net costs, direct and indirect, of labor, materials, equipment, supplies and services, and other costs and expenses of whatever nature for which reimbursement is claimed under the provisions of this contract and in the case of Facilities contracts all use of the Facilities, and all charges to be made for the use of the Facilities.

(2) The Contractor agrees to make available at the office of the Contractor at all reasonable times during the period set forth in subparagraph (4) below any of the records for inspection, audit or reproduction by any authorized representative of the Comptroller General.

(3) In the event the Comptroller General or any of his duly authorized representatives determines that his audit of the amounts reimbursed under this contract as transportation charges will be made at a place other than the office of the Contractor, the Contractor agrees to deliver, with the reimbursement voucher covering such charges or as may be otherwise specified within 2 years after reimbursement of charges covered by any such voucher, to such representative as may be designated for that purpose through the Contracting Officer, such documentary evidence in support of transportation costs as may be required by the Comptroller General or any of his duly authorized representatives.

(4) Except for documentary evidence delivered to the Government pursuant to subparagraph (3) above, the Contractor shall preserve and make available his records (i) for a period of 3 years from the date of final payment under this contract, and (ii) for such longer period, if any, as is required by applicable statute, by any other clause of this contract, or by (A) or (B) below.

(A) If this contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of 3 years from the date of any resulting final settlement.

(B) Records which relate to (1) appeals under the Disputes clause of this contract, (ii) litigation or the settlement of claims arising out of the performance of this contract, or (iii) cost and expenses of this contract as to which exception has been taken by the Comptroller General or any of his duly authorized representatives, shall be retained by the Contractor until such appeals, litigation, claims, or exceptions have been disposed of.

(5) Except for documentary evidence delivered pursuant to subparagraph (3) above, and the records described in subparagraph (4)(B) above, the Contractor may in fulfillment of his obligation to retain his records as required by this clause substitute photographs, microphotographs, or other authentic reproductions of such records, after the expiration of 2 years following the last day of the month of reimbursement to the Contractor of the invoice or voucher to which such records relate, unless a shorter period is authorized by the Contracting Officer with the concurrence of the Comptroller General or his duly authorized representative.

(6) The provisions of this paragraph (a), including this subparagraph (6), shall be applicable to and included in each subcontract hereunder which is on a cost, cost-plus-a-fixed-fee, time-and-material or labor-hour basis.

(b) The Contractor further agrees to include in each of his subcontracts hereunder, other than those set forth in subparagraph (a)(6) above, a provision to the effect that the subcontractor agrees that the Comptroller General or any of his duly authorized representatives, shall, until the expiration of 3 years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract. The term "subcontract," as used in this paragraph (b) only, excludes (i) purchase orders not exceeding $2,500 and (ii) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

(b) In the case of contracts which establish separate periods of performance, the following alternate paragraph (a)(4) may be substituted for the corresponding paragraph of the clause prescribed by paragraph (a) of this section.

(a) (4) Except for documentary evidence delivered to the Government pursuant to subparagraph (3) above, the Contractor shall preserve and make available his records (i) for a period of 3 years from the date of payment of the voucher or invoice submitted by the Contractor after the completion of the work performed during any separate period of performance established by this contract or by any amendment or supplemental agreement, without regard to former or subsequent periods of performance, and (ii) for such longer period, if any, as is required by applicable statute, by any other clause of this contract, or by (A), (B), or (C) below.

(A) If this contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of 3 years from the date of any resulting final settlement.

(B) Records which relate to (1) appeals under the "Disputes" clause of this contract, (ii) litigation or the settlement of claims arising out of the performance of this contract, or (iii) cost and expenses of this contract as to which exception has been taken by the Comptroller General or any of his duly authorized representatives, shall be retained by the Contractor until such appeals, litigation, claims, or exceptions have been disposed of.

(C) If the Contractor plans to destroy any records sooner than 3 years after the date of the voucher or invoice to be submitted after the completion of the work performed during the total of the periods of performance established by this contract and all amendments and supplemental agreements thereto, which voucher or invoice shall be designated "completion voucher" or "completion invoice," he shall give written notice to the Contracting Officer and to the Comptroller General of the United States, specifying any records which he plans to destroy after the expiration of 90 days from the receipt of such notice, and shall retain any records which either the Contracting Officer or the Comptroller General, by written notice within 90 days after receipt of the Contractor's notice, requires to be retained for a further specified period of time. (September 1962)

§ 18–7.203–8 Subcontracts.

SUBCONTRACTS (JANUARY 1963)

(a) The Contractor shall give advance notification to the Contracting Officer of any proposed subcontract hereunder which (i) is on a cost, cost-plus-a-fee, time and material, or labor-hour basis, or (ii) is on a fixed-price basis exceeding in dollar amount either $25,000 or five percent (5%) of the total estimated cost of this contract.

(b) In the case of a proposed subcontract which (i) is on a cost, cost-plus-a-fee, time and material, or labor-hour basis and which would involve an estimated amount in excess of $10,000, including any fee; or (ii) is proposed to exceed $100,000; or (iii) is one of a number of subcontracts under this contract with a single subcontractor for the same or related supplies or services which, in the aggregate, are expected to exceed $100,000; the advance notification required by (a) above shall include:

(i) A description of the supplies or services to be called for by the subcontract;

(ii) Identification of the proposed subcontractor and an explanation of why and how the proposed subcontractor was selected, including the degree of competition obtained;

(iii) The proposed subcontract price, together with the Contractor's cost or price analysis thereof and a statement as to whether the price is based on catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation; and

(iv) Identification of the type of contract proposed to be used.

(c) The Contractor shall not, without the prior written consent of the Contracting Officer, place any subcontract which (i) is on a cost or cost-plus-a-fee basis, or (ii) is on a fixed-price basis exceeding in dollar amount either $25,000 or five percent (5%) of the total estimated cost of this contract, or (iii) provides for the fabrication, purchase, rental, installation, or other acquisition of any item of industrial facilities, or of special tooling having a value in excess of $1,000, or (iv) is on a time and material or labor-hour basis. The Contracting Officer may, in his discretion, ratify in writing any such subcontract; such action shall constitute the consent of the Contracting Officer as required by this paragraph (c).

(d) The Contractor agrees that no subcontract, placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis.

(e) The Contracting Officer may, in his discretion, specifically approve in writing any of the provisions of a subcontract. However, such approval or the consent of the Contracting Officer obtained as required by this clause shall not be construed to constitute a determination of the allowability of any cost under this contract, unless such approval specifically provides that it constitutes a determination of the allowability of such cost.

(f) The Contractor shall give the Contracting Officer immediate notice in writing

of any action or suit filed, and prompt notice of any claim made against the Contractor by any subcontractor or vendor which, in the opinion of the Contractor, may result in litigation, related in any way to this contract with respect to which the Contractor may be entitled to reimbursement from the Government.

(g) Notwithstanding (c) above, the Contractor may enter into subcontracts within (ii), or if the subcontract is for special tooling, within (iii), or (c) above, without the prior written consent of the Contracting Officer if the Contracting Officer has, in writing, approved the Contractor's purchasing system and the subcontract is within the limitations of such approval.

(h) The Contractor shall (i) insert in each price redetermination or incentive price revision subcontract hereunder the substance of the "Limitation on Payments" provision set forth in paragraph (j) of the clause prescribed by paragraph 7.102 of the NASA Procurement Regulation, including subparagraph (4) thereof, modified to omit mention of the Government and reflect the position of the Contractor as purchaser and of the subcontractor as vendor, and to omit that portion of subparagraph (3) thereof relating to tax credits, and (ii) include in each cost-reimbursement type subcontract hereunder a requirement that each price redetermination and incentive price revision subcontract thereunder will contain the substance of the "Limitation on Payments" provision, including subparagraph (4) thereof, modified as outlined in (i) above.

(i) To facilitate small business participation in subcontracting under this contract, the Contractor agrees to provide progress payments on the fixed-price types of subcontracts of those subcontractors which are small busines concerns, in conformity with the standards for customary progress payments stated in paragraphs 503 and 514 of Appendix E of the Armed Services Procurement Regulation, as in effect on the date of this contract. The Contractor further agrees that the need for such progress payments will not be considered as a handicap or adverse factor in the award of subcontracts.

In paragraph (c) of the "Subcontracts" clause set forth in this section, the percentage and amount set forth in subparagraph (a) (ii) thereof may be varied, the dollar amount in subparagraph (a) (iii) may be increased, and in subparagraphs (a) (i) and (iv) thereof dollar amounts not in excess of $10,000 may be established below which the prior written consent of the contracting officer need not be obtained.

§ 18–7.203–9 Utilization of small business concerns.

In accordance with the requirements set forth in § 18–1.707–3(a), insert the clause contained therein.

§ 18–7.203–10 Termination.

Insert the clause set forth in § 18–8.702.

§ 18–7.203–11 Excusable delays.

Insert the clause set forth in § 18–8.708.

§ 18–7.203–12 Disputes.

Insert the clause set forth in § 18–7.103–12.

§ 18–7.203–13 Renegotiation.

Insert the clause set forth in § 18–7.103–13.

§ 18–7.203–15 Convict labor.

In accordance with the requirements of Subpart 18–12.2, insert the clause set forth in § 18–12.203.

§ 18–7.203–16 Contract Work Hours Standards Act—overtime compensation.

Insert the clause set forth in § 18–12.303–1. Note the introductory language required by § 18–12.303–2 for inclusion in contracts with a State or political subdivision thereof.

§ 18–7.203–17 Walsh-Healey Public Contracts Act.

Insert the clause set forth in § 18–12.604.

§ 18–7.203–18 Equal opportunity.

Insert one or the other of the following clauses, as required by and in accordance with the instructions in § 18–12.802: (a) the Equal Opportunity clause set forth in § 18–12.802–1, or (b) the Equal Opportunity in Federally Assisted Construction Contracts clause set forth in § 18–12.802–2.

§ 18–7.203–19 Officials not to benefit.

Insert the clause set forth in § 18–7.103–19.

§ 18–7.203–20 Covenant against contingent fees.

Insert the clause set forth in § 18–1.503.

§ 18–7.203–21 Government property.

Insert the clause set forth in § 18–13.503.

§ 18–7.203–22 Insurance—liability to third persons.

INSURANCE—LIABILITY TO THIRD PERSONS (SEPTEMBER 1962)

(a) The Contractor shall procure and thereafter maintain workmen's compensation, employer's liability, comprehensive general liability (bodily injury) and comprehensive automobile liability (bodily injury and property damage) insurance, with respect to performance under this contract, and such other insurance as the Contracting Officer may from time to time require with respect to performance under this contract: *Provided*, That the Contractor may with the approval of the Contracting Officer maintain a self-insurance program: *And provided further*, That with respect to workmen's compensation the Contractor is qualified pursuant to statutory authority. All insurance required pursuant to the provisions of this paragraph shall be in such form, in such amounts, and for such periods of time as the Contracting Officer may from time to time require or approve, and with insurers approved by the Contracting Officer.

(b) The Contractor agrees, to the extent and in the manner required by the Contracting Officer, to submit for the approval of the Contracting Officer any other insurance maintained by the Contractor in connection with the performance of this contract and for which the Contractor seeks reimbursement hereunder.

(c) The Contractor shall be reimbursed: (i) for the portion allocable to this contract of the reasonable cost of insurance as required or approved pursuant to the provisions of this clause, and (ii) for liabilities to third persons for loss of or damage to property (other than property (A) owned, occupied, or used by the Contractor or rented to the Contractor, or (B) in the care, custody, or control of the Contractor), or for death or bodily injury, not compensated by insurance or otherwise, arising out of the performance of this contract, whether or not caused by the negligence of the Contractor, his agents, servants, or employees: *Provided*, Such liabilities are represented by final judgments or by settlements approved in writing by the Government, and expenses incidental to such liabilities, except liabilities (I) for which the Contractor is otherwise responsible under the express terms of the clause or clauses, if any, specified in the Schedule, or (II) with respect to which the Contractor has failed to insure as required or maintain insurance as approved by the Contracting Officer, or (III) which results from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or on the part of any of his managers, superintendents, or other equivalent representatives, who has supervision or direction of (1) all or substantially all of the Contractor's business, or (2) all or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed, or (3) a separate and complete major industrial operation in connection with the performance of this contract. The foregoing shall not restrict the right of the Contractor to be reimbursed for the cost of insurance maintained by the Contractor in connection with the performance of this contract, other than insurance required to be submitted for approval or required to be procured and maintained pursuant to the provisions of this clause: *Provided*, Such cost would constitute allowable cost under the clause of this contract entitled "Allowable Cost, Fixed Fee, and Payment."

(d) The Contractor shall give the Government or its representatives immediate notice of any suit or action filed, or prompt notice of any claim made, against the Contractor arising out of the performance of this contract, the cost and expense of which may be reimbursable to the Contractor under the provisions of this contract, and the risk of which is then uninsured or in which the amount claimed exceeds the amount of coverage. The Contractor shall furnish immediately to the Government copies of all pertinent papers received by the Contractor. If the amount of the liability claimed exceeds the amount of coverage, the Contractor shall authorize representatives of the Government to collaborate with counsel for the insurance carrier, if any, in settling or defending such claim. If the liability is not insured or covered by bond, the Contractor shall, if required by the Government, authorize representatives of the Government to settle or defend any such claim and to represent the Contractor in or take charge of any litigation in connection therewith: *Provided, however*, That the Contractor may, at his own expense, be associated with the representatives of the Government in the settlement or defense of any such claim or litigation.

§ 18–7.203–23 Authorization and consent.

Insert the clause set forth in § 18–9.103(a).

§ 18–7.203–24 Notice and assistance regarding patent and copyright infringement.

Insert the clause set forth in § 18–9.105.

§ 18–7.203–26 Utilization of concerns in labor surplus areas.

In accordance with the requirements of § 18–1.805–3(a), insert the clause set forth therein.

§ 18–7.203–27 Payment for overtime and shift premiums.

In accordance with the requirements of § 18–12.102, insert the clause set forth in § 18–12.102–3(h)(1).

§ 18–7.203–28 Competition in subcontracting.

Insert the clause set forth in § 18–7.104–40.

§ 18–7.203–29 Audit and records.

Insert the clause set forth in § 18–7.104–42.

§ 18–7.203–50 Payment of royalties.

Insert the clause set forth in § 18–9.108–1, except that in contracts with members of the Manufacturers Aircraft Association the clause set forth in § 18–9.108–2 may be substituted therefor.

§ 18–7.203–51 Estimated cost and fixed fee.

Normally, the clause set forth below will be used as the Schedule provision covering the estimated cost and fixed fee. However, the clause may be modified at the discretion of the contracting officer.

ESTIMATED COST AND FIXED FEE (SEPTEMBER 1962)

The estimated cost of this contract is _____ exclusive of the fixed fee of _____. The total of estimated cost and fixed fee is _____.

§ 18–7.203–52 Payment of fixed fee.

Normally, the clause set forth below will be used as the Schedule provision covering the payment of fixed fees. However, at the discretion of the contracting officer, the clause may be modified.

PAYMENT OF FIXED FEE (SEPTEMBER 1962)

The fixed fee shall be paid in monthly installments based upon the percentage of completion of work as determined by the Contracting Officer.

§ 18–7.203–53 Interest.

Insert the clause set forth in § 18–7.103–53.

§ 18–7.204 Clauses required to be used when applicable.

§ 18–7.204–1 Clauses for contracts involving construction work.

(a) In accordance with the requirements of Subpart 18–12.4, insert in cost-reimbursement type supply contracts which involve construction work the clauses listed below which are set forth in § 18–12.403–1:

Davis-Bacon Act.
Contract Work Hours Standards Act—Overtime Compensation.
Apprentices.
Payrolls and Payroll Records.
Compliance With Copeland Regulations.
Withholding of Funds.
Subcontracts.
Contract Termination—Debarment.

(b) In accordance with the requirements of § 18–6.207, insert in all contracts for construction, except those executed on Standard Form 19 and NASA Form 177W, the clause entitled "Buy American" set forth in § 18–6.207(c).

§ 18–7.204–2 Soviet-controlled areas.

In accordance with the requirements of § 18–6.403, insert the clause set forth therein and include in the Schedule of the contract the list of Soviet-controlled areas set forth in § 18–6.401–2.

§ 18–7.204–3 Buy American Act.

In accordance with the requirements of Subpart 18–6.1 insert the clause set forth in § 18–6.104–5.

§ 18–7.204–4 Notice to the Government of labor disputes.

In accordance with the requirements of § 18–7.104–4, insert the clause set forth therein.

§ 18–7.204–6 Filing of patent applications.

In accordance with the requirements of § 18–9.107, insert the clause set forth therein.

§ 18–7.204–7 New technology.

In accordance with the requirements of § 18–9.101–2, insert the clause set forth in § 18–9.101–4.

§ 18–7.204–9 Rights in data.

In accordance with the requirements of § 18–9.202, insert the clause in § 18–9.202–1, as amended by § 18–9.203–2 and, if applicable, by § 18–9.203–3.

§ 18–7.204–12 Security requirements.

Insert the clause set forth in this § 18–7.204–12 in all contracts which are classified "Confidential" or higher and in other contracts which may require access to classified information or material:

SECURITY REQUIREMENTS (SEPTEMBER 1962)

(a) The provisions of this clause shall apply to the extent that this contract involves access to information classified "Confidential" or higher.

(b) The NASA shall notify the Contractor of the security classification of this contract and the elements thereof, and of any subsequent revisions in such security classification, by the use of a Security Requirements Check List (DD Form 254), or other written notification.

(c) The Contractor agrees to execute, if he has not already done so, a Security Agreement (DD Form 441) with the Government, represented by the Military Department assigned security cognisance over the Contractor's facility. To the extent the Government has indicated as of the date of this contract, or thereafter indicates, a security classification under this contract as provided in paragraph (b) above, the Contractor shall safeguard all classified elements of this contract and shall provide and maintain a system of security controls within its own organization in accordance with the requirements of:

(i) The Security Agreement (DD Form 441), including the Department of Defense Industrial Security Manual for Safeguarding Classified Information in effect on the date of this contract, and any modification to the Security Agreement for the purpose of adapting the Manual to the Contractor's business; and

(ii) Any amendments to said Manual made after the date of this contract, notice of which has been furnished to the Contractor by the Security Office of the Military Department having security cognisance over the facility.

(d) Representatives of the Military Department having security cognisance over the facility, and representatives of NASA, shall have the right to inspect at reasonable intervals the procedures, methods, and facilities utilized by the Contractor in complying with the security requirements under this contract. Should the Government, through these representatives, determine that the Contractor is not complying with the security requirements of this contract, the Contractor shall be informed in writing by the Security Office of the cognisant Military Department of the proper action to be taken in order to effect compliance with such requirements.

(e) If, subsequent to the date of this contract, the security classifications or security requirements under this contract are changed by the Government as provided in this clause, and if such change causes an increase or decrease in the estimated cost of performance of this contract, the estimated cost and fixed fee (if any) shall, to the extent appropriate, be subject to an equitable adjustment. Any such equitable adjustment shall be accomplished in the manner set forth in the "Changes" clause of this contract.

(f) The Contractor agrees to insert, in all subcontracts hereunder which involve access to classified information, provisions which shall conform substantially to the language of this clause, including this paragraph (f) but excluding paragraph (e) of this clause. The Contractor may insert in any such subcontract, and any such subcontract entered into thereunder may contain, in lieu of paragraph (e) of this clause, provisions which permit equitable adjustments to be made in the subcontract price or in the estimated cost and fixed fee (if any) of the subcontract (as appropriate to the type of subcontract involved) on account of changes in security classifications or requirements made under the provisions of this clause subsequent to the date of the subcontract involved.

(g) The Contractor also agrees that he shall determine that any subcontractor proposed by him for the furnishing of supplies and services which will involve access to classified information in the Contractor's custody has been granted an appropriate facility security clearance, which is still in effect, prior to being accorded access to such classified information.

§ 18–7.204–15 Priorities, allocations, and allotments.

In accordance with the requirements of § 18–1.307–2, insert the clause set forth therein.

§ 18–7.204–16 Negotiated overhead rates.

Where negotiated overhead rates are to be used pursuant to Subpart 18–3.7, the appropriate clause set forth in § 18–3.704 shall be included in the contract.

§ 18–7.204–18 Limitation on withholding of payments.

In accordance with the requirements in § 18–7.104–21, insert the clause set forth therein.

§ 18–7.204–19 Small business subcontracting program.

In accordance with the requirements of § 18–1.707, insert the clause set forth in § 18–1.707–3(b).

§ 18–7.204–20 Changes to make-or-buy program.

In accordance with the requirements of Subpart 18–3.9, insert the clause set forth in § 18–3.902(a).

§ 18–7.204–21 Flight risks.

In contracts for the development, production, modification, maintenance, or overhaul of aircraft, or otherwise involving the furnishing of aircraft to the contractor by the Government, insert the clause set forth in § 18–10.504.

§ 18–7.204–26 Preference for U.S.-flag air and ocean services.

In accordance with the requirements of Subpart 18–1.14, insert the clause set forth in § 18–1.1403.

§ 18–7.204–28 General Services Administration supply sources.

The clause set forth in § 18–5.907 shall be included in contracts in accordance with the instructions set forth therein.

§ 18–7.204–30 Contractor and subcontractor cost or pricing data.

In accordance with the requirements of § 18–3.807–3, insert the clause set forth in § 18–3.807–4.

§ 18–7.204–31 Scientific and technical information service.

Insert in all cost-reimbursement type supply contracts where research and development work is involved the clause set forth in § 18–7.302–55.

§ 18–7.204–50 Data requirements.

In accordance with the requirements of § 18–9.202, insert the clause set forth in § 18–9.202–1(e).

§ 18–7.204–51 Approval of contract.

Insert the clause set forth in § 18–7.104–51 when approval of the contract by the Director of Procurement is required.

§ 18–7.204–53 Limitation of Government's obligation.

Where funding to complete the entire contract is not available at the time it is entered into and specific approval of the Director of Procurement has been obtained for the use of such a clause, insert the clause set forth below in the contract, together with an implementing Schedule provision.

LIMITATION OF GOVERNMENT'S OBLIGATION (SEPTEMBER 1962)

(a) It is estimated that the total cost to the Government, inclusive of any fixed fee, for the performance of this contract will not exceed the estimated cost and fixed fee set forth in the Schedule, and the Contractor agrees to use his best efforts to perform the work specified in the Schedule and all obligations under this contract within such estimated cost. The fixed fee for complete performance of this contract is specified in the Schedule.

(b) The sum presently available for payment and allotted to this contract, the items covered thereby, and the period of performance which it is estimated the allotted amount will cover, are specified in the Schedule. It is anticipated that from time to time additional funds will be allotted to this contract up to the full estimated cost, including any fixed fee. When additional funds are allotted from time to time for continued performance of the work, the parties shall agree as to the applicable estimated period of contract performance which shall be covered by such funds and the contract Schedule amended accordingly. The Contractor agrees to perform or have performed work on this contract up to the point at which in the event of termination of this contract for the convenience of the Government pursuant to the clause of this contract entitled "Termination," the total amount paid and payable by the Government pursuant to any settlement including cost and fixed fee under paragraph (e) of such clause would, in the exercise of reasonable judgment by the Contractor, approximate the total amount at the time allotted to this contract. The Contractor shall not be obligated to continue performance of the work beyond such point.

(c) The Government shall not be obligated to reimburse the Contractor for costs incurred (including amounts payable in respect to subcontracts and termination settlement costs) and to pay any fixed fee to which the Contractor may be entitled in excess of the total amount from time to time allotted to this contract. However, when and to the extent that the total amount allotted to this contract has been increased, any costs incurred by the Contractor and any fixed fee to which the Contractor may be entitled, prior to the increase and in excess of the amount previously allotted, shall be allowable to the same extent as if such costs had been incurred and fee earned after such increase in amount allotted.

(d) In the event funds allotted are considered by the Contractor to be inadequate to cover the work to be performed for the period set forth in the Schedule, the Contractor shall notify the Contracting Officer in writing when within the next thirty (30) days the work will reach a point at which, in the event of termination of this contract for the convenience of the Government pursuant to the clause of this contract entitled "Termination," the total amount paid and payable by the Government pursuant to a settlement including cost and fixed fee under paragraph (e) of such clause will approximate eighty-five percent (85%) of the total amount then alloted to the contract. The notice shall state the estimated date when such point will be reached and the estimated amount of additional funds required to continue performance for the period set forth in the Schedule. The Contractor shall, thirty (30) days prior to the end of the period specified in the Schedule, advise the Contracting Officer in writing as to the estimated amount of additional funds which will be required on the basis of the obligation for performance in accordance with paragraph (b) of this clause for the timely performance of the work under the contract for such further period as may be specified in the Schedule or otherwise agreed to by the parties. If, after such notification, additional funds are not allotted by the end of the period set forth in the Schedule, or an agreed date in substitution therefor, the Contracting Officer will, upon written request of the Contractor, terminate this contract on such date, or on a date to be specified in such request, on which the Contractor, in the exercise of his reasonable judgment, estimates that he will have discharged his obligation to perform hereunder in accordance with paragraph (b) of this clause, whichever is later, pursuant to the provisions of the clause of this contract entitled "Termination."

(e) When additional funds are allotted from time to time for continued performance of the work under this contract, the parties shall agree as to the applicable period of contract performance which shall be covered by such funds, and the provisions of paragraphs (b), (c), and (d) of this clause shall apply in like manner to such additional allotted funds and substituted date pertaining thereto, and the contract shall be amended accordingly.

(f) The Government may at any time prior to termination allot additional funds for this contract, and, with the consent of the Contractor, after notice of termination, may rescind such termination in whole or in part, and allot additional funds for this contract.

(g) In the event that sufficient amounts are not allotted to this contract to allow completion of the work contemplated by this contract, the Contractor shall be entitled, subject to the limitations of paragraph (c) of this clause, to a percentage of the fixed fee set forth in the Schedule equivalent to the percentage of completion of the work contemplated by this contract.

(h) Nothing in this clause shall effect the right of the Government to terminate this contract pursuant to the clause of this contract entitled "Termination."

(i) For the purpose of this clause, the allotment or allotments specified in the Schedule shall not be decreased without the consent of the Contractor.

(j) This clause shall be applicable and the clause of this contract entitled "Limitation of Cost" inapplicable until such time as an amount equal to the total estimated cost and fee set forth in the Schedule is allotted to this contract, and thereafter the clause of this contract entitled "Limitation of Cost" shall be applicable and this clause inapplicable.

§ 18–7.204–55 NASA PERT System.

In contracts to which the NASA PERT System (see NASA Management Instruction 4–1–5 and the NASA PERT Handbook) is applicable, insert the following clause:

NASA PERT SYSTEM (MARCH 1963)

(a) The NASA PERT system shall be implemented and maintained in accordance with the NASA PERT Handbook as in effect on the date of this contract and as it may be amended from time to time.

(b) In the event of an amendment to the NASA PERT Handbook which changes substantially the amount of detail required to be reported or the system of reporting, such amendment shall be treated as a change under the clause of this contract entitled "Changes."

(c) The system shall be implemented by a PERT team consisting of representatives of the Contractor and the NASA. Implementation by the PERT team will commence within 30 days after the date of this contract. The number of networks required and the scope of each network will be established by NASA, after giving due consideration to recommendations of the PERT team. The Contractor's participation, as a member of this team, shall include but not be limited to the following:

Formulation of recommendations as to the number and scope of networks required, development of the networks required, identification of events and activities comprising each of the networks required, and initial estimates of activity time supported by initial estimates of direct labor (in man-hours) associated with each activity time. Implementation of NASA PERT will be complete within 90 days after the date of this contract. Reporting against and updating of individual networks shall commence as soon as individual networks are developed and not await completion of all networks.

(d) Reporting against networks established shall be as described in the NASA PERT Handbook. These reports shall be submitted on alternate Fridays (the reporting date) specified by NASA via mail, TWX telephone, or such other manner as necessary to reach the NASA Project Manager by the Monday (a.m.) following the report date. The computer input data reported shall be current as of the reporting date.

In the case of major contracts, the requirement for completion of the implementation of the NASA PERT System within three months after the date of the contract may be extended up to six months.

§ 18–7.204–56 NASA financial management reporting.

When financial management reporting on NASA Form 533 is required by the Purchase Request under the provisions of NASA Management Instruction 9501.1, insert the appropriate clause set forth in paragraph (a) or (b) of this section. The number of copies of NASA Form 533 to be submitted by the contractor shall be specified in the Schedule of the contract.

(a) The clause set forth below shall be used when the NASA PERT System is not applicable to the contract.

NASA FINANCIAL MANAGEMENT REPORTING (WITHOUT PERT) (MARCH 1963)

Financial Management Report shall be submitted by the Contractor on NASA Form 533 in accordance with the instructions on the reverse of the form and in the number of copies set forth in the contract Schedule. The line entries for subdivisions of work and elements of cost to be reported within the total contract shall be determined by NASA, after giving due consideration to the recommendations of the Contractor. Subsequent changes and/or additions in the line entries to be reported shall be similarly determined. The Contracting Officer shall notify the Contractor of each change and addition and the reporting period to which each shall apply. Financial Management Reporting shall commence with a report for the first calendar month following the date of this contract.

(b) When the NASA PERT System is applicable to the contract, the following clause shall be used:

NASA FINANCIAL MANAGEMENT REPORTING (WITH PERT) (MARCH 1963)

(a) Financial Management Reports shall be submitted by the Contractor on NASA Form 533 in accordance with the instructions on the reverse of the form and in the number of copies set forth in the contract Schedule. The line entries for subdivisions of work and elements of cost to be reported within the total contract shall be determined by NASA, after giving due consideration to the recommendations of a combined PERT/Financial Report implementation team consisting of Contractor and NASA representatives. Subsequent changes and/or additions in the line entries to be reported will be similarly determined. The Contracting Officer will notify the Contractor of each change and addition and the reporting period to which each will apply.

(b) The line entries for subdivisions of work selected for reporting shall be compatible with NASA PERT networks in order to permit integrated time/cost management control and reporting. Establishment of these subdivisions of work shall proceed simultaneously with the development of NASA PERT networks.

(c) Financial Management reporting shall commence with a report for the first calendar month following the date of this contract. Until completion of the implementation of PERT, the line entries of the report shall reflect a summarized breakdown which it is anticipated will approximate the more detailed entries based on PERT networks. Beginning with the first calendar month following completion of the implementation of PERT, the report shall be submitted with line entries fully compatible with PERT networks.

§ 18–7.204–58 Safety and health.

In accordance with the requirements of Subpart 18–10.50, insert the clause set forth in § 18–10.5004.

§ 18–7.204–59 Nonuse of Foreign-flag vessels engaged in Cuban trade.

In accordance with the requirements of § 18–1.1410, insert the clause set forth therein.

§ 18–7.204–60 Report on NASA subcontracts.

In accordance with the requirements of § 18–16.904–3, insert the clause set forth therein.

§ 18–7.204–61 Rights in data for potentially hazardous items.

In accordance with the requirements of § 18–9.204–52, insert the clause set forth in § 18–9.204–52(c).

§ 18–7.204–62 Potentially hazardous items.

In accordance with the requirements of § 18–1.351, insert the clause set forth therein.

§ 18–7.204–63 Disclosure of unsolicited proposals outside government.

In accordance with the requirements of § 18–1.304–2(c)(3), insert the clause set forth therein.

§ 18–7.205 Additional clauses.

The following clauses shall be inserted if it is desired to cover the subject matter thereof.

§ 18–7.205–1 Alterations in contract.

The clause set forth in § 18–7.105–1 may be inserted.

§ 18–7.205–4 Bill of materials.

Under the circumstances stated in § 18–7.105–6, the clause set forth therein may be inserted.

§ 18–7.205–5 Federal, State, and local taxes.

At the discretion of the contracting officer and when requested by the contractor, the clause set forth in § 18–11.402 is authorized for use in cost-reimbursement type contracts.

§ 18–7.205–50 Notice of delay.

The clause set forth in this § 18–7.205–50 is authorized for use in situations where it is desirable to provide for notice by the contractor of anticipated delays in performance.

NOTICE OF DELAY (SEPTEMBER 1963)

If the Contractor becomes unable to complete the contract work at the time specified because of technical difficulties, notwithstanding the exercise of good faith and diligent efforts in the performance of the work called for hereunder, the Contractor shall give the Contracting Officer written notice of the anticipated delay and the reasons therefor. Such notice and reasons shall be delivered promptly after the condition creating the anticipated delay becomes known to the Contractor but in no event less than forty-five (45) days before the completion date specified in this contract, unless otherwise directed by the Contracting Officer. When notice is so required, the Contracting Officer may, in his discretion, extend the time specified in the Schedule for such period as he deems advisable.

§ 18–7.205–51 Program progress reports.

Where the procedures set forth in NASA Management Instruction 6–2–3 relating to the NASA Program Management System are applicable, the clause set forth in this § 18–7.205–11 is authorized for use to obtain periodic reports from the contractor concerning the planning and progress of the program called for by the contract.

PROGRAM PROGRESS REPORTS (SEPTEMBER 1963)

(a) The Contractor shall, within ninety (90) days after receipt of a duly executed copy of this contract, submit to the Contracting Officer copies of his Master Summary Schedule to include (i) his planned manpower buildup requirements for performance of this contract, and (ii) a summary of his planned program, with starting and completing dates, as applicable, for accomplishing the pertinent planning, research, development, test, production, operation, delivery, or other milestones representing the significant actions or steps required to accomplish program objectives. Any material change in the foregoing areas shall be reported to the Contracting Officer by revision of the information called for herein.

(b) On specific milestones designated by the NASA Project Manager, the Contractor shall report program progress biweekly on NASA Form 491, in conformity with the instructions printed on the Form.

(c) If and when reporting by the Contractor under the NASA PERT System shall commence, the requirements of paragraph (b) above shall cease as of a date to be prescribed by the Contracting Officer.

§ 18–7.205–52 Date of incurrence of costs.

The following clause is authorized for use when specific coverage of precontract costs is considered desirable.

DATE OF INCURRENCE OF COSTS (OCTOBER 1963)

The Contractor shall be entitled to reimbursement for costs incurred in an amount not to exceed $_____, on or after _____, which, if incurred after this contract had

been entered into, would have been reimbursable under the provisions of this contract.

§ 18–7.205–53 Contractor's independent research program.

When the "New Technology" clause is included in the contract (see § 18–9.101–2) and it is determined that the contractor maintains an independent research program, the clause set forth in § 18–9.101–6 may be included in the Schedule at the contractor's request.

§ 18–7.205–54 Reports of Work.

A "Reports of Work" clause is not prescribed for cost-reimbursement type supply contracts. When it is desired to include such a clause, however, the clause set forth in § 18–7.302–54 may be used or it may serve as a model in drafting the desired clause.

Subpart 18–7.3—Clauses for Fixed-Price Research and Development Contracts

§ 18–7.300 Scope of subpart.

This subpart sets forth uniform clauses for use in fixed-price research and development contracts as defined in § 18–7.301.

§ 18–7.301 Applicability.

As used throughout this subpart, the term "fixed-price research and development contract" means any contract, including letter contracts (except notices of award, contracts placed under Small Purchase Procedures, and amendments or supplemental agreements which do not effect new procurement) which (a) is entered into on a fixed-price basis, (b) is in an amount exceeding $2,500, and (c) is for experimental, developmental, or research work.

§ 18–7.302 Required clauses.

The clauses set forth in this § 18–7.302 shall be inserted, as required, in all fixed-price research and development contracts except as otherwise indicated in this subpart. See § 18–7.350 for short form clauses.

§ 18–7.302–1 Definitions.

Insert the clause set forth in § 18–7.103–1. Additional definitions may be included, provided they are not inconsistent with such clause or the provisions of this chapter.

§ 18–7.302–2 Payments.

Insert the following clause except that in letter contracts insert clause 4 of NASA Form 551–3 set forth in § 18–16.859–4(d).

PAYMENTS (SEPTEMBER 1962)

The Contractor shall be paid, upon submission of proper invoices or vouchers, the prices stipulated herein for work delivered or rendered and accepted, less deductions, if any, as herein provided. Unless otherwise specified, payment will be made upon acceptance of any portion of the work delivered or rendered for which a price is separately stated in the contract.

§ 18–7.302–3 Standards of work.

STANDARDS OF WORK (SEPTEMBER 1962)

The Contractor agrees that the performance of work and services pursuant to the requirements of this contract shall conform to high professional standards.

§ 18–7.302–4 Inspection.

INSPECTION (SEPTEMBER 1962)

The Government, through any authorized representatives, has the right, at all reasonable times, to inspect, or otherwise evaluate the work performed or being performed hereunder and the premises in which it is being performed. If any inspection or evaluation is made by the Government on the premises of the Contractor or a subcontractor, the Contractor shall provide and shall require subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the Government representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

Where a more detailed provision covering inspection is desired, as where the primary contract objective is delivery of end items other than designs, drawings, or reports, the clause set forth below shall be substituted for the above clause, unless the contracting officer determines that use of the longer clause is impracticable.

INSPECTION (SEPTEMBER 1962)

(a) All work under this contract shall be subject to inspection and test by the Government, to the extent practicable, at all times (including the period of performance) and places, and in any event prior to acceptance. The Government through any authorized representative may inspect the premises of the Contractor or any subcontractor engaged in the performance of this contract.

(b) The Government may reject any work that is defective or otherwise not in conformity with the requirements of this contract. If the Contractor fails or is unable to correct or to replace such work the Contracting Officer may accept such work at a reduction in price which is equitable under the circumstances. Failure to agree on the reduction in price shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(c) If any inspection or test is made by the Government on the premises of the Contractor or a subcontractor, the Contractor

shall provide, without additional charge, all reasonable facilities and assistance for the safety and convenience of the Government inspectors in the performance of their duties. If the Government inspection or test is made at a point other than the premises of the Contractor or subcontractor, it shall be at the expense of the Government. All inspections and tests by the Government shall be performed in such a manner as not unduly to delay the work. Final inspection and acceptance or rejection of the work shall be made as promptly as practicable after delivery except as otherwise provided in this contract; but failure to inspect and accept, or reject the work shall neither relieve the Contractor from responsibility for such of the work as is not in accordance with the contract requirements nor impose liability on the Government therefor.

(d) The inspection and test by the Government of any work shall not relieve the Contractor from any responsibility regarding defects or other failures to meet the contract requirements which may be discovered prior to acceptance. Except as otherwise provided in this contract, acceptance shall be conclusive except as regards latent defects, fraud, or such gross mistakes as amount to fraud.

(e) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the work hereunder. Records of all inspection work by the Contractor shall be kept complete and available to the Government during the performance of this contract and for such longer period as may be specified elsewhere in this contract.

§ 18–7.302–5 Assignment of claims.

In accordance with the instructions in § 18–7.103–8, insert the clause set forth therein.

§ 18–7.302–6 Examination of records.

Insert the clause set forth in § 18–7.104–15.

§ 18–7.302–7 Federal, State, and local taxes.

Insert the clause set forth in § 18–11.401–1 or § 18–11.401–2(b) in accordance with the requirements of § 18–11.401.

§ 18–7.302–8 Utilization of small business concerns.

In accordance with the requirements of § 18–1.707–3(a), insert the clause set forth therein.

§ 18–7.302–9 Default.

In accordance with the requirements of § 18–8.710, insert the clause set forth therein.

§ 18–7.302–10 Termination for the convenience of the government.

In accordance with the requirements of § 18–8.701 or § 18–8.704–1, insert the appropriate clause.

§ 18–7.302–11 Disputes.

Insert the clause set forth in § 18–7.103–12.

§ 18–7.302–12 Renegotiation.

Insert the clause set forth in § 18–7.103–13.

§ 18–7.302–13 Buy American Act.

In accordance with the requirements of Subpart 18–6.1, insert the clause set forth in § 18–6.104–5.

§ 18–7.302–14 Convict labor.

In accordance with the requirements of Subpart 18–12.2, insert the clause set forth in § 18–12.203.

§ 18–7.302–15 Walsh-Healey Public Contracts Act.

Insert the clause set forth in § 18–12.604.

§ 18–7.302–16 Contract Work Hours Standards Act—overtime compensation.

Insert the clause set forth in § 18–12.303–1. Note the introductory language required by § 18–12.303–2 for inclusion in contracts with a State or political subdivision thereof.

§ 18–7.302–17 Equal opportunity.

Insert one or the other of the following clauses, as required by and in accordance with the instructions in § 18–12.802: (a) The Equal Opportunity clause set forth in § 18–12.802–1, or (b) the Equal Opportunity in Federally Assisted Construction Contracts clause set forth in § 18–12.802–2.

§ 18–7.302–18 Officials not to benefit.

Insert the clause set forth in § 18–7.103–19.

§ 18–7.302–19 Covenant against contingent fees.

Insert the clause set forth in § 18–1.503.

§ 18–7.302–21 Authorization and consent.

In accordance with the requirements in § 18–9.103, insert the clause set forth in § 18–9.103(b).

§ 18–7.302–22 Notice and assistance regarding patent and copyright infringement.

Insert the clause set forth in § 18–9.105.

§ 18–7.302–23 New technology or property rights in inventions.

In accordance with the requirements of § 18–9.101–2, insert the "New Technology" or "Property Rights in Inventions" clause, as appropriate.

§ 18–7.302–24 Rights in data.

If data is to be delivered under the contract, insert the clause set forth in § 18–9.203–1. See § 18–9.203 for requirements.

§ 18–7.302–25 Security requirements.

Insert the clause set forth in § 18–7.104–12, except that if the contract is with an educational institution and is awarded on the basis of no profit, insert the clause set forth in § 18–7.451–24.

§ 18–7.302–26 Utilization of concerns in labor surplus areas.

In accordance with the requirements of § 18–1.805–3(a), insert the clause set forth therein.

§ 18–7.302–53 Interest.

Insert the clause set forth in § 18–7:103–53.

§ 18–7.302–54 Reports of work.

A clause requiring the contractor to furnish reports of work shall be included in the Schedule of the contract. An approved clause is set forth in this § 18–7.302–54. Changes in this clause may be made to meet the particular requirements of a procurement. Consideration should be given in each case to the desirability of providing for reports on the completion of significant units or phases of the work, in addition to periodic reports and reports on the completion of the entire contract.

REPORTS OF WORK (SEPTEMBER 1962)

(a) *Monthly Progress Reports.* The Contractor shall submit separate monthly progress reports of all work accomplished during each month of contract performance. Reports shall be in narrative form, and brief and informal in content. Monthly reports shall include:

(i) A quantitative description of overall progress;

(ii) An indication of any current problems which may impede performance, and proposed corrective action; and

(iii) A discussion of the work to be performed during the next monthly reporting period.

Monthly reports shall be submitted in ____ copies, plus a reproducible copy.

(b) *Quarterly Progress Reports.* The Contractor shall submit separate quarterly reports of all work accomplished during each 3-month period of contract performance. In addition to factual data, these reports shall include a separate analysis section which interprets the results obtained, recommends further action, and relates occurrences to the ultimate objectives of the contract work. Sufficient diagrams, sketches, curves, photographs, and drawings shall be included to convey the intended meaning. Quarterly reports shall be submitted in ____ copies, plus a reproducible copy.

(c) *Final Report.* The Contractor shall submit a final report which documents and summarizes the results of the entire contract work, including recommendations and conclusions based on the experience and results obtained. The final report shall include tables, graphs, diagrams, curves, sketches, photographs, and drawing in sufficient detail to comprehensively explain the results achieved under the contract. The final report shall be submitted in ____ copies, plus a reproducible copy.

§ 18–7.302–55 Scientific and technical information service.

In conformance with section 203(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473), and in the interest of conserving time and funds, and to avoid unnecessary duplication of effort, it is NASA policy to encourage contractors to use scientific and technical information in the possession of NASA in direct support of all NASA contracts involving research and development work. This information, which is available to contractors free of charge, in-

cludes past and current reports on research, development, test and evaluation. In order that such scientific and technical information may be provided in a timely manner, it is necessary for the contractor to furnish NASA the information specified in the clause set forth below. Accordingly, the following clause shall be inserted in all research and development contracts.

SCIENTIFIC AND TECHNICAL INFORMATION SERVICE (NOVEMBER 1966)

(a) In order that NASA may provide the Contractor scientific and technical information in accordance with the procedures set forth in the introduction section of Scientific and Technical Aerospace Reports (STAR) distributed by NASA, the Contractor shall, within 10 days after receipt of this contract, furnish in writing to the Scientific and Technical Information Division (Code ATSS-AC), NASA Headquarters, Washington, D.C. 20546, (i) name of contractor, (ii) contract number, (iii) date of contract completion, (iv) security classification of contract and (v) name and address of the individual responsible for technical performance of the contract.

(b) NASA reserves the right, in the event of the unavailability of any scientific and technical information requested, to notify the Contractor of such unavailability. Failure of NASA to furnish any information requested shall not entitle the Contractor to any adjustment in the price, cost (estimated or target), fee, time required for performance or delivery schedule of the contract.

§ 18–7.303 Clauses required to be used when applicable.

The following clauses shall be inserted when applicable in all fixed-price research and development contracts except as indicated in this subpart. See § 18–7.350 for short form clauses.

§ 18–7.303–1 Clauses for contracts involving construction work.

(a) In accordance with the requirements of Subpart 18–12.4, insert in fixed-price research and development contracts which involve construction work the clauses listed below, which are set forth in § 18–12.403–1:

Davis-Bacon Act.
Contract Work Hours Standards Act—Overtime Compensation.
Apprentices.
Payrolls and Payroll Records.
Compliance with Copeland Regulations.
Withholding of Funds.
Subcontracts.
Contract Termination—Debarment.

(b) In accordance with the requirements of § 18–6.207, insert in all contracts for construction, except those executed on Standard Form 19 and NASA Form 177W, the clause entitled "Buy American," as set forth in § 18–6.207(c).

§ 18–7.303–2 Filing of patent applications.

In accordance with the requirements of § 18–9.107, insert the clause set forth therein.

§ 18–7.303–6 Priorities, allocations, and allotments.

In accordance with the requirements of § 18–1.307–2, insert the clause set forth therein.

§ 18–7.303–7 Government-furnished property.

In accordance with the requirements of § 18–13.502–2 or § 18–13.505–2, insert the appropriate clause.

§ 18–7.303–8 Soviet-controlled areas.

In accordance with the requirements of § 18–6.403, insert the clause set forth therein and include in the Schedule of the contract the list of Soviet-controlled areas set forth in § 18–6.401–2.

§ 18–7.303–9 Notice to the government of labor disputes.

In accordance with the requirements of § 18–7.104–4, insert the clause set forth therein.

§ 18–7.303–10 Limitation on withholding of payments.

In accordance with the requirements of § 18–7.104–21, insert the clause set forth therein.

§ 18–7.303–11 Small business subcontracting program.

In accordance with the provisions of § 18–1.707, insert the clause set forth in § 18–1.707–3(b).

§ 18–7.303–12 Subcontracts.

Insert the clause set forth in § 18–7.104–23(a) when required under the circumstances stated therein; if the clause set forth in § 18–7.104–23(a) is not required, the clause set forth in § 18–7.104–23(b) may be inserted.

§ 18–7.303–13 Changes to make-or-buy program.

In accordance with the requirements of Subpart 18–3.9, insert the clause set forth in § 18–3.902–1(a).

§ 18–7.303–14 Payment for overtime and shift premiums.

In accordance with the requirements of § 18–12.102, insert the clause set forth in § 18–12.102–3(h)(2).

§ 18–7.303–17 Ground and flight risk.

In all negotiated fixed-price type contracts for the production, modification, maintenance, or overhaul of aircraft, insert the clause set forth in § 18–10.404.

§ 18–7.303–23 Progress payments.

In accordance with the requirements of § 18–7.104–35, insert the appropriate clause as set forth therein.

§ 18–7.303–25 Labor surplus area subcontracting program.

In accordance with the requirements of § 18–1.805–3(b), insert the clause set forth therein.

§ 18–7.303–27 Competition in subcontracting.

In accordance with the requirements of § 18–7.104–40, insert the clause set forth therein.

§ 18–7.303–28 Contractor and subcontractor cost or pricing data.

In accordance with the requirements of § 18–3.807–3, insert the clause set forth in § 18–3.807–4.

§ 18–7.303–29 Audit and records.

In accordance with the requirements of § 18–7.104–42, insert the clause set forth therein.

§ 18–7.303–50 Data requirements.

In accordance with the requirements of § 18–9.202, insert the clause set forth in § 18–9.202–1(c).

§ 18–7.303–51 Approval of contract.

In accordance with the requirements of § 18–7.104–51, insert the clause set forth therein.

§ 18–7.303–52 Preference for U.S.-Flag air and ocean services.

Under the circumstances described in Subpart 18–1.14, insert the clause set forth in § 18–1.1404.

§ 18–7.303–54 Materials reports.

In all research and development contracts calling for hardware or for research and development on materials, the clause set forth in this § 18–7.303–54 shall be inserted in the Schedule of the contract. Generally, the Schedule provision shall be required in all contracts calling for space vehicles, satellites, rockets, propulsion units, rocket motors, satellite and rocket components, instrumentation, and payloads. Contracting officers should discuss the need for such a clause with the project officers and the New Technology Representative (see § 18–9.150) in each instance where it appears that the contract may call for research and development on materials, regardless of whether or not the contract falls within one of the categories enumerated above. The New Technology Representative is assigned the responsibility for administering this clause.

MATERIALS REPORTS (SEPTEMBER 1962)

The Contractor shall furnish to the Contracting Officer, within 30 days after the end of each 6-month period of the contract and within 60 days after the completion of the work for the final period of the contract, a separate technical report, prepared in the form of a reproducible master copy suitable for reproduction by multilith, describing in summary form those tests, experiments, developments, studies, and other efforts of the Contractor relating to materials and their processing for use in fulfilling the technical requirements of this contract, which are either conducted or planned during the 6-month or final period of this contract to be covered by the report. Such technical report shall include not only positive results, but also negative results which the Contractor considers significant to record, i.e., discarded efforts, unsuccessful tests, experiments, or developments. If no such tests, experiments, developments, studies, or other efforts are conducted or planned during any 6-month or final period, the Contractor shall so notify the Contracting Officer in writing in lieu of furnishing the technical report.

§ 18–7.303–55 NASA PERT System.

In accordance with the requirements of § 18–7.204–55, insert the clause set forth therein.

§ 18–7.303–56 NASA financial management reporting.

In accordance with the requirements of § 18–7.204–56, insert the appropriate clause set forth therein.

§ 18–7.303–57 Key personnel and facilities.

In accordance with the requirements of § 18–1.352, insert the clause set forth therein.

§ 18–7.303–58 Safety and health.

In accordance with the requirements of Subpart 18–10.50, insert the clause set forth in § 18–10.5004.

§ 18–7.303–59 Nonuse of foreign-flag vessels engaged in Cuban trade.

In accordance with the requirements of § 18–1.1410, insert the clause set forth therein.

§ 18–7.303–60 Report on NASA subcontracts.

In accordance with the requirements of § 18–16.904–3, insert the clause set forth therein.

§ 18–7.303–61 Rights in data for potentially hazardous items.

In accordance with the requirements of § 18–9.204–52, insert the clause set forth in § 18–9.204–52(c).

§ 18–7.303–62 Potentially hazardous items.

In accordance with the requirements of § 18–1.351, insert the clause set forth therein.

§ 18–7.303–63 Disclosure of unsolicited proposals outside government.

In accordance with the requirements of § 18–1.304–2(c)(3), insert the clause set forth therein.

§ 18–7.304 Additional clauses.

Insert the following clauses if it is desired to cover the subject matter.

§ 18–7.304–1 Changes.

CHANGES (SEPTEMBER 1962)

The Contracting Officer may at any time, by a written order, and without notice to the sureties, if any, make changes, within the general scope of this contract, in any one or more of the following: (i) Drawings, designs, or specifications, (ii) method of shipment or packing, (iii) place of inspection, delivery, or acceptance, and (iv) the amount of Government-furnished property. If any such change causes an increase or decrease in the cost of, or the time required for performance of, this contract, or otherwise affects any other provisions of this contract, whether changed or not changed by any such order, an equitable adjustment shall be made (i) in the contract price or time of performance, or both, and (ii) in such other provisions of the contract as may be so affected, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within sixty (60) days from the date of receipt by the Contractor of the notification of change: *Provided, however,* That the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes." However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

§ 18–7.304–2 Alterations in contract.

The clause set forth in § 18–7.105–1 may be inserted.

§ 18–7.304–4 Bill of materials.

In accordance with the instructions in § 18–7.105–6, the clause set forth therein may be used.

§ 18–7.304–50 Notice of delay.

In accordance with the instructions in § 18–7.205–50, the clause set forth therein is authorized for use.

§ 18–7.304–51 Program progress reports.

In accordance with the instructions in § 18–7.205–51, insert the clause set forth therein.

§ 18–7.304–59 Price escalation.

The clauses set forth in §§ 18–7.106 and 18–7.107 are authorized for use in accordance with the instructions set forth therein.

§ 18–7.304–60 Incentive price revision.

The clause set forth in § 18–7.108 is authorized for use in accordance with the instructions set forth therein, provided that the advance approval of the Director of Procurement has been obtained.

§ 18–7.304–61 Special tooling.

Where special tooling is to be acquired by the contractor, the clause set forth in § 18–13.504 is authorized for use in accordance with instructions contained therein.

§ 18–7.350 Short form clauses for fixed-price research contracts with nonprofit institutions.

Notwithstanding the provisions of §§ 18–7.302 and 18–7.303, the short form clauses set forth or referred to in this § 18–7.350 shall be used in fixed-price contracts for basic or applied research with nonprofit institutions of higher education, or with nonprofit institutions whose primary purpose is the conduct of scientific research, when a short form contract is desired.

§ 18–7.350–1 Definitions.

Insert the clause set forth in § 7.103–1.

§ 18–7.350–2 Payment.

PAYMENT (SEPTEMBER 1962)

(a) Payment will be made to the Contractor as set forth in the Schedule upon submission of status reports indicating the portion of the work which has been performed and after acceptance by the Contracting Officer. The status reports shall also contain a concise statement of the work which has been performed.

(b) A prerequisite to final payment is the submission by the Contractor of a statement of the amount of funds expended in the performance of this contract and the furnishing to the Contracting Officer, and his acceptance, of the technical reports and patent reports required by this contract.

(c) Status reports, statements of funds expended, and technical reports required by this contract shall be submitted by the Contractor directly to the Chief of the NASA Office of Research Grants and Contracts, Washington, D.C., who is the representative of the Contracting Officer for the purpose of determining the acceptability of such reports and statements.

§ 18–7.350–3 Technical reports and data.

Insert the appropriate clause set forth in § 18–9.204–50.

§ 18–7.350–4 Government-furnished property.

Insert the appropriate clause set forth in § 18–13.505.

§ 18–7.350–5 Release of information.

RELEASE OF INFORMATION (SEPTEMBER 1962)

It is the intent of NASA that the useful research information obtained under this contract be published either by NASA or in technical journals. Reports to be published by NASA should be prepared insofar as practicable in accordance with NASA editorial form. Three (3) copies of the manuscript containing research information obtained under this contract shall be furnished to NASA prior to release of the information by formal oral presentation or for publication in a technical journal. Appropriate credits to NASA will be included in any formal oral presentation or published article. Twenty (20) reprints of articles published in journals shall be furnished to NASA.

§ 18–7.350–6 Security.

SECURITY (SEPTEMBER 1962)

If the subject matter of this contract is classified in the interest of national security, or if it appears that performance on the contract will require access to classified information, the Contractor shall be governed by a Department of Defense Security Agreement (DD Form 441), and the attachment thereto, "The Industrial Security Manual for Safeguarding Classified Information." Further, if information or material is developed pursuant to this contract which appears to require protection in the interest of national security, the Contractor shall notify NASA immediately in order that the appropriate classification category may be assigned, and a Security Agreement executed, if necessary.

§ 18–7.350–7 Property rights in inventions.

Insert the clause set forth in § 18–9.101–5.

§ 18–7.350–8 Disputes.

Insert the clause set forth in § 18–7.103–12.

§ 18–7.350–9 Termination at the option of the Government.

TERMINATION AT THE OPTION OF THE GOVERNMENT (SEPTEMBER 1962)

The performance of work under this contract may be terminated by the Government in whole or in part, whenever the Contracting Officer shall determine that such action is in the best interest of the Government. If this contract is so terminated, fair compensation for work performed will be provided for the Contractor.

§ 18–7.350–10 Authorization and consent.

Insert the clause set forth in § 18–9.103(b).

§ 18–7.350–11 Notice and assistance regarding patent and copyright infringement.

Insert the clause set forth in § 18–9.105.

§ 18–7.350–12 Buy American Act.

Insert the clause set forth in § 18–6.104–5.

§ 18–7.350–13 Examination of records.

Insert the clause set forth in § 18–7.104–15.

§ 18–7.350–14 Equal opportunity.

Insert one or the other of the following clauses, as required by and in accordance with the instructions in § 18–12.802: (a) The Equal Opportunity clause set forth in § 18–12.802–1, or (b) the Equal Opportunity in Federally Assisted Construction Contracts clause set forth in § 18–12.802–2.

§ 18–7.350–15 Covenant against contingent fees.

Insert the clause set forth in § 18–1.503.

§ 18–7.350–16 Officials not to benefit.

Insert the clause set forth in § 18–7.103–19.

§ 18–7.350–17 Convict labor.

Insert the clause set forth in § 18–12.203.

§ 18–7.350–18 Audit and records.

In accordance with the requirements of § 18–7.104–42, insert the clause set forth therein.

§ 18–7.350–19 Additional clauses.

When circumstances justify it, the clauses prescribed in §§ 18–7.302, 18–7.303, and 18–7.304 may be added to or substituted for the clauses set forth in §§ 18–7.350–1 through 18–7.350–17; however, care should be exercised to ensure that there are no inconsistencies.

Subpart 18–7.4—Clauses for Cost-Reimbursement Type Research and Development Contracts

§ 18–7.400 Scope of subpart.

This subpart sets forth uniform clauses for use in NASA cost-reimbursement type research and development contracts as defined in § 18–7.401.

§ 18–7.401 Applicability.

As used throughout this subpart, the term "cost-reimbursement type research and development contract" means any contract, including letter contracts (except notices of award, contracts placed under "Small Purchases Procedures," and amendments or supplemental agreements which do not effect new procurement), which (a) is entered into on a cost, cost-sharing, or cost-plus-a-fixed-fee basis, and (b) is for experimental, developmental, or research work.

§ 18–7.402 Required clauses for contracts with fee.

The clauses set forth in this § 18–7.402 shall be inserted in all cost-reimbursement type research and development contracts providing for a fee.

§ 18–7.402–1 Definitions.

Insert the clause set forth in § 18–7.103–1. Additional definitions may be included provided they are not inconsistent with such clause or the provisions of this chapter.

§ 18–7.402–2 Limitation of cost.

Insert the following clause except that in letter contracts insert clause 3 of NASA Form 551–3 set forth in § 18–16.859–4(d).

LIMITATION OF COST (JANUARY 1964)

(a) It is estimated that the total cost to the Government, exclusive of any fixed fee, for the performance of this contract will not exceed the estimated cost set forth in the Schedule, and the Contractor agrees to use his best efforts to perform the work specified in the Schedule and all obligations under this contract within such estimated cost. If at any time the Contractor has reason to believe that the costs which he expects to incur in the performance of this contract in the next succeeding sixty (60) days, when added to all costs previously incurred, will exceed seventy-five percent (75%) of the estimated cost then set forth in the Schedule, or if at any time the Contractor has reason to believe that the total cost to the Government, exclusive of any fixed fee, for the performance of this contract will be substantially greater or less than the then estimated cost thereof, the Contractor shall notify the Contracting Officer in writing to that effect, giving the revised estimate of such total cost for the performance of this contract.

(b) The Government shall not be obligated to reimburse the Contractor for costs incurred in excess of the estimated cost set forth in the Schedule, and the Contractor shall not be obligated to continue performance under the contract or to incur costs in excess of the estimated cost set forth in the Schedule, unless and until the Contracting Officer shall have notified the Contractor in writing that such estimated cost has been increased and shall have specified in such notice a revised estimated cost which shall thereupon constitute the estimated cost of performance of this contract. When and to the extent that the estimated cost set forth in the Schedule has been increased, any costs incurred by the Contractor in excess of such estimated cost prior to the increase in estimated cost shall be allowable to the same extent as if such costs had been incurred after such increase in estimated cost.

§ 18–7.402–3 Allowable cost, fixed fee, and payment.

In accordance with the instructions set forth in § 18–7.203–4, insert the clause set forth therein.

§ 18–7.402–4 Standards of work.

Insert the clause set forth in § 18–7.302–3.

§ 18–7.402–5 Inspection and correction of defects.

INSPECTION AND CORRECTION OF DEFECTS (SEPTEMBER 1962)

(a) All work under this contract shall be subject to inspection and test by the Government (to the extent practicable) at all times (including the period of performance) and places, and in any event prior to acceptance. The Contractor shall provide and maintain an inspection system acceptable to the Government covering the work hereunder. The Government, through any authorized representative, may inspect the plant or plants of the Contractor or of any of its subcontractors engaged in the performance of this contract. If any inspection or test is made by the Government on the premises of the Contractor or a subcontractor, the Contractor shall provide and shall require sub-

contractors to provide all reasonable facilities and assistance for the safety and convenience of the Government inspectors in the performance of their duties. All inspections and tests by the Government shall be performed in such a manner as will not unduly delay the work. Except as otherwise provided in this contract, final inspection and acceptance shall be made at the place of delivery as promptly as practicable after delivery and shall be deemed to have been made no later than ninety (90) days after the date of such delivery, if final acceptance has not been made earlier within such period.

(b) At any time during performance of this contract, but not later than six (6) months (or such other period as may be provided in the Schedule) after acceptance of all the end items (other than designs, drawings, or reports) to be delivered under this contract, the Government may require the Contractor to remedy by correction or replacement, as directed by the Contracting Officer, any failure by the Contractor to comply with the requirements of this contract. Any time devoted to such correction or replacement shall not be included in the computation of the period of time specified in the preceding sentence, except as provided in (d) below. Except as otherwise provided in paragraph (c) below, the allowability of the cost of any such replacement or correction shall be determined as provided in the clause of this contract entitled "Allowable Cost, Fixed Fee, and Payment," but no additional fee shall be payable with respect thereto. Corrected articles shall not be tendered again for acceptance unless the former tender and the requirement of correction is disclosed. If the Contractor fails to proceed with reasonable promptness to perform such replacement or correction, the Government (i) may by contract or otherwise perform such replacement or correction and charge to the Contractor any increased cost occasioned the Government thereby, or may reduce any fixed fee payable under this contract (or require repayment of any fixed fee theretofore paid) in such amount as may be equitable under the circumstances, or (ii) in the case of articles not delivered, may require the delivery of such articles, and shall have the right to reduce any fixed fee payable under this contract (or to require repayment of any fixed fee theretofore paid) in such amount as may be equitable under the circumstances, or (iii) may terminate this contract for default. Failure to agree to the amount of any such increased cost to be charged to the Contractor or to such reduction in, or repayment of, the fixed fee shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(c) Notwithstanding the provisions of paragraph (b) above, the Government may at any time require the Contractor to remedy by correction or replacement, without cost to the Government, any failure by the Contractor to comply with the requirements of this contract if such failure is due to fraud, lack of good faith, or willful misconduct on the part of any one of the Contractor's directors or officers, or on the part of any of its managers, superintendents, or other equivalent representatives, who has supervision or direction of (i) all or substantially all of the Contractor's business, or (ii) all or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed, or (iii) a separate and complete major industrial operation in connection with the performance of this contract. The Government may at any time also require the Contractor to remedy by correction or replacement, without cost to the Government, any such failure caused by one or more individual employees selected or retained by the Contractor after any such supervisory personnel has reasonable grounds to believe that any such employee is habitually careless or otherwise unqualified.

(d) The provisions of paragraph (b) above shall apply to any corrected or replacement end item or component until six (6) months after its acceptance.

(e) The Contractor shall make his records of all inspection work available to the Government during the performance of this contract and for such longer period as may be specified in this contract.

(f) Except as provided in this clause and as may be provided in the Schedule, the Contractor shall have no obligation or liability to correct or replace articles which at the time of delivery are defective in material or workmanship or otherwise not in conformity with the requirements of this contract.

(g) Except as otherwise provided in the Schedule, the Contractor's obligation to correct or replace Government-furnished property (which is property in the possession of or acquired directly by the Government and delivered or otherwise made available to the Contractor) shall be governed by the provisions of the clause of this contract entitled "Government Property."

In the foregoing clause, the words "Task Order" or other suitable designation may be substituted for "Schedule," as appropriate.

§ 18–7.402–6 Assignment of claims.

In accordance with the requirements in § 18–7.103–8, insert the clause set forth therein.

§ 18–7.402–7 Records.

Insert the clause set forth in § 18–7.203–7. In the case of contracts which establish separate periods of performance, alternate subparagraph (a)(4), set forth in § 18–7.203–7(b), may be substituted for the corresponding subparagraph of the clause prescribed in § 18–7.203–7(a).

§ 18–7.402–8 Subcontracts.

(a) Insert the clause set forth in § 18–7.203–8, substituting for paragraph (c) thereof the following paragraph (c):

(c) The Contractor shall not, without the prior written consent of the Contracting Officer, place any subcontract which (i) is on a cost or cost-plus-a-fee basis, or (ii) is on a fixed-price basis exceeding in dollar amount either $25,000 or five percent (5%) of the total estimated cost of this contract, or (iii) provides for the fabrication, purchase, rental, installation, or other acquisition of any item of industrial facilities, or of special tooling having a value in excess of $1,000, or (iv) is on a time and material or labor-hour basis, or (v) has experimental, developmental, or research work as one of its purposes. The Contracting Officer may, in his discretion, ratify in writing any such subcontract; such action shall constitute the consent of the Contracting Officer as required by this paragraph (c). (September 1962)

(b) The following changes may be made in paragraph (c) of the above clause:

(1) The percentage and amount in subparagraph (ii) may be varied;

(2) The dollar amount in subparagraph (iii) may be increased; and

(3) Dollar amounts not in excess of $10,000 may be established in subparagraphs (i), (iv), and (v), below which the prior written consent of the contracting officer need not be obtained.

§ 18–7.402–9 Utilization of small business concerns.

In accordance with the requirements of § 18–1.707–3(a), insert the clause set forth therein.

§ 18–7.402–10 Termination.

In accordance with the requirements of § 18–8.702, insert the appropriate clause set forth therein.

Insert the clause set forth in § 18–7.103–12.

§ 18–7.402–11 Disputes.

§ 18–7.402–12 Renegotiation.

Insert the clause set forth in § 18–7.103–13.

§ 18–7.402–13 Buy American Act.

In accordance with the requirements of Subpart 18–6.1, insert the clause set forth in § 18–6.104–5.

§ 18–7.402–14 Convict labor.

In accordance with the requirements in Subpart 18–12.2, insert the clause set forth in § 18–12.203.

§ 18–7.402–15 Walsh-Healey Public Contracts Act.

Insert the clause set forth in § 18–12.604.

§ 18–7.402–16 Contract Work Hours Standards Act—overtime compensation.

Insert the clause set forth in § 18–12.303–1. Note the introductory language required by § 18–12.303–2 for inclusion in contracts with a State or political subdivision thereof.

§ 18–7.402–17 Equal opportunity.

Insert one or the other of the following clauses, as required by and in accordance with the instructions in § 18–12.802: (a) the Equal Opportunity clause set forth in § 18–12.802–1, or (b) the Equal Opportunity in Federally Assisted Construction Contracts clause set forth in § 18–12.802–2.

§ 18–7.402–18 Officials not to benefit.

Insert the clause set forth in § 18–7.103–19.

§ 18–7.402–19 Covenant against contingent fees.

Insert the clause set forth in § 18–1.503.

§ 18–7.402–20 Authorization and consent.

Insert the clause set forth in § 18–9.103(b).

§ 18–7.402–21 Notice and assistance regarding patent and copyright infringement.

Insert the clause set forth in § 18–9.105.

§ 18–7.402–22 New technology.

In accordance with the requirements of § 18–9.101–2, insert the clause set forth in § 18–9.101–4.

§ 18–7.402–23 Rights in data.

In accordance with the requirements of § 18–9.203, insert the clause set forth in § 18–9.203–1.

§ 18–7.402–24 Security requirements.

Insert the clause set forth in § 18–7.204–12.

§ 18–7.402–25 Government property.

Insert the clause set forth in § 18–13.503.

§ 18–7.402–26 Insurance—liability to third persons.

(a) Except under the circumstances stated in paragraph (b) or (c) of this section, insert the clause set forth in § 18–7.203–22.

(b) If the contractor claims total immunity from tort liability as a State agency or as a charitable institution, the following clause shall be used in lieu of the clause contained in § 18–7.203–22.

LIABILITY TO THIRD PERSONS (SEPTEMBER 1962)

(a) The Government does not assume any liability to third persons, nor will the Government reimburse the Contractor for his liability to third persons with respect to loss due to death, bodily injury, or damage to property resulting in any way from the performance of this contract or any subcontract thereunder.

(b) The Contractor shall give the Government or its representatives immediate notice of any suit or action filed, or prompt notice of any claim made, against the Contractor arising out of the performance of this contract, the cost and expense of which may be reimbursable to the Contractor under the provisions of this contract. The Contractor shall furnish immediately to the Government copies of all pertinent papers received by the Contractor. The Contractor shall, if required by the Government, authorize representatives of the Government to settle or defend any such claim and to represent the Contractor in or take charge of any litigation in connection therewith. The Contractor may, at his own expense, be associated with the representatives of the Government in the settlement or defense of any such claim or litigation.

(c) If the contractor claims partial immunity from tort liability as a State agency or as a charitable institution (as where work may be performed under the contract in a place or under the conditions where the contractor is not immune from tort liability), the paragraph (c) clause set forth below may be added to the "Insurance—Liability to Third Persons" clause contained in § 18–7.203–22.

(c) Notwithstanding paragraphs (a) and (c) of this clause, (i) the Government does not assume any liability to third persons, nor will the Government reimburse the Contractor for his liability to third persons, with respect to loss due to death, bodily injury, or damage to property resulting in any way from the performance of this contract or any subcontract hereunder; and (ii) the Contractor need not procure or maintain insurance coverage as provided in paragraph (a) of this clause: *Provided*, The Contractor may obtain any insurance coverage he deems necessary subject to approval by the Contracting Officer as to form, amount, and duration, in which event the Contractor shall be reimbursed (A) for the cost of such insurance and (B) to the extent provided in paragraph (c) above, for liabilities to third persons for which the Contractor has obtained insurance coverage as provided in this paragraph, but for which such coverage is insufficient in amount. (September 1962)

§ 18–7.402–27 Utilization of concerns in labor surplus areas.

In accordance with the requirements of § 18–1.805–3(a), insert the clause set forth therein.

§ 18–7.402–28 Payment for overtime and shift premiums.

In accordance with the requirements of § 18–12.102–3(d), insert the clause set forth in § 18–12.102–3(h)(1).

§ 18–7.402–29 Competition in subcontracting.

Insert the clause set forth in § 18–7.104–40.

§ 18–7.402–30 Audit and records.

Insert the clause set forth in § 18–7.104–42.

§ 18–7.402–50 Payment of royalties.

In accordance with the instructions in § 18–7.203–51, insert the clause set forth in § 18–9.108–1, except that if the contractor is a member of the Manufacturers Aircraft Association, the clause set forth in § 18–9.108–2 may be substituted therefor.

§ 18–7.402–51 Estimated cost and fixed fee.

In accordance with the requirements of § 18–7.203–51, insert the clause set forth therein.

§ 18–7.402–52 Payment of fixed fee.

In accordance with the requirements of § 18–7.203–52, insert the clause set forth therein.

§ 18–7.402–53 Interest.

Insert the clause set forth in § 18–7.103–53.

§ 18–7.402–54 Reports of work.

See § 18–7.302–54 for guidance and a clause approved for use.

§ 18–7.402–55 Scientific and technical information service.

Insert the clause set forth in § 18–7.302–55.

§ 18–7.403 Clauses required to be used when applicable.

The clauses set forth in this § 18–7.403 shall be inserted, when applicable, in all cost-reimbursement type research and development contracts providing for a fee.

§ 18–7.403–1 Clauses for contracts involving construction work.

(a) In accordance with the requirements of Subpart 18–12.4, insert in cost-reimbursement type research and development contracts which involve construction work the clauses listed below, which are set forth in § 18–12.403–1:

Davis-Bacon Act.
Contract Work Hours Standards Act—Overtime Compensation.
Apprentices.
Payrolls and Payroll Records.
Compliance with Copeland Regulations.
Withholding of Funds.
Subcontracts.
Contract Termination—Debarment.

(b) In accordance with the requirements of § 18–6.207, insert in all contracts for construction, except those executed on Standard Form 19 and NASA Form 177W, the clause entitled "Buy American," as set forth in § 18–6.207(c).

§ 18–7.403–2 Filing of patent applications.

In accordance with the requirements of § 18–9.107, insert the clause set forth therein.

§ 18–7.403–5 Excusable delays.

Insert the clause set forth in § 18–8.708.

§ 18–7.403–7 Priorities, allocations, and allotments.

In accordance with the requirements of § 18–1.307–2, insert the clause set forth therein.

§ 18–7.403–8 Soviet-controlled areas.

In accordance with the requirements of § 18–6.403, insert the clause set forth therein and include in the Schedule of the contract the list of Soviet-controlled areas set forth in § 18–6.401–2.

§ 18–7.403–9 Negotiated overhead rates.

When negotiated overhead rates are to be used pursuant to Subpart 18–3.7, the appropriate clause set forth in § 18–3.704 shall be included in the contract.

§ 18–7.403–10 Notice to the Government of labor disputes.

Whenever work is to be performed and a work stoppage would result in delay in an urgent NASA program, insert the clause set forth in § 18–7.104–4.

§ 18–7.403–11 Contractor and subcontractor cost or pricing data.

In accordance with the requirements of § 18–3.802–3, insert the clause set forth in § 18–3.807–4.

§ 18–7.403–12 Limitation on withholding of payments.

In accordance with the requirements of § 18–7.104–21, insert the clause set forth therein.

§ 18–7.403–13 Small business subcontracting program.

In accordance with the requirements of § 18–1.707, insert the clause set forth in § 18–1.707–3(b).

§ 18–7.403–14 Changes to make-or-buy program.

In accordance with the requirements of Subpart 18–3.9, insert the clause set forth in § 18–3.902–1(a).

§ 18–7.403–16 Flight risks.

In contracts for the development, production, modification, maintenance, or overhaul of aircraft, or otherwise involving the furnishing of aircraft to the contractor by the Government, insert the clause set forth in § 18–10.504.

§ 18–7.403–23 GSA supply sources.

The clause set forth in § 18–5.907 shall be included in contracts in accordance with instructions contained therein.

§ 18–7.403–24 Labor surplus area subcontracting program.

In accordance with the requirements of § 18–1.805–3(b), insert the clause set forth therein.

§ 18–7.403–50 Data requirements.

In accordance with the requirements of § 18–9.202, insert the clause set forth in § 18–9.202–1(e).

§ 18–7.403–51 Approval of contract.

The clause set forth in § 18–7.104–51 shall be included in contracts which require approval by the Director of Procurement.

§ 18–7.403–52 Preference for U.S.-flag air and ocean services.

Under the circumstances described in Subpart 18–1.14 insert the clause set forth in § 18–1.1403.

§ 18–7.403–53 Limitation of Government's obligation.

Where funding to complete the entire contract is not available at the time it is entered into, the clause set forth in § 18–7.204–53 shall be included in the contract, with an implementing Schedule provision. The specific approval of the Director of Procurement is not required for the use of the clause when the provisions of § 18–7.403–53 are otherwise applicable.

§ 18–7.403–54 Materials reports.

In accordance with the requirements of § 18–7.303–54, insert the clause set forth therein.

§ 18–7.403–55 NASA PERT system.

In accordance with the requirements of § 18–7.204–55, insert the clause set forth therein.

§ 18–7.403–56 Financial management reporting.

In accordance with the requirements of § 18–7.204–56, insert the appropriate clause set forth therein.

§ 18–7.403–57 Key personnel and facilities.

In accordance with the requirements of § 18–1.352, insert the clause set forth therein.

§ 18–7.403–58 Safety and health.

In accordance with the requirements of Subpart 18–10–50, insert the clause set forth in § 18–10.5004.

§ 18–7.403–59 Nonuse of foreign-flag vessels engaged in Cuban trade.

In accordance with the requirements of § 18–1.1410, insert the clause set forth therein.

§ 18–7.403–60 Report on NASA subcontracts.

In accordance with the requirements of § 18–16.902, insert the clause set forth therein.

§ 18–7.403–61 Rights in data for potentially hazardous items.

In accordance with the requirements of § 18–9.204–52, insert the clause set forth in § 18–9.204–52(c).

§ 18–7.403–62 Potentially hazardous items.

In accordance with the requirements of § 18–1.361, insert the clause set forth herein.

§ 18–7.403–63 Disclosure of unsolicited proposals outside government.

In accordance with the requirements of § 18–1.304–2(c)(3), insert the clause set forth therein.

§ 18–7.404 Additional clauses.

The following clauses shall be inserted in cost-reimbursement type research and development contracts providing for the payment of a fee, when it is desired to cover the subject matter.

§ 18–7.404–1 Changes.

CHANGES (SEPTEMBER 1962)

The Contracting Officer may at any time, by a written order, and without notice to the sureties, if any, make changes, within the general scope of this contract, in any one or more of the following: (i) Drawings, designs, or specifications; (ii) method of shipment or packing; (iii) place of inspecton, delivery, or acceptance; and (iv) the amount of Government-furnished property. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of this contract, or otherwise affects any other provision of this contract, whether changed or not changed by any such order, an equitable adjustment shall be made (i) in the estimated cost or delivery schedule, or both, (ii) in the amount of any fee to be paid to the Contractor, and (iii) in such other provisions of the contract as may be so affected, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within sixty (60) days from the date of receipt by the Contractor of the notification of change: *Provided, however*, That the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes." However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

In the foregoing clause, the period of "sixty (60) days" within which any claim for adjustment must be asserted may be reduced to a period of not less than "thirty (30) days."

§ 18–7.404–2 Alterations in contract.

The clause set forth in § 18–7.105–1 may be inserted.

§ 18–7.404–4 Bill of materials.

The clause set forth in § 18–7.105–6 may be inserted pursuant to the provisions thereof.

§ 18–7.404–5 Stop work orders.

The clause set forth in § 18–7.105–8, if modified as prescribed in § 18–7.205–6, is authorized for use under the criteria, and in accordance with the instructions, set forth in § 18–7.105–8.

§ 18–7.404–51 Program progress reports.

The clause set forth in § 18–7.205–51 may be inserted.

§ 18–7.404–52 Date of incurrence of costs.

The clause set forth in § 18–7.205–52 may be inserted.

§ 18–7.404–53 Contractor's independent research program.

When the New Technology or Property Rights in Inventions clause is included in the contract (see § 18–9.101–3) and it is determined that the contractor maintains an independent research program, the clause set forth in § 18–9.101–7 may be included in the Schedule at the contractor's request.

§ 18–7.404–57 Federal, State, and local taxes.

At the discretion of the contracting officer and when requested by the contractor, the clause set forth in § 18–11.402 may be inserted in cost-reimbursement type contracts.

§ 18–7.450 Clauses for cost-reimbursement research and development contracts with nonprofit institutions (including educational institutions).

§ 18–7.450–1 Applicability.

Sections 18–7.451, 18–7.452, and 18–7.453, including their subparagraphs, are applicable to cost-reimbursement type research and development contracts with nonprofit institutions (including educational institutions), as defined in § 18–4.5102(c), which involve no fee or profit.

§ 18–7.451 Required clauses.

Except as otherwise provided in § 18–7.460, the clauses set forth in this § 18–7.451 shall be inserted in all contracts specified in § 18–7.450–1.

§ 18–7.451–1 Definitions.

Insert the clause set forth in § 18–7.103–1. Additional definitions may be included provided they are not inconsistent with such clause or the provisions of this chapter.

§ 18–7.451–2 Limitation of cost.

Insert the following clause:

LIMITATION OF COST (SEPTEMBER 1962)

(a) It is estimated that the total cost to the Government for the performance of this contract will not exceed the estimated cost set forth in the Schedule, and the Con-

tractor agrees to use his best efforts to perform the work specified in the Schedule and all obligations under this contract within such estimated cost. If at any time the Contractor has reason to believe that the costs which he expects to incur in the performance of this contract in the next succeeding sixty (60) days, when added to all costs previously incurred, will exceed seventy-five percent (75%) of the estimated cost then set forth in the Schedule, or if at any time the Contractor has reason to believe that the total cost to the Government for the performance of this contract will be substantially greater or less than the then estimated cost thereof, the Contractor shall notify the Contracting Officer in writing to that effect, giving the revised estimate of such total cost for the performance of this contract.

(b) The Government shall not be obligated to reimburse the Contractor for costs incurred in excess of the estimated cost set forth in the Schedule, and the Contractor shall not be obligated to continue performance under the contract or to incur costs in excess of the estimated cost set forth in the Schedule, unless and until the Contracting Officer shall have notified the Contractor in writing that such estimated cost has been increased and shall have specified in such notice a revised estimated cost which shall thereupon constitute the estimated cost of performance of this contract. When and to the extent that the estimated cost set forth in the Schedule has been increased, any costs incurred by the Contractor in excess of such estimated cost prior to the increase in estimated cost shall be allowable to the same extent as if such costs had been incurred after such increase in estimated cost.

§ 18–7.451–3 Allowable cost and payment.

Insert the following clause:

ALLOWABLE COST AND PAYMENT (JANUARY 1964)

(a) For the performance of this contract, the Government shall pay to the Contractor the cost thereof (herein after referred to as "allowable cost") determined by the Contracting Officer to be allowable in accordance with:

(i) Part 15, Subpart 3, of the NASA Procurement Regulation as in effect on the date of this contract, except that if the Contractor is not an educational institution the allowable costs shall be determined in accordance with Part 15, Subpart 2, of said Regulation; and

(ii) The terms of this contract.

(b) Once each month (or at more frequent intervals, if approved by the Contracting Officer) the Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as such representative may require, an invoice or public voucher supported by a statement of cost incurred by the Contractor in the performance of this contract and claimed to constitute allowable cost.

(c) (1) Promptly after receipt of each invoice or voucher, the Government shall, subject to the provisions of paragraph (d) below, make payment thereon as approved by the Contracting Officer.

(2) After payment of an amount equal to eighty percent (80%) of the total estimated cost of performance of this contract set forth in the Schedule, further payment on account of allowable cost shall be withheld until a reserve of either one percent (1%) of such total estimated cost, or ten thousand dollars ($10,000), whichever is less, shall have been set aside.

(d) At any time or times prior to final payment under this contract, the Contracting Officer may have the invoices or vouchers and statements of cost audited. Each payment therefore made shall be subject to reduction for amounts included in the related invoice or voucher which are found by the Contracting Officer, on the basis of such audit, not to constitute allowable cost. Any payment may be reduced for overpayments, or increased for underpayments, on preceding invoices or vouchers.

(e) On receipt and approval of the invoice or voucher designated by the Contractor as the "completion invoice" or "completion voucher" and upon compliance by the Contractor with all the provisions of this contract (including, without limitation, the provisions relating to patents and the provisions of (f) below), the Government shall promptly pay to the Contractor any balance of allowable cost which has been withheld pursuant to (c) above or otherwise not paid to the Contractor. The completion invoice or voucher shall be submitted by the Contractor promptly following completion of the work under this contract but in no event later than one (1) year (or such longer period as the Contracting Officer may in his discretion approve in writing) from the date of such completion.

(f) The Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor or any assignee under this contract shall be paid by the Contractor to the Government, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract. Reasonable expenses incurred by the Contractor for the purpose of securing such refunds, rebates, credits, or other amounts shall be allowable costs hereunder when approved by the Contracting Officer. Prior to final payment under this contract, the Contractor and each assignee under this contract whose assignment is in effect at the time of final payment under this contract shall execute and deliver:

(i) An assignment to the Government, in form and substance satisfactory to the Contracting Officer, of refunds, rebates, credits, or other amounts (including any interest thereon) properly allocable to costs for which the Contractor has been reimbursed by the Government under the contract; and

(ii) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions—

(A) Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible of exact statement by the Contractor;

(B) Claims, together with reasonable expenses incidental thereto, based upon liabilities of the Contractor to third parties arising out of the performance of this contract: *Provided*, That such claims are not known to the Contractor on the date of the execution of the release: *And provided further*, That the Contractor gives notice of such claims in writing to the Contracting Officer not more than six (6) years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier;

(C) Claims for reimbursement of costs, including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of this contract relating to patents; and

(D) When there is included in this contract a clause entitled "Data Requirements," claims pursuant to such clause when a written request by the Contracting Officer to furnish data is made within the one (1) year period after final payment.

(g) Any cost incurred by the Contractor under the terms of this contract which would constitute allowable cost under the provisions of this clause shall be included in determining the amount payable under this contract, notwithstanding any provisions contained in the specifications or other documents incorporated in this contract by reference, designating services to be performed or materials to be furnished by the Contractor at his expense or without cost to the Government.

§ 18–7.451–4 Standards of work.

Insert the clause set forth in § 18–7.302–3.

§ 18–7.451–5 Inspection.

Insert the first clause set forth in § 18–7.302–4(a). However, where a more detailed provision covering inspection is desired, as where the primary contract objective is the delivery of end items, rather than designs, drawings, or reports, the "Inspection" clause set forth in § 18–7.402–5 shall be used.

§ 18–7.451–6 Assignment of claims.

In accordance with the requirements of § 18–7.103–8, insert the clause set forth therein.

§ 18–7.451–7 Records.

Insert the clause set forth in § 18–7.203–7. Pursuant to procedures approved by the Comptroller General, original documentary evidence in support of costs of the transportation of things shall not be required pursuant to paragraph (a)(3) of said Records clause. In the case of contracts which establish separate periods of performance, the alternate paragraph (a)(4) clause set forth in § 18–7.203–7(b) may be submitted for the corresponding paragraph of the clause prescribed in § 18–7.203–7(a).

§ 18–7.451–8 Subcontracts.

SUBCONTRACTS (JANUARY 1968)

(a) The Contractor shall give advance notification to the Contracting Officer of any proposed subcontract hereunder which (i) is on a cost, cost-plus-a-fee, time and material or labor-hour basis, or (ii) is on a fixed-price basis exceeding in dollar amount either $25,000 or five percent (5%) of the total estimated cost of this contract.

(b) In the case of a proposed subcontract which (i) is on a cost, cost-plus-a-fee, time and material, or labor-hour basis and which would involve an estimated amount in excess of $10,000, including any fee; or (ii) is proposed to exceed $100,000; or (iii) is one of a number of subcontracts under this contract with a single subcontractor for the same or related supplies or services which, in the aggregate, are expected to exceed $100,000; the advance notification required by (a) above shall include:

(i) A description of the supplies or services to be called for by the subcontract;

(ii) Identification of the proposed subcontractor and an explanation of why and how the proposed subcontractor was selected, including the degree of competition obtained;

(iii) The proposed subcontract price, together with the Contractor's cost or price analysis thereof and a statement as to whether the price is based on catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation; and

(iv) Identification of the type of contract proposed to be used.

(c) (1) Except as provided in subparagraph (2) below, the Contractor shall not, without the prior written consent of the Contracting Officer, place any subcontract which:

(i) Is on a cost or cost-plus-a-fixed-fee basis;

(ii) Is on a fixed-price basis exceeding in dollar amount either $25,000 or five percent (5%) of the total estimated cost of this contract;

(iii) Is on a time and material or labor-hour basis;

(iv) Has experimental, developmental, or research work as one of its purposes; or

(v) Provides for the fabrication, purchase, rental, installation, or other acquisition of any item of industrial facilities, or of special tooling having a value in excess of $1,000.

The Contracting Officer may, in his discretion, ratify in writing any such subcontract; such action shall constitute the consent of the Contracting Officer as required by this paragraph (c).

(2) If this contract is with an educational institution, then provision (v) above is not applicable, but provisions (vi) and (vii) set forth below are added to the list of provisions included in subparagraph (1) and considered a part thereof.

(vi) Provides for the construction, purchase, rental, installation, or other acquisition of nonseverable industrial facilities, or

(vii) Provides for the fabrication, purchase, rental, installation, or other acquisition of any item of either (A) severable industrial facilities having a value in excess of $1,500 or the amount, if any, specified in the Schedule or Task Order, whichever is the lesser, or (B) special tooling having a value in excess of $1,000.

(d) The Contractor agrees that no subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis.

(e) The Contracting Officer may, in his discretion, specifically approve in writing any of the provisions of a subcontract. However, such approval or the consent of the Contracting Officer obtained as required by this clause shall not be construed to constitute a determination of allowability of any cost under this contract, unless such approval specifically provides that it constitutes a determination of the allowability of such cost.

(f) The Contractor shall give the Contracting Officer immediate notice in writing of any action or suit filed, and prompt notice of any claim made against the Contractor by any subcontractor or vendor which, in the opinion of the Contractor, may result in litigation, related in any way to this contract with respect to which the Contractor may be entitled to reimbursement from the Government.

(g) Notwithstanding (c) above, the Contractor may enter into subcontracts within (ii), or, if the subcontract is for special tooling, within (iii), of (c) above, without the prior written consent of the Contracting Officer if the Contracting Officer has, in writing, approved the Contractor's purchasing system and the subcontract is within the limitations of such approval.

(h) The Contractor shall (i) insert in each price redetermination or incentive price revision subcontract hereunder the substance of the "Limitation on Payments" provision set forth in paragraph (j) of the clause prescribed by paragraph 7.108 of the NASA Procurement Regulation, including subparagraph (4) thereof, modified to omit mention of the Government and reflect the position of the Contractor as purchaser and of the subcontractor as vendor, and to omit that portion of subparagraph (3) thereof relating to tax credits, and (ii) include in each cost-reimbursement type subcontract hereunder a requirement that each price redetermination and incentive price revision subcontract thereunder will contain the substance of the "Limitation on Payments" provision, including subparagraph (4) thereof, modified as outlined in (i) above.

(i) To facilitate small business participation in subcontracting under this contract, the Contractor agrees to provide progress payments on the fixed-price types of subcontracts of those subcontractors that are small business concerns, in conformity with the standards for customary progress payments stated in paragraphs 503 and 514 of Appendix E of the Armed Services Procurement Regulation, as in effect on the date of this contract. The Contractor further agrees that the need for such progress payments will not be considered as a handicap or adverse factor in the award of subcontracts.

The percentage and amount set forth in provision (ii) of subparagraph (c)(1) of the foregoing clause may be varied, and in provisions (i), (iii), and (iv) of subparagraph (c)(1), dollar amounts not in excess of $10,000 may be established below which the prior written consent of the Contracting Officer need not be obtained. In addition to the foregoing authorized variations, in contracts with nonprofit institutions (other than educational institutions), the dollar amount set forth in provision (v) may be increased.

§ 18–7.451–9 Utilization of small business concerns.

In accordance with the requirements of § 18–1.707–3(a), insert the clause set forth therein.

§ 18–7.451–10 Termination for the convenience of the Government.

In accordance with the requirements of § 18–8.704–1, insert the clause set forth therein.

§ 18–7.451–11 Disputes.

Insert the clause set forth in § 18–7.103–12.

§ 18–7.451–12 Renegotiation.

Insert the clause set forth in § 18–7.103–13.

§ 18–7.451–13 Buy American Act.

In accordance with the requirements of Subpart 18–6.1, insert the clause set forth in § 18–6.104–5.

§ 18–7.451–14 Convict labor.

In accordance with the requirements of Subpart 18–21.2, insert the clause set forth in § 18–12.203.

§ 18–7.451–15 Walsh-Healey Public Contracts Act.

Insert the clause set forth in § 18–12.604.

§ 18–7.451–16 Contract Work Hours Standards Act—overtime compensation.

Insert the clause set forth in § 18–12.303–1. Note the introductory language required by § 18–12.303–2 for inclusion in contracts with a State or political subdivision thereof.

§ 18–7.451–17 Equal opportunity.

Insert one or the other of the following clauses, as required by and in accordance with the instructions in § 18–12.802: (a) The Equal Opportunity clause set forth in § 18–12.802–1, or (b) the Equal Opportunity in Federally Assisted Construction Contracts clause set forth in § 18–12.802–2.

§ 18–7.451–18 Officials not to benefit.

Insert the clause set forth in § 18–7.103–19.

§ 18–7.451–19 Covenant against contingent fees.

Insert the clause set forth in § 18–1.503.

§ 18–7.451–20 Authorization and consent.

Insert the clause set forth in § 18–9.103(b).

§ 18–7.451–21 Notice and assistance regarding patent and copyright infringement.

Insert the clause set forth in § 18–9.105.

§ 18–7.451–22 New technology or property rights in inventions.

In accordance with the requirements of § 18–9.101–2, insert the New Technology or Property Rights in Inventions clause, as appropriate.

§ 18–7.451–23 Rights in data.

In accordance with the requirements of § 18–9.203 insert the clause set forth in § 18–9.203–1.

§ 18–7.451–24 Security requirements.

Insert the clause set forth in this § 18–7.451–24 only in contracts without fee with educational institutions. In contracts with nonprofit institutions which are not educational institutions, insert the clause set forth in § 18–7.204–12.

SECURITY REQUIREMENTS (SEPTEMBER 1962)

(a) The provisions of this clause shall apply to the extent that this contract involves access to information classified "Confidential," or higher.

(b) NASA shall notify the Contractor of the security classification of this contract and the elements thereof, and of any subsequent revisions in such security classification, by the use of a Security Requirements Check List (DD Form 254), or other written notification.

(c) To the extent the Government has indicated as of the date of this contract, or thereafter indicates, security classification under this contract as provided in paragraph (b) above, the Contractor shall safeguard all classified elements of this contract and shall provide and maintain a system of security controls within his own organization in accordance with the requirements of:

(1) The Security Agreement (DD Form 441), including the Department of Defense In-

dustrial Security Manual for Safeguarding Classified Information as in effect on the date of this contract, and any modification to the Security Agreement for the purpose of adapting the Manual to the Contractor's business; and

(ii) Any amendments to said Manual made after the date of this contract, notice of which has been furnished to the Contractor by the Security Office of the Military Department having security cognisance over the facility.

(d) Representatives of the Military Department having security cognisance over the facility and representatives of NASA shall have the right to inspect at reasonable intervals the procedures, methods, and facilities utilized by the Contractor in complying with the security requirements under this contract. Should the Government, through these representatives, determine that the Contractor is not complying with the security requirements of this contract, the Contractor shall be informed in writing by the Security Office of the cognisant Military Department of the proper action to be taken in order to effect compliance with such requirements.

(e) In the event a change in security requirements, as provided in paragraphs (b) and (c), results (i) in a change in the security classification of this contract or any element thereof from a nonclassified status to a classified status or from a lower classification to a higher classification or (ii) in more restrictive area controls than previously required, the Contractor shall exert every reasonable effort compatible with his established policies to continue the performance of work under the contract in compliance with such change in security classification or requirements. If, despite such reasonable efforts, the Contractor determines that the continuation of work under this contract is not practicable because of such change in security classification or requirements he shall so notify the Contracting Officer in writing.

(f) After receiving such written notification, the Contracting Officer shall explore the circumstances surrounding the proposed change in security classification or requirements and shall endeavor to work out a mutually satisfactory method whereby the Contractor can continue performance of the work under this contract.

(g) If, upon the expiration of fifteen (15) days after receipt by the Contracting Officer of the notification of the Contractor's stated inability to proceed, (i) the application to this contract of such change in security classification or requirements has not been withdrawn, or (ii) a mutually satisfactory method for continuing performance of work under this contract has not been agreed upon, the Contractor may request the Contracting Officer to terminate the contract in whole or in part. Thereupon the Contracting Officer shall terminate the contract in whole or in part, as may be appropriate, and such termination shall be deemed a termination under the provisions of the clause of this contract entitled, "Termination for the Convenience of the Government."

(h) The Contractor agrees to insert, in all subcontracts hereunder which involve access to classified information, provisions which shall conform substantially to the language of this clause, including this paragraph (h) but excluding paragraphs (e), (f), and (g) of this clause. In addition, the Contractor may insert in any subcontract, not involving fee or profit, with an educational institution, and any like lower-tier subcontract entered into thereunder may contain, in lieu of paragraphs (e), (f), and (g) of this clause, appropriate provisions extending to such subcontracts relief consistent with that provided for in those paragraphs, on account of changes in security classifications or requirements made under the provisions of this clause subsequent to the date of the subcontract involved. With respect to subcontracts other than those covered by the preceding sentence, "the mutually satisfactory method" provided for in paragraph (f) above may include a provision amending this contract to provide for an equitable adjustment on account of changes in security classifications or requirements made under the provisions of this clause subsequent to the date of the subcontract involved; and the Contractor may insert in any such subcontract, and any like lower-tier subcontract entered into thereunder may contain, in lieu of paragraphs (e), (f), and (g) of this clause, appropriate provisions with respect to such equitable adjustment. Failure of the Contractor and Contracting Officer to agree to any adjustment pursuant to the preceding sentence shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(i) The Contractor also agrees that he shall determine that any subcontractor proposed by him for the performance of a subcontract hereunder which will involve access to classified information in the Contractor's custody has been granted an appropriate facility security clearance which is still in effect, prior to being accorded access to such classified information.

§ 18–7.451–25 Government property.

In accordance with the requirements of § 18–13.506, insert the appropriate clause set forth therein.

§ 18–7.451–26 Insurance—liability to third persons.

In accordance with the requirements of § 18–7.402–26, insert either the clause set forth in § 18–7.203–22 or the appropriate clause indicated in § 18–7.402–26. When the clause in § 18–7.203–22 is used, the title "Allowable Cost, Fixed Fee, and Payment" in paragraph (c) of the clause will be changed to read "Allowable Cost and Payment."

§ 18–7.451–27 Utilization of concerns in labor surplus areas.

In accordance with the requirements of § 18–1.805–3(a), insert the clause set forth therein.

§ 18–7.451–28 Payment for overtime and shift premiums.

In accordance with the requirements of § 18–12.102–3(d), insert the clause as set forth in § 18–12.102–3(h)(1).

§ 18–7.451–29 Competition in subcontracting.

Insert the clause set forth in § 18–7.104–40.

§ 18–7.451–30 Audit and records.

Insert the clause set forth in § 18–7.104–42.

§ 18–7.451–50 Payment of royalties.

PAYMENT OF ROYALTIES (SEPTEMBER 1962)

Payments by the Contractor of any sum for royalties or patent rights not included in the ordinary purchase price of supplies, materials, or components, shall not constitute items of Allowable Cost hereunder, unless and until approved by the Contracting Officer. Reimbursement to the Contractor on account of any such payments shall not be construed as an admission by the Government of the enforceability, validity or scope of, or title to any of the patents involved, nor shall any such reimbursement constitute a waiver of any rights or defenses respecting such patents.

§ 18–7.451–51 Estimated cost.

Normally, the clause set forth below will be used as the Schedule provision covering the estimated cost. However, the clause may be modified at the discretion of the contracting officer.

ESTIMATED COST (SEPTEMBER 1962)

The estimated cost of this contract is $_____.

§ 18–7.451–54 Reports of work.

See § 18–7.302–54 for guidance and a clause approved for use.

§ 18–7.451–55 Scientific and technical information service.

Insert the clause set forth in § 18–7.302–55.

§ 18–7.452 Clauses required to be used when applicable.

Except as otherwise provided in § 18–7.460, the clauses set forth in this § 18–7.452 shall be inserted, when applicable, in all contracts specified in § 18–7.450–1.

§ 18–7.452–1 Clauses for contracts involving construction work.

(a) In accordance with the requirements of Subpart 18–12.4, insert in cost-reimbursement type research and development contracts with educational or nonprofit institutions, where construction work is involved, the clauses listed below, which are set forth in § 18–12.403–1:

Davis-Bacon Act.
Contract Work Hours Standards Act—Overtime Compensation.
Apprentices.
Payrolls and Payroll Records.
Compliance with Copeland Regulations.
Withholding of Funds.
Subcontracts.
Contract Termination—Debarment.

(b) In accordance with the requirements of § 18–6.207, insert in all contracts for construction, except those executed on Standard Form 19 and NASA Form 177W, the clause entitled "Buy American," as set forth in § 18–6.207(c).

§ 18–7.452–2 Filing of patent applications.

In accordance with the requirements of § 18–9.107, insert the clause set forth therein.

§ 18–7.452–7 Priorities, allocations, and allotments.

In accordance with the requirements of § 18–1.307–2, insert the clause set forth therein.

§ 18–7.452–8 Soviet-controlled areas.

In accordance with the requirements of § 18–6.403, insert the clause set forth therein and include in the Schedule of the contract the list of Soviet-controlled areas set forth in § 18–6.401–2.

§ 18–7.452–9 Negotiated overhead rates.

Where negotiated overhead rates are to be used pursuant to Subpart 18–3.7, the appropriate clause set forth in § 18–3.704 shall be included in the contract.

§ 18–7.452–10 Notice to the Government of labor disputes.

Whenever work is to be performed and a work stoppage would result in delay in an urgent NASA program, insert the clause set forth in § 18–7.104–4.

§ 18–7.452–11 Contractor and subcontractor cost or pricing data.

In accordance with the requirements of § 18–3.807–3, insert the clause set forth in § 18–3.807–4.

§ 18–7.452–12 Limitation on withholding of payments.

In accordance with the requirements of § 18–7.104–21, insert the clause set forth therein.

§ 18–7.452–13 Small business subcontracting program.

In accordance with the requirements of § 18–1.707, insert the clause set forth in § 18–1.707–3(b).

§ 18–7.452–14 Changes to make-or-buy program.

In accordance with the requirements of Subpart 18–3.9, insert the clause set forth in § 18–3.902–1(a).

§ 18–7.452–23 GSA supply sources.

In accordance with the requirements of § 18–5.907, the clause set forth therein shall be included in the contract.

§ 18–7.452–24 Labor surplus area subcontracting program.

In accordance with the requirements of § 18–1.805–3(b), insert the clause set forth therein.

§ 18–7.452–50 Data requirements.

In accordance with the requirements of Subpart 18–9.2, insert the clause set forth in § 18–9.202–1(c).

§ 18–7.452–51 Approval of contract.

The clause set forth in § 18–7.104–51 shall be included when approval of the contract by the Director of Procurement is required.

§ 18–7.452–52 Preference for U.S.-flag air and ocean services.

Under the circumstances described in Subpart 18–1.14, insert the clause set forth in § 18–1.1403.

§ 18–7.452–53 Limitation of Government's obligation.

Where funding to complete the entire contract is not available at the time it is entered into, the clause set forth in § 18–7.204–53 shall be included in the contract, with an implementing Schedule provision. The specific approval of the Director of Procurement is not required for the use of the clause when the provisions of § 18–7.452–53 are otherwise applicable.

§ 18–7.452–54 Materials reports.

In accordance with the requirements of § 18–7.303–54, insert the clause set forth therein.

§ 18–7.452–55 NASA PERT System.

In accordance with the requirements of § 18–7.204–55, insert the clause set forth therein.

§ 18–7.452–56 NASA financial management reporting.

In accordance with the requirements of § 18–7.204–56, insert the appropriate clause set forth therein.

§ 18–7.452–57 Key personnel and facilities.

In accordance with the requirements of § 18–1.352, insert the clause set forth therein.

§ 18–7.452–58 Safety and health.

In accordance with the requirements of Subpart 18–10.50, insert the clause set forth in § 18–10.5004.

§ 18–7.452–59 Nonuse of foreign-flag vessels engaged in Cuban trade.

In accordance with the requirements of § 18–1.1410, insert the clause set forth therein.

§ 18–7.452–60 Report on NASA subcontracts.

In accordance with the requirements of § 18–16.904–3, insert the clause set forth therein.

§ 18–7.452–61 Rights in data for potentially hazardous items.

In accordance with the requirements of § 18–9.204–52, insert the clause set forth in § 18–9.204–52(c).

§ 18–7.452–62 Potentially hazardous items.

In accordance with the requirements of § 18–1.351, insert the clause set forth therein.

§ 18–7.452–63 Disclosure of unsolicited proposals outside government.

In accordance with the requirements of § 18–1.304–3(c)(3), insert the clause set forth therein.

§ 18–7.453 Additional clauses.

Except as otherwise provided in § 18–7.460, the clauses set forth in this § 18–7.453 shall be inserted in all contracts prescribed in § 18–7.450–1 if it is desired to cover the subject matter.

§ 18–7.453–1 Changes.

CHANGES (SEPTEMBER 1962)

The Contracting Officer may at any time, by a written order and without notice to the sureties, if any, make changes, within the general scope of this contract, in any one or more of the following: (i) Drawings, designs, or specifications; (ii) method of shipment or packing; (iii) place of inspection, delivery, or acceptance; and (iv) the amount of Government-furnished property. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of this contract, or otherwise affects any other provision of this contract, whether changed or not changed by any such order, an equitable adjustment shall be made (i) in the estimated cost or delivery schedule, or both, and (ii) in such other provisions of the contract as may be so affected, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within sixty (60) days from the date of receipt by the Contractor of the notification of change: *Provided, however,* That the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes." However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

In the foregoing clause, the period of "sixty (60) days" within which any claim for adjustment must be asserted may be reduced to a period of not less than "thirty (30) days."

§ 18–7.453–2 Alterations in contract.

The clause set forth in § 18–7.105–1 may be inserted.

§ 18–7.453–4 Bill of materials.

The clause set forth in § 18–7.105–6 may be inserted pursuant to the provisions thereof.

§ 18–7.453–50 Notice of delay.

The clause set forth in § 18–7.205–50 is authorized for use when it is desirable to provide for notice by the contractor to the Government of anticipated delays in performance.

§ 18–7.453–51 Program progress reports.

The clause set forth in § 18–7.205–51 may be inserted.

§ 18–7.453–52 Date of incurrence of costs.

The clause set forth in § 18–7.205–52 is authorized for use where specific coverages of anticipatory costs is considered desirable.

§ 18–7.453–53 Contractor's independent research program.

In accordance with the instructions in § 18–7.205–53, the clause set forth in § 18–9.101–7 may be inserted.

§ 18–7.453–57 Federal, State, and local taxes.

The clause set forth in § 18–11.402 is authorized for use at the discretion of the contracting officer and when requested by the contractor.

§ 18–7.453–58 Excusable delays.

The clause set forth in § 18–8.708 may be inserted in the contract.

§ 18–7.460 Short form clauses for cost-reimbursement type research contracts with nonprofit institutions (including educational institutions).

Notwithstanding the provisions of §§ 18–7.402, 18–7.403, 18–7.451, and 18–

7.452, the clauses set forth or referred to in this § 18–7.460 shall be used in contracts for basic or applied scientific research at nonprofit institutions of higher education or at nonprofit institutions whose primary purpose is the conduct of scientific research when a short form contract is desired. (See § 18–4.5102(c) for the definition of nonprofit institution.)

§ 18–7.460–1 Definitions.

Insert the clause set forth in § 18–7.103–1.

§ 18–7.460–2 Limitation of cost—allowable cost and payment.

Insert the following clause.

LIMITATION OF COST—ALLOWABLE COST AND PAYMENT (JANUARY 1964)

(a) It is estimated that the total cost to the Government for the performance of this contract will not exceed the estimated cost set forth in the Schedule, and the Contractor agrees to use his best efforts to perform the work specified in the Schedule within such estimated cost. If at any time the Contractor has reason to believe that the costs which he expects to incur in the performance of this contract in the next succeeding sixty (60) days, when added to all costs previously incurred, will exceed seventy-five percent (75%) of the total estimated cost of this contract, including any amendments hereto, or if at any time the Contractor has reason to believe that the total cost to the Government for the performance of this contract will be substantially greater or less than the then estimated cost thereof, the Contractor shall notify the Contracting Officer in writing to that effect, giving the revised estimate of such total cost for the performance of this contract.

(b) The Government shall not be obligated to reimburse the Contractor for costs incurred in excess of the estimated cost set forth in the Schedule, and the Contractor shall not be obligated to continue performance under the contract or to incur costs in excess of the estimated cost set forth in the Schedule, unless and until the Contracting Office shall have notified the Contractor in writing that such estimated cost has been increased and shall specify the new revised estimated cost. When and to the extent that the estimated cost set forth in the Schedule has been increased, any costs incurred by the Contractor in excess of such estimated cost prior to the increase in estimated cost shall be allowable to the same extent as if such costs had been incurred after such increase.

(c) For the performance of this contract, the Government shall pay to the Contractor the cost thereof (hereinafter referred to as "allowable cost") determined by the Contracting Officer to be allowable in accordance with:

(i) Part 15, Subpart 3, of the NASA Procurement Regulation as in effect on the date of this contract, except that if the Contractor is not an educational institution the allowable costs shall be determined in accordance with Part 15, Subpart 2, of said Regulation; and

(ii) The terms of this contract.

(d) Once each month (or at more frequent intervals, if approved by the Contracting Officer) the Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as such representative may require, an invoice or public voucher supported by a statement of cost incurred by the Contractor in the performance of this contract and claimed to constitute allowable cost. Promptly after receipt of each invoice or voucher, the Government shall, subject to the provisions of paragraph (e) below, make payment thereon as approved by the Contracting Officer.

(e) At any time or times prior to final payment under this contract, the Contracting Officer may have the invoices or vouchers and statements of cost audited. Each payment theretofore made shall be subject to reduction for amounts included in the related invoice or voucher which are found by the Contracting Officer, on the basis of such audit, not to constitute allowable cost. Any payment may be reduced for overpayments, or increased for underpayments, on preceding invoices or vouchers.

(f) On receipt and approval of the invoice or voucher designated by the Contractor as the "completion invoice" or "completion voucher" and upon compliance by the Contractor with all the provisions of this contract (including, without limitation, the below-listed provisions), the Government shall promptly pay to the Contractor any balance of allowable costs otherwise not paid to the Contractor.

(g) Prior to final payment under this contract, the Contractor shall deliver:

(i) An assignment to the Government, in form and substance satisfactory to the Contracting Officer, of refunds, rebates, credits, or other amounts (including any interest thereon) properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract; and

(ii) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions—

(A) Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible of exact statement by the Contractor;

(B) Claims, together with reasonable expenses incidental thereto, based upon liabilities of the Contractor to third parties arising out of the performance of this contract: *Provided*, That such claims are not known to the Contractor on the date of the execution of the release: *And provided further*, That the Contractor gives notice of such claims in writing to the Contracting Officer not more than six (6) years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier;

(C) Claims for reimbursement of costs, including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of this contract relating to patents; and

(D) When there is included in the Schedule of this contract a clause entitled "Data Requirements," claims pursuant to such clause when a written request by the Contracting Officer to furnish data is made within the one (1) year period after final payment.

§ 18–7.460–3 Government property.

Insert the appropriate clause set forth in § 18–13.506.

§ 18–7.460–4 Subcontracts.

Insert the clause set forth in § 18–7.451–3. See instructions following the clause for authorized changes.

§ 18–7.460–5 Insurance—liability to third persons.

In accordance with the requirements of § 18–7.402–26, insert either the clause set forth in § 18–7.203–22 or the appropriate clause indicated in § 18–7.402–26. When the clause in § 18–7.203–22 is used, the title "Allowable Cost, Fixed Fee, and Payment" in paragraph (c) of the clause shall be changed to read "Limitation of Cost—Allowable Cost and Payment."

§ 18–7.460–6 Records.

Insert the clause set forth in § 18–7.203–5. Pursuant to procedures approved by the Comptroller General, original documentary evidence in support of costs of the transportation of things will not be required pursuant to paragraph (a)(3) of said "Records" clause. In the case of contracts which establish separate periods of performance, alternate paragraph (a)(4) clause, set forth in § 18–7.203–7(b), may be substituted for the corresponding paragraph of the clause prescribed in § 18–7.203–7(a).

§ 18–7.460–7 Release of information.

Insert the clause set forth in § 18–7.350–5.

§ 18–7.460–8 Property rights in inventions.

Insert the clause set forth in § 18–9.101–5.

§ 18–7.460–9 Data and inspection.

Insert the clause set forth in § 18–9.304–51.

§ 18–7.460–10 Authorization and consent.

Insert the clause set forth in § 18–9.109(b).

§ 18–7.460–11 Notice and assistance regarding patent and copyright infringement.

Insert the clause set forth in § 18–9.105.

§ 18–7.460–12 Security.

Insert the clause set forth in § 18–7.350–6.

§ 18–7.460–13 Disputes.

Insert the clause set forth in § 18–7.103–12.

§ 18–7.460–14 Termination.

Insert the clause set forth in § 18–8.705–50(b).

§ 18–7.460–15 Buy American Act.

Insert the clause set forth in § 18–6.104–5.

§ 18–7.460–16 Equal opportunity.

Insert one or the other of the following clauses, as required by and in accordance with the instructions in § 18–12.802 (a) the Equal Opportunity clause set forth in § 18–12.802–1, or (b) the Equal Opportunity in Federally Assisted Construction Contracts clause set forth in § 18–12.802–2.

§ 18–7.460–17 Covenant against contingent fees.

Insert the clause set forth in § 18–1.503.

§ 18–7.460–18 Officials not to benefit.

Insert the clause set forth in § 18–7.103–19.

§ 18–7.460–19 Convict labor.

Insert the clause set forth in § 18–12.203.

§ 18–7.460–20 Audit and records.

Insert the clause set forth in § 18–7.104–42.

§ 18–7.461 Additional clauses.

When circumstances justify it, the clauses prescribed in §§ 18–7.402, 18–7.403, 18–7.404, 18–7.451, 18–7.452, and 18–7.453 may be added to or substituted for the clauses set forth in §§ 18–7.460–1 through 18–7.460–19; however, care should be exercised to ensure that there are no inconsistencies.

Subpart 18–7.5—Clauses for Personal Services Contracts [Reserved]

Subpart 18–7.7—Clauses for Facilities Contracts

§ 18–7.701 Applicability.

As used throughout this Subpart 18–7, the term "facilities contract" has the meaning given in § 18–13.101–17. Facilities contracts may take any of the following forms:

(a) Facilities acquisition contracts, which provide for the acquisition, construction, and installation of facilities;

(b) Facilities use contracts, which provide for the use, maintenance, accountability, and disposition of facilities; or

(c) Consolidated facilities contracts, which provide for both (1) the acquisition, construction, and installation of facilities, and (2) the use, maintenance, accountability, and disposition of facilities.

§ 18–7.702 Required clauses for facilities acquisition contracts.

The clauses set forth in this § 18–7.702 shall be inserted in all facilities acquisition contracts.

§ 18–7.702–1 Definitions.

DEFINITIONS (MARCH 1963)

As used throughout this Contract the following terms shall have the meanings set forth below:

(a) The term "Administrator" means the Administrator or Deputy Administrator of the National Aeronautics and Space Administration; and the term "his duly authorized representative" means any person or persons or board (other than the Contracting Officer) authorized to act for the Administrator.

(b) The term "Contracting Officer" means the person executing this contract on behalf of the Government, and any other officer or civilian employee who is a properly designated Contracting Officer; and the term includes, except as otherwise provided in this Contract, the authorized representative of a Contracting Officer acting within the limits of his authority.

(c) Except as otherwise provided in this Contract, the term "Subcontracts" includes purchase orders under this Contract.

(d) The term "NASA" means the National Aeronautics and Space Administration.

(e) "Related Procurement Contract" means a Government contract or subcontract for furnishing supplies or services of any description for the performance of which the use of the facilities is or may be authorized.

(f) "Material" means property which may be incorporated into or attached to an end item to be delivered under a contract or which may be consumed or expended in the performance of a contract. It includes but is not limited to raw and processed material, parts, components, assemblies, small tools, and supplies which may be consumed in normal use in the performance of the contract.

(g) "Special tooling" means all jigs, dies, fixtures, molds, patterns, special taps, special gauges, special test equipment, other special equipment and manufacturing aids, and replacements therefor, acquired or manufactured by the contractor for use in the performance of a contract or subcontract, which are of such a specialized nature that, without substantial modification or alteration, their use is limited to the production of such supplies or parts thereof, or the performance of such services, as are peculiar to the needs of the Government. The term does not include:

(i) Items of tooling or equipment acquired by the contractor prior to the contract, or replacements thereof, where minor alteration is required for use in the performance of the contract, or

(ii) Consumable small tools, or

(iii) General or special machine tools, or similar capital items.

(h) "Facilities" means property, other than material and special tooling, to be used for the performance of a contract or subcontract, including but not limited to real property and rights therein, buildings, structures, improvements, and plant equipment.

§ 18–7.702–2 Representations and warranties.

REPRESENTATIONS AND WARRANTIES (MARCH 1963)

(a) The Government makes no warranty, express or implied, regarding the condition of fitness for use of any item of the Facilities. To the extent practicable, the Contractor shall be afforded an opportunity to inspect all items of Facilities that are to be furnished by the Government prior to the shipment of such Facilities to the Contractor. In the event that any item of such Facilities is received by the Contractor in a condition not suitable for the intended use the Contractor shall, within thirty (30) days after receipt and installation thereof, notify the Contracting Officer of such fact and, as directed by the Contracting Officer and at Government expense, either (i) return such item or otherwise dispose of it, or (ii) effect repairs or modifications.

(b) Appropriate equitable adjustment may be made in any related procurement contract of the Contractor which so provides and which is affected by the return or disposition, or the repair or modification, of any item of Facilities under paragraph (a) above.

§ 18–7.702–3 Inspection.

INSPECTION (MARCH 1963)

(a) The Facilities and work called for by this contract shall be subject to inspection and test by the Government, to the extent practicable at all times and places including the period of manufacture. The Contractor shall provide and maintain an inspection system acceptable to the Government covering the Facilities and work called for by this contract. The Government, through any authorized representative, may inspect such Facilities and work at the plant or plants of the Contractor or any of his subcontractors engaged in the performance of this contract. If any inspection or test is made by the Government on the premises of the Contractor or a subcontractor, the Contractor shall provide and shall require subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the Government inspectors in the performance of their duties. All inspections and tests by the Government shall be performed in such a manner as will not unduly delay the work to be performed by the Contractor under this contract or any related procurement contract.

(b) The Contracting Officer may at any time require the Contractor to remedy by correction or replacement any Facilities or work which are defective or otherwise not in conformity with the requirements of this contract. Except as otherwise provided in paragraph (c) below, such corrections and replacements shall be carried out at Government expense if under the terms of this contract the Facilities or work thus corrected or replaced were initially provided or required to be performed at Government expense.

(c) The Contracting Officer may at any time require the Contractor, without cost to the Government hereunder or under any of his related procurement contracts or subcontracts, to correct or replace any Facilities or work which are defective or otherwise not in conformity with the requirements of this contract, if such defects or failures are due to lack of good faith or willful misconduct on the part of any of the Contractor's directors or officers, or on the part of any of his managers, superintendents, or other equivalent representatives who has supervision or direction of:

(i) All or substantially all of the Contractor's business; or

(ii) All or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed; or

(iii) A separate and complete major industrial operation in connection with the performance of this contract.

(d) Corrected or replaced Facilities or work shall be subject to the provisions of this clause in the same manner and to the same extent as Facilities or work originally completed under this contract.

(e) The Contractor shall make his records of all inspection work available to the Government during the performance of this contract and for such longer periods as may be specified in this contract.

§ 18–7.702–4 Government bills of lading.

GOVERNMENT BILLS OF LADING (MARCH 1963)

All shipments of the Facilities shall be made on Government bills of lading, unless otherwise authorized by the Contracting Officer. The required number of such Government bills of lading will be furnished to the Contractor by, and the Contractor shall be accountable therefor to, the transportation activity designated by the Contracting Officer.

§ 18–7.702–5 Limitation of cost.

LIMITATION OF COST (MARCH 1963)

(a) It is estimated that the total cost to the Government for the performance of work under the Schedule of this contract which is provided herein to be at Government expense will not exceed the estimated cost set forth in the Schedule, and the Contractor agrees to use his best efforts to perform such work within such estimated cost. If at any time the Contractor has reason to believe that the costs which he expects to incur in the performance of such work in the next succeeding thirty (30) days, when added to all costs previously incurred, will exceed eighty-five percent (85%) of the estimated cost then set forth in the Schedule, or if at any time the Contractor has reason to believe that the total cost to the Government for the performance of such work will be substantially greater or less than the then estimated cost thereof, the Contractor shall notify the Contracting Officer in writing to that effect, giving his revised estimate of such total cost for the performance of such work.

(b) The Government shall not be obligated to reimburse the Contractor under this contract for costs incurred in excess of the estimated cost set forth in the Schedule, and the Contractor shall not be obligated to continue the performance of work under this contract which is provided herein to be at Government expense, or to incur costs therefor, in excess of the estimated cost set forth in the Schedule, unless and until the Contracting Officer shall have notified the Contractor in writing that such estimated cost has been increased and shall have specified in such notice a revised estimated cost which shall thereupon constitute the estimated cost of performing such work. When and to the extent that the estimated cost set forth in the Schedule has been increased any costs incurred by the Contractor in excess of such estimated cost prior to the increase in estimated cost shall be allowable to the same extent as if such costs had been incurred after such increase in estimated cost.

§ 18–7.702–6 Records.

Insert the clause set forth in § 18–7.203–7.

§ 18–7.702–7 Title.

TITLE (MARCH 1963)

(a) Title to all Facilities and components furnished by the Government shall remain in the Government. Title to all Facilities and components purchased by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the Government upon delivery of such property by the vendor. Title to other property, the cost of which is reimbursable to the Contractor under this contract, shall pass to and vest in the Government upon (i) issuance for use of such property in the performance of this contract or (ii) commencement of processing or use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the Government, whichever first occurs.

(b) Title to the Facilities shall not be affected by their incorporation in or attachment to any property not owned by the Government, nor shall any item of the Facilities be or become a fixture or lose its identity as personalty by reason of affixation to any realty. Except as otherwise authorized by this contract or by the Contracting Officer, the Contractor (i) shall keep the Facilities free and clear of all liens and encumbrances, and (ii) shall not remove or otherwise part with possession of, or permit the use by others of any of the Facilities.

(c) The Contractor may, with the written approval of the Contracting Officer, install, arrange, or rearrange on premises furnished by the Government hereunder, readily movable machinery, equipment, and other items belonging to the Contractor. Title to any such item shall remain in the Contractor even though it is affixed to realty owned by the Government, unless it is so permanently attached to such realty as to be nonremovable without substantial injury, as determined by the Contracting Officer, to the property of the Government.

§ 18–7.702–8 Access.

ACCESS (MARCH 1963)

The Government and any persons designated by it shall at all reasonable times have access to the premises where any of the Facilities are located.

§ 18–7.702–9 Liability for the facilities.

LIABILITY FOR THE FACILITIES (MARCH 1963)

(a) The Contractor shall not be liable for any loss or damage to the Facilities, or for expenses incidental to such loss or damage, except that the Contractor shall be responsible for any such loss or damage (including expenses incidental thereto) which results from:

(i) A risk expressly required to be insured pursuant to paragraph (c) of this clause, but only to the extent of the insurance so required to be procured and maintained, or to the extent of insurance actually procured and maintained, whichever is greater;

(ii) A risk which is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of said insurance or reimbursement;

(iii) Willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers or on the part of any of its managers, superintendents, or other equivalent representatives, who have supervision or direction of (A) all or substantially all of the Contractor's business, (B) all or substantially all of the Contractor's operations at any one plant or separate location in which the Facilities are installed or located, or (C) any separate and complete major industrial operation in connection with which the Facilities are used;

(iv) A failure, due to willful misconduct or lack of good faith on the part of any of the Contractor's directors, officers, or other representatives mentioned in (iii) above, (A) to maintain a program for the protection and preservation of the Facilities, or (B) to take all reasonable steps to comply with any appropriate written directions or instructions which the Contracting Officer may prescribe as reasonably necessary for the protection of the Facilities;

(v) A risk for which the Contractor is otherwise responsible under the express terms of the clause or clauses designated in the Schedule;

Provided That, if more than one of the exceptions numbered (i) through (v) above shall be applicable in any case, the Contrac-

tor's liability under any one exception shall not be limited by any other exception.

(b) This clause shall not be construed as relieving a subcontractor hereunder from liability for loss or destruction of or damage to Facilities in his possession or control, except to the extent that the subcontract, with the prior approval of the Contracting Officer, may provide for the relief of the subcontractor from such liability. In the absence of such approval, the subcontract shall contain appropriate provision requiring the return of all Facilities in as good condition as when received except for reasonable wear and tear or for the utilization of the property in accordance with the provisions of the prime contract.

(c) Unless expressly directed in writing by the Contracting Officer, the Contractor shall not include as an element of price or cost under any contract with the Government any amount on account of the cost of insurance (including self-insurance) against any form of loss or damage to the Facilities. Any insurance required under this clause shall be in such form, in such amounts, for such periods of time and with such insurers (including the Contractor as self-insurer in appropriate circumstances, if so approved) as the Contracting Officer shall require or approve. Such insurance shall contain provision for thirty (30) days prior notice to the Contracting Officer, in the event of cancellation or material change in the policy coverage on the part of the insurer. A certificate of insurance or a certified copy of each policy of insurance taken out hereunder shall be deposited promptly with said Contracting Officer. The Contractor shall, not less than thirty (30) days prior to the expiration of any insurance required by this contract to be carried by the Contractor on the Facilities, deliver to said Contracting Officer a certificate of insurance or a certified copy of each renewal policy to cover the same risks. The insurance shall be in the name of the United States of America (National Aeronautics and Space Administration), the Contractor, and such other interested parties as the Contracting Officer shall approve, and shall contain a loss payable clause reading substantially as follows:

"Loss, if any, under this policy shall be adjusted with the Contractor and the proceeds, at the direction of the Government, shall be paid to the Contractor. Proceeds not paid to the Contractor shall be paid to the Treasurer of the United States of America."

(d) Upon the happening of any loss or destruction of or any damage to the Facilities:

(i) The Contractor shall promptly notify the Contracting Officer thereof, and with the assistance of the Contracting Officer shall take all reasonable steps to protect the Facilities from further damage, separate the damaged and undamaged Facilities, put all the Facilities in the best possible order, and promptly furnish to the Contracting Officer (and in any event within thirty (30) days after the Contractor has determined that loss or destruction of, or damage to, the Facilities has occurred) a statement of (A) the loss, destroyed, and damaged Facilities, (B) the time and origin of the loss, destruction or damage, (C) all known interests in commingled property of which the Facilities are a part, and (D) the insurance, if any, covering any part of or interest in such commingled property;

(ii) The Contractor shall make such repairs, replacements and renovations of the lost, destroyed or damaged Facilities, or take such other action, as the Contracting Officer may direct in writing.

The Contractor shall perform his obligations under this paragraph (d) at Government expense, except to the extent that the Contractor is responsible for such damage, loss or destruction under the terms of this clause, and except as any damage, loss, or destruction is compensated by insurance.

(e) The Government is not obligated to replace or repair the Facilities which have been lost, destroyed or damaged. In such event the right of the parties to an equitable adjustment in delivery or performance dates, or price, or both, and in any other contractual condition of the related procurement contracts affected thereby shall be governed by the terms and conditions of such contracts.

(f) Except to the extent of any loss or destruction of or damage to the Facilities for which the Contractor is relieved of liability, the Facilities shall be returned to the Government or otherwise disposed of under the terms of this contract in as good condition as when received by the Contractor, as subsequently improved or as they should have been subsequently improved under the terms of this contract, less ordinary wear and tear.

(g) In the event the Contractor is indemnified, reimbursed, or otherwise compensated (excepting proceeds from use and occupancy insurance, the cost of which is not borne directly or indirectly by the Government) for any loss or destruction of, or damage to, the Facilities, he shall, to the extent and as directed by the Contracting Officer (i) use the proceeds to repair, renovate, or replace the Facilities involved, or (ii) pay such proceeds to the Government.

(h) The Contractor shall do nothing to prejudice the Government's right to recover against third parties for any loss or destruction of, or damage to, the Facilities, and upon the request of the Contracting Officer shall furnish to the Government, at Government expense, all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery.

§ 18–7.702–10 Indemnification of the Government.

INDEMNIFICATION OF THE GOVERNMENT (MARCH 1963)

Except as provided in the "Insurance—Liability to Third Persons" clause, the Contractor shall indemnify and hold the Government harmless against claims for injury to persons or damage to property of the Contractor or others arising from the Contractor's possession or use of the Facilities. However, the provisions of the Contractor's related procurement contracts shall govern the Government's assumption of liability for such claims arising out of or related to the performance of each such related procurement contract and involving the possession or use of the Facilities.

§ 18–7.702–11 Failure to perform.

FAILURE TO PERFORM (MARCH 1963)

(a) Subject to the provisions of the clause hereof entitled "Excusable Delays," if the Contractor shall fail to perform this contract in accordance with its terms, the Contracting Officer shall give the Contractor written notice thereof. Thereafter, notwithstanding any other provision of this contract, the Contractor shall not be entitled to an equitable adjustment under either this contract or any related procurement contract, to the extent that such equitable adjustment arises out of the Contractor's failure to perform or such reasonable remedial action as may be taken by the Contracting Officer predicated upon such failure.

(b) The failure of the Government to insist, in any one or more instances, upon the performance of any term or terms of this contract shall not be construed as a waiver or relinquishment of the Government's right to the future performance of such term or terms, and the Contractor's obligation in respect of such future performance shall continue in full force and effect.

(c) The rights an remedies of the Government provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

§ 18–7.702–12 Disputes.

Insert the clause set forth in § 18–7.103–12.

§ 18–7.702–13 Security requirements.

SECURITY REQUIREMENTS (MARCH 1963)

(a) The provisions of this clause shall apply to the extent that this contract involves access to information classified "Confidential" or higher.

(b) NASA shall notify the Contractor of the security classification of this contract and the elements thereof, and of any subsequent revisions in such security classification, by the use of a Security Requirements Check List (DD Form 254), or other written notification.

(c) The Contractor agrees to execute, if he has not already done so, a Security Agreement (DD Form 441) with the Government, represented by the Military Department assigned security cognizance over the Contractor's facility. To the extent the Government has indicated, as of the date of this contract, or thereafter indicates, a security classification under this contract as provided in paragraph (b) above, the Contractor shall safeguard all classified elements of this contract and shall provide and maintain a system of security controls within its own organization in accordance with the requirements of:

(i) The Security Agreement (DD Form 441), including the Department of Defense Industrial Security Manual for safeguarding Classified Information in effect on the date of this contract, and any modification to the Security Agreement for the purpose of adapting the Manual to the Contractor's business; and

(ii) Any amendments to said Manual made after the date of this contract, notice of which has been furnished to the Contractor by the Security Office of the Military Department assigned security cognizance over the facility.

(d) Representatives of the Military Department having security cognizance over the facility, and representatives of NASA, shall have the right to inspect at reasonable intervals the procedures, methods and facilities utilized by the Contractor in complying with the security requirements under this contract. Should the Government through these representatives, determine that the Contractor is not complying with the security requirements of this contract, the Contractor shall be informed in writing by the Security Office of the cognizant Military Department of the proper action to be taken in order to effect compliance with such requirements.

(e) If, subsequent to the date of this contract, the security classifications or security requirements under this contract are changed by the Government as provided in this clause, and if such change causes an increase or decrease in the estimated cost of performance of this contract, the estimated cost and

fixed fee (if any) shall, to the extent appropriate, be subject to an equitable adjustment. Any such equitable adjustment shall be accomplished in the manner set forth in the "Changes" clause of this contract.

(f) The Contractor agrees to insert, in all subcontracts hereunder which involve access to classified information, provisions which shall conform substantially to the language of this clause, including this paragraph. The Contractor may insert in any such subcontract, and any such subcontract entered into thereunder may contain provisions which permit equitable adjustments to be made in the subcontract price or in the estimated cost and fixed fee (if any) of the subcontract (as appropriate to the type of subcontract involved) on account of changes in security classifications or requirements made under the provisions of this clause subsequent to the date of the subcontract involved.

(g) The Contractor also agrees that he shall determine that any subcontractor proposed by him for the furnishing of supplies and services which will involve access to classified information in the Contractor's custody has been granted an appropriate facility security clearance, which is still in effect, prior to being accorded access to such classified information.

§ 18–7.702–14 Assignment of claims.

Insert the clause set forth in § 18–7.103–8.

§ 18–7.702–15 Officials not to benefit.

Insert the clause set forth in § 18–7.103–19.

§ 18–7.702–16 Covenant against contingent fees.

Insert the clause set forth in § 18–1.503.

§ 18–7.702–17 Payment for overtime and shift premiums.

Insert the clause set forth in § 18–12.102–3(h) (1).

§ 18–7.702–18 Convict labor.

Insert the clause set forth in § 18–12.203.

§ 18–7.702–19 Equal opportunity.

Insert one or the other of the following clauses, as required by and in accordance with the instructions in § 18–12.802: (a) The Equal Opportunity clause set forth in § 18–12.802–1, or (b) the Equal Opportunity in Federally Assisted Construction Contracts clause set forth in § 18–12.802–2.

§ 18–7.702–20 Contract Work Hours Standards Act—overtime compensation.

Insert the appropriate clause set forth in § 18–12.303.

§ 18–7.702–21 Interest.

Insert the clause set forth in § 18–7.103–53.

§ 18–7.702–22 Supersedure.

SUPERSEDURE (MARCH 1963)

When the acquisition, construction, or installation of the Facilities called for by this contract, or any usable increment thereof, is completed and accepted by the Government, such Facilities shall thereafter be subject to the provisions of a Facilities Use Contract by which the use of such items by the contractor is authorized.

§ 18–7.702–23 Competition in subcontracting.

Insert the clause set forth in § 18–7.104–40.

§ 18–7.702–24 Facilities to be provided.

FACILITIES TO BE PROVIDED (MARCH 1963)

(a) The Contractor shall, at Government expense and subject to the terms and conditions of this contract, acquire, construct, or install the Facilities, and perform the work related thereto, described in the Schedule.

(b) The Government shall, subject to the terms and conditions of this contract, furnish to the Contractor the Facilities identified in the Schedule as Government-furnished Facilities. The Contractor shall, at Government expense, perform such work with respect to these Government-furnished Facilities as may be described in the Schedule.

§ 18–7.702–25 Late delivery, diversion, and substitution.

LATE DELIVERY, DIVERSION, AND SUBSTITUTION (MARCH 1963)

(a) The Government shall not be liable to the Contractor for breach of contract by reason of nondelivery or of any delay in the delivery of the Facilities to be furnished by the Government hereunder.

(b) The Government may, if it is determined by the Contracting Officer to be in the best interest of the Government, divert the Facilities by directing: (i) Delivery of any or all of the Facilities acquired by or furnished to the Contractor hereunder to locations other than those specified in the Schedule; and (ii) assignment, to the Government or to third parties, of purchase orders or subcontracts of the Contractor for any or all of the Facilities hereunder.

(c) The Government may furnish any item of the Facilities, in lieu of the acquisition or construction thereof by the Contractor. In such event, the work performed by the Contractor in connection with the acquisition or construction of such Facilities, including the cost of terminating purchase orders or subcontracts therefor, shall be at Government expense.

(d) Appropriate equitable adjustment may be made in any related procurement contract of the Contractor which so provides and which is affected by any nondelivery, delay, diversion, or substitution under this clause.

§ 18–7.702–26 Changes.

CHANGES (MARCH 1963)

(a) The Contracting Officer may at any time, by written order and without notice to the sureties, if any, make changes, within the general scope of this contract, in the Facilities or work described in the Schedule. Work performed by the Contractor in complying with any such order shall be at Government expense. If any such change causes an increase or decrease in the estimated cost of this contract, in the time required for its performance, or otherwise affects any other provision of this contract, an equitable adjustment shall be made in the estimated cost, the completion schedule, or both, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by the Contractor of the notification of change: *Provided, however*, That the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

(b) Appropriate equitable adjustment may be made in any related procurement contract of the Contractor which so provides and which is affected by any such change.

§ 18–7.702–27 Excusable delays.

Insert the clause set forth in § 18–8.708.

§ 18–7.702–28 Allowable cost and payment.

ALLOWABLE COST AND PAYMENT (JANUARY 1964)

(a) For the performance of any work, duty, or obligation by the Contractor under this contract which is provided herein to be at Government expense, the Government shall pay the Contractor the cost thereof, determined by the Contracting Officer to be allowable in accordance with (i) Part 15, Subpart 5, of the NASA Procurement Regulation as in effect on the date of this contract and (ii) the terms of this contract.

(b) Except as otherwise specifically provided in this contract, the failure of this contract to provide for reimbursement shall not preclude the Contractor from including, as part of the price or cost under any other Government contract or subcontract, an allocable portion of the costs incurred in the performance of any work, duty, or obligation under this contract which are not reimbursable hereunder.

(c) Once each month (or at more frequent intervals, if approved by the Contracting Officer) the Contractor may submit to the Contracting Officer or the Contracting Officer's authorized representative, in such form and reasonable detail as such representative may require an invoice or public voucher supported by a statement of cost incurred by the Contractor in the performance of this contract and claimed to constitute allowable cost.

(d) Promptly after receipt of each invoice or voucher and statement of cost, the Government shall, except as otherwise provided in this contract, subject to the provisions of paragraph (f) below, make payment thereon as approved by the Contracting Officer.

(e) After payment of an amount equal to eighty percent (80%) of the total estimated cost of performance of this contract set forth in the Schedule, further payment on account of allowable cost shall be withheld until a reserve of either one percent (1%) of such total estimated cost, or one hundred thousand dollars ($100,000), whichever is less, shall have been set aside.

(f) At any time or times prior to final payment under this contract, the Contracting Officer may have the invoices or vouchers and statements of cost audited. Each payment theretofore made shall be subject to reduction for amounts included in the related invoice or voucher which are found by the Contracting Officer, on the basis of such audit, not to constitute allowable cost. Any payment may be reduced for overpayments, or increased for underpayments, on preceding invoices or vouchers.

(g) On receipt and approval of the invoice or voucher designated by the Contractor as the "completion invoice" or "completion voucher" and upon compliance by the Contractor with all relevant provisions of this contract (including, without limitation, the provisions relating to patents and the provisions of (h) below), the Government shall promptly pay to the Contractor any balance

of allowable cost. The completion invoice or voucher shall be submitted by the Contractor promptly following completion of (i) all work under this contract, or (ii) such work involving acquisition, construction or installation of the Facilities as may then be specified in the Schedule, but in no event later than one (1) year (or such longer period as the Contracting Officer may in his discretion approve in writing) from the date of such completion.

(h) The Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor or any assignee under this contract shall be paid by the Contractor to the Government, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract. Reasonable expenses incurred by the Contractor for the purpose of securing such refunds, rebates, credits, or other amounts shall be allowable costs hereunder when approved by the Contracting Officer. Prior to final payment under this contract, the Contractor and each assignee under this contract whose assignment is in effect at the time of final payment under this contract shall execute and deliver:

(i) An assignment to the Government, in form and substance satisfactory to the Contracting Officer, of refunds, rebates, credits or other amounts (including any interest thereon) properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract; and

(ii) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations and claims arising out of or under this contract, subject only to the following exceptions—

(A) Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible of exact statement by the Contractor;

(B) Claims, together with reasonable expenses incidental thereto, based upon liabilities of the Contractor to third parties arising out of the performance of this contract: *Provided*, That such claims are not known to the Contractor on the date of the execution of the release: *And provided further*, That the Contractor gives notice of such claims in writing to the Contracting Officer not more than six (6) years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier; and

(C) Claims for reimbursement of costs including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of this contract relating to patents.

§ 18–7.702–29 Insurance—liability to third persons.

INSURANCE—LIABILITY TO THIRD PERSONS (MARCH 1963)

(a) The Contractor shall procure and thereafter maintain workmen's compensation, employer's liability, comprehensive general liability (bodily injury) and comprehensive automobile liability (bodily injury and property damage) insurance, with respect to performance of work at Government expense under this contract, and such other insurance as the Contracting Officer may from time to time require with respect to performance of work at Government expense under this contract: *Provided*, That the Contractor may with the approval of the Contracting Officer, maintain a self-insurance program: *And provided further*, That with respect to workmen's compensation the Contractor is qualified pursuant to statutory authority. All insurance required pursuant to the provisions of this paragraph shall be in such form, in such amounts, and for such periods of time, as the Contracting Officer may from time to time require or approve, and with insurers approved by the Contracting Officer.

(b) The Contractor agrees, to the extent and in the manner required by the Contracting Officer to submit for the approval of the Contracting Officer any other insurance maintained by the Contractor in connection with the performance of work at Government expense under this contract and for which the Contractor seeks reimbursement hereunder.

(c) The Contractor shall be reimbursed: (i) for the portion allocable to this contract of the reasonable cost of insurance as required or approved pursuant to the provisions of this clause, and (ii) for liabilities to third persons for loss of or damage to property (other than property (A) owned, occupied, or used by the Contractor or rented to the Contractor, or (B) in the care, custody, or control of the Contractor), or for death or bodily injury, not compensated by insurance or otherwise, arising out of the performance of work at Government expense under this contract, whether or not caused by the negligence of the Contractor, his agents, servants, or employees, provided such liabilities are represented by final judgments or by settlements approved in writing by the Government, and expenses incidental to such liabilities, except liabilities (I) for which the Contractor is otherwise responsible under the express terms of the clause or clauses, if any, specified in the Schedule, or (II) with respect to which the Contractor has failed to insure as required or maintain insurance as approved by the Contracting Officer, or (III) which results from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or on the part of any of his managers, superintendents, or other equivalent representatives, who has supervision or direction of (1) all or substantially all of the Contractor's business, or (2) all or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed, or (3) a separate and complete major industrial operation in connection with the performance of work at Government expense under this contract. The foregoing shall not restrict the right of the Contractor to be reimbursed for the cost of insurance maintained by the Contractor in connection with the performance of work at Government expense under this contract, other than insurance required to be submitted for approval or required to be procured and maintained pursuant to the provisions of this clause, provided such cost would constitute allowable cost under the clause of this contract entitled "Allowable Cost and Payment".

(d) The Contractor shall give the Government or its representatives immediate notice of any suit or action filed, or prompt notice of any claim made, against the Contractor arising out of the performance of work at Government expense under this contract, the cost and expense of which may be reimbursable to the Contractor under the provisions of this contract, and the risk of which is then uninsured or in which the amount claimed exceeds the amount of coverage. The Contractor shall furnish immediately to the Government copies of all pertinent papers received by the Contractor. If the amount of the liability claimed exceeds the amount of coverage, the Contractor shall authorise representatives of the Government to collaborate with counsel for the insurance carrier, if any, in settling or defending such claim. If the liability is not insured or covered by bond, the Contractor shall, if required by the Government, authorise representatives of the Government to settle or defend any such claim and to represent the Contractor in or take charge of any litigation in connection therewith: *Provided, however*, That the Contractor may, at his own expense, be associated with the representatives of the Government in the settlement or defense of any such claim or litigation.

§ 18–7.702–30 Stop work orders.

STOP WORK ORDERS (MARCH 1963)

(a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the acquisition, construction, or installation work called for by the Schedule for a period of ninety (90) days after the order is delivered to the Contractor, and for any further period to which the parties may agree. Any such order shall be specifically identified as a Stop Work Order issued pursuant to this clause. Upon receipt of such an order, the Contractor shall at Government expense, forthwith comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of ninety (90) days after a Stop Work Order is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either—

(i) Cancel the Stop Work Order, or

(ii) Terminate the work covered by such order as provided in the "Termination of Work" clause of this contract.

(b) If a Stop Work Order issued under this clause is canceled or the period of the order or any extension thereof expires the Contractor shall resume work. An equitable adjustment shall be made in the delivery completion schedule, the estimated cost, or both, and the contract shall be modified in writing accordingly, if—

(i) The Stop Work Order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract, and

(ii) The Contractor asserts a claim for such adjustment within thirty (30) days after the end of the period of work stoppage; *Provided*, That, if the Contracting Officer decides the facts justify such action, he may receive and act upon any such claim asserted at any time prior to final payment under this contract.

(c) If a Stop Work Order is not canceled and the work covered by such order is terminated, the reasonable costs resulting from the Stop Work Order shall be allowed in arriving at the termination settlement.

(d) Appropriate equitable adjustment may be made in any related contract of the Contractor which so provides and which is affected by any Stop Work Order under this clause. In no event shall the Government be liable to the Contractor for damages or loss of profits because of a Stop Work Order issued under this clause.

§ 18–7.702–31 Termination of work.

TERMINATION OF WORK (MARCH 1963)

(a) The performance of work under this contract may be terminated by the Government in accordance with this clause in whole, or from time to time in part, whenever for any reason the Contracting Officer shall determine that such termination is in the best interest of the Government. Any such termination shall be effected by delivery to

the Contractor of a written Notice of Termination specifying the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective.

(b) After receipt of a Notice of Termination and except as otherwise directed by the Contracting Officer, the Contractor shall:

(i) Stop work in performance of the contract on the date and to the extent specified in the Notice of Termination;

(ii) Place no further orders or subcontracts for materials, services or facilities, except as may be necessary for completion of such portion of the work under the contract as is not terminated;

(iii) Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;

(iv) Assign to the Government, in the manner and to the extent directed by the Contracting Officer, all of the right, title and interest of the Contractor under the orders or subcontracts so terminated, in which case the Government shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

(v) With the approval or ratification of the Contracting Officer, to the extent he may require, which approval or ratification shall be final and conclusive for all purposes of this clause, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, the cost of which would be reimbursable in whole or in part, in accordance with the provisions of this contract;

(vi) Transfer title (to the extent that title has not already been transferred) and, in the manner, to the extent, and at the times directed by the Contracting Officer, deliver to the Government (A) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in respect of the performance of, the work terminated by the Notice of Termination, and (B) the completed or partially completed plans, drawings, information, and other property which, if the contract had been completed, would be required to be furnished to the Government;

(vii) Use his best efforts to sell in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Contracting Officer, any property of the types referred to in (vi) above: *Provided, however,* That the Contractor (A) shall not be required to extend credit to any purchaser, and (B) may acquire any such property under the conditions prescribed by and at a price or prices approved by the Contracting Officer: *And provided further,* That the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this contract or shall otherwise be credited to the price or cost of the work covered by this contract or paid in such other manner as the Contracting Officer may direct;

(viii) Complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and

(ix) Take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor in which the Government has or may acquire an interest.

The Contractor shall proceed immediately with the performance of the above obligations notwithstanding any delay in determining any item of reimbursable cost under this clause. At any time after expiration of the plant clearance period, as defined in Part 8, NASA Procurement Regulation, as it may be amended from time to time, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the Contracting Officer, and may request the Government to remove such items or enter into a storage agreement covering them. Not later than fifteen (15) days thereafter, the Government will accept such items and remove them or enter into a storage agreement covering the same: *Provided,* That the list submitted shall be subject to verification by the Contracting Officer upon removal of the items, or if the items are stored, within forty-five (45) days from the date of submission of the list, and any necessary adjustment to correct the list as submitted shall be made prior to final settlement.

(c) After receipt of a Notice of Termination, the Contractor shall submit to the Contracting Officer his termination claim in the form and with the certification prescribed by the Contracting Officer. Such claim shall be submitted promptly but in no event later than 1 year from the effective date of termination, unless one or more extensions in writing are granted by the Contracting Officer, upon request of the Contractor made in writing within such 1-year period or authorized extension thereof. However, if the Contracting Officer determines that the facts justify such action, he may receive and act upon any such termination claim at any time after such 1-year period or any extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the Contracting Officer may, subject to any Settlement Review Board approvals required by NASA Regulation in effect as of the date of execution of this contract, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.

(d) Subject to the provisions of paragraph (c), and subject to any Settlement Review Board approvals required by Part 8 of the NASA Procurement Regulation in effect as of the date of this contract, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this clause. The contract shall be amended accordingly, and the Contractor shall be paid the agreed amount.

(e) In the event of the failure of the Contractor and the Contracting Officer to agree in whole or in part, as provided in paragraph (d), as to the amounts with respect to costs to be paid to the Contractor in connection with the termination of work pursuant to this clause, the Contracting Officer shall, subject to any Settlement Review Board approvals required by Part 8 of the NASA Procurement Regulation in effect as of the date of this contract, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall pay to the Contractor the amount determined as follows:

(i) There shall be included therein all costs and expenses reimbursable in accordance with this contract, not previously paid to the Contractor for the performance of this contract prior to the effective date of the Notice of Termination, and such of these costs as may continue for a reasonable time thereafter with the approval of or as directed by the Contracting Officer: *Provided, however,* That the Contractor shall proceed as rapidly as practicable to discontinue such costs;

(ii) There shall be included therein so far as not included under (i) above, the cost of settling and paying claims arising out of the termination of work under subcontracts or orders, as provided in paragraph (b) (v) above, which are properly chargeable to the terminated portion of the contract;

(iii) There shall be included therein the reasonable costs of settlement, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the contract and for the termination and settlement of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of termination inventory.

(f) The Contractor shall have the right of appeal, under the clause of this contract entitled "Disputes", from any determination made by the Contracting Officer under paragraphs (c) or (e) above, except that if the Contractor has failed to submit his claim within the time provided in paragraph (c) above and has failed to request extension of such time, he shall have no such right of appeal. In any case where the Contracting Officer has made a determination of the amount due under paragraph (c) or (e) above the Government shall pay to the Contractor the following:

(i) If there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Contracting Officer;

(ii) If an appeal has been taken, the amount finally determined on such appeal.

(g) In arriving at the amount due the Contractor under this clause there shall be deducted (i) all unliquidated, advance or other payments theretofore made to the Contractor, applicable to the terminated portion of this contract, (ii) any claim which the Government may have against the Contractor in connection with this contract, and (iii) the agreed price for, or the proceeds of sale of, any materials, supplies, or other things acquired by the Contractor or sold pursuant to the provisions of this clause and not otherwise recovered by or credited to the Government.

(h) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of the contract whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand, together with interest computed at the rate of six percent (6%) per annum, for the period from the date such excess payment is received by the Contractor to the date on which such excess is repaid to the Government: *Provided, however,* That no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until ten (10) days after the date of such retention or disposition, or such later date as determined by the Contracting Officer by reason of the circumstances.

(i) Appropriate equitable adjustment may be made in any related procurement contract of the Contractor which so provides and which is affected by a Notice of Termination under this clause. In no event shall the Government be liable to the Contractor for damages or loss of profits by reason of a Notice of Termination issued pursuant to this clause.

§ 18–7.702–32 Authorization and consent.

Insert the clause set forth in § 18–9.103(b).

§ 18–7.702–33 Notice and assistance regarding patent and copyright infringement.

Insert the clause set forth in § 18–9.105.

§ 18–7.702–34 License for subsequent use.

Insert the clause set forth in § 18–9.109.

§ 18–7.702–35 Subcontracts.

Insert the clause set forth in § 18–7.203–8.

§ 18–7.702–36 Small business subcontracting program.

SMALL BUSINESS SUBCONTRACTING PROGRAM (NOVEMBER 1966)

(a) The Contractor agrees to establish and conduct a program to afford small business concerns an equitable opportunity to compete for NASA subcontracts within their capabilities. In this connection, the Contractor shall—

(i) Designate a small business liaison officer, who will (A) maintain liaison with duly authorized representatives of the Government on small business matters, (B) supervise compliance with the clause of this contract entitled "Utilization of Small Business Concerns," and (C) administer the Contractor's Small Business Program;

(ii) Provide adequate and timely consideration of the potentialities of small business concerns in all "make-or-buy" decisions;

(iii) Ensure that small business concerns will have an equitable opportunity to compete for subcontracts, particularly by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate small business participation;

(iv) Maintain records showing (A) whether each prospective subcontractor is a small business concern, and (B) procedures which have been adopted to comply with the policies set forth in this clause;

(v) Include the "Utilization of Small Business Concerns" clause in subcontracts which offer substantial small business subcontracting opportunities; and

(vi) Submit NASA Form 524 reports with the instructions contained therein.

(b) A "small business concern" is a concern that—

(i) Is independently owned and operated, is not dominant in its field of operations and, with its affiliates, employs fewer than 500 employees; or

(ii) Is certified as a small business concern by the Small Business Administration.

(c) The Contractor further agrees to insert in any subcontract hereunder which is in excess of $1 million and which contains the clause entitled "Utilization of Small Business Concerns" provisions which shall conform substantially to the language of this clause, including this paragraph (c).

§ 18–7.702–37 Utilization of concerns in labor surplus areas.

Insert the clause set forth in § 18–7.104–20.

§ 18–7.702–38 Buy American Act.

Insert the clause set forth in § 18–6.104–5.

§ 18–7.702–39 Renegotiation.

Insert the clause set forth in § 18–7.103–13.

§ 18–7.702–40 Notice to the Government of labor disputes.

Insert the clause set forth in § 18–7.104–4.

§ 18–7.702–41 Walsh-Healey Public Contracts Act.

Insert the clause set forth in § 18–12.604.

§ 18–7.702–42 GSA supply sources.

The clause set forth in § 18–5.907 will be included in contracts in accordance with the instructions set forth therein.

§ 18–7.702–43 Limitation on withholding of payments.

LIMITATION ON WITHHOLDING OF PAYMENTS (MARCH 1963)

If more than one clause or schedule provision of this contract authorizes the temporary withholding of amounts otherwise payable to the Contractor for work performed under this contract, the total of the amounts so withheld at any one time shall not exceed the greatest amount which may be withheld under any one such clause or schedule provision at that time: *Provided,* That this limitation shall not apply to:

(i) Withholdings pursuant to any clause relating to wages or hours of employees;

(ii) Withholdings not specifically provided for by this contract; and

(iii) The recovery of overpayments.

§ 18–7.702–44 Utilization of small business concerns.

Insert the clause set forth in § 18–1.707–3(a).

§ 18–7.702–45 Payment of royalties.

In accordance with the instructions in § 18–9.108, insert the appropriate clause set forth therein.

§ 18–7.702–46 Audit and records.

Insert the clause set forth in § 18–7.104–42.

§ 18–7.703 Required clauses for facilities use contracts.

The clauses set forth in this § 18–7.703 shall be inserted in all facilities use contracts.

§ 18–7.703–1 Definitions.

Insert the clause set forth in § 18–7.702–1.

§ 18–7.703–2 Representations and warranties.

Insert the clause set forth in § 18–7.702–2.

§ 18–7.703–3 Inspection.

Insert the clause set forth in § 18–7.702–3.

§ 18–7.703–4 Government bills of lading.

Insert the clause set forth in § 18–7.702–4.

§ 18–7.703–5 Limitation of cost.

Insert the clause set forth in § 18–7.702–5.

§ 18–7.703–6 Records.

Insert the clause set forth in § 18–7.203–7.

§ 18–7.703–7 Title.

Insert the clause set forth in § 18–7.702–7, substituting for paragraph (a) thereof the following paragraph (a):

(a) Title to the Facilities shall remain in the Government. Title to parts replaced by the Contractor in carrying out his normal maintenance obligations pursuant to the clause of this contract entitled "Maintenance" shall pass to and vest in the Government upon completion of their installation in the Facilities. (March 1963)

§ 18–7.703–8 Access.

Insert the clause set forth in § 18–7.702–8.

§ 18–7.703–9 Liability for the facilities.

Insert the clause set forth in § 18–7.702–9, substituting for paragraph (a) (iv) thereof the following paragraph (a) (iv):

(a) (iv) A failure, due to willful misconduct or lack of good faith on the part of any of the Contractor's directors, officers, or other representatives mentioned in (iii) above, (A), to maintain and administer, in accordance with the clause of the contract entitled "Maintenance", a program for the maintenance, repair, protection, and preservation of the Facilities, or (B) to take all reasonable steps to comply with any appropriate written directions or instructions which the Contracting Officer may prescribe as reasonably necessary for the protection of the Facilities. (March 1963)

§ 18–7.703–10 Indemnification of the Government.

INDEMNIFICATION OF THE GOVERNMENT (JULY 1964)

The Contractor shall indemnify and hold the Government harmless against claims for injury to persons or damage to property of the Contractor or others arising from the Contractor's possession or use of the Facilities. However, the provisions of the Contractor's related procurement contracts shall govern the Government's assumption of liability for such claims arising out of or related to the performance of each such related procurement contract and involving the possession or use of the Facilities.

§ 18–7.703–11 Failure to perform.

Insert the clause set forth in § 18–7.702–11, substituting for the first sentence in paragraph (a) thereof the following sentence:

(a) If the Contractor shall fail to perform this contract in accordance with its terms, the Contracting Officer shall give the Contractor written notice thereof. (March 1963)

§ 18–7.703–12 Disputes.

Insert the clause set forth in § 18–7.103–12.

§ 18–7.703–13 Security requirements.

Insert the clause set forth in § 18–7.702–13, deleting paragraph (e) of this clause and reletter paragraphs (f) and (g) as paragraphs (e) and (f), respectively.

§ 18–7.703–14 Assignment of claims.

Insert the clause set forth in § 18–7.103–8.

§ 18–7.703–15 Officials not to benefit.

Insert the clause set forth in § 18–7.103–19.

§ 18–7.703–16 Covenant against contingent fees.

Insert the clause set forth in § 18–1.503.

§ 18–7.703–17 Payment for overtime and shift premiums.

In accordance with the requirements of § 18–12.102, insert the clause set forth in § 18–12.102–3(h)(1).

§ 18–7.703–18 Convict labor.

In accordance with the requirements of § 18–12.201, insert the clause set forth in § 18–12.203.

§ 18–7.703–19 Equal opportunity.

Insert one or the other of the following clauses, as required by and in accordance with the instructions in § 18–12.802: (a) The Equal Opportunity clause set forth in § 18–12.802–1, or (b) the Equal Opportunity in Federally Assisted Construction Contracts clause set forth in § 18–12.804–2.

§ 18–7.703–20 Contract Work Hours Standards Act—overtime compensation.

Insert the appropriate clause set forth in § 18–12.303.

§ 18–7.703–21 Interest.

Insert the clause set forth in § 18–7.103–53.

§ 18–7.703–22 Supersedure.

SUPERSEDURE (JULY 1964)

(a) Facilities heretofore provided to the Contractor and identified in the Schedule shall become subject to the terms of this contract upon its effective date. The terms of any other contract by which such Facilities may have been provided to the Contractor by NASA are hereby superseded with respect to such Facilities, except for rights and obligations which may have accrued under such other contract prior to the effective date hereof.

(b) Each item of Facilities hereafter provided to the Contractor, under any contract which so specifies, shall become subject to the terms of this contract upon the completion of its construction, acquisition and installation or upon its availability of use, whichever first occurs, except as otherwise provided in the contract or other document by which such Facilities are provided to the contractor.

§ 18–7.703–23 Competition in subcontracting.

Insert the clause set forth in § 18–7.104–40.

§ 18–7.703–24 Use and charges.

USE AND CHARGES (MARCH 1963)

(a) The Contractor may use the Facilities without charge in the performance of:

(i) Prime contracts with the Government which specifically authorize use without charge;

(ii) Subcontracts held by the Contractor under Government prime contracts or subcontracts of any tier thereunder if the Contracting Officer having cognizance of the prime contract concerned has authorized use without charge by approving a subcontract specifically authorizing such use or has otherwise authorized such use in writing; and

(iii) Other work with respect to which the Contracting Officer has authorized use without charge in writing.

(b) Subject to the payment of a rental therefor, the Contractor may use all or part of the Facilities in the performance of work other than that specified in paragraph (a) above, as authorized by the Contracting Officer or as specifically provided in the Schedule. The amount of rentals to be paid for the right to use the Facilities under this paragraph (b) shall be determined in accordance with the following procedure:

(1) The following bases are or shall be established in writing for the rental computation prescribed in subparagraph (2) below in advance of any use of the Facilities under this paragraph:

(i) The rental rates for the right to use the Facilities shall be those set forth in Exhibit A.

(ii) The acquisition cost of the Facilities shall be the total cost to the Government, as determined by the Contracting Officer, of each item of the Facilities, including the costs of transportation and installation, if such costs are borne by the Government. When Government-owned special tooling or accessories are rented with any item of the Facilities, the acquisition cost shall be increased to include the price charged the Government for such tooling or accessories. When any item of the Facilities has been modernized by substantial rebuilding at Government expense so as to enhance its original capability, the acquisition cost for that item shall include the increased value, as determined by the Contracting Officer, that such rebuilding and modernization represent. The determination made by the Contracting Officer under this subparagraph shall be final.

(iii) The rental period shall be not less than 1 month nor more than 6 months, as may be mutually agreed to.

(iv) For the purpose of computing any credit under subparagraph (2) below, the measurement unit for determining the amount of use of the Facilities by the Contractor shall be direct labor hours, sales, hours of use, or any other measurement unit which will result in an equitable apportionment of the rental charge, as may be mutually agreed to.

(2) The Contractor shall compute the amount of rentals to be paid for each rental period, using the bases established pursuant to subparagraph (1) above. The rental rates shall be applied to the acquisition cost of the Facilities or such part thereof as may have been authorized for use in advance pursuant to this paragraph (b), for each rental period. The full charge for each rental period, so determined, shall be reduced by a credit in the amount of such rental as would otherwise be properly allocable to work with respect to which the use of the Facilities without charge is authorized in accordance with paragraph (a) above. Such credit shall be computed by multiplying the full rental for the rental period by a fraction whose numerator is the amount of use of the Facilities by the Contractor without charge during such period, and whose denominator is the total amount of use of the Facilities by the Contractor during such period.

(3) The Contractor shall submit to the Contracting Officer within ninety (90) days after the close of each rental period a written statement of the use made of the Facilities by the Contractor and the rental due the Government hereunder, and shall make available such records and data as are determined by the Contracting Officer to be necessary to verify the information contained in the statement.

(4) If the Contractor fails to submit the statement within the prescribed ninety (90) day period, the Contractor shall be liable for the full rental for the period in question, subject to the exception stated in subparagraph (5) below.

(5) If the Contractor's failure to submit the statement within the prescribed ninety (90) day period arose out of causes beyond the control and without the fault or negligence of the Contractor, the Contracting Officer shall grant to the Contractor in writing a reasonable extension of time in which to make such submission.

(c) Unless otherwise directed in writing by the Contracting Officer, the Contractor shall give priority in the use of the Facilities to the performance of contracts and subcontracts of NASA, and shall not undertake any work involving the use of the Facilities which would interfere with the performance of existing Government contracts or subcontracts.

(d) Concurrently with the submission of the written statement prescribed my subparagraph (b)(3) above, the Contractor shall pay the rental due the Government under this clause by check made payable to the Treasurer of the United States. Each check shall be mailed or delivered to the Contracting Officer. Receipt and acceptance by the Government of the Contractor's checks pursuant to this paragraph shall constitute an accord and satisfaction of the final amount due the Government hereunder, unless the Contractor is notified in writing within six (6) months following such receipt that the amount received is not regarded by the Government as the final amount due.

(e) If the Contractor uses any item of the Facilities without authorization, the Contractor shall be liable for the full monthly rental, without credit, for such item for each month or part thereof in which such unauthorized use occurs. However, the Contracting Officer may waive the Contractor's liability for such unauthorized use if he determines that the Contractor exercised reasonable care to prevent such unauthorized use. In this latter event, the Contractor shall be liable only for the rental that would otherwise be due under this clause. The acceptance of any rental by the Government hereunder shall not be construed as a waiver or relinquishment of any rights it may have against the Contractor growing out of the Contractor's unauthorized use of the Facilities or any other failure to perform this contract according to its terms.

EXHIBIT A

RENTAL RATES

The following rental rates are the rental rates referred to in the clause of this contract entitled "Use and Charges":

1. For land and land preparation, Buildings, building installations, and land installations other than those items specified in 2 below, a fair and reasonable rental shall be established, based on sound commercial practice.

2. For machinery and production equipment of the type covered by the following classes of Production Equipment:

Equipment code number	*Description*
PEC/SCC 3191	Dynamometers.
PSC 3411 through 3419	Machine tools.
PEC/SCC 3421 through 3429	Portable machine tools.
PEC/SCC 3431 through 3433 and 3439	Primary metalforming machinery.
PEC/SCC 3441 through 3449	Secondary metalforming machinery.
PSC 3451 through 3466	Welding equipment.
PEC/SCC 3521 through 3527 and 3529	Textile machinery.
PEC/SCC 3563 through 3567 and 3569	Woodworking machinery.
PEC/SCC 3571 through 3574, 3576, 3577 through 3579.	Furnaces.
PEC/SCC 3581 through 3587 and 3589	Foundry equipment.
PEC/SCC 3593, 3595 through 3597	Special industries machinery.
PEC/SCC 3598	Special machines for manufacturing ammunition and ordnance.
PEC/SCC 3911 through 3915 and 3919	Crushing, pulverizing, and screening machinery.
PEC/SCC 3991	Miscellaneous general purpose industrial machinery.
PEC/SCC 6631 through 6636 and 6638	Measuring and control instruments.
PEC/SCC 663906	Profilometers.
PEC/SCC 663914	Magnetic particle inspection machines.
PEC/SCC 66391405	Demagnetizers.
PEC/SCC 6651 through 6659	Physical properties testing equipment.
PEC/SCC 6693	Electronic research devices.
PEC/SCC 6914	Industrial X-ray equipment.

NOTE—PEC/SCC means Production Equipment Classification Codes formerly Standard Commodity Classification Codes. FSC means Federal Stock Classification.

The following rates shall apply:

Age of equipment (years)	*Monthly rental rate (percent)*
0 to 2	1¾
Over 2 to 6	1½
Over 6 to 10	1
Over 10	¾

The age of each item of the Facilities shall be based on the year in which it was manufactured, with an annual birthday on 1 January of each year thereafter. On January 1 following the date of manufacture, the item shall be considered 1 year old, and on each succeeding January 1st it shall become 1 year older. For example, if an item of equipment is manufactured on July 15, 1958, it will be considered to be 1 year old on January 1, 1959, 2 years old on January 1, 1960, 3 years old on January 1, 1961, and so forth. The item of equipment will be considered "over 2 years old" on and after January 1, 1960, "over 6 years old" on and after January 1, 1964, and "over 10 years old" on and after January 1, 1968.

3. For electronic test equipment, and automotive equipment, 25 percent per annum; and

4. For personal property and equipment not covered in 1, 2, or 3 above, a rental shall be established at not less than the prevailing commercial rate, if any, or, in the absence of such rate, not less than 1 percent per month.

§ 18–7.703–25 Costs and payment.

COSTS AND PAYMENT (JANUARY 1964)

(a) In consideration of the use of the Facilities to which the provisions of this contract are applicable, the Contractor shall be responsible for all duties and obligations assigned to the Contractor hereunder, and shall perform all work called for herein, except that which is specifically designated to be at Government expense, without payment therefor under this contract.

(b) The Contractor shall be obligated to perform the work provided in this contract to be at Government expense, when so directed in writing by the Contracting Officer, to the extent provision is made either in this contract or in other contracts for reimbursement of the allowable costs thereof, without fee or profit; and, accordingly, the "Limitation of Cost" clause of this contract shall be applicable only to provisions for reimbursement, if any, under this contract.

(c) Only those costs may be reimbursed which are determined to be allowable in accordance with (i) Part 15, Subpart 3, of the NASA Procurement Regulation as in effect on the date of this contract, and (ii) the terms of this contract.

(d) The failure of this contract to provide for reimbursement shall not preclude the Contractor from including, as part of the price or cost, under any other Government contract or subcontracts, an allocable portion of the costs incurred in performance of any work, duty, or obligation under this contract which are not reimbursable hereunder.

§ 18–7.703–26 Location of the facilities.

LOCATION OF THE FACILITIES (MARCH 1963)

The Contractor may use the Facilities at any of the locations specified in the Schedule, and, with the prior written approval of the Contracting Officer, at any other location. In granting this approval, the Contracting Officer may prescribe such terms and conditions as he may deem necessary for the protection of the Government's intrest in the Facilities involved. Notwithstanding any inconsistency with the provisions of this contract, such terms and conditions shall prevail.

§ 18–7.703–27 Maintenance.

MAINTENANCE (MARCH 1963)

(a) Except as otherwise provided in the Schedule, the Contractor shall perform normal maintenance of the Facilities in accordance with sound industrial practice, including protection, preservation, maintenance and repair of the Facilities and, with respect to equipment, normal parts replacement.

(b) As soon as practicable after the execution of this contract, the Contractor shall submit to the Contracting Officer in writing a proposed normal maintenance program, including an appropriate maintenance records system, in sufficient detail to show its adequacy as a normal maintenance program. To the extent that the Contracting Officer and the Contractor agree upon such a program, it shall become the normal maintenance obligation of the Contractor, and the Contractor shall carry it out in satisfaction of (i) his normal maintenance obligation under paragraph (a) above, and (ii) his obligation to maintain records under paragraph (c) below. To the extent that any such program does not cover any aspect of normal maintenance, the Contractor's general obligation under paragraph (a) above shall apply.

(c) The Contracting Officer may at any time specify, by written notice to the Contractor, a reduction in the work required by the then current normal maintenance obligation of the Contractor. After receipt of such notice, the Contractor shall perform only such work as is specified therein. If any such notice causes a decrease in the cost of performing the normal maintenance obligation, appropriate equitable adjustment may be made in any related procurement contract of the Contractor which so provides and which is affected by any such decrease.

(d) The Contractor shall perform such maintenance work as may be directed by the Contracting Officer in writing. To the extent that such work is in excess of the Contractor's then current normal maintenance obligation, under paragraphs (a) through (c) above, such work shall be at Government expense. The Contractor shall notify the Contracting Officer in writing whenever, in accordance with sound industrial practice, the Facilities require any work in excess of such normal maintenance obligation.

(e) The Contractor shall keep records of the work done on the Facilities in performing his obligations under this clause and shall afford the Government adequate opportunity to inspect all such records. The Contractor shall deliver such records to the Government or third persons, if so directed by the Contracting Officer, whenever the Facilities to which they relate are disposed of hereunder.

(f) The Contractor's obligation under this clause shall continue with respect to each item of the Facilities until such item is removed, abandoned, or otherwise disposed of, or until the Contractor has discharged his obligations under this contract with respect to such item.

§ 18–7.703–28 Property control.

PROPERTY CONTROL (JULY 1964)

The Contractor shall maintain adequate property control procedures and records, and a system of identification of the Facilities, in accordance with the provisions of the applicable "Manual for Control of Government Property in Possession of Nonprofit Research and Development Contractors" (Appendix C, Armed Services Procurement Regulation) or the "NASA Industrial Property Control Manual" (NPC–105A), whichever is applicable, in effect on the date of this contract.

§ 18–7.703–29 Notice of use of the facilities.

NOTICE OF USE OF THE FACILITIES (MARCH 1963)

The Contractor shall notify the Contracting Officer in writing whenever:

(i) Use of the Facilities for Government work is less than seventy-five percent (75%) of the total use of the Facilities.

(ii) A substantial part of the Facilities is no longer needed or usable for the purpose of performing Government contracts or subcontracts.

§ 18–7.730–30 Period of this contract.

PERIOD OF THIS CONTRACT (MARCH 1963)

If not previously terminated pursuant to the "Termination of the Use of the Facilities" clause of this contract, the use of the

Facilities authorized under this contract shall terminate five (5) years after its effective date. Thereafter, if continued use of the Facilities by the Contractor is mutually desired, the parties shall enter into a new contract which shall incorporate such provisions as may then be required by applicable laws and regulations. The parties may, by written agreement, extend the use of the Facilities hereunder beyond this five (5) year period to permit the completion of then existing related procurement contracts and subcontracts.

§ 18–7.703–31 Termination of the use of the facilities.

TERMINATION OF THE USE OF THE FACILITIES (MARCH 1963)

(a) The Contractor may at any time, upon written notice to the Contracting Officer terminate his authority to use any or all of the Facilities. Termination under this paragraph (a) shall not relieve the Contractor of any of his obligations or liabilities under any related procurement contract or subcontract affected thereby.

(b) The Contracting Officer may at any time, upon written notice, terminate or limit the Contractor's authority to use any or all of the Facilities. Except as otherwise provided in the "Failure to Perform" clause of this contract, appropriate equitable adjustment may be made in any related procurement contract of the Contractor which so provides and which is affected by any such notice.

§ 18–7.703–32 Disposition of the facilities.

DISPOSITION OF THE FACILITIES (MARCH 1963)

(a) Except as the Contracting Officer otherwise directs, or until use of all the facilities under this contract is terminated, the provisions of this clause shall not be applicable to those Facilities, the use of which has been terminated by the Contractor by a notice of termination under paragraph (a) of the "Termination of the Use of the Facilities" clause of this contract if—

(i) Such Facilities comprise less than all of the Facilities in the possession of the Contractor, and

(ii) The Contracting Officer determines that continued retention of such Facilities would not interfere with the Contractor's operations.

(b) Within two (2) months after the effective date of any notice of termination given pursuant to the "Termination of the Use of the Facilities" clause of this contract, or within such longer period as the Contracting Officer may approve in writing, the Contractor shall submit to the Contracting Officer, in form satisfactory to him, an accounting for all the Facilities covered by such notice.

(c) Within six (6) months after the Contractor accounts for any Facilities pursuant to paragraph (b) above, the Contracting Officer shall give written notice to the Contractor as to the disposition thereof, except as otherwise provided in paragraph (e) below. In effecting such disposition, the Government may either—

(i) Abandon any such Facilities in place, and thereupon all obligations of the Government regarding such abandoned Facilities shall cease; or

(ii) Require the Contractor to comply, at Government expense, with such written directions as the Contracting Officer may give with respect to:

(A) The preparation, protection, removal or shipment of the affected Facilities,

(B) The retention or storage of the affected Facilities: *Provided*, That the Contracting Officer will not direct the Contractor to retain or store any items of Facilities in or on real property not owned by the Government if such retention or storage will interfere with the Contractor's operations,

(C) The restoration of Government-owned land or buildings incident to the removal therefrom of Government-owned Facilities, and

(D) The sale of any affected Facilities in such manner, at such times, and at such price or prices, as may be approved by the Contracting Officer, except that the Contractor shall not be required to extend credit to any purchaser.

(d) If the Contracting Officer fails to give the written notice required by paragraph (c) above within the prescribed six (6) month period, or within thirty (30) days after notice as hereinafter provided, the Contractor may, upon not less than thirty (30) days' written notice to the Government and at Government risk and expense, (i) retain the Facilities in place or (ii) remove any of the affected severable Facilities located in Contractor-owned buildings or property and store them elsewhere, at the Contractor's plant or in a public insured warehouse, in accordance with sound industrial practice and in a manner compatible with their security classification, if any. Except as provided in this paragraph, the Government shall not be liable to the Contractor for failure to give the written notice required by paragraph (c) above.

(e) Nonseverable items of the Facilities or items of the Facilities subject to patent or proprietary rights shall be disposed of in such manner as the parties may have agreed to in writing.

(f) The Government, either directly or by third persons engaged by it, may remove or otherwise dispose of any Facilities with respect to which the Contractor's authority to use has been terminated, other than those for which specific provision is made in paragraph (e) above.

(g) The Contractor shall, within a reasonable time after the expiration of the six (6) month period specified in paragraph (c) above, remove all property owned by him from land or buildings owned or acquired by the Government and take such action as the Contracting Officer may direct in writing with respect to restoring such land or buildings, insofar as they are affected by the installation therein of the Contractor's property, to their condition prior to such installation.

(h) Unless otherwise specifically provided in this contract, the Government shall not be obligated to the Contractor to restore or rehabilitate any property at the Contractor's plant which may be damaged by the installation, use, removal, or storage of the Facilities, except any such damage as may be occasioned by the negligence of the Government, its agents, employees, or independent contractors. The Contractor agrees to indemnify the Government against all suits or claims arising out of the Government's failure to restore or rehabilitate any property at the Contractor's plant or property of its subcontractors, except any such damage as may be occasioned by the negligence of the Government, its agents, employees, or independent contractors.

§ 18–7.703–33 Property reporting.

PROPERTY REPORTING (JANUARY 1964)

(a) Promptly after the effective date of this contract, the Contractor shall furnish a report of all Facilities for which he is accountable under this contract. The report shall contain the following information:

(i) Real property—total acquisition cost;

(ii) Buildings, structures and improvements—total acquisition cost;

(iii) Plant equipment costing $200 or more per item (excluding electronic test equipment and automotive equipment)—number of items and total acquisition cost;

(iv) Electronic test equipment and automotive equipment—number of items and total acquisition cost;

(v) Other plant equipment costing less than $200 per item—number of items and total acquisition cost; and

(vi) Production equipment—number of items and total acquisition cost of those Facilities in each of the following age categories: 0–2 years; 2–6 years; 6–10 years; and over 10 years of age.

(b) On or before January 31 of the year subsequent to the effective date of this contract, and annually thereafter, during the life of the contract, the Contractor shall submit an up-to-date report, containing the above required information prepared as of January 1 of each such year.

(c) All such reports required pursuant to paragraphs (a) and (b) above shall be signed by the Contractor and submitted to the cognisant Government Property Administrator for verification and forwarding to the Contracting Officer.

(d) In addition to the reports required by paragraphs (a) and (b) above, the Contractor agrees to furnish a current itemized listing of all Government-owned property accountable under this contract, within thirty (30) days of receipt of written request from the Contracting Officer for such a listing.

§ 18–7.703–34 Audit and records.

Insert the clause set forth in § 18–7.104–42.

§ 18–7.704 Required clauses for consolidated facilities contracts.

The clause set forth in this § 18–7.704 shall be inserted in all consolidated facilities contracts.

§ 18–7.704–1 Definitions.

Insert the clause set forth in § 18–7.702–1.

§ 18–7.704–2 Representations and warranties.

Insert the clause set forth in § 18–7.702–2.

§ 18–7.704–3 Inspection.

Insert the clause set forth in § 18–7.702–3.

§ 18–7.704–4 Government bills of lading.

Insert the clause set forth in § 18–7.702–4.

§ 18–7.704–5 Limitation of cost.

Insert the clause set forth in § 18–7.702–5.

§ 18–7.704–6 Records.

Insert the clause set forth in § 18–7.203–7.

§ 18–7.704–7 Title.

Insert the clause set forth in § 18–7.702–7.

§ 18–7.704–8 Access.

Insert the clause set forth in § 18–7.702–8.

§ 18–7.704–9 Liability for the facilities.

Insert the clause set forth in § 18–7.702–9, substituting for paragraph (a) (iv) thereof the following paragraph (a) (iv):

(a) (iv) A failure, due to willful misconduct or lack of good faith on the part of any of the Contractor's directors, officers, or other representatives mentioned in (iii) above, (A) to maintain and administer, in accordance with the clause of the contract entitled "Maintenance," a program for the maintenance, repair, protection, and preservation of the Facilities, or (B) to take all reasonable steps to comply with any appropriate written directions or instructions which the Contracting Officer may prescribe as reasonably necessary for the protection of the Facilities. (March 1963)

§ 18–7.704–10 Indemnification of the Government.

Insert the clause set forth in § 18–7.702–10.

§ 18–7.704–11 Failure to perform.

Insert the clause set forth in § 18–7.702–11.

§ 18–7.704–12 Disputes.

Insert the clause set forth in § 18–7.102–12.

§ 18–7.704–13 Security requirements.

Insert the clause set forth in § 18–7.702–13.

§ 18–7.704–14 Assignment of claims.

Insert the clause set forth in § 18–7.102–8.

§ 18–7.704–15 Officials not to benefit.

Insert the clause set forth in § 18–7.102–19.

§ 18–7.704–16 Covenant against contingent fees.

Insert the clause set forth in § 18–1.503.

§ 18–7.704–17 Payment for overtime and shift premiums.

In accordance with the requirements of § 18–12.102, insert the clause set forth in § 18–12.102–3(h)(1).

§ 18–7.704–18 Convict labor.

In accordance with the requirements of § 18–12.201, insert the clause set forth in § 18–12.203.

§ 18–7.704–19 Equal opportunity.

Insert one or the other of the following clauses, as required by and in accordance with the instructions in § 18–12.802: (a) The Equal Opportunity clause set forth in § 18–12.802–1, or (b) the Equal Opportunity in Federally Assisted Construction Contracts clause set forth in § 18–12.802–2.

§ 18–7.704–20 Contract Work Hours Standards Act—overtime compensation.

Insert the appropriate clause set forth in § 18–12.303.

§ 18–7.704–21 Interest.

Insert the clause set forth in § 18–7.103–53.

§ 18–7.704–22 Supersedure.

Insert the clause set forth in § 18–7.702–22.

§ 18–7.704–23 Competition in subcontracting.

Insert the clause set forth in § 18–7.104–40.

§ 18–7.704–24 Facilities to be provided.

Insert the clause set forth in § 18–7.702–24.

§ 18–7.704–25 Late delivery, diversion, and substitution.

Insert the clause set forth in § 18–7.702–25.

§ 18–7.704–26 Changes.

Insert the clause set forth in § 18–7.702–26.

§ 18–7.704–27 Excusable delays.

Insert the clause set forth in § 18–8.708.

§ 18–7.704–28 Allowable cost and payment.

Insert the clause set forth in § 18–7.702–28.

§ 18–7.704–29 Insurance—liability to third persons.

Insert the clause set forth in § 18–7.702–29.

§ 18–7.704–30 Stop work orders.

Insert the clause set forth in § 18–7.702–30.

§ 18–7.704–31 Termination of work.

Insert the clause set forth in § 18–7.702–31.

§ 18–7.704–32 Authorization and consent.

Insert the clause set forth in § 18–9.103(b).

§ 18–7.704–33 Notice and assistance regarding patent and copyright infringement.

Insert the clause set forth in § 18–9.105.

§ 18–7.704–34 License for subsequent use.

Insert the clause set forth in § 18–7.702–34.

§ 18–7.704–35 Subcontracts.

The instructions set forth in § 18–7.402–8 apply.

§ 18–7.704–36 Small business subcontracting program.

Insert the clause set forth in § 18–7.702–36.

§ 18–7.704–37 Utilization of concerns in labor surplus areas.

Insert the clause set forth in § 18–1.805–3(a).

§ 18–7.704–38 Buy American Act.

Insert the clause set forth in § 18–6.104–5.

§ 18–7.704–39 Renegotiation.

Insert the clause set forth in § 18–7.103–13.

§ 18–7.704–40 Notice to the Government of labor disputes.

Insert the clause set forth in § 18–7.104–4.

§ 18–7.704–41 Walsh-Healey Public Contracts Act.

Insert the clause set forth in § 18–12.604.

§ 18–7.704–42 GSA supply sources.

The clause set forth in § 18–5.907 will be included in contracts in accordance with the instructions set forth therein.

§ 18–7.704–43 Limitation on withholding of payments.

Insert the clause set forth in § 18–7.702–43.

§ 18–7.704–44 Utilization of small business concerns.

Insert the clause set forth in § 18–1.707–3(a).

§ 18–7.704–45 Payment of royalties.

In accordance with the instructions in § 18–9.108, insert the appropriate clause set forth therein.

§ 18–7.704–46 Use and charges.

Insert the clause set forth in § 18–7.703–24.

§ 18–7.704–47 Location of the facilities.

Insert the clause set forth in § 18–7.703–26.

§ 18–7.704–48 Maintenance.

Insert the clause set forth in § 18–7.703–27.

§ 18–7.704–49 Property control.

Insert the clause set forth in § 18–7.703–28.

§ 18–7.704–50 Notice of use of the facilities.

Insert the clause set forth in § 18–7.703–29.

§ 18–7.704–51 Termination of use of the facilities.

Insert the clause set forth in § 18–7.703–31.

§ 18–7.704–52 Period of this contract.

Insert the clause set forth in § 18–7.703–30.

§ 18–7.704–53 Disposition of the facilities.

Insert the clause set forth in § 18–7.703–32.

§ 18–7.704–54 Property reporting.

Insert the clause set forth in § 18–7.703–33.

§ 18–7.704–55 Audit and records.

Insert the clause set forth in § 18–7.104–42.

§ 18–7.705 Clauses required to be used when applicable.

The clauses set forth in this § 18–7.705 are to be used with the clauses required for use in (a) Facilities Acquisition Contracts (§ 18–7.702), (b) Facilities Use Contracts (§ 18–7.703), and (c) Consolidated Facilities Contracts (§ 18–7.704).

§ 18–7.705–1 Rights in data.

In accordance with the requirements of § 18–9.203, insert the clause in § 18–9.203–1.

§ 18–7.705–2 Filing of patent applications.

In accordance with the requirements of § 18–9.107, insert the clause set forth therein.

§ 18–7.705–3 Priorities, allocations, and allotments.

In accordance with the requirements of § 18–1.307–2, insert the clause set forth therein.

§ 18–7.705–4 Contractor and subcontractor cost and pricing data.

Insert the clause set forth in § 18–3.807–4 in all contracts over $100,000 and in all contract modifications over $100,000 even though the original amount of the contract is $100,000 or less.

§ 18–7.705–5 Labor standards for construction work.

Except as provided in §§ 18–12.403–2, 18–12.403–3, and 18–12.403–4, every construction contract shall include the following.

LABOR STANDARDS FOR CONSTRUCTION WORK (NOVEMBER 1964)

(a) In the event that construction, alteration, or repair (including painting and decorating) of public buildings or public works is to be performed hereunder the Contractor shall, prior to commencing the work, request the determination of the Contracting Officer as to the applicability of the Davis-Bacon and Copeland Acts and shall not perform any of said items hereunder without receipt of such determination.

(b) The Contractor shall, in the performance of items of work so determined to be subject to the Davis-Bacon Act, comply with the following clauses set forth in 12.403–1 of the NASA Procurement Regulation in effect as of the date of this contact:

(i) Davis-Bacon Act;

(ii) Contract Work Hours Standards Act—Overtime Compensation;

(iii) Apprentices;

(iv) Payrolls and Payroll Records;

(v) Compliance with Copeland Regulations;

(vi) Withholding of Funds;

(vii) Subcontracts;

(viii) Contract Termination—Debarment.

(c) Upon determination that the Davis-Bacon Act is applicable to any item of work to be performed hereunder, the Contractor shall submit a request for a predetermination of the prevailing wage rates to be made applicable to such work. Upon receipt of such request the Contracting Officer shall, as soon as possible, obtain a predetermination of the applicable prevailing wage rates and publish such rates and incidental instructions in numbered exhibits to this contract. Upon publication thereof such exhibits shall be considered the wage determination decision of the Secretary of Labor referred to in paragraph (a) of the "Davis-Bacon Act" clause. Each such exhibit shall indicate to what work the rates set forth therein shall apply, including the period of time within which subcontracts subject to such rates may be issued.

§ 18–7.705–6 Improvements to buildings or land owned by the Government.

Where necessary to assure that Government buildings or land will not be modified in a manner detrimental to the interests of the Government, the following clause shall be inserted.

IMPROVEMENTS TO BUILDINGS OR LAND OWNED BY THE GOVERNMENT (JANUARY 1964)

(a) The Contractor shall not construct or make, at his expense, any fixed improvement to, or structural alteration in the nature of, buildings or land owned or leased by the Government, without the prior written approval of the Contracting Officer.

(b) For the purposes of paragraph (a), the terms "fixed improvement" and "structural alteration" mean any improvement to or alteration in the nature of buildings or land which, after completion, cannot be removed without substantial loss of value or damage to the premises. Such terms do not include foundations for production equipment.

§ 18–7.705–7 New technology.

In accordance with the requirements of § 18–9.101–3, insert the New Technology clause, as appropriate.

§ 18–7.705–9 Changes to make-or-buy program.

In accordance with the requirements of § 18–3.902–1, insert the clause set forth therein.

§ 18–7.705–10 Rights in data for potentially hazardous items.

In accordance with the requirements of § 18–9.204–52, insert the clause set forth in § 18–9.204–52(c).

§ 18–7.705–11 Potentially hazardous items.

In accordance with the requirements of § 18–1.351, insert the clause set forth therein.

Subpart 18–7.9—Clauses for Time and Material and Labor Hour Contracts

§ 18–7.900 Scope of subpart.

This subpart sets forth uniform contract clauses for use in time and material and labor hour types of contracts as described in §§ 18–3.406–1 and 18–3.406–2.

§ 18–7.901 Required clauses.

The following clauses shall be inserted in all time and material contracts and labor hour contracts. In labor hour contracts, the provisions governing the reimbursement of material costs may be deleted.

§ 18–7.901–1 Definitions.

Insert the contract clause set forth in § 18–7.103–1. Additional definitions may be included in such clause provided they are not inconsistent with such clause or the provisions of this chapter.

§ 18–7.901–2 Changes.

CHANGES (JUNE 1966)

The Contracting Officer may at any time, by a written order, and without notice to the sureties, if any, make changes, within the general scope of this contract, in any one or more of the following: (i) drawings, designs, or specifications; (ii) method of shipment or packing; (iii) place of delivery; and (iv) the amount of Government-furnished property. If any such change requires an increase or decrease in any hourly rate or in the ceiling price provided for in this contract, or in the time required for the performance of any part of the work under this contract, whether changed or not changed by any such order, or otherwise affects any other provisions of this contract, an equitable adjustment shall be made in the (i) ceiling price, (ii) hourly rates, (iii) delivery schedule, and (iv) in such other provisions of the contract as may be so affected, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by the Contractor of the notification of change: *Provided, however,* That the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract, However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

In the foregoing clause, the period of "thirty (30) days" within which any claim for adjustment must be asserted may be increased to a period of not more than "sixty (60) days."

§ 18–7.901–3 Excusable delays.

Insert the clause set forth in § 18–8.708.

§ 18–7.901–4 Termination.

TERMINATION (JUNE 1966)

(a) The performance of work under the contract may be terminated by the Government in accordance with this clause in whole, or from time to time, in part:

(i) Whenever the Contractor shall default in performance of this contract in accordance with its terms (including in the term "default" any such failure by the Contractor to make progress in the prosecution of the work hereunder as endangers such performance), and shall fail to cure such default within a period of ten (10) days (or such longer periods as the Contracting Officer may allow) after receipt from the Contracting Officer of a notice specifying the default; or

(ii) Whenever for any reason the Contracting Officer shall determine that such termination is in the best interest of the Government.

Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying whether termination is for the default of the Contractor or for the convenience of the Government, the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective. If, after notice of termination of this contract for default under (i) above, it is determined for any reason that the Contractor was not in default pursuant to (i), or that the Contractor's failure to perform or to make progress in performance is due to causes beyond the control and without the fault or negligence of the Contractor pursuant to the provisions of the clause of this contract relating to excusable delays, the Notice of Termination shall be deemed to have been issued under (ii), above, and the rights and obligations of the parties hereto shall in such event be governed accordingly.

(b) After receipt of a Notice of Termination and except as otherwise directed by the Contracting Officer, the Contractor shall:

(i) Stop work under the contract on the date and to the extent specified in the Notice of Termination;

(ii) Place no further orders or subcontracts for materials, services, or facilities, except as may be necessary for completion of such portion of the work under the contract as is not terminated;

(iii) Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;

(iv) Assign to the Government, in the manner and to the extent directed by Contracting Officer, all right, title, and interest of the Contractor under the orders or subcontracts so terminated, in which case the Government shall have the right in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

(v) With the approval or ratification of the Contracting Officer, to the extent he may require, which approval or ratification shall be final and conclusive for all purposes of this clause, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, the cost of which would be payable by the Government in whole or in part, in accordance with the provisions of this contract;

(vi) Transfer title (to the extent that title has not already been transferred) and in the manner, to the extent, and at the times directed by the Contracting Officer, deliver to the Government (A) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in respect of the performance of, the work terminated by the Notice of Termination, (B) the completed or partially completed plans, drawings, information, and other property which, if the contract had been completed, would be required to be furnished to the Government, and (C) the jigs, dies, fixtures, and other special tools and tooling acquired or manufactured for the performance of this contract for the cost of which the Contractor has been or will be reimbursed under this contract;

(vii) Use his best efforts to sell in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Contracting Officer, any property of the types referred to in (vi) above: *Provided, however,* That the Contractor (A) shall not be required to extend credit to any purchaser, and (B) may acquire any such property under the conditions prescribed by and at a price or prices approved by the Contracting Officer; and provided further that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this contract or shall otherwise be credited to the price or cost of the work covered by this contract or paid in such other manner as the Contracting Officer may direct;

(viii) Complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and

(ix) Take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to this contract, which is in the possession of the Contractor and in which the Government has or may acquire an interest.

The Contractor shall proceed immediately with the performance of the above obligations notwithstanding any delay in determining or adjusting any amount due or owing under this clause. At any time after expiration of the plant clearance period, as defined in Part 8, NASA Procurement Regulation, as it may be amended from time to time, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of—exclusive of items the disposition of which has been directed or authorized by the Contracting Officer and may request the Government to remove such items or enter into a storage agreement covering them. Not later than fifteen (15) days thereafter, the Government will accept such items and remove them or enter into a storage agreement covering the same: *Provided,* That the list submitted shall be subject to verification by the Contracting Officer upon removal of the items, or if the items are stored, within forty-five (45) days from the date of submission of the list. Any necessary adjustment to correct the list as submitted shall be made prior to final settlement.

(c) After receipt of a Notice of Termination, the Contractor shall submit to the Contracting Officer his termination claim in the form and with the certification prescribed by the Contracting Officer. Such claim shall be submitted promptly but in no event later than 1 year from the effective date of termination, unless one or more extensions in writing are granted by the Contracting Officer, upon request of the Contractor made in writing within such 1-year period or authorized extension thereof. However, if the Contracting Officer determines that the facts justify such action, he may receive and act upon any such termination claim at any time after such 1-year period or any extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the Contracting Officer may, subject to any Settlement Review Board approvals required by Part 8 of the NASA Procurement Regulation in effect as of the date of execution of this contract, determine, on the basis of information available to him,

the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.

(d) Subject to the provisions of paragraph (e), and subject to any Settlement Review Board approvals required by Part 8 of the NASA Procurement Regulation in effect as of the date of execution of this contract, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination or work pursuant to this clause. The contract shall be amended accordingly, and the Contractor shall be paid the agreed amount.

(e) In the event of the failure of the Contractor and the Contracting Officer to agree in whole or in part, as provided in paragraph (d) above, as to the amounts to be paid to the Contractor in connection with the termination of work pursuant to this clause, the Contracting Officer shall, subject to any Settlement Review Board approvals required by Part 8 of the NASA Procurement Regulation in effect as of the date of execution of this contract, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination, and shall pay to the Contractor the amount determined as follows:

(1) If the termination of the contract is determined to be for the convenience of the Government, there shall be included—

(A) An amount for direct labor hours (as defined in the Schedule of the contract) which shall be determined by multiplying the number of direct labor hours expended prior to the effective date of the Notice of Termination by the hourly rate or rates set forth in the Schedule, less any hourly rate payments theretofore made to the Contractor;

(B) An amount (computed pursuant to the provisions of the contract providing for payment for materials) for material expenses incurred prior to the effective date of the Notice of Termination, not previously paid to the Contractor for the performance of this contract;

(C) An amount for labor and material expenses computed as if the expenses were incurred prior to the effective date of the termination reasonably incurred after the effective date of the Notice of Termination with the approval of or as directed by the Contracting Officer: *Provided*, That the Contractor shall discontinue such expenses as rapidly as practicable;

(D) To the extent not included in (A), (B), and (C) above, the cost of settling and paying claims arising out of the termination of work under subcontracts or orders, as provided in paragraph (b)(v) above, which are properly chargeable to the terminated portion of this contract; and

(E) The reasonable costs of settlement, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the contract and for the termination and settlement of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of termination inventory; or

(ii) If the termination of the contract is for the default of the Contractor, there shall be included the amounts computed in accordance with (i) above except there shall not be included—

(A) Any amount for the preparation of the Contractor's settlement proposal; or

(B) The portion of the hourly rate allocable to profit for any direct labor hours expended in furnishing materials and services not delivered to and accepted by the Government.

(f) The Contractor shall have the right of appeal, under the "Disputes" clause of this contract, from any determination made by the Contracting Officer under paragraphs (c) or (e), above, except that if the Contractor has failed within the time provided in paragraph (c), above, to request extension of such time, he shall have no such right of appeal. In any case where the Contracting Officer has made a determination of the amount due under paragraph (c) or (e), above, the Government shall pay to the Contractor the following: (i) if there is no right of appeal hereunder, or if no timely appeal has been taken, the amount so determined by the Contracting Officer; or (ii) if an appeal has been taken, the amount finally determined on such appeal.

(g) In arriving at the amount due to the Contractor under this clause, there shall be deducted (i) all unliquidated advance or other payments theretofore made to the Contractor, applicable to the terminated portion of this contract; (ii) any claim which the Government may have against the Contractor in connection with this contract; and (iii) the agreed price for, or the proceeds of sale of, any materials, supplies, or other things acquired by the Contractor or sold pursuant to the provisions of this clause and not otherwise recovered by or credited to the Government.

(h) In the event of a partial termination, the hourly rates for direct labor hours with respect to the work under the continued portion of the contract shall be equitably adjusted by agreement between the Contractor and the Contracting Officer, and such adjustment shall be evidenced by an amendment to this contract.

(i) The Government under such terms and conditions as it prescribes may make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of the contract, whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand, together with interest computed at the rate of six (6) percent per annum, for the period from the date such excess payment is received by the Contractor to the date on which such excess is repaid to the Government: *Provided, however*, That no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until ten (10) days after the date of such retention or disposition, or such later date as determined by the Contracting Officer by reason of the circumstances.

§ 18–7.901–5 Government property.

Insert the clause set forth in § 18–13.503, except that:

(a) The phrase "estimated cost, fixed-fee, or delivery or performance dates, or all of them," wherever it appears in paragraph (a) of the clause shall be deleted and the phrase "ceiling price, hourly rate, the delivery or performance date, or all of them" substituted therefor;

(b) Subparagraph (i) of the clause should be deleted and subparagraph (h) of the clause in § 18–13.503–2 substituted therefor; and

(c) Add to the end of paragraph (f)(3) of the clause the following:

For any such repairs or renovations so directed, the Contracting Officer shall, upon written request of the Contractor, equitably adjust the ceiling price, hourly rate, delivery or performance date, or all of them in accordance with the procedures provided for in the clause of this contract entitled "Changes." In any such equitable adjustment due regard shall be given to the liability of the Contractor as determined under (1) above.

§ 18–7.901–6 Payments.

PAYMENTS (JUNE 1966)

The Contractor shall be paid as follows upon the submission of invoices or vouchers approved by the Contracting Officer.

(a) *Hourly Rate.*

(1) The amounts computed by multiplying the appropriate hourly rate, or rates set forth in the Schedule by the number of direct labor hours performed, which rates shall include wages, overhead, general and administrative expense and profit. Fractional parts of an hour shall be payable on a prorated basis. Vouchers may be submitted once each month (or at more frequent intervals, if approved by the Contracting Officer), to the Contracting Officer or his designee. The Contractor will substantiate vouchers by evidence of actual payment and by individual daily job timecards, or such other substantiation approved by the Contracting Officer. Promptly after receipt of each substantiated voucher, the Government shall, except as otherwise provided in this contract, and subject to the provisions of (e) below, make payment thereon as approved by the Contracting Officer.

(2) Unless otherwise set forth in the Schedule, five percent (5%) of the amount due under this paragraph (a) shall be withheld from each payment by the Contracting Officer but the total amount withheld shall not exceed $50,000. Such amounts withheld shall be retained until the execution and delivery of a release by the Contractor as provided in paragraph (f) hereof.

(3) Unless provisions of the Schedule hereof otherwise specify, the hourly rate or rates set forth in the Schedule shall not be varied by virtue of the Contractor having performed work on an overtime basis. If no overtime rates are provided in the Schedule and overtime work is approved in advance by the Contracting Officer, overtime rates will be negotiated. Failure to agree upon these overtime rates will be treated as a dispute under the "Disputes" clause of this contract. If the Schedule provides rates for overtime, the premium portion of those rates will be reimbursable only to the extent the overtime is approved by the Contracting Officer.

(b) *Materials and Subcontracts.*

(1) Allowable costs of direct materials shall be determined by the Contracting Officer in accordance with Subpart 18–15.2 of this chapter in effect on the date of this contract. Reasonable and allocable material handling costs may be included in the charge for material at cost to the extent they are clearly excluded from the hourly rate. The Contractor shall support all material costs claimed by submitting paid invoices or storeroom requisitions, or by other substantiation acceptable to the Contracting Officer. Direct materials, as referenced by this clause, are defined as those materials which enter directly into the end product, or which are used or consumed directly in connection with the furnishing of such product.

(2) The cost of subcontracts which are authorized pursuant to the "Subcontracts" clause hereof shall be reimbursable costs

hereunder: *Provided*, Such costs are consistent with subparagraph (3) below. Reimbursable cost in connection with subcontracts shall be limited to the amounts actually required to be paid by the Contractor to the subcontractor and shall not include any costs arising from the letting, administration or supervision of performance of the subcontract, which costs are included in the hourly rate or rates payable under (a)(1) above.

(3) The Contractor shall, to the extent of his ability, procure materials at the most advantageous prices available with due regard to securing prompt delivery of satisfactory materials, and take all cash and trade discounts, rebates, allowances, credits, salvage, commissions and other benefits. When unable to take advantage of such benefits, it shall promptly notify the Contracting Officer to that effect, and give the reason therefor. Credit shall be given to the Government for cash and trade discounts, rebates, allowances, credits, salvage, the value of resulting scrap when the amount of such scrap is appreciable, commissions, and other amounts which have been accrued to the benefit of the Contractor, or would have so accrued except for the fault or neglect of the Contractor. Such benefits lost through no fault or neglect on the part of Contractor, or lost through fault of the Government, shall not be deducted from gross costs.

(c) It is estimated that the total cost to the Government for the performance of this contract will not exceed the ceiling price set forth in the Schedule, and the Contractor agrees to use his best efforts to perform the work specified in the Schedule and all obligations under this contract within such ceiling price. If at any time the Contractor has reason to believe that the hourly rate payments and material costs which will accrue in the performance of his contract in the next succeeding thirty (30) days, when added to all other payments and costs previously accrued, will exceed eighty-five percent (85%) of the ceiling price then set forth in the Schedule, the Contractor shall notify the Contracting Officer to that effect giving his revised estimate of the total price to the Government for the performance of this contract, together with supporting reasons and documentation. If at any time during the performance of this contract, the Contractor has reason to believe that the total price to the Government for the performance of this contract will be substantially greater or less than the stated ceiling price, the Contractor shall so notify the Contracting Officer, giving his revised estimate of the total price for the performance of this contract, together with supporting reasons and documentation. If at any time during the performance of this contract, the Government has reason to believe that the work to be required in the performance of this contract will be substantially greater or less than the stated ceiling price, the Contracting Officer will so advise the Contractor, giving the then revised estimate of the total amount of effort to be required under the contract.

CLAUSES FOR TIME AND MATERIAL AND LABOR HOUR CONTRACTS

(d) The Government shall not be obligated to pay the Contractor any amount in excess of the ceiling price set forth in the Schedule, and the Contractor shall not be obligated to continue performance if to do so would exceed the ceiling price set forth in the Schedule, unless and until the Contracting Officer shall have notified the Contractor in writing that such ceiling price has been increased and shall have specified in such notice a revised ceiling which shall thereupon constitute the ceiling price for performance under this contract. When and to the extent that the ceiling price set forth in the Schedule has been increased, any hours expended and material costs incurred by the Contractor in excess of the ceiling price prior to the increase shall be allowable to the same extent as if such hours expended and material costs had been incurred after such increase in the ceiling price.

(e) At any time or times prior to final payment under this contract the Contracting Officer may cause to be made such audit of the invoices or vouchers and substantiating material as shall be deemed necessary. Each payment theretofore made shall be subject to reduction to the extent of amounts which are found by the Contracting Officer not to have been properly payable, and shall also be subject to reduction for overpayments, or to increase for underpayments, on preceding invoices or vouchers. Upon receipt and approval of the voucher or invoice designated by the Contractor as the "completion voucher" or "completion invoice" and substantiating material, and upon compliance by the Contractor with all provisions of this contract (including, without limitation, provisions relating to patents and the provisions of (f) and (g) below), the Government shall as promptly as may be practicable pay any balance due and owing the Contractor. The completion invoice or voucher, and substantiating material, shall be submitted by the Contractor as promptly as may be practicable following completion of the work under this contract, but in no event later than one (1) year (or such longer period as the Contracting Officer may, in his discretion, approve in writing) from the date of such completion.

(f) The Contractor and each assignee, under an assignment entered into under this contract and in effect at the time of final payment under this contract, shall execute and deliver, at the time of and as a condition precedent to final payment under this contract, a release discharging the Government, its officers, agents, and employees of and from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions:

(i) Specified claims in stated amounts, or in estimated amounts where the amounts are not susceptible of exact statement by the Contractor;

(ii) Claims, together with reasonable expenses incidental thereto, based upon the liabilities of the Contractor to third parties arising out of the performance of this contract, which are not known to the Contractor on the date of the execution of the release, and of which the Contractor gives notice in writing to the Contracting Officer not more than six (6) years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier; and

(iii) Claims for reimbursement of costs (other than expenses of the Contract or by reason of its indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of this contract relating to patents.

(g) The Contractor agrees that any refunds, rebates, or credits (including any interest thereon) accruing to or received by the Contractor or any assignee, which arise under the materials portion of this contract and for which the Contractor has received reimbursement, shall be paid by the Contractor to the Government. The Contractor and each assignee, under an assignment entered into under this contract and in effect at the time of final payment under this contract, shall execute and deliver, at the time of and as a condition precedent to final payment under this contract, an assignment to the Government of such refunds, rebates, or credits (including any interest thereon) in form and substance satisfactory to the Contracting Officer.

The following may be inserted as paragraph (b)(4) in the foregoing "Payments" clause where the nature of the work to be performed requires the contractor to furnish material which is regularly sold to the general public in the normal course of business by the contractor, and in accordance with the limitations contained in § 18–3.406–1(d) (1) and (2):

(4) When the nature of the work to be performed requires the Contractor to furnish material which is regularly sold to the general public in the normal course of business by the Contractor, the price to be paid for such material, notwithstanding (b)(1), above, shall be on the basis of an established catalog or list price, in effect when the material is furnished, less all applicable discounts to the Government; provided that in no event shall such price be in excess of the Contractor's sales price to his most favored customer for the same item in like quantity, or the current market price, whichever is lower.

§ 18–7.901–7 Assignment of claims.

In accordance with § 18–7.103–8, insert the clause set forth therein.

§ 18–7.901–8 Disputes.

Insert the clause set forth in § 18–7.103–12.

§ 18–7.901–9 Convict labor.

Insert the clause set forth in § 18–12.203.

§ 18–7.901–10 Subcontracts.

SUBCONTRACTS (JUNE 1966)

(a) No contract shall be made by the Contractor for the furnishing of any of the work herein contracted for without the written approval of the Contracting Officer. For the purpose of this clause, purchase of raw material or commercial stock items shall not be considered work.

(b) The Contractor agrees that no subcontract placed under this contract shall provide for payment on a cost-plus-percentage-of-cost basis.

§ 18–7.901–11 Contract work hours standards act—overtime compensation.

Insert the clause set forth in § 18–12.303–1.

§ 18–7.901–12 Walsh-Healey public contracts.

Insert the clause set forth in § 18–12.604.

§ 18–7.901–13 Equal opportunity.

In accordance with the instructions in § 18–12.802–1, insert the clause set forth therein.

§ 18–7.901–14 Officials not to benefit.

Insert the clause set forth in § 18–7.103–19.

§ 18–7.901–15 Covenant against contingent fees.

Insert the clause set forth in § 18–1.503.

§ 18–7.901–16 Audit and records.

Insert the clause set forth in § 18–7.104–42.

§ 18–7.901–17 Records.

In accordance with § 18–7.203–7, insert the clause set forth therein.

§ 18–7.901–19 Notice and assistance regarding patent and copyright infringement.

Insert the clause set forth in § 18–9.105.

§ 18–7.901–20 Authorization and consent.

Insert the clause set forth in § 18–9.103 (a) or § 18–9.103(b) if the contract is required in support of research and development work.

§ 18–7.901–21 Inspection and correction of defects.

INSPECTION AND CORRECTION OF DEFECTS (JUNE 1966)

(a) All materials furnished and services performed by the Contractor under this contract shall be subject to inspection and test by the Government to the extent practicable at all times (including the period of performance) and places, and in any event prior to acceptance. The Government, through any authorized representative, may inspect the plant or plants of the Contractor or of any of his subcontractors engaged in the performance of this contract. If any inspection or test is made by the Government on the premises of the Contractor or a subcontractor the Contractor shall provide and shall require subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the Government inspectors in the performance of their duties. All inspections and tests by the Government shall be performed in such a manner as will not unduly delay the work. Except as otherwise provided in this contract, acceptance of services performed and materials furnished under this contract shall be made at the place of delivery as promptly as practicable after delivery and shall be deemed to have been made no later than sixty (60) days after the date of such delivery, if acceptance has not been made earlier within such period.

(b) At any time during performance of this contract, but not later than six (6) months (or such other period as may be provided in the schedule) after acceptance of the services or materials last delivered in accordance with the requirements of this contract, the Government may require the Contractor to remedy by correction or replacement, as directed by the Contracting Officer, any services or materials which at the time of delivery thereof failed to comply with the requirement of this contract. Except as otherwise provided in paragraph (c) hereof, below, the allowability of the cost of any such replacement or correction shall be determined as provided in the "Payments" clause of this contract, but the "hourly rate" for labor hours incurred in such replacement or correction shall be reduced so as to exclude the portion of such rate attributable to profit. Corrected or replacement materials and services shall not be tendered again for acceptance unless the former tender and the requirement of correction or replacement is disclosed. If the Contractor fails to proceed with reasonable promptness to perform such replacement or correction, and if such replacement or correction may be performed within the ceiling price, or the ceiling price as increased by the Government, the Government (i) may by contract or otherwise perform such replacement or correction and charge to the Contractor any increased cost occasioned the Government thereby, and may deduct such increased cost from any amounts due the Contractor under this contract (or require repayment of any payments theretofore made), or (ii) may terminate this contract for default as provided in the "Termination" clause of this contract. Failure to agree to the amount of any such increased cost to be charged to the Contractor, or to such reduction in, or repayment of, any amount due under this contract, shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract.

(c) Notwithstanding the provisions of paragraph (b) above, the Government may at any time require the Contractor to remedy by correction or replacement, without cost to the Government, any failure by the Contractor to comply with the requirements of this contract, if such failure is due to fraud, lack of good faith or willful misconduct on the part of any of the Contractor's directors or officers, or on the part of any of his managers, superintendents, or other equivalent representatives, who has supervision or direction of (i) all or substantially all of the Contractor's business; (ii) all or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed; (iii) a separate and complete major industrial operation in connection with the performance of this contract; or (iv) all or substantially all of the Contractor's operations under this contract. The Government may at any time also require the Contractor to remedy by correction or replacement, without cost to the Government, any such failure caused by one or more individual employees selected or retained by the Contractor after any such supervisory persons has reasonable grounds to believe that any such employee is habitually careless or otherwise unqualified.

(d) The provisions of this clause shall apply to any corrected or replacement services or materials.

(e) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the material, fabricating methods, and the work and services hereunder. Records of all inspection work by the Contractor shall be complete and available to the Government at all reasonable times during performance of this contract and for such longer period as may be specified in this contract.

(f) Except as provided in this clause and as may be provided in the Schedule, the Contractor shall have no obligation or liability to correct or replace materials furnished and services performed under this contract which at the time of delivery are defective in material or workmanship or otherwise not in conformity with the requirements of this contract.

(g) Except as otherwise provided in the Schedule, the Contractor's obligation to correct or replace Government-furnished property (which is property in the possession of or acquired directly by the Government and delivered or otherwise made available to the Contractor) shall be governed by the provisions of the "Government Property" clause of this contract.

In cases where inspection and acceptance are desired at the contractor's plant, the following should be substituted for the last sentence in paragraph (a):

Acceptance by the Government of all the items (other than aircraft to be flown away, if any) to be furnished under this contract shall be at the plant or plants of the Contractor specified in the Schedule, or any other plant or plants approved for such purpose in writing by the Contracting Officer. The Contractor shall inform the inspector or Contracting Officer when the work is ready for inspection. The Government reserves the right to charge to the Contractor any additional cost of Government inspection and test when items are not ready at the time such inspection and test are requested by the Contractor.

§ 18–7.901–22 Insurance—liability to third persons.

In accordance with the requirements of § 18–7.402–26, insert the appropriate clause from § 18–7.203–22 or § 18–7.402–26.

§ 18–7.901–23 Interest.

Insert the clause set forth in § 18–7.103–53.

§ 18–7.901–24 Renegotiation.

Insert the clause set forth in § 18–7.103–13.

§ 18–7.902 Clauses to be used when applicable.

§ 18–7.902–1 Utilization of small business concerns.

In accordance with § 18–1.707–3, insert the clause set forth therein.

§ 18–7.902–2 Utilization of concerns in labor surplus areas.

In accordance with § 18–1.805–3(a), insert the clause set forth therein.

§ 18–7.902–3 Security requirements.

In accordance with § 18–7.104–12, insert the clause set forth therein.

§ 18–7.902–4 Priorities, allocations and allotments.

In accordance with § 18–1.307–2, insert the clause set forth therein.

§ 18–7.902–5 Buy American Act.

In accordance with § 18–6.104–5, insert the clause set forth therein.

§ 18–7.902–6 Notice to the government of labor disputes.

In accordance with § 18–7.104–4, insert the clause set forth therein.

§ 18–7.902–7 Filing of patent applications.

In accordance with § 18–9.107, insert the clause set forth therein.

§ 18–7.902–8 New technology.

In accordance with § 18–9.101–3, insert the clause set forth in § 18–9.101–4.

§ 18–7.902–9 Data.

In accordance with Subpart 18–9.2, insert the appropriate clause or clauses prescribed therein.

§ 18–7.902–10 Alterations in contract.

When required, insert the clause set forth in § 18–7.105–1.

§ 18–7.902–11 Limitation on withholding of payments.

In accordance with § 18–7.104–21, insert the clause set forth therein.

§ 18–7.902–12 Soviet controlled areas.

In accordance with § 18–6.402, insert the clause set forth therein.

§ 18–7.902–13 Flight risks.

Where appropriate, insert the clause set forth in § 18–10.504, revising paragraph (c) thereof to read as follows:

(c) If any aircraft is damaged, lost, or destroyed, during flight, and if the amount of such damage, loss, or destruction exceeds one hundred thousand dollars ($100,000) or twenty percent (20%) of the ceiling price of this contract, whichever is less, and if the Contractor is not liable for the damage, loss, or destruction pursuant to the "Government Property" clause of this contract together with paragraph (a) above, then an equitable adjustment for any resulting repair, restoration, or replacement that is required under this contract shall be made in the ceiling price, hourly rate, delivery or performance date, or all of them and the contract shall be modified in writing accordingly: *Provided*, In determining the amount of adjustment in the hourly rate that is equitable, any faults of the Contractor, his employees, or any subcontractor which materially contributed to the damage, loss, or destruction shall be taken into consideration. Failure to agree on any adjustment shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract.

§ 18–7.902–15 Payment of royalties.

In accordance with § 18–9.108, insert the appropriate clause from § 18–9.108–1 or § 18–9.108–2.

§ 18–7.902–20 Contractor and subcontractor cost or pricing data.

In accordance with the requirements of § 18–3.807–3, insert the clause set forth in § 18–3.807–4.

§ 18–7.902–21 Order of precedence.

In accordance with the instructions of § 18–7.104–56, insert the clause set forth therein.

§ 18–7.902–50 Competition in subcontracting.

In accordance with the requirements of § 18–7.104–40, insert the clause set forth therein.

§ 18–7.902–51 Approval of contract.

In accordance with the requirements of § 18–7.104–51, insert the clause set forth therein.

§ 18–7.902–52 Liability for Government property furnished for repair or other services.

In accordance with the requirements of § 18–13.502–50, insert the clause set forth therein.

§ 18–7.902–53 New material.

In accordance with § 18–1.1208, insert the clause set forth in § 18–1.1208(a).

§ 18–7.902–54 Government surplus.

In accordance with § 18–1.1208, insert the clause set forth in § 18–1.1208(d).

§ 18–7.902–55 NASA financial management reporting.

In accordance with § 18–7.204–56, insert the clause set forth in § 18–7.204–56(a).

§ 18–7.902–56 Safety and health.

In accordance with the requirements of Subpart 18–10.50, insert the clause set forth therein.

§ 18–7.902–57 Report on NASA subcontracts.

In accordance with the requirements of § 18–16.902, insert the clause set forth therein.

§ 18–7.902–58 Potentially hazardous items.

In accordance with the requirements of § 18–9.204–52, insert the clause set forth in § 18–9.204–52(c).

Subpart 18–7.50—Clauses for Negotiated Utility Service Contracts

§ 18–7.5000 Scope of subpart.

This subpart sets forth uniform contract clauses for use in negotiated utility service contracts as defined in § 18–4.5001.

§ 18–7.5001 Required clauses—contracts for more than $2,500.

Insert the clauses set forth in this § 18–7.5001 in all negotiated utility service contracts which involve an estimated annual cost of more than $2,500, or whenever the negotiated utility service contract form prescribed by § 18–16.501–50(a) is to be used.

§ 18–7.5001–1 Definitions.

Insert the clause set forth in § 18–7.103–1. Additional definitions may be included, provided they are not inconsistent with such clause or the provisions of these regulations.

§ 18–7.5001–2 Payments.

PAYMENTS (JULY 1963)

(a) Payments for the service rendered under this contract shall be made monthly by the designed disbursing office or officer for the service herein contracted for, under the terms and conditions herein set forth, upon the submission of proper invoices.

(b) All bills shall be paid without penalty or interest and the Government shall be entitled to any discounts customarily applicable to payment of bills by all customers of the Contractor.

(c) Invoices for service rendered hereunder shall contain statements of the meter readings at the beginning of the billing period, meter constants, consumption during the billing period, and such other pertinent data as shall be required by the Government.

§ 18–7.5001–3 Assignment of claims.

ASSIGNMENT OF CLAIMS (JULY 1963)

No claim under this contract shall be assigned.

When requested by a prospective contractor and determined by the contracting officer to be in the public interest, the above clause may be deleted and the clause set forth in § 18–7.103–8 shall be included in the contract.

§ 18–7.5001–4 Disputes.

Insert the clause set forth in § 18–7.103–12.

§ 18–7.5001–5 Equal opportunity.

Insert one or the other of the following clauses, as required by and in accordance with the instructions in § 18–12.802: (a) the Equal Opportunity clause set forth in § 18–12.802–1, or (b) the Equal Opportunity in Federally Assisted Construction Contracts clause set forth in § 18–12.802–2.

§ 18–7.5001–6 Officials not to benefit.

Insert the clause set forth in § 18–7.103–19.

§ 18–7.5001–7 Covenant against contingent fees.

Insert the clause set forth in § 18–1.503.

§ 18–7.5001–8 Termination.

TERMINATION (JULY 1963)

This contract may be terminated at the option of the Government by the giving of not less than thirty (30) days advance written notice of the effective date of termination.

In the foregoing clause the period of 30 days may be varied not to exceed 90 days.

§ 18–7.5001–9 Convict labor.

Insert the clause set forth in § 18–12.203.

§ 18–7.5001–10 Rates.

RATES (JULY 1963)

(a) For and in consideration of the faithful performance of the stipulations of this contract, the Contractor shall be paid at the rates set out in Appendix A: *Provided*, That the Government shall be liable for the minimum monthly charge, if any, specified in this contract commencing with the billing period in which service is initially furnished thereto, and continuing until this contract is terminated, except that the minimum monthly charge, if any, specified in this contract shall be equitably prorated for the billing periods in which commencement and termination of this contract shall become effective.

(b) The Contractor hereby declares that the rates applicable to the service furnished under this contract are not in excess of the

lowest rates available to any prospective customer under like conditions, and agrees that during the life of this contract the Government shall continue to be billed at the lowest rates applicable for similar conditions of service.

§ 18–7.5001–11 Public regulation and change of rates.

PUBLIC REGULATION AND CHANGE OF RATES (JULY 1963)

(a) Rates established under this contract shall be subject to regulation in the manner and to the extent prescribed by law by any Federal, State, or local regulatory agency having jurisdiction. The Contractor agrees to give the Contracting Officer written notice of the filing of an application for rate changes concurrently with the filing of the application. Such notice shall fully describe the proposed rate change. If during the term of this contract the public regulatory agency having jurisdiction approves rates that are higher or rates that are lower than those stipulated herein, for like conditions of service, the Contractor agrees to continue to furnish service as stipulated in this contract and the Government agrees to pay for such service at the higher or lower rates from and after the date when such rates are made effective. In the event that the regulatory agency promulgates any regulation concerning matters other than rates which affects this contract, the Contractor shall immediately notify the Contracting Officer. The Government shall not be bound to accept any new regulation inconsistent with Federal laws or regulations.

(b) In the event the Contractor, during the term of this contract, shall make effective any new rate schedule or amended rate schedule applicable to the class of service furnished the Government at the service location, which may contain a lower rate or conditions more favorable to the Government for such class of service, the Contractor shall forward to the Contracting Officer a copy of such rate schedule or amended rate schedule within fifteen (15) days after the effective date thereof, and, upon receipt of written request from the Government, shall substitute such rate schedule or amended rate schedule for the rate schedule then in effect hereunder for such service location, commencing with the billing period in which such written request is received.

§ 18–7.5001–12 Change in class of service.

CHANGE IN CLASS OF SERVICE (JULY 1963)

(a) In the event of a permanent change in the class of service furnished the Government at the service location, service shall be furnished to such service location at the lowest available rate schedule of the Contractor which is applicable to the class of service furnished following such permanent change subject to the clause hereof entitled "Rates."

(b) Where the Contractor's rate schedule on file with the regulatory agency and applicable to services provided by the Contractor does not contain a schedule applicable to the class of service furnished the Government, no clause in this contract shall preclude the parties from negotiating a rate schedule applicable to the class of service furnished.

§ 18–7.5001–13 Contractor's facilities.

CONTRACTOR'S FACILITIES (JULY 1963)

(a) The Contractor, at his expense, shall furnish, install, operate, and maintain all facilities required to furnish service hereunder to, and measure such service as of, the point of delivery specified in the Service Specifications. Title to all such facilities shall be and remain in the Contractor and the Contractor shall be responsible for all loss of or damage to such facilities.

(b) The Government hereby grants to the Contractor, free of any rental or similar charge, but subject to the limitations specified in this contract, a revocable permit or license to enter the service location for any proper purpose under this contract, including use of the site or sites agreed upon by the parties hereto for the installation, operation, and maintenance of the facilities of the Contractor required to be located upon Government premises, all of which facilities shall be and remain the sole property of the Contractor and shall, at all times during the life of this contract, be operated and maintained by the Contractor at his expense; and all taxes and other charges in connection therewith, together with all liability of the Contractor in construction, operation, or maintenance of such facilities, shall be assumed by the Contractor. Authorized representatives of the Contractor will be allowed access to the facilities of the Contractor at suitable times to perform the obligations of the Contractor with respect to such facilities. Such facilities shall be removed and Government premises restored to their original condition by the Contractor at his expense within a reasonable time after the Government shall revoke the permit or license herein granted and in any event within a reasonable time after termination of this contract: *Provided*, That in the event of termination of this contract due to the fault of the Contractor such facilities may be retained in place at the option of the Government until service comparable to that provided for hereunder is obtained elsewhere. It is expressly understood, however, that proper Governmental authority may limit or restrict the right of access herein granted in any manner considered by such authority to be necessary for the national security.

§ 18–7.5001–14 Technical provisions.

TECHNICAL PROVISIONS (JULY 1963)

(a) *Measurement of Service.*

(i) All service furnished by the Contractor shall be measured by suitable metering equipment of standard manufacture, to be furnished, installed, maintained, calibrated, and read by the Contractor at his expense. When more than a single meter is installed at the service location, the readings thereof shall be billed conjunctively. In the event any meter fails to register or registers incorrectly the service furnished therethrough, the parties shall agree upon the length of period during which such meter failed to register or registered incorrectly and the quantity of service delivered therethrough during such period and, upon agreement, an appropriate adjustment based thereon shall be made in the Government's bills. For the purpose of the preceding sentence, any meter which registers not more than two (2) percent slow or fast shall be deemed correct.

(ii) The Contractor shall read meters on the same day of each month; if, however, that day falls on a Saturday, Sunday, or legal holiday, or if the Contractor is otherwise prevented from reading the meters on that day, he shall read the meters on the next succeeding business day on which he is able to do so: *Provided*, That all bills based on meter readings of less than twenty-seven (27) days or more than thirty-three (33) days shall be prorated accordingly: *And provided further*, That there shall be not more than twelve (12) billings in any one year.

(b) *Meter Test.* The Contractor, at his expense, shall periodically inspect and test the meters installed by him at intervals not exceeding one (1) year. At the written request of the Contracting Officer the Contractor shall make additional tests of any or all of such meters in the presence of Government representatives. The cost of such additional tests shall be borne by the Government if the percentage of errors is found to be not more than two (2) percent slow or fast. No meter shall be placed in service or allowed to remain in service which has an error in registration in excess of two (2) percent under normal operating conditions.

(c) *Change in Volume or Character.* Reasonable notice shall, so far as possible, be given by the Contracting Officer to the Contractor respecting any material changes proposed in the volume or characteristics of the utility service required at each location.

(d) *Continuity of Service and Consumption.*

(i) The Contractor shall use reasonable diligence to provide a regular and uninterrupted supply of service at the service location, but shall not be liable for damages, breach of contract or otherwise to the Government for failure, suspension, diminution, or other variations of service occasioned by or in consequence of any cause beyond the control of the Contractor, including but not limited to acts of God or of the public enemy, fires, floods, earthquakes or other catastrophes, strikes, or failure or breakdown of transmission or other facilities: *Provided*, That when any such failure, suspension, diminution, or variation of service shall aggregate more than ten (10) hours during any billing period hereunder, an equitable adjustment shall be made in the monthly rates specified in this contract (including the minimum monthly charge).

(ii) In the event the Government is unable to operate the service location in whole or in part for any cause beyond its control, including but not limited to acts of God or of the public enemy, fires, floods, earthquakes, or other catastrophes, or strikes, an equitable adjustment shall be made in the monthly rates specified in this contract (including the minimum monthly charge) if the period during which the Government is unable to operate such service location in whole or in part shall exceed fifteen (15) days during any billing period hereunder.

Minor changes may be made in the above clause when insisted upon by the contractor to conform with established procedure or with procedures contained in the contractor's published rates filed with a regulatory agency. The following types of changes, when made for this purpose, are not considered within the intent of § 18–4.5006(d) relating to contracts requiring NASA Headquarters approval.

(a) *Measurement of Service.*

(1) The words "billed conjunctively" in the second sentence of paragraph (a)(i) refers to the combination of similar quantities measured by two or more meters into a single quantity for the purpose of billing as if the bill were prepared for a single meter. This sentence may be deleted, or the word "separately" may be inserted in lieu of the word "conjunctively," to conform to the contractor's regulated practice and/or when the schedule under which bills are computed is such that billing separately will be more economical that billing conjunctively.

(2) In paragraph (a)(ii), the periodic intervals prescribed between meter readings may be changed to conform to the contractor's regulated practice.

(b) *Meter Test.*

(1) The first sentence of paragraph (b), requiring testing at intervals not exceeding one year, may be changed to provide for meter tests in accordance with the Contractor's regulated practice.

(2) In the third sentence of paragraph (b), the percentage error (shown as 2 percent) may be changed to comply with the contractor's regulated practice.

(c) *Continuity of Service and Consumption.*

(1) In paragraph (d)(i), the adjustment proviso may be deleted or changed, if necessary, to conform with the provisions of the contractor's filed rate schedules. This paragraph may be ended after the word "facilities" and before the word "provided," or the period "ten hours" may be changed.

(2) Paragraph (d)(ii) may be deleted or changed, if the contractor's filed rates contain a provision requiring a continuation of demand, or similar charges, on a ready-to-serve basis during a period that the Government is unable to operate the service location for any cause beyond its control.

§ 18–7.5002 Clauses required to be used when applicable.

§ 18–7.5002–1 Federal, State, and local taxes.

In accordance with the requirements of § 18–11.401–2, insert the clause set forth therein.

§ 18–7.5002–2 Contract Work Hours Standards Act—overtime compensation.

Insert the clause set forth in § 18–12.303–1. Note the prefatory language required by § 18–12.303–2 for use in contracts with a State or political subdivision thereof.

§ 18–7.5002–3 Examination of records.

Insert the clause in § 18–7.104–15 except where the public utility services are to be furnished at rates not in excess of those established for uniform applicability to the general public or at such rates plus reasonable service or connection charges incident to such utility services.

§ 18–7.5002–4 Approval of contract.

When contractual approval by NASA Headquarters is required by § 18–4.5006, insert the clause set forth in § 18–7.104–31.

§ 18–7.5003 Additional clauses.

The clauses set forth in this § 18–7.5003 will be inserted in negotiated utility service contracts referred to in § 18–7.5001 when it is desired to cover the subject matter thereof. In addition, any other clause authorized by this chapter, in accordance with the instruction pertaining thereto, may be inserted in such contracts when it is necessary or desirable to cover the subject matter contained in such clauses.

§ 18–7.5003–1 Renewal of contract.

It is permissible to provide that a contract may be renewed annually for a number of years upon the execution by the Government of a renewal notice, provided that the number of successive years for which the contract is in effect does not exceed five. In any contract in which it is desirable that the service be provided under the same terms and conditions for a number of years, insert the following clause:

RENEWAL OF CONTRACT (JULY 1963)

This contract is renewable on an annual basis at the option of the Government, by the Contracting Officer giving written notice of renewal to the Contractor at least _____ days before this contract is to expire. If the Government exercises this option for renewal, the contract as renewed shall be deemed to include this option provision. However, the total duration of this contract, including the exercise of any options under this clause, shall not exceed _____ years.

In selecting the expiration date to be stated on NASA Form 550, consideration should be given to the selection of a date sufficiently past the end of the fiscal year to assure that appropriations will be available for the renewal period of the contract at the time the renewal notice is issued. The exercise of the option is a new procurement and the contract file shall be documented accordingly. (For guidance, see 32 CFR 1.1505.)

§ 18–7.5003–2 Public regulation and change of rates.

If the rates applicable to the service furnished under the contract are negotiated between the contractor and the Government without recourse to the approval of any Federal, State, or local regulatory agency, or if the service to be furnished under the contract is otherwise not subject to regulation by any Federal, State, or local regulatory agency, or if the contractor also acts as the local public regulatory agency and his decisions are not subject to review by a higher regulatory agency, the following clause will be used in lieu of the clause set forth in § 18–7.5001–11.

CHANGE OF RATES (JULY 1963)

(a) If at any time during the term of this contract either of the parties hereto considers it appropriate that all or part of the rates applicable to the service furnished under this contract be changed, the parties agree to promptly negotiate such rates upon receipt by one party of a written request from the other (i) specifying the rates as to which a change is considered appropriate, (ii) setting forth the proposed change in rates, and (iii) stating in detail the reasons for the proposed change. Any rate changes agreed to by the parties as the result of such negotiations shall be made a part of this contract by the issuance of a supplemental agreement hereto and shall become effective as of the date of the request for a change in rates, unless otherwise agreed to by the parties. Failure of the parties to agree upon the appropriate adjustment of rates, if any, shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(b) The Contractor agrees that a duly authorized representative of NASA shall have access to and the right to examine any directly pertinent books, documents, papers and records of the Contractor relating to costs which form the basis for the rates.

§ 18–7.5003–3 Connection charge.

When (a) a connection charge is to be paid by the Government and (b) the conditions permitting the incorporation of a nonrecurring, nonrefundable fee in (§ 18–16.501–52(a)) do not exist, attach Appendix C required by (§ 18–16.501–52(g)) to the contract, and insert the following clause in the contract:

CONNECTION CHARGE (JULY 1963)

(a) *Charge.* The Government, in consideration of the furnishing and installation by the Contractor at his expense of the New Facilities described in Appendix C, attached hereto and made a part hereof, shall pay the Contractor, as a connection charge, after receipt of satisfactory evidence of completion of the facilities, the sum of $_____, representing the sum of $_____, less the agreed salvage value in the amount of $_____, as shown in Appendix C: *Provided*, That, as a condition precedent to final payment, the Contractor shall, if required by the Contracting Officer, execute a release in terms acceptable to the Contracting Officer, of claims against the Government arising under or by virtue of such installation.

(b) *Ownership, operation, and maintenance of new facilities to be provided hereunder.* The facilities to be supplied by the Contractor under this clause, notwithstanding the payment by the Government of a connection charge, shall be and remain the property of the Contractor and shall, at all times during the life of this contract or any renewals thereof, be operated and maintained by the Contractor at his expense, and all taxes and other charges in connection therewith, together with all liability arising out of the construction, operation, or maintenance of such facilities, shall be the obligation of the Contractor.

(c) *Credits.*

(1) The Contractor agrees to allow the Government on each monthly bill for service furnished under this contract to the Service Location, a credit of ____ percent of the amount of each such bill as rendered until the accumulation of credits shall equal the amount of such connection charge, provided that the Contractor may at any time so allow a credit up to 100 percent of the amount of each such bill.

(2) In the event the Contractor, prior to any termination of this contract but subsequent to completion of the facilities provided for in this clause, serves any customer other than the Government (regardless of whether the Government is being served simultaneously, intermittently, or at all) by means of such facilities, the corresponding benefit to the Contractor is hereby recognized. It is, therefore, agreed that upon initiation of such service, the Contractor shall promptly pay in full to the Government the unredited balance of the connection charge, or accelerate the credits provided for under paragraph (c)(1) of this clause to 100 percent of each monthly bill until there is fully credited a sum equitably representing the same proportion of the uncredited balance of the connection charge as of the date of initiation of such service, as agreed upon by the parties hereto, as the portion of the facilities utilized in serving such customer bears to complete facilities described in Appendix C.

(d) *Termination Prior to Completion of Facilities.* The Government reserves the right to terminate this contract at any time prior to completion of the facilities provided for herein with respect to which the Government is to pay a connection charge. In the event the Government exercises this right, the Contractor shall be paid fair com-

service contracts of $2,500 or less annually whenever the negotiated utility service contract form prescribed by § 18-10.501-51 is to be used.

§ 18-7.5004-1 Definitions.

Insert the clause set forth in § 18-7.103-1.

§ 18-7.5004-2 Payments.

Insert the clause set forth in § 18-7.5001-2.

§ 18-7.5004-3 Assignment of claims.

Insert the clause set forth in § 18-7.5001-3.

§ 18-7.5004-4 Disputes.

Insert the clause set forth in § 18-7.103-12.

§ 18-7.5004-5 Equal opportunity.

Insert one or the other of the following clauses, as required by and in accordance with the instructions in § 18-12.802: (a) the Equal Opportunity clause set forth in § 18-12.802-1, or (b) the Equal Opportunity in Federally Assisted Construction Contracts clause set forth in § 18-12.802-2.

§ 18-7.5004-6 Officials not to benefit.

Insert the clause set forth in § 18-7.103-19.

§ 18-7.5004-7 Covenant against contingent fees.

Insert the clause set forth in § 18-1.503.

§ 18-7.5004-8 Termination.

Insert the clause set forth in § 18-7.5001-8.

§ 18-7.5004-9 Convict labor.

Insert the clause set forth in § 18-12.203.

§ 18-7.5004-10 Rates.

Insert subclause (b) of the clause set forth in § 18-7.5001-10.

§ 18-7.5004-11 Public regulation and change of rates.

Insert the clause set forth in § 18-7.5001-11.

§ 18-7.5004-12 Contractor's facilities.

CONTRACTOR'S FACILITIES (JULY 1963)

The Contractor, at his expense, shall furnish, install, operate, maintain, retain title to, and be responsible for all loss of or damage to all facilities required to furnish the service provided for herein. The Contractor will be allowed access to his facilities on Government premises at suitable times and he shall, at his expense, remove them and restore the premises to original condition within a reasonable time after termination of this contract.

TERMINATION CHARGES (JULY 1963)

In consideration of the furnishing and installation by the Contractor at his expense of the New Facilities described in Appendix C, attached hereto and made a part hereof, the Government shall, in the event of termination of this contract by the Government prior to ____ months from the date on which service commences, pay the Contractor as a termination charge _____ less _____ multiplied by the number of months service has been received prior to the date of such termination.

The length of time, not in excess of 60 months, as negotiated with the contractor will be entered in the first blank. In the second blank enter the amount of the maximum termination charge as negotiated with the contractor, but not in excess of cost of facilities furnished and installed by the contractor less the agreed salvage value as shown in § 18-16.501(c). Enter in the third blank the figure obtained by dividing the figure in the second blank by the figure in the first blank. The use of this clause does not affect the term of the contract; however, its use is subject to Headquarters approval in accordance with § 18-4.5006(b).

§ 18-7.5003-5 Multiple service locations.

When it is desired to provide for possible alternative service locations, insert the following clause:

MULTIPLE SERVICE LOCATIONS (JULY 1963)

(a) The Contracting Officer may at any time, by written order, designate any service location within the service area of the Contractor at which service shall be furnished or discontinued thereunder, and the contract shall be modified in writing accordingly by adding to or deleting from the Service Specifications the name and location of the appropriate service location, by specifying a different rate if applicable, the appropriate point of delivery, different service specification if applicable, and any other appropriate terms and conditions.

(b) The minimum monthly charge specified in this contract shall be equitably prorated for the billing period in which commencement or discontinuance of service at any service location designated under the Service Specifications shall become effective.

§ 18-7.5004 Required clauses—contracts for $2,500 or less annually.

The clauses set forth in this § 18-5004 shall be inserted in all negotiated utility

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PART II
Section 2

National Aeronautics and Space Administration

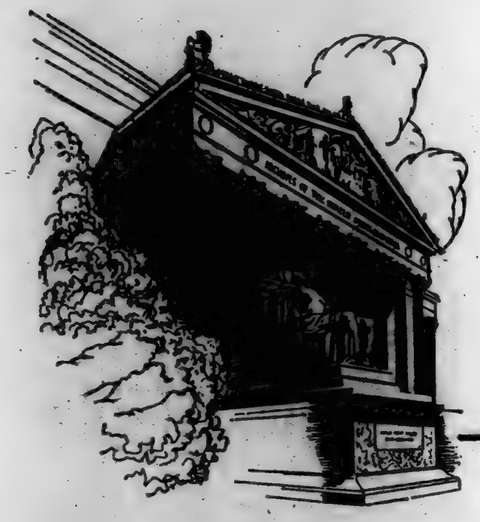

NASA PROCUREMENT REGULATIONS

[41 CFR Parts 18-8—18-54]

PART 18–8—TERMINATION OF CONTRACTS

Sec.
18–8.000 Scope and applicability of part.

Subpart 18–8.1—Definition of Terms

18–8.101 Definitions.
18–8.101–1 Amount of claim or settlement.
18–8.101–2 Common items.
18–8.101–3 Continued portion of the contract.
18–8.101–4 Contractor-acquired property.
18–8.101–5 Contractor inventory.
18–8.101–6 Disbursing officer.
18–8.101–7 Effective date of termination.
18–8.101–8 Government-furnished property.
18–8.101–9 Material.
18–8.101–10 Other work.
18–8.101–11 Partial termination.
18–8.101–12 Plant clearance period.
18–8.101–13 Plant equipment.
18–8.101–14 Prime contract.
18–8.101–15 Production equipment.
18–8.101–16 Salvage.
18–8.101–17 Scrap.
18–8.101–18 Serviceable or usable property.
18–8.101–19 Settlement agreement.
18–8.101–20 Settlement proposal.
18–8.101–21 Special machinery and equipment.
18–8.101–22 Special tooling.
18–8.101–23 Subcontract.
18–8.101–24 Termination claim.
18–8.101–25 Termination inventory.
18–8.101–26 Terminated portion of the contract.

Subpart 18–8.2—General Principles Applicable to the Settlement of Fixed-Price Type Contracts Terminated for Convenience and to the Settlement of All Terminated Cost-Reimbursement Type Contracts

18–8.200 Scope of subpart.
18–8.201 Authority of contracting officers.
18–8.202 Notice of termination.
18–8.203 Methods of settlement.
18–8.204 Duties of prime contractor after receipt of notice of termination.
18–8.205 Duties of contracting officer after issuance of notice of termination.
18–8.205–50 Utilization of services of military departments or of other NASA installations.
18–8.205–51 Procedures for requesting services of Military Departments.
18–8.206 Fraud or other criminal conduct.
18–8.207 Audit of prime contract settlement proposals and of subcontract settlements.
18–8.208 Settlement of subcontract claims.
18–8.208–1 Subcontractor's rights.
18–8.208–2 Prime contractor's rights and obligations.
18–8.208–3 Settlement procedure.
18–8.208–4 Authorization for subcontract settlements without approval or ratification.
18–8.208–5 Recognition of judgments and arbitration awards.
18–8.208–6 Delay in settlement of subcontractor claims.
18–8.208–7 Government assistance in settlement of subcontracts.
18–8.208–8 Assignment of rights under subcontracts.
18–8.209 Settlement agreements.
18–8.209–1 General.
18–8.209–2 Excepted items.
18–8.209–3 Government property.
18–8.209–4 No-cost settlement.
18–8.209–5 Partial settlements.
18–8.209–6 Joint settlement of two or more claims.
18–8.209–7 Settlement by determination.
18–8.210 Contracting officer's negotiation memorandum.
18–8.211 Review and approval of proposed settlements.
18–8.211–1 Settlement review board.
18–8.211–2 Required review and approval.
18–8.211–3 Scope of review.
18–8.211–4 Action by board.
18–8.212 Payment.
18–8.212–1 Partial payments upon termination.
18–8.212–2 Final payment.
18–8.213 Cost principles applicable to the settlement of research and development contracts with educational institutions.

Subpart 18–8.3—Additional Principles Applicable to the Settlement of Terminated Fixed-Price Type Contracts

18–8.301 General.
18–8.302 Cost principles.
18–8.303 Allowance for profit.
18–8.304 Adjustment for loss.
18–8.305 Deductions.
18–8.306 Completed end items.
18–8.307 Settlement proposals.
18–8.307–1 Submission of settlement proposals.
18–8.307–2 Bases for settlement proposals.
18–8.308 Limitation of settlements.

Subpart 18–8.4—Additional Principles Applicable to the Settlement of Terminated Cost-Reimbursement Type Contracts

Sec.
18–8.401 General considerations.
18–8.402 Discontinuance of vouchers.
18–8.404 Procedure after vouchers are discontinued.
18–8.404–1 Submission of settlement proposal.
18–8.404–2 Interim negotiations.
18–8.404–3 Partial payments.
18–8.404–4 Adjustment of overhead costs.
18–8.404–5 Information concerning previous cost vouchers.
18–8.404–6 Notice to General Accounting Officer of audit status date.
18–8.404–7 Exceptions by the General Accounting Office.
18–8.404–8 Final settlement.
18–8.405 Procedure for partial termination.
18–8.405–1 General.
18–8.405–2 Submission of settlement proposal (fee only).
18–8.405–3 Submission of vouchers.
18–8.406 Adjustment of fee.
18–8.407 Termination for default.

Subpart 18–8.5—Disposition of Termination Inventory

18–8.501 General.
18–8.501–1 Methods of disposal.
18–8.501–2 General restrictions on contractor's authority.
18–8.502 Contractor-acquired property—purchase or retention at cost, or return to suppliers.
18–8.502–1 Purchase or retention at cost.
18–8.502–2 Return of property to suppliers.
18–8.502–3 Cost-reimbursement type contracts.
18–8.503 Inventory schedules.
18–8.503–1 Submission of inventory schedules.
18–8.503–2 Separate schedules.
18–8.503–3 Inventory descriptions.
18–8.503–4 Inventory schedule certificate.
18–8.503–5 Common items.
18–8.503–6 Withdrawals from inventory schedules.
18–8.503–7 Rejection and correction of inadequate schedules.
18–8.504 Scrap and salvage.
18–8.504–1 General.
18–8.504–2 Scrap warranty.
18–8.505 Screening of serviceable and usable property.
18–8.506 Government-furnished property.
18–8.507 Sale or other disposition of termination inventory.
18–8.507–1 General.
18–8.507–2 Competitives sales.
18–8.507–3 Other sales.
18–8.507–4 Proceeds of sale.
18–8.507–5 Applicability of antitrust laws.
18–8.507–6 Foreign contractor inventory.
18–8.508 Donations.
18–8.509 Destruction or abandonment.
18–8.510 Special machinery, tooling, and equipment.
18–8.511 Removal and storage.
18–8.511–1 Special storage at the expense and risk of the contractor.
18–8.511–2 Storage at the expense and risk of the Government.
18–8.512 Review of property disposal.
18–8.513 Subcontractor termination inventory.
18–8.513–1 General policy.
18–8.513–2 Inventory schedules.
18–8.513–3 Scrap and salvage.
18–8.513–4 Serviceable or usable property.
18–8.514 Adjustment prior to final settlement.
18–8.514–1 Duty of contractors to inform Government.
18–8.514–2 Right of Government to review inventory schedules.
18–8.515 Accounting for termination inventory.

Subpart 18–8.6—Termination for Default

18–8.600 Scope of subpart.
18–8.601 General.
18–8.601–50 Utilization of services of Military Departments or of other NASA installations.
18–8.602 Termination of fixed-price supply contracts for default.
18–8.602–1 The Government's right to terminate for default.
18–8.602–2 Effect of termination for default.
18–8.602–3 Procedure for default.
18–8.602–4 Procedure in lieu of termination for default.
18–8.602–5 Memorandum by the Contracting officer.
18–8.602–6 Repurchase against contractor's account.
18–8.602–7 Other damages.
18–8.603 Termination of fixed-price construction contracts for default.
18–8.603–1 Termination of the contractor's right to proceed.
18–8.603–2 Effect of termination for default.
18–8.603–3 Procedure for default.
18–8.603–4 Procedure in lieu of termination for default.
18–8.603–5 Memorandum by the contracting officer.
18–8.603–6 Other damages.

Subpart 18–8.7—Clauses

Sec.
18–8.700 Scope of subpart.
18–8.701 Termination clause for fixed-price contracts.
18–8.702 Termination clause for cost-reimbursement type contracts.
18–8.703 Termination clause for fixed-price construction contracts.
18–8.704 Research and development contracts with nonprofit institutions (including educational institutions).
18–8.704–1 Termination clause.
18–8.704–2 Suggested clause for subcontracts.
18–8.705 Short form termination clauses.
18–8.705–1 Supply and service contracts.
18–8.705–2 Construction contracts.
18–8.705–50 Research contracts with nonprofit institutions (including educational institutions).
18–8.706 Subcontract termination clause.
18–8.707 Default clause for fixed-price supply contracts.
18–8.708 Excusable delays clause for cost-reimbursement type contracts.
18–8.709 Default clause for fixed-price construction contracts.
18–8.710 Default clause for fixed-price research and development contracts.

Subpart 18–8.8—Forms

Sec.
18–8.800 Scope of subpart.
18–8.801 Notice of termination.
18–8.801–1 Telegraphic notice of termination.
18–8.801–2 Letter notice of termination.
18–8.802 Forms for settlement of fixed-price contracts.
18–8.802–1 DD Form 540—Settlement proposal—Inventory basis.
18–8.802–2 DD Form 541—Settlement proposal—Total cost basis.
18–8.802–3 DD Form 881—Settlement proposal—Short form.
18–8.802–4 DD Form 542—Inventory Schedule A—Metals in mill product form and DD Form 542C—Inventory Schedule A—Continuation sheet.
18–8.802–5 Form 543—DD Inventory Schedule B—Raw Materials and DD Form 543C—Inventory Schedule B—Continuation sheet.
18–8.802–6 DD Form 544—Inventory Schedule C—Work in process and DD Form 544C—Inventory Schedule B—Continuation sheet.
18–8.802–7 DD Form 545—Inventory schedule D—Dies, jigs, fixtures, etc. and special tools; and DD Form 545C—Inventory schedule D, continuation sheet.
18–8.802–8 DD Form 882—Inventory schedule E—Short form for use with DD Form 881 only.
18–8.802–9 DD Form 546—Schedule of accounting information.
18–8.802–10 DD Form 548—Application for partial payment.
18–8.803 DD Form 547—Settlement proposal for cost-reimbursement type contracts.
18–8.804 DD Form 547a—Notice of audit status date.
18–8.805 Scrap warranty.
18–8.806 Forms of settlement agreement.
18–8.806–1 Settlement agreement for use in settling fixed-price prime contracts after complete termination.
18–8.806–2 Settlement agreement for use in settling fixed-price prime contracts after partial termination.
18–8.806–3 Partial settlement agreement for use in settling fixed-price prime contracts after complete or partial termination where settlement pertains only to settlements with subcontractors.
18–8.806–4 Settlement agreement for use in settling cost-reimbursement type prime contracts after complete termination where settlement includes costs.
18–8.806–5 Settlement agreement for use in settling cost-reimbursement type prime contracts after complete termination where settlement is limited to fee.
18–8.806–6 No cost settlement agreement—partial termination.
18–8.806–7 No cost settlement agreement—complete termination.
18–8.807 DD Form 1114—Instructions for use of contract termination settlement and inventory schedule forms.

Subpart 18–8.50—Contract Termination Status Report

Sec.
18–8.5000 Scope of subpart.
18–8.5001 Responsibility and procedure.

AUTHORITY: The provisions of this Part 18–8 issued under 42 U.S.C. 2473(b)(1).

§ 18–8.000 Scope and applicability of part.

(a) This Part 18–8—

(1) Establishes uniform policies and procedures relating to the complete or partial termination of contracts for the convenience of the Government or for default.

(2) Prescribes uniform contract clauses with respect to termination and excusable delay.

(3) Applies to contracts which by their terms provide for termination for the convenience of the Government or for the default of the contractor, whether or not the clauses in the contract with respect to termination and excusable delay are those prescribed by Subpart 18–8.7. (If the clauses actually used in the contract are inconsistent with the provisions of this part, the clauses actually used shall control to the extent of the inconsistency. Contracts which do not contain the applicable clauses may, when it is in the best interest of the Government, be amended by agreement prior to or after termination of the contract, to include or substitute such a clause.)

(4) Applies to the disposal of contractor inventory arising out of any modification of a cost-reimbursement type contract pursuant to the "Changes" clause.

(5) Shall be used in:

(i) The disposal of any property which has become obsolete or excess for any reason under a contract, when the cost of such property is made the basis of a claim by the contractor against the Government; or

(ii) The disposal of contractor inventory generally.

(b) Pursuant to agreements with the Military Departments (see § 18–8.205–50 (b)), NASA may request assistance from the Military Departments in performing certain functions of contract administration, including terminations. Sections 18–8.205–50 and 18–8.601–50 establish, for NASA, policy and instructions as to when, and to what extent, the services of the Military Departments shall be requested in the termination of contracts for the convenience of the Government or for default.

Subpart 18–8.1—Definition of terms

§ 18–8.101 Definitions.

As used in this Part 18–8, the following terms have the meaning stated below:

§ 18–8.101–1 Amount of claim or settlement.

When the action to be taken under this part depends upon the amount of a termination claim or settlement, then, in determining such amount, (a) credits for retention or other disposal of termination inventory allocated to the claim and for advance or partial payments shall not be deducted from the gross claim or settlement; but (b) amounts payable for completed articles or work at the contract price, or for the settlement or discharge of termination claims of subcontractors, shall be deducted.

§ 18–8.101–2 Common items.

"Common items" means material which is common in nature to both the terminated contract and the contractor's other work.

§ 18–8.101–3 Continued portion of the contract.

"Continued portion of the contract" means that portion of a partially terminated contract which relates to work or end items not already completed and accepted prior to the effective date of termination and which the contractor must continue to perform.

§ 18–8.101–4 Contractor-acquired property.

"Contractor-acquired property" is property procured or otherwise provided by the contractor for the performance of a contract, whether or not the Government has title by the terms of the contract, or exercises its contractual right to take title.

§ 18–8.101–5 Contractor inventory.

"Contractor inventory" means (a) any property acquired by and in the possession of a contractor or subcontractor (including Government-furnished property) under a contract pursuant to the terms of which title is vested in the Government, and in excess of the amounts needed to complete full performance under the entire contract; and (b) any property which the Government is obligated to or has an option to take over under any type of contract as a result either of any changes in the specifications or plans thereunder or of the termination of such contract (or subcontract thereunder), prior to completion of the work, for the convenience or at the option of the Government.

§ 18–8.101–6 Disbursing officer.

"Disbursing officer" means the officer or agent of the office designated as the paying office under the contract.

§ 18–8.101–7 Effective date of termination.

"Effective date of termination" means the date upon which the notice of termination first requires the contractor to stop performance, in whole or in part, under the contract. If, however, the termination notice is received subsequent to the date fixed for termination, then the effective date of termination means the date on which the notice is received.

§ 18–8.101–8 Government-furnished property.

"Government-furnished property" is property in the possession of or acquired directly by the Government, and subsequently delivered or otherwise made available to the contractor.

§ 18–8.101–9 Material.

"Material" means property which may be incorporated into or attached to an end item to be delivered under a contract or which may be consumed or expended in the performance of a contract. It includes, but is not limited to, raw and processed material, parts, components, assemblies, and small tools and supplies which may be consumed in normal use in the performance of the contract.

§ 18–8.101–10 Other work.

"Other work" means any current or scheduled work of the contractor, whether Government or commercial, other than work related to the terminated contract.

§ 18–8.101–11 Partial termination.

"Partial termination" means the termination of a part, but not all of the work which has not been completed and accepted under a contract.

§ 18–8.101–12 Plant clearance.

"Plant clearance period" means a period beginning with the effective date of the termination for convenience and ending, for each particular property classification (such as raw materials, purchased parts, and work in process) at any one plant or location, 180 days after receipt by the contracting officer of acceptable inventory schedules covering all items of that particular property classification in the termination inventory at that plant or location, or ending on such later date as may be agreed to by the contracting officer and the contractor. Final phase of a plant clearance period means that part of a plant clearance period after the receipt of acceptable inventory schedules covering all items of the particular property classified at the plant or location.

§ 18–8.101–13 Plant equipment.

"Plant equipment" means personal property of a capital nature (consisting of machinery, equipment, furniture, vehicles, machine tools, and accessory and auxiliary items, but excluding special tooling) used or capable of use in the manufacture of supplies or in the performance of services or for administrative or general plant purpose.

§ 18–8.101–14 Prime contract.

"Prime contract" means any contract as defined in § 18–1.207 entered into by any NASA Installation.

§ 18–8.101–15 Production equipment.

"Production equipment" means those items of plant equipment located within a manufacturing, processing, assembly, or service establishment, and used for cutting, abrading, grinding, shaping, forming, joining, measuring, testing, heating, or treating production materials or work in process.

§ 18–8.101–16 Salvage.

"Salvage" means property which, because of its worn, damaged, deteriorated, or incomplete condition, or specialized nature, has no reasonable prospect of sale or use as serviceable property without major repairs or alterations but which has some value in excess of its scrap value.

§ 18–8.101–17 Scrap.

"Scrap" means property that has no reasonable prospect of being sold except for the recovery value of its basic material content.

§ 18–8.101–18 Serviceable or usable property.

"Serviceable or usable property" means property that has reasonable prospect of sale or use either in its existing form or after minor repairs or alterations.

§ 18–8.101–19 Settlement agreement.

"Settlement agreement" means a written agreement, in the form of an amendment to the contract, between the contractor and the Government settling all or a severable portion of a settlement proposal.

§ 18–8.101–20 Settlement proposal.

"Settlement proposal" means a termination claim submitted by a contractor or subcontractor in the form, and supported by the data, required by this part.

§ 18–8.101–21 Special machinery and equipment.

"Special machinery and equipment" means that part of plant equipment which was acquired or constructed solely for the performance of the terminated contract or the terminated contract and other Government contracts, and as to which the contractor claims loss of useful value.

§ 18–8.101–22 Special tooling.

"Special tooling" means all jigs, dies, fixtures, molds, patterns, special taps, special gauges, special test equipment, other special equipment and manufacturing aids, and replacements thereof, acquired or manufactured by the contractor for use in the performance of a contract, which are of such a specialized nature that, without substantial modification or alteration, their use is limited to the production of such supplies or parts thereof, or the performance of such services, as are peculiar to the needs of the Government. The term does not include: (a) Items of tooling or equipment acquired by the contractor prior to the contract, or replacements thereof, whether or not altered or adapted for use in the performance of the contract; (b) consumable small tools; or (c) general or special machine tools, or similar capital items.

§ 18–8.101–23 Subcontract.

"Subcontract" means any contract as defined in § 18–1.207 other than a prime contract, entered into by a prime contractor or a subcontractor, calling for supplies or services required for the performance of any one or more prime contracts.

§ 18–8.101–24 Termination claim.

"Termination claim" means any claim by a contractor or subcontractor, permitted by the terms of a prime contract, for compensation for the termination, in whole or in part, of the prime contract or a subcontract thereunder, and any other claim which this Part 18–8 authorized to be asserted and settled in connection with a termination settlement.

§ 18–8.101–25 Termination inventory.

"Termination inventory" means any items of physical property purchased, supplied, manufactured, furnished, or otherwise acquired for performance of the terminated contract and properly allocable to the terminated portion of the contract. The term does not include any facilities, material, production or other equipment, or special tooling, which are subject to a separate contract or a special contract provision governing the use or disposition thereof. Termination inventory may include contractor-acquired property and Government-furnished property as defined in §§ 18–8.101–4 and 18–8.101–8.

§ 18–8.101–26 Terminated portion of the contract.

"Termination portion of the contract" means that portion of a terminated contract which relates to work or end items not already completed and accepted prior to the effective date of termination and which the contract is not to continue to perform.

Subpart 18–8.2—General Principles Applicable to the Settlement of Fixed-Price Type Contracts Terminated for Convenience and to the Settlement of All Terminated Cost-Reimbursement Type Contracts

§ 18–8.200 Scope of subpart.

This Subpart 18–8.2 deals with:

(a) The authority of contracting officers to terminate contracts in whole or in part (1) for the convenience of the Governments; and (2) in the case of cost-reimbursement type contracts for default;

(b) Duties of the contractor and the contracting officer after issuance of the notice of termination;

(c) General procedures for the settlement of terminated contracts; and

(d) Settlement agreements.

Subpart 18–8.3 sets forth additional principles applicable only to fixed-price type contracts. Subpart 18–8.4 sets forth additional principles applicable only to cost-reimbursement type contracts. Subpart 18–8.6 sets forth the principles applicable to the termination of fixed-price type contracts for default.

§ 18–8.201 Authority of contracting officers.

The authority of contracting officers to terminate contracts for convenience, and for default in the case of cost-reimbursement type contracts, and to enter into settlement agreements under this Chapter, is found in the "Termination" clause or other provisions of the contract. Contracts shall be terminated for the convenience of the Government or for default only when such action is in the best interest of the Government. The decisions as to whether to terminate the contract and the type of termination action to be taken shall be made only after a review by cognizant procurement, technical, and legal personnel. Notices of termination shall not be furnished to the contractor until this review has been made.

§ 18–8.202 Notice of termination.

Contracts shall be terminated for convenience, or for default in the case of cost-reimbursement type contracts, only by a written notice to the contractor (see § 18–8.801), stating:

(a) That the contract is being terminated for the convenience of the Government (or for default) pursuant to the contract provisions authorizing such termination;

(b) The effective date of termination;

(c) The extent of termination and, if a partial termination, the portion of the contract to be continued; and

(d) Any special instructions.

A copy of the notice of termination shall be sent to any known assignee, guarantor, or surety of the contractor.

§ 18–8.203 Methods of settlement.

Settlement of terminated cost-reimbursement type contracts and of fixed-price type contracts terminated for convenience may be effected by (a) negotiated agreement; (b) determination by the contracting officer; (c) in the case of cost-reimbursement type contracts, costing-out under vouchers using Standard Form 1034; or (d) a combination of these methods. Every effort shall be made to reach a fair and prompt settlement with the contractor. The negotiated agreement is the most expeditious and most satisfactory method of settling termination claims and shall be used whenever feasible. Settlement by determination shall be used only when a termination claim cannot be settled by agreement.

§ 18–8.204 Duties of prime contractor after receipt of notice of termination.

The contractor, after receipt of the notice of termination and except as otherwise directed by the contracting officer, must comply with the termination clause of the contract and the notice of termination which generally require, among other things, that the contractor:

(a) Stop work immediately on the terminated portion of the contract and discontinue placing subcontracts thereunder;

(b) Terminate all subcontracts related to the terminated portion of the prime contract;

(c) Immediately advise the contracting officer of any special circumstances precluding the stoppage of work;

(d) If the termination is partial, perform the continued portion of the contract and submit promptly any request for an equitable adjustment of price with respect to the continued portion of the contract, supported by evidence of any increase in the cost thereof;

(e) Take such action as may be necessary, or as the contracting officer may direct, to protect and preserve property in the possession of the contractor in which the Government has or may acquire an interest; and, to the extent directed by the contracting officer, deliver such property to the Government;

(f) Promptly notify the contracting officer in writing of any legal proceedings against the contractor growing out of any subcontract or other commitment related to the terminated portion of the contract;

(g) Settle all outstanding liabilities and all claims arising out of termination of subcontracts, obtaining any approvals or ratifications required by the contracting officer;

(h) Promptly submit his own settlement proposal, supported by appropriate schedules; and

(i) Dispose of any termination inventory, as directed or authorized by the contracting officer.

§ 18–8.205 Duties of contracting officer after issuance of notice of termination.

Paragraphs (a), (b), and (c) of this § 18–8.205 apply when the NASA contracting office either of the procurement office which issued the contract or of another NASA procurement office administering the contract is to conduct the entire termination proceedings. However, see § 18–8.205–50 for guidance as to when another NASA installation or one of the Military Departments is to be requested to assist in conducting the termination proceedings.

(a) In accordance with the termination clause in the contract and with the notice of termination, the contracting officer shall, among other things:

(1) Direct the action required of the prime contractor;

(2) Examine the settlement proposal of the prime contractor and, when appropriate, the settlement proposals of subcontractors;

(3) Promptly negotiate settlement with the contractor and enter into a settlement agreement; and

(4) To the extent that he is unable to negotiate settlement after due and diligent effort, promptly settle the contractor's claim by determination.

(b) To expedite settlement, the contracting officer shall seek assistance from specially qualified personnel (such as negotiating, legal, accounting, inspecting, engineering, and property disposal personnel) to:

(1) Assist the contracting officer in dealings with the contractor;

(2) Render advice on legal and contractual matters;

(3) Conduct accounting reviews and render advice and assistance on accounting matters; and

(4) Perform the following functions with respect to the termination inventory—

(i) Verify its existence;

(ii) Determine qualitative and quantitative allocability;

(iii) Make recommendations concerning serviceability and unserviceability;

(iv) Undertake necessary screening and redistribution; and

(v) Assist the contractor in accomplishing other disposition.

(c) An initial conference shall be held with the contractor as promptly as possible to develop a definite program for effecting the settlement. Where appropriate in the judgment of the contracting officer, principal subcontractors should be present. Topics discussed at the conference should include:

(1) General principles relating to the settlement of any termination claim, including obligations of the contractor under the termination clause of the contract;

(2) Extent of the termination, point at which work is stopped, and status of any plans, drawings, and information which would have been delivered had the contract been completed;

(3) Status of any continuing work;

(4) Obligation of the contractor to terminate subcontracts and general principles to be followed in settlement of subcontractor claims;

(5) Names of subcontractors involved and the respective dates termination notices were issued to them;

(6) Contractor personnel handling, and methods for, review and settlement of subcontractor claims;

(7) Arrangements for transfer of title and delivery to the Government of any materials required by the Government;

(8) General principles and procedures to be followed in the protection, preservation, and disposition of contractor's and subcontractor's termination inventory, including the preparation of termination inventory schedules;

(9) Contractor accounting practices and preparation of DD Form 546 (Schedule of Accounting Information) (§ 18–8.802–9);

(10) Form in which settlement proposals shall be submitted;

(11) Accounting review of settlement proposals;

(12) Any requirement for interim financing in the nature of partial payments; and

(13) Tentative time schedule for negotiation of the settlement, including submission of settlement proposals, termination inventory schedules, and accounting information schedules by the contractor and subcontractors.

§ 18–8.205–50 Utilization of services of military departments or of other NASA installations.

(a) *Determination as to how termination proceedings shall be conducted.* After issuing the Notice of Termination (see ASPR 8–200), the NASA contracting officer shall determine, in accordance with the policy set forth in paragraph (c) of this section, whether:

(1) To conduct the termination proceedings himself;

(2) To request another NASA installation to conduct all or a part of the termination proceedings; or

(3) To request one of the Military Departments to assist him in conducting the termination proceedings.

(b) *Agreements with the military departments.* NASA has entered into agreements with the Military Departments which provide that these Departments will perform certain functions for NASA in connection with the administration of NASA contracts, including terminations, pursuant to the procedures set forth in those agreements. For the agreement with the Department of the Army, see NASA Management Instruction 1052.18; with the Department of the Navy, see NASA Management Instruction 1052.15; and with the Department of the Air Force, see NASA Management Instruction 1052.12.

(c) *Policy.* (1) Normally, the NASA contracting officer shall conduct the termination proceedings himself when:

(i) It is determined that the circumstances of the contract being terminated require that the termination proceedings be conducted by the procuring office responsible for issuing the contract; or

(ii) Administration of the contract is not being performed by another NASA installation or a Military Department and the installation of which he is a member is adequately staffed to conduct the termination proceedings.

(2) When another NASA installation is assisting in the administration of the contract, and is adequately staffed and in a position to assist in or conduct the termination proceedings, the contracting officer normally will arrange with the contracting officer of that installation to assist in or conduct the termination proceedings. The contracting officer will delegate to the contracting officer of that installation such authority as is necessary to perform the services requested in connection with the termination proceedings, with any limitations on such authority that are agreed upon.

(3) Except as may be otherwise determined in particular instances, in all other situations not covered by subparagraphs (1) and (2) of this paragraph, it is the policy of NASA to utilize the services of the Military Departments in connection with termination proceedings, including such related functions as plant clearance and audit of settlement proposals and subcontractor settlements. § 18–8.205–51 establishes guidance as to the services to be requested of the Military Departments.

§ 18–8.205–51 Procedures for requesting services of Military Departments.

(a) When it is determined, in accordance with § 18–8.205–50(c)(3), to utilize the services of one of the Military Departments, a request for such services

shall be made by letter prepared in accordance with the agreement with the Military Department concerned (see § 18–8.205–50(b)). The letter shall specify those duties in § 18–8.205, as well as any other duties, which the Military Department is requested to perform, but shall not, without the approval of the Director of Procurement, include the duties listed in §§ 18–8.205(a)(3) and 18–8.205(a)(4) which are to be reserved for performance by the NASA contracting officer. In addition, the Military Department normally shall be requested to:

(1) Audit the prime contractor's settlement proposal and subcontractor settlements;

(2) Supervise plant clearance of the contractor's plant;

(3) Approve or ratify subcontractor settlements, subject to reviews required by Part 18–8 of this chapter; and

(4) Dispose of all prime and subcontractor termination inventories, subject to first priority screening by NASA and reviews required by Part 18–8 and § 18–13.151.

(b) The Military Department also shall be requested to submit the following material to the NASA contracting officer:

(1) The contractor's settlement proposal with recommendations as to whether such proposal should be accepted;

(2) All inventory schedules, as required by § 18–8.503; and

(3) All settlement and property disposal files generated during the termination proceedings.

§ 18–8.206 Fraud or other criminal conduct.

When the contracting officer has reason to suspect fraud or other criminal conduct in connection with the settlement of a terminated contract, he shall discontinue all negotiations with the contractor and shall report the facts to the General Counsel, NASA Headquarters, through the Office of Procurement.

§ 18–8.207 Audit of prime contract settlement proposals and of subcontract settlements.

(a) Each settlement proposal of $2,500 or over submitted by a prime contractor shall be referred by the contracting officer to the cognizant audit agency for appropriate examination and recommendation. The contracting officer may, when circumstances indicate the necessity therefor, refer settlement proposals of less than $2,500 to the cognizant audit agency. The contracting officer's referral shall be in writing, shall indicate any specific information or data which the contracting officer desires to have developed and will include any facts or circumstances within the knowledge of the contracting officer which will assist the audit agency in the accomplishment of its function. The auditor shall develop such information and may make such further accounting review as he deems appropriate. The audit agency shall submit written comments and recommendations to the contracting officer.

(b) Subcontract settlements submitted by a contractor to the contracting officer for approval or ratification in accordance with § 18–8.208 shall be referred to the cognizant audit agency for review and recommendations if (1) the settlement involves $25,000 or more unless an accounting review of the settlement proposal has been performed by the cognizant audit agency; or (2) the contracting officer considers an accounting review in whole or in part, desirable. The requirement for review under (1) or (2) does not relieve the prime contractor or higher tier subcontractor of the responsibility for performing an accounting review. The audit agency shall submit written comments and recommendations to the contracting officer.

(c) The responsibility of the contractor set forth in § 18–8.208–1 for settlement of immediate subcontractors' settlement proposals applies equally to prime contractors and subcontractors and includes responsibility for performing accounting reviews and any necessary field audits. However, in the situations outlined below, a Military Department audit agency generally should be requested to perform the accounting review of a subcontractor's settlement proposal where:

(1) A subcontractor objects to an accounting review of his records by an upper-tier contractor for competitive reasons;

(2) A Military Department audit agency is currently performing audit work at the subcontractor's plant, or where it can be performed more economically or efficiently;

(3) Audit by the Military Department audit agency is necessary for consistent audit treatment and orderly administration; or

(4) The contractor has a substantial or controlling financial interest in the subcontractor.

Duplication by the Military Department audit agency of accounting reviews performed by the upper-tier contractor on subcontractor settlement proposals will be avoided to the extent possible. However, when appropriate, the Government will make additional reviews. Where the contractor is performing accounting reviews in accordance with this paragraph, the contracting officer should request the cognizant audit agency periodically to examine the contractor's accounting review procedures (including but not limited to audit programs, cost principles applied, working papers, and audit reports) and performance thereunder and make such comments and recommendations to the contracting officer as may be deemed appropriate.

§ 18–8.208 Settlement of subcontract claims.

§ 18–8.208–1 Subcontractor's rights.

A subcontractor has no contractual rights against the Government upon the termination of a prime contract. The rights of a subcontractor are against the prime contractor or intermediate subcontractor with whom he has contracted. Upon termination of a prime contract, the prime contractor and each subcontractor are responsible for the prompt settlement of the termination claims of immediate subcontractors.

§ 18–8.208–2 Prime contractor's rights and obligations.

Each termination clause provides that, after receipt of a notice of termination and except as otherwise directed by the contracting officer, the prime contractor shall terminate all subcontracts to the extent that they relate to the performance of any work terminated by notice of termination. Prime contractors should therefore, for their own protection, include a termination clause in their subcontracts. A suggested subcontract termination clause is set forth in § 18–8.706. The failure of a prime contractor to include an appropriate termination clause in any subcontract, or to exercise his rights thereunder, shall not (a) affect the right of the Government to require the termination of the subcontract, or (b) increase the obligation of the Government beyond that which would have arisen if the subcontract had contained an appropriate termination clause. In any such case, the reasonableness of the prime contractor's settlement with the subcontractor should normally be measured by the aggregate amount which would be due under subparagraphs (i), (ii), and (iii) of paragraph (e) of the suggested subcontract termination clause. Reimbursement in excess of that amount shall be allowed only in unusual cases, and then only when the contracting officer is satisfied that the terms of the subcontract were negotiated in good faith and did not unreasonably increase the rights of the subcontractor.

§ 18–8.208–3 Settlement procedure.

(a) Settlements with subcontractors shall be made in general conformity with the policies and principles relating to settlement of prime contracts as set forth in this Subpart 18–8.2 and Subparts 18–8.3 and 18–8.4 as applicable. However, the basis and form of the subcontractor's settlement proposal must be acceptable to the prime contractor or the next higher tier subcontractor. Each such settlement shall be supported by accounting and other data sufficient for adequate review by the Government. In no event shall the Government pay to the prime contractor any amount for loss of anticipatory profits or consequential damages resulting from the termination of any subcontract (but see § 18–8.208–5).

(b) Except as provided in § 18–8.208–4: (1) All subcontractor termination inventory shall be disposed of and accounted for in accordance with Subpart 18–8.5, and (2) the contracting officer shall require the prime contractor to submit to him for approval or ratification all termination settlements with

subcontractors. In submitting each settlement, the prime contractor shall certify that he has examined the subcontractor's claims included therein, that they are allocable to the terminated portion of the prime contract, and that the settlement if fair and reasonable, was negotiated in good faith, and is not more favorable to the subcontractor than if the Government were not involved. The contractor shall also certify that he has received from all his immediate subcontractors certifications substantially in the form of his own certification. With respect to settlements with more remote subcontractors, the contractor shall certify that he has no information leading him to doubt their reasonableness or their allocability to the terminated portion of the prime contract.

(c) The contracting officer shall promptly examine such subcontract settlement required to be submitted to him (including the basis and form of the proposal upon which the settlement was based) to satisfy himself that the subcontract termination was made necessary by the termination of the prime contract (or by issuance of a change order—see § 18–8.000(d)(1), and that the settlement was arrived at in good faith, is reasonable in amount, and is allocable to the terminated portion of the contract (or if allocable only in part, that the proposed allocation is reasonable). In considering the reasonableness of any subcontract settlement, the contracting officer shall be guided generally by the provisions of this Part 18–8 relating to the settlement of prime contracts, and shall comply with any applicable requirements of §§ 18–8.207 and 18–8.211 relating to accounting and other reviews. Upon completion of the examination, the contracting officer shall notify the contractor in writing of (1) his approval or ratification, or (2) his reasons for disapproval.

§ 18–8.208–4 Authorization for subcontract settlements without approval or ratification.

(a)(1) The contracting officer may, upon the written request of the prime contractor, authorize him in writing to conclude settlements of $10,000 or less (see § 18–8.101–1) of his terminated subcontracts, without approval or ratification by the contracting officer, if:

(i) The contracting officer is satisfied with the adequacy of the procedures used by the contractor in settling termination claims (including proposals for retention, sale, or other disposal of termination inventory) of his immediate and lower tier subcontractors. (The contracting officer shall obtain the advice and recommendations of (A) the cognisant audit agency with respect to the adequacy of the contractor's audit administration, including personnel; and (B) the cognisant disposal office with respect to the adequacy of the contractor's procedures and personnel for the administration of property disposal matters.);

(ii) Any termination inventory included in determining the amount of the settlement will be disposed of in accordance with § 18–8.513, except that the disposition of such inventory shall not (A) be subject to review by the contracting officer under § 18–8.513–1 or § 18–8.513–3 or (B) be subject to § 18–8.513–4: *Provided, however,* No production equipment included in such inventory shall be disposed of prior to screening pursuant to § 18–8.505; and

(iii) The settlement will be accompanied by a certificate substantially similar to the certificate set forth in the settlement proposal forms in § 18–8.802: *Provided,* That the contracting officer shall not grant to the contractor any authority hereunder for settlements between $2,500 and $10,000 without the written approval of the Procurement Officer. Except as provided in § 18–8.208–4(a)(3), authority granted to a prime contractor pursuant to paragraph (1) of this § 18–8.208–4(a) by any contracting officer within NASA shall be applicable to all prime contracts of all procurement offices within NASA which have been (A) terminated or (B) modified by change orders. Such authorization may be exercised only in settling subcontracts which have been terminated as a result of termination for convenience or modification of the prime contract by the Government.

(2) Except as provided in subparagraph (3) of this paragraph, the contracting officer without further approval or ratification shall accept, as part of the prime contractor's termination claim, any settlement of terminated lower tier subcontracts concluded by any of his immediate or lower tier subcontractors who, pursuant to subparagraph (1) of this paragraph, have been granted, by any contracting officer within NASA authority as prime contractors to settle subcontracts: *Provided,* That the settlement of such lower tier subcontracts is within the limit of such authority.

(3) The provisions of (1) and (2) of this paragraph shall not apply to any contracts under the administration of any contracting officer within NASA, if such contracting officer so notifies the prime contractor concerned. Such notice (A) shall be in writing, (B) shall be issued only after written approval thereof by the Director of the Installation concerned or his deputy, and (C) if subparagraph (2) of this paragraph is involved shall specify, any subcontractor affected.

(b) Section 18–8.513 shall apply to any disposal of completed end items allocable to the terminated subcontract, except that completed end items allocable to the terminated subcontract may be disposed of without review by the contracting officer under § 18–8.513–1 or § 18–8.513–3, and without screening under § 18–8.513–4, if the total amount thereof (at the subcontract price) when added to the amount of the settlement does not exceed the amount authorized under this § 18–8.208–4.

(c) A contracting officer granting the above authorization to a contractor shall be responsible for periodically making a selective review of settlements and settlement procedures to determine whether the contractor is making adequate reviews and fair settlements, and whether such authorization shall remain in effect. In connection with these periodic reviews, the contracting officer may obtain the advice and recommendations of the cognisant audit agency with respect to the auditing aspects of the contractor's review procedures and those of the disposal office with respect to property disposal aspects of the contractor's review procedures. Whenever the contracting officer determines that the contractor's procedures are not adequate or that improper settlements are being made, he shall revoke the authorization by written notice to the contractor. The revocation shall take effect only from the date of receipt.

(d) Any number of separate settlements may be made with a single subcontractor. However, claims which would normally be included in a single settlement proposal, such as those based on a series of separate orders for the same item under one contract, shall be consolidated wherever possible, and shall not be divided in order to bring them within an authorization.

(e) Upon written request of the contractor and with the prior written approval of the Director of the Installation concerned or his deputy, an authorization granted under paragraph (a)(1) of this section, may be increased to authorize the contractor to conclude settlements of more than $10,000 but not more than $25,000 under a particular prime contract. Such authorization in excess of $10,000 may be limited to specific subcontracts or classes of subcontracts. However, production equipment, the cost of which is included in determining the amount of the claim, shall not be disposed of prior to screening pursuant to § 18–8.505.

§ 18–8.208–5 Recognition of judgments and arbitration awards.

(a) In the event a subcontractor obtains a final judgment against a prime contractor, the contracting officer shall, for the purposes of settling the prime contract, treat the amount of the judgment as a cost of settling with the subcontractor, to the extent such judgment is properly allocable to the terminated portion of the prime contract if:

(1) The prime contractor has made reasonable efforts to include in his subcontract the termination clause in § 18–8.706 or a similar clause excluding payment of anticipatory profits or consequential damages;

(2) The provisions of the subcontract relating to the rights of the parties upon its termination, in whole or in part, are fair and reasonable and do not unreasonably increase the common law rights of the subcontractor;

(3) The contractor has made reasonable efforts to settle the claim of the subcontractor;

(4) The contractor has given prompt notice to the contracting officer of the initiation of the proceedings in which the judgment was rendered and has not refused to give the Government control of the defense of the proceedings; and

(5) The contractor has diligently defended the suit or, if the Government has assumed control of the defense of the proceedings, has rendered such reasonable assistance as has been requested by the Government.

If the foregoing conditions are not all met, the contracting officer may allow the contractor such part of the judgment as he considers a fair amount for settling the termination claim under the subcontract, giving due regard to the policies set forth in this Part 18–8 for settlement of such claims.

(b) Where a contractor and his subcontractor submit a subcontractor termination claim to arbitration under any applicable law or contract provision, the contracting officer shall recognize the amount of the arbitration award as the cost of settling the claim of the subcontractor to the same extent and under the same conditions as specified in paragraph (a) of this § 18–8.208–5.

§ 18–8.208–6 Delay in settlement of subcontractor claims.

Where a prime contractor is unable to settle with a subcontractor and such inability is delaying the settlement of the prime contract, the contracting officer may settle with the prime contractor, excepting from the settlement the whole or any part of the claim of such subcontractor and reserving the rights of the Government and of the prime contractor with respect thereto.

§ 18–8.208–7 Government assistance in settlement of subcontracts.

In unusual cases the contracting officer may determine that it is in the best interest of the Government to offer assistance to the prime contractor in the settlement of a particular subcontract. Such a situation may exist when the prime contractor has made all reasonable efforts to negotiate the settlement without success and the contracting officer believes that with the assistance of the Government a settlement can be reached. Such assistance shall be furnished only with the consent of the prime contractor. In such cases, an agreement may be entered into by the Government, the prime contractor, and a subcontractor, covering the settlement of one or more subcontracts. In any such case, payment to the subcontractor shall be effected through the prime contractor as part of the overall settlement with the latter.

§ 18–8.208–8 Assignment of rights under subcontracts.

(a) The termination clauses set forth in Subpart 18–8.7 obligate the prime contractor to assign to the Government, in the manner, at the times, and to the extent directed by the contracting officer, all his right, title, and interest under any subcontracts terminated by reason of termination of the prime contract. The contracting officer shall not require such assignment unless he determines that it is in the best interest of the Government.

(b) In giving the Government the right to require the assignment of the prime contractor's interest in terminated subcontracts, the termination clauses set forth in Subpart 18–8.7 also provide that the Government shall have the right, in its discretion, to settle and pay any or all claims arising out of the termination of such subcontracts. This right does not obligate the Government to settle and pay termination claims of subcontractors. As a general rule, the prime contractor is obligated to settle and pay such claims. Where, however, the contracting officer determines that it is in the best interest of the Government to settle and pay directly a subcontractor's termination claim, he shall first obtain approval in accordance with existing procedures. An example of a situation in which the best interest of the Government would be served by effecting a direct settlement would be where a subcontractor is the sole source for a product and it appears that a delay by the prime contractor in settlement or payment of the subcontractor's claim will jeopardize the financial position of the subcontractor. Direct settlements with subcontractors are not encouraged.

§ 18–8.209 Settlement agreements.

§ 18–8.209–1 General.

When a settlement has been negotiated with respect to the terminated portion of a contract, and all required views have been obtained, the contractor and the contracting officer shall enter into a settlement agreement, substantially in the form set forth in the appropriate subparagraph of § 18–8.806. The settlement shall cover (a) any setoffs and counterclaims which the Government may have against the contractor and which may be applied against the terminated contract, and (b) all claims of subcontractors, except claims which are specifically excepted from the agreement and reserved for separate settlement.

§ 18–8.209–2 Excepted items.

Where any rights or claims of the Government or of the contractor are to be excepted from the settlement, the settlement agreement shall specify the nature and extent of the excepted items. However, care shall be taken so that the wording of the exception does not create any new rights in the parties beyond those in existence prior to the execution of the settlement agreement. The separate settlement of excepted items shall be in accordance with the provisions of this section and shall be set forth in settlement agreements.

§ 18–8.209–3 Government property.

Before any settlement agreement is executed, the contracting officer shall determine the status of the Government property account for the terminated contract. If the audit of such property required by NASA Industrial Property Control Manual (NPC–105A) paragraphs 9–2 and 9–3, or Appendix C of ASPR, paragraph C–215, discloses property for which the contractor cannot account, the settlement agreement shall reserve the rights of the Government with respect to such property, or make an appropriate deduction from the amount otherwise due the contractor.

§ 18–8.209–4 No-cost settlement.

(a) If no costs have been incurred by the contractor with respect to the terminated portion of the contract or if the contractor is willing to waive the costs incurred by him and if no amounts are due to the Government under the contract, a no-cost settlement agreement shall be executed substantially in the form set forth in § 18–8.806–6 or § 18–8.806–7, as appropriate.

(b) Under a terminated cost-reimbursement type contract, if the contractor elects to obtain reimbursement of costs by the submission of Standard Form 1034 vouchers (costing-out), the settlement agreement shall cover only the fee, if any.

§ 18–8.209–5 Partial settlements.

Every effort should be made by the contracting officer to settle in one agreement all rights and liabilities of the parties under the contract except those arising from any continued portion of the contract. Generally, contracting officers shall not attempt to make partial settlements covering particular items of the prime contractor's settlement proposal. However, when a contracting officer cannot promptly effect a complete settlement under the terminated contract, a partial settlement may be entered into: *Provided* (a) The issues on which agreement has been reached are clearly severable from other issues, and (b) the partial settlement will not prejudice the interest of the Government or the contractor in disposing of the unsettled part of the claim.

§ 18–8.209–6 Joint settlement of two or more claims.

With the consent of the contractor, the contracting officer or officers concerned may negotiate jointly two or more termination claims of the same contractor under different contracts, even though such contracts are with different NASA Installations. In such cases, accounting work shall be consolidated to the greatest extent practical. The settlement resulting from such joint negotiation may be evidenced by one settlement agreement covering all contracts involved or by a separate agreement for each contract involved. Where the settlement agreement covers more than one contract, it shall (a) clearly identify the contracts involved; (b) apportion the total amount of the settlement among

the several contracts on some reasonable basis; (c) have attached or incorporated therein a schedule showing the apportionment; and (d) be distributed and attached to each contract involved in the same manner as other contract amendments.

§ 18–8.209–7 Settlement by determination.

(a) *General.* To the extent that the contractor and contracting officer are unable to agree upon the settlement of a terminated contract or if a termination claim is not submitted within the period required by the termination clause in the contract, the contracting officer shall issue a determination of the amount due in accordance with the termination clause in the contract, including any cost principles incorporated therein by reference. The contracting officer shall comply with the provisions of §§ 18–8.209–1 through 18–8.209–6 in making any such determination.

(b) *Notice to contractor.* The contracting officer shall give the contractor not less than 15 days' notice by certified mail (return receipt requested) to submit on or before a stated date, written evidence substantiating the amount claimed to be due.

(c) *Submission of evidence.* (1) The contractor has the burden of establishing by proof satisfactory to the contracting officer the amount claimed.

(2) The contractor may submit such vouchers, verified transcripts of books of account, affidavits, audit reports, and other documents as he may wish. The contracting officer may request the contractor to submit such additional documents and data, and may cause such accounting, investigations, and audits to be made, as he deems appropriate.

(3) The contracting officer may accept photostatic or other copies of documents and records, and shall not require original documents, unless there is a question of authenticity.

(4) If the contractor wishes to confer with the contracting officer, or if the contracting officer wishes additional information from Government personnel or from independent experts, or wishes to consult persons whose affidavits or reports have been submitted, the contracting officer, in his discretion, may hold such conferences as he deems appropriate.

(d) *Determinations.* After reviewing the information submitted or otherwise available to him, the contracting officer shall determine the amount due and shall transmit a copy of his determination to the contractor by certified mail (return receipt requested). The letter of transmittal shall advise the contractor that the determination is a final decision from which an appeal may be taken under the Disputes clause. The determination shall set forth the amount due the contractor and shall be supported by detailed schedules conforming generally to the forms for settlement proposals prescribed in § 18–8.802 and by additional information, schedules, and analyses, as appropriate. An adequate explanation shall be given for each major item of disallowance. The contracting officer need not reconsider (1) any settlement with a subcontractor, (2) any disposition of property, or (3) any other action relating to the terminated portion of the contract, where such settlement, disposition, or other action has been previously ratified or approved by him or another duly authorized contracting officer.

(e) *Preservation of evidence.* The contracting officer shall retain in appropriate files of the contracting agency all written evidence and other data or copies thereof, relied upon by him in making his determination, except that copies of original books of account, need not be made. Books of account together with other original papers and documents, shall be returned to the contractor within a reasonable time.

(f) *Appeals.* The contractor has a right of appeal, under the Disputes clause of the contract, from any settlement by determination, except that the contractor has no such right of appeal where he has failed to submit his settlement proposal within the time provided in the contract and has failed to request extension of such time. The pendency of an appeal shall not affect the authority of the contracting officer to settle the termination claim or any part thereof by a negotiated agreement with the contractor at any time before the appeal is decided.

§ 18–8.210 Contracting officer's negotiation memorandum.

The contracting officer shall, at the conclusion of the settlement negotiations, prepare a memorandum setting forth the principal elements of the settlement for inclusion in the contract file and for the use of reviewing authorities. If the settlement was negotiated on the basis of individual items, the contracting officer shall specify the factors considered with respect to each item. If the settlement was negotiated on an overall lump-sum basis, the contracting officer need not evaluate each item or group of items individually, but the total amount of the recommended settlement shall be supported in reasonable detail. The memorandum shall include explanations of matters as to which differences and doubtful questions were settled by agreement, and the factors taken into consideration in connection therewith, and any other matters which, in the opinion of the contracting officer, will assist reviewing authorities in understanding the basis for the settlement.

§ 18–8.211 Review and approval of proposed settlements.

§ 18–8.211–1 Settlement Review Board.

The Director of Procurement has established a Settlement Review Board at NASA Headquarters to review proposed settlements as required by § 18–8.211–2 (a) (see NASA Management Instruction 1152.8). NASA Installations will establish their own internal procedures for review of proposed settlements below the dollar level stipulated in § 18–8.211–2 (a).

§ 18–8.211–2 Required review and approval.

(a) *When required.* Prior to executing a supplemental agreement, or issuing a determination of the amount due under the Termination clause of a contract, or approving or ratifying a subcontract settlement, the contracting officer shall submit each such settlement or determination for review and approval by the Board if:

(1) The settlement or determination with respect to a prime contract involves $500,000 or more, and with respect to a subcontract involves $100,000 or more (see § 18–8.101–1);

(2) The settlement or determination is limited to an adjustment of the fee of a cost-reimbursement contract or subcontract and—

(i) In the case of a complete termination, the fee, as adjusted, is $100,000 or more; or

(ii) In the case of a partial termination, the fee, as adjusted, with respect to the terminated portion of the contract or subcontract is $100,000 or more; or

(3) The contracting officer desires review by the Board, in cases other than in (1) and (2) of this paragraph.

(b) *Submission of information.* The contracting officer shall submit directly to the Board a statement of the settlement, supported by such detailed information as is required for an adequate review. This information normally should include copies of the:

(1) Contractor's or subcontractor's settlement proposal;

(2) Audit report;

(3) Property disposal report and any required approvals in connection therewith; and

(4) Contracting officer's memorandum explaining the settlement (see § 18–8.210).

The Board may, at its discretion, require the submission of additional information.

§ 18–8.211–3 Scope of review.

The function of the Board is to determine the overall reasonableness of the proposed settlement agreement or determination from the standpoint of protecting the Government's interest.

§ 18–8.211–4 Action by Board.

The Board shall submit to the contracting officer a written opinion with respect to the proposed settlement agreement or determination and any other matter considered by the Board setting forth its approval or disapproval thereof, or other decision thereon, signed by each Board member present. Falure of the Board to submit a written opinion as to any proposal settlement agreement or determination within 30 days after receipt by the Board of all the information required pursuant to § 18–8.211–2(b) shall operate as an approval by the Board.

§ 18–8.212 Payment.

§ 18–8.212–1 Partial payments upon termination.

(a) *General.* If the contract authorizes partial payments on termination claims prior to settlement, a fixed-price prime contractor, or a cost-reimbursement prime contractor whose settlement proposal includes costs, may request such partial payments in the form set forth in § 18–8.802–10 at any time after submission of interim or final settlement proposals. Applications for partial payments shall be processed promptly. Partial payments to a subcontractor shall be made only through the prime contractor.

(b) *Amount of partial payment.* Before approving any partial payment requested by the contractor, the contracting officer shall have made such accounting, engineering, or other specialised reviews as he deems proper of the data required by this Section to be submitted in support of the contractor's settlement proposals. If such reviews and the contracting officer's examination of the data indicate that the requested partial payment is proper, the contracting officer may, in his discretion, authorize payments as follows:

(1) An amount up to 100 percent of the contract price, adjusted in accordance with § 18–8.306 for undelivered acceptable items completed prior to the termination date, or completed thereafter with the approval of the contracting officer, which are included in the contractor's settlement proposals pursuant to § 18–8.306;

(2) An amount up to 100 percent of the amount of any subcontract settlement effected and paid by the prime contractor: *Provided*, The settlement has been approved or ratified by the contracting officer pursuant to § 18–8.208–2(c) or has been authorized pursuant to § 18–8.208–4;

(3) An amount up to 90 percent of the direct cost of termination inventory, including costs of raw materials, purchased parts, supplies, and direct labor;

(4) A reasonable amount, not to exceed 90 percent, of other allowable costs (including manufacturing and administrative overhead) allocable to the terminated portion of the contract and not included in paragraphs (1), (2), or (3) of this § 18–8.212–1; and

(5) An amount up to 100 percent of partial payments made to subcontractors in conformance with this § 18–8.212–1(b).

No partial payments shall be made on account of profit or fee which may be claimed with respect to the terminated portion of the contract. In exercising his discretion as to the extent to which partial payments shall be made, the contracting officer shall consider the diligence of the contractor in settling with his subcontractors and in preparing its own claim.

(c) *Recognition of assignments.* Where an assignment of claims has been made under the contract, partial payments shall not be made to other than the assignee unless the parties to the assignment consent to the payments.

(d) *Security for partial payments.* To the extent that any partial payment is made with respect to completed end items or for direct or indirect costs of termination inventory, the interest of the Government shall be protected by transfer of title to the Government of the completed end items or termination inventory concerned, or by the creation of a lien in favor of the Government, paramount to all other liens, on such completed end items or termination inventory, or by other means authorized by existing procedures.

(e) *Deductions in computing amount of partial payments.* There shall be deducted from the gross amount of any partial payment otherwise payable under § 18–8.212–1(b):

(1) All unliquidated balances of progress payments and advance payments (including interest thereon) theretofore made to the contractor, which are allocable to the terminated portion of the contract; and

(2) The amounts of all credits arising from the purchase, retention, or sale of property the costs of which are included in the application for partial payment.

(f) *Limitation on total amount: effect of overpayment.* The total amount of all partial payments shall not exceed the amount which will, in the opinion of the contracting officer, become due to the contractor by reason of the termination. If the total of partial payments made to the contractor should exceed the amount finally determined to be due to the contractor on his termination claim, the excess shall be repayable to the Government on demand, together with interest computed at the rate of 6 percent per annum from the date such excess payment was received by the contractor to the date of repayment: *Provided*, That (1) no interest shall be charged for any such excess payment attributable to a reduction in the contract termination claim by reason of retention or other disposition of termination inventory, until 10 days after the date of such retention or disposition, or such later date as determined by the contracting officer by reason of the circumstances, and (2) no interest shall be charged for overpayment under cost-reimbursement type research and development contracts (without profit or fee to the contractor) if the overpayments are repaid to the Government within 30 days after demand.

(g) *Certification and approval of partial payments.* Partial payments in a specific amount shall be made on the basis of vouchers or invoices certified by the contractor. The certification shall include, in addition to any other provisions ordinarily required to be included in such certificate, the following:

> The payment covered by this voucher is a partial payment on account of the Contractor's termination claim under contract No. 2 ,.....; made pursuant to Part 8 of the NASA Procurement Regulation.

The invoice or voucher, if proper, shall be approved by the contracting officer by noting thereon the following:

> Payment in the amount of $..... approved.

§ 18–8.212–2 Final payment.

(a) *Negotiated settlement.* Upon execution of a settlement agreement, a voucher or invoice showing the amount agreed upon, less any portion previously paid, shall be prepared and certified in the usual form and presented to the disbursing officer for payment. A copy of the settlement agreement shall be attached to the voucher or invoice.

(b) *Settlement by determination.* In the event of a settlement by determination:

(1) If the contractor has not appealed the determination, a voucher or invoice showing the amount so determined to be due, less any portion previously paid, shall be prepared and certified in the usual form and presented to the disbursing officer for payment; or

(2) If the contractor has appealed the determination, a voucher or invoice showing the amount finally determined on such appeal to be due, less any portion previously paid, shall be prepared and certified in the usual form and presented to the disbursing officer for payment. Pending determination of any appeal, an invoice or voucher pursuant to subparagraph (1) of this paragraph may be presented to the disbursing officer for payment, without prejudice to the rights of either party on the appeal.

(c) *Interest.* No interest shall be paid by the Government on the amount due under a settlement agreement or a settlement by determination.

§ 18–8.213 Cost principles applicable to the settlement of research and development contracts with educational institutions.

The cost principles and procedures set forth in Subpart 18–15.2, shall, subject to the general policies set forth in § 18–8.301, be a guide for the negotiation of settlements under fixed price or cost-reimbursement type contracts for experimental, developmental or research work with educational institutions, in accordance with § 18–15.103 and Part 18–15.6.

Subpart 18–8.3—Additional Principles Applicable to the Settlement of Terminated Fixed-Price Type Contracts

§ 18–8.301 General.

(a) A settlement should compensate the contractor fairly for the work done and the preparations made for the terminated portions of the contract, including an allowance for profit thereon which is reasonable under the circumstances. Fair compensation is a matter of judgment and cannot be measured exactly. In a given case, various methods may be equally appropriate for arriving at fair compensation. The application of standards of business judgment, as distinguished from strict accounting principles, is the heart of a settlement.

(b) The primary objective is to negotiate a settlement by agreement. The parties may agree upon a total amount to be paid the contractor without agreeing on or segregating the particular elements of costs or profit comprising this amount.

(c) Cost and accounting data may provide guides, but are not rigid measures, for ascertaining fair compensation. In appropriate cases, costs may be estimated, differences compromised, and doubtful questions settled by agreement. Other types of data, criteria, or standards may furnish equally reliable guides to fair compensation. The amount of record keeping, reporting and accounting, in connection with the settlement of termination claims shall be kept to the minimum compatible with the reasonable protection of the public interest.

§ 18–8.302 Cost principles.

The principles set forth in the applicable Subpart of Part 18–15 shall be used as a guide for the evaluation of cost information in the negotiation of a termination settlement.

§ 18–8.303 Allowance for profit.

(a) *General.* Profit shall be allowed only on preparations made and work done by the contractor for the terminated portion of the contract but may not be allowed on the contractor's settlement expenses. Anticipatory profits and consequential damages shall not be allowed (but see § 18–8.208–5). Any reasonable method may be used to arrive at a fair profit, separately or as a part of the whole settlement.

(b) *Factors to be considered.* In negotiating or determining profit, factors to be considered include:

(1) Extent and difficulty of the work done by the contractor as compared with the total work required by the contract; engineering estimates of the percentage of completion ordinarily should not be required, but if available should be considered;

(2) Engineering work, production scheduling, planning, technical study and supervision, and other necessary services;

(3) Efficiency of the contractor, with particular regard to (i) attainment of quantity and quality production, (ii) reduction of costs, and (iii) economy in the use of materials, facilities, and manpower;

(4) Amount and source of capital employed, and extent of risk assumed;

(5) Inventive and developmental contributions, and cooperation with the Government and other contractors in supplying technical assistance;

(6) Character of the business, including the source and nature of materials and the complexity of manufacturing techniques;

(7) The rate of profit which the contractor would have earned had the contract been completed;

(8) Character, extent, and difficulty of subcontracting, including selection, placement, and management of subcontracts, settlement of terminated subcontracts, and engineering, technical assistance, and other services rendered but the profit shall not be measured by the amount of the contractor's payments to subcontractors for settlement of their termination claims; and

(9) The rate of profit both parties contemplated at the time the contract was negotiated.

(c) *Profits in settlement by determination.* The formula for determining profit, set forth in subparagraph (e)(ii)(C) of the termination clause for fixed-price contracts (see § 18–8.701) and subparagraph (e)(i)(C) of the clause for fixed-price construction contracts (see § 18–8.703), is applicable only to a settlement by determination (see § 18–8.209–7), and shall not be used in establishing the profit allowed in a settlement by negotiation.

§ 18–8.304 Adjustment for loss.

(a) In the negotiation or determination of any settlement, no profit shall be allowed if it appears that the contractor would have incurred a loss had the entire contract been completed. The amount of loss shall be negotiated or determined and an adjustment in the amount of settlement shall be made as specified in paragraph (b) or (c) of this section. In estimating the cost to complete, consideration shall be given to expected production efficiencies and to other factors affecting the cost to complete.

(b) If the settlement is on an inventory basis, the contractor shall not be paid more than:

(1) The amount negotiated or determined for settlement expenses;

(2) The contract price, as adjusted, for acceptable completed end items (see § 18–8.306); and

(3) The remainder of the settlement amount otherwise agreed or determined (not excluding the allocable portion of initial costs (see § 18–15.205–42(c)), reduced by multiplying that remainder by the ratio of (A) the total contract price, to (B) the total cost incurred prior to termination plus the estimated cost to complete the entire contract;

less all disposal credits and all unliquidated advance and progress payments previously made to the contractor under the contract.

(c) If the settlement is on a total cost basis, the contractor shall not be paid more than:

(1) The amount negotiated or determined for settlement expenses; and

(2) The remainder of the total settlement amount otherwise agreed or determined, reduced by multiplying that remainder by the ratio of (A) the total contract price, to (B) that remainder plus the estimated cost to complete the entire contract;

less all disposal and other credits, all advance and progress payments, and all other amounts previously paid to the contractor under the contract.

§ 18–8.305 Deductions.

From the amount payable to the contractor under a settlement, there shall be deducted (a) the agreed price for any part of the termination inventory purchased or retained by the contractor, and the proceeds of sale of any materials sold by him, which have not otherwise been paid or credited to the Government; (b) the fair value, as determined by the contracting officer, of any part of the termination inventory which, prior to transfer of title to the Government or to a buyer pursuant to Subpart 18–8.5 is destroyed, lost, stolen, or so damaged as to become undeliverable, except for normal spoilage or to the extent the Government has expressly assumed the risk of loss; and (c) such other amounts as appropriate in the particular case.

§ 18–8.306 Completed end items.

Promptly after the effective date of termination, the contracting officer shall have all undelivered completed end items inspected and accepted if they comply with the prime contract requirements, and shall determine which accepted end items shall be delivered under the contract. The contractor shall be paid for completed end items so accepted and delivered by invoicing them at the contract price in the usual manner and shall not include such end items in his termination claim. Where completed end items, though accepted, are not to be delivered under the contract, the contractor shall include such end items in his settlement proposal at the contract price, appropriately adjusted for any saving of freight or other charges, together with any credits for their purchase, retention, or sale.

§ 18–8.307 Settlement proposals.

§ 18–8.307–1 Submission of settlement proposals.

(a) Subject to the provisions of the Termination clause in the contract, the contractor shall promptly submit to the contracting officer a settlement proposal setting forth the amount claimed to be due by reason of the termination. The proposal shall be submitted within one year from the effective date of the termination, unless the period has been extended in accordance with the terms of the contract.

(b) The settlement proposal shall cover all elements of the contractor's claim, including settlements with subcontractors. With the consent of the

contracting officer, proposals may be filed in successive steps covering separate portions of a claim. Such interim proposals shall include all costs of a particular type, except as the contracting officer may authorize otherwise.

(c) Settlement proposals shall be in the form prescribed in § 18–8.802. When none of those forms is adequate for a particular contract, the Director of Procurement may authorize appropriate modifications. Settlement proposals shall be in reasonable detail supported by adequate accounting data. Actual, standard (approximately adjusted), or average costs, may be used in preparing settlement proposals: *Provided*, That such costs are determined in accordance with generally recognized accounting principles consistently followed by the contractor. When actual, standard, or average costs are not reasonably available, estimated costs may be used if the method of arriving at the estimates is approved by the contracting officer. A contractor shall not be required to maintain unduly elaborate cost accounting systems merely because his contracts may subsequently be terminated.

(d) DD Form 831 (see § 18–8.802–3) may be used when the total claim is less than $2,500, unless otherwise instructed by the contracting officer. Claims which would normally be included in a single settlement proposal, such as those based on a series of separate orders for the same item under one contract, shall be consolidated wherever possible and shall not be divided in such a way as to bring them below $2,500.

§ 18–8.307–2 Bases for settlement proposals.

(a) *Inventory basis.* Use of the inventory basis for settlement proposals is preferred. Under this basis the contractor shall claim only costs chargeable or allocable to the terminated portion of the contract, and the settlement proposal shall itemize separately:

(1) At purchase or manufacturing cost, each of the following—metals, raw materials, purchased parts, work in process, finished parts, components, dies, jigs, fixtures, and tooling;

(2) Charges such as engineering costs, initial costs, and general and administrative costs;

(3) Costs of settlements with subcontractors;

(4) Settlement expenses; and

(5) Other proper charges.

An allowance for profit (see § 18–8.303) or adjustment for loss (see § 18–8.304(b)) shall be made to complete the gross termination claim. All unliquidated advance and progress payments, and all disposal and other credits known when the proposal is submitted, shall then be deducted.

(b) *Total cost basis.* (1) When use of the inventory basis is not practicable or will unduly delay settlement, the total cost basis may be used if approved in advance by the contracting officer.

(2) When the total cost basis is used under a complete termination, all costs incurred under the contract up to the effective date of termination shall be itemized and the costs of settlements with subcontractors and applicable settlement expenses shall be added. An allowance for profit (see § 18–8.303) or adjustment for loss (see § 18–8.304(c)) shall be made. The contract price for all end items which have been or are to be delivered and accepted shall be deducted. All unliquidated advance and progress payments, disposal and other credits known when the proposal is submitted, shall also be deducted.

(3) When the total cost basis is used under a partial termination, the settlement proposal shall not be submitted until completion of the continued portion of the contract. The settlement proposal shall be prepared in accordance with (2) above except that all costs incurred to the date of completion of the continued portion of the contract shall be included.

(c) *Other basis.* Termination claims shall not be submitted on any basis other than paragraphs (a) or (b) of this section without the prior approval of the Director of Procurement.

§ 18–8.308 Limitation on settlements.

The total amount payable to the contractor on account of a settlement, whether through negotiation or by determination, before deducting disposal or other credits and exclusive of settlement costs, shall not exceed the contract price less payments otherwise made or to be made under the contract.

Subpart 18–8.4—Additional Principles Applicable to the Settlement of Terminated Cost-Reimbursement Type Contracts

§ 18–8.401 General considerations.

The termination clauses for cost-reimbursement type contracts (see §§ 18–8.702 and 18–8.704) provide for the settlement of costs and of fee, if any. The provisions of the particular contract governing costs shall determine what costs are allowable.

§ 18–8.402 Discontinuance of vouchers.

(a) When the contract has been completely terminated, the contractor shall not use Standard Form 1034 (Public Voucher) after the last day of the sixth month following the month in which the termination notice is effective; however, he may elect to discontinue the use of such vouchers at any time prior thereto. When the contractor has vouchered out all costs within the 6-month period, his claim for fee, if any, may be submitted on DD Form 547 (see § 18–8.803) or by letter appropriately certified. The contractor must substantiate the amount of the fee he claims. The claim for fee must be submitted to the contracting officer within 1 year from the effective date of termination, unless the period has been extended in accordance with the terms of the contract. When the use of vouchers has been discontinued, all unvouchered costs and claim for fee, if any, shall thereafter be submitted in accordance with § 18–8.604.

(b) When the contract has been partially terminated, the provisions of § 18–8.405 shall be applied.

§ 18–8.404 Procedure after vouchers are discontinued.

§ 18–8.404–1 Submission of settlement proposal.

The contractor shall submit a settlement proposal covering his costs and his claim for a fee, if any. Such proposal shall be submitted to the contracting officer within 1 year from the effective date of termination, unless the period has been extended in accordance with the terms of the contract and in the form prescribed in § 18–8.803, unless the Director of Procurement authorizes modification thereof. The proposal shall contain only unvouchered costs and the contractor may not include in such proposal costs which:

(a) Have been finally disallowed by the contracting officer or the General Accounting Office; or

(b) Are the subject of a reclaim voucher or any costs of a similar nature.

§ 18–8.404–2 Interim negotiations.

The contracting officer and the contractor shall proceed immediately to take all action required by the termination clause of the contract and by this Section (including negotiation of settlements with fixed-price subcontractors), but no final settlement agreement shall be executed until there has been full compliance with §§ 18–8.404–5 through 18–8.404–7.

§ 18–8.404–3 Partial payments.

Requests for partial payments shall be made and processed in accordance with § 18–8.212–1.

§ 18–8.404–4 Adjustment of overhead costs.

(a) If the contract contains a negotiated overhead rate clause (see § 18–8.704) and it appears that adjustment of overhead costs applicable to vouchered costs under the procedure established for determining such negotiated overhead rates will unduly delay final settlement, the contracting officer after obtaining appropriate information from the cognizant auditor may agree with the contractor:

(1) To negotiate the amount of overhead for the contract for the period for which fixed overhead rates have not previously been negotiated, based upon audit recommendations requested by the contracting officer for such purpose; or

(2) That any overhead adjustment shall be reserved in the final settlement agreement, pending establishment of negotiated rates in accordance with Subpart 18–3.7.

(b) When an amount of overhead is negotiated pursuant to (a)(1) above, the contractor will eliminate such overhead and the related direct costs on which it was based from the total pool and base used to compute overhead for other contracts performed during the applicable accounting period.

§ 18–8.404–5 Information concerning previous cost vouchers.

(a) The contracting officer shall notify the appropriate disbursing officer in writing of the number of the last Standard Form 1034 cost voucher submitted to him for payment.

(b) Within 10 days from the date of payment of the last Standard Form 1034 voucher or from the date of receipt of the notice referred to in paragraph (a) of this section, whichever is later, the disbursing officer shall prepare and transmit to the contracting officer a list of all Standard Form 1034 vouchers paid under the contract, showing (1) disbursing officer voucher number; (2) amount of voucher; (3) date of payment; (4) disbursing officer's name, symbol, and address; and (5) total amount of vouchers paid. The contracting officer shall verify the number and amounts of the vouchers listed against the records of the NASA Installation and if any discrepancies exist, shall request the disbursing officer to reconcile them. After reconciliation, the verified list shall be returned to the disbursing officer.

§ 18–8.404–6 Notice to General Accounting Officer of audit status date.

Upon receipt of the verified list of vouchers, the disbursing officer shall immediately transmit a Notice of Audit Status Date (DD Form 547a), by certified mail (return receipt requested) to the Regional Office of the General Accounting Office zone in which the work on the terminated contract was being performed. Such notice fixes as the "Audit Status Date" (a) the day 60 days from the date of the receipt of the notice by the General Accounting Office, or (b) the date of the receipt by the NASA Installation of the final General Accounting Office audit status letter, whichever is earlier. The disbursing officer shall send a copy of the notice to the contracting officer, and shall state when the notice was received by the General Accounting Office.

§ 18–8.404–7 Exceptions by the General Accounting Office.

(a) During the first 30 days after receipt by it of the audit status notice, the General Accounting Office will continue to issue informal inquiries before issuing exceptions; thereafter and until the audit status date, it will issue exceptions without issuing informal inquiries. Only those exceptions listed in the General Accounting Office final audit status letter will be considered as outstanding at that time; all informal inquiries will either be converted by the General Accounting Office to exceptions at the time of issuance of that letter or be deemed to have been cleared. Upon receipt of replies to exceptions, the General Accounting Office will promptly furnish notice that the reply is satisfactory or will promptly issue a revised exception. No exceptions (other than pro forma exceptions) will be issued after the audit status date.

(b) All replies to exceptions and informal inquiries shall advise the General Accounting Office of the disposition to be made of the particular item in the final settlement and shall contain complete information justifying the payments in question. Replies shall be submitted promptly. After the audit status date, a final attempt shall be made by the contracting officer to clear with the General Accounting Office all outstanding exceptions and reclaim vouchers prior to final settlement.

§ 18–8.404–8 Final settlement.

(a) The contracting officer may proceed with completion of the settlement and execution of an appropriate settlement agreement at any time after receipt of the final audit status letter. If no such letter has been received on or before the 15th day following the audit status date, the contracting officer may proceed on the basis that there are no outstanding exceptions.

(b) The fee shall be adjusted as provided in § 18–8.406.

(c) The final settlement agreement may include all claims of the Government and of the contractor under the terminated contract, except that no amount may be allowed for any item of cost which is the subject of a General Accounting Office exception, either cleared by deduction or uncleared, or for any other item of cost of the same nature, unless a reclaim voucher covering such cost has been presented by the contractor and authorized by the General Accounting Office for payment.

(d) The provisions of the contract governing the types of reimbursable costs shall constitute the basis of negotiations; however, if an overall settlement of costs is agreed upon, agreement on each separate element of cost is not necessary. In appropriate cases, differences may be compromised and doubtful questions settled by agreement. An overall settlement shall not, under any circumstances, be made the means of reimbursing contractors for costs which under the provisions of the contract are clearly not allowable.

§ 18–8.405 Procedure for partial termination.

§ 18–8.405–1 General.

(a) In the event of a partial termination, the settlement shall be limited to adjustment of the fee, if any, in accordance with §§ 18–8.405–3 and 18–8.406 unless the contracting officer determines that:

(1) The terminated portion is clearly severable from the balance of the contract; or

(2) Performance of the contract is virtually complete, or that performance of any continued portion is only on subsidiary items or spare parts, or is otherwise not substantial.

(b) In the case of the foregoing exceptions, the procedures in §§ 18–8.402, 18–8.403, 18–8.404 are applicable.

§ 18–8.405–2 Submission of settlement proposal (fee only).

The contractor shall submit a settlement proposal which shall be limited to the amount of his claim, if any, for a fee. Such proposal shall be submitted to the contracting officer within 1 year from the effective date of termination, unless the period has been extended in accordance with the terms of the contract. The proposal may be submitted in the form prescribed in § 18–8.803 or by letter appropriately certified. The contractor must substantiate the amount of the fee he claims.

§ 18–8.405–3 Submission of vouchers.

In the event of a partial termination when settlement is limited to adjustment of fee, if any, the contractor shall continue to submit on Standard Form 1034 all costs reimbursable under the contract, including (a) his own costs allocable to the terminated portion of the contract, (b) cost of settlements with subcontractors properly identified as such, and (c) applicable settlement expenses. The contractor shall not be reimbursed for costs of settlements with subcontractors unless the approval or ratifications required pursuant to the contract have been obtained (see § 18–8.203).

§ 18–8.406 Adjustment of fee.

The adjusted fee to be paid, if any, shall be determined in the manner provided by the contract, generally based on percentage of completion of the contract or of the terminated portion thereof. Where this basis is used, factors such as the extent and difficulty of the work performed by the contractor (including but not limited to planning, scheduling, technical study, engineering work production and supervision, placing and supervising subcontracts to the extent reasonably required, and work performed by the contractor in (a) stopping performance, (b) settling claims of subcontractors, and (c) disposing of termination inventory) shall be compared with the total work required by the contract or by the terminated portion thereof. The ratio of costs incurred to the total estimated cost of performing the contract or the terminated portion thereof is only one factor in computing the percentage of completion. This percentage may be either greater or less than that indicated by the ratio of costs incurred, depending upon the evaluation by the contracting officer of the above factors and other relevant considerations.

§ 18–8.407 Termination for default.

The right to terminate a cost-reimbursement type contract for default is provided for in the Termination clause set forth in § 18–8.702. In the event of termination, the contractor shall be reimbursed his allowable costs in accordance with the clause, and an appropriate reduction shall be made in the total fee, if any, computed in accordance with the default provisions of the contract (see paragraph (e)(1)(B)(II) of the clause in § 18–8.702). The costs of preparing the contractor's settlement proposal are not allowable. A cost-reimbursement type contract does not contain any provision for recovery of excess costs of reprocurement after termination for default, but see paragraph (b) of the clause set forth in § 18–7.203–5 with respect to failure of the contractor to replace or correct defective supplies. The procedures set forth in §§ 18–8.602 and 18–8.603 shall be used to the extent appropriate in considering the termination for default of a cost-reimbursement type contract. A 10-day notice to the contractor prior to termination for default is required in every case by the Termination clause in § 18–8.702.

Subpart 18–8.5—Disposition of Termination Inventory

§ 18–8.501 General.

§ 18–8.501–1 Methods of disposal.

Subject to the Government exercising its right under the termination clause in a contract to acquire title to, and require delivery of, any items of termination inventory, the contractor shall dispose of all termination inventory in the manner most favorable to the Government by the following methods, in the order of priority indicated:

(a) Purchase or retention by the prime contractor or subcontractor at cost;

(b) Return to suppliers;

(c) Sale (including purchase or retention at less than cost by the prime contractor or subcontractor); or

(d) Other disposition as hereinafter provided.

§ 18–8.501–2 General restrictions on contractor's authority.

(a) The following general restrictions are in addition to specific restrictions set forth in this Subpart 18–8.5.

(b) The authority of a contractor to purchase, retain, or dispose of termination inventory or to authorize or approve a purchase, retention, or disposition by a subcontractor is subject to (1) any applicable Government restrictions on the disposition of property which is either classified by reason of military security or is dangerous to public health, safety or welfare, and (2) any contract provisions regarding the disposition of material subject to a lien.

(c) Contractors shall not sell termination inventory to persons known by them to be NASA personnel, or civilian or military personnel of the Department of Defense who were or are engaged in the administration or termination of NASA contracts.

(d) The authority of a contractor to approve a sale or a purchase or retention at less than cost, by a subcontractor and the authority of a subcontractor to sell, or to purchase or retain at less than cost, termination inventory with the approval of the next higher-tier contractor does not include (1) a sale by a subcontractor to the next higher-tier contractor or to an affiliate of such contractor or of the subcontractor, or (2) a sale, or a purchase or retention at less than cost, by a subcontractor affiliated with the next higher-tier contractor. Each such excluded sale, purchase, or retention requires the written approval of the contracting officer. A firm shall be considered to be affiliated with another firm if they are under common control or if there is any common interest between them, by reason of stock ownership or otherwise, which is sufficient to create a reasonable doubt that the bargaining between them is completely at arm's length.

§ 18–8.502 Contractor-acquired property—purchase or retention at cost, or return to suppliers.

§ 18–8.502–1 Purchase or retention at cost.

Contractors shall be encouraged to purchase or retain contractor-acquired property at cost. No part of the cost of property so purchased or retained shall be included in settlement proposals. In any instance in which a contractor purchases or retains any allocable contractor-acquired property for use in other continuing Government contracts or commercial operations, handling and transportation charges necessitated by the purchase or retention of such property may be included in the contractor's settlement proposal as "other costs": *Provided*, That such costs are reasonable. Where property purchased or retained is for use on a continuing Government contract and is not in excess of the quantitative requirements for completion of that contract, that property shall be considered properly allocable to the continuing contract if that contract is subsequently terminated, even though its procurement would otherwise constitute undue anticipation of production schedules. If, as a result of the purchase or retention of property from a terminated contract for use on a continuing Government contract, the contractor terminates subcontracts under the continuing Government contract, the charges incurred by reason of the termination of such subcontracts may be included in the termination claim under the terminated contract.

§ 18–8.502–2 Return of property to suppliers.

Contractors are authorized and shall be encouraged to return allocable quantities of contractor-acquired property to suppliers for full credit less the supplier's normal restocking charge, or 25 percent of cost whichever is less. Contractors shall not include in their settlement proposals the cost of such property returned to suppliers in accordance with this paragraph. Contractors may include in their settlement proposals as "other costs" the transportation handling and restocking charges with respect to the property so returned.

§ 18–8.502–3 Cost-reimbursement type contracts.

Under cost-reimbursement type contracts the contractor's right to purchase or retain contractor-acquired property at cost (see § 18–8.502–1) or return such property to suppliers (see § 18–8.502–2) shall be subject to the approval of the contracting officer after adjustment of previously reimbursed costs for such property.

§ 18–8.503 Inventory schedules.

§ 18–8.503–1 Submission of inventory schedules.

As promptly as possible after receipt of a Notice of Termination, the prime contractor is required to submit inventory schedules to the contracting officer covering all items of termination inventory, including Government-furnished property: *Provided*, That termination inventory purchased or retained at cost, or returned to suppliers, pursuant to § 18–8.502 shall not be listed. Inventory schedules may be submitted prior to submission of the settlement proposal. Submission shall not be delayed in order to supply complete cost data on items of work in process where such data is not readily available. Partial schedules may be submitted from time to time when they cover substantial portions of a particular property classification in the termination inventory. Each schedule submitted shall be designated by the contractor as "partial" or "final."

§ 18–8.503–2 Separate schedules.

Separate sets of schedules shall be submitted on the forms prescribed in Subpart 18–8, this Part, for contractor-acquired and for Government-furnished property. Within each of these categories, property shall be grouped separately in the following classifications:

(a) Production equipment;
(b) Aeronautical material and equipment;
(c) Electronic material and equipment;
(d) Special tooling;
(e) Special test equipment;
(f) Other serviceable or usable property (see § 18–8.101–18); and
(g) Scrap or salvage.

Classification of property by the contractor in the schedules shall be subject to the approval of the contracting officer.

§ 18–8.503–3 Inventory descriptions.

A commercial description, adequate for disposal and screening purposes, of all items having commercial value shall be included in the inventory schedules. Where any items of termination inventory bear a Government identification number, such number shall be listed on the inventory schedules. In the case of other items, the contractor shall furnish a description sufficient to enable the contracting officer to determine the proper disposition thereof. The contractor shall consult the contracting officer when in doubt as to the extent of description required. The contractor need not itemize material believed to be scrap or salvage if (a) such material is physically segregated in the contractor's plan; and (b) the contractor submits a statement describing the material generally, setting forth its approximate cost, and giving such other information as may be necessary for the contracting officer to determine whether the material is scrap or salvage. If the material is determined by the contracting officer to be scrap or salvage (see § 18–8.504), the contractor may make a single descriptive entry on an inventory schedule covering such material and indicating its approximate total cost.

§ 18–8.503–4 Inventory schedule certificate.

The certificate on the inventory schedules listed in § 18–8.802–4 through § 18–8.802–6 shall be executed by the contractor on each scheduled submitted. The certificate, among other things, tenders title to the Government of the property listed therein, unless the Government already has title thereto.

§ 18–8.503–5 Common items.

Under no circumstances shall the contractor's inventory schedules include any items (except for property delivery of which has been required by the Government and except for Government-furnished property) reasonably usable on other work of the contractor without loss to it. (See § 18–15.205–42.)

§ 18–8.503–6 Withdrawals from inventory schedules.

If at any time prior to final disposition any items of contractor-acquired property listed in the contractor's inventory schedules become reasonably usable on other work of the contractor without loss to him and this fact is known to the contractor, the contractor is required to purchase or retain such items at cost in accordance with § 18–8.502–1 or § 18–8.502–2, whichever is applicable, and shall amend his inventory schedules and his settlement proposal accordingly. Upon notification to the contracting officer, the contractor may similarly purchase or retain at cost any other items of property included in his inventory schedules. Withdrawal of Government-furnished property included in inventory schedules is subject to approval by the contracting officer.

§ 18–8.503–7 Rejection and correction of inadequate schedules.

(a) *General.* Contracting officers shall cause to be verified, to the extent practicable, the physical count and condition of inventories, including Government-furnished property, listed on the contractor's inventory schedules. If any inventory schedule submitted by a contractor is found to be inadequate, the contractor shall be promptly notified and required to correct or supplement the schedule as to the items which are deficient. Inventory schedules shall not be rejected if the information contained therein is adequate for disposal purposes, even if complete cost data on work in process are not available. Rejection of an inventory schedule shall be limited where possible to specific items thereon and shall not necessarily render the entire schedule unacceptable.

(b) *Effect on plant clearance period.* (1) Where only individual items on the inventory schedules covering all items of a particular property classification are in need of correction or amplification, the inventory schedules as submitted shall be considered acceptable for purposes of starting the final phase of a plant clearance period (see § 18–8.101–12). However, where the inadequacy of an inventory schedule requires the return of the entire schedule to the contractor for correction or revision, the final phase of the plant clearance period as to the property classification covered thereby shall not begin until acceptable final schedules covering that property classification have been submitted.

(2) The contracting officer shall advise the contractor of any deficiencies apparent in the inventory schedule within 15 days after receipt of the final schedule, or the schedules shall be deemed acceptable for purposes of starting the final phase of a plant clearance period. However, should substantial errors develop which were not apparent from the inventory schedules previously deemed acceptable, the final phase of a plant clearance period shall not be deemed to have commenced until corrected schedules have been submitted, unless the contracting officer determines that no unwarranted delay in disposal operations was occasioned thereby.

§ 18–8.504 Scrap and salvage.

§ 18–8.504–1 General.

Promptly after the submission of inventory schedules, by the contractor, the contracting officer shall review, or cause to be reviewed the contractor's treatment of any items of termination inventory as scrap or salvage (see § 18–8.503–3). The review shall include a careful examination of the inventory schedules and in

appropriate cases physical inspection of the property involved. Prior to determining that such items are scrap or salvage, the contracting officer shall obtain such screening clearances and other approvals as may be required. If the contracting officer determines that any of the materials listed by the contractor as scrap or salvage are serviceable or usable materials, the contractor shall, in accordance with such determination, submit revised inventory schedules (see § 18–8.503–7). Property determined to be scrap and which, by other Government regulations, is required to be segregated by alloy or otherwise, shall be so segregated by the contractor. Property determined to be scrap or salvage may, with the approval of the contracting officer, be sold or otherwise disposed of by the contractor in accordance with the provisions of § 18–8.505, § 18–8.507, or § 18–8.509. In appropriate cases, when approved by the contracting officer, such sales may be consolidated with the contractor's sales of scrap and salvage generated, from his other work and in such cases, the scrap warranty required by § 18–8.504–2 may be waived in the discretion of the contracting officer.

§ 18–8.504–2 Scrap warranty.

(a) If any termination inventory is sold as scrap, a scrap warranty, substantially as set forth in 8.805 shall be obtained.

(b) The scrap warranty may be released on behalf of the Government by the contracting officer if, as consideration for the release, the Government is paid the difference between (1) the price for which the material was sold as scrap and (2) an amount, approved by the contracting officer, not less than that which the material would bring if it were sold at a fair and reasonable price as set forth in § 18–8.507–2(a), for purposes other than use as scrap. The release of the scrap warranty shall be given by the Government and the consideration paid to the Government, even though the contract containing the warranty was not made directly with the Government.

(c) In the event of resale of any material subject to a scrap warranty, the seller is required to obtain an appropriate scrap warranty from the purchaser thereof. Upon tender of this warranty to the Government, the seller shall be released by the Government from liability under his own warranty.

§ 18–8.505 Screening of serviceable and usable property.

NASA contracting officers shall submit all termination inventory schedules to the cognizant NASA property officer for screening and utilization in accordance with NASA Management Manual 20–4–2.

§ 18–8.506 Government-furnished property.

Government-furnished property included in termination inventory; return of which has not been required by the Government, may be disposed of in the same manner as other termination inventory after screening in accordance with the requirements of NASA Management Instruction 4310.1. The contracting officer is required to approve all such dispositions and may specify methods for preparing and routing inventory schedules covering such property.

§ 18–8.507 Sale or other disposition of termination inventory.

§ 18–8.507–1 General.

Under the standard termination clauses, the contractor is required to use his best efforts to sell termination inventory, in the manner, at the times, to the extent, and at the prices directed or authorized by the contracting officer, except that the contractor (1) is not required to extend credit to any purchaser, and (2) may purchase or retain at less than cost any items of termination inventory not retained by him at cost. Any property which is included in the contractor's inventory schedules, which has not been acquired by the Government under § 18–8.505, may be purchased or retained at less than cost by the contractor or sold by the contractor to a third party as provided in § 18–8.507–2 or § 18–8507–3 at any time after notification by the contracting officer that screening has been accomplished or will not be required. Any such purchase, retention or sale shall be subject to the approval of the contracting officer, as part of or prior to the final settlement.

§ 18–8.507–2 Competitive sales.

(a) Except as provided in § 18–8.507–3, termination inventory shall be offered for sale on a competitive basis. Generally three bids shall be obtained, one of which may be submitted by the contractor. However, solicitations shall not be restricted to three bids, unless the circumstances clearly justify such restriction. The property shall be sold to that responsible bidder whose bid is most advantageous to the Government, price and other factors considered, or purchased or retained by the contractor if his bid is most advantageous to the Government: *Provided*, That the price shall be fair and reasonable in the light of reasonable knowledge or test of the market, due regard being had for current prices for any raw materials or products for which quotations are published, and to the circumstances, nature, condition, quantity, and location of property. Any bid by the contractor shall be submitted in the same manner as and concurrently with other bids. The contractor shall not be entitled to preference in any sale.

(b) Bids shall be solicited sufficiently in advance of the opening of bids to allow bidders an adequate opportunity to prepare and submit their bids. The contracting officer shall furnish the contractor from available records and bidders lists the names of prospective purchasers. Bids shall be solicited from the original suppliers and those prospective bidders designated by the contracting officer. Bids shall be solicited by any one of the methods set forth below: *Provided*, That when deemed necessary by the contractor to assure full and free competition, more than one method may be used; *And provided further*, That where the original acquisition cost of serviceable material available for sale at any one time and location is $25,000 or more, in addition to any other method of solicitation used, the sale shall also be advertised in a newspaper of general circulation as provided in (4) of this paragraph:

(1) A notice of the proposed sale may be mailed or delivered to all prospective bidders; if this method is used, the bidders list shall include all responsible prospective purchasers known to the contractor and located in the general area in which the property is located;

(2) A notice of the proposed sale may be displayed at appropriate public places;

(3) A notice of the proposed sale may be published in appropriate trade journals or magazines;

(4) A notice of the proposed sale may be published in a newspaper of general circulation in the locality in which the property is located; or

(5) Where the amount or value of the property is not large enough to warrant preparation of a formal notice of the proposed sale, or other special circumstances are present, invitations to bid may, with the contracting officer's approval, be issued orally, by telephone, or by other informal media, so long as the element of competition is maintained, and each such sale is fully documented.

(c) Any notice of a proposed sale under (b) above shall indicate in general terms the types of material for sale, shall give the date on or after which such material will be available for sale, and shall reserve the right to reject any or all bids submitted. So far as feasible, lots shall be offered in such reasonable quantities as to permit all bidders, small as well as large, to compete on equal terms.

§ 18–8.507–3 Other sales.

(a) Sales, or purchases or retentions at less than cost by the contractor, may, if the Government's interests are adequately protected, be authorized by the contracting officer without competitive bids when essential in the interest of making a fair and prompt settlement (including the expeditious clearance of the contractor's plant).

(b) After such screening as may be required by existing procedures, scientific equipment allocated to terminated research and development contracts with educational institutions may be sold to or retained by the contractor for use in educational or research pursuits without obtaining competitive bids. Prices under which such equipment is transferred shall be negotiated between the contractor and the contracting officer.

(c) Sales, purchases, and retentions under (a) or (b), of this section shall be at prices which are fair and reasonable, and not less than the proceeds that could reasonably be expected to be obtained if the property were offered for competitive sale.

§ 18–8.507–4 Proceeds of sale.

Unless otherwise provided in the contract, the proceeds of any sale, purchase or retention shall be credited to the Government as part of the settlement agreement, or otherwise credited to the price or cost of the work covered by the contract, or paid in such manner as the contracting officer may direct.

§ 18–8.507–5 Applicability of antitrust laws.

(a) When any termination inventory which has or may cost the Government $3 million or more is to be sold or otherwise disposed of to private interests, the National Aeronautics and Space Administration is required to promptly notify the Attorney General and the Administrator of General Services of the proposed disposal and the probable terms or conditions thereof, and await advice from the Attorney General as to whether, so far as he can determine, the proposed disposition would tend to create or maintain a situation inconsistent with the antitrust laws.

(b) Pursuant to the paragraph (a) of this section, when property with a total acquisition cost of $3 million or more is offered for sale by a competitive bid, a provision comparable to the following statement shall be included in the invitation for bids:

> If, under this invitation, a bidder is the successful bidder on property with a total acquisition cost of $3 million or more, the award shall be subject to a determination by the Attorney General that the award will not be inconsistent with the antitrust laws.

(c) In a negotiated sale of property with a total acquisition cost of $3 million or more, the prospective purchaser shall be informed that final consummation of the sale is subject to a determination by the Attorney General that the sale would not be inconsistent with the antitrust laws.

(d) The contracting officer shall, after ascertaining the prospective purchaser, forward the following information, in triplicate, to the Office of Administration, NASA Headquarters (Code BD):

(1) With respect to the prospective purchaser—

(i) Full name and address;

(ii) If a corporation, State and date of incorporation;

(iii) If a partnership, name and address of partners, and date when organized;

(iv) Name and address of affiliates, if any;

(v) Nature of business (products produced or handled);

(vi) Geographical area of operations;

(vii) Dollar sales volume for latest calendar or fiscal year;

(viii) Net worth; and

(ix) Intended use of property.

(2) Other data—

(i) Location and brief description of the property covered by the proposed disposition;

(ii) Acquisition cost to the Government of the property;

(iii) If the property is scrap, the tonnage;

(iv) If the proposed disposition is by competitive bids, the invitation number, the number of bids solicited, and the number of bids received; and

(v) If the proposed disposition is by negotiation, the extent of competition obtained, and the amount to be paid by and other consideration to be received from, the prospective purchaser for the property.

(e) The Office of Administration, NASA Headquarters, shall forward the information received to the Attorney General, Department of Justice, Attention: Antitrust Division; and the Administrator of General Services. The Attorney General has agreed to advise both the Administrator of General Services and the Administrator, NASA, within a reasonable period of time, in no event to exceed 60 days after receipt of such information whether, so far as he can determine, the proposed disposition would tend to create or maintain a situation inconsistent with the antitrust laws. Before consummating the sale, the contracting officer shall await notification from the Office of Administration, NASA Headquarters, that the Attorney General has determined that the sale is not inconsistent with the antitrust laws.

§ 18–8.507–6 Foreign contractor inventory.

(See NASA Management Instruction 20–4–8.).

§ 18–8.508 Donations.

See NASA Management Instruction 4320.1.

§ 18–8.509 Destruction or abandonment.

See NASA Management Instruction 4320.1.

§ 18–8.510 Special machinery, tooling, and equipment.

Except as otherwise provided in the contract, if the settlement is to include any item of cost on account of special machinery and equipment, or special tooling, the contracting officer shall take appropriate steps to protect the Government's interest by:

(1) Requiring transfer of title to such property to the Government;

(2) Requiring the inclusion of such property in the contractor's inventory schedules, to be treated in the same manner as termination inventory; or

(3) In the event of purchase or retention by the contractor, making an equitable adjustment of the costs to be included in the settlement for such property, which adjustment shall take into account the rate of amortization thereon, the possible use thereof on other work of the contractor, the ultimate disposal value thereof, and any rights to be retained by the Government.

§ 18–8.511 Removal and storage.

§ 18–8.511–1 Special storage at the expense and risk of the contractor.

The contractor may, at any time during the plant clearance period, upon written notice to the contracting officer, store any items of termination inventory, not previously disposed of, in a warehouse or other storage location, on or off his own premises, unless otherwise directed by the contracting officer within 10 days of the receipt by the contracting officer of such notice. Such storage shall in no way modify the responsibility of the contractor with respect to such property. The expense of such storage, including any removal incident thereto, shall be borne by the contractor, unless the contracting officer determines that such removal or storage is for the convenience of the Government.

§ 18–8.511–2 Storage at the expense and risk of the Government.

At any time after expiration of the plant clearance period, the contractor may submit to the contracting officer, a list certified as to quantity and quality, of any items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the contracting officer, and may request the Government to remove such items or enter into a storage agreement covering them. Not later than 15 days thereafter, the Government shall accept title to such items and remove them or enter into a written storage agreement covering the same: *Provided*, That the list submitted shall be subject to verification by the contracting officer upon removal of the items (or if the items are stored, within 45 days from the date of submission of the list). Any necessary adjustment to correct the list as submitted shall be made prior to final settlement.

§ 18–8.512 Review of property disposal.

(See NASA Management Instruction 4320.1.)

§ 18–8.513 Subcontractor termination inventory.

§ 18–8.513–1 General policy.

(a) The prime contractor and each subcontractor are primarily responsible for the disposition of the termination inventory of their respective next lower-tier subcontractors, but all such disposals shall be subject to review by the contracting officer as provided in § 18–8.208–3(c) (but see § 18–8.208–4). The policies and provisions set forth in § 18–8.501, § 18–8.502, § 18–8.505, § 18–8.506, § 18–8.508, § 18–8.509, and § 18–8.512, shall be applicable in the case of subcontractors. Any rights which the prime contractor has or acquires in the termination inventory of his first-tier or lower-tier subcontractors shall, to the extent directed by the contracting officer, be exercised for the benefit of the Government, in accordance with the provisions of the

contract between the Government and the prime contractor.

(b) Subcontractors in all tiers will prepare inventory schedules in accordance with the requirements of this part. Normally disposition instructions for termination inventory, except serviceable or usable property, will be furnished by the next higher-tier subcontractor or the prime contractor, as the case may be. Each subcontractor may submit his next lower-tier subcontractor's inventory schedules of serviceable or usable property directly to the contracting officer for review and disposition instructions, unless otherwise directed by the contracting officer. In the interest of expediting disposition of termination inventory, the cognizant contracting officer will permit such direct submission, unless he determines that the submission of inventory schedules through all intermediate tiers of subcontractors is necessary in the best interest of the Government. When such a determination is made, it must be in writing and submitted to the Procurement Officer for approval.

§ 18–8.513–2 Inventory schedules.

The prime contractor and each higher-tier subcontractor shall obtain adequate information concerning the termination inventory for which their subcontractors claim reimbursement. For this purpose, the forms of inventory schedules listed in § 18–8.802–4 through § 18–8.802–8 may be used, but their use is not required if substantially equivalent information is obtained, as called for by § 18–8.503. In any event, full information on the condition and usability of such inventory shall be furnished, and certificates similar to those set forth in such schedules shall be obtained from the subcontractor.

§ 18–8.513–3 Scrap and salvage.

The prime contractor and each higher-tier subcontractor shall review any recommendations of their respective subcontractors concerning scrap and salvage. If the prime contractor or the higher-tier subcontractor determines that any of the materials are serviceable and usable materials, he shall require the subcontractor to submit revised inventory data in accordance with such determinations. The Government shall not be bound by any determination that material is scrap or salvage unless the determination, and any sale of the material as scrap or salvage, have the prior approval of the contracting officer. A scrap warranty running to the Government shall be obtained wherever such material is sold as scrap.

§ 18–8.513–4 Serviceable or usable property.

Subcontractor termination inventory which is not purchased or retained at cost, and which is determined to be serviceable or usable property shall be disposed of by:

(a) submission for screening and possible redistribution within the Government pursuant to § 18–8.505; and

(b) sales to third parties (including purchases or retentions at less than cost by the subcontractor, a higher-tier subcontractor, or the prime contractor) made in general conformity with § 18–8.507.

§ 18–8.514 Adjustment prior to final settlement.

§ 18–8.514–1 Duty of contractors to inform Government.

By the terms of the Inventory Schedule Certificate set forth in Inventory Schedules A, B, C, D, and E (see § 18–8.802–4 through § 18–8.802–8), the contractor or subcontractor is required to inform the Government of any substantial change in the status of his termination inventory arising between the date of submission of his termination inventory schedules and final disposition of such inventory.

§ 18–8.514–2 Right of Government to review inventory schedules.

(a) Regardless of any disposition of termination inventory pursuant to this Subpart 18–8 the Government shall continue to have the right, prior to final settlement, to require additional information concerning such inventory, to contest its allocability to the terminated portion of the contract, or to exclude such inventory from the settlement on any proper grounds.

(b) If, prior to final settlement, the Government determines that any portion of the termination inventory is not allocable to the terminated contract or should be excluded from the settlement on any other grounds, the cost thereof, and any credits related thereto, shall be excluded from the settlement. If the contractor has actually paid to the Government the proceeds realized from the disposition of such inventory, the Government shall repay such proceeds to the contractor. If such inventory has been delivered to the Government, normally it should be returned to the contractor at the contractor's expense and risk.

§ 18–8.515 Accounting for termination inventory.

(a) Prior to final settlement with the prime contractor, all termination inventory of the prime contractor and his subcontractors must be accounted for as follows:

(1) By purchase or retention at cost by the contractor or subcontractor, or by return to suppliers, and omission or withdrawal of such inventory from the contractor's inventory schedules (see § 18–8.502);

(2) By transfer to the Government including donation (see § 18–8.505 and § 18–8.508);

(3) By sale (including purchase or retention at less than cost by the contractor or subcontractor) and application of the proceeds or agreed value in reduction of the contractor's claim, or otherwise to the credit of the Government (see § 18–8.507);

(4) By destruction or abandonment (see § 18–8.509); or

(5) By other disposition in accordance with the terms of the contract and of this part.

(b) In the event that any termination inventory not disposed of is lost, destroyed, damaged, or for any reason cannot be delivered by the contractor at the time of settlement of his termination claim, such termination inventory, unless the Government has expressly assumed the risk involved, or unless the contract provides otherwise, shall be accounted for as inventory purchased or retained by the Contractor, and the fair value of the inventory, as determined by the contracting officer, shall be deducted from the termination claim.

Subpart 18–8.6—Termination for Default

§ 18–8.600 Scope of subpart.

This Subpart 18–8.6 sets forth policies and procedures for the use and application of the "Default" clause prescribed in § 18–8.707 for fixed-price supply contracts, and the "Termination for Default—Damages for Delay—Time Extensions" clauses prescribed in § 18–8.709 for fixed-price construction contracts. (For cost-reimbursement type contracts, see 32 CFR 8.407.)

§ 18–8.601 General.

(a) Termination for default is generally the exercise of a contractual right of the Government to terminate the contract in whole or in part by reason of the contractor's failure, actual or anticipatory, to perform his obligations under the contract.

(b) If the contractor can establish that his failure to perform arose out of causes beyond his control and without his fault or negligence, the contract clauses in §§ 18–8.707 and 18–8.709 provide that a termination for default shall be deemed to have been a termination for the convenience of the Government, and the rights and obligations of the parties shall be governed accordingly.

(c) The Government may also in appropriate cases exercise termination or cancellation rights in addition to those set forth in the contract clauses (see for example, paragraph (f) of the Default clause in § 18–8.707).

§ 18–8.601–50 Utilization of services of Military Departments or of other NASA installations.

(a) It is the general policy of NASA that when a fixed-price type contract is to be terminated for default, the contracting officer of the NASA installation responsible for issuing the contract normally shall accomplish the termination for default. However, another NASA installation or one of the Military Departments may be requested to assist in the termination for default when it is considered to be economical and practicable.

(b) When it is proposed to utilize the services of another NASA installation, the contracting officer shall arrange with the contracting officer of that installation to perform those duties that are appropriate.

(c) When it is proposed to utilize the services of one of the Military Departments, a request for such services shall be made by letter prepared in accordance with the agreement with the Military Department concerned (see § 18–8.205–50(b)).

§ 18–8.602 Termination of fixed-price supply contracts for default.

§ 18–8.602–1 The Government's right to terminate for default.

Under contracts containing the Default clause in § 18–8.707 the Government has the right, subject to the notice requirements of the clause, to terminate the whole or any part of the contract for default if the contractor (a) fails to make delivery of the supplies or to perform the services within the time specified in the contract, (b) fails to perform any other provision of the contract, or (c) fails to make progress so as to endanger performance of the contract.

§ 18–8.602–2 Effect of termination for default.

(a) Under a termination for default the Government is not liable for the contractor's costs on undelivered work, and is entitled to the repayment of advance payments and progress payments, if any, applicable to such work. The Government may elect, pursuant to paragraph (d) of the Default clause (see § 18–8.707), to require the contractor to transfer title and deliver to the Government completed supplies and manufacturing materials, in the manner and to the extent directed by the contracting officer. The contracting officer shall not use the Default clause as authority to acquire any completed supplies or manufacturing materials unless he has made certain that the Government does not already have title thereto under some other provision of the contract. In the event manufacturing materials are to be required by the Government under the authority of the Default clause for the purpose of furnishing the materials to any other contractor, the contracting officer shall take such action only after giving due consideration to the difficulties that such contractor may encounter in making use of the materials.

(b) Subject to the provisions of paragraph (c) of this section, the Government shall pay to the contractor the contract price for any completed supplies, and the amount agreed upon by the contracting officer and the contractor for any manufacturing materials, acquired by the Government pursuant to the Default clause.

(c) In order to protect the Government from overpayment for any completed supplies or manufacturing materials, that might result from failure to make provision for the Government's potential liability to laborers and materialmen for lien rights outstanding against such supplies or materials after the Government has paid the contractor therefor, the contracting officer shall take one or more of the following measures before making the payment referred to in (b) above:

(1) Ascertain whether the payment bonds, if any, furnished by the contractor are adequate to satisfy all lienors' claims; or whether it is feasible to obtain similar bonds to cover outstanding liens;

(2) Require the contractor to furnish appropriate statements from laborers and materialmen disclaiming any lien rights they may have to the supplies and materials;

(3) Obtain appropriate agreement by the Government, the contractor and lienors assuring release of the Government from any potential liability to the contractor or lienors;

(4) Withhold from the amount otherwise due for the supplies or materials such amount as the contracting officer determines to be necessary to protect the Government's interest, but only if the measures set forth in (1), (2), and (3) cannot be accomplished or are otherwise deemed inadequate;

(5) Take any other action the contracting officer deems appropriate, considering the particular circumstances and the degree of the contractor's solvency.

(d) The contractor is liable to the Government for any excess costs incurred in procuring supplies and services similar to those terminated for default (see § 18–8.602–6), and for any other damages, whether or not repurchase is effected (see § 18–8.602–7).

§ 18–8.602–3 Procedure for default.

(a) The contracting officer shall consider the following factors in determining whether to terminate a contract for default:

(1) The provisions of the contract, and applicable laws and regulations;

(2) The specific failure of the contractor and, unless time does not permit, the excuses, if any, or such failure;

(3) The availability of the supplies or services from other sources;

(4) The urgency of the need for the supplies or services and the period of time which would be required to obtain the supplies or services from other sources as compared with the time in which delivery could be obtained from the delinquent contractor;

(5) The degree of essentiality of the contractor in the Government procurement program and the effect of a termination for default upon the contractor's capability as a supplier under other contracts;

(6) The effect of a termination for default on the ability of the contractor to liquidate guaranteed loans, progress payments, or advance payments; and

(7) Any other pertinent facts and circumstances.

(b) If the foregoing consideration indicates that termination for default is appropriate, the contracting officer should, if practicable, notify the contractor by letter of the possibility of such termination. This letter shall call the contractor's attention to his contractual liabilities in the event the contract is terminated for default and request an explanation of the contractor's failure to perform the contract. The letter may further state that failure of the contractor to present such explanation may be taken as an admission that no valid explanation exists. When appropriate, the letter may invite the contractor to discuss the matter at a conference.

(c) If, after compliance with the foregoing procedures, the contracting officer determines that termination for default is proper, he shall, where the termination is predicated upon the contractor's failure to make timely deliveries, issue a notice of termination at once. If the termination is predicated upon any other failure of the contractor, the contractor shall be given written notice specifying such failure and providing a period of 10 days (or such longer period as the contracting officer may authorize) in which to cure such failure. Where appropriate, this notice may be made a part of the letter described in paragraph (b) of this section. Upon expiration of the 10 days (or longer period), the contracting officer may issue a notice of termination for default unless he determines that the failure to perform has been cured.

(d) The notice of termination for default shall:

(1) Set forth the contract number and date;

(2) Describe the acts or omissions constituting the default;

(3) State that the contractor's right to proceed further with performance of the contract (or a specified portion of the contract) is terminated;

(4) State that the supplies or services terminated may be procured against the contractor's account, and that the contractor will be held liable for any excess costs;

(5) State that the Government reserves all rights and remedies provided by law or under the contract, in addition to charging excess costs; and

(6) State that the notice constitutes a decision that the contractor is in default as specified, and that the contractor has the right to appeal as specified in the Disputes clause.

If the contracting officer has investigated the contractor's excuses for the failure to perform, the notice of termination shall also state that it constitutes a decision that the failure to perform was not due to causes beyond the control and without the fault or negligence of the contractor, and that the contractor has the right to appeal as specified in the Disputes clause.

(e) The same distribution shall be made of the termination notice as was made of the contract. In addition, a copy shall be furnished to the disbursing officer who shall be advised to withhold further payments under the terminated contract pending additional instructions, which shall be given when sufficient information is available.

(f) If the contracting officer determines that the contractor's failure to perform arose from causes beyond his control and without his fault or negligence, the contracting officer shall not terminate the contract for default. Under such circumstances, if it is in the best interest of the Government to do so, the contracting officer may terminate the contract for the convenience of the Government.

(g) If the contracting officer has not been able to determine, prior to issuance of the notice of termination, whether the contractor's failure to perform arose from causes beyond his control and without his fault or negligence, he shall make a written decision on that point as soon as practicable after issuance of the notice of termination. Such decision shall be delivered promptly to the contractor with a notification that he has a right to appeal as specified in the Disputes clause.

§ 18–8.602–4 Procedure in lieu of termination for default.

The following courses of action, among others, are available to the contracting officer in lieu of termination for default, when in the best interest of the Government:

(a) Permit the contractor, his surety, or his guarantor, to continue performance of the contract under a revised delivery schedule;

(b) Permit the contractor to continue performance of the contract by means of a subcontract, or other business arrangement with an acceptable third party; provided, the rights of the Government are adequately preserved; or

(c) If the requirement for the supplies and services specified in the contract no longer exists, and the contractor is not liable to the Government for damages as provided in § 18–8.602–7, execute a no-cost termination settlement agreement utilizing the form set forth in §§ 18–8.806–6 and 18–8.806–7 as a guide

§ 18–8.602–5 Memorandum by the contracting officer.

In all cases where a contract is terminated for default or where a procedure authorized by § 18–8.602–4 is followed, the contracting officer shall prepare a memorandum for the contract file explaining fully the reasons for the action taken.

§ 18–8.602–6 Repurchase against contractor's account.

(a) Where the supplies or services are still required after termination, repurchase of supplies or services which are the same as or similar to those called for in the contract, shall be made against the contractor's account as soon as practicable after termination. Such repurchase shall be at as reasonable a price as practicable considering the quality required by the Government and the time within which the supplies or services are required. The contract of repurchase may be made for a quantity in excess of the undelivered quantity terminated for default, when such excess quantity is needed, but excess cost may be charged against the defaulting contractor for no more than the undelivered quantity terminated for default (including variations in quantity permitted by the terminated contract).

(b) If the repurchase is for a quantity not in excess of the undelivered quantity terminated for default, the requirements of 10 U.S.C. 2304(a), with respect to formal advertising, are inapplicable. However, the contracting officer may use formal advertising procedures. If the contracting officer decides to negotiate the repurchase contract, he may either (i) use any authority listed in 3.201 through 3.217 (10 U.S.C. 2304(a) (1)–(17)), as appropriate, or (ii) if none of those authorities to negotiate are used, the contract shall identify the procurement as a repurchase in accordance with the provisions of the Default clause in the defaulted contract. If the repurchase is for a quantity in excess of the undelivered quantity terminated for default, the entire quantity shall be treated as new procurement.

(c) If repurchase is effected at a price in excess of the price of the supplies terminated, the contracting officer shall make a written demand on the contractor for the total amount of such excess giving due consideration to any increases or decreases in other ascertainable costs such as transportation, discounts, etc., and shall take such other action as is required for collecting claims in favor of the Government.

§ 18–8.602–7 Other damages.

(a) If a contract is terminated for default or if a course of action in lieu of termination for default is followed (see § 18–8.602–4), the contracting officer shall take appropriate action for ascertainment and collection of any liquidated damages to which the Government may be entitled under the contract. Pursuant to the contract provisions for liquidated damages in § 18–7.106–5, such damages are in addition to any excess cost of reprocurement.

(b) If the Government has suffered any other ascertainable damages as a result of the contractor's default, the contracting officer, on the basis of legal advice, shall take appropriate action to assert the Government's claim for such damages.

§ 18–8.603 Termination of fixed-price construction contracts for default.

§ 18–8.603–1 Termination of the contractor's right to proceed.

Under contracts containing the Termination for Default—Damages for Delay—Time Extensions clause set forth in § 18–8.709, the Government has the right to terminate the contractor's right to proceed with the work if the contractor (1) fails to prosecute the work required by the contract, or any separable part thereof, with such diligence as will insure its completion within the time specified in the contract or any extension thereof, or (2) fails to complete the work required under the contract within such time.

§ 18–8.603–2 Effect of termination for default.

If a contractor's right to proceed is terminated for default, the Government may take over and complete or cause to be completed the work, taking possession of and utilizing such materials, appliances and plant as may be on the site and necessary therefor, and the contractor and his sureties shall be liable to the Government for any excess costs caused thereby. If after taking over the work the Government is not reasonably able to complete it, or have it completed within the time specified for completion in the defaulted contract, the contractor shall, in addition to any excess costs, be

liable for liquidated damages for the delay as specified in the contract, or for actual damages caused by the delay if liquidated damages are not so specified.

§ 18–8.602–3 Procedure for default.

(a) The contracting officer shall consider the following factors in determining whether to terminate a contract for default:

(1) The provisions of the contract, and applicable laws and regulations;

(2) The specific failure of the contractor and excuses, if any, for such failure;

(3) The period of time which would be required for the Government or another contractor to complete the work as compared to the time required for completion by the delinquent contractor;

(4) The effect of a termination for default on the ability of the contractor to liquidate guaranteed loans, progress payments, or advance payments; and

(5) Any other pertinent facts and circumstances.

(b) If the contracting officer determines that the contractor's failure to perform arises from causes beyond his control and without his fault or negligence, the contracting officer shall not terminate the contractor's right to proceed, nor shall the contractor be charged with liquidated or actual damages because of any delays occasioned by such causes.

(c) If the contracting officer determines that it is in the best interest of the Government to terminate for default the contractor's right to proceed, the contracting officer shall promptly send a written notice to the contractor terminating his right to proceed. The notice shall:

(1) Set forth the contract number and date;

(2) Describe the act or omissions, and the extent of the resultant delay, constituting the default;

(3) State that the contractor's right to proceed further with performance of the contract (or of a specified portion of the contract is terminated);

(4) State that the Government may cause the contract to be completed and that the contractor will be held liable for any excess costs;

(5) State that the Government reserves all rights and remedies provided by law or under the contract, in addition to charging excess costs;

(6) State that the notice constitutes a decision, pursuant to the Disputes clause, that the contractor is in default as specified and that the delay is not excusable; and

(7) State that the contractor has the right to appeal as specified in the Disputes clause.

(d) The same distribution shall be made of the termination notice as was made of the contract, including a copy to the surety. In addition, a copy shall be furnished to the disbursing officer who shall be advised to withhold further payments under the terminated contract pending additional instructions which shall be given when sufficient information is available.

(e) Promptly after issuance of the termination notice, the contracting officer shall determine the manner in which the work is to be completed and whether the materials, appliances, and plant which are on the site will be needed.

§ 18–8.602–4 Procedure in lieu of termination for default.

If, after due consideration, the contracting officer determines that termination is not in the best interest of the Government although the contractor is in default, he may permit the contractor to continue the work, and the contractor and his sureties shall be liable to the Government for liquidated damages, as specified in the contract, or if liquidated damages are not so specified, to any actual damages occasioned by the failure of the contractor to complete the work in accordance with the terms of the contract.

§ 18–8.602–5 Memorandum by the contracting officer.

In all cases where a contractor's right to proceed is terminated for default or where the procedure authorized by § 18–8.602–4 is followed, the contracting officer shall prepare a memorandum for the contract file explaining fully the reasons for the action taken.

§ 18–8.602–6 Other damages.

In addition to any excess costs occasioned the Government in connection with the completion of the work, the contractor and his surety are liable for liquidated damages if specified in the contract, or if liquidated damages are not specified, for any actual damages occasioned by such delay. All retained percentages of progress payments previously made to the contractor and any progress payments due for work completed prior to the termination of the right to proceed shall be used for the purpose of liquidating the liability of the contractor and his surety to the Government for such excess costs and liquidated or actual damages.

Subpart 18–8.7—Clauses

§ 18–8.700 Scope of subpart.

This Subpart 18–8.7 sets forth the contract clauses that are used in the termination of contracts for the convenience of the Government and for default.

§ 18–8.701 Termination clause for fixed-price contracts.

(a) *General.* Except as otherwise required by paragraph (b) of this section and by § 18–8.705–1, the following clause shall be used in any long-form fixed-price type contract, in excess of $2,500, for supplies or experimental, developmental, or research work other than (1) construction, alteration, or repair of buildings, bridges, roads, or other kinds of real property, or (2) experimental, developmental or research work with educational or other nonprofit institutions, where no profit is contemplated.

TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (JUNE 1967)

(a) The performance of work under this contract may be terminated by the Government in accordance with this clause in whole, or from time to time in part, whenever the Contracting Officer shall determine that such termination is in the best interest of the Government. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective.

(b) After receipt of a Notice of Termination, and except as otherwise directed by the Contracting Officer, the Contractor shall:

(i) Stop work under the contract on the date and to the extent specified in the Notice of Termination;

(ii) Place no further orders or subcontracts for materials, services, or facilities, except as may be necessary for completion of such portion of the work under the contract as is not terminated;

(iii) Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;

(iv) Assign to the Government, in the manner, at the times, and to the extent directed by the Contracting Officer, all of the right, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Government shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

(v) Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Contracting Officer, to the extent he may require, which approval or ratification shall be final for all the purposes of this clause;

(vi) Transfer title and deliver to the Government, in the manner, at the times, and to the extent, if any, directed by the Contracting Officer, (A) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of, the work terminated by the Notice of Termination, and (B) the completed or partially completed plans, drawings, information, and other property which, if the contract had been completed, would have been required to be furnished to the Government;

(vii) Use his best efforts to sell, in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Contracting Officer, any property of the types referred to in (vi) above: *Provided, however,* That the Contractor (A) shall not be required to extend credit to any purchaser, and (B) may acquire any such property under the conditions prescribed by and at a price or prices approved by the Contracting Officer: *And provided further,* That the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this contract or shall otherwise be credited to the price or cost of the work covered by this contract or paid in such other manner as the Contracting Officer may direct;

(viii) Complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and

(ix) Take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the Government has or may acquire an interest.

At any time after expiration of the plant clearance period, as defined in Part 8, NASA Procurement Regulation as it may be amended from time to time, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the Contracting Officer, and may request the Government to remove such items or enter into a storage agreement covering them. Not later than fifteen (15) days thereafter, the Government will accept title to such items and remove them or enter into a storage agreement covering the same: *Provided,* That the list submitted shall be subject to verification by the Contracting Officer upon removal of the items, or, if the items are stored, within forty-five (45) days from the date of submission of the list, and any necessary adjustment to correct the list as submitted shall be made prior to final settlement.

(c) After receipt of a Notice of Termination, the Contractor shall submit to the Contracting Officer his termination claim, in the form and with certification prescribed by the Contracting Officer. Such claim shall be submitted promptly but in no event later than one (1) year from the effective date of termination, unless one or more extensions in writing are granted by the Contracting Officer, upon request of the Contractor made in writing within such one (1) year period or authorized extension thereof. However, if the Contracting Officer determines that the facts justify such action, he may receive and act upon any such termination claim at any time after such one (1) year period or any extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the Contracting Officer may, subject to any Settlement Review Board approvals required by NASA Regulations in effect as of the date of execution of this contract, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.

(d) Subject to the provisions of paragraph (c), and subject to any Settlement Review Board approvals required by NASA Regulations in effect as of the date of execution of this contract, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this clause, which amount or amounts may include a reasonable allowance for profit on work done: *Provided,* That such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. The contract shall be amended accordingly, and the Contractor shall be paid the agreed amount. Nothing in paragraph (e) of this clause, prescribing the amount to be paid to the Contractor in the event of failure of the Contractor and the Contracting Officer to agree upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this clause, shall be deemed to limit, restrict, or otherwise determine or affect the amount or amounts which may be agreed upon to be paid to the Contractor pursuant to this paragraph (d).

(e) In the event of the failure of the Contractor and the Contracting Officer to agree as provided in paragraph (d) upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this clause, the Contracting Officer shall subject to any Settlement Review Board approvals required by NASA Regulations in effect as of the date of execution of this contract, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall pay to the Contractor the amount determined by the Contracting Officer as follows, but without duplication of any amounts agreed upon in accordance with paragraph (d):

(i) For completed supplies accepted by the Government (or sold or acquired as provided in paragraph (b)(vii) above) and not theretofore paid for, a sum equivalent to the aggregate price for such supplies computed in accordance with the price or prices specified in the contract, appropriately adjusted for any saving of freight or other charges;

(ii) The total of—

(A) the costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but exclusive of any costs attributable to supplies paid or to be paid for under paragraph (e)(i) hereof;

(B) the cost of settling and paying claims arising out of the termination of work under subcontracts or orders, as provided in paragraph (b)(v) above, which are properly chargeable to the terminated portion of the contract (exclusive of amounts paid or payable on account of supplies or materials delivered or services furnished by subcontractors or vendors prior to the effective date of the Notice of Termination, which amounts shall be included in the costs payable under (A) above); and

(C) a sum, as profit on (A) above, determined by the Contracting Officer pursuant to § 18–8.303 of the NASA Procurement Regulation, in effect as of the date of execution of this contract, to be fair and reasonable: *Provided, however,* That if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, no profit shall be included or allowed under this subdivision (C) and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss; and

(iii) The reasonable costs of settlement, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and sup-

of the Schedule, because of the inability of the parties to agree upon a definitive contract, this Letter Contract may be terminated in its entirety by either party by delivering to the other party a notice in writing specifying the effective date of termination, which date shall not be earlier than thirty (30) days after receipt of such notice.

(b) The performance of work under this Letter Contract also may be terminated by the Government in accordance with this clause in whole, or from time to time in part, whenever the Contracting Officer shall determine that such termination is in the best interest of the Government. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under this Letter Contract is terminated, and the date upon which such termination becomes effective.

(c) After receipt of a Notice of Termination, and except as otherwise directed by the Contracting Officer, the Contractor shall:

(i) Stop work under this Letter Contract on the date and to the extent specified in the Notice of Termination;

(ii) Place no further orders or subcontracts for materials, services, or facilities, except as may be necessary for completion of such portion of the work under this Letter Contract as is not terminated;

(iii) Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;

(iv) Assign to the Government, in the manner, at the times, and to the extent directed by the Contracting Officer, all of the right, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Government shall have the right, in its discretion, to settle or pay any or all claims arising out of such termination of orders and subcontracts;

(v) Transfer title and, in the manner, to the extent, and at the times directed by the Contracting Officer, deliver to the Government (A) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in respect of the performance of the work terminated by the Notice of Termination, and (B) the completed or partially completed plans, drawings, information, and other property which, if this Letter Contract had been completed, would be required to be furnished to the Government;

(vi) Use his best efforts to sell, in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Contracting Officer, any property of the types referred to in (v) above: *Provided, however*, That the Contractor (A) shall not be required to extend credit to any purchaser, and (B) may acquire any such property under the conditions prescribed by and at a price or prices approved by the Contracting Officer: *And provided further*, That the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Government to the contractor under this Letter Contract or shall otherwise be credited to the price or cost of the work covered by this Letter Contract or paid in such other manner as the Contracting Officer may direct;

(vii) Complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and

(viii) Take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to this Letter Contract which is in the possession of the Contractor and in which the Government has or may acquire an interest.

At any time after expiration of the plant clearance period, as defined in the *NASA Procurement Regulation, Part 5*, as it may be amended from time to time, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the Contracting Officer, and may request the Government to remove such items or enter into a storage agreement covering them. Not later than fifteen (15) days thereafter, the Government will accept title to such items and remove them or enter into a storage agreement covering the same: *Provided*, That the list submitted shall be subject to verification by the Contracting Officer upon removal of the items, or if the items are stored, within forty-five (45) days from the date of submission of the list, and any necessary adjustment to correct the list as submitted shall be made prior to final settlement.

(d) After receipt of a Notice of Termination, the Contractor shall submit to the Contracting Officer his termination claim in the form and with the certification prescribed by the Contracting Officer. Such claim shall be submitted promptly, but in no event later than one (1) year from the effective date of termination, unless one or more extensions in writing are granted by the Contracting Officer upon request of the Contractor made in writing within such one (1) year period or authorized extension thereof. However, if the Contracting Officer determines that the facts justify such action, he may receive and act upon any such termination claim at any time after such one (1) year period or any extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the Contracting Officer may, subject to any Settlement Review Board approvals required by *NASA Regulations* in effect on the date of the execution of this Letter Contract, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination, and shall thereupon pay to the Contractor the amount so determined.

(e) Subject to the provisions of paragraph (d) hereof, and subject to any Settlement Review Board approvals required by *NASA Regulations* in effect as of the date of execution of this Letter Contract, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this clause. In the event of any termination pursuant to paragraph (e) hereof, such amount or amounts shall not include any allowance for profit. In the event of any termination pursuant to paragraph (b) hereof, such amount or amounts may include a reasonable allowance for profit, but only on work actually done in connection with the terminated portion of this Letter Contract. Any such amount shall not exceed the maximum amount specified in Article IIIa of the Schedule. Any such agreement shall be embodied in an amendment to this Letter Contract, and the Contractor shall be paid the agreed amount.

(f) In the event of the failure of the Contractor and the Contracting Officer to agree in whole or in part, as provided in paragraph (e), as to the amount or amounts to be paid to the Contractor by reason of the termination of work pursuant to this clause, the Contracting Officer shall, subject to any Settlement Review Board approvals required by *NASA Regulations* in effect as of the date of execution of this Letter Contract, determine, on the basis of information available to him, and in accordance with the applicable cost principles of the *NASA Procurement Regulation* as in effect on the date of this Letter Contract, the amount, if any, due to the Contractor by reason of the termination and shall pay such amount to the Contractor. In the event of the termination of this Letter Contract pursuant to paragraph (e) hereof, no allowance for profit shall be included in the amount to be paid the Contractor.

(g) The Contractor shall have the right under the clause of this Letter Contract entitled "Disputes," from any determination made by the Contracting Officer under paragraph (d) or (f) above (including termination has failed to comply with the provisions of this clause in connection with any dispute as to whether termination has been effected in accordance with the terms hereof), except that if the Contractor has failed to submit a claim within the time provided in paragraph (d) above and has failed to request extension of such time, he shall have no right of appeal. In any case where the Contracting Officer has made a determination of the amount due under paragraph (d) or (e) above, the Government shall pay to the Contractor the following: (i) if there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Contracting Officer, or (ii) if an appeal has been taken, the amount finally determined on such appeal.

(h) In arriving at the amount due the Contractor under this clause there shall be deducted (i) all unliquidated advance or other payments on account theretofore made to the Contractor, applicable to the terminated portion of this contract, (ii) any claim which the Government may have against the Contractor in connection with this contract, and (iii) the agreed price for, or the proceeds of sale of, any materials, supplies, or other things acquired by the Contractor or sold, pursuant to the provisions of this clause, and not otherwise recovered by or credited to the Government.

(i) If the termination hereunder be partial, prior to the settlement of the terminated portion of this contract, the Contracting Officer may file with the Contractor a request in writing for an equitable adjustment of the price or prices specified in the contract relating to the continued portion of the contract (the portion not terminated by the Notice of Termination), and such equitable adjustment as may be agreed upon shall be made in such price or prices.

(j) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of this contract whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand, together with interest computed at the rate of 6 percent per annum, for the period from the date such excess payment is received by the Contractor to the date on which such excess is repaid to the Government: *Provided, however*, That no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until ten days after the date of such retention or disposition, or such later date as determined by the Contracting Officer by reason of the circumstances.

(k) Unless otherwise provided for in this contract, or by applicable statute, the Contractor, from the effective date of termination and for a period of three years after final settlement under this contract, shall preserve and make available to the Government at all reasonable times at the office of the Contractor, without direct charge to the Government, all his books, records, documents, and other evidence bearing on the costs and expenses of the Contractor under this contract and relating to the work terminated hereunder, or, to the extent approved by the Contracting Officer, photographs, microphotographs, or other authentic reproductions thereof.

(b) *Fixed-price type letter contracts.* In accordance with the requirements of § 18–16.850–3, the following clause shall be included in letter contracts which are expected to be converted to fixed-price type definitive contracts.

TERMINATION (JANUARY 1966)

(a) In case a definitive contract is not executed by the date specified in Article VI

default under (i) above, it is determined for the convenience of the Government that the Contractor was not in default pursuant to (i), or that the Contractor's failure to perform or to make progress in performance is due to causes beyond the control and without the fault or negligence of the Contractor pursuant to the provisions of the clause of this contract relating to excusable delays, the Notice of Termination shall be deemed to have been issued under (ii) above, and the rights and obligations of the parties hereto shall in such event be governed accordingly.

(b) After receipt of a Notice of Termination and except as otherwise directed by the Contracting Officer, the Contractor shall:

(i) Stop work under the contract on the date and to the extent specified in the Notice of Termination;

(ii) Place no further orders or subcontracts for materials, services, or facilities, except as may be necessary for completion of such portion of the work under the contract as is not terminated;

(iii) Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;

(iv) Assign to the Government, in the manner and to the extent directed by the Contracting Officer, all of the right, title, and interest of the Contractor under the orders or subcontracts so terminated, in which case the Government shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

(v) With the approval or ratification of the Contracting Officer, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, the cost of which would be reimbursable in whole or in part, in accordance with the provisions of this contract;

(vi) Transfer title (to the extent that title has not already been transferred) and in the manner, to the extent, and at the times directed by the Contracting Officer, deliver to the Government (A) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in respect of the performance of, the work terminated by the Notice of Termination, (B) the completed or partially completed plans, drawings, information, and other property which, if the contract had been completed, would be required to be furnished to the Government, and (C) the jigs, dies, and fixtures, and other special tools and tooling acquired or manufactured for the performance of the contract for the cost of which the Contractor has been or will be reimbursed under the contract, and (D) the completed or partially completed plans, drawings, information, and other property which, if the contract had been completed, would be required to be furnished to the Government;

(vii) Use his best efforts to sell, in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Contracting Officer, any property of the types referred to in (vi) above: *Provided, however*, That the Contractor (A) shall not be required to extend credit to any purchaser, and (B) may acquire any such property under the conditions prescribed by and at a price or prices approved by the Contracting Officer: *And provided further*, That the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this Letter Contract or shall otherwise be credited to the price or cost of the work covered by this Letter Contract or paid in such other manner as the Contracting Officer may direct;

(viii) Complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and

(ix) Take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to this Letter Contract which is in the possession of the Contractor and in which the Government has or may acquire an interest.

At any time after expiration of the plant clearance period, as defined in the *NASA Procurement Regulation, Part 5*, as it may be amended from time to time, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the Contracting Officer, and may request the Government to remove such items or enter into a storage agreement covering them. Not later than fifteen (15) days thereafter, the Government will accept title to such items and remove them or enter into a storage agreement covering the same: *Provided*, That the list submitted shall be subject to verification by the Contracting Officer upon removal of the items, or if the items are stored, within forty-five (45) days from the date of submission of the list, and any necessary adjustment to correct the list as submitted shall be made prior to final settlement.

(c) After receipt of a Notice of Termination, the Contractor shall submit to the Contracting Officer his termination claim in the form and with the certification prescribed by the Contracting Officer. Such claim shall be submitted promptly, but in no event later than one (1) year from the effective date of termination, unless one or more extensions in writing are granted by the Contracting Officer upon request of the Contractor made in writing within such one (1) year period or authorized extension thereof. However, if the Contracting Officer determines that the facts justify such action, he may receive and act upon any such termination claim at any time after such one (1) year period or any extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the Contracting Officer may, subject to any Settlement Review Board approvals required by *NASA Regulations* in effect on the date of the execution of this Letter Contract, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination, and shall thereupon pay to the Contractor the amount so determined.

(d) Subject to the provisions of paragraph (c) hereof, and subject to any Settlement Review Board approvals required by *NASA Regulations* in effect as of the date of execution of this Letter Contract, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this clause. In the event of any termination pursuant to paragraph (d) hereof, such amount or amounts shall not include any allowance for profit. In the event of any termination pursuant to paragraph (a) hereof, such amount or amounts may include a reasonable allowance for profit, but only on work actually done in connection with the terminated portion of this Letter Contract. Any such amount shall not exceed the maximum amount specified in Article IIIa of the Schedule. Any such agreement shall be embodied in an amendment to this Letter Contract, and the Contractor shall be paid the agreed amount.

(e) In the event of the failure of the Contractor and the Contracting Officer to agree in whole or in part, as provided in paragraph (d), as to the amount or amounts to be paid to the Contractor by reason of the termination of work pursuant to this clause, the Contracting Officer shall, subject to any Settlement Review Board approvals required by *NASA Regulations* in effect as of the date of execution of this Letter Contract, determine, on the basis of information available to him, and in accordance with the applicable cost principles of the *NASA Procurement Regulation* as in effect on the date of this Letter Contract, the amount, if any, due to the Contractor by reason of the termination and shall pay such amount to the Contractor. In the event of the termination of this Letter Contract pursuant to paragraph (a) hereof, no allowance for profit shall be included in the amount to be paid the Contractor.

(f) The Contractor shall have the right under the clause of this Letter Contract entitled "Disputes," from any determination made by the Contracting Officer under paragraph (c) or (e) above (including termination has failed to comply with the provisions of this clause in connection with any dispute as to whether termination has been effected in accordance with the terms hereof), except that if the Contractor has failed to submit a claim within the time provided in paragraph (c) above and has failed to request extension of such time, he shall have no right of appeal. In any case where the Contracting Officer has made a determination of the amount due under paragraph (c) or (e) above, the Government shall pay to the Contractor the following: (i) If there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Contracting Officer, or (ii) if an appeal has been taken, the amount finally determined on such appeal.

(g) In arriving at the amount due the Contractor under this clause there shall be deducted (i) all unliquidated advance or other payments on account theretofore made to the Contractor, applicable to the terminated portion of this contract, (ii) any claim which the Government may have against the Contractor in connection with this contract, and (iii) the agreed price for, or the proceeds of sale of, any materials, supplies, or other things acquired by the Contractor or sold, pursuant to the provisions of this clause, and not otherwise recovered by or credited to the Government.

(h) If the termination hereunder be partial, prior to the settlement of the terminated portion of this contract, the Contracting Officer may file with the Contractor a request in writing for an equitable adjustment of the price or prices specified in the contract relating to the continued portion of the contract (the portion not terminated by the Notice of Termination), and such equitable adjustment as may be agreed upon shall be made in such price or prices.

(i) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of this contract whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand, together with interest computed at the rate of 6 percent per annum, for the period from the date such excess payment is received by the Contractor to the date on which such excess is repaid to the Government: *Provided, however*, That no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until 10 days after the date of such retention or disposition, or such later date as determined by the Contracting Officer by reason of the circumstances.

or will be reimbursed under this contract;

(vii) Use his best efforts to sell in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Contracting Officer, any property of the types referred to in (vi) above: *Provided, however,* That the Contractor (A) shall not be required to extend credit to any purchaser, and (B) may acquire any such property under the conditions prescribed by and at a price or prices approved by the Contracting Officer: *And provided further,* That the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this contract or shall otherwise be credited to the price or cost of the work covered by this contract or paid in such other manner as the Contracting Officer may direct;

(viii) Complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and

(ix) Take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the Government has or may acquire an interest.

The Contractor shall proceed immediately with the performance of the above obligations notwithstanding any delay in determining or adjusting the amount of the fee, or any item of reimbursable cost, under this clause. At any time after expiration of the plant clearance period, as defined in Part 8, NASA Procurement Regulation, as it may be amended from time to time, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the Contracting Officer, and may request the Government to remove such items or enter into a storage agreement covering them. Not later than fifteen (15) days thereafter, the Government will accept such items and remove them or enter into a storage agreement covering the same: *Provided,* That the list submitted shall be subject to verification by the Contracting Officer upon removal of the items, or if the items are stored, within forty-five (45) days from the date of submission of the list, and any necessary adjustment to correct the list as submitted shall be made prior to final settlement.

(c) After receipt of a Notice of Termination, the Contractor shall submit to the Contracting Officer his termination claim in the form and with the certification prescribed by the Contracting Officer. Such claim shall be submitted promptly but in no event later than one (1) year from the effective date of termination, unless one or more extensions in writing are granted by the Contracting Officer, upon request of the Contractor made in writing within such one (1) year period or authorized extension thereof. However, if the Contracting Officer determines that the facts justify such action, he may receive and act upon any such termination claim at any time after such one (1) year period or any extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the Contracting Officer may, subject to any Settlement Review Board approvals required by NASA Regulations in effect as of the date of execution of this contract, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.

(d) Subject to the provisions of paragraph (e), and subject to any Settlement Review Board approvals required by NASA Regulations in effect as of the date of execution of this contract, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid (including an allowance for the fee) to the Contractor by reason of the total or partial termination of work pursuant to this clause. The contract shall be amended accordingly, and the Contractor shall be paid the agreed amount.

(e) In the event of the failure of the Contractor and the Contracting Officer to agree in whole or in part, as provided in paragraph (d), as to the amounts with respect to costs and fee, or as to the amount of the fee, to be paid to the Contractor in connection with the termination of work pursuant to this clause, the Contracting Officer shall, subject to any Settlement Review Board approvals required by NASA Regulations in effect as of the date of execution of this contract, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall pay to the Contractor the amount determined as follows:

(i) If the settlement includes cost and fee—

(A) There shall be included therein all costs and expenses reimbursable in accordance with this contract, not previously paid to the Contractor for the performance of this contract prior to the effective date of the Notice of Termination, and such of these costs as may continue for a reasonable time thereafter with the approval of or as directed by the Contracting Officer: *Provided, however,* That the Contractor shall proceed as rapidly as practicable to discontinue such costs;

(B) There shall be included therein, so far as not included under (A) above, the cost of settling and paying claims arising out of the termination of work under subcontracts or orders, as provided in paragraph (b)(v) above, which are properly chargeable to the terminated portion of the contract;

(C) There shall be included therein the reasonable costs of settlement, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the contract and for the termination and settlement of subcontracts thereunder, together with reasonable storage transportation, and other costs incurred in connection with the protection or disposition of termination inventory: *Provided, however,* That if the termination is for default of the Contractor there shall not be included any amounts for the preparation of the Contractor's settlement proposal; and

(D) There shall be included therein a portion of the fee payable under the contract determined as follows—

(I) In the event of the termination of this contract for the convenience of the Government and not for the default of the Contractor, there shall be paid a percentage of the fee equivalent to the percentage of the completion of work contemplated by the contract, less fee payments previously made hereunder; or

(II) In the event of the termination of this contract for the default of the Contractor, the total fee payable shall be such proportionate part of the fee (or, if this contract calls for articles of different types, of such part of the fee as is reasonably allocable to the type of article under consideration) as the total number of articles delivered to and accepted by the Government bears to the total number of articles of a like kind called for by this contract;

if the amount determined under this subparagraph (i) is less than the total payment theretofore made to the contractor, the Contractor shall repay to the Government the excess amount; or

(ii) If the settlement includes only the fee, the amount thereof will be determined in accordance with subparagraph (i)(D) above.

(f) The Contractor shall have the right of appeal, under the clause of this contract entitled "Disputes," from any determination made by the Contracting Officer under paragraph (c) or (e) above, except that if the Contractor has failed to submit his claim within the time provided in paragraph (c) above and has failed to request extension of such time, he shall have no such right of appeal. In any case where the Contracting Officer has made a determination of the amount due under paragraph (c) or (e) above, the Government shall pay to the Contractor the following: (i) If there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Contracting Officer, or (ii) if an appeal has been taken, the amount finally determined on such appeal.

(g) In arriving at the amount due the contractor under this clause there shall be deducted (i) all unliquidated advance or other payments theretofore made to the Contractor, applicable to the terminated portion of this contract, (ii) any claim which the Government may have against the Contractor in connection with his contract, and (iii) the agreed price for, or the proceeds of sale of, any materials, supplies, or other things acquired by the Contractor or sold pursuant to the provisions of this clause and not otherwise recovered by or credited to the Government.

(h) In the event of a partial termination, the portion of the fee which is payable with respect to the work under the continued portion of the contract shall be equitably adjusted by agreement between the Contractor and the Contracting Officer, and such adjustment shall be evidenced by an amendment to this contract.

(i) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of the contract whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally determined to be due under this clause such excess shall be payable by the Contractor to the Government upon demand, together with interest computed at the rate of 6 percent per annum, for the period from the date such excess payment is received by the Contractor to the date on which such excess is repaid to the Government: *Provided, however,* That no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until ten (10) days after the date of such retention or disposition, or such later date as determined by the Contracting Officer by reason of the circumstances.

(j) The provisions of this clause relating to the fee shall be inapplicable if this contract does not provide for payment of a fee.

(b) *Cost-reimbursement type letter contracts.* In accordance with the requirements of § 18–16.859–2, the following clause shall be included in letter contracts which are expected to be converted to cost-reimbursement type definitive contracts:

TERMINATION (JANUARY 1964)

(a) In case a definitive contract is not executed by the date specified in Article VI of the Schedule, because of the inability of the parties to agree upon a definitive contract, this Letter Contract may be terminated in its entirety by either party by delivering to the other party a notice in writing specifying the effective date of termination, which date shall not be earlier than thirty (30) days after receipt of such notice.

(b) The performance of work under this Letter Contract also may be terminated by the Government in accordance with this clause in whole, or from time to time in part:

(i) Whenever the Contractor shall default in performance of this Letter Contract in accordance with its terms (including in the term "default" any such failure by the Contractor to make progress in the prosecution of the work hereunder as endangers such performance), and shall fail to cure such default within a period of 10 days (or such longer period as the Contracting Officer may allow) after receipt from the Contracting Officer of a notice specifying the default; or

(ii) Whenever for any reason the Contracting Officer shall determine that such termination is in the best interest of the Government,

Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying whether termination is for the default of the Contractor or for the convenience of the Government, the extent to which performance of work under this Letter Contract is terminated, and the date upon which such termination becomes effective. If, after notice of termination of this Letter Contract for default under (i) above, it is determined for any reason that the Contractor was not in default pursuant to (i) above, or that the Contractor's failure to perform or to make progress in performance is due to causes beyond the control and without the fault or negligence of the Contractor pursuant to the provisions of the clause of this Letter Contract relating to excusable delays, the Notice of Termination shall be considered to have been issued under (ii) above, and the rights and obligations of the parties hereto shall in such event be governed accordingly.

(c) After receipt of a Notice of Termination and except as otherwise directed by the Contracting Officer the Contractor shall:

(i) Stop work under this Letter Contract on the date and to the extent specified in the notice of termination;

(ii) Place no further orders or subcontracts for materials, services, or facilities, except as may be necessary for completion of such portion of the work under this Letter Contract as is not terminated;

(iii) Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;

(iv) Assign to the Government, in the manner, at the times, and to the extent directed by the Contracting Officer, all of the right, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Government shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

(v) With the approval or ratification of the Contracting Officer, to the extent he may require, which aproval or ratification shall be final and conclusive for all purposes of this clause, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, the cost of which would be reimbursable in whole or in part, in accordance with the provisions of this Letter Contract;

(vi) Transfer title (to the extent that title has not already been transferred) and, in the manner, to the extent, and at the times directed by the Contracting Officer, deliver to the Government: (A) The fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in respect of the performance of, the work terminated by the Notice of Termination; (B) the completed or partially completed plans, drawings, information, and other property which, if this Letter Contract had been completed, would be required to be furnished to the Government; and (C) the jigs, dies, and fixtures, and other special tools, and tooling acquired or manufactured for the performance of this Letter Contract for the cost of which the Contractor has been or will be reimbursed under this Letter Contract;

(vii) Use his best efforts to sell in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Contracting Officer, any property of the types referred to in (vi) above: *Provided, however,* That the Contractor (A) shall not be required to extend credit to any purchaser, and (B) may acquire any such property under the conditions prescribed by and at a price or prices approved by the Contracting Officer; and: *Provided further,* That the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this Letter Contract or shall otherwise be credited to the price or cost of the work covered by this Letter Contract or paid in such other manner as the Contracting Officer may direct;

(viii) Complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and

(ix) Take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to this Letter Contract which is in the possession of the Contractor and in which the Government has or may acquire an interest.

The Contractor shall proceed immediately with the performance of the above obligations notwithstanding any delay in determining the amount of any items of reimbursable cost, under this clause. At any time after expiration of the plant clearance period, as defined in Part 8, NASA Procurement Regulation, as it may be amended from time to time, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the Contracting Officer, and may request the Government to remove such items or enter into a storage agreement covering them. Not later than fifteen (15) days thereafter, the Government will accept such items and remove them or enter into a storage agreement covering the same: *Provided,* That the list submitted shall be subject to verification by the Contracting Officer upon removal of the items, or if the items are stored, within forty-five (45) days from the date of submission of the list, and any necessary adjustment to correct the list as submitted shall be made prior to final settlement.

(d) After receipt of a Notice of Termination, the Contractor shall submit to the Contracting Officer his termination claim in the form and with the certification prescribed by the Contracting Officer. Such claim shall be submitted promptly, but in no event later than one (1) year from the effective date of termination, unless one or more extensions in writing are granted by the Contracting Officer upon request of the Contractor made in writing within such one (1) year period or authorized extension thereof. However, if the Contracting Officer determines that the facts justify such action, he may receive and act upon any such termination claim at any time after such one (1) year period or any extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the Contracting Officer may, subject to any Settlement Review Board approvals required by NASA Regulations in effect on the date of the execution of this contract, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination, and shall thereupon pay to the Contractor the amount so determined.

(e) Subject to the provisions of paragraph (d) hereof, and subject to any Settlement Review Board approvals required by NASA Regulations in effect as of the date of execution of this Letter Contract, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this clause. In the event of any termination pursuant to paragraph (a) or (b)(i) hereof, such amount or amounts shall not include any allowance for fee. In the event of any termination pursuant to paragraph (b)(ii) hereof, such amount or amounts may include a reasonable allowance for fee, but only on work actually done in connection with the terminated portion of this Letter Contract. Any such amount shall not exceed the maximum amount specified in Article III.a of the Schedule. Any such agreement shall be embodied in an amendment to this Letter Contract and the Contractor shall be paid the agreed amount.

(f) In the event of the failure of the Contractor and the Contracting Officer to agree in whole or in part, as provided in paragraph (e) above, as to the amount or amounts to be paid to the Contractor in connection with the termination of work pursuant to this clause, the Contracting Officer shall, subject to any Settlement Review Board approvals required by NASA Regulations in effect as of the date of execution of this Letter Contract, determine, on the basis of information available to him, and in accordance with the applicable cost principles of the NASA Procurement Regulation as in effect on the date of this Letter Contract, the amount, if any, due to the Contractor by reason of the termination and shall pay such amount to the Contractor. In the event of the termination of this Letter Contract pursuant to paragraph (a) or (b)(i) hereof, no allowance for fee shall be included in the amount to be paid the Contractor.

(g) The Contractor shall have the right of appeal, under the clause of this Letter Contract entitled "Disputes," from any determination made by the Contracting Officer under paragraph (d) or (f) above (including any disputes as to whether termination has in fact taken place pursuant to paragraph (a) or (b)(i) hereof), except that if the Contractor has failed to submit a claim

within the time provided in paragraph (d) above and has failed to request extension of such time, he shall have no such right of appeal. In any case where the Contracting Officer has made a determination of the amount due under paragraph (d) or (f) above, the Government shall pay to the Contractor the following:

(i) If there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Contracting Officer; or

(ii) If an appeal has been taken, the amount finally determined on such appeal.

(h) In arriving at the amount due the Contractor under this clause, there shall be deducted:

(i) All unliquidated advance or other payments theretofore made to the Contractor, applicable to the terminated portion of this Letter Contract;

(ii) Any claim which the Government may have against the Contractor in connection with this Letter Contract; and

(iii) The agreed price for, or the proceeds of sale of, any materials, supplies, or other things acquired by the Contractor or sold pursuant to the provisions of this clause and not otherwise recovered by or credited to the Government.

(i) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of this Letter Contract whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand, together with interest computed at the rate of 6 percent per annum, for the period from the date such excess payment is received by the Contractor to the date on which such excess is repaid to the Government: *Provided, however,* That no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until 10 days after the date of such retention or disposition, or such later date as determined by the Contracting Officer by reason of the circumstances.

§ 18–8.703 Termination clause for fixed-price construction contracts.

The following clause shall be used in any fixed-price type construction contract in excess of $10,000.

TERMINATION FOR CONVENIENCE OF THE GOVERNMENT

(a) The performance of work under this contract may be terminated by the Government in accordance with this clause in whole, or from time to time in part, whenever the Contracting Officer shall determine that such termination is in the best interest of the Government. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective.

(b) After receipt of a Notice of Termination, and except as otherwise directed by the Contracting Officer, the Contractor shall:

(i) Stop work under the contract on the date and to the extent specified in the Notice of Termination.

(ii) Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract as is not terminated;

(iii) Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;

(iv) Assign to the Government, in the manner, at the times, and to the extent directed by the Contracting Officer, all of the right, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Government shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

(v) Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts; with the approval or ratification of the Contracting Officer, to the extent he may require, which approval or ratification shall be final for all the purposes of this clause;

(vi) Transfer title to the Government and deliver in the manner, at the times, and to the extent, if any, directed by the Contracting Officer—

(A) The fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of, the work terminated by the Notice of Termination; and

(B) The completed or partially completed plans, drawings, information, and other properties which, if the contract had been completed, would have been required to be furnished to the Government;

(vii) Use his best efforts to sell, in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Contracting Officer, any property of the types referred to in (vi) above: *Provided, however,* That the Contractor—

(A) Shall not be required to extend credit to any purchaser, and

(B) May acquire any such property under the conditions prescribed and at a price or prices approved by the Contracting Officer: *And provided further,* That the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this contract or shall otherwise be credited to the price or cost of the work covered by this contract or paid in such other manner as the Contracting Officer may direct;

(viii) Complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and

(ix) Take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the Government has or may acquire an interest.

At any time after expiration of the plant clearance period as defined in Part 8, NASA Procurement Regulation, as it may be amended from time to time, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the Contracting Officer, and may request the Government to remove such items or enter into a storage agreement covering them. Not later than fifteen (15) days thereafter, the Government will accept title to such items and remove them or enter into a storage agreement covering the same: *Provided,* That the list submitted shall be subject to verification by the Contracting Officer upon removal of the items, or if the items are stored, within forty-five (45) days from the date of submission of the list, and any necessary adjustment to correct the list as submitted shall be made prior to final settlement.

(c) After receipt of a Notice of Termination, the Contractor shall submit to the Contracting Officer his termination claim, in the form and with the certification prescribed by the Contracting Officer. Such claim shall be submitted promptly but in no event later than one (1) year from the effective date of termination, unless one or more extensions in writing are granted by the Contracting Officer, upon request of the Contractor made in writing within such one (1) year period or authorized extension thereof. However, if the Contracting Officer determines that the facts justify such action, he may receive and act upon any such termination claim at any time after such one (1) year period or extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the Contracting Officer may, subject to any Settlement Review Board approvals required by NASA Regulations in effect as of the date of execution of this contract, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.

(d) Subject to the provisions of paragraph (e), and subject to any Settlement Review Board approvals required by NASA Regulations in effect as of the date of execution of this contract, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this clause, which amount or amounts may include a reasonable allowance for profit on work done: *Provided,* That such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. The contract shall be amended accordingly, and the Contractor shall be paid the agreed amount. Nothing in paragraph (e) of this clause, prescribing the amount to be paid to the Contractor in the event of failure of the Contractor and the Contracting Officer to agree upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this clause, shall be deemed to limit, restrict, or otherwise determine or affect the amount or amounts which may be agreed upon to be paid to the Contractor pursuant to this paragraph (d).

(e) In the event of the failure of the Contractor and the Contracting Officer to agree as provided in paragraph (d) upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this clause, the Contracting Officer shall, subject to any Settlement Review Board approvals required by NASA Regulations in effect as of the date of execution of this contract, pay to the Contractor the amounts determined by the Contracting Officer as follows, but without duplication of any amounts agreed upon in accordance with paragraph (d):

(i) With respect to all contract work performed prior to the effective date of the Notice of Termination, the total (without duplication of any items) of—

(A) The cost of such work;

(B) The cost of settling and paying claims arising out of the termination of work under subcontracts or orders as provided in

paragraph (b)(v) above, exclusive of the amounts paid or payable on account of supplies or materials delivered or services furnished by the subcontractor prior to the effective date of the Notice of Termination of work under this contract, which amounts shall be included in the cost on account of which payment is made under (A) above, and

(C) A sum, as profit on (A) above, determined by the Contracting Officer pursuant to 8.303 of the NASA Procurement Regulation, in effect as of the date of execution of this contract, to be fair and reasonable: *Provided, however,* That if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, no profit shall be included or allowed under this subdivision (C) and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss; and

(ii) The reasonable cost of the preservation and protection of property incurred pursuant to paragraph (b)(ix); and any other reasonable cost incidental to termination of work under this contract, including expense incidental to the determination of the amount due to the Contractor as the result of the termination of work under this contract.

The total sum to be paid to the Contractor under (i) above shall not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. Except for normal spoilage, and except to the extent that the Government shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor under (i) above, the fair value, as determined by the Contracting Officer, of property which is destroyed, lost, stolen, or damaged so as to become undeliverable to the Government, or to a buyer pursuant to paragraph (b)(vii).

(f) Any determination of costs under paragraph (c) or (e) hereof shall be governed by the principles for consideration of costs set forth in Part 15, Subpart 4 of the NASA Procurement Regulation as in effect on the date of this contract.

(g) The Contractor shall have the right of appeal, under the clause of this contract entitled "Disputes," from any determination made by the Contracting Officer under paragraph (c) or (e) above, except that if the Contractor has failed to submit his claim within the time provided in paragraph (c) above and has failed to request extension of such time, he shall have no such right of appeal. In any case where the Contracting Officer has made a determination of the amount due under paragraph (c) or (e) above, the Government shall pay to the Contractor the following:

(i) If there is no right of appeal hereunder or if no timely appeal has been taken the amount so determined by the Contracting Officer; or

(ii) If an appeal has been taken, the amount finally determined on such appeal.

(h) In arriving at the amount due the Contractor under this clause there shall be deducted:

(i) All unliquidated advance or other payments on account theretofore made to the Contractor, applicable to the terminated portion of this contract;

(ii) Any claim which the Government may have against the Contractor in connection with this contract; and

(iii) The agreed price for, or the proceeds of sale of, any materials, supplies, or other things kept by the Contractor or sold, pursuant to the provision of this clause, and not otherwise recovered by or credited to the Government.

(i) If the termination hereunder be partial, prior to the settlement of the terminated portion of this contract, the Contractor may file with the Contracting Officer a request in writing for an equitable adjustment of the price or prices specified in the contract relating to the continued portion of the contract (the portion not terminated by the Notice of Termination), and such equitable adjustment as may be agreed upon shall be made in such price or prices; however, nothing contained herein shall limit the right of the Government and the Contractor to agree upon the amount or amounts to be paid to the Contractor for the completion of the continued portion of the contract when said contract does not contain an established contract price for such continued portion.

(j) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of this contract whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand, together with interest computed at the rate of 6 percent per annum, for the period from the date when such excess payment is received by the Contractor to the date on which such excess is repaid to the Government: *Provided, however,* That no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until ten days after the date of such retention or disposition, or such later date as determined by the Contracting Officer by reason of the circumstances.

(k) Unless otherwise provided for in this contract, or by applicable statute, the Contractor, from the effective date of termination and for a period of three years after final settlement under this contract, shall preserve and make available to the Government at all reasonable times at the office of the Contractor, but without direct charge to the Government, all his books, records, documents, and other evidence bearing on the costs and expenses of the Contractor under this contract and relating to the work terminated hereunder or, to the extent approved by the Contracting Officer, photographs, microphotographs, or other authentic reproductions thereof.

§ 18–8.704 Research and development contracts with nonprofit institutions (including educational institutions).

§ 18–8.704–1 Termination clause.

Except as otherwise required by § 18–8.705–50, the following clause shall be used in any contract for experimental, developmental, or research work (whether fixed-price or cost-reimbursement type) with a nonprofit institution: *Provided,* That such contract is placed on a no-profit or no-fee basis.

TERMINATION FOR THE CONVENIENCE OF THE GOVERNMENT (JANUARY 1964)

(a) The performance of work under this contract may be terminated, in whole or from time to time in part, by the Government whenever for any reason the Contracting Officer shall determine that such termination is in the best interests of the Government. Termination of work hereunder shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under the contract is terminated and the date upon which such termination becomes effective.

(b) After receipt of the Notice of Termination the Contractor shall cancel his outstanding commitments hereunder covering the procurement of materials, supplies, equipment and miscellaneous items. In addition, the Contractor shall exercise all reasonable diligence to accomplish the cancellation or diversion of his outstanding commitments covering personal services and extending beyond the date of such termination to the extent that they relate to the performance of any work terminated by the notice. With respect to such canceled commitments, the Contractor agrees to (i) settle all outstanding liabilities and all claims arising out of such cancellation of commitments with the approval or ratification of the Contracting Officer, to the extent he may require, which approval or ratification shall be final for all purposes of this clause, and (ii) assign to the Government, in the manner, at the time, and to the extent directed by the Contracting Officer, all of the right, title and interest of the Contractor under the orders and subcontracts so terminated, in which case the Government shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.

(c) The Contractor shall submit his termination claim to the Contracting Officer promptly after receipt of a Notice of Termination, but in no event later than one year from the effective date thereof, unless one or more extensions in writing are granted by the Contracting Officer upon written request of the Contractor within such one year period or authorized extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the Contracting Officer may, subject to any Settlement Review Board approvals required by NASA Regulations in effect as of the date of execution of this contract, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.

(d) Any determination of costs under paragraph (c) shall be governed by the cost principles set forth in Part 15, Subpart 3, of the NASA Procurement Regulation as in effect on the date of this contract, except that if the Contractor is not an educational institution the determination shall be governed by Part 15, Subpart 2, thereof.

(e) Subject to the provisions of paragraph (c) above, and subject to any Settlement Review Board approvals required by NASA Regulations in effect as of the date of execution of this contract, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the termination under this clause, which amount or amounts may include any reasonable cancellation charges thereby incurred by the Contractor and any reasonable loss upon outstanding commitments for personal services which he is unable to cancel: *Provided, however,* That in connection with any outstanding commitments for personal services which the Contractor is unable to cancel, the Contractor shall have exercised reasonable diligence to divert such commitments to its other activities and operations. Any such agreement shall be embodied in an amend-

ment to this contract and the Contractor shall be paid the agreed amount.

(f) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments against costs incurred by the Contractor in connection with the terminated portion of this contract, whenever, in the opinion of the Contracting Officer, the aggregate of such payments is within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand: *Provided*, That if such excess is not so paid upon demand, interest thereon shall be payable by the Contractor to the Government at the rate of 6 percent per annum, beginning thirty (30) days from the date of such demand.

(g) The Contractor agrees to transfer title and deliver to the Government, in the manner, at the time and to the extent, if any, directed by the Contracting Officer, such information and items which, if the contract had been completed, would have been required to be furnished to the Government, including:

(i) Completed or partially completed plans, drawings, and information; and

(ii) Materials or equipment produced or in process or acquired in connection with the performance of the work terminated by the notice.

Other than the above, any termination inventory resulting from the termination of the contract may, with the written approval of the Contracting Officer, be sold or acquired by the Contractor under the conditions prescribed by and at a price or prices approved by the Contracting Officer. The proceeds of any such disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this contract or shall otherwise be credited to the price or cost of the work covered by this contract or paid in such other manner as the Contracting Officer may direct. Pending final disposition or property arising from the termination, the Contractor agrees to take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the Government has or may acquire an interest.

(h) Any disputes as to questions of fact which may arise hereunder shall be subject to the "disputes" clause of this contract.

§ 18–8.704–2 Suggested clause for subcontracts.

The clause set forth in § 18–8.704–1, suitably altered to indicate the relationship between the prime contractor and subcontractor, is suggested for use in subcontracts placed with nonprofit institutions: *Provided*, That such subcontracts with educational institutions incorporate, or are negotiated on the basis of the cost principles set forth in Subpart 18–15.2 of this chapter: *And provided further*, That such subcontracts are placed on a no-fee or no-profit basis.

§ 18–8.705 Short form termination clauses.

§ 18–8.705–1 Supply and service contracts.

The following clause is authorized for use in any fixed-price type supply contract not in excess of $10,000 and in any fixed-price contract for services (other than experimental, developmental, or research work) where it is intended that a termination claim will not be made in the event of termination for the convenience of the Government: *Provided*, That such contract obligates the Government to order or otherwise be liable for a minimum quantity.

TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (NOVEMBER 1964)

The Contracting Officer, by written notice, may terminate this contract, in whole or in part, when it is in the best interest of the Government. If this contract is for supplies and is so terminated, the Contractor shall be compensated in accordance with Part 8 of the NASA Procurement Regulation in effect on the date of this contract. To the extent that this contract is for services and is terminated, the Government shall be liable only for payment in accordance with the payment provisions of this contract for services rendered prior to the effective date of termination.

§ 18–8.705–2 Construction contracts.

Generally, there is no need for a termination clause in construction contracts not in excess of 10,000. However, where the contracting officer determines that a termination clause should be included in such a contract, the following clause shall be used.

TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (NOVEMBER 1964)

The Contracting Officer, by written notice, may terminate this contract, in whole or in part, when it is in the interest of the Government. If this contract is terminated, the Contractor shall be compensated in accordance with Part 8 of the NASA Procurement Regulation in effect on the date of this contract.

§ 18–8.705–50 Research contracts with nonprofit institutions (including educational institutions).

(a) *Fixed-price type.* The following clause shall be used in any short form fixed-price research contract with a nonprofit institution.

TERMINATION AT THE OPTION OF THE GOVERNMENT (SEPTEMBER 1963)

The performance of work under this contract may be terminated by the Government, in whole or in part, whenever the Contracting Officer shall determine that such action is in the best interest of the Government. If this contract is so terminated, fair compensation for work performed will be provided the Contractor.

(b) *Cost-reimbursement type.* The following clause shall be used in any short form cost-reimbursement type research contract with a nonprofit institution.

TERMINATION (JANUARY 1964)

The performance of work under this contract may be terminated in whole or in part by the Government whenever the Contracting Officer shall determine that such action is in the best interests of the Government. Such termination shall be effected by written notice to the Contractor describing the extent of the termination and the date upon which it becomes effective. Upon receipt of such notice, the Contractor shall take necessary action to cancel outstanding subcontracts and/or purchase orders and any other commitment relating to costs which would be chargeable to this contract; and shall exercise reasonable diligence to cancel or direct commitments for personal services to his other activities and operations. The Contractor shall submit a termination claim to the Contracting Officer as promptly as possible after receipt of the notice of termination, describing in detail those commitments which will involve costs incident to cancellation. The Contractor and the Contracting Officer shall agree on the amounts to be paid as a result of a termination under this clause, and such agreement shall be evidenced by a supplemental agreement to this contract. Payment of the Contractor's termination claim shall be governed by the cost principles set forth in Part 15, Subpart 2, of the NASA procurement Regulation, except that if the Contractor is not an educational institution, payment shall be governed by Part 15, Subpart 2 thereof.

§ 18–8.706 Subcontract termination clause.

The following termination clause is suggested for use in fixed-price subcontracts.

TERMINATION (NOVEMBER 1964)

(a) The performance of work under this contract may be terminated, in whole or from time to time in part, by the buyer in accordance with this clause. Termination of work hereunder shall be effected by delivery to the seller of a Notice of Termination specifying the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective.

(b) After receipt of a Notice of Termination and except as otherwise directed by the buyer, the seller shall:

(i) Stop work under the contract on the date and to the extent specified in the Notice of Termination;

(ii) Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portions of the work under the contract as may not be terminated;

(iii) Terminate all orders and subcontracts to the extent that they relate to the performance of any work terminated by the Notice of Termination;

(iv) Assign to the buyer, in the manner, and to the extent directed by the buyer, all of the right, title, and interest of his seller under the orders of subcontracts so terminated;

(v) Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts subject to the approval or ratification of the buyer to the extent he may require, which approval or ratification shall be final for all the purposes of this clause;

(vi) Transfer title and deliver to the buyer in the manner, to the extent, and at the times directed by the buyer (A) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of, the work terminated by the Notice of Termination, and (B) the completed or partially completed plans, drawings, information, and other property which, if the contract had been completed, would be required to be furnished to the buyer;

(vii) Use his best efforts to sell in the manner, to the extent, at the time, and at the price or prices directed or authorized by the buyer, any property of the types referred to in (vi) above: *Provided, however*, That the seller (A) shall not be required to extend credit to any purchaser and (B) may acquire any such property under the conditions prescribed by and at a price or prices approved by the buyer: *And provided further*, That the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the buyer to the seller under this contract or shall otherwise be credited to the price or cost of the work covered by this contract or paid in such other manner as the buyer may direct;

(viii) Complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and

(ix) Take such action as may be necessary or as the buyer may direct for protection and preservation of the property related to this contract which is in the possession of the seller and in which the buyer or the Government has or may acquire an interest.

(c) After receipt of a Notice of Termination, the seller shall submit to the buyer his termination claim, in the form and with the certification prescribed by the buyer. Such claim shall be submitted promptly, but not later than six (6) months from the effective date of termination. Upon failure of the seller to submit his termination claim within the time allowed, the buyer may determine, on the basis of information available to him, the amount, if any, due to the seller in respect to the termination and such determination shall be final. After the buyer has made a determination under this paragraph, he shall pay the seller the amount so determined.

(d) Subject to the provisions of paragraph (c) the seller and the buyer may agree upon the whole or any part of the amount or amounts to be paid to the seller by reason of the total or partial termination of work pursuant to this clause, which amount or amounts may include a reasonable allowance for profit on work done and the buyer shall pay the agreed amount or amounts: *Provided*, That such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. Nothing in paragraph (c) below prescribing the amount to be paid to the seller in the event of the failure of the seller and the buyer to agree upon the whole amount to be paid to the seller by reason of the termination of work pursuant to this clause, shall be deemed to limit, restrict, or otherwise determine or affect the amount or amounts which may be agreed upon to be paid to the seller pursuant to this paragraph (d).

(e) In the event of the failure of the seller and the buyer to agree as provided in paragraph (d) upon the whole amount to be paid to the seller by reason of the termination of work pursuant to this clause, the buyer shall, subject to any Settlement Review Board approvals required by Part 8 of the NASA Procurement Regulations in effect as of the date of execution of this contract, pay to the seller the amounts determined by the buyer as follows, but without duplication of any amounts agreed upon in accordance with paragraph (d):

(i) For completed supplies accepted by the buyer (or sold or acquired as provided in paragraph (b)(vii) above) and not theretofore paid for, forthwith a sum equivalent to the aggregate price for such supplies computed in accordance with the price or prices specified in the contract, appropriately adjusted for any saving of freight or other charges;

(ii) The total of—

(A) The cost of such work, including initial costs and preparatory expenses allocable thereto, exclusive of any costs attributable to supplies paid to or to be paid for under (i) above; and

(B) The cost of settling and paying claims arising out of the termination work under subcontracts or orders as provided in paragraph (b)(v) above, exclusive of the amounts paid or payable on account of supplies or materials delivered or services furnished by the subcontractor prior to the effective date of the Notice of Termination of work under this contract, which amount shall be included in the cost on account of which payment is made under (A) above; and

(C) A sum, as profit on (A) above, determined by the buyer pursuant to 8.303 of the NASA Procurement Regulation in effect as of the date of execution of this contract, to be fair and reasonable: *Provided, however*, That if it appears that the seller would have sustained a loss on the entire contract had it been completed, no profit shall be included or allowed under this subdivision (C), and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss; and

(iii) The reasonable costs of settlement, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the contract and for the termination and settlement of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of the property allocable to this contract.

The total sum to be paid to the seller under (i) and (ii) above shall not exceed the total contract price reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. Except for normal spoilage and except to the extent that the buyer or the Government shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the seller under (i) and (ii)(A) above the fair value, as determined by the buyer, of property which is destroyed, lost, stolen, or damaged so as to become undeliverable to the buyer or to a purchaser pursuant to paragraph (b)(vii).

(f) The obligation of the buyer to make any payments under this clause shall be subject to deductions with respect to (i) all unliquidated advance or other payments on account theretofore made to the seller applicable to the terminated portion of this contract, (ii) any claim which the buyer may have against the seller, in connection with this contract, and (iii) the agreed price for, or the proceeds of sale of, any materials, supplies, or other things retained by the seller or sold, and not otherwise recovered by or credited to the buyer.

(g) If the termination hereunder be partial, prior to the settlement of the terminated portion of this contract, the seller may file with the buyer a request in writing that an equitable adjustment be made in the price or prices specified in the contract for the work in connection with the continued portion not terminated by the Notice of Termination, and the appropriate equitable adjustment shall be made in such price or prices.

(h) The buyer may, from time to time, under such terms and conditions as he may prescribe, make partial payments and payments on account against costs incurred by the seller in respect to the terminated portion of the contract, whenever in the opinion of the buyer the aggregate of such payments shall be within the amount to which the seller will be entitled hereunder. If the total of such payments is in excess of the amount finally agreed upon or determined to be due under this clause, such excess shall be payable by the seller to the buyer upon demand, together with interest computed at the rate of 6 percent per annum, for the period from the date such excess payment is received by the seller to the date on which such excess is repaid: *Provided, however*, That no interest shall be charged with respect to any such excess payment attributable to a reduction in the seller's claim by reason of retention or other disposition of termination inventory until 10 days after the date of such retention or disposition, or such later date as determined by the buyer by reason of the circumstances.

(i) For the purpose of paragraphs (c) and (e) above, the amounts of the payments to be made by the buyer to the seller shall be determined in conformity with the policies and principles set forth in Part 8 of the NASA Procurement Regulation in effect at the date of this contract. Unless otherwise provided for in this contract, or by applicable statute, the seller, for a period of 3 years after final settlement under the contract, shall make available to the buyer and the Government at all reasonable times at the office of the seller all his books, records, documents, or other evidence bearing on the costs and expenses of the seller under the contract and in respect of the termination of work hereunder or, to the extent approved by the Government, photographs, microphotographs, or other authentic reproductions thereof.

§ 18–8.707 Default clause for fixed-price supply contracts.

The following clause shall be included in all formally advertised fixed-price type supply contracts and in all negotiated fixed-price type supply contracts in excess of $2,500.

DEFAULT (NOVEMBER 1964)

(a) The Government may, subject to the provisions of paragraph (c) below, by written notice of default to the Contractor, terminate the whole or any part of this contract in any one of the following circumstances:

(i) If the Contractor fails to make delivery of the supplies or to perform the services within the time specified herein or any extension thereof; or

(ii) If the Contractor fails to perform any of the other provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of 10 days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure.

(b) In the event the Government terminates this contract in whole or in part as provided in paragraph (a) of this clause, the Government may procure, upon such terms and in such manner as the Contracting Officer may deem appropriate, supplies or services similar to those so terminated, and the Contractor shall be liable to the Government for any excess costs for such similar supplies or services: *Provided*, That the Contractor shall continue the performance of this contract to the extent not terminated under the provisions of this clause.

(c) Except with respect to defaults of subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight em-

bargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any excess costs for failure to perform, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule.

(d) If this contract is terminated as provided in paragraph (a) of this clause, the Government, in addition to any other rights provided in this clause, may require the Contractor to transfer title and deliver to the Government, in the manner and to the extent directed by the Contracting Officer, (i) any completed supplies and (ii) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing materials") as the Contractor has specifically produced or specifically acquired for the performance of such part of this contract as has been terminated; and the Contractor shall, upon direction of the Contracting Officer protect and preserve property in possession of the Contractor in which the Government has an interest. Payment for completed supplies delivered to and accepted by the Government shall be at the contract price. Payment for manufacturing materials delivered to and accepted by the Government and for the protection and preservation of property shall be in an amount agreed upon by the Contractor and Contracting Officer; failure to agree to such amount shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes." The Government may withhold from amounts otherwise due the Contractor for such completed supplies or manufacturing materials such sum as the Contracting Officer determines to be necessary to protect the Government against loss because of outstanding liens or claims of former lien holders.

(e) If after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the Government, be the same as if the notice of termination had been issued pursuant to such clause. If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, and if this contract does not contain a clause providing for termination for convenience of the Government, the contract shall be equitably adjusted to compensate for such termination and the contract modified accordingly; failure to agree to any such adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(f) The rights and remedies of the Government provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

§ 18–8.708 Excusable delays clause for cost-reimbursement type contracts.

The following clause shall be used in all cost-reimbursement type contracts that contain the "Termination" clause in § 18–8.702 (a) or (b), and may be used in contracts containing the clause set forth in § 18–8.704–1.

EXCUSABLE DELAYS (SEPTEMBER 1962)

Except with respect to defaults of subcontractors, the Contractor shall not be in default by reason of any failure in performance of this contract in accordance with its terms (including any failure by the Contractor to make progress in the prosecution of the work hereunder which endangers such performance) if such failure arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to: Acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather, but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the failure of a subcontractor to perform or make progress, and if such failure arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be deemed to be in default, unless (i) the supplies or services to be furnished by the subcontractor were obtainable from other sources, (ii) the Contracting Officer shall have ordered the Contractor in writing to procure such supplies or services from such other sources, and (iii) the Contractor shall have failed to comply reasonably with such order. Upon request of the Contractor, the Contracting Officer shall ascertain the facts and extent of such failure and, if he shall determine that any failure to perform was occasioned by any one or more of the said causes, the delivery schedule shall be revised accordingly, subject to the rights of the Government under the clause of this contract providing for termination.

§ 18–8.709 Default clause for fixed-price construction contracts.

(a) The following clause shall be used in all fixed-price construction contracts in excess of $10,000.

TERMINATION FOR DEFAULT—DAMAGES FOR DELAY—TIME EXTENSIONS (NOVEMBER 1964)

(a) If the Contractor refuses or fails to prosecute the work, or any separable part thereof, with such diligence as will insure its completion within the time specified in this contract, or any extension thereof, or fails to complete said work within such time, the Government may, by written notice to the Contractor, terminate his right to proceed with the work or such part of the work as to which there has been delay. In such event the Government may take over the work and prosecute the same to completion, by contract or otherwise, and may take possession of and utilize in completing the work such materials, appliances, and plant as may be on the site of the work and necessary therefor. Whether or not the Contractor's right to proceed with the work is terminated, he and his sureties shall be liable for any damage to the Government resulting from his refusal or failure to complete the work within the specified time.

(b) If fixed and agreed liquidated damages are provided in the contract and if the Government so terminated the Contractor's right to proceed, the resulting damage will consist of such liquidated damages until such reasonable time as may be required for final completion of the work together with any increased costs occasioned the Government in completing the work.

(c) If fixed and agreed liquidated damages are provided in the contract and if the Government does not so terminate the Contractor's right to proceed, the resulting damage will consist of such liquidated damages until the work is completed or accepted.

(d) The Contractor's right to proceed shall not be so terminated nor the Contractor charged with resulting damage if:

(i) The delay in the completion of the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God, acts of the public enemy, acts of the Government in either its sovereign or contractual capacity, acts of another contractor in the performance of a contract with the Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and such subcontractors or suppliers; and

(ii) The Contractor, within 10 days from the beginning of any such delay (unless the Contracting Officer grants a further period of time before the date of final payment under the contract), notifies the Contracting Officer in writing of the causes of delay.

The Contracting Officer shall ascertain the facts and the extent of the delay and extend the time for completing the work when, in his judgment, the findings of fact justify such an extension, and his findings of fact shall be final and conclusive on the parties, subject only to appeal as provided in the clause of this contract entitled "Disputes."

(e) If, after notice of termination of the Contractor's right to proceed under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the delay was excusable under the provisions of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the Government, be the same as if the notice of termination had been issued pursuant to such clause. If, in the foregoing circumstances, this contract does not contain a clause providing for termination for convenience of the Government, the contract shall be equitably adjusted to compensate for such termination and the contract modified accordingly; failure to agree to any such adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(f) The rights and remedies of the Government provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

(b) During a period of national emergency, paragraph (d) (i) of the clause set forth in paragraph (a) of this section shall be amended by deleting the words "unforeseeable causes" in the two places where they appear and substituting the words "causes, other than normal weather." Where Standard Form 23A is used, the words "the clause of this contract entitled Disputes" in paragraph (d) of the clause set forth in paragraph (a) of this section need not be substituted for "Clause 6 of these General Provisions."

(c) The following clause shall be used in all fixed-priced construction contracts not in excess of $10,000.

TERMINATION FOR DEFAULT—DAMAGES FOR DELAY—TIME EXTENSIONS (SEPTEMBER 1962)

(a) If the Contractor does not prosecute the work so as to insure completion, or fails to complete it, within the time specified, the Government may, by written notice to the Contractor, terminate his right to proceed. Thereafter, the Government may have the work completed, and the Contractor shall be liable for any resulting excess cost to the Government. If the Government does not terminate the Contractor's right to proceed, he shall continue the work and shall be liable to the Government for any actual damages occasioned by such delay unless liquidated damages are stipulated.

(b) The Contractor's right to proceed shall not be terminated nor the Contractor charged with actual or liquidated damages under (a) above because of any delays in completion of the work due to causes other than normal weather, beyond his control and without his fault or negligence, including, but not restricted to, acts of God, acts of the public enemy, acts of the Government (in either its soverign or contractual capacity), acts of another contractor in the performance of a contract with the Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather, or delays of subcontractors or suppliers due to causes beyond their control and without their fault or negligence: *Provided*, That the Contractor shall, within 10 days from the beginning of any such delay, unless the Contracting Officer shall grant a further period of time prior to the date of final settlement of the contract, notify the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of the delay and extend the time for completing the work when in his judgment the findings of fact justify such an extension, and his findings of fact shall be final and conclusive on the parties hereto, subject only to appeal as provided in the clause of this contract entitled "Disputes."

(c) If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the Government, be the same as if the notice of termination had been issued pursuant to such clause. If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, and if this contract does not contain a clause providing for termination for convenience of the Government, the contract shall be equitably adjusted to compensate for such termination and the contract modified accordingly; failure to agree to any such adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(d) When Standard Form 19 is used, the words "the clause of this contract entitled Disputes" in paragraph (b) of the clause set forth in paragraph (c) of this section need not be substituted for "Clause 3 hereof."

§ 18–8.710 Default clause for fixed-price research and development contracts.

The following clause shall be used in all fixed-price research and development contracts as defined in § 18–7.301, except contracts with nonprofit institutions (including educational institutions) which are awarded on the basis of no profit.

DEFAULT (NOVEMBER 1964)

(a) The Government may, subject to the provisions of paragraph (c) of this clause, by written Notice of Default to the Contractor terminate the whole or any part of this contract in any one of the following circumstances:

(i) If the Contractor fails to perform the work called for by this contract within the time(s) specified herein or any extension thereof; or

(ii) If the Contractor fails to perform any of the other provisions of this contract, or so fails to prosecute the work as to endanger performance of this contract in accordance with its terms, and in either or these two circumstances does not cure such failure within a period of 10 days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure.

(b) In the event the Government terminates this contract in whole or in part as provided in paragraph (a) of this clause, the Government may procure, upon such terms and in such manner as the Contracting Officer may deem appropriate, work similar to the work so terminated and the Contractor shall be liable to the Government for any excess costs for such similar work: *Provided*, That the Contractor shall continue the performance of this contract to the extent not terminated under the provisions of this clause.

(c) Except with respect to defaults of subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any excess costs for failure to perform, unless the supplies or service to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule or other performance requirements.

(d) If this contract is terminated as provided in paragraph (a) of this clause, the Government, in addition to any other rights provided in this clause, may require the Contractor to transfer title and deliver to the Government, in the manner and to the extent directed by the Contracting Officer any of the completed or partially completed work not theretofore delivered to, and accepted by, the Government and any other property, including contract rights, specifically produced or specifically acquired for the performance of such part of this contract as has been terminated; and the Contractor shall, upon the direction of the Contracting Officer, protect and preserve property in the possession of the Contractor in which the Government has an interest. The Government shall pay to the Contractor the contract price, if separately stated, for completed work accepted by the Government and the amount agreed upon by the Contractor and the Contracting Officer for (i) completed work for which no separate price is stated, (ii) partially completed work, (iii) other property described above which is accepted by the Government, and (iv) the protection and preservation of property. Failure to agree shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes." The Government may withhold from amounts otherwise due the Contractor for such completed supplies or manufacturing materials such sum as the Contracting Officer determines to be necessary to protect the Government against loss because of outstanding liens or claims of former lien holders.

(e) If, after notice of termination of this contract under the provisions of this clause it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the Government, be the same as if the notice of termination had been issued pursuant to such clause. If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, and if this contract does not contain a clause providing for termination for convenience of the Government, the contract shall be equitably adjusted to compensate for such termination and the contract modified accordingly; failure to agree to any such adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(f) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

Subpart 18–8.8—Forms

§ 18–8.800 Scope of subpart.

This Subpart 18–8.8 prescribes certain forms related to the termination and settlement of contracts.

§ 18–8.801 Notice of termination.

§ 18–8.801–1 Telegraphic notice of termination.

(a) The following form of telegraphic notice is approved for use where a contract is being completely terminated.

TELEGRAPHIC NOTICE OF PARTIAL TERMINATION
(NOVEMBER 1964)

Date: ----------

XYZ Corp.,
New York, N.Y.

Your Contract No. ------- is hereby terminated in its entirety pursuant to Clause ---- of the contract effective [here insert "immediately" or "on ----------, 19--." (Insert the date) or "as soon as you have delivered thereunder including previous deliveries the following items" (listing items)]. Immediately stop all work, terminate subcontracts and place no further orders except to extent (insert if applicable—necessary to perform any portion thereof not terminated hereby or) that you or a subcontractor wish to retain and continue for own account any work in process or other materials. Telegraph similar instructions to all subcontractors and suppliers. Letter and instructions follow.

(Contracting Officer)

(b) The following form of telegraphic notice is approved where a contract is being partially terminated.

TELEGRAPHIC NOTICE OF PARTIAL TERMINATION
(NOVEMBER 1964)

Date: ----------

XYZ Corp.,
New York, N.Y.

Your Contract No. ------- is hereby partially terminated pursuant to Clause ------ of the contract effective on ----------, 19--, on which date you will reduce its total number of items to be delivered as follows (inserting instructions as to reduced deliveries): Immediately stop all work, terminate subcontracts and place no further orders except to extent necessary to perform any portion thereof not terminated hereby or that you or a subcontractor wish to retain and continue for own account any work in process or other materials. Telegraph similar instructions to all subcontractors and suppliers. Letter and instructions follow:

(Contracting Officer)

§ 18–8.801–2 Letter notice of termination.

The following form of Notice of Termination of prime contract is approved for use. With appropriate modifications, it is suitable for use in terminating subcontracts.

LETTER NOTICE OF TERMINATION TO PRIME CONTRACTORS

(At the top of the Notice set out all special details relating to the particular termination; e.g., name and address of company, number of prime contract terminated, service involved, appropriation or allotment, etc.)

(Two alternative forms of paragraph No. 1 are set out below. If this written termination notice confirms a telegraphic notice previously sent, use the first of the alternative paragraphs No. 1 below. If no previous telegraphic notice has been sent, use the second.)

1. *Effective Date of Termination.* This letter will confirm the Government's telegram to you dated ----------, 19--, terminating (in part) your Contract No. -------- (hereinafter referred to as "the contract") for the convenience of the Government, in accordance with the clause thereof entitled "Termination for the Convenience of the Government" (or, in the case of a cost-reimbursement-type contract, "Termination"). Such termination is effective on the date and in the manner stated in such telegram, reference to which is hereby made (or copy of which is attached hereto).

(or)

1. *Effective Date of Termination.* You are notified that your Contract No. ------- (hereinafter referred to as "the contract") is hereby terminated (in part) for the convenience of the Government, in accordance with the clause hereof entitled "Termination for the Convenience of the Government" (or, in the case of a cost-reimbursement-type contract, "Termination"). Such termination will be effective: ---------- (here insert either "immediately upon your receipt of this Notice" or "on ----------, 19--," (inserting the date) or "as soon as you have delivered under the contract the following number of each of the items listed below, including those heretofore delivered, to wit: ---------" or, "on ----------, 19--, on which date you are hereby directed to reduce the total number of items to be delivered under the contract as follows": (here insert instructions as to reduced deliveries)).

2. *Cessation of Work and Notification to Your Immediate Subcontractors.* (a) You shall stop all work, make no further shipment, and place no further orders in connection with the contract, except (1) to the extent necessary to perform any portion thereof not terminated by this Notice, or (2) to the extent that you may wish to retain and continue any work in process or other materials for your own account, or (3) to the extent the Contracting Officer authorizes you to continue work-in-process for reasons of safety, or to clear [or avoid damage to] equipment or to avoid immediate complete spoilage of work-in-progress having a definite commercial value, or otherwise to prevent undue loss to the Government. [If you believe the authorization referred to in subparagraph (3) above is necessary or advisable, you shall immediately notify the Contracting Officer by telephone or personal conference and obtain instructions.] You shall keep adequate records of your compliance with this paragraph 2(a) showing (i) the date you received your Notice of Termination, (ii) the effective date of such termination, and (iii) the extent of completion of performance on such effective date.

(b) You shall give notice of termination to each of your immediate subcontractors (including suppliers) who will be affected by the termination of your contract. In such notice you shall (1) give him the number of your contract with the Government, (2) state that it has been terminated (or terminated in part, if that is the case) for the convenience of the Government, (3) give him the name and address of the Contracting Officer, (4) instruct him to stop all work, to make no further shipments, to place no more orders, and to terminate all subcontracts under this contract with you (subject to the same exceptions stated in paragraph 2(a)), (5) direct him to submit his settlement proposal promptly in order to expedite settlement, and (6) request him to give similar notice and instructions to his immediate subcontractors.

(c) You shall notify the Contracting Officer of the number of articles completed under the contract and still on hand, and arrange with him for their delivery or other disposal.

(d) You shall forthwith transfer title to and deliver to the Government, in accordance with any instructions of the Contracting Officer, all items of termination inventory (including subcontractor termination inventory which under the terms of the subcontract or purchase order concerned you have the right to take over) of the following types or classes: (insert proper identification or "none").

(e) You shall notify the Contracting Officer of any pending legal proceedings which relate to any subcontracts or purchase orders under the terminated contract or which have resulted in or which are intended to result in a lien or encumbrance on any termination inventory other than termination inventory you proposed and are authorized to purchase, retain, or dispose of. (The Contracting Officer shall also be promptly notified of any such proceedings brought after receipt of this Notice.)

(f) You shall take such other action as may be required by the Contracting Officer or under the termination clause contained in your contract.

3. *Termination Inventory.* In connection with settlement of your claim it will be necessary to establish that all your termination inventory and that of your subcontractors has been properly accounted for. For detailed information, see NASA Procurement Regulation, Part 8, Subpart 8.

4. *Completed End Items.* Subject to NASA Procurement Regulation 8.306, you will invoice acceptable completed end items under the contract in the usual way and not include them in your settlement proposal.

5. *Submission of Settlement Proposal.* To assist you in prompt submission of your settlement proposal, there is enclosed one set of the standard forms.

6. *Patents.* If the contract contains either the New Technology clause or the Property Rights in Inventions clause, your attention is called to the provisions of the clause which requires reports, disclosures, and other information regarding any invention, discovery, improvement, or innovation made in the performance of the contract. You are urged to forward such reports, disclosures, and other information to the Contracting Officer promptly, since these contractual obligations must be complied with before execution of the final settlement agreement.

7. *Settlements With Subcontractors.* You remain liable to your subcontractors and suppliers for claims arising by reason of the termination of their subcontracts or orders. You are requested to settle such termination claims as promptly as possible. For purposes of reimbursement by the Government, such settlements will be governed by the provisions of NASA Procurement Regulation, Part 8.

8. The Office named below will be in charge of the settlement of your claim. As to any matters not covered by this Notice, you should consult the Office named below.

9. Please acknowledge receipt of the Notice as shown below.

Enclosures.

(Contracting Officer)

(Name of Office)

(Address)

Acknowledgment of Notice

The undersigned hereby acknowledge receipt of a signed copy of the foregoing Notice on ----------, 19--. Two copies of this Notice, both signed, are herewith returned.

(Name of Contractor)

By ----------

(Title)

§ 18–8.802 Forms for settlement of fixed-price contracts.

The forms listed in § 18–8.802–1 through § 18–8.802–10 are prescribed for use in settling terminated fixed-price contracts.

§ 18–8.802–1 DD Form 540—Settlement proposal—Inventory basis.

§ 18–8.802–2 DD Form 541—Settlement proposal—Total cost basis.

§ 18–8.802–3 DD Form 831—Settlement proposal—Short form.

§ 18–8.802–4 DD Form 542—Inventory schedule A—Metals in mill product form and DD Form 542c—Inventory schedule A—Continuation sheet.

§ 18–8.802–5 DD Form 543—Inventory schedule B—Raw materials and DD Form 543c, Inventory schedule B—Continuation sheet.

§ 18–8.802–6 DD Form 544—Inventory schedule C—Work in process and DD Form 544c—Inventory schedule B—Continuation sheet.

§ 18–8.802–7 DD Form 545—Inventory schedule D—Dies, jigs, fixtures, etc., and special tools; and DD Form 545c—Inventory schedule D, continuation sheet.

§ 18–8.802–8 DD Form 832—Inventory schedule E—Short form for use with DD Form 831 only.

§ 18–8.802–9 DD Form 546—Schedule of accounting information.

DD Form 546 is required to be filed only once with respect to any termination. It is not required when the settlement proposal is submitted on DD Form 831.

§ 18–8.802–10 DD Form 548—Application for partial payment.

§ 18–8.803 DD Form 547—Settlement proposal for cost-reimbursement type contracts.

DD Form 547 is to be used by prime contractors submitting termination claims on cost-reimbursement type contracts. It is also suitable for use in connection with terminated cost-reimbursement type subcontracts.

§ 18–8.804 DD Form 547s—Notice of audit status date.

DD Form 547s is for use by disbursing officers in accordance with § 18–8.404–6.

§ 18–8.805 Scrap warranty.

A warranty in the general format set forth below shall be executed by a purchaser of material as scrap (on direct purchase from the Government or on subsequent resale) in accordance with the requirements of § 18–8.504.

SCRAP WARRANTY (NOVEMBER 1964)

In consideration of the transfer to the undersigned of the property covered by this Agreement at a value based upon its being used as scrap, the undersigned represents and warrants to the United States as follows:

(1) The property covered by this Agreement will be used only as scrap, either in its existing condition or after further preparation, unless and until the undersigned is released from this warranty.

(2) In the event the undersigned is released from this warranty, any payment agreed on as consideration for such release shall be made to the United States, regardless of whether this warranty shall have been executed at the request of the United States.

(3) In the event the undersigned sells the property covered by this Agreement prior to release of this warranty, the undersigned will obtain from the purchaser and tender to the United States a warranty identical to this executed by the purchaser, and upon receipt of such other warranty, this warranty will be released by the United States.

(4) All obligations of the undersigned under this warranty shall expire 5 years from the date hereof.

(Name)

(Address)

(Date)

§ 18–8.806 Forms of settlement agreement.

See § 18–8.209.

§ 18–8.806–1 Settlement agreement for use in settling fixed-price prime contracts after complete termination.

NOVEMBER 1964.

This Supplemental Agreement of Settlement, entered into this ------- day of ------ ---- 19--, between the United States of America (hereinafter called "the Government") represented by the Contracting Officer executing this contract, and ----------

(i) A corporation organized and existing under the laws of the State of ----------;

(ii) A partnership consisting of----------;

(iii) An individual doing business as ----------; (hereinafter called "the Contractor").

Witnesseth That:

Whereas, the Contractor and the Government have entered into Contract No. ------ under date of ---------- 19--, which, together with any and all amendments, changes, modifications, and supplements thereto, is hereinafter referred to as "the contract"; and

Whereas, the Termination for Convenience of the Government clause of the contract provides that the performance of work under the contract may at the convenience of the Government be terminated by the Government in whole, or from time to time in part, whenever the Contracting Officer shall determine that such termination is in the best interest of the Government, and that the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid to the Contractor by reason of such termination; and

Whereas, by notice of termination dated ---------- the Government advised the Contractor of the complete termination of the contract for the convenience of the Government; and

Whereas, as used herein the following terms shall have the meanings hereinafter set forth:

The term "termination inventory" means any items of physical property purchased, supplied, manufactured, furnished, or otherwise acquired for performance of the contract which are properly allocable to the terminated portion of the contract, but shall not include any facilities, materials, production or other equipment, or special tooling, which are subject to a separate contract or a special contract provision governing the use or disposition thereof. Termination inventory may include Government-furnished property and contractor-acquired property as defined below.

(i) Government-furnished property is property in the possession of or acquired directly by the Government, and delivered or otherwise made available to the Contractor.

(ii) Contractor-acquired property is property procured or otherwise provided by the Contractor for the performance of a contract, whether or not the Government has title by the terms of the contract, or exercises its contractual right to take title.

The term "subcontract" means any contract as defined in NASA Procurement Regulation 1.207 other than a prime contract, entered into by a prime contractor or a subcontractor, calling for supplies or services required for the performance of any one or more prime contracts.

The term "scrap" means property that has no reasonable prospect of being sold except for the recovery value of its basic material content.

Now, therefore, the parties hereto do mutually agree as follows:

ARTICLE 1. The Contractor certifies that all contract termination inventory (including scrap) has been retained or otherwise acquired by him, sold to third parties, returned to suppliers, stored for the Government, delivered to the Government, otherwise properly accounted for, and all proceeds or retention prices thereof, if any, have been taken into account in arriving at this agreement.

ART. 2. a. The Contractor certifies that, prior to the execution of this agrement, each of the Contractor's immediate subcontractors whose claim is included in the claim settled by this agrement has furnished to the Contractor a certificate stating (i) that all of his subcontract termination inventory (including scrap) has been retained or otherwise acquired by him, sold to third parties, returned to suppliers, stored for the Government, delivered to the Government, or otherwise properly accounted for, and all proceeds or retention prices thereof, if any, were taken into account in arriving at the settlement of the subcontract or subcontracts, and (ii) that the subcontractor has received from each of the immediate subcontractors whose claim was included in his claim a substantially similar certificate.

b. The Contractor hereby transfers and conveys to the Government all the right, title, and interest, if any, which the Contractor has received, or is entitled to receive, in and to subcontract termination inventory, if any, not otherwise properly accounted for, and hereby assigns to the Government any and all of his rights relating thereto.

ART. 3. The Contractor certifies that, with respect to all items of termination inventory the costs of which were taken into account in arriving at the amount of this settlement, or in the settlement of any subcontract claim included in this settlement: (i) All such items are properly allocable to the termi-

nated portion of the contract; (ii) such items are not in excess of the reasonable quantitative requirements of the terminated portion of the contract; (iii) such items do not include any items reasonably usable without loss to the Contractor, on his other work; and (iv) the Contractor has informed the Contracting Officer of any substantial change in the status of such items between the dates of his termination inventory schedules and the date of this agreement.

ART. 4. In all cases where the Contractor has not previously made such payments, the Contractor shall, within ten (10) days after receipt of the payment provided for hereunder, pay to each of its immediate subcontractors (or to their respective assignees) the respective amounts to which they are entitled, after deducting, if the Contractor so elects, any amounts then due and payable to the Contractor by such subcontractors.

ART. 5. a. The Contractor has received the sum of $_____ on account of work and services performed, or articles delivered, under the completed portion of the contract. The Government as part of this negotiated settlement hereby confirms and acknowledges the right of the Contractor, subject to the provisions of Article 6 hereof, to retain such sum heretofore paid and agrees that such sum constitutes a portion of the total amount to which the Contractor is entitled in settlement of the Contract.

b. In addition, upon execution of this agreement the Government agrees to pay to the Contractor or his assignee, upon presentation of properly certified invoices or vouchers, the sum of $_____ (insert net amount of settlement), arrived at by deducting from the sum of $_____ (for claim submitted on inventory basis, insert gross amount of settlement; for claim submitted on total cost basis, insert gross amounts of settlement less amount set forth in 5a above), (1) the amount of $_____ representing all unliquidated partial or progress payments previously made on account to the Contractor or his assignee and all unliquidated advance payments (with interest, if any, thereon), and (2) the amount of $_____ representing all applicable property disposal credits [and (3) the amount of $_____ representing all other amounts due the Government under this contract except as hereinafter provided in Article 6].* Said sum, together with all other sums heretofore paid constitutes payment in full and complete settlement of the amount due the Contractor by reason of the complete termination of work under the contract and of all other claims and liabilities of the Contractor and the Government under the contract, except as hereinafter provided in Article 6.

ART. 6. Notwithstanding any other provision of this agreement, the following rights and liabilities of the parties under the contract are hereby reserved:

(The following list of reserved or excepted rights and liabilities is intended to cover those which should most frequently be reserved, and which should in any event be scrutinized at the time a settlement agreement is signed. (See § 18–8.809–3.) The suggested language of the enumerated excepted items on the list may be varied in the discretion of the Contracting Officer to cover more accurately the exceptions needed in a particular case. Where greater accuracy or completeness may be achieved by a reference to the number of the contract clause or provision covering the matter in question, this method of enumerating reserved rights and liabilities may be followed. Omit any of the following which are not applicable and add any additional exceptions or reservations required.)

(1) All rights and liabilities, if any, of the parties under the Renegotiation Act of 19__ (insert reference to applicable Renegotiation Act).

(2) All rights and liabilities of the parties arising under the contract articles, if any, or otherwise which relate to reproduction rights, patent infringements, inventions, applications for patent and patents, including rights to assignments, invention reports, and licenses, covenants of indemnity against patent risks and bonds for patent indemnity obligations, together with all rights and liabilities under any such bond.

(3) All rights of the Government to take the benefit of any adjustments of royalties under the Royalty Adjustment Act of 1942 (35 U.S.C. 89–96) and to take the benefit of agreements reducing or otherwise affecting royalties paid or payable in connection with the performance of the contract.

(4) All rights and liabilities of the parties under the contract relating to options (except options to continue or increase the work under the contract), convenants not to compete, convenants of indemnity.

(5) All rights and liabilities of the parties under agreements with respect to the future care and disposition by the Contractor of Government-owned property remaining in his custody.

(6) All rights and liabilities of the parties under the contract with respect to any contract termination inventory stored for the Government pursuant to Article 1 hereof.

(7) All rights and liabilities of the parties under the contract with respect to any and all Government property furnished to the Contractor for the performance of this contract.

(8) All rights and liabilities of the parties arising under the contract, or otherwise concerning defects in, or guarantees or warranties relating to, any articles or component parts furnished to the Government by the Contractor pursuant to the contract or this agreement.

(9) All rights and liabilities, if any, of the parties under those clauses inserted in the contract because of the requirements of Acts of Congress and Executive Orders, including without limitation, any applicable clauses relating to the following topics: labor law, contingent fees, domestic articles, employment of aliens, "officials not to benefit." (If the contract contains clauses of this character inserted for reasons other than requirements of Acts of Congress or Executive Orders, the suggested language should be appropriately modified.)

In Witness Whereof, etc.

§ 18–8.806–2 Settlement agreement for use in settling fixed-price prime contracts after partial termination.

This Supplemental Agreement of Settlement, entered into this _____ day of _____, 19__, between the United States of America (hereinafter called "the Government") represented by the Contracting Officer executing this contract, and_____

(i) A corporation organised and existing under the laws of the State of _____;

(ii) A partnership consisting of _____;

(iii) An individual doing business as_____; (hereinafter called "the Contractor").

Witnesseth That:

Whereas, the Contractor and the Government have entered into Contract No. _____ under the date of _____, 19__, which, together with any and all amendments, changes, modifications, and supplements thereto, is hereinafter referred to as "the contract"; and

Whereas, the Termination for Convenience of the Government clause of the contract provides that the performance of work under the contract may at the convenience of the Government be terminated by the Government in whole, or from time to time in part, whenever the Contracting Officer shall determine that such termination is in the best interest of the Government, and that the Contractor and Contracting Officer may agree upon the whole or any part of the amount to be paid to the Contractor by reason of such termination; and

Whereas, by Notice of Termination dated _____ the Government advised the Contractor of the partial termination of the contract for the convenience of the Government as of the date and to the extent provided in such Notice, to which reference is hereby made as to the part terminated, and said part is hereinafter referred to as the "terminated portion of the contract"; and

Whereas, as used herein, the following terms shall have the meanings hereinafter set forth:

The term "termination inventory" means any items of physical property purchased, supplied, manufactured, furnished, or otherwise acquired for performance of the contract which are properly allocable to the terminated portion of the contract, but shall not include any facilities, materials, production or other equipment, or special tooling, which are subject to a separate contract or a special contract provision governing the use or disposition thereof. Termination inventory may include Government-furnished property and contractor-acquired property as defined below.

(i) Government-furnished property is property in the possession of or acquired directly by the Government, and delivered or otherwise made available to the Contractor.

(ii) Contractor-acquired property is property procured or otherwise provided by the Contractor for the performance of a contract, whether or not the Government has title by the terms of the contract, or exercises its contractual right to take title.

The term "subcontract" means any contract as defined in NASA Procurement Regulation 1.207 other than a prime contract, entered into by a prime contractor or a subcontractor, calling for supplies or services required for the performance of any one or more prime contracts.

The term "scrap" means property that has no reasonable prospect of being sold except for the recovery value of its basic material content.

Now, therefore, the parties hereto do mutually agree as follows:

ARTICLE 1. The terminated portion of the contract is designated as follows: (Specify the terminated portion clearly as to items, including (i) item numbers, (ii) descriptions, (iii) quantity terminated, (iv) unit price of items, (v) total price of terminated items, and (vi) any other explanation necessary to avoid uncertainty or misunderstanding.)

ART. 2. The Contractor certifies that all contract termination inventory (including scrap) has been retained or otherwise acquired by him, sold to third parties, returned to suppliers, stored for the Government, delivered to the Government, or otherwise properly accounted for, and that proceeds or retention prices thereof, if any, have been taken into account in arriving at this agreement.

ART. 3. a. The Contractor certifies that, prior to the execution of this agreement, each of the contractor's immediate subcontractors

*To be inserted where appropriate.

whose claim is included in the claim settled by this agreement has furnished to the Contractor a certificate stating (i) that all his subcontract termination inventory (including scrap) has been retained or otherwise acquired by him, sold to third parties, returned to suppliers, stored for the Government, delivered to the Government, or otherwise properly accounted for, and all proceeds or retention prices thereof, if any, were taken into account in arriving at the settlement of the subcontract or subcontracts and (ii) that the subcontractor has received from each of the immediate subcontractors whose claim was included in his claim a substantially similar certificate.

b. The Contractor hereby transfers and conveys to the Government all the right, title and interest, if any, which the Contractor has received, or is entitled to receive, in and to subcontract termination inventory, if any, not otherwise properly accounted for, and hereby assigns to the Government any and all of his rights relating thereto.

ART. 4. The Contractor certifies that, with respect to all items of termination inventory the costs of which were taken into account in arriving at the amount of this settlement, or in the settlement of any subcontract claim included in this settlement: (i) All such items are properly allocable to the terminated portion of the contract; (ii) such items are not in excess of the reasonable quantitative requirements of the terminated portion of the contract; (iii) such items do not include any item reasonably usable, without loss to the Contractor, on his other work; and (iv) the Contractor has informed the Contracting Officer of any substantial change in the status of such items between the dates of his termination inventory schedules and the date of this agreement.

ART. 5. In all cases where the Contractor has not previously made such payments, the Contractor shall, within ten (10) days after receipt of the payment provided for hereunder, pay to each of his immediate subcontractors (or to their respective assignees) the respective amounts to which they are entitled, after deducting, if the Contractor so elects, any amounts then due and payable to the Contractor by such subcontractors.

ART. 6. Upon execution of this agreement, the Government agrees to pay to the Contractor or his assignee, upon presentation of properly certified invoices or vouchers, the sum of $_____ (insert net amount of settlement), arrived at by deducting from the sum of $_____ (insert gross amount of settlement), (1) the amount of $_____ representing all unliquidated partial or progress payments previously made on account to the Contractor or his assignee and all unliquidated advance payments (with interest, if any, thereon) applicable to the terminated portion of the contract and (2) the amount of $_____ representing all applicable property disposal credits. Said sum, together with all other sums heretofore paid, constitutes payment in full and complete settlement of the amount due the Contractor with respect to the terminated portion of the contract, except as hereinafter provided in Article 7.

ART. 7. Upon payment of said sum of $_____ (insert net amount of settlement) all obligations of the Contractor to perform further work or services or to make further deliveries under the terminated portion of the contract and all obligations of the Government to make further payments or to carry out other undertakings in connection therewith shall cease: *Provided, however,* That nothing herein contained shall impair or affect in any way any covenants, terms or conditions of the contract relating to the completed or continued portion thereof: *And provided further,* That, with respect to the terminated portion of the contract, the following rights and liabilities of the parties are reserved.

(The following list of reserved or excepted rights and liabilities relating to the terminated portion of the contract is intended to cover those which should most frequently be reserved, and which should in any event be scrutinized at the time a settlement agreement is signed (see § 18–8.209–2). The suggested language of the enumerated excepted items on the list may be varied in the discretion of the Contracting Officer to cover more accurately the exception needed in a particular case. Where greater accuracy or completeness may be achieved by a reference to the number of the contract clause or provision covering the matter in question this method of enumerating reserved rights and liabilities may be followed. Omit any of the following which are not applicable and add any additional exceptions or reservations required.)

(1) All rights and liabilities, if any, of the parties under the Renegotiation Act of 19__ (insert reference to applicable Renegotiation Act).

(2) All rights of the Government to take the benefit of any adjustments of royalties under the Royalty Adjustment Act of 1942 (35 U.S.C. 89–96) and to take the benefit of agreements reducing or otherwise affecting royalties paid or payable in connection with the performance of the contract.

(3) All rights and liabilities, if any, of the parties under those clauses inserted in the contract because of the requirements of Acts of Congress and Executive Orders, including, without limitation, any applicable clauses relating to the following topics: labor law, contingent fees, domestic articles, employment of aliens, "officials not to benefit." (If the contract contains clauses of this character inserted for reasons other than requirements of Acts of Congress or Executive Orders, the suggested language should be appropriately modified.)

(4) All rights and liabilities of the parties arising under the contract articles, if any, or otherwise which relate to reproduction rights, patent infringements, inventions, applications for patent and patents, including rights to assignments, invention reports and licenses, covenants of indemnity against patent risks and bonds for patent indemnity obligations, together with all rights and liabilities under any such bond.

(5) All rights and liabilities of the parties arising under the contract, or otherwise concerning defects in, or guarantees or warranties relating to, any articles or component parts furnished to the Government by the Contractor pursuant to the contract or this agreement.

(6) All rights and liabilities of the parties with respect to any contract termination inventory stored for the Government pursuant to Article 2 hereof.

In Witness Whereof, etc.

§ 18–8.806–3 Partial settlement agreement for use in settling fixed-price prime contracts after complete or partial termination where settlement pertains only to settlements with subcontractors.

NOVEMBER 1964.

This Supplemental Agreement of Settlement, entered into this _____ day of _____, 19__, between the United States of America (hereinafter called "the Government") represented by the Contracting Officer executing this contract, and _____

(i) A corporation organised and existing under the laws of the State of _____;

(ii) A partnership consisting of _____;

(iii) An individual doing business as _____; (hereinafter called "the Contractor").

Witnesseth That:

Whereas, the Contractor and the Government have entered into Contract No. _____ under date of _____, 19__, which, together with any and all amendments, changes, modifications, and supplements thereto, is hereinafter referred to as "the contract"; and

Whereas, the Termination for Convenience of the Government clause of the contract provides that the performance of work under the contract may at the convenience of the Government be terminated by the Government in whole, or from time to time in part, whenever the Contracting Officer shall determine that such termination is in the best interest of the Government, and that the Contractor and Contracting Officer may agree upon the whole or any part of the amount to be paid to the Contractor by reason of such termination; and

Whereas, by notice of termination dated _____ the Government advised the Contractor of the (complete termination of the contract for the convenience of the Government;)* (partial termination of the contract for the convenience of the Government as of the date and to the extent provided in such Notice, to which reference is hereby made as to the part terminated, and said part is hereinafter referred to as "the terminated portion of the contract";)* and

Whereas, the Contractor, in connection with the performance of the contract, has entered into the following subcontracts (among others):** (Insert here a list of the terminated subcontracts included in this settlement), which subcontracts were terminated by the Contractor in accordance with the termination for convenience clause of the contract and in accordance with the Notice of Termination received by him from the Government; and

Whereas, the parties desire to settle that portion of the termination claim of the Contractor which is based upon the termination of the subcontracts listed herein; and

Whereas, as used herein, the following terms shall have the meanings hereinafter set forth:

The term "termination inventory" means any items of physical property purchased, supplied, manufactured, furnished, or otherwise acquired for performance of the contract which are properly allocable to the terminated portion of the contract, but shall not include any facilities, materials, production or other equipment, or special tooling which are subject to a separate contract or a special contract provision governing the use or disposition thereof. Termination inventory may include Government-furnished property and contractor-acquired property as defined below.

(i) Government-furnished property is property in the possession of or acquired directly by the Government, and delivered or otherwise made available to the Contractor.

(ii) Contractor-acquired property is property procured or otherwise provided by the Contractor for the performance of a contract, whether or not the Government has title by the terms of the contract, or exercises its contractual right to take title.

The term "subcontract" means any contract as defined in NASA Procurement Regulation 1.207 other than a prime contract, entered into by a prime contractor or a subcontractor, calling for supplies or services re-

*Insert appropriate phrase.

**Insert where appropriate.

quired for the performance of any one or more prime contracts.

The term "scrap" means property that has no reasonable prospect of being sold except for the recovery value of its basic material content.

Now, therefore, the parties hereto do mutually agree as follows:

ARTICLE 1. a. The Contractor certifies that, prior to the execution of this agreement, each of the Contractor's immediate subcontractors whose claim is included in the claim settled by this agreement has furnished to the Contractor a certificate stating (i) that all his subcontract termination inventory (including scrap) has been retained or otherwise acquired by him, sold to third parties, returned to suppliers, stored for the Government, delivered to the Government, or otherwise properly accounted for, and all proceeds or retention prices thereof, if any, were taken into account in arriving at the settlement of the subcontract or subcontracts and (ii) that the subcontractor has received from each of the immediate subcontractors whose claim was included in its claim a substantially similar certificate.

b. The Contractor hereby transfers and conveys to the Government all the right, title, and interest, if any, which the Contractor has received, or is entitled to receive, in and to such subcontract termination inventory, to the extent that it is not otherwise properly accounted for, and hereby assigns to the Government any and all of his rights relating thereto.

ART. 2. In all cases where the Contractor has not previously made such payments, the Contractor shall, within ten (10) days after receipt of the payment provided for hereunder, pay to each of his immediate subcontractors (or to their respective assignees) the respective amounts to which they are entitled, after deducting, if the Contractor so elects, any amounts then due and payable to the Contractor by such subcontractors.

ART. 3. The Contractor certifies that, with respect to all items of subcontract termination inventory the costs of which were taken into account in arriving at the amount of this settlement, or in the settlement of any subcontract claim included in this settlement: (i) all such items are properly allocable to the terminated portion of the contract; (ii) such items are not in excess of the reasonable quantitative requirements of the terminated portion of the contract; (iii) such items do not include any items reasonably usable without loss to the Contractor, on his other work; and (iv) the Contractor has informed the Contracting Officer of any substantial change in the status of such items between the dates of his termination inventory schedules and the date of this agreement.

ART. 4. Upon execution of this agreement the Government agrees to pay to the Contractor or his assignee, upon presentation of properly certified invoices or vouchers, the sum of $----------, which sum (together with the amount of $---------- heretofore paid the Contractor as partial, progress, or advance payments), * constitutes payment in full and complete settlement, except as hereinafter provided in article 5, of the amount due the Contractor with respect to that portion of his termination claim which is based upon termination of the subcontracts listed hereinabove. (The first sum to be inserted above should be the net amount of this partial settlement, arrived at by deducting from the gross amount of settlements with subject subcontractors as approved by the Contracting Officer the second amount to be inserted above which is that portion of partial, progress, or advance payments liquidated by this agreement.)

ART. 5. Notwithstanding any other provision of this agreement, the following rights and liabilities of the parties under the contract are hereby reserved:

(Insert here a list of the reserved or excepted rights and liabilities of the Government and the Contractor (see § 18–8.209–2). Reference is made to instructions set forth in Article 6 of the agreement set forth in § 18–8.806–1 and Article 7 of the agreement set forth in § 18–8.806–2 and to the reserved or excepted rights and liabilities set forth in those articles, which may be used as appropriately modified to meet the requirements of any given settlement hereunder.)

In Witness Whereof, etc.

§ 18–8.806–4 Settlement agreement for use in settling cost-reimbursement type prime contracts after complete termination where settlement includes costs.

(November 1964)

This Supplemental Agreement of Settlement, entered into this ---------- day of ----------, 19-- between the United States of America (hereinafter called "the Government") represented by the Contracting Officer executing this contract, and ----------

(i) A corporation organized and existing under the laws of the State of----------;

(ii) A partnership consisting of----------;

(iii) An individual doing business as----------

(hereinafter called "the Contractor").

Witnesseth That:

Whereas, the Contractor and the Government have entered into Contract No. ------ under date of ----------, 19-- which, together with any and all amendments, changes, modifications, and supplements thereto, is hereinafter referred to as "the contract"; and

Whereas, the Termination clause of the contract provides that the performance of work under the contract may at the convenience of the Government be terminated by the Government in whole, or from time to time in part, whenever the Contracting Officer shall determine that such termination is in the best interest of the Government, and that the Contractor and Contracting Officer may agree upon the whole or any part of the amount to be paid to the Contractor by reason of such termination; and

Whereas, by notice of termination dated ---------- the Government advised the Contractor of the complete termination of the contract for the convenience of the Government; and

Whereas, as used herein, the following terms shall have the meanings hereinafter set forth:

The term "termination inventory" means any items of physical property purchased, supplied, manufactured, furnished, or otherwise acquired for performance of the contract which are properly allocable to the terminated portion of the contract, but shall not include any facilities, materials, production or other equipment, or special tooling, which are subject to a separate contract or a special contract provision governing the use or disposition thereof. Termination inventory may include Government-furnished property and contractor-acquired property as defined below.

(i) Government-furnished property is property in the possession of or acquired directly by the Government, and delivered or otherwise made available to the Contractor.

(ii) Contractor-acquired property is property procured or otherwise provided by the Contractor for the performance of a contract, whether or not the Government has title by the terms of the contract, or exercises its contractual right to take title.

The term "subcontract" means any contract as defined in NASA PR 1.207 other than a prime contract, entered into by a prime contractor or a subcontractor, calling for supplies or services required for the performance of any one or more prime contracts.

The term "scrap" means property that has no reasonable prospect of being sold except for the recovery value of its basic material content.

Now, therefore, the parties hereto do mutually agree as follows:

ARTICLE 1. The Contractor certifies that all contract termination inventory (including scrap) has been retained or otherwise acquired by him, sold to third parties, returned to suppliers, stored for the Government, delivered to the Government, or otherwise properly accounted for, and all proceeds or retention prices thereof, if any, have been taken into account in arriving at this agreement.

ART. 2. a. The Contractor certifies that, prior to the execution of this agreement, each of the Contractor's immediate subcontractors whose claim is included in the claim settled by this agreement has furnished to the Contractor a certificate stating (i) that all of his subcontract termination inventory (including scrap) has been retained or otherwise acquired by him, sold to third parties, returned to suppliers, stored for the Government, delivered to the Government, or otherwise properly accounted for, and all proceeds or retention prices thereof, if any, were taken into account in arriving at the settlement of the subcontract or subcontracts and (ii) that the subcontractor has received from each of the immediate subcontractors whose claim was included in his claim a substantially similar certificate.

b. The Contractor hereby transfers and conveys to the Government all the right, title and interest, if any, which the Contractor has received, or is entitled to receive, in and to subcontract termination inventory, if any, not otherwise properly accounted for, and hereby assigns to the Government any and all of his rights relating thereto.

ART. 3. The Contractor certifies that, with respect to all items of termination inventory the costs of which were taken into account in arriving at the amount of this settlement, or in the settlement of any subcontract claim included in this settlement: (i) all such items are properly allocable to the terminated portion of the contract; (ii) such items are not in excess of the reasonable quantitative requirements of the terminated portion of the contract; (iii) such terms do not include any items reasonably usable, without loss to the Contractor, on his other work; and (iv) the Contractor has informed the Contracting Officer of any substantial change in the status of such items between the dates of his termination inventory schedules and the date of this agreement.

ART. 4. In all cases where the Contractor has not previously made such payments, the Contractor shall, within ten (10) days after receipt of the payment provided for hereunder, pay to each of his immediate subcontractors (or to their respective assignees) the respective amounts to which they are entitled, after deducting, if the Contractor so elects, any amounts then due and payable to the Contractor by such subcontractors.

* Insert where appropriate.

ART. 5. a. The Contractor has received the sum of $------ on account of work and services performed, or articles delivered, under the contract prior to the effective date of termination. The Government as part of this negotiated settlement hereby confirms and acknowledges the right of the Contractor, subject to the provisions of Article 6 hereof, to retain such sum heretofore paid and agrees that such sum constitutes a portion of the total amount to which the Contractor is entitled in complete and final settlement of the contract.

b. In addition, upon execution of this agreement the Government agrees to pay to the Contractor or his assignee, upon presentation of properly certified invoices or vouchers, the sum of $------ (insert net amount of settlement), arrived at by deducting from the sum of $------ (insert gross amount of settlement less amount set forth in Article 5a above), (1) the amount of $------ representing all unliquidated partial or progress payments previously made on account to the Contractor or his assignee and all unliquidated advance payments (with interest, if any, thereon) and (2) the amount of $------ representing all applicable property disposal credits (and (3) the amount of $------ representing all other amounts due the Government under this contract except as hereinafter provided in Article 6).* Said sum, together with all other sums heretofore paid, constitutes payment in full and complete settlement of the amount due the Contractor by reason of the complete termination of work under the contract and of all other claims and liabilities of the Contractor and the Government under the contract, except as hereinafter provided in Article 6.

ART. 6. Notwithstanding any other provision of this agreement the following rights and liabilities of the parties under the contract are hereby reserved:

(The following list of reserved or excepted rights and liabilities is intended to cover those which should most frequently be reserved, and which should in any event be scrutinized at the time a settlement agreement is signed (see § 18–8.209–2). The suggested language of the enumerated excepted items on the list may be varied in the discretion of the Contracting Officer to cover more accurately the exceptions needed in a particular case. Where greater accuracy or completeness may be achieved by a reference to the number of the contract clause or provision covering the matter in question, this method of enumerating reserved rights and liabilities may be followed. Omit any of the following rights which are not applicable and add any additional exceptions or reservations required.)

(1) Claims by the Contractor against the Government for items of cost which are the subject of General Accounting Office exceptions (or other items of cost of the same nature), which are excluded from the settlement without prejudice to the rights of either party, as follows: (Insert the amounts and describe the claims not waived by Contractor.)

(2) Claims by the Contractor against the Government, as to which his right of reimbursement is disputed, which are excluded without prejudice to the rights of either party as follows: (Insert the amounts and describe the claims with respect to which findings have been made by the Contracting Officer disallowing the item and with respect to which the Contractor has taken, or intends to take, timely appeal.)

(3) Claims by the Contractor against the Government which are unknown in amount and which involve costs claimed to be reimbursable under the contract, as follows: (Insert the estimated amounts and describe the claims.)

(4) Claims by the Contractor against the Government whose existence is unknown based upon responsibility of the Contractor to third parties and which involve costs reimbursable under the contract.

(5) Claims by the Government against the Contractor which are based upon refunds, rebates, credits, or other accounts not now known to the Government, together with interest thereon, now due or which may become due the Contractor from third parties to the extent that such amounts arise out of transactions for which reimbursement has been made to the Contractor under the contract. Any such amounts which may hereafter become due to the Contractor from any third party or other source shall be paid to the Government within 30 days after receipt by the Contractor. Interest at 6 percent per annum shall accrue and shall be paid to the Government on any such accounts as remain unpaid after the 30-day period.

(6) All rights and liabilities, if any, of the parties under the Renegotiation Act of 19---. (Insert reference to applicable Renegotiation Act.)

(7) All rights and liabilities of the parties arising under the contract articles, if any, or otherwise which relate to reproduction rights, patent infringements, inventions, applications for patent and patents, including rights to assignments, invention reports and licenses, covenants of indemnity against patent risks and bonds for patent indemnity obligations, together with all rights and liabilities under any such bond.

(8) All rights of the Government to take the benefit of any adjustments of royalties under the Royalty Adjustment Act of 1942 (35 U.S.C. 89–96) and to take the benefit of agreements reducing or otherwise affecting royalties paid or payable in connection with the performance of the contract.

(9) All rights and liabilities of the parties under the contract relating to options (except options to continue or increase the work under the contract), covenants not to compete, covenants of indemnity.

(10) All rights and liabilities of the parties under agreements with respect to the future care and disposition by the Contractor of Government-owned property remaining in his custody.

(11) All rights and liabilities of the parties under the contract with respect to any contract termination inventory stored for the Government pursuant to Article 1 hereof.

(12) All rights and liabilities of the parties under the contract with respect to any and all Government property, furnished to or acquired by the Contractor for the performance of this contract.

(13) All rights and liabilities of the parties arising under the contract, or otherwise, concerning defects in, or guarantees of warranties relating to, any articles or component parts furnished to the Government by the Contractor pursuant to the contract or this agreement.

(14) All rights and liabilities, if any, of the parties under those clauses inserted in the contract because of the requirements of Acts of Congress and Executive Orders, including, without limitation, any applicable clauses relating to the following topics: labor law, contingent fees, domestic articles, employment of aliens, "officials not to benefit." (If the contract contains clauses of this character inserted for reasons other than requirements of Acts of Congress of Executive Orders, the suggested language should be appropriately modified.)

In Witness Whereof, etc.

§ 18–8.806–5 Settlement agreement for use in settling cost-reimbursement type prime contracts after complete termination where settlement is limited to fee.

NOVEMBER 1964.

This Supplemental Agreement of Settlement entered into this ---- day of ----------, 19--, between the United States of America (hereinafter called "the Government") represented by the Contracting Officer executing this contract, and ----------

(i) A corporation organized and existing under the laws of the State of ----------;

(ii) A partnership consisting of ----------;

(iii) An individual doing business as ----;

(hereinafter called "the Contractor").

Witnesseth That:

Whereas, the Contractor and the Government have entered into Contract No. ------ under date of ----------, 19--, which, together with any and all amendments, changes, modifications, and supplements thereto, is hereinafter referred to as "the contract"; and

Whereas, the Termination clause of the contract provides that the performance of work under the contract may be terminated by the Government in whole, or from time to time in part, whenever the Contracting Officer shall determine that such termination is in the best interest of the Government, and that the Contractor and Contracting Officer may agree upon the whole or any part of the amount to be paid to the Contractor by reason of such termination; and

Whereas, by notice of termination dated ---------- the Government advised the Contractor of the complete termination of the contract for the convenience of the Government; and

Whereas, settlement of said terminated contract has been limited to adjustment of the fee.

Now, therefore, the parties hereto do mutually agree as follows:

ARTICLE 1. a. The Contractor has received the sum of $--------- on account of his fee under the contract prior to the effective date of termination.

b. In addition, upon execution of this agreement, the Government agrees to pay to the Contractor or his assignee, upon presentation of properly certified invoices or vouchers, the sum of $------ (insert net amount to be paid on account of fee). Said sum, together with all other sums heretofore paid on account of fee, constitutes payment in full and complete settlement of the amount due the Contractor on account of his fee under the contract.

ART. 2. The Contractor's allowable costs under the contract will continue to be reimbursed on Standard Form 1034 cost vouchers in accordance with the applicable provisions of the contract and of Part 8 of the NASA Procurement Regulation.

ART. 3. Notwithstanding any other provision of this agreement the following rights and liabilities of the parties under the contract are hereby reserved:

(The following list of reserved or excepted rights and liabilities is intended to cover those which should most frequently be reserved, and which should in any event be scrutinized at the time a settlement agreement is signed (see § 18–8.209–2). The suggested language of the enumerated excepted items on the list may be varied in the discretion of the Contracting Officer to cover more accurately the exceptions needed in a

*To be inserted where appropriate.

particular case. Where greater accuracy or completeness may be achieved by a reference to the number of the contract clause or provision covering the matter in question, this method of enumerating reserved rights and liabilities may be followed. Omit any of the following which are not applicable and add any additional exceptions or reservations required.)

(1) All rights and liabilities, if any, of the parties under the Renegotiation Act of 19--[insert reference to applicable Renegotiation Act].

(2) All rights and liabilities of the parties arising under the contract articles, if any, or otherwise which relate to reproduction rights, patent infringement, inventions, applications for patent and patents, including rights to assignments, invention reports and licenses, covenants of indemnity against patent risks and bonds for patent indemnity obligations, together with all rights and liabilities under any such bond.

(3) All rights of the Government to take the benefit of any adjustments of royalties under the Royalty Adjustment Act of 1942 (35 U.S.C. 89–96) and to take the benefit of agreements reducing or otherwise affecting royalties paid or payable in connection with performance of the contract.

(4) All rights and liabilities of the parties under the contract relating to options (except options to continue or increase the work under the contract), covenants not to compete, covenants of indemnity.

(5) All rights and liabilities of the parties under agreements with respect to the future care and disposition by the Contractor of Government-owned property remaining in his custody.

(6) All rights and liabilities of the parties under the contract with respect to any and all Government property, furnished to or acquired by the Contractor for the performance of this contract.

(7) All rights and liabilities of the parties arising under the contract, or otherwise, concerning defects in, or guarantees or warranties relating to, any articles or component parts furnished to the Government by the Contractor pursuant to the contract or this agreement.

(8) All rights and liabilities, if any, of the parties under those clauses inserted in the contract because of the requirements of Acts of Congress and Executive Orders, including, without limitation, any applicable clauses relating to the following topics: labor law, contingent fees, domestic articles, employment of aliens, "officials not to benefit." (If the contract contains clauses of this character inserted for reasons other than requirements of Acts of Congress or Executive Orders, the suggested language should be appropriately modified.)

In Witness Whereof, etc.

§ 18–8.806–6 No cost settlement agreement—partial termination.

NOVEMBER 1964.

This Supplemental Agreement of Settlement, entered into this ------ day of ----------, 19--, between the United States of America (hereinafter called "the Government"), represented by the Contracting Officer executing this contract, and ----------

(i) A corporation organized and existing under the laws of the State of ----------;

(ii) A partnership consisting of --------;

(iii) An individual doing business as ----------; (hereinafter called "the Contractor").

Witnesseth That:

Whereas, the Contractor and the Government have entered into Contract No. ------ under date of ----------, 19 --, which, together with any and all amendments, changes, modifications, and supplements thereto, is hereinafter referred to as "the contract"; and

Whereas, the contract provides that the performance of work thereunder may at the convenience or option of the Government be terminated by the Government in whole or from time to time, in part, whenever any such termination is determined to be for the best interest of the Government, and that the Contractor and Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of such termination; and

Whereas, by the Notice of Termination dated ----------, 19 --, the Government advised the Contractor of the partial termination of the contract for the convenience or at the option of the Government as of the date and to the extent provided in such Notice, to which reference is hereby made as to the part terminated, and said part is hereinafter referred to as "the terminated portion of the contract"; and

Whereas, the Contractor is willing to waive unconditionally any claim against the Government by reason of such termination.

Now, therefore, the parties hereto agree as follows:

ARTICLE 1. The terminated portion of the contract is designated as follows: (Specify the terminated portion clearly as to items including (i) item numbers, (ii) descriptions, (iii) quantity terminated, (iv) unit price of items, (v) total price of terminated items, and (vi) any other explanation necessary to avoid uncertainty or misunderstanding.)

ART. 2. The Contractor hereby unconditionally waives any claim against the Government arising under the terminated portion of the contract or by reason of its termination including, without limitation, all obligation of the Government to make further payments or to carry out other undertakings in connection with said terminated portion, and the Government acknowledges that the Contractor has no obligation to perform further work or services or to make further deliveries of articles or materials under the terminated portion of the contract: *Provided, however,* That nothing herein contained shall impair or affect in any way any other covenants, terms or conditions of the contract: *And provided further,* That with respect to the terminated portion of the contract, the following rights and liabilities of the parties are reserved:

(List reserved or excepted rights and liabilities; see § 18–8.209–2 and Article 7 of the agreement set forth in § 18–8.806–3.)

In Witness Whereof, etc.

§ 18–8.806–7 No cost settlement agreement—complete termination.

(NOVEMBER 1964)

This Supplemental Agreement of Settlement, entered into this ---------- day of ----------, 19--, between the United States of America (hereinafter called "the Government"), represented by the Contracting Officer executing this contract, and ---------

(i) A corporation organized and existing under the Laws of the State of ----------;

(ii) A partnership consisting of ---------;

(iii) An individual doing business as ----------

(hereinafter called "the Contractor").

Witnesseth that:

Whereas, the Contractor and the Government have entered into Contract No. ------ under date of ----------, 19--, which, together with any and all amendments, changes, modifications, and supplements thereto, is hereinafter referred to as "the contract"; and

Whereas, the contract provides that the performance of work thereunder may at the convenience or option of the Government be terminated by the Government in whole, or from time to time in part, whenever any such termination is determined to be for the best interest of the Government, and that the Contractor and Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of such termination; and

Whereas, by the Notice of Termination dated ----------, 19--, the Government advised the Contractor of the termination of the contract for the convenience or at the option of the Government; and

Whereas, the Contractor is willing to waive unconditionally any claim against the Government by reason of such termination;

Now, therefore, the parties hereto agree as follows:

ARTICLE 1. The Contractor hereby unconditionally waives any claim against the Government by reason of the termination of the contract and, except as set forth below, releases it from any and all obligations arising under the contract or by reason of its termination, and the Government agrees that all obligations arising under the contract or by reason of its termination, shall be deemed to be concluded; except as follows:

(List reserved or excepted rights and liabilities; see § 18–8.209–2 and Article 6 of the agreement set forth in § 18–8.06–1.)

§ 18–8.807 DD Form 1114—Instructions for use of contract termination settlement and inventory schedule forms.

Subpart 18–8.50—Contract Termination Status Report

§ 18–8.5000 Scope of subpart.

This Subpart 18–8.50 prescribes the preparation and submission of monthly reports indicating the status of fixed-price type contracts terminated for convenience and all terminated cost-reimbursement type contracts.

§ 18–8.5001 Responsibility and procedure.

NASA contracting officers responsible for issuing the notice of termination shall prepare and submit the Monthly Contract Termination Status Report, in duplicate, to the Director of Procurement. The report shall be prepared for each fixed-price type contract terminated for convenience and for each terminated cost-reimbursement type contract at the end of the month in which such contract is terminated and at the end of each month thereafter until a final closing report is submitted. Such report shall be prepared in accordance with the format and instructions set forth in paragraphs (a) and (b) of this section.

(a) *Monthly contract termination status report.*

MONTHLY CONTRACT TERMINATION STATUS REPORT

Date: ----------

1. Contract Number		
2. Procurement Office		
3. Contractor		
4. Agency or Installation Conducting Termination		
5. Date of Termination		
6. Type of Termination	(Partial)	(Complete)
7. Contract Amount	$	
8. Contract Price of Items Terminated (If Partial Termination)	$	
9. Type of Contract		
10. Amount of Contractor's Settlement Proposal	$	
11. Date Settlement Proposal Submitted		
12. Date Audit Requested		
13. Date Audit Report Received		
14. Date Final Settlement Negotiated		
15. Net Settlement Cost		
16. Date Settlement Submitted to Review Board		
17. Date Settlement Supplemental Agreement Submitted to Contractor		
18. If Cost-Reimbursement Type Contract: Contractor Vouchering Out Remaining Cost	(Yes)	(No)
GAO Audit Status Date Established		
19. Number of Subcontract Claims Submitted and Approved		
20. Amount of Subcontract Claims Submitted and Approved	$	
21. Prime Contractor Termination Inventory Received	(Date)	$
22. Date Prime Contractor Termination Inventory Cleared		
23. Remarks:		

(Contracting Officer)

(b) *Instructions for the preparation of the monthly contract termination status report.* The Monthly Contract Status Report shall be prepared in accordance with the following instructions:

Item	Explanation
1. Contract Number	Enter the basic contract number.
2. Procurement Office	Enter sufficient detail to establish the identity and address of procurement office submitting the report.
3. Contractor	Enter the complete name and address of the contractor as it appears on the contract.
4. Agency or Installation Conducting Termination.	Enter the name and address of the Military Department or other NASA installation, if the termination proceedings have been delegated to a Military Department or another NASA installation.
5. Date of Termination	Enter the month, day, and the year the contract is actually terminated.
6. Type of Termination	Indicate whether partial or complete termination by deleting appropriate word.
7. Contract Amount	Enter the total amount of funds obligated by the contract.
8. Contract Price of Items Terminated (If Partial Termination).	Enter the total amount of those items terminated if action is a partial termination of the contract.
9. Type of Contract	Enter whether fixed-price type contract (indicating whether escalation, redetermination, or incentive, and type thereof); cost-reimbursement type contract (indicating whether cost, cost-plus-a-fixed-fee, or cost-plus-incentive-fee contract); time and materials contract; labor-hour contract; letter contract; or other type.
10. Amount of Contractor's Settlement Proposal.	Enter total amount of the contractor's termination claim.
11. Date Settlement Proposal Submitted.	Enter the month, day, and year the contractor submits his settlement proposal.
12. Date Audit Requested	Enter the month, day, and year the contractor's settlement proposal is submitted to the cognizant audit agency for examination.
13. Date Audit Report Received	Enter the month, day, and year the comments and recommendations of the audit agency are received.
14. Date Final Settlement Negotiated.	Enter the month, day, and year a final settlement agreement is negotiated with the contractor.
15. Net Settlement Cost	Enter the total amount of the settlement negotiated with the contractor.
16. Date Settlement Submitted to Review Board.	Enter the month, day, and year the settlement agreement is submitted to the Settlement Review Board at NASA Headquarters for review.
17. Date Settlement Supplemental Agreement Submitted to Contractor.	Enter the month, day, and year the settlement agreement is submitted to the contractor for signature.
18. If Cost-Reimbursement Type Contract.	Indicate whether contractor elects to continue to submit vouchers for reimbursement of costs by deleting appropriate word. If contractor does not elect to continue to submit vouchers for reimbursement of costs, enter the month, day, and year the "Audit Status Date" is established.
19. Number of Subcontractor Claims Submitted and Approved.	Enter the total number of all subcontractor claims that were submitted and subsequently approved.
20. Amount of Subcontractor Claims Submitted and Approved.	Enter the total amount of all subcontractor claims submitted and subsequently approved.

21. Prime Contractor Termination Inventory Received.	Enter the month, day, and year the contractor's final termination inventory schedule is received and the total dollar value of all termination inventory.
22. Date Prime Contractor Termination Inventory Cleared.	Enter the month, day, and year of the final disposal action of the contractor's termination inventory.
23. Remarks ----------	Enter any other data to explain further the information furnished under the above items.

PART 18–9—PATENTS, DATA, AND COPYRIGHTS

Sec.
18–9.000 Scope of part.

Subpart 18–9.1—Innovations, Inventions, and Patents

18–9.100 Scope of subpart.
18–9.101 Property rights in inventions made in the performance of work under NASA contracts.
18–9.101–1 General.
18–9.101–2 Use of new technology clause.
18–9.101–3 Special instructions for waived inventions.
18–9.101–4 "New technology" clause.
18–9.101–5 Property rights in inventions clause.
18–9.101–6 Contracts relating to atomic energy.
18–9.101–7 Patent rights under product improvement programs or independent research and development programs.
18–9.101–8 Updating patent rights clauses.
18–9.103 Authorization and consent.
18–9.104 Patent indemnification of government by contractor.
18–9.105 Notice and assistance.
18–9.106 Processing of infringement claims.
18–9.107 Classified contracts.
18–9.108 Payment of royalties.
18–9.108–1 Payment of royalties—standard clause.
18–9.108–2 Payment of royalties—manufacturers aircraft association deviation.
18–9.109 Facilities license.
18–9.110 Proposals of equivalent merit.
18–9.150 Designation of representatives for new technology and for patents.
18–9.151 Contract review.
18–9.152 Contract clearance.
18–9.153 Consultation with patent representative.
18–9.154 Sample designation letters.

Subpart 18–9.2—Data and Copyrights

Sec.
18–9.200 Scope of subpart.
18–9.201 Definitions.
18–9.202 Acquisition and use of data.
18–9.202–1 Acquisition of data.
18–9.202–2 Use of data.
18–9.202–6 Data furnished on a restricted basis in support of a proposal.
18–9.203 Rights in data clauses.
18–9.203–1 Rights in data clause for use in contracts for experimental, developmental or research work.
18–9.203–2 Rights in data clause for use in supply contracts.
18–9.203–3 Limited rights in data provision for use in supply contracts.
18–9.204 Contract clauses—special.
18–9.204–1 Reserved.
18–9.204–2 Production of motion pictures.
18–9.204–3 Histories and other works.
18–9.204–50 Short form clause, fixed-price, research contract with nonprofit institutions (including educational institutions).
18–9.204–51 Short form clause, cost-reimbursement, research contract with nonprofit institutions (including educational institutions).
18–9.204–52 Potentially hazardous items.
18–9.205 Contracts for acquisition of existing works.
18–9.205–1 Off-the-shelf purchase of books and similar items.
18–9.205–2 Contracts for existing motion pictures.
18–9.206 Contracts to be performed outside the United States.

AUTHORITY: The provision of this Part 18–9 issued under 42 U.S.C. 2473(b)(1).

§ 18–9.000 Scope of part.

This part sets forth policies and procedures pertaining to innovations, inventions, patents, data, and copyrights in connection with the procurement of supplies and services.

Subpart 18–9.1—Innovations, Inventions, and Patents

§ 18–9.100 Scope of subpart.

(a) This subpart prescribes contract clauses and instructions which define and implement the policy of NASA with respect to:

(1) Inventions and innovations made in the performance of work under contract with NASA;

(2) Patent and copyright infringement liability of the United States resulting from work performed under contract with NASA;

(3) Security requirements covering patent applications containing classified subject matter; and

(4) Patent and copyright royalties payable in connection with the performance of contracts with NASA.

(b) The Office of General Counsel, NASA Headquarters, should be consulted for policies, instructions, and contract clauses concerning innovations, inventions, patents, data, and copyrights for use in contracts which are to be performed outside the United States, its possessions, and Puerto Rico.

§ 18–9.101 Property rights in inventions made in the performance of work under NASA contracts.

§ 18–9.101–1 General.

(a) Except for any invention made in the performance of any work under any contract with NASA, it is the policy of NASA to pay reasonable compensation for the acquisition of rights in any invention covered by a valid patent issuing thereon and enforceable against the Government. Such rights in "background" patents will not be acquired in contracts for supplies and services except by specific negotiation for such rights, unless the patents and the rights thereunder are listed and priced as a separate contract item. Questions of validity, enforceability and infringement of patents will be determined by the Office of the General Counsel, NASA Headquarters.

(b) It is also the policy of NASA to refer to the NASA Inventions and Contributions Board for consideration for an award each invention made by an employee of a NASA contractor or subcontractor to which NASA has acquired title and with respect to which an application for patent by NASA has been filed. In addition, the Administrator upon his own initiative, may make monetary award on any such invention in such amount and upon such terms as he shall determine to be warranted.

(c) It is the policy of NASA to require reports of innovations and inventions which are made in the performance of work done under NASA contracts in order to protect the Government's interest therein and to provide for the widest practicable and appropriate dissemination thereof to the scientific and industrial communities.

§ 18–9.101–2 Use of new technology clause.

Except as provided in § 18–9.101–5, the New Technology clause set forth in § 18–9.101–4 shall be included in every contract made by or on behalf of NASA, and in every modification of such a contract, where the performance of research, experimental, design, engineering or developmental work is contemplated. When an existing contract is modified by inserting the latest version of the clause set forth in § 18–9.101–4, see the instructions contained in § 18–9.101–8. In the case of contracts using basic agreements, see § 18–3.410–1(d)(iv). As illustrative, but without limitation, contracts for the following purposes are considered to contemplate work of the type described above:

(a) Conduct of basic or applied research;

(b) Design, or development, or manufacture for the first time of any machine, article of manufacture, or composition of matter to satisfy NASA's specifications or special requirements;

(c) Development of any process or technique for attaining a NASA objective not readily attainable through the practice of a previously developed process or technique; or

(d) Testing or experimenting with a machine, process, or technique to determine whether the same is suitable or could be made suitable for a NASA objective.

Architect-Engineer contracts and construction contracts which require only "state of the art" or "brick and mortar" construction need not include the clause in § 18–9.101–4.

§ 18–9.101–3 Special instructions for waived inventions.

(a) The New Technology clause set forth in § 18–9.101–4 contains a Section IV pertaining to "Waived Inventions." In appropriate cases the Administrator may grant the request of a prospective contractor or subcontractor and waive title to any invention which may be made under the contract or subcontract (see the NASA Patent Waiver Regulations, 14 CFR 1245.104; NASA Management Instruction 5109.2A). In such cases the contracting officer will be informed that the waiver has been granted, and when the contract or subcontract is executed, Section IV of the New Technology clause shall be made applicable to the contract to implement the waiver by including the following statement in the Schedule of the contract or subcontract:

> The Administrator has granted the contractor's request for waiver under 14 CFR § 1245.104, and section IV of the New Technology clause is applicable to this contract.

(b) The contracting officer shall not include the statement set forth in paragraph (a) of this section in any contract, or approve its inclusion in any subcontract, unless at the time of or prior to the execution of the contract or subcontract he has been notified by the Chairman of the Inventions and Contributions Board that the Administrator has granted the contractor's or subcontractor's request for waiver with respect to the contract or subcontract concerned.

(c) The procedures established by these special instructions for waived inventions and 14 CFR 1245.104 are designed to afford an opportunity to settle questions of the allocation of rights in inventions at the time of contracting in cases where the facts are readily determinable. Petitions for waiver submitted to the contracting officer with respect to contracts or subcontracts which will be awarded shall be referred to the Patent Counsel servicing the installation for analysis and forwarding to the Inventions and Contributions Board at NASA Headquarters.

(d) Upon receipt from Patent Counsel of a petition for waiver at the time of contracting, the Inventions and Contributions Board will forthwith review the matter in order to determine if the following six findings can be made (the word "contract" includes "subcontract of any tier").

(1) It is not a principal purpose of the contract to create, develop or improve products, processes, or methods which are intended for commercial use (or which are otherwise intended to be made available for use) by the general public at home or abroad, or which will be required for such use by governmental regulations.

(2) It is not a principal purpose of the contract to explore into fields which directly concern the public health or public welfare.

(3) The contract is not in a field of science or technology in which there has been little significant experience outside of work funded by the Government, or where the Government has been the principal developer of the field, with respect to which the acquisition of exclusive rights at the time of contracting might confer on the contractor a preferred or dominant position.

(4) The contract is not for services of the contractor for (i) the operation of a government-owned research or production facility; or (ii) coordinating and directing the work of others.

(5) The purpose of the contract is to build upon existing knowledge or technology to develop information, products, processes, or methods for use by the Government.

(6) The work called for by the contract is in a field of technology in which the contractor has acquired technical competence (demonstrated by factors such as know-how, experience, and patent position) directly related to an area in which the contractor has an established nongovernmental commercial position.

(e) If the findings set forth in paragraph (d) of this section cannot be made without unduly delaying the execution of the contract or subcontract in question, the Inventions and Contributions Board will so notify the contracting officer, who shall notify the contractor or

subcontractor concerned. In such cases the statement set forth in paragraph (a) of this section shall not be included in the contract or authorized for inclusion in the subcontract, and the contractor or subcontractor may execute the contract or subcontract and request the Inventions and Contributions Board to consider the matter further under 14 CFR 1245.105.

(f) When the "New Technology" clause (May 1966) is to be applicable to the procurement, the following provision will be included in the Request for Proposals:

WAIVED INVENTIONS (MAY 1966)

(a) Under the NASA Patent Waiver Regulations, 14 CFR § 1245.100 et seq., waiver of title to inventions made under NASA contracts may be requested at three different times. Waiver of title to an individual invention may be requested under § 1245.106, after the invention has been identified and reported to NASA. Waiver of title to inventions not yet identified and reported may be requested under § 1245.104, prior to execution of the contract, or under § 1245.105, within sixty (60) days of contract execution. Waiver of title may be requested under any of these sections even though a request under a different section was not made or, if made, was not granted.

(b) If you intend to petition prior to contract execution for waiver of title to all inventions which may be made under the contract, you must present such petition with your proposal. The findings which must be made in order for such a petition to be granted are set forth in 14 CFR § 1245.104 and in § 18-9.101-3(d)(1)-(6) of the NASA Procurement Regulations.

(c) In the event that it is decided to negotiate a contract based on your proposal, your petition will be forwarded to the Inventions and Contributions Board for consideration. The Board will either make the necessary findings and recommend to the Administrator of NASA that the waiver be granted, or inform the Contracting Officer that facts which are readily available are insufficient to permit a decision to be made without unduly delaying the execution of the contract. In the latter event, you will be so notified and, upon execution of the contract, you may request the Board to consider the matter further. If your request for waiver is granted, section IV of the "New Technology" clause set forth in § 18-9.101-4 will be made applicable to the contract implementing the waiver.

(g) It will be noted from Section IV of the "New Technology" clause and from the NASA Patent Waiver Regulations (NASA Management Instruction 5109.2A) that although the title to inventions may have been waived to a contractor or subcontractor, such waiver is subject to a number of conditions, reservations, and obligations on the part of the contractor or subcontractor concerned.

(h) Where NASA requests another Governmental agency to perform work of a type defined in § 18-9.101-2 on behalf of NASA, a copy of the "New Technology" clause set forth in § 18-9.101-4 will be furnished to the agency, and that agency will be requested to include the clause in any contract which it awards for the performance of research, experimental, design, engineering or developmental work for the purpose of fulfilling the NASA request. The agency shall be furnished the following instructions with the copy of the "New Technology" clause:

(1) Section IV (Waived Inventions) of the "New Technology" clause cannot be made applicable to any procurement made pursuant to this purchase request. Therefore, it is recommended that invitations for bids and requests for proposals issued pursuant to this purchase request contain the following statement:

(2) Section IV (Waived Inventions) of the "New Technology" clause will not be made applicable to this contract.

(i) Where the clause set forth in § 18-9.101-4 will be included in a contract resulting from a formally advertised procurement, the invitations for bids shall include the following statement:

Section IV (Waived Inventions) of the New Technology clause will not be made applicable to this contract.

(j) If the "New Technology" clause (May 1966) is added to an existing contract by a modification, the special instructions set forth in § 18-9.101-3 shall not be applied.

§ 18-9.101-4 New technology clause.

NEW TECHNOLOGY (MAY 1966)

(This clause comprises five sections: I—Definitions, II—Reporting and Subcontracts, III—Rights, IV—Waived Inventions, and V—Withholding; and the clause paragraphs are lettered consecutively throughout the sections.)

I—DEFINITIONS

(a) As used in this clause, the following terms shall have the meanings set forth below:

(i) "Reportable item" means any invention, discovery, improvement, or innovation, whether or not the same is susceptible of protection under the U.S. patent laws, which is made in the performance of work under this contract or in the performance of any work done upon an understanding in writing that this contract would be awarded or made in the performance of any work which is reimbursable under any clause in this contract providing for reimbursement of costs incurred prior to the effective date of this contract;

(ii) "Made" means conceived or first actually reduced to practice, and "making" means conceiving or first actually reducing to practice;

(iii) "Invention" means any reportable item which, in the opinion of the Administrator, falls within a statutory class of patentable subject matter (35 U.S.C. 101, 161, and 171);

(iv) "Person" means any individual, partnership, group, corporation, association, institution, or other entity;

(v) When this clause is included in any subcontract, "contractor" means subcontractor and "contract" means subcontract; and

(vi) "Administrator" means the Administrator of NASA or his duly authorized representative.

II—REPORTING AND SUBCONTRACTS

(b) The Contractor shall furnish to the Contracting Officer a written report concerning each reportable item promptly upon the making thereof. Such report shall include such technical detail as is necessary to identify and to describe fully the nature, purpose, operation, and physical (electrical, chemical, etc.) characteristics of the reportable item.

(c) In addition to the reports required in paragraph (b) above, the Contractor shall conduct frequent periodic reviews of the work performed by the Contractor to assure that all reportable items have been reported to the Contracting Officer. Within 1 month following each annual anniversary date of this contract, until completion of the contract work, and within 1 month following completion of the contract work, the Contractor shall furnish to the Contracting Officer a written summary of the review activities performed, including a report as required by paragraph (b) above for each reportable item not previously reported, or certifying that there are no reportable items.

(d) (1) The Contractor shall include sections I through IV (paragraphs (a) through (q)) of this clause in each subcontract he awards under this Contract where the performance of research, experimental, design, engineering, or developmental work is contemplated and shall set forth in each subcontract the identification of the prime contract and the identification and mailing address of the Contracting Officer.

(2) As to each subcontract of any tier for which the Inventions and Contributions Board makes the findings referred to in paragraph (k) of this clause, the Contractor shall include in the schedule or elsewhere in such subcontract the statement set forth in said paragraph (k).

(3) In the event of refusal by a subcontractor to accept any of the provisions of this clause other than paragraph (r), the Contractor shall promptly notify the Contracting Officer of such refusal and shall not execute the subcontract in question until provisions have been approved in writing by the Contracting Officer for inclusion in said subcontract.

(4) The Contractor shall furnish promptly to the Contracting Officer a statement listing each subcontract he awards under this contract of over fifty thousand dollars ($50,000) of the type described in paragraph (d)(1) above, stating the name and address of the subcontractor, describing the work to be performed, stating the estimated cost, and giving the estimated completion date of the subcontract. Within 1 month following each annual anniversary date of this contract, until completion of the contract work, and within 1 month following completion of the contract work, the Contractor shall furnish to the Contracting Officer a written report listing each such subcontract not previously reported or certifying that no such subcontracts were awarded during the reporting period.

(e) With respect to each subcontract awarded by the Contractor of over fifty thousand dollars ($50,000) of the type described in paragraph (d)(1) above, the Contractor shall, within 1 month following completion of the work under such subcontract:

(i) Obtain from an official having authority to execute such subcontract on behalf of the subcontractor a letter certifying compliance by the subcontractor with the paragraphs of this "New Technology" clause included in such subcontracts; and

(ii) Submit a copy of such letter directly to the Contracting Officer upon receipt from the subcontractor.

III—RIGHTS

(f) (1) An invention reported under this clause shall be presumed to have been made in the manner specified in paragraph (1) or (2) of section 305(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457(a), 1958) (hereinafter called "the Act").

(2) The presumption of paragraph (f)(1) above shall be conclusive unless the Contractor at the time of reporting the invention submits to the Contracting Officer a written statement, containing supporting details, demonstrating that the invention was not made in the manner specified in paragraph (1) or (2) of section 305(a) of the Act.

(3) Regardless of whether the Inventions and Contributions Board has considered the matter, if the schedule of this contract does not include the statement set forth in paragraph (k) below, the Contractor may, within 60 days from the date of execution of this Contract, petition the Administrator for waiver of title to inventions, pursuant to 14 CFR 1245.105, or after reporting an invention, may petition for waiver of title to that invention, pursuant to 14 CFR 1245.106.

(g) Regardless of whether title to a given invention would otherwise be subject to a waiver or is the subject of a petition for waiver, the Contractor may nevertheless file the statement described in paragraph (f)(2) above. The Administrator will review the information furnished by the Contractor in any such statement and any other available information relating to the circumstances surrounding the making of the invention and will notify the Contractor whether the Administrator has determined that the invention was made in the manner specified in paragraph (1) or (2) of section 305(a) of the Act.

(h) With respect to each invention which becomes the exclusive property of the United States, the Contractor shall:

(1) Inform the Contracting Officer at the earliest practicable date of any public use or sale by the Contractor of the invention or of any publication by the Contractor describing the invention; and

(2) Furnish, upon written request by the Contracting Officer, such full and complete technical and other information available to the Contractor as is necessary for the preparation of a patent application and for prosecution of such patent application, and, in addition, shall execute or endeavor to secure execution of all lawful documents and instruments determined by the Administrator to be necessary for the preparation and prosecution of applications for Letters Patent covering the invention.

(i) Regardless of any other disposition of rights in the invention, in the case of each reported invention which is determined to have been made in the manner specified in paragraph (1) or (2) of section 305(a) of the Act, 14 CFR 1245.113 provides that the Contractor is granted a nonexclusive, irrevocable, royalty-free license to practice such invention together with the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. Such license and right will be nontransferable except to a successor of that part of the Contractor's business to which the invention pertains.

(j) (1) The Government may duplicate, use and disclose in any manner and for any purpose whatsoever, and have others do so, all reports furnished pursuant to paragraphs (b), (c), and (h)(2) of this clause.

(2) Nothing contained in this "New Technology" clause shall be deemed to grant any license under any invention as to which rights of the Government are not expressly obtained pursuant to the Act, as implemented by this clause.

IV—WAIVED INVENTIONS

(k) This section IV (paragraphs (k) through (q)) of this clause shall be applicable to this contract only if, pursuant to the NASA Patent Waiver Regulations, 14 CFR 1245.104, and § 18-9.101-3 of the NASA Procurement Regulations, there is included in the schedule of this contract the following statement:

The Administrator has granted the Contractor's request for waiver under 14 CFR 1245.104, and section IV of the New Technology clause is applicable to this contract.

(l) When this section is applicable to the contract, as provided in paragraph (k) above, the title to any invention made in the performance of work under this contract is subject to a waiver granted by the Administrator pursuant to 14 CFR 1245.104 and to the conditions, reservations, and obligations contained in paragraphs (m), (n), (o), (p), and (q) below.

(m) With respect to any particular invention, the waiver referred to in paragraph (l) above is subject to the following conditions:

(1) That the Contractor report the invention during the term of this contract;

(2) That the invention is determined to have been made in the manner specified in paragraph (1) or (2) of section 305(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457(a)) in the performance of work under this contract; and

(3) That the invention is designated at the time of reporting as being an invention upon which the Contractor intends to file or has filed a U.S. patent application.

(n) With respect to any particular invention, the waiver referred to in paragraph (l) above is subject to the following reservations:

(1) The reservation of an irrevocable, nonexclusive, nontransferable, royalty-free license for the practice of the invention throughout the world by or on behalf of the United States or any agency thereof, state, or domestic municipal government, or any foreign government pursuant to any existing or future treaty or agreement with the United States;

(2) The reservation by the administrator of the right to require the granting of a license to any applicant on a nonexclusive, royalty-free basis unless:

(i) The Contractor, his licensee, or his assignee has brought the invention to a point of practical application within 3 years after a U.S. patent issues on the invention and makes its benefits reasonably accessible to the public; or

(ii) Within 3 years after a U.S. patent issues on the invention, such patent has been made available for nonexclusive licensing to any responsible applicant, royalty-free or on the terms that are reasonable in the circumstances; or

(iii) The Contractor shows cause why he should retain the full benefits of waiver for a further period of time; and

(3) The reservation by the Administrator of the right to require the granting of a license to any responsible applicant royalty-free or on terms that are reasonable in the circumstances for such practice of the invention as may be appropriate to satisfy the requirements which may be made by governmental regulations for public use of the invention, as may be necessary to fulfill health needs, or for other public purposes, if any, stipulated in the schedule of this contract.

(o) With respect to any particular invention, the waiver referred to in paragraph (l) above is voidable at the option of the Administrator unless the Contractor shall:

(1) File within 8 months from the date of reporting of such an invention, an application for U.S. Letters Patent disclosing and claiming the invention, and include within the first paragraph of the specification of such application and any patent issuing thereon the following statement:

The invention described herein was made in the performance of work under a NASA contract and is subject to the provisions of section 305 of the National Aeronautics and Space Act of 1958, Public Law 85-568 (72 Stat. 435; 42 U.S.C. 2457).

(2) Furnish to the Administrator a copy of each patent application, domestic or foreign, filed thereon, together with identifying serial number and filing date promptly upon receipt thereof;

(3) Execute and furnish to the Administrator instruments fully confirmatory of the rights herein reserved by the Government;

(4) In the event the Contractor elects not to continue prosecution of any application filed thereon, notify the Administrator within sufficient time to allow assumption of prosecution by the Government, and deliver to the Administrator such duly executed instruments as are necessary to vest in the Administrator title thereto, including an instrument of assignment to such application;

(5) Convey to the Administrator, on written request, the Contractor's entire right, title, and interest in any foreign country in which the Contractor has not filed an application on said invention within—

(i) Nine months from the date a corresponding U.S. application is filed;

(ii) Six months from the date permission is granted to file foreign applications where such filing has been prohibited for security reasons; or

(iii) Such longer periods as may be expressly approved by the Administrator.

(6) Grant any license which the Administrator may require to be granted pursuant to paragraph (n) (2) or (3) above.

(7) Report, upon NASA's written request not more often than annually, the commercial use that is being made or is intended to be made of the invention.

(p) With respect to any particular invention, the waiver referred to in paragraph (l) above is voidable at the option of the Administrator if the patent disclosing and claiming such invention is held to have been used in violation of the antitrust laws in an unappealed or unappealable judgment or order of a court or administrative tribunal of competent jurisdiction.

(q) Before a Contractor is required to grant a license under either paragraph (n) (2) or (3) above, he shall be given an opportunity to show cause before the NASA Inventions and Contributions Board why he should not be required to grant such a license.

V—WITHHOLDING

(r) (1) Except as provided in subparagraphs (3) and (4) below, if the Contractor fails to comply with the provisions of this clause after receipt of a written decision of the Contracting Officer, pointing out wherein the Contractor has failed to comply and setting a time limit for compliance, there shall be withheld from payment, unless such failure has been corrected within the time limit set, either five percent (5%) of the amount of this contract as from time to time amended, or fifty thousand dollars ($50,000), whichever is less.

(2) Without regard to whether a written decision as described in subparagraph (1) above has been issued, after payment of eighty-five percent (85%) of the amount of this contract, as from time to time amended, payment shall be withheld until a reserve of either five percent (5%) of such amount, or fifty thousand dollars ($50,000), whichever is less, shall have been set aside, such reserve or balance to be retained until the Contractor shall have complied with the provisions of this clause, as well as with such written decision or decisions as may have been issued pursuant to subparagraph (1) above and not withdrawn or successfully challenged on appeal pursuant to the "Disputes" clause.

(3) The maximum amount which may be withheld under this paragraph (r) shall not exceed five percent (5%) the amount of this contract or fifty thousand dollars ($50,000), whichever is less. If this contract is a no-fee contract with a Contractor other than an educational institution, the amount which may be withheld shall not exceed one percent (1%) of the amount of the contract or fifty thousand dollars ($50,000), whichever is less. No amount shall be withheld pursuant to this section V so long as an equivalent amount is being withheld under other provisions of this contract.

(4) The withholding provisions of subparagraphs (1) through (3) of this paragraph (r) do not apply to the provisions of paragraph (e) or section IV of this clause, or to no-fee contracts with an educational institution. The withholding of any amount or subsequent payment thereof to the Contractor shall not be construed as a waiver of any rights accruing to the Government under this contract.

§ 18–9.101–5 Property rights in inventions clause.

(a) The clause set forth below shall be used in contracts for basic or applied scientific research at nonprofit institutions of higher education or at nonprofit institutions whose primary purpose is the conduct of research. See § 18–4.5102(c) for the definition of "nonprofit institution."

PROPERTY RIGHTS IN INVENTIONS (NOVEMBER 1962)

This contract and all subcontracts hereunder are subject to section 305 of the National Aeronautics and Space Act of 1958 relating to property rights in inventions. The term "invention" includes any invention, discovery, improvement, or innovation. Any invention made in performance of work under this contract shall be presumed to have been made under the conditions described in paragraphs (1) or (2) of section 305(a) of the Act. The Contractor shall furnish to the Contracting Officer a written report containing full and complete technical information concerning any invention made in the performance of any work under this contract promptly upon the making of such invention and shall require all subcontractors to do so. Upon written request of the Contracting Officer, the Contractor shall furnish additional information available to him, and shall secure the execution of such documents as may be necessary to enable the Administrator, NASA, to file and prosecute patent applications on any such invention. Prior to completion of this contract, the Contractor shall furnish to NASA a report as to whether or not any inventions of the type referred to herein have been made in the performance of work under this contract.

§ 18–9.101–6 Contracts relating to atomic energy.

Whenever any contract is entered into with or for the benefit of the Atomic Energy Commission, the Office of General Counsel, NASA Headquarters, shall be consulted for policies, instructions, and contract clauses relating to innovations, inventions, patents, data and copyrights.

§ 18–9.101–7 Patent rights under product improvement programs or independent research and development programs.

Where NASA under its established procedures provides, as an item in the computation of overhead, financial support to (i) a contractor's product improvement program, or (ii) a contractor's independent research and development program, the inventions resulting from such programs are not subject to the "New Technology" or the "Property Rights in Inventions" clauses merely by virtue of the provision of such financial support. The following clause may be included in the Schedule of a cost-reimbursement type contract wherein NASA is providing such support to the contractor's product improvement program or independent research and development program.

INVENTIONS MADE UNDER CONTRACTOR'S INDEPENDENT RESEARCH AND DEVELOPMENT PROGRAMS (AUGUST 1963)

Any invention made in the performance of any work by the Contractor under the Contractor's own product improvement program, or the Contractor's independent research and development program, even though supported by an allowance of costs for such program as a part of the overhead costs hereof, will not be subject to the "New Technology" clause or the "Property Rights in Inventions" clause (whichever is included in this contract) unless said work is identified in writing as being required in the performance of this contract.

§ 18–9.101–8 Updating patent rights clauses.

(a) If a contract containing a clause providing for patent rights earlier than the version of the clause set forth in § 18–9.101–4 is amended to include that clause, the clause set forth below shall also be included in the contract.

NEW TECHNOLOGY—SUBCONTRACT AMENDMENTS (SEPTEMBER 1964)

The provisions of paragraph (d)(1) of the New Technology clause of this contract do not require amendment of existing subcontracts to substitute in such subcontracts the New Technology clause of this contract, although such amendment is permissible at the option of the Contractor, and if amendment is made, this clause may also be inserted in the subcontract.

(b) Where contracts described in (a) above are updated, the clause entitled "Implied Licenses" may be cancelled, if previously included in the contract; in which event appropriate amendment shall be made in the "Rights in Data" clause by revising paragraph (e) to substitute the paragraph (e) contained in § 18–9.203–1.

§ 18–9.103 Authorization and consent.

(a) Under 28 U.S.C. 1498, any suit for infringement of a patent or copyright based on the manufacture or use of a patented invention or copying of copyrighted material for the Government by a contractor or by a subcontractor (including lower tier subcontractors) can be maintained only against the Government in the Court of Claims, and not against the contractor or subcontractor, in those cases where the Government has authorized or consented to such infringement. Accordingly, in order that work by a contractor or subcontractor under a Government contract may not be enjoined by reason of patent infringement, authorization and consent will be given as herein provided. The "Authorization and Consent" clause set forth below shall be included in all contracts for supplies (including construction work), and construction contracts, as follows:

AUTHORIZATION AND CONSENT (JANUARY 1964)

The Government hereby gives its authorization and consent (without prejudice to any rights of indemnification) for all use and manufacture, in the performance of this contract or any part hereof or any amendment hereto or any subcontract hereunder (including any lower-tier subcontract), of any invention described in and covered by a patent of the United States (i) embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract, or (ii) utilized in the machinery, tools, or methods the use of which necessarily results from compliance by the Contractor or the using subcontractor with (a) specifications or written provisions now or hereafter forming a part of this contract, or (b) specific written instructions given by the Contracting Officer directing the manner of performance.

(b) Since greater latitude in the use of patented inventions is to be allowed in a contract for research, experimental, design, engineering or developmental work than in a contract for supplies, the "Authorization and Consent" clause set forth below shall be used in contracts, including Facilities contracts, involving such work.

AUTHORIZATION AND CONSENT (SEPTEMBER 1962)

The Government hereby gives its authorization and consent for all use and manufacture of any invention described in and covered by a patent of the United States in the performance of this contract or any part hereof or any amendment hereto or any subcontract hereunder (including any lower tier subcontract).

§ 18–9.104 Patent indemnification of Government by contractor.

(a) A patent indemnity clause is not appropriate in contracts for experimental, developmental, or research work. When it is known that an item being procured is protected, or probably will be protected, by a U.S. patent or patents, the inclusion of a "Patent Indemnity" clause may be appropriate. In such case, where the patent owner informs a prospective bidder or otherwise contends

that the item being procured would infringe his patent or patents, the patent indemnity clause set forth below, limited to the specifically designated patents in question, may be included in the contract (other than construction contracts made with Standard Form 23A) if its use is approved by Patent Counsel.

PATENT INDEMNITY (NOVEMBER 1964)

(a) The Contractor shall indemnify the Government and its officers, agents, and employees against liability, including costs, for infringement of the U.S. letters patent designated in paragraph (b) below and the U.S. letters patents which may mature on the patent applications, if any, designated in paragraph (b) below, arising out of the manufacture or delivery of supplies or out of construction, alteration, modification, or repair of real property (hereinafter referred to as "construction work"), under this contract, or out of the use or disposal by or for the account of the Government of such supplies or construction work. The foregoing indemnity shall not apply unless the Contractor shall have been informed as soon as practicable by the Government of the suit or action alleging such infringement, and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in the defense thereof; and further, such indemnity shall not apply if: (i) The infringement results from compliance with specific written instructions of the Contracting Officer directing a change in the supplies to be delivered or in the materials or equipment to be used, or directing a manner of performance of the contract not normally used by the Contractor; or (ii) the infringement results from the addition to, or change in, the supplies furnished or construction work performed, which addition or change was made subsequent to delivery or performance by the Contractor; or (iii) the claimed infringement is settled without the consent of the Contractor, unless required by final decree of a court of competent jurisdiction.

(b) This "Patent Indemnity" clause is applicable to such U.S. patents and patent applications as are next designated (here designate the patents or patent applications).

(b) In construction contracts made with Standard Form 23A, retain the Patent Indemnity clause contained therein.

§ 18–9.105 Notice and assistance.

The Government should be notified by the contractor of all claims of infringement in connection with the performance of a contract which come to the contractor's attention, especially where the Government has given its authorization and consent for the use and manufacture of any patented invention in the performance of the contract or where the contract calls for the delivery to the Government of supplies, models, or prototypes. The contractor should also assist the Government, to the extent of evidence and information in the possession of the contractor, in connection with any suit against the Government, or any claim against the Government made before suit has been instituted, on account of any alleged patent or copyright infringement arising out of or resulting from the performance of the contract. Accordingly, the "Notice of Assistance Regarding Patent and Copyright Infringement" clause set forth below shall be included in contracts in excess of $10,000.

NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (NOVEMBER 1964)

(The provisions of this clause shall be applicable only if the amount of this contract exceeds ten thousand dollars ($10,000).)

(a) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this contract of which the Contractor has knowledge.

(b) In the event of any claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed hereunder the Contractor shall furnish to the Government, when requested by the Contracting Officer, all evidence and information in possession of the Contractor pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Government except where the Contractor has agreed to indemnify the Government.

§ 18–9.106 Processing of infringement claims.

Any claim for infringement of a patent or a copyright should be addressed to or brought to the attention of the Office of General Counsel, NASA Headquarters, and should identify (a) the U.S. copyright, patent, or patent application, (b) the interest of the claimant, and (c) the acts alleged to constitute the infringement.

§ 18–9.107 Classified contracts.

Unauthorized disclosure of classified subject matter, whether in patent applications or resulting from an issuance of a patent, may be a violation of 18 U.S.C. 791 et seq. (Espionage and Censorship) and related statutes and may be contrary to the interest of national security. Accordingly, the "Filing of Patent Applications" clause set forth below shall be included in every classified contract and in every unclassified contract which covers or is likely to cover classified subject matter.

FILING OF PATENT APPLICATIONS (SEPTEMBER 1962)

(a) Before filing or causing to be filed a patent application disclosing any subject matter of this contract, which subject matter is classified "Secret" or higher, the Contractor shall, citing the thirty (30) day provision below, transmit the proposed application to the Contracting Officer for determination whether, for reasons of national security such application should be placed under an order of secrecy or sealed in accordance with the provisions of 35 U.S.C. 181–188 or the issuance of a patent should be otherwise delayed under pertinent statutes or regulations; and the Contractor shall observe any instructions of the Contracting Officer with respect to the manner of delivery of the patent application to the U.S. Patent Office for filing, but the Contractor shall not be denied the right to file such patent application. If the Contracting Officer shall not have given any such instructions within thirty (30) days from the date of mailing or other transmittal of the proposed application, the Contractor may file the application.

(b) The Contractor shall furnish to the Contracting Officer, at the time of or prior to the time when the Contractor files or causes to be filed a patent application disclosing any subject matter of this contract, which subject matter is classified "Confidential," a copy of such application for determination whether, for reasons of national security, such application should be placed under an order of secrecy or the issuance of a patent should be otherwise delayed under pertinent statutes or regulations.

(c) In filing any patent application coming within the scope of this clause, the Contractor shall observe all applicable security regulations covering the transmission of classified subject matter.

§ 18–9.108 Payment of royalties.

The Government has acquired license and other rights under a large number of inventions as the result of Government-sponsored research and development. In order that the Government may determine whether the approval as an item of allowable cost of the payment of royalties by the contractor under license agreement is consistent with the rights which the Government has acquired, these payments of royalties by the contractor are allowable only to the extent authorized by the contracting officer. Accordingly, the "Payment of Royalties" clause set forth in § 18–9.108–1 shall be included in all NASA cost-reimbursement type contracts. This clause may be omitted from contracts with members of the Manufacturers Aircraft Association and the clause set forth in § 18–9.108–2 substituted therefor.

§ 18–9.108–1 Payment of royalties—standard clause.

PAYMENT OF ROYALTIES (SEPTEMBER 1962)

Payment by the Contractor of any sum for royalties or patent rights not included in the ordinary purchase price of supplies, materials, or components shall not constitute items of Allowable Cost hereunder, unless and until approved by the Contracting Officer. Reimbursement to the Contractor on account of any such payments shall not be construed as an admission by the Government of the enforceability, validity or scope of, or title to any of the patents involved, nor shall any such reimbursement constitute a waiver of any rights or defenses respecting such patents.

§ 18–9.108–2 Payment of royalties—manufacturers aircraft association deviation.

PAYMENT OF ROYALTIES (NOVEMBER 1964)

Payment by the Contractor of any sum for royalties or patent rights not included in the ordinary purchase price of supplies, materials or components shall not constitute items of allowable cost hereunder, unless and until approved by the Contracting Officer. Reimbursement to the Contractor on account of any such payments shall not be construed as an admission by the Government of the enforceability, validity or scope of, or title to any of the patents involved, nor shall any such reimbursement constitute a waiver of any rights or defenses respecting such patents: *Provided, however,* That the approval of the Contracting Officer shall not be required for the payment of royalties pursuant to the terms of licenses issued under patents awarded compensation in accordance with that agreement known as the Cross-Licens-

ing Agreement of the Manufacturers Aircraft Association, Inc., in effect as of December 31, 1938, as supplemented by the Agreement of September 30, 1955.

§ 18–9.109 Facilities license.

Where facilities are being constructed or acquired for the first time under a contract, the following clause shall be included therein.

LICENSE FOR SUBSEQUENT USE (AUGUST 1962)

Whenever the Contractor directly or by any subcontractor intends under this contract either (i) to acquire facilities for the account of the Government and to install such facilities or (ii) to fabricate facilities, or to do both (i) and (ii), which facilities are for the purpose either (1) of producing a patented product, or (2) producing a product in accordance with a patented or proprietary process, the Contractor, before doing so, shall notify the Contracting Officer of his intention, so that consideration can be given to negotiating a license agreement for the use of such facilities by persons to whom the Government may subsequently sell or transfer the facilities. Such negotiation shall be for the purpose of determining the terms and conditions under which the Contractor will grant to or obtain for the Government (in addition to the rights granted by any clause which may be included in this contract entitled "New Technology") the right to convey to any purchaser or transferee of all or a part of the facilities under this contract an irrevocable license to practice and cause to be practiced solely in the maintenance or operation of the facilities any and all inventions (whether or not patented) of the Contractor or a subcontractor hereunder incorporated in, or used by the Contractor or subcontractor in the operation of, the facilities acquired or fabricated by the Contractor for this account of the Government under this contract.

§ 18–9.110 Proposals of equivalent merit.

When two or more potential contractors are judged to have presented proposals of equivalent merit, willingness to permit the Government to acquire and retain title to resulting inventions will be an additional factor in the evaluation of the proposals.

§ 18–9.150 Designation of representative for new technology and for patents.

(a) (1) When a NASA contract contains the clause entitled New Technology set forth in § 18–9.101–4 (hereinafter referred to as "the clause"), the contracting officer shall designate representatives (hereinafter referred to as the "New Technology Representative" and the "Patent Representative") to administer the clause.

(2) When a NASA contract contains the Property Rights in Inventions clause set forth in § 18–9.101–5, the contracting officer shall designate a New Technology Representative and a Patent Representative to administer that clause. The respective responsibilities and authorities of these representatives in administering that clause shall be commensurate with those set forth in paragraphs (e), (f), and (g) of this section and §§ 18–9.151, 18–9.152 and 18–9.153 with respect to the New Technology clause, to the extent applicable in view of the more limited requirements of the Property Rights in Inventions clause.

(b) Designation of these representatives shall be by letter to the contractor, unless accomplished in the contract, with a copy to each representative so designated. The notification to the contractor shall state that all correspondence and other matters relating to the clause should be addressed to the New Technology Representative unless transmitted in response to correspondence from the Patent Representative. Sample letters to be used for these purposes are set forth in § 18–9.154.

(c) Except as provided in paragraph (d) of this section, the New Technology Representative shall be the Technology Utilization Officer or the staff member (by titled position) having cognizance of technology utilization matters for the NASA installation concerned; and the Patent Representative shall be the Patent Counsel or the staff member (by titled position) having cognizance of patent matters for the NASA installation concerned.

(d) The New Technology Representative shall be furnished a copy of the contract, modifications thereto, progress reports, and other pertinent material by the contracting officer, and shall be notified by the contracting officer of the organizational unit of the NASA installation having technical cognizance of the contract.

(e) The Patent Representative shall be furnished a copy of the contract, and modifications thereto, by the contracting officer, as well as copies of findings pursuant to § 18–9.101–3.

(f) The New Technology Representative and the Patent Representative shall maintain complete files of correspondence and other actions involving their respective administration of the clause. Copies of documents which are appropriate for inclusion in the general contract files shall be furnished to the contracting officer.

§ 18–9.151 Contract review.

(a) The New Technology Representative shall review, as necessary, the technical progress of work performed under the contract to ascertain whether the contractor and his subcontractors, where appropriate, are complying with paragraphs (b), (c), (d), and (e) contained in section II of the clause.

(b) The New Technology Representative shall forward to the Patent Representative copies of all contractors' and subcontractors' written reports, and a copy of the written statement, if any, submitted with the report of the reportable item. All correspondence relating to inventions and waivers will also be forwarded to the Patent Representative. The Patent Representative shall review each reported item to determine the presence of inventions and notify the contractor and the New Technology Representative if he determines that any reportable item constitutes an invention.

(c) Consultations will be held by the New Technology Representative and the Patent Representative with cognizant technical personnel and others concerned, where required, to determine the relationship of inventions, discoveries, improvements and innovations made under contracts and subcontracts to work performed under the contract, and the value thereof to NASA or other Government agencies.

(d) No action shall be taken by either the New Technology Representative or the Patent Representative which would involve a change or increase in the work required to be performed under the contract, or which otherwise is outside the scope of obligations imposed upon the contractor by the contract. Any written decision pursuant to paragraph (q) of the clause or other correspondence relating thereto shall be prepared for and signed by the contracting officer.

(e) Upon completion of the contract work, the New Technology Representative shall determine whether the contractor and his subcontractors, where appropriate, have complied with paragraphs (b), (c), (d), and (e), contained in section II of the clause. Such determinations generally will require consultation with the cognizant technical personnel.

(f) Upon completion of the contract work, the Patent Representative shall determine whether the contractor, and his subcontractors, where appropriate, have complied with paragraph (h) and section IV of the clause.

§ 18–9.152 Contract clearance.

(a) Upon submission by the contractor of the final reports required by paragraphs (c) and (d)(3) of the clause, the New Technology Representative shall determine whether the contractor has complied with paragraphs (b), (c), and (d) of the clause, and, if so, shall certify such compliance promptly to the contracting officer, with copy to the Patent Representative.

(b) Upon receipt of the copy of the New Technology Representative's certification of compliance, the Patent Representative shall determine whether the contractor has complied with paragraph (h) of the clause, and, if so, shall certify such compliance to the contracting officer.

(c) Pursuant to the withholding provisions of the clause, final payment under the contract shall not be approved by the contracting officer until he has received the certifications of compliance referred to in paragraphs (a) and (b) of this section.

§ 18–9.153 Consultation with patent representative.

The New Technology Representative shall consult with the Patent Representative whenever a question arises as to:

(1) Whether a given invention, discovery, improvement, or innovation was made in the performance of work under the contract;

(2) Whether a given subcontract is of the type for which section 305(b) of the National Aeronautics and Space Act of 1958 requires insertion of effective provisions for the reporting of reportable items;

(3) Whether a proposed modification of the New Technology clause for insertion in a given subcontract meets the requirements of section 305(b) of the National Aeronautics and Space Act of 1958; and

(4) The identity of inventors or other originators of a reportable item.

§ 18–9.154 Sample designation letters.

(a) Sample letter to be used for designations under New Technology clause.

NASA LETTERHEAD STATIONERY

Date _____
Re _____
(Contract Number)

(Contractor's Name and Address)

GENTLEMEN: The (title and address of the Technology Utilization Officer or the staff member having cognizance of technology utilization matters for the NASA installation concerned) has been designated as the New Technology Representative and the (title and address of the Patent Counsel or the staff member having cognizance of patent matters for the NASA installation concerned) has been designated as the Patent Representative to represent the contracting officer in administering the "New Technology" clause in this contract. In this capacity, they are responsible for monitoring compliance with that clause.

Correspondence with respect to the clause should be directed to the New Technology Representative unless transmitted in response to correspondence from the Patent Representative. The requirement in the New Technology clause that there be set forth in subcontracts containing the clause the identification and mailing address of the contracting officer may be satisfied by including in such subcontracts these three paragraphs.

(To be signed by the contracting officer)

(b) Sample letter to be used for designations under Property Rights in Inventions clause.

NASA LETTERHEAD STATIONERY

Date _____
Re _____
(Contract Number)

(Contractor's Name and Address)

GENTLEMEN: The (title and address of the Technology Utilization Officer or the staff member having cognizance of technology utilization matters for the NASA installation concerned) has been designated as the New Technology Representative and the (title and address of the Patent Counsel or the staff member having cognizance of patent matters for the NASA installation concerned) has been designated as the Patent Representative to represent the contracting officer in administering the "Property Rights in Inventions" clause in this contract. In this capacity, they are responsible for monitoring compliance with that clause. Correspondence with respect to the clause should be directed to the New Technology Representative unless transmitted in response to correspondence from the Patent Representative.

(To be signed by the contracting officer)

Subpart 18–9.2—Data and Copyrights

§ 18–9.200 Scope of subpart.

This subpart sets forth NASA policy, implementing instructions, and contract clauses with respect to acquisition and use of data and copyrights. The policy and procedures set forth in this subpart apply to all data required to be delivered to the Government under a contract whether such data originates with the contractor or a subcontractor.

§ 18–9.201 Definitions.

For the purpose of this subpart, the following terms have the meanings set forth below:

(a) "Data" means writings, sound recordings, pictorial reproductions, drawings, or other graphic representations and works of any similar nature whether or not copyrighted. The term does not include financial reports, cost analyses, and other information incidental to contract administration.

(b) "Proprietary data" means data providing information concerning the details of a contractor's secrets of manufacture, such as may be contained in but not limited to his manufacturing methods or processes, treatment and chemical composition of materials, plant layout, and tooling, to the extent that such information is not readily disclosed by inspection or analysis of the product itself and to the extent that the contractor has protected such information from unrestricted use by others.

(c) "Other data" means all data other than "proprietary data" and includes:

(1) Operational data which provides information suitable, among other things, for instruction, operation, maintenance, evaluation or testing; and

(2) Descriptive data which provides descriptive or design drawings or descriptive material in the nature of design specifications which, although not including any "proprietary data," may nevertheless be adequate to permit manufacture by other competent firms.

(d) "Standard commercial items" means supplies or services which normally are or have been sold or offered to the public commercially by any supplier.

§ 18–9.202 Acquisition and use of data.

§ 18–9.202–1 Acquisition of data.

(a) *General.* NASA's needs for data are different from those of the Department of Defense since NASA is concerned principally with research and development. In a research and development program the needs for data may not always be determinable at the time of contracting. NASA has developed a general clause designed to preserve a contractual right to call for such data as is retained in the normal course of business at any time up to one year after final payment under the contract. The "Data Requirements" clause set forth in paragraph (e) of this section has been developed to serve this need of NASA, and the instructions for its use are set forth in paragraph (d) of this section. Discussion of known requirements for data, in general, is set forth in paragraph (d) of this section and the requirements for data in supply contracts are treated in (c) below.

(b) *Known requirements for data.* Use of a "Rights in Data" clause does not obtain for the Government the delivery of any data whatsoever, but only rights to use that data which is specified elsewhere in the contract to be delivered. When the requirements for data are known in advance of making the contract and delivery of data is definitely to be required in the performance of the contract, the requirements for data must be specified in the Schedule of the contract. These data requirements should be made known to the contracting officer prior to the preparation of invitations for bids in the case of formally advertised procurements or prior to the preparation of requests for proposals in the case of contracts to be awarded by negotiation. Also, in the case of contracts to be awarded by negotiation, the requirements for data should be discussed as a part of the negotiation proceedings.

(c) *Requirements for data in supply contracts.* "Proprietary data" will not be requested by the Government in formally advertised procurements and procurements for standard commercial items. The requirements for data in a supply contract should be known in advance of making the contract and should be specifically set forth in the purchase request. If the negotiator feels that the

data requirements furnished him are inadequate to obtain all the data which the Government should have, he should obtain further guidance from the cognisant technical office. If further data is then believed to be necessary, the services of legal counsel should be requested in drafting a suitable Schedule provision requiring the furnishing of such data, using the "Data Requirements" clause set forth in paragraph (e) of this section as a guide, where appropriate.

(d) *Requirements for data in contracts for experimental, developmental, or research work.* (1) If the contract calls for the development and delivery of hardware, or for the development of a practical process, the clause set forth in paragraph (e) of this section shall be included in the contract. Subparagraphs (a)(2) (ii) and (iii) of the clause may be deleted or modified in accordance with NASA's requirements as indicated by the project engineer. Also, upon request of the contractor, provision (2) of paragraph (c) may be deleted, in which case the identification "(1)" for provision (1) should also be deleted.

(2) In addition to the "Data Requirements" clause of paragraph (e) of this section, the Schedule of the contract may contain such specific provisions for the furnishing of data as may have been requested by the cognisant technical office or the contracting officer. If the contract does not call for the development and delivery of hardware, or for the development of a practical process, the instructions as to what data the contractor is to be required to furnish should ordinarily be set forth in the work statement or be included in a Schedule provision calling for reports. In any event, the contractor shall be required to furnish to the Government for the price of the work all data resulting directly from performance of the contract, whether or not it would otherwise be "proprietary data." The "Data Requirements" clause set forth in paragraph (e) of this section is not appropriate for use in research or study contracts unless hardware is to be furnished or a practical process is to be developed in the performance of the contract. However, nothing herein shall preclude the use of a data requirements clause in such contracts, but if such a clause is to be used, the assistance of legal counsel shall be obtained in drafting the clause.

(e) *Data requirements clause.*

DATA REQUIREMENTS (AUGUST 1963)

(a) To the extent that the following data is not elsewhere required to be furnished to the Government under this contract, and is of the type customarily retained in the normal course of business, the Contractor, upon written request of the Contracting Officer at any time during contract performance or within 1 year after final payment, shall furnish the following:

(1) A set of engineering drawings which will be sufficient to enable the manufacture of items or equipment furnished under this contract (other than components or items of standard commercial design, or items fabricated heretofore) by a firm skilled in the art of manufacturing items or equipment of the general type and character of the items or equipment furnished under this contract or a set of flow sheets and engineering drawings which will be sufficient to enable performance of any process developed under this contract by a firm skilled in the art of practicing processes of the general type and character of such process. Such set or sets of drawings and flow sheets shall be reproducible copies incorporating all changes made in the equipment or process in the form in which it was delivered to the Government.

(2) Any of the following data which is necessary to explain or help Government technical personnel understand any equipment, items, or process developed under the contract and furnished to the Government:

(i) A copy (which shall be a reproducible master if one is so requested) of drawings and other technical data used in or prepared in connection with the development, practice, and testing of any process or processes required under the contract, or with the development, fabrication, and testing of prototype models of equipment or items (other than items of standard commercial design or items fabricated heretofore), if required under the contract.

(ii) A report of all studies made in planning the work, and in developing background research for the work, including citation references to all such background research, and a copy of all compilations, digests, or analyses of such background research compiled in connection with the performance of this contract.

(iii) A copy (which shall be a reproducible master if one is so requested) of design studies, research notes, parameter and tolerance studies, drawings, including Contractor's identification of symbols and markings, specifications, test results, and any other technical information used in any research, development, design, engineering, and testing required in the performance of this contract, including test equipment and related items, together with any information as to safety precautions which may be necessary in connection with the manufacture, storage, or use of the equipment, material, or process, if any, in the event that an equipment, material, or process is the subject of research under this contract.

The Contractor shall not be required to furnish any background data which may be described in (ii) or (iii) above unless such data is essential and closely related to the contract work.

(b) All reports, data, and recorded information which are required to be furnished by the Contractor under this provision, as well as all other reports of a technical nature required to be furnished under this contract are "Subject Data" within the meaning of the clause of the General Provisions of this contract entitled "Rights in Data."

(c) Nothing contained in this "Data Requirements" clause shall require the Contractor to deliver (1) any data, the delivery of which is excused by paragraph (i) of the clause of the General Provisions of this contract entitled "Rights in Data"; or (2) data previously developed by parties other than the Contractor, independently of this contract and acquired by the Contractor prior to this contract under conditions restricting the Contractor's right to disclose the same. If any of the data requested is in the public domain or copyrighted, it will be sufficient for the Contractor to identify the data and furnish a citation as to where it may be found.

(d) Any reproducible copies requested under this "Data Requirements" clause shall be of a type and prepared in accordance with good commercial practice.

(e) In the event the Contracting Officer requests the delivery of data by the Contractor, as contemplated by (a) above, prior to final payment, such request shall be treated as a change under the clause of this contract entitled "Changes" and an equitable adjustment in the price, if this is a fixed-price contract, or estimated cost and any fixed fee, if this is a cost-type contract, shall be made to cover the cost of preparing drawings called for in (a)(1) above, and of collecting, preparing, editing, duplicating, assembling, and shipping the data requested under (a) above, but only to the extent that the Contractor warrants that such costs were not included in the price (or estimated cost and fixed fee) of the contract. The Contractor shall comply with requests of the Contracting Officer made under (a) above, within 1 year following final payment: *Provided*, That suitable provision is made for reimbursement of the additional costs of complying with such request, together with a reasonable fee or profit thereon, such additional costs being limited to the costs set forth above, and warranted to have been excluded from the price (or estimated cost and fixed fee) of the contract. Any adjustment or payment under this paragraph (e) shall not include any amount for the value of the data, as distinguished from the costs set forth above.

(f) *Administration.* In all contracts containing the Data Requirements clause of § 18–9.202–1(e), the contracting officer will, at an appropriate time and in any event not later than the time of delivery of the end items under such contracts, request, in writing, information from the appropriate technical office monitoring the contract as to whether it is likely that follow-on procurement for the item or any component part thereof or process developed under the contract is probable. The appropriate technical office will also be requested to identify the data which the contractor will be required to furnish in the event follow-on procurement is probable or to justify why such data is not required. If such data is not already required by the contract as specified in the Schedule thereof, the contracting officer will request the contractor to furnish such data pursuant to the Data Requirements clause.

§ 18–9.202–2 Use of data.

(a) *Other data.* When data other than "proprietary data" is obtained, it shall be obtained without any limitation on its use by the Government.

(b) *"Proprietary data."*

(1) *Supply contracts.* When "proprietary data" is obtained by negotiation under a supply contract, in accordance with § 18–9.202–1, the purposes for obtaining it will govern its use. If it is obtained for the purpose of enabling the Government to establish additional sources of supply, it shall be obtained without limitation as to its use; in such case the "Rights in Data" clause defined and prescribed in § 18–9.203–3 shall be included in the contract and the requirement for the "proprietary data" shall be specified in the contract Schedule. However, where it has been determined to be necessary to obtain "proprietary data" for some limited purpose, such as emergency manufacture by the Government, such data may be obtained subject to limitation as to its use; in such case the "Rights in Data" clause required by § 18–9.203–2 together with the paragraph (j) set forth in § 18–9.203–3 shall be included in the contract, and the contract Schedule shall suitably identify the data which shall be subject to limited use.

(2) *Contracts for experimental, developmental, or research work.* When "proprietary data" is obtained under a contract having as one of its principal purposes experimental, developmental, or research work, it shall be obtained without limitation as to its use; in such case the "Rights in Data" clause set forth in § 18–9.203–1 shall be included in the contract.

§ 18–9.202–6 Data furnished on a restricted basis in support of a proposal.

When an offeror has submitted data on a restricted basis in a proposal in accordance with § 18–1.304–2(b) or § 18–3.109 in response to a request for a proposal, and it is proposed to award the contract to such offeror, the contracting officer shall ascertain whether it is desired to acquire rights to use all or part of the data furnished with the proposal. If it is desired to acquire such rights, the contracting officer shall determine in accordance with § 18–9.201 whether such data is proprietary in nature, and shall negotiate with the offeror in accordance with the policy prescribed in § 18–9.202 for the acquisition and use of such data. If the offeror agrees to furnish such data under the contract, the appropriate clause of § 18–9.203 shall be inserted in the contract, and the Schedule shall identify the data to be covered by such clause.

§ 18–9.203 Rights in data clauses.

(a) If data is to be delivered under the contract, the appropriate "Rights in Data" clause set forth below shall be added to the "General Provisions." However, a "Rights in Data" clause does not in itself specify the data with respect to which the Government will obtain the rights set forth in that clause. Therefore, Schedule provisions are necessary to specify the specific data which the Government wants to have furnished. (See § 18–9.202–1 for instructions concerning suitable Schedule provisions.) The rights prescribed in the "Rights in Data" clause attach only to the data specified to be delivered. Except for the cases noted in (b) below, when data is to be delivered the "Rights in Data" clause set forth in § 18–9.203–1 shall be included in the contract if it involves experimental, developmental, or research work; and if the contract is for supplies the clause defined and prescribed in § 18–9.203–2, together with paragraph (j) set forth in § 18–9.203–3, if applicable, shall be included in the contract.

(b) In the case of contracts for the acquisition of existing works, the provisions of § 18–9.205 are applicable. In contracts for the production of motion pictures, preparation of scripts, musical compositions, sound tracks, translations, adaptations, and the like; or the histories and works described in § 18–9.204–3; the provisions of § 18–9.204–2 are applicable. Section 18–9.206 is applicable in contracts for performance outside the United States, its territories or possessions, or Puerto Rico. In contracts for research with a nonprofit institution using NASA Form 246, the provisions of § 18–9.204–50 are applicable; and in short form contracts for research with an educational or nonprofit institution, the provisions of § 18–9.204–51 are applicable.

§ 18–9.203–1 Rights in data clause for use in contracts for experimental, developmental, or research work.

RIGHTS IN DATA (SEPTEMBER) 1964)

(a) The term "Subject Data" as used herein includes writings, sound recordings, pictorial reproductions, drawings, or other graphical representations, and works of any similar nature (whether or not copyrighted) which are specified to be delivered under this contract. The term does not include financial reports, cost analyses, and other information incidental to contract administration.

(b) The Contractor agrees to and does hereby grant to the Government, and to its officers, agents, and employees acting within the scope of their official duties, a royalty-free, nonexclusive, and irrevocable license throughout the world for Government purposes to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others so to do, all Subject Data now or hereafter covered by copyright.

(c) The Contractor shall not include in the Subject Data any copyrighted matter, without the written approval of the Contracting Officer, unless he provides the Government with the written permission of the copyright owner for the Government to use such copyrighted matter in the manner provided in paragraph (b) above.

(d) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of copyright infringement received by the Contractor with respect to all Subject Data delivered under this contract.

(e) Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other rights otherwise granted to the Government under any patent.

(f) Unless otherwise limited below, the Government may duplicate, use, and disclose in any manner and for any purpose whatsoever, and have others so do, all Subject Data delivered under this contract.

(g) The Contractor recognizes that the Government, or a foreign government with funds derived through the Mutual Security Program or otherwise through the U.S. Government, may contract for property or services with respect to which the vendor may be liable to the Contractor for charges for the use of Subject Data on account of such a contract. The Contractor further recognizes that it is the policy of the Government not to pay in connection with its contracts, or to allow to be paid in connection with contracts made with funds derived through the Mutual Security Program or otherwise through the U.S. Government, charges for data which the Government has a right to use and disclose to others, or which is in the public domain, or with respect to which the Government has been placed in possession without restrictions upon its use and disclosure to others. This policy does not apply to reasonable reproduction, handling, mailing, and similar administrative costs incident to the furnishing of such data. In recognition of this policy, the Contractor agrees to participate in and make appropriate arrangements for the exclusion of such charges from such contracts or for the refund of amounts received by the Contractor with respect to any such charges not so excluded.

(h) Notwithstanding any provisions of this contract concerning inspection and acceptance, the Government shall have the right at any time to modify, remove, obliterate, or ignore any marking not authorized by the terms of this contract on any piece of Subject Data furnished under this contract.

(i) Data need not be furnished for standard commercial items or services which are normally or have been sold or offered to the public commercially by any supplier and which are incorporated as component parts in or to be used with the product or process being developed if in lieu thereof identification of source and characteristics (including performance specifications, when necessary) sufficient to enable the Government to procure the part or an adequate substitute, are furnished; and further, proprietary data need not be furnished for other items which were developed at private expense and previously sold or offered for sale, including minor modifications thereof, which are incorporated as component parts in or to be used with the product or process being developed, if in lieu thereof the Contractor shall identify such other items and that "proprietary data" pertaining thereto which is necessary to enable reproduction or manufacture of the item or performance of the process. For the purpose of this clause, "proprietary data" means data providing information concerning the details of a Contractor's secrets of manufacture, such as may be contained in but not limited to his manufacturing methods or processes, treatment and chemical composition of materials, plant layout and tooling, to the extent that such information is not readily disclosed by inspection or analysis of the product itself and to the extent that the Contractor has protected such information from unrestricted use by others.

§ 18–9.203–2 Rights in data clause for use in supply contracts.

In all supply contracts where data is to be delivered, paragraph (i) of the "Rights in Data" clause in § 18–9.203–1 shall be omitted and the following paragraph (i) shall be substituted therefor.

(i) Notwithstanding any Tables or Specifications included or incorporated in the contract by reference, "proprietary data" need not be furnished unless suitably identified in the Schedule of the Contract as being required. For the purpose of this clause, "proprietary data" means data providing information concerning the details of a Contractor's secrets of manufacture, such as may be contained in but not limited to his manufacturing methods or processes, treatment and chemical composition of materials, plant layout and tooling, to the extent that such information is not readily disclosed by inspection or analysis of the product itself and to the extent that the Contractor has protected such information from unrestricted use by others. (July 1962)

In negotiated supply procurements, when "proprietary data" as defined in § 18–9.201 is to be obtained, the Schedule of the contract shall specify the extent of the "proprietary data" to be furnished.

§ 18–9.203–3 Limited rights in data provision for use in supply contracts.

In negotiated supply contracts where "proprietary data" is to be acquired and such data is needed only for a limited purpose, such as maintenance, the clause set forth in § 18–9.203–2 should be supplemented by the additional paragraph (j) set forth below. The Schedule of the contract must state the extent of the "proprietary data" to be furnished subject to such limitations. Paragraph (j) below is not authorized for use in a contract having as one of its principal purposes experimental, research, or developmental work.

(j) That portion of the Subject Data delivered under this contract which is identified in the Schedule as being subject to limitations shall not be released outside the Government, nor be duplicated, used, or disclosed in whole or in part for procurement or manufacturing purposes (other than for manufacture required in connection with repair or overhaul where an item is not procurable commercially so as to enable the timely performance of the overhaul or repair work: *Provided*, When Data is released by the Government to a Contractor for such purposes, the release shall be made subject to the limitation of this clause: *Provided further*, Such Data shall not be used for manufacture or procurement of spare parts for stocks), without permission of the Contractor, if the following legend is marked on each piece of Data so limited either in its entirety or only partially as to its content:

Furnished under U.S. Government Contract No. ------ and only those portions hereof which are marked (for example, by circling, underscoring, or otherwise) and indicated as being subject to this legend shall not be released outside the Government (except to foreign governments, subject to these same limitations), nor be disclosed, used, or duplicated, for procurement or manufacturing purposes, except as otherwise authorized by contract, without the permission of ---------- This legend shall be marked on any reproduction hereof in whole or in part.

Provided, That such Data may be delivered to foreign governments as the national interest of the United States may require, subject to the limitations specified in this paragraph. The Contractor shall not impose limitations on the use of any piece of Data, or any portion thereof, which the Contractor has previously delivered to the Government without limitations. (July 1962)

§ 18–9.204 Contract clauses—special.

§ 18–9.204–2 Production of motion pictures.

The clause set forth below is approved for use in contracts for the production of motion pictures with or without accompanying sound, and in all contracts for the preparation of motion picture scripts, musical compositions, sound tracks, translations, adaptations, and the like.

RIGHTS IN DATA (SEPTEMBER 1964)

(a) The term "Subject Data" as used herein includes writings, sound recordings, pictorial reproductions, drawings, or other graphical representations, and works of any similar nature (whether or not copyrighted) which are specified to be delivered under this contract. The term does not include financial reports, cost analyses, and other information incidental to contract administration.

(b) All Subject Data first produced in the performance of this contract shall be the sole property of the Government. The Contractor agrees not to assert any rights at common law or equity and not to establish any claim to statutory copyright in such Data. The Contractor shall not publish or reproduce such Data in whole or in part or in any manner or form, nor authorize others so to do, without the written consent of the Government until such time as the Government may have released such Data to the public.

(c) The Contractor agrees to grant and does hereby grant to the Government and its officers, agents and employees acting within the scope of their official duties, a royalty-free, nonexclusive, and irrevocable license throughout the world (i) to publish, translate, reproduce, deliver, perform, use and dispose of, in any manner, any and all Data not first produced or composed in the performance of this contract but which is incorporated in the work furnished under this contract; and (ii) to authorize others so to do.

(d) The Contractor shall indemnify and save and hold harmless the Government, its officers, agents and employees acting within the scope of their official duties against any liability, including costs and expenses, (i) for violation of proprietary rights, copyright, or right of privacy, arising out of the publication, translation, reproduction, delivery, performance, use or disposition of any Data furnished under this contract, or (ii) based upon any libelous or other unlawful matter contained in such Data.

(e) Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other rights otherwise granted to the Government under any patent.

(f) Paragraphs (c) and (d) above are not applicable to material furnished to the Contractor by the Government and incorporated in the work furnished under the contract: *Provided*, Such incorporated material is identified by the Contractor at the time of delivery of such work.

§ 18–9.204–3 Histories and other works.

The contract clause set forth in § 18–9.204–2 is suggested for use in contracts for:

(1) Histories of NASA activities or installations;

(2) Works pertaining to recruiting, morale, training, or career guidance;

(3) Surveys of Government establishments, and

(4) Works pertaining to the instruction or guidance of Government officers and employees in the discharge of their official duties.

When the "Rights in Data" clause set forth in § 18–9.204–2 is used in contracts of the kinds listed above, there shall be added to the end of the first sentence of paragraph (a) of that clause, the following:

"or which are in fact delivered to the Government in the performance of this contract." (August 1968)

§ 18–9.204–50 Short form clause, fixed-price, research contract with nonprofit institutions (including educational institutions).

In contracts of the kind described in the heading, which are executed using NASA Form 246, the following clause shall be included in the contract.

TECHNICAL REPORTS AND DATA (JULY 1962)

(a) Upon completion of the work under this contract, the Contractor shall submit the number of copies required in the Schedule of a complete and final technical report of his findings and conclusions together with any original illustrations and photographic negatives. With the prior approval of the Contracting Officer, the Contractor may submit interim technical reports in lieu of the final report at such intervals as may be agreed upon.

(b) The Government may publish, reproduce or use, and have others so do, for any purpose, without limitation, drawings, studies, research notes, technical information and other scientific data resulting from this contract.

§ 18–9.204–51 Short form clause, cost-reimbursement, research contract with nonprofit institutions (including educational institutions).

In short form contracts for research with an educational or nonprofit institution, the following clause shall be included in the contract.

DATA AND INSPECTION (SEPTEMBER 1962)

The Government may publish, reproduce, and use, and have others so do, for any purpose, without limitation, drawings, studies, research notes, technical information, and other scientific data resulting from this contract. The Government has the right, at all reasonable times, to inspect or otherwise evaluate the work being performed under this contract.

§ 18–9.204–52 Potentially hazardous items.

(a) When procuring items, designated in procurement requests, in accordance with § 18–3.850, as potentially hazardous, the policies and instructions set forth in this paragraph shall prevail over all other policies and instructions contained in this Subpart 18–2.9. The term "items" as used herein includes components of items.

(b) If such items result from experimental, developmental or research work performed under a contract so that the clause set forth in § 18–9.203–1 would be applicable to the data pertaining to such items, or in any other case where the Government, as a part of the contract, buys unlimited rights to use such data, the "Rights in Data" clause set forth in § 18–9.203–1 shall be included in the contract, but paragraph (i) thereof shall be altered by adding to the end thereof the following:

This paragraph (i) shall not apply to data identified in the Schedule of the contract as being required to be delivered for items or components of items which are designated in the Schedule as being potentially hazardous.

(c) If such items are to be furnished in the performance of a contract containing the Rights in Data clause set forth in § 18–9.203–1, but do not result from the performance of experimental, developmental or research work under such contract, so that the delivery of data for such items would be excused under paragraph (i) of such clause, or are to be furnished in the performance of any other kind of contract, and if the Government does not, as a part of the contract, buy the unlimited rights to use such data, the following clause shall be included in the contract:

RIGHTS IN DATA FOR POTENTIALLY HAZARDOUS ITEMS (SEPTEMBER 1964)

(a) The rights of the Government to use the drawings and any other data required to be furnished by the Schedule of this contract for items or components designated therein as potentially hazardous shall be as provided by this clause, and in this respect, this clause takes precedence over any other clause of this contract providing for rights in data. Such other Rights in Data clause shall apply however, to all other data specified to be delivered under this contract.

(b) The Government shall have the right to duplicate, and use the drawings and other data to which this clause is applicable for inspection, study and evaluation of the items or components disclosed by such drawings or data, and to have others duplicate and use such data for the Government for such purposes. Such data shall not otherwise be released outside the Government nor be duplicated, used, or disclosed in whole or in part for procurement or manufacturing purposes, if the following legend is marked on each piece of data to which this clause is applicable:

"Furnished under U.S. Government Contract No. ------ and shall not be disclosed, used, or duplicated for procurement or manufacturing purposes without the permission of ------. This legend shall be marked on any reproduction hereof in whole or in part."

(c) The Contractor shall not impress the legend set forth in paragraph (b) above on any piece of data which the Contractor or any subcontractor has previously delivered to the Government without limitations.

(d) Whenever any piece of data marked with the legend set forth in paragraph (b) above is reproduced in whole or in part by the Government, or for the Government at its request, the legend shall be included on the reproduction.

(e) The Government shall not disclose the data marked with the legend set forth in paragraph (b) above to any firm or person not having a need to inspect, study, evaluate or handle the items or components represented by the data, and shall not disclose the data to any firm or person outside the Government without obtaining an agreement from such firm or person that he shall not use the data for manufacture or procurement, and that he shall comply with conditions of the legend.

§ 18–9.205 Contracts for acquisition of existing works.

§ 18–9.205–1 Off-the-shelf purchase of books and similar items.

Notwithstanding the instructions of any other paragraph of this subpart, no contract clause contained in this subpart need be included in contracts for the separate, sole procurement of data, other than motion pictures, in the exact form in which such material exists prior to the initiation of a request for purchase (such as the off-the-shelf purchases of existing products) unless the right to reproduce such data is an objective of the contract.

§ 18–9.205–2 Contracts for existing motion pictures.

Contracts for the procurement of existing motion pictures or for the modification of existing motion pictures will be made only after consultation with legal counsel.

§ 18–9.206 Contracts to be performed outside the United States.

(a) Except as otherwise provided in §§ 18–9.204 and 18–9.205, the clause set forth below shall be included in all contracts under which (i) technical information including reports, drawings, blueprints, or other data is specified to be delivered to the Government, and (ii) the work is to be performed outside the United States, its possessions, or Puerto Rico, regardless of the place of delivery.

TECHNICAL INFORMATION (JULY 1962)

The Government may duplicate, use and disclose, in any manner for its Government purposes, including delivery to other governments for the furtherance of mutual defense of the U.S. Government and such other governments, all or any part of the technical information including reports, drawings, blueprints, and other data specified to be delivered by the Contractor to the Government under this contract.

(b) The above clause may be modified by substituting "the U.S. Government" for "Government"; however, when the contractor is a foreign government, the above clause shall be modified by substituting "the U.S. Government" for "Government" and by substituting the name of the foreign government for "Contractor."

PART 18–10—BONDS AND INSURANCE

Sec.
18–10.000 Scope of part.

Subpart 18–10.1—Bonds

18–10.100 Scope of subpart.
18–10.101 Definitions.
18–10.101–1 Advanced payment bond.
18–10.101–2 Annual bid bond.
18–10.101–3 Annual performance bond.
18–10.101–4 Bid guarantee.
18–10.101–5 Consent of surety.
18–10.101–6 Construction contract or subcontract.
18–10.101–7 Patent infringement bond.
18–10.101–8 Payment bond.
18–10.101–9 Penal sum or amount.
18–10.101–10 Performance bond.
18–10.102 Bid guarantees.
18–10.102–1 Applicability.
18–10.102–2 Limitations.
18–10.102–3 Amount required.
18–10.102–4 Solicitation provisions.
18–10.102–5 Failure to submit proper bid guarantee.
18–10.103 Performance and payment bonds for contruction contracts.
18–10.103–1 Performance bonds.
18–10.103–2 Payment bonds.
18–10.103–3 Waiver of performance and payment bonds.
18–10.103–4 Furnishing information to subcontractors and suppliers.
18–10.104 Performance and payment bonds for contracts other than construction contracts.
18–10.104–1 General.
18–10.104–2 Performance bonds.
18–10.104–3 Payment bonds.
18–10.105 Other types of bonds.
18–10.105–1 Advance payment bonds.
18–10.105–2 Patent infringement bonds.
18–10.105–3 Other bonds.
18–10.110 Execution of bonds.
18–10.111 Additional bond and consent of surety.
18–10.111–1 Additional bond.
18–10.111–2 Consent of surety.
18–10.112 Administration of bonds.

Subpart 18–10.2—Sureties

18–10.201 General requirements of sureties.
18–10.201–1 Corporate sureties.
18–10.201–2 Individual sureties.
18–10.201–3 Partnerships as sureties.
18–10.201–4 Substitution or replacement of a surety.
18–10.202 Options in lieu of sureties.
18–10.202–1 U.S. bonds or notes.
18–10.202–2 Certified or cashier's checks, bank drafts, money orders, or currency.

Subpart 18–10.3—Insurance—General

18–10.300 Scope of subpart.
18–10.301 General.
18–10.301–1 Definition.
18–10.302 Notice of cancellation or change.
18–10.303 Responsibility for loss of or damage to Government property.
18–10.304 Insurance against loss of or damage to Government property.
18–10.305 Procedures to be followed in the event of loss of or damage to Government property.
18–10.350 Indemnification.

Subpart 18–10.4—Insurance Under Fixed-Price Contracts

18–10.400 Scope of subpart.
18–10.401 Policy.
18–10.402 Government-furnished property.
18–10.403 Workmen's compensation insurance overseas.
18–10.404 Aircraft—ground and flight risk.
18–10.405 Work at government installation.

Subpart 18–10.5—Insurance Under Cost-Reimbursement Type Contracts

18–10.500 Scope of subpart.
18–10.501 Policy.
18–10.501–1 Workmen's compensation and employers' liability insurance.
18–10.501–2 General liability insurance.
18–10.501–3 Automobile liability insurance.
18–10.501–4 Aircraft public and passenger liability insurance.
18–10.501–50 Group insurance.
18–10.501–51 Use and occupancy insurance.
18–10.502 Self-insurance.
18–10.503 Government property.
18–10.504 Aircraft—flight risk.
18–10.550 Administration.

Subpart 18–10.6—Insurance of Industrial Facilities Under Leases or Facilities Contracts

18–10.600 Scope of subpart.
18–10.601 Responsibility for liabilities to third persons.
18–10.602 Responsibility for loss or damage to facilities.
18–10.602–1 Facilities contracts.

Subpart 18–10.50—Safety and Health

18–10.5000 Scope of subpart.
18–10.5001 Policy.

Sec.
18–10.5002 Responsibility.
18–10.5003 Hazardous materials and operations.
18–10.5004 Contract provisions.

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§ 18–10.000 Scope of part.

This part sets forth policies and procedures with respect to the use of bonds, insurance and safety and health requirements in connection with NASA contracts.

Subpart 18–10.1—Bonds

§ 18–10.100 Scope of subpart.

This subpart deals, primarily, with the use of bonds. It deals also with the use of bid guarantees which while most frequently in bond form, may take other forms of security.

§ 18–10.101 Definitions.

As used in this subpart, the following terms have the meanings set forth below.

§ 18–10.101–1 Advance payment bond.

"Advance payment bond" means a bond which secures the performance and the fulfillment of a contractural provision for the making of advance payments.

§ 18–10.101–2 Annual bid bond.

"Annual bid bond" means a single bond (in lieu of separate bid bonds for each contract), without limitation as to penal amount, which secures all bids (on other than construction contracts) requiring bonds submitted by a contractor during a specific fiscal year of the Government in response to formal advertising.

§ 18–10.101–3 Annual performance bond.

"Annual performance bond" means a single bond (in lieu of separate performance bonds for each contract) which secures the performance of contracts (other than construction contracts) which require bonds and are entered into by a contractor during a specific fiscal year of the Government.

§ 18–10.101–4 Bid guarantee.

"Bid guarantee" means a form of security accompanying a bid or proposal as assurance that the bidder (a) will not withdraw his bid within the period specified therein for acceptance, and (b) will execute a written contract and furnish such bonds as may be required within the period specified in the bid (unless a longer period is allowed) after receipt of the specified forms.

§ 18–10.101–5 Consent of surety.

"Consent of surety" means an acknowledgment by a surety that its bond given in connection with a contract continues to apply to the contract as modified.

§ 18–10.101–6 Construction contract or subcontract.

"Construction contract or subcontract" means any contract or subcontract for the construction, alteration or repair of buildings, bridges, roads, or other kinds of real property. It does not include any contract or subcontract for the manufacturing, producing, furnishing, construction, alteration, repair, processing, or assembling of vessels, aircraft, or other kinds of personal property, regardless of the terms of any such contract or subcontract as to payment or title.

§ 18–10.101–7 Patent infringement bond.

"Patent infringement bond" means a bond which secures the performance and fulfillment of the undertakings contained in a patent clause.

§ 18–10.101–8 Payment bond.

"Payment bond" means a bond which is executed in connection with a contract and which secures the payment of all persons supplying labor and material in the prosecution of the work provided for in the contract.

§ 18–10.101–9 Penal sum or amount.

"Penal sum or amount" means the dollar amount shown in a bond and represents the maximum payment for which the surety is obligated.

§ 18–10.101–10 Performance bond.

"Performance bond" means a bond which is executed in connection with a contract and which secures the performance and fulfillment of all the undertakings, covenants, terms, conditions, and agreements contained in the contract.

§ 18–10.102 Bid guarantees.

§ 18–10.102–1 Applicability.

This § 18–10.102 applies to both negotiated and formally advertised procurements. Where appropriate, the term "bid" includes "proposal".

§ 18–10.102–2 Limitations.

Bid guarantees shall not be required unless the solicitation specifies that the contract must be supported by a performance bond or by performance and payment bonds. In no event shall a bid not in excess of $2,000 be required to be supported by a bid guarantee (see § 18–10.102–4(a)(1). Only individual bid bonds (Standard Forms 24) will be used for construction contracts.

§ 18–10.102–3 Amount required.

(a) Whenever a bid guarantee is deemed necessary, the contracting officer shall determine the percentage (or amount) which in his best judgment, when applied to the bid price, will produce a bid guarantee amount adequate to protect the Government from loss should the successful bidder fail to execute such further contractual documents and bonds as may be required. The percentage determined shall be not less than 20 percent of the bid price except that the maximum amount required shall be $3,000,000.

(b) The penal sum of a bid bond may be expressed as a specified percentage of the bid price. In this fashion, the bid bond may be written by the surety before the bidder's final determination of his bid price.

§ 18–10.102–4 Solicitation provisions.

(a) Where a bid guarantee is determined to be necessary, the solicitation shall contain (1) a statement requiring that a bid guarantee be submitted with any bid in excess of $2,000 and containing such details as are necessary to enable bidders to determine the proper amount of bid guarantee to be submitted; and (2) the following provision:

BID GUARANTEE (JANUARY 1964)

Failure to furnish a required bid guarantee in the proper amount, by the time set for opening of bids, may be cause for rejection of the bid.

A bid guarantee may be in the form of a bid bond, postal money order, certified check, cashier's check, irrevocable letter of credit or, in accordance with Treasury Department regulations, bonds or notes of the United States. Bid guarantees, other than bid bonds, will be returned (1) to unsuccessful bidders as soon as practicable after the opening of bids, and (2) to the successful bidder upon execution of such further contractual documents and bonds as may be required by the bid as accepted.

If the successful bidder withdraws his bid within the period specified therein for acceptance (60 days if no period is specified) or, upon acceptance thereof by the Government, fails to enter into the contract and give bonds within the time specified (10 days if no period is specified) after the forms are presented to him, he shall be liable for any difference by which the cost of procuring the work exceeds the amount of his bid and the bid guarantee shall be available toward offsetting such difference.

(b) The requirement for the provision in paragraph (a)(2) of this section is met where Standard Form 22 (Instructions to Bidders (Construction Contracts)) is used in accordance with §§ 18–16.401–1(e) and 18–16.401–3.

(c) The provision required by paragraph (a)(2) of this section may be appropriately modified in negotiated contracts.

§ 18–10.102–5 Failure to submit proper bid guarantee.

Where a solicitation requires that bids be supported by a bid guarantee, noncompliance with such requirement will require rejection of the bid, except that rejection of the bid is not required in these situations:

(a) Where only a single bid is received (in such cases the procurement office may or may not require the furnishing of the bid guarantee before award);

(b) Where the amount of the bid guarantee submitted, though less than the amount required by the invitation for bids, is equal to or greater than the difference between the price stated in the bid and the price stated in the next higher acceptable bid;

(c) Where the bid guarantee is received late and the late receipt may be waived under the rules established in § 18–2.303 for consideration of late bids; and

(d) Where an otherwise adequate bid guarantee becomes inadequate as a result of the correction of a mistake in bid under § 18–2.406 if the bidder will increase the amount of the bid guarantee in proportion to the authorized bid correction.

§ 18–10.103 Performance and payment bonds for construction contracts.

§ 18–10.103–1 Performance bonds.

(a) Pursuant to the Miller Act, as amended (40 U.S.C. 270a–270e), in connection with any construction contract exceeding $2,000 in amount except as provided in § 18–10.103–3, a performance bond shall be required in a penal amount deemed adequate by the contracting officer for the protection of the Government. Generally, the penal amount of each performance bond shall be 100 percent of the contract price at the time of award. But where the contracting officer finds that to require a 100 percent performance bond would be disadvantageous to the Government, he may prescribe a lesser penal amount, which should normally be not less than 50 percent of the original contract price, and in all cases no less than the amount of the payment bond.

(b) Additional performance bond protection shall be required in connection with any modification effecting an increase in price under any contract for which a bond is required pursuant to paragraph (a) of this section if—

(1) The modification is for new or additional work which is beyond the scope of the existing contract; or

(2) The modification is pursuant to an existing provision of the contract and is expected to increase the contract price by $50,000 or 25 percent of the basic contract price, whichever is less.

The penal amount of the bond protection should generally be increased so that the total performance bond protection is 100 percent of the contract price as revised by (i) the modification requiring such additional protection, and (ii) the aggregate of any previous modifications: *Provided*, That lesser penal amounts may be authorized by the contracting officer as indicated in paragraph (a) of this section. The increased penal amount may be secured either by increasing the bond protection provided by the existing surety or sureties (the format set forth in § 18–10.111–1 may be used when an additional bond is obtained from the original surety), or by obtaining an additional performance bond from a new surety; but see § 18–10.111–2 with respect to requiring consent of surety.

(c) An annual performance bond will not be used for construction contracts.

§ 18–10.103–2 Payment bonds.

(a) Pursuant to the Miller Act, as amended (40 U.S.C. 270a–270e), in connection with any construction contract exceeding $2,000 in amount, except as provided in § 18–10.103–3, a payment bond shall be required in a penal amount as follows:

(1) When the contract price is not more than $1 million, the penal sum shall be 50 percent of the contract price;

(2) When the contract price is more than $1 million but not more than $5 million, the penal sum shall be 40 percent of the contract price; and

(3) When the contract price is more than $5 million, the penal sum shall be $2,500,000.

(b) Additional payment bond protection shall be required in connection with any modification effecting an increase in price under any contract for which a bond is required pursuant to paragraph (a) of this section if—

(1) The modification is for new or additional work which is beyond the scope of the existing contract; or

(2) The modification is pursuant to an existing provision of the contract and is expected to increase the contract price by $50,000 or 25 percent of the basic contract price, whichever is less.

The penal amount of the additional bond protection should generally be such that the total payment bond protection is 50 percent of the contract price as revised by (i) the modification requiring such additional protection, and (ii) the aggregate of any previous modifications: *Provided*, That when the contract price as so revised is more than $1 million but not more than $5 million the total payment bond protection shall be in a penal amount of 40 percent of the revised contract price: *Provided further*, That when the contract price as so revised is more than $5 million, the total payment bond protection shall be in the penal amount of $2,500,000. The additional protection may be secured either by increasing the bond protection provided by the existing surety or sureties or by obtaining an additional payment bond from a new surety; but see § 18–10.111–2 with respect to requiring consent of surety.

§ 18–10.103–3 Waiver of performance and payment bonds.

The contracting officer may waive the requirement for a performance and pay-

ment bond for that work under the contract which is to be performed in a foreign country provided he finds it impracticable for the contractor to furnish such bonds. However, the authority available to the Military Department pursuant to 40 U.S.C. 270e to waive performance and payment bonds under the Miller Act in cost-reimbursement type contracts is not available to NASA.

§ 18–10.103–4 Furnishing information to subcontractors and suppliers.

It is NASA policy to furnish subcontractors or suppliers only general information with respect to the status of work and of payments made to prime contractors. Where a payment bond has been required, a subcontractor or supplier, after satisfying the contracting officer that he is a bona fide subcontractor or supplier and stating that he has not been paid for work performed or supplies delivered, may be furnished the name and address of the surety furnishing the required bonds on the contract in question. In addition, subcontractors and suppliers may be furnished general information on such matters as the progress of the work, the accomplishment of payments as of certain dates, and the estimated percentage of completion. In accordance with 40 U.S.C. 270c, the General Accounting Office is required under specified conditions to furnish a certified copy of a payment bond and the contract for which it was given.

§ 18–10.104 Performance and payment bonds for contracts other than construction contracts.

§ 18–10.104–1 General.

(a) Generally, performance and payment bonds shall not be required in connection with contracts other than construction contracts, other than as provided in §§ 18–10.104–2 and 18–10.104–3. If, under such a contract, it is contemplated that a subcontract exceeding $2,000 will be made for construction work, advice of legal counsel will be requested as to whether to obtain bonds and the type of bonds to be obtained.

(b) Performance and payment bonds shall not be required unless the solicitation requires such bonds, or the requirement of such bonds is in the interest of the Government, and not prejudicial to other bidders or offerors. Where the solicitation requires such bonds, they shall not be waived except in the case of an otherwise acceptable bidder or offeror where such waiver will be favorable to the Government and the contract price will be reduced.

(c) When the requirement for performance and payment bonds is made by the terms of a contract, but the bonds are not furnished by the contractor within the time specified, the contracting officer shall notify the contractor that the contract will be terminated for default if the bonds are not furnished within the time specified in the contract clause providing for such termination (e.g., § 18–8.707(a)(2)).

(d) Where a bid guarantee is not required and a performance or payment bond is required as a condition precedent to the formation of the contract, but is not furnished within the time specified, the contracting officer shall if the making of the award can be delayed without prejudice to other bidders notify the bidder that if the bond is not furnished within 10 days (or such other period as the contracting officer may specify) after receipt of the notice, his bid will not be considered for award.

(e) Requirements for additional bond or consent of surety in connection with contract modifications are prescribed in §18–10.111.

§ 18–10.104–2 Performance bonds.

(a) Performance bonds shall not be used as a substitute for determinations of contractor responsibility as required by Subpart 18–1.9. Subject to this general policy, performance bonds may be required in individual procurements when, consistent with the following criteria, the contracting officer determines the need therefor. Justification for any such requirement must be fully documented.

(1) Where the terms of the contract provide for the contractor to have the use of Government material, property or funds and further provide for the handling thereof by the contractor in a specified manner, a performance bond shall be required if needed to protect the Government's interests therein.

(2) Where the circumstances applicable to a particular procurement are such that for financial reasons a performance bond is necessary to protect the interests of the Government a performance bond shall be required (see for example, § 18–1.1602(b)(3)).

Where such bonds are authorized, the penal sum will usually be no less than 20 percent and only rarely will it exceed 40 percent of the total amount of the contract.

(b) Subject to the general policy stated in paragraph (a) of this section, determinations that performance bonds will be required in specified classes of cases (e.g., for particular types of supplies or services) may be made by the Director of the field installation. A copy of each such determination covering a class of cases shall be forwarded to the Director of Procurement (Code KDP).

(c) When an annual performance bond is used and has been completely obligated in an amount equal to the penal sum thereof, an additional bond shall be obtained to cover additional contracts.

§ 18–10.104–3 Payment bonds.

Generally, payment bonds for contracts other than construction contracts may be required only if a performance bond is also required, in which case the penal sum of the payment bond should ordinarily be equal to or less than that of the performance bond. Ordinarily if a performance bond is required, a payment bond of equal penal amount can be obtained at no additional cost.

§ 18–10.105 Other types of bonds.

§ 18–10.105–1 Advance payment bonds.

Generally, the security provisions of an advance payment agreement should make it unnecessary to require a bond to protect the interests of the Government. Advance payment bonds shall not be used without the approval of the Director of Procurement who shall prescribe the penal sum thereof.

§ 18–10.105–2 Patent infringement bonds.

Patent infringement bonds shall be required only in connection with contracts containing provision for patent indemnity, and then only if a performance bond has not been executed and if the financial responsibility of the contractor is unknown or doubtful. Whenever such a bond is required, the penal sum thereof shall be in an amount deemed adequate by the contracting officer for the protection of the Government.

§ 18–10.105–3 Other bonds.

Other types of bonds may be used only when, in the opinion of the Director of a field installation, such bonds are necessary or desirable in connection with the procurement of particular supplies or services.

§ 18–10.110 Execution of bonds.

Several prescribed forms for bonds and related documents are listed in § 18–16.805. Bonds and related documents executed on such forms shall comply with the instructions accompanying each form, except that minor deviations may be approved by appropriate legal counsel.

§ 18–10.111 Additional bond and consent of surety.

§ 18–10.111–1 Additional bond.

Requirements for additional bond resulting from changes or modifications to construction contracts are prescribed by §§ 18–10.103–1(b) and 18–10.103–2(b). If a contract other than a construction contract for which a performance or payment bond has been executed is increased in price or modified to cover new or additional work, the contracting officer shall decide whether additional bond should be required in order to adequately protect the interest of the Government (the criteria of §§ 18–10.104–1 and 18–10.104–2 may be used as a general guide for this purpose). The following form of consent of surety is authorized for contract modifications (to both construction and other than construction contracts) which provide for an increase in the penal sums of bonds previously given by the original surety.

Date _____
Contract No. _____
Supplemental Agreement No. _____
Change Order No. _____

Consent of Surety is hereby given to the foregoing contract modification, and the surety agrees that its bond or bonds shall apply and extend to the contract as modified or amended thereby. The principal and surety further agree that on and after the execution of this consent, the penalty of the aforementioned performance bond or bonds is hereby increased by _____ dollars, and the penalty of the aforementioned payment bond or bonds is hereby increased by _____ dollars.

In presence of—

[SEAL]

_____ _____ (Individual principal) *
_____ _____ (Business address)
(Address)
Attest: _____ (Corporate principal) *
_____ (Business address)
_____ By _____ (Affix corporate seal)
_____ (Corporate surety)
_____ (Business address)
_____ By _____ (Affix corporate seal)

*This consent shall be executed concurrently with the execution of the attached modification by the same person who executes the modification. If the individual who signs the consent on behalf of a corporation does not execute the modification, a Certificate of Corporate Principal shall be submitted with the consent.

§ 18–10.111–2 Consent of surety.

The following consent of surety shall be obtained from the surety or sureties on existing bonds in connection with any amendment, modification or supplemental agreement if:

(a) Additional bond is obtained from other than the original surety;

(b) No additional bond is required and (1) the modification is for new or additional work beyond the scope of the contract, or (2) the modification does not enlarge or diminish the scope of the contract, but changes the contract price (upward or downward) by more than $25,000 or 10 percent of the contract price; or

(c) Consent of surety is required in connection with a novation agreement (see § 18–1.1602(c)(10)).

CONSENT OF SURETY

Date _____
Contract No _____
Supplemental Agreement No _____
Change Order No _____

Consent of Surety is hereby given to the foregoing contract modification and the surety agrees that its bond or bonds shall apply and extend to the contract as modified or amended thereby.

CORPORATE SURETY

Attest: _____ (Business address)
_____ By _____ [AFFIX CORPORATE SEAL]
_____ (Title)

§ 18–10.112 Administration of bonds.

It is the responsibility of the contracting officer to obtain all bonds required by law and regulation. The Treasury Department list of corporate sureties certified by the Secretary of the Treasury as being acceptable as sureties on Federal bonds, and provision for the distribution of up-to-date copies of the list, are discussed in § 18–10.201–1. Upon receipt of the bonds required in connection with a NASA contract, the contracting officer shall determine whether the corporate surety which executed the bonds appears on the latest Treasury Department list of acceptable sureties. If the name of the surety does not appear on the list, the Director of Procurement (Code KDP) will be advised by the most expeditious means in order to determine from the Surety Bond Section, Treasury Department, whether the corporate surety has been approved subsequent to the issuance of the latest list. When the surety on a bond is not acceptable, the contracting officer shall return the bond to the bidder by letter, advising that the surety on the bond is not acceptable because of lack of Treasury Department approval. When time permits and when it would be to the best interest of the Government, the bidder may be permitted a specific period of time in which to submit an acceptable bond.

Subpart 18–10.2—Sureties

§ 18–10.201 General requirements of sureties.

Every bond required or used in connection with a contract for supplies, services, or construction shall be supported by good and sufficient surety (corporate or indivdual) except as provided in § 18–10.202.

§ 18–10.201–1 Corporate sureties.

(a) In connection with contracts for supplies, services, or construction to be delivered or performed in the United States, its possessions (other than the Canal Zone), or Puerto Rico, solicitations shall not require that only corporate sureties may be furnished or that a particular corporate surety be furnished, except as may be otherwise specifically provided (e.g., position schedule bonds may be obtained only from corporate sureties).

(b) In order to be acceptable, the corporate surety must have obtained from the Secretary of the Treasury authority to do business under the Act of August 13, 1894 (28 Stat. 279), as amended by the Acts of March 23, 1910 (36 Stat. 241), July 30, 1947 (61 Stat. 646), and the Act of August 9, 1955 (69 Stat. 620) (6 U.S.C. 6–13). A list of the corporations approved by the Secretary of the Treasury is published annually by the Treasury Department (T.D. Circular 570). This list indicates the maximum penal sum in which any corporate surety may underwrite any one obligation. Any corporation whose name is on this list is acceptable within the limits specified. The Director of Procurement will secure and distribute up-to-date copies of this list. When the bond is to be executed by two or more corporate sureties, Standard Form 25 should be used in the case of a performance bond, and Standard Form 25A in the case of a payment bond. Each corporate surety may limit its liability in the bond to a specified sum. The sureties must bind themselves "jointly and severally" for the purpose of allowing a joint action or actions against any or all of them.

(c) For contracts to be performed in a foreign country, sureties not appearing on Treasury Department Circular 570 are acceptable if it is determined by the contracting officer that it is impracticable for the contractor to use Treasury listed sureties.

§ 18–10.201–2 Individual sureties.

(a) *Acceptability.* Individual sureties are acceptable for all types of bonds other than position schedule bonds. Individual sureties shall be citizens of the United States, except that sureties on bonds executed in foreign countries, in possessions of the United States, or in Puerto Rico, to secure the performance of contracts entered into in those places need not be citizens of the United States, but if not citizens of the United States shall be domiciled in the place where the contract is to be performed.

(b) *Number.* If individual sureties are used, there shall be at least two responsible individuals on each bond.

(c) *Extent of liability.* The liability of each individual surety shall extend to the entire penal amount of the bond.

(d) *Justification.* The contracting officer, in evaluating bonds and consents of surety underwritten by individual sureties, must first ascertain that all documents, including the Affidavits of Individual Surety required by Instruction No. 2 on the reverse of Standard Form 24, "Bid Bond," Standard Form 25, "Performance Bond," and Standard Form 25A, "Payment Bond," have been completely filled out and are properly executed. The contracting officer must next ascertain that each individual surety, underwriting a bond or consenting to an increase in the penal amount of a bond previously furnished, justifies his net worth "in a sum not less than the penalty of the bond" as required by Instruction No. 3 on the reverse of Standard Form 28, "Affidavit of Individual Surety." Since individual sureties are jointly and severally liable in the event of default by the principal, each individual surety must list on Standard Form 28 a net worth at least equal to the total penal amount of the bond or consent of surety. Example: If performance and payment bonds on a construction contract have penal amounts of $4,000 and $2,000, respectively, each individual surety must show a net worth of at least $6,000 to have the contracting officer accept his

underwriting of such bonds. Normally, net worth is the difference between the block on Standard Form 28 titled "Amount I Am Worth in Real Estate and Personal Property, etc." and the total of the blocks titled "All Mortgages or Other Encumbrances, etc." and "All Other Bonds, etc." Example: If an individual surety designates in the appropriate blocks on Standard Form 28 that he is worth $50,000 in real estate and personal property, that he has mortgages and other encumbrances totalling $17,000 and that he is presently a surety of other bonds with total penal amounts of $8,000, his net worth would be $25,000. In determining the net worth of an individual surety, however, the contracting officer is expected to exercise judgment in considering all relevant information furnished by the individual surety on Standard Form 28. Example: The contracting officer should normally consider the "fair value" of real estate rather than the "assessed value" for taxation purposes. However, there may be situations where the assessed value is a more realistic figure for determining net worth and in those cases, the figure in the "Assessed Value" block on Standard Form 28 should be used. If the contracting officer cannot make a determination of net worth on the basis of information furnished on Standard Form 28, he should require the individual surety to furnish additional information. As a general rule, the contracting officer should not require extrinsic evidence of an individual surety's net worth (other than Standard Form 28) unless Standard Form 28 is not filled out completely or properly, or unless the contracting officer has reason to believe that the individual surety's statements on Standard Form 28 do not reflect his true net worth.

(c) *Stockholders as sureties.* On any bond of which a corporation is the principal obligor, a stockholder of that corporation is acceptable as cosurety on the bond: *Provided*, That his net worth exclusive of his stock holdings or other interests, such as loans, in the corporation is equal to the amount for which he justified: *And provided further*, That such fact is expressly stated in his affidavit of justification.

§ 18–10.201–3 Partnerships as sureties.

A partnership or other unincorporated association, as such, shall not be accepted as surety. The individual members of the partnership or association may, if they meet the requirements of § 18–10.201–2, qualify as sureties. Individual members of a partnership or association shall not be acceptable as sureties on bonds under which the partnership or association, or any copartner or member thereof, is the principal obligor.

§ 18–10.201–4 Substitution or replacement of surety.

In case of financial embarrassment, failure, or other disqualifying cause on the part of a surety substitution of a new surety is required. In other cases, substitute sureties may be accepted, when consistent with the Government's interest.

§ 18–10.202 Options in lieu of sureties.

Any one or more of the types of security listed in this § 18–10.202 may be deposited by the contractor in lieu of furnishing corporate or individual sureties on bonds. Any such security accepted by the contracting officer shall be promptly turned over to the fiscal officer concerned except that when U.S. bonds or notes are involved, they shall be deposited as provided in § 18–10.202–1. Any such security or its equivalent shall be returned to the contractor when the obligation of the bond has by its terms ceased.

§ 18–10.202–1 U.S. bonds or notes.

In accordance with the provisions of the Act of February 24, 1919, as amended (6 U.S.C. 15) and Treasury Department Circular No. 154 (February 6, 1935), any person required to furnish a bond has the option, in lieu of furnishing surety or sureties thereon, of depositing U.S. bonds or notes in an amount equal at their par value to the penal sum of the bond, together with an agreement authorizing the collection or sale of such U.S. bonds or notes in the event of default on the penal bond. The contracting officer may turn these securities over to the fiscal officer as provided in § 18–10.202, or deposit them with the Treasurer of the United States, a Federal Reserve bank, branch Federal Reserve bank having the requisite facilities, or other depositary duly designated for that purpose by the Secretary of the Treasury, under procedures prescribed by Treasury Department Circular No. 154. However, the contracting officer shall deposit with the Treasurer of the United States all such bonds and notes received by him in the District of Columbia.

§ 18–10.202–2 Certified or cashier's checks, bank drafts, money orders, or currency.

Any person required to furnish a bond has the option, in lieu of furnishing surety or sureties thereon, of depositing a certified or cashier's check, a bank draft, a Post Office money order, or currency, in an amount equal to the penal sum of the bond. Certified or cashier's checks, bank drafts, or Post Office money orders shall be drawn to the order of the Treasurer of the United States.

Subpart 18–10.3—Insurance—General

§ 18–10.300 Scope of subpart.

This Subpart 18–10.3 sets forth the general principles and policy applicable to insurance under NASA contracts.

§ 18–10.301 General.

Insurance will be required where (a) it is mandatory by law, (b) it is considered desirable to utilize the facilities and services of the insurance industry, or (c), in special instances, it is considered necessary or desirable in connection with the performance of a contract. The Director of Procurement may authorize or require the purchase of insurance where commingling of property, circumstances of ownership, or degree of responsibility imposed by the contract makes the purchase of insurance reasonably necessary for the protection of the several interests concerned.

§ 18–10.301–1 Definition.

The term "insurance" includes but is not limited to the following forms of coverage, whether provided under an insurance policy issued by privately operated insurance companies or underwriters, or under a State-operated insurance fund, or under an approved self-insurance plan,

(a) Workmen's Compensation and Employers' Liability;
(b) General Liability;
(c) Automobile Liability;
(d) Aircraft Liability;
(e) Physical Damage (Property);
(f) Employees' Group Insurance (Life, Hospitalization, Accident and Health, Surgical, etc.); and
(g) Extrahazardous Accident.

§ 18–10.302 Notice of cancellation or change.

Where insurance is required by the contract, or required or approved under a contract by the Director of Procurement or his designee, the policies evidencing such insurance shall contain an endorsement to the effect that cancellation of, or any material change in, the policies which adversely affect the interests of the Government in such insurance shall not be effective unless a 30-day written notice of cancellation or change is given to the Director of Procurement.

§ 18–10.303 Responsibility for loss of or damage to Government property.

NASA's policy with respect to Government assumption of risk for loss of or damage to Government property in the possession of contractors is set forth in §§ 18–13.104–1 and 18–13.411. This policy is implemented by the Government property clauses set forth in Subpart 18–13.5, and the facilities contract clauses set forth in Subpart 18–7.7. Except for advertised fixed-price contracts, and except in accordance with § 18–13.502–1 for fixed-price contracts under $25,000 where contractor responsibility for risk of loss or damage would not result in the inclusion of contingency charges in the contract, it is NASA policy to assume the risk of loss or damage. This policy is based on the principle that it is less costly for the Government to act as a self-insurer than to permit the contractor to take out property damage insurance. However, when, due to the commingling of the Government's and the contractor's property, or for other reasons, relief of the contractor from liability will not result in a reduction of the contract price or contract cost to the Government, this policy may be waived and the contractor held fully responsible. Such a waiver, unless otherwise authorized by §§ 18–13.104 and 18–411, constitutes a deviation to be processed in accordance with § 18–1.109–3.

§ 18–10.304 Insurance against loss of or damage to Government property.

When insurance is required or approved to cover loss of or damage to Government property, such insurance may be provided either by specific insurance policies or by inclusion of such risks in the contractor's existing insurance policies. In either event, the insurance policies shall make formal disclosure of the Government's interest in the property.

§ 18–10.305 Procedures to be followed in the event of loss of or damage to Government property.

Upon the happening of loss of or damage to any Government property for which the contractor is relieved of responsibility by contract provision, the procedures set forth in the applicable "Government-Furnished Property" clause of the contract involved shall be followed.

§ 18–10.350 Indemnification.

(a) The indemnification authority available to the Department of Defense under 10 U.S.C. 2354, which applies to contracts for research or development, is not applicable to contracts of NASA. Furthermore, it is NASA's firm policy not to use the authority contained in Public Law 85–804 (50 U.S.C. 1431–1435). It is also NASA's policy not to include in its contracts a special clause agreeing to indemnify contractors and subcontractors at some time in the future, if and when NASA should be authorized by subsequently enacted legislation to grant such indemnification, or if and when NASA might promulgate for general use an indemnification clause within the limits of existing legal authority. However, if indemnification authority is subsequently provided to NASA by legislation, NASA will do whatever is permitted by the statute and other available authority to apply its provisions so that all elements of industry similarly situated are treated in the same fashion and that a proper assumption of risks is undertaken by the Government, whether such risks arise under contracts in effect or are contemplated in any new contract.

(b) An exception to the foregoing exists in connection with contracts employing nuclear material where, pursuant to a license obtained from the Atomic Energy Commission, indemnification authorized under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq., as amended) may be extended to contractors engaged in work under the license.

Subpart 18–10.4—Insurance Under Fixed-Price Contracts

§ 18–10.400 Scope of subpart.

This Subpart 18–10.4 sets forth the policy of NASA with respect to insurance under fixed-price contracts of NASA.

§ 18–10.401 Policy.

Ordinarily, NASA is not concerned with the insurance programs of fixed-price contractors. However, NASA may be concerned with a contractor's insurance program where special circumstances exist. Examples of special circumstances are:

(a) Where the contractor is engaged principally in Government work;

(b) Where the contractor has a segregated operation which is engaged principally in Government work;

(c) Where Government-furnished property is involved;

(d) Where the work is performed within a Government establishment; and

(e) Where the Government may desire to assume risks for which the contractor ordinarily obtains commercial insurance.

§ 18–10.402 Government-furnished property.

The contractor's responsibilities for loss of or damage to Government-furnished property under fixed-price contracts are set forth in the applicable Government-Furnished Property clause (see § 18–13.502).

§ 18–10.403 Workmen's compensation insurance overseas.

(a) The Defense Base Act, as amended (42 U.S.C. 1651 et seq.), extends the application of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901) to any employee engaged in public work outside the United States. As used in this § 18–10.403, a public work contract includes any contract for a fixed improvement or any project, whether or not fixed, involving construction, alteration, removal, or repair for the public use of the United States or its allies, including projects or operations under service contracts and projects in connection with the National Defense or with war activities, dredging, harbor improvements, dams, roadways, and housing, as well as preparatory and ancillary work in connection therewith at the site or on the project. The following clause shall be included in all construction contracts to be performed outside the United States.

WORKMEN'S COMPENSATION INSURANCE (DEFENSE BASE ACT) (APRIL 1960)

The Contractor before commencing performance under this contract shall provide and thereafter maintain such Workmen's Compensation Insurance or security as is required by the Defense Base Act, as amended (42 U.S.C. 1651). The Contractor further agrees to insert in all subcontracts hereunder to which the Defense Base Act is applicable a clause similar to this clause, including this sentence, imposing on all such subcontractors a like requirement to comply with the Defense Base Act.

(b) Upon the recommendation of the Administrator, the Secretary of Labor may waive the applicability of the Act with respect to any contract, subcontract, or subordinate contract, work location under such contract, or classification of employees. Applications for waivers shall be submitted to the Administrator, through the Director of Procurement, together with an adequate statement justifying the need for such waiver.

§ 18–10.404 Aircraft—ground and flight risk.

(a) Negotiated fixed-price type contracts for the production, modification, maintenance, or overhaul of aircraft shall, except as provided in paragraph (b) of this section, include the following clause:

GROUND AND FLIGHT RISK (NOVEMBER 1965)

(a) Notwithstanding any other provisions of this contract, except as may be specifically provided in the Schedule as an exception to this clause, the Government, subject to the definitions and limitations of this clause, assumes the risk of damage to, or loss or destruction of, aircraft "in the open," during "operation," and in "flight," as these terms are defined below, and agrees that the Contractor shall not be liable to the Government for any such damage, loss, or destruction, the risk of which is so assumed by the Government.

(b) For the purposes of this clause:

(i) Unless otherwise specifically provided in the Schedule, the term "aircraft" means—

(A) Aircraft (including (I) complete aircraft, and (II) aircraft in the course of being manufactured, disassembled, or reassembled: *Provided*, That an engine or a portion of a wing or a wing is attached to a fuselage of such aircraft) to be furnished to the Government under this contract (whether before or after acceptance by the Government); and

(B) Aircraft (regardless of whether in a state of disassembly or reassembly) furnished by the Government to the Contractor under this contract;

including all property installed therein, or in the process of installation, or temporarily removed from such aircraft: *Provided, however*, That such aircraft and property are not covered by a separate bailment agreement.

(ii) The term "in the open" means located wholly outside of buildings on the Contractor's premises or at such other places as may be described in the Schedule as being in the open for the purposes of this clause, except that aircraft furnished by the Government shall be deemed to be in the open at all times while in Contractor's possession, care, custody, or control.

(iii) The term "flight" means any flight demonstration, flight test, taxi test, or other flight, made in the performance of this contract, or for the purpose of safeguarding the aircraft, or previously approved in writing by the Contracting Officer. With respect to land based aircraft, "flight" shall commence with the taxi roll from a flight line on the Contractor's premises, and continue until the aircraft has completed the taxi roll in returning to a flight line on the Contractor's premises; with respect to seaplanes, "flight" shall commence with the launching from a ramp on the Contractor's premises and continue until the aircraft has completed its landing run upon return and is beached at a ramp on the Contractor's premises; with respect to helicopters, "flight" shall commence upon engagement of the rotors for the purpose of takeoff from the Contractor's premises and continue until the aircraft has returned to the ground on the Contractor's premises and the rotors are disengaged; and with respect to vertical takeoff aircraft, "flight" shall commence upon disengagement from any launching platform or device on the Contractor's premises and continue until the aircraft has been re-engaged to any launching platform or device on the Contractor's premises: *Provided, however*, That aircraft off the Contractor's premises shall be deemed to be in flight when on the ground or water only during periods of reasonable duration following emergency landing, other landings made in the performance of this contract, or landings approved by the Contracting Officer in writing.

(iv) The term "Contractor's premises" means those premises designated as such in the Schedule or in writing by the Contracting Officer, and any other place to which aircraft are moved for the purpose of safeguarding the aircraft.

(v) The term "operation" means operations and tests, other than on any production line, of aircraft, when not in flight, whether or not the aircraft is in the open or in motion during the making of any such operations or tests, and includes operations and tests of equipment, accessories, and power plants, only when installed in aircraft.

(vi) The term "flight crew members" means the pilot, the co-pilot and, unless otherwise specifically provided in the Schedule, the flight engineer, and navigator, when required, or assigned to their respective crew positions, to conduct any flight on behalf of the Contractor.

(c) (1) The Government's assumption of risk under this clause, as to aircraft in the open, shall continue in effect unless terminated pursuant to subparagraph (3) of this paragraph. Where the Contracting Officer finds that any of such aircraft is in the open under unreasonable conditions, he shall notify the Contractor in writing of the conditions he finds to be unreasonable and require the Contractor to correct such conditions within a reasonable time.

(2) Upon receipt of such notice, the Contractor shall act promptly to correct such conditions, regardless of whether he agrees that such conditions are in fact unreasonable. To the extent that the Contracting Officer may later determine that such conditions were not in fact unreasonable, an equitable adjustment shall be made in the contract price to compensate the Contractor for any additional costs he incurred in correcting such conditions and the contract shall be modified in writing accordingly. Any dispute as to the unreasonableness of such conditions or the equitable adjustment shall be deemed to be a dispute concerning a question of the fact within the meaning of the clause of this contract entitled "Disputes."

(3) If the Contracting Officer finds that the Contractor has failed to act promptly to correct such conditions or has failed to correct such conditions within a reasonable time, he may terminate the Government's assumption of risk under this clause, as to any of the aircraft which is in the open under such conditions, such termination to be effective at 12:01 a.m. on the fifteenth day following the day of receipt by the Contractor of written notice thereof. If the Contracting Officer later determines that the Contractor acted promptly to correct such conditions or that the time taken by the Contractor was not in fact unreasonable, an equitable adjustment shall, notwithstanding paragraph (f) of this clause, be made in the contract price to compensate the Contractor for any additional costs he incurred as a result of termination of the Government's assumption of risk under this clause and the contract shall be modified in writing accordingly. Any dispute as to whether the Contractor failed to act promptly to correct such conditions, or as to the reasonableness of the time for correction of such conditions, or as to such equitable adjustment, shall be deemed to be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(4) In the event the Government's assumption of risk under this clause is terminated in accordance with (3) above, the risk of loss with respect to Government-furnished property shall be determined in accordance with the clause of this contract, if any, entitled "Government Property" until the Government's assumption of risk is reinstated in accordance with (5) below.

(5) When unreasonable conditions have been corrected, the Contractor shall promptly notify the Government thereof. The Government may elect to again assume the risks and relieve the Contractor of liabilities as provided in this clause, or not, and the Contracting Officer shall notify the Contractor of the Government's election. If, after correction of the unreasonable conditions the Government elects to again assume such risks and relieve the Contractor of such liabilities, the Contractor shall be entitled to an equitable adjustment in the contract price for costs of insurance, if any, extending from the end of the third working day after the Contractor notifies the Government of such correction until the Government notifies the Contractor of such election. If the Government elects not to again assume such risks, and such conditions have in fact been corrected, the Contractor shall be entitled to an equitable adjustment for costs of insurance, if any, extending after such third working day.

(d) The Government's assumption of risk shall not extend to damage to, or loss or destruction of, such aircraft:

(1) Resulting from failure of the Contractor, due to willful misconduct or lack of good faith of any of the Contractor's managerial personnel, to maintain and administer a program for the protection and preservation of aircraft in the open, and during operation, in accordance with sound industrial practice (the term "Contractor's managerial personnel" means the Contractor's directors, officers, and any of his managers, superintendents, or other equivalent representatives, who has supervision or direction of all or substantially all of the Contractor's business, or all or substantially all of the Contractor's operations at any one plant or separate location at which this contract is performed, or a separate and complete major industrial operation in connection with the performance of this contract);

(ii) Sustained during flight if the flight crew members conducting such flight have not been approved in writing by the Contracting Officer;

(iii) While in the course of transportation by rail, or by conveyance on public streets, highways, or waterways, except for Government-furnished property;

(iv) To the extent that such damage, loss or destruction is in fact covered by insurance;

(v) Consisting of wear and tear, deterioration (including rust and corrosion), freezing, or mechanical, structural, or electrical breakdown or failure, unless such damage is the result of other loss, damage, or destruction covered by this clause: *Provided, however*, In the case of Government-furnished property, if such damage consists of reasonable wear and tear or deterioration, or results from inherent vice in such property, this exclusion shall not apply;

(vi) Sustained while the aircraft is being worked upon and directly resulting therefrom, including but not limited to any repairing, adjusting, servicing or maintenance operation, unless such damage, loss, or destruction is of a type which would be covered by insurance which would customarily have been maintained by the Contractor at the time of such damage, loss, or destruction, but for the Government's assumption of risk under this clause; or

(vii) Under this clause, where the total loss resulting from each event separately occurring is less than $500.

(e) A subcontractor shall not be relieved from liability for damage to, or loss or destruction of, aircraft while in his possession or control, except to the extent that the subcontract, with the prior written approval of the Contracting Officer, provides for relief of the subcontractor from such liability. In the absence of such approval, the subcontract shall contain appropriate provisions requiring the return of such aircraft in as good condition as when received, except for reasonable wear and tear or for the utilization of the property in accordnace with the provisions of this contract. Where a subcontractor has not been relieved from liability for any damage, loss, or destruction of aircraft and any damage, loss, or destruction occurs, the Contractor shall enforce the liability of the subcontractor for such damage to, or loss or destruction of, the aircraft for the benefit of the Government.

(f) The Contractor warrants that the contract price does not and will not include, except as may be otherwise authorized in this clause, any charge or contingency reserve for insurance (including self-insurance funds or reserves) covering any damage to, or loss or destruction of, aircraft while in the open, during operation, or in flight, the risk of which has been assumed by the Government under the provisions of this clause, whether or not such assumption may be terminated as to aircraft in the open.

(g) In the event of damage to, or loss or destruction of, aircraft in the open, during operation, or in flight, the Contractor shall take all reasonable steps to protect such aircraft from further damage, separate damaged and undamaged aircraft, put all aircraft in the best possible order and, further, except in cases covered by (d)(vii) above, the Contractor should furnish to the Contracting Officer a statement of:

(i) The damaged, lost, or destroyed aircraft;

(ii) The time and origin of the damage, loss or destruction;

(iii) All known interests in commingled property of which aircraft are a part; and

(iv) The insurance, if any, covering any part of the interest in such commingled property.

Except in cases covered by (d)(vii) above, and equitable adjustment shall be made in the amount due under this contract for expenditures made by the Contractor in performing his obligations under this paragraph (g) and this contract shall be modified in writing accordingly.

(h) If prior to delivery and acceptance by the Government any aircraft is damaged, lost, or destroyed and the Government has under this clause assumed the risk of such damage, loss or destruction, the Government shall either (1) require that such aircraft be replaced or restored by the Contractor to the condition in which it was immediately prior to such damage, or (2) shall terminate this contract with respect to such aircraft. In the event that the Government requires that the aircraft be replaced or restored an equitable adjustment shall be made in the amount due under this contract and in the time required for its performance, and this contract shall be modified in writing accordingly. If, in the alternative, this contract is terminated under this paragraph with respect to such aircraft and under this clause the Government has assumed the risk of such damage, loss, or destruction, the Contractor shall be paid the contract price for said aircraft (or, if applicable, any work to be performed on said aircraft) less such amounts as the Contracting Officer determines (1) that it would have cost the Contractor to complete the aircraft (or any work to be performed on said aircraft) together with anticipated profit, if any, on any such uncompleted work, and (2) to be the value, if any, of the damaged aircraft or any remaining portion thereof retained by the Contractor. The Contracting Officer shall have the right to prescribe the manner of disposition of the damaged, lost, or destroyed aircraft, or any remaining parts thereof; and, if any additional costs of such disposition are incurred by the Contractor, a further equitable adjustment will be made in the amount due to the contractor. Failure of the parties to agree upon an equitable adjustment or upon the amount to be paid in the event of termination of the contract with respect to any aircraft, shall be a dispute concerning a question of fact within the meaning of the Disputes clause of this contract.

(i) In the event the Contractor is at any time reimbursed or compensated by any third person for any damage, loss, or destruction of any aircraft, the risk of which has been assumed by the Government under the provisions of this clause and for which the Contractor has been compensated by the Government, he shall equitably reimburse the Government. The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any such damage, loss, or destruction and, upon the request of the Contracting Officer shall at the Government's expense furnish to the Government all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment or subrogation in favor of the Government) in obtaining recovery.

(b) (1) In paragraph (b) of the clause in paragraph (a) of this section certain of the defined terms may be modified by insertion of appropriate additional definitions in the Schedule in accordance with the following. The purpose of the clause is to have the Government assume risks which generally entail unusually high insurance premiums and which are not covered by the contractor's "contents," "work-in-process," or other similar insurance. It is recognized that all of the definitions prescribed in the clause in paragraph (a) of this section may not cover all situations which should be covered if this purpose is to be accomplished. Therefore, changes may be effected in the Schedule as follows:

(i) Since the standard definition of "aircraft" contemplates conventional types of winged aircraft, a modified definition is necessary if the contract covers helicopters, vertical takeoff aircraft, lighter-than-air airships or other nonconventional types of aircraft. The modified definition should take into consideration that the aircraft has reached a point of manufacture comparable to that required in the standard definition;

(ii) The definition of "in the open" may be modified to include "hush houses," test hangers, and comparable structures, and other designated areas;

(iii) "Contractor's premises" shall be expressly defined in the Schedule and shall be limited to those locations where aircraft, as defined in the above clause, may be located during and for the performance of the contract. "Contractor's premises" may include, but are not limited to, premises owned or leased by the contractor or premises as to which the contractor has a permit, license, or other right of use either exclusively or jointly with others, including Government airfields.

(2) The Government need not assume the risk of damage to, or loss or destruction of, aircraft, as provided by the clause in paragraph (a) of this section if the best estimate of premium costs which would be included in the contract price for insurance coverage for such damage, loss, or destruction at any plant or facility is less than $500. If it is determined not to assume such risk, the clause in paragraph (a) of this section shall not be made a part of the contract, and the cost of necessary insurance to be obtained by the contractor to cover such risk shall be considered in establishing the contract price. In such cases, however, if performance of the contract is expected to involve the flight of Government-furnished aircraft, the substance of the Flight Risks clause in § 18–10.504, suitably adapted for use in a fixed-price type contract, shall be used.

(3) Subparagraph (d) (3) of the clause in paragraph (a) of this section may be varied to provide for Government assumption of risk of transportation by conveyance on streets or highways where the contracting officer determines that such transportation is limited to the vicinity of the contractor's premises and is merely an incident to work being performed under the contract.

§ 18–10.405 Work at government installation.

(a) Any contract requiring performance of construction, repair, or utilities work on Government installation shall require that any contractor or subcontractor doing such work furnish a statement in writing to the contracting officer attesting to the existence, in addition to legally required insurance, of Comprehensive General Liability and Automobile Insurance, in each instance for both bodily injury and property damage in such limits as contracting officer deems reasonable under the circumstances. The solicitation shall state the minimum insurance coverage required.

(b) Contractors and subcontractors may submit annual statements in compliance with the foregoing requirements, which statements shall be accepted in satisfaction thereof to the extent of the insurance coverage so reported.

(c) The requirements in paragraphs (a) and (b) of this section are not applicable to contracts of less than $2,500, or for work to be performed outside the United States, its possessions, and Puerto Rico.

Subpart 18–10.5—Insurance Under Cost-Reimbursement Type Contracts

§ 18–10.500 Scope of subpart.

This Subpart 18–10.5 sets forth the policy of NASA with respect to insurance under NASA cost-reimbursement type contracts.

§ 18–10.501 Policy.

The kinds of insurance listed in this § 18–10.501 shall ordinarily be required under cost-reimbursement type contracts and under those subcontracts where the provisions of the prime contract are extended to the subcontract. A program of self-insurance approved by the Director of Procurement or his designee, as provided in § 18–10.502, may be substituted for any of the kinds of insurance ordinarily required.

§ 18–10.501–1 Workmen's compensation and employers' liability insurance.

(a) Compliance with applicable workmen's compensation and occupational disease statutes shall be required. Related to workmen's compensation and included in the same insurance policy, are (1) Employers' Liability; (2) Workmen's Compensation for Occupational Disease; and (3) Employers' Liability for Occupational Disease.

(b) Workmen's compensation is an obligation imposed upon an employer by the workmen's compensation law of a State or by the United States Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901). An employer subject to a workmen's compensation law can provide for his obligation by insuring either with a commercial insurance company or a State fund, or by self-insuring. In a few States, commercial insurance is not permitted and the State fund is the exclusive carrier. If the employer desires to self-insure, he must qualify himself as a self-insurer with the appropriate State authority. However, such approval is only one of the elements considered by NASA in its approval of a self-insurance plan. Information may be required as to the procedures followed in operating the self-insurance plan and the method of accruing the operating costs thereof prior to granting NASA approval of the self-insurance plan.

(c) Occupational disease insurance is related to workmen's compensation insurance, and is usually required under applicable law. In jurisdictions where all occupational diseases are not compensable under applicable law, insurance for occupational diseases shall be required under the employers' liability section of the insurance policy. However, such additional insurance will not be required where contract operations are commingled with the contractor's commercial operations so that it would be impracticable to require such coverage.

(d) Employers' liability is the liability imposed upon the employer by law for damages on account of personal injuries, including death resulting therefrom, sustained by his employees by reason of accidents.

(e) The insurance coverage with respect to employers' liability and occupational disease shall be required with a minimum limit of $100,000 per incident.

(f) With respect to workmen's compensation insurance overseas, pursuant to the Defense Base Act, as amended (42 U.S.C. 1651), the clause set forth in § 18–10.403(a) shall be included in all construction contracts, as defined in § 18–10.101–6, to be performed outside the United States.

§ 18–10.501–2 General liability insurance.

(a) Liability insurance, commonly referred to as third-party liability insurance, protects the insured against his liability to members of the public for bodily injury or death or for damage to or destruction of the property of others. An insurance policy may be obtained to insure the several general liability hazards separately or in various combinations. The advantage of a comprehensive general liability policy is that the insurance afforded protects the insured from loss arising from any cause other than those causes specifically excluded. This contrasts with the ordinary policy, which names the hazards insured against. In this manner the danger of "uninsured gaps" in the insured's insurance program is minimized. Comprehensive general (bodily injury) liability

insurance shall be required with minimum limits of $50,000 per person and $100,000 per accident.

(b) Property damage liability insurance will be required only in special circumstances. Examples of such special circumstances are:

(1) Where a commingling of operations permits property damage coverage at a nominal cost to NASA under insurance carried by a contractor in the course of his commercial operations; and

(2) Where the contractors are engaged in the handling of high explosives or in extrahazardous research and development activities undertaken in populated areas.

Otherwise, prior approval for purchase of property damage liability insurance must be obtained from the Director of Procurement.

(c) The Government normally will assume the risk of a contractor's uninsured third-party liability to the extent provided for by the clause entitled "Insurance—Liability to Third Persons," contained in § 18–7.203–22.

§ 18–10.501–3 Automobile liability insurance.

(a) Automobile liability insurance shall be required on the comprehensive form of policy and shall provide for bodily injury liability and property damage liability covering the operation of all automobiles used in connection with the performance of a contract. Such insurance will protect the contractor against (1) his liability to members of the public because of bodily injury or property damage arising out of the operations, maintenance, or use of the insured vehicles; and (2) financial loss resulting from damage to and loss or destruction of insured vehicles.

(b) An insurance policy for automobiles can be written to apply to specific vehicles, classes of vehicles, or to all vehicles in which the insured may have an insurable interest. The comprehensive automobile liability policy is generally chosen by a contractor, since it can minimize the possibility of an uninsured loss. A comprehensive automobile liability insurance policy may or may not include coverage (comprehensive physical damage and collision) for damage to and loss or destruction of insured vehicles.

(c) Automobile bodily injury liability and property damage liability insurance shall be required with minimum limits of $50,000 per person and $100,000 per accident for bodily injury liability and $5,000 for property damage liability on the comprehensive policy form covering all owned, nonowned, hired, and Government-furnished motor vehicles which will be used in the contract operations where use will not be limited exclusively to the premises on which the work under such contract is performed. Where such insurance relates to contracts to be performed outside the United States, its possessions, and Puerto Rico, the contracting office may revise downward the monetary limits prescribed herein. The Government shall normally assume the risk of a contractor's uninsured third-party liability to the extent provided for by the clause entitled "Insurance—Liability to Third Persons" contained in § 18–7.203–22.

§ 18–10.501–4 Aircraft public and passenger liability insurance.

(a) This type of insurance covers the liability imposed by law upon the aircraft owner and operator. The basic coverages are bodily injury liability, property damage liability, and passenger liability. Where aircraft are used in connection with the performance of a contract, aircraft liability insurance shall be carried by the contractor to cover bodily injury, including passenger liability (if the exposure exists), and property damage coverage. The minimum limits of liability shall be $50,000 per person and $100,000 per accident for bodily injury and $50,000 per accident for property damage. The Government will normally assume the risk of contractor's uninsured third-party liability to the extent provided for by the clause entitled "Insurance—Liability to Third Persons," contained in § 18–7.203–22.

(b) Aircraft hull insurance covers the insured for damage to or loss of the insured aircraft when loss or damage results from an insured peril. This type of insurance will not be purchased at Government expense to cover aircraft manufactured, modified, or serviced, under a cost-reimbursement type contract, against risks which are assumed by the Government under the "Government-furnished Property" clause or other clauses in a contract. Such insurance is appropriate and will be required for aircraft not owned by the Government and used in connection with operations under a cost-reimbursement type contract.

§ 18–10.501–50 Group insurance.

(a) *General.* (1) Group insurance plans provide various types of benefits for employees and their dependents. Usually, these benefits are provided through one or more group insurance policies with life or casualty insurance companies. Also, these benefits may be provided through individual insurance policies or through hospital association plans.

(2) Group insurance plans are either contributory, where the employees and the contractor jointly pay the costs of the benefits, or noncontributory, where the total costs of the benefits are paid by the contractor. Some group insurance plans provide for hospital and surgical benefits for the dependents of employees, and under these plans the employee usually pays all or a portion of the cost. Employees are usually eligible to participate in group insurance plans after one to three months of service.

(3) It is recognized that group insurance plans providing life insurance, surgical, hospitalization, major medical, and nonoccupational accident insurance coverages are important to industrial relations programs. Considerations which influence the benefits and the costs for benefits under a particular group insurance plan are (i) the geographical locality of the operations of the contractor, (ii) wage levels, (iii) amount of other fringe benefits, (iv) benefits available under applicable workmen's compensation laws, (v) union negotiations, (vi) the costs of the group insurance benefits, and (vii) the effects of such costs in competitive prices.

(b) *Approval of group insurance plans.* The contracting officer will determine whether the group insurance benefits are reasonable in amount and necessary in connection with the performance of NASA contracts. Such plans will generally be approved where they are comparable to those of competing employers or industries in the contractor's operational areas. Where a contractor is working primarily on Government contracts, the restraints imposed by competiton may be lacking, and a careful review will be made, including a determination that the contractor does not furnish his employees greater benefits under cost-reimbursement type contracts than are granted his employees engaged in regular commercial operations of the contractor. In addition, the experience of the Military Departments or other Government agencies with the particular contractor shall be investigated. Changes in previously approved group insurance plans (including changes in premium rates) must be submitted for approval by the contracting officer.

(c) The contractor is required to credit to the NASA account a share of all premium refunds or other credits paid or otherwise allowed to the contractor by the insurance company. This share shall be proportionate to the premium costs reimbursed under NASA contracts which gave rise to such refunds or other credits.

(d) The contractor is required to furnish full information concerning his group insurance program, and NASA reserves the right to examine the program at any time.

§ 18–10.501–51 Use and occupancy insurance.

(a) "Use and Occupancy" or "Business Interruption Insurance" is a form of insurance which indemnifies the contractor for certain losses incurred during a period of interruption or suspension of business operations resulting from physical damage to property essential to the conduct of business. Under such insurance, the contractor is protected against loss on account of fixed charges and other expenses which accrue during such period and for loss of net profit which the contractor is prevented from earning. The amount of coverage purchased under this form of insurance is based on the probable loss the contractor would sustain during the period of interruption or suspension of business operations. The

premium charge is based on the aggregate indemnity under the policy.

(b)(1) When costs in connection with use and occupancy insurance are presented for allowance, the aggregate coverage available will be analyzed. Only that percentage of total insurance cost which is identifiable with insurance benefits determined to be acceptable within the intent of paragraph (b)(2) of this section will be allowed.

(2) Costs of insuring those items of fixed charges and other expenses which are allowable items of costs in NASA contracts will be considered allowable. Such fixed charges and other expenses include but are not limited to salaries of employees under contract and other key employees, rents, most insurance premiums, and charges for noncancellable contracts for light, heat, or power.

(3) The cost of insuring the net profit a contractor is prevented from earning during a period of business interruption or suspension is unallowable. Similarly, the costs of insuring certain items of fixed charges such as interest, Federal income taxes, donations, and certain advertising expenses are unallowable.

§ 18–10.502 Self-insurance.

Self-insurance may be approved by the contracting officer in lieu of the insurance requirement for one or more of the mandatory coverages required by §§ 18–10.501–1, 18–10.501–2, 18–10.501–3, and 18–10.501–4: *Provided*, That:

(a) The contractor has maintained the practice of self-insurance in respect to such coverage or risk for a period of not less than 3 years;

(b) Adequate safety inspection and engineering programs are carried on by the contractor;

(c) The contractor has an effective and established policy for claims investigation;

(d) The contractor has established a plan of funding so that the annual cost of "loss payments" remains reasonably constant;

(e) The charges to be made against the contract for the cost of the self-insurance program may reasonably be expected to be less than the charge for an equivalent program of insurance; and

(f) The Government contracts will share equitably in any release of reserve funds.

Self-insurance programs which do not meet the foregoing conditions shall be submitted for approval to the Director of Procurement.

§ 18–10.503 Government property.

The contractor's responsibility for loss of or damage to Government property under cost-reimbursement type contracts is set forth in the applicable Government property clause.

§ 18–10.504 Aircraft-flight risk.

(a) Cost-reimbursement-type contracts for the development, production, modification, maintenance, or overhaul of aircraft, or otherwise involving the furnishing of aircraft to the contractor by the Government, shall, except as provided in paragraph (b) in this section, include the following clause.

FLIGHT RISKS (NOVEMBER 1965)

(a) Notwithstanding any other provision of this contract, and particularly subparagraph (f)(1) of the Government Property clause and paragraph (c) of the Insurance—Liability to Third Persons clause, the Contractor shall not (i) be relieved of liability for, damage to, or loss or destruction of, aircraft sustained during flight, or (ii) be reimbursed for liabilities to third persons for loss of or damage to property, or for death or bodily injury, which are caused by aircraft during flight, unless the flight crew members have previously been approved in writing by the Contracting Officer.

(b) For the purposes of this clause:

(i) Unless otherwise specifically provided in the Schedule, the term "aircraft" means any aircraft, whether furnished by the Contractor under this contract (either before or after acceptance by the Government) or furnished by the Government to the Contractor under this contract, including all Government Property placed or installed therein or attached thereto: *Provided, however*, That such aircraft and property are not covered by a separate bailment agreement.

(ii) The term "flight" means any flight demonstration, flight test, taxi test, or other flight, made in the performance of this contract, or for the purpose of safeguarding the aircraft, or previously approved in writing by the Contracting Officer. As to land based aircraft, "flight" shall commence with the taxi roll from a flight line and continue until the aircraft has completed the taxi roll to a flight line; as to sea planes, "flight" shall commence with the launching from a ramp and continue until the aircraft has completed its landing run and is beached at a ramp; as to helicopters, "flight" shall commence upon engagement of the rotors for the purpose of takeoff and continue until the aircraft has returned to the ground and rotors are disengaged; and for vertical takeoff aircraft, "flight" shall commence upon disengagement from any launching platform or device and continue until the aircraft has been reengaged to any launching platform or device.

(iii) The term "flight crew members" means the pilot, the copilot, and, unless otherwise specifically provided in the Schedule, the flight engineer, and navigator, when required, or assigned to their respective crew positions, to conduct any flight on behalf of the Contractor.

(c) If any aircraft is damaged, lost, or destroyed during flight, and if the amount of such damage, loss, or destruction exceeds one hundred thousand dollars ($100,000) or twenty percent (20%) of the estimated cost (exclusive of any fee) of this contract, whichever is less, and if the Contractor is not liable for the damage, loss or destruction pursuant to the "Government Property" clause of this contract together with paragraph (a) above, then an equitable adjustment for any resulting repair, restoration, or replacement that is required under this contract shall be made (i) in the estimated cost, delivery schedule, or both, and (ii) in the amount of any fee to be paid to the Contractor, and the contract shall be modified in writing accordingly: *Provided*, In determining the amount of adjustment in the fee that is equitable, any fault of the Contractor, his employees, or any subcontractor, which materially contributed to the damage, loss, or destruction shall be taken into consideration. Failure to agree on any adjustment shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract.

(b) In the clause in paragraph (a) of this section, the definition of "aircraft" may be appropriately modified in the Schedule if the contract covers helicopters, vertical takeoff aircraft, lighter-than-air airships, or other nonconventional types of aircraft.

§ 18–10.550 Administration.

(a) In approving a contractor's insurance program under a cost-reimbursement contract, it is desirable to determine whether this program is identical with a program already approved in connection with similar contracts with the Military Departments or other Government agencies. The possibility of combining insurance coverage under the NASA contract with insurance pertaining to contracts with such other agencies, thereby effecting savings in reimbursable insurance premium costs, should be explored.

(b) Where minimum limits are prescribed in this subpart, higher limits may be approved by the contracting officer where the circumstances so justify. Interference with a contractor's established commercial insurance program should be avoided to the maximum extent possible. Where NASA contract operations are commingled with a contractor's commercial operations, all operations should normally be insured together.

Subpart 18–10.6—Insurance of Industrial Facilities Under Leases or Facilities Contracts

§ 18–10.600 Scope of subpart.

This Subpart 18–10.6 sets forth NASA policy with respect to insurance of industrial facilities held by a contractor.

§ 18–10.601 Responsibility for liabilities to third persons.

When industrial facilities are provided by the Government under a facilities contract or a lease, the contract or lease shall require that during the period of construction, installation, alteration, repair or use, and at any other time as directed by the Department concerned, the contractor or lessee shall insure or otherwise provide approved security for liabilities to third persons (including employees of the contractor or lessee) in the same manner and to the same extent as required in § 18–10.501.

§ 18–10.602 Responsibility for loss or damage to facilities.

§ 18–10.602–1 Facilities contracts.

Facilities contracts shall provide that the contractor shall not include the cost of insurance in any contract except to the extent of insurance required or approved by NASA or the Department or agency concerned. If a facilities contract or lease does not restrict the use of the facilities to work performed for the Government, provision shall be made that the contractor shall procure and maintain insurance as NASA or the Department or agency concerned may require against loss or damage to the industrial facilities (see § 18–13.411).

Subpart 18–10.50—Safety and Health

§ 18–10.5000 Scope of subpart.

This Subpart 18–10.50 sets forth the policy, responsibility, and requirements for contract provisions relating to NASA's Safety and Health Programs and implements NASA Management Instructions 1711.1 and 1810.1.

§ 18–10.5001 Policy.

It is NASA policy that contractors and subcontractors will:

(a) Protect the life and health of NASA and contractor employees during their work on NASA programs;

(b) Avoid accidental work interruptions which could delay NASA programs;

(c) Prevent damage to property supplies and equipment;

(d) Assure proper protection of the public from hazards introduced by NASA contractors and subcontractors; and

(e) Provide data whereby risks and loss factors in space technology related to NASA programs can be accumulated and evaluated.

§ 18–10.5002 Responsibility.

(a) *Installation safety officer.* The installation safety officer will advise and assist the contracting officer in:

(1) Evaluating prospective contractors' safety and health programs pursuant to Subpart 18–1.9;

(2) Determining whether safety and health provisions should be included in a proposed procurement; and

(3) Selection contract provisions which define the safety and health requirements applicable to a particular contract.

(b) *Contracting officer.* The contracting officer will obtain the advice assistance, and recommendations from the safety officer in the following proposed procurements:

(1) Construction of facilities on Government installations;

(2) Manufacture of boosters, engines, liquid and solid fuels, oxidizers, and/or propellants;

(3) Transportation of fuels, oxidizers, space-related chemicals, and other hazardous materials;

(4) Research, development or test of engines, related components and propellants which involve hazardous operations or the use of hazardous materials, and

(5) Services which involve hazardous operations or the use of hazardous materials.

§ 18–10.5003 Hazardous materials and operations.

Hazardous materials and operations for the purpose of this subpart are those involved in or concerned with nonnuclear detonations and explosions (e.g., overpressures, fireballs, and fragmentation), fire and heat, acoustics, toxicity nuclear radiation, electromagnetic radiation, light, fuels, acids, propellants, and environmental factors.

§ 18–10.5004 Contract provisions.

General safety and health requirements will be prescribed by the safety officer as set forth in § 18–10.5002(a)(3). The following clause may be used as a guide:

SAFETY AND HEALTH (FEBRUARY 1964)

(a) In order to provide safety controls for protection to the life and health of employees and other persons; for prevention of damage to property, materials, supplies, and equipment; and for avoidance of work interruptions in the performance of the contract; the Contractor will comply with the following standards:

(Insert the standards, codes, criteria prescribed by the Safety Officer)

Further, the Contractor shall take or cause to be taken such additional safety measures as the Contracting Officer may determine to be reasonably necessary provided, that if compliance with such additional safety measures results in a material increase in the cost or time of performance of the contract, an equitable adjustment will be made in accordance with the clause of this contract entitled "Changes."

(b) Prior to commencement of work the Contractor will submit in writing his plan for complying with the Safety and Health provisions of this contract, and will meet with the representative of the Contracting Officer to discuss and develop mutual understandings relative to administration of the overall safety program.

(c) During the performance of work under this contract, the Contractor shall comply with all procedures prescribed by the Contracting Officer for the control and safety of persons visiting the job site and will comply with such requirements to prevent accidents as may be prescribed by the Contracting Officer.

(d) The Contractor will maintain an accurate record of, and will report to the Contracting Officer in such manner as the Contracting Officer may prescribe all accidents and incidents resulting in death, traumatic injury, occupational disease, and/or damage to property, materials, supplies and equipment incident to work performed under the contract.

(e) The Contracting Officer will notify the Contractor of any noncompliance with the provisions of this clause and corrective action to be taken. The Contractor shall, after receipt of such notice, immediately take such corrective action. (Such notice, when delivered to the Contractor or his representative at the site of the work, shall be deemed sufficient for the purpose.) If the Contractor fails or refuses to comply promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to any such stop work order shall be the subject of claim for extension of time or for costs or damages by the Contractor.

(f) Compliance with the provisions of this clause by subcontractors will be the responsibility of the Contractor.

PART 18–11—FEDERAL, STATE, AND LOCAL TAXES

Subpart 18–11.1—Federal Excise Taxes

Sec.

18–11.100 Scope of subpart.
18–11.101 Retailers excise taxes, special fuels.
18–11.101–1 Diesel fuel.
18–11.101–2 Special motor fuels.
18–11.101–3 Procedures.
18–11.102 Manufacturers excise taxes.
18–11.102–1 Motor vehicles.
18–11.102–2 Tires and tubes.
18–11.102–3 Gasoline.
18–11.102–4 Lubricating oils.
18–11.103 Excise taxes on facilities and services.
18–11.104 Use tax on highway motor vehicles.

Subpart 18–11.2—Exemptions From Federal Excise Taxes

18–11.200 Policy.
18–11.201 Retailers excise taxes.
18–11.202 Manufacturers excise taxes.
18–11.203 Supplies and services for the exclusive use of the United States.
18–11.250 Exemptions from other federal taxes.

Subpart 18–11.3—State and Local Taxes

Sec.

18–11.300 General.
18–11.301 Applicability.

Subpart 18–11.4—Contract Clauses

18–11.400 Scope of Subpart.
18–11.401 Fixed-price type contracts.
18–11.401–1 Advertised and certain negotiated contracts.
18–11.401–2 Certain other negotiated contracts.
18–11.401–3 Supplementary clause for possessions of the United States and Puerto Rico.
18–11.401–4 Matters requiring special consideration.
18–11.402 Cost-reimbursement type contracts.
18–11.403 Foreign tax exemption clauses.

Subpart 18–11.5—Tax Exemption Forms

18–11.500 General.
18–11.501 Federal excise taxes.
18–11.501–1 Certificate of export to a possession or to Puerto Rico.
18–11.501–4 Cutting oil certificate.
18–11.502 State and local taxes.
18–11.502–1 Types of evidence of exemption.
18–11.502–2 When evidence of exemption is to be furnished.
18–11.502–3 Procedure.

AUTHORITY: The provisions of this Part 18–11 issued under 42 U.S.C. 2473(b)(1).

Subpart 18–11.1—Federal Excise Taxes

§ 18–11.100 Scope of subpart.

This subpart deals with Federal taxes involved in the procurement of certain supplies and services. It is for the general information of Government personnel and does not purport to present the full scope of the applicable provisions of law and implementing regulations as they may be amended from time to time.

§ 18–11.101 Retailers excise taxes, special fuels.

§ 18–11.101–1 Diesel fuel.

A tax at the indicated rates is imposed upon any liquid, other than that taxable as gasoline under Section 4081 of the Internal Revenue Code (see § 18–11.102–4), which is (a) sold by any person to an owner, lessee, or other operator of a diesel-powered highway vehicle, for use as a fuel in such vehicle, or (b) used by any person as a fuel in a diesel-powered highway vehicle unless there was a taxable sale of such liquid pursuant to paragraph (a) of this section, as follows:

(1) At 4 cents per gallon, if sold for use or if used as fuel in a diesel-powered highway vehicle—

(i) Which, at the time of such sale or use, is registered, or is required to be registered, for highway use under the laws of any State or foreign country; or

(ii) Which, if owned by the United States, is used on the highway; or

(2) At 2 cents per gallon, if sold for use or if used as fuel in a diesel-powered highway vehicle—

(i) Which, at the time of such sale or use, is not registered, and is not required to be registered, for highway use under the laws of any State or foreign country; or

(ii) Which, if owned by the United States, is not used on the highway; and

(3) At an additional 2 cents per gallon, if fuel on which a tax of 2 cents was paid pursuant to subparagraph (2) of this paragraph, is used as fuel in a diesel-powered highway vehicle—

(i) Which, at the time of such use, is registered, or is required to be registered, for highway use under the laws of any State or foreign country; or

(ii) Which, if owned by the United States, is used on the highway.

No tax is imposed on diesel fuel sold for use or used as fuel in a nonhighway vehicle, such as certain military vehicles, construction equipment, and equipment designed for use at mines, factories, railroad stations, and farms.

§ 18–11.101–2 Special motor fuels.

A tax at the rates indicated below is imposed upon benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline or any other liquid (other than kerosene, gas oil, fuel oil, or a product taxable as diesel fuel or as gasoline under section 4081 of the Internal Revenue Code), which is (a) sold by any person to an owner, lessee, or other operator of a motor vehicle, motorboat, or airplane for use as a fuel for the propulsion thereof, or (b) used by any person as a fuel for the propulsion of a motor vehicle, motorboat, or airplane, unless there was a taxable sale of such liquid pursuant to § 18–11.101–1 as follows:

(1) At 4 cents per gallon, if such liquid is sold for use or is used as a fuel for a highway vehicle—

(i) Which, at the time of such sale or use, is registered, or is required to be registered, for highway use under the laws of any State or foreign country; or

(ii) Which, if owned by the United States, is used on the highway; or

(2) At 2 cents per gallon, if such liquid is sold for use or is used as a fuel for the propulsion of a motorboat or airplane, or a motor vehicle—

(i) Which, at the time of such sale or use, is not registered, and is not required to be registered, for highway use under the laws of any State or foreign country; or

(ii) Which, if owned by the United States, is not used on the highway; and

(3) At an additional 2 cents per gallon, if a liquid on which a tax of 2 cents was paid pursuant to subparagraph (2) of this paragraph, is used as fuel in a highway vehicle—

(i) Which, at the time of such use, is registered, or required to be registered, for highway use under the laws of any State or foreign country; or

(ii) Which, if owned by the United States, is used on the highway.

§ 18–11.101–3 Procedures.

(a) *General.* The sale of diesel fuel to an owner, lessee, or other operator of a diesel-powered highway vehicle, or of special motor fuel to an owner, lessee, or other operator of a motor vehicle, motorboat, or airplane is considered as a taxable sale by the Internal Revenue Service only (1) if the liquid is delivered by the seller into the fuel supply tank of the vehicle, motorboat, or airplane, or (2) where not so delivered, the purchaser indicates in writing to the seller prior to or at the time of the sale that the entire quantity of the liquid covered by the sale is for use by him for a taxable purpose as a fuel in such a vehicle, motorboat or airplane. If such a written statement is not furnished by the purchaser, he is liable for the tax at the applicable rate on that quantity of the liquid which is used by him as fuel in such a vehicle, motorboat or airplane, or which is sold by him in a taxable transaction.

(b) *Diesel fuel.* Diesel fuel shall be procured at a price exclusive of the tax on diesel fuel unless the contract under which such fuel is to be furnished requires the contractor to deliver it into the fuel supply tank of a diesel-powered highway vehicle. Any NASA installation using diesel fuel in a diesel-powered highway vehicle, where the fuel had not been delivered by the contractor into the fuel supply tank of the vehicle and had therefore been procured tax free, shall be responsible for making payment of the tax, at the applicable rate, directly to the Internal Revenue Service. Such payment shall be made quarterly on TD Form 720 "Quarterly Federal Excise Tax Return." A Certificate of Export is not required to support a tax-free sale of diesel fuel exported to a foreign country or shipped to a possession of the United States or to Puerto Rico.

§ 18–11.102 Manufacturers excise taxes.

§ 18–11.102–1 Motor vehicles.

(a) A tax at the rates indicated is imposed upon the following articles (including parts and accessories sold therewith) sold by a manufacturer, producer, or importer:

(1) Chassis and bodies of trucks buses, truck and bus trailers and semitrailers, and tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer—10 percent; except that this tax does not apply to equipment designed for off-the-road use, such as certain military vehicles (including oxygen or bomb dollies), construction equipment, and equipment designed for use at mines, factories, railroad stations, and farms;

(2) Chassis and bodies of automobiles, and of trailers and semitrailers (other than house trailers) suitable for use with passenger automobiles—10 percent prior to June 22, 1965; 7 percent from June 22, 1965 through December 31, 1965; 6 percent from January 1, 1966 through March 15, 1966; 7 percent from March 16, 1966 through March 31, 1968; 2 percent from April 1, 1968 through December 31, 1968; 1 percent after December 31, 1968; and

(3) Parts or accessories for trucks and buses—when sold separately from a truck, bus, or other item taxable as indicated in subparagraph (1) of this paragraph (a), 8 percent. Parts or accessories are defined to include any article—

(i) The primary use of which is to improve, repair, replace or serve as a component part of a truck or bus;

(ii) Designed to be attached to or used in connection with a truck or bus or to add to its utility or ornamentation; or

(iii) The primary use of which is in connection with a truck or bus whether or not essential to its operation or use.

Spark plugs, storage batteries, leaf springs, coils, timers, and tire chains, which are suitable for use on or in connection with, or as component parts of, a taxable vehicle are treated as parts or accessories whether or not primarily adapted for such use. However, the term "parts or accessories" does not include tires or inner tubes. The tax on parts or accessories does not apply to any article sold for use (or for a single resale for use) as material in the manufacture of, or as a component part of any article whether or not such article is subject to a manufacturers excise tax. The contract price of supplies purchased by NASA shall not include an amount for the manufacturers excise tax on parts or accessories pur-

chased for use in the manufacture of any article.

(b) Bodies are exempt from tax when sold by the manufacturer to a manufacturer of motor vehicles to be sold by the purchaser; however, a chassis manufacturer who purchases a body tax free is required to pay a tax on his sale of the completed vehicle as the manufacturer of both the chassis and the body. A manufacturer of motor vehicle chassis cannot sell such chassis tax free to manufacturers of motor vehicle bodies.

§ 18–11.102–2 Tires and tubes.

(a) A tax at the rates indicated is imposed on the following supplies, made wholly or in part of rubber, including synthetic and substitute rubber, sold by a manufacturer, producer, or importer:

(1) Tires of the type used on highway vehicles, which includes motor vehicles which are highway vehicles, and vehicles of the type used with motor vehicles which are highway vehicles—10 cents per pound;

(2) Other tires, which are designed to fit the wheel of any type of vehicle capable of transporting a person or burden (other than laminated tires which consist wholly of scrap rubber from used tire casings with an internal metal fastening agent)—5 cents per pound;

(3) Inner tubes, which include any type of air container for pneumatic tires—10 cents per pound on total weight, including air valves and stems;

(4) Laminated tires (not of the type used on highway vehicles) which consist wholly of scrap rubber from used tire casings with an internal metal fastening agent—1 cent per pound; and

(5) Tread rubber, which includes any material commonly or commercially known as tread rubber or camelback of a type used in retreading or recapping tires—5 cents per pound. An exemption exists for the sale of tread rubber or camelback by a manufacturer to a purchaser for use by that purchaser other than for recapping or retreading tires of the type used on highway vehicles. In addition, if tread rubber, upon which the tax has been paid, is sold for use or is used other than for recapping or retreading tires of the type used on highway vehicles, the manufacturer is entitled to a refund or credit of the tax: *Provided*, That the credit under paragraph (b) of this section is not available. The contract price for supplies purchased by NASA will not include an amount for the manufacturers excise tax on tread rubber to the extent that this exemption or refund or credit is available to the manufacturer. In determining weight of taxable tires under subparagraphs (1) and (2) of this paragraph, metal rims or rim bases are excluded, but any other material or fastening device that forms a part of the tire is included. The tax imposed under subparagraphs (1) and (2) of this paragraph does not apply to tires which are not more than 20 inches in diameter and not more than 1¾ inches in cross section, if such tires are of all-rubber construction without fabric or metal reinforcement, nor does it apply to tires of extruded tiring with an internal wire fastening agent.

(b) The exemption for sales for further manufacture does not apply to taxable tires and tubes (see § 18–11.202). However, if tax-paid tires and tubes normally sold in connection with the sale by a manufacturer of a taxable motor vehicle are sold therewith, a credit against the tax on the motor vehicle is allowed to the extent of the motor vehicle tax rate applied to the manufacturers purchase price on the tires and tubes. The contract price for supplies purchased by NASA shall not include an amount for manufacturers exise tax on tires and tubes to the extent that this credit is available to the manufacturer.

§ 18–11.102–3 Gasoline.

(a) *General.* A tax of 4 cents per gallon is imposed on gasoline sold by a producer or importer. Gasoline means all products commercially known as gasoline which are suitable for use as a motor fuel. The tax does not apply to the sale of gasoline to a producer, which is defined to include a refiner, compounder, blender, or dealer who sells gasoline exclusively to producers of gasoline.

(b) *Procedure.* Products procured by NASA which are subject to the tax under paragraph (a) of this section include motor gasoline, clear unleaded gasoline, and aviation gasoline for reciprocating engines. The procurement of motor gasoline and clear unleaded gasoline shall be at a price inclusive of the tax unless the product is to be exported to a foreign country or shipped to a possession of the United States or to Puerto Rico, in which event the procedure in § 18–11.202(b) shall be followed. The procurement of aviation gasoline which is not to be used for the propulsion of military aircraft or which is made on AF Form 15 shall be at a price inclusive of the tax on gasoline.

(c) *Refunds.* The ultimate purchaser of gasoline is entitled to a refund of 2 cents per gallon for gasoline used otherwise than as fuel in a highway vehicle, and in certain circumstances to fuel used in such a vehicle. However, NASA installations will not apply for such refunds.

§ 18–11.102–4 Lubricating oils.

(a) *General.* A tax of 6 cents per gallon is imposed on lubricating oil (other than cutting oils) sold by the manufacturer or producer unless sold to another manufacturer or producer of lubricating oils for resale. Lubricating oil means all oils which are either sold for use as a lubricant or are suitable for use as a lubricant. The tax applies unless—

(1) The sale is exempt from tax under § 18–11.202; or

(2) The oil has been determined by the Commissioner of Internal Revenue to be "seldom used as a lubricant" and is sold for a nonlubricating use; or

(3) The oil is sold as cutting oil under the procedure described in paragraph (c) of this section.

(b) *"Seldom used as a lubricant."* The following oils have been determined by the Commissioner of Internal Revenue to be "seldom used as a lubricant" and, thus, may be sold tax free: Castor oil, petroleum white oil of certain specifications, crude neatsfoot oil, transformer or insulating oil, and a certain product used as an additive to the fuel used in internal combustion engines.

(c) *Cutting oils.* Oil sold as cutting oil is not subject to the tax if the manufacturer or producer follows one of three procedures.

(1) First, lubricating oils may be sold tax free by the manufacturer or producer as cutting oil in any case where:

(i) The manufacturer or producer packages the oil in containers of 5 gallons or less furnished by it and labeled by it to indicate use of the oil only in cutting and machining operations on metals;

(ii) Any advertising of the oil so packaged and labeled indicates that the oil is for use only in cutting and machining operations on metals; and

(iii) The oil so packaged and labeled is sold by the manufacturer or producer to a purchaser for such use by him or for resale by him for such use.

(2) Second, where the Commissioner of Internal Revenue has determined oil to be suitable for use as a lubricant only in cutting and machining operations on metals, the oil may be sold tax free by the manufacturer or producer as cutting oils, unless the manufacturer has definite knowledge, prior to or at the time of the sale, that the oil is not being purchased for use, or resale for use, in cutting and machining operations on metals. Oils as to which the Commissioner has made such a determination may be sold tax free whether in bulk or otherwise. However, the Commissioner may require that the oil be specifically represented to the purchaser, whether by labeling or otherwise, as being suitable for use only in cutting and machining operations on metals.

(3) Third, lubricating oils which are sold for use, or for resale for use in cutting and machining operations on metals, but which may not be sold tax free under one of these procedures, may be sold tax free: *Provided*, The manufacturer obtains from the purchaser a properly executed cutting oil certificate. The form set forth in § 18–11.501–4 shall be utilized for this purpose.

(d) *Refunds.* The ultimate purchaser of lubricating oil (other than cutting oils, imported lubricating oils, or rerefined oil) is entitled to a refund of 6 cents per gallon on oil purchased tax paid which is used otherwise than as a lubricant in a highway motor vehicle. However, activities of NASA will not apply for such refunds.

§ 18–11.103 Excise taxes on facilities and services.

Chapter 33 of the Internal Revenue Code imposes excise taxes on communi-

cations and certain transportation of persons by air. In general, the tax is based upon the amount paid for the service and is imposed upon the person paying for the service.

§ 18–11.104 Use tax on highway motor vehicles.

(a) A tax of $3.00 a year for each 1,000 pounds of taxable gross weight, or fraction thereof, is imposed upon the use of any highway motor vehicle which, together with semitrailers and trailers customarily used in connection with a vehicle of this type, has a taxable gross weight in excess of 26,000 pounds. The full tax is due for any vehicle which is used on the public highways of the United States at any time during the month of July, irrespective whether the vehicle is later removed from highway use. If the first use of a taxable vehicle occurs after the end of July, the tax is computed proportionately from the first day of the month in which the vehicle is first used, through the end of the following June. For example, if a vehicle is placed in use during August, 11/12 of the total tax is payable. No tax applies to vehicles, even though of a highway type, which are never used on the public highways during the taxable year.

(b) Taxable gross weight is the sum of—

(1) The actual unloaded weight of the vehicle and any semitrailers and trailers customarily used with such a vehicle, all units fully equipped for service; and

(2) The weight of the maximum load customarily carried by all units of a vehicle of this type.

(c) The tax is payable by the person in whose name the vehicle is, or is required to be registered under the law of any State, or if owned by the United States, by the agency or instrumentality of the United States operating such vehicle. If a tax has been paid for a particular vehicle, no further liability can be incurred in the same taxable year, even though there is a change of ownership of the vehicle.

(d) The Secretary of the Treasury, however, has authorized an exemption for vehicles used by the United States whether or not they are Government owned.

Subpart 18–11.2—Exemptions From Federal Excise Taxes

§ 18–11.200 Policy.

It is the policy of NASA to take maximum advantage of all exemptions from Federal excise taxes available to the United States and its contractors and to claim all refunds and credits which may be available to the United States and its contractors, except as otherwise provided in Subparts 18–11.1 and 18–11.2.

§ 18–11.201 Retailers excise taxes.

No retailers excise tax is imposed:

(a) On the sale of special fuels for the exclusive use of any State, any political subdivision thereof, or the District of Columbia, or with respect to the use thereof by any of the foregoing;

(b) On the sale of special fuels for export or for shipment to a possession of the United States (which for the purpose of this exemption includes Puerto Rico), and in due course so exported or shipped—

(1) This exemption shall be utilized by purchasing on a tax-exclusive basis and furnishing the required proof of exportation or shipment to a possession if:

(i) The purchase is substantial, and

(ii) Exportation or shipment to a possession is intended to follow not more than 6 months after title passes to the Government.

(2) To qualify for the exemption of sales for export or for shipment to a possession:

(i) The supplies must be identified as having been sold by the manufacturer (if the tax is a manufacturers excise tax) or the retailer (if the tax is a retailers excise tax) for export or shipment to a possession. The words "for export or shipment to a possession" incorporated into or stamped on a contract or purchase order are acceptable to the Internal Revenue Service as evidence that the sale is for export or for shipment to a possession. In solicitations and contracts, the terms of which imply that the supplies will be either exported or shipped to a possession (e.g., delivery to a port of embarkation or special packing requirements for overseas shipment) where the purchase is not substantial and it is therefore desired to purchase on a Federal excise tax-inclusive basis, the solicitations and the contract should clearly state that proof of export certificates will not be issued.

(2) The supplies must be exported or shipped to a possession in due course. Proof of export or shipment will be furnished to the contractor in the form set forth in § 18–11.501.

(c) On the sale of special fuels to retailers for resale (sales by the United States, or any agency or instrumentality thereof, are not exempt unless specifically made exempt by statute);

(d) On the sale of special fuels to a nonprofit educational organization for its exclusive use, or, with respect to the use thereof by a nonprofit educational organization.

§ 18–11.202 Manufacturers excise taxes.

No manufacturers excise tax is imposed:

(a) On the sale of any article for use by the purchaser for further manufacture or for resale to a second purchaser for use by such second purchaser in further manufacture (an article shall be treated as sold for use by the purchaser as material in the manufacture or production of, or as a component part of, another taxable article to be manufactured or produced. In the case of truck or bus parts and accessories, it is not necessary that the produced article be a taxable article. This exemption does not apply to tires or inner tubes); or

(b) On the sale of any article for export, or for shipment to a possession of the United States (which for the purpose of this exemption includes Puerto Rico). This exemption shall be obtained only when the purchase is substantial and exportation or shipment to a possession is intended to follow not more than six months after title passes. For proper utilization of this exemption, see § 18–11.201(b).

(c) On the sale of any article for resale to a second purchaser for export. If articles upon which a manufacturers excise tax has been paid are resold by a dealer for export, or for shipment to a possession, the manufacturer is entitled to a credit or refund of the tax paid. If

it is economically advantageous to do so, this credit or refund shall be utilized by purchase from a dealer on a tax exclusive basis and execution of the required exemption certificate set forth in § 18–11.501–1.

(d) On the sale of any article for the exclusive use of a State or local government; and

(e) On the sale of any article to a nonprofit educational organization for its exclusive use.

§ 18–11.203 Supplies and services for the exclusive use of the United States.

By virtue of action taken by the Secretary of the Treasury, pursuant to Section 4293 of the Internal Revenue Code, exemption is available, and shall be obtained, to the extent indicated, from the following Federal excise taxes:

(a) Tax on communication services and facilities furnished directly to the United States (as distinguished from being furnished to a Government contractor) and paid for directly by the Government (such exemption is obtained without any exemption certificate); and

(b) Tax on transportation of persons for transportation furnished the United States upon a Government transportation request (such exemption is obtainable by use of such transportation request).

§ 18–11.250 Exemptions from other federal taxes.

Distilled spirits of 160 degrees or more proof alcohol, and specially denatured alcohol, may be withdrawn tax-free by the United States or any Government agency thereof.

(a) The authority to sign applications to the Treasury Department, Commissioner of Internal Revenue, for permits to procure, tax-free, spirits and specially denatured alcohol (TD Form 1444, "Alcohol for Use of United States," and TD Form 1486, "Specially Denatured Alcohol for Use of United States") has been delegated by the Administrator to certain officers of NASA installations.

(b) TD Forms 1444 and 1486 shall be submitted to the Treasury Department in accordance with the instructions printed thereon. The letter of transmittal shall contain the following information:

(1) That the appropriate form is submitted in triplicate according to Internal Revenue Regulations for permit to procure tax-free or specially denatured alcohol;

(2) Name and location of supplier;

(3) Name and location of consignee;

(4) Purpose for which alcohol will be used; and

(5) Address to which permit is to be sent (requesting installation).

Subpart 18–11.3—State and Local Taxes

§ 18–11.300 General.

As used in this subpart, the term "State and local taxes" includes taxes of the several States, and District of Columbia, the possessions of the United States, Puerto Rico, and political subdivisions thereof.

§ 18–11.301 Applicability.

(a) As a general rule, purchases made by the Government itself are exempt from State and local sales and use taxes; similarly, personal and real property is exempt from State and local property taxes when the property is both owned and possessed by the Government. These exemptions shall be made use of to the fullest extent available when Government property is located in a State or local tax jurisdiction, or when purchases are made directly by the Government, by asserting the Government's immunity from taxation of its property by States and localities and, in case of purchases, by executing an approved tax exemption certification (see § 18–11.502).

(b) However, when purchases are not made by the Government itself, but by a prime contractor of the Government or by a subcontractor under a prime contract, the right to an exemption of the transaction from a sales or use tax may not rest on the Government's immunity from direct taxation by States and localities. It may rest instead on provisions of the particular State or local law involved, or in some cases, the transaction may not in fact be expressly exempt from the tax. Similarly, when property is owned by the Government, but the property is in the possession of a contractor or subcontractor on tax day, situations may arise where States or localities believe they may have the right to tax the property directly or to tax the contractor's or subcontractor's possession of, interest in, or use of that property.

(c) Wherever there is any doubt as to the availability of the Government's immunity or exemption from any State or local tax, the matter shall be handled in accordance with § 18–11.001.

Subpart 18–11.4—Contract Clauses

§ 18–11.400 Scope of subpart.

This subpart sets forth uniform clauses pertaining to taxes involved in the procurement of supplies and services.

§ 18–11.401 Fixed-price type contracts.

The clauses prescribed in this § 18–11.401 are for use in fixed-price type contracts except those to be performed entirely outside the United States. Its possessions, and Puerto Rico.

§ 18–11.401–1 Advertised and certain negotiated contracts.

(a) *Use of clause.* Except as provided in § 18–11.401–4, the clause set forth in paragraph (c) of this section shall be used in:

(1) All formally advertised contracts except construction contracts;

(2) All formally advertised construction contracts when the contract price may reasonably be expected to exceed $10,000;

(3) Negotiated fixed price type contracts in excess of $10,000 where the contracting officer is satisfied, because of competition or otherwise, that the contract price does not include any contingency for State and local taxes; and

(4) At the discretion of the contracting officer in negotiated fixed price type contracts in excess of $2,500 but not in excess of $10,000.

(b) *Description.* The following clause provides that the contract price includes all applicable taxes. It provides for an increase or decrease in the contract price to compensate for changes in applicable Federal excise taxes or duties. It does not provide for any adjustment in the contract price to compensate for changes in State or local taxes.

(c) *Clause:*

FEDERAL, STATE, AND LOCAL TAXES (NOVEMBER 1964)

(a) Except as may be otherwise provided in this contract, the contract price includes all applicable Federal, State, and local taxes and duties.

(b) Nevertheless, with respect to any Federal excise tax or duty on the transactions or property covered by this contract, if a statute, court decision, written ruling, or regulation takes effect after the contract date, and—

(1) Results in the Contractor being required to pay or bear the burden of any such Federal excise tax or duty or increase in the rate thereof which would not otherwise have been payable on such transactions or property, the contract price shall be increased by the amount of such tax or duty or rate increase: *Provided*, That the Contractor, if requested by the Contracting Officer, warrants in writing that no amount for such newly imposed Federal excise tax or duty or rate increase was included in the contract price as a contingency reserve or otherwise; or

(2) Results in the Contractor not being required to pay or bear the burden of, or in his obtaining a refund or drawback of, any such Federal excise tax or duty which would otherwise have been payable on such transactions or property or which was the basis of an increase in the contract price, the contract price shall be decreased by the amount of the relief, refund, or drawback, or that amount shall be paid to the Government, as directed by the Contracting Officer. The contract price shall be similarly decreased if the Contractor, through his fault or negligence or his failure to follow instructions of the Contracting Officer, is required to pay or bear the burden of, or does not obtain a refund or drawback of, any such Federal excise tax or duty.

(c) No adjustment pursuant to paragraph (b) above will be made under this contract unless the aggregate amount thereof is or may reasonably be expected to be over $100.

(d) As used in paragraph (b) above, the term "contract date" means the date set for the bid opening, or if this is a negotiated contract, the date of this contract. As to additional supplies or services procured by modification to this contract, the term "contract date" means the date of such modification.

(e) Unless there does not exist any reasonable basis to sustain an exemption, the Government, upon request of the Contractor, without further liability, agrees, except as otherwise provided in this contract, to furnish evidence appropriate to establish exemption from any tax which the Contractor warrants in writing was excluded from the contract price. In addition, the Contracting Officer may furnish evidence to establish exemption from any tax that may, pursuant to this clause, give rise to either an increase or decrease in the contract price. Except as otherwise provided in this contract, evidence appropriate to establish exemption from duties will be furnished only at the direction of the Contracting Officer.

(f) The Contractor shall promptly notify the Contracting Officer of matters which will result in either an increase or decrease in the contract price, and shall take action with respect thereto as directed by the Contracting Officer.

§ 18–11.401–2 Certain other negotiated contracts.

(a) *Use of clause.* Except as provided in § 18–11.401–4, the clause set forth in paragraph (d) of this section shall be used in all negotiated fixed-price contracts in excess of $10,000 when the contracting officer is not satisfied that the contract price excludes contingencies for State and local taxes.

(b) *Description.* The clause in paragraph (d) of this section provides that the contract price includes all applicable Federal, State, and local taxes. It provides for an increase or decrease in the contract price to compensate for changes in Federal excise taxes or duties, and, with some exceptions, for changes in State and local taxes.

(c) *Documentation of contract file.* If the clause set forth in paragraph (d) of this section includes an estimated amount for anticipated taxes on completed supplies covered by the contract or on the contractor's possession of, interest in, or use of property, title to which is in the Government, the contracting officer shall (1) include in the contract file detailed information with regard thereto, and (2) ensure that the contract price does not include taxes not allocable under § 18–15.205–41(a).

(d) *Contract clause.*

FEDERAL, STATE, AND LOCAL TAXES (MAY 1965)

(a) As used throughout this clause, the term "contract date" means the date of this contract. As to additional supplies or services procured by modification to this contract, the term "contract date" means the date of such modification.

(b) Except as may be otherwise provided in this contract, the contract price includes, to the extent allocable to this contract, all Federal, State, and local taxes which, on the contract date:

(i) By Constitution, statute, or ordinance, are applicable to this contract, or to the transactions covered by this contract, or to property or interests in property; or

(ii) Pursuant to written ruling or regulation, the authority charged with administering any such tax is assessing or applying to, and is not granting or honoring an exemption for, a contractor under this kind of contract, or the transactions covered by this contract, or property or interests in property.

(c) Except as may be otherwise provided in this contract, duties in effect on the contract date are included in the contract price, to the extent allocable to this contract.

(d) (1) If the Contractor is required to pay or bear the burden:

(i) Of any tax or duty which either was not to be included in the contract price pursuant to the requirements of paragraphs (b) and (c), or of a tax or duty specifically excluded from the contract price by a provision of this contract; or

(ii) Of an increase in rate of any tax or duty, whether or not such tax or duty was excluded from the contract price; or

(iii) Of any interest or penalty on any tax or duty referred to in (i) or (ii) above; the contract price shall be increased by the amount of such tax, duty, interest, or penalty allocable to this contract: *Provided*, That the Contractor, if requested by the Contracting Officer, warrants in writing that no amount of such tax, duty, or rate increase was included in the contract price as a contingency reserve or otherwise: *And provided further*, That liability for such tax, duty, rate increase, interest, or penalty was not incurred through the fault or negligence of the Contractor or his failure to follow instructions of the Contracting Officer.

(2) If the Contractor is not required to pay or bear the burden, or obtains a refund or drawback, in whole or in part, of any tax, duty, interest, or penalty which:

(i) Was to be included in the contract price pursuant to the requirements of paragraphs (b) and (c);

(ii) Was included in the contract price; or

(iii) Was the basis of an increase in the contract price; the contract price shall be decreased by the amount of such relief, refund, or drawback allocable to this contract, or the allocable amount of such relief, refund, or drawback shall be paid to the Government as directed by the Contracting Officer. The contract price also shall be similarly decreased if the Contractor, through his fault or negligence or his failure to follow instructions of the Contracting Officer, is required to pay or bear the burden, or does not obtain a refund or drawback of, any such tax, duty, interest, or penalty. Interest paid or credited to the Contractor incident to a refund of taxes shall inure to the benefit of the Government to the extent that such interest was earned after the Contractor was paid or reimbursed by the Government for such taxes.

(3) Invoices or vouchers covering any adjustment of the contract price pursuant to this paragraph (d) shall set forth the amount thereof as a separate item and shall identify the particular tax or duty involved.

(4) This paragraph (d) shall not be applicable to social security taxes; income and franchise taxes, other than those levied on or

measured by (i) sales or receipts from sales, or (ii) the Contractor's possession of, interest in, or use of property, title to which is in the Government; excess profits taxes; capital stock taxes; unemployment compensation taxes; or property taxes, other than such property taxes, allocable to this contract, as are assessed either on completed supplies covered by this contract, or on the Contractor's possession of, interest in, or use of property, title to which is in the Government.

(5) No adjustment pursuant to this paragraph (d) will be made under this contract unless the aggregate amount thereof is or may reasonably be expected to be over $100.

(e) Unless there does not exist any reasonable basis to sustain an exemption, the Government, upon request of the Contractor, without further liability, agrees, except as otherwise provided in this contract, to furnish evidence appropriate to establish exemption from any tax which the Contractor warrants in writing was excluded from the contract price. In addition, the Contracting Officer may furnish evidence appropriate to establish exemption from any tax that may, pursuant to this clause, give rise to either an increase or decrease in the contract price. Except as otherwise provided in this contract, evidence appropriate to establish exemption from duties will be furnished only at the discretion of the Contracting Officer.

(f) (1) The Contractor shall promptly notify the Contracting Officer of all matters pertaining to Federal, State, and local taxes, and duties, that reasonably may be expected to result in either an increase or decrease in the contract price.

(2) Whenever an increase or decrease in the contract price may be required under this clause, the Contractor shall take action as directed by the Contracting Officer, and the contract price shall be equitably adjusted to cover the costs of such action, including any interest, penalty, and reasonable attorneys' fees.

§ 18–11.401–3 Supplementary clause for possessions of the United States and Puerto Rico.

When a contract will be performed in whole or in part in a possession of the United States or in Puerto Rico, and either the clause set forth in §18–11.401–1 or that in § 18–11.401–2 is used, the contract shall contain the following supplementary clause:

TAXES (MAY 1965)

The term "local taxes" as used in the clause of this contract entitled "Federal, State, and Local Taxes" includes taxes imposed by a possession of the United States, and the Commonwealth of Puerto Rico.

§ 18–11.401–4 Matters requiring special consideration.

(a) A contract may, in accordance with paragraph (c) of this section, provide that the contract price include or exclude a specific tax, or require that the contractor take certain actions with regard to nonpayment, payment, protest or other treatment of a specific tax. Such special treatment may be required, for example, where the State or local tax law has been recently changed, where there is doubt as to the applicability or allocability of the tax, or where the applicability of the tax is being litigated.

(b) Special consideration should be accorded taxes assessed on the contractor's possession of, interest in, or use of Government-owned real or personal property. The following provision may be inserted in any fixed-price type contract under which the contractor has possession of property to which the Government has title on tax assessment date, pursuant to progress payment clauses or otherwise:

All property taxes assessed on the contractor's possession of, interest in, or use of property, title to which is in the Government, are excluded from the contract price.

(SEPTEMBER 1962)

(c) (1) Whether State or local taxes are applicable to a purchase of supplies by the Government may depend upon the place and terms of delivery. For example, if the legal incidence of a State tax is on the vendor, and performance of the contract and delivery to the Government are in that State, the tax may apply. If, however, the contract requires delivery to the Government outside that State, the tax may not apply because the transaction is in interstate commerce. The form of bill of lading used (i.e., Government bill, commercial bill, commercial bill convertible to Government bill at destination) may also affect the taxability of the transaction.

(2) Where a contract will be in a substantial amount, available alternative places and terms of delivery should be considered in the light of possible tax consequences.

(d) When Government property is furnished under a facilities contract, the contracting officer shall review the facilities contract when negotiating a subsequent supply contract to assure that the contractor is not reimbursed twice for the same taxes.

§ 18–11.402 Cost-reimbursement type contracts.

No specific tax clause is required in cost-reimbursement type contracts. In all such contracts the problem of Federal, State, and local taxes (which presents solely a question of allowability of costs in connection with the performance of cost-reimbursement type contracts) is covered in the contract clause set forth in § 18–7.203–4 and is treated in Part 18–15 of this chapter.

§ 18–11.403 Foreign tax exemption clauses.

Foreign tax problems should be referred to legal counsel.

Subpart 18–11.5—Tax Exemption Forms

§ 18–11.500 General.

(a) This subpart prescribes forms and procedures to provide evidence appropriate to establish exemption from Federal, State, and local taxes, and the form required to purchase cutting oil at the tax rate of 3 cents per gallon rather than 6 cents per gallon.

(b) Unless the contract otherwise requires, evidence of exemption shall not be issued if the amount of taxes on any one invoice or purchase is one dollar or less.

(c) With respect to the form set out in § 18–11.501–4, the Internal Revenue Service will accept one certificate covering all orders under a single contract for a specified period not exceeding four calendar quarters.

§ 18–11.501 Federal excise taxes.

The forms of certificates set forth in §§ 18–11.501–1 and 18–11.501–4 may be reproduced locally.

§ 18–11.501–1 Certificate of export to a possession or to Puerto Rico.

The following form of exemption certificate shall be used as proof of exportation or shipment to a possession or Puerto Rico, in accordance with §§ 18–11.201(b) and 18–11.202(b).

CERTIFICATE OF EXPORT

(For use by purchasers of articles for export or shipment to a possession under sections 4056 and 4221(a)(2), Internal Revenue Code of 1954)

_____ 19__

_____
(Name of contractor)

The undersigned does hereby certify that

_____
(Quantity and description of supplies)

which were purchased for export, or for shipment to a possession of the United States or to Puerto Rico, under Contract No. _____, were in face exported to a foreign country, or shipped to a possession of the United States or to Puerto Rico, and a copy of the export bill of lading No. _____ or loading manifest No. _____ pursuant to which the supplies were shipped, is being retained in the files of

_____
(Official address of office)

_____
(Signature)

_____
(Title)

_____
(Address)

This certificate is not intended for use as proof in claiming drawback of import taxes.

§ 18–11.501–4 Cutting oil certificate.

The following form of certificate shall be used by the purchaser of cutting oil, in accordance with § 18–11.102–4(c).

CUTTING OIL CERTIFICATE

(For use by purchaser of lubricating oil subject to tax under section 4091 of the Internal Revenue Code of 1954, for use by purchaser in cutting and machining operations on metals)

Certificate serial No. _____

_____
(Date)

Contract No. _____
Contractor _____
Product _____
End Use _____

The undersigned hereby certifies that he is officially authorized to issue tax-exemption certificates for the National Aeronautics and Space Administration under the above-described contract, and that the product indicated above, being purchased under said contract, is purchased for the following use as a lubricant in cutting and machining operations on metals:

_____
_____
_____

The undersigned understands that the National Aeronautics and Space Administration must be prepared to establish by satisfactory evidence the actual use or disposition made of such oil, and that upon his use of the oil for a lubricating purpose other than in cutting and machining operations on metals, or upon his sale or other disposition of oil, he is required to notify the manufacturer.

The undersigned understands that he and all guilty parties will, for fraudulent use of this certificate for the purpose of purchasing oils tax free rather than at the rate of 6 cents a gallon, be subject to a fine of not more than $10,000 or imprisonment for not more than 5 years, or both, together with the costs of prosecution.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Contract Period _____
By _____
(Name)

_____
(Title)

_____
(Address)

_____
(Identification Card No.)

§ 18–11.502 State and local taxes.

§ 18–11.502–1 Types of evidence of exemption.

Evidence appropriate to establish exemption or immunity from State or local taxes will vary depending upon the grounds of exemption or immunity claimed, the parties to the transaction, and the requirements of the taxing jurisdiction. Such evidence includes but is not limited to the following:

(a) U.S. Government Tax Exemption Certificate (Standard Form 1094);

(b) A copy of the contract or a portion thereof;

(c) Shipping documents indicating that shipments are in interstate or foreign commerce;

(d) A State or local form indicating that supplies or services are for the exclusive use of the United States; or

(e) Any other State or locally required form, certificate, or document to establish general or specific exemption.

§ 18–11.502–2 When evidence of exemption is to be furnished.

(a) Unless there does not exist any reasonable basis to sustain a claimed exemption, a contractor or vendor will be furnished evidence of exemption under a:

(1) Contract which contains the clause prescribed in either § 18–11.401–1 or § 18–11.401–2 in accordance with the terms of those clauses;

(2) Cost-reimbursement type contract at the request of the contractor or at the discretion of the contracting officer; or

(3) Contract or purchase order which contains no provision regarding taxes, at the request of the contractor or at the discretion of the contracting officer, if the contractor warrants that the contract price does not include the tax, or if he consents to a reduction in the contract price if the evidence of exemption is accepted by the taxing jurisdiction.

(b) In case of disagreement as to whether there exists a reasonable basis upon which to sustain exemption of any transaction, the matter should be resolved in accordance with § 18–11.001.

§ 18–11–502–3 Procedure.

(a) When a State or local sales tax attaches at the time of a sale to the United States and the vendor sells to the United States at a price which is exclusive of the tax, Standard Form 1094 shall be furnished to the vendor where the vendor or dealer requires evidence of the tax-exempt sale for use in claiming exemption from payment of the tax to the taxing authority.

(b) When a State or local tax attaches at the time of sale to the consumer but the vendor refuses to sell at a price exclusive of the tax, Standard Form 1094 shall be used to obtain a record of the transaction for use by the U.S. Government in billing the taxing authority for refund of the taxes paid. In case of vendor refusal to sell on a tax-exclusive basis, the relevant payment voucher and Standard Form 1094 shall contain mutual cross-references of serial numbers so that the transaction may be identified for refund purposes. The installation shall bill the relevant local or State taxing authority for refund in case of vendor refusal to sell on a tax-exclusive basis. Uncollectible claims shall be referred to the Office of General Counsel.

(c) NASA Headquarters will issue tax exemption forms only to contracting officers or their designees. Each NASA office receiving the forms shall maintain an adequate accounting record of the forms to show at all times (1) the number of U.S. tax exemption certificate books received, (2) the number of each book issued and to whom issued, (3) the numbers of those returned for reissue, or cancellation, or as completely used book covers, and (4) the balances on hand and available for distribution to persons authorized to use them.

PART 18–12—LABOR

Sec.
18–12.000 Scope of part.

Subpart 18–12.1—Basic Labor Policies

18–12.101 Labor relations.
18–12.101–1 Communications regarding labor matters.
18–12.101–2 Labor-management disputes.
18–12.101–3 Admission of labor representatives to contract sites.
18–12.102 Overtime, extra-pay shifts, and multi-shift work.
18–12.102–1 Definitions.
18–12.102–2 Policy.
18–12.102–3 Procedures.
18–12.102–4 Approvals.
18–12.102–5 Exceptions.
18–12.102–50 Overtime work on space programs at test sites.
18–12.102–51 Monitoring of overtime (general).
18–12.103 Federal and State labor requirements.
18–12.103–1 Policy.
18–12.103–2 Administration.
18–12.104 Meeting manpower requirements.

Subpart 18–12.2—Convict Labor

18–12.201 Basic requirement.
18–12.202 Applicability.
18–12.203 Contract clause.

Subpart 18–12.3—Work Hours Act of 1962

18–12.300 Scope of subpart.
18–12.301 General.
18–12.302 Applicability.
18–12.302–1 Statutory exemptions.
18–12.302–2 Exemptions by the Secretary of Labor.
18–12.303 Contract clause.
18–12.303–1 Clause for general use.
18–12.303–2 Clause for contracts with a State or political subdivision.

Subpart 18–12.4—Labor Standards in Construction Contracts

18–12.400 Scope of subpart.
18–12.401 Statutes and regulations.
18–12.401–1 Definitions.
18–12.402 Applicability.
18–12.403 Contract clauses.
18–12.403–1 Clauses for general use.
18–12.403–3 Overseas contracts.
18–12.403–4 Contracts with a State or political subdivision.
18–12.403–5 Contracts for work at the Mississippi Test Facility (MTF) area.
18–12.404 Administration and enforcement.
18–12.404–1 General.
18–12.404–2 Wage determinations.
18–12.404–3 Additional classifications.
18–12.404–4 Apprentices.
18–12.404–5 Subcontracts.
18–12.404–6 Payrolls and statements.
18–12.404–7 Investigations.
18–12.404–8 Enforcement reports.
18–12.404–9 Suspensions and deductions of contract payments.
18–12.404–10 Restitution.
18–12.404–11 Contract terminations.
18–12.404–12 Cooperation with Department of Labor.
18–12.404–13 Reporting construction contract awards.

Subpart 18–12.6—Walsh-Healey Public Contracts Act

18–12.601 Statutory requirements.
18–12.602 Applicability.
18–12.602–1 General.
18–12.602–2 Department of Labor regulations and interpretations.
18–12.602–3 Procedure for obtaining exemptions with respect to stipulations required by the Act.
18–12.603 Responsibility of contracting officers.
18–12.604 Contract clause.

Subpart 18–12.7—Fair Labor Standards Act of 1938

18–12.701 Basic statute.
18–12.702 Rulings on applicability or interpretation.

Subpart 18–12.8—Equal Employment Opportunity

18–12.800 Scope of subpart.
18–12.801 Policy.
18–12.801–1 Definitions.
18–12.801–2 References to terms.
18–12.802 Clauses for contracts, grants, or other arrangements.
18–12.802–1 NASA contracts.
18–12.802–2 Federally assisted construction under grants and arrangements.
18–12.802–3 Other contractural requirements.
18–12.802–4 Requirements for invitations for bids or requests for proposals.
18–12.803 Applicability and exemptions.
18–12.804 Requests for exemptions.
18–12.805 Interpretations.
18–12.806 Administration.
18–12.806–1 General responsibilities and functions.
18–12.806–2 Educational responsibility.
18–12.806–3 Posting of nondiscrimination notices.
18–12.806–4 Compliance reports.
18–12.806–5 Compliance reviews.
18–12.806–6 Complaints of alleged equal opportunity violations.
18–12.806–7 Processing of complaints.
18–12.806–8 Sanctions.
18–12.806 Hearings.
18–12.806–1 General.
18–12.806–2 Delegation of hearing authority and place of hearing.
18–12.806–3 Notices and contents.
18–12.806–4 Continuances and delays.
18–12.806–5 Parties.
18–12.806–6 Representation and hearing assistants.
18–12.806–7 Transcript.
18–12.806–8 Conduct of hearings.
18–12.806–9 Depositions.
18–12.806–10 Absence of parties.
18–12.806–11 Argument.
18–12.806–12 Findings and recommendations.
18–12.809 Certificates of Merit.

Subpart 18–12.9—Employment Restrictions for Security Purposes

18–12.901 Hiring restrictions on classified contracts.
18–12.902 Responsibilities of contractors to employees.

Subpart 18–12.10—Nondiscrimination on the Basis of Age

18–12.1000 Scope of subpart.
18–12.1001 Policy.
18–12.1002 Procedures for handling complaints.

AUTHORITY: The provisions of this Part 18–12 issued under 42 U.S.C. 2473(b)(1).

§ 18–12.000 Scope of part.

This Part 18–12(a) deals with general policies regarding labor, insofar as they relate to procurement, (b) sets forth certain pertinent labor laws and requirements, indicating in connection with each its applicability and any procedures thereunder, and (c) prescribes contract clauses. (This Part 18–12 does not apply to any matter or agreement arising under Executive Order 10988 or to any related authority governing Employee-Management Cooperation in the Federal Service.)

Subpart 18–12.1—Basic Labor Policies

§ 18–12.101 Labor relations.

It is NASA policy to maintain and encourage the best possible relations with industry and labor in order that the Government may procure needed supplies and services without delay. All problems arising out of labor relations of private contractors and all communications with labor organizations or Federal agencies relative thereto will be handled in accordance with procedures which are consistent with the following general policy.

(a) NASA contracting officers, in taking any of the actions prescribed or authorized in this Part 18–12, will consult with and secure advice from the labor relations advisor or other NASA official assigned such function at the installation concerned.

(b) NASA officials will remain impartial in, and will refrain from taking a position on the merits of, a dispute between labor and private management and will not undertake the conciliation, mediation, or arbitration of a labor dispute. NASA must, however, take any action that may be open to it under the circumstances to protect the Government's interest and to prevent, where possible, interruptions in NASA schedules.

(c) NASA will, insofar as is practicable, exchange information concerning labor matters with other affected Government agencies in order to maintain a uniform Government labor policy in a particular plant or labor-management dispute.

(d) NASA officials will not take any independent action with respect to labor matters which involve major policy determinations which have a substantial impact on the activities of NASA or other Government agencies without the prior approval of the Director, NASA Labor Relations Office (Code KL). A full report concerning any labor relations problem, particularly where a labor dispute significantly threatens to affect important NASA procurement, should be furnished to the Director, NASA Labor Relations Office, in accordance with § 18–12.101–2.

(e) The NASA Labor Relations Office will take action in connection with labor relations problems consistent with its responsibilities, for example:

(1) Giving notice of the existence of a labor dispute, which affects or threatens to affect procurement of supplies or services, to the Government agency which has responsibility for conciliation, mediation, arbitration, or other action with respect thereto;

(2) Advising the Government agency responsible for action with respect to labor disputes, or the parties to a labor dispute, of factual information pertaining to procurement of the supplies or services involved to the extent consistent with security regulations; or

(3) Seeking to obtain such voluntary agreement between management and labor as will permit, notwithstanding the general continuance of the dispute, uninterrupted procurement of supplies and services, provided such activity does not involve NASA in the merits of a labor difference or dispute.

§ 18–12.101–1 Communications regarding labor matters.

Direct communication is not authorized with the national headquarters or national offices of any labor organization or Federal agency except with the specific prior approval of the Director, NASA Labor Relations Office. Contracting officers are authorized to communicate directly with local labor organizations and local offices of Federal agencies as required to carry out their responsibilities set forth in § 18–12.101–2.

§ 18–12.101–2 Labor-management disputes.

(a) *Reports.* Reports of actual or incipient labor-management disputes affecting NASA procurement, operations, or services shall be submitted as specified by the Director, NASA Labor Relations Office. These reports shall describe, but need not be limited to:

(1) The nature of the actual or incipient dispute, including whether a strike, lockout, slowdown, shutdown, or picketing is involved, and the degree of emergency presented;

(2) The character, quantity, and importance of the supplies, operations, or services involved, including scheduled performance and delivery dates and the relation of the production involved to the total procurement program;

(3) The identity and location of the parties to the dispute and their representatives, including the approximate number of employees involved;

(4) The need for and availability of alternative facilities to furnish the items involved within the time required;

(5) The critical items, if any, which should be removed from the plant or worksite or should be continued to be processed there with the consent of the parties to the dispute; and

(6) Recommended action to be taken by NASA.

Reports shall be made as early as possible and shall include immediately available information. Supplemental reports shall be made, as appropriate, to provide full information and cover new developments. Reports shall be sent by the most expeditious means required in view of the seriousness of the situation. When an immediate critical effect on NASA procurement is probable, the initial report shall be made by telephone and followed by an electrically transmitted message or a confirming letter.

(b) *Other action by the contracting officer.* When a strike which may have an adverse effect on NASA programs is imminent or in progress at a prime or subcontractor's plant, contracting officers shall:

(1) Advise both the prime contractor and the head of the union local in writing of the expected impact of the strike on NASA programs and, where appropriate, of the actions which NASA is considering to protect the Government's interest and prevent delay in the accomplishment of NASA's mission; however, if the strike is in a subcontractor's plant, the subcontractor will only be approached through the prime contractor;

(2) Explore the possibility of locating other sources for the supplies and services to have been provided by the struck or strike-threatened plant;

(3) Consider removing finished items from the plant and seeking resumption of work by the contractor on those items to be furnished which are critical to NASA programs;

(4) Where it appears likely that the work stoppage cannot be prevented, consider removing from the plant work in process, components, and materials which are critical to the NASA program, with a view to continuing the work elsewhere.

(c) *NASA Headquarters approval required for removal of items from affected plants or facilities.* When the contracting officer determines that it would be in the best interest of the Government to remove items or to press for resumption of work as provided in paragraph (b) of this section, he shall first request approval from the Director, NASA Labor Relations Office, and then take such action as shall be approved.

(d) *Inspection of material during labor disputes.* Despite the existence of a labor dispute, inspection functions at contract plants or sites shall be performed as normally required during contract performance except where the safety of the inspector may be endangered.

§ 18–12.101–3 Admission of labor representatives to contract sites.

NASA activities shall not prevent the access of labor union representatives to contract sites for the conduct of union business if their activities are compatible with performance of the contract work involved and applicable safety and security regulations.

§ 18–12.102 Overtime, extra-pay shifts, and multi-shift work.

§ 18–12.102–1 Definitions.

As used throughout this § 18–12.102, the following terms shall have the meanings set forth in this section:

(a) "Normal workweek and normal workday" mean, generally, a workweek of 40 hours and a workday of 8 hours, respectively. In any area outside the United States, its possessions, and Puerto Rico, a workweek longer than 40 hours or a workday longer than 8 hours will be considered normal (1) if such workweek or workday does not exceed that which is normal for such area as determined by local custom, tradition, or law, and (2) if hours worked in excess of 40 hours in such workweek or 8 hours in such workday are not compensated at a premium rate of pay.

(b) "Overtime" means time worked by a contractor's employee in excess of the employee's normal workweek or normal workday.

(c) "Shift premium" means the difference between the compensation paid to an employee at the contractor's regular rate of pay for the base shift and that paid at the regular rate of pay for extra-pay-shift work.

(d) "Overtime premium" means the difference between the compensation paid to an employee at the contractor's regular rate of pay for the shift involved and that paid for hours worked overtime.

(e) "Test site": A test site is any Government test or launch site jointly used by NASA and DoD for the purpose of conducting static or operational tests of a space vehicle or its components.

§ 18–12.102–2 Policy.

(a) While it is important that NASA space programs meet established schedules, it is equally important that such schedules be accomplished with maximum efficiency at reasonable cost and that employment opportunities be expanded wherever possible.

(b) Since overtime deals with the hours an individual works rather than the hours a facility is in operation, the use of excessive overtime results in reduced efficiency, unreasonable cost, and unreasonable restriction of employment opportunities.

(c) As a general principle, use of overtime will not be a regular practice; it will be authorized only when necessary to keep high priority and essential programs on schedule.

(d) Therefore, NASA contracts will be performed in the most economical manner consistent with procurement requirements. Multiple shifts will be used when determined to conform to this policy. Insofar as practicable, performance will be accomplished without the use of overtime. When required, overtime will be limited to and be the minimum needed for the accomplishment of specific work.

§ 18–12.102–3 Procedures.

(a) To the extent practicable, invitations for bids and requests for proposals shall not specify delivery or performance schedules which may be reasonably anticipated to necessitate overtime at Government expense.

(b) In the negotiation of contracts in excess of $10,000, the contracting officer, consistent with the nature and size of the procurement, shall use his best efforts (1) to ascertain the extent to which proposals and quotations are based on the payment of overtime premiums and shift premiums, and (2) to negotiate contract prices or estimated costs which are not based on the payment of overtime premiums or shift premiums, taking into consideration the practicability of procurement from other sources of all or part of the requirement.

(c) To prevent uneconomical use of overtime, extra-pay shifts, or multi-shifts at Government expense, or of any one of these where another would be more economical, all contracts in excess of $10,000, except those contracts listed below, shall contain a "Payment for Overtime and Shift Premiums" clause. The excepted contracts are:

(1) Firm fixed-price contracts;

(2) Fixed-price contracts with escalation not providing for labor escalation; and

(3) Fixed-price contracts providing for price redetermination prospectively only.

(d) The "Payment for Overtime and Shift Premiums" clause for use in cost-reimbursement type contracts is set forth in paragraph (h)(1) of this section. The clause set forth in paragraph (h)(2) of this section shall be used in the following contracts:

(1) Advertised and negotiated fixed-price supply contracts in excess of $10,000, containing a labor escalation clause;

(2) Negotiated fixed-price supply contracts in excess of $10,000, containing a clause providing for retroactive price redetermination; and

(3) Fixed-price research and development contracts in excess of $10,000, containing a labor escalation clause or a clause providing for retroactive price redetermination.

(e) Overtime for which overtime premiums will be at Government expense shall not be approved under a contract where the contractor is already obligated, without the right to additional compensation, to meet the required delivery date.

(f) Where overtime premiums or shift premiums are being paid in connection with the performance of Government contracts, the continued need therefor shall be subject to periodic review.

(g) When NASA and one or more of the Military Departments have concurrent contracts at a single facility, NASA officials will work closely with officials of the Military Department concerned in managing contractor's use of overtime, extra-pay shifts, and multi-shifts.

(h) *Payment for overtime and shift premium clauses.* (1) Clause for cost-reimbursement type contracts.

PAYMENT FOR OVERTIME AND SHIFT PREMIUMS (SEPTEMBER 1962)

(a) Allowable cost shall not include any amount on account of overtime premiums or shift premiums, except to the extent that they either (i) are approved in writing on behalf of the Government; or (ii) are paid for work—

(A) Necessary to cope with emergencies, such as those resulting from accidents, natural disasters, or breakdowns of production equipment, or occasional production bottlenecks of a sporadic nature;

(B) By indirect labor employees such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting;

(C) In the performance of tests, industrial processes, laboratory procedures, loading or unloading of transportation media, and operations in flight or afloat which are continuous in nature and cannot reasonably be interrupted or otherwise completed; or

(D) Which will result in lower overall cost to the Government.

(b) The cost of overtime premiums or shift premiums otherwise allowable under (a) above shall be allowed only to the extent the amount thereof is reasonable and properly allocable to the work under this contract.

(2) Clause for fixed-price supply contracts and research and development contracts enumerated in paragraph (d)(1), (2), and (3) of this section.

PAYMENT FOR OVERTIME AND SHIFT PREMIUMS (SEPTEMBER 1962)

The contract price shall not include any amount on account of overtime premiums or shift premiums except to the extent that they either (i) are approved in writing on behalf of the Government; or (ii) are paid for work—

(A) necessary to cope with emergencies, such as those resulting from accidents, natural disasters, or breakdowns of production equipment, or occasional production bottlenecks of a sporadic nature;

(B) by indirect labor employees such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting;

(C) in the performance of tests, industrial processes, laboratory procedures, loading or unloading of transportation media, and operations in flight or afloat which are continuous in nature and cannot reasonably be interrupted or otherwise completed; or

(D) which will result in lower overall cost to the Government.

§ 18–12.102–4 Approvals.

(a) Overtime premiums and shift premiums at Government expense may be approved by the contracting officer by his written determination that such approval:

(1) Is necessary to meet delivery or performance schedules and such schedules are determined to be extended to the maximum consistent with essential NASA objectives;

(2) Is necessary to make up for delays beyond the control and without the fault or negligence of the contractor and, in construction contracts, which result from unforeseeable causes; or

(3) Is necessary to eliminate foreseeable production bottlenecks of an extended nature which cannot be eliminated in any other way.

(b) Approvals shall ordinarily be prospective but may be retroactive where justified by circumstances.

(c) Such approvals may be for an individual contract, project, or program, or for a plant, division, or company, as most practicable.

§ 18–12.102–5 Exceptions.

The approvals required by § 18–12.102–4 do not apply to overtime premiums or shift premiums which are paid for work:

(a) Necessary to cope with emergencies, such as those resulting from accidents, natural disasters, or breakdowns of production equipment, or occasional production bottlenecks of a sporadic nature;

(b) By indirect labor employees, such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting;

(c) In the performance of tests, industrial processes, laboratory procedures, loading or unloading of transportation media, and operations in flight or afloat which are continuous in nature and cannot reasonably be interrupted or otherwise completed; or

(d) Which will result in lower overall cost to the Government. However, the cost of such overtime or shift premiums may be allowed or considered in pricing (on the same basis as other indirect costs) only to the extent that the amount thereof is reasonable and properly allocable to the work involved.

§ 18–12.102–50 Overtime work on space programs at test sites.

(a) *General.* In order to eliminate excessive overtime work on space and missile programs at test sites, the Department of Defense and NASA have jointly agreed to the overtime management policy and guidelines set forth in paragraphs (b) and (c) of this section.

(b) *Management and control of overtime.* The following principles shall be used as guidelines in the management and control of contractor use of premium pay overtime in space programs at test sites:

(1) The use of multishifts, compensable at reasonable shift premium rates, shall be considered and, if practicable, substituted immediately for any work currently being performed on an excessive overtime basis;

(2) Overtime of 20 hours in any one week by any employee shall be the maximum approvable overtime except under compelling exigencies involving the national interest; and

(3) Any amounts regularly paid by contractors for overtime, at overtime premium rates of pay, and without regard to the Government's requirement for such overtime, are to be considered "unreasonable" within the meaning of the cost principles of Part 18–15 of this chapter.

(c) *Informing contractors or other parties of policy.* (1) The contracting officer authorized to approve overtime in accordance with § 18–12.102–4 shall inform, by letter, NASA contractors to be engaged in work on space programs at test sites of the NASA overtime management policy set forth in § 18–12.102.

(2) Such information also may be made available to any other interested party.

§ 18–12.102–51 Monitoring of overtime (general).

(a) Effective monitoring of overtime presupposes verification that the contractor has established an internal system of control which includes a requirement for approval by management of overtime upon proper justification by the user, and followup by management to ascertain the amount of overtime actually used within the approved amount. The existence of such system may properly be regarded as an essential prerequisite for compliance with the clause specified in the contract and with the requirements of § 18–1.905–50 with respect to preaward surveys.

(b) A necessity for monitoring overtime utilization (or exercising surveillance over the contractor's efforts to control overtime) will arise in the following instances:

(1) Excepted overtime (see § 18–12.102–5);

(2) Overtime requiring approval, where no stipulated amount has been contractually authorized (see § 18–12.102–4);

(3) Overtime requiring approval and approved (sometimes with limitations);

(4) Overtime in space programs at test sites (see § 18–12.102–50); and

(5) Subcontractor overtime.

(c) The following controls shall be applicable in each of the situations referenced in paragraph (b) of this section.

(1) *Excepted overtime.* The exemption from the approval requirements of § 18–12.102–4 contained in § 18–12.102–5 does not obviate the necessity for review to determine that it is truly excepted overtime, and that it is reasonable in amount and allocable to the contract. Contracting officers shall consequently maintain or cause to be maintained when contract administration functions are delegated, a record of overtime expenditures in this category every 60 days (dates of performance of overtime hours, straight time, and premium dollars) with an explanation as to the applicability of one or more of the exceptions. Audit assistance shall be utilized to verify the existence and adequacy of the contractor's system of control. Technical assistance (e.g., a production specialist) shall be utilized to verify that overtime is truly excepted, that it is reasonable, and that it is allocable to the contract to which it is sought to be charged.

(2) *Overtime requiring approval where no stipulated amount has been contractually authorized.* Verification of the adequacy of the contractor's system of control shall be required to ensure that, under normal circumstances, requests for approval are made on a prospective basis to provide for prior approval. Contractors shall be instructed that requests for overtime authorization will be supported, at a minimum, with answers to the following questions:

(i) Why is overtime required? How much (period of time including an estimate of the number of direct and indirect hours expected to be utilized during the requested overtime period)? What type (skill)? Contract item(s) involved?

(ii) How did the situation arise? What corrective action will be taken to prevent recurrence?

(iii) Was situation foreseeable? If not, why not?

(iv) What is the impact if the overtime is not approved (schedule and cost)?

(v) Has an overtime request been previously made for the same or similar reasons?

Submissions by contractors in support of requests for overtime authorization shall be evaluated in accordance with the criteria in § 18–12.102–4. Review shall be performed every 60 days to ensure that overtime is utilized within the approved limits, in judicious fashion, and in connection with the situation or circumstances which gave rise to the original authorization.

(3) *Overtime requiring approval and approved.* The procedures governing verification of the adequacy of the contractor's system of control and review of overtime utilization referred to in subparagraphs (1) and (2) of this paragraph are equally applicable in this instance. When contract administration functions are being performed by another NASA installation or by one of the Military Departments, and the contracting officer has authorized the use of overtime by contractual provision, a copy of the memorandum reflecting the basis for this authorization will accompany the letter of delegation so that an opportunity will be afforded for determining, on periodic review, whether the circumstances which justified the original authorization continue to prevail.

(4) *Overtime in space programs at test sites.* Management and control of overtime utilization in this category will be governed by provisions of § 18–12.102–50(b). Nothing contained therein, however, is intended to obviate the necessity for prudent use of overtime by contractors. A periodic review of such overtime utilization will consequently be required.

(5) *Subcontractor overtime.* In a complex systems contract involving multiple subcontract tiers, the efficacy of any attempt to control costs, overtime or other, will hinge on the efficiency of the prime contractor in managing his subcontractors. Contracting officers shall be responsible for surveillance over the prime contractor's efforts. They shall ensure that administrative functions have been properly assigned in connection with every significant cost-reimbursement or fixed-price incentive or redeterminable type subcontract and that the assignment specifically refers to the monitoring of overtime as detailed in this section. Subcontracts containing an authorization for overtime shall not be approved where the basic prime contract contains no such authorization and no separate approval under the prime contract has been given.

§ 18–12.103 Federal and State labor requirements.

§ 18–12.103–1 Policy.

It is the policy of NASA to cooperate with and to require contractors to cooperate to the fullest extent possible with Federal and State agencies responsible for enforcing labor requirements with respect to such matters as safety, health, and sanitation, maximum hours and

minimum wages, equal pay for women, and child and convict labor.

§ 18–12.103–2 Administration.

(a) NASA will not initiate applications to State agencies or officials for the suspension or relaxation of State labor standards.

(b) Contracting officers may support applications of contractors or suppliers when relaxation of State labor standards does not conflict with applicable Federal Labor Laws, such as the Fair Labor Standards Act of 1938 (29 U.C.S. 201–219), the Walsh-Healey Public Contracts Act (41 U.S.C. 24–45), the Davis-Bacon Act (40 U.S.C. 276a), the Work Hours Act of 1962 (40 U.S.C. 327–332), and when all of the following circumstances are present:

(1) The required products or services are in short supply and failure to meet production schedules for critically needed end items will result unless the suspension or relaxation of State labor standards is approved;

(2) There are no alternative sources of supply for such products or services available within the required delivery schedule;

(3) Remedial action (such as recruitment, training, and more effective utilization of manpower) is not practicable; and

(4) The granting of the application will not result in impairment of working conditions to the extent that productivity at the facility will be adversely affected.

(c) NASA letters of support will be addressed to the appropriate State agency and will indicate:

(1) The facilities and services affected; and

(2) The extent of relaxation of the particular State labor standard required to complete the specific work in conformity with the procurement schedule.

§ 18–12.104 Meeting manpower requirements.

It is the policy of NASA to cooperate with and to encourage contractors to utilize, to the fullest extent practicable, the U.S. Employment Services (USES) and its affiliated Local State Employment Service Offices in matters pertaining to meeting contractors' manpower (labor supply) requirements, including the recruitment of workers in all occupations and skills, both from local labor market areas and through the Federal-State manpower clearance system, to staff new or expanding plant facilities. Local State Employment Service Offices are operated in every State and in the District of Columbia, Puerto Rico, Guam, and the Virgin Islands. In addition to providing recruitment assistance to contractors who need and desire it, cooperation with the Local State Employment Service Offices will further the national program of maintaining continuous assessment of manpower requirements and resources on a national and local basis.

Subpart 18–12.2—Convict Labor

§ 18–12.201 Basic requirement.

Pursuant to the policy set forth in the Act of February 23, 1887 (18 U.S.C. 436), and in accordance with the requirements of Executive Order 325A, dated May 18, 1905, all contracts entered into by NASA involving the employment of labor within the United States shall, unless otherwise provided by law, contain a clause prohibiting the employment of persons undergoing sentences of imprisonment at hard labor imposed by State or municipal criminal courts. The requirement does not prohibit the employment of persons on parole or probation or of persons who have been pardoned or who have served their terms.

§ 18–12.202 Applicability.

The requirement set forth in § 18–12.201 applies to all contracts involving the employment of labor within the United States except the following kinds:

(a) Any contract subject to the provisions of the Walsh-Healey Public Contracts Act (see Subpart 18–12.6 of this chapter) which contains its own requirement that "no convict labor will be employed by the contractor in the manufacture or production or furnishing of any of the materials, supplies, articles, or equipment included in such contract";

(b) Any contract for the purchase of supplies or services from Federal Prison Industries, Inc.; and

(c) Any contract for the purchase from any State prison of finished supplies which may be secured in the open market or from existing stocks as distinguished from supplies requiring special fabrication.

§ 18–12.203 Contract clause.

The following clause shall be inserted in NASA contracts as required by this Subpart 18–12.2:

CONVICT LABOR (SEPTEMBER 1963)

In connection with the performance of work under this contract, the Contractor agrees not to employ any person undergoing sentence of imprisonment at hard labor.

Subpart 18–12.3—Work Hours Act of 1962

§ 18–12.300 Scope of subpart.

This Subpart 18–12.3 deals with the requirements of the "Contract Work Hours Standards Act," which is Title I of the Work Hours Act of 1962 (40 U.S.C. 327–332).

§ 18–12.301 General.

The Work Hours Act of 1962 repealed the Eight Hour Law of 1912, as amended (40 U.S.C. 324–326), and the Eight Hour Law applicable to construction contracts (40 U.S.C. 321–322). Title I, Contract Work Hours Standards Act, among other things, establishes a standard workday of 8 hours and a standard workweek of 40 hours for laborers and mechanics employed on Government contracts and requires payment for all hours worked in excess of the standard workday or workweek at one and one-half times the basic rate of pay. "Laborers and mechanics" include watchmen, guards, and workmen, other than seamen, performing services in connection with dredging or rock excavation in rivers or harbors.

§ 18–12.302 Applicability.

§ 18–12.302–1 Statutory exemptions.

Title I of the Work Hours Act of 1962 is applicable to construction contracts and to other contracts involving the employment of laborers and mechanics either by a contractor or any subcontractor in the United States, and in other areas under the jurisdiction of the United States not exempted by the Secretary of Labor (see § 18–12.302–2), except:

(a) Contracts for transportation by land, air, or water;

(b) Contracts for the transmission of intelligence;

(c) Contracts for purchase of supplies or materials or articles ordinarily available in the open market; or

(d) Contracts to which the Walsh-Healey Public Contracts Act (41 U.S.C. 35–45) is applicable.

§ 18–12.302–2 Exemptions by the Secretary of Labor.

The Secretary of Labor has exempted (29 CFR 5.14) from all provisions of Title I of the Work Hours Act of 1962, the following classes of contracts:

(a) Construction contracts of $2,000 or less; and

(b) Purchases and contracts other than construction contracts in the aggregate amount of $2,500 or less. In arriving at the aggregate amount involved there must be included all property and services which would properly be grouped together in a single transaction and which would be included in a single advertisement for bids if the procurement were being effected by formal advertising; and

(c) Contracts (or portions thereof) to be performed in a foreign country or within territory under the jurisdiction of the United States other than the following: a state of the United States; the District of Columbia; Puerto Rico; the Virgin Islands; Outer Continental Shelf Lands defined in the Outer Continental Shelf Lands Act; American Samoa; Guam; Wake Island; and the Canal Zone, to the extent that such contracts (or portions thereof) may require or involve the employment of laborers or mechanics there.

§ 18–12.303 Contract clause.

§ 18–12.303–1 Clause for general use.

The clause set forth below shall be included in all contracts to which the Act applies, except construction contracts. The applicable clause for construction contracts is set forth in § 18–12.403–1(b).

CONTRACT WORK HOURS STANDARDS ACT—OVERTIME COMPENSATION (NOVEMBER 1964)

This contract, to the extent that it is of a character specified in the Contract Work Hours Standards Act (40 U.S.C. 327–330), is subject to the following provisions and to all other applicable provisions and exceptions of such Act and the regulations of the Secretary of Labor thereunder.

(a) *Overtime Requirements.* No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he is employed on such work to work in excess of 8 hours in any calendar day or in excess of 40 hours in such workweek on work subject to the provisions of the Contract Work Hours Standards Act unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all such hours worked in excess of 8 hours in any calendar day or in excess of 40 hours in such workweek, whichever is the greater number of overtime hours.

(b) *Violation; Liability for Unpaid Wages; Liquidated Damages.* In the event of any violation of the provisions of paragraph (a), the Contractor and any subcontractor responsible therefor shall be liable to any affected employee for his unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions of paragraph (a) in the sum of $10 for each calendar day on which such employee was required or permitted to be employed on such work in excess of 8 hours or in excess of the standard workweek of 40 hours without payment of the overtime wages required by paragraph (a).

(c) *Withholding for Unpaid Wages and Liquidated Damages.* The Contracting Officer may withhold from the Government Prime Contractor, from any moneys payable on account of work performed by the Contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions of paragraph (b).

(d) *Subcontracts.* The Contractor shall insert paragraphs (a) through (d) of this clause, and the preamble preceding paragraph (a), in all subcontracts, and shall require their inclusion in all subcontracts of any tier.

(e) *Records.* The Contractor shall maintain payroll records containing the information specified in 29 CFR 516.2(a). Such records shall be preserved for 3 years from the completion of the contract.

§ 18–12.303–2 Clause for contracts with a State or political subdivision.

In the case of contracts with a State or political subdivision thereof, the clause required by § 18–12.303–1 shall be the clause set forth therein, except that it shall be prefaced by the following provision:

(SEPTEMBER 1963)

The Contractor agrees to insert the following clause in all subcontracts hereunder with private persons or firms.

Subpart 18–12.4—Labor Standards in Construction Contracts

§ 18–12.400 Scope of subpart.

This Subpart 18–12.4 deals with labor standards for construction contracts as prescribed by the statutes and regulations set forth in this section.

§ 18–12.401 Statutes and regulations.

(a) *Davis-Bacon Act.* The Davis-Bacon Act (Act of March 3, 1931, as amended, 40 U.S.C. 276a) provides that certain contracts over $2,000 entered into by any Department for the construction, alteration, or repair (including painting and decorating) of public buildings or public works shall contain a provision to the effect that no laborer or mechanic employed directly upon the site of the work contemplated by the contract shall receive less than the prevailing wages as determined by the Secretary of Labor.

(b) *Copeland Act.* The Copeland ("Anti-Kickback") Act (18 U.S.C. 874 and 40 U.S.C. 276c) makes it unlawful to induce, by force or otherwise, any person employed in the construction or repair of public buildings or public works (including those financed in whole or in part by loans or grants from the United States) to give up any part of the compensation to which he is entitled under his contract of employment. In accordance with regulations of the Secretary of Labor issued pursuant to the Copeland Act, certain contracts entered into by any Department shall contain a provision to the effect that the contractor and any subcontractor shall comply with the regulations of the Secretary of Labor under the Act.

(c) *Work Hours Act of 1962* (see Subpart 18–12.3).

(d) *Department of Labor Regulations.* Pursuant to the foregoing statutes and Reorganization Plan No. 14 of 1950 (15 F.R. 3176), the Secretary of Labor has issued Regulations Title 29, Subtitle A, Code of Federal Regulations (29 F.R. 95–104, as amended), providing for the administration and enforcement of these statutes in construction contracts. The requirements under the Davis-Bacon Act and the Copeland Act apply only to the United States, while the Work Hours Act of 1962 applies also to other areas over which the United States has direct legislative control.

§ 18–12.401–1 Definitions.

For purposes of the acts cited in § 18–12.401, the following definitions apply.

(a) The terms "building" and "work" refer to construction activity, including, without limitation, buildings, structures, and improvements of all types, such as bridges, dams, plants, highways, streets, tunnels, sewers, mains, power lines, pumping stations, railways, airports, terminals, docks, piers, levees, canals, dredging, shoring, rehabilitation and reactivation of plants, scaffolding, drilling, blasting, excavating, clearing, and landscaping.

(b) The terms "public building" or "public work" include building or work of which the construction, alteration, or repair is carried on directly by authority of or with funds of a Federal agency to serve the interest of the general public, regardless of whether title thereto is in the United States.

(c) The terms "construction," "alteration," or "repair" include all types of work done on a particular building or work at the site thereof, including without limitation, altering, remodeling, painting, and decorating; transporting materials and supplies to or from the building or work by the employees of the construction contractor, or construction subcontractor; and manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the building or work by persons employed by the contractor or subcontractor. Demolition of existing structures not related to new construction is not included.

(d) A construction contract for purposes of this Subpart 18–12.4 is in excess of $2,000 if the contract is in an actual amount (not merely an estimated amount) in excess of $2,000. A contract initially $2,000 or less which is later increased over that amount by supplemental agreement or change order is in excess of $2,000 from the effective date of such a change in the contract amount, and the requirements of the Davis-Bacon Act, if otherwise applicable, are applicable to that part of the contract which has not been performed on such date.

§ 18–12.402 Applicability.

The statutory requirements referred to in § 18–12.401 apply to construction contracts. They do not apply to the following kinds of contracts:

(a) Contracts for supplies (including installations or maintenance work which is only incidental to the furnishing of such supplies); however, the requirement does apply—

(1) Where installation involves a substantial amount of construction at the site, such as for heavy generators and large refrigerators;

(2) To the transportation of supplies to or from the site of the work by employees of the construction contractor or of a construction subcontractor; and

(3) To the manufacturing or furnishing of supplies, such as window frames and other millwork, on the site of the work by the contractor or subcontractor on a construction, alteration, or repair contract otherwise subject to the Act, and to the manufacturing or furnishing of supplies under a contract based upon the specifications, and at the site of the work of a construction, alteration, or repair contract otherwise subject to the Act;

(b) Contracts for servicing or maintenance work (including installation or movement of machinery or other equipment and incidental plant rearrangement) which involve only an incidental amount of construction, alteration, or repair; however, the requirement does apply to—

(1) Installation, movement, or rearrangement of machinery or other equipment involving a substantial amount of construction or repair; and

(2) Servicing or maintenance work based upon the specifications of a construction contract otherwise subject to the Act and which is performed at the site of the construction work involved;

(c) Contracts for the construction or repair of vessels, aircraft, or other kinds of personal property;

(d) Contracts to be performed at a place not known or not reasonably ascertainable at the time the contract is entered into.

§ 18–12.403 Contract clauses.

§ 18–12.403–1 Clauses for general use.

Except as provided in § 18–12.403–4, every construction contract in excess of $2,000 for work within the United States shall include the following clauses:

(a) *Davis-Bacon Act (40 U.S.C. 276a–a(7)).*

DAVIS-BACON ACT (40 U.S.C. 276a–a(7)) (NOVEMBER 1964)

(a) All mechanics and laborers employed or working directly upon the site of the work shall be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Copeland Regulations (29 CFR Part 3)), the full amounts due at time of payment computed at wage rates not less than those contained in the wage determination decision of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor or subcontractor and such laborers and mechanics. A copy of such wage determination decision shall be kept posted by the Contractor at the site of the work in a prominent place where it can be easily seen by the workers.

(b) The Contracting Officer shall require that any class of laborers or mechanics which is not listed in the wage determination decision and which is to be employed under the contract shall be classified or reclassified conformably to the wage determination decision, and shall report the action taken to the Secretary of Labor. If the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers or mechanics to be used, the Contracting Officer shall submit the question, together with his recommendation, to the Secretary of Labor for final determination.

(c) In the event it is found by the Contracting Officer that any laborer or mechanic employed by the Contractor or any subcontractor directly on the site of the work covered by this contract has been or is being paid at a rate of wages less than the rate of wages required by paragraph (a) of this clause, the Contracting Officer may (1) by written notice to the Government Prime Contractor terminate his right to proceed with the work, or such part of the work as to which there has been a failure to pay said required wages, and (2) prosecute the work to completion by contract or otherwise, whereupon such Contractor and his sureties shall be liable to the Government for any excess costs occasioned the Government thereby.

(d) Paragraphs (a), (b), and (c) of the clause shall apply to this contract to the extent that it is (1) a prime contract with the Government subject to the Davis-Bacon Act or (2) a subcontract also subject to the Davis-Bacon Act under such prime contract.

(b) *Contract Work Hours Standards Act—overtime compensation.*

CONTRACT WORK HOURS STANDARDS ACT—OVERTIME COMPENSATION (40 U.S.C. 327–330) (NOVEMBER 1964)

(a) The Contractor shall not require or permit any laborer or mechanic in any workweek in which he is employed on any work under this contract to work in excess of 8 hours in any calendar days or in excess of 40 hours in such workweek on work subject to the provisions of the Contract Work Hours Standards Act unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all such hours worked in excess of 8 hours in any calendar day or in excess of 40 hours in such workweek, whichever is the greater number of overtime hours.

(b) In the event of any violation of the provisions of paragraph (a), the Contractor shall be liable to any affected employee for any amounts due, and to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions of paragraph (a) in the sum of $10 for each calendar day which such employee was required or permitted to be employed on such work in excess of 8 hours or in excess of the standard workweek of 40 hours without payment of the overtime wages required by paragraph (a).

(c) *Apprentices.*

APPRENTICES (NOVEMBER 1964)

(a) Apprentices will be permitted to work as such only when they are registered, individually under a bona fide apprenticeship program registered with a State apprenticeship agency which is recognized by the Bureau of Apprenticeship and Training, U.S. Department of Labor; or if no such recognized agency exists in a State, under a program registered with the aforesaid Bureau of Apprenticeship and Training. The allowable ration of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not registered as above, shall be paid the wage rate determined by the Secretary of Labor for the classification of work he actually performed.

(b) The Contractor shall furnish written evidence of the registration of his program and apprentices as well as of the appropriate ratio and wage rates, prior to using any apprentices in the contract work.

(d) *Payrolls and payroll records.*

PAYROLLS AND PAYROLL RECORDS (NOVEMBER 1964)

(a) The Contractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name and address of each such employee, his correct classification, rate of pay, daily and weekly number of hours worked, deductions made and actual wages paid.

(b) The Contractor shall submit weekly a copy of all payrolls to the Contracting Officer. The Government Prime Contractor shall be responsible for the submission of copies of payrolls of all subcontractors. The copy shall be accompanied by a statement signed by the Contractor indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the Secretary of Labor, and that the classifications set forth for each laborer or mechanic conform with the work he performed. Submission of the "Weekly Statement of Compliance" required under this contract and the Copeland Regulations of the Secretary of Labor (29 CFR, Part 3) shall satisfy the requirement for submission of the above statement.

(c) The Contractor shall make his employment records available for inspection by authorized representatives of the Contracting Officer and the Department of Labor, and shall permit such representatives to interview employees during working hours on the job.

(e) *Compliance with Copeland Regulations.*

COMPLIANCE WITH COPELAND REGULATIONS (NOVEMBER 1964)

The Contractor shall comply with the Copeland Regulations of the Secretary of Labor (29 CFR, Part 3) which are incorporated herein by reference.

(f) *Withholding of funds.*

WITHHOLDING OF FUNDS (NOVEMBER 1964)

(a) The Contracting Officer may withhold or cause to be withheld from the Government Prime Contractor so much of the accrued payments or advances as may be considered necessary (1) to pay laborers and mechanics employed by the Contractor or any subcontractor on the work the full amount of wages required by the contract, and (2) to satisfy any liability of any Contractor for liquidated damages under paragraph (b) of the clause entitled "Contract Work Hours Standards Act—Overtime Compensation."

(b) If any Contractor fails to pay any laborer or mechanic employed or working on the site of the work, all or part of the wages required by the contract, the Contracting Officer may, after written notice to the Government Prime Contractor, take such action as may be necessary to cause suspension of any further payments or advances until such violations have ceased.

(g) *Subcontracts.*

SUBCONTRACTS (NOVEMBER 1964)

The Contractor agrees to insert the clauses hereof entitled "Davis-Bacon Act," "Contract Work Hours Standards Act—Overtime Compensation," "Apprentices," "Payrolls and Payroll Records," "Compliance with Copeland Regulations," "Withholding of Funds," "Subcontracts," and "Contract Termination—Debarment" in all subcontracts. The term "Contractor" as used in such clauses in any subcontract shall be deemed to refer to the subcontractor except in the phrase "Government Prime Contractor."

(h) *Contract termination—debarment.*

CONTRACT TERMINATION—DEBARMENT (NOVEMBER 1964)

A breach of the clauses hereof entitled "Davis-Bacon Act," "Contract Work Hours Standards Act—Overtime Compensation," "Apprentices," "Payrolls and Payroll Records," "Compliance with Copeland Regulations," "Withholding of Funds," and "Subcontracts" may be grounds for termination of the contract, and for debarment as provided in 29 CFR 5.6.

When Standard Form 19A (June 1964 Edition) is used, the clauses entitled, "Withholding of Funds," "Subcontracts," and "Contract Termination—Debarment" therein shall be used in lieu of the clauses in paragraphs (f), (g) and (h) of this section.

§ 18–12.403–3 Overseas contracts.

Every construction contract in excess of $2,000 for work outside the United States but within the jurisdiction of the United States as stated in § 18–12.302–2(c) shall include the following clauses:

(a) The Contract Work Hours Standards Act—Overtime Compensation clause set forth in § 12.403–1(b);

(b) *Subcontracts.*

SUBCONTRACTS (NOVEMBER 1964)

The Contractor agrees to insert this "Subcontracts" clause and the "Contract Work Hours Standards Act—Overtime Compensation" and "Contract Termination—Debarment" clauses of this contract in all subcontracts. When Standard Form 19–A is used, the "Subcontracts" clause therein shall be used in lieu of the above clause.

(c) *Contract termination—debarment.*

CONTRACT TERMINATION—DEBARMENT (NOVEMBER 1964)

A breach of the "Contract Work Hours Standards Act—Overtime Compensation" and the "Subcontracts" clauses of this contract may be grounds for termination of the contract, and for debarment as provided in 29 CFR 5.6.

§ 18–12.403–4 Contracts with a State or political subdivision.

In the case of construction contracts in excess of $2,000 with a State or political subdivision thereof, the contract clauses required by § 18–12.403–1 shall be inserted and each clause shall be prefaced by the following provision:

The Contractor agrees to insert the following in all subcontracts hereunder with private persons or firms. (September 1963)

§ 18–12.403–5 Contracts for work at the Mississippi Test Facility (MTF) Area.

(a) *Project Stabilization Agreement for NASA-Mississippi Test Facility.*

(1) A Project Stabilization Agreement applicable to the NASA-Mississippi Test Facility has been negotiated by the Contractors' Associations and other local and national associations of contractors, the Gulf Coast Mississippi Building and Construction Trades Council, and the Building and Construction Trades Department, AFL–CIO.

(2) The Agreement, effective July 1, 1963, contains, among other factors, certain money provisions (i.e., rates and amounts for wages and other compensation, including but not limited to fringe benefits, overtime and shift premiums, and holiday and travel pay) which have been agreed upon for the period of the Project Stabilization Agreement.

(b) *Administrator's determination.* On September 26, 1963, pursuant to the authority of Public Law 85–804 (50 U.S.C. 1431–35) the Administrator, NASA, determined for the performance of construction work at Mississippi Test Facility, that in order to facilitate the national defense it is necessary to include in all contracts, and amendments and

modifications thereof a clause requiring all contractors and all subcontractors to abide by the money provisions of the Project Stabilization Agreement. This determination will remain in effect until June 30, 1966, unless sooner terminated or extended by the Administrator.

(c) *Requirements for use of clause.* All applicable invitations for bids, requests for proposals, and contracts and modifications thereto issued by or on behalf of NASA shall include the following clause:

EMPLOYEE COMPENSATION FOR NASA-MISSISSIPPI TEST FACILITY (NOVEMBER 1964)

(a) The Contractor shall pay to laborers and mechanics wages and other compensation, including but not limited to fringe benefits, overtime premiums, shift premiums, holiday pay, and travel pay, at the rate and in the amounts set forth in the attached Table of Employee Compensation, except as provided in paragraph (f) hereof. The obligation of the Contractor to pay fringe benefits shall be discharged by making payments to a fund or funds established for the purpose of providing one or more fringe benefits; or by paying their monetary equivalent directly to the laborers and mechanics not covered by such established funds to whom such benefits are applicable; or by a combination of the foregoing.

(b) Amounts for wages, and other compensation of the kinds described in paragraph (a) above, which are in excess of the higher of the rates and amounts required by this contract and reflected in the attached wage determination decision of the Secretary of Labor or the attached Table of Employee Compensation, will not be recognized in any contract negotiations or pricing actions under a fixed-price type contract, and will not be recognized as an allowable cost under any cost-reimbursement type contract.

(c) This clause applies to all work under this contract (including subcontracts), to which the Davis-Bacon Act is applicable, performed at the NASA Mississippi Test Facility in Hancock and Pearl River Counties, Miss., and St. Tammany Parish, La.

(d) (1) In the event of failure to pay any laborer or mechanic the compensation required by this clause, the Contracting Officer may suspend any payments to the Contractor, in whole or in part, until such violation has ceased. Furthermore, this contract may be terminated for default for breach of any requirement under this clause.

(2) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

(e) The Contractor agrees to insert the substance of this clause, including this paragraph (e), in any subcontract for the performance of any work described in paragraph (c) hereof.

(f) The requirements of this clause are in addition to, and shall not relieve the Contractor of, any obligation imposed by any other clauses of this contract, including those entitled "Davis-Bacon Act," "Contract Work Hours Standards Act—Overtime Compensation," "Apprentices," "Payrolls and Payroll Records," "Compliance With Copeland Regulations," "Withholding of Funds," "Subcontracts," and "Contract Termination—Debarment."

(g) The Contractor agrees to maintain payroll and personnel records during the course of work subject to this clause, and to preserve such records for a period of three years thereafter, for all laborers and mechanics performing such work. Such records will contain the name and address of each such employee, his correct classification, rate of pay, daily and weekly number of hours worked, and the dates and hours of the day within which such work was performed, deductions made and amounts for wages and other compensation of the kinds described in paragraph (a) hereof. Wages and other compensation, including fringe benefits, paid into any established fund or paid directly to workmen and all deductions made pursuant to this clause or applicable provisions of law shall be reflected in weekly payroll statements submitted by the Contractor pursuant to the clause of this contract entitled "Payrolls and Payroll Records." The Contractor agrees to make these records available for inspection by the Contracting Officer and will permit him to interview employees during working hours on the job.

A current Table of Employee Compensation shall also be included in contracts utilizing this clause. (The "Schedule of Wages and Fringe Benefits" of the "Table of Employee Compensation" is maintained on a current basis by the Corps of Engineers' Office of the District Engineer, Mobile, Ala., as agent for NASA.) Because use of this clause is based on a determination made pursuant to Public Law 85–804, the contracting officer shall cite such statute in an appropriate place in the contract and shall assure compliance with the requirements of § 18–17.108 with respect to all contracts which include this clause.

§ 18–12.404 Administration and enforcement.

§ 18–12.404–1 General.

(a) *Preconstruction conference or letter.* The contracting officer administering the contract shall ascertain that the contractor is fully aware of and understands an employer's responsibilities imposed by the contract labor standards provisions by conducting a preconstruction conference or, as an alternate method, by submitting a preconstruction letter to the contractor. When a preconstruction conference is held, a memorandum containing a summary of the information and guidance given to the contractor shall be placed in the contract file.

(b) *Examination of records.* The contracting officer administering the contract shall initiate such examinations into the records and activities of the contractor and his subcontractor(s) as are necessary to ensure full compliance with the applicable labor statutes and labor standards provisions in this Subpart 18–12.4.

§ 18–12.404–2 Wage determinations.

(a) *General.* The wage determination, issued by the Department of Labor pursuant to the Davis-Bacon Act, is a schedule of the minimum hourly rates of wages to be paid laborers and mechanics employed by the contractor and his subcontractors performing work called for by the contract. It normally includes all the classifications of laborers and mechanics expected to be employed on the work. There are three types of determination: area determinations, limited area determinations, and individual determinations.

(1) *Area (54A) determinations.* Area (54A) Determinations provide wage rates for all kinds of construction contracts which may be awarded at an installation or within a given geographical area (usually a county) during the 120-day life of the determination. This type of determination is issued only for installations where continuing construction activity is anticipated. Area determinations must be renewed on a continuous basis by submission of Department of Labor Form DB–11, "Request for Determination," to the Department of Labor approximately 30 days prior to the expiration of each current area determination (see paragraph (c) (2) of this section).

(2) *Limited area (54A) determinations.* In some States, the Department of Labor does not include in the area type determination wage rates applicable to heavy or highway construction. In these States, the wage rates issued are for all classifications for either "Building Construction" only, or "Building, Utilities, and Incidental Paving." This type of determination is known as a limited area determination; where the Department of Labor issues this type of determination, the requesting office must submit requests for individual determinations for heavy and highway construction projects as described in subparagraph (3) of this paragraph. This type of determination is applicable in the following States:

Alabama.	Nebraska.
Arkansas.	New Mexico.
Florida.	North Carolina.
Georgia.	North Dakota.
Iowa.	Oklahoma.
Kansas.	South Carolina.
Louisiana.	South Dakota.
Maryland.	Texas.
Mississippi.	Virginia.
Maine.	

(3) *Individual determinations.* Individual determinations are provided by the Department of Labor for a single contract. Such a determination must be obtained for each contract subject to the Davis-Bacon Act unless an Area (54A) Determination is applicable. The classifications of laborers and mechanics in individual wage determinations are limited to those classes employed in the type of work required by the contract, as indicated in the request.

(b) *Limitations.* Wage determinations initially issued shall be effective for 120 calendar days from the date of such determinations. If such a wage determination is not used in the period of its effectiveness, it is void. If it appears that a wage determination may expire between bid opening and award, a new wage determination should be requested sufficiently in advance of the bid opening to assure receipt prior thereto. However, when due to unavoidable circumstances a determination expires before award and after bid opening, the Solicitor of Labor, upon a written finding to that effect by the Administrator or his representative in individual cases, may extend the expiration date of a determination whenever he finds it necessary and proper in the public interest to prevent injustice or undue hardship or to avoid serious impairment in the conduct of Government business. Whenever it is considered necessary to extend the expiration date of a wage determination, a proposed finding shall be prepared for the signature of the Director of Procurement and sent with supporting documentation to NASA Headquarters (Code KDP).

(c) *Processing requests.*—(1) *Responsibility for obtaining determinations.* The Office of Procurement is responsible for obtaining from the Secretary of Labor and for furnishing to the particular installation concerned all determinations of prevailing wage rates under the Davis-Bacon Act required in the awarding of construction contracts of NASA.

(2) *Preparation of requests.* For those installations covered by area determinations, requests for wage rates on Department of Labor Form DB–11 will be prepared by the Office of Procurement and submitted to the Department of Labor thus providing, in effect, continuous wage rate coverage. Requests for individual wage determinations will be submitted by the installation concerned on Department of Labor Form DB–11 (in original and two copies) to the Office of Procurement (Code KDP) at least 30 calendar days before required for the advertisement or negotiation of the contract for which the determination is sought. In preparing the request, only the original copy of the Department of Labor Form DB–11 will be typed with a reversed carbon which will make an impression on the back of the form. The original will be submitted to the Department of Labor by NASA Headquarters. For area determinations, the description of the work will be: Area (54A) Determination—Building, Heavy and Highway Construction. Do not check any classifications as all classifications are contained in the area type determinations. In those States where the Department of Labor issues a limited 54A Area Determination, the description will be: Area (54A) Determination—For Building Construction Only or Building, Utilities, and Incidental Paving. In these cases, a Department of Labor Form DB–11 must be submitted on an individual basis for determinations for Heavy and Highway Construction Projects, with the work to be accomplished in detail. For individual determinations, the description of the work shall be sufficiently detailed to enable the Department of Labor to determine that the work is one of the three categories; namely, Building, Heavy or Highway Construction. In the block entitled "Location," the name of the municipality nearest to the site of the work will be inserted. The State and County in which the work is to take place will be inserted in the spaces provided. Classifications of laborers and mechanics needed to perform the work will be checked by typed X. Needed classifications which are generally used in the area but which do not appear on the Department of Labor Form DB–11 will be typed in the blank spaces. The Apprentice Schedule is to be left blank as the Department of Labor will furnish these rates.

(d) *Use of wage rate determinations.* (1) The specifications of every contract subject to the Davis-Bacon Act shall include a copy of a current wage rate determination. If the wage rate determination is not available when invitations for bids are issued, the specifications shall contain a statement that wage rates will be supplied by addenda to the specifications. Contracting officers shall not open bids on procurements subject to the Davis-Bacon Act until the requested determination of wage rates has been incorporated in the specifications.

(2) Wage rates properly included in the contract at the time of award are applicable to the contract for its duration except as specified in subparagraph (ii) of this paragraph. These same rates may be used for additional or new work not included in the specifications if an area determination was used in the invitations for bids or requests for proposals and that determination is still in effect at the time of change. If the area determination has expired or if an individual determination was used, a new wage determination must be used for such new or additional work unless it is clear that the new or additional work is so much a part of the work originally contracted for that it is reasonably impossible of performance by other than the original contractor. (An apparent probability that the new work may be done more conveniently or even at less expense by the original contractor does not in itself justify use of the original determination for such work. The original determination should be used for new work only if the new work does not reflect a change or modification which materially alters the scope or character of the original contract requirements and is so closely related to the original work, both in nature and in timing, that it cannot reasonably be regarded as a separate and distinct undertaking.)

(i) *Fixed-price contracts (formally advertised or negotiated).* Once a contract is awarded, the wage rates contained in the specifications are the minimum rates that can be paid by the contractor or his subcontractors during the life of the contract.

(ii) *Cost-reimbursement type, time and material, and labor-hour contracts and subcontracts.* The wage rates established for and included in cost-reimbursement type prime or subcontracts (including time and material contracts and labor-hour contracts), according to the Davis-Bacon Act, are the minimum rates that can be paid during the life of the contract. Reimbursement to contractors and subcontractors holding the foregoing types of contracts for wages paid to laborers and mechanics are based on this wage schedule; all applications of prime and subcontractors to use higher wage rates requires specific approval by the contracting officer. The contracting officer's approval shall be based upon substantiating data in support of the contractor's request, such as: proposed wage rates were established as a result of bona fide collective bargaining in which the contractor participated or to which he adheres as a general practice or as a result of membership in contractors' organizations; proposed wage rates have approval of any existing wage-stabilizing body established pursuant to Federal law; or payment of wages at higher rates is required to man the job. Subcontracts awarded pursuant to a cost-reimbursement type, time and material, or labor-hour contract shall include wage rates prevailing at the time of the subcontract award, except where the subcontracted work is included in the specifications of the prime contract and is a part of the particular work for which the wage rate determination attached to the prime contract was obtained.

(e) *Modification and superseding determinations.* During the 120-day life of a determination, the Department of Labor may issue a modification thereto, changing the wage rate for one or more classifications or adding or deleting a classification; or the Department of Labor may issue a new determination which entirely supersedes the original determination for the duration of the 120-day period. The word "modification" as used in this § 18–12.404 includes new or superseding wage determinations. Modifications do not change the expiration date of the original determination. Modifications by the Secretary of Labor of an original wage determination shall be made part of the proposed contract if received prior to the award of the contract: *Provided*, That, in a formally advertised procurement, any modification received less than 10 calendar days before the opening of bids may be disregarded.

(f) *Posting.* The contracting officer shall ascertain that a copy of the wage determination is kept posted at the site of the work in a prominent place where it can be easily seen by the workers.

§ 18–12.404–3 Additional classifications.

If any laborers or mechanics not listed in the wage determination attached to the contract are to be employed, their classifications and minimum wage rates shall be established by the contractor or subcontractor, with the approval of the contracting officer, conformably to the attached wage determination. A report of any such determination shall be transmitted to the Secretary of Labor. If the interested parties cannot agree upon any such additional classification and wage rate, the matter accompanied by the recommendation of the contracting officer shall be referred via the Director of Procurement to the Secretary of Labor for final determination.

§ 18–12.404–4 Apprentices.

(a) In accordance with Section 5.5(a)(4) of the Department of Labor Regulations (29 CFR Part 5) as implemented by Memorandum No. 59, issued on June 24, 1964, from the Office of the Solicitor, the Labor Department will no longer list apprentice rates on wage determinations under the Davis-Bacon Act and related acts. Future determinations will contain the following notation:

Before using apprentices on the job, the contractor shall present to the Contracting Officer written evidence of registration of such employees in a program of a State apprenticeship and training agency approved and recognized by the U.S. Bureau of Apprenticeship and Training. In the absence of such a State agency, the contractor shall submit evidence of approval and registration by the U.S. Bureau of Apprenticeship and Training.

The contractor shall submit to the Contracting Officer written evidence of the established apprentice-journeyman ratios and wage rates in the project area, which will be the basis for establishing such ratios and rates for the project under the applicable contract provisions. (November 1964.)

(b) Any employee of a contractor listed on a payroll at an apprentice wage rate, who is not registered as an apprentice and within an established apprentice-journeyman ratio, as provided in (a) of this section, shall be paid the wage rate determined by the Secretary of Labor for the classification of work he actually performed.

§ 18–12.404–5 Subcontracts.

The contracting officer shall obtain a list of all subcontracts, together with a description of the work to be performed thereunder, and such list shall be kept current during the performance of the contract.

§ 18–12.404–6 Payrolls and statements.

(a) *Submission.* Within 7 calendar days after the regular payment date of the payroll week covered, the prime contractor will submit and cause all his subcontractors to submit through him to the contracting officer, copies of certified weekly payrolls showing all laborers and mechanics engaged on the contract at the site of the work, including the name and address of each employee, his correct classification, daily and weekly number of hours worked, rate of pay, deductions made, and actual wages paid. Each payroll shall contain or be accompanied by a statement of the contractor (or subcontractor) that he has complied with the labor standards provisions of the contract. The receipt of these payrolls and statements is a condition precedent to final payment under the contract. Contracting officers should encourage contractors to make use of optional payroll Forms SOL–184 and 185, developed by the Department of Labor for voluntary use on Federal construction contracts subject to the Davis-Bacon Act and related Acts.

(b) *Payroll deductions.* (1) No payroll deductions are authorized except as follows:

(i) Where required by Federal, State, or local statute or ordinance to be made by the employer from the wages earned by the employee;

(ii) Bona fide prepayment of wages without discount or interest;

(iii) Deductions required by court process: *Provided*, That the contractor or subcontractor will not be permitted to make such a deduction in favor of the contractor, subcontractor, or any affiliated person, or where collusion or collaboration exists; and

(iv) As permitted by subparagraphs (2), (3), and (4) of this paragraph.

(2) Deductions which meet the standards set forth in subparagraphs (i) through (iv) of this paragraph are permissible provided the contractor or subcontractor has made written application by registered mail to the Secretary of Labor (copies must be furnished the contracting officer) indicating that:

(i) The deduction is not prohibited by law;

(ii) The employee has consented voluntarily to the deduction in writing, prior to the payroll period, and the consent is neither a condition for obtaining employment nor for continuation of employment or that the deduction is provided for in a bona fide collective bargaining agreement and is for the benefit of the employee or the labor organization which represents the employee;

(iii) No profit, benefit, or payment is obtained directly or indirectly by the contractor, subcontractor, or any affiliated person from the deduction and that no portion of the funds, whether in the form of a commission or otherwise, will be returned to the contractor, subcontractor, or any affiliated person; and

(iv) The deduction is for the convenience and in the interests of the employee and that the deductions are customary in this or comparable situations. However, if the Secretary of Labor decides on his own motion or on the motion of an affected person or agency that the deduction does not meet these standards, he will give written notice to the contractor or subcontractor and request additional supporting evidence for the deduction. If, on the basis of such additional evidence, the deduction still does not meet these standards, the deduction will cease to be permissible 7 days after the contractor or subcontractor and NASA have been notified of the Secretary's decision.

(3) Upon application to and receipt of written permission from the Secretary of Labor and subject to the standards set forth in subparagraph (2) (i), (ii), and (iii) of this paragraph, deductions may be made by a contractor or subcontractor or any affiliated person for membership fees in group benefit or retirement associations, for board and lodging, or for other purposes where the Secretary of Labor concludes the deduction is required by compelling circumstances: *Provided, however*, That the contractor, subcontractor, or any affiliated person does not make a profit or benefit directly or indirectly from the deduction. A copy of the Secretary's decision will be sent to the applicant and NASA.

(4) According to and subject to the standards set forth in subparagraph (2) of this paragraph, general permission is hereby granted to make payroll deductions for:

(i) The payment of the purchase price of U.S. Savings Stamps and Bonds and U.S. Tax Savings Notes;

(ii) The repayment of loans to or the purchase of shares in credit unions organized and operated according to District of Columbia, Federal, or State credit union statutes;

(iii) Contributions to a Federal Government or quasi-governmental agency;

(iv) The payment of dues or premiums to unaffiliated insurance companies or associations for medical or hospitalization insurance where the employer is not required by Federal, State, or local laws to supply such insurance or benefits;

(v) Contribution to bona fide charities, such as the Red Cross or United Givers Fund; and

(vi) Regular union initiation fees and membership dues where a collective bargaining agreement provides for such deductions. This does not include work permits or special assignments.

(5) When the employee does not have full and actual freedom of disposition of his wage payment, whether made in cash or by check, any restricted payment made to the employee is considered a deduction under this Subpart.

(6) Nothing herein will be construed to permit any deduction which the contractor or subcontractor knew or, in exercise of good faith, should have known did not meet the standards in subparagraph (2) (i) through (iv) of this paragraph. The Secretary of Labor may notify the contractor or subcontractor that a deduction will be permitted only if certain conditions with respect thereto are observed. The contractor or subcontractor or any affiliated persons will comply with such general rules and regulations concerning the deductions as the Secretary of Labor will make from time to time, notice of which will have been given to the contractor or subcontractor or any affiliated person making the deduction and to NASA either directly or through publication in the FEDERAL REGISTER.

(c) *Preservation.* Certified payrolls and statements shall be preserved by the installation concerned for a period of 3 years from completion of the contract and shall be produced at the request of the Secretary of Labor at any time during such period.

§ 18–12.404–7 Investigations.

(a) Investigations necessary to assure compliance with contract, statutory, and regulatory requirements shall be made. If feasible, contracts of 6 months or less duration shall be investigated before final payment is made. Contracts of longer duration shall be investigated as frequently as may be necessary. Such investigations shall include interviews of employees on a sampling basis.

(b) Special investigations in detail shall be made when required by complaints or other evidence of violations. Complaints of violations shall be given priority.

(c) Statements, written or oral, made by an employee shall be treated as confidential and shall not be disclosed to the employer without the consent of the employee.

§ 18–12.404–8 Enforcement reports.

(a) Where underpayments total $500 or more, or are willful, the contracting officer concerned shall furnish to the Department of Labor, through the NASA Labor Relations Office (Code KL), as soon as practicable, a detailed enforcement report. Such reports shall include a statement of the findings as to the violations and information as to restitution made, payment deductions, contract terminations, and the names and addresses of the workers, contractors and subcontractors concerned. (For willful violations of a criminal statute, see § 18–12.404–8(c).)

(b) Where underpayments total less than $500 and are nonwillful, and where restitution has been effected and future compliance assured, no report need be furnished the Department of Labor, unless the Department of Labor has expressly requested that the investigation be made. In the latter case, the contracting officer shall submit through the NASA Labor Relations Office (Code KL), a factual summary report in accordance with 29 CFR 5.7(a)(1).

(c) Where there is substantial evidence that violations are willful and in breach of the False Affidavits Act (18 U.S.C. 1001) or other criminal statute, the matter shall be forwarded to the Attorney General for prosecution, and the Secretary of Labor shall be informed of such action.

(d) (1) The Department of Labor Regulation (29 CFR 5) as implemented by Memorandum No. 60, issued on June 25, 1964, by the Solicitor of Labor, requires that semiannual enforcement reports on compliance with and enforcement of the labor standards provisions of the Davis-Bacon Act and related acts be submitted covering the periods of January 1 through June 30 and July 1 through December 31, respectively. These reports shall cover contracts awarded directly by NASA and shall be submitted, in duplicate, by January 10 and July 10 of each year to the Office of Procurement, Code KDM, for consolidation and submission to the Department of Labor. The first report is due in the Office of Procurement by January 10, 1965, covering the period July 1 through December 31, 1964. Negative reports are required.

(2) The reports shall be prepared in accordance with the following format:

SEMIANNUAL LABOR COMPLIANCE REPORT TO THE DEPARTMENT OF LABOR PURSUANT TO SECTION 5.7(B) OF REGULATIONS, PART 5

Date_____

This report covers period from_____ to_____, 19__.

I. a. Number of contracts awarded subject to labor standards statutes _____ (Include contracts awarded during the period, all or part of which were subject to the coverage of any of the statutes listed in 29 CFR 5.1, except for contracts awarded for NASA by other Government agencies; e.g., the Corps of Engineers).

b. Number of contracts on which preconstruction letters were sent _____.

c. Number of contracts on which preconstruction conferences were held _____.

d. Number of contracts on which letters of notice were sent to contractors emphasizing importance of future compliance _____.

II. a. Total gross payroll amount $_____. (Total gross payroll amount is the sum of all gross payments made to laborers and mechanics during the reporting period. Contractor's Weekly Payroll Statement forms used by most agencies require that the gross payroll amount be shown on the Payroll Statement. This item requires merely the totalling of those gross amounts.)

b. Number of employee interviews conducted _____: 1. Written, _____; 2. Oral, _____. (Written interviews, which can be facilitated by use of employee interview forms, should be supported by interview statements on file.)

c. Amount of wage restitution made under Davis-Bacon and related acts $_____; under Contract Work Hours Standards Act $_____. ("Davis-Bacon and related acts" refers to all prevailing wage statutes listed in 29 CFR 5.1, whereas the Contract Work Hours Standards Act has reference to daily and weekly overtime).

d. Total number of workers who received restitution payments _____.

e. Amount of liquidated damages assessed for violations of Contract Work Hours Standards Act $_____.

f. Number of complaints received alleging violations of the contract labor standards requirements _____. (This item refers to complaints and inquiries from all sources, including employees, unions, the agency's Washington headquarters, the Department of Labor, or members of Congress).

III. a. Number of visits to field officers by the contracting agency's Washington headquarters personnel to review labor standards compliance program _____.

b. Number of visits to contract sites by Division, District, or Regional Offices of agency to review labor standards compliance program _____. ("Visit" as referred to in Items III. a. and b. above means a visit to an activity by one or more persons for an in-depth review of labor standards compliance procedures).

IV. Remarks:

(Signed) _____
(Name)
_____
(Title)
_____
(Installation)

§ 18–12.404–9 Suspensions and deductions of contract payments.

In the event of failure or refusal to pay all or any part of the wages due workers, the contracting officer may suspend further contract payments to the contractor in amounts equal to such unpaid wages and liquidated damages which may be due until either restitution has been made directly by the contractor or subcontractor concerned or deductions against payment vouchers are made as provided in this § 18–12.404. If such failure or refusal appears continuing or willful, or in the event of any other failure and refusal to comply with contract, statutory, and regulatory requirements, the contracting officer may suspend all future contract payments to the contractor until such violations have ceased. If restitution is not made directly by the contractor or subcontractor within a reasonable time or, in any event, prior to final payment under the contract, the contracting officer shall submit with the contractor's payment voucher or vouchers a "Schedule of Withholdings Under the Davis-Bacon Act" (40 U.S.C. 276a) (Standard Form 1093), and a statement of the amount to be withheld as liquidated damages. These amounts shall be deducted from the payments made to the contractor, and the amounts shown to be due the workers shall be deposited in the Treasury.

§ 18–12.404–10 Restitution.

Restitution of amounts due workers may be permitted at any time at the volition of the contractor or subcontractor and may be ordered by NASA whenever wage underpayments are found to be nonwillful.

§ 18–12.404–11 Contract terminations.

Whenever a contract is terminated for violation of the labor standards provisions, a report shall be made by the NASA contracting officer to the Director of Procurement for submission to the Secretary of Labor and the Comptroller General. The report shall include the name and address of the terminated contractor or subcontractor, the name and address of the contractor or subcontractor who is to complete the work, the amount and number of the latter's contract, and a description of the work thereunder.

§ 18–12.404–12 Cooperation with Department of Labor.

NASA will cooperate with representatives of the Department of Labor in the inspection of records, interviews with workers, and all other aspects of investigations undertaken by the Department of Labor. When requested, NASA contracting officers shall furnish to the Secretary of Labor any available information with respect to contractors, subcontractors, their contracts, and the nature of the contract work.

§ 18–12.404–13 Reporting construction contract awards.

The contracting officer shall promptly report all construction contract awards of $25,000 and over subject to the Davis-Bacon Act to the Bureau of the Census, Department of Commerce, on Census Bureau Form 16–19 (Construction Contract Award Notification).

Subpart 18–12.6—Walsh-Healey Public Contracts Act

§ 18–12.601 Statutory requirements.

In accordance with the requirements of the Walsh-Healey Public Contracts Act (Act of June 30, 1936, as amended, 41 U.S.C. 35–45), all contracts subject to said Act entered into by NASA for the manufacture or furnishing of supplies in any amount exceeding $10,000:

(a) Shall be with manufacturers or regular dealers (§§ 18–1.218 and 18–1.228); and

(b) Shall incorporate by reference the representations and stipulations required by said Act pertaining to such matters as minimum wages, maximum hours, child labor, convict labor, and safe and sanitary working conditions.

§ 18–12.602 Applicability.

§ 18–12.602–1 General.

The requirement set forth in § 18–12.601 applies to contracts for the manufacture or furnishing of "materials, supplies, articles, and equipment" which are to be performed within the United States, Puerto Rico, the Virgin Islands, or the District of Columbia, and which exceed or may exceed $10,000 in amount.

§ 18–12.602–2 Department of Labor regulations and interpretations.

Pursuant to the Walsh-Healey Act, the Secretary of Labor has issued detailed regulations and interpretations as to the coverage of the Act, and exemptions and procedures thereunder. These regulations and interpretations are compiled in a document entitled "Walsh-Healey Public Contracts Act, Rulings and Interpretations." In addition to the interpretations stated in the document, attention is directed to an opinion of the Department of Labor that contracts which are originally $10,000 or less, but are subsequently modified to increase the price to an amount in excess of $10,000, are subject to the Walsh-Healey Act; and that contracts in an amount exceeding $10,000, which are subsequently modified to a figure of $10,000 or less, are not subject to the said Act with respect to work performed after such modification if the modification is effected by mutual agreement.

§ 18–12.602–3 Procedure for obtaining exemptions with respect to stipulations required by the act.

Section 6 of the Walsh-Healey Public Contracts Act permits the Secretary of Labor to make exceptions to the requirement that the representations and stipulations of section 1 of the Act be included in proposals or contracts which are subject to the Act. All requests of present or prospective contractors for exceptions under section 6 of the Act will be addressed to the Director of Procurement. Such requests shall be in writing, shall be transmitted through the contracting officer, and shall set forth all pertinent information, including the nature of the requested exception, the need therefor, and any action already taken by the contractor to avoid the necessity for the exception.

§ 18–12.603 Responsibility of contracting officers.

Whenever the Walsh-Healey Public Contracts Act is applicable, the contracting officer, pursuant to regulations or instructions issued by the Secretary of Labor, shall:

(a) Inform prospective contractors of the possible applicability of minimum wage determinations;

(b) Furnish to the contractor a poster (Form PC 13);

(c) Furnish to the contractor a form letter (Form WH 12) explaining application of the Walsh-Healey Public Contracts Act and giving instructions for display of the poster;

(d) Prepare and transmit to the Department of Labor 3 copies of Standard Form 99 (Notice of Award of Contract) immediately upon award of contract; and

(e) Report to the Department of Labor any violations of the representations or stipulations required by the Walsh-Healey Public Contracts Act.

§ 18–12.604 Contract clause.

The contract clause required by this Subpart 18–12.6 is as follows:

WALSH-HEALEY PUBLIC CONTRACTS ACT
(SEPTEMBER 1962)

If this contract is for the manufacture or furnishing of materials, supplies, articles, or equipment in an amount which exceeds or may exceed $10,000 and is otherwise subject to the Walsh-Healey Public Contracts Act, as amended (41 U.S.C. 35–45), there are hereby incorporated by reference all representations and stipulations required by said Act and regulations issued thereunder by the Secretary of Labor, such representations and stipulations being subject to all applicable rulings and interpretations of the Secretary of Labor which are now or may hereafter be in effect.

Subpart 18–12.7—Fair Labor Standards Act of 1938

§ 18–12.701 Basic statute.

The Fair Labor Standards Act of 1938 (Act of June 30, 1938; 29 U.S.C. 201–219), as amended, provides for the establishment of minimum wage and maximum hour standards, creates a Wage and Hour Division in the Department of Labor for purposes of interpretation and enforcement (including investigations and inspections of Government contractors), and prohibits oppressive child labor. The Fair Labor Standards Act applies to all employees, unless otherwise exempted, who are engaged in (a) interstate commerce or foreign commerce, (b) the production of goods for such commerce, or (c) any closely related process or occupation essential to such production.

§ 18–12.703 Rulings on applicability or interpretation.

Contractors or contractor employees who inquire concerning applicability or interpretation of the Fair Labor Standards Act of 1938 shall be advised that rulings concerning such matters fall within the jurisdiction of the Department of Labor and shall be given the address of the appropriate Regional Director of the Wage and Hour and Public Contracts Division of the Department of Labor.

Subpart 18–12.8—Equal Employment Opportunity

§ 18–12.800 Scope of subpart.

This Subpart 18–12.8 sets forth the policies, procedures and clauses for use in contracts and grants to carry out the rules and regulations of the President's Committee on Equal Employment Opportunity. (Nondiscrimination provisions applicable to Government leases are set forth in § 18–1.350.)

§ 18–12.801 Policy.

Executive Order 10925, dated March 6, 1961, as amended by Executive Order 11114, dated June 22, 1963, states that discrimination because of race, creed, color or national origin is contrary to the constitutional principles and policies of the United States, and that it is the plain and positive obligation of the U.S. Government to promote and insure equal opportunity for all qualified persons, without regard to race, creed, color or national origin, employed by, or seeking employment with, Government contractors. To carry out this policy, the President's Committee on Equal Employment Opportunity was created by Executive Order 10925 to provide regulations, guidelines and instruction to Government agencies. The head of each contracting agency was made primarily responsible for obtaining compliance by any contractor or subcontractor with the provisions of the Executive Order and the rules, regulations, and orders of the President's Committee. Although initial emphasis for obtaining compliance should be placed upon methods of conference conciliation, mediation and persuasion, if such measures do not succeed in obtaining the necessary degree of progress, consideration will be given to invoking the appropriate sanctions as set forth in § 18–12.806–8.

§ 18–12.801–1 Definitions.

For the purpose of this Subpart 18–12.8 each of the following terms has the meaning set forth below:

(a) "Committee" means the President's Committee on Equal Employment Opportunity.

(b) "Chairman" means the Chairman of the Committee.

(c) "Vice Chairman" means the Vice Chairman of the Committee.

(d) "Executive Vice Chairman" means the Executive Vice Chairman of the Committee.

(e) "Order" means Executive Order 10925 of March 6, 1961 (26 F.R. 1977), as amended by Parts II and III of Executive Order 11114 of June 22, 1963 (28 F.R. 6485).

(f) "Orders" means those parts of Executive Order 10925 of March 6, 1961, relating to Government contracts and Executive Order 11114 of June 22, 1963.

(g) "Contract" means any Government contract or any federally assisted construction contract.

(h) "Government contract" means any binding legal agreement or modification thereof between the Government and a contractor for supplies or services, including construction, or for the use of Government property, in which the parties, respectively, do not stand in the relationship of employer and employee.

(i) "Federally assisted construction contract" means any binding legal agreement or modification thereof between an applicant and a contractor for construction work which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to any Federal program involving a grant, loan, insurance or guarantee, or undertaken pursuant to any Federal program involving such grant, loan, insurance or guarantee; or any approved application or modification thereof for a grant, loan, insurance or guarantee under which the applicant itself performs construction work other than through the permanent work force directly employed by an agency of Government.

(j) "Modification" means any written alteration in the terms and conditions of a contract accomplished by bilateral action of the parties to the contract, including supplemental agreements and amendments.

(k) "Subcontract" means any agreement made or purchase order executed by a prime contractor where a material part of the supplies or services covered by such agreement or purchase order is

being obtained for use in the performance of a contract.

(l) "Prime contractor" means any person holding a contract.

(m) "Subcontractor" means any person holding a subcontract. "First-tier subcontractor" refers to a subcontractor holding a subcontract with a prime contractor. "Second-tier subcontractor" refers to a subcontractor holding a subcontract with a first-tier subcontractor.

(n) "Agency" means any contracting or any administering agency.

(o) "Contracting agency" means any department (including the Departments of the Army, Navy, and Air Force), agency and establishment in the Executive Branch of the Government, including any wholly owned Government corporation, which enters into contracts.

(p) "Administering agency" means any department (including the Departments of the Army, Navy, and Air Force), agency and establishment in the Executive Branch of the Government, including any wholly owned Government corporation, which administers a program involving federally assisted construction contracts.

(q) "Applicant" means an applicant for Federal assistance or, as determined by regulation of an administering agency, other program participant, with respect to whom an application for any grant, loan, insurance or guarantee, or change therein, is not finally acted upon prior to July 22, 1963, and it includes such an applicant after becoming a recipient of such Federal assistance.

(r) "Equal Opportunity clause" means the contract provisions set forth in § 18–802–1 or § 18–802–2.

(s) "Rules, regulations and relevant orders" of the Committee as used herein mean rules, regulations and relevant orders issued pursuant to the orders and in effect at the time the particular contract subject to the orders was entered into.

(t) "United States" as used herein shall include the Commonwealth of Puerto Rico, the Panama Canal Zone and the possessions of the United States.

(u) "Standard commercial supplies" means an article:

(1) Which in the normal course of business is customarily maintained in stock by the manufacturer or any dealer, distributor, or other commercial dealer for the marketing of such article; or

(2) Which is manufactured and sold by two or more persons for general commercial or industrial use or which is identical in every material respect with an article so manufactured and sold.

(v) "Construction work" means the construction, rehabilitation, alteration, conversion, extension, demolition, or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services.

(w) "Site of construction" means the physical location of any building, highway or other change or improvement to real property which is undergoing construction, rehabilitation, alteration, conversion, extension, demolition, or repair and any temporary location or facility established by a contractor or subcontractor specifically to meet the demands of his contract or subcontract.

(x) The term "contracting officer" includes the official signing a grant, or any modification thereof, for the Government.

(y) "Grantee" is the institution, state, agency, industrial firm, individual or organization receiving a grant from the Federal Government.

(z) "Contracts Equal Employment Opportunity Program (CEEOP)" means the program required by the rules and regulations of the President's Committee on Equal Employment Opportunity involving Government contractors and their subcontractors, as implemented by these regulations for accomplishing the objectives of Executive Order 10925, as amended.

§ 18–12.801–2 References to terms.

(a) All references in this Subpart 18–12.8 to the "Clause" shall be deemed to refer to the Equal Opportunity Clause set forth in § 18–12.802–1, and shall be deemed to include the "Equal Opportunity in Federally Assisted Construction Contracts" clause set forth in § 18–12.802–2, unless not appropriate to the context.

(b) All references in this Subpart 18–12.8 to contracts and subcontracts, or to contractors and subcontractors, shall be deemed to include grants and grantees respectively, when appropriate to the context.

(c) All references to a NASA installation shall be deemed to include any field establishment of NASA having a procurement office, regardless of whether the establishment is designated as a laboratory, center, office, or by any other name; and shall include at NASA Headquarters, the Office of Administration and the Office of University Affairs; and all reference to the Director of a NASA installation shall be deemed to include the head of such field establishment, and at NASA Headquarters, the Assistant Administrator for Administration with reference to the Office of Administration, and the Assistant Administrator for University Affairs for the Office of University Affairs.

§ 18–12.802 Clauses for contracts, grants, or other arrangements.

§ 18–12.802–1 NASA contracts.

Except as otherwise provided in § 18–12.802–3, all NASA contracts, including bilateral modifications thereof, shall include the Equal Opportunity clause set forth below unless exempt under the provisions of § 18–12.803, or exempted pursuant to § 18–12.804.

EQUAL OPPORTUNITY CLAUSE (JULY 1964)

(The following clause is applicable unless this contract is exempt under the rules and regulations of the President's Committee on Equal Employment Opportunity issued pursuant to Executive Order 10925 of March 6, 1961 (26 F.R. 1977), as amended by Executive Order 11114 of June 22, 1963 (28 F.R. 6485).)

During the performance of this contract, the Contractor agrees as follows:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this Equal Opportunity clause.

(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

(c) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the Contractor's commitments under this Equal Opportunity clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Contractor will comply with all provisions of Executive Order 10925 of March 6, 1961, as amended by Executive Order 11114 of June 22, 1963, and of the rules, regulations, and relevant orders of the President's Committee on Equal Employment Opportunity created thereby.

(e) The Contractor will furnish all information and reports required by Executive Order 10925 of March 6, 1961, as amended by Executive Order 11114 of June 22, 1963, and by the rules, regulations, and orders of the said Committee, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Committee for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Contractor's noncompliance with this Equal Opportunity clause or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 10925 of March 6, 1961, as amended by Executive Order 11114 of June 22, 1963, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order or by rule, regulation, or order of the President's Committee on Equal Employment Opportunity, or as otherwise provided by law.

(g) The Contractor will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the President's Committee on Equal Employment Opportunity issued pursuant to section 303 of Executive Order 10925 of March 6, 1961, as amended by Executive Order 11114 of June 22, 1963, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

§ 18–12.802–2 Federally assisted construction under grants and arrangements.

Unless exempt under the provisions of § 18–12.803 or exempted pursuant to § 18–12.804, each NASA grant or arrangement other than a contract, and bilateral modifications thereof, involving a federally assisted construction contract shall include the following "Equal Opportunity in Federally Assisted Construction Contracts" clause:

EQUAL OPPORTUNITY IN FEDERALLY ASSISTED CONSTRUCTION CONTRACTS (AUGUST 1964)

(The following clause is applicable unless this contract is exempt under the rules and regulations of the President's Committee on Equal Employment Opportunity issued pursuant to Executive Order 10925 of March 6, 1961 (26 F.R. 1977), as amended by Executive Order 11114 of June 22, 1963 (28 F.R. 6485).)

(a) As used in this clause, the following terms have the meanings set forth below:

(1) Applicant means an applicant for Federal assistance or, as determined by regulation of an administering agency, other program participant, with respect to whom an application for any grant, loan, insurance or guarantee, or change therein, is not finally acted upon prior to July 22, 1963, and it includes such an applicant after becoming a recipient of such Federal assistance.

(2) Construction work means the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services.

(3) Modification means any written alteration in the terms and conditions of a contract accomplished by bilateral action of the parties to the contract, including supplemental agreements and amendments.

(4) Federally assisted construction contract means any binding legal agreement or modification thereof between an applicant and a contractor for construction work which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to any Federal program involving a grant, loan, insurance or guarantee, or undertaken pursuant to any Federal program involving such grant, loan, insurance or guarantee; or any approved application or modification thereof for a grant, loan, insurance or guarantee under which the applicant itself performs construction work other than through the permanent work force directly employed by an agency of Government.

(5) Administering agency means the Government agency administering this federally assisted construction contract.

(6) Subcontract means any agreement made or purchase order executed by a prime contractor where a material part of the supplies or services covered by such agreement or purchase order is being obtained for use in the performance of a contract.

(7) Price contractor means any person holding a contract.

(8) Subcontractor means any person holding a subcontract. First-tier subcontractor refers to a subcontractor holding a subcontract with a prime contractor. Second-tier subcontractor refers to a subcontractor holding a subcontract with a first-tier subcontractor.

(9) Site of construction means the physical location of any building, highway or other change or improvement to real property which is undergoing construction, rehabilitation, alteration, conversion, extension, demolition or repair, and any temporary location or facility established by a contractor or subcontractor specifically to meet the demands of his contract or subcontract.

(b) The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the rules and regulations of the President's Committee on Equal Employment Opportunity, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, loan, insurance or guarantee, or undertaken pursuant to any Federal program involving such grant, loan, insurance or guarantee, the Equal Opportunity clause set forth in paragraph (c) below.

(c) The Equal Opportunity clause is as follows:

EQUAL OPPORTUNITY (AUGUST 1964)

(The following clause is applicable unless this contract is exempt under the rules and regulations of the President's Committee on Equal Employment Opportunity issued pursuant to Executive Order 10925 of March 6, 1961 (26 F.R. 1977), as amended by Executive Order 11114 of June 22, 1963 (28 F.R. 6485).) During the performance of this contract the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this Equal Opportunity clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

(3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the Contractor's commitments under this Equal Opportunity clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Contractor will comply with all provisions of Executive Order 10925 of March 6, 1961, as amended by Executive Order 11114 of June 22, 1963, and of the rules, regulations, and relevant orders of the President's Committee on Equal Employment Opportunity created thereby.

(5) The Contractor will furnish all information and reports required by Executive Order 10925 of March 6, 1961, as amended by Executive Order 11114 of June 22, 1963, and by the rules, regulations, and orders of the said Committee, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Committee for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Contractor's noncompliance with this Equal Opportunity clause or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 10925 of March 6, 1961, as amended by Executive Order 11114 of June 22, 1963, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order or by rule, regulation, or order of the President's Committee on Equal Employment Opportunity, or as otherwise provided by law.

(7) The Contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations or orders of the President's Committee on Equal Employment Opportunity issued pursuant to Section 303 of Executive Order 10925 of March 6, 1961, as amended by Executive Order 11114 of June 22, 1963, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

(d) The applicant further agrees that it will be bound by the above Equal Opportunity clause in any federally assisted construction work which it performs itself other than through the permanent work force directly employed by an agency of Government.

(e) The applicant agrees that it will cooperate actively with the administering agency and the President's Committee on Equal Employment Opportunity in obtaining the compliance of contractors and subcontractors with the Equal Opportunity clause and the rules, regulations, and relevant orders of the Committee, that it will furnish the administering agency and the Committee such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the

*Unless otherwise provided, the Equal Opportunity clause is not required to be inserted in subcontracts below the second tier, except for subcontracts involving the performance of "construction work" at the "site of construction" (as those terms are defined in the Committee's rules and regulations) in which case the clause must be inserted in all such subcontracts. Subcontracts may incorporate by reference the Equal Opportunity clause.

agency's primary responsibility for securing compliance. The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11114 with a contractor debarred from, or who has not demonstrated eligibility for, government contracts and federally assisted construction contracts pursuant to Part III, Subpart D, of Executive Order 10925 and will carry out such sanctions and penalties for violation of the Equal Opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Committee pursuant to Part III, Subpart D, of Executive Order 10925.

(f) In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may cancel, terminate or suspend in whole or in part this grant (loan, insurance, guarantee), may refrain from extending any further assistance under any of its programs subject to Executive Order 11114 until satisfactory assurance of future compliance has been received from such applicant, or may refer the case to the Department of Justice for appropriate legal proceedings.

§ 18–12.802–3 Other contractual requirements.

(a) The U.S. Government Bill of Lading (Standard Form 1103), in any amount is subject to section 301 of Executive Order 10925 of March 6, 1961, as amended by Executive Order 11114 of June 22, 1963, and the Equal Opportunity clause will be incorporated therein by reference. The provisions presently contained on the reverse side of the U.S. Government bill of lading form as Condition 9 are based on Executive Order 10925 or Executive Order 10557 (19 F.R. 5655), which the former revoked. In order that Standard Form 1103 reflects provisions of Executive Order 10925, as amended, and current implementing rules and regulations of the President's Committee on Equal Employment Opportunity, it is necessary to revise the existing Condition 9 on the reverse side of the form. Such revision will be accomplished by deletion of the present Condition 9 and substitution of a revised Condition 9, reading as follows:

The Equal Opportunity clause contained in section 301 of Executive Order 10925, as amended by Executive Order 11114, relative to equal employment opportunity for all persons without regard to race, creed, color, or national origin, and the implementing rules and regulations of the President's Committee on Equal Employment Opportunity are incorporated herein. (August 1964.)

The issuing officer will assure that any U.S. Government Bill of Lading issued from present supplies will have a typewritten, rubber stamp, or other impression containing the language of the above revised Condition 9.

(b) All indefinite quantity contracts, which are not exempted pursuant to § 18–12.803(a)(5) shall contain the Equal Opportunity clause prefaced by the following sentence:

The following clause shall be applicable upon written notice by the Contracting Officer. (August 1964.)

(c) Prime contractors and subcontractors may make necessary modifications in language in the Equal Opportunity clause as shall be appropriate to identify properly the parties and their undertakings. Subcontractors may incorporate by reference the Equal Opportunity clause.

§ 18–12.802–4 Requirements for invitations for bids or requests for proposals.

Each Invitation for Bids or Request for Proposals not exempt from the provisions of the Equal Opportunity clause under § 18–12.803 or exempted pursuant to § 18–12.804 shall include the following representation to be accomplished by the bidder or offeror:

The bidder (or offeror) represents that he ☐ has, ☐ has not, participated in a previous contract or subcontract subject to either the Equal Opportunity clause herein or the clause originally contained in section 301 of Executive Order 10925; that he ☐ has, ☐ has not, filed all required compliance reports; and that representations indicating submissions of required compliance reports, signed by proposed subcontractors, will be obtained prior to subcontract awards. (The above representation need not be submitted in connection with contracts or subcontracts which are exempt from the clause.) (May 1964.)

In any case where a bidder or offeror indicates that such reports have not been filed, award should be withheld, pending the receipt of a representation from the bidder or offeror that he has submitted all required compliance reports and that he will not make awards to proposed subcontractors until he has obtained signed statements from them that they have submitted required compliance reports, unless the circumstances in the particular case will not permit the award to be withheld. The file should be documented to show the basis upon which it was determined to make the award to the bidder or offeror without submission by him of the representation. This should not be interpreted to permit award to concerns known to be in established violation.

§ 18–12.803 Applicability and exemptions.

(a) Subject to the rules, regulations, and relevant orders of the President's Committee on Equal Employment Opportunity or the Executive Vice Chairman thereof, or such further rules, regulations, and relevant orders as they may hereafter issue, the Equal Opportunity clause will not be included in the following:

(1) Contracts and subcontracts not exceeding $10,000, other than Government bills of lading which are required to contain the clause regardless of amount. In determining the applicability of this exemption to any federally assisted construction contract, or subcontract thereunder, the amount of such contract or subcontract rather than the amount of the Federal financial assistance shall govern;

(2) Contracts and subcontracts not exceeding $100,000 for standard commercial supplies or raw materials; except that the Executive Vice Chairman may, whenever he finds it necessary or appropriate to achieve the purposes of the orders, withdraw such exemption in whole or in part with regard to any specified articles or raw materials (supplies or materials shall not be procured in less than usual quantities to avoid applicability of the Equal Opportunity clause);

(3) Contracts and subcontracts under which work is to be performed outside the United States and where no recruitment of workers within the United States is involved (where a contract involves performance of work or recruitment of workers both within and outside the United States, the Equal Opportunity clause will be included in the contract but will be applicable only to work and recruitment within the United States);

(4) Contracts for the sale of Government property, where no appreciable amount of work is involved;

(5) Contracts and subcontracts for an indefinite quantity (including, without limitation, open-end contracts, requirement-type contracts, call-type contracts, and purchase notice agreements), under the following circumstances:

(i) When such contract or subcontract is not to extend for more than 1 year and the contracting officer (or in the case of subcontractors, the prime contractor issuing the subcontract) determines that the amounts to be ordered are not reasonably expected to exceed $100,000 in the case of contracts or subcontracts for standard commercial supplies and raw materials, or $10,000 in the case of all other contracts and subcontracts; or

(ii) When such contract or subcontract is to extend for more than 1 year or continue indefinitely and the contracting officer (or in the case of subcontractors, the prime contractor issuing the subcontract) knows in advance that the amounts to be ordered in any year under such contract or subcontract will not exceed the appropriate dollar limitation set forth in subparagraph (1) of this paragraph.

When it has been determined pursuant to (i) or (ii) of this paragraph, that a contract or subcontract for an indefinite quantity is exempt from the requirements of the Equal Opportunity clause, or that such requirements are not to be applicable in any 1 year, such determination shall be controlling even though the amounts actually ordered exceed the appropriate dollar limitation, unless the scope of the contract or subcontract is increased to exceed the dollar limitations set forth in (i) of this paragraph, in which case an appropriate determination shall be made for the remaining life of the contract or subcontract, if not otherwise exempt; and

(6) Contracts or subcontracts exempted pursuant to § 18–12.804.

(b) When the Equal Opportunity clause is included in an indefinite quantity contract or subcontract which is not to extend for more than 1 year, the clause shall apply even though the

amounts actually ordered do not exceed the appropriate dollar limitation.

(c) When the Equal Opportunity clause is included in an indefinite quantity contract or subcontract which is to extend for more than 1 year, or continue indefinitely, the applicability of the clause shall be determined by the contracting officer (or in the case of subcontractors, the prime contractor issuing the subcontract) at the time of award for the first year, based upon the amounts that are reasonably expected to be ordered during such year. In the event that the clause has been determined not applicable, at the time of award and the contract continues for more than 1 year, the contracting officer (or in the case of subcontractors, the prime contractor issuing the subcontract), shall determine whether the clause applies at the end of each year, based upon the amounts that are reasonably expected to be ordered during the succeeding year. Once the clause is determined to be applicable, the contract or subcontract shall continue for its duration to be subject to such clause, regardless of the amounts ordered, or reasonably expected to be ordered, in any succeeding year. When the clause is determined to be applicable, the contracting officer shall give written notice of such determination to the contractor. In the case of subcontracts, the appropriate determination and notification shall be made by the prime contractor or subcontractor issuing the subcontract.

§ 18–12.804 Request for exemptions.

(a) Section 60–1.4(b) of the rules and regulations of the Committee (28 F.R. 5671) provides that the Executive Vice Chairman may, with the approval of the Vice Chairman, exempt an agency from requiring the inclusion of any or all of the Equal Opportunity clause in any specific contract, or subcontract, when he deems that special circumstances in the national interest so require. The Executive Vice Chairman may also, with the approval of the Vice Chairman, exempt groups or categories of contracts of the same type where he finds it impracticable to act upon each request individually or where group exemptions will contribute to convenience in the administration of the orders.

(b) Where special circumstances indicate that the inclusion of the Equal Opportunity clause in any specific contract or subcontract would not be in the national interest, the contracting officer should submit a request through the Director of Procurement to the Administrator for authority to omit or modify the clause. The Administrator may request an exemption from any or all of the requirements of the clause. Such requests will be directed to the Executive Vice Chairman, who will rule upon the request. Prior to the submission of such requests, the Director of the NASA installation concerned, or his designee for the purpose, will, in appropriate cases, personally discuss with the head of the company concerned, the inclusion of the clause in the procurement under consideration.

(c) Whenever a bidder or prospective contractor, and any contractor or subcontractor holding a contract or subcontract containing the clause, believes that one or more plants or facilities which he owns, operates, or controls, are in all respects separate and distinct from the plants, facilities, or other activities which will be utilized in the performance of the contract or subcontract, such bidder, prospective contractor, contractor or subcontractor may request an exemption from the requirements of the clause as to such separate and distinct plants, facilities, or other activities: *Provided*, That such an exemption will not interfere with or impede the effectuation of the orders: *And provided further*, That in the absence of such an exemption, such separate and distinct plants, facilities, and other activities would be subject to the clause. The request for exemption shall be submitted to the Administrator through the contracting officer and the Director of Procurement, in turn, for transmittal to the Executive Vice Chairman. All such requests shall be forwarded to the Executive Vice Chairman, but either the contracting officer, the Director of Procurement, or the Administrator, may recommend against approval of the request.

§ 18–12.805 Interpretations.

In the application and enforcement of the provisions of Executive Order 10925, as amended, and of the rules and regulations of the Committee, the following interpretations are applicable:

(a) If the Executive Vice Chairman should withdraw any exemption, such withdrawal shall not apply to any contracts or subcontracts entered into prior to the effective date of the withdrawal.

(b) Notwithstanding the inclusion in any contract or subcontract of the Equal Opportunity clause, the contractor or subcontractor shall be exempt from compliance therewith if the contract or subcontract containing such clause is exempt.

(c) The requirement to include the Equal Opportunity clause in federally assisted construction contracts set forth in § 18–12.802–2 is applicable even though the applicant or grantee is a state or a subdivision or agency thereof.

§ 18–12.806 Administration.

§ 18–12.806–1 General responsibilities and functions.

(a) *NASA Administrator.* The NASA Administrator, who serves as a member of the President's Committee on Equal Employment Opportunity, is responsible for obtaining compliance with the provisions of the Equal Opportunity clause, and the rules, regulations and relevant orders promulgated by the Committee.

(b) *NASA Principal Compliance Officer.* The NASA Principal Compliance Officer is responsible to the Administrator for over all policy coordination and general direction of the NASA Contracts Equal Employment Opportunity Program (CEEOP). He maintains liaison with the President's Committee and represents NASA in relations with the Committee and other Government agencies on CEEOP matters.

(c) *Director of Procurement.* The Director of Procurement is responsible for implementing and administering the CEEOP and for obtaining contractor compliance with the provisions of the Equal Opportunity clause.

(d) *NASA Contracts Compliance Officer.* The NASA Contracts Compliance Officer, under the supervision of the Director of Procurement, serves as the focal point for all matters relating to the CEEOP. Under the broad precepts, he is responsible for coordination and direction of the CEEOP within NASA.

(e) *NASA Installation Directors.* Each NASA Installation Director having procurement and contract management functions is responsible for (1) maintaining the installation CEEOP; (2) carrying out the requirements of this Subpart 18–12.8; and (3) appointing the Deputy Contracts Compliance Officer for the installation.

(f) *Installation Procurement Officer.* The installation procurement officer is responsible for supervising the operations of the CEEOP at each installation.

(g) *Deputy Contracts Compliance Officer.* A Deputy Contracts Compliance Officer shall be appointed by the Director of each NASA installation having contracting responsibility. Such officers will be responsible for implementation and coordination of the CEEOP. They are responsible for the conduct of routine and special compliance reviews and investigations of complaints by contractor employees or applicants. Other responsibilities include: developing statistical data, reviewing the administration of contracts, and giving assistance where needed. They serve as advisors to contracting officers during contract negotiation and administration, and to the procurement officer and installation Director concerned.

(h) *Predominant Interest Agency (PIA).* To avoid duplication of effort by Government contracting agencies, the Committee has devised the Predominant Interest Agency (PIA) method of assigning responsibility for assuring that the Equal Opportunity clause in Government contracts held by a particular company is enforced. The agency under which the contractor or subcontractor holds the largest aggregate dollar value of contracts at the time of filing of the most recent Compliance Report (Standard Form 40) is deemed to have the predominant interest. The PIA represents the Government in administration of the Equal Opportunity clause of the contracts, even though the contractor may hold contracts with other agencies. Normally, the PIA for a multidivision corporation is PIA for the entire corporation. However, because of security reasons, operations within a Government-owned facility under the control of a given agency, or other unusual circumstances, an agency may be assigned pre-

dominant interest responsibility for a single division or branch, a specific contractor location, or for the performance of a specific project or task in connection with the enforcement of the clause.

(i) *Predominant Interest Installation (PII).* When NASA is designated the PIA for a contractor or subcontractor, the NASA Contracts Compliance Officer shall normally assign the predominant interest responsibility to the installation according to the following criteria: (1) Largest dollar volume of NASA contracts; (2) proximity to the contractor's place of performance; and (3) other economic or expeditious reasons. The PII represents NASA in the execution of its PIA responsibilities. Deputy Contracts Compliance Officers or other NASA employees designated to conduct compliance surveys and complaint investigations, to assure that reports and data required are submitted by the contractor, or to conduct other CEEO matters, are authorized representatives of NASA. It is the responsibility of the NASA Contracts Compliance Officer to keep installations advised regarding contractors or subcontractors for which they are designated to perform PII responsibilities.

§ 18–12.806–2 Educational responsibility.

(a) The NASA Contracts Compliance Officer is responsible for assuring that Deputy Contracts Compliance Officers receive comprehensive orientation and continuing education as required in NASA responsibilities for the CEEOP program set forth in the Orders, and the rules, regulations and relevant orders of the Committee.

(b) Deputy Contracts Compliance Officers will apprise the Director of NASA installations, NASA contracting officers, and other personnel concerned with procurement of their responsibility in obtaining compliance with the Equal Opportunity clause.

(c) Contracting officers and other personnel concerned with procurement will publicize the equal opportunity policy to prospective bidders and contractors, and shall make available to contractors and subcontractors information concerning their responsibilities under the Equal Opportunity clause. Deputy Contracts Compliance Officers shall assist contracting officers in the above responsibilities when requested.

§ 18–12.806–3 Posting of nondiscrimination notices.

In the case of each contract containing the clause, the contracting officer will furnish to the contractor an appropriate number of copies of the notice entitled "Equal Employment Opportunity" (listed in the GSA Stores Stock Catalog as Item No. 7530–338–5437 for the 12½- x 18¼-inch size, and as Item No. 7530–338–5448 for the 8½- x 12-inch size) and Standard Form 38, June 1961, entitled "Nondiscrimination in Employment" for notification to labor unions or other organizations of workers. Procurement offices shall obtain these documents from appropriate Federal Supply Service Regional Stores Stock Depots. Contracting officers shall furnish contractors sufficient copies of these documents for their subcontractors.

§ 18–12.806–4 Compliance reports.

(a) *Compliance Report (Standard Form 40).* The contracting officer will require each contractor (except construction contractors performing work at the site of construction, who will report in accordance with paragraph (c) of this section), having a contract subject to the provisions of section 301 of Executive Order 10925, as amended, which is not exempt under § 18–12.803 or exempted pursuant to § 18–12.804, and each contractor will cause each of his nonexempt first and second-tier subcontractors, to file, with the Committee, Compliance Reports (Standard Form 40), in accordance with instructions attached thereto. Whenever a contractor or subcontractor is currently engaged in the performance of any part or all of another contract or subcontract subject to the clause with any Government agency, and has filed within a current reporting period a Standard Form 40 covering the plants facilities, and activities which will be involved in the performance of a new contract, this requirement will be satisfied by the filing, with the contracting officer, a copy of the Certificate of Submission of Current Compliance Report, Standard Form 40A.

(1) Upon receipt of the Standard Form 40 filed by contractors for which NASA is PIA, the Committee reviews them to determine if they are acceptable. A copy of each acceptable report is forwarded to NASA. The NASA Contracts Compliance Officer shall forward the acceptable reports to the PII.

(2) When all reports received by the Committee have been furnished to NASA, the Committee will furnish NASA Headquarters a comprehensive list of all NASA contractors who filed Compliance Reports during the reporting period. The NASA Contracts Compliance Officer shall furnish copies of the list to each installation.

(3) Deputy Contracts Compliance Officers shall be responsible for the checking of the copies of Standard Form 40A received from contractors and subcontractors against the comprehensive list furnished by the Committee and against the Plans for Progress Program (see paragraph (h) of this section) to assure that all of the installation's nonexempted contractors or subcontractors have fulfilled their reporting requirements for the reporting period.

Contractors and subcontractors who are delinquent shall be reminded of their contractual obligations to file the Standard Form 40 and Standard Form 40A and will be given a reasonable time in which to file the appropriate form. If there are circumstances surrounding the contractor's delinquency in which doubt is reflected that it was inadvertent or that he was otherwise not fulfilling the terms of the clause, a determination will be made as to whether a Special or Routine Compliance Review, as appropriate, is necessary.

(4) If any nonexempt contractor or subcontractor fails or refuses to file the Standard Form 40 or 40A, as appropriate, within the reasonable time prescribed, the matter will be handled in accordance with § 18–12.806–8.

(5) When NASA is the PIA and the Committee finds the Standard Form 40 filed by the contractor or subcontractor to be unacceptable, it will be forwarded to NASA for return to the contractor or subcontractor with a request for additional information. The NASA Contracts Compliance Officer shall submit the unacceptable Standard Form 40 to the PII. The Deputy Contracts Compliance Officer shall be responsible for returning Standard Form 40 to the contractor or subcontractor and for such followup action as is necessary to insure that the corrected report, in duplicate, is submitted through the NASA Contracts Compliance Officer to the Committee within thirty (30) calendar days from the date of the return of the unacceptable report to the contractor.

(b) *Compliance Report—Construction (Standard Form 41).* (1) The contracting officer will require each construction contractor having a contract subject to the provisions of section 301 of Executive Order 10925, as amended, which is not exempt under § 18–12.803 or exempt pursuant to § 18–12.804, and each construction contractor will cause each of his subcontractors awarded a contract pursuant to the prime contract, to file Compliance Reports—Construction, Standard Form 41, with the contracting office in accordance with instructions attached thereto. The contracting officer shall also provide any other necessary instructions relating to the filing of such forms with him. The filing of Standard Form 41 is required only of those performing construction work at the site of construction. Those holding contracts, subcontracts, or purchase orders for construction, repair, and/or alteration, or for materials to be used therein, but who themselves perform no work at the site of construction, will not be required to file Standard Form 41, but will be required to file Standard Form 40 or 40A in accordance with paragraph (a) of this section.

(2) Each Deputy Contracts Compliance Officer shall be responsible for assuring that each construction contractor and his subcontractors, subject to the Compliance Report—Construction, files the reports in accordance with the instructions attached thereto and any supplemental instructions issued by the contracting officer. The Deputy Contracts Compliance Officer shall forward promptly a copy of each Standard Form 41 received to the NASA Contracts Compliance Officer, who in turn will forward it to the Committee.

(c) *Furnishing report forms to contractors.* The Contracting officer will furnish the prime contractor a sufficient number of report forms (Standard Forms 40, 40A and 41) to satisfy his requirements and the requirements of his subcontractors in accordance with paragraphs (a) and (b) of this section. Installations can obtain these forms from the appropriate Federal Supply Service Regional Stores Stock Depot. The contracting Officer shall instruct each prime contractor to cause each subcontractor subject to the reporting requirements to file Standard Form 41 in accordance with instructions attached to the form. The prime contractor shall be instructed to furnish all subcontractors with numbers of the Standard Form 41 adequate for their needs.

(d) *Extension of time for filing reports.* The designated time for filing compliance reports may be extended with the approval of the Executive Vice Chairman. Requests by contractors or subcontractors for such an extension should be directed to the contracting officer for forwarding through the NASA Contracts Compliance Officer.

(e) *Submission of preaward information.* If a bidder, prospective contractor or subcontractor has previously participated in contracts or subcontracts subject to the clause, but did not file a Compliance Report (Standard Form 40 or 41) required under the clause (see § 18–12.802–4), the contracting officer (or in the case of subcontractors, the prime contractor issuing the subcontract) shall require him to submit a Compliance Report as a condition of meeting preaward qualifications. At the discretion of the contracting officer, or upon direction of the Director of Procurement or the Executive Vice Chairman, the submission of a Compliance Report may be required when the above mandatory provisions are not applicable. The contracting officer may require information relating to personnel practices and policies as a part of the preaward determinations, in addition to the compliance report.

(f) [Reserved]

(g) *Reporting new or expanded contractor facilities.* The establishment of new facilities or major expansions of old facilities by a contractor may afford him an opportunity to bring about new personnel practices within the new environment. Information regarding a contractor's proposed facilities expansion normally is discussed during contract negotiations, contract administration or prenegotiation planning or programing. Program planners, contracting officers, and other NASA employees whose duties enable them to know of contractor plans for expansion of existing facilities or establishment of new facilities which will result in the addition of 25 or more permanent personnel to the contractor's payroll shall assure that the information is reported to the NASA Contracts Compliance Officer as soon as such information is known. The information shall be reported whether or not the expanded facilities are to be supported by Government funds, and for facilities of the contractor at locations not performing under Government contracts. When NASA is the PIA for the contractor planning the expansion, the NASA Contracts Compliance Officer shall advise the PII of such plans. The Deputy Contracts Compliance Officer at the PII shall set up a conference with the contractor for the purpose of discussing his plans for recruitment of personnel. The contractor shall be given advice and assistance in his plans which will result in personnel policies and procedures which espouse the principles of equal employment opportunities as contained in the orders. He will work with the contractor in establishing patterns of recruitment and personnel placement, based upon merit, which foster a vigorous and continuing application of the clause. He shall offer his assistance on a continuing basis in the implementation of such merit plans. An agreement should be worked out with the contractor whereby he makes progress reports to the Deputy Contracts Compliance Officer. In turn, the Deputy Contracts Compliance Officer shall furnish periodic reports to the NASA Contracts Compliance Officer. In those instances where NASA is not the PIA for the contractor planning the facility expansion, the NASA Contracts Compliance Officer shall assure that the information is reported to the Committee.

(h) *Plans for Progress Program.* The Committee has established a procedure, known as Plans for Progress Program, which is designed to assist Government contractors to implement the Equal Opportunity policy expressed in the orders. The program is maintained by the Committee. Government contractors who volunteer to participate in the program enter into a written agreement with the Committee to take certain specific steps which may be even more positive than required by the orders. The program is also designed to assist companies confronted with practical problems in achieving the objectives of the orders. Contractors who participate in the Plans for Progress Program are not required to file Compliance Reports (Standard Forms 40 and 40A) since they file Plans for Progress reports in lieu thereof. The reporting instructions for Standard Forms 40 and 40A explain the procedures for filing Plans for Progress reports with the Committee. NASA is responsible for furnishing advice and guidance to contractors for whom it has been designated Predominant Interest Agency (PIA) responsibility on implementation of the Contracts Equal Employment Opportunity Program (CEEOP). It is the responsibility of the NASA Contracts Compliance Officer to furnish each installation a listing of Plans for Progress Program companies for which the installation is the Predominant Interest Installation (PII). Under Committee procedures, Government contracting agencies may, when necessary, review Plans for Progress Program reports which are maintained at the Headquarters office of the President's Committee, Washington, D.C. Deputy Contracts Compliance Officers who find it impractical to travel to the Washington, D.C., office to review the reports may request the NASA Contracts Compliance Officer to make the review and to furnish them a summary of any portion of the reports which may be helpful to the installations in carrying out their PII responsibilities.

(i) *Installation report of contsruction contractors.* The contracting officer shall require each construction contractor subject to Compliance Report-Construction (Standard Form 41) reporting requirements to furnish him at the time of award of the contract a list of all known subcontractors subject to the reporting requirements, and to advise him of any subcontractors who may be subsequently awarded subcontracts subject to the Standard Form 41 reporting requirements.

(1) The Deputy Contracts Compliance Officer at each installation shall be responsible for assuring that a report of prime contractors subject to the Standard Form 41 reporting requirements is made as of the end of each calendar month and forwarded to the NASA Contracts Compliance Officer by no later than the seventh day following the end of the month covered by the report. The initial report from each installation will list information concerning each prime contract subject to the reporting requirements in the following format:

(i) Name and home office address of prime contractor;

(ii) Contract number;

(iii) Dollar amount of contract;

(iv) Location and description of project (give address and a very brief explanation of work involved);

(v) Estimated or actual starting date;

(vi) Estimated or actual completion date; and

(vii) Subcontracts (name and address of subcontractors holding contracts subject to the reporting requirements of Standard Form 41). Negative reports are required. After the initial report, only the additions, deletions or changes to the previous report need be furnished. (Changes may include completion date, contract amount and modification of work involved. Additions or deletions may include subcontractors as well as prime contractors.)

(2) The NASA Contracts Compliance Officer shall be responsible for submitting a consolidated NASA Construction Contractors' Report to the Committee.

(j) *Statement by labor unions.* The contracting officer, at his discretion, or whenever directed by the Director of Procurement or by the Executive Vice Chairman, will, as a part of the bid or negotiation of a contract, direct a bidder, proposed contractor, or any proposed subcontractor to file a statement in writing (signed by an authorized officer or

agent of any labor union or other worker's representative with whom the bidder or prospective contractor or subcontractor deals or has reason to believe he will deal with in connection with performance of the proposed contract), together with supporting information, to the effect that the said labor union's or other workers' representative's practices and policies do not discriminate on the grounds of race, color, creed or national origin, and that the labor union or other worker's representative either will affirmatively cooperate, within the limits of its legal and contractual authority, in the implementation of the policy and provisions of the orders, or that it consents and agrees that recruitment, employment, and the terms and conditions of employment under the proposed contract will be in accordance with the purposes and provisions of the orders. If the union or other worker's representative fails or refuses to execute such a statement, the bidder or proposed contractor or subcontractor will so certify, and state what efforts have been made to obtain such a statement. Upon receipt of such certification, the contracting officer will notify the Executive Vice Chairman of its receipt through the NASA Contracts Compliance Officer.

(k) *Matters not related to compliance reviews.* When a procurement office is aware of an apparent violation of the orders which does not result in or is not related to a compliance review or complaint investigation, the matter will be processed in the form of a report through the Deputy Contracts Compliance Officer to the NASA Contracts Compliance Officer. The report will be in duplicate and will contain a brief summary of the findings, including a statement of conclusions or recommendations regarding the contractor's or subcontractor's compliance with the orders, a statement of the disposition of the case, including any corrective action taken and any sanctions recommended or penalties imposed. Whenever corrective actions are not taken and it is not within the authority of the NASA installation to impose appropriate sanctions or penalties, the recommended sanctions or penalties will be included in the report.

(l) *Holding information in confidence.* Information submitted by contractors or subcontractors under the CEEOP will be held in confidence and shall not be used in connection with purposes not related to administration of the orders or the furtherance of their purpose.

§ 18–12.806–5 Compliance reviews.

(a) Both Routine and Special Compliance Reviews will be conducted to ascertain the extent to which contractors and subcontractors are complying with the provisions of the clause and to furnish educational data in connection with the program.

(b) A Routine Compliance Review consists of a general review of the practices of the contractor or subcontractor to ascertain compliance with the requirements of the clause. This type of review shall include a verification that the notices are appropriately posted and that the clause is included in subcontracts where required.

(c) A Special Compliance Review consists of a comprehensive review of the employment practices of the contractor or subcontractor with respect to the requirements of the clause. In addition to discussions with management, personnel conducting special compliance reviews should, when appropriate, discuss the contractor's or subcontractor's employment practices with employment sources, minority groups, and interested civic groups.

(d) The Committee normally follows the Predominant Interest Agency (PIA) procedures in requesting Government agencies to conduct special or routine compliance reviews. NASA generally follows the PII concept in assigning responsibility for conducting routine and special compliance reviews.

(e) Routine Compliance Reviews are considered a normal part of contract administration. They will be conducted at the discretion of the Deputy Contracts Compliance Officer at the PII or when requested by the NASA Contracts Compliance Officer, another Deputy Contracts Compliance Officer, or a contracting officer when he believes that a contractor is not complying with the Contracts Equal Employment Opportunity Program (CEEOP). The reviews scheduled at the discretion of the Deputy Contracts Compliance Officer should be programmed so that the work load will be distributed as evenly as possible, considering the number of contractors or subcontractors for which the installation is assigned PII responsibility. Normally routine reviews will not be required on the same firm or plant location more frequently than each 2 years and no less frequently than each 3 years. This will generally not be required within a 2-year period during which a special Compliance Review has been conducted. When a NASA installation, which has not been designated PII for a company receives a request for a compliance review from a contracting officer, the request will be referred to the PII or the PIA.

(f) Special Compliance Reviews will be conducted: (1) From time to time; (2) when special circumstances, including complaints processed under § 18–12.806–6, warrant; and (3) when requested by proper authority. Special Compliance Reviews will be performed by the Deputy Contracts Compliance Officer under the direction of the NASA Contracts Compliance Officer, through the Procurement Officer of the installation concerned.

(g) Changes in assignment of predominant interest responsibilities may lead sometimes to uncertainties as to which contracting agency or NASA installation has predominant interest during the interim period. Also, when the PIA or PII has recently changed the former PIA or PII may have conducted compliance reviews which reflect current and compliance conditions at the contractor's site. To avoid duplication of effort and confusion, as well as possible complaints from contractors, NASA installations assigned responsibility for conduct of contract compliance reviews will determine before scheduling survey or on-site visits whether another Government activity has conducted a compliance review within the past 6 months. Techniques used for making such a determination include: (1) Liaison with local or regional Government field offices known to be responsible for compliance reviews; (2) checking directly with the contractor facility; or (3) checking with the NASA Contracts Compliance Officer in the case of PII changes. When it is learned that a compliance review of the facility has been conducted within the past 6 months, the PII will enter into liaison with the activity which conducted the review to determine the currency of the facts and arrive at a decision as to the need of an additional review or a recommendation to the NASA Contracts Compliance Officer that the requested review be delayed or canceled.

(h) Compliance reviews shall be conducted in a manner that will invite and stimulate the contractor's cooperation. They shall be preceded by a letter from the Installation Director or Deputy Director to the principal officer of the company. The letter should state the authority and reason for the review, the areas to be covered and an estimate of the time and effort of the company personnel that will be involved. Additionally, a date and time for the survey to commence shall be suggested. The date should be fixed to accommodate the contractor whenever practical. A period of 15 days, after the date of the letter to the company, normally should be allowed prior to beginning the review, unless the urgency for completion of the review requires a shorter period of time. The letter shall be sent to the principal office of the company, even though the Deputy Contracts Compliance Officer may have made informal contacts or preliminary arrangements with company officials prior to the letter. In addition to notifying the contractor of the review, one of the purposes of the letter is to maintain his good will in relation to the CEEOP.

(i) Requests for Routine Compliance Reviews will include the contract number, name and location or locations of the contractor to be reviewed, and a brief description of the basis for the request for a review, and will be submitted to the NASA PII or to the contracting officer's Deputy Contracts Compliance Officer. Upon receipt of the request from a contracting officer, the Deputy Contracts Compliance Officer will coordinate with the NASA PII or the PIA to determine if a recent review of the contractor has been conducted and if so, he will obtain a copy of the report of the review. If the report of

the review does not satisfy the conditions of the request, the Deputy Contracts Compliance Officer will request the PII or PIA to conduct the review. If the PII cannot conduct the review within the time period established for the review, the Deputy Contracts Compliance Officer receiving the request will conduct the review. If the PIA cannot conduct the review within the time period established for the review, the Deputy Contracts Compliance Officer receiving the request will advise the NASA Contracts Compliance Officer who will furnish instructions as to what action to take, after referral to the Executive Vice Chairman or the PIA.

(j) PII's conducting compliance reviews will submit two copies of each report of review, Special or Routine, to the NASA Contracts Compliance Officer within the time limit prescribed by the requesting authority, or within 10 working days after the date on which the review was completed where the reviewing installation originated the review request. The following specific guidelines will be followed in preparing the report of review:

(1) Utilize the "Guide for Investigations and Compliance Reviews in Equal Employment Opportunity" in preparation for and during all compliance surveys. This Guide is issued by the Committee.

(2) Include in each report:

(i) A detailed summary of area activities. (Where appropriate, summaries should relate to the areas identified in the "Standards for Determining Compliance * * *" For example: the summary related to paragraph B of the Standards, "Relations With Employees and Employee Applicants," should treat such items as recruiting employees, hiring, promotions, etc.)

(ii) Racial breakdown of the contractor's work force.

(iii) Finding of either compliance or noncompliance with the Equal Opportunity clause.

(3) In the instance of a finding of noncompliance, the report will:

(i) Delineate the areas of noncompliance;

(ii) Indicate corrective action directed;

(iii) Impose time limitations on the contractor for achieving the corrective action directed;

(iv) Schedule progress reports from the company to the installation and from the PII to the NASA Contracts Compliance Officer (submit such progress reports in duplicate); and

(v) Indicate action to be taken by the PII and/or the contracting activity. (Actions which are the prerogative of a contracting activity will be indicated only after the contracting activity has agreed that it will take the action. Otherwise the PII will recommend action to be taken by the NASA installations or other Government agencies having the authority, furnishing them a copy of the report.)

(4) In the event that general compliance with the Equal Opportunity clause is found, but deficiencies are observed, the deficiencies should be specifically noted in the report, and an indication of action by the contractor to correct the deficiencies should be described.

(5) Make reports complete but keep them brief as possible. Bulky attachments, such as brochures, pamphlets, etc., should be omitted unless they serve a significant purpose other than general information.

(6) Reports of Compliance Reviews shall be signed by the person or persons conducting the review. The letter transmitting the report to the NASA Contracts Compliance Officer from the installation shall be signed by the Director, or by the procurement officer, or by another individual if specifically authorized in writing by the Director. Such authorization shall be made a part of the record at the installation and a copy forwarded to the NASA Contracts Compliance Officer.

(k) The Deputy Contract Compliance Officer or other NASA representatives conducting a compliance review shall discuss the findings with the contractor's officials at the branch or plant location under review. The discussion should summarize the findings, pointing out any violations of the clause and opportunities for positive approaches to effecting policies and procedures in excess of the requirements of the clause. If the contractor does not propose appropriate actions to correct the deficiencies, the NASA representative shall suggest such corrections. The contractor's agreement to make corrections shall be made a part of the report of review. The contractor shall be advised that the findings and recommendations discussed with him are subject to review by higher authority within NASA and the President's Committee, and that further recommendations may be made as a result of such reviews.

It shall be the responsibility of the PII to work with the contractor, as the Government's representative on CEEOP matters, on the corrective actions during the time of review at higher levels.

§ 18–12.806–6 Complaints of alleged equal opportunity violations.

(a) Any applicant for employment or employee who believes himself to be aggrieved, by virtue of a violation of a provision of the clause by a contractor or subcontractor, may file a complaint of the alleged discrimination. Complaints by employees of alleged EEO violations will be submitted in writing to the Committee, the Administrator, or to an Installation Director. Two copies of each complaint filed directly with an installation shall be forwarded to the NASA Contracts Compliance Officer within 4 days after receipt. The NASA Contracts Compliance Officer will process a copy of the complaint through the NASA Principal Compliance Officer to the Executive Vice Chairman within 10 days from receipt by NASA.

(b) Complaints will be required to be signed by the complainants or their authorized representatives and to contain the following information:

(1) Name and address (including telephone number) of the complainant;

(2) Name and the address of the contractor or subcontractor who committed the alleged discrimination;

(3) A description of the act or acts considered to be discriminatory; and

(4) Any other pertinent information which will assist in the investigation and resolution of the complaint.

(c) Where a complaint contains incomplete information, the recipient will request promptly the needed information from the complainant. In the event such information is not furnished within 60 days from the date of such request, the case may be closed, except, when the facts warrant, the time may be extended by the NASA installation receiving the complaint, NASA Headquarters, or the Executive Vice Chairman. When a case is closed, a summary of the action taken shall be prepared and two copies forwarded to the NASA Contracts Compliance Officer.

(d) The contractor shall be furnished a copy of the complaint with the letter of notification that an investigation is to be conducted (see § 18–12.806–5(h)) or at the time of the first visit during the investigation.

§ 18–12.806–7 Processing of complaints.

(a) Complaints submitted or referred to an installation and determined to involve a Government contract or subcontract will be processed in a manner which will assure:

(1) Prompt investigation of statements and allegations contained in the complaint. The investigation shall be preceded by a letter to the contractor as prescribed in § 18–12.806–5(h). Such investigations will be made by the Deputy Contracts Compliance Officer who will develop a complete case record, following guidelines in § 18–12.806–5(j), and include (i) a review of the pertinent personnel practices of the contractor or subcontractor concerned, (ii) the circumstances under which the discriminatory action is alleged to have taken place, and (iii) other factors which may determine whether the contractor or subcontractor in the particular case complied with the provisions of the Equal Opportunity clause set forth in the contract or the subcontract concerned.

(2) Resolution of complaints by conciliatory means whenever possible. If there is reason to believe that the complainant may be subject to retaliation from the contractor because the complaint has been filed, the matter shall be discussed with the officials of the contractor to obtain his full cooperation in avoiding such a possibility.

(3) Discussion of findings and recommendations with the contractor will be conducted in the manner prescribed for compliance reviews in § 18–12.806–5(k).

(4) The preparation and submission of a summary report within the time limit prescribed, or within 30 days of receipt if the complaint is submitted directly to the installation or the NASA Contracts Compliance Officer. The report will set forth: (i) The name and address of the complainant; (ii) a brief summary of the findings; (iii) a statement of the disposition of the case, including any corrective action taken; (iv) whenever appropriate, recommended additional corrective actions, sanctions, or penalties. The NASA Contracts Compliance Officer will forward the report through the NASA Principal Compliance Officer to the Executive Vice Chairman within the time limit prescribed by the Committee; and (v) prompt notification to the appropriate contractor or subcontractor of the closing of the case in those instances wherein the investigative findings (upon advice from NASA Headquarters of the review and concurrence by the Executive Vice Chairman) show no violation of the clause.

(b) When reports of investigation indicate future corrective actions, the persons, agencies, contractors or others obligated to take the actions will be indicated. Periodic progress reports on accomplishment of the corrections will be prepared and a copy will be furnished the NASA Contracts Compliance Officer.

(c) Reports of complaint investigations shall be signed by the persons conducting the investigation. The letter transmitting the report to NASA Headquarters shall be signed by the Director of the installation, the Procurement Officer, or other individual specifically authorized in writing by the Director. Such authorization shall be made a part of the record at the installation and a copy forwarded to the NASA Contracts Compliance Officer.

§ 18–12.806–8 Sanctions.

(a) *General.* When a compliance review or complaint investigation indicates an apparent violation of the clause, the installation concerned will make every effort to resolve the matter by informal means. This will include, where appropriate, establishing a program for future compliance and/or action to correct any apparent violations of the clause. If subsequent to such effort at conciliation, solutions to the problem cannot be found, the report of compliance review or investigation containing recommendations for sanctions, if appropriate, will be submitted to the NASA Contracts Compliance Officer. The report shall identify the highest ranking official of the company with whom conciliation has been undertaken. If the Director of Procurement concurs, the NASA Contracts Compliance Officer shall be responsible for advising the official of the company that NASA proposes to impose or recommend the imposition of sanctions because of the violations (see § 18–12.806–7(b)). If a contractor or subcontractor, without a hearing, has complied with the recommendations or orders of the PIA, a NASA installation, or the Administrator, but believes such recommendations or orders to be erroneous, he shall, upon filing a request therefor within 10 days after such compliance, be afforded an opportunity for a hearing and review of the alleged erroneous action under § 18–12.808.

(b) *Termination.* (1) NASA contracts or subcontracts will not be terminated in whole or in part for failure to comply with the provisions of the Clause without the prior approval of the Administrator. Whenever it is proposed to terminate a NASA contract or subcontract, the contractor or subcontractor will be notified in writing of such proposed action and will be given 10 days (or such longer period as the Administrator, with the approval of the Executive Vice Chairman, may consider appropriate) from the date of receipt of the notice either to comply with the provisions of the contract or to submit a request for a hearing under § 18–12.808.

(2) If the contract or subcontract recommended for termination is not a NASA contract, the recommendation will, upon concurrences of the NASA Principal Compliance Officer, be referred by the NASA Contracts Compliance Officer to the contracting agency, together with a copy of the compliance review, investigation, or other summary of findings upon which the case is based. The contracting agency will be requested to advise NASA within 5 workdays after receipt of the recommendations of the action it plans to take. The NASA Contracts Compliance Officer will advise the Executive Vice Chairman, through the NASA Principal Compliance Officer, of the action contemplated by the contracting agency, furnishing him with a copy of the findings and recommendations in the case.

(c) *Debarment and suspension.* (1) NASA will not debar or suspend a contractor or subcontractor for failure to comply with the Equal Opportunity clause, except upon approval of the Administrator and the Executive Vice Chairman. In every case where debarment or suspension is being proposed, the contractor or subcontractor will be notified in writing of the proposal and given 10 days from the date of receipt of such notice in which to mail a request for hearing under § 18–12.808, or for a hearing before the Committee (see §§ 18–1.604–2(c) and 18–1.605–3(i)).

(2) If the NASA Principal Compliance Officer concurs with the recommendations of the installation for debarment or suspension of a non-NASA contractor or subcontractor, the procedure in paragraph (b) of this section will be followed.

(d) *Criminal prosecution.* An installation may recommend action by the Department of Justice where the compliance review or investigation reveals substantial or material violation or threat of contractual violations set forth in § 18–12.802 or if there is evidence that false information has been furnished during the compliance reviews, investigations or contract management relationships with contractors or subcontractors. Any recommendations for criminal prosecution will be made to the NASA Principal Compliance Officer, through the Director of Procurement and will be reviewed by the NASA Contracts Compliance Officer. No recommendation for prosecution will be made to the Department of Justice except by the NASA Principal Compliance Officer, and only after having obtained the advice of the Office of General Counsel and the Director of Procurement or his authorized representative. Also no recommendation for prosecution will be made to the Department of Justice until the expiration of 10 days (unless a longer period is fixed by the NASA Principal Compliance Officer with the approval of the Executive Vice Chairman) from the date of mailing of the notice of such proposed referral to the contractor or subcontractor involved, affording him an opportunity to comply with the provisions of the orders. If a recommendation for referral to the Department of Justice involves a contract or subcontract of an agency other than NASA, the procedures in paragraph (b) of this section will be followed.

§ 18–12.808 Hearings.

§ 18–12.808–1 General.

NASA hearings may be held when approved by the NASA Principal Compliance Officer if an apparent act of discrimination, in violation of the contractual provisions as shown by compliance reviews or investigations is not resolved informally by conference, conciliation, mediation, persuasion or other means. Hearings will be held when:

(a) A contractor or subcontractor who has complied with the recommendations or orders of the installation, but believes such recommendations or orders to be erroneous, and requests a hearing thereon; or

(b) The NASA Principal Compliance Officer proposes to debar or suspend a contractor or subcontractor, or to terminate a contract or subcontract and the contractor or subcontractor requests a hearing.

§ 18–12.808–2 Delegation of hearing authority and place of hearing.

(a) The NASA Principal Compliance Officer may delegate in writing to any individual, individuals or board (hereinafter referred to as the hearing authority) all the authority delegated to him by the Administrator, to give notice of hearings, to conduct hearings, and to make findings of fact and recommendations with respect to determining whether a contractor or subcontractor is or has been in violation of the contract clause. A separate hearing authority will be established for each hearing and will remain established until completion of the hearing and a report of findings and recommendations has been made to the Administrator. Each hearing authority may adopt its own rules of procedure provided they are not inconsistent with this Subpart 18–12.8. The place of the hearing will be established in the letter or document designating the hearing authority. The place of hearing will be one which is considered convenient to the parties involved. Normally, it will be established at an installation meeting the convenience criteria.

(b) If the hearing authority is delegated to a board, the board will be composed normally of not more than five members and one nonvoting recorder. The members will include (1) one member experienced in contract management; (2) one member trained in law; and (3) such other members as may be deemed necessary for the particular hearing.

The letter or document establishing the board will designate a chairman, and will set forth his responsibilities and the responsibilities of other members of the board.

§ 18–12.808–3 Notices and contents.

(a) Whenever a hearing is to be held, the hearing authority shall cause a written notice to be served upon the contractor or subcontractor in the manner hereinafter provided. The notice shall include the following items:

(1) A statement of the time, place, and purpose of the hearing, and the authority and jurisdiction under which it will be held. The statement as to purpose need only identify the contract clause, the contracts or subcontracts involved, and the ultimate facts to be determined. The time of the hearing shall not be less than 10 calendar days after service of the notice.

(2) Brief allegations in reasonable detail setting forth the circumstances surrounding the act or acts of discrimination, the name(s) of the complainant(s), and the approximate date and place of each alleged discriminatory act. Such allegations need be only sufficient to apprise the contractor or subcontractor reasonably of the issues involved in the hearing.

(3) A request that the contractor or subcontractor answer in writing, the allegations of the notice, including in his answer such facts or arguments as he may wish, and that he attend the hearings to adduce such evidence with respect to the alleged discrimination as he may desire.

(b) Service shall be made by mailing by registered or certified mail, return receipt requested, a copy of the notice to the contractor or subcontractor.

§ 18–12.808–4 Continuances and delays.

The authority to grant continuances or to adjourn the hearing shall rest with the person presiding at the hearing. Continuances will only be allowed for the most compelling reasons.

§ 18–12.808–5 Parties.

The parties to the hearing will be the contractor or subcontractor concerned with the Government.

§ 18–12.808–6 Representation and hearing assistants.

The parties may be represented at the hearing and proceedings incident thereto by legal counsel. Upon the appearance of record of legal counsel of the contractor and subcontractor in the proceedings, service of papers as may thereafter be required may be made upon such legal counsel. The NASA Contracts Compliance Officer will make the necessary physical arrangements for the hearing and provide such administrative services, including a reporter, secretary or notary, as may be required. NASA Headquarters offices and field installations shall detail such personnel and furnish such other assistance for the conduct of the hearing as is requested by the NASA Contracts Compliance Officer.

§ 18–12.808–7 Transcript.

Testimony and arguments shall be reported verbatim. The reporter or secretary shall make available to the contractor or subcontractor and to the Government transcripts of the proceedings, including all testimony and copies of all documentary exhibits upon the payment of the reasonable costs thereof.

§ 18–12.808–8 Conduct of hearings.

Hearings will be as informal as may be reasonably appropriate under the circumstances. Evidence and testimony not ordinarily admissible under legal rules of evidence may be received subject to the discretion of the person presiding at the hearing. Immaterial, irrelevant, or unduly repetitious evidence shall be excluded. The parties may stipulate as to any facts or testimony. The testimony of witnesses shall be under oath and witnesses shall be subject to cross-examination. The individual presiding at the hearing shall make such rulings with respect to the conduct of hearings as circumstances may require to ensure the orderly and expeditious presentation of evidence in a manner fair to the parties and consistent with this Subpart 18–12.8 and requirements of due process of law.

§ 18–12.808–9 Depositions.

Following service of the notice of hearing, depositions may be taken as herein provided, and placed in evidence whenever the ends of justice will be served thereby.

(a) *Notice to take.* When either party desires to take a deposition, unless the parties stipulate as to the time when, and place where, the deposition is to be taken, the name of the officer before whom it is to be taken, and the names and addresses of the witnesses, the moving party shall give to the opposite party at least 10 days notice of the time when and the place where such deposition will be taken; the name and address and official title of the officer before whom it is proposed to take the deposition, and the names of the witnesses. A deposition may be taken either upon written interrogatories or upon oral examination, as may be specified in the notice. If the deposition is to be taken upon written interrogatories, copies thereof must accompany the notice to take depositions; if the opposite party desires to submit cross-interrogatories, written cross-interrogatories should be served upon the party giving the notice within 5 workdays from the receipt of the notice to take deposition. Notices may be served upon the contractor or subcontractor as provided in § 18–12.808–3 or upon his legal counsel of record. Service upon the Government may be made upon the person signing the notice of hearing or the Government representative of record. If service is made by mail, the mail shall be registered or certified and service will be complete upon mailing.

(b) *Taking depositions.* Depositions may be taken before and authenticated by any officer, authorized by the laws of the United States or by the laws of the place where the deposition is taken, to administer oaths. Witnesses shall be under oath and shall be subject to cross-examination as at the hearing. Any objections to questions shall be noted in the deposition and reserved for determination at the hearing. Each deposition shall show the caption of the proceeding, the place and date of taking, the names of the witnesses, and the party by whom called. The officer taking a deposition shall enclose the original deposition and exhibits, in a sealed packet, with postage or other transportation prepaid, and forward the same to the hearing authority.

(c) *Use of deposition.* Testimony taken by deposition will not be considered until offered in whole or in part and received in evidence. A deposition taken by one party may be offered by the opposite party.

§ 18–12.808–10 Absence of parties.

If the contractor or subcontractor fails or refuses to appear, the hearing shall proceed upon such evidence as the Government may offer. The unexcused absence of any party shall not be occasion for delay of the hearing.

§ 18–12.808–11 Argument.

Within the discretion of the individual presiding at the hearing, limited oral argument may be presented by the parties upon the completion of the hearing.

§ 18–12.808–12 Findings and recommendations.

As soon as practicable after completion of the hearing, the hearing authority shall make written findings and recommendations with respect to all material issues, and shall submit such findings and recommendations to the Administrator, through the NASA Principal Compliance Officer, for such action as the Administrator deems appropriate. Reasons for the findings will be included at such length as may be appropriate.

§ 18–12.809 Certificates of Merit.

(a) Certificates of Merit may be awarded:

(1) By the Committee on its own initiative. The Committee acting through the Chairman or Vice Chairman may award U.S. Government Certificates of Merit to employers or employee organizations which are or may hereafter be engaged in work under Government contracts, if the Committee is satisfied that the personnel and employment practices of the employer, or that the personnel, training, apprenticeship, membership, grievance and representation, upgrading, and other practices and policies of the employee organization conform to the purpose and provisions of the orders.

(2) By the Executive Vice Chairman upon the recommendation of the Administrator. The Committee, acting through the Executive Vice Chairman, may award a U.S. Government Certificate of Merit upon the recommendation of the Administrator. The recommendation should include a statement in sufficient detail to inform the Executive Vice Chairman of the basis for the recommended award. Whenever an employer or employee organization has practiced policies and procedures conforming to the purposes and provisions of the orders, NASA installations may make recommendations through the Director of Procurement that such employer or employees organizations be awarded a Government Certificate of Merit.

(b) The Committee, acting through the Chairman or Vice Chairman, may at any time review the continued entitlement of any employer or employee organization to a Certificate of Merit, and may suspend or revoke the Certificate.

Subpart 18–12.9—Employment Restrictions for Security Purposes

§ 18–12.901 Hiring restrictions on classified contracts.

By virtue of an agreement between NASA and the Department of Defense, the Department of Defense Industrial Security Program has been made applicable to NASA. Accordingly, the regulations of such program shall apply to the employment of any individual on any contract classified "Top Secret," "Secret," or "Confidential."

§ 18–12.902 Responsibilities of contractors to employees.

In connection with all classified contracts, it shall be the policy of NASA to require that a contractor shall be responsible for furnishing to the contracting officer (a) any requested information with respect to his employees, and (b) information and reports regarding any subversive activities of his employees.

Subpart 18–12.10—Nondiscrimination on the Basis of Age

§ 18–12.1000 Scope of subpart.

This subpart 18–12.10 sets forth (a) public policy against discrimination on the basis of age to be observed by Government contractors and subcontractors, and (b) procedures to be followed in handling of complaints.

§ 18–12.1001 Policy.

It is the policy of the Executive Branch of the Government that (a) contractors and subcontractors engaged in the performance of Federal contracts shall not, in connection with the employment, advancement, or discharge of employees, or in connection with the terms, conditions, or privileges of their employment, discriminate against persons because of their age except upon the basis of a bona fide occupational qualification, retirement plan, or statutory requirement, and (b) contractors and subcontractors, or persons acting on their behalf, shall not specify, in solicitations or advertisements for employees to work on Government contracts, a maximum age limit for such employment unless the specified maximum age limit is based upon a bona fide occupational qualification, retirement plan, or statutory requirement. This policy is stated in Executive Order No. 11141 of February 12, 1964 (29 F.R. 2477).

§ 18–12.1002 Procedures for handling complaints.

Any complaint received regarding a concern's compliance with the foregoing public policy against discrimination on the basis of age should be brought to the attention of the concern by a communication (in writing, if appropriate) which sets forth the policy, indicates that the concern's compliance with the policy has been questioned, and requests that the concern review its compliance and, if necessary, take appropriate measures to comply with the policy.

PART 18–13—GOVERNMENT PROPERTY

Sec.
18–13.000 Scope of part.

Subpart 18–13.1—General

18–13.100 Scope of subpart.
18–13.101 Definitions.
18–13.101–1 Property.
18–13.101–2 Government property.
18–13.101–3 Contractor-furnished property.
18–13.101–4 Material.
18–13.101–5 Special tooling.
18–13.101–6 Industrial facility.
18–13.101–7 Industrial property.
18–13.101–8 Nonseverable industrial facility.
18–13.101–9 Plant equipment.
18–13.101–10 Production equipment.
18–13.101–11 Machine tools.
18–13.101–12 Accessory item.
18–13.101–13 Auxiliary item.
18–13.101–14 Salvage.
18–13.101–15 Scrap.
18–13.101–16 Related procurement contract.
18–13.101–17 Facilities contract.
18–13.101–18 Nonprofit institution or organization.
18–13.102 General policy.
18–13.102–1 Materials.
18–13.102–2 Special tooling.
18–13.102–3 Facilities.
18–13.103 Control of Government property.
18–13.104 Responsibility and liability for Government property.
18–13.104–1 Responsibility of prime contractors for Government property.
18–13.104–2 Liability of subcontractors for Government property.
18–13.150 Designation of property administrators.
18–13.150–1 Designation of Military Department property administrators.
18–13.150–2 Designation of NASA property administrators.
18–13.150–3 Designation of secondary property administrators for subcontracts or secondary sites.
18–13.151 Disposition of excess property and residual inventories.
18–13.152 Reporting of industrial property activities.

Subpart 18–13.2—Material

18–13.200 Scope of subpart.
18–13.201 Fixed-price contracts.
18–13.202 Cost-reimbursement type contracts.
18–13.203 Identification of Materials.
18–13.204 Disposal.

Subpart 18–13.3—Special Tooling

Sec.
18–13.300 Scope of subpart.
18–13.301 Fixed-price procurement—Government-furnished special tooling.
18–13.302 Fixed-price procurement—contractor-furnished or acquired special tooling.
18–13.303 Fixed-price procurement—general policy on acquiring special tooling.
18–13.304 Fixed-price procurement—special tooling furnished or acquired by subcontractors.
18–13.305 Cost-reimbursement type contract — Government-furnished special tooling.
18–13.306 Fixed-price or cost-reimbursement type contract—special consideration for tooling with commercial use.
18–13.307 Disposal of Government-owned special tooling.

Subpart 18–13.4—Industrial Facilities

18–13.400 Scope of subpart.
18–13.401 Award of related procurement contracts.
18–13.401–1 Contract provisions where facilities are provided under related procurement contracts.
18–13.401–2 Related procurement contracts requiring the use of Government facilities in possession of a contractor.
18–13.401–3 Related procurement contracts requiring the provision of additional facilities.
18–13.401–4 Facilities clause for inclusion in related procurement contracts requiring the provision of additional facilities under separate contracts.
18–13.401–5 Facilities for subcontractors on a no-charge basis.
18–13.401–6 Procurement by other Government agencies requiring the use of NASA facilities already with the contractor.
18–13.402 Separate facilities contracts.
18–13.402–1 General requirements for separate facilities contracts.
18–13.402–2 Acquisition, use, and consolidated facilities contracts.
18–13.403 Application of acquisition, use, and consolidated facilities contracts.
18–13.405 Title.
18–13.406 Nonseverable industrial facilities.
18–13.407 Right of contractor to use.
18–13.408 Maintenance.
18–13.409 Identification and records.

Sec.
18–13.410 Late delivery diversion and substitution.
18–13.411 Risk of loss or damage and liability.
18–13.412 Unusable or unneeded facilities.
18–13.413 Termination of facilities contracts.
18–13.413–1 Termination by the Government.
18–13.413–2 Termination by contractor.
18–13.414 Standby provisions.
18–13.415 Disposition.
18–13.416 Facilities contract clauses.

Subpart 18–13.5—Contract Clauses

18–13.500 Scope of subpart.
18–13.501 Applicability.
18–13.502 Government-furnished property clause for fixed-price supply contracts.
18–13.502–1 Short form clause.
18–13.502–2 Long form clause.
18–13.502–50 Liability for Government property furnished for repair or other services.
18–13.503 Government property clause for cost-reimbursement type contracts.
18–13.504 Special tooling clause for fixed-price contracts.
18–13.505 Government-furnished property clauses for fixed-price type research and development contracts with nonprofit institutions.
18–13.505–1 Short form clause.
18–13.505–2 Long form clause.
18–13.506 Government property clauses for cost-reimbursement type research and development contracts with nonprofit institutions.
18–13.506–1 Short form clause.
18–13.506–2 Long form clause.

Subpart 18–13.6—Use of Government-Owned Industrial Facilities on Work Other Than for NASA

18–13.600 Scope of subpart.
18–13.601 Rental.
18–13.601–1 General.
18–13.601–2 Rental rates.
18–13.603 Production equipment.

Subpart 18–13.7—Government-Owned Industrial Facilities and Special Tooling on Work for Foreign Governments

18–13.700 Scope of subpart.
18–13.701 Use without charge.

Subpart 18–13.8—Vesting of Title to Equipment in Nonprofit Educational or Research Institutions

18–13.800 Scope.

Subpart 18–13.50—Acquisition of Idle Production Equipment

18–13.5000 Scope of subpart.
18–13.5001 General.
18–13.5002 Procedure.
18–13.5003 Transfers from NAS to the military departments.

Subpart 18–13.51—Industrial Facilities Expansion, Application and Approval

18–13.5100 Scope of subpart.
18–13.5101 Consideration of facilities expansion applications.
18–13.5102 Procedure for determining facilities expansion.
18–13.5103 Processing the application.
18–13.5104 Administration of approved facilities application.
18–13.5105 Format for Industrial Facilities application.
18–13.5106 Format for presenting justification data.

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§ 18–13.000 Scope of part.

This Part 18–13 sets forth the general policies of NASA with respect to providing property for use by contractors in connection with procurement by NASA and sets forth applicable contract clauses.

Subpart 18–13.1—General

§ 18–13.100 Scope of subpart.

This Subpart 18–13.1 contains definitions of terms used throughout this Part 18–13 and a statement of general policy.

§ 18–13.101 Definitions.

As used in this Part 18–13 the following terms have the meaning stated in this section.

§ 18–13.101–1 Property.

"Property" includes all physical property, both real and personal. For the purpose of this Part 18–13, property consists of and is treated under three separate categories—material, special tooling, and industrial facilities.

§ 18–13.101–2 Government property.

"Government property" means all property owned by, or leased to, the Government or acquired by the Government under the terms of a contract; except that property to which the Government has acquired a lien or title solely as a result of partial, advance, or progress payments shall not, for the purpose of this part, be classified as Government property. With this exception, Government property includes both Government-furnished property and contractor-acquired property as defined in paragraphs (a) and (b) of this section.

(a) "Government-furnished property" is property in the possession of or acquired directly by the Government and subsequently delivered or otherwise made available to the contractor; and

(b) "Contractor-acquired property" is property procured or otherwise provided by the contractor for the performance of a contract, pursuant to the terms of which title is vested in the Government. The term "provide" as used in the context of such phrases as "Government property provided to the contractor" and "Government-provided property" is intended to include both Government-furnished property and contractor-acquired property.

§ 18–13.101–3 Contractor-furnished property.

"Contractor-furnished property" means all property other than Government property used by the contractor in the performance of a contract.

§ 18–13.101–4 Material.

"Material" means property which may be incorporated into or attached to an end item to be delivered under a contract or which may be consumed or expended in the performance of a contract. It includes, but is not limited to, raw and processed material, parts, components, assemblies, and small tools and supplies which may be consumed in normal use in the performance of the contract.

§ 18–13.101–5 Special tooling.

"Special tooling" means all jigs, dies, fixtures, molds, patterns, special taps, special gauges, special test equipment, other special equipment and manufacturing aids, and replacements thereof, acquired or manufactured by the contractor for use in the performance of a contract or subcontract, which are of such a specialized nature that, without substantial modification or alteration, their use is limited to the production of such supplies or parts thereof, or the performance of such services, as are peculiar to the needs of the Government. The term does not include (a) items of tooling or equipment acquired by the contractor prior to the contract, or replacements thereof, whether or not altered or adapted for use in the performance of the contract; (b) consumable small tools; or (c) general or special machine tools, or similar capital items.

§ 18–13.101–6 Industrial facility.

"Industrial facility" means property, other than material and special tooling, of use for the performance of a contract or subcontract, including real property and rights therein, buildings, structures, improvements, and plant equipment. Industrial facility is further defined for contracting and costing purposes as including all property acquired for the performance of a contract, and not incorporated in the contract end items, of a type which normally would be capitalized for the contractor's Federal income tax purposes if the contractor retained title thereto. For this purpose the term "property" includes improvements and attachments and any other items the cost of which would be so capitalized.

§ 18–13.101–7 Industrial property.

"Industrial property," as distinguished from other NASA property, means any contractor-acquired or Government-furnished property, including materials special tooling, and industrial facilities, furnished or acquired in the performance of a contract or subcontract.

§ 18–13.101–8 Nonseverable industrial facility.

"Nonseverable industrial facility" means an industrial facility which, after erection or installation, cannot be removed without substantial loss of value or damage thereto, or to the premises where installed.

§ 18–13.101–9 Plant equipment.

"Plant equipment" means personal property of a capital nature (consisting of machinery, equipment, furniture, vehicles, machine tools, and accessory and auxiliary items, but excluding special tooling) which:

(a) Has a unit cost in excess of $200;

(b) Has a life expectancy of one year or longer; and

(c) Will not be substantially modified so as to lose its identity or will not be incorporated into other equipment.

§ 18–13.101–10 Production equipment.

"Production equipment" means those items of plant equipment located within a manufacturing, processing, assembly, or service establishment and used for cutting, abrading, grinding, shaping, forming, joining, measuring, testing, heating, or treating production materials or work in process.

§ 18–13.101–11 Machine tools.

"Machine tools" means those items of production equipment which are power-driven, nonportable machines used for cutting, abrading, grinding, shaping, or forming metal.

§ 18–13.101–12 Accessory item.

"Accessory item" means an item which facilitates or enhances the operation of plant equipment but which is not essential for its operation, such as remote control devices.

§ 18–13.101–13 Auxiliary item.

"Auxiliary item" means an item without which the basic unit of plant equipment cannot operate, such as motors for pumps and machine tools.

§ 18–13.101–14 Salvage.

"Salvage" means personal property that has some value in excess of its basic material content but which is in such condition that it has no reasonable prospect of use for any purpose as a unit and its repair or rehabilitation for use as a unit is clearly impracticable. Repairs or rehabilitation estimated to cost in excess of 65 percent of acquisition cost would be considered "clearly impracticable" for purposes of this definition.

§ 18–13.101–15 Scrap.

"Scrap" means property that has no reasonable prospect of being sold except for the recovery of value of its basic material content.

§ 18–13.101–16 Related procurement contract.

"Related procurement contract" means a Government contract for furnishing supplies or services of any description for the performance of which the use of the facilities is or may be authorized.

§ 18–13.101–17 Facilities contract.

"Facilities contract" means a contract under which industrial facilities may either be acquired, be furnished, and/or be used in connection with the performance of a separate contract or contracts for supplies or services.

§ 18–13.101–18 Nonprofit institution or organization.

"Nonprofit institution or organization" means any corporation, foundation, trust, or institution operated for educational or primarily scientific purposes which is not organized for profit and no part of whose net earnings inures to the profit of any private shareholder or individual.

§ 18–13.102 General policy.

§ 18–13.102–1 Materials.

Contractors will furnish all materials required for the performance of Government contracts. Exceptions to this policy may be made by a NASA installation when the procurement officer considers that it will be in the best interest of the Government to furnish materials in a particular case, or with respect to a particular type of procurement, by reason of economy, standardization, expediting production, or other circumstances.

§ 18–13.102–2 Special tooling.

NASA shall furnish special tooling under NASA control which is determined by NASA to be available, when such furnishing does not interfere with essential production or program schedules and the cost of such furnishing is less than the cost to the Government of the contractor acquiring or furnishing new special tooling. In determining the cost to the Government of furnishing special tooling to a contractor, consideration shall be given to:

(a) The cost of the preparation of such special tooling and the shipment thereof to the plant of the contractor;

(b) The cost of adapting such special tooling to meet the requirements of the contract;

(c) The cost incident to any delays which may be occasioned; and

(d) The cost of new special tooling.

§ 18–13.102–3 Facilities.

(a) Contractors shall furnish all facilities required for the performance of Government contracts. However, facilities may be provided by the Government for use by contractors when such providing is determined in writing by the Director of the NASA installation concerned, or his deputy, to be necessary to meet essential production or program schedules and in the best interest of the Government. Before any Government facilities are provided to a contractor, careful consideration must be given to the full utilization of subcontractors possessing adequate and available capacity to meet NASA requirements. Consistent with the policy that contractors shall not be given competitive advantage through use of Government-provided facilities, the willingness of a contractor to provide and use his own facilities in lieu of Government-provided facilities will be a major factor of consideration during the negotiation process. When Government-owned facilities are to be provided to a contractor, the written determination by the Director of the Installation, or his deputy, setting forth the necessity of the Government's obligation and the estimated cost of the facilities authorized will be included in the official file of the related procurement contract. When the facilities contract covering those facilities included within the scope of the determination made in connection with the related procurement contract is submitted to the Director of Procurement for approval, a copy of such determination will be included in the submission. When additional facilities are to be provided, which exceed the scope authorized by the original determination, a new determination shall be made.

(b) Each contract, lease, or other agreement under which Government-owned industrial facilities may be used shall require periodic payment or credit of rent or use charge or, when such facilities are provided by the Government without charge, shall:

(1) Provide that no charge for the use of such facilities shall be included in the price or prices of Government supply or service contracts for which such facilities are used; and

(2) Be documented to show the supply and service contracts for which such facilities are used on the basis of no charge being made in the supply or service contract price or prices.

The agreement shall specify a rental or use charge as a periodic dollar amount or, where this is inappropriate under the circumstances, it shall set forth the method of computing the amount due. The amount of the rental or use charge shall be determined in accordance with § 18–13.601–2. In pricing supply and service contracts for which the use of such facilities is authorized on a no-charge basis, care must be taken to screen out any element of cost, whether direct or indirect, on account of rentals charged for such facilities under other supply or service contracts.

(c) In those cases where a contractor is authorized to acquire facilities at Government expense, the contract shall contain a clause which limits the contractor's reimbursement to his actual cost of

acquiring the facilities, exclusive of profit or fee

(d) When Government-owned office furniture and furnishings are to be made available to contractors either as Government-furnished property or contractor-acquired property, the provisions of NASA Management Instruction 4220.1 shall be followed.

§ 18–13.103 Control of Government property.

The "Manual for Control of Government Property in Possession of Nonprofit Research and Development Contractors," Appendix C, ASPR (32 CFR § 30.3) and the NASA Industrial Property Control Manual (NPC–105) are incorporated by reference into this Part 18–13 and made a part hereof.

§ 18–13.104 Responsibility and liability for Government property.

§ 18–13.104–1 Responsibility of prime contractors for Government property.

Except with respect to advertised fixed-price contracts and contracts of the type set forth in § 18–13.502–1, it is the basic policy of the Government not to hold the prime contractor responsible for loss of or damage to Government property caused by certain perils. This policy, as applied in facilities contracts, is set forth in § 18–13.411, and as implemented for use in other types of contracts, is contained in contract clauses set forth in Subpart 18–13.5.

§ 18–13.104–2 Liability of subcontractors for Government property.

The prime contractor will be required to hold a subcontractor liable for loss or destruction of, or damage to, Government property in the possession or control of such subcontractor (the prime contractor, nevertheless, remaining responsible to the Government to maintain the records required by NASA Industrial Property Control Manual (NPC–105) or 32 CFR § 30.3): *Provided, however,* That:

(a) A prime contractor on a negotiated fixed-price basis may, with the prior approval of the contracting officer, include in any subcontracts thereunder provisions similar to those contained in Subpart 18–13.5 and designated for use in negotiated fixed-price contracts, with respect to Government property previously furnished to the prime contractor but in the possession or control of the subcontractor; and

(b) A prime contractor on a cost-reimbursement basis may, with the prior approval of the contracting officer—

(1) Include in any cost-reimbursement type subcontract thereunder provisions similar to those contained in the prime contract with respect to Government property in the possession or control of such subcontractor; and

(2) Include in any fixed-price subcontract thereunder provisions similar to those designated for use in negotiated fixed-price contracts, with respect to Government property in the possession or control of such subcontractor.

Contracting officers shall, prior to approving the inclusion in any subcontract of the provisions referred to in this § 18–13.104–2, satisfy themselves that the degree of protection and care to be afforded Government property in the possession or control of any such subcontractor is sufficient at all times to protect the interests of the Government.

§ 18–13.150 Designation of property administrators.

A property administrator shall be designated for each NASA contract involving Government property.

§ 18–13.150–1 Designation of military department property administrators.

(a) *Background.* NASA has entered into agreements with the Military Departments which provide that the Departments will perform for NASA certain functions, including property administration, in connection with the administration of NASA contracts pursuant to the procedures set forth in those agreements. Each of the agreements provides that requests for performance of the functions covered by the agreements will be submitted in writing. For the agreement with the Department of the Army, see NASA Management Instruction 1052.18, with the Department of the Navy, see NASA Management Instruction 1052.15, and with the Department of the Air Force, see NASA Management Instruction 1052.12.

(b) *Policy.* Except as provided in § 18–13.150–2, a property administrator of one of the Military Departments will be requested to administer property for each NASA contract involving Government property.

(c) *Procedure.* (1) The request for designation of a Military Department property administrator will be processed pursuant to the procedures contained in the overall agreements as referenced in paragraph (a) of this section. If other functions in connection with the administration of the contract are not required, the letter should request property administration only. A copy of the contract for which property administration is requested shall be attached to the letter of request and the letter shall include:

(i) A statement regarding NASA utilization, screening, and submission of excess and residual lists pursuant to the requirements of § 18–13.151 and NASA Management Instruction 4310.1.

(ii) A request that the Military Department furnish to the NASA installation concerned a copy of the letter designating the property administrator.

(2) Appropriate liaison shall be maintained with the Military Department property administrator by the cognizant NASA installation during the life of the contract. When the value of the property so warrants, liaison should include:

(i) A letter to the property administrator calling attention to the inclusion of the NASA Industrial Property Control Manual (NPC–105) in the contract and setting forth any special NASA conditions or requirements with respect to property matters on such contract;

(ii) Personal contact with the property administrator; and

(iii) Periodic visits to the contractor's plant. Such visits should serve the purpose of developing satisfactory working relations, reviewing and evaluating actions taken by the property administrator with respect to NASA property, and resolving any problems which may develop.

(3) A separate file shall be maintained by the cognizant NASA installation for each contract under which property administration has been assigned to a Military Department. Each file shall contain the following:

(i) A copy of the letter designating the property administrator;

(ii) A copy of any letter designating a secondary property administrator in connection with cost-type subcontracts;

(iii) A copy of any letter of the kind described in subparagraph (2) (i) of this paragraph;

(iv) A record of any deviations from standard practice granted by NASA Headquarters;

(v) A record of property audits performed by NASA or the cognizant Military Department;

(vi) A record of deficiencies which required resolution on the part of the contracting officer;

(vii) Copies of correspondence pertaining to property matters; and

(viii) Final clearance data for Government property.

§ 18–13.150–2 Designation of NASA property administrators.

(a) *Policy.* Cognizant contracting officers may designate NASA employees as property administrators pursuant to the following criteria:

(1) Availability of a qualified industrial property specialist;

(2) Dollar value of the property to be administered; and

(3) Geographic location of the property.

(b) *Procedure.* Designation of a NASA property administrator will be effected by a letter, signed by the contracting officer, addressed to the individual by name, designating him as property administrator for the contract specified.

§ 18–13.150–3 Designation of secondary property administrators for subcontracts or secondary sites.

(a) When it is determined to designate a secondary property administrator for a subcontract or a contractor's secondary site, the NASA property administrator assigned to the prime contract will request such designation. The letter of request for the secondary appointment should be directed to the Military Department cognizant of the subcontractor's plant or, in the event that a NASA property administrator has been assigned to the subcontractor's plant, to the cognizant NASA field installation.

(b) When the prime contractor establishes a secondary site of contract work for which secondary designation is not required, "courtesy surveillance" may be requested of the Military Department cognizant of such site. However, in such cases, property administration should be retained by the NASA property administrator, and no formal designation should be requested of the Military Department concerned.

§ 18–13.151 Disposition of excess property and residual inventories.

Excess property and residual inventories shall be disposed of in accordance with the procedures contained in Part 18.8 of this chapter and NASA Management Instruction 4310.1.

§ 18–13.152 Reporting of industrial property activities.

(a) Installations will prepare an Industrial Property Activity Report, NASA Form 1048, in accordance with the instructions printed on the reverse of the form.

(b) The report will be submitted in duplicate, to the Office of Procurement (Code KDM), by December 26, covering the period July 1–November 30, and by July 26, covering the period December 1–June 30.

(c) The data necessary for completion of the report may be obtained from the property administration files maintained pursuant to § 18–13.150–1(c) (3).

Subpart 18–13.2—Material

§ 18–13.200 Scope of subpart.

This Subpart 18–13.2 sets forth policies governing material furnished to contractors in connection with the performance of contracts for supplies or services.

§ 18–13.201 Fixed-price contracts.

When supplies or services are contracted for on a fixed-price basis, material may be furnished to the contractor in accordance with the policy stated in § 18–13.102. Where a contract is to be entered into as a result of formal advertising, material to be furnished by the Government shall be set forth in the invitation for bids. At any time after a fixed-price contract has been entered into, whether as a result of formal advertising or negotiation, the contract may be amended by the parties to provide for the furnishing of Government material or to increase the amount to be furnished, provided the Government receives adequate consideration for such amendment. Pursuant to the clauses set forth in §§ 18–13.502–1 and 18–13.502–2, the Government may decrease the material furnished or to be furnished under the contract, with equitable adjustment, if appropriate, in the delivery terms, prices, or other contractual provisions affected thereby. When a contracting officer determines that a contemplated decrease in material would render it inequitable to require performance of the contract, in lieu of issuance of a notice in writing providing for such a decrease he may terminate the contract, in whole or in part, pursuant to the clause entitled "Termination for the Convenience of the Government."

§ 18–13.202 Cost-reimbursement type contracts.

Where supplies or services are procured under a cost-reimbursement type contract, material may be furnished to the contractor in accordance with the policy stated in § 18–13.102. At any time after a cost-reimbursement type contract has been entered into, the contract may be amended by the parties to provide for the furnishing of Government material, or to increase or decrease the amount to be furnished under the contract, with equitable adjustment, if appropriate, in delivery terms, fixed-fee, or other contractual provisions affected thereby.

§ 18–13.203 Identification of materials.

The contract schedule or specification shall identify specifically, by name and estimated quantities, all materials to be furnished by the Government of the types listed in § 18–52.508.

§ 18–13.204 Disposal.

Disposal of residual Government material shall be in accordance with NASA Management Instruction 4310.1, pursuant to the Federal Property and Administrative Services Act of 1949, as amended.

Subpart 18–13.3—Special Tooling

§ 18–13.300 Scope of subpart.

This Subpart 18–13.3 sets forth policies governing the acquisition, furnishing, and disposition of special tooling required for the performance of contracts for supplies or services.

§ 18–13.301 Fixed-price procurement—Government-furnished special tooling.

Where supplies or services are contracted for on a fixed-price basis, special tooling required for performance of the contract may be furnished to the contractor in accordance with the policy stated in § 18–13.102–2. Where a contract is to be entered into as a result of formal advertising, special tooling to be furnished by the Government shall be stated in the invitation for bids. At any time after a fixed-price contract has been entered into, whether as a result of formal advertising or of negotiation, the contract may be amended by the parties to provide for the furnishing by the Government of special tooling, or to increase the Government-furnished special tooling: *Provided*, Such furnishings or increase is for the benefit of the Government and the Government receives adequate consideration for such amendment. Pursuant to the clauses set forth in §§ 18–13.502–1 and 18–13.502–2, the Government may decrease the special tooling furnished or to be furnished under the contract, with equitable adjustment, if appropriate, in the delivery terms, price, or other contractual provisions affected thereby. When a contracting officer determines that a contemplated decrease in special tooling would render it inequitable to require performance of the contract, in lieu of issuance of a notice in writing providing for such a decrease he may terminate the contract, in whole or in part, pursuant to the clause entitled "Termination for the Convenience of the Government."

§ 18–13.302 Fixed-price procurement—contractor-furnished or acquired special tooling.

Where special tooling required for the performance of a fixed-price contract for supplies or services is not furnished by the Government, newly made or acquired special tooling may be furnished or acquired by the contractor under one of the following arrangements:

(a) The contract may provide for the acquisition of such special tooling by the contractor and the delivery thereof to the Government as an end item under the contract. In any such case, the rights of the parties in special tooling shall be governed by the provisions of the contract and the Schedule; or

(b) Where the contract does not provide for delivery of such special tooling as an end item under the contract, the clause set forth in § 18–13.504 shall be used.

§ 18–13.303 Fixed-price procurement—general policy on acquiring special tooling.

In determining whether special tooling should be acquired by the Government as a separate end item under the contract or schedule, or in exercising the Government's rights under the "Special Tooling" clause set forth in § 18–13.504, the contracting officer shall take into consideration the following factors:

(a) The current or probable future need of the Government for the items of special tooling involved;

(b) The residual value of such items;

(c) Administrative and other expense incident to preparation, handling, and storage of such items;

(d) The probable cost of reproduction of such items in event of future procurement;

(e) The probable cost of making such items available in the event of future procurement, and the probable reduction in price of such future procurement; and

(f) The amount offered by the contractor for the right to retain such items.

§ 18–13.304 Fixed-price procurement—special tooling furnished or acquired by subcontractors.

In the event the prime contractor enters into subcontracts or issues purchase orders, the performance of which involves the use of special tooling to be furnished or acquired by the subcontractor or vendor, there shall be included in such subcontracts or purchase orders appropriate provisions to the extent required by paragraph (k) (or by alternate paragraph (k)) of the "Special Tooling" clause set forth in § 18–13.504 giving the prime contractor rights comparable to those granted to the Government by such clause. The prime contractor shall exercise his rights in such special tooling for the benefit of the Government in accordance with directions issued by the contracting officer, who shall be guided by the policies set forth in § 18–13.303.

§ 18–13.305 Cost-reimbursement type contract—Government-furnished special tooling.

Where supplies or services are contracted for on a cost-reimbursement basis, special tooling may be furnished to the contractor in accordance with the policy stated in § 18–13.102–2. At any time after a cost-reimbursement type contract has been entered into, the contract may be amended by the parties to provide for the furnishing by the Government of special tooling, or to increase or decrease the amount to be furnished under the contract, with equitable adjustment, if appropriate, in delivery terms, fixed-fee, or other contractual provisions affected thereby. Special tooling furnished by the Government or acquired by the contractor shall be subject to the provisions of the "Government Property" clause set forth in § 18–13.503.

§ 18–13.306 Fixed-price or cost-reimbursement type contract—special consideration for tooling with commercial use.

When performance of a fixed-price or cost-reimbursement type contract requires a contractor to acquire tooling as defined in § 18–13.101–5 except that it has commercial use, the contract may appropriately provide therefor, giving due consideration to the best interest of the Government and the equities of the contractor.

§ 18–13.307 Disposal of Government-owned special tooling.

Special tooling furnished by the Government or to which the Government has taken title under the applicable contract clause shall be disposed of in accordance with NASA Management Instruction 4310.1, pursuant to the Federal Property and Administrative Services Act of 1949, as amended.

Subpart 18–13.4—Industrial Facilities

§ 18–13.400 Scope of subpart.

This Subpart 18–13.4 sets forth policies with respect to providing industrial facilities for use by contractors in connection with procurement by NASA and for other incidental uses.

§ 18–13.401 Award of related procurement contracts.

Related procurement contracts (see § 18–13.101–16) based upon the use of industrial facilities to be provided by the Government should not be awarded until the scope and magnitude of the facilities required have been determined and authorized in accordance with § 18–13.102–3.

§ 18–13.401–1 Contract provisions where facilities are provided under related procurement contracts.

(a) Where facilities are to be provided to the contractor under a related procurement contract, the requirements in subparagraphs (1) and (2) of this paragraph shall apply.

(1) The appropriate Government Property clause set forth in Subpart 18–13.5 shall be included in the contract.

(2) The following clause, with the Schedule terms called for therein, shall be included in the contract:

FACILITIES ACQUIRED OR FABRICATED

(MAY 1968)

Subject to the approval of the contracting officer, the contractor may acquire or fabricate the facilities listed in the Schedule of the contract. Costs incurred therefor will be allowable costs, provided that the contractor shall have no obligation to acquire or fabricate facilities and the Government shall have no obligation to reimburse any amount for such facilities in excess of the total estimated facilities costs set forth in the Schedule, unless this contract is amended to increase such amount. The facilities acquired or fabricated shall be considered Government property and subject to the provisions of the Government Property clause of this contract.

(3) If the facilities are nonseverable, the contract shall include, as a part thereof or as an ancillary written document signed by the contractor and incorporated by reference in the contract, an agreement as to the manner in which the facilities will be disposed of upon completion or termination of the contract. Detailed instructions concerning the provisions which should be contained in the agreement for facilities other than nonseverable facilities are set forth in § 18–13.415. § 18–13.406 (b) and (d) (1) and (2) require an advance written agreement covering the disposition of nonseverable facilities to be disposed of under the authority of those provisions.

(4) If the contractor fabricates the facilities utilizing his own plant and technical capability, the contracting officer may allow a reasonable fee as a part of the cost of the facilities to the Government. Normally, such fee will be less than that allowed for the work constituting the subject matter of the contract and will be negotiated solely on the basis of the fabrication effort to construct the facilities. The contractor shall not be permitted to include the actual or estimated cost of facilities which are acquired by him for the Government in the base cost of the contract on which his fee is negotiated. The contract file shall be documented to justify any fee allowance agreed upon.

(5) A copy of the executed contract or modification shall be forwarded to the Office of Procurement (Code KDF).

(b) The agreement for the disposition of facilities, made in accordance with paragraph (a) (3) of this section, shall be incorporated by reference in each subsequent cost-type related procurement contract utilizing the facilities covered by the agreement, and in any separate facilities contract to which the facilities may be transferred.

§ 18–13.401–2 Related procurement contracts requiring the use of Government facilities in possession of a contractor.

When a related procurement contract or modification thereto is negotiated on the basis of the use of facilities which have been previously provided (or are currently being provided) by NASA or another Government agency to the prime contractor or his subcontractors, the procedures set forth in this section shall apply.

(a) Prior to award, the contracting officer shall obtain permission for use from the contracting officer administering the contract which covers use of the facilities and shall document each contract file accordingly. This documentation shall accompany each contract file submitted to NASA Headquarters for review.

(b) Facilities which are authorized for use by the prime contractors shall be identified by facilities contract number(s).

(c) Where no-charge use of facilities is authorized for subcontract work which will support the prime related procurement contract, the names of subcontractors, with the respective facilities contract numbers and items to be produced, shall be inserted in the related procurement contract or modification thereto pursuant to § 18–13.401–5.

(d) If the use of the facilities is authorized on a no-charge basis, the contract shall contain the following clause:

USE OF GOVERNMENT FACILITIES ON A NO-CHARGE BASIS (MAY 1968)

The Contractor is authorized to use on a no-charge basis, in the performance of this contract, the Government-owned facilities provided to him under the facilities contract identified by number in the Schedule of this contract and in effect on the date of this contract.

§ 18–13.401–3 Related procurement contracts requiring the provision of additional facilities.

Prior to executing a related procurement contract in which it is agreed that additional Government facilities shall be provided, the contracting officer shall determine whether the proposed contractor has in existence a facilities contract with NASA. If so, the contracting officer shall arrange with the contracting officer administering the facilities contract to have the proposed additional facilities included under the facilities contract and the related procurement contract shall specify such arrangement. If the proposed contractor does not have a facilities contract with NASA, the contracting officer shall either enter into a separate facilities contract or provide the required facilities under the related procurement contract, subject to the limitations set forth in § 18–13.402.

§ 18–13.401–4 Facilities clause for inclusion in related procurement contracts requiring the provision of additional facilities under separate contracts.

(a) When a related procurement contract, or a modification thereof, is negotiated on the basis that additional facilities will be provided to the contractor under a separate facilities contract (either directly by the Government or by contractor acquisition at Government expense), the following Facilities clause shall be inserted in the Schedule of such related procurement contract:

FACILITIES (JULY 1968)

(a) The terms and conditions of the contract are based on the providing to the Contractor, under separate facilities contract, of certain facilities which are described in ____. Such facilities, as determined by the Contracting Officer, shall be either furnished to the Contractor directly by the Government, or the Contractor shall be authorized to acquire them at Government expense. The parties hereby agree to enter into such a separate facilities contract, or to supplement an existing facilities contract to cover such additional facilities, as the case may be, at the earliest practicable date. Any separate facilities contract shall be made using such applicable contract form, if any, as is prescribed by the NASA Procurement Regulation in effect on the date such facilities contract is executed and shall provide for rent-free use of the facilities in the performance of this contract.

(b) It is agreed that if such facilities are not provided at the time and to the extent as indicated in paragraph (a) above, an equitable adjustment shall, upon timely written request of the contractor, be made in the terms and conditions of this contract to the extent required by reason of the Government's failure to provide such facilities.

(b) In the blank in paragraph (a) of the clause in paragraph (a) of this section, specifically identify the facilities to be provided, either (1) by referencing the contractor's proposal or that portion thereof which describes the additional facilities to be provided, or (2) by referencing any other document which identifies and describes the facilities, or (3) by identifying and describing in the clause itself the facilities which have

been agreed upon as those to be provided. Unless deviations have been granted by the Director of Procurement, NASA Headquarters, all items having an acquisition cost of $500 or less will not be provided by the Government and shall be eliminated from the description inserted in paragraph (a) of the clause in paragraph (a) of this section.

§ 18–13.401–5 Facilities for subcontractors on a no-charge basis.

If it is desired to permit a contractor to let certain of his subcontractors have the benefit of the use of Government facilities in the possession of such subcontractors on a no-charge basis, whether or not the prime contractor is to have the use of facilities on a no-charge basis, the Use of Government Facilities by Subcontractors clause set forth in this section shall be included in the related procurement contract: *Provided*, That (a) the price or the fee of the prime contract is negotiated on the specific understanding that the use of the facilities on a no-charge basis will be permitted in the performance of the specified subcontract items by the specified subcontractors to be set forth in subparagraph (a) of the "Use of Government Facilities by Subcontractors" clause and (b) the subcontractor is not placed in a favored competitive position.

USE OF GOVERNMENT FACILITIES BY SUBCONTRACTORS (APRIL 1962)

(a) The following subcontractors having Government-owned facilities provided under the Facilities contracts set forth below, in effect on the date of this contract, are authorized to use such facilities on a no-charge basis for the subcontract items listed below, and the subcontract shall so provide:

Subcontractor _____

Facilities contract number_____

Subcontract Item_____

(b) If the Contractor enters into other subcontracts with subcontractors who have Government-owned facilities provided to them under Facilities contracts which provide that no-charge use may be authorized, the Contracting Officer may authorize the use of such facilities on a no-charge basis: *Provided*,

(i) He determines that such use will not give the subcontractor a favored competitive position; and

(ii) This contract is amended to reflect adequate consideration to the Government for the use of such facilities on a no-charge basis.

Such subcontracts shall specifically authorize the no-charge use, and require the written approval of the Contracting Officer. No modification to this contract will be required, as provided in (ii) above, if the Contracting Officer determines that an elimination of charge for use of such facilities will, of itself result in an adequate decreased cost to the Government under this contract.

(c) If the Government-owned facilities provided to the Contractor or any subcontractor hereunder on a no-charge basis are increased or decreased or do not remain available during the performance of this contract, or if any change is made in the terms and conditions under which they are made available, such equitable adjustments as may be appropriate will be made in the terms of this contract, unless such increase or decrease was contemplated in the establishment of the price of this contract or subcontract.

(d) The Contractor agrees that he will not directly or indirectly, through overhead charges or otherwise, include in the price of this contract, or seek reimbursement under this contract for, any rental charge paid by the Contractor for the use on other contracts of the facilities referred to herein. Any subcontract hereunder which authorizes the subcontractor to use Government facilities on a no-charge basis shall contain a provision to the same effect as this paragraph (d).

§ 18–13.401–6 Procurement by other Government agencies requiring the use of NASA facilities already with the contractor.

Use of NASA facilities in the possession of the contractor on contracts of other agencies of the Government may be authorized to the extent that such use will not:

(a) Interfere with the primary NASA purpose of the facilities;

(b) Require the use of the facilities beyond the anticipated date of completion of the primary purpose; and

(c) If, in the case of non-Defense use, the requirements of § 18–13.407(c) are followed.

In such cases, approval for use may be given by the NASA contracting officer administering the facilities contract involved, as required by the terms of such contract. A copy of each such approval granted by the NASA contracting officer administering the facilities contract shall be forwarded to the Office of Procurement (Code KDF).

§ 18–13.402 Separate facilities contracts.

§ 18–13.402–1 General requirements for separate facilities contracts.

Industrial facilities shall be provided only under a NASA facilities contract separate from any related procurement contract, except that industrial facilities may be provided under suitable clauses in a related procurement contract when:

(a) The cumulative total acquisition cost (actual or estimated) of the industrial facilities provided to a contractor at one plant or general location does not exceed $50,000;

(b) The contract is for the performance of construction work;

(c) The contract is for the performance of work within establishments or installations operated by the Government; or

(d) The contract is for the performance of services, involving the operation of a Government-owned plant or installation, for a period of 6 months or less, and the facilities provided are to be used only in connection with such contract.

§ 18–13.402–2 Acquisition, use, and consolidated facilities contracts.

(a) A facilities acquisition contract is a facilities contract which contains terms and conditions covering Government provision of facilities to a contractor. It covers (1) contractor acquisition, construction, and installation of the facilities described in the contract schedule and (2) NASA furnishing of facilities when work, such as installation work, will be performed by the contractor at direct expense to the Government under the contract. A facilities acquisition contract does not contain authority for contractor use of facilities. When the facilities under the acquisition contract are acquired, installed, and accepted by the Government, accountability is transferred to a facilities contract governing use.

(b) A facilities use contract is a facilities contract which contains terms and conditions covering the contractor's use of Government-owned facilities for which he is accountable. Facilities, in addition, are furnished to a contractor by the Government under a facilities use contract in the circumstances set forth in § 18–13.403(b).

(c) A consolidated facilities contract is a facilities contract which provides for both acquisition and use of facilities.

§ 18–13.403 Application of acquisition, use, and consolidated facilities contracts.

(a) When a separate facilities contract is required to provide facilities under § 18–13.402–1, the acquisition type of facilities contract, rather than a consolidated facilities contract, shall be used, if there is a preexisting facilities contract covering use of Government-owned facilities by the contractor. If there is no preexisting facilities contract covering use of facilities by the contractor, the acquisition type of facilities contract shall be used in conjunction with a new facilities use contract, except that a consolidated facilities contract may be used if it is anticipated that all foreseeable work with the contractor will continue to remain solely under the cognisance of the NASA installation entering into the facilities contract.

(b) A facilities use contract shall be employed, in preference to employing either a facilities acquisition contract or a consolidated facilities contract, to cover Government furnishing of facilities to a contractor when the contract does not provide direct reimbursement thereunder in connection with the furnishing of such facilities.

(c) Except as otherwise provided by §18–13.402, all industrial facilities provided to a contractor shall be accountable under a single facilities contract governing use, modified from time to time as necessary, and covering only the facilities at that plant or general location, except that the contracting officer may authorize the temporary use of the facilities at a location other than that covered by the contract. Except for such temporary use and except for facilities for the performance of subcontracts under a construction contract or under contracts for work within establishments or installations operated by the Government, industrial facilities provided to a

subcontractor shall be provided, and their use shall be covered, by a separate contract or lease between the Government and the subcontractor.

(d) When a single facilities contract has been entered into under this § 18–13.403, no additional facilities shall be provided a contractor at the plant or general location unless (1) prior written advice regarding the proposed increase in the facilities assistance is furnished to the contracting officer of the single facilities contract, and (2) the contract instrument covering the additional facilities provides for transfer of such facilities to the use provisions of the single facilities contract.

(e) The original and five copies (three executed and two conformed) of each proposed facilities contract or modification thereto which provides facilities having a total acquisition value exceeding $50,000, or provides real property regardless of amount, shall be forwarded to the Office of Procurement (Code KDR) for review and approval prior to award. Such contract or modification shall contain the approval provision set forth in § 18–7.104–51. One copy of all other contracts or modifications thereto which provide facilities to a contractor shall be forwarded promptly upon execution to the Office of Procurement (Code KDF).

§ 18–13.405 Title.

Each facilities contract shall provide that title to all industrial facilities furnished to the contractor will remain in the Government and that title to industrial facilities acquired by a contractor, the cost of which is reimbursable to the contractor, shall vest in the Government at the earliest practicable time.

§ 18–13.406 Nonseverable industrial facilities.

Nonseverable industrial facilities shall be located on land owned or controlled by the Government, unless the Director (or other head) of a NASA installation determines that such location is not feasible. The determination to locate nonseverable industrial facilities on land not owned or controlled by the Government shall be made only when all of the conditions in paragraphs (a) through (d) of this section have been met:

(a) Consideration has been given to any nonrecoverable costs involved, including transportation and installation;

(b) Consideration has been given to locating the facilities on a portion of the land where the facilities can be segregated from existing contractor-owned and Government-owned nonseverable facilities and where the new facilities are readily accessible to public thoroughfares, where it is practical to do so, and in such cases consideration has been given to obtaining a written agreement by the contractor on whose land the facilities are to be placed that either the Government or another Government contractor will have the right to operate the facilities upon termination or completion of the work for which the facilities were acquired; and in cases where such an agreement is not obtained, the negotiation effort shall be documented to justify the alternate proposal;

(c) The contractor agrees that the Government will have the right to abandon in place all nonseverable industrial facilities furnished under the contract located on land not owned or controlled by the Government, and that the Government in such event will not be subject to any obligation to restore or rehabilitate the premises on which the facilities are located unless otherwise provided in the contract with the prior approval of the Director (or other head) of a NASA installation (this approval authority shall not be delegated); and

(d) One of the circumstances in subparagraphs (1) through (4) of this paragraph has been met—

(1) The facilities are disposable, after the Government's need therefor has ceased, to parties other than the contractor for commercial or industrial operations. Such right of disposition must be unencumbered and will be evidenced by written agreement or other legal instrument signed by the contractor;

(2) The contractor agrees, in writing, that he will purchase the facilities upon the expiration of the facilities contract, or at any time prior thereto, at a price equal to the acquisition cost of the facilities less depreciation at the rate or rates specified in the contract (which rate or rates shall take into consideration the estimated useful life of the facilities), or credit an amount equal to such price against any amounts due the contractor under the contract;

(3) The estimated useful life of the facilities will not extend beyond the expiration of the facilities contract or the completion of the work for which facilities were provided; or

(4) The Administrator, NASA, specifically approves other provisions which he considers adequate to protect the interests of the Government in the facilities.

§ 18–13.407 Right of contractor to use.

(a) (1) Each facilities contract which provides for use of facilities shall limit the right of the contractor to use the industrial facilities to the performance of the contracts and subcontracts specified or otherwise identified in the facilities contract, added thereto by modifications, or approved in writing by the contracting officer cognizant of the facilities contract. In the latter event, a record of approved contracts and subcontracts shall be included in the facilities contract file. Where a facilities contract authorizes the use of industrial facilities in the performance of contracts entered into by formal advertising, the facilities contract shall specify a cash rental to be paid in such cases. Facilities contracts may authorize the use of industrial facilities without charge in the performance of contracts other than those entered into by formal advertising if:

(i) The user is not thereby placed in a favored competitive position; and

(ii) The Government receives adequate consideration through reduced cost for supplies or services or otherwise (see § 18–13.601). Such reduced cost may be established in the initial negotiation of new contracts, or by the readjustment of prices (including fixed fees and allowable costs) of existing contracts, or by price redetermination in the case of negotiated fixed-price contracts where the saving to the contractor cannot be accurately forecast.

(2) Where a facilities contract authorizes the use of industrial facilities without charge to perform subcontracts, it is likewise important to assure that the waiver of a use charge is consistent with the requirements that:

(i) The subcontractor is not thereby placed in a favored competitive position; and

(ii) The Government receives adequate consideration through reduced cost for the supplies or services or otherwise (see § 18–13.601).

Therefore, the use of industrial facilities without charge to perform a particular subcontract shall not be authorized unless the contracting officer determines that these requirements are met.

(3) In order to ensure that a concern possessing Government facilities on a no-charge basis is not thereby placed in a favored position in competing for Government business, either as a prime contractor or a subcontractor, with relation to other concerns possessing either a lesser amount of Government facilities or possessing their own facilities, a suitable method for eliminating any competitive pricing advantage shall be employed. This may be accomplished:

(i) By charging a rental in the manner prescribed in § 18–13.601;

(ii) In the price evaluation of competitive proposals, by adding to the proposed contract price of a concern possessing Government facilities without charge an evaluation factor consisting of an amount estimated to equal such rental charge; or

(iii) By any other method or technique which will give effect to the basic policy set forth in this paragraph.

It is recognized that there may be situations in which there is no need for charging rental or applying equalization factors to assure that the user possessing Government facilities is not thereby placed in a favored competitive position, for example, where all competing concerns possess substantially the same amount of Government facilities on a no-charge basis which may be used in the performance of a proposed contract; where the procurement is to be made from a sole source; or where the award is to be made on a basis in which the rental cost of Government-owned facilities is not a controlling factor. The contract file shall be documented to show

the method employed to eliminate competitive advantage in making award.

(b) When a contractor is not authorized to use the facilities on a no-charge basis by paragraph (a) of this section, because of the competitive aspects, or because of administrative difficulties, or other considerations, the contract shall require the contractor to pay a fair and reasonable use charge. Such fair and reasonable use charge shall be established on the basis of sound commercial practice, including any prevailing commercial rates, and shall be such as to prevent the contractor from obtaining an unfair competitive advantage by reason thereof. The use charge for production equipment and for other personal property and equipment constituting industrial facilities will conform to the rates prescribed in § 18–13.601.

(c) A contractor may be authorized by the contracting officer in writing to make incidental use of all or part of the facilities covered by the facilities contract for work other than for NASA. Prior approval of the Office of Emergency Planning must be obtained through the Director of Procurement before authorizing over 25 percent non-Defense use of Government-owned machine tools (Production Equipment Code Nos. 3411–341999 and 3441–34490) having a unit acquisition cost of $500 or more. (The term non-Defense use means work on other than DOD, AEC, or NASA contracts and subcontracts.) Where a facilities contract is no longer required in connection with the performance of a Government contract or contracts, it shall not be continued solely for the purpose of authorizing commercial use of all or any part of the facilities covered by the facilities contract. The rental rates applicable to Government facilities as provided in § 18–13.601 shall apply to facilities under a facilities contract for the period that such facilities are authorized for use for commercial purposes.

§ 18–13.408 Maintenance.

(a) Pursuant to the Maintenance clause required in each facilities use contract and each consolidated facilities contract by §§ 18–7.703–27 and 18–7.704–48, the contractor shall perform normal maintenance of the facilities in accordance with sound industrial practice, including protection, preservation, maintenance, and repair of the facilities and, with respect to equipment, normal parts replacement. The contractor shall submit to the contracting officer or his designated representative a proposed maintenance program in sufficient detail to show its adequacy as a normal maintenance program. However, on direction or approval by the contracting officer, the following may be authorized:

(1) A specified degree of protection, preservation, maintenance, and repair that is less than sound industrial practice as to any part of the facilities which is determined by the contracting officer to be nonessential to future utilization of the facilities as a whole;

(2) Reimbursement by the Government for the cost of protecting, maintaining, preserving, and repairing facilities not authorized for use by the Government; and

(3) Reimbursement by the Government for maintenance work in excess of normal maintenance when such work is in the Government's best interest.

(b) The contracting officer shall order a decrease in maintenance requirements when current normal maintenance is in excess of that required in the Government's interest and sound industrial practices.

(c) A facilities contract shall contain no warranty, expressed or implied, regarding the condition of fitness for use of any item of Government facilities. Nothing in this § 18–13.408 shall limit the contractor's rights with respect to costs properly allocable under other contracts.

§ 18–13.409 Identification and records.

Each facilities contract which governs use of industrial facilities shall require the contractor, without cost to the Government thereunder, to maintain adequate property control records and a system of identification of such industrial facilities in accordance with the provisions of the "Manual for Control of Government Property in Possession of Nonprofit Research and Development Contractors," Appendix C, ASPR, and the NASA Industrial Property Control Manual (NPC 105) in effect on the date of the contract.

§ 18–13.410 Late delivery, diversion, and substitution.

Each contract under which industrial facilities are furnished shall provide that:

(a) The Government will not be liable to the contractor for breach of contract by reason of nondelivery or of an delay in the delivery of industrial facilities to be provided by the Government. Provisions for appropriate equitable adjustment should be made in related procurement contracts which may be affected by any such nondelivery or delay.

(b) The Government will have the right, when it is determined to be in the best interest of the Government, to direct—

(1) Delivery of any industrial facility or facilities acquired by or furnished to the contractor under the contract to locations other than those specified in the contract; and

(2) Assignment, to the Government or to third parties, of purchase orders or subcontracts of the contractors for any industrial facility or facilities covered by the contract.

Provision for appropriate equitable adjustment should be made in related procurement contracts which may be affected by such modifications.

(c) The Government shall have the right to furnish any of the industrial facilities, in lieu of acquisition thereof by the contractor. Where facilities are acquired by the contractor, provisions will be made for reimbursement of proper cost incurred by him, including the cost of terminating purchase orders or subcontracts therefor.

§ 18–13.411 Risk of loss or damage and liability.

Each contract which includes industrial facilities:

(a) Shall provide that the contractor will not be liable for any loss or damage to the industrial facilities, or for expenses incidental to such loss or damage, except that the contractor shall be responsible for any such loss or damage (including expenses incidental thereto)—

(1) Which results from a risk expressly required to be insured under the facilities contract, but only to the extent of the insurance so required to be procured and maintained, or to the extent of insurance actually procured and maintained, whichever is greater;

(2) Which results from a risk which is in fact covered by insurance or for which the contractor is otherwise reimbursed, but only to the extent of said insurance or reimbursement;

(3) Which results from willful misconduct or lack of good faith on the part of any of the contractor's directors or officers, or on the part of any of his managers, superintendents, or other equivalent representatives, who have supervision or direction of (i) all or substantially all of the contractor's business, (ii) all or substantially all of the contractor's operations at the industrial facility if such facility is a complete plant or unit, (iii) all or substantially all of the contractor's operations at any one plant or separate location in which such industrial facilities are installed or located, or (iv) any separate or complete major industrial operation in connection with which the facilities are used; or

(4) Which results from a failure on the part of any of the contractor's directors, officers, or other representatives mentioned in subparagraph (3) of this paragraph (i) to maintain and administer, in accordance with the contractor's approved maintenance procedures, a program for the maintenance, repair, protection, and preservation of the industrial facilities, to assure their full availability and usefulness at all times, or (ii) to take all reasonable steps to comply with any appropriate written directions or instructions which the contracting officer may prescribe as reasonably necessary for the protection of the industrial facilities: *Provided*, That, with respect to any such loss or damage caused by an excepted peril, the contractor shall be liable under subparagraph (4) of this paragraph only where such failure of the contractor's representative, as described herein, results from his willful misconduct or lack of good faith. (As used herein, the term "excepted peril" shall mean any peril set forth in § 18–13.502–2(f)(1) and also may include additional provisions for liability in specific cases, in which case such additional provisions

shall be included, or specifically referred to, in the general liability clause.)

(b) Shall require the contractor to hold the Government harmless against claims for injury to persons or damage to property of the contractor or others arising from the contractor's possession or use of the industrial facilities: *Provided, however*, That as long as there is in effect one or more contracts for supplies or services which require the use of such facilities, the provisions of such contracts shall govern the assumption of liability for such claims arising out of or related to the performance of each such contract and involving the possession or use of Government-provided industrial facilities;

(c) Shall require the contractor to carry insurance in accordance with Subpart 18–10.6. Where justified by the circumstances of any particular contract, NASA may require the contractor to assume greater risks than those enumerated in paragraph (a) of this section.

§ 18–13.412 Unusable or unneeded facilities.

Each facilities contract which governs use of facilities shall provide that the contractor shall notify the contracting officer in writing whenever a substantial part of the facilities is no longer needed or usable for the purpose of performing Government contracts or subcontracts.

§ 18–13.413 Termination of facilities contracts.

§ 18–13.413–1 Termination by the Government.

(a) Facilities contracts shall provide that the Government shall have the right, upon notice, to terminate such contracts with respect to all or any part of the facilities covered thereby, or to terminate or limit the contractor's right to use any or all of such facilities. Provisions for equitable adjustment should be made in related procurement contracts which may be affected by such termination or limitation of right to use.

(b) Facilities contracts governing use of facilities shall be limited in duration to 5 years. Thereafter, if continued use of the facilities by the contractor is mutually desired, the parties shall enter into a new contract incorporating such provisions as may be required by applicable laws and regulations. However, the parties by written agreement may extend the use of the facilities under the facilities contract beyond the 5-year period to permit the completion of then existing procurement contracts and subcontracts. The contractor shall not be granted the unilateral right to extend the time during which the contractor is entitled to use the facilities provided under the contract.

§ 18–13.413–2 Termination by contractor.

(a) Facilities contracts governing use of facilities shall provide that the contractor shall have the right to terminate his authority to use the facilities at any time, upon written notice.

(b) Termination at the option of the contractor shall not relieve the contractor of his obligations or liabilities under any related procurement contract affected thereby.

§ 18–13.414 Standby provisions.

Upon approval of the Director of Procurement, facilities contracts may include appropriate provisions for maintenance or storage of the industrial facilities, or other suitable standby provisions, upon completion or termination, in whole or in part, of such contract or of the contractor's right to use any or all of the facilities covered thereby.

§ 18–13.415 Disposition.

Except as to those nonseverable industrial facilities for which specific provision is made in § 18–13.406, the disposition of industrial facilities shall be in accordance with Part 18–8 of this chapter and NASA Management Instruction 4310.1. Each facilities contract covering use of facilities shall provide that within the period specified in the contract following the effective date of partial or complete termination, the contractor will account for all facilities with respect to which the contract is terminated. Within 180 days after the contractor accounts for the facilities, the contracting officer will notify the contractor as to disposition thereof. The contractor will be required to prepare, protect, remove, or ship the facilities as directed by the contracting officer. Provision may be made for equitable reimbursement to the contractor for expenses so incurred. If the contracting officer fails to notify the contractor as to disposition of the facilities within the 180-day period, herein provided, the contractor may, upon reasonable notice to the Government, remove and store elsewhere at Government risk and expense those facilities located within the plant of the contractor. (See § 18–8.101(b).)

§ 18–13.416 Facilities contract clauses.

Clauses for facilities acquisition use, and consolidated facilities contracts are set forth in Subpart 18–7.7.

Subpart 18–13.5—Contract Clauses

§ 18–13.500 Scope of subpart.

This Subpart 18–13.5 sets forth uniform contract clauses relating to Government property provided for use in connection with the performance of contracts for supplies or services.

§ 18–13.501 Applicability.

(a) As used in this Subpart 18–13.5, the term "fixed-price contract for supplies or services" shall mean any contract entered into:

(1) Either by formal advertising or by negotiation, but excluding purchase orders for $5,000 or less, letter contracts, notices of award, and modifications to contracts or purchase orders;

(2) At a fixed price (with or without provisions for price adjustment); and

(3) For supplies or services other than the construction, alteration, or repair of buildings, bridges, roads, or other kinds of real property.

(b) As used in this Subpart 18–13.5, the term "cost-reimbursement type contract for supplies or services" shall mean any contract (other than a letter contract, notice of award, or modification of a contract) entered into by negotiation on a cost or cost-plus-a-fixed-fee basis for supplies or services other than the construction, alteration, or repair of buildings, bridges, roads, or other kinds of real property.

§ 18–13.502 Government-furnished property clause for fixed-price supply contracts.

Either the clause set forth in § 18–13.502–1 or § 18–13.502–2 shall be used in fixed-price contracts for supplies or services (except contracts for experimental, developmental, or research work with educational or nonprofit institutions, where no profit to the contractor is contemplated) under which NASA is to furnish to the contractor materials, special tooling, or industrial facilities.

§ 18–13.502–1 Short form clause.

Where the total cost of the contract is less than $25,000, and where, in the judgment of the contracting officer, the risk of loss or damage to such property would not result in the inclusion of contingency charges in the contractor's price, a short form clause shall be included in the contract, as follows:

GOVERNMENT-FURNISHED PROPERTY (SHORT FORM) (OCTOBER 1960)

(a) The Government shall deliver to the Contractor at the specified time or times the property described in the Schedule or specifications, together with such related data and information as the Contractor may reasonably request. In the event the Government fails to make timely delivery of such Government-furnished property, and upon timely written request of the Contractor, the Government shall make an equitable adjustment of delivery or performance dates or contract price, or both, pursuant to the "Changes" clause of this contract.

(b) By notice in writing, the Contracting Officer may decrease the property furnished or to be furnished by the Government under this contract. In any such case, the Contracting Officer, upon the written request of the Contractor, shall equitably adjust the delivery or performance dates or the contract price, or both, pursuant to the "Changes" clause of this contract.

(c) Title to all property furnished by the Government, hereinafter referred to as "Government-furnished" property, shall remain in the Government. Title to Government-furnished property shall be unaffected by the incorporation or attachment thereof to any property not owned by the Government, nor shall Government-furnished property, or any part thereof, be or become a fixture or lose its identity as personalty by reason or affixation to any realty. Except as otherwise specifically provided in this contract, the Contractor (i) shall not pledge, assign, or transfer title to any Government-furnished property, nor do or suffer anything to be done whereby any Government-furnished property may be seized, taken in execution, attached, destroyed, or injured, and (ii) shall not remove or otherwise part with possession of, or permit the use by others of, any Government-furnished property.

(d) Unless otherwise provided in this contract, the Contractor, upon delivery to him of any Government-furnished property, assumes the risk of, and shall be responsible for, any loss thereof or damage thereto except for reasonable wear and tear, and except to the extent that such property is consumed in the performance of this contract. In lieu of payment of damages to the Government, the Contractor, if so instructed by the Contracting Officer, shall accomplish, at his own expense, the repair or replacement of Government-furnished property for the loss or damage of which the Contractor is responsible, responsible under the provisions of this contract shall be accomplished by the Contractor at his own expense.

The following provision (f) is for use in advertised fixed-price contracts:

(f) Unless otherwise provided in this contract, the Contractor, upon delivery to him of any Government-furnished Property, assumes the risk of, and shall be responsible for, any loss thereof or damage thereto except for reasonable wear and tear, and except to the extent that such property is consumed in the performance of this contract.

The following provision (f) is for use in negotiated fixed-price contracts except those contracts involving Government-furnished Property relating to labor surplus area or small business set-asides for which the provision (f) for advertised contracts shall be used:

(f) (1) Except of loss, destruction, or damage resulting from a failure of the Contractor due to willful misconduct or lack of good faith of any of the Contractor's managerial personnel as defined herein, to maintain and administer the program for the maintenance, repair, protection, and preservation of the Government-furnished Property, as required by paragraph (e) hereof, and except as specifically provided in the clause or clauses of this contract designated in the Schedule, the Contractor shall not be liable for loss or destruction of or damage to the Government-furnished Property—

(i) Caused by any peril while the property is in transit off the Contractor's premises or

(ii) Caused by any of the following perils while the property is on the Contractor's or subcontractor's premises, or on any other premises where such property may properly be located, or by removal therefrom because of any of the following perils—

(A) Fire; lightning, windstorm, cyclone, tornado, hail; explosion; riot, riot attending a strike, civil commotion; vandalism and malicious mischief; sabotage; aircraft or objects falling therefrom; vehicles running on land or tracks, excluding vehicles owned or operated by the Contractor or any agent or employee of the Contractor; smoke; sprinkler leakage; earthquake or volcanic eruption; flood, meaning thereby rising of a body of water; hostile or warlike action, including action in hindering, combating, or defending against an actual, impending or expected attack by any government or sovereign power (de jure or de facto), or by any authority using military, naval, or air forces; or by an agent of any such government, power, authority, or forces; or

(B) Other peril, of a type not listed above, if such other peril is customarily covered by insurance (or by a reserve for self-insurance) in accordance with the normal practice of the Contractor, or the prevailing practice in the industry in which the Contractor is engaged with respect to similar property in the same general locale.

The perils as set forth in (i) and (ii) above are hereinafter called "excepted perils."

This clause shall not be construed as relieving a subcontractor from liability for loss or destruction of or damage to the Government-furnished Property while in his possession or control, except to the extent that the subcontract, with the prior approval of the Contracting Officer, may provide for the relief of the subcontractor from such liability. In the absence of such approval, the subcontract shall contain appropriate provisions requiring the return of all Government-furnished Property in as good condition as when received, except for reasonable wear and tear or for the utilization of the property in accordance with the provisions of the prime contract.

The term "Contractor's managerial personnel" as used herein means the Contractor's directors, officers, and any of his managers, superintendents, or other equivalent representatives who have supervision or direction of:

(1) All or substantially all of the Contractor's business;

(ii) All or substantially all of the Contractor's operation at any one plant or separate location at which the contract is being performed;

(iii) A separate and complete major industrial operation in connection with the performance of this contract.

(2) The Contractor represents that he is not including in the price hereunder, and agrees that he will not hereafter include in any price to the Government, any charge or reserve for insurance (including self-insurance funds or reserve) covering loss or destruction of or damage to the Government-furnished Property caused by any excepted peril.

(3) Upon the happening of loss or destruction of or damage to any Government-furnished Property caused by an excepted peril, the Contractor shall notify the Contracting Officer thereof, and shall communicate with the Loss and Salvage Organization, if any, now or hereafter designated by the Contracting Officer, and with the assistance of the Loss and Salvage Organization so designated (unless the Contracting Officer has directed that no such organization be employed), shall take all reasonable steps to protect the Government-furnished Property from further damage, separate the damaged and undamaged Government-furnished Property, put all the Government-furnished Property in the best possible order, and furnish to the Contracting Officer a statement of:

(i) The lost, destroyed, and damaged Government-furnished Property;

(ii) The time and origin of the loss, destruction, or damage;

(iii) All known interests in commingled property of which the Government-furnished Property is a part; and

(iv) The insurance, if any, covering any part of or interest in such commingled property.

The Contractor shall be reimbursed for the expenditures made by him in performing his obligations under this subparagraph (3) (including charges made to the Contractor by the Loss and Salvage Organization, except any of such charges the payment of which the Government has, at its option, assumed directly), to the extent approved by the Contracting Officer and set forth in a Supplemental Agreement.

(4) With the approval of the Contracting Officer after loss or destruction of or damage to Government-furnished Property, and subject to such conditions and limitations as may be imposed by the Contracting Officer, the Contractor may, in order to minimize the loss to the Government or in order to permit resumption of business or the like, sell for the account of the Government any item of Government-furnished Property which has been damaged beyond practicable repair, or which is so commingled or combined with property of others, including the Contractor, that separation is impracticable.

(5) Except to the extent of any loss or destruction of or damage to Government-furnished Property for which the Contractor is relieved of liability under the foregoing provisions of this clause, and except for reasonable wear and tear or depreciation, or the utilization of the Government-furnished Property in accordance with the provisions of this contract, the Government-furnished Property (other than property permitted to be sold) shall be returned to the Government in as good condition as when received by the Contractor in connection with this contract, or as repaired under paragraph (e) above.

(6) In the event the Contractor is reimbursed or compensated for any loss or destruction of or damage to the Government-furnished Property, caused by an excepted peril, he shall equitably reimburse the Government. The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any such loss, destruction, or damage and, upon the request of the Contracting Officer, shall at the Government's expense furnish to the Government all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery. In addition, where a subcontractor has not been relieved from liability for any loss or destruction of or damage to the Government-furnished Property, the Contractor shall enforce the liability of the subcontractor for such loss or destruction of or damage to the Government-furnished Property for the benefit of the Government.

(7) *If this contract is for the development, production, modification, maintenance, or overhaul of aircraft, or otherwise involves the furnishing of aircraft by the Government, the "Ground and Flight Risk" clause of this contract shall control, to the extent it is applicable, in the case of loss or destruction of, or damage to, aircraft.

(g) The Government shall at all reasonable times have access to the premises wherein any Government-furnished Property is located.

(h) Upon the completion of this contract, or at such earlier dates as may be fixed by the Contracting Officer, the Contractor shall submit, in a form acceptable to the Contracting Officer, inventory schedules covering all items of Government-furnished Property not consumed in the performance of this contract (including any resulting scrap) or not theretofore delivered to the Government, and shall deliver or make such other disposal of such Government-furnished Property as may be directed or authorized by the Contracting Officer. The net proceeds of any such disposal shall be credited to the contract price or shall be paid in such other manner as the Contracting Officer may direct.

(i) Directions of the Contracting Officer and communications of the Contractor issued pursuant to this clause shall be in writing.

§ 18–13.502–2 Long form clause.

In all other cases where Government-furnished property is involved, the following long form clause shall be used:

GOVERNMENT-FURNISHED PROPERTY (LONG FORM) (OCTOBER 1963)

(a) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the property described in the Schedule or specifications, together with such related data and information as the Contractor may request and as may reasonably be required for the intended use of such property (hereinafter referred to as "Government-furnished Property"). The delivery or performance dates for the supplies or services to be furnished by the Contractor under this contract are based upon the expectation that Government-furnished Property suitable for use will be delivered to the Contractor at the times stated in the Schedule or, if not so stated, in sufficient time to enable the Contractor to meet such delivery or performance dates. In the event that Government-furnished Property is not delivered to the Contractor by such time or times, the Contracting Officer shall, upon timely written request made by the Contractor, make a determination of the delay occasioned the Contractor thereby, and shall equitably adjust the delivery or performance dates or the contract price, or both, and any other contractual provision affected by such delay, in accordance with the procedures provided for in the clause of this contract entitled "Changes." In the event the Government-furnished Property is received by the Contractor in a condition not suitable for the intended use the Contractor shall, upon receipt thereof, notify the Contracting Officer of such fact and, as directed by the Contracting Officer, either (i) return such property at the Government's expense or otherwise dispose of the property, or (ii) effect repairs or modifications. Upon the completion of (i) or (ii) above the Contracting Officer upon written request of the Contractor shall equitably adjust the delivery or performance dates or the contract price, or both, and any other contractual provision affected by the rejection or disposition, or the repair or modification, in accordance with the procedures provided for in the clause of this contract entitled "Changes." The foregoing provisions for adjustment are exclusive and the Government shall not be liable to suit for breach of contract by reason of any delay in delivery of Government-furnished Property or delivery of such property in a condition not suitable for its intended use.

(b) By notice in writing the Contracting Officer may decrease the property furnished or to be furnished by the Government under this contract. In any such case, the Contracting Officer upon the written request of the Contractor shall equitably adjust the delivery or performance dates or the contract price, or both, and any other contractual provisions affected by the decrease, in accordance with the procedures provided for in the clause of this contract entitled "Changes."

(c) Title to the Government-furnished Property shall remain in the Government. Title to Government-furnished Property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government, nor shall such Government-furnished Property, or any part thereof, be or become a fixture or lose its identity as personality by reason of affixation to any realty. The Contractor shall comply with the provisions of the NASA Industrial Property Control Manual (NPC–108) as in effect on the date of the contract, which Manual is hereby incorporated by reference and made a part of this contract.

(d) The Government-furnished Property shall, unless otherwise provided herein, be used only for the performance of this contract.

(e) The Contractor shall maintain and administer, in accordance with sound industrial practice, a program for the maintenance, repair, protection, and preservation of Government-furnished Property, until disposed of by the Contractor in accordance with this clause. In the event that any damage occurs to Government-furnished Property the risk of which has been assumed by the Government under this contract, the Government shall replace such items or the Contractor shall make such repair of the property as the Government directs: *Provided, however,* That if the Contractor cannot effect such repair within the time required, the Contractor shall dispose of such property in the manner directed by the Contracting Officer. The contract price includes no compensation to the Contractor for the performance of any repair or replacement for which the Government is responsible, and an equitable adjustment will be made in the contract price for any such repair or replacement of Government-furnished Property made at the direction of the Government. Any repair or replacement for which the Contractor is

§ 18–13.502–50 Liability for Government property furnished for repair or other services.

The clause set forth below shall be included in contracts for repair (modification, rehabilitation) or other servicing of Government property, when such property is furnished to a contractor for that purpose. If either a substantial quantity of parts or material will be furnished to the contractor, or a significant amount of scrap will result from the work to be performed, the contract will also contain the appropriate Government Furnished Property clause and the schedule of the contract shall provide that such

*This subparagraph may be omitted where it is clearly inapplicable and shall be deleted when the Ground and Flight Risk clause is omitted.

material and scrap shall be governed by the terms of that clause. When minor repairs are obtained under small purchases procedures, the procedures of this paragraph will not apply. Contracting officers shall not require additional insurance under the clause unless the circumstances clearly indicate advantages to the Government which justify a departure from the general policy expressed in § 18–10.303.

LIABILITY FOR GOVERNMENT PROPERTY FURNISHED FOR REPAIR OR OTHER SERVICES (JANUARY 1964)

(a) The provisions of this clause shall govern with respect to any Government property furnished to the Contractor for repair or other services, and which is to be returned to the Government. Such property is hereinafter referred to as "Government property furnished for servicing" and shall not be subject to the provisions of any clause of this contract entitled "Government Furnished Property."

(b) The Contractor shall maintain adequate records and procedures to assure that the Government property furnished for repair or servicing may be readily accounted for and identified at all times while in his custody or possession or in the custody or possession of any subcontractor.

(c) The Contractor shall be liable for any loss or destruction of or damage to the Government property furnished for repair or servicing caused by the Contractor's failure to exercise such care and diligence as a reasonable prudent owner of similar property would exercise under similar circumstances. The Contractor shall not be liable for loss or destruction of or damage to Government property furnished for repair or servicing resulting from any other cause except to the extent that such loss, destruction, or damage is covered by insurance (including self-insurance funds or reserves).

(d) In addition to any insurance (including self-insurance funds or reserves) carried by the Contractor and in effect on the date of this contract affording protection in whole or in part against loss or destruction of or damage to such Government property furnished for repair or servicing, the amount and coverage of which the Contractor agrees to maintain, the Contractor agrees to obtain such additional insurance covering loss or destruction of or damage to Government property furnished to the Contractor for repair or servicing as may, from time to time, be required by the Contracting Officer. The requirements for such additional insurance shall be effected under the procedures established by the "Changes" clause of this contract.

(e) The Contractor shall hold the Government harmless and shall indemnify the Government against all claims for injury to persons or damage to property of the Contractor or others arising from the Contractor's possession or use of the Government property furnished for repair or servicing or arising from the presence of said property on the premises or property of the Contractor.

§ 18–13.503 Government property clause for cost-reimbursement type contracts.

The following clause shall be used in cost-reimbursement type contracts for supplies and services (except contracts for experimental, developmental, or research work with educational or nonprofit institutions, where no profit to the contractor is contemplated) when NASA is to furnish to the contractor, or the contractor is to acquire for the account of the Government, material, special tooling, or industrial facilities.

GOVERNMENT PROPERTY (JANUARY 1964)

(a) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the property described in the Schedule or specifications, together with such related data and information as the Contractor may request and as may reasonably be required for the intended use of such property (hereinafter referred to as "Government-furnished Property"). The delivery or performance dates for the supplies or services to be furnished by the Contractor under this contract are based upon the expectation that Government-furnished Property suitable for use will be delivered to the Contractor at the times stated in the Schedule or, if not so stated, in sufficient time to enable the Contractor to meet such delivery or performance dates. In the event that Government-furnished Property is not delivered to the Contractor by such time or times, the Contracting Officer shall, upon timely written request made by the Contractor, make a determination of the delay occasioned the Contractor and shall equitably adjust the estimated cost, fixed fee, or delivery or performance dates, or all of them, and any other contractual provisions affected by such delay, in accordance with the procedures provided for in the clause of this contract entitled "Changes." In the event that Government-furnished Property is received by the Contractor in a condition not suitable for the intended use, the Contractor shall, upon receipt thereof, notify the Contracting Officer of such fact and, as directed by the Contracting Officer, either (i) return such property at the Government's expense or otherwise dispose of the property or (ii) effect repairs or modifications. Upon completion of (i) or (ii) above, the Contracting Officer upon written request of the Contractor shall equitably adjust the estimated cost, fixed fee, or delivery or performance dates, or all of them, and any other contractual provision affected by the return or disposition, or the repair or modification, in accordance with the procedures provided for in the clause of this contract entitled "Changes." The foregoing provisions for adjustment are exclusive and the Government shall not be liable to suit for breach of contract by reason of any delay in delivery of Government-furnished Property or delivery of such property in a condition not suitable for its intended use.

(b) Title to all property furnished by the Government shall remain in the Government. Title to all property purchased by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the Government upon delivery of such property by the vendor. Title to other property, the cost of which is reimbursable to the Contractor under the contract, shall pass to and vest in the Government upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of processing or use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the Government, whichever first occurs. All Government-furnished Property, together with all property acquired by the Contractor title to which vests in the Government under this paragraph, is subject to the provisions of this clause and is hereinafter collectively referred to as "Government Property."

(c) Title to the Government Property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government, nor shall such Government Property, or any part thereof, be or become a fixture or lose its identity as personalty by reason of affixation to any realty. The Contractor shall comply with the provisions of the NASA Industrial Property Control Manual (NPC–105) as in effect on the date of the contract, which Manual is hereby incorporated by reference and made a part of this contract.

(d) The Government Property provided or furnished pursuant to the terms of this contract shall, unless otherwise provided herein, be used only for the performance of this contract.

(e) The Contractor shall maintain and administer, in accordance with sound industrial practice, a program for the maintenance, repair, protection, and preservation of Government Property so as to assure its full availability and usefulness for the performance of this contract. The Contractor shall take all reasonable steps to comply with all appropriate directions or instructions which the Contracting Officer may prescribe as reasonably necessary for the protection of Government Property.

(f) (1) The Contractor shall not be liable for any loss of or damage to the Government Property, or for expenses incidental to such loss or damage, except that the Contractor shall be responsible for any such loss or damage (including expenses incidental thereto):

(i) Which results from willful misconduct or lack of good faith on the part of any one of the Contractor's directors or officers, or on the part of any of his managers, superintendents, or other equivalent representatives, who has supervision or direction of—

(A) All or substantially all of the Contractor's business; or

(B) All or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed, or

(C) A separate and complete major industrial operation in connection with the performance of this contract;

(ii) Which results from a failure on the part of the Contractor, due to the willful misconduct or lack of good faith on the part of any of his directors, officers, or other representatives mentioned in subparagraph (i) above—

(A) To maintain and administer, in accordance with sound industrial practice, the program for maintenance, repair, protection, and preservation of Government Property as required by paragraph (e) hereof; or

(B) To take all reasonable steps to comply with any appropriate written directions of the Contracting Officer under paragraph (e) hereof;

(iii) For which the Contractor is otherwise responsible under the express terms of the clause or clauses designated in the Schedule;

(iv) Which results from a risk expressly required to be insured under this contract but only to the extent of the insurance so required to be procured and maintained, or to the extent of insurance actually procured and maintained, whichever is greater; or

(v) Which results from a risk which is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement:

Provided, That if more than one of the above exceptions shall be applicable in any case, the Contractor's liability under any one ex-

ception shall not be limited by any other exception. This clause shall not be construed as relieving a subcontractor from liability for loss or destruction of or damage to Government Property in his possession or control, except to the extent that the subcontract, with the prior approval of the Contracting Officer, may provide for the relief of the subcontractor from such liability. In the absence of such approval, the subcontract shall contain appropriate provisions requiring the return of all Government Property in as good condition as when received, except for reasonable wear and tear or for the utilization of the property in accordance with the provisions of the prime contract.

(2) The Contractor shall not be reimbursed for, and shall not include as an item of overhead, the cost of insurance, or any provision for a reserve, covering the risk of loss of or damage to the Government Property, except to the extent that the Government may have required the Contractor to carry such insurance under any other provisions of this contract.

(3) Upon the happening of loss or destruction of or damage to the Government Property, the Contractor shall notify the Contracting Officer thereof, and shall communicate with the Loss and Salvage Organization, if any, now or hereafter designated by the Contracting Officer, and with the assistance of the Loss and Salvage Organization so designated (unless the Contracting Officer has designated that no such organization be employed), shall take all reasonable steps to protect the Government Property from further damage, separate the damaged and undamaged Government Property, put all the Government Property in the best possible order, and furnish to the Contracting Officer a statement of—

(i) The loss, destroyed, and damaged Government Property,

(ii) The time and origin of the loss, destruction, or damage,

(iii) All known interest in commingled property of which the Government Property is a part, and

(iv) The insurance, if any, covering any part of or interest in such commingled property.

The Contractor shall make repairs and renovations of the damaged Government Property or take such other action at the Contracting Officer directs.

(4) In the event the Contractor is indemnified, reimbursed, or otherwise compensated for any loss or destruction of or damage to the Government Property, he shall use the proceeds to repair, renovate, or replace the Government Property involved.

§ 18–13.504 Special tooling clause for fixed-price contracts.

The following clause shall be used in fixed-price contracts for supplies or services for the performance of which the contractor furnishes special tooling, under the conditions set forth in § 18–13.302(b), but is not for use in contracts in which special tooling is called for as a separate end item in the Schedule (see § 18–13.302(a)).

SPECIAL TOOLING (APRIL 1962)

(a) The term "special tooling," as used in this clause, means all jigs, dies, fixtures, molds, patterns, special taps, special gauges, special test equipment, other special equipment and manufacturing aids, and replacements thereof, acquired or manufactured by the Contractor for use in the performance of this contract, which are of such a specialized nature that, without substantial modification or alteration, their use is limited to the production of such supplies or parts thereof, or the performance of such services, as are peculiar to the needs of the Government. The term does not include (i) items of tooling or equipment heretofore acquired by the Contractor, or replacements thereof, whether or not altered or adapted for use in the performance of this contract; (ii) consumable small tools; or (iii) general or special machine tools, or similar capital items.

(b) The Contractor agrees not to use any items of special tooling except in the performance of this contract, or except as otherwise provided by this clause, without prior written approval of the Contracting Officer. The Contractor may, with the approval of the Contracting Officer, use the special tooling in the performance of other contracts with the Government, or subcontracts under Government contracts: *Provided*, That the Contractor agrees not to include in the price or prices for any such contracts or subcontracts, involving the use of such special tooling, the cost of such tooling or any allowance or charge to cover depreciation or amortization which has previously been charged against this contract.

(c) Within 60 days after delivery of the first-production end items under this contract, or such later date as may be prescribed by the Contracting Officer, the Contractor shall, if the Contracting Officer so requests, furnish the Contracting Officer a list of all special tooling acquired or manufactured by the Contractor for use in the performance of this contract. The list shall specify the nomenclature, tool number and related product part number or service, and unit or group cost of the special tooling. Upon completion or termination of all or a substantial part of the work under this contract the Contractor shall furnish a final list in the same form covering all items not previously reported under this paragraph: *Provided, however*, That the Contracting Officer may by written notice waive this requirement or extend it until the completion of this contract and other contracts and subcontracts as to which approval has been obtained under paragraph (b) above. Special tooling which has become obsolete as a result of changes in design or specifications need not be reported, except as provided for in paragraph (d).

(d) In the event of any changes in design or specifications which affect interchangeability of parts, the Contractor shall, unless otherwise agreed to by the Contracting Officer, give the Contracting Officer notice of any part which is not interchangeable with the new or superseding part, and the usable special tooling for each part covered in such notice shall be retained by the Contractor subject to the provisions of paragraph (i), pending disposition under paragraph (f).

(e) At the time he furnishes any list or notice under (c) or (d) above, the Contractor may designate those items of special tooling (either specifically or by listing the particular products, parts, or services for which such items were used or designed) which he desires to retain, together with a written offer (i) to retain any or all of such items, free and clear of any Government interest, for an amount designated therein, which should ordinarily not be less than the then fair value of such items (which fair value takes into account, among other things, the value of such items to the Contractor for use in further work by him); or (ii) to retain any or all such items for such period of time and subject to such terms and conditions as may be agreed to by the parties hereto, subject to ultimate retention or disposition of such items in accordance with paragraph (f) hereof.

(f) Within 90 days after receipt of any list or notice under paragraph (c) or (d) hereof, or such further period as may be agreed upon by the parties, the Contracting Officer shall furnish to the Contractor (i) a list specifying the particular products, parts or services for which the Government may require special tooling, together with a request that the Contractor transfer title (to the extent not previously transferred under any other clause of this contract) and deliver to the Government all usable items of special tooling which were used or designed for the manufacture or performance of any designated portion of such products, parts, or services, and, which were on hand when production of such products or parts, or performance of such services, ceased; or (ii) an acceptance or rejection of any offer made by the Contractor under paragraph (e) above, or a request for further negotiation with respect thereto; or (iii) subject to the provisions of paragraph (j) hereof, a direction to the Contractor to sell, or to dispose of as scrap, for the account of the Government, any or all of the special tooling covered by such list; or (iv) a statement with respect to any or all of the special tooling covered by such list that the Government has no further interest therein and waives its rights therein; or (v) any combination of the foregoing, as the circumstances warrant. The Contractor shall promptly comply with any request by the Contracting Officer under this paragraph to transfer title to any items of special tooling, and shall, subject to the provisions of paragraph (j) hereof, (1) immediately prepare such items for shipment by proper packaging, packing, and marking, in accordance with any instructions which may be issued by the Contracting Officer, and shall promptly deliver such items to the Government, as directed by the Contracting Officer; or (2) if a storage agreement has been entered into, prepare such items for storage in accordance therewith, as directed by the Contracting Officer. Any items of special tooling so delivered or stored shall be accompanied by such operation sheets or other appropriate data as are necessary to show the manufacturing operations or processes for which such items were used or designed. If the Contracting Officer has requested further negotiations under (ii) of this paragraph, the Contractor agrees that he will enter into such negotiations in good faith with the Contracting Officer. Any items of special tooling which are not disposed of by transfer of title and delivery to the Government, or by acceptance of an offer of the Contractor made under paragraph (e), or of such offer as modified in the course of negotiations, shall be disposed of in the manner set forth in (iii) or (iv) of this paragraph.

(g) If the Contracting Officer accepts an offer of the Contractor to retain any items of special tooling, or if any such items are sold to third parties or disposed of as scrap, the net proceeds shall (i) be deducted from the amounts due to the Contractor under this contract and the contract amended accordingly; or (ii) be otherwise paid as the Contracting Officer may direct.

(h) The Contractor agrees that he will follow his normal industrial practice in maintaining property control records on all the special tooling, and that he will make such records available for inspection by the Government at all reasonable times. The Contractor further agrees that, to the extent practicable, he will identify by appropriate stamp, tag, or other mark all special tooling subject to this clause.

(i) The Contractor agrees that between the date any usable items of special tooling are no longer needed by him, within the meaning of this clause, and the date of final disposition of such items under this clause, he will take all reasonable steps necessary to maintain the identity and existing conditions of such items, unless the Contracting Officer has directed that such items be disposed of as scrap or has given notice under (f)(iv). The Contractor shall not be required to keep any such items in place.

(j) Any preparation of items for shipment required of the Contractor under paragraph (f) of this clause, or any disposal as scrap under paragraph (f)(iii), or any action required of the Contractor under paragraph (i), shall be taken pursuant to written instructions of the Contracting Officer, which shall (i) provide for an equitable adjustment of the contract price to cover any additional cost to the Contractor, not taken into account in the negotiation of this contract, of complying with such instructions, which adjustment shall be made in accordance with the procedure set forth in the clause of this contract entitled "Changes," or (ii) otherwise provide for payment to the Contractor of any such additional cost. Any failure of the Contracting Officer to issue the Contractor specific disposition instructions shall be construed as an instruction to the Contractor to take the action required under paragraph (i) with provision for equitable adjustment or payment as provided for above.

The following paragraph relating to subcontracts shall be used in cases where the Contracting Officer deems the use of such paragraph to be necessary in order to protect the Government's interest in special tooling which may be acquired under such subcontracts:

(k) The Contractor agrees that, in placing subcontracts or purchase orders under this contract which involve the use of special tooling, the full cost of which is charged to such subcontract or purchase order, he will include therein appropriate provisions to obtain rights comparable to those granted to the Government by this clause, and agrees that he will exercise such rights for the benefit of the Government, as the Contracting Officer may direct. (April 1962.)

In appropriate cases, the following alternative provision relating to subcontracts be used:

(k) The Contractor agrees that, in placing any subcontracts or purchase orders under this contract which involve the use of special tooling, the full cost of which is charged to such subcontract or purchase order, he will to the extent consistent with his normal business practice include appropriate provisions therein to obtain rights comparable to those granted to the Government by this clause, and agrees that he will exercise such rights for the benefit of the Government, as the Contracting Officer may direct. (April 1962.)

§ 18–13.505 Government-furnished property clauses for fixed-price type research and development contracts with nonprofit institutions.

Where property is furnished by the Government to a nonprofit institution under a fixed-price research and development contract (provided that the contract is executed on a nonprofit basis), one of the clauses set forth in § 18–13.505–1 or § 18–505–2 shall be used.

§ 18–13.505–1 Short form clause.

When the total cost of the contract is less than $25,000, the following short form clause shall be included in the contract:

GOVERNMENT-FURNISHED PROPERTY (SHORT FORM) (APRIL 1962)

The Government agrees to furnish to the Contractor such research equipment as is set forth in the Schedule. Upon final payment, the Contractor agrees to transfer to the Government, without charge, any items of equipment listed in the Schedule which the Contracting Officer may request to be transferred in accordance with instructions issued at that time. The packing, crating, and shipping charges incident to delivery to the Government will be borne by the Government.

§ 18–13.505–2 Long form clause.

In all other fixed-price research and development contracts of $25,000 and over with nonprofit institutions where Government-furnished property is involved, the following long form clause shall be included in the contract:

GOVERNMENT-FURNISHED PROPERTY (LONG FORM) (APRIL 1962)

(a) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the property described in the Schedule or specifications, together with such related data and information as the Contractor may request and as may reasonably be required for the intended use of such property (hereinafter referred to as "Government-furnished Property"). The delivery or performance dates for the supplies or services to be furnished by the Contractor under this contract are based upon the expectation that Government-furnished Property suitable for use will be delivered to the Contractor at the times stated in the Schedule or, if not so stated, in sufficient time to enable the Contractor to meet such delivery or performance dates. In the event that Government-furnished Property is not delivered to the Contractor by such time or times, the Contracting Officer shall, upon timely written request made by the Contractor, make a determination of the delay occasioned the Contractor thereby, and shall equitably adjust the delivery or performance dates or the contract price, or both, and any other contractual provision affected by the delay. In the event that Government-furnished Property is received by the Contractor in a condition not suitable for its intended use, the Contractor shall, upon receipt thereof, notify the Contracting Officer, of such fact and, as directed by the Contracting Officer, either (i) return such property at the Government's expense or otherwise dispose of such property, or (ii) effect repairs or modifications. Upon completion of (i) or (ii) above the Contracting Officer upon timely written request of the Contractor shall equitably adjust the delivery or performance dates or the contract price, or both, and any other contractual provision affected by the return, disposition, repair, or modification. The foregoing provisions for adjustment are exclusive and the Government shall not be liable to suit for breach of contract by reason of any delay in delivery of Government-furnished Property or delivery of such property in a condition not suitable for its intended use.

(b) By notice in writing the Contracting Officer may decrease the property furnished or to be furnished by the Government under this contract. In any such case, the Contracting Officer upon timely written request of the Contractor shall equitably adjust the delivery or performance dates or the contract price, or both, and any other contractual provisions affected by the decrease.

(c) Title to the Government-furnished Property shall remain in the Government. Title to Government-furnished Property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government, nor shall such Government-furnished Property, or any part thereof, be or become a fixture or lose its identity as personalty by reason of affixation to any realty.

In accordance with 4.5105, the following alternate paragraph (c) may be used:

(c) Title to Government-furnished Property shall remain in the Government, except for that equipment the title to which is transferred to the Contractor pursuant to this paragraph. The Contracting Officer may at any time during the term of this contract, or upon completion or termination, transfer title to equipment to the Contractor upon such terms and conditions as may be agreed upon: *Provided*, That the Contractor shall not under any Government contract, or subcontract thereunder, charge for any depreciation, amortization, or use of such equipment as is donated under this paragraph. Upon the transfer of title to equipment under this paragraph, such equipment shall cease to be Government-furnished Property. Title to Government-furnished Property, not otherwise transferred to the Contractor, shall not be affected by the incorporation or attachment thereof to any property not owned by the Government, nor shall such Government-furnished Property, or any part thereof, be or become a fixture or lose its identity as personalty by reason of affixation to any realty. (April 1962.)

(d) The Government-furnished Property shall, unless otherwise provided herein, and except as may be otherwise approved by the Contracting Officer, be used only for the performance of this contract.

(e) The Contractor shall maintain and administer, in accordance with sound business practice, a program for the maintenance, repair, protection, and preservation of Government-furnished Property, until disposed of by the Contractor in accordance with this clause. In the event that any damage occurs to Government-furnished Property the risk of which has been assumed by the Government under this contract, the Government shall replace such items or the Contractor shall make such repair of the property as the Government directs: *Provided, however*, That if the Contractor cannot effect such repair within the time required, the Contractor may reject such property. The contract price includes no compensation to the Contractor for the performance of any repair or replacement for which the Government is responsible, and an equitable adjustment will be made in the contract price for any such repair or replacement of Government-furnished Property made at the direction of the Government. Any repair or replacement for which the Contractor is responsible under the provisions of this contract shall be accomplished by the Contractor at his own expense.

(f) The Provisions of Part III, Appendix C, Armed Services Procurement Regulation, "Manual for Control of Government Property in Possession of Nonprofit Research and Development Contractors," as in effect on the date of this contract, are hereby incorporated by reference and made a part of the contract, insofar as they relate to Government-furnished Property. The Contractor

agrees to comply with the provisions thereof relating to the keeping of property control records, identification and marking, segregation and commingling, taking of inventories, and control of salvage and scrap, and the Contractor also accepts the responsibilities set forth in said Part III with respect to Government-furnished Property.

(g) The Contractor agrees to make available to authorized representatives of the Contracting Officer at all reasonable times at the office of the Contractor all of his property records under this contract, and access to any premises where any of the Government-furnished Property is located.

(h) (1) The Contractor shall not be liable for any loss of or damage to the Government-furnished Property, or for expenses incidental to such loss or damage, except that the Contractor shall be liable for any such loss or damage (including expenses incidental thereto):

(i) Which results from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or on the part of any of his managers, superintendents, or other equivalent representatives who have supervision or direction of all or substantially all of the Contractor's business, or all or substantially all of the Contractor's operations at any one plant, laboratory, or separate location in which this contract is being performed; or

(ii) Which results from a failure on the part of the Contractor, due to the willful misconduct or lack of good faith on the part of any of his directors, officers, or other representatives mentioned in subparagraph (i) above, to maintain and administer, in accordance with sound business practice, the program for maintenance, repair, protection, and preservation of Government-furnished Property as required by subparagraph (e) above; or

(iii) For which the Contractor is otherwise responsible under the express terms of the clause or clauses designated in the Schedule; or

(iv) Which results from a risk expressly required to be insured under some other provision of this contract, or of the schedules or task orders thereunder, but only to the extent of the insurance so required to be procured and maintained or to the extent of insurance actually procured and maintained, whichever is greater; or

(v) Which results from a risk which is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement:

Provided, That, if more than one of the above exceptions shall be applicable in any case, the Contractor's liability under any one exception shall not be limited by any other exception.

(2) The Contractor represents that he is not including in the price hereunder, and agrees that he will not hereafter include in any price to the Government, any charge or reserve for insurance (including self-insurance funds or reserves) covering loss or destruction of or damage to the Government-furnished Property, except to the extent that the risk of loss is imposed on the Contractor under (1)(iii) above, or insurance has been required under (1)(iv) above.

(3) Upon the happening of loss or destruction of or damage to any Government-furnished Property, the Contractor shall notify the Contracting Officer thereof and shall communicate with the Loss and Salvage Organisation, if any, now or hereafter designated by the Contracting Officer, and with the assistance of the Loss and Salvage Organisation so designated (unless the Contracting Officer has directed that no such organisation be employed) shall take all reasonable steps to protect the Government-furnished Property from further damage, separate the damaged and undamaged Government-furnished Property, put all the Government-furnished Property in the best possible order, and furnish to the Contracting Officer a statement of:

(i) The lost, destroyed, and damaged Government-furnished Property;

(ii) The time and origin of the loss, destruction, or damage;

(iii) All known interest in commingled property of which the Government-furnished Property is a part; and

(iv) The insurance, if any, covering any part of or interest in such commingled property.

The Contractor shall be reimbursed for the expenditures made by him in performing his obligations under this subparagraph (3) (including charges made to the Contractor by the Loss and Salvage Organisation, except any of such charges the payment of which the Government has, as its option, assumed directly) to the extent approved by the Contracting Officer and set forth in a modification to this contract.

(4) With the approval of the Contracting Officer after loss or destruction of or damage to Government-furnished Property, and subject to such conditions and limitations as may be imposed by the Contracting Officer, the Contractor may, in order to minimize the loss to the Government or in order to permit resumption of business or the like, sell for the account of the Government any item of Government-furnished Property which has been damaged beyond practicable repair, or which is so commingled or combined with property of others, including the Contractor, that separation is impracticable.

(5) Except to the extent of any loss or destruction of or damage to Government-furnished Property for which the Contractor is relieved of liability under the foregoing provisions of this clause, and except for reasonable wear and tear or depreciation, or the utilization of the Government-furnished Property in accordance with the provisions of this Contract, the Government-furnished Property (other than property permitted to be sold) shall be returned to the Government in as good condition as when received by the Contractor in connection with this contract, or as repaired under paragraph (e) above.

(6) In the event the Contractor is reimbursed or compensated for any loss or destruction of or damage to the Government-furnished Property, he shall equitably reimburse the Government. The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any such loss, destruction, or damage and, upon the request of the Contracting Officer, shall at the Government's expense furnish to the Government all reasonable assistance and cooperation (including assistance in the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery.

(7) *If this contract is for the development, production, modification, maintenance, or overhaul of aircraft, or otherwise involves the furnishing of aircraft by the Government, the "Ground and Flight Risk" clause of this contract shall control, to the extent is is applicable in the case of loss or destruction of, or damage to, aircraft.

(i) Upon completion or expiration of this contract, any Government Property which has not been consumed in the performance of this contract, or which has not been disposed of as hereinafter provided in subparagraph (i) of this article, or for which the Contractor has not otherwise been relieved of responsibility, shall be disposed of in the same manner, and subject to the same procedures, as is provided in subparagraph (g) of the clause of this contract entitled "Termination for the Convenience of the Government" with respect to termination inventory. The proceeds of any such disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this contract, or shall otherwise be credited to the price or costs of the work covered by this contract, or shall be paid in such other manner as the Contracting Officer may direct. Pending final disposition of such property, the Contractor agrees to take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation thereof.

(j) If the contracting Officer determines that the interests of the Government require removal of any Government-furnished Property, or if the Contractor determines any Government-furnished Property to be in excess of his needs under this contract, such Government-furnished Property shall be disposed of in the same manner as covered by paragraph (i) above. In the event that the Contracting Officer requires the removal of any Government-furnished Property under this subparagraph (j) or subparagraph (i) above, upon timely written request of the Contractor, an equitable adjustment shall be made in the contract price to cover the direct cost to the Contractor of such removal and any property damage occasioned thereby.

§ 18–13.506 Government property clauses for cost-reimbursement type research and development contracts with nonprofit institutions.

Where property is furnished by the Government to, or is acquired by a nonprofit institution, under a cost-reimbursement type research and development contract (provided that the contract is executed on a nonprofit basis), one of the clauses set forth in § 18–13.506–1 or § 18–13.506–2 shall be used.

§ 18–13.506–1 Short form clause.

When the total cost of the contract is less than $25,000, the clause set forth below shall be included in the contract:

GOVERNMENT PROPERTY (SHORT FORM) (APRIL 1962)

All property furnished to or purchased by the Contractor in connection with work under this contract shall be and remain the property of the Contractor, except as provided below, even though the Contractor is entitled to be reimbursed for the cost of the property as a direct item of cost under this contract. If the Contractor acquires individual items of equipment exceeding $1,000 in value for any single item, the Contractor shall report such items to the Contracting Officer from time to time as they are procured and maintain a control system which will permit their ready identification and location. Upon final payment, the Contractor agrees to transfer to the Government, without charge, any items of equipment furnished to the Contractor or required to be reported hereunder, which the

*This subparagraph may be omitted where it is clearly inapplicable and shall be deleted when the Ground and Flight Risk clause is omitted.

Contracting Officer may request to be transferred in accordance with instructions issued at that time. The packing, crating, and shipping charges incident to delivery to the Government will be borne by the Government.

§ 18–13.506–2 Long form clause.

In all other cost-reimbursement type research and development contracts of $25,000 or over with nonprofit institutions where Government property is involved, the clause set forth below shall be included in the contract.

GOVERNMENT PROPERTY (LONG FORM) (APRIL 1962)

(a) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the property described in this contract, together with such related data and information as the Contractor may request and as may reasonably be required for the intended use of such property (hereinafter referred to as "Government-furnished Property"). The delivery or performance dates for the supplies or services to be furnished by the Contractor under this contract are based upon the expectation that Government-furnished Property suitable for use will be delivered to the Contractor at the times stated in the Schedule of this contract or, if not so stated, in sufficient time to enable the Contractor to meet such delivery or performance dates. In the event that Government-furnished Property is not delivered to the Contractor by such time or times, the Contracting Officer shall, upon timely written request made by the Contractor, make a determination of the delay occasioned the Contractor and shall equitably adjust the estimated cost, or delivery or performance dates, or both, and any other contractual provisions affected by such delay. In the event that the Government-furnished Property is received by the Contractor in a condition not suitable for the intended use, the Contractor shall, upon receipt thereof, notify the Contracting Officer of such fact and, as directed by the Contracting Officer, either (i) return such property at the Government's expense or otherwise dispose of such property, or (ii) effect repairs or modifications. Upon completion of (i) or (ii) above, the Contracting Officer upon timely written request of the Contractor shall equitably adjust the estimated cost, or delivery or performance dates, or both, and any other contractual provision affected by the return, disposition, repair, or modification. The foregoing provisions for adjustment are exclusive and the Government shall not be liable to suit for breach of contract by reason of any delay in delivery of Government-furnished Property or delivery of such property in a condition not suitable for its intended use.

(b) The Government may deliver to the Contractor Government-furnished Property in addition to that set forth in this contract. Upon such delivery this contract may be amended, if appropriate, to accomplish an equitable adjustment in its terms and provisions.

(c)(1) Title to all property furnished by the Government shall remain in the Government. Title to all property purchased by the Contractor, except for that covered by (c)(2) below, for the cost of which the contractor is to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the Government upon delivery of such property by the vendor. Title to other property, the cost of which is to be reimbursed to the Contractor under this contract, shall pass to and vest in the Government upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of processing or use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the Government, whichever first occurs. All Government-furnished property, together with all property acquired by the Contractor, title to which vests in the Government under this paragraph, are subject to the provisions of this clause and are hereinafter collectively referred to as "Government property."

(c)(2) All research equipment purchased by the Contractor in connection with work under this contract shall be and remain the property of the Contractor, even though the Contractor is entitled to be reimbursed for the cost of the research equipment as a direct item of cost under this contract. If the Contractor acquires individual items of research equipment exceeding $3,000 in value for any single item, the Contractor shall report such items to the Contracting Officer from time to time as they are procured and maintain a control system which will permit their ready identification and location. Upon final payment, the Contractor agrees to transfer to the Government, without charge, any item of research equipment required to be reported hereunder which the Contracting Officer may request be transferred in accordance with instructions issued at that time. The packing, crating, and shipping charges incident to delivery to the Government will be borne by the Government.

In accordance with § 18–13.803, the following additional language may be added to paragraph (c)(1) of the clause:

Notwithstanding the provisions of this paragraph (c)(1) relative to title, the Contracting Officer may at any time during the term of this contract, or upon completion or termination, transfer title to equipment to the Contractor upon such terms and conditions as may be agreed upon: *Provided*, That the Contractor shall not under any Government contract, or subcontract thereunder, charge for any depreciation, amortization, or use of such equipment as is donated under this paragraph. Upon the transfer of title to equipment under this paragraph, such equipment shall cease to be Government property. (April 1962.)

(d) Title to the Government property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government, nor shall such Government property, or any part thereof, be or become a fixture or lose its identity as personalty by reason of affixation to any realty.

(e) The Government property provided or furnished pursuant to the terms of this contract shall, unless otherwise provided herein and except as may be otherwise approved by the Contracting Officer, be used only for the performance of this contract.

(f) The Contractor shall maintain and administer in accordance with sound business practice a program for the maintenance, repair, protection, and preservation of Government property so as to assure its full availability and usefulness for the performance of this contract. The Contractor shall take all reasonable steps to comply with all appropriate directions or instructions which the Contracting Officer may prescribe as reasonably necessary for the protection of the Government property.

(g) The provisions of Part III, Appendix C, Armed Services Procurement Regulation, "Manual for Control of Government Property in Possession of Nonprofit Research and Development Contractors," as in effect on the date of this contract, are herein incorporated by reference and made a part of this contract. The Contractor agrees to comply with the provisions thereof relating to the keeping of property control records, identification and marking, segregation and commingling, taking of inventories, and control of salvage and scrap, and the Contractor also accepts the responsibilities set forth in said Part III with respect to Government property.

(h) The Contractor agrees to make available to authorized representatives of the Contracting Officer at all reasonable times at the office of the Contractor all of his property records under this contract, and access to any premises where any of the Government property is located.

(i) (1) The Contractor shall not be liable for any loss of or damage to the Government property, or for expenses incidental to such loss or damage, except that the Contractor shall be responsible for any such loss or damage (including expenses incidental thereto):

(i) Which results from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or on the part of any of his managers, superintendents, or other equivalent representatives, who has supervision or direction of all or substantially all of the Contractor's business, or all or substantially all of the Contractor's operations at any one plant, laboratory, or separate location in which this contract is being performed;

(ii) Which results from a failure on the part of the Contractor, due to the willful misconduct or lack of good faith on the part of any of his directors, officers, or other representatives mentioned in (i) above—

(A) to maintain and administer, in accordance with sound business practice, the program for maintenance, repair, protection, and preservation of Government property as required by (f) above or

(B) to take all reasonable steps to comply with any appropriate written directions of the Contracting Officer under (f) above;

(iii) For which the Contractor is otherwise responsible under the express terms of the clause or clauses designated in the Schedule;

(iv) Which results from a risk expressly required to be insured under some other provision of this contract, but only to the extent of the insurance so required to be procured and maintained, or to the extent of insurance actually procured and maintained, whichever is greater; or

(v) Which results from a risk which is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement: *Provided*, That if more than one of the above exceptions shall be applicable in any case, the Contractor's liability under any one exception shall not be limited by any other exception.

(2) The Contractor shall not be reimbursed for, and shall not include as an item of overhead, the cost of insurance, or any provision for a reserve, covering the risk of loss of or damage to the Government property, except to the extent that the Government may have required the Contractor to carry such insurance under any other provision of this contract.

(3) Upon the happening of loss or destruction of or damage to the Government property, the Contractor shall notify the Contracting Officer thereof, and shall communicate with the Loss and Salvage Organization, if any, now or hereafter designated by the Contracting Officer, and with the assistance of the Loss and Salvage Organization so designated (unless the Contracting Officer has designated that no such organization be employed), shall take all reasonable steps to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the Government property in the best possible order, and furnish to the Contracting Officer a statement of:

(i) The lost, destroyed, and damaged Government property;

(ii) The time and origin of the loss, destruction, or damage;

(iii) All known interests in commingled property of which the Government property is a part; and

(iv) The insurance, if any, covering any part of or interest in such commingled property.

The Contractor shall make repairs and renovations of the damaged Government property or take such other action as the Contracting Officer directs.

(4) In the event the Contractor is indemnified, reimbursed, or otherwise compensated for any loss or destruction of or damage to the Government property, he shall use the proceeds to repair, renovate, or replace the Government property involved, or shall credit such proceeds against the cost of the work covered by the contract, or shall otherwise reimburse the Government, as directed by the Contracting Officer. The Contractor shall do nothing to prejudice the Government's right to recover against third parties for any such loss, destruction, or damage and, upon the request of the Contracting Officer, shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including assistance in the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery.

(5) *If this contract is for the development, production, modification, maintenance, or overhaul of aircraft, or otherwise involves the furnishing of aircraft by the Government, the "Ground and Flight Risk" clause of this contract shall control, to the extent it is applicable, in the case of loss or destruction of, or damage to, aircraft.

(j) The Government property shall remain in the possession of the Contractor for such period of time as is required for the performance of this contract unless the Contracting Officer determines that the interests of the Government require removal of such property. In such case the Contractor shall promptly take such action as the Contracting Officer may direct with respect to the removal and shipping of Government property. In any such instance, this contract may be amended to accomplish an equitable adjustment in its terms and provisions.

(k) Upon completion or expiration of this contract, any Government property which has not been consumed in the performance of this contract, or which has not been disposed of as hereinafter provided in subparagraph (l) of this clause, or for which the Contractor has not otherwise been relieved of responsibility, shall be disposed of in the same manner, and subject to the same procedures, as is provided in subparagraph (g) of the clause of this contract entitled "Termination for the Convenience of the Government" with respect to termination inventory. The proceeds of any such disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this contract, or shall otherwise be credited to the cost of the work covered by this contract, or shall be paid in such other manner as the Contracting Officer may direct. Pending final disposition of such property, the Contractor agrees to take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation thereof.

(l) If the Contracting Officer determines that the interests of the Government require removal of any Government property, or if the Contractor determines any Government property to be in excess of his needs under this contract, such Government property shall be disposed of in the same manner as provided by subparagraph (k) above. In the event that the Contracting Officer requires the removal of any Government property under this subparagraph (l) or subparagraph (k) above, the direct cost to the Contractor of such removal and of any property damage occasioned thereby shall constitute an allowable cost thereunder.

(m) Unless otherwise provided herein, the Government shall not be under any duty or obligation to restore or rehabilitate, or to pay the costs of the restoration or rehabilitation of, the Contractor's plant or any portion thereof which is affected by the removal of any Government property.

(n) Directions of the Contracting Officer and communications of the Contractor issued pursuant to this clause shall be in writing.

*This subparagraph may be omitted where it is clearly inapplicable and shall be deleted when the Ground and Flight Risk clause is omitted.

Subpart 18–13.6—Use of Government-Owned Industrial Facilities on Work Other Than for NASA

§ 18–13.600 Scope of subpart.

Subparts 18–13.1 through 18–13.5 are intended to be applicable only to those situations in which Government property is provided to contractors or subcontractors of any tier for use in connection with procurement by NASA. This Subpart 18–13.6 relates to making available to contractors, or former contractors, or to other parties, Government-owned industrial facilities under the control of NASA for use solely or principally on work other than for NASA. (As to making industrial facilities available principally for use in connection with procurement by NASA and incidentally for use on work other than for NASA, see § 18–13.407.) The question of making industrial facilities available for use on work other than for NASA may arise with respect to such property in the possession of the Government (e.g., machine tools in reserve storage) or in the possession of the potential user (e.g., where a contractor has completed the contract under which the property was originally provided). Basic authority to permit the use of Government property on work other than for NASA is found in statutes authorizing NASA to lease property under its control (see 42 U.S.C. 2473 (b)(3)).

§ 18–13.601 Rental.

§ 18–13.601–1 General.

When industrial facilities are made available for use on work other than for NASA, the user shall be charged a fair and reasonable rental: *Provided*, That under NASA procedures consistent with §18–13.407(a), rental may be waived with regard to such property furnished solely for use in performing work for other Government agencies. Such rental unless otherwise specified herein shall be established on the basis of sound commercial practice, including any prevailing commercial rates. Except as otherwise provided in § 18–13.601–2, such rental may, where permitted by the law under which the contract or agreement is executed, take into consideration obligations assumed by the user to protect and maintain the property as well as to perform other services as all or part of the consideration for the contract or agreement. The rental shall, in any event, be such as to prevent the user from obtaining an unfair competitive advantage by reason thereof over competitors who own their facilities or obtain them from private sources. The rental shall be charged on the basis of the time during which the property is available for use rather than on the basis of the time during which the property is actually used, except in the case of facilities, other than those covered by § 18–13.601–2, where it is determined by the Director of Procurement to be impracticable or contrary to the best interest of the Government. The Government shall make no warranty, express or implied, regarding the condition or fitness for use of any item of property.

§ 18–13.601–2 Rental rates.

Except as authorized by the Director of Procurement, rentals charged for industrial facilities shall conform to the following rates:

(a) As to production equipment of the types listed in § 18–13.603, rent shall be at the appropriate rate set forth below regardless of the extent and value of any obligations undertaken by the user to provide maintenance or other services.

Age of equipment	*Monthly rental rate*
0 to 2 years	1¾ percent of acquisition cost.
Over 2 to 6 years	1½ percent of acquisition cost.
Over 6 to 10 years	1 percent of acquisition cost.
Over 10 years	¾ percent of acquisition cost.

The acquisition cost to be used in determining rental shall be the purchase price of the equipment charged the Government plus costs of transportation to, and installation in, the place where the equipment will be used under the contract or agreement if such costs are borne by the Government. Transportation and installation costs may be estimated by the contracting officer where the actual costs are not known. When special tooling or accessories are rented with the equipment, equipment acquisi-

tion cost shall be increased to include the price charged the Government for such tooling or accessories. When equipment is modernized by substantial rebuilding at Government expense so as to enhance the original capability of the tool, the acquisition cost of the equipment shall be adjusted upward to take into account the increased value that such rebuilding and modernization represents. If the purchase price is not available or cannot be obtained from the manufacturer of the equipment, the installation concerned shall obtain an estimated purchase price from the Office of Procurement (Code KDF). On January 1 following the date of manufacture of each item of equipment, such item shall be considered 1 year old, and on each succeeding January 1 it shall become 1 year older; and contracts or agreements shall so provide. For example, if an item of equipment is manufactured on July 15, 1958, it will be considered to be 1 year old on January 1, 1959, 2 years old on January 1, 1960, 3 years old on January 1, 1961, etc. The item of equipment will be considered "over 2 years old" on and after January 1, 1960, "over 6 years old" on and after January 1, 1964, and "over 10 years old" on and after January 1, 1968.

(b) Rent at the rate of not less than 1 percent per month of the original acquisition cost of such property or equipment shall be charged for property and equipment constituting industrial facilities other than production equipment covered in (i) above, and for equipment for which there are no prevailing commercial rates.

(c) Charges to be made under the provisions of paragraphs (a) and (b) of this section shall be computed as follows—

(1) For any period in which use of personal property and equipment constituting industrial facilities is authorized, the contractor, regardless of the character and extent of his use of the facilities, shall be charged a full month's rental for each month or fraction thereof, computed in accordance with the above rates, reduced by the amount of rental which would be properly allocable to Government contracts and subcontracts on which use of the facilities without charge has been authorized. The portion of the rental charge properly allocable to such Government contracts and subcontracts may be determined either prospectively or retroactively, as provided in the facilities contract, and shall be computed by multiplying the full rental for the period by a fraction whose numerator is the amount of use of the facilities by the contractor on a no-charge basis and whose denominator is the total amount of use of the facilities on both a rental and no-charge basis.

(2) For the purpose of the above formula, amounts of use may be determined on the basis of direct labor hours, sales, hours of use, or any other method which the contracting officer determines will result in an equitable apportionment of the rental charge.

(d) As to real property constituting industrial facilities, a fair and reasonable rent shall be charged.

Except to the extent otherwise permitted by NASA procedures in the case of property covered by paragraph (b) of this section, the contract or agreement under which property covered by this § 18–13.601–2 is made available shall require the user to protect, preserve, maintain, and repair the property in accordance with sound industrial practice without cost to the Government under such contract or agreement.

§ 18–13.603 Production equipment.

The production equipment to which the provisions of § 18–13.601–2(a) shall be applicable are:

Production equipment code No.	*Description*
3411–341999	Machine tools.
3441–34490	Secondary metal forming and cutting machines.
34510–34519	Electric arc welding machines.
34520–3452129	Electric resistance welding machines.
345220–34529	
345330–345839	Gas (flame) cutting machines—excluding hand torches.
357211–357219	Metal heat treating furnaces—box type.
357221–3572249	Metal heat treating furnaces—bath type.
357231–357239	Metal heat treating furnaces—basket type.
357241–3572439	Metal heat treating furnaces—bell type.
357261–357269	Metal heat treating furnaces—pit type.
357271–357279	Metal heat treating furnaces—pot type.
3572841–3572849	Induction heating devices.
54160000	Transformers, power, uninstalled, 501 Kva and above, 50 and 60 cycle only.
5561–556159	Powered trucks, industrial.
5563–5563994	Tractors, industrial.
5564–556420162	Trailers for industrial tractors.
563908	Profilometers.
563914	Magnetic particle inspection machines.
5651–56519	Hardness testing machines.
5653–56539	Pressure testing machines.
5656–5656328	Balancing machines.
56572–565729	Gear measuring and treating machines.
56573–565739	Hob, worn and cutter measuring machines.
565742	Surface finish measuring machines.

Subpart 18–13.7—Government-Owned Industrial Facilities and Special Tooling on Work for Foreign Governments

§ 18–13.700 Scope of subpart.

This Subpart 18–13.7 covers use by contractors of Government-owned industrial facilities and special tooling on work for foreign governments.

§ 18–13.701 Use without charge.

Upon request of a foreign government, industrial facilities and special tooling located within the United States, its possessions, or Puerto Rico may be authorized for use, without charge, on contracts of the foreign government or subcontracts thereunder, if:

(a) Such use is approved by the Director of Procurement;

(b) Such use is legally authorized by an agreement with the foreign government;

(c) The foreign government's placing of the contract directly with the contractor is consistent with the best interest of the United States;

(d) Such use will not interfere with foreseeable U.S. requirements;

(e) Such use does not place the user in a favored competitive position; and

(f) The contractor agrees that no charge for the use of the facilities or tooling will be included in the price charged the foreign government under the contract.

Subpart 18–13.8—Vesting of Title to Equipment in Nonprofit Educational or Research Institutions

§ 18–13.800 Scope.

For vesting of title to equipment in nonprofit institutions or organizations, see Subpart 18–4.51.

Subpart 18–13.50—Acquisition of Idle Production Equipment

§ 18–13.5000 Scope of subpart.

This Subpart 18–13.50 establishes procedures for the acquisition of idle production equipment from the Department of Defense, Industrial Plant Equipment Center (DIPEC) pursuant to the DOD–NASA Letter of Agreement for Utilization of Idle Industrial Plant Equipment set forth in NASA Management Instruction 1052.17.

§ 18–13.5001 General.

Consistent with the policy set forth in § 18–13.102, NASA will not provide contractors with machine tools and/or plant equipment where an economical, practical and appropriate alternate means of obtaining the tools or equipment exists. Contracting officers, prior to the use of this procedure, shall determine that:

(a) Suitable equipment is not available at any other NASA installation for loan or transfer, and

(b) Current excess property listings promulgated by the Department of Defense and the General Services Administration have been screened, and that the requirement cannot be satisfied therefrom.

§ 18–13.5002 Procedure.

(a) *Requests for idle industrial plant equipment.* Requests for item(s) of equipment to be acquired by screening availability from DIPEC idle inventories shall be submitted on DD Form 1419 (DOD Products Equipment Requisition/Non-Availability Certificate) in an original and three (3) copies to the Office of Procurement (CODE KDF) for processing.

(b) *Instructions for preparation of DD Form 1419.* DD Form 1419 will be initiated by the NASA office requiring the equipment. A separate form will be completed for each item of equipment required; i.e., if sixteen (16) lathes of the same type and model are required, sixteen (16) DD Form 1419's will be completed as follows:

Case Number. A case number will be assigned to each DD Form 1419 request by the NASA installation. Each number assigned will be coded for Automatic Data Processing by DIPEC. It will also identify the requiring installation and provide a serial number and date of submission for subsequent reference. The case number will begin with the appropriate NASA Installation Symbol Identification set forth below:

Langley Research Center	XNAS01
Ames Research Center	XNAS02
Lewis Research Center	XNAS03
Flight Research Center	XNAS04
Goddard Space Flight Center	XNAS05
Wallops Station	XNAS06
Western Operations Office	XNAS07
George C. Marshall Space Flight Center	XNAS08
Manned Spacecraft Center	XNAS09
John F. Kennedy Space Center	XNAS10
North Eastern Office (Disestablished)	XNAS11
Electronics Research Center	XNAS12
Headquarters	XNASOW
Office of University Affairs	XNAROO
SNPO Germantown	XSNPOG
SNPO Cleveland Extension	XSNPOC
SNPO Nevada Extension	XSNPON

Next will be a 4-digit entry comprised of the last digit of the current calendar year and the Julian date of the year, i.e., 3035 for February 4, 1968. The last entry will be a 4-digit number from 0001 to 9999, to sequentially number requisition forms prepared on the same date. For example: the ninth requisition prepared on February 1, 1968, would be "3032–0009" preceded by the Field Installation Symbol Identification, an example being Langley—"XNAS01 3032–0009". When submitting subsequent DD Forms 1419 related to the item requested, the same case number is to be used and alpha code added to the end of the case number to indicate a second or third action on the basic request. Alpha "A" would indicate a second request, "B" a third, etc. In this manner, all actions, correspondence, etc., relative to a given request can be identified at all levels of processing, by the use of the case number.

SECTION I

Item Description. It is necessary to provide a complete description of the item desired, to obtain maximum screening results.

Requests for single purpose or general purpose equipment with special features must contain detailed descriptive data as to the size and capacities, setting forth special operating features or particular operations required to be performed by the item.

Commodity Code (Block 1). Check the appropriate block to indicate the code used. PEC (Production Equipment Code as listed in the "Production Equipment Directory" and "DOD Classification of Equipment for Inventory Control") for metalworking, welding, heat cutting and metallising equipment or SCC Code (Standard Commodity Classification Code) for other industrial plant equipment. Enter the complete 10-digit PEC or 12-digit SCC for the type of item being requested. For activities using the Federal Stock Number (FSN) as the identifying system, the FSN should be entered and "FSN" typed above the cell blocks of item one.

Model Code (Block 2). The model code will follow the machine description and will precede the manufacturer's code. It will always be placed in the 11th and 12th blocks. The 11th and 12th digit of the PEC is the 2-digit model code for metalworking, welding, heat cutting, and metallising equipment. For Industrial Plant Equipment other than metalworking, welding, heat cutting, metallising equipment, the 11th and 12th digit of the SCC is a component part of the descriptive code. Since this type of equipment does not have a model code, the 10 blocks in Item 1 and the two (2) blocks of Item 2 will be combined as one 12-digit entry. FSN's will be entered in the 10 blocks of Item 1 and the first block of Item 2.

Manufacturer's Code (Block 3). Enter the 5-digit numerical code identifying the manufacturer of the item of equipment as listed in DSMA H4–1, "Federal Supply Code for Manufacturers".

Power Code (Block 4). Enter the applicable 2-digit input power code described in Appendix B of NASA Industrial Property Control Manual (NPC 105). These codes designate the voltage, current, phase and cycle on which the basic item will be operated.

Manufacturer and Model Number (Block 5). Enter the name of the manufacturer of the item and model, style or catalog number assigned to the equipment by the manufacturer. Always use the model number if available. The style number would be next in preference. In most cases the model number is shown on the item of equipment. When a model, type or catalog number is not assigned by the manufacturer, the word "none" will be inserted.

Description (Block 6). Complete detailed description listing size, capacities, and adjustments thereof. The ability of DIPEC to make an intelligent determination of availability will depend upon the requestor's completeness of description. Requisitions for metalworking, welding, heat cutting, and metallising equipment must include the capacities listed in the 1960 Directory of Metal Working Machinery and/or the Directory of Welding, Heat Cutting and Metallising Equipment. Request for single purpose or general purpose equipment with special features must contain within the description, detailed data as to size and capacities, setting forth special operating features or particular operations required to be performed by the item.

Excess Item (Block 7). Self-explanatory.

Date Item Desired (Block 8). This should represent that point in time wherein NASA must have an acceptable item. (In addition enter a second date, under "Shipping Instructions," Block 55, which will indicate the earliest date the item can be accepted at the user's site.)

Procurement Specification Attached (Block 10). Not applicable.

SECTION II

Block 11. Must reflect NASA office or NASA contractor for which the requisition is issued.

Block 12. Contract number if for contractor facilities requirements. (Absence of such will delay processing of request until number is furnished.)

Block 13. Applies to Appendices to Contractor Proposals.

Block 14. Cite applicable program for which equipment is intended.

Block 15. Division or Department Head of NASA requisitioning office.

Block 16. Signature of person named in Block 15.

Block 17. Date requisition signed.

SECTION III

Block 18. Must reflect NASA center validating request.

Block 19. Signature of person named in Block 21.

Block 20. Date approval signed.

Block 21. Contracting Officer or Procurement Officer of NASA Center or his authorized representative.

SECTION IV

Block 22. Check appropriate box.

SECTION V

To be completed by Office of Procurement (Code KDF), NASA Headquarters.

SECTION VI

To be completed by DIPEC. After completion by DIPEC, copy is used for admittance to storage site for inspection of property offered.

SECTION VII

To be completed by DIPEC if equipment not available. The statement directly below "Certification Number" does not apply to NASA.

SECTION VIII

Blocks 48, 49, and 50 are to be completed by office signing request in Section III, after inspection.

SECTION IX

Self-explanatory. However, insure that appropriation symbols are included in blocks 56 and 57 and that proper and adequate shipping address as well as marking instruction are provided to permit the equipment to arrive at destination. Work order number can be shown in blocks 56 and 57 after citation of appropriation symbol. (See instructions for Section I, Block 8.)

SECTION X

To be completed by DIPEC.

(c) *Processing DD Form 1419.* (1) The essential information, outlined in the above instructions, covering sections I, II, and III is required to be completed prior to submission of DD Form 1419 to the Office of Procurement (Code KDF). The Office of Procurement will review each submission for completeness and authenticity. Incomplete or invalid requests will be returned for correction. The original and two (2) copies of the approved DD Form 1419 will be forwarded to DIPEC for screening of inventories. Upon completion of the screening process, DIPEC will annotate the results of the screening in section VI and VII. Certification of nonavailability when cited in section VII is evidence that screening has been accomplished by DIPEC. The original and one (1) copy of the request will be returned by DIPEC to the approving official indicated in Block 21 of section III through the Office of Procurement (Code KDF).

(2) When a suitable item is allocated in section VI, inspection of the equipment is recommended. Notification of acceptance or rejection of the item offered must reach DIPEC within 30 days after allocation. A copy of the DD Form 1419 will serve as the clearance document, to inspect the equipment at the storage site. Acceptance or rejection of item, without inspection or after inspection is to be noted in section VIII. If it is determined that the item is acceptable, section IX is to be executed. The NASA appropriation symbol must be cited where applicable in section IX. In either instance, acceptance or rejection, the original of the DD Form 1419 is to be returned to DIPEC through the Office of Procurement (Code KDF).

§ 18–13.5003 Transfers from NASA to the military departments.

Requests for NASA idle production equipment received by NASA installations from the military departments shall be referred to the Office of Procurement (Code KDF) for appropriate action.

Subpart 18–13.51—Industrial Facilities Expansion, Application and Approval

§ 18–13.5100 Scope of subpart.

This Subpart 18–13.51 sets forth the procedures for providing Government-owned industrial facilities (hereinafter referred to in this subpart as "facilities") to contractors and subcontractors for the performance of NASA related procurement contracts for supplies, services, and research and development.

§ 18–13.5101 Consideration of facilities expansion applications.

(a) Facilities expansion will be subject to the policy set forth in § 18–13.102–3 and Subpart 18–13.4 to the extent approved and authorized therein. In determining action or recommendations in regard to the expansion of facilities, the procuring office will be guided by applicable regulations.

(b) It is the continuing obligation of NASA personnel who are: (1) Sponsoring the development of NASA programs, (2) selecting sources, or (3) negotiating related procurement contracts, to give due consideration to utilization of existing capacity. Where additional facilities are required, every effort will be made to select those sources that demonstrate a willingness and ability to provide their own facilities. NASA contractors and subcontractors are expected to furnish all facilities unless it is otherwise determined to be in the best interests of the Government. Contractors should be informed of the possible advantages to be gained in providing their own facilities because of depreciation now authorized for Federal income tax purposes. The extent to which NASA contractors furnish their own facilities will be one of the factors considered in establishing the amount of profit or fee to which the contractors are entitled.

(c) Facilities expansion normally will be initiated pursuant to one of the following conditions:

(1) When Government procurement personnel are unable to locate qualified contractors, having or willing to provide the required capacity;

(2) When prime contractors are unable to locate subcontractors having or willing to provide the required capacity; or

(3) After an exhaustive search has failed to disclose a source or supplier having or willing to provide the required capacity.

§ 18–13.5102 Procedure for determining facilities expansion.

The following procedures will be applied in determining the need for facilities expansion, to the extent applicable:

(a) When prime contractors are being selected or requested to submit proposals pursuant to § 18–3.802–3, for each procurement, the contracting officer will require all potential sources to state in writing whether additional facilities will be required, the estimated cost and nature of such facilities, and whether the contractor will furnish the facilities with contractor funds or will request the Government to provide the facilities. The contracting officer will insure that all potential sources are given consideration and that no other suitable source is available requiring fewer Government-provided facilities.

(b) When the selected contractor has stated that additional Government facilities will be required, the contracting officer will advise the contractor to submit a formal application for facilities, furnishing the information indicated in §§ 18–13.5105 and 18–13.5106. The contractor may request assistance in preparing his application for facilities. In order to expedite processing the application, it is important that full and complete justification be given for the required facilities. When the application for facilities is prepared in conjunction with contract proposal for an end-item, nine (9) copies of the facility application should be forwarded together with the proposal, or as soon as practicable thereafter. Any facilities requirements by subcontractors shall be prepared in accordance with the procedures and provisions of this Subpart 18–13.51 and submitted through the prime contractor to the contracting officer for comments and evaluations. All facilities approved for subcontractors will be provided under separate facilities contracts except as may be provided under paragraph 18–13.5102(d).

(c) If a facilities project involves construction work, approval of the Deputy Administrator must have been obtained by the cognizant NASA Headquarters Program Director prior to the initiation of the procurement action.

(d) Facilities provided under a related procurement contract pursuant to § 18–13.401–1 will be controlled by a facilities action control number. Before providing facilities (not in excess of $50,000) under a related procurement contract, the contracting officer must obtain the facilities action control number from the Office of Procurement (Code KDF). The contracting officer will obtain the facilities action control number by letter or telegram as the urgency of each case demands. Such communications will include as a minimum:

(1) The proposed contract number;

(2) Name of contractor and plant location;

(3) A brief description of the facilities and purpose of expansion, and

(4) Total estimated cost of the additional Government facilities to be provided.

Application for and justification of facilities so provided will be in accordance with this Subpart 18–13.51. When the related procurement contract is awarded, the contracting officer will insure that an appropriate facilities clause is included according to § 18–13.401–1.

§ 18–13.5103 Processing the application.

(a) Upon receipt of a formal facilities application, the contracting officer will:

(1) Forward three (3) copies of the application to the appropriate installation technical office for review and request comments and recommendations as to the technical aspects and overall scope of application.

(2) Forward one (1) copy to the Office of Procurement (Code KDF) for information.

(3) Forward one (1) copy to the appropriate small business specialist for review pursuant to the provision of § 18–1.702.

(4) Initially appraise and obtain correction for any proposal deficiencies, including:

(i) Review facilities application for adequacy and completeness;

(ii) Delete items which duplicate contractor facilities having open time available;

(iii) Investigate the possibility of increasing subcontracting to reduce or eliminate the need for Government provided facilities;

(iv) Examine loading methods used by the contractor in developing facilities requirements;

(v) Analyze the validity of the justification;

(vi) Process nonseverable facilities in accordance with § 18–13.406 and eliminate where not justified, and

(vii) Appraise the contractor's statement of the availability of local service (utilities, labor housing, transportation, etc.) which may be necessary to support a proposed expansion.

(b) Based upon his evaluation of the application, and the comments and recommendations of the appropriate installation technical office, the contracting officer will forward his findings and recommendations together with one (1) copy of the application to the cognizant installation project manager for review and approval. In making the request, the contracting officer will include the dollar amount recommended for approval and a request that a purchase request in that monetary amount be furnished to him for supporting the facilities contract.

§ 18–13.5104 Administration of approved facilities application.

After negotiation of a facilities contract or amendment thereto providing for the furnishing of Government facilities, NASA Headquarters approval will be obtained pursuant to § 18–13.403 and the administrative phase of the procurement will be treated as follows:

(a) The contracting officer or his authorized representative assigned to administer the facilities contract will determine necessity for the individual items listed on the approved application. The determination of necessity will be made on the basis of the installation technical office confirmation of requirements.

(b) The contracting officer or his authorized representative will identify equipment which may be available from existing Government inventories and will request assistance of the Office of Procurement (Code KDF) in screening idle inventories. Allocation of idle equipment will be requested by the contractor through and with the concurrence of the NASA contracting officer pursuant to Subpart 18–13.50. If screening of any item of idle production equipment on an approved application cannot be completed prior to the required release for procurement date, the contracting officer or his representative may approve purchase of the item without further screening.

(c) Revisions to the approved application to conform to determination of necessity will be subject to the approval of the contracting officer. The determination of necessity will be made as expeditiously as possible and normally will be made on the basis of the contractor's statement that the justification as delineated in the approved application remains valid; the contracting officer may, however, request additional justification, if, in his judgment, such a request is justified.

(d) Substitution of items for similar items listed on an approved application may be considered when necessitated by engineering changes, technological changes, or nonavailability in reserve inventories, and may be approved by the contracting officer or his authorized representative when the substituted item either:

(1) Falls within the same schedule subcategory as the previously approved item, or

(2) Is justified for the same intended function and remains within the estimated cost of the previously approved item, or

(3) In cases of justified necessity, exceeds such amount provided that the approved dollar amount of the Appendix A schedule category is not exceeded.

Proposed substitutions not meeting the foregoing standard will be processed as facilities expansions in accordance with this § 18–13.5104.

§ 18–13.5105 Format for Industrial Facilities Application.

(APPENDIX A, CONTRACT NO. ---------)
Date: ----------

NAME AND ADDRESS OF COMPANY

Nature of facilities: (Insert here the types of proposed facilities such as laboratories, warehouses, machine tools, etc.).

Location: (Address where facilities are to be located).

For the support of: (Give brief statement covering work to be performed).

SUMMARY SHEET

	Estimated cost
Schedule I—Land and Land Preparation	
(a) Land	-------
(b) Land Preparation	-------
Schedule II—Buildings and Structures	
(a) New Construction	-------
(b) Rehabilitation Only	-------
(c) Installations (not mechanical)	-------
(d) Improvements on Government Property	-------
(e) Improvements on non-Government Property	-------
(f) Architect-Engineering Services	-------
Schedule III—Machinery, Equipment and Instrumentation	
(a) Machine Tools	-------
(b) Related Production Equipment	-------
(c) Rehabilitation of Machine Tools Only	-------
(d) Building Installation (Mechanical)	-------
(e) Laboratory and Testing Equipment	-------
(f) Furniture and Equipment	-------
Total	-------
Schedule IV—Portable Tools and Materials Handling and Automotive Equipment	
(a) Portable Tools	-------
(b) Material Handling and Automotive Equipment	-------
Total	-------
Schedule V—Machinery and Equipment Installation Costs	
Total	-------
Grand total	-------

DETAILED DESCRIPTIONS OF SCHEDULES

Schedule I— Land and Land Preparation

Item No.: — *Estimated cost*

(a) Land: Give legal description acreage, location and estimated cost. A map, print, or drawing must be furnished as Exhibit I showing location of plant in relation to adjacent terrain features such as: airports, highways, railroads, powerlines, etc., with appropriate identifying designation of each. Cost of land will include all estimated costs of sales which are payable by purchasers.
Total Schedule I(a) ------- ---------

(b) Land Preparation: Include improvements such as clearing, leveling, grading and drainage, and any other items not subject to depreciation by item and estimated cost of each item.
Total Schedule I(b) ------- ---------
Total Schedule I ---------

Schedule II—Buildings and Structures

(a) New Construction: Include a full list of structures, with complete description and estimated cost of each unit. One or more prints or sketches must be furnished as an exhibit for each building (showing relation to complete plant), the proposed type of structure, floor plan and elevations, with brief memorandum specifications cross referencing appropriate exhibits. (Architect-Engineer Services, $-------)
Total Schedule II(a) ------- ---------

(b) Rehabilitation Only: Cover all rehabilitation of structure, electrical systems, plumbing, heating, waterlines, etc., within structures with estimated cost of each item. (Architect-Engineer Services, $-------)
Total Schedule II(b) ------- ---------

(c) Installations (Not Mechanical): Cover all items and materials and cost therefor, including charges for installation, used in connection with installations of electrical power and illumination, plumbing, heating, air-conditioning, sprinkler systems, etc., usually included in building costs with the exception of powerlines, waterlines, etc., outside of the building itself which are to be included in Schedule II (d) and (e). Items listed here should refer to the individual building as listed in Schedule II(a) above, and must be described in sufficient detail for cost evaluation. (Architect-Engineer Services, $-------)
Total Schedule II(c) ---------

(d) Improvements on Government Property: This includes paving of yards, runways, parking areas, etc., fencing of property, utilities improvements, and spur tracks on areas outside of buildings but on property owned or controlled by the Government and leased to the contractor. Give full details including costs and installation charges, of each item and the location of each on an appropriate plot plan. (Architect-Engineer Services, $-------)
Total Schedule II(d) ------- ---------

(e) Improvements on non-Government Property: Same as (d) above.
Total Schedule II(e) ------- ---------

(f) Architect-Engineer Services:
Total Schedule II(f) (a, b, c, d, and e) ---------
Total Schedule II ---------

SPECIAL INSTRUCTIONS PERTAINING TO SCHEDULES I AND II

Estimated Architect-Engineer Services Costs are to be established for each construction or rehabilitation project but excluded from Schedule II subtotals for other items of Schedule II. Total estimated cost of Architect-Engineer Services should be entered under Schedule II(f).

If there are costs for utilities, railroad extensions, etc., but not on property owned or controlled by the Government and leased to the contractor, such costs must be included in II(e).

Every effort should be made to persuade utility companies, railroad companies, or other owners of the realty, to absorb all or part of the costs of such items. If no portion of the cost of such items will be paid by the utility, railroad company, or landowner, a statement to that effect, signed by an official of such company, must be included. Where the Government is requested to pay for all or part of such off site installation costs, a definite statement from the applicant justifying the necessity for such costs must be included. Cross reference from descriptions to Exhibits must be made in order that details may be made clear. In the event Government expenditure is authorized for any off site land installation, an agreement protecting the interest of the Government must be negotiated.

Sufficient information shall be provided so as to permit a reviewer to not only analyze and evaluate the requirements for each item but also to analyze and evaluate all items as a total requirement.

SCHEDULE III—MACHINERY, EQUIPMENT, AND INSTRUMENTATION

Item No.	Quantity	Description	Estimated cost	Date required
-------	----------	(a) Machine tools (new and used) include welders, presses, and hammers. Specify if item is used. Costs of installation will be entered parenthetically under description but not added in group or Schedule III(a) subtotal. This charge will be included in Schedule V. (Example: Installation Cost $----- each).	----------	----------
		Total Schedule III(a)		
-------	----------	(b) Related production equipment: Sheet metal equipment, foundry equipment anodising and plating equipment, and other production equipment of a permanent nature necessary for production. Show installation cost as indicated in Schedule III(a) instructions.	----------	----------
		Total Schedule III(b)		
-------	----------	(c) Rehabilitation of machine tools only: Rehabilitation of machine tools only are to be included in this item. Show installation costs as indicated in Schedule III(a) instructions.	----------	----------
		Total Schedule III(c)		
-------	----------	(d) Building installations (mechanical): Stokers, motors, and their mechanical systems, installed in buildings, including cranes, hoists, conveyor systems, etc. Show installation costs as indicated in Schedule III(a) instructions.	----------	----------
		Total Schedule III(d)		
-------	----------	(e) Laboratory and testing equipment: Show installation costs, if any, as indicated in Schedule III(a) instructions.	----------	----------
		Total Schedule III(e)		
-------	----------	(f) Furniture and equipment: Office furniture and equipment, cafeteria furniture and equipment, standard work benches, stock bins, lockers, fire protection devices not part of building, etc. Show installation cost, if any, as indicated in Schedule III(a) instructions.	----------	----------
		Total Schedule III(f)		
		Total Schedule III		

SPECIAL INSTRUCTIONS PERTAINING TO SCHEDULE III ITEMS

1. These instructions are to establish a standard for listing all proposed items of machinery and equipment. In order to properly evaluate such a listing, it is absolutely necessary for items to be described so that they can be easily identified. Also, itemize and give sufficient description to justify cost However, like items may be combined as a single entry, so long as purpose and justification remain the same.

2. A satisfactory description should include the following data:

a. Manufacturer's name.

b. Manufacturer's model number.

c. Complete nomenclature and description of size and capacity, type (plain universal, knee or bed, vertical, horizontal, etc.) number of spindles, working heads or units, etc. (where applicable), including any special features.

d. Electrical characteristics (110 v., 220 v., 440 v., 3 phase, 60-cycle, a.c. or d.c., etc.).

e. Any other information necessary to completely identify items desired.

f. Possible substitutions in order of desirability.

FEDERAL REGISTER, VOL. 32, NO. 233—SATURDAY, DECEMBER 2, 1967

g. Date of delivery for each item as required to meet delivery schedule of the contract in question.

h. Estimated delivery cost of each item.

i. Full Commodity Classification Code (i.e., FEC, FSC, or SCC, as applicable) as set forth in Appendix A to the NASA Industrial Property Control Manual (NPC 105).

j. Give specific nomenclature in all cases. For example: welders—indicate whether spot arc, butt, flash, the manufacturer, throat size, electrical characteristics, frame size; furnaces—manufacturer, model, size and capacity, electrical specifications, whether gas, oil or electrically fired, etc. Size and capacity can be given, along with complete nomenclature, even though model may not be applicable, for all items of related production equipment.

3. Purpose and detailed justification.

4. Costs of installation, entered parenthetically and excluded from Schedule III Subtotals and Totals, should be entered as Schedule V, Machinery and Equipment Installation Costs.

SCHEDULE IV—PORTABLE TOOLS AND MATERIAL HANDLING AND AUTOMOTIVE EQUIPMENT

Item No.	Quantity	Description	Estimated cost	Date required
		(a) Portable tools: Portable electric and pneumatic tools		
		Total Schedule IV(a)		
		(b) Material handling and automotive equipment: All automobiles, trucks, and tractors used for transportation, and material handling vehicles such as lift trucks, trailers, etc.		
		Total Schedule IV(b)		
		Total Schedule IV		

Schedule V—Machinery and Equipment Installation Costs

Schedule III(a)	
Schedule III(b)	
Schedule III(c)	
Schedule III(d)	
Schedule III(e)	
Schedule III(f)	
Total Schedule V	

NOTE: Individual item installation costs as set forth in Schedule III (a, b, c, d, e, and f) are to be excluded from Schedule III subtotals and totals. Such totals should be entered as Schedule V, Machinery and Equipment Installation Costs.

§ 18–13.5106 Format for presenting justification data.

(a) *Contractor.* Contractor (or subcontractor) name (legal name), and address company representative to contact, telephone number and extension; type of company organization (corporation, partnership, etc.); state in which incorporated, if applicable.

(b) *Location.* Location of proposed facilities expansion; indicate whether site is privately-owned or Government-owned; if Government-owned, list the Government agency that has jurisdiction. Describe briefly the availability of labor, power, fuel, water, sewage disposal, housing, transportation, etc.

(c) *Purpose of Expansion.* Identify item or system to be developed, tested and/or produced.

(d) *Basis of Need.* Reference approved NASA program from which need for facilities directly arises. Also cite the relationship of this project to other elements of the approved program.

(e) *Subcontracting.* Percentage of subcontracting planned by dollar amount and/or percent of total effort. Justify level of planned subcontracting. To the degree possible identify subcontractors and the items to be subcontracted. Justify reasons for not subcontracting additional work. If facilities are anticipated for subcontractors, so identify.

(f) *Financial Progress.* Provide a 5-year summary of the contractor's financial progress as follows (by company division, if appropriate):

Year	Net profit	Dividends paid	Invested in facilities	Depreciation charged	Net company owned facilities after depreciation	Retained income
19						
19						
19						
19						
19						
Etc.						

(g) *Dollar Comparison.* Provide a dollar comparison of:

Schedules	All facilities provided previously (at proposed location)		Facilities to be provided this proposal	
	Contractor	Government	Contractor	Government
I				
II				
III				
IV				
V				
Total				

(h) *Financing.* The contractor will justify his reasons for not financing the proposed expansion with corporate or company funds.

(i) *Other Uses.* State the portion or percentage of the expanded capacity that will be used by other NASA Procurement Offices, or other Federal agencies. Identify the specific items and the NASA Procurement Offices or Federal agencies.

(j) *Complete Facility.* If the proposed expansion does not constitute a complete facility, cite the elements that are not included and how they will be provided.

PART 18–14—INSPECTION AND ACCEPTANCE

Sec.
18–14.000 Scope of part.

Subpart 18–14.1—Inspection

18–14.101 General.
18–14.102 Activities responsible for inspection.
18–14.103 Service agreements.
18–14.104 Contractor responsibility.
18–14.105 Places of inspection.
18–14.105–1 General.
18–14.105–2 Inspection at source.
18–14.105–3 Inspection at destination.
18–14.106 Inspection of small purchases ($2,500 or less).
18–14.107 Rejection of nonconforming supplies or services.
18–14.108 Government inspection under subcontracts.
18–14.150 Materiel inspection and receiving report—DD Form 250 and DD Form 250 (modified).

Subpart 18–14.2—Acceptance

18–14.201 General.
18–14.202 Delivery under f.o.b. origin contracts.
18–14.203 Point of acceptance.
18–14.204 Responsibility for acceptance.
18–14.205 Acceptance of supplies or services not conforming with contract requirements.

Subpart 18–14.50—Procedures for Utilization of Government Inspection Agencies for Quality Assurance Functions at NASA Suppliers' Plants

18–14.5000 Scope of subpart.
18–14.5001 Definitions.
18–14.5002 Procedures.
18–14.5003 Guidelines for use in arranging for quality assurance functions at NASA suppliers' plants.

AUTHORITY: The provisions of this Part 18–14 issued under 42 U.S.C. 2473(b)(1).

§ 18–14.000 Scope of part.

This Part 18–14 covers instructions concerning quality assurance, inspection and acceptance of supplies or services under NASA contracts (other than construction contracts).

Subpart 18–14.1—Inspection

§ 18–14.101 General.

(a) Except as permitted by § 18–14.204, inspection on behalf of the Government shall be conducted in all cases prior to acceptance. Inspection shall be accomplished by or under the supervision of Government personnel. Except as otherwise provided in the contract, test requirements may be performed in the contractor's or subcontractor's laboratory or any other commercial laboratory acceptable to the Government. The contractor may be required under the terms of the contract to establish and maintain an acceptable inspection or quality control system to ensure compliance with contract specifications with a minimum of Government inspection supervision. A manufacturer's certificate or other statement of quality or quantity may be considered in determining whether supplies or services are in conformity with the contract; but no provision of the contract shall preclude the Government from performing inspection.

(b) The type and extent of inspection needed depend on the particular procurement. For example, on items which would involve small losses in the event of defects and which would probably be replaced by suppliers without contest, inspection may consist only of checks for identity, quantity, and shipping damage. Detailed requirements for space systems and elements thereof are contained in "Quality Assurance Provisions for Government Agencies," NPC 200–1A and Subpart 18–14.50.

§ 18–14.102 Activities responsible for inspection.

Inspection, or the arrangement therefor, is the responsibility of the installation effecting or administering the procurement. When a NASA installation uses the inspection services of another executive agency, the agency performing the inspection has primary inspection responsibility and its determinations relative thereto are binding on the NASA installation for which the services are performed. However, whenever NPC 200–1 or 200–1A applies, the NASA installation retains primary inspection responsibility.

§ 18–14.103 Service agreements.

(a) In the interest of achieving economy and efficiency in the inspection of contract items, procurement offices shall utilize the services of other executive agencies to ensure the most economical and effective inspection consistent with the best interests of the Government. The purpose of inspection interchange agreements is to eliminate duplication, overlapping, or multiple assignments of Government inspection activity in any one plant.

(b) Agreements have been entered into by NASA with the Departments of the Air Force (see NASA Management Instruction 1052.12), the Navy (see NASA Management Instruction 1052.15), the Army (see NASA Management Instruction 1052.18), and the DOD for the Philadelphia Contract Administration Services Region (see NASA Management Instruction 1052.38) relating to the performance of field service functions, including quality assurance, inspection, test, and acceptance, in support of NASA contracts. The procedures set forth in these agreements shall be observed by all NASA procurement offices in arranging for field services. Inspection agreements may also be used between NASA field installations in order to achieve maximum economy and efficiency.

§ 18–14.104 Contractor responsibility.

The inspection clauses included in NASA contracts require the contractor to maintain an inspection system acceptable to the Government and records of all inspection work performed by the contractor. See also § 18–1.5000. The contractor's inspection system should be such as to provide reasonable assurance that the supplies and work under the contract will conform to contract requirements and should include any quality control procedures necessary to this end. In any case, when Federal or Military specifications are used to establish requirements in the contract, the supplier shall be required to perform all examinations and tests called for by the specifications except those which the Government is expressly required to make.

§ 18–14.105 Places of inspection.

§ 18–14.105–1 General.

Each contract shall designate the place or places of inspection. Inspection of supplies and services shall be made at such times and places (including any stage during the period of manufacture and including subcontractors' plants) as are necessary to determine that the supplies and services conform to contract requirements. When the contract provides for inspection at source, shipment prior to inspection may be authorized if it is determined to be in the best interest of the Government. In such cases, to the extent appropriate, the contract should be modified prior to shipment with respect to (a) risk of loss in transit and (b) shipping and other expenses incurred in the event of rejection at destination.

§ 18–14.105–2 Inspection at source.

Supplies and services shall be inspected at source when:

(a) Inspection at any other point would require uneconomical disassembly or destructive testing;

(b) Considerable loss would result from the manufacture and shipment of unacceptable supplies or from the delay in making necessary corrections;

(c) Special instruments, gauges, or facilities required for inspection are available only at source;

(d) Inspection at any other point would destroy or require the replacement of costly special packing and packaging;

(e) Quality control and inspection are closely related to production methods;

(f) Supplies requiring technical inspection are destined for points of embarkation for overseas shipment; or

(g) Otherwise determined to be in the best interest of the Government.

§ 18–14.105–3 Inspection at destination.

Supplies and services shall be inspected at destination when:

(a) Deliveries of supplies purchased "off the shelf" are made from a point other than that of manufacture;

(b) Necessary testing equipment is located only at destination;

(c) Biologicals being purchased are processed under direct control of the National Institutes of Health or the Federal Food and Drug Administration;

(d) The volume of procurement at a given plant is not sufficient to warrant the increased cost of inspection at origin; or

(e) Otherwise determined to be in the best interest of the Government.

§ 18–14.106 Inspection of small purchases ($2,500 or less).

(a) This § 18–14.106 applies to all purchases, including items described in Federal and Military specifications, and qualified products. In determining the type and extent of Government inspection to be required on small purchases, the smallness of possible losses and the likelihood of uncontested replacement of defective articles shall be considered.

(b) Generally, inspection of small purchases shall be at destination. Purchasers, users, and installers may be considered inspectors for small purchase inspection purposes.

(c) Unless detailed technical inspection is necessary, inspection shall consist of examination of (1) type and kind; (2) quantity; (3) damage; (4) operability, if readily determinable; and (5) packaging and marking, if applicable.

(d) Detailed technical inspection shall be performed if special specifications are involved or if defective supplies can harm personnel or equipment.

(e) Detailed technical inspection may be limited to a check of characteristics that require separate specifications and of those likely to cause harm. Such inspection may be limited to inspection of occasional purchases of the same item from the same manufacturing source when there is good reason to rely upon the integrity of the manufacturer because of known safeguards and a significant history of defect-free purchases.

(f) Adjustments for short shipments or defective supplies shall be requested from suppliers when recovery will benefit the Government.

§ 18–14.107 Rejection of nonconforming supplies or services.

Contractors ordinarily shall be given an opportunity to correct or replace nonconforming supplies or services if this can be done within the required delivery schedule. Unless the contract provides otherwise, such correction or replacement shall be without additional cost to the Government. Notices of rejection of nonconforming supplies or services need not be in writing unless (a) the supplies have been delivered to a point other than the contractor's plant, (b) the contractor persists in offering nonconforming supplies or services for acceptance, or (c) delivery or performance is overdue without excusable cause. The reasons for rejection normally shall be stated, and the contractor may be given any suggestions that might help in eliminating the cause of rejection. If timely notice of rejection is not furnished to the contractor, acceptance may, in certain cases, be implied as a matter of law from such omission. Therefore, notices of rejection should be furnished promptly to contractors whenever rejection is intended.

§ 18–14.108 Government inspection under subcontracts.

Government inspection of subcontracted supplies or services shall be made only when required in the interest of the Government. The primary purpose of subcontract inspection is to assist the Government agency at the prime contractor's plant in determining the conformance of supplies or services with contract requirements. It does not relieve the prime contractor of any of his responsibilities under the contract. Supplies and services that do not qualify under the criteria in § 18–14.105–2 for Government inspection at source shall not be inspected by the Government at the subcontractor's plant. Supplies and workmanship for which records, reports, and similar evidence of quality are available at the prime contractor's plant shall not be Government-inspected at the subcontractor's plant except occasionally to verify such evidence. However, Government inspection shall be performed at a subcontractor's plant whenever the Government contract requires. All oral and written statements and contract provisions relating to the inspection of subcontracted supplies shall be so worded as not to (a) affect the contractual relationship between the prime contractor and the Government or between the prime contractor and the subcontractor; (b) establish a contractual relationship between the Government and the subcontractor; or (c) constitute a waiver of the Government's right to inspect or reject supplies.

§ 18–14.150 Materiel Inspection and Receiving Report—DD Form 250 and DD Form 250 (Modified).

(a) With the exceptions set forth in this section, the Materiel Inspection and Receiving Report (DD Form 250 or DD Form 250 (Modified)) shall be used when NASA or another Government agency acting for NASA performs inspection and acceptance (as defined in §§ 18–14.100(a) and 18–14.201, respectively), either at origin or at destination. It will not be required for small purchases when the purchase document (Standard Form 44 or 147, or similar form) adequately covers inspection and acceptance, or for local purchases. When subcontractor shipments requiring Government inspection at source are to be made to a prime contractor, inspection may be indicated on the subcontractor's shipping documents. If such shipments are to be made directly to the Government, the DD Form 250 will be required.

(b) DD Form 250 (Modified) is the DD Form 250 as modified by a contractor and approved for use by the Department of Defense. Such form is authorized for use by NASA or any other Government agency performing quality assurance and inspection functions for NASA.

(c) Instructions for preparation and distribution of the DD Form 250 and the DD Form 250 (Modified) will be the responsibility of the individual NASA installations, subject to the requirements of paragraph 217 of NHB 5330.7 (Management of Government Quality Assurance Functions for Supplier Operations).

Subpart 18–14.2—Acceptance

§ 18–14.201 General.

As used in NASA contracts "Acceptance" generally means the act of an authorized representative of the Government by which the Government assents to ownership by it of existing and identified supplies, or approves specific services rendered as partial or complete performance of the contract. Except as provided in § 18–14.205, and subject to other terms and conditions of the contract, the Government thereby acknowledges that the supplies or services are in conformity with contract requirements, including those of quality, quantity, packaging, and marking. Depending upon the provisions of the contract, acceptance may be effected prior to, at the time of, or after delivery. However, supplies and services shall not be accepted prior to inspection, except as stated in § 18–14.204. Acceptance shall ordinarily be accomplished by execution of the acceptance certificate contained in the Materiel Inspection and Receiving Report (DD Form 250) or by signing the receiving report section of the purchase order form used in small purchases. When acceptance is accomplished at a point other than destination, supplies shall not be reinspected at destination for acceptance purposes.

§ 18–14.202 Delivery under f.o.b. origin contracts.

(a) Satisfactory evidence of delivery is required before payment other than progress or advance payments may be made under fixed-price supply contracts. Under contracts calling for deliveries f.o.b. origin, the contracting officer or his authorized representative, in certifying that delivery has been made, may, at his discretion, rely on the contractor's signed statement on the invoice that delivery has been made on a specified date to a named carrier or to a representative of the Government. When necessary to protect the Government's interest, the contracting officer may require either that the contractor furnish a receipted copy of the bill of lading or postal receipt, or that a representative of the Government certify as to actual delivery on the applicable inspection and receiving report form. Invoicing instructions to f.o.b. origin contractors shall require that the contractor state on all invoices (1) the date of shipment, name of carrier, and bill of lading number, or (2) the name and title of the Government representative to whom delivery was made and the date of such delivery.

(b) When payment has been made on the basis of a certificate and the supplies have not been received at destination, prompt followup and remedial action shall be initiated.

§ 18–14.203 Point of acceptance.

Each contract shall specify the point of acceptance. Contracts which provide for delivery f.o.b. destination shall provide for acceptance at destination whether inspection is to occur at destination or at origin. Contracts which provide for delivery f.o.b. origin ordinarily shall provide for acceptance (and inspection) at origin.

§ 18–14.204 Responsibility for acceptance.

(a) Acceptance is the responsibility of the contracting officer or his authorized representative. When a NASA installation utilizes the services of another executive agency for the purpose of acceptance, acceptance by the other agency is binding on the NASA installation for which the services are performed. (See § 18–14.103 regarding performance for NASA of field service functions, including acceptance, by the Departments of the Army, Navy, and Air Force.) For Category 1 and 2 procurements (as defined in § 18–1.5002), final acceptance may be deferred, under appropriate contract provisions, until satisfactory system integration is accomplished, or until other special conditions are fulfilled.

(b) A supplier's certificate of conformance with requirements shall not be considered a proper element incident to acceptance of supplies or services, except a supplier's certificate may be used for Government acceptance prior to inspection on selected Category 3 procurements (as defined in § 18–1.5002). At the discretion of the contracting officer, a clause may be inserted in contracts requiring the contractor to certify that supplies comply with contract requirements. However, when acceptance precedes inspection, a clause will be used to reserve the Government's right after acceptance to inspect the supplies within a reasonable time after delivery and to reject defective items. Certificates of conformance shall be required by the contract when the value of supplies or the condition of purchase, delivery, receipt, or use thereof makes it desirable to have additional assurance that supplies conform to contract requirements.

§ 18–14.205 Acceptance of supplies or services not conforming with contract requirements.

When supplies or services tendered for acceptance do not conform with contract requirements, the applicable contract provisions shall govern the action to be taken (see § 18–14.107). For reasons of economy or the urgency of the requirement, acceptance of supplies or services which do not meet all contract requirements may occasionally be desirable. Prior to such acceptance, the contracting officer shall obtain the approval of the requiring activity where the nonconformity with contract requirements (a) affects matters such as safety, durability, performance, or interchangeability of parts or assemblies, (b) results in material increases in weight where weight is a significant consideration; or (c) affects the basic objectives of the specifications. Acceptance of these types of nonconforming supplies or services shall be covered by an appropriate modification of the contract. Acceptance of other types of nonconforming supplies and services shall be covered by contract modification if determined necessary by the contracting officer. See also NPC 200–1A.

Subpart 18–14.50—Procedures for Utilization of Government Inspection Agencies for Quality Assurance Functions at NASA Supplier's Plants

§ 18–14.5000 Scope of subpart.

This Subpart 18–14.50 establishes procedures and guidelines for utilizing Government agencies to assist NASA installations in judging contractor performance of the quality assurance aspects of contracts for space systems and parts thereof.

§ 18–14.5001 Definitions.

(a) *Quality assurance.* A planned and systematic pattern of all actions necessary to provide adequate confidence that the end items will perform satisfactorily in actual operations.

(b) *Space System.* A system which includes launch vehicle(s), spacecraft, ground support equipment, and test hardware which are used in ground testing, launching, operating, and maintaining vehicles or craft in space.

§ 18–14.5002 Procedures.

(a) In arranging for quality assurance including inspection, NASA installations shall designate the Government agency, as appropriate, and:

(1) Provide a definitive statement of quality and related engineering effort required of the delegated agency (see Part 18–1.50);

(2) Review NASA requirements with the Government agency early in the procurement procedure and periodically as the contract work progresses;

(3) Determine the work requirements to be delegated to the agency and at the same time provide for—

(i) NASA engineering representation and technical liaison at the plant and test sites;

(ii) NASA performance of quality assurance functions which are not delegated; and

(iii) Designation of individuals at the NASA installation responsible for quality assurance, engineering, and documentation matters for the contract;

(4) Request the Government agency to prepare and document a quality assurance plan on the basis of NASA requirements and NPC 200–1A;

(5) Review such plans as early as possible and whenever revisions or additions are made during the progress of the work;

(6) Provide for continuous assessment of actual product quality by the installation through (i) plant visits; (ii) quality surveys; and (iii) review of quality data, regular reports, and trouble reports, including pertinent investigations and analyses by contractors and suppliers, and by the Government agency;

(7) Provide the Government agency with program information to enable planning for technically competent field personnel to be trained and available when required for assigned work; and

(8) Provide, as required, for training of Government agency and contractor quality assurance personnel as an integral part of the quality assurance program.

(b) Each installation shall reimburse Government agencies performing work for NASA in accordance with current procedures.

§ 18–14.5003 Guidelines for use in arranging for quality assurance functions at NASA suppliers' plants.

(a) *General.* (1) Circumstances will vary the timing, order, and selection of pertinent items. For major space systems, it is desirable to initiate as many arrangements as possible during the precontract negotiation period.

(2) Since the contracting officer is the only official of the Government authorized to bind the Government contractually in dealings with contractors, it is essential that all actions which affect the contract be taken through the contracting officer.

(3) NASA representatives visiting plants where inspection services are being performed for NASA by a Government agency shall notify the agency in advance of the purpose of the visit. Any instructions, decisions, or advice to the contractor shall be provided either simultaneously to the contractor and to the agency, or via the agency. All oral commitments shall be confirmed in writing.

(b) *Initial arrangements.* (1) Furnish a letter (which may confirm telephone conversation) to the Government agency indicating intent to discuss inspection assignment or, after formal assignment, to provide details.

(2) Provide the Government agency with NASA documents pertinent to the purchase of contract involved, and the following additional documents:

(i) "Quality Assurance Provisions for Government Agencies" (NPC 200–1A); and

(ii) Pertinent NASA technical direction for use by the Government inspection agency in product and process verification, quality system evaluations, and technical data documentation (or indicate when and where these will be available).

(3) Arrange for a quality assurance planning conference between the agency and the NASA installation to finalize NASA requirements.

(4) Arrange for a postaward conference between the supplier, the Government agency, and the NASA installation.

(c) *Quality assurance planning conference with Government agency.* (1) Review NASA requirements for quality assurance and technical representation at plant and test sites, including:

(i) Review of contract requirements;

(ii) Review of separate technical direction to Government agency;

(iii) Clarification of quality requirements in subparagraphs (i) and (ii) above, and determination of any omissions or conflicts for NASA resolution;

(iv) Specification of NASA criteria applicable to the contract for selection of subcontract items requiring Government inspection at source; and

(v) Arranging for providing NASA documents not already on hand.

(2) Review Government agency's quality assurance plan, including:

(i) Determination of the adequacy of proposed Government action;

(ii) Review of the numbers and qualifications of proposed Government agency manpower for various stages of contract;

(iii) Determination of work to be delegated to the Government agency;

(iv) Where a Material Review Board at a supplier's plant is authorized to act on nonconforming material, making certain that the Government agency representative is technically qualified to make decisions within the scope delegated to the Government agency (otherwise, the NASA installation shall provide the Government representative on this board); and

(v) Arranging for the NASA installation to provide—

(*a*) NASA performance of quality assurance functions not delegated;

(*b*) NASA engineering representation and technical liaison at the plant and test sites; and

(*c*) Designation (by the contracting officer, in writing) of individuals at the responsible NASA installation to be contacted directly for quality assurance, engineering, and documentation matters for the contract.

(3) Review and discuss past quality history of supplier including:

(i) Government agency quality system evaluation results, known supplier quality system deficiencies, and supplier's progress in correcting these deficiencies; and

(ii) Government agency quality performance records for similar items, particularly troubles, product or process deficiencies, and supplier's corrective action.

(4) Arrange for a NASA-directed quality system evaluation, if desired by NASA installation.

(5) If more than one Government agency is involved in research and development work at a plant, determine as early as possible which agency shall perform desired inspection.

(d) *Postaward conference with supplier and Government agency.*

(1) Review and discuss applicable items from paragraph (c) above.

(2) Review supplier's quality program planning including:

(i) A flow chart or tabulation showing supplier's quality assurance operations in general terms (i.e., what, where, and how);

(ii) Revisions or additions to present quality operations to satisfy quality assurance provisions of the contract;

(iii) The time schedule for supplier-prepared technical documents satisfying quality assurance needs of Government agency and NASA installation;

(iv) The contract time schedule or planned events affecting quality assurance operations;

(v) The inspection and testing equipment and facilities available and planned;

(vi) The preliminary system and subsystem interface relationships affecting quality assurance operations;

(vii) Other arrangements necessary to assure system compatibility; and

(viii) The supplier's organizational structure.

(3) In connection with the review of the supplier's quality program or inspection plan, determine the location of proposed Government inspection and control stations.

PART 18–15—CONTRACT COST PRINCIPLES AND PROCEDURES

Sec.
18–15.000 Scope of part.

Subpart 18–15.1—Applicability

18–15.101 Scope of subpart.
18–15.102 Cost-reimbursement supply and research contracts with concerns other than educational institutions.
18–15.103 Cost-reimbursement research contracts with educational institutions.
18–15.104 Construction contracts.
18–15.105 Facilities contracts.
18–15.106 Use of cost principles for fixed-price contracts.
18–15.107 Advance understandings on particular cost items.

Subpart 18–15.2—Principles and Procedures for Use in Cost-Reimbursement Type Supply and Research Contracts With Commercial Organizations

18–15.201 Basic considerations.
18–15.201–1 Composition of total cost.
18–15.201–2 Factors affecting allowability of costs.
18–15.201–3 Definition of reasonableness.
18–15.201–4 Definition of allocability.
18–15.201–5 Credits.
18–15.202 Direct costs.
18–15.203 Indirect costs.
18–15.204 Application of principles and procedures.
18–15.205 Selected costs.
18–15.205–1 Advertising costs.
18–15.205–2 Bad debts.
18–15.205–3 Bidding costs.
18–15.205–4 Bonding costs.
18–15.205–5 Civil defense costs.
18–15.205–6 Compensation for personal services.
18–15.205–7 Contingencies.
18–15.205–8 Contributions and donations.
18–15.205–9 Depreciation.
18–15.205–10 Employee morale, health, welfare, and food service and dormitory costs and credits.
18–15.205–11 Entertainment costs.
18–15.205–12 Cost of idle facilities and idle capacity.
18–15.205–13 Fines and penalties.
18–15.205–15 Fringe benefits.
18–15.205–16 Insurance and indemnification.
18–15.205–17 Interest and other financial costs.
18–15.205–18 Labor relations costs.
18–15.205–19 Losses on other contracts.
18–15.205–20 Maintenance and repair costs.
18–15.205–21 Manufacturing and production engineering costs.
18–15.205–22 Material costs.
18–15.205–23 Organization costs.
18–15.205–24 Other business expenses.
18–15.205–25 Relocation costs.
18–15.205–26 Patent costs.
18–15.205–27 Pension plans.
18–15.205–28 Plant protection costs.
18–15.205–29 Plant reconversion costs.
18–15.205–30 Precontract costs.
18–15.205–31 Professional service costs—legal, accounting, engineering, and other.
18–15.205–32 Profits and losses on disposition of plant, equipment, or other capital assets.
18–15.205–33 Recruitment costs.
18–15.205–34 Rental costs (including sale and leaseback of facilities).
18–15.205–35 Research and development costs.
18–15.205–36 Royalties and other costs for use of patents.
18–15.205–37 Selling costs.
18–15.205–38 Service and warranty costs.
18–15.205–39 Severance pay.
18–15.205–40 Special tooling costs.
18–15.205–41 Taxes.
18–15.205–45 Transportation costs.
18–15.205–43 Trade, business, technical and professional activity costs.
18–15.205–44 Training and educational costs.
18–15.205–45 Transportation costs.
18–15.205–46 Travel costs.
18–15.205–47 Economic planning costs.
18–15.205–50 Overtime, extra-pay shift, and multishift premiums.

Subpart 18–15.3—Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts With Educational Institutions

18–15.301 Purpose and scope.
18–15.301–1 Objectives.
18–15.301–2 Policy guides.
18–15.301–3 Application.
18–15.302 Definition of terms.
18–15.302–1 Organized research.
18–15.302–2 Departmental research.
18–15.302–3 Research agreement.
18–15.302–4 Other institutional activities.
18–15.302–5 Apportionment.
18–15.302–6 Allocation.
18–15.303 Basic considerations.
18–15.303–1 Composition of total costs.
18–15.303–2 Factors affecting allowability of costs.
18–15.303–3 Reasonable costs.
18–15.303–4 Allocable costs.
18–15.303–5 Applicable credits.
18–15.304 Direct costs.
18–15.304–1 General.
18–15.304–2 Application to research agreements.

Sec.
18–15.305 Indirect costs.
18–15.305–1 General.
18–15.305–2 Criteria for distribution.
18–15.305–3 Administration of limitations on allowances for indirect costs.
18–15.306 Identification and assignment of indirect costs.
18–15.306–1 General administration and general expenses.
18–15.306–2 Research administration expenses.
18–15.306–3 Operation and maintenance expenses.
18–15.306–4 Library expenses.
18–15.306–5 Departmental administration expenses.
18–15.306–6 Set-off for indirect expenses otherwise provided for by the Government.
18–15.307 Determination and application of indirect cost rate or rates.
18–15.307–1 Indirect cost pools.
18–15.307–2 The distribution base.
18–15.307–3 Negotiated lump sum for overhead.
18–15.307–4 Predetermined fixed rates for indirect costs.
18–15.308 Simplified method for small institutions.
18–15.308–1 General.
18–15.308–2 Abbreviated procedure.
18–15.309 General standards for selected items of cost.
18–15.309–1 Advertising costs.
18–15.309–2 Bad debts.
18–15.309–3 Capital expenditures.
18–15.309–4 Civil defense costs.
18–15.309–5 Commencement and convocation costs.
18–15.309–6 Communication costs.
18–15.309–7 Compensation for personal services.
18–15.309–8 Contingency provisions.
18–15.309–9 Deans of faculty and graduate schools.
18–15.309–10 Depreciation and use allowances.
18–15.309–11 Employee morale, health, and welfare costs and credits.
18–15.309–12 Entertainment costs.
18–15.309–13 Equipment and other facilities.
18–15.309–14 Fines and penalties.
18–15.309–15 Insurance and indemnification.
18–15.309–16 Interest, fund raising, and investment management costs.
18–15.309–17 Labor relations costs.
18–15.309–18 Losses on other research agreements or contracts.
18–15.309–19 Maintenance and repair costs.
18–15.309–20 Material costs.
18–15.309–21 Memberships, subscriptions and professional activity costs.
18–15.309–22 Patent costs.
18–15.309–23 Pension plan costs.
18–15.309–24 Plant security costs.
18–15.309–25 Preresearch agreement costs.
18–15.309–26 Professional services costs.
18–15.309–27 Profits and losses on disposition of plant, equipment, or other capital assets.
18–15.309–28 Proposal costs.
18–15.309–29 Public information services costs.
18–15.309–30 Rearrangement and alteration costs.
18–15.309–31 Reconversion costs.
18–15.309–32 Recruiting costs.
18–15.309–33 Royalties and other costs for use of patents.
18–15.309–34 Sabbatical leave costs.
18–15.309–35 Scholarships and student aid costs.
18–15.309–36 Severance pay.
18–15.309–37 Specialized service facilities operated by institution.
18–15.309–38 Special services costs.
18–15.309–39 Staff benefits.
18–15.309–40 Student activity costs.
18–15.309–41 Student services costs.
18–15.309–42 Taxes.
18–15.309–43 Transportation costs.
18–15.309–44 Travel costs.
18–15.309–45 Termination costs applicable to contracts.
18–15.309–46 Use allowances.

Subpart 18–15.4—Construction Contracts

18–15.400 Scope of subpart.
18–15.401 Basic considerations.
18–15.401–1 Applicable cost principles.
18–15.401–2 Special factors affecting the allowability of costs.
18–15.402 Selected costs.
18–15.402–1 Construction plant and equipment.
18–15.402–2 Construction plant and equipment rented from others.
18–15.402–3 Home office expense.
18–15.402–4 Job site expenses.
18–15.402–5 Temporary use of land, structures, and facilities.

Subpart 18–15.5—Contracts for Industrial Facilities

18–15.501 Applicable cost principles.
18–15.502 Factors affecting allowability of costs.
18–15.503 Allocation of indirect manufacturing and plant operational cost.
18–15.504 General and administrative costs (including home office allocations).
18–15.505 Contractor's commercial products.

Subpart 18–15.6—Guidelines for Application in the Negotiation and Administration of Fixed-Price Type Contracts and in the Negotiation of Termination Settlements

18–15.600 Scope of subpart.
18–15.601 Definition of fixed-price type contracts.
18–15.602 Basic considerations.
18–15.603 Cost principles and their use.

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§ 18–15.000 Scope of part.

This Part 18–15 contains general cost principles and procedures for the determination and allowance of costs in connection with the negotiation and administration of cost-reimbursement type contracts and contains guidelines for use, where appropriate, in the evaluation of costs in connection with certain negotiated fixed-price type contracts and contracts terminated for the convenience of the Government.

Subpart 18–15.1—Applicability

§ 18–15.101 Scope of subpart.

This Subpart 18–15.1 describes the applicability of Part 18–15 to the various types of contracts in connection with which cost principles and procedures are used.

§ 18–15.102 Cost-reimbursement supply and research contracts with concerns other than educational institutions.

This category includes all cost-reimbursement type contracts for supplies, services, or experimental, developmental, or research work (other than with educational institutions, as to which § 18–15.103 applies) except that it does not include facilities contracts (see § 18–15.105) or construction contracts (see § 18–15.104). The cost principles and procedures set forth in Subpart 18–15.2 shall be incorporated by reference in cost-reimbursement supply and research contracts with other than educational institutions as the basis for:

(a) Determination of reimbursable costs under such contracts, including cost-reimbursement type subcontracts thereunder, and the cost-reimbursement portion of time-and-materials contracts except in such contracts where material is priced on a basis other than at cost;

(b) The negotiation of overhead rates (Subpart 18–3.7); and

(c) The determination of costs of terminated cost-reimbursement type contracts where the contractor elects to "voucher out" his costs, and for settlement of such contracts by determination.

§ 18–15.103 Cost-reimbursement research contracts with educational institutions.

This category includes all cost-reimbursement type contracts (Subpart 18–3.7) for experimental, developmental, or research work with educational institutions. The cost principles and procedures set forth in Subpart 18–15.3 shall be incorporated by reference in cost-reimbursement research contracts with educational institutions as the basis for:

(a) The determination of reimbursable costs under cost-reimbursement type contracts, including cost-reimbursement type subcontracts thereunder;

(b) The negotiation of overhead rates; and

(c) The determination of costs of terminated cost-reimbursement type contracts where the contractor elects to "voucher out" his costs, and for settlement of such contracts by determination. In addition, Subpart 18–15.3 is to be used in determining the allowable costs of research and development performed by educational institutions under grants.

§ 18–15.104 Construction contracts.

(a) Subpart 18–15.4 contains principles and procedures for the evaluation and determination of costs in connection with contracts and subcontracts for construction. This category includes all contracts for the construction, alteration, or repair of buildings, bridges, roads, or other kinds of real property. It also includes contracts for architect-engineer services related to such construction. It does not include contracts for vessels, aircraft, or other kinds of personal property.

(b) The applicability of Subpart 18–15.4 to fixed-price type contracts and subcontracts is set forth in Subpart 18–15.6.

(c) Subpart 18–15.4 applies to all cost-reimbursement type contracts for construction, as described in paragraph (a) of this section. The cost principles and procedures set forth in Subpart 18–15.4 shall be incorporated by reference in cost-reimbursement construction contracts as the basis for:

(1) The determination of reimbursable costs under cost-reimbursement type contracts, including cost-reimbursement type subcontracts thereunder;

(2) The negotiation of overhead rates; and

(3) The determination of costs of terminated cost-reimbursement type contracts where the contractor elects to "voucher-out" his costs, and for settlement of such contracts by determination.

§ 18–15.105 Facilities contracts.

Subpart 18–15.5 contains principles and procedures for the evaluation and determination of costs under facilities contracts and subcontracts thereunder. Such principles and procedures shall be incorporated by reference in facility contracts as the basis for:

(a) Determination of reimbursable costs under facilities contracts including cost-reimbursable type subcontracts thereunder;

(b) The negotiation of overhead rates (Subpart 18–3.7); and

(c) The determination of costs of terminated facilities contracts where the contractor elects to "voucher out" his cost (Subpart 18–15.4), and for settlement of such contracts by determination (§ 18–8.209–7).

§ 18–15.106 Use of cost principles for fixed-price contracts.

Subpart 18–15.6 provides guidance for the use of the provisions of Subparts 18–15.2, 18–15.3, and 18–15.4 where appropriate, in the evaluation of costs in connection with the negotiation of certain fixed-price type contracts and termination settlements.

§ 18–15.107 Advance understandings on particular cost items.

The extent of allowability of the selected items of cost covered in Subparts 18–15.2 through 18–15.5 has been stated to apply broadly to many accounting systems in varying contract situations. Thus, as to any given contract, the reasonableness and allocability of certain items of cost may be difficult to determine, particularly in connection with firms or separate divisions thereof which may not be subject to effective competitive restraints. In order to avoid possible subsequent disallowance or dispute based on unreasonableness or nonallocability, it is important that prospective contractors, particularly those whose work is predominantly or substantially with the Government, seek agreement with the Government in advance of the incurrence of special or unusual costs in categories where reasonableness or allocability is difficult to determine. Such agreement may also be initiated by contracting officers individually or jointly, for all defense work of the contractor, as appropriate. Any such agreement should be incorporated in cost-reimbursement type contracts, or made a part of the contract file in the case of negotiated fixed-price type contracts, and should govern the cost treatment covered thereby throughout the performance of the contract. But the absence of such an advance agreement on any element of cost will not, in itself, serve to make that element either allowable or unallowable. Examples of costs on which advance agreements may be particularly important are:

(a) Compensation for personal services;

(b) Use charge for fully depreciated assets;

(c) Deferred maintenance costs;

(d) Precontract costs;

(e) Research and development costs;

(f) Royalties;

(g) Selling and distribution costs;

(h) Travel costs, as related to special or mass personnel movement; and

(i) Idle facilities and idle capacity.

Subpart 18–15.2—Principles and Procedures for Use in Cost-Reimbursement Type Supply and Research Contracts With Commercial Organizations

§ 18–15.201 Basic considerations.

§ 18–15.201–1 Composition of total cost.

The total cost of a contract is the sum of the allowable direct and indirect costs allocable to the contract, incurred or to be incurred, less any allocable credits. In ascertaining what constitutes costs, any generally accepted method of determining or estimating costs that is equitable under the circumstances may be used, including standard costs properly adjusted for applicable variances.

§ 18–15.201–2 Factors affecting allowability of costs.

Factors to be considered in determining the allowability of individual items of cost include (a) reasonableness, (b) allocability, (c) application of those generally accepted accounting principles and practices appropriate to the particular circumstances, and (d) any limitations or exclusions set forth in this Subpart 18–15.2, or otherwise included in the contract as to types or amounts of cost items.

§ 18–15.201–3 Definition of reasonableness.

A cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by an ordinarily prudent person in the conduct of competitive business. The question of the reasonableness of specific costs must be scrutinized with particular care in connection with firms or separate divisions thereof which may not be subject to effective competitive restraints. What is reasonable depends upon a variety of considerations and circumstances involving both the nature and amount of the cost in question. In determining the reasonableness of a given cost, consideration shall be given to:

(a) Whether the cost is of a type generally recognized as ordinary and necessary for the conduct of the contractor's business or the performance of the contract;

(b) The restraints or requirements imposed by such factors as generally accepted sound business practices, arm's-length bargaining, Federal and State laws and regulations, and contract terms and specifications;

(c) The action that a prudent businessman would take in the circumstances, considering his responsibilities to the owners of the business, his employees, his customers, the Government, and the public at large; and

(d) Significant deviations from the established practices of the contractor which may unjustifiably increase the contract costs.

§ 18–15.201–4 Definition of allocability.

A cost is allocable if it is assignable or chargeable to a particular cost objective, such as a contract product, product line, process, or class of customer or activity, in accordance with the relative benefits received or other equitable relationship. Subject to the foregoing, a cost is allocable to a Government contract if it:

(a) Is incurred specifically for the contract;

(b) Benefits both the contract and other work, or both Government work and other work, and can be distributed to them in reasonable proportion to the benefits received; or

(c) Is necessary to the overall operation of the business, although a direct relationship to any particular cost objective cannot be shown.

§ 18–15.201–5 Credits.

The applicable portion of any income, rebate, allowance, and other credit relating to any allowable cost received by or accruing to the contractor, shall be credited to the Government either as a cost reduction or by cash refund, as appropriate.

§ 18–15.202 Direct costs.

(a) A direct cost is any cost which can be identified specifically with a particular cost objective. Direct costs are not limited to items which are incorporated in the end product as material or labor. Costs identified specifically with the contract are direct costs of the contract and are to be charged directly thereto. Costs identified specifically with other work of the contractor are direct costs of that work and are not to be charged to the contract directly or indirectly. When items ordinarily chargeable as indirect costs are charged to Government work as direct costs, the cost of like items applicable to other work of the contractor must be eliminated from indirect cost allocated to Government work.

(b) This definition shall be applied to all items of cost of significant amount unless the contractor demonstrates that the application of any different current practice achieves substantially the same results. Direct cost items of minor amount may be distributed as indirect costs as provided in § 18–15.203.

§ 18–15.203 Indirect costs.

(a) An indirect cost is one which because of its incurrence for common or joint objectives, is not readily subject to treatment as a direct cost. Minor direct cost items may be considered to be indirect costs for reasons of practicality. After direct costs have been determined and charged directly to the contract or other work, as appropriate, indirect costs are those remaining to be allocated to the several classes of work.

(b) Indirect costs shall be accumulated by logical cost groupings with due consideration of the reasons for incurring the costs. Each grouping should be determined so as to permit distribution of the grouping on the basis of the benefits accruing to the several cost objectives. Commonly, manufacturing overhead, selling expenses, and general and administrative expenses are separately grouped. Similarly, the particular case may require subdivisions of these groupings, e.g., building occupancy costs might be separable from those of personnel administration within the manufacturing overhead group. The number and composition of the groupings should be governed by practical considerations and should be such as not to complicate unduly the allocation where substantially the same results are achieved through less precise methods.

(c) Each cost grouping shall be distributed to the appropriate cost objectives. This necessitates the selection of a distribution base common to all cost objectives to which the grouping is to be allocated. The base should be selected so as to permit allocation of the grouping on the basis of the benefits accruing to the several cost objectives. This principle for selection is not to be applied so rigidly as to complicate unduly the allocation where substantially the same results are achieved through less precise methods.

(d) The method of allocation of indirect costs must be based on the particular circumstances involved. The method shall be in accord with those generally accepted accounting principles which are applicable in the circumstances. The contractor's established practices, if in accord with such accounting principles, shall generally be acceptable. However, the method used by the contractor may require re-examination when:

(1) Any substantial difference occurs between the cost patterns of work under the contract and other work of the contractor; or

(2) Any significant change occurs in the nature of the business, the extent of subcontracting, fixed asset improvement programs, the inventories, the volume of sales and production, manufacturing processes, the contractor's products, or other relevant circumstances.

(e) A base period for allocation of indirect costs is the period during which such costs are incurred and accumulated for distribution to work performed in that period. Normally, the base period will be the contractor's fiscal year; however, use of a shorter period may be appropriate in case of (1) contracts whose performance involves only a minor portion of the fiscal year, or (2) where it is general practice in the industry to use a shorter period. In any event, the base period or periods shall be so selected as to avoid inequities in the allocation of costs. When the contract is performed over an extended period of time, as many such base periods will be used as will be required to represent the period of contract performance.

(f) Special care should be exercised in applying the principles in paragraphs (b), (c), and (d) of this section when Government-owned contractor operated plants are involved. The distribu-

tion of corporate, division, or branch office general and administration expenses to such plants when they operate with little or no dependence on corporate administrative activities, may require more precise cost groupings, detailed accounts screening, and carefully developed distribution bases.

(g) Other considerations with respect to overhead are set forth in Subpart 18–3.7.

§ 18–15.204 Application of principles and procedures.

(a) Costs shall be allowed to the extent that they are reasonable (see § 18–15.201–3), allocable (see § 18–15.201–4), and determined to be allowable in view of the other factors set forth in §§ 18–15.201–2, and 18–15.205. These criteria apply to all of the selected items of cost which follow, notwithstanding that particular guidance is provided in connection with certain specific items for emphasis or clarity.

(b) Costs incurred as reimbursements to a subcontractor under a cost-reimbursement type subcontract of any tier above the first fixed-price subcontract are allowable to the extent that allowance is consistent with the provisions of this Part 18–15 which is appropriate to the subcontract involved. Thus, if the subcontract is for supplies, such costs are allowable to the extent that the subcontractor's cost would be allowable if this Subpart 18–15.2 were incorporated in the subcontract; if the subcontract is for construction, such costs are allowable to the extent that the subcontractor's costs would be allowable if § 18–15.4 were incorporated in the subcontract.

(c) Selected items of cost are treated in § 18–15.205. However, § 18–15.205 does not cover every element of cost and every situation that might arise in a particular case. Failure to treat any item of cost in § 18–15.205 is not intended to imply that it is either allowable or unallowable. With respect to all items, whether or not specifically covered, determination of allowability shall be based on the principles and standards set forth in this Subpart 18–15.2 and, where appropriate, the treatment of similar or related selected items.

§ 18–15.205 Selected costs.

§ 18–15.205–1 Advertising costs.

(a) Advertising costs means the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television programs, direct mail, trade papers, outdoor advertising, dealer cards and window displays, conventions, exhibits, free goods and samples, and the like.

(b) The only advertising costs allowable are those which are solely for (1) the recruitment of personnel required for the performance by the contractor of obligations arising under the contract, when considered in conjunction with all other recruitment costs, as set forth in §18–15.205–33; (2) the procurement of scarce items for the performance of the contract; or (3) the disposal of scrap or surplus materials acquired in the performance of the contract. Costs of this nature, if incurred for more than one NASA contract or for both NASA work and other work of the contractor, are allowable to the extent that the principles in §§ 18–15.201–3, 18–15.201–4, and 18–15.203 are observed.

(c) Advertising costs other than those specified in paragraphs (a) and (b) of this section are not allowable.

§ 18–15.205–2 Bad debts.

Bad debts, including losses (whether actual or estimated) arising from uncollectible customers' accounts and other claims, related collection costs, and related legal costs, are unallowable.

§ 18–15.205–3 Bidding costs.

Bidding costs are the costs of preparing bids or proposals on potential Government and non-Government contracts or projects, including the development of engineering data and cost data necessary to support the contractor's bids or proposals. Bidding costs of the current accounting period of both successful and unsuccessful bids and proposals normally will be treated as allowable indirect costs, in which event no bidding costs of past accounting periods shall be allowable in the current period to the Government contract. However, if the contractor's established practice is to treat bidding costs by some other method, the results obtained may be accepted only if found to be reasonable and equitable.

§ 18–15.205–4 Bonding costs.

(a) Bonding costs arise when the Government requires assurance against financial loss to itself or others by reason of the act or default of the contractor. They arise also in instances where the contractor requires similar assurance. Included are such bonds as bid, performance, payment, advance payment, infringement, and fidelity bonds.

(b) Costs of bonding required pursuant to the terms of the contract are allowable.

(c) Costs of bonding required by the contractor in the general conduct of his business are allowable to the extent that such bonding is in accordance with sound business practice and the rates and premiums are reasonable under the circumstances.

§ 18–15.205–5 Civil defense costs.

(a) Civil defense costs are those incurred in planning for, and the protection of life and property against, the possible effects of enemy attack. Reasonable costs of civil defense measures (including costs in excess of normal plant protection costs, first aid training and supplies, firefighting training and equipment, posting of additional exit notices and directions, and other approved civil defense measures) undertaken on the contractor's premises pursuant to suggestions or requirements of civil defense authorities are allowable when allocated to all work of the contractor.

(b) Costs of capital assets under paragraph (a) of this section are allowable through depreciation in accordance with § 18–15.205–9.

(c) Contributions to local civil defense funds and projects are unallowable.

§ 18–15.205–6 Compensation for personal services.

(a) *General.* (1) Compensation for personal services includes all remuneration paid currently or accrued, in whatever form and whether paid immediately or deferred, for services rendered by employees to the contractor during the period of contract performance. It includes, but is not limited to, salaries, wages, directors' and executive committee members' fees, bonuses (including stock bonuses), incentive awards, employee stock options, employee insurance fringe benefits, and contributions to pension, annuity, and management employee incentive compensation plans. Except as otherwise specifically provided in § 18–15.205–6, such costs are allowable to the extent that the total compensation of individual employees is reasonable for the services rendered and they are not in excess of those costs which are allowable by the Internal Revenue Code and regulations thereunder.

(2) Compensation is reasonable to the extent that the total amount paid or accrued is commensurate with compensation paid under the contractor's established policy and conforms generally to compensation paid by other firms of the same size, in the same industry, or in the same geographic area, for similar services. In the administration of this principle, it is recognized that not every compensation case need be subjected in detail to the above test. Such test need be applied only to those cases in which a general review reveals amounts or types of compensation which appear unreasonable or otherwise out of line. However, certain conditions give rise to the need for special consideration and possible limitation as to allowability for contract cost purposes where amounts appear excessive. Among such conditions are the following:

(i) Compensation to owners of closely held corporations, partners, sole proprietors, or members of the immediate families thereof, or to persons who are contractually committed to acquire a substantial financial interest in the contractor's enterprise. Determination should be made that such compensation is reasonable for the actual personal services rendered rather than a distribution of profits.

(ii) Any change in a contractor's compensation policy resulting in a substantial increase in the contractor's level of compensation, particularly when it was concurrent with an increase in the ratio of Government contracts to other business, or any change in the treatment of allowability of specific types of compen-

sation due to changes in Government policy.

(iii) The contractor's business is such that his compensation levels are not subject to the restraints normally occurring in the conduct of competitive business.

(3) Compensation in lieu of salary for services rendered by partners and sole proprietors will be allowed to the extent that it is reasonable and does not constitute a distribution of profits.

(4) Notwithstanding any other provisions of this § 18–15.205–6, costs of compensation are not allowable to the extent that they result from provisions of labor-management agreements that, as applied to work in the performance of Government contracts, are determined to be unreasonable either because they are unwarranted by the character and circumstances of the work or because they are discriminatory against the Government. The application of the provisions of a labor-management agreement designed to apply to a given set of circumstances and conditions of employment (for example, work involving extremely hazardous activities or work not requiring recurrent use of overtime) is unwarranted when applied to a Government contract involving significantly different circumstances and conditions of employment (for example, work involving less hazardous activities or work continually requiring use of overtime). It is discriminatory against the Government if it results in individual personnel compensation (in whatever form or name) in excess of that being paid for similar non-Government work under comparable circumstances. Disallowance of costs will not be made under this subparagraph (4) unless:

(i) The contractor has been permitted an opportunity to justify the costs; and

(ii) Due consideration has been given to whether unusual conditions pertain to the Government contract work imposing burdens, hardships, or hazards on the contractor's employees, for which compensation that might otherwise appear unreasonable is required to attract and hold necessary personnel.

(5) In addition to the general requirements set forth in subparagraphs (1) through (4) of this paragraph, certain forms of compensation are subject to further requirements as specified in paragraphs (b) through (i) of this section.

(b) *Salaries and wages.* Salaries and wages for current services include gross compensation paid to employees in the form of cash, products, or services, and are allowable. However, premiums for overtime, extra-pay shifts, and multishift work are allowable to the extent approved pursuant to § 18–12.102.

(c) *Cash bonuses and incentive compensation.* Incentive compensation for management employees, cash bonuses, suggestion awards, safety awards, and incentive compensation based on production, cost reduction, or efficient performance are allowable to the extent that the overall compensation is determined to be reasonable and such costs are paid or accrued pursuant to an agreement entered into in good faith between the contractor and the employees before the services were rendered, or pursuant to an established plan followed by the contractor so consistently as to imply, in effect, an agreement to make such payment (but see § 18–15.107). Bonuses, awards, and incentive compensation when any of them are deferred are allowable to the extent provided in paragraph (f) of this section.

(d) *Bonuses and incentive compensation paid in stock.* Costs of bonuses and incentive compensation paid in the stock of the contractor or of an affiliate are allowable to the extent set forth in paragraph (c) of this section (including the incorporation of the principles of paragraph (f) of this section for deferred bonuses and incentive compensation), subject to the following additional requirements:

(1) Valuation placed on the stock transferred shall be the fair market value at the time of transfer, determined upon the most objective basis available; and

(2) Accruals for the cost of stock prior to the issuance of such stock to the employees shall be subject to adjustment according to the possibilities that the employees will not receive such stock and their interest in the accruals will be forfeited.

Such costs otherwise allowable are subject to adjustment according to the principles set forth in paragraph (f)(3) of this section (but see § 18–15.107).

(e) *Stock options.* The cost of options to employees to purchase stock of the contractor or of an affiliate is unallowable.

(f) *Deferred compensation.* (1) As used herein, deferred compensation includes all remuneration, in whatever form, for which the employee is not paid until after the lapse of a stated period of years or the occurrence of other events as provided in the plans, except that it does not include normal end of accounting period accruals. It includes (i) contributions to pension, annuity, stock bonus, and profit-sharing plans; (ii) contributions to disability, withdrawal, insurance, survivorship, and similar benefit plans; and (iii) other deferred compensation, whether paid in cash or in stock.

(2) Deferred compensation is allowable to the extent that (i) except for past service pension and retirement costs, it is for services rendered during the contract period; (2) it is, together with all other compensation paid to the employee, reasonable in amount; (3) it is paid pursuant to an agreement entered into in good faith between the contractor and employees before the services are rendered, or pursuant to an established plan followed by the contractor so consistently as to imply, in effect, an agreement to make such payments; and (4) for a plan which is subject to approval by the Internal Revenue Service, it falls within the criteria and standards of the Internal Revenue Code and the regulations of the Internal Revenue Service (but see § 18–15.107).

(3) In determining the cost of deferred compensation allowable under the contract, appropriate adjustments shall be made for credits or gains, including those arising out of both normal and abnormal employee turnover, or any other contingencies that can result in a forfeiture by employees of such deferred compensation. Adjustments shall be made only for forfeitures which directly or indirectly inure to the benefit of the contractor; forfeitures which inure to the benefit of other employees covered by a deferred compensation plan with no reduction in the contractor's costs will not normally give rise to adjustment in contract costs. Adjustments for normal employee turnover shall be based on the contractor's experience and on foreseeable prospects, and shall be reflected in the amount of cost currently allowable. Such adjustments will be unnecessary to the extent that the contractor can demonstrate that his contributions take into account normal forfeitures. Adjustments for possible future abnormal forfeitures shall be effected according to the following rules:

(i) Abnormal forfeitures that are foreseeable and which can be currently evaluated with reasonable accuracy, by actuarial or other sound computation, shall be reflected by an adjustment of current costs otherwise allowable; and

(ii) Abnormal forfeitures, not within subparagraph (i) of this paragraph, may be made the subject of agreement between the Government and the contractor either as to an equitable adjustment or a method of determining such adjustment.

(4) In determining whether deferred compensation is for services rendered during the contract period or is for future services, consideration shall be given to conditions imposed upon eventual payment, such as requirements of continued employment, consultation after retirement, and covenants not to compete.

(g) *Fringe benefits.* Fringe benefits are allowances and services provided by the contractor to his employees as compensation in addition to regular wages and salaries. Costs of fringe benefits, such as pay for vacations, holidays, sick leave, military leave, employee insurance, and supplemental unemployment benefit plans are allowable to the extent required by law, employer-employee agreement, or an established policy of the contractor.

(h) *Severance pay.* See § 18–15.205–39.

(i) *Training and education expenses.* See § 18–15.205–44.

(j) *Location allowances.* "Location allowances," sometimes called "supplemental pay" or "incentive pay," are allowable to the extent consistent with 32 CFR 12.105.

§ 18–15.205–7 Contingencies.

(a) A contingency is a possible future event or condition arising from presently known or unknown causes, the outcome of which is indeterminable at the present time.

(b) In historical costing, contingencies are not normally present since such costing deals with costs which have been incurred and recorded on the contractor's books. Accordingly, contingencies are generally unallowable for historical costing purposes. However, in some cases, as, for example, terminations, a contingency factor may be recognized which is applicable to a past period to give recognition to minor unsettled factors in the interest of expeditious settlement.

(c) In connection with estimates of future costs, contingencies fall into two categories:

(1) Those which may arise from presently known and existing conditions, the effects of which are foreseeable within reasonable limits of accuracy; e.g., anticipated costs of rejects and defective work; in such situations where they exist, contingencies of this category are to be included in the estimates of future cost so as to provide the best estimate of performance costs; and

(2) Those which may arise from presently known or unknown conditions, the effect of which cannot be measured so precisely as to provide equitable results to the contractor and to the Government; e.g., results of pending litigation, and other general business risks. Contingencies of this category are to be excluded from cost estimates under the several items of cost, but should be disclosed separately, including the basis upon which the contingency is computed, in order to facilitate the negotiation of appropriate contractual coverage. (See, for example, §§ 18–15.205–16, 18–15.205–20, and 18–15.205–39.)

§ 18–15.205–8 Contributions and donations.

Contributions and donations are unallowable.

§ 18–15.205–9 Depreciation.

(a) Depreciation is a charge to current operations which distributes the cost of a tangible capital asset, less estimated residual value, over the estimated useful life of the asset in a systematic and logical manner. It does not involve a process of valuation. Useful life has reference to the prospective period of economic usefulness in the particular contractor's operations as distinguished from physical life.

(b) Subject to paragraph (c) of this section, normal depreciation on a contractor's plant, equipment, and other capital facilities is an allowable element of contract cost: *Provided*, That the amount thereof is computed:

(1) Upon the property cost basis used by the contractor for Federal income tax purposes (see sec. 167 of the Internal Revenue Code of 1954 as amended); or

(2) In the case of nonprofit or tax-exempt organizations, upon a property cost basis which could have been used by the contractor for Federal income tax purposes, had such organizations been subject to the payment of income tax; and, in either case,

(3) By the consistent application to the assets concerned of any generally accepted accounting method, and subject to the limitations of the Internal Revenue Code of 1954, as amended, including:

(i) The straight line method;

(ii) The declining balance method, using a rate not exceeding twice the rate which would have been used had the annual allowance been computed under the method described in subdivision (i) of this subparagraph;

(iii) The sum of the years-digits method; and

(iv) Any other consistent method productive of any annual allowance which, when added to all allowances for the period commencing with the use of the property and including the current year, does not, during the first two-thirds of the useful life of the property, exceed the total of such allowances which would have been used had such allowances been computed under the method described in subdivision (ii) of this subparagraph.

(c) Compliance with Revenue Procedure (R.P.) 62–21, or the use of any other appropriate method of estimating useful lives, will be regarded as indicating normal depreciation if the contractor is able to demonstrate that depreciation costs allocated to the contract are reasonable. Reasonableness ordinarily will be inferred if the contractor establishes that he is following depreciation policies and procedures which:

(1) Are not inconsistent with the policies and procedures followed in connection with other than Government business;

(2) Are reflected in his books of account and financial statements; and

(3) Satisfy any one of the following tests:

(i) They are consistent with depreciation computation and allocation practices previously accepted for Government contract purposes under basically similar conditions.

(ii) Although constituting a change from previous practices, they do not significantly increase the portion of depreciation costs allocable to the contract under previously accepted practices.

(iii) They clearly provide for conformance within a reasonable period of lives used to the contractor's retirement and replacement patterns, or provide a planned retirement and replacement program which is consistent with the lives used.

(iv) They satisfy the reserve ratio general rule in accordance with sections 5.01 and 5.02, Part II, R.P. 62–21.

(v) They satisfy the transition rule set forth in subsection 5.03, R.P. 62–21, except that for the purposes of this part, if the reserve ratio for a guideline class has not come within the upper limit of the appropriate reserve ratio range by the close of the period described in paragraph (b) of subsection 5.03 or, notwithstanding paragraph (a) of such subsection, if the reserve ratio is not moving toward such upper limit (within the meaning of paragraph (c) of such subsection) for any taxable year during this period commencing with the year of adoption by the contractor of R.P. 62–21, then the transition rule will cease to apply and the general rule set forth in subsection 5.02 for the application of the reserve ratio test shall apply.

(vi) They satisfy the facts and circumstances tests set forth in R.P. 62–21, including those described under subsection 3.06, Part II.

(d) Depreciation should usually be allocated to the contract and other work as an indirect cost. The amount of depreciation allowed in any accounting period may, consistent with the basic objectives set forth in paragraph (a) of this section, vary with volume of production or use of multishift operations.

(e) In the case of emergency facilities covered by certificates of necessity, a contractor may elect to use normal depreciation without requesting a determination of "true depreciation" or may elect to use either normal or "true depreciation" after a determination of "true depreciation" has been made by an Emergency Facilities Depreciation Board. The method elected must be followed consistently throughout the life of the emergency facility. Where an election is made to use normal depreciation, the amount thereof for both the emergency period and the post-emergency period shall be computed in accordance with paragraph (b) of this section. Where an election is made to use "true depreciation," the amount allowable as depreciation:

(1) With respect to the emergency period (5 years), shall be computed in accordance with the determination of the Emergency Facilities Depreciation Board and allocated ratably over the full 5-year emergency period: *Provided*, No other allowance is made which would duplicate the factors such as extraordinary obsolescence, covered by the Board's determination; and

(2) After the end of the emergency period, shall be computed by distributing the remaining undepreciated portion of the cost of the emergency facility over the balance of its useful life (but see paragraph (e) of this section: *Provided*, The remaining undepreciated portion of such cost shall not include any amount of unrecovered "true depreciation."

(f) Depreciation on idle or excess facilities shall not be allowed except on such facilities as are reasonably necessary for standby purposes.

(g) No depreciation, rental, or use charge shall be allowed on property:

(1) Acquired from the Government at no cost by the contractor or by an organization, directly or indirectly controlling, controlled by or under common control with the contractor; or

(2) Otherwise acquired by the contractor, which has been fully depreciated when a substantial portion of such depreciation was on a basis that represented, in effect, a recovery thereof as a charge against Government contracts or

subcontracts: *Provided, however*, That if the taxpayer consolidates his normal facilities on a permanent basis into accounts corresponding to the guideline classes in accordance with Revenue Procedure 62–21, these accounts should include all depreciable assets used in the taxpayer's trade or business, whether or not previously considered fully depreciated. This is because the assets in this type of multiple-asset account lose their individual identities and no particular item still in use can be considered as being fully depreciated. In this case, as provided in R.P. 62–21, the assets previously considered as fully depreciated should be taken into consideration in computing the amount of allowable depreciation, the class life, and the rate of growth.

If the above circumstances do not apply, a reasonable charge for the use of fully depreciated property may be agreed upon and allowed (see § 18–15.107). In determining this charge, consideration should be given to cost, total estimated useful life at time of negotiation, and effect of any increased maintenance charges or decreased efficiency due to age.

§ 18–15.205–10 Employee morale, health, welfare, and food service and dormitory costs and credits.

(a) Employee morale, health, and welfare activities are those services or benefits provided by the contractor to its employees to improve working conditions, employer-employee relations, employee morale and employee performance. Such activities include house publications, health or first-aid clinics, recreation, employee counseling services and, for the purpose of this § 18–15.205–10, food and dormitory services. Food and dormitory services include operating or furnishing facilities for cafeterias, dining rooms, canteens, lunch wagons, vending machines, living accommodations, or similar types of services for the contractor's employees at or near the contractor's facilities.

(b) Except as limited by paragraph (c) of this section, the aggregate of costs incurred on account of all activities mentioned in paragraph (a) of this section, less income generated by all such activities is allowable to the extent that the net amount is reasonable.

(c) Losses from the operation of food and dormitory services may be included as cost incurred under paragraph (b) of this section, only if the contractor's objective is to operate such services on a break-even basis. Losses sustained because food services or lodging accommodations are furnished without charge or at prices or rates which obviously would not be conducive to accomplishment of the above objective, are not allowable, except that a loss may be allowed to the extent the contractor can demonstrate that unusual circumstances exist (e.g. (1) where the contractor must provide food or dormitory services at remote locations where adequate commercial facilities are not reasonably available or (2) where it is necessary to operate a facility at a lower volume than the facility could economically support) such that, even with efficient management, operation of the services on a break-even basis would require charging inordinately high prices or prices or rates higher than those charged by commercial establishments offering the same services in the same geographical areas. Cost of food and dormitory services shall include an allocable share of indirect expenses pertaining to these activities.

(d) In those situations where the contractor has an arrangement authorizing an employee association to provide or operate a service such as vending machines in the contractor's plant, and retain the profits derived therefrom, such profits shall be treated in the same manner as if the contractor were providing the service (but see paragraph (e) of this section).

(e) Contributions by the contractor to an employee organization, including funds set over from vending machine receipts or similar sources, may be included as cost incurred under paragraph (b) of this section only to the extent that the contractor demonstrates that an equivalent amount of the costs incurred by the employee organization would be allowable if incurred by the contractor directly.

§ 18–15.205–11 Entertainment costs.

Costs of amusement, diversion, social activities, and incidental costs relating thereto, such as meals, lodging, rentals, transportation, and gratuities, are unallowable (but see §§ 18–15.205–10 and 18–15.205–43).

§ 18–15.205–12 Cost of idle facilities and idle capacity.

(a) As used in this section the words and phrases defined in this paragraph (a) shall have the meanings set forth below.

(1) "Facilities" means plant or any portion thereof (inclusive of land integral to the operation); equipment individually or collectively; or any other tangible capital asset, wherever located, and whether owned or leased by the contractor.

(2) "Idle facilities" means completely unused facilities that are excess to the contractor's current needs.

(3) "Idle capacity" means the unused capacity of partially used facilities. It is the difference between that which a facility could achieve under 100 percent operating time on a one shift basis[1] less operating interruptions resulting from time lost for repairs, setups, unsatisfactory materials, and other normal delays and the extent to which the facility was actually used to meet demands during the accounting period.

(4) "Costs of idle facilities or idle capacity" are costs such as maintenance, repair, housing, rent, and other related costs, e.g., property taxes, insurance, and depreciation.

(b) The costs of idle facilities are unallowable except to the extent that:

(1) They are necessary to meet fluctuations in workload; or

(2) Although not necessary to meet fluctuations in workload, they were necessary when acquired and are now idle because of changes in program requirements, contractor efforts to produce more economically, reorganization, termination, or other causes which could not have been reasonably foreseen.

Under the exception stated in subparagraph (2) of this paragraph (b), costs of idle facilities are allowable for a reasonable period of time, ordinarily not to exceed 1 year, depending upon the initiative taken to use, lease, or dispose of such facilities (but see § 18–15.025–42 (b) and (e)).

(c) The costs of idle capacity are normal costs of doing business and are a factor in the normal fluctuations of usage or overhead rates from period to period. Such costs are allowable, provided the capacity is reasonably anticipated to be necessary or was originally reasonable and is not subject to reduction or elimination by subletting, renting, or sale, in accordance with sound business, economics, or security practices. Widespread idle capacity throughout an entire plant or among a group of assets having substantially the same function may be idle facilities.

(d) Costs for idle facilities or idle capacity reserved for defense mobilization production are generally unallowable on a NASA contract. These costs should be covered by a separate contract between the Department of Defense and the contractor.

§ 18–15.205–13 Fines and penalties.

Costs of fines and penalties resulting from violations of, or failure of the contractor to comply with, Federal, State, and local laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of the contract, or instructions in writing from the contracting officer.

§ 18–15.205–15 Fringe benefits.

See § 18–15.205–6(g).

§ 18–15.205–16 Insurance and indemnification.

(a) Insurance includes insurance which the contractor is required to carry, or which is approved, under the terms of the contract; and any other insurance which the contractor maintains in connection with the general conduct of his business.

(1) Costs of insurance required or approved, and maintained, pursuant to the contract, are allowable.

(2) Costs of other insurance maintained by the contractor in connection with the general conduct of his business are allowable subject to the following limitations:

[1] A multiple shift basis may be used if it can be shown that this amount of usage could normally be expected for the type of facility involved.

(i) Types and extent of coverage shall be in accordance with sound business practice and the rates and premiums shall be reasonable under the circumstances;

(ii) Costs allowed for business interruption or other similar insurance shall be limited to exclude coverage of profit;

(iii) Costs of insurance or of any provision for a reserve covering the risk of loss of or damage to Government property are allowable only to the extent that the contractor is liable for such loss or damage and such insurance or reserve does not cover loss or damage which results from willful misconduct or lack of good faith on the part of any of the contractor's directors or officers, or other equivalent representatives, who has supervision or direction of (a) all or substantially all of the contractor's business, or (b) all or substantially all of the contractor's operations at any one plant or separate location in which the contract is being performed, or (c) a separate and complete industrial operation in connection with the performance of the contract;

(iv) Provisions for a reserve under an approved self-insurance program are allowable to the extent that the types of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks; and

(v) Costs of insurance on the lives of officers, partners, or proprietors are allowable only to the extent that the insurance represents additional compensation (see § 18–15.205–6).

(3) Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise) are unallowable unless expressly provided for in the contract except:

(i) Costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound business practice, are allowable; and

(ii) Minor losses not covered by insurance, such as spoilage, breakage, and disappearance of small hand tools, which occur in the ordinary course of doing business are allowable.

(b) Indemnification includes securing the contractor against liabilities to third persons and any other loss or damage not compensated by insurance or otherwise. The Government is obligated to indemnify the contractor only to the extent expressly provided for in the contract, except as provided in paragraph (a)(3) of this section.

§ 18–15.205–17 Interest and other financial costs.

Interest on borrowings (however represented), bond discounts, costs of financing and refinancing operations, legal and professional fees paid in connection with the preparation of prospectuses, costs of preparation and issuance of stock rights, and costs related thereto, are unallowable except for interest assessed by State or local taxing authorities under the conditions set forth in § 18–15.205–41 (but see § 18–15.205–24).

§ 18–15.205–18 Labor relations costs.

Costs incurred in maintaining satisfactory relations between the contractor and his employees, including costs of shop stewards, labor management committees, employee publications, and other related activities, are allowable.

§ 18–15.205–19 Losses on other contracts.

An excess of costs over income under any other contract (including the contractor's contributed portion under cost-sharing contracts), whether such other contract is of a supply, research and development, or other nature, is unallowable.

§ 18–15.205–20 Maintenance and repair costs.

(a) Costs necessary for the upkeep of property (including Government property unless otherwise provided for), which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are to be treated as follows (but see § 18–15.205–9):

(1) Normal maintenance and repair costs are allowable; and

(2) Extraordinary maintenance and repair costs are allowable; provided such are allocated to the periods to which applicable for purposes of determining contract costs (but see § 18–15.107).

(b) Expenditures for plant and equipment, including rehabilitation thereof, which, according to generally accepted accounting principles as applied under the contractor's established policy, should be capitalized and subjected to depreciation, are allowable only on a depreciation basis.

§ 18–15.205–21 Manufacturing and production engineering costs.

Costs of manufacturing and production engineering, including engineering activities in connection with the following, are allowable:

(a) Current manufacturing processes such as motion and time study, methods analysis, job analysis, and tool design and improvement; and

(b) Current production problems, such as materials analysis for production suitability and component design for purposes of simplifying production.

§ 18–15.205–22 Material costs.

(a) Material costs include the costs of such items as raw materials, parts, subassemblies, components, and manufacturing supplies, whether purchased outside or manufactured by the contractor, and may include such collateral items as inbound transportation and in-transit insurance. In computing material costs, consideration will be given to reasonable overruns, spoilage, or defective work (unless otherwise provided for in any provision of the contract relating to inspection and correction of defective work). These costs are allowable subject, however, to the provisions of paragraphs (b) through (e) of this section.

(b) Costs of material shall be suitably adjusted for applicable portions of income and other credits, including available trade discounts, refunds, rebates, allowances, and cash discounts, and credits for scrap and salvage and material returned to vendors. Such income and other credits shall either be credited directly to the cost of the material involved or be allocated (as credits) to indirect costs. However, where the contractor can demonstrate that failure to take cash discounts was due to reasonable circumstances, such lost discounts need not be so credited.

(c) Reasonable adjustments arising from differences between periodic physical inventories and book inventories may be included in arriving at costs, provided such adjustments relate to the period of performance of the contract.

(d) When the materials are purchased specifically for and identifiable solely with performance under a contract, the actual purchase cost thereof should be charged to the contract. If material is issued from stores, any generally recognized method of pricing such material is acceptable if that method is consistently applied and the results are equitable. When estimates of material costs to be incurred in the future are required, either current market price or anticipated acquisition cost may be used, but the basis of pricing must be disclosed.

(e) Allowance for all materials, supplies, and services which are sold or transferred between any division, subsidiary or affiliate of the contractor under a common control shall be on the basis of cost incurred in accordance with this Subpart 18–15.2, except that when it is the established practice of the transferring organization to price interorganization transfers of materials, supplies, and services at other than cost for commercial work of the contractor or any division, subsidiary, or affiliate of the contractor under a common control, allowance may be at a price when:

(1) It is or is based on an "established catalog or market price of commercial items sold in substantial quantities to the general public" in accordance with § 18–3.807–1(b)(2); or

(2) It is the result of "adequate price competition" in accordance with § 18–3.807–1(b)(1)(i) and (ii)(a) and (b), is the price at which an award was made to the affiliated organization after obtaining quotations on an equal basis from such organization and one or more outside sources which normally produce the item or its equivalent in significant quantity:

Provided, That in either case:

(i) The price is not in excess of the transferor's current sales price to his most favored customer (including any division, subsidiary, or affiliate of the

contractor under a common control) for a like quantity under comparable conditions, and

(ii) The price is not determined to be unreasonable by the contracting officer: *Provided, however,* That if the price is determined unreasonable, such determination must be supported by an enumeration of facts on which it is based and approved at a level above the contracting officer.

The price determined in accordance with subparagraph (1) above should be adjusted, when appropriate, to reflect the quantities being procured and may be adjusted upward or downward to reflect the actual cost of any modifications necessary because of contract requirements.

§ 18–15.205–23 Organization costs.

Expenditures, such as incorporation fees, attorneys' fees, accountants' fees, brokers' fees, fees to promoters and organizers in connection with (a) organization or reorganization of a business, or (b) raising capital, are unallowable.

§ 18–15.205–24 Other business expenses.

Included in this item are such recurring expenses as registry and transfer charges resulting from changes in ownership of securities issued by the contractor, cost of shareholders' meetings, normal proxy solicitations, preparation and publication of reports to shareholders, preparation and submission of required reports and forms to taxing and other regulatory bodies, and incidental cost of directors' and committee meetings. The above and similar costs are allowable when allocated on an equitable basis.

§ 18–15.205–25 Relocation costs.

(a) Relocation costs, for the purpose of this subpart, are costs incident to the permanent change of duty assignment (for an indefinite period or for a stated period of no less than 12 months) of an existing employee or upon recruitment of a new employee. These costs may include, but are not limited to, cost of (1) transportation of the employee, members of his immediate family and his household and personal effects to the new location; (2) finding a new home, such as advance trips by employees and spouses to locate living quarters and temporary lodging during the transition period; (3) closing costs (i.e., brokerage fees, legal fees, appraisal fees, etc.), incident to the disposition of housing; (4) other necessary and reasonable expenses normally incident to relocation, such as cost of canceling and unexpired lease, disconnecting or reinstalling household appliances, and purchase of insurance against damages to personal property; (5) loss on sale of home; and (6) acquisition of a home in a new location (i.e., brokerage fees, legal fees, appraisal fees, etc.).

(b) Subject to paragraph (c) of this section, relocation costs of the type covered in paragraph (a) (1), (2), (3), and (4) of this section are allowable, provided (1) the move is for the benefit of the employer, (2) reimbursement is in accordance with an established policy or practice consistently followed by the employer, and such policy or practice is designed to motivate employees to relocate promptly and economically; (3) the costs are not otherwise unallowable under the provisions of § 18–15.205–33, or any other section of Subpart 18–15.2 (see § 18–15.107 as related to large scale contractor relocation); and (4) amounts to be reimbursed shall not exceed the employee's actual (or reasonably estimated) expenses.

(c) Costs otherwise allowable under paragraph (b) of this section are subject to the following additional provisions: (1) The transition period for incurrence of costs of the type covered in paragraph (a) (2) of this section shall be kept to the minimum number of days necessary under the circumstances, but shall not, in any event, exceed a cumulative total of 30 days including advance trip time; and (2) allowance for costs of the type covered in paragraph (a) (3) of this section shall not exceed 8 percent of the sales price of the property sold. Costs of the type covered in paragraph (a) (3) and (4) of this section are allowable only in connection with the relocation of existing employees, and are not allowable for newly recruited employees.

(d) Costs of the type covered in paragraph (a) (5) and (6) of this section are not allowable.

§ 18–15.205–26 Patent costs.

Costs of preparing disclosures, reports, and other documents required by the contract and of searching the art to the extent necessary to make such invention disclosures, are allowable. In accordance with the clauses of the contract relating to patents, costs of preparing documents and any other patent costs in connection with the filing of a patent application where title is conveyed to the Government are allowable (see § 18–15.205–36).

§ 18–15.205–27 Pension plans.

See § 18–15.205–6.

§ 18–15.205–28 Plant protection costs.

Costs of items such as (a) wages, uniforms, and equipment of personnel engaged in plant protection, (b) depreciation on plant protection capital assets, and (c) necessary expenses to comply with security requirements, are allowable.

§ 18–15.205–29 Plant reconversion costs.

Plant reconversion costs are those incurred in the restoration or rehabilitation of the contractor's facilities to approximately the same condition existing immediately prior to the commencement of the NASA contract work, fair wear and tear excepted. Reconversion costs are allowable except for the cost of removing Government property and the restoration or rehabilitation costs caused by such removal. However, in special circumstances where equity so dictates, additional costs may be allowed to the extent agreed upon before the costs are incurred. Whenever such costs are given consideration, care should be exercised to avoid duplication through allowance as contingencies, as additional profit or fee, or in other contracts.

§ 18–15.205–30 Precontract costs.

Precontract costs are those incurred prior to the effective date of the contract directly pursuant to the negotiation and in anticipation of the award of the contract where such incurrence is necessary to comply with the proposed contract delivery schedule. Such costs are allowable to the extent that they would have been allowable if incurred after the date of the contract and to the extent authorized by the contracting officer (see §§ 18–7.205–52, 18–7.404–52, and 18–7.453–52).

§ 18–15.205–31 Professional service costs—legal, accounting, engineering, and other.

(a) Costs of professional services rendered by the members of a particular profession who are not employees of the contractor are allowable, subject to (b) and (c) below, when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Government (but see § 18–15.205–23).

(b) Factors to be considered in determining the allowability of costs in a particular case include:

(1) The past pattern of such costs, particularly in the years prior to the award of Government contracts;

(2) The impact of Government contracts on the contractor's business (i.e., what new problems have arisen);

(3) The nature and scope of managerial services expected of the contractor's own organizations; and

(4) Whether the proportion of Government work to the contractor's total business is such as to influence the contractor in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under Government contracts.

Retainer fees to be allowable must be reasonably supported by evidence of bona fide services available or rendered.

(c) Costs of legal, accounting, and consulting services, and related costs, incurred in connection with organization and reorganization, defense of antitrust suits, and the prosecution of claims against the Government, are unallowable. Costs of legal, accounting, and consulting services, and related costs, incurred in connection with patent infringement litigation, are unallowable unless otherwise provided for in the contract.

§ 18–15.205–32 Profits and losses on disposition of plant, equipment, or other capital assets.

Profits or losses of any nature arising from the sale or exchange of plant,

equipment, or other capital assets, including sale or exchange of either short- or long-term investments, shall be excluded in computing contract costs (but see § 18–15.205–9(b) as to basis for depreciation).

§ 18–15.205–33 Recruitment costs.

(a) *Recruitment costs.* Subject to the provisions of paragraphs (b), (c), and (d) of this section, and provided that the size of the staff recruited and maintained is in keeping with workload requirements, costs of help-wanted advertising, operating costs of an employment office necessary to secure and maintain an adequate labor force, costs of operating an aptitude and educational testing program, travel costs of employees while engaged in recruiting personnel, travel costs of applicants for interviews for prospective employment and relocation costs incurred incident to recruitment of new employees are allowable to the extent that such costs are incurred pursuant to a well-managed recruitment program. Where the contractor uses employment agencies, costs not in excess of standard commercial rates for such services are allowable.

(b) In publications, costs of help wanted advertising that (1) includes color, (2) includes advertising material for other than recruitment purposes, or (3) is excessive in size (taking into consideration recruitment purposes for which intended and normal business practices in this respect) are unallowable.

(c) Costs of (1) help wanted advertising and (2) excessive salaries, fringe benefits, and special emoluments that have been offered to prospective employees, designed to "pirate" personnel from another contractor, or in excess of the standard practices in the industry, are unallowable.

(d) Where relocation costs incurred incident to recruitment of a new employee have been allowed either as an allocable direct or indirect cost and the newly hired employee resigns for reasons within his control within 12 months after hire, the contractor shall be required to refund or credit such relocation costs to the Government.

§ 18–15.205–34 Rental costs (including sale and leaseback of facilities).

(a) Rental costs of land, building, and equipment and other personal property are allowable if the rates are reasonable in light of such factors as rental costs of comparable facilities and market conditions in the area, the type, life expectancy, condition, and value of the facilities leased, options available, and other provisions of the rental agreement. Application of these factors, in situations where rentals are extensively used, may involve, among other considerations, comparison of rental costs with the amount which the contractor would have received had he owned the facilities.

(b) Charges in the nature of rent between plants, divisions, or organizations under common control are allowable to the extent such charges do not exceed the normal costs of ownership, such as depreciation, taxes, insurance, and maintenance; *Provided,* That no part of such costs shall duplicate any other allowed costs.

§ 18–15.205–35 Research and development costs.

(a) Basic research, for the purpose of § 18–15.2, is that type of research which is directed toward increase of knowledge in science. In such research, the primary aim of the investigator is a fuller knowledge or understanding of the subject under study, rather than any practical application thereof. Applied research, for the purpose of this § 18–15.2, consists of that type of effort which (1) normally follows basic research, but may not be severable from the related basic research; (2) attempts to determine and expand the potentialities of new scientific discoveries or improvements in technology, materials, processes, methods, devices, and techniques; and (3) attempts to "advance the state of the art." Applied research does not include any such efforts when their principal aim is the design, development, or test of specific articles or services to be offered for sale, which are within the definition of the term development as hereinafter provided.

(b) Development is the systematic use of scientific knowledge which is directed toward the production of, or improvements in, useful products to meet specific performance requirements, but exclusive of manufacturing and production engineering.

(c) A contractor's independent research and development is that research and development which is not sponsored by a contract, grant, or other arrangement.

(d) A contractor's costs of independent research as defined in paragraphs (a) and (c) of this section shall be allowable as indirect costs (subject to the following provisions of this §18–15.205–35) provided they are allocated to all work of the contractor.

(e) Costs of a contractor's independent development, as defined in paragraphs (b) and (c) of this section (and subject to the following provisions of this § 18–15.205–35), are allowable to the extent that such development is related to the product lines for which the Government has contracts, provided the costs are reasonable in amount and are allocated as indirect costs to all work of the contractor on such product lines. In cases where a contractor's normal course of business does not involve production work, the cost of independent development is allowable to the extent that such development is related and allocated as an indirect cost to the field of effort of Government research and development contracts.

(f) Independent research and development costs shall include an amount for the absorption of their appropriate share of indirect and administrative costs, unless the contractor, in accordance with his accounting practices consistently applied, treats such costs otherwise.

(g) Research and development costs (including amounts capitalized), regardless of their nature, which were incurred in accounting periods prior to the award of a particular contract, are unallowable except where allowable as precontract costs (see § 18–15.205–30).

(h) The reasonableness of expenditures for independent research and development when otherwise allowable in accordance with the provisions of § 18–15.205–35 should be determined in light of all pertinent considerations, such as previous contractor research and development activity, cost of past programs, and changes in science and technology. Such expenditures should be pursuant to a broad planned program, which is reasonable in scope and well managed. Such expenditures (especially for development) should be scrutinized with great care in connection with contractors whose work is predominantly or substantially with the Government. Advance agreements as described in § 18–15.107 are particularly important in this situation. In recognition that cost sharing of the contractor's independent research and development program may provide motivation for more efficient accomplishment of such program, it is desirable in some cases that the Government bear less than an allocable share of the total cost of the program. Under these circumstances, the following are among the approaches which may be used as the basis for agreement:

(1) Review of the contractor's proposed independent research and development program and agreement to accept the allocable costs of specific projects;

(2) Agreement on a maximum dollar limitation of costs, an allocable portion of which will be accepted by the Government; and

(3) An agreement to accept the allocable share of a percentage of the contractor's planned research and development program.

§ 18–15.205–36 Royalties and other costs for use of patents.

(a) Royalties on a patent or amortization of the cost of acquiring by purchase a patent or rights thereto, necessary for the proper performance of the contract and applicable to contract products or processes, are allowable unless:

(1) The Government has a license or the right to free use of the patent;

(2) The patent has been adjudicated to be invalid, or has been administratively determined to be invalid;

(3) The patent is considered to be unenforceable; or

(4) The patent has expired.

(b) Special care should be exercised in determining reasonableness where the royalties may have been arrived at as a result of less than arm's-length bargaining; e.g.:

(1) Royalties paid to persons, including corporations, affiliated with the contractor;

(2) Royalties paid to unaffiliated parties, including corporations, under an agreement entered into in contemplation that a Government contract would be awarded; or

(3) Royalties paid under an agreement entered into after the award of the contract.

(c) In any case involving a patent formerly owned by the contractor, the amount of royalty allowed should not exceed the cost which would have been allowed had the contractor retained title thereto.

(d) See § 18–15.107 regarding advance understandings.

§ 18–15.205–37 Selling costs.

(a) Selling costs arise in the marketing of the contractor's products and include costs of sales promotions, negotiation, liaison between Government representatives and contractor's personnel, and other related activities.

(b) Selling costs are allowable to the extent they are reasonable and are allocable to Government business (but see §§ 18–15.107 and 18–15.205–1). Allocability of selling costs will be determined in the light of reasonable benefit to the Government arising from such activities as technical, consulting, demonstration, and other services which are for purposes such as application or adaptation of the contractor's products to Government use.

(c) Notwithstanding paragraph (b) of this section, salesmen's or agents' compensation, fees, commissions, percentages, or brokerage fees, which are contingent upon the award of contracts, are allowable only when paid to bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business.

§ 18–15.205–38 Service and warranty costs.

Such costs include those arising from fulfillment of any contractual obligation of a contractor to provide services, such as installation, training, correcting defects in the products, replacing defective parts, making refunds in the case of inadequate performance, etc. When not inconsistent with the terms of the contract, such service and warranty costs are allowable. However, care should be exercised to avoid duplication of the allowance as an element of both estimated product cost and risk.

§ 18–15.205–39 Severance pay.

(a) Severance pay, also commonly referred to as dismissal wages, is a payment in addition to regular salaries and wages by contractors to workers whose employment is being terminated. Costs of severance pay are allowable only to the extent that, in each case, it is required by (1) law, (2) employer-employee agreement, (3) established policy that constitutes, in effect, an implied agreement on the contractor's part, or (4) circumstance of the particular employment.

(b) Cost of severance payments is divided into two categories, as follows:

(1) Actual normal turnover severance payments shall be allocated to all work performed in the contractor's plant; or, where the contractor provides for accrual of pay for normal severances, such method will be acceptable if the amount of the accrual is reasonable in light of payments actually made for normal severances over a representative past period, and if amounts accrued are allocated to all work performed in the contractor's plant; and

(2) Abnormal or mass severance pay is of such a conjectural nature that measurement of costs by means of an accrual will not achieve equity to both parties. Thus accruals for this purpose are not allowable. However, the Government recognizes its obligation to participate, to the extent of its fair share, in any specific payment. Thus, allowability will be considered on a case-by-case basis in the event of occurrence.

§ 18–15.205–40 Special tooling costs.

The term "special tooling" means all jigs, dies, fixtures, molds, patterns, special taps, special gauges, special test equipment, other special equipment and manufacturing aids, and replacements thereof, acquired or manufactured by the contractor for use in the performance of a contract, which are of such a specialized nature that, without substantial modification or alteration, their use is limited to the production of such supplies or parts thereof, or the performance of such services, as are peculiar to the needs of the Government. The term does not include (a) items of tooling or equipment acquired by the contractor prior to the contract, replacements thereof, whether or not altered or adapted for use in the performance of the contract, (b) consumable small tools, or (c) general or special machine tools, or similar capital items. The cost of special tooling, when it is acquired for and its usefulness is limited to one or more Government contracts, is allowable and shall be allocated to the specific Government contract or contracts for which acquired.

§ 18–15.205–41 Taxes.

(a) Taxes are charges levied by Federal, State, or local governments. They do not include fines and penalties except as otherwise provided herein. In general, taxes (including State and local income taxes) which the contractor is required to pay and which are paid or accrued in accordance with generally accepted accounting principles are allowable, except for:

(1) Federal income and excess profits taxes;

(2) Taxes in connection with financing, refinancing, or refunding operations (see § 18–15.205–17);

(3) Taxes from which exemptions are available to the contractor directly or available to the contractor based on an exemption afforded the Government except when the contracting officer determines that the administrative burden incident to obtaining the exemption outweighs the corresponding benefits accruing to the Government;

(4) Special assessments on land which represent capital improvements; and

(5) Taxes on any category of property which is used solely in connection with work other than on Government contracts. (Taxes on property used solely in connection with either non-Government or Government work should be considered directly applicable to the respective category of work unless the amounts involved are insignificant or comparable results would otherwise be obtained; e.g., taxes on contractor-owned work in process which is used solely in connection with non-Government work should be allocated to such work, and taxes on contractor-owned work-in-process inventory, and Government-owned work-in-process inventory when taxed, used solely in connection with Government work, should be charged to such work.)

(b) Taxes otherwise allowable under paragraph (a) of this section, but upon which a claim of illegality or erroneous assessment exists, are allowable: *Provided*, That the contractor prior to payment of such taxes:

(1) Promptly requests instructions from the contracting officer concerning such taxes; and

(2) Takes all action directed by the contracting officer arising out of subparagraph (1) of this paragraph or an independent decision of the Government as to the existence of a claim of illegality or erroneous assessment, including cooperation with and for the benefit of the Government to (i) determine the legality of such assessment or (ii) secure a refund of such taxes.

Reasonable costs of any such action undertaken by the contractor at the direction or with the concurrence of the contracting officer are allowable. Interest and penalties incurred by a contractor by reason of the nonpayment of any tax at the direction of the contracting officer or by reason of the failure of the contracting officer to assure timely direction after prompt request therefor, are also allowable.

(c) Any refund of taxes, interest, or penalties, and any payment to the contractor of interest thereon, attributable to taxes, interest, or penalties which were allowed as contract costs, shall be credited or paid to the Government in the manner directed by the Government: *Provided*, Any interest actually paid or credited to a contractor incident to a refund of tax, interest, or penalty shall be paid or credited to the Government only to the extent that such interest accrued over the period during which the contractor had been reimbursed by the Government for the taxes, interest, or penalties.

§ 18–15.205–42 Termination costs.

Contract terminations generally give rise to the incurrence of costs, or the need for special treatment of costs, which would not have arisen had the contract not been terminated. Cost principles covering these items are set forth in this § 18–15.205–42. They are to be used in conjunction with this Subpart 18–15.2 in termination situations.

(a) Common items: The cost of items reasonably usable on the contractor's other work shall not be allowable unless the contractor submits evidence that he could not retain such items at cost without sustaining a loss. In deciding whether such items are reasonably usable on other work of the contractor, the contracting officer should consider the contractor's plans and orders for current and scheduled production. Contemporaneous purchases of common items by the contractor shall be regarded as evidence that such items are reasonably usable on the contractor's other work. Any acceptance of common items as allocable to the terminated portion of the contract should be limited to the extent that the quantities of such items on hand, in transit, and on order are in excess of the reasonable quantitative requirements of other work.

(b) Costs continuing after termination. If, in a particular case, despite all reasonable efforts by the contractor, certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in this subpart, except that any such costs continuing after termination due to the negligent or willful failure of the contractor to discontinue such costs shall be considered unallowable.

(c) Initial costs, including starting load and preparatory costs, are allowable, subject to the conditions in subparagraphs (1) through (6) of this paragraph.

(1) Starting load costs are costs of a nonrecurring nature arising in the early stages of production and not fully absorbed because of the termination. Such costs may include the cost of labor and material, and related overhead attributable to such factors as:

(i) Excessive spoilage resulting from inexperienced labor;

(ii) Idle time and subnormal production occasioned by testing and changing methods of processing;

(iii) Employee training; and

(iv) Unfamiliarity or lack of experience with the product, materials, manufacturing processes, and techniques.

(2) Preparatory costs are costs incurred in preparing to perform the terminated contract including costs of initial plant rearrangement and alterations, management and personnel organization, production planning, and similar activities, but excluding special machinery and equipment and starting load costs.

(3) If initial costs are claimed and have not been segregated on the contractor's books, segregation for settlement purposes shall be made from cost reports and schedules which reflect the high unit cost incurred during the early stages of the contract.

(4) When the settlement proposal is on the inventory basis, initial costs should normally be allocated on the basis of total end items called for by the contract immediately prior to termination; however, if the contract includes end items of a diverse nature, some other equitable basis may be used, such as machine or labor hours.

(5) When initial costs are included in the settlement proposal as a direct charge, such costs shall not also be included in overhead.

(6) Initial costs attributable to only one contract shall not be allocated to other contracts.

(d) Loss of useful value of special tooling, special machinery, and equipment in general allowable: *Provided:*

(1) Such special tooling, machinery, or equipment is not reasonably capable of use in the other work of the contractor;

(2) The interest of the Government is protected by transfer of title or by other means deemed appropriate by the contracting officer; and

(3) The loss of useful value as to any one terminated contract is limited to that portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion of the contract bears to the entire terminated contract and other Government contracts for which the special tooling, special machinery, and equipment was acquired.

(e) Rental costs under unexpired leases are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated contract, less the residual value of such leases, if:

(1) The amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the contract and such further period as may be reasonable; and

(2) The contractor makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such lease.

There also may be included the cost of alterations of such leased property: *Provided*, Such alterations were necessary for the performance of the contract, and of reasonable restoration required by the provisions of the lease.

(f) Settlement expenses, including the following, are generally allowable:

(1) Accounting, legal, clerical, and similar costs reasonably necessary for—

(i) The preparation and presentation to contracting officers of settlement claims and supporting data with respect to the terminated portion of the contract; and

(ii) The termination and settlement of subcontracts; and

(2) Reasonable costs for the storage, transportation, protection, and disposition of property acquired or produced for the contract.

(g) Subcontractor claims, including the allocable portion of claims which are common to the contract and to other work of the contractor, are generally allowable.

§ 18–15.205–43 Trade, business, technical, and professional activity costs.

(a) *Memberships.* This category includes costs of memberships in trade, business, technical, and professional organizations. Such costs are allowable.

(b) *Subscriptions.* This item includes costs of subscriptions to trade, business, professional, or technical periodicals. Such costs are allowable.

(c) *Meetings and conferences.* This item includes cost of meals, transportation, rental of facilities for meetings, and costs incidental thereto, when the primary purpose of the incurrence of such costs is the dissemination of technical information or stimulation of production. Such costs are allowable.

§ 18–15.205–44 Training and educational costs.

(a) Costs of preparation and maintenance of a program of instruction at noncollege level, including but not limited to on-the-job, classroom and apprenticeship training, designed to increase the vocational effectiveness of bona fide employees, including training materials, textbooks, salaries or wages of trainees (excluding overtime compensation which might arise therefrom), and (1) salaries of the director of training and staff when the training program is conducted by the contractor, or (2) tuition and fees when the training is in an institution not operated by the contractor, are allowable.

(b) Costs of part-time education, at an undergraduate or postgraduate college level, related to the job requirements of bona fide employees, including only (1) training materials; (2) textbooks; (3) fees charged by the educational institution; (4) tuition charged by the educational institution, or in lieu of tuition, instructors' salaries and the related share of indirect cost of the educational institution to the extent that the sum thereof is not in excess of the tuition which would have been paid to the participating educational institution; and (5) straight-time compensation of each employee for time spent attending classes during working hours not in excess of 156 hours per year where circumstances do not permit the operation of classes or attendance at classes after regular working hours, are allowable.

(c) Costs of tuition, fees, training materials, and textbooks (but not subsistence, salary, or any other emoluments) in connection with full-time scientific and engineering education at a postgraduate (but not undergraduate) college level related to the job requirements of bona fide employees for a total period not to exceed one school year for each employee so trained, are allow-

able. In unusual cases where required by military technology, the period may be extended.

(d) Maintenance expense and normal depreciation or fair rental on facilities owned or leased by the contractor for training purposes are allowable to the extent set forth in §§ 18–15.205–30, 18–15.205–9, and 18–15.205–34, respectively.

(e) Grants to educational or training institutions, including the donation of facilities or other properties, scholarships, or fellowships, are considered contributions and are unallowable.

§ 18–15.205–45 Transportation costs.

Transportation costs include freight, express, cartage, and postage charges relating either to goods purchased, in process, or delivered. These costs are allowable. When such costs can readily be identified with the items involved, they may be directly costed as transportation costs or added to the cost of such items (see § 18–15.205–22). Where identification with the materials received cannot readily be made, inbound transportation costs may be charged to the appropriate indirect cost accounts if the contractor follows a consistent, equitable procedure in this respect. Outbound freight, if reimbursable under the terms of the contract, shall be treated as a direct cost.

§ 18–15.205–46 Travel costs.

(a) Travel costs include costs of transportation, lodging, subsistence, and incidental expenses, incurred by contractor personnel in a travel status while on official company business.

(b) Travel costs may be based upon actual costs incurred, or on a per diem or mileage basis in lieu of actual costs, or on a combination of the two: *Provided*, The method used does not result in an unreasonable charge.

(c) Travel costs incurred in the normal course of overall administration of the business are allowable and shall be treated as indirect costs.

(d) Travel costs directly attributable to specific contract performance are allowable and may be charged to the contract in accordance with the principle of direct costing (see § 18–15.202).

(e) Necessary, reasonable costs of family movements and personnel movements of a special or mass nature are allowable, subject to allocation on the basis of work or time period benefited when appropriate (see § 18–15.107).

(f) The difference in cost between first-class air accommodations and less than first-class air accommodations is unallowable except when less than first-class accommodations are not reasonably available to meet necessary requirements, such as, where less than first-class accommodations would:

(1) Require circuitous routing,

(2) Require travel during unreasonable hours,

(3) Greatly increase the duration of the flight,

(4) Result in additional costs which would offset the transportation savings,

(5) Offer accommodations which are not reasonably adequate for the physical or medical needs of the traveler.

(g) Travel via contractor owned, leased, and chartered aircraft:

(1) Cost of contractor owned, leased, and chartered aircraft, as the phrase is used herein, includes the cost of lease, charter, operation (including personnel), maintenance, depreciation, insurance, and other related costs. This cost is allowable, if reasonable, to the extent the contractor can demonstrate that the use of such aircraft is necessary for the conduct of his business and that the increase in cost, if any, in comparison with alternative means of transportation, is commensurate with the advantages gained.

(2) Some of the factors to consider in determining the necessity for such aircraft are whether:

(i) Scheduled commercial airlines or other suitable less costly travel facilities are available at reasonable times with reasonable frequency and serving the required destinations conveniently;

(ii) It is likely that critical or emergency situations might arise which could not be accommodated as effectively by scheduled commercial airline or other suitable less costly travel facilities;

(iii) The increased flexibility in scheduling would result in time savings and more effective utilization of key personnel;

(iv) National or industrial security demands privacy for key personnel who must work en route; and

(v) There exists a contract requirement for flight testing of equipment.

(3) When the need for contractor owned, leased, or chartered aircraft has been demonstrated, additional factors such as the following shall be considered in determining the reasonableness of costs:

(i) Number, type, and size of aircraft needed (involved in this determination are matters such as the number and physical aspects of locations to which flights are required, distances to these locations, number of passengers to be carried and frequency of flights);

(ii) The appropriateness of the method of acquisition, i.e., purchase, lease, or charter; and

(iii) Whether, when the contractor has more than one type or size of aircraft, that available aircraft best suited to the requirements of each individual trip was used.

(4) Where the need for contractor owned, leased, or chartered aircraft has been demonstrated, optimum use of such aircraft, rather than scheduled commercial service, should be made where a cost advantage will result to the Government.

§ 18–15.205–47 Economic planning costs.

(a) This category includes costs of generalized long-range management planning which is concerned with the future overall development of the contractor's business and which may take into account the eventual possibility of economic dislocations or fundamental alterations in those markets in which the contractor currently does business.

(b) Economic planning costs are allowable as indirect costs to be properly allocated. Research and development and engineering costs designed to lead to new products for sale to the general public are not allowable under this provision.

§ 18–15.205–50 Overtime, extra-pay shift, and multishift premiums.

Premiums of overtime, extra-pay shifts, and multishift work are allowable to the extent approved pursuant to § 18–12.102.

Subpart 18–15.3—Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts With Educational Institutions

§ 18–15.301 Purpose and scope.

§ 18–15.301–1 Objectives.

This subpart provides principles for determining the cost applicable to research and development work performed by educational institutions under grants from and contracts with the Federal Government. These principles are confined to the subject of cost determination and make no attempt to identify the circumstances or dictate the extent of agency and institutional participation in the financing of a particular research or development project. The principles are designed to provide recognition of the full allocated costs of such research work under generally accepted accounting principles. No provision for profit or other increment above cost is intended.

§ 18–15.301–2 Policy guides.

The successful application of these principles requires development of mutual understanding between representatives of universities and of the National Aeronautics and Space Administration as to their scope, applicability, and interpretation. It is recognized that:

(a) The arrangements for NASA and institutional participation in the financing of a research and development project are properly subject to negotiation between NASA and the institution concerned in accordance with such criteria as may be applicable.

(b) Each college and university, possessing its own unique combination of staff, facilities, and experience, should be encouraged to conduct research in a manner consonant with its own academic philosophies and institutional objectives.

(c) Each institution, in the fulfillment of its contractual obligations, should be expected to employ sound management practices.

(d) The application of the principles established herein should require no significant changes in the generally accepted accounting practices of colleges and universities.

§ 18–15.301–3 Application.

All NASA activities that sponsor research and development work at educational institutions should apply these principles and related policy guides in determining the costs incurred for such work under grants and cost-reimbursement type contracts and subcontracts. These principles should be used also as a guide in the pricing of fixed price contracts and subcontracts.

§ 18–15.302 Definition of terms.

§ 18–15.302–1 Organized research.

"Organized research" means all research activities of an institution that are separately budgeted and accounted for.

§ 18–15.302–2 Departmental research.

"Departmental research" means research activities that are not separately budgeted and accounted for. Such research work, which includes all research activities not encompassed under the term "organized research," is regarded for purposes of this document as a part of the instructional activities of the institution.

§ 18–15.302–3 Research agreement.

"Research agreement" means any valid arrangement to perform federally sponsored research, including grants, cost-reimbursement type contracts, cost-reimbursement type subcontracts, and fixed-price contracts and subcontracts for research.

§ 18–15.302–4 Other institutional activities.

"Other institutional activities" means all organized activities of an institution not directly related to the instruction and research functions, such as residence halls, dining halls, student hospitals, student unions, intercollegiate athletics, bookstores, faculty housing, student apartments, guest houses, chapels, theaters, public museums, and other similar activities or auxiliary enterprises. Also included under this definition is any category of cost treated as "unallowable," provided such category of cost identifies a function or activity to which a portion of the institution's indirect costs (as defined in § 18–15.305–1) are properly allocable.

§ 18–15.302–5 Apportionment.

"Apportionment" means the process by which the indirect costs of the institution are assigned as between (a) instruction and research, and (b) other institutional activities.

§ 18–15.302–6 Allocation.

"Allocation" means the process by which the indirect costs apportioned to instruction and research are assigned as between (a) organized research, and (b) instruction, including departmental research.

§ 18–15.303 Basic considerations.

§ 18–15.303–1 Composition of total costs.

The cost of a research agreement is comprised of the allowable direct costs incident to its performance, plus the allocable portion of the allowable indirect costs of the institution, less applicable credits.

§ 18–15.303–2 Factors affecting allowability of costs.

The tests of allowability of costs under these principles are: (a) They must be reasonable; (b) they must be allocable to research agreements under the standards and methods provided herein; (c) they must be accorded consistent treatment through application of those generally accepted accounting principles appropriate to the circumstances; and (d) they must conform to any limitations or exclusions set forth in these principles or in the research agreement as to types or amounts of cost items.

§ 18–15.303–3 Reasonable costs.

A cost may be considered reasonable if the nature of the goods or services acquired or applied, and the amount involved therefor, reflect the action that a prudent person would have taken under the circumstances prevailing at the time the decision to incur the cost was made. Major considerations involved in the determination of the reasonableness of a cost are: (a) Whether or not the cost is of a type generally recognized as necessary for the operation of the institution or the performance of the research agreement; (b) the restraints or requirements imposed by such factors as arm's length bargaining, Federal and State laws and regulations, and research agreement terms and conditions; (c) whether or not the individuals concerned acted with due prudence in the circumstances, considering their responsibilities to the institution, its employees, its students, the Government, and the public at large; and (d) the extent to which the actions taken with respect to the incurrence of the cost are consistent with established institutional policies and practices applicable to the work of the institution generally, including government research.

§ 18–15.303–4 Allocable costs.

(a) A cost is allocable to a particular cost objective (i.e., a specific function, project, research agreement, department, or the like) if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received or other equitable relationship. Subject to the foregoing, a cost is allocable to a research agreement if it is incurred solely to advance the work under the research agreement; or it benefits both the research agreement and other work of the institution in proportions than can be approximated through use of reasonable methods; or it is necessary to the overall operation of the institution and, in the light of the standards provided in this subpart, is deemed to be assignable in part to organized research. Where the purchase of equipment or other capital items are specifically authorized under a research agreement, the amounts thus authorized for such purchases are allocable to the research agreement regardless of the use that may subsequently be made of the equipment or other capital items involved.

(b) Any costs allocable to a particular research agreement under the standards provided in this subpart may not be shifted to other research agreements in order to meet deficiencies caused by overruns or other fund considerations, to avoid restrictions imposed by law or by terms of the research agreement, or for other reasons of convenience.

§ 18–15.303–5 Applicable credits.

(a) The term "applicable credits" refers to those receipt or negative expenditure types of transactions which operate to offset or reduce expense items that are allocable to research agreements as direct or indirect costs. Typical examples of such transactions are: Purchase discounts, rebates, or allowances; recoveries or indemnities on losses; sales of scrap or incidental services; and adjustments of overpayments or erroneous charges.

(b) In some instances, the amounts received from the Federal Government to finance institutional activities or service operations should be treated as applicable credits. Specifically, the concept of netting such credit items against related expenditures should be applied by the institution in determining the rates or amounts to be charged to Government research for services rendered whenever the facilities or other resources used in providing such services have been financed directly, in whole or in part, by Federal funds. (See §§ 18–15.306–6, 18–15.309–10(b), and 18–15.309–37 for areas of potential application in the matter of direct Federal financing.)

§ 18–15.304 Direct costs.

§ 18–15.304–1 General.

Direct costs are those that can be identified specifically with a particular cost objective. For this purpose, the term cost objective refers not only to the ultimate objectives against which costs are finally lodged such as research agreements, but also to other established cost objectives such as the individual accounts for recording particular objects or items of expense, and the separate account groupings designed to record the expenses incurred by individual organizational units, functions, projects, and the like. In general, the administrative functions and service activities described in § 18–15.306 are identifiable as separate cost objectives, and the expenses associated with such objectives become eligible in due course for distribution as indirect costs of research agreements and other ultimate cost objectives.

§ 18–15.304–2 Application to research agreements.

Indentifiable benefit to the research work rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect costs of research agreements. Typical transactions chargeable to a research agreement as direct costs are the compensation of employees for the time or effort devoted to the performance of work under the research agreement, including related staff benefit and pension plan costs to the extent that such items are consistently treated by the educational institution as direct rather than indirect costs; the costs of materials consumed or expended in the performance of such work; and other items of expense incurred for the research agreement, including extraordinary utility consumption. The cost of materials supplied from stock or services rendered by specialized facilities or other institutional service operations may be included as direct costs of research agreements provided such items are consistently treated by the institution as direct rather than indirect costs and are charged under a recognized method of costing or pricing designed to recover only actual costs and conforming to generally accepted cost accounting practices consistently followed by the insititution.

§ 18–15.305 Indirect costs.

§ 18–15.305–1 General.

Indirect costs are those that have been incurred for common or joint objectives, and thus are not readily subject to treatment as direct costs of research agreements or other ultimate cost objectives. At educational institutions such costs normally are classified under the following functional categories: General administration and general expenses; research administration expenses; operation and maintenance expenses; library expenses; and departmental administration expenses.

§ 18–15.305–2 Criteria for distribution.

(a) *Base period.* A base period for distribution of indirect costs is the period during which such costs are incurred and accumulated for distribution to work performed within that period. The base period normally should coincide with the fiscal year established by the institution, but in any event the base period should be so selected as to avoid inequities in the distribution of costs.

(b) *Need for cost groupings.* The overall objective of the allocation and apportionment process is to distribute the indirect costs described in § 18–15.306 to organized research, instruction, and other activities in reasonable proportions consistent with the nature and extent of the use of the institution's resources by research personnel, academic staff, students, and other personnel or organizations. In order to achieve this objective with reasonable precision, it may be necessary to provide for selective distribution by establishing separate groupings of cost within one or more of the functional categories of indirect costs referred to in § 18–15.305–1. In general, the cost groupings established within a functional category should constitute, in each case, a pool of those items of expense that are considered to be of like character in terms of their relative contribution to (or degree of remoteness from) the particular cost objectives to which distribution is appropriate. Each such pool or cost grouping should then be distributed individually to the appertaining cost objectives, using the distribution base or method most appropriate in the light of the guides set out in paragrah (c) of this section.

(c) *Selection of distribution method.* Actual conditions must be taken into account in selecting the method or base to be used in distributing to applicable cost objectives the expenses assembled under each of the individual cost groupings established as indicated under paragraph (a) of this section. Where a distribution can be made by assignment of a cost grouping directly to the area benefited, the distribution should be made in that manner. Where the expenses under a cost grouping are more general in nature, the distribution to appertaining cost objectives should be made through use of a selected base which will produce results which are equitable to both the Government and the institution. In general, any cost element or cost-related factor associated with the institution's work is potentially adaptable for use as a distribution base, provided (1) it can readily be expressed in terms of dollars or other quantitative measure (total direct expenditures, direct salaries, man-hours applied, square feet utilized, hours of usage, number of documents processed, population served, and the like); and (2) it is common to the appertaining cost objectives during the base period. The essential consideration in selection of the distribution base in each instance is that it be the one best suited for assigning the pool of costs to appertaining cost objectives in accord with the relative benefits derived; the traceable cause and effect relationship; or logic and reason, where neither benefit nor cause and effect relationship is determinable.

(d) *General considerations on cost groupings.* The extent to which separate cost groupings and selective distribution would be appropriate at an institution is a matter of judgment to be determined on a case by case basis. Typical situations which may warrant the establishment of two or more separate cost groups (based on account classification or analysis) within a functional category include but are not limited to the following:

(1) Where certain items or categories of expense relate solely to one of the three major divisions of the institution (instruction, organized research or other institutional activities) or to any two but not the third, such expenses should be set aside as a separate cost grouping for direct assignment or selective distribution in accordance with the guides provided in paragraphs (b) and (c) of this section.

(2) Where any types of expense ordinarily treated as general administration and general expenses or departmental administration expenses are charged to research agreements as direct costs, the similar type expenses applicable to other activities of the institution must, through separate cost groupings, be excluded from the indirect costs allocable to research agreements.

(3) Where it is determined that certain expenses are for the support of a service unit or facility whose output is susceptible of measurement on a workload or other quantitative basis, such expenses should be set aside as a separate cost grouping for distribution on such basis to organized research and other activities at the institution or within the department.

(4) Where organized activities (including identifiable segments of organized research as well as the activities cited in § 18–15.302–4) provide their own purchasing, personnel administration, building maintenance or similar service, the distribution of general administration and general expenses or operation and maintenance expenses to such activities should be accomplished through cost groupings which include only that portion of central indirect costs (such as for overall management) which are properly allocable to such activities; and

(5) Where the institution elects to treat as indirect charges the cost of the pension plan and other staff benefits, such costs should be set aside as a separate cost grouping for selective distribution to appertaining cost objectives, including organized research.

(e) *Materiality.* Where it is determined that the use of separate cost groupings and selective distribution are necessary to produce equitable results, the number of such separate cost groupings within a functional category should be held within practical limits, after taking into consideration the materiality of the amounts involved and the degree of precision attainable through less selective methods of distribution.

§ 18–15.305–3 Administration of limitations on allowances for indirect costs.

(a) Research grants may be subject to laws that limit the allowance for indirect costs under each such grant to a stated percentage of the direct costs allowed. Agencies that sponsor such grants will establish procedures which will assure that: (1) The terms and amounts authorized in each case conform with the provisions of §§ 18–15.303, 18–15.304, and § 18–15.309 as they apply to matters involving the consistent treatment and allowability of individual items of cost; and (2) the amount actually allowed for indirect costs under each such research grant does not exceed the maximum allowable under the limitation or the amount otherwise allowable under this subpart which ever is the smaller.

(b) Where the actual allowance for indirect costs on any research grant must be restricted to the smaller of the two alternative amounts referred to in paragraph (a) of this section, such alternative amounts should be determined in accordance with the following guides: (1) The maximum allowable under the limitation should be established by applying the stated percentage to a direct cost base which shall include all items of expenditure authorized by the sponsoring agency for inclusion as part of the total cost for the direct benefit of the work under the grant; and (2) the amount otherwise allowable under this subpart should be established by applying the current institutional indirect cost rate to the appropriate elements of direct cost under the grant; i.e., to total salaries and wages in the case of rates developed under § 18–15.307, or to total expenditures exclusive of capital expenditures in the case of rates developed under § 18–15.308.

(c) When the maximum amount allowable under a statutory limitation or the terms of a research agreement is less than the amount otherwise allocable as indirect costs under this subpart, the amount not recoverable as indirect costs under the research agreement involved may not be shifted to other research agreements.

§ 18–15.306 Identification and assignment of indirect costs.

§ 18–15.306–1 General administration and general expenses.

(a) The expenses under this heading are those that have been incurred for the general executive and administrative offices of educational institutions and other expenses of a general character which do not relate solely to any major division of the institution, i.e., solely to (1) instruction; (2) organized research; or (3) other institutional activities. The general administration and general expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the costs of the operation and maintenance of the physical plant, and charges representing use allowances and/or depreciation applicable to the buildings and equipment utilized in performing the functions represented thereunder.

(b) The expenses included in this category may be apportioned and allocated on the basis of total expenditures exclusive of capital expenditures in situations where the results of the distribution made on this basis are deemed to be equitable both to the Government and the institution; otherwise the distribution of general administration and general expenses should be made through use of selected bases applied to separate cost groupings established within this category of expenses in accordance with the guides set out in § 18–15.305–2.

§ 18–15.306–2 Research administration expenses.

(a) The expenses under this heading are those that have been incurred by a separate organization or identifiable administrative unit established solely to administer the research activity, including such functions as contract administration, security, purchasing, personnel administration, and editing and publishing of research reports. They include the salaries and expenses of the head of such research organization, his assistants, and their immediate secretarial staff together with the salaries and expenses of personnel engaged in supporting activities maintained by the research organization, such as stock rooms, stenographic pools, and the like. The salaries of members of the professorial staff whose academic appointments or formal assignments require the performance of such administrative work may also be included to the extent that the portion so charged to research administration is supported as required by § 18–15.309–7(b). The research administration expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the costs of the operation and maintenance of the physical plant, and charges representing use allowance and/or depreciation applicable to the buildings and equipment utilized in performing the functions represented thereunder.

(b) The expenses included in this category should be allocated to organized research and, where necessary, to departmental research on any basis reflecting the proportion fairly applicable to each (see § 18–15.305–2).

§ 18–15.306–3 Operation and maintenance expenses.

(a) The expenses under this heading are those that have been incurred by a central service organization or at the departmental level for the administration, supervision, operation, maintenance, preservation, and protection of the institution's physical plant. They include expenses normally incurred for such items as janitorial and utility services; repairs and ordinary or normal alterations of buildings, furniture, and equipment; and care of grounds and maintenance and operation of buildings and other plant facilities. The operation and maintenance expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, and charges representing use allowance and/or depreciation applicable to the buildings and equipment utilized in performing the functions represented thereunder.

(b) The expenses included in this category should be apportioned and allocated to applicable cost objectives in a manner consistent with the guides provided in § 18–15.305–2 on a basis that gives primary emphasis to space utilization. The allocations and apportionments should be developed as follows: (1) Where actual space and related cost records are available or can readily be developed and maintained without significant change in the accounting practices, the amount distributed should be based on such records; (2) where the space and related cost records maintained are not sufficient for purposes of the foregoing, a reasonable estimate of the proportion of total space assigned to the various cost objectives normally will suffice as a means for effecting distribution of the amounts of operation and maintenance expenses involved; or (3) where it can be demonstrated that an area or volume of space basis of allocation is impractical or inequitable, other bases may be used provided consideration is given to the use of facilities by research personnel and others including students.

§ 18–15.306–4 Library expenses.

(a) The expenses under this heading are those that have been incurred for the operation of the library, including the costs of books and library materials purchased for the library, less any items of library income that qualify as applicable credits under § 18–15.303–6. The library expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the costs of the operation and maintenance of the physical plant, and charges representing use allowances and/or depreciation applicable to the buildings and equipment utilized in the performance of the functions represented thereunder.

(b) The expenses included in this category should be allocated on the basis of population including students and other users. Where the results of the distribution made on this basis are deemed to be inequitable to the Government or the institution, the distribution should then be made on a selective basis in accordance with the guides set out in § 18–15.305–2. Such selective distribution should be made through use of reasonable methods which give adequate recognition to the utilization of the library attributable to faculty, research personnel, students, and others. The method used will be based on data developed periodically on the respective institution's experience for representative periods.

§ 18–15.306–5 Departmental administration expenses.

(a) The expenses under this heading are those that have been incurred in the department for the administrative and supporting service operations that jointly benefit the instructional activities and organized research of the department. They include the salaries and expenses of deans or heads, or associate deans or heads, of colleges, schools, departments, or divisions, and their immediate secretarial staff together with the salaries and expenses of personnel engaged in supporting activities maintained by the department, such as stockrooms, stenographic pools, and the like provided such supporting services are consistently treated as indirect costs. The salaries of other members of the professorial staff whose academic appointments or formal assignments require the performance of such administrative work may also be included to the extent that the portion so charged to departmental administration expenses is supported as required by § 18–15.309–7(b). The departmental administration expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the costs of the operation and maintenance of the physical plant, and charges representing use allowances and/or depreciation applicable to the buildings and equipment utilized in performing the functions represented thereunder.

(b) No particular distribution base is suggested for general use in allocating the expenses included in this category, since the situations which influence the incurrence of such expenses and the nature of the administrative support provided therefrom may vary considerably as between institutions or departments within the same institution. Accordingly, the distribution of departmental administration expenses should be made through use of selected bases applied to separate cost groupings established within this category of expenses in accordance with the guides set out in § 18–15.305–2.

§ 18–15.306–6 Set-off for indirect expenses otherwise provided for by the Government.

(a) The items to be accumulated under this heading are the reimbursements and other receipts from the Federal Government which are used by the institution to support directly, in whole or in part, any of the administrative or service (indirect) activities described in the foregoing (§§ 18–15.306–1 through 18–15.306–5). They include any amounts thus applied to such activities which may have been received pursuant to an institutional base grant or any similar contractural arrangement with the Federal Government other than a research agreement as herein defined (§ 18–15.302–3).

(b) The sum of the items in this group shall be treated as a credit to the total indirect cost pool before it is apportioned to organized research and to other activities. Such set-off shall be made prior to the determination of the indirect cost rate or rates as provided in § 18–15.307.

§ 18–15.307 Determination and application of indirect cost rate or rates.

§ 18–15.307–1 Indirect cost pools.

(a) Subject to paragraph (b) of this section, indirect costs allocated to organized research should be treated as a common pool, and the costs in such common pool should then be distributed to individual research agreements benefiting therefrom on a single rate basis.

(b) In some instances a single rate basis for use across the board on all Government research at an institution may not be appropriate, since it would not take into account those different environmental factors which may affect substantially the indirect costs applicable to a particular segment of Government research at the institution. For this purpose, a particular segment of Government research may be that performed under a single research agreement or it may consist of research under a group of research agreements performed in a common environment. The environmental factors are not limited to the physical location of the work. Other important factors are the level of the administrative support required, the nature of the facilities or other resources employed, the scientific disciplines or technical skills involved, the organizational arrangements used, or any combination thereof. Where a particular segment of Government research is performed within an environment which appears to generate a significantly different level of indirect costs, provision should be made for a separate indirect cost pool applicable to such work. The separate indirect cost pool should be developed during the course of the regular distribution process, and the separate indirect cost rate resulting therefrom should be utilized provided it is determined that (1) such indirect cost rate differs significantly from that which would have obtained under paragraph (a) of this section, and (2) the volume of research work to which such rate would apply is material in relation to other Government research at the institution.

§ 18–15.307–2 The distribution base.

Indirect costs allocated to organized research should be distributed to applicable research agreements on the basis of direct salaries and wages. For this purpose, an indirect cost rate should be determined for each of the separate indirect cost pools developed pursuant to § 18–15.307–1. The rate in each case should be stated as the percentage which the amount of the particular indirect cost pool is of the total direct salaries and wages of all research agreements identified with such pool.

§ 18–15.307–3 Negotiated lump sum for overhead.

A negotiated fixed amount in lieu of indirect costs may be appropriate for self-contained or off-campus research activities where the benefits derived from an institution's indirect services cannot be readily determined. Such amount negotiated in lieu of indirect costs will be treated as an offset to total indirect expenses before apportionment to instruction, organized research, and other institutional activities. The base on which such remaining expenses are allocated should be appropriately adjusted.

§ 18–15.307–4 Predetermined fixed rates for indirect costs.

Public Law 87–638 (76 Stat. 437) authorizes the use of predetermined fixed rates in determining the indirect costs applicable under research agreements with educational institutions. The stated objectives of the law are to simplify the administration of cost-type research and development contracts with educational institutions, to facilitate the preparation of their budgets, and to permit more expeditious closeout of such contracts when the work is completed. In view of the potential advantages offered by this procedure, consideration should be given to the negotiation of predetermined fixed rates for indirect costs in those situations where the cost experience and other pertinent facts available are deemed sufficient to enable the contracting parties to reach an informed judgment as to the probable level of indirect costs during the ensuing accounting period.

§ 18–15.308 Simplified method for small institutions.

§ 18–15.308–1 General.

(a) Where the total direct cost of all Government-sponsored research and development work at an institution does not exceed $500,000 in a year, the use of the abbreviated procedure described in § 18–15.308–2 may be acceptable in the determination of allowable indirect costs. Under this abbreviated procedure, data taken directly from the institution's most recent annual financial report and immediately available supporting information will be utilized as a basis for determining the indirect cost rate applicable to research agreements at the institution.

(b) The rigid formula approach provided under the abbreviated procedure has limitations which may preclude its use at some institutions, either because the minimum data required for this purpose are not readily available, or because the application of the abbreviated procedure to the available data produces results which appear inequitable to the Government or the institution. In any such case, indirect costs should be determined through use of the regular procedure rather than the abbreviated procedure.

§ 18–15.308–2 Abbreviated procedure.

(a) Total expenditures as taken from the most recent annual financial report will be adjusted by eliminating from further consideration the following items or categories of expenditure: Capital items as defined in § 18–15.309–3; unallowable costs as defined under various headings in § 18–15.309; and payments for annuities and student aid.

(b) Total expenditures as adjusted under paragraph (a) of this section will then be distributed as between (1) expenditures applicable to overhead functions, and (2) expenditures for all other purposes. The first group should include amounts associated with general administration, operation, and maintenance of the physical plant, and the library, to which may be added an amount not to exceed 20 percent of the salaries and expenses of deans and heads of departments. The second group—expenditures for all other purposes—should include the amounts applicable to all other activities, namely instruction, organized research, and other institutional activities as defined under § 18–15.302–4.

(c) The indirect cost rate will then be computed as the percentage relationship between the two categories of expenditures developed under paragraph (b) of this section, i.e., the rate should be stated as the percentage which the total of expenditures applicable to overhead functions is of the total for all other purposes.

§ 18–15.309 General standards for selected items of cost.

Sections § 18–15.309–1 through 18–15.309–46 provide standards to be applied in establishing the allowability of certain items involved in determining cost. These standards should apply irrespective of whether a particular item of cost is properly treated as direct cost or indirect cost. Failure to mention a particular item of cost in the standards is not intended to imply that it is either allowable or unallowable; rather, determination as to allowability in each case should be based on the treatment or standards provided for similar or related items of cost. In case of discrepancy between the provisions of a specific research agreement and the applicable standards provided, the provisions of the research agreement should govern.

§ 18–15.309–1 Advertising costs.

The term "advertising costs" means the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio, and television programs, direct mail, exhibits, and the like. The only advertising costs allowable are those which are solely for (a) the recruitment of personnel required for the performance by the institution of obligations arising under the research agreement, when considered in conjunction with all other recruitment costs, as set forth in § 18–15.309–32; (b) the procurement of scarce items for the performance of the research agreement; or (c) the disposal of scrap or surplus materials acquired in the performance of the research agreement. Costs of this nature, if incurred for more than one research agreement or for both research agreement work and other work of the institution, are allowable to the extent that the principles in §§ 18–15.304 and 18–15.305 are observed.

§ 18–15.309–2 Bad debts.

Any losses, whether actual or estimated, arising from uncollectible accounts and other claims, related collection costs, and related legal costs, are unallowable.

§ 18–15.309–3 Capital expenditures.

The costs of equipment, buildings, and repairs which materially increase the value or useful life of buildings or equipment, are unallowable except as provided for in the research agreement.

§ 18–15.309–4 Civil defense costs.

Civil defense costs are those incurred in planning for, and the protection of life and property against, the possible effects of enemy attack. Reasonable costs of civil defense measures (including costs in excess of normal plant protection costs, first-aid training and supplies, firefighting training, posting of additional exit notices and directions, and other approved civil defense measures) undertaken on the institution's premises pursuant to suggestions or requirements of civil defense authorities are allowable when distributed to all activities of the institution. Capital expenditures for civil defense purposes will not be allowed, but a use allowance or depreciation may be permitted in accordance with provisions set forth elsewhere. Costs of local civil defense projects not on the institution's premises are unallowable.

§ 18–15.309–5 Commencement and convocation costs.

Costs incurred for commencements and convocations apply only to instruction and therefore are not allocable to research agreements, either as direct costs or indirect costs.

§ 18–15.309–6 Communication costs.

Costs incurred for telephone services, local and long distance telephone calls, telegrams, radiograms, postage, and the like, are allowable.

§ 18–15.309–7 Compensation for personal services.

(a) *General.* Compensation for personal services covers all remuneration paid currently or accrued to employees of the institution for services rendered during the period of performance under Government research agreements. Such remuneration includes salaries, wages, staff benefits (see § 18–15.309–39) and pension plan costs (see § 18–15.309–23). The costs of such remuneration are allowable to the extent that the total compensation to individual employees is reasonable for the services rendered and conforms to the established policy of the institution consistently applied, and provided that the charges for work performed directly on Government research agreements and for other work allocable as indirect costs to organized research are determined and supported as hereinafter provided.

(b) *Payroll distribution.* Amounts charged to organized research for personal services, regardless of whether treated as direct costs or allocated as indirect costs, will be based on institutional payrolls which have been approved and documented in accordance with generally accepted institutional practices. In order to develop necessary direct and indirect allocations of cost, supplementary data on time or effort, as provided in paragraph (c) of this section, normally need be required only for individuals whose compensation is properly chargeable to two or more research agreements or to two or more of the following broad functional categories: (1) Instruction; (2) organized research; (3) indirect activities as defined in § 18–15.306–1; or (4) other institutional activities as defined in § 18–15.302–4.

(c) *Reporting time or effort.* Charges for salaries and wages of individuals other than members of the professional staff will be supported by time and attendance and payroll distribution records. For members of the professional staff, current and reasonable estimates of the percentage distribution of their total effort may be used as support in the absence of actual time records. The term "professional staff" includes professors, instructors, research associates and assistants, graduate students, and other persons performing professional work. In order to qualify as current and reasonable, estimates must be made no later than 1 month (though not necessarily a calendar month) after the month

in which the services were performed: *Provided, however,* That in the case of professorial staff and of any others whose compensation is chargeable in part to instruction and in part to organized research, the estimates of effort expended must be made at appropriate time intervals, but in no case less frequently than once each quarter.

(d) *Preparation of estimates of effort.* Where required under paragraph (c) of this section, estimates of effort spent by a member of the professional staff on each research agreement should be prepared by the individual who performed the services, or by a responsible individual such as a department head or supervisor having firsthand knowledge of the services performed on each research agreement. Estimates must show the allocation of effort between organized research and all other university activities in terms of the percentage of total effort devoted to each of the broad functional categories referred to in paragraph (b) of this section. The estimate of effort spent on a research agreement may include a reasonable amount of time spent in activities contributing and intimately related to work under the agreement, such as preparing and delivering special lectures about specific aspects of the ongoing research, writing research reports and articles, participating in appropriate research seminars, consulting with colleagues and graduate students with respect to related research, and attending appropriate scientific meetings and conferences. The term "all other university activities" would include departmental research, instruction, student services, administration, committee work, and public services undertaken on behalf of the university. In no case should effort spent in lecturing for or preparing for formal courses listed in the catalog and offered for degree credit, or effort devoted to committee or administrative work related to university business be included in the estimate of effort spent on research agreements.

(e) *Application of budget estimates.* Estimates determined before the performance of services, such as budget estimates on a monthly, quarterly, semester, or yearly basis do not qualify as estimates of effort spent. However, such estimates may be accepted as support for charges made if subsequently found to be valid in the light of effort actually expended as reflected in the individual's report of effort made in accordance with this section. Where the cumulative effort actually expended from month to month varies from cumulative effort budgeted or forecasted, the amount claimed should be based on actually expended as supported under the individual's report of effort, or the claim may be deferred.

(f) *Nonuniversity professional activities.* A university must not alter or waive university-wide policies and practices dealing with the permissible extent of professional services over and above those traditionally performed without extra university compensation, unless such arrangements are specifically authorized by NASA. Where university-wide policies do not adequately define the permissible extent of consultantships or other nonuniversity activities undertaken for extra pay, the Government may require that the effort of professional staff working under research agreements be allocated as between (1) university activities, and (2) nonuniversity professional activities. If NASA should consider the extent of nonuniversity professional effort excessive, appropriate arrangements governing compensation will be negotiated on a case by case basis.

(g) *Salary rates for academic year.* Charges for work performed on Government research by faculty members during the academic year will be based on the individual faculty members' regular compensation for the continuous period which, under the practice of the institution concerned, constitutes the basis of his salary. Charges for work performed on research agreements during all or any portion of such period would be allowable at the base salary rate. In no event will the charge to research agreements, irrespective of the basis of computation, exceed the proportionate share of the base salary for that period, and any extra compensation above the base salary for work on Government research during such period would be unallowable. This principle applies to all members of the faculty at an institution and, since intra-university consulting is assumed to be undertaken as a university obligation requiring no compensation additional to full-time base salary, the principle also applies to those who function as consultants or otherwise contribute to a research agreement conducted by another faculty member of the same institution: *Provided, however,* That in unusual cases where consultation is across departmental lines or involves a separate or remote operation, and the work performed by the consultant is in addition to his regular departmental load, any charges for such work representing extra compensation above the base salary are allowable provided such consulting arrangement is specifically provided in the research agreement or approved in writing by the sponsoring agency.

(h) *Salary rates for periods outside the academic year.* Charges for work performed by faculty members on Government research during the summer months or other periods not included in the base salary period will be determined for each faculty member at a rate not in excess of that which would be applicable under his base salary and will be limited to that effort actually expended on such research.

(i) *Salary rates for part-time faculty.* Charges for work performed on Government research by faculty members having only part-time appointments for teaching will be determined at a rate not in excess of that for which he is regularly paid for his part-time teaching assignments. Example: An institution pays $5,000 to a faculty member for half-time teaching during the academic year. He devoted one-half of his remaining time (25 percent of his total available time) to Government research. Thus his additional compensation, chargeable by the institution to Government research agreements, would be one-half of $5,000 or $2,500.

§ 18–15.309–8 Contingency provisions.

Contributions to a contingency reserve or any similar provision made for events the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening, are unallowable.

§ 18–15.309–9 Deans of faculty and graduate schools.

The salaries and expenses of deans of faculty and graduate schools, or their equivalents, and their staffs, are allowable.

§ 18–15.309–10 Depreciation and use allowances.

(a) Institutions may be compensated for the use of buildings, capital improvements, and usable equipment on hand through use allowances or depreciation. Use allowances are the means of providing such compensation when depreciation or other equivalent costs are not considered. However, a combination of the two methods may not be used in connection with a single class of fixed assets.

(b) Due consideration will be given to Government-furnished facilities utilized by the institution when computing use allowances and/or depreciation if the Government-furnished facilities are material in amount. Computation of the use allowance and/or depreciation will exclude both the cost or any portion of the cost of buildings and equipment borne by or donated by the Federal Government, irrespective of where title was originally vested or where it presently resides and, secondly, the cost of grounds. Capital expenditures for land improvements (paved areas, fences, streets, sidewalks, utility conduits, and similar improvements not already included in the cost of buildings) are allowable provided the systematic amortization of such capital expenditures has been provided in the institution's books of account, based on reasonable determinations of the probable useful lives of the individual items involved, and the share allocated to organize research is developed from the amount thus amortized for the base period involved.

(c) Where the use allowance method is followed, the use allowance for buildings and improvements will be computed at an annual rate not exceeding 2 percent of acquisition cost. The use allowance for equipment will be computed at an annual rate not exceeding 6⅔ percent of acquisition cost of usable equipment in those cases where the institution maintains current records with respect to such equipment on hand. Where the institution's records reflect only the cost (actual or estimated) of the original complement of equipment, the use allowance will be computed at an annual rate not exceeding 10 percent of such cost. Original complement for this purpose means the complement of equipment initially placed in buildings to perform the functions currently being performed in such buildings; however, where a permanent change in the function of a building takes place, a redetermination of the original complement of equipment may be made at that time to establish a new original complement. In those cases where no equipment records are maintained, the institution will justify a reasonable estimate of the acquisition cost of usable equipment which may be used to compute the use allowance at an annual rate not exceeding 6⅔ percent of such estimate.

(d) Where the depreciation method is followed, adequate property records must be maintained. The period of useful service (service life) established in each case for usable capital assets must be determined on a realistic basis which takes into consideration such factors as type of construction, nature of the equipment used, technological developments in the particular research area, and the renewal and replacement policies followed for the individual items or classes of assets involved. Where the depreciation method is introduced for application to assets acquired in prior years, the annual charges therefrom must not exceed the amounts that would have resulted had the depreciation method been in effect from the date of acquisition of such assets.

(e) Where an institution elects to go on a depreciation basis for a particular class of assets, no depreciation, rental, or use charge may be allowed on any such assets that, under paragraph (d) of this section, would be viewed as fully depreciated: *Provided, however,* That reasonable use charges may be negotiated for any such assets if warranted after taking into consideration the cost of the facility or item involved, the estimated useful life remaining at time of negotiation, the actual replacement policy followed in the light of service lives used for calculating depreciation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for the purpose contemplated.

§ 18–15.309–11 Employee morale, health, and welfare costs and credits.

The costs of house publications, health or first-aid clinics, and/or infirmaries, recreational activities, employees' counseling services, and other expenses incurred in accordance with the institution's established practice or custom for the improvement of working conditions, employer-employee relations, employee morale, and employee performance, are allowable. Such costs will be equitably apportioned to all activities of the institution. Income generated from any of these activities will be credited to the cost thereof unless such income has been irrevocably set over to employee welfare organizations.

§ 18–15.309–12 Entertainment costs.

Costs incurred for amusement, social activities, entertainment, and any items relating thereto, such as meals, lodging, rentals, transportation, and gratuities, are unallowable.

§ 18–15.309–13 Equipment and other facilities.

The cost of equipment or other facilities are allowable where such purchases are approved by the NASA or provided for by the terms of the research agreement.

§ 18–15.309–14 Fines and penalties.

Costs resulting from violations of, or failure of the institution to comply with, Federal, State, and local laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of the research agreement, or instructions in writing from the contracting officer.

§ 18–15.309–15 Insurance and indemnification.

(a) Costs of insurance required or approved, and maintained, pursuant to the research agreement, are allowable.

(b) Costs of other insurance maintained by the institution in connection with the general conduct of its activities, are allowable subject to the following limitations: (1) Types and extent and cost of coverage must be in accordance with sound institutional practice; (2) costs of insurance or of any contributions to any reserve covering the risk of loss of or damage to Government-owned property are unallowable except to the extent that the Government has specifically required or approved such costs; and (3) costs of insurance on the lives of officers or trustees are unallowable except where such insurance is part of an employee plan which is not unduly restricted.

(c) Contributions to a reserve for an approved self-insurance program are allowable to the extent that the types of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks.

(d) Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise) are unallowable unless expressly provided for in the research agreement, except that costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice as well as minor losses not covered by insurance, such as spoilage, breakage, and disappearance of small hand tools, which occur in the ordinary course of operations, are allowable.

(e) Indemnification includes securing the institution against liabilities to third persons and other losses not compensated by insurance or otherwise. The Government is obligated to indemnify the institution only to the extent expressly provided for in the research agreement, except as provided in paragraph (d) of this section.

§ 18–15.309–16 Interest, fund raising, and investment management costs.

(a) Costs incurred for interest on borrowed capital or temporary use of endowment funds, however represented, are unallowable.

(b) Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions, are not allocable to Government research agreements.

(c) Costs of investment counsel and staff and similar expenses incurred solely to enhance income from investments are not allocable to Government research agreements.

(d) Costs related to the physical custody and control of monies and securities are allowable.

§ 18–15.309–17 Labor relations costs.

Costs incurred in maintaining satisfactory relations between the institution and its employees, including costs of labor management committees, employees' publications, and other related activities, are allowable.

§ 18–15.309–18 Losses on other research agreements or contracts.

Any excess of costs over income under any other research agreement or contract of any nature is unallowable. This includes, but is not limited to, the institution's contributed portion by reason of cost-sharing agreements or any underrecoveries through negotiation of flat amounts for overhead.

§ 18–15.309–19 Maintenance and repair costs.

Costs incurred for necessary maintenance, repair, or upkeep of property (including Government property unless otherwise provided for) which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable.

§ 18–15.309–20 Material costs.

Costs incurred for purchased materials, supplies, and fabricated parts directly or indirectly related to the research agreement, are allowable. Purchases made specifically for the research agreement should be charged thereto at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the institution. Withdrawals from general stores or stockrooms should be charged at their cost under any recognized method of pricing stores withdrawals conforming to sound accounting practices consistently followed by the institution. Incoming transportation charges are a proper part of material cost. Direct material cost should include only the materials and supplies actually used for the performance of the research agreement, and due credit should be given for any

excess materials retained or returned to vendors. Due credit should be given for all proceeds or value received for any scrap resulting from work under the research agreement. Where Government-donated or furnished material is used in performing the research agreement, such material will be used without charge.

§ 18–15.309–21 Memberships, subscriptions, and professional activity costs.

(a) Costs of the institution's membership in civic, business, technical, and professional organizations are allowable.

(b) Costs of the institution's subscriptions to civic, business, professional, and technical periodicals are allowable.

(c) Costs of meetings and conferences, when the primary purpose is the dissemination of technical information, are allowable. This includes costs of meals, transportation, rental of facilities, and other items incidental to such meetings or conferences.

§ 18–15.309–22 Patent costs.

Costs of preparing disclosures, reports, and other documents required by the research agreement and of searching the art to the extent necessary to make such invention disclosures, are allowable. In accordance with the clauses of the research agreement relating to patents, costs of preparing documents and any other patent costs, in connection with the filing of a patent application where title is conveyed to the Government, are allowable (see also § 18–15.309–33).

§ 18–15.309–23 Pension plan costs.

Costs of the institution's pension plan which are incurred in accordance with the established policies of the institution are allowable, provided such policies meet the test of reasonableness and the methods of cost allocation are not discriminatory, and provided appropriate adjustments are made for credits or gains arising out of normal and abnormal employee turnover or any other contingencies that can result in forfeitures by employees which inure to the benefit of the institution.

§ 18–15.309–24 Plant security costs.

Necessary expenses incurred to comply with Government security requirements, including wages, uniforms, and equipment of personnel engaged in plant protection, are allowable.

§ 18–15.309–25 Prereserach agreement costs.

Costs incurred prior to the effective date of the research agreement, whether or not they would have been allowable thereunder if incurred after such date, are unallowable unless specifically set forth and identified in the research agreement.

§ 18–15.309–26 Professional services costs.

(a) Costs of professional services rendered by the members of a particular profession who are not employees of the institution are allowable, subject to paragraphs (b) and (c) of this section, when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Government. Retainer fees to be allowable must be reasonably supported by evidence of services rendered.

(b) Factors to be considered in determining the allowability of costs in a particular case include (1) the past pattern of such costs particularly in the years prior to the award of Government research agreements; (2) the impact of Government research agreements on the institution's total activity; (3) the nature and scope of managerial services expected of the institution's own organizations; and (4) whether the proportion of Government work to the institution's total activity is such as to influence the institution in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under Government research agreements.

(c) Costs of legal, accounting, and consulting services, and related costs, incurred in connection with organization and reorganization or the prosecution of claims against the Government, are unallowable. Costs of legal, accounting, and consulting services, and related costs, incurred in connection with patent infringement litigation, are unallowable unless otherwise provided for in the research agreement.

§ 18–15.309–27 Profits and losses on disposition of plant, equipment, or other capital assets.

Profits or losses of any nature arising from the sale or exchange of plant, equipment, or other capital assets, including sale or exchange of either short- or long-term investments, shall be excluded in computing research agreement costs.

§ 18–15.309–28 Proposal costs.

Proposal costs are the costs of preparing bids or proposals on potential Government and non-Government research agreements or projects, including the development of engineering data and cost data necessary to support the institution's bids or proposals. Proposal costs of the current accounting period of both successful and unsuccessful bids and proposals normally should be treated as indirect costs and allocated currently to all activities of the institution, and no proposal costs of past accounting periods will be allocable in the current period to the Government research agreement. However, the institution's established practices may be to treat proposal costs by some other recognized method. Regardless of the method used, the results obtained may be accepted only if found to be reasonable and equitable.

§ 18–15.309–29 Public information services costs.

Costs of news releases pertaining to specific research or scientific accomplishment are unallowable unless specifically authorized by the sponsoring agency.

§ 18–15.309–30 Rearrangement and alteration costs.

Costs incurred for ordinary or normal rearrangement and alteration of facilities are allowable. Special arrangement and alteration costs incurred specifically for the project are allowable when such work has been approved in advance by the sponsoring agency concerned.

§ 18–15.309–31 Reconversion costs

Costs incurred in the restoration or rehabilitation of the institution's facilities to approximately the same condition existing immediately prior to commencement of Government research agreement work, fair wear and tear excepted, are allowable.

§ 18–15.309–32 Recruiting costs.

(a) Subject to paragraphs (b), (c), and (d) of this section, and: *Provided*, That the size of the staff recruited and maintained is in keeping with workload requirements, costs of "help wanted" advertising, operating costs of an employment office necessary to secure and maintain an adequate staff, costs of operating an aptitude and educational testing program, travel costs of employees while engaged in recruiting personnel, travel costs of applicants for interviews for prospective employment, and relocation costs incurred incident to recruitment of new employees, are allowable to the extent that such costs are incurred pursuant to a well managed recruitment program. Where the institution uses employment agencies, costs not in excess of standard commercial rates for such services are allowable.

(b) In publications, costs of help wanted advertising that includes color, includes advertising material for other than recruitment purposes, or is excessive in size (taking into consideration recruitment purposes for which intended and normal institutional practices in this respect), are unallowable.

(c) Costs of help wanted advertising, special emoluments, fringe benefits, and salary allowances incurred to attract professional personnel from other institutions that do not meet the test of reasonableness or do not conform with the established practices of the institution, are unallowable.

(d) Where relocation costs incurred incident to recruitment of a new employee have been allowed either as an allocable direct or indirect cost, and the newly hired employee resigns for reasons within his control within 12 months after hire, the institution will be required to refund or credit such relocation costs to the Government.

§ 18–15.309–33 Royalties and other costs for use of patents.

Royalties on a patent or amortization of the cost of acquiring a patent or invention or rights thereto, necessary for the proper performance of the research agreement and applicable to tasks or processes thereunder, are allowable unless the Government has a license or the

right to free use of the patent, the patent has been adjudicated to be invalid or has been administratively determined to be invalid, the patent is considered to be unenforceable, or the patent has expired.

§ 18–15.309–34 Sabbatical leave costs.

Costs of leave of absence to employees for performance of graduate work or sabbatical study, travel, or research are allowable provided the institution has a uniform policy on sabbatical leave for persons engaged in instruction and persons engaged in research. Such costs will be allocated on an equitable basis among all appertaining activities of the institution. Where sabbatical leave is included in fringe benefits for which a cost is determined for assessment as a direct charge, the aggregate amount of such assessments applicable to all work of the institution during the base period must be reasonable in relation to the institution's actual experience under its sabbatical leave policy.

§ 18–15.309–35 Scholarships and student aid costs.

Costs of scholarships, fellowships, and other forms of student aid apply only to instruction and therefore are not allocable to research agreements, either as direct costs or indirect costs. However, in the case of students actually engaged in work under research agreements, any tuition remission to such students for work performed are allocable to such research agreements provided consistent treatment is accorded such costs (see § 18–15.309–39).

§ 18–15.309–36 Severance pay.

(a) Severance pay is compensation in addition to regular salaries and wages which is paid by an institution to employees whose services are being terminated. Costs of severance pay are allowable only to the extent that such payments are required by law, by employer-employee agreement, by established policy that constitutes in effect an implied agreement on the institution's part, or by circumstances of the particular employment.

(b) Severance payments that are due to normal, recurring turnover and which otherwise meet the conditions of paragraph (a) of this section may be allowed provided the actual costs of such severance payments are regarded as expenses applicable to the current fiscal year and are equitably distributed among the institution's activities during that period.

(c) Severance payments that are due to abnormal or mass terminations are of such conjectural nature that allowability must be determined on a case-by-case basis. However, the Government recognizes its obligation to participate, to the extent of its fair share, in any specific payment.

§ 18–15.309–37 Specialized service facilities operated by institution.

(a) The costs of institutional services involving the use of highly complex and specialized facilities such as electronic computers, wind tunnels, and reactors are allowable provided the charges therefor meet the conditions of paragraph (b) or (c) of this section, and otherwise taken into account any items of income or Federal financing that qualify as applicable credits under § 18–15.303–5.

(b) The costs of such institutional services normally will be charged directly to applicable research agreements based on actual usage or occupancy of the facilities at rates that (1) are designed to recover only actual costs of providing such services, and (2) are applied on a nondiscriminatory basis as between organized research and other work of the institution, including commercial or accommodation sales and usage by the institution for internal purposes.

(c) In the absence of an acceptable arrangement for direct costing as provided in paragraph (b) of this section, the costs incurred for such institutional services may be assigned to research agreements as indirect costs, provided the methods used achieve substantially the same results. Such arrangements should be worked out in coordination with all Government users of the facilities in order to assure equitable distribution of the indirect costs.

§ 18–15.309–38 Special services costs.

Costs incurred for general public relations activities, catalogs, alumni activities, and similar services, are unallowable.

§ 18–15.309–39 Staff benefits.

(a) Staff benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, military leave, and the like, are allowable provided such costs are absorbed by all institutional activities, including organized research, in proportion to the relative amount of time or effort actually devoted to each (see § 18–15.309–34 for treatment of sabbatical leave).

(b) Staff benefits in the form of employer contributions or expenses for social security, employee insurance, workmen's compensation insurance, the pension plan (see § 18–15.309–23), tuition or remission of tuition for individual employees or their families (see § 18–15.309–35), and the like, are allowable provided such benefits are granted in accordance with established institutional policies, and provided such contributions and other expenses, whether treated as indirect costs or as an increment of direct labor costs, are distributed to particular research agreements and other activities in a manner consistent with the pattern of benefits accruing to the individuals or groups of employees whose salaries and wages are chargeable to such research agreements and other activities.

§ 18–15.309–40 Student activity costs.

Costs incurred for intramural activities, student publications, student clubs, and other student activities, apply only to instruction and therefore are not allocable to research agreements, either as direct costs or indirect costs.

§ 18–15.309–41 Student services costs.

Costs of the deans of students, administration of student affairs, registrar, placement offices, student advisers, student health and infirmary services, and such other activities as are identifiable with student services apply only to instruction and therefore are not allocable to research agreements, either as direct costs or indirect costs. However, in the case of students actually engaged in work under research agreements, a proportion of student services costs measured by the relationship between hours of work by students on such research work and total student hours including all research time may be allowed as a part of research administration expenses.

§ 18–15.309–42 Taxes.

(a) In general, taxes which the institution is required to pay and which are paid or accrued in accordance with generally accepted accounting principles, and payments made to local governments in lieu of taxes which are commensurate with the local government services received are allowable except for (1) taxes from which exemptions are available to the institution directly or which are available to the institution based on an exemption afforded the Government and in the latter case when the sponsoring agency makes available the necessary exemption certificates; and (2) special assessments on land which represent capital improvements.

(b) Any refund of taxes, interest, or penalties, and any payment to the institution of interest thereon, attributable to taxes, interest, or penalties which were allowed as research agreement costs, will be credited or paid to the Government in the manner directed by the Government provided any interest actually paid or credited to an institution incident to a refund of tax, interest, and penalty will be paid or credited to the Government only to the extent that such interest accrued over the period during which the institution had been reimbursed by the Government for the taxes, interest, and penalties.

§ 18–15.309–43 Transportation costs.

Costs incurred for freight, express, cartage, postage, and other transportation services relating either to goods purchased, in process, or delivered, are allowable. When such costs can readily be identified with the items involved, they may be charged directly as transportation costs or added to the cost of such items. Where identification with the materials received cannot readily be made, inbound transportation costs may be charged to the appropriate indirect cost accounts if the institution follows a consistent, equitable procedure in this respect. Outbound freight, if reimburs-

able under the terms of the research agreement, should be treated as a direct cost.

§ 18–15.309–44 Travel costs.

(a) Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the institution. Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed by the institution in its regular operations.

(b) Travel costs are allowable subject to paragraphs (c) and (d) of this section, when they are directly attributable to specific work under a research agreement or are incurred in the normal course of administration of the institution or a department or research program thereof.

(c) The difference in cost between first-class air accommodations and less than first-class air accommodations is unallowable except when less than first-class air accommodations are not reasonably available to meet necessary mission requirements, such as where less than first-class accommodations would (1) require circuitous routing, (2) require travel during unreasonable hours, (3) greatly increase the duration of the flight, (4) result in additional costs which would offset the transportation savings, or (5) offer accommodations which are not reasonably adequate for the medical needs of the traveler.

(d) Costs of personnel movements of a special or mass nature are allowable only when authorized or approved in writing by the contracting officer or his authorized representative.

§ 18–15.309–45 Termination costs applicable to contracts.

(a) Contract termination generally gives rise to the incurrence of costs or to the need for special treatment of costs, which would not have arisen had the contract not been terminated. Items peculiar to termination are set forth in this section. They are to be used in conjunction with all other provisions of this subpart in the case of contract termination.

(b) The cost of common items of material reasonably usable on the institution's other work will not be allowable unless the institution submits evidence that it could not retain such items at cost without sustaining a loss. In deciding whether such items are reasonably usable on other work of the institution, consideration should be given to the institution's plans and orders for current and scheduled work. Contemporaneous purchases of common items by the institution will be regarded as evidence that such items are reasonably usable on the institution's other work. Any acceptance of common items as allowable to the terminated portion of the contract should be limited to the extent that the quantities of such items on hand, in transit, and on order are in excess of the reasonable quantitative requirements of other work.

(c) If in a particular case, despite all reasonable efforts by the institution, certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in this subpart, except that any such costs continuing after termination due to the negligent or willful failure of the institution to discontinue such costs will be considered unacceptable.

(d) Loss of useful value of special tooling, and special machinery and equipment is generally allowable, provided (1) such special tooling, machinery, or equipment is not reasonably capable of use in the other work of the institution; (2) the interest of the Government is protected by transfer of title or by other means deemed appropriate by the contracting officer; and (3) the loss of useful value as to any one terminated contract is limited to that portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion of the contract bears to the entire terminated contract and other Government contracts for which the special tooling, special machinery or equipment was acquired.

(e) Rental costs under unexpired leases are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated contract, less the residual value of such leases, if (1) the amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the contract and such further period as may be reasonable; and (2) the institution makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such lease. There also may be included the cost of alterations of such leased property, provided such alterations were necessary for the performance of the contract, and of reasonable restoration required by the provisions of the lease.

(f) Settlement expenses including the following are generally allowable: (1) Accounting, legal, clerical, and similar costs reasonably necessary for the preparation and presentation to contracting officers of settlement claims and supporting data with respect to the terminated portion of the contract, and the termination and settlement of subcontracts; and (2) reasonable costs for the storage, transportation, protection, and disposition of property provided by the Government or acquired or produced by the institution for the contract.

(g) Subcontractor claims, including the allocable portion of claims which are common to the contract and to other work of the contractor are generally allowable.

§ 18–15.309–46 Use allowances.

See § 18–15.309–10.

Subpart 18–15.4—Construction Contracts

§ 18–15.400 Scope of subpart.

This Subpart 18–15.4 prescribes general principles and procedures for the evaluation and determination of costs in connection with contracts and subcontracts for construction and architect-engineer services related to construction. The applicability of this subpart to cost-reimbursement type contracts is set forth in § 18–15.104 and its applicability to fixed-price type contracts is prescribed in Subpart 18–15.6. In addition, because of the unique nature of certain aspects of construction contracts, guidance is provided with respect to some elements of cost wherein the basis for determination of cost under cost-reimbursement type contracts differs from that used for evaluation of cost under fixed-price type contracts.

§ 18–15.401 Basic considerations.

§ 18–15.401–1 Applicable cost principles.

Except as otherwise provided in this Subpart 18–4, because of the specialized nature of construction and architecture contracts the allowability of costs shall be determined in accordance with Subpart 18–15.2, except to the extent that the provisions of that subpart are clearly inappropriate to construction contracts.

§ 18–15.401–2 Special factors affecting the allowability of costs.

The scope of the work required may vary from routine projects of short duration to be performed within the contractor's home office locality to the erection of complex installations at remote locations over a period of several years. Climate and terrain may vary greatly among construction sites. All of these factors involving the nature, size, duration, and location of a construction project generally affect the basic determination of the Government as to the type of contract to be awarded and the operating practices, techniques, and procedures employed by the contractor, particularly with respect to the incurrence of the selected costs set forth in §§ 18–15.402–1 and 18–15.402–3. Advance understandings as set forth in § 18–15.107, for such items as home office overhead, partner's compensation, employment of consultants, and equipment usage, are particularly important to construction and architect-engineer contracts in order to assure complete understanding of the parties and to avoid possible subsequent disputes or disallowances.

§ 18–15.402 Selected costs.

§ 18–15.402–1 Construction plant and equipment.

(a) The widely varying conditions of climate, terrain, etc., applicable to individual Government construction projects make it impracticable to determine accurately the actual costs of depreciation of construction plant and equipment used on individual contracts. In addition, in certain cases it may be extremely difficult to determine or allocate accurately the cost of overhaul or repairs applicable in an individual contract since the period of incidence of such cost may not correspond with the period of benefit derived therefrom. Therefore, uniform rates covering depreciation and, where appropriate, overhaul and repair costs shall be used to provide equitable average compensation to contractors for the use of construction plant and equipment under Government contracts. Two separate rate schedules are available for this purpose. The rate schedule contained in DoD Instruction 4105.2, "Uniform Rental Rates for Construction Plant Owned or Controlled and Furnished by a Cost-Plus-a-Fixed-Fee Contractor or by a Cost-Plus-a-Fixed-Fee Subcontractor," referred to in paragraph (b) of this section, is generally appropriate to the types of construction projects awarded under cost-reimbursement type contracts; whereas the rate schedule referred to in paragraph (c) of this section, published by the Associated General Contractors of America, Inc., is generally appropriate to the types of construction projects awarded under fixed-price type contracts. Accordingly, unless the contract specifically provides to the contrary, usage costs for construction plant and equipment under cost-reimbursement type contracts and fixed-price type contracts shall be determined as provided in paragraphs (b) and (c) of this section, respectively.

(b) Allowable costs for construction plant and equipment in sound workable condition owned or controlled and furnished by a contractor or subcontractor with the approval of the contracting officer for use under cost-reimbursement type contracts shall be based on the provisions of DoD Instruction 4105.2 in effect as of the date of the contract with respect to (1) uniform rental rates in lieu of depreciation, overhead, and profit, and (2) the costs incident to major, minor, and running repairs, complete and thorough overhaul, and loss or destruction of equipment.

(c) Evaluation of costs for the use of construction plant and equipment, in sound and workable condition, which are owned or controlled by a contractor or subcontractor and are furnished for the proper and economical performance of a fixed-price type contract shall be based upon the "Contractors' Equipment Ownership Expense Schedule" published by the Associated General Contractors of America, Inc., in effect as of the date of the contract. This represents a percentage of acquisition cost per working month or fraction thereof for the period of time the equipment is required for the job. If the equipment has already exceeded the assigned service life indicated by the percentage used for depreciation, 1 year shall be added to the actual age of the equipment and the depreciation percentage shall be revised accordingly. The allowance for equipment ownership expense, computed as provided herein shall be considered to include all costs of depreciation, major repairs and overhaul, and overhead applicable to the equipment. Accordingly, there shall be eliminated from all direct and indirect charges under the contract all costs applicable to items of equipment which are included in the allowance for ownership expense. In considering total costs under any contract, no allowance for overhead shall be applied to the allowance for equipment ownership expense. Since costs incident to maintenance and minor and running repairs are not reflected in the ownership Schedule, separate allowance shall be made therefor. In periods of suspension of work for the convenience of the Government under an appropriate contract clause, the allowance for equipment ownership expense shall not exceed 50 percent of the amount computed as herein indicated. Notwithstanding any sale and lease back, or the acquisition of construction plant and equipment by individuals, firms, corporations, or trusts other than the contractor, and the leasing or rental of such construction plant and equipment to the contractor, the amount to be considered as a cost covering the use of such equipment shall not exceed the allowance for ownership expenses computed as indicated herein. Under certain circumstances, because of the long duration, special nature, or location of the work, it may be more economical to charge the net cost of items of construction plant and equipment directly against a contract in lieu of use of the ownership Schedule. In such cases, where the contract, record of negotiations, or attendant circumstances indicate that particular items of construction plant and equipment were purchased for use solely under a specific contract, the cost of such items, less their proper resale or salvage value, may be charged to the contract as a direct charge, together with costs of repairs, overhaul, and maintenance incident thereto.

§ 18–15.402–2 Construction plant and equipment rented from others.

Costs incurred in connection with rental of construction plant and equipment from others (not under sale and leaseback arrangements) are allowable. Under cost-reimbursement type contracts, rental arrangements are subject to approval by the contracting officer. Costs, such as maintenance and minor or running repairs incident to the operation of such rented equipment, that are not included in the rental rate are allowable. Costs incident to major repair and overhaul are not allowable.

§ 18–15.402–3 Home office expense.

The extent to which a contractor utilizes his home office or central office organization for the performance of general, administrative, and management functions applicable to individual Government construction contracts is dependent upon the geographical location of the job site in relation to the contractor's home office, the magnitude and dura-

tion of the project, and other similar factors. Under the types of construction projects awarded on a cost-reimbursement type contract basis, most general, administrative, management, and other indirect cost functions are usually performed at the job site rather than at the contractor's home or central office. Other minor or incidental services otherwise provided are considered to be compensated for in the fixed fee. Accordingly, expenses incurred in the contractor's central or home office, including compensation and traveling expenses of officers and central office employees, are not allowable under cost-reimbursement type contracts except to the extent authorized by the contract or approved by the contracting officer. Under fixed-price type construction contracts which are performed at least in part through the use of the contractor's central office organization, the costs incurred by the contractor's central office are acceptable to the extent that they are allocable and reasonable in relation to the contract, and provided they do not exceed any limitations of cost stated in the contract or an advance understanding.

§ 18–15.402–4 Job site expenses.

Costs incurred at the job site incident to the performance of the work, such as the cost of superintendence, timekeeping and clerical work, engineering, utility costs, supplies, material handling, restoration and cleanup, etc., are allowable as a direct charge.

§ 18–15.402–5 Temporary use of land, structures, and facilities.

(a) Rental and any other costs, less any applicable credits, incurred in acquiring the temporary use of land, structures, and facilities, are allowable.

(b) Costs, less any applicable credits, incurred in the construction or fabrication of structures and facilities of a temporary nature, are allowable.

Subpart 18–15.5—Contracts for Industrial Facilities

§ 18–15.501 Applicable cost principles.

Except as otherwise provided in this Subpart 18–15.5, the allowability of cost will be determined in accordance with Subpart 18–15.2, 18–15.3, or 18–15.4, as appropriate.

§ 18–15.502 Factors affecting allowability of costs.

A contractor's established accounting system and procedures are normally directed to the equitable allocation of costs to the types of products which he produces or services which he renders in the course of his normal operating activities. The acquisition of, or work on, facilities for the Government normally does not involve the manufacturing processes, plant departmental operations, cost patterns of work, administrative and managerial control, or clerical effort usual to production of the contractor's normal products or services. These operating and administrative differences affect the equitable allocation of indirect costs to facility contracts and make it desirable that advance understandings, as provided in § 18–15.107, be agreed to between the contractor and the contracting officer as to such indirect cost items to be applied to the facilities acquisition. A contractor's normal accounting practice for allocating indirect costs to the acquisition of his own facilities may range from charging all such costs to this acquisition to not charging any such costs thereto. Where necessary to produce an equitable result, the contractor's usual method of allocating indirect cost will be varied, and appropriate adjustment will be made to the pools of indirect cost and the bases of their distribution.

§ 18–15.503 Allocation of indirect manufacturing and plant operational cost.

(a) Facilities contract operations may involve:

(1) The purchase of facilities, or services in connection therewith, on a completed basis from outside sources;

(2) The purchase of completed facilities from outside sources, installation to be accomplished by the contractor's own employees;

(3) Rehabilitation of existing facilities by the contractor's own employees; or

(4) Construction or manufacture of facilities by the contractor from purchased components.

Guidelines for the allocation of indirect costs in these particular circumstances are set forth in paragraphs (b) through (d) of this section.

(b) The purchase of facilities, or services in connection therewith, from outside sources on a completed basis does not involve the contractor's direct labor or indirect plant maintenance personnel. Accordingly, indirect manufacturing and plant overhead costs which are primarily incurred or generated by reason of direct labor or maintenance labor operations, are not allocable to the acquisition of such facilities.

(c) Contracts providing for the installation of new facilities or the rehabilitation of existing facilities may involve the use of contractor's plant maintenance labor, as distinguished from direct labor engaged in the production of the company's normal products. In such instances, only those types of indirect manufacturing and plant operating costs that are related to or incurred by reason of the expenditure of the classes of labor utilized for the performance of the facilities work may be allocated to the facilities work. Thus, a facilities contract which involves the use of plant maintenance labor only would not be subject to an allocation of such cost items as direct productive labor supervision, depreciation and maintenance expense applicable to productive machinery and equipment, or raw material and finished goods storage costs.

(d) Where a facilities contract calls for the construction, production, or rehabilitation of equipment or other items which are involved in the regular course of the contractor's business by the use of the contractor's direct labor and manufacturing processes, the indirect costs normally allocated to all such work may be allocated to the facilities contract.

§ 18–15.504 General and administrative costs (including home office allocations).

General and administrative costs consist of items of cost attributable to the

overall management, supervision, and conduct of the business. General and administrative costs in connection with the acquisition of or work on industrial facilities shall be allowed only when and to the extent specifically provided for in the contract. In allocating general and administrative costs, consideration should be given to (a) all work to which such costs are common, including acquisition of or work on facilities by the contractor for his own account, and (b) any difference in the amount of administrative effort expended by the contractor on his various activities, such as between production and fixed asset improvement programs or between the acquisition of facilities by purchase and by construction or manufacture. However, in no event will prices charged pursuant to § 18–15.505 be increased by the allocation of additional general and administrative costs.

§ 18–15.505 Contractor's commercial products.

If facilities which constitute the contractor's usual commercial products (or only minor modifications thereof) are acquired by the Government under the contract, the Government shall not pay any amount in excess of the contractor's most favored customer price or the price of other supplies for like quantities of the same or substantially the same items, whichever is lower.

Subpart 18–15.6—Guidelines for Application in the Negotiation and Administration of Fixed-Price Type Contracts and in the Negotiation of Termination Settlements

§ 18–15.600 Scope of subpart.

This Subpart 18–15.6 provides guidance for the use of Subparts 18–15.2, 18–15.3, and 18–15.4 (a) in the evaluation of costs in pricing of negotiated fixed-price type contracts and subcontracts where such evaluation is required to establish prices for such contracts, (b) in the negotiation of termination settlements, and (c) in the negotiation of any adjustment in price required by the contract, such as issuance of change orders, a suspension of work for the convenience of the Government under an appropriate contract clause, and equitable adjustments under the Government-Furnished Property clause.

§ 18–15.601 Definition of fixed-price type contracts.

"Fixed-price type" contracts include, for purposes of this subpart, the following:

(a) Firm fixed-price contracts;

(b) Fixed-price contracts with escalation;

(c) Fixed-price contracts providing for the redetermination of price;

(d) Fixed-price incentive contracts;

(e) Non-cost-reimbursable portion of time and materials contracts; and

(f) Labor-hour contracts.

§ 18–15.602 Basic considerations.

(a) Under fixed-price type contracts, the negotiated price is the basis for payment to a contractor, whereas allowable costs are the basis for reimbursement under cost-reimbursement type contracts. Cost and accounting data may provide guides for ascertaining fair compensation in the negotiation of fixed-price type contracts but are not rigid measures of it. Other types of data, criteria, or standards may furnish reliable guides to fair compensation. The ability to apply standards of business judgement as distinct from strict accounting principles is at the heart of a negotiated price or settlement.

(b) Among the different types of fixed-price type contracts, the need for consideration of costs varies considerably, as indicated in this paragraph:

(1) *Retrospective pricing and settlements.* In negotiating firm fixed prices or settlements for work which has been completed at the time of negotiation (e.g., final negotiations under fixed-price incentive contracts, redetermination of price after completion of the work, or negotiation of a settlement agreement under a contract terminated for the convenience of the Government), the treatment of costs is a major factor in arriving at the amount of the price or settlement. However, even in these situations, the finally agreed-on price or settlement may represent something other than the sum total of acceptable cost plus profit, since the final price accepted by each party does not necessarily reflect agreement on the evaluation of each element of cost, but rather a final resolution of all issues in the negotiation process.

(2) *Forward pricing.* The extent to which costs influence forward pricing varies greatly from case to case. In negotiations covering future work, actual costs cannot be known and the importance of cost estimates depends on the circumstances. The contracting officer must consider all the factors affecting the reasonableness of the total proposed price, such as the technical, production, or financial risk assumed, the complexity of work, the extent of competitive pricing, and the contractor's record for efficiency, economy, and ingenuity, as well as available cost estimates. He must be free to bargain for a total price which equitably distributes the risks between the contractor and the Government and provides incentives for efficiency and cost reduction. In negotiating such a price, it is not possible to identify the treatment of specific cost elements since the bargaining is on a total price basis. Thus, while cost data is often a valuable aid, it will not control negotiation of prices for work to be performed, or a target price under an incentive contract.

§ 18–15.603 Cost principles and their use.

(a) When, pursuant to § 18–15.602, costs are to be considered in the negotiation of fixed-price type contracts, the appropriate subpart of this Part 18–15 shall be used as a guide in the evaluation of cost data required to establish a fair and reasonable price in conjunction with other pertinent negotiation considerations.

(b) In retrospective pricing, whenever an occasion arises in which acceptability of a specific item of cost becomes an issue, the appropriate subpart of this Part 18–15 will serve as a guide for the contracting officer in his conduct of negotiations.

(c) In applying this Part 18–15 to fixed-price contracts, contracting officers will (1) not be expected to negotiate agreement on every individual element of cost; and (2) be expected to use their judgment as to the degree of detail in which they consider the individual elements of cost in arriving at their evaluation of total cost, where such evaluation is appropriate. However, the negotiation record should fully substantiate and justify the reasoning leading to any negotiated price.

(d) In order to permit the proper evaluation of cost data submitted by contractors for use in negotiating prices, it may be necessary to obtain breakdowns or account analyses with respect to some cost items, particularly those whose treatment may be dependent upon special circumstances as stated in the principles. Contractors will be expected to be responsive to reasonable requests for data of this kind.

PART 18–16—PROCUREMENT FORMS

Sec.
18–16.000 Scope of part.
18–16.001 Index of procurement forms for NASA use.

Subpart 18–16.1—Forms for Advertised Supply Contracts
18–16.100 Scope of subpart.
18–16.101 Forms prescribed.
18–16.102 Applicability.

Subpart 18–16.2—Forms for Negotiated Procurements
18–16.200 Scope of subpart.
18–16.201 Request for quotations (Standard Form 18).
18–16.201–1 General.
18–16.201–2 Conditions for use.
18–16.202 Negotiated contract forms.
18–16.202–1 Contracts in excess of $2,500 (Standard Form 32, NASA Form 250).
18–16.202–2 Contracts not in excess of $2,500 (NASA Form 177, Standard Forms 44 and 147).
18–16.202–3 Proposal and acceptance (NASA Forms 147, 177).
18–16.202–4 Cost-reimbursement type supply contracts (NASA Form 418).
18–16.202–5 Fixed-price research and development contracts (NASA Form 247).
18–16.202–6 Fixed-price research contracts with nonprofit institutions—short form (NASA Form 246).
18–16.202–7 Cost-reimbursement research and development contracts (NASA Form 417).
18–16.202–8 Cost-reimbursement research and development contracts with educational or nonprofit institutions (NASA Form 419).
18–16.202–10 Facilities contracts (NASA Forms 746, 747, and 748).
18–16.206 Cost and price analysis.
18–16.207 Cost and price analysis for contract price redetermination.
18–16.208 Justification for negotiation (NASA Form 543).

Subpart 18–16.3—Purchase and Delivery Order Forms
18–16.300 Scope of subpart.
18–16.301 Receipt for Cash—Subvoucher (Standard Form 1165).
18–16.302 Purchase order forms (Standard Forms 44, 147; NASA Form 177; NASA "Ship and Quote" Form).

Subpart 18–16.4—Forms for Construction Contracts
18–16.400 Scope of subpart.
18–16.401 Advertised construction contract forms.
18–16.401–1 General.
18–16.401–2 Conditions for use.
18–16.401–3 Terms, conditions, and provisions.
18–16.402 Negotiated construction contract forms.
18–16.402–1 General.
18–16.402–2 Contracts not to exceed $2,000.

Subpart 18–16.5—Special Contract and Order Forms
18–16.500 Scope of subpart.
18–16.501 Negotiated utility service contract forms.
18–16.501–50 NASA Form 550, Negotiated Utility Service Contract.
18–16.501–51 NASA Form 5506, Negotiated Utility Service Contract (Short Form).
18–16.501–52 Appendices to contract forms.
18–16.501–53 Contents of a negotiated utility service contract.
18–16.501–54 Terms, conditions, and provisions.

Subpart 18–16.6—Forms for Coordinated Procurement
18–16.600 Scope of subpart.
18–16.601 NASA-Defense Purchase Request (NASA Form 533).
18–16.602 Acceptance of NASA-Defense Purchase Request.
18–16.603 Payments (Standard Form 1080).

Subpart 18–16.7—Contract Termination Forms
18–16.700 Scope of subpart.
18–16.701 Notices of termination.
18–16.702 Settlement proposal forms.
18–16.702–1 Settlement Proposal—Inventory Basis (DD Form 540).
18–16.702–2 Settlement Proposal—Total Cost Basis (DD Form 541).
18–16.702–3 Settlement Proposal for Cost-Reimbursement Type Contracts (DD Form 547).
18–16.702–4 Settlement Proposal—Short Form (DD Form 881).
18–16.702–5 Inventory Schedules (DD Forms 542, 543, 544, 545, and 882).
18–16.702–6 Schedule of Accounting Information (DD Form 546).
18–16.703 Application for Partial Payment (DD Form 548).
18–16.704 Notice of Audit Status Date (DD Form 547S).

Sec.
18–16.705 Forms of settlement agreement.
18–16.706 Instructions for use of Termination Forms (DD Form 1114).

Subpart 18–16.8—Miscellaneous Forms
18–16.800 Scope of subpart.
18–16.802 Statement of Contingent Fees (Standard Form 119).
18–16.803 Compliance with labor laws, regulations, and clauses.
18–16.803–1 Construction Contracts (DB 11, Standard Form 1093, CB 16–19).
18–16.803–2 Supply Contracts (WH 12, PC 13, Standard Form 99).
18–16.804 U.S. Tax Exemption Certificate (Standard Form 1094).
18–16.805 Bond forms.
18–16.810 Bidders Mailing List Application (Standard Form 129).
18–16.810–1 General.
18–16.810–2 Conditions for use.
18–16.811 Security Requirements (DD Forms 441 and 254).
18–16.811–1 Security agreement.
18–16.811–2 Security requirements checklist.
18–16.812 Release and assignment forms (NASA Forms 778, 779, 780, and 781).
18–16.814 Architect-Engineer Questionnaire Form (Standard Form 251).
18–16.815 Contract modification forms (NASA Forms 450, 449, 449–1).
18–16.815–1 Change Order (NASA Form 450).
18–16.815–2 Supplemental Agreement (NASA Form 449).
18–16.816 Identical Bid Report for Procurement (DJ 1500).
18–16.850 NASA small business subcontracting program monthly report of participating large company on subcontract commitments to small business concerns (NASA Form 524).
18–16.851 Preaward Surveys of Prospective Contractors (DD Form 1524). (NASA Forms 585 and 586).
18–16.852 Procurement Request (NASA Form 404).
18–16.853 Checklist for Contract File Content (NASA Form 1098).
18–16.854 Request for Contractor Clearance (NASA Form 446).
18–16.856 Contractor Financial Management Report (NASA Form 533).
18–16.857 Bill of Material (DD Forms 346 and 347).
18–16.858 Tax forms.
18–16.859 Letter contracts.
18–16.859–1 General.
18–16.859–2 Cost-reimbursement type letter contract.
18–16.859–3 Fixed-price type letter contract.
18–16.859–4 Letter contract forms.
18–16.860 Processing payments under cost-reimbursement contracts.
18–16.861 Withholdings under Davis-Bacon Act (S.F. 1093).
18–16.862 Unitary Plan Wind Tunnel Facilities (NASA Form 362).
18–16.863 New Technology (NASA Form 1162).
18–16.864 Procurement Plan Contents checklist (NASA Form 1168).
18–16.865 Industrial Property Activity Report (NASA Form 1048).
18–16.866 Material Inspection and Receiving Report Forms (DD Form 250, DD Form 250 (Modified), and DD Form 250a).

Subpart 18–16.9—Procurement Action and Status Reports
18–16.900 Scope of subpart.
18–16.901 Individual Procurement Action Report (NASA Form 507).
18–16.902 Geographic Distribution of NASA Subcontracts (NASA Form 667).
18–16.903 Reports on incentive contracts under administration.

AUTHORITY: The provisions of this Part 18–16 issued under 42 U.S.C. 2473(b)(1).

§ 18–16.000 Scope of part.

(a) This Part 18–16 prescribes forms for use in connection with the procurement by NASA of supplies and services and provides instructions and guidance for their use.

(b) Contract forms prescribed by this Part 18–16, which contain General Provisions, are designed for the convenience of NASA procurement personnel. Clauses contained in such forms may be deleted and other clauses added or substituted by appropriate reference in the "Alterations in Contracts" clause: *Provided*, That the deletions, additions, and substitutions are in compliance with or supported by this chapter. When an inconsistency exists between a contract clause published in this chapter and the same clause printed in a NASA contract form, the clause published in this chapter shall govern.

§ 18–16.001 Index of procurement forms for NASA use.

Listed below in numerical sequence are NASA forms, U.S. standard forms, DoD forms, and certain miscellaneous forms that are authorized for use in NASA procurement. The current edition of each form is shown in parentheses under the column headed "Date"; prior editions shall not be used unless otherwise authorized. References to form numbers in this chapter are to the current editions of the forms identified in the list below, unless otherwise specifically indicated.

(a) *NASA Forms.*

No.	Date	Title
147	May 1963	Proposal and Acceptance (Negotiated Supply Contract).
177	June 1961	Purchase Order.
177W	do	Purchase Order—Invoice.
246	March 1965	General Provisions for Short Form Fixed-Price Contract With Nonprofit Institutions.
247	do	General Provisions for Fixed-Price Research and Development Contract.
250	January 1965	Additional General Provisions to U.S. Standard Form 32 (6–64 Ed.).
362	November 1965	Agreement for Use of NASA Unitary Plan Wind Tunnel Facilities.
404	March 1967	Procurement Request.
417	February 1965	General Provisions for Cost-Type Research and Development Contract.
418	do	General Provisions for Cost-Plus-a-Fixed-Fee Supply Contract.
419	do	General Provisions for Cost-Reimbursement Research and Development Contracts With Educational or Nonprofit Institutions.
437	April 1969	Cover Page for Negotiated Contract.
437–1	do	Signature Page for Negotiated Contract.
446	August 1960	Request for Contractor Clearance.
449	May 1964	Supplemental Agreement.
449–1	July 1963	Contract Modification Continuation Sheet.
450	May 1964	Change Order.
456	September 1962	Notice of Costs Suspended and/or Disapproved.
456–1	do	Notice of Costs Suspended and/or Disapproved Continuation Sheet.
507	June 1963	Individual Procurement Action Report.
523	April 1961	NASA—Defense Purchase Request.
524	June 1963	NASA Small Business Subcontracting Program Monthly Report of Participating Large Company on Subcontract Commitments to Small Business Concerns.
533	July 1964	Contractor Financial Management Report.
550	January 1963	Negotiated Utility Service Contract.
550B	do	Negotiated Utility Service Contract (Short Form).
550A–1	do	Electric Service Specifications.
550A–2	do	Gas Service Specifications.
550A–3	do	Water Service Specifications.
550A–4	do	Steam Service Specifications.
550A–5	do	Sewage Service Specifications.
551	April 1962	Cover Page for Letter Contracts.
551–1	do	Letter of Transmittal for Letter Contracts.
551–2	do	Schedule Format for Letter Contracts.
551–3	do	General Provisions for Letter Contracts.
555	October 1962	Procurement Status Report.
586	September 1961	Request for Pre-Award Survey.
604	do	Financial Data Sheet.
667	October 1961	Additional General Provisions to U.S. Standard Form 23–A (4–61 Ed.).
746	August 1962	Report on NASA Subcontracts.
747	July 1964	General Provisions for Cost-Reimbursement Facilities Acquisition Contract.
748	do	General Provisions for Facilities Use Contract.
778	March 1961	General Provisions for Cost-Reimbursement Consolidated Facilities Contract.
779	January 1963	Contractor's Release.
780	do	Assignee's Release.
781	do	Contractor's Assignment of Refunds, Rebates, Credits, and Other Amounts.
1048	October 1964	Assignee's Assignment o Refunds, Rebates, Credits, and Other Amounts.
1098	June 1964	Report on Industrial Property Activities.
1129	September 1964	Checklist for Contract File Content.
1130	do	Incentive Contracts Currently Under Administration.
1131	do	Incentive Contracts Summary of Contract Awarded.
		Incentive Contracts Status of Negotiation.

No.	Date	Title
1122	....do....	Incentive Contracts Evaluation of Incentive Effectiveness.
1162	....do....	New Technology.
1168	April 1964	Procurement Plan Contents Checklist.
1208	April 1965	Assurance of Compliance with the National Aeronautics and Space Administration Regulations Under Title VI of the Civil Rights Act of 1964.

(b) *U.S. Standard Forms.*

No.	Date	Title
18	June 1964	Request for Quotations.
19	January 1955	Invitation, Bid, and Award (Construction, Alteration, or Repair).
19A	June 1964	Labor Standards Provisions Applicable to Contracts in Excess of $2,000.
20	January 1961	Invitation for Bid (Construction Contract).
21	June 1964	Bid Form (Construction Contract).
22	....do....	Instructions to Bidders (Construction Contract).
23	January 1961	Construction Contract.
23A	June 1964	General Provisions (Construction Contract).
24	....do....	Bid Bond.
25	....do....	Performance Bond.
25A	....do....	Payment Bond.
26	....do....	Continuation Sheet (For Standard Forms 24, 25, and 28A).
28	November 1949	Award (Supply Contract).
29	November 1960	Affidavit of Individual Surety.
30	October 1957	Invitation and Bid (Supply Contract).
31	November 1949	Schedule (Supply Contract).
32	June 1964	General Provisions (Supply Contract).
33	December 1964	Invitation, Bid, and Award.
33A	....do....	Bidding Instructions, Terms and Conditions (Supply Contract).
34	June 1964	Annual Bid Bond.
35	....do....	Annual Performance Bond.
36	November 1949	Continuation Sheet (Supply Contract).
38	October 1964	Notice of Nondiscrimination in Employment.
40	February 1966	Compliance Report.
40A	....do....	Certificate of Submission of Current Compliance Report (Nondiscrimination Provisions of U.S. Government Contracts).
41	January 1968	Compliance Report (Nondiscrimination Provisions of U.S. Government Contracts).
44	June 1954*	Purchase Order—Invoice—Voucher.
99	June 1962	Notice of Award of Contract.
119	December 1962	Contractor's Statement of Contingent or Other Fees.
129	August 1963	Bidder's Mailing List Application.
167	June 1964	Order—Invoice—Voucher.
148	....do....	Order—Invoice—Voucher Continuation Sheet.
251	June 1961	Architect-Engineer Questionnaire.
1034	February 1963	Public Voucher for Purchases and Services Other than Personal.
1034A	....do....	Public Voucher for Purchases and Services Other than Personal—Memorandum Copy.
1035	....do....	Public Voucher for Purchases and Services Other than Personal—Continuation Sheet.
1035A	....do....	Public Voucher for Purchases and Services Other than Personal Continuation Sheet—Memorandum Copy.
1080	August 1959	Voucher for Transfers Between Appropriations and/or Funds.
1093	August 1956	Schedule of Withholdings under the Davis-Bacon Act.
1094	July 1961	U.S. Tax Exemption Certificate.
1108	July 1962	U.S. Government Bill of Lading.
1166	July 1961	Receipt for Cash—Subvoucher.
1169	August 1958	Transportation Request.

* June 1954 Edition may be used until present stocks are exhausted.

(c) *Department of Defense Forms.*

No.	Date	Title
250	October 1963	Material Inspection and Receiving Report.
254	May 1960	Security Requirements Checklist.
346	July 1962	Raw (Basic Processed); and Semifabricated Stock Form.
347	....do....	Bill of Materials for Subcontracted Parts—Purchased Parts—Government-Furnished Property.
396	January 1963	Notice of Costs Suspended and/or Disapproved.
441	May 1954	Security Agreement.
442-2	March 1961	Acceptance of MIPR.
540	April 1967	Settlement Proposal (Inventory Basis).
541	....do....	Settlement Proposal (Total Cost Basis).
542	....do....	Inventory Schedule A (Metals in Mill Product Form).
542C	....do....	Inventory Schedule A (Continuation Sheet).
543	....do....	Inventory Schedule B (Raw Materials).
543C	....do....	Inventory Schedule B (Continuation Sheet).
544	....do....	Inventory Schedule C (Work in Process).
544C	....do....	Inventory Schedule C (Continuation Sheet).
545	....do....	Inventory Schedule D (Dies, Jigs, Fixtures, etc., and Special Tools).
545C	....do....	Inventory Schedule D (Continuation Sheet).
546	....do....	Schedule of Accounting Information.
547	....do....	Settlement Proposal for Cost-Reimbursement Type Contracts.
547S	....do....	Notice of Audit Status Date.
566	July 1963	Application for Partial Payment.
614	June 1957	Materials Requirements—Steel and Nickel Alloys.
614.1	....do....	Materials Requirements—Copper and Aluminum.
633	December 1964	Contract Pricing Proposal.
784	....do....	Cost and Price Analysis for Contract Price Redetermination.
831	October 1959	Settlement Proposal (Short Form).
832	April 1957	Termination Inventory Schedule E (Short Form).
1114	October 1960	Instructions for Use of Contract Termination Settlement and Inventory Schedule Forms.
1260	December 1963	Amendment to Invitation for Bid.
1324	January 1966	Preaward Survey of Prospective Contractors.

(d) *Miscellaneous forms.*

No.	Date	Title
DB 11	July 1964	Request for Determination.
WH 13	March 1964	Form Letter Explaining Walsh-Healey Act.
PC 13	September 1963	Poster.
CB 16-19	June 1962	Construction Contract Award Notification.
TD 720	July 1964	Quarterly Federal Excise Tax Return.
TD 1444	January 1962	Alcohol for Use of the United States.
TD 1498	October 1963	Specially Denatured Alcohol for Use of the United States.
DJ 1500	June 1961	Identical Bid Report for Procurement.

Subpart 18–16.1—Forms for Advertised Supply Contracts

§ 18–16.100 Scope of subpart.

This subpart sets forth instructions concerning forms used in procuring supplies by formal advertising.

§ 18–16.101 Forms prescribed.

The following supply contract forms shall be used by NASA procurement offices in effecting procurements by formal advertising:

(a) Invitation, Bid, and Award (Supply Contract) (Standard Form 33);

(b) Bidding Instructions, Terms, and Conditions (Supply Contract) (Standard Form 33–A);

(c) General Provisions (Supply Contract) (Standard Form 32);

(d) NASA Form 250 (Additional General Provisions to U.S. Standard Form 32);

(e) Continuation Sheet (Supply Contract) (Standard Form 36) (when needed with Standard Forms 33, 26, or DD Form 1260);

(f) Amendment to Invitation for Bids (DD Form 1260), on an optional basis;

(g) Award (Supply Contract) (Standard Form 26), when needed.

§ 18–16.102 Applicability.

(a) The Invitation, Bid and Award (Standard Form 33), and the Schedule portion of Standard Form 33, shall be prepared in accordance with § 18–3.201–1. One copy of Standard Form 33–A shall accompany each copy of Standard Form 33.

(b) Standard Form 32 and NASA Form 250 may be attached to each copy of the Invitation for Bids. Alternatively, only one copy of Standard Form 32 and NASA Form 250 need be furnished to each bidder for retention, if such provisions are specifically incorporated by reference (including each form title, number, and date) in the Schedule.

(c) Award of contracts shall be accomplished either by (1) completing the Award portion of Standard Form 33 and furnishing a copy of the completed form to each successful bidder, or (2) furnishing a completed Standard Form 26 to each successful bidder. Documents previously furnished to bidders will not accompany the successful bidder's copy of the Award document. The required use of the Award portion of Standard Form 33 or the use of Standard Form 26 does not preclude the additional use of informal documents, including telegrams, as notices of awards.

(d) DD Form 1260 (Amendment to Invitation for Bids) may be used when it is necessary to issue an amendment to an invitation for bids.

(e) Continuation Sheet (Supply Contract) (Standard Form 36) shall be used when additional space is required for the Schedule, Amendment, or Award.

Subpart 18–16.2—Forms for Negotiated Procurements

§ 18–16.200 Scope of subpart.

This Subpart 18–16.2 sets forth instructions concerning the forms used in procuring supplies or services by negotiation.

§ 18–16.201 Request for quotations (Standard Form 18).

§ 18–16.201–1 General.

Standard Form 18 is prescribed for use in obtaining price, delivery, and related information from suppliers.

§ 18–16.201–2 Conditions for use.

(a) Standard Form 18 is authorized for use when it appears reasonably certain that the procurement will result in a fixed-price contract involving extensive negotiations or in a cost-reimbursement type contract.

(b) Standard Form 36 (Continuation Sheet) may be used as required.

(c) Standard Form 18 shall be used for negotiated procurements of $2,500 or less (including purchase orders) and may be used in procurements in excess of $2,500 when a written informational quotation, rather than a binding quotation, is desired (see § 18–1.309).

(d) Except when firm offers must be obtained, Standard Form 18 is authorized for use when written quotations are solicited.

(e) A quotation submitted on Standard Form 18 is only informational and is not to be construed as a legal offer, acceptance of which would result in a binding contract. Accordingly, issuance of a purchase order (or other document) pursuant to a supplier's quotation on Standard Form 18 does not constitute acceptance but an offer to buy certain goods or services upon certain specified terms and conditions. Under the procedure of obtaining a quotation on Standard Form 18 and issuing a purchase order, the Government may, at any time prior to acceptance by the contractor of the purchase order, withdraw, amend, or cancel its offer, thereby minimizing disputes and administrative costs. In such cases, a written notice should be given the supplier. Since substantial performance by the supplier, prior to cancellation, may constitute acceptance and hence create a contract, the contracting officer should verify whether or not acceptance of the offer has taken place prior to cancellation of the offer.

§ 18–16.202 Negotiated contract forms.

The forms described in this section are authorized for use in negotiated procurements. Instructions for their use are set forth in this chapter as indicated in this section.

§ 18–16.202–1 Contracts in excess of $2,500 (Standard Form 32, NASA Form 250).

For contracts in excess of $2,500, Standard Form 32, General Provisions (Supply Contract) shall be used, supplemented by NASA Form 250 (Additional General Provisions to U.S. Standard Form 32). Standard Form 36 (Continuation Sheet) may be used as required.

§ 18–16.202–2 Contracts not in excess of $2,500 (NASA Form 177, Standard Forms 44 and 147).

(a) For negotiated purchases not in excess of $2,500, NASA Form 177 may be used in lieu of Standard Form 44 or 147. See § 18–3.605–3 for instructions on the use of NASA Form 177.

(b) Standard Form 44 (Purchase Order—Invoice—Voucher) is a small purchases form for transactions not in excess of $2,500 and is authorized for use in accordance with the instructions and limitations set forth in § 18–3.605–1. It is especially useful in over-the-counter transactions, purchases at isolated stations, and purchases away from the purchasing office. See § 18–16.302 for use of Standard Form 44 for small purchases.

(c) Standard Form 147 (Order—Invoice—Voucher) is a combination purchase or delivery order, vendor's invoice, receiving report, and public voucher with space for purchase data, vendor's invoicing, and allied budget, accounting, and voucher payment data. It is designed primarily for use when single delivery payment transactions involving amounts not in excess of $2,500 are contemplated. See § 18–3.605–2 for instructions for its use. Standard Form 148 (Order—Invoice—Voucher Continuation Sheet) is authorized for use as required.

17379 RULES AND REGULATIONS

§ 18–16.202–3 Proposal and acceptance (NASA Forms 147, 177).

NASA Form 147 will normally be used in negotiated supply contracts for standard or commercial type items unless a purchase order form (NASA Form 177) is appropriate for use.

§ 18–16.202–4 Cost-reimbursement type supply contracts (NASA Form 416).

The General Provisions contained in NASA Form 416 shall be used in all cost-reimbursement supply contracts, together with a Cover Page (NASA Form 437), a Schedule, and a Signature Page (NASA Form 437–1).

§ 18–16.202–5 Fixed-price research and development contracts (NASA Form 247).

Except when NASA Form 246 is used pursuant to § 18–7.350, NASA Form 247 shall be used in all fixed-price research and development contracts, together with a Cover Page (NASA Form 437), a Schedule, and a Signature Page (NASA Form 437–1).

§ 18–16.202–6 Fixed-price research contracts with nonprofit institutions—Short Form (NASA Form 246).

The General Provisions contained in NASA Form 246 are authorized for use in fixed-price contracts for basic or applied research with nonprofit institutions of higher education, or with nonprofit institutions whose primary purpose is the conduct of scientific research, when a short form is desired. Additional clauses may be added to or substituted for the clauses contained in NASA Form 246 in accordance with § 18–7.350–19. A Cover Page (NASA Form 437), a Schedule, and a Signature Page (NASA Form 437–1) shall be used with NASA Form 246.

§ 18–16.202–7 Cost-reimbursement research and development contracts (NASA Form 417).

Except when NASA Form 419 is used pursuant to § 18–16.202–8, NASA Form 417 shall be used in NASA cost-reimbursement type research and development contracts. A Cover Page (NASA Form 437), a Schedule, and a Signature Page (NASA Form 437–1) shall be used with NASA Form 417.

§ 18–16.202–8 Cost-reimbursement research and development contracts with educational or nonprofit institutions (NASA Form 419).

NASA Form 419 shall be used in cost-reimbursement type research and development contracts with educational or nonprofit institutions which involve no fee or profit, together with a Cover Page (NASA Form 437), a Schedule, and a Signature Page (NASA Form 437–1).

§ 18–16.202–10 Facilities contracts (NASA Forms 746, 747, and 748).

(a) NASA Form 746 (General Provisions for Cost-Reimbursement Facilities Acquisition Contract) shall be used for the acquisition by the contractor on a cost-reimbursement basis of facilities for the account of the Government (see § 18–13.402).

(b) NASA Form 747 (General Provisions for Facilities Use Contract) provides for the use by the contractor of Government-owned facilities in those instances where no direct Government funding is applied (see § 18–13.402).

(c) NASA Form 748 (General Provisions for Cost-Reimbursement Consolidated Facilities Contract) shall be used as a combination of both the acquisition and use of facilities (see §§ 18–13.402 and 18–13.403).

§ 18–16.206 Cost and price analysis.

Except as provided in § 18–16.207, when cost data are required in connection with a proposal, DD Form 633 shall be used. However, when the contractor's accounting system or the type of procurement involved makes the use of this form impracticable or inappropriate, the contractor may submit the necessary data in a format acceptable to the contracting officer.

§ 18–16.207 Cost and price analysis for contract price redetermination.

DD Form 784 shall be prepared by the contractor for the submission of cost data required for contract price redetermination except when the contractor and the contracting officer have agreed upon an alternative method of cost analysis presentation. Contractor reproduction of DD Form 784 is authorized. However, no alternative form for general application shall be used.

§ 18–16.208 Justification for negotiation (NASA Form 543).

NASA Form 543 shall be submitted with proposed determination and findings when a determination is required to be made at NASA Headquarters (see § 18–3.306–1).

Subpart 18–16.3—Purchase and Delivery Order Forms

§ 18–16.300 Scope of subpart.

This Subpart 18–16.3 prescribes forms for use when purchases are authorized or required to be made by the purchase order or imprest fund method, and as delivery orders.

§ 18–16.301 Receipt for Cash—Subvoucher (Standard Form 1165).

Standard Form 1165 may be used in connection with procurement by the imprest fund (petty cash) method in accordance with § 18–3.604.

§ 18–16.302 Purchase order forms (Standard Forms 44, 147; NASA Form 177; NASA "Ship and Quote" Form).

(a) Standard Form 44 (Purchase Order—Invoice—Voucher) is authorized for use to accomplish small purchases in accordance with § 18–3.605.

(b) Standard Form 147 (Order—Invoice—Voucher) and Standard Form 148 (Order—Invoice—Voucher Continuation Sheet) are authorized for use as purchase orders for small purchases and as delivery orders for ordering and scheduling deliveries against an established contract (see § 18–3.605–2).

(c) NASA Form 177 (Purchase Order) is authorized for use in accomplishing small purchases in lieu of Standard Form 44 or 147, in accordance with the instructions in § 18–3.605–3.

(d) The NASA Ship and Quote form may be used to make small purchases in lieu of Standard Form 44, Standard Form 147, or NASA Form 177, in accordance with the instructions in § 18–3.605–4.

Subpart 18–16.4—Forms for Construction Contracts

§ 18–16.400 Scope of subpart.

This Subpart 18–16.4 prescribes forms for use in construction contracts, where the work is to be performed in the United States and its possessions. Construction contracts are defined for the purposes of this subpart as contracts for the construction, alteration, or repair (including painting and decorating) of buildings, brides, roads, or other kinds of real property.

§ 18–16.401 Advertised construction contract forms.

§ 18–16.401–1 General.

The following forms are prescribed for use in formally advertised construction contracts where the work is to be performed in the United States, its possessions, or Puerto Rico:

(a) Standard Form 19—Invitation, Bid and Award (Construction, Alteration, or Repair). Pending revision of the January 1959 edition of this form, (1) delete clauses 9 and 10 of the General Provisions on the reverse thereof; and (2) substitute the following small business representation for that in the Bid section of the form: "That he [ ] is, [ ] is not, a small business concern. (For this purpose, a small business concern is a business concern, including its affiliates, which (1) is independently owned and operated, (2) is not dominant in the field of operation in which it is bidding on Government contracts, and (3) had average annual receipts for the preceding 3 fiscal years not exceeding $7,500,000. For additional information, see governing regulations of the Small Business Administration.)"

(b) Standard Form 19A — Labor Standards Provisions — Applicable to Contracts in Excess of $2,000.

(c) Standard Form 20—Invitation for Bids (Construction Contract).

(d) Standard Form 21—Bid Form (Construction Contract).

(e) Standard Form 22—Instructions to Bidders (Construction Contract).

(f) Standard Form 23—Construction Contract.

(g) Standard Form 23A — General Provisions (Construction Contract).

(h) NASA Form 604—Additional General Provisions to U.S. Standard Form 23A.

(i) DD Form 1260—Amendment to Invitation for Bids, on an optional basis.

(j) Continuation Sheet: There is no prescribed form of Continuation Sheet for construction contracts. A blank sheet, incorporating (1) the contract or invitation number, as appropriate; (2) page number and number of pages; and (3) name of bidder or contractor may be used for this purpose. Standard Form 36, Continuation Sheet (Supply Contract), shall not be used for construction contracts.

§ 18–16.401–2 Conditions for use.

(a) *Contracts not to exceed $2,000.* Standard Form 19, with clauses 9 and 10 deleted, shall be used for construction contracts not in excess of $2,000 executed as a result of formal advertising. Standard Form 22 also may be used. When the contract may exceed $2,000, the following language shall be inserted in the space provided in the bid portion of Standard Form 19 prior to the issuance of the invitation:

If this bid exceeds $2,000, the bidder shall furnish with his bid a bid guaranty in an amount equal to -------- percent of his bid; failure to submit the guaranty on time is cause for rejection of the bid. The undersigned further agrees, if this bid exceeds $2,000 (i) to comply with the Labor Standards Provisions Applicable to Contracts in Excess of $2,000 (Standard Form 19A); (ii) to pay not less than the minimum hourly rates of wages set forth in the specifications; (iii) to furnish a performance bond in an amount equal to -------- percent and a payment bond in an amount equal to 50 percent of the contract price with surety or sureties acceptable to the Government; and (iv) to furnish such additional amount of performance and payment bonds as may be required by the Contracting Officer in connection with any increase in the contract price. (May 1965)

(b) *Contracts estimated to exceed $2,000 but not to exceed $10,000.* Standard Forms 19, with clauses 9 and 10 deleted, and 19A shall be used for those construction contracts executed as a result of formal advertising. Standard Form 22 also may be used. The additional language set forth in paragraph (a) of this section shall be inserted in the bid

portion of Standard Form 19 prior to issuance of the invitation.

(c) *Contracts estimated to exceed $10,000.* Standard Forms 19A, 20, 21, 22, 23, and 23A shall be used for contracts estimated to exceed $10,000 executed as a result of formal advertising. NASA Form 604 shall be used to provide additional general provisions in connection with Standard Form 23A.

§ 18–16.401–3 Terms, conditions, and provisions.

(a) The use of additional contract provisions consistent with those contained in the forms listed in this § 16.401 is authorized, and, where required elsewhere in this chapter, the use of such additional clauses is mandatory. NASA Form 604 shall be used to supplement Standard Form 23A. The NASA "New Technology" and "Property Rights in Inventions" clauses shall be used as additional required clauses under the circumstances set forth in §§ 18–9.101–2 and 18–9.101–5.

(b) Changes or additional provisions inconsistent with those contained in the standard forms shall be incorporated when required by this chapter and may be incorporated when authorized by this chapter, or when approved pursuant to § 18–1.109. A copy of such approval pursuant to § 18–1.109–2 shall be forwarded by the Office of Procurement to the General Services Administration.

(c) The provisions of paragraphs (a) and (b) of this section shall not be construed as authorizing the reinstatement in Standard Form 19 of clauses which appear in Standard Form 23A and which have either been condensed or omitted in the development of Standard Form 19 in the interests of uniformity or simplification. Where such reinstatement is deemed essential, it shall be treated as a deviation in accordance with § 18–1.109. Deviations are not required for the use, with Standard Form 19, of clauses which, although not properly a part of Standard Form 23A, may accompany it when printed for use within NASA.

(d) The "Disputes" clause of Standard Form 19, may be changed by inserting in the Schedule or Specifications the following:

Alterations. As used in the "Disputes" clause of the General Provisions, "head of the Federal Agency" means the "Administrator, NASA." (May 1965)

(e) During a period of national emergency, paragraph (d)(1) of the "Termination for Default—Damages for Delay—Time Extensions" clause of Standard Form 23A may be changed by deleting the words "unforeseeable causes" in the two places where they appear in the first sentence and substituting therefor the words "causes, other than normal weather."

(f) Deletion or modification of clauses in the forms listed in this § 18–16.401 shall be accomplished in the "Alterations" paragraph of Standard Form 23, or in an "Alterations" paragraph added in the Schedule of Standard Form 19, or in the Specifications, as may be appropriate.

(g) Whenever Standard Form 19 is used for formally advertised contracts the clause entitled "Covenant Against Contingent Fees" need not be included (see §§ 18–1.503 and 18–1.507–2).

§ 18–16.402 Negotiated construction contract forms.

§ 18–16.402–1 General.

Use of the forms prescribed in § 18–16.401 is optional for negotiated construction contracts. When used for negotiated contracts, the forms shall be adapted by lining out or obliterating the words "sealed" and "publicly opened" and adding language to (a) indicate the authority for negotiation, and (b) provide that wherever the words "invitation" and "bid" occur they shall be deemed to refer to "solicitation" and "offer," respectively. The appropriate clauses required for negotiated contracts shall be added to the contract forms. For example, the "Examination of Records" clause, § 18–7.104–15 must be added if the negotiated contract exceeds $2,500. Whenever the contracting officer is not satisfied that the contract price, by virtue of competition or otherwise, includes contingencies for State and Local Taxes, Clause 29 of NASA Form 604, entitled "Federal, State, and Local Taxes," shall be deleted and the clause set forth in § 18–11.401–2(d) shall be substituted therefor.

§ 18–16.402–2 Contracts not to exceed $2,000.

Either Standard Form 19 or NASA Form 177W shall be used for construction contracts of $2,000 or less executed as a result of negotiation, with the appropriate changes indicated in § 18–16.402–1.

Subpart 18–16.5—Special Contract and Order Forms

§ 18–16.500 Scope of subpart.

This Subpart 18–16.5 prescribes special forms for procuring certain supplies and services.

§ 18–16.501 Negotiated utility service contract forms.

This section prescribes the contract forms to be used for utility service contracts negotiated pursuant to the policy and procedures set forth in Subpart 18–4.50 except where such services are procured under GSA area-wide public utility contracts as provided in Subpart 18–5.8.

§ 18–16.501–50 NASA Form 550, Negotiated Utility Service Contract.

(a) *Required form.* NASA Form 550 (Negotiated Utility Service Contract) shall be used in all negotiated utility service contracts, except those for which NASA Form 550S (Negotiated Utility Service Contract—Short Form) is used, as authorized by § 18–16.501–51(a).

(b) *Instructions for completion of form.* The required information to be inserted in the various blanks on the first page is self-explanatory, except for the following:

(1) *Term of contract.* The term of the contract shall not exceed 12 months (see also § 18–7.5003–1).

(2) *Service location.* The information to be inserted in the blank designating the service location should consist of the name of the installation to which service is to be furnished and, as appropriate, any further designation; for example, "Plum Brook Facility," "Area B," or "Building 434."

§ 18–16.501–51 NASA Form 550S, Negotiated Utility Service Contract (Short Form).

(a) *Optional form.* NASA Form 550S (Negotiated Utility Service Contract—Short Form) may be used, without any alteration, addition, or deviation whatsoever, for a negotiated utility service contract, whenever all the following conditions exist:

(1) The utility service is taken under an established rate schedule approved by a Federal, State, or other public regulatory body;

(2) The annual cost of the utility service to be procured is $2,500 or less;

(3) No connection, termination, installation, or similar charge, except a meter deposit (or a membership fee in the case of a cooperative) required of all customers, is involved; and

(4) The supplier requires or requests the execution of a contract or application form, and/or it is deemed advantageous to the Government to negotiate and execute a contract.

(b) *Instructions for completion of form.* The required information to be inserted in the various blanks on the first page is self-explanatory, except for the following:

(1) The information to be inserted in the blank designating the service location should consist of the name of the installation to which service is to be furnished, and, as appropriate, any further designation; for example, "Plum Brook Facility," "Area B," or "Building 434."

(2) The number or other identification of the contractor's applicable rate schedule should be inserted in the blank after the words "Rate Schedule."

(3) A description of the service to be rendered should be set forth in the last blank (see NASA Forms 550A–1 through 5 and § 18–16.501–52(b)).

§ 18–16.501–52 Appendices to contract forms.

(a) *Appendix A, rate schedule.* Appendix A, the rate schedule applicable to the contract, shall consist of:

(1) The printed or otherwise published rate schedule of the contractor which has been approved or established by a Federal, State, or other regulatory body; or

(2) The rate schedule negotiated between the contractor and the Government. In either event the rate schedule shall bear the legend "Appendix A, attached to and made a part of Contract No. ——," and be entitled "Rate Schedule." Each page shall indicate its numerical order in the total number of pages comprising Appendix A, as, for example, "page 1 of 3." In addition to setting forth the rate applicable to the contract, Appendix A shall include, where applicable, any rules or regulations (whether established by the regulatory body, the contractor, or by negotiation between the contractor and the Government), which pertain to the Rate Schedule. Appendix A may provide for payment to the contractor of a nonrecurring, nonrefundable fee of not more than $1,000 to cover the costs of connecting the contractor's facilities to, and disconnecting them from, the Government's facilities, whenever the contract period is less than 6 months. In all instances where a connection charge other than the fee described above is involved, the "Connection Charge" clause (§ 18–7.5003–3) and Appendix C (§ 18–16.501–52(c)) shall be included in the contract.

(b) *Appendix B, service specifications.* Appendix B, the service specifications applicable to the contract, shall consist of:

(1) NASA Form 550A–1 (Electric Service Specifications), NASA Form 550A–2 (Gas Service Specifications), NASA Form 550A–3 (Water Service Specifications), NASA Form 550A–4 (Steam Service Specifications), NASA Form 550A–5 (Sewage Service Specifications), whichever is applicable, appropriately completed; or

(2) A specially drafted attachment to the contract bearing the legend "Appendix B, attached to and made a part of Contract No. ——," and the title of the appropriate service specifications.

Each page shall indicate its numerical order in the total number of pages comprising Appendix B, as, for example, "page 1 of 3." Such appendix shall set forth as a minimum as follows:

(i) The premises to be served;

(ii) An estimate of the service requirements;

(iii) The point of delivery to the Government;

(iv) A description of the service;

(v) A statement of how the service is to be measured for purposes of billing;

(vi) The quality of service to be rendered; and

(vii) A statement of the capacity and flow of the service.

(c) *Appendix C, connection charge schedule.* Appendix C, the schedule required whenever the contract includes the connection charge clause prescribed by § 18–7.5003–3 or the termination charge clause prescribed by § 18–7.5003–4, shall bear the legend "Appendix C, attached to and made a part of Contract No. ——," and be entitled "Connection Charge Schedule." Each page shall indicate its numerical order in the total number of pages comprising Appendix C, as, for example, "page 1 of 3." The appendix shall set forth as a minimum:

(1) A detailed description of the new facilities to be furnished by the contractor; and

(2) The agreed salvage value of such facilities.

§ 18–16.501–53 Contents of a negotiated utility service contract.

(a) *Contract using NASA Form 550.* Any contract for which § 18–16.501–50 (a) prescribes the use of NASA Form 550 shall consist of:

(1) NASA Form 550, together with any alterations and/or additions thereto (i) required by §§ 18–7.5001 and 18–7.5002, (ii) authorized by § 18–7.5003, or (iii) approved by the Director of Procurement, pursuant to § 18–4.5006(d);

(2) An Appendix A, Rate Schedule (see § 18–16.501–52(a));

(3) An Appendix B, Service Specifications (see § 18–16.501–52(b)); and

(4) An Appendix C, Connection Charge Schedule (see § 18–16.501–52(c) and § 18–7.5003–3).

(b) *Contract using NASA Form 550S.* Any contract for which § 18–16.501–51 (a) allows the use of NASA Form 550S shall consist of:

(1) NASA Form 550S without any alteration, addition, or deviation whatsoever; and

(2) An Appendix A, which will be the established rate schedule of the contractor applicable to the contract and the rules and regulations pertaining thereto.

§ 18–16.501–54 Terms, conditions, and provisions.

Detailed instructions for use of the clauses contained in NASA Forms 550 and 550S are set forth in Subpart 18–7.50.

Subpart 18–16.6—Forms for Coordinated Procurement

§ 18–16.600 Scope of subpart.

This subpart 18–16.6 prescribes forms to be used for the procurement of supplies or services by NASA from or through the Military Departments.

§ 18–16.601 NASA-Defense Purchase Request (NASA Form 523).

NASA-Defense Purchase Request (NASA Form 523) shall be used by NASA procurement offices for requesting procurement of supplies or services from all activities of the Military Departments, in accordance with § 18–5.1002.

§ 18–16.602 Acceptance of NASA-Defense Purchase Request.

Acceptance by the procuring depaftment of NASA's request for supplies or services (NASA Form 523) shall be made on a DD Form 448–2, Acceptance of MIPR Form (see § 18–5.1002–3).

§ 18–16.603 Payments (Standard Form 1080).

Standard Form 1080, Voucher for Transfer Between Appropriations and/or Funds, shall be used in connection with payments to the Military Departments for supplies and services furnished to or procured for NASA (see § 18–5.1005).

Subpart 18–16.7—Contract Termination Forms

§ 18–16.700 Scope of subpart.

This Subpart 18–16.7 prescribes forms for use in connection with terminated contracts (see Part 18–8).

§ 18–16.701 Notices of termination.

There are no specific forms prescribed for use in issuing termination notices. However, § 18–8.801 sets forth texts of telegraphic and letter notices of termination which may be used.

§ 18–16.702 Settlement proposal forms.

Although the forms prescribed below are designed for use by prime contractors, they are equally suitable for use by subcontractors.

§ 18–16.702–1 Settlement Proposal—Inventory Basis (DD Form 540).

DD Form 540 is prescribed for use by contractors in presenting claims resulting from the termination of fixed-price contracts when such claims are computed on the inventory basis.

§ 18–16.702–2 Settlement Proposal—Total Cost Basis (DD Form 541).

DD Form 541 is prescribed for use by contractors in presenting claims resulting from the termination of either fixed-price or cost-reimbursement type contracts when such claims are computed on the total cost basis.

§ 18–16.702–3 Settlement Proposal for Cost-Reimbursement Type Contracts (DD Form 547).

DD Form 547 is prescribed for use by contractors in submitting claims resulting from the termination of cost-reimbursement contracts.

§ 18–16.702–4 Settlement Proposal—Short Form (DD Form 831).

DD Form 831 is authorized for use by contractors in submitting claims resulting from the termination of fixed-price contracts when the total claim is less than $2,500.

§ 18–16.702–5 Inventory Schedules (DD Forms 542, 543, 544, 545, and 832).

(a) The following forms are prescribed for use by contractors to support settlement proposals submitted on DD Forms 540, 541, or 547:

(1) DD Form 542 (Inventory Schedule A—Metals in Mill Product Form) and DD Form 542C (Continuation Sheet);

(2) DD Form 543 (Inventory Schedule B—Raw Materials) and DD Form 543C (Continuation Sheet);

(3) DD Form 544 (Inventory Schedule C (Work in Process)) and DD Form 544C (Continuation Sheet); and

(4) DD Form 545 (Inventory Schedule D—Dies, Jigs, Fixtures, etc., and Special Tools) and DD Form 545C (Continuation Sheet).

In addition, the inventory schedule forms may be used for reporting inventory in connection with adjustments under the "Changes" clause and inventory excess to completed contracts.

(b) DD Form 832 (Termination Inventory Schedule E—Short Form) is prescribed for use by contractors to support settlement proposals submitted on DD Form 831.

§ 18–16.702–6 Schedule of Accounting Information (DD Form 546).

DD Form 546 is prescribed for use by contractors in connection with settlement proposals (see § 18–8.307–1).

§ 18–16.703 Application for Partial Payment (DD Form 548).

DD Form 548 is prescribed for use by contractors when applying for partial payments (see § 18–8.212–1).

§ 18–16.704 Notice of Audit Status Date (DD Form 547S).

DD Form 547S is prescribed for use by disbursing officers to fix the audit status date in accordance with § 18–8.404–6.

§ 18–16.705 Forms of settlement agreement.

There are no specific forms prescribed for settlement agreements. However, appropriate approved texts for settlement agreements are set forth in § 18–8.806.

§ 18–16.706 Instructions for Use of Termination Forms (DD Form 1114).

DD Form 1114 consists of instructions for use of contract termination settlement and inventory schedule forms.

Subpart 18–16.8—Miscellaneous Forms

§ 18–16.800 Scope of subpart.

This Subpart 18–16.8 prescribes certain miscellaneous forms authorized for use in connection with the procurement of supplies and services.

§ 18–16.802 Statement of Contingent Fees (Standard Form 119).

Standard Form 119 is prescribed for use in accordance with §§ 18–1.507 through 18–1.509.

§ 18–16.803 Compliance with labor laws, regulations, and clauses.

§ 18–16.803–1 Construction Contracts (DB 11, Standard Form 1093, CB 16–19).

(a) Department of Labor Form DB 11, Request for Determination, shall be used in accordance with the provisions of § 18–12.404–2.

(b) Standard Form 1093, Schedule of Withholdings Under the Davis-Bacon Act, shall be used in accordance with the provisions of § 18–12.404–9.

(c) Census Bureau Form 16–19, Construction Contract Award Notification, shall be used for reporting construction contract awards in accordance with the provisions of § 18–12.404–13.

§ 18–16.803–2 Supply Contracts (WH 12, PC 18, Standard Form 99).

(a) Department of Labor Form WH 12, a form letter explaining the Walsh-Healey Act, shall be furnished to the contractor in accordance with the provisions of § 18–12.603.

(b) Department of Labor Form PC 13, a poster, shall be furnished to the contractor in accordance with § 18–12.603.

(c) Standard Form 99, Notice of Award of Contract, shall be used in accordance with the provisions of § 18–12.603.

§ 18–16.804 U.S. Tax Exemption Certificate (Standard Form 1094).

(a) The U.S. Tax Exemption Certificate, Standard Form 1094 shall be used as prescribed in § 18–11.502–1.

(b) Treasury Department Form 1444 (Alcohol for Use of United States) and Treasury Department Form 1486 (Specially Denatured Alcohol for Use of United States) shall be used in accordance with the provisions of § 18–11.205.

§ 18–16.805 Bond forms.

The bond forms listed below are available for use in accordance with the provisions of Part 18–10.

(a) Bid Bond (Standard Form 24).

(b) Annual Bid Bond (Standard Form 34).

(c) Performance Bond (Standard Form 25).

(d) Payment Bond (Standard Form 25A).

(e) Continuation Sheet (For Standard Forms 24, 25, 25A) (Standard Form 25B).

(f) Affidavit of Individual Surety (Standard Form 28).

(g) Annual Performance Bond (Standard Form 35).

§ 18–16.810 Bidders Mailing List Application (Standard Form 129).

§ 18–16.810–1 General.

Standard Form 129, Bidders Mailing List Application shall be used in connection with the establishment and maintenance of bidders lists as prescribed by § 18–2.205.

§ 18–16.810–2 Conditions for use.

The application shall be submitted and signed by the supplier (the manufacturer or regular dealer), as distinguished from an agent of the supplier. However, suppliers are not precluded from designating on Standard Form 129 their agents to receive invitations for bids and requests for proposals.

§ 18–16.811 Security Requirements (DD Forms 441 and 254).

§ 18–16.811–1 Security agreement.

DD Form 441, Security Agreement, is authorized for use in connection with the requirements of § 18–7.104–12.

§ 18–16.811–2 Security requirements checklist.

DD Form 254, Security Requirements Checklist, is authorized for use in connection with the notice required by the "Security Requirements" clause (see §§ 18–7.104–12, 18–7.204–12, 18–7.202–25, and 18–7.402–24), which is included in all contracts classified "Confidential" or higher and in other contracts the performance of which may require access to classified information or material. Instructions for preparation are included in the form.

§ 18–16.812 Release and assignment forms (NASA Forms 778, 779, 780, and 781).

The forms identified in this section are approved for use in complying with the release and assignment provisions of paragraph (f) of the allowable cost clause of a cost-reimbursement type contract (see §§ 18–7.203–4, 18–7.402–3, and 18–7.451–3) and the requirements of § 18–51.405:

(a) Contractor's Release (NASA Form 778);

(b) Assignee's Release (NASA Form 779);

(c) Contractor's Assignment of Refunds, Rebates, Credits, and Other Amounts (NASA Form 780); and

(d) Assignee's Assignment of Refunds, Rebates, Credits, and Other Amounts (NASA Form 781).

Forms differing from the above approved forms may be used if the contracting officer determines that such forms meet the applicable requirements of the clause.

§ 18–16.814 Architect-Engineer Questionnaire Form (Standard Form 251).

U.S. Government Architect-Engineer Questionnaire (Standard Form 251) may be used in accordance with the provisions of § 18–4.203–2(a)(i). This form is designed to assure the uniform submission of experience and organizational data by architect-engineer firms.

§ 18–16.815 Contract modification forms (NASA Forms 450, 449, and 449–1).

§ 18–16.815–1 Change Order (NASA Form 450).

(a) This form shall be used for:

(1) Any change order issued pursuant to the Changes clause of a contract;

(2) Any other unilateral contract modification, except notices of termination (see § 18–16.701), issued pursuant to a contract provision authorizing such modification without the consent of the contractor; and

(3) Administrative changes, such as the correction of typographical errors, changes in the paying office, and changes in accounting and appropriation data.

(b) NASA Form 449–1 (Contract Modification Continuation Sheet) may be used as required.

§ 18–16.815–2 Supplemental Agreement (NASA Form 449).

The following forms are authorized for use in connection with supplements to NASA contracts.

(a) NASA Form 449 (Supplemental Agreement);

(b) NASA Form 449–1 (Contract Modification Continuation Sheet); and

(c) NASA Form 449–2 (Signature Page for Supplemental Agreement).

§ 18–16.816 Identical Bid Report for Procurement (DJ 1500).

DJ 1500, Identical Bid Report for Procurement, shall be used in reporting identical bids in accordance with the requirements of § 18–1.114.

§ 18–16.850 NASA small business subcontracting program monthly report of participating large company on subcontract commitments to small business concerns (NASA Form 524).

NASA Form 524, NASA Small Business Subcontracting Program Monthly Report of Participating Large Company on Subcontract Commitments to Small Business Concerns, shall be used for the submission of monthly reports by all NASA contractors who participate in the NASA Subcontracting Small Business Program as required by § 18–1.707–5. Instructions for its use are printed on the form.

§ 18–16.851 Preaward Surveys of Prospective Contractors (DD Form 1524).

DD Form 1524, Preaward Survey, shall be used in accordance with instructions contained in Subpart 18–16.9.

§ 18–16.852 Procurement Request (NASA Form 404).

NASA Form 404, Procurement Request, shall be used for initiating procurements in accordance with § 18–1.356 and NMI 5101.12.

§ 18–16.853 Checklist for Contract File Content (NASA Form 1098).

NASA Form 1098, Checklist for Contract File Content shall be used in ac-

cordance with instructions set forth in § 18–50.106 when requesting approval of a contract or supplemental agreement by NASA Headquarters.

§ 18–16.854 Request for Contractor Clearance (NASA Form 446).

NASA Form 446, Request for Contractor Clearance, shall be used in accordance with NASA Management Instruction 1650.1, if the proposed procurement will involve access to classified information.

§ 18–16.856 Contractor Financial Management Report (NASA Form 533).

NASA Form 533, Contractor Financial Management Report, is designed for contractors to use in submitting, at required intervals, their financial and manpower experience and projections. NASA Management Instruction 9501.1 sets forth the basic policies covering the use of the form for cost-type and incentive contracts. Instructions for completing NASA Form 533 are printed on the reverse of the form.

§ 18–16.857 Bill of Material (DD Forms 346 and 347).

DD Form 346, Raw (Basic Process) and Semifabricated Stock Form, and DD Form 347, Bill of Material—Subcontracted Parts—Purchased Parts—Government-Furnished Property, are authorized for use to describe the materials required for furnishing the supplies to be delivered under contract, in accordance with § 18–7.105–6.

§ 18–16.858 Tax forms.

(a) *Special Fuels Tax (Standard Forms 1169, 1103).* Treasury Department Form 720 (Quarterly Federal Excise Tax Return) shall be used in accordance with § 18–11.101–5 in making quarterly payments of tax on tax-free special fuels used for a taxable purpose.

(b) *Transportation of persons tax.* Standard Form 1169, Transportation Request, is designed for obtaining exemption from tax on transportation of persons, in accordance with § 18–11.202(b).

(c) *Transportation of property tax.* Standard Form 1103, U.S. Government Bill of Lading, is authorized for use to obtain exemption from tax on transportation of property, in accordance with § 18–11.202(b).

§ 18–16.859 Letter contracts.

§ 18–16.859–1 General.

This § 18–16.859 prescribes the forms to be used in connection with letter contracts contemplating cost-reimbursement type or fixed-price type definitive contracts.

§ 18–16.859–2 Cost-reimbursement type letter contract.

The following forms are prescribed for use in letter contracts contemplating cost-reimbursement type definitive contracts:

(a) Cover Page—NASA Form 551;

(b) Letter of Transmittal—NASA Form 551–1;

(c) Schedule Format—NASA Form 551–2;

(d) General Provisions—NASA Form 551–3; and

(e) NASA Form 417 or 418, as appropriate, in accordance with the instructions contained in Article V of the Schedule Format—NASA Form 551–2. In addition, the prescribed clauses set forth in NASA Form 417 or 418 shall be modified or deleted and additional clauses, applicable to the kinds of such contracts for which such forms were designed, shall be included in the contracts as required or authorized by §§ 18–7.402 through 18–7.404, or §§ 18–7.203 through 18–7.205, respectively. Also, see instructions contained in Article Vb of the Schedule Format—NASA Form 551–2.

§ 18–16.859–3 Fixed-price type letter contract.

The following forms are prescribed for use in letter contracts comtemplating fixed-price type definitive contracts:

(a) Cover Page—NASA Form 551;

(b) Letter of Transmittal—NASA Form 551–1;

(c) Schedule Format—NASA Form 551–2;

(d) General Provisions—NASA Form 551–3, except that Clause 5, "Termination," shall be deleted and the "Termination" clause set forth in § 18–8.701(b) shall be substituted therefor; and

(e) NASA Form 247, or Standard Form 32 and NASA Form 250, as appropriate, in accordance with the instructions contained in Article V of the Schedule Format—NASA Form 551–2. In addition, the prescribed clauses set forth in NASA Form 247, Standard Form 32, or NASA Form 250 shall be modified or deleted and additional clauses, applicable to the kinds of such contracts for which such forms were designed, shall be included in the contract as required or authorized by §§ 18–7.302 through 18–7.304, or §§ 18–7.102 through 18–7.108, respectively. Also, see instructions contained in Article Vb of the Schedule Format.

§ 18–16.859–4 Letter contract forms.

(a) *Format cover page for letter contracts (NASA Form 551, April 1962).*

Contract No. ------

LETTER CONTRACT
BETWEEN
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
AND

(Contractor)

Contract for:
Installation:
Office to Make Payment:
is designated as the office to make payments, if any, in accordance with this contract.
The sums to be expended by the Government hereunder are chargeable to the following appropriations, the available balances of which are sufficient to cover the same:
The office having overall administrative responsibility for this contract is:
Purchase Request No:
Negotiator:
Priority Rating ---------- is certified for national defense use under DMS Regulation No. 1.
Program:
This instrument has been negotiated pursuant to 10 U.S.C. 2304 (a) ( )

(b) *Format letter of transmittal for letter contracts (NASA Form 551–1, April 1962).*

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Date: ----------
Letter Contract
Contract No:------

To:

Gentlemen:

1. This letter, when accepted by you, will constitute a Letter Contract bearing the contract number above indicated, whereby you, as Contractor, agree to furnish to the Government the supplies or services set forth in the attached Contract Schedule in accordance with the terms, conditions, and administrative provisions set forth in the Schedule and in the current edition of the NASA Forms identified in the Enclosures listed below, and such NASA Forms, if any, as are referenced therein, all of which are attached hereto and made a part hereof. This letter, Schedule, and the Forms are submitted to you in quadruplicate.

2. If you agree to the terms set forth in the attached Schedule and in the NASA Forms listed in the Enclosures, please indicate your acceptance by signing the original and two copies of this Letter in the place provided in the lower left corner and return the executed copies to the Contracting Officer who signed this letter on behalf of the United States.

3. It is understood by your acceptance hereof that you will undertake, without delay, to enter into negotiations with the National Aeronautics and Space Administration looking to the execution of a definitive contract and to furnish all cost and price information requested by the Contracting Officer. The form and provisions of the definitive contract which the National Aeronautics and Space Administration intends to use as the basis for negotiation are set forth in the Schedule.

3 Enclosures
1. Schedule—NASA Form 551–2
2. NASA Form 551–3
3. NASA Form ------

THE UNITED STATES OF AMERICA

By ----------

(Contracting Officer)

(c) *Schedule format for letter contracts (NASA Form 551–2, September 1962).*

SCHEDULE FORMAT

Article I—*Statement of work:*

a. (Include a complete description of the supplies to be furnished or work to be done in the same detail as in a definitive contract.)

b. (Include all pertinent specifications or references thereto in the same detail as in a definitive contract.)

Article II—*Delivery or performance schedule:* (Self-explanatory, but state, by item, whether delivery will be f.o.b. origin or transportation prepaid to destination. If f.o.b. origin, include statement "for shipment ----------" on G.B.L.)

Article III—*Consideration and payment:*

a. The maximum amount for which the Government will be liable if this Letter Contract is terminated is $-------

b. Contractor's invoices or vendor's shipping documents used as invoices shall be made out to the Office designated to make payment marked, "Attention: Fiscal Officer," and delivered to the Contracting Officer. Payment will be made as provided in the Payment clause of NASA Form 551–3, except as otherwise stated below:

c. (Set forth any prices or rates of payment which the Government and Contractor may have agreed to or which the Government is offering to pay for supplies to be delivered or services to be performed under this Letter Contract or for identified portions of such work or services.)

Article IV—*Inspection and acceptance:* (Name the place where inspection is to be made and specify details concerning inspection and acceptance in the same detail as in a definitive contract.)

Article V—*Clauses incorporated:*

a. There are incorporated by reference in this Letter Contract all the clauses contained in NASA Form --------- (---------) except for the following clauses, which are to be deleted for the purpose of this Letter Contract;

(i) (Where a fixed-price R&D contract is contemplated, insert NASA Form 247 and date of the current form in the blank above, and list as the clauses to be deleted "Payments" and "Termination for convenience of the Government."

(ii) (Where a fixed-price supply contract is contemplated, the reference in the blank above should be to Standard Form 32 and NASA Form 250 and dates to the current forms, and list as the clauses to be deleted "Payments" and "Termination for Convenience of the Government"; or

(iii) Where a cost-reimbursement type contract is contemplated, insert NASA Form 417 or 418 and the date of the current form, as appropriate, in the blank above, and list as the clauses to be deleted "Limitation of Cost," "Allowable Cost, Fixed-Fee, and Payment," "Termination," and "Limitation on Withholding of Payments.")

b. (Identify and reference any other clause appropriate to the contract and attach such clause to the Schedule.)

Article VI—*Definitive contract:*

a. The definitive contract will be negotiated and executed on or before ----------; unless such date is extended in writing by the Contracting Officer.

b. It is contemplated that the definitive contract will be negotiated on the basis of NASA Form ---------- (---------) and such additional clauses as are appropriate to the subject matter of this contract. However, the parties are not hereby committed to the negotiations of this type of contract.

(d) *General provisions for letter contracts (NASA Form 551–3, 1963).*

GENERAL PROVISIONS FOR LETTER CONTRACTS

INDEX OF CLAUSES

1. Direction to proceed.
2. Contract clauses incorporated.
3. Authority to obligate funds.
4. Payments.
5. Termination.

1. *Direction to proceed:* Except as otherwise expressly provided to the contrary in this Letter Contract, the Contractor is directed, upon his acceptance to this Letter Contract, to proceed immediately to procure the necessary materials, and to commence the manufacture of the supplies or performance of the services called for herein, and to pursue such work with all diligence to the end that the supplies or services called for under Article I of the Schedule will be delivered or performed in accordance with Article II of the Schedule and all other terms of this Letter Contract.

2. *Contract clauses incorporated:* The contract clauses set forth in the NASA Contract form identified in the Schedule, subject to the alterations in such form shown in the Schedule, and including any other clauses referenced in the Schedule as applicable to this Letter Contract and attached to the Schedule, are hereby incorporated into this Letter Contract and made a part hereof.

3. *Authority to obligate funds:* The maximum amount for which the Government shall be liable if this contract is terminated is specified in the Schedule, and any expenditure or obligation by the Contractor in excess of that amount, in furtherance of performance hereunder, shall be at the Contractor's own risk.

4. *Payments:*

(a) If this Letter Contract is on a fixed-price basis, and is governed generally by the provisions of a fixed-price contract form (SF–32 and NASA Form 250, or NASA Form 247), the Government will pay to the Contractor, not to exceed the maximum amount specified in Article IIIa of the Schedule, upon the submission of proper invoices or vouchers, the prices if any, specified in Article III of the Schedule for supplies delivered and accepted or services rendered and accepted, less deductions, if any, provided for in this Letter Contract. Unless otherwise specified, payment will be made on partial deliveries accepted by the Government.

(b) If this Letter Contract is on a cost-reimbursement basis and is governed generally by the provisions of a cost-reimbursement type contract form (NASA Form 417 or 418) referenced in the Schedule, the Government will pay to the Contractor, not to exceed the maximum amount specified in Article IIIa of the Schedule, upon the submission of proper invoices or vouchers, his costs for the performance of this contract determined by the Contracting Officer to be allowable in accordance with (i) Part 15, Subpart 2 of the NASA Procurement Regulation as in effect on the date of this Letter Contract, and (ii) any special provisions concerning allowable costs or payment set forth in the Schedule.

(c) Nothing shall be paid under this Letter Contract to the Contractor for profit or fee, except as provided in the Termination clause of this Letter Contract.

5. *Termination:*

(a) In case a definitive contract is not executed by the date specified in Article VI of the Schedule, because of the inability of the parties to agree upon a definitive contract, this Letter Contract may be terminated in its entirety by either party by delivering to the other party a notice in writing specifying the effective date of termination which date shall not be earlier than thirty (30) days after receipt of such notice.

(b) The performance of work under this Letter Contract also may be terminated by the Government in accordance with this clause in whole, or from time to time in part:

(i) Whenever the Contractor shall default in performance of this Letter Contract in accordance with its terms (including in the term "default" any such failure by the Contractor to make progress in the prosecution of the work hereunder as endangers such performance), and shall fail to cure such default within a period of 10 days (or such longer period as the Contracting Officer may allow) after receipt from the Contracting Officer of a notice specifying the default; or

(ii) Whenever for any reason the Contracting Officer shall determine that such termination is in the best interest of the Government.

Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying whether termination is for the default of the Contractor or for the convenience of the Government, the extent to which performance of work under this Letter Contract is terminated, and the date upon which such termination becomes effective. If, after notice of termination of this Letter Contract for default under (i) above, it is determined for any reason that the Contractor was not in default pursuant to (i) above, or that the Contractor's failure to perform or to make progress in performance is due to causes beyond the control and without the fault or negligence of the Contractor pursuant to the provisions of the clause of this Letter Contract relating to excusable delays, the Notice of Termination shall be considered to have been issued under (ii) above, and the rights and obligations of the parties hereto shall in such event be governed accordingly.

(c) After receipt of a Notice of Termination and except as otherwise directed by the Contracting Officer, the Contractor shall:

(i) Stop work under this Letter Contract on the date and to the extent specified in the Notice of Termination;

(ii) Place no further orders or subcontracts for materials, services, or facilities, except as may be necessary for completion of such portion of the work under this Letter Contract as is not terminated;

(iii) Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;

(iv) Assign to the Government, in the manner, at the times, and to the extent directed by the Contracting Officer, all of the right, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Government shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

(v) With the approval or ratification of the Contracting Officer, to the extent he may require, which approval or ratification shall be final and conclusive for all purposes of this clause, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, the cost of which would be reimbursable in whole or in part, in accordance with the provisions of this Letter Contract;

(vi) Transfer title (to the extent that title has not already been transferred) and, in the manner, to the extent, and at the times directed by the Contracting Officer, deliver to the Government (A) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in respect of the performance of, the work terminated by the Notice of Termination, (B) the completed or partially completed plans, drawings, information, and other property which, if this Letter Contract had been completed, would be required to be furnished to the Government, and (C) the jigs, dies, and fixtures, and other special tools, and tooling acquired or manufactured for the performance of this Letter Contract, for the cost of which the Contractor has been or will be reimbursed under this Letter Contract;

(vii) Use his best efforts to sell in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Contracting Officer, any property of the

types referred to in (vi) above: *Provided, however,* That the Contractor (A) shall not be required to extend credit to any purchaser, and (B) may acquire any such property under the conditions prescribed by and at a price or prices approved by the Contracting Officer: *And provided further,* That the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this Letter Contract or shall otherwise be credited to the price or cost of the work covered by this Letter Contract or paid in such other manner as the Contracting Officer may direct;

(viii) Complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and

(ix) Take such action as may be necessary or as the Contracting Officer may direct, for the protection and preservation of the property related to this Letter Contract which is in the possession of the Contractor in which the Government has or may acquire an interest.

The Contractor shall proceed immediately with the performance of the above obligations notwithstanding any delay in determining the amount of any items of reimbursable cost, under this clause. At any time after expiration of the plant clearance period, as defined in Part 8 of the NASA Procurement Regulation as it may be amended from time to time, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the Contracting Officer, and may request the Government to remove such items or enter into a storage agreement covering them. Not later than fifteen (15) days thereafter) the Government will accept such items and remove them or enter into a storage agreement covering the same: *Provided,* That the list submitted shall be subject to verification by the Contracting Officer upon removal of the items, or if the items are stored, within forty-five (45) days from the date of submission of the list, and any necessary adjustment to correct the list as submitted shall be made prior to final settlement.

(d) After receipt of a Notice of Termination, the Contractor shall submit to the Contracting Officer his termination claim in the form and with the certification prescribed by the Contracting Officer. Such claim shall be submitted promptly, but in no event later than one (1) year from the effective date of termination, unless one or more extensions in writing are granted by the Contracting Officer upon request of the Contractor made in writing within such one (1) year period or authorizing extension thereof. However, if the Contracting Officer determines that the facts justify such action, he may receive and act upon any such termination claim at any time after such one (1) year period or any extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the Contracting Officer may, subject to any Settlement Review Board approvals required by NASA regulations in effect on the date of the execution of this contract, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination, and shall thereupon pay to the Contractor the amount so determined.

(e) Subject to the provisions of paragraph (d) hereof, and subject to any Settlement Review Board approvals required by NASA regulations in effect as of the date of execution of this Letter Contract, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this clause. In the event of any termination pursuant to paragraph (a) or (b)(i) hereof, such amount or amounts shall not include any allowance for fee. In the event of any termination pursuant to paragraph (b)(ii) hereof, such amount or amounts may include a reasonable allowance for fee, but only on work actually done in connection with the terminated portion of this Letter Contract. Any such amount shall not exceed the maximum amount specified in Article IIIa of the Schedule. Any such agreement shall be embodied in an amendment to this Letter Contract and the Contractor shall be paid the agreed amount.

(f) In the event of the failure of the Contractor and the Contracting Officer to agree in whole or in part, as provided in paragraph (e) above, as to the amount or amounts to be paid to the Contractor in connection with the termination of work pursuant to this clause, the Contracting Officer shall, subject to any Settlement Review Board approvals required by NASA regulations in effect as of the date of execution of this Letter Contract, determine, on the basis of information available to him, and in accordance with the applicable cost principles of the NASA Procurement Regulation as in effect on the date of this Letter Contract, the amount, if any, due to the Contractor by reason of the termination and shall pay such amount to the Contractor. In the event of the termination of this Letter Contract pursuant to paragraph (a) or (b)(i) hereof, no allowance for fee shall be included in the amount to be paid the Contractor.

(g) The Contractor shall have the right of appeal, under the clause of this Letter Contract entitled "Disputes," from any determination made by the Contracting Officer under paragraph (d) or (f) above (including any disputes as to whether termination has in fact taken place pursuant to paragraph (a) or (b)(i) hereof), except that if the Contractor has failed to submit a claim within the time provided in paragraph (d) above and has failed to request extension of such time, he shall have no such right of appeal. In any case where the Contracting Officer has made a determination of the ampunt due under paragraph (d) or (f) above, the Government shall pay to the Contractor the following:

(i) If there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Contracting Officer; or

(ii) If an appeal has been taken, the amount finally determined on such appeal.

(h) In arriving at the amount due the Contractor under this clause there shall be deducted:

(i) All unliquidated advance or other payments theretofore made to the Contractor, applicable to the terminated portion of this Letter Contract;

(ii) Any claim which the Government may have against the Contractor in connection with this Letter Contract; and

(iii) The agreed price for, or the proceeds of sale of, any materials, supplies, or other things acquired by the Contractor or sold pursuant to the provisions of this clause and not otherwise recovered by or credited to the Government.

(i) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of this Letter Contract whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand, together with interest computed at the rate of 6 percent per annum, for the period from the date such excess payment is received by the Contractor to the date on which such excess is repaid to the Government: *Provided, however,* That no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until 10 days after the date of such retention or disposition, or such later date as determined by the Contracting Officer by reason of the circumstances.

§ 18–16.860 Processing payments under cost-reimbursement contracts.

The following forms are authorized for processing payment under cost-reimbursement type contracts in accordance with Subpart 18–51.4.

(a) NASA Form 456, Notice of Costs Suspended and/or Disapproved;

(b) NASA Form 456–1, Notice of Costs Suspended and/or Disapproved Continuation Sheet;

(c) DD Form 396, Notice of Costs Suspended and/or Disapproved;

(d) Standard Form 1034, Public Voucher for Purchases and Services Other than Personal;

(e) Standard Form 1034A, Public Voucher for Purchases and Services Other than Personal—Memorandum Copy;

(f) Standard Form 1035, Public Voucher for Purchases and Services Other than Personal Continuation Sheet; and

(g) Standard Form 1035A, Public Voucher for Purchases and Services Other than Personal Continuation Sheet—Memorandum.

§ 18–16.861 Withholdings Under Davis-Bacon Act (S.F. 1093).

Standard Form 1093, Schedule of Withholdings Under the Davis-Bacon Act, shall be used in accordance with § 18–12.404–0.

§ 18–16.862 Unitary Plan Wind Tunnel Facilities (NASA Form 362).

NASA Form 362, Agreement for Use of NASA Unitary Plan Wind Tunnel Facilities, shall be used in connection with the use of the NASA unitary plan wind tunnel facilities for company projects. The form shall be executed by authorized representatives of NASA and the company on all company projects, as defined in NASA FMM Appendix 9080–4A. The symbol "NAS (UP)" shall be placed on each agreement, followed by the numerical designation of the field installation, and consecutive numbers assigned (for example, "NAS (UP)–1"). Billings shall be rendered by and payments made to the NASA laboratory concerned in accordance with applicable fiscal regulations.

§ 18–16.863 New Technology (NASA Form 1162).

NASA Form 1162, New Technology, contains the clause set forth in § 18–9.101–4 and will be used in contracts which require the New Technology clause under the provisions of § 18–9.101–2.

§ 18–16.864 Procurement Plan Contents Checklist (NASA Form 1168).

NASA Form 1168, Procurement Plan Contents Checklist shall be used in accordance with § 18–3.852–1.

§ 18–16.865 Industrial Property Activity Report (NASA Form 1048).

NASA Form 1048, Industrial Property Activity Report shall be used in accordance with the provisions of § 18–13.152.

§ 18–16.866 Materiel Inspection and Receiving Report Forms (DD Form 250, DD Form 250 (Modified), and DD Form 250a).

The Materiel Inspection and Receiving Report Forms (DD Form 250 and DD Form 250 (Modified)) shall be used in accordance with § 18–14.150. DD Form 250a is the Continuation Sheet.

Subpart 18–16.9—Procurement Action and Status Reports

§ 18–16.900 Scope of subpart.

This subpart prescribes reports designed to provide records and statistics necessary for procurement management purposes and to serve as a basis for required recurring and special reports.

§ 18–16.901 Individual Procurement Action Report (NASA Form 507).

The Individual Procurement Action Report (NASA Form 507) is designed to provide essential procurement records and statistics through a single uniform reporting program as a basis for required recurring and special reports to the President, the Congress, the Department of Labor, the Office of Emergency Planning, the General Accounting Office, the Renegotiation Board, the Small Business Administration, and other Federal agencies. The preparation and utilization of NASA Form 507 has been made an integral part of the Agency-wide system for the recording and reporting of financial and statistical data covering the status of Contracts and Grants (SCAG). Complete instructions covering the operation of this system are contained in the NASA Financial Management Manual 9332–1—9332–13.

§ 18–16.902 Geographic Distribution of NASA Subcontracts (NASA Form 667).

In order to obtain information relating to the geographic distribution of subcontracts awarded under certain NASA contracts, the following clause will be inserted in all NASA contracts of $500,000 or more:

REPORT ON NASA SUBCONTRACTS (JANUARY 1964)

(a) The Contractor agrees to submit information on NASA Form 667 to the National Aeronautics and Space Administration (Code: KD), Washington, D.C., substantially as follows with respect to each subcontract or modification thereof exceeding $10,000 as soon as possible after execution thereof:

(i) The name and address of the prime contractor and the NASA prime contract number;

(ii) The name and address of the subcontractor;

(iii) Whether the subcontractor is a large or small business concern;

(iv) Whether the type of effort being performed involves research and development;

(v) A brief description of the subcontract work;

(vi) The amount of the subcontract; and

(vii) The principal location where the subcontract work is to be performed, if known.

(b) The term "subcontract" as used herein means procurement in excess of $10,000 by the Contractor or first-tier subcontractor of articles, materials, or services entering into the performance of this contract, except purchases, regardless of amount, of stock items, materials, or services which cannot be specifically identified with this contract.

(c) The term "research and development" as used herein means basic and applied research, and design and development of prototypes and processes to (1) pursue a planned search for new knowledge, with or without reference to a specific application, (2) apply existing knowledge in the creation of new products or processes and (3) apply existing knowledge in the improvement or modification of present products and processes. It excludes subcontracts for the purchase of standard commercial items and services.

(d) The Contractor further agrees to insert the provisions of paragraphs (a), (b), and (c) of this Clause in each subcontract in excess of $50,000. The Contractor will instruct his subcontractors to submit their reports directly to the National Aeronautics and Space Administration (Code KD), Washington, D.C., and will provide his subcontractors with the number of the NASA prime contract.

§ 18–16.903 Report on incentive contracts under administration.

(a) Each procurement office shall submit to the Director of Procurement (Code KDR) a report on the status of "Incentive Contracts Currently Under Administration" (NASA Form 1129), and a report covering "Incentive Contracts—Evaluation of Incentive Effectiveness" (NASA Form 1132), in accordance with the instructions set forth in this § 18–16.903.

(1) Incentive Contracts Currently Under Administration (NASA Form 1129) will be prepared to provide a concise summary of pertinent information on incentive contracts amounting to $5 million or more for which the procurement office is responsible, including those assigned to other Government agencies for administration. This report will be prepared quarterly as of the last day of the last month of the quarter and

will be submitted to NASA Headquarters on or before the 10th day of the following month. The reports for the second and fourth quarter of each fiscal year will be prepared to include all incentive contracts under administration, regardless of the dollar value. The summary data to be provided on the reverse side of NASA Form 1129 will reflect complete information concerning accomplishments and success or failure in objectives.

(2) The summary data (for each incentive contract reported) to be provided on the reverse of NASA Form 1129 will include (item 1) the total number of outstanding undefinitized change orders, (item 1A) the estimated dollar value (rounded off to the nearest million) and (item 2) the total number of outstanding undefinitized change orders over 195 calendar days old, (item 2A) the estimated dollar value (rounded off to nearest million). Undefinitized change orders, as used herein, include issuances known as "Contract Change Notices" (CCN's) and "Contract Change Authorizations" (CCA's), and any other contractual device, however characterized, accomplishing this result. The dollar amounts to be reported will be obligated amounts prior to definitization or the estimated value, whichever amount reflects the total estimated cost impact of the change order. Change orders that do not direct changes in the work requirements will not be reported.

The objective of reporting on undefinitized change orders, including those over 195 days old, is to provide overall identification of problem areas for management improvement goals where necessary for the monitoring and timely control of overage change orders issued under incentive contracts. This objective closely parallels the programmatic requirements of NASA Management Instruction 5151.1 which establishes a reporting system for Manned Space Flight (MSF) field installations. In completing items (1), (1A), (2), and (2A) of this report, MSF field installations will use the individual contract information developed to accommodate NASA Form 1214 (April 1965). MSF field installations will also include in the report the data required by paragraph (2) of this paragraph on undefinitized change orders for those contracts which are reported on NASA Form 1129 but which are not reported on NASA Form 1214.

(3) Incentive contracts—Evaluation of Incentive Effectiveness (NASA Form 1132) will be used to record and report final appraisals by the cognizant installation of the effectiveness of the incentive arrangements used in the contract. This form will be submitted at the end of the quarter in which the final evaluation is made when the contract is modified to reflect the final price revision or fee determination and will be submitted to NASA Headquarters on or before the 10th day of the following month. Reports under NASA Form 1132 are to be submitted regardless of amount and corresponding reporting will be omitted from NASA Form 1129.

(b) The reports required under paragraph (a) of this section will be submitted in an original and one copy, using the official printed forms furnished for this purpose. Negative reports are required, if applicable, and may be expressed in the transmittal letter.

PART 18–17—EXTRAORDINARY CONTRACTUAL ADJUSTMENTS PROCEDURE

Sec.

18–17.000 Scope of part.
18–17.101 Authority.
18–17.102 General policy.
18–17.103 Standards for deciding cases.
18–17.103–1 General.
18–17.103–2 Amendments without consideration.
18–17.103–3 Mistakes.
18–17.103–4 Informal commitments.
18–17.104 Limitations upon deciding cases.
18–17.105 Procedures for filing requests.
18–17.105–1 Filing requests.
18–17.105–2 Form of requests.
18–17.105–3 Additional facts and evidence.
18–17.106 Processing contractor requests.
18–17.106–1 Investigation.
18–17.106–2 Submission of requests to the Contract Adjustment Board.
18–17.106–3 Action by Contract Adjustment Board.
18–17.107 Implementation of Board's decision.
18–17.108 Contractual requirements.
18–17.109 Records and reports.
18–17.110 Interdepartmental coordination.

AUTHORITY: The provisions of this Part 18–17 issued under 42 U.S.C. 2473 (b) (1).

§ 18–17.000 Scope of part.

This Part 18–17 establishes standards and procedures for the disposition of requests for extraordinary contractual adjustments by contractors of the National Aeronautics and Space Administration (hereinafter referred to as "NASA" or the "Administration") pursuant to the Act of August 28, 1958 (Public Law 85–804; 50 U.S.C. 1431–35) (hereinafter referred to as "the Act"), and Executive Order No. 10789 (CFR Comp. 1954–58) (hereinafter referred to as "the Executive Order"). It does not extend to advance payments or the so-called "residual powers" under the Act.

§ 18–17.101 Authority.

(a) The Act empowers the President to authorize Departments and agencies exercising functions in connection with the national defense to enter into contracts or into amendments or modifications of contracts and to make advance payments, without regard to other provisions of law relating to the making performance, amendment, or modification of contracts, whenever he deems that such action would facilitate the national defense.

(b) The Executive Order authorizes the Administrator of NASA (hereinafter referred to as "the Administrator"), to exercise the authority conferred by the Act, and to prescribe regulations for the carrying out of such authority.

(c) NASA Management Instruction 1152.5 establishes the Contract Adjustment Board (hereinafter referred to as "the Board") to consider and dispose of requests for extraordinary contractual adjustments by NASA contractors.

§ 18–17.102 General policy.

The authority conferred by the Act shall be utilized primarily as an aid to procurement but shall not be utilized so as to encourage carelessness and laxity on the part of contractors or NASA personnel, nor be relied upon by NASA where other adequate legal authority exists. The actions authorized under the Act shall be processed as expeditiously as practicable but with the care, restraint, and sound judgment appropriate to the exercise of such extraordinary authority.

§ 18–17.103 Standards for deciding cases.

§ 18–17.103–1 General.

The mere fact that losses occur under a Government contract is not, by itself, a sufficient basis for the exercise of the authority conferred by the Act. Whether, in a particular case, appropriate action (such as amendment without consideration, correction of a mistake or ambiguity in a contract, or formalization of an informal commitment) will facilitate the national defense is a matter of sound judgment to be made on the basis of all of the facts of the case. Although it is obviously impossible to predict or enumerate all types of cases with respect to which action may be appropriate, examples of cases or types of cases where action may be proper are set forth in §§ 18–17.103–2, 18–17.103–3, and 18–17.103–4. Even if all of the factors contained in any of the examples are present, other factors or considerations in a particular case may result in a denial of

the request. These examples are not intended to exclude other cases where the Board determines that the circumstances warrant action.

§ 18–17.103–2 Amendments without consideration.

(a) Where an actual or threatened loss under a Government contract, however caused, will impair the productive ability of a contractor whose continued operation as a source of supply is found to be essential to the national defense, the contract may be adjusted, but only to the extent necessary to avoid such impairment to the contractor's productive ability.

(b) Where a contractor suffers a loss (not merely a diminution of anticipated profits) on a Government contract as a result of Government action, the character of the Government action will generally determine whether any adjustment in the contract will be made and its extent. Where the Government action is directed primarily at the contractor and is taken by the Government in its capacity as the other contracting party, the contract may be adjusted if fairness so requires; thus, where such Government action, although not creating any liability on the part of the Government, increases the cost of performance, considerations of fairness may make some adjustment in the contract appropriate.

§ 18–17.103–3 Mistakes.

A contract may be amended or modified to correct or mitigate the effect of a mistake. Examples of cases where such action may be appropriate include the following:

(a) A mistake or ambiguity which consists of the failure to express or to express clearly in a written contract the agreement as both parties understood it;

(b) A mistake on the part of the contractor which is so obvious that it was or should have been apparent to the contracting officer; and

(c) A mutual mistake as to a material fact.

Amending contracts to correct mistakes with the least possible delay normally will facilitate the national defense by expediting the procurement program and by giving contractors proper assurance that such mistakes will be corrected expeditiously and fairly.

§ 18–17.103–4 Informal commitments.

Informal commitments may be formalized under certain circumstances to permit payment to persons who have taken action without a formal contract; for example, where any person, pursuant to written or oral instructions from an official of NASA and relying in good faith upon the apparent authority of the official to issue such instructions, has arranged to furnish or has furnished property or services to NASA or to a Government contractor or subcontractor without formal contractual coverage for such property or services. Formalization of commitments under such circumstances normally will facilitate the national defense by assuring such persons that they will be treated fairly and paid expeditiously.

§ 18–17.104 Limitations upon deciding cases.

(a) The Act is not authority for:

(1) The use of the cost-plus-a-percentage-of-cost system of contracting;

(2) The execution of any contract in violation of existing law relating to limitation of profit or fees;

(3) The negotiation of purchases of or contracts for property or services required by law to be procured by formal advertising and competitive bidding;

(4) The waiver of any bid, payment, performance, or other bond required by law;

(5) The amendment of a contract negotiated under 10 U.S.C. 2304(a)(18) to increase the contract price to an amount higher than the lowest rejected bid of any responsible bidder; or

(6) The formalization of an informal commitment, unless it is found that at the time the commitment was made it was impracticable to use normal procurement procedures.

(b) No contract, amendment, or modification shall be entered into under the authority of the Act:

(1) Unless a finding is made that the action will facilitate the national defense;

(2) Unless other legal authority in the Administration is deemed to be lacking or inadequate;

(3) Unless the request therefor has been filed before all obligations have been discharged and final payment made; and

(4) Except within the limits of the amounts appropriated and the statutory contract authorization.

§ 18–17.105 Procedures for filing requests.

§ 18–17.105–1 Filing requests.

Any person or company seeking an adjustment under the standards set forth in § 18–17.103 (hereinafter called the "contractor") may file a request in duplicate with the cognizant contracting officer or his duly authorized representative. If such filing is impracticable, requests will be deemed to be properly filed if filed with the Board or the Administrator for forwarding to the cognizant contracting officer.

§ 18–17.105–2 Form of requests.

The contractor's request shall normally consist of a statement, dated and signed by the contractor, containing as a minimum the following information:

(a) A chronological narrative of the essential facts, showing in detail the chain of events leading up to the request;

(b) The contractor's conclusions based on such facts, showing in terms of the standards set forth in § 18–17.103 and the limitations set forth in § 18–17.104 why the contractor considers himself entitled to the adjustment requested;

(c) The precise adjustment requested, showing how it was formulated or computed and the consequences of granting or denying the request, including whether any proceeds from the request, if granted, will be subject to any assignment or other transfer, and to whom;

(d) If a written contract is involved, a statement of the contractor's understanding of why the subject matter of the request cannot now and could not at the time it arose be disposed of under the terms of the contract itself;

(e) If a written contract is involved, a complete copy of or a brief description of the contract, indicating the dates of execution and amendments thereto, the items being procured, the price or prices, the delivery schedule or revisions thereof, and such other special contractual provisions as may be relevant to the request;

(f) If a written contract is involved, whether all obligations, including final payment under the contract have been discharged; and

(g) Whether the contractor has sought the same, or a similar or related, adjustment from the General Accounting Office or any other agency of the Government, or anticipates doing so.

§ 18–17.105–3 Additional facts and evidence.

(a) *General.* The cognizant contracting officer or the Contract Adjustment Board may, where considered pertinent, request the contractor to furnish additional facts and evidence in support of his request, of the nature set forth in this paragraph. In complying with such requests, the contractor may also submit other statements and evidence which he may consider helpful to his case:

(1) The best evidence available to the contractor in support of any facts alleged by the contractor, including contemporaneous memoranda, correspondence, affidavits, and any other material tending to establish matters of fact;

(2) A history of performance indicating when work under the contracts or commitments was begun, the progress made to the present, and exact statement of the contractor's remaining obligations, and the contractor's expectations regarding completion thereof;

(3) A statement of payments received, payments due, and payments yet to be received or to become due, including advance and progress payments and amounts withheld by the Government, and formation as to other obligations of the Government, if any, which are yet to be performed under the contract;

(4) A statement giving a detailed analysis of the monetary elements of the request, including precisely how the actual or estimated dollar amount of the request was arrived at, the effect of approval or denial on the contractor's profits before Federal income taxes, and whether the costs for which reimbursement is requested have been included as a part of his gross costs in statutory renegotiation proceedings, together with the contractor's renegotiation status for the relevant years;

(5) Relevant financial statements, cost analyses, or other such data,

preferably certified by a certified public accountant, including such additional financial data as is necessary to explain fully and to support the monetary elements of the request for adjustment;

(6) A list of persons (in the employ of the Government, in the employ of the contractor, or otherwise connected with the contract) who have some factual knowledge of the subject matter, including, where possible, the name, office or title, address, and telephone number of each such person;

(7) A statement and evidence of steps taken to mitigate loss and reduce claims to a minimum; and

(8) Such other statements or evidence as may be requested.

(b) *Amendments without consideration under § 18–17.103–2(a).* In addition to the facts and evidence enumerated in paragraph (a) of this section, where a request involves possible amendment without consideration, and "essentiality" is a factor, the contractor may be asked to furnish:

(1) A statement and evidence of the contractor's original breakdown of estimated costs, including contingency allowances and profit;

(2) A statement and evidence of the contractor's present estimate of total costs under the contracts involved if enabled to complete, broken down between costs accrued to date of request and run-out costs, and between costs for which the contractor has made payment and those for which he is indebted at the time of the request;

(3) A statement and evidence of the contractor's estimate of the final price of the contracts involved, giving effect to all escalation, changes, extras, and the like, known or contemplated by the contractor;

(4) A statement of any claims known or contemplated by the contractor against the Government involving the contracts in question, other than those stated in response to subparagraph (3) of this paragraph;

(5) An estimate of the contractor's total profit or loss under the contracts involved if enabled to complete at the final contract price (see subparagraph (3) of this paragraph) broken down between profit or loss to date and run-out profit or loss;

(6) An estimate of the total profits from other Government business and all other sources during the period from the date of the first contract involved to the estimated date of completion of all the contracts involved;

(7) A statement of the amount of any tax refunds and an estimate of those anticipated during or for the period from the date of the first contract involved through the estimated completion date of all the contracts involved;

(8) A statement in detail as to efforts the contractor has made to obtain funds from commercial sources to enable him to complete performance of the contracts involved;

(9) A statement of the minimum amount necessary as an amendment without consideration to enable the contractor to complete performance of the contracts involved, and the detailed basis for that amount;

(10) An estimate of the time required to complete each contract if the request is granted;

(11) A statement of the factors which have caused the loss under the contracts involved;

(12) A statement as to the course of events anticipated if the request is denied;

(13) Balance sheets, preferably certified by a certified public accountant, as of the end of the contractor's fiscal year first preceding the date of the first contract, as of the end of each subsequent fiscal year, as of the date of the request, and projected as of the date of completion of all the contracts involved, assuming the contractor is enabled to complete the contracts at the final prices estimated pursuant to subparagraph (3) of this paragraph, together with income statements for annual periods subsequent to the date of the first balance sheet. Balance sheets and income statements should be both consolidated and by affiliates, and should show all transactions between the contractor and his affiliates, stockholders, and partners including loans to the contractor guaranteed by any stockholder or partner; and

(14) A list of all salaries, bonuses, and all other forms of compensation of the principal officers or partners and of all dividends and other withdrawals, and all payments to stockholders in any form since the date of the first contract involved.

(c) *Amendments without consideration under §18–17.103–2(b).* In addition to the facts and evidence enumerated in paragraph (a) of this section where a request involves possible amendment without consideration because of Government action, and "essentiality" is not a factor, the contractor may be asked to furnish:

(1) A detailed statement of the precise Government action which the contractor considers caused a loss under the contract, with evidence to support each essential fact;

(2) A statement and evidence of the contractor's original breakdown of estimated costs, including contingency allowances and profit;

(3) The estimated total loss suffered under the contract, with detailed supporting analysis; and

(4) The estimated loss resulting from the Government action, with detailed supporting analysis.

(d) *Correction of mistakes under § 18–17.103–2.* In addition to the facts and evidence enumerated in paragraph (a) of this section, where a request involves possible correction of a mistake, the contractor may be asked to furnish:

(1) A statement and evidence of the precise mistake or error that was made, the ambiguity that exists, or the misunderstanding that arose, showing of what it consisted and how it occurred, and the intention of the parties;

(2) A statement explaining when the mistake was discovered, when notice of mistake was given to the contracting officer, and whether given before completion of work under, or the effective date of termination of, the contract;

(3) An estimate of loss or profit under the contract with detailed supporting analysis; and

(4) An estimate of the increase in cost to the Government resulting from the adjustment requested, with detailed supporting analysis.

(e) *Formalization of informal commitments under § 18–17.103–4.* In addition to the facts and evidence enumerated in paragraph (a) of this section, where a request involves possible formalization of an informal commitment, the contractor may be asked to furnish:

(1) Copies of any written instructions or assurances, or a statement under oath of any oral instructions or assurances made to the contractor, with identification of the Government officer or official making such statement;

(2) A statement as to when the property or services were furnished or arranged to be furnished, and to whom;

(3) Evidenced that the contractor relied upon the instructions or assurances, with a full description of the circumstances which led him so to rely, and that the contractor intended, at the time of performing the work, to be compensated directly for it by the Government and did not anticipate recovery of the costs in some other way;

(4) A cost breakdown supporting the amount claimed as a fair compensation for the work performed; and

(5) A statement and evidence of why it was impracticable to provide for the work performed in an appropriate contractual instrument.

§ 18–17.106 Processing contractor requests.

§ 18–17.106–1 Investigation.

Upon receipt of a contractor's request for an extraordinary contractual adjustment, the cognizant contracting officer shall be responsible for making a thorough investigation of all facts and issues relevant to the request. Facts and evidence shall be obtained from contractor and Government personnel, including signed statements of material facts within the knowledge of individuals where documentary evidence is lacking, and audits where considered necessary to establish financial or cost facts. The investigation shall establish the facts essential to meeting the standards required for a decision on the request.

§ 18–17.106–2 Submission of request to the Contract Adjustment Board.

(a) *Statements and information to board.* (1) After completing the investigation of the facts and issues relevant to the contractor's request, the cognizant contracting officer shall forward the request to the Chairman, Contract Adjustment Board, NASA Headquarters, and shall state the following in his forwarding letter:

(i) The nature of the case; and

(ii) The disposition recommended for the request, and, if contractual action is recommended, the opinion of the contracting officer that such action will facilitate the national defense.

(2) The forwarding letter shall enclose the contractor's request and all material submitted by the contractor in support of such request, together with such additional material as the contracting officer has obtained from Government sources or personnel in the course of his investigation of the facts and issues relevant to the request. The contracting officer's forwarding letter and all enclosures shall be submitted in duplicate. Any classified information included in the material forwarded shall be identified as such.

(b) *Amendments without consideration under § 18–17.103–2(a).* Where an amendment without consideration under the standards of § 18–17.103–2(a) is recommended by the cognizant contracting officer, the forwarding letter shall include, in addition to the statements and information described in paragraph (a) (1) and (2) of this section, a statement of the contracting officer's findings as to:

(1) The contractor's performance record, including the quality of product, rate of production, and promptness of deliveries;

(2) The importance to the Government of the performance of the contract by the contractor and the importance of the contractor to the national defense;

(3) The forecast of future contracts with the contractor; and

(4) Other available sources of supply for the supplies or services covered by the contract, and the time and cost of having contract performance completed by such other sources.

(c) Formalization of informal commitments under § 18–17.103–4. Where the formalization of an informal commitment under the standards of § 18–17.103–4 is recommended by the cognizant contracting officer, the forwarding letter shall include, in addition to the statements and information described in paragraph (a) (1) and (2) of this section, a statement that the contracting officer has determined that at the time the informal commitment was made, it was impracticable to use normal procurement procedures.

§ 18–17.106–3 Action by Contract Adjustment Board.

(a) *Investigation.* Upon receipt of a request which is forwarded by the cognizant contracting officer, the Board, acting through its Counsel, may make such further investigation of the facts and issues involved in the request, and obtain such additional facts and evidence relating to the request, either from the contractor or the contracting officer, or others, as is necessary to make a determination as to the contractor's entitlement to the relief requested, or to other equitable relief.

(b) *Decision.* The Board, acting in accordance with its own procedures, will render its decision on a request as expeditiously as practicable. A Memorandum of Decision disposing of the case shall be prepared for the signature of the Chairman of the Board, and shall be dated and contain the following information:

(1) The name and address of the contractor, the contract identification, and the nature of the request;

(2) The decision reached and the actual cost or estimated potential cost, if any, of the decision;

(3) A concise description of the property or services involved;

(4) A statement of the circumstances justifying the decision; and

(5) If some adjustment action is approved, a statement in substantially the following form: "The Board finds that the action authorized herein will facilitate the national defense."

(c) The Memorandum of Decision shall omit any of the foregoing information classified "Confidential" or higher.

§ 18–17.107 Implementation of Board's decision.

(a) Copies of the Board's decision will be transmitted to the cognizant contracting officer, who will take such action as is authorized by the decision. Where the Board's decision is to reject the contractor's request for relief, the cognizant contracting officer will advise the contractor of such decision.

(b) Except as provided in paragraph (c) of this section, immediately upon execution of a contract or contract amendment which implements the decision of the Board, the contracting officer shall forward two copies of the contractual document to the Chairman, Contract Adjustment Board, marked for the attention of the Counsel to the Board, for retention with the Board's permanent files.

(c) Contracts or contract amendments for which approval of NASA Headquarters is otherwise required under the provisions of this chapter shall be forwarded for approval as provided in this chapter. After approval has been received, the provisions of paragraph (b) of this section will be complied with.

§ 18–17.108 Contractual requirements.

Every contract entered into or amended or modified pursuant to this Part 18–17 shall contain:

(a) A citation of the Act and Executive order;

(b) A brief statement of the circumstances justifying the action;

(c) A recital of the finding that the action will facilitate the national defense;

(d) The contract clause entitled "Covenant Against Contingent Fees" (see § 18–7.103);

(e) The contract clause entitled "Examination of Records" (see § 18–7.104–15);

(f) The contract clause entitled "Nondiscrimination in Employment" (see § 18–12.802);

(g) The contract clause entitled "Assignment of Claims" (see § 18–7.103–8);

(h) If otherwise applicable, the contract clauses entitled "Walsh-Healey Public Contracts Act" (41 U.S.C. 35), "Davis-Bacon Act" (40 U.S.C. 276a), "Copeland ('Anti-Kickback') Act—Nonrebate of Wages" (18 U.S.C. 874), and "Work Hours Act of 1962—Overtime Compensation" (76 Stat. 357) (see §§ 18–12.403 and 18–12.604); and

(i) Any other clauses which are appropriate to the particular procurement.

§ 18–17.109 Records and reports.

(a) The following documents shall be maintained in the permanent files of the Board:

(1) The original copy of the Memorandum of Decision; and

(2) Copies of the contractual document implementing the Board's decision.

(b) The Board shall prepare reports for submission to Congress in accordance with the Act.

§ 18–17.110 Interdepartmental coordination.

(a) *General.* Where a case involves matters of interest to more than one Department or agency, the Board may take such joint action as may be proper under the circumstances, including holding joint meetings or hearings. Liaison with the Military Departments and other Departments and agencies of the Government in connection with all such cases shall be the responsibility of the Board.

(b) *Amendments under § 18–17.103–2(a).* Requests for amendments without consideration under § 18–17.103–2(a) where "essentiality" is an issue involving another Department or agency shall not be finally determined by NASA until advice on the "essentiality" issue is requested and received from such other Department or agency. When such advice is received, the responsibility for taking the appropriate action, if any, shall be with NASA.

(c) *Funds of other departments or agencies.* Requests for adjustment within any category, where the funds of other than NASA may be required, shall not be approved by NASA until advice is requested and received from the other department or agency involved that additional funds will be made available. The request for such advice shall disclose the following data:

(1) Contractor's name;

(2) Contract number;

(3) Amount of proposed relief;

(4) Brief description of the procurement; and

(5) Account classification—fund citation.

PART 18–50—ADMINISTRATIVE POLICIES AND PROCEDURES

Subpart 18–50.1—Administrative Requirements for Advance Information and for Obtaining Approval of Contracts and Modifications

Sec.

18–50.100 Scope of subpart.
18–50.101 Contract review function.
18–50.102 General authority of contracting officers.
18–50.103 Prerequisites for contracting.
18–50.104 Advance information.
18–50.105 Approval of contracts and supplemental agreements.
18–50.106 Information to be furnished when requesting approval of contracts and supplemental agreements.

Subpart 18–50.3—Numbering and Distribution of Contracts and Grants

18–50.300 Scope of subpart.
18–50.301 Applicability.
18–50.302 Contracts and modifications.
18–50.302–1 Contracts requiring numbering.
18–50.302–2 Assignment and control of numbers.
18–50.302–3 Assigned contract prefixes.
18–50.302–4 Serial numbers.
18–50.302–5 Modifications.
18–50.302–6 Letter contracts.
18–50.306 Purchase orders and requests.
18–50.306–1 General.
18–50.306–2 Assigned purchase order or request prefixes.
18–50.306–3 Serial numbers.
18–50.304 Grants and supplements to grants.
18–50.304–1 Grants.
18–50.304–2 Supplements.
18–50.305 Distribution of contracts, letter contracts, purchase orders, and grants.
18–50.306 Retention of contractual documents for on-site audit.

AUTHORITY: The provisions of this Part 18–50 issued under 42 U.S.C. 2473(b)(1).

Subpart 18–50.1—Administrative Requirements for Advance Information and for Obtaining Approval of Contracts and Modifications

§ 18–50.100 Scope of subpart.

This subpart sets forth administrative requirements for furnishing advance contract information to NASA Headquarters and to specified field installations of certain proposed procurements expected to exceed $10,000; and for obtaining the approval of NASA Headquarters, prior to award, of specified categories of contracts and supplemental agreements. This subpart further prescribes information to be furnished by contracting officers in submitting contracts and supplemental agreements that require NASA Headquarters approval. The requirements of this subpart are in addition to other approval and review requirements, such as those with respect to approval of procurement plans (see § 18–3.852) and those made in connection with source evaluation procedures (see § 18–3.804–3).

§ 18–50.101 Contract review function.

The primary purpose of contract review and approval by NASA Headquarters of certain categories of contractual actions is to provide an independent review and analysis for the purpose of determining whether the procurements:

(a) Were competently negotiated;

(b) Are based on adequate information;

(c) Are in conformance with law, established policies and procedures, and sound business practices; and

(d) Will result in contracts that adequately protect the interest of the Government.

§ 18–50.102 General authority of contracting officers.

Contracting officers may enter into, amend, modify, and take other action with respect to contracts for property or services, subject to the limitations and requirements set forth in this chapter and in letters designating them as contracting officers.

§ 18–50.103 Prerequisites for contracting.

Whether the procurement is to be effected by formal advertising or by negotiation, a contract or modification may be entered into by a contracting officer only if:

(a) All applicable requirements of law, NASA regulations, and instructions of the installation have been met;

(b) Required approvals have been obtained from the technical and management authorities at the installation concerned; this includes, prior to the incurrence of an obligation, obtaining approval as to the availability of funds;

(c) The contract is written on a standard or an approved form of contract; and

(d) Approval of deviations from standard or authorized contract clauses has been obtained from the Director of Procurement (see § 18–1.109).

§ 18–50.104 Advance information.

The procedures set forth in this section shall be followed by procurement offices in connection with procurements expected to exceed $10,000. (The information required is used primarily for the purpose of carrying out the policies described in Subpart 18–1.10.)

(a) A copy of each unclassified preinvitation notice, invitation for bids (IFB), request for proposals (RFP), or request for quotations (RFQ), including specifications but not drawings, shall be forwarded to the Office of Procurement (Code KD–1) and the NASA Pasadena Office, at the time the notice is issued or bids, proposals or quotations are solicited. If the proposed procurement is classified, only a copy of the notice or solicitation of bids, proposals, or quotations shall be forwarded to NASA Headquarters.

(b) The preinvitation notice will contain the information prescribed by § 18–2.205–4(c). Each copy of the IFB, RFP, or RFQ shall be accompanied by a statement of the estimated cost of the proposed procurement and a complete list of firms or persons solicited or invited to submit bids or proposals. This information is for internal NASA use only.

(c) Changes in, or amendments to, the original preinvitation notice, IFB, RFP, or RFQ will be distributed in the same manner as the original documents.

§ 18–50.105 Approval of contracts and supplemental agreements.

(a) *General.* All contractual documents, regardless of dollar value, require a complete review by the contracting officer, notwithstanding that further review and approval may be required.

(b) *Contracts and supplemental agreements.* Proposed contracts and supplemental agreements in the following categories shall be submitted to NASA Headquarters for approval in accordance with the procedures in NPC 107, section VII, D8, 1 through k:

(1) For utility services when they fall within any of the categories set forth in § 18–4.5006;

(2) For architect-engineer services when:

(i) The total dollar value is $250,000; or

(ii) The work to be performed under a cost-plus-fixed-fee or fixed-price contract includes services of the type described in § 18–4.201(b) (2), (3), or (4), and the fee, inclusive of the architect-engineer's costs, to be paid to the architect-engineer for the performance of such services exceeds 6 percent of the estimated cost of the related construction project, exclusive of the amount of such fee.

(3) Providing facilities having a total acquisition value exceeding $250,000, or providing real property regardless of amount (see § 18–13.403(e)); and

(4) Each negotiated definitive contract or supplemental agreement, including incentive or award fee types, which by itself would obligate the Government in an amount in excess of the dollar values set forth below for the installation making the award—

(i) $500,000:
Wallops Station.
Flight Research Center.

(ii) $1,000,000:
Electronics Research Center.
Headquarters Contracts Division.
Kennedy Space Center.
NASA Pasadena Office.

(iii) $2,500,000:
Ames Research Center.
Langley Research Center.
Lewis Research Center.
Goddard Space Flight Center.
Manned Spacecraft Center.
Marshall Space Flight Center.
Space Nuclear Propulsion Office (Germantown).

(c) *Letter contracts.* All letter contracts require advance authorization for issuance by the Deputy Administrator, NASA Headquarters. Requests for authority to issue letter contracts shall be processed in accordance with the procedures set forth in § 18–3.408.

(d) *Leases.* Leases, and extensions thereto, for the rental of real property by the Government where the annual rental is more than $25,000 or where a certificate of necessity under 40 U.S.C. 278b is required shall be submitted to the Director of Procurement for approval.

(e) *Approval provisions.* All negotiated definitive instruments which require the approval of the Director of Procurement, pursuant to this section, shall contain the clause set forth in § 18–7.104–51.

§ 18–50.106 Information to be furnished when requesting approval of contracts and supplemental agreements.

(a) *General.* Requests for approval of contracts and supplemental agreements submitted to Headquarters for approval by the Director of Procurement, in accordance with § 18–50.105 and the procedures in NPC 107, section VII, D8, 1 through k, shall include the information set forth in this section and shall be forwarded in sufficient time to allow a minimum of 15 days for review. The official contract file (which will be returned with the notice of approval, or disapproval) will be submitted with the request for approval and will include NASA Form 1098, "Check List for Contract File Content," in an original and 3 copies. Whenever feasible, a duplicate copy of the official contract file should also be submitted to aid in expediting contract review. NASA Form 1098 and the contract file will be completed and documented in accordance with the "Instructions" block on NASA Form 1098.

(b) *Negotiation.* Each request for approval of a contract or supplemental agreement to be entered into as a result of negotiation will contain, in the letter of transmittal, the information required by subparagraphs (1)–(4) of this paragraph and shall be accompanied by the official contract file and NASA Form 1098, completed in accordance with paragraph (a) of this section, and, to the extent not otherwise required, will include:

(1) Name and address of the proposed contractor;

(2) Location of plant or work site for performance of the contract;

(3) Contract number, including modification number if applicable;

(4) Type of contract action (conversion of letter contract to definitive contract, firm fixed-price, CPFF, etc.);

(5) A statement by the contracting officer justifying the use of negotiation or reference to the findings and determination authorizing negotiation, citing the appropriate subsection of 10 U.S.C. 2304(a);

(6) A copy of the request for proposals, the specifications and any addenda thereto, or a description of the property or services being procured, including delivery schedule, quantities, and estimated cost;

(7) A copy of the proposal for which award is recommended;

(8) An original and three copies of the contract, executed by the contractor and contracting officer; in addition, unexecuted copies for the cognizant program office as follows:

For contracts sponsored by—	*Send*
Office of Advanced Research and Technology	1 copy.
Office of Manned Space Flight	8 copies.
Office of Space Science and Applications	2 copies.
Office of Tracking and Data Acquisition	1 copy.

(9) For competitive procurements, a list of firms invited to submit proposals and the names of firms quoting (both listed alphabetically); if SEB procedures were used, furnish "Statement from Source Selection Official" designating the successful contractor; if no competition was solicited furnish statement of "Justification of Noncompetitive Procurement."

(10) The history of negotiations, indicating the consideration given to appropriate factors, and the basis upon which it is concluded that the results of the negotiations are advantageous to the Government, including—

(i) The basis and reasons for selection of the firm to which award of contract is recommended—with evidence of the degree to which the capabilities of various firms were investigated prior to the final selection;

(ii) A brief summary of principal points involved in negotiations and the final results thereof, indicating price change, if any, during negotiations and explanations therefor;

(iii) A comparison of the proposed contract with previous procurements of the same or similar property or services, including dates of previous procurements, quantities, changes in specifications from last purchases, if any, and justification for change in price;

(iv) A cost breakdown representing the final negotiation and indicating:

(*a*) Direct materials—the amounts of raw materials, purchased parts, and subcontracting. Include material handling expense if the contractor's accounting system provides a separate rate therefor. State basis for determining material handling expense or rate. Comment on the complexity of items to be procured by the contractor and whether or not the NASA technical personnel consider the quantities and prices reasonable.

(*b*) Direct labor—the number of hours, hourly rate, and total cost for each class of direct labor to the extent deemed practicable. Include a statement by NASA technical personnel as to reasonableness.

(*c*) Overhead—burden applicable to the contract, including a brief statement of the basis for determining the overhead rate or amount.

(*d*) Special tooling and/or plant facilities—costs directly chargeable to the contract and necessary for the performance of the work, including a statement of how the contract will provide for protection of the Government's interest therein.

(*e*) Other direct costs—the nature and reasons therefor.

(*f*) Other indirect expenses—the amounts for general and administrative expense, selling expense, engineering or

research and development burden, etc., including the basis for determining rates or amounts and methods of allocation and reason for inclusion in contract price or estimated cost.

(g) Profit or fixed fee—the dollar amount and percentage of profit or fixed fee, including a statement as to the basis for determining the profit or fixed fee (if the fixed fee, in addition to providing for profit, includes any allowance for costs properly allocable to work under the contract and not otherwise reflected in the breakdown, furnish a complete explanation of the nature and amounts of such costs).

(h) Incentive or award fee—for incentive or award fee type of contract, the information required by § 18–3.450(c)(4).

(v) Names and locations, when available, of prospective subcontractors and estimated amounts of respective subcontracts which will exceed $25,000; state whether competition was obtained in selecting such subcontracts; if not, cite reasons for absence of competition;

(vi) A statement as to whether the contract will contain any form of price redetermination or escalation, including reasons for inclusion;

(vii) General types of Government property to be furnished, and facilities to be provided, and property already provided the proposed contractor, which will be used in performance of the work;

(viii) Statement as to whether the financial condition of the proposed contractor is considered satisfactory;

(ix) Statement of make-or-buy program agreed to with the contractor; if no make-or-buy program is established, state reasons therefor;

(x) Statement as to the technical ability and past performance of the proposed contractor;

(xi) Amount of funds available for proposed contract, including citation to appropriation, project number, and subproject breakdown;

(xii) Any other pertinent data in the form of explanations, comments, or comparisons concerning any unusual or new phases of the procurement or negotiation relating thereto (comments or audit report as to the financial and pricing aspects of the proposed contract should be included under this subparagraph 10 of this paragraph.

(11) Reasons for any deviation from standard or approved contract clauses; if deviation has been approved previously, include copy of request and approval document (see § 18–1.109); and

(12) If an amendment, brief summary of the basic contract and previous amendments issued.

(13) For service type contracts which do not include implementation of the Service Contract Act of 1965, explain why the Act is considered inapplicable.

(c) *Memorandum of contract award.* In order to comply with the provisions of § 18–3.854 (in notifying the Office of Legislative Affairs and the Office of Public Affairs, NASA Headquarters) contracting officers shall prepare and submit an original and three copies of the "Memorandum of Contract Award" with the contract file being forwarded to the Director of Procurement. The Director of Procurement shall, at the time of approving a proposed contract or supplemental agreement, forward copies of the "Memorandum of Contract Award" to the Assistant Administrator for Public Affairs and the Assistant Administrator for Legislative Affairs.

(d) *Distribution of contract documents.* Upon approval (or disapproval) of the proposed contract or supplemental agreement, the Director of Procurement will forward the original and two executed copies of the contract and the contract file to the Installation Director. An information copy of the approval letter will be sent directly to the Program Director. An executed copy of the contract will be retained by the Director of Procurement. Contracting officers shall make prompt distribution of approved contracts, subject to the provisions of § 18–3.854. Contracting officers shall report contract awards, subject to the Davis-Bacon Act, to the Bureau of Census, Department of Commerce, on CB Form 16–19 (Construction Contract Award Notification) in accordance with § 18–12.404–13. Contracting officers shall report contract awards, subject to the Walsh-Healey Public Contracts Act, to the Department of Labor, on Standard Form 99 (Notice of Award of Contract) in accordance with § 18–12.603(d).

Subpart 18–50.3—Numbering and Distribution of Contracts and Grants

§ 18–50.300 Scope of subpart.

This subpart sets forth the administrative requirements and procedures for numbering and distribution of NASA contracts (including letter contracts), grants, purchase orders (including requests to other Government agencies) and modifications, amendments, or supplements thereto.

§ 18–50.301 Applicability.

Contracts and grants are numbered with approved prefixes and serial numbers for identification, audit and filing purposes. Documents coming within the scope of this subpart include contracts for the purchase or sale of property or services, letter contracts, grants, purchase orders, requests to other Government agencies for supplies or services, leases, easements, or other documents evidencing in whole or in part an agreement between the parties which involves the payment of appropriated funds or collection of funds for credit to the Treasurer of the United States. The Office of University Affairs, NASA Headquarters, will be operating two systems of numbering contracts and grants until such time as all contracts and grants issued prior to July 1, 1964, are completed, or otherwise terminated.

§ 18–50.302 Contracts and modifications.

§ 18–50.302–1 Contracts requiring numbering.

The following contracts shall be numbered in accordance with the uniform numbering system prescribed in §§ 18–50.302–2, 18–50.302–3, 18–50.302–4, and 18–50.302–6:

(a) All contracts, including letter contracts, for procurement or sale of supplies or services involving or likely to involve the payment or receipt of $2,500 or more ($2,000 in the case of construction work);

(b) All indefinite delivery type contracts involving more than one payment and estimated to involve payment or receipt of more than $2,500 during the fiscal year;

(c) All utilities contracts;

(d) All leases of real property and renewals thereof;

(e) All easements; and

(f) All other written agreements involving payment or receipt of funds not covered by §§ 18–50.303 and 18–50.304.

§ 18–50.302–2 Assignment and control of numbers.

(a) The numbering of contracts and modifications thereto shall be centrally controlled by each procurement office at NASA Headquarters, field installation or office for which a contract prefix identification symbol has been assigned.

(b) A complete contract number shall consist of the following and will be assigned to NASA contracts designated in § 18–50.302–1:

(1) One of the prefix identification symbols set forth in § 18–50.302–3 followed by a hyphen; and

(2) A serial number (assigned in accordance with § 18–50.302–4) for the particular procurement or sale.

(c) If a prefix identification symbol is required for an installation or office not listed in this subpart, a request for the assignment of a prefix identification shall be submitted to the Office of Procurement (Code KDP).

§ 18–50.302–3 Assigned contract prefixes.

Approved prefixes for NASA contract numbers are as follows:

Headquarters	*Prefix*
Office of Administration	NASW
Office of University Affairs	NSR
Space Nuclear Propulsion Offices:	
SNPO, Germantown	SNP
SNPO, Cleveland Extension	SNPC
SNPO, Nevada Extension	SNPN
Field Installations and Offices	*Prefix*
Langley Research Center	NAS1
Ames Research Center	NAS2
Lewis Research Center	NAS3
Flight Research Center	NAS4
Goddard Space Flight Center	NAS5
Wallops Station	NAS6
Western Operations Office	NAS7
George C. Marshall Space Flight Center	NAS8
Manned Spacecraft Center	NAS9
John F. Kennedy Space Center	NAS10
North Eastern Office (Disestablished)	NAS11
Electronics Research Center	NAS12

§ 18–50.302–4 Serial numbers.

(a) Except for contracts placed by the Office of University Affairs, contracts identified in § 18–50.302–1 shall be numbered serially by the organizational unit authorized to assign such numbers, commencing with the number "1", and continuing in succession without regard to fiscal year or type of contract, for example: NAS5–300; NAS5–301. If the contract is a facilities contract, the letter "F" in parentheses, shall be added at the end of the serial number for identification purposes, for example: NAS5–301(F). When the series of numbers under a symbol exceeds five digits (99,999), a new series of numbers will be used beginning the series with number 1 and followed by the capital letter "A". Should additional series become necessary, they will be distinguished by the capital letters "B," "C," etc., as may be required.

(b) Contracts placed by the Office of University Affairs shall be assigned an eight-digit number, exclusive of the letter prefix, consisting of the following:

(1) A two-digit number representing the State in which the contractor is located, followed by a hyphen;

(2) A three-digit number representing the contractor, followed by a hyphen; and

(3) A three-digit number representing the document control number.

An example of a complete contract number is: NSR–14–002–012. Prior to July 1, 1964, contracts placed by the Office of University Affairs were numbered by using the prefix "NASr" followed by a numerical series representing the document control number. (Example: NASr–136.)

§ 18–50.302–5 Modifications.

Modifications of definitive contracts shall (a) bear the same identification as the contract which it modifies, and (b) be numbered consecutively for each contract, beginning with Modification No. 1, regardless of whether the modification is accomplished by unilateral or bilateral action. Except for Notices of Termination (see § 18–16.701), contract modifications shall be effected by the use of the current edition of NASA Forms 449 (Supplemental Agreement) or 450 (Change Order or Administrative Change) as prescribed in § 18–16.815.

§ 18–50.302–6 Letter contracts.

(a) *Superseding definitive contract.* The same number assigned to the letter contract according to §§ 18–50.302–3 and 18–50.302–4 shall also be assigned to the superseding definitive contract. No other contract number will be assigned to the superseding definitive contract.

(b) *Amendments.* (1) Additions or changes to letter contracts will be accomplished by an "Amendment" to the letter contract. Amendments shall, (i) bear the same identification as the letter contract which it amends, and (ii) be numbered consecutively for each letter contract, beginning with Amendment No. 1, regardless of whether the amendment is accomplished by unilateral or bilateral action.

(2) Upon definitization of the letter contract, contract modification shall be accomplished by using the numbering system prescribed in § 18–50.302–5.

§ 18–50.303 Purchase orders and requests.

§ 18–50.303–1 General.

Purchase orders and requests to other Government agencies to furnish supplies or services will be assigned a complete identifying number consisting of:

(a) One of the letter prefixes set forth in § 18–50.303–2 followed by a hyphen; and

(b) A serial number, assigned in accordance with § 18–50.303–3.

§ 18–50.303–2 Assigned purchase order or request prefixes.

Approve letter prefixes for NASA purchase orders or requests to other Government agencies are as follows:

	Prefix
Office of Administration	W
Office of University Affairs	R
Space Nuclear Propulsion Offices:	
SNPO, Germantown	SN
SNPO, Cleveland Extension	SNC
SNPO, Nevada Extension	SNN
(b) Field Installations and Offices:	
Ames Research Center	A
Electronics Research Center	ER
Flight Research Center	E
George C. Marshall Space Flight Center	H
Goddard Space Flight Center	S
John F. Kennedy Space Center	CC
Langley Research Center	L
Lewis Research Center	C
Manned Spacecraft Center	T
North Eastern Office (Disestablished)	NE
Pacific Launch Operations Office	PL
Wallops Station	P
Western Operations Office	WO

§ 18–50.303–3 Serial numbers.

(a) Except as specified in paragraph (b) of this section, the same series of consecutive numbers will be used for numbering both purchase orders and requests to other Government agencies. The series of numbers will commence with the number 1 and continue in succession without regard to the fiscal year. The number will follow the letter symbol, separated by a hyphen, for example: Order No. L–360; Order No. W–1,000. When the series of numbers under a symbol exceeds five digits (99,999), a new series will be used beginning the series with No. 1 and followed by the capital letter "A." Should additional series become necessary, they will be distinguished by the capital letters "B," "C," "D," etc., as may be required.

(b) Purchase orders or requests placed by the Office of University Affairs with other Government agencies shall be assigned an eight-digit number, exclusive of the purchase order or request prefix prescribed in § 18–50.303–2, consisting of the following:

(1) A two-digit number representing the State, followed by a hyphen;

(2) A three-digit number representing the contractor, followed by a hyphen; and

(3) A three-digit number representing the document control number.

An example of a complete purchase order or request number is: R–09–005–021.

§ 18–50.304 Grants and supplements to grants.

§ 18–50.304–1 Grants.

(a) Grants shall be numbered by using a letter prefix for the type of grant, followed by a hyphen and a serial number.

Assigned Prefix Identification

Research Grant	NGR
Training Grant	NGT
Facility Grant	NGF

Serial number. The eight-digit number, exclusive of grant prefix, shall consist of the following:

(1) A two-digit number representing the State, followed by a hyphen;

(2) A three-digit number representing the grantee, followed by a hyphen; and

(3) A three-digit number representing the document control number.

Examples of the three types of grants are: NGR–05–020–021, NGT–01–001–032, and NGF–22–006–011.

(b) Grants issued prior to July 1, 1964, may be identified by the numbering system using the letter prefix for the type of grant followed by a hyphen and a serial number as follows:

Research Grant—NsG (Example: NsG–35.).
Training Grant—NsG(T) (Example: NsG (T)–300.).
Facilities Grant—NsG(F) (Example: NsG (F)–180.).

§ 18–50.304–2 Supplements.

Supplements to a grant shall bear the same identification as the original grant and shall be numbered consecutively. Examples: NsG–35, Supplement No. 1; NGR–05–020–021, Supplement No. 1.

§ 18–50.305 Distribution of contracts, letter contracts, purchase orders, and grants.

Distribution of contracts, letter contracts, purchase orders (including requests to other Government agencies), and modifications, amendments, or supplements thereto, shall be made by the initiating office in accordance with its requirements, except that in all cases not less than two copies will be furnished to paying offices, one copy of which will support the payment file and be retained for audit purposes in accordance with § 18–50.306. Also, in the case of contracts, and modifications (supplemental agreements) thereto, requiring approval of the Director of Procurement, one copy will be retained by the Office of Procurement. (See § 18–50.106(d).)

§ 18–50.306 Retention of contractual documents for on-site audit.

NASA's contractual documents designated in § 18–50.305 are subject to on-site audit by the General Accounting Office. The originals or a signed copy of these documents and supporting data shall be retained by the installation to be available to the General Accounting Office for audit purposes.

PART 18–51—CONTRACT MANAGEMENT PROCEDURES

Subpart 18–51.3—Contract Management and Delegation of Contract Administration Services and Related Field Support Functions

Sec.
18–51.300 Scope.
18–51.301 Definitions.
18–51.302 Policy.
18–51.303 Implementation.
18–51.304 General.
18–51.305 Agreements.
18–51.306 Processing the delegation.
18–51.307 Communications.
18–51.308 Redelegation of contract administration services.
18–51.309 Subcontract administration.
18–51.310 Delegation criteria.
18–51.310–1 Nondelegable functions.
18–51.310–2 Functions critical to a project.
18–51.310–3 Plant level contract administration functions.
18–51.311 Audit services.
18–51.312 Reliability and quality assurance functions.
18–51.313 Industrial security function.
18–51.314 Labor relations function.
18–51.315 Equal employment opportunity.
18–51.316 Services not requiring letters of delegation.
18–51.317 Budgeting, funding, and payment.
18–51.318 Functional management responsibilities.

Subpart 18–51.4—Processing Payments Under Cost-Reimbursement Type Contracts

18–51.400 Scope of subpart.
18–51.401 Definitions.
18–51.402 Initial conference.
18–51.403 Vouchers—general.
18–51.404 Provisional approval of vouchers.
18–51.405 Completion voucher.
18–51.406 Withholding pursuant to contract terms.
18–51.407 Alteration of vouchers.
18–51.408 Distribution of vouchers.
18–51.409 Cost-reimbursement type subcontracts and billings.
18–51.410 Suspension and disapproval.
18–51.411 Procedure when current claim is insufficient to cover credit.

Subpart 18–51.5—Transfer of Contracts

18–51.500 Scope of subpart.
18–51.501 Definition.
18–51.502 Restrictions.
18–51.503 Preparatory actions.
18–51.504 Coordinating actions by the contracting officer of the installation transferring the contract.
18–51.505 Inventory of current requests for contract administration assistance.
18–51.506 Transfer review.
18–51.507 Notification to the contractor.
18–51.508 Notification to other agencies.
18–51.509 Administrative actions.
18–51.510 Transfer.
18–51.511 Final action by the contracting officer transferring the contract.
18–51.512 Action by the contracting officer receiving the contract.

Subpart 18–51.18—Miscellaneous Administrative Actions

18–51.1801 Automatic data processing equipment.

Subpart 18–51.27—Closing Completed Contracts

18–51.2700 Scope of subpart.
18–51.2701 General.
18–51.2702 Definition—completed contract.
18–51.2703 Closing checklist.
18–51.2704 Special considerations.

AUTHORITY: The provisions of this Part 18–51 issued under 42 U.S.C. 2473(b)(1).

Subpart 18–51.3—Contract Management and Delegation of Contract Administration Services and Related Field Support Functions

§ 18–51.300 Scope.

This Subpart 18–51.3 prescribes the policies and procedures for the utilization of the contract administration services and related field support capabilities of (a) Department of Defense agencies, (b) other Government agencies having contract administration services capability, and (c) NASA installations. The policies and procedures set forth in this Subpart 18–51.3 do not apply to architect-engineer contracts or to construction of facilities contracts.

§ 18–51.301 Definitions.

As used in this Subpart 18–51.3 the following terms shall have the meanings as set forth below.

(a) *Contract administration.* Contract administration is the process by which the Government, acting through a contracting officer, assures the contractor's and the Government's performance of contractual obligations.

(b) *Contract administration office.* A contract administration office is an office of NASA, the Defense Supply Agency, the military departments, or of other Government agencies (General Services Administration, Federal Aviation Agency, Atomic Energy Commission, etc.) performing contract administration services functions on Government contracts. A contract administration office may also perform related services, such as preaward surveys, purchasing system surveys, and overhead rate negotiations.

(c) *Contract administration services functions.* Contract administration services functions means all of those actions accomplished by the Government, in or near a contractor's plant, at test and launch sites, or other prescribed places of contract performance, to assure that the contractor's total performance is in accordance with his contractual commitments and that the obligations of the Government are fulfilled.

(d) *Delegation of contract administration services functions.* Delegation of contract administration services functions is the process whereby a contract administration office is given the authority and responsibility by a contracting officer to perform identified functions necessary to assure effective performance of specific contract requirements.

(e) *Redelegation of contract administration services functions.* Redelegation of contract administration services functions is the process whereby a contract administration office is given the authority and responsibility by another contract administration office to perform identified functions necessary to assure effective performance of the requirements of a specific contract or subcontract. For the purpose of this Subpart 18–51.3, the terms "redelegation" and "secondary delegation," are synonymous.

(f) *NASA–DoD representative.* As used in this part, a NASA–DoD Representative is a NASA Headquarters employee located at a Defense Contract Administration Services Region (DCASR) or with the Air Force Contract Management Division (AFCMD), Los Angeles, to provide liaison assistance in the administration of NASA contracts delegated to the Army, Navy, Air Force, Defense Supply Agency, and other Government agencies.

§ 18–51.302 Policy.

It is NASA policy to make maximum use of the contract administration services and related field support capabilities of the Department of Defense and other Government agencies at or near NASA contractor plants. Performance of contract administration services by other Government agencies at NASA installations, test sites, and field offices may be authorized under certain conditions.

§ 18–51.303 Implementation.

(a) Contract administration services shall be obtained through the issuance of a letter of delegation by the NASA contracting officer to the cognisant contract administration office servicing the particular contractor activity. Contract administration services may be obtained at multiplant locations or at a subcontractor facility through the issuance of a letter of redelegation by the designated administrative contracting officer (ACO) when such authority has been granted or by a direct delegation issued by a NASA contracting officer.

(b) Standard format letters of delegation to be utilized by all NASA installations in requesting contract administration services shall be as prescribed by the Director of Procurement, NASA Headquarters.

§ 18–51.304 General.

(a) NASA personnel normally shall not be assigned at or near a contractor's facility for the purpose of performing any of the plant level contract administration functions listed in § 18–51.310–3. Prior to making such an assignment, the matter will be forwarded to the cognisant Institutional Director for his approval with the concurrence of the Director of Procurement. In these instances, supporting information shall be provided, which shall include (1) a statement of the special circumstances which necessitate the assignment, (2) the contract administration services to be performed, and (3) a staffing plan for a 3-year period or such shorter period as may be appropriate. Personnel assignments approved pursuant to this section shall be reviewed annually by the NASA installation, and a justification for the proposed continuance of the assignment shall be furnished to the Director of Procurement and the cognisant Institutional Director.

(b) The provisions of paragraph (a) of this section, do not apply to NASA audit field personnel assignments or to the following established NASA offices:

(1) Michoud Assembly Facility.
(2) Mississippi Test Facility.
(3) NASA Daytona Beach Operation.
(4) NASA Office-Downey.
(5) NASA Pasadena Office.
(6) NASA Office-MSC White Sands Test Facility.
(7) SNPO, Cleveland.
(8) SNPO, Germantown.
(9) SNPO, Nevada.
(10) SNPO, Albuquerque.
(11) Slidell Computer Facility.
(12) KSC–WTR Operations Division.

(c) Delegations to other Government agencies to perform contract administration services functions at NASA installations or at those NASA offices enumerated in paragraph (b) of this section, shall be forwarded for the prior approval of the cognisant Institutional Director, and the concurrence of the Director of Procurement. Such approvals are governed by the following criteria:

(1) The proposed delegation is to include all or substantially all of those plant-level contract administration services functions listed in § 18–51.310–3.

(2) The services to be performed are to be under the management and direction of the contract administration office to which the delegation has been made, and no NASA supervision is contemplated.

(d) Notwithstanding the policy set forth in § 18–51.302, which requires maximum use of the contract administration services of other Government agencies, the delegation of contract administration services functions for research and development study contracts and for nonpersonal service contracts performed on a NASA installation (§ 18–51.304(c)) is optional, except for those plant-level contract administration or audit services which are to be performed at a contractor's facility.

§ 18–51.305 Agreements.

NASA agreements with other Government agencies, which relate to the delegation and performance of contract administration services, are published in the 1050 series of the NASA Management Issuance System.

§ 18–51.306 Processing the delegation.

The following actions shall be taken with each procurement in anticipating the contract administration services that will be required, and in delegating the performance of contract administration functions in conformance with this Subpart 18–51.3.

(a) NASA contracting officers shall review contract requirements as early as possible in the procurement cycle to determine the nature and extent of contract administration functions to be performed. This review shall be coordinated with all appropriate installation activities to insure that all essential requirements are incorporated in the delegation. A similar review shall be made prior to issuing amendments to letters of delegation, as set forth in paragraph (f) of this section.

(b) When a contract is expected to exceed $5 million, or when other circumstances indicate the desirability of a predelegation discussion, a planning conference should be held with representatives of the contract administration office.

(c) Letters of delegation shall be explicit and unambiguous in detailing the contract administration functions to be performed. Special NASA provisions, or requested services which differ from those normally provided by the contract administration services office, must be specifically identified in the letter of delegation.

(d) Letters of delegation should be prepared and issued no later than 15 days after contract award.

(e) Delegations must be accompanied by documentation and supporting information that will ensure a complete understanding of the contract administration services to be performed. The foregoing shall include copies of the contractual documents, negotiation memorandums, quality assurance documents, key NASA personnel designations, and other appropriate information.

(f) Amendments to letters of delegation shall be issued when modifications to the contract are of a nature which will change the functions previously delegated, when additional services are requested, or when services are terminated in whole or in part. Amendments to letters of delegation shall be furnished to the contract administration office within 15 days after the need for the amendment is determined.

(g) Each letter of delegation and amendment thereto shall request acknowledgement and acceptance of the delegation, and a notice of completion of contract administration.

(h) Contract administration offices shall be kept fully informed of all actions which may affect the performance of the delegated functions. Copies of all significant documents shall be furnished to the contract administration office throughout the period of performance of the contract. Significant documents include, but are not limited to, change orders, supplemental agreements, and correspondence which affects the business or technical aspects of the contract. The contract administration office in turn, shall be required to furnish the NASA contracting officer with copies of all significant communications issued during the contract administration, for example, approval notices, consent to subcontract, and letters of redelegation.

(i) Each NASA–DoD Representative shall be kept fully informed on all delegation made to contract administration offices of the Army, Navy, Air Force, the Defense Supply Agency, and other Government agencies, within the geographic area of their DCASR. A copy of each delegation and amendment thereto made within the representative's assigned geographic area shall be provided to the representative concurrently with their issuance. In addition, the NASA–DoD Representative located with the Air Force Contract Management Division (AFCMD) shall be similarly advised as to all contract administration delegations and amendments thereto made to Air Force activities.

(j) Six copies of both the contract and the letter of delegation shall be furnished the contract administration office. The delegation shall be addressed to the appropriate contract administration office as listed in the DoD Directory of Contract Administration Services Components—DoD 4105.59H, or to the appropriate NASA or other Government agency office performing contract administration services. Copies of the letter of delegation and amendments thereto, shall also be furnished by the NASA contracting officer to the contractor.

§ 18–51.307 Communications.

The NASA contracting officer is responsible for establishing and maintaining effective communications with the contract administration services office. Maximum use shall be made of predelegation and postdelegation visits, correspondence, and verbal discussions to ensure a complete understanding of the responsibilities and authorities of the respective parties to the delegation.

§ 18–51.308 Redelegation of contract administration services.

(a) At the time of the planning review prescribed by § 18–51.306(a), the NASA contracting officer shall determine the extent to which the redelegation of con-

17337 RULES AND REGULATIONS

tract administration functions may be required. Redelegations are normally to be made only when the redelegated functions to be performed are essential to the performance of the original delegation. Factors which may make a redelegation necessary are:

(1) Multiplant locations of the contractor, or locations of a subcontractor or supplier which are not within the jurisdiction of the Government agency or office to which the original delegation was issued.

(2) Government source inspection is required where the criteria of § 18–14.105–8 and paragraph 3.4 of NPC 200–1A apply and the characteristics for source inspection are designated as mandatory (NPC 200–1A, paragraphs 3.1.6 and 3.1.7); or

(3) The office receiving the original delegation does not have the capabilities to perform a specific function.

(b) NASA contracting officers shall specify in the letter of delegation the scope of the authority of the contract administration office to redelegate contract administration functions. This redelegation authority may be assigned by one of the following methods:

(1) A general authority to make redelegations as determined by the contract administration office;

(2) A general authority to make redelegations as determined by the contract administration office, except as to redelegations specified by the NASA contracting officer; or

(3) A specific identification of those functions which the contract administration office is to redelegate. This redelegation authority may be related to particular subcontracts or purchase orders.

(c) Letters of delegation shall require that the NASA contracting officer be notified of the issuance of all redelegations, and that copies of all such redelegations shall be furnished to the prime contractor, subcontractors, and suppliers concerned.

(d) NASA contracting officers may retain the authority of redelegation because of program requirements, nature of the contract administration services functions required, characteristics of the contractor (or subcontractor), or for other reasons. When redelegation authority is retained, the contract administration office shall be so advised.

§ 18–51.309 Subcontract administration.

Contractors are responsible for managing their subcontracts; therefore, contract administration services functions shall be performed on subcontracts and purchase orders, by the Government, only as necessary to meet specific NASA requirements.

§ 18–51.310 Delegation criteria.

The contract management concept in this Subpart 18–51.3 involves the application of three basic classifications of functions to be performed on each contract—(a) functions which are reserved to the contracting officer and which may not be delegated; (b) functions designated as being critical to a project, but which may be delegated in whole or in part, and (c) plant level contract administration functions which shall be delegated.

§ 18–51.310–1 Nondelegable functions.

This category includes functions which the NASA contracting officer has sole responsibility and authority to perform. The functions, which shall not be delegated to a contract administration office, include:

(a) Contract execution;

(b) Issuance of decisions subject to the provisions of the "Disputes" clause;

(c) Decision to terminate for default or for convenience of the Government;

(d) Execution of termination settlement agreements;

(e) Authority to issue change orders under the contract; and

(f) Any functions precluded by the agreement set forth in § 18–51.305.

§ 18–51.310–2 Functions critical to a project.

Contract administration services functions which require key decisions, technical direction or control by NASA management in order to balance contract objectives with cost schedules and risk factors are classified as functions critical to a project and as such are not required to be delegated. Contract administration services functions in this classification, however, may be delegated at the discretion of the contracting officer, subject to the limitations of § 18–51.310–1, when a determination has been made that such a delegation will not have an adverse effect upon the project concerned. Functions critical to a project include for:

(a) *Contract administration.* (1) Approval of changes to "Make-or-Buy" program;

(2) Analysis and surveillance of contractor systems which provide input into cost aspects of NASA PERT and financial management reports;

(3) Approval of contractor acquisition of facilities from Government sources, when such facilities are authorized in the contract or by the NASA contracting officer, and which have been confirmed as to need by plant-level review of the requirement;

(4) Consent to the placement of individual subcontracts providing for the purchase or lease of facilities, when such facilities are not available from Government sources, are authorized in the contract or by the NASA contracting officer, and which have been confirmed as to need by plant-level review of the requirement;

(5) Approval of overtime premiums and shift premiums in accordance with the provisions of § 18–12.102–4;

(6) Conduct of termination proceedings (§§ 18–8.205–50 and 18–8.205–51), including negotiation of settlement agreements in accordance with § 18–8.209;

(7) Consent to subcontracts exceeding $1 million, or otherwise determined to be critical to the project;

(8) Administration of new technology clause with respect to assuring that applicable subcontracts reflect provisions of the clause, and that the reporting requirements of the clause are accomplished in a timely fashion; and

(9) Performance of contracting officer security functions (§ 18–51.313).

(b) *Quality assurance.*—(1) Determination of requirements for quality, evaluation and approval of contractor's quality program plans or approval of acceptance by Material Review Board of characteristics which affect safety or performance of the mission; or end-item test, inspection and acceptance of major systems; and

(2) Determination of requirements for reliability, and evaluation and approval of contractor's reliability program plans.

(c) *Production and engineering support.*—(1) Providing technical direction;

(2) Providing technical evaluation of engineering changes;

(3) Traffic management functions for:

(i) Shipments to be made by special transportation equipment controlled by NASA;

(ii) Shipments exceeding 200,000 pounds when movement is from one point of origin to one point of destination; and

(iii) Shipments which require special permits for movements over State highways.

(4) Review of contractor provisioning procedures, as well as contractor recommendations on the range and quantities of spare parts.

§ 18–51.310–3 Plant level contract administration functions.

The contract administration functions which are not critical to a project and are performed at or near the contractor's facility in the normal administration of a contract, are classified as plant level contract administration functions. When these functions are required in the performance of a contract, they shall be delegated to a contract administration office or an audit office, as appropriate. Plant-level contract administration functions include for:

(a) *Contract administration.*—(1) Acceptance of contractor's business systems and policies;

(2) Consent to subcontracts up to $1 million which are not critical to a project (§ 18–51.310–2(a)(7)). Delegations shall recognize consent levels approved by the NASA contracting officer (see § 18–3.903–3(h));

(3) Analysis of contractor's claims for adjustments submitted as a result of actions under the "Changes" clause;

(4) Negotiation of provisional overhead rates for final approval of the NASA contracting officer. (Final overhead rate negotiations will be governed by the provisions of §§ 18–3.705 and 18–3.706);

(5) Acceptance of compensation schedule for personal services which is within the contractor's established policy; or as provided in the contract or other agreement (see § 18–15.205–6);

(6) Monitoring the contractor's system for control of overtime;

(7) Periodic review of compensation for overtime and shift premiums to determine if such compensation was in accordance with provisions of the contract or prior Government approval;

(8) Surveillance of contractor activities affecting the allowability of costs;

(9) Administration of contract clauses not reserved by the provisions of §§ 18–51.310–1 and 18–51.310–2;

(10) Issuance of tax exemption certificates when applicable, and assuring that the contractor advises NASA of resultant changes in contract price; and

(11) Review and analysis of termination settlement proposals.

(b) *Quality assurance.*—(1) Quality assurance functions described in NPC 200–1A, except as modified by § 18–51.310–2(b) (see § 18–51.312(a)); and

(2) Reliability functions (see § 18–51.312(b)).

(c) *Production and engineering support.* (1) Surveillance of contractor delivery performance for items when function is not critical to a project. Surveillance may include:

(i) Submittal of periodic status reports;

(ii) Timely notice of potential delays;

(iii) Expediting deliveries; and

(iv) Verification of PERT or similar management reporting system.

(2) Monitoring contractor compliance with labor and industrial relation matters under the contract; apprising NASA of actual or potential labor disputes, and removing strike bound material from contractor plants as authorized by NASA contracting officer;

(3) Transportation management except as provided in § 18–51.310–2(c)(3);

(4) Priorities and allocation assistance at plant level, including verification of contractor requirement reflected on BDSA Form 138 (see § 18–52.400);

(5) Analysis and reporting of facilities utilization; and

(6) Evaluation of contractor requests for additional facilities and changes to existing facilities, and providing NASA with appropriate recommendations.

(d) *Government property.* (1) Administration of Government property in the hands of the contractors; and

(2) Disposal of Government property through plant clearance actions.

(e) *Small business.* Plant level small business activity including evaluation of contractor's small business and labor surplus area subcontract program.

(f) *Safety and health.* Monitoring contractor compliance with safety and health provisions of the contract, including handling of hazardous and dangerous materials and processes.

(g) *Audit services.* (1) Administrative approval of cost reimbursement vouchers for provisional payment; (fee vouchers and suspensions of cost will be processed in accordance with § 18–51.400);

(2) Providing audit coverage and reports of audit in accordance with the requirements for NASA contracts as set forth in Chapter IX, section 4, and the related provisions of paragraph D 4.1, D 5.1, and D 6.1 of Appendix D of the Department of Defense Audit Manual DCAAM 7640.1; and

(3) Examination of progress payment requests on fixed-price contracts based on costs incurred.

§ 18–51.311 Audit services.

(a) NASA installations shall utilize the services of other Government audit organizations for performance of contract cost audit and other audit services except in those instances where, for appropriate reasons, audit is to be performed by NASA auditors. To ensure that audit services are performed at the earliest possible time following inception of contract performance, a request for audit services should be processed immediately after execution of all cost-reimbursement, labor-hour, and time and material type contracts, and fixed-price contracts containing cost-reimbursement or price adjustment provisions. Audit services include contract cost auditing, estimating systems surveys, review of accounting systems, review of request for progress payments, and approval of reimbursement vouchers for provisional payment.

(b) The Defense Contract Audit Agency (DCAA) has been established as the Department of Defense agency responsible for the performance of all contract audit services within the Department of Defense and for such other Government agencies as may be appropriate. Requests for audit services shall be directed to the cognizant audit office as listed in "Defense Contract Audit Agency Directory-Headquarters and Field Offices." A copy of all requests for audit services shall be furnished to the NASA audit representative assigned to the geographic area of the DCAA cognizant field audit office. NASA contracting officers shall coordinate audit requirements with NASA audit representatives to the maximum extent to assure that the audit is responsive to NASA requirements.

(c) Special audits or additional audit services may be requested directly by the NASA audit representative. Arrangements for such audits will be the responsibility of the NASA audit representative, unless processed through the contracting officer.

§ 18–51.312 Reliability and quality assurance functions.

(a) *Quality assurance functions.* (1) The procedures for arranging, preparing, and finalizing quality assurance delegations and the requirements for NASA direction and management of Government quality assurance functions are contained in NHB 5330.7, "Management of Government Quality Assurance Functions for Supplier Operations." Appendix A thereof, contains guidelines for the preparation of the quality assurance portion of delegation letters. Appendices B through F contain sample assignment letters outlining typical duties and responsibilities of agency and NASA representatives at plantsites.

(2) Quality assurance requirements shall be prepared by the NASA installation personnel responsible for quality assurance and furnished to the NASA contracting officer for inclusion or attachment to the letter of delegation. The delegation shall cite specifically the extent to which NPC 200–1A, "Quality Assurance Provisions for Government Agencies," shall be applied by the contract administration office to support contractual requirements. In no case shall NPC 200–1A be invoked in its entirety without specific instructions as to the requirements of various action paragraphs, such as:

2.5.2	Quality Status Report.
3.1.7	Mandatory Characteristics.
	NASA Designed Articles.
3.2	Quality Status Stamps.
3.4	Government Source Inspection (Mandatory).
3.8	Material Review Board.
3.11	End-Item Test and Inspection.
4.1	Periodic Quality Surveys.

(b) *Reliability assurance functions.* Reliability assurance requirements shall be prepared by the NASA installation personnel responsible for reliability assurance and furnished to the contracting officer for inclusion in the letter of delegation. Installation organizational relationships described for quality assurance personnel in NHB 5330.7 also apply to reliability assurance personnel. Because of the critical nature of most reliability assurance functions (§ 18–51.310–3), those functions considered appropriate for delegation should be clearly identified in the manner described in § 18–51.306(c) and should be provided to the contracting officer in a form suitable for attachment to the letter of delegation. The attachment shall clearly describe the nature and extent of each function to be performed, any standards of adequacy that may be appropriate, and the manner in which the delegation will be managed (e.g. whether quality assurance management procedures or other specified method will be used).

§ 18–51.313 Industrial security function.

NASA industrial security policies and procedures are set forth in NMI 1650.1. As a participant in the Department of Defense Industrial Security Program, those security functions identified as being the responsibility of the cognizant security office will be automatically performed for NASA on classified contracts by the cognizant Defense Contract Administration Services Region in accordance with the Department of Defense "Industrial Security Regulation" (DoD 5220.22R) and the "Industrial Security Manual for Safeguarding Classified In-

formation" (DoD 5220.22M). A specific delegation for cognizant security office functions is not required. However, certain other security functions which are the responsibility of the NASA contracting installation ("User Agency" or "contracting officer" security functions), may at the option of the contracting officer, be delegated. These contracting officer security functions must be specifically identified in the letter of delegation. Appendix C to the Department of Defense "Industrial Security Regulation" (DoD 5220.22R) identifies some of the primary industrial security responsibilities of the contracting officer.

§ 18–51.314 Labor relations function.

When a prime or subcontract is to be performed at a NASA installation other than where the contracting officer is located, the Labor Relations function shown in § 18–51.310–3(c)(2) shall be delegated, together with other functions as mutually agreed upon by the installations concerned, to the contract administration office at the NASA performance site. The foregoing will permit the cognizant labor relations officer to provide early advice to the contract concerning labor considerations applicable to the area.

§ 18–51.315 Equal employment opportunity.

The Department of Defense, by agreement, will automatically conduct periodic Equal Employment Opportunity (EEO) compliance reviews for NASA, as assigned by the Department of Labor, in accordance with Executive Order 11246. On request of NASA Headquarters, the Department of Defense will also conduct special compliance reviews or investigate complaints of discrimination. A specific delegation for these services is not required. The requirements of the EEO program are set forth in Subpart 18–12.8.

§ 18–51.316 Services not requiring letters of delegation.

(a) Services may be required from contract administration offices which precede the award of a contract such as preaward surveys and cost or price analyses on proposed or new procurements. Requests for such services do not require the issuance of a letter of delegation but shall be handled by normal correspondence or other means. Oral requests will be confirmed in writing immediately. Services of this nature will be reimbursed in accordance with § 18–51.317(a).

(b) Labor rates, overhead rates, and similar information which is readily available within contract administration offices, may be obtained through ordinary communications without letters of delegation and without reimbursement.

§ 18–51.317 Budgeting, funding, and payment.

(a) Budgeting, funding, and payment for contract administration services will be accomplished by the Headquarters Financial Management Division in accordance with the NASA–DoD Agreement of August 26, 1966 (NMI 1052.83), as implemented by instructions issued by the Director of Financial Management (Code BF).

(b) Budgeting, funding, and payment of carrier bills of lading for transportation performed as the result of traffic management delegations are the responsibility of the NASA installation issuing the delegation.

§ 18–51.318 Functional management responsibilities.

(a) Notwithstanding the NASA policy as stated herein, NASA contracting officers shall retain functional management responsibility for their contracts. Utilization of the contract administration services of another NASA office or Government agency in no way relieves the NASA contracting officer of his ultimate responsibility for the proper and effective management of the contract. Therefore, the NASA contracting officer must ensure that a complete understanding has been achieved with the contract administration office as to the respective duties and responsibilities for a particular NASA contract.

(b) NASA contracting officers shall keep themselves fully informed on contractor performance and progress.

Subpart 18–51.4—Processing Payments Under Cost-Reimbursement Type Contracts

§ 18–51.400 Scope of subpart.

This Subpart 18–51.4 prescribes procedures pertaining to the processing of vouchers and invoices under cost-reimbursement type contracts and subcontracts.

§ 18–51.401 Definitions.

As used in this Subpart 18–51, the following terms have the meaning stated below:

(a) "Cost-reimbursement type contracts" include cost, cost-plus-a-fixed-fee, Cost-plus-an-incentive-fee, cost-sharing, labor-hour, and time and material contracts.

(b) "Completion voucher or completion invoice" are terms used to identify a voucher or invoice which includes the entire or remaining contract costs and/or fee upon completion of work under a Government contract.

§ 18–51.402 Initial conference.

To establish a basis for a cooperative and efficient relationship, a conference should be arranged, when deemed necessary by the contracting officer, between representatives of the contractor and cognizant Government personnel, including the cognizant audit agency auditor and financial management personnel, to acquaint the contractor with contractual requirements and NASA procedures for administering the contract. The Government representatives should explain the procedures to be followed in presenting claims and obtaining reimbursement, the requirements as to documentary evidence, the administrative approvals required, the manner in which administrative approvals are given, and reporting requirements under the terms of the contract. Specific items which should be discussed include:

(a) Audit of the contractor's records and examination of his procedures;

(b) Withholding of contractual reserves;

(c) Allowability of costs under applicable contract cost principles and the segregation of unallowable costs thereunder;

(d) Subcontracting policies; and

(e) Procedures and contractor's rights under the "Disputes" clause.

§ 18–51.403 Vouchers—general.

(a) The frequency of submission of claims for payment is generally specified in the contract. In the absence of a contract provision to the contrary, the contractor should be requested to submit reimbursement claims once each month, or at more frequent intervals if approved by the contracting officer or his authorized representative. The contracting officer will request the contractor to consolidate claims under one contract as much as possible to minimize the number of vouchers. Only charges pertaining to one contract may be included on the same voucher.

(b) As a part of each voucher submission, the contracting officer shall request the contractor to provide an analysis of the total vouchered charges. Where data is readily available from the contractor's records, a limited analysis may be placed on the face of Public Voucher for Purchases and Services Other Than Personal (Standard Form 1034): *Provided*, The reliability of the contractor has otherwise been established. As a minimum, the analysis shall include fee and cumulative and current costs broken down by cost elements. When a more detailed analysis is required, the Continuation Sheet (Standard Form 1035) or an attachment may be used.

(c) Where the amount of fee claimed depends on a computation based on physical progress or rate of delivery of the completed item, the contracting officer shall request the contractor to show the basis for computing the fee installment on the voucher (face or reverse of Standard Form 1035) or on an attachment. Prior to approving the voucher for payment, the contracting officer shall, as appropriate, verify the status of the contract by coordinating with cognizant Government personnel (i.e., technical, audit, and financial personnel).

(d) As an aid to administration, the contracting officer shall direct the contractor to submit separate vouchers for

each of the categories of charges enumerated below.

(1) Reclaim vouchers covering items of cost initially allowed and reimbursed to the contractor, but subsequently deducted administratively or refunded by the contractor, due to the issuance of a General Accounting Office exception;

(2) Costs reserved in final settlement (these reservations are ordinarily set forth in the final release of the settlement agreement under a terminated contract; the contractor should clearly indicate on the voucher the specific exception in the final release or settlement agreement under which the amount sought to be reimbursed is claimed); and

(3) Abatement of disapproved costs for income taxes paid thereon (see sec. 1481 of the Revenue Code of 1954). The voucher should be accompanied by an authenticated copy of the applicable tax reduction as calculated by the cognizant Director of Internal Revenue.

§ 18–51.404 Provisional approval of vouchers.

(a) The eligibility for reimbursement of claims submitted by a contractor for costs or payment of fee shall be determined pursuant to the terms of the contract. Authority for payment must be established before any reimbursements under the contract are approved. In no event will a reimbursement claim be processed by the contracting officer for payment which would result in cumulative payment in excess of the maximum amount payable as limited by the contract.

(b) Normally, the contractor shall be instructed to submit reimbursement vouchers under cost-type contracts directly to the contracting officer for approval prior to payment. All vouchers, with the exception of the completion voucher, shall be marked "Provisionally Approved Subject to Final Audit," signed by the contracting officer, and forwarded to the NASA fiscal or financial management office designated in the administrative recitals of the contract. Questionable costs of significant amounts determined through periodic audit or otherwise shall be suspended or disapproved prior to disapproval of the voucher. In those situations where (1) there is reason to question the reliability or accuracy of the contractor's claim, (2) there is an indication of cost overrun, or (3) the submission is the contractor's initial claim and the contractor is not then receiving reimbursement under a cost-reimbursement type prime contract, the recommendations of the cognizant auditor should be requested prior to approval.

§ 18–51.405 Completion voucher.

Upon receipt of a completion voucher, the contracting officer shall furnish a copy, with supporting forms, to the cognizant auditor for final audit prior to payment. The completion voucher shall be supported by the contractor's (or assignee's) release and assignment forms, and the final schedule of cumulative cost under the contract. Completion vouchers shall not be approved until the results of the final audit have been received by the contracting officer.

§ 18–51.406 Withholding pursuant to contract terms.

Unless the contractor has deducted from his claims amounts required to be withheld pursuant to the provisions of the contract, the contracting officer shall make the deduction therefor. Such deductions shall be treated as suspensions and be covered by Notice of Costs Suspended and/or Disapproved (NASA Form 456 or DD Form 396). Amounts deducted may be resubmitted by the contractor at such time as the contractor has evidenced compliance with the requirements necessary to permit payment and may, in any event, be claimed on the completion voucher.

§ 18–51.407 Alteration of vouchers.

Vouchers which have not been properly prepared by the contractor should be returned for revision. No erasures will be made on a voucher or a continuation sheet. However, a voucher and/or continuation sheet or its equivalent which requires alteration may be changed by striking out the incorrect item and writing in the correct item. An alteration made by the contractor must be initialed by the contractor. An alteration made by the contracting officer must be initialed by the contracting officer and may be made only in accordance with 36 Comp. Gen. 789 which provides that when errors in computations or extensions are detected, where the payee has clearly made claim for the full quantity of materials or services and at the proper unit price, the claim may be altered upward or downward prior to approval provided the adjustment does not exceed $10. Vouchers may be adjusted by contracting officers: *Provided*, NASA Form 456 or DD Form 396 is not otherwise required for costs suspended and/or disapproved and the errors are not too numerous to correct. The incorrect computation or extension may be altered by drawing a line through the incorrect amount and inserting the corrected amount on the original and all copies of the voucher. Each alteration must be initialed. The amount of the error will be deducted from or added to the total of Standard Form 1035, if submitted, and will also be deducted from or added to the total by use of the "Differences" block on Standard Form 1034. Contractors will be notified, by NASA Form 456 or DD Form 396, of mathematical errors which overstate the total amount claimed in excess of $10. If an underclaim is in excess of $10, the actual amount claimed, if otherwise proper, may be processed for payment. Contractors should be notified of any errors detected or of any adjustments made according to this policy.

§ 18–51.408 Distribution of vouchers.

(a) The following is the minimum distribution to be made of vouchers.

	SF 1034	SF 1034A	SF 1035 (if any)	SF 1035A (if any)
NASA contracting officer's file copy		1		1
Through NASA contracting officer to NASA financial management office:				
Financial management office	1	1	1	1
Project management office (when required)		1		1
Contractor (paid copy)		1		1
Cognizant audit agency (paid copy)		1		1

(b) After processing and approval of vouchers by the contracting officer, all copies of the vouchers except the contracting officer's file copy shall be forwarded to the installation fiscal or financial management office for certification, payment, and distribution.

§ 18–51.409 Cost-reimbursement type subcontracts and billings.

(a) The contracting officer shall advise the contractor who placed a cost-reimbursement type subcontract of his responsibility for the proper performance of the subcontractor and the financial settlement with the subcontractor. While the prime contractor's or upper-tier subcontractor's responsibility for a proper financial settlement includes the obligation to perform an adequate audit of the subcontractor, in appropriate circumstances audit by a Government auditor may be advisable. Adherence to this policy will ensure consistent treatment of subcontractor's cost, reduce duplicate auditing of the same records by two or more groups of auditors, and reduce the costs incurred by the prime contractor.

(b) The contracting officer shall advise the contractor to request the subcontractors to prepare their claims or commercial invoices and submit them directly to the prime contractor or upper-tier subcontractor who placed the subcontractor with copies to the Government auditor and the contracting officer's authorized representative cognizant of the subcontractor. Charges should be itemized in the same detail and manner required of the prime contractor. Each claim or commercial invoice should identify the prime contract and/or upper-tier subcontract to which it relates.

(c) The Government auditor cognizant to the prime contract or upper-tier subcontract under which the cost-reimbursement type subcontract was issued is primarily responsible for determining the need for audit of such subcontract. The following criteria should be considered when determining whether the prime contractor or the Government should perform the audit of the subcontract:

(1) Whether the subcontractor objects to an accounting review of his records by the prime contractor for valid business reasons;

(2) Whether the Government Audit Agency is currently performing audit

work at the subcontractor's plant or can do so more economically or efficiently;

(3) Whether the audit by the Government Audit Agency is necessary for consistent audit treatment and orderly administration; and

(4) Whether the prime contractor has a substantial or controlling financial interest in the subcontractor.

§ 18–51.410 Suspension and disapproval.

(a) The determination as to the suspension or disapproval of an item of cost is the responsibility of the contracting officer. Suspended costs are those costs which appear questionable but upon which a final determination cannot be made based upon available information; suspended costs also include amounts which the contractor claims but which are required to be withheld pursuant to the provisions of the contract (see § 18–51.406). Disapproved costs are those costs which have been determined by the contracting officer to be unallowable under the provisions of the contract.

(b) Auditors, during the course of contract audit, may recommend to the contracting officer the suspension or disapproval of items of cost included in a contractor's voucher through the issuance of NASA Form 456 or DD Form 396. In such cases, an original and six unnumbered copies of the notice are sent to the contracting officer for his action.

(c) Upon receipt of the notice of suspension or disapproval from the auditor, the contracting officer will review pertinent data and consult with appropriate personnel to determine what further action should be taken as to the items of cost in question.

(1) Where the contracting officer is in agreement with the notice issued by the auditor, he will assign a Notice Number to the form and distribute the original and two copies to the contractor, two copies (one copy each attached to SF 1034 and SF 1034A) to the Financial Management Office, one copy to the auditor, and one copy for his own file. The original and the copies for the contractor and one copy to the Financial Management Office will be signed by the contracting officer. Other copies may bear typed or stamped signatures. Amounts deducted from the contractor's claim by the contracting officer will be shown in the "Difference" block on the face of the voucher, using one line for the amount deducted and one line for the new approved amount. In all cases, the contracting officer must be satisfied that the explanation and reasoning given for suspension or disapproval are complete and accurate. If DD Form 396 is used to disapprove an item of cost, numbered paragraph 3 of the form will be appropriately modified to show that the disapproved costs apply to a NASA contract.

(2) Where the contracting officer does not agree with the notice issued by the auditor, he shall state his reasons therefor and shall furnish to the auditor a copy of his statement, with an unsigned and unnumbered copy of the applicable NASA Form 456 or DD Form 396. Subsequent thereto, he should consult with the auditor and other Government personnel, as may be necessary, and the contractor, if appropriate, to dispose of any remaining items in question.

(d) Where a notice of suspension or disapproval is issued by the contracting officer, the contractor shall be given sufficient time to present additional information or justification in support of the items of cost suspended or disapproved. Normally, this period should not exceed 30 days. The contracting officer shall inform the contractor that issuance of NASA Form 456 or DD Form 396 is not a decision by the Contracting officer with respect to the Disputes clause of the contract. However, the contractor shall be advised that failure to reply within the time limit set by the contracting officer, or any authorized extension thereof, may result in the contracting officer issuing a final decision on the items of cost suspended or disapproved, pursuant to the Disputes clause of the contract, except for those items of cost suspended in accordance with § 18–51.406.

(e) If, after receipt of NASA Form 456 or DD Form 396, the contractor requests, in writing, an extension of time in which to present additional information or justification in support of the items of cost suspended or disapproved, the contracting officer may, if he decides that the facts justify such action, grant such additional time to the contractor, by separate letter. Where the contractor fails to submit additional data within the time specified, and fails to obtain an extension of time for submitting such data, the contracting officer may receive and act upon any data received from the contractor at any time prior to final payment under the contract, if he decides that the circumstances warrant such action.

(f) Upon receipt of the contractor's reply, the contracting officer will consult with the Government auditor, and such other personnel as may be appropriate, concerning the additional information and justification submitted.

(1) If the contracting officer decides to withdraw the notice of suspension or disapproval, action shall be taken to reinstate the items of cost involved, and the contractor's voucher, if otherwise authorized, may be processed for payment.

(2) For those items of cost which, after reexamination, the contracting officer determines are unallowable and the contractor has continued to claim, the contracting officer shall prepare and process a final decision pursuant to the Disputes clause (see § 18–1.314). Resolution of questions regarding suspended costs also may be effected by an appropriate statement from the contractor evidencing his acceptance of the suspension.

(3) When sufficient information is not available to change the status of items of cost that have been suspended, such items shall be held in a suspended status until an appropriate decision can be made. During the period of the contract, mere passage of time does not change the basic reimbursable or nonreimbursable nature of the item of cost in question. Accordingly, costs suspended will not be converted to costs disapproved when there is no reason for the conversion other than the failure of the contractor to resubmit costs. However, a final decision concerning the status of all suspended items shall be made prior to or at the time the completion voucher under the contract is processed for payment.

§ 18–51.411 Procedure when current claim is insufficient to cover credit.

(a) When the current claim is not in an amount sufficient to satisfy a credit due the Government under the contract, the contracting officer shall follow one or a combination of the procedures outlined in this paragraph to effect collection in the most expeditious and practicable manner:

(1) Deduct the amounts necessary to satisfy the credit from the current and succeeding vouchers (expected to be received within a reasonable length of time). The deductions on any voucher shall not exceed the amount thereof to avoid processing of a voucher in a credit amount. Notwithstanding that a voucher may be in a zero amount, it will be processed to the fiscal or financial management office via the usual channels to provide a record of the voucher action.

(2) Obtain from the contractor his check for the amount of the credit, payable to the Treasurer of the United States.

(3) When the credit cannot be recovered by deductions from the current and succeeding vouchers and the contractor declines to make refund thereof, the contracting officer shall accomplish or cause to be accomplished the collection by a setoff deducted from voucher(s) submitted by the contractor under any of his other contracts with the contracting officer concerned, unless otherwise precluded, such as by the no-setoff provisions of the Assignment of Claims clause. Where the contracting officer has no other contracts under which a setoff may be accomplished, he shall refer the matter to the installation fiscal or financial management office for collection by setoff or any other method.

(b) When the collection is effected by setoff, there will be shown on the voucher from which the deduction is made a notation identifying the contract and appropriation to which the credit is applicable and identifying the related NASA Form 456 or DD Form 396.

Subpart 18–51.5—Transfer of Contracts

§ 18–51.500 Scope of subpart.

This subpart sets forth the policies and procedures applicable to the transfer of contracts between NASA Installations.

§ 18–51.501 Definition.

"Transfer of a contract" means that processes whereby a contract and all future responsibility for the contract held by one installation is transferred, in writing, to another installation.

§ 18–51.502 Restrictions.

(a) Requests for permission to transfer a contract to another NASA Installation, when deemed advisable by the Director of a field installation, shall be addressed to the appropriate Institutional Director.

(b) Contracts shall not be transferred by an installation until approved by the cognizant Institutional Director(s) with the concurrence of the Program Director.

§ 18–51.503 Preparatory actions.

The Procurement Officer of the installation transferring the contract shall contact the Procurement Officer of the installation schedule to receive the contract. This contact shall be for the purpose of establishing a working agreement and a time phase schedule of transfer actions.

§ 18–51.504 Coordinating actions by the contracting officer of the installation transferring the contract.

The contracting officer shall coordinate with the following elements within his installation prior to transferring a contract:

(a) Financial Management Office to determine the contract financial records to be transferred, and the method, timing, and dollar amount of such transfers.

(b) Technical (Engineering and Project) Office to determine the status of any outstanding engineering changes.

(c) Reliability and Quality Assurance Office to determine the status and method of transferring the reliability and quality assurance functions.

(d) Industrial Property and Facilities Office to determine the method of transferring the records of Government property.

(e) Transportation Office to determine the status of Bills of Lading furnished the contractor.

(f) Security Office to determine if any classified material is outstanding and if special precautions are necessary during the transfer process.

(g) Other organizational elements to determine the status of any other actions such as New Technology, Materials Reports, PERT, and Safety.

§ 18–51.505 Inventory of current requests for contract administration assistance.

The contracting officer transferring the contract shall prepare an inventory of all outstanding requests for contract administration assistance issued to other Government agencies (e.g. Military Departments of the Department of Defense, Defense Contract Administration Services Regions, TVA, AEC, FAA, etc.). This inventory shall include the name and address of the agency office, functions requested to be performed, estimated cost of the services, and estimated reimbursement due the administration agency for the services to be performed on the incomplete portion of each requested function. Copies of this inventory will be provided the contracting officer to whom the contract is to be transferred.

§ 18–51.506 Transfer review.

The contracting officer to whom the contract is to be transferred shall be given an opportunity to review the contract, letters of request, actions in process, and other related files and to request corrective action, if necessary, prior to the official transfer of the contract.

§ 18–51.507 Notification to the contractor.

After coordination with the installation organizational elements as required in § 18–51.504 and with the receiving contracting officer, the contractor shall be notified in writing of the impending transfer by the transferring contracting officer.

§ 18–51.508 Notification to other agencies.

As early as practicable after coordination between procurement offices has been effected, the contracting officer transferring the contract, shall notify all agencies performing or requested to perform administration services, of the impending transfer.

§ 18–51.509 Administrative actions.

Prior to transferring the contract, a complete inventory shall be made of the contents of the contract file to be transferred. All contract administration actions in process shall be set forth as a separate listing in an inventory and shall include the status of each action.

§ 18–51.510 Transfer.

Upon completion of the preparatory actions required herein, both contracting officers shall agree upon acceptable dates for the transfer of the contract responsibility and the contract files. The contracting officer of the installation transferring the contract shall issue letters as indicated below and provide copies to the contracting officer receiving the contract:

(a) *Contractor.* Notification of the transfer date termination of appointment of contracting officer's representatives, and the name, mailing address, and telephone number of the contracting officer at the installation receiving the contract.

(b) *Contracting officer's representatives.* Termination of each contracting officer's representative appointment effective on the date of transfer.

(c) *Agencies performing contract administration functions.* Notification of the effective date of transfer of the contract along with the mailing address and telephone number of the contracting officer at the installation receiving the contract. (Existing requests for contract administration functions shall not be terminated.)

(d) *Installation organizational elements.* Notification of the effective date of transfer and other pertinent information.

(e) *Receiving installation.* Transfer of contract responsibility and transmission of the contract file including an inventory of its contents, and a résumé of any contractual problems which should be brought to the attention of the contracting officer receiving the contract. This letter also shall contain a provision for acceptance of the responsibility for the contract and its related files by the contracting officer and a notification of the acceptance to the contracting officer of the installation transferring the contract.

§ 18–51.511 Final action by the contracting officer transferring the contract.

The contracting officer at the installation transferring the contract shall retain for permanent file a copy of:

(a) The approval issued by the cognisant Institutional Director to transfer the contract;

(b) The inventory receipt signed by the contracting officer receiving the contract;

(c) The contract for historical purposes; and

(d) Any additional documents considered necessary to present a complete résumé of the transfer action.

§ 18–51.512 Action by the contracting officer receiving the contract.

The contracting officer receiving the transferred contract shall:

(a) Acknowledge receipt of the contract and its related files;

(b) Inform all offices affected within the installation of the receipt of the contract;

(c) Appoint new contracting officer's representatives, and such other technical representatives as are deemed necessary;

(d) Issue a modification to the contract to provide for the administrative changes brought about by the transfer action, such as; identifying the—

(1) Office responsible for performing contract administration;

(2) Office responsible for making payment;

(3) Office to which vouchers are to be submitted;

(4) Office to which reports and data are to be submitted;

(5) Place of delivery of contract items; and

(6) Any other change made necessary as a result of the transfer;

(e) Provide copies of the contract documents to the installation offices which have a functional responsibility for the contract; and

(f) Where appropriate, supplement the letter of request to the Government agency providing contract administration support services, to reflect the

No. 233—Pt. II 5c—9—24

changes resulting from the transfer action, including identification of new contracting officer's representatives, manpower accounting reporting, reimbursement information, and other changes resulting from the transfer action. The supplement may terminate or amend an existing contract administration support arrangement or may request support in additional areas.

Subpart 18–51.18—Miscellaneous Administrative Actions

§ 18–51.1801 Automatic data processing equipment.

(a) Contracting officers administering contracts which include significant costs for the acquisition, either through purchase or rental, and operation of Automatic Data Processing (ADP) equipment must exercise particular care to prevent excessive costs resulting from unnecessary capacity or sophistication, inadequate usage time recording, extra shift rentals, machine set up and other nonbillable machine time, and inadequate utilization records.

(b) Proposed increases in the capacity or capabilities of existing ADP systems will be analyzed in detail and justified by the contractor prior to actual acquisition of the increased capacity or capability.

Subpart 18–51.27—Closing Completed Contracts

§ 18–51.2700 Scope of subpart.

This Subpart 18–51.27 establishes policy and procedures governing the closing of files on completed contracts and is applicable to all NASA contracts. However, not every item listed is applicable to all contracts or all contract types. Contracting officers, in the exercise of their best judgment and discretion, will utilize those guidelines which are applicable to the particular contract, deviating from or expanding them where appropriate. The provisions of 18–8 shall be followed in closing terminated contracts.

§ 18–51.2701 General.

The procedures for closing completed contracts are a primary tool of contract management. The closing review should be painstaking and exhaustive and should ensure that the contract file is completely documented. A comprehensive closing review serves the following purposes, among others:

(a) Timely closing action ensures that records and files will not be unnecessarily encumbered and consequently permits more effective handling of current active contracts;

(b) The review identifies all uncompleted actions which might previously have been overlooked and thus facilitates expeditious final disposition action; and

(c) The review is an essential step, supplementing active contract management during performance, to ensure that all contractual obligations have been fulfilled and that the interests of the Government have been adequately protected.

§ 18–51.2702 Definition—completed contract.

A completed contract is one which is both physically and administratively complete and in which all aspects of contractual performance have been either accomplished or formally waived. A contract is physically complete only after all articles and services called for under the contract, including such related items as reports, spare parts, and exhibits, have been delivered to and accepted by the Government (including those articles and services for which no specific compensation may have been stipulated). A contract is administratively complete when all payments have been made and all administrative actions accomplished.

§ 18–51.2703 Closing checklist.

(a) The closing review will focus on a verification that (1) all actions necessary to complete the contract (as defined in § 18–51.2702) have been consummated; and (2) actions have been fully documented to the extent practicable. When the review indicates that the contract may be incomplete in any respect, the surrounding circumstances shall be investigated to determine whether some necessary action has been omitted. Where prior actions have been taken but not documented, the closing memorandum shall, to the extent practicable, provide proper documentation; if this is not practicable, the closing memorandum shall be annotated to reflect the fact. When a contractual matter remains in an open status, completion action shall be initiated to the extent feasible (see § 18–51.2704(b)).

(b) The following list represents the more significant items of contract closing which should be reflected by proper documentation. (Listing these actions in connection with the closing review of the contract, contract file, and other pertinent data is not intended to indicate the order in which the actions should be taken.)

(1) Determine the status of deliveries and billings. If necessary to reconcile deliveries and payments, a letter should be obtained from the contractor showing total deliveries by items, total billings, and total payments. This data should be related to administrative records and such action to be taken may be required to reconcile differences in billings and payments and to resolve discrepancies in delivery or performance.

(2) Verify that all contract changes have been formalized. If such verification cannot be established by Government personnel, a letter may be obtained from the contractor indicating that all contractual changes have been covered by contract modification. The file should be further documented to support all equitable adjustments completed or in process.

(3) Examine the contract file to ensure that adequate documentation exists (in the form of receiving reports or other documents) to evidence receipt, inspection, and acceptance of all contract items, accomplishments of all corrections, and appropriate refund or credit when nonconforming supplies are accepted at a reduced price, in accordance with the "Inspection" clause.

(4) Verify the proper disposition of all property matters. Examination should focus on documentation evidencing:

(i) Screening of excess materials and recording of proceeds received from disposal of any surplus;

(ii) Full accounting for all Government property and, as appropriate, its transfer or removal;

(iii) Resolving of all reports of survey or other evidence of property shortages or damage, supported in each instance by administrative determination and, as appropriate, by a record of proper remittance;

(iv) Taking of proper action with respect to special tooling (review should determine whether, in those instances where the Government has paid for special tooling, including subcontractor tooling, title has been taken or disposal proceeds received);

(v) Taking of proper action to ensure that contractor use of Government-owned facilities does not extend beyond the date of authorized use (files shall be documented to show that the Government has been reimbursed in full for all rentals due for use of facilities); and

(vi) Conducting of final review of all property records by the Property Administrator, supported by a statement from the contractor that all property has been disposed of.

(5) Verify that disposition has been made of all security matters. A supporting statement from the contractor that all the requirements of the "Department of Defense Industrial Security Manual for Safeguarding Classified Information" have been complied with, shall be included.

(6) When a renegotiation report has been made, verify that the contract file contains a copy of the report and all supporting documents.

(7) Verify that price revision or redetermination action when called for, has been accomplished and examine the adequacy of supporting data. Files should be documented in sufficient detail when price revision has been waived.

(8) Verify that consent to subcontracts has been obtained in all instances required by the contract. The absence of consent, where contractually required, shall be the subject of appropriate comment.

(9) Ensure that all advance or progress payments have been liquidated and that action has been initiated to recover any overpayments.

(10) Ensure that in all instances where performance of contract administration functions has been delegated the actions required have been performed.

(11) Ensure that the contractor has been alerted to the contract requirement for maintenance of books and records.

(12) Confirm that appropriate and fully documented action was taken with respect to violations of standard contract clauses based on acts of Congress or Executive orders concerning labor laws, contingent fees, domestic articles, officials not to benefit, etc., or in lieu thereof that the file contains a memorandum that cognizant administrative personnel know of no such violation.

(13) Ascertain whether any questions arose regarding exemptions from Federal or State tax laws and ensure that such questions have been properly resolved, with adequate documentation.

(14) Examine the contract and contract files to ascertain the possible existence of pending disputes, contingent liabilities, or circumstances out of which future claims of litigation might arise, potential credits, or refunds or other future recoveries. Ensure that adequate reserves have been set aside to provide for contingent liabilities. Maintain suspense and followup on any matters which remain unresolved. Coordinate with legal personnel, where appropriate.

(15) Determine that all administrative reviews and approvals have been accomplished and documented (regarding wages and salaries, insurance, accounting, purchasing, etc.).

(16) Review all notices of cost suspension or disallowance to determine that the issues have been properly re-

solved, in accordance with § 18–51.410, and see that reductions of fee which are appropriate under the contract have been obtained.

(17) Determine that all reports under clauses relating to patents, inventions, and royalties have been received.

(18) Determine that all required data has been delivered. A review of the data should be made by cognisant technical personnel to ensure that the drawings, specifications, etc., reflect the most recent design changes and modifications. The review should also determine whether it is necessary or desirable that NASA have possession of the complete technical data package, including production procedures, tooling setup, quality control procedures, test reports, etc. If plans call for turning the data over to another contractor for production purposes, the technical representative should ensure that the applicable Government-furnished equipment, machine tools, and associated jigs, fixtures, and special tooling are identified and readily usable.

(19) Ensure that all investigations of fraud or suspicion of same, and reports on General Accounting Office or similar type investigations, have been completed and documented. Proper action also should be reflected with respect to delinquencies or failures in performance.

(20) Confirm that assignment and subrogation have been accomplished in favor of the Government in connection with all contractor's rights and claims, other than those against the Government, pursuant to contract terms.

(21) Establish that the final fee voucher is supported by the necessary cumulative claim and reconciliation, assignment of refunds, rebates, credits and other amounts, and final release of claims by the contractor.

(22) Ensure that the contractor performance evaluation report has been furnished, where required, and that a copy is retained in the contract file.

§ 18–51.2704 Special considerations.

(a) In the absence of full performance and compliance with all contract terms, as disclosed by the closing review, the contract file shall be examined to ensure that the documentation contained therein adequately reflects that proper action has been taken with respect to deviations, omissions, or waivers.

(b) Under appropriate circumstances, a contract may be treated as complete (when complete in all other respects) despite the existence of one or more unresolved contingencies (e.g., litigation between a prime and subcontractor). The determination that such contract will be closed will be made by the procurement officer of the installation from which the contract was issued. The contract files shall be fully documented by memoranda detailing the circumstances connected with the open item(s). No closing action shall be taken when:

(1) A matter awaiting disposition may be anticipated to have a significant impact on performance or consideration; or

(2) Complete disposition may call for substantive action on the part of the Government.

PART 18–52—PRIORITIES AND ALLOCATIONS

Sec.
18–52.000 Scope of part.
18–52.001 Definitions.
18–52.002 General.

Subpart 18–52.1—DO Rating System
18–52.100 Scope of subpart.
18–52.101 General.
18–52.102 Application of ratings.
18–52.103 Nonratable items.

Subpart 18–52.2—Reporting of Controlled Materials Requirements
18–52.200 Scope of subpart.
18–52.201 Reporting responsibility.
18–52.202 Report content.
18–52.203 Basis for developing controlled materials requirements.
18–52.204 Requirements coordination with other Government agencies.
18–52.205 Requirements review, assembly, and submission to the Department of Defense.
18–52.206 List of controlled materials—Defense Materials System Regulation I.

Subpart 18–52.3—Allocations and Allotments of Controlled Materials
18–52.300 Scope of subpart.
18–52.301 General.
18–52.302 Allocations to installations.
18–52.303 Allotments.
18–52.304 Ledger accounts of controlled materials.
18–52.305 Report of allotments and authorized controlled materials orders.

Subpart 18–52.4—Special Expediting Assistance
18–52.400 Scope of subpart.
18–52.401 General.
18–52.402 Criteria for special assistance requests.
18–52.403 Form, preparation, and routing of requests.
18–52.404 Action by NASA Headquarters.

Subpart 18–52.5—Reporting Materials Requirements
18–52.500 Scope of subpart.
18–52.501 General.
18–52.502 Reporting responsibility.
18–52.503 Report content.
18–52.504 Basis for developing materials requirements.
18–52.505 Solicitation of data from contractors.
18–52.506 Availability of forms.
18–52.507 NASA Headquarters review.
18–52.508 Table of reportable materials.

AUTHORITY: The provisions of this Part 18–52 issued under 42 U.S.C. 2473(b)(1).

§ 18–52.000 Scope of part.

This Part 18–52 prescribes procedures for the administration of priorities with respect to products and equipment, including the administration within NASA of the Defense Materials System (DMS), and procedures for developing and reporting requirements for certain specific materials other than controlled materials. Subparts 1, 2, 3, and 4 are concerned with DMS procedures. These four subparts supplement the instructions in the Department of Defense Priorities and Allocations Manual (PAM), the NASA supplement thereto, and § 18–1.307 of this chapter. Subpart 18–52.5 is concerned with procedures for development and reporting requirements for selected materials (propellants, pressurants, etc.) which are of critical importance to NASA's mission.

§ 18–52.001 Definitions.

As used in this Part 18–52, the following terms have the meaning stated below:

(a) "Controlled materials" means domestic and imported steel, copper aluminum, and nickel alloys in the forms and shapes listed in § 18–52.206.

(b) "Headquarters Program Offices" means the Office of Manned Space Flight, the Office of Advanced Research and Technology, and the Office of Space Science and Applications.

§ 18–52.002 General.

(a) The Defense Materials System is maintained by the Government to assure priorities and allocation support of current production, construction, and research and development programs of selected Government agencies. The system has been declared by the Office of Emergency Planning (OEP) as an essential mobilization preparedness measure. The Defense Materials System operates within NASA under a delegation of authority from the Department of Defense. The system provides priorities authority for NASA and its contractors in obtaining raw materials, supplies and equipment from industry on a preferential basis.

(b) The necessary priority support of an officially approved Government program is achieved through the techniques of allocation, apportionment and allotment with respect to controlled materials and through the techniques of priority rated orders for individual contracts with respect to all other materials and equipment.

(c) OEP has the basic responsibility for assuring that national resources for various materials and products are adequate to meet Government program schedules. The OEP directs certain Government agencies to provide estimates of requirements for selected materials to assure that their studies reflect the total demand. In addition NASA utilizes the military departments and other Government agencies as supply sources for certain materials in support of NASA programs. To facilitate procurement and distribution planning these agencies require reports of requirements from NASA. The data to be provided under this part will enable Headquarters to satisfy reporting requirements placed on NASA by other Government agencies.

Subpart 18–52.1—DO Rating System

§ 18–52.100 Scope of subpart.

This Subpart 18–52.1 prescribes procedures for the administration of the DO Rating System with respect to products and equipment, other than controlled materials, required for NASA programs.

§ 18–52.101 General.

With minor exceptions, the use of priority ratings on both NASA contracts and purchase orders and on all contractor purchase orders is mandatory. Priority ratings are assigned on individual contracts and purchase orders by NASA personnel to whom authority has been delegated under NASA Management Instruction 5101.7. Complete information regarding the use of ratings, method of assignment, items not otherwise eligible for ratings, and additional instructions are set forth in section 2 of the Department of Defense Priorities and Allocations Manual (PAM).

§ 18–52.102 Application of ratings.

A NASA contract or purchase order is "rated" by writing on the contract or order, or on a separate paper specifically identified with the contract or order the following:

(a) DO or DX—(appropriate program code symbol);

(b) The certification prescribed in section 2–3 of the PAM, i.e., "Certified for national defense use under DMS Reg. 1";

(c) The required delivery date(s);

(d) Signature and Title of Authorized Official, and

(e) In addition to the above data, all rated contracts or orders must include, or be accompanied by, the Priorities, Allocations and Allotments (September 1962) clause contained in the General Provisions of the contract.

§ 18–52.103 Nonratable items.

Priority ratings will not be issued for:

(a) Direct procurement of "controlled materials"—steel, copper, aluminum, and nickel alloys;

(b) Contracts for services, except those relating to deliveries of materials, or

(c) Items ordered or requisitioned from GSA (Federal Supply Service).

In addition to the above, a complete list of nonratable items and classes of items is contained in Exhibit 1, section 2–1 of the PAM.

Subpart 18–52.2—Reporting of Controlled Materials Requirements

§ 18–52.200 Scope of subpart.

This Subpart 18–52.2 sets forth the procedures for the furnishing by installations of quarterly reports of estimates of requirements for DMS controlled materials. The field installation quarterly reports described in this subpart are the basis of NASA's consolidated estimates to the Department of Defense (which acts as the claimant agency for NASA) and to the Office of Emergency Planning (OEP).

§ 18–52.201 Reporting responsibility.

(a) *Scope of report.* Field installations shall submit quarterly estimates of controlled materials requirements by the codes, forms, shapes, and subdivisions as listed in § 18–52.206 for the applicable claimant programs as described in PAM 2–2. Reports will be submitted on DD Form 614. Materials Requirements—Steel and Nickel Alloys, and DD Form 614.1. Materials Requirements—Copper and Aluminum.

(b) *Report due dates.* Reports for the first quarter of each calendar year shall be forwarded to reach the Office of Procurement by the preceding September 1, for the second calendar quarter by the preceding December 1, for the third calendar quarter, by the preceding March 1, and for the fourth calendar quarter by the preceding June 1.

§ 18–52.202 Report content.

The report required by § 18–52.201 above shall include:

(a) for each separate claimant program, the controlled materials needed for all procurements to be made by the reporting installation showing: (A) The materials to be purchased by contractors for production of Class A products, including construction, and materials for research and development, and (B) the materials to be purchased by field installations for in-house operations. Materials required for production of Class B products are not to be reported; (secs. 1–4 of the PAM sets forth the definition of Class A and B products).

(b) A summary or total of the requirements reported in (a) of this section; and

(c) A breakout from the data called for in (1) and the totals in (2) of estimates for the material required for items and projects which are of highest national priority. Such programs as are authorized for the special DX priority rating may be found in the Department of Defense Master Urgency List.

§ 18–52.203 Basis for developing controlled materials requirements.

The reports submitted in accordance with this Subpart 18–52.2 shall be based on the research and development, end-item, and construction programs which take into consideration all funds available or anticipated to become available. Estimates shall reflect the best judgment of the installations, and should, if possible, be derived by multiplying unit weight per item by scheduled production, with due consideration of production and purchasing lead times. When this approach is not feasible, other methods, such as factoring a relationship of materials to dollar value, engineering estimates, contractor estimates, or actual past usage of materials, may be utilized in preparing the requirements. Records shall be maintained by the field installations of the methods and data used in preparing the reports, for review upon request by NASA Headquarters.

§ 18–52.204 Requirements coordination with other Government agencies.

Field installations shall not report materials requirements for those items which are purchased by other Government agencies (such as the Air Force, Corps of Engineers, etc.) for NASA use. However, end-item quantitative requirements for Class A products will, if requested, be furnished to the purchasing department in order that the purchasing department may compute and include the required materials in its submission of reports to the Department of Defense.

§ 18–52.205 Requirements review, assembly, and submission to the Department of Defense.

The Office of Procurement, will:

(a) Review field installation reports for accuracy of computations and reasonableness of computed quantities in relation to authorized program procurements;

(b) Summarize data received from field installation into an overall NASA report for submission to the Department of Defense; and

(c) Justify and defend NASA estimates as may be necessary before the Department of Defense and the Office of Emergency Planning.

§ 18–52.206 List of controlled materials—Defense Materials System Regulation 1.

DoD Code	*Material*
1200	Carbon steel (including wrought iron) total:
1212	Ingots, billets, etc. (excluding 1215).
1215	Billets, stock for shell bodies.
1221	Bars, cold finished.
1222	Bars, hot rolled (excluding 1223 and 1225).
1223	Bars, reinforcing.
1225	Bars, stock for shell bodies.
1231	Structural shapes.
1232	Piling.
1240	Pipe and tubing, including threaded couplings.
1251	Plates.
1252	Sheet and strip (excluding 1261).
1261	Sheet, galvanized.
1262	Tin, terne, tin mill black plate.
1270	Rails and track accessories.
1280	Wheels, tires and axles.
1290	Wire rods, wire and wire products.
1300	Alloy Steel (excluding 1000 and 1400) total;
1312	Ingots, billets, etc.
1314	Castings, armor.
1321	Bars, cold finished.
1322	Bars, hot rolled.
1331	Structural shapes.
1340	Pipe and tubing, including threaded couplings.
1351	Plates (excluding 1355).
1352	Sheet and strip.
1355	Plates, rolled armor.
1370	Track accessories.
1380	Wheels, tires and axles.
1390	Wire rods, wire and wire products.
1000	Stainless steel—nonnickel bearing—total;
1400	Stainless steel—nickel bearing—total;
0600	Nickel alloys—total:
0601	5 percent through 29.9 percent nickel content.
0602	30 percent through 49.9 percent nickel content.
0603	50 percent through 100 percent nickel content.
1510	Brass mill copper base alloy products—total:
1511	Plate, sheet, and strip (except 1514).
1512	Rods, bars, and wire.
1513	Tube and pipe.
1514	Ammo cups and discs.
1520	Brass mill unalloyed copper products—total:
1521	Plate, sheet and strip.
1522	Rods, bars and wire.
1523	Tube and pipe.
1510 and 1520	Brass mill products—total (sum lines 1510 and 1520):
1530	Wire mill products (copper content);
1540	Foundry products;
1550	Powder—total:
1551	Powder, copper, unalloyed.
1552	Powder, copper base alloys.
1600	Aluminum—total:
1610	Rods and bars, porcelain coated.
1611	Rods and bars, rolled (excluding 1610 and 1612 and excluding stock for 1620, 1630 and 1661).
1612	Rods and bars, rolled, forging and impact extrusion stock.
1620	Wire and cable (excluding 1630).
1630	Rivets and rivet wire.
1651	Sand castings.
1652	Mold castings.
1653	Die castings.
1654	Other castings.
1661	Shapes, rolled structural,
1662	Shapes, extruded (excluding 1663 and 1664).
1663	Shapes, extruded forging stock.
1664	Shapes, extruded, porcelain.
1670	Sheet, strip and plate (excluding 1671 and stock for 1693).
1671	Sheet, strip, and plate, porcelain coated.
1680	Tubing.
1691	Powder.
1692	Ingot.
1693	Foil (0.005" and thinner).

Subpart 18–52.3—Allocations and Allotments of Controlled Materials

§ 18–52.300 Scope of subpart.

This Subpart 18–52.3 sets forth procedures for (a) NASA apportionment to field installations of controlled materials allocations received from the Department of Defense and (b) allotment of controlled materials by field installations to contractors.

§ 18–52.301 General.

Field installations and contractors acquire allotment authority to purchase controlled materials as follows. Under DMS, only the Department of Defense and Atomic Energy Commission are claimant agencies. As an associated agency, NASA allocates the materials it receives from the Department of Defense among the various field installations in accordance with § 18–52.302. Field installations reserve such quantities of the allocations as they need for in-house use and allot the remainder to prime contractors producing Class A products, in accordance with § 18–52.303.

§ 18–52.302 Allocations to installations.

(a) *Allocation.* The Office of Procurement will allocate to field installations the allocation of controlled materials received from the Department of Defense, on DD Form 529, Allocation Determination (in duplicate), on the basis of requirement estimates submitted by the field installations on DD Forms 614 and 614.1. DMS Officers at field installations shall acknowledge receipt of allocations by signing and returning one copy of the DD Form 529 to the Office of Procurement. Appropriate entries reflecting the transaction shall be made in DMS ledger accounts. Supplemental allocations will be processed in the same manner. Field installations may request additional allocations by letter, telephone, or telegraph. Allocations made by telephone or telegraph will be confirmed by the Office of Procurement on DD Form 529.

(b) *Return of unused allocations.* Not later than the 5th day of each month, field installations shall review their controlled materials ledgers, together with their anticipated allotment requirements, to determine whether they have an excess allocation of materials. Allocated quantities determined to be excess shall be returned promptly to the Office of Procurement. Returns of excess allocated controlled materials will be accepted by the Office of Procurement at any time up to the 10th day of the 3d month of each quarter. Return of excess allocations will be made on DD Form 530, in duplicate.

§ 18–52.303 Allotments.

Field installations shall make allotments of controlled materials on every purchase order or contract:

(a) In placing authorized controlled materials orders for the direct purchase of controlled materials, except for small orders;

(b) To prime contractors who produce Class A products;

(c) In placing orders for Class A products acquired from distributors; and

(d) In placing orders for controlled materials or Class A products against GSA schedules.

Effort should be made to assure that prime consumers apply for and receive allotments. Form letters similar to those shown in sections 3 and 4 of the NASA supplement to the PAM may be used for this purpose. Allotments should normally be issued to contractors for the full period of the contract unless the period is beyond the 1-year period within which NASA has been authorized to allot materials. Allotments shall be issued on Form DMS–10, Allotment of Controlled Materials (Production), or DMS–13, Allotment of Controlled Materials (Construction). Decreases of allotments will be made on Forms DMS–11, Allotment Decrease (Production), and DMS–14, Allotment Decrease (Construction). Form DMS–12, Applicant's Return of Allotment, should be used by contractors to return unused portions of allotments. Contractor applications should be screened to determine their reasonable accuracy as to quantities of materials and delivery schedule requested.

§ 18–52.304 Ledger accounts of controlled materials.

(a) Ledger accounts shall be maintained by field installations and NASA Headquarters for recording DMS transactions. The ledgers are necessary to assure that no allotments are issued without proper authority; to record purchases of controlled materials for internal consumption; and to provide data for reports of actions taken.

(b) The following account ledgers shall be maintained as a minimum requirement:

(1) By the Office of Procurement—

(i) A ledger which reflects DMS transactions for each field installation, showing the allocation made, allotments issued, returns received and remaining balance; and

(ii) A master ledger which summarizes the transactions of all field installations and Headquarters for each DMS materials;

(2) By field installations—ledgers for each quarter and each material by program (A1, A2, C2), as appropriate, which reflects the allocations received from Headquarters, allotments issued, returns to Headquarters, and remaining balances.

(c) Detailed information regarding the various types of ledgers which may be established and instructions for recording transactions are set forth in the PAM, sections 5–6 and 5–7. All prime contractors who received allotments from NASA shall be required to maintain allotment accounts, in accordance with DMS Regulation 1 and section 5–6 of the PAM.

§ 18–52.305 Report of allotments and authorized controlled materials orders.

(a) The Defense Materials System Officer of each field installation which issues allotments shall provide the Office of Procurement (Code KDF) with a cumulative monthly report showing, for each controlled material and each calendar quarter, the allocation received, allotments made by claimant programs, amounts issued (with breakout for DX programs), and the unused balances. DD Form 492 will be used for this purpose. The report shall be prepared as of the end of the calendar month and be forwarded so as to reach the Office of Procurement (Code KDF) on or before the 10th day of the next month. The report shall reflect data contained in the ledger accounts.

(b) The Office of Procurement shall review and check field installation reports with NASA master ledger transactions, after which a consolidated report shall be prepared and submitted to the Department of Defense. The Office of Procurement report will be made to the Department of Defense by the 15th of the month for the transactions of the preceding month.

Subpart 18–52.4—Special Expediting Assistance

§ 18–52.400 Scope of subpart.

This Subpart 18–52.4 sets forth procedures whereby field installations and contractors may obtain special assistance in expediting delivery of raw materials, supplies, and equipment from commercial sources on NASA programs.

§ 18–52.401 General.

In most instances, with the use of priority rating and timely procurement action, it is possible to obtain satisfactory deliveries of materials and equipment to meet program schedules. However, conflicts occasionally occur among priority-rated programs competing for the same resources. A number of factors may cause such a conflict, such as a shortage of capacity to produce a material or product, or placement by different sources of similar orders on a supplier which require delivery within the same time period. Resolution of problems of this type are accomplished by using the special assistance procedure described herein if they cannot be resolved at the field level. Detailed explanation with regard to the special assistance procedure is contained in section 7 of the PAM and the NASA Supplement thereto.

§ 18–52.402 Criteria for special assistance requests.

(a) Requests for special assistance may be submitted by field installations if there is, as a minimum, a clear demonstration:

(1) Of the relationship and importance of the applicant's requirements to NASA programs;

(2) Of the inability of the applicant to divert materials or equipment from other production to meet requirements;

(3) That failure to obtain the supplies will delay NASA program schedules; and

(4) That satisfactory arrangements cannot be accomplished by the field installation.

(b) Requests may be submitted for assistance in placement of orders, as well as to improve deliveries of orders already placed.

§ 18–52.403 Form, preparation, and routing of requests.

(a) Form BDSAF–138 shall be used for all special assistance requests. Copies of this form may be obtained from Department of Commerce field offices listed in section 9 of the PAM.

(b) The form shall be prepared in accordance with the instructions set forth in section 7–2, Exhibit 2, of the PAM and the NASA supplement Block 23C through Block 26D of the form should be left blank for use of NASA Headquarters and the Department of Defense offices. The form may be prepared by any authorized field installation representative or by the prime contractor or subcontractors. Prime contractors may prepare forms for their subcontractors, if expedient. However, all forms prepared by contractors must be endorsed by a NASA representative who preferably shall be the DMS Officer of the installation administering the contract. Technical offices of field installations having need for expediting assistance are urged to utilize the services of their local DMS Officer in preparing and processing special assistance requests.

(c) Special assistance requests on BDSAF–138 shall be transmitted in quintuplicate to the Office of Procurement (Code KDF). For emergency cases involving programs of highest national priority (DX), which warrant special handling to obtain immediate deliveries, requests will be accepted by telephone. Data transmitted by phone shall be confirmed by submission of a Form BDSAF–138 through regular mail channels.

§ 18–52.404 Action by NASA Headquarters.

(a) After receipt of the Form BDSAF–138, a thorough exploration of the case will be undertaken with a view toward determining the specific deficiency (e.g., lack of capacity, prior higher priority orders, shortage of materials or parts, etc.). On the basis of the information developed, action will be taken to resolve the case by informal arrangements with the supplier and applicant. If this action is unsuccessful, the case will be endorsed, through the Department of Defense, to the Business and Defense Services Administration. One of the following actions will be taken by BDSA:

(1) Arrangement of improved delivery dates by informal agreement with the supplier;

(2) Issuance of a DX rating; or

(3) Issuance of a directive requiring the supplier to produce or deliver the specified item by a specific date.

(b) The Office of Procurement will maintain a followup of all cases received and notify field installations as to final disposition of individual cases.

Subpart 18–52.5—Reporting Materials Requirements

§ 18–52.500 Scope of subpart.

This Subpart 18–52.5 sets forth procedures for field installations and Headquarters Program Offices to develop and report requirements for propellants, pressurants and the related materials listed in § 18–52.507.

§ 18–52.501 General.

Requirements within NASA for materials shall be developed where it is the responsibility of NASA to provide or to insure provision of the materials to its contractors. Specifically excluded are the requirements for those programs, projects, boosters, vehicles or spacecraft where, by agreement, provision of material requirements is the responsibility of the Department of Defense or other Government agency.

§ 18–52.502 Reporting responsibility.

(a) *Scope of report.* Field installations shall submit quarterly estimates of requirements for the materials listed in § 18–52.506 for all programs under their cognisance, including in-house and contractor requirements. Headquarters Program Offices shall submit quarterly estimates of requirements for any existing or potential programs which may not be known to, or not under the cognisance of, a field installation. Reports shall be submitted in quadruplicate on NASA Form 558, Materials Requirements Report.

(b) *Report due dates.* (1) The reports required by § 18–52.502 shall be forwarded so as to reach NASA Headquarters, Office of Procurement (Code KDF) no later than March 15, June 10, September 15, and December 10. Supplemental reports which advise of additions to or significant changes in previous reports shall be submitted at any time.

(2) The reports, covering all materials listed in § 18–52.506, due in June and December shall begin with requirements as of the following July 1 and January 1, respectively, and shall cover a 3-year period. Requirements shall be shown by month for the first 6 months, and by quarters for the remaining 2½-year period.

(3) The reports due in March and September shall begin with the following April 1 and October 1 respectively and cover a 6-month period, by month. These reports shall be limited to requirements for liquid oxygen, liquid nitrogen, liquid hydrogen, hydrazine, UDMH, MMH, UDMH/hydrazine mix, and nitrogen tetroxide.

§ 18–52.503 Report content.

The reports required by § 18–52.502 shall be made using a separate report form for each material and shall provide the following information for each item of material:

(a) Contract number;

(b) Program and/or project;

(c) Specific task within project;

(d) End use when not associated with named program or project;

(e) Name of contractor;

(f) Specific location of use (shipping destination), and

(g) Planned source of supply.

In addition to the above, requirements for helium should be further classified by use as either Missile Systems and Astronautics, Aerology (include Weather Research), Aeronautical Research (include Wind Tunnels), Welding, or other specific use. Detailed instructions for the preparation of NASA Form 558 appear at the bottom of the form.

§ 18–52.504 Basis for developing materials requirements.

In computing requirements, consideration shall be given to such elements as lead time, waste factors, transfer, and storage losses so that phased requirements reflect the total gross quantities required to be delivered to the use or storage site. Since the requirements estimates are being used by other Government agencies acting as supply sources to actually contract for materials, estimates must be as accurate as possible.

§ 18–52.505 Solicitation of data from contractors.

Estimated requirements and other pertinent data required from contractors shall be obtained on NASA Form 1057, Forecast of Propellant Requirements, and Bureau of the Budget Approval Number 104–RO24 shall be cited.

§ 18–52.506 Availability of forms.

Supplies of NASA Forms 558 and 1057, specified for use in this subpart, may be obtained from NASA Headquarters, Administrative Services Division (Code DHA–42). Local reproduction is not authorized.

§ 18–52.507 NASA Headquarters review.

The Office of Procurement shall be responsible for consolidating reports from field installations and Headquarters Program Offices, and for coordinating the review of all data with the Headquarters Program Offices. The data will then be used as the basis for NASA requirements reports to various Government agencies for planning and supply support.

§ 18–52.508 Table of reportable materials.

Nomenclature	FSN	Unit of issue	Unit pack
Aniline Technical Spec MIL–A–10460A	6810–290–0035	lb	450 lb drum.
Argon Gas, 6000 PSI	6830–682–1793	cf	576 cf cylinder.
Ethylene, Glycol Technical Spec MIL–E–9500	6810–526–2015	gl	55 gl drum.
Fuel Neutralizer, Concentrate	6850–053–3286	gl	Do.
Helium, Nitrogen—99.2 Pct Helium, 0.80 Pct Nitrogen, Hydrocarbon Free.	6830–856–8005	cf	213 cf cylinder.
Helium, Methane—99.99 Pct Helium, 1.5 to 3.5 PPM Methane	6830–972–3194	cf	33 cf cylinder.
Helium, Methane—99.99 Pct Helium, 750 PPM Methane	6830–972–3185	cf	Do.
Helium, Methane—99.99 Pct Min Helium, 90 PPM Methane and Hydrocarbon Free.	6830–855–0439	cf	213 cf cylinder.
Helium, Technical Grade A Water Pumped	6830–263–6642	cf	Do.
Helium, Technical Grade A Water Pumped	6830–680–0026	cf	Bulk.
Inert Lead Fluid	6850–985–7125	gl	55 gl drum.
Leak Test Compound—Type II	6850–621–1819	bt	24 bottles (4 oz).
Leak Test Compound—Type I	6850–621–1820	bt	Do.
Molybdenum Disulfide Technical Spec MIL–L–7866	6810–284–6716	lb	12 lb can.
Nitrogen, Carbon Dioxide 99.6 Pct Nitrogen, 80 PPM Carbon Dioxide, Hydrocarbon Analyzer Gas.	6830–893–1097	cf	240 cf cylinder.
Nitrogen, Carbon Dioxide Free Nitrogen, Hydrocarbon Analyzer Gas.	6830–893–1098	cf	Do.
Nitrogen, Methane—99.7 Pct Min Nitrogen, 90 PPM Methane and Hydrocarpon Free.	6830–855–9426	cf	Do.
Nitrogen Oxygen—1.5 Pct Oxygen, 98.2 Pct Nitrogen, high purity Nitrogen paramagnetic analyzer gas.	6830–893–1096	cf	Do.
Nitrogen, Oxygen—99.5 Pct Nitrogen, Oxygen, high purity Nitrogen analyzer paramagnetic calibration check gas.	6830–893–1099	cf	Do.
Nitrogen, Zero Gas—99.998 Pct Nitrogen, high purity Nitrogen analyzer, paramagnetic gas.	6830–893–1100	cf	Do.
Oxidant Neutralizer, Concentrate	6850–893–3285	gl	55 gl drum.
Oxygen, Argon—99.3 Pct Oxygen, 0.3 Pct Argon, high purity Oxygen Analyzer thermo conductivity gas.	6830–893–1093	cf	240 cf cylinder.
Oxygen, Argon—99.2 Pct Oxygen, 0.8 Pct Argon, high purity Oxygen Analyzer thermo conductivity gas.	6830–893–1094	cf	Do.
Oxygen, Argon—99.5 Pct Oxygen, 0.5 Pct Argon, high purity Oxygen Analyzer thermo conductivity gas.	6830–893–1095	cf	Do.
Oxygen, Methane—99.5 Pct Oxygen, 90 PPM Methane and Hydrocarbon free.	6830–855–9427	cf	Do.
Oxygen, Methane—96.5 Pct Oxygen, 5–10 Methane and Hydrocarbon free.	6830–855–9430	cf	Do.
Propellant, Ammonia, Anhydrous Bulk, Refrigeration Grade, Spec O–A–445.	9135–823–6110	lb	Bulk.
Propellant, Chlorine Tri Fluoride	9135–823–6124	lb	100 lb cylinder.
Propellant, Chlorine Tri Flouride	9135–823–6125	lb	200 lb cylinder.
Propellant, Chlorine Tri Fluoride	9135–823–6126	lb	2000 lb cylinder.
Propellant, Chlorine Tri Fluoride	9135–823–6118	lb	150 lb cylinder.
Propellant, Chlorine Tri Fluoride	9135–687–4292	lb	Bulk.
Propellant, Ethylene Oxide, Spec MIL–P–4845	9135–823–6123	lb	6 lb cylinder.
Propellant, Fluorine	9135–823–6122	lb	Bulk.
Propellant, Fluorine	9135–823–6111	lb	500 lb drum.
Propellant, Furfuryl Alcohol, Spec MIL–P–45702A	9135–578–9426	lb	440 lb drum.
Propellant, Hydrazine Spec MIL–P–26536A	9135–753–4508	lb	Bulk.
Propellant, Hydrazine Spec MIL–P–26536A	9135–753–4019	lb	Do.
Propellant, Hydrazine/Uns-DiMethyl Hydrazine Spec MIL–P–27402.	9135–823–6133	cf	Do.
Propellant, Hydrogen Gaseous, Spec MIL–P–27201	9135–611–1847	lb	Do.
Propellant, Hydrogen Liquid, Spec MIL–P–27201			

Nomenclature	FSN	Unit of issue	Unit pack
Propellant, Hydrogen Peroxide, 90% Organic Process, Spec MIL-H-16005C.	9135-558-6112	lb	300 lb drum (single head) carload delivery only.
Propellant, Hydrogen Peroxide, 90% Electrolytic Process, Spec MIL-P-16005C.	9135-558-6114	lb	Do.
Propellant, Hydrogen Peroxide, 90% Electrolytic Process, Spec MIL-H-16005C.	9135-558-6113	lb	300 lb drum (double head).
Propellant, Hydrogen Peroxide Electrolytic Process, Spec MIL-H-16005C.	9135-558-3668	lb	Bulk.
Propellant, Hydrogen Peroxide, Organic Process, Spec MIL-H-16005C.	9135-558-6421	lb	Do.
Propellant, Hydrogen Peroxide 90% Organic Process, Spec MIL-H-16005C.	9135-558-4217	lb	300 lb drum (double head).
Propellant, Jet Fuel Grade RJ-1, Spec MIL-F-25558	9130-559-7681	gl	55 gl drum (16 gage) Type I.
Propellant, Jet Fuel Grade RJ-1, Spec MIL-F-25558	9130-551-5236	gl	Bulk.
Propellant, JPX, 40% UDMH/60% JP-4 Spec MIL-P-26594	9130-558-8116	lb	380 lb drum.
Propellant, JPX, 40% UDMH/60% JP-4 Spec MIL-P-26594	9130-558-8117	lb	Bulk.
Propellant, Kerosine, Grade RP-1 Spec MIL-R-25576	9130-543-7420	gl	Do.
Propellant, Kerosine, Grade RP-1 Spec MIL-R-25576	9130-559-3475	gl	55 gl drum (16 gage) Type II.
Propellant, Kerosine, Grade RP-1 Spec MIL-R-25576	9130-559-3476	gl	55 gl drum (16 gage) Type I.
Propellant, Monomethyl Hydrazine	9135-558-9455	lb	375 lb drum.
Propellant, Monomethyl Hydrazine	9135-558-8140	lb	Bulk.
Propellant, Monomethyl Hydrazine/Hydrazine, Water Blend	9135-558-8139	lb	Do.
Propellant, Nitric Acid, Type IA, Spec MIL-P-7254E	9135-556-1106	lb	625 lb drum.
Propellant, Nitric Acid, Type IA, Spec MIL-P-7254E	9135-556-1105	lb	Bulk.
Propellant, Nitric Acid, Type IIIA, Spec MIL-P-7254E	9135-597-1462	lb	Do.
Propellant, Nitric Acid, Type IIIA, Spec MIL-P-7254E	9135-558-7043	lb	625 lb drum.
Propellant, Nitric Acid, Type IIIB, Spec MIL-P-7254E	9135-754-4613	lb	Do.
Propellant, Nitric Acid, Type IIIB, Spec MIL-P-7254E	9135-754-4614	lb	Bulk.
Propellant, Nitrogen Tetroxide Spec MIL-P-26539	9135-754-3094	lb	Do.
Propellant, Nitrogen Tetroxide Spec MIL-P-26539	9135-754-9005	lb	2000 lb cylinder.
Propellant, N-Propyl Nitrate Spec MIL-N-8723	9135-957-4296	lb	Bulk.
Propellant, Oxygen Spec MIL-P-25569D	9135-559-2257	cn	Do.
Propellant, Pressurizing Agent, Nitrogen, Purity 99.997 Pct by volume.	9135-595-7080	cn	Do.
Propellant, Pressurizing Agent, Nitrogen, Type 1 Spec MIL-P-27401B.	9135-558-6115	cf	Do.
Propellant, Pressurizing Agent, Nitrogen, Type 2 Spec MIL-P-27401B.	9135-954-0499	cn	Do.
Propellant, Uns-D(Methyl Hydrazine, Spec MIL-D-25604B	9135-957-4293	lb	Do.
Propellant, Uns-D(Methyl Hydrazine, Spec MIL-D-25604B	9135-753-4527	lb	335 lb drum.
Pyrogallol Analyzed Reagent—181 to 183 Deg C Melting Range	6810-579-9438	lb	1 lb jar.
Trichloroethylene Technical Spec MIL-T-27602	6810-612-9181	gl	55 gl drum.

PART 18–54—CONTRACT APPEAL PROCEDURE

Sec.

18-54.000 Scope of part.
18-54.101 Authority.
18-54.102 Notice of appeal.
18-54.103 Action by contracting officer.
18-54.104 Designation of Government counsel.
18-54.105 Petition.
18-54.106 Answer.
18-54.107 Reply.
18-54.108 Appeal file—inspection of file.
18-54.109 Amendments to petition and answer.
18-54.110 Trial briefs.
18-54.111 Motions to dismiss for lack of jurisdiction.
18-54.112 Failure to state a case.
18-54.113 Depositions.
18-54.114 Stipulations.
18-54.115 Prehearing conference.
18-54.116 Settlement.
18-54.117 Filing of papers.
18-54.118 Hearing.
18-54.119 Representation of the contractor.
18-54.120 Decisions.
18-54.121 Reconsideration.
18-54.123 Form for notice of appeal.

AUTHORITY: The provisions of this Part 18-54 issued under 42 U.S.C. 2473(b)(1).

§ 18–54.000 Scope of part.

This part establishes procedures for the adjudication of appeals arising from NASA contracts.

§ 18–54.101 Authority.

Under provisions of NASA Management Instruction 1152.1, the Board of Contract Appeals is authorized to act for the Administrator in hearing, considering and deciding appeals by NASA contractors from the findings of fact and final decisions of NASA contracting officers or their authorized representatives pursuant to the "Disputes" clause of a NASA contract.

§ 18–54.102 Notice of appeal.

An appeal from the findings of fact and final decision of a NASA contracting officer (or his representative if such representative has been authorized by the contracting officer to make final decisions pursuant to the "Disputes" clause) shall be made by submitting a notice in writing, addressed to the Board of Contract Appeals (hereinafter referred to as the Board), National Aeronautics and Space Administration, Washington, D.C. 20546. Such notice shall be filed within 30 days from the date of receipt of the written decision of the contracting officer or his authorized representative, unless otherwise provided in the contract. The original notice, together with two copies thereof, shall be mailed to or filed with the contracting officer from whose final decision the appeal is taken. The notice of appeal shall indicate that an appeal is thereby intended, and shall identify the contract (by number), the contracting officer, and specify the portion of the findings of fact and final decision from which the appeal is taken; however, an appeal shall not be deemed invalid if the notice expresses a desire for a review of a final adverse decision. The notice shall be signed by the contractor or his representative. A suggested form of notice of appeal is set forth in § 18–54.123.

§ 18–54.103 Action by contracting officer.

When a notice of appeal in any form has been received by the contracting officer, he shall endorse thereon the date of mailing or the date of receipt if otherwise filed, and shall forward such notice immediately to the Chairman of the Board for docketing. Within 10 days from the date of receipt of the notice of appeal, the contracting officer shall transmit one copy of the notice of appeal to the General Counsel for use of Government counsel and one copy to the Board. The Board's copy shall be accompanied by a file consisting of:

(a) The findings of fact and the final decision from which the appeal is taken;

(b) All documents relied upon in making the findings and final decision;

(c) A copy of the contract and specifications, pertinent plans, amendments, and change orders;

(d) All correspondence between the parties relating to the dispute;

(e) Transcripts of any testimony taken in connection with the dispute, and any affidavits or statements of any witnesses that were made prior to the notice of appeal; and

(f) Such additional information as the contracting officer may consider material.

True copies may be substituted for originals in this file.

§ 18–54.104 Designation of government counsel.

Upon receipt of the copy of notice of appeal from the contracting officer, the General Counsel shall promptly designate counsel to represent the interests of the Government. Government counsel shall file a notice of appearance with the Board, and notice thereof shall be given promptly to the contractor by the Board.

§ 18–54.105 Petition.

A petition in support of the appeal shall be filed by the appellant with the Board within 30 days after the mailing or filing of the notice of appeal or within such longer period of time as may be allowed by the Board. A supporting brief may also be filed. The petition shall set forth:

(a) A summary of the decision of the contracting officer on the dispute from which the appeal is taken; and

(b) A simple, concise, and direct statement of each claim upon which the contractor relies and the reasons why the findings or decision are deemed erroneous.

Documentary evidence in support of claims may be filed as exhibits to the petition. Exhibits shall be plainly listed and identified in the petition. An original and two copies of the petition and exhibits shall be filed. Upon receipt thereof the Board shall forward a copy of the petition to counsel for the Government and a copy to the contracting officer.

§ 18–54.106 Answer.

(a) Within 30 days after receipt of the petition, or within such longer period of time as may be allowed by the Board, counsel for the Government shall prepare and file with the Board an answer thereto. The answer shall set forth simple, concise, and direct statements of the Government's position on each claim asserted by the contractor. A supporting brief may also be filed.

(b) Documentary evidence in support of the Government's position may be filed as exhibits to the answer. All documents filed as exhibits to the answer shall be plainly listed and identified in the answer. An original and two copies of the answer and exhibits shall be filed with the Board. Upon receipt thereof the Board shall forward a copy of the answer to the contractor or his attorney and a copy to the contracting officer.

§ 18–54.107 Reply.

The contractor may file a reply within 15 days after receipt of the answer of counsel for the Government.

§ 18–54.108 Appeal file—inspection of file.

The appeal file shall consist of the notice of appeal, documents required to be filed pursuant to § 18–54.103, the petition and exhibits thereto, the answer and exhibits attached thereto, all papers filed by the parties with the Board pursuant to instructions contained herein, and all correspondence exchanged between the Board and the parties or their attorneys. The appeal file shall be available for inspection by the appellant and Government counsel at the offices of the Board or the office of the contracting officer.

§ 18–54.109 Amendments to petition and answer.

At any time before oral hearing or before submission of a case by the parties without an oral hearing, the Board at its discretion may permit a party, within the proper scope of the appeal, to amend its petition or answer, upon conditions just to both parties. The Board, at its discretion or upon application by a party, may order a party to make a more definite statement of its petition or answer, or to reply to an answer. When issues within the proper scope of the appeal but not raised by the complaint and answer are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised therein. If evidence is objected to at the hearing on the ground that is not within the issues made by the petition and answer, the Board may allow the pleadings to be amended within the proper scope of the appeal and shall do so freely when the presentation of the merits of the action will be served thereby and the objecting party fails to satisfy the Board that the admission of such evidence would prejudice him in maintaining his case or defense upon the merits. The Board may, however, grant a continuance to enable the objecting party to meet such evidence.

§ 18–54.110 Trial briefs.

The Board at its discretion may order the submission of trial briefs prior to oral hearing.

§ 18–54.111 Motions to dismiss for lack of jurisdiction.

Defenses which go to the jurisdiction of the Board shall be raised by motion. However, the Board shall be deemed to have jurisdiction over any appeal, if timely filed, arising from the findings of fact and final decision of a NASA contracting officer or his authorized representative pursuant to the "Disputes" clause of a NASA contract. Filing of motions to dismiss for lack of jurisdiction shall not be unreasonably delayed. Motions to dismiss for lack of jurisdiction shall, upon application of either party, be heard and determined before oral hearing on the merits. The Board, however, has the right at any time to recognize its lack of jurisdiction to proceed in a particular case.

§ 18–54.112 Failure to state a case.

If, after completion of the pleadings, the Board finds that the appellant has failed to state a case on which any relief could be granted by the Board, the Board may give notice to the appellant to show cause why the appeal should not be dismissed on the ground that no useful purpose would be served by setting the case for oral hearing on the merits. The appellant, in such event, will be afforded an opportunity to be heard orally for the purpose of showing cause why the appeal should not be dismissed on that ground and, if the appellant so desires, to move to amend the complaint within the proper scope of the appeal. If the Board thereafter finds that the appellant has failed to show cause, and finds that the complaint, with such amendments as may be offered by the appellant, fails to state a case on which the Board could grant relief, the appeal shall be dismissed.

§ 18–54.113 Depositions.

(a) Depositions shall be limited to those situations where there is reason to believe that the witness will not be available for the hearing, and shall be permitted in evidence only when in fact the witness is not present at the hearing. Subject to the foregoing limitation, depositions upon oral examination or written interrogatories may be taken by either party and used as evidence at the hearing when relevant and material to the case.

(b) Depositions to be offered in evidence before the Board may be taken before and authenticated by any person authorized by the laws of the United States, or by the laws of the place where the deposition is taken, to administer oaths.

(c) The taking of a deposition shall be preceded by giving the opposite party at least 15-day notice in writing of the time and place where such deposition will be taken. The notice shall state the name and address of the witness, and the name, official title, and address of the person before whom the deposition is to be taken; and shall indicate whether the deposition will be taken on oral examination or written interrogatories. The parties may stipulate in writing the requirements of the notice, in which case no notice is required. If the deposition is to be taken on written interrogatories, two copies thereof should accompany the notice or stipulation.

(d) Within 10 days after receipt of the interrogatories, the opposing party may serve cross-interrogatories to be propounded to the witness by forwarding them to the officer designated to take the deposition and simultaneously forwarding a copy to the other party.

(e) Each deposition shall show the docket number and caption of the proceedings, the place and date of taking, the name of the witness, and the names of all persons present. The person taking the deposition shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness, and shall enclose the original deposition and exhibits in a sealed packet with postage and other transportation prepaid and forward same to the Board.

(f) A deposition taken under the provisions of this section may be offered by either party to the appeal. Depositions

will not be considered as evidence until they have been offered and received as such. All objections made at the time of the taking of the deposition will be passed on at the hearing by the Board, which may exclude any part determined to be irrelevant, immaterial, or otherwise not admissible as evidence in the proceedings. The entire deposition must be offered unless otherwise stipulated by the parties or directed by the Board.

§ 18–54.114 Stipulations.

The parties may stipulate in writing to any facts that are relevant and material to the issues involved, and to those documents or facts which may be received in evidence without formal proof.

§ 18–54.115 Prehearing conference.

The Board, upon its own initiative or upon application of one of the parties, may direct the parties or their attorneys to appear before the Board or a member designated by the Chairman at a specified time and place for a conference to consider:

(a) Simplification of the issues;

(b) The possibility of obtaining stipulations as to admissions of fact and introduction of documents which will avoid unnecessary proof;

(c) The limitation of the number of expert witnesses, if a hearing is to be held; and

(d) Such other matters as may aid in the disposition of the appeal.

The results of the conference shall be reduced to writing by the Board or the member designated by the Chairman and made part of the record.

§ 18–54.116 Settlement.

A dispute may be settled at any time by the contractor's filing written notice withdrawing his appeal or by written stipulation between the contractor and the Government counsel filed with the Board settling either the entire dispute or any part thereof. If only part of the dispute is settled, the appeal shall continue as to any issues remaining in dispute.

§ 18–54.117 Filing of papers.

The parties shall file with the Board an original and two copies of all papers, subsequent to the petition and answer. Upon receipt thereof, the Board shall forward a copy to the opposing party.

§ 18–54.118 Hearing.

(a) The contractor may submit the case on the record or request a hearing. The Board shall, at the request of either party within 15 days after the answer is filed, grant a hearing. The parties shall be given at least 15-day notice of the time and place of hearing.

(b) Hearings will be held at NASA Headquarters, Washington, D.C., unless otherwise ordered by the Board.

(c) Hearings shall be as informal as may be reasonably allowable and appropriate under all the circumstances. Both parties may offer oral and written evidence, subject to the exclusion by the Chairman of any irrelevant, immaterial, or repetitious evidence. The general procedure as to the introduction of evidence and the calling of witnesses shall be at the discretion of the Chairman.

(d) Testimony shall be under oath or affirmation, unless the facts are stipulated or the Chairman shall otherwise order. Attention of witnesses shall be invited to the provisions of 18 U.S.C. 1621 relating to false testimony under oath. If the testimony of a witness is not given under oath the Board shall invite the attention of the witness to the provisions of Title 18, United States Code, Sections 287, 1001; Section 19 of the Contract Settlement Act of 1944 (41 U.S.C. 119); and any other provisions of law imposing penalties for knowingly making false representations in connection with claims against the United States or in any matter within the jurisdiction of any department or agency thereof.

(e) The Board shall make provision for a verbatim transcript of the hearing.

(f) After a decision has become final, the Board may, upon request and after notice to the other party, permit the withdrawal of original exhibits, or any part thereof, by the party entitled thereto. The substitution of true copies of exhibits or any part thereof may be required by the Board at its discretion as a condition of granting permission for such withdrawal.

§ 18–54.119 Representation of the contractor.

An individual appellant may appear before the Board in person; a corporation may be represented by an officer thereof, a partnership or joint venture by a member thereof; or an organization may be represented by an attorney-at-law duly licensed in any State, Commonwealth, or in the District of Columbia. In special cases, the Board may authorize contractors to be represented by persons other than those mentioned.

§ 18–54.120 Decisions.

Decisions of the Board shall be made in writing and shall reflect the opinion of a majority of the members deciding the appeal. Copies of the decision shall be forwarded simultaneously to both parties. All final orders and decisions (except those required for good cause to be held confidential) shall be available for public inspection at the office of the Board, NASA Headquarters, Washington, D.C.

§ 18–54.121 Reconsideration.

A request for reconsideration by the Board may be filed within 30 days after the date of the decision. Such request shall set forth specifically the ground or grounds relied upon to sustain the request.

§ 18–54.123 Form for notice of appeal.

The following is a suggested form for Notice of Appeal.

Date .....

BOARD OF CONTRACT APPEALS,
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
Washington, D.C. 20546.

Appeal of .....
(Name of Contractor)

Address .....
(Street No.) (City) (Zone/State)

Contract No. (Invitation No.) .....

Specification No. .....

.....
(Name and Location of Project)

.....
(Name of NASA Office or Field Installation)

The undersigned contractor appeals to the NASA Board of Contract Appeals from the decision or findings of fact dated .....

by .....
(Name of Contracting Officer)

The decision or findings of fact is erroneous because:

(State specific facts and circumstances and the contractual provisions involved. Use additional pages as necessary.)

.....
(Signature)

.....
(Title)

Effective date. The provisions of this Chapter 18 cover the NASA Procurement Regulations (through Change 9) in effect as of August 5, 1967.

GEORGE J. VECCHIETTI,
Director of Procurement.

[F.R. Doc. 67-13797; Filed, Dec. 1, 1967; 8:45 a.m.]

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Contents

THE PRESIDENT

EXECUTIVE ORDERS

Inspection of income, excess-profits, estate, and gift tax returns by the Senate Select Committee on Standards and Conduct 17421

Placing an additional position in Level V of the Federal Executive Salary Schedule 17423

EXECUTIVE AGENCIES

AGRICULTURE DEPARTMENT

See also Consumer and Marketing Service; Federal Crop Insurance Corporation; Packers and Stockyards Administration.

Notices

Arkansas, Mississippi, and Wisconsin; designation of areas for emergency loans 17443

ATOMIC ENERGY COMMISSION

Notices

Gulf General Atomic, Inc.; proposed issuance of construction permit 17444

Sacramento Municipal Utility District; application for construction permit and facility license 17444

CONSUMER AND MARKETING SERVICE

Rules and Regulations

Grapefruit; import regulation 17425

Proposed Rule Making

Limes and avocados; decision and referendum order 17431

Potatoes, Irish, grown in Maine; expenses 17433

Prunes, dried, produced in California; decision and referendum order 17434

CUSTOMS BUREAU

Rules and Regulations

Special classes of merchandise; import quotas on coffee from nonmember countries of International Coffee Agreement 17428

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations

Airworthiness directive; British Aircraft Corp. Model BAC 1-11 200 Series airplanes 17426

Alterations:

Control zone 17426

Control zones and transition areas (2 documents) 17426, 17427

Restricted area; designation of period of use 17427

Proposed Rule Making

Airworthiness directive; Vickers Viscount Models 744, 745D and 810 Series airplanes 17439

FEDERAL COMMUNICATIONS COMMISSION

Rules and Regulations

Amateur radio services; station identification requirements 17429

Proposed Rule Making

Industrial radio services; use of certain frequencies by central station protection industry 17440

Notices

Hearings, etc.:

American Telephone and Telegraph Co. and Western Union Telegraph Co. (2 documents) 17445

Furr, J. W. (WMBC), and James W. Eatherton 17446

Tri-Cities Broadcasting Corp. and Palmer-Dykes Broadcasting Co 17446

United Transmission, Inc. 17446

FEDERAL CROP INSURANCE CORPORATION

Rules and Regulations

Federal crop insurance; regulations for 1969 and succeeding crop years; correction 17425

FEDERAL MARITIME COMMISSION

Notices

City of Long Beach and Koppel Bulk Terminal; agreement filed for determination 17446

Compagnie Maritime Belge (Lloyd Royal) S.A. and Compagnie Maritime Congolaise, S.C.R.L.; agreement filed for approval 17446

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:

Arizona Public Service Co. 17447

Michigan Gas Storage Co. 17447

Natural Gas Pipeline Company of America 17447

Sidwell, E. C., et al 17448

United Gas Pipe Line Co. and Texas Eastern Transmission Corp 17448

FEDERAL RESERVE SYSTEM

Rules and Regulations

Discount rates; changes 17425

FEDERAL TRADE COMMISSION

Rules and Regulations

Prohibited trade practices; John K. Burch Co. et al 17427

FISH AND WILDLIFE SERVICE

Rules and Regulations

Lacreek National Wildlife Refuge, S. Dak.; sport fishing 17430

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Notices

Motor vehicle pollution control; California State standards; public hearing 17443

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Land Management Bureau.

Notices

Commissioner of Indian Affairs; authority delegation 17443

INTERSTATE COMMERCE COMMISSION

Notices

Fourth section applications for relief (2 documents) 17449

Motor carriers:

Temporary authority applications 17449

Transfer proceedings (3 documents) 17450, 17451

LAND MANAGEMENT BUREAU

Rules and Regulations

Public land orders:

California 17429

Idaho 17429

Utah 17429

PACKERS AND STOCKYARDS ADMINISTRATION

Notices

Chattanooga Union Stock Yards; petition to vacate order and dismiss proceeding 17443

STATE DEPARTMENT

Rules and Regulations

Employee responsibilities and conduct 17454

TRANSPORTATION DEPARTMENT

See Federal Aviation Administration.

TREASURY DEPARTMENT

See Customs Bureau.

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

3 CFR

EXECUTIVE ORDERS:

11248 (amended by EO 11384) 17423
11383 17421
11384 17423

7 CFR

401 17425
944 17425

PROPOSED RULES:

911 17431
915 17431
950 17433
993 17434

12 CFR

224 17425

14 CFR

39 17426
71 (3 documents) 17426, 17427
73 17427

PROPOSED RULES:

39 17439

16 CFR

13 17427

19 CFR

12 17428

22 CFR

10 17454

43 CFR

PUBLIC LAND ORDERS:

4328 17429
4334 17429
4335 17429

47 CFR

97 17429

PROPOSED RULES:

91 17440

50 CFR

33 17430

Presidential Documents

Title 3—THE PRESIDENT

Executive Order 11383

INSPECTION OF INCOME, EXCESS-PROFITS, ESTATE, AND GIFT TAX RETURNS BY THE SENATE SELECT COMMITTEE ON STANDARDS AND CONDUCT

By virtue of the authority vested in me by section 55(a) of the Internal Revenue Code of 1939, as amended (53 Stat. 29, 54 Stat. 1008; 26 U.S.C. (1952 Ed.) 55(a)), and by section 6103(a) of the Internal Revenue Code of 1954, as amended (68A Stat. 753; 26 U.S.C. 6103(a)), it is hereby ordered that any income, excess-profits, estate, or gift tax return for the years 1948 to 1968, inclusive, shall, during the Ninetieth Congress, be open to inspection by the Senate Select Committee on Standards and Conduct, or any duly authorized subcommittee thereof, in connection with its investigation of allegations that members, officers, or employees of the Senate have engaged in improper conduct, violated the law, or violated the rules and regulations of the Senate in connection with the performance of their duties, pursuant to Senate Resolution 338, 88th Congress, agreed to July 24, 1964. Such inspection shall be in accordance and upon compliance with the rules and regulations prescribed by the Secretary of the Treasury in Treasury Decisions 6132 and 6133, relating to the inspection of returns by committees of the Congress, approved by the President on May 3, 1955.

This order shall be effective upon its filing for publication in the FEDERAL REGISTER.

THE WHITE HOUSE,
November 30, 1967.

[F.R. Doc. 67-14208; Filed, Dec. 1, 1967; 1:18 p.m.]

Executive Order 11384

PLACING AN ADDITIONAL POSITION IN LEVEL V OF THE FEDERAL EXECUTIVE SALARY SCHEDULE

By virtue of the authority vested in me by section 5317 of title 5 of the United States Code, as amended, and as President of the United States, section 2 of Executive Order No. 11248 of October 10, 1965, as amended, is further amended by adding thereto the following:

(17) Director, United States Secret Service, Treasury Department.

Lyndon B. Johnson

THE WHITE HOUSE,
December 1, 1967.

[F.R. Doc. 67-14226; Filed, Dec. 4, 1967; 9:48 a.m.]

Rules and Regulations

Title 7—AGRICULTURE

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

Correction

In F.R. Doc. 67-13666, appearing at page 15911 of the issue for Tuesday, November 21, 1967, make the following changes:

1. In line 38 of § 401.103(a), the word "countries" should read "counties".

2. In § 401.111, section 6, line 1 of paragraph (c), the word "to" should read "the".

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Grapefruit Reg. 9, Amdt. 1]

PART 944—FRUIT; IMPORT REGULATIONS

Grapefruit

Pursuant to the provisions of section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), the provisions of paragraph (a) of Grapefruit Regulation 9 (§ 944.105, 32 F.R. 12938) are hereby amended as follows:

In § 944.105 the introductory paragraph and subparagraph (2) of paragraph (a) are amended. Subparagraph (3) of paragraph (a) is added. As amended § 944.105(a) is set forth below:

§ 944.105 Grapefruit Regulation 9.

(a) On and after December 4, 1967, the importation into the United States of any grapefruit is prohibited unless such grapefruit is inspected and meets the following requirements:

* * * * *

(2) Seedless grapefruit, other than pink seedless, shall grade at least Improved No. 2 and be of a size not smaller than 3⁹⁄₁₆ inches in diameter, except that a tolerance of 10 percent, by count, of seedless grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in the U.S. Standards for Florida Grapefruit. ("Improved No. 2" shall mean grapefruit grading at least U.S. No. 2 and also meeting the requirements of the U.S. No. 1 grade as to shape (form) and color.)

(3) Pink seedless grapefruit shall grade at least Improved No. 2 and be of a size not smaller than 3⁷⁄₁₆ inches in diameter, except that a tolerance of 10 percent, by count, of pink seedless grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in the U.S. Standards for Florida Grapefruit.

* * * * *

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective time of this amendment beyond that hereinafter specified (5 U.S.C. 553) in that (a) the requirements of this amended import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), which makes such regulation mandatory; (b) such regulation imposes the same restrictions on imports of all grapefruit as the grade and size restrictions being made applicable to the shipment of all grapefruit grown in Florida under amended Grapefruit Regulation 66 (§ 905.495); (c) compliance with this amended import regulation will not require any special preparation which cannot be completed by the effective time hereof; and (d) this amendment relieves restrictions on the importation of grapefruit.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated, November 30, 1967, to become effective December 4, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-14159; Filed, Dec. 4, 1967; 8:46 a.m.]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 224—DISCOUNT RATES

Changes in Rates

Pursuant to section 14(d) of the Federal Reserve Act (12 U.S.C. 357), and for the purposes of adjusting discount rates with a view to accommodating commerce and business in accordance with other related rates and the general credit situation of the country, Part 224 is amended as set forth below:

1. Section 224.2 is amended to read as follows:

§ 224.2 Advances and discounts for member banks under sections 13 and 13a.

The rates for all advances and discounts under sections 13 and 13a of the Federal Reserve Act (except advances under the last paragraph of such section 13 to individuals, partnerships, or corporations other than member banks) are:

Federal reserve bank of—	Rate	Effective
Boston	4½	Nov. 20, 1967
New York	4½	Do.
Philadelphia	4½	Nov. 21, 1967
Cleveland	4½	Nov. 20, 1967
Richmond	4½	Do.
Atlanta	4½	Do.
Chicago	4½	Do.
St. Louis	4½	Nov. 27, 1967
Minneapolis	4½	Nov. 20, 1967
Kansas City	4½	Do.
Dallas	4½	Do.
San Francisco	4½	Do.

2. Section 224.3 is amended to read as follows:

§ 224.3 Advances to member banks under section 10(b).

The rates for advances to member banks under section 10(b) of the Federal Reserve Act are:

Federal reserve bank of—	Rate	Effective
Boston	5	Nov. 20, 1967
New York	5	Do.
Philadelphia	5	Nov. 21, 1967
Cleveland	5	Nov. 20, 1967
Richmond	5	Do.
Atlanta	5	Do.
Chicago	5	Do.
St. Louis	5	Nov. 27, 1967
Minneapolis	5	Nov. 20, 1967
Kansas City	5	Do.
Dallas	5	Do.
San Francisco	5	Do.

3. Section 224.4 is amended to read as follows:

§ 224.4 Advances to persons other than member banks.

The rates for advances to individuals, partnerships, or corporations other than member banks secured by direct obligations of the United States under the last paragraph of section 13 of the Federal Reserve Act are:

Federal reserve bank of—	Rate	Effective
Boston	5½	Nov. 20, 1967
New York	6	Do.
Philadelphia	5½	Nov. 21, 1967
Cleveland	6	Nov. 20, 1967
Richmond	5½	Do.
Atlanta	6½	Do.
Chicago	5½	Do.
St. Louis	5½	Nov. 27, 1967
Minneapolis	5½	Nov. 20, 1967
Kansas City	5½	Do.
Dallas	5½	Do.
San Francisco	5½	Do.

For the reasons and good cause found as stated in § 224.7, there is no notice,

public participation, or deferred effective date in connection with this action.

(12 U.S.C. 248(i). Interprets or applies 12 U.S.C. 357)

Dated at Washington, D.C., this 24th day of November 1967.

By order of the Board of Governors.

[SEAL] MERRITT SHERMAN, *Secretary.*

[F.R. Doc. 67-14131; Filed, Dec. 4, 1967; 8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

SUBCHAPTER C—AIRCRAFT

[Docket No. 8581; Amdt. 39-520]

PART 39—AIRWORTHINESS DIRECTIVES

British Aircraft Corp. Model BAC 1-11 200 Series Airplanes

Amendment 39-482 (32 F.R. 13115), AD 67-26-1, requires the yaw damper to be operating at all times during flight or that it be deactivated, and that an appropriate placard be placed near the yaw-damper control switch on British Aircraft Corp. Model BAC 1-11 200 Series airplanes. Since the issuance of the AD, the FAA has determined that the yaw-damper control may be operated in accordance with approved airplane flight manual procedures after the yaw-damper actuator has been adjusted in accordance with BAC 1-11 Service Bulletin No. 27-PM 3291, or an FAA-approved equivalent; the Elliots Co. torque motor type 130/6P has been modified in accordance with BAC 1-11 Service Bulletin No. 27-PM 3191 or an FAA-approved equivalent; sealant has been applied to the inside surface of the torque motor mounting access plates, and if there is a $\frac{1}{4}$-inch diameter dowel access hole in the mounting, the hole has been closed with a suitable aluminum alloy plug. Therefore the AD is being amended to provide that the yaw-damper may be operated in accordance with approved airplane flight manual procedures after these modifications and adjustments are accomplished.

Since this amendment provides an alternative means of compliance and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-482 is amended as follows:

1. By amending the lead-in paragraph to read as follows:

To prevent unwanted rudder actuation as a result of yaw-damper control valve drift when electrically deenergized, comply with either paragraph (a), (b), or (c),

2. By adding after paragraph (b) new paragraphs (c) and (d) reading as follows:

(c) Adjust and modify the yaw-damper control as follows:

(1) Adjust the yaw-damper actuator Boulton Paul Part No. P 185-45-10 to provide one degree bias between the torque motor and the rotary hydraulic control valve of the unit in accordance with BAC 1-11 Service Bulletin 27-PM 3291, or later ARB-approved issue, or an equivalent approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region.

(2) Modify the Elliots Co. torque motor type 130/6P to incorporate Boulton Paul Modification Nos. P185/11 or P185/15, in accordance with BAC 1-11 Service Bulletin No. 27-PM 3191 or later ARB-approved issue or an equivalent approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region.

(3) Apply sealant, Midlands Silicones LTD. cold-cure silastomer K9160, or an FAA-approved equivalent, to the inside surfaces of the torque motor mounting access plates on final assembly and plug the 5/32-inch diameter dowel access hole, if present in the mounting, with a suitable aluminum alloy plug, in accordance with BAC 1-11 Service Bulletin No. 27-PM 3193 or later ARB-approved issue, or its equivalent approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region.

(d) When the adjustments and modifications set forth in paragraph (c) are accomplished, any placards installed in accordance with paragraphs (a) and (b) may be removed.

This amendment becomes effective December 5, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on November 29, 1967.

R. S. SLIFF, *Acting Director, Flight Standards Service.*

[F.R. Doc. 67-14139; Filed, Dec. 4, 1967; 8:45 a.m.]

SUBCHAPTER E—AIRSPACE

[Airspace Docket No. 67-SW-77]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Beeville, Tex., control zone. The NAAS Beeville VOR is scheduled for decommissioning on December 1, 1967, and it is therefore necessary to amend the Beeville, Tex., control zone by revoking the controlled airspace which was based on the NAAS Beeville VOR.

Since this amendment lessens the burden on the public, notice and public procedures hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., December 1, 1967, as hereinafter set forth.

In § 71.171 (32 F.R. 2007) the Beeville, Tex., control zone is amended by deleting "and within 2 miles each side of the NAAS Beeville VOR 349° radial, extending from the 5-mile radius zone to 12 miles N of the VOR."

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Fort Worth, Tex., on November 24, 1967.

HENRY L. NEWMAN, *Director, Southwest Region.*

[F.R. Doc. 67-14140; Filed, Dec 4, 1967; 8:46 a.m.]

[Airspace Docket No. 67-CE-108]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

On pages 13006 and 13007 of the FEDERAL REGISTER dated September 13, 1967, the Federal Aviation Administration published a notice of proposed rule making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Marion, Ind., control zone and transition area.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendments. Ten comments were received, one of which concurred with the proposal. The other nine comments voiced objections to the proposal on the ground that the proposed VOR public use instrument approach procedure for runway 33 at the Marion Municipal Airport conflicted with the public use instrument approach procedures for Runway 14-32 at the Muncie, Ind., airport. The objectors felt that this conflict would cause unnecessary delays for aircraft executing the public use instrument approach procedures at the busier Muncie Municipal Airport. One commentor advised that the Muncie aviation authorities are planning to extend Runway 14-32 to 6,500 feet for possible installation of an instrument landing system.

In reply to these comments, the agency wishes to advise that the new public use instrument approach procedures for Marion Municipal Airport have been in existence for a number of years as private use instrument approach procedures accommodating air carrier operations at this airport without adversely effecting IFR air traffic at Muncie. In connection with this proposal, coordination procedures have been developed between the Bunker Hill AFB RAPCON and the Indianapolis ARTC Center to provide compatible instrument operations at both airports. These procedures are currently contained in a Letter of Agreement between the RAPCON and the Center. In addition, the Muncie Control Tower has been provided with coordination procedures to effectively handle special VFR operations within the Muncie control zone. Also, adequate land line communications are provided between the Indianapolis Center, the Bunker Hill AFB RAPCON, and Muncie Tower to effectively coordinate a safe and efficient movement of air traffic. Finally, the agency cannot foresee any adverse effect on the future expansion and development of the Muncie Municipal Airport by the addition of the two instrument approach procedures at Marion, Ind.

In consideration of the foregoing, the proposed amendments are hereby adopted without change and are set forth below.

These amendments shall become effective 0001 e.s.t., February 1, 1968.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Kansas City, Mo., on November 15, 1967.

DANIEL E. BARROW, *Acting Director, Central Region.*

1. In § 71.171 (32 F.R. 2071), the following control zone is amended to read:

MARION, IND.

Within a 5-mile radius of Marion Municipal Airport (latitude 40°29'25" N., longitude 85°40'40" W.), and within 2 miles each side of the Marion VOR 042°, 155°, and 211° radials extending from the 5-mile radius zone to 8 miles northeast, southeast, and southwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airmen's Information Manual.

2. In § 71.181 (32 F.R. 2148), the following transition area is amended to read:

MARION, IND.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Marion Municipal Airport (latitude 40°29'25" N., longitude 85°40'40" W.), and within 2 miles each side of the Marion VOR 042°, 155°, 211°, and 320° radials extending from the 5-mile radius area to 8 miles northeast, southeast, southwest, and northwest of the VOR.

[F.R. Doc. 67-14141; Filed, Dec. 4, 1967; 8:46 a.m.]

[Airspace Docket No. 67-SW-81]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the College Station, Tex., control zone and transition area. This action is necessary as the College Station VOR is temporarily out of service pending its conversion to a VORTAC facility. During this interim, a radio beacon has been installed at the VOR site and will be used to provide the IFR capability for Easterwood Field until, on, or about February 1, 1968. Since the radio facilities are collocated, references and bearings in the description will be based on the coordinates of the facility site, i.e., lat. 30°36'17" N., long. 96°25'13" W.

As there will be a control zone extension based on the RBN and the 700-foot portion of the transition area is herein canceled in its entirety, the airspace requirements and effects are considered to be of a minor nature and will not cause an undue hardship or burden on the public. In light of the urgency to provide airspace necessary to accommodate IFR approach/departure operations in the College Station, Tex., terminal area, the amendment will be made effective immediately.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.171 (32 F.R. 2064) the College Station, Tex., control zone is amended to read:

Within a 5-mile radius of Easterwood Field, College Station, Tex. (lat. 30°35'00" N., long. 96°22'00" W.), and within 2 miles each side of the 267° bearing from lat. 30°36'17" N., long. 96°25'13" W., extending from the 5-mile radius zone to 8 miles west of lat. 30°36'17" N., long. 96°25'13" W. and within 2 miles each side of the 307° bearing from lat. 30°36'17" N., long. 96°25'13" W., extending from the 5-mile radius zone to 9 miles west of lat. 30°36'17" N., long. 96°25'13" W.

In § 71.181 (32 F.R. 2170) the College Station, Tex., transition area is amended to read:

That airspace extending upward from 1,200 feet above the surface within 8 miles south and 5 miles north of a 107° bearing from lat. 30°36'17" N., long. 96°25'13" W. extending from lat. 30°36'17" N., long. 96°25'13" W. to 7 miles east; and within 5 miles each side of a 124° bearing from lat. 30°36'17" N., long. 96°25'13" W. extending from lat. 30°36'17" N., long. 96°25'13" W. to 23 miles southeast.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Fort Worth, Tex., on November 24, 1967.

HENRY L. NEWMAN, *Director, Southwest Region.*

[F.R. Doc. 67-14142; Filed, Dec. 4, 1967; 8:46 a.m.]

[Airspace Docket No. 67-WE-71]

PART 73—SPECIAL USE AIRSPACE

Designation of Period of Use for Restricted Area

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to designate a period of use for Restricted Area R-6410 at Blanding, Utah.

On May 13, 1966, a rule designating Restricted Area R-6410 at Blanding, Utah, was published in the FEDERAL REGISTER (31 F.R. 7032). The time of designation for this restricted area was established as follows:

Time of designation: Continuous, June 23, 1966, through August 15, 1966. All subsequent firing periods will be designated by a rule published in the FEDERAL REGISTER.

Since it was not possible to determine the exact dates that R-6410 would be needed each year when designation of the area was first requested, it was determined, as set forth above, to establish subsequent firing periods by a rule published in the FEDERAL REGISTER.

Since this amendment is made in accordance with the procedures set forth in the notice and previous rule, additional notice and public procedure hereon are unnecessary.

Therefore, action is taken herein to amend Part 73 of the Federal Aviation regulations, effective 0001 e.s.t., February 1, 1968, as hereinafter set forth.

In § 73.64 (32 F.R. 2332, 31 F.R. 15799, 32 F.R. 2219, 5769), the Blanding, Utah, Restricted Area R-6410 is amended by deleting the present time of designation and substituting the following therefor:

Time of designation: Continuous, February 15, 1968, through December 15, 1968. All subsequent firing periods will be designated by a rule published in the FEDERAL REGISTER.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on November 24, 1967.

H. B. HELSTROM, *Acting Director, Air Traffic Service.*

[F.R. Doc. 67-14143; Filed, Dec. 4, 1967; 8:46 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-1267]

PART 13—PROHIBITED TRADE PRACTICES

John K. Burch Co. et al.

Subpart—Advertising falsely or misleadingly: § 13.30 *Composition of goods:* 13.30-75 Textile Fiber Products Identification Act; § 13.73 *Formal regulatory and statutory requirements:* 13.73-90 Textile Fiber Products Identification Act. Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* 13.1108-80 Textile Fiber Products Identification Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185-80 Textile Fiber Products Identification Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212-80 Textile Fiber Products Identification Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition:* 13.1845-70 Textile Fiber Products Identification Act; § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-70 Textile Fiber Products Identification Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 72 Stat. 1717; 15 U.S.C. 45, 70) [Cease and desist order, John K. Burch Co. et al., Southwest Grand Rapids, Mich., Docket C-1267, Nov. 14, 1967]

In the Matter of John K. Burch Co., a Corporation, and John L. Kirchhoff, Thomas C. Zoellner, and Armand F. Burch, Individually and as Officers of Said Corporation

Consent order requiring a Grand Rapids, Mich., wholesaler of upholstery fabrics to cease misbranding and falsely advertising its textile fiber products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents John K. Burch Co., a corporation, and its officers, and John L. Kirchhoff, Thomas C. Zoellner, and Armand F. Burch, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, sale, advertising, or offering for sale in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product, which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by:

1. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising, or otherwise identifying such products as to the name or amount of the constituent fibers contained therein.

2. Failing to affix labels to such textile fiber products showing in a clear, legible, and conspicuous manner each element of information required to be disclosed by section 4(b) of the Textile Fiber Products Identification Act.

3. Placing nonrequired information on labels in such a manner as to minimize, detract from, or conflict with the required information or to be false or deceptive as to fiber content.

4. Using a generic name or fiber trademark on any label, whether required or nonrequired, without making a full and complete fiber content disclosure in accordance with the Act and the rules and regulations thereunder the first time such generic name or fiber trademark appears on the label.

5. Using the generic names of fibers in nonrequired information on any label in such a manner as to be false, deceptive, or misleading as to fiber content or to indicate, directly or indirectly, that such textile fiber products are composed wholly or in part of a particular fiber, when such is not the case.

B. Falsely and deceptively advertising textile fiber products by:

1. Making any representations, directly or by implication, as to the fiber content of any textile fiber product in any written advertisement which is used to aid, promote or assist directly or indirectly, in the sale or offering for sale of such textile fiber product, unless the same information required to be shown on the stamp, tag, or label or other means of identification under section 4(b) (1) and (2) of the Textile Fiber Products Identification Act is contained in the said advertisement, in the manner and form required except that the percentages of the fibers present in the textile fiber product need not be stated.

2. Using a fiber trademark in advertisements without a full disclosure of the required content information in at least one instance in the said advertisement.

3. Using a fiber trademark in advertising textile fiber products containing more than one fiber without such fiber trademark appearing in the required fiber content information in immediate proximity and conjunction with the generic name of the fiber in plainly legible type of lettering of equal size and conspicuousness.

4. Using the generic name of a fiber in advertising textile fiber products in such a manner as to be false, deceptive or misleading as to fiber content or to indicate, directly or indirectly, that such textile fiber products are composed wholly or in part of such fiber when such is not the case.

5. Failing to set forth all parts of the required information in advertisements of textile fiber products in immediate conjunction with each other in legible and conspicuous type or lettering of equal size and prominence.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: November 14, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-14133; Filed, Dec. 4, 1967; 8:45 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 67-276]

PART 12—SPECIAL CLASSES OF MERCHANDISE

Coffee Import Quotas for Nonmember Countries of International Coffee Agreement

NOVEMBER 29, 1967.

The Treasury Department has been informed by the Department of State that the International Coffee Council has adopted Resolution No. 141 which continues the limitations of Article 45(2) of the International Coffee Agreement of 1962 (14 UST 1911) to imports of coffee produced in nonmember countries, whereby importing member countries are required to limit their annual imports from nonmember countries to a quantity not in excess of their average annual imports from such countries during the last 3 years prior to the entry into force of the Agreement (1960, 1961, and 1962).

Since November 15, 1966, Honduras, Kenya, Liberia, and several smaller producers have become members of the Agreement and subject to the requirements applicable to member countries, and the status of Portuguese overseas territories other than Angola has been changed so that they are to be treated like member countries. Consequently, the coffee import quotas for Honduras, Kenya, and Liberia are being deleted, and the amount of the basket quota to which coffee produced in nonmember countries not allocated a specific quota is charged is being reduced.

The Department of State has also requested that the annual quotas be divided into two 6-month periods. Any part of the quota not filled during the first 6-month period may be filled during the second 6-month period. This is for the convenience of importers, as it will simplify import scheduling and reduce the potential loss in the event that coffee arrives in excess of the quota and must be stored in a foreign-trade zone until the next quota period opens.

Section 12.71 (a) and (b) of the Customs regulations is accordingly amended to read as follows:

§ 12.71 Import quotas on coffee produced in nonmember countries of the International Coffee Organization.

(a) The following import quotas for the 12-month period beginning on November 15 in any year on coffee, expressed in pounds of green coffee, produced in nonmember countries of the International Coffee Organization are established pursuant to article 45(2) of the International Coffee Agreement for the following countries. Not more than 50 percent of the amount of each quota may be entered during the first 6 months of the year (November 15–May 14).

Country	*Quota in pounds of green coffee*
Bolivia	1,980,000
Guinea	1,456,260
Paraguay	2,644,000
Yemen	1,860,800

(b) All coffee not specifically identified as a product of or shipment from a member country and not charged to the quota of one of the countries listed in paragraph (a) of this section shall be charged to an annual basket quota of 4,228,024 pounds of green coffee, not more than 50 percent of which may be entered during the first 6 months of the year (November 15–May 14). Coffee from any of the countries named in paragraph (a) of this section shall be charged to the basket quota during each 6-month period after the quota for that country has been filled.

(Sec. 2(1), 79 Stat. 112; 19 U.S.C. 1356a(1); E.O. 11229, June 14, 1965, 30 F.R. 7741)

Effective date. This amendment shall become effective as of November 15, 1967.

[SEAL] LESTER D. JOHNSON, *Commissioner of Customs.*

Approved: November 24, 1967.

TRUE DAVIS, *Assistant Secretary of the Treasury.*

[F.R. Doc. 67-14196; Filed, Dec. 4, 1967; 8:47 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4235]

[Utah 2045]

UTAH

Addition to National Forest

By virtue of the authority contained in the act of July 9, 1962 (76 Stat. 140; 43 U.S.C. 315–g1), it is ordered as follows:

Subject to valid existing rights, the following described lands acquired in an exchange made pursuant to section 8 of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315g), as amended, are hereby added to and made a part of the Manti-LaSal National Forest, and hereafter shall be subject to all laws and regulations applicable to said national forest:

SALT LAKE MERIDIAN

T. 12 S., R. 7 E.,
Sec. 8, S½NW¼, NE¼SW¼.

The areas described aggregate 120 acres in Emery County.

HARRY R. ANDERSON, *Assistant Secretary of the Interior.*

NOVEMBER 27, 1967.

[F.R. Doc. 67-14135; Filed, Dec. 4, 1967; 8:45 a.m.]

[Public Land Order 4234]

[Idaho 1389]

IDAHO

Withdrawal for Administrative Site

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights and the provisions of existing withdrawals, the following described public lands are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, and reserved for an administrative site for the Challis and Sawtooth National Forests:

BOISE MERIDIAN

STANLEY ADMINISTRATIVE SITE

T. 10 N., R. 13 E.,
Sec. 22, lot 7, E½SE¼SW¼;
Sec. 27, N½NW¼NE¼.

The areas described aggregate 66.26 acres in Custer County.

2. The withdrawal made by paragraph 1 of this order does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRY R. ANDERSON, *Assistant Secretary of the Interior.*

NOVEMBER 29, 1967.

[F.R. Doc. 67-14136; Filed, Dec. 4, 1967; 8:45 a.m.]

[Public Land Order 4236]

[Riverside 07321]

CALIFORNIA

Withdrawal for Protection of National Forest Watershed and Recreation Area (Castaic Reservoir)

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

SAN BERNARDINO MERIDIAN

ANGELES NATIONAL FOREST

T. 5 N., R. 16 W.,
Sec. 3, lots 1, 2, 6, W½ of lot 7, lot 8, and E½SW¼;
Sec. 5, lot 8, S½ of lot 9, lot 13, and SE¼;
Sec. 8, E½, E½SW¼, E½NW¼SW¼, E½W½NW¼SW¼, and SW¼SW¼;
Sec. 9, NW¼ and W½SW¼;
Sec. 17, W½NE¼ and NW¼.

T. 6 N., R. 16 W.,
Sec. 30, SE¼ (unsurveyed);
Sec. 32, S½SW¼ and SW¼SE¼ (unsurveyed).

T. 6 N., R. 17 W.,
Sec. 23, W½NE¼NW¼SE¼, W½NW¼SE¼, and SE¼NW¼SE¼.

The areas described aggregate 1,959.62 acres in Los Angeles County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRY R. ANDERSON, *Assistant Secretary of the Interior.*

NOVEMBER 29, 1967.

[F.R. Doc. 67-14137; Filed, Dec. 4, 1967; 8:45 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 17277; FCC 67-1206]

PART 97—AMATEUR RADIO SERVICES

Station Identification Requirements

Report and order. 1. On April 20, 1967, the Commission released a notice of proposed rule making to revise the station identification requirements for amateur radio stations. The notice was duly published in the FEDERAL REGISTER on April 25, 1967 (32 F.R. 6468) and all formal comments filed in response thereto have been carefully considered by the Commission.

2. The proposed rule changes in this docket basically contemplate the relaxation and simplification of amateur station identification procedures by elimination of those present requirements which are considered to be excessive to the Commission's enforcement effort and burdensome to licensees. Seventeen formal comments were submitted in this proceeding. Fourteen of these, including the comments of the American Radio Relay League, Inc., supported the proposals. The three opposition comments were based upon the belief that the proposed relaxation of station identification requirements would unduly amplify or create monitoring and enforcement difficulties.

3. The issue raised in the opposition comments was necessarily taken into consideration by the Commission before initiating this proceeding. It is realized that situations will continue to arise where the identification requirements will not prove sufficient. These situations, however, are rather rare and, in most instances, could not be served by any reasonable requirements. In the Commission's view, the identification requirements need not be complicated to cater to these unusual circumstances with the resultant burden to licensees. The proposals in this docket, therefore, reflect only those rule changes which, after extensive studies, were found to be consistent with monitoring and investigative needs in meeting the conditions of normal amateur radio communications. Other possibilities, such as elimination of the identification of the receiving station or further relaxation of identification requirements during brief transmissions, were rejected as being restrictive to the Commission's enforcement tasks.

4. Essentially, the comments in support of the proposals consider the rule changes to be timely and desirable and they urge their prompt adoption. A few of these comments request that we further relax identification by providing that for exchanges of less than 2 minutes, such as those normally employed in network activities and competitive events, transmission of the call sign of the sending station and of the station with which contact is made need be accomplished only once. As indicated in the preceding paragraph, consideration was given to an exception of this nature. However, it was determined that such a provision would be inconsistent with the Commission's need for standardization in amateur identification. Furthermore, under the suggestion, it would be quite likely that Commission monitoring personnel would intercept an exchange after the single identification was given and then be unable to identify the stations involved. For at least these reasons, this additional proposal is denied.

5. After consideration of all of the factors which have been presented and for the reasons set forth herein and in

the notice of proposed rule making, the Commission finds that revision of the amateur radio station identification requirements as proposed is in the public interest, convenience and necessity. Therefore, it is concluded that the proposed rule changes should be adopted with the following minor modifications.

6. A number of the supporting comments indicate the need for certain clarifications. There appears to be some confusion as to whether a radioteleprinter station will be required to identify the receiving station. In the present rule § 97.87, radioteleprinter stations are exempted from this requirement and it is intended that this exemption continue to apply. The language of the proposed § 97.87(a) has been modified accordingly. Further, to eliminate any possible ambiguity, the provision of proposed § 97.87(a) which states that additional identification is required "every 10 minutes" is being modified to read "at intervals not to exceed 10 minutes". Finally, it is noted that, although the proposed § 97.87 eliminates the present requirement for the use of such supplementary identification phrases as "de", "from", or "this is", the usage of these terms and similar phrases is permitted and encouraged.

7. Authority for the revision set forth below is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended. *Therefore, it is ordered*, That, effective January 15, 1968, § 97.87 of the Commission's rules is revised as set forth below.

8. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended 1066, 1082; 47 U.S.C. 154, 303)

Adopted: November 29, 1967.

Released: November 30, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

Part 97 of the Commission's rules is amended as follows:

Section 97.87 is revised to read as follows:

§ 97.87 Station identification.

(a) An amateur station shall be identified by the transmission of its call sign at the beginning and end of each single transmission or exchange of transmissions and at intervals not to exceed ten minutes during any single transmission or exchange of transmissions of more than 10 minutes duration. Additionally, at the end of an exchange of telegraphy (other than teleprinter) or telephony transmissions between amateur stations, the call sign (or the generally accepted network identifier) shall be given for the station, or for at least one of the group of stations, with which communication was established.

(b) When an amateur station is operated as a portable or mobile station, the operator shall give the following additional identification at the end of each single transmission or exchange of transmissions:

(1) When identifying by telegraphy, immediately after the call sign, transmit the fraction-bar DN followed by the number of the call sign area in which the station is being operated.

(2) When identifying by telephony, immediately after the call sign, transmit the word "portable" or "mobile", as appropriate, followed by the number of the call sign area in which the station is being operated.

(c) When an amateur station is operated outside of the 10 call sign areas prescribed in § 97.51(b) and outside of the jurisdiction of a foreign government, the operator shall give the following additional identification at the end of each single transmission or exchange of transmissions:

(1) When identifying by telegraphy, immediately after the call sign, transmit the fraction-bar DN followed by the designator R 1, R 2, or R 3, to show the region (as defined by the International Radio Regulations, Geneva, 1959) in which the station is being operated.

(2) When identifying by telephony, immediately after the call sign, transmit the word "mobile" followed by the designator Region 1, Region 2, or Region 3, to show the region (as defined by the International Radio Regulations, Geneva, 1959) in which the station is being operated.

(d) The identification required by paragraphs (a), (b), and (c) of this section shall be given on each frequency being utilized and shall be transmitted by telegraphy, using the International Morse Code, or by telephony, using the English language. The use of a nationally or internationally recognized standard phonetic alphabet as an aid for correct telephony identification is encouraged.

[F.R. Doc. 67-14170; Filed, Dec. 4, 1967; 8:48 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Lacreek National Wildlife Refuge, S. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

SOUTH DAKOTA

LACREEK NATIONAL WILDLIFE REFUGE

Sport fishing on the Lacreek National Wildlife Refuge, Martin, S. Dak., is permitted only on the Little White River Recreational Area and a portion of Waterfowl Management Unit 10, which are designated by signs as open to fishing. These open areas, comprising a total of 710 acres, are delineated on maps available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn. 55408. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the Little White River Recreational Area extends from January 1, through December 31, 1968, inclusive; daylight hours only.

(2) The open season for sport fishing on the Waterfowl Management Unit No. 10 extends from January 1, through Februray 29, 1968, inclusive; daylight hours only.

(3) The use of motorized vehicles are not permitted on ice.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33, and are effective through December 31, 1968.

JOHN W. ELLIS,
Refuge Manager, Lacreek National Wildlife Refuge, Martin, S. Dak.

NOVEMBER 27, 1967.

[F.R. Doc. 67-14124; Filed, Dec. 4, 1967; 8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Parts 911, 915]

[Docket Nos. AO-267-A2, AO-256-A4]

HANDLING OF LIMES AND AVOCADOS

Decision and Referendum Order With Respect to Proposed Further Amendments of Marketing Agreements and Orders

Pursuant to the rules of practice and procedure governing proceedings to formulate marketing agreements and orders (7 CFR Part 900), a public hearing was held at Homestead, Fla., on June 20, 1967, after notice thereof published in the FEDERAL REGISTER (32 F.R. 7715, 7858) on proposed further amendment of the respective marketing agreements and order (7 CFR Parts 911 and 915) regulating, respectively, the handling of limes grown in Florida and avocados grown in south Florida, to be made effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

On the basis of the evidence adduced at the hearing and the record thereof, the Acting Deputy Administrator, Consumer and Marketing Service, on October 16, 1967, filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision in this proceeding. The notice of the filing of such recommended decision, affording opportunity to file written exceptions thereto, was published in the FEDERAL REGISTER (F.R. Doc. 67-12391; 32 F.R. 14560). No exception was filed.

The material issues, findings and conclusions, and the general findings of the recommended decision set forth in the FEDERAL REGISTER (F.R. Doc. 67-12391; 32 F.R. 14560) are hereby approved and adopted as the material issues, findings and conclusions, and the general findings of this decision as if set forth in full herein.

Further amendment of the marketing agreements and orders. Annexed hereto and made a part hereof are documents entitled, respectively, "Marketing Agreement, as Amended, Regulating the Handling of Limes Grown in Florida," "Order Amending the Order, as Amended, Regulating the Handling of Limes Grown in Florida," "Marketing Agreement, as Amended, Regulating the Handling of Avocados Grown in South Florida," and "Order Amending the Order, as Amended, Regulating the Handling of Avocados Grown in South Florida" which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the aforesaid rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Referendum order. Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), it is hereby directed that referenda be conducted:

(1) Among the producers who, during the period April 1, 1966 through March 31, 1967 (which period is hereby determined to be a representative period for the purpose of such referendum), were engaged, within the production area (as defined in 7 CFR Part 911), in the production of limes for market to ascertain whether such producers favor the issuance of the annexed order amending Order No. 911, as amended (7 CFR Part 911), regulating the handling of such limes; and

(2) Among the producers who, during the period April 1, 1966, through March 31, 1967 (which period is hereby determined to be a representative period for the purpose of such referendum), were engaged, within the production area (as defined in 7 CFR Part 915), in the production of avocados for market to ascertain whether such producers favor the issuance of the annexed order amending Order No. 915, as amended (7 CFR Part 915), regulating the handling of such avocados.

Minard F. Miller, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, is hereby designated referendum agent of the Secretary of Agriculture to conduct said referenda.

The procedure applicable to each referendum shall be the "Procedure for the Conduct of Referenda in Connection With Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended" (7 CFR 900.400 et seq.).

The ballots used in such referenda shall contain a summary describing the terms and conditions of the proposed amendments of the orders, as applicable.

Copies of the aforesaid annexed orders and of the aforesaid referendum procedure may be examined in the Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Ballots to be cast in the referenda, and other necessary forms and instructions, may be obtained from the referendum agent or any appointee.

It is hereby ordered, That all of this decision and referendum order, except the annexed marketing agreements, be published in the FEDERAL REGISTER. The respective regulatory provisions of the said marketing agreements are identical with those contained in the annexed marketing orders which will be published with this decision.

Dated: November 30, 1967.

ROBERT E. LEDNARD,
Deputy Assistant Secretary.

Order[1] Amending the Order, as Amended, Regulating the Handling of Limes Grown in Florida

§ 911.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations made in connection with the issuance of the order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure effective thereunder (7 CFR Part 900), a public hearing was held at Homestead, Fla., on June 20, 1967, upon proposed amendment of the amended marketing agreement and Order No. 911, as amended (7 CFR Part 911), regulating the handling of limes grown in Florida. Upon the basis of the evidence introduced at the hearing and the record thereof, it is found that:

(1) The said order, as amended and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The said order, as amended and as hereby further amended, regulates the handling of limes grown in the designated production area in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, the marketing agreement upon which hearings have been held;

(3) The said order, as amended and as hereby further amended, is limited in its application to the smallest regional production area that is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of such production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of limes grown

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and orders have been met.

in the production area covered by said order, as amended and as hereby further amended, that make necessary different terms and provisions applicable to different parts of such area;

(5) All handling of limes grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

It is therefore ordered, That, on and after the effective date hereof, all handling of limes grown in the production area shall be in conformity to, and in compliance with, the terms and conditions of said order, as amended and hereby further amended, as follows:

1. Section 911.27 is amended by adding thereto a final sentence reading as follows:

§ 911.27 Alternate members.

* * * In the event both a member and his alternate are unable to attend a committee meeting, the chairman may designate any grower alternate member from the same district who is present, but not serving for any grower member, to serve in such absent grower member's place and stead and any handler alternate member from the same district who is present, but not serving for any handler member, to serve in such absent handler member's place and stead: *Provided*, That grower alternate members or handler alternate members from either district of the production area may be designated to serve for absent grower or handler members, respectively, from the other district only if such designation is necessary to obtain a quorum.

2. Section 911.41 (b) is amended to read as follows:

§ 911.41 Assessments.

* * * * *

(b) The Secretary shall fix the rate of assessment to be paid by each such person. At any time during or after the fiscal year, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any finding by the Secretary relative to the expenses which may be incurred: *Provided*, That, in no case shall the rate of assessment exceed 25 cents per bushel, or equivalent quantity, of limes. Such increase shall be applied to all limes handled during the applicable fiscal year. In order to provide funds for the administration of the provisions of this part, the committee may accept the payment of assessments in advance.

3. Section 911.42 is amended to read as follows:

§ 911.42 Accounting.

(a) If, at the end of the fiscal year, the assessments collected are in excess of expenses incurred, such excess shall be accounted for as follows:

(1) Except as provided in subparagraphs (2) and (3) of this paragraph, each person who has paid assessments in excess of his pro rata share of the expenses during any fiscal year shall be credited with such excess against the pro rata expenses of the following year: *Provided*, That any sum paid by a person in excess of his pro rata share of the expenses during any fiscal year may be applied by the committee at the end of such fiscal year to any outstanding obligations due the committee from such person.

(2) The committee, with the approval of the Secretary, may establish and maintain during one or more fiscal years an operating monetary reserve, consisting of all or any portion of such excess funds, in an amount not to exceed approximately 2 fiscal years' operational expenses. Upon approval by the Secretary, funds in such reserve shall be available for use by the committee for all expenses authorized pursuant to the applicable provisions of this part.

(3) Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That to the extent practical, such funds will be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purposes specified in this part and shall be accounted for in the manner provided in this part. The Secretary may at any time require the committee and its members to account for all receipts and disbursements.

(c) Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds in his possession to his successor in office and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor full title to all of the property, funds, and claims vested in such member pursuant to this part.

4. Section 911.45 is amended to read as follows:

§ 911.45 Marketing research and development.

(a) The committee may, with the approval of the Secretary, establish or provide for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of limes. Such projects may include any form of marketing promotion including paid advertising. The expenses of such projects shall be paid from funds collected pursuant to the applicable provisions of this part.

(b) In recommending projects pursuant to this section, the committee shall give consideration to the following factors:

(1) The expected supply of fruit covered by this part in relation to market requirements;

(2) The supply situation among competing areas and commodities; and

(3) The need for marketing research with respect to any marketing development activity.

(c) If the committee should conclude that marketing research and development projects should be undertaken or continued pursuant to this section in any fiscal year, it shall submit the following, as applicable for the approval of the Secretary:

(1) Its recommendation as to funds to be obtained pursuant to the applicable provisions of this part and the rate of assessment required to obtain such funds;

(2) Its recommendation as to any marketing research projects; and

(3) Its recommendation as to promotion activity and paid advertising.

(d) The committee shall submit to the Secretary annual reports summarizing the operations and accomplishments of such marketing research and development projects.

Order[1] Amending the Order, as Amended, Regulating the Handling of Avocados Grown in South Florida

§ 915.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations made in connection with the issuance of the order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure effective thereunder (7 CFR Part 900), a public hearing was held at Homestead, Fla., on June 20, 1967, upon proposed amendment of the amended marketing agreement and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in south Florida. Upon the basis of the evidence introduced at the hearing and the record thereof, it is found that:

(1) The said order, as amended and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The said order, as amended and as hereby further amended, regulates the handling of avocados grown in the designated production area in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, the marketing agreement upon which hearings have been held;

(3) The said order, as amended and as hereby further amended, is limited in its application to the smallest regional production area that is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of such production area would not effectively carry out the declared policy of the act;

(4) The said order, as amended and as hereby further amended, prescribes, so far as practicable, such different terms applicable to different parts of the production area covered thereby as are necessary to give due recognition to the differences in production and marketing of the avocados covered thereby; and

(5) All handling of avocados, grown in the production area, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

It is therefore ordered, That, on and after the effective date hereof, all handling of avocados grown in the production area shall be in conformity to, and in compliance with, the terms and conditions of said order, as amended and hereby further amended, as follows:

1. Section 915.27 is amended by adding thereto a final sentence reading as follows:

§ 915.27 Alternate members.

* * * In the event both a member and his alternate are unable to attend a committee meeting, the chairman may designate any grower alternate member from the same district who is present, but not serving for any grower member, to serve in such absent grower member's place and stead and any handler alternate member from the same district who is present, but not serving for any handler member, to serve in such absent handler member's place and stead: *Provided*, That grower alternate members or handler alternate members from either district of the production area may be designated to serve for absent grower or handler members, respectively, from the other district only if such designation is necessary to obtain a quorum.

2. Section 915.41 (b) is amended to read as follows:

§ 915.41 Assessments.

* * * * *

(b) The Secretary shall fix the rate of assessment to be paid by each such person. At any time during or after the fiscal year, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any finding by the Secretary relative to the expenses which may be incurred: *Provided*, That, in no case shall the rate of assessment exceed 25 cents per bushel, or equivalent quantity, of avocados. Such increase shall be applied to all avocados handled during the applicable fiscal year. In order to provide funds for the administration of the provisions of this part, the committee may accept the payment of assessments in advance.

3. Section 915.42 is amended to read as follows:

§ 915.42 Accounting.

(a) If, at the end of a fiscal year, the assessments collected are in excess of expenses incurred, such excess shall be accounted for as follows:

(1) Except as provided in subparagraphs (2) and (3) of this paragraph, each person who has paid assessments in excess of his pro rata share of the expenses during any fiscal year shall be credited with such excess against the pro rata expenses of the following year: *Provided*, That any sum paid by a person in excess of his pro rata share of the expenses during any fiscal year may be applied by the committee at the end of such fiscal year to any outstanding obligations due the committee from such person.

(2) The committee, with the approval of the Secretary, may establish and maintain during one or more fiscal years an operating monetary reserve, consisting of all or any portion of such excess funds, in an amount not to exceed approximately 2 fiscal years' operational expenses. Upon approval by the Secretary, funds in such reserve shall be available for use by the committee for all expenses authorized pursuant to the applicable provisions of this part.

(3) Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That to the extent practical, such funds will be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purposes specified in this part and shall be accounted for in the manner provided in this part. The Secretary may at any time require the committee and its members to account for all receipts and disbursements.

(c) Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds in his possession to his successor in office and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor full title to all of the property, funds, and claims vested in such member pursuant to this part.

4. Section 915.45 is amended to read as follows:

§ 915.45 Marketing research and development.

(a) The committee may, with the approval of the Secretary, establish or provide for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of avocados. Such projects may include any form of marketing promotion including paid advertising. The expenses of such projects shall be paid from funds collected pursuant to the applicable provisions of this part.

(b) In recommending projects pursuant to this section, the committee shall give consideration to the following factors:

(1) The expected supply of fruit covered by this part in relation to market requirements;

(2) The supply situation among competing areas and commodities; and

(3) The need for marketing research with respect to any marketing development activity.

(c) If the committee should conclude that marketing research and development projects should be undertaken or continued pursuant to this section in any fiscal year, it shall submit the following, as applicable for the approval of the Secretary:

(1) Its recommendation as to funds to be obtained pursuant to the applicable provisions of this part and the rate of assessment required to obtain such funds;

(2) Its recommendation as to any marketing research projects; and

(3) Its recommendation as to promotion activity and paid advertising.

(d) The committee shall submit to the Secretary annual reports summarizing the operations and accomplishments of such marketing research and development projects.

[F.R. Doc. 67-14169; Filed, Dec. 4, 1967; 8:48 a.m.]

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and orders have been met.

[7 CFR Part 950]

IRISH POTATOES GROWN IN MAINE

Expenses

Notice is hereby given that the Secretary of Agriculture is considering the approval of the expenses hereinafter set forth, which were recommended by the Maine Potato Marketing Committee, established pursuant to Marketing Agreement No. 122, as amended, and Order No. 950, as amended (7 CFR Part 950), regulating the handling of Irish potatoes grown in Maine. This is a regulatory program issued under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

All persons who desire to submit written data, views, or arguments in connection with these proposals shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 30th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

§ 950.212 Expenses.

(a) The reasonable expenses that are likely to be incurred by the Maine Potato Marketing Committee, established pursuant to Marketing Agreement No. 122 and this part (Order No. 950), both as amended, to enable such committee to perform its function under provisions of the amended marketing agreement and order during the fiscal period ending August 31, 1968, will amount to $1,780.

(b) Terms used in this section shall have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601 et seq.)

Dated: November 30, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-14146; Filed, Dec. 4, 1967; 8:46 a.m.]

[7 CFR Part 993]

[Docket No. AO 261-A6]

DRIED PRUNES PRODUCED IN CALIFORNIA

Decision and Referendum Order With Respect to Proposed Amendment of Marketing Agreement, as Amended, and Order, as Amended

Pursuant to the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at San Francisco, Calif., on April 17 through 19, 1967, after notice thereof was published in the FEDERAL REGISTER (32 F.R. 5556) on proposals to amend the marketing agreement, as amended, and Order No. 993, as amended (7 CFR Part 993), regulating the handling of dried prunes produced in California (hereinafter collectively referred to as the "order"). The amended marketing agreement and the amended order are effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674), hereinafter referred to as the act.

On the basis of the evidence adduced at the hearing, and the record thereof, the recommended decision in this proceeding was filed on July 14, 1967, with the Hearing Clerk, U.S. Department of Agriculture. The notice of the filing of such recommended decision, affording opportunity to file written exceptions thereto, was published in the FEDERAL REGISTER (F.R. Doc. 67-8293; 32 F.R. 10579). As a result of a request from the Prune Administrative Committee (hereinafter referred to as the "committee"), the agency established pursuant to the order, notice was published in the FEDERAL REGISTER (F.R. Doc. 67-8992; 32 F.R. 11233) extending the time to and including November 1, 1967, for filing written exceptions to the recommended decision.

Material issues, findings and conclusions, rulings, and general findings. The material issues, findings and conclusions, rulings, and the general findings of the recommended decision set forth in the FEDERAL REGISTER (F.R. Doc. 67-8293; 32 F.R. 10579) are hereby approved and adopted as the material issues, findings and conclusions, rulings, and the general findings of this decision as if set forth in full herein, except as they are modified by the rulings on the exceptions hereinafter set forth.

Rulings on exceptions. Exceptions to the recommended decision were filed, within the prescribed time, by R. W. Jewell for the committee; by Allan Grant for the California Farm Bureau Federation; by R. H. Engell for the Del Monte Corp.; by A. L. Baritell; by M. E. Benson; by Walter L. Boyd; by L. E. Quinivere; by Andy Herman; by Ken Lindauer for the Seven Oaks Orchard; by William E. and Stephen E. Sexton; and by William G. Tewendale. These exceptions have been considered carefully and fully, in conjunction with the evidence in the record and the proposed findings and conclusions of the recommended decision, in arriving at the findings and conclusions set forth herein. To any extent that the findings and conclusions contained herein are at variance with any of the exceptions pertaining thereto, such exceptions are denied on the basis of the findings and conclusions relating to the issues to which the exceptions refer.

The exceptions, and the rulings thereon, are as follows:

Exceptions were taken to the recommended decision because no provisions were made in proposed § 993.44 for adjustment of the base quantity of any producer with immature prune plum trees permanently interplanted with other prune plum trees as of the effective date of that section. Interplanting is the practice of denser planting of trees without removal of standing trees to improve yield by increasing the number of trees per acre and thereby tending to reduce production cost per unit. An exceptor contended that, in order to determine a fair and equitable base quantity, recognition should be given to tree density; i.e., number of trees per acre. The exceptor contended that denser planting of trees per acre over the old standard spacing is a progressive method of prune production and should be considered in determining base quantities when it can be shown that the interplanted trees are intended to be farmed on a denser basis. The recommended decision recognizes that producers with immature prune plum trees planted in blocks as of the effective date of § 993.44; or who are rotating a block or all of a bearing orchard to younger trees, would have sales during the representative period not representative of the sales levels of wholly mature orchards. To enable such producers to have annual allotments reasonably comparable to those of producers with mature orchards, proposed § 993.44 specifies how a base quantity would be determined for such a producer. While the recommended decision did not provide adjustments for producers with immature trees interplanted with other prune plum trees as of the effective date of § 993.44, there is merit in providing a means of making adjustments for such producers, to recognize their production commitment and investment. Hence, the exceptions are granted.

Since producers engaged in a rotation program may also be increasing tree density for the purpose of improving sales levels per acre, the principle of recognizing tree density (in computing adjustments in base quantities for interplanted orchards) should also apply to rotations resulting in greater density of trees. Consistent with the evidence of record and the recommended decision, any such adjustments should be applicable only to acreage rotated before the effective date of the program.

In view of granting these exceptions, the phrase "or interplanting" is inserted in the recommended decision at the end of the second sentence, seventeenth paragraph of Material Issue (6) (32 F.R. 10582, 10584); and the last sentence in the twenty-third paragraph (32 F.R. 10585) of that material issue is revised to read as follows: "Also, denser planting of trees, without removal of standing trees, should not be considered rotation but interplanting." Further, a new paragraph is inserted after the twenty-seventh paragraph (32 F.R. 10585) of Material Issue (6), to wit:

"New § 993.44 should also provide that adjustment in the base quantity of any producer to recognize the sales levels from increased density of planting arising from interplants in orchards or greater density of planting in the course of rotation, both occurring before the effective date of this section, shall be made by the committee when it has established, with the approval of the Secretary, methods of computing the appropriate adjustment. No such adjustment, however, shall result in a total base quantity exceeding the producer's productive capacity, as determined by the committee, when all trees are mature. Thus, initial computation of all base quantities would be done pursuant to § 993.44(a); and any adjustment in base quantities to reflect increased density occurring from interplanting or in rotation would occur when the committee, with the approval of the Secretary, has established methods for computation of such adjustment. As a practical matter it is visualized that the committee would, during the period before base quantities are established, have opportunity to study the factors necessary to formulate—and would formulate—methods of adjustment; and the Secretary would complete rule making activities on such methods of adjustment prior to issuance of base quantities." Section 993.44 is revised accordingly.

An exception was taken to the recommended decision because it did not specifically provide for a producer using surplus prunes by him carried over into the succeeding crop year, on his premises, in filling his annual allotment of such year. However, such is not precluded by the recommended decision because annual allotments are in terms of crop year in lieu of crop; and thus a producer could choose to use carried over prunes as well as new crop to fill an annual allotment. To clarify this matter, however, the following sentence is inserted after the fifth sentence, first paragraph of Material Issue (7) (32 F.R. 10586) in the recommended decision: "Since annual allotments are in terms of crop year in lieu of crop, a producer could use surplus prunes carried over into the succeeding crop year, on his premises, to fill his annual allotment for such succeeding crop year." Further, the penultimate sentence in that paragraph is amended by changing "However," to "Moreover,"; and the last sentence of that paragraph is revised to read: "Therefore, § 993.46 should also provide that any producer may hold surplus prunes of his own production on his own premises, may dispose of such prunes in his own livestock feeding or other farming operation; and, prior to or after January 15, may deliver such prunes to the committee or its designees for inclusion in the surplus pool." Section 993.46 is revised accordingly.

Exceptions were taken to the proposed producer allocations being authorized by section 8c(6)(B) of the act (7 U.S.C. 608c(6)(B)), and that such allocations constitute acreage or production control. Section 8c(6)(B), by its clear and unambiguous language, is manifest in its authorization of producer allotment programs in marketing orders concerned with agricultural commodities other than milk. The program proposed in the recommended decision provides a method of allotment applicable to the dried prune industry, and the allotments are in terms of volume to be marketed in normal dried prune commercial outlets. It does not restrict prune plum acreage nor the sale of prune plums in other outlets. Accordingly, the exceptions are denied.

Exceptions were also submitted which questioned the need for the proposed allotment provisions. Exceptors advanced such contentions as there being ample reason to believe that larger prune crops (i.e., larger than the total amount handlers may purchase from, or handle on behalf of producers) can be sold; producer allotments would gradually reduce production to enhance prices, resulting in losses in domestic and export markets; and producer allotments will seriously damage the prune industry and unnecessarily increase cost of food. These contentions, however, are not well taken inasmuch as the recommended decision has correctly indicated that the proposed program would not permit reduction of supplies below trade demand requirements nor cause, in view of liberal supplies, undue enhancement of price. The exceptions provide no basis for revision of the recommended decision and, hence, are denied.

Exception was taken to the proposed program's apparent encouragement of use of prune plums in fresh juice or other outlets not involving dried prunes, as this would cause problems of competition with dried prunes and of compliance. It cannot be foreseen that an allotment program would encourage the use of prune plums in fresh shipping or juice outlets to such an extent that competition of any significance would, thereby, be created for dried prunes. Moreover, it would appear that the industry would welcome new and alternative uses for its raw product. Further, the need for compliance with Food and Drug Administration standards would effectively prevent the exceptor's indicated wholesale blending of cheap, fresh juice with dried prune juice. Therefore, the exception is denied.

Exceptors indicated that the proposed provisions to eliminate unsound fruit from each producer's creditable weight was inadequate in that it would only exclude certain inedible prunes. It was contended that such proposals would not exclude, for example, sunburned and undeveloped fruit which has fallen from the tree and which, presently, are not picked and delivered in all prune producing sections of the area. During the representative period, in an effort to develop the most favorable possible sales history and thereby obtain a favorable base quantity, it was indicated that producers would tend to pick up and deliver all such prunes. Should this be a problem (the evidence of record being conflicting on this matter), the committee should have authority to restrict the unsound fruit in the prune weight creditable to producers. Therefore, the exception is recognized by including authority in the order for the committee, with the approval of the Secretary, to further restrict the weight of substandard prunes creditable as producer sales during the representative period. Hence, the second sentence, 15th paragraph of Material Issue (6) (32 F.R. 10582, 10584) is revised to read: "Therefore, the section should also provide that all quantities of prunes attributable to each producer shall be based on weights determined by Public Weighmasters, either total graded weight or delivered weight, and shall be the net prune weight exclusive of foreign material, the weight obligation of § 993.49(c), and such other substandard prunes, or portion(s) thereof, as the committee, with the approval of the Secretary, may designate." In addition, the sixth sentence of that paragraph is revised to read: "Consistent with the objective of obtaining accurate sales data, foreign material contained in prune deliveries, inedible quality prunes in excess of tolerances for which a handler incurs a weight obligation pursuant to § 993.49(c), and such other substandard prunes, or portion(s) thereof, as the committee, with the approval of the Secretary, may designate, should not be credited to a producer's prune weight in computing his base quantity." Section 993.43 is revised accordingly.

A few exceptors contended that, in view of the opposition to producer allotments which manifested itself at the hearing held in San Francisco April 17 through 19, 1967, the recommended decision was issued in disregard of a lack of interest. As indicated in the opening statement by the Hearing Examiner, however, the hearing was convened for the purpose of receiving evidence with respect to the economic and marketing conditions in the prune industry and the provisions of any proposed amendment. It was not to determine the popularity of the proposal. Producer acceptance or rejection of any proposal of this significance is ascertained by referendum. The proposed provisions submitted to producers in a referendum have been concluded upon by the Secretary; and these may differ significantly from those contained in the notice of hearing. Hence producers should be given opportunity to vote on the provisions finalized from the hearing evidence, the subsequent briefs, and the recommended decision and exceptions thereto and rulings thereon.

The remainder of the exceptions either duplicate matters presented at the hearing or are commentaries which, as opposed to the evidence of record, do not provide a basis for revising either the findings or conclusions or the proposed provisions of the recommended decision.

Amendment of the amended marketing agreement and the amended order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement, as Amended, Regulating the Handling of Dried Prunes Produced in California" and "Order amending the Order, as Amended, Regulating the Handling of Dried Prunes Produced in California", which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the aforesaid rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Referendum order. Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), it is hereby directed that a referendum be conducted among the producers who, during the period August 1, 1966, through July 31, 1967 (which period is hereby determined to be a representative period for the purpose of such referendum), have been engaged, in the State of California, in the growing of prune plums for drying or dehydrating into prunes for market, to determine whether such producers favor the issuance of the said annexed order amending the order, as amended, regulating the handling of dried prunes produced in California.

Dower T. Mohun, Martin J. Kelly, Keith L. Burkhart, and Joseph C. Genske, of the Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, are hereby designated referendum agents of the Secretary of Agriculture to conduct said referendum severally or jointly.

The procedure applicable to the referendum shall be the "Procedure for the Conduct of Referenda in Connection With Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended" (7 CFR Part 900).

The ballots used in the referendum shall contain a summary describing the terms and conditions of the proposed amendatory order.

Any producer entitled to vote in the referendum who does not receive a copy of the aforesaid annexed order, voting instructions, or a ballot, or other necessary information will be able to obtain the same from any appropriate County Director of Agricultural Extension, or from Dower T. Mohun, San Francisco Marketing Field Office, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, 630 Sansome Street, San Francisco, Calif. 94111.

It is hereby ordered, That all of this decision and referendum order, except the annexed marketing agreement, as amended, be published in the FEDERAL REGISTER. The regulatory provisions of the said marketing agreement, as amended, are identical with those contained in the said order, as amended, and as further amended by the annexed order which will be published with this decision.

Dated: November 30, 1967.

GEORGE L. MEHREN,
Assistant Secretary.

Order[1] *Amending the Order, as Amended, Regulating the Handling of Dried Prunes Produced in California*

§ 993.0 Findings and determinations.

(a) *Previous findings and determinations.* The findings and determinations hereinafter set forth are supplementary, and in addition, to the findings and determinations made in connection with the issuance of the order and each previously issued amendment thereof. Except the finding as to the base period for the parity computation, and except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein, all of said prior findings and determinations are hereby ratified and affirmed. (For prior findings and determinations see 14 F.R. 5254; 16 F.R. 9437; 19 F.R. 1301; 23 F.R. 8254; 26 F.R. 475; 30 F.R. 9797.).

(b) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1–19, 48 Stat., as amended; 7 U.S.C. 601–674), and the applicable rules of practice and procedure, as amended (7 CFR Part 900), a public hearing was held at San Francisco, Calif., on April 17 through 19, 1967, on a proposed amendment of the marketing agreement, as amended, and Order No. 993, as amended (7 CFR Part 993), regulating the handling of dried prunes produced in California. On the basis of the evidence adduced at the hearing, and the record thereof, it is found that:

(1) The said order, as amended and as hereby further amended, and all the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The said order, as amended and as hereby further amended, regulates the handling of dried prunes produced in California in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) There are no differences in the production and marketing of dried prunes in the production area covered by the order, as amended and as hereby further amended, which require different terms applicable to different parts of such area;

(4) The said order, as amended and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act; and

(5) All handling of dried prunes produced in California is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce.

It is, therefore, ordered, That, on and after the effective date hereof, all handling of dried prunes produced in California, shall be in conformity to, and in compliance with, the terms and conditions of the said order, as amended, and as hereby further amended as follows:

1. A new § 993.4a reading as follows is added immediately after § 993.4:

§ 993.4a Prune plums.

"Prune plums" means those varieties of plums grown in the area for drying or dehydrating and which are covered by §§ 993.6 and 993.7.

2. Section 993.5 is revised to read:

§ 993.5 Prunes.

"Prunes" means and includes all sundried or artificially dehydrated prune plums, of any type or variety, produced from prune plums grown in the area, except: (a) Sulfur-bleached prunes which are produced from yellow varieties of prune plums and are commonly known as silver prunes; and (b) prune plums which have not been dried or dehydrated to a point where they are capable of being stored prior to packaging, without material deterioration or spoilage unless refrigeration or other artificial means of preservation are used, and so long as they are treated by a process which is in conformity with, or generally similar to, the processes for treatment of prune plums of that type which have been developed or recommended by the Food Technology Division, College of Agriculture, University of California, for the specialty pack known as "high moisture content prunes," but this exception shall not apply if and when such prune plums are dried to the point where they are capable of being stored without material deterioration or spoilage, refrigeration or other artificial means of preservation.

3. Section 993.6 is revised to read:

§ 993.6 Non-French prunes.

"Non-French prunes" means prunes commonly known as Imperial, Sugar, Robe de Sargent, Burton, Standard, Jefferson, Fellenberg, Italian, President, Giant, and Hungarian (Gross), produced from such varieties of prune plums. This definition may be modified by the committee with the approval of the Secretary.

4. Section 993.7 is revised to read:

§ 993.7 French prunes.

"French prunes" means: (a) Prunes produced from the following varieties of prune plums: French (Prune d'Agen, Petite Prune d'Agen), Coates (Cox, Double X, Saratoga); and (b) any other prunes which possess taste, flesh texture, and other characteristics similar to those of the prunes named in this section.

5. Section 993.13 is revised to read:

§ 993.13 Handle.

"Handle" means to receive, package, sell, consign, transport, or ship (except as a carrier of prunes owned by another person), or in any other way to place prunes, including surplus prunes, in the current of the commerce within the area, from within the area to any point outside thereof, or from any point outside the area to any other point: *Provided*, That, except as provided in § 993.46(a), this term shall not include: (a) Sales or deliveries of prunes by a producer or dehydrator to a producer, dehydrator, or handler within the area; (b) the receiving of prunes by a producer or dehydrator from a producer or dehydrator; and (c) receipts, sales, or shipments of prunes already handled by another person other than transfers pursuant to § 993.50(f).

6. Section 993.14 is revised to read:

§ 993.14 Handler.

"Handler" means any person inside or outside of the area who handles prunes.

7. Section 993.15 is revised to read:

§ 993.15 Dehydrator.

"Dehydrator" means any person who produces prunes by drying or dehydrating prune plums by means of sun-drying or artificial heat.

8. Section 993.16 is revised to read:

§ 993.16 Producer.

"Producer" means any person who is engaged, in a proprietary capacity, in growing prune plums for drying or dehydrating into prunes.

9. Section 993.21c is revised to read:

§ 993.21c Salable prunes.

"Salable prunes" means prunes which are free to be handled pursuant to producer allotments and any salable percentage established by the Secretary.

10. A new § 993.21e reading as follows is added immediately after § 993.21d:

§ 993.21e Marketable quantity.

"Marketable quantity" means the quantity of prunes constituting the total of all producer annual allotments and adequate to meet the estimated total trade demand of a crop year, permit desirable adjustments in carryover, and provide, if deemed desirable, a reserve against a possible short crop in the subsequent crop year.

11. A new § 993.21f reading as follows is added immediately after new § 993.21e:

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders have been met.

§ 993.21f Base quantity.

"Base quantity" means the number of pounds of prunes, expressed as tons, established by the committee pursuant to § 993.44 for a producer.

12. A new § 993.21g reading as follows is added immediately after new § 993.21f:

§ 993.21g Annual allotment.

"Annual allotment" means, for a crop year and for each producer, the number of pounds of prunes expressed as tons, determined by multiplying the producer's base quantity by the allotment percentage.

13. A new § 993.21h reading as follows is added immediately after new § 993.21g:

§ 993.21h Leaf.

"Leaf" means the age, in years, of a budded or grafted prune plum variety of tree, with the first leaf commencing in the crop year in which the tree is permanently planted and produces leaves.

14. The first sentence of § 993.33 is revised to read:

§ 993.33 Voting procedure.

Decisions of the committee shall be by majority vote of the members present and voting and a quorum must be present: *Provided*, That decisions on marketing policy, grade or size regulations, pack specifications, producer allotments, salable and reserve percentages, and on any matters pertaining to the control or disposition of surplus prunes, of reserve prunes, or to prune plum diversion pursuant to § 993.62, including any delegation of authority for action on such matters and any recommendation of rules and procedures with respect to such matters, including any such decision arrived at by mail or telegram, shall require at least 14 affirmative votes. * * *

Section 993.36 is amended as follows:

15. Paragraph (h) is revised.

16. Paragraph (i) is revised.

Paragraphs (h) and (i) of § 993.36 read as follows:

§ 993.36 Duties.

* * * * * * *

(h) To prepare and submit to the Secretary monthly statements of the financial operations of the committee, exclusive of surplus prune and reserve prune operations, and to make such statements, together with the minutes of the meetings of said committee, available for inspection at the offices of the committee by producers, dehydrators, and handlers;

(i) To prepare and submit to the Secretary annually, as soon as practicable after the end of each applicable crop year and at such other times as the committee may deem appropriate or the Secretary may request, a statement of the committee's financial operations with respect to surplus prunes for such crop year, as well as a statement of the committee's financial operations with respect to reserve prunes for such crop year, and to make such statements available at the offices of the committee for inspection by producers, dehydrators, and handlers;

* * * * * * *

17. Section 993.41 is revised to read:

§ 993.41 Marketing policy.

(a) On or before the fourth Tuesday of the February preceding the first crop year of allotments, and of subsequent Februarys, the committee shall prepare and submit to the Secretary a report setting forth its recommended marketing policy for the ensuing crop year: *Provided*, That in the first year the committee may prepare and submit such report at a later date. In formulating such marketing policy the committee shall consider and shall include in its report to the Secretary, the following estimates (natural condition basis) and recommendations:

(1) The likely carryover of salable prunes as of August 1;

(2) The domestic trade demand in the ensuing crop year by uses of prunes;

(3) The foreign trade demand in the ensuing crop year by countries or groups of countries;

(4) The desirable carryout of salable prunes at the end of the ensuing crop year;

(5) The quantity of prunes in excess of the ensuing crop year's requirements as may be needed to protect against a possible short crop in the subsequent crop year;

(6) The marketable quantity of prunes;

(7) The estimated quantity of prunes that may not be delivered by producers due to productive capacity reductions in annual allotments pursuant to § 993.45(b);

(8) The recommended allotment percentage for the ensuing crop year;

(9) If deemed desirable for market stability, the maximum quantity of prunes to be made available to handlers as salable prunes from the new crop; and

(10) Such other factors as may have a bearing on the marketing of prunes or the administration of this part.

(b) In July, the committee shall convene for the purpose of recommending and beginning with the first year of allotments, reviewing and, if necessary, modifying its marketing policy for the ensuing crop year. A report thereof shall be prepared and submitted on or before the fourth Tuesday of July to the Secretary. In such meeting, the committee shall consider and shall include in its report to the Secretary, in addition to subparagraphs (1) through (4) of paragraph (a) of this section, the following estimates (natural condition basis) and recommendations:

(1) The carryover of reserve prunes as of August 1;

(2) The grade and size composition of the salable and reserve carryovers;

(3) Beginning in the first year of allotments, the production of prunes with allotments and without allotments;

(4) The probable quality of prunes in the crop;

(5) The quantity of prunes to be withheld as reserve prunes so as to protect against errors of estimation and permit orderly marketing of the supply;

(6) The recommended salable and reserve percentages for the ensuing crop year;

(7) The quantity of prune plums and prunes, dried weight basis, likely to be disposed of by diversion or as surplus;

(8) Any recommended change in grade, size or pack regulations pursuant to §§ 993.49 to 993.53 inclusive;

(9) The probable assessable tonnage for the purposes of § 993.81;

(10) The current prices for prunes, the trend and level of consumer income, and whether producer prices are likely to exceed parity; and

(11) Beginning in the first year of allotments, any recommended suspension of the allotment percentage and annual allotments.

(c) The committee shall modify its marketing policy if it becomes advisable at any time because of changed demand, supply, or other conditions and shall report thereon to the Secretary. Notice of the committee's marketing policy, and of any modifications thereof, shall be given promptly by reasonable publicity to producers, dehydrators, and handlers.

§ 993.42 [Redesignated]

18. Section 993.42 *Regulation* is redesignated as § 993.42.

19. A new center heading "Allotment of Marketable Quantity" is inserted immediately following redesignated § 993.42, and new sections reading as follows are added immediately after that heading:

ALLOTMENT OF MARKETABLE QUANTITY

§ 993.43 Preliminary regulation.

Beginning with the 1967–68 crop year, or such later year as the committee may recommend and the Secretary establish, and until a representative period has been determined pursuant to § 993.44, no handler shall handle as the first handler thereof, prunes delivered to him until he has determined the identity of each producer of the prune plums which were dried or dehydrated and so delivered, the county of production, and the quantity of prunes attributable to such producer. The handler shall furnish such information to the committee at such times and in such form as the committee may request. All such quantities of prunes shall be based on weights determined by Public Weighmasters, either total graded weight or delivered weight, and shall be net prune weight exclusive of foreign material, the weight obligation of § 993.49(c), and such other substandard prunes, or portion(s) thereof, as the committee, with the approval of the Secretary, may designate. So that each producer may qualify for a base quantity pursuant to § 993.44, the committee shall furnish each producer of record, early in each calendar year, a form to be filed with the committee whereon the producer reports the location of his orchard(s), the acreage he intends to harvest for

prunes, the maturity of the trees, and such other information as the committee needs to establish a base quantity for such producer.

§ 993.44 Base quantities.

(a) *Computation and establishment.* (1) If the Secretary finds that the 1967–68 through 1970–71 crop year, or a period beginning 1 or more year(s) later than 1967–68, but not less than a 3-year period, constitute a representative period in terms of production of prunes for market and the consequent producer sales, a base quantity shall be established for each producer entitled thereto. Each base quantity shall be in an amount equal to either (i) the total sales credited as net prune weight pursuant to § 993.43, plus the weight shown on diversion certificates, of such producer during the representative period divided by the number of years in the period, or (ii) that determined or adjusted pursuant to the applicable provisions of this paragraph or paragraph (c) of this section.

(2) If a producer has immature prune plum trees, in 9th leaf or younger permanently planted as of the effective date of this section, in blocks of acreage not containing mature trees, his base quantity on such acreage shall be established by applying to the acreage the average sales per acre in the representative period from mature acreage of the producer in the locality or the average sales per acre in base quantities for other mature orchards in the locality (if none, the most representative comparable locality), whichever is more representative of the mature sales level for the immature acreage.

(3) If a producer is engaged in a rotation program of replacing old trees with young trees, by the removal and replanting of all or portions of his acreage, without change of location or increase of acreage, whether begun prior to or during the representative period, but the rotation adversely affects his base quantity, such producer shall have such portions of his base quantity as are referable to the rotated acreage established consistent with the provisions of subparagraph (2) of this paragraph: *Provided*, That any such adjustment of a base quantity due to rotation occurring after the effective date of this section shall not cause the producer's base quantity to exceed his approximate base quantity in the absence of such rotation.

(4) If a producer is engaged in a rotation from existing acreage to a new location, that portion of his base quantity attributable to acreage permanently planted prior to the effective date of this section shall be established consistent with subparagraph (2) of this paragraph. However, the base quantity referable to such acreage planted after the effective date of this section shall not exceed the approximate base quantity for the original acreage.

(5) In accordance with subparagraphs (1) and (2) of this paragraph, and based on reports of handlers, producers' certifications and other information, the committee shall establish for use beginning with the first crop year after the representative period, each producer's base quantity and, except as hereinafter provided, shall assign such base quantity to such producer. The right of each producer, or his legal successor in interest to the base quantity, to receive or retain all or part of such base quantity shall be dependent upon his continuing to be a producer and to make a bona fide effort to produce his annual allotment, and failing to do so for three consecutive allotment years, such base quantity shall be reduced by the committee by a percentage equivalent to the unproduced portion of his annual allotment: *Provided*, That the committee, with the approval of the Secretary, may waive this requirement for good cause.

(b) *Additional base quantities.* Each year after allotments begin the committee shall consider the need for granting, and if appropriate grant, with the approval of the Secretary, additional base quantities, to either a new producer or an existing producer, for such purposes as satisfying the demand for one or more varieties, or adjusting the total of all base quantities to the trade demand.

(c) *Adjustments to recognize density of planting.* Adjustments in the base quantity of any producer to recognize the sales levels from increased density of planting arising from interplants in orchards or greater density of planting in the course of rotation, both occurring before the effective date of this section, shall be made by the committee when it has established, with the approval of the Secretary, methods of computing the appropriate adjustment: *Provided*, That no such adjustment shall result in a total base quantity exceeding the producer's productive capacity, as determined by the committee, when all trees are mature.

§ 993.45 Marketable quantity, allotment percentage, and annual allotments.

(a) *Marketable quantity and allotment percentage.* Beginning with the calendar year in which base quantities are first established for producers, and annually each calendar year thereafter if the Secretary finds, on the basis of the committee's recommendation or other information, that limiting the quantity of prunes that handlers may purchase from, or handle on behalf of, producers during the ensuing crop year would tend to effectuate the declared policy of the act, he shall determine the marketable quantity and establish an allotment percentage for such crop year. The allotment percentage shall be determined by dividing the marketable quantity plus the estimate described in § 993.41(a)(7) by the total of all producer base quantities determined pursuant to § 993.44 which may be an estimated total for the first crop year of allotments. Except as provided in this part, no handler shall purchase or handle on behalf of any producer prunes not within such producer's annual allotment. Based on a recommendation of the committee pursuant to § 993.41(b) or other information, the Secretary may suspend the allotment percentage applicable to any crop year and producers' annual allotments.

(b) *Annual allotments.* Upon determination of the marketable quantity and establishment of an allotment percentage by the Secretary for an ensuing crop year, the committee shall issue to each producer an annual allotment for such ensuing crop year computed except as otherwise provided in this paragraph, by applying the allotment percentage established pursuant to paragraph (a) of this section to the producer's base quantity. Such issuance shall be conditioned upon the producer filing with the committee, within a specified time, a form furnished by the committee whereon the producer states at least where he intends to produce his annual allotment, the acreage he intends to harvest, the maturity of the trees, changes of location, if any, and such other information required by the committee to administer this part. If the committee determines that due to acreage, immature age of trees, or other cause, the producer will be unable to produce his computed annual allotment, the committee shall apply to his base quantity an appropriate portion of the allotment percentage so as to reduce the annual allotment it issues to reflect productive capacity. The committee may, with the approval of the Secretary, establish a schedule of reductions for ages of immature trees or for other factors of production. Except as provided in § 993.47, no handler, producer, or other person shall be the assignee or transferee of an annual allotment, or portion thereof, except that a person other than a handler may deliver prunes in the stead of the producer holding the allotment but no handler shall receive prunes from such other person except to the extent authorized by the committee. When an allotment percentage is in effect, the weight of all prunes shall be based on weights determined by Public Weighmasters, and any weight obligation pursuant to § 993.49(c) shall not be a part of a producer's annual allotment.

§ 993.46 Surplus prunes.

(a) *General.* Prunes that are in excess of an effective individual producer annual allotment or the total of such annual allotments to members, delivered pursuant to membership contracts, of a cooperative marketing association, shall be surplus prunes. Prior to January 15 of the crop year, producers of such prunes may sell or transfer them to producers capable of using them to satisfy a deficiency of production relative to their annual allotment. No handler shall handle surplus prunes except that any handler who is a packer shall be a designee of the committee, under such conditions as it shall specify as to holding and delivery obligations, with the approval of the Secretary, to receive and hold surplus prunes for the account of the committee. Any producer or dehydrater selling or delivering surplus prunes to other than the committee or its designees or to a producer satisfying a deficiency, as provided in this paragraph, shall be a handler relative to such transaction. Any producer may hold surplus prunes of his own production, on his premises, may dispose of such prunes in his own livestock feeding or other farming operation and, prior to or after January 15, may deliver such prunes to the committee or its designees for inclusion in the surplus pool.

(b) *Committee's right of disposition.* The committee shall have the power and authority to sell or dispose of any and all surplus prunes delivered to it or held by handlers for its account, but no such disposition shall be in normal outlets except upon a finding of the committee, approved by the Secretary, that it will not interfere with the demand for salable prunes or reserve prunes. The committee may sell and ship, or instruct handlers to ship, surplus prunes for nonhuman consumption purposes. The committee may arrange to store surplus prunes at other than a handler's premises.

(c) *Distribution of proceeds.* The committee shall account for the disposition of surplus prunes to the equity holders thereof, in distributing to them any proceeds received in excess of the costs incurred by the committee for the receiving, handling, holding, or disposing of surplus prunes. The monies received as revenues as well as the expenses incurred, including the administrative and distribution costs, shall be treated as surplus pool revenue and expenses.

§ 993.47 Transfers.

(a) *Of location.* A producer owning the orchard(s) determining the base quantity may transfer from the location(s) where he produces his annual allotment to other land which he farms. If a producer does not own the original orchard land no such transfer shall be valid and no further annual allotments referable to such orchard shall be granted by the committee to such producer unless the orchard owner consents to the transfer. The committee shall, by such means as are provided in § 993.45(b), obtain information as to the location(s) where each producer intends to produce each annual allotment.

(b) *To another producer.* A producer owning the orchard(s) determining the base quantity may transfer all or part of a base quantity from himself to another producer. If the transferor is not the owner of the orchard land, the transfer shall not be valid nor shall an annual allotment be granted by the committee to the potential transferee unless the orchard owner consents to the transfer. No transfer shall be recognized by the committee except upon the transferor and transferee notifying the committee in writing and the transferee submitting evidence of capability to produce and harvest the annual allotment referable thereto. If any producer disposes of acreage and ceases to be a producer thereon prior to the issuance of base quantities pursuant to § 993.44(a) and, if the purchaser continues the acreage in production of prune plums, such purchase shall be deemed to authorize issuance of the base quantity, applicable to such acreage to the successor producer.

§ 993.54 [Amended]

20. The second sentence of § 993.54 is revised to read: "The salable and reserve percentages when applied to the natural condition weight of prunes received during the crop year by a handler from producers and dehydrators, excluding surplus prunes and excluding the weight obligation of § 993.49(c), plus that diverted tonnage (dried weight natural condition prune basis) on diversion certificates issued pursuant to § 993.62 and credited to or held by him, shall determine the weight of each handler's receipts which are salable prunes and reserve prunes."

§ 993.55 [Amended]

21. The first sentence of § 993.55 is revised to read: "The salable and reserve percentages established for any crop year shall also apply to prunes received by handlers in the subsequent crop year, excluding surplus prunes and excluding the weight obligation of § 993.49(c), and before salable and reserve percentages are established for that crop year."

§ 993.56 [Amended]

22. The first sentence of § 993.56 is revised to read: "Whenever salable and reserve percentages are in effect for a crop year, the reserve obligation of a handler shall approximate the average marketable content of the handler's receipts and shall be a weight of natural condition prunes equal to the reserve percentage applied to the natural condition weight of prunes such handler receives during the crop year from producers and dehydrators, excluding surplus prunes and excluding the weight obligation of § 993.49(c), plus that diverted tonnage (dried weight natural condition prune basis) on diversion certificates credited to or held by him which were issued pursuant to § 993.62."

23. Section 993.59 is revised to read:

§ 993.59 Payment to handlers for services.

The committee shall pay handlers for necessary services rendered by them in connection with reserve prunes or surplus prunes including, but not limited to, inspection, receiving, storing, grading, and fumigation, in accordance with the respective reserve or surplus schedules of payments and conditions established by the Secretary after recommendation by the committee.

24. Paragraph (a) *Prune plums* of § 993.62 is deleted and a new paragraph (a) *Termination* added to read:

§ 993.62 Diversion privileges.

(a) *Termination.* Beginning with the first year in which base quantities are established, the provisions of this section shall terminate.

* * * * *

[F.R. Doc. 67-14168; Filed, Dec. 4, 1967; 8:45 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 8556]

AIRWORTHINESS DIRECTIVES

Vickers Viscount Models 744, 745D, and 810 Series Airplanes

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Vickers Viscount Models 744, 745D, and 810 Series airplanes. There has been a failure of a lower torsion link hinge pin of the nose landing gear. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require periodic inspection of the hinge pins for cracks, the replacement of cracked hinge pins, and the discontinuance of the inspection after the present hinge pins are replaced with new type hinge pins.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before January 5, 1968, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

VICKERS. Applies to Viscount Models 744, 745D, and 810 Series airplanes.

Compliance required as indicated unless already accomplished.

To detect cracking of the upper and lower torsion link hinge pins of the nose landing gear, accomplish the following:

(a) For airplanes with pre-Modification D.2045 (700 Series) and FG.1261 (800 Series) hinge pins with less than 4,000 landings on the effective date of this AD, before the accumulation of 5,000 landings, and thereafter at intervals not to exceed 1,000 landings from the last inspection until the accumulation of 10,000 landings and thereafter at intervals not to exceed 500 landings from the last inspection, comply with paragraph (d).

(b) For airplanes with pre-Modification D.3045 (700 Series) and FG.1861 (800 Series) hinge pins with 4,000 or more landings but less than 9,800 landings on the effective date of this AD, within the next 1,800 landings after the effective date of this AD and thereafter at intervals not to exceed 1,000 landings from the last inspection until the accumulation of 10,000 landings and thereafter at intervals not to exceed 500 landings, comply with paragraph (d).

(c) For airplanes with pre-Modification D.3045 (700 Series) and FG.1861 (800 Series) hinge pins with 9,000 or more landings on the effective date of this AD, within the next 500 landings or before the accumulation of 10,000 landings, whichever occurs later, and thereafter at intervals not to exceed 500 landings from the last inspection, comply with paragraph (d).

(d) Remove pre-Modification D.3045 (700 Series) and FG.1861 (800 Series) hinge pins and inspect for cracks using Magnaflux examination or an equivalent approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region, in accordance with British Aircraft Corp. (BAC) Preliminary Technical Leaflets (PTLs) No. 288, Issue 2 (700 Series) and No. 90, Issue 3 (800 Series), or later ARB-approved issues, or an equivalent approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region.

(e) If cracked hinge pins are found during the inspections required by paragraphs (a), (b), and (c), before further flight, replace the pins with serviceable pins of the same part number and comply with the inspection requirements of paragraph (a), or replace the pins with Modification D.3045 (700 Series) and FG.1861 (800 Series) pins.

(f) The repetitive inspections required by paragraphs (a), (b), and (c) may be discontinued on those hinge pins replaced by Modification D.3045 (700 Series) and FG.1861 (800 Series) pins.

(g) Upon request of the operator, an FAA maintenance inspector, subject to prior approval by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

Issued in Washington, D.C., on November 28, 1967.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[F.R. Doc. 67-14144; Filed, Dec. 4, 1967; 8:46 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 91]

[Docket No. 17891; FCC 67-1294]

INDUSTRIAL RADIO SERVICES

Use of Certain Frequencies by Central Station Protection Industry

In the matter of amendment of Part 91 of the Commission's rules concerning the use of certain frequencies in the 952–960 Mc/s band by the central station protection industry, and for other purposes, Docket No. 17891, RM–798.

1. Notice of proposed rule making in the above-entitled matter is hereby given.

2. The Commission has before it for consideration a Petition for Rule Amendment (RM–798) filed by the Central Station Electrical Protection Association (CSEPA) and the Controlled Companies, American District Telegraph Co. (ADT), on June 2, 1966.

3. In substance, petitioners seek—for the central station commercial protection industry (sometimes hereinafter referred to as the "industry")—the following:

a. Exclusive allocation of the channels in the 952–960 Mc/s band to which the industry now has access on a shared basis with other private users (i.e., 952.1, 952.2, 952.3 and 952.4 Mc/s and the frequency pairs 952.8/956.4, 952.9/956.5, 956.2/957.8, and 956.3/959.9 Mc/s), and allocation to the industry of such other frequencies as the Commission may deem advisable.

b. Regular licensing (as opposed to the present developmental) on those frequencies.

c. Authority to use the frequencies with omnidirectional antennas and maximum rated power output of 100 watts.

4. The National Committee for Utilities Radio (NCUR) and the Central Committee on Communication Facilities of the American Petroleum Institute (API) opposed the petition on several grounds. NCUR and API argued that there is little danger of harmful interference if shared use of the subject frequencies is maintained, and claim that exclusive allocation of the eight channels to petitioners would foreclose their use by others in areas where the protection industry would have little or no use of them. The opponents conclude, therefore, that no exclusive allocation should be made. Petitioners, in response to the opposition, note that their concern is not so much with harmful interference as it is with preemption of the frequencies by other users. All of the pleadings filed were considered by the Commission in arriving at its determinations in this notice.

5. The microwave frequencies in the 952–960 MHz band presently available to the commercial protection industry—on a developmental basis—resulted from a rule making proceeding conducted in 1961, in Docket No. 13953 (26 F.R. 6849, Aug. 1, 1961). Since 1961, the industry has conducted a number of developmental programs aimed at determining the technical and economic feasibility of employing fixed radio alarm and warning circuits in the business of providing a commercial protection service. As the mere filing of the subject petition would indicate, the industry is satisfied that radio is a very desirable and practical adjunct to the rendition of its services.

6. The Commission is similarly satisfied—both from its study of the periodic developmental reports that have been submitted and its consideration of the information derived from the instant petition—that the frequencies in question should be available to it on a regular basis. We are, moreover, of the view that the public interest is served by allowing the industry to employ radio in the rendition of its services to the public. However, for the reasons given below we are not persuaded that their need for frequencies—to meet both present and projected requirements—is incapable of satisfaction within the framework of the existing allocations structure.

7. The four single and the four pairs of frequencies in the 952–960 Mc/s band, which are now available on a shared basis and which the petition seeks for the exclusive use of the protection industry, are now allocated to operational fixed and international control stations. There are, in short, available in the same manner as are practically all private microwave operational fixed bands. However, although microwave frequencies have not been allocated exclusively to any service (but with one exception)[1] they are assigned to individual licensees on an exclusive basis for each location and provide reasonably interference free operations. Petitioner's request for exclusive allocation of these microwave frequencies would be a major departure from existing policies in the microwave field, and we do not believe that petitioners have made an adequate showing therefor. The 12 frequencies in question, as well as the 2150–2160 Mc/s band to which the protection industry also has access for omnidirectional operations, are nearly all vacant and the industry may use them for radio alarm and warning circuits anywhere in the country. Once they occupy them, existing licensing policies would protect their operations from interference from subsequent users. Further, the petitioners have not shown nor are we aware that there is, or is likely to be in the near future, a surge of demand for those frequencies in other industries so that they may be preempted by other users. On the other hand, as pointed out by NCUR and API, exclusive allocation of these frequencies to one industry at this time would inhibit development of other possible users and could preclude their fuller utilization in the public interest. Accordingly, we conclude that the request of the petitioners for exclusive allocation of the 12 shared frequencies in the 952–960 Mc/s band as well as their request for exclusive allocation of other microwave frequencies to the protection industry, is premature and must be denied.

8. Recognizing, however, that the protection industry has, within its capabilities and needs, developed workable day-to-day alarm and warning systems using the frequencies set aside for radio-alarm purposes, we are disposed to remove the developmental appellation from these frequencies thereby enabling the industry to use them on a regular basis. On the other hand, pending further development, we propose to authorize only developmental operations for other operational fixed stations. In addition, we

[1] The exception noted—that of an allocation to the Public Safety Radio Services of three channels (952.5, 952.6, and 952.7, all MHz) for traffic light control (Docket No. 13953).

are proposing that the four pairs of frequencies presently available to the industry and other eligible users of the frequencies be allowed to be used with 100 watts output power. This increase in power will place duplex omnidirectional operations on a par with the 100 watt simplex omnidirectional operations presently authorized by the rules. Finally, we propose to define eligibility for the central station commercial protection industry; and to this end, a distinct eligibility clause has been incorporated into the notations governing the use of the subject frequencies in the Business Radio Service Table, § 91.554(b) (22) and (23).

9. In its opposition, the API suggests that the protection industry is a common carrier and therefore subject to the regulatory and other provisions of title II of the Communications Act of 1934, as amended. The Commission, however, regards Petitioners' basic business function as that of providing a protection service—to which service, the use of radio is merely incidental. In concluding as we do, we rely, in no small measure, on Petitioners' assertion that subscribers "• • • have no right to transmit any intelligence of their own choosing over any of the facilities used • • • in the protective business." Any interested persons may, of course, direct their comments to the question raised by the API.

10. On January 16, 1967, the petitioners filed a supplement to their petition for rule amendment. That supplement, in substance, requests that any action taken in response to the original petition include a provision for sharing of the microwave frequencies made available to the industry. It is pointed out that a provision to that effect would afford greater flexibility in the use of frequencies by the industry, and result in a more efficient use of the available spectrum. Section 91.9 of the Industrial Radio Services rules governs the cooperative use and sharing of operational fixed facilities and is, without exception, applicable to all of the Industrial Radio Services, including the Business Radio Service. Thus, under the provisions of § 91.9, persons licensed or eligible to be licensed within the same radio service, and on frequencies for which all participants would be separately eligible for assignment may share and cooperatively use the same facilities. Obviously, under these terms, persons in the electrical protection industry such as the members of the associations who are petitioners in this proceeding could share facilities.

11. Accordingly, the above-designated petition (RM–798) is granted to the extent indicated herein and is denied in all other respects. The proposed amendments of the rules are issued pursuant to authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.

12. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before January 12, 1968, and reply comments on or before February 2, 1968. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in the proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

13. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all statements, briefs, or comments filed shall be furnished the Commission.

Adopted: November 22, 1967.

Released: November 29, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

1. In § 91.111(a), the Microwave Technical Standards Table for the frequency band 952–960 Mc/s is changed in column 2 to indicate footnote 8 in lieu of 9; footnote 8 to the table is revised; and footnote 9 is deleted, as follows:

§ 91.111 Microwave technical standards.

(a) • • •

MICROWAVE TECHNICAL STANDARDS TABLE

Frequency band Mc/s	Power[1] (watts)	• • •	• • •	• • •
952–960	[8]20	• • •	• • •	• • •
• • •				

[1] Except for the frequencies 952.1, 952.2, 952.3, 952.4 Mc/s and the frequency pairs 952.8 and 956.4; 952.9 and 956.5; 956.2 and 959.8; and 956.3 and 959.9 Mc/s, where the beamwidth may be 360°, and the maximum power may be 100 watts.

2. The Power Radio Service Frequency Table in § 91.254(a) is amended to add limitation 15 to the Frequency Pairs 952.8–956.4, 952.9–956.5, 956.2–959.8, and 956.3–959.9 Mc/s, as follows:

§ 91.254 Frequencies available.

(a) • • •

POWER RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Mc/s • • •	• • •	• • •
Paired frequencies		
952.8 956.4	do	13, 15
952.9 956.5	do	13, 15
• • •	• • •	• • •
956.2 959.8	do	13, 15
956.3 959.9	do	13, 15
• • •	• • •	• • •

[2] Dissenting statement of Commissioner Cox in which Commissioner Johnson joins filed as part of the original document; Commissioner Wadsworth dissenting.

3. The Petroleum Radio Service Frequency Table in § 91.304(a) is amended to add limitation 19 to the Frequency Pairs 952.8–956.4, 952.9–956.5, 956.2–959.8, and 956.3–959.9 Mc/s, as follows:

§ 91.304 Frequencies available.

(a) • • •

PETROLEUM RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Mc/s • • •	• • •	• • •
Paired frequencies		
952.8 956.4	do	17, 19
952.9 956.5	do	17, 19
• • •	• • •	• • •
956.2 959.8	do	17, 19
956.3 959.9	do	17, 19
• • •	• • •	• • •

4. The Forest Products Radio Service Frequency Table in § 91.354(a) is amended to add limitation 19 to the Frequency Pairs 952.8–956.4, 952.9–956.5, 956.2–959.8, and 956.3–959.9 Mc/s, as follows:

§ 91.354 Frequencies available.

(a) • • •

FOREST PRODUCTS RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Mc/s • • •	• • •	• • •
Paired frequencies		
952.8 956.4	do	17, 19
952.9 956.5	do	17, 19
• • •	• • •	• • •
956.2 959.8	do	17, 19
956.3 959.9	do	17, 19
• • •	• • •	• • •

5. The Motion Picture Radio Service Frequency Table in § 91.404(a) is amended to add limitation 10 to the Frequency Pairs 952.8–956.4, 952.9–956.5, 956.2–959.8, and 956.3–959.9 Mc/s, as follows:

§ 91.404 Frequencies available.

(a) • • •

MOTION PICTURE RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Mc/s • • •	• • •	• • •
Paired frequencies		
952.8 956.4	do	8, 10
952.9 956.5	do	8, 10
• • •	• • •	• • •
956.2 959.8	do	8, 10
956.3 959.9	do	8, 10
• • •	• • •	• • •

6. The Relay Press Radio Service Frequency Table in § 91.454(a) is amended to add limitation 8 to the Frequency Pairs 952.8–956.4, 952.9–956.5, 956.2–959.8, and 956.3–959.9 Mc/s, as follows:

§ 91.454 Frequencies available.

(a) • • •

RELAY PRESS RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Mc/s		
Paired frequencies		
952.8 956.4	do	6, 8
952.9 956.5	do	6, 8
956.2 959.8	do	6, 8
956.3 959.9	do	6, 8

7. The Special Radio Service Frequency Table in § 91.504(a) is amended to add limitation 17 to the Frequency Pairs 952.8–956.4, 952.9–956.5, 956.2–959.8, and 956.3–959.9 Mc/s, as follows:

§ 91.504 Frequencies available.

(a) • • •

SPECIAL INDUSTRIAL RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Mc/s		
Paired frequencies		
952.8 956.4	do	15, 17
952.9 956.5	do	15, 17
956.2 959.8	do	15, 17
956.3 959.9	do	15, 17

8. The Business Radio Service Frequency Table in § 91.554(a) is amended to add limitation 24 to the Frequency Pairs 952.8–956.4, 952.9–956.5, 956.2–959.8, and 956.3–959.9 Mc/s; and limitations (22) and (23) in paragraph (b) are amended as follows:

§ 91.554 Frequencies available.

(a) • • •

BUSINESS RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Mc/s		
Paired frequencies		
952.8 956.4	do	22, 24
952.9 956.5	do	22, 24
956.2 959.8	do	22, 24
956.3 959.9	do	22, 24

(b) • • •

(22) Available only for duplex omnidirectional operations to stations rendering a central station commercial protection service. Central station commercial protection service is defined as those electrical protection and supervisory services rendered from and by a central station approved by one or more of the recognized rating bureaus and/or the Underwriters' Laboratories, Inc. (UL).

(23) Available only for omnidirectional operations to those organizations rendering a central station commercial protection service. Central station commercial protection service is defined as those electrical protection and supervisory services rendered from and by a central station approved by one or more of the recognized rating bureaus and/or the Underwriters' Laboratories, Inc. (UL).

9. The Manufacturers Radio Service Frequency Table in § 91.730(a) is amended to add limitation 11 to the Frequency Pairs 952.8–956.4, 952.9–956.5, 956.2–959.8, and 956.3–959.9 Mc/s, as follows:

§ 91.730 Frequencies available.

(a) • • •

MANUFACTURERS RADIO SERVICE FREQUENCY TABLE

Frequency of band	Class of station(s)	Limitations
Mc/s		
Paired frequencies		
952.8 956.4	do	9, 11
952.9 956.5	do	9, 11
956.2 959.8	do	9, 11
956.3 959.9	do	9, 11

10. The Telephone Maintenance Radio Service Frequency Table in § 91.754(a) is amended to add limitation 8 to the Frequency Pairs 952.8–956.4, 952.9–956.5, 956.2–959.8, and 956.3–959.9 Mc/s, as follows:

§ 91.754 Frequencies available.

(a) • • •

TELEPHONE MAINTENANCE RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Mc/s		
Paired frequencies		
952.8 956.4	do	6, 8
952.9 956.5	do	6, 8
956.2 959.8	do	6, 8
956.3 959.9	do	6, 8

[F.R. Doc. 67-14074; Filed, Dec. 4, 1967; 8:48 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Office of the Secretary

COMMISSIONER OF INDIAN AFFAIRS

Delegation of Authority To Dedicate Certain Streets, Alleys, and Strips of Land on the Agua Caliente Indian Reservation

The Commissioner of Indian Affairs is authorized to perform the functions and exercise the authority vested in the Secretary of the Interior by the Act of August 11, 1967 (P.L. 90-64, 81 Stat. 166), which provides that the Secretary, with the consent of the Agua Caliente Band of Mission Indians and within 1 year after August 11, 1967, may dedicate to the public for street purposes any of the streets, alleys, or strips of land in the W½ of sec. 14, T. 4 S., R. 4 E., San Bernardino meridian, city of Palm Springs, Riverside County, Calif.

DAVID S. BLACK,
Under Secretary of the Interior.

NOVEMBER 29, 1967.

[F.R. Doc. 67-14138; Filed, Dec. 4, 1967; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

ARKANSAS, MISSISSIPPI, AND WISCONSIN

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the States of Arkansas, Mississippi, and Wisconsin natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

ARKANSAS

Lee.	Lincoln.

MISSISSIPPI

Alcorn.	Marshall.
Benton.	Monroe.
Calhoun.	Panola.
Carroll.	Pontotoc.
Chickasaw.	Prentiss.
Choctaw.	Quitman.
Clay.	Tallahatchie.
Coahoma.	Tate.
De Soto.	Tippah.
Humphreys.	Tunica.
Jefferson Davis.	Union.
Lafayette.	Webster.
Lee.	Yalobusha.
Lowndes.	

WISCONSIN

Crawford.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1968, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 29th day of November 1967.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 67-14149; Filed, Dec. 4, 1967; 8:46 a.m.]

Packers and Stockyards Administration

[P. & S. Docket No. 1598]

CHATTANOOGA UNION STOCK YARDS

Notice of Petition To Vacate Order and Dismiss Proceeding

Pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), a basic order was issued in the case of In Re Chattanooga Union Stock Yards, respondent (P. & S. Docket No. 1598), on August 7, 1945, prescribing the rates and charges to be assessed by the respondent for the stockyard services rendered by it at the Chattanooga Union Stock Yards, Chattanooga, Tenn. Such rates and charges have been modified from time to time by subsequent orders issued in the proceeding. The latest such order was issued on March 18, 1966, prescribing the rates and charges to be assessed by respondent to and including January 31, 1968, unless modified or extended by further order before the latter date.

On November 14, 1967, a petition was filed on behalf or respondent requesting that the rate order in this proceeding be vacated and the proceeding dismissed in conformity with § 203.11 (9 CFR 203.11) of the Statements of General Policy under the Packers and Stockyards Act. The petition reads as follows:

This is a rate proceeding under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. 181 et seq.). Respondent is now operating under an order issued on January 26, 1966, which became effective February 1, 1966.

The basic rate order in this proceeding was issued August 7, 1945 (4 AD 826). During the period since the basic rate order has been in effect, respondent has followed the procedure, both as to filing of a petition for modification of the basic order, and of seeking an expression indicative of the attitude of the Packers and Stockyards Administration toward the changes to be proposed. Information in support of such proposal has been submitted and a tentative agreement is reached before a formal petition for modification has been filed.

Respondent does not believe economic conditions in the industry, the marketing structure in the trade territory, or any other circumstance necessitate the continuation of the formal procedure for obtaining modification in the rates and charges assessed by respondent.

It is requested therefore that in conformity with the policy expressed in section 203.11 of the Statements of Formal Policy under the Packers and Stockyards Act (9 CFR 203.11) that the rate order in this proceeding be vacated and the proceeding be dismissed.

Any interested person may file with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, within 15 days after the publication of this notice in the FEDERAL REGISTER, written data, views, comments, or arguments with respect to the petition filed by the respondent.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 29th day of November 1967.

GLENN G. BIERMAN,
Acting Administrator, Packers and Stockyards Administration.

[F.R. Doc. 67-14167; Filed, Dec. 4, 1967; 8:47 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

MOTOR VEHICLE POLLUTION CONTROL

California State Standards; Notice of Public Hearing

Whereas section 208(a) of the Air Quality Act of 1967 (P.L. 90-148) provides, "No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this title. No State shall require certification, inspection, or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment" and

Whereas section 208(b) of said Act directs the Secretary of Health, Education, and Welfare, after notice and opportunity for public hearing, to waive application of the prohibitions of said section 208 to any State which had, prior to March 30, 1966, adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, unless he finds that such State does not require standards more stringent than applicable Federal standards to meet compelling and extraordinary conditions or that such State standards and accompanying enforcement procedures are not consistent with section 202(a) of the Air Quality Act of 1967, and

Whereas the State of California had, prior to March 30, 1966, adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines,

Now, therefore, I hereby give formal notice that after a public hearing as required by the statute, I will waive application of the prohibitions of section 208 (a) to the State of California with respect to applicable State standards which are more stringent than applicable Federal standards unless I find that the State of California does not require standards more stringent than applicable Federal standards to meet compelling and extraordinary conditions or that such State standards and accompanying enforcement procedures are not consistent with section 202(a) of the Air Quality Act of 1967. Pursuant to section 208(b) I hereby give notice of a public hearing to be held in the Ceremonial Courtroom, 19th Floor, Federal Courthouse, 450 Golden Gate Avenue, San Francisco, Calif. beginning at 10 a.m., Monday, January 15, 1968, and continuing through Monday, January 22, 1968, unless adjourned by the Presiding Officer at such earlier time as in his judgment is consistent with the purpose of said section 208(b), at which interested persons may be heard regarding the action to be taken under said section.

Mr. S. Smith Griswold of the Department of Health, Education, and Welfare is hereby designated as Presiding Officer to conduct the hearing. Any person desiring to make a statement at the hearing or to submit material for the record of the hearing should file a notice of such intention and, if practicable, five copies of his proposed statement (and other relevant material) with the Presiding Officer, National Center for Air Pollution Control, PHS, Department of Health, Education, and Welfare, South Building, Room 3428, Washington, D.C. 20201, not later than January 10, 1968.

Dated: December 1, 1967.

[SEAL] JOHN W. GARDNER,
Secretary.

[F.R. Doc. 67-14227; Filed, Dec. 4, 1967; 10:11 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-312]

SACRAMENTO MUNICIPAL UTILITY DISTRICT

Notice of Receipt of Application for Construction Permit and Facility License

Sacramento Municipal Utility District, 6201 S Street, Post Office Box 15830, Sacramento, Calif. 95813, pursuant to section 104(b) of the Atomic Energy Act of 1954, as amended, has filed an application, dated November 1, 1967, for authorization to construct and operate a pressurized water nuclear reactor on the applicant's approximately 2,480-acre site located in the southeast part of Sacramento County, about 25 miles southeast of Sacramento, Calif.

The proposed reactor, designated by the applicant as the Rancho Seco Nuclear Generating Station Unit No. 1, is designed for initial operation at approximately 2,452 megawatts (thermal), with a net electrical output of approximately 800 megawatts.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 27th day of November 1967.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[F.R. Doc. 67-14129; Filed, Dec. 4, 1967; 8:45 a.m.]

[Docket No. 50-234]

GULF GENERAL ATOMIC, INC.

Notice of Proposed Issuance of Construction Permit

The Atomic Energy Commission is considering the issuance of a construction permit, substantially as set forth below, to Gulf General Atomic, Inc. The permit would authorize modification of the critical experiment facility, designated by the applicant as the Experimental Critical Facility (ECF), on Gulf General's Torrey Pines Mesa site in San Diego, Calif. The ECF, which will be constructed in the space which formerly housed the Tungsten Nuclear Rocket Critical Facility (TNRCF), will be used to perform studies in connection with core design of thermionic power reactors.

Within fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for hearing, and any person whose interest may be affected by the issuance of this construction permit may file a petition for leave to intervene. Requests for hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's rules of practice, 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, a notice of hearing or an appropriate order will be issued.

For further details with respect to this proposed issuance, see (1) the application dated May 16, 1967, and supplements thereto dated June 20, August 9, and October 9, 1967, and (2) a related Safety Evaluation prepared by the Division of Reactor Licensing, all of which are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the Safety Evaluation may be obtained at the Commission's Public Document Room or upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 22d day of November 1967.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

PROPOSED CONSTRUCTION PERMIT

[Construction Permit No. CPCX-------]

1. By application dated May 16, 1967, and supplements thereto dated June 20, August 9, and October 9, 1967 (hereinafter "the application"), Gulf General Atomic, Inc. (then, General Atomic Division of General Dynamics Corp.), requested authority to modify the Experimental Critical Facility (formerly the Tungsten Nuclear Rocket Critical Facility and hereinafter the "ECF") to accommodate the Thermionic Critical Experiment (hereinafter the "TCE") in the ECF located on Gulf General Atomic's Torrey Pines Mesa site in San Diego, Calif. The modified facility will replace the facility previously operated under Facility License No. CX-22.

2. The Atomic Energy Commission ("the Commission") has found that:

A. The application complies with the requirements of the Atomic Energy Act of 1954, as amended (the "Act"), and the Commission's regulations set forth in Title 10, Chapter I, CFR;

B. The ECF will be a utilization facility as defined in the Commission's regulations contained in Title 10, Chapter I, CFR, Part 50, "Licensing of Production and Utilization Facilities";

C. The ECF will be used in the conduct of research and development activities of the types specified in section 31 of the Act;

D. Gulf General Atomic, Inc., is technically and financially qualified to construct the ECF in accordance with the regulations contained in Title 10, Chapter I, CFR, and to engage in the proposed activities for a reasonable period of time;

E. Gulf General Atomic, Inc., has submitted sufficient technical information concerning the proposed facility to provide reasonable assurance that the proposed facility can be constructed and operated at the proposed location without endangering the health and safety of the public; and

F. The issuance of a construction permit to Gulf General Atomic, Inc., will not be inimical to the common defense and security or to the health and safety of the public.

3. Pursuant to the Act and Title 10, Part 50, "Licensing of Production and Utilization Facilities", the Commission hereby issues Construction Permit No. CPCX------- to Gulf General Atomic, Inc., to modify the ECF in accordance with the application and this construction permit. This permit shall be deemed to contain and be subject to the conditions specified in §§ 50.54 and 50.55 of said regulations; is subject to all applicable provisions of the Act and rules, regulations and orders of the Commission now or hereafter in effect, and is subject to the additional conditions specified below:

A. The earliest completion date of the ECF is December 31, 1967. The latest completion date is February 29, 1968. The term "completion date", as used herein, means the date on which construction of the facility is completed except for the introduction of the fuel material.

B. The ECF shall be constructed on Gulf General Atomic's Torrey Pines Mesa site located in San Diego, Calif., as specified in the application.

4. Upon completion of the modification of the ECF in accordance with the terms and conditions of this permit, upon finding that the facility authorized has been constructed and will operate in conformity with the application and the provisions of the Act and the rules and regulations of the Commission; and in the absence of any good cause being shown to the Commission why the granting of a license would not be in accordance with the provisions of the Act, the Commission will issue an amended Class 104 license to Gulf General Atomic, Inc., pursuant to section 104c of the Act, which license shall expire at midnight, May 25, 1970.

Date of issuance:

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[F.R. Doc. 67-14128; Filed, Dec. 4, 1967; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 15094; FCC 67-1295]

AMERICAN TELEPHONE AND TELEGRAPH CO. AND WESTERN UNION TELEGRAPH CO.

Memorandum Opinion and Order Reopening Proceedings

In the matter of American Telephone and Telegraph Co., and the Western Union Telegraph Co., Docket No. 15094; charges and classifications for private line telegraph and private line telephotograph services furnished to the press.

1. In our memorandum opinion and order released August 2, 1967, we denied a joint "Petition for Expedited Hearing and Modification of Hearing Order" which had been filed by the American Newspaper Publishers Association, the Associated Press, and United Press International in the TELPAK Sharing Case, Docket No. 17487 (FCC 67-893). We there stated that the showing made in the joint petition was more appropriately addressed to the question of whether there should be established, pursuant to section 201(b) of the Act, a preferential rate classification for press users of private line services; that such question is the subject of the proceeding herein as to which there has been submitted a March 31, 1965, recommended decision by the Chief, Common Carrier Bureau; that the hearing record herein does not include evidence concerning material facts and circumstances developed since the closing of the record on December 11, 1963; and that we would take action to reopen the record in this case.

2. We instituted this proceeding by order released May 31, 1963 (FCC 63-491) because we were concerned at that time with the impact that our concurrent rate prescriptions and authorizations in the Private Line Rate Cases 34 F.C.C. 217, might have upon the widespread dissemination of news if made applicable to certain private line services furnished to the press. Thus, the specific, factual issues for resolution herein were directed to the determination of what effect there would be on such news dissemination if we were to require the press to pay the same charges for private line telegraph and private line telephotograph services that we were prescribing and authorizing for nonpress users.

3. Following our decision in the Private Line Rate Cases, American Telephone and Telegraph Co. (A.T. & T.) and the Western Union Telegraph Co. (Western Union) placed into effect for nonpress users the rates which we had prescribed or authorized for such users but these rates were not made applicable to the press. Press users continued to pay the generally lower rates for private line telegraph and telephotograph services that had been in effect prior to our decision. Effective August 1, 1967, A.T. & T. and Western Union, among other revisions, made substantial changes in the private line telegraph and private line telephotograph rates applicable to nonpress users, leaving in effect the generally lower rates for press users of such services. Thus the factual situation has changed substantially since this proceeding was instituted and since the last action was taken herein. Accordingly we think it is appropriate to reopen the record herein and also to revise the issues and specify the further procedures to be followed.

4. *Accordingly, it is ordered,* That, pursuant to the provisions of sections 201-205 and 403 of the Communications Act of 1934, as amended, the proceedings herein are reopened for the purpose of considering the following issues in lieu of those heretofore specified:

A. The extent to which the charges, regulations, practices, and classifications currently applicable to nonpress users of the private line telegraph and private line telephotograph services offered by A.T. & T. and Western Union to nonpress users would, if applied to press users, diminish, limit, or impair the widespread dissemination of news;

B. Whether the currently effective charges, regulations, classifications, or practices specially applicable to press users of private line telegraph and private line telephotograph services are unjust or unreasonable within the meaning of section 201(b) of the Act or unduly discriminatory or preferential within the meaning of section 202(a) of the Act;

C. Whether the Commission should prescribe or authorize a specific classification for press users of private line telegraph and telephotograph services with different charges and regulations for such class of users and communications, and, if so, what charges and regulations should be prescribed or authorized for such classification of users and communications.

5. *It is further ordered,* That hearing be held in this proceeding at the Commission offices in Washington, D.C., at a time to be specified and before a Hearing Examiner to be designated; that following the hearing herein all parties shall have the opportunity to file proposed findings and conclusions, as provided in 47 CFR 1.263; that thereafter the Hearing Examiner shall prepare and file an initial or recommended decision pursuant to 47 CFR 1.267, and shall thereupon certify the record to the Commission for final decision; that the recommended decision shall supersede the one heretofore filed herein on March 31, 1965, and shall be subject to the submission of exceptions and requests for oral argument as provided in 47 CFR 1.276 and 1.277; and that thereafter the Commission will issue its final decision as provided in 47 CFR 1.282.

6. *It is further ordered,* That the record herein is reopened; that all parties in Docket No. 15094 are hereby made parties in this reopened proceeding; and that Twin Coast Newspapers, Inc., is granted leave to intervene herein upon filing of notice of intention to appear and participate within 20 days of the release date of this order.

Adopted: November 22, 1967.

Released: November 28, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14171; Filed, Dec. 4, 1967; 8:46 a.m.]

[Docket No. 15094; FCC 67M-1988]

AMERICAN TELEPHONE AND TELEGRAPH CO. AND WESTERN UNION TELEGRAPH CO.

Order Scheduling Hearing

In the matter of American Telephone and Telegraph Co. and the Western Union Telegraph Co., Docket No. 15094; charges and classifications for private line telegraph and private line telephotograph services furnished to the press:

It is ordered, That Forest L. McClenning shall serve as Presiding Officer in the above-entitled proceeding; that the hearings therein shall be convened on February 5, 1968, at 10 a.m.; and that a

[1] Commissioner Bartley not participating.

prehearing conference shall be held on January 4, 1968, commencing at 9 a.m.: *And, it is further ordered*, That all proceedings shall take place in the offices of the Commission, Washington, D.C.

Issued: November 29, 1967.

Released: November 29, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14172; Filed, Dec. 4, 1967; 8:48 a.m.]

[Docket Nos. 17444, 17445; FCC 67M-1967]

J. W. FURR (WMBC) AND JAMES W. EATHERTON

Order Scheduling Hearing

In re applications of J. W. FURR (WMBC), Macon, Miss., Docket No. 17444, File No. BP-16794; James W. Eatherton, Macon, Miss., Docket No. 17445, File No. BP-17085; for construction permits.

The Hearing Examiner having for consideration the Review Board's order of November 22, 1967;

It appearing, that procedures should be established for the adduction of evidence on the enlarged issue:

It is ordered, That the record is reopened, and that a hearing conference shall convene on December 7, 1967, at 10 a.m. in the offices of the Commission at Washington, D.C.

Issued: November 29, 1967.

Released: November 30, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14173; Filed, Dec. 4, 1967; 8:48 a.m.]

[Docket Nos. 17575, 17576; FCC 67M-1964]

TRI-CITIES BROADCASTING CORP. AND PALMER-DYKES BROADCASTING CO.

Order Scheduling Hearing

In re applications of Tri-Cities Broadcasting Corp., Gate City, Va., Docket No. 17575, File No. BPH-5654; Paul Dykes and Basil J. Palmer, doing business as Palmer-Dykes Broadcasting Co., Kingsport, Tenn., Docket No. 17576, File No. BPH-5701; for construction permits.

Pursuant to a prehearing conference as of this date: *It is ordered*, That exhibits shall be exchanged on or before January 15, 1968; that the notification of witnesses desired for cross-examination shall be accomplished on or before February 5, 1968, and

It is further ordered, That the hearing herein be and the same is hereby scheduled for February 12, 1968, 10 a.m., in the Commission's offices, Washington, D.C.

Issued: November 27, 1967.

Released: November 30, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14174; Filed, Dec. 4, 1967; 8:48 a.m.]

[Docket No. 17653; FCC 67M-1961]

UNITED TRANSMISSION, INC.

Order Scheduling Further Prehearing Conference

In re petition of United Transmission, Inc., Galax, Va., Docket No. 17653, File No. CATV 100-22; for authority pursuant to § 74.1107 to operate a CATV system in the Greensboro-High Point-Winston-Salem, N.C., and the Roanoke, Va., television markets, ranked 47th and 64th, respectively.

The Hearing Examiner having for consideration the order of the Commission adopted November 22, 1967;

It appearing, that it is now appropriate to establish procedural dates to govern this proceeding;

It is ordered, That a further prehearing conference shall convene on December 6, 1967, at 10 a.m. in the offices of the Commission at Washington, D.C.

Issued: November 28, 1967.

Released: November 30, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14175; Filed, Dec. 4, 1967; 8:48 a.m.]

FEDERAL MARITIME COMMISSION

COMPAGNIE MARITIME BELGE (LLOYD ROYAL) S.A. AND COMPAGNIE MARITIME CONGOLAISE, S.C.R.L.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. Edwin Longcope, Hill, Betts, Yamaoka, Freehill & Longcope, 26 Broadway, New York, N.Y. 10004.

Agreement 7688-3, between Compagnie Maritime Belge (Lloyd Royal) S.A. and Compagnie Maritime Congolaise, S.C.R.L., modifies Agreement No. 7688 to discontinue the sharing of profits and losses between the parties, to establish the minimum number of sailings which each shall perform, to provide that each shall operate its vessels at its own risk and expense, to designate the combined operation as a "service" rather than a "Joint Service" and to provide for the appointment of a new general agent in the trade between North American Continental Atlantic and Gulf Ports to ports in Continental Europe, United Kingdom, the Mediterranean, Red Sea, Persian Gulf, India, Pakistan, Ceylon and East, South, and West Africa.

Dated: November 30, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-14160; Filed, Dec. 4, 1967; 8:47 a.m.]

CITY OF LONG BEACH AND KOPPEL BULK TERMINAL

Notice of Agreement Filed for Determination

Notice of agreement filed for section 15 determination by:

Mr. Leslie E. Still, Jr., Deputy City Attorney, City of Long Beach, Suite 600, City Hall, Long Beach, Calif. 90802.

On April 14, 1966, an agreement between the city of Long Beach (City) and Koppel Bulk Terminal (Koppel) was submitted to the Commission for section 15 determination. The agreement was initially determined not to be subject to section 15 and the parties were so advised. The agreement covers the lease of a bulk terminal facility and grants Koppel a nonexclusive, preferential berth assignment. The city retains secondary berthing privileges. As rental Koppel pays $12,500 per month plus a percentage of certain construction costs. In addition, Koppel guarantees that City will receive not less than $100,000 per year from wharfage charges. If City receives in excess of $400,000 in any 12-month period in rentals, Koppel will be entitled to a credit of 75 percent of the excess over $400,000, which shall be credited toward the rental due City for the next succeeding 12-month period.

Koppel agrees that, other things being equal, it shall ship through and receive through the port of Long Beach all grain and other bulk commodities which it may be able to control or direct. Upon review it appears that the agreement may be subject to section 15 of the Shipping Act, 1916. Comments are requested from interested parties on whether the agreement is subject to section 15, Shipping Act, 1916, and, if so, whether it is approvable under the standards thereof.

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement, and the comments should indicate that this has been done.

Dated: November 30, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-14161; Filed, Dec. 4, 1967; 8:47 a.m.]

FEDERAL POWER COMMISSION

[Docket No. E-7378]

ARIZONA PUBLIC SERVICE CO.

Notice of Application

NOVEMBER 28, 1967.

Take notice that on November 9, 1967, the Arizona Public Service Co. (Applicant) filed an application with the Federal Power Commission seeking an order pursuant to section 203 of the Federal Power Act authorizing the acquisition of certain electric facilities of the United States.

Applicant is incorporated under the laws of Arizona with its principal business office at Phoenix, Ariz., and is engaged in the electric utility business in 10 counties in Arizona.

The facilities to be acquired from the United States (Bureau of Reclamation) consist of a bank of series capacitors to be installed by the United States on the 345 kv Flagstaff-Pinnacle Peak Line No. 1 of the United States' 345 kv Glen Canyon-Pinnacle Peak transmission system. The amount to be paid by the Applicant to the United States for this capacitor bank is to be one-half (½) of the cost to the United States of both the capacitor stations to be installed by the United States in the Flagstaff-Pinnacle Peak section plus 15 percent thereof as a reasonable allowance to cover the Applicant's pro rata share of the costs of the United States for design, testing, inspection, and appropriate general overheads. The Applicant presently estimates that the cost to the company will be about $1 million.

Any person desiring to be heard or to make any protest with reference to the application should, on or before December 15, 1967, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 67-14130; Filed, Dec. 4, 1967; 8:45 a.m.]

[Docket No. CP68-217]

MICHIGAN GAS STORAGE CO.

Notice of Petition To Amend

NOVEMBER 27, 1967.

Take notice that on November 16, 1967, Michigan Gas Storage Co. (Petitioner), 312 West Michigan Avenue, Jackson, Mich. 49201, filed in Docket No. CP68-217 a petition to amend the order issued in said docket on July 22, 1963, by requesting that ordering paragraph (B) of said order be amended to delete the volumetric limitations for peak day and annual deliveries for certain service rendered to Consumers Power Co. (Consumers), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By ordering paragraph (B) of the aforementioned order issued July 22, 1963, Petitioner was authorized to sell and deliver volumes of natural gas limited to 2,174 Mcf and 340,029 Mcf for peak day and annual requirements, respectively. The natural gas delivered to Consumers was for resale and distribution in the village of Climax, New Hudson, Pleasant Lake, Beaverton, Gladwin, Gregory, and the environs of the aforementioned communities, all located in the State of Michigan.

Petitioner states that due to the increasing requirements of the customers of Consumers in the aforementioned communities, it is likely that aggregate peak day deliveries to such communities will approach the limitation imposed by the Commission in said ordering paragraph (B) during the 1967-68 winter heating season, and will soon approach the limitation on aggregate annual deliveries. Therefore, Petitioner requests that the aforesaid ordering paragraph (B) be amended in such manner as to permit Petitioner to make deliveries to Consumers for service to such communities without specific limitation as to aggregate annual or peak day amount.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 21, 1967.

KENNETH F. PLUMB,
Assistant Secretary.

[F.R. Doc. 67-14163; Filed, Dec. 4, 1967; 8:46 a.m.]

[Docket No. CP68-158]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

NOVEMBER 27, 1967.

Take notice that on November 16, 1967, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in Docket No. CP68-158 a "budget-type" application pursuant to section 7(c) of the Natural Gas Act and § 157.7(d) of the regulations under the Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities for the testing and development of underground reservoirs for the possible storage of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant requests authorization to undertake during the period 1968 to 1970, inclusive, the testing and development of underground reservoirs in the general area of the markets served by it, which undertaking will necessitate the drilling of wells, injection and withdrawal of gas, and construction and operation of pipeline and compressor facilities.

Additionally, Applicant proposes to continue the testing and development of the Herscher Northwest prospect which was initiated by Applicant pursuant to an order in Docket No. CP65-226 issued March 23, 1965. Applicant states that due to administrative delays it has been prevented from completing the testing and development of its Herscher Northwest prospect within the time period authorized and that continuation of the testing and development of the Herscher Northwest prospect will be undertaken pursuant to authorization requested in the instant application.

The application states that expenditures of up to $1,250,000 in the year 1968 may be necessary for the Herscher Northwest prospect and that expenditures for the years 1969 and 1970 will not exceed $1 million per year, and that total expenditures for the 3-year period will not exceed $3 million. The application further states that injection of gas into individual reservoirs will not exceed 2,000,000 Mcf, except for the Herscher Northwest prospect which Applicant estimates will require 2,500,000 Mcf, and injection into all reservoirs will be limited to 10,000,000 Mcf.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 21, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without

further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Assistant Secretary.

[F.R. Doc. 67-14154; Filed, Dec. 4, 1967; 8:46 a.m.]

[Docket No. RI68-237 etc.]

E. C. SIDWELL ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

NOVEMBER 27, 1967.

The Respondents named herein have filed proposed changes in rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplements to the rate schedules filed by Respondents, as set forth herein, shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order Respondents shall each execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless Respondents are advised to the contrary within 15 days after the filing of their respective agreements and undertakings, such agreements and undertakings shall be deemed to have been accepted.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before January 15, 1968.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI68-227	E. C. Sidwell et al., Post Office Box 2475, Pampa, Tex. 79065.	1	3	El Paso Natural Gas Co. (East Panhandle Field, Collingsworth County, Tex.) (R.R. District No. 10).	$270	11-1-67	[3] 1-1-68	[4] 1-2-68	13.0	[5] [6] 14.0	RI64-650.
RI68-228	Sidwell Oil & Gas, Inc. (Operator) et al., Post Office Box 2475, Pampa, Tex. 79065.	[2] 1	2	El Paso Natural Gas Co. (Wheeler County, Tex.) (R.R. District No. 10) and (Beckham County, Okla.) (Oklahoma "Other" Area).	2,410	11-1-67	[3] 1-1-68	[4] 1-2-68	13.0	[5] [6] 14.0	

[2] Basic contract dated after Sept. 28, 1960, the date of issuance of general policy statement No. 61-1.
[3] The stated effective date is the effective date requested by Respondent.
[4] The suspension period is limited to 1 day.
[5] Periodic rate increase.
[6] Pressure base is 14.65 p.s.i.a.

The contracts related to the rate filings proposed by E. C. Sidwell et al., and Sidwell Oil and Gas, Inc. (Operator), et al., were executed subsequent to September 28, 1960, the date of issuance of the Commission's statement of general policy No. 61-1, as amended, and the proposed increased rates are above the applicable ceiling for increased rates but do not exceed the applicable ceiling price for initial rates in the areas involved. Under the circumstances, we believe that the aforementioned producers' rate filings should be suspended for 1 day from January 1, 1968, the proposed effective date.

[F.R. Doc. 67-14156; Filed, Dec. 4, 1967; 8:46 a.m.]

[Docket No. CP68-160]

UNITED GAS PIPE LINE CO. AND TEXAS EASTERN TRANSMISSION CORP.

Notice of Application

NOVEMBER 27, 1967.

Take notice that on November 17, 1967, United Gas Pipe Line Co. (Applicant United), Post Office Box 1407, Shreveport, La. 71102, and Texas Eastern Pipe Line Corp. (Applicant Texas Eastern), Post Office Box 2521, Houston, Tex. 77001, jointly filed in Docket No. CP68-160 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of two additional points of delivery for the exchange of natural gas under an existing exchange agreement, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicants propose to construct and operate two points of exchange pursuant to an exchange agreement between Applicants dated August 5, 1948. The aforementioned delivery points are to be located as follows:

Point A. Jose Flores Hrs Survey, near the town of Martinsville, Nacogdoches County, Tex.

Point B. Jacob Mast Survey, near the town of Melrose, Nacogdoches County, Tex.

At each of these delivery points Applicant United will install 50 feet of 2-inch pipeline, a meter station, and appurtenant facilities and Applicant Texas Eastern will install a 2-inch tap on its 24-inch Provident City-Joaquin line.

The total estimated cost of the proposed facilities is $24,616, which cost will be met from funds on hand.

The application states that these additional delivery points will facilitate delivery of volumes of natural gas to Applicant United and will provide Applicant United with a supply of gas for resale to the city of Chireno, Nacogdoches County, Tex., as sought in the application filed in Docket No. CP68-159 notice of which is herewith simultaneously issued.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 21, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Assistant Secretary.

[F.R. Doc. 67-14155; Filed, Dec. 4, 1967; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 30, 1967.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA. No. 41176—*Chlorine to Kingsport, Tenn.* Filed by O. W. South, Jr., agent (No. A-5070), for The Alabama Great Southern Railroad Co. and interested carriers. Rates on Chlorine, in tank carloads, from Geismar, La., to Kingsport, Tenn.

Grounds for relief—Market competition.

Tariff—Supplement 31 to Southern Freight Association, agent, tariff ICC S-699.

FSA. No. 41177—*Beet pulp from Billings, Hardin, and Sidney, Mont.* Filed by Trans-Continental Freight Bureau, agent (No. 449), for interested rail carriers. Rates on beet pulp as described in the application, in carloads, from Billings, Hardin, and Sidney, Mont., to points in western trunkline territory.

Grounds for relief—Market competition, short-line distance formula.

Tariff—Supplement 88 to Trans-Continental Freight Bureau, agent, tariff ICC 1725.

By the Commission.

[SEAL] H. NEAL GARSON,
Secretary.

[F.R. Doc. 67-14162; Filed, Dec. 4, 1967; 8:47 a.m.]

FOURTH SECTION APPLICATION FOR RELIEF

NOVEMBER 28, 1967.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA. No. 41175—*Limestone From Fort Dodge, Iowa, Quincy and Valmeyer, Ill.* Filed by Southwestern Freight Bureau, agent (No. B-9027), for interested rail carriers. Rates on limestone, broken, crushed, ground, or pulverized, in carloads, from Fort Dodge, Iowa, Quincy and Valmeyer, Ill., to points in Arkansas, Missouri, and Oklahoma.

Grounds for relief—Market competition.

Tariff—Supplement 173 to Southwestern Freight Bureau, agent, tariff ICC 4565.

By the Commission.

[SEAL] H. NEAL GARSON,
Secretary.

[F.R. Doc. 67-14165; Filed, Dec. 4, 1967; 8:47 a.m.]

[Notice 502]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 30, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 30844 (Sub-No. 242 TA), filed November 24, 1967. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Post Office Box 5000, Waterloo, Iowa 50704. Applicant's representative: Larry L. Strickler (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles* distributed by meat packinghouses, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates* 209 and 766 (except liquid commodities in bulk and hides), from Le Mars, Iowa, to points in Colorado, Connecticut, Delaware, District of Columbia, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Vermont, for 180 days. Supporting shipper: Blue Ribbon Beef Packers, Post Office Box 702, Le Mars, Iowa 51031. Send protests to: Chas. C. Biggers, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Davenport, Iowa 52801.

No. MC 111170 (Sub-No. 121 TA), filed November 24, 1967. Applicant: WHEELING PIPE LINE, INC., Post Office Box 1718, El Dorado, Ark. 71730. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic glue*, in bulk, in tank vehicles, from Crossett, Ark., to Gary, Ind., for 180 days. Supporting shipper: Georgia-Pacific Corp., Post Office Box 520, Crossett, Ark. 71635. Send protests to: District Supervisor D. R. Partney, Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 112750 (Sub-No. 250 TA), filed November 24, 1967. Applicant: AMERICAN COURIER CORPORATION, 222-17 Northern Boulevard, DeBevoise Building, Bayside, N.Y. 11361. Applicant's representative: J. K. Murphy (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents,*

written instruments, and business records (except coin, currency, and negotiable securities), as are used in the business of banks and banking institutions, (1) between Indianapolis, Ind., on the one hand, and, on the other, Pittsburgh, Pa., Cleveland, Ohio, and Buffalo, N.Y.; (2) between points in Gloucester County, N.J., on the one hand, and, on the other, Philadelphia, Pa., for 150 days. Supporting shippers: American Fletcher National Bank & Trust Co., Indianapolis, Ind.; First County National Bank & Trust Co., Woodbury, N.J. Send protests to: E. N. Carignan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 346 Broadway, New York, N.Y. 10013.

No. MC 115669 (Sub-No. 83 TA), filed November 24, 1967. Applicant: HOWARD N. DAHLSTEN, doing business as DAHLSTEN TRUCK LINE, Post Office Box 95, Clay Center, Nebr. 68933. Applicant's representative: Howard Dahlsten, Post Office Box 95, Clay Center, Nebr. 68933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed ingredients*, from Omaha and Nebraska City, Nebr., to points in Missouri on and north of Interstate Highway I-70 and west of U.S. Highway 63, for 150 days. Supporting shipper: Hooker Chemical Corp., Farm Chemicals Division, Maryland Heights, Mo. 63043. Send protests to: District Supervisor Max H. Johnston, Interstate Commerce Commission, Bureau of Operations, 315 Post Office Building, Lincoln, Nebr. 68508.

No. MC 119974 (Sub-No. 18 TA), filed November 24, 1967. Applicant: L. C. L. TRANSIT COMPANY, 520 North Roosevelt Street, Post Office Box 949, Green Bay, Wis. 54305. Applicant's representative: Charles E. Dye (same address as above). Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in section A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from plantsite and storage facilities utilized by Oscar Mayer and Co., Inc., Davenport, Iowa, to points in Indiana (except points within Chicago, Ill., zone as described by the ICC), Kentucky, Michigan, and Ohio, for 180 days. Supporting shipper: Oscar Mayer & Co., 910 Mayer Avenue, Madison, Wis. 53701; (Richard C. Fiesch, General Traffic Manager). Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 124807 (Sub-No. 7 TA), filed November 24, 1967. Applicant: JACK LINK TRUCK LINE, INC., Dyersville, Iowa 52040. Applicant's representative: John J. Goen, Dyersville, Iowa 52040. Authority sought to operate as a contract carrier, by motor vehicle, over regular routes, transporting: Spring water, in containers, from Chippewa Falls, Wis., to points in Illinois (except points in the Chicago commercial zone), Indiana, Iowa, Missouri, Nebraska, and South Dakota, for 180 days. Supporting shipper: Bowman Dairy Sales Co., 3000 North River Road, Franklin Park, Ill. 60131. Note: Applicant intends to tack the authority here applied for to its existing authority and interline with MC 124807 Sub 6. Send protests to: Chas. C. Biggers, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 333 Federal Building, Davenport, Iowa 52801.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-14463; Filed, Dec. 4, 1967; 8:47 a.m.]

[Notice 87]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 30, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-69823. By order of November 27, 1967, the Transfer Board approved the transfer to Ozone Motor Line, Inc., 4552 North Villere Street, New Orleans, La., of the operating rights in certificates Nos. MC-77594 and MC-77594 (Sub-No. 2) issued June 23, 1941 (amended by order of Feb. 25, 1946), and January 17, 1947, respectively, to Earl Guillory, doing business as Ozone Motor Line, 4552 North Villere Street, New Orleans, La., authorizing the transportation of general commodities, with exceptions, between New Orleans, La., and specified points in Louisiana; and certificates of registration Nos. MC-77594 (Sub-No. 7) and MC-77594 (Sub-No. 9) issued October 19, 1964, and November 8, 1967, respectively, to Earl Guillory, doing business as Ozone Motor Line, 4552 North Villere Street, New Orleans, La., evidencing a right to engage in transportation in interstate or foreign commerce corresponding in scope to the service authorized by certificates of public convenience and necessity Nos. 275-A dated March 13, 1947, 275-B dated December 2, 1958, 275-C dated July 13, 1959, 275-G dated June 13, 1961, and 275-I dated September 19, 1966, issued by the Louisiana Public Service Commission.

No. MC-FC-69961. By order of November 27, 1967, the Transfer Board approved the transfer to Varsity Coach Corp., Jackson Heights, N.Y., of certificate No. MC-1111, issued October 16, 1967, to George's Bus Co., Inc., Brooklyn, N.Y., and authorizing the transportation of passengers and their baggage, restricted to traffic originating in the territory and at the points indicated, in charter operations, from points in Orange and Rockland Counties, N.Y., and New York, N.Y., to points in New Jersey, New York, and Connecticut, and return. Shatzkin & Cooper, 235 East 42d Street, New York, N.Y. 10017, attorneys for transferee. Sidney J. Leskin, 501 Madison Avenue, New York, N.Y. 10022, attorney for transferor.

No. MC-FC-70004. By order of November 24, 1967, the Transfer Board approved the transfer to Blue Comet Express, Inc., Philadelphia, Pa., of the operating rights in certificates Nos. MC-31064, MC-31064 (Sub-No. 1), and MC-31064 (Sub-No. 4) respectively, issued April 20, 1937, effective May 20, 1967, February 26, 1942, and March 6, 1967, respectively to Joseph T. Braun, doing business as Blue Comet Express, Phila., Pa., authorizing the transportation of: Household goods, and general commodities, with certain exceptions, between points in New York, New Jersey, Pennsylvania, Connecticut, Maryland, Delaware, and the District of Columbia. Arthur S. Lorch, 202 North Broad Street, Phila., Pa. 19102, attorney for applicants.

No. MC-FC-70025. By order of November 27, 1967, the Transfer Board approved the transfer to Triple "D" Cartage, Inc., of the operating rights in Permit No. MC-105424 issued April 27, 1965, to Flagge Truck Line, Inc., Mason City, Iowa, authorizing the transportation of: *Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, equipment, materials, and supplies* used in the conduct of such business, between Mason City, Iowa, on the one hand, and, on the other, Albert Lea, Ceylon, Gordonsville, and Elmore, Minn. Clayton L. Wornson, 824 Brick and Title Building, Mason City, Iowa 50401, attorney for applicants.

No. MC-FC-70028. By order of November 27, 1967, the Transfer Board approved the transfer to Edward G. Gentzkow, doing business as Gentzkow Trucking Service, La Moure, N. Dak., of certificate No. MC-101735 issued May 12, 1960, to Leo J. Nowak, doing business as Erickson Trucking Service, Litchville, N. Dak., and authorizing the transportation of: General commodities, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Moorhead, Minn., and Litchville, N. Dak., serving the intermediate and off-route North Dakota points of Fargo, Fingal, Nome, Hastings, Litchville, Marion, Dickey, Grand Rapids, La Moure, Verona, North La Moure Store, and Fort Ransom; and, cream, milk, eggs, and poultry, from points in a specified eastern area of North Dakota to Moorhead, Minn.

Theodore F. Kessel, La Moure, N. Dak. 58458, attorney for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-14464; Filed, Dec. 4, 1967; 8:47 a.m.]

[Notice 89]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 1, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

SYNOPSIS FOR FEDERAL REGISTER

No. MC-FC-69676. By order of October 30, 1967, Transfer Board approved the transfer to Van Fleet Moving & Storage Co., Inc., Manchester, N.H. 03101 of that portion of the operating rights of Stewart Trucking Co., Inc., 03103, in certificate No. MC-21531, issued March 1, 1966, authorizing the transportation, over irregular routes, of household goods, between points in Rockingham, Hillsborough, Merrimack, and Belknap Counties, N.H., on the one hand, and, on the other, points in Connecticut, Massachusetts, Rhode Island, and Vermont. Leonard A. Jaskiewicz, 1155 15th Street NW., Washington, D.C. 20005, attorney for applicants.

No. MC-FC-69915. By order of October 31, 1967, the Transfer Board approved the transfer to Antietam Transit Company, Inc., Hagerstown, Md., the operating rights in certificate No. MC-125769 issued September 3, 1964 to Frederick Transit Co., Inc., Frederick, Md., authorizing the transportation, of: Passengers and their baggage, and express, newspapers, and mail, in the same vehicle, between Charles Town, W. Va., and Frederick, Md., serving all intermediate points, and Brunswick, Md., over specified regular routes. S. Harrison Kahn, Investment Building, Washington, D.C. 20005, attorney for applicants.

No. MC-FC-69962. By order of October 31, 1967, the Transfer Board approved the transfer to Sylvester Brown, Albert Grzesiak, Arthur Rindfleisch, Robert Voeltner, Otto Rindfleisch, Wilbert Packlum, Frank Rindfleisch, Ervin Ahles, John Voeltner, and Myron Koskey, a partnership, doing business as Associated Trucking Co., Mosinee, Wis., of certificates Nos. MC-126026 and MC-126026 (Sub-No. 1), issued June 24, 1964, and March 1, 1965, respectively, to Sylvester Brown, Albert Grzesiak, Arthur Rindfleisch, Robert Voeltner, Otto Rindfleisch, Wilbert Packlum, Frank Rindfleisch, Ervin Ahles, James Roseth, and Myron Koskey, a partnership, doing business as Associated Trucking Co., Mosinee, Wis., and authorizing the transportation of: Meats, meat products, and meat byproducts, and articles distributed by meat-packinghouses as described in appendix I to the report in 61 M.C.C. 209 and 766, from Madison and Mosinee, Wis., to Duluth, Minn., and the same commodities, except animal and poultry feeds and ingredients therefor, from Duluth, Minn., to points in Ashland, Barron, Bayfield, Douglas, Iron, Marathon, Price, Sawyer, and Washburn Counties, Wis. Sylvester Brown, Managing Partner, Associated Trucking Co., Route 2, Box 370, Mosinee, Wis. 54455, representative for applicants.

No. MC-FC-69976. By order of October 31, 1967, the Transfer Board approved the transfer to Sam Foss, Jr., Hamilton, Mont., of certificate of registration No. MC-120373 (Sub-No. 2) issued August 4, 1964 to Robert L. Roy, doing business as Ravalli Motor Freight, Hamilton, Mont., authorizing the transportation, in interstate or foreign commerce of commodities, within the State of Montana. Thomas P. Koch, Post Office Box 389, Hamilton, Mont. 59840, attorney for applicants.

No. MC-FC-69977. By order of October 31, 1967, the Transfer Board approved the transfer to Edson Express, Inc., Longmont, Colo., of a portion of certificate of registration No. MC-120872 (Sub-No. 2) issued June 25, 1965, to Colorado Cartage Co., Inc., authorizing the transportation in interstate or foreign commerce, of property, between specified points and areas in Colorado. John H. Lewis, The 1650 Grant Building, Denver, Colo. 80203, attorney for applicants.

No. MC-FC-69966. By order of October 19, 1967, the Transfer Board approved the transfer to M & H Trucking, Inc., Farmington, N. Mex., of the portion of the operating rights in certificate No. MC-8907 issued December 15, 1960 to Oil Field Truckers, Inc., Odessa, Tex., authorizing the transportation of: Machinery, equipment, materials, and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products, and byproducts, and the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, except picking up or stringing pipe in connection with main or trunk pipelines, between points in Nevada, on the one hand, and, on the other, points in Texas, and those in Lea, Eddy, San Juan, Rio Arriba, and McKinley Counties, N. Mex. Alvin J. Meiklejohn, Jr., 420 Denver Club Building, attorney for applicants.

No. MC-FC-69989. By order of October 31, 1967, the Transfer Board approved the transfer to Stewart Lines, Inc., 15716 West 78th Street, Eden Prairie, Minn., of the certificate in No. MC-582, issued July 7, 1966, to Johnny Transit Lines, Inc., doing business as Stewart Bus Lines, same address, authorizing the transportation of: Passengers and their baggage, and express and newspapers, in the same vehicle with passengers, between Eau Claire, Wis., and Winona, Minn., between Rochester, Minn., and Nelson, Wis., and between Galesville, Wis., and Winona, Minn., serving all intermediate points on the highways specified.

No. MC-FC-69997. By order of October 31, 1967, the Transfer Board approved the transfer to Geiger Transportation, Inc., Pandora, Ohio, of certificate of registration No. MC-121263 (Sub-No. 1), issued July 12, 1965, to Grover J. Geiger, Jr., doing business as Geiger Transportation, Pandora, Ohio, and evidencing a right of the holder to engage in transportation in interstate or foreign commerce corresponding in scope to the grant of authority in certificate No. 9019-I, dated January 31, 1962, issued by the Ohio Public Utilities Commission. James R. Stiverson, 50 West Broad Street, Columbus, Ohio 43215, attorney for applicants.

No. MC-FC-69998. By order of October 31, 1967, the Transfer Board approved the transfer to Maynard A. Ingraham and Pauline C. Ingraham, a partnership, doing business as Bunny's Transportation, Royalton, Vt., of certificates Nos. MC-112314 (Sub-No. 2), MC-112314 (Sub-No. 3), MC-112314 (Sub-No. 4), and MC-112314 (Sub-No. 5), all issued April 4, 1952, to John Daniel Kilburn, doing business as Kilburn's Transportation, Royalton, Vt., and authorizing the transportation of: malt beverages, from Rochester, Utica, Albany and Troy, N.Y., to Burlington, Vt.; from Albany and Troy, N.Y., to St. Albans and Albany, Vt.; from Rochester and Troy, N.Y., to Rutland, Vt., and from Utica, Albany, and Troy, N.Y., to Barre, Vt.; empty containers for malt beverages, from the specified destination points in Vermont to the specified origin points in New York, and fresh fruits and vegetables, from Rochester, N.Y., and points in New York within 50 miles of Rochester, to Rutland and Burlington, Vt. John J. Brady, 75 State Street, Albany, N.Y. 12207, attorney for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-14234; Filed, Dec. 4, 1967; 9:48 a.m.]

[Notice 89-A]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 1, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's general rules of practice any interested person may file a petition making reconsideration of the following numbered proceedings within 20 days from the date of service of the order. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-68686. By order of November 8, 1967, Division 3, acting as an appellate Division on reconsideration, approved the transfer to Fairbanks Midwest Truck Lines, Inc., Anchorage, Alaska, of certificate No. MC-126536, issued March 22, 1966, to John C. Hagerty, doing business as Fairbanks Midwest Truck Lines, Anchorage, Alaska, and authorizing the transportation of general commodities, with usual exceptions, between Sioux Falls and Rapid City, S. Dak., Storm Lake and Sioux City, Iowa, Omaha and Wakefield, Nebr., and Fargo, N. Dak., on the one hand, and, on the other, points in Alaska, Gene P. Johnson, 508 First National Bank Building, Fargo, N. Dak. 58102, attorney for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-14225; Filed, Dec. 4, 1967; 9:43 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—DECEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during December.

3 CFR — Page

EXECUTIVE ORDERS:
Dec. 5, 1913 (revoked by PLO 4327) 16531
Mar. 21, 1914 (revoked by PLO 4327) 16531
June 24, 1914 (revoked by PLO 4327) 16531
11248 (amended by EO 11384) 17423
11383 17421
11384 17423

5 CFR
210 16474
213 16477
315 16474
351 16474
352 16474
353 16475
430 16475
511 16475
531 16475
713 16476
731 16476
752 16476
754 16476
771 16477
772 16477
831 16477
891 16477

7 CFR
401 16478, 17425
724 16478
725 16479
815 16525
905 16525
907 16526
910 16526
944 17425
982 16527
1062 16479
1073 16480
1094 16527
1103 16527
1106 16480
1126 16480
1421 16528
1427 16528
PROPOSED RULES:
911 17431
915 17431
950 17433
993 17434

12 CFR
224 17425

14 CFR
39 16481, 17426
61 16481
71 16482, 16483, 17426, 17427
73 17427
91 16483
97 16484
121 16481
291 16491
293 16491
311 16491
320 16491
421 16491
430 16491
431 16491
435 16491
PROPOSED RULES:
1 16485
39 17439
71 16496
91 16496
214 16536
295 16535

16 CFR
13 17427

19 CFR
12 17428
23 16528

21 CFR
120 16529
121 16529, 16530
130 16531
146 16531
146a 16491
PROPOSED RULES:
31 16533
138 16533

22 CFR
10 17454

23 CFR
PROPOSED RULES:
255 16534

28 CFR
0 16531

29 CFR
1610 16491

41 CFR
1-1 16491
Ch. 18 17002

43 CFR
PUBLIC LAND ORDERS:
4327 16531
4328 17429
4329 16532
4334 17429
4335 17429

46 CFR
PROPOSED RULES:
514 16496

47 CFR
97 17429
PROPOSED RULES:
2 16495
87 16495
91 17440

50 CFR
33 16532, 17430
264 16492

FEDERAL REGISTER

VOLUME 32 • NUMBER 234

Tuesday, December 5, 1967 • Washington, D.C.

PART II

Department of State
Agency for International Development
U.S. Information Agency

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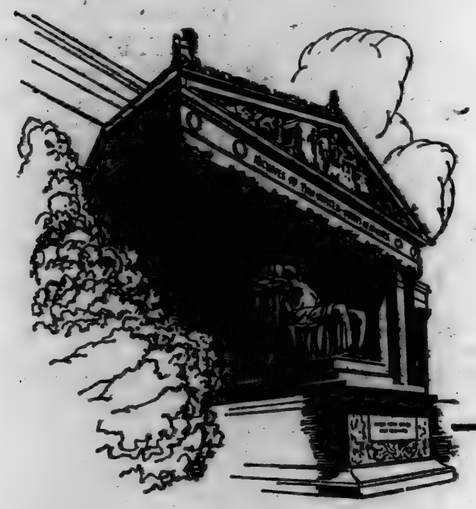

Employee Responsibilities and Conduct

Title 22—FOREIGN RELATIONS

Chapter I—Department of State

[Departmental Reg. 108.573]

PART 10—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Pursuant to and in conformity with sections 301 through 309 of the United States Code, Executive Order No. 11222 of May 8, 1965 (30 F.R. 6469), and Title 5, Chapter I, Part 735 of the Code of Federal Regulations, Part 10 is revised to read as set forth below.

These regulations supersede and cancel Departmental Regulation No. 108.530, 31 F.R. 6300, April 26, 1966, and Departmental Regulation No. 108.563, 32 F.R. 11641, August 11, 1967.

This revision of Part 10 was approved by the Civil Service Commission on November 13, 1967, and shall become effective upon publication in the FEDERAL REGISTER.

IDAR RIMESTAD,
Deputy Under Secretary for Administration, Department of State.

NOVEMBER 16, 1967.

H. REX LEE,
Assistant Administrator for Administration, Agency for International Development.

NOVEMBER 20, 1967.

LEONEL S. MOSLEY,
Assistant Director (Personnel and Training), U.S. Information Agency.

NOVEMBER 16, 1967.

Subpart A—General Provisions

Sec.
10.735–101 Purpose.
10.735–102 Definitions.
10.735–103 Interpretation and advisory service.
10.735–104 Applicability to detailed employees.
10.735–105 Disciplinary action.

Subpart B—Ethical and Other Conduct and Responsibilities of Employees

10.735–201 General.
10.735–202 Gifts, entertainment, and favors.
10.735–203 Gifts from foreign governments.
10.735–204 Outside employment and other activities.
10.735–205 Financial interests.
10.735–206 Economic and financial activities of employees abroad.
10.735–207 Use of Government property.
10.735–208 Misuse of information.
10.735–209 Indebtedness.
10.735–210 Gambling, betting, and lotteries.
10.735–211 Activities relating to private organizations and politics.
10.735–212 Wearing of uniforms.
10.735–213 Recommendations for employment.
10.735–214 Transmitting communications and gifts.
10.735–215 General conduct prejudicial to the Government.
10.735–216 Miscellaneous statutory provisions.

Subpart C—Ethical and Other Conduct and Responsibilities of Special Government Employees

10.735–301 Conflicts of interest.
10.735–302 Use of Government employment.
10.735–303 Use of inside information.
10.735–304 Coercion.
10.735–305 Gifts, entertainment, and favors.
10.735–306 Miscellaneous statutory provisions.

Subpart D—Statements of Employment and Financial Interests

10.735–401 Employees required to submit statements.
10.735–402 Employees not required to submit statements.
10.735–403 Employee's complaint on filing requirement.
10.735–404 Time and place of submission, and forms.
10.735–405 Information required.
10.735–406 Submission of position description.
10.735–407 Supplementary statements.
10.735–408 Review of statements and determination as to conflicts of interest.
10.735–409 Confidentiality of employees' statements.
10.735–410 Effect of employees' statements on other requirements.

AUTHORITY: The provisions of this Part 10 issued under E.O. 11222 of May 8, 1965, 30 F.R. 6469, 3 CFR, 1965 Supp.; 5 CFR 735.104.

Subpart A—General Provisions

§ 10.735–101 Purpose.

The maintenance of the highest standards of honesty, integrity, impartiality, and conduct by Government employees and special Government employees is essential to assure the proper performance of the Government business and the maintenance of confidence by citizens in their Government. The avoidance of misconduct and conflicts of interest on the part of Government employees and special Government employees through informed judgment is indispensable to the maintenance of these standards. To accord with these concepts the regulations in this part prescribe standards of conduct and responsibilities for employees and special Government employees and require statements reporting employment and financial interests.

NOTE: These regulations are codified in State 3 FAM 620, AID M.O. 449.1, and USIA MOA V–A 550.

§ 10.735–102 Definitions.

(a) "Agency" means the Department of State (State), the U.S. Information Agency (USIA) and the Agency for International Development (AID).

(b) "Employee" means an officer or employee at home or abroad, of an agency named in paragraph (a) of this section, but does not include a special Government employee or a member of the Army, Navy, Air Force, Marine Corps, Coast Guard, Environmental Sciences Services Administration, or Public Health Service.

(c) "Executive order" means Executive Order 11222 of May 8, 1965.

(d) "Person" means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other organization or institution.

(e) "Special Government employee" means an officer or employee of an agency who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed 130 days during any period of 365 consecutive days, temporary duties either on a full-time or intermittent basis.

(f) "Member of an employee's family" means a spouse, minor child, or other member of an employee's immediate household. For the purpose of these regulations "member of an employee's immediate household" means those blood relations who are residents of the employee's household.

(g) "Counselor" means the agency's Counselor on Ethical Conduct and Conflicts of Interest.

§ 10.735–103 Interpretation and advisory service.

(a) Counseling services on employee responsibilities and conduct are available in each agency. These services are to be coordinated by a Counselor appointed by the agency head. The Counselors are for State—the Legal Adviser; for USIA—the General Counsel; and for AID—the Deputy General Counsel. The Counselor serves as the agency's designee to the Civil Service Commission on matters covered by the regulations in this part and is responsible for coordination of the agency's counseling services under paragraph (b) of this section and for assuring that counseling and interpretations on questions of conflicts of interest and other matters covered by these sections are available to deputy counselors designated under paragraph (b) of this section.

(b) Each agency head may designate deputy counselors for the agency's employees and special Government employees. Deputy Counselors designated under this section must be qualified and in a position to give authoritative advice and guidance to each employee and special Government employee who seeks advice and guidance on questions of conflicts of interest and on other matters covered by the regulations in this part. A Washington employee or special Government employee should address any inquiries concerning the regulations in this part to the Counselor. At missions abroad the chief of each agency's establishment designates an officer, preferably the legal officer where one is available, to provide counseling services under the guidance of the Counselor; a single officer may serve all agencies. An employee or special Government employee serving abroad should submit his inquiries to the officer designated.

(c) Each agency shall periodically notify its employees and special Government employees of the availability of counseling services and how and when these services are available. A new employee or special Government employee shall be notified at the time of his entrance on duty.

§ 10.735–104 Applicability to detailed employees.

All the regulations of Subparts A, B, and D of this part are applicable to an employee of another U.S. Government agency who may be serving on detail or assignment, formally or informally, on a reimbursable or nonreimbursable basis through a Participating Agency Service Agreement or otherwise, with an agency named in § 10.735–102(a). However, disciplinary action shall be taken against such an employee only by his employing agency.

§ 10.735–105 Disciplinary action.

A violation of the regulations in this part by an employee or special Government employee may be cause for appropriate disciplinary action which may be in addition to any penalty prescribed by law.

Subpart B—Ethical and Other Conduct and Responsibilities of Employees

§ 10.735–201 General.

(a) *Proscribed actions.* An employee shall avoid any action, whether or not specifically prohibited by the regulations in this part, which might result in, or create the appearance of:

(1) Using public office for private gain;

(2) Giving preferential treatment to any person;

(3) Impeding Government efficiency or economy;

(4) Losing independence or impartiality;

(5) Making a Government decision outside official channels; or

(6) Affecting adversely the confidence of the public in the integrity of the Government.

(b) *Applicability to members of families of employees.* A U.S. citizen employee shall take care that certain responsibilities placed on him are also observed by members of his family. These are the restrictions in regard to: Acceptance of gifts (§§ 10.735–202 and 10.735–203); economic and financial activities abroad (§ 10.735–206); teaching, lecturing, and writing (§ 10.735–204(c)); participation in activities of private organizations (§ 10.735–211(c)); and political activities abroad (§ 10.735–211(g)).

§ 10.735–202 Gifts, entertainment, and favors.

(a) *Acceptance prohibited.* Except as provided in paragraphs (b), (c), and (d) of this section, an employee shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from a person who:

(1) Has, or is seeking to obtain, contractual or other business or financial relations with his agency;

(2) Conducts operations or activities that are regulated by his agency;

(3) Has interests that may be substantially affected by the performance or nonperformance of his official duty; or

(4) Appears to be offering the gift with the hope or expectation of obtaining advantage or preferment in dealing with the U.S. Government for any purpose.

(b) *Acceptance permitted.* The provisions of paragraph (a) of this section do not apply to:

(1) Gifts, gratuities, favors, entertainments, loans, or any other thing of monetary value received on account of close family or personal relationships when the circumstances make it clear that it is that relationship rather than the business of the persons concerned which is the motivating factor;

(2) Acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans;

(3) Acceptance of unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value;

(4) Acceptance of rates and discounts offered to employees as a class.

(c) *Acceptance permitted for State and USIA employees.* For State and USIA employees the provisions of paragraph (a) of this section do not apply to: Acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting or on an inspection tour where an employee may properly be in attendance.

(d) *Acceptance permitted for AID employees.* For AID employees the provisions of paragraph (a) of this section do not apply in the following situations:

(1) In some circumstances the interests of the Government may be served by participation of employees in widely attended lunches, dinners, and similar gatherings sponsored by industrial, technical, and professional associations for the discussion of matters of mutual interest to Government and industry. Participation of employees is appropriate where the host is the association and not the individual contractor. However, acceptance of entertainment or hospitality from private companies in connection with such association activities is prohibited.

(2) In the unusual situation where employees would by virtue of the location of the person, firm, corporation, or other entity, or the regulations governing its dining facilities, find it inconvenient or impractical not to accept meals and refreshment at the host's expense at said location or facility, personnel may accept such meals or refreshments.

(3) There will be situations where in the judgment of the individual concerned, the Government's interest would be served by participation of an employee in activities comparable to those enumerated in subparagraphs (1) and (2) of this paragraph, particularly where officers are dealing with a foreign government; in any such case in which an employees accepts any favor, gratuity, or entertainment directly or indirectly from any foreign government, person, firm, corporation, or any entity which is engaged or is endeavoring to engage in business transactions of any sort with AID, a report of the circumstances, together with the employee's statement as to how the Government's interests were served, will be made within 48 hours to the employee's supervisor or, if the employee is serving abroad, to the Mission Director.

(e) *Gifts to superiors.* An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(f) Neither this section nor § 10.735–204 precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this part for which no Government payment or reimbursement is made. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits, nor does it allow an employee to be reimbursed by a person for travel on official business under agency orders when reimbursement is proscribed by Decision B–128527 of the Comptroller General dated March 7, 1967.

§ 10.735–203 Gifts from foreign governments.

An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in 5 U.S.C. 7342, and the regulations promulgated thereunder pursuant to E.O. 11320, 31 F.R. 15789. These regulations are set forth in Part 3 of this title (as added, 32 F.R. 6566, Apr. 28, 1967), and in 3 FAM 621.

§ 10.735–204 Outside employment and other activity.

(a) An employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of his Government employment. Incompatible activities include but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, conflicts of interest; or

(2) Outside employment which tends to impair his mental or physical capacity to perform his Government duties and responsibilities in an acceptable manner.

(b) An employee shall not receive any salary or anything of monetary value from a private source as compensation for his services to the Government (18 U.S.C. 209).

(c) Employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law, the Executive order, this part, or the agency regulations. However, an employee shall not, either for or without compensation, engage in teaching, lecturing, or writing that is dependent on information obtained as a result of his Government employment, except when that information has been made available to the general public or will be made available or when the agency head gives written authorization for use of nonpublic information on the basis that the use is in the public interest. In addition, an employee who is a Presidential appointee covered by section 401(a) of the Executive order shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance the subject matter of which

is devoted substantially to the responsibilities, programs, or operations of his agency, or which draws substantially on official data or ideas which have not become part of the body of public information. Employees are referred to the detailed rules of their agency with respect to clearance and acceptance of compensation (3 FAM 628 and for AID see M.O. 831.2).

(d) An employee shall not engage in outside employment under a State or local government, except in accordance with Part 734 of the Civil Service Commission regulations (5 CFR Part 734).

(e) An employee shall not render any services, whether or not compensated, to any foreign government, state, province, or semigovernmental agency, or municipality of any foreign government, or to any international organization of states. However, this shall not prevent the rendering of such services by employees acting on behalf of the United States. Nor shall this provision prevent the rendering of services to an international organization of states when otherwise consistent with law and when authorized by the appropriate officer. The appropriate officer for State is the Director General, for USIA the Assistant Director (Personnel and Training), and for AID the Assistant Administrator for Administration.

(f) An employee shall not engage in any teaching or related activities directed toward the special preparation of individuals for examinations of the U.S. Civil Service Commission or the Foreign Service (Executive Order 9367).

(g) This section does not preclude an employee from:

(1) Participation in the activities of national or State political parties not proscribed by law.

(2) Participation in the affairs of or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational and recreational, public service, or civic organization.

§ 10.735–205 Financial interests.

(a) An employee shall not:

(1) Have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially with his Government duties and responsibilities; or

(2) Engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through his Government employment.

(b) This section does not preclude an employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government so long as it is not prohibited by law or the regulations in this part.

§ 10.735–206 Economic and financial activities of employees abroad.

(a) *Prohibitions in any foreign country.* A U.S. citizen employee abroad is specifically prohibited from engaging in the activities listed below in any foreign country.

(1) Speculation in currency exchange.

(2) Transactions at exchange rates differing from local legally available rates, unless such transactions are duly authorized in advance by the agency.

(3) Sales to unauthorized persons (whether at cost or for profit) of currency acquired at preferential rates through diplomatic or other restricted arrangements.

(4) Transactions which entail the use, without official sanction, of the diplomatic pouch.

(5) Transfers of funds on behalf of blocked nationals, or otherwise in violation of U.S. foreign funds and assets control.

(6) Independent and unsanctioned private transactions which involve an employee as an individual in violation of applicable control regulations of foreign governments.

(7) Acting as an intermediary in the transfer of private funds from persons in one country to persons in another country, including the United States.

(8) Permitting use of one's official title in any private business transactions or in advertisements for business purposes.

(b) *Prohibitions in country of assignment.* (1) A U.S. citizen employee shall not transact or be interested in any business or engage for profit in any profession or undertake other gainful employment in any country or countries to which he is assigned or detailed in his own name or through the agency of any other person; exceptions may be made with respect to chiefs of mission only in writing by the Deputy Under Secretary for Administration, and for all other State employees by the appropriate chief of mission; for USIA employees by the Assistant Director (Personnel and Training); and for AID employees by the assistant administrator of the regional bureau or head of the nonregional organization, as appropriate, or their designees (see 22 U.S.C. 805).

(2) A U.S. citizen employee shall not invest in real estate or mortgages on properties located in his country of assignment. The purchase of a house and land for personal occupancy is not considered a violation of this subparagraph.

(3) A U.S. citizen employee shall not invest money in bonds, shares or stocks of commercial concerns headquartered in his country of assignment or conducting a substantial portion of their business in such country. Such investments, if made prior to knowledge of assignment or detail to such country or countries, may be retained during such assignment or detail when approved in writing by the appropriate official named in subparagraph (1) of this paragraph. If retention is authorized, such stocks, shares, or bonds may not be sold while the employee is assigned or detailed to the country or countries, unless the agency approved the sale in writing.

(4) A U.S. citizen employee shall not sell or dispose of personal property, including automobiles, at prices producing profits to him which result primarily from import privileges derived from his official status as an employee of the U.S. Government. Employees are referred to FAMC 378; for AID see M.O. 443.5.

(c) *Acceptance of employment by members of family abroad.* Members of a U.S. citizen employee's family may not transact or be interested in any business or engage in gainful employment in the country to which the employee is assigned without express approval of the chief of an agency's establishment.

(1) Employment of such family members by the agency itself is governed by the regulations of the agency concerned.

(2) The chief of any agency's establishment may authorize employment of such family members in another U.S. Government agency.

(3) With the authorization of the chief of the agency's establishment, such family member may, for example:

(i) Teach or be employed in schools, hospitals, or similar establishments.

(ii) Teach or be employed in Binational Centers.

(iii) Work in cooperative commissaries.

(iv) As dependent children, maintain paper routes or perform other casual, part-time duties.

(v) Accept employment which supports overall U.S. objectives by favorably reflecting educational, cultural, and professional accomplishments of U.S. citizens.

In considering requests for permission for members of a family to accept employment abroad, the authorizing officer shall follow generally consistent policies approved by the Ambassador and should consider: The propriety of employment with institutions supported directly by the local government; any adverse effects on relations between the United States and the host government; possible violation of local custom; possible violation of conflict of interest regulations; competition with the local labor market that might result from such employment; possible conflict with the representational activities of a member of the family of an officer with representational responsibilities; and possible adverse affects on the special status of the employee and his family as official representatives of the United States. It should also be borne in mind that persons accepting employment abroad may not enjoy immunity from judicial process and that they would be subject to the payment of any taxes deriving from their nondiplomatic employment.

(d) *Business activities of non-U.S. citizen employees.* A non-U.S. citizen employee abroad may engage in outside business activities with the prior approval of the head of the overseas establishment on the basis of the standards expressed in § 10.735–204(a).

§ 10.735–207 Use of Government property.

An employee shall not directly or indirectly use, or allow the use of Government property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to him.

§ 10.735–208 Misuse of information.

For the purpose of furthering a private interest, an employee shall not, except as provided in § 10.735–204(c) directly or indirectly use, or allow the use of, official information obtained through or in connection with his Government employment which has not been made available to the general public.

§ 10.735–209 Indebtedness.

An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court, and "in a proper and timely manner" means in a manner which the agency determines does not, under circumstances, reflect adversely on the Government as his employer. In the event of dispute between an employee and an alleged creditor, this section does not require an agency to determine the validity or amount of the disputed debt.

§ 10.735–210 Gambling, betting, and lotteries.

An employee shall not participate, while on Government-owned or leased property or while on duty for the Government, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket. However, this section does not preclude activities:

(a) Necessitated by an employee's law enforcement duties; or

(b) Under section 3 of Executive Order 10927 and similar agency-approved activities.

§ 10.735–211 Activities relating to private organizations and politics.

(a) *Definition.* For the purpose of this section, the term "private organization" denotes any group of persons or associations organized for any purpose whatever, except an organization established by the Government of the United States, or officially participated in by State, USIA, or AID.

(b) *Participation in activities of employee organizations.* An employee may join or refrain from joining employee organizations or associations without interference, coercion, restraint, or fear of discrimination or reprisal.

(c) *Participation in activities of private organizations.* In participating in the program and activities of any private organization, an employee shall make clear that his agency has no official connection with such organization and does not necessarily sponsor or sanction the viewpoints which it may express.

(d) *Legal restrictions on membership in certain organizations.* (1) An employee shall not have membership in any organization of Government employees that asserts the right to strike against the Government of the United States or the agency, knowing that such organization asserts such right (5 U.S.C. 7311, 18 U.S.C. 1918).

(2) An employee shall not have membership in any organization that advocates the overthrow of our constitutional form of Government in the United States, knowing that such organization so advocates (5 U.S.C. 7311, 18 U.S.C. 1918).

(e) *Private organizations concerned with foreign policy or other matters of concern to agencies.*—(1) *Limitation on participation.* When a private organization is concerned primarily with foreign policy or international relations or other matters of concern to an employee's agency, an employee shall limit his connection therewith as follows: Unless specifically permitted to do so, he may not serve as advisor, officer, director, teacher, sponsor, committee chairman, or in any other official capacity or permit his name to be used on a letterhead, in a publication, in an announcement or news story, or at a public meeting, regardless of whether his official title or connection is mentioned. The provisions of this section are not intended to prohibit the normal and active participation of an employee in professional organizations such as the American Political Science Association, the American Economic Association, the American Foreign Service Association, and similar organizations, since such participation is in the interest of both the employee and the Government. Employees are expected, however, to exercise discretion in such activities and are held personally accountable for any improper use of their relationship with State, USIA, and AID.

(2) *Request for special permission.* Special permission to assume or continue a connection prohibited by subparagraph (1) of this paragraph may be granted in cases where the public interest will not be adversely affected. To request such permission, or to determine whether the provisions are applicable to a particular case, the employee shall address a memorandum setting forth all of the circumstances to the appropriate officer. The appropriate officer is for State the Director General; for USIA the Assistant Director (Personnel and Training); and for AID the Senior Personnel Officer under whose jurisdiction the employee serves.

(3) *Application to senior officers.* Because of the preeminence resulting from their official positions, chiefs of mission and other senior officers should recognize the particular bearing of the provisions of subparagraph (1) of this paragraph upon their activities. They should restrict association with any organizations involving foreign nations and the United States to simple membership and should not accept even honorary office in such organizations except with the specific prior approval as provided in subparagraph (2) of this paragraph.

(f) *Private organizations not concerned with foreign policy.* When the purpose and program of the organization do not fall primarily within the field of foreign policy or international relations, the employee's activity is limited only to the following extent:

(1) His official title or connection may be used to identify him, as in a civic association election, but may not be used on a letterhead, in a publication, or otherwise so as to employ the prestige of the U.S. Government to enhance that of the organization or to imply official sponsorship.

(2) When he is a representative of an association consisting of State, USIA, or AID employees, or of a group of such employees, his connection with his agency may be freely used so long as there is no implication of official sponsorship beyond that which may have been officially approved.

(g) *Political activities abroad.* A U.S. citizen employee shall not engage in any form of political activity in any foreign country.

(h) *Activities relating to U.S. politics.* The law (5 U.S.C. 7324, formerly the Hatch Act) provides in summary that it is unlawful for any Federal employee of the executive branch to use his official authority or influence for the purpose of interfering with an election or affecting the result thereof, or to take any active part in political management or in political campaigns. These restrictions do not in any way affect the right of a Federal employee (1) to vote as he chooses; (2) to express personal political opinions, except as part of a campaign; (3) to make or refrain from making contributions to political organizations, provided contributions are not made in a Federal building or to another Federal officer or employee (see 18 U.S.C. 602, 603, 607, and 608); (4) to participate in local, nonpartisan activities.

§ 10.735–212 Wearing of uniforms.

(a) An employee of the Foreign Service may not wear any uniform except as may be authorized by law or as a military commander may require civilians to wear in a theater of military operations (22 U.S.C. 885). When an employee is authorized by law or required by a military commander of the United States to wear a uniform, care shall be taken that the uniform is worn only at authorized times and for authorized purposes.

(b) Conventional attire worn by chauffeurs, elevator operators, and other miscellaneous employees are not considered uniforms within the meaning of this section except that, for USIA, MOA VII 917.2b prohibits the purchase from Agency funds of uniforms or any item of personal-wearing apparel other than special protective clothing.

§ 10.735–213 Recommendations for employment.

(a) *Making recommendations in official capacity.* In general, an employee shall not, in his official capacity, make any recommendations in connection with the employment of persons unless the positions concerned are with the Government of the United States and the recommendations are made in response to an inquiry from a Government official authorized to employ persons or to investigate applicants for employment. A principal officer in answer to a letter of inquiry from outside the U.S. Government concerning a former employee assigned to the post, may state the length of time the person was employed at the post and the fact that he performed his duties in a satisfactory manner, if such is the

case. Also, an AID Mission Director may provide names of persons or firms from which a cooperating government may select an employee or firm to be used in some phase of the AID program.

(b) *Making personal recommendations.* An employee may make a personal recommendation in connection with the employment of any person, except for employment in a position of trust or profit under the government of the country to which the employee is accredited or assigned (22 U.S.C. 806(b)); *Provided*, That the employee does not divulge any information concerning the person derived from official sources. When a letter of introduction or recommendation is written by an employee, precautionary measures should be taken to prevent its being construed as official correspondence and used by an unscrupulous individual to impress American or foreign officials. Accordingly, official stationery should not be used for this purpose. The letter may, however, show the recommending employee's status as an employee of the U.S. Government. Every personal letter of recommendation shall contain a statement clearly indicating that the letter constitutes a personal recommendation and is not to be construed as an official recommendation by the Government of the United States.

§ 10.735–214 Transmitting communications and gifts.

(a) *Correspondence.* In corresponding with anyone other than the proper official of the United States with regard to the public affairs of a foreign government, an employee shall use discretion and judgment to ensure that neither the United States nor the employee will be embarrassed or placed in a compromising position (22 U.S.C. 806(a)).

(b) *Communications.* An employee shall not act as an agent for the transmission of communications from private persons or organizations in foreign countries to the President or to Federal, State, or municipal officials in the United States. A chief of mission may, however, accept communications of this nature and forward them to the Department of State for such further action as may be appropriate, whenever he determines it to be clearly in the public interest to do so.

(c) *Gifts.* An employee shall not act as an agent for the transmission of gifts from persons or organizations in foreign countries to the President or to Federal, State or municipal officials in the United States. However, principal officers may, according to regulations prescribed by the President, accept, and forward to the Office of Protocol of the Department of State, gifts made to the United States or to any political subdivision thereof by the Government to which they are accredited or from which they hold exequaturs. Employees shall not, without the approval of the Secretary of State, transmit gifts from persons or organizations in the United States to heads or other officials of foreign states.

§ 10.735–215 General conduct prejudicial to the Government.

(a) An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government.

(b) An employee abroad is also obligated to obey the laws of the country in which he is present.

(c) An employee shall observe the requirements of courtesy, consideration, and promptness in dealing with or serving the public.

§ 10.735–216 Miscellaneous statutory provisions.

Each employee shall acquaint himself with each statute that relates to his ethical and other conduct as an employee of his agency and of the Government.

(a) The attention of employees is directed to the following statutory provisions:

(1) House Concurrent Resolution 175, 85th Congress, 2d session, 72 Stat. B12, the "Code of Ethics for Government Service."

(2) Chapter 11 of Title 18, United States Code, relating to bribery, graft, and conflicts of interest, as appropriate to the employees concerned.

(3) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(4) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).

(5) The prohibition against the employment of a member of a Communist organization (50 U.S.C. 785).

(6) The prohibitions against (i) the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783); and (ii) the disclosure of confidential information (18 U.S.C. 1905).

(7) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(8) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a(c)).

(9) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).

(10) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(11) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(12) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

(13) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(14) The prohibition against (i) embezzlement of Government money or property (18 U.S.C. 641); (ii) failing to account for public money (18 U.S.C. 643); and (iii) embezzlement of the money or property of another person in the possession of an employee by reason of his employment (18 U.S.C. 654).

(15) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(16) The prohibition against political activities in subchapter III of chapter 73 of title 5, United States Code and 18 U.S.C. 602, 603, 607, and 608.

(17) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

(18) The prohibition against discrimination because of politics, race, religion, or color (22 U.S.C. 807).

(b) The attention of consular officers is directed to the following statutory provisions:

(1) The provisions relating to the duty to account for fees received (22 U.S.C. secs. 9, 812, 1194), liability for exaction of excessive fees (22 U.S.C. secs. 1182, 1189), and liability for failure to collect proper fees (22 U.S.C. 1190).

(2) The provisions relating to liability for neglect of duty or malfeasance generally (22 U.S.C. 1199), liability for failure to give bond and for embezzlement (22 U.S.C. 1179), liability for embezzlement of fees or of effects of American citizens (22 U.S.C. 1198), and liability for falsely certifying as to the ownership of property (22 U.S.C. 1200).

(3) The prohibition against profiting from dealings with discharged seamen (22 U.S.C. 1187).

(4) The provision relating to liability for failure to collect the wages of discharged seamen (46 U.S.C. 683).

Subpart C—Ethical and Other Conduct and Responsibilities of Special Government Employees

§ 10.735–301 Conflicts of interest.

Special Government employees are subject to the conflicts of interest statutes (18 U.S.C. 202). An explanation of these conflicts of interest statutes, their effects upon special Government employees and guidelines for obtaining and utilizing the services of special Government employees are in Appendix C of Chapter 735 of the Federal Personnel Manual. A special Government employee shall not have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his Government duties and responsibilities.

§ 10.735–302 Use of Government employment.

A special Government employee shall not use his Government employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for himself or another person, particularly one with whom he has family, business, or financial ties.

§ 10.735–303 Use of inside information.

(a) A special Government employee shall not use inside information obtained as a result of his Government employment for private gain for himself or another person either by direct action on his part or by counsel, recommendation, or suggestion to another person, particularly one with whom he has family, business, or financial ties. For the purpose of this section, "inside information" means information obtained under Government authority which has not become part of the body of public information.

(b) A special Government employee may engage in teaching, lecturing, or writing that is not prohibited by law, Executive Order 11222 or the regulations in this part; however, a special Government employee shall not, either for or without compensation, engage in teaching, lecturing, or writing that is dependent on information obtained as a result of his Government employment, except when that information has been made available to the general public or will be made available, or when the head of the agency gives written authorization for the use of nonpublic information on the basis that the use is in the public interest. A special Government employee who wishes to request the agency head to authorize the use of nonpublic information should submit such request through the Counselor. The request should contain complete information concerning the nonpublic information which the employee wishes to disclose and should contain in addition an indication of the intended use of such information and how disclosure of it would be in the public interest.

§ 10.735–304 Coercion.

A special Government employee shall not use his Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to himself or another person particularly one with whom he has family, business, or financial ties.

§ 10.735–305 Gifts, entertainment, and favors.

(a) Except as provided in paragraph (b) of this section, a special Government employee, while so employed or in connection with his employment, shall not receive or solicit from a person having business with his agency anything of value as a gift, gratuity, loan, entertainment, or favor for himself or another person, particularly one with whom he has family, business, or financial ties.

(b) The exceptions to the prohibition against the acceptance of gifts which have been granted to employees in § 10.735–202 (b), (c), and (d) are also applicable to special Government employees.

(c) A special Government employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in 5 U.S.C. 7342, and the regulations promulgated thereunder pursuant to E.O. 11320; 31 F.R. 15789. These regulations are set forth in Part 3 of this title (as added, 32 F.R. 6569, Apr. 28, 1967), and in 3 FAM 621.

(d) A special Government employee shall avoid any action, whether or not specifically prohibited by these sections on special Government employees, which might result in, or create the appearance of:

(1) Using public office for private gain;

(2) Giving preferential treatment to any person;

(3) Impeding Government efficiency or economy;

(4) Losing independence or impartiality;

(5) Making a Government decision outside official channels; or

(6) Affecting adversely the confidence of the public in the integrity of the Government.

§ 10.735–306 Miscellaneous statutory provisions.

Each special Government employee shall acquaint himself with each statute that relates to his ethical and other conduct as a special Government employee of his agency and of the Government. The attention of special Government employees is directed to the statutes listed in § 10.735–216.

Subpart D—Statements of Employment and Financial Interests

§ 10.735–401 Employees required to submit statements.

The following employees of State, AID, and USIA shall submit statements of employment and financial interests:

(a) All special Government employees including experts or consultants serving on a full-time or intermittent basis, except when waived under § 10.735–402(c).

(b) Employees paid at a level of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code, except as provided in § 10.735–402(b).

(c) Except as provided in § 10.735–402, employees classified at GS–13, FSO–4, FSR–5, FSS–2, AD–13, FC–5, or above, who are in positions hereby identified either as positions the basic duties of which impose upon the incumbent the responsibility for a Government decision or taking a Government action in regard to:

(1) Contracting or procurement;

(2) Administering or monitoring grants or subsidies;

(3) Regulating or auditing private or other non-Federal enterprise;

(4) Other activities where the decision or action has an economic impact on the interests of any non-Federal enterprise,

or as positions which have duties and responsibilities which require the incumbent to report employment and financial interests in order to avoid involvement in a possible conflict of interest situation and carry out the purpose of law, Executive order, and the agency's regulations:

STATE

Director General; Chairman of the Policy Planning Council; Inspector General; Director, FSI; Director, SCI; Special Assistant to Secretary, Under Secretary or Deputy Under Secretary; Deputy Assistant Secretary and others at this level or above; Director of Operations; Office Director; Country Director; Program Director; Division Chief in Bureau of Economic Affairs, in the Office of Operations (O/OPR), or in the Office of Foreign Buildings; Executive Director; Deputy Chief of Mission; Principal Officer; Economic Counselor; Commercial Counselor, Administrative Counselor; Civil Air Attaché; Petroleum Officer; Minerals Officer; Contracting Specialist; Procurement Specialist; Despatch Agent; Traffic Manager; Traffic Management Specialist.

USIA

Deputy Directors, Assistant Directors, Deputy Assistant Directors, and Associate Directors, USIA, Executive Assistants to the Director or Deputy Director of the Agency, Inspector General, Commissioner General, Deputy Commissioner General, Staff Director (U.S. Advisory Commission on Information), Engineering Manager (IBS), Production Manager (EMV), Chief, Exhibits Division (IOS), Art Director (I), Country Public Affairs Officer, Deputy Country Public Affairs Officer, Public Affairs Counselor, Deputy Public Affairs Counselor, Director or Manager of Regional Service Center, Radio Relay Station, Radio Program Center or Radio Relay Station Construction Site, Administrative Officer or Executive Officer at a post abroad, Administrative Officer, Executive Officer and Business Manager (occupational codes 901, 340, 341, and 1101), Contracting Specialist and Procurement Specialist (occupational code 1102), Auditor and Accountant (occupational code 510), General Counsel, Deputy General Counsel, or Attorney (occupational code 905).

AID

(1) AID/W: Deputy Assistant Administrators, Associate Assistant Administrators, Deputy Associate Assistant Administrators, Heads and Deputy Heads of Offices, Staffs, and Divisions, Desk Officers and Deputy Desk Officers.

(2) Overseas: Mission Directors, Deputy Directors, AID Representatives, AID Affairs Officer, AID Liaison Officer, and Assistant Directors.

(3) In addition the classes of persons whose position fall within the following occupational categories: 0082 Chief of Public Safety Advisor and his Deputy; 0301 Loan Implementation Officer, Project Implementation Officer, Program Development Officer, Cooperative Advisor/Specialist, Commercial Credit Specialist or Advisor, or any person serving as chief of an operational branch responsible for housing, loans, guarantees, or other commercial type transactions with the public; 0340 Program Management Group; 0341 Executive Officer, Deputy Executive Officer, Assistant Executive Officer, Business Manager, General Services Officer (Property and Supply) or (Procurement); 0905 Attorney-Advisor Group; 1102 Contract and Procurement Group; 1140 Trade Specialist Group; 1150 Industrial Specialist Group; 1152 Production Control Group; 1160 General Finance Group; 1165 Loan Specialist Group; 2001 General Supply Group; 2030 Purchasing Group; 0510 Accounting Group.

§ 10.735–402 Employees not required to submit statements.

(a) Employees in positions that meet the criteria in paragraph (c) of § 10.735–401 may be excluded from the reporting requirement when the agency head or his designee determines that:

(1) The duties of the position are such that the likelihood of the incumbent's involvement in a conflict-of-interest situation is remote;

(2) The duties of the position are at such a level of responsibility that the submission of a statement of employment and financial interests is not necessary because of the degree of supervision and review over incumbent or the inconsequential effect on the integrity of the Government.

(b) A statement of employment and financial interests is not required by the regulations in this part from an agency head, or a full-time member of a committee, board, or commission appointed by the President. These employees are subject to separate reporting requirements under section 401 of Executive Order 11222.

(c) Special Government employees not required to submit statements. An agency head may waive the requirement of this section for the submission of a statement of employment and financial interest in the case of a special Government employee who is not a consultant or an expert when the agency finds that the duties of the position held by that special Government employee are of a nature and at such a level of responsibility that the submission of the statement by the incumbent is not necessary to protect the integrity of the Government. For the purpose of this paragraph, "consultant" and "expert" have the meanings given those terms by Chapter 304 of the Federal Personnel Manual, but do not include a physician, dentist, or allied medical specialist whose services are procured to provide care and service to patients.

§ 10.735–403 Employee's complaint on filing requirement.

Each employee shall have the opportunity for review through his agency's grievance procedure of his complaint that his position has been improperly included within § 10.735–401 as one requiring the submission of a statement of employment and financial interests. Employees are reminded that they may obtain counseling pursuant to § 10.735–103 prior to filing a complaint.

§ 10.735–404 Time and place of submission, and forms.

(a) An employee or special Government employee shall submit his statement to his Counselor (in the case of a State employee, through his Bureau) no later than:

(1) Ninety days after the effective date of this part if he has entered on duty on or before that effective date; or

(2) At least 10 days prior to his entrance on duty, if he enters on duty after that effective date; except that an employee or special Government employee who enters on duty within 90 days of the effective date of this part may submit his statement within 90 days after his entrance on duty.

(b) Only the original of the statement or supplement thereto required by this part shall be submitted. The individual submitting a statement should retain a copy for his own records.

§ 10.735–405 Information required.

(a) *Employees.* Employees' statements of employment and financial interests required by the regulations in this part shall be submitted on the form, "Confidential Statement of Employment and Financial Interests (for use by Government Employees)", Form JF–1, and shall contain all the information therein required.

(b) *Special Government employees.* All special Government employees shall submit statements of employment and financial interest on the form, "Confidential Statement of Employment and Financial Interests (for use by Special Government Employees)", Form JF–1A for State and USIA, Form AID 4–450 for AID, and shall contain all the information therein required.

(c) *Interests of employee's relatives.* The interest of a member of an employee's family is considered to be an interest of the employee. The term "member of an employee's family" is defined in § 10.735–102(f).

(d) *Information not known by employee.* If any information required to be included on a statement of employment and financial interests or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information in his behalf.

(e) *Interests not required to be reported.* An employee need not report an interest which has by general rule or regulation published in the FEDERAL REGISTER under section 208(b)(2) of title 18, United States Code, been exempted as too remote or too inconsequential to affect the integrity of employees' services.

(f) *Information prohibited.* The regulations in this part do not require an employee to submit on a statement of employment and financial interests or supplementary statement any information relating to the employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise. For the purpose of this section, educational and other institutions doing research and development or related work involving grants or money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement of employment and financial interests.

§ 10.735–406 Submission of position descriptions.

Each Statement of Employment and Financial Interests or annual supplement thereto must be accompanied by a full description of the employee's principal governmental duties. The description should be particularly detailed in regard to those duties which might possibly be an element in a conflict of interest. If the statement indicates that the employee has no outside employment or financial interests, the employee need not submit a description of duties. For a special Government employee, the employing office shall submit the description.

§ 10.735–407 Supplementary statements.

(a) Changes in, or additions to, the information contained in an employee's statement of employment and financial interests, shall be reported in a supplementary statement as of June 30 each year. If no changes or additions occur, a negative report is required. Notwithstanding the filing of the annual report required by this section, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflicts-of-interest provisions of section 208 of title 18, United States Code, or Subpart B of this part.

(b) An employee is also to keep current his description of principal duties as to changes or additions which might possibly be an element in a conflict of interest. The employing office shall submit descriptions of changes in the principal duties of a special Government employee as they occur.

§ 10.735–408 Review of statements and determination as to conflicts of interest.

(a) On the basis of the Statement of Employment and Financial Interests submitted by each employee or special Government employee, or on the basis of information received from other sources, the Counselor shall determine, in the light of the duties which that employee or special Government employee is or will be performing, whether any conflicts of interest, real or apparent, are indicated. The Counselor shall make this determination based on the applicable statutes, the Executive order and the applicable regulations of the Civil Service Commission, and of the agency.

(b) Where the Counselor's determination in a particular case is that a conflict of interest, real or apparent; is indicated, he shall initiate informal discussions with the employee or special Government employee concerned. These discussions shall have as their objectives:

(1) Providing the individual with a full opportunity to explain the conflict or appearance of conflict; and

(2) Arriving at an agreement (acceptable to the Counselor, the individual and the individual's immediate superior) whereby the conflict of interest may be removed or avoided. Such an agreement may include, but is not limited to:

(i) Changes in assigned duties;

(ii) Divestiture of the financial or employment interest creating the conflict or apparent conflict; or

(iii) Disqualification for a particular assignment.

(c) Where an acceptable agreement cannot be obtained pursuant to paragraph (b) of this section, the Counselor shall present his findings and recommendations to the officer designated by the agency head, who shall decide which remedy is most appropriate to remove or correct that conflict or apparent conflict. Remedial action under this paragraph may include disciplinary action or any of the actions enumerated in subparagraph (2) of paragraph (b) of this section and shall be effected in accordance with applicable laws, Executive orders, and regulations.

(d) Written summaries of all agreements and decisions arrived at pursuant to paragraph (b) or (c) of this section shall be placed in the Counselor's files. Copies shall also be made available to the employee or special Government employee concerned.

§ 10.735–409 Confidentiality of employees' statements.

An agency shall hold each statement of employment and financial interests, and each supplementary statement, in confidence. To insure this confidentiality only the Counselor and Deputy Counselors are authorized to review and retain the statements. The Counselor and Deputy Counselors are responsible for maintaining the statements in confidence and shall not allow access to, or allow information to be disclosed from, a statement except to carry out the purpose of this part. An agency may not disclose information from a statement except as the Civil Service Commission or the agency head may determine for good cause shown.

§ 10.735–410 Effect of employees' statements on other requirements.

The statements of employment and financial interests and supplementary statements required for employees are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a statement or supplementary statement by an employee does not permit him or any other person to participate in a matter in which his or the other person's participation is prohibited by law, order, or regulation.

[F.R. Doc. 67–14128; Filed, Dec. 4, 1967; 8:45 a.m.]

235

FEDERAL REGISTER

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Pages 17463–17508

UNIVERSITY OF MICHIGAN
DEC 13 1967
READING ROOM

Agencies in this issue—

Agricultural Stabilization and Conservation Service
Agriculture Department
Business and Defense Services Administration
Civil Aeronautics Board
Commodity Credit Corporation
Comptroller of the Currency
Consumer and Marketing Service
Delaware River Basin Commission
Federal Aviation Administration
Federal Deposit Insurance Corporation
Federal Maritime Commission
Federal Power Commission
Federal Reserve System
Fish and Wildlife Service
Food and Drug Administration
Housing and Urban Development Department
Interior Department
Internal Revenue Service
International Commerce Bureau
Interstate Commerce Commission
Land Management Bureau
Post Office Department
Securities and Exchange Commission
Small Business Administration
Tariff Commission
Transportation Department
Treasury Department

Detailed list of Contents appears inside.

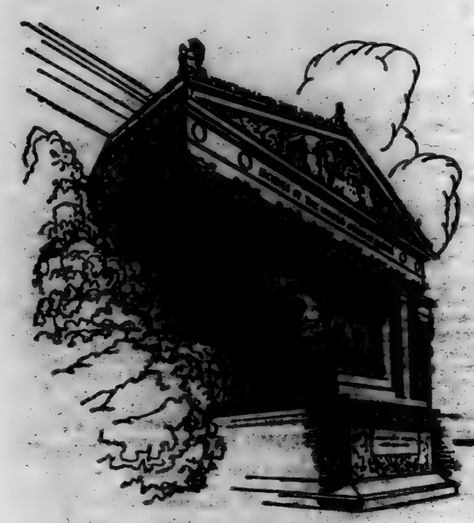

235

Current White House Releases

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS

The *Weekly Compilation of Presidential Documents* began with the issue dated Monday, August 2, 1965. It contains transcripts of the President's news conferences, messages to Congress, public speeches, remarks and statements, and other Presidential material released by the White House up to 5 p.m. of each Friday.

This weekly service includes an Index of Contents preceding the text and a Cumulative Index to Prior Issues at the end. Cumulation of this index terminates at the end of each quarter and begins anew with the following issue. Semiannual and annual indexes are published separately.

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Contents

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Rules and Regulations
Cotton, upland; 1968 crop:
County projected yields; correction 17467
State reserves and county allotments; correction 17467

AGRICULTURE DEPARTMENT

See also Agricultural Stabilization and Conservation Service; Commodity Credit Corporation; Consumer and Marketing Service.

Notices
Entire Commonwealth of Puerto Rico; designation of area for emergency loans 17495

BUSINESS AND DEFENSE SERVICES ADMINISTRATION

Notices
Decision on applications for duty-free entry of scientific articles:
California Institute of Technology 17495
Purdue University 17495

CIVIL AERONAUTICS BOARD

Notices
Hearings, etc.:
Air carrier discussions 17497
Viasa enforcement case 17497

COMMERCE DEPARTMENT

See Business and Defense Services Administration; International Commerce Bureau.

COMMODITY CREDIT CORPORATION

Notices
Sales of certain commodities; December sales list 17491

COMPTROLLER OF THE CURRENCY

Rules and Regulations
Ownership reports by certain persons; definition of beneficial ownership 17468

CONSUMER AND MARKETING SERVICE

Rules and Regulations
Raisins produced from grapes grown in California; schedule of payments 17467

DELAWARE RIVER BASIN COMMISSION

Notices
Comprehensive plan; notice of public hearing 17497

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations
Federal aid to airports; U.S. share of project costs in public land states 17471

Proposed Rule Making
Continental control area; control zone upper limit 17488
Designation of applicable regulations for type certificates 17485
Restricted area; proposed alteration 17488
Transport category airplanes; fuel jettisoning systems 17487

FEDERAL DEPOSIT INSURANCE CORPORATION

Rules and Regulations
Securities of insured state nonmember banks; definition of beneficial ownership 17470

FEDERAL MARITIME COMMISSION

Rules and Regulations
Licensing of independent ocean freight forwarders; duties and obligations 17480

FEDERAL POWER COMMISSION

Notices
Hearings, etc.:
Electric Plant Boards of the Cities of Paducah, Hickman, Fulton and Princeton, Ky., and Kentucky Utilities Co. 17498
Marathon Oil Co., et al 17498

FEDERAL RESERVE SYSTEM

Rules and Regulations
Securities of member state banks; definition of beneficial ownership 17469

FISH AND WILDLIFE SERVICE

Rules and Regulations
Moosehorn National Wildlife Service, Maine; sport fishing 17481

FOOD AND DRUG ADMINISTRATION

Rules and Regulations
Food additives; amprolium 17472
Meprobamate; findings of fact and conclusions and final order regarding listing drug as subject to control 17473
Pesticide chemicals; tolerances 17472

Proposed Rule Making
Peanut butter; definitions and standards of identity 17482

Notices
Chipman Chemical Co., Inc., notice of withdrawal of petition regarding pesticides 17496

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Food and Drug Administration.

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Notices
Delegations and redelegations of authority:
Assistant Secretary and Deputy Assistant Secretary for Demonstrations and Intergovernmental Relations 17496
Director and Deputy Director, Model Cities Administration 17496
Regional Administrators and Deputy Administrators 17496

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Food and Drug Administration.

Rules and Regulations
Administration of Alaska railroads; transfer of regulations to Department of Transportation; cross reference 17480

INTERNAL REVENUE SERVICE

Rules and Regulations
Income tax; prepaid dues income of certain membership organizations; correction 17479

INTERNATIONAL COMMERCE BUREAU

Rules and Regulations
Export licensing of copper bearing scrap not commercially processable in U.S. 17471

INTERSTATE COMMERCE COMMISSION

Notices
Motor carrier:
Alternate route deviation notices 17500
Applications and certain other proceedings 17502
Temporary authority applications 17501

LAND MANAGEMENT BUREAU

Rules and Regulations
Public land orders:
Alaska (2 documents) 17479, 17480
Nevada 17479
Oregon 17479

Notices
Colorado; notice of classification of public lands for multiple-use management 17490
Procurement Agent (Purchasing Unit); redelegation of authority 17491

(Continued on next page)

POST OFFICE DEPARTMENT

Rules and Regulations

Addresses; mailing list services ... 17479
Code of ethical conduct; soliciting or canvassing ... 17479

Notices

General Counsel; delegation of authority ... 17490

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:
Lexington Research Investing Corp ... 17498
New England Electric System ... 17499

CONTENTS

SMALL BUSINESS ADMINISTRATION

California; declaration of disaster loan area ... 17499

TARIFF COMMISSION

Notices

Paidar, Emil J., Co., and Koken Companies, Inc.; petition for determinations of eligibility to apply for adjustment assistance ... 17500

TRANSPORTATION DEPARTMENT

See also Federal Aviation Administration.

Rules and Regulations

Administration of Alaska railroads; transfer of regulations to Department of Transportation ... 17480

TREASURY DEPARTMENT

See also Comptroller of the Currency; Internal Revenue Service.

Notices

Director of U.S. Secret Service; delegation of authority ... 17490

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

7 CFR

722 (2 documents) ... 17467
989 ... 17467

12 CFR

12 ... 17468
206 ... 17469
335 ... 17470

14 CFR

151 ... 17471

PROPOSED RULES:

21 ... 17485
25 ... 17487
71 ... 17488
73 ... 17488

15 CFR

373 ... 17471

21 CFR

120 ... 17472
121 ... 17472
166 ... 17473

PROPOSED RULES:

46 ... 17482

26 CFR

1 ... 17479

39 CFR

123 ... 17479
742 ... 17479

43 CFR

PUBLIC LAND ORDERS:

334 (revoked in part by PLO 4333) ... 17480
1796 (revoked in part by PLO 4331) ... 17479
2764 (see PLO 4331) ... 17479
4330 ... 17479
4331 ... 17479
4332 ... 17479
4333 ... 17480

46 CFR

510 ... 17480

49 CFR

890 ... 17480
1200 ... 17480

50 CFR

33 ... 17481

Rules and Regulations

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 722—COTTON

Subpart—1968 Crop of Upland Cotton; Acreage Allotments and Marketing Quotas

STATE RESERVES AND COUNTY ALLOTMENTS

Correction

In F.R. Doc. 67-13694 appearing at page 16185 in the issue of Tuesday, November 28, 1967, the following corrections are made:

1. On page 16190, the entry for Panola County, Miss., in column 3 which reads "4,618" should read "4,018".

2. On page 16194, the entry for Robertson County, Tex., in column 4 which reads "24,515" should read "24,615".

PART 722—COTTON

Subpart—1968 Crop of Upland Cotton; Acreage Allotments and Marketing Quotas

COUNTY PROJECTED YIELDS

Correction

In F.R. Doc. 67-13695 appearing at page 16195 in the issue of Tuesday, November 28, 1967, the following corrections are made:

1. On page 16196, the entry under California now reading "Tulane" should read "Tulare".

2. On page 16197, the entry under North Carolina now reading "Edgecomb" should read "Edgecombe" and the entry now reading "Pamilco" should read "Pamlico".

3. Under Oklahoma on page 16197 "Pushmataha ------ 293" should be deleted.

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Subpart—Administrative Rules and Regulations

Subpart—Schedule of Payments

MISCELLANEOUS AMENDMENTS

Notice was published in the October 27, 1967, issue of the FEDERAL REGISTER (32 F.R. 14896) regarding a proposal to amend Subpart—Administrative Rules and Regulations and Subpart—Schedule of Payments. The proposal was based, in part, on a proposal recommended by the Raisin Administrative Committee. These subparts are operative pursuant to the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989; 32 F.R. 12157, 12555, 12710), regulating the handling of raisins produced from grapes grown in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "act".

The notice afforded interested persons opportunity to submit written data, views, or arguments with respect to the proposal. None were submitted within the time prescribed therefor.

The amendment: (1) Revises subparagraph (3) of § 989.158(e) so as to provide that the inspector (of the inspection service), rather than the receiving packer, may enter the net weight of the raisins and the scale ticket number on the applicable memorandum report of inspection; (2) adds a new paragraph, paragraph (f), in § 989.158 providing rules and procedures whereby a handler may receive, without reinspection, natural condition raisins that had been inspected at a receiving station of a cooperative bargaining association; and (3) revises paragraph (c) of § 989.401 by increasing the rate of rental payment for the use of boxes and other containers in which reserve tonnage raisins are held for the account of the Committee beyond the crop year of acquisition.

After consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the Raisin Administrative Committee, and other available information, it is hereby found that the amendment, as hereinafter set forth, of Subpart—Administrative Rules and Regulations and of Subpart—Schedule of Payments, is in accordance with this part and will tend to effectuate the declared policy of the act.

Therefore, Subpart—Administrative Rules and Regulations (7 CFR 989.101 to 989.176) and Subpart—Schedule of Payments (7 CFR 989.401) are hereby amended as follows:

SUBPART—ADMINISTRATIVE RULES AND REGULATIONS

1. In § 989.158, subparagraph (3) of paragraph (e) is revised, and a new paragraph, paragraph (f), is added, to read:

§ 989.158 Natural condition raisins.

* * * * * * *

(e) *Inspection of raisins on dehydrator's premises.*

* * * * * * *

(3) *Packer's obligations.* Immediately upon a packer's receiving any such already inspected dehydrated raisins accompanied by the applicable memorandum report of inspection, the packer shall give to the inspector at the packer's inspection point where the dehydrated raisins were received, the original and one copy of such memorandum report so that the inspector may enter the net weight and scale ticket number on such memorandum report of inspection and copy thereof. Whenever a packer receives off-grade raisins from an authorized dehydrator he shall so advise the inspector at the packer's inspection point at the time of such receipt; and such raisins shall not be unloaded except in the presence of the inspector or in accordance with such prior arrangements as may have been made between the packer and the inspection service.

(f) *Inspection of raisins at cooperative bargaining association's receiving station.*—(1) *Application and agreement.* (i) In accordance with the provisions of this paragraph, any cooperative bargaining association may submit to the Committee for approval, and the Committee may approve, an application and agreement, on a form furnished by the Committee, providing that where the association receives from individual producers lots of natural condition raisins at any of its receiving points and the raisins are inspected and stored consistent with such application and agreement, such lots shall be eligible for delivery to handlers, pursuant to subparagraph (3) of this paragraph, without reinspection. Any raisins which upon inspection by the inspection service do not meet the applicable grade and condition standards shall be identified immediately following inspection and kept separate and apart from any other raisins in the association's possession.

(2) *Terms and conditions.* The provisions of such application and agreement shall include at least the following terms and conditions:

(i) That the association shall, prior to delivery of any raisins to handlers, arrange for inspection services at the association's receiving station(s), and cause to be submitted to the Committee a statement by the inspection service of such arrangement and of the association's having adequate laboratory and other facilities for such services available at the association's receiving station(s).

(ii) That the association shall maintain such facilities satisfactory to the inspection service.

(iii) That the association shall request inspection of each lot of raisins immediately upon physical arrival thereof at the association's receiving station(s), and shall provide the inspector with any assistance necessary in the inspection of

such raisins, including the movement of individual containers.

(iv) That the association shall fumigate all raisins received at the association's receiving station(s) as necessary to assure that the raisins are free from active infestation and maintain them as such while on such premises, and that fumigation shall be performed to the satisfaction of the inspection service.

(v) That the association shall, with respect to all raisins entering its premises which are not returned to the producer as provided in subdivision (vi) of this subparagraph, promptly affix to one or more containers in each lot, or to a container in each pallet if pallets are used, a Committee control card showing thereon such information as the Committee requires to maintain the producer identity of each lot and prevent commingling with any other lot. The association shall not move all or any portion of a lot of raisins on the premises of the association's receiving station(s) or load any such raisins for shipment, except in the presence of an inspector of the inspection service.

(vi) That the association shall store any standard raisins and any off-grade raisins which are held by it after receipt and inspection on the premises of its receiving station(s) under conditions which protect the raisins from rain, infestation and contamination, and which can be expected to maintain their respective conditions except for normal and natural deterioration and shrinkage. Any raisins which after receipt and inspection are not accepted and held by the association shall be returned to the producer within 5 business days after the issuance of the inspection certificate.

(vii) That the association shall furnish the inspection service with a completed Committee form requesting issuance, at the time of loading any lot of inspected raisins for delivery to any handler's inspection point, of a memorandum report of inspection covering such lot.

(viii) That the association shall deliver to the handler at the time of receipt of any such lot of eligible raisins at the handler's inspection point the original and one copy of the inspection service's related memorandum report of inspection; and such original and copy shall accompany the shipment of such lot from the premises of the association's receiving station(s) to the handler's inspection point.

(ix) That the association shall maintain complete records of the receipt, holding and disposition of each lot of raisins and retain such records for at least 2 years after the crop year in which such transactions occurred.

(x) That the association shall file promptly with the Committee certified reports showing such information as the Committee may request relative to the association's receipts, holdings, and dispositions of raisins.

(xi) That the association shall permit the Committee, the inspection service, and the Secretary of Agriculture, through their duly authorized representatives, to have access to the premises of the association's receiving station(s) to inspect such premises and any raisins thereon and any and all records with respect to the association's receipts, holdings and dispositions of raisins.

(xii) That upon approval of the application and agreement, the Committee will notify handlers of such approval and that eligible lots of inspected raisins will not require incoming inspection at handler inspection points; will notify the interested handlers of any suspension or revocation, for good cause, of the eligibility of a particular lot of raisins; and will notify handlers of any suspension or termination of the application and agreement.

(xiii) That the Committee will request the inspection service to establish a fee to the association for the services to be rendered at the same rate as is charged handlers.

(xiv) That the application and agreement may be suspended or terminated as provided therein.

(3) *Waiver of requirement for incoming inspection at handler inspection point.* Any lot of raisins which (i) is inspected on the premises of the association's receiving station(s) pursuant to an approved application and agreement, (ii) is in compliance with the provisions of such application and agreement and this paragraph, (iii) is moved under the surveillance of the inspection service to a handler's inspection point from the association's receiving station(s) after issuance of the related memorandum report of inspection, and (iv) is accompanied by such memorandum report to be furnished to the handler, may be received by the handler without the inspection as required by § 989.58(d) at time of receipt.

(4) *Handler's obligations.* With respect to such raisins received by the handler, the handler shall comply with all applicable requirements and procedures of this part, including, but not limited to, the inspection prescribed in § 989.59 and that required, as prescribed in § 989.58(d), prior to the handler acquiring reconditioned raisins. Immediately upon a handler receiving any such raisins accompanied by the applicable memorandum report of inspection, the handler shall give to the inspector at the handler's inspection point where such raisins are received, the original and one copy of the memorandum report so that the inspector may enter the net weight and scale ticket number on such memorandum report of inspection and copy thereof.

SUBPART—SCHEDULE OF PAYMENTS

2. Paragraph (c) of § 989.401 is revised to read:

§ 989.401 Payment for services performed with respect to reserve tonnage raisins.

* * * * *

(c) *Payment of rental on boxes containing reserve tonnage raisins held beyond the crop year of acquisition.* Each handler, producer, dehydrator, and other person who furnishes boxes in which reserve tonnage raisins are held for the account of the Committee on September 1 of any crop year (commencing with the crop year beginning Sept. 1, 1967) which were also so held on August 15 of the preceding crop year (but with respect to the 1966–67 crop year, held as surplus tonnage), shall be compensated for the use of such boxes at the rate of 30 cents per average net weight of raisins in a sweatbox, with equivalent rates for raisins in containers other than sweatboxes. The average net weight of raisins in each type of container shall be the industry average as computed by the Committee, for the containers in which the raisins are so held. No further compensation shall be paid unless the raisins are so held in the containers on the next succeeding September 1.

* * * * *

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) This action authorizes and provides for the inspection of natural condition raisins at the receiving stations of a cooperative bargaining association and thus relieves part of the restrictions on handlers with respect to such inspection; (2) to compensate for increased costs, it increases the rental payments on boxes in which certain reserve tonnage raisins are held, for the account of the Raisin Administrative Committee, on and after September 1, 1967; (3) in view of the foregoing, this action should become effective promptly so as to maximize the benefits therefrom; and (4) handlers are aware of this action as recommended by the Committee and require no advance notice to comply therewith.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated November 30, 1967, to become effective upon publication in the FEDERAL REGISTER.

PAUL A. NICHOLSON,
Deputy Director,
Fruit and Vegetable Division.

[F.R. Doc. 67-14300; Filed, Dec. 5, 1967; 8:47 a.m.]

Title 12—BANKS AND BANKING

Chapter I—Bureau of the Comptroller of the Currency, Department of the Treasury

PART 12—OWNERSHIP REPORTS BY CERTAIN PERSONS

Definition of Beneficial Ownership

On October 7, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 195) permitting interested persons 30 days to comment on the provisions contained therein. In such notice, the Comptroller of the Currency proposed an addition to Part 12 of the regulation relating to the definition of "beneficial ownership."

More than 30 days have elapsed since the publication of the notice and this Office has reviewed and considered in detail all comments received. Accordingly, the amendment set forth below is hereby adopted in final form, effective December 31, 1967.

Chapter I, Title 12, of the Code of Federal Regulations is amended by the addition of § 12.2(e) as follows:

§ 12.2 Definitions.

* * * * *

(e) The terms "beneficial ownership," "beneficially owned," and the like, when used with respect to the reporting of ownership of the bank's equity securities in any statement or report required by Parts 10 through 18 of this chapter, shall include, in addition to direct and indirect beneficial ownership by the reporting person, ownership of such securities (1) by the spouse (except where legally separated) and minor children of such reporting person, and (2) by any other relative of the reporting person who has the same home as such person.

Dated: November 28, 1967.

[SEAL] WILLIAM B. CAMP,
Comptroller of the Currency.

[F.R. Doc. 67-14216; Filed, Dec. 5, 1967; 8:48 a.m.]

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. F]

PART 206—SECURITIES OF MEMBER STATE BANKS

Beneficial Ownership; Minority Stockholder Proposals

1. Effective December 31, 1967, § 206.2 is amended by adding the following paragraph:

§ 206.2 Definitions.

* * * * *

(ff) The terms "beneficial ownership," "beneficially owned," and the like, when used with respect to the reporting of ownership of the bank's equity securities in any statement or report required by this part, shall include, in addition to direct and indirect beneficial ownership by the reporting person, ownership of such securities (1) by the spouse (except where legally separated) and minor children of such reporting person, and (2) by any other relative of the reporting person who has the same home as such person.

2. Effective December 31, 1967, § 206.5 is amended by revising paragraph (d) (1) and (3) and adding paragraph (k) as set forth below:

§ 206.5 Proxies, proxy statements, and statements where management does not solicit proxies.

* * * * *

(d) *Requirements as to proxy.* (1) The form of proxy (i) shall indicate in boldface type whether or not the proxy is solicited on behalf of the management of the bank, (ii) shall provide a specifically designated blank space for dating the proxy, and (iii) shall identify clearly and impartially each matter or group of related matters intended to be acted upon, whether proposed by the management or by security holders. No reference need be made, however, to proposals as to which discretionary authority is conferred pursuant to subparagraph (3) of this paragraph.

* * * * *

(3) A proxy may confer discretionary authority with respect to other matters that may come before the meeting, if (i) the persons on whose behalf the solicitation is made are not aware a reasonable time prior to the time the solicitation is made that any such other matters are to be presented for action at the meeting and (ii) a specific statement to that effect, except with respect to proposals omitted pursuant to paragraph (k) of this section for which discretionary authority may also be conferred, is made in the proxy statement or form of proxy.

* * * * *

(k) *Proposals of security holders.* (1) If any security holder entitled to vote at a meeting of security holders of the bank shall submit to the management of the bank, within the time hereinafter specified, a proposal which is accompanied by notice of his intention to present the proposal for action at the meeting, the management shall set forth the proposal in its proxy statement and shall identify it in its form of proxy and provide means by which security holders can approve or disapprove the proposal. The management of the bank shall not be required by this section to include the proposal in its proxy statement for an annual meeting unless the proposal is submitted to management not less than 60 days in advance of a day corresponding to the first date on which the management's Statement was released to security holders in connection with the preceding annual meeting of security holders. A proposal to be presented at any other meeting shall be submitted to the management of the bank a reasonable time before the solicitation is made. This paragraph (k) shall not apply, however, to elections to office.

(2) If the management opposes the proposal, it shall also, at the written request of the security holder, include in the proxy statement (i) the name and address of the security holder, or a statement that such name and address will be furnished upon request, and (ii) a statement of the security holder (which shall not include such name and address) of not more than 100 words in support of the proposal. The statement and request of the security holder shall be furnished to the management at the same time that the proposal is furnished. Neither the management nor the bank shall be responsible for such statement.

(3) Notwithstanding subparagraphs (1) and (2) of this paragraph, the management may omit a proposal and any statement in support thereof from its proxy statement and form of proxy under any of the following circumstances:

(i) If the proposal is impossible to accomplish or, under applicable law, is not a proper subject for action by security holders; or

(ii) If the proposal consists of a recommendation or request that the management take action with respect to a matter relating to the conduct of the ordinary business operations of the bank; or

(iii) If it appears that the proposal is submitted by the security holder principally for the purpose of enforcing a personal claim or redressing a personal grievance against the bank or its management, or principally for the purpose of promoting general economic, political, racial, religious, social, or similar causes; or

(iv) If the management has at the security holder's request included a proposal in its proxy statement and form of proxy relating to either of the two preceding annual meetings of security holders or any special meeting held subsequent to the earlier of such two annual meetings, and such security holder has failed without good cause to present the proposal, in person or by proxy, for action at the meeting; or

(v) If substantially the same proposal has previously been submitted to security holders in the management's proxy statement and form of proxy relating to any meeting of security holders held within the preceding 5 calendar years, it may be omitted from the proxy statement relating to any meeting of security holders held within the 3 calendar years after the latest such previous submission; *Provided*, That (*a*) if the proposal was submitted at only one meeting during such preceding period, it received less than 5 percent of the total number of votes cast in regard thereto, or (*b*) if the proposal was submitted at only two meetings during such preceding period, it received at the time of its second submission less than 10 percent of the total number of votes cast in regard thereto, or (*c*) if the proposal was submitted at three or more meetings during such period, it received at the time of its latest submission less than 20 percent of the total number of votes cast in regard thereto; or

(vi) If, prior to the receipt of such proposal, substantially the same proposal has been received by the management from another security holder and is to be included in the bank's proxy soliciting material.

(4) Whenever the management asserts that a proposal and any statement in support thereof may properly be omitted from the proxy statement and form of proxy, it shall file with the Board, not later than 20 days prior to the date the preliminary copies of the proxy statement and form of proxy are filed pursuant to paragraph (f) (1) of this section or such shorter period prior to such date as the Board may permit, a copy of the proposal and any statement in support thereof as received from the security holder, together with a statement of the reasons why the management deems such omission to be proper in the particular case, and, where

such reasons are based on matters of law, a supporting opinion of counsel. The management shall at the same time, if it has not already done so, notify the security holder submitting the proposal of its intention to omit the proposal from its proxy statement and shall forward to him a copy of the statement of the reasons why the management deems the omission of the proposal to be proper and a copy of such supporting opinion of counsel.

3. Notice of proposed rule making with respect to these amendments was published, together with an explanation of their purpose, in the FEDERAL REGISTER of October 7, 1967 (32 F.R. 13984). The Board took its action following consideration of all relevant matter that was presented by interested persons. The amendments as adopted are identical with the amendments as proposed.

Dated at Washington, D.C., this 29th day of November 1967.

By order of the Board of Governors.

[SEAL] MERRITT SHERMAN, *Secretary.*

[F.R. Doc. 67-14132; Filed, Dec. 5, 1967; 8:45 a.m.]

Chapter III—Federal Deposit Insurance Corporation

SUBCHAPTER B—REGULATIONS AND STATEMENTS OF GENERAL POLICY

PART 335—SECURITIES OF INSURED STATE NONMEMBER BANKS

On October 7, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 13982) stating that the Board of Directors of the Federal Deposit Insurance Corporation was considering the amendment of Part 335 of its rules and regulations. Interested parties were afforded an opportunity to participate in the rule making through the submission of comments within 30 days from the date of publication in the FEDERAL REGISTER. After consideration of all such relevant material as was submitted by interested persons, the amendments as proposed are hereby adopted as set forth below.

Part 335, which became effective January 1, 1965, was promulgated under the authority of Public Law 88-467 of the 88th Congress, 2d session, approved August 20, 1964, which provides that the powers, functions, and duties vested in the Securities and Exchange Commission to administer and enforce sections 12, 13, 14(a), 14(c), and 16 of the Securities Exchange Act of 1934 be vested in the Federal Deposit Insurance Corporation with respect to securities issued by insured State banks which are not members of the Federal Reserve System.

The purpose of the new amendments is (a) to clarify the meaning of the term "beneficial ownership" as it relates to the reporting of ownership of bank stock held by family members or relatives who reside in the homes of directors, officers, and principal stockholders and (b) to include a provision relating to inclusion of minority stockholder proposals in banks' proxy soliciting material.

Reporting of beneficial ownership of bank securities is presently required in registration statements, proxy statements, and reports by "insiders" detailing securities transactions; the amendment does not change these requirements but is designed to achieve greater uniformity in such reporting. The other major amendment is believed to be in the public interest by providing requirements for management presentation of minority stockholder proposals in banks' proxy soliciting material, if submitted to management within a specified period prior to a stockholders meeting, but with proper safeguards to protect management against undue demands.

Effective December 31, 1967, Part 335 is amended as follows:

1. Amend § 335.2 by adding § 335.2(ff) immediately following § 335.2(ee) to read as follows:

§ 335.2 Definitions.

* * * * *

(ff) The terms "beneficial ownership," "beneficially owned," and the like, when used with respect to the reporting of ownership of the bank's equity securities in any statement or report required by this regulation, shall include, in addition to direct and indirect beneficial ownership by the reporting person, ownership of such securities (1) by the spouse (except where legally separated) and minor children of such reporting person, and (2) by any other relative of the reporting person who has the same home as such person.

2. Amend § 335.5(d) (1) and (3) and add a new paragraph (k) to read as follows:

§ 335.5 Proxies, proxy statements, and statements where management does not solicit proxies.

* * * * *

(d) *Requirements as to proxy.* (1) The form of proxy (i) shall indicate in boldface type whether or not the proxy is solicited on behalf of the management of the bank, (ii) shall provide a specifically designated blank space for dating proxy, and (iii) shall identify clearly and impartially each matter or group of related matters intended to be acted upon, whether proposed by the management or by security holders. No reference need be made, however, to matters as to which discretionary authority is conferred pursuant to subparagraph (3) of this paragraph.

* * * * *

(3) A proxy may confer discretionary authority with respect to other matters that may come before the meeting, if (i) the persons on whose behalf the solicitation is made are not aware a reasonable time prior to the time the solicitation is made that any such other matters are to be presented for action at the meeting and (ii) a specific statement to that effect, except with respect to proposals omitted pursuant to paragraph (k) of this section for which discretionary authority may also be conferred, is made in the proxy statement or in the form of proxy.

* * * * *

(k) *Proposals of security holders.* (1) If any security holder entitled to vote at a meeting of security holders of the bank shall submit to the management of the bank, within the time hereinafter specified, a proposal which is accompanied by notice of his intention to present the proposal for action at the meeting, the management shall set forth the proposal in its proxy statement and shall identify it in its form of proxy and provide means by which security holders can approve or disapprove the proposal. The management of the bank shall not be required by this section to include the proposal in its proxy statement for an annual meeting unless the proposal is submitted to management not less than 60 days in advance of a day corresponding to the first date on which the management's statement was released to security holders in connection with the preceding annual meeting of security holders. A proposal to be presented at any other meeting shall be submitted to the management of the bank a reasonable time before the solicitation is made. This paragraph (k) shall not apply, however, to elections to office.

(2) If the management opposes the proposal, it shall also, at the written request of the security holder, include in the proxy statement (i) the name and address of the security holder, or a statement that such name and address will be furnished upon request, and (ii) a statement of the security holder, which shall not include such name and address, of not more than 100 words in support of the proposal. The statement and request of the security holder shall be furnished to the management at the same time that the proposal is furnished. Neither the management nor the bank shall be responsible for such statement.

(3) Notwithstanding subparagraphs (1) and (2) of this paragraph, the management may omit a proposal and any statement in support thereof from its proxy statement and form of proxy under any of the following circumstances:

(i) If the proposal is impossible to accomplish or, under applicable law, is not a proper subject for action by security holders; or

(ii) If the proposal consists of a recommendation or request that the management take action with respect to a matter relating to the conduct of the ordinary business operations of the bank; or

(iii) If it appears that the proposal is submitted by the security holder principally for the purpose of enforcing a personal claim or redressing a personal grievance against the bank or its management, or principally for the purpose of promoting general economic, political, racial, religious, social, or similar causes; or

(iv) If the management has at the security holder's request included a proposal in its proxy statement and form of proxy relating to either of the two preceding annual meetings of security holders or any special meeting held subsequent to the earlier of such two annual meetings, and such security holder has failed without good cause to present the proposal, in person or by proxy, for action at the meeting; or

(v) If substantially the same proposal has previously been submitted to security holders in the management's proxy statement and form of proxy relating to any meeting of security holders held within the preceding 5 calendar years, it may be omitted from the proxy statement relating to any meeting of security holders held within the 3 calendar years after the latest such previous submission: *Provided*, That (*a*) if the proposal was submitted at only one meeting during such preceding period, it received less than 5 percent of the total number of votes cast in regard thereto, or (*b*) if the proposal was submitted at only two meetings during such preceding period, it received at the time of its second submission less than 10 percent of the total number of votes cast in regard thereto, or (*c*) if the proposal was submitted at three or more meetings during such period, it received at the time of its latest submission less than 20 percent of the total number of votes cast in regard thereto; or

(vi) If, prior to the receipt of such proposal, substantially the same proposal has been received by the management from another security holder and is to be included in the bank's proxy soliciting material.

(4) Whenever the management asserts that a proposal and any statement in support thereof may properly be omitted from the proxy statement and form of proxy, it shall file with the Corporation, not later than 20 days prior to the date the preliminary copies of the proxy statement and form of proxy are filed pursuant to paragraph (f)(1) of this section or such shorter period prior to such date as the Corporation may permit, a copy of the proposal and any statement in support thereof as received from the security holder, together with a statement of the reasons why the management deems such omission to be proper in the particular case, and, where such reasons are based on matters of law, a supporting opinion of counsel. The management shall at the same time, if it has not already done so, notify the security holder submitting the proposal of its intention to omit the proposal from its proxy statement and shall forward to him a copy of the statement of the reasons why the management deems the omission of the proposal to be proper and a copy of such supporting opinion of counsel.

Dated this 27th day of November 1967.

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] E. F. DOWNEY, *Secretary.*

[F.R. Doc. 67-14087; Filed, Dec. 5, 1967; 8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 8561; Amdt. 151-20]

PART 151—FEDERAL AID TO AIRPORTS

U.S. Share of Project Costs in Public Land States

The purpose of this amendment to Part 151 of the Federal Aviation Regulations is to revise the table of percentages in § 151.43(c) that states the U.S. share of project costs in public land States.

Section 10(b) of the Federal Airport Act (49 U.S.C. 1109(b)) provides: "In the case of any State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) exceeding 5 per centum of the total area of all lands therein, the U.S. share under subsection (a) shall be increased by whichever is the smaller of the following percentages thereof: (1) 25 per centum, or (2) a percentage equal to one-half the percentage that the area of all such lands in such State is of its total area." The percentages for those States are now stated in § 151.43(c).

Based on information received from the Department of the Interior, the FAA periodically redetermines the percentages in § 151.43(c) (see Amdts. 151-2, 151-10, and 151-16). The FAA is amending § 151.43(c) to reflect the most recent Department of Interior information. The amendment increases the percentages for Colorado and Utah, decreases the percentages for Arizona, Idaho, Montana, New Mexico, Washington, and Wyoming, and leaves the percentages for Alaska, California, Nevada, Oregon, and South Dakota unchanged.

Since this amendment relates to public grants, benefits, and contracts, it is excepted from the procedural and effective date provisions of section 553 of Title 5, United States Code. Therefore, it may be made effective upon publication in the FEDERAL REGISTER.

In consideration of the foregoing, effective December 6, 1967, Part 151 of the Federal Aviation Regulations is amended by amending § 151.43(c) to read as follows:

§ 151.43 U.S. share of project costs.

* * * * *

(c) The U.S. share of the costs of an approved project for airport development in a State in which the unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) is more than 5 percent of its total land, is the percentage set forth in the following table:

State	Percent	State	Percent
Alaska	62.50	New Mexico	56.28
Arizona	60.99	Oregon	55.64
California	53.63	South Dakota	52.56
Colorado	59.96	Utah	61.00
Idaho	55.84	Washington	51.82
Montana	53.01	Wyoming	57.08
Nevada	62.50		

(Secs. 1-15, 17-21, Federal Airport Act; 49 U.S.C. 1101-1114 and 1116-1120)

Issued in Washington, D.C. on November 29, 1967.

WILLIAM F. MCKEE, *Administrator.*

[F.R. Doc. 67-14195; Filed, Dec. 5, 1967; 8:46 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of International Commerce, Department of Commerce

SUBCHAPTER B—EXPORT REGULATIONS

[10 Gen. Rev. of Export Regs., Admt. 42]

PART 373—LICENSING POLICING AND RELATED SPECIAL PROVISIONS

Export Licensing of Copper-Bearing Scrap Not Commercially Processable in the United States

Part 373 of Title 15 of the Code of Federal Regulations is amended as set forth below.

(Sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959-63 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959-63 Comp.)

Effective date. December 1, 1967.

RAUER H. MEYER, *Director, Office of Export Control.*

Purpose and effect. The Export Regulations are revised to provide that applications for licenses to export copper bearing scrap that cannot be processed in the United States for technological or economic reasons, or because of the nonavailability of custom smelting facilities due to strike conditions in the domestic copper industry, may be approved without being charged to the copper export quota.

An applicant for an export license may be authorized to export all of his copper bearing scrap if it cannot be processed in the United States for technological or economic reasons not related to the strike.

An applicant whose copper bearing scrap of types normally processed by custom smelting facilities cannot be processed in the United States because of the nonavailability of custom smelting facilities due to strike conditions may be authorized to export 100 percent of his stock of such scrap if the refined copper derived therefrom, or an equivalent amount of refined copper, will be imported into the United States for consumption. If such exports of copper bearing scrap will not result in the import of refined copper into the United States for consumption, an applicant may be authorized to export as much as 80 percent of his inventory of copper-bearing scrap as of October 31, 1967 and 80 percent of his receipts of this commodity during each month thereafter.

It is required that such an applicant forward to the Office of Export Control a report of his stock levels as of October 31, 1967 and a report of his receipts of copper-bearing scrap during each month thereafter.

NOTE: The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Accordingly, the Export Regulations are amended in that § 373.20(b)(2) is revised to read as follows:

§ 373.20 Copper ores, concentrates, matte, ash, residues, waste, scrap, and blister copper.

* * * * * *

(b) *Copper and copper-base alloy waste and certain nickel scrap.* * * *

(2) *Shipments not commercially processable in the United States*—(i) *Commodities that cannot be processed for technological or economic reasons other than strike conditions.* An application for a license to export any of the commodities described above[1] that for technological or economic reasons other than strike conditions cannot be processed commercially in the United States will be considered for licensing, without a charge against the copper export quota. Where an application covers commodities that cannot be processed for a technological reason, such application shall be accompanied by a copy(ies) of a letter(s) received by the applicant from a recognized scrap processor(s) who has (have) declined to process the scrap described on the application. Additionally, such an application shall be accompanied by the documentation set forth in paragraph (a)(2)(i) of this section. An application for a license to export any of the commodities described above[1] that cannot be processed for an economic reason shall include a statement setting forth such reason in full detail.

(ii) *Commodities that cannot be processed commercially because of strike conditions.* (a) An application for a license to export any of the commodities described above[1] that cannot be processed commercially in the United States due to the nonavailability of custom smelting facilities caused by strike conditions in the domestic copper industry will be considered for licensing without a charge against the copper export quota. The approval of such an application shall be contingent further upon the determination by the Department of Commerce that the commodities covered by the application cannot be economically absorbed otherwise by the domestic economy. Such an application shall include the following certification:

I (We) certify that the copper bearing scrap commodities described on this application are of a type normally processed by domestic custom smelting facilities. Due to strike conditions there are no domestic custom smelting facilities available for the processing of these commodities.

(b) Where an application covers commodities to be exported under the provisions of this subdivision that it will be smelted and refined abroad and the resulting refined copper, or an equivalent quantity thereof, will be imported into the United States for consumption, it shall also contain the certification set forth in paragraph (a)(2)(ii)(a) of this section. Such applications may be for 100 percent of the stocks of the commodities held by the applicant. However, the refined copper resulting from the export of copper bearing scrap commodities must be imported into the United States no later than 120 calendar days after the scrap export to which it is related.

(c) Where the export of commodities under the provisions of this subdivision (ii) will not result in the import of refined copper into the United States for consumption, consideration will be given to applications for licenses to export as much as 80 percent of an applicant's inventory of the commodities described above as of October 31, 1967, and 80 percent of his receipts of such commodities during each month thereafter.

(d) An export license granted under the provisions of this subdivision (ii) will be valid for no more than 60 days.

(iii) *Reporting requirement.* A person or firm participating in exports under the provisions of subdivision (ii) of this subparagraph shall forward a report of his stock levels as of October 31, 1967, and a report of his receipts during each successive month thereafter of the commodities described in subparagraph (1) of this paragraph to the Office of Export Control (Attention: 862), U.S. Department of Commerce, Washington, D.C. 20230.

[F.R. Doc. 67-14226; Filed, Dec. 5, 1967; 8:49 a.m.]

[1] Export Control Commodity No. 28401—Copper metalliferous ash and residues.
Export Control Commodity No. 28402—Copper or copper-base alloy waste and scrap.
Export Control Commodity No. 28403—Nickel alloy waste and scrap containing 80 percent or more copper irrespective of nickel content.

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

N-Butyl-N-Ethyl-α,α,α-Trifluoro-2,6-Dinitro-p-Toluidine

A petition (PP 7F0610) was filed with the Food and Drug Administration by Elanco Products Co., a division of Eli Lilly and Co., Indianapolis, Ind. 46206, proposing the establishment of a tolerance of 0.05 part per million for negligible residues of the herbicide *N*-butyl-*N*-ethyl-α,α,α-trifluoro-2,6-dinitro-*p*-toluidine in or on the raw agricultural commodity lettuce.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purposes for which the tolerance is being established.

Based on consideration given the data submitted in the petition, and other relevant material, the Commissioner of Food and Drugs concludes that the tolerance established by this order will protect the public health. Therefore, by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and delegated by him to the Commissioner (21 CFR 2.120), § 120.208 is amended to read as follows to establish the subject tolerance:

§ 120.208 *N*-Butyl-*N*-ethyl-α,α,α-trifluoro-2,6-dinitro-*p*-toluidine; tolerances for residues.

Tolerances are established for negligible residues of the herbicide *N*-butyl-*N*-ethyl-α,α,α-trifluoro-2,6-dinitro-*p*-toluidine in or on the raw agricultural commodities alfalfa, birdsfoot trefoil, clover, lettuce, and peanuts at 0.05 part per million.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: November 27, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-14220; Filed, Dec. 5, 1967; 8:48 a.m.]

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

AMPROLIUM

Effective upon publication of this order in the FEDERAL REGISTER, the text for item 2.9n under the "Limitations" column of table 1 in § 121.210(c) is changed to read "§ 121.254(c), item 1" to correct a codification error.

(Secs. 409, 701(a), 52 Stat. 1055, 72 Stat. 1785; 21 U.S.C. 348, 371(a))

Dated: November 27, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-14221; Filed, Dec. 5, 1967; 8:48 a.m.]

SUBCHAPTER C—DRUGS

[Docket No. FDA-DAC-1]

PART 166—DEPRESSANT AND STIMULANT DRUGS; DEFINITIONS, PROCEDURAL AND INTERPRETATIVE REGULATIONS

Meprobamate; Listing Drug as Subject to Control

In the matter of listing meprobamate as a drug subject to control under the Drug Abuse Control Amendments of 1965:

Acting on a proposal published in the FEDERAL REGISTER of January 18, 1966 (31 F.R. 565), an order was published in the FEDERAL REGISTER of March 19, 1966 (31 F.R. 4679), listing meprobamate, among other drugs, as a drug subject to control under the Federal Food, Drug, and Cosmetic Act as amended by the Drug Abuse Control Amendments of 1965 because of its potential for abuse due to its depressant effect on the central nervous system. Subsequently, Wallace Laboratories, a division of Carter-Wallace, Inc., Cranbury, N.J., filed objections to such listing of meprobamate and requested a public hearing, and it was concluded that the objections stated reasonable grounds.

Accordingly, an order was published in the FEDERAL REGISTER of May 17, 1966 (31 F.R. 7174), that, among other things, stayed the effectiveness of so listing meprobamate and scheduled a public hearing for the purpose of receiving evidence relevant and material to the issues set forth in that order plus a prehearing conference for certain purposes. An additional prehearing conference in this matter was announced in the FEDERAL REGISTER of May 26, 1966 (31 F.R. 7573).

Prehearing conferences were held on June 14 and 21, 1966, and the public hearing began June 27, 1966, and ended September 16, 1966. The transcript of testimony (4,891 pages) sets forth the testimony of 31 witnesses on behalf of the Government and 31 on behalf of the respondent. Fifty witnesses were medical doctors covering a wide range of medical training, experience, and expertise. On behalf of the Government, 118 exhibits were introduced into evidence, and 24 were introduced by the respondent. Written briefs were timely filed by the respondent and the Government.

In the FEDERAL REGISTER of April 13, 1967 (32 F.R. 5933), a tentative order including proposed findings of fact and conclusions in this matter was published providing for the filing of exceptions thereto within 30 days by any interested person whose appearance was filed at the hearing. Thereafter, the Commissioner of Food and Drugs considered the exceptions received to the tentative order and listened to oral arguments on behalf of Wallace Laboratories, a division of Carter-Wallace, Inc.

Now, therefore, on the basis of the evidence received at the hearing, and after consideration of the written and oral arguments, proposed findings and conclusions, and exceptions to the tentative order, which are adopted in part or rejected in part as is apparent from the detailed findings herein made, and pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 201(v), 511, 701, 52 Stat. 1055, as amended, 79 Stat. 227 et seq.; 21 U.S.C. 321(v), 360a, 371) and delegated by him to the Commissioner (21 CFR 2.120), the following order is issued:

Findings of fact.[1] 1. Meprobamate, N.F., is the "established name" for a white crystalline substance having the chemical formula 2-methyl-2-*n*-propyl-1,3-propanediol dicarbamate. It is a carbamate compound which was developed by Berger and Ludwig from an earlier developed short-acting tranquilizer named "mephenesin." Meprobamate was first used in clinical trials in 1952 as an antianxiety agent and has been widely distributed commercially since 1955. (TR. 1679–1681; R. Ex. 47.)

2. Meprobamate is one of a group of drugs known collectively as "tranquilizers." It is recommended by its manufacturer and is widely used for the symptomatic relief of anxiety and tension states. It is used in the treatment of tension headaches, nervousness, muscular tension, various complaints related to the gastrointestinal tract, and nervousness and tension associated with psychoneurotic disorders. It is widely used in the treatment of individuals with neurotic personalities and as an adjunct in psychoanalytical therapy. It is also prescribed by some physicians to relieve the anxiety and tension associated with such physical disorders as coronary diseases, pre- and postoperative care, neuromuscular pain, gastrointestinal disorders, menopausal disorders, ear and throat disorders, and alcoholism. Based on its most frequent use, meprobamate is classified as a "minor" tranquilizer in contradistinction to a group of drugs known as "major" tranquilizers. This latter class of tranquilizers is recommended for use in treating the anxiety states associated with psychotic disorders, whereas the "minor" tranquilizers are recommended for use in treating the anxiety states associated with psychoneurotic disorders. (TR. 793, 945, 1680, 1685, 1966–1967, 2015, 2255, 2300, 2935–2936, 3030–3031, 3099, 3187, 3439, 3519, 3613, 3812; R. Ex. 13.)

[1] The citations following each finding of fact refer to the pages of the transcript of testimony and the exhibits received in evidence at the hearing, unless specified otherwise. "TR" refers to the transcript, "G. Ex." refers to exhibits on behalf of the Government, and "R. Ex." refers to exhibits introduced by the respondent.

3. Since its first introduction into the commercial channels of drug distribution in 1955, meprobamate may be legally dispensed only upon the written prescription of a practitioner licensed by law to administer such drugs, or upon an oral prescription of such practitioner that is reduced promptly to writing and filed by the pharmacist, or by the refilling of any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order that is reduced promptly to writing and filed by the pharmacist (21 U.S.C. 353(b)(1)(B)).

4. Meprobamate is manufactured and distributed by the respondent in these proceedings, Wallace Laboratories, a wholly owned subsidiary of Carter-Wallace, Inc. It is commercially available in two tablet strengths, 200 and 400 milligrams. It is also available in the same strengths in time-release capsule form under the trade name Meprospan. It is most widely marketed by Wallace Laboratories in tablet form under the trade name Miltown. The respondent states that since 1955, it has manufactured approximately 12,500 pounds of meprobamate, which, if all of this material were converted into 400-milligram tablets, would represent approximately 14 billion tablets. It has been estimated that approximately 500 million prescriptions have been written for meprobamate and that it has been prescribed for approximately 100 million patients in the United States. It clearly has been widely distributed in this country for the past 10 years. The usual adult dosage recommended by the respondent is one or two 400-milligram tablets three times daily. The maximum adult dosage recommended is six 400-milligram tablets daily, or 2,400 milligrams of meprobamate. Doses above 2,400 milligrams are not recommended by the respondent. (TR. 1159, 1681–1683, 1751–1752, 1967, 2023, 2036, 2617–2618)

5. The respondent also manufactures and distributes the following drugs in tablet and/or capsule form, which consist of meprobamate combined with other drugs. These drugs have been distributed commercially since the year indicated in the following listing of these products:

Appetrol: Meprobamate plus dextro-amphetamine sulfate; 1959 (1962 in sustained-release form).
Deprol: Meprobamate plus benactyzine hydrochloride; 1958.
Milpath: Meprobamate plus tridihexethyl chloride; 1957.
Millprem: Meprobamate plus conjugated estrogens; 1957.
Miltrate: Meprobamate plus pentaerythrityl tetranitrate; 1958.

(Tr. 1750–1754)

6. Meprobamate is a drug having a "depressant effect on the central nervous system" within the meaning of the Drug Abuse Control Amendments and the regulations promulgated thereunder. (21 U.S.C. 201(v)(3))

In § 166.2 *Criteria applicable to terms used or defined in § 166.1* of the depressant and stimulant drug regulations (21 CFR 166.2), "depressant effect" is explained in paragraph (b) in part as follows:

(b) In determining whether a drug has a "depressant effect" on the central nervous system, the Commissioner will consider, among other relevant factors, whether there is substantial evidence that the drug may produce one of the following:

(1) Calming effect or relief of emotional tension or anxiety.

(2) Drowsiness, sedation, sleep, stupor, coma, or general anesthesia.

(3) • • •

(4) Mood depression or apathy.

(5) • • •

Substantially all of the medical witnesses appearing on behalf of both the respondent and the Government, testified in substance that the major pharmacological effects of meprobamate are to calm the individual, to give relief of emotional tension or anxiety, and to produce drowsiness, sedation, and sleep. The unrebutted testimony of a number of witnesses established that meprobamate in sufficiently large dosages produces stupor and coma and will depress mood and induce apathy.

Meprobamate is classified by its developer as, and is represented by the respondent to be, a tranquilizer belonging to the "central depressant" class of tranquilizers.

It is the respondent's position that meprobamate has a potential for only isolated or occasional abuse and that such abuse is not due to its "depressant effect on the central nervous system." (R. Brief 4, 10, 43–49, 53, 54.)

The substantial evidence of record, conclusively establishes that meprobamate acts upon the central nervous system and that such action is a depressant action which results in the calming of individuals who take the drug and the relieving of their anxiety and emotional tension. This drug is known to produce drowsiness, sedation, and sleep. Individuals consuming meprobamate in sufficiently high dosages for extended periods of time have experienced apathy and a depression of mood.

The precise way in which these effects are brought about is the subject of differing medical opinions and views and is not known with precise certitude. Some medical opinions hold that meprobamate exerts a "selective action" in the central nervous system, affecting primarily the subcortical area of the brain. This causes a blocking of the interneuronal transmission of anxiety-producing electrical discharges or stimuli within the various areas of the brain, the cortex, thalamus, and hypothalamus. It is believed that the site of action of this drug is in the subcortical structures of the brain, such as the thalamus and limbic system. These anatomical structures are thought to be the seat of human emotions; however, it is generally recognized that these structures are part of the central nervous system. When taken not in excess of the maximum recommended dose, meprobamate appears not to significantly affect the functions of the upper area of the brain, the cortex, which is associated with intellectual and judgmental functions, nor the hypothalamus, associated with autonomic functions such as circulation and respiration; however, when meprobamate is taken in dosages higher than those recommended, it does affect the hypothalamus and cortex.

Although the precise mechanism of meprobamate is not known with certainty, nor are there adequate clinical studies clearly delineating its mechanisms, what effects this drug does produce are due to its depressant effect on the central nervous system.

Of those drugs whose principal effect is on the central nervous system, only those with a chiefly depressant effect will, upon sudden withdrawal following chronic administration, produce withdrawal symptoms or an abstinence reaction characterized by insomnia, nausea, vomiting, tremors, the twitching of muscles, anxiety, weakness, headaches, anorexia, unsteady gait or motor ataxia, hallucinations, delusions, depression, convulsions, and, in extreme cases, death.

Carefully controlled clinical studies conclusively establish that when meprobamate is given to individuals in dosages of from 8 to 16 400-milligram tablets daily, for a period of 40 days, and a chemically inert substance, a placebo, is abruptly substituted for the meprobamate, the withdrawal symptoms of insomnia, vomiting, tremors, ataxia, overt anxiety, anorexia, muscle twitching, hallucinations, and convulsions occur. These clinical studies have been confirmed by animal studies.

Other widely recognized central nervous system depressant agents, such as the barbiturates and alcohol, if taken at sufficient dosage levels over sufficient periods of time, will cause withdrawal symptoms when abruptly withdrawn from individuals. On the other hand widely recognized central nervous system stimulant drugs, such as the amphetamines, when suddenly withdrawn from individuals after long use at sufficient dosage levels do not cause withdrawal symptoms.

It is therefore concluded that irrespective of the precise mechanisms of meprobamate, the substantial evidence of record conclusively establishes that this drug does have a "depressant effect on the central nervous system" within the meaning of the amendments. (TR. 39–47, 456–481, 1674–1688, 1705–1706, 1708, 1752, 1851, 2061–2062, 2310, 2350–2358, 2381–2383, 2493–2497, 3027–3028, 3396, 3410, 3677–3678, 4690–4699, 4705–4726, 4748–4762; R. Ex. 10, 11, 13, 19, 23, 44, 47; G. Ex. 1, 12, 17, 19, 24, 28, 150, 163.)

7. Section 166.2(c) of the depressant and stimulant drug regulations (21 CFR 166.2(c)) sets forth the criteria for determining whether a substance has a potential for abuse because of its depressant effect on the central nervous system. Subparagraphs (1), (2), and (3) of § 166.2(c) are applicable to this proceeding and the criteria are set forth therein, as follows:

(c) The Commissioner may determine that a substance has a potential for abuse because of its depressant • • • effect on the central nervous system • • • if:

(1) There is evidence that individuals are taking the drug or drugs containing such a substance in amounts sufficient to create a hazard to their health or to the safety of other individuals or of the community; or

(2) There is significant diversion of the drug or drugs containing such a substance from legitimate drug channels; or

(3) Individuals are taking the drug or drugs containing such a substance on their own initiative rather than on the basis of medical advice from a practitioner licensed by law to administer such drugs in the course of his professional practice; or

Respondent argues that Congress intended the Drug Abuse Control amendments to apply only to those substances where there is "demonstrated" a "substantial" potential for "significant" abuse (Part I of respondent's brief). The legislative history of the amendments as set forth in Government Exhibits 1, 2, and 3 does support respondent's argument to the extent that Congress intended to bring under the control of the amendments those substances having a "substantial" potential for "significant" abuse. However, the legislative history does not support the argument that a substance may be brought under the control of the amendments only after substantial abuse has taken place.

The following language appearing at page 5 of the report of the Senate Committee on Labor and Public Welfare accompanying the amendments, explicitly states: "The Secretary of Health, Education, and Welfare should not be required to wait until a number of lives have been destroyed or substantial problems have already arisen before designating a drug as subject to controls of the bill." (G. Ex. 3, Sen. Rept. No. 337, 89th Cong., 1st sess., June 21, 1965, p. 5.)

Substantially identical language appears also at page 7 of the report of the House Committee on Interstate and Foreign Commerce accompanying the amendments. (G. Ex. 2, H. Rept. No. 130, 89th Cong., 1st sess., Mar. 2, 1965, p. 7.) Consequently the criterion of "substantial" potential for "significant" abuse has been used in reviewing and evaluating the evidence of record in this matter.

8. The substantial evidence of record establishes that a significant number of individuals have taken meprobamate in amounts sufficient to create a hazard to their health or to the safety of other individuals or to the community.

Included within the term "hazard" are:

a. Use of meprobamate to achieve intoxication;

b. Use of meprobamate to attempt suicide, successfully or unsuccessfully.

Meprobamate when taken by certain types of individuals in amounts in excess

of six 400-milligram tablets per day, has produced in the past and will produce intoxication marked by slurred speech, incoordination, pleasurable feelings simulating alcoholic intoxication (sometimes referred to as euphoria) and nystagmus. While the complex psychological reasons which induce some individuals to ingest intoxicating doses of depressant drugs are not known, it is known that individuals with drug-dependency-prone personalities (immature, neurotic, inadequate, dependent-type personalities) will chronically ingest drugs which produce euphoria, variously described as exaggerated feelings of well-being not in conformity with reality, feelings of happiness or elevation of mood, the relaxation and relief of tensions caused by psychological stress, a general dulling of the sensorium, or a sense of intoxication. Meprobamate causes these effects through its pharmacological action upon the central nervous system. Such effects have been reported by the ingestion of a single dose of meprobamate of 1,200 to 1,600 milligrams; however, with chronic ingestion of meprobamate a tolerance to its effects develops. Tolerance is a physiological process whereby an organism develops insensitivity to a drug, thus requiring the administration of gradually increasing doses in order to achieve the initial effect. It is believed that tolerance occurs when the body gradually adapts to the presence of a drug by altering the functions of certain systems and by increasing the rate at which the drug is metabolized. Thus, in order to achieve the initial physiological response, increasingly larger doses of the drug need to be ingested. Clinical observation together with data derived from animal experiments conclusively establish that meprobamate is a drug to which a tolerance is built when taken over extended periods of time. It is because such a tolerance is established that some individuals, in an attempt to relieve their symptoms of anxiety, will gradually increase the amounts of meprobamate they ingest to the point of intoxication. (TR. 44, 85, 86, 87, 106, 107, 135, 224–244, 261–262, 330–334, 462–463, 480, 494, 499, 504, 511–514, 586, 611–612, 706, 823–842, 875–881, 897–904, 993, 1836, 2744, 4032–4034, 4382–4386, 4698–4721; G. Ex. 12, 22, 49, 52, 71, 82, 97, 171, 179.)

9. The substantial evidence of record establishes that persons have consumed meprobamate in amounts sufficient to cause chronic intoxication. Consumption by individuals of meprobamate in this manner is generally characterized by:

a. Staggering gait, slurred speech, and incoordination as well as temporary loss of memory and dulling of mental capacities. (TR. 504–514, 823–841, 875–881; G. Ex. 29, 49, 52, 82, 171.)

b. Ingestion of the drug in daily dosages in excess of those recommended for therapeutic use and varying generally between 6 and 50 400-milligram tablets daily. (TR. 504–514, 741–780, 823–841, 875–881; G. Ex. 29, 49, 52A, 84, 77, 79.)

c. A gradual elevation by individuals of their drug intake from prescribed dosage levels to levels which cause intoxication. (TR. 224–244, 259–262, 511–514, 847, 903, 823–844; G. Ex. 30, 178, 179, 180.)

10. The substantial evidence of record shows that the chronic ingestion of meprobamate at intoxicating dosage levels deprives individuals of the ability to properly operate motor vehicles and to prevent injury to themselves and others. (TR. 190–194, 248, 504–508; G. Ex. 13, 180.)

11. The substantial evidence of record shows that the chronic ingestion of meprobamate at intoxicating dosage levels causes personality changes in the users manifested by anger, antagonism, irrational behavior, and antisocial conduct. Such ingestion of this drug has led to the commission of crimes, neglect of children, and deterioration of marital and family relationships. (TR. 244, 508–518, 707, 1737–1147, 1334–1363, 1364–1390, 1390–1408; G. Ex. 29, 49, 84, 85, 88, 68, 73, 77, 78, 168.)

12. The substantial evidence of record shows that individuals consume meprobamate in intoxicating doses in order to achieve a mental condition that has been described as pleasurable and to achieve a feeling or sense of intoxication or well-being. This condition simulates intoxication caused by the ingestion of excessive amounts of alcohol or barbiturates. A significant number of individuals who have a propensity for becoming dependent on certain types of drugs, have found that they can take meprobamate in increasing doses and obtain somewhat the same effect that they get from alcohol or barbiturates. The most prominent group of such individuals are alcoholics. It has been observed by qualified and reliable experts in the field of alcoholism treatment that alcoholic patients have a particular liking for meprobamate and have repeatedly asked for this drug at more frequent intervals than for other drugs.

Because of these factors, alcoholics tend to become dependent on and to abuse meprobamate. Meprobamate presents special problems for the alcoholic population of this country, which has been estimated to number approximately 5 million. One conservative estimate is that four out of every 100 alcoholics to whom meprobamate is administered develop problems with meprobamate by taking to the point of intoxication more than prescribed. The potentiality for significant abuse presented by these reliable estimates is obvious. (TR. 15–22, 195–197, 234–248, 260–262, 288–289, 295–297, 311–316, 322–324, 488–519, 525–584, 759, 762, 1334–1350, 1522–1548; G. Ex. 20, 78, 171, 178, 179.)

13. Clinical experience shows that the prolonged use of meprobamate, even at therapeutic dose levels, causes or aggravates depressive states in certain individuals suffering from neurotic disorders. Persons who have chronically ingested meprobamate report that the psychological effect of the drug upon them was an aggravation of a feeling of depression to the point of suicidal thoughts and suicidal attempts. Medical experts are of the opinion that meprobamate and other tranquilizing drugs of similar types have a pharmacological effect which may, either cause depression or aggravate a preexisting, underlying depressive state that may lead to suicide. (TR. 238–240, 1422–1425, 1458–1465, 2765, 2766, 2370, 2501; G. Ex. 62, 78, 83, 110, 111.)

14. The substantial evidence of record conclusively establishes that a significant number of individuals have used meprobamate as an ingestant, either alone or in combination with other depressant drugs, for the purpose of committing suicide. (TR. 861–880, 1168–1184, 1437, 1438–1484, 2126, 2127–2728, 2114–2115, 2885–2884, 4632–4636; G. Ex. 39–42, 44–47, 86–88, 90, 94, 97, 112, 117, 119, 122, 126, 128, 163, 163.)

15. The substantial evidence of record conclusively establishes that meprobamate either alone or in combination with other depressant drugs has been used by a significant number of individuals in suicidal attempts. (TR. 214–216, 262–266, 2124, 2114–2115; G. Ex. 2, 55, 68, 71, 87–89, 91, 92, 94, 104, 106, 108, 110, 111, 164, 166, 168, 192, 194, 195, 199, 199.)

16. The sociological reasons why meprobamate has been used in the past by a significant number of individuals in successful and unsuccessful suicidal attempts were, in part at least, explained by an expert in the field of public health and preventive medicine. This expert has studied extensively and written on the phenomena of suicide both in this country and many foreign lands.

There are three major sociological or cultural factors that operate in determining the manner and means used by individuals in suicidal gestures. These are the gross availability, accessibility, and fashionability of agents used to commit suicide. Gross availability was explained to mean the presence of the agent in an individual's environment; for example, firearms are grossly available in the United States but not so available in other foreign countries, such as England. Accessibility was defined to mean the degree of ease by which individuals can obtain any given agent which is grossly available. Fashionability was defined as the popularity of any given agent as a suicidal agent which is determined in part by the frequency that an agent is used by society's ostensible leaders and the publicity accorded the suicides of such individuals. As far as pharmaceutical suicidal agents are concerned, factors such as frequency that a drug is prescribed, the length of time that the drug has been available, and the practice of pharmacists in making the drug available, as well as the knowledge of the lay population of these factors, exert influences on the frequency that a pharmaceutical agent is used in suicidal gestures.

The evidence of record clearly establishes that for the past decade in the United States meprobamate has been manufactured and distributed in large quantities; the respondent's estimate is approximately 14 billion tablets. Thus meprobamate has been grossly available.

In addition, this drug has been widely prescribed during this time; the respondent estimates that approximately 500 million prescriptions have been written for meprobamate. Further, meprobamate has to a significant extent been prescribed and dispensed with considerable laxity in the past (see Findings Nos. 18, 19, and 21). Meprobamate thus has been accessible. Its use as a suicidal agent has also received publicity, and its use as such an agent is thus known to the lay population.

Based upon the above considerations, as well as past studies of suicidal agents of the ingestant class, this expert made an authoritative prediction, which is reasonable and merits weight in this matter that meprobamate will be used more frequently in the future as a suicidal agent than it has been in the past. This prediction is based in major part on the past history of other pharmaceutical agents, notably the barbiturates. The longer these agents were on the market (grossly available), and the more accessible they became to potential suicidal individuals through lax dispensing and prescribing practices (accessibility), and the more the lay population learned of the use of these agents in suicidal gestures through the publicity afforded such cases (fashionability), the more such agents have been used in suicidal gestures.

It is reasonable to expect that meprobamate will have somewhat the same history as these other agents, notably the barbiturates, unless it is placed under the same controls. Although the barbiturates in the past have been the drugs most frequently used as suicidal ingestants, tranquilizing drugs are being used with increasing frequency and, among the latter, meprobamate is the drug most frequently used by suicide-prone individuals. (TR. 410–453, 712–713; G. Ex. 44, 55, 71, 83, 145, 165, 177, 202.)

17. The second criterion contained in the regulations promulgated under the amendments to be used to determine whether a substance has a potential for abuse because of its depressant effect on the central nervous system states, in substance, that a drug may have a potential for abuse if there is significant diversion of the drug from legitimate drug channels (see Finding No. 7).

Included within the term "diversion" are sales of a drug outside legitimate channels by manufacturers, wholesalers, or retail pharmacies. Thus, the sale of meprobamate by a retail pharmacy without the required prescription and not in complete conformity with the law regulating the sale of drugs restricted to sale only upon prescription (21 U.S.C. 353(b)) constitutes diversion of this drug from legitimate drug channels because such sales are contrary to law and are illegitimate. (G. Ex. 2, p. 2; 21 U.S.C. 331(k), 353(b).)

18. The substantial evidence of record conclusively proves that there has been significant diversion of meprobamate from legitimate drug channels. Substantial amounts of meprobamate have been sold by retail pharmacists without proper prescription authorization and not in conformity with those provisions of law regulating the sale of prescription drugs. The official files of the Food and Drug Administration were reviewed for the 10-year period from 1956 through 1966. The information contained therein relevant to meprobamate was testified to by an Administration official and summarized in Government Exhibit No. 202.

During this 10-year period, there were 1,515 prosecutions for illegal sales of prescription drugs terminated by convictions after initial investigation by the Food and Drug Administration. Of these cases, 173 involved 797 separate illegitimate sales of meprobamate to individuals, the sales being made either without any prescription or by refilling a prescription without proper authorization confirmed by a written record of the transaction as required by law. These illegitimate sales were made at 170 different retail pharmacies throughout the United States, by two peddlers, and by one medical doctor outside a doctor-patient relationship.

At 99 of the 170 retail pharmacies, investigators were permitted to audit the prescription dispensing records required to be maintained by law (21 U.S.C. 353(b)), as well as invoices reflecting the amounts of prescription drugs received at these establishments. These records were audited for approximately a 1-year period prior to the time that this audit inspection took place. In 71 of the retail pharmacies, no audit was conducted because permission to review the necessary records was denied the investigators.

In the 99 drugstores where an audit was conducted, a comparison of the amounts of meprobamate received at the stores (as reflected by drug invoice records) with the amounts on hand at the stores and the amounts accounted for by prescription dispensing records, for the approximate 1-year period, showed that between 22 percent and 100 percent of the meprobamate received by these pharmacies could not be accounted for. Since meprobamate may be legitimately dispensed only upon prescription, and since the law requires the maintenance of records reflecting the dispensing of prescription drugs, the conclusion follows that the unaccounted for meprobamate was either sold without proper prescriptions or no records were maintained of prescription sales as required by law. In either case, the sales were illegitimate and represented a diversion of meprobamate from legitimate drug channels.

An average of 77 percent of the total amount of meprobamate received by these 99 pharmacies could not be accounted for. This 77-percent-average shortage represents over 796,000 tablets of meprobamate. The significance of this shortage is apparent when it is recalled that these audits covered approximately a 1-year period in but 99 retail pharmacies in this country.

Of these unaccounted for drugs, 54,128 meprobamate tablets were purchased by agents of the Food and Drug Administration, posing as ordinary drugstore customers, either without any prescription or by having a prescription illegally refilled. (TR. 1180–1333; G. Ex. 202.)

19. There is substantial evidence of record that some pharmacists have dispensed meprobamate on the basis of invalid prescriptions, or without any prescription at all. (TR. 510–511, 515, 525–564, 823–841, 1127–1161; G. Ex. 54, 135, 137, 138, 165, 180, 181.)

20. There is substantial evidence of record that there are so-called black market sources for meprobamate. These sources, which are not legitimate distributors, are utilized by individuals who have become dependent upon meprobamate to obtain supplies adequate to satisfy their needs. Individuals who report obtaining this drug from these sources are vague and indefinite about these sources and no detailed information is available as to the extent or number of such sources. There is also evidence that meprobamate has been stolen from hospital supplies for purposes of resale, and is bought and sold, illegitimately, by the inmates in penal institutions. (TR. 332–333, 347–349, 993, 996; G. Ex. 49, 131, 132.)

21. The substantial evidence of record shows that a significant number of individuals have obtained meprobamate in amounts in excess of the amounts prescribed for them or without the advice of their physician or in amounts in excess of recommended doses, in the following ways:

a. Through the lax prescribing practices of some physicians in issuing prescriptions which may be refilled for indefinite time periods at the option of the patient and because of the lack of supervision of patients by some physicians. (TR. 509–518, 525–549, 794, 904–907, 994, 1334–1350, 1364–1384, 1404–1421; G. Ex. 44, 55, 71, 83, 165.)

b. By having refilled prescriptions marked "Ad Lib." (Ad Libitum—the amount desired) and "p.r.n." (pro re nata—as circumstances may require) with greater frequency than is consistent with the use of the drug at recommended dosages. (TR. 197–202, 518, 525–549, 904, 1407–1408, 1416; G. Ex. 180, 181.)

c. By establishing a chain or series of drugstores which will sell them the drug. This is accomplished by taking a prescription to one drugstore, having it filled at this store, and then going to a series of other drugstores and asking each successive store to sell meprobamate to them. These additional drugstores are referred to the original store to verify that a prescription has been filed at that store. These successive stores then sell the drug based on the prescription filed at the original store. (TR. 525–549; G. Ex. 21, 29, 55, 180, 181.)

d. By obtaining a number of concurrent prescriptions for meprobamate from several physicians. (TR. 190–194, 245, 514, 518, 766, 875–881, 943, 967; G. Ex. 29, 77, 79.)

e. By obtaining meprobamate from friends or relatives for whom it had been prescribed. (TR. 190–194, 942–943, 1526–1530; G. Ex. 54.)

f. Through theft of the drug and by forging prescriptions for it. (TR. 513, 3006–3007; G. Ex. 58, 67, 96.)

22. The substantial evidence shows that meprobamate has been found in human subjects at autopsy by reliable toxicological examination and that routine, official investigation could not establish that the drug was taken upon the recommendation of a medical practitioner. The evidence further shows that pharmacists are frequently requested to sell meprobamate without any prescription, and individuals have offered to pay physicians for prescriptions for meprobamate without any bona fide doctor-patient relationship being established. Patients admitted to hospitals with meprobamate in their possession have refused to reveal their source for this drug. (TR. 661–710, 716–732, 965–967, 1409–1410, 1416, 1419; G. Ex. 84, 182.)

23. The substantial evidence of record conclusively establishes that a significant number of individuals have taken meprobamate on their own initiative rather than on the basis of medical advice from a practitioner licensed by law to administer this drug in the course of his professional practice. Thus, the evidence of record complies with the third criterion set forth in the regulations promulgated under the Amendments (see Finding No. 7). Although the exact number of individuals who have abused meprobamate is not known, nor can this number be reasonably ascertained with any degree of reliability for the reasons more fully set forth in Finding No. 27, the number of suicides, attempted suicides, and overdoses of meprobamate reflected in the reliable evidence of record is significant.

An official of the Food and Drug Administration appeared and testified concerning Government Exhibit No. 87. This exhibit is a compilation of data contained in the official files of the Administration. This data includes photographic reproductions of death certificates submitted by the Departments of Health for 34 States, plus reports from approximately 300 of the 500 Poison Control Centers in the United States. The data summarized in Government Exhibit No. 87 shows that for a period of approximately 2 years (1964–65), meprobamate was found to be the exclusive or contributing cause of death in 92 suicides and 784 attempted suicides or accidental overdosages.

In addition, the testimony of the chief toxicologist for only one major city in the United States, Philadelphia, when studied in relation to Government Exhibit No. 182, a compilation of data contained in the official files of that city's Department of Health, reflects that for approximately a 4-year period meprobamate contributed to or was the exclusive cause of death in 97 suicides, plus 4 additional deaths that apparently were suicides but which may have been accidental deaths due to overdosage of drugs including meprobamate. Further, Government Exhibits Nos. 31–42, consisting of copies of the coroner's verdict for Cuyahoga County in Ohio for a 4-year period, reflect an additional 13 cases of suicides caused by the acute intoxication of the deceased by meprobamate alone or in combination with other drugs.

The testimony of these witnesses, together with the exhibits referred to above, when coupled with the testimony of individuals who have become physically dependent upon meprobamate, and the expert opinions and factual testimony of the Government's medical witnesses, establishes beyond any doubt that meprobamate has been abused in the past by a significant number of individuals in that they have taken this drug on their own initiative and contrary to medical advice, to their own detriment to the point of death. (TR. 661–732, 1182–1178, 1394–1399, 1890–1402, 2950–4102, 4256–4444, 4440–4508; G. Ex. 87, 182 (see also G. Ex. 32–42, 44–47, 5, 55, 62, 71, 96, 98, 99–91, 104, 106, 108, 112, 117, 119, 122, 126, 130, 168, 184).)

24. The evidence of record reflects the testimony of medical experts that drugs which depress the activity of the central nervous system when administered over long periods of time may cause certain neuronal systems to adapt their activity to the effect of the drug so that upon abrupt withdrawal of the drug, clinically observable signs and symptoms may result that are associated with acute psychological and physical discomfort or death. This phenomenon, known as an abstinence reaction or withdrawal syndrome, is a sign of a tolerance being established in the body to the drug and is indicative of physical dependence upon the drug. Individuals are motivated to ingest drugs in increasingly larger amounts, upon their own initiative or without medical supervision, in order to avoid experiencing this withdrawal syndrome.

Physical dependence is the result of the chronic ingestion of a drug at sufficiently high dosage levels, and in the case of meprobamate, does not generally manifest itself until after prolonged ingestion in man of daily dosages exceeding eight 400-milligram tablets, although occurrences of withdrawal symptoms at lower dose levels have been observed. Due to individual variation in convulsion threshold levels, differences in personality structures, metabolic rates and capacities, and other physiological differences, no physically dependent person may display the entire spectrum of withdrawal symptoms upon the abrupt withdrawal of meprobamate. However, the sudden withdrawal of this drug after chronic ingestion into the dosages noted above is generally characterized in cases of mild physical dependence by insomnia, vomiting, tremors, muscle twitching, anxiety, weakness, nausea, headache, hyperpyrexia, anorexia, and ataxia. In cases of moderate physical dependence, the withdrawal symptoms include also hallucinations, delusions, and severe depression. The severe form of withdrawal symptoms additionally include convulsions and in rare instances death. (TR. 24–51, 212, 214, 478–482, 685–695, 796, 817–818, 1288, 1289, 2309, 4094, 4098–4094, 4701–4702, 4704–4708; G. Ex. 12, 19, 20, 24, 26, 29, 181, 182, 190, 192, 200, 201.)

25. The substantial evidence of record shows that individuals who have ingested meprobamate over prolonged periods of time upon their own initiative, or who have on their own initiative increased their dosage of meprobamate to levels in excess of those normally prescribed and recommended, have upon abstinence from the drug suffered the following withdrawal symptoms: Electro-encephalographic changes similar to those observed in barbiturate withdrawal, headaches, insomnia, nervousness and anxiety, agitation and restlessness, sweating, ataxia, nausea, excess salivation and confusion, delirium, delusions and hallucinations, hyperpyrexia, convulsions, and death. (TR. 196–197, 492–494, 508–510, 535–540, 575–577, 822–861, 875–881, 1127–1138, 1394–1350, 1390–1396, 1436, 2367, 4758; G. Ex. 16, 17, 21, 23, 26, 29, 63, 81, 82, 94, 96, 150, 168, 171, 185, 186, 193, 204.)

26. The substantial evidence of record shows that some individuals who are abusing barbiturates or alcohol also concurrently abuse meprobamate, or if their drug of choice becomes unavailable, will turn to meprobamate. The abusive use of meprobamate results from the interaction of two factors, the pharmacological action of the drug and the psychological makeup of the individual. Dependency-prone individuals having immature, neurotic, or inadequate, dependent-type personalities, especially those with a history of dependency upon other drugs, are particularly liable to become dependent upon meprobamate. Thus, alcoholics are particularly susceptible to dependency upon and abusive use of meprobamate.

The likelihood of the cross-substitution of drugs having similar clinical and pharmacological effects may be determined with a reasonable degree of accuracy on the basis of similarity of withdrawal symptoms and the ability of one drug to suppress the withdrawal symptoms caused by the abrupt withdrawal of another. The substantial evidence of record shows that intoxication caused by meprobamate is clinically and, except for minor differences, neurophysiologically indistinguishable from intoxication caused by alcohol or barbiturates.

The withdrawal symptoms associated with meprobamate are similar to those associated with drugs causing a barbiturate and alcohol-type physical dependence; such as, the barbiturates, ethyl alcohol, chloralhydrate, paraldehyde, and glutethimide.

It has been demonstrated that barbiturates, if administered in appropriate doses, will completely relieve the withdrawal symptoms caused by the abrupt cessation of meprobamate ingestion and that meprobamate will suppress the withdrawal symptoms caused by the cessation of excessive alcohol ingestion.

There is, therefore, the reasonable likelihood that when drugs of the barbiturate-alcohol type become less accessible because of more strict control of

their distribution under the Amendments, individuals who have abused this type of drug will substitute meprobamate in their nontherapeutic, abusive drug practices. (TR. 38, 47, 49, 79–81, 86–87, 195–197, 210, 232–243, 312–313, 330–331, 461–465, 467–468, 473–475, 478–482, 508, 515, 583, 585–586, 590–595, 599–605, 796, 851, 854–855, 918–921, 933–947, 989, 1527–1548, 4690–4695, 4697, 4703–4705, 4724–4725, 4758; G. Ex. 1, 16, 23, 28, 29, 65, 78, 84, 131, 132, 133, 145, 150, 162, 171.)

27. There are at the present time no reliable statistics which indicate with certainty the precise extent to which meprobamate has been or is currently being abused. Hospital records are customarily coded, for purposes of indexing and information retrieval, by discharge diagnoses, not admission diagnoses. In many cases of admission for drug overdose or drug dependence, the discharge diagnosis will show the underlying psychiatric disorder that gave rise to the individual's suicide attempt or chronic use of drugs, but not the drug abuse which led to admission. There are no accurate statistics showing the extent to which meprobamate is used in suicidal attempts, successful or unsuccessful, on either the local, State, or national level. Death certificates, one possible source of such statistics, are issued in many cases immediately after death in order to permit burial of the deceased, but prior to toxicological examination that would reveal the presence of exogenous agents in the vital organs of the deceased. No consistent practice is followed in amending such records where exogenous agents are found upon examination. Thus, the statistics of State bureaus of vital statistics, based upon such death certificates, do not reveal the presence of such agents in a large number of cases. National vital statistics, having as their source the State statistics, are equally inadequate. The lack of trained and experienced personnel, adequate funds, and adequate coding and indexing systems, in the nation's hospitals, bureaus of vital statistics, health departments, and other public and private institutions all contribute to the lack of accurate statistics concerning meprobamate abuse. The statistics that are available grossly understate the frequency with which meprobamate has actually been abused. (TR. 360–369, 383–388, 404–409, 434–435, 608–610, 632–633, 777, 797, 941–942, 958–959, 1428–1430, 1709, 1711–1712, 2771, 2972–2973, 3661–3665, 3671, 3683, 3696, 3709, 3718–3720, 3733, 3744–3747, 3942–3953, 3958–3960, 3968, 3989, 3991, 4059, 4272, 4294–4297, 4367–4375, 4396–4399, 4425–4429, 4441, 4450, 4459; G. Ex. 62, pp. 54–56.)

28. The substantial evidence of record establishes that meprobamate has a potential for abuse, as manifested in the ways set forth in findings 8 through 27 above, because of its depressant effect on the central nervous system. Many of these abuses of meprobamate result from the phenomenon of tolerance to the drug and the phenomenon of withdrawal reactions upon discontinuance after long-continued or excess use. These phenomena of tolerance and withdrawal reactions are a result of meprobamate's central nervous system depressant effect. Other abuses of meprobamate stem from its euphoric effect which is a function of meprobamate's central nervous system depressant effect. In short, meprobamate's potential for abuse results from its effect of depression on the central nervous system. (TR. 21, 49, 81, 98, 334, 402–463, 478, 3359–3360, 3425–3426, 4698–4709.)

29. A large part of the evidence adduced by the respondent consisted of the testimony of various physicians to the effect that they had prescribed meprobamate for their patients over varying periods of time and had seen no cases or at most only an occasional case of individuals abusing meprobamate. This evidence does not rebut the evidence introduced by the Government proving the abuse potential of meprobamate within the meaning of the amendments. The doctors appearing on behalf of the respondent were administering meprobamate generally at therapeutic dosage levels not in excess of recommended doses and were closely supervising the drug therapy of their patients. Patients under such close medical supervision do not usually abuse meprobamate. In addition, some physicians appearing as witnesses for the respondent were involved in various specialties of medicine in which meprobamate abuse is rarely if ever seen; such as, cardiology, general surgery, obstetrics, gynecology, endocrinology, gerontology, gastroenterology, otorhinoiaryngology, and allergy.

Such evidence tends to confirm the following estimation set forth in the Final Report of the President's Advisory Commission on Narcotic and Drug Abuse of 1963: "Drug abuse is not a uniform problem throughout the country, and even in the areas of the highest incidence few medical practitioners come into contact with the afflicted. It is estimated that most medical practitioners never see a habitual drug abuser" (G. Ex. 1, p. 57). (TR. 1934–1944, 1960–1970, 2339–2346, 3182–3187, 3361, 3429–3433, 3515–3523, 3606–3620.)

30. The legislative history of the amendments reflects the expectation of Congress, in enacting this legislation, that meprobamate and similar tranquilizing drugs would be expeditiously brought under the control of the amendments because of their potential for abuse. Testimony taken before the House Committee on Interstate and Foreign Commerce demonstrated the need for bringing meprobamate under these controls. This Committee considered the advisability of listing meprobamate, among others, by name, but decided not to single out this or any other drug. The Committee, however, stated that it expected the Secretary of Health, Education, and Welfare to take early action with respect to the consideration of bringing meprobamate and other drugs within the controls of the amendments. A similar expectation was expressed by the Senate Committee on Labor and Public Welfare. (G. Ex. 62, pp. 24, 28, 33–36, 49–51, 54, 93, 102–103, 115; G. Ex. 2, p. 13; G. Ex. 3, pp. 2 and 3.)

Conclusions. 1. The Drug Abuse Control Amendments of 1965 are intended to protect the public health and safety by establishing special controls for depressant and stimulant drugs. This protection is to be accomplished through increased recordkeeping and inspection requirements, through providing for control over intrastate traffic in these drugs because of its effect on interstate traffic, and through making possession of these drugs (other than by the user) illegal outside the legitimate channels of commerce. The authority of the Department of Health, Education, and Welfare over counterfeit drugs also is increased by the amendments.

2. Meprobamate is a drug with a depressant effect on the central nervous system and may be legitimately dispensed only upon the prescription of a practitioner licensed by law to administer such drugs, and in full conformity with section 503(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353 (b)).

3. The substantial, probative, and reliable evidence of record establishes that meprobamate, in the past, due to its depressant effect on the central nervous system, has been abused in the following ways:

a. There has been significant use of meprobamate in amounts sufficient to create a hazard to the health of the individual and to the safety of other individuals and the community.

b. There has been significant diversion of meprobamate from legitimate drug channels.

c. There has been significant use of meprobamate by individuals on their own initiative rather than on the basis of medical advice from a practitioner licensed by law to administer such drugs in the course of his professional practice.

4. Due to the history of the abuse of meprobamate and because meprobamate has the capacity to substitute for other drugs known to be abused, which are now subject to the increased controls of the amendments, it is reasonable to conclude that the abuse of meprobamate will continue and increase unless this drug is similarly brought under the controls of the amendments.

5. Meprobamate is a drug which because of its depressant effect on the central nervous system has a substantial potential for significant abuse within the meaning of the amendments (21 U.S.C. 321(v)(3)).

6. Meprobamate is a "depressant or stimulant drug" as defined in the amendments (21 U.S.C. 321(v)), and is therefore subject to control under the amendments (21 U.S.C. 360a). Any drug which contains any quantity of meprobamate is a "depressant or stimulant drug" as defined in the amendments (21 U.S.C. 321(v)(2)) and is also subject to control under the amendments (21 U.S.C. 360a).

Therefore, It is ordered, That the stay of effectiveness announced May 17, 1966 (31 F.R. 7174), on the listing of meprobamate in § 166.3(c)(1) as a drug subject to control under the amendments by the order of March 19, 1966 (31 F.R. 4679), be ended.

Effective date. This order shall become effective 90 days from its date of publication in the FEDERAL REGISTER.

(Secs. 201(v), 511, 701, 52 Stat. 1055, as amended, 79 Stat. 227 et seq.; 21 U.S.C. 321(v), 360a, 371)

Dated: November 28, 1967.

JAMES L. GODDARD,
Commissioner of Food and Drugs.

[F.R. Doc. 67-14219; Filed, Dec. 5, 1967; 8:45 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6987]

PART 1—INCOME; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Prepaid Dues Income of Certain Membership Organizations

Correction

In F.R. Doc. 67-13999, appearing at page 16393 of the issue for Thursday, November 30, 1967, the following corrections should be made:

1. In the 19th line of § 1.456-3(c), the date "February 28, 1967" is corrected to read "February 28, 1968".

2. In the 15th line of § 1.456-6(b), the date "February 28, 1967" is corrected to read "February 28, 1968".

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 123—ADDRESSES

Mailing List Services

In § 123.5, paragraph (b) is amended to conform to Part 113 of this chapter regarding information on the Postal Service and records relating to the operation of the Department.

§ 123.5 **Mailing list services.**

* * * * *

(b) *Furnishing address changes to election boards and Registration Commissions.* Residential change-of-address information is available to duly constituted election boards of registration commissions using permanent registration, at a cost of 5 cents for each change-of-address Form 3575 notwithstanding the schedule of fees in section 113.5 of this chapter. An election board or registration commission desiring this information must submit to the postmaster a written request signed by an authorized official. The postmaster shall transmit the request to the Regional Director for approval. On approval, the postmaster will receive necessary procedural instructions from the Regional Director for release, control, and return of change-of-address Forms 3575.

* * * * *

NOTE: The corresponding Postal Manual section is 123.83.

(5 U.S.C. 301, 39 U.S.C. 501)

TIMOTHY J. MAY,
General Counsel.

NOVEMBER 30, 1967.

[F.R. Doc. 67-14189; Filed, Dec. 5, 1967; 8:45 a.m.]

PART 742—CODE OF ETHICAL CONDUCT

Other Conduct by Employee; Soliciting or Canvassing

Section 742.735-29(f)(1) is revised to clarify the regulations concerning the soliciting or canvassing of rural mail carriers. These regulations were approved by the Civil Service Commission on November 1, 1967, and are effective upon publication in the FEDERAL REGISTER.

§ 742.735-29 **Other conduct by employee.**

* * * * *

(f) *Soliciting or canvassing.* (1) Rural carriers when on duty shall not solicit business or receive orders for any person. Whether on or off duty they shall not engage in any business which, by reason of their official employment, will give them an advantage over others not in the Postal Service who are engaged in a similar business. Substitute rural carriers when on duty shall not solicit business or receive orders for any person.

* * * * *

NOTE: The corresponding Postal Manual section is 742.298a.

(5 U.S.C. 301, 39 U.S.C. 501, Executive Order 11222)

TIMOTHY J. MAY,
General Counsel.

NOVEMBER 30, 1967.

[F.R. Doc. 67-14190; Filed, Dec. 5, 1967; 8:45 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4330]

[Oregon 015686]

OREGON

Partial Revocation of Air Navigation Site Withdrawal No. 31

By virtue of the authority contained in section 4 of the act of May 24, 1928 (45 Stat. 729; 49 U.S.C. 214), it is ordered as follows:

1. The departmental order of July 15, 1929, withdrawing the following described land as Air Navigation Site Withdrawal No. 31, is hereby revoked so far as it affects the following described lands:

WILLAMETTE MERIDIAN

T. 36 S., R. 3 W.,
Sec. 9, SE¼.

The tract described contains 160 acres in Jackson County.

2. At 10 a.m. on January 4, 1968, the lands shall be open to such forms of disposition as may by law be made of revested Oregon and California Railroad Grant lands.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

NOVEMBER, 29, 1967.

[F.R. Doc. 67-14183; Filed, Dec. 5, 1967; 8:45 a.m.]

[Public Land Order 4331]

[Nevada 044346]

NEVADA

Revocation of National Forest Administrative Site Withdrawal

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Public Land Order No. 1796 of February 19, 1959, as corrected by Public Land Order No. 2764 of August 28, 1962, withdrawing national forest lands as administrative sites, is hereby revoked so far as it affects the following described lands:

MOUNT DIABLO MERIDIAN

HUMBOLDT NATIONAL FOREST

Mary's River Pasture Administrative Site

T. 44 N., R. 56 E.,
Sec. 28, W½SW¼NE¼, W½NW¼SE¼, NE¼SW¼, SE¼NW¼.

Camp Creek Pasture Administrative Site

T. 44 N., R. 59 E.,
Sec. 2, lot 2.

The areas described aggregate 160.15 acres in Elko County.

2. At 10 a.m. on January 4, 1968, the lands shall be open to such forms of disposition as may by law be made of national forest lands.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

NOVEMBER 29, 1967.

[F.R. Doc. 67-14184; Filed, Dec. 5, 1967; 8:45 a.m.]

[Public Land Order 4332]

[Fairbanks 019618]

ALASKA

Withdrawal for Federal Aviation Agency Facilities; Partial Revocation of Air Navigation Site Withdrawal

By virtue of the authority contained in section 4 of the act of May 24, 1928

(45 Stat. 729; 49 U.S.C. 214), it is ordered as follows:

1. Subject to valid existing rights, the following described lands are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, for the maintenance of a Federal Aviation Agency air navigation facility:

FAIRBANKS MERIDIAN

T. 1 S., R. 3 W.,
Sec. 16, E½SW¼SW¼NW¼, W½SE¼SW¼NW¼, NE¼NW¼NW¼SW¼.

Containing 12.5 acres.

2. Air Navigation Site Withdrawal No. 17, Alaska, of October 27, 1958, so far as it reserved the following described lands for use of the Civil Aeronautics Administration, now the Federal Aviation Agency, is hereby revoked:

FAIRBANKS AREA

T. 1 S., R. 3 W., Fairbanks Meridian (unsurveyed), sec. 16, S½SW¼NW¼, N½NW¼SW¼, S½SE¼NW¼ (those portions lying north and west of the Fairbanks Nenana Road).

Containing approximately 17 acres.

3. Until 10 a.m. on February 29, 1968, the State of Alaska shall have a preferred right to select the lands released from withdrawal by paragraph 2 of this order which are not included in the withdrawal made by paragraph 1, as provided by section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339), and the regulations in 43 CFR 2222.9. After that time the lands shall be open to the operation of the public land laws generally, including the mining laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on February 29, 1968, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. The lands have been open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Manager, Bureau of Land Management, Fairbanks District and Land Office, Fairbanks, Alaska.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

NOVEMBER 29, 1967.

[F.R. Doc. 67-14185; Filed, Dec. 5, 1967; 8:45 a.m.]

[Public Land Order 4333]

[Anchorage 3947]

ALASKA

Partial Revocation of Public Land Order No. 334

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Public Land Order No. 334 of December 19, 1946, so far as it withdrew the following described lands for a road right-of-way, is hereby revoked:

COMOVA

Tract A. A strip of land 200 feet in width being 100 feet on each side of the centerline of the former Copper River and Northwestern Railroad commencing on the west boundary of U.S. Survey No. 1434 A, thence easterly to the east boundary of U.S. Survey No. 1765.

Tract B. A strip of land 200 feet in width being 100 feet on each side of the centerline of the former Copper River and Northwestern Railroad commencing where said former railroad crosses the line between the north quarter corner and the south quarter corner of protracted sec. 32, T. 15 S., R. 2 W., C.R.M., thence southeasterly to Station 686+41.4 or mile 13 on said former railroad.

The areas described aggregate approximately 167 acres, of which Tract A and approximately 30 acres in Tract B, are nonpublic lands. The remainder is in the Chugach National Forest.

2. At 10 a.m. on January 4, 1968, the national forest lands described in this order shall be open to such forms of disposition as may by law be made of such lands.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

NOVEMBER 29, 1967.

[F.R. Doc. 67-14186; Filed, Dec. 5, 1967; 8:45 a.m.]

Title 46—SHIPPING

Chapter IV—Federal Maritime Commission

SUBCHAPTER B—REGULATIONS AFFECTING MARITIME CARRIERS AND RELATED ACTIVITIES

[General Order 4, Amdt. 10; Docket No. 66-31]

PART 510—LICENSING OF INDEPENDENT OCEAN FREIGHT FORWARDERS

Subpart B—Duties and Obligations

OCEANGOING COMMON CARRIERS AND PERSONS SHIPPING FOR OWN ACCOUNT

On October 22, 1966, the Commission published in the FEDERAL REGISTER (31 F.R. 13660), inter alia, an amendment to § 510.22(a) of General Order 4 (46 CFR 510.22(a)). The amendment required ocean carriers who wished to perform free ocean freight forwarding services on cargo carried under their own bill of lading to specify such services in their tariff.

The effective date of this amendment was subsequently stayed by the U.S. Court of Appeals, District of Columbia Circuit (Apr. 14, 1967), upon petition by New York Foreign Freight Forwarders and Brokers Association, Inc.

Subsequently, on October 10, 1967, the Court of Appeals further stayed the proceeding pending the Commission's further consideration and express clarification of the rule. The Court stated:

Petitioner contends that this rule operates as a general approval, by implication, of performance by carriers of forwarding services without extra charge. Intervenor contends that the rule only seeks information as to charges made (or not made) and implied no approval of amounts charged or of any failure to exact a charge. We are not advised of any Commission elucidation. We think it is in the interests of sound judicial administration to stay the proceeding pending the Commission's further consideration and express clarification of the rule.

Upon further consideration, in view of the various objections to the amendment and in view of the apparent confusion concerning the purpose and necessity of the amendment, the Commission is of the opinion that the amendment is not necessary for the effective regulation of the ocean freight forwarding industry.

Therefore, it is ordered, That the October 22, 1966, amendment to § 510.22(a) of Title 46 CFR (31 F.R. 13650) is hereby revoked and the provisions of § 510.22(a) as they appeared prior to said amendment will have full force and effect.

By the Commission.

[SEAL] THOMAS LISI,
Secretary.

[F.R. Doc. 67-14214; Filed, Dec. 5, 1967; 8:46 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission and Department of Transportation

PART 890—ADMINISTRATION OF ALASKA RAILROADS

Transfer of Regulations to Department of Transportation

By virtue of the authority vested in me as Administrator, Federal Railroad Administration, by section 6(1) of the Department of Transportation Act (80 Stat. 941, 49 U.S.C. 1655) and Part 1 of the regulations of the Office of the Secretary of Transportation (49 CFR Part 1), the text of 49 CFR Part 1200 is hereby transferred to 49 CFR Part 890. In this transfer the part number forming the portion of the section numbers preceding the decimal point is changed from "1200" to "890". No change is made in the balance of the section numbers following the decimal point. References in other regulations to 49 CFR Part 1200 hereafter shall be amended to refer to regulations in 49 CFR Part 890.

(80 Stat. 941, 49 U.S.C. 1655)

Issued in Washington, D.C. on November 29, 1967.

A. SCHEFFER LANG,
Administrator.

[F.R. Doc. 67-14202; Filed, Dec. 5, 1967; 8:47 a.m.]

Chapter II—Alaska Railroad, Department of the Interior

PART 1200—ADMINISTRATION OF ALASKA RAILROADS

Transfer of Regulations to Department of Transportation

CROSS REFERENCE: For transfer of regulations in Title 49, Chapter II, Part 1200, to Title 49, Chapter I, Part 890, see F.R. Doc. 67-14202, *supra.*

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Moosehorn National Wildlife Refuge, Maine

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing, for individual wildlife refuge areas.

MAINE

MOOSEHORN NATIONAL WILDLIFE REFUGE

Sport fishing on the Moosehorn National Wildlife Refuge, Calais, Maine, is permitted on the areas designated by signs as open to fishing. These open areas, comprising 500 acres, are delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109. Sport fishing shall be in accordance with all applicable State regulations subject to the following special condition:

(1) The use of boats without motors is permitted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33, and are effective through December 31, 1968.

EUGENE E. CRAWFORD,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

NOVEMBER 20, 1967.

[F.R. Doc. 67-14182; Filed, Dec. 5, 1967; 8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 46]

[Docket No. FDC-76]

PEANUT BUTTER

Definitions and Standards of Identity; Proposed Findings of Fact and Tentative Order

In the matter of establishing definitions and standards of identity for peanut butter:

A notice of proposed rulemaking was published in the FEDERAL REGISTER of July 2, 1959 (24 F.R. 5391), setting forth a proposal by the Commissioner of Food and Drugs to establish a definition and standard of identity for peanut butter. Based upon views and comments received and other information available at that time, the Commissioner published in the FEDERAL REGISTER of November 28, 1961 (26 F.R. 11209), an order establishing a definition and standard of identity for this food. Thereafter, objections were filed in accordance with the provisions of section 701(e)(2) of the Federal Food, Drug, and Cosmetic Act, and the Commissioner published an order in the FEDERAL REGISTER of February 1, 1962 (27 F.R. 943), staying the effective date of the standard in its entirety. Subsequently, additional information was received, and the Commissioner published a proposed revision of the identity standard for peanut butter in the FEDERAL REGISTER of November 10, 1964 (29 F.R. 15173), and solicited the views and comments of all interested persons on that revision. Many comments were filed by interested persons—manufacturers of peanut butter, ingredient suppliers, cooperative associations, regulatory officials, nutritionists, consumer associations, and individual consumers.

Based upon the comments received and other relevant information, the Commissioner again published an order in the FEDERAL REGISTER of July 8, 1965 (30 F.R. 8626), establishing a definition and standard of identity for peanut butter. Objections were filed in accordance with the provisions of section 701(e)(2) of the act and a public hearing was requested. The Commissioner published an order in the FEDERAL REGISTER of September 4, 1965 (30 F.R. 11349), staying the effective date of the standard in its entirety pending a resolution of the issues at a public hearing.

In the FEDERAL REGISTER of September 18, 1965 (30 F.R. 11970), the Commissioner published a notice announcing a public hearing to begin October 18, 1965, for the purpose of receiving evidence relevant and material to the issues set forth in that notice, and also announcing a prehearing conference to begin October 4, 1965, for certain specified purposes. A notice rescheduling the date of the hearing and announcing a second prehearing conference was published in the FEDERAL REGISTER of October 12, 1965 (30 F.R. 12949). The second prehearing conference was to begin on October 20, 1965, and was completed on that date. As rescheduled, the public hearing began on November 1, 1965, and the taking of testimony concluded on March 15, 1966.

On the basis of the evidence received at the hearing, and pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and delegated by him to the Commissioner (21 CFR 2.120), and after consideration of the written arguments and suggested findings, which are adopted in part and rejected in part as is apparent from the detailed findings herein made, it is proposed that the following order be issued:

Findings of fact.[1]—1. Standards of identity are intended to establish or define what a food product is and what a consumer expects to receive when he selects the food by its common or usual name. (R. 2965, 2966; Ex. 51)

2. Peanut butter in the past has been identified in the public mind as an article made essentially from ground peanuts and seasoning. In 1959 the Food and Drug Administration became aware of a trend by some manufacturers to reduce the peanut content of peanut butter. Three surveys conducted by the Food and Drug Administration in 1960, 1963, and 1965 confirmed this trend. The changes in formulation that resulted in a decrease of peanuts in peanut butter were not always intended for the benefit of the consumer, nor was the consumer made aware of the extent of these changes. (R. 674, 692, 693, 785, 786, 808, 854, 1733; Ex. 14, 14A, 39, 39D, 40, 40A)

3. There is a widespread lack of information among consumers concerning the actual composition of peanut butter. Many consumers and consumer groups have stated that there is a need for a standard of identity for peanut butter. Other consumers believe that a standard has already been established and is in effect. (R. 738, 739, 2394, 4724, 4725, 4751, 6170; Ex. 11A, 22B, 106, 118)

4. State food and drug agencies have received complaints concerning additives used in peanut butter, and the State officials have indicated need for a peanut butter standard. If a Federal definition and standard of identity is not promulgated, these officials will seriously consider recommending the adoption of individual State standards of identity for peanut butter. (R. 743, 746, 748, 749, 751, 1231, 1233)

5. In 1959 the Peanut Butter Manufacturers Association adopted a position opposing a standard in any form. Certain manufacturers of peanut butter, including some who are members of the Association, do not support the position of the Association and express the opinion that a definition and standard of identity for peanut butter is needed. (R. 1175, 1590, 1670, 1813, 1816, 1817, 1826, 1828, 1854, 1858, 1918, 1919, 2011, 2014, 2020, 2025, 2044, 2048, 2164, 2581, 3123, 3295, 5919; Ex. 10A, 10B, 10C, 40, 41, 83)

6. The manufacture of peanut butter dates back at least to 1890. It has commonly been made from peanuts, salt, and, sometimes, sugar. Peanut butter so made, sometimes referred to as "old-fashioned" peanut butter, was as recently as 1941 the predominant type sold. "Old-fashioned" peanut butter had the disadvantages of oil separation, difficulty in remixing, stickiness, graininess, lack of spreadability, development of rancidity, and short shelf-life. It was usually made by numerous manufacturers for relatively local distribution. (R. 342, 4097, 4098, 4101, 4393, 4394, 4898, 4899)

7. Research and development affecting the characteristics of peanut butter have been aimed at preventing separation of oil, eliminating stickiness, increasing spreadability, and achieving stability against temperature changes and shocks in transportation. From 1921 onward there is record of the introduction of various stabilizing and seasoning ingredients of peanut butter. These included hydrogenated oils, solid fats or oils, mono- and diglycerides, lecithin, sugar, dextrose, corn sirup, and honey. Such changes in formulation were sometimes accompanied by changes in machinery and manufacturing techniques. These developments have made it possible to distribute peanut butter nationally instead of just locally. (R. 342–47, 405, 2175, 2176, 3181, 3440, 4266, 4395, 4900, 4916; Ex. 28, 29, 30, 75, 98, 99A, 99B)

8. Some optional ingredients are used in place of peanuts to make a more acceptable product for the benefit of consumers or because they are cheaper than peanuts and their use would allow the manufacturer a competitive advantage in the market or both. (R. 1018, 1019, 1175, 1479, 1498, 1499, 1503, 1518, 1677, 1678, 1718, 1817, 1826, 1835, 1836, 2025, 2048, 2050, 2165, 2582–2584, 3203, 3514, 3975, 4125, 4422, 5445, 5919; Ex. 14, 14A, 40, 40A)

[1] The citations following each finding of fact refer to the pages of the transcript of testimony and the exhibits received in evidence at the hearing.

9. At the present time, stabilized peanut butter has largely displaced unstabilized or old-fashioned peanut butter in the market place. The sale of stabilized peanut butter is increasing faster than that of unstabilized. (R. 382, 3183, 3185, 3444)

10. Industry practices by both large and small manufacturers should be considered in promulgating a standard of identity, but a definition and standard of identity need not embrace all existing industry practices. (R. 848, 2191, 2628)

11. Some manufacturers do not consider the stayed standard of July 8, 1965, reasonable because it does not encompass their products which employ more than 10 percent total optional ingredients. (R. 3189, 3448, 3613, 5412)

12. In surveys conducted by the Food and Drug Administration in 1963 and 1965, it was found that a majority of the manufacturers from whom data were obtained produced only peanut butter containing 90 percent or more of peanuts and that others were making part of their production in this range. (R. 1160, 1171–72; Ex. 14, 40)

13. Some manufacturers changed their formulations and began using more than 10 percent optional ingredients after the Peanut Butter Manufacturers Association took a position that if a standard is established it should permit 13 percent optional ingredients. (R. 3684–3690; Ex. 14, 39, 40)

14. Many manufacturers that have produced or are producing peanut butter containing 87 percent or less of peanuts have in the past produced or are presently producing hundreds of millions of pounds of peanut butter containing 90 percent or more of peanuts. (R. 438, 3439, 3442, 3659, 4897, 4968, 5457, 5563, 5916, 5917; Ex. 14, 39, 40)

15. Some manufacturers do not meet the requirements of the stayed standard of July 8, 1965, in that they exceed the 10 percent limitation on total optional ingredients due to use of large amounts of a sweetening ingredient lower in sweetening potency than other suitable sweetening ingredients. (R. 3181, 5410; Ex. 14, 39, 40)

16. Sweetening ingredients commonly used in peanut butter are sucrose, dextrose, corn sirup, corn sirup solids, maltodextrins, and honey. Sweeteners differ in sweetening strength; sucrose, dextrose, corn sirup, and maltodextrins differ in sweetness in that descending order. Amounts of dextrose or corn sirup that have been used range up to 9 percent of the furnished peanut butter and maltodextrins have been used in amounts as great as 14 percent. Surveys conducted by the Food and Drug Administration in 1963 and 1965 showed that some peanut butter manufacturers had changed to larger amounts of sweetner that they had previously used and thereby reduced the peanut content of their products. In some cases a sweetener was replaced with a larger amount of a less potent sweetener. (R. 342–47, 1817, 2021, 2026, 2047, 2181, 3182, 5406; Ex. 14, 40)

17. Some manufacturers who now use a large percentage of sweetening ingredient have in the past produced a satisfactory peanut butter containing 90 percent or more of peanuts by using a smaller amount of a sweetner of greater sweetening strength. This was produced using the same equipment now in use and the product so made would have been in compliance with the stayed standard of July 8, 1965. (R. 3199, 3200, 3635, 3664, 3702, 3703, 3710, 5405, 5457, 5492, 5498, 5499; Ex. 14, 39, 40)

18. Some manufacturers produce peanut butter containing more than 10 percent optional ingredients, the excess being largely due to the percentage of hydrogenated oil stabilizer used. (R. 438, 2013, 3436, 4279; Ex. 14, 39, 40)

19. In 1962 the oil content of ground roasted peanuts used for manufacture of peanut butter was found by a manufacturer to range in the case of Runner variety from 49 to 55 percent; in the case of Spanish variety from 45 to 56 percent; and in the case of Virginia variety from 45 to 52 percent. A survey conducted by the Food and Drug Administration in 1960 yielded results closely similar to these. (R. 3758, 3759; Ex. 19)

20. Removal of oil from the peanut ingredient is sometimes practiced in the manufacture of peanut butter, and this removal of oil is said to be needed with extremely oily peanuts. (R. 495, 899–900, 1321, 2080, 2166, 2584, 3082; Ex. 7)

21. The stayed standard of July 8, 1965, set a limit of not more than 55 percent total fat in the finished peanut butter because this was deemed sufficient to provide for peanut butter that might be made from peanuts naturally high in oil, even with no other ingredient. (R. 3082; Ex. 7)

22. Some manufacturers have added unhydrogenated peanut oil or other unhydrogenated vegetable oils to compensate for deficiency in oil content of the peanut ingredient. Addition of oil is needed only with peanuts that are characteristically low in oil content. Oils other than peanut oil are foreign to the peanut ingredient, and only peanut oil is suitable for this adjustment. (R. 495, 899–900, 1321, 1671, 1680, 1754, 1837, 2050, 2080, 2166, 2584, 3196, 5020, 5970, 5974–75; Ex. 7, 14, 40)

23. The amount of stabilizer needed depends on the amount of free oil in the peanut butter system whether that free oil is from the peanuts or is added peanut oil. Peanut butter made from peanuts with a high oil content might require more stabilizer than that made from peanuts of lower oil content, depending on the characteristics desired by the manufacturer. (R. 2615, 2616, 5143)

24. Hydrogenated vegetable oils differ physically from their source oils. In proportion to the degree of hydrogenation, they are less fluid at ordinary temperatures and have higher melting points than their source oils. Partially and fully hydrogenated oils range in form from white plastic substances to white solids which may in some cases be hard enough to be flaked or granulated. (R. 2645, 2646, 4935)

25. Hydrogenated vegetable oils differ chemically in a number of respects from their source oils. Hydrogenated oils contain a higher percentage of saturated fatty acids and a lower percentage of unsaturated fatty acids than their source oils, the amount of difference depending on the extent of hydrogenation. Hydrogenation also changes some of the minor constituents occurring in the unsaponifiable fractions of certain oils. (R. 2646, 2648, 4935, 4936)

26. One of the more widely sold brands of peanut butter contains less than 10 percent total optional ingredients, but does not conform to the stayed standard of July 8, 1965, because it contains more than 3 percent of a blend of partially hydrogenated oils of nonpeanut origin. With respect to this product there was testimony that 3 percent of a more fully hydrogenated stabilizer would prevent oil separation but would not give the other desired characteristics in this product such as stability and absence of a waxy feel in the mouth. (R. 4909, 4910, 4920, 4927, 5134)

27. It was testified that a limitation of not over 3 percent of hydrogenated vegetable oils other than hydrogenated peanut oil in peanut butter is unnecessary. Products having a preferred combination of properties (stability against oil separation and against change in consistency with temperature; spreadability and freedom from stickiness) were asserted to require the use of partially hydrogenated oils or oils hydrogenated to various degrees, other than hydrogenated peanut oil, in amounts more than 3 percent but not more than 10 percent of the food. Hydrogenated and partially hydrogenated oils such as cottonseed oil are used as source oils for the manufacture of mono- and diglycerides which, under the stayed standard of July 8, 1965, may be used in any amount up to the limit for total optional ingredients; namely, 10 percent of the food. (R. 3849, 3436, 3447, 4910, 4920, 4927, 4928, 4937, 5134, 5149)

28. Hydrogenated vegetable oils used as stabilizing ingredients in peanut butter are decolorized and deodorized after hydrogenation and are substantially free from any characteristic flavor. Such refining also reduces the content of unsaponifiable matter. Peanut butter made with a stabilizer derived from peanut oil does not have a flavor different from one made with the same amount of a stabilizer derived from nonpeanut oil sources. (R. 2685, 4941)

29. Hydrogenation of vegetable oils changes their identity so that they can no longer be considered the respective source oils. They may retain many of their original properties but they are not the same. (R. 391, 408, 409, 413, 418, 521, 1303, 2646)

30. The medical literature does not show that fats and oils are generally considered by allergists as foods likely to cause allergic responses. (R. 7466)

31. The various hydrogenated vegetable oils used as stabilizing ingredients in peanut butter are alike in nutritional value. From the nutritional standpoint

there is no need to specify on labels the source of a hydrogenated oil in peanut butter. (R. 4023, 4024, 4032, 5601)

32. Hydrogenated vegetable oils used in peanut butter stabilizers are so changed in physical and chemical characteristics from the source oils that it is appropriate to designate them as "hydrogenated (or hardened) vegetable oils" rather than to identify the source oils. In composition and physical attributes they resemble each other more closely than they do their respective source oils. (R. 4934–37)

33. Sucrose is purified by recrystallization and is identical whether produced from cane or beets. No need has been shown for requiring its source to be shown on labels of peanut butter. (R. 2251–52)

34. Stabilizing ingredients used in peanut butter include hydrogenated or partially hydrogenated peanut oil, hydrogenated or partially hydrogenated vegetable oils other than peanut oil, mono- and diglycerides, glyceryl monostearate, lecithin, and hydroxylated lecithin. (R. 363, 405, 716, 1172, 1173, 2652, 3164, 4909, 5145; Ex. 14, 40)

35. Lecithin and hydroxylated lecithin are safe and suitable stabilizing ingredients for peanut butter. (R. 725, 3164, 5145; Ex. 7)

36. The stabilizing ingredient known as mono- and diglycerides is a safe and suitable stabilizing ingredient for peanut butter. It is made by reacting fats or fatty acids with glycerin. It may be made from any fat or oil, including partially and fully hydrogenated fats and oils. A typical product contains about 10 percent of unreacted triglycerides, the remainder consisting of approximately equal amounts of monoglycerides and diglycerides. Mono- and diglycerides are effective stabilizing ingredients for peanut butter when used in limited amounts; if too much is used the food sets up too hard. The common name of this ingredient and the name by which it should be designated on the label of peanut butter is "mono- and diglycerides." (R. 839, 2268, 2748–49, 2785, 2928, 4927, 5178; Ex. 7)

37. The stabilizing ingredient glyceryl monostearate, or monoglycerides, is a commercial product distinct from that known as mono- and diglycerides, though chemically it belongs to the same class. Technically, it is used in the same way and is subject to the same limitations on amount used (see finding 36). It is obtained by distillation from mono- and diglycerides and commonly contains at least 90 percent of monoglycerides of saturated fatty acids, mainly stearic and palmitic. Monoglycerides of this degree of purity when used as ingredients of peanut butter are appropriately designated on the label as "glyceryl monostearate" or as "monoglycerides." (R. 2529, 2785–86, 2928, 5193–94; Ex. 73, 74, 127A, 127B)

38. Synthetic glycerin meeting U.S.P. specifications is suitable for manufacture of mono- and diglycerides used as ingredients of peanut butter. (R. 2731, 6754; Ex. 130A, 130B)

39. The tocopherols naturally present in peanuts have an antioxidant effect. (R. 2653, 2783)

40. It would not be in the interest of consumers to provide for addition of artificial sweeteners to a high calorie food such as peanut butter. The use of artificial sweeteners to replace nutritive sweeteners in peanut butter would actually increase its caloric content and lead to consumer deception. (R. 1101, 3957)

41. Artificial color could be used to conceal inferiority in peanut butter. (R. 1318, 5905)

42. A peanut butter product containing artificial flavor is not peanut butter. Peanut butter has a distinctive flavor of its own and there is no reason to alter its flavor by the addition of artificial flavoring. Artificial flavoring can be used to conceal inferiority in peanut butter. (R. 1098, 1675, 2627, 2628, 5904, 5905, 6123)

43. Three government agencies—Department of Agriculture, Veterans' Administration, and Department of Defense—puchase approximately 47 million pounds of peanut butter a year and, except for the small amount purchased by the Department of Defense for combat rations, do not call for fortification of the peanut butter with vitamins because they conclude there is no nutritional justification for it. The Food and Nutrition Board of the National Research Council in April of 1962 unanimously decided not to endorse the addition of vitamins to peanut butter. (R. 626, 922, 960, 1961, 1962, 2227, 2228, 2232; Ex. 12, 13, 16)

44. It is not the practice of peanut butter manufacturers to add antioxidants, artificial flavors, artificial sweeteners, chemical preservatives, or color additives to peanut butter, nor is there any need, nutritional or other, for the addition of these substances. (R. 605–607, 632–634, 1101, 1102, 1107, 1108, 1112, 1128, 1678, 2078, 2079, 2163, 2164, 2579, 2653, 3514, 3702, 4060, 4238, 4358, 4359, 5516, 5517, 5619, 5634, 5635 5636, 5904, 5905; Ex. 14, 15, 16, 39, 40, 73, 74)

45. Wheat germ has been used as a seasoning ingredient in peanut butter in amounts up to 5 percent of the finished food and is a safe and suitable seasoning ingredient for peanut butter. (R. 2081, 2082, 6313, 6331; Ex. 125)

46. Confectionery items containing ground roasted peanuts cannot be made successfully from peanut butter suitable as a household spread. Such peanut butter does not have the consistency required for the manufacture and handling of such confections. (R. 3891, 3913, 6774, 6789, 6809)

47. A consumer buying a confection containing ground peanuts with other ingredients knows he is buying a confection and does not expect it to have the characteristics or identity of the spread known as peanut butter. (R. 3892–94, 3924)

48. The standard of identity for peanut butter should not be applicable to confections that can be readily distinguished by consumers from the article named in the standard. (R. 2083, 2589, 2594, 6810)

49. A product containing 75 percent ground roasted peanuts was for about 3 years, ending in 1961, manufactured and sold as "peanut spread." Thereafter its formulation was changed so that it contained over 90 percent peanuts and it was sold as peanut butter. There was testimony that products containing less peanuts than are prescribed by a standard for peanut butter should be designated by another name such as "peanut spread." There was also testimony that standards for peanut products closely resembling each other, under different names, would cause confusion and not be in the consumer's interest. In the testimony favoring a standard for a product other than peanut butter, various levels of peanut content were proposed but there was no testimony on other requirements of such a standard. (R. 456–57, 582, 597, 1314, 1676, 2089, 2189, 2190, 2542, 2584, 2626, 3128, 3485; Ex. 5, 11A, 49, 64)

50. Ingredients used in peanut butter must not only be safe but also must conform to consumer understanding of the product and be suitable to promote honesty and fair dealing in the interest of consumers. To be suitable, an ingredient must perform a useful function and not cause deception. (R. 566–67, 575, 1073, 1074, 1331)

51. The only optional ingredients for peanut butter that have been shown to perform a useful function and maintain the integrity of the food are seasoning and stabilizing ingredients. (R. 1071–76; Ex. 14, 39, 40)

Conclusions. On the basis of the foregoing findings of fact and giving consideration to the weight of substantial evidence of the entire record, the following conclusions are drawn:

1. The promulgation of a reasonable definition and standard of identity for peanut butter at this time will promote honesty and fair dealing in the interest of consumers.

2. The definition and standard of identity, § 46.1, as established by the order published in the FEDERAL REGISTER of July 8, 1965 (30 F.R. 8626), and stayed by order of the Commissioner of Food and Drugs published September 4, 1965 (30 F.R. 11349), will be reasonable and will promote honesty and fair dealing in the interest of consumers if it is amended to:

a. Remove the limitation in § 46.1(c) that not more than 3 percent of hydrogenated oils other than hydrogenated peanut oil may be used as optional stabilizing ingredients in peanut butter.

b. Provide that hydrogenated vegetable oils used as optional stabilizing ingredients for peanut butter may be designated on the label either by the names of their respective vegetable sources or as hydrogenated (or hardened) vegetable oils.

3. It is not necessary in order to promote honesty and fair dealing in the interest of consumers to specify, except as set forth in § 46.1 (c) and (e)(1) as amended in this tentative order, what

stabilizing ingredients other than hydrogenated vegetable oils are suitable optional ingredients for peanut butter as performing a useful function in its manufacture, or how they should be designated on the label of this food.

4. It will promote honesty and fair dealing in the interest of consumers for the definition and standard of identity of peanut butter to exclude as optional ingredients each and all of the following substances: Antioxidants; vitamins A, B_1, C, and D; artificial flavorings; artificial sweeteners; chemical preservatives; and color additives.

5. Partially defatted wheat germ in amounts up to 5 percent of the finished food is a safe and suitable seasoning ingredient for peanut butter.

6. It is not necessary to amend the stayed standard for peanut butter to state specifically that it is not applicable to confectionery items that may be composed in part of peanut butter. The peanut components of peanut confections are of necessity different from peanut butter in composition and physical characteristics.

7. There is insufficient evidence of record upon which to promulgate a definition and standard of identity for a food product made from ground peanuts having a lower amount of peanut ingredient than the minimum amount of peanut ingredient contained in peanut butter.

8. It would not promote honesty and fair dealing in the interest of consumers for the definition and standard of identity for peanut butter to provide for the inclusion of any optional ingredients other than seasoning and stabilizing ingredients.

On the basis of the foregoing findings of fact and conclusions drawn therefrom, it is concluded that it is reasonable and will promote honesty and fair dealing in the interest of consumers to establish a definition and standard of identity for peanut butter as follows:

§ 46.1 Peanut butter; identity; label statement of optional ingredients.

(a) Peanut butter is the food prepared by grinding one of the shelled and roasted peanut ingredients provided for by paragraph (b) of this section, to which may be added safe and suitable seasoning and stabilizing ingredients provided for by paragraph (c) of this section, but such seasoning and stabilizing ingredients do not in the aggregate exceed 10 percent of the weight of the finished food. To the ground peanuts, cut or chopped, shelled, and roasted peanuts may be added. During processing, the oil content of the peanut ingredient may be adjusted by the addition or subtraction of peanut oil. The fat content of the finished food shall not exceed 55 percent when determined as prescribed in section 25.004 *Crude Fat—Official, First Action*, paragraph (a) *Direct method*, in "Official Methods of Analysis of the Association of Official Agricultural Chemists," 10th Edition, page 412.

(b) The peanut ingredients referred to in paragraph (a) of this section are:

(1) Blanched peanuts, in which the germ may or may not be included.

(2) Unblanched peanuts, including the skins and germ.

(c) The seasoning and stabilizing ingredients referred to in paragraph (a) of this section are suitable substances which are not food additives as defined in section 201(s) of the Federal Food, Drug, and Cosmetic Act, or if they are food additives as so defined, they are used in conformity with regulations established pursuant to section 409 of the act. Seasoning and stabilizing ingredients that perform a useful function are regarded as suitable, except that artificial flavorings, artificial sweeteners, chemical preservatives, added vitamins, and color additives are not suitable ingredients of peanut butter. Oil products used as optional stabilizing ingredients shall be hydrogenated vegetable oils. For the purposes of this section, hydrogenated vegetable oil shall be considered to include partially hydrogenated vegetable oil.

(d) If peanut butter is prepared from unblanched peanuts as specified in paragraph (b)(2) of this section, the name shall show that fact by some such statement as "prepared from unblanched peanuts (skins left on)." Such statement shall appear prominently and conspicuously and shall be in type of the same style and not less than half of the point size of that used for the words "peanut butter." This statement shall immediately precede or follow the words "peanut butter," without intervening written, printed, or graphic matter.

(e) (1) The label of peanut butter shall name, by their common names, the optional ingredients used, as provided in paragraph (c) of this section. If hydrogenated vegetable oil is used, the label statement of optional ingredients shall include the words "hydrogenated _____ _____ oil" or "hardened _____ _____ oil," the blank being filled in either with the names of the vegetable sources of the oil or, alternatively, with the word "vegetable"; for example, "hydrogenated peanut oil" or "hardened peanut and cottonseed oils" or "hydrogenated vegetable oil."

(2) The common names of the optional ingredients used, as provided in subparagraph (1) of this paragraph, shall be set forth on the principal display panel or panels of the label with such prominence and conspicuousness as to render them likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

Any interested person whose appearance was filed at the hearing may, within 30 days from the date of publication of this tentative order in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written exceptions thereto. Exceptions shall point out with particularity the alleged errors in the findings of fact and proposed order, and shall contain specific references to the pages of the transcript of testimony or to the exhibits on which the exceptions are based. Exceptions and accompanying briefs should be submitted in quintuplicate.

Dated: November 28, 1967.

WILTON B. RANKIN,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 67-14232; Filed, Dec. 5, 1967; 8:48 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 21]

[Docket No. 8564; Notice No. 67-52]

TYPE CERTIFICATES

Designation of Applicable Regulations

The Federal Aviation Administration (FAA) is considering amending Part 21 of the Federal Aviation Regulations (FARs) with respect to the designation of applicable regulations governing the issue of type certificates. This proposal would clarify the effectivity date of regulations applicable to the various categories of aircraft, make provisions for extending the duration of applications for type certificates, and provide a basis for type certification of certain older import aircraft.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket or notice number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before March 6, 1968, will be considered by the Administrator before taking action upon the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

With certain exceptions, paragraph (a) of § 21.17 of the FARs presently requires an applicant for a type certificate, other than for restricted category, import, or surplus military aircraft, to show that the product concerned meets the applicable airworthiness requirements that are in effect on the date of application. The exclusion of restricted category, import and surplus military aircraft has been the subject of some misunderstanding and is misleading in that currently effective requirements may apply in certain situations to these three classes of aircraft. Furthermore, with this exclusion in paragraph (a) of § 21.17 it is not clear whether the rules of paragraphs (b) and (c) of § 21.17 are applicable to these three classes of aircraft.

Section 21.17 is generally applicable to the issue of all type certificates. Accordingly, it is proposed to delete from paragraph (a) of § 21.17 the parenthetical expression "(other than for restricted category, import, or surplus military, aircraft)." The effect of this change would be to make it clear that an aircraft being type certificated in the restricted category or as a surplus military or import aircraft, must be shown to meet the applicable regulations in effect on the date of application for the type certificate unless compliance with later effective amendments is elected or required under § 21.17 or compliance with earlier regulations is provided for in §§ 21.25, 21.27, or 21.29.

The present paragraph (b) of § 21.17 states, in pertinent part, that the time limit of an application for type certification of a transport category aircraft is 5 years, and for any other type certificate is 3 years. At the time this regulation was adopted, the prescribed periods were considered reasonable for the type certification process. However, today, the development of new complex and ultralarge aircraft coupled with radical advances in performance and operation dictate the expenditure of relatively greater engineering effort over a longer period of time than was required of previous aircraft development programs. Therefore, it is proposed to amend the regulation to allow a longer effective period for an applicant who can show at the time of application that the design, development, and testing of his product will require more than the prescribed 3 or 5 years. Moreover, with regard to an application for which the time limit has run, an extension of the original application would be allowed as an alternative to the current requirement for a new application. In the case of an extension, however, compliance would not be shown to regulations in effect on the date of the original application but rather a date, selected by the applicant, not earlier than the date preceding actual issue of the type certificate by the time limit of the original application. This treatment of applications whose effectivity terminates prior to issue of the type certificate is covered in proposed new § 21.17(c). Present paragraph (c) would be redesignated as paragraph (d).

Under the current § 21.29, an applicant for a type certificate for an import product is entitled to that certificate if the country of manufacture is a country with which the United States has an agreement for the acceptance of those products for export and import and that country certifies that the product meets the applicable airworthiness requirements of the FARs or the airworthiness requirements of the country of manufacture and any other requirements the Administrator may prescribe to provide a level of safety equivalent to that provided by the applicable airworthiness requirements of the FARs. The section is thus oriented to new import products for which U.S. type certification is sought under current U.S. standards. No specific provision is made, however, for an older aircraft holding a foreign airworthiness approval but for which a U.S. type certificate has never been issued. Considerable interest is being shown by U.S. citizens in owning, registering, and operating these older foreign aircraft in the United States.

Where an application for type certification of import products is based on a showing of compliance with foreign airworthiness standards, the present § 21.29 does not clearly identify the applicable airworthiness requirements of the FARs with which safety equivalency must be provided. It is clear that for a new foreign product not yet granted foreign airworthiness approval, the Administrator would prescribe other requirements to insure a level of safety equivalent to the applicable requirements of the FARs effective on the date of application for the type certificate. On the other hand, for an older foreign product previously approved under a foreign airworthiness certificate, the FAA does not consider that it is necessary in the interest of safety to require a showing of compliance with requirements designed to provide a level of safety equivalent to the current U.S. airworthiness standards. In this connection, by comparison, a product of older design manufactured in the United States may continue to be manufactured and certificated on the basis of compliance with U.S. standards that were in effect on the date of application for the type certificate. This proposal would provide parallel treatment for the older foreign products that had previously received airworthiness approval by the country of manufacture.

On the basis of the foregoing, it is proposed to amend § 21.29 to make it clear that with the exception of import products previously granted foreign airworthiness approval, the applicable U.S. airworthiness regulations referred to therein are those designated in § 21.17. For import products previously granted a foreign airworthiness approval, the regulations would be changed to permit the issuance of a type certificate if the country of manufacture certifies that the product meets the applicable airworthiness requirement of the foreign country of manufacture and any other requirement prescribed by the Administrator to provide a level of safety equivalent to that provided by the applicable U.S. regulations that were in effect at the time of the original foreign airworthiness approval. The foreign approval, whatever it may be termed by the foreign country, is referred to in this proposal as the "foreign airworthiness certificate."

These amendments are proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354, 1421, and 1423).

In consideration of the foregoing, it is proposed to amend part 21 of the Federal Aviation regulations as follows:

§ 21.17 [Amended]

1. Section 21.17 is amended as follows:

a. By amending paragraph (a) by striking out the parenthetical expression "(other than for restricted category, import, or surplus military, aircraft)".

b. By amending paragraph (b) to read as follows:

(b) An application for type certification of a transport category aircraft is effective for five years and an application for any other type certificate is effective for 3 years, unless an applicant shows at the time of application that his product requires a longer period of time for design, development, and testing, and the Administrator approves a longer period.

c. By redesignating paragraph (c) as paragraph (d) and adding a new paragraph (c) to read as follows:

(c) In a case where a type certificate has not been issued, or it is clear that a type certificate will not be issued, within the time limit established under paragraph (b) of this section, the applicant may—

(1) File a new application for type certificate and comply with all the provisions of paragraph (a) applicable to an original application; or

(2) File for an extension of the original application and comply with the applicable airworthiness requirements of this subchapter that were effective on a date, to be selected by the applicant, not earlier than the date which precedes the date of issue of the type certificate by the time limit established under paragraph (b) for the original application.

§ 21.29 [Amended]

2. By amending paragraph (a)(1) to read as follows:

(a) An applicant is entitled to a type certificate for a product manufactured in a foreign country with which the United States has an agreement for the acceptance of those products for export and import if—

(1) The country in which the product was manufactured certifies that the product has been examined, tested, and found to meet—

(i) The applicable airworthiness requirements of this subchapter as designated in § 21.17; or

(ii) The applicable airworthiness requirements of the country in which the product was manufactured and any other requirements the Administrator may prescribe—

(a) To provide a level of safety equivalent to that provided by subdivision (i) above; or

(b) If a foreign airworthiness certificate has been issued for that product, to provide a level of safety equivalent to that provided by the applicable U.S. airworthiness requirements that were in effect at the time of issue of the foreign airworthiness certificate; and

Issued in Washington, D.C., on November 29, 1967.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[F.R. Doc. 67-14189; Filed, Dec. 5, 1967; 8:48 a.m.]

[14 CFR Part 25]

[Docket No. 8569; Notice 67-51]

FUEL JETTISONING SYSTEMS FOR TRANSPORT CATEGORY AIRPLANES

Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending § 25.1001 of the Federal Aviation Regulations to revise the criteria for fuel jettisoning systems.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, and arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before February 5, 1968, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Under § 25.1001(a) of the Federal Aviation regulations a fuel jettisoning system is a prerequisite to type certification of a transport category airplane if its maximum takeoff weight is more than 105 percent of its maximum landing weight. If a fuel jettisoning system is required, it must be able to jettison the fuel at an average rate of 1 percent of the maximum takeoff weight per minute, except that the time to jettison enough fuel to bring the takeoff weight down to the landing weight need not be less than 10 minutes.

While the current fuel jettisoning requirement has proven adequate for reciprocating engine powered airplanes, it is not considered to be reasonable for turbine engine powered airplanes in view of the relatively rapid fuel burn-off rate associated with turbine engines. This matter was discussed at the April 1966, FAA/Industry review of the transport category airplane airworthiness requirements and the suggestions stemming from that review have been considered by the FAA in drafting this proposal.

Service experience with airplanes certificated under the current regulations and under the various exemptions to those regulations has shown that the structural design requirements applicable to transport category airplanes provide sufficient structural strength for landings at weights up to the maximum takeoff weight established for those airplanes. However, at takeoff weights exceeding 105 percent of the landing weight, the weight of the airplane that could exist during the approach and landing stages following a rapid go-around would substantially affect the climb performance of the airplane. Thus, rather than predicate the installation of a fuel jettisoning system on an arbitrary weight ratio between the takeoff and landing weights of an airplane, it is considered more reasonable to relate the need for a fuel jettisoning system to the climb performance of that airplane. The relevant climb requirements for the landing condition are the all engine operating landing climb and the one engine inoperative approach climb prescribed in §§ 25.65(b) and 25.67(c) for reciprocating engine powered airplanes, and in §§ 25.119 and 25.121(d) for turbine engine powered airplanes. Safety, therefore, dictates that an airplane must be at that weight during the approach and landing at which it can meet the applicable climb requirements. Assuming the most unfavorable situation involving a rapid go-around and a landing at the airport of departure, an airplane without a fuel jettisoning system would have to meet the climb requirements at the maximum takeoff weight less the weight of the fuel that would be consumed by the engines during the go-around operation. Considering airport traffic conditions, the FAA believes that a pilot should be able to complete a rapid go-around procedure in not more than 15 minutes. Therefore, the regulation would provide that if a fuel jettisoning system is required, it must be designed so that it will jettison enough fuel within 15 minutes to bring the maximum takeoff weight, less the weight of the fuel that would be consumed by the engines, down to the weight at which the airplane meets the applicable climb requirements.

In view of the foregoing, the FAA proposes to amend § 25.1001 to require a fuel jettisoning system on any airplane that cannot meet the specified approach and landing climb requirements at a weight equal to its maximum takeoff weight less the weight of the fuel that would be consumed by the engines during a 15-minute operation involving a takeoff, go-around and landing at the airport of departure. If a fuel jettisoning system is required, it must be designed to jettison enough fuel within 15 minutes so that the airplane will be at that weight at which it can meet the specified climb requirements, during the approach and landing.

In addition it is proposed to amend the requirements of present paragraphs (c) and (d) to make it clear that while the system must provide a means to prevent jettisoning of the fuel in the tanks used for takeoff and landing below the amount specified in the present regulations if only one jettisoning control is provided, it may be designed so that the remaining fuel can be jettisoned by means of an auxiliary control which is independent of the main jettisoning control.

This amendment is proposed under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423).

In consideration of the foregoing, it is proposed to amend § 25.1001 of the Federal Aviation Regulations by deleting present paragraphs (a) through (d), by redesignating paragraphs (e), (f), and (g) as paragraphs (j), (k), and (l), respectively, and by adding new paragraphs (a) through (i) to read as follows:

§ 25.1001 Fuel jettisoning system.

(a) A reciprocating engine powered airplane must have a fuel jettisoning system installed that meets the requirements of this section unless it is shown that the airplane meets the climb requirements of §§ 25.65(b) and 25.67(c) at the weight specified in paragraph (c).

(b) A turbine engine powered airplane must have a fuel jettisoning system installed that meets the requirements of this section unless it is shown that the airplane meets the climb requirements of §§ 25.119 and 25.121(d) at the weight specified in paragraph (c).

(c) Compliance with the climb performance requirements of paragraph (a) or (b) of this section must be shown at a weight equal to the maximum takeoff weight less the actual or computed weight of the fuel that would be consumed by the engines during a 15-minute flight in which the airplane is involved in a takeoff, go-around, and landing at the airport of departure conducted in accordance with procedures established by the applicant for operation in service.

(d) For a reciprocating engine powered airplane, the fuel jettisoning system must be designed so that it will jettison enough fuel within 15 minutes to bring the weight specified in paragraph (c) down to the weight at which the airplane will meet the climb requirements of §§ 25.65(b) and 25.67(c) assuming that the fuel is jettisoned under the condition found least favorable during the flight test prescribed in paragraph (f) of this section.

(e) For a turbine engine powered airplane, the fuel jettisoning system must be designed so that it will jettison enough fuel within 15 minutes to bring the weight specified in paragraph (c) down to the weight at which the airplane will meet the climb requirements of §§ 25.119 and 25.121(d) assuming that the fuel is jettisoned under the condition found least favorable during the flight test prescribed in paragraph (f) of this section.

(f) Fuel jettisoning must be demonstrated beginning at maximum takeoff weight with flaps and landing gear up and in—

(1) A power-off glide at $1.4V_{s_1}$;

(2) A climb at the one-engine inoperative best rate-of-climb speed, with the critical engine inoperative and the remaining engines at maximum continuous power; and

(3) Level flight at $1.4V_{s_1}$, if the results of the tests in the condition specified in subparagraphs (1) and (2) of this paragraph show that this condition could be critical.

(g) During the flight tests prescribed in paragraph (f) of this section, it must be shown that—

(1) The fuel jettisoning system and its operation are free from fire hazard;

(2) The fuel discharges clear of any part of the airplane;

(3) Fuel or fumes do not enter any parts of the airplane; and

(4) The jettisoning operation does not adversely affect the controllability of the airplane.

(h) For reciprocating engine powered airplanes, means must be provided to prevent jettisoning the fuel in the tanks used for takeoff and landing below the level allowing 45 minutes flight at 75 percent maximum continuous power. However, if there is an auxiliary control independent of the main jettisoning control, the system may be designed to jettison the remaining fuel by means of the auxiliary jettisoning control.

(i) For turbine engine powered airplanes, means must be provided to prevent jettisoning the fuel in the tanks used for takeoff and landing below the level allowing climb from sea level to 10,000 feet and thereafter allowing 45 minutes cruise at a speed for maximum range. However, if there is an auxiliary control independent of the main jettisoning control, the system may be designed to jettison the remaining fuel by means of the auxiliary jettisoning control.

* * * * *

Issued in Washington, D.C., on November 29, 1967.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[F.R. Doc. 67-14196; Filed, Dec. 5, 1967; 8:46 a.m.]

[14 CFR Part 71]

[Docket No. 8662; Notice 67-50]

CONTINENTAL CONTROL AREA

Control Zone Upper Limit

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would establish a vertical limit to control zones at the base of the continental control area.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before February 5, 1968, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Control zones are defined as circular areas with a radius of 5 miles measured from the center of an airport with extensions necessary to include instrument approach and departure paths. They extend upward from the surface of the earth without limit extending through Federal airways and the continental control area.

The primary function of control zones is to provide protected airspace for IFR operations between the airport surface and overlying controlled airspace. However, control zones also provide protected airspace for other local aircraft operations. Regulations are in effect which prohibit acrobatic flight or parachute jumping within a control zone, or the operation of unmanned free balloons below 2,000 feet above the surface within a control zone. In addition, special VFR operations are permitted only within control zones, and special VFR operations to or from "VFR-on-top" frequently require utilization of altitudes above the base of control areas or transition areas.

There is no requirement or justification for the existence of control zones above the base of the continental control area. Using the base of the continental control area as the control zone upper limit would perpetuate the effect of existing regulations regarding acrobatic flight, parachuting, free balloon operations, and special VFR operations, but would eliminate the unnecessary duplication of controlled airspace at the higher levels.

In consideration of the foregoing, it is proposed to amend § 71.11 of the Federal Aviation regulations to read as follows:

§ 71.11 Control zones.

The control zones listed in Subpart F consist of controlled airspace extending upward from the surface of the earth and terminating at the base of the continental control area. Control zones which do not underlie the continental control area have no upper limit. A control zone may include one or more airports and is normally a circular area with a radius of 5 miles and any extensions necessary to include instrument approach and departure paths.

(Sec. 307, Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on November 28, 1967.

WILLIAM E. MORGAN,
Acting Director, Air Traffic Service.

[F.R. Doc. 67-14198; Filed, Dec. 5, 1967; 8:46 a.m.]

[14 CFR Part 73]

[Airspace Docket No. 66-SO-90]

RESTRICTED AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 73 of the Federal Aviation Regulations that would alter R-7103 Salinas, P.R., by adding two smaller areas adjacent to the southeast and southwest boundaries of R-7103.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 20636, Atlanta, Ga. 30320. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The Department of the Army has requested the FAA to designate additional restricted airspace adjacent to the southeast and the southwest boundaries of R-7103. The additional restricted airspace is necessary to encompass the larger flight pattern required for F-100, F-104, F-105, and the F-4 aircraft that are being deployed to the Puerto Rico Air National Guard.

Restricted Area R-7103 was originally designated to encompass ground-to-ground firing by the U.S. Army. In February 1967, the Army entered into a mutual agreement with the Puerto Rico Air National Guard to permit use of R-7103 by F-86 aircraft in air-to-ground gunnery. The present boundary of R-7103 does not permit the newer type aircraft to use this restricted area; however, the expanded area will permit safe gunnery patterns to be established for these aircraft.

The proposed additional restricted airspace would move the southern boundaries closer to the Salinas VFR airport. To preclude any conflict with potential future airport expansion, the new restricted airspace will be evaluated after one year to determine the impact on the Salinas airport in light of any changes in the utilization of R-7103 and of the airport.

If action is taken to adopt this proposal, the Salinas, P.R., Restricted Area R-7103 would be altered as follows:

R-7103 SALINAS, P.R.

SUBAREA A (SAME AS PRESENT R-7103)

Boundaries: Beginning at lat. 18°03'00" N., long. 66°14'35" W.; to lat. 18°01'16" N., long. 66°15'14" W.; to lat. 17°59'57" N., long. 66°16'00" W.; to lat. 17°59'16" N., long. 66°17'11" W.; to lat. 18°01'00" N., long. 66°19'58" W.; to lat. 18°01'53" N., long. 66°18'58" W.; to lat. 18°02'34" N., long. 66°18'47" W.; to lat. 18°03'26" N., long. 66°17'54" W.; to lat. 18°04'07" N., long 66°17'00" W.; to point of beginning.

SUBAREA B (TO BE ADDED)

Boundaries: Beginning at lat. 18°03'00" N., long. 66°14'35" W.; to lat. 18°03'27" N., long. 66°13'39" W.; to lat. 17°58'58" N., long. 66°15'22" W.; to lat. 17°58'30" N., long. 66°16'20" W.; to lat. 17°59'00" N., long. 66°17'27" W.; to lat. 17°59'16" N., long. 66°17'11" W.; to lat. 17°59'57" N., long. 66°16'00" W.; to lat. 18°01'16" N., long. 66°15'14" W.; to point of beginning.

SUBAREA C (TO BE ADDED)

Boundaries: Beginning at lat. 17°59'16" N., long. 66°17'11" W.; to lat. 17°59'00" N., long. 66°17'27" W.; to lat. 17°59'44" N., long. 66°19'17" W.; to lat. 18°00'27" N., long. 66°19'58" W.; to point of beginning.

Designated altitude: Subarea A, surface to 12,000 feet MSL. Subarea B, 3,000 feet MSL to 12,000 feet MSL. Subarea C, 2,000 feet MSL to 12,000 feet MSL.

Time of designation: Continuous, June 1 through August 31, other times as activated by NOTAMs issued at least 24 hours in advance.

Controlling agency: Federal Aviation Administration, San Juan ARTC Center.

Using agency: The Adjutant General, Commonwealth of Puerto Rico.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on November 28, 1967.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.

[F.R. Doc. 67-14197; Filed, Dec. 5, 1967; 8:46 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Order 177-38]

DIRECTOR OF U.S. SECRET SERVICE ET AL.

Delegation of Authority Regarding Appointment of Special Policemen

Pursuant to the authority vested in the Secretary of the Treasury, including that vested in him by delegation from the Administrator of General Services, 32 F.R. 11968 (1967), and pursuant to the authority vested in me by Treasury Department Order No. 190 (Revision 4):

(1) Authority is hereby delegated to the Director of the U.S. Secret Service to appoint uniformed guards as special policemen and to make all needful rules and regulations for the protection of the Treasury Building and Treasury Annex, Washington, D.C.;

(2) Authority is hereby delegated to the Director of the Bureau of Engraving and Printing to appoint uniformed guards as special policemen and to make all needful rules and regulations for the protection of the Bureau of Engraving and Printing and Bureau of Engraving and Printing Annex, Washington, D.C.;

(3) Authority is hereby delegated to the Director of the Bureau of the Mint to appoint uniformed guards as special policemen and to make all needful rules and regulations for the protection of the U.S. Mint, Denver, Colo.; the U.S. Bullion Depository, Fort Knox, Ky.; the U.S. Assay Office, 32 Old Slip, New York, N.Y.; the U.S. Mint, 16th and Spring Garden Streets, Philadelphia, Pa.; the U.S. Assay Office, 155 Herman Street, San Francisco, Calif.; and the U.S. Bullion Depository, West Point, N.Y.

The authority conferred by this order shall be exercised in accordance with the Act of June 1, 1948 (62 Stat. 281).

[SEAL] JOSEPH W. BARR,
Under Secretary of the Treasury.

NOVEMBER 28, 1967.

[F.R. Doc. 67-14217; Filed, Dec. 5, 1967; 8:48 a.m.]

POST OFFICE DEPARTMENT

GENERAL COUNSEL

Delegation of Authority to Sign and File Notices of Intent to Use Air Taxi Mail Service

The following is the text of Headquarters Circular No. 67-46, signed by the Postmaster General on October 23, 1967, relative to the above mentioned subject:

I. Authority is hereby delegated to the General Counsel to sign and file, on behalf of the Postmaster General, Notices of Intent to Use Air Taxi Mail Service, as described in § 298.24 of the economic regulations of the Civil Aeronautics Board (14 CFR 298.24). The General Counsel is authorized to redelegate this authority to such persons in his office as he deems appropriate.

II. A notice of intent shall be prepared and filed only on the written request of the Assistant Postmaster General, Bureau of Transportation and International Services and shall include such schedules, rates, and other data as he may require.

III. The Postmaster General reserves the right to modify, suspend, or rescind all or any part of the authority delegated by this order.

(5 U.S.C. 301, 39 U.S.C. 501)

TIMOTHY J. MAY,
General Counsel.

NOVEMBER 30, 1967.

[F.R. Doc. 67-14191; Filed, Dec. 5, 1967; 8:46 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[C-2534]

COLORADO

Notice of Classification of Public Lands for Multiple-Use Management

NOVEMBER 27, 1967.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18) and to the regulations in 43 CFR, Parts 2410 and 2411, the public lands within the areas described below together with any lands therein that may become public lands in the future are hereby classified for multiple-use management. Publication of this notice segregates all the described lands from appropriation only under the agricultural land laws (43 U.S.C. Parts 7 and 9, 25 U.S.C. 334) and from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171). The described lands shall remain open to all other applicable forms of appropriation including the mining and mineral leasing laws. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended or within a grazing district established pursuant to the Act of June 28, 1934, (48 Stat. 1269) as amended which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. No protests or objections were received following publication of a notice of proposed classification (32 F.R. 12760, 12761) or at the public hearing on September 27, 1967, at Walden, Colo. Approximately 1,500 acres of public land were inadvertently omitted from lands described in the list of lands in the proposal. These lands are shown in the Amendment (32 F.R. 15716) and are included in Blocks E, G, and J. The record showing the comments received and other information is on file and can be examined in the Glenwood Springs District Office, Bureau of Land Management, Glenwood Springs, Colo. The public lands affected by this classification are located within the following described area and are described in documents and are shown on maps designated by Serial No. C-2534 available for inspection at the Glenwood Springs District Office, Bureau of Land Management, Post Office Box 1009, Glenwood Springs, Colo. 81601; North Park Resource Area Headquarters, SCD Building, Walden, Colo. 80480; and Land Office, Bureau of Land Management, Room 15019, Federal Building, 1961 Stout Street, Denver, Colo. 80202.

SIXTH PRINCIPAL MERIDIAN, COLORADO

JACKSON COUNTY

Block A

T. 9 N., R. 81 W.,
Secs. 4, 5, 6, 8, and 9.
T. 10 N., R. 81 W.,
Secs. 27 to 35, inclusive.

Block A aggregates approximately 4,590.06 acres of public land.

Block B

T. 8 N., R. 82 W.,
Sec. 2.
T. 9 N., R. 82 W.,
Sec. 35.

Block B aggregates approximately 248.39 acres of public land.

Block C

T. 7 N., R. 81 W.,
Secs. 5, 6, and 7.
T. 7 N., R. 82 W.,
Secs. 1 and 12.
T. 8 N., R. 81 W.,
Secs. 9 and 10;
Sec. 14, SE¼SW¼, SW¼SE¼;
Secs. 15, 20 to 28, inclusive;
Secs. 26 to 29, inclusive;
Secs. 31 and 32;
Sec. 33, N½NE¼, NW¼;
Sec. 34, NW¼NW¼.

Block C aggregates approximately 6,066.72 acres of public land.

Block D

T. 7 N., R. 80 W.,
Secs. 13, 14, 15, and 21 to 24, inclusive;
Sec. 26, NW¼NW¼;
Secs. 27 and 28.

Block D aggregates approximately 2,920 acres of public land.

Block E

T. 6 N., R. 79 W.,
Secs. 5 and 6.
T. 6 N., R. 80 W.,
Sec. 1, lots 1 and 2.
T. 7 N., R. 79 W.,
Secs. 29 and 30;
Sec. 31, NE¼NE¼;
Sec. 32, NW¼NW¼.

Block E aggregates approximately 1,313.23 acres of public land.

Block F

T. 6 N., R. 81 W.,
Secs. 1 to 4, inclusive;
Secs. 10 and 11;
Sec. 12, NW¼NW¼.
T. 7 N., R. 80 W.,
Sec. 31.
T. 7 N., R. 81 W.,
Sec. 36.

Block F aggregates approximately 2,064.72 acres of public land.

Block G

T. 6 N., R. 80 W.,
Sec. 5, lots 5, 6, and 9, SW¼SW¼;
Sec. 6;
Sec. 7, lots 5, 6, and 7;
Sec. 30.
T. 6 N., R. 81 W.
Sec. 12, SE¼NE¼, E½SE¼, SW¼SE¼;
Sec. 13, NW¼NE¼.
T. 7 N., R. 80 W.,
Sec. 32.

Block G aggregates approximately 1,322.68 acres of public land.

Block H

T. 6 N., R. 80 W.,
Sec. 19, lots 7, 8, and 10;
Secs. 29 and 32.

Block H aggregates approximately 1,311.23 acres of public land.

Block I

T. 5 N., R. 80 W.,
Sec. 7.
T. 5 N., R. 81 W.,
Secs. 1, 2, and 4;
Sec. 5, NE¼SE¼, SE¼NW¼SE¼;
Secs. 7 to 12, inclusive;
Sec. 14;
Sec. 15, lots 1, 2, and 3;
Secs. 17 and 18;
Sec. 19, part of lots 5, 6, 11, 12, 13, 14, and 19;
Sec. 20, part of lots, 2, 3, and 4;
Sec. 22, lot 2 and part of lot 4;
Sec. 30, lots 5 and 8, part of lots 9 and 10.
T. 5 N., R. 82 W.,
Secs. 23 and 24;
Sec. 25, lot 1.
T. 6 N., R. 81 W.,
Secs. 26 and 35.

Block I aggregates approximately 5,226.90 acres of public land.

Block J

T. 6 N., R. 79 W.,
Secs. 26, 27, 28, 29, 33, 34, and 35.
T. 6 N., R. 80 W.,
Sec. 25;
Sec. 26, S½;
Secs. 35 and 36.

Block J aggregates approximately 3,520 acres of public land.

Block K

T. 6 N., R. 79 W.,
Secs. 2, 3, and 4.
T. 7 N., R. 79 W.,
Secs. 33 and 34.

Block K aggregates approximately 1,272.66 acres of public land.

The public lands described aggregate approximately 30,676.57 acres of public land.

3. For a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER, interested parties may submit comments to the Secretary of the Interior, LLM, 721, Washington, D.C. 20240 (43 CFR 2411.1-2(d)).

E. I. ROWLAND,
State Director.

[F.R. Doc. 67-14187; Filed, Dec. 5, 1967; 8:45 a.m.]

PROCUREMENT AGENT (PURCHASING UNIT)

Redelegation of Authority

NOVEMBER 28, 1967.

SECTION 1. *Authority.* Pursuant to the authority contained in section 2 of Order No. 698 of the Bureau of Land Management, the following is hereby redelegated the authority contained therein to sign purchase orders and contracts for procurement of supplies and services in amounts up to $2,500; except that procurements from established sources (GSA, FSS, etc.) may be made in any amount:

(a) Procurement Agent (Purchasing Unit).

SEC. 2. *Effective date.* This order is effective upon publication in the FEDERAL REGISTER.

GARTH H. RUDD,
Director, Denver Service Center.

NOVEMBER 28, 1967.

[F.R. Doc. 67-14188; Filed, Dec. 5, 1967; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

SALES OF CERTAIN COMMODITIES

December Sales List

Notice to Buyers. Pursuant to the policy of Commodity Credit Corporation issued October 12, 1954 (19 F.R. 6669), and subject to the conditions stated therein as well as herein, the commodities listed below are available for sale and, where noted, for redemption of payment-in-kind certificates on the price basis set forth.

The U.S. Department of Agriculture announced the prices at which CCC commodity holdings are available for sale beginning at 3 p.m., e.s.t., November 30, 1967, and, subject to amendment, continuing until superseded by the January Monthly Sales List.

The following commodities are available: Cotton (upland and extra long staple), wheat, corn, oats, barley, rye, rice, grain sorghum, peanuts, flax, tung oil, butter, cheese, and nonfat dry milk.

There is no change in the number of commodities listed for November.

Information on the availability of commodities stored in Commodity Credit Corporation bin sites may be obtained from ASCS State offices shown at the end of the sales list, and for commodities stored at other locations from ASCS commodity and grain offices also shown at the end of the list.

Corn, oats, barley, or grain sorghum, as determined by CCC, will be sold for unrestricted use for "Dealers' Certificates" issued under the emergency livestock feed program. Grain delivered against such certificates will be sold at the applicable current market price, determined by CCC.

In the following listing of commodities and sales prices or method of sales, "unrestricted use" applies to sales which permit either domestic or export use and "export" applies to sales which require export only. CCC reserves the right to determine the class, grade, quality, and available quantity of commodities listed for sale.

The CCC Monthly Sales List, which varies from month to month as additional commodities become available or commodities formerly available are dropped, is designed to aid in moving CCC's inventories into domestic or export use through regular commercial channels.

If it becomes necessary during the month to amend this list in any material way—such as by the removal or addition of a commodity in which there is general interest or by a significant change in price or method of sale—an announcement of the change will be sent to all persons currently receiving the list by mail from Washington. To be put on this mailing list, address: Director, Procurement and Sales Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Interest rates per annum under the CCC Export Credit Sales Program (Announcement GSM-3 or 4) for December 1967 are 6 percent for U.S. bank obligations and 7 percent for foreign bank obligations. Commodities now eligible for financing under the CCC Export Credit Sales Program include wheat, wheat flour, barley, bulgur, corn, cornmeal, grain sorghum, upland and extra long staple cotton, tobacco, cottonseed oil, soybean oil, dairy products, and tallow. Commodities purchased from CCC may be financed for export as private stocks under Announcement GSM-4.

Information on commodities available under Title I, P.L. 480, private trade agreements, and current information on interest rates and other phases of the program may be obtained from the Office of the General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250.

The following commodities are currently available for new and existing barter contracts: Oats, cotton (upland and extra long staple), and tobacco. Wheat and grain sorghum are also available under conditions noted in the individual commodity listings. (In addition, free market stocks of corn, grain sorghum, wheat, wheat flour, tobacco, cottonseed oil and soybean oil are eligible for barter programing under barter contracts covering procurements for Federal agencies that will reimburse CCC except that Hard Red Winter, Hard Red Spring, and durum wheats, and flour produced from those wheats, may not be exported from those wheats, may not be exported through west coast ports.)

The CCC will entertain offers from responsible buyers for the purchase of any commodity on the current list. Offers accepted by CCC will be subject to the terms and conditions prescribed by the Corporation. These terms include payment by cash or irrevocable letter of credit before delivery of the commodity, and the conditions require removal of the commodity from CCC stocks within a reasonable period of time. Where sales are for export, proof of exportation is also required, and the buyer is responsible for obtaining any required U.S. Government export permit or license. Purchases from CCC shall not constitute any assurance that any such permit or license will be granted by the issuing authority.

Applicable announcements containing all terms and conditions of sale will be furnished upon request. For easy reference a number of these announcements are identified by code number in following list. Interested persons are invited to communicate with the Agricultural Stabilization and Conservation Service, USDA, Washington, D.C. 20250, with respect to all commodities or—for specified commodities—with the designated ASCS commodity office.

Commodity Credit Corporation reserves the right to amend from time to time, any of its announcements. Such amendments shall be applicable to and be made a part of the sales contracts thereafter entered into.

CCC reserves the right to reject any or all offers placed with it for the purchase of commodities pursuant to such announcements.

CCC reserves the right to refuse to consider an offer, if CCC does not have adequate information of financial responsibility of the offerer to meet contract obligations of the type contemplated in this announcement. If a prospective offerer is in doubt as to whether CCC has adequate information with respect to his financial responsibility, he should either submit a financial statement to the office named in the invitation prior to making an offer, or communicate with such office to determine whether such a statement is desired in his case. When satisfactory financial responsibility has not been established, CCC reserves the right to consider an offer only upon submission by offerer of a certified or cashier's check, a bid bond, or other security, acceptable to CCC, assuring that if the offer is accepted, the offerer will comply with any provisions of the contract with respect to payment for the commodity and the furnishing of performance bond or other security acceptable to CCC.

Disposals and other handling of inventory items often result in small quantities at given locations or in qualities not up to specifications. These lots are offered by the appropriate ASCS office promptly upon appearance and therefore, generally, they do not appear in the Monthly Sales List.

On sales for which the buyer is required to submit proof to CCC of exportation, the buyer shall be regularly engaged in the business of buying or selling commodities and for this purpose shall maintain a bona fide business office in the United States, its territories or possessions and have a person, principal, or resident agent upon whom service of judicial process may be had.

Prospective buyers for export should note that generally, sales to U.S. Government agencies, with only minor exceptions will constitute domestic unrestricted use of the commodity.

Commodity Credit Corporation reserves the right, before making any sales, to define or limit export areas.

The Department of Commerce, Bureau of International Commerce, pursuant to regulations under the Export Control Act of 1949, prohibits the exportation or reexportation by anyone of any commodities under this program to Cuba, the Soviet Bloc or Communist-controlled areas of the Far East including Communist China, North Korea, and the Communist-controlled area of Viet Nam except under validated license issued by the U.S. Department of Commerce, Bureau of International Commerce.

For all exportations, one of the destination control statements specified in Commerce Department Regulations (Comprehensive Export Schedule § 379.10(c)) is required to be placed on all copies of the shipper's export declaration, all copies of the bill of lading, and all copies of the commercial invoices. For additional information as to which destination control statement to use, the exporter should communicate with the Bureau of International Commerce or one of the field offices of the Department of Commerce.

Exporters should consult the applicable Commerce Department regulations for more detailed information if desired and for any changes that may be made therein.

Sales Price or Method of Sale

WHEAT, BULK

Unrestricted use.

A. *Storable.* All classes of wheat in CCC inventory are available for sale at market price but not below 115 percent of the 1967 price-support loan rate for the class, grade, and protein of the wheat plus the markup shown in C below applicable to the type of carrier involved.

B. *Nonstorable.* At not less than market price, as determined by CCC.

C. *Markup and examples (dollars per bushel-in-store).*[1]

Markup in-store[1] received by—		Examples—Agricultural Act of 1949; Stat. minimum
Truck	Rail or barge	
$0.11½	$0.09	Minneapolis—No. 1 DNS ($1.59) 115 percent +$0.09; $1.68. Portland—No. 1 SW ($1.44) 115 percent +$0.09; $1.75. Kansas City—No. 1 HRW ($1.48) 115 percent +$0.09; $1.74. Chicago—No. 1 RW ($1.47) 115 percent +$0.09; $1.70.

Export.

A. CCC will sell limited quantities of Hard Red Winter and Hard Red Spring wheat at west coast ports at domestic market price levels for export under Announcement GR-345 (Revision IV, Oct. 30, 1967, as amended) as follows:

(1) Notice of foreign sale must be furnished CCC within 5 calendar days after purchase.

(2) Sales will be made only to fill dollar market sales abroad and exporter must show export from the west coast to a destination west of the 170th meridian, west longitude, and east of the 60th meridian, east longitude, and to countries on the west coast of Central and South America.

B. CCC will sell wheat for export under Announcement GR-261 (Revision III, Jan. 9, 1961, as amended and supplemented) subject to the following:

(1) All classes will be sold subject to offers which include the price at which the buyer proposes to purchase the wheat.

(2) All classes will be sold to fill dollar market sales abroad and exporter must show export from the west coast to a destination within the geographical limitation shown in A(2) above.

(3) All classes will be sold for application to barter contracts entered into pursuant to invitations for barter offers dated prior to August 26, 1966. However, CCC-owned wheat will not be sold for barter at west coast ports nor will evidence of export at west coast ports be acceptable under a sale for barter.

C. Announcement GR-262 (Revision II, Jan. 9, 1961, as amended) for export as flour as follows: All classes will be sold for application to barter contracts entered into pursuant to invitations for barter offers dated prior to August 26, 1966. However, sales for barter will not be made at west coast ports nor will evidence of export from west coast ports be acceptable under a sale for barter pursuant to this announcement.

D. CCC will not sell wheat under Announcement GR-346 until further notice.

Available: Evanston, Kansas City, Minneapolis, and Portland ASCS offices.

CORN, BULK

Unrestricted use.

A. *Redemption of domestic payment-in-kind certificates.* Such CCC dispositions of corn as CCC may designate will be in redemption of certificates or rights represented by pooled certificates under a feed grain program. The price at which corn shall be valued for such dispositions shall be the market price as determined by CCC, but not less than 115 percent of the applicable 1967 price-support loan rate[2] for the class, grade, and quality of the corn plus the markup shown in C of this unrestricted use section.

B. *General sales.*—1. *Storable.* Such CCC dispositions of storable corn as CCC may designate as general sales will be made during the month at market price, as determined by CCC, but not less than the Agricultural Act of 1949 formula minimum price for such sales which is 105 percent of the applicable 1967 price support rate[2] (published loan rate plus 19 cents per bushel) for the class, grade, and quality of the corn, plus the markup shown in C of this unrestricted use section.

2. *Nonstorable.* At not less than market price as determined by CCC.

C. *Markups and examples (dollars per bushel in-store[1] basis No. 2 Yellow Corn 14 percent M.T. 2 percent F.M.).*

Markup in-store received by—		Examples
Truck	Rail or barge	
$0.12½	$0.07½	Feed grain program domestic PIK certificate minimums: Hale County, Tex. ($1.89) 115 percent +$0.12½; $1.96½. Kansas City, Mo. (ex-rail) ($1.85) 115 percent +$0.07½; $2.20½. Agricultural Act of 1949; stat. minimums: Hale County, Tex. ($1.89+$0.34); 105 percent +$0.12½; $2.15½. Kansas City, Mo. (ex-rail) ($1.85+$0.36); 105 percent +$0.07½; $2.27½.
$0.07		Feed grain program domestic PIK certificate minimums: McLean County, Ill. ($1.08+$0.02½) 115 percent +$0.07; $1.36. Agricultural Act of 1949; stat. minimums: McLean County, Ill. ($1.08+$0.02½ +$0.19); 105 percent +$0.07; $1.48.

Available. Evanston, Kansas City, Minneapolis, and Portland ASCS grain offices.

Export. Corn from CCC inventory is not available for export sale.

GRAIN SORGHUM (MILO)

Unrestricted use.

A. *Redemption of domestic payment-in-kind certificates.* Such CCC dispositions of grain sorghum as CCC may designate will be in redemption of certificates or rights represented by pooled certificates under a feed grain program. The minimum price at which grain sorghum shall be valued for such dispositions shall be market price, as determined by CCC, but not less than 115 percent of the applicable 1967 price-support loan rate[2] for the class, grade, and quality of the grain sorghum, plus the markup shown in C of this unrestricted use section applicable to the type of carrier involved.

B. *General sales.*—1. *Storable.* Such CCC dispositions of storable grain sorghum as CCC may designate as general sales will be made during the month at market price, as determined by CCC, but not less than the Agricultural Act of 1949 formula minimum price for such sales which is 105 percent of the applicable 1967 price-support rate[2] (published loan rate plus 94 cents per hundredweight) for the class, grade, and quality of the grain sorghum, plus the markup shown in C of this unrestricted use section applicable to the type of carrier involved.

2. *Nonstorable.* At not less than market price as determined by CCC.

C. *Markups and examples (dollars per hundredweight in-store[1] No. 2 or better).*

Markup in-store received by—		Examples
Truck	Rail or barge	
$0.12½	$0.07½	Feed grain program domestic PIK certificate minimums: Hale County, Tex. ($1.89) 115 percent +$0.12½; $1.96½. Kansas City, Mo. (ex-rail) ($1.85) 115 percent +$0.07½; $2.20½. Agricultural Act of 1949; stat. minimums: Hale County, Tex. ($1.89+$0.34); 105 percent +$0.12½; $2.15½. Kansas City, Mo. (ex-rail) ($1.85+$0.36); 105 percent +$0.07½; $2.27½.

Export. Sales are made at the higher of the domestic market price, as determined by CCC, or 115 percent of the applicable 1967 price-support loan rate plus carrying charges in section C. The statutory minimum price referred to in the price adjustment provisions of the following export sales announcements is 105 percent of the applicable price-support rate plus the markup referred to in B of the unrestricted use section for grain sorghum. Sales will be made pursuant to the following announcements:

A. Announcement GR-368 (Revision 2, Mar. 1, 1965, as amended), for export commodity certificate redemption.

B. Announcement GR-212 (Revision 2, Jan. 9, 1961) for application to barter contracts and for cash or other designated sales.

Available. Evanston, Kansas City, Minneapolis, and Portland ASCS grain offices.

BARLEY, BULK

Unrestricted use.

A. *Storable.* Market price, as determined by CCC, but not less than 115 percent of the applicable 1967 price-support rate[2] for the class, grade, and quality of the barley plus the applicable markup.

B. *Markups and examples (dollars per bushel in-store[1] No. 2 or better).*

Markup in-store received by—		Examples
Truck	Rail or barge	
$0.11½	$0.09	Cass County, N. Dak. ($2.57); 115 percent +$0.11½; $2.12½. Minneapolis, Minn. (ex-rail) ($1.16); 115 percent +$0.09; $1.36.

C. *Nonstorable.* At not less than market price as determined by CCC.

Export. Sales are made at the higher of the domestic market price, as determined by CCC, or 115 percent of the applicable 1967 price-support loan rate plus carrying charges in section B. The statutory minimum price referred to in the price adjustment provisions of the following export sales announcement is 105 percent of the applicable price-support rate plus the markup referred to in B of the unrestricted use section for barley. Sales will be made pursuant to the following announcements:

A. Announcement GR-368 (Revision 2, Mar. 1, 1965, as amended), for export commodity certificate redemption.

B. Announcement GR-212 (Revision 2, Jan. 9, 1961) for cash or other designated sales.

Available. Kansas City, Evanston, Portland, and Minneapolis grain offices.

OATS, BULK

Unrestricted use.

A. Market price, as determined by CCC, but not less than 115 percent of the applicable 1967 price-support rate[2] for the class, grade, and quality of the oats plus the markup shown in B below.

B. *Markups and examples (dollars per bushel in-store[1] basis No. 2 XHWO).*

Markup in-store received by—		Examples—Agricultural Act of 1949; Stat. minimum
Truck		
$0.11½		Redwood County, Minn. ($0.68+$0.05 quality differential); 115 percent +$0.11½; $0.84½.

C. *Nonstorable.* At not less than the market price as determined by CCC.

Export. Sales are made at the higher of the domestic market price, as determined by CCC, or 115 percent of the applicable 1967 price-support loan rate plus carrying charges in section B. The statutory minimum price referred to in the price adjustment provisions of the following export sales announcements is 105 percent of the applicable price-support rate plus the markup referred to in B of the unrestricted use section for oats. Sales will be made pursuant to the following announcements:

A. Announcement GR-368 (Revision 2, Mar. 1, 1965, as amended), for export commodity certificate redemption.

B. Announcement GR-212 (Revision 2, Jan. 9, 1961), for application to barter contracts and for cash or other designated sales.

Available. Kansas City, Evanston, Minneapolis, and Portland ASCS grain offices.

RYE, BULK

Unrestricted use.

A. *Storable.* Market price, as determined by CCC, but not less than the Agricultural Act of 1949 formula price which is 115 percent[2] of the applicable 1967 price-support rate for the class, grade, and quality of the grain plus the markup shown in B below applicable to the type of carrier involved.

B. *Markups and examples (dollars per bushel in-store[1] No. 2 or better).*

Markup in-store received by—		Examples—Agricultural Act of 1949; Stat. minimum
Truck	Rail or barge	
$0.11½	$0.09	Rolette County, N. Dak. ($0.69); 115 percent +$0.11½; $1.15½. Minneapolis, Minn. (ex-rail) ($1.22); 115 percent +$0.09; $1.51.

C. *Nonstorable.* At not less than market price as determined by CCC.

Export. Sales are made at the higher of the domestic market price, as determined by CCC, or 115 percent of the applicable 1967 price-support loan rate plus carrying charges in section B. The statutory minimum price referred to in the price adjustment provisions of the following export sales announcement is 105 percent of the applicable price-support rate plus the markup referred to in B of the unrestricted use section for rye. Sales will be made pursuant to the following announcements:

A. Announcement GR-368 (Revision 2, Mar. 1, 1965, as amended), for export commodity certificate redemption.

B. Announcement GR-212 (Revision 2, Jan. 9, 1961) for cash or other designated sales.

Available. Evanston, Kansas City, Portland, and Minneapolis ASCS grain offices.

RICE, ROUGH

Unrestricted use.

Market price but not less than 1967 loan rate plus 5 percent plus 25 cents per hundredweight, basis in store.

Export. As milled or brown under Announcement GR-269, Revision III, as amended, Rice Export Program.

Available. Prices, quantities, and varieties of rough rice available from Kansas City ASCS Commodity Office.

COTTON, UPLAND

Unrestricted use.

A. Competitive offers under the terms and conditions of Announcement NO-C-32 (Sale of Upland Cotton for Unrestricted Use). Under this announcement, upland cotton acquired under price-support programs will be sold at the highest price offered but in no event at less than the higher of (a) 110 percent of the current loan rate for such cotton, or (b) the market price for such cotton, as determined by CCC.

B. Competitive offers under the terms and conditions of Announcement NO-C-31 (Disposition of Upland Cotton—In Redemption of Payment-In-Kind Certificates or Rights in Certificate Pools, In Redemption of Export Commodity Certificates, Against the "Shortfall," and Under Barter Transactions), as amended. Cotton may be acquired at its current market price, as determined by CCC, but not less than a minimum price determined by CCC which will in no event be less than 120 points (1.2 cents per pound) above the loan rate for such cotton.

Export.

CCC disposals for barter. Competitive offers under the terms and conditions of Announcements CN-EX-28 (Acquisition of Upland Cotton for Export under the Barter Program) and NO-C-31 (described above), as amended.

COTTON, EXTRA LONG STAPLE

Unrestricted use.

Competitive offers under the terms and conditions of Announcements NO-C-6 (Revised July 22, 1960), as amended, and

NO–C–10, as amended. Under these announcements extra long staple cotton (domestically grown) will be sold at the highest price offered but in no event at less than the higher of (a) 115 percent of the current support price for such cotton plus reasonable carrying charges, or (b) the domestic market price as determined by CCC.

Export.

A. *CCC sales for export.* Competitive offers under the terms and conditions of Announcements CN–EX–23 (Extra Long Staple Cotton Export Program) and NO–C–27 (Sale of Extra Long Staple Cotton), as amended.

B. *Barter.* Competitive offers under the terms and conditions of Announcement CN–EX–27 (Acquisition of Extra Long Staple Cotton for Export under the Barter Program), and NO–C–27 (Sale of Extra Long Staple Cotton), as amended.

COTTON, UPLAND OR EXTRA LONG STAPLE

Unrestricted use.

A. Competitive offers under the terms and conditions of Announcement NO–C–18 (Sale of Cotton—To Establish Claims). Any such cotton will be offered for sale periodically on the basis of samples representing the cotton for the purpose of establishing claims against producers and others according to schedules issued from time to time by CCC.

B. Competitive offers under the terms and conditions of Announcement NO–C–20 (Sale of Special Condition Cotton). Any such cotton (Below Grade, Sample Loose, Damaged Pickings, etc.) owned by CCC will be offered for sale periodically on the basis of samples representing the cotton according to schedules issued from time to time by CCC.

Availability information.

Sale of cotton will be made by the New Orleans ASCS Commodity Office. Sales announcements, related forms and catalogs for upland cotton and extra long staple cotton showing quantities, qualities and location may be obtained for a nominal fee from that office.

PEANUTS, SHELLED OR FARMERS STOCK

When stocks are available in their area of responsibility, the quantity, type, and grade offered and whether for restricted or unrestricted use are announced in weekly lot lists or invitations to bid issued by the following:

GFA Peanut Association, Camilla, Ga.

Peanut Growers Cooperative Marketing Association, Franklin, Va.

Southwestern Peanut Growers' Association, Gorman, Tex.

A. *Restricted use sales.* Announcement PR–1 as amended, and the lot list contain terms and conditions of sales restricted to domestic crushing or export.

1. Shelled peanuts of less than U.S. No. 1 grade may be purchased for foreign or domestic crushing.

2. Farmers stock peanuts may be purchased for domestic crushing or for export of U.S. No. 1 or better shelled peanuts. All peanuts of less than U.S. No. 1 quality must be crushed domestically.

All sales are made on the basis of competitive bids each Wednesday, by the Producer Associations Division, Agricultural Stabilization and Conservation Service, Washington, D.C. 20250, to which all bids are submitted.

TUNG OIL

Unrestricted use.

Sales are made periodically on a competitive bid basis. Bids are submitted to the Producer Associations Division, Agricultural Stabilization and Conservation Service, Washington, D.C. 20250.

The quantity offered and the date bids are to be received are announced to the trade in notices of Invitation to Bid, issued by the National Tung Oil Marketing Cooperative, Inc., Poplarville, Miss. 39470.

Terms and conditions of sale are as set forth in Announcement NTOM–PB–4 of April 6, 1967, as amended, and the applicable Invitation to Bid.

Bids will include, and be evaluated on the basis of, price offered per pound f.o.b. storage location. For certain destinations, CCC will as provided in the Announcement, as amended, refund to the buyer a "freight equalization" allowance.

Copies of the Announcement or the Invitation may be obtained from the Cooperative or Producer Associations Division, ASCS, telephone Washington, D.C., area code 202, DU 9–3601.

FLAXSEED, BULK

Unrestricted use.

A. *Storable.* Domestic market price but not less than the applicable 1967 support price for the class, grade, and quality of flaxseed plus 14½ cents per bushel, and plus the respective markup shown in B below applicable to the type of carrier involved.

B. *Markups and examples (dollars per bushel in-store*[1]*).*

Markup per bushel received by—		Examples of minimum prices (ex-rail or barge)		
Truck	Rail or barge	Terminal	Class and grade	Price
Cents 80.13½	Cents 80.69½	Minneapolis..	No. 1.....	$2.80½

C. *Nonstorable.* At not less than domestic market price as determined by CCC.

Available. Through the Minneapolis ASCS Branch Office.

DAIRY PRODUCTS

Sales are in carlots only in-store at storage location of products.

Submission of offers. Submit offers to the Minneapolis ASCS Branch Office.

NONFAT DRY MILK

Unrestricted use.

Announced prices, under MP–14: Spray process, U.S. Extra Grade, 21.60 cents per pound packed in 100-pound bags and 21.85 cents per pound packed in 50-pound bags.

BUTTER

Unrestricted use.

Announced prices, under MP–14: 74.0 cents per pound—New York, Pennsylvania, New Jersey, New England, and other States bordering the Atlantic Ocean and Gulf of Mexico. 73.25 cents per pound—Washington, Oregon, and California. All other States 73.0 cents per pound.

CHEDDAR CHEESE (STANDARD MOISTURE BASIS)

Unrestricted use.

Announced prices, under MP–14: 49.125 cents per pound—New York, Pennsylvania, New England, New Jersey, and other States bordering the Atlantic Ocean and Pacific Ocean and the Gulf of Mexico. All other States 48.125 cents per pound.

FOOTNOTES

[1] The formula price delivery basis for in-state sales will be f.o.b.

[2] Round product up to the nearest cent.

USDA AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE OFFICES

GRAIN OFFICES

Kansas City ASCS Commodity Office, 8930 Ward Parkway (Post Office Box 205), Kansas City, Mo. 64141. Telephone: Emerson 1–0660.

Alabama, Alaska, Arizona, Arkansas, Colorado, Florida, Georgia, Hawaii, Kansas, Louisiana, Mississippi, Missouri, Nebraska, Nevada, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Wyoming (domestic and export), California (domestic only).

Branch Office—Evanston ASCS Branch Office, 2201 Howard Street, Evanston, Ill. 60202. Telephone: Long Distance—Area code 312, 353–6581. Local—353–6581 (Chicago, Ill.).

Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, Vermont, and West Virginia.

Branch Office—Minneapolis ASCS Branch Office, 310 Grain Exchange Building, Minneapolis, Minn. 55415. Telephone: 334–2051.

Minnesota, Montana, North Dakota, South Dakota, and Wisconsin.

Branch Office—Portland ASCS Branch Office, 1218 Southwest Washington Street, Portland, Oreg. 97205. Telephone: 226–3361.

Idaho, Oregon, Utah, and Washington (domestic and export sales), California (export sales only).

PROCESSED COMMODITIES OFFICE (ALL STATES)

Minneapolis ASCS Commodity Office, 6400 France Avenue South, Minneapolis, Minn. 55435. Telephone: Area Code 612, 834–3200.

COTTON OFFICE (ALL STATES)

New Orleans ASCS Commodity Office, Wirth Building, 190 Marais Street, New Orleans, La. 70112. Telephone: 527–7286.

GENERAL SALES MANAGER OFFICES

Representative of General Sales Manager, New York Area: Joseph Reidinger, 80 Lafayette Street, New York, N.Y. 10013. Telephone: 264–3439, 3440, 3441.

Representative of General Sales Manager, West Coast Area: Callan B. Duffy, Appraisers' Building, Room 802, 630 Sansome Street, San Francisco, Calif. 94111. Telephone: 556–6185.

ASCS STATE OFFICES

Illinois, Room 232, U.S. Post Office and Courthouse, Springfield, Ill. 62701. Telephone: Area Code 217, 525–4180.

Indiana, Room 110, 311 West Washington Street, Indianapolis, Ind. 46204. Telephone: Area Code 317, 633–8521.

Iowa, Room 311, Iowa Building, 505 Sixth Avenue, Des Moines, Iowa 50307. Telephone: Area Code 515, 284–4213.

Kansas, 2601 Anderson Avenue, Manhattan, Kans. 66503. Telephone: Area Code 913, JE 9–3581.

Michigan, 1405 South Harrison Road, East Lansing, Mich. 48823. Telephone: Area Code 517, 372–1910.

Missouri, I.O.O.F. Building, 10th and Walnut Streets, Columbia, Mo. 65201. Telephone: Area Code 314, 443–3111.

Minnesota, Griggs Midway Building, 1821 University Avenue, St. Paul, Minn. 55104. Telephone: Area Code 612, 226–7851.

Montana, Post Office Box 670, U.S.P.O. and Federal Office Building, Bozeman, Mont. 59715. Telephone: Area Code 587, 4511, Ext. 3271.

Nebraska, Post Office Box 793, 5601 O Street, Lincoln, Nebr. 68501. Telephone: Area Code 402, 475–3361.

North Dakota, Post Office Box 2017, 15 South 21st Street, Fargo, N. Dak. 58103, Telephone: Area Code 701, 237–5205.

Ohio, Room 202, Old Federal Building, Columbus, Ohio 43215. Telephone: Area Code 614, 469–5644.

South Dakota, Post Office Box 843, 239 Wisconsin Street SW., Huron, S. Dak. 57350. Telephone: Area Code 605, 352–8651, Ext. 321 or 310.

Wisconsin, Post Office Box 4248, 4601 Hammersley Road, Madison, Wis. 53711. Telephone: Area Code 608, 256–4441, Ext. 7585.

(Sec. 4, 63 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 407, 63 Stat. 1066; sec. 105, 63 Stat. 1051, as amended by 76 Stat. 612; secs. 303, 306, 307, 76 Stat. 614–617; 7 U.S.C. 1441 (note))

Signed at Washington, D.C., on November 29, 1967.

ROLAND F. HALLOU,
Acting Executive Vice President, Commodity Credit Corporation.

[F.R. Doc. 67–14318; Filed, Dec. 5, 1967; 8:46 a.m.]

Office of the Secretary

ENTIRE COMMONWEALTH OF PUERTO RICO

Designation of Area for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named Commonwealth, a natural disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

ENTIRE COMMONWEALTH OF PUERTO RICO

Pursuant to the authority set forth above, emergency loans will not be made in the above-named Commonwealth after June 30, 1968, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 1st day of December 1967.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 67–14301; Filed, Dec. 5, 1967; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

CALIFORNIA INSTITUTE OF TECHNOLOGY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. Law 89–651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68–00096–33–46040. Applicant: California Institute of Technology, 1201 East California Boulevard, Pasadena, Calif. 91109. Article: Electron Microscope EM–300, film holder and decontamination device. Manufacturer: N. V. Philips, The Netherlands. Intended use of article: Visualization of biological structures including ultrastructure of nucleic acids, viruses, and nerve cells. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article provides a guaranteed resolution of 5 Angstroms. The only known comparable domestic instrument, the Model EMU–4 Electron Microscope manufactured by the Radio Corporation of America (RCA), provides a guaranteed resolution of 8 Angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolution.) For the purposes for which the foreign article is intended to be used, we find that the greater resolving capabilities are pertinent. (2) The foreign article provides five accelerating voltages, 20, 40, 60, 80, and 100 kilovolts, whereas the RCA Model EMU–4 provides only two accelerating voltages, 50 and 100 kilovolts. It has been experimentally established that the lower accelerating voltage provided by the foreign article produces optimum contrast for unstained specimens and that the voltages intermediate between 50 and 100 kilovolts produce optimum contrast for negatively stained specimens.

For the foregoing reasons, we find that the RCA Model EMU–4 is not scientifically equivalent to the foreign article, for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLES M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67–14178; Filed, Dec. 5, 1967; 8:45 a.m.]

PURDUE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. Law 89–651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68–00067–33–46040. Applicant: Purdue University, Purchasing Department, Lafayette, Ind. 47907. Article: Electron Microscope, Norelco Model EM–300 Type PW 6001/00. Manufacturer: N. V. Philips, The Netherlands. Intended use of article: The article will be used to study the structure of cellular membranes, Lipoprotein association, fibrous structures in mitochondria and chloroplast structure. Other studies include examination of the orientation of monomers in the segments of bacterial flagella, structural differences found in spore coats of wild type Bacillus cereus and various mutant strains, detailed studies of the mechanism of cell wall digestion in yeast including subsequent comparative ultrastructure between derived yeast "protoplast" and whole cell, and investigation into the synthesis of these spore coats. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article provides a guaranteed resolution of 5 Angstroms. The only known comparable domestic instrument, the Model EMU–4 Electron Microscope manufactured by the Radio Corporation of America (RCA), provides a guaranteed resolution of 8 Angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolution.) For the purposes for which the foreign article is intended to be used, we find that the greater resolving capabilities are pertinent. (2) The foreign article provides five accelerating voltages, 20, 40, 60, 80, and 100 kilovolts, whereas the RCA Model EMU–4 provides only two accelerating voltages, 50 and 100 kilovolts. It has been experimentally established that the lower accelerating voltage provided by the foreign article produces optimum contrast for unstained specimens and that the voltages intermediate between 50 and 100 kilovolts produce optimum contrast for negatively stained specimens.

For the foregoing reasons, we find that the RCA Model EMU–4 is not scientifically equivalent to the foreign article, for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-14179; Filed, Dec. 5, 1967; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

CHIPMAN CHEMICAL CO., INC.

Notice of Withdrawal of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), the following notice is issued:

In accordance with § 120.8 *Withdrawal of petitions without prejudice* of the pesticide regulations (21 CFR 120.8), Chipman Chemical Co., Inc., Post Office Box 1665, Burlingame, Calif. 94010, has withdrawn its petition (PP 7F0536), notice of which was published in the FEDERAL REGISTER of October 12, 1966 (31 F.R. 13179), proposing a tolerance for residues of the herbicide bromoxynil (3,5 - dibromo - 4 - hydroxybenzonitrile), from use of its octanoic acid ester, of 0.2 part per million (calculated as bromoxynil) in or on the raw agricultural commodities barley, flax, oats, rye, and wheat.

Dated: November 29, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-14232; Filed, Dec. 5, 1967; 8:48 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANT SECRETARY AND DEPUTY ASSISTANT SECRETARY FOR DEMONSTRATIONS AND INTERGOVERNMENTAL RELATIONS

Delegations of Authority

SECTION A. *Authority delegated with respect to model cities program.* The Assistant Secretary for Demonstrations and Intergovernmental Relations and the Deputy Assistant Secretary for Demonstrations and Intergovernmental Relations each is hereby authorized to exercise the power and authority of the Secretary of Housing and Urban Development with respect to the model cities program under Title I of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3301–3313) except the authority to make contracts for urban renewal projects under section 103(b) of the Housing Act of 1949, as amended (42 U.S.C. 1453), pursuant to section 113 of the Demonstration Cities and Metropolitan Development Act of 1966: *Provided, however,* That the authority to make reservations or allocations of grant funds in connection with initial contracts and the authority to authorize initial contracts and commitments for Federal grant assistance are subject to the approval of the Secretary of Housing and Urban Development.

SEC. B. *Additional authority delegated.* 1. The Assistant Secretary for Demonstrations and Intergovernmental Relations and the Deputy Assistant Secretary for Demonstrations and Intergovernmental Relations each is further authorized to:

a. Redelegate to the Director and the Deputy Director, Model Cities Administration, and to Regional Administrators and Deputy Regional Administrators any authority delegated under section A except the authority to:

i. Make reservations or allocations of grant funds.

ii. Authorize contracts and commitments for Federal grant assistance and amendatory contracts which provide for an increase in the total Federal grant amount set forth in a contract: *Provided, however,* That the authority to authorize waivers of contract provisions may be redelegated.

iii. Suspend or terminate Federal grant assistance.

b. Authorize Regional Administrators and Deputy Regional Administrators to redelegate to employees under their jurisdiction any authority redelegated under section B, 1, a.

2. The Assistant Secretary for Demonstrations and Intergovernmental Relations is authorized to make such rules and regulations as may be necessary to carry out the power and authority delegated under section A.

(Sec. 7(d) of Department of HUD Act of 1965, 42 U.S.C. 3535(d))

Effective date. These delegations of authority shall be effective as of November 27, 1967.

ROBERT C. WEAVER,
Secretary of Housing and Urban Development.

[F.R. Doc. 67-14204; Filed, Dec. 5, 1967; 8:47 a.m.]

DIRECTOR AND DEPUTY DIRECTOR, MODEL CITIES ADMINISTRATION

Redelegations of Authority

SECTION A. *Authority redelegated with respect to model cities program.* The Director and the Deputy Director, Model Cities Administration, each is hereby authorized to exercise the power and authority of the Secretary of Housing and Urban Development with respect to the model cities program under Title I of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3301–3313) except the authority to:

1. Make contracts for urban renewal projects under section 103(b) of the Housing Act of 1949, as amended (42 U.S.C. 1453), pursuant to section 113 of the Demonstration Cities and Metropolitan Development Act of 1966.

2. Make reservations or allocations of grant funds.

3. Authorize contracts and commitments for Federal grant assistance and amendatory contracts which provide for an increase in the total Federal grant amount set forth in a contract: *Provided, however,* That the Director and the Deputy Director, Model Cities Administration, each is empowered to authorize waivers of contract provisions.

4. Suspend or terminate Federal grant assistance.

5. Make rules and regulations.

SEC. B. *Additional authority redelegated.* The Director, Model Cities Administration, is further authorized to:

1. Designate one or more subordinate employees to serve as Acting Director during the absence of the Director.

2. Designate one or more subordinate employees to serve in an acting capacity during the absence of the appointee to a position under the Director or during a vacancy in any such position.

(Secretary's delegations effective Nov. 27, 1967, 32 F.R. 17496, Dec. 6, 1967; and delegations effective July 1, 1966 (31 F.R. 9752, July 19, 1966), as amended (32 F.R. 9325, June 30, 1967, and 32 F.R. 13466, Sept. 26, 1967)

Effective date. These redelegations shall be effective as of November 27, 1967.

H. RALPH TAYLOR,
Assistant Secretary for Demonstrations, and Intergovernmental Relations.

[F.R. Doc. 67-14205; Filed, Dec. 5, 1967; 8:47 a.m.]

REGIONAL ADMINISTRATORS AND DEPUTY REGIONAL ADMINISTRATORS

Redelegations of Authority

SECTION A. *Authority redelegated with respect to model cities program.* Each Regional Administrator and each Deputy Regional Administrator of the Department of Housing and Urban Development is hereby authorized to exercise the power and authority of the Secretary of Housing and Urban Development with respect to the model cities program under Title I of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3301–3313) except the authority to:

1. Make contracts for urban renewal projects under section 103(b) of the Housing Act of 1949, as amended (42 U.S.C. 1453), pursuant to section 113 of the Demonstration Cities and Metropolitan Development Act of 1966.

2. Make reservations or allocations of grant funds.

3. Authorize contracts and commitments for Federal grant assistance and amendatory contracts which provide for an increase in the total Federal grant amount set forth in a contract: *Provided, however,* That each Regional Administrator and each Deputy Regional Administrator is empowered to authorize waivers of contract provisions.

4. Suspend or terminate Federal grant assistance.

5. Make rules and regulations.

SEC. B. *Additional authority redelegated.* Each Regional Administrator and Deputy Regional Administrator is further authorized to redelegate to one or more employees under his jurisdiction any authority redelegated under section A.

(Secretary's delegations effective Nov. 27, 1967, 32 F.R. 17496, Dec. 6, 1967)

Effective date. These redelegations shall be effective as of November 27, 1967.

H. RALPH TAYLOR,
Assistant Secretary for Demonstrations and Intergovernmental Relations.

[F.R. Doc. 67-14206; Filed, Dec. 5, 1967; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 18720; Order E-26061]

AIR TRANSPORT ASSOCIATION OF AMERICA

Order Relating to Air Carrier Discussions

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of December 1967.

In the matter of air carrier discussions concerning air freight credit, billing and collection practices.

By petition filed October 26, 1967, the Air Transport Association of America (ATA) on behalf of its member carriers, requests a 90-day extension of the prior Board authorization[1] for carrier discussions relating to air freight credit, billing, and collection practices. Such prior discussion authority expired on October 21, 1967.

ATA states that seven meetings of the carriers have been held during the authorized period, including one with air freight forwarders and one with other shippers, and that a preliminary draft agreement on credit, billing, and collection practices has been drafted, but that further discussions are necessary for the following reasons:

(1) To permit the carriers to conclude an agreement on air freight credit, billing, and collection practices;

(2) To consider the competitive problem with international air carriers serving the United States which may not be parties to the agreement;

(3) To develop provisions and procedures for the handling of customers who may repeatedly be "cash listed"; and

(4) To discuss the possibility of an outside service organization being retained to process final notices and to publish the industry cash list.

Notices and minutes of the foregoing meetings have been filed with the Board in Docket 18720 as required of the carriers.

No opposition to the requested extension of the carrier discussions has been made known to the Board.

Upon consideration of the petition and other relevant matters, the Board will grant the requested extension, subject to the conditions previously imposed (Order E-25340, supra) as herein amended.[2] Review of the carriers' minutes indicates that the carriers have a preliminary draft of an agreement and, in most respects, have made a determined effort to advance this general subject in a manner consistent with the mutual interests of their customers and themselves. Some major problem areas are not yet satisfactorily resolved but hold hope of agreement, and the Board concludes that additional discussion time is warranted.

The Board would remind the carriers, however, that the restraint of competition inherent in any agreement reached should be thoroughly supported by full factual data. The carriers should fully explain why such agreement is necessary and warrants Board approval. In this regard, the Board notes its concern at the concept, as indicated in the preliminary draft agreement, that a delinquent account with one carrier would require denial of credit by all carriers to the agreement, and a most compelling showing would be required to support such a proposal.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 412, and 414 thereof,

It is ordered, That:

1. The expiration date of the authority granted in paragraph 1 of Order E-25340, dated June 23, 1967, is extended to February 15, 1968;

2. Paragraphs 6 and 7 of Order E-25340 are amended to read:

6. Complete and accurate minutes shall be kept of all meetings and four true copies thereof filed with the Board in Docket 18720 not later than 15 days (excluding Saturdays and Sundays) after the conclusion of each meeting;

7. Four copies of any agreement or agreements reached as a result of such discussions shall be filed with the Board in Docket 18720 in accordance with section 412 of the Act and approved by the Board prior to being placed into effect and/or filed as tariff provisions; and * * *

3. All other provisions of Order E-25340 shall remain unchanged.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

HAROLD R. SANDERSON,
Secretary.

[SEAL]

[F.R. Doc. 67-14212; Filed, Dec. 5, 1967; 8:48 a.m.]

[1] Order E-25340, dated June 23, 1967.

[2] For internal procedural reasons, the Board will require the carriers to file four copies of all material in this docket.

[Docket No. 18761]

VIASA ENFORCEMENT CASE

Notice of Hearing

Venezolana Internacional de Aviacion, S.A., Enforcement proceeding.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled matter is assigned to be held on January 16, 1968, at 10 a.m., e.s.t., in Room 211, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Edward T. Stodola.

Dated at Washington, D.C., November 30, 1967.

FRANCIS W. BROWN,
Chief Examiner.

[SEAL]

[F.R. Doc. 67-14213; Filed, Dec. 5, 1967; 8:48 a.m.]

DELAWARE RIVER BASIN COMMISSION

COMPREHENSIVE PLAN

Notice of Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, December 13, 1967. The hearing will take place in Room 1308 of the State Office Building, Broad and Spring Garden Streets in Philadelphia, beginning at 2 p.m. The subject of the hearing will be proposals to amend the Comprehensive Plan so as to include therein the following projects:

1. *Delaware River Joint Toll Bridge Commission.* A highway bridge across the Delaware River 1.1 miles north of New Hope, Pa., and Lambertville, N.J. The bridge will also cross the Delaware and Raritan Canal and the Pennsylvania Delaware Canal.

2. *Tidewater Utilities, Inc.* A well water supply project to augment public water supply in the company's service area in Kent County, Del. To be located just north of the city of Dover, the new facility is expected to yield about 120 gallons per minute.

3. *Stevensville Water District.* A well water supply project to augment available supplies in Swan Lake, N.Y. The new facility is expected to yield about 350 gallons per minute.

4. *Borough of Coopersburg.* A well water supply project to augment public supplies in the borough of Coopersburg, Lehigh County, Pa. The new facility is

expected to yield about 240 gallons per minute.

5. *Borough of Stroudsburg.* A project to increase the capacity of the filter plant of the borough of Stroudsburg, Monroe County, Pa., from 0.625 to 1.58 million gallons per day.

6. *New Castle County.* An interceptor sewer, designated as the South Christina Interceptor, in New Castle County, Del. The interceptor will carry sewage from the city of Newark to the Wilmington sewage treatment plant and will have a capacity of 26.8 million gallons daily.

7. *Pequest Water Company.* A project to develop a new water supply system to serve a portion of the township of Allamuchy, N.J., including the Panther Lodge Community. The company plans to develop several new wells which will afford a system capacity of about 660,000 gallons per day.

8. *North Penn Water Authority.* A well water supply project to serve a new housing development in the Authority's service area in Lower Salford Township, Montgomery County, Pa. The new facility is expected to yield about 150 gallons per minute.

9. *Upper Moreland-Hatboro Joint Sewer Authority.* A project to expand the capacity of the Authority's existing sewage treatment plant in Montgomery County, Pa., from 2.6 to 3.6 million gallons per day. A major portion of the plant would also be converted from the activated sludge process to contact stabilization.

10. *City of Bridgeton.* A well water supply project to provide additional public water supplies for the city of Bridgeton, N.J. Designated as Well No. 12, the new facility is expected to yield about 500 gallons per minute.

11. *Ewing-Lawrence Sewerage Authority.* A force main and pumping station to serve the Mountain View section of Ewing Township, Mercer County, N.J. The new facility will have a capacity of about 650,000 gallons per day.

12. *Borough of Slatington.* A well water project to provide additional public water supply for the borough of Slatington, Lehigh County, Pa. Designated as Well No. 4, the new facility is expected to yield about 160 gallons per minute.

Documents relating to the above proposed additions to the Comprehensive Plan may be examined at the Commission's offices. All persons wishing to testify are requested to register in advance with the Secretary to the Commission. 609-382-9500.

W. BRINTON WHITALL,
Secretary.

NOVEMBER 28, 1967.

[F.R. Doc. 67-14215; Filed, Dec. 5, 1967; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket No. E-7344]

ELECTRIC PLANT BOARD OF PADUCAH, KY. ET AL.

Order Providing for Hearing; Correction

NOVEMBER 22, 1967.

Electric Plant Boards of the cities of Paducah, Hickman, Fulton, and Princeton, Ky. v. Kentucky Utilities Co., Docket No. E-7344.

In order providing for hearing, issued November 17, 1967 and published in the FEDERAL REGISTER November 23, 1967, F.R. Doc. 67-13733, 32 F.R. 16115, Docket No. E-7344, third paragraph, line four, change "." after 1965 to "," and strike "and as indicated on attached Appendix A".

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 67-14180; Filed, Dec. 5, 1967; 8:45 a.m.]

[Docket No. RI68-217 etc.]

MARATHON OIL CO. ET AL.

Order Accepting Contract Amendments, Providing for Hearings on and Suspension of Proposed Changes in Rates

NOVEMBER 22, 1967.

In the order accepting contract amendments providing for hearings on and suspension of proposed changes in rates issued November 9, 1967, and published in the FEDERAL REGISTER November 18, 1967, F.R. Doc. 67-13516, 32 F.R. 15898, Docket Nos. RI68-217 et al. (Opposite Supplement No. 21 to Marathon's FPC Gas Rate Schedule No. 14), under column headed "Proposed Increase Rate" change the rate "16.892" to "18.892".

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 67-14181; Filed, Dec. 5, 1967; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[812-2152]

LEXINGTON RESEARCH INVESTING CORP.

Notice of Filing of Application for Order Exempting Sale by Open-End Company of Its Shares at Price Other Than Public Offering Price

NOVEMBER 30, 1967.

Notice is hereby given that Lexington Research Investing Corp. ("Applicant"), 163 Eagle Street, Englewood, N.J., a management open-end nondiversified investment company registered under the Investment Company Act of 1940, 15 U.S.C. Sec. 80a-1, *et seq.* ("Act") has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission exempting from the provisions of section 22(d) of the Act the proposed issuance and delivery of its redeemable securities to Haven Homes, Inc. ("Haven"), a New Jersey corporation, in exchange for substantially all the assets of Haven, pursuant to a certain Agreement and Plan of Reorganization.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except at a current public offering price described in its prospectus. Shares of Applicant are offered to the public at a price which includes a sales commission in addition to their net asset value. Since shares of Applicant will be issued to Haven at net asset value, without a sales commission, an exemption is requested. Under section 6(c) of the Act the Commission may exempt any transaction from the provisions of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations which are summarized below.

Haven is a personal holding company having one shareholder. It is not making and does not intend to make a public offering of its stock and is excepted from the Act by reason of the provisions of section 3(c)(1) thereof. There is no connection between Haven and Applicant and no officer or shareholder of Haven is an affiliated person of the Applicant.

Pursuant to the Plan, substantially all the assets of Haven will be transferred to Applicant in exchange for shares of Applicant which will be distributed to Haven's shareholder upon liquidation. Neither Haven nor its shareholder has any present intention of redeeming shares of Applicant which will be received. The number of shares of Applicant to be delivered to Haven will be determined on the basis of the net asset value of Applicant's shares and the value of Haven's assets to be transferred, subject to certain adjustments set forth in the Plan, as of the close of business on the New York Stock Exchange on the day preceding the date of closing. If the valuation under the Plan had taken place on June 30, 1967, no adjustment would have been necessary and the value of Haven's assets to be exchanged would have been $313,406.

Applicant represents that the price was arrived at by arms-length bargaining and that the consummation of the transaction will be beneficial to its shareholders in that it will be able to acquire a large block of securities without paying brokerage commissions.

Notice is further given that any interested person may, not later than December 20, 1967, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-14192; Filed, Dec. 5, 1967; 8:46 a.m.]

[70-4562]

NEW ENGLAND ELECTRIC SYSTEM

Notice of Proposed Issue and Sale of 5-Year Installment Note to Bank

NOVEMBER 30, 1967.

Notice is hereby given that New England Electric System ("NEES"), 441 Stuart Street, Boston, Mass. 02116, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 of the Act as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

NEES proposes to issue and sell a 5-year, unsecured installment promissory note in the principal amount of $16 million to Morgan Guaranty Trust Company of New York ("Morgan Guaranty"). The note will be dated as of the day of issue and will bear interest at the rate of one-fourth of 1 percent per annum over the daily prime rate in effect on the unpaid principal. The principal sum will be payable in eight semiannual installments of $1 million each commencing 1969, and installments of $3 million and $6 million during the fifth year. The note will be subject, at the option of NEES, to prepayment in whole or in part at any time prior to maturity, except that no such prepayment shall be from the proceeds of a borrowing from another commercial bank.

Prior to entering into the arrangement for the issue and sale of the note to Morgan Guaranty, NEES held discussions with six commercial banks and four insurance companies. It is stated that of the six proposals received by NEES, the terms offered by Morgan Guaranty were the most favorable to NEES.

The proceeds from the sale of the note will be added to the general funds of NEES and made available to its subsidiaries (particularly New England Power Co. which is building a 630 MW generating unit for operation in 1969), either through loans or purchases of additional shares of their capital stocks, in furtherance of their construction programs, to pay short-term notes to banks previously issued for that purpose, or to provide for other capitalizable expenditures. The balance, if any, is to be used for general purposes of NEES.

NEES asserts that it is inadvisable for it to issue and sell common stock at this time. The declaration states that studies looking to the possible affiliation of Boston Edison Co., Eastern Utilities Associates, and NEES have been underway for some time, and it appears that an issue by NEES of additional common shares at this time would add to the complexity of the studies, particularly the determination of the appropriate exchange ratios for the shareholders of each company. NEES also states that its estimated cash flow is such that the necessary equity funds for its subsidiary companies during the next 5 years will be generated from retained earnings. It is further stated that the corporate and consolidated capitalization ratios of NEES and of NEES and its subsidiaries are such that an issue and sale of additional common shares by NEES is not required.

Expenses to be incurred by NEES in connection with the proposed transaction are estimated at $3,000, and consist of charges, at cost, of the system service company. The declaration states that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 21, 1967, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-14193; Filed, Dec. 5, 1967; 8:46 a.m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 642]

CALIFORNIA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of November 1967, because of the effects of certain disasters, damage resulted to residences and business property located in Los Angeles and Ventura Counties, in the State of California;

Whereas, the Small Business Administration has investigated and received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Associate Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the Office below indicated from persons or firms whose property, situated in the aforesaid counties and areas adjacent thereto, suffered damage or destruction resulting from floods and mud slides caused by excessive rainfall occurring on November 19 through November 21, 1967.

OFFICE

Small Business Administration Regional Office, 312 West Fifth Street, Los Angeles, Calif. 90013.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to May 31, 1968.

Dated: November 29, 1967.

L. B. HENDRICKS,
Associate Administrator.

[F.R. Doc. 67-14194; Filed, Dec. 5, 1967; 8:46 a.m.]

TARIFF COMMISSION

[TEA-F-7, TEA-F-8]

PETITION OF EMIL J. PAIDAR CO. AND KOKEN COMPANIES, INC.

Determinations of Eligibility To Apply for Adjustment Assistance; Notice of Investigations

Upon petition under section 301(a)(2) of the Trade Expansion Act of 1962 by the Emil J. Paidar Co., Chicago, Ill., and the Koken Companies, Inc., St. Louis, Mo., the U.S. Tariff Commission, on November 29, 1967, instituted investigations under section 301(c)(1) of the said Act to determine whether, as a result in major part of concessions granted under trade agreements, barber chairs and parts thereof, provided for under item 727.02 of the tariff Schedules of the United States and like or directly competitive with articles produced by the aforementioned firms, are being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to such firms.

Pursuant to section 403 of the Trade Expansion Act of 1962, these investigations are consolidated with the investigation of the barber chair industry being conducted by the Tariff Commission under section 301(b)(1) of the Trade Expansion Act (investigation TEA-I-11). The industry investigation was instituted by the Commission on July 26, 1967 (32 F.R. 11089), and public hearings were held beginning on November 7, 1967 (32 F.R. 12979).

The petitioners have not requested that public hearings be held in connection with the investigations instituted under section 301(c)(1) of the Trade Expansion Act. Accordingly, no hearing will be held unless the Commission is requested to do so by any party showing a proper interest in the subject matter of these investigations, provided such request is filed with the Secretary of the Tariff Commission within 10 days after this notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the office of the Secretary, U.S. Tariff Commission, eighth and E Streets NW, Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 at the Customhouse.

Issued: December 1, 1967.

By order of the Commission.

[SEAL] DONN N. BENT, *Secretary.*

[F.R. Doc. 67-14207; Filed, Dec. 5, 1967; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 478]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

DECEMBER 1, 1967.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission, under the Commission's deviation rules revised, 1957 (49 CFR 211.1(c)(3)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1(d)(4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1(c)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's deviation rules revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 981 (Deviation No. 1), ABLE TRANSPORTATION, INC., Post Office Box 16686, Denver, Colo. 80216, filed November 24, 1967. Carrier's representative: Charles W. Singer, Suite 1625, The Connecticut Mutual Building, 33 North Dearborn Street, Chicago, Ill. 60602. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Chicago, Ill., over Interstate Highway 55 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 65, thence over U.S. Highway 65 to Des Moines, Iowa, and (2) from Chicago, Ill., over Interstate Highway 55 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 69, thence over U.S. Highway 69 to Des Moines, Iowa, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Chicago, Ill., over U.S. Highway 34 to junction Illinois Highway 92, near La Moille, Ill., thence over Illinois Highway 92 via Silvis and East Moline, Ill., to Moline, Ill., thence over U.S. Highway 6 to junction Iowa Highway 90, thence over Iowa Highway 90 to Des Moines, Iowa, thence over Iowa Highway 28 to Martensdale, Iowa, thence over Iowa Highway 92 to Winterset, Iowa, and (2) from Chicago, Ill., over U.S. Highway 66 to junction Alternate U.S. Highway 66, thence over Alternate U.S. Highway 66 via Joliet, Ill., to Gardner, Ill., thence over U.S. Highway 66 to junction unnumbered highway to Chenoa, Ill., thence over U.S. Highway 24 to Peoria, Ill., thence over Illinois Highway 116 to junction U.S. Highway 34, thence over U.S. Highway 34 to Ottumwa, Iowa, thence over U.S. Highway 63 to Oskaloosa, Iowa, thence over Iowa Highway 163 to Des Moines, Iowa, thence to Winterset, Iowa, as specified in (1) above, and return over the same routes.

No. MC 59680 (Deviation No. 53), STRICKLAND TRANSPORTATION CO., INC., Post Office Box 5689, Dallas, Tex. 75222, filed November 22, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction Interstate Highway 76 and Interstate Highway 83, near New Cumberland, Pa., over Interstate Highway 83 to Harrisburg, Pa., thence over U.S. Highway 22 (or Interstate Highway 78 where completed) to Easton, Pa., thence over U.S. Highway 22 to Phillipsburg, N.J., thence over New Jersey Highway 24 to Hackettstown, N.J., thence over New Jersey Highway 24 to junction Interstate Highway 80; thence over Interstate Highway 80 to Denville, N.J., thence over Interstate Highway 80 to junction U.S. Highway 46, thence over U.S. Highway 46 to junction New Jersey Highway 20, thence over New Jersey Highway 20 to junction New Jersey Highway 4, thence over New Jersey Highway 4 to junction U.S. Highway 9 near the George Washington Bridge, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From junction Interstate Highway 76 and Interstate Highway 83, near New Cumberland, Pa., over the Pennsylvania Turnpike to junction New Jersey Turnpike, thence over the New Jersey Turnpike to Newark, N.J., thence over U.S. Highway 9 to the George Washington Bridge, and return over the same route.

No. MC 78643 (Deviation No. 5), HART MOTOR EXPRESS, INC., 2417 North Cleveland, St. Paul, Minn. 55113, filed November 22, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Chicago, Ill., over Interstate Highway 94 to Milwaukee, Wis., thence over Interstate Highway 94 to Madison, Wis., and (2) from Chicago, Ill., over Interstate Highway 94 to Milwaukee, Wis., thence over Interstate Highway 894 to junction Interstate Highway 94, thence over Interstate Highway 94 to Madison, Wis., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Chicago, Ill., over U.S. Highway 45 to Milwaukee, Wis., thence over U.S. Highway 18 to Madison, Wis., and return over the same route.

No. MC 97726 (Sub-No. 1) (Deviation No. 1), AAA MOTOR LINES, INC., 1205 Reeves Street, Post Office Box 1328, Dothan, Ala. 36301, filed November 27, 1967. Carrier's representative: Samuel W. Taylor, 57 Adamas Avenue, Montgomery, Ala. 36103. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From junction U.S. Highway 31 and Alabama Highway 143, in Montgomery, Ala., over U.S. Highway 31 to junction Alabama Highway 143 just north of Mountain Creek, Ala., (2) from Birmingham, Ala., over Interstate Highway 65 (using U.S. Highway 31 where portions of Interstate Highway 65 are not completed) to Montgomery, Ala., and (3) from Montgomery, Ala., over U.S. Highway 331 to junction Alabama Highway 189, just south of Brantley, Ala., thence over Alabama Highway 189 to Elba, Ala., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Montgomery, Ala., over Alabama Highway 143 to junction U.S. Highway 31 just north of Mountain Creek, Ala., thence over U.S. Highway 31 to Birmingham, Ala., (2) from Montgomery, Ala., over U.S. Highway 231 to Troy, Ala., thence over Alabama Highway 87 to Elba, Ala., and (3) from Andalusia, Ala., over U.S. Highway 84 to Enterprise, Ala., and return over the same routes.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-14208; Filed, Dec. 5, 1967; 8:47 a.m.]

[Notice 508]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 1, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1966. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIER OF PROPERTY

No. MC 52579 (Sub-No. 92 TA), filed November 27, 1967. Applicant: GILBERT CARRIER CORP., 1 Gilbert Drive, Secaucus, N.J. 07094. Applicant's representative: Aaron Hoffman (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, loose, on hangers, from De Kalb, Ill., to Chicago, Ill., with authority to tack at Chicago, Ill., with all existing authority and to interline at New York, N.Y., commercial zone with authorized I.C.C. connecting carriers, for 150 days. Supporting shipper: Brody Manufacturing Co., 1330 East Lincoln, De Kalb, Ill. 60115. NOTE: Applicant intends to tack at Chicago, Ill., with all existing authority, and to interline at New York, N.Y., commercial zone with authorized Interstate Commerce Commission connecting carriers. Send protests to: District Supervisor, Walter J. Grossmann, Interstate Commerce Commission, 1060 Broad Street, Room 363, Newark, N.J. 07102.

No. MC 52579 (Sub-No. 96 TA), filed November 28, 1967. Applicant: GILBERT CARRIER CORP., 1 Gilbert Drive, Secaucus, N.J. 07094. Applicant's representative: Aaron Hoffman (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wearing apparel*, loose, on hangers, from points in Georgia, North Carolina, and South Carolina to points in the New York commercial zone, as defined by the Commission and, (2) materials and supplies used in the manufacture of wearing apparel, moving to or from the facilities of manufacturers and/or contractors of wearing apparel, between points in Georgia, North Carolina, and South Carolina, on the one hand, and points in the New York, N.Y., commercial zone, as defined by the Commission, on the other, for 180 days. NOTE: Applicant intends to tack with MC-52579 and subs and to interline at points in the New York, N.Y., commercial zone. Supporting shipper: There are 27 supporting shippers whose names and addresses are on file in the Newark, N.J., field office and at the Washington, D.C., office of the Commission. Send protests to: District Supervisor, Walter J. Grossmann, Interstate Commerce Commission, Bureau of Operation, 1060 Broad Street, Room 363, Newark, N.J. 07102.

No. MC 66562 (Sub-No. 2278 TA), filed November 21, 1967. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York, N.Y. 10017. Applicant's representative: James C. Ingwersen, 1215 Egbert Avenue, San Francisco, Calif. 94124. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* moving in express service: Between Los Angeles, Calif., and Barstow, Calif.; over regular routes as follows: over Interstate Highway 10, between Los Angeles and the junction of said highway with Interstate Highway 15; over Interstate Highway 15 and U.S. Highways 66-395, between the said junction and Barstow, Calif., serving applicant's express offices in the intermediate and/or off-route points of Baldwin Park, Pomona, and San Bernardino, Calif., in support of this request applicant states. Restrictions: (1) The service to be performed by the applicant shall be limited to that which is auxiliary to or supplemental of express service of the Railway Express Agency, Inc. (2) Shipments transported by applicant shall be limited to those on through bills of lading or express receipts. (3) Such further specific conditions as the Commission, in the future, may find necessary to impose in order to restrict applicant's operations to a service which is auxiliary to or supplemental of express service of the Railway Express Agency, Inc. NOTE: Applicant requests that the authority for the proposed operation, if granted, be construed as an extension, to be joined and combined with REA's existing authority in MC 66562 and subs thereunder; thereby negating the restrictions against tacking or connections customarily placed upon temporary authorities, for 150 days. Supporting shippers: There are approximately 11 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Stephen P. Tomany, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 346 Broadway, New York, N.Y. 10013.

No. MC 116427 (Sub-No. 6 TA), filed November 27, 1967. Applicant: LAS VEGAS TANK LINES INC., doing business as LAS VEGAS TRUCK LINE, 1941 South Industrial Avenue, Post Office Box 295, Las Vegas, Nev. 89101. Applicant's representative: Ernest D. Salm, 3846 Evans Street, Los Angeles, Calif. 90027. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum plasterboard and gypsum wallboard* (Plasterboard) from Apex and Blue Diamond, Nev., to points in Los Angeles, Orange, Riverside, and San Bernardino Counties, Calif., for 180 days. Supporting shippers: The Flintkote Co., 1650 South Alameda Street, Los Angeles, Calif. 90054; Fiberboard Corp., 475 Brannan Street, San Francisco, Calif. 94107. Send protests to: Daniel Augustine, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 11 West Telegraph Street, Carson City, Nev. 89701.

No. MC 119777 (Sub-No. 93 TA), filed November 28, 1967. Applicant: LIGON SPECIALIZED HAULER, INC., Post Office Box L, Madisonville, Ky. 42431. Applicant's representative: Fred F. Bradley, Suite 202-204, Court Square Office Building, 212 St. Clair Street, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural implements and parts and accessories, including disc harrows and rotary cutters*, from Poplarville, Miss., to Moultrie, Ga., Fairmont, N.C.,

and Houston, Tex., for 180 days. Supporting shipper: James A. Bates, Treasurer and Office Manager, The Poplarville Implement Co., Poplarville, Miss. 39470. Send protests to: Wayne L. Merilatt, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 129307 (Sub-No. 1 TA), filed November 27, 1967. Applicant: McKEE LINES, INC., 644 54th Avenue, Mattawan, Mich. 49071. Applicant's representative: William L. Carney, 105 East Jennings Avenue, South Bend, Ind. 46614. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pizza pies and materials* used in the preparation of pizza pies, from Syracuse, Ind., to points in Kentucky, Michigan, Virginia, West Virginia, North Carolina, South Carolina, Tennessee, Georgia, Florida, and Alabama, for 180 days. Supporting shipper: G & W Food Products Corp., of Indiana, Post Office Box 665, Syracuse, Ind. 46567. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 221 Federal Building, Lansing, Mich. 48933.

No. MC 129544 TA, filed November 22, 1967. Applicant: INTER CITY EXPRESS (1955) LTD., 1457 Vancouver, British Columbia, Canada. Applicant's representative: Hugh Smith (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Muriatic acid*, from ports of entry on the international boundary line between Canada and the United States at Blaine and Sumas, Wash., to Bellingham, Wash. (restricted to transportation on return movements), for 180 days. Supporting shipper: J. P. Van Denburg, Manager of Distribution, Chemicals and American Viscoser Division, FMC Corp., 633 Third Avenue, New York, N.Y. 10017. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6130 Arcade Building, Seattle, Wash. 98101.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-14209; Filed, Dec. 5, 1967; 8:47 a.m.]

[Notice 1129]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

DECEMBER 1, 1967.

The following publications are governed by special rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER issue of April 20, 1966, which became effective May 20, 1966.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 4941 (Sub-No. 28) (Republication), filed November 9, 1967, published in the FEDERAL REGISTER of November 30, 1967, and republished this issue. Applicant: QUINN FREIGHT LINES, INC., 1093 North Montello Street, Brockton, Mass. 02403. Applicant's representative: Mary E. Kelley, 10 Tremont Street, Boston, Mass. 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading, serving the plant and warehouse sites of Eastern Products Corp., located in Howard County, Md., at or near the junction of Maryland Highway 32 and U.S. Highway 29, as an off-route point in connection with applicant's regular route authorities between Baltimore, Md., and New York, N.Y. NOTE: The purpose of this republication is to reflect the hearing information.

HEARING: January 15, 1968, in Room 108, Federal Building, Charles Center, 31 Hopkins Plaza, Baltimore, Md., before Joint Board No. 112.

No. MC 5592 (Sub-No. 2), filed November 22, 1967. Applicant: LANSDALE TRANSPORTATION CO., INC., Post Office Box 392, Lansdale, Pa. Applicant's representative: V. Baker Smith, 123 South Broad Street, Philadelphia, Pa. 19109. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except motion picture films, household goods as defined by the Commission, silk, and silk products, classes A and B explosives, commodities in bulk, commodities requiring special equipment, commodities of unusual value and those injurious or contaminating to other lading, serving Columbia City, Md., as an off-route point in connection with applicant's presently authorized regular route between Norristown, Pa., and Washington, D.C., and Camden, N.J.

HEARING: January 15, 1968, in Room 108, Federal Building, Charles Center, 31 Hopkins Plaza, Baltimore, Md., before Joint Board No. 112.

No. MC 12739 (Sub-No. 2) (republication), filed May 17, 1966, published FEDERAL REGISTER issue of June 9, 1966, and republished this issue. Applicant: PEAK TOURS, INC., 142A North Franklin Street, Hempstead, N.Y. 11550. Applicant's representative: William D. Traub, 10 East 40th Street, New York, N.Y. 10016. In the above-entitled proceeding the examiner recommended that applicant be granted authority to operate as a broker, at Hempstead, N.Y., in arranging for transportation by motor vehicle, in interstate or foreign commerce, of passengers and their baggage, in charter service, in round-trip all-expense tours (1) beginning and ending at points in the Borough of Queens, New York, N.Y., and in Nassau and Suffolk Counties, N.Y., and (2) beginning at points in the Borough of Manhattan, New York, and extending at points in Nassau and Suffolk Counties, and extending, in each instance, to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, the District of Columbia, and Virginia, subject to the right of the Commission to impose, after final determination of the proceeding in Ex Parte No. MC-39 (Sub-No. 2), *Operations of Brokers of Passenger Transportation*, such terms and conditions, if any, as may be deemed necessary to insure that the operations of applicant are limited to bona fide operations as a broker of passenger transportation.

A report of the Commission, Review Board Number 2 decided November 13, 1967 and served November 17, 1967, as supplemented, finds that operation by applicant at Hempstead, N.Y., as a broker in arranging for transportation by motor vehicle, in interstate or foreign commerce, of *passengers and their baggage*, in round-trip, all-expense tours, beginning and ending at New York, N.Y., and points in Nassau and Suffolk Counties, N.Y., and extending to points in the United States, except that service at New York, N.Y., shall be limited to pickup and discharge of passengers joining or departing from tours which begin and end at points in Nassau and Suffolk Counties, N.Y., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act, and the Commission's rules and regulations thereunder; that a license authorizing such operations should be granted (1) subject to the receipt of a request in writing by applicant for the cancellation of the license issued December 19, 1961, in No. MC 12739, and (2) subject to the right of the Commission to impose, upon final determination in Ex Parte No. MC-29-(Sub-No. 2), *Operations of Brokers of Passenger Transportation*, such terms and conditions as may then be deemed necessary to insure that operation under such license is limited to bona fide operation as a broker of passenger transportation. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudicial by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a license in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 110098 (Sub-No. 79) (Republication), filed March 7, 1966, published FEDERAL REGISTER issue of March 24, 1966, and republished this issue. Applicant: ZERO REFRIGERATED LINES, 815 Merida, Station A, Box 7249, San Antonio, Tex. 78207. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. By application filed March 7, 1966, applicant seeks a certificate of public convenience and necessity authorizing operation in interstate or foreign commerce as a common carrier by motor vehicle, over irregular routes, of (1) frozen foods in mixed loads with canned goods, (2) commodities the transportation of which is partially exempt under the provisions of section 203(b)(6) of the Interstate Commerce Act if transported in vehicles not used in carrying any other property, when moving in the same vehicle at the same time with frozen foods, (3) canned goods, and (4) commodities the transportation of which is partially exempt under the provisions of section 203(b)(6) of the Interstate Commerce Act at the same time with canned goods, from points in California and Arizona, to points in Washington, Oregon, and Idaho. The application was referred to Examiner Harry W. Shooman for hearing and the recommendation of an appropriate order thereon. Hearing was held July 7, 8, and 11, 1966, at Los Angeles, Calif., and July 13, 14, and 15, 1966, at San Francisco, Calif. A report and order of the Commission, Division 1, served May 17, 1967, as amended, finds that the present and future public convenience and necessity require operation by applicant as a common carrier by motor vehicle, in interstate or foreign commerce, over irregular routes, in vehicles equipped with mechanical refrigeration, as follows:

(1) (a) *Frozen foods*, (b) *fresh and cured meats* and (c) *commodities* otherwise exempt under section 203(b)(6) of the Act (when moving in mixed loads with regulated commodities), from points in California, to points in Oregon, Washington, and Idaho; (2) *canned goods* (except canned meats, cream and cream substitutes in hermetically sealed aerosol cans), from points in California, to points in Oregon and Washington; (3) *canned meats* (when moving in mixed loads with other regulated commodities), from points in California, to points in Idaho, (4) (a) *meats*, (b) *meat products* (when moving in mixed loads with meats) and (c) *commodities* otherwise exempt under section 203(b)(6) (when moving in mixed loads with regulated commodities), from points in Arizona, to points in Oregon, Washington, and Idaho, and (5) (a) *cream* and (b) *cream substitutes* in hermetically sealed aerosol cans, from Gustine, Calif., to points in Oregon and Washington; restricted against the transportation of liquids in bulk, in tank vehicles; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons, who have relied upon the notice of the application as published may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 115826 (Sub-No. 113) (Republication), filed November 8, 1965, published FEDERAL REGISTER issue of November 25, 1965, and republished this issue. Applicant: W. J. DIGBY, INC., 1960 21st, Post Office Box 5088, Terminal Annex, Denver, Colo. 80217. Applicant's representative: Harry Ross, Warner Building, Washington, D.C. By application filed November 8, 1965, applicant seeks a certificate of public convenience and necessity authorizing operation in interstate or foreign commerce as a common carrier by motor vehicle, over irregular routes, of (1) frozen foods in mixed loads with canned goods, and (2) commodities, the transportation of which is partially exempt under the provisions of section 203(b)(6) of the Interstate Commerce Act, if transported in vehicles not used in carrying any other property, when moving in the same vehicle at the same time with frozen foods or canned goods, from points in California and Arizona to points in Washington, Oregon, and Idaho. The application was referred to Examiner Harry M. Shooman for hearing and the recommendation of an appropriate order thereon. Hearing was held on July 7, 8, and 11, 1966, at Los Angeles, Calif., and July 13, 14, and 15, 1966, at San Francisco, Calif. A report and order of the Commission, Division 1, served May 17, 1967, as amended, finds that the present and future public convenience and necessity require operation by applicant as a common carrier by motor vehicle, in interstate or foreign commerce, over irregular routes, in vehicles equipped with mechanical refrigeration, as follows:

(1) (a) *Frozen foods*, (b) *fresh and cured meats* and (c) *commodities* otherwise exempt under section 203(b)(6) of the Act (when moving in mixed loads with regulated commodities), from points in California to points in Oregon, Washington, and Idaho, (2) *canned goods* (except canned meats, cream, and cream substitutes in hermetically sealed aerosol cans), from points in California, to points in Oregon and Washington, (3) *canned meats* (when moving in mixed loads with other regulated commodities), from points in California, to points in Idaho, (4) (a) *meats*, (b) *meat products* (when moving in mixed loads with meats) and (c) *commodities* otherwise exempt under section 203(b)(6) (when moving in mixed loads with regulated commodities), from points in Arizona, to points in Oregon, Washington, and Idaho, and (5) (a) *cream* and (b) *cream substitutes* in hermetically sealed aerosol cans, from Gustine, Calif., to points in Oregon and Washington; restricted against the transportation of liquids in bulk, in tank vehicles; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 117119 (Sub-No. 316) (Republication), filed December 29, 1965, published FEDERAL REGISTER issue of January 27, 1966, and republished this issue. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., Elm Springs, Ark. 72728. Applicant's representative: John H. Joyce, 26 North College, Fayetteville, Ark. By application filed December 29, 1965, applicant seeks a certificate of public convenience and necessity, authorizing operation in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of (1) frozen foods, in mixed loads with canned goods, (2) commodities, the transportation of which is partially exempt under the provisions of section 203(b)(6) of the Interstate Commerce Act if transported in vehicles not used in carrying any other property, when moving in the same vehicle at the same time with frozen foods, (3) canned goods, and (4) commodities, the transportation of which is partially exempt under the provisions of section 203(b)(6) of the Interstate Commerce Act, if transported in vehicles not used in carrying any other property, when moving in the same vehicle, at the same time with canned goods, from points in California and Arizona, to points in Washington, Oregon, and Idaho. The application was referred to Examiner Harry M. Shooman for hearing and the recommendation of an appropriate order thereon. Hearing was held on July 7, 8, and 11, 1966 at Los Angeles, Calif., and July 13, 14, and 15, 1966 at San Francisco, Calif. A report and order of the Commission, Division 1, served May 17, 1967, as amended, finds that the present and future public convenience and necessity require operation by applicant as a common carrier by motor vehicle, in interstate or foreign commerce, over irregular routes, in vehicles equipped with mechanical refrigeration, as follows:

(1) (a) *Frozen foods*, (b) *fresh and cured meats and* (c) *commodities* otherwise exempt under section 203(b)(6) of the Act (when moving in mixed loads with regulated commodities), from points in California, to points in Oregon, Washington, and Idaho, (2) *canned goods* (except canned meats, cream, and cream substitutes in hermetically sealed aerosol cans), from points in California, to points in Oregon and Washington, (3) *canned meats* (when moving in mixed loads with other regulated commodities), from points in California, to points in Idaho, (4) (a) *meats*, (b) *meat products* (when moving in mixed loads with meats) and (c) *commodities* otherwise exempt under section 203(b)(6) (when moving in mixed loads with regulated commodities), from points in Arizona to points in Oregon, Washington, and Idaho, and (5) (a) *cream* and (b) *cream substitutes* in hermetically sealed aerosol cans, from Gustine, Calif., to points in Oregon and Washington; restricted against the transportation of liquids in bulk, in tank vehicles; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commisison's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 118196 (Sub-No. 44) (Republication), filed November 8, 1965, published FEDERAL REGISTER issue of November 26, 1965, and republished this issue. Applicant: RAY & COMPANY TRANSPORTS, INC., Highway 71 North, Post Office Box 613, Carthage, Mo. 64836. Applicant's representative: Harry Ross, Warner Building, Washington, D.C. By application filed November 8, 1965, applicant seeks a certificate of public convenience and necessity, authorizing operation in interstate or foreign commerce as a common carrier by motor vehicle, over irregular routes, of (1) frozen foods in mixed loads with canned goods, and (2) commodities, the transportation of which is partially exempt under the provisions of section 203(b)(6) of the Interstate Commerce Act if transported in vehicles not used in carrying any other property, when moving in the same vehicle at the same time with frozen foods or canned goods, from points in California and Arizona, to points in Idaho, Washington, and Oregon. The application was referred to Examiner Harry M. Shooman for hearing and the recommendation of an appropriate order thereon. Hearing was held on July 7, 8, and 11, 1966, at Los Angeles, Calif., and July 13, 14, and 15, 1966, at San Francisco, Calif. A Report and Order of the Commission, division 1, served May 17, 1967, as amended, finds that the present and future public convenience and necessity require operation by applicant as a common carrier by motor vehicle, in interstate or foreign commerce, over irregular routes, in vehicles equipped with mechanical refrigeration, as follows:

(1) (a) *Frozen foods*, (b) *fresh and cured meats* and (c) *commodities* otherwise exempt under section 203(b)(6) of the Act (when moving in mixed loads with regulated commodities), from points in California, to points in Oregon, Washington, and Idaho; (2) *canned goods* (except canned meats, cream and cream substitutes in hermetically sealed aerosol cans), from points in California, to points in Oregon and Washington; (3) *canned meats* (when moving in mixed loads with other regulated commodities), from points in California, to points in Idaho; (4) (a) *meats*, (b) *meat products* (when moving in mixed loads with meats) and (c) *commodities* otherwise exempt under section 203(b)(6) (when moving in mixed loads with regulated commodities), from points in Arizona, to points in Oregon, Washington, and Idaho, and (5) (a) *cream* and (b) *cream substitutes* in hermetically sealed aerosol cans, from Gustine, Calif., to points in Oregon and Washington; restricted against the transportation of liquids in bulk, in tank vehicles; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 125664 (Sub-No. 4) (Republication), filed July 21, 1966, published FEDERAL REGISTER issue of August 25, 1966, and republished this issue. Applicant: JERRY LIPPS, INC., 130 South Frederick, Cape Girardeau, Mo. Applicant's representative: Thomas F. Kilroy, 1341 G Street NW., Suite 913, Colorado Building, Washington, D.C. 20005. By application filed July 21, 1966, applicant seeks a permit authorizing operation, in interstate or foreign commerce, as a contract carrier by motor vehicle over irregular routes of playground equipment, basketball goals and backboards, toys, movie screens, velocipedes, snow shoes, rope, lawn furniture, porch swings, tables and chairs, boards, chalk or bulletin, and parts thereof, from West Point, Miss., and Jamestown, Linesville, and Greenville, Pa., to points in the United States except Alaska and Hawaii, under contract with Shepco, a division of Blazon, Inc., Rempel Manufacturing, Inc., a subsidiary of Blazon, Inc., and Blazon, Inc. A decision and order of the Commission, Review Board Number 1, dated November 15, 1967, and served November 22, 1967, as amended, finds that the present and future public convenience and necessity require operation by applicant in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of *playground equipment, basketball goals, basketball backboards, toys, moving picture screens, velocipedes, snow shoes, rope, lawn furniture, porch swings, tables and chairs, blackboards and bulletin boards, and parts thereof*, from West Point, Miss., to points in the United States (except Alaska and Hawaii); that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

NOTICE OF FILING OF PETITION

No. MC 8713 (Sub-No. 1 EX) (Notice of Filing of Petition To Revoke Certificate of Exemption and To Reinstate Authority Once Held in MC 8713), filed September 21, 1967. Petitioner: JOSEPH L. BRAUN, doing business as BRAUN'S EXPRESS, Medway, Mass. Petitioner's representative: George C. O'Brien, 31 Broad Street, Boston, Mass. 12109. Petitioner states it holds a certificate of exemption authorizing the transportation of general commodities, except those of unusual value, and except high explosives, commodities in bulk, and commodities requiring special equipment, over regular routes, wholly within Massachusetts, between Boston, Mass., and Bellingham, Mass.: From Boston, over Massachusetts Highway 109 to West Medway, Mass., thence over unnumbered highway to South Milford, Mass., and thence over Massachusetts Highway 140 to Bellingham, and return over the same route. Service is authorized to and from intermediate points, and the off-route points of Medway, Dover, Needham, and Newton, Mass. By the instant petition, petitioner seeks to have the Commission revoke the said certificate of exemption in its entirety and simultaneously restore the said interstate authority as provided by section 204(a)(4a) in MC 8713, which was dismissed by order of June 4, 1968. Any interested person desiring to participate, may file an original and six copies of his written representations, views, or argument in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-9955. Authority sought for purchase by M. & G. CONVOY, INC., 500 Elk Street, Post Office Box 218, Buffalo, N.Y. 14205, of the operating rights and property of AUTOMOBILE SHIPPERS, INCORPORATED, 9760 Van Dyke Avenue, Detroit, Mich. 48213, and for acquisition by E. J. HAND, also of Buffalo, N.Y., of control of such rights and property through the purchase. Applicants' attorney: Walter N. Bieneman, Suite 1700, 1 Woodward Avenue, Detroit, Mich. 48226. Operating rights sought to be transferred: *New automobiles, new trucks, new bodies, new cabs, new chassis, and parts thereof*, in truckaway service, restricted to initial movements, as a *common carrier*, over irregular routes, from places of manufacture and assembly in Detroit, Mich., and points in Warren Township, Macomb County, Mich., to points in Illinois, Indiana, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, West Virginia, and those in Kentucky contiguous to Illinois and Indiana, traversing Maryland and Delaware for operating convenience only; *the commodities specified above*, in truckaway service, restricted to secondary movements, during the season of open navigation on the Great Lakes, from Cleveland, Ohio, and Buffalo, N.Y., to points as described above; *the commodities specified above*, in truckaway service, restricted to secondary movement, from Chicago, Ill., to certain specified points in Indiana, and Cook County, Ill.; *automobiles, trucks, bodies, cabs, and chassis*, new, used, unfinished, and/or wrecked, in truckaway service, restricted to secondary movements, between all points as described above.

New automotive vehicles and equipment, consisting of automobiles, trucks, bodies, cabs, chassis, and parts thereof, in truckaway service, from Evansville, Ind., to Louisville, Ky., and points in Illinois and Missouri; *new automobiles, new trucks, new bodies, new cabs, new chassis, and parts thereof*, in driveaway service, restricted to initial movements, from places of manufacture and assembly in Detroit, Mich., and points in Warren Township, Macomb County, Mich., to points in Illinois, Indiana, Kentucky, Michigan, New York, Ohio, Pennsylvania, Tennessee, and Wisconsin, traversing West Virginia and New Jersey for operating convenience only; *the commodities specified above*, in driveaway service, restricted to secondary movements, from Cleveland, Ohio, and Buffalo, N.Y., to points as described above; *automobiles, trucks, bodies, cabs, and chassis*, new, used, unfinished, and/or wrecked, in driveaway service, restricted to secondary movements, between all points as described above; *automobiles, trucks, cabs, automobile bodies, chassis, and unfinished automobiles*, in truckaway and driveaway service, restricted to initial movements, from places of manufacture and assembly in Detroit, Mich., and Evansville, Ind., to Memphis, Tenn., points in Illinois, Missouri, Arkansas, and certain specified points in Iowa; *the commodities specified above*, in truckaway and driveaway service, restricted to secondary movements, between Memphis, Tenn., Detroit, Mich., and points in Indiana, Illinois, Missouri, except St. Louis, Mo., Arkansas, and those in Iowa on and east of the line as above.

New automobiles, automobile bodies, automobile chassis, and automobile parts and accessories moving in connection therewith, *automobile show equipment and paraphernalia, and farm and garden tractors, and parts and accessories thereof* moving in connection therewith, in truckaway service, in initial movements, from Willow Run in Washtenaw County, Mich., to Memphis, Tenn., points in Arkansas, Illinois, Indiana, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, and West Virginia, points in Kentucky within 1 mile of the Kentucky-Illinois and Kentucky-Indiana State lines, and certain specified points in Iowa, traversing Delaware and Maryland when necessary for operating convenience; *the above-specified commodities*, in driveaway service in initial movements, from Willow Run to Memphis, Tenn., points in Arkansas, Illinois, Indiana, Kentucky, Michigan, Missouri, New York, Ohio, Pennsylvania, Tennessee, and Wisconsin, and certain specified points in Iowa, traversing New Jersey and West Virginia when necessary for operating convenience; *new motor vehicle bodies*, from Frankfort, Ind., to points in Wayne County, Mich., and Warren Township, Macomb County, Mich.; *experimental and show automobiles, and experimental or show automobile chassis*, which, at time of movement are being transported for purposes of display, and not for sale, and *related automobile show equipment and paraphernalia* moving in the same vehicle and at the same time as show automobiles or chassis, between points in the United States; *new automobiles*, in initial movements, by the truckaway method, from Evansville, Ind., to the District of Columbia and points in Connecticut, Delaware, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, West Virginia, and Wisconsin, and certain specified points in Kansas, Nebraska, South Dakota, and North Dakota.

Automobiles, trucks, and chassis, and parts thereof when moving therewith, in secondary movements in truckaway and driveaway service, and *of automobile and truck bodies and cabs*, from Pittsburgh, Pa., to certain specified points in Maryland, and points in West Virginia and the District of Columbia, from Pittsburgh, Pa., to West Virginia and certain specified points in Maryland, with restrictions; and *automobiles, trucks, bodies, cabs, and chassis*, new and unfinished, and *parts thereof*, over regular and irregular routes, in truckaway and driveaway service, between St. Louis, Mo., and Oklahoma points, serving no intermediate points on the regular route specified. Vendee is authorized to operate as a *common carrier* in Michigan, Delaware, Maryland, New Jersey, Pennsylvania, New York, Ohio, North Carolina, Virginia, West Virginia, Connecticut, Florida, Georgia, Maine, Massachusetts, New Hampshire, Rhode Island, South Carolina, Vermont, Alabama, Indiana, Illinois, Kentucky, Mississippi, Missouri, Tennessee, Wisconsin, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-9956. Authority sought for purchase by DONALD NUSSBERGER AND WILLIS NUSSBERGER, doing business as NUSSBERGER BROS., Catawba, Wis. 54154, of a portion of the operating rights of OSCAR C. RADKE, doing business at RADKE TRANSIT, 730 South 17th Avenue, Wausau, Wis. 54401. Applicants' representative: John W. Slaby, Phillips, Wis. Operating rights sought to be transferred: *Animal and poultry feeds*, in bulk, and *animal and poultry feeds*, in bags, when moving in the same vehicle and at the same time with animal and poultry feed, in bulk, as a *common carrier*, over irregular routes, from Minneapolis, Minn., to points in Barrow, Burnett, Douglas, Dunn, Rusk, Sawyer, and Washburn Counties, Wis. Vendee is authorized to operate as a *contract carrier* in Minnesota, and Wisconsin. Application has been filed for temporary authority under section 210a(b).

No. MC-F-9957. Authority sought for purchase by KOWALSKY'S EXPRESS SERVICE, 2235 West Main Street, Millville, N.J. 08332, of the operating rights and certain property of JACOB CLAYMAN, JOSEPH CLAYMAN, AND MORRIS CLAYMAN, doing business as B. CLAYMAN & SONS, 2609 East Cambria Street, Philadelphia, Pa. 19134. Applicants' representative: Charles E. Creager, 10 West Boscawen Street, Post Office Box 81, Winchester, Va. 22601. Operating rights sought to be transferred: *Household goods*, as defined by the Commission, and *general commodities*, except those of unusual value, classes A and B explosives, livestock, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common*

carrier, over regular routes, between Philadelphia, Pa., and Atlantic City, N.J., serving all intermediate and certain off-route points; *commodities*, as above, over irregular routes, between points in the Philadelphia, Pa., commercial zone, as defined by the Commission, on the one hand, and, on the other, Mays Landing, N.J., points within 10 miles of Atlantic City, N.J., and points in New Jersey on and north of U.S. Highway 322 and on and south of U.S. Highway 30; and *household goods*, as defined by the Commission, between Philadelphia, Pa., and points in that part of New Jersey on and south of a line beginning at Trenton, N.J., and extending in an easterly direction to Red Bank, N.J. Vendee is authorized to operate as a *common carrier* in New York, New Jersey, Pennsylvania, Maryland, Delaware, Connecticut, and Virginia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-9958. Authority sought for control and merger by McLEAN TRUCKING COMPANY, Post Office Box 213, 617 Waughtown Street, Winston-Salem, N.C., of the operating rights and property of DAILY TRANSPORT, INC., 4923 Midlothian Turnpike, Richmond, Va., and for acquisition by M. C. BENTON, JR., and PAUL P. DAVIS, both also of Winston-Salem, N.C., of control of such rights and property through the transaction. Applicants' attorney: David G. MacDonald, Suite 502, 1000 16th Street NW., Washington, D.C. 20036. Operating rights sought to be controlled and merged: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, from Wilmington, N.C., to Lake City, S.C., serving all intermediate points, between Greenville, N.C., and Richmond, Va., serving the intermediate points of Enfield, N.C., and Petersburg, Va., between Greenville, N.C., and Norfolk, Va., serving certain intermediate points and the off-route point of Newport News, Va., between Richmond, Va., and Richmond Deepwater Terminals, Va., serving no intermediate points; between Norfolk, Va., and Richmond, Va., serving all intermediate and certain off-route points, between Suffolk, Va., and Franklin, Va., between Norfolk, Va., and Elizabeth City, N.C., serving all intermediate points, between Petersburg, Va., and Hopewell, Va., serving all intermediate points, and the off-route point of Camp Lee, Va., between Franklin, Va., and South Hill, Va., between Norfolk, Va., and Newport News, Va., between Norfolk, Va., and Old Point Comfort, Va., serving all intermediate points, with restriction; *tobacco* (in hogsheads, sheet, and baskets, only), from Florence, S.C., to Wilmington, N.C., serving certain intermediate points; *general commodities*, excepting, among others, household goods and commodities in bulk, over irregular routes, between points in Norfolk, Va., between points in Suffolk, Va., and between certain specified points in North Carolina. McLEAN TRUCKING COMPANY, is authorized to operate as a *common carrier* in Iowa, North Carolina, Georgia, South Carolina, Virginia, New York, Delaware, Pennsylvania, Rhode Island, Connecticut, Maryland, New Jersey, Massachusetts, West Virginia, Ohio, Indiana, Tennessee, Illinois, Kentucky, Missouri, Maine, Vermont, Wisconsin, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-9959. Authority sought for control by RED ARROW SECURITIES CORPORATION, 3901 Seguin Road, Post Office Box 1897, San Antonio, Tex. 78206, of RED ARROW HEAVY HAULING, INC., 3901 Seguin Road, San Antonio, Tex. 78206, and for acquisition by LAWRENCE WINGERTER, also of San Antonio, Tex., of control of RED ARROW HEAVY HAULING, INC., through the acquisition by RED ARROW SECURITIES CORPORATION. Applicants' attorney: Reagan Sayers, Century Life Building, Post Office Box 17007, Fort Worth, Tex. 76102. Operating rights sought to be controlled: Under a certificate of registration, in docket No. MC-102162 Sub-3, covering the transportation of property, as a common carrier, in intrastate commerce, within the State of Texas. RED ARROW SECURITIES CORPORATION hold no authority from this Commission. However, it controls RED ARROW FREIGHT LINES, INC., 3901 Seguin Road, Post Office Box 1897, San Antonio, Tex. 78206, which is authorized to operate as a *common carrier* in the State of Texas, and as a common carrier, in intrastate commerce within the State of Texas. Application has not been filed for temporary authority under section 210a(b). NOTE: This Application was filed in accord to the report and order, by Division 3, in No. MC-F-9395, dated July 20, 1967.

No. MC-F-9960. Authority sought for purchase by NORTHERN MOTOR CARRIERS, INC., Route 9, Saratoga Road, Fort Edward, N.Y., of a portion of the operating rights of BONDED FREIGHTWAYS, INC., 441 Kirkpatrick Street West (Post Office Box 1012, Syracuse, N.Y. 13201), Syracuse, N.Y. 13204. Applicants' attorneys: Norman M. Pinsky and Herbert M. Canter, 345 South Warren Street, Syracuse, N.Y. 13202, and Robert V. Gianniny, 900 Midtown Tower, Rochester, N.Y. 14604. Operating rights sought to be transferred: *Limestone*, as a *common carrier*, over irregular routes, from the town of Dover, N.Y., to points in Connecticut, Pennsylvania, New York, and points in New Jersey except points in Cumberland, Salem, Gloucester, Cape May, Atlantic, Camden, and Burlington Counties, N.J., from the town of Dover (Dutchess County), N.Y., to points in Rhode Island, Massachusetts, New Hampshire, Vermont, and Maine (except points in Aroostook County). Vendee is authorized to operate as a *common carrier* in New York, Connecticut, Maine, Massachusetts, New Jersey, New Hampshire, Rhode Island, Vermont, and Pennsylvania; and as a *contract carrier* in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New Jersey, New York, and Pennsylvania. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-9961. Authority sought for (1) control by NATIONAL CITY LINES, INC., 700 Security Life Building, Denver, Colo. 80202, of T.I.M.E. FREIGHT, INC., 2598 74th Street, Post Office Box 2550, Lubbock, Tex. 79408; (2) merger into T.I.M.E. FREIGHT, INC., 2598 74th Street, Post Office Box 2550, Lubbock, Tex. 79408, of the operating rights and property of (A) DC INTERNATIONAL, INC., East 45th Avenue at Jackson Street, Denver, Colo. 80216, and (B) LOS ANGELES-SEATTLE MOTOR EXPRESS, INC., 3200 Sixth Avenue South, Seattle, Wash. 98134; and (3) control by T.I.M.E. FREIGHT, INC., 2598 74th Street, Post Office Box 2550, Lubbock, Tex. 79408, of RED BALL EXPRESS CO., East 45th Avenue at Jackson Street, Denver, Colo. 80216. Applicants' attorneys: W. D. Benson, Jr., ninth floor Citizens Tower, Lubbock, Tex. 79401, Frank M. Garrison, Post Office Box 2550, Lubbock, Tex. 79408, and James W. Wrape, 2111 Sterick Building, Memphis, Tenn. 38103. Operating rights sought to be (1) and (3) controlled, and (2) merged: (1) *General commodities*, with certain specified exceptions, and numerous other specified commodities, as a *common carrier*, over regular and irregular routes, from, to, and between specified points in the States of Texas, Oklahoma, New Mexico, New Jersey, Arizona, California, Tennessee, Kansas, Massachusetts, Rhode Island, Connecticut, Arkansas, Kentucky, Maryland, Ohio, Georgia, Missouri, Virginia, Illinois, Indiana, Pennsylvania, New York, Alabama, and West Virginia, with certain restrictions, serving various intermediate and off-route points, numerous alternate routes for operating convenience only, as more specifically described in Docket No. MC-35320 and Sub-numbers thereunder;

(2) (A) *General commodities*, with certain specified exceptions, and numerous other specified commodities, as a *common carrier*, over regular and irregular routes, from, to, and between specified points in the States of Colorado, Washington, Wyoming, Utah, Idaho,, Oregon, Illinois, Missouri, Kansas, Arizona, California, New Mexico, Missouri, Idaho, Nebraska, New Jersey, Kentucky, Pennsylvania, Ohio, Michigan, Indiana, New York, Connecticut, Massachusetts, and Rhode Island, with certain restrictions, serving various intermediate and off-route points, numerous alternate routes for operating convenience only, as more specifically described in Docket No. MC-29988 and Sub-numbers thereunder; (B) *General commodities*, with certain specified exceptions, and numerous other specified commodities, as a *common carrier*, over regular and irregular routes, from, to, and between specified points in the States of California, Oregon, and Washington, with certain restrictions, serving various intermediate and off-route points, three alternate routes for operating convenience only, as more specifically described in Docket No. MC-68618 and Sub-numbers thereunder; and (3) *General commodities*, with certain specified exceptions, and numerous other specified commodities, as a *common carrier*, over regular routes, from, to, and between specified points in the States of Nebraska, Missouri, Kansas, Iowa, Illinois, Indiana, and Colorado, with certain restrictions, serving various intermediate and off-route points, one alternate route for operating convenience only, as more specifically described in Docket No. MC-105807 and Sub-numbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carriers involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of these carriers' operating rights, without stating, in full, the entirety, thereof.

NATIONAL CITY LINES, INC., holds no authority from this Commission. However, it controls (1) AUTOMOBILE CARRIERS, INC., 3401 North Dort Highway, Post Office Box 128, Flint, Mich. 48501, (2) C & J COMMERCIAL DRIVEAWAY, INC., 1905 West Mount Hope Avenue, Lansing, Mich. 48910, (3) DEALERS TRANSIT, INC., 13101 South Torrence Avenue, Chicago, Ill. 60633, and (4) LAKE SHORE MOTOR COACH LINES, INC., Post Office Box 2809, 602 East Fifth South Street, Salt Lake City, Utah 84110, which are authorized to operate as *common carriers* in (1) Michigan, Nebraska, Alabama, Illinois, Georgia, Indiana, Iowa, Missouri, Tennessee, Ohio, Wisconsin, and Kentucky; (2) Michigan, Kentucky, Ohio, Tennessee, Illinois, Indiana, Iowa, Texas, Rhode Island, Virginia, Utah, Missouri, Wisconsin, Minnesota, New Jersey, New York, Pennsylvania, West Virginia, Arkansas, Maryland, Alabama, Florida, Georgia, and the District of Columbia; (3) all points in the United States (except Hawaii); and (4) Utah. Application has not been filed for temporary authority under section 210a(b). NOTE: FD. 24843 is simultaneously filed.

No. MC-F-9962. Authority sought for purchase by SMITH'S TRANSFER CORPORATION OF STAUNTON, VA., Post Office Box 1000, Staunton, Va., of a portion of the operating rights of BONNEY MOTOR EXPRESS, INC., Post Office Box 12388, Norfolk, Va. 23502, and for acquisition by R. R. SMITH and R. P. HARRISON, both also of Staunton, Va., of control of such rights through the purchase. Applicants' attorney: David G. Macdonald, 1000 16th Street NW., Washington, D.C. Operating rights sought to be transferred: *Frozen Foods*, as a *common carrier*, over irregular routes, from Crosset, Va., to points in Kentucky, Indiana, Michigan, Ohio, Tennessee, and West Virginia; and *frozen bakery goods*, from Toledo and Cleveland, Ohio, to Crosset, Va. Restriction: The authority granted herein, to operate from Cleveland, Ohio, shall be restricted against tacking and/or interline at Crosset, Va., or points within the commercial zone thereof. Vendee is authorized to operate as a *common carrier* in Virginia, Maryland, Pennsylvania, New York, West Virginia, New Jersey, Tennessee, Kentucky, Connecticut, Massachusetts, Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Louisiana, Maine, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, North Carolina, Ohio, Rhode Island, South Carolina, Texas, Vermont, Wisconsin, Kansas, Utah, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-9963. Authority sought for purchase by HOLMES TRANSPORTATION, INC., 550 Cochituate Road, Framingham, Mass. 01706, of a portion of the operating rights of STEWART TRUCKING CO., INC., 476 Valley Street, Manchester, N.H. 03103, and for acquisition by the ESTATE OF ALVIN R. HOLMES (DOROTHY HOLMES AND ROBERT C. HOLMES, ADMINISTRATORS), also of Framingham, Mass., of control of such rights through the purchase. Applicants' attorney: Kenneth B. Williams, 111 State Street, Boston, Mass. 02109. Operating rights sought to be transferred: *General commodities*, excepting among others commodities in bulk, but not excepting household goods, as a *common carrier*, over regular routes, between Boston, Mass., and Colebrook, N.H., serving all intermediate points north of Rochester, N.H., without restriction; Exeter and Durham, N.H., restricted to delivery of groceries on north bound traffic only, between Boston, Mass., and Colebrook, N.H., serving all intermediate points north of Plymouth, N.H., between Boston, Mass., and Colebrook, N.H., serving all intermediate points north of Plymouth, N.H.; and the off-route points of Bartlett, Bethlehem, Bretton Woods, Crawford Notch, Jefferson, Twin Mountain, and Fabyan, N.H., and those in Massachusetts within 5 miles of Boston, Mass., without restriction; and Lynn and Beverly, Mass., restricted to delivery only, between Manchester, N.H., and Laconia, N.H., serving all intermediate points and the off-route points of Hooksett, Suncook, and Lakeport, N.H. Vendee is authorized to operate as a *common carrier* in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New Jersey, and Pennsylvania. Application has been filed for temporary authority under section 210a(b). NOTE: The Household Goods portion of the authority of transferor sought to be transferred in No. MC-FC-69676 was approved October 30, 1967, by the Transfer Board, and has not been consummated yet.

No. MC-F-9964. Authority sought for purchase by CANADIAN AUTO CARRIERS, LTD., 7411 Buller Avenue, Burnaby, British Columbia, Canada, of the operating rights and property of STAR TRANSPORT, LTD., 1400 Lindsay, Regina, Saskatchewan, Canada, and for acquisition by T. P. YOUELL, 2155 North Northlake Way, Seattle, Wash., and PETER W. YOUELL, 4048 Southwest Greenleaf Drive, Portland, Oreg., of control of such rights and property through the purchase. Applicants' attorney: Marvin Handler, 405 Montgomery Street, San Francisco, Calif. 94104. Operating rights sought to be transferred: *Automobiles, trucks, and buses*, as defined in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, in initial and secondary movements, in driveaway and truckaway service, and *parts and accessories thereof*, when moving at the same time and with the vehicles of which they are a part and on which they are to be installed, and *farm-type tractors*, when moving in mixed loads with automobiles and trucks, and *parts and accessories thereof*, when moving at the same time and with the tractors of which they are a part and on which they are to be installed, as a *common carrier*, over irregular routes, from ports of entry on the United States-Canada boundary line located in Montana and North Dakota, to points in Montana and North Dakota with restriction. Vendee is authorized to operate as a *common carrier* in Idaho, Washington, and Montana. Application has been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 67-14210; Filed, Dec. 5, 1967; 8:47 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—DECEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during December.

3 CFR

Page

EXECUTIVE ORDERS:

Dec. 5, 1913 (revoked by PLO 4327) 16531
Mar. 21, 1914 (revoked by PLO 4327) 16531
June 24, 1914 (revoked by PLO 4327) 16531
11248 (amended by EO 11384) 17423
11383 17421
11384 17423

5 CFR

210 16474
213 16477
315 16474
351 16474
352 16474
353 16475
430 16475
511 16475
531 16475
713 16476
731 16476
752 16476
754 16476
771 16477
772 16477
831 16477
891 16477

7 CFR

491 ..... 16478, 17425
722 17467
724 16478
725 16479
815 16525
905 16525
907 16526
910 16526
944 17425
982 16527
989 17467
1062 16479
1073 16480
1094 16527
1103 16527
1106 16480
1126 16480
1421 16528
1427 16528

PROPOSED RULES:

911 17431
915 17431
950 17433
993 17434

12 CFR

Page

12 17468
206 17469
224 17425
335 17470

14 CFR

39 ..... 16481, 17426
61 16481
71 ..... 16482, 16483, 17426, 17427
73 17427
91 16483
97 16484
121 16481
151 17471
301 16491
302 16491
311 16491
320 16491
321 16491
430 16491
431 16491
435 16491

PROPOSED RULES:

1 16495
21 17485
25 17487
39 17430
71 ..... 16496, 17488
73 17488
91 16495
214 16535
295 16535

15 CFR

373 17471

16 CFR

13 17427

19 CFR

12 17428
23 16528

21 CFR

120 ..... 16529, 17472
121 ..... 16529, 16530, 17472
130 16531
146 16531
146a 16491
166 17473

PROPOSED RULES:

31 16533
46 17482
138 16533

22 CFR

10 17454

23 CFR

Page

PROPOSED RULES:

255 16534

26 CFR

1 17479

28 CFR

0 16531

29 CFR

1610 16491

39 CFR

123 17479
742 17479

41 CFR

1-1 16491
Ch. 18 17002

43 CFR

PUBLIC LAND ORDERS:

334 (revoked in part by PLO 4333) 17480
1796 (revoked in part by PLO 4331) 17479
2764 (see PLO 4331) 17479
4327 16531
4328 17428
4329 16532
4330 17479
4331 17479
4332 17479
4333 17480
4334 17428
4335 17429

46 CFR

510 17480

PROPOSED RULES:

514 16496

47 CFR

97 17429

PROPOSED RULES:

2 16495
87 16495
91 17440

49 CFR

890 17480
1200 17480

50 CFR

33 ..... 16532, 17430, 17481
254 16492

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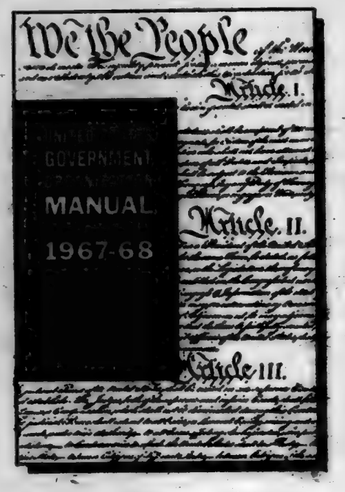

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Agencies in this issue—

Agricultural Stabilization and Conservation Service
Army Department
Atomic Energy Commission
Civil Aeronautics Board
Commerce Department
Consumer and Marketing Service
Engineers Corps
Engraving and Printing Bureau
Federal Aviation Administration
Federal Crop Insurance Corporation
Federal Home Loan Bank Board
Federal Power Commission
Federal Reserve System
Federal Trade Commission
Fish and Wildlife Service
Health, Education, and Welfare Department
Indian Affairs Bureau
Interagency Textile Administrative Committee
Internal Revenue Service
Interstate Commerce Commission
Land Management Bureau
Securities and Exchange Commission
Treasury Department

Detailed list of Contents appears inside.

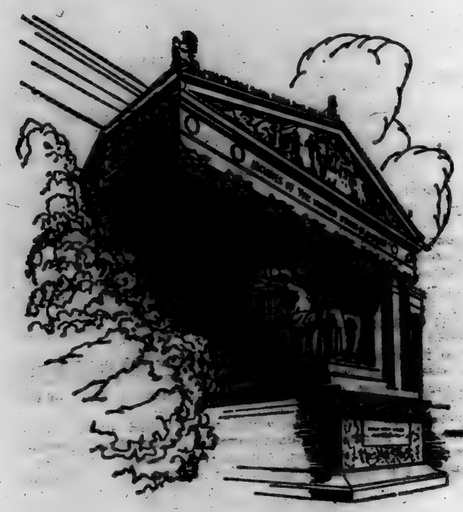

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Contents

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE
Rules and Regulations
Determination of acreage in skip-row planting patterns ... 17513

AGRICULTURE DEPARTMENT
See Agricultural Stabilization and Conservation Service; Consumer and Marketing Service; Federal Crop Insurance Corporation.

ARMY DEPARTMENT
See also Engineers Corps.
Rules and Regulations
Claims on behalf of U.S.; reasonable value of medical care furnished by Army ... 17519

ATOMIC ENERGY COMMISSION
Rules and Regulations
General policy for avoidance of organizational conflicts of interest; correction ... 17542

CIVIL AERONAUTICS BOARD
Notices
Dallas/Ft. Worth-Phoenix nonstop case; prehearing conference ... 17550

COMMERCE DEPARTMENT
Notices
Business and Defense Services Administration; functions (2 documents) ... 17548
Maritime Administration; authority delegation ... 17549
National Bureau of Standards; authority delegation ... 17550
Office of Business Economics; organization and functions (2 documents) ... 17548, 17549

CONSUMER AND MARKETING SERVICE
Rules and Regulations
Oranges, Navel, grown in Arizona and California; handling limitation ... 17515

DEFENSE DEPARTMENT
See Army Department; Engineers Corps.

ENGINEERS CORPS
Rules and Regulations
Administrative procedure ... 17522

ENGRAVING AND PRINTING BUREAU
Notices
Statement of organization, functions, and public information procedures ... 17546

FEDERAL AVIATION ADMINISTRATION
Rules and Regulations
Airworthiness directives:
BAC 1-11 Model 212AR, 401AK, and 410AQ Series airplanes ... 17515
Dowty Rotol propellers installed on certain airplanes ... 17516
Alterations:
Control zones (2 documents) ... 17516
Federal airways (2 documents) ... 17516, 17517
Federal airways segments ... 17517
Jet route ... 17518
Transition area ... 17517
Control area and jet route; designation and establishment ... 17518
VOR Federal airway; extension ... 17517
Proposed Rule Making
VOR Federal airways; withdrawal of proposed alteration and designation ... 17543

FEDERAL CROP INSURANCE CORPORATION
Rules and Regulations
Federal crop insurance; 1961 and succeeding crop years:
Corn ... 17513
Grain sorghum ... 17513
Sugar beets ... 17513
Tomatoes ... 17513

FEDERAL HOME LOAN BANK BOARD
Rules and Regulations
Federal Savings and Loan Insurance Corporation; definitions; slow loans ... 17515
Proposed Rule Making
Federal Savings and Loan Insurance Corporation; operations; maintenance of records ... 17544

FEDERAL POWER COMMISSION
Notices
Hearings, etc.:
Manufacturers Light and Heat Co. et al ... 17550
Natural Gas Pipeline Company of America ... 17552
Tennessee Gas Pipeline Co ... 17553

FEDERAL RESERVE SYSTEM
Notices
Approval of applications under Bank Holding Company Act:
Atlantic Trust Co ... 17554
Colorado CNB Bankshares, Inc ... 17554

FEDERAL TRADE COMMISSION
Proposed Rule Making
Furs and fur products; artificial coloration and monetary value ... 17544

FISH AND WILDLIFE SERVICE
Rules and Regulations
Tishomingo National Wildlife Refuge, Okla.; hunting ... 17542

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Notices
Assistant Secretary for Administration; authority delegation ... 17550

INDIAN AFFAIRS BUREAU
Proposed Rule Making
Fort Peck Indian Irrigation Project, Mont.; operation and maintenance charges ... 17543

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE
Notices
Certain cotton textiles and products produced or manufactured in Portugal; entry or withdrawal from warehouse for consumption ... 17554

INTERIOR DEPARTMENT
See Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau.

INTERNAL REVENUE SERVICE
Rules and Regulations
Income tax; information to be furnished in connection with depletion deductions ... 17518

INTERSTATE COMMERCE COMMISSION
Notices
Fourth section applications for relief ... 17565
Motor carrier, broker, water carrier, and freight forwarder applications ... 17557
Motor carrier transfer proceedings ... 17565

LAND MANAGEMENT BUREAU
Notices
Oregon:
Classification of public lands for multiple-use management ... 17546
Opening of public lands ... 17548

SECURITIES AND EXCHANGE COMMISSION
Notices
Hearings, etc.:
Coditron Corp ... 17555
Pacific Industries, Inc., et al ... 17555
Plans for the Accumulation of Shares of Securities Fund, Inc ... 17556

(*Continued on next page*)

CONTENTS

TRANSPORTATION DEPARTMENT
See Federal Aviation Administration.

TREASURY DEPARTMENT
See also Engraving and Printing Bureau; Internal Revenue Service.

Rules and Regulations
Disclosure of records; fees for services 17519

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

7 CFR
401 (4 documents) 17513
718 17513
907 17515

12 CFR
561 17515
PROPOSED RULES:
563 17544

14 CFR
39 (2 documents) 17515, 17516
71 (8 documents) 17516–17518
75 (2 documents) 17518
PROPOSED RULES:
71 17543

16 CFR
PROPOSED RULES:
901 17544

25 CFR
PROPOSED RULES:
221 17543

26 CFR
1 17518

31 CFR
1 17519

32 CFR
537 17519

33 CFR
209 17522

41 CFR
9–1 17542

50 CFR
32 17542

Rules and Regulations

Title 7—AGRICULTURE

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1961 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR CORN CROP INSURANCE

Pursuant to authority contained in § 401.1 of the above-identified regulations, as amended, the following counties are hereby added to the list of counties published October 11, 1967 (32 F.R. 14091), which were designated for corn crop insurance for the 1968 crop year.

COLORADO
Kit Carson.

KANSAS
Finney. Scott.
Grant. Stanton.
Haskell. Wichita.

(Secs. 506, 516, 52 Stat., 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] JOHN N. LUTZ, *Manager,*
Federal Crop Insurance Corporation.

[F.R. Doc. 67-14237; Filed, Dec. 6, 1967; 8:45 a.m.]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1961 and Succeeding Crop Years

APPENDIX; COUNTY DESIGNATED FOR GRAIN SORGHUM CROP INSURANCE

Pursuant to authority contained in § 401.1 of the above-identified regulations, as amended, the following county is hereby added to the list of counties published October 11, 1967 (32 F.R. 14094), which were designated for grain sorghum crop insurance for the 1968 crop year.

COLORADO
Kit Carson.

(Secs. 506, 516, 52 Stat., 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] JOHN N. LUTZ, *Manager,*
Federal Crop Insurance Corporation.

[F.R. Doc. 67-14238; Filed, Dec. 6, 1967; 8:45 a.m.]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1961 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR SUGAR BEET CROP INSURANCE

Pursuant to authority contained in § 401.1 of the above-identified regulations, as amended, the following counties are hereby added to the list of counties published October 12, 1967 (32 F.R. 14148), which were designated for sugar beet crop insurance for the 1968 crop year.

COLORADO
Kit Carson.

MINNESOTA
Kittson. Wilkin.

IDAHO
Bannock. Franklin.
Bonneville.

UTAH
Davis. Weber.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] JOHN N. LUTZ, *Manager,*
Federal Crop Insurance Corporation.

[F.R. Doc. 67-14239; Filed, Dec. 6, 1967; 8:46 a.m.]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1961 and Succeeding Crop Years

APPENDIX; COUNTY DESIGNATED FOR TOMATO CROP INSURANCE

Pursuant to authority contained in § 401.1 of the above-identified regulations, as amended, the following county is hereby added to the list of counties published October 12, 1967 (32 F.R. 14149), which were designated for tomato crop insurance for the 1968 crop year.

OHIO
Ottawa.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] JOHN N. LUTZ, *Manager,*
Federal Crop Insurance Corporation.

[F.R. Doc. 67-14240; Filed, Dec. 6, 1967; 8:46 a.m.]

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 2]

PART 718—DETERMINATION OF ACREAGE AND COMPLIANCE

Determination of Acreage in Skip-Row Planting Patterns

Basis and purpose. This amendment is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 *et seq.*), for the purpose of amending, for 1968 and subsequent years, the rules governing the determination of acreage for flue-cured tobacco, sun-cured tobacco, and cotton (upland and extra long staple) when planted in skip-row patterns. For each of these crops the rule, as amended, is less restrictive than the rule currently in effect. Skip-row rules for other crops remain unchanged.

Since farmers need to know of the changes in the rules in order to properly plan their crop plantings, it is hereby found and determined that compliance with the notice and public procedure requirements of 5 U.S.C. 553 is unnecessary.

Effective 30 days following the date of publication of this amendment in the FEDERAL REGISTER, the Regulations Governing Determination of Acreage and Compliance, as amended (32 F.R. 9069, 9507, 11755) are further amended as follows:

1. The table of sections is amended by changing the headings of §§ 718.10, 718.11, and 718.12 to read as follows:

Sec.
718.10 Acreages of row crops other than cotton, sugar, and tobacco planted in skip-row patterns.
718.11 Acreages of cotton and flue-cured tobacco planted in skip-row patterns.
718.12 Acreages of tobacco (except flue-cured) planted in skip-row patterns.

2. Section 718.10 is amended to read as follows:

§ 718.10 Acreages of row crops other than cotton, sugar, and tobacco planted in skip-row patterns.

(a) *At least four normal rows between strips of crop.* Only the area occupied by the crop in the case of row crops other than cotton, tobacco, and sugar shall be considered as devoted to the crop where (1) the crop being measured is planted

in strips of two or more rows alternating with strips of idle land, another crops, or a combination thereof, and (2) the distance between strips of the crop being measured is as wide as four normal rows of the crop.

(b) *Less than four normal rows between strips of crop*—(1) *Crop being measured alternating with idle land.* The entire area in the case of row crops other than cotton, tobacco, and sugar shall be considered as devoted to the crop where (i) the crop being measured is planted in strips of two or more rows alternating with strips of idle land, and (ii) the distance from plant row to plant row of the crop between strips of the crop being measured is not more than 63 inches. However, if the distance from plant row to plant row between strips of the crop being measured is more than 63 inches, only 32 inches beyond the strips of the crop being measured shall be considered as devoted to the crop.

(2) *Exception to rule in subparagraph (1).* The rule in subparagraph (1) of this paragraph shall be subject to the following exception:

(i) The State committee shall establish a range of row widths which are common in the State for each crop of which a substantial acreage is planted in skip-row patterns. The minimum row widths within such range of row widths shall be not less than 32 inches except for crops for which the Deputy Administrator approves a normal row width of less than 32 inches. For row widths within the range established by the State committee, uniform percentages shall be used to compute the pro rata share devoted to the crop and skip rows where the crop is planted in a commonly used skip-row pattern.

(ii) The uniform percentages to be applied under subdivision (i) of this subparagraph where the crop is planted in row widths falling within the range established are as follows:

Planting pattern	*Uniform percentage*
2 rows crop, 1 row skip.	Charge 66⅔ percent of the area to the crop.
2 rows crop, 2 rows skip.	Charge 65 percent of the area to the crop.
3 rows crop, 1 row skip.	Charge 90 percent of the area to the crop.
4 rows crop, 2 rows skip.	Charge 76⅔ percent of the area to the crop.

(iii) Where the crop is planted in a pattern other than a pattern, or combination of two or more patterns, specified in subdivision (ii) of this subparagraph, 32 inches beyond the strip of the crop shall be considered as devoted to the crop.

(3) *Crop being measured alternating with another crop.* The entire area in the case of row crops other than cotton, tobacco, and sugar shall be considered as devoted to the crop where (i) the crop being measured is planted in strips of one or more rows alternating with another crop, and (ii) the distance from plant row to plant row of the crop between strips of the crop is not more than 63 inches. However, if the distance from plant row to plant row between strips of the crop is more than 63 inches, the larger of one-half the distance between rows of the crop in the strip or 16 inches shall be considered as devoted to the crop.

(c) *Single wide rows.* The entire area in the case of row crops other than cotton, tobacco, and sugar crops shall be considered as devoted to the crop where (1) the crop being measured is planted in single wide rows, and (2) the distance from plant row to plant row is not more than 63 inches. However, if the distance from plant row to plant row is more than 63 inches, 32 inches beyond the row shall be considered as devoted to the crop.

3. Section 718.11 is amended to read as follows:

§ 718.11 Acreages of cotton and flue-cured tobacco planted in skip-row patterns.

(a) *Crop planted in strips of two or more rows alternating with idle land.* The entire area in the case of cotton and flue-cured tobacco shall be considered as devoted to the crop where (1) the crop being measured is planted in strips of two or more rows alternating with idle land, and (2) the distance from plant row to plant row of the crop between strips of the crop is not more than 63 inches. However, if the distance from plant row to plant row between strips of the crop is more than 63 inches, the larger of one-half the distance between the crops but not to exceed 32 inches shall be considered as devoted to the crop; except that if the crop alternating with the crop being measured does not have substantially the same growing season or is not cared for in a workmanlike manner, the crop being measured shall be treated as alternating with idle land in accordance with subparagraph (1) of this paragraph or paragraph (c) of this section, as applicable.

(c) *Single wide rows.* The entire area in the case of row crops other than cotton, tobacco, and sugar crops shall be considered as devoted to the crop where (1) the crop being measured is planted in single wide rows, and (2) the distance from plant row to plant row is not more than 63 inches. However, if the distance from plant row to plant row is more than 63 inches, 32 inches beyond the row shall be considered as devoted to the crop.

4. Section 718.12 is amended to read as follows:

§ 718.12 Acreages of tobacco (except flue-cured) planted in skip-row patterns.

(a) *Fire-cured (type 21) and sun-cured tobacco*—(1) *Less than four rows in strips alternating with idle land or another crop.* The entire area in the case of fire-cured (type 21) and sun-cured tobacco shall be considered as devoted to tobacco where (i) the tobacco is planted in strips of less than four rows (including one row plantings) alternating with strips of idle land or another crop, and (ii) the distance from plant row to plant row between the strips of tobacco is not more than 63 inches. However, if the distance from plant row to plant row between the strips of tobacco is more than 63 inches, 32 inches beyond the plant row on each side of the strips of tobacco shall be considered as devoted to tobacco.

(2) *Four rows or more in strips alternating with idle land or another crop.* The larger of 16 inches or one-half the distance between the rows of tobacco in the strip in the case of fire-cured (type 21) and sun-cured tobacco shall be considered as devoted to tobacco where the tobacco is planted in strips of four rows or more alternating with idle land or another crop. Strips of less than four rows of tobacco on the sides of the field shall be included in the measurement provided there are at least two rows of tobacco on one side of the field.

(b) *Acreages of other types of tobacco.* The entire area in the case of tobacco (except flue-cured, fire-cured (type 21) and sun-cured tobacco) planted in a skip-row pattern alternating with idle land or another crop shall be considered as devoted to tobacco. However, where the strips planted to tobacco contain four or more rows (except that one strip on one side of the field may contain less than four rows of tobacco) and the strips of idle land or other crops are at least four normal rows in width only the area actually devoted to tobacco shall be considered as devoted to tobacco.

(Secs. 373, 374, 375, 52 Stat. 65, as amended, 66, as amended; 7 U.S.C. 1373, 1374, 1375)

Effective date. Thirty days following publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on December 1, 1967.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 67-14276; Filed, Dec. 6, 1967; 8:49 a.m.]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Navel Orange Reg. 138]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.438 Navel Orange Regulation 138.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 5, 1967.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period December 8, 1967, through December 14, 1967, are hereby fixed as follows:

(i) District 1: 800,000 cartons;
(ii) District 2: 59,024 cartons;
(iii) District 3: 280,000 cartons;
(iv) District 4: 59,000 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," "District 4," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 5, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-14356; Filed, Dec. 6, 1967; 11:32 a.m.]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[No. 21,165]

PART 561—DEFINITIONS

Slow Loans

NOVEMBER 30, 1967.

Resolved that, notice and public procedure having been duly afforded (32 F.R. 13983) and all relevant material presented or available having been considered by it, the Federal Home Loan Bank Board, on the basis of such consideration and for the purpose of clarifying the term "deferred by law" now contained in § 561.16 of the rules and regulations for Insurance of Accounts (12 CFR 561.16), hereby amends the proviso clause at the end of § 561.16 to read as follows, effective January 10, 1968:

§ 561.16 Slow loans.

* * * * *

Provided, That any mortgage loan, deed of trust, or land contract on which the total indebtedness is less than 90 percent of the original amount, any loan on which all contractually required payments have been made during the preceding 12 months and any loan on which payments are being deferred pursuant to the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, shall not be considered to be a slow loan under this section.

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1949–53 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MCLAND, JR.,
Assistant Secretary.

[F.R. Doc. 67-14370; Filed, Dec. 6, 1967; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

SUBCHAPTER C—AIRCRAFT

[Docket No. 8390; Amdt. 39-292]

PART 39—AIRWORTHINESS DIRECTIVES

BAC 1–11 Model 212AR, 401AK, and 410AQ Series Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring inspection of the center fuel tank pump installations fitted with Thompson Ramo fuel pump P/N 248800/4 or specified pumps manufactured under license by Plessey, on BAC 1–11 Model 212AR, 401AK, and 410AQ Series airplanes and the modification of the center tank fuel booster pumps was published in 32 F.R. 11166.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objection to the intent of the AD were received; however, a commentator requested that the compliance time for accomplishing the modification be extended from 1,000 hours' time in service to 1,500 hours or December 31, 1967. The compliance time set forth in the NPRM has been established by the FAA on the basis of safety considerations and provides sufficient lead time for operators to schedule and plan compliance with the AD with a minimum burden.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BRITISH AIRCRAFT. Applies to BAC 1–11 airplanes Model/Type 212AR, 401AK, 410AQ, which have a center fuel tank fitted with Thompson Ramo fuel pumps P/N 248800/4 or pumps manufactured under license by Plessey which include additional part numbers 670/1/21231/004.

Compliance required as indicated.

To prevent fuel pump movement and consequent fuel leakage, accomplish the following:

(a) Within the next 300 hours' time in service after the effective date of this AD, unless already accomplished, inspect the center tank fuel pump installation in accordance with BAC 1–11 Alert Service Bulletin 28–A–PM 2701, Issue 1, or later ARB-approved issue, or FAA-approved equivalent.

(b) If leaks are found when conducting the inspection required by paragraph (a), before further flight, stop the leaks by repositioning the fuel booster pump and, if necessary, replacing the seals between the pump and canister.

(c) Within the next 1,000 hours' time in service after the effective date of this AD, modify the center tank fuel booster pumps in accordance with British Aircraft Corp. Service Bulletin No. 28-PM 2701 or later ARB-approved issue, or an equivalent approved by the Chief, Aircraft Certification Staff, European Region.

This amendment becomes effective January 6, 1968.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on November 30, 1967.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[F.R. Doc. 67-14264; Filed, Dec. 6, 1967; 8:47 a.m.]

[Docket No. 8865; Amdt. 39-321]

PART 39—AIRWORTHINESS DIRECTIVES

Dowty Rotol Propellers Installed on Certain Airplanes

Inspections of Dowty Rotol Propellers (c)R.245/4-40-4.5/13 installed on Convair Model 600 (240D), Model 640 (340D), (c)R.259/4-40-4.5/17 installed on Convair Model 640 (440D), and (c)R.209/4-40-4.5/2 and (c)R.208/4-40-4.5/1 installed on Nihon YS-11 airplanes have revealed excessive blade bearing center race movement attributable to bearing lockpieces inadequacies which results in reduction of the preloading of the blade groups in the hub group and could result in blade failure in flight. Since this condition is likely to exist or develop in other propellers of the same type design, an airworthiness directive is being issued to require inspection of the locking of the blade groups in the hub group within the next 50 hours' time in service after the effective date of this AD and thereafter at intervals not to exceed 300 hours' time in service and the replacement of unserviceable propellers, lockpieces, set bolts, and shims before further flight.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation regulations is amended by adding the following new airworthiness directive:

DOWTY ROTOL. Applies to Dowty Rotol Propellers (c)R.245/4-40-4.5/13 installed on Convair Model 600 (240D), Model 640 (340D), (c)R.259/4-40-4.5/17 installed on Convair Model 640 (440D), and (c)R.209/4-40-4.5/2 and (c)R.208/4-40-4.5/1 installed on Nihon YS-11 airplanes.

Compliance required as indicated unless already accomplished.

To detect and prevent loosening of the propeller blade groups, accomplish the following:

(a) Within the next 50 hours' time in service after the effective date of this AD, and thereafter at intervals not to exceed 300 hours' time in service from the last inspection, inspect the locking of the blade groups in the hub group, in accordance with Dowty Rotol Service Bulletin 61-561, dated September, 1967, or later ARB-approved issue, or an FAA-approved equivalent.

(b) If during the inspections required by paragraph (a) it is found that the red line position markings across the bearing center race and the hub have separated by more than 0.050 of an inch, before further flight, replace the propeller with a serviceable propeller of the same model number.

(c) If during the inspections required by paragraph (a) it is found that the lockpieces on the rear of the cylinder are damaged or they are not satisfactorily engaging with and locking the serrations of the bearing center race of the blade group; or that the set bolts securing the lockpieces are not secure or they are bent; or that the shims under the distance blocks on which the lockpieces are mounted have extruded, before further flight replace the defective parts with serviceable parts of the same part number.

This amendment becomes effective December 12, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on November 30, 1967.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[F.R. Doc. 67-14255; Filed, Dec. 6, 1967; 8:47 a.m.]

SUBCHAPTER E—AIRSPACE

[Airspace Docket No. 67-WA-38]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation regulations is to alter the Christiansted, St. Croix, V.I., control zone.

The control zone is currently effective from 0700 to 2200 hours, local time, daily. Since the control zone was established in July 1965, air traffic, including scheduled jet air carrier activity, has increased substantially. The periods of highest air traffic activity vary on a seasonal basis. Therefore, it is necessary to provide flexibility in the designation of the control zone by having the periods of effectiveness stated in a NOTAM and carried in the FAA publication, International Notams. Also, there is an immediate need to realign the control zone extensions by one degree, and extend the southwest extension by approximately 2 miles and the east extension by 8 miles to accommodate the instrument approach procedures now in effect at the Alexander Hamilton Airport.

As a situation exists which demands immediate action in the interest of safety in air commerce, I find that compliance with the notice and public procedure provisions of the Administrative Procedure Act is impracticable and, for that reason, good cause exists for making this amendment effective within less than 30 days from publication.

Since this action involves, in part, navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., January 4, 1968, as hereinafter set forth.

In § 71.171 (32 F.R. 2071) the Christiansted, St. Croix, V.I., control zone is amended to read as follows:

CHRISTIANSTED, ST. CROIX, V.I.

Within a 5-mile radius of the Alexander Hamilton Airport (lat. 17°42'15" N., long. 64°47'55" W.); within 2 miles each side of the St. Croix VOR 240° and 060° radials, extending from the 5-mile radius zone to 8 miles east of the VOR; within 2 miles each side of the 207° bearing from the St. Croix RBN, extending from the 5-mile radius zone to 8 miles southwest of the RBN. This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the FAA publication International Notams.

(Secs. 307(a), 1110 Federal Aviation Act of 1958 (49 U.S.C. 1348, 1510); Executive Order 10854 (24 F.R. 9565))

Issued in Washington, D.C., on November 30, 1967.

T. MCCORMACK,
Acting Chief, Airspace and
Air Traffic Rules Division.

[F.R. Doc. 67-14256; Filed, Dec. 6, 1967; 8:47 a.m.]

[Airspace Docket No. 67-WE-64]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

On October 19, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 14564) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Yakima, Wash., control zone. Interested persons were given 30 days in which to submit written comments, suggestions, or objections.

No objections have been received, and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective February 1, 1968.

Issued in Los Angeles, Calif., on November 28, 1967.

LEE E. WARREN,
Acting Director, Western Region.

In § 71.171 (32 F.R. 2808) the Yakima, Wash., control zone is amended to read as follows:

YAKIMA, WASH.

Within a 5-mile radius of the Yakima Municipal Airport (latitude 46°33'55" N., longitude 120°32'23" W.), and within 2 miles each side of the Yakima ILS localizer east course extending from the 5-mile radius zone to 4.5 miles east of the LOM.

[F.R. Doc. 67-14257; Filed, Dec. 6, 1967; 8:47 a.m.]

[Airspace Docket No. 67-CE-96]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airway

On September 15, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 13140) stating that the Federal Aviation Administration was considering the designation of a VOR Federal airway from Eau Claire, Wis., to Duluth, Minn., with a floor to be established at 1,200 feet AGL.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

Since publication of the notice, it has been determined that the minimum en route altitude for this airway will be designated at 4,000 feet MSL. Accordingly, the floor proposed for this airway segment can now be raised to 3,500 feet MSL for a portion of the airway thereby reducing the area that would be designated as controlled airspace. Since this action is minor in nature and lessens the burden on the public, notice and public procedure are unnecessary and this minor floor alteration may be accomplished in the rule.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., February 1, 1968, as hereinafter set forth.

In § 71.123 (32 F.R. 2009, 6435, 12388) V-129 is amended by deleting "From Duluth, Minn.," and substituting "; 15 miles, 12 AGL, 73 miles, 35 MSL, 12 AGL Duluth, Minn.;" therefor.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on November 30, 1967.

T. MCCORMACK,
Acting Chief, Airspace and
Air Traffic Rules Division.

[F.R. Doc. 67-14258; Filed, Dec. 6, 1967; 8:47 a.m.]

[Airspace Docket No. 67-SW-45]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airway

On September 15, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 13140) stating that the Federal Aviation Administration was considering redesignating the segment of VOR Federal airway No. 94 from Newman, Tex., with a 1,200 feet AGL floor direct to Salt Flat, Tex., and designating the existing segment of V-94 between these two points as V-94 north alternate.

Interested persons were afforded an opportunity to participate in the proposed rule making. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., February 1, 1968, as hereinafter set forth.

In § 71.123 (32 F.R. 2009) V-94 is amended by deleting "12 AGL INT Newman 091° and Salt Flat, Tex., 312° radials; 12 AGL Salt Flat;" and substituting "12 AGL Salt Flat, Tex., including a 12 AGL north alternate via INT Newman 091° and Salt Flat 312° radials;" therefor.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on November 30, 1967.

T. MCCORMACK,
Acting Chief, Airspace and
Air Traffic Rules Division.

[F.R. Doc. 67-14259; Filed, Dec. 6, 1967; 8:47 a.m.]

[Airspace Docket No. 67-WE-47]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airway Segments

On September 20, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 13294) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the floors on certain segments of VOR Federal airways Nos. 4, 187, and 235.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., February 1, 1968, as hereinafter set forth.

Section 71.123 (32 F.R. 2009, 3219, 7251, 7252, 7588, 7589, 8405, 14590) is amended as follows:

a. In V-4 "40 miles, 12 AGL, 33 miles, 135 MSL, 12 AGL Rock Springs, Wyo.," is deleted and "35 miles, 12 AGL, 58 miles, 115 MSL, 12 AGL Rock Springs, Wyo.," is substituted therefor.

b. In V-187 "67 miles, 12 AGL, 34 miles, 125 MSL, 12 AGL Rock Springs, Wyo." is deleted and "78 miles, 12 AGL, 50 miles, 112 MSL, 12 AGL Rock Springs, Wyo." is substituted therefor.

c. In V-235 "24 miles, 12 AGL, 72 miles, 107 MSL, 12 AGL to Casper, Wyo." is deleted and "20 miles, 12 AGL, 41 miles, 95 MSL, 37 miles, 107 MSL, 12 AGL Casper, Wyo." is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on November 30, 1967.

T. MCCORMACK,
Acting Chief, Airspace and
Air Traffic Rules Division.

[F.R. Doc. 67-14260; Filed, Dec. 6, 1967; 8:48 a.m.]

[Airspace Docket No. 67-WE-66]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On October 21, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 14667) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter controlled airspace in the Gunnison, Colo., terminal area. Interested persons were given 30 days in which to submit written comments, suggestions, or objections.

No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective February 1, 1968.

Issued in Los Angeles, Calif., on November 28, 1967.

LEE E. WARREN,
Acting Director, Western Region.

In § 71.181 (32 F.R. 2195) the Gunnison, Colo., transition area is amended to read as follows:

GUNNISON, COLO.

That airspace extending upward from 1,200 feet above the surface within 5 miles northwest and 8 miles southeast of the Gunnison VORTAC 051° and 207° radials extending from 13 miles northeast to 20 miles southwest of the VORTAC, and within 10 miles northwest and 6 miles southeast of the Gunnison VORTAC 045° and 225° radials extending from 9 miles northeast to 19 miles southwest of the VORTAC.

[F.R. Doc. 67-14262; Filed, Dec. 6, 1967; 8:48 a.m.]

[Airspace Docket No. 67-EA-74]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Extension of VOR Federal Airway

On September 15, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 13141) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would extend VOR Federal airway No. 232 from Sandusky, Ohio, with a 1,200-foot AGL floor to the intersection of the Sandusky 296° and the Waterville, Ohio, 013° radials.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., February 1, 1968, as hereinafter set forth.

In § 71.123 (32 F.R. 2009) V-232 is amended by deleting "From Sandusky, Ohio," and substituting "From INT of Waterville, Ohio, 013° and Sandusky, Ohio, 296° radials, 12 AGL Sandusky;" therefor.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on November 30, 1967.

T. MCCORMACK,
Acting Chief, Airspace and
Air Traffic Rules Division.

[F.R. Doc. 67-14264; Filed, Dec. 6, 1967; 8:48 a.m.]

[Airspace Docket No. 67-WA-36]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

PART 75—ESTABLISHMENT OF JET ROUTES

Designation of Additional Control Area and Establishment of Jet Route

On September 26, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 13460) stating that the Federal Aviation Administration was considering an amendment to Parts 71 and 75 of the Federal Aviation Regulations that would designate the U.S. portion of an additional control area and J/HL-590 from the Lakehead, Ontario, Canada, RBN to the Sault Ste. Marie, Mich., RBN.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No comments were received.

In consideration of the foregoing, Parts 71 and 75 of the Federal Aviation Regulations are amended, effective 0001 e.s.t., February 1, 1968, as hereinafter set forth.

1. In § 71.163 (32 F.R. 2063) the following is added:

SAULT STE. MARIE, MICH.

That airspace extending upward from 1,200 feet AGL within 4 nautical miles each side of a direct line extending from the Lakehead, Ontario, Canada, RBN to the Sault Ste. Marie, Mich., RBN, including the additional airspace between lines diverging at 4.5° from the centerline at the Lakehead and Sault Ste. Marie RBNs and extending until they meet. The airspace within Canada is excluded.

2. In § 75.100 (32 F.R. 2341), the following is added:

Jet Route No. 590 (Lakehead, Ontario, Canada, to Sault Ste. Marie, Mich.) (Joins Canadian high level airway No. HL-590).

From the Lakehead, Ontario, Canada, RBN to the Sault Ste. Marie, Mich., RBN. The portion within Canada is excluded.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on November 30, 1967.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-14286; Filed, Dec. 6, 1967; 8:46 a.m.]

[Airspace Docket No. 67-WE-53]

PART 75—ESTABLISHMENT OF JET ROUTES

Alteration of Jet Route

On September 29, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 13670) stating that the Federal Aviation Administration was considering an amendment to Part 75 of the Federal Aviation Regulations that would realign Jet Route No. 15 from Salt Lake City, Utah, direct to Boise, Idaho.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., February 1, 1968, as hereinafter set forth.

Section 75.100 (32 F.R. 2342, 3740, 5988, 7126, 13760) is amended as follows:

In Jet Route No. 15 "Ogden, Utah;" is deleted.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on November 30, 1967.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-14261; Filed, Dec. 6, 1967; 8:45 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6933]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Information To Be Furnished in Connection With Depletion Deductions

On October 3, 1967, notice of proposed rule making to amend paragraph (g) of § 1.611-2 of the Income Tax Regulations (26 CFR Part 1) by revising subparagraph (1) thereof and adding a new subparagraph (5) thereto was published in the FEDERAL REGISTER (32 F.R. 13773). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, paragraph (g) (1) of § 1.611-2 is hereby adopted as proposed, and paragraph (g) (5) of § 1.611-2 is hereby adopted as proposed subject to certain changes. As so adopted and changed, these amended and added provisions read as follows:

§ 1.611-2 Rules applicable to mines, oil and gas wells, and other natural deposits.

* * * * *

(g) *Statement to be attached to return when valuation, depletion, or depreciation of mineral property or improvements are claimed.* (1) For the first taxable year ending before December 31, 1967, for which a taxpayer asserts a value for any mineral property or improvement as of a specific date or claims a deduction for depletion, or depreciation, there shall be attached to the return of the taxpayer for such taxable year a statement setting forth, in complete, summary form, the pertinent information required by this paragraph with respect to each such mineral property or improvement (including oil and gas properties or improvements). The summary statement shall be deemed a part of the income tax return to which it relates. In addition to such summary statement, the taxpayer must assemble, segregate and have readily available at his principal place of business, all the supporting data (listed in subparagraphs (2), (3), and (4) of this paragraph) which is used in compiling the summary statement. For taxable years after such first taxable year, and ending before December 31, 1967, the taxpayer need attach to his return only an explanation of the changes, if any, in the information previously furnished. For example, when a taxpayer has filed adequate maps with the district director he may be relieved of filing further maps of the same area, if all additional information necessary for keeping the maps up-to-date is filed each year. In any case in which any of the information required by this paragraph has been previously filed by the taxpayer (including information furnished in accordance with corresponding provisions of prior regulations), such information need not be filed again, but a statement should be attached to the return of the taxpayer indicating clearly when and in what form such information was previously filed. For provisions relating to the data which shall be submitted with returns for taxable years ending on or after December 31, 1967, see subparagraph (5) of this paragraph.

* * * * *

(5) A taxpayer who claims a total deduction of more than $200 for depletion of mines, oil and gas wells, or other natural deposits for the taxable year ending on or after December 31, 1967, and before December 31, 1968, shall submit with his return for such taxable year a filled-out Form M (Mines and Other Natural Deposits—Depletion Data) or Form O (Oil and Gas Depletion Data). See section 6011(a). For the purpose of this subparagraph, the determination under section 631(c) of gain or loss upon the disposition of coal or domestic iron ore with a retained economic interest shall not be regarded as the claiming of a deduction for depletion. Such forms shall be filed for any subsequent taxable year if the Commissioner determines that the forms are required for such year. Where appropriate, both Form M and Form O shall be filed. Forms M and O shall be deemed to be part of the return to which they relate. If a taxpayer mines more than one mineral, a separate Form M shall be filed for each such mineral. If a taxpayer has both domestic and foreign properties, separate forms shall be filed for each country in which a taxpayer's properties are located. All data relating to a taxpayer's domestic oil and gas properties shall be summarized on a single Form O, and data relating to a taxpayer's domestic mineral properties (other than oil and gas properties) shall be summarized on a single Form M for each mineral. Similarly, all data relating to a taxpayer's oil and gas properties in a specific foreign country shall be summarized on a single Form O, and data relating to a taxpayer's mineral properties (other than oil and gas properties) in a specific foreign country shall be summarized on a single Form M for each mineral. Similarly, all data relating to a taxpayer's oil and gas properties in a specific foreign country shall be summarized on a single Form O, and data relating to a taxpayer's mineral properties (other than oil and gas properties) in a specific foreign country shall be summarized on a single Form M for each mineral. In addition, the taxpayer shall assemble, segregate, and have readily available at his principal place of business, the data listed in subparagraphs (2), (3), and (4) of this paragraph.

(Secs. 6011(a), 7805, Internal Revenue Code of 1954; 68A Stat. 732, 917; 26 U.S.C. 6011(a), 7805)

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

Approved: December 1, 1967.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

[F.R. Doc. 67-14272; Filed, Dec. 6, 1967; 8:49 a.m.]

Title 31—MONEY AND FINANCE: TREASURY

Subtitle A—Office of the Secretary of the Treasury

PART 1—DISCLOSURE OF RECORDS

Fees for Services

31 CFR 1.6 is hereby amended by redesignating paragraphs (c) and (d) as (d) and (e), respectively, and by adding a new 31 CFR 1.6(c) to read as follows:

§ 1.6 Fees for services.

* * * * *

(c) Fees for services performed by the Bureau of Engraving and Printing will be imposed and collected as follows, without regard to paragraphs (a) (i) and (b) (1) of this section.

(1) As to all Bureau of Engraving and Printing records made available pursuant to § 1.4(a) a charge of 25 cents per copy to defray the direct and indirect costs of production will be made for furnishing photographic copies of up to and including 8½ inches by 14 inches in size. The price for larger-sized copies will be based on the actual processing cost at the time the work is performed, including labor, material and overhead expense.

(2) As to records requested pursuant to § 1.4(a) (4) a fee of $5.80 an hour, thereafter, at one-fourth that rate for increments of 15 minutes, or any part thereof, will be imposed and collected to defray the costs of searching for the requested records and to defray the other direct and indirect costs incurred by the Bureau of Engraving and Printing in attempting to make the records available.

* * * * *

Effective date. This amendment shall be effective on the date of its publication in the FEDERAL REGISTER.

Dated: November 29, 1967.

[SEAL] TRUE DAVIS,
Assistant Secretary.

[F.R. Doc. 67-14263; Filed, Dec. 6, 1967; 8:48 a.m.]

Title 32—NATIONAL DEFENSE

Chapter V—Department of the Army

SUBCHAPTER B—CLAIMS AND ACCOUNTS

PART 537—CLAIMS ON BEHALF OF THE UNITED STATES

Claims for Reasonable Value of Medical Care Furnished by the Army

Sections 537.21–537.24 are revised to read as follows:

§ 537.21 General.

(a) *Authority.* Sections 537.21–537.24 are in implementation of the Act of September 25, 1962 (76 Stat. 593, 42 U.S.C. 2651–3), Executive Order No. 11060 (27 F.R. 10925), and Attorney General's Order No. 289–62, as amended (28 CFR Part 43), providing for the recovery of the reasonable value of medical care furnished or to be furnished by the United States to a person on account of injury or disease incurred after December 31, 1962, under circumstances creating a tort liability upon some third person.

(b) *Applicability and scope.* (1) Sections 537.21–537.24 prescribe the procedure to be employed within the Department of the Army for the investigation, determination, assertion, and collection, including compromised and waiver in whole or in part, of claims in favor of the United States for the reasonable value of medical care furnished by or at the expense of the Army.

(2) The commander of a major overseas command, as defined in paragraph (c) (5) of this section, is authorized to establish procedures for the processing of claims in favor of the United States for the reasonable value of medical care which may, to the extent deemed necessary, modify the procedures prescribed in §§ 537.21–537.24. Two copies of all implementing directives will be furnished The Judge Advocate General, Attention: Chief, Litigation Division, Department of the Army, Washington, D.C. 20310. Procedures will be prescribed to carry out the provisions of—

(i) Department of Defense Directive No. 5515.8, assigning single service claims responsibility.

(ii) Treaties and other international agreements which limit or provide special methods for the recovery of claims in favor of the United States.

(3) Claims for medical care furnished on a reimbursable basis ordinarily will be processed by the Federal department or agency responsible for reimbursement.

(c) *Definitions.* For the purpose of §§ 537.21–537.24, the following terms have the meaning indicated.

(1) *Claim.* The Government's right to recover from a prospective defendant the reasonable value of medical care furnished to each injured party.

(2) *Medical care.* Includes hospitalization, outpatient treatment, dental care, nursing service, drugs, and other adjuncts such as prostheses and medical appliances furnished or to be furnished by or at the expense of the United States.

(3) *Injured party.* The person who received an injury or contracted a disease which resulted in the medical care. Such person may be a member of the uniformed services, a dependent, or any other person who is eligible for medical care at Army expense. See section III, AR 40–3, and §§ 577.60–577.69 of this chapter.

(4) *Prospective defendant.* A person other than the injured party. An individual, partnership, association, corporation, governmental body, or other legal entity, foreign or domestic, except an instrumentality of the United States, against whom the United States has a claim.

(5) *Major overseas command.* U.S. Army Forces Southern Command; U.S. Army, Pacific; U.S. Army, Europe; and any command outside the continental limits of the contiguous States specially designated by The Judge Advocate General under the provisions of § 536.4b of this chapter.

(6) *Army staff judge advocate.* The staff judge advocate of each of the numbered armies in the continental United States; the Military District of Washington, U.S. Army; and U.S. Army, Alaska.

(7) *Staff judge advocate.* An officer so assigned. The judge advocate of a command or agency reporting directly to Headquarters, Department of the Army, or of a major subordinate command of the U.S. Army Materiel Command, the senior Army judge advocate assigned to a joint or unified command, and, if the command has established a command claims service pursuant to § 536.4b of this chapter, the chief of the command claims service will perform the duties specified for staff judge advocates in §§ 537.21–537.24. In addition, the legal adviser of a comparable command or agency not having a judge advocate or staff judge advocate will perform these duties.

(8) *Judge advocate.* An officer so designated. If no judge advocate is present for duty, and the command or agency has a legal adviser, he will perform the duties specified for judge advocates in §§ 537.21–537.24. Any official authorized to perform the duties specified for staff judge advocates under §§ 537.21–537.24 may perform the duties specified for judge advocates in §§ 537.21–537.24.

(9) *Legal adviser.* An attorney within the meaning of paragraph 2–2, CPR A8, who is the principal adviser to the commander or operating head of any Army command or agency on legal matters.

§ 537.22 Basic considerations.

(a) *The right of recovery*—(1) *Accrual.* The right of the United States to recover the reasonable value of medical care furnished or to be furnished an injured party accrues simultaneously with the accrual of the injured party's right to recover damages from the prospective defendant.

(2) *Amount.* The Government's right of recovery is limited to amounts expended or to be expended by the United States for medical care from other than Federal sources, and to amounts determined by the rates established by the Director of the Bureau of the Budget (29 F.R. 12482, Sept. 1, 1964, and 30 F.R.

16220, Dec. 29, 1966, or later amendments) for medical care from Federal sources, less any amounts reimbursed by the injured party.

(3) *Time limitation.* The Act of July 18, 1966 (80 Stat. 304, 28 U.S.C. 2415) established a 3-year statute of limitations upon actions in favor of the United States for money damages founded upon a tort. In computing periods of time excluded under 28 U.S.C. 2416, the judge advocate concerned shall be deemed the official charged with responsibility, and will insure that action may be brought in the name of the United States within the limitation period.

(b) *Foreign prospective defendants.* Except as indicated below, claims within the scope of §§ 537.21–537.24 against foreign prospective defendants will be investigated, processed, and asserted without regard to the nationality of the prospective defendant. Claims against an international organization, a foreign government or a political subdivision, agency, or instrumentality thereof, or against a member of the armed forces or an official or civilian employee of such international organization or foreign government, will not be asserted without prior approval of The Judge Advocate General. Investigation and report thereof, together with recommendations regarding assertion and enforcement, will be forwarded through command channels to The Judge Advocate General, Attention: Chief, Litigation Division, Department of the Army, Washington, D.C. 20310, unless the provisions of applicable agreements, or regulation in implementation thereof, negate the requirement for such investigation and report.

(c) *Standards of liability.* (1) Except as specifically limited in the remainder of this paragraph, the Government's right of recovery will be determined in accordance with the law creating the tort liability of the alleged tortfeasor to the injured party. See 42 U.S.C. 2651. State statutes of limitation are not applicable (paragraph (a)(3) of this section).

(2) Within the United States, claims against members of the uniformed services, or civilian employees of the United States, its agencies or instrumentalities, which arise from acts or omissions within the scope of their employment or office, will not be processed unless the evidence reasonably indicates that the prospective defendant was guilty of gross negligence or willful misconduct. If gross negligence or willful misconduct is indicated, no claim will be asserted, but the investigative file, together with the recommendations of the judge advocate, will be forwarded through the judge advocate of the major command concerned to The Judge Advocate General, Attention: Chief, Litigation Division, Department of the Army, Washington, D.C. 20310.

(3) Outside the United States, claims against members of the uniformed services or employees of the United States, its agencies or instrumentalities, which arise from acts or omissions within the scope of their office or employment, will be treated as in subparagraph (2) of this paragraph, unless the prospective defendant has the benefit of liability insurance coverage. If the prospective defendant has the benefit of liability insurance coverage, the claim will be investigated, processed, and asserted as if the prospective defendant were not connected with the Federal Government.

(4) Claims against members of the uniformed services, civilian employees of the United States, its agencies or instrumentalities, which arise from acts or omissions not within the scope of their office or employment, and claims against dependents of such members or employees, will not be asserted or processed unless the evidence shows the prospective defendant was guilty of gross negligence or willful misconduct, or has the benefit of liability insurance coverage.

(d) *Concurrent claims under other regulations.* (1) Claims for medical care and claims for damage to Army property arising from the same incident will be consolidated and processed under § 537.1 as a single claim. Notification and coordination will be made in accordance with §§ 537.23(a) and 537.24(a), but the Government's claim may not be included as an item of special damages in the injured party's suit.

(2) If the incident giving rise to a claim in favor of the United States also gives rise to a potential claim or suit against the United States, the claim in favor of the Government will be asserted and otherwise processed only by a judge advocate who has apparent authority to take final action on the claim against the Government. The claims will be investigated and processed together.

(e) *Claims for less than $100.* Such claims need not be asserted or otherwise processed, unless the facts and circumstances surrounding the incident indicate that collection will be economically feasible (e.g., a clear case of liability covered by insurance) or desirable in the best interests of the United States.

§ 537.23 Predemand procedures.

(a) *Relations with the injured party*—(1) *Advice.* The injured party, or in appropriate cases his guardian, next-of-kin, or personal representative, or the executor or administrator of his estate, will be advised of the following:

(i) That under the Act of September 25, 1962 (76 Stat. 593, 42 U.S.C. 2651–3) the United States may be entitled to recover the reasonable value of medical care furnished or to be furnished him in the future from the person or persons who injured him, or who were otherwise responsible for his injury or disease.

(ii) That if he is otherwise entitled to legal assistance under AR 608–50, he should seek guidance from a legal assistance officer regarding any claim he may have for personal injury.

(iii) That he is required to cooperate in the prosecution of all actions of the United States against the person or persons who injured him.

(iv) That he is required to furnish a complete statement regarding the facts and circumstances surrounding the incident which resulted in the injury or disease.

(v) That he is required to furnish information concerning any legal action brought or to be brought by or against the prospective defendant, or to furnish the name and address of the attorney representing him.

(vi) That he should not execute a release or settle any claim which he may have as a result of his injury without first notifying the judge advocate of the authority appointing the claims officer.

(2) *Statement.* A written statement will be obtained from the injured party, or representative, in which he acknowledges receipt of the advice in subparagraph (1) of this paragraph, and provides the information required by subparagraph (1) (iv) and (v) of this paragraph. If the injured party or representative fails or refuses to furnish necessary information or cooperation, the originator of the notification will be requested to withhold records as to medical history, diagnosis, findings, and treatment from the injured party or anyone acting on his behalf, pending compliance with the requirements in subparagraph (1) of this paragraph.

(b) *Determination and assertion*—(1) *Liability.* The judge advocate will review the report of investigation and, after taking any corrective action deemed necessary to assure completeness of the file, will make a written determination as to the liability of the prospective defendant and his reasons for such determination.

(2) *Value.* If the judge advocate determines that the prospective defendant is liable, he will also determine the reasonable value of medical care furnished or to be furnished the injured party, in accordance with § 537.22(a)(2). When a military member has been retained in a military hospital for administrative reasons, under circumstances warranting only outpatient treatment in a civilian hospital, the outpatient rate will be applied in determining the reasonable value of medical care furnished.

(3) *Amount.* In the event of doubt concerning the extent of medical care furnished or to be furnished an injured party, the judge advocate will assert the claim in an indefinite amount. Demand will be made in a definite amount at the earliest possible time, based on an estimate of the reasonable value of medical care to be furnished, if appropriate. The judge advocate will assure that the file contains complete statements of the value of medical care furnished, including all charges by civilian physicians and medical technicians, as well as civilian hospitals. The commander of the Army medical treatment facility which submitted a final DA Form 2831–R will prepare a consolidated statement of charges upon request. Such request should be accompanied by statements of charges previously obtained.

§ 537.24 Post demand procedures.

(a) *Coordination with the injured party's claim.* (1) Every effort will be made to coordinate action to collect the claim of the United States with the injured party's action to collect his own claim for damages, in order that the injured party's recovery for his damages, other than the reasonable value of medical care furnished or to be furnished by the United States, is not prejudiced by the Government's claim.

(2) Attorneys representing an injured party may be authorized to assert the Government's claim as an item of special damages in their client's claim or suit. Any agreement to this effect should be in writing, and the agreement should expressly recognize the fact that counsel fees may be neither paid by the Government (5 U.S.C. 3106) nor computed on the basis of the Government's portion of the recovery. Attorneys may withdraw from such agreement on reasonable notice.

(3) If the injured party, or his attorney or legal representative, fails or refuses to cooperate in the prosecution of the claim of the United States, independent collection action will be vigorously pursued.

(b) *Independent collection action.* Unless suit between the injured party and the prospective defendant is pending all available administrative collection procedures will be followed prior to reference of the claim to the Department of Justice under paragraph (e) of this section. The procedures described in part 102, appendix A, AR 27–41, will be followed, with the exception of collection by offset from the pay of military personnel and civilian employees of the United States. Direct contact with the prospective defendant's insurer, if known, is desirable. If the prospective defendant is an uninsured motorist, timely and appropriate action will be taken to collect the claim, or to request suspension of driving and registration privileges, under the applicable uninsured motorist fund or financial responsibility laws.

(c) *Delegation of authority.* Subject to the provisions of paragraphs (d) and (e)(1)(i) of this section, authority to compromise or waive, in whole or in part, claims of the United States not in excess of $20,000 is delegated as follows:

(1) A judge advocate, as defined in § 537.21(c)(8), is authorized to—

(i) Compromise claims, provided the compromise does not reduce the claim by more than $500.

(ii) Waive claims for the convenience of the Government, provided the uncollected amount of the claim does not exceed $500.

(2) A staff judge advocate, as defined in § 537.21(c)(7) is authorized to—

(i) Compromise claims, provided the compromise does not reduce the claim by more than $1,000.

(ii) Waive claims for the convenience of the Government, provided the uncollected amount of the claim does not exceed $1,000.

(3) An Army staff judge advocate, as defined in § 537.21(c)(6), is authorized to—

(i) Compromise claims, provided the compromise does not reduce the claim by more than $5,000.

(ii) Waive claims for the convenience of the Government, provided the uncollected amount of the claim does not exceed $5,000.

(4) The staff judge advocate of a major overseas command, as defined in § 537.21(c)(5), is authorized to—

(i) Compromise claims, provided the compromise does not reduce the claim by more than $10,000.

(ii) Waive claims for the convenience of the Government, provided the uncollected amount of the claim does not exceed $10,000.

(5) The Judge Advocate General or his designee is authorized to compromise claims not in excess of $20,000, and to waive such claims, in whole or in part, either for the convenience of the Government or if he determines that collection would result in undue hardship upon the injured party.

(d) *Compromise and waiver of claims.* (1) The authority delegated in paragraph (c) of this section to waive claims for the convenience of the Government will be exercised in accordance with the standards set forth in section 104.3, appendix A, AR 27–41.

(2) The authority delegated in paragraph (c) of this section to compromise claims will be exercised in accordance with the standards set forth in part 103, appendix A, AR 27–41. When available funds are insufficient to satisfy both the claim of the United States and that of the injured party, the claim of the United States may be compromised to the extent required to achieve an equitable apportionment of the available funds.

(3) A debtor's liability to the United States arising from a particular incident shall be considered as a single claim in determining whether the claim is not more than $20,000, for the purpose of compromise or waiver.

(4) Judge advocates and staff judge advocates may make counter offers of compromise beyond their delegated authority. If settlement within the limits of delegated authority is not achieved, the claim will be referred to higher authority.

(5) If appropriate, a request by the injured party or his attorney for waiver on the ground of undue hardship may be treated as a suggestion for compromise, and the compromised amount of the claim of the United States will be determined. The request for waiver, which must include detailed information concerning the reasonable value of the injured party's claim for permanent injuries, pain and suffering, decreased earning power, and other items of special damage; pension rights and other Government benefits accruing to the injured party; and present and prospective assets, income, and obligations of the injured party and those dependent on him, together with the claims file, will be forwarded to The Judge Advocate General, Attention: Chief, Litigation Division, Department of the Army, Washington, D.C. 20310. In the event an affirmative determination of undue hardship to the injured party, as the result of collection of the Government's claim, is made, the depositing judge advocate will be authorized to direct issuance of a check in the amount waived to the injured party.

(e) *Referral to the Department of Justice*—(1) *Reasons.* The claims file, together with a seven paragraph memorandum of opinion, will be referred in accordance with subparagraph (2) or (3) of this paragraph, whenever—

(i) The prospective defendant has instituted suit against the injured party and the suit arises out of the occurrence which gave rise to the claim of the United States. The provisions of paragraph 7, AR 27–40, will be followed where applicable, in lieu of this requirement.

(ii) The injured party has instituted suit against the prospective defendant, and the attorneys for the injured party have not agreed in writing to represent the interests of the United States, or have withdrawn from such agreement.

(iii) Legal proceedings in the name of the United States are necessary to collect the claim of the United States. Compliance with the provisions of part 105, appendix A, AR 27–41, except provisions relating solely to the General Accounting Office, is required.

(2) *Referral to U.S. attorneys.* If referral to the Department of Justice is required by subparagraph (1) of this paragraph, the claim is for $5,000 or less, collection from the injured party or his attorney is not requested, and no new point of law or question of policy is involved, staff judge advocates will refer claims directly to the U.S. attorney for the district in which suit has been instituted or, if no suit is pending, to the U.S. attorney for the district in which the prospective defendant resides. The letter of transmittal will briefly summarize the facts giving rise to the claim and actions previously taken by the Army and the injured party, and will request the U.S. attorney to take such action as is deemed appropriate to protect the interests of the United States.

(i) The staff judge advocate will assist the U.S. attorney and provide such other evidence or information as applicable regulations permit.

(ii) If the U.S. attorney determines that further action is unwarranted, the file will be closed and disposed of in accordance with applicable procedures unless, in the opinion of the staff judge advocate, the U.S. attorney's decision is unreasonable. In that event, the file and all correspondence will be forwarded to The Judge Advocate General, Attention: Chief, Litigation Division, Department of the Army, Washington, D.C. 20310.

(3) *Other cases.* If referral to the Department of Justice is required by subparagraph (1) of this paragraph, and the claim either exceeds $5,000 or involves a new point of law, a question of policy, or collection from the injured party or his attorney, the staff judge advocate will forward the file through claims channels to The Judge Advocate General, Attention: Chief, Litigation Division, Department of the Army, Washington, D.C. 20310.

[AR 27–96, Sept. 29, 1967]

(Sec. 3012, 70 A Stat. 157, 10 U.S.C. 3012. Interpret or apply 76 Stat. 593, 42 U.S.C. 2651–2653)

For the Adjutant General.

J. W. HURD,
Colonel, AGC, Comptroller, TAGO.

[F.R. Doc. 67–14230; Filed, Dec. 6, 1967; 8:45 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 209—ADMINISTRATIVE PROCEDURE

Part 209 is revised to read as follows:

For the Adjutant General.

J. W. HURD,
Colonel, AGC,
Comptroller, TAGO.

PRACTICE AND PROCEDURE

Sec.
209.110 Purpose.
209.120 Dams and dikes across waterways.
209.130 Piers, dredging, etc., in waterways.
209.135 Shipping safety fairways and anchorage areas, Gulf of Mexico.
209.139 Shipping Safety Fairway in the Pacific Ocean at Fort Hueneme, Calif.
209.140 Operations of the Corps of Engineers under the Federal Power Act.
209.150 Harbor lines.
209.160 The California Debris Commission.
209.170 Violations of laws protecting navigable waters.
209.190 Removal of wrecks and other obstructions.
209.200 Regulations governing navigable waters.
209.220 Flood control regulations.
209.230 Use of reservoir areas for recreation.

SUBSTANTIVE RULES, POLICY, AND INTERPRETATIONS

209.260 Navigable waters of the United States.
209.300 Flood control regulations.
209.320 General policies on issuance of permits.
209.335 Delegation of authority to issue permits.
209.340 Work constructed without prior authority.
209.345 Necessary primary authority.
209.350 Limiting date in permits.
209.355 Permit bonds.
209.360 Transfer of permits.
209.365 Departure from permit plans.
209.370 Payment of expenses of inspection by permittees.
209.375 Revocation and relinquishment of permits.
209.380 Establishment of harbor lines.
209.385 Expenditure of Federal funds for work shoreward of harbor lines.
209.390 Operations shoreward of harbor lines.
209.395 Deposit of refuse.
209.400 Violations of law.
209.405 Damages.
209.410 Abandonment of wrecks.
209.415 Removal of wrecks.
209.420 Removal of sunken logs.
209.425 Acting Chief of Engineers and Acting Division and District Engineers.
209.430 Representation of submarine cables and pipelines on Government charts.
209.435 Public access to navigation works.
209.440 Policy on release of commercial statistics.
209.445 Certified copies of public records.
209.450 Distribution of maps and charts.
209.455 U. S. Lake Survey Office.

AVAILABILITY OF OPINIONS AND ORDERS AND RULES

Sec.
209.480 Statutory requirement.
209.490 Final opinions and orders in adjudication of cases.
209.500 Rules.

PUBLIC RECORDS

209.510 Availability.

NOTICE OF PROPOSED RULE MAKING

209.520 Publication.

AUTHORITY: The provisions of this Part 209 issued under R.S. 161; 5 U.S.C. 301, unless otherwise noted.

PRACTICE AND PROCEDURE

§ 209.110 Purpose.

Sections 209.120 to 209.230 state the general course and method by which the functions of the Corps of Engineers are channeled and determined, including the nature and requirements of all procedures as well as forms and instructions. They are intended to show what the Department requires and how the Department acts in a given type of case.

§ 209.120 Dams and dikes across waterways.

(a) *Primary authority.* Section 9 of the River and Harbor Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401) prohibits the construction of a dam or dike across a navigable water of the United States until the consent of Congress has been obtained and the plans for such structures have been approved by the Chief of Engineers and the Secretary of the Army. Such structures may be built under authority of the legislature of a State across waterways the navigable portions of which lie wholly within the limits of a single State, otherwise an act of Congress is necessary.

(b) *Approval of plans.* Application for approval of plans of such structures will be in the form of a letter submitted to the District Engineer exercising jurisdiction over the waterway. The letter of application will include a map of location and plans of the structure prepared in accordance with instructions contained in a pamphlet entitled "Permits for Work in Navigable Waters". The pamphlet may be obtained from the District Engineer or the Chief of Engineers. Applications for authority to construct water power dams are subject to the provisions of the Federal Power Act, revised to August 26, 1935. Inquiries concerning the required procedure in such cases should be addressed to the Federal Power Commission, Washington, D.C. 20426.

(c) *Signature.* In case of signature by an agent or by an official of a corporation, a duly authenticated copy of the authority for the action must accompany the application.

(d) *Identification to the Department.* If the applicant is a corporation, it must furnish for the information of the Department copies of the following papers, all properly authenticated: The charter or articles of incorporation; The minutes of organization; Extract from minutes showing the names of existing officers of the corporation.

(e) *Identification in cases of application by State or county officers.* Where State laws vest in State or county officers, such as boards of supervisors and county courts, the power to authorize the construction of dams or dikes, they must furnish with their application certified extracts from their proceedings showing their action authorizing the proposed structure.

§ 209.130 Piers, dredging, etc., in waterways.

(a) *Laws relating to permits.* (1) Section 10 of the River and Harbor Act of March 3, 1899, prohibits the placing of any structures in or over any navigable waters of the United States, or excavating or depositing material therein, unless the work has been recommended by the Chief of Engineers and authorized by the Secretary of the Army. Section 14 of the River and Harbor Act of March 3, 1899, provides that the Secretary of the Army on the recommendation of the Chief of Engineers, may grant permission for the temporary occupation or use of any sea wall, bulkhead, jetty, dike, levee, wharf, pier, or other work built by the United States. Such authorization or permission is ordinarily granted in the form of a permit.

(2) Section 1 of the River and Harbor Act of June 13, 1902, provides that any person or persons, corporations, municipal or private, desiring to improve any navigable river, or any part thereof, at their own expense and risk may do so upon the approval of the plans and specifications of said proposed improvement by the Secretary of the Army and the Chief of Engineers.

(3) Permits are not required for pipe, wire, or cable crossings when attached to the fixed parts of bridges if the pipe, wire, or cable does not reduce the headroom or clear width of boat passages under the bridge. Such attachments will be considered a part of the bridge, and the bridge owner will be responsible for them under his bridge franchise.

(4) Submarine cables connecting the United States with any foreign country, directly or indirectly, or connecting any portion of the United States with any other portion thereof, are subject to the provisions of an act of Congress of May 27, 1921 (42 Stat. 8; 47 U.S.C. 34), prescribing that such cables shall not be laid or operated unless a written license therefor has been issued by the President. In every case where a cable lies in navigable water of the United States a Department of the Army permit therefor is necessary. If, in addition, the case is one requiring a license from the President under the provisions of the act of May 27, 1921, the Department of the Army does not take action until the Presidential license is issued. Facilities for the transmission of electric energy between the United States and foreign countries and for the exportation and importation of natural gas to or from foreign countries are also subject to the provisions of the Federal Power Act of August 26, 1935 (49 Stat. 838; 16 U.S.C. 796 et seq.), and the Natural Gas Act of June 21, 1938 (52 Stat. 821; 15 U.S.C. 717 et seq.), and a Presidential permit is required (Executive Order 8202, July 12, 1939, 3 CFR, 1942 Cum. Supp.).

(5) Policies and procedures applicable to those operations in which the Corps of Engineers may be called upon to participate under the Federal Power Act are stated in § 209.140. Licensing activities of the California Debris Commission are stated in § 209.160.

(6) For minor structures and work in unimproved waterways or in improved waterways where such structures and work are well removed from the fairways used by navigation, authorization may be by a letter of permission. No drawings will be required to be submitted, nor will any public notice be issued in such cases. This procedure may be utilized when, in the opinion of the District Engineer concerned, there could be no opposition from the standpoint of navigation and authorization would unquestionably be given. If State law or local ordinance requires approval of the structures or work, a copy of such approval will be submitted with the application. Aerial crossings and submarine cables and other underwater crossings will not be regarded as minor structures or work.

(b) *Application.* (1) The application and plans will be prepared in accordance with instructions in Information Circular, entitled "Permits for Work in Navigable Waters", copies of which may be obtained from the District Engineer. District Engineers will furnish applicants all proper advice and assistance in the preparation of the application and plans.

(2) The application consists of a letter requesting the permit, accompanied by maps and plans of the proposed work. The letter of application should be addressed to the District Engineer in charge of the locality in which the work lies. Such officers have general authority to issue permits for certain classes of work, and will forward to proper authority applications for permits on which they cannot themselves take final action.

(3) There is no prescribed form. The letter of application should bear the address of the applicant and the date, contain the name of waterway, location of the work, description of work, and a statement whether the work is within corporate limits of a municipality.

(4) The letter should give any explanation of the plans necessary to enable the Department to determine exactly what is proposed and to show that the structure is not likely to fail and become a danger or obstruction to navigation, or injure the navigable capacity of any of the public navigable waters. If dredging or dumping is proposed, the application should give the exact location of the work, the depth to which the proposed dredging is to be carried, the approximate amount of the material to be removed, and the definite location of the deposit of the dredged material and the depth to be left over it. Where dredging or dumping is proposed in connection with other work, a separate application for dredging is not required, but the information above specified should be included in the application.

(5) The District Engineer is required to notify the municipal authorities of any application for work lying within the corporate limits of a municipality. To save time and correspondence, every application for a permit should state the city or town within which the work lies, or should definitely state that it lies outside of the limits of any city or incorporated town, unless such fact is clearly shown by the maps and description.

(6) The letter of application, attached papers, and maps should be complete, without reference to other correspondence not attached, and should include any special authorization for the work that is prerequisite to the action of the Department, as, for example, a copy of the State permit for the work, if the laws of the State in which it is situated require the obtaining of such instruments.

(7) The letter of application must be signed by the owner or proprietor of the proposed work, or by his duly authorized agent, and not by the contractor whom it is proposed to employ on the work, except in the case of applications for permits for dredging.

(8) A copy of the letter of application should be furnished for the convenience of the District Engineer, and all attached papers should be furnished in quadruplicate. Information Circular, entitled "Permits for Work in Navigable Waters", contains two examples of letters of application.

(c) *Maps and plans.* (1) Maps and plans showing the location, extent, and character of the proposed work are an essential part of an application for a permit. Such drawings are attached to, and form a part of, the permit issued, and must be carefully prepared in the form prescribed.

(2) As the employment of a suitable engineer or draftsman will often be necessary for the preparation of the drawings, parties desiring to do work in navigable waters are advised to consult with the district engineer, by letter or in person, in order that they may avoid the unnecessary expense of preparing plans for works for which permission must be denied in the interests of navigation, or of preparing plans that do not meet the requirements.

(3) One set of plans on tracing linen, vellum, or heavy tracing paper drawn with India ink or pencil and three sets of prints or other copies are required. An exception will be made when the map or drawing is a part of a printed map or plan which is sufficiently clear to permit reproduction by a photographic process; and, in ordinary applications for dredging, all four copies of the map may be prints which may often be secured from the District Engineer at small cost. In all cases four complete sets must be furnished. Whenever the word "ink" is used in the following paragraphs it shall be interpreted to mean either ink or suitable pencil.

(4) The drawings will be on sheets 8 by 10½ inches in size, measured in all cases from edge to edge of the sheet, including a margin of 1 inch along one of the 8-inch sides for binding purposes. As few sheets will be used as necessary to show clearly what is proposed.

(5) All drawings must be drawn to scale and the scale shown graphically. All maps must have the usual meridian arrow showing the north. When two maps are shown on the same sheet they should be so drawn that their meridians are parallel. It is desired that where convenient the maps be so drawn that the north be at the top of the map.

(6) On all maps of rivers, or plans showing river areas, the direction of the current will be indicated by a suitable arrow.

(7) All soundings and elevations should be shown in feet, and referred to the established Government datum plane at the locality. This plane is usually:

(i) On the Atlantic and Gulf coasts, mean low water.

(ii) On the Pacific coast, mean lower low water.

(iii) On the Great Lakes, low water datum or mean lake level.

(iv) On rivers, low water.

(8) Further information, including the location and description of any gauge or bench marks that may be available, may be secured from the District Engineer. Plans for structures in tidal waterways should contain indication of the tidal range.

(9) The instructions in subparagraph (11) of this paragraph provide for showing in red ink the structures proposed. This should be neatly and carefully done, so as not to obscure any details of the drawing. If desired by the applicant, the colored lines will be drawn in at the District Engineer's office. In the event modification of an existing structure is contemplated only the new work should be shown in red.

(10) Each drawing should have a simple title, preferably in the lower right-hand corner, telling what the map is.

(11) A map on a small scale showing the location of the proposed work is always required, unless the other plans submitted clearly show the general location. The location map may be on a separate sheet, or may be drawn as an inset map on a corner of the sheet showing the details of structure or work. It may be traced from a Coast Survey, Lake Survey, or Geological Survey, or other general map, and should bear a note showing the number or title of such map or chart, thus: "Traced from U. S. Coast Survey Chart 272." The name of the waterway and the names of towns and prominent points should be placed on this map, and any lines of latitude or longitude should be included in the tracing and correctly numbered. The location of the proposed work should be marked in red ink on all copies of this map.

(12) Plans of the proposed work should show:

(i) *For wharves, piers, bulkheads, etc.* The ground plan or layout of the proposed structure showing the shoreline (both high and low waterline) and any existing structures in the immediate vicinity. In rivers, the plan should usually show the high and low waterlines on both banks of the stream. The depth of

water in the vicinity of the proposed structure should be shown by soundings. Where practicable, the proposed work should be referenced by distance and direction to some established monument of definite mark. If harbor lines have been established in the locality, these should be accurately shown on the drawing. The outer lines of the proposed structure should be drawn in red ink on all copies. A typical cross section of the structure showing the type of construction and showing in figures the elevation of the deck or top above the datum plane.

(ii) *For a pier, jetty, dike, etc.* A longitudinal section of the structure, together with a profile of the bottom extending at least 100 feet beyond the end of the structure. The outer lines of the proposed structure should be drawn in red ink on all copies. The elevation of the deck or top above the datum plane should be shown in figures.

(iii) *For pipes, cables, etc., under water.* A plan, showing the shoreline (both high and low waterlines), any existing structures, cables, etc., in the immediate vicinity and in red ink on all copies, the alignment of the proposed pipe or cable. The depths in the vicinity of the crossing should be shown by soundings. A note on the plan should state the purpose of the pipe or cable and describe it sufficiently for its identification, as other installations of the kind may already exist or be placed in the same locality in the future. A profile, showing the bottom from bank to bank, low and high waterlines, and, in red ink on all copies, the proposed pipe or cable. The clear depth below the datum plane to be afforded by the pipe or cable in the navigable channel should be shown in figures.

(iv) *For overhead cables of all descriptions.* A plan and profile as above, showing in figures the minimum clearance of the lowest part of the cable above high water and above low water and the heights at supports.

(v) *For dredging.* A map showing the area to be dredged, and, unless the material is to be placed on an established dumping ground, the exact locality for the disposal of the excavated material, both these areas being drawn in red ink on all copies and suitably designated by words. Present depths on and in the vicinity of both these areas should be indicated by soundings. The dumping ground may be shown on the inset map or on a separate map if necessary. If the deposit is to be behind a bulkhead, either in the waterway or on shore, the plans must be sufficiently detailed to show that the structure will be adequate to confine the material.

(vi) *For dolphins, piles, etc.* A map showing the location of the structures, the shoreline, and existing structures in the vicinity, and soundings showing the depth of water. The proposed work will be outlined in red ink on all copies, and the elevation of the tops of the piles or dolphins with reference to high water will be shown in figures.

(13) Additional instructions covering the requirements, made necessary by special conditions in certain localities will be furnished the applicant on request addressed to the District Engineer.

(14) Samples of drawings are shown in Information Circular, entitled "Permits for Work in Navigable Waters". However, the form of lettering, conventional signs, etc., need not necessarily conform to these samples.

(d) *Notices.* (1) Unless the application is for the dredging of vessel berths and approach channels which cannot affect adversely any interests, the District Engineer will send notices thereof to all parties deemed likely to be interested, such as State or local harbor commissions, proper city authorities if the site of the proposed work is within corporate limits of any city, adjacent property owners, and owners or associations of owners of boat lines. Copies of the notice will be posted in the post offices or other public places in the vicinity of the site. The public notice is mandatory, and no permit or extension of time in which to complete work authorized by permit will be granted unless notice has been issued and a reasonable time afforded for protest, except as provided in this paragraph.

(2) When application is made for a permit for new work in any way affecting air commerce, District Engineers will insure that four copies of all public notices issued are forwarded promptly to the Civil Aeronautics Administration. Copies of public notices relating to applications for permits for aerial transmission lines and approval of plans for bridges will also be sent to regional managers of the Civil Aeronautics Administration. Such notices will include a statement as to the elevation of the highest point of the towers or superstructure above the local water surface datum, and a copy of the plans of the proposed work if necessary to a clear understanding.

(3) Public notices shall be issued in connection with cableways for stream gaging purposes, gage installations, and other non-project structures constructed by the Corps of Engineers in or over navigable waters. Copies of such notices will be sent to all interested parties.

(4) Notices should state the name of the applicant, should give the location and a brief description of work for which application for approval is made, should state where the plans may be seen, and should fix a limiting date within which protests from the standpoint of navigation will be received. The period so fixed should be as brief as will afford to all having a legitimate objection a reasonable opportunity to be heard. If time is an essential element, interested parties will be given a minimum period of 3 days after their receipt of the notice in which to present protests. The period normally should not be less than 10 days after the actual mailing of the notice. A longer period will be afforded if necessary in exceptional or especially important cases. If the District Engineer deems a public hearing essential to public interests, he may hold one.

(5) Copies of the notices sent to interested parties, together with a list of parties to whom sent, will accompany all applications for permits submitted to the Chief of Engineers for approval, and will also accompany all copies of permits issued by District Engineers and Division Engineers forwarded for file.

(e) *Reports on permit applications.* (1) The Secretary of the Army has authorized the issuance of Department of the Army permits by local offices of the Engineer Department, at the option of the Chief of Engineers, for work and structures in or over navigable waters in cases which are entirely routine and which involve no difference of opinion on the part of engineer authorities, nor doubt as to the law, facts, or regulations nor any opposition or other considerations which should be decided by higher authority.

(2) The report of a District Engineer on an application for a permit requiring action by a higher authority is indorsed upon the application to the higher authority.

(3) In cases of conflicting property rights the Department cannot undertake to adjudicate rival claims. In reporting such cases for the action of the Department, the District Engineer will state the attitude of adjacent or neighboring property owners whose interests may be affected by the work proposed, and will also state his views concerning any alleged adverse effects so far as regards the possible use of such property in connection with navigation.

(f) *Permits*—(1) *Forms.* A printed copy of Form 96, as amended to date of issue of permit, will be used ordinarily for the letter of authorization. Permits to Federal agencies will be executed on Form 96d. Subsequent approval of plans will be accomplished on Form 96c.

(2) *General conditions.* For the information of applicants, the general conditions of the Department standard form of permit are given below. Special conditions are added when necessary to protect navigation:

(i) That the work shall be subject to the supervision and approval of the District Engineer, Engineer Department at Large, in charge of the locality, who may temporarily suspend the work at any time, if in his judgment, the interests of navigation so require.

(ii) That any material dredged in the prosecution of the work authorized in this section shall be removed evenly, and no large refuse piles, ridges across bed of the waterway, or deep holes that may have a tendency to cause injury to navigable channels or to the banks of the waterway shall be left. If any pipe, wire, or cable hereby authorized is laid in a trench, the formation of permanent ridges across the bed of the waterway shall be avoided and the backfilling shall be so done as not to increase the cost of future dredging for navigation. Any material to be deposited or dumped under this authorization, either in the waterway or on shore above high-water mark, shall be deposited or dumped at the locality shown on the drawing hereto attached, and, if so prescribed thereon, within or behind a good and substantial bulkhead or bulkheads, such as will prevent escape of the material into the waterway. If the material is to be deposited in the harbor of New York, or in its adjacent or tributary waters, or in Long Island Sound, a permit therefor must be previously obtained from the Supervisor of New York Harbor, Army Building, New York City.

(iii) That there shall be no unreasonable interference with navigation by the work authorized in this section.

(iv) That if inspections or any other operations by the United States are necessary in the interests of navigation, all expenses connected therewith shall be borne by the permittee.

(v) That no attempt shall be made by the permittee or the owner to forbid the full and free use by the public of all navigable waters at or adjacent to the work or structure.

(vi) That if future operations by the United States require an alteration in the position of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army, it shall cause unreasonable obstruction to the free navigation of said water, the owner will be required, upon due notice from the Secretary of the Army, to remove or alter the structural work or obstructions caused thereby without expense to the United States, so as to render navigation reasonably free, easy, and unobstructed; and if, upon the expiration or revocation of this permit, the structure, fill, excavation, or other modification of the watercourse hereby authorized shall not be completed, the owners shall, without expense to the United States, and to such extent and in such time and manner as the Secretary of the Army may require, remove all or any portion, of the uncompleted structure or fill and restore to its former condition the navigable capacity of the watercourse. No claim shall be made against the United States on account of any such removal or alteration.

(vii) That the United States shall in no case be liable for any damage or injury to the structure or work authorized in this section which may be caused by or result from future operations undertaken by the Government for the conservation or improvement of navigation, or for other purposes, and no claim or right to compensation shall accrue from any such damage.

(viii) That if the display of lights and signals on any work hereby authorized is not otherwise provided for by law, such lights and signals as may be prescribed by the U. S. Coast Guard shall be installed and maintained by and at the expense of the owner.

(ix) That the permittee shall notify the said District Engineer at what time the work will be commenced, and as far in advance of the time of commencement of work, suspension of work, if for a period of more than 1 week, resumption of work, and its completion.

(x) That if the structure or work authorized in this section is not completed on or before _____ day of _____, 19__, this permit, if not previously revoked or specifically extended, shall cease and be null and void. This condition will be complied by inserting a specific date, normally December 31 of the third year subsequent to the year of issuance. Thus the limiting date fixed in permits issued in 1944 should normally be December 31, 1949. District and Division Engineers are not authorized to fix a later date for completion, but if special reasons so require, a shorter period may be specified provided that the limit expires in all cases on the last day of a quarter, i. e., March 31, June 30, September 30, or December 31. Experience has, however, shown a tendency to prescribe insufficient time limits, thus subjecting the Department and the permittee to unnecessary annoyance and expense in accomplishing extensions. The full authorized time should usually be allowed. Work or operations of a temporary and obstructive character, however, should be limited to a period as short as is considered reasonable. This will be accomplished by including in the description on the first page of the permit for the work or operation, the restriction "to be removed (or completed) on or before the _____ day of _____," naming the last day of a quarter, and the time limit in addition (j) of the permit form will prescribe the same date.

(xi) District and Division Engineers are authorized to insert, in proper cases, the following additional clause: "That this permit is revocable at the will of the Secretary of the Army."

(3) *Special conditions.* (i) If conditions other than those authorized, and additional to those expressed in the standard permit form, are regarded as necessary, or if any modification of conditions of the standard form is deemed essential, the application will be forwarded for the action of the Department, in which cases the exact wording of the recommended conditions will be given with explanatory statements showing why they are proposed, and whether they are acceptable to the applicant, or if not, the grounds for his objections.

(ii) When compensatory works or the removal of temporary structures should be required of the permittee, or in other unusual cases when there is reason to anticipate that the permittee may fail to carry out parts of the work that are against his interest, an additional condition should be submitted to the Department for approval, requiring the permittee to furnish a bond insuring compliance with the permit requirements. He should be fully advised concerning the proposed condition, including the amount and conditions of the proposed bond, and also be given an opportunity to present objections before the case is forwarded for consideration by the Department. Copies of all pertinent correspondence will accompany the application when forwarded.

(iii) General approval of special conditions for use in a District or Division may be given by the Chief of Engineers on proper presentation of the need therefor.

(4) *Number and disposition of copies.* (i) In addition to the signed copies of the permit two initialed copies will be prepared. The drawings showing the work will be securely attached to each copy, care being taken that none of the information on the plans is obliterated or damaged. When a permit is issued for the erection of an aerial transmission line, or when the permittee is required to pay or deposit with the District Engineer any sum of money, an additional copy will be prepared.

(ii) One signed copy of the permit will be delivered to the applicant. District and Division Engineers in transmitting approved plans to applicants will caution them that if any material changes in the location or plans of the structure or work are found necessary on account of unforeseen or altered conditions or otherwise, revised plans should be submitted promptly to the District Engineer to the end that these revised plans, if found unobjectionable from the standpoint of navigation, may receive the approval required by law before construction thereon is begun.

(iii) The second signed copy, which must be clear and legible in all its details and be identical in every respect with that issued to the applicant without added notation of any description, will be sent directly to the Chief of Engineers to form the legal record of the authorization, together with a copy of the notice sent to interested parties. The letter of transmittal will contain a statement as to whether harbor lines have been established for the locality, and if the permit was issued under special authority will give the date and E. D. file number thereof.

(iv) Whenever the permittee is required to pay or deposit with the District Engineer any sum of money for any purpose, the permit will be signed in triplicate, the third signed copy, which must be clear and legible in all its details and be identical in every respect to that issued to the permittee without added notation of any description, will be transmitted to the Chief of Engineers for forwarding to the General Accounting Office. In such cases, permits will be assigned a contract symbol number which will be placed on all copies.

(v) One of the initialed copies of the permit will be filed in the District Office and the other in the Division Office. If the permit was issued under special authority, both copies will show the date and file number thereof. If issued by the District Engineer, the copy furnished the Division Engineer will bear a notation showing the date of mailing the record copy to the Chief of Engineers. If issued by the Division Engineer, the copy furnished the District Engineer will bear a notation showing the date of mailing or other delivery to the permittee.

(g) *Work constructed without prior authority.* District and Division Engineers are authorized to approve plans for structures and work of the classes for which they are authorized to issue permits, when the application for approval is submitted after the commencement or completion of the structures or work, subject to the following rules:

(1) Approval will be limited to those cases where the necessary primary authority, State or Federal as the case may

be, validly exists, when the work was innocently constructed, and where the work will not unreasonably interfere with navigation.

(2) The applicant will submit the plans in the prescribed form.

(3) Notices of the application will be duly issued.

(4) The approval will be issued in the prescribed form, Form 96c.

(5) The approval will be signed and recorded as prescribed for permits.

(6) Applications for the approval of plans for structures which have been commenced or completed requiring action of higher authority will be reported on in the form prescribed for permit applications.

(7) When forwarding approval the applicant will be informed that the law contemplates prior approval and that in the future plans must be submitted in ample time for their consideration by the Department before construction is begun.

(h) *Necessary primary authority.* For works constructed by State or municipal agencies, the primary authority will be presumed without proof. If the law of the State requires a license for or approval of the work from a constituted State agency, a copy of such license or approval will be required and may be accepted as evidence of the primary authority. If there be no State regulation of structures in navigable waters, the necessary primary authority may be that granted in the charter of a corporation, or the authority inherent in the ownership of the land on which the structure is placed. The applicant will in such cases be required to furnish an extract from the charter, or a statement of ownership. Especial care will be taken that Federal approval is not granted when there is doubt of the right of the builder to construct and utilize the work.

(i) *Aerial transmission lines.* (1) When applications are received for permits for transmission lines crossing navigable waters of the United States and for easements for rights-of-way for transmission lines across, over and upon lands of the United States under the control and jurisdiction of the Department of the Army, the District Engineer shall first determine whether the transmission line forms a part of a waterpower "project" as the term "project" is defined in section 3 (11) of the Federal Power Act. Where the proposed transmission line does not form a part of a waterpower "project" applications will be acted upon with a view to issuance of permit in accordance with the provisions of section 10 of the River and Harbor Act approved March 3, 1899, for transmission lines crossing the navigable waters of the United States, and the grant of easements under the act approved March 4, 1911, for rights-of-way for transmission lines over, across, and upon lands of the United States under the jurisdiction and control of the Department of the Army. Where the proposed transmission line forms a part of a waterpower "project" the applicant should be advised of the law on the subject (sec. 4 (e) Federal Power Act), and directed to present the application to the Federal Power Commission. In cases of doubt, the application should be forwarded to the Chief of Engineers with the views and recommendations of the District and Division Engineers.

(2) Whenever a permit is issued for the erection of an aerial transmission line across a navigable water of the United States, an additional copy, unsigned and uninitialed, will be prepared and forwarded to the Chief of Engineers with the signed copy.

(3) District and Division Engineers are authorized and directed to insert in letters of authorization for aerial transmission lines and similar installations over navigable waters the following condition:

That the permittee will promptly comply with any future regulations or instructions affecting the work hereby authorized if and when issued in accordance with law by any department of the Federal Government for the aid or protection of aerial navigation.

(j) *Extensions of time.* (1) Division Engineers are authorized to revive and extend for successive periods not exceeding three years each the life of permits which have been issued by District Engineers of their division or by the Division Engineer, whether issued by general or special authority: *Provided*, That public notice is issued, that evidence satisfactory to the Division Engineer is furnished of the bona fide intention of the permittee to complete the work within a reasonable time, and that there has been no change in the attendant circumstances since the issuance of the permit sufficient to warrant the forwarding of the case to the Chief of Engineers for consideration.

(2) The letter granting the extension will be substantially the following form:

In accordance with your written request dated ----------, the authorization granted by the Secretary of the Army, in letter dated ----------, from the District (Division) Engineer at ----------, to (here follow the identical wording of the description of the work in the permit) is hereby specifically extended to (give date).

The conditions to which the authorization is made subject, excepting the time limit for completion, remain in full force and effect.

If the structure or work authorized is not completed on or before the date herein specified, the authorization, if not previously revoked or specifically further extended, will cease and become null and void.

By authority of the Secretary of the Army.

(If any condition of the standard permit form has been amended, the condition as amended will be added to the letter of extension where not contained in the original permit or prior extension or modification thereof.)

(3) The letter will be signed in duplicate, and copies will be distributed as prescribed for permits.

(4) All applications for extensions of time not falling within the provisions of subparagraph (1) of this paragraph will be forwarded for the consideration of the Chief of Engineers, with a full statement of circumstances, and with the recommendation of the District and Division Engineers.

(k) *Revision of plans.* (1) District and Division Engineers are empowered to approve revised plans for works under permits issued direct from their own offices.

(2) Notices of the revised plans will be sent to all parties of interest before action thereon, unless the revision is clearly such as to have no adverse effect on navigation or other interest.

(3) The approval will be in substantially the following form:

In accordance with your written request dated ----------, the revised plans hereto attached are approved to supersede the plans for the works authorized by the Secretary of the Army, in letter dated ----------, from the District (Division) Engineer at ---------- to (here follow the identical wording of the description of the work in the permit).

The conditions to which the work is made subject remain in full force and effect.

By authority of the Secretary of the Army.

(4) The letter will be signed in duplicate and distributed as prescribed for permits.

(5) All applications for approval of revised plans not falling within the provisions of subparagraph (1) of this paragraph will be forwarded for the consideration of the Chief of Engineers, with a full statement of circumstances, and with the recommendation of the Division and District Engineers.

(l) *Cancellation and revocation of permits.* (1) District and Division Engineers are without authority to cancel or revoke permits but District Engineers are authorized to accept from the permittee a voluntary relinquishment of the permit. Such relinquishment should be reported through the Division Engineer to the Chief of Engineers.

(2) Whenever during the life of a permit it is found that operations or interests of the United States require an alteration in the position of the structure or work authorized by the permit, or that any operation or work thereunder causes unreasonable obstruction to free navigation, the District Engineer in charge of the locality will forward through the Division Engineer a full report on the subject, with recommendations appended as to action to be taken.

(m) *Supervision of work and report.* District Engineers will exercise close supervision, of all work authorized under permits and will require that the work be conducted and executed in conformity with the approved plans. Such inspections as are necessary for this purpose must be made on timely occasions before and during construction, and such notices and instructions will be given permittees to insure that they do not depart from the approved plans. District Engineers will promptly report at the expiration of the time limit of the permit or upon completion of the work if at an earlier date, whether the conditions have been observed and whether the structures or operations as completed are in accordance with the approved plans. If the work is in accordance with the approved plans, the report will be sent direct to the Chief of Engineers and a copy furnished the Division Engineer. If the work as executed is not in substantial compliance with the approved plans, report will be submitted through the Division Engineer.

(n) *Departure from permit plans.* If the final inspection shows a material departure from the authorized plans, the District Engineer will call upon the permittee to furnish a tracing showing the work as actually constructed and will forward it, with his recommendation to the Chief of Engineers. If the departure is not sufficient to justify action by the Department a statement to that effect should be included. If the Chief of Engineers concurs, the papers will be filed and further correspondence with the permittee will not be necessary.

(o) *Expenses of inspection.* (1) The condition requiring that the grantee will bear all expenses for inspection, or any other operations by the United States in connection with permits granted under the provisions of section 10 of the River and Harbor Act approved March 3, 1899, will be applied only to special or elaborate supervision deemed necessary to protect the interest of navigation and involving unusual expense.

(2) The cost of supervision of dumping of dredged material in navigable waters, requiring the exclusive time of one or more inspectors, will be collected from the permittee unless other action is specifically approved by the Chief of Engineers. General authority to collect during a fiscal year the expenses of inspection of other classes of work will be granted by the Chief of Engineers in proper cases if the usual number of permits of the class warrants such course. The initial request for such authority will show the justification for the collection, the nature of the expenses, the usual range of the amount to be collected, and the usual number of cases of the class handled during the year. Thereafter requests for the renewal of the authority should be included in the annual request for authorities.

(3) In cases not covered by general authority as provided in subparagraph (2) of this paragraph, specific authority will be secured in each instance before making any collection from a permittee. Division Engineers are authorized to grant such authority if the operations to be inspected will probably be completed within six months, and if no doubt or disagreement arises as to the propriety of the collection, otherwise the authority of the Chief of Engineers must be obtained. Each request for special authority will show the character of the work, the necessity for the proposed collection, and the estimated amount to be collected.

(4) When general or special authority for the collection of expenses has been granted, the District Engineer is authorized to require, in proper cases, initial and subsequent advance deposits from the permittee in amounts generally not exceeding the estimated cost of inspection during the ensuing month. In cases where deposits are not promptly made or where an additional fraction of a month will probably finish the permit work, or in other cases regarded as exceptional, larger deposits may be required. If it appears advisable to require during the life of the permit advance deposits in excess of this limitation, the case will be presented to the Chief of Engineers for approval.

(5) On the completion of the work under a permit, and the payment of expenses by the permittee without protest, the account will be closed, outstanding deposits returned to the permittee, and a final statement of the account will be furnished the Chief of Engineers through the Division Engineer. If the account is protested by the permittee, it will be referred to the Chief of Engineers for approval before closing it and before returning any deposits to the permittee.

(6) The method of procedure will be as follows: The District Engineer will assign to the work of inspection one or more qualified inspectors for such time as may be necessary to insure compliance with the conditions of the permit and observance of the laws for the protection of navigable waters. These inspectors will be treated in all respects as regular employees of the United States and will be paid by the District Engineer from any available appropriation in his charge, on regular pay rolls or service vouchers. At the end of each month the amount chargeable for the cost of inspection pertaining to the permit will be collected from the permittee and will be taken up on the account current and deposited in a designated depositary to the credit of the Treasurer of the United States, on account of reimbursement of the appropriation from which the expenses of the inspection were paid.

(7) The District Engineer will take such measures as he may deem necessary to insure the United States against loss through possible failure of the grantee to supply the necessary funds to liquidate indebtedness for services paid for by the United States in connection with the inspection and supervision of his permit. This may be accomplished by requiring the permittee to keep on deposit with the District Engineer at all times an amount equal to the estimated cost of inspection and supervision for the ensuing month, such deposit being preferably in the form of a certified check, payable to the District Engineer. Certified checks so deposited will be carried in a special deposit account (guaranty for inspection expenses) and upon completion of the work under the permit the funds will be returned to the permittee provided he has paid the actual cost of inspection, or used to reimburse the United States for such cost in case of failure to pay the bills promptly when presented.

(8) The permittee will not be required or permitted to pay the United States inspector either directly or through the District Engineer, nor will the inspector be laid off or furloughed in order that he may be employed by the permittee to supervise the permit operations.

(p) *Permits for fishing structures.* (1) Special regulations for the issuance of permits for fish traps in specified localities are issued by the Chief of Engineers. Cases not covered by such regulations must be submitted to the Chief of Engineers for approval.

(2) Prior to action by the Department on an application for permission to construct a fish weir, trap, or similar contrivance in any navigable waters of the United States, the applicant will be required to furnish the Department with evidence that the proper license has been granted by the State or municipal authorities in cases where the laws prescribe such requirements, or to show that there is no State law or municipal regulations relating to the subject.

(q) *Lighting fishing structures.* (1) Fishing structures and appliances in navigable waters of the United States will be lighted for the safety of navigation as follows: The lights will be displayed between sunset and sunrise. They will be placed at each end of the structure, excepting where the inner end terminates in such situation that there is no practicable navigation between it and the high-water line of the adjacent coast, in which case no inner light will be displayed. The outer light will be white, and the inner light will be red. The size, capacity, and manner of maintenance of the light will be such as may be specified in the Department of the Army permit authorizing the erection of the structure or appliance. When several structures or appliances are placed on one line with no navigable passage between them, they will be considered for lighting purposes as one structure.

(2) By authority of the Secretary of the Army conditions in form as follows will be included in all permits for fishing structures and appliances in navigable waters of the United States, issued by the Chief of Engineers or by District Engineers specially authorized by him to issue such permits:

That the weir, trap, or pound will be lighted between sunset and sunrise, by and at the expense of the permittee, for the safety of navigation. The lights will be displayed at each end, the outer end of the structure, and at an elevation of not less than ------ feet above high water. The outer light will be white, the inner light will be red, and both will be equal to ------ with a capacity to burn ------ days untended. They will be subject to the inspection of the aforesaid District Engineer before use. (Additions may be made to this condition and superfluous words deleted as may be necessary to provide for lighting the particular structure.)

That there will be installed and maintained on the weir, trap, or pound, by and at the expense of the permittee, such additional lights and signals, if any, as may be prescribed by the U. S. Coast Guard, and that provision will be made for proper attendance by watchman or otherwise of all lights and signals, so that they will at all times be in effective condition.

§ 209.135 Shipping safety fairways and anchorage areas, Gulf of Mexico.

(a) *Purpose.* Fairways and anchorage areas as described in this section are established to control the erection of structures therein to provide safe approaches through oil fields in the Gulf of Mexico to entrances to the major ports along the Gulf Coast.

(b) *Permits.* Department of the Army permits are required pursuant to law (30 Stat. 1151; 33 U.S.C. 403) and (67

Stat. 463; 43 U.S.C. 1333(f)) for work or structures in the Gulf of Mexico in coastal waters and the waters covering the outer continental shelf. The Department of the Army will grant no permits for the erection of structures in the areas designated as fairways, since structures located therein would constitute obstructions to navigation. Within an area designated as an achorage area, not more than four (4) structures will be permitted at any time. Structures shall be not less than three (3) nautical miles apart and shall be not less than one and one-half (1½) nautical miles from the sea buoy at any harbor entrance.

(c) *Modification of the areas.* The fairways and anchorage areas are subject to modification but only after due notification and consideration of the views of interested parties, and advance publication of any adverse determination (see § 209.520 for notice of proposed rule making).

(d) *The areas.*

(1) *Brazos Santiago Safety Fairway.* The area between lines joining points at:

Latitude	Longitude
26°05'24"	97°09'42"
26°05'12"	97°08'30"
26°04'12"	96°59'30"
26°04'00"	96°57'24"
26°03'18"	96°51'54"

and lines joining points at:

26°03'24"	97°09'12"
26°03'18"	97°08'30"
26°02'06"	96°57'24"
26°01'36"	96°51'30"

(2) *Brazos Santiago Anchorages.* The areas within lines joining points at:

Latitude	Longitude
26°03'18"	97°08'30"
25°59'54"	97°08'30"
25°59'54"	96°57'24"
26°02'06"	96°57'24"

and lines joining points at:

26°03'12"	97°08'30"
26°04'12"	96°59'30"
26°09'00"	96°59'30"
26°09'00"	97°08'30"

(3) *Port Mansfield Safety Fairway.* The area between lines joining points at:

Latitude	Longitude
26°32'48"	97°16'08"
26°32'54"	97°14'48"
26°33'18"	97°04'42"
26°33'30"	96°59'06"

and lines joining points at:

26°34'48"	97°16'48"
26°34'54"	97°15'12"
26°35'18"	97°04'48"
26°35'30"	96°59'00"

(4) *Port Mansfield Anchorages.* The areas within lines joining points at:

Latitude	Longitude
26°33'54"	97°14'48"
26°29'54"	97°15'36"
26°30'18"	97°04'24"
26°33'18"	97°04'42"

and lines joining points at:

26°37'54"	97°16'48"
26°34'54"	97°15'12"
26°35'18"	97°04'42"
26°36'12"	97°04'48"

(5) *Aransas Pass Safety Fairway.* The area between lines joining points at:

Latitude	Longitude
27°49'30"	97°08'24"
27°46'30"	97°01'36"
27°46'42"	96°56'06"
27°46'18"	96°56'54"
27°45'30"	96°51'06"
27°45'00"	96°47'12"
27°48'48"	96°39'36"

and lines joining points at:

27°51'18"	97°08'24"
27°50'06"	97°00'18"
27°48'30"	96°57'18"
27°47'12"	96°48'12"
27°46'36"	96°44'24"
27°45'36"	96°37'48"

(6) *Aransas Pass Anchorages.* The areas within lines joining points at:

Latitude	Longitude
27°48'30"	97°01'36"
27°45'48"	97°04'00"
27°41'42"	96°57'48"
27°46'42"	96°56'06"

and lines joining points at:

27°46'18"	96°55'54"
27°48'00"	96°55'36"
27°48'30"	96°51'00"

and lines joining points at:

27°54'00"	96°57'00"
27°50'06"	97°00'18"
27°48'30"	96°57'18"
27°47'12"	96°48'12"

(7) *Matagorda Safety Fairway.* The area between lines joining points at:

Latitude	Longitude
28°34'54"	96°20'30"
28°34'12"	96°19'42"
28°14'48"	96°09'42"
28°11'24"	96°06'06"

and lines joining points at:

28°26'06"	96°18'42"
28°26'36"	96°18'06"
28°16'12"	96°06'06"
28°12'30"	96°04'12"

(8) *Matagorda Anchorages.* The areas within lines joining points at:

Latitude	Longitude
28°34'12"	96°19'42"
28°31'30"	96°21'30"
28°12'48"	96°12'12"
28°14'48"	96°09'42"

and lines joining points at:

28°27'00"	96°14'54"
28°26'36"	96°15'06"
28°16'12"	96°06'06"
28°12'12"	96°05'36"

(9) *Freeport Safety Fairways.* (i) The area between a line joining points at:

Latitude	Longitude
28°54'06"	95°16'48"
28°48'24"	95°12'00"

and a line joining points at:

28°53'06"	95°14'00"
28°48'30"	95°10'06"

(ii) The area between lines joining points at:

Latitude	Longitude
28°54'54"	95°19'18"
28°54'06"	95°16'48"
28°55'06"	95°14'00"
28°48'36"	95°01'24"
28°47'36"	94°58'42"
28°23'46"	94°17'18"

and lines joining points at:

28°56'36"	95°17'24"
28°56'30"	95°14'24"
28°52'30"	95°06'00"
28°50'00"	94°59'00"
28°49'00"	94°56'30"
28°38'18"	94°12'06"

(10) *Freeport Anchorages.* The areas within lines joining points at:

Latitude	Longitude
28°54'06"	95°16'48"
28°52'36"	95°19'24"
28°42'24"	95°12'00"

and lines joining points at:

28°53'06"	95°14'00"
28°48'30"	95°10'06"
28°48'36"	95°01'24"

and lines joining points at:

28°52'30"	95°06'00"
28°56'00"	95°10'00"
28°55'30"	95°14'24"

(11) *Galveston Safety Fairways.* (i) The area between a line joining points at:

Latitude	Longitude
29°06'24"	94°26'12"
27°51'42"	94°26'18"

and a line joining points at:

29°06'24"	94°23'54"
27°50'24"	94°24'00"

(ii) The area between lines joining points at:

Latitude	Longitude
29°19'24"	94°43'54"
29°19'30"	94°41'42"
29°18'30"	94°40'00"
29°18'00"	94°39'30"
29°07'42"	94°27'48"
29°07'30"	94°22'30"
28°36'00"	93°31'48"

and lines joining points at:

29°22'12"	94°45'00"
29°21'24"	94°40'18"
29°19'24"	94°37'06"
29°10'30"	94°22'54"
29°08'06"	94°20'36"
28°36'06"	93°27'54"

(12) *Galveston Anchorages.* The areas within lines joining points at:

Latitude	Longitude
29°18'00"	94°39'30"
29°14'48"	94°45'12"
29°03'48"	94°36'30"
29°07'42"	94°27'48"

and lines joining points at:

29°10'30"	94°22'54"
29°22'18"	94°22'00"
29°19'24"	94°37'06"

(13) *Sabine Safety Fairways.* (i) The area between lines joining points at:

Latitude	Longitude
29°40'12"	93°51'06"
29°36'48"	93°46'42"
29°32'36"	93°45'12"
29°28'42"	93°41'00"
28°21'42"	93°41'00"

and lines joining points at:

Latitude	Longitude
29°41'48"	93°49'24"
29°37'24"	93°47'30"
29°33'00"	93°42'48"
29°29'30"	93°39'00"
29°08'48"	93°39'00"
29°05'30"	93°39'00"
28°22'00"	93°39'00"

(ii) The area between a line joining points at:

Latitude	Longitude
29°05'30"	93°39'00"
27°56'48"	92°32'54"

and a line joining points at:

29°08'48"	93°39'00"
27°56'48"	92°37'06"

(14) *Sabine Anchorages.* (i) The area within lines joining points at:

Latitude	Longitude
29°36'06"	93°51'54"
29°32'48"	93°58'18"
29°32'54"	93°54'36"

(ii) The area within lines joining points at:

Latitude	Longitude
29°32'36"	93°45'12"
29°31'06"	93°53'12"
29°27'18"	93°50'18"
29°28'42"	93°46'06"
29°28'42"	93°41'00"

(iii) The area within lines joining points at:

Latitude	Longitude
29°32'48"	93°39'00"
29°33'00"	93°42'48"
29°29'30"	93°39'00"
29°30'48"	93°39'18"
29°30'48"	93°36'42"

(iv) The area within lines joining points at:

Latitude	Longitude
29°37'30"	93°41'54"
29°33'30"	93°42'42"
29°37'24"	93°45'42"

(15) *Constwise Safety Fairways.* (i) *Brazos Santiago to Aransas Pass.* The area between lines joining points at:

Latitude	Longitude
26°06'00"	96°57'24"
27°40'12"	96°55'36"
27°43'00"	96°55'36"
27°46'18"	96°56'54"

and lines joining points at:

26°04'12"	96°59'30"
26°09'00"	96°59'30"
26°33'30"	96°59'06"
26°35'30"	96°59'00"
27°41'42"	96°57'48"
27°46'42"	96°56'06"

(ii) *Aransas Pass to Galveston Pass.* The area between lines joining points at:

Latitude	Longitude
27°40'12"	96°55'36"
27°45'00"	96°47'12"
27°46'36"	96°44'24"
28°47'36"	94°58'42"
28°49'00"	94°56'30"
29°06'24"	94°26'12"
29°06'24"	94°23'54"
29°07'30"	94°22'30"
29°08'06"	94°20'36"
28°36'06"	93°27'54"

(16) *Galveston Pass Safety Fairway.* The area between lines joining points at:

Latitude	Longitude
29°08'06"	94°20'36"
29°07'30"	94°22'30"
29°07'42"	94°27'48"
29°18'00"	94°39'30"
29°18'30"	94°40'00"
29°19'30"	94°41'42"
29°19'24"	94°43'54"
29°22'12"	94°45'00"
29°21'24"	94°40'18"
29°19'24"	94°37'06"
29°10'30"	94°22'54"
29°08'06"	94°20'36"
28°36'06"	93°27'54"

(17) *Galveston Pass Anchorages.* (i) The area within lines joining points at:

Latitude	Longitude
29°33'36"	93°28'36"
29°30'06"	94°26'42"
29°29'07"	93°19'36"
29°32'07"	93°19'44"

and lines joining points at:

27°45'00"	96°55'36"
27°48'30"	96°51'06"
27°47'12"	96°48'12"
28°11'24"	96°06'06"
28°12'30"	96°04'12"
28°43'24"	95°12'00"
28°48'30"	95°10'06"
28°48'36"	95°01'24"
28°47'36"	94°58'42"
28°23'46"	94°17'18"

and lines joining points at:

28°56'36"	95°17'24"
28°56'30"	95°14'24"
28°52'30"	95°06'00"
28°50'00"	94°59'00"
28°49'00"	94°56'30"
28°38'18"	94°12'06"

(ii) The area within lines joining points at:

Latitude	Longitude
29°33'36"	93°28'36"
29°30'06"	94°26'42"
29°29'07"	93°19'36"
29°32'07"	93°19'44"

(18) *Mermentau Pass Safety Fairway.* The area between a line joining points at:

Latitude	Longitude
29°48'36"	93°07'24"
29°44'24"	93°07'48"

and a line joining points at:

29°45'18"	93°06'24"
29°44'06"	93°06'48"

(19) *Southwest Pass Safety Fairway.* The area between lines joining points at:

Latitude	Longitude
29°34'48"	93°03'12"
29°29'48"	93°07'06"
29°28'30"	93°06'24"

and lines joining points at:

29°34'24"	93°03'24"
29°30'24"	93°06'12"
29°28'24"	93°07'30"

(20) *Atchafalaya Pass Safety Fairway.* The area between a line joining points at:

Latitude	Longitude
29°23'24"	91°23'48"
29°14'18"	91°20'24"

and a line joining points at:

29°23'00"	91°23'54"
29°13'54"	91°20'36"

(21) *Bayou Grand Caillou Safety Fairway.* The area between a line joining points at:

Latitude	Longitude
29°10'06"	90°57'30"
29°08'24"	91°00'30"

and a line joining points at:

29°09'36"	90°56'24"
29°01'54"	91°02'36"

(22) *Cat Island Pass Safety Fairway.* The area between lines joining points at:

Latitude	Longitude
29°06'07"	90°34'32"
29°04'56"	90°35'00"
29°03'14"	90°35'10"
29°03'12"	90°35'17"
29°01'24"	90°34'56"

and lines joining points at:

Latitude	Longitude
29°06'00"	90°34'21"
29°05'31"	90°34'12"
29°05'13"	90°34'13"
29°05'15"	90°34'07"
29°01'24"	90°33'47"

(23) *Belle Pass Safety Fairway.* The area between a line joining points at:

Latitude	Longitude
29°05'00"	90°14'30"
29°03'48"	90°14'30"

and a line joining points at:

29°03'00"	90°13'30"
29°02'48"	90°13'30"

(24) *Barataria Pass Safety Fairway.* The area between a line joining points at:

Latitude	Longitude
29°10'00"	90°07'00"
29°14'54"	90°06'48"

and a line joining points at:

29°15'00"	90°05'30"
29°15'12"	90°05'30"

(25) *Grand Bayou Pass Safety Fairway.* The area between a line joining points at:

Latitude	Longitude
29°17'36"	89°41'36"
29°19'48"	89°42'12"

and a line joining points at:

29°17'18"	89°40'36"
29°16'18"	89°41'18"

(26) *Empire to the Gulf Safety Fairway.* The area between a line joining points at:

Latitude	Longitude
29°15'24"	89°27'00"
29°14'18"	89°27'48"

and a line joining points at:

29°15'00"	89°26'00"
29°13'42"	89°26'54"

(27) *Southwest Pass (Mississippi River) Safety Fairway.* The area between lines joining points at:

Latitude	Longitude
28°54'36"	89°26'18"
28°55'36"	89°26'48"
28°56'48"	89°16'36"

and a line joining points at:

28°54'48"	89°26'24"
28°40'36"	89°15'00"

(28) *South Pass (Mississippi River) Safety Fairway.* The area between lines joining points at:

Latitude	Longitude
28°59'12"	89°08'30"
28°58'48"	89°07'30"
28°55'00"	89°06'30"
28°54'18"	89°00'00"

and lines joining points at:

East Jetty Light	
29°00'09"	89°07'24"
28°58'42"	89°07'06"

(29) *Mississippi River—Gulf Outlet Safety Fairway.* The area between lines joining points at:

Latitude	Longitude
29°42'10"	89°25'48"
29°39'33"	89°07'47"
29°37'14"	89°03'30"
29°36'33"	89°03'45"
29°34'26"	89°00'00"
29°34'55"	88°57'17"
29°08'25"	88°50'18"

and lines joining points at:

29°09'05"	88°48'19"
29°23'04"	89°54'11"
29°26'38"	89°55'30"
29°33'10"	89°48'53"
29°37'32"	89°42'36"

and lines joining points at:

29°42'20"	89°25'31"
29°39'56"	89°07'31"
29°37'26"	89°03'06"
29°36'17"	89°03'55"
29°36'36"	89°00'22"
29°35'26"	88°58'45"
29°33'50"	88°44'04"

(30) *Mississippi River—Gulf Outlet Anchorage.* The area within lines joining points at:

Latitude	Longitude
29°26'26"	89°55'39"
29°23'04"	89°54'11"
29°29'45"	89°48'13"
29°33'10"	89°48'53"

(31) *Gulfport Safety Fairway.* The area between lines joining points at:

Latitude	Longitude
30°30'54"	89°05'36"
30°18'56"	88°55'42"
30°11'06"	88°59'36"
30°05'48"	88°56'36"
30°05'42"	88°56'24"

and lines joining points at:

30°21'37"	89°04'36"
30°14'11"	88°56'30"
30°11'29"	88°56'48"
30°07'42"	88°56'37"
30°07'30"	88°54'00"

(32) *Biloxi Safety Fairway.* The area between lines joining points at:

Latitude	Longitude
30°24'06"	88°50'37"
30°22'18"	88°50'23"
30°21'11"	88°47'36"
30°20'18"	88°47'06"
30°19'06"	88°47'06"
30°12'00"	88°47'48"
30°12'36"	88°49'06"

and lines joining points at:

30°24'37"	88°50'31"
30°22'37"	88°50'31"
30°21'48"	88°48'36"
30°20'36"	88°48'55"
30°14'07"	88°43'37"
30°13'36"	88°43'00"
30°13'00"	88°43'36"

(33) *Pascagoula Safety Fairway.* The area between lines joining points at:

Latitude	Longitude
30°29'42"	88°34'30"
30°29'24"	88°34'30"
30°17'00"	88°31'31"
30°18'00"	88°30'30"
30°11'00"	88°29'00"
30°10'00"	88°24'36"

and a line joining points at:

30°20'30"	88°25'18"
30°19'30"	88°21'36"

and a line joining points at:

30°20'20"	88°31'26"
30°18'36"	88°31'36"

and lines joining points at:

30°19'31"	88°30'12"
30°17'38"	88°30'12"
30°13'46"	88°29'42"
30°11'31"	88°31'00"
30°09'25"	88°29'48"

(34) *Panama City Safety Fairway.* The area between lines joining points at:

Latitude	*Longitude*
30°09'24"	85°40'12"
30°09'21"	85°41'40"
30°07'30"	85°44'30"
30°06'39"	85°46'12"

and lines joining points at:

30°08'24"	85°40'16"
30°07'55"	85°41'30"
30°06'40"	85°43'36"
30°05'19"	85°44'45"

(35) *Port St. Joe Safety Fairway.* The area between lines joining points at:

Latitude	*Longitude*
29°49'54"	85°19'24"
29°50'59"	85°22'36"
29°53'32"	85°22'25"
29°54'12"	85°24'00"
29°54'13"	85°25'55"
29°53'59"	85°26'42"
29°53'59"	85°23'34"

and lines joining points at:

29°48'22"	85°18'12"
29°47'31"	85°21'00"
29°50'43"	85°22'31"
29°53'51"	85°23'36"
29°53'10"	85°24'19"
29°53'10"	85°25'53"
29°51'57"	85°26'19"
29°49'19"	85°20'18"

(36) *Mobile Safety Fairway.* The area between lines joining points at:

Latitude	*Longitude*
30°26'46"	88°06'24"
30°26'14"	88°02'43"
30°21'30"	88°02'00"
30°21'29"	88°04'59"

and lines joining points at:

Latitude	*Longitude*
30°21'00"	88°05'30"
30°21'00"	88°01'54"
30°25'55"	88°01'26"
30°16'35"	88°03'45"
30°14'09"	88°05'24"
30°10'26"	88°06'58"
30°07'15"	88°06'54"

and lines joining points at:

30°39'55"	88°01'15"
30°37'06"	88°01'28"
30°26'11"	88°00'11"
30°16'16"	88°01'25"
30°13'23"	88°01'12"
30°13'14"	88°01'12"
30°10'26"	88°01'33"
30°06'04"	88°00'36"

(37) *Pensacola Safety Fairway.* The area between lines joining points at:

Latitude	*Longitude*
30°23'41"	87°14'24"
30°23'08"	87°13'53"
30°22'54"	87°13'53"
30°20'47"	87°15'48"

and lines joining points at:

30°15'45"	87°19'24"
30°15'37"	87°15'19"
30°14'39"	87°19'06"

and a line joining points at:

30°26'27"	87°06'26"
30°25'35"	87°10'30"

and lines joining points at:

30°24'36"	87°07'01"
30°22'37"	87°06'58"
30°22'36"	87°11'50"
30°19'21"	87°14'49"
30°19'52"	87°17'41"

and lines joining points at:

30°19'15"	87°17'37"
30°16'26"	87°16'22"
30°15'45"	87°15'24"

(38) *Tampa Safety Fairways.* (i) An area 2 nautical miles in width centered on the alinement of Egmont Channel and extending from a point abreast of Egmont Key light for a distance of approximately 8.9 nautical miles to a point abreast of the Whistle Buoy. The north and south boundary line would have an azimuth of 94° true. From a point abreast of the Whistle Buoy the fairway is flared, the northerly line having an azimuth of 114° true and the southerly line an azimuth of 54° true, both lines extending to the 60-foot contour in the Gulf of Mexico.

(ii) An area 2 nautical miles in width covering southwest channel, the northerly limit line extending on a line with an azimuth of 45° true from Egmont Light and the southerly line being parallel to and 2 nautical miles southeasterly of the northerly limit line. Both limit lines would extend to the 40-foot contour in the Gulf of Mexico. The inner end of the northerly line terminates at the 18-foot contour from which point a straight line is drawn to the southern tip of Egmont Key. The inner end of the southerly limit line terminates at the 18-foot contour abreast of Egmont Key.

(39) *Charlotte Safety Fairway.* An area 1 nautical mile in width on the alinement of the marked entrance channel extending on the north side from a point abreast of Whistle Buoy No. 1 on an azimuth of 36° true to the shoreline of Gasparilla Island. On the south side the line would deflect to an azimuth of 67° true to parallel the inner section of the entrance channel and to end upon contact with the northerly end of Lacosta Island. The outer section of the fairway would flare with the northerly boundary having an azimuth of 46° true and the southerly boundary an azimuth of 26° true, both terminating at the intersection with the 60-foot contour in the Gulf of Mexico.

(Sec. 10, 30 Stat. 1151, sec. 4, 67 Stat. 462; 33 U.S.C. 403, 43 U.S.C. 1333(f))

§ 209.138 Shipping Safety Fairway in the Pacific Ocean at Port Hueneme, Calif.

(a) *Purpose.* The fairway area as described in this section is established to control the erection of structures therein to provide a safe approach to the entrance to Port Hueneme.

(b) *Permits.* Department of the Army permits are required pursuant to law (30 Stat. 1151; 33 U.S.C. 403) and (67 Stat. 462; 43 U.S.C. 1333(f)) for work or structures in the Pacific Ocean in coastal waters and the waters covering the Outer Continental Shelf. The Department of the Army will grant no permits for the erection of structures in the fairway area, since structures located therein would constitute obstructions to navigation.

(c) *Modification of the area.* The fairway is subject to modification, but only after due notification and consideration of the views of interested parties, and advance publication of any adverse determination (see § 209.520 of this part for notice of proposed rule making).

(d) *The fairway.* An area one nautical mile in width centered on the alinement of Port Hueneme Entrance Channel and extending seaward from the 30-foot-depth curve for a distance of 1.5 nautical miles, thence turning southerly and widening to 1.5 nautical miles at the 3-mile limit, all between lines joining the following points:

Point	Latitude	Longitude
A	34°09'20"	119°12'02"
B	34°07'37"	119°12'37"
C	34°08'49"	119°13'22"

thence generally along the 30-foot-depth curve to the seaward end of the west entrance jetty; seaward end of the east entrance jetty, thence generally along the 30-foot-depth curve to:

Point	Latitude	Longitude
F	34°08'21"	119°12'16"
G	34°07'10"	119°12'29"
H	34°08'48"	119°13'22"

(Sec. 10, 30 Stat. 1151, sec. 4, 67 Stat. 462; 33 U.S.C. 403, 43 U.S.C. 1333(f))

§ 209.140 Operations of the Corps of Engineers under the Federal Power Act.

(a) *General.* This section outlines policies and procedures applicable to those operations in which the Corps of Engineers may be called upon to participate under the Federal Power Act. Such operations include: Investigations and reports on applications for permits and licenses for development of power affecting navigable waters; supervision of investigations, construction, and operation of projects under such permits and licenses; preparation of special reports as required by the Federal Power Commission; and review of plans of dams or other structures affecting navigation. The foregoing functions are performed by the Engineer Department only upon request of the Federal Power Commission.

(b) *Authority of Division and District Engineers.* Section 2 of the revised Federal Power Act provides that the Federal Power Commission may request the President to detail an officer or officers from the Corps of Engineers, or other branches of the United States Army, to serve the Commission as Engineer officer or officers, or in any other capacity, in field work outside the seat of government, their duties to be prescribed by the Commission. By authority of the Secretary of the Army, and in accordance with the instructions issued by the President in a letter to the Secretary of the Army dated May 18, 1931, Division Engineers will be detailed to serve the Commission as engineer officers in field work outside the seat of government, their duties to be prescribed by the Commission, and to be performed under the supervision of the Chief of Engineers. District Engineers will be designated to carry out the field inspections and investigations under supervision of the Division Engineer. When a Division Engineer is detailed by the Chief of Engineers to assist the Commission in either the investigation or supervision of a project he will be the accredited representative of the Commission. The actual field work will be done by the designated District Engineer who will make a report to the Division Engineer. All reports and such correspondence as would normally be forwarded to the Commission will be addressed to the Chief of Engineers.

(c) *Procedure for investigations and report on applications for permits and licenses.* (1) Upon assignment to the Division Engineer by the Chief of Engineers of an investigation under the Federal Power Act, the Division Engineer will submit to the Chief of Engineers an estimate of the cost and the approximate date when the investigation will be made and report submitted.

(2) If in the investigation of an application or a declaration of intention filed under the Federal Power Act the Division Engineer considers a public hearing desirable in the interests of navigation or flood control, the Chief of Engineers will be notified whereupon the matter will be brought to the attention of the Commission. No public hearing will be held unless specifically authorized by the Commission or by the Chief of Engineers. If a hearing is authorized it will be limited strictly to consideration of the purpose for which approval is granted.

(3) The report will be confined to a discussion of the topics specified in the request of the Commission unless otherwise authorized by the Chief of Engineers. Descriptions and discussions will be limited to material facts having a definite bearing on the case.

(4) If the project is on a Federal reservation or contemplates the use of a dam under the jurisdiction of the War Department the report will state, giving reasons:

(i) Whether the project will interfere or be inconsistent with the purposes for which such reservation was created or acquired and what conditions if any, should be imposed for the adequate protection and utilization of the reservation.

(ii) Whether the dam may be advantageously used by the United States for public purposes in addition to navigation and whether it should be reserved for such use.

(iii) Whether the development should be undertaken by the United States.

(5) The reports will not be released or made public except by specific authority of the Chief of Engineers, nor will copies of a report, its findings, or recommendations be furnished to the applicant, to interested parties, or to the Commission until released by the Chief of Engineers.

(6) Periodic reports of progress or investigations will be made as required in paragraph (e) of this section.

(d) *Procedure for supervision of operations under permits and licenses.* (1) When supervision of the operations of an applicant under a permit or a license is requested by the Federal Power Commission, the Chief of Engineers will assign responsibility for supervision to the Division Engineer. The operations to be supervised, such as investigations being conducted by a permittee, construction of a project under a license or operation of completed projects, will be as specified by the Commission.

(2) Projects will be classified as major, minor, minor part, or transmission line projects as indicated in the Federal Power Act and as specified in the instructions from the Commission.

(3) Inspections during the construction of a major project will be made monthly, or as often as may be necessary for the Division Engineer to assure himself that the terms of the license are being complied with and the work is of acceptable quality and in accordance with the approved plans. The frequency of inspections of minor, minor part, and transmission line projects is left to the discretion of the Division Engineer.

(4) Periodic reports will be made on operations under permits or licenses as prescribed in paragraph (e) of this section.

(5) After a project has been completed and placed in operation, semiannual inspections will be made of major projects, and annual inspections of minor, minor part, and transmission line projects. These inspections will be continued and reports made as prescribed in paragraph (e) of this section until discontinuance is directed by the Chief of Engineers.

(e) *Periodic reports*—(1) *Submitted by Division Engineer.* All periodic reports on Federal Power Commission projects as outlined below will be submitted by the Division Engineer, in accordance with forms issued by the Commission, direct to the Chief of Engineers, a copy being furnished the District Engineer.

(2) *Monthly reports on investigations.* If the investigation and report on an application for a preliminary permit or license or on a declaration of intention are not completed within the calendar month of reference of the application to the Division Engineer, monthly reports showing the progress made on the investigation and report will be submitted.

(3) *Quarterly reports on supervision of investigation under permits.* Reports on supervision of the investigations made by the permittee will be rendered quarterly and, unless otherwise directed, will be continued until the Division Engineer is notified that the permit has expired or an application for license has been received for investigation.

(4) *Monthly reports on supervision of construction under a license.* Reports on the progress of construction made by a licensee will be submitted monthly and unless otherwise directed will be continued until the initial installation covered by the license has been completed and placed in operation when reports as called for in subparagraph (5) on "Semiannual and annual operation reports" below will be submitted.

(5) *Dormant projects.* Projects in which no change of status has occurred since the previous report will be listed on one sheet with a statement that, "no change has occurred in the status of the following project since the latest report was submitted."

(6) *Semiannual and annual operation reports.* After a project has been completed as required by the license, and placed in operation, inspections will be made as called for in paragraph (d) of this section. Reports on the operation and maintenance of the project will be submitted semiannually for major projects, and annually for minor, minor part and transmission line projects. A special report will be made in case of severe flood or of interruption in operation due to failure of material or accident.

(7) *Hydrometric reports.* When requested by the Commission and so directed by the Chief of Engineers, the Division Engineer will supervise the stream-gaging activities of the permittee or licensee and submit an annual report covering the water year as soon after September 30 as practicable. The scope and character of hydrometric reports required of the licensee will depend on the circumstances in the individual case. The Commission prescribes within certain limits what will be required, but considerable discretion in the matter is left to the Division Engineer, with the right of appeal to the Commission in case of controversy. Where, however, questions of benefits from headwater improvements are involved or where in a comprehensive project the run-off in tributary streams will play an important part in the design and operation of project works or in the modification of designs or of plans of operation it is important that the records be full and accurate and considerable expenditure therefor may be justifiable. In important cases the hydrometric reports of licensees will include the following:

(i) Mean daily discharge of stream or streams covered by the license.

(ii) Daily records of intake and tailrace gages or plants under license.

(iii) Daily record of reservoir gage height.

(iv) Mean daily discharge from reservoir spillways.

(v) If the stream flow during the year has been affected by the headwater improvements of another licensee, reference should be made to the fact. If there are any unusual circumstances by which the stream flow of a project on the lower reaches of a stream will be affected by the headwater improvements above, an analysis of such circumstances should be submitted with the hydrometric data.

(g) *Conditions for insertion in permits and licenses.* Subparagraphs (1), (2), and (3) of this paragraph contain the standard conditions usually inserted in a preliminary permit for a project which affects navigation. Subparagraphs (1) to (6), inclusive, of this paragraph are the standard conditions usually inserted in a license for a project which affects navigation, while subparagraphs (7), (8), and (9) of this paragraph are special conditions which may be recommended for insertion in any license as required.

(1) That whenever the United States shall desire to construct, complete, or improve navigation facilities in connection with said project, the licensee shall convey to the United States, free of cost, such of its lands and its rights-of-way and such right of passage through its dam or other structures and permit such control of pools as may be required to complete, maintain, and operate such navigation facilities.

(2) That the licensee shall furnish free of cost to the United States, power for the operation of such navigation facilities, whether constructed by the licensee or by the United States.

(3) The operation of any navigation facilities which may be constructed as a part or in connection with any dam or diversion structure built under the provisions of this license shall at all times be controlled by such reasonable rules and regulations in the interest of navigation, including the control of the level of the pool caused by such dam or diversion structure, as may be made from time to time by the Secretary of the Army. Such rules and regulations may include the maintenance and operation by the licensee at its own expense of such lights and signals as may be directed by the Secretary of the Army, and such fishways as may be prescribed by the Secretary of the Interior.

(4) The United States specifically retains and safeguards the right to use water in such amount, to be determined by the Secretary of the Army, as may be necessary for the purposes of navigation and the operations of the licensee so far as they affect the use, storage, and discharge from storage of waters affected by this license, shall at all times be controlled by such reasonable rules and regulations as the Secretary of the Army may prescribe in the interests of navigation.

(5) Insofar as any material is dredged or excavated in the prosecution of the work authorized in this section it shall be removed and deposited so it will not interfere with navigation and to the satisfaction of the District Engineer in charge of the locality.

(6) The licensee shall allow officers and employees of the United States free and unrestricted access in, through, and across the said project and project works in the performance of their official duties.

(7) The licensee shall permit the free use by the public for navigation or recreational purposes of the reservoir formed by said dam, and shall, when not inconsistent with the operation of said project, allow the construction of wharves or landings in the interest of navigation.

(8) The licensee shall cut and remove or destroy, to the satisfaction of the representative of the Commission, all brush and trees from that zone within and adjacent to the area to be submerged, which is included between the contour of elevation ____ feet above mean sea level and a line ____ feet horizontally from the outside of the contour of elevation ____ feet above mean sea level for the initial development, and of the contour of elevation ____ feet above mean sea level for the ultimate development, and shall remove or destroy all floatable refuse or other material within said areas to be submerged. The licensee shall also cut in such manner or so remove or destroy brush or trees within said area to be submerged that no part of such brush or trees shall project above said elevation of ____ feet.

(9) The licensee, unless otherwise directed by the Secretary of the Army in accordance with the rights reserved to the United States in Article 5, shall so operate its project works that the discharge in the _____ River immediately below _____ dam site shall not be less than _____ acre-feet of water in each 24-hour period except that when the flow of the river available to the project is less than _____ acre-feet in 24 hours, the discharge required shall be equivalent to such lower flow. The distribution of said discharge over any 24-hour period shall be subject to such regulations as the Secretary of the Army may prescribe.

Cross References: For regulations of the Federal Power Commission, see 18 CFR Chapter I.

§ 209.150 Harbor lines.

(a) *The harbor line system.* (1) Section 11 of the River and Harbor Act approved March 3, 1899 (33 U.S.C. 404) authorizes the Secretary of the Army to cause harbor lines to be established where it is made manifest to him that establishment is essential for the preservation and protection of a harbor, and provides that compensation may be required where the extension of structures beyond established harbor lines is permitted.

(2) If only a single type of construction is permissible, a single limiting line will be defined. It will be designated a pierhead line if the type of construction is to be open-pile work and a bulkhead line if the construction is to be solid fill. If either open or solid construction is permissible, the limiting line will be designated a pierhead and bulkhead line. If solid construction is permissible adjacent to the shore, and open-pile work may be extended farther toward the channel, both bulkhead and pierhead lines will be established.

(3) Applications for the shifting of harbor lines channelward will receive very careful consideration before approval will be granted. The movement of bulkhead lines channelward allows the creation of additional land which may be valuable for terminal or other uses, but it diminishes the tidal prism and reduces the length of piers unless the pierhead line is moved correspondingly. The movement of pierhead lines channelward in important harbors frequently sought as a means for accommodating longer ships leads to greater congestion of shipping, increased velocity of current and more serious danger of accident. Accommodations for longer ships can generally be provided by a change of landing place to a wider section of the harbor, the construction of piers oblique to the shore line, or an extension landward of the slips between piers.

(4) The selection of the system will require consideration of the following questions:

(i) Whether open-pile construction or solid fill or both, or a combination of both will be permissible.

(ii) Whether the channel faces of wharves, bulkheads, and similar structures at the locality should be vertical or inclined.

(5) Experience has shown that the establishment of a bulkhead line has been frequently followed by solid filling to the limit and by requests thereafter from riparian owners to push the limit farther toward the channel. It has also been found in some cases where the pierhead line is about a ship's length channelward of the bulkhead line that deep-draft vessels lying in the slips cut off much of the water flow causing silt deposits under the piers and in the slips thus considerably reducing the benefits expected under the plan of establishing separate limits for solid and open work.

(6) Each case must be considered on its merits and the probable commercial developments at the particular locality studied carefully. If they cannot be clearly foreseen, it may be advisable to make use of some experimental features with the view of adopting a fixed plan where experience indicated more conclusively what it should be. For example, it may be specified on the harbor line map that no structure will be placed between the pierhead and bulkhead lines until the special permission of the Secretary of the Army has been obtained; or that applications for solid construction between the bulkhead and pierhead lines will be considered; or that if slips are required in the future they will be provided by excavating shoreward of the bulkhead line. The fixing of the limits as permanently as possible is much preferred but proper concessions for shore developments and for the adequate protection at the same time of the interests of navigation without unreasonably reducing wharf frontage, may occasionally require some temporary expedient.

(7) If the channel faces of wharves and bulkheads at the locality are to be vertical and the channelward limits of extension from shore will therefore be vertical planes the establishment of a single harbor line to define the position of each plane will be sufficient. If the channel faces are to be inclined the position of the sloping limiting plane may be defined either by the establishment of two lines lying in the plane and at specified elevations (at high and low water), or by establishing a single line at a specified elevation and prescribing the degree of slope. When the channelward limiting plane is a slope the shoreward limit where vertical walls may be erected will be defined.

(8) Harbor lines will not be established across the mouths or entrances to navigable waterways. Care will be taken to see that the terminal points of the lines on either side of a waterway are selected with the view of a future extension of harbor lines along the tributary.

(9) When an extension or modification of a project has been recommended to Congress which will involve conflict with established harbor lines, the District Engineer will submit a report, with recommendation and map, as to abrogation or modification of the harbor line or lines affected.

(b) *Establishment of harbor lines.* (1) Harbor lines will be so established and marked that their exact position at any point can be determined with reasonable ease and accuracy. Reference monuments will be established at convenient intervals. Whenever possible convenient ranges on the lines will be established on shore.

(2) Reference monuments will be of permanent character so marked and described that they may be readily identified. They should be situated on the same side of the channel as the angle points referred to them and as close to them as practicable. Monuments of important Federal, State, or municipal surveys, boundary monuments, or lines of record, and intersections of center or side lines of streets where streets are well defined or can be located with reasonable accuracy will be used as reference monuments. Wherever practicable the harbor line system should be referenced to the plane coordinate system of the U.S. Coast and Geodetic Survey or Lake Survey if either system has been established, and connected with monuments of that Survey. Points on railroad tracks, wharves, or other structures likely to be shifted or changed in connection with work of reconstruction or repair will be used with caution. The bearing of reference lines should read from the reference point toward the harbor line point.

(3) All harbor lines will be straight lines unless exceptional circumstances require the use of curves. In such cases prior requests to the Chief of Engineers for authority to use curves will be made accompanied by a statement of necessity therefor.

(4) All traverses formed by sections of the lines and reference lines will close within reasonable limits.

(5) The descriptive data will be given in such form that a surveyor can readily locate any section of the lines or any reference line with as little additional computation or investigation as practicable.

(c) *Harbor line maps.* (1) Each harbor line map will be complete in itself, containing all description essential for the identification of monuments and reference points and for determining the position of the harbor lines on the ground. Where streets are well defined or where they can be located with reasonable accuracy, the distance to the harbor lines will be given from the intersections of center lines of streets measured along streets running toward the lines. The data will be inscribed adjacent to the lines and monuments to which it relates and in a manner convenient for reference.

(2) Where the harbor line system is referenced to the U.S. Coast and Geodetic Survey plane coordinate grid system, the coordinates of every harbor line point, monument and reference point will be given in tabular form on the map. Each map will have two meridian arrows, one showing the grid north and the other the true north, with appropriate notation as to the difference. Where the plane coordinate grid system is not used, the coordinates of every harbor line point, monument and reference point, based on true meridian, will likewise be given in tabular form on the map and a true meridian shown. Each section of the harbor line will be described by its length and appropriate azimuth of bearing.

(3) Hydrographic data and shore facilities will be shown in sufficient detail to present conditions clearly.

(4) The map will show whether the proposed lines are pierhead lines, bulkhead lines, combined pierhead and bulkhead lines, or otherwise, and will also bear all or such portion of the following statement as may be appropriate: "The bulkhead line defines the limit of solid filling; the pierhead line the limit to which open-pile structures may be built."

(5) Harbor line tracing will be brought up to date at sufficiently frequent intervals to protect properly the Federal investment in the harbor line systems. District and Division Engineers will take necessary measures to protect the property of the United States represented in field notes, monuments and maps relating to harbor lines in order that costly resurveys are not required. In the reestablishment of any monuments careful selection of the stations will be made to insure permanency.

(6) District Engineers will forward direct to the Director, U.S. Coast and Geodetic Survey, a copy of maps of new or modified lines. This will be done only when waters are involved that are charted by that agency.

(d) *Notification to municipal authorities.* Whenever an application is received for the establishment of harbor lines, or the modification of existing lines within the corporate limits of any city, town, or political subdivision by an applicant other than the municipal authority, the proper municipal authorities will be promptly notified in order that they may have full opportunity to be heard in case the contemplated harbor lines may interfere with any plans or works which the city, town, or political subdivision has planned.

(e) *Public notice, public hearing, and consultation with interested parties.* (1) Public notices of an application for establishment of harbor lines or for modification thereof are mandatory and will be issued to all known interested parties in every case.

(2) Public hearings in connection with harbor lines will be kept to a minimum and will be the exception rather than the rule. A hearing will be held at the discretion of the District Engineer only if he deems a public hearing essential, as in a known controversial case or when response from the public notice indicates that a public hearing should be held.

(f) *Report on harbor lines.* Whenever the establishment of new harbor lines or the modification of existing harbor lines is considered necessary, the District Engineer will submit a detailed report through the Division Engineer to the Chief of Engineers. The report will give the latest information on commerce (tonnage and type of shipments) and an analysis of prospective commerce and the general type and length of vessels and barges mooring at piers and bulkheads. The drafts of vessels and barges and the type of tows, whether single or flotilla, should be discussed along with all other matters that should be considered by the Department.

(g) *Modification of harbor lines.* When modification of an established harbor line becomes necessary the procedure will be as prescribed for the establishment of original lines. The report of the District Engineer on such modification will be accompanied by a copy of the approved map, showing clearly the original lines to remain in force, the portion to be superseded, the new lines proposed, and a draft of legend. In no instance will the approved lines be removed from the original harbor line tracing by erasure. If it is not practicable to revise the approved map, the District Engineer will furnish a new map prepared in accordance with the instructions found in paragraph (c) of this section but omitting all lines superseded. The approval of the Chief of Engineers will be obtained before new maps are prepared or approved maps are modified.

§ 209.160 The California Debris Commission.

Section 1 of the act of Congress of March 1, 1893 (27 Stat. 507; 33 U.S.C. 661), created the California Debris Commission, consisting of three officers of the Corps of Engineers, to regulate under the supervision of the Chief of Engineers and direction of the Secretary of the Army, hydraulic mining in the territory drained by the Sacramento and San Joaquin River systems, California. Under section 9 of the act (27 Stat. 508; 33 U.S.C. 669), the individual proprietor or proprietors, or in case of a corporation, its manager or agent appointed for that purpose, owning mining ground in this territory which it is desired to work by the hydraulic process, must file with the Commission a verified petition, setting forth such facts as will comply with law and the rules prescribed by the Commission. The law contains detailed instructions with regard to facts required to be shown by the petitioner and the procedure to be followed by the Commission in issuing an order directing the methods and specifying the manner in which operations shall proceed. Full information on law and procedure can be obtained from the Secretary, California Debris Commission, 650 Capitol Mall, Sacramento, California 95814.

§ 209.170 Violations of laws protecting navigable waters.

(a) *Illegal structures or other work.* (1) Section 9 of the River and Harbor Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401), makes it unlawful to construct any bridge, dam, dike, or causeway over or in any navigable water of the United States until the proper local authority has been obtained and until the location and plans have been approved by the Chief of Engineers and the Secretary of the Army. When plans for any structure have been so approved, it is unlawful to deviate from such plans unless the modification thereof has received the approval of the Chief of Engineers and the Secretary of the Army. Plans of any bridge or causeway now require the approval of the Department of Transportation pursuant to section 6(g)(6)(C) of the Department of Transportation Act (80 Stat. 931).

(1) Section 10 of the River and Harbor Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 403), prohibits the creation of any obstruction not affirmatively authorized by Congress to the navigable capacity of any of the waters of the United States, and makes it unlawful to build any wharf, pier, dolphin, boom, weir, breakwater, bulkhead, jetty, or other structures, outside established harbor lines or where no harbor lines have been established, or to excavate or fill, or in any manner to alter or modify the course, location, condition, or capacity of, any navigable water of the United States, unless the work has been recommended by the Chief of Engineers and authorized by the Secretary of the Army.

(b) *Wrecks and similar obstructions.* Section 15 of the River and Harbor Act of March 3, 1899 (30 Stat. 1152; 33 U.S.C. 409), makes it unlawful to tie up or anchor vessels or other craft in navigable channels in such a manner as to prevent or obstruct the passage of other vessels or craft, or to voluntarily or carelessly sink, or permit or cause to be sunk, vessels or other craft in navigable channels, or to float loose timber and logs or sack rafts of timber and logs in streams or channels actually navigated by steamboats in such manner as to obstruct, impede, or endanger navigation (an act of Congress approved May 9, 1900, 31 Stat. 179; 33 U. S. C. 410, authorizes the Secretary of the Army to prescribe regulations to govern the floating of loose timber and logs and sack rafts and other methods of navigation on any navigable river or waterway of the United States or any part thereof whereon the floating of loose timber and logs and sack rafts is the principal method of navigation). Whenever a vessel, raft, or other craft is wrecked and sunk in a navigable channel, accidentally or otherwise, it is the duty of the owner to immediately mark it with a buoy or beacon during the day and a lighted lantern at night, and to maintain such marks until the sunken craft is removed or abandoned. By the maritime law the owner of a vessel which is sunk without fault on his part may abandon the wreck, in which case he cannot be held responsible for removing it. That law has not been changed by the River and Harbor Act approved March 3, 1899, which fully recognizes the owner's right of abandonment. However, a person who willfully or negligently permits a vessel to sink in navigable waters of the United States may not relieve himself from all liability by merely abandoning the wreck. He may be found guilty of a misdemeanor and punished by fine, imprisonment, or both, and in addition may have his license revoked or suspended.

(c) *Injuries to Government works.* Section 14 of the River and Harbor Act of March 3, 1899 (30 Stat. 1152; 33 U.S.C. 408), makes it unlawful for any person or persons to take possession of or make use of for any purpose, or build upon, alter, deface, destroy, move, injure, obstruct by fastening vessels thereto or otherwise, or in any manner whatever impair the usefulness of any sea wall, bulkhead, jetty, dike, levee, wharf, pier, or other work built by the United States, or any piece of plant, floating or otherwise, used in the construction of such work under the control of the United States, in whole or in part, for the preservation and improvement of any of its navigable waters or to prevent floods, or as boundary marks, tide gauges, surveying stations, buoys, or other established marks, nor remove for ballast or other purposes any stone or other material composing such works. (The Secretary of the Army may, on the recommendation of the Chief of Engineers, grant permission for the temporary occupation or use of any of the aforementioned public works when in his judgment such occupation or use will not be injurious to the public interest.

(d) *Injurious deposits.* (1) Section 13 of the River and Harbor Act of March 3, 1899 (30 Stat. 1152; 33 U.S.C. 407), makes it unlawful to throw, discharge, or deposit, or cause, suffer, or procure to be thrown, discharged, or deposited either from or out of any ship, barge, or other floating craft, or from the shore, wharf, manufacturing establishment, or mill, any refuse matter of any kind or description whatever other than that flowing from streets and sewers and passing therefrom in a liquid state, into any navigable water of the United States, or into any tributary of any navigable water from which the same shall float or be washed into such navigable water, or to deposit, or cause, suffer, or procure to be deposited material of any kind in any place on the bank of any navigable water, or on the bank of any tributary of any navigable water, where the same shall be liable to be washed into such navigable water, either by ordinary or high tides, or by storms or floods, or otherwise, whereby navigation shall or may be impeded or obstructed. Section 13 does not apply to the operations in connection with the improvement of navigable waters or construction of public works considered necessary and proper by the United States officers supervising such improvement or public work.

(2) An Act of Congress approved June 29, 1888 (25 Stat. 209; 33 U.S.C. 441–451), as amended on August 26, 1958 (72 Stat. 970–971; 33 U.S.C. 441–451b) forbids the placing, discharging, or depositing of refuse, dirt, ashes, cinders, mud, sand, dredgings, sludge, acid, or any other matter of any kind, other than that flowing from streets, sewers, and passing therefrom in a liquid state, in the tidal waters of the harbors of New York, Hampton Roads, and Baltimore or its adjacent or tributary waters, within the limits which shall be prescribed by the Supervisor of the Harbor. The provisions of this act are enforced by the Supervisor under the direction of the Secretary of the Army.

(e) [Reserved]

(f) *Penalties for violations.* (1) Section 12 of the River and Harbor Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 406), as amended, provides that every person and every corporation that shall violate any of the provisions of sections 9 and 10 shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by fine, imprisonment or both, in the discretion of the court. And further, the removal of any structures or parts of structures erected in violation of the provisions of the said sections may be enforced by the injunction of any district court exercising jurisdiction in any district in which such structures may exist, and proper proceedings to this end may be instituted under the direction of the Attorney General.

(2) Section 16 of the River and Harbor Act of March 3, 1899 (30 Stat. 1153; 33 U.S.C. 412), provides that every person and every corporation that shall violate, or that shall knowingly aid, abet, authorize, or instigate a violation of the provisions of sections 13, 14 and 15, shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine, imprisonment, or both, in the discretion of the court, one-half of said fine to be paid to the person or persons giving information which shall lead to conviction. Any and every master, pilot, and engineer, or person or persons acting in such capacity, respectively, on board of any boat or vessel who shall knowingly engage in towing any scow, boat, or vessel loaded with any material specified in section 13 to any point or place of deposit or discharge in any harbor or navigable water, elsewhere than within the limits defined and permitted by the Secretary of the Army, or who shall willfully injure or destroy any work of the United States contemplated in section 14, or who shall willfully obstruct the channel of any waterway in the manner contemplated in section 15, shall be deemed guilty of a violation of the act, and shall upon conviction be punished as provided in this section, and shall also have his license revoked or suspended for a term to be fixed by the judge before whom tried and convicted. And any boat, vessel, scow, raft, or other craft used or employed in violating any of the provisions of sections 13, 14, and 15 shall be liable for the pecuniary penalties specified in this section, and in addition thereto for the amount of the damages done by said boat, vessel, scow, raft, or other craft, which latter sum shall be placed to the credit of the appropriation for the improvement of the harbor or waterway in which the damage occurred, and said boat, vessel, scow, raft, or other craft may be proceeded against summarily by way of libel in any district court of the United States having jurisdiction thereof.

(g) *Enforcement.* (1) Section 17 of the River and Harbor Act of March 3, 1899 (30 Stat. 1153; 33 U.S.C. 413) provides that the Department of Justice shall conduct the legal proceedings necessary to enforce the provisions of sections 9 to 16, inclusive, of the act, and it shall be the duty of district attorneys of the United States to vigorously prosecute all offenders against the same whenever requested to do so by the Secretary of the Army or by any of the officials hereinafter designated, and it shall furthermore be the duty of said district attorneys to report to the Attorney General the action taken by him against offenders so reported, and a transcript of such reports shall be transmitted to the Secretary of the Army by the Attorney General.

(2) Section 17 further provides that for the better enforcement of the provisions of sections 9 to 16, inclusive, and to facilitate the detection and bringing to punishment of such offenders, the officers and agents of the United States in charge of river and harbor improvements, and the assistant engineers and inspectors employed under them by authority of the Secretary of the Army, and the United States collectors of customs and other revenue officers, shall have power and authority to swear out process and to arrest and take into custody, with or without process, any person or persons who may commit any of the acts or offenses prohibited by the aforesaid sections, or who may violate any of the provisions of the same. No person shall be arrested without process for any offense not committed in the presence of some one of the aforesaid officials. Whenever any arrest is made under the provisions of the act, the person so arrested shall be brought forthwith before a commissioner, judge, or court of the United States for examination of the offenses alleged against him, and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States.

(3) It is the duty of each District Engineer to take notice of any violations of the laws for the protection of the navigable waters and the works of improvement therein that may occur in his district and to take the necessary steps to secure enforcement of the law. Whenever any violation of any of these provisions of law comes to his attention he will investigate carefully the circumstances of the case and will determine the amount of the damage for which the parties committing the violation are responsible under section 16 of the River and Harbor Act of March 3, 1899. He will then communicate directly with the parties responsible for the violation, giving them notice to remove the illegal structure or deposit or to repair the damage by their own labor and at their own expense within a reasonable time to be fixed in the notice. If they so request in writing and furnish a satisfactory bond or other guaranty he may cause the repairs to be made by employees of the United States and will then call upon the responsible parties to pay over to him the cost of the damages when finally ascertained. All sums so received will be deposited promptly to the credit of the Treasurer of the United States for recredit to the appropriation affected and will be accounted for in the District Engineer's money accounts by proper vouchers.

(4) If the parties at fault deny their responsibility, or if they refuse or neglect to remove any unlawful structure or deposit or to repair the damages within the time fixed by the notice, the matter will be reported promptly to the Chief of Engineers with such evidence as the District Engineer may be able to obtain and his recommended action under section 17 of the act of March 3, 1899. In an unusual situation requiring immediate action, the District Engineer may report the case direct to the United States Attorney for the district. The Chief of Engineers will be advised by wire of such action to be followed by a written report. If the unlawful structure or deposit is removed or the damage repaired by the parties responsible therefor in conformity with the notice, the District Engineer will report whether further action should be taken against them with a view to making them liable to the fine or imprisonment prescribed by the act as a punishment for violations of its provisions. Although the Corps of Engineers has certain police powers under this act it has been the long standing policy to secure compliance with its provisions short of legal proceedings. Accordingly every effort will be made to accomplish corrective measures prior to initiation of action leading to such proceedings. As a general rule, while minor and unintentional or accidental violations of the provisions of the act need not be reported to the Chief of Engineers, all willful or intentional violations and all cases in which the parties responsible refuse or neglect to remove the unlawful structure or deposit or to make good the damages suffered should be reported promptly to the Chief of Engineers in accordance with the above. Each report recommending prosecution should be accompanied by a full statement of the case and copies of correspondence relating thereto.

(5) The procedure in cases involving injurious deposits is similar to that described for other violations of law except that as the damage caused thereby cannot be readily repaired there will ordinarily be no reason for serving any notice on the parties responsible for the violations further than to bring to their attention the consequences thereof. In all cases in which a violation of law is clearly established the circumstances will be immediately reported to the District Attorney; however, it is the established policy of the Department not to recommend prosecution when the violation of law is trivial, apparently unpremeditated, and results in no material public injury.

§ 209.190 **Removal of wrecks and other obstructions.**

(a) *Laws relative to removal of wrecks and obstructions.* The laws relating to removal of wrecks are contained in sections 15, 19, and 20 of the River and Harbor Act of March 3, 1899, and section 1 of the act of August 16, 1937. Section 15 of the former act provides that it shall be the duty of the owner to mark the location of the wreck immediately and until removed or abandoned; sections 19 and 20 authorize removal under the direction of the Secretary of the Army if the owner does not take action; section 19 governs in cases where removal is not an urgent necessity; and section 20 applies to emergencies where the interests of navigation require immediate action. Section 1 of the latter act provides for action in case the owner fails to mark a wreck suitably.

(b) *Reports on accidents or obstructions affecting navigation.* When any major accident occurs in any navigable water of the United States, such as vessel collision, sinking, grounding, or bridge failure, District Engineers will notify the Chief of Engineers by wire of pertinent details and developments. Any interference or danger to navigation with estimated duration of obstruction should be reported. Any serious accident in a major navigable water will be reported by teletype within 24 hours of the time of occurrence. Any serious accident resulting in an obstruction to navigation will be reported by telephone during normal working hours on the day of occurrence, directed to Chief, Misc. Civil Br., ENGCW-ON.

(c) *General procedure concerning wrecks and other obstructions.* (1) District Engineers, upon being informed of the existence of any wreck or other obstruction in navigable waters of the United States will ascertain at once whether navigation is obstructed or endangered. If the obstruction is found to be of a character requiring removal, District Engineers will inform the owner promptly of the provisions of law.

(2) Vessel owners, masters, and others interested having any knowledge of wrecks or other obstructions should be encouraged to send to the District Engineers prompt and accurate reports of their approximate location.

(3) If removal is commenced by the owner, District Engineers will keep themselves informed of the progress of the work and exercise sufficient supervision of the operations to insure that they cause no unreasonable interference with navigation and the work is diligently prosecuted. If removal by the United States is found necessary, proceedings must be instituted promptly in accordance with the appropriate provisions of law. In such case, if the owner has not marked the obstruction the District Engineer will request the District Commander of the Coast Guard to establish adequate marks.

(4) In the process of removal and disposal of sunken vessels by the United States, District Engineers will ascertain from the owner if known, whether there is a Government interest in the vessel by way of mortgage or otherwise. If such interest exists they will ascertain from the Maritime Commission or other agency of the Government having such interest what disposition of the vessel is desired before offering the vessel for sale to the public.

(d) *Marking of wrecks by owners.* (1) Whenever a vessel, raft, or other craft is wrecked and sunk in a navigable channel, accidentally or otherwise, it will be the duty of the owner of such sunken craft to mark it immediately with a buoy or beacon during the day and a lighted lantern at night, and to maintain such marks until the sunken craft is removed or abandoned. The neglect or failure of the owner so to do shall be unlawful (sec. 15, act of March 3, 1899, 33 U.S.C. 409).

(2) The Secretary of Transportation may mark any sunken vessel or other

obstruction existing on any navigable waters of the United States for the protection of navigation in such manner and for so long as, in his judgment, the needs of maritime navigation require. Upon the removal of any wreck or obstruction marked by the Coast Guard, the District Engineer exercising jurisdiction will notify the Coast Guard immediately that such marking is no longer required and should be removed.

(e) *Abandonment of wrecks by owners or underwriters.* (1) Every precaution is taken in cases involving wrecked or sunken vessels to insure that the rights of the United States are not prejudiced by acceptance of abandonment when tendered by owners or underwriters of vessels under 33 U.S.C. 409. Under no circumstances will acceptance of abandonment be indicated. If a letter of abandonment is received, receipt of the letter is merely acknowledged and a statement included in the reply as follows: "This acknowledgment should in no way be construed as acceptance by the United States of an abandonment of such vessel, nor as waiver of any right to enforce liability for any damage caused by its sinking or cost of removal."

(2) If an incident occurs involving the interrelated rights and liabilities of persons responsible for a sunken or wrecked vessel, a separate report from the report required by paragraph (b) of this section will be furnished the Chief of Engineers for use in coordinating with the Department of Justice.

(3) In the case of United States v. Cargo Salvage Corporation, the United States brought action to obtain legal precedent as to ownership of cargo aboard a wrecked vessel to be removed under 33 U.S.C. 414. The Court held that the interests in cargo are separate and that its abandonment must be independently shown from the abandonment of the hull. In cases where the ownership of cargo aboard a wreck to be removed is in doubt, and cannot be otherwise established, the abandonment of the cargo will be established by insertion of a small legal advertisement in the county weekly nearest the wreck. A copy of the advertisement will be entered in the files of the District Engineer to prove abandonment of both the cargo and hull.

(f) *Marking of wrecks by Coast Guard.* (1) Under the Act of Congress approved September 17, 1966 (14 U.S.C. 86) the cost of continuing the marking of a sunken vessel or other obstruction to navigation, after abandonment is established, shall be borne by the Department of Transportation.

(2) The District Engineer will advise the Coast Guard as soon as practicable if he desires an obstruction marked and will also notify the Coast Guard when removal operations have been completed. For regulations of the Coast Guard governing marking of wrecks see 33 CFR 64.05–10.

(g) *Information for Coast Guard.* Whenever the condition of any wreck which has been marked by the Coast Guard changes, due to removal, destruction, changed location caused by storms or shifting channels, or any other reason, so that markings are no longer needed, the District Engineer having jurisdiction will notify the District Commander of the Coast Guard at once.

(h) *Removal of obstructions under section 19 of the River and Harbor Act of March 3, 1899.* Action under this section for removal of an obstruction requires prior authority from the Chief of Engineers and may be undertaken only when navigation of navigable waters of the United States is obstructed or endangered, and if the obstruction has been in existence for a longer period than thirty days, or its abandonment by the owner can be legally established in a shorter period. The obstruction can be removed by any method deemed most advantageous.

(i) *Removal of obstructions under section 20 of the River and Harbor Act of March 3, 1899.* This section provides that action thereunder may be taken by any agent of the United States to whom the Secretary of the Army "may delegate proper authority." A delegation of such authority was made by an order issued by the Secretary of the Army, January 20, 1966, which as amended November 2, 1917, reads as follows:

Whenever any vessel, boat, watercraft, or raft sinks, grounds or is unnecessarily delayed in any canal, lock, or other improvement controlled or owned by the United States, or in any of the navigable waters of the United States, under circumstances of emergency, the district engineer in charge of such lock, canal, improvement, or district will, under authority conferred by section 20 of the River and Harbor Act of March 3, 1899 take charge of such vessel, boat, water craft, raft, or other obstruction with a view to its immediate removal or destruction, using his best judgment, in all cases, to prevent any unnecessary injury. Any action taken under the above instructions will be reported forthwith to the Chief of Engineers for the information or action of the Secretary of the Army.

(j) *Requests for authority and for funds.* (1) Requests for authority for removal of wrecks and other obstructions will:

(i) Report the case in sufficient detail to establish the propriety of allotting public funds to the work.

(ii) Indicate whether removal is proposed under section 19 or 20 of the River and Harbor Act approved March 3, 1899, or section 8 of the River and Harbor Act approved September 19, 1890.

(iii) Include a map, size 8 by 10½ inches (with 1-inch binding margin along the 8-inch side) showing the location of the wreck or obstruction in relation to the principal channels in the vicinity and any Federal improvement that may be affected by it.

(iv) Include, if necessary to show exact condition or if desirable to show important detail, photographs of wreck or other obstruction.

(v) Indicate proposed method of removal; whether by contract or by Government plant and hired labor.

(vi) State the estimated cost of the removal of the wreck or obstruction, including the Government costs if the work is proposed to be done by contract and the estimated date that allotment of funds will be required. Request allotment for preliminary expenses to cover cost of preparation of specifications and other preliminary details.

(vii) Inclose copy of letter of abandonment when wreck has been formally abandoned.

(2) Requests for funds for the removal of wrecks and other obstructions after bids have been opened and the amount needed has been determined will:

(i) Indicate the authority under which the wreck or other obstruction is being removed.

(ii) State the total amount of funds needed for the particular work separated into contract costs and Government costs.

(3) Upon completion of the removal of a wreck or other obstruction for which funds have been allotted, any balance remaining will be reported promptly for revocation, citing the date of the allotment.

§ 209.200 Regulations governing navigable waters.

(a) *Publication of regulations.* District Engineers will distribute mimeographed copies of all departmental regulations to all known interested parties as soon as their publication has been noted in the FEDERAL REGISTER. The following note will be included:

These rules and regulations will be in full force and effect (usually 30 days after their publication in the FEDERAL REGISTER) on ----------; public notices of their approval were sent to all known interested parties on ----------; they have been posted at post offices and other public places.

(b) *Danger zones.* (1) The Secretary of the Army has authority to prescribe regulations for the use and navigation of any area of the navigable waters of the United States or waters under the jurisdiction of the United States likely to be endangered by target practice, ordnance proving operations, bombing practice, etc. This authority is pursuant to the provisions of Chapter XIX of the Army Act of July 9, 1918, or of section 7 of the River and Harbor Act of August 8, 1917.

(2) On receipt of a request from any element of the Department of Defense or other agency for approval by the Secretary of the Army of regulations establishing danger zones under authority of either Act, the District Engineer will, prior to issuing any public notice, make certain that the applicant (1) has coordinated its proposed operations with any operations being conducted or contemplated by other agencies in the same area with a view to avoiding interagency conflicts, (2) has obtained clearance from the proper Regional Subcommittee on Airspace, Rules of the Air and Air Traffic Control (Air Coordinating Committee), where the use of airspace is involved, and (3) has conducted preliminary discussions with local interests when considered advisable. In the case of proposed danger zones off the Atlantic and Pacific Coasts, the coordination referred to in (1) above will include the Commander, Service Force, U.S. Atlantic Fleet, or the Commander, Western Sea Frontier.

(3) The authority to prescribe danger zone regulations must be exercised so as not to interfere with or restrict unreasonably the food fishing industry. Whenever the establishment of a proposed danger zone or restricted area may affect fishing operations the District Engineer will consult with the regional director, U.S. Fish and Wildlife Service, Department of the Interior. Two copies of all notices of applications for the establishment of danger zones and restricted areas will be forwarded to the Chief of Staff, U.S. Air Force. In addition, notices of all applications relating to the establishment of aerial gunnery and bombing areas will be sent to local Army, Navy, and Federal Aviation Agency representatives.

(4) If the use of water areas is desired only for such temporary, occasional, or intermittent periods that operations can be conducted safely without imposing restrictions on navigation, applicants may be informed that formal regulations by the Secretary of the Army are not required. However, proper notices for mariners requesting that vessels avoid the areas will be issued by the District Engineer to all interested persons. Copies will be sent to the Commandant, U.S. Coast Guard, Washington, D.C. 20226 and the Commander, U.S. Naval Oceanographic Office, Washington, D.C. 20390.

(c) *Navigation regulations.* (1) Section 7 of the River and Harbor Act approved August 8, 1917 (40 Stat. 266; 33 U.S.C. 1) authorizes the Secretary of the Army to prescribe such regulations for the use, administration, and navigation of the navigable waters of the United States as public necessity may require for the protection of life and property, or for operations of the United States in channel improvement, covering all matters not specifically delegated by law to some other executive department. The statute provides for the posting of regulations and punishment for violations.

(2) Section 6 of the River and Harbor Act approved June 13, 1902 (32 Stat. 374; 33 U.S.C. 499) provides that regulations prescribed by the Secretary of the Army may be enforced as provided in section 17 of the River and Harbor Act approved March 3, 1899 (30 Stat. 1153; 33 U.S.C. 413).

(3) District Engineers will take action with respect to regulations prescribed for waterways under their jurisdiction—

(i) To insure that the regulations are brought to the attention of the public.

(ii) To insure that the regulations are properly and fairly administered.

(iii) To recommend any revisions necessary to permit full use of the waterway by the public.

(d) *Seaplane restricted areas.* (1) Under section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), when required for the protection of life and property, certain areas may be set aside and reserved for the use of seaplanes and attendant craft. Reasonable regulations may be prescribed restricting or prohibiting the use of such areas by other craft.

(2) Section 7(a) of the Air Commerce Act of 1926, as amended (44 Stat. 572; 49 U.S.C. 177(a)) provides, with some exceptions, that the navigation laws of the United States shall not be construed to apply to seaplanes or other aircraft or to the navigation of vessels in relation thereto. The Civil Aeronautics Act of 1938 confers broad powers upon the Commerce Department (Civil Aeronautics Administration), now the Federal Aviation Agency, and the Civil Aeronautics Board in connection with the establishment of landing areas on land or water and other air navigation facilities and the prescribing of rules and regulations to govern the use thereof. Section 601(a)(7) of the Act (52 Stat. 1007; 49 U.S.C. 551(a)(7)) directs the board to prescribe air traffic rules, including rules for the prevention of collisions between aircraft and land or water vehicles. In view of these acts, the Department of the Army does not attempt to regulate the movements of seaplanes and attendant craft within seaplane restricted areas.

(3) In connection with any application or question relating to navigation regulations for the usual forms of water navigation, Division and District Engineers will consider fully the possibility of conflict with the use of the waters by seaplanes. Applicants for permission to utilize navigable waters for seaplane operations not involving action by the Department of the Army under section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1) will be informed to communicate with the appropriate Regional Director of the Federal Aviation Agency.

(e) *Dumping grounds.* (1) Section 4 of the River and Harbor Act of March 3, 1905 (33 Stat. 1147; 33 U.S.C. 419), authorizes the Secretary of the Army to prescribe regulations to govern the transportation and dumping into any navigable water, or waters adjacent thereto, of dredgings and other refuse materials whenever in his judgment such regulations are required in the interest of navigation. Under this authority dumping grounds have been established in certain localities and regulations relating thereto have been prescribed.

(2) Section 12 of the River and Harbor Act of March 3, 1899 (30 Stat. 1152; 33 U.S.C. 407) authorizes proviso authorizing the Secretary of the Army to permit the deposit of refuse matter in navigable waters, whenever in the judgment of the Chief of Engineers navigation will not be injured thereby, within limits to be defined and under conditions to be prescribed by him, provided application is made to him prior to depositing such material. Although the Department has exercised this authority from time to time, it is considered preferable to act under section 4 of the River and Harbor Act of March 3, 1905 (33 Stat. 1147; 33 U.S.C. 419).

(3) Under the authority contained in an act of Congress to prevent obstructive and injurious deposits within the harbor and adjacent waters of New York City of June 29, 1888 (25 Stat. 209; 33 U.S.C. 441), the Supervisor of New York Harbor has established dumping areas in those waters and has prescribed regulations relating thereto. The provisions of the act are enforced by the Supervisor under the direction of the Secretary of the Army.

(4) In considering requests for the establishment of dumping grounds, District and Division Engineers will give careful consideration to the requirements of navigation and will take action to prevent unreasonable injury to fish and wildlife.

(f) *Fishing and hunting structures.* Under section 10 of the River and Harbor Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 403) the Secretary of the Army may prescribe regulations designating water areas wherein fishing and hunting structures may be placed under permits issued by District Engineers. Cases not covered by such regulations must be submitted to the Chief of Engineers for approval.

§ 209.220 Flood control regulations.

(a) *Local protection works.* On projects authorized subject to specified conditions of local cooperation, no construction is undertaken by the Department of the Army until satisfactory assurances of the required local cooperation have been accepted by the Secretary of the Army and until any lands, easements, and rights-of-way required to be furnished by local interests have been made available for at least a complete unit of the project. The District Engineers notify local interests concerned of the requirements of local cooperation and request assurances by registered mail prior to the preparation of final plans and specifications. Regulations prescribed by the Secretary of the Army for the maintenance and operation of local flood protection works are contained in § 208.10 of this chapter. When assurances satisfactory to the District Engineer are received, they are forwarded through the Division Engineer to the Chief of Engineers for consideration of the Secretary of the Army. The District Engineers advise local interests of the action taken by the Department. Completed projects or completed useful units thereof are normally turned over to local interests for maintenance and operation as soon as the construction and testing of equipment is completed and the project is in proper condition for the assumption of maintenance and operation by local interests. The transfer is accomplished by formal notice from the District Engineer to the local interests that the completed facilities are being turned over to them for maintenance and operation as of a specific date. During construction, District Engineers keep the local interests concerned advised as to the probable date of transfer.

(b) *Use of storage allocated for flood control or navigation at reservoirs constructed wholly or in part with Federal funds.* Regulations prescribed by the Secretary of the Army in accordance with section 7 of the Flood Control Act

of December 22, 1944 (58 Stat. 890; 33 U. S. C. 709) are for the purpose of coordinating the operation of the flood control features of reservoirs constructed wholly or in part with Federal funds and other flood control improvements to obtain the maximum protection from floods which can reasonably be obtained with the proper operation of all flood control improvements. Proposed regulations are determined by the District Engineer in cooperation with the persons responsible for the maintenance and operation of the reservoir involved after a detailed study of the flood problems and the characteristics of the reservoir project. The proposed regulations are forwarded by the District Engineer through the Division Engineer to the Chief of Engineers for consideration of the Secretary of the Army. When approved by the Secretary of the Army, these regulations are published in Part 208 of this chapter.

§ 209.220 Use of reservoir areas for recreation.

The Department of the Army in accordance with section 4 of the Flood Control Act of December 22, 1944, as amended by section 4 of the Flood Control Act of July 24, 1946 (60 Stat. 641) prepares and administers plans to obtain the maximum sustained public benefit from the use of reservoir areas under its control for recreation and other related purposes, when such use is consistent with the operation and maintenance of the reservoir project for the specific purposes of the reservoir project as authorized by law and when such use is determined not to be contrary to the public interest. The plans are prepared and administered by the District Engineers, subject to review and approval of the Division Engineers and the Chief of Engineers, in close cooperation with other Federal agencies and local interests. The views and desires of these agencies and local interests are obtained normally by conferences with the District Engineers. In many cases, public hearings are held by the District Engineers at appropriate times in the vicinity of the reservoir area at which time anyone can express his views relative to these plans for consideration of the Department of the Army. Rules and regulations are prescribed by the Secretary of the Army to govern the public use of the reservoir areas in accordance with the law as a part of the general plan for recreational and related uses of the reservoir area. These rules and regulations are published in 36 CFR Part 311. Licenses and leases are granted under the law containing conditions and provisions to govern the use of specific portions of the reservoir area. Full information concerning such matters may be obtained from the District Engineer in charge of the reservoir.

SUBSTANTIVE RULES, POLICY, AND INTERPRETATIONS

§ 209.260 Navigable waters of the United States.

(a) In the administration of the laws enacted by Congress for the protection and preservation of the navigable waters of the United States, the Department of the Army is frequently called upon to make determinations as to the navigability of waterways. It should be understood that such determinations merely represent the views of the Department since the jurisdiction of the United States can be conclusively determined only through judicial proceedings. As information, definitions as to what constitutes a navigable water of the United States based on decisions of the Supreme Court are as follows: Those rivers must be regarded as public navigable rivers in law which are navigable in fact. And they are navigable in fact when they are used, or are susceptible of being used, in their ordinary condition, as highways for commerce, over which trade and travel are or may be conducted in the customary modes of trade and travel on water. And they constitute navigable waters of the United States within the meaning of the acts of Congress, in contra-distinction from the navigable waters of the States, when they form in their ordinary condition by themselves, or by uniting with other waters, a continued highway over which commerce is or may be carried on with other States or foreign countries in the customary modes in which such commerce is conducted by water. (The Daniel Ball, 10 Wall. 557.)

(b) The capability of use by the public for purposes of transportation and commerce affords the true criterion of the navigability of a river, rather than the extent and manner of that use. If it be capable in its natural state of being used for purposes of commerce, no matter in what mode the commerce may be conducted, it is navigable in fact, and becomes in law a public river or highway. As Chief Justice Shaw said (21 Pickering 344), it is not every small creek in which a fishing skiff or gunning canoe can be made to float at high water which is deemed navigable, but, in order to give it the character of a navigable stream, it must be generally and commonly useful to some purpose of trade or agriculture. (The Montello, 20 Wall. 430.)

(c) Navigability, in the sense of the law, is not destroyed because the watercourse is interrupted by occasional natural obstructions or portages; nor need the navigation be open at all seasons of the year, or at all stages of the water. A river having actual navigable capacity in its natural state and capable of carrying commerce among the States, is within the power of Congress to preserve for purposes of future transportation, even though it be not at present used for such commerce, and be incapable of such use according to present methods, either by reason of changed conditions or because of artificial obstructions. It is not difficult to believe that many streams require only the exertion of federal control to make them again important avenues of commerce among the States. If they are to be abandoned, it is for Congress, not the courts, so to declare. (Economy Light and Power Co. v. U. S., 256 U. S. 113)

(d) It is obvious that the uses to which streams may be put vary from the carriage of ocean liners to the floating out of logs; that the density of traffic varies equally widely from the busy harbors of the seacoast to the sparsely settled regions of the Western mountain. The tests as to navigability must take these variations into consideration. To appraise the evidence of navigability on the natural condition only of the waterway is erroneous. Its availability for navigation must also be considered. "Natural and ordinary" condition refers to volume of water, the gradients and the regularity of flow. A waterway, otherwise suitable for navigation, is not barred from that classification merely because artificial aids must make the highway suitable for use before commercial navigation may be undertaken. There are obvious limits to such improvements as affecting navigability. These limits are necessarily a matter of degree. There must be a balance between cost and need at a time when the improvement would be useful. Nor is it necessary that the improvements should be actually completed or even authorized. The power of Congress over commerce is not to be hampered because of the necessity for reasonable improvements to make an interstate waterway available for traffic. Improvements that may be entirely reasonable in a thickly populated, highly developed, industrial region may have been entirely too costly for the same region in the days of the pioneers. The changes in engineering practices or the coming of new industries with varying classes of freight may affect the type of the improvement. Although navigability to fix ownership of the river bed or riparian rights is determined, as of the formation of the Union in the original states or the admission to statehood of those formed later, navigability, for the purpose of the regulation of commerce, may later arise. (U.S. v. Appalachian Electric Power Co., 311 U. S. 377)

§ 209.300 Flood control regulations.

(a) Regulations for the operation and maintenance of local flood protection works approved by the Secretary of the Army under the authority contained in section 3 of the Flood Control Act of June 22, 1936, as amended and supplemented, are codified as § 208.10 of this chapter. These regulations cover conditions normaly and regularly required. Whenever the regulations are not sufficiently broad to cover the specific maintenance and operation requirements of a particular project, District Engineers will submit through the Division Engineers recommended additional regulations needed for that particular project. Such supplemental regulations will require approval of the Secretary of the Army and will be made applicable only to the individual project concerned. Local interests will be advised of the approved regulations for operation and maintenance of local flood protection works at the time assurances of local cooperation are requested. District Engineers will keep informed as to the extent of compliance with approved regulations for operation and maintenance through regular, periodic inspection of the projects concerned and through careful analysis of the semiannual reports which the operating and maintaining agencies are required to submit in accordance with the regulations. The District Engineer's views as to any measures required to conform to the approved regulations will be furnished to the agencies responsible. In any case where the District Engineer has been unable to arrange satisfactory compliance or where there is question or disagreement as to the measures required for compliance, a report of the circumstances, together with the recommendations of the District and Division Engineers, will be submitted to the Chief of Engineers for consideration.

(b) Regulations for the use of storage allocated for flood control or navigation at reservoirs constructed wholly or in part with Federal funds provided on the basis of such purposes, are contained in § 208.25 et seq. of this chapter.

(c) Rules and regulations to govern the public use of reservoir areas under the control of the Department of the Army for recreational purposes, are contained in 36 CFR Part 311.

§ 209.330 General policies on issuance of permits.

(a) The decision as to whether a permit will be issued will be predicated upon the effects of permitted activities on the public interest including effects upon water quality, recreation, fish and wildlife, pollution, our natural resources, as well as the effects on navigation. In cases where the structure is unobjectionable from the standpoint of navigation but when State or local authorities decline to give their consent to the work, it is not usual for the Department actually to issue a permit. This is for the reason that it practically becomes of no value in the event of opposition by State or local authority and may be regarded by such authority as an act of discourtesy. In such cases the applicant is informed that the structure is unobjectionable from the standpoint of navigation and that permit would be issued were the consent of the local authority also forthcoming.

(b) In cases of conflicting property rights the Department cannot undertake to adjudicate rival claims.

(c) Where it is found that the work for which a permit is desired may interfere with a proposed flood control project, the applicant and the party or parties responsible for fulfillment of the requirements of local cooperation apprised in writing of the fact and of the possibility that a flood control project which may be constructed in the vicinity of the proposed work will necessitate its removal or reconstruction. It is pointed out to the applicant and to local interests that the Department's function in approving plans for structures in navigable waters is to insure that structures meet the requirements of navigation and are in the best public interest and that the application for a permit will be considered on that basis; and that the United States will in no case be liable for any damage or injury to the structures or work authorized which may be caused by or result from future operations undertaken by the Government for the conservation or improvement of navigation, or for other purposes, and no claims or right to compensation will accrue from any such damage.

§ 209.335 Delegation of authority to issue permits.

The Secretary of the Army has authorized the instance of Department of the Army permits by local offices of the Engineer Department, at the option of the Chief of Engineers, for work and structures in or over navigable waters in cases which are entirely routine and which involve no difference of opinion on the part of engineer authorities, nor doubt as to the law, facts, or regulations nor any opposition or other considerations which should be decided by higher authority. A case is held to be entirely routine if the circumstances are such that approval of the plans would unquestionably be given were the matter presented to the Chief of Engineers and the Secretary of the Army. The mere fact that proposed work, such as dredging, for example, is extensive in scope does not necessarily remove it from the class of routine cases if no possible objection to the work can be foreseen. Under similar circumstances applications for permits for works in navigable waters which extend from or are connected with works constructed without the authorization of the Department but presumably in ignorance of the law will be considered routine. The authority above granted is not a delegation of discretionary powers, but is considered to constitute advance approval by the Secretary of the Army of a class of cases leaving to the Chief of Engineers or the local Engineer Officer the application of such approval to particular instances as they arise. Such permits will be signed by Division or District Engineers under the words "By authority of the Secretary of the Army."

§ 209.340 Work constructed without prior authority.

The Department will approve plans for structures and issue permits authorizing structures and other work in or over navigable waters, in cases where the application therefor is submitted after the commencement or completion of the structures or work, subject to the following rules: Approval will be limited to those cases where the necessary primary authority, State or Federal as the case may be, validly exists, when the work was innocently constructed, and where the work will not unreasonably interfere with navigation. When forwarding approval the applicant will be informed that the law contemplates prior approval and that in the future plans must be submitted in ample time for their consideration by the Department before construction is begun.

§ 209.345 Necessary primary authority.

For works constructed by State or municipal agencies, the primary authority will be presumed without proof. If the law of the State requires a license for or approval of the work from a constituted State agency, a copy of such license or approval will be required and may be accepted as evidence of the primary authority. If there be no State regulation of structures in navigable waters, the necessary primary authority may be that granted in the charter of a corporation, or the authority inherent in the ownership of the land on which the structure is placed. The applicant will in such cases be required to furnish an extract from the charter, or a statement of ownership. Special care will be taken that Federal approval is not granted when there is doubt of the right of the builder to construct and utilize the work.

§ 209.350 Limiting date in permits.

A specific limiting date will be inserted in all permits, normally December 31 of the third year subsequent to the year of issuance. Thus the limiting date fixed in permits issued in 1946 should normally be December 31, 1949. District and Division Engineers are not authorized to fix a later date for completion, but if special reasons so require, a shorter period may be specified provided that the limit expires in all cases on the last day of a quarter, i. e., March 31, June 30, September 30, or December 31. Experience has, however, shown a tendency to prescribe insufficient time limits, thus subjecting the Department and the permittee to unnecessary annoyance and expense in accomplishing extensions. The full authorized time should usually be allowed. Work or operations of a temporary and obstructive character, however, should be limited to a period as short as is considered reasonable.

§ 209.355 Permit bonds.

When compensatory works or the removal of temporary structures should be required of the permittee, or in other unusual cases when there is reason to anticipate that the permittee may fail to carry out parts of the work that are against his interest, an additional condition will be included in the permit requiring the permittee to furnish a bond insuring compliance with the permit requirements.

§ 209.360 Transfer of permits.

Although issued to a specific party, the assent is not limited to execution of the work by that party and may be availed of by the assignees or purchasers of the property affected, provided the terms of the instrument are strictly complied with.

§ 209.365 Departure from permit plans.

(a) If the final inspection shows a minor departure from the authorized plans which does not materially affect navigation, the permittee will be required to furnish a tracing showing the work as actually constructed but no further action will be taken by the Department.

(b) Acceptance of permit work. It is not the practice of the Department to issue letters certifying that completed work conforms to the Department authorization. That question is a matter of fact to be determined in case of controversy by the usual rules of court procedure.

§ 209.370 Payment of expenses of inspection by permittees.

As a general policy, expenses incurred by the Engineer Department in all investigations, inspections, hearings, reports, service of notice, or other action incidental to examination of plans or sites of bridges or other structures built or proposed to be built in or over navigable waters, will be paid from Federal funds in accordance with section 6 of the River and Harbor Act of March 3, 1905 (33 Stat. 1148; 33 U.S.C. 417). A condition requiring that the grantee will bear all expenses for inspection, or any other operations by the United States in connection with permits granted by the Department will be applied only to special or elaborate supervision deemed necessary to protect the interest of navigation and involving unusual expense. The cost of supervision of dumping of dredged material in navigable waters, requiring the exclusive time of one or more inspectors, will as a general rule be collected from the permittee. In cases not covered by general authority granted by the Chief of Engineers, specific authority must be secured in each instance before making any collection from a permittee. Division Engineers may grant such authority if the operations to be inspected will probably be completed within six months, and if no doubt or disagreement arises as to the propriety of the collection, otherwise the authority of the Chief of Engineers must be obtained.

§ 209.375 Revocation and relinquishment of permits.

(a) Permits may be revoked by the Secretary of the Army for failure on the part of the permittee to comply with any of the conditions therein, or where the structures or other work constitute an unreasonable obstruction to navigation or to operations of the United States in the interests of navigation or flood control.

(b) District Engineers may accept from the permittee a voluntary relinquishment of the permit.

§ 209.380 Establishment of harbor lines.

Harbor lines should provide for the present and future needs of navigation so far as they can be foreseen. Questions of the development of water terminals, the location of existing fixed structures, and of sufficient cross section for the passage of floods will receive attention. The lines will be kept as near to the shore as the reasonable demands of navigation, present or prospective may require, since when the lines are once established and reclamation work and structures have been constructed in the rear, difficulties are likely to be encountered in moving the lines farther toward shore. Harbor lines will not be established across the mouths or entrances to navigable waterways. To avoid ambiguity and misunderstanding both by the public and in the Department the expressions "shoreward (or landward) of harbor lines" and "channelward (or riverward) of harbor lines" will be used in official correspondce to describe position relative to harbor lines and such terms as "inside" and "outside," which might be given opposite meanings, shall be avoided.

§ 209.385 Expenditure of Federal funds for work shoreward of harbor lines.

(a) Section 5 of the River and Harbor Act of July 13, 1892 (27 Stat. 111; 33 U. S. C. 628), prohibits the expenditure of money appropriated for the improvement of rivers and harbors for dredging inside of harbor lines duly established.

(b) It is not the policy of the Department to expend Federal funds for the removal of wrecks or other obstructions shoreward of established harbor lines.

§ 209.390 Operations shoreward of harbor lines.

The establishment of a harbor line implies consent to riparian owners to erect structures to the line without special authorization by the Secretary of the Army but does not imply consent to operations of every kind landward of the line. Such work as dredging for instance may seriously interfere with the regimen of the waterway and will ordinarily require the authorization of the Department to insure that operations are conducted under proper restrictions. District Engineers will therefore supervise operations landward of harbor lines sufficiently to assure themselves that all work proposed is either of the character authorized by the establishment of the line or has been properly authorized and that there is no encroachment channelward of approved limits. Where proposed structures are to touch or closely approach the harbor line the builder will be called upon to submit to the District Engineer in advance, plans of that portion of the proposed work which will be adjacent to the harbor line in order that the integrity of the line may be carefully watched and maintained. Every structure touching the harbor line or closely approaching it will be inspected on completion and its location will be recorded on an office copy of the harbor line map or note made on the map showing where such data may be found.

§ 209.395 Deposit of refuse.

Section 13 of the River and Harbor Act of March 3, 1899 (30 Stat. 1152; 33 U.S.C. 407), prohibits the deposit in navigable waters generally of "refuse matter of any kind or description whatever other than that flowing from streets and sewers and passing therefrom in a liquid state". The jurisdiction of the Department of the Army, derived from the Federal laws enacted for the protection and preservation of the navigable waters of the United States, is limited and directed to such control as may be necessary to protect the public right of navigation. Action under section 13 has therefore been directed by the Department principally against the discharge of those materials that are obstructive or injurious to navigation.

§ 209.400 Violations of law.

Although the Corps of Engineers has certain police powers under the River and Harbor Act of March 3, 1899, and other laws for the protection and preservation of navigable waters, it has been the long standing policy to secure compliance with their provisions short of legal proceedings. Accordingly every effort is made to accomplish corrective measures prior to initiation of action leading to such proceedings. As a general rule, no action is taken when the violation is minor, unintentional, or accidental, and the party responsible makes good the damages suffered. It is the established policy of the Department not to recommend prosecution when the violation is trivial, apparently unpremeditated, and results in no material public injury. Prosecution is recommended in all cases of willful or intentional violations and all cases in which the parties responsible refuse or neglect to remove the unlawful structure or deposit or to make good the damages suffered.

§ 209.405 Damages.

With reference to the method of ascertaining the amount of damages done to a public work by a vessel, for which the vessel is liable under section 16 of the River and Harbor Act of March 3, 1899 (30 Stat. 1153; 33 U.S.C. 412), a distinction is made between cases involving property that should be repaired and those involving property that should be abandoned. In the former cases the amount of the damages should be the total cost of repairs, less any salvage value and any enhanced value. In the latter cases the amount of the damages should be the fair value of the property, less any salvage value. Whether or not there has been any enhanced value (i.e., whether the fair value of the structure immediately after the repairs is greater than its fair value immediately before the damage occurred) is a matter to be determined from an actual survey of the structure and knowledge of its age and condition. Where maintenance has equalled depreciation there would probably be no enhanced value.

§ 209.410 Abandonment of wrecks.

By the maritime law the owner of a vessel which is sunk without fault on his part may abandon the wreck in which case he cannot be held responsible for removing it even though it obstructs navigation. That law has not been changed by sections 15, 19, and 20 of the River and Harbor Act of March 3, 1899 (30 Stat. 1153, 1154; 33 U. S. C. 409, 414, 415), which fully recognize the owner's right of abandonment. However, a person who willfully or negligently permits a vessel to sink in navigable waters of the United States may not relieve himself from all liability by merely abandoning the wreck. He may be found guilty of a misdemeanor and punished by fine, imprisonment, or both, and in addition may have his license revoked or suspended. He may also be compelled to remove the wreck as a public nuisance or to pay for its removal.

§ 209.415 Removal of wrecks.

As removal by the United States without formal abandonment involves the taking of private property for public purposes, the provisions of the section of law applicable to the particular case is followed strictly. Removal by the United States is not usually undertaken if the obstruction simply affects the approaches to private wharves and is without influence upon general navigation.

§ 209.420 Removal of sunken logs.

The United States acquires no property rights in sunken logs through the mere fact that they lie in navigable waters. It is permissible for the original owner to trace and reclaim them but he should do so within a reasonable time especially if they obstruct navigation. If they form obstructions to navigation and the owner fails to exercise his right to reclaim and remove them they may be removed by the Government as provided in sections 19 and 20 of the Act approved March 3, 1899. Logs thus removed by the Government may be sold or otherwise disposed of without liability to the original owner. When persons known to have no ownership therein or legal title thereto apply for permission to remove sunken logs it may be assumed that the privilege is desired as a matter of gainful speculation. Ordinarily they will be advised that the Department of the Army can grant them no property rights in the logs but will not object to their removing them provided removal operations are so conducted as not to injure or interfere with navigation. In cases, however, where the logs form serious obstructions to navigation and the conditions are such that the Department of the Army would be justified in applying the provisions of the aforesaid Federal laws there would be no legal objection to permitting a private applicant to remove them under an agreement providing that they shall become the property of the applicant. Such cases are presented to the Chief of Engineers before action is taken thereon.

§ 209.425 Acting Chief of Engineers and Acting Division and District Engineers.

When so designated, an Acting Chief of Engineers, Acting Division Engineer, or Acting District Engineer exercises all powers, duties, and responsibilities of the Chief of Engineers, Division Engineer, or District Engineer, respectively.

§ 209.430 Representation of submarine cables and pipelines on Government charts.

The policy of the Corps of Engineers with respect to showing the locations of submarine cables and pipelines on charts published by the Government is as follows:

(a) Within protected waters such as harbors, rivers, bays, estuaries, or other inland waterways, the location of submarine pipelines and cables is to be indicated by shaded areas marked "Pipeline area" or "Cable area" on Government charts issued for general use. The extent of the limits of the area will be governed by local conditions but shall include in all cases the immediate area which overlie the cable or pipeline.

(b) Outside protected waters or in the open sea, as a general rule, the location of the offshore approaches of submarine pipelines and cables should not be indicated on Government charts issued for general use.

(c) Whenever a change is made in the position of any submarine cable or pipeline shown by shaded area on Government charts, or a new cable or pipeline is laid beneath navigable waters at a depth where interference with navigation or fouling by anchors is probable, the District Engineer will indicate the changed or new location on a copy of the Coast and Geodetic Survey Chart of the locality or on a reproduction made from such chart. The District Engineer will furnish three copies of the chart showing the cable or pipeline location by a shaded area to the Chief of Engineers with his recommendation concerning the designation thereof on Government charts. Ordinarily the shaded area should not exceed more than 500 feet on each side of the location of the pipeline or cable except on the very small scale charts where an area of that width would not be of sufficient prominence. The shaded area will be designated "Cable area" or "Pipeline area", as the case may be, but no other information as to the character or ownership of the installation will appear on the chart.

(d) Cables and pipelines laid at sufficient depths below the beds of waterways to prevent interference with navigation or fouling by anchors are not required to be shown on Government charts and report thereon is not necessary.

§ 209.435 Public access to navigation works.

While the regulations prescribed by the Secretary of the Army for various navigation improvements usually strictly prohibit trespass on Government property, those regulations will not be constructed as prohibiting access to navigation works of general public interest subject to the following criteria:

(a) The public will not be permitted in areas where their presence would subject themselves or Government operating personnel to serious accident hazards.

(b) The public will not be permitted in areas where their presence would interfere with any phases of navigation operations.

(c) The public will be given access to all areas other than those specified under paragraphs (a) and (b) of this section, subject only to the normal legal requirements with respect to property and personal rights.

§ 209.440 Policy on release of commercial statistics.

The collection of commercial statistics pertaining to rivers, harbors, and waterways, and annual reports thereof to Congress, are required by the River and Harbor Act of June 22, 1888 (14 Stat. 70), the act of February 21, 1891 (26 Stat. 766), the River and Harbor Act of June 13, 1902 (32 Stat. 376), the River and Harbor Act of July 25, 1912 (37 Stat. 201), the River and Harbor Act of September 22, 1922 (42 Stat. 1043), and Public No. 16, February 10, 1932 (47 Stat. 42). It is the policy of the Department to hold in strict confidence any data or information which has been furnished by shippers and others upon the understanding that it will not be disclosed and will only be used in the compilation of port or waterway statistics. In case Federal or State agencies or local interests request other than general information made permissible hereunder, their attention will be called to the policy indicated in this section.

§ 209.445 Certified copies of public records.

It is the established policy of the Department not to furnish certified copies of the public records to private persons for use in controversies in which the United States has no real interest except upon the certificate of the tribunals before which such controversies are to be decided that such transcripts of the public records are deemed essential to the ends of justice.

§ 209.450 Distribution of maps and charts.

Engineer Department maps and charts will be furnished to mariners or others not in the Government service at the cost of reproduction. Distribution of maps containing classified information is subject to the provisions of AR 380-5. Information as to maps and charts available and prices can be obtained from District and Division Engineers and the Chief of Engineers.

§ 209.455 U.S. Lake Survey Office.

The U.S. Lake Survey Office performs the service of surveying and charting, for navigation purposes, the Great Lakes and connecting streams as far down the St. Lawrence River as the international boundary at St. Regis, 66 miles above Montreal. This work is confined to United States territory, except for the depiction of such Canadian waters and shores as may be essential to the integrity and usefulness of charts showing localities continguous to the boundary and those covering a whole lake or river. Associated with its operations on the Great Lakes, the Lake Survey publishes charts of Lake Champlain and of the natural navigable waters of the New York State canal system. It is also charged with the preparation of charts of the Lake of the Woods and Rainy Lake. The charts undergo constant revision to show changes in aids to navigation and other important features. A catalogue of the charts, outlining areas covered, scales, prices, and conditions of sale, may be had by applying to the District Engineer, U. S. Lake Survey Office, 630 Federal Building, Detroit, Mich. 48226. A bulletin revised annually to supplement the information given upon the charts may also be purchased at the Lake Survey Office.

AVAILABILITY OF OPINIONS AND ORDERS AND RULES

§ 209.480 Statutory requirement.

Subsection 3(b) of the Administrative Procedure Act of June 11, 1946 (60 Stat.

238; 5 U. S. C. 1002) requires every agency to publish or, in accordance with published rule, make available to public inspection all final opinions or orders in the adjudication of cases (except those required for good cause to be held confidential and not cited as precedents) and all rules.

§ 209.490 Final opinions and orders in adjudication of cases.

Final opinions and orders in the adjudication of cases will not be published. They will be served on the parties directly affected thereby and subject thereto. Copies of such opinions and orders will be made available to public inspection in the office of the District Engineer in whose district the case arose to which they apply and in the Office of the Chief of Engineers. Full information regarding such opinions and orders and their availability may be obtained by communicating with either of these offices. This rule does not apply to those opinions and orders required for good cause to be held confidential and not cited as precedents.

§ 209.500 Rules.

Section 3 of the Administrative Procedure Act requires publication of all rules except to the extent that there is involved (a) any function of the United States requiring secrecy in the public interest or (b) any matter relating solely to the internal management of an agency, in which cases rules are not published. Except to the extent that there is involved any function of the United States requiring secrecy in the public interest, all rules, whether published or unpublished, will be made available to public inspection in all offices of District Engineers, Division Engineers, and the Chief of Engineers.

PUBLIC RECORDS

§ 209.510 Availability.

Pursuant to subsection 3(c) of the Administrative Procedure Act, matters of official record, except information held confidential for good cause found and save as otherwise required by statute, will be made available to persons properly and directly concerned. If the matter is of local significance only, it will be made available in the office of the District Engineer concerned or the Office of the Chief of Engineers. If the matter is of general significance, it will be made available in all offices of District Engineers, Division Engineers, and the Chief of Engineers. Full information regarding the availability of any matter of official record may be obtained by communicating with the Office of the Chief of Engineers.

NOTICE OF PROPOSED RULE MAKING

§ 209.520 Publication.

(a) Section 4 of the Administrative Procedure Act requires publication of general notice of proposed rule making in the FEDERAL REGISTER (unless all persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law), except to the extent that there is involved (1) any military, naval, or foreign affairs function of the United States or (2) any matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. Except where notice or hearing is required by statute, this requirement does not apply to interpretative rules, general statements of policy, rules of agency organization, procedure, or practice, or in any situation in which the agency for good cause finds (and incorporates the finding and a brief statement of the reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

(b) General notice of proposed rule making published in accordance with the above will include (1) a statement of the time, place, and nature of public rule making proceedings; (2) reference to the authority under which the rule is proposed; and (3) either the terms or substance of the proposed rule or a description of the subjects and issues involved.

[F.R. Doc. 67-14229; Filed, Dec. 6, 1967; 8:45 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 9—Atomic Energy Commission

PART 9-1—GENERAL

General Policy for Avoidance of Organizational Conflicts of Interest

Correction

In F.R. Doc. 67-13623 appearing at page 15922 of the issue for Tuesday, November 21, 1967, the first sentence of § 9-1.5407(f) should read as follows: "A contractor's judgment may be biased because of past or present relationships of its officers or employees with other organizations and because of organizational relationships (e.g., interlocking directorships)."

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Tishomingo National Wildlife Refuge, Okla.

The following special regulations are issued and are effective on date of publication in the FEDERAL REGISTER.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

OKLAHOMA

TISHOMINGO NATIONAL WILDLIFE REFUGE

The public hunting of squirrels, rabbits, coyotes, wolves, bobcats, raccoons, skunks, and opossums on the Tishomingo National Wildlife Refuge, Okla., is permitted only on the area designated by signs as open to hunting. This open area, comprising 3,170 acres, is delineated on maps available at refuge headquarters, Tishomingo, Okla., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State regulations governing the hunting of squirrels, rabbits, coyotes, wolves, bobcats, raccoons, skunks, and opossums subject to the following special conditions:

(1) The open season for hunting squirrels on the refuge extends from May 15 through September 30, 1968, inclusive; and from October 31, 1968, through January 1, 1969, inclusive, on Tuesdays, Thursdays, Saturdays, Sundays, and National holidays.

(2) The open season for hunting rabbits on the refuge extends from January 1 through February 15, 1968, inclusive.

(3) The open season for hunting coyotes, wolves, and bobcats on the refuge extends from January 1 through September 30, 1968, inclusive; and from October 31 through December 31, 1968, inclusive, on Tuesdays, Thursdays, Saturdays, Sundays, and National holidays.

(4) The open season for hunting raccoons, skunks, and opossums on the refuge extends from December 1 through December 31, 1968, inclusive, on Tuesdays, Thursdays, Saturdays, Sundays, and National holidays.

(5) Shotguns only may be used for hunting.

(6) A Federal permit is not required to enter the public hunting area, but hunters, upon entering and leaving, shall report at designated checking stations as may be established for the regulation of the hunting activity.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 1, 1969.

ERNEST S. JEMISON,
Refuge Manager, Tishomingo National Wildlife Refuge, Tishomingo, Okla.

NOVEMBER 30, 1967.

[F.R. Doc. 67-14246; Filed, Dec. 6, 1967; 8:48 a.m.]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 221]

FORT PECK INDIAN IRRIGATION PROJECT, MONT.

Operation and Maintenance Charges

Basis and purpose. Pursuant to section 4(a) of the Administrative Procedure Act of June 11, 1946 (60 Stat. 238), and authority contained in the Acts of Congress approved August 1, 1914, May 18, 1916, and March 7, 1928 (38 Stat. 583; 39 Stat. 142), and by virtue of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs (Order No. 2508; 14 F.R. 258), and by virtue of the authority delegated by the Commissioner of Indian Affairs to the Area Director (Bureau Order No. 551, Amendment No. 1; 15 F.R. 5454-7), notice is hereby given of the intention to modify § 221.38 of Title 25, Code of Federal Regulations, dealing with the irrigable lands of the Fort Peck Indian Irrigation Project, Mont. The purpose of the amendment is to establish the assessment rate for 1968 and thereafter until further notice.

It is the policy of the Department of the Interior, whenever practicable, to afford the public the opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendment to the Area Director, Bureau of Indian Affairs, 316 North 26th Street, Billings, Mont. 59101, within 30 days of the publication of this notice in the FEDERAL REGISTER.

Section 221.38 is amended to read as follows:

§ 221.38 Charges.

(a) On the Poplar River Unit and that part of the Big Porcupine Unit not served by the Wiota Pumping Plant, water, when available, will be furnished upon approved application during the 1968 irrigation season and until further notice, at a flat rate of $3 per acre per annum for all irrigable lands included in the farm unit or allotment described in the application whether water is used or not.

(b) On that part of the Big Porcupine Unit that is under the service area of the Big Porcupine or Wiota pumping plant, water, when available, will be furnished to all irrigable non-Indian lands and to all Indian lands leased to non-Indians, to which delivery of water can be made, during the 1968 irrigation season and thereafter until further notice, at a minimum rate of $4 per acre per annum whether water is used or not. Payment of the minimum rate entitles the water-user to the delivery of 2 acre-feet of water per acre of irrigable land included in each farm unit or allotment. Any additional water delivered shall be charged for at the rate of $2 per acre-foot or fraction thereof for the first additional acre-foot, $2 per acre-foot or fraction thereof for the second additional acre-foot and $2 per acre-foot or fraction thereof for water delivered in excess of the second additional acre-foot.

(c) (1) For Indian land farmed by the Indian owner or leased and farmed by Indians, under that part of the Big Porcupine Unit that is within the service area of the Wiota pumping plant, water, when available, will be furnished during the 1968 season and until further notice at the minimum rate of $4 per acre per annum for the entire irrigable area included in the allotment whether water is used or not. Payment of the minimum rate entitles the Indian water user to the delivery of 2 acre-feet of water per acre included in the allotment. Any additional water delivered shall be charged for at the rate of $2 per acre-foot or fraction thereof for the first additional acre-foot, $2 per acre-foot or fraction thereof for the second additional acre-foot and $2 per acre-foot or fraction thereof for water delivered in excess of the second additional acre-foot.

(2) For all irrigable lands situated adjacent to and outside of that part of the Big Porcupine Unit that is under the service area of the Big Porcupine Unit or Wiota pumping plant, surplus water, when available and not required for irrigation of lands within the Big Porcupine Unit, will be furnished at the flat rate of $2.75 per acre-foot. Water measurement and delivery thereof will be made at the project limits.

(d) On the Fraser-Wolf Point Unit (comprising all irrigable lands supplied with water from the Little Porcupine Reservoir and the Fraser pumping plant) water, when available, will be furnished to all irrigable non-Indian lands and to all irrigable Indian-owned allotments leased to non-Indian (whether subjugated or not) to which delivery of water can be made during the 1968 irrigation season and until further notice at a minimum rate of $4 per acre per annum whether water is used or not. Water, when available, will be furnished at a like minimum rate for the irrigable area for all subjugated Indian-owned allotments to which delivery of water can be made. Payment of the minimum rate entitles the water user to the delivery of 2 acre-feet of water per acre of irrigable land included in each farm unit or allotment. Any additional water delivered shall be charged for at the rate of $2 per acre-foot or fraction thereof for the first additional acre-foot, $2 per acre-foot or fraction thereof for the second additional acre-foot and $2 per acre-foot or fraction thereof for water delivered in excess of the second additional acre-foot.

(e) For all Indian lands farmed by the Indian owner, or leased and farmed by Indians in the Fraser-Wolf Point Unit, not subjugated but to which water can be delivered, water, when available will be furnished during the 1968 irrigation season and thereafter until further notice at a minimum rate of $4 per acre per annum for the entire irrigable area included in each allotment whether water is used or not. Payment of the minimum rate entitles the Indian water user to the delivery of 2 acre-feet of water per irrigable acre included in the allotment. Any additional water delivered shall be charged for at the rate of $2 per acre-foot or fraction thereof for the first additional acre-foot, $2 per acre-foot or fraction thereof for the second additional acre-foot and $2 per acre-foot or fraction thereof for water delivered in excess of the second additional acre-foot.

JAMES F. CANAN,
Area Director.

[F.R. Doc. 67-14247; Filed, Dec. 6, 1967; 8:46 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 66-SW-53]

VOR FEDERAL AIRWAYS

Withdrawal of Proposed Alteration and Designation

In Airspace Docket No. 66-SW-53, published in the FEDERAL REGISTER on July 11, 1967 (32 F.R. 10212), it was stated that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter and designate VOR Federal airways within the greater Houston, Tex., terminal area.

Subsequent to publication of the notice it has been determined that operation of the Houston Intercontinental Airport will be delayed for approximately 1 year.

In consideration of the foregoing, notice is hereby given that the proposals contained in Airspace Docket No. 66-SW-53 (32 F.R. 10212) are hereby withdrawn.

This notice of withdrawal is made under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on November 30, 1967.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-14265; Filed, Dec. 6, 1967; 8:48 a.m.]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 563]

[No. 21,164]

FEDERAL SAVINGS AND LOAN INSURANCE CORP.

Operations; Maintenance of Records

NOVEMBER 30, 1967.

Resolved that, for the purposes of providing for the location and transfer of location of general accounting records of insured institutions and of requiring notice prior to maintenance of records by means of data processing services to ensure that such records shall be available for examination and audit by the Corporation, the Federal Home Loan Bank Board hereby proposes that § 563.17–1 of the rules and regulations for Insurance of Accounts (12 CFR 563.17–1) be amended by adding, immediately after paragraph (c), new paragraphs (d) and (e), to read as follows:

§ 563.17–1 Examinations and audits; appraisals; establishment and maintenance of records.

* * * * *

(d) *Location of records.* An insured institution shall not transfer the location of any of its general accounting or control records from its home office to a branch or service office, or from a branch or service office to its home office or to another branch or service office unless the institution has sent prior written notice of such transfer to the Chief Examiner of the Federal Home Loan Bank district in which the home office of the institution is located.

(e) *Use of data processing services for maintenance of records.* An insured institution which determines to maintain any of its records by means of data processing services shall so notify the Chief Examiner of the Federal Home Loan Bank district in which the home office of such insured institution is located, in writing, at least 90 days prior to the date on which such maintenance of records will begin. Such notification shall include identification of the records to be maintained by data processing services and a statement as to the location at which such records will be maintained. Any contract, agreement, or arrangement made by an insured institution pursuant to which data processing services are to be performed for such insured institution shall be in writing and shall expressly provide that the records to be maintained by such services shall at all times be available for examination and audit.

* * * * *

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

Resolved further that interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, D.C. 20552, by January 10, 1968, as to whether this proposal should be adopted, rejected or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, JR.,
Assistant Secretary.

[F.R. Doc. 67–14275; Filed, Dec. 6, 1967; 8:49 a.m.]

FEDERAL TRADE COMMISSION

[16 CFR Part 301]

FUR AND FUR PRODUCTS

Artificial Coloration and Monetary Value

Pursuant to the provisions of section 4 of the Administrative Procedure Act, notice is hereby given to all interested parties that the Federal Trade Commission will, at 10 o'clock a.m., e.s.t., on the 11th day of January 1968, hold public hearings in accordance with the provisions of the Fur Products Labeling Act and give consideration to a proposal to amend the rules and regulations under the Fur Products Labeling Act so as to specify when certain furs and fur products will be considered as artificially colored and to provide a means of better informing manufacturers and dealers as to the nature and extent of artificial coloration of furs. The Commission also proposes to give consideration to increasing the monetary valuation with respect to fur products which may be considered as exempted from the requirements for the Fur Products Labeling Act under certain conditions.

Views, arguments, or other pertinent data may be submitted in writing on or before the date of the public hearing to the Federal Trade Commission, Washington, D.C. 20580, or they may be presented orally at the hearing on the 11th day of January 1968, at 10 o'clock a.m., e.s.t., at Room 7312, The 1101 Building, 1101 Pennsylvania Avenue NW., in the city of Washington, District of Columbia. Further written views, arguments, and data will be received for 20 days after such hearing is closed.

The amendments are as follows:

1. An amendment of § 301.19 (Rule 19) of the rules and regulations under the Fur Products Labeling Act by amending the heading and adding two new paragraphs thereto.

The proposed heading and paragraphs (h) and (i) of § 301.19 (Rule 19) read:

§ 301.19 Pointing, dyeing, bleaching or otherwise artificially coloring.

* * * * *

(h) (1) Where any fur or fur product is dressed, processed, or treated with a solution or compound containing iron or copper salts and the hair, fleece, or fur fiber contains more than 100 parts per million of iron salts or more than 20 parts per million of copper salts after processing such fur or fur product shall be described in labeling, invoicing, and advertising as "color altered" or "color added."

(2) Where any fur or fur product is dressed, processed, or treated with a solution or compound containing metallic salts other than iron or copper and such compound or solution effects any change or improvement in the color of the hair, fleece, or fur fiber, such fur or fur product shall be described as "color altered" or "color added."

(i) Any person initially dressing or processing or treating a fur pelt in such a manner that it is required under paragraph (e) or (h) of this section is to be described as "color altered" or "color added" shall place a green strip one-half inch in width the length of the middle of the leather side of the pelt. Any person initially dressing, processing, or treating a fur pelt in such a manner as to be considered as dyed under paragraph (d) of this section shall place a red strip one-half inch in width the length of the middle of the leather side of the pelt. Any person initially dressing, processing, or treating a fur pelt which after dressing, treatment, or processing is considered as "natural" under paragraph (g) of this section shall place a yellow strip one-half inch in width the length of the middle of the leather side of the pelt.

§ 301.39 [Amended]

2. Section 301.39 (Rule 39) relating to exempted fur products would be amended by substituting a larger monetary amount for "seven dollars ($7)" wherever this term appears in § 301.39 (Rule 39) and thereby increasing the monetary valuation of fur products exempted under the terms and conditions specified therein. The Commission will consider the question of whether the monetary value of exempted fur products should be increased and the appropriate amount of such increase if it is determined to increase the monetary valuation of such products.

In connection with the proposed amendment relative to artifically colored furs and fur products, the Commission has placed certain information and studies submitted to it by the Great Lakes Mink Association, in connection with the problem of the use of metallic salts in dressing or processing fur pelts, in the public record.

Such action is taken pursuant to the authority given to the Federal Trade Commission under paragraph (b) of the Fur Products Labeling Act (65 Stat. 179; 15 U.S.C. 69f) which provides:

(b) The Commission is authorized and directed to prescribe rules and regulations governing the manner and form of disclosing information required by this Act, and such further rules and regulations as may be necessary and proper for purposes of administration and enforcement of this Act.

The action relative to exempted fur products is also taken pursuant to the further authority given the Federal Trade Commission under section 2(d) of the Fur Products Labeling Act (65 Stat. 175; 15 U.S.C. 69) which provides:

(d) The term "fur product" means any article of wearing apparel made in whole or in part of fur or used fur; except that such term shall not include such articles as the Commission shall exempt by reason of the relatively small quantity or value of the fur or used fur contained therein.

Issued: December 4, 1967.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 67–14267; Filed, Dec. 6, 1967; 8:48 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Engraving and Printing

STATEMENT OF ORGANIZATION, FUNCTIONS, AND PUBLIC INFORMATION PROCEDURES

In compliance with the provisions of 5 U.S.C. 552, this notice provides a description for the guidance of the public of the Bureau of Engraving and Printing's central and field organization, including a statement of the established places at which, the officers from whom, and the methods whereby the public may secure information, make submittals or requests, or obtain decisions. The prior statements of organization, functions and procedures of the Bureau of Engraving and Printing are revoked.

Sec.
1 Statement of functions and responsibilities.
2 Statement of organization.
3 Location of principal activity.
4 Procedures governing availability of records and information.

SECTION 1. *Statement of functions and responsibilities.* (a) The Bureau of Engraving and Printing designs, engraves, and prints all major items of a financial character issued by the United States. It produces paper currency; Treasury bonds (except the Series E Savings bonds), bills, notes, and certificates; postage, revenue, customs, documentary, and saving stamps; food coupons; and military payment certificates. In addition, the Bureau prints commissions, certificates of award, permits, and a wide variety of other miscellaneous items for the various territories administered by the United States.

(b) The Bureau conducts its operations under a revolving fund method of financing. All agencies served reimburse the Bureau, out of funds available to them, for all costs incidental to the performance of work or services requisitioned.

SEC. 2. *Statement of organization.* (a) The affairs of the Bureau are administered by a Director, appointed by the Secretary of the Treasury, and a Deputy Director.

(b) The major organizational components of the Bureau are the Offices of—

Design, Engraving, and Development.
Financial Management.
Industrial Relations.
Industrial Services:
  Industrial Engineering Division.
  Internal Audit Division.
  Security Division.
Plant Facilities and Industrial Procurement:
  Construction and Maintenance Division.
  Operating Facilities Division.
Research and Development Engineering.
Manufacturing:
  Examining Division.
  Ink Manufacturing and Testing Division.
  Plate Printing Division.
  Postage Stamp Division.
  Surface Printing Division.

SEC. 3. *Location of principal activity.* Except for a small force of employees engaged in control and accountability functions who are assigned to the plant of the distinctive paper manufacturer, all Bureau operations are conducted in Washington, D.C.

SEC. 4. *Procedures governing availability of records and information.* (a) The records of the Bureau of Engraving and Printing required by 5 U.S.C. 552 to be made available to the public shall be made available in accordance with the definitions, procedures, and other provisions of the regulations on the disclosure of records of the Office of the Secretary and other bureaus and offices of the Department issued under 5 U.S.C. 552 and published as Part 1 of Title 31 of the Code of Federal Regulations, 32 F.R. 9562, July 1, 1967.

(b) Any person desiring to review or copy any record maintained by the Bureau concerning the agency operations or any of its products, or obtain information or decisions or make submittals or requests, should communicate either orally or in writing with the Head, Office Services Branch, Office of Plant Facilities and Industrial Procurement, Room 602–9, Bureau of Engraving and Printing Annex Building, 14th and C Streets SW., Washington, D.C. 20226.

(c) Facilities are available in the Office Services Branch where the public may review, copy from, or have copies made of Bureau records which are not exempt from disclosure. These accommodations are open to the public from 9 a.m. to 5 p.m. each Monday through Friday, except legal holidays.

(d) Use of the facilities is subject to all security regulations governing admission of the public to the Bureau buildings.

(e) If a record is not available from the files maintained by the Office Services Branch, the head of that branch will arrange to secure the record from the appropriate Bureau component.

(f) A requested record will be made available as promptly as is reasonable under the particular circumstances.

(g) If the record is not readily available and it is necessary to perform research to locate a particular document, a basic charge for the first hour's search, or any part thereof, of $5.80 will be made; thereafter, at one-fourth that rate for increments of 15 minutes, or any part thereof.

Before such a search is instituted, the inquirer will be required to give assurance that any expense involved will be compensated for at the rate specified above.

(h) A charge of 25 cents per copy will be made for furnishing photographic copies of up to and including 8½ inches by 14 inches in size. The price for larger-sized copies will be based on the actual processing cost at the time the work is performed, including labor, material, and overhead expenses.

Effective date. This notice shall be effective on the date of its publication in the FEDERAL REGISTER.

Dated: November 1, 1967.

[SEAL] JAMES A. CONLON,
Director, Bureau of Engraving and Printing.

[F.R. Doc. 67-14299; Filed, Dec. 6, 1967; 8:49 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Oregon 018616]

OREGON

Notice of Classification of Public Lands for Multiple-Use Management

NOVEMBER 28, 1967.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18) and the regulations in 43 CFR Parts 2410 and 2411, the public lands within the areas described below, together with any lands therein that may become public lands in the future, are hereby classified for multiple-use management.

2. Publication of this notice segregates all the described lands from appropriation only under the agricultural land laws (43 U.S.C. Chs. 7 and 9; 25 U.S.C. sec. 334) and from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171), and the lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

3. No protests or objections were received following publication of a notice of proposed classification (32 F.R. 10994 of July 27, 1967), or at the public hearing at Salem, Oreg., which was held on September 12, 1967. Therefore, no changes have been made in the list of lands included in the classification. The record showing the comments received and other information is on file and can be

examined in the Salem District Office, Bureau of Land Management, 3550 Liberty Road South, Salem, Oreg. 97302. The public lands affected by this classification are located within the following described area and are shown on a map designated "Oregon 018616, 2411.2:36–08:1967," on file in the above-described Salem District Office and the Land Office, Bureau of Land Management, 729 Northeast Oregon Street, Portland, Oreg. The description of the area is as follows:

WILLAMETTE MERIDIAN

BENTON COUNTY

T. 10 S., R. 7 W.,
  Sec. 18.
T. 11 S., R. 6 W.,
  Sec. 28.
T. 12 S., R. 7 W.,
  Secs. 20, 28, and 30.
T. 13 S., R. 7 W.,
  Secs. 6 and 18.
T. 13 S., R. 8 W.,
  Secs. 20, 24, 26, 30, 32, and 34.
T. 14 S., R. 6 W.,
  Sec. 6.
T. 14 S., R. 7 W.,
  Secs. 10, 12, 14, 20, 28, 30, and 32.
T. 14 S., R. 8 W.,
  Secs. 19, 23, 32, and 34.
T. 14 S., R. 9 W.,
  Secs. 13 and 15.
T. 15 S., R. 7 W.,
  Secs. 4, 6, and 8.
T. 15 S., R. 8 W.,
  Secs. 2, 4, and 6.

CLACKAMAS COUNTY

T. 2 S., R. 7 E.,
  Sec. 33.
T. 2½ S., R. 6 E.,
  Secs. 32 and 34.
T. 3 S., R. 5 E.,
  Secs. 26 and 28.
T. 5 S., R. 4 E.,
  Secs. 2 and 34.
T. 6 S., R. 3 E.,
  Secs. 18, 32, and 34.
T. 6 S., R. 4 E.,
  Secs. 2, 4, 10, 12, and 24.
T. 7 S., R. 3 E.,
  Secs. 2, 6, 8, 10, 12, 14, 22, 24, 26, and 28.
T. 7 S., R. 4 E.,
  Secs. 4, 6, 8, 10, secs. 12 to 15, inclusive, sec. 18, secs. 20 to 23, inclusive, secs. 27 and 28.
T. 8 S., R. 4 E.,
  Sec. 9.

CRAIOOK COUNTY

T. 5 N., R. 7 W.,
  Sec. 10.

LANE COUNTY

T. 15 S., R. 8 W.,
  Secs. 6 and 14.
T. 15 S., R. 9 W.,
  Sec. 12.

LINCOLN COUNTY

T. 6 S., R. 9 W.,
  Secs. 32 to 34, inclusive.
T. 6 S., R. 10 W.,
  Secs. 20, 26, and 28.
T. 6 S., R. 11 W.,
  Secs. 24 to 27, inclusive.
T. 7 S., R. 9 W.,
  Secs. 2 to 5, inclusive, secs. 7 to 10, inclusive, secs. 16 to 21, inclusive, secs. 28, and secs. 27 to 31, inclusive.
T. 7 S., R. 10 W.,
  Secs. 20, 26, and 28.
T. 8 S., R. 9 W.,
  Secs. 5, 7, 18, and 19.
T. 8 S., R. 10 W.,
  Secs. 20 and 27.
T. 9 S., R. 9 W.,
  Secs. 13 to 15, inclusive, secs. 19 to 27, inclusive, secs. 31 and 32, and secs. 34 to 36, inclusive.
T. 9 S., R. 10 W.,
  Secs. 26 and 36.
T. 9 S., R. 11 W.,
  Secs. 1, 4, and 11.
T. 10 S., R. 8 W.,
  Secs. 18, 20, 22, and 30.
T. 10 S., R. 9 W.,
  Secs. 2, 3, 4, 6, 8, 9, 15, secs. 15 to 18, inclusive, secs. 20 to 22, inclusive, and secs. 24 to 26, inclusive.
T. 10 S., R. 10 W.,
  Secs. 2, secs. 13 to 15, inclusive, and sec. 20.
T. 11 S., R. 8 W.,
  Sec. 6.
T. 11 S., R. 9 W.,
  Sec. 31.
T. 11 S., R. 10 W.,
  Sec. 12, secs. 26 to 28, inclusive, and sec. 35.
T. 12 S., R. 8 W.,
  Secs. 6, 7, 18, 26, and 30.
T. 12 S., R. 9 W.,
  Secs. 29, 32, 34, and 35.
T. 12 S., R. 10 W.,
  Secs. 6, 14, 25, and 36.
T. 12 S., R. 11 W.,
  Secs. 9, 10, and 17.
T. 13 S., R. 8 W.,
  Secs. 2, 4, 6, 8, 12, and 14.
T. 13 S., R. 9 W.,
  Secs. 5, 10, 18, 20, and 24.
T. 13 S., R. 11 W.,
  Secs. 3, 22, 23, 26, and 33.
T. 14 S., R. 11 W.,
  Secs. 3 to 6, inclusive, secs. 10 and 15.
T. 14 S., R. 12 W.,
  Sec. 35.

LINN COUNTY

T. 10 S., R. 1 E.,
  Sec. 12.
T. 10 S., R. 2 E.,
  Secs. 8, 10, 20, and 24.
T. 10 S., R. 4 E.,
  Secs. 9, 17, 20, and 21.
T. 11 S., R. 1 E.,
  Sec. 24.
T. 11 S., R. 2 E.,
  Sec. 35.
T. 11 S., R. 4 E.,
  Secs. 28 to 30, inclusive.
T. 12 S., R. 1 E.,
  Sec. 10.
T. 12 S., R. 2 E.,
  Sec. 12.
T. 12 S., R. 3 E.,
  Secs. 18, 20, 22, 27, 28, and 30.
T. 12 S., R. 4 E.,
  Secs. 19, 20, and 21.
T. 12 S., R. 1 W.,
  Sec. 24.
T. 13 S., R. 2 E.,
  Sec. 24.
T. 13 S., R. 3 E.,
  Sec. 20.

MARION COUNTY

T. 6 S., R. 2 E.,
  Sec. 30.
T. 8 S., R. 3 E.,
  Sec. 18.
T. 9 S., R. 2 E.,
  Sec. 6.

MULTNOMAH COUNTY

T. 1 N., R. 4 E.,
  Secs. 29 and 30.
T. 1 N., R. 5 E.,
  Secs. 13, 14, 21, 22, secs. 27 to 29, inclusive, and sec. 32.

POLK COUNTY

T. 7 S., R. 6 W.,
  Sec. 4.
T. 8 S., R. 7 W.,
  Sec. 6.
T. 8 S., R. 8 W.,
  Secs. 9, 10, and 15.
T. 9 S., R. 6 W.,
  Sec. 14.
T. 9 S., R. 7 W.,
  Sec. 30.

TILLAMOOK COUNTY

T. 1 N., R. 8 W.,
  Sec. 31.
T. 1 N., R. 9 W.,
  Secs. 25, 26, 34, and 35.
T. 1 S., R. 6 W.,
  Sec. 30.
T. 1 S., R. 7 W.,
  Sec. 26.
T. 1 S., R. 8 W.,
  Secs. 4 to 8, inclusive, secs. 17 to 22, inclusive, and secs. 27 to 31, inclusive.
T. 1 S., R. 9 W.,
  Secs. 1 to 5, inclusive, secs. 9 to 15, inclusive, and sec. 23.
T. 2 S., R. 8 W.,
  Secs. 5, 28, 29, 31, 32, and 34.
T. 2 S., R. 9 W.,
  Secs. 34 and 35.
T. 3 S., R. 6 W.,
  Secs. 18 and 30.
T. 3 S., R. 7 W.,
  Secs. 6, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, 32, and 34.
T. 3 S., R. 8 W.,
  Sec. 2, secs. 4 to 8, inclusive, secs. 18, 14, 18, 19, 22, 24, 26, 31, 32, and 34.
T. 3 S., R. 9 W.,
  Sec. 13, secs. 19 to 21, inclusive, secs. 24, 28, 31, and 33.
T. 3 S., R. 11 W.,
  Sec. 1.
T. 4 S., R. 6 W.,
  Sec. 6.
T. 4 S., R. 7 W.,
  Secs. 2, 4, 6, 8, 10, 12, 17, and 18.
T. 4 S., R. 10 W.,
  Sec. 19.
T. 5 S., R. 10 W.,
  Secs. 20 and 34.
T. 6 S., R. 10 W.,
  Sec. 1.
T. 6 S., R. 11 W.,
  Secs. 14 and 15.

WASHINGTON COUNTY

T. 1 S., R. 5 W.,
  Sec. 8.
T. 1 S., R. 6 W.,
  Secs. 28 and 34.

YAMHILL COUNTY

T. 2 S., R. 6 W.,
  Secs. 30, 32, and 34.
T. 3 S., R. 5 W.,
  Sec. 34.
T. 3 S., R. 6 W.,
  Secs. 2, 20, and 24.
T. 4 S., R. 7 W.,
  Secs. 18, 24, 26, and 30.

The areas described aggregate approximately 62,500 acres of public land.

4. For a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER, interested parties may submit comments to the Secretary of the Interior, LLM, 721, Washington, D.C. 20240 (43 CFR 2411.1–2(d)).

DANIEL P. BAKER,
Acting State Director.

[F.R. Doc. 67-14248; Filed, Dec. 6, 1967; 8:46 a.m.]

[Oregon 018491]

OREGON

Order Providing for Opening of Public Lands

DECEMBER 1, 1967.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1272), as amended June 26, 1936 (49 Stat. 1976; 43 U.S.C. 315g), the following lands have been reconveyed to the United States:

WILLAMETTE MERIDIAN

T. 28 S., R. 19 E.,
Sec. 16, E½;
Sec. 36, NW¼.

The areas described aggregate 480 acres.

2. The lands are located in Lake County. They are semiarid in character and are not suitable for farming.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands are hereby open to application, petition, location and selection. All valid applications received at or prior to 10 a.m., January 8, 1968, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. The United States did not acquire minerals in the lands described herein.

5. Inquiries concerning the lands should be addressed to the Chief, Division of Lands and Minerals, Program Management and Land Office, Post Office Box 2965, Portland, Oreg. 97208.

VIRGIL O. SEIBEL,
Chief, Branch of Lands.

[F.R. Doc. 67-14240; Filed, Dec. 6, 1967; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

[Dept. Order 152-A; Amdt. 4]

BUSINESS AND DEFENSE SERVICES ADMINISTRATION

General Functions

This order was issued by the Secretary of Commerce on November 21, 1967. This material further amends the material appearing at 29 F.R. 5406 of April 22, 1964; 32 F.R. 2389 of February 3, 1967; and 31 F.R. 14571 of November 19, 1966.

Department Order 152-A dated April 2, 1964, as amended, is hereby further amended as follows:

1. In section 4 *General functions* subparagraphs .01 2., .01 5., are amended, and a new subparagraph .01 6. is added, to read:

2. Conduct continuing studies and analyses of the American industrial economy and selected segments thereof in order to provide analytical and interpretive data on industrial trends affecting economic stability and recommend necessary and appropriate action on the part of Government and industry towards continued industrial and economic growth; and utilize the advice and assistance of the Office of Business Economics as appropriate in such studies when they concern the total economy;

5. Provide technical advice and assistance on commodities and industries to the Bureau of International Commerce, Office of Business Economics and other elements of the Department and to other agencies of the Federal Government and cooperate with them on programs to achieve national economic stability and growth;

6. Conduct research on industry economic growth including an identification and analysis of factors affecting such growth;

2. Present subparagraphs .01 6. through .01 12. are renumbered .01 7. through .01 13.

Effective date: November 21, 1967.

DAVID R. BALDWIN,
Assistant Secretary for Administration.

[F.R. Doc. 67-14231; Filed, Dec. 6, 1967; 8:45 a.m.]

[Dept. Order 152-B; Amdt. 3]

BUSINESS AND DEFENSE SERVICES ADMINISTRATION

Functions of Office of Assistant Administrator for Industrial Analysis

This material further amends the material appearing at 30 F.R. 3393 of March 13, 1965.

Department Order 152-B, dated February 16, 1965, as amended, is hereby further amended as follows:

Section 4 *Functions of the Office of the Assistant Administrator for Industrial Analysis* is revised to read:

.01 The Assistant Administrator for Industrial Analysis shall be the principal assistant and advisor to the Administrator on economic research programs concerned with business and industrial development, and shall assure coordination of industrial economic matters with the Office of Business Economics, other areas of the Department, and with other agencies of the Federal Government as appropriate.

.02 The Office of the Assistant Administrator for Industrial Analysis shall conduct research on industry economic growth, including the effect of factors such as monetary and fiscal policies, automation, technological progress, inventory policies, price fluctuations, foreign competition, and others; perform economic analyses of the impact on the total economy of current or anticipated events within the industrial economy utilizing the advice and assistance of the Office of Business Economics as appropriate in the design and conduct of such studies; assist the Office of Business Economics, as requested, in the interpretation and analysis of trends and developments identified in the national accounts series; and provide direction and guidance in the application of sound statistical and economic standards, techniques and procedures to statistical and economic projects of the Business and Defense Services Administration.

Effective date: November 21, 1967.

DAVID R. BALDWIN,
Assistant Secretary for Administration.

[F.R. Doc. 67-14232; Filed, Dec. 6, 1967; 8:45 a.m.]

[Dept. Order 15-A]

OFFICE OF BUSINESS ECONOMICS

Organization and Functions

This order was issued by the Secretary of Commerce on November 21, 1967.

This material supersedes the material appearing at 29 F.R. 11856 of August 19, 1964.

SECTION 1. *Purpose.* The purpose of this order is to describe the functions of the Office of Business Economics.

SEC. 2. *General.* .01 The Office of Business Economics, established on January 17, 1946, pursuant to the authority vested in the Secretary of Commerce by law, shall continue as a primary operating unit of the Department of Commerce.

.02 The Office of Business Economics shall be headed by a Director who shall report and be responsible to the Assistant Secretary of Commerce for Economic Affairs. The Director shall be assisted by two Associate Directors and a Deputy Director for Information and Administration, who shall perform the functions of the Director, upon his designation, during the latter's absence.

SEC. 3. *General functions and objectives.* The Office of Business Economics shall:

a. Provide public officials and the business community with basic economic measures of the national economy, including the national income accounts and the balance of international payments, and current analyses of the economic situation and business outlook;

b. Perform general economic research on the functioning of the economy, including cooperative research with business organizations, other Government agencies, and university and research institutions and coordinate such research with the Business and Defense Services Administration where it concerns industrial economics;

c. Develop statistical indicators of the present and projected state of the economy;

d. Provide a basis for policy formulation of the Department with respect to Government fiscal, monetary or other policies which affect economic movements and tendencies;

e. Serve as the central economic research organization of the Department on the functioning of the national economy, and collaborate with other primary operating units, including the Business and Defense Services Administration, Bureau of the Census and Economic Development Administration, which require or can contribute to its economic research and statistical measures; and

f. Measure and analyze factors affecting regional economic development in the United States in consultation with the Economic Development Administration.

Effective date: November 21, 1967.

DAVID R. BALDWIN,
Assistant Secretary for Administration.

[F.R. Doc. 67-14233; Filed, Dec. 6, 1967; 8:45 a.m.]

[Dept. Order 15-B]

OFFICE OF BUSINESS ECONOMICS

Organization and Functions

This material supersedes the material appearing at 29 F.R. 11855 of August 19, 1964.

SECTION 1. *Purpose.* The purpose of this order is to prescribe the organization and assignment of functions within the Office of Business Economics.

SEC. 2. *Organization.* The organization structure and line of authority of the Office of Business Economics shall be as depicted in the attached organization chart.

SEC. 3. *Functions of the organization units.* .01 The Director formulates policies, develops and coordinates the programs, and directs all operations of the Office of Business Economics.

.02 The two Associate Directors of the Office of Business Economics share with the Director the overall responsibility for determining, planning, coordinating and directing the activities of the Office of Business Economics. In addition, they share with the Director prime responsibility for the integrity of all statistics and economic analyses emanating from the Office and for the interpretation, at the top echelons of Government and the business world, of highly complex data relating to the functioning of the national economy.

.03 The Deputy Director for Information and Administration shall participate with the Director and the Associate Directors in the presentation of broad overall programs, plans, policies, and results of the Office; effect published dissemination of complete and balanced reviews and analyses of economic developments; give direction to administrative activities including budget, organization planning, personnel and publications management; and represent the Director in securing administrative services provided to the Office of Business Economics through the staff service officers reporting to the Assistant Secretary for Administration.

.04 The Assistant Director (Chief Statistician) shall be responsible for the investigation, establishment and continuous utilization of pertinent, comprehensive, and valid statistical criteria and advanced mathematical and econometric techniques in the development of statistical measures of economic aggregates basic to the functions of the Office; and for the analytical utilization of these and other data in current economic evaluations.

.05 The Assistant Director (National Economic Accounts) shall be responsible for the adequacy, quality, and extension of the basic economic research conducted by the Office with particular emphasis on national income and product, interindustry sales and purchases, the balance of payments, and other facets of national economic accounting; and serve as the formally designated focal point within the Federal Government for the development and analytical application of the system of national accounts adopted as the Nation's essential economic interpretive mechanism.

.06 The National Income Division shall formulate and analyze the measures of the national income, gross national product and income flow to individuals, and prepare regular reports upon the position of the economy and the tendencies revealed by such data and analysis; compile analytical data on national income by industries and distributive shares indicating the origins and components of income produced, and the flow of production from basic resources to finished products; prepare estimates of income size distribution so as to describe the sources of income of recipients in different income classes, and the use of funds for taxes, consumption, and savings; and whenever applicable in the analysis and interpretation of income data, obtain supplementary data and analysis from the Business and Defense Services Administration.

.07 The National Economics Division shall prepare and maintain on as current a basis as possible, estimates of the flows of goods and services from each industry to other industries as well as to final markets in the economy, organized in the form of interindustry sales and purchases tables to analyze the economic repercussions of changes in final markets, i.e., consumers, investment, foreign trade, and Government, on the industries in the economy and income originating in these industries; collaborate with the Business and Defense Services Administration in the design of these estimates and in their interpretation as related to specific industry situations; and carry on a program of research and developmental studies aimed at the establishment of new essential series of economic data of meaningful analytical content for evaluating the functioning of the domestic economy.

.08 The Business Structure Division shall collect, analyze, and report on data bearing on historic, current, and prospective domestic business investment in new plant, equipment, and inventories; analyze and report on data on sales of all private enterprises and manufacturers' new and unfilled orders; and develop econometric techniques designed to forecast changes in national income and output and other economic magnitudes, and to test the likely impact on business activity of alternative policy decisions.

.09 The Current Business Analysis Division shall edit the Survey of Current Business; conduct a continuing study of current business activity and of the forces influencing such activity; publish monthly analyses of the business situation and periodic studies of long-term economic trends; and conduct statistical research for the purpose of assembling for publication all of the current business statistics required for the evaluation of changes in major segments of the economy.

.10 The Balance of Payments Division shall compile, analyze, and interpret data on the balance of international payments and international investments of the United States, particularly as to their effect on the functioning of the domestic economy and prepare reports embodying the results of this research; analyze information concerning foreign transactions of the U.S. Government and arrange with other Government agencies for detailed reports covering their foreign transactions, including financial aid, goods, transactions, and inventories, and prepare such data for use in the estimate of the balance of payments and gross national product of the United States; and collaborate with other primary operating units of the Department in the analysis of the international position of other countries and their capacity to utilize effectively and to service American investment capital.

.11 The Regional Economics Division shall develop and maintain measures which reflect the current economic situation in the various regions of the Nation and through which regional economic records can be traced; analyze the factors responsible for geographic differences in the levels of economic activity and for regional variations in rate of economic growth and development; construct a system of regional economic measures that will have optimum flexibility in terms of geographic delineation; conduct a program of regional economic research designed to develop series useful for identifying and evaluating regional economic trends; develop techniques and methods for measuring the geographic impact of major economic occurrences; and provide breakdowns of the significant income data by State, regions, and industrial areas, adapting these data for marketing and other purposes.

SEC. 4. *Field programs.* The office of Business Economics shall have the authority and responsibility for the determination of all programs and policies governing its operations in the field. The facilities of the Office of Field Services shall be utilized to carry out the field programs of the Office of Business Economics.

Effective date: November 21, 1967.

DAVID R. BALDWIN,
Assistant Secretary for Administration.

[F.R. Doc. 67-14234; Filed, Dec. 6, 1967; 8:45 a.m.]

[Dept. Order 117-A; Amdt. 2]

MARITIME ADMINISTRATION

Delegation of Authority to Administrator

This order was issued by the Secretary of Commerce on November 15, 1967. This

material further amends the material appearing at 31 F.R. 9087 of June 8, 1966; and supersedes the material appearing at 32 F.R. 9899 of September 8, 1967.

Department Order 117-A of May 20, 1966, as amended, is hereby further amended as follows:

1. In section 3 *Delegation of authority to the Maritime Administrator* a new paragraph .03 is added to read:

.03 Pursuant to the authority delegated to the Secretary of Commerce by the Administrator of the General Services Administration, dated August 15, 1967, the Administrator is hereby delegated authority to appoint uniformed guards as special policemen, with such powers as are conferred in the Act of June 1, 1948 (62 Stat. 281), as amended, for protection duties on those parcels of property at the U.S. Merchant Marine Academy, Kings Point, N.Y., which are not protected by General Services Administration guards, and over which the Federal Government has exclusive or concurrent jurisdiction. This authority shall be exercised in accordance with the limitations and requirements of the above cited Act, and policies, procedures, and controls prescribed by the General Services Administration.

2. The present paragraphs 3.03 and 3.04 are renumbered 3.04 and 3.05.

Effective date: November 15, 1967.

DAVID R. BALDWIN,
Assistant Secretary for Administration.

[F.R. Doc. 67-14235; Filed, Dec. 6, 1967; 8:45 a.m.]

[Dept. Order 90-A; Amdt. 2]

NATIONAL BUREAU OF STANDARDS

Delegation of Authority to Director

The following order was issued by the Secretary of Commerce on November 15, 1967. This material further amends the material appearing at 31 F.R. 7713 of May 28, 1966; and 32 F.R. 11811 of August 16, 1967.

Department Order 90-A of May 12, 1966, as amended, is hereby further amended as follows:

1. In section 3 *Delegation of authority* a new paragraph .03 is added to read:

.03 Pursuant to the authority delegated to the Secretary of Commerce by the Administrator of the General Services Administration, dated August 15, 1967, the Director is hereby delegated authority to appoint uniformed guards as special policemen, with such powers as are conferred in the Act of June 1, 1948 (62 Stat. 281), as amended, for protection duties on those parcels of property at the National Bureau of Standards installations which are not protected by General Services Administration guards, and over which the Federal Government has exclusive or concurrent jurisdiction. This authority shall be exercised in accordance with the requirements of the above cited Act, and policies, procedures, and controls prescribed by the General Services Administration.

2. The present paragraph 3.03 is renumbered 3.04.

Effective date: November 15, 1967.

DAVID R. BALDWIN,
Assistant Secretary for Administration.

[F.R. Doc. 67-14236; Filed, Dec. 6, 1967; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

ASSISTANT SECRETARY FOR ADMINISTRATION

Delegation of Authority To Certify True Copies of Books, Records, Papers or Other Documents, Extracts From Such, and Nonexistence of Records

This delegation of authority supersedes previous delegations of authority to the Assistant Secretary for Administration to certify copies of documents.

I hereby delegate to the Assistant Secretary for Administration authority to certify true copies of any books, records, papers, or other documents on file within the Department, or extracts from such, or to certify the nonexistence of records on file within the Department, and to cause the Seal of the Department to be affixed to such certifications.

I also delegate to the Assistant Secretary for Administration authority to cause the Seal of the Department to be affixed to agreements, awards, citations, diplomas, and similar documents.

This authority may be redelegated.

(42 U.S.C. 2695 [1964 Ed., Supplement II, Volume 2] and sec. 6 of Reorganization Plan No. 1 of 1953, 5 U.S.C. [1964 Ed.] 623 note)

Dated: December 1, 1967.

[SEAL] WILBUR J. COHEN,
Acting Secretary.

[F.R. Doc. 67-14277; Filed, Dec. 6, 1967; 8:49 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 18970]

DALLAS/FORT WORTH-PHOENIX NONSTOP CASE

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled case is assigned to be held on January 17, 1968, at 10 a.m., e.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner William F. Cusick.

In order to facilitate the conduct of the conference parties are instructed to submit to the examiner and other parties (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statement of positions of parties; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before January 3, 1968, and other parties on or before January 10, 1968.

Dated at Washington, D.C., December 1, 1967.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 67-14273; Filed, Dec. 6, 1967; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. RP68-6—RP68-10]

MANUFACTURERS LIGHT AND HEAT CO. ET AL.

Order Providing for Hearing and Suspending Proposed Revised Tariff Provisions, Consolidating Proceedings and Prescribing Prehearing Conference Procedure

NOVEMBER 29, 1967.

The Manufacturers Light and Heat Co., Docket No. RP68-5; United Fuel Gas Co., Docket No. RP68-6; Atlantic Seaboard Corp., Docket No. RP68-7; Kentucky Gas Transmission Corp., Docket No. RP68-8; The Ohio Fuel Gas Co., Docket No. RP68-9; Home Gas Co., Docket No. RP68-10.

The following companies of the Columbia Gas System, on the dates indicated, tendered for filing proposed changes in the general terms and conditions in Volume No. 1 of their respective FPC gas tariffs: The Manufacturers Light and Heat Co. (October 25, 1967), United Fuel Gas Co. (October 25, 1967), Atlantic Seaboard Corp. (October 25, 1967), Kentucky Gas Transmission Corp. (October 26, 1967), The Ohio Fuel Gas Co. (October 30, 1967), and Home Gas Co. (November 3, 1967), (collectively, Columbia Companies). The proposed effective date for each Respondent's tariff changes is November 30, 1967, except those of Home Gas Co. which are proposed to become effective December 3, 1967.

The tariff changes proposed by each Respondent, which are substantially similar in language and effect, would delete tariff provisions applicable to contract demand service rate schedules (CDS) whereunder a Buyer could unilaterally reduce its effective contract demand and maximum daily quantity by not more than 5 percent per year and the aggregate amount of 10 percent of the greatest contract demand previously at any time in effect.[1] In support of the proposed deletion of the Buyer's right to reduce its daily requirements and monthly charges accordingly, Columbia Companies' filings provide a statement of reasons but do not provide supporting costs and revenue studies or data, as required by § 154.63(b)(2) of the Commission's regulations under the Natural Gas Act. Columbia Companies request, however, that the Commission waive the requirements of that section, "in view of the nature of this filing."

Columbia Companies state that the unilateral right of a Buyer to reduce its contract entitlement was originally inserted at the time Seller's CDS rates were initiated for the purpose of permitting such election where, for reasons beyond his control Buyer's maximum day requirements decreased after a peak entitlement was established by contract. It was not contemplated, they state, that the provisions should apply to a Buyer who wished to reduce its entitlement in order to permit it to obtain gas from another supplier. Moreover, the companies contend, in view of the competitive conditions at the present time, it is appropriate that Buyer and Seller contract for firm volumes not subject to unilateral reduction but only by mutual consent of both parties or by order of the Commission. The supporting statements, with the exception of Manufacturers' and Home's filings, assert that, consistent with past policy, a bona fide market loss or failure of market development would be dealt with in a manner equitable to Buyer, Seller, and other customers.

Columbia Companies in further support point out that the proposed elimination of the CDS Buyer's election would result in uniform treatment to all their Buyers,[2] and would make their tariffs similar, in regard to the subject contract demand obligations, to the tariffs of their nonaffiliated pipeline suppliers who sell gas in competition with Columbia Companies' service areas.

Columbia Companies also request that the tendered filings be permitted to go into effect on the dates indicated above or that the Commission in no event suspend the proposed changes beyond December 31, 1967. They point out that the language of the tariff provisions which would be deleted require a Buyer to notify the company "on or before March 15 in any year," and conclude that a Buyer desiring to reduce its contract demand would be entitled to give such notice on January 1 in any year, as though the clause means notice can be given by Buyer only between January 1 and March 15 of any year of the level of contract demand applicable commencing the following November 1 in that same year.

Comments and objections to the proposed tariff changes have been filed by customer companies. Baltimore Gas and Electric Co. (Baltimore on Nov. 15, 1967) states that no justification has been shown for eliminating Buyer's election insofar as it is applicable to a Buyer whose requirements decrease for reasons beyond his control, and that the reason for the maintenance of the election in the tariff still applies to Baltimore (a Buyer having no gas supplier other than Seaboard). Baltimore contends that it is reasonable for the pipeline supplier to share to a limited extent the market risk of decreased requirements. Pennsylvania Gas and Water Co. questions the propriety of the elimination of the Buyer's election and states that it will need more time to analyze the proposed filing and concurs in Columbia Companies' request that the suspension period be limited. West Ohio Gas Co. objects to the change on the grounds that it would eliminate needed flexibility in its operations without any showing of adverse effect of existing tariff provisions.

Upon consideration of the nature of the tariff provisions which would be deleted we conclude that the proposed tariff changes should not be permitted to become effective without giving customers and the Commission a full opportunity to examine the impact of the changes and the possible need for a hearing thereon. There are at least three basic issues which may need to be heard upon a record: (1) Whether any Buyer having another supplier should have a unilateral right to reduce its contract demand; (2) whether the unilateral right of any Buyer (including the Buyer who has no other supplier) to reduce his contract demand, should be eliminated, prospectively; and (3) whether the right to reduce contract demand should be eliminated with respect to existing contract demands which have already been established with the understanding that the Buyer may unilaterally reduce his obligation.

The Columbia Companies request that any suspension terminate by December 31, 1967, since if the present tariff extends into the new year, customers will have a right to cut back contract demand in accordance therewith and the effect will be a postponement of the change no matter how meritorious, until 1969. We are not unsympathetic with this contention but standing by itself it presents an equally unfortunate possibility on the other side—namely under the existing tariff customers cannot exercise cut back rights until after January 1, 1968, so that in the absence of special provisions a suspension until only December 31, 1967, would result in making the new provisions applicable for all of 1968, no matter how unmeritorious it may turn out to be. We believe all interests can be accommodated by providing as a condition to our agreement to terminate the suspension on December 31, 1967, that the Columbia Companies agree to a pro tanto modification of the existing tariff under which customers wishing to avail themselves of the present tariff provisions shall file the requisite statements of intent on or before March 15, 1968, under the terms of the new tariff, then in effect but subject to the Columbia System Companies' obligations to refund to such customers with interest, any difference between the amounts billed, and the amounts which would have been billed under the customers' cut back statement under the old tariff, to the extent our final order in this proceeding disapproves or modifies the revised tariff provisions here in issue. Our order will provide that in the event the Columbia Companies are unwilling to signify their agreement to this procedure, the tariff provisions will be suspended for the statutory 5-month period from the proposed effective dates.

In view of the importance of an early determination of these issues to both Buyer and Seller, we will provide for procedure aimed at expediting such determinations, whether by agreement in conference or by the decisional route.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the above-captioned proceedings be consolidated for hearing and decision, and that the Commission enter upon a hearing concerning the lawfulness of the rates, charges, classifications, and services contained in the FPC Gas Tariff, Original Volume No. 1 of each of the six Respondents, as proposed to be changed by the revised tariff sheets tendered as aforementioned, and that said proposed revised tariff sheets be suspended and the use thereof deferred as hereinafter provided.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the proposed revised tariff sheets so tendered by the six Respondents as aforementioned, be made effective as hereinafter provided and that each of the Respondents be required to file a motion and undertaking as hereinafter ordered and conditioned.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereunder, the Commission's rules of practice and procedure and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held on a date fixed by notice from the Presiding Examiner as hereinafter provided, concerning the lawfulness of the rates, charges, classifications, and services contained in the FPC Gas Tariffs of Respondent Columbia Companies, as proposed to be amended by the proposed revised tariff sheets set forth in Appendix A hereto.

(B) The requirements of § 154.63 of the regulations under the Natural Gas Act are waived for the purposes of our action herein: *Provided, however*, That each Columbia Company for purposes of the hearing herein prescribed, shall furnish the data required by § 154.63 of the regulations in addition to such other evidence that it may deem appropriate to support its proposed tariff changes.

(C) Pending such hearing and decision thereon, the proposed revised tariff sheets, identified in paragraph (A) above, hereby are suspended and their use deferred until December 31, 1967:

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[1] Proposed revised tariff sheets tendered for filing are listed on Appendix A hereto.

[2] Columbia Companies' reference to "all Buyers" is taken to mean all Buyers under CDS rate schedules which now include substantially all Buyers other than those under Small General Service (SGS) rate schedules. Upon Columbia Companies' recent cancellation of all partial requirements rate schedules (CDS-PR), all customers having other sources or suppliers have been transferred to CDS rate schedules. Opinion No. 533, Atlantic Seaboard Corp. et al., 38 FPC ----, rehearing denied, 38 FPC ----, pending on petition for review, prospectively only, in Atlantic Seaboard Corp. et al. v. FPC, filed Nov 6, 1967, in CADC No. 21408.

Provided, however, That, within 20 days from the date of this order, Columbia Companies shall file motions as required by section 4(e) of the Natural Gas Act and concurrently execute and file with the Secretary of the Commission the agreements and undertakings described in paragraph (F) below. Unless Columbia Companies are advised to the contrary within 15 days after the date of filing such agreement and undertaking, the agreements and undertakings shall be deemed to have been accepted.

(D) Our action in paragraph (C) terminating the suspension on December 31, 1967, is subject to the following condition: Any Buyer under Columbia Companies' CDS rate schedules which desires to reduce its contract demand and/or maximum daily entitlement under a claim of right to do so pursuant to tariff provisions effective immediately prior to December 31, 1967, may between January 1 and March 15, 1968 (inclusive dates), file a notice to that effect with the respective Columbia Company and with the Commission: *Provided, however,* That the customer will be billed as of 1968 under the terms of the new tariff then in effect, subject to the Columbia Companies' obligations to refund to such customer with interest, the difference between the amounts billed and the amounts which would have been billed under the customer's cutback statement under the old tariff to the extent that the final order in this proceeding disapproves or modifies the tariff revisions here in issue. Each of the Columbia Companies, over the signature of a responsible officer, shall file with the Commission, within 30 days from the date of issuance of this order, in writing and under oath, an original and one copy of its acceptance or rejection of the condition set forth in this paragraph; *provided, further,* that the proposed revised tariff sheets of any Columbia Company which is unwilling to signify agreement with this condition are suspended and deferred for the 5-month statutory period from the effective date proposed by that company.

(E) Columbia Companies, individually and severally, shall refund at such times and in such amounts to persons entitled thereto, and in such manner as may be required by final order of the Commission, the portion of rates and charges found by the Commission in these proceedings not justified, together with interest thereon at the rate of 7 percent per annum from the date of payment to Columbia Companies until refunded; shall bear all costs of any such refunding; shall keep accurate accounts in detail of all amounts received by reason of the tariff sheets made effective as of December 31, 1967, and each billing period, specifying by whom and in whose behalf such amounts were paid, and shall report (original and four copies) in writing and under oath, to the Commission, monthly, for each billing period and for each purchaser, the billing determinants of natural gas sales to such purchasers, and the revenues resulting therefrom as computed under the tariff sheets in effect immediately prior to December 31, 1967, and under the tariff sheets herein allowed to become effective, together with the differences in the revenues computed.

(F) As a condition of this order, Columbia Companies shall each execute and file in triplicate with the Secretary of this Commission, its written agreement and undertaking to comply with the terms of paragraph (E) hereof, signed by a responsible officer of the corporation, evidenced by proper authority from the Board of Directors, and accompanied by a certificate showing service of copies thereof upon all purchasers under the tariff sheet involved as follows:

Agreement and Undertaking of (Columbia Company) to comply with the terms and conditions of paragraph (E) of Federal Power Commission's order issued ——————, 1967, in Docket No. RP68-——.

In conformity with the requirements of the order issued ——————, 1967, in Docket No. RP68-——, [Columbia Company] hereby agrees and undertakes to comply with the terms and conditions of paragraph (E) of said order, and has caused this agreement and undertaking to be executed and sealed in its name by its officers, thereupon duly authorized in accordance with the terms of the resolution of its Board of Directors, a certified copy of which is appended hereto this ——— day of ——————, 1967.

(Columbia Company)

By ——————————
President

Attest:

——————————
Secretary

(G) If Columbia Companies shall, in conformity with the terms and conditions of their agreements and undertakings, make the refunds as may be required by order of the Commission in these proceedings, the undertakings shall be discharged; otherwise they shall remain in full force and effect.

(H) Pursuant to the Commission's rules of practice and procedure, particularly §§ 1.27, 1.30(j), and 3.4(e)(4) thereof, a Presiding Examiner to be designated shall preside at the prehearing conference hereinafter provided, and at subsequent prehearing conferences and hearings which he may deem appropriate in these proceedings and to render an initial decision on all issues.

(I) Columbia Companies shall serve their complete case-in-chief on all issues upon all parties of record, including the Commission Staff, on or before January 8, 1968.

(J) All other parties of record, including the Commission Staff, desiring to present evidence on any issue shall serve their testimony and exhibits on or before January 29, 1968.

(K) Pursuant to § 1.18 of the Commission's rules of practice and procedure, a prehearing conference before the Presiding Examiner shall commence at 10 a.m., e.s.t., on February 13, 1968, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, for the purpose of defining the issues, reaching an agreement and stipulation thereon and on any facts relevant to this matter, and, if necessary, to prescribe procedure for hearing herein.

(L) Notices of intervention and petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. in accordance with the Commission's rules of practice and procedure, §§ 1.8 and 1.37(f) (18 CFR 1.8 and 1.37(f)) on or before December 26, 1967.

By the Commission.[1]

[SEAL] KENNETH F. PLUMB, *Acting Secretary.*

[1] Dissenting statement of Commissioner Ross filed as part of the original document.

Company	Docket No.	Filed	Requested effective date	Tariff sheets
Rochester Gas & Elec Co.	RP68-5	Oct. 25	Nov. 30	First revised sheet No. 55 and second revised sheet Nos. 51, 53, and 57 to fifth revised volume 1.
United Fuel Gas Co.	RP68-6	do	do	Second revised sheet Nos. 32, 35, 46, 60, and 61 to sixth revised volume 1.
Atlantic Seaboard Corp.	RP68-7	do	do	First revised sheet No. 56, second revised sheet Nos. 72, 79, 83, 84, and third revised sheet No. 85 to eighth revised volume 1.
Kentucky Gas Transmission	RP68-8	do	do	Second revised sheet Nos. 25, 26, 60, and 61 and fifth revised sheet No. 29 to second revised volume No. 1.
Ohio Fuel Gas Co.	RP68-9	do	do	First revised sheet Nos. 9, 14, 72, 75, 76, and 79 and second revised sheet Nos. 45 and 74 to fourth revised volume 1.
Home Gas Co.	RP68-10	Nov. 3	Dec. 5	First revised sheet Nos. 32, 62, 64, and 65 to fourth revised volume 1.

[F.R. Doc. 67-14243; Filed, Dec. 6, 1967; 8:46 a.m.]

[Docket No. CP68-164]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

NOVEMBER 30, 1967.

Take notice that on November 30, 1967, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in Docket No. CP68-164 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of natural gas facilities for the transportation in interstate commerce and storage of natural gas in order to increase Applicant's transmission system capacity by 200,000 Mcf per day and to increase its storage facilities capacity by 150,000 Mcf per day, and also authorizing the sale and delivery of additional volumes of natural gas to its existing customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to expand its transmission system (1) by the installation of approximately 14.89 miles of 30-inch looping pipeline and by the addition of 114,500 horsepower of compression on its Amarillo line, (2) by the installation of approximately 41.94 miles of 36-inch looping pipeline on its Gulf Coast line, and (3) by the installation of approximately 44.03 miles of 24-inch looping pipeline on Applicant's Volo line. Applicant also proposes to replace approximately 5.28 miles of existing 24-inch line and two railroad crossings of its Crawford lines.

Applicant proposes that its gas supply facilities be extended into the Delaware Basin area of West Texas by the construction of approximately 110 miles of 24-inch diameter pipeline from its newly constructed Permian Basin pipeline to its newly acquired gas reserves in Ward and Winkler Counties, Tex., and of gathering and appurtenant facilities in said counties.

Applicant's proposed storage system construction for 1968 consists of nine new injection withdrawal wells, the addition of approximately 4.84 miles of 6-inch, 8-inch, and 12-inch gathering line, and installation of 3,200 horsepower of compression. Applicant also proposes the addition of 6,200 Mcf cushion gas and the construction and installation of miscellaneous appurtenant facilities.

The estimated cost of the expansion program is $64,392,000 which will be financed through interim and permanent financing.

Applicant also seeks authorization to sell and deliver additional daily contract quantities, or maximum daily quantities, of natural gas to existing resale customers, commencing on December 1, 1968, as follows:

Rate Schedule	*Additional daily contract quantities (for maximum daily quantities) in Mcf at 14.65 p.s.i.a.*
CD-1:	
Associated Natural Gas Co.	733
Commonwealth Edison Co.	6,000
Illinois Power Co.	10,000
Interstate Power Co.	1,500
Iowa Illinois Gas & Electric Co.	19,308
Iowa Power & Light Co.	233
Iowa Southern Utilities Co.	544
North Shore Gas Co.	17,986
Northern Indiana Public Service Co.	46,000
The Peoples Gas Light & Coke Co.	67,283
City of Sullivan, Ill.	200
Wisconsin Southern Gas Co., Inc.	1,194
Total Rate Schedule CD-1	160,781
Rate Schedule G-1:	
Central Illinois Public Service Co.	500
City of Corning, Iowa	30
Kaskaskia Gas Co.	156
Missouri Utilities Co.	180
City of Nashville, Ill.	140
City of Perryville, Mo.	400
City of Pinckneyville, Ill.	600
City of Salem, Ill.	191
United Cities Gas Co.	
Total Rate Schedule G-1	2,367
Previously allocated to section 7(a) orders:	
Town of Montezuma, Iowa	698
Peoples Natural Gas Division of Northern Natural Gas Co.	1,302
Total	174,148

The application states that the 33,852 Mcf of unallocated capacity of the proposed addition to Applicant's transmission capacity will enable Applicant to respond more readily to the demands of existing and future customers.

Applicant states that it intends to allocate the proposed additional storage withdrawal capacity to its customers in accordance with the procedure of allocation set forth in its FPC Gas Tariff, Second Revised Volume No. 1, Rate Schedule S-1. The additional volumes which would result in the application of the Tariff allocation procedure are as follows:

Customer	*Additional maximum withdrawal quantities in Mcf at 14.65 p.s.i.a.*
Associated Natural Gas Co.	209
Commonwealth Edison Co.	6,054
Illinois Power Co.	4,480
Interstate Power Co.	2,051
Iowa Electric Light & Power Co.	2,817
Iowa Illinois Gas & Electric Co.	14,778
Iowa Power & Light Co.	1,164
Iowa Southern Utilities Co.	559
Nebraska City, Nebr.	559
North Shore Gas Co.	5,816
Northern Illinois Gas Co.	52,847
Northern Indiana Public Service Co.	18,163
The Peoples Gas Light & Coke Co.	41,081
City of Sullivan, Ill.	144
Wisconsin Southern Gas Co., Inc.	1,502
Mississippi River Transmission Corp.	4,093
Total	156,000

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 27, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Acting Secretary.*

[F.R. Doc. 67-14242; Filed, Dec. 6, 1967; 8:46 a.m.]

[Docket No. CP68-166]

TENNESSEE GAS PIPELINE CO.

Notice of Application

NOVEMBER 30, 1967.

Take notice that on November 20, 1967, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), Post Office Box 2511 Houston, Tex. 77001, filed in Docket No. CP68-166 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the increase in sales of natural gas to existing customers and for the construction and operation of natural gas transmission facilities to effectuate the proposed increased sales, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to construct and operate approximately 146 miles of 30- to 36-inch mainline loops; 51,400 additional compressor horsepower at various existing compressor stations; 9.8 miles of 6- to 10-inch delivery lines and 19.2 miles of 10- to 16-inch gathering lines.

Further, Applicant seeks authorization to render the following additional service, commencing with the 1968-69 winter heating season:

Type of service	*Proposed additional maximum contract quantity (Peak day) Mcf*
General service customers	33,174
Contracted demand customers	77,030
	110,204

The total estimated cost of the proposed facilities is $68,215,220, which cost will be financed from funds generated through operations and the sale of mortgage pipeline bonds and debentures.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 28, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without

further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 67-14241; Filed, Dec. 6, 1967; 8:46 a.m.]

FEDERAL RESERVE SYSTEM

ATLANTIC TRUST CO.

Order Approving Application Under Bank Holding Company Act

In the matter of the application of Atlantic Trust Co., Jacksonville, Fla., for approval of acquisition of more than 80 percent of the voting shares of The Atlantic National Bank of Jacksonville, Jacksonville, Fla.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.4 (a)(2) of Federal Reserve Regulation Y (12 CFR 222.4(a)(2)), an application by Atlantic Trust Co., Jacksonville, Fla., for the Board's prior approval of the acquisition of more than 80 percent of the outstanding voting shares of The Atlantic National Bank of Jacksonville, Jacksonville, Fla.

In accordance with section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency and requested his views and recommendation thereon. The Comptroller offered no objection to approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on October 12, 1967 (32 F.R. 14166), which provided an opportunity for the filing of comments and views regarding the proposed acquisition. A copy of the application was forwarded to the Department of Justice for its consideration. The time for filing comments and views has expired and all those received have been considered by the Board.

It is hereby ordered, For the reasons set forth in the Board's statement[1] of this date, that said application be and hereby is approved, provided that the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order unless, for good cause, such period is extended by the Board or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

Dated at Washington, D.C., this 30th day of November 1967.

By order of the Board of Governors.[2]

[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 67-14244; Filed, Dec. 6, 1967; 8:46 a.m.]

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Atlanta.

[2] Voting for this action: Chairman Martin, and Governors Robertson, Brimmer, and Sherrill. Absent and not voting: Governors Mitchell, Daane, and Maisel.

COLORADO CNB BANKSHARES, INC.

Order Approving Application Under Bank Holding Company Act

In the matter of the application of Colorado CNB Bankshares, Inc., Denver, Colo., for approval of action to become a bank holding company through the acquisition of at least 67 percent of the voting shares of The Colorado National Bank of Denver; Northeast Colorado National Bank of Denver; and South Colorado National Bank, Denver, all in Colorado.

There has come before the Board of Governors, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)) and § 222.4(a)(1) of Federal Reserve Regulation Y (12 CFR 222.4(a)(1)), and application by Colorado CNB Bankshares, Inc., Denver, Colo., for the Board's prior approval of action whereby Applicant would become a bank holding company through the acquisition of at least 67 percent of the voting shares of The Colorado National Bank of Denver; Northeast Colorado National Bank of Denver; and South Colorado National Bank, Denver, all in Colorado.

In accordance with section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency and requested his views and recommendation thereon. The Comptroller recommended approval of the application. A copy of the application was forwarded to the Department of Justice for its consideration.

Notice of receipt of the application was published in the FEDERAL REGISTER on May 19, 1967 (32 F.R. 7480), which provided an opportunity for the filing of comments and views regarding the proposed acquisition, and the time for filing such comments and views has expired and all comments and views filed with the Board have been considered by it.

It is hereby ordered, for the reasons set forth in the Board's statement[1] of this date, that said application be and hereby is approved, provided that the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

Dated at Washington, D.C., this 29th day of November 1967.

By order of the Board of Governors.[2]

[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 67-14245; Filed, Dec. 6, 1967; 8:46 a.m.]

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Atlanta pursuant to delegated authority.

[2] Voting for this action: Chairman Martin, and Governors Robertson, Brimmer, and Sherrill. Absent and not voting: Governors Mitchell, Daane, and Maisel.

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN PORTUGAL

Entry or Withdrawal From Warehouse for Consumption

NOVEMBER 30, 1967.

On September 28, 1967, the Government of the United States, in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, concluded an agreement with the Government of Portugal amending the bilateral agreement of March 23, 1967, concerning exports of cotton textiles and cotton textile products from Portugal to the United States.

Under the agreement, as amended, the Government of Portugal has undertaken to limit its exports to the United States of cotton textiles and cotton textile products for a 4-year period to specified annual amounts. Among the provisions of the agreement, as amended, are those applying specific export limitations to Categories 1-2-3-4, 5-6, 9, 22, 24-25, 26, 41-42-43, 46, 50, 51, 52, 53, 55, 60, and parts of 62 for the 12-month period beginning January 1, 1968. Moreover, the agreement as amended, eliminates the specific limitation on individual yarn categories, and provides for a consultation provision applicable to them, which is retroactive to the 12-month period beginning January 1, 1967.

There is published below a letter of November 29, 1967, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, directing that the amounts of cotton textiles and cotton textile products in the above Categories, produced or manufactured in Portugal, which may be entered or withdrawn from warehouse for consumption, for the 12-month period beginning January 1, 1968, and extending through December 31, 1968, be limited to the designated levels. This letter and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, as amended, but are designed to assist only in the implementation of certain of its provisions.

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.

THE SECRETARY OF COMMERCE
PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE
WASHINGTON, D.C. 20230,
November 29, 1967.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

DEAR MR. COMMISSIONER: This directive amends but does not cancel the directive issued to you on March 27, 1967, by the Chairman, President's Cabinet Textile Advisory Committee, and provides new levels for the agreement year beginning January 1, 1968, regarding imports of cotton textiles and cotton textile products produced or manufactured in Portugal.

Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of March 23, 1967, as amended, between the United States and Portugal, and in accordance with the procedures outlined in Executive Order 11052 of September 28, 1962, as amended by Executive Order 11214 of April 7, 1965, you are directed to prohibit, effective on the dates indicated below and for the corresponding 12-month periods, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1-2-3-4, 5-6, 9, 22, 24-25, 26, 41-42-43, 46, 50, 51, 52, 53, 55, 60, and parts of 62, produced or manufactured in Portugal, in excess of the following designated levels of restraint:

Category[1]	Twelve-month level of restraint	Adjusted level[2] of restraint
	Pounds	*Pounds*
1-2-3-4	14,614,120	9,270,289

[1] The twelve-month period applicable to these categories shall be that beginning Jan. 1, 1967, and extending through Dec. 31, 1967. With respect to these categories and for this twelve-month period this directive is effective as soon as possible.

[2] The level for these categories has been adjusted to reflect entries made during the period beginning Jan. 1, 1967, and extending through Nov. 15, 1967. No adjustments have been made for entries after Nov. 15, 1967.

Category[1]		*12-month level of restraint*
1-2-3-4	pounds	15,480,435
5-6	square yards[2]	8,942,850
9	do	10,500,000
22	do	1,575,000
24-25	do[3]	5,775,000
26	do	2,520,000
41-42-43	dozen	94,500
46	do	42,000
50	do	24,150
51	do	24,150
52	do	35,700
53 and parts of 62 (T.S.U.S.A. Nos. 382.0306, 382.0307, 382.0635, and 382.0640)	dozen	35,700
55	do	24,150
Category[1]		*12-month level of restraint*
60	do	17,850
Parts of 62 (T.S.U.S.A. Nos. 380.0609, 380.0645, 382.0812, and 382.0665)	pounds	58,380

[1] The 12-month period applicable to these categories shall be that beginning January 1, 1968, and extending through December 31, 1968. With respect to these categories and for this 12-month period this directive is effective January 1, 1968.

[2] Of this combined level, not more than 5,008,500 square yards may be in Category 6.

[3] Of this combined level, not more than 2,100,000 square yards may be in Category 25.

In carrying out this directive, entries of cotton textiles and cotton textile products in Categories 1-2-3-4, 5-6, 9, 22, 24-25, 26, 41-42-43, 46, 50, 51, 52, 53, 55, 60, and parts of 62 (T.S.U.S.A. Nos. 382.0306, 382.0307, 382.0635, 382.0640, 380.0609, 380.0645, 382.0812, and 382.0665), produced or manufactured in Portugal, which have been exported to the United States from Portugal prior to January 1, 1968, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the period January 1, 1967, through December 31, 1967. In the event that the levels of restraint for such goods have been exhausted by previous entries, such goods shall be subject to the directives set forth in this letter.

In carrying out this directive, entries of two or three piece ladies suits produced or manufactured in Portugal from woven or knit cotton fabrics should not be charged against any of the levels of restraint designated herein, including the level of restraint for blouses in Category 52.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on July 7, 1966 (31 F.R. 9310).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Portugal and with respect to imports of cotton textiles and cotton textile products from Portugal have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 553 (Supp. II, 1965-66). This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

Secretary of Commerce, Chairman, President's Cabinet Textile Advisory Committee.

[F.R. Doc. 67-14266; Filed, Dec. 6, 1967; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

CODITRON CORP.

Order Suspending Trading

DECEMBER 1, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $3 par value, of Coditron Corp., New York, N.Y., otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period December 2, 1967, through December 11, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-14250; Filed, Dec. 6, 1967; 8:47 a.m.]

[812-2207]

PACIFIC INDUSTRIES, INC., ET AL.

Notice of Filing of Application for Order Exempting Proposed Transaction

DECEMBER 1, 1967.

In the matter of Pacific Industries, Inc., 351 California Street, San Francisco, Calif. 94104; Samuel W. Block, Martin N. Graham, c/o Meserve, Mumper & Hughes, 612 South Flower Street, Los Angeles, Calif. 90017; Bell Intercontinental Corp., 26 Broadway, New York, N.Y. 10004.

Notice is hereby given that Pacific Industries, Inc. ("Pacific"), a California corporation, Samuel W. Block ("Block"), Martin N. Graham ("Graham") and Bell Intercontinental Corp. ("Bell"), a Delaware corporation, have filed an application pursuant to section 17(b) of the Investment Company Act of 1940 ("Act") for an order exempting from the provisions of section (17(a) of the Act certain agreements among Graham, Block, Pacific, and Bell relating to the common stock of Pacific.

The Equity Corp. ("Equity"), a registered closed-end nondiversified investment company, owns 51.72 percent of the issued and outstanding common stock of Bell. Bell owns 64.07 percent of the issued and oustanding common stock and 5 percent of the convertible preferred stock of Pacific. Block owns 5.37 percent of the issued and outstanding common stock of Pacific and on the date of the agreement, March 2, 1966, was a vice president, director, and employee of Pacific. Graham, on the agreement date, was also a Pacific employee. Block and Graham are presently employees of Pacific, although Block has resigned his other positions.

On July 17, 1961, Pacific acquired all the issued and outstanding capital stock of Reliable Steel Supply Co. ("Reliable") from Block, Graham and their associates. Reliable, thereupon, became a division of Pacific. At that time Reliable was valued at $1,400,000 based upon its book value, and Pacific issued 140,000 of its common shares for the Reliable stock. Simultaneously with the acquisition, Block and Graham entered into 5-year employment

contracts with Pacific to manage Reliable. Block subsequently acquired, for $10 per share, the Pacific stock issued to his associates (other than Graham), so that Block and Graham owned and still own the entire 140,000 shares issued by Pacific for Reliable.

In 1966, when Pacific's common stock was being traded at about 3¼, Block expressed dissatisfaction with the 1961 transaction because of alleged misrepresentations by Pacific. Block subsequently informed Bell that he was considering litigation against Pacific, and that he and Graham would not renew their employment contracts after their expiration in August 1966. Block also stated his and Graham's intention to organize a business to compete with Reliable.

In order to eliminate the possibility of litigation, and to protect Reliable's business, Pacific, on March 2, 1966, entered into an agreement with Block and Graham whereby:

1. Pacific has granted to Block an exclusive, irrevocable option to sell to Pacific, for a 30-day period commencing March 2, 1968, all or any part of the 102,669 shares of Pacific common stock owned by Block at a price of $10 per share.

2. Pacific has granted the identical option to Graham with respect to all or any part of the 37,331 shares of Pacific common stock owned by Graham.

3. Block has granted to Pacific an exclusive, irrevocable option to purchase from Block, during the 3-year period commencing on March 2, 1966, all or any part of 32,135 shares of Pacific common stock owned by Block at a price of $11 per share.

4. Graham has granted an identical option to Pacific with respect to all or any part of 29,304 shares of Pacific common stock owned by Graham.

As part of the agreement, Block and Graham have entered into 5-year employment contracts to manage Reliable. In addition, Block has covenanted not to compete for the term of his employment and for 5 years thereafter, and Graham has so covenanted for the term of his employment and 2 years thereafter. Bell has unconditionally guaranteed the payment, performance, and discharge by Pacific of its obligations under the agreement. On the date of the agreement, the Pacific common stock was traded on the American Stock Exchange between 5⅛ and 5¼.

Section 17 of the Act, as here pertinent, makes it unlawful for any affiliated person of a registered investment company (as defined in section 2(a) (3) of the Act), or any affiliated person of such a person, to sell to or purchase from any company controlled by such registered company any security or other property unless the Commission upon application grants an exemption from such prohibition after finding that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of the registered investment company and with the general purposes of the Act. All interested persons are referred to the application on file with the Commission for a full statement of the representations made therein, which are summarized above.

Notice is further given that any interested person may, not later than December 21, 1967, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicants at the addresses stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14251; Filed, Dec. 6, 1967; 8:47 a.m.]

[811-669]

PLANS FOR THE ACCUMULATION OF SHARES OF SECURITIES FUND, INC.

Notice of Filing of Application for Order Declaring Company Has Ceased To Be Investment Company

DECEMBER 1, 1967.

Notice is hereby given that plans for the accumulation of shares of Securities Fund, Inc. ("Applicant"), 1617 John F. Kennedy Boulevard, Philadelphia, Pa. 19103, a unit investment trust registered under the Investment Company Act of 1940, 15 U.S.C. Sec. 80a–1 *et seq.* ("Act"), has filed by its sponsor, Securities Fund Investors, Inc. ("Sponsor"), an application pursuant to section 8(f) of the Act for an order declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of Applicant's representations which are summarized below.

Applicant represents that it was organized as a trust in 1960 to accumulate the shares of Securities Fund, Inc., a registered investment company, as the underlying investment for monthly installment plans ("Plans"). Applicant's registration statement was ordered effective September 13, 1960. No Plans were sold after March 31, 1964. In 1965, 12 individuals owned the 15 Plans then outstanding; since this date, one person completed his Plan and the Plan was terminated.

Pursuant to a solicitation by the Sponsor in April 1967, four Plans owned by two individuals were terminated voluntarily; the Sponsor paid all termination charges. The nine remaining Planholders (10 Plans) terminated their Plans and transferred the shares to a voluntary periodic investment program of Securities Fund, Inc. Applicant represents that there are now no Plans outstanding.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, which may be made upon appropriate conditions necessary for the protection of investors, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than December 21, 1967, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponement thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14252; Filed, Dec. 6, 1967; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 1139]

MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER APPLICATIONS

DECEMBER 1, 1967.

The following applications are governed by Special Rule 1.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with § 1.247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of § 1.247(d)(4) of the special rule, and shall include the certification required therein.

Section 1.247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here notice will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 217 (Sub-No. 11), filed November 15, 1967. Applicant: POINT TRANSFER, INC., Post Office Box 1415, Station C, Canton, Ohio 44708. Applicant's representative: Paul F. Beery, Suite 1800, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobile bodies*, wrecked or scrapped, from points in West Virginia, Pennsylvania, Indiana, Illinois, and Kentucky to Cleveland, Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 730 (Sub-No. 291), filed November 8, 1967. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a corporation, 1417 Clay Street, Oakland, Calif. 94604. Applicant's representative: Charles Frederick Zeebuyth (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, from points in California to points in Louisiana. NOTE: If a hearing is deemed necessary, applicant requests it be held at San Francisco or Los Angeles, Calif.

No. MC 3560 (Sub-No. 33), filed November 20, 1967. Applicant: GENERAL EXPRESSWAYS, INC., 1205 South Platte River Drive, Denver, Colo. 80223. Applicant's representative: William E. Kenworthy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment), between Moline, Ill., and Gary, Ind., from Moline over Interstate Highway 80 to Joliet, Ill., thence over Interstate Highway 80 to Gary, Ind., and return over the same route, serving no intermediate points, as an alternate route for operating convenience only. NOTE: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Chicago, Ill.

No. MC 3560 (Sub-No. 34), filed November 20, 1967. Applicant: GENERAL EXPRESSWAYS, INC., 1205 South Platte River Drive, Denver, Colo. 80223. Applicant's representative: Kenneth A. Willits, 1205 South Platte River Drive, Denver, Colo. 80223. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Cleveland, Ohio, and junction Interstate Highway 95 and U.S. Highway 1; from Cleveland over Interstate Highway 80 to junction Interstate Highway 95, thence over Interstate Highway 95 to junction U.S. Highway 1 located at or near Leonia, N.J., and return over the same route, serving no intermediate points, as an alternate route for operating convenience only. NOTE: If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio, or Washington, D.C.

No. MC 10345 (Sub-No. 85), filed November 15, 1967. Applicant: C & J COMMERCIAL DRIVEAWAY, INC., 1905 West Mount Hope Avenue, Lansing, Mich. Applicant's representative: James W. Wrape, 2111 Sterick Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles* (except trailers, assembled in Canada for Oldsmobile Division, General Motors Corp. in truckaway service, in secondary movements), from Pittsburgh, Pa., to points in Pennsylvania, Ohio, West Virginia, and Frostburg and Cumberland, Md., restricted to vehicles which have had an immediately prior movement by rail. NOTE: If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., Chicago, Ill., or Washington, D.C.

No. MC 10761 (Sub-No. 230), filed November 13, 1967. Applicant: TRANSAMERICAN FREIGHT LINES, INC., 1700 North Waterman Avenue, Detroit, Mich. 48209. Applicant's representative: A. Alvis Layne, Pennsylvania Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I, to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk in tank vehicles, and hides), from the plantsite of Missouri Beef Packers located at or near Friona, Tex., to points in Connecticut, Delaware, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. NOTE: If a hearing is deemed necessary, applicant does not specify location.

No. MC 30224 (Sub-No. 24), filed November 13, 1967. Applicant: TRANSPORT SERVICE, INC., 104 Capitol Street, Post Office Box 113, Yankton, S. Dak. 57078. Applicant's representative: Donald D. Couch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum and petroleum products* in bulk, from the site of Kaneb Pipeline Co. terminal at or near Struble, Iowa, to points in South Dakota, and (2) *feed, fertilizer and fertilizer compounds* (all grades) dry in containers and bulk, from

[1] Copies of special rule 1.247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

points in the Sioux City, Iowa, commercial zone and points within 10 miles thereof to points in South Dakota. NOTE: If a hearing is deemed necessary, applicant requests it be held at Sioux City, Iowa, or Sioux Falls, S. Dak.

No. MC 30504 (Sub-No. 15) (Correction), filed October 18, 1967, published in FEDERAL REGISTER issue of November 2, 1967, and republished as corrected, this issue. Applicant: TUCKER FREIGHT LINES, INC., 1451 South Olive Street, South Bend, Ind. 46621. Applicant's representative: Ferdinand Born, 601 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, serving the plantsite of Ford Motor Co., Van Dyke and 18 Mile Road, Sterling Township, Mich., as an off-route point in connection with applicant's authorized regular route service into and from Detroit, Mich. NOTE: The purpose of this republication is to show name of the carrier as Tucker Freight Lines, Inc., in lieu of Trucker Freight Lines, Inc., as previously published. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Chicago, Ill.

No. MC 30837 (Sub-No. 347), filed November 15, 1967. Applicant: KENOSHA AUTO TRANSPORT CORPORATION, 4519 76th Street, Kenosha, Wis. 53141. Applicant's representative: Paul F. Sullivan, Colorado Building, 1341 G Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trucks and trailers*, equipped with concrete pumping units, in secondary movements, in truckaway service, and *unmounted pumping units*, from Gardena, Calif., to points in the United States. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 33641 (Sub-No. 69) (Correction), filed October 23, 1967, published in the FEDERAL REGISTER issue of November 24, 1967, and republished as corrected this issue. Applicant: IML FREIGHT, INC., Post Office Box 2277, Salt Lake City, Utah 84110. Applicant's representative: Marshall G. Berol, 100 Bush Street, Second Floor, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those requiring armored vehicles or armed guards, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) between Smith Center, Kans., and junction Interstate Highway 70 and Interstate Highway 75 (also junction U.S. Highway 40 and Interstate Highway 75), from Smith Center, Kans., over U.S. Highway 36 to Indianapolis, Ind., thence over Interstate Highway 70 to junction Interstate Highway 75 (or over U.S. Highway 40 to junction Interstate Highway 75) and return over the same route, serving no intermediate points, as an alternate route for operating convenience only, and (2) between Kansas City, Mo., and junction Interstate Highway 70 and Interstate Highway 75 (also junction U.S. Highway 40 and Interstate Highway 75), from Kansas City, Mo., over Interstate Highway 70 to junction U.S. Highway 54 (near Kingdom City, Mo.), thence over U.S. Highway 54 to junction U.S. Highway 36 (near Pittsfield, Ill.), thence over U.S. Highway 36 and the routes above specified to junction Interstate Highway 75, and return over the same routes, serving no intermediate points, as an alternate route for operating convenience only. NOTE: The purpose of this republication is to add the words "Interstate Highway 70 to junction" in (1) above, which were erroneously omitted. Common control may be involved. If a hearing is deemed necessary, applicant did not specify location.

No. MC 35628 (Sub-No. 284), filed November 20, 1967. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, a corporation, 134 Grandville SW., Grand Rapids, Mich. 49502. Applicant's representative: Leonard D. Verdier, Jr., 900 Old Kent Building, Grand Rapids, Mich. 49502. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), serving Chesaning, Mich., as an off-route point in connection with applicant's authorized regular route operations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lansing or Detroit, Mich.

No. MC 36536 (Sub-No. 20) (Correction), filed October 30, 1967, published in the FEDERAL REGISTER issue of November 16, 1967, corrected and republished as corrected, this issue. Applicant: FAB TRANSPORTATION, INC., 15 Warren Street, Jersey City, N.J. 07303. Applicant's representative: Charles H. Trayford, 137 East 36th Street, New York, N.Y. 10016. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats and packinghouse products*, as described in 61 M.C.C. 209, 272, and 61 M.C.C. 766, appendix A, B, and C, from carrier's terminal located at Hoboken, N.J., and rail terminals located at Secaucus, Kearny, North Bergen, and Newark, N.J., to points in Bergen, Essex, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, Union, and Warren Counties, N.J. NOTE: Applicant states the proposed authority is restricted to a distribution service that has had a prior interstate movement via rail boxcar, rail piggyback, and over-the-road motor carrier. The purpose of this republication is to indicate the above commodities as being described in 61 M.C.C. 209, 272, and 61 M.C.C. 766, appendix A, B, and C, in lieu of that cited in the previous publication.

No. MC 52657 (Sub-No. 657), filed November 15, 1967. Applicant: ARCO AUTO CARRIERS, INC., 1240 West 79th Street, Chicago, Ill. 60620. Applicant's representative: A. J. Bieberstein, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Trailers, trailer chassis, semitrailers*, and *semitrailer chassis* (except those designed to be drawn by passenger automobiles) in initial truckaway and driveaway service, from Grandview Heights, Ohio, to points in the United States, including Alaska, but excluding Hawaii; (2) *tractors*, in secondary movements, in driveaway service, only when drawing trailers in initial movements, from Grandview Heights, Ohio, to points in Alabama, Alaska, Arizona, Arkansas, California, Colorado, Georgia, Idaho, Kansas, Louisiana, Maine, Mississippi, Montana, Nevada, New Hampshire, New Mexico, North Dakota, Oklahoma, Oregon, South Carolina, Tennessee, Texas, Utah, Vermont, Washington, Wyoming, and the District of Columbia; and (3) *materials, supplies, and parts* used in the manufacture, assembly, or servicing of the commodities described in paragraph (1) above, when moving in mixed loads with such commodities, from Grandview Heights, Ohio, to points in the United States, including Alaska, but excluding Hawaii. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Cleveland, Ohio.

No. MC 56553 (Sub-No. 18), filed November 20, 1967. Applicant: PULASKI HIGHWAY EXPRESS, INC., 640 Hamilton Avenue, Nashville, Tenn. Applicant's representative: Charles H. Hudson, Jr., 83 Stahlman Building, Nashville, Tenn. 37201. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, dangerous explosives, and commodities requiring special equipment), between Memphis, Tenn., and Florence, Ala., over U.S. Highway 72, serving no intermediate points, but serving Sheffield, Tuscumbia, and Muscle Shoals, Ala., as off-route points, restricted against service at the plantsites of Reynolds Aluminum Co. at Florence, Sheffield, and Tuscumbia, Ala. NOTE: If a hearing is deemed necessary, applicant requests it be held at Florence, Ala., Memphis, Tenn., or Birmingham, Ala.

No. MC 56553 (Sub-No. 19) filed November 17, 1967. Applicant: PULASKI HIGHWAY EXPRESS, INC., 640 Hamilton Avenue, Nashville, Tenn. 37203. Applicant's representative: James C. Havron, 513 Nashville Bank & Trust Building, Nashville, Tenn. 37201. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Memphis, Tenn., and Hopkinsville, Ky.: From Memphis over U.S. Highway 79 to junction U.S. Highway 41A, thence over U.S. Highway 41A to Hopkinsville, and return over the same route, serving all intermediate points in Kentucky; (2) between Hopkinsville and Auburn, Ky., over U.S. Highway 68 serving all intermediate points; (3) between Hopkinsville, Ky., and Hopkinsville, Ky., in a circuitous manner; from Hopkinsville over U.S. Highway 68 to Cadiz, thence over Kentucky Highway 139 to Princeton, thence over U.S. Highway 62 to Dawson Springs, thence over Kentucky Highway 109 to Hopkinsville, and return over the same route serving all intermediate points; (4) between Hopkinsville and Princeton, Ky., over Kentucky Highway 91, serving all intermediate points; (5) between Hopkinsville and Russellville, Ky.: From Hopkinsville over U.S. Highway 41 to Guthrie, thence over U.S. Highway 79 to Russellville, and return over the same route, serving all intermediate points; (6) between Guthrie and Elkton, Ky., over Kentucky Highway 181, serving all intermediate points; and (7) between Memphis, Tenn., and the intersection of U.S. Highway 79 and 45E at or near Milan, Tenn.: From Memphis over Interstate Highway 40 to intersection with U.S. Highway 45, thence over U.S. Highway 45 to junction U.S. Highway 45E, thence over U.S. Highway 45E to intersection with U.S. Highway 79, and return over the same route, as an alternate for operating convenience only, serving no intermediate points. NOTE: Applicant states the above routes will be tacked with each other and with the applicant's present authority No. MC 56553 so as to provide a through service. If a hearing is deemed necessary, applicant requests it be held at Hopkinsville, Ky., or Nashville, Tenn.

No. MC 60252 (Sub-No. 24), filed November 13, 1967. Applicant: ARLINGTON TRUCK COMPANY, a corporation, 524 Oregon Road, Toledo, Ohio 43605. Applicant's representative: John D. Obee (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass products namely plate glass, polished wired glass, rolled glass, and float glass on "A" frame racks*, between Toledo, Ohio, and points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois (south of U.S. Highway 24, excepting Danville, Decatur, and Springfield), Indiana (south of U.S. Highway 36, excepting Evansville and Terre Haute), Iowa (excepting Davenport and Sioux City), Kentucky (excepting Lexington and Louisville), Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Missouri (excepting St. Louis), New Hampshire, New Jersey, New York (excepting on and west of U.S. Highway 15), North Carolina, Pennsylvania (excepting on and west of U.S. Highway 15 to Williamsport from the New York-Pennsylvania State line and excepting on and west of U.S. Highway 220 from Williamsport to the Pennsylvania-Maryland State line), Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia (excepting Charleston), Eau Claire, Janesville, La Crosse, and Madison, Wis., and the District of Columbia, under contract with Libbey-Owens-Ford Glass Co., Toledo, Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Toledo, Ohio, Detroit, Mich., or Columbus, Ohio.

No. MC 61396 (Sub-No. 193), filed November 16, 1967. Applicant: HERMAN BROS. INC., 2501 North 11th Street, Omaha, Nebr. 68110. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and fertilizer ingredients*, from the warehouse and storage facilities of Cominco located in Dakota County, Nebr., to points in Iowa, Minnesota, and South Dakota. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha or Lincoln, Nebr.

No. MC 63101 (Sub-No. 7), filed November 15, 1967. Applicant: KEENE'S TRANSFER, INC., doing business as KEENE'S TRANSFER, 1019 East Avenue, Tomah, Wis. 54660. Applicant's representative: John T. Porter, 16 North Carroll Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fiberglass plastic products and supplies and materials* used in connection therewith, from Necedah, Wis., to points in the Chicago, Ill., commercial zone as defined by the Commission, and (2) *prefabricated pump stations set-up and supplies and accessories*, in connection with the installation and operation of pump stations, from Tomah, Wis., to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Nebraska, North Dakota, and South Dakota. NOTE: If a hearing is deemed necessary, applicant requests it be held at Madison, Wis.

No. MC 67118 (Sub-No. 13), filed November 15, 1967. Applicant: STRONG MOTOR LINES, INCORPORATED, 5429 Midlothian Pike, Post Office Box 8821, Richmond, Va. 23225. Applicant's representative: Dale C. Dillon, Federal Bar Building West, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and dairy products*, between Richmond, Va., Raleigh, and Charlotte, N.C., on the one hand, and, on the other, Augusta, Ga., Columbia, and Orangeburg, S.C., under contract with Hygrade Food Products Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Richmond, Va.

No. MC 82841 (Sub-No. 41), filed November 15, 1967. Applicant: R-D TRANSFER, INC., 801 Livestock Exchange Building, Omaha, Nebr. 68107. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Material handling equipment; attaches; compaction and road making equipment, rollers, self-propelled and non-self-propelled; mobile cranes; and highway freight trailers; and (2) parts, attachments, and accessories* for the commodities described in (1) above, between the plantsites of the Hyster Co., located at or near Danville, Kewanee, and Peoria, Ill., on the one hand, and, on the other, points in Nebraska, Colorado, Kansas, and points in Iowa on and West of U.S. Highway 69, restricted to the handling of traffic originating at or destined to the plantsites. NOTE: If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Nashville, Tenn.

No. MC 89716 (Sub-No. 42), filed November 20, 1967. Applicant: DICK JONES TRUCKING, Post Office Box 965, Powell, Wyo. 82435. Applicant's representative: Thomas H. Cook (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building materials, gypsum, and gypsum products, and composition boards and materials, and supplies* used in the installation and/or application of such commodities with return of *rejected shipments or parts thereof*, from Cody, Wyo., to points in Washington, Oregon, Idaho, North Dakota, South Dakota, and Nebraska; and (2) *charcoal briquets, and lump wood charcoal* in packages with return of *rejected shipments or parts thereof*, from Lehigh, N. Dak., to Denver, Colo., Rapid City, S. Dak., and points in Montana and Wyoming. NOTE: If a hearing is deemed necessary, applicant requests it be held at Billings, Mont.

No. MC 95540 (Sub-No. 706) (Amendment), filed August 14, 1967, published in FEDERAL REGISTER issue of August 31, 1967, amended November 22, 1967, and republished as amended this issue. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, Fla. 33801. Applicant's representative: Hoyt Starr (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Textiles and textile products*, from points in North Carolina, South Carolina, and Georgia to points in Texas, Oklahoma, and New Mexico. NOTE: The purpose of this republication is to add New Mexico as a destination State, thereby broadening the scope of the application. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., Dallas, Tex., and Charlotte, N.C.

No. MC 101010 (Sub-No. 22), filed November 6, 1967. Applicant: ERIE-LACKAWANNA RAILROAD COMPANY, a corporation, 101 Prospect Avenue SW., Cleveland, Ohio 44115. Applicant's representative: J. T. Clark, 1336 Midland Building, Cleveland, Ohio 44115. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except commodities requiring special equipment, commodities in bulk, household goods as defined by the Commission, and commodities of unusual value in substituted motor-for-rail service), between Port Jervis and Binghamton, N.Y., from Port Jervis over New

York Highway 97 to junction with New York Highway 17 at Hancock, N.Y., thence over New York Highway 17 to Binghamton, N.Y., and return over the same route, serving all intermediate and off-route points which are stations on applicant's rail line. Restrictions: (1) The service to be performed by carrier shall be limited to service which is auxiliary to, or supplemental of rail service, (2) carrier shall not serve, or interchange traffic at any point not a station on its rail lines, and (3) shipments transported by carrier by motor vehicles shall be limited to those which it receives from or delivers to, its rail lines under a through bill of lading covering, in addition to a motor carrier movement by carrier, an immediately prior or immediately subsequent movement by rail. NOTE: Applicant states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Binghamton or Port Jervis, N.Y.

No. MC 103993 (Sub-No. 308), filed November 13, 1967. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, Ind. 46514. Applicant's representative: Robert G. Tessar (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Portable shelters*, in initial movements, from points in Orange County, Calif., to points in the United States, except Alaska and Hawaii. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 103993 (Sub-No. 309), filed November 13, 1967. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, Ind. 46514. Applicant's representative: Robert G. Tessar (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers designed to be drawn by passenger automobiles*, in initial movement, from points in Mecklenburg County, Va., to points in the United States, except Alaska and Hawaii. NOTE: If a hearing is deemed necessary, applicant requests it be held at Richmond, Va.

No. MC 105375 (Sub-No. 35), filed November 16, 1967. Applicant: DAHLEN TRANSPORT OF IOWA, INC., 875 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Leonard Jaskiewicz, Madison Building, 1155 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals and fertilizers*, from Lincoln, Nebr., to points in Colorado, Iowa, Kansas, Missouri, Nebraska, South Dakota, and Wyoming. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Omaha, Nebr.

No. MC 105461 (Sub-No. 80), filed November 15, 1967. Applicant: HERR'S MOTOR EXPRESS, INC., Box 8, Quarryville, Pa. 17566. Applicant's representative: Bernard N. Gingerich, 110 West State Street, Quarryville, Pa. 17566. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lard, beef shortening, vegetable oils, blended vegetable oils, vegetable shortening, blended shortenings, oleomargarine, inedible animal and vegetable oils and greases*, in containers, from the plantsites of the Colfax Packing Co. and Liberty Shortening Corp. in Pawtucket, R.I., to points in Delaware, Maryland, Virginia, and Washington, D.C. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Philadelphia, Pa.

No. MC 105461 (Sub-No. 81), filed November 14, 1967. Applicant: HERR'S MOTOR EXPRESS, INC., Box 8, Quarryville, Pa. 17566. Applicant's representative: Bernard N. Gingerich, 110 West State Street, Quarryville, Pa. 17566. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum products*, in containers, *commodities* used in the operation of, or sold by retail gasoline service stations moving in the same vehicle and at the same time with petroleum products, in containers, from Marcus Hook, Pa., to points in Rhode Island (except Providence, R.I.), Maine, New Hampshire, and Vermont; and (2) *empty petroleum products containers* (other than new), from points in Rhode Island (except Providence, R.I.), Maine, New Hampshire, and Vermont, to Marcus Hook and Philadelphia, Pa. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Philadelphia, Pa.

No. MC 106920 (Sub-No. 26), filed November 17, 1967. Applicant: RIGGS FOOD EXPRESS, INC., Post Office Box 26, West Monroe Street, New Bremen, Ohio 45869. Applicant's representative: Carroll V. Lewis, 122 East North Street, Sidney, Ohio 45365. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oleomargine, salad dressing, sandwich spread, mayonnaise, vegetable oil, vegetable oil shortening, and related advertising matter*, when moving in mixed shipments with the specified commodities, in vehicles equipped with mechanical refrigeration devices (except in bulk in tank vehicles), from Cincinnati, Ohio, to points in Pennsylvania, New York, Virginia, West Virginia, and Michigan. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 107012 (Sub-No. 74), filed November 13, 1967. Applicant: NORTH AMERICAN VAN LINES, INC., Post Office Box 988, Fort Wayne, Ind. 46801. Applicant's representative: Martin A. Weissert (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor coverings*, uncrated, from points in Houston County, Ga., to Baltimore, Md.; Moonachie, N.J.; Albany, N.Y.; Chelsea, Mass.; and Allentown, Harrisburg, Philadelphia, and Pittsburgh, Pa. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107064 (Sub-No. 61), filed November 15, 1967. Applicant: STEERE TANK LINES, INC., 2808 Fairmount Street, Post Office Box 2998, Dallas, Tex. 75201. Applicant's representative: Hugh T. Matthews, 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fertilizer and fertilizer materials*, from points in Hale County, Tex., to points in Arkansas and Louisiana; and (2) *chemicals, insecticides, pesticides, herbicides, and fungicides*, from points in Hale County, Tex., to points in Arizona, Arkansas, Colorado, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, and Wyoming. NOTE: If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 107227 (Sub-No. 97), filed November 22, 1967. Applicant: INSURED TRANSPORTERS, INC., 1944 Williams Street, San Leandro, Calif. 94577. Applicant's representative: John G. Lyons, 1418 Mills Tower, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Motor vehicles* (except passenger automobiles) and *chassis*, in initial movements, in driveaway and truckaway service; and, (2) *bodies, cabs, and parts of, and accessories* for such vehicles, from Nashville, Tenn., to points in the United States (including Alaska but excluding Hawaii). NOTE: If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Washington, D.C.

No. MC 107839 (Sub-No. 118), filed November 13, 1967. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., Post Office Box 16021, Denver, Colo. 80216. Applicant's representative: Paul M. Daniell, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I, *Description of Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from the plantsite of Missouri Beef Packers at or near Friona, Tex., to points in Louisiana, Colorado, and Nevada, restricted to traffic originating at the above-named plantsite and destined to the States named. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Dallas, Tex.

No. MC 108449 (Sub-No. 274), filed November 15, 1967. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minn. 55113. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt and asphalt products, tar and tar products*, from Des Moines, Iowa, to points in Minnesota, Nebraska, and South Dakota. NOTE: Applicant indicates that tacking can be made at Marshall, Alexandria, Mankato, St. Paul, Minneapolis, and Winona, Minn., to serve the States of North Dakota, Wisconsin, and upper

Michigan, as authorized in MC 108449 Subs 85 and 128. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Des Moines, Iowa.

No. MC 108449 (Sub-No. 275), filed November 15, 1967. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minn. 55113. Applicant's representative: W. A. Mylenbeck (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid animal food and liquid animal food supplements*, in bulk, from Dubuque, Iowa, to points in Illinois, Iowa, Indiana, Kansas, Missouri, Minnesota, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Minneapolis, Minn.

No. MC 108393 (Sub-No. 19), filed November 17, 1967. Applicant: W. L. MEAD, INC., Post Office Box 31, Norwalk, Ohio 44857. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Wellington, Ohio, as an off-route point in connection with applicant's regular route authority between Boston, Mass., and Columbus, Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus or Cleveland, Ohio.

No. MC 111401 (Sub-No. 239), filed November 17, 1967. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, Post Office Box 632, Enid, Okla. 73701. Applicant's representative: Alvin L. Hamilton (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn and corn products*, from Atchison, Kans., to points in Indiana, Illinois, Wisconsin, Iowa, Missouri, Minnesota, Arkansas, Louisiana, Texas, Oklahoma, Colorado, and Nebraska. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Oklahoma City, Okla.

No. MC 112254 (Sub-No. 7), filed November 20, 1967. Applicant: B & B TRANSPORT, INC., 408½ South Roan Street, Johnson City, Tenn. 37601. Applicant's representative: Clifford E. Sanders, 321 East Center Street, Kingsport, Tenn. 37660. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick, cinder blocks, concrete blocks, clay and clay products, shale and shale products, and concrete and concrete products*, (1) from Johnson City and Elizabethton, Tenn., to points in Alleghany, Bedford, Botetourt, Buchanan, Bland, Carroll, Craig, Dickenson, Floyd, Franklin, Giles, Grayson, Henry, Lee, Montgomery, Patrick, Pittsylvania, Pulaski, Roanoke, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe Counties, Va., (2) from Elizabethton, Tenn., to points in Bell, Breathitt, Clay, Floyd, Harlan, Jackson, Johnson, Knott, Knox, Laurel, Leslie, Letcher, McCreary, Magoffin, Martin, Owsley, Perry, Pike, Rockcastle, and Whitley Counties, Ky., and points in Fayette, Logan, McDowell, Mercer, Mingo, Raleigh, Summers, and Wyoming Counties, W. Va., (3) between Elizabethton, Tenn., on the one hand, and, on the other, Richmond, Va., (4) from Elizabethton, Tenn., and Groseclose, Va., to Louisville, Ky., and (5) between Johnson City and Elizabethton, Tenn., and Groseclose, Va., on the one hand, and, on the other, points in Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Cabarrus, Caldwell, Catawba, Cherokee, Clay, Cleveland, Davidson, Davie, Forsyth, Gaston, Guilford, Haywood, Henderson, Iredell, Jackson, Lincoln, McDowell, Macon, Madison, Mecklenburg, Mitchell, Polk, Randolph, Rockingham, Rowan, Rutherford, Stokes, Surry, Transylvania, Watauga, Wilkes, Yadkin, and Yancey Counties, N.C., under contract with General Shale Products Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Nashville, Tenn.

No. MC 112532 (Sub-No. 30), filed November 14, 1967. Applicant: T. M. ZIMMERMAN COMPANY, a corporation, Post Office Box 380, Chambersburg, Pa. Applicant's representative: John M. Musselman, 400 North Third Street, Harrisburg, Pa. 17108. Authority sought, to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods, and salt and caustic soda* in mixed loads with frozen foods, from Ephrata, Pa., and Hagerstown and Smithburg, Md., to points in Connecticut, Delaware, Illinois, Indiana, Maryland, Massachusetts, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Virginia, West Virginia, Wisconsin, District of Columbia, and St. Louis, Mo., and *return shipments* from the above-specified destination points to Ephrata, Pa., and Hagerstown and Smithburg, Md. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C. or Harrisburg, Pa.

No. MC 112801 (Sub-No. 75), filed November 7, 1967. Applicant: TRANSPORT SERVICE CO., a corporation, Post Office Box 272, Cicero Station, Chicago, Ill. 60650. Applicant's representative: Leonard A. Jaskiewicz, 1155 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry plastics*, in bulk, in tank or hopper type vehicles, from the plantsite of Chemplex Co. located at or near Clinton, Iowa, to points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, New York, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Chicago, Ill.

No. MC 112801 (Sub-No. 76), filed November 15, 1967. Applicant: TRANSPORT SERVICE CO., a corporation, Post Office Box 272, Chicago, Ill. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dextrine*, in bulk, from Chicago, Ill., and points in the Chicago, Ill., commercial zone to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, Tennessee, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 113410 (Sub-No. 66), filed November 15, 1967. Applicant: DAHLEN TRANSPORT, INC., 875 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Leonard Jaskiewicz, 1155 15th Street NW., Madison Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals, acids, and gases*, from points in Ramsey, Wash., Anoka, Hennepin, Scott, Dakota, and Goodhue Counties, Minn., to points in Minnesota, North Dakota, South Dakota, Iowa, Wisconsin, Illinois, and the Upper Peninsula of Michigan. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 113678 (Sub-No. 299), filed November 15, 1967. Applicant: CURTIS, INC., 770 East 51st Avenue, Denver, Colo. 80216. Applicant's representative: Duane W. Ackile, Post Office Box 2028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from points in California, to points in Colorado and New Mexico. NOTE: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 113678 (Sub-No. 300), filed November 15, 1967. Applicant: CURTIS, INC., 770 East 51st Avenue, Denver, Colo. Applicant's representative: Duane W. Ackile, Post Office Box 2028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, from Luverne, Minn., to points in Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, New Jersey, Maryland, Delaware, Virginia, West Virginia, and the District of Columbia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Omaha, Nebr.

No. MC 113828 (Sub-No. 136), filed November 22, 1967. Applicant: O'BOYLE TANK LINES, INCORPORATED, 4848 Cordell Avenue, Washington, D.C. 20014. Applicant's representative: William P. Sullivan, Federal Bar Building West, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry dicalcium phosphate* (feed grade), in bulk, and in bags, from Baltimore, Md., to points in Connecticut, Delaware, Massachusetts,

New Jersey, New York, Pennsylvania, Ohio, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114106 (Sub-No. 57), filed November 15, 1967. Applicant: MAYBELLE TRANSPORT COMPANY, a corporation, Post Office Box 573, Lexington, N.C. 27292. Applicant's representative: William P. Sullivan, Federal Bar Building West, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, from points in North Carolina to points in North Carolina and South Carolina. NOTE: Applicant has contract carrier authority in MC 115176 Subs 1 and 3, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114194 (Sub-No. 147), filed November 20, 1967. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, Ill. 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adhesives, liquid dextrins, liquid starch, and liquid plastics*, in bulk, from Kansas City, Mo., to points in Nebraska, Missouri, and Illinois. NOTE: Applicant indicates it intends to tack with its existing authority at St. Louis, Mo., to provide a service to the area sought herein. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Chicago, Ill.

No. MC 114211 (Sub-No. 110), filed November 13, 1967. Applicant: WARREN TRANSPORT, INC., 305 Whitney Road, Post Office Box 420, Waterloo, Iowa 50704. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Suite 1625, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors* (not including tractors with vehicle beds, bed frames, or fifth wheels), (2) *agricultural machinery and implements*, (3) *industrial and construction machinery and equipment* (4) *equipment* designed for use in connection with tractors, (5) *trailers* designed for the transportation of the commodities described above (other than those designed to be drawn by passenger automobiles) (6) *attachments* for the commodities described above, (7) *internal combustion engines*, and (8) *parts and accessories* of the commodities described in (1) through (7) above when moving in mixed loads with such commodities, from the plant and warehouse sites of Massey-Ferguson, Inc., located at or near Cuyahoga Falls, Ohio, to points in the United States, except Hawaii and Alaska, restricted to traffic originating at the plant and warehouse sites of Massey-Ferguson, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 115331 (Sub-No. 237), filed November 21, 1967. Applicant: TRUCK TRANSPORT, INCORPORATED, 707 Market Street, St. Louis, Mo. 63101. Applicant's representative: Thomas F. Kilroy, 913 Colorado Building, 1341 G Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fertilizer and fertilizer compounds*, dry, in bulk, and in containers, from points in Des Moines County and Lee County, Iowa (except from Fort Madison and points within 5 miles of Fort Madison) to points in North Dakota, South Dakota, Nebraska, Kansas, Missouri, Minnesota, Wisconsin, Illinois, Indiana, Kentucky, Michigan, Ohio, and Iowa; and (2) *insecticides and herbicides*, in containers, and *applicators* for these commodities and those named in (1) above, from points in Des Moines County and Lee County to points in North Dakota, South Dakota, Nebraska, Kansas, Missouri, Minnesota, Wisconsin, Illinois, Indiana, Kentucky, Michigan, Ohio, and Iowa. NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 115669 (Sub-No. 82), filed November 16, 1967. Applicant: HOWARD N. DAHLSTEN, doing business as DAHLSTEN TRUCK LINE, Post Office Box 95, Clay Center, Nebr. 68933. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used (spent) silica-alumina catalyst, in pneumatic tank vehicles*, from Coffeyville and Phillipsburg, Kans., to Scottsbluff, Nebr. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha or Lincoln, Nebr.

No. MC 115683 (Sub-No. 104), filed November 16, 1967. Applicant: WESTERN-COMMERCIAL TRANSPORT, INC., 2400 Cold Springs Road, Fort Worth, Tex. 76101. Applicant's representative: W. H. Cole (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal fats*, in bulk, in tank vehicles, from Guymon, Okla., to points in Kansas. NOTE: If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Kansas City, Mo.

No. MC 116314 (Sub-No. 13), filed November 13, 1967. Applicant: MAX BINSWANGER TRUCKING, a corporation, 13846 Alondra, Santa Fe Springs, Calif. 90670. Applicant's representative: Carl H. Fritze, 1010 Wilshire Boulevard, Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, from the plantsite of Pacific Western Industries, Inc., located at or near Gorman, Calif., to points in Arizona and Nevada. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 117303 (Sub-No. 7), filed November 16, 1967. Applicant: HUDSON VALLEY CEMENT LINES, INC., Box 203, Claverack, N.Y. 12513. Applicant's representative: Martin Werner, 2 West 45th Street, New York, N.Y. 10036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, from Greenport, Columbia County, N.Y., to Plainville, Conn. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 117416 (Sub-No. 26), filed November 21, 1967. Applicant: NEWMAN AND PEMBERTON CORPORATION, 2007 University Avenue NW., Knoxville, Tenn. 37921. Applicant's representative: William P. Sullivan, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials and materials* used in the installation thereof, from Bardstown, Ky., to points in Florida, Georgia, Alabama, North Carolina, South Carolina, and Tennessee. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 119028 (Sub-No. 2), filed November 20, 1967. Applicant: VIVIAN EARL DICKINSON AND ROBERT EZRA DICKINSON, a partnership, doing business as DICKINSON BROTHERS LUMBER COMPANY, Route 3, Box 132, Spotsylvania, Va. 22553. Applicant's representative: J. R. Farley, 711 Insurance Building, 10 South 10th Street, Richmond, Va. 23219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fork lift trucks*, from the plantsites of the Hyster Co. located at Danville, Kewanee, and Peoria, Ill., to points in Virginia, except from Danville and Peoria, Ill., to Norfolk, Richmond, and Roanoke, Va., under contract with Virginia Bearings & Supply Co., Inc., Richmond, Va. NOTE: If a hearing is deemed necessary, applicant requests it be held at Richmond, Va., or Washington, D.C.

No. MC 119493 (Sub-No. 38), filed November 21, 1967. Applicant: MONKEM COMPANY, INC., West 20th Street Road, Post Office Box 1196, Joplin, Mo. 64801. Applicant's representative: Harry Ross, 848 Warner Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from ports on the Arkansas River located in Arkansas and Oklahoma, to points in Arkansas, Missouri, Kansas, Oklahoma, Texas, and Colorado. NOTE: Applicant states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 119767 (Sub-No. 204), filed November 13, 1967. Applicant: BEAVER TRANSPORT CO., a corporation, 100 South Calumet Street, Burlington, Wis. 53105. Applicant's representative: Allan B. Torhorst, Post Office Box 339, Burlington, Wis. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Fort Dodge, Iowa, to points in Illinois, Indiana, Kentucky, Michigan, Minnesota, Missouri, Ohio, Wisconsin, and Kansas City, Kans. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 123393 (Sub-No. 192), filed November 16, 1967. Applicant: BILYEU REFRIGERATED TRANSPORT CORP., 2105 East Dale Street, Springfield, Mo. 65803. Applicant's representative: Harley E. Laughlin, Post Office Box 948, Commercial Station, Springfield, Mo. 65803. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, mirrors, furniture parts, and marble, pieces or slabs*, polished in boxes or packages, (1) between Toccoa, Ga., Selma, Ala., and Trumann, Ark.; and, (2) from Toccoa, Ga., Selma, Ala., and Trumann, Ark., to points in North Dakota, South Dakota, Nebraska, Colorado, New Mexico, Georgia, Minnesota, Iowa, Kansas, Missouri, Oklahoma, Florida, Texas, Wisconsin, Illinois, Arkansas, Louisiana, Indiana, Kentucky, Mississippi, Tennessee, Alabama, Michigan, Ohio, Virginia, North Carolina, and South Carolina. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., Atlanta, Ga., or Oklahoma City, Okla.

No. MC 124211 (Sub-No. 110), filed November 15, 1967. Applicant: HILT TRUCK LINE, INC., 2937 North 27th Street, Post Office Box 834, Lincoln, Nebr. 68501. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Stone, and precast and prestressed concrete products*, (1) between points in Nebraska and (2) between points in Nebraska, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr.

No. MC 124522 (Sub-No. 2), filed November 15, 1967. Applicant: CARLO C. DROGO, Delaware Avenue, Landisville, N.J. 08326. Applicant's representative: Robert B. Einhorn, Room 1540, P.S.F.S. Building, 12 South 12th Street, Philadelphia, Pa. 19107. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Concrete products*, reinforced or otherwise *damaged and rejected shipments* thereof, and *materials, supplies, and equipment* used in the manufacture and installation of concrete products, reinforced or otherwise, between Vineland and Millville, N.J., and points in Connecticut, Delaware, Maryland, New York, Pennsylvania, Virginia, and the District of Columbia, under contract with Edward Campbell Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 124813 (Sub-No. 46) (amendment), filed October 30, 1967, published in the FEDERAL REGISTER issue of November 16, 1967, amended November 19, 1967, and republished as amended this issue. Applicant: UMTHUM TRUCKING CO., a corporation, 910 South Jackson Street, Eagle Grove, Iowa 50533. Applicant's representative: William A. Landau, 1451 East Grand Avenue, Des Moines, Iowa 50306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fertilizer*, from Rock Island, Ill., to points in Iowa, Minnesota, Missouri, and Wisconsin, and (2) *animal and poultry feed ingredients* (except liquids in bulk), from Rock Island, Ill., to points in Iowa, Kentucky, Ohio, and Michigan. NOTE: The purpose of this republication is to include the State of Kentucky as a destination State in (2) above. Applicant has contract carrier authority in MC 118468 Sub 16 and other subs, therefore, dual operations may be involved. Applicant states that no duplicating rights are held or being sought. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 124854 (Sub-No. 5), filed November 20, 1967. Applicant: GRIM BROS. TRUCKING CO., 997 Loucks Mill Road, York, Pa. Applicant's representative: John M. Musselman, 400 North Third Street, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Masonry units*, from the plantsite of United Glazed Products, Inc., Baltimore, Md., to points in Ohio, Virginia, West Virginia, and the District of Columbia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Baltimore, Md.

No. MC 127351 (Sub-No. 3), filed November 13, 1967. Applicant: CHANCE FREIGHT LINES, INC., 202 West Main Street, Gardner, Ill. 60424. Applicant's representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, Ill. 62707. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, from Seneca, Ill., and points within 5 miles thereof to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 127483 (Sub-No. 1), filed November 13, 1967. Applicant: ROEHM TRUCKING CO., a corporation, Rural Route No. 1, Willshire, Ohio. Applicant's representative: James R. Stiverson, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer, fertilizer materials, and fertilizer ingredients*, from Fostoria, Ohio, to New Haven, Salamonia, and Bluffton, Ind. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 127656 (Sub-No. 1), filed November 15, 1967. Applicant: CRYSTAL FREIGHT, INC., 631 Second Avenue, Huntington, W. Va. 25701. Applicant's representative: Paul F. Beery, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, machinery, materials, and supplies* used in the manufacture and shipping thereof, from Huntington, W. Va., to points in Georgia and Tennessee and *refused and rejected shipments*, on return. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 127629 (Sub-No. 11), filed November 21, 1967. Applicant: PASCAGOULA DRAYAGE COMPANY, INC., 705 East Pine Street, Hattiesburg, Miss. 39401. Applicant's representative: W. N. Innis (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, canned goods, including fish and shellfish, canned*, from Westwego, Harvey, Houma, Dulac, New Orleans, Golden Meadow, Pointe a la Hache, and Cameron, La., and Biloxi, Miss., to points in Alabama, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Biloxi Miss.

No. MC 127706 (Sub-No. 2), filed November 8, 1967. Applicant: LESTER D. CLINGERMAN, Rural Deliver No. 4, Duck Creek Road, Salem, Ohio. Applicant's representative: Robert T. Fitzsimons, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise* (except drugs) sold is discount drug stores, and *fixtures, equipment, and supplies* used by discount drug stores, between the warehouse of Whitecross Stores, Inc., at Austin Township, Mahoning County, Ohio, on the one hand, and, on the other, Whitecross Stores, Inc., retail outlets located in Hazelton, Scranton, Wilkes-Barre, Lock Haven, Allentown, Reading, Lancaster, York, and Harrisburg, Pa., under contract with Whitecross Stores, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 128273 (Sub-No. 16), filed November 21, 1967. Applicant: MIDWESTERN EXPRESS, INC., Post Office Box 188, Fort Scott, Kans. 66701. Applicant's representative: Harry Ross, 848 Warner Building, Washington, D.C. 20402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from ports on the Arkansas River, in Arkansas and Oklahoma, to points in Arkansas, Missouri, Kansas, Oklahoma, Texas, and Colorado. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 127820 (Sub-No. 2), filed November 17, 1967. Applicant: TRANSSERVICE, INC., Route No. 2, Coshocton, Ohio 43812. Applicant's representative: Taylor C. Burneson, 88 East Broad

Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cotton yarns*, from Sylacauga, Ala., to Coshocton, Ohio, under contract with Becton Dickinson & Co., Edmont-Wilson Division, of Coshocton, Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Cleveland, or Cincinnati, Ohio.

No. MC 129448 (Sub-No. 1), filed November 13, 1967. Applicant: UNIVERSAL AIRCRAFT SERVICE, INC., Willow Run Airport, Hangar No. 2, Ypsilanti, Mich. 48197. Applicant's representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, Mich. 48226. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, commodities in bulk, commodities requiring special equipment and household goods as defined by the Commission), between the Greater Wilmington Airport, Wilmington, Del., and Baltimore, Md., Philadelphia, Pa., and Newark, N.J., and the commercial zones thereof, under contract with Universal Airlines, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Washington, D.C.

No. MC 129472 (Sub-No. 1), filed November 17, 1967. Applicant: ASSOCIATED AIR CARGO, INC., 969 Bridgeport Avenue, Milford, Conn. 06460. Applicant's representative: William J. Meuser, 101 River Street, Milford, Conn. 06460. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities of extraordinary value, commodities in bulk, commodities requiring special equipment, and household goods as defined by the Commission), between the John F. Kennedy International Airport and La-Guardia Airport, New York, N.Y., and Newark Airport, Newark, N.J., on the one hand, and, on the other, points in Fairfield and New Haven Counties, Conn., on traffic having an immediately prior or subsequent movement by air. NOTE: If a hearing is deemed necessary, applicant requests it be held at Hartford, Conn., or New York, N.Y.

No. MC 129516, filed November 6, 1967. Applicant: PATTONS, INC., 14444 Sunset Highway, Bellevue, Wash. 98004. Applicant's representative: James T. Johnson, 1610 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Copra meal*, from San Francisco, Calif., to points in Washington; (2) *cottonseed meal*, from points in California to points in Washington and Oregon; and (3) *fish meal*, from points in Washington, including the port of entry on the international boundary line between the United States and Canada located at or near Blaine, Wash., and from Portland, Oreg., to points in Washington, Oregon, and Idaho. NOTE: If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 129523, filed November 8, 1967. Applicant: ROEDER S. STINSON, doing business as OWENS BROS. TRANSFER CO., 245 Onyx Street, Cornelion Bay, Calif. 95731. Applicant's representative: Bruce R. Greerhaert, 100 Bush Street, 21st Floor, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods* as defined by the Commission in 17 M.C.C. 467, between points on or within a 5-mile radius of the following described highways beginning at the Douglas-Ormsby, Nev., county line and Nevada Highway 28, along Nevada Highway 28 to the California-Nevada State line, thence along California Highway 28 to Tahoe City, Calif., thence along California Highway 267 to junction Interstate Highway 80, thence along Interstate Highway 80 to Soda Springs, Calif., thence along California Highway 89 to Emerald Bay, Calif. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Reno, Nev.

No. MC 129528, filed November 8, 1967. Applicant: WILLIAM D. EDWARDS, Conway, N.C. 27820. Applicant's representative: Vaughan S. Winborne, Capital Club Building, Raleigh, N.C. 27601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, dry, in bulk and in containers, between the plantsite of Smith-Douglass Division of the Borden Chemical Co., located at Chesapeake, Va., and points in Northampton County, N.C., under contract with Smith-Douglass Division of the Borden Chemical Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Raleigh, N.C., Richmond, Va., or Washington, D.C.

No MC 129541, filed November 17, 1967. Applicant: LLOYD ROWLEY, Rural Route 3, Mitchell, S. Dak. 57301. Applicant's representative: J. W. Kaye, 407 Western Building, Mitchell, S. Dak. 57301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting, tile, building materials* as described in appendix VI of Description Case 61 M.C.C. 209, 279, from Minneapolis and St. Paul, Minn., to points in Davison, Sanborn, and Hanson, S. Dak. NOTE: If a hearing is deemed necessary, applicant requests it be held at Sioux Falls or Pierre, S. Dak.

No. MC 129542, filed November 20, 1967. Applicant: MOSCA BROS. MOVING & STORAGE, INC., 7098 Coleman Mills Road, Rome, N.Y. 13440. Applicant's representative: Robert J. Gallagher, 66 Central Street, Wellesley, Mass. 02181. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in New York, restricted to shipments moving on the through bill of lading of a forwarder operating under section 402(b)(2) exemption and having an immediate, prior, or subsequent line-haul movement by rail, motor, water, or air. NOTE: If a hearing is deemed necessary, applicant requests it be held at Albany, N.Y.

No. MC 129645 (Sub-No. 1), filed November 20, 1967. Applicant: LAKE CITY EXPRESS, INC., 1165 Monroe Boulevard, Dearborn, Mich. 48124. Applicant's representative: Arthur P. Boynton or Wilhelmina Boersma, 1600 First Federal Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except classes A and B explosives, commodities in bulk, or commodities requiring special equipment, between Willow Run Airport at or near Ypsilanti, Mich., on the one hand, and, on the other, points in Wayne, Oakland, and Macomb Counties, Mich., restricted to shipments having an immediately prior or subsequent movement by aircraft. NOTE: If a hearing is deemed necessary, applicant requests it be held at Detroit or Lansing, Mich.

APPLICATIONS FOR BROKERAGE LICENSES

PASSENGERS

No. MC 12786 (Sub-No. 1), filed November 15, 1967. Applicant: PACIFIC PALISADES EDUCATIONAL TOURS, a corporation, 845 Via de la Paz, Post Office Box 191, Pacific Palisades, Calif. 90272. Applicant's representative: Richard Jay Collins, 575 Via de la Paz, Pacific Palisades, Calif. For a license (BMC 5) to engage in operations as a *broker* at Pacific Palisades, Calif., in arranging for the transportation of passengers and their baggage in special and charter operations, in all expense, round-trip tours, beginning and ending in points within California and extending to points in the United States, except Alaska and Hawaii.

No. MC 130044, filed October 2, 1967. Applicant: SUNNYLAND STAGES, INC., 528 West McDaniel, Springfield, Mo. 65805. Applicant's representative: Louis W. Cowan, Suite 221, Woodruff Building, Post Office Box 1305, S.S.S., Springfield, Mo. 65805. For a license (BMC 5) to engage in operations as a *broker* at Springfield, Mo., in arranging for the transportation of *passengers and their baggage*, in round-trip sightseeing and pleasure tours, beginning and ending at points on applicant's regular routes, as described in certificate No. MC 52479 in Missouri and Arkansas, and extending to points in the United States. NOTE: Applicant in its certificate No. MC 52479 holds common carrier passenger authority over specified regular routes (1) between Springfield, Mo., and Harrison, Ark., (2) between junction U.S. Highways 65 and 160, and Branson, Mo., serving all intermediate points.

APPLICATIONS OF WATER CARRIERS

No. W-1189 (Sub-No. 14) (Correction), BULK FOOD CARRIER, INC., Extension—Defluorinated Phosphate, filed October 24, 1967, published in the FEDERAL REGISTER issue of November 9, 1967, corrected and republished as corrected this issue. Applicant: BULK FOOD CARRIERS, INC., 311 California Street, San Francisco, Calif. 94104. Applicant's representative: J. Raymond Clark, 743 Investment Building, Washington, D.C. 20005. Application of Bulk Food Carriers, Inc., filed October 24, 1967, for a revised permit authorizing extension of its operations to include operation as a contract carrier by water in interstate or foreign commerce, by self-propelled vessels with the use of separate towing vessels in the transportation of *defluorinated phosphate*, in bulk, between ports in Florida and ports in California. NOTE: The purpose of this republication is to show "self-propelled vessels" in lieu of "non-self-propelled", and to show the correct address of the applicant's representative.

No. W-1189 (Sub-No. 15), BULK FOOD CARRIER, INC. Extension—Defluorinated Phosphate (2), filed November 27, 1967. Applicant: BULK FOOD CARRIERS, INC., 311 California Street, San Francisco, Calif. 94104. Applicant's representative: J. Raymond Clark, 743 Investment Building, Washington, D.C. 20005. Application of Bulk Food Carriers, Inc., filed November 27, 1967, for a revised permit authorizing extension of its operations as a contract carrier by water, in interstate or foreign commerce, by self-propelled vessels, in the transportation of *defluorinated phosphate, feed grade*, in bulk, in cargoes of not less than 5,000 tons, between ports in Florida, on the one hand, and, on the other, ports in Washington and Oregon.

APPLICATION IN WHICH NO ORAL HEARING HAS BEEN REQUESTED

No. MC 1783 (Sub-No. 13), filed November 13, 1967. Applicant: BLUE LINE EXPRESS, INC., Lowell Road, Nashua, N.H. 03060. Applicant's representative: Keith Vaskelionis, 44 Intervale Street, Nashua, N.H. 03060. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cans, tin, can ends, tin plate discs*, from Hightstown, N.J., to Boston and New Bedford, Mass.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 67-14211; Filed, Dec. 6, 1967; 8:45 a.m.]

[Notice 56]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 4, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-35414. By order of November 24, 1967. The Transfer Board approved the lease to A. N. Crowley, doing business as Crowley Trucking Co., Winters, Tex., of the certificate of registration in No. MC-37681 (Sub-No. 2) issued April 24, 1964, to L. G. Blumentritt, doing business as Iraan Motor Freight Line, Iraan, Tex., and evidencing a right to engage in transportation in interstate or foreign commerce corresponding in scope to the service authorized by SMC Certificate 22273, issued by the Railroad Commission of Texas, authorizing the transportation of numerous commodities under the headings oilfield equipment, pipe, and trenching machines, between points in Texas. A. N. Crowley, Post Office Box 756, Winters, Tex. 79567, representative for applicants.

No. MC-FC-69911. By order of November 24, 1967, the Transfer Board approved the transfer to City Express, Inc., Fowler, Ind., of certificate in No. MC-79292, issued March 24, 1958, to City Express & Transfer Co., a corporation, St. Louis, Mo., authorizing the transportation of: General commodities, with the usual exceptions, between points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone. Robert H. Levy, 29 South La Salle Street, Chicago, Ill. 60603, attorney for applicants.

No. MC-FC-70030. By order of November 24, 1967, the Transfer Board approved the transfer to Rapid Air Freight, Inc., Canton, Ohio, of the certificate of registration in No. MC-97743 (Sub-No. 3) issued August 2, 1965, to Frank Sukosd, doing business as Rapid Transit Co., East Canton, Ohio, and evidencing a right to engage in the transportation of property from and to the sites of the Akron-Canton Airport, the New Philadelphia Municipal Airport, the Cleveland-Hopkins Airport, the Mansfield Municipal Airport, and the Youngstown Municipal Airport, all in the State of Ohio, as specified in certificate No. 9839-I, dated April 25, 1961, as reissued December 2, 1963, by the Public Utilities Commission of Ohio. Richard H. Brandon, 79 East State Street, Columbus, Ohio 43215, attorney for applicants.

No. MC-FC-70031. By order of November 24, 1967, the Transfer Board approved the transfer to Pete Munis, Jr., Trinidad, Colo., of permit No. MC-125047 issued November 1, 1963, to Steve Glorioso, Trinidad, Colo., and authorizing the transportation of such commodities as are dealt in by retail mail order houses or department stores, from Trinidad, Colo., to points in Colfax County, N. Mex. Franklin W. Azar, Courthouse, Trinidad, Colo. 81082, attorney for applicants.

No. MC-FC-70032. By order of November 27, 1967, the Transfer Board approved the transfer to Escro Storage & Cartage, Inc., Buffalo, N.Y., of the operating rights of Kenneth Dimon, doing business as Dimon & Bacorn, Elmira, N.Y., in Certificate No. MC-42656 (Sub-No. 7), issued December 9, 1964, authorizing the transportation, over irregular routes, of meats, meat products, meat byproducts, dairy products, and articles distributed by meat packinghouses, as described in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, from Elmira, N.Y., to points in Allegany, Broome, Cayuga, Chemung, Chenango, Cortland, Livingston, Madison, Onondaga, Ontario, Schuyler, Seneca, Steuben, Tioga, Tompkins, Wayne, and Yates Counties, N.Y., and Bradford, Clinton, Columbia, Lackawanna, Lycoming, Montour, Potter, Sullivan, Susquehanna, Tioga, and Wyoming Counties, Pa. Charles H. Trayford, 137 East 36th Street, New York, N.Y. 10016, representative for applicants. James L. Burke, 315 Lake Street, Elmira, N.Y. 14901, attorney for applicants.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 67-14270; Filed, Dec. 6, 1967; 8:49 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

DECEMBER 4, 1967.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41178—*Perchloroethylene* to *Danville, Ill.* Filed by O. W. South, Jr., agent (No. A-5068), for interested rail carriers. Rates on perchloroethylene, in tank carloads, from Baton Rouge, and North Baton Rouge, La., to Danville, Ill.

Grounds for relief—Market competition.

Tariff—Supplement 178 to Southern Freight Association, agent, tariff ICC S-272

AGGREGATE-OF-INTERMEDIATES

FSA No. 41179—*Perchloroethylene to Danville, Ill.* Filed by O. W. South, Jr., agent (A-5069), for interested rail carriers. Rates on perchloroethylene, from Baton Rouge, La., and North Baton Rouge, La., to Danville, Ill.

Grounds for relief—Maintenance of depressed rates published to meet market competition without use of such rates as factors in construction of combination rates.

Tariff—Supplement 178 to Southern Freight Association, agent, tariff ICC S-272

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 67-14271; Filed, Dec. 6, 1967; 8:49 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—DECEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during December.

3 CFR

Page

EXECUTIVE ORDERS:

Dec. 5, 1913 (revoked by PLO 4327) 16531
Mar. 21, 1914 (revoked by PLO 4327) 16531
June 24, 1914 (revoked by PLO 4327) 16531
11248 (amended by EO 11384) 17423
11382 17421
11384 17423

5 CFR

210 16474
213 16477
315 16474
351 16474
352 16474
353 16475
430 16475
511 16475
531 16475
713 16476
731 16476
752 16476
754 16476
771 16477
772 16477
831 16477
891 16477

7 CFR

401 ..... 16478, 17425, 17513
718 17513
722 17467
724 16478
725 16479
815 16525
905 16525
907 ..... 16526, 17515
910 16526
944 17425
982 16527
989 17467
1062 16479
1073 16480
1094 16527
1103 16527
1106 16480
1126 16480
1421 16528
1427 16528

PROPOSED RULES:

911 17431
915 17431
980 17432
982 17434

12 CFR

12 17468
206 17469
224 17425
335 17470
561 17515

PROPOSED RULES:

563 17544

14 CFR

Page

39 ..... 16481, 17426, 17515, 17516
61 16481
71 ..... 16482, 16483, 17426, 17427, 17516–17518
73 17427
75 17518
91 16483
97 16484
121 16481
151 17471
301 16491
303 16491
311 16491
320 16491
421 16491
430 16491
431 16491
435 16491

PROPOSED RULES:

1 16495
21 17485
25 17487
39 17429
71 ..... 16495, 17488, 17543
73 17488
91 16495
214 16535
295 16535

15 CFR

373 17471

16 CFR

13 17427

PROPOSED RULES:

301 17544

19 CFR

12 17428
22 16528

21 CFR

120 ..... 16529, 17472
121 ..... 16529, 16530, 17472
130 16531
148 16531
148e 16491
166 17473

PROPOSED RULES:

31 16533
46 17482
136 16533

22 CFR

10 17454

23 CFR

PROPOSED RULES:

255 16534

25 CFR

PROPOSED RULES:

221 17543

26 CFR

Page

1 ..... 17479, 17518

28 CFR

0 16531

29 CFR

1910 16481

31 CFR

1 17519

32 CFR

537 17519

33 CFR

209 17522

39 CFR

123 17479
742 17479

41 CFR

1–1 16491
9–1 17543
Ch. 18 17003

43 CFR

PUBLIC LAND ORDERS:

334 (revoked in part by PLO 4333) 17480
1796 (revoked in part by PLO 4331) 17479
2764 (see PLO 4331) 17479
4327 16531
4328 17480
4329 16532
4330 17479
4331 17479
4332 17479
4333 17480
4334 17480
4335 17480

46 CFR

510 17480

PROPOSED RULES:

514 16496

47 CFR

97 17429

PROPOSED RULES:

2 16495
87 16495
91 17440

49 CFR

390 17480
1200 17480

50 CFR

32 17543
33 ..... 16532, 17480, 17481
254 16496

PUBLIC PAPERS OF THE PRESIDENTS OF THE UNITED STATES

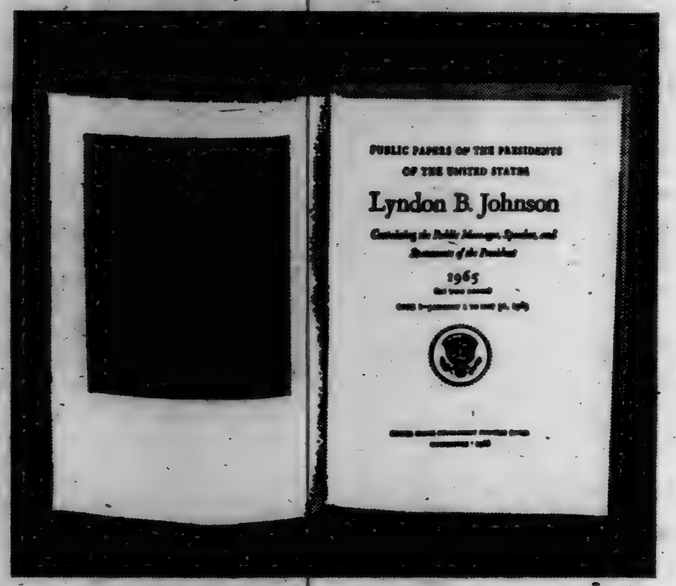

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VOLUME 32 • NUMBER 237

Friday, December 8, 1967 • Washington, D.C.

Pages 17567–17609

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Agencies in this issue—

The President
Agricultural Stabilization and Conservation Service
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Atomic Energy Commission
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Civil Aeronautics Board
Comptroller of the Currency
District of Columbia Redevelopment Land Agency
Federal Aviation Administration
Federal Housing Administration
Federal Power Commission
Federal Reserve System
Federal Trade Commission
Food and Drug Administration
Interior Department
Interstate Commerce Commission
Maritime Administration
Navy Department
Securities and Exchange Commission
Treasury Department

Detailed list of Contents appears inside.

237

Announcing First 10-Year Cumulation

TABLES OF LAWS AFFECTED

in Volumes 70–79 of the

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Contents

THE PRESIDENT

Proclamation

Wright Brothers Day, 1967 17571

EXECUTIVE AGENCIES

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Notices

Kansas et al.; authorization for grazing and harvesting of hay on diverted acreage in designated counties 17608

AGRICULTURE DEPARTMENT

See also Agricultural Stabilization and Conservation Service.

Notices

Iowa et al.; designation of areas for emergency loans 17603

ATOMIC ENERGY COMMISSION

Notices

State of Colorado; proposed agreement for assumption of certain AEC regulatory authority 17604

BONNEVILLE POWER ADMINISTRATION

Notices

Certain officials; redelegations of authority 17602

CENSUS BUREAU

Notices

Retailers' inventories, sales, and number of establishments; notice of consideration to continue survey 17603

CIVIL AERONAUTICS BOARD

Proposed Rule Making

Air taxi operators; liability insurance requirements; denial of petitions for rule making to redesignate and issue letters of registration 17598

Notices

Hearings, etc.:

International Air Transport Association 17604

Pan American World Airways, Inc 17604

COMMERCE DEPARTMENT

See Census Bureau; Maritime Administration.

COMPTROLLER OF THE CURRENCY

Rules and Regulations

Investment securities regulation; Carlsbad Building Authority Revenue Bonds (California) 17574

DEFENSE DEPARTMENT

See Navy Department.

DISTRICT OF COLUMBIA REDEVELOPMENT LAND AGENCY

Rules and Regulations

Employee standards of conduct; miscellaneous amendments 17573

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations

Federal airways; alteration 17574

Low altitude reporting point; designation 17576

Standard instrument approach procedures; miscellaneous amendments 17577

Transition area:

Alteration (2 documents) 17575

Designation 17576

Redesignation 17576

Transition area and control zone; alteration 17575

Proposed Rule Making

Control zone; proposed alteration 17596

Control zone and transition area:

Proposed alteration 17597

Proposed designation and alteration 17598

Transition area:

Proposed alteration (2 documents) 17596

Proposed designation 17596

FEDERAL HOUSING ADMINISTRATION

Rules and Regulations

Condominium ownership mortgage insurance; conversion of project to family units 17587

FEDERAL POWER COMMISSION

Notices

Harris, Jay J., et al.; order amending order issuing certificates etc 17605

FEDERAL RESERVE SYSTEM

Notices

Quincy Trust Co.; order approving merger of banks 17605

FEDERAL TRADE COMMISSION

Rules and Regulations

Substantial additional annual volume discount pricing program; nonapproval by Commission 17582

Proposed Rule Making

Advertising of non-prescription systemic analgesic drugs; extension of time for comments 17601

FOOD AND DRUG ADMINISTRATION

Rules and Regulations

Food additives; boiler water additives; labeling 17587

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Food and Drug Administration.

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Federal Housing Administration.

INTERIOR DEPARTMENT

See also Bonneville Power Administration.

Notices

Montana; redesignation of certain lands at the Fort Peck Indian Agency 17602

INTERSTATE COMMERCE COMMISSION

Notices

Fourth section applications for relief 17608

Motor carrier transfer proceedings 17608

MARITIME ADMINISTRATION

Rules and Regulations

Documentation, transfer or charter of vessels; miscellaneous amendments 17595

Payments from capital reserve fund; miscellaneous amendments 17595

NAVY DEPARTMENT

Rules and Regulations

Availability of official records; policies and procedures 17588

SECURITIES AND EXCHANGE COMMISSION

Rules and Regulations

Forms; revision and redesignation 17583

Notices

Hearings, etc.:

AMP, Inc., et al 17605

Connecticut Light and Power Co 17607

Foremost-McKesson, Inc., and Warner Bros., Seven Arts, Ltd 17606

Interamerican Industries, Ltd 17606

Kentucky Power Co 17607

Mid-America Pipelines Co 17606

Penrose Industries Corp 17606

Research-Cottrell, Inc., et al 17606

(Continued on next page)

TRANSPORTATION DEPARTMENT

See Federal Aviation Administration.

TREASURY DEPARTMENT

See also Comptroller of the Currency.

Notices

Reproduction cloth from England; determination of sales at not less than fair value 17602

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

3 CFR

PROCLAMATION:

3821 17571

5 CFR

2200 17573

12 CFR

1 17574

14 CFR

71 (7 documents) 17574–17576

97 17577

PROPOSED RULES:

71 (6 documents) 17596–17598

298 17598

16 CFR

15 17582

PROPOSED RULES:

415 17601

17 CFR

240 17583

270 17583

274 17583

21 CFR

121 17587

24 CFR

234 17587

32 CFR

701 17588

46 CFR

221 17595

255 17595

Presidential Documents

Title 3—THE PRESIDENT

Proclamation 3821

WRIGHT BROTHERS DAY, 1967

By the President of the United States of America

A Proclamation

December 17 will mark the 64th anniversary of powered flight.

It is difficult to believe that two pioneering brothers, Orville and Wilbur Wright, made the first successful flight in a heavier-than-air, mechanically propelled airplane just a little over threescore years ago. Few developments in technology have been so rapid as that of flight—from the frail craft at Kitty Hawk to the great jet planes and space capsules of today.

The Wright brothers' epic flight—in a plane they designed, built, and flew themselves—lasted less than a minute. But their inventive genius revolutionized transportation, and gave rise to great new industries that have strengthened America's defense and economy.

The names of Orville and Wilbur Wright symbolize American ingenuity and courage, and it is right that we should commemorate their achievements. To this end, the Congress by a joint resolution approved December 17, 1963 (77 Stat. 402), has designated the seventeenth day of December of each year as Wright Brothers Day and has requested the President to issue annually a proclamation inviting the people of the United States to observe that day with appropriate ceremonies and activities.

NOW, THEREFORE, I, LYNDON B. JOHNSON, President of the United States of America, do hereby call upon the people of this Nation, and their local and national government officials, to observe Wright Brothers Day, December 17, 1967, with appropriate ceremonies and activities, both to recall the accomplishments of the Wright brothers and to provide a stimulus to aviation in this country and throughout the world.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of December, in the year of our Lord nineteen hundred and sixty-seven, and of the Independence of the United States of America the one hundred and ninety-second.

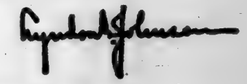

[F.R. Doc. 67-14378; Filed, Dec. 7, 1967; 10:00 a.m.]

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter XII—District of Columbia Redevelopment Land Agency

PART 2200—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Miscellaneous Amendments

Pursuant to and in accordance with Executive Order 11222 (30 F.R. 6469) and 5 CFR 735.104, Chapter XII of Title 5 of the Code of Federal Regulations, consisting of Part 2200, is amended as follows:

I. Section 2200.735–102(e) is amended to read:

§ 2200.735–102 Definitions.

* * * * * *

(e) "Division Head" means the head of a unit within the District of Columbia Redevelopment Land Agency designated as a Division by the Head of the Agency for the purposes of this part.

* * * * * *

§ 2200.735–201a [Redesignated]

II. Present § 2200.735–201 is redesignated as § 2200.735–201a.

III. A new § 2200.735–201 is added as follows:

§ 2200.735–201 Prescribed actions.

An employee shall avoid any action, whether or not specifically prohibited by the regulations in this part, which might result in, or create the appearance of:

(a) Using public office for private gain;

(b) Giving preferential treatment to any person;

(c) Impeding Government efficiency or economy;

(d) Losing complete independence or impartiality;

(e) Making a Government decision outside official channels; or

(f) Affecting adversely the confidence of the public in the integrity of the Government.

§ 2200.735–201 [Amended]

IV. Present § 2200.735–201(c) is deleted.

V. Present § 2200.735–201(d), redesignated as § 2200.735–201a(c), is amended to read as follows:

(c) An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

VI. Present § 2200.735–201(e), redesignated as § 2200.735–201a(d), is amended to read as follows:

(d) An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in Public Law 89–673, 80 Stat. 952.

VII. A new § 2200.735–201a(e) is added as follows:

(e) Neither this section nor § 2200.735–202 precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this part for which no Government payment or reimbursement is made. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits, nor does it allow an employee to be reimbursed by a person for travel on official business under agency orders when reimbursement is proscribed by Decision B–128527 of the Comptroller General, dated March 7, 1967.

§ 2200.735–202 [Amended]

VIII. The heading of § 2200.735–202 is amended to read:

§ 2200.735–202 Outside employment and other activity.

IX. Section 2200.735–202(e)(1) is deleted, and §§ 2200.735–202(e)(2) and 2200.735–202(e)(3) are redesignated §§2200.735–202(e)(1) and 2200.735–202(e)(2), respectively.

§ 2200.735–209 [Amended]

X. Section 2200.735–209(d) is amended to read:

(d) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).

XI. Section 2200.735–209(g) is amended to read:

(g) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638(c)).

XII. Section 2200.735–209(p) is amended to read:

(p) The prohibitions against political activities in Subchapter III of Chapter 73 of Title 5, United States Code and 18 U.S.C. 602, 603, 607, and 606.

XIII. A new § 2200.735–209(q) is added as follows:

(q) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

XIV. Section 2200.735–304(b) is amended to read:

§ 2200.735–304 Gifts, entertainment, and favors.

* * * * * *

(b) Exceptions for special Government employees shall be the same as for employees (see § 2200.735–201a(b)).

XV. Section 2200.735–401 is amended to read:

§ 2200.735–401 Form and content of statements.

The statements of employment and financial interests required under this subpart for use by employees and special Government employees shall contain, as a minimum, the information required by the formats prescribed by the Civil Service Commission in the Federal Personnel Manual. The Agency shall not include questions on a statement of employment and financial interests that go beyond, or are in greater detail, than those included on the Commission's formats without the approval of the Commission.

XVI. Section 2200.735–402 is amended to read:

§ 2200.735–402 Employees required to submit statements.

Except as provided in § 2200.735–402(b), statements of employment and financial interests shall be required from:

(a) Employees GS–13 and above who are Division Heads, or the superiors of Division Heads.

(b) Employees classified at GS–13 or above under section 5332 of Title 5, United States Code, or at a comparable pay level under any other authority, who hold positions which vest them with responsibility for making a Government decision or taking a Government action in regard to:

(1) Contracting or procurement, including the appraisal or selection of contractors; the negotiation or approval of contracts; the supervision of activities performed by contractors; the inspection of materials for acceptability; the procurement of materials, services, supplies, or equipment;

(2) Administering or monitoring grants (or subsidies) or relocation payments;

(3) Audit of financial transactions;

(4) Regulating or auditing private or other non-Federal enterprises;

(5) Land acquisition and disposition;

(6) Establishment and enforcement of safety standards and procedures systems; and

(7) Other activities where the decision or action has an economic impact on the interests of a non-Federal enterprise.

XVII. A new § 2200.735–402a is added as follows:

§ 2200.735–402a Employee's complaint on filing requirement.

An employee who complains that his position has been improperly included under this part as one requiring submission of a statement of employment and

financial interests shall have opportunity to have his complaint reviewed through the Agency's grievance procedure as set forth in the Employee Manual.

XVIII. A new § 2200.735–402b is added as follows:

§ 2200.735–402b Employees not required to submit statements.

Employees in positions that meet the criteria in paragraph (b) of § 2200.735–402 may be excluded from the reporting requirement when the Head of the Agency determines that:

(a) The duties of a position are such that the likelihood of the incumbent's involvement in a conflict-of-interest situation is remote;

(b) The duties of a position are at such a level of responsibility that the submission of a statement of employment and financial interests is not necessary because of the degree of supervision and review over the incumbent or the inconsequential effect on the integrity of the Government; or

(c) The use of an existing or alternative procedure approved by the Civil Service Commission is adequate to prevent possible conflicts of interest.

XIX. Section 2200.735–404 is amended to read:

§ 2200.735–404 Supplementary statements.

Changes in, or additions to, the information contained in an employee's statement of employment and financial interests shall be reported in a supplementary statement as of June 30, each year. If no changes or additions occur, a negative report is required. Notwithstanding the filing of the annual report required by this section, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflict-of-interest provisions or section 208 of Title 18, United States Code, or Subpart B of this part.

XX. Section 2200.735–408 is amended to read:

§ 2200.735–408 Confidentiality of employees' statements.

The Agency shall hold each statement of employment and financial interests, and each supplementary statement, in confidence. To insure this confidentiality, the Head of the Agency shall designate which employees are authorized to review and retain the statements. Employees so designated are responsible for maintaining the statements in confidence and shall not allow access to, or allow information to be disclosed from, a statement except to carry out the purpose of this part. The Agency may not disclose information from a statement except as the Civil Service Commission or the Head of the Agency may determine for good cause shown.

XXI. Section 2200.735–410(a)(2) is amended to read:

§ 2200.735–410 Specific provisions of Agency regulations for special Government employees.

(a) • • •

(2) The financial interests of the special Government employee which the Head of the Agency determines are relevant in the light of the duties he is to perform.

• • • • •

These amendments were approved by the Civil Service Commission on October 5, 1967, and are effective upon publication in the FEDERAL REGISTER.

Dated: November 28, 1967.

[SEAL] THOMAS APPLEBY,
Executive Director.

[F.R. Doc. 67–14303; Filed, Dec. 7, 1967; 8:47 a.m.]

Title 12—BANKS AND BANKING

Chapter I—Bureau of the Comptroller of the Currency, Department of the Treasury

PART 1—INVESTMENT SECURITIES REGULATION

Carlsbad Building Authority Revenue Bonds (California)

§ 1.202 Carlsbad Building Authority Revenue Bonds (California).

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $460,000 Carlsbad Building Authority Revenue Bonds for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Carlsbad Building Authority is a public entity created under the laws of California by an agreement between the City of Carlsbad and the County of San Diego. Under this agreement the Authority is authorized to acquire land, construct and lease public buildings and to issue bonds to finance such projects. The Authority is issuing these bonds for the purpose of constructing a civic center, which will be leased to the City and which will include facilities for City Offices, City Council Chambers and the Police.

(2) Under the lease rental agreement the City has unconditionally promised to pay annual rentals to the Authority in an amount sufficient to meet annual interest and principal payments on these bonds as well as other necessary expenses. The City which possesses general powers of taxation has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion, therefore, that the $460,000 Carlsbad Building Authority Revenue Bonds are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and, accordingly, are eligible for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

Dated: December 4, 1967.

[SEAL] WILLIAM B. CAMP,
Comptroller of the Currency.

[F.R. Doc. 67–14318; Filed, Dec. 7, 1967; 8:48 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

SUBCHAPTER E—AIRSPACE

[Airspace Docket No. 67–EA–1]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airways

On March 1, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 3402) stating that the Federal Aviation Administration was considering realigning V–1, V–139, and V–194 in the area between Norfolk, Va., and Salisbury, Md. Subsequent to publication of the notice, it was determined that the Snow Hill, Md., VORTAC would not support a segment of V–139 as proposed.

On July 11, 1967, a supplemental notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 10213) cancelling the original notice and proposing the following:

1. Redesignate V–194 from Norfolk via INT Norfolk 001° and Harcum, Va., 072° radials; to INT Harcum 072° and Snow Hill 211° radials.

2. Realign V–1 from Cape Charles, Va., via INT Cape Charles 009° and Salisbury 208° radials; to Salisbury.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments.

The Air Transport Association of America offered no objection. The Department of the Navy objected to the amended proposal as it would interfere with an expansion of R–6609, under consideration by the Federal Aviation Administration as Airspace Docket No. 67–EA–98.

Departures from Norfolk to the north were again reviewed by the agency and it was determined that the following alignments of V–1 and V–194 would satisfy departure procedures. The Department of the Navy agreed to a minor revision of the south boundary of the proposed R–6609 to accommodate V–1 as a standard width airway. Accordingly, action is taken herein to alter V–1 and V–194 as follows:

1. V–1 From Cape Charles via INT Cape Charles 008° and Salisbury 208° True radials; to Salisbury.

2. V–194 From Norfolk via INT Norfolk 001° and Harcum 075° True radials; to INT Harcum 075° and Snow Hill 211° True radials.

A representative of the Air Transport Association of America offered no objection to the altered proposals.

Since this is a minor change from the configuration as proposed in the notice in which the public is not particularly interested, the Administrator has determined that further notice and public procedure thereon is unnecessary and this change may be adopted in the rule.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., February 1, 1968, as hereinafter set forth.

Section 71.123 (32 F.R. 2009, 5253, 6390, 8079) is amended as follows:

1. In V–1 "12 AGL INT Cape Charles 015°" is deleted and "12 AGL INT Cape Charles 008°" is substituted therefor.

2. In V–194 "Cape Charles, Va., 313° radials." is deleted and "Harcum, Va., 075° radials; 12 AGL INT Harcum 075° and Snow Hill 211° radials." is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on December 1, 1967.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67–14290; Filed, Dec. 7, 1967; 8:45 a.m.]

[Airspace Docket No. 67–CE–103]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On page 13007 of the FEDERAL REGISTER dated September 13, 1967, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Peoria, Ill.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0001 e.s.t., February 1, 1968.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Kansas City, Mo., on November 20, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

In § 71.181 (32 F.R. 2148), the following transition area is amended to read:

PEORIA, ILL.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Greater Peoria Airport (latitude 40°39'45" N., longitude 89°41'35" W.); within 2 miles each side of the Greater Peoria Airport ILS localizer southeast course, extending from the 8-mile radius area to 8 miles southeast of the OM; within 8 miles southwest and 5 miles northeast of the Peoria VORTAC 279° radial, extending from the 8-mile radius area to 12 miles west of the VORTAC; within a 5-mile radius of Mount Hawley Auxiliary Airport (latitude 40°47'35" N., longitude 89°36'50" W.); and that airspace extending upward from 1,200 feet above the surface bounded on the north by latitude 41°10'10" N., on the east by longitude 88°40'00" W., on the south by latitude 40°20'00" N., and on the west by longitude 90°00'00" W.

[F.R. Doc. 67–14291; Filed, Dec. 7, 1967; 8:46 a.m.]

[Airspace Docket No. 67–CE–127]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Peru, Ind., transition area.

The two public use instrument approach procedures for Kokomo, Ind., Municipal Airport have been modified. As a result of this modification, the size of the Peru, Ind., 700-foot floor transition area can be reduced without eliminating that controlled airspace necessary for the protection of aircraft executing these altered approach procedures. Action is taken herein to effect this change. The present 1,200-foot floor transition area at Peru will not be changed as a result of this action.

Since the aforementioned change is less restrictive in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0001 e.s.t., February 1, 1968, as hereinafter set forth:

In § 71.181 (32 F.R. 2148), the following transition area is amended to read:

PERU, IND.

That airspace extending upward from 700 feet above the surface within a 15-mile radius of Bunker Hill AFB (latitude 40°39'40" N., longitude 86°08'30" W.); within a 6½-mile radius of Kokomo Municipal Airport (latitude 40°31'45" N., longitude 86°03'30" W.); and within a 5-mile radius of Logansport Municipal Airport (latitude 40°42'40" N., longitude 86°22'35" W.); and that airspace extending upward from 1,200 feet above the surface within the area bounded by a line beginning at latitude 40°07'00" N., longitude 86°00'00" W.; to latitude 40°07'00" N., longitude 86°33'00" W.; to latitude 41°00'00" N., longitude 85°50'00" W.; to latitude 40°30'00" N., longitude 85°50'00" W.; to point of beginning.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued at Kansas City, Mo., on November 22, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 67–14292; Filed, Dec. 7, 1967; 8:46 a.m.]

[Airspace Docket No. 67–SO–99]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area and Control Zone

On October 19, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 14564), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Charlotte, N.C., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. The one comment received from Air Transport Association (ATA) stated no objection to the proposal provided the Propst Airport operating designation remain "Private" and the volume restricted.

Any proposal to change the operating designation of this airport would require a separate study. Since the airport was found acceptable for limited VFR operations only, the volume is automatically restricted. Therefore, the comment submitted by ATA is not considered as an objection to this rule making action.

Subsequent to the publication of the notice, the geographic coordinate (lat. 35°23'30" N., long. 80°34'30" W.) for the Propst Airport was obtained from Coast and Geodetic Survey. Additionally, the geographic coordinate for Douglas Air-

port was refined to lat. 35°12'53" N., long. 80°56'18" W. Accordingly, action is taken herein to add the geographic coordinate for Propst Airport in the transition area description and correct the geographic coordinate for Douglas Airport in the transition area and control zone descriptions.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective February 1, 1968, as hereinafter set forth.

In § 71.181 (32 F.R. 2148), the Charlotte, N.C., 700-foot transition area (32 F.R. 3049) is amended to read:

CHARLOTTE, N.C.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Douglas Airport (lat. 35°12'58" N., long. 80°56'18" W.); within a 6-mile radius of Propst Airport (lat. 35°23'30" N., long. 80°34'30" W.); within 2 miles each side of the Charlotte VORTAC 003° radial, extending from the 8-mile radius area to 14 miles north of the VORTAC; within 2 miles each side of the Fort Mill, S.C., VORTAC 005° radial, extending from the 8-mile radius area to 33 miles north of the VORTAC; within 2 miles each side of the Fort Mill VORTAC 011° radial, extending from the 8-mile radius area to the VORTAC; within 2 miles each side of the Charlotte VORTAC 058° radial, extending from the 8-mile radius area to the Propst Airport 6-mile radius area; within 2 miles each side of the Charlotte 171° radial, extending from the 8-mile radius area to 14 miles south of the VORTAC; within 2 miles each side of the Charlotte 228° radial, extending from the 8-mile radius area to 14 miles southwest of the VORTAC;

In § 71.171 (32 F.R. 2071), the Charlotte, N.C., control zone (32 F.R. 1666) is amended as follows: "• • • (lat. 35°12'58" N., long. 80°56'22" W.) • • •" is deleted and "• • • (lat. 35°12'53" N., long. 80°56'18" W.) • • •" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1349(a))

Issued in East Point, Ga., on November 29, 1967.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 67-14293; Filed, Dec. 7, 1967; 8:46 a.m.]

[Airspace Docket No. 67-CE-136]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Low Altitude Reporting Point

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate the Ottumwa, Iowa, VORTAC as a low altitude reporting point.

Because of minimal radar coverage in the area south of Ottumwa many aircraft are not provided radar air traffic service as they transition from the Kansas City, Mo., to the Chicago, Ill., ARTC Center area of jurisdiction. The action taken herein would require aircraft position reports passing the Ottumwa VORTAC and thus provide the controller a positive identification of flights.

Since this action is in the interest of safety and will not assign nor reassign controlled airspace, the Administrator has determined that notice and public procedure thereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., February 1, 1968, as hereinafter set forth.

In § 71.203 (32 F.R. 2275) "Ottumwa, Iowa" is added.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on November 30, 1967.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-14294; Filed, Dec. 7, 1967; 8:46 a.m.]

[Airspace Docket No. 67-CE-100]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On pages 13007 and 13008 of the FEDERAL REGISTER dated September 13, 1967, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Ann Arbor, Mich.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0001 e.s.t., February 1, 1968.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Kansas City, Mo., on November 20, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

In § 71.181 (32 F.R. 2148), the following transition area is added:

ANN ARBOR, MICH.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Ann Arbor Municipal Airport (latitude 42°13'25" N., longitude 83°44'30" W.); and within a 5-mile radius of Young Field (latitude 42°17'40" N., longitude 83°51'45" W.), excluding the portion which overlies the Detroit, Mich., 700-foot floor transition area.

[F.R. Doc. 67-14295; Filed, Dec. 7, 1967; 8:46 a.m.]

[Airspace Docket No. 67-CE-97]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Redesignation of Transition Area

On September 13, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 13007) stating that the Federal Aviation Administration proposed to designate a transition area at Plymouth, Mich.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. The one comment received offered no objection to the proposal.

The words "and the Salem, Mich., transition area" were inadvertently omitted from the Plymouth transition area description. Action is taken herein to make this correction.

Since this change is minor in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0001 e.s.t., February 1, 1968, as hereinafter set forth:

In § 71.181 (32 F.R. 2148), the following transition area is added:

PLYMOUTH, MICH.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Metztal Airport (latitude 42°20'55" N., longitude 83°27'25" W.); and within 2 miles each side of the Salem, Mich., VORTAC 120° and 125° radials, extending from the 5-mile radius area to the VORTAC, excluding the portion which overlies the Detroit, Mich., 700-foot floor transition area and the Salem, Mich., transition area.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued at Kansas City, Mo., on November 22, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 67-14296; Filed, Dec. 7, 1967; 8:46 a.m.]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 8549; Amdt. 871]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

The amendments to the standard instrument approach procedures contained herein are adopted to become effective when indicated in order to promote safety. The amended procedures supersede the existing procedures of the same classification now in effect for the airports specified therein. For the convenience of the users, the complete procedure is republished in this amendment indicating the changes to the existing procedures.

As a situation exists which demands immediate action in the interests of safety in air commerce, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In view of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 97 (14 CFR Part 97) is amended as follows:

1. By amending the following automatic direction finding procedures prescribed in § 97.11(b) to read:

ADF STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Raleigh RBn	LOM	Direct	2000	T-dn	800-1	800-1	800-1½
Raleigh VOR	LOM	Direct	2000	C-dn	800-1	800-1	800-1½
Chapel Hill Int	LOM	Direct	2100	S-dn-6	400-1	400-1	400-1
Holly Springs Int	LOM	Direct	2000	A-dn	800-2	800-2	800-2
Moncure Int	LOM (final)	Direct	2000				
Durham Int	LOM	Direct	2000				
Int LIB VOR, R 102° and RDU VOR R 244.	LOM (final)	Direct	2000				

Radar available.
Procedure turn W side of crs, 220° Outbnd, 040° Inbnd, 2000' within 10 miles.
Minimum altitude over LOM on final approach crs, 2000'.
Crs and distance, facility to airport, 040°—5.8 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.8 miles after passing LOM, climb to 2000' on R 041° of VOR within 15 miles or, when directed by ATC, turn left, climb to 2400' on R 309° of VOR within 15 miles or, climb to 2000' on 040° crs from LOM within 15 miles.
MSA within 25 miles of facility: 000°–090°—2100'; 090°–180°—2600'; 180°–270°—1800'; 270°–360°—2000'.
City, Raleigh; State, N.C.; Airport name, Raleigh-Durham; Elev., 435'; Fac. Class., LOM; Ident., RD; Procedure No. NDB(ADF) Runway 5, Amdt. 11; Eff. date, 30 Dec. 67; Sup. Amdt. No. NDB(ADF) Runway 5, Amdt. 10; Dated, 4 Nov. 67

RDU LOM	RDU RBn	Direct	2000	T-dn	800-1	800-1	800-1½
RDU VOR	RDU RBn	Direct	2000	C-dn	800-1	800-1	800-1½
Wendell Int	RDU RBn	Direct	3100	S-dn-22	400-1	400-1	400-1
Chapel Hill Int	RDU RBn	Direct	2000	A-dn	800-2	800-2	800-2
Durham Int	RDU RBn	Direct	2000				
Franklinton Int	RDU RBn	Direct	2000				
Zebulon Int	RDU RBn	Direct	2000				

Radar available.
Procedure turn N side of crs, 040° Outbnd, 220° Inbnd, 2000' within 10 miles of RDU RBn.
Minimum altitude over facility on final approach crs, 1500'.
Crs and distance, facility to airport, 220°—4 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4 miles after passing RBn, climb to 3000' on 220° crs from RDU RBn within 15 miles or, when directed by ATC, turn right, climb to 2000' on R 309° of RDU VOR within 20 miles or climb to 2000', returning direct to RDU RBn.
MSA within 25 miles of facility: 000°–090°—1800'; 090°–180°—2000'; 180°–360°—2000'.
City, Raleigh; State, N.C.; Airport name, Raleigh-Durham; Elev., 435'; Fac. Class., H-SAB; Ident., RDU; Procedure No. NDB(ADF) Runway 23, Amdt. 8; Eff. date, 30 Dec. 67; Sup. Amdt. No. NDB(ADF) Runway 23, Amdt. 2; Dated, 4 Nov. 67

2. By amending the following very high frequency omnirange (VOR) procedures prescribed in § 97.11(c) to read:

VOR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
R 336°, ESC VOR counterclockwise	R 206°, ESC VOR	Via 8-mile DME Arc.	2000	T-dn	300-1	300-1	200-½
R 216°, ESC VOR clockwise	R 206°, ESC VOR	Via 8-mile DME Arc.	2000	C-dn°	500-1	500-1	500-1½
				S-dn-9°§	400-1	400-1	400-1
				A-dn°	800-2	800-2	800-2
8-mile DME Fix, R 206°, ESC VOR	ESC VOR (final)	Direct	1004				

Procedure turn S side of crs, 206° Outbnd, 026° Inbnd, 2100' within 10 miles.
Minimum altitude over facility on final approach crs, #1004' (#1304' when control zone not effective).
Facility on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6 mile of VOR, climb to 2100' on R 026° within 10 miles, return to VOR.
NOTE: (1) Use Marquette, Mich., altimeter setting when control zone not effective. (2) Circling and straight-in ceiling minimums are raised 300' and alternate minimums not authorized when control zone not effective.
CAUTION: Magnetic disturbance of as much as 14° exists at ground level at Escanaba.
°These minimums apply at all times for air carriers with approved weather reporting service.
§Reduction not authorized for nonstandard REIL.
MSA within 25 miles of facility: 000°–090°—2200'; 090°–180°—1900'; 180°–270°—2800'; 270°–360°—2200'.

City, Escanaba; State, Mich.; Airport name, Escanaba Municipal; Elev., 604'; Fac. Class., L-BVORTAC; Ident., ESC; Procedure No. VOR Runway 9, Amdt. 5; Eff. date, 30 Dec. 67; Sup. Amdt. No. VOR Runway 9, Amdt. 4; Dated, 4 Nov. 67

R 216°, ESC VOR counterclockwise	R 356°, ESC VOR	Via 8-mile DME Arc.	2800	T-dn	300-1	300-1	200-½
R 356°, ESC VOR clockwise	R 101°, ESC VOR	Via 8-mile DME Arc.	2800	C-dn°	500-1	500-1	500-1½
				S-dn-27°§	500-1	500-1	500-1
				A-dn°	800-2	800-2	800-2
8-mile DME Fix, R 101°, ESC VOR	2-mile DME Fix, R 101°, (final)	Direct	1104	Minimums with DME:			
				S-dn-27°§	400-1	400-1	400-1

Procedure turn N side of crs, 101° Outbnd, 281° Inbnd, 2100' within 10 miles.
Minimum altitude over 3-mile DME Fix on final approach crs, #1104' (#1404' when control zone not effective).
Facility on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6 mile of VOR, climb to 2100' on R 281° within 10 miles, return to VOR.
NOTE: (1) Use Marquette, Mich., altimeter setting when control zone not effective. (2) Circling and straight-in ceiling minimums are raised 300', and alternate minimums not authorized when control zone not effective.
CAUTION: Magnetic disturbance of as much as 14° exists at ground level at Escanaba.
°These minimums apply at all times for air carriers with approved weather reporting service.
§Reduction not authorized for nonstandard REIL.
MSA within 25 miles of facility: 000°–090°—2200'; 090°–180°—1900'; 180°–270°—2800'; 270°–360°—2200'.

City, Escanaba; State, Mich.; Airport name, Escanaba Municipal; Elev., 604'; Fac. Class., L-BVORTAC; Ident., ESC; Procedure No. VOR Runway 27, Amdt. 3; Eff. date, 30 Dec. 67; Sup. Amdt. No. VOR Runway 27, Amdt. 2; Dated, 4 Nov. 67

				T-dn	300-1	300-1	NA
				C-dn°	900-1	900-1	NA
				A-dn	900-2	NA	NA

Procedure turn N side of crs, 060° Outbnd, 240° Inbnd, 2000' within 10 miles.
Minimum altitude over facility on final approach crs, 2000'.
Crs and distance, facility to airport, 240°—6.3 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6.3 miles after passing FLP VOR, turn left, climb to 2000' direct to FLP VOR.
NOTE: Use Harrison, Ark., FSS altimeter setting.
°Circling not authorized NW of airport defined by runway centerlines extended.
MSA within 25 miles of facility: 000°–360°—2500'.

City, Flippin; State, Ark.; Airport name, Flippin; Elev., 721'; Fac. Class., L-BVOR; Ident., FLP; Procedure No. VOR-1, Amdt. 3; Eff. date, 30 Dec. 67; Sup. Amdt. No. VOR 1, Amdt. 2; Dated, 28 July 66

				T-dn	300-1	300-1	200-½
				C-dn§	500-1	500-1	500-1½
				S-dn-30°	500-1	500-1	500-1
				A-dn§	800-2	800-2	800-2

Radar available.
Procedure turn E side of crs, 180° Outbnd, 360° Inbnd, 2200' within 10 miles.
Minimum altitude over facility on final approach crs, °1200' (°1300' when control zone not effective).
Facility on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6 mile of VOR, climb to 2200' on R 307° within 10 miles, return to VOR or, when directed by ATC, climb to 2200' on R 053° within 10 miles.
NOTE: Use Green Bay altimeter setting when control zone not effective. Circling and straight-in ceiling minimums are raised 100' and alternate minimums not authorized when control zone not effective.
CAUTION: Runways 4/22 and 13/31 unlighted.
°These minimums apply at all times for air carriers with approved weather reporting service.
MSA within 25 miles of facility: 000°–360°—2700'.

City, Oshkosh; State, Wis.; Airport name, Winnebago County; Elev., 796'; Fac. Class., L-BVOR; Ident., OSH; Procedure No. VOR Runway 36, Amdt. 5; Eff. date, 30 Dec. 67; Sup. Amdt. No. TerVOR-36, Amdt. 4; Dated, 19 Nov. 66

VOR STANDARD INSTRUMENT APPROACH PROCEDURES—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
				T-dn	200-1	200-1	200-½
				C-dn	400-1	400-1	400-1½
				S-dn-9°°	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2
				If Carpenter Int. or 6.6-mile DME Fix received, minimums are:			
				S-dn-9§	400-1	400-1	400-1

Radar available.
Procedure turn W side of crs, 225° Outbnd, 045° Inbnd, 2000' within 10 miles.
Minimum altitude over RDU VOR, 925'.
Crs and distance: Carpenter Int to Runway 5, 056°—6.3 miles; breakoff point to Runway 5, 050°—6.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished over RDU VOR, climb to 3000' on R 225° or, when directed by ATC, (1) turn left, climb to 2000' on R 061°, or (2) turn left, climb to 2400' on R 260°. All within 20 miles.
°Reduction of landing visibility below ¾ mile not authorized.
#400-½ (RVR 4000') authorized with operative HIRL, except for 4-engine turbojets. 400-½ (RVR 2400') authorized with operative ALS, except for 4-engine turbojets.
MSA within 25 miles of facility: 000°–090°—1900'; 090°–180°—2000'; 180°–360°—2000'.

City, Raleigh; State, N.C.; Airport name, Raleigh-Durham; Elev., 436'; Fac. Class., H-BVORTAC; Ident., RDU; Procedure No. VOR Runway 5, Amdt. 8; Eff. date, 30 Dec. 67; Sup. Amdt. No. VOR Runway 5, Amdt. 4; Dated, 4 Nov. 67

				T-dn	200-1	200-1	200-½
				C-dn	400-1	400-1	400-1½
				S-dn-23	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Radar available.
Procedure turn W side of crs, 035° Outbnd, 215° Inbnd, 2000' within 10 miles.
Minimum altitude over RDU VOR, 925'.
Crs and distance, breakoff point to Runway 32, 329°—6.3 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished over RDU VOR, climb to 2000' on R 215° or, when directed by ATC, turn right, climb to 2400' on R 309° both within 15 miles.
MSA within 25 miles of facility: 000°–090°—1900'; 090°–180°—2000'; 180°–360°—2000'.

City, Raleigh; State, N.C.; Airport name, Raleigh-Durham; Elev., 436'; Fac. Class., H-BVORTAC; Ident., RDU; Procedure No. VOR Runway 32, Amdt. 8; Eff. date, 30 Dec. 67; Sup. Amdt. No. VOR Runway 32, Amdt. 4; Dated, 4 Nov. 67

3. By amending the following very high frequency omnirange—distance measuring equipment (VOR/DME) procedures prescribed in § 97.15 to read:

VOR/DME STANDARD INSTRUMENT APPROACH PROCEDURES

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
OE LFR	OME VORTAC	Direct	2800	T-dn	300-1	300-1	200-½
				C-dn	500-1	500-1	500-1½
				S-dn-9°	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Procedure turn S side of crs, 271° Outbnd, 091° Inbnd, 2600' within 10 miles beyond 11-mile DME Fix.
Minimum altitude over 11-mile DME Fix on final approach crs, 2000', over 5.5-mile DME Fix on final, 457'.
Crs and distance, 11-mile DME Fix to airport, 091°—5.2 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished at 5.5-mile DME Fix, climb to 2200' on R 091° OME VORTAC within 15 miles.
NOTE: When authorized by ATC, DME may be used to position aircraft for final approach at 2000' between radials 085° clockwise to 135° and at 2600' between 135° to 271° within 20 miles with the elimination of a procedure turn.
CAUTION: High terrain to 1269' beyond 3 miles N., radio tower 224', 3.3 miles ESE of airport.
°400-½ authorized with operative REIL and HIRL except for 4-engine turbojets.
MSA within 25 miles of facility: 000°–090°—2300'; 090°–180°—1700'; 180°–270°—2000'; 270°–360°—2000'.

City, Nome; State, Alaska; Airport name, Municipal; Elev., 87'; Fac. Class., H-BVORTAC; Ident., OME; Procedure No. VOR/DME Runway 9, Amdt. 1; Eff. date, 30 Dec. 67; Sup. Amdt. No. VOR/DME-1, Orig.; Dated, 26 Nov. 66

4. By amending the following instrument landing system procedures prescribed in § 97.17 to read:

ILS STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Lakewood Int	LOM (final)	Via OBK R 272° and NW crs, OEA ILS.	2200	T–dn%*	300–1	300–1	300–1½
				C–dn	400–1	500–1	500–1½
				S–dn–14L§	200–½	200–½	200–½
Niles Int	ORD VOR	Direct	2500	A–dn	600–2	600–2	600–2
ORD VOR	LOM	Direct	2500	Category II special authorization required: TDZ elevation, 652'; decision heights S–dn–14L, DH 180, RVR 1600', 802' MSL RA 151'; S–dn–14L, DH 100, RVR 1200', 752' MSL RA 104'.			
Warren Int	LOM	Direct	2500				
Deerfield Int	LOM	Direct	2500				
OBK VOR	LOM	Direct	2500				

Radar available.
Procedure turn W side of crs, 318° Outbnd, 138° Inbnd, 2500' within 10 miles.
Minimum altitude at glide slope interception Inbnd, 2200'.
Altitude of glide slope and distance to approach end of runway at LOM, 2090'—5.2 miles; at MM, 864'—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, turn left to a heading of 120° and climb to 1500', then make left-climbing turn to 3500' and proceed to Evanston Int, via ORD R 075°.
Category II missed approach: Climb to 1500', then make left-climbing turn to 3500' and proceed to Evanston Int via ORD R 075°, if contact with visual guidance system not established at DH.
NOTE: Beak crs unusable.
CAUTION: Takeoffs Runway 27R when weather is below 1000–3 will intercept ORD VOR, R 260° and climb to 2000' before proceeding westbound. Takeoffs Runway 32L when weather is below 1000–3 will intercept ORD, R 260° and climb to 2000' before proceeding westbound. When conducting a parallel approach, parallel ILS 14 R and L procedure must be used.
‡400–¾ required when glide slope not utilized, 400–½ authorized with operative ALS except for 4-engine turbojets.
%RVR 2400' authorized for takeoff on Runways 14L, 14R, 22L, 22R, and 27R.
*RVR 2000' 4-engine turbojets; RVR 1800' other aircraft descent below 867' not authorized unless ALS visible.

City, Chicago; State, Ill.; Airport name, Chicago-O'Hare International; Elev., 667'; Fac. Class., ILS; Ident., I-OHA; Procedure No. ILS Runway 14L, Amdt. 12; Eff. date, 30 Dec. 67; Sup. Amdt. No. ILS Runway 14L, Amdt. 11; Dated, 15 July 67

Harrisburg VOR	MD LOM	Direct	2700	T–dn	300–1	300–1	300–1
Steelton Int	MD LOM	Direct	2700	C–dn*	600–1	600–1	600–1½
				S–dn–13	300–¾	300–¾	300–¾
				A–dn‡	600–2	600–2	600–2
				With glide slope inoperative: S–dn–13	800–1	800–1	800–1

Radar available.
Procedure turn S side of crs, 308° Outbnd, 128° Inbnd, 2700' within 10 miles.
*Crs and distance, facility to airport, 128°—6.4 miles.
Minimum altitude at glide slope interception Inbnd, 2600'.
Altitude of glide slope and distance to approach end of runway at OM, 2626'—6.4 miles; at MM, 809'—0.5 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.9 miles after passing OM or at MM, climb on runway heading to 2700' within 10 miles. Left turn direct to MD LOM. Hold NW, 270°, 128° Inbnd, 1-minute right turns.
NOTE: Reduction not authorized.
°Circling not authorized S of Runway 13.
‡When control zone not in effect, use Harrisburg altimeter setting. Alternate minimums not authorized.
CAUTION: 1089' terrain 1.3 miles SW of approach end of Runway 13. 543' terrain 1.7 miles SE of airport on runway centerline extended.
MSA within 25 miles of LOM: 090°–180°—2800'; 180°–270°—3000'; 270°–360°—2200'.

City, Middletown; State, Pa.; Airport name, Olmstead State; Elev., 305'; Fac. Class., ILS; Ident., I-MDT; Procedure No. ILS Runway 13, Amdt. 2; Eff. date, 30 Dec. 67; Sup. Amdt. No. ILS Runway 13, Amdt. 1; Dated, 13 Aug. 67

				T–dn	300–1	300–1	300–1
				C–dn*	600–1	600–1	600–1½
				S–dn–31	500–1	500–1	500–1
				A–dn‡	800–2	800–2	800–2

Radar required.
Procedure turn not authorized.
Minimum altitude over 6-mile Radar Fix on final approach crs, 2600'.
Crs and distance, 6-mile Radar Fix to airport, 305°—3 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6 miles after passing 6-mile Radar Fix, climb on runway heading to 2700' direct MD LOM. Hold NW, 270°, 125° crs Inbnd, 1-minute right turns.
NOTE: Reduction not authorized.
°Circling not authorized S of Runway 31.
‡When control zone not in effect, use HAR altimeter setting. Alternate minimums not authorized.
CAUTION: 1089' terrain 1.3 miles SW of approach end of Runway 13. 543' terrain 1.7 miles SE of airport on runway centerline extended.

City, Middletown; State, Pa.; Airport name, Olmstead State; Elev., 305'; Fac. Class., ILS; Ident., I-MDT; Procedure No. LOC (BC) Runway 31, Amdt. Orig.; Eff. date, 30 Dec. 67

ILS STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
MKE VOR	LOM	Direct	2500	T–dn**	200–1	200–1	200–½
Big Bend Int	LOM	Direct	2500	C–dn	300–1	300–1	300–1½
Racine Int	LOM	Direct	2500	S–dn–1°§	200–½	200–½	200–½
Cardinal Int	LOM	Direct	2700	A–dn	600–2	600–2	600–2
Wind Lake Int	LOM	Direct	2500	Category II special authorization required: TDZ Elevation 708'. Decision heights: S–dn–1, DH 180 RVR 1600', 882' MSL, RA 182'.			
Herlick Int	LOM	Direct	2500				
Oakwood Int	LOM (final)		2500				

Radar available.
Procedure turn E side S crs, 126° Outbnd, 306° Inbnd, 2500' within 10 miles.
Minimum altitude at glide slope interception Inbnd, 2500'.
Altitude of glide slope and distance to approach end of runway at OM, 2870'—5.5 miles; at MM, 919'—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, climb to 2700' on N crs of ILS and proceed direct to the Cardinal Int or, when directed by ATC, climb to 2800' and intercept R 110°, MKE VOR and proceed to MKE VOR.
Category II missed approach: Climb to 2700' on N crs of ILS and proceed direct to Cardinal Int if contact with visual guidance system not established at DH.
NOTE: Runway 1 LOM named METRO.
°RVR 2000' 4-engine turbojet; RVR 1800' other aircraft, descent below 922' not authorized unless approach lights visible.
**RVR (2400') authorized Runway 1.
§ 400–¾ required when glide slope not utilized and 400–½ authorized with operative ALS except for 4-engine turbojets.
M8A within 25 miles of LOM: 090°–270°—2200'; 270°–090°—2800'.

City, Milwaukee; State, Wis.; Airport name, General Mitchell Field; Elev., 725'; Fac. Class., ILS; Ident., I-MKE; Procedure No. ILS Runway 1, Amdt. 28; Eff. date, 30 Dec. 67; Sup. Amdt. No. ILS Runway 1, Amdt. 28; Dated, 9 Dec. 67

Raleigh RBn	LOM	Direct	2000	T–dn§	200–1	200–1	200–½
Raleigh VORTAC	LOM	Direct	2000	C–dn	400–1	400–1	400–1½
Chapel Hill Int	LOM	Direct	2100	S–dn–22°	200–½	200–½	200–½
Holly Springs Int	LOM	Direct	2000	A–dn	600–2	600–2	600–2
Moncure Int	LOM (final)	Direct	2000				
Durham Int	LOM	Direct	2000				
Int LIB VOR, R 162° and RDU VORTAC R 344.	LOM (final)	Direct	2000				

Radar available.
Procedure turn N side of crs, 228° Outbnd, 048° Inbnd, 2000' within 10 miles.
Minimum altitude at glide slope interception Inbnd, 2000'.
Altitude of glide slope and distance to approach end of runway at OM, 2025'—5.5 miles; at MM, 614'—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.5 miles after passing LOM, climb to 2000' on R 041° of VORTAC within 15 miles or, when directed by ATC, turn left, climb to 2400' on R 309° of VORTAC within 15 miles.
§RVR 2400'. Descent below 626' not authorized unless ALS visible.
°200–¾ (RVR 4000') authorized when glide slope not utilized. 200–½ (RVR 2400') authorized with operative ALS, except for 4-engine turbojets.
#RVR 2400' authorized Runway 5.
M8A within 25 miles of RD LOM: 000°–090°—2100'; 090°–180°—2800'; 180°–270°—1800'; 270°–360°—2800'.

City, Raleigh; State, N.C.; Airport name, Raleigh-Durham; Elev., 432'; Fac. Class., ILS; Ident., I-RDU; Procedure No. ILS Runway 5, Amdt. 31; Eff. date, 30 Dec. 67; Sup. Amdt. No. ILS Runway 5, Amdt. 30; Dated, 4 Nov. 67

RDU LOM	RDU RBn	Direct	2000	T–dn	200–1	200–1	200–½
RDU VOR	RDU RBn	Direct	2000	C–dn	400–1	400–1	400–1½
Wendell Int	RDU RBn	Direct	2000	S–dn–23	200–1	200–1	200–1
Chapel Hill Int	RDU RBn	Direct	2100	A–dn	600–2	600–2	600–2
Durham Int	RDU RBn	Direct	2000				
Franklinton Int	RDU RBn	Direct	2000				
Zebulon Int	RDU RBn	Direct	2000				

Radar available.
Procedure turn W side of crs, 048° Outbnd, 228° Inbnd, 2000' within 10 miles of RDU RBn.
Minimum altitude over facility on final approach crs, 1500'.
Crs and distance, facility to airport, 229°—4 miles.
No glide slope.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4 miles after passing RDU RBn, climb to 2000' on SW crs ILS (229°) within 15 miles, or when directed by ATC, turn right, climb to 2000' on R 269° RDU VOR within 15 miles, or climb to 2000' returning direct to RDU RBn.
M8A within 25 miles of RDU RBn: 000°–090°—1800'; 090°–180°—2800'; 180°–360°—2800'.

City, Raleigh; State, N.C.; Airport name, Raleigh-Durham; Elev., 432'; Fac. Class., ILS; Ident., I-RDU; Procedure No. LOC (BC) Runway 23, Amdt. 11; Eff. date, 30 Dec. 67; Sup. Amdt. No. LOC (BC) Runway 23, Amdt. 10; Dated, 4 Nov. 67

5. By amending the following radar procedures prescribed in § 97.19 to read:

RADAR STANDARD INSTRUMENT APPROACH PROCEDURES

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet, MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If a radar instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below. Positive identification must be established with the radar controller. From initial contact with radar to final authorized landing minimums, the instructions of the radar controller are mandatory except when (A) visual contact is established on final approach at or before descent to the authorized landing minimums, or (B) at pilot's discretion if it appears desirable to discontinue the approach, except when the radar controller may direct otherwise prior to final approach, a missed approach shall be executed as provided below when (A) communication on final approach is lost for more than 5 seconds during a precision approach, or for more than 30 seconds during a surveillance approach; (B) directed by radar controller; (C) visual contact is not established upon descent to authorized landing minimums; or (D) if landing is not accomplished.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
				Surveillance approach			
060°	300°	Within: 15 miles	2600	T-dn	300–1	300–1	*200–½
060°	300°	15 to 25 miles	3500	C-dn–5, 23	1000–1	1000–1	1000–1½
				S-dn–5	600–1	600–1	600–1
				S-dn–23**§	1000–1	1000–1	1000–1
				A-dn	1600–2	1600–2	1600–2

Radar control must provide 3 miles separation from radio tower 1309', located 4 miles SW of airport or maintain 2900'. All bearings and distances are from radar antenna with sector azimuths progressing clockwise.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished: Runway 5—Climb to 3000' on crs of 052° from LOM within 15 miles. Runway 23—Climb to 3000', turn right and proceed to BHM VORTAC or, when directed by ATC, climb to 3000' and proceed to BHM LOM.

NOTE: VASI Runway 23.

*Runways 5–23 only.

**Maintain at least 1969' until 4 miles from runway on final approach to Runway 23.

§Reduction not authorized.

City, Birmingham; State, Ala.; Airport name, Municipal; Elev., 643'; Fac. Class., and Ident., Birmingham Radar; Procedure No. Radar–1, Amdt. 8; Eff. date, 30 Dec. 67; Sup. Amdt. No. 1, Amdt. 7; Dated, 4 June 66

				Precision approach		
				T-dn*	300–1	300–1	200–½
				C-dn	600–1	600–1	600–1½
				S-dn-20	200–½	200–½	200–½
				A-dn	600–2	600–2	600–2
				Surveillance approach			
				T-dn*	300–1	300–1	300–½
				C-dn	600–1	600–1	600–1½
				S-dn-2	400–1	400–1	400–1
				A-dn	800–2	800–2	800–2

As established by Walla Walla ASR minimum vectoring chart.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished: PAR Runway 20—Climb to 3100' on ALW VOR R 198° within 10 miles. ASR Runway 2—Turn left, climb to 3100' on ALW VOR, R 198° within 10 miles.

NOTE: ASR Runway 2 FAF 6 miles from threshold.

City, Walla Walla; State, Wash.; Airport name, Walla Walla City-County; Elev., 1205'; Fac. Class. and Ident., Walla Walla Radar; Procedure No. Radar 1, Amdt. 2; Eff. date, 30 Dec. 67; Sup. Amdt. No. 1, Amdt. 1; Dated, 15 Oct 66

These procedures shall become effective on the dates specified therein.

(Secs. 307(c), 313(a), 601, of the Federal Aviation Act of 1958; 49 U.S.C. 1348(c), 1354(a), 1421; 72 Stat. 740, 752, 775)

Issued in Washington, D.C., on November 24, 1967.

R. S. SLIFF,
Acting Director, Flight Standards Service.

[F.R. Doc. 67–14028; Filed, Dec. 7, 1967; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Nonapproval by Commission of Substantial Additional Annual Volume Discount Pricing Program

§ 15.151 Commission cannot approve substantial additional annual volume discount pricing program.

(a) The Commission advised a manufacturer it cannot approve a pricing proposal to provide customers an additional 10 percent discount on all purchases above $15,000 in volume within the calendar year. The additional discount would be granted as soon as the $15,000 volume is reached in the year. The proposal was scheduled to go into operation in 1966. The same rules would apply for each succeeding calendar year. Also, the program would provide a further discount on purchases above $25,000 in annual volume. The present pricing program is not under examination.

(b) The manufacturer sells his products solely to nonexclusive distributors who resell them, and similar commodities produced by other suppliers, to end-users.

(c) The Commission told the manufacturer it cannot approve the proposal because there is a strong likelihood that price discriminations in violation of section 2(a) of the Clayton Act may result if the proposal is put into operation. The Commission pointed out that price discriminations to customers who in fact compete with each other in resale of commodities of like grade and quality would violate section 2(a) of the Clayton Act unless cost justified or unless the lower price is a good faith meeting of a competitor's equally low price.

(38 Stat. 717, as amended; 15 U.S.C. 41–58; 49 Stat. 1526; 15 U.S.C. 13, as amended)

Issued: December 7, 1967.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 67–14304; Filed, Dec. 7, 1967; 8:47 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

Revision of Form N–30B–1 and Redesignation Thereof as Form N–1Q

DECEMBER 6, 1967.

On July 25, 1967, the Securities and Exchange Commission published notice (Investment Company Act Release No. 5035) (in the FEDERAL REGISTER on Aug. 3, 1967 (32 F.R. 149)) that it had under consideration proposed revisions of quarterly report form N–30B–1 (17 CFR 274.106) filed with the Commission by management investment companies registered under the Investment Company Act of 1940 ("Act"), except those which issue periodic payment plan certificates. As stated in the notice (32 F.R. 149), the revised form would be designated Form N–1Q and would be applicable to all management investment companies, including those which issue periodic payment plan certificates, and the various rules and regulations of the Commission which refer to the existing form would be appropriately amended to refer to the new designation.

The revised form would include a new Item 1 which would require management investment companies to report the number of shares (or other unit) or principal amount of debt securities acquired or disposed of for their portfolios during the preceding calendar quarter and the holdings of such securities and cash at the end of the quarter. No report pursuant to Item 1 would be required, however, if there were no changes in holdings of portfolio securities during the quarter. The amount of each security owned would be required on the first report filed pursuant to the new item and on the first report filed pursuant to the new item after the end of the calendar year.

The proposed amendment would provide the public with valuable information about securities transactions by management investment companies. Moreover, it would materially aid the Commission and others in conducting studies of these transactions and their impact in the market place and would provide the Commission with information necessary to carry out its regulatory responsibilities.

Form N–30B–1 is now required to be filed within 30 days after the end of the fiscal quarter in which any of the events required to be reported occur. To obtain information about portfolio transactions on a comparable time basis, the revised form would be required to be filed for, and within 30 days after, each calendar quarter. The first report on Form N–1Q would be for the calendar quarter ending on December 31, 1967.

The Commission received a number of written comments on the proposed revisions of Form N–30B–1. The Commission has considered the various views and comments received, has made a number of changes in the proposals published in the notice (32 F.R. 149), and has adopted the proposed revisions as so changed. The principal changes are described below.

A new instruction 8 has been included in the instructions to Item 1 of the revised form in response to comments that public disclosure of information which may reveal a current portfolio purchase program may cause an investment company to pay higher prices for the securities being purchased. This instruction would permit a registrant, if it is engaged both at the end of the calendar quarter and at the date of filing the report on Form N–1Q for that quarter in a program of purchasing securities of a particular issue or issues and has sold no securities of such issue or issues during the quarter, to list as "Miscellaneous securities" the total amount of purchases of all such securities during the quarter and the total value of all securities of such issue or issues owned as of the end of the quarter, provided that the securities so listed as of the end of the quarter are within the limitations stated in Rule 30d–1(c)(2) (§ 270.30d–1(c)(2)) under the Act. These limitations restrict the amount of securities which may be listed in one amount to 5 percent of the aggregate value of securities owned by a registrant provided they have been held for not more than 1 year and have not previously been reported by name in any report or statement transmitted to stockholders or filed with the Commission or with any national securities exchange.

If the securities are listed in Item 1 in total amount, the information otherwise required by that item as to each security would be separately furnished by the registrant to the Commission as a nonpublic supplement to Item 1. The supplement will be classified by the Commission pursuant to the provisions of section 45(a) of the Act as a nonpublic filing. Such classification, however, will not preclude the Commission, if it should deem public disclosure necessary or appropriate in the public interest or for the protection of investors, from making public the information contained in the supplement or requiring that such information be included in any document of a public nature filed by the registrant with the Commission under any of the statutes administered by the Commission. To provide an affected registrant an opportunity to state to the Commission any objections it might have to the public disclosure of any information contained in the supplement, unless such information is then a requirement of an existing rule or form requiring public disclosure or unless a proceeding has been commenced before the Commission or a court, the Commission will notify such registrant in writing of its intention to make or require public disclosure thereof not less than 5 business days prior to the date of such public disclosure.

The instructions to Item 1 of the form also include revisions appearing in instructions 6 and 7. (Instruction 6 to the item as it was proposed in the notice has been renumbered as instruction 3.) The primary purpose of these revised instructions, together with revised column headings for the table in Item 1, is to provide for the adjustment of shares acquired, disposed of, or held in a quarter to reflect any stock dividends or stock splits during the quarter, rather than to show the stock dividends or splits as separate acquisitions. By this means, the revised table will provide information with respect to shares of the same issue on a uniform basis where they have been affected by stock dividends or splits. The revision will also simplify the table by providing for (1) purchases and other acquisitions, and (2) sales and other dispositions, in one column each rather than in double columns. A new instruction 5 (instruction 5 to Item 1 as it was proposed in the notice has been renumbered as instruction 9) has also been included to prescribe the method of listing any securities which were acquired with options or warrants attached, in order to assure uniform treatment of such securities in the portfolio lists.

General Instruction E of the form, as proposed, has been revised to extend its applicability to "venture capital" investment companies of the character described in section 12(e) of the Act so that they, as in the case of small business investment companies, would not be required to answer Item 1 of the form. As we noted in adopting Rule 17a–6 (§ 270.17a–6) under the Act (Investment Company Act Release No. 3968, Apr. 29, 1964) which exempted investment companies in both categories from the provisions of section 17(a) of the Act under certain conditions, small business investment companies share many of the characteristics of venture capital investment companies, for which special treatment is provided in section 12(e) of the Act, in that they engage in the business of underwriting, furnishing capital to industry, financing promotional enterprises, purchasing securities of issuers for which no ready market is in existence, and reorganizing companies or similar activities. In view of the character of the business of venture capital investment companies, the Commission believes it to be appropriate to extend the exemption in General Instruction E of Form N–1Q to them.

General Instruction F of the revised form, relating to the incorporation of information by reference, has been revised to provide that the information required by Item 1 shall not be incorporated by reference to another report unless it appears in its entirety in such other report in the form required by Item 1. This revision clarifies the intended effect of the requirement of Item 1 that the

specified information with respect to portfolio securities shall be furnished in the exact tabular form prescribed by the table. The revised instruction will assure that incorporation by reference will not render the information incomplete, unclear or confusing and will make it feasible to process the data by computer.

The amendments to the rules and regulations of the Commission under the Act and the Securities Exchange Act of 1934 change the designation of the quarterly report form to Form N–1Q applicable to all registered management investment companies, the period for which the form is to be filed from fiscal to calendar quarters, and the required number of copies to be filed with the Commission to eight. In addition, the amendment to subparagraph (2) of paragraph (e) of Rule 30d–1 (§ 270.30d–1) under the Act provides that securities may be listed in one amount as "Miscellaneous securities", if, among other things, they have not previously been reported by name in any report or statement filed with the Commission as a public report. The purpose of this revision is to provide that a listing of securities by name in a nonpublic supplement to Item 1 of Form N–1Q will not prevent their listing in one amount in reports to stockholders under Rule 30d–1 (§ 270.30d–1).

The Commission recognizes that experience with the revised form may indicate the need for further revision or supplementation. The Commission, therefore, has directed its staff to bring to its attention any special problems encountered in the reports filed on this form.

The Commission, acting pursuant to the provisions of sections 30, 38, and 45(a) of the Act (15 U.S.C. 80a–29, 80a–37, 80a–44(a)) and sections 13, 15(d), and 23(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d), 78w(a)), deeming it necessary for the exercise of the functions vested in it, and necessary and appropriate in the public interest and for the protection of investors, hereby adopts the revisions of Form N–30B–1 and redesignates such revised form, attached hereto, as Form N–1Q, effective for all calendar quarters ending on and after December 31, 1967. The Commission further finds, pursuant to section 45(a) of the Act, that public disclosure of the information contained in the nonpublic supplement to Item 1 of Form N–1Q is neither necessary nor appropriate in the public interest or for the protection of investors, except under the circumstances stated above in this release.

I. The text of the amended rules under the Securities Exchange Act of 1934, adopted by the Commission pursuant to the authority granted to it in sections 13, 15(d), and 23(a) of that Act, is as follows:

§ 240.13a–12 Quarterly reports of investment companies.

Every investment company registered under the Investment Company Act of 1940 which has securities listed and registered on a national securities exchange and for which a quarterly report form is prescribed shall file a quarterly report, on the appropriate form prescribed therefor, for each quarter for which it is required to file a quarterly report pursuant to section 30(b)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a–29(b)(1)).

§ 240.15d–12 Quarterly reports of investment companies.

Every investment company registered under the Investment Company Act of 1940 which is subject to Rule 15d–1 (17 CFR 240.15d–1) and for which a quarterly form is prescribed shall file a quarterly report, on the appropriate form prescribed therefor, for each quarter for which it is required to file a quarterly report pursuant to section 30(b)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a–29(b)(1)).

2. The text of the amended rules under the Act, adopted by the Commission pursuant to the authority granted to it in sections 30 and 38 of the Act (15 U.S.C. 80a–29, 80a–37), is as follows:

§ 270.30b1–1 Form for quarterly report of registered investment companies.

(a) The following form is hereby prescribed as the form for quarterly report which shall be filed by registered investment companies, pursuant to section 30(b)(1) of the Act (54 Stat. 836; 15 U.S.C. 80a–29(b)):

(1) Form N–1Q (17 CFR § 274.106) for registered management investment companies.—This form shall be used by all registered management investment companies.

§ 270.30b1–2 Quarterly report for totally held registered investment company subsidiary of registered investment company.

(a) Notwithstanding the provisions of § 270.30b1–1, a registered management investment company for which Form N–1Q (17 CFR 274.106) is appropriate for quarterly reports and which is a totally held subsidiary of a registered management investment company may file a statement in the form prescribed by paragraph (b) of this section in lieu of a quarterly report on Form N–1Q, if the following conditions are met:

(1) The information and exhibits required by Form N–1Q with respect to the subsidiary are included in the quarterly report of the parent; and

(2) It is indicated on the facing page of the parent's quarterly report that such report is filed on behalf of itself and the subsidiary naming the subsidiary.

(b) A totally held registered investment company subsidiary which avails itself of the privilege accorded by this rule shall file with the Commission, within the time prescribed by the instructions of Form N–1Q for filing quarterly reports, eight copies of a statement in the following form:

Pursuant to Rule 30b1–2 (17 CFR 270.30b1–2), _____, a totally held subsidiary of _____, a registered management investment company, hereby incorporates by reference as its quarterly report, pursuant to section 30(b)(1) of the investment company act of 1940 (15 U.S.C. 80a–29(b)), all information and documents contained in the quarterly report on form N–1Q (including any amendment thereto) filed by the latter company for the quarter ended _____.

(c) The statement required by paragraph (b), of this section, shall be filed under cover of the facing sheet of Form N–1Q. At least one copy of the statement shall be signed in the manner prescribed by Form N–1Q.

§ 270.30d–1 Reports to stockholders of management companies.

* * * * *

(c) The list showing the amounts and values of securities owned on the date of the balance sheet or its equivalent, required by clause (2) of section 30(d) of the Act, shall indicate each issue separately; except that—

* * * * *

(2) An amount not exceeding 5 percent of the aggregate value of securities shown on the list may be listed in one amount as "Miscellaneous securities", if the securities so listed have been held for not more than 1 year prior to the date of the balance sheet or its equivalent and have not previously been reported by name in any report or statement transmitted to stockholders or filed with the Commission as a public report or with any national securities exchange.

* * * * *

§ 274.106 Form N–1Q, for quarterly report of registered management investment company.

(a) *General instructions*—(1) *Rule as to use of Form N–1Q.* (i) Form N–1Q is to be used for quarterly reports pursuant to section 30 of the Investment Company Act of 1940 ("Act") and section 13 or 15(d) of the Securities Exchange Act of 1934 by all management investment companies to report the occurrence during the preceding calendar quarter of any one or more of the events specified in the items of this form.

(ii) The report is to be filed within 30 days after the close of each calendar quarter during which any of the specified events occurred.

(iii) Notwithstanding the foregoing, a report need not be filed on this form if substantially the same information as that required by this form has been previously reported by the registrant. The term "previously reported" is defined in Rule 8b–2 under the Act (17 CFR 270.8b–2).

(2) *Application of general rules and regulations.* (i) The general rules and regulations under the Act (17 CFR Part 270) contain certain general requirements which are applicable to reports on any form. These general requirements should be carefully read and observed in the preparation and filing of reports on this form, subject to the requirements of General Instruction C below as to the size of paper to be used and of General Instruction D below as to the number of copies to be filed.

(ii) Particular attention is directed to Regulation 8B of the Act (17 CFR 270.8b–1 et seq.) which contains general requirements regarding matters such as the legibility of the report and the information to be given whenever the title of securities is required to be stated. The definitions contained in Rule 8b–2 under the Act (17 CFR 270.8b–2) should be especially noted.

(3) *Preparation of report.* This form is not to be used as a blank form to be filled in, but only as a guide to the preparation of the report on good quality unglazed, white paper 8½ x 11 inches in size. However, tables, charts, maps, and financial statements may be on larger paper if folded to that size. The report shall contain the numbers and captions of all applicable items, but the text of such items may be omitted, provided the answers thereto are prepared in the manner specified in Rule 8b–13 under the Act (17 CFR 270.8b–13). All items which are not required to be answered in the particular report may be omitted and no reference thereto need be made in the report. All instructions should also be omitted.

(4) *Filing of reports and signature.* Eight complete copies of each report on this form, including exhibits and all papers and documents filed as a part thereof, shall be filed with the Commission. At least one such complete copy shall be filed with each exchange, if any, on which a security of the registrant is registered. At least one of the copies filed with the Commission and one filed with each such exchange shall be manually signed. Unsigned copies shall be conformed.

(5) *Reports by small business investment companies and certain venture capital companies.* Item 1 shall not be restated or answered by any registrant which is a small business investment company licensed as such under the Small Business Investment Act of 1958 or which is engaged principally in the business of underwriting, furnishing capital to industry, financing promotional enterprises, purchasing securities of issuers for which no ready market is in existence, and reorganising companies or similar activities.

(6) *Incorporation by reference.* Attention is directed to Rules 8b–23 and 8b–32 (17 CFR 270.8b–23, 270.8b–32) relating to incorporation by reference. The information required by Item 1 shall not be incorporated by reference to another report unless it appears in its entirety in such other report in the form required by Item 1.

(b) *Facing sheet.*[1]

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM N–1Q

QUARTERLY REPORT OF MANAGEMENT INVESTMENT COMPANY

Pursuant to Section 30 of the Investment Company Act of 1940 and Section 13 or 15(d) of the Securities Exchange Act of 1934

For the Calendar Quarter Ended _____ 19__.

Name of Registrant _____

IRS Empl. Ident. No. _____

Address of Principal Executive Office of Registrant: _____

(No. & Street, City, State, Zip Code)

INVESTMENT ADVISER(S)

Name: _____

Address of: _____

(No. & Street, City, State, Zip Code)

IRS EMPL. IDENT. NO. _____

PRINCIPAL UNDERWRITER(S)

Name: _____

Address of: _____

(No. & Street, City, State, Zip Code)

IRS EMPL. IDENT. No. _____

SIZE: Value of total net assets (or total assets, if a closed-end company) at the end of the calendar quarter_____

SIGNATURES

Pursuant to the requirements of the Investment Company Act of 1940 and the Securities Exchange Act of 1934, the undersigned registrant (or depositor or trustee) has caused this report to be signed on its behalf in the City of _____ and State of _____ on the ____ day of _____, 19__.

_____

(Name of Registrant, Depositor or Trustee)

_____

(Name and Title of Person Signing on Behalf of Registrant, Depositor or Trustee)

(c) *Information required in report.*

Item 1. Changes in portfolio securities.

If there has been any acquisition or disposition of portfolio securities by the registrant during the calendar quarter, furnish the information specified below as to such securities and the cash balance of the registrant, in the exact tabular form prescribed by the table and in accordance with the instructions, except that (1) the first report filed pursuant to this item, and (2) the first report filed pursuant to this item after the end of a calendar year, shall also include the information as to all other portfolio securities owned by the registrant at the end of the preceding calendar quarter.

[NOTE: The form of table to be submitted in response to Item 1 is included in copies of Form N–1Q which may be obtained from the Commission by requesting copies of Investment Company Act Release No. 5180.]

Instructions to Item 1.

1. For the purpose of this item, the term "U.S. Government securities" means any securities issued by the United States or by an instrumentality of the Government of the United States. "Short-term debt securities" means any securities payable on demand or having a maturity at the time of issuance of not exceeding 1 year, or any renewal thereof payable on demand or having a maturity at the time of renewal likewise limited. The term "long-term debt securities" means any debt securities other than short-term debt securities.

2. Except for U.S. Government securities and short-term debt securities, with respect to which only the totals for each such category shall be shown in columns (3) through (5), the required information shall be shown separately for each security acquired or disposed of by the registrant during the calendar quarter, even though the registrant may not have owned the particular security at the end of the quarter.

3. The principal amount of U.S. Government securities and of other short-term and long-term debt securities, and the amount of cash, shall be stated in the nearest thousand dollars. The number of shares or other units of other securities shall be stated in the nearest full share or other unit.

4. Set forth in column (2), as to each security registered or traded on a national securities exchange, the symbol assigned to such security by the exchange.

5. Any options or warrants which were attached to another security at the time of their acquisition shall be reported with, and in the category of, such other security. If one of such securities is disposed of separately, such disposition and the remaining holdings of the other security shall be reported in their separate categories and explained by footnote.

6. Acquisitions or dispositions during the calendar quarter of shares which were thereafter increased by a stock dividend or stock split during such quarter shall be adjusted to reflect the additional shares, and the date and basis of such stock dividend or split shall be indicated briefly by footnote to the adjusted quantities in column (3) or (4). The increased number of shares of any security owned at the end of any calendar quarter as the result of a stock dividend or split during such quarter shall be shown in column (5) and likewise indicated by footnote, irrespective of whether there were any other changes in the registrant's ownership of such security during the quarter. Any increase in shares resulting from a stock dividend on, or split of, shares owned at the beginning of the quarter shall not be shown as an acquisition in column (3). Similar adjustment and explanation shall be made with respect to any reverse stock split.

7. Any purchases of a security on margin, or acquisition or disposition of a security through exchange or otherwise than for cash, shall be indicated by footnote to the figures in column (3) or (4) stating the nature of the acquisition or disposition and the quantity, if other than that shown in the applicable column. Any security held in margin accounts or subject to option at the end of the calendar quarter shall also be indicated by footnote to the figures in column (5), which shall include the quantity and, in the case of options, the option prices and the dates within which they may be exercised.

8. If the registrant is engaged both at the end of the calendar quarter and at the date of filing the report on Form N–1Q for that quarter in a program of purchasing securities of a particular issue or issues and has sold no securities of such issue or issues during the quarter, it may list as "Miscellaneous securities" in section 7 of the table, in the applicable columns (in thousands of dollars), the total amount of purchases of all such securities during the quarter and the total value of all securities of such issue or issues owned as of the end of the quarter: *Provided*, That the securities so listed as of the end of the quarter are within the limitations stated in Rule 30d–1(c)(2) (§ 270.30d–1(c)(2)) under the Act. If the securities are listed in total amount as "Miscellaneous securities", the information otherwise required by Item 1 with respect to each such security shall be separately furnished to the Commission in the exact tabular form prescribed by the table and under a separate facing sheet captioned "Nonpublic Supplement to Item 1 of Quarterly Report of Management Investment Company on Form N–1Q for the calendar quarter ended _____, 19__, filed by _____". Such supplement shall be bound separately and shall be signed separately on its facing sheet in the manner prescribed in Form N–1Q, and four copies thereof shall be filed with the Commission as a part of the quarterly report on Form

[1] NOTE: The exact form of such facing sheet is included in copies of Form N–1Q which may be obtained from the Commission by requesting copies of Investment Company Act Release No. 5180.

N–1Q. The Commission shall classify the supplement as a nonpublic filing, which shall not preclude the Commission, if it should deem public disclosure necessary or appropriate in the public interest or for the protection of investors, from making public the information contained in the supplement or requiring that such information be included in any document of a public nature filed by the registrant with the Commission under any of the statutes administered by the Commission. To provide an affected registrant an opportunity to state to the Commission any objections it might have to the public disclosure of any information contained in the supplement, unless such information is then a requirement of an existing rule or form requiring public disclosure or unless a proceeding has been commenced before the Commission or a court, the Commission shall notify such registrant in writing of its intention to make or require public disclosure thereof not less than 5 business days prior to the date of such public disclosure.

9. If the registrant effected any short sale or any change in a short position in a security during the calendar quarter, it shall set forth in a separate table in columnar form the name of the issuer of such security, the title of the issue, and the exchange symbol, if any, and, in numbers of shares, the short sales during the quarter, the short positions closed during the quarter, and the short position at the end of the quarter. Appropriate adjustment in numbers of shares shall be made to reflect any stock dividend or stock split during the quarter. The first report filed pursuant to this item and the first report filed pursuant to this item after the end of a calendar year, shall also include the information as to all other securities in which the registrant had a short position at the end of the preceding calendar quarter.

Item 2. Submission of Matters to a Vote of Security Holders.

If any matter has been submitted to a vote of security holders, furnish the following information:

(a) The date of the meeting and whether it was an annual or special meeting.

(b) If the meeting involved the election of directors, state the name of each director elected at the meeting and of each other director now in office.

(c) Describe each other matter voted upon at the meeting and state the number of affirmative votes and the number of negative votes cast with respect to each such matter.

Instructions. 1. If any matter has been submitted to a vote of security holders otherwise than at a meeting of such security holders, corresponding information with respect to such submission shall be furnished. The solicitation of any authorization or consent (other than a proxy to vote at a stockholders' meeting) with respect to any matter shall be deemed a submission of such matter to a vote of security holders within the meaning of this item.

2. This item need not be answered as to (i) procedural matters, (ii) the selection or approval of auditors, or (iii) the election of directors or officers in cases where there was no solicitation in opposition to the management's nominees, as listed in a proxy statement pursuant to Rule 20a–1 under the Act (17 CFR 270.20a–1) and Regulation 14A under the Securities Exchange Act of 1934 (17 CFR 240.14a–1 et seq.) and all of such nominees were elected. This item may be omitted if action at the meeting was limited to the foregoing. In cases where the registrant does not solicit proxies and the board of directors as previously reported to the Commission was re-elected in its entirety, a statement to that effect will suffice.

3. If the issuer has published a report containing all of the information called for by this item, the item may be answered by a reference to the information contained in such report, provided copies of such report are filed as an exhibit to the report on this form.

Item 3. Policies with Respect to Security Investments.

Describe any material change which has occurred in the investment policy of the registrant with respect to each of the following matters and which has not been approved by stockholders.

(a) The type of securities (for example, bonds, preferred stocks, common stocks) in which it may invest, indicating the proportion of the assets which may be invested in each such type of security.

(b) The percentage of assets which it may invest in the securities of any one issuer.

(c) The percentage of voting securities of any one issuer which it may acquire.

(d) Investment in companies for the purpose of exercising control or management.

(e) Investment in securities of other investment companies.

(f) The policy with respect to portfolio turnover.

(g) Any other investment policy which is set forth in the registrant's charter, by-laws or prospectus.

Item 4. Legal Proceedings.

(a) Briefly describe any material legal proceedings, other than ordinary routine litigation incidental to the business, to which the registrant or any of its subsidiaries has become a party or of which any of their property has become the subject. Include the name of the court in which the proceedings were instituted, the date instituted and the principal parties thereto.

(b) If any such proceeding previously reported has been terminated, identify the proceeding, give the date of termination and state the disposition thereof with respect to the registrant and its subsidiaries.

Instruction. Any bankruptcy, receivership or similar proceeding with respect to the registrant or any of its significant subsidiaries shall be described. Any proceeding to which any director, officer or other affiliated person of the registrant is a party adverse to the registrant or any of its subsidiaries shall also be described. Any proceeding involving the revocation or suspension of the right of the registrant to sell securities shall also be described.

Item 5. Changes in Security for Debt.

If there has been a material withdrawal or substitution of assets securing any class of debt of the registrant, furnish the following information:

(a) Give the title of the securities.

(b) Identify and describe briefly the assets involved in the withdrawal or substitution.

(c) Indicate the provision in the underlying indenture, if any, authorizing the withdrawal or substitution.

Instruction. This item does not apply to short-term paper. This item need not be answered where the withdrawal or substitution is made pursuant to the terms of an indenture which has been qualified under the Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.).

Item 6. Defaults and Arrears on Senior Securities.

(a) State as to each issue of long-term debt of the registrant which is in default at the close of the calendar quarter with respect to the payment of principal, interest or amortization: (1) Nature of default; (2) date of default; (3) amount of default per $1,000 face amount; and (4) total amount of default.

(b) State as to each issue of capital stock of the registrant on which any accumulated dividend is in arrears at the close of the calendar quarter: (1) Title of issue; (2) amount per share in arrears.

Item 7. Changes in Control of Registrant.

(a) If any person has become a parent of the registrant, give the name of such person, the date and a brief description of the transaction or transactions by which the person became such a parent and the percentage of voting securities of the registrant owned by the parent or other basis of control by the parent over the registrant.

(b) If any person has ceased to be a parent of the registrant, give the name of such person and the date and a brief description of the transaction or transactions by which the person ceased to be such a parent.

Item 8. Terms of New or Amended Securities.

(a) If the constituent instruments defining the rights of the holders of any class of the registrant's securities have been materially modified, give the title of the class involved and state briefly the general effect of such modification upon the rights of the holders of such securities.

(b) If the registrant has issued a new class of securities, furnish the description of such class called for by the applicable item of Form N–8B–1 (17 CFR 274.11).

Instruction. This item does not apply to short-term paper.

Item 9. Revaluation of Assets or Restatement of Capital Share Account.

(a) If there has been a material change during the calendar quarter in the method of valuation of the assets of the registrant, state the date of the change and explain the change, the accounts involved and the statutory or regulatory basis, if any.

(b) If there has been a material restatement during the calendar quarter of the capital share account of the registrant resulting in a transfer from capital share liability to surplus or reserves, or vice versa, state the date, purpose and amount of the restatement and give a brief explanation of all related entries in connection with the restatement.

Item 10. Exhibits.

List below the exhibits, if any, filed as a part of this report.

(d) Instructions as to exhibits. (1) Subject to the rules regarding incorporation by reference, the following exhibits shall be filed as a part of the report, if not previously filed:

(i) Copies of any material amendments to the registrant's charter or by-laws.

(ii) Copies of the text of any proposal described in answer to Item 2.

(iii) Copies of the amendments to all constituent instruments and other documents described in answer to Item 5.

(iv) Copies of all constituent instruments defining the rights of the holders of any new class of securities and of any amendments to constituent instruments referred to in answer to Item 8.

(v) Copies of any new or amended investment advisory contract of registrant.

(Secs. 13, 15(d), 23(a), 48 Stat. 894, 895, 901, as amended, secs. 2, 8, 49 Stat. 1377, 1379, secs. 4, 6, 78 Stat. 569, 570, 15 U.S.C. 78m, 78o(d), 78w(a); secs. 20, 28, 45(a), 54 Stat. 836, 844, 845, 15 U.S.C. 80a–20, 80a–37, 80a–44(a).)

Effective date. The foregoing is declared effective December 31, 1967.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67–14287; Filed, Dec. 7, 1967; 8:45 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

BOILER WATER ADDITIVES; LABELING

In the FEDERAL REGISTER of May 18, 1966 (31 F.R. 7245), the Commissioner of Food and Drugs proposed that § 121.1088, the food additive regulation providing for the safe use of certain boiler water additives in preparation of steam that contacts food, be amended to require that the container label and labeling of such additives bear, in addition to other information required by the Federal Food, Drug, and Cosmetic Act: (1) The name of the additive or a statement of its composition; and (2) adequate directions for use to assure compliance with all the provisions of § 121.1088.

In response to the proposal, three comments were received generally agreeing with its provisions and eight comments objected in whole or in part to the proposed requirements. The Commissioner has considered these comments and concludes as follows:

1. Several comments indicated that there was a need to clarify the meaning of proposed § 121.1088(e)(1). It was suggested that the reference to "name of the additive" could be construed to mean either the chemical name of the additive or the trade name for a product. It was also suggested that the reference to "statement of its composition" could be interpreted as meaning either a statement of the chemical names of the components of a mixture or a percentage declaration of such components. The Commissioner concludes that these references should be changed to clarify the intent to require a qualitative declaration of the food additive components of boiler water treatments by common or chemical names.

2. There was a general opposition to proposed § 121.1088(e)(1) on the grounds that disclosure of composition would reveal secret proprietary data and thereby negate research incentive. This opposition, however, appeared to be predicated in part on the understanding that the requirement contemplated a percentage declaration of formulation components. Arguments were advanced that the requirement could result in the partial or complete withdrawal of responsible suppliers, encourage irresponsible suppliers to enter this market, reduce the efficiency of boiler water systems, and increase the hazards of food contamination. As an alternative, it was suggested that the label bear a statement certifying that the boiler water additives are in conformance with the provisions of § 121.1088. The Commissioner concludes that there is no firm basis for the supposition that disclosure of composition by chemical name in labeling would act to the detriment of suppliers or that the public welfare would be adversely affected. It is doubtful that such a declaration would reveal trade secrets because available analytical methods can be applied to determine composition. The Commissioner also concludes that the suggested statement certifying compliance with § 121.1088 in lieu of declaring composition would not facilitate determining such compliance.

3. There were several comments that proposed § 121.1088(e)(1) would impose a hardship on suppliers because the blends of chemicals are not standard and a substantial number of labels would be required for all potential combinations of chemicals permitted for boiler treatment of water used to prepare steam for food-contact use. In addition, with reference to proposed § 121.1088(e)(2), there was general consensus that it would be impractical to furnish directions for use on the label of the additive container. It was stated that instructions for use of boiler water treatments deal with specific boiler water problems and are invariably supplied to individual firms in such forms as control charts, technical bulletins, service reports, and written communications. These instructions for using such boiler water additives are regarded as labeling within the meaning of section 201(m) of the act. In recognizing the custom nature of boiler water treatments, the Commissioner concludes that a declaration of the food additive components and adequate directions for use appearing either on the label or in the labeling of such formulations are sufficient to facilitate safe use in compliance with § 121.1088.

Therefore, having considered the comments received and other relevant information, the Commissioner concludes that the subject proposal should be adopted with changes as set forth below. Accordingly, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(d), 72 Stat. 1787; 21 U.S.C. 348(d)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), § 121.1088 is amended by adding thereto a new paragraph, as follows:

§ 121.1088 Boiler water additives.

* * * * * *

(e) To assure safe use of the additive, in addition to the other information required by the act, the label or labeling shall bear:

(1) The common or chemical name or names of the additive or additives.

(2) Adequate directions for use to assure compliance with all the provisions of this section.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(d), 72 Stat. 1787; 21 U.S.C. 348(d))

Dated: November 30, 1967.

J. K. KIRK, *Associate Commissioner for Compliance.*

[F.R. Doc. 67–14320; Filed, Dec. 7, 1967; 8:48 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Chapter II—Federal Housing Administration, Department of Housing and Urban Development

SUBCHAPTER L—CONDOMINIUM HOUSING INSURANCE

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Individually Owned Units

CONVERSION OF PROJECT TO FAMILY UNITS

In § 234.26(c) subparagraph (1) is amended to read as follows:

§ 234.26 Conversion of project to family units.

* * * * * *

(c) *FHA conversion and release plans.* * * *

(1) The termination by payment in full of the mortgage or by voluntary termination of the insurance contract covering any FHA insured mortgage on the project, unless the Commissioner determines that his interests and those of the individuals purchasing the family units are best served by not requiring the termination of the insurance.

* * * * * *

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply sec. 234, 75 Stat. 160; 12 U.S.C. 1715y)

Issued at Washington, D.C., November 30, 1967.

PHILIP N. BROWNSTEIN, *Federal Housing Commissioner.*

[F.R. Doc. 67–14378; Filed, Dec. 7, 1967; 8:46 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VI—Department of the Navy

SUBCHAPTER A—OFFICIAL RECORDS

PART 701—AVAILABILITY OF OFFICIAL RECORDS

Policies and Procedures

Scope and purpose. Part 701 is amended by substituting § 701.1 as follows:

§ 701.1 Policies and procedures for making records available to the public.

(a) *Purpose.* This section implements 5 U.S.C. 552 and DoD Instruction 5400.7 of June 23, 1967 (32 F.R. 9666), and sets forth policies and procedures for making records available to the public.

(1) *Records available.* It describes the kinds of documentary material or records that:

(i) Must be made available to the public, and procedures to be used in making them available, by (a) publishing them in the FEDERAL REGISTER, (b) providing the opportunity to read and copy them, with current indexes, and (c) providing copies when they are identified adequately.

(ii) Do not need to be made available to the public under the exemptions of 5 U.S.C. 552, and DoD Instruction 5400.7 of June 23, 1967 (32 F.R. 9666), and procedures for identifying them. Except for security classification markings which are used to identify material or records not releasable for reasons of national defense or foreign policy, the term "For Official Use Only" (FOUO) is the only designation, other than distribution statements which may be used to identify material or records not to be released to the general public.

(2) *Reviews to preclude unnecessary withholding.* It provides for review of refusals to release documentary material or records, to preclude unnecessary or unauthorized withholding, and for responding to court actions taken to compel release of documentary material or records determined by proper authority to be within the exemptions stated in paragraph (h) of this section and authorized by 5 U.S.C. 552 and DoD Instruction 5400.7 of June 23, 1967 (32 F.R. 9666).

(b) *Supersession.* Those portions of SECNAVINST 5570.1A of June 6, 1957, Policy governing the custody, use, and preservation of Department of Defense official information which requires protection in the public interest, which are in conflict with this section, are hereby superseded (see paragraph (i) (6) of this section).

(c) *Scope and applicability*—(1) *Intent.* This section applies to requests for Department of the Navy records, and access thereto, received from any member of the public. It is not intended to limit release of information to the Congress, or to Federal agencies, or to Federal Government employees whose official duties entitle them to the records or information. Requests from Members of Congress are governed by SECNAVINST 5730.13 (Provisions of Information to Congress), and by section 1–1096.1 of the Armed Services Procurement Regulation (see § 1–1096.1 of this title). The furnishing of information for General Accounting Office audits is governed by SECNAVINST 5741.2D (Relations with the General Accounting Office). Receipt of service of process is governed by DoD Directive 5530.1 (Acceptance of Service of Process (32 F.R. 7019)). National Security Agency official records and information are exempted from the provisions of this section by P.L. 86–36 (50 U.S.C. 402 note).

(2) *Other authorities.* Directives or other authorities providing more detailed procedures for specific categories of records or information, to the extent consistent with 5 U.S.C. 552 and DoD Instruction 5400.7 of June 23, 1967 (32 F.R. 9666) and this section, include but are not limited to:

(i) Public Affairs Regulation, NAVSO P1035—release to news and other public information media.

(ii) BUPERSINST 1070.12 and Marine Corps Manual, paragraph 1070 (also, for Headquarters, Marine Corps, HQO P5000.3A, Chapter 30)—release of information from the personnel records of members and former members of the Navy and Marine Corps.

(iii) Federal Personnel Manual, Chapters 293, 294, and 339—release of information from active and inactive civilian personnel records.

(iv) Manual of the Medical Department, U.S. Navy, NAVMED P–117, Chapter 23, section III—release of information from active and inactive medical records.

(v) Armed Services Procurement Regulation (ASPR) 1–329, and Navy Procurement Directives (NPDs)—release of procurement records and information.

(vi) U.S. Navy Regulations, SECNAV INST 5800.7 (JAG Manual) and SEC NAVINST 5802.1A—litigation matters and release and authentication of records to the courts and other government agencies (see § 701.2–5).

(d) *Policy*—(1) *General.* It is the policy of the Department of the Navy, consistent with 5 U.S.C. 552 and DoD Instruction 5400.7 of June 23, 1967 (32 F.R. 9666), to make available to the public the maximum amount of information concerning its operations and activities. Exemptions to the requirement for disclosure shall be made in accordance with paragraph (h) of this section, and the release procedures prescribed in paragraph (j) of this section.

(2) *Availability of exempt information.* Information exempt from public disclosure under the provisions of paragraph (h) of this section should be made available to the public when its disclosure is not inconsistent with statutory requirements (see paragraph (h) (3) of this section) or with OPNAVINST 5510.1C, Department of the Navy Security Manual for Classified Information, and when appropriate officials of the Department of the Navy determine that no significant purpose would be served by withholding the information. The determination of whether a significant purpose is served by withholding information under the provisions of paragraph (h) of this section is within the sole discretion of the Department of the Navy.

(3) *Withholding information.* Records, including all types of documents or related material, may be withheld from the public only as authorized by 5 U.S.C. 552 and DoD Instruction 5400.7 of June 23, 1967 (32 F.R. 9666) and this section. In no event shall the determination that requested information comes within any of the specific exemptions of 5 U.S.C. 552 and DoD Instruction 5400.7 of June 23, 1967 (32 F.R. 9666) or this section, or that the information has not been properly requested, be influenced by the possibility that its release might suggest administrative error or inefficiency, or might embarrass the Department of the Navy or one of its military or civilian officials.

(e) *Federal Register publication.* Subject to the exemptions set forth in paragraph (h) of this section, a current description of where, how, and by what authority the Department of the Navy performs its functions will be published in the FEDERAL REGISTER for the guidance of the public.

(1) *Insuring publication.* Responsibilities for insuring publication of this material are assigned to the heads of Navy Department components, commanders of naval systems commands, and the Commander, Military Sea Transportation Service by SECNAVINST 5800.4 which designates the Judge Advocate General of the Navy as this Department's representative regarding FEDERAL REGISTER publication matters. In deciding which information to publish, responsible officials will consider the fundamental objective of informing all interested persons how to deal effectively with the Department of the Navy. They will review information of the type described to ensure that it, together with each change, revision or cancellation, is sent to the Judge Advocate General for publication on an up-to-date basis in the FEDERAL REGISTER.

(2) *Information to be published.* Subject to the exemptions set forth in paragraph (h) of this section, information published in the FEDERAL REGISTER will include:

(i) *Organization, places, and methods.* The central and field organization of the Department of the Navy, and the established places at which, the officers from whom, and the methods whereby the public may secure information, make submittals or requests, and obtain decisions.

(ii) *Procedures and related rules.* The procedures by which the Department of the Navy conducts its business with the public, both formally and informally, including procedural rules which must be followed, descriptions of forms which must be completed or the sources from which they may be obtained, and instructions on the scope and content of any papers, reports, or examinations required to be submitted pursuant to such rules.

(iii) *Policy direction.* Directives (Navy Instructions and Notices; Marine Corps Orders and Bulletins), regulations, manuals, policy memoranda, statements or interpretations of policies, and other substantive rules of general applicability affecting the public.

(3) *Referencing information published elsewhere.* With the approval of the Director of the Federal Register, the requirement for publication in the FEDERAL REGISTER (1 CFR, Part 20, June 1, 1967, 32 F.R. 7899) may be satisfied by reference in the FEDERAL REGISTER to other publications readily available to the class of persons affected, and containing the information which must otherwise be published in the FEDERAL REGISTER. In such cases, the following apply:

(i) In order to be eligible for incorporation by reference, the matter must be in the nature of published data, criteria, standards, specifications, techniques, illustrations, or other published information reasonably available to members of the class affected thereby.

(ii) Incorporation by reference is not acceptable as a complete substitute for promulgating, in full text, material required to be published by 5 U.S.C. 552 and DoD Instruction 5400.7 of June 23, 1967 (32 F.R. 9666) and this section.

(iii) Incorporation by reference is acceptable as a means of avoiding unnecessary repetition, within the promulgated document, of published information already reasonably available to the class affected. Examples include:

(a) Construction standards promulgated by a professional association of architects, engineers, or builders.

(b) Codes of ethics promulgated by professional organizations.

(c) Forms and formats publicly or privately published and readily available to the persons required to use them.

(4) *Actual and timely notice.* No member of the general public can be required to resort to, or be adversely affected by, any matter that is required to be published in the FEDERAL REGISTER, unless the material has been published in the FEDERAL REGISTER, or he has otherwise received actual and timely notice of the contents of that material.

(f) *Inspection and copying of opinions, orders, and manuals*—(1) *Types of information made available.* Subject to the exemptions set forth in paragraph (h) of this section, the Department of the Navy will make available for public inspection and copying the categories of information listed in subdivision (ii) of this subparagraph, unless such materials are published and offered for sale.

(i) *Responsibilities.* It is the responsibility of Department of the Navy officials who create or issue these materials to ensure their availability to members of the public, by providing copies of any such materials to the appropriate facility specified in subparagraph (2) of this section. The Administrative Officer, Navy Department will establish such additional procedures as are necessary to ensure their availability and provide for the preparation and maintenance of a current index, or indexes, of all such materials.

(ii) *Categories.* The following will be made available:

(a) All final opinions (including concurring and dissenting opinions) and orders made in adjudications (as defined in 5 U.S.C. 551) that may be used, cited, or relied upon as precedent in future adjudications.

(b) Statements of policy and interpretations of less than general applicability, which affect the public but are not published in the FEDERAL REGISTER.

(c) Administrative staff manuals and instructions, or portions thereof, which establish Department of the Navy policy, or interpretation of policy that are, determinative of the rights of members of the public. This provision does not apply to instructions for employees on the methods and techniques, or tactics, to be used in performing their duties, or to instructions relating only to the internal management of the Department. Examples of manuals and instructions not normally made available are:

(*1*) Those issued for audit and inspection purposes, or those which prescribe operational tactics, standards of performance, or criteria for defense, prosecution, or settlement of cases.

(2) Operations and maintenance manuals and technical information concerning munitions, equipment, and systems.

(*d*) Materials that are published in the FEDERAL REGISTER, when such action is feasible.

(iii) *Examples.* The following are illustrative of the information that normally will be made available for public inspection and copying:

(*a*) Navy Regulations, General Orders, Department of the Navy directives and manuals of public interest, Navy Procurement Directives, and the Armed Services Procurement Regulation.

(*b*) Final decisions of the Boards of Review created under the Uniform Code of Military Justice, decisions of the Armed Services Board of Contract Appeals, and decisions of the Navy Contract Adjustment Boards.

(iv) *Technical manuals and related information.* Technical manuals and data will be made available to Department of the Navy contractors, to bidders on Department of the Navy contracts, and to purchasers of surplus or obsolete military equipment or weapons, for inspection and copying, or for purchase, in accordance with OPNAVINST 5510.1C, Department of the Navy Security Manual for Classified Information; NAVMATINST 4000.17, Distribution Statements (Other than Security) on Technical Documents; and Navy Comptroller Manual, Vols. 3 and 4, paragraphs 035885 to 035888, and 043145 (Parts 288 and 289 of this title), with the Armed Services Procurement Regulations, and with directives issued by the sponsoring systems command.

(v) *Cost.* The cost to the Department of the Navy of copying any of the foregoing materials will be imposed on the person requesting the copy, in accordance with paragraph (g) (3) (i) (*b*) of this section.

(vi) *Deletion of identifying details.* Identifying details, which if revealed would be a clearly unwarranted invasion of privacy (see paragraph (h) (6) of this section), may be deleted from a final opinion, order, statement of policy, interpretation, staff manual, instruction, or record made available for inspection and copying. In every such case, the justification for the deletion must be fully documented. Reasons for the deletion include the protection of privacy in a person's (*a*) business affairs, (b) medical matters, and (c) private family matters, including humanitarian considerations. "Person," as appropriate, includes an individual, partnership, association, or public or private organization. Under no circumstances should there be given any written or oral justification for the deletion of details which, by raising inferences, could be even more injurious than the invasion of privacy which the deletion of the details is intended to avoid. A rubber stamp, reading substantially as follows, may be used for the purpose of documenting the justification for the deletion:

Activity location _____

Date _____

Identifying details have been deleted, pursuant to 5 U.S.C. 552, for one or more of the reasons indicated in paragraph 6a(6) of SECNAVINST 5720.42, to prevent a clearly unwarranted invasion of personal privacy which would result from disclosure of those details.

Title of Cognisant Officer/Official:

Signature _____

(2) *Where information may be inspected*—(i) *In the Navy Department.* Information described in subparagraph (1) (ii) of this paragraph (other than unpublished decisions of Boards of Review covered in subdivision (i) (*b*) of this subparagraph) is available for public inspection and copying at the Navy Department Library, or at the Law Library of the Office of the Judge Advocate General, as outlined below. The libraries are open from 0800 to 1630 (8 a.m. to 4:30 p.m.), Mondays through Fridays, except holidays.

(*a*) *Navy Department Library.* Located in Room 1241, Main Navy Building, 18th Street and Constitution Avenue NW., Washington, D.C. 20360, this facility maintains an index system by subject matter to materials available. The following are examples of indexes it will maintain for reference by members of the public:

(*1*) The Marine Corps Directives System Quarterly Checklist and an index to administrative directives in the Navy Directives System Consolidated Subject Index of Unclassified Instructions.

(2) An index to the Armed Services Procurement Regulation.

(3) An index to the decisions of the Armed Services Board of Contract Appeals.

(4) An index to the decisions of the Navy Contract Adjustment Board issued after July 4, 1967.

(*5*) Any other indexes prepared pursuant to subparagraph (1) (i) of this

paragraph, and a master list of available indexes.

(b) *Law Library of the Office of the Judge Advocate General.* Located in Room 2537 of the Navy Annex, Columbia Pike and Arlington Ridge Road, Arlington, Va. 20370, this facility maintains, and will make available, both published and unpublished decisions of Boards of Review created under the Uniform Code of Military Justice. (Published decisions are available also at naval bases, as indicated in subdivision (ii) (b) of this subparagraph.)

(ii) *In the field.* To the extent the material described in subparagraph (i) of this paragraph is received by Navy and Marine Corps field activities ashore, for the regular conduct of their business, it will be made available locally to members of the public, for inspection and copying, under paragraph (j) of this section procedures.

(a) *All Navy and Marine Corps shore activities.* All naval shore activities maintain a current file of Department of the Navy directives of general applicability, and related indexes; also, directives of less than general applicability pertinent to their operations.

(b) *Naval bases and Marine Corps bases.* Published decisions of the Boards of Review created under the Uniform Code of Military Justice can be found in "Courts-Martial Reports" maintained by these bases.

(c) *Navy Publications and Printing Service Office.* Technical manuals and data at field activities will be available as indicated in procurement documents. In some instances they will be made available under clearance procedures prescribed by the sponsoring naval systems command, at the Navy Publications and Printing Service Office, Washington Navy Yard, Building 157-1, Washington, D.C. 20390. A priced listing of technical manuals and data will be compiled and maintained at the NPPSO for reference by Department of the Navy personnel, contractors, bidders on contracts, and purchasers of surplus or obsolete military equipment or weapons.

(3) *Indexing and availability.* No order, opinion, statement of policy, interpretation, staff manual, or instruction issued, promulgated, or adopted after July 4, 1967, which is not indexed and either made available or published, may be relied upon, used, or cited as a precedent against any member of the public unless he has actual and timely notice of its terms. If the order, opinion, statement of policy, interpretation, staff manual, or instruction was issued, promulgated, or adopted before July 4, 1967, it need not be indexed, but must be made available in accordance with this paragraph.

(i) In determining whether an order, opinion, statement of policy, interpretation, staff manual, or instruction is likely to be used or relied upon as precedent, the primary test shall be whether it is intended to provide binding guidance for decisions or evaluations by subordinates, or for future decisions by the same authority in adjudications of cases affecting the public, where similar facts or issues are presented.

(ii) With regard to the precedential effect of an adjudication, opinions and orders of the Boards of Review exemplify the type that shall be made available for inspection and copying, since they may be relied upon, used, or cited in future adjudications. By contrast, orders and opinions resulting from adjudications, such as those involving internal personnel (including military personnel) proceedings and security proceedings, are not required to be made available to the general public for inspection and copying, since they are not relied upon, used or cited in future adjudications.

(g) *Availability of records.* Subject to the exemption set forth in paragraph (h) of this section and the procedural requirements of paragraph (j) of this section, any record in the possession of the Department of the Navy shall be made available upon the request of any person. Copies of records which are published, in accordance with paragraph (e) of this section, or made available for inspection and copying, in accordance with paragraph (f) of this section, also should be made available to those who request them, when practicable.

(1) *Definition and interpretation of record.* In determining whether documentary material qualifies as a record, consideration should be given to the following:

(i) *Record defined.* The definition of the word "record" for records disposal purposes is contained in 44 U.S.C. 366, which reads: "[It] includes all books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by any agency of the U.S. Government in pursuance of Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data contained therein."

(ii) *Items included.* Records are not limited to permanent or historical documents, but include contemporaneous documents, as well.

(iii) *Items excluded.* The term "record" does not include objects or articles such as structures, furniture, paintings, sculpture, three-dimensional models, vehicles, equipment, etc., whatever their historical value or value as "evidence."

(2) *Identifiable record.* To be "identifiable," a record must exist as documentary material at the time it is requested. The Department of the Navy need not "create" a record to satisfy requests for information.

(3) *Requests for records.* Upon proper request, any identifiable Navy or Marine Corps record in the possession of a Department of the Navy activity will be made available to any person, subject to paragraph (h) of this section exemptions and paragraph (j) of this section procedural requirements.

(i) *Proper request.* A request for a record is proper and will be honored if the requester:

(a) *Describes the record.* The record sought shall be described with sufficient particularity to enable the Department of the Navy to identify and locate the record with a reasonable amount of effort. The request may be for more than one record, but each should be identified separately. Permission will not be granted for a requester to search or browse through a file or record series to locate a record he then may want to identify and request. However, reasonable effort will be made to locate existing records properly identified.

(b) *Pays the cost.* The cost associated with locating and providing a copy of the record requested, as determined by Navy Comptroller Manual, Vols. 3 and 4, paragraphs 035385 to 035396, and 043145 (Parts 388 and 389 of this title), shall be tendered by the requester, who should be informed in advance of the estimated cost. Exemptions from charging for such services may apply when a predominant Government interest will be served in releasing the requested record. There is no fee for merely examining records that are readily available to the general public for inspection.

(c) *Complies with requirements.* The requirements contained in this section, including time, place, and procedures for obtaining a record, shall be followed.

(ii) *Referring requests and assisting requesters.* The placing of procedural obstacles in the way of the requester should be avoided, particularly where reorganization or transfer of functions contributes to an improperly directed request.

(a) *Other agency or activity records.* When a request is received for a record originated within another agency or activity and the request is in writing, it will be referred promptly and directly to that agency or activity for disposition, and the requester so advised. If the request is oral, the requester will be similarly referred. If the particular agency or activity is not known, reasonable effort will be made to determine the proper agency or activity, or otherwise assist in satisfying or properly channeling the request.

(b) *Requests relating to litigation.* When a request is received that concerns matters relating to actual or potential litigation involving the United States, the request will be referred to the Judge Advocate General or the General Counsel, as appropriate.

(c) *Records concerning the Congress.* When a request from the public is for a copy of material that concerns primarily a Member of Congress or a Congressional Committee, or a copy of a transcript of testimony given before a Congressional Committee, the requester will be advised to direct his request to the member or committee concerned.

(d) *Other sources.* When the information sought exists in the form of several records at several Department of the Navy locations, the applicant should be referred to these other sources, if gathering the information would be burdensome.

(iii) *Coordinating requests—(a) With other agencies or activities.* When other agencies or other Department of the Navy components have a significant interest in the contents of a requested document, they should be consulted before determining whether to make the document available to the requester.

(b) *With legal authorities.* Advice of the Judge Advocate General or General Counsel, within their respective areas of responsibility, will be sought in all cases in which release or availability is questionable.

(c) *With public affairs officers.* Public affairs officers should be consulted on newsworthy matters, and advised of all requests from news media representatives. In addition, public affairs officers also should be informed in advance whenever it is intended to release a document containing potentially newsworthy material, or to withhold such a document from release.

(h) *Exemptions.* Documentary material may be withheld from public disclosure if it comes within a specific exemption. Even exempted material, however, should be made available upon the request of any member of the public if, in the judgement of the releasing authority, no significant purpose would be served by withholding it from him, and its release is not inconsistent with OPNAVINST 5510.1C, Department of the Navy Security Manual for Classified Information; or statutory requirements. When a request is received for a copy of a document properly marked "For Official Use Only," or otherwise of a character which contains information exempt from disclosure, review thereof should be made to determine which portions, if any, may be disclosed; those portions should then be released. The following are types of records that may be withheld from public disclosure:

(1) *Security classified records.* Those security classified in the interest of national defense or foreign policy in accordance with OPNAVINST 5510.1C, Department of Navy Security Manual for Classified Information; or Executive order.

(2) *Internal rules and practices.* Those containing rules, regulations, orders, manuals, directives, and instructions relating to internal personnel guides and directions, or to the internal practices of the Department of the Navy. Examples include:

(i) Operating rules, guidelines, and manuals for Department of the Navy investigators, inspectors, auditors, and examiners, and schedules or methods which cannot be disclosed to the public without substantial prejudice to the effective performance of a significant function of the Department of the Navy. Some of these materials would reveal:

(a) Negotiating and bargaining techniques.

(b) Bargaining limitations and positions.

(c) Inspection schedules and methods.

(d) Audit schedules and methods.

(ii) Personnel and other administrative matters, including items such as, but not limited to, examination questions and answers used in training courses or in the determination of the qualifications of candidates for employment, entrance to duty, advancement, or promotion.

(3) *Statutory exemptions.* Those containing information authorized or required by statute to be withheld from the public. The authorization or requirement may be found in the terms of the statute itself, or in Executive orders or regulations authorized by, or in implementation of, the statute. Examples include:

(i) Trade and financial information provided in confidence by businesses (18 U.S.C. 1905).

(ii) National Security Agency information (50 U.S.C. 402).

(iii) Any records containing information relating to inventions which are the subject of patent applications on which Patent Secrecy Orders have been issued (35 U.S.C. 181–188).

(iv) Any records containing information relating to inventions in which the Government has a property interest, pending the securing of patent protection (35 U.S.C. 122).

(4) *Privileged information and records.* Those containing information which the Department of the Navy receives from anyone, including an individual, a foreign nation, an international organization, a State or local government, a corporation, or any other organization with the understanding that it will be retained on a privileged or confidential basis, or similar commercial or financial records which the Department of the Navy develops internally, if they are in fact the kinds of records which are normally considered privileged or confidential. Such records include documents containing:

(i) Information customarily considered privileged or confidential, such as information coming within the doctor-patient, lawyer-client, and priest-penitent privileges.

(ii) Commercial or financial information received in confidence in connection with loans, bids, or proposals, as well as other information received in confidence or privileged, such as trade secrets, inventions and discoveries, or other proprietary data.

(iii) Statistical data and commercial or financial information concerning contract performance, income, profits, losses, and expenditures, if received in confidence from a contractor or potential contractor.

(iv) Information such as research data, invention disclosures, patent applications, formulae, designs, drawings, and other technical data and reports, which are significant as items of valuable property acquired in connection with research, grants, or contracts, or would likely be held in confidence if owned by private parties.

(v) Personal statements given in the course of inspections or investigations, where such statements are received in confidence from the individual and retained in confidence.

(5) *Internal communications.* Except as provided in subdivision (ii) of this subparagraph, internal communications within and among agencies and components.

(i) Examples:

(a) Staff papers containing advice, opinion, or suggestions.

(b) Information received or generated by a component preliminary to a decision or action, including draft versions of documents, where premature disclosure would harm the authorized appropriate purpose for which the records are being used.

(c) Advice, suggestions, or reports prepared on behalf of the Department of the Navy by boards, committees, councils, groups, panels, conferences, commissions, task forces, or other similar groups that are formed by a component to obtain advice and recommendations.

(d) Records of Department of the Navy evaluations of contractors and their products, which in effect constitute recommendations or advice and would be used improperly to the advantage or to the detriment of private interests.

(e) Advance information on such matters as proposed plans to procure, lease, or otherwise acquire and dispose of materials, real estate, facilities, or functions when such information would provide undue or unfair competitive advantage to private personal interests.

(f) Records which are exchanged among Department of the Navy personnel, or with components of the Department of Defense, or other Government agencies preparing for anticipated legal proceedings before any Federal, State, or military court, or before any regulatory body. These include papers and advice exchanged internally in preparation for administrative settlement of potential litigation, such as claims against the Government.

(g) Reports of inspections, audits, investigations, or surveys which pertain to safety, security, or the internal management, administration, or operation of the Department of the Navy.

(ii) If any such intra- or inter-agency information requested would routinely be made available through the discovery process in the course of litigation with the agency, then it should not be withheld from the general public. If, however, the information would be made available only through the discovery process by special order of the court, based on the particular needs of a litigant balanced against the interests of the agency in maintaining its confidentiality, then the record or document should not be made available to a member of the general public.

(6) *Personnel and medical records.* Information in personnel and medical files, as well as information in similar files that, if disclosed to a member of the public, would result in a clearly unwarranted invasion of personal privacy.

(i) *Examples.* Examples of files similar to personnel and medical files include:

(a) Those compiled to evaluate or adjudicate the suitability of candidates for civilian employment, and the eligibility of individuals, civilian, military, or industrial, for security clearances.

(b) Files containing reports, records, and other material pertaining to personal matters in which administrative action, including disciplinary action, may be taken.

(ii) *Special considerations.* In determining whether the release of information would result in a clearly unwarranted invasion of privacy, consideration should be given, in cases such as those involving alleged misconduct, to the relationship of the alleged misconduct to an individual's official duties, the amount of time which has passed since the alleged misconduct, and the degree to which the individual's privacy has already been invaded. Thus, the release of information concerning alleged misconduct which is closely related to official duties, which has occured recently, and which has already been exposed to the public, is less likely to constitute a clearly unwarranted invasion of personal privacy. For example, after completion of appellate review, unclassified records of courts-martial proceedings should normally be made available. In determining whether or not disclosure to a member of the public would result in a clearly unwarranted invasion of privacy, consideration must be given also to the privacy of witnesses and the victim. (Records of court-martial proceedings may be made available at an earlier stage, if in the judgment of the Judge Advocate General or the general court-martial convening authority, as appropriate, disclosure would not interfere with the review of the case.) Also, in determining whether the release of information revealing victimization or other involvement with misconduct would result in a clearly unwarranted invasion of privacy, among the factors which must be considered are the amount of time which has passed since the incident, and whether the investigation or proceeding which was conducted was open to the public or closed.

(iii) *Protecting personal privacy.* When the sole and exclusive basis for withholding information is protection of the personal privacy of an individual, the information should not be withheld from him or from his designated legal representative. An individual's personnel, medical, or similar file may be withheld from him or from his designated legal representative for reasons other than the protection of his personal privacy when Civil Service Commission or other validly promulgated regulations so authorize.

(7) *Records of investigations.* Investigatory files compiled for the purpose of enforcing civil, criminal, or military law, including Executive orders, or regulations validly adopted pursuant to law (5 U.S.C. 301).

(i) Examples include:

(a) Statements of witnesses and other material based on information developed during the course of the investigation, and all materials prepared in connection with related Government litigation and adjudicative proceedings.

(b) Lists of firms or individuals suspended under procurement regulations when the lists are compiled in connection with investigations of irregularities.

(ii) The right of individual litigants to investigatory files currently available by law is not diminished.

(8) *Financial reports.* Those contained in or related to examination, operation, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions.

(9) *Geological and geophysical records.* Those containing geological and geophysical information and data (including maps) concerning wells.

(i) *Identification and marking "For Official Use Only".*

(1) *Identification.* Records which are not security classified under OPNAV INST 5510.1C, Department of the Navy Security Manual for Classified Information, but which are authorized by 5 U.S.C. 552 and DoD Instruction 5400.7 of June 23, 1967 (32 F.R. 9666) to be withheld from general public disclosure under paragraph (h) of this section, and which for a significant reason should not be given general circulation, shall be considered as being "For Official Use Only" (FOUO).

(2) *Marking folders, records, and files.* A record that is considered "For Official Use Only" may be marked "For Official Use Only" when such marking is deemed necessary to ensure that all persons having access to the record are aware that it should not be publicly released and should not be handled indiscriminately. Individual folders, records, and files covering specific kinds of subject matter, normally falling within the exemptions of paragraph (h) of this section (such as personnel and medical files, bids, proposals, and the like), which are covered by rules and regulations specifying what may be released publicly, do not require the "FOUO" marking unless transmitted under circumstances where marking is essential to ensure protection of the information involved.

(3) *Protection of unmarked FOUO material.* Material which is considered to be "For Offical Use Only" must be safeguarded from general disclosure, irrespective of whether the material is physically marked with the term "For Official Use Only."

(4) *Marking paragraphs.* Whenever necessary to ensure proper understanding, individual paragraphs which contain FOUO information shall be marked with the symbol "FOUO." In classified documents, this marking should be applied only to paragraphs which contain FOUO information and do not contain classified information.

(5) *Designating documents "FOUO"—*

(i) *Responsibility for marking.* The originator or signing official, or higher authority, is responsible for marking a document that he has determined should be physically marked "For Official Use Only."

(ii) *Responsibility for advising stocking points.* Originators of Department of the Navy directives (Navy Instructions and Notices; Marine Corps Orders and Bulletins), or higher authority, also are responsible for advising stocking points when a directive that does not have the "FOUO" marking is for official use only, and not for general distribution to the public.

(a) *Navy Department components, naval systems commands, and MSTS.* The Chief of Naval Operations, the Chief of Naval Material, the heads of Navy Department bureaus and offices, commanders of systems commands, and the Commander, Military Sea Transportation Service will notify the Director, Navy Publications and Printing Service and the Librarian, Navy Department Library, within 60 days of November 6, 1967, of any issuance included in the Navy Directives System Consolidated Subject Index of Unclassified Instructions that is "For Official Use Only," and not available to the general public.

(b) *Headquarters, Marine Corps.* The Commandant of the Marine Corps is responsible for similarly notifying the Librarian, Navy Department Library, of any directives listed in the Marine Corps Directives System Quarterly Checklist that are "For Official Use Only," and not available to the general public.

(6) *Procedures for handling.* A Secretary of the Navy Instruction (SECNAVINST) specifying procedures for handling and safeguarding "For Official Use Only" material will be prepared by the Administrative Officer, Navy Department. It will be issued in the 5570 series, and will include procedures for marking, handling, transmitting, canceling, storing, removing markings on documents no longer requiring protection, and destroying FOUO material.

(j) *Release procedures—*(1) *General.* The policy of the Department of the Navy, as stated in paragraph (d)(1) of this section, is to make the maximum amount of information available to the public. Therefore, when a person requests that a record be made available, that request may be denied only upon a determination that:

(i) the applicant has failed unreasonably to comply with the procedural requirements imposed by this section;

(ii) the record is subject to one of the exemptions set forth in paragraph (h) of this section; or

(iii) the record cannot be found because it has not been identified adequately.

(2) *Reviewing requested records.* The presence or absence of the marking "For Official Use Only" does not relieve the releasing authority of his responsibility to review the requested record for the purpose of determining whether an exemption under paragraph (h) of this section is applicable.

(3) *Examination and reproduction of records.*—(i) *Examining records.* Authority to release a record includes authority to permit its examination. When authority to examine a record is granted, the examination normally will be permitted at the place where the record is kept or stored, during regular business hours, and under such circumstances and procedures as are reasonable and deemed appropriate by the custodian. Heads of activities may specify the room or other place where records in their custody may be examined. Unsupervised examination will not be permitted.

(ii) *Furnishing copies of records.* Original and official record copies of naval records may not be released, but copies may be furnished when properly requested. Substantive abstracts from records also may be furnished if requested or considered more feasible to do so because of workloads or other practical considerations.

(iii) *Furnishing copies of or examining published materials.* It is not required that materials published in the FEDERAL REGISTER in accordance with paragraph (e) of this section, or that are otherwise published and offered for sale, be furnished to requesters. However, requesters may be accommodated by making published materials available locally for inspection and reading, when it is reasonable to do so. Copies of such published materials also should be furnished, where practicable, as an accommodation. The normal fees for these copies will be charged, when appropriate.

(iv) *Examination and reproduction of records of trial by court-martial which are undergoing appellate review.* Inasmuch as unnecessary delay in the disposition of any case of a person accused of an offense and tried by court-martial is strictly prohibited by law (Article 98, Uniform Code of Military Justice; section 898, Title 10 United States Code), records of court-martial proceedings which are still undergoing appellate review will ordinarily not be made available for such purposes prior to completion of all appellate processes. Such records may, however, be made available for such purposes prior to completion of all appellate processes if, in the judgment of the Judge Advocate General with respect to records in his custody or before boards of review, or in the judgment of the cognizant officer exercising general court-martial jurisdiction, with respect to other records, such action would not interfere with the appellate action on the case.

(4) *Procedures for releasing naval records—*(i) *Release authorities.* When release is not otherwise prohibited by paragraph (h) of this section or other regulations, and is consistent with such JAG Manual provisions or instructions as may be applicable, commanding officers and heads of all Navy and Marine Corps activities (departmental and field) are authorized to make available records or other documentary material in their custody upon proper request. However, the following officials, only, are authorized to deny (as well as grant) requests, when the information sought relates to matters within their respective areas of assigned command responsibilities.

(a) In the Navy Department, the Civilian Executive Assistants, the Chief of Naval Operations, the Commandant of the Marine Corps, the Chief of Naval Material, the Chief of Naval Personnel, the Chief, Bureau of Medicine and Surgery, and heads of Navy Department offices and boards.

(b) In the shore establishment, commanders of systems commands and commandants of naval districts.

(c) In the operating forces, commanders in chief and the Commander, Military Sea Transportation Service.

The delegation in (a), (b), and (c) of this subdivision authorizes each named official to act both on directly received requests and on requests submitted by subordinate officials for a decision, and to release a record or information under his own authority, or to direct the forwarding official to release it.

(ii) *Releasing records.* Upon receipt of a proper request as outlined in paragraph (g) of this section, the commanding officer or head of an activity having custody of a record will provide the requester with access to, or copies of, naval records or information, unless he considers the material sought exempt under one or more of the provisions of paragraph (h) of this section. In such a case, he will forward the request to the cognizant command authority in (a), (b), and (c) of subdivision (i) of this subparagraph for a decision, except that, when the request is for a medical record held by a naval hospital or naval dispensary, it will be processed in accordance with the Manual of the Medical Department, Article 23-255. In determining releasability, he shall seek, as appropriate, the advice of his counsel or legal officer, his information officer, his records management officer, other concerned agencies or activities, and cognizant higher command authority. If undue delay is anticipated as a result, the requester should be advised. When the request is to inspect documentary material, the requester will be advised when and where the material may be examined and the fee, if any, for conducting a search for it. When a request is for a copy, the requester will be advised of the fee required, and that a copy will be furnished upon payment of the fee, except that, if the request is urgent and it is in the Government's interest to do so, a copy or copies may be furnished under the provisions of paragraph (g)(2)(i)(b) of this section.

(iii) *Denying release.* If the request is received by an activity below the level of denial, authorities named in paragraph (j)(4)(i) of this section, and in the opinion of the head of that activity the material sought is not releasable, he will forward the request for review and a final decision directly to the appropriate official delegated denial authority. Information copies will be sent to any officers or officials in the intermediate chain of command. He will provide full information, and his recommendations, including any he may have regarding possible release under provisions of paragraph (d) of this section.

(a) *Granting release upon review.* If, upon review of the forwarded request, the reviewing official determines the material is releasable, he will release it under his own authority and provide the forwarding official and others concerned with information copies, or he will direct the forwarding official to satisfy the request. In so doing, he will coordinate all matters relating to the release of exempted information that may (1) have public relations aspects with the Chief of Information, and (2) relate to actual or potential litigation, by or against the United States, with the Judge Advocate General or the General Counsel, as appropriate.

(b) *Denying release upon review.* If the reviewing official determines that the material requested is not releasable, he will advise the requester in writing that his request is denied, explaining the specific basis for the denial, including a reference to the appropriate paragraph (h) of this section exemption, and his opportunity to appeal the decision in writing to the Secretary of the Navy under paragraph (k) of this section procedures. He will provide information copies of the denial to (1) the official forwarding the request, (2) the Judge Advocate General or the General Counsel, whichever is appropriate, (3) the Administrative Officer, Navy Department, and (4) others concerned, including the Chief of Information when the request has public relations aspects.

(k) *Appeals to the Secretary of the Navy.*—(1) *Filing an appeal.* Appeals from denials of requests will be made to the Secretary of the Navy. A requester will not have exhausted his administrative remedies, for the purpose of the U.S. District Court review within the purview of 5 U.S.C. 552, until he has made such an appeal. It should be submitted to the officer who made the denial, and should specify the reasons upon which the appeal is based.

(2) *Processing an appeal.* When a written appeal to the Secretary of the Navy is filed, via the official who made the denial, this official will forward the appeal, with full information on the matter and his recommendations, to the Administrative Officer, Navy Department, acting for the Secretary. Information copies will be forwarded to cognizant higher authority within the Department of the Navy. The Judge Advocate General or the General Counsel will process the appeal and make final determinations, within their respective areas of responsibility for legal services (see SECNAVINST's 5430.25C and 5430.27), and will

transmit the Department's determination, in writing, to the appellant. A copy of the final determination will be forwarded to the General Counsel of the Department of Defense in those instances in which the appellant seeks reconsideration by the Secretary of the Navy or initiates legal action to compel release of a record.

(i) *How the public requests records.* Requests from members of the public to inspect or obtain copies of documentary material or records should be made as follows:

(1) *Identifying material requested.* Requests, whether made by mail or in person, should include at least the following written information:

(i) As complete an identification as possible of the material being requested, including its title or a description and, when known, its date and the issuing authority, together with any other useful identifying information.

(ii) When the request concerns a civilian or military person, the full name, including middle name or initial, date of birth, and the serial or social security number of the person concerned, if known.

(iii) Whether the requester desires to inspect the record or obtain copies of it, or both.

(2) *Addressing requests.* Members of the public should direct their requests to the commanding officer or head of the activity where the record is located. When the official having custody of the record is not known, the request should be addressed to the originating official, or the official having primary responsibility for the subject matter involved, as follows:

(i) *Contract or procurement records.* Requests for records relating to procurement or contractual matters—to the contracting officer or to the procuring (purchasing) activity. When these are not known, the request may be submitted to the Chief of Naval Material (MAT 05), Washington, D.C. 20360.

(ii) *Civilian personnel records.* Requests involving the personnel records of civilians presently employed by the Department of the Navy—to the head of the activity where the person is employed, marked for the attention of the civilian personnel officer. If the request involves a former civilian employee, who has been separated from Federal employment for more than 30 days, direct the request to the Manager, National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St. Louis, Mo. 63118.

(iii) *Records involving legal matters.* Requests for records involving legal matters should be addressed as follows:

(a) *General Counsel matters.* Requests relating to (1) the acquisition, custody, management, transportation, taxation, and disposition of real and personal property, and the procurement of services, including the fiscal, budgetary, and accounting aspects thereof; excepting, however, tort claims and admiralty claims arising independently of contract, and matters relating to the naval petroleum reserves; (2) operations of the Military Sea Transportation Service, excepting tort and admiralty claims arising independently of contract; (3) the Office of the Comptroller of the Navy; (4) procurement matters in the field of patents, inventions, trademarks, copy-rights, royalty payments, and similar matters, including those in the Armed Services Procurement Regulation and Navy Procurement Directives and deviations therefrom; and (5) industrial security and claims and litigation concerning the foregoing—to the General Counsel, Department of the Navy, Washington, D.C. 20360.

(b) *Court-martial matters.* (1) Requests involving records of trial by general court-martial and special court-martial which (i) involve an officer accused or (ii) involve a sentence, which, as approved by the general court-martial convening authority, extends to a bad conduct discharge—to the Judge Advocate General, Department of the Navy, Washington, D.C. 20370.

(2) Requests involving records of trial of all other special courts-martial and summary courts-martial (after final action and a retention period at shore activities of 2 years and at fleet activities of 3 months)—to the Manager, National Personnel Records Center (Military Personnel Records), 9700 Page Boulevard, St. Louis, Mo. 63132.

(c) *All other legal matters.* Requests for records involving all other legal matters—to the Judge Advocate General, Department of the Navy, Washington, D.C. 20370.

(iv) *Medical records.* When requests involve the medical records of military personnel, dependents of military personnel, and other civilians, address them as follows:

(a) For Navy and Marine Corps officer and enlisted personnel and their dependents (other than those covered in (b) and (c) of this subdivision)—to the medical treatment activity where the record is maintained, if known. (This generally is the activity where the patient is being treated, or recently was treated, since records are forwarded to the receiving activity when a patient is transferred.) If the location of the record is not known, address the request to the Chief, Bureau of Medicine and Surgery (Code 334), Washington, D.C. 20390.

(b) For former Navy and Marine Corps personnel separated prior to 1913, and their dependents—to the Assistant Archivist for Military Archives, Office of Military Archives, National Archives and Records Service, GSA, Washington, D.C. 20408.

(c) For former Navy and Marine Corps personnel (other than those separated prior to 1913 and covered in (b) of this subdivision) and their dependents—to the Manager, National Personnel Records Center (Military Personnel Records), 9700 Page Boulevard, St. Louis, Mo. 63132.

(d) For civilian employees—to the medical activity or facility where the person is being treated or was recently treated and where the record is maintained, if known. If this is not known and the record has been retired (generally, if it is two years or more since date of last treatment), address request to the Manager, National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St. Louis, Mo. 63118.

(v) *Military personnel records.* The location of personnel records of military personnel depends upon the duty status of the person the request concerns. Accordingly, requests from persons who have a direct interest (see paragraph (h)(6)) of this section should be addressed as follows:

(a) Navy and Marine Corps personnel (regulars and reserves) on extended active duty and Navy officer personnel (reserve) not on active duty.

(1) Navy officer and enlisted personnel—to the Chief of Naval Personnel, Washington, D.C. 20370, marked for the attention of Pers E2 when the request concerns officer personnel, and for Pers E3 when the request concerns enlisted personnel.

(2) Marine Corps officer and enlisted personnel on extended active duty—to the Commandant of the Marine Corps (Code D), Washington, D.C. 20380.

(b) Navy and Marine Corps officer personnel and enlisted personnel transferred to the Fleet Reserve, discharged, retired, or deceased; and inactive enlisted reservists—to the Manager, National Personnel Records Center (Military Personnel Records), 9700 Page Boulevard, St. Louis, Mo. 63132, except if the request involves the record of a person in a status listed in (1) through (5) of this (b), address the request as indicated in (a) of this subdivision.

(1) Navy officer personnel who have been separated (discharged, retired, or deceased) for less than 1 year, and Marine Corps officer personnel who have been separated for less than 4 months.

(2) Navy and Marine Corps enlisted personnel (regulars and reserves) who have been separated for less than 4 months.

(3) Temporary disability retired Navy and Marine Corps officer and enlisted personnel.

(4) Inactive Navy and Marine Corps enlisted reservists affiliated with a reserve unit; and inactive Navy enlisted reservists who have more than 18 months of their military obligation to serve.

(5) Marine Corps officer reservists not on active duty.

(c) Former Navy personnel separated prior to 1893 and former Marine Corps personnel separated prior to 1885—to the Assistant Archivist for Military Archives, Office of the Military Archives, National Archives and Records Service, GSA, Washington, D.C. 20408.

(vi) *Marine Corps records.* Marine Corps records and indexes, when the officials listed in subdivisions (i) through (v) of this subparagraph are not known or appropriate—to the Commandant of the Marine Corps, Washington, D.C. 20380.

(vii) *Publications and indexes.* Publications, publication indexes, or indexes to Department of the Navy directives—to the Director, Navy Publications and Printing Service, Washington Navy Yard, Washington, D.C. 20390.

(viii) *Other requests.* When the appropriate official listed in subdivisions (i) through (vii) of this subparagraph, or other proper addressee, is not known—to the Administrative Officer, Navy Department, Washington, D.C. 20360. The Administrative Officer will forward the request to the proper official, or otherwise assist in satisfying the request.

(5 U.S.C. 301, 552)

Dated: December 4, 1967.

By direction of the Secretary of the Navy.

[SEAL] WILFRED HEARN,
Rear Admiral, U.S. Navy, Judge Advocate General of the Navy.

[F.R. Doc. 67-14260; Filed, Dec. 7, 1967; 8:45 a.m.]

Title 46—SHIPPING

Chapter II—Maritime Administration, Department of Commerce

SUBCHAPTER B—REGULATIONS AFFECTING MARITIME CARRIERS AND RELATED ACTIVITIES

[General Order 81, 2d Rev.]

PART 221—DOCUMENTATION, TRANSFER OR CHARTER OF VESSELS

Miscellaneous Amendments

Reorganization Plan No. 1 of 1967 (32 F.R. 7049) provided for the transfer of certain functions of the Secretary of Commerce exercised, under delegation of authority, by the Maritime Administrator, to the Secretary of Transportation who delegated his authority thereunder to the Commandant, U.S. Coast Guard. (See detailed procedures in CGFR 67-87, F.R. Doc. 67-7198, 32 F.R. 8980, June 23, 1967.)

Pursuant to the foregoing, the words "collector of customs" in the introductory sentence of, and Forms MA-4557, MA-4558, MA-4560, MA-4561, and MA-4562 set forth in § 221.11 (46 CFR Part 221) should read "Officer in Charge, Marine Inspection, U.S. Coast Guard."

By order of the Acting Maritime Administrator.

Dated: December 6, 1967.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 67-14376; Filed, Dec. 7, 1967; 8:57 a.m.]

SUBCHAPTER C—REGULATIONS AFFECTING SUBSIDIZED VESSELS AND OPERATORS

[General Order 96, Rev. Amdt. 1]

PART 255—PAYMENTS FROM CAPITAL RESERVE FUND

Miscellaneous Amendments

Effective upon the date of publication hereof in the FEDERAL REGISTER, paragraph (a) of § 255.2 of this part and paragraph (a) of § 255.3 of this part are amended to read as follows:

§ 255.2 Definitions.

(a) A cargo container is defined as a new self-contained cargo carrying unit (with or without temperature or humidity control units) normally of rectangular configuration, susceptible of mechanical handling, for shipping a number of smaller packages or bulk material, that confines and protects the contents from loss or damage and can be handled efficiently and economically as a unit by, and in interchange between, the different modes of transportation which, on the basis of a reasonable forecast, may be expected to transport it, has an estimated useful life of five (5) years or more, is of domestic manufacture, and has a gross external cube of 840 cubic feet or more.

* * * * *

§ 255.3 Application.

(a) Application for permission to purchase or reconstruct cargo containers with monies from the Capital Reserve Fund, or from general funds if reimbursement from the Capital Reserve Fund is to be requested at a later date, shall be filed with the Maritime Administration not less than 60 days prior to the date the operator contemplates committing itself for the purchase or reconstruction of same unless specifically waived in individual cases by the Maritime Administration. The application, with respect to such cargo containers, shall state the size, type, quantity, construction material, vessel or vessels on which they are or can be used, estimated useful life, estimated cost, method of financing, and whether of domestic manufacture. In addition, the application shall specify the trade areas in which it is anticipated the containers will normally be utilized, the various transportation modes which are expected to be utilized in those trade areas, the extent of utilization of uniform industry standards in those trade areas, the economic feasibility of the proposed methods of container handling and interchange, and the degree of maximum penetration. Competitive bidding will be required in all cases of purchases or reconstruction unless specifically waived by the Maritime Administration. Copies of all bids received, the name of the seller or reconstruction contractor and any relationship existing between the operator and the seller or reconstruction contractor will be filed as a part of each application, either at the outset or as soon as available.

* * * * *

(Sec. 204, 49 Stat. 1987, as amended; 46 U.S.C. 1114)

Dated: December 6, 1967.

By order of the Acting Maritime Administrator/Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 67-14377; Filed, Dec. 7, 1967; 8:57 a.m.]

Proposed Rule Making

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 67-CE-134]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the control zone at Detroit, Michigan.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

Two new ILS public instrument approach procedures have been developed to serve Runway 27 at the Detroit Metropolitan Wayne County Airport, Detroit, Mich. Since these instrument approach procedures are not completely protected by controlled airspace, it is necessary to alter the Detroit, Mich. (Metropolitan Wayne County) control zone to provide protection for aircraft executing these new approach procedures.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.171 (32 F.R. 2071), the following control zone is amended to read:

DETROIT METROPOLITAN (METROPOLITAN WAYNE COUNTY AIRPORT)

Within a 5-mile radius of Detroit Metropolitan Wayne County Airport (latitude 42°13'06" N., longitude 83°21'00" W.); within 2 miles each side of the Detroit Metropolitan Wayne County Airport ILS localizer southwest course, extending from the 5-mile radius zone to the OM; within 2 miles each side of the Detroit Metropolitan Wayne County Airport ILS localizer northeast course, extending from the 5-mile radius zone to the OM; and within 2 miles each side of the Detroit Metropolitan Wayne County Airport ILS east course, extending from the 5-mile radius zone to the OM, excluding the portion west of a line between the points of intersection of the 5-mile radius zone and the Detroit, Mich. (Willow Run) control zone.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued at Kansas City, Mo., on November 28, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 67-14297; Filed, Dec. 7, 1967; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-CE-152]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Columbia, Mo.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

It is the policy of the Federal Aviation Administration to provide controlled airspace protection for primary air carrier direct routes. The primary air carrier direct route from Jefferson City, Mo., to Eldon, Mo., intersection on V-63 is not presently contained within controlled airspace. Consequently, it is necessary to alter the Columbia, Mo., 1,200-foot floor transition area to provide this protection. The present designation of the Columbia, Mo., 700-foot transition area will not be affected by this proposal.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (32 F.R. 2148), the following transition area is amended to read:

COLUMBIA, Mo.

That airspace extending upward from 700 feet above the surface bounded on the north by latitude 39°09'00" N., on the west by longitude 92°31'00" W., on the south by latitude 38°58'30" N., on the east by longitude 92°14'00" W., and within 3 miles each side of the Columbia VOR 176° radial, extending from the VOR to 13 miles south of the VOR; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 38°38'40" N., longitude 92°31'00" W., thence north along longitude 92°31'00" W. to the south edge of V-12, thence east along the south edge of V-12 to a line 5 miles southeast of and parallel to the Jefferson City, Mo., VOR 041° radial, thence southwest along a line 5 miles southeast of and parallel to the Jefferson City VOR 041° and 221° radials to latitude 38°27'30" N., longitude 92°11'00" W., thence southwest to latitude 38°19'00" N., longitude 92°34'00" W., thence north to the point of beginning.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued at Kansas City, Mo., on November 27, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 67-14298; Filed, Dec. 7, 1967; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-WE-43]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the transition area at Hoquiam, Wash.

As parts of these proposals relate to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices, by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 and Annex 11 to the Convention on International Civil Aviation (ICAO), which pertains to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Its purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and Secretary of Defense in accordance with the provisions of Executive Order 10854.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 90007, Los Angeles, Calif. 90009. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the Office of the Regional Air Traffic Division Chief.

The 1,200-foot portion of the Hoquiam, Wash., transition area would be amended as follows:

That airspace extending upward from 1,200 feet above the surface within 8 miles north and 5 miles south of the Hoquiam VORTAC 068° and 248° True radials, extending from 12.5 miles east to 13 miles west of the VORTAC, and the area south of the Hoquiam VORTAC bounded on the east by the eastern boundary of VOR Federal airway No. 27 west alternate, on the south and west by the arc of a 13-mile radius circle centered on the Hoquiam VORTAC and on the north by a line 5 miles south of and parallel to the Hoquiam VORTAC 068° and 248° True radials, excluding the portion that would coincide with Warning Area W-237.

The proposed amendment is required to provide controlled airspace for a proposed VOR DME arc instrument approach procedure to Bowerman Field Runway 06.

This amendment is proposed under the authority of sections 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510) and Executive Order 10854 (24 F.R. 9565).

Issued in Washington, D.C., on November 30, 1967.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-14299; Filed, Dec. 7, 1967; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-CE-133]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Grand Island, Nebr.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

Following the designation of the Grand Island, Nebr., control zone and transition area, the original public use instrument approach procedures for Grand Island Municipal Airport have been modified by the addition of five DME arcs. Also, new ADF and ILS public use instrument approach procedures have been added to serve this airport. In addition, the Kansas City ARTC Center requires additional controlled airspace southeast and southwest of Grand Island for use by aircraft transitioning between airways. Since the present controlled airspace designations in the Grand Island terminal area do not adequately protect aircraft executing these modified and new instrument approach procedures or transitioning between airways, it is necessary to alter the Grand Island control zone and transition area to afford this protection.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

(1) In § 71.171 (32 F.R. 2071), the following control zone is amended to read:

GRAND ISLAND, NEBR.

Within a 5-mile radius of Grand Island Municipal Airport (latitude 40°58'06" N., longitude 98°18'51" W.); within 2 miles each side of the Grand Island VORTAC 260° radial, extending from the 5-mile radius zone to 8 miles north of the VORTAC; within 2 miles each side of the Grand Island VORTAC 304° radial, extending from the 5-mile radius zone to 6 miles northwest of the VORTAC; and within 2 miles each side of the Grand Island ILS localizer south course, extending from the 5-mile radius to the OM.

(2) In § 71.181 (32 F.R. 2148), the following transition area is amended to read:

GRAND ISLAND, NEBR.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Grand Island Municipal Airport (latitude 40°58'06" N., longitude 98°18'51" W.); within 5 miles east and 8 miles west of the Grand Island VORTAC 260° radial, extending from the 9-mile radius area to 12 miles north of the VORTAC; within 5 miles northeast and 9 miles southwest of the Grand Island, VORTAC 304° radial, extending from the 9-mile radius area to 12 miles northwest of the VORTAC; and within 8 miles each side of the Grand Island ILS localizer south course, extending from the 9-mile radius area to 6 miles south of the OM; and that airspace extending upward from 1,200 feet above the surface within the arc of a 17-mile radius circle centered on the Grand Island VORTAC, extending from the Grand Island VORTAC 278° radial clockwise to the Grand Island VORTAC 034° radial; within the arc of a 27-mile radius circle centered on the Grand Island VORTAC, extending from the Grand Island VORTAC 034° radial clockwise to the Grand Island VORTAC 278° radial; and within 5 miles east and 8 miles west of the Grand Island VORTAC 260° radial, extending from the 27-mile radius area to the

south edge of V-172, excluding the portion which overlies the Hastings, Nebr., transition area.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued at Kansas City, Mo., on November 27, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 67-14300; Filed, Dec. 7, 1967; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-WE-75]

CONTROL ZONE AND TRANSITION AREA

Proposed Designation and Alteration

The Federal Aviation Administration is considering amendments to Part 71 of the Federal Aviation Regulations which would designate a control zone and alter controlled airspace in the Montrose, Colo., terminal area.

Interested persons may participate in the proposed rule-making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 90007, Airport Station, Los Angeles, Calif. 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 5651 West Manchester Avenue, Los Angeles, Calif. 90045.

On or about March 28, 1968, the Federal Aviation Administration will commission the Montrose VOR at latitude 38°30'13" N., longitude 107°53'41" W. Establishment of this facility has resulted in the development of new public use approach, departure, and holding procedures. Therefore, it is proposed to designate a control zone and alter the transition area to provide controlled airspace protection for aircraft executing these instrument procedures. The Montrose VOR and a co-located Limited Remote Communications Outlet (LRCO) will be controlled by the FAA Flight Service Station, Grand Junction, Colo. Frontier Airlines will provide Montrose weather reporting service to Grand Junction Flight Service Station during those hours when the control zone is effective.

In view of the foregoing, the FAA proposes the following airspace actions:

In § 71.171 (32 F.R. 2071) the following control zone is added:

MONTROSE, COLO.

That airspace within a 5-mile radius of the Montrose County Airport (latitude 38°29'55" N., longitude 107°53'35" W.), and within 2 miles each side of the Montrose, Colo., VOR 313° radial extending from the 5-mile radius zone to 11 miles northwest of the VOR. This control zone is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

In § 71.181 (32 F.R. 2225) the Montrose, Colo., transition area is amended to read as follows:

MONTROSE, COLO.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Montrose County Airport (latitude 38°29'55" N., longitude 107°53'35" W.), within 2 miles each side of the Montrose VOR 313° radial extending from the 5-mile radius area to 11 miles northwest of the VOR; and that airspace extending upward from 1,200 feet above the surface within 6 miles northeast and 9 miles southwest of the Montrose VOR 313° and 133° radials extending from 19 miles northwest to 8 miles southeast of the VOR.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (72 Stat. 749; 49 U.S.C. 1348).

Issued in Los Angeles, Calif., on November 30, 1967.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 67-14301; Filed, Dec. 7, 1967; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-CE-131]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Vincennes, Ind.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

As a result of the development of a public use instrument approach procedure to serve O'Neal Airport, Vincennes, Ind., utilizing a privately owned radio beacon located on the airport as a navigational aid, it is necessary to designate a 700-foot floor transition area at Vincennes, Ind., to protect aircraft executing this approach procedure.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (32 F.R. 2143), the following transition area is added:

VINCENNES, IND.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of O'Neal Airport (latitude 38°41'18" N., longitude 87°33'12" W.); and within 2 miles each side of the 298° bearing from O'Neal Airport, extending from the 5-mile radius area to 8 miles west of the airport.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued at Kansas City, Mo., on November 27, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 67-14302; Filed, Dec. 7, 1967; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 298]

[Docket No. 19882]

CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

Liability Insurance Requirements: Denial of Petitions for Rule Making To Redesignate and Issue Letters of Registration

DECEMBER 5, 1967.

Notice is hereby given that the Civil Aeronautics Board has under consideration a proposed amendment of Part 298 of its economic regulations (14 CFR Part 298) which would require all air taxi operators to maintain liability insurance coverage and register with the Board.

The principal features of the proposed amendment are described in the attached explanatory statement and the proposed amendment is set forth in the attached proposed rule. The amendment is proposed under the authority of sections 204(a), 407, and 416 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 766, and 771; 49 U.S.C. 1324, 1377, and 1386).

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before January 22, 1968, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 710, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

Explanatory statement. Part 298 (14 CFR Part 298) of the Board's economic regulations provides for the classification and exemption of air taxi operators. The New England Council, Inc., in Docket 18211 has petitioned the Board to amend Part 298 to redesignate scheduled air taxi operators as "local service airlines," and the petition of Association of Commuter Airlines (ACA) in Docket 18563 has requested that these carriers be redesignated "third level airlines." In addition, the ACA petition and a petition filed by the National Air Taxi Conference (NATC), Docket 18366, have requested that the Board adopt compulsory insurance, reporting and schedule filing requirements, as well as registration procedures, applicable to some or all of the air taxi operators. The American Trial Lawyers Association (ATLA) in Docket 18804 has also petitioned the Board to institute rule making proceedings to require all air taxi operators to carry insurance.

The Board has considered all of the proposals and finds that the petition of the New England Council and those of the ACA and NATC, to the extent the latter request rule making concerning letters of registration, reporting requirements, and redesignation of air taxi operators, do not disclose sufficient reasons to justify the institution of the public rule-making procedures requested. However, the Board has decided to institute rule-making proceedings to require that air taxi operators carry liability insurance and register annually with the Board, with the filing of schedules a part of this registration.

The redesignation of scheduled air taxi operators as "local service airlines" was requested on the ground that it would increase the public confidence in the industry and would more accurately describe their function. However, the public has come to associate the term "local service airline" with the present certificated local service carriers, and the application of this term to air taxis would be confusing and deceptive to the public. As for the term "third level airline," it is used and understood mainly by those within the industry and would be meaningless to the traveling public. In addition, the use of the term "air taxi" for for regulatory purposes does not prevent such an operator from adopting any other designation in dealing with the public provided that it is not deceptive. Accordingly, the petition of the New England Council, Inc., is denied, as is the applicable portion of the ACA petition.

The Board has decided to propose a requirement that air taxi operators carry liability insurance, as requested in three of the petitions. The proposed rule would apply to all air taxi operators. The Board believes that, in view of the growth of these carriers, the requirement is needed in order to protect the public's right to recover for losses incurred in accidents in which these carriers are involved. For the most part, no such protection exists at present, because less than 15 States have financial responsibility laws covering carriers by air, and most of these are inapplicable to carriers operating under Board authority. In addition, air taxi operators are the only carriers which the Board permits to operate without any showing of financial fitness.

The proposed regulations are patterned after the liability insurance requirements in Part 208 (14 CFR 208.10–208.15) applicable to the supplemental air carriers. As in the Part 208 requirements, such matters as the minimum limits of liability, the required scope of the coverage, and the permissible exclusions of liability are prescribed in order to guarantee that the insurance policies effectively protect the public.[1] However, due to the differences between the supplementals and air taxis in the types of aircraft used and the nature of their operations, the proposed requirements differ from those in Part 208 in a number of respects. Thus, considering the small size of air taxi aircraft, the minimum permissible limits of liability, per accident, to nonpassengers and for property damage have been lowered from $500,000 to $300,000.

Changes have also been made in the conditions of coverage and the permissible exclusions of liability. In light of the limitation on the size of aircraft which may be used under Part 298, the proposal requires that an operator's insurance policy cover all aircraft operated by the carrier, including after-acquired aircraft not specifically listed in the policy, although the insurer is permitted to exclude liability for aircraft over 12,500 pounds. And, because these aircraft have a limited range, the insurer may also exclude liability as to all operations outside of the Western Hemisphere and within Cuba. However, these provisions do not relieve the carrier of the obligation to procure insurance, consistent with the other provisions of the proposed regulations, to cover operations with large aircraft and operations which are outside the foregoing geographical limits. Primarily for the benefit of the public, each carrier will be required to post prominently at its principal base of operations a certificate of insurance, and to have available at its principal office its properly endorsed policy of liability insurance.

There remains the problem of adequately assuring compliance with the proposed requirements, and this must be considered in light of the large number of air taxi operators and the fact that many of them are small businesses. We have tentatively decided that requiring air taxi operators to file a minimal annual registration for their Part 298 exemptions would best serve to enforce the maintenance of liability insurance with a minimum of burden on the carriers and within the limits of the Board's budgetary capability. Such a procedure would also provide us with a vehicle for gathering very basic information as to the number of air taxi operators and the nature of their operations.

Carriers would register with the Board by filing a form, in duplicate, including their name, place of business, and whether the carrier conducts any scheduled operations. This form would have to be accompanied by a currently valid certificate of insurance, a $10 fee to cover the cost of processing the registration, and, in the case of a carrier conducting scheduled operations, a copy of its schedules. The Board would then stamp and return to the carrier one of the copies of the form submitted, indicating compliance with the registration requirement. We view this part of our proposal as somewhat tentative, and would welcome suggestions as to alternatives for the gathering of basic information relating to air taxis and for assuring compliance with the insurance requirement.

The Board believes, however, that at the present time it should not issue any form of license to air taxi operators, and therefore the petitions of the ACA and NATC will be denied in this respect. The ACA requests that certificates of registration be issued to scheduled air taxi operators, and the NATC makes a similar request as to all air taxi operators, but restricted to scheduled and interline operators should the administrative burden be too great. At the outset, the Board is met with a lack of information about air taxi operators which would indicate what, if any, form certification should take, and with budgetary limitations which limit its flexibility in regulating such a large group of carriers. In addition, neither petition has stated sufficient reasons for the Board to undertake such action, especially in view of the burden that would be imposed on both the carriers and the Board and the fact that the petitioners desire that the

[1] The proposed minimum limit of liability per passenger is $75,000, identical to that in Part 208. ATLA in its petition proposes that the minimum limit be $250,000 per passenger. Although we see no reason for having a higher limit than that required of the supplemental carriers, our proposal is not intended to foreclose discussion of this issue in the responsive comments, or to preclude the adoption of such a higher limit in the final rule.

Board maintain its present policy of applying a minimum of regulatory control over the air taxi operators. The Board believes that the issuance of certificates, licenses or letters of registration to air taxi operators would serve no useful purpose if standards of fitness were not imposed concurrently. Under Part 298, air taxi operators are granted broad exemptions from the provisions of the Act and are subject to minimal regulation by the Board. In our view, issuance of certificates of registration would indicate to the public a degree of regulation by the Board over these carriers which does not in fact exist. The Board has also decided that, while the proposed reporting requirements might have some value, we are not prepared to impose such requirements at the present time. We are, however, giving consideration to less burdensome methods of obtaining similar information which would be useful to us.

It is proposed to amend Part 298 of the Economic Regulations (14 CFR Part 298) as follows:

1. Add new subparagraphs (3) and (4) to § 298.3(a) to read as follows:

§ 298.3 Classification.

(a) There is hereby established a classification of air carriers, designated "air taxi operators" which engage in direct air transportation of passengers and/or property and/or in the transportation within the 48 contiguous States or Hawaii[1] of mail by aircraft and which:

* * * * *

(3) Have and maintain in effect liability insurance coverage in compliance with the requirements set forth in Subpart E of this part.

(4) Have registered with the Board in accordance with Subpart F of this part.

* * * * *

2. Add a new Subpart E to read as follows:

Subpart E—Liability Insurance Requirements

§ 298.41 Basic requirements.

(a) No air taxi operator shall engage in air transportation unless such carrier has and maintains in effect liability insurance coverage which complies with the requirements of this part and which is evidenced by a currently effective policy of insurance, with an attached standard endorsement, available for inspection by the Board and the public at its principal place of business; and, notwithstanding the provisions of § 298.44 (b), (g), and (h), no air taxi operator shall operate in air transportation any aircraft, or perform services in any geographical area, to which such insurance does not apply.

(b) "Certificate of insurance," as used herein, means one or more than one certificate, evidencing the following: Issuance by one or more than one insurer of one or more than one currently effective policy of aircraft liability insurance in compliance with this part and properly endorsed, which alone or in combination provides the minimum coverage prescribed in § 298.42. When more than one insurer is involved in providing the minimum coverage prescribed herein, the limits and types of liability assumed by each insurer shall be clearly stated in the certificate of insurance. Each certificate of insurance, and each endorsement limiting the permitted exclusions, shall be signed in ink by an authorized officer or agent of the insurer and shall be on forms prescribed and furnished by the Board.[2]

(c) The insurance coverage and certificate required by this part shall be obtained from a reputable and financially responsible insurance company or association which is legally authorized to issue aircraft liability policies in one or more states in the United States or in the District of Columbia.

(d) Each air taxi operator shall prominently post at the primary place where it deals with the public a copy of its currently effective certificate or certificates of insurance, and shall file a copy of each with the Board in accordance with Subpart F of this part.

§ 298.42 Minimum limits of liability.

The minimum limits of liability insurance coverage maintained by an air taxi operator shall be as follows:

(a) *Liability for bodily injury to or death of aircraft passengers.* A limit for any one passenger of at least seventy-five thousand dollars ($75,000), and a limit for each occurrence in any one aircraft of at least an amount equal to the sum produced by multiplying seventy-five thousand dollars ($75,000) by seventy-five percent (75%) of the total number of passenger seats installed in the aircraft.

(b) *Liability for bodily injury to or death of persons (excluding passengers).* A limit of at least seventy-five thousand dollars ($75,000) for any one person in any one occurrence, and a limit of at least three hundred thousand dollars ($300,000) for each occurrence.

(c) *Liability for loss of or damage to property.* A limit of at least three hundred thousand dollars ($300,000) for each occurrence.

§ 298.43 Terms and conditions of insurance coverage.

Insurance coverage required by this part shall meet the following minimum requirements:

(a) Insurance contracts shall provide for payment by the insurer on behalf of the insured air taxi operator, within the specified limits of liability, of all sums which the insured carrier shall become legally obligated to pay as damages for bodily injury to or death of any person, or for loss or damage to property of others (except as exclusion of coverage is permitted by § 298.44) resulting from the negligent operation, maintenance or use of aircraft in air transportation by the insured operator.

(b) The liability of the insurer shall apply to all operations by the insured operator in air transportation. The liability of the insurer shall not be subject to any exclusion by virtue of violations, by the insured operator, of any applicable safety or economic provision of the Federal Aviation Act of 1958, as amended, or of any applicable safety or economic rule, regulation, order, or other legally imposed requirement prescribed thereunder by the Federal Aviation Administration or the Civil Aeronautics Board or any other State or Federal law or regulation. No special waiver or exemption issued by the Federal Aviation Administration or the Civil Aeronautics Board shall affect the insurance afforded by the policy.

(c) The liability of the insurer shall not be contingent upon the financial condition, solvency, or freedom from bankruptcy of the insured. The limits of the insurer's liability for the amounts prescribed herein shall apply separately to each occurrence, and any payment made under the policy because of any one occurrence shall not reduce the liability of the insurer for payment of other damages resulting from any other occurrence.

(d) Within the limits of liability herein prescribed, the insurer shall not be relieved from liability by any condition in the policy or any endorsement thereon, or violation thereof by the insured air taxi operator, other than by the exclusions set forth in § 298.44 or such other exclusions as may be individually approved by the Board.

§ 298.44 Authorized exclusions of liability.

Each policy of insurance required by this part shall be amended by an endorsement (Standard Endorsement CAB Form _____] which limits exclusions of coverage under the policy to the following:

(a) Any loss against which the Named Insured has other valid and collectible insurance, except that the limits of liability provided under this policy shall be in excess of the limits provided by such other valid and collectible insurance up to the limits certified in a certificate of insurance, but in no event exceeding the limits of liability expressed elsewhere in this policy;

(b) Any loss arising from the ownership, maintenance, or use of any large aircraft;

(c) Liability assumed by the Named Insured under any contract or agreement, unless such liability would have attached to the Insured even in the absence of such contract or agreement;

(d) Bodily injury, sickness, disease, mental anguish, or death of any employee of the Named Insured while engaged in the duties of his employment, or any obligation for which the Named Insured or any company as his Insurer may be held liable under any workmen's compensation or occupational disease law;

(e) Loss of or damage to property owned, rented, occupied, or used by, or in the care, custody, or control of the Named Insured, or carried in or on any aircraft with respect to which the insurance afforded by this policy applies;

(f) Personal injuries or death, or damage to or destruction of property, caused directly or indirectly, by hostile or warlike action, including action in hindering, combating, or defending against an actual, impending or expected attack by any government or sovereign power, de jure or de facto, or military, naval, or air forces, or by an agent of such government, power, authority, or forces; the discharge, explosion, or use of any weapon of war employing atomic fission or atomic fusion, or radioactive materials; insurrection, rebellion, revolution, civil war, or usurped power, including any action in hindering, combating, or defending against such an occurrence; or confiscation by any government or public authority;

(g) Any loss arising from operations by the Named Insured outside of the Western Hemisphere or within Cuba: *Provided*, That a loss caused by mere misadventure in flying over or landing in such areas shall not be excluded;

(h) Any loss arising from operations by the Named Insured to or from installations of the Distant Early Warning System (DEW line) or the Ballistic Missile Early Warning System (BMEWS).

3. Add a new Subpart F to read as follows:

Subpart F—Registration for Exemption

§ 298.50 Filing for registration.

(a) Every air taxi operator shall register with the Board on or before February 1 of each year.

(b) Registration shall be accomplished by filing the following with the Board:

(1) A "Registration for Exemption as an Air Taxi Operator" (CAB Form _____) executed in duplicate.[3] This form shall be certified by a responsible official of such carrier and shall contain the following information: (i) Name of the individual or corporation operating the carrier and trade name of the carrier; (ii) the carrier's Federal Aviation Administration certificate number; (iii) address of its principal place of business and its mailing address; (iv) whether the carrier has conducted any scheduled operations during the previous calendar year; and (v) whether the carrier has currently effective liability insurance.

(2) The complete schedules, as of the previous December 31, of each air taxi operator conducting scheduled operations. In the case of seasonal or other scheduled operations performed during part of the year only, pursuant to schedules not in effect as of December 31, attach the most recent schedules.

(3) A currently effective certificate of insurance as defined by § 298.41(b).

(4) A ten (10) dollar registration fee. This shall be in the form of a check, draft, or postal money order, payable to the Civil Aeronautics Board.

§ 298.51 Processing by the Board.

After examination of an operator's filing under § 298.50, the Board will stamp and return to the carrier the duplicate copy of the CAB Form _____ filed under § 298.50(b)(1). This will serve to confirm that the carrier is registered with the Board in compliance with § 298.50.

[F.R. Doc. 67-14308; Filed, Dec. 7, 1967; 8:47 a.m.]

[1] The authority of air taxis to carry mail in Hawaii is limited to the markets where point-to-point regular service may be provided under this part.

[2] The proposed forms to this notice of rule making designated as Appendices A and B are filed as part of the original document.

[3] The proposed form to the notice of rule making designated as Appendix C is filed as part of the original document.

FEDERAL TRADE COMMISSION

[16 CFR Part 415]

ADVERTISING OF NONPRESCRIPTION SYSTEMIC ANALGESIC DRUGS

Extension of Time for Comments Relating to Proposed Trade Regulation Rule

Notice of rule-making proceeding for the establishment of a Trade Regulation Rule for the advertising of nonprescription systemic analgesic drugs was published in the FEDERAL REGISTER issued July 6, 1967, 32 F.R. 9843.

Notice is hereby given that the Commission has reopened the public record for the purpose of receiving written data, views, or arguments concerning the proposed rule. The public record will remain open through February 8, 1968.

Approved: December 4, 1967.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-14305; Filed, Dec. 7, 1967; 8:47 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Antidumping—ATS 844.5-r]

REPRODUCTION CLOTH FROM ENGLAND

Determination of Sales at Not Less Than Fair Value

NOVEMBER 29, 1967.

On September 14, 1967, there was published in the FEDERAL REGISTER a "Notice of Tentative Determination" that reproduction cloth (base for tracing cloth) manufactured by Winterbottom Products Ltd., Lancashire, England, is not being, nor likely to be, sold at less than fair value within the meaning of section 201 (a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)).

The statement of reasons for the tentative determination was published in the above-mentioned notice, and interested parties were afforded until October 14, 1967, to make written submissions or to request in writing an opportunity to present views in connection with the tentative determination.

After consideration of all written submissions or requests received, I hereby determine that for the reasons stated in the tentative determination reproduction cloth (base for tracing cloth) manufactured by Winterbottom Products Ltd., Lancashire, England, is not being, nor likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)).

This determination is published pursuant to section 201(c) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)).

[SEAL] TRUE DAVIS,
Assistant Secretary of the Treasury.

[F.R. Doc. 67-14319; Filed, Dec. 7, 1967; 8:48 a.m.]

DEPARTMENT OF THE INTERIOR

Bonneville Power Administration

CERTAIN OFFICIALS

Redelegations of Authority

The Redelegations of Authority published in the FEDERAL REGISTER November 14, 1964 (29 F.R. 15295), as amended January 29, 1965 (30 F.R. 957), August 13, 1965 (30 F.R. 10121), April 8, 1966 (31 F.R. 5577), May 28, 1966 (31 F.R. 7724), April 21, 1967 (32 F.R. 6304), and May 19, 1967 (32 F.R. 7464) are further amended as follows:

Section 1 is amended to read as follows:

1. *Acting Administrator—Succession and Authority.* a. The line of succession as Acting Administrator is prescribed in the Departmental Manual (302 DM 4.12) and provides that in case of the death, resignation, or absence of the Administrator, the following officers or employees shall act as Administrator in the order indicated:

(1) Deputy Administrator
(2) Assistant Administrator for Power Management (Power Manager)
(3) Assistant Administrator for Administrative Management (Director of Administrative Management)
(4) Assistant Administrator for Engineering (Chief Engineer)

(5) In the event the above officials are unavailable, the Administrator may designate any one of the following to act as Administrator for a period not to exceed 7 days: Assistant Power Manager, Assistant Director of Administrative Management, Assistant Chief Engineer, Field Operations Officer, Assistant to the Administrator—Operations and Policy, or Executive Assistant to the Administrator.

b. The Acting Administrator shall perform the duties and exercise the powers of the Administrator except where otherwise provided by law, or Departmental regulation. Any person exercising the functions of the Acting Administrator shall sign documents as "Acting Administrator."

(302 DM 4.12)

Section 7 is amended by adding paragraph 7e. as follows:

7. *Land Activities.*

* * * * *

e. The Engineering Division Tort Claims Officer and the Field Contact Officers may, when the payment involved does not exceed $200, negotiate and execute agreements with property owners or tenants for temporary access to BPA rights-of-way. This authority may be exercised only when it is advantageous to the Government in terms of efficiency and economy to use such temporary access.

Section 10 is revised to read as follows:

10. *Claims.* a. The Head, Disbursement Audit Section, may compromise and finally settle such claims arising under contracts (except power contracts) as the Administrator is authorized to settle under the Bonneville Project Act as amended, 50 Stat. 731, 16 U.S.C. 832a to 832l (1964).

b. (1) The Field Operations Officer may, when the amount involved does not exceed $500, exercise the authority of the Administrator under section 12(a) of the Bonneville Project Act as amended, with respect to determining, settling, compromising, or paying claims of or against the Administration for damage to real or personal property.

(2) Area Managers, designated Field Contact Officers, and the Engineering Division Tort Claims Officer each may exercise the authority described in subparagraph b.(1) of this section when the amount allowed does not exceed $200.

Dated: October 18, 1967.

KENNETH M. KLEIN,
Acting Administrator.

[F.R. Doc. 67-14328; Filed, Dec. 7, 1967; 8:45 a.m.]

Office of the Secretary

MONTANA

Redesignation of Certain Reserve Lands at the Fort Peck Indian Agency

Whereas, the U.S. Public Health Service, Division of Indian Health has need for the administrative use of two tracts of land within the Agency Reserve of the Fort Peck Reservation, these two tracts of land being situated in the SE¼SE¼ SE¼ sec. 1, NE¼NE¼ sec. 12, T. 27 N., R. 50 E.; lot 4, sec. 6; lot 7, sec. 7, T. 27 N., R. 51 E., principal meridian, Montana; and

Whereas, the Fort Peck Tribal Executive Board and the Commissioner of Indian Affairs have recommended the redesignation and transfer of the administrative use of these parcels to the U.S. Public Health Service, Division of Indian Health;

Now, therefore, pursuant to the authority contained in section 2 of the Act of Congress approved March 3, 1927 (44 Stat. 1402), the following described parcels of land are hereby redesignated for the administrative use of the U.S. Public Health Service, Division of Indian Health:

PARCEL NUMBER 1

Commencing at the northeast corner of sec. 12, T. 27 N., R. 50 E., M.P.M., Roosevelt County, Mont.; thence N. 87°18'00" W. a distance of 115.55 feet to the point of beginning; thence N. 86°24'00" E. a distance of 212.60 feet; thence S. 02°39'30" E. a distance of 136.81 feet; thence S. 86°30'00" W. a distance of 211.08 feet; thence N. 03°17'30" W. a distance of 136.38 feet to the point of beginning. Said parcel of land containing 0.580 acre.

PARCEL NUMBER 2

Commencing at the northeast corner of sec. 12, T. 27 N., R. 50 E., M.P.M., Roosevelt County, Mont.; thence S. 01°31'30" W. a distance of 559.36 feet to the point of beginning; thence N. 86°30'00" E. a distance of 118 feet; thence S. 04°30'30" W. a distance of 215 feet; thence N. 86°02'00" W. a distance of 115 feet; thence N. 03°47'30" E. a distance of 200 feet to the point of beginning. Said parcel of land containing 0.583 acre.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

DECEMBER 4, 1967.

[F.R. Doc. 67-14311; Filed, Dec. 7, 1967; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

KANSAS ET AL.

Notice of Authorization for Grazing and Harvesting of Hay on Diverted Acreage in Designated Counties

Notice is hereby given that the Secretary of Agriculture has authorized the grazing or harvesting of hay, as indicated, on acreage designated as diverted from the production of crops under the Soil Bank Program (7 CFR Part 750), the Cropland Adjustment Program (7 CFR Part 751), the Cropland Conversion Program (7 CFR Part 751), the Feed Grain Program (Part 775 of this chapter), and the Upland Cotton Program (7 CFR Part 722), in the counties listed below. The grazing and harvesting of hay on the diverted acreage shall be subject to the terms and conditions in the regulations for each program and instructions issued with respect thereto, which are available in the county ASCS offices. The designated counties are as follows:

GRAZING AND HARVESTING HAY

KANSAS

Clark.	Pawnee.
Comanche.	Phillips.
Decatur.	Pratt.
Ellis.	Rooks.
Gove.	Rush.
Graham.	Russell.
Hamilton.	Sheridan.
Hodgeman.	Smith.
Kiowa.	Stafford.
Lane.	Thomas.
Logan.	Trego.
Morton.	Wallace.
Ness.	

MISSOURI

Adair.	Jackson.
Andrew.	Johnson.
Atchison.	Knox.
Bates.	Lafayette.
Benton.	Lewis.
Boone.	Linn.
Buchanan.	Livingston.
Caldwell.	Macon.
Callaway.	Mercer.
Carroll.	Nodaway.
Cass.	Pettis.
Chariton.	Platte.
Clark.	Putnam.
Clay.	Randolph.
Clinton.	Ray.
Cooper.	St. Clair.
Daviess.	Saline.
De Kalb.	Schuyler.
Gentry.	Scotland.
Grundy.	Shelby.
Harrison.	Sullivan.
Henry.	Vernon.
Holt.	Worth.
Howard.	

TENNESSEE

Benton.	Haywood.
Carroll.	Henderson.
Chester.	McNairy.
Crockett.	Madison.
Hardeman.	Tipton.
Hardin.	

TEXAS

Brooks.	Kleberg.
Cameron.	Live Oak.
Duval.	Starr.
Hidalgo.	Willacy.
Jim Wells.	

Signed at Washington, D.C., on December 4, 1967.

CHARLES L. FRANKE,
Acting Deputy Administrator for State and County Operations, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 67-14321; Filed, Dec. 7, 1967; 8:49 a.m.]

Office of the Secretary

IOWA, GEORGIA, MAINE, MISSISSIPPI, AND TENNESSEE

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the States of Iowa, Georgia, Maine, Mississippi, and Tennessee, natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

IOWA

Emmet.

GEORGIA

Banks.	Heard.
Bartow.	Madison.
Carroll.	Morgan.
Chattooga.	Murray.
Clarke.	Oconee.
Floyd.	Oglethorpe.
Franklin.	Polk.
Gordon.	Stephens.
Haralson.	Walton.
Hart.	Whitfield.

MAINE

Androscoggin.	Oxford.
Aroostook.	Penobscot.
Cumberland.	Piscataquis.
Franklin.	Sagadahoc.
Hancock.	Somerset.
Kennebec.	Waldo.
Knox.	Washington.
Lincoln.	York.

MISSISSIPPI

Itawamba.	Grenada.
Tishomingo.	Lafore.

TENNESSEE

Crockett.	Lawrence.
Fayette.	Lincoln.
Franklin.	Madison.
Giles.	Marion.
Haywood.	McNairy.
Henderson.	Moore.
Lauderdale.	Tipton.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1968, except to applicants who previously received emergency or special livestock loans assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 5th day of December 1967.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 67-14322; Filed, Dec. 7, 1967; 8:49 a.m.]

DEPARTMENT OF COMMERCE

Bureau of the Census

RETAILERS' INVENTORIES, SALES, AND NUMBER OF ESTABLISHMENTS

Notice of Consideration To Continue Survey

Notice is hereby given that the Bureau of the Census is considering a proposal to repeat in 1968 the Annual Retail Trade Survey which has been conducted each year under Title 13, United States Code, sections 181, 224, and 225, to collect data covering year-end inventories, annual sales, cash and credit sales, and number of retail stores operated as of the end of the year. This survey, covering 1967, which provides important information on retail inventories and sales-inventory ratios, is the only continuing source available on a comparable classification basis and on a sufficiently timely basis for use as the benchmark for monthly inventory estimates. It also assists in establishing a benchmark for the geographic area distribution of sales.

On the basis of information and recommendations received by the Bureau of the Census, the data will have significant application to the needs of the public, the distributive trades, and governmental agencies, and are not publicly available from nongovernmental or other governmental sources.

Such a survey, if conducted, shall begin not earlier than 30 days after the publication of this notice in the FEDERAL REGISTER.

Reports will be required only from a selected sample of retail establishments in the United States. The sample will provide, with measurable reliability, statistics on the subjects specified above. Reports will be requested from sample stores on the basis of their sales size and/or location in Census Sample Areas. A group of the largest firms, in terms of number of retail stores, will be requested to report their sales and number of stores by county; but those firms which are participating monthly in the Bureau's geographic area survey will be asked to report at the national level only.

Copies of the proposed forms and a description of the collection methods are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

Any suggestions or recommendations concerning the subject matter of the proposed survey, submitted in writing

to the Director of the Bureau of the Census within 30 days after the date of this publication, will receive consideration.

Dated: November 22, 1967.

A. ROSS ECKLER,
Director, Bureau of the Census.

[F.R. Doc. 67-14279; Filed, Dec. 7, 1967; 8:45 a.m.]

ATOMIC ENERGY COMMISSION

STATE OF COLORADO

Proposed Agreement for Assumption of Certain AEC Regulatory Authority

On October 10 (32 F.R. 14669), October 17 (32 F.R. 14337), October 24 (32 F.R. 14698), and October 31 (32 F.R. 15049), 1967, the U.S. Atomic Energy Commission published in the FEDERAL REGISTER for public comment a proposed agreement received from the Governor of the State of Colorado for the assumption of certain of the Commission's regulatory authority pursuant to section 274 of the Atomic Energy Act of 1954, as amended. The proposed agreement as published included a proposed effective date of January 1, 1968.

Notice is hereby given that the proposed effective date is changed from January 1, 1968, to February 1, 1968.

Dated at Washington, D.C., this 5th day of December 1967.

For the Atomic Energy Commission.

W. B. MCCOOL,
Secretary.

[F.R. Doc. 67-14359; Filed, Dec. 7, 1967; 8:49 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 18650; Order E-26066]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to Specific Commodity Rates

DECEMBER 4, 1967.

Issued under delegated authority.

An agreement has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 1 of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement, adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated October 26, 1967,[1] as set forth in the attachment hereto,[2] (1) names rates under new commodity descriptions, (2) names one rate under an existing commodity description, and (3) cancels rates under existing commodity descriptions. The proposed rates reflect reductions ranging from 36 to 43.5 percent and are consistent with the present level of specific commodity rates within this area. Additionally, the agreement reduces the minimum weight for Commodity Item 1051—Horses and Cattle—from 500 to 100 kilograms from Buenos Aires/Santiago to Miami/Panama City.[3]

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, does not find the subject agreement to be adverse to the public interest or in violation of the Act, provided that approval thereof is conditioned as hereinafter ordered.

Accordingly, it is ordered, That:

Agreement CAB 19654, R-38 through R-45, be approved: *Provided,* That approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-14300; Filed, Dec. 7, 1967; 8:47 a.m.]

[Docket No. 19351; Order E-26069]

PAN AMERICAN WORLD AIRWAYS, INC.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 5th day of December 1967.

By tariff revisions,[1] filed November 6, 1967, and marked to become effective December 6, 1967, Pan American World Airways, Inc. (PAA), proposes to establish reduced fare transportation at 25 percent of the applicable fare for cargo sales agents located in the U.S.A./Canada traveling wholly between the continental U.S.A. and Alaska/Hawaii. Under the proposal, authorized cargo sales agency representatives (1) may take no more than two trips per calendar year per authorized agency office location; (2) must commence the outward portion of travel during the calendar year in which the ticket is issued with all travel being completed within 3 months from the date of issuance; and (3) are eligible for reduced fare transportation provided that the agent has been on the IATA approved list of agents continuously for at least 1 year prior to the date of application for such transportation. The tariff proposal does not bear an expiry date.

PAA has filed no substantive support for its proposal to provide reduced fare transportation for cargo sales agents between Alaska/Hawaii and continental U.S.A. points. There has been no showing that the significant fare reductions proposed by the carrier would aid the development of air cargo traffic in domestic markets, or that the disapproval of such reduced fares would be detrimental to the carrier or to the welfare of the air transport industry. The Board finds that PAA's tariff proposal and resulting fares may be unjust and unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and has determined to investigate the proposal and to suspend its effectiveness pending such investigation.

The Board finds that its action herein is necessary and appropriate in order to carry out the provisions and objectives of the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof.

Accordingly, it is ordered, That:

1. An investigation is instituted to determine whether the fares and provisions in Rule 60 on Original Pages 40-E and 40-F of Airline Tariff Publishers, Inc., agent, CAB No. 43, only insofar as such fares and provisions apply to cargo sales agents traveling wholly between the continental U.S.A., on the one hand, and Alaska or Hawaii, on the other, and rules, regulations, and practices affecting such fares and provisions, are or will be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fares and provisions, and rules, regulations, or practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions in Rule 60 on Original Pages 40-E and 40-F of Airline Tariff Publishers, Inc., agent, CAB No. 43, only insofar as such fares and provisions apply to cargo sales agents traveling wholly between the continental U.S.A., on the one hand, and Alaska or Hawaii, on the other, are suspended and their use deferred to and including March 4, 1968, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The proceeding ordered herein be assigned for hearing before an Examiner of the Board at a time and place hereafter to be designated; and

4. Copies of this order be filed with the aforesaid tariff and be served upon Pan American World Airways, Inc., which is hereby made a party to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-14310; Filed, Dec. 7, 1967; 8:47 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RI64-667]

JAY J. HARRIS ET AL., AND HUGH MCMILLAN[1]

Order Amending Orders Issuing Certificates, Making Predecessor Co-Respondent, Accepting Successor's Agreement and Undertaking, and Redesignating Proceeding

DECEMBER 1, 1967.

On September 11, 1967, Jay J. Harris (Harris) filed an agreement and undertaking in the above-designated proceeding which contains a request that paragraph (X) on page 7 of the Commission's order of June 29, 1967, issuing certificates[2] be amended to make Jay J. Harris et al., co-respondents in the proceeding in Docket No. RI64-667, in order that Jay J. Harris et al., be held responsible for refunds only from February 10, 1967, the date they acquired the interest of Hugh McMillan. The suspended rate in Docket No. RI64-667 became effective subject to refund on May 18, 1964.

Paragraph (X) of the Commission's aforementioned order issued June 29, 1967, provides: "Jay J. Harris et al., are substituted in lieu of Hugh McMillan as respondent in the proceeding pending in Docket No. RI64-667 and said proceeding is redesignated accordingly".[3] The reason for that provision was that Harris in his certificate application indicated a willingness to take over the refund obligation of his predecessor, Hugh McMillan. By his subject request, Harris seeks to be relieved of the assumption of his predecessor's liability. Inasmuch as Harris was not required by the Commission to assume the predecessor's liability, we believe it appropriate to grant his request.

The Commission finds: It is necessary and proper in carrying out the provisions of the Natural Gas Act and the Regulations thereunder, that paragraph (X) of the Commission's order issued June 29, 1967,[2] be amended to make the predecessor, Hugh McMillan, co-respondent with Jay J. Harris et al., in the rate suspension proceeding in Docket No. RI64-667; that the proceeding be redesignated accordingly, and that the agreement and undertaking filed by Jay J. Harris et al., on September 11, 1967, be accepted for filing.

The Commission orders:

(A) Paragraph (X) of the Commission's order issued June 29, 1967[2] is amended to make Hugh McMillan a co-respondent with Jay J. Harris et al., in the proceeding in Docket No. RI64-667, and such proceeding is redesignated as "Jay J. Harris et al., and Hugh McMillan".

(B) The agreement and undertaking filed by the successor Jay J. Harris et al., appears to be satisfactory and is accepted for filing.

(C) Hugh McMillan will continue to be responsible under his undertaking filed with the Commission on June 24, 1964, for refund of any excess charges collected in Docket No. RI64-667 prior to the date of transfer of his interest to Jay J. Harris et al., on February 10, 1967. The successor, Jay J. Harris et al., shall be responsible for refund of any excess charges collected in said docket from February 10, 1967, the date they acquired the interest of Hugh McMillan.

(D) Jay J. Harris et al., shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-14281; Filed, Dec. 7, 1967; 8:45 a.m.]

[1] Formerly Hugh McMillan. Redesignated as Jay J. Harris et al., by the Commission's order issued June 29, 1967.

[2] In the proceeding entitled Humble Oil & Refining Co. (Operator) et al., Docket Nos. G-6365 et al.

[3] Jay J. Harris et al.

FEDERAL RESERVE SYSTEM

QUINCY TRUST CO.

Order Approving Merger of Banks

In the matter of the application of Quincy Trust Co. for approval of merger with Dedham Trust Co.

There has come before the Board of Governors, pursuant to the Bank Merger Act (12 U.S.C. 1828(c)), an application by Quincy Trust Co., Quincy, Mass., a State member bank of the Federal Reserve System, for the Board's prior approval of the merger of that bank and Dedham Trust Co., Dedham, Mass., under the charter of the former and title of Hancock Bank and Trust Co. As an incident to the merger, the six offices of Dedham Trust Co. would become branches of the resulting bank. Notice of the proposed merger, in form approved by the Board, has been published pursuant to said Act.

Upon consideration of all relevant material in the light of the factors set forth in said Act, including reports furnished by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Attorney General on the competitive factors involved in the proposed merger,

It is hereby ordered, for the reasons set forth in the Board's Statement[1] of this date, that said application be and hereby is approved: *Provided,* That said merger shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order.

Dated at Washington, D.C., this 30th day of November 1967.

By order of the Board of Governors.[2]

[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 67-14285; Filed, Dec. 7, 1967; 8:45 a.m.]

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or the Federal Reserve Bank of Boston.

[2] Voting for this action: Vice Chairman Robertson, and Governors Mitchell, Maisel, Brimmer, and Sherrill. Absent and not voting: Chairman Martin, and Governor Daane.

SECURITIES AND EXCHANGE COMMISSION

[File Nos. 7-2781—7-2790]

AMP, INC., ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

DECEMBER 4, 1967.

In the matter of applications of the Boston Stock Exchange for unlisted trading privileges in certain securities.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
AMP, Inc.	7-2781
Amphenol Corp. (Delaware)	7-2782
Arizona Public Service Co.	7-2783
Atlantic Research Corp.	7-2784
Automatic Sprinkler Corporation of America	7-2785
Continental Air Lines, Inc.	7-2786
Crown Zellerbach Corp.	7-2787
Eastern Utilities Associates	7-2788
Manpower, Inc.	7-2789
Monogram Industries, Inc.	7-2790

Upon receipt of a request, on or before December 19, 1967, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the

[1] Received in the Board Nov. 1, 1967.

[2] Filed as part of the original document.

[3] R-44.

[1] Airline Tariff Publishers, Inc., agent, Tariff CAB No. 43, Rule 60.

date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14312; Filed, Dec. 7, 1967; 8:48 a.m.]

[File Nos. 7-2798, 7-2800]

FOREMOST-McKESSON, INC., AND WARNER BROS., SEVEN ARTS, LTD.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

DECEMBER 4, 1967.

In the matter of applications of the Philadelphia - Baltimore - Washington Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Foremost-McKesson, Inc.	7-2798
Warner Bros., Seven Arts, Ltd.	7-2800

Upon receipt of a request, on or before December 19, 1967, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14313; Filed, Dec. 7, 1967; 8:48 a.m.]

INTERAMERICAN INDUSTRIES, LTD.

Order Suspending Trading

DECEMBER 4, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the capital stock of Interamerican Industries, Ltd., Calgary, Alberta, Canada, being traded in the United States otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in the United States in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period December 5, 1967, through December 14, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14314; Filed, Dec. 7, 1967; 8:48 a.m.]

[File No. 7-2799]

MID-AMERICA PIPELINES CO.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

DECEMBER 4, 1967.

In the matter of application of the Pittsburgh Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Mid-America Pipelines Co., File No. 7-2799.

Upon receipt of a request, on or before December 19, 1967, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14315; Filed, Dec. 7, 1967; 8:48 a.m.]

[File No. 1-1277]

PENROSE INDUSTRIES CORP.

Order Suspending Trading

DECEMBER 4, 1967.

The common stock $2 par value, of Penrose Industries Corp., being listed and registered on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and the 5 percent cumulative convertible preferred stock, $20 par value of Penrose Industries Corp., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the American Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period December 5, 1967, through December 14, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14316; Filed, Dec. 7, 1967; 8:48 a.m.]

[File Nos. 7-2791—7-2797]

RESEARCH-COTTRELL, INC., ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

DECEMBER 4, 1967.

In the matter of applications of the Boston Stock exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Research-Cottrell, Inc.	7-2791
Scudder Duo-Vest, Inc.	7-2792
Signal Oil & Gas Co.	7-2793
L.S. Starrett Co.	7-2794
United Industrial Corp.	7-2795
White Consolidated Industries, Inc.	7-2796
Wilson & Co., Inc.	7-2797

Upon receipt of a request, on or before December 19, 1967, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14317; Filed, Dec. 7, 1967; 8:48 a.m.]

[70-4561]

CONNECTICUT LIGHT AND POWER CO.

Notice of Proposed Issue and Sale of First and Refunding Mortgage Bonds and Preferred Stock at Competitive Bidding

DECEMBER 4, 1967.

Notice is hereby given that the Connecticut Light and Power Co. ("CL&P"), Seldon Street, Berlin, Conn. 06037, a public-utility subsidiary company of Northeast Utilities, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

CL&P proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $20 million principal amount of first and refunding mortgage ____ percent Bonds, Series T, due January 1, 1998. The interest rate of the bonds (which will be a multiple of one-eighth of 1 percent and the price, exclusive of accrued interest, to be paid to CL&P (which will be not less than 99 percent nor more than 102⅝ percent of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under the indenture of mortgage and deed of trust dated May 1, 1921, between CL&P and Bankers Trust Co., trustees, as heretofore supplemented and amended and as to be further supplemented by a supplemental indenture to be dated as of January 1, 1968.

CL&P also proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, 300,000 shares of its $_____ preferred stock—Series G, $50 par value. The dividend rate of the preferred stock (which will be a multiple of $0.04) and the price, exclusive of accrued dividends, to be paid to CL&P (which will be not less than $50 nor more than $51.375 per share) will be determined by the competitive bidding.

The application states that CL&P intends to use the proceeds from the sale of the bonds and preferred stock to repay bank loans, estimated to be outstanding in the aggregate amount of $35 million at the time of such sales. Such bank borrowings have been or will be incurred to finance, in part, CL&P's construction program and to supply funds in 1967 for its investment in Connecticut Yankee Atomic Power Co. and other nuclear generating companies. CL&P estimates that no additional financing will be required for construction, investments in nuclear generating companies, and other corporate purposes during 1968 except for short-term borrowings which are expected to be outstanding as of December 31, 1968, in the aggregate principal amount of approximately $43 million. CL&P's construction program contemplates construction expenditures of approximately $61 million for 1968.

The application further states that the issue of the bonds and preferred stock is subject to the jurisdiction of the Connecticut Public Utilities Commission. A statement of fees and expenses incident to the issue and sale of the bonds and preferred stock will be filed by amendment.

Notice is further given that any interested person may, not later than December 28, 1967, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified should the Commission order a hearing in respect thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service thereof (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14288; Filed, Dec. 7, 1967; 8:45 a.m.]

[70-4560]

KENTUCKY POWER CO.

Notice of Proposed Acquisition of Utility Assets From Nonassociate Company

DECEMBER 4, 1967.

Notice is hereby given that Kentucky Power Co. ("Kentucky"), 15th Street and Carter Avenue, Ashland, Ky. 41101, an electric utility subsidiary company of American Electric Power Co., Inc., a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 9 and 10 of the Act as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Kentucky proposes to acquire from Mountain Investment, Inc., for a cash consideration of $200,000, the electric distribution system serving the incorporated community of Wheelwright, Ky. The system serves approximately 400 customers. The items of property to be acquired include approximately 5.67 miles of electric distribution lines and appurtenant meters, and transformers. The amount of Kentucky's offer for the Wheelwright property was determined after arm's-length bargaining.

The application states that the community served by the electric distribution system as well as the system itself was originally part of a "coal camp" owned by the Inland Steel Corp., that none of the prior owners or operators of the system considered itself to be a public utility, and that, as a result, only limited financial records exist with respect to the electric system. Kentucky is informed that the operating receipts of the Wheelwright electric system were approximately $50,000 during 1966. The application states that Kentucky's present rates will result in reduced rates for electric service to most of the Wheelwright customers, that Kentucky expects to increase its revenues from the first full year of its operation of the Wheelwright system by increasing kilowatt-hour sales and by improving service, and that Kentucky can provide the Wheelwright customers with substantially more reliable and economical service than is presently feasible. The Wheelwright property is situated in the territory generally served by Kentucky, and the facilities proposed to be acquired are to be integrated with the existing facilities of Kentucky. The properties proposed to be acquired will be recorded by Kentucky at original cost

with an appropriate reserve to reflect applicable depreciation as required by the regulatory commissions having jurisdiction.

The application states that no State or Federal commission, other than this Commission, has jurisdiction over the acquisition of the Wheelwright property by Kentucky, but that Kentucky is required to obtain authority from the Public Service Commission of the State of Kentucky to obtain a franchise from the incorporated community of Wheelwright to operate the electric distribution system proposed to be acquired. No expenses are to be incurred by Kentucky in connection with the proposed transaction except for legal expenses estimated not to exceed $300.

Notice is further given that any interested person may, not later than December 21, 1967, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14299; Filed, Dec. 7, 1967; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

DECEMBER 5, 1967.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41180—*Clay, kaolin, or pyrophyllite to Bloomington, Ind.* Filed by O. W. South, Jr., agent (No. A-5071), for interested rail carriers. Rates on clay, kaolin, or pyrophyllite, in carloads, from Letohatchie and Montgomery, Ala., to Bloomington, Ind.

Grounds for relief—Market competition.

Tariff—Supplement 278 to Southern Freight Association, agent, tariff ICC S-40.

FSA No. 41181—*Grain and grain products from points in Montana.* Filed by North Pacific Coast Freight Bureau, agent (No. 67-4), for interested rail carriers. Rates on grain and grain products, in carloads, from points in Montana on the Great Northern Railway Co., to points in Oregon and Washington.

Grounds for relief—Unregulated truck and truck-barge competition.

Tariff—Supplement 16 to North Pacific Coast Freight Bureau, agent, tariff ICC 1117.

FSA No. 41182—*Grain and grain products from points in Montana.* Filed by North Pacific Coast Freight Bureau, agent (No. 67-5), for interested rail carriers. Rates on grain and grain products, in carloads, from points in Montana on the Chicago, Milwaukee, St. Paul and Pacific Railroad Co., to points in Oregon and Washington.

Grounds for relief—Unregulated truck and truck-barge competition.

Tariff—Supplement 16 to North Pacific Coast Freight Bureau, agent, tariff ICC 1117.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-14306; Filed, Dec. 7, 1967; 8:47 a.m.]

[Notice 60]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 5, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-69898. By order of October 31, 1967, the Transfer Board approved the transfer to Massive Trucking, Inc., Clifton, N.J., of that portion of the operating rights of Osar Trucking Co., Inc., Clifton, N.J., in certificate No. MC-45630, issued April 5, 1963, authorizing the transportation, over irregular routes, of general commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between points in Bergen, Essex, Hudson, and Passaic Counties, N.J. John M. Zachara, Post Office Box Z, Paterson, N.J. 07509, representative for applicants.

No. MC-FC-70027. By order of November 24, 1967, the Transfer Board approved the transfer to Ken Roy Service, Inc., Westbury, Long Island, N.Y., of the operating rights in permit No. MC-82872 (Sub-No. 1), issued September 6, 1962, to Steve's Express, Inc., Hoboken, N.J., authorizing the transportation of, such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and equipment, materials and supplies used in the conduct of such business, between specified points and areas in New York, New Jersey, and Connecticut. Edward M. Alfano, 2 West 45th Street, New York, N.Y. 10036, attorney for transferor. Jerome G. Greenspan, 404 Clarendon Road, Uniondale, N.J. 11553, attorney for transferee.

No. MC-FC-70029. By order of November 24, 1967, the Transfer Board approved the transfer to Donald Lefebvre, doing business as Lefebvre Trucking, Rice Lake, Wis., of certificate No. MC-109687 issued August 16, 1948, to Donald Lefebvre and Gene Lefebvre, a partnership, doing business as Lefebvre Brothers, Rice Lake, Wis., and authorizing the transportation of livestock, between South St. Paul, Minn., on the one hand, and, on the other, points (except incorporated municipalities) in the towns of Rice Lake, Doyle, Cedar Lake, Oak Grove, Bear Lake, Sumner, Barron, Stanfold, Stanley, and Chetek, in Barron County, Wis., and in the town of Birchwood, in Washburn County, Wis., and farm machinery, seed, and animal and poultry feed, from Minneapolis and St. Paul, Minn., to points (except incorporated municipalities) in the towns specified hereinbefore.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-14307; Filed, Dec. 7, 1967; 8:47 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—DECEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during December.

3 CFR — Page
PROCLAMATION:
3821 — 17571
EXECUTIVE ORDERS:
Dec. 5, 1913 (revoked by PLO 4327) — 16531
Mar. 21, 1914 (revoked by PLO 4327) — 16531
June 24, 1914 (revoked by PLO 4327) — 16531
11248 (amended by EO 11384) — 17423
11383 — 17421
11384 — 17423

5 CFR
210 — 16474
213 — 16477
315 — 16474
351 — 16474
352 — 16474
353 — 16475
430 — 16475
511 — 16475
531 — 16475
713 — 16476
731 — 16476
752 — 16476
754 — 16476
771 — 16477
772 — 16477
831 — 16477
891 — 16477
2200 — 17573

7 CFR
401 — 16478, 17425, 17513
718 — 17513
722 — 17467
724 — 16478
725 — 16479
815 — 16525
905 — 16525
907 — 16526, 17515
910 — 16526
944 — 17425
982 — 16527
989 — 17467
1062 — 16479
1073 — 16480
1094 — 16527
1103 — 16527
1106 — 16480
1126 — 16480
1421 — 16528
1427 — 16528
PROPOSED RULES:
911 — 17431
915 — 17431
950 — 17433
993 — 17434

12 CFR
1 — 17574
12 — 17468
206 — 17469
224 — 17425
335 — 17470
561 — 17515
PROPOSED RULES:
563 — 17544

14 CFR
39 — 16481, 17426, 17515, 17516
71 — 16481, 16482, 16483, 17426, 17427, 17516–17518, 17574–17576
73 — 17427
75 — 17518
91 — 16483
97 — 16484, 17577
121 — 16481
151 — 17471
301 — 16491
303 — 16491
311 — 16491
320 — 16491
421 — 16491
430 — 16491
431 — 16491
435 — 16491
PROPOSED RULES:
1 — 16495
21 — 17485
25 — 17487
39 — 17439
71 — 16495, 17488, 17543, 17596–17598
73 — 17488
91 — 16495
214 — 16535
295 — 16535
298 — 17598

15 CFR
373 — 17471

16 CFR
13 — 17427
15 — 17582
PROPOSED RULES:
301 — 17544
415 — 17601

17 CFR
240 — 17583
270 — 17583
274 — 17583

19 CFR
12 — 17428
23 — 16528

21 CFR
120 — 16529, 17472
121 — 16529, 16530, 17472, 17587
130 — 16531
146 — 16531
146a — 16491
166 — 17473
PROPOSED RULES:
31 — 16533
46 — 17482
138 — 16533

22 CFR
10 — 17454

23 CFR
PROPOSED RULES:
255 — 16534

24 CFR
234 — 17587

25 CFR
PROPOSED RULES:
221 — 17543

26 CFR
1 — 17479, 17518

28 CFR
0 — 16531

29 CFR
1610 — 16491

31 CFR
1 — 17519

32 CFR
537 — 17519
701 — 17588

33 CFR
209 — 17522

39 CFR
123 — 17479
742 — 17479

41 CFR
1-1 — 16491
9-1 — 17542
Ch. 18 — 17002

43 CFR
PUBLIC LAND ORDERS:
334 (revoked in part by PLO 4333) — 17480
1796 (revoked in part by PLO 4331) — 17479
2764 (see PLO 4331) — 17479
4327 — 16531
4328 — 17429
4329 — 16532
4330 — 17479
4331 — 17479
4332 — 17479
4333 — 17480
4334 — 17429
4335 — 17429

46 CFR
221 — 17595
255 — 17595
510 — 17480
PROPOSED RULES:
514 — 16496

47 CFR
97 — 17429
PROPOSED RULES:
2 — 16495
87 — 16495
91 — 17440

49 CFR
890 — 17480
1200 — 17480

50 CFR
32 — 17542
33 — 16532, 17430, 17481
254 — 16492

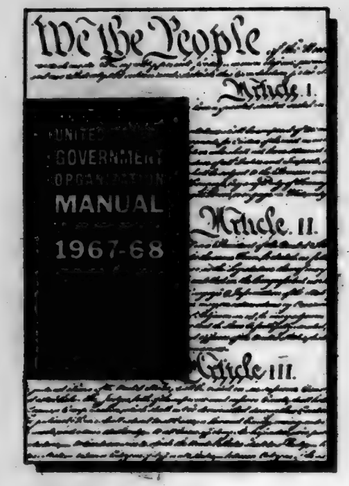

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Saturday, December 9, 1967 • Washington, D.C.

Pages 17611–17645

THE UNIVERSITY OF MICHIGAN
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Agencies in this issue—

Agricultural Research Service
Atomic Energy Commission
Business and Defense Services Administration
Civil Aeronautics Board
Civil Service Commission
Coast Guard
Commerce Department
Consumer and Marketing Service
Customs Bureau
Defense Department
Federal Maritime Commission
Federal Power Commission
Federal Trade Commission
Fish and Wildlife Service
Food and Drug Administration
Immigration and Naturalization Service
Interior Department
Interstate Commerce Commission
Land Management Bureau
National Park Service
Securities and Exchange Commission

Detailed list of Contents appears inside.

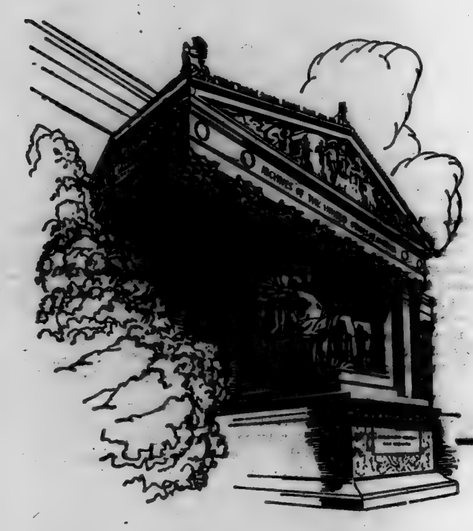

238

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Contents

AGRICULTURAL RESEARCH SERVICE
Rules and Regulations
Overtime services relating to imports and exports; border ports, ocean ports, and airports 17618

AGRICULTURE DEPARTMENT
See Agricultural Research Service; Consumer and Marketing Service.

ATOMIC ENERGY COMMISSION
Notices
General Dynamics Corp.; termination of interest 17632
United Nuclear Corp.; issuance of facility license 17632

BUSINESS AND DEFENSE SERVICES ADMINISTRATION
Notices
Decisions on applications for duty-free entry of scientific articles:
Roosevelt Hospital 17629
Rutgers Medical School 17629
State University of New York (2 documents) 17630
University of Iowa 17630
University of Kentucky 17631
Veterans Administration Hospital, San Francisco, Calif. 17631

CIVIL AERONAUTICS BOARD
Notices
Hearings, etc.:
Bermuda service investigation 17633
Compagnie Nationale Air France 17633
Denver-Twin Cities service investigation 17633
Sudflug, Suddeutsche Flugesellschaft mbH 17633

CIVIL SERVICE COMMISSION
Rules and Regulations
Excepted service; entire executive civil service 17615

COAST GUARD
Rules and Regulations
Tank, cargo and miscellaneous vessels; bulk dangerous cargoes 17621

COMMERCE DEPARTMENT
See also Business and Defense Services Administration.
Notices
Office of Telecommunications; organization and functions 17632

CONSUMER AND MARKETING SERVICE
Rules and Regulations
Handling limitation; lemons grown in California and Arizona 17617
Shipments limitations; fruits grown in Florida:
Oranges 17616
Tangelos 17615
Tangerines (2 documents) 17615, 17616
Proposed Rule Making
Milk handling in certain marketing areas:
Massachusetts-Rhode Island-New Hampshire 17626
Northeastern Ohio, Greater Youngstown, and Greater Wheeling 17626
Raisins produced from California grapes; modification of grade standards 17625

CUSTOMS BUREAU
Rules and Regulations
Elimination of use of brand name for seals approved for official use 17619
Notices
Combination toilet articles; proposed tariff classification 17627

DEFENSE DEPARTMENT
Rules and Regulations
Transportation of dependent school children 17619
Notices
Department of Defense Food Planning Board; establishment 17627

FEDERAL MARITIME COMMISSION
Notices
Agreements filed for approval:
Lykes Bros. Steamship Co., Inc., and Durban Lines (Pty.), Ltd. 17633
South Chicago Dock Leasing Co. and Transoceanic Terminal Corp 17634

FEDERAL POWER COMMISSION
Notices
Hearings, etc.:
American Petrofina Company of Texas et al 17634
Bainbridge, Ind., town of, and Panhandle Eastern Pipeline Co 17637
Eastern Shore Natural Gas Co. 17637
Humble Oil & Refining Co. 17638
Placid Oil Co. 17635
Southern Natural Gas Co. 17638
Tenneco Oil Co. 17636
Transcontinental Gas Pipe Line Corp 17638

FEDERAL TRADE COMMISSION
Rules and Regulations
Prohibited trade practices:
Appliance Product Service et al. 17618
Maple Manufacturing Co. and Martin and Natalie Surkin 17618

FISH AND WILDLIFE SERVICE
Rules and Regulations
Buffalo Lake National Wildlife Refuge, Tex.; sport fishing 17623
Crab Orchard National Wildlife Refuge, Ill.:
Public access, use, and recreation 17622
Sport fishing 17623

FOOD AND DRUG ADMINISTRATION
Proposed Rule Making
Drugs; official names; correction 17626

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
See Food and Drug Administration.

IMMIGRATION AND NATURALIZATION SERVICE
Proposed Rule Making
Release from custody, fixing voluntary departure time, and granting stays of deportation by special inquiry officers 17624

INTERIOR DEPARTMENT
See also Fish and Wildlife Service; Land Management Bureau; National Park Service.
Notices
Lummi diking project, Whatcom County, Wash.; order canceling charges and conveying project structures 17629
Swinomish Indian Reservation, Wash.; ordinance regulating issuance of permits and licenses for sale of beer, wine, and liquor 17628

INTERSTATE COMMERCE COMMISSION
Notices
Fourth section application for relief 17639
Motor carrier temporary authority applications (3 documents) 17640–17642

JUSTICE DEPARTMENT
See Immigration and Naturalization Service.

(*Continued on next page*)

CONTENTS

LAND MANAGEMENT BUREAU

Rules and Regulations

Idaho; public land order; partial revocation of departmental order 17620

Notices

Colorado; classification of public lands for multiple-use management 17627

NATIONAL PARK SERVICE

Notices

Concession contracts:

Grand Teton National Park, Wyo 17628

Hot Springs National Park, Ark 17628

SECURITIES AND EXCHANGE COMMISSION

Notices

Fundamental Investors, Inc.; hearing, etc. 17639

TRANSPORTATION DEPARTMENT

See Coast Guard.

TREASURY DEPARTMENT

See Customs Bureau.

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

5 CFR

213 17615

7 CFR

905 (4 documents) 17615, 17616

910 17617

PROPOSED RULES:

989 17625

1001 17626

1003 17626

1036 17626

1048 17626

8 CFR

PROPOSED RULES:

242 17624

243 17624

244 17624

299 17624

9 CFR

97 17618

16 CFR

13 (2 documents) 17618

19 CFR

5 17619

19 17619

24 17619

21 CFR

PROPOSED RULES:

138 17626

32 CFR

54 17619

43 CFR

PUBLIC LAND ORDER:

4336 17620

46 CFR

39 17621

98 17621

50 CFR

28 17622

33 (2 documents) 17623

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Entire Executive Civil Service

Section 213.3102 of Schedule A is amended to provide that students appointed under the President's Stay-in-School Campaign may work up to 40 hours per week during vacation periods which occur during the regular school year. Effective on publication in the FEDERAL REGISTER, paragraph (w) of § 213.3102 is amended as set out below.

§ 213.3102 Entire executive civil service.

* * * * *

(w) Part-time or intermittent positions the duties of which involve work of a routine nature when filled by students appointed in furtherance of the President's Youth Opportunity Stay-in-School Campaign and when the following conditions are met: (1) Appointees are enrolled in or accepted for enrollment in a resident secondary school or institution of higher learning, accredited by a recognized accrediting body; (2) employment does not exceed 16 hours in any calendar week (40 hours in any calendar week which falls within a vacation period during the regular school year); (3) while employed, appointees continue to maintain an acceptable school standing, although they need not attend school during the summer; (4) appointees need the earnings from the employment to continue in school; and (5) salaries are fixed by the agency head at a level commensurate with the duties assigned and the expected level of performance. Appointments under this authority may not extend beyond 1 year: *Provided*, That such appointments may be extended for additional periods of not to exceed 1 year each if the conditions for initial appointment are still met. An agency head may not appoint under this authority the son or daughter of a civilian employee of that agency or the son or daughter of a member of its uniformed service. A person may not be appointed under this authority unless he has reached his 16th but not his 22d birthday.

* * * * * *

(5 U.S.C. 2301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67-14416; Filed, Dec. 8, 1967; 8:49 a.m.]

Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Tangerine Reg. 33, Amdt. 4]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of tangerines grown in Florida.

Order. In § 905.502 (Tangerine Reg. 33, 32 F.R. 14923, 15669, 16199, 16525) the provisions of paragraph (a)(2) are amended by substituting in lieu thereof a new paragraph (a)(2) reading as follows:

(2) During the week December 4, 1967, through December 10, 1967, any handler may ship a quantity of tangerines which are smaller than the size prescribed in subparagraph (1)(ii) of this paragraph if (i) the number of standard packed boxes of such smaller tangerines does not exceed 50 percent of the total standard packed boxes of all sizes of tangerines shipped by such handler during the same week; and (ii) such smaller tangerines are of a size not smaller than 2$^{11}/_{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of tangerines smaller than such minimum diameter shall be permitted, which tolerances shall be applied in accordance with the provisions for the application of tolerances specified in said U.S. Standards for Tangerines.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-14360; Filed, Dec. 8, 1967; 8:46 a.m.]

[Tangelo Reg. 35]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of tangelos, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of tangelos are currently regulated pursuant to Tangelo Regulation 34 (32 F.R. 14923) and, unless sooner terminated, will continue to be so regulated until July 31, 1968; the recommendation and supporting information for regulation during the periods specified herein were promptly submitted to the Department after an open meeting of the Growers Administrative Committee on December 5, 1967, such meeting was held to consider recommendations for regulation, after giving due notice of

such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this regulation, including the effective time hereof, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such tangelos; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective as hereinafter set forth so as to provide for the continued regulation of the handling of tangelos; this regulation relieves restrictions on the sizes of tangelos that may be handled; and compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

§ 905.503 Tangelo Regulation 35.

(a) Order: (1) Tangelo Regulation 34 (32 F.R. 14923) is hereby terminated December 11, 1967.

(2) During the periods from December 11, 1967, to December 21, 1967, and from December 28, 1967, through July 31, 1968, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(i) Any tangelos, grown in the production area, which do not grade at least U.S. No. 1; or

(ii) Any tangelos, grown in the production area, which are smaller than 2 2/16 inches in diameter, except that a tolerance of 10 percent, by count, of tangelos smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in the U.S. Standards for Florida Oranges and Tangelos.

(3) During the period from December 21, 1967, through December 27, 1967, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico, any tangelos, grown in the production area.

(b) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade, diameter, standard pack, and standard box, as used herein, shall have the same meaning as is given to the respective term in the U.S. Standards for Florida Oranges and Tangelos (§§ 51.1140–51.1178 of this title).

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 7, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-14441; Filed, Dec. 8, 1967; 8:49 a.m.]

[Tangerine Reg. 34]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of tangerines are currently regulated pursuant to Tangerine Regulation 33, as amended (32 F.R. 14923, 15869, 16199, 16525 and as further amended December 6, 1967), and, unless sooner terminated, will continue to be so regulated until July 31, 1968; the recommendation and supporting information for regulation during the periods specified herein were promptly submitted to the Department after an open meeting of the Growers Administrative Committee on December 5, 1967, such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this regulation, including the effective time hereof, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such tangerines; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective as hereinafter set forth so as to provide for the continued regulation of the handling of tangerines, this regulation relieves restrictions on the sizes of tangerines that may be handled; and compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

§ 905.504 Tangerine Regulation 34.

(a) Order: (1) Tangerine Regulation 33, as amended (32 F.R. 14923, 15869, 16199, 16525, and as further amended December 6, 1967), is hereby terminated December 11, 1967.

(2) During the periods December 11, 1967, to December 21, 1967, and December 28, 1967, through July 31, 1968, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(i) Any tangerines, grown in the production area, which do not grade at least U.S. No. 1; or

(ii) Any tangerines, grown in the production area, which are smaller than 2 2/16 inches in diameter, except that a tolerance of 10 percent, by count, of tangerines smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in the U.S. Standards for Tangerines.

(3) During the period December 21, 1967, through December 27, 1967, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico, any tangerines, grown in the production area.

(b) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade, diameter, standard pack, and standard box, as used herein, shall have the same meaning as is given to the respective term in the U.S. Standards for Tangerines (§§ 51.1810–51.1834 of this title).

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 7, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-14440; Filed, Dec. 8, 1967; 8:49 a.m.]

[Orange Reg. 60]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of oranges, including Temple and Murcott Honey oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of oranges, except Murcott Honey oranges, grown in the production area, are currently subject to regulation pursuant to Orange Regulation 59, as amended (32 F.R. 14922, 16198), and, unless sooner terminated, will continue to be so regulated until September 8, 1968; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after an open meeting of the Growers Administrative Committee on December 5, 1967; such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this regulation, including the effective time hereof, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such oranges; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective as hereinafter set forth; this regulation relieves grade restrictions on shipments of oranges, except Temple and Murcott Honey oranges, grown in Regulation Area II; and compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

§ 905.505 Orange Regulation 60.

(a) Order: (1) Orange Regulation 59, as amended (32 F.R. 14922, 16198) is hereby terminated December 11, 1967.

(2) During the periods December 11, 1967, to December 21, 1967, and December 28, 1967, through September 8, 1968, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(i) Any oranges, except Temple and Murcott Honey oranges, grown in Regulation Area I, which do not grade at least Florida No. 1; or

(ii) Any oranges, except Temple and Murcott Honey oranges, grown in Regulation Area II, which do not grade at least Florida No. 1 Golden;

(iii) Any oranges, including Temple and Murcott Honey oranges, grown in the production area, which are of a size smaller than 2 2/16 inches in diameter, except that a tolerance of 10 percent, by count, of oranges smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the United States Standards for Florida Oranges and Tangelos: *Provided*, That in determining the percentage of oranges in any lot which are smaller than 2 2/16 inches in diameter, such percentage shall be based only on those oranges in such lot which are of a size 2 1/16 inches in diameter and smaller;

(iv) Any Temple oranges, grown in the production area, which do not grade at least U.S. No. 1 Golden; or

(v) Any Murcott Honey oranges, grown in the production area, which do not grade at least U.S. No. 1.

(3) During the period December 21, 1967, through December 27, 1967, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico, any oranges, including Temple and Murcott Honey oranges, grown in the production area.

(b) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade, diameter, standard pack, and standard box, as used herein, shall have the applicable meaning given to the respective term in the U.S. Standards for Florida Oranges and Tangelos (§§ 51.1140–51.1178 of this title), or in Regulation 105–1.02, as amended, effective January 1, 1966, of the regulations of the Florida Citrus Commission.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 7, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-14443; Filed, Dec. 8, 1967; 8:49 a.m.]

[Lemon Reg. 298]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.598 Lemon Regulation 298.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 5, 1967.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period December 10, 1967, through the December 16, 1967, are hereby fixed as follows:

(i) District 1: 13,950 cartons;

(ii) District 2: 51,150 cartons;

(iii) District 3: 134,850 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 7, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-14405; Filed, Dec. 8, 1967; 8:49 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS AND POULTRY

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Overtime, Night, and Holiday Inspection and Quarantine Activities at Border, Coastal, and Airports

Pursuant to the authority conferred by the Act of August 28, 1950 (64 Stat. 561; 7 U.S.C. 2260), the following portion of the first sentence of § 97.1 of Part 97, Title 9, Code of Federal Regulations, is hereby amended to read:

§ 97.1 Overtime work at border ports, coastal ports, and airports.

Any person, firm, or corporation having ownership, custody, or control of animals, animal byproducts, other commodities, or means of conveyance, subject to inspection, certification, or quarantine under this subchapter and Subchapter G of this chapter, and who requires the services of an employee of the Animal Health Division on a holiday or at any other time outside the regular tour of duty of such employee, shall sufficiently in advance of the period of overtime or holiday service request the Division inspector in charge to furnish inspection, certification or quarantine service during such overtime or holiday period and shall pay the Administrator of the Agricultural Research Service at the rate of $7.20 per man hour per employee as follows: • • •

(64 Stat. 561; 7 U.S.C. 2260)

Effective date. The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER.

The purpose of the foregoing amendment is to provide for overtime or holiday services, at the request of the owner or his agent, for the inspection, supervision of unloading, and cleaning and disinfection of aircraft or other means of conveyance and shipping containers thereon, which require such services under the provisions of § 92.2a of this subchapter.

It is to the benefit of those who require such overtime services, as well as the public generally, that this amendment be made effective at the earliest practicable date. Accordingly, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and public procedure on this amendment are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making this amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 5th day of December 1967.

R. J. ANDERSON,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 67-14284; Filed, Dec. 8, 1967; 8:47 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-1259]

PART 13—PROHIBITED TRADE PRACTICES

Appliance Product Service et al.

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections:* 13.15–180 Location; 13.15–295 Service; § 13.70 *Fictitious or misleading guarantees;* § 13.175 *Quality of product or service.* Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1475 *Location;* § 13.1585 *Services.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1715 *Quality.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Appliance Product Service et al., Philadelphia, Pa., Docket C-1259, Nov. 20, 1967]

In the Matter of Appliance Product Service, a Partnership, and Leon C. Sack, and Julius C. Sack, Also Known as Jules C. Sack, Individually and as Copartners Trading and Doing Business as the Above Partnership.

Consent order requiring a Philadelphia, Pa., appliance repair concern to cease misrepresenting the quality of its service, the location of its business, making deceptive guarantees, and removing appliances unnecessarily to its shop for repairs.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Appliance Product Service, a partnership, and Leon C. Sack, and Julius C. Sack, also known as Jules C. Sack, individually and as copartners trading and doing business as Appliance Product Service, or under any other name or names, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution or servicing or repairing of refrigerators, freezers, water coolers, air conditioners, or other appliances or other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that they perform satisfactory services or repairs on all appliances serviced or repaired by them: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that all services and repairs on said appliances were in fact satisfactorily performed as represented;

2. Representing, directly or by implication, that any service or repair of any product is guaranteed, unless the nature and extent of the guarantee, the identity of the guarantor and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed;

3. Failing to perform fully and with reasonable promptness all of their requirements and obligations under the terms of the guarantee as represented;

4. Representing, directly or by implication, that they operate a local service or repair business at 120 North Eighth Street, Camden, N.J., or at any other address: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that in fact they maintain a repair and service business at the address or addresses represented;

5. Representing, directly or by implication, that services or repairs of customers' appliances or parts thereof cannot be performed on the premises where the appliances or parts thereof are located or that it is necessary to take said appliances or parts thereof from the premises where the appliances or parts thereof are located to another location for services or repairs; or from taking said appliances or parts thereof from the premises where the appliances or parts thereof are located to another location: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the aforesaid removal was required to perform the services or repairs made by them.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: November 20, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 67-14276; Filed, Dec. 8, 1967; 8:46 a.m.]

[Docket No. C-1263]

PART 13—PROHIBITED TRADE PRACTICES

Maple Manufacturing Co. and Martin and Natalie Surkin

Subpart—Advertising falsely or misleadingly: § 13.30 *Composition of goods:* 13.30–45 *Textile Fiber Products Identification Act;* § 13.73 *Formal regulatory and statutory requirements:* 13.73–90

Textile Fiber Products Identification Act. Subpart—Misbranding or misbranding: § 13.1185 *Composition:* 13.1185–90 Wool Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212–90 Wool Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–80 Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; secs. 2–5, 54 Stat. 1128–1130, 72 Stat. 1717; 15 U.S.C. 45, 68, 70) [Cease and desist order, Maple Manufacturing Co. et al., Philadelphia, Pa., Docket C-1263, Nov. 20, 1967]

Consent order requiring a Philadelphia, Pa., manufacturer of athletic uniforms and jackets to cease misbranding its wool products and falsely advertising its textile fiber products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Maple Manufacturing Co., a corporation, and its officers, and Martin Surkin and Natalie Surkin, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment, or shipment, in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

1. Falsely or deceptively stamping, tagging, labeling, or otherwise identifying such products as to the character or amount of constituent fibers contained therein.

2. Failing to securely affix to, or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

It is further ordered, That respondents Maple Manufacturing Co., a corporation, and its officers, and Martin Surkin and Natalie Surkin, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, manufacture for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or in the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from falsely and deceptively advertising textile fiber products by:

1. Making any representations by disclosure or by implication, as to the fiber content of any textile fiber product in any written advertisement which is used to aid, promote, or assist, directly or indirectly, in the sale or offering for sale of such textile fiber product, unless the same information required to be shown on the stamp, tag, label, or other means of identification under section 4(b)(1) and (2) of the Textile Fiber Products Identification Act is contained in the said advertisement, except that the percentages of the fibers present in the textile fiber product need not be stated.

2. Setting forth information required under the Textile Fiber Products Identification Act and the rules and regulations promulgated thereunder in abbreviated form.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: November 20, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 67-14274; Filed, Dec. 8, 1967; 8:49 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 67-281]

ELIMINATION OF USE OF BRAND NAME FOR CAR, COMPARTMENT AND PACKAGE SEALS APPROVED FOR OFFICIAL USE

Because the Tyden Corp. held the contract for furnishing car and compartment seals for many years, such seals are identified in the Customs Regulations as Tyden seals. It is deemed advisable that such seals be identified by a generic name instead of a brand name. Accordingly, the Customs Regulations are amended as follows:

PART 5—CUSTOMS RELATIONS WITH CONTIGUOUS FOREIGN TERRITORY

Sections 5.5(b), 5.8(b), 5.9(a), 5.9(d), and 5.10(f) are amended by substituting "strap" for the word "Tyden" wherever it appears in the sections.

(80 Stat. 379, R.S. 251, sec. 624, 46 Stat. 759; 5 U.S.C. 301; 19 U.S.C. 66, 1624)

PART 19—CUSTOMS WAREHOUSES AND CONTROL OF MERCHANDISE THEREIN

Section 19.29 is amended by substituting "strap" for the word "tyden."

(80 Stat. 379, R.S. 251, sec. 624, 46 Stat. 759; 5 U.S.C. 301, 19 U.S.C. 66, 1624)

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

Section 24.13(a) is amended to read: (a) Strap seals and button metal seals as contracted for by the Commissioner of Customs shall be used in sealing openings, packages, or articles requiring the security provided by such sealing.

Paragraphs (b), (c), and (e) of § 24.13 are amended by substituting "strap" for "Tyden" wherever it appears therein.

(80 Stat. 379, R.S. 251, sec. 624, 46 Stat. 759; 5 U.S.C. 301; 19 U.S.C. 66, 1624)

[SEAL] LESTER D. JOHNSON,
Commissioner of Customs.

Approved: November 29, 1967.

TRUE DAVIS,
Assistant Secretary of the Treasury.

[F.R. Doc. 67-14366; Filed, Dec. 8, 1967; 8:48 a.m.]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER R—PERSONNEL; MILITARY AND CIVILIAN

PART 54—TRANSPORTATION OF DEPENDENT SCHOOL CHILDREN

The Deputy Secretary of Defense approved the following on November 25, 1967:

Sec.
54.1 Purpose and applicability.
54.2 Definitions.
54.3 Authorities.
54.4 Policy.
54.5 Exceptions.

AUTHORITY: The provisions of this Part 54 are issued under sec. 301, 80 Stat. 379; 5 U.S.C. 301.

§ 54.1 Purpose and applicability.

This part establishes uniform Department of Defense policy consistent with 20 U.S.C. 236–244 and 10 U.S.C., section 7204(a)(2) for providing school transportation to dependent children of military and civilian personnel residing on military installations located in the United States, Wake Island, Guam, and the Virgin Islands.

§ 54.2 Definitions.

For purposes of this part:

(a) Dependent school children are those minor dependents of military and civilian personnel of the DoD residing on military installations attending primary or secondary schools.

(b) Walking distance: Any distance of 1 mile or less between a school and a child's residence shall be considered walking distance.

(c) Reasonable distance: In connection with providing transportation to private schools, reasonable distance shall be deemed to be 20 miles from the entrance of the installation nearest the school.

(d) Regular means of transportation: Includes regular public school transportation, regular private school transportation, regular inter/intra installation transportation or any combination of such means of transportation. In the case of secondary school children, it also includes regular public transportation.

(e) Accessibility: A school will be considered accessible if it is within walking distance or if the regular means of transportation and walking distance would involve an elapsed travel time of 1 hour or less each way.

(f) Local public school is the public school designated by the local educational agency to serve an attendance area in which a dependent child resides.

§ 54.3 Authorities.

(a) Under 20 U.S.C. 236-244, the U.S. Office of Education, Department of Health, Education, and Welfare, was given authority to extend Federal assistance to eligible local educational agencies providing education for children residing on Federal property (requirements: To be eligible, a school district must have the lesser of 400 or 3 percent of the total number of children who are in average daily attendance either residing on Federal property or residing with a parent employed on Federal property or whose parent is on active duty as a member of the Uniformed Services during the year of application. If eligibility is met on the basis of the percentage, then there must be at least 10 federally connected children in average daily attendance) including military installations.

(1) In consideration for this assistance, the local educational agencies providing transportation to school children in their districts also provide such transportation to school children residing on military installations.

(2) Should local educational agencies under obligation to provide transportation for children residing on military installations lack the necessary facilities, transportation may be provided by the DoD, with reimbursements from (i) the local educational agency, or (ii) in certain instances, from funds withheld from the local educational agency by the Commissioner of Education.

(b) The annual Appropriation Acts of the DoD extend to all the Military Departments the authority conferred upon the Department of the Navy by 10 U.S.C. section 7204(a)(2) to provide funds specifically appropriated for the purpose of transportation for dependents between the school and the activity when the schools are not accessible by regular means of transportation (or when the Secretary of the Military Department concerned finds that schools, if any, available in the locality, are unable to provide adequately for education of such dependents).

§ 54.4 Policy.

DoD transportation facilities will be used for transportation of dependent school children only as specifically provided in this part.

(a) Transportation may be provided to:

(1) Local public schools when the school is not accessible.

(2) Nearby public schools, other than the local public schools when:

(i) The nearby public school is not accessible; and

(ii) The Secretary of the Military Department concerned has determined that local public schools in which the children would normally be enrolled are unable to provide adequately for their education; that attendance at other public schools (to include public schools for the handicapped) in the local educational agency district of residence can be arranged; and that transportation is not authorized under the provisions of 10 U.S.C. 236-244.

(3) Adequate private schools within a reasonable distance, provided:

(i) The private school is not accessible and private school transportation, either with or without cost to the child, is not available; and

(ii) The parent of the child submits a written request for transportation setting forth the reasons therefore.

(iii) The military commander concerned determines either that:

(a) The public schools, if any, available in the locality are unable to provide adequately for the education of the child concerned; or

(b) The general morale of the personnel concerned would be served by providing transportation for those desiring to attend a private school; or

(c) The vehicles authorized for transporting dependent school children to public schools have extra space and can convey those attending private schools without materially deviating from the established route to the public school.

(b) Transportation may be furnished under DoD Appropriation Acts only when the U.S. Commissioner of Education advises that it is not authorized under the provisions of 20 U.S.C. 236-244.

(c) Only one trip to the school and one trip from the school per school day is authorized for any one child.

(d) When more than one military installation is involved, transportation arrangements will be coordinated to the maximum extent possible.

(e) Where it is necessary for a Military Department to provide transportation for dependents to public schools or to schools operated on military installations for dependent children, written agreements shall be entered into with the local educational agency as to the services and facilities to be furnished and the arrangements for reimbursement.

(f) Reimbursable costs shall be credited to applicable appropriations and shall consist of costs incident to operation, maintenance, and depreciation of the equipment, including, but not limited to: Fuel, oil, and other consumable supplies used, as well as the compensation of drivers (military or civilian) directly engaged in providing the transportation service.

(1) The cost of compensation of civilian drivers shall be computed on the basis of their gross payroll compensation for fringe benefits.

(2) The cost of the compensation of military drivers shall be computed on the basis of the reimbursement rates for military personnel set forth in DoD Instruction 7220.15, "Budgeting and Accounting for the Cost of Military Personnel Service," June 1, 1966.[1]

(g) Dependent school children may use available regularly scheduled DoD transportation within and between installations when traveling to and from school in order to make connections with regular means of transportation. Similarly, special transportation may be provided within the installation where to do so would serve to make schools accessible by regular means of transportation.

§ 54.5 Exceptions.

(a) The Secretary of a Military Department, or a statutory employee designated by him, may permit exceptions to be made by the military commander of an installation when the route to school is through areas of heavy traffic, blighted urban or residential districts, or potentially dangerous industrial or construction area; the age of the children involved shall also be considered. All other exceptions must be approved by the Secretary of the Military Department concerned or his designee.

(b) In requesting exceptions for Secretarial consideration, the military commander concerned shall forward factual data and documentation to show why it would be clearly detrimental to the welfare of the personnel concerned not to make exceptions.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Administration).

DECEMBER 5, 1967.

[F.R. Doc. 67-14330; Filed, Dec. 6, 1967; 8:45 a.m.]

[1] Filed as part of original document. Copies available at Publications Counter, OASD(A), 3 B 200 Pentagon, or OX 52167.

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4336]

[Idaho 778]

IDAHO

Partial Revocation of Departmental Order of January 24, 1912

By virtue of the authority contained in section 12 of the act of June 25, 1910 (36 Stat. 855; 43 U.S.C. 149), it is ordered as follows:

The departmental order of January 24, 1912, which reserved lands for the Grays Lake Reservoir Site is hereby revoked so far as it affects the following described land:

BOISE MERIDIAN

T. 4 S., R. 43 E.,
Sec. 26, NW¼SW¼.

Containing 40 acres.

This revocation is made in furtherance of an exchange under provisions of the act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315g), as amended, by which the offered lands will benefit a federal land program. This restoration is, therefore, not subject to the provisions of R.S. 2276 as amended (43 U.S.C. 851, 852), granting to certain States a preference right of application upon the recovation of an order of withdrawal.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

DECEMBER 5, 1967.

[F.R. Doc. 67-14350; Filed, Dec. 8, 1967; 8:47 a.m.]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER D—TANK VESSELS

SUBCHAPTER I—CARGO AND MISCELLANEOUS VESSELS

[CGFR 67-86]

PART 39—FLAMMABLE OR COMBUSTIBLE LIQUIDS HAVING LETHAL CHARACTERISTICS

PART 98—SPECIAL CONSTRUCTION, ARRANGEMENT, AND PROVISIONS FOR CERTAIN DANGEROUS CARGOES IN BULK

Miscellaneous Amendments

1. Pursuant to the notice of proposed rule making published in the FEDERAL REGISTER of January 24, 1967 (32 F.R. 795–807), and the Merchant Marine Council Public Hearing Agenda dated March 20, 1967 (CG–249), the Merchant Marine Council held a public hearing on March 20, 1967, for the purpose of receiving comments, views, and data. The proposals considered were identified as Items PH 1–67 to PH 13–67, inclusive. Item PH 2–67 contained proposals regarding bulk dangerous cargoes (CG–249, pages 65 to 75, inclusive), and these proposals, as revised, are adopted and set forth in this document.

2. The oral and written comments received were considered and certain changes were made in the proposals in Item PH 2–67. The proposal regarding shipping papers for cargo barges carrying certain dangerous cargoes, in Item PH 2a–67 (CG–249, page 65) was revised. The proposals regarding draft marks to be placed on cargo barges carrying certain dangerous cargoes in Item PH 2b–67 (CG–249, pages 66 and 67) are withdrawn. The proposals regarding barges carrying liquid chlorine in bulk in Item PH 3c–67 (CG–249, pages 68 to 72, inclusive) are accepted. The proposal regarding barges carrying anhydrous ammonia in bulk in Item PH 2d (CG–249, page 72) is accepted with editorial changes. The proposals regarding venting of tank barges carrying liquids having lethal characteristics in Item PH 2e–67 (CG–249, pages 73 to 75, inclusive) are accepted. The Merchant Marine Council's actions with respect to comments on proposals in Item PH 2–67 are approved.

3. By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by section 632 of Title 14, United States Code and Department of Transportation Order 1100.1, dated March 31, 1967 (49 CFR 1.4(a)(2), 32 F.R. 5606), to promulgate regulations in accordance with the laws cited with the regulations below, the following amendments are prescribed and shall be effective January 1, 1968, for both new and existing vessels; however, the regulations in this document may be complied with in lieu of existing requirements prior to that date.

4. The authority note for Part 39 is amended to read as follows:

AUTHORITY: The provisions of this Part 39 issued under R.S. 4405, as amended, 4417a, as amended, 4462, as amended; 46 U.S.C. 375, 391a, 416. Interpret or apply R.S. 4472, as amended, 4488, as amended, sec. 3, 68 Stat. 675, sec. 6(b)(1), 80 Stat. 938; 46 U.S.C. 170, 481, 50 U.S.C. 198, 49 U.S.C. 1655(b); E.O. 11239, July 31, 1965, 30 F.R. 9671, 3 CFR, 1965 Supp. Department of Transportation Order 1100.1, Mar. 31, 1967, 49 CFR 1.4(a)(2), 32 F.R. 5606; except as otherwise noted.

Subpart 39.20—Venting and Ventilation

§ 39.20–1 [Amended]

5. Section 39.20–1 is amended by changing the heading from "Venting—TB/ALL" to "Venting—T/ALL."

6. Subpart 39.20 is amended by inserting after § 39.20–1 a new section reading as follows:

§ 39.20–2 Venting—B/ALL.

(a) Manned barges shall meet the requirements of § 39.20–1.

(b) For unmanned barges, the following requirements shall apply:

(1) The discharge fittings from each safety relief or pressure vacuum relief valve shall be directed in such a manner as to not impinge on another tank, piping or any other equipment which would increase the fire hazard should burning products be discharged from the safety or pressure vacuum relief valve as a result of a fire or other casualty. In addition, the discharges shall be directed away from areas where it is likely that persons might be working and as remote as practicable from ventilation inlets and ignition sources. A common discharge header may be employed if desired. The area near the discharge fittings shall be clearly marked as a hazardous area.

(2) A means shall be provided for either the reclamation or safe venting of vapors during the loading and unloading operations. For this purpose the safety relief or pressure vacuum relief valve shall be provided with a valved bypass to a vapor return line above connection which shall be used whenever vapor return shore facilities are available. In the event vapors must be vented to the atmosphere, a vent riser shall be connected to the vapor return line and extend at least 12 feet above the highest level accessible to personnel. The vent riser may be collapsible for ease of stowage when not in use. The vent riser shall not be connected to a safety relief or pressure vacuum valve. Vapor return lines or vent risers for tanks carrying the same class product may be connected to a common header system if desired.

(3) Tanks carrying Class "B" or "C" poisons shall be vented independent of tanks carrying other products.

7. The authority note for Part 98 is amended to read as follows:

AUTHORITY: The provisions of this Part 98 issued under R.S. 4405, as amended, 4462, as amended, 4472, as amended; 46 U.S.C. 375, 416, 170. Interpret or apply R.S. 4417a, as amended, 4488, as amended, sec. 3, 68 Stat. 675, sec. 6(b)(1), 80 Stat. 938; 46 U.S.C. 170, 481, 50 U.S.C. 198, 49 U.S.C. 1655(b); E.O. 11239, July 31, 1965, 30 F.R. 9671, 3 CFR, 1965 Supp. Department of Transportation Order 1100.1, Mar. 31, 1967, 49 CFR 1.4(a)(2) 32 F.R. 5606; except as otherwise noted.

Subpart 98.03—Barges Carrying Dangerous Cargoes

8. Section 98.03–35 is amended by adding a new paragraph (h) at the end thereof reading as follows:

§ 98.03–35 Special operating requirements for barges carrying certain dangerous cargoes in bulk.

* * * * *

(h) (1) Each barge carrying dangerous cargoes shall have on board a bill of lading, manifest, or shipping document giving the following:

(i) Name of the shipper.

(ii) Location of the loading point.

(iii) Kind, grade, and approximate quantity by compartment of each kind and grade of cargo in the barge.

(2) Such bill of lading, manifest, or shipping document may be made out by the person in charge of the barge, the master of the towing vessel, or the owner of the barge or his agent: *Provided*, That in the case of any unmanned barge, the master of the towing vessel shall either have a copy of the shipping papers for such barge when in his tow or he shall make an entry in the towing vessel's logbook giving the information required by subparagraph (1) of this paragraph. A barge should not be delayed in order to secure exact quantities of cargo.

Subpart 98.05—Elemental Phosphorus In Water In Bulk

§ 98.05–50 [Amended]

9. Section 98.05–50 *General requirements* is amended by changing in paragraph (f) the title from "Commandant (MMT)" to "Commandant (MHM)."

Subpart 98.10—Sulfuric Acid in Bulk

§ 98.10–45 [Amended]

10. Section 98.10–45 *General requirements* is amended by changing in

paragraph (f) the title from "Commandant (MMT)" to "Commandant (MHM)."

Subpart 98.15—Hydrochloric Acid in Bulk

§ 98.15–45 [Amended]

11. Section 98.15–45 *General requirements* is amended by changing in paragraphs (f) and (g) the title from "Commandant (MMT)" to "Commandant (MHM)."

Subpart 98.18—Phosphoric Acid in Bulk

§ 98.18–45 [Amended]

12. Section 98.18–45 *General requirements* is amended by changing in paragraphs (f) and (g) the title from "Commandant (MMT)" to "Commandant (MHM)."

Subpart 98.20—Liquid Chlorine in Bulk

13. Section 98.20–40(c) is amended to read as follows:

§ 98.20–40 Cargo piping.

* * * * *

(c) In multiple tank installations the tanks shall not be interconnected by piping or manifolds which may contain liquid chlorine. Manifolding of vapor lines of individual tanks into a common header for connection to shore is permitted. More than one cargo tank may be filled or discharged at a time, provided each tank is filled from or discharged to shore tanks through separate lines.

14. Section 98.20–55 is amended to read as follows:

§ 98.20–55 Venting.

(a) Each cargo tank shall have the safety relief valve outlets connected to separate risers which shall extend to a reasonable height above the deck; or, the safety relief valves may discharge into the protective housing surrounding the valves. Suitable provisions shall be made to vent the housing. Other installations acceptable to the Commandant may be used. The arrangement shall be such as to minimize the hazard of escaping vapors.

(b) When vent risers are installed, they shall be designed so as to prevent stresses on safety relief valve mountings and to provide protection against physical damage. Return bends and restrictive pipe fittings shall not be used. Risers shall be fitted with loose rain caps and suitable provision shall be made for draining the vent piping if liquid can collect therein.

15. Section 98.20–60 is amended by deleting the second sentence in paragraph (b), by inserting the phrase "by volume" after the phrase "80 percent chlorine" (twice) in second sentence of paragraph (d), and by changing the phrase from "70 percent" to "75 percent" in the last sentence of paragraph (f), and these paragraphs as revised read as follows:

§ 98.20–60 Filling and discharge operation.

* * * * *

(b) Prior to the start of filling operations, care shall be exercised to insure that the cargo tank(s) is empty and free from foreign matter.

* * * * *

(d) After the filling operation is completed the vapor above the liquid chlorine in the cargo tank shall be analyzed to determine the percentage of gaseous chlorine in the vapor space. If it should contain less than 80 percent chlorine, by volume, vapors shall be withdrawn through the vent or vapor line until the vapor content in the cargo tanks shows at least 80 percent chlorine, by volume.

* * * * *

(f) The chlorine in the cargo tanks shall be discharged by the pressure differential method. Where the vapor pressure of the chlorine is not sufficient to force the liquid out of the tank, compressed air may be used to secure the desired rate of discharge, provided the air is oil-free and thoroughly dried by passing it over activated aluminum oxide, silica gel, or other acceptable drying agent. The compressed air systems shall contain a relief valve arranged and set so that the air pressure in the cargo tank cannot exceed 75 percent of the allowable pressure of the tank.

* * * * *

§ 98.20–70 [Amended]

16. Section 98.20–70 *Special operating requirements* is amended by changing in paragraphs (e) and (f) the title from "Commandant (MMT)" to "Commandant (MHM)."

Subpart 98.25—Anhydrous Ammonia in Bulk

§ 98.25–90 [Amended]

17. Section 98.25–90 *Special operating requirements* is amended by changing in paragraph (d) the title from "Commandant (MMT)" to "Commandant (MHM)."

18. Section 98.25–95(a) is amended to read as follows:

§ 98.25–95 Tests and inspections.

(a) Each cargo tank shall be subjected to an internal examination at least once in each 8 calendar years. To the extent and if deemed necessary by the marine inspector, sufficient insulation shall be removed from insulated tanks at least once in each 8 calendar years to permit spot external examination of the tanks and insulation. The marine inspector may require that the thickness of the tanks be gaged by an acceptable nondestructive means without removal of insulation. An external examination of unlagged tanks and the visible parts of lagged tanks shall be made at each biennial inspection.

* * * * *

Subpart 98.35—Portable Tanks For Combustible Liquids

§ 98.35–7 [Amended]

19. Section 98.35–7 *Plan approval* is amended by changing in paragraph (a) the title from "Commandant (MMT)" to "Commandant (MHM)" and by changing the Zip number from "20226" to "20591."

Dated: December 5, 1967.

W. J. SMITH,
Admiral, U.S. Coast Guard, Commandant.

[F.R. Doc. 67–14365; Filed, Dec. 8, 1967; 8:48 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 28—PUBLIC ACCESS, USE AND RECREATION

Crab Orchard National Wildlife Refuge, Ill.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 28.28 Special regulations, public access, use and recreation; for individual wildlife refuge areas.

ILLINOIS

CRAB ORCHARD NATIONAL WILDLIFE REFUGE

Public use is permitted on the Crab Orchard National Wildlife Refuge subject to the following special conditions:

(1) Swimming is permitted only at beach areas as designated by signs.

(2) All types of flotation devices, other than U.S. Coast Guard approved lifesaving devices, are prohibited on refuge waters.

(3) Foodstuffs, drink containers (cans, bottles, cartons), pets, or fires are prohibited at designated beach areas and on the rock area immediately below Crab Orchard Lake Spillway.

(4) The Carterville, Hogan, Lookout Point, and Crab Orchard Beach areas are open from 5 a.m. c.s.t. until 9 p.m. c.s.t. daily.

(5) Horseback riding is prohibited except on designated horseback riding trails.

(6) Boats containing toilets that flush directly into the water must have the toilet sealed when the craft is on refuge waters.

(7) Sailboats when underway between sunset and sunrise must display a bright white light visible all around the horizon for a distance of 2 miles.

(8) Open alcoholic beverages are not permitted on any boat propelled by mechanical power while the craft is in operation.

(9) The drinking or possession of alcoholic beverages by persons under 21 years of age is prohibited on the refuge area.

(10) The transportation or possession of open alcoholic beverages in a motor vehicle is prohibited on the refuge area.

L. A. MERRIMOTT, Jr.,
Project Manager, Crab Orchard National Wildlife Refuge, Carterville, Ill.

DECEMBER 1, 1967.

[F.R. Doc. 67–14345; Filed, Dec. 8, 1967; 8:45 a.m.]

PART 33—SPORT FISHING

Crab Orchard National Wildlife Refuge, Ill.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuges.

ILLINOIS

CRAB ORCHARD NATIONAL WILDLIFE REFUGE

Sport fishing on the Crab Orchard National Wildlife Refuge, Ill., is permitted only on the areas designated by signs as open to fishing. These open areas comprising 8,000 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn. 55408. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from January 1, 1968, through December 31, 1968, in areas designated on map as I and III; and from March 15, 1968, through September 30, 1968, daylight hours only, in area designated on map as II.

(2) The use of boats is permitted, except that no boat with motor larger than six (6) horsepower is permitted on Devils Kitchen Lake and on Little Grassy Lake.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33, and are effective through December 31, 1968.

L. A. MERRIMOTT, Jr.,
Project Manager, Crab Orchard National Wildlife Refuge, Carterville, Ill.

DECEMBER 1, 1967.

[F.R. Doc. 67–14346; Filed, Dec. 8, 1967; 8:47 a.m.]

PART 33—SPORT FISHING

Buffalo Lake National Wildlife Refuge, Tex.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

TEXAS

BUFFALO LAKE NATIONAL WILDLIFE REFUGE

Sport fishing on the Buffalo Lake National Wildlife Refuge, Tex., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 2,358 acres, are delineated on maps available at refuge headquarters, Umbarger, Tex., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from March 1 through October 31, 1968, inclusive, on all waters of the Buffalo Lake National Wildlife Refuge; from January 1 through February 28, 1968, inclusive, and November 1 through December 31, 1968, inclusive on all waters lying north of a diagonal line extending across the lake from the northwest corner of section 116 to the southeast corner of section 117.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33 and are effective through December 31, 1968.

GORDON H. HANSEN,
Refuge Manager, Buffalo Lake National Wildlife Refuge, Umbarger, Tex.

NOVEMBER 20, 1967.

[F.R. Doc. 67–14347; Filed, Dec. 8, 1967; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Parts 242, 243, 244, 299]

RELEASE FROM CUSTODY, FIXING VOLUNTARY DEPARTURE TIME, AND GRANTING STAYS OF DEPORTATION BY SPECIAL INQUIRY OFFICERS

Notice of Proposed Rule Making

Pursuant to section 553 of title 5 of the United States Code (P.L. 89-554, 80 Stat. 383), notice is hereby given of the proposed issuance of the following rules which would permit a special inquiry officer during a deportation hearing to authorize the release from custody of the respondent at the hearing, revoke such release, specify the time during which the respondent who has been granted voluntary departure may depart, and fix the responsibility for extending initially authorized voluntary departure time with the district director, and which would permit a special inquiry officer to grant a stay of deportation in connection with a motion to reopen or reconsider filed in a deportation proceeding. In accordance with section 553, interested persons may submit to the Commissioner of Immigration and Naturalization, Room 757, 119 D Street NE., Washington, D.C. 20536, written data, views, or arguments (in duplicate) relative to these proposed rules. Such representations may not be presented orally in any manner. All relevant material received within 20 days following the date of publication of this notice will be considered.

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

1. Paragraphs (b) and (c) of § 242.2 are amended to read as follows:

§ 242.2 Apprehension, custody, and detention.

* * * * *

(b) *Authorized officer.* Except as otherwise provided in § 242.17(a), a district director, acting district director, or deputy district director may exercise the authority contained in section 242 of the Act to continue or detain an alien in, or release him from, custody, to determine whether an alien shall be released under bond, and the amount thereof, if any, and shall promptly notify the alien in writing of any determination made in his case. No appeal shall lie from such determination. Denial of an application or request by an alien for release from custody, or release under bond, or for reduction in the amount thereof, shall be without prejudice to the renewal of the application in the course of proceedings before a special inquiry officer under section 242 of the Act and this part. Following the commencement of a hearing in deportation proceedings before a special inquiry officer under section 242 of the Act and this part, a special inquiry officer may exercise the authority contained in section 242 of the Act to continue or detain a respondent in, or release him from, custody, and to determine whether a respondent shall be released under bond, and the amount thereof, if any. The special inquiry officer shall promptly notify the respondent and the Service of his determination, which shall become effective on notification, and shall include such determination in his final decision made under § 242.18. No appeal shall lie from the decision of a special inquiry officer in respect to custody, detention, release on bond, or the amount thereof except as part of any appeal which may be taken by the respondent from the final decision of the special inquiry officer as provided in § 242.21. The foregoing provisions concerning the authority of the special inquiry officer shall not apply when the Service notifies the alien that it is ready to execute the order of deportation and takes him into custody for that purpose. After the entry of a decision by a special inquiry officer, the exclusive procedure and authority for an application under this paragraph shall be that stated in the first two sentences of this paragraph.

(c) *Revocation.* When an alien who, having been arrested and taken into custody, has been released, such release may be revoked (1) at any time prior to the commencement of the hearing, or subsequent to the entry of a final order by the special inquiry officer in deportation proceedings, in the discretion of the district director, acting district director, or deputy district director; or (2), in the discretion of the special inquiry officer, at any time following the commencement of the hearing and prior to the entry of a final order in deportation proceedings by the special inquiry officer, in either of which events the alien may be taken into physical custody and detained. If detained, unless a breach has occurred, any outstanding bond shall be revoked and canceled.

2. Paragraph (a) of § 242.17 is amended to read as follows:

§ 242.17 Ancillary matters, applications.

(a) *Creation of the status of an alien lawfully admitted for permanent residence; custody, detention, release under bond.* The respondent may apply to the special inquiry officer for suspension of deportation under section 244(a) of the Act, for adjustment of status under section 245 of the Act, or for creation of a record of lawful admission for permanent residence under section 249 of the Act; such applications shall be subject to the requirements contained in Parts 244, 245, and 249 of this chapter. The special inquiry officer shall inform the respondent of his apparent eligibility to apply for any of the foregoing benefits and shall afford him an opportunity to make application therefor during the hearing. In exercising discretionary powers to grant or deny any of the foregoing applications, the special inquiry officer may consider and rely upon information not contained in the record, provided the Commissioner has determined that it is in the interest of the national security and safety to do so. During the hearing, the respondent if in custody may apply to the special inquiry officer for release from custody, or for release under bond, or for a change in the amount or conditions of a bond, if any, under which the respondent may have been released. The special inquiry officer shall inform such respondent of his right to apply for a change in custody status. The determination of the special inquiry officer in respect to custody status shall be entered on Form I-342 at the time such determination is made, and the reason for his determination thereon shall be included in the special inquiry officer's decision on the case. The determination of the special inquiry officer as to custody status may be based upon information not of record if, in the opinion of the special inquiry officer, the disclosure of such information would be prejudicial to the interests of the United States.

* * * * *

§ 242.22 [Amended]

3. Section 242.22 *Reopening or reconsideration* is amended by adding the following sentences at the end thereof: "In any case in which jurisdiction is not vested in the Board under Part 3 of this chapter, a special inquiry officer may, in his discretion, grant a stay of deportation in connection with, and pending his determination of, a motion to reopen or a motion to reconsider filed with him under this section. The filing with the special inquiry officer of such motion shall not serve to stay the execution of any decision made in the case; execution of such decision shall proceed unless a stay of execution is specifically granted by the special inquiry officer which shall be effective pending his determination of such motion."

PART 243—DEPORTATION OF ALIENS IN THE UNITED STATES

§ 243.4 [Amended]

The last sentence of § 243.4 *Stay of deportation* is amended to read as follows: "Denial by the district director of a request for a stay is not appealable but such denial shall not preclude the Board from granting a stay in connection with a motion to reopen or a motion to reconsider as provided in Part 3 of this chapter, nor shall such denial preclude the special inquiry officer, in his discretion, from granting a stay in connection with, and pending his determination of, a motion to reopen or a motion to reconsider a case falling within his jurisdiction pursuant to § 242.22 of this chapter."

PART 244—SUSPENSION OF DEPORTATION AND VOLUNTARY DEPARTURE

Part 244 is amended to read as follows:

Sec.
244.1 Application.
244.2 Extension of time to depart.

AUTHORITY: The provisions of this Part 244 issued under sec. 103, 66 Stat. 173; 8 U.S.C. 1103. Interpret or apply secs. 242, 244, 66 Stat. 208, 214; 8 U.S.C. 1252, 1254.

§ 244.1 Application.

Pursuant to Part 242 of this chapter and section 244 of the Act a special inquiry officer in his discretion may authorize the suspension of an alien's deportation; or, if the alien establishes that he is willing and has the immediate means with which to depart promptly from the United States, a special inquiry officer in his discretion may authorize the alien to depart voluntarily from the United States in lieu of deportation within such time as may be specified by the special inquiry officer when first authorizing voluntary departure, and under such conditions as the district director shall direct. An application for suspension of deportation shall be made on Form I-256A.

§ 244.2 Extension of time to depart.

Authority to extend the time within which to depart voluntarily specified initially by a special inquiry officer or the Board is within the sole jurisdiction of the district director. A request by an alien for an extension of time within which to depart voluntarily shall be filed with the district director having jurisdiction over the alien's place of residence. Written notice of the district director's decision shall be served upon the alien, and no appeal may be taken therefrom.

PART 299—IMMIGRATION FORMS

§ 299.1 [Amended]

The list of forms in § 299.1 *Prescribed forms* is amended by adding the following form and reference thereto in numerical order:

Form No.	*Title and description*
I-342	Determination of the Special Inquiry Officer with Respect to Custody.

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

Dated: December 5, 1967.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[F.R. Doc. 67-14263; Filed, Dec. 8, 1967; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 989]

RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Proposed Modification of Grade Standards for Natural Condition and Packed Raisins

Notice is hereby given of a proposal to change the minimum grade and condition standards for natural condition Thompson Seedless raisins and the minimum grade standards for packed Thompson Seedless raisins. The minimum standards are established under, and the changes would be made pursuant to, the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989; 32 F.R. 12157, 12555, 12710), regulating the handling of raisins produced from grapes grown in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposal was recommended by the Raisin Administrative Committee and is intended to improve the quality of raisins marketed and so enhance consumer demand, thereby tending to effectuate the declared policy of the act.

Thompson Seedless raisins include the varietal types of natural (sun-dried) Thompson Seedless, Golden Seedless, Sulfur Bleached, and Soda Dipped.

The minimum grade and condition standards for natural condition raisins are set forth in § 989.97 (Exhibit B) of the amended marketing agreement and order. The proposal would, pursuant to § 989.58(b) and beginning with the 1968-69 crop year, tighten these standards for producer deliveries of Thompson Seedless raisins and provide more flexibility in their application under the marketing agreement and order program. At present, in addition to meeting other requirements, standard raisins shall be fairly free from immature (skinny) raisins. This permits a lot to contain no B maturity, or better, raisins and a maximum of 12 percent, by weight, of substandard raisins (raisins that show development less than that characteristic of raisins prepared from fairly well-matured grapes). Under the proposal, any lot of Thompson Seedless raisins shall contain not less than 45 percent, by weight, of B maturity, or better, raisins (raisins showing development characteristic of raisins prepared from well-matured or reasonably well-matured grapes) and not more than 8 percent, by weight, of substandard raisins. However, any lot containing less than 45 percent, but not less than 35 percent, of raisins having B maturity or better, or containing more than 8 percent, but not more than 18 percent of substandard raisins, would be considered as an acceptable lot for packer acquisition as standard raisins, with a determinable weight meeting the maturity requirements for standard raisins. Any lot of the raisins failing within such limits would have the weight to be credited as standard raisins determined by prescribed formula. This would reduce the creditable weight of the lot by an amount approximately equal to the weight of the immature or substandard raisins to be removed from the lot to bring the remaining portion of the lot up to the specified maturity requirements. Since this removal could be done during normal processing, producers would not be required to incur the costs for special reconditioning.

A corresponding change in the minimum standards for packed raisins, prescribed in § 989.58(a), would be made pursuant to § 989.58(b) so as to require not less than 55 percent, by weight, of such raisins in each lot to be of B maturity, or better, and to permit not more than a total of 3 percent, by weight, of the raisins to be substandard. At present, no B maturity, or better, raisins are required and a total of eight percent of the raisins may be substandard.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposal should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than March 1, 1968. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposal follows:

Add to Subpart—Supplementary Orders Regulating Handling two sections, §§ 989.201 and 989.202, to read:

§ 989.201 Changes in minimum grade and condition standards for natural condition raisins.

Pursuant to § 989.58(b), paragraphs A2 and A3 of § 989.97 *Exhibit B; minimum grade and condition standards for natural condition raisins* are hereby changed to read:

A. Thompson Seedless raisins.

* * * * *

2. a. Shall have a normal characteristic color, flavor, and odor of properly prepared raisins.

b. Shall contain not less than 45 percent, by weight, of B maturity, or better, raisins (raisins showing development characteristic of raisins prepared from well-matured or reasonably well-matured grapes) and not more than 8 percent, by weight, of substandard raisins (raisins that show development less than that characteristic of raisins prepared from fairly well-matured grapes): *Provided*, That any lot containing less than 45 percent, but not less than 35 percent, by weight, of raisins having B maturity or better, or containing more than 8 percent but not more than 18 percent, by weight, of substandard raisins shall be considered as meeting the maturity requirements for packer acquisition as standard raisins but the creditable weight of the lot as standard raisins shall be that obtained by multiplying the total raisin weight by the smaller of the maturity or the substandard dockage factors computed as follows:

1. Maturity dockage factor equals the percent (less than 45) of B maturity, or better, raisins divided by 45 percent.

ii. Substandard dockage factor equals 53 minus the percent (greater than 8 percent) of substandard raisins divided by 45.

The percent of B maturity, or better, raisins in a lot, the percent of substandard raisins in a lot, and the dockage factor expressed as a percent shall be rounded to the nearest one-tenth of 1 percent.

3. The moisture content shall not exceed 16 percent (except Golden Seedless, Sulfur Bleached, and Soda Dipped shall not exced 14 percent), as determined by Dried Fruit Moisture Tester Method and the raisins shall be of such quality and condition as can be expected to withstand storage as provided in the marketing agreement and order and that when processed in accordance with good commercial practice will at least meet the minimum grade requirements for packed raisins prescribed in § 989.202 of this subpart.

§ 989.262 Changes in minimum grade standards for packed raisins.

Pursuant to § 989.59(b), the following minimum grade standards are prescribed for packed raisins of the natural (sun-dried) Thompson Seedless, Golden Seedless, Sulfur Bleached, and Soda Dipped varietal types, in lieu of the minimum grade standards prescribed in subdivision (i) of § 989.59(a)(2) for packed raisins of such varietal types: Packed raisins of the natural (sun-dried) Thompson Seedless, Golden Seedless, Sulfur Bleached, and Soda Dipped varietal types shall at least meet the requirements of "U.S. Grade C" as defined in effective U.S. Standards for Grades of Processed Raisins, except that (1) not less than 55 percent, by weight, of the raisins in each lot shall be of B maturity, or better (raisins that show development characteristic of raisins prepared from well-matured, or reasonably well-matured grapes), and (2) not more than 3 percent, by weight, of the raisins in each lot may be substandard raisins (raisins that show development less than that characteristic of raisins prepared from fairly well-matured grapes), of which no tmore than 1 percent, by weight, of the raisins in the lot may consist of undeveloped berries except that, for midget size raisins, not more than 2 percent, by weight, of the raisins in the lot may consist of undeveloped berries.

Dated: December 5, 1967.

PAUL A. NICHOLSON,
Deputy Director,
Fruit and Vegetable Division.

[F.R. Doc. 67-14372; Filed, Dec. 8, 1967; 8:49 a.m.]

[7 CFR Part 1001]

MILK IN MASSACHUSETTS-RHODE ISLAND-NEW HAMPSHIRE MARKETING AREA

Notice of Proposed Suspension of Certain Provisions of Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of certain provisions of the order regulating the handling of milk in the Massachusetts - Rhode Island - New Hampshire marketing area is being considered for a temporary period beginning December 1, 1967.

The provisions proposed to be suspended are:

1. In the preamble of § 1001.7 the provision "Notwithstanding what his status otherwise would be under any other Federal order, the term shall include a dairy farmer with respect to all milk caused to be moved from his farm to a pool plant under this order by a handler under another Federal order if any of the dairy farmer's milk so received is assigned to Class I milk under this order."

2. In paragraph (b) of § 1001.7 the provisions "assigned to Class II milk under this order and" and "notwithstanding what his status otherwise would be under this order;"

3. The provisions "or" at the end of paragraph (e) of § 1001.7 and all of paragraph (f) of such section.

The Massachusetts-Rhode Island-New Hampshire order was amended effective December 1, 1967 (32 F.R. 15076) to provide that milk could be diverted between markets only for Class II use. The provisions herein proposed to be suspended result in producer milk status in the market of physical receipt for all of the milk of any producer reported to have been diverted when any part of such milk is assigned to Class I.

A handler operating pool plants under both the Massachusetts-Rhode Island-New Hampshire and Connecticut orders requested the suspension herein proposed to accommodate his particular operations under these orders. He contends that in recent years substantial quantities of bulk milk have been diverted from regulated plants under Order 15 to regulated plants under Order 1. In almost every month some of this milk has been assigned to Class I under the assignment provisions of the order.

The handler contends that since the plants involved are primarily fluid milk plants, it is not possible to accurately estimate in advance the volume of Class II milk in a given plant in any month. That is, such volume is dependent on variables such as changes in inventories, weather conditions, shrinkage, and route returns. The handler further contends that with the partial suspension of farm location differential payments under the respective orders, by court order, pending the outcome of litigation with respect to the validity of such provisions, the difference in blend prices as between the two orders (formerly 7-8 cents) has widened by 32 to 34 cents. This price differential, the handler believes, is an unreasonable penalty on any producer inadvertently thrown from one order to the other. The suspension action herein proposed was requested pending the outcome of litigation of the nearby farm differential provisions of the respective orders.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 3 days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be in quadruplicate.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Signed at Washington, D.C., on December 5, 1967.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 67-14357; Filed, Dec. 8, 1967; 8:47 a.m.]

[7 CFR Parts 1008, 1036, 1048]

[Docket Nos. AO-366-A12, AO-179-A28, AO-325-A8]

MILK IN NORTHEASTERN OHIO, GREATER YOUNGSTOWN, AND GREATER WHEELING MARKETING AREAS

Notice of Extension of Time for Filing Exceptions to Recommended Decision on Proposed Amendments to Tentative Marketing Agreements and Orders

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given that the time for filing exceptions to the recommended decision with respect to the proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Northeastern Ohio, Greater Youngstown-Warren, and Greater Wheeling marketing areas, which was issued November 16, 1967 (32 F.R. 15952), is hereby extended to January 10, 1968.

Signed at Washington, D.C., on December 5, 1967.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 67-14358; Filed, Dec. 8, 1967; 8:47 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 138]

DRUGS

Proposed Official Names

Correction

In F.R. Doc. 67-14073 appearing at page 16533 in the issue of Saturday, December 2, 1967, the entry on page 16534 now reading "Sota ol" should read "Sotalol" and its chemical name should read "4'-[1-Hydroxy-2-(isopropylamino)-ethyl]methanesulfonanilide".

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[483.214]

COMBINATION TOILET ARTICLES

Proposed Tariff Classification

DECEMBER 5, 1967.

It is proposed in accordance with the provisions of § 16.10a(c) of the Customs regulations (19 CFR 16.10a(c)), to limit the application of the decision of the Bureau published in abstract form in T.D. 56007(7) to comb and mirror sets which are, in fact, combination toilet articles which contain combs, brushes, or combs and brushes as integral parts (item 750.75, Tariff Schedules of the United States). This would include articles such as mirrors, the backs of which are fitted with combs enclosed in pockets, mirrors having combs and brushes as their handles, and similar items. It is further proposed to rescind the decision of the Bureau published in abstract form in T.D. 56410(32). The separate classification of combs and mirrors which are imported in sets but which have no distinctive features which dedicate them to use as combination articles will be resumed with respect to such articles which are entered, or withdrawn from warehouse, for consumption on or after the expiration of 90 days after the date of publication of any final ruling in this matter in the weekly Customs Bulletin.

Before a final determination is made, consideration will be given to any relevant data, views, or arguments pertaining to the correct tariff classification of this merchandise which are submitted in writing to the Commissioner of Customs, Washington, D.C. 20226. To assure consideration, such communications must be received in the Bureau not later than 30 days from the date of publication of this notice. No hearings will be held.

[SEAL] LESTER D. JOHNSON,
Commissioner of Customs.

[F.R. Doc. 67-14367; Filed, Dec. 8, 1967; 8:48 a.m.]

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

DEPARTMENT OF DEFENSE FOOD PLANNING BOARD

Establishment

The Assistant Secretary of Defense (Installations and Logistics) on November 20, 1967, established a Department of Defense Food Planning Board consisting of representation from the DoD, each of the Military Services, and the Defense Supply Agency. The purpose of the Board is to plan and develop economical uniform menus and recipes for use by all military food activities supported by appropriated funds. The Board will place special emphasis on the development, preparation, and maintenance of a Food Frequency Plan, a Food Item Acceptance Plan, nutritional requirements, and the automation of the menu and recipe service.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Administration).

[F.R. Doc. 67-14335; Filed, Dec. 8, 1967; 8:46 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[C-2649]

COLORADO

Notice of Classification of Public Lands For Multiple-Use Management

NOVEMBER 30, 1967.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18), and to the regulations in 43 CFR Parts 2410 and 2411, the public lands within the areas described below together with any lands therein that may become public lands in the future are hereby classified for multiple-use management. Publication of this notice segregates all the described lands from appropriation only under the agricultural land laws (43 U.S.C. Parts 7 and 9, 25 U.S.C. 334) and from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171). The described lands shall remain open to all other applicable forms of appropriation including the mining and mineral leasing laws. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. No protests or objections were received following publication of a notice of proposed classification (32 F.R. 13530-13531) or at the public hearing held on October 11, 1967, at Eagle, Colo. Therefore, no changes have been made in the list of lands included in the classification. The record showing the comments received and other information is on file and can be examined in the Glenwood Springs District Office, Glenwood Springs, Colo. The public lands affected by this classification are located within the following described area and are shown on a map designated by Serial No. C-2649 in the Glenwood Springs District Office, Glenwood Village Inn, Post Office Box 1009, Glenwood Springs, Colo. 81601 and at the Land Office, Bureau of Land Management, Room 15019 Federal Building, 1961 Stout Street, Denver, Colo. 80202.

SIXTH PRINCIPAL MERIDIAN, COLORADO

EAGLE COUNTY

T. 2 S., R. 81 W.,
Secs. 4 to 9 inclusive.
T. 2 S., R. 82 W.,
Secs. 1 to 12 inclusive;
Secs. 18, 19, 30, 31.
T. 2 S., R. 83 W.,
Secs. 1 to 36 inclusive.
T. 2 S., R. 84 W.,
Secs. 1 to 36 inclusive;
Secs. 28 to 32 inclusive;
Secs. 34 to 36 inclusive.
T. 2 S., R. 85 W.,
Secs. 1 to 8 inclusive;
Secs. 9 to 15 inclusive;
Sec. 16;
Secs. 21 to 36 inclusive.
T. 2 S., R. 86 W.,
Secs. 1 and 12.
T. 3 S., R. 84 W.,
Secs. 1 to 36 inclusive.
T. 3 S., R. 85 W.,
Secs. 1 to 23 inclusive;
Secs. 27 to 33 inclusive.
T. 3 S., R. 86 W.,
Secs. 1 to 36 inclusive.
T. 3 S., R. 87 W.,
Secs. 1, 12, 13, 24 (that part in Eagle County), 25, and 36.
T. 4 S., R. 84 W.,
Secs. 6 to 8 inclusive;
Secs. 13 to 15 inclusive;
Secs. 17 to 36 inclusive.
T. 4 S., R. 85 W.,
Secs. 1 to 36 inclusive.
T. 4 S., R. 86 W.,
Secs. 1 to 36 inclusive.
T. 4 S., R 87 W.,
Secs. 1, 2, 11, 12, 13, 14, 23, 24, 25, 26, 35, and 36 (that part in Eagle County).
T. 5 S., R. 83 W.,
Secs. 26 to 31 inclusive.
T. 5 S., R. 84 W.,
Secs. 1 to 36 inclusive.
T. 5 S., R. 85 W.,
Secs. 1 and 2;
Secs. 6 to 16 inclusive;
Secs. 20 to 36 inclusive.
T. 5 S., R. 86 W.,
Secs. 1 to 36 inclusive.
T. 5 S., R. 87 W.,
Secs. 1, 2, 11, 12, 13, 14, 23, 24, 25, 26, 35, and 36 (that part in Eagle County).
T. 6 S., R. 85 W.,
Secs. 5 and 6.
T. 6 S., R. 86 W.,
Secs. 1 to 10 inclusive.
T. 6 S., R. 87 W.,
Secs. 1 to 4 inclusive;
Secs. 11 to 13 inclusive.

The public lands in the areas described aggregate approximately 147,000 acres.

3. For a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER, interested parties may submit comments to the Secretary of the Interior, LLM, 721, Washington, D.C. 20240 (43 CFR 2411.1-2(d)).

J. ELLIOT HALL,
Acting State Director.

[F.R. Doc. 67-14375; Filed, Dec. 8, 1967; 8:49 a.m.]

National Park Service

HOT SPRINGS NATIONAL PARK, ARK.

Notice of Intention to Negotiate Concession Contracts

Pursuant to the provisions of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate concession contracts with the following concessioners authorizing them to provide concession facilities and services for the public at Hot Springs National Park, Ark., for a period of five (5) years from January 1, 1969 through December 31, 1972:

Alhambra Bath House, Inc.
Knights of Pythias.
Leo N. Levi Memorial Hospital Association.
National Baptist Convention, U.S.A., Inc.

The foregoing concessioners have performed their obligations under the contracts to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, are entitled to be given preference in the renewal of their contracts. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposals to be considered and evaluated must be submitted within thirty (30) days after the date of publication of this notice. Interested parties should contact the Chief of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contracts.

Dated: December 1, 1967.

EDWARD A. HUMMEL,
Assistant Director,
National Park Service.

[F.R. Doc. 67-14348; Filed, Dec. 8, 1967; 8:47 a.m.]

GRAND TETON NATIONAL PARK, WYO.

Notice of Intention to Extend Concession Contract

Pursuant to the provisions of section 5, of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to extend the concession contract with Signal Mountain Lodge, Inc., authorizing it to provide concession facilities and services for the public at Grand Teton National Park, Wyo., for a period of fifteen (15) years from January 1, 1972, through December 31, 1986, provided that the construction and improvement program called for in the contract is satisfactorily completed within the prescribed time, which is July 1, 1971.

The foregoing concessioner has performed its obligations under the contract to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the contract. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the date of publication of this notice.

Interested parties should contact the Chief of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the contract and the proposed extension.

Dated: December 4, 1967.

EDWARD A. HUMMEL,
Assistant Director,
National Park Service.

[F.R. Doc. 67-14349; Filed, Dec. 8, 1967; 8:47 a.m.]

Office of the Secretary

SWINOMISH INDIAN RESERVATION, WASH.

Ordinance Regulating Issuance of Permits and Licenses for Sale of Beer, Wine, and Liquor

Pursuant to the Act of August 15, 1953 (Public Law 277, 83d Congress, 1st session; 67 Stat. 586), I certify that the following ordinance relating to the application of the Federal Indian liquor laws on the Swinomish Indian Reservation was duly enacted by the Swinomish Indian Senate which has jurisdiction over the area of Indian country included in the ordinance:

An ordinance to regulate the issuance of permits and licenses for the sale of beer, wine, and liquor on the Swinomish Indian Reservation, State of Washington within and under the jurisdiction of the Swinomish Indian Tribal Community:

Be it enacted by the Swinomish Indian Tribe in a regular meeting held on the Swinomish Indian Reservation, Wash., on the 21st day of August, 1967:

1. That before any persons, association, firm, corporation, or partnership, or any individual or group of individuals, may engage in the retail liquor, beer and/or wine business within the exterior boundaries of the Swinomish Indian Reservation, whether or not the principal place of business of said liquor, beer and/or wine retailer is located within the exterior boundaries of the Swinomish Indian Reservation, he must first make application to the Swinomish Indian Senate for, and obtain a permit or license to engage in, said retail liquor, beer, and/or wine business. Either maintaining a retail liquor, beer, and/or wine establishment upon said reservation or making sales of liquor, beer and/or wine at retail any place within the exterior boundaries of the Swinomish Indian Reservation shall constitute engaging in the retail liquor, beer and/or wine business.

2. With such application, the applicant shall tender a fee equal to one-third of the fee charged by the State of Washington for a similar permit or license. If a license or permit is issued to the applicant by the Swinomish Indian Senate, it shall run from June 30 of one year to the 30th day of June the next following year. If the application is made when there is more than six (6) months of said yearly period remaining, there shall be no reduction in the amount of the license fee. If less than six (6) months remain, then the license fee shall be cut in half. If such license or permit is denied, the fee shall be returned to the applicant.

3. Before a permit or license shall be issued by the Swinomish Indian Senate, the applicant shall be investigated as to moral character and as to whether or not such person is acceptable to the members of the Swinomish Tribe to engage in said retail liquor, beer and/or wine business upon the Swinomish Indian Reservation. The Senate may, in its discretion, but is not required to, set a time for public hearing and give reasonable notice for the time and place thereof before acting upon such application. Once a permit or license is granted by the Swinomish Indian Senate, such permit or license may be revoked only for cause and upon a hearing with notice being mailed by registered mail to the owner of such permit or license 10 days prior to such hearing, except such permit or license may not be transferred without the approval and consent of the Swinomish Indian Senate. Cause shall mean the failure to pay license fees each year, and/or the violation of tribal ordinances duly passed or the laws of the State of Washington, or transfer or attempted transfer of such permit or license without the approval and consent of the Swinomish Indian Senate.

4. The issuance of a license or permit by the Swinomish Indian Senate and the payment of a fee, as hereinabove provided, shall be a condition of eligibility before any person, firm, association, corporation, partnership, individual or group of individuals may engage in the retail liquor, beer and/or wine business in the area within the exterior boundaries of the Swinomish Indian Reservation, or receive a license from the State of Washington for such purposes, and until such person or organization wishing to engage in the retail liquor, beer and/or wine business satisfies said condition, he shall not be permitted to engage in the retail liquor, beer and/or wine business or make sales of liquor, wine and/or beer at retail within the external boundaries of the Swinomish Indian Reservation.

5. An annual permit or license fee in an amount equal to one-third of the annual fee for a similar permit or license issued by the State of Washington, shall be payable by the licensee to the Swinomish Indian Tribal Community on June 30th of each year for the ensuing year.

6. No permit or license issued by the Swinomish Indian Senate for the sale of intoxicating liquors, beer and other malt beverages, and wine within the exterior boundaries of the Swinomish Indian Reservation, Wash., may be transferred without the approval of the Swinomish Indian Senate. Such approval must be given at a duly called, noticed, and convened session of said Senate.

7. Persons wishing to transfer such permits or license must first make application in writing to the Swinomish Indian Senate for such transfer. This application must include the name(s) of the persons, group, or association to whom the transfer is to be made and must also be accompanied by a statement signed by the proposed transferee designating the location of the premises where such permit or license is to be used and operated.

8. Before such transfer is approved, the Swinomish Indian Tribal Community shall investigate the moral character of the transferee and determine whether or not such person is acceptable to the members of the Swinomish Tribe to engage in said retail liquor, beer and/or wine business upon the Swinomish Reservation. The Senate may, in its discretion, but is not required to, set a time for public hearing and give reasonable notice of the time and place thereof before acting upon such application for transfer.

9. It shall be the responsibility of holders of such permits to notify the Liquor Control Board of the State of Washington that an application has been made for a transfer of such permits and license to sell intoxicating liquors, beer, and other malt beverages, and wine approved by the Washington Liquor Control Board shall be effective within the boundaries of the Swinomish Indian Reservation until the permit or license issued by the Swinomish Indian Senate for such sales has been transferred as provided for herein.

10. This ordinance is supplementary to, and shall not supersede or otherwise modify the Swinomish Indian Senate Ordinance No. 27, enacted June 7, 1966, certified by the Secretary of the Interior and published in the FEDERAL REGISTER on November 1, 1966, legalizing the introduction, sale or possession of intoxicating beverages on the Swinomish Indian Reservation.

Enacted by the Swinomish Indian Senate this 21st day of August, 1967, pursuant to the provisions of Article VI, section 1(1) of the Constitution and Bylaws of the Swinomish Indians of the Swinomish Reservation.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

DECEMBER 5, 1967.

[F.R. Doc. 67-14351; Filed, Dec. 8, 1967; 8:47 a.m.]

LUMMI DIKING PROJECT, WHATCOM COUNTY, WASH.

Order Canceling Charges and Conveying Project Structures to District 1

Order canceling charges for the Lummi Diking Project, conveying project structures to Diking District No. 1, County of Whatcom, Wash., and for other purposes under the Act of September 17, 1965, 79 Stat. 821.

Pursuant to the authority vested in the Secretary of the Interior by the Act of September 17, 1965 (79 Stat. 821), all outstanding reimbursable charges for construction, operation, and maintenance, including any accrued interest or penalties thereon against lands within the Lummi Indian diking project and any other indebtedness pertaining to the project due the United States, are hereby canceled as of July 31, 1967, the date of approval by the Board of Whatcom County Commissioners, State of Washington, of the establishment of Diking District No. 1, County of Whatcom, State of Washington.

The reimbursable charges canceled hereunder include $124,377.03 of construction costs and $149,405.33 of operation and maintenance costs against Indian and non-Indian lands, a total of $273,782.36. Contracts with project landowners for the repayment of charges here canceled are annulled, and liens securing such charges are released.

In accordance with section 2 of the Act of September 17, 1965, supra, any right, title, or interest of the United States in and to any of the dikes or other structures erected as part of the Lummi Indian diking project and the lands on which they are located, is conveyed to the county of Whatcom, State of Washington, for the use and benefit of said Diking District No. 1 effective July 31, 1967.

Equipment and funds credited to the Lummi Indian diking project on the books of the Department of the Interior shall be transferred to Diking District No. 1, County of Whatcom, State of Washington, upon finding by the Area Director, Bureau of Indian Affairs, Portland, that Diking District No. 1 is in operation and that the condition in section 3 of the Act of September 17, 1965, requiring contribution by the owners of unrestricted lands in the district of an amount equal to the value of such equipment and funds, has been met.

Done in the city of Washington, D.C., this 27th day of November 1967.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

NOVEMBER 27, 1967.

[F.R. Doc. 67-14352; Filed, Dec. 8, 1967; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

ROOSEVELT HOSPITAL

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00078-33-46040. Applicant: Roosevelt Hospital, 428 West 59th Street, New York, N.Y. 10019. Article: Electron Microscope, Norelco Model EM 300 with anticontamination device, 70 mm. camera and tilt stage. Manufacturer: N. F. Philips, The Netherlands. Intended use of article: The electron microscope will be used for the examination of the fine structural features of a variety of biomedical research problems which relate to clinical and more fundamental aspects of health. Studies include investigation of spendymoblastoma cells, in vivo and in vitro; tissue culture cells infected with viruses from patients with leukemia; and study of selected biopsy and autopsy specimens of patients with diseases of unusual interest or atypical manifestations. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purpose for which such article is intended to be used, is being manufactured in the United States.

Reasons: (1) The foreign article provides a guaranteed resolution of five Angstroms. The only known comparable domestic instrument, the Model EMU-4 electron microscope manufactured by the Radio Corporation of America (RCA), provides a guaranteed resolution of 8 Angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolution.) For the purposes for which the foreign article is intended to be used, we find that the greater resolving capabilities are pertinent. (2) The foreign article provides five accelerating voltages, 20, 40, 60, 80, and 100 kilovolts, whereas the RCA Model EMU-4 provides only two accelerating voltages, 50 and 100 kilovolts. It has been experimentally established that the lower accelerating voltage provided by the foreign article produces optimum contrast for unstained specimens and that the voltages intermediate between 50 and 100 kilovolts produce optimum contrast for negatively stained specimens.

For the foregoing reasons, we find that the RCA Model EMU-4 is not scientifically equivalent to the foreign article, for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-14236; Filed, Dec. 8, 1967; 8:45 a.m.]

RUTGERS MEDICAL SCHOOL

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00057-33-46040. Applicant: Rutgers—The State University, Rutgers Medical School, Department of Pathology, New Brunswick, N.J. 08903. Article: Noreloo Electron Microscope, EM 300 with anticontamination device, vacuum film desiccator, 70-mm. camera, rotating tilting stages, and complete set of spare parts. Manufacturer: Philips Electronic Instrumenta, The Netherlands. Intended use of article: Applicant states:

This instrument is to be used for high resolution electron microscopy in experimental pathology by the members of this

department. Research now in progress which would utilize the high resolution characteristics of this microscope includes the following:

1. Research into the changes in tubular absorption during various stages of renal pathology, such as magnesium deficiency and chronic renal failure.

2. Radioautographic localization of fatty acids and other lipids are being done in studies of lipid metabolism in tissue culture cells. • • •

3. • • • The present study is aimed at determining whether the toxic factor for chick embryos in human leukemic sera can be related to these particles.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article provides a guaranteed resolution of 5 Angstroms. The only known comparable domestic instrument, the Model EMU–4 Electron Microscope manufactured by the Radio Corporation of America (RCA), provides a guaranteed resolution of 8 Angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolution.) For the purposes for which the foreign article is intended to be used, we find that the greater resolving capabilities are pertinent. (2) The foreign article provides five accelerating voltages, 20, 40, 60, 80, and 100 kilovolts, whereas the RCA Model EMU–4 provides only two accelerating voltages, 50 and 100 kilovolts. It has been experimentally established that the lower accelerating voltage provided by the foreign article produces optimum contrast for unstained specimens and that the voltages intermediate between 50 and 100 kilovolts produce optimum contrast for negatively stained specimens.

For the foregoing reasons, we find that the RCA Model EMU–4 is not scientifically equivalent to the foreign article, for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLES M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67–14327; Filed, Dec. 8, 1967; 8:45 a.m.]

STATE UNIVERSITY OF NEW YORK

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68–00091–00–46040. Applicant: State University of New York at Albany, 135 Western Avenue, Albany, N.Y. 12203. Article: Object Cooling Device, Model No. 171 007 a, Electron Microscope Accessory. Intended use of article: The article will be used with an electron microscope to cool the specimens below room temperature. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The applicant intends to use the article as an attachment for an existing Siemens Electron Microscope to cool specimens below room temperature. The article is specially designed for the foreign manufacturer's own model equipment and there is no known substitute. No known domestic manufacturer builds this article for the Siemens Electron Microscopes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLES M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67–14328; Filed, Dec. 8, 1967; 8:45 a.m.]

STATE UNIVERSITY OF NEW YORK

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68–00049–33–46040. Applicant: State University of New York, Downstate Medical Center, Department of Anatomy, 450 Clarkson Avenue, Brooklyn, N.Y. 11203. Article: Norelco EM 300 Electron Microscope Tilting Stage. Manufacturer: N. V. Philips, The Netherlands. Intended use of article: Applicant states:

(a) Teaching of electron microscopy to students and staff of S.U.N.Y. Medical College.

(b) Research in the normal structure of muscle terminations, adult nervous tissue, differentiating liver, nervous tissue and kidney, and growing oocytes.

(c) Very high resolution studies will be made on the substructure of cellular membranes, the subunits of which are below the 10 Angstroms level. In particular the generation of the membranes of the Golgi apparatus in oocytes and the site of division of mitochondrial membranes in rat liver cells will be studied.

(d) Cellular organelles and cellular compartmentation will be studied on long ribbons of serial sections.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article provides a guaranteed resolution of 5 Angstroms. The only known comparable domestic instrument, the Model EMU–4 electron microscope manufactured by the Radio Corporation of America (RCA), provides a guaranteed resolution of 8 Angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolution.) For the purposes for which the foreign article is intended to be used, we find that the greater resolving capabilities are pertinent. (2) The foreign article provides five accelerating voltages, 20, 40, 60, 80, and 100 kilovolts, whereas the RCA Model EMU–4 provides only two accelerating voltages, 50 and 100 kilovolts. It has been experimentally established that the lower accelerating voltage provided by the foreign article produces optimum contrast for unstained specimens and that the voltages intermediate between 50 and 100 kilovolts produce optimum contrast for negatively stained specimens.

For the foregoing reasons, we find that the RCA Model EMU–4 is not scientifically equivalent to the foreign article, for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States.

CHARLES M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67–14331; Filed, Dec. 8, 1967; 8:45 a.m.]

UNIVERSITY OF IOWA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68–00014–33–46500. Applicant: The University of Iowa, Purchasing Department, Iowa City, Iowa 52240. Article: REICHERT Ultra Microtome "Om U2." Manufacturer: C. Reichert Optische Werke A.G., Austria. Intended use of article: Applicant states:

This ultramicrotome is intended for preparation of thin sections of a variety of mammalian tissues for electron microscopic examination. It is especially needed for the sectioning of peripheral nervous tissues such as autonomic ganglia, which are very difficult to section, and require the use of a diamond knife and an ultramicrotome with very precise control of section thickness. • • •

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The purposes for which the foreign article is intended to be used require a series of ultrathin sections to be produced with consistent accuracy and uniformity. The foreign article incorporates a thermal advance (feed) which allows sections to be produced, which range in thickness down to one Angstrom. The only known comparable domestic instrument, Model MT–2 ultramicrotome manufactured by Ivan Sorvall, Inc., employs a mechanical advance which has a minimum thickness capability down to 100 Angstroms. (See Sorvall catalog on MT–1 and MT–2 ultramicrotomes, 1966, page 11.) In the case of a prior application relating to an identical foreign article, we were advised by the Department of Health, Education, and Welfare (HEW), that in the experience of experts working with biological materials, ultramicrotomes equipped with a thermal feed have been proven superior to those equipped only with a mechanical feed. (See Docket No. 67–00052–33–46500 and memorandum from HEW dated July 26, 1967, contained therein.) In cited memorandum, HEW also advised that consistent reproducibility of section thickness is substantially greater when the thermal advance is used than when the advance is achieved through purely mechanical means.

We therefore, find that the Sorvall Model MT–2 is not of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLES M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67–14329; Filed, Dec. 8, 1967; 8:45 a.m.]

UNIVERSITY OF KENTUCKY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68–00047–65–46040. Applicant: University of Kentucky, Department of Metallurgical Engineering, Anderson Hall, Lexington, Ky. 40506. Article: HU–125 High Resolution Electron Microscope. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: Instrument will be used in the investigation aimed at relating mechanical properties to the defect structure of aluminum, titanium and copper base alloys. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article provides a guaranteed resolution of 5 Angstroms. The only known comparable domestic instrument, the Model EMU–4 Electron Microscope manufactured by the Radio Corporation of America (RCA), provides a guaranteed resolution of 8 Angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolution.) For the purposes for which the foreign article is intended to be used, we find the greater resolving capabilities to be significant. (2) The foreign article provides a maximum accelerating voltage of 125 kilovolts, whereas the RCA Model EMU–4 provides a maximum accelerating voltage of 100 kilovolts. The higher voltage will permit the study of thicker samples which will be characteristic of bulk materials.

For the foregoing reasons, we find that the RCA Model EMU–4 is not of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLES M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67–14330; Filed, Dec. 8, 1967; 8:45 a.m.]

VETERANS ADMINISTRATION HOSPITAL, SAN FRANCISCO, CALIF.

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68–00075–33–46040. Applicant: Veterans Administration Hospital, 42d Avenue and Clement Street, San Francisco, Calif. 94121. Article: Electron Microscope, Anticontamination Device, 70-mm. film camera and lenscoster. Manufacturer: N. V. Philips Electronic Instruments, Inc., The Netherlands. Intended use of article: The instrument will be used for studies involving examination of mitochondrial and sarcoplasmic membrane substructures and macromolecular size and shapes of enzymatic preparations. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article provides a guaranteed resolution of 5 Angstroms. The only known comparable domestic instrument, the Model EMU–4 Electron Microscope manufactured by the Radio Corporation of America (RCA), provides a guaranteed resolution of 8 Angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolution.) For the purposes for which the foreign article is intended to be used, we find that the greater resolving capabilities are pertinent. (2) The foreign article provides five accelerating voltages, 20, 40, 60, 80, and 100 kilovolts, whereas the RCA Model EMU–4 provides only two accelerating voltages, 50 and 100 kilovolts. It has been experimentally established that the lower accelerating voltage provided by the foreign article produces optimum contrast for unstained specimens and that the voltages intermediate between 50 and

100 kilovolts produce optimum contrast for negatively stained specimens.

For the foregoing reasons, we find that the RCA Model EMU-4 is not scientifically equivalent to the foreign article, for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-14332; Filed, Dec. 8, 1967; 8:45 a.m.]

Office of the Secretary

[Dept. Order 14-A]

OFFICE OF TELECOMMUNICATIONS

Organization and Functions

The following order was issued by the Secretary of Commerce effective December 3, 1967. This material amends the material appearing at 31 F.R. 10700 of August 11, 1966.

SECTION 1. *Purpose.* The purpose of this order is to establish an Office of Telecommunications and to assign functions to this office.

SEC. 2. *General.* .01 The Office of Telecommunications is hereby established as a constituent operating unit of the Department of Commerce. The Office shall be headed by the Director of Telecommunications who shall report and be responsible to the Assistant Secretary for Science and Technology. In the exercise of his supervisory responsibility over the Office of Telecommunications, the Assistant Secretary for Science and Technology shall assure that matters handled by the Office for his action or that of the Secretary are fully coordinated with the Assistant Secretary for Domestic and International Business and other Secretarial Officers to the extent their areas of responsibility and interest are involved, and he shall otherwise assure that the Director of Telecommunications directly coordinates the work of the Office of Telecommunications with Secretarial Officers and operating unit heads whose responsibilities are involved.

.02 The Office of Radio Frequency Management of the Environmental Science Services Administration is hereby abolished and the functions heretofore performed by that office shall be performed by the Office of Telecommunications.

.03 The Office of Telecommunications is established to strengthen the ability of the Department to contribute to the solution of national policy problems raised by expanding uses of telecommunications and far reaching technological developments in that field.

.04 As used in this order, the term "telecommunications" refers to the acquisition and transmission of information by electromagnetic means, including radio, wire, optical, and infrared methods.

SEC. 3. *Functions.* The Office of Telecommunications shall:

.01 Keep abreast of current developments in the field of telecommunications, particularly those which have interrelated economic, scientific, technological, industrial, international and legal aspects.

.02 Provide the heads and appropriate staff of the National Bureau of Standards, Environmental Science Services Administration, and Business and Defense Services Administration with briefs that analyze diverse, interrelated telecommunications developments, with particular emphasis on public policy implications; and consult with and advise such officials in scheduling and undertaking relevant program work as will enable Commerce to make a maximum contribution in the resolution of public policy issues.

.03 In consultation with appropriate Secretarial Officers or operating unit heads, develop position papers, proposals, testimony, and related material requiring Departmental-level action on broad issues and questions concerning telecommunications developments; arrange with Secretarial Officers or operating unit heads, as appropriate, for drawing on the relevant expertise and resources of the Department in developing the above materials; and coordinate prepared materials with responsible officials of the Department and, as appropriate, with other agencies. As may be needed in connection with the development of the Department's position on major policy questions, arrange with the Business and Defense Services Administration or other qualified organizations for the conduct of economic impact studies of proposed policies and policy alternatives.

.04 Provide analyses and advice to appropriate Secretarial Officers on plans and budgets of primary operating units involving telecommunications as may be appropriate to assure optimum coordination of Commerce activities in the telecommunications field.

.05 As designated, represent the Department on telecommunications matters in interagency committees, in appearances before or other formal associations with Federal agencies and in official contacts with private organizations; attend national or international meetings in a representative capacity; and, as appropriate for coordination of the Department's efforts, consult with and advise other designated representatives of the Department to outside telecommunications groups.

.06 As requested by Secretarial Officers or operating unit heads, conduct special cost benefit studies of alternative approaches and policies for carrying out the telecommunications programs.

.07 Examine requests from operating units for radio frequencies; submit justified requests to the Director of Telecommunications Management, Executive Office of the President for assignment of frequencies; appraise use of assigned frequencies to assure proper utilization; advise and assist operating units on technical and management problems associated with their use of assigned frequencies; issue standards and guides; and otherwise promote optimum utilization of radio frequencies assigned the Department.

.08 Perform such related work as will assure optimum coordination of Commerce programs in telecommunications.

SEC. 4. *Administrative services.* The Office of Telecommunications will obtain necessary personnel, financial, and administrative services from the Office of the Assistant Secretary for Administration.

Effective date: December 3, 1967.

DAVID R. BALDWIN,
Assistant Secretary for Administration.

[F.R. Doc. 67-14334; Filed, Dec. 8, 1967; 8:46 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-89, etc.]

GENERAL DYNAMICS CORP.

Order of Termination of Interest

Docket Nos. 50-89, 50-163, 50-227, 50-234, 50-235, 50-240, and 50-253.

The Atomic Energy Commission has found that the transfer of Facility License Nos. R-38, R-67, R-99, R-100, R-104, R-105, and CX-23 and the authority conferred thereunder to Gulf General Atomic, Inc., of San Diego, Calif., is in accordance with the provisions of the Atomic Energy Act of 1954, as amended, and authorized the transfer effective October 31, 1967. The transfer action was published in the FEDERAL REGISTER on November 8, 1967 (32 F.R. 15553).

Therefore, the interest of General Dynamics Corp. in License Nos. R-38, R-67, R-99, R-100, R-104, R-105, and CX-23 is hereby terminated effective as of October 31, 1967.

Dated: December 1, 1967.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[F.R. Doc. 67-14324; Filed, Dec. 8, 1967; 8:45 a.m.]

[Docket No. 50-290]

UNITED NUCLEAR CORP.

Notice of Issuance of Facility License

No request for hearing or petition for leave to intervene having been filed following publication of the notice of proposed action in the FEDERAL REGISTER on November 16, 1967 (32 F.R. 15770), the Commission has issued, in the form set forth in that notice, Facility License No. CX-25 to United Nuclear Corp. The license authorizes United Nuclear Corp. to possess, use and operate a critical experiment facility, designated the Proof Test Facility, constructed on the Corporation's Remote Experimental Station site

Dated at Bethesda, Md., this 2d day of December 1967.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[F.R. Doc. 67-14325; Filed, Dec. 8, 1967; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 18361]

BERMUDA SERVICE INVESTIGATION

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a public hearing in the above-entitled proceeding will be held on January 11, 1968, at 10 a.m. e.s.t., in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Ross I. Newmann.

Without limiting the precise scope of the issues in this proceeding, particular attention will be directed to the following matters:

1. Do the public convenience and necessity require and should the Board order the alteration, amendment or modification of carrier authorizations so as to certificate one or more air carriers to provide foreign air transportation between the coterminal points Chicago, Detroit, Boston, New York/Newark, Philadelphia, Washington, Baltimore, and Washington-Baltimore, on the one hand, and the terminal point Bermuda, on the other hand;

2. Whether, pursuant to section 401(g) of the Act, the existing New York-Bermuda authority of Pan American and Eastern should be restricted to the provision of turnaround service and whether any new New York-Bermuda authority should be restricted in the same manner;

3. Whether any awards under the authority in issue which relate to flights originating or terminating at Bermuda shall include the right to engage in interstate air transportation between the coterminals; and whether, if domestic traffic rights are not awarded, the awards should include the right to permit passengers to stop over at the eastern seaboard coterminals;

4. Whether certificates relating to service at U.S. points should name specific airports for any new authority awarded and, pursuant to section 401(g) of the Act, under the existing authority of Pan American and Eastern;

5. Are the applicants citizens of the United States within the meaning of section 101(13) of the Act?

6. Are the applicants fit, willing and able to perform air transportation and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board thereunder?

7. If the application is granted, what should be the duration of the certificate; and what should be the terms, conditions, and limitations contained therein?

8. If an application is granted, in whole or in part, should the operations be made ineligible to receive federal subsidy?

For further details of the issues involved in this proceeding, interested persons are referred to the Board's Order of Investigation, Order E-24835, dated March 31, 1967; Order E-25254, dated June 6, 1967; Order E-25400, dated July 12, 1967; the Prehearing Conference Report served on July 20, 1967; the Supplemental Prehearing Conference Report served August 22, 1967; and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., December 5, 1967.

[SEAL] ROSS I. NEWMANN,
Hearing Examiner.

[F.R. Doc. 67-14368; Filed, Dec. 8, 1967; 8:48 a.m.]

[Docket No. 18136]

COMPAGNIE NATIONALE AIR FRANCE

Notice of Postponement of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceeding is postponed to be held on January 8, 1968, at 10 a.m., e.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., December 5, 1967.

[SEAL] WALTER W. BRYAN,
Hearing Examiner.

[F.R. Doc. 67-14369; Filed, Dec. 8, 1967; 8:48 a.m.]

[Dockets Nos. 18828, etc.]

DENVER-TWIN CITIES SERVICE INVESTIGATION

Notice of Hearing

Notice is hereby given pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on February 20, 1968, at 10 a.m., e.s.t., in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned.

For fuller information, interested persons are referred to the prehearing conference report served October 24, 1967, the supplemental prehearing conference report served November 9, 1967, and the orders and other material contained in the docket of this proceeding on file with the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., December 5, 1967.

[SEAL] BARRON PHELDGE,
Hearing Examiner.

[F.R. Doc. 67-14370; Filed, Dec. 8, 1967; 8:49 a.m.]

[Docket No. 18367]

SUDFLUG, SUDDEUTSCHE FLUG-GESELLSCHAFT mbH

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference on the above-entitled docket is assigned to be held on December 28, 1967, at 10 a.m., e.s.t., in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Joseph L. Fitzmaurice.

Dated at Washington, D.C., December 5, 1967.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 67-14371; Filed, Dec. 8, 1967; 8:49 a.m.]

FEDERAL MARITIME COMMISSION

LYKES BROS. STEAMSHIP CO., INC., AND DURBAN LINES (PTY.), LTD.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. W. J. Amoss, Jr., Vice President—Traffic, Lykes Bros. Steamship Co., Inc., 821 Gravier Street, New Orleans, La. 70150.

Agreement 9679, between Lykes Bros. Steamship Co., Inc., and Durban Lines (Pty.), Ltd. establishes a through billing arrangement from ports in Portuguese

East Africa to U.S. ports in the Brownsville/Key West Range with transshipment at ports in South Africa in accordance with terms and conditions set forth in the agreement.

Dated: December 4, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-14336; Filed, Dec. 8, 1967; 8:46 a.m.]

SOUTH CHICAGO DOCK LEASING CO. AND TRANSOCEANIC TERMINAL CORP.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of agreement filed for approval by

Donelan, Cleary and Caldwell, 914 Washington Building, 15th Street & New York Avenue NW., Washington, D.C. 20005.

Agreement No. T-182-1 between the South Chicago Dock Leasing Co. (Chicago) and Transoceanic Terminal Corp. (Corporation) provides for a 10-year lease of certain terminal property at Chicago to be operated by Corporation as a public marine terminal including the nonexclusive use of certain ore bridges and open storage areas. The purpose of the modification is to provide for an adjustment of rental for the leased premises.

Dated: December 5, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-14337; Filed, Dec. 8, 1967; 8:46 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RI68-239, etc.]

AMERICAN PETROFINA COMPANY OF TEXAS ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

DECEMBER 1, 1967.

The Respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before January 15, 1968.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI68-239	American Petrofina Co. of Texas, et al., Post Office Box 2159, Dallas, Tex. 75221, Attn: Walker W. Smith, Esq.	68	17	Texas Eastern Transmission Corp. (Helen Gohlke Field, De Witt and Victoria Counties, Tex.) (R.R. District No. 2).	301	11- 6-67	[2] 5- 5-68	7- 5-68	[3] 14.8733	[4] [5] 15.3733	RI64-116.
RI68-240	Sinclair Oil & Gas Co., Post Office Box 521, Tulsa, Okla. 74102, Attn: P. T. Davis, Manager FPC Activity.	214	7	Transwestern Pipeline Co. (Worsham and Waha Fields, Reeves and Pecos County, Tex.) (R.R. District No. 2) (Permian Basin Area).	6,321	11- 3-67	[2] 12- 4-67	5- 4-68	17.0	[6] 18.0	RI64-341.
	do	30	5	Lone Star Gas Co. (Sholem Alechem Field, Carter County, Okla.) (Oklahoma "Other" Area).	1,868	11- 3-67	[1] 1- 1-68	6- 1-68	12.0	[6] 13.01	RI66-96.
	do	141	4	El Paso Natural Gas Co. (West Panhandle Field, Gray County, Tex.) (R.R. District No. 10).	600	11- 3-67	[1] 1- 1-68	6- 1-68	13.0	[6] 14.0	RI66-96.
	do	195	3	Natural Gas Pipeline Co. of America (Spearman Field, Hansford County, Tex.) (R.R. District No. 10).	190	11- 3-67	[2] 12- 4-67	5- 4-68	[7] 16.5	[6] [7] 17.5	
RI68-241	W. C. Feazel Estate, Post Office Box 1765, Shreveport, La. 71102.	5	3	Texas Gas Transmission Corp. (Blackburn Field, Webster and Claiborn Parishes, La.) (North Louisiana).	2,176	11- 6-67	[1] 1- 1-68	6- 1-68	[8] 18.25	[9] [10] 19.75	
RI68-242	Texaco, Inc., Post Office Box 52332, Houston, Tex. 77052.	171	5	Panhandle Eastern Pipe Line Co. (Hugoton Field, Morton County, Kans.).	907	11- 2-67	[1] 1- 1-68	6- 1-68	13.0025	[6] 14.0025	RI67-213.

See footnotes at end of table.

APPENDIX A—Continued

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI68-243	Kay Kimbell Estate, Post Office Box 1540, Fort Worth, Tex. 76101.	14	1	Northern Natural Gas Co. (Hansford Lower Morrow Field, Hansford County, Tex.) (R.R. District No. 10).	2,567	11- 6-67	[2] 12- 7-67	5- 7-68	[3] 17.0	[4] [5] 18.0	
RI68-244	Marathon Oil Co., 539 South Main St., Findlay, Ohio 45840.	29	14	Texas Eastern Transmission Corp. (Charlie No. 1 Unit, Logansport Field, De Soto Parish, La. (North Louisiana).	93	11- 6-67	[2] 12- 7-67	5- 7-68	[6] 17.4417	[4] [5] [6] 17.4417	RI67-121.
	do	25	13	Texas Eastern Transmission Corp. (Andrews Unit, Logansport Field, De Soto Parish, La.) (North Louisiana).	12	11- 6-67	[2] 12- 7-67	5- 7-68	[6] 17.4417	[4] [5] [6] 17.4417	RI67-121.
RI68-245	Sinclair Oil & Gas Co. (Operator) et al., Post Office Box 521, Tulsa, Okla. 74102.	93	4	Natural Gas Pipeline Co. of America (North Spearman Field, Hansford County, Tex.) (R.R. District No. 10).	1,468	11- 3-67	[2] 12- 4-67	5- 4-68	[3] 17.0	[4] [5] 18.0	RI66-177.
RI68-246	Shell Oil Co., 50 West 50th St., New York, N.Y. 10020.	266	2	Texas Gas Transmission Corp. (Downsville Field, Union Parish, La.) (North Louisiana.)	250	11- 6-67	[1] 1- 1-68	6- 1-68	[7] 16.75	[4] [7] [8] 17.75	
	do	233	1	Texas Gas Transmission Corp. (Carterville Field, Webster Parish, La.) (North Louisiana).	1,500	11- 6-67	[1] 1- 1-68	6- 1-68	[7] 18.25	[4] [7] [8] 19.75	
	do	261	2	Arkansas Louisiana Gas Co. (Cheniere Creek Field, Ouachita Parish, La.) (North Louisiana).	1,200	11- 6-67	[1] 1- 1-68	6- 1-68	[9] 18.333	[4] [9] 19.333	
	do	170	2	Northern Natural Gas Co. (Farnsworth Field, Ochiltree County, Tex.) (R.R. District No. 10).	200	11- 6-67	[1] 1- 1-68	6- 1-68	[3] 16.5	[4] [5] 17.5	RI65-275.
	do	234	8	Natural Gas Pipeline Co. of America (Harrington Field, Texas County, Okla.) (Panhandle Area).	23,696	11- 6-67	[1] 1-23-68	6-23-68	[10] [11] 16.22	[4] [10] [11] 17.355	RI65-275.
	do	237	2	Northern Natural Gas Co. (Ellwood Field, Ellis County, Okla.) (Panhandle Area).	6,890	11- 6-67	[1] 1- 1-68	6- 1-68	[10] [12] 18.19	[4] [10] [12] 19.276	
	do	237	2	Northern Natural Gas Co. (Ellwood Field, Ellis County, Okla.) (Panhandle Area).	50,732	11- 6-67	[1] 1- 1-68	6- 1-68	[10] [12] 18.7	[4] [10] [12] 19.815	
RI68-247	Shell Oil Co., (Operator) et al.	335	6	Panhandle Eastern Pipe Line Co. (Northeast Gage and Tangier Fields, Ellis and Woodward Counties, Okla.) (Panhandle Area).	205	11- 1-67	[13] 12- 2-67	5- 2-68	16.0	[4] [13] 16.015	
RI68-248	Tenneco Oil Co., Post Office Box 2511, Houston, Tex. 77001.	185	2	Panhandle Eastern Pipe Line Co. (Southwest Greenough Field, Beaver County, Okla.) (Panhandle Area).	4,502	11- 2-67	[13] 12-27-67	5-27-68	[10] [14] 15.330	[4] [10] [14] 16.262	RI65-568.
RI68-249	McCommons Oil Co. et al., 1001 Mercantile Securities Bldg., Dallas, Tex. 75201.	1	4	Natural Gas Pipeline Co. of America (Boonsville Bend Conglomerate Field, Wise County, Tex.) (R.R. District No. 9).							

[1] The stated effective date is the effective date proposed by Respondent.
[2] Periodic rate increase.
[3] Pressure base is 14.65 p.s.i.a.
[4] Includes 0.5 cent per Mcf dehydration allowance paid by buyer.
[5] "Fractured" rate increase. Respondent contractually due 18.2 cents per Mcf.
[6] Subject to a downward B.t.u. adjustment.
[7] Pressure base is 15.025 p.s.i.a.
[8] Includes 1.75 cents tax reimbursement.
[9] The stated effective date is the first day after expiration of the statutory notice.
[10] Includes 1.333 cents tax reimbursement.
[11] Base rate subject to upward and downward B.t.u. adjustment.
[12] Includes base rate of 16 cents plus 0.32 cent upward B.t.u. adjustment (1,030 B.t.u. gas) before increase and base rate of 17 cents plus 0.34 cent upward B.t.u. adjustment plus 0.015 cent tax reimbursement after increase.
[13] Includes base rate of 17 cents plus 1.19 cents upward B.t.u. adjustment (1,070 B.t.u. gas) before increase and base rate of 18 cents plus 1.26 cents upward B.t.u. adjustment plus 0.015 cent tax reimbursement after increase.
[14] Includes base rate of 17 cents plus 1.7 cents upward B.t.u. adjustment (1,100 B.t.u. gas) before increase and base rate of 18 cents plus 1.8 cents upward B.t.u. adjustment plus 0.015 cent tax reimbursement after increase.
[15] Two-step periodic rate increase.
[16] Includes base rate of 15 cents plus 0.320 cent upward B.t.u. adjustment (1,022 B.t.u. gas) before increase and 16 cents plus 0.342 cent upward B.t.u. adjustment after increase.

Kay Kimbell Estate (Kimbell) requests a retroactive effective date of July 1, 1967, for its porposed rate increase. Tenneco Oil Co. (Tenneco) requests that its proposed rate increase be permitted to become effective on December 1, 1967. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit earlier effective dates for Kimbell and Tenneco's rate filings and such requests are denied.

Sinclair Oil & Gas Co.'s (Sinclair) proposed 18 cents per Mcf rate increase contained in Supplement No. 7 to its FPC Gas Rate Schedule 214 involves a sale of gas in the Permian Basin Area of Texas and exceeds the applicable area ceiling rate of 16.67 cents per Mcf established in the related quality statement previously accepted. Under the circumstances, we conclude that Sinclair's aforementioned supplement should be suspended for 5 months from December 4, 1967, the proposed effective date.

Except for the stay of the moratorium in Opinion No. 468, Supplement No. 7 to Sinclair's FPC Gas Rate Schedule No. 214 would be rejectable because the proposed rate contained therein is in excess of the applicable area ceiling determined in Opinion No. 468, as amended. If the moratorium is ultimately upheld upon judicial review, Sinclair's aforementioned supplement will be rejected ab initio.

With the exception of the rate increase filed by Sinclair under Supplement No. 7 to its FPC Gas Rate Schedule No. 214, which exceeds the area base rate established in the related quality statement filed pursuant to Opinion No. 468, as amended, all of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56).

[F.R. Doc. 67-14282; Filed, Dec. 8, 1967; 8:45 a.m.]

[Docket No. RI68-250]

PLACID OIL CO.

Order Providing for Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject to Refund

NOVEMBER 30, 1967.

Respondent named herein has filed a proposed change in rate and charge of a currently effective rate schedule for the sale of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplement to the rate schedule filed by Respondent shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order Respondent shall execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of a copy thereof upon the purchaser under the rate schedule involved. Unless Respondent is advised to the contrary within 15 days after the filing of its agreement and undertaking, such agreement and undertaking shall be deemed to have been accepted.

(C) Until otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before January 15, 1968.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Acting Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI68-350	Placid Oil Co., 2300 First National Bank Bldg., Dallas, Tex. 75202.	35	4	Arkansas Louisiana Gas Co. (Anthon Area, Custer County, Okla.) (Oklahoma "Other" Area).	$8	11- 3-67	[1] 12- 4-67	[2] 12- 5-67	15.0	[3] [4] 16.015	RI67-22.

[1] The stated effective date is the first day after expiration of the statutory notice.
[2] The suspension period is limited to 1 day.
[3] Tax reimbursement increase.
[4] Pressure base is 14.65 p.s.i.a.

Placid Oil Co. (Placid) requests that its proposed tax reimbursement increase be permitted to become effective as of November 1, 1967. Good cause has not been shown for waiving the 30-day statutory notice requirement provided in section 4(d) of the Natural Gas Act to permit an earlier effective date for Placid's rate filing and such request is denied.

Placid's proposed rate increase is for tax reimbursement only and exceeds the area increased rate ceiling of 11 per Mcf for the Oklahoma "Other" Area as announced in the Commission's statement of general policy No. 61–1, as amended, and should be suspended. Since the proposed increase relates to tax reimbursement only, we conclude that it should be suspended for 1 day from December 4, 1967, the date of expiration of the statutory notice.

[F.R. Doc. 67–14283; Filed, Dec. 8, 1967; 8:45 a.m.]

[Docket No. RI68–351]

TENNECO OIL CO.

Order Providing for Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject to Refund

NOVEMBER 30, 1967.

Respondent named herein has filed a proposed change in rate and charge of a currently effective rate schedule for the sale of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplement to the rate schedule filed by Respondent shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order Respondent shall execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of a copy thereof upon the purchaser under the rate schedule involved. Unless Respondent is advised to the contrary within 15 days after the filing of its agreement and undertaking, such agreement and undertaking shall be deemed to have been accepted.

(C) Until otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before January 17, 1968.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Acting Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI68-	Tenneco Oil Co. Post Office Box 2511, Houston, Tex. 77001, Attn: Joseph Tamasy, Esq.	39	3	El Paso Natural Gas Co. (Blanco Mesa Verde Field, Rio Arriba County, N. Mex.) (San Juan Basin Area).	$1,301	11–3–67	[1] 12–4–67	[2] 12–5–67	[3] [5] [6] 13.2594	[4] [5] [7] 14.2729	RI65–208.

[1] The stated effective date is the effective date requested by Respondent.
[2] The suspension period is limited to 1 day.
[3] Periodic rate increase.
[4] Pressure base is 15.025 p.s.i.a.
[5] Includes partial reimbursement for the full 2.55 percent New Mexico Emergency School tax which has been protested by the buyer.
[6] Includes 1 cent per Mcf added to reflect minimum guarantee for liquids.
[7] Tax reimbursement computed on the rate of 14 cents per Mcf inclusive of the 1 cent per Mcf minimum guarantee for liquids.
[8] Tax reimbursement computed on the rate of 13 cents per Mcf inclusive of the 1 cent per Mcf minimum guarantee for liquids.

Tenneco's proposed rate of 14.2729 cents per Mcf includes partial reimbursement for the full 2.55 percent New Mexico Emergency School Tax which was increased from 2 percent to 2.55 percent on April 1, 1968, and the 1 cent per Mcf minimum guarantee for liquids. The tax reimbursement is computed on a rate of 14 cents per Mcf inclusive of the 1 cent per Mcf minimum guarantee for liquids. The proposed rate exceeds the applicable area increased rate ceiling of 13 cents per Mcf for the San Juan Basin Area as announced in the Commission's statement of general policy No. 61–1, as amended, by the amount of tax reimbursement and the 1 cent minimum guarantee for liquids. In this situation, we conclude that Tenneco's proposed rate increase should be suspended for 1 day from December 4, 1967, the proposed effective date.

The buyer, El Paso Natural Gas Co. (El Paso), has protested Tenneco's proposed rate increase. El Paso questions the right of Tenneco under the tax reimbursement clause of its contract to file rate increases reflecting tax reimbursement computed on the basis of an increase in tax rate by the New Mexico Legislature in excess of 0.55 percent. While El Paso concedes that the New Mexico tax legislation effective a higher rate of at least 0.55 percent, it claims there is controversy as to whether or not the new legislation effected an increased rate in excess of 0.55 percent. In view of the contractual problem presented, we shall provide that the hearing herein shall concern itself with the contractual basis for Tenneco's rate filing as well as the statutory lawfulness of the proposed increased rate and charge.

[F.R. Doc. 67–14284; Filed, Dec. 8, 1967; 8:45 a.m.]

[Docket No. CP68–165]

TOWN OF BAINBRIDGE, IND., AND PANHANDLE EASTERN PIPELINE CO.

Notice of Application

DECEMBER 4, 1967.

Take notice that on November 20, 1967, the town of Bainbridge, Ind. (Applicant) filed in Docket No. CP 68–165 an application pursuant to section 7(a) of the Natural Gas Act for an order of the Commission directing Panhandle Eastern Pipeline Co. (Respondent) to establish physical connection of its transmission facilities with the facilities proposed to be constructed by Applicant and to sell and deliver to Applicant volumes of natural gas for distribution and resale in Applicant and environs, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate a natural gas distribution system and requests that Respondent be ordered to establish physical connection of its transmission facilities with the aforementioned distribution system. Applicant also requests that Respondent be ordered to sell and deliver volumes of natural gas needed to fulfill the requirements of Applicant's system.

The estimated third year peak day and annual requirements of Applicant's resale system are 435.6 Mcf and 36,422 Mcf, respectively.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 27, 1967.

KENNETH F. PLUMB, *Acting Secretary.*

[F.R. Doc. 67–14343; Filed, Dec. 8, 1967; 8:46 a.m.]

[Docket No. CP68–162]

EASTERN SHORE NATURAL GAS CO.

Notice of Application

DECEMBER 4, 1967.

Take notice that on November 17, 1967, Eastern Shore Natural Gas Co. (Applicant), 114 East Main Street, Salisbury, Md. 21801, filed in Docket No. CP68–162 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities for the transportation and sale of natural gas in interstate commerce for resale and for authorization to increase deliveries to certain existing resale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to construct and operate 18 miles of 10-inch pipeline looping facilities, extending generally north-south along a route parallel to its present line from a point near Glasgow, Del., to a point near Blackbird, Del.

The total estimated cost of the proposed facilities is $821,000, which will be financed permanently through the sale of additional convertible debentures.

Applicant also seeks to increase by 1,750 Mcf the peak day allocation of gas sales to its firm customers in the fall of 1968; as follows:

Customer	Currently authorized (Mcf)	Proposed deliveries (Mcf)
Dover Gas Light Co.	3,500	4,350
Citizens Gas Co.	2,020	2,500
Sussex Gas Co.	700	760
Cambridge Gas Co.	765	825
Elkton Gas Service Co.	1,200	1,350
City of Easton, Md.	330	360
City of Easton, Md. (non-jurisdictional)	630	740
Total	9,135	[1] 10,885

[1] Net increase 1,750 Mcf.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 28, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Acting Secretary.*

[F.R. Doc. 67–14341; Filed, Dec. 8, 1967; 8:46 a.m.]

[Docket No. RI68-282]

HUMBLE OIL & REFINING CO.

Order Providing for Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change to Become Effective Subject to Refund

DECEMBER 1, 1967.

Respondent named herein has filed a proposed change in rate and charge of a currently effective rate schedule for the sale of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the Regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplement to the rate schedule filed by Respondent shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order Respondent shall execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of a copy thereof upon the purchaser under the rate schedule involved. Unless Respondent is advised to the contrary within 15 days after the filing of its agreement and undertaking, such agreement and undertaking shall be deemed to have been accepted.

(C) Until otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before January 17, 1968.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Acting Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI68-282	Humble Oil & Refining Co., Post Office Box 2180, Houston, Tex. 77002.	170	[1] 6	Transcontinental Gas Pipe Line Corp. (Dilworth Dome and San Miguel Creek Field, McMullen County, Tex.) (R.R. District No. 1).	———	11-8-67	[2] 12-4-67	[3] 12-8-67	[4] [5] 14.189	———	———

[1] Agreement dated Oct. 13, 1967, provides for cancellation of an agreement dated Jan. 23, 1963 (designated as Supplement No. 1 to Humble's Rate Schedule No. 170), covering the sale and delivery of flash vapors from Humble's production equipment in the San Miguel Creek Field.
[2] The stated effective date is the first day after expiration of the statutory notice.
[3] The suspension period is limited to 1 day.
[4] Initial rate as a result of Humble's company-wide settlement. An increase to 15.2025 cents was suspended in Docket No. RI68-2 until Dec. 17, 1967.
[5] Pressure base is 14.65 p.s.i.a.

[F.R. Doc. 67-14338; Filed, Dec. 8, 1967; 8:46 a.m.]

[Docket No. CP68-23]

SOUTHERN NATURAL GAS CO.

Notice of Petition to Amend

DECEMBER 4, 1967.

Take notice that on November 20, 1967, Southern Natural Gas Co. (Applicant), Post Office Box 2563, Birmingham, Ala. 35202, filed in Docket No. CP60-23 a petition to amend the order issued in said docket on October 3, 1967, as subsequently amended, requesting an increase in the volumetric limitation in the service to Southern Cement Co. (Cement Company), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the order issued October 3, 1960, as amended December 18, 1963, Petitioner is presently authorized to make deliveries to Cement Company of up to a maximum of 17,000 Mcf of natural gas per day. By letter dated November 16, 1967, Cement Company advised Petitioner that the interruptible natural gas requirements of the Roberta plant, located in Shelby County, Ala., had increased to a maximum of approximately 18,000 Mcf per day.

Therefore, Petitioner requests that the aforementioned order be amended so as to permit the delivery, on an interruptible basis, by Petitioner to Cement Company of a maximum of 18,000 Mcf of natural gas per day.

The petition to amend states that no additional facilities are needed to effectuate the proposed increase in gas service to Cement Company.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 27, 1967.

KENNETH F. PLUMB, *Acting Secretary.*

[F.R. Doc. 67-14342; Filed, Dec. 8, 1967; 8:46 a.m.]

[Docket No. CP68-168]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

DECEMBER 4, 1967.

Take notice that on November 27, 1967, Transcontinental Gas Pipe Line Corp. (Applicant), Post Office Box 1396, Houston, Tex. 77001, filed in Docket No. CP68-168 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing an adjustment of liquefaction demand volumes between the Georgia, South Carolina, and North Carolina Divisions of United Cities Gas Co. (United Cities), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it was authorized in Docket No. CP66-223 to provide to United Cities a total of 2,054 Mcf per day of liquefaction demand volume under Applicant's Rate Schedule LG-A broken down as follows: 1,782 Mcf to Georgia Division and 272 Mcf to the South Carolina Division. LG-A service agreements between Applicant and these two Divisions were filed in 1966 to provide such volumes of service for a period ending October 31, 1967, but Applicant states, such service agreements have now expired by their own terms and are sought to be superseded by three new service agreements.

In order to more effectively meet its winter heating season, United Cities has requested the reallocation of these liquefaction demand volumes as follows:

	Mcf per day
Georgia Division	1,050
South Carolina Division	930
North Carolina Division	74
Total	2,054

Applicant further states that all LG-A volumes will be delivered at existing delivery points to the three Divisions and no new facilities are required.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 29, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Acting Secretary.*

[F.R. Doc. 67-14344; Filed, Dec. 8, 1967; 8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[812-2309]

FUNDAMENTAL INVESTORS, INC.

Notice of Filing of an Application for Order Exempting Proposed Transaction

DECEMBER 5, 1967.

Notice is hereby given that Fundamental Investors, Inc. ("applicant"), Westminster at Parker, Elizabeth, N.J., a Delaware Corporation registered under the Investment Company Act of 1940 ("Act") as an open-end diversified management investment company, has filed an application pursuant to section 6(c) of the Act for an order exempting from the provisions of section 22(d) of the Act a transaction in which applicant's redeemable securities will be issued at a price other than the current public offering price in exchange for substantially all of the assets of A.G.H. Corp. ("A.G.H."). All interested persons are referred to the application on file with the Commission for a statement of applicant's representations which are summarized below.

A.G.H., a Pennsylvania Corporation, is a personal holding company all of whose outstanding stock is owned by one stockholder. A.G.H. is exempt from registration under the Act by reason of the provisions of section 3(c)(1) thereof. Pursuant to an agreement between applicant and A.G.H., net assets owned by A.G.H. with a market value of approximately $490,346, on September 30, 1967, will be transferred to applicant in exchange for shares of applicant's capital stock.

The number of shares of applicant to be issued to A.G.H. is to be determined by dividing the aggregate market value (subject to certain adjustments set forth in the agreement and plan for reorganization of the assets of A.G.H. to be transferred to applicant by the net asset value per share of applicant, both to be determined as of the last business day preceding the date of transfer, as defined in the agreement. Applicant does not presently intend to sell any of the assets of A.G.H. to be acquired.

The per share asset value of applicant's stock as of September 30, 1967, was $12.40. If the valuation in the agreement had taken place on that date, A.G.H. would have received 39,544 shares of applicant's stock.

When received by A.G.H., the shares of applicant are to be distributed to the A.G.H. shareholder on the dissolution of A.G.H. Applicant will be advised by the stockholder of A.G.H. that the stockholder of A.G.H. does not have any present intention of redeeming or otherwise transferring the shares of applicant to be received on such dissolution following the sale of assets transaction.

There is no connection between applicant and A.G.H. and no officer or shareholder of A.G.H. is an affiliated person of applicant, and the agreement was negotiated at arms-length by the two companies. The Board of Directors of applicant approved the agreement as being in the best interests of its shareholders.

Section 22(d) of the Act provides that registered investment companies issuing redeemable securities may sell their shares only at the current public offering price as described in the prospectus. Section 6(c) permits the Commission, upon application, to exempt such a transaction if it finds that such an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant contends that the proposed offering of its stock will comply with the provisions of the Act, other than section 22(d) and submits that the granting of the application is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 22, 1967 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14354; Filed, Dec. 8, 1967; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 6, 1967.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA. No. 41183—*Iron or steel bars from points in Minnesota.* Filed by Western Trunk Line Committee, agent (No. A-2529), for interested rail carriers. Rates on iron or steel bars, in carloads, from Minneapolis, Minnesota Transfer, and St. Paul, Minn., to Chicago, Ill., and points grouped therewith.

Grounds for relief—Market competition.

Tariff—Supplement 16 to Western Trunk Line Committee, agent, tariff ICC A-4663.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-14361; Filed, Dec. 8, 1967; 8:48 a.m.]

[Notice 504]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 4, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 35255 (Sub-No. 27 TA), filed November 22, 1967. Applicant: PUGET SOUND TRUCK LINES, INC., Pier 62, Seattle, Wash. 98101. Applicant's representative: Clyde MacIver, MacBride and Sax, 2112 Washington Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood residuals, including wood chips, sawdust, and shavings*, from points in Pacific County, Wash., to Aberdeen, Wash. (for export), for 120 days. Supporting shipper: Weyerhaeuser Co., Tacoma, Wash. 98401, R. V. Caldwell, Manager—Highway Transportation. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 106603 (Sub-No. 99 TA), filed November 24, 1967. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street SW., Grand Rapids, Mich. 49508. Applicant's representative: Robert A. Sullivan, 1800 Buhl Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles, including downspouts, shutters, siding, and accessories* used in connection therewith, from the plantsite of Bird & Son, Inc., in Bardstown, Ky., to points in Missouri, Iowa, Wisconsin, Ohio, West Virginia, New York, Pennsylvania, Illinois, Indiana, and Michigan, for 180 days. Supporting shipper: Bird & Son, Inc., East Walpole, Mass. (William S. Kimball, Assistant to the President and General Traffic Manager). Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 221 Federal Building, Lansing, Mich. 48933.

No. MC 115491 (Sub-No. 166 TA), filed November 27, 1967. Applicant: COMMERCIAL CARRIER CORPORATION, 500 East Bridgers Avenue, Post Office Drawer 07, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell (same as address above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles) from Sioux City, Iowa, and the commercial zone thereof, to points in North Carolina and South Carolina, restricted to traffic originating at the plantsite or storage facilities utilized by Iowa Beef Packers, Inc., for 180 days. Supporting shipper: Iowa Beef Packers, Inc., Sioux City, Iowa. Send protests to: Joseph B. Teichert, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1226, 51 Southwest First Avenue, Miami, Fla. 33130.

No. MC 118803 (Sub-No. 4 TA), filed November 15, 1967. Applicant: ATLANTIC TRUCK LINES, INC., 119 Ellison Street, Paterson, N.J. 07505. Applicant's representative: Priest & Carson, 71-23 Austin Street, Forest Hills, N.Y. 11375. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a) *Manufactured sheet metal roofing components such as gutter, leader, edging, elbows, miters, hangers, hooks, and other related fittings and component parts; roof material accessories* such as roofing paper, gutter seal, roofing cement, mastic caulking compounds, roofing paints and sealers, nails, screws, and related component materials; *sheet metal working and roofing tools*—other than power—such as riveting guns, caulking guns, tinner's snips, tinner's fire pots, and related hand tools and working supplies used in connection with the erection of buildings, homes, etc. at job sites; *metal manufactured ventilating, air conditioning, and heating components* such as ducts, pipes, elbows, draft regulating dampers, "T"s, diverters, vents, dryer vents, duct fittings, and other related fittings and component parts ferrous and nonferrous metals in the form of sheets, coils, tubing, wire, bars, forgings, castings, and extrusions; *metal structural and ornamental building elements, accessories, and materials* such as wall corner beads, wall ties, joint bridging, joint supports, building studs, brackets, louvers and vents, shutters area walls, corrugated sheeting, reflecting and other insulating materials as well as other components; from the plantsite of L. Bieler & Sons, Inc., National Elbow & Fitting Corp., Bieler International Corp., and Southern Diversified Industries, Inc., located at Hauppauge, Suffolk County, N.Y., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Pennsylvania, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Tennessee, Kentucky, Ohio, Indiana, Michigan, Wisconsin, Illinois, Iowa, Nebraska, Kansas, Missouri, Arkansas, Oklahoma, Louisiana, Texas, and District of Columbia; and *returned shipments* of the commodities specified above, from points in the destination States named above, to the plantsite of L. Bieler & Sons, Inc., National Elbow & Fitting Corp., Bieler International Corp., and Southern Diversified Industries, Inc., located at Hauppauge, Suffolk County, N.Y.

Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with L. Bieler & Sons, Inc., National Elbow & Fitting Corp., Bieler International Corp., and Southern Diversified Industries, Inc., all of Hauppauge, Suffolk County, N.Y. (b) *Raw materials and related products* used in the manufacturing, fabricating, distribution, and sales of the commodities listed in (a) above by L. Bieler & Sons, Inc., National Elbow & Fitting Corp., Bieler International Corp., and Southern Diversified Industries, Inc., from the points in the destination States named in (a) to the plantsite of L. Bieler & Sons, Inc., National Elbow & Fitting Corp., Bieler International Corp., and Southern Diversified Industries, Inc., located at Hauppauge, Suffolk, N.Y. Restriction: The operations authorized herein are limited to a transportation service to be performed, under contract or contracts, with L. Bieler & Sons, Inc., National Elbow & Fitting Corp., Bieler International Corp., and Southern Diversified Industries, Inc., all of Hauppauge, Suffolk County, N.Y. NOTE: Any duplicating operating authority is to be canceled, for 180 days. Supporting shippers: L. Bieler & Sons, Inc.; National Elbow & Fitting Corp.; Bieler International Corp.; Southern Diversified Industries, Inc.; Cardinal Industrial Park; Hauppage, N.Y. 11788. Send protests to: District Supervisor, Joel Morrows, Bureau of Operations, Interstate Commerce Commission, 1060 Broad Street, Newark, N.J. 07102.

No. MC 119531 (Sub-No. 73 TA), filed November 28, 1967. Applicant: DIECKBRADER EXPRESS, INC., 5391 Wooster Road, Cincinnati, Ohio 45226. Applicant's representative: Raymond C. Minks, 5391 Wooster Road, Cincinnati, Ohio 45226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and ends*, from Cleveland, Ohio, to Danville and Elk Grove Village, Ill.; Evansville, Indianapolis, and South Bend, Ind.; Detroit, Mich.; Pittsburgh, Pa.; Weirton, W. Va.; and Kenosha, Wis., for 180 days. Supporting shipper: Crown Cork & Seal Co., Inc., Post Office Box 6208, 9300 Ashton Road, Philadelphia, Pa. 19136. Send protests to: Emil P. Schwab, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1610 Federal Building, 550 Main Street, Cincinnati, Ohio 45202.

No. MC 129529 TA, filed November 15, 1967. Applicant: ADOLPH L. MARCHFIELD, doing business as THRUWAY MESSENGER SERVICE, 1500 Victoria Boulevard, West Englewood, N.J. 07666. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, in shipments of 100 pounds or less moving from one consignor to one consignee (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment) in specialized delivery service, between points in Rockland County, N.Y., on the one hand, and, on the other, New York, N.Y., and points in New Jersey, for 180 days. Supporting shippers: There are approximately (12) statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor, Joel Morrows, Bureau of Operations, Interstate Commerce Commission, 1060 Broad Street, Newark, N.J. 07102.

No. MC 129546 (Sub-No. 1 TA), filed November 24, 1967. Applicant: LAND-AIR DELIVERY, INC., 413 Lou Holland Drive, Kansas City, Mo. 64116. Applicant's representative: Tom B. Kretsinger, 450 Professional Building, Kansas City, Mo. 64106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by commodities requiring special equipment), (1) Between the Municipal Airport, Mid-Continent International Airport, and Fairfax Airport, located within the Kansas City, Mo.-Kans., commercial zone, as defined by the Commission, on the one hand, and, on the other, points in Kansas, Missouri, and Nebraska. (2) Between Municipal Airport, Wichita, Kans., on the one hand, and, on the other, points in Kansas, Missouri, and Nebraska. Restricted to the transportation of shipments moving on air bills of lading and having an immediately prior or subsequent movement by air under a continuing contract or contracts with Emery Air Freight Corp., of Wilton, Conn., for 150 days. Supporting shipper: Emery Air Freight Corp., Wilton, Conn. Send protests to: H. J. Simmons, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 129553 (Sub-No. 1 TA), filed November 29, 1967. Applicant: THEODORE TAMMARO, Box 209, Iron, Minn. 55751. Applicant's representative: A. R. Fowler, 2288 University Avenue, St. Paul, Minn. 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Milwaukee, Wis., to Virginia, Minn., for 180 days. Supporting shipper: George J. Daleiden, 18 Mesabi Drive, Virginia, Minn. Send protests to: District Supervisor, A. E. Rathert, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 67-14462; Filed, Dec. 8, 1967; 8:48 a.m.]

[Notice 505]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 5, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2801 (Sub-No. 4 TA), filed November 22, 1967. Applicant: G. H. HARNUM, INC., 385 Putnam Avenue, Cambridge, Mass. 02138. Applicant's representative: Arthur A. Wenzell, 275 Cherry Street, Shrewsbury, Mass. 01545. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings*, between points in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, for 180 days. Supporting shipper: Acorn Structures, Inc., East Acton, Mass. Send protests to: Assistant Regional Director, James F. Martin, Jr., Interstate Commerce Commission, John F. Kennedy Building, Boston, Mass. 02203.

No. MC 10345 (Sub-No. 84 TA), filed November 24, 1967. Applicant: C & J COMMERCIAL DRIVEAWAY, INC., 1905 West Mount Hope, Lansing, Mich. 48910. Applicant's representative: James W. Wrape, 2111 Sterick Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles* (except trailers), assembled in Canada for Oldsmobile Division, General Motors Corp., in truckaway service, in secondary movements, from Pittsburgh, Pa.; to points in Pennsylvania, Ohio, and West Virginia, and to Frostburg and Cumberland, Md. Restricted to vehicles which have had an immediately prior movement by rail, for 180 days. Supporting shipper: Oldsmobile Division, General Motors Corp., Lansing, Mich. 48921, by R. W. Hoekzie, Traffic Manager. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, 221 Federal Building, Lansing, Mich. 48933.

No. MC 96562 (Sub-No. 2275 TA), filed November 14, 1967. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York, N.Y. 10017. Applicant's representative: Elmer F. Slovacek, North Central Region, Suite 1008, 105 West Madison Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities moving in express service*: Between St. Paul, Minn., and Jamestown, N. Dak.; from St. Paul Minn., north and west over U.S. Highway 10 to intersection of U.S. Highway 371; thence north over U.S. Highway 371 to intersection of U.S. Highway 371 and U.S. Highway 2; thence west over U.S. Highway 2/371 to Bemidji, Minn., and return over same route to intersection of U.S. Highway 210; thence west over U.S. Highway 210 to intersection of U.S. Highway 10; thence north and west over U.S. Highway 10/52/I-94 to Jamestown, N. Dak., and return over the same route, serving the following intermediate and/or off-route points of St. Paul, Elk River, Big Lake, Clear Lake, St. Cloud, Sartell, Little Falls, Camp Ripley (Government Installation), Brainerd, Nisswa, Pequot Lake, Pine River, Backus, Hackensack, Walker, Cass Lake, Bemidji, Staples, Verndale, Wadena, New York Mills, Perham, Frazee, Detroit Lakes, Lake Park, Hawley, Glyndon, and Dilworth, all in Minnesota; Fargo, Casselton, Valley City, and Jamestown, all in North Dakota; Restrictions: (1) The service to be performed by the applicant shall be limited to that which is auxiliary to or supplemental for express service of the Railway Express Agency, Inc. (2) Shipments transported by applicant shall be limited to those on through bills of lading or express receipts. (3) Such further specific conditions as the Commission, in the future, may find necessary to impose in order to restrict applicant's operations to a service which is auxiliary to or supplemental of express service of the Railway Express Agency, Inc. NOTE: Applicant requests alternate authority over U.S. Highway 10 between Little Falls and Motley, Minn., and return over the same route, serving no intermediate points, for operating convenience only, for 180 days. Supporting shippers: There are approximately 25 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Stephen P. Tomany,

District Supervisor, Interstate Commerce Commission, Bureau of Operations, 346 Broadway, New York, N.Y. 10013.

No. MC 66562 (Sub-No. 2276 TA), filed November 14, 1967. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York, N.Y. 10017. Applicant's representative: John H. Engel (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities moving in express service;* between Salt Lake City, Utah, and Tooele Army Depot, Utah, serving no intermediate and/or off-route points. From Salt Lake City, over U.S. Highway 40 to junction with Utah Highway 36 thence over Utah Highway 36 to Tooele Army Depot, and return over the same route. Restrictions: The service to be performed shall be limited to that which is auxiliary to or supplemental of express service of the Railway Express Agency, Inc. Shipments transported shall be limited to those moving on through bills of lading or express receipts. NOTE: Applicant requests that the authority for the proposed operations, if granted, be construed as an extension, to be joined, tacked, and combined with R E A's existing authority in MC 66562 and subs thereunder, thereby negating the restrictions against tacking or joinder customarily placed upon temporary authority, for 150 days. Supporting shipper: R E A itself as a shipper. Send protests to: Stephen P. Tomany, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 346 Broadway, New York, N.Y. 10013.

No. MC 102682 (Sub-No. 252 TA), filed November 27, 1967. Applicant: HUGHES TRANSPORTATION, INC., 2038 Meeting Street Road, 29402, Post Office Box 851, Charleston, S.C. 29405. Applicant's representative: Frank B. Hand, Jr., 921 17th Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dangerous explosives, component parts* (not including ingredients) *thereof, ammunition* not classified as a dangerous of less dangerous explosive, and *empty ammunition containers*, between points within 10 miles of Nashville, Tenn., not including Nashville on the one hand, and, on the other, the site of Camp Atterbury, Ind., points in that part of Louisiana east of the Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia with service at points within 10 miles of Nashville restricted to the interchange of traffic with other motor carriers which presently may interchange traffic with applicant at the site of the Blue Grass Ordnance Depot near Richmond, Ky., and points within 3 miles of such depot. NOTE: Applicant does not propose any new service but only to be able to interchange traffic at points within 10 miles of Nashville, Tenn., with the same carriers that it presently may interchange traffic with at or near the Blue Grass Ordnance Depot near Richmond, Ky., under its certificate No. MC 102682, Sub 1 and Sub 228 in order to effect operating economy and efficiency without enhancement of applicant's competitive situation, for 180 days. Supporting shipper: Winchester-Western Division of Olin Mathieson, 275 Winchester Avenue, New Haven, Conn. 06504. Send protests to: Arthur B. Abercrombie, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 601A Federal Building, 901 Sumter Street, Columbia, S.C. 29201.

No. MC 109612 (Sub-No. 16 TA), filed November 29, 1967. Applicant: LEE MOTOR LINES, INC., Post Office Box 728, State Road 67 South, Muncie, Ind. 47305. Applicant's representative: Donald W. Smith, Suite 511, Fidelity Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, 1 gallon or less, from the plantsite of Thatcher Glass Manufacturing Co., Streator, Ill., to Louisville, Ky., for 180 days. Supporting shipper: Thatcher Glass Manufacturing Co., 1901 Grand Central Avenue, Elmira, N.Y. 14902. Send protests to: District Supervisor, J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 308 Federal Building, Fort Wayne, Ind. 46802.

No. MC 113678 (Sub-No. 301 TA), filed November 28, 1967. Applicant: CURTIS INC., 770 East 51st Avenue, Mail: Post Office Box 16004, Stockyards Station, Denver, Colo. 80216. Applicant's representative: Duane W. Acklie, Post Office Box 806, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from plantsite and storage facilities utilized by Iowa Beef Packers, Inc., in Sioux City, Iowa, and its commercial zone, to points in North Carolina and South Carolina, for 180 days. Supporting shipper: Iowa Beef Packers, Dakota City, Iowa 50529. Send protests to: District Supervisor Herbert C. Ruoff, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 116280 (Sub-No. 5 TA), filed November 29, 1967. Applicant: W. C. McQUAIDE, INC., 153 Macridge Avenue, Johnstown, Pa. 15904. Applicant's representative: W. F. McQuaide (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading;* between the Greater Pittsburgh Airport, Moon Township, Allegheny County, Pa., on the one hand, and, on the other, points in Cambria, Blair, Bedford, Huntingdon, Fulton, and Somerset Counties, Pa. Restriction: The authority granted herein is restricted to transportation of traffic having a prior or subsequent movement by air, for 180 days. Supporting shippers: Kennametal, Inc., Chalybeate Road, Bedford, Pa.; Publix Shirt Corp., Gallitsin, Pa.; Puritan Sportswear Co., Duncansville, Pa. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2109 Federal Building, Pittsburgh, Pa. 15222.

No. MC 129545 TA, filed November 22, 1967. Applicant: LAKE CITY EXPRESS, INC., 1165 Monroe Boulevard, Dearborn, Mich. 48124. Applicant's representative: Wilhelmina Boresma, 1600 First Federal Building, 1001 Woodward Avenue, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, commodities in bulk, commodities requiring special equipment and household goods as defined by the Commission), between Willow Run Airport near Ypsilanti, Mich., and points in Wayne, Oakland, and Macomb Counties, Mich., for 180 days. Supporting shipper: Chrysler Corp., Attention: John J. Martin, Manager, Traffic Operations, 341 Massachusetts, Highland Park, Mich. Send protests to: District Supervisor, Gerald J. Davis, Bureau of Operations, Interstate Commerce Commission, 1110 Broderick Tower, 10 Witherell, Detroit, Mich. 48226.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-14363; Filed, Dec. 8, 1967; 8:48 a.m.]

[Notice 506]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 6, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed wit the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 41116 (Sub-No. 32 TA) (Correction), filed October 18, 1967, published FEDERAL REGISTER issue of October 18, 1967, and November 29, 1967, respectively, and republished as corrected this issue. Applicant: FOGLEMAN TRUCK LINE, INC., 1724 West Mill Street, Post Office Box 1904, Crowley, La. 70526. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned or bottled food stuffs, and dried fruits and nuts*, in packages or containers(not frozen or requiring movement in vehicles equipped with mechanical refrigeration), from New Orleans, La.; Blytheville and Siloam Springs, Ark.; Uniontown and Cullman, Ala.; San Jose and Stockton, Calif.; Lewiston, Idaho; Forest Grove, Oreg.; Memphis, Tenn.; Tyler and Donna, Tex.; and Gulfport, Miss., to points in Alabama, Arkansas, Louisiana, Tennessee, Texas, Mississippi, Georgia, Florida, South Carolina, Kentucky, and Missouri under a continuing contract with Fraering Brokerage Co., Inc., for 180 days. NOTE: The purpose of this republication is to includ- the destination points which were inadvertently omitted from previous publication. Supporting shipper: Fraering Brokerage Co., Inc., 4906 Jefferson Highway, Post Office Box 10221, New Orleans, La. 70121. Send protests to: W. R. Atkins, District Supervisor, Bureau of Operations, Interstate Commerce Commission, T-4089 Federal Building, 701 Loyola Avenue, New Orleans, La. 70113.

No. MC 52579 (Sub-No. 94 TA), filed November 27, 1967. Applicant: GILBERT CARRIER CORP., 1 Gilbert Drive, Secaucus, N.J. 07094. Applicant's representative: Aaron Hoffman (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, loose, on hangers, from Helena, Ark., to Philadelphia, Pa., and points in the New York, N.Y., commercial zone as defined by the Commission, with authority to interline at the New York, N.Y. commercial zone, for 150 days. Supporting shipper: The Villager, 19th and Allegheny Avenue, Philadelphia, Pa. 19132. NOTE: Applicant intends to interline at New York, N.Y., commercial zone as defined by the Commission. Send protests to: District Supervisor, Walter J. Grossmann, Interstate Commerce Commission, 1060 Broad Street, Room 363, Newark, N.J. 07102.

No. MC 99780 (Sub-No. 9 TA), filed November 28, 1967. Applicant: CHIPPER CARTAGE COMPANY, INC., 1327 Northeast Bond Street, Peoria, Ill. 61603. Applicant's representative: George S. Mullins, 4704 West Irving Park Road, Chicago, Ill. 60641. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in section A and C of appendix I to report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from the plantsite and storage facilities utilized by Oscar Mayer & Co., Inc., at Davenport, Iowa, to points in Indiana (except points with the Chicago, Ill., commercial zone as defined by the Commission), Kentucky, Michigan, and Ohio, for 180 days. Supporting shipper: Oscar Mayer & Co., Inc., 910 Mayer Avenue, Madison, Wis. 53701, Mr. R. C. Fiesch, General Traffic Manager. Send protests to: Raymond E. Mauk, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 116636 (Sub-No. 8 TA), filed November 27, 1967. Applicant: GABOR TRUCKING, INC., Post Office Box 538, Detroit Lakes, Minn. 56501. Applicant's representative: Alan Foss, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed, poultry feed, animal and poultry feed ingredients* (except liquid commodities in bulk, in tank vehicles) (1) from Mankato, Minn., Belmond, Montpelier, and the plantsites of C. K. Processing Co., River Terminal Corp., and Grain Processing Corp. at or near Muscatine, Iowa, to ports of entry on the international boundary line located in Minnesota, North Dakota, and Montana; (2) from Savage and Minneapolis, Minn., to ports of entry on the international boundary line in North Dakota and Montana, for 180 days. Supporting shipper: L. V. Patterson, Ltd., Post Office Box 176, Postal Station Transcona, Winnipeg 25, Manitoba, Canada; Cargill Manitoba Co., Ltd., 209 Grain Exchange, Winnipeg 2, Manitoba, Canada. Send protests to: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1621 South University Drive, Room 213, Fargo, N. Dak. 58102.

No. MC 125420 (Sub-No. 15 TA), filed November 24, 1967. Applicant: MERCURY TANKLINES, LIMITED, Post Office Box 5858, South Edmonton, Alberta, Canada. Applicant's representative: J. F. Meglen, Post Office Box 1581, Billings, Mont. 59103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *White oil*, from Petrolia, Pa., to the international boundary between the United States and Canada, at ports of entry at or near Portal, N. Dak., and Sweetgrass, Mont.; and *turpentine*, from Hattiesburg, Miss., to the international boundary between The United States and Canada, at ports of entry at or near Portal, N. Dak., and Sweetgrass, Mont., for the account of Harrisons & Crosfield (Canada), Ltd., for 180 days. Supporting shipper: Harrisons & Crosfield (Canada), Ltd., 297 St. Paul Street West, Montreal, Quebec, Canada. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 251 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 126791 (Sub-No. 2 TA), filed November 22, 1967. Applicant: BEAR VAN LINES, 1855 East Avenue, Sand City, Calif. 93955. Applicant's representative: Alan P. Wohlstetter, 1 Farragut Square South, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Marin, San Francisco, Solano, Santa Clara, San Mateo, Alameda, Contra Costa, Napa, and Sonoma Counties, Calif., restricted to shipments having a prior or subsequent movement beyond said points in containers, and further restricted to pickup and delivery services incidental to and in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such shipments, for 180 days. Supporting shippers: Davidson Forwarding Co., 3120 V Street NE., Washington, D.C. 20018; Northwest Consolidators, Post Office Box 3583, Terminal Annex, Seattle, Wash. 98124; Imperial Household Shipping Co., Inc., 2809 Columbia Street, Post Office Box 2983, Torrance, Calif. 90509; Sunpak International, 1621 Queen Anne Avenue North, Seattle, Wash. 98109; Door-To-Door International, Inc., 808 Northeast 72d Street, Seattle, Wash. 98115. Send protests to: District Supervisor, William E. Murphy, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 128497 (Sub-No. 1 TA), filed November 28, 1967. Applicant: JACK LINK TRUCK LINE INC., Dyersville, Iowa 52040. Applicant's representative: John J. Goen, Dyersville, Iowa 52040. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cracklings*, animal, edible; *hides*; and *hide trimmings*, from Manchester, Iowa to Chicago and Waukegan, Ill., Ashland, Ky.; Newark, N.J.; Hazelwood, N.C.; Newport, Tenn.; and Berlin, Cudahy, Fond du Lac, Milwaukee, Ripon, and South Milwaukee, Wis., for 180 days. Supporting shipper: Hide Service Corp., Post Office Box 88, Manchester, Iowa 52057. Send protests to: Chas. C. Biggers, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Davenport, Iowa 52801.

No. MC 128814 (Sub-No. 6 TA), filed November 30, 1967. Applicant: TRI-STATE MOTOR TRANSIT CO., as operator—H. Messick, Inc., East on Interstate Business Route 44, Joplin, Mo. 64801. Applicant's representative: Max G. Morgan, 450 American National Building, Oklahoma City, Okla. 73102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Explosives*, from Kenvil, N.J., to Electra, Bridgeport, and Laredo, Tex., and points within 5 miles of each, for 180 days. Supporting shipper: Hercules, Inc., Wilmington, Del. 19899. Send protests to: H. J. Simmons, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-14364; Filed, Dec. 8, 1967; 8:48 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—DECEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during December.

3 CFR

Page

PROCLAMATION:
3821 ... 17571
EXECUTIVE ORDERS:
Dec. 5, 1913 (revoked in part by PLO 4327) ... 16531
Mar. 21, 1914 (revoked in part by PLO 4327) ... 16531
June 24, 1914 (revoked in part by PLO 4327) ... 16531
11248 (amended by EO 11384) ... 17423
11383 ... 17421
11384 ... 17423

5 CFR

210 ... 16474
213 ... 16477, 17615
315 ... 16474
351 ... 16474
352 ... 16474
353 ... 16475
430 ... 16475
511 ... 16475
531 ... 16475
713 ... 16476
731 ... 16476
752 ... 16476
754 ... 16476
771 ... 16477
772 ... 16477
831 ... 16477
891 ... 16477
2200 ... 17573

7 CFR

401 ... 16478, 17425, 17513
718 ... 17513
722 ... 17467
724 ... 16478
725 ... 16479
815 ... 16525
905 ... 16525, 17615, 17616
907 ... 16526, 17515
910 ... 16526, 17617
944 ... 17425
982 ... 16527
989 ... 17467
1062 ... 16479
1073 ... 16480
1094 ... 16527
1103 ... 16527
1106 ... 16480
1126 ... 16480
1421 ... 16528
1427 ... 16528
PROPOSED RULES:
911 ... 17431
915 ... 17431
950 ... 17433
989 ... 17625
993 ... 17434
1001 ... 17626
1006 ... 17626
1036 ... 17626
1048 ... 17626

8 CFR

PROPOSED RULES:
242 ... 17624
243 ... 17624
244 ... 17624
299 ... 17624

9 CFR

Page

97 ... 17618

12 CFR

1 ... 17574
12 ... 17468
206 ... 17469
224 ... 17425
335 ... 17470
561 ... 17515
PROPOSED RULES:
563 ... 17544

14 CFR

39 ... 16481, 17426, 17515, 17516
61 ... 16481
71 ... 16482, 16483, 17426, 17427, 17516–17518, 17574–17576
73 ... 17427
75 ... 17518
91 ... 16483
97 ... 16484, 17577
121 ... 16481
151 ... 17471
301 ... 16491
303 ... 16491
311 ... 16491
320 ... 16491
421 ... 16491
430 ... 16491
431 ... 16491
435 ... 16491
PROPOSED RULES:
1 ... 16495
21 ... 17485
25 ... 17487
39 ... 17439
71 ... 16495, 17488, 17543, 17596–17598
73 ... 17488
91 ... 16495
214 ... 16535
295 ... 16535
298 ... 17598

15 CFR

373 ... 17471

16 CFR

13 ... 17427, 17618
15 ... 17582
PROPOSED RULES:
301 ... 17544
415 ... 17601

17 CFR

240 ... 17583
270 ... 17583
274 ... 17583

19 CFR

5 ... 17619
12 ... 17428
19 ... 17619
23 ... 16528
24 ... 17619

21 CFR

120 ... 16529, 17472
121 ... 16529, 16530, 17472, 17587
130 ... 16531
146 ... 16531

21 CFR—Continued

Page

146a ... 16491
166 ... 17473
PROPOSED RULES:
31 ... 16533
46 ... 17482
138 ... 16533, 17626

22 CFR

10 ... 17454

23 CFR

PROPOSED RULES:
255 ... 16534

24 CFR

234 ... 17587

25 CFR

PROPOSED RULES:
221 ... 17543

26 CFR

1 ... 17479, 17518

28 CFR

0 ... 16531

29 CFR

1610 ... 16491

31 CFR

1 ... 17519

32 CFR

54 ... 17619
537 ... 17519
701 ... 17588

33 CFR

209 ... 17522

39 CFR

123 ... 17479
742 ... 17479

41 CFR

1–1 ... 16491
9–1 ... 17542
Ch. 18 ... 17002

43 CFR

PUBLIC LAND ORDERS:
334 (revoked in part by PLO 4333) ... 17480
1796 (revoked in part by PLO 4331) ... 17479
2764 (see PLO 4331) ... 17479
4327 ... 16531
4328 ... 17429
4329 ... 16532
4330 ... 17479
4331 ... 17479
4332 ... 17479
4333 ... 17480
4334 ... 17429
4335 ... 17429
4336 ... 17620

46 CFR

Page

39 ... 17621
98 ... 17621
221 ... 17595
255 ... 17595
510 ... 17480
PROPOSED RULES:
514 ... 16496

47 CFR

97 ... 17429
PROPOSED RULES:
2 ... 16495
87 ... 16495
91 ... 17440

49 CFR

890 ... 17480
1200 ... 17480

50 CFR

28 ... 17622
32 ... 17542
33 ... 16532, 17430, 17481, 17623
254 ... 16492

PUBLIC PAPERS OF THE PRESIDENTS OF THE UNITED STATES

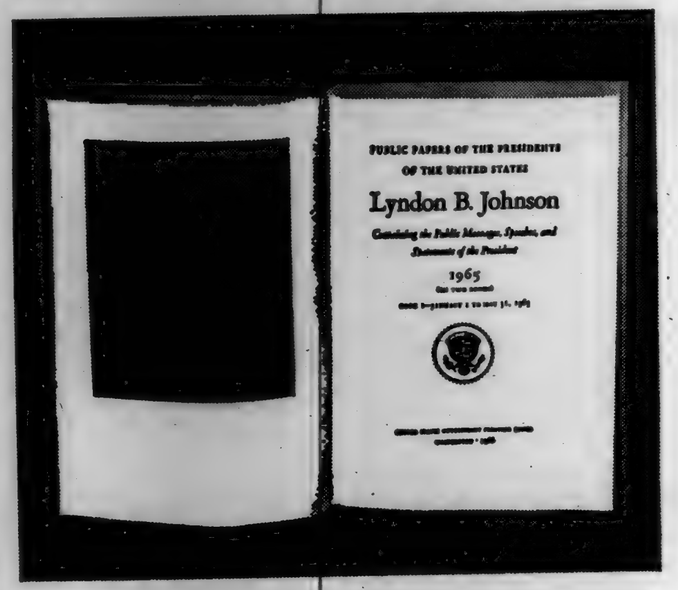

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239

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VOLUME 32 • NUMBER 239

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Pages 17647–17844

(Part II begins on page 17725)

THE UNIVERSITY OF MICHIGAN
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Agencies in this issue—

Agricultural Stabilization and Conservation Service
Budget Bureau
Civil Aeronautics Board
Civil Service Commission
Coast Guard
Consumer and Marketing Service
Customs Bureau
Defense Department
Farm Credit Administration
Federal Aviation Administration
Federal Communications Commission
Federal Maritime Commission
Federal Power Commission
Fish and Wildlife Service
Food and Drug Administration
Geological Survey
Immigration and Naturalization Service
Indian Affairs Bureau
Internal Revenue Service
Interstate Commerce Commission
Labor Standards Bureau
Land Management Bureau
National Foundation on the Arts and Humanities
National Park Service
Public Health Service
Securities and Exchange Commission
State Department
Wage and Hour Division

Detailed list of Contents appears inside.

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Contents

AGRICULTURE DEPARTMENT
See Agricultural Stabilization and Conservation Service; Consumer and Marketing Service.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE
Proposed Rule Making
Hawaii and Puerto Rico; sugar requirements and quotas for local consumption 1968 ... 17669
Sugar or liquid sugar; requirements relating to importation into U.S ... 17669

BUDGET BUREAU
Notices
Organization and information; miscellaneous amendments ... 17678

CIVIL AERONAUTICS BOARD
Notices
Hearings, etc.:
Alaska-Cordova merger case ... 17678
Aviation Services, Inc ... 17679

CIVIL SERVICE COMMISSION
Notices
Manpower shortage; notice of listing:
Nurse—Division of Indian Health ... 17680
Superintendent of Schools, Public Schools of the District of Columbia ... 17680
Training instructor (electrical power generation) ... 17680

COAST GUARD
Rules and Regulations
Anchorage and bridge regulations; assumption of certain functions, powers, and duties from Corps of Engineers and transfer of certain regulations ... 17726

CONSUMER AND MARKETING SERVICE
Rules and Regulations
Lemons grown in California and Arizona; handling limitations ... 17651
Proposed Rule Making
Irish potatoes grown in Colorado; expenses and rate of assessment ... 17671
Notices
Grain standards; inspection points ... 17677

CUSTOMS BUREAU
Notices
Antidumping proceeding notice:
Beta-oxy-Naphthoic acid from Japan ... 17676
Beta-oxy-Naphthoic acid from West Germany ... 17676

DEFENSE DEPARTMENT
Rules and Regulations
Sole surviving sons ... 17661

FARM CREDIT ADMINISTRATION
Rules and Regulations
Employee responsibilities and conduct; prohibited acts ... 17652

FEDERAL AVIATION ADMINISTRATION
Rules and Regulations
Airworthiness directives:
British Aircraft Corporation Model BAC 1-11 200 and 400 Series airplanes ... 17652
Pilatus Model PC-6 Series airplanes ... 17652
Vickers Viscount Models 744, 745D and 810 Series airplanes ... 17652
Alterations:
Control zone ... 17653
Restricted areas and controlled airspace ... 17653
Vicinity of the vessel "Queen Mary"; prohibition of air travel ... 17654
Proposed Rule Making
Airworthiness directives:
British Aircraft Corporation; certain models (2 documents) ... 17672
Dowty Rotol Propellers installed on certain airplanes ... 17673
Transition areas:
Proposed alterations (3 documents) ... 17673, 17674
Proposed alteration and revocation ... 17674
Proposed designation ... 17675

FEDERAL COMMUNICATIONS COMMISSION
Notices
Hearings, etc.:
Bradley, Carol L ... 17680
Buckeye Cablevision, Inc ... 17685
Florida-Georgia Television Co., Inc., et al ... 17681
General Electric Cablevision Corp ... 17680
Tri-State Television Translators, Inc., and Wellersburg TV, Inc ... 17681

FEDERAL MARITIME COMMISSION
Rules and Regulations
Free time and demurrage charges on import property applicable to all common carriers by water ... 17667
Notices
Port of Boston Marine Terminal Association; agreement filed for approval ... 17686

FEDERAL POWER COMMISSION
Notices
Hearings, etc.:
Mobil Oil Corp., et al ... 17688
Superior Oil Co ... 17687

FISH AND WILDLIFE SERVICE
Rules and Regulations
Sport fishing in certain wildlife refuges:
Delaware ... 17668
Illinois ... 17667

FOOD AND DRUG ADMINISTRATION
Rules and Regulations
Drugs; sodium ampicillin; correction ... 17657
Food additives:
Calcium stearate ... 17654
Emulsifiers and/or surface-active agents ... 17655
Sulfamerazine ... 17655
Natural flavoring substances and natural substances used in conjunction with flavors ... 17655
Fruit butters, fruit jellies, fruit preserves, and related products; identity standards ... 17654
Proposed Rule Making
New drugs; exemption for investigational use in human beings ... 17671
Peanut butter; definitions and standards of identity; correction ... 17671

GEOLOGICAL SURVEY
Notices
North Dakota; coal land classification order ... 17677

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
See Food and Drug Administration; Public Health Service.

IMMIGRATION AND NATURALIZATION SERVICE
Rules and Regulations
Miscellaneous amendments to chapter ... 17651

INDIAN AFFAIRS BUREAU
Notices
Superintendents and school superintendents, Anadarko Area Office; delegation of authority amendment ... 17676

INTERIOR DEPARTMENT
See Fish and Wildlife Service; Geological Survey; Indian Affairs Bureau; Land Management Bureau; National Park Service.

(Continued on next page)

INTERNAL REVENUE SERVICE
Rules and Regulations
Income tax; treatment of income from unrelated trade or business 17657

INTERSTATE COMMERCE COMMISSION
Notices
Motor carrier temporary authority applications 17695

JUSTICE DEPARTMENT
See Immigration and Naturalization Service.

LABOR DEPARTMENT
See Labor Standards Bureau; Wage and Hour Division.

LABOR STANDARDS BUREAU
Notices
Radiation standards for mining; standard forms for recording radiation exposure 17693

LAND MANAGEMENT BUREAU
Rules and Regulations
Idaho; public land order 17662
Notices
Oregon; notice of offering of land for sale 17676

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES
Rules and Regulations
Standards of conduct of employees 17663
Standards of conduct; cross reference 17661

NATIONAL PARK SERVICE
Rules and Regulations
Special regulations; Shenandoah National Park, Va.; miscellaneous amendments 17661

PUBLIC HEALTH SERVICE
Rules and Regulations
Grants for construction and modernization of hospitals and medical facilities; general standards of construction and equipment 17662

SECURITIES AND EXCHANGE COMMISSION
Notices
Hearings, etc.:
Burlington International, Inc. 17689
Massachusetts Investors Growth Stock Fund, Inc. 17690
North American Research & Development Corp. 17691
Northeast Investors Trust 17691
Silver Shield Corp. 17692
Travelers Insurance Co., and Travelers Fund for Variable Annuities 17692

STATE DEPARTMENT
Notices
Certain nonimmigrant visas; validity 17676

TRANSPORTATION DEPARTMENT
See Coast Guard; Federal Aviation Administration.

TREASURY DEPARTMENT
See Customs Bureau; Internal Revenue Service.

WAGE AND HOUR DIVISION
Notices
Certificates authorizing employment of learners at special minimum wages 17694

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

5 CFR
2300 17651

7 CFR
910 17651
PROPOSED RULES:
812 17669
817 17669
948 17671

8 CFR
238 17651
280 17651

12 CFR
605 17652

14 CFR
39 (3 documents) 17652
71 (2 documents) 17653
73 17653
91 17654
PROPOSED RULES:
39 (3 documents) 17672, 17673
71 (5 documents) 17673–17675

21 CFR
29 17654
121 (4 documents) 17654, 17655
146a 17657
PROPOSED RULES:
46 17671
130 17671

26 CFR
1 17657

32 CFR
52 17661

33 CFR
109 17726
110 17726
114 17726
115 17726
116 17726
117 17726

36 CFR
7 17661

42 CFR
53 17662

43 CFR
PUBLIC LAND ORDERS:
4337 17662

45 CFR
1105 17663

46 CFR
526 17667

50 CFR
33 (2 documents) 17667, 17668

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter XIII—National Foundation on the Arts and the Humanities

PART 2300—STANDARDS OF CONDUCT OF EMPLOYEES

CROSS REFERENCE: For a document amending and superseding the material in Part 2300 of this chapter, see F.R. Doc. 67-14411, Title 45, Chapter XI, Part 1105, *infra*.

Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Lemon Reg. 297, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

(b) *Order, as amended.* The provisions in paragraph (b) (1) (i), (ii), and (iii) of § 910.597 (Lemon Regulation 297, 32 F.R. 16527) are hereby amended to read as follows:

§ 910.597 Lemon Regulation 297.

* * *

(b) * * *

(i) District 1: 12,090 cartons;
(ii) District 2: 69,750 cartons;
(iii) District 3: 158,100 cartons.

* * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated December 7, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-14406; Filed, Dec. 11, 1967; 8:47 a.m.]

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

PART 238—CONTRACTS WITH TRANSPORTATION LINES

PART 280—IMPOSITION AND COLLECTION OF FINES

Miscellaneous Amendments

The following amendments to Chapter I of Title 8 of the Code of Federal Regulations are hereby prescribed:

§ 238.3 [Amended]

The listing of transportation lines in paragraph (b) *Signatory lines* of § 238.3 *Aliens in immediate and continuous transit* is amended by adding the transportation line "Jugoslavenska Linijska Plovidba and/or Jugolinija" in alphabetical sequence.

§ 280.2 [Amended]

1. The first sentence of § 280.2 *Special provisions relating to aircraft* is amended by deleting the words "collector of customs" and inserting in lieu thereof the words "district director of customs."

§ 280.5 [Amended]

2. The first and second sentences of § 280.5 *Departure of vessel or aircraft prior to denial of clearance* are amended by deleting the words "collector of customs" and inserting in lieu thereof the words "district director of customs."

§ 280.7 [Amended]

3. Section 280.7 *Approval of bonds or acceptance of cash deposit to obtain clearance* is amended by deleting the words "collector of customs" and inserting in lieu thereof the words "district director of customs."

§ 280.11 [Amended]

4. The seventh and eighth sentences of § 280.11 *Notice of intention to fine; procedure* are amended to read as follows: "The duplicate copy shall be retained by the district director of immigration and naturalization and the triplicate copy shall be delivered directly to the district director of customs for the district in which the vessel or aircraft is located, and the district director of customs shall withhold clearance until deposit is made or bond furnished as provided in the Immigration and Nationality Act. If the vessel or aircraft is located in a customs district which is outside the jurisdiction of the office of the Service having jurisdiction over the matter, the triplicate copy shall be forwarded to the office of the Service nearest such customs district for delivery to the district director of customs."

5. Section 280.15 is amended to read as follows:

§ 280.15 Notice of final decision to district director of customs.

At such time as the decision under this part is final, the regional administrative officer shall be furnished a copy of the decision by the district director of immigration and naturalization. The regional administrative officer shall notify the district director of customs who was furnished a copy of the Notice of Intention to Fine of the final decision made in the case. Such notification need not be made if the regional administrative officer has been previously furnished with a notice of collection of the amount of the penalty by the district director of customs.

6. The sixth sentence of § 280.21 *Seizure of aircraft* is amended by deleting the words "collector of customs" and inserting in lieu thereof the words "district director of customs."

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

This order shall be effective on the date of its publication in the FEDERAL REGISTER. Compliance with the provisions of § 553 of title 5 of the United States Code (Public Law 89–554, 80 Stat. 383), as to notice of proposed rule making and delayed effective date, is unnecessary in this instance because the rules prescribed by the order are editorial in nature.

Dated: December 6, 1967.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[F.R. Doc. 67-14408; Filed, Dec. 11, 1967; 8:47 a.m.]

Title 12—BANKS AND BANKING

Chapter VI—Farm Credit Administration

SUBCHAPTER A—ADMINISTRATIVE PROVISIONS

PART 605—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Prohibited Acts

Part 605 of Chapter VI of Title 12 of the Code of Federal Regulations is amended by revising § 605.174(g) (31 F.R. 16229) to read as follows:

§ 605.174 Prohibited acts.

* * * * *

(g) Shall at any time have a business relationship or conduct himself in a manner which might cause embarrassment to or criticism of the Farm Credit Administration or any such corporation, or interfere with the efficient performance of his duties.

(Sec. 17, 39 Stat. 375, as amended, sec. 2, 42 Stat. 1459, sec. 4, 46 Stat. 13, as amended, sec. 6, 47 Stat. 14, as amended; 12 U.S.C. 665, 831, 1101, 1141b)

R. B. TOOTELL,
Governor,
Farm Credit Administration.

[F.R. Doc. 67-14436; Filed, Dec. 11, 1967; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

SUBCHAPTER C—AIRCRAFT

[Docket No. 8556; Amdt. 39-519]

PART 39—AIRWORTHINESS DIRECTIVES

British Aircraft Corporation Model BAC 1-11 200 and 400 Series Airplanes; Correction

Amendment 39-519 to Part 39 of the Federal Aviation Regulations was published in the FEDERAL REGISTER (32 F.R. 16391) on November 30, 1967. As the preamble to that amendment stated, a situation exists requiring immediate adoption of the regulation. However, through a typographical error, the amendment was given an effective date of December 30, 1967.

The effective date of Amendment 39-519 is hereby corrected to read "November 30, 1967".

Issued in Washington, D.C., on December 5, 1967.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[F.R. Doc. 67-14392; Filed, Dec. 11, 1967; 8:46 a.m.]

[Docket No. 8569, Amdt. 39-525]

PART 39—AIRWORTHINESS DIRECTIVES

Pilatus Model PC-6 Series Airplanes

There has been a report of twisting of a trim cable guide tube at bulkhead No. 8 on a Pilatus Model PC-6 Series airplane which caused the stabilizer trim control cable clamp to jam with the cable guide tube and resulted in the blocking of the stabilizer trim control. In addition, an out-of-plane cable pulley at bulkhead No. 11 was permitting the stabilizer trim control cable to rub against the pulley flange, and the fairlead at bulkhead No. 2 was deflecting the rudder control cable sufficiently to permit it to rub against the fairlead. Since these conditions are likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require periodic inspections of these parts for movement or wear in accordance with specified Pilatus Service Bulletins and the replacement of worn or defective parts. The inspections may be discontinued after the airplanes are modified in accordance with the airworthiness directive.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

PILATUS. Applies to Model PC-6 Series airplanes.

Compliance required as indicated.

(a) To prevent the possibility of stabilizer trim control cable clamps jamming with the cable guide tubes at bulkhead No. 8, accomplish the following:

(1) Within the next 50 hours' time in service after the effective date of this AD, and thereafter at intervals not to exceed 50 hours' time in service from the last inspection, inspect guide tubes, P/N 6232.208, for signs of movement or wear in accordance with Pilatus Service Bulletin No. 72, dated June 1967, or later Swiss Federal Air Office-approved revision, or an FAA-approved equivalent.

(2) If signs of movement or wear are detected during the inspection required by paragraph (a)(1), before further flight incorporate the modification required by paragraph (a)(3).

(3) If no signs of movement or wear are detected during the inspections required by paragraph (a)(1), within the next 200 hours' time in service after the effective date of this AD, modify guide tubes, P/N 6232.208, and install an additional support, P/N 6232.468, in accordance with Pilatus Service Bulletin No. 72, dated June 1967, or later Swiss Federal Air Office-approved revision, or an equivalent approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region.

(b) To prevent excessive rubbing of the rudder control cable with its fairlead at bulkhead No. 2, accomplish the following:

(1) Within the next 100 hours' time in service after the effective date of this AD, and thereafter at intervals not to exceed 100 hours' time in service from the last inspection, inspect the rudder cable phenolic fairlead for signs of wear in accordance with Pilatus Service Bulletin No. 74, dated June 1967, or later Swiss Federal Air Office-approved revision, or an FAA-approved equivalent.

(2) If signs of wear are detected during the inspection required by paragraph (b)(1), within the next 25 hours' time in service replace worn fairlead with a serviceable fairlead.

(3) Within the next 600 hours' time in service after the effective date of this AD, replace the pulley and fairlead assembly with a double pulley assembly in accordance with Pilatus Service Bulletin No. 74, dated June 1967, or later Swiss Federal Air Office-approved revision, or an equivalent approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region.

(c) To prevent excessive rubbing of the stabilizer trim control cable with its pulley at bulkhead No. 11, accomplish the following:

(1) Within the next 100 hours' time in service after the effective date of this AD, and thereafter at intervals not to exceed 100 hours' time in service from the last inspection, inspect the cable and its pulley for signs of wear, in accordance with Pilatus Service Bulletin No. 74, dated June 1967, or later Swiss Federal Air Office-approved revision, or an FAA-approved equivalent.

(2) If signs of wear are detected during the inspection required by paragraph (c)(1), within the next 25 hours' time in service replace worn cable or pulley with a serviceable cable or pulley.

(3) Within the next 600 hours' time in service after the effective date of this AD, modify the double pulley in accordance with Pilatus Service Bulletin No. 74, dated June 1967, or later Swiss Federal Air Office-approved revision, or an equivalent approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region.

(d) The repetitive inspections required by paragraphs (a)(1), (b)(1), and (c)(1) may be discontinued following the incorporation of the applicable modification in accordance with paragraphs (a)(3), (b)(3), and (c)(3), respectively.

This amendment becomes effective December 17, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on December 5, 1967.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[F.R. Doc. 67-14393; Filed, Dec. 11, 1967; 8:46 a.m.]

[Docket 8490, Amdt. 39-524]

PART 39—AIRWORTHINESS DIRECTIVES

Vickers Viscount Models 744, 745D, and 810 Series Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive imposing a service life on specified hydraulic system flexible hoses located on top of the nose oleo leg in the nose wheel steering system on Vickers Viscount Models 744, 745D, and 810 Series airplanes was published in 33 F.R. 13776.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

VICKERS. Applies to Viscount Models 744, 745D, and 810 Series airplanes.

Compliance required as indicated.

To prevent failure of the hydraulic flexible hoses installed in the nose wheel steering system, accomplish the following:

(a) Replace hydraulic system flexible hoses P/N 70126-163, 70826-13, and 7246-1, located on the top of the nose oleo in the nose steering system, with 6,500 or more hours' time in service or which have been installed for 4½ or more years on the effective date of this AD with new hoses of the same part number within the next 6 months or 1,500 hours' time in service, whichever occurs sooner after the effective date of this AD, and thereafter at intervals not to exceed 5 years or 8,000 hours' time in service, whichever occurs sooner from the last replacement.

(b) Replace hydraulic system flexible hoses P/N 70126-163, 70826-13, and 7246-1, located on the top of the nose oleo leg in the nose steering system, with less than 6,500 hours' time in service and which have been installed for less than 4½ years on the effective date of this AD with new hoses of the same part number before the accumulation of 5 years or 8,000 hours' time in service, whichever occurs sooner after the effective date of this AD, and thereafter at intervals not to exceed 5 years or 8,000 hours' time in service, whichever occurs sooner from the last replacement.

(British Aircraft Corp. Preliminary Technical Leaflets (PTLs) Nos. 269 (700 Series) and 131 (800 Series), Issue 1, dated June 23, 1967, pertain to this subject.)

This amendment becomes effective January 11, 1968.

(Secs. 313 (a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on December 4, 1967.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[F.R. Doc. 67-14394; Filed, Dec. 11, 1967; 8:46 a.m.]

SUBCHAPTER E—AIRSPACE

[Airspace Docket No. 67-SO-160]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

On October 26, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 14852), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Fort Stewart, Ga., control zone.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective February 1, 1968, as hereinafter set forth.

In § 71.171 (32 F.R. 2071), the Fort Stewart, Ga., control zone (32 F.R. 13269) is amended to read:

FORT STEWART, GA.

Within a 5-mile radius of Liberty AAF (lat. 31°53'20" N., long. 81°38'45"W.); within a 1.5-mile radius of Liberty County Airport (lat. 31°47'22" N., long. 81°38'15" W.); within 2 miles each side of the 221° bearing from the Liberty RBN, extending from the 5-mile radius zone to 8 miles southwest of the RBN; within 2 miles each side of the 049° bearing from the Allenhurst RBN, extending from the 5-mile radius zone to 2 miles northeast of the RBN; within 2 miles each side of the Liberty TVOR 242° radial, extending from the 5-mile radius zone to 8 miles southwest of the TVOR.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348(a))

Issued in East Point, Ga., on November 30, 1967.

JAMES A. ROGERS,
Director, Southern Region.

[F.R. Doc. 67-14395; Filed, Dec. 11, 1967; 8:46 a.m.]

[Airspace Docket No. 67-PC-5]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Areas and Controlled Airspace

The purpose of these amendments to Parts 71 and 73 of the Federal Aviation Regulations is to stratify the Island of Kahoolawe, Hawaii, Restricted Area R-3104; stratify and designate as joint-use the Kaula Rock, Hawaii, Restricted Area R-3107; reduce the designated altitude and time of designation of the Kauna Point, Hawaii, Restricted Area R-3103; and delete reference to R-3107 and Warning Area W-442 and W-593 from the description of the Hawaiian Islands transition area.

The Department of the Navy has agreed that the changes outlined above will make the use of the navigable airspace involved more flexible and will in no way derogate Navy operational requirements. There are no changes to the geographical coordinates of the areas concerned.

Since these amendments reduce the burden on the public, notice and public procedure hereon are unnecessary and the amendments may be made effective on less than 30 days notice.

In consideration of the foregoing, Parts 71 and 73 of the Federal Aviation Regulations are amended, effective immediately, as hereinafter set forth.

1. In § 73.31 (32 F.R. 2308, 5769) R-3104 and R-3107 are revoked and the following areas are designated in lieu thereof:

R-3104A ISLAND OF KAHOOLAWE, HAWAII

Boundaries: Beginning at lat. 20°34'20" N., long. 156°40'30" W.; thence clockwise 1 mile from and parallel to the shoreline to lat. 20°37'00" N., long. 156°35'15" W.; to lat. 20°35'20" N., long. 156°31'45" W.; thence clockwise 1 mile from and parallel to the shoreline to lat. 20°30'20" N., long. 156°31'45" W.; to lat. 20°30'00" N., long. 156°31'00" W.; to lat. 20°28'30" N., long. 156°30'45" W; thence clockwise 3 nautical miles from and parallel to the shoreline to lat. 20°35'25" N., long. 156°43'00" W.; to the point of beginning.

Designated altitudes: Surface to 10,000 feet MSL.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Honolulu ARTC Center.

Using agency: Commander, Fleet Air Hawaii, NAS Barber's Point, Hawaii.

Boundaries: Beginning at lat. 20°34'20" N., long. 156°40' 30" W.; thence clockwise 1 mile from and parallel to the shoreline to lat. 20°-37'00" N., long. 156°35'15" W.; to lat. 20°-35'20" N., long. 156°31'45" W.; thence clockwise 1 mile from and parallel to the shoreline to lat. 20°30'20" N., long. 156°31'45" W.; to lat. 20°30'00" N., long. 156°31'00" W.; to lat. 20°28'30" N., long. 156°30'45" W.; thence clockwise 3 nautical miles from and parallel to the shoreline to lat. 20°35'25" N., long. 156°43'00" W.; to the point of beginning.

Designated altitudes: 10,000 feet MSL to FL 180.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Honolulu ARTC Center.

Using agency: Commander, Fleet Air Hawaii, NAS Barber's Point, Hawaii.

R-3104C ISLAND OF KAHOOLAWE, HAWAII

Boundaries: Beginning at lat. 20°34'20" N., long. 156°40'30" W.; thence clockwise 1 mile from and parallel to the shoreline to lat. 20°37'00" N., long. 156°35'15" W.; to lat. 20°35'20" N., long. 156°31'45" W.; thence clockwise 1 mile from and parallel to the shoreline to lat. 20°30'20" N., long. 156°31'-45" W.; to lat. 20°30'00" N., long. 156°31'00" W.; to lat. 20°28'30" N., long. 156°30'45" W.; thence clockwise 3 nautical miles from and parallel to the shoreline to lat. 20°35'25" N., long. 156°43'00" W.; to the point of beginning.

Designated altitudes: FL 180 to unlimited.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Honolulu ARTC Center.

Using agency: Commander, Fleet Air Hawaii, NAS Barber's Point, Hawaii.

R-3107A KAULA ROCK, HAWAII

Boundaries: A circular area with a 3-nautical-mile radius centered at lat. 21°-39'30" N., long. 159°33'30" W.

Designated altitudes: Surface to 14,500 feet MSL.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Honolulu ARTC Center.

Using agency: Commander, Fleet Air Hawaii, NAS Barber's Point, Hawaii.

R-3107B KAULA ROCK, HAWAII

Boundaries: A circular area with a 3-nautical-mile radius centered at lat. 21°39'-39" N., long. 159°33'30" W.

Designation altitudes: 14,500 feet MSL to FL 200.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Honolulu ARTC Center.

Using agency: Commander, Fleet Air Hawaii, NAS Barber's Point, Hawaii.

2. In § 73.31 (32 F.R. 2368, 5769) R-3108 is amended by deleting "Designated altitudes. Surface to flight level 500." and "Time of designation. Continuous." and substituting therefore "Designated altitudes. Surface to FL 300." and "Time of designation. Sunrise to sunset, Monday through Friday."

3. In § 71.181 (32 F.R. 2143) alter the description of the Hawaiian Islands transition area by deleting "The airspace within control area extensions, transition areas, Federal airways, R-3107, warning areas and the airspace less than 1,500 feet above the terrain are excluded." and substituting therefor "The airspace within control area extensions, transition areas, Federal airways, warning areas W-318, W-319, W-320, W-321, W-322, W-511, W-512, and the airspace less than 1,500 feet above the terrain is excluded."

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on December 4, 1967.

WILLIAM E. MORGAN,
Acting Director,
Air Traffic Service.

[F.R. Doc. 67-14425; Filed, Dec. 11, 1967; 8:49 a.m.]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 8567; Special Federal Aviation Reg. 18]

PART 91—GENERAL OPERATING AND FLIGHT RULES

Prohibition of Air Traffic Over and in the Vicinity of the Vessel, Queen Mary

On December 9 and 10, 1967, the vessel, "Queen Mary" will be in the process of completing its voyage from Acapulco, Mexico, to Long Beach, Calif. At various times during the course of this voyage and after docking at Long Beach, large numbers of persons on shore and in boats are expected in the vicinity of the ship. Additionally, many airplanes are expected to follow it.

Therefore, in the interest of safety of persons and property on the surface and aircraft operations in the vicinity of the ship, I have determined that a temporary restriction must be imposed on air traffic which will prohibit the operation of aircraft below 3,000 feet mean sea level within two statute miles of the Queen Mary on December 9 and 10, 1967. Exempted from this restriction are aircraft used by government agencies participating in the control of surface operation and law enforcement activities, aircraft officially participating in the Queen Mary arrival ceremonies, and aircraft operated by or for accredited news representatives. Authorization for any other operation must be obtained from the Federal Aviation Administration Flight Service Stations at San Diego or Los Angeles.

Since the arrival of the Queen Mary will take place on December 9, 1967, this regulation must be adopted without delay. Therefore, I find that notice and public procedure hereon are impracticable and that cause exists to make this regulation effective in less than 30 days.

In consideration of the foregoing, the following Special Federal Aviation Regulation is adopted:

1. No person may operate an aircraft below 3,000 feet above the surface within 2 statute miles of the vessel "Queen Mary" on December 9 and 10, 1967, unless:

(a) The aircraft is operated by a Government agency officially participating in the control of surface operations or law enforcement activities;

(b) The aircraft is carrying accredited news representatives or persons officially associated with the Queen Mary's arrival ceremonies; or

(c) The aircraft is operated under an authorization obtained from ATC.

2. The pilot in command of an aircraft operated under the authority of section 1(a) of this regulation may deviate from the provisions of the minimum altitude requirements of § 91.79 of the Federal Aviation Regulations to the extent necessary to perform his official duties. The pilot in command of other aircraft shall comply with the following minimum altitude requirements of Part 91 of the Federal Aviation Regulations:

(a) For fixed-wing aircraft, the provisions of § 91.79(b).

(b) For helicopters, the minimum altitude requirements of § 91.79(c).

This regulation becomes effective at 0001 P.s.t., December 9, 1967, and expires 2400 P.s.t., December 10, 1967.

(Sec. 307, Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on December 5, 1967.

WILLIAM F. MCKEE,
Administrator.

[F.R. Doc. 67-14412; Filed, Dec. 11, 1967; 8:48 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 29—FRUIT BUTTERS, FRUIT JELLIES, FRUIT PRESERVES, AND RELATED PRODUCTS

Identity Standards; Confirmation of Effective Date of Order Listing Fumaric Acid as Optional Ingredient

In the matter of amending the standards of identity for fruit jelly (21 CFR 29.2); fruit preserves or jams (21 CFR 29.3); artificially sweetened fruit jelly (21 CFR 29.4); and artificially sweetened fruit preserves or artificially sweetened fruit jams (21 CFR 29.5) to provide for the use of fumaric acid as an optional acidifying ingredient:

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and in accordance with the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (21 CFR 2.120), notice is given that no objections were filed to the order in the above-identified matter published in the FEDERAL REGISTER of October 13, 1967 (32 F.R. 14205). Accordingly, the amendments promulgated by that order will become effective December 12, 1967.

(Secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371)

Dated: November 30, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-14427; Filed, Dec. 11, 1967; 8:49 a.m.]

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in the Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

CALCIUM STEARATE

The Commissioner of Food and Drugs, having evaluated the data submitted in a petition filed by Witco Chemical Co., Inc., Organic Chemicals Division, 6200 West 51st Street, Chicago, Ill. 60638, and other relevant material, has concluded that the food additive regulations should be amended to provide for the safe use of calcium stearate as an anticaking agent in animal feeds. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), Part 121 is amended by adding to Subpart C to following new section:

§ 121.306 Feed-grade calcium stearate.

Feed-grade calcium stearate may be safely used in an animal feed in accordance with the following prescribed conditions:

(a) Feed-grade calcium stearate is the calcium salt of a fatty acid mixture that is predominately stearic acid. Associated fatty acids, including palmitic acid and minor amounts of lauric, myristic, pentadecanoic, margaric, arachidic, and other fatty acids may be contained in the mixture, but such associated fatty acids in aggregate do not exceed 35 percent by weight of the mixture. The fatty acids may be derived from feed-grade fats or oils.

(b) The additive meets the following specifications:

(1) Unsaponifiable matter does not exceed 2 percent.

(2) It is free of chick edema factor.

(c) The additive is manufactured so that in aqueous solution it is exposed for 1 hour or longer to temperature in excess of 180° F.

(d) It is used as an anticaking agent in animal feeds in accordance with good manufacturing practice.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: November 30, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-14428; Filed, Dec. 11, 1967; 8:49 a.m.]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

CLARIFICATION

Effective on the date of publication of this order in the FEDERAL REGISTER, the table in paragraph (b) of § 121.1163 *Natural flavoring substances and natural substances used in conjunction with flavors* is amended for clarification by changing in footnote 1 the words "distilled liquors" to read "alcoholic beverages".

(Secs. 409, 701(a), 52 Stat. 1055, 72 Stat. 1786; 21 U.S.C. 348, 371(a))

Dated: November 30, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-14429; Filed, Dec. 11, 1967; 8:49 a.m.]

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in the Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

Subpart D—Food Additives Permitted in Food for Human Consumption

SULFAMERAZINE

1. The Commissioner of Food and Drugs, having evaluated the data submitted in a petition filed by American Cyanamid Co., Agricultural Division, Post Office Box 400, Princeton, N.J. 08540, and other relevant material, has concluded that the food additive regulations should be amended to provide for the safe use of sulfamerazine in feed for trout for treatment of furunculosis. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), Part 121 is amended by adding to Subpart C the following new section:

§ 121.305 Sulfamerazine.

The food additive sulfamerazine (*N*¹-[4-methyl-2-pyrimidinyl] sulfanilamide) may be safely used in animal feed when incorporated therein in accordance with the following conditions:

(a) It is used or intended for use as follows:

	Amount	Limitations	Indications for use
Sulfamerazine	10 grams per 100 pounds of fish per day.	For rainbow trout, brook trout, and brown trout; treat for not more than 14 days; do not treat within 3 weeks prior to marketing or stocking in streams open to fishing.	Control of furunculosis.

(b) To assure safe use, the label and labeling of the additive and of any intermediate premix or final feed prepared therefrom shall bear, in addition to the other information required by the act, the following:

(1) The name of the additive.

(2) A statement of the quantity of the additive contained therein.

(3) Adequate directions and warnings for use.

2. Based upon an evaluation of the data before him and proceeding under the authority of the act (sec. 409(c)(4), 72 Stat. 1786; 21 U.S.C. 348(c)(4)), delegated as cited above, the Commissioner has concluded that a tolerance limitation is required to assure that the edible tissues of fish treated with sulfamerazine in accordance with § 121.305 are safe for human consumption. Accordingly, Part 121 is amended by adding to Subpart D the following new section:

§ 121.1212 Sulfamerazine.

A tolerance of zero is established for residues of sulfamerazine (*N*¹-[4-methyl-2-pyrimidinyl]sulfanilamide) in the edible tissues of trout.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), (4), 72 Stat. 1786; 21 U.S.C. 348(c)(1), (4))

Dated: November 30, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-14430; Filed, Dec. 11, 1967; 8:49 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

EMULSIFIERS AND/OR SURFACE-ACTIVE AGENTS

The Commissioner of Food and Drugs, having evaluated the data submitted in petitions (FAP 4B1479, 6B1915) filed by Olin Mathieson Chemical Corp., 1730 K Street NW., Washington, D.C. 20006, on behalf of itself, The Dow Chemical Co., General Aniline and Film Corp., Jefferson Chemical Co., Inc., Monsanto Co., Rohm and Haas Co., Union Carbide Corp., and Wyandotte Chemicals Corp., and other relevant material, has concluded that § 121.2541 of the food additive regulations should be amended to provide for additional use of the substances specified below as emulsifiers and/or surface-active agents in the manufacture of articles intended for use in contact with food. The Commissioner has further concluded that the items identified below should be deleted from §§ 121.2520, 121.2536, and 121.2550 since the amendment herein to § 121.2541 provides for the use of the additives as contemplated. Also, the Commissioner has concluded that § 121.2547(b) and the below-identified items in §§ 121.2519, 121.2520, and 121.2571 should be revised as indicated for consistency of nomenclature with amended § 121.2541.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), Part 121 is amended in Subpart F in the following respects:

1. Section 121.2519(d)(3) is amended by revising the item "Polyoxyethylene (1.5–15 mols) alkyl (C_8, C_9, or C_{10}) phenol" to read as follows and by realphabetizing it accordingly:

§ 121.2519 Defoaming agents used in the manufacture of paper and paperboard.

* * * * *

(d) * * *

(3) Miscellaneous:

* * * * *

α-[p-(1,1,3,3-Tetramethylbutyl) phenyl-, p-nonylphenyl-, or p-dodecylphenyl]-*omega*-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of p-alkylphenol (alkyl group is 1,1,3,3-tetramethylbutyl, a propylene trimer isomer, or a propylene tetramer isomer) with an average of 1.5–15 moles of ethylene oxide.

* * * * *

2. Section 121.2520(c)(5) is amended by deleting the item "Polyoxyethylene (molecular weight 1900) di-sec-butylphenylate" and by revising the items "Polyoxyethylene (1–40 mols) nonylphenol" and "Polyoxyethylene (1–40 mols) octylphenol" to read as follows, respectively, and by realphabetizing them accordingly:

§ 121.2520 Adhesives.

* * * * *

(c) * * *

(5) * * *

Components of Adhesives	
Substances	*Limitations*
* * *	* * *
α-(p-Nonylphenyl)-*omega*-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of p-nonylphenol (nonyl group is a propylene trimer isomer) with an average of 1–40 moles of ethylene oxide.	----------
* * *	* * *
α-[p-(1,1,3,3-Tetramethylbutyl) phenyl]-*omega*-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of p-(1,1,3,3-tetramethylbutyl) phenol with an average of 1–40 moles of ethylene oxide.	----------
* * *	* * *

§ 121.2536 [Amended]

3. Section 121.2536 *Filters, resin-bonded* is amended by deleting from the list in paragraph (d)(2) the item "Polyoxyethylene (9–10 mols) ether of octyl- or nonylphenol."

4. Section 121.2541(c) is amended by alphabetically inserting 3 new items (the first three set forth below) and by revising and realphabetizing the item "*p-tert.*-Octylphenoxy-polyethoxyethanol (40 moles) * * *" to read as the fourth item below, as follows:

§ 121.2541 Emulsifiers and/or surface-active agents.

* * * * *

(c) **List of substances:** *Limitations*

* * * * *

Di-sec-butylphenyl-*omega*-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of di-sec-butylphenol with an average of 4–14 or 30–50 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range 4–14 or 30–50; *sec*-butyl groups are predominantly (90 percent or more) *o*-, *p*-substituents.	----------
(*p-Dodecylphenyl*)-*omega*-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of dodecylphenol (dodecyl group is a propylene tetramer isomer) with an average of 4–14 or 30–50 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range 4–14 or 30–50.	----------
(p-Nonylphenyl)-*omega*-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of nonylphenol (nonyl group is a propylene trimer isomer) with an average of 4–14 or 30–50 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range 4–14 or 30–50.	----------
* * *	* * *
[p-(1,1,3,3-Tetramethylbutyl) phenyl]-*omega*-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of p-(1,1,3,3-tetramethylbutyl) phenol with an average of 4–14 or 30–40 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range 4–14 or 30–50.	----------
* * *	* * *

5. Section 121.2547(b)(5) is revised to read as follows:

§ 121.2547 Sanitizing solutions.

* * * * *

(b) * * *

(5) An aqueous solution containing elemental iodine, hydriodic acid, isopropyl alcohol, α-(p-nonylphenyl)-*omega*-hydroxypoly(oxyethylene) complying with the identity prescribed in § 121.2541(c) and having a maximum average molecular weight of 748) and/or polyoxythylene-polyoxypropylene block polymers (having a minimum average molecular weight of 1,900), together with components generally recognized as safe.

* * * * *

§ 121.2550 [Amended]

6. Section 121.2550 *Closures with sealing gaskets for food containers* is amended in paragraph (b)(5) by deleting from table 1 the item "Polyoxyethylated (8–10 moles) octylphenol."

7. Section 121.2571(b)(2) is amended by revising the item "Polyoxyethylene ethers of octyl- or nonylphenol" to read as follows and by relaphabetizing it accordingly:

§ 121.2571 Components of paper and paperboard in contact with dry food.

* * * * *

(b) * * *

(2) * * *

List of substances	*Limitations*
* * *	* * *
α-[p-1,1,3,3-Tetramethylbutyl)phenyl or p-nonylphenyl]-*omega*-hydroxypoly(oxyethylene) where nonyl group is a propylene trimer isomer.	----------
* * *	* * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: December 1, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-14481; Filed, Dec. 11, 1967; 8:49 a.m.]

SUBCHAPTER C—DRUGS

PART 146c—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

Sodium Ampicillin

Correction

In F.R. Doc. 67-14070 appearing at page 16491 in the issue of Friday, December 1, 1967, the following changes should be made in § 146a.119(b):

1. The 13th line which reads "containers either 125 milligrams, 250" should be deleted.

2. The 18th line should read "of ampicillin. If it is packaged for dis-".

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6939]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Treatment of Income From Unrelated Trade or Business

On April 14, 1967, a notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) under sections 513 and 512 of the Internal Revenue Code of 1954, relating to the treatment of income from unrelated trade or business, was published in the FEDERAL REGISTER (32 F.R. 5993). After consideration of all the relevant matter presented by interested persons regarding the rules proposed, the following amendments to the regulations are hereby adopted:

PARAGRAPH 1. Section 1.513–1 is redesignated as § 1.513–2 and, as so redesignated, is amended by revising the title of the section and by adding a new paragraph (d) thereto. Such revised and added provisions read as follows:

§ 1.513–2 Definition of unrelated trade or business applicable to taxable years beginning before December 13, 1967.

* * * * *

(d) *Effective date.* Except as provided in paragraph (g) of § 1.513–1, this section is applicable with respect to taxable years beginning before December 13, 1967.

PAR. 2. There is inserted immediately following § 1.513 the following new section:

§ 1.513–1 Definition of unrelated trade or business.

(a) *In general.* As used in section 512 the term "unrelated business taxable income" means the gross income derived by an organization from any unrelated trade or business regularly carried on by it, less the deductions and subject to the exceptions, additions and limitations provided in section 512. Section 513 specifies with certain exceptions that the phrase "unrelated trade or business" means, in the case of an organization subject to the tax imposed by section 511, any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its charitable, educational or other purpose or function constituting the basis for its exemption under section 501 (or, in the case of an organization described in section 511(a)(2)(B), to the exercise or performance of any purpose or function described in section 501(c)(3)). (For certain exceptions from this definition, and a special rule for certain publishing businesses, see paragraphs (c) and (f) of this section. For a special definition of "unrelated trade or business" applicable to certain trusts, see section 513(b).) Therefore, unless one of the specific exceptions of section 512 or 513 is applicable, gross income of an exempt organization subject to the tax imposed by section 511 is includible in the computation of unrelated business taxable income if (1) it is income from trade or business, (2) such trade or business is regularly carried on by the organization, and (3) the conduct of such trade or business is not substantially related (other than through the production of funds) to the organization's performance of its exempt functions.

(b) *Trade or business.* The primary objective of adoption of the unrelated business income tax was to eliminate a source of unfair competition by placing the unrelated business activities of certain exempt organizations upon the same tax basis as the nonexempt business endeavors with which they compete. In general, any activity of a section 511 organization which is carried on for the production of income and which otherwise possesses the characteristics required to constitute "trade or business" within the meaning of section 162—and which, in addition, is not substantially related to the performance of exempt functions—presents sufficient likelihood of unfair competition to be within the policy of the tax. Accordingly, for the purposes of section 513 the term "trade or business" has the same meaning it has in section 162, and generally includes any activity carried on for the production of income from the sale of goods or performance of services. Thus, the term "trade or business" in section 513 is not limited to integrated aggregates of assets, activities and good will which comprise businesses for the purposes of certain other provisions of the Internal Revenue Code. Activities of producing or distributing goods or performing services from which a particular amount of gross income is derived do not lose identity as trade or business merely because they are carried on within a larger aggregate of similar activities or within a larger complex of other endeavors which may, or may not, be related to the exempt purposes of the organization. Thus, for example, the regular sale of pharmaceutical supplies to the general public by a hospital pharmacy does not lose identity as trade or business merely because the pharmacy also furnishes supplies to the hospital and patients of the hospital in accordance with its exempt purposes or in compliance with the terms of section 513(a)(2). Similarly, activities of soliciting, selling, and publishing commercial advertising do not lose identity as trade or business even though the advertising is published in an exempt organization periodical which contains editorial matter related to the exempt purposes of the organization.

(c) *Regularly carried on*—(1) *General principles.* In determining whether trade or business from which a particular amount of gross income derives is "regularly carried on," within the meaning of section 512, regard must be had to the frequency and continuity with which the activities productive of the income are conducted and the manner in which they are pursued. This requirement must be applied in light of the purpose of the unrelated business income tax to place exempt organization business activities upon the same tax basis as the nonexempt business endeavors with which they compete. Hence, for example, specific business activities of an exempt organization will ordinarily be deemed to be "regularly carried on" if they manifest a frequency and continuity, and are pursued in a manner, generally similar to comparable commercial activities of nonexempt organizations.

(2) *Application of principles in certain cases*—(i) *Normal time span of activities.* Where income producing activities are of a kind normally conducted by nonexempt commercial organizations on a year-round basis, the conduct of such activities by an exempt organization over a period of only a few weeks does not constitute the regular carrying on of trade or business. For example, the operation of a sandwich stand by a hospital auxiliary for only 2 weeks at a state fair would not be the regular conduct of trade or business. However, the conduct of year-round business activities for one day each week would constitute the regular carrying on of trade or business. Thus, the operation of a commercial parking lot on Saturday of each week would be the regular conduct of trade or business. Where income producing activities are of a kind normally undertaken by nonexempt commercial organizations only on a seasonal basis, the conduct of such activities by an exempt organization during a significant portion of the season ordinarily constitutes the regular conduct of trade or business. For example, the operation of a track for horse racing for several weeks of a year would be considered the regular conduct of trade or business because it is usual to carry on such trade or business only during a particular season.

(ii) *Intermittent activities; in general.* In determining whether or not intermittently conducted activities are regularly carried on, the manner of conduct of the activities must be compared with the

manner in which commercial activities are normally pursued by non-exempt organizations. In general, exempt organization business activities which are engaged in only discontinuously or periodically will not be considered regularly carried on if they are conducted without the competitive and promotional efforts typical of commercial endeavors. For example, the publication of advertising in programs for sports events or music or drama performances will not ordinarily be deemed to be the regular carrying on of business. Similarly, where an organization sells certain types of goods or services to a particular class of persons in pursuance of its exempt functions "primarily for the convenience" of such persons within the meaning of section 513(a)(2) (as, for example, the sale of books by a college bookstore to students or the sale of pharmaceutical supplies by a hospital pharmacy to patients of the hospital), casual sales in the course of such activity which do not qualify as related to the exempt function involved or as described in section 513(a)(2) will not be treated as regular. On the other hand, where the nonqualifying sales are not merely casual, but are systematically and consistently promoted and carried on by the organization, they meet the section 512 requirement of regularity.

(iii) *Intermittent activities; special rule in certain cases of infrequent conduct.* Certain intermittent income producing activities occur so infrequently that neither their recurrence nor the manner of their conduct will cause them to be regarded as trade or business regularly carried on. For example, income producing or fund raising activities lasting only a short period of time will not ordinarily be treated as regularly carried on if they recur only occasionally or sporadically. Furthermore, such activities will not be regarded as regularly carried on merely because they are conducted on an annually recurrent basis. Accordingly, income derived from the conduct of an annual dance or similar fund raising event for charity would not be income from trade or business regularly carried on.

(d) *Substantially related*—(1) *In general.* Gross income derives from "unrelated trade or business," within the meaning of section 513(a), if the conduct of the trade or business which produces the income is not substantially related (other than through the production of funds) to the purposes for which exemption is granted. The presence of this requirement necessitates an examination of the relationship between the business activities which generate the particular income in question—the activities, that is, of producing or distributing the goods or performing the services involved—and the accomplishment of the organization's exempt purposes.

(2) *Type of relationship required.* Trade or business is "related" to exempt purposes, in the relevant sense, only where the conduct of the business activities has causal relationship to the achievement of exempt purposes (other than through the production of income); and it is "substantially related," for purposes of section 513, only if the causal relationship is a substantial one. Thus, for the conduct of trade or business from which a particular amount of gross income is derived to be substantially related to purposes for which exemption is granted, the production or distribution of the goods or the performance of the services from which the gross income is derived must contribute importantly to the accomplishment of those purposes. Where the production or distribution of the goods or the performance of the services does not contribute importantly to the accomplishment of the exempt purposes of an organization, the income from the sale of the goods or the performance of the services does not derive from the conduct of related trade or business. Whether activities productive of gross income contribute importantly to the accomplishment of any purpose for which an organization is granted exemption depends in each case upon the facts and circumstances involved.

(3) *Size and extent of activities.* In determining whether activities contribute importantly to the accomplishment of an exempt purpose, the size and extent of the activities involved must be considered in relation to the nature and extent of the exempt function which they purport to serve. Thus, where income is realized by an exempt organization from activities which are in part related to the performance of its exempt functions, but which are conducted on a larger scale than is reasonably necessary for performance of such functions, the gross income attributable to that portion of the activities in excess of the needs of exempt functions constitutes gross income from the conduct of unrelated trade or business. Such income is not derived from the production or distribution of goods or the performance of services which contribute importantly to the accomplishment of any exempt purpose of the organization.

(4) *Application of principles*—(i) *Income from performance of exempt functions.* Gross income derived from charges for the performance of exempt functions does not constitute gross income from the conduct of unrelated trade or business. The following examples illustrate the application of this principle:

Example (1). M, an organization described in section 501(c)(3), operates a school for training children in the performing arts, such as acting, singing, and dancing. It presents performances by its students and derives gross income from admission charges for the performances. The students' participation in performances before audiences is an essential part of their training. Since the income realized from the performances derives from activities which contribute importantly to the accomplishment of M's exempt purposes, it does not constitute gross income from unrelated trade or business. (For specific exclusion applicable in certain cases of contributed services, see section 513(a)(1) and paragraph (e)(1) of this section.)

Example (2). N is a trade union qualified for exemption under section 501(c)(5). To improve the trade skills of its members, N conducts refresher training courses and supplies handbooks and technical manuals. N receives payments from its members for these services and materials. However, the development and improvement of the skills of its members is one of the purposes for which exemption is granted N; and the activities described contribute importantly to that purpose. Therefore, the income derived from these activities does not constitute gross income from unrelated trade or business.

Example (3). O is an industry trade association qualified for exemption under section 501(c)(6). It presents a trade show in which members of its industry join in an exhibition of industry products. O derives income from charges made to exhibitors for exhibit space and admission fees charged patrons or viewers of the show. The show is not a sales facility for individual exhibitors; its purpose is the promotion and stimulation of interest in, and demand for, the industry's products in general, and it is conducted in a manner reasonably calculated to achieve that purpose. The stimulation of demand for the industry's products in general is one of the purposes for which exemption is granted O. Consequently, the activities productive of O's gross income from the show—that is, the promotion, organization and conduct of the exhibition—contribute importantly to the achievement of an exempt purpose, and the income does not constitute gross income from unrelated trade or business.

(ii) *Disposition of product of exempt functions.* Ordinarily, gross income from the sale of products which from result the performance of exempt functions does not constitute gross income from the conduct of unrelated trade or business if the product is sold in substantially the same state it is in on completion of the exempt functions. Thus, in the case of an organization described in section 501(c)(3) and engaged in a program of rehabilitation of handicapped persons, income from sale of articles made by such persons as a part of their rehabilitation training would not be gross income from conduct of unrelated trade or business. The income in such case would be from sale of products, the production of which contributed importantly to the accomplishment of purposes for which exemption is granted the organization—namely, rehabilitation of the handicapped. On the other hand, if a product resulting from an exempt function is utilized or exploited in further business endeavor beyond that reasonably appropriate or necessary for disposition in the state it is in upon completion of exempt functions, the gross income derived therefrom would be from conduct of unrelated trade or business. Thus, in the case of an experimental dairy herd maintained for scientific purposes by a research organization described in section 501(c)(3), income from sale of milk and cream produced in the ordinary course of operation of the project would not be gross income from conduct of unrelated trade or business. On the other hand, if the organization were to utilize the milk and cream in the further manufacture of food items such as ice cream, pastries, etc., the gross income from the sale of such products would be from the conduct of unrelated trade or business unless the manufacturing activities themselves contribute importantly to the accomplishment of an exempt purpose of the organization.

(iii) *Dual use of assets or facilities.* In certain cases, an asset or facility necessary to the conduct of exempt functions may also be employed in a commercial endeavor. In such cases, the mere fact of the use of the asset or facility in exempt functions does not, by itself, make the income from the commercial endeavor gross income from related trade or business. The test, instead, is whether the activities productive of the income in question contribute importantly to the accomplishment of exempt purposes. Assume, for example, that a museum exempt under section 501(c)(3) has a theater auditorium which is specially designed and equipped for showing of educational films in connection with its program of public education in the arts and sciences. The theater is a principal feature of the museum and is in continuous operation during the hours the museum is open to the public. If the organization were to operate the theater as an ordinary motion picture theater for public entertainment during the evening hours when the museum was closed, gross income from such operation would be gross income from conduct of unrelated trade or business.

(iv) *Exploitation of exempt functions.* In certain cases, activities carried on by an organization in the performance of exempt functions may generate good will or other intangibles which are capable of being exploited in commercial endeavors. Where an organization exploits such an intangible in commercial activities, the mere fact that the resultant income depends in part upon an exempt function of the organization does not make it gross income from related trade or business. In such cases, unless the commercial activities themselves contribute importantly to the accomplishment of an exempt purpose, the income which they produce is gross income from the conduct of unrelated trade or business. The application of this subdivision is illustrated in the following examples:

Example (1). U, an exempt scientific organization, enjoys an excellent reputation in the field of biological research. It exploits this reputation regularly by selling endorsements of various items of laboratory equipment to manufacturers. The endorsing of laboratory equipment does not contribute importantly to the accomplishment of any purpose for which exemption is granted U. Accordingly, the income derived from the sale of endorsements is gross income from unrelated trade or business.

Example (2). V, an exempt university, has a regular faculty and a regularly enrolled student body. During the school year, V sponsors the appearance of professional theater companies and symphony orchestras which present drama and musical performances for the students and faculty members. Members of the general public are also admitted. V advertises these performances and supervises advance ticket sales at various places, including such university facilities as the cafeteria and the university bookstore. V derives gross income from the conduct of the performances. However, while the presentation of the performances make use of an intangible generated by V's exempt educational functions—the presence of the student body and faculty—the presentation of such drama and music events contributes importantly to the overall educational and cultural function of the university. Therefore, the income which V receives does not constitute gross income from the conduct of unrelated trade or business.

Example (3). W is an exempt business league with a large membership. Under an arrangement with an advertising agency, W regularly mails brochures, pamphlets and other commercial advertising materials to its members, for which service W charges the agency an agreed amount per enclosure. The distribution of the advertising materials does not contribute importantly to the accomplishment of any purpose for which W is granted exemption. Accordingly, the payments made to W by the advertising agency constitute gross income from unrelated trade or business.

Example (4). X, an exempt organization for the advancement of public interest in classical music, owns a radio station and operates it in a manner which contributes importantly to the accomplishment of the purposes for which the organization is granted exemption. However, in the course of the operation of the station the organization derives gross income from the regular sale of advertising time and services to commercial advertisers in the manner of an ordinary commercial station. Neither the sale of such time nor the performance of such services contributes importantly to the accomplishment of any purpose for which the organization is granted exemption. Notwithstanding the fact that the production of the advertising income depends upon the existence of the listening audience resulting from performanbe of exempt functions, such income is gross income from unrelated trade or business.

Example (5). Y, an exempt university, provides facilities, instruction and faculty supervision for a campus newspaper operated by its students. In addition to news items and editorial commentary, the newspaper publishes paid advertising. The solicitation, sale, and publication of the advertising are conducted by students, under the supervision and instruction of the university. Although the services rendered to advertisers are of a commercial character, the advertising business contributes importantly to the university's educational program through the training of the students involved. Hence, none of the income derived from publication of the newspaper constitutes gross income from unrelated trade or business. The same results would follow even though the newspaper is published by a separately incorporated section 501(c)(3) organization, qualified under the university rules for recognition of student activities, and even though such organization utilizes its own facilities and is independent of faculty supervision, but carries out its educational purposes by means of student instruction of other students in the editorial and advertising activities and student participation in those activities.

Example (6). Z is an association exempt under section 501(c)(6), formed to advance the interests of a particular profession and drawing its membership from the members of that profession. Z publishes a monthly journal containing articles and other editorial material which contribute importantly to the accomplishment of purposes for which exemption is granted the organization. Income from the sale of subscriptions to members and others in accordance with the organization's exempt purposes, therefore, does not constitute gross income from unrelated trade or business. In connection with the publication of the journal, Z also derives income from the regular sale of space and service for general consumer advertising, including advertising of such products as soft drinks, automobiles, articles of apparel, and home appliances. Neither the publication of such advertisements nor the performance of services for such commercial advertisers contributes importantly to the accomplishment of any purpose for which exemption is granted. Therefore, notwithstanding the fact that the production of income from advertising utilizes the circulation developed and maintained in performance of exempt functions, such income is gross income from unrelated trade or business.

Example (7). The facts are as described in the preceding example, except that the advertising in Z's journal promotes only products which are within the general area of professional interest of its members. Following a practice common among taxable magazines which publish advertising, Z requires its advertising to comply with certain general standards of taste, fairness, and accuracy; but within those limits the form, content, and manner of presentation of the advertising messages are governed by the basic objective of the advertisers to promote the sale of the advertised products. While the advertisements contain certain information, the informational function of the advertising is incidental to the controlling aim of stimulating demand for the advertised products and differs in no essential respect from the informational function of any commercial advertising. Like taxable publishers of advertising, Z accepts advertising only from those who are willing to pay its prescribed rates. Although continuing education of its members in matters pertaining to their profession is one of the purposes for which Z is granted exemption, the publication of advertising designed and selected in the manner of ordinary commercial advertising is not an educational activity of the kind contemplated by the exemption statute; it differs fundamentally from such an activity both in its governing objective and in its method. Accordingly, Z's publication of advertising does not contribute importantly to the accomplishment of its exempt purposes; and the income which it derives from advertising constitutes gross income from unrelated trade or business.

(e) *Exceptions.* Section 513(a) specifically states that the term "unrelated trade or business" does not include—

(1) Any trade or business in which substantially all the work in carrying on such trade or business is performed for the organization without compensation; or

(2) Any trade or business carried on by an organization described in section 501(c)(3) or by a governmental college or university described in section 511(a)(2)(B), primarily for the convenience of its members, students, patients, officers, or employees; or

(3) Any trade or business which consists of selling merchandise, substantially all of which has been received by the organization as gifts or contributions.

An example of the operation of the first of the exceptions mentioned above would be an exempt orphanage operating a retail store and selling to the general public, where substantially all the work in carrying on such business is performed for the organization by volunteers without compensation. An example of the second exception would be a laundry operated by a college for the purpose of laundering dormitory linens and the clothing of students. The third exception applies to so-called "thrift shops" operated by a tax-exempt organization where

those desiring to benefit such organization contribute old clothes, books, furniture, etc., to be sold to the general public with the proceeds going to the exempt organization.

(f) *Special rule respecting publishing businesses.* For a special rule with respect to publishing businesses carried on by an organization, see section 513(c).

(g) *Effective date.* This section is applicable with respect to taxable years beginning after December 13, 1967. However, if a taxpayer wishes to rely on the rules stated in this section for taxable years beginning before December 13, 1967, it may do so.

PAR. 3. Section 1.512(a)–1 is redesignated, as § 1.512(a)–2 and, as so redesignated, is amended by revising the title of the section, by designating the existing provision as paragraph (a), and by adding a new paragraph (b) thereto. Such revised and added provisions read as follows:

§ 1.512(a)–2 Definition applicable to taxable years beginning before December 13, 1967.

(a) *In general.* • • •

(b) *Effective date.* Except as provided in paragraph (f) of §1.512(a)–1, this section is applicable with respect to taxable years beginning before December 13, 1967.

PAR. 4. There is inserted immediately after § 1.512(a) the following new section:

§ 1.512(a)–1 Definition.

(a) *In general.* Section 512 defines "unrelated business taxable income" as the gross income derived from any unrelated trade or business regularly carried on, less those deductions allowed by chapter 1 of the Code which are directly connected with the carrying on of such trade or business, subject to certain exceptions, additions and limitations referred to in § 1.512(b)–1. To be deductible in computing unrelated business taxable income, therefore, expenses, depreciation, and similar items not only must qualify as deductions allowed by chapter 1 of the Code, but also must be directly connected with the carrying on of unrelated trade or business. Except as provided in paragraph (d)(2) of this section, to be "directly connected with" the conduct of unrelated business, for purposes of section 512, an item of deduction must have proximate and primary relationship to the carrying on of that business. In the case of an organization which derives gross income from the regular conduct of two or more unrelated business activities, unrelated business taxable income is the aggregate of gross income from all such unrelated business activities less the aggregate of the deductions allowed with respect to all such unrelated business activities.

(b) *Expenses attributable solely to unrelated business.* Expenses, depreciation and similar items attributable solely to the conduct of unrelated business are proximately and primarily related to that business and therefore qualify for deduction to the extent that they meet the requirements of section 162, section 167, or other relevant provisions of the Internal Revenue Code. Thus, for example, salaries of personnel employed full-time in carrying on unrelated business are directly connected with the conduct of the unrelated business and are deductible in computing unrelated business taxable income if they otherwise qualify for deduction under the requirements of section 162. Similarly, depreciation of a building used entirely in the conduct of unrelated business would be an allowable deduction to the extent otherwise permitted by section 167.

(c) *Dual use of facilities or personnel.* Where facilities or personnel are used both to carry on exempt functions and to conduct unrelated trade or business, expenses, depreciation, and similar items attributable to such facilities or personnel (as, for example, items of overhead) shall be allocated between the two uses on a reasonable basis. The portion of any such item so allocated to the unrelated trade or business is proximately and primarily related to that business, and shall be allowable as a deduction in computing unrelated business taxable income in the manner and to the extent permitted by section 162, section 167, or other relevant sections of the Internal Revenue Code. Thus, for example, assume that X, an exempt organization subject to the provisions of section 511, pays its president a salary of $20,000 a year. X derives gross income from the conduct of unrelated trade or business. The president devotes approximately 10 percent of his time during the year to the unrelated business. For purposes of computing X's unrelated business taxable income, a deduction of $2,000 ($20,000 times 10 percent) would be allowable for the salary paid to its president.

(d) *Exploitation of exempt functions*—(1) *In general.* In certain cases, gross income is derived from unrelated trade or business which exploits an exempt function. Except as specified in subparagraph (2) of this paragraph, in such cases expenses, depreciation and similar items attributable to the conduct of the exempt function are not deductible in computing unrelated business taxable income. Since such items are incident to a function of the type which it is the chief purpose of the organization to conduct, they do not possess proximate and primary relationship to the unrelated trade or business. Therefore, they do not qualify as directly connected with that business.

(2) *Allowable deductions.* Where unrelated trade or business is of a kind carried on for profit by taxable organizations and where the exempt activity exploited by the business is a type of activity normally conducted by taxable organizations in pursuance of such business, the expenses, depreciation and similar items which are attributable to the exempt activity qualify as directly connected with the carrying on of the unrelated trade or business to the extent that:

(i) The aggregate of such items exceeds the income (if any) derived from or attributable to the exempt activity; and

(ii) The allocation of such excess to the unrelated trade or business does not result in a loss from such unrelated trade or business.

Under the rule of the preceding sentence, expenses, depreciation and similar items paid or incurred in the performance of an exempt function must be allocated first to the exempt function to the extent of the income derived from or attributable to the performance of that function. Furthermore, such items are in no event allocable to the unrelated trade or business to the extent that their deduction would result in a loss carryover or carryback with respect to that trade or business. Similarly, they may not be taken into account in computing unrelated business taxable income attributable to unrelated trade or business not exploiting the same exempt function.

(e) *Examples.* The provisions of this section are illustrated by the following examples:

(3) *Examples.* The provisions of this paragraph are illustrated by the following examples:

Example (1). W is an exempt business league with a large membership. Under an arrangement with an advertising agency W regularly mails brochures, pamphlets and other commercial advertising materials to its members, charging the agency an agreed amount per enclosure. The distribution of the advertising materials does not contribute importantly to the accomplishment of the purpose for which W is granted exemption. Accordingly, the payments made to W by the advertising agency constitute gross income from unrelated trade or business. In computing W's unrelated business taxable income, the expenses attributable solely to the conduct of the business, or allocable to such business under the rule of paragraph (c) of this section; are allowable as deductions in accordance with the provisions of section 162. Such deductions include the costs of handling and mailing, the salaries of personnel used full-time in the unrelated business and an allocable portion of the salaries of personnel used both to carry on exempt functions and to conduct the unrelated business. However, costs of developing W's membership and carrying on its exempt activities are not deductible. Those costs are necessary to the maintenance of the intangible asset exploited in the unrelated business—W's membership—but are incurred primarily in connection with W's fundamental status and functioning as an exempt organization. As a consequence, they do not have proximate and primary relationship to the conduct of the unrelated business, and do not qualify as directly connected with it.

Example (2). Z, an exempt business league, publishes a monthly journal which it sells by subscription to members and others. The articles and other editorial content contribute importantly to the accomplishment of Z's exempt purposes. Therefore, the income attributable to journal subscriptions does not constitute gross income from unrelated trade or business. In connection with the publication of the journal, Z derives income from the regular sale of advertising space and services to commercial advertisers. Since the provision of commercial advertising space and services does not contribute importantly to the accomplishment of Z's exempt purposes, Z's income from advertising constitutes gross income from unrelated trade or business. In computing Z's unrelated business taxable income, allowable deductions would (subject to the rules provided in section 162 and other relevant sections of the Internal Revenue Code) include the specific costs of the advertising business, such as advertising copy and mechanical costs, advertising sales commissions and similar expenses. Also allowable would be items of deduction (such as general overhead expenses and depreciation) allocable to the advertising business in accordance with the rule of paragraph (c) of this section. In addition, since expenses, depreciation and similar items related to the production and distribution of the editorial content of the journal are costs generally incurred by taxable organizations publishing journals with advertising, such items would, subject to the limitations of subdivisions (i) and (ii) of paragraph (d)(2) of this section, be treated as directly connected with the conduct of the advertising business and be allowable as deductions in computing Z's unrelated business taxable income to the extent provided in section 162, section 167, and other relevant sections of the Internal Revenue Code. The limitation of subdivision (i) of paragraph (d)(2) of this section would require reduction of the total of the items of editorial cost by the amount of the income attributable to subscriptions before deduction of such cost from the advertising income. The general effect of these rules would be to result in taxation of the advertising income only if the journal produced an overall net profit for the year and to confine the base upon which any tax would be computed to the amount of such net profit. The limitation of subdivision (ii) of paragraph (d)(2) of this section would preclude deduction of the items of editorial cost from any other unrelated business income of Z for the same taxable year or use of such items in computing a net operating loss carryover or carryback of the organization.

(f) *Effective date.* This section is applicable with respect to taxable years beginning after December 13, 1967. However, if a taxpayer wishes to rely on the rules stated in this section for taxable years beginning before December 13, 1967, it may do so.

PAR. 5. Paragraph (f)(4) of § 1.51 (b)–1 is amended to read as follows:

§ 1.512(b)–1 Exceptions, additions, and limitations.

• • • • • •

(f) *Research.* • • •

(4) For the purpose of §§ 1.512(a)–1, 1.512(a)–2, and this section, the term "research" does not include activities of a type ordinarily carried on as an incident to commercial or industrial operations, for example, the ordinary testing or inspection of materials or products or the designing or construction of equipment, buildings, etc. The term "fundamental research" does not include research carried on for the primary purpose of commercial or industrial application.

• • • • • •

PAR. 6. Paragraph (d)(5)(v) of § 1.501 (c)(3)–1 is amended to read as follows:

§ 1.501(c)(3)–1 Organizations organized and operated for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals.

• • • • • •

(d) *Exempt purposes.* • • •

(5) *Scientific defined.* • • •

(v) The fact that any organization (including a college, university, or hospital) carries on research which is not in furtherance of an exempt purpose described in section 501(c)(3) will not preclude such organization from meeting the requirements of section 501(c)(3) so long as the organization meets the organizational test and is not operated for the primary purpose of carrying on such research (see paragraph (e) of this section, relating to organizations carrying on a trade or business). See paragraph (a)(5) of § 1.513–2, with respect to research which constitutes an unrelated trade or business, and section 512(b)(7), (8), and (9), with respect to income derived from research which is excludable from the tax on unrelated business income.

• • • • • •

(Sec. 7805, Internal Revenue Code of 1954; 68A Stat. 917; 26 U.S.C. 7805)

Approved: December 8, 1967.

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

[F.R. Doc. 67–14463; Filed, Dec. 11, 1967; 8:51 a.m.]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER B—PERSONNEL; MILITARY AND CIVILIAN

PART 52—SOLE SURVIVING SONS

The Secretary of Defense approved the following:

Sec.
52.1 Reissuance and purpose.
52.2 Applicability.
52.3 Definitions.
52.4 Policy.

AUTHORITY: The provisions of this Part 52 are issued under sec. 301, 80 Stat. 379; 5 U.S.C. 301.

§ 52.1 Reissuance and purpose.

This part reflects up-to-date policies concerning the assignment and discharge of sole surviving sons of families who have suffered casualties.

§ 52.2 Applicability.

The provisions of this part apply to the Military Departments.

§ 52.3 Definitions.

As used in this part, the following definitions will apply:

(a) "Sole surviving son" means the only remaining son in a family of which, because of hazards incident to service in the Armed Forces of the United States, the father, or one or more sons or daughters—

(1) Have been killed;

(2) Have died as a result of wounds, accident, or disease;

(3) Are in a captured or missing-in-action status; or

(4) Are permanently 100 percent physically disabled (to include 100 percent mental disability) as determined by the Veterans Administration or one of the military services, and are hospitalized on a continuing basis, and not gainfully employed by virtue of such disability.

(b) "Armed Forces of the United States" denotes collectively all components of the Army, Navy, Air Force, Marine Corps, and Coast Guard.

§ 52.4 Policy.

(a) *Assignments.* (1) A sole surviving son may not be assigned to duties normally involving actual combat with the enemy if he or one of his parents submits a request for noncombat duty. However, where the parent alone makes the request, it may be waived by the serviceman.

(2) This policy will not be interpreted to mean that sole surviving sons will not be assigned to overseas commands where combat conditions are nonexistent.

(b) *Discharges.* (1) Enlisted personnel who become sole surviving sons subsequent to their enlistment or induction may apply for and be granted an administrative discharge, except in instances:

(i) Arising during the period of a war or national emergency hereafter declared by the Congress; or

(ii) Where the individual qualifies as a sole surviving son on the basis of a captured or missing-in-action status of a father, brother, or sister (see § 52.3(a)(3)).

(2) Sole surviving sons who qualify for discharge on the basis of the 100 percent disability status of the father, or one or more sons or daughters in a family (see § 52.3(a)(4)) shall be required to complete at least 6 months of active duty prior to discharge in order to qualify for a veteran's exemption under the provisions of 50 App. U.S.C. 456(b)(3).

(3) Commissioned officers (including warrant officers) will not be released from active duty based on their qualifications as sole surviving sons.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Administration).

[F.R. Doc. 67–14390; Filed, Dec. 11, 1967; 8:45 a.m.]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 7—SPECIAL REGULATIONS RELATING TO PARKS AND MONUMENTS

Shenandoah National Park, Va.

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916, 245 DM–1 (27

F.R. 6395), National Park Service Order No. 34 (31 F.R. 4255), Regional Director, Southeast Region Order No. 4 (31 F.R. 8135), as amended, § 7.15 of Title 36 of the Code of Federal Regulations is amended as set forth below.

The purpose of this amendment is to revoke regulations concerning: State fishing licenses, speed, travel on roads and trails, report of accidents by wrecker operators, riding or hitching horses in areas of public gatherings, and quiet hours in campgrounds and picnic areas, which are no longer necessary because these matters are covered by regulations contained in Parts 2 and 4 of this chapter.

Since these amendments will not impose any additional restrictions on the public, and in some instances will remove existing restrictions, public comment thereon and a delayed effective date are deemed unnecessary and these amendments shall take effect upon publication in the FEDERAL REGISTER.

(5 U.S.C. 553, 80 Stat. 383; 16 U.S.C. 3)

Section 7.15 of Part 7 of Title 36 of the Code of Federal Regulations is hereby amended by revoking paragraph (a) (7), paragraphs (b), (c), (d), and (f), and paragraph (e) (2).

JACKSON E. PRICE,
Regional Director, Southeast Region, National Park Service.

NOVEMBER 13, 1967.

[F.R. Doc. 67-14586; Filed, Dec. 11, 1967; 8:45 a.m.]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER D—GRANTS

PART 53—GRANTS FOR CONSTRUCTION AND MODERNIZATION OF HOSPITALS AND MEDICAL FACILITIES

General Standards of Construction and Equipment

On page 8334 of the FEDERAL REGISTER of June 9, 1967, there was published a notice of proposed rule making to issue regulations incorporating by reference in Part 53 of Title 42 a rearranged, revised, and updated version of the standards of construction for hospitals and long-term care facilities and deleting the present Standards of construction and equipment for such facilities contained in Subpart N of Part 53. Interested persons were given 30 days in which to submit their views in writing regarding the proposed rulemaking and regarding any matters in the revised construction standards appended to the notice.

No comments were received on the proposed amendments to incorporate the construction standards by reference, and those amendments incorporating such standards by reference are hereby adopted without change and are set forth below.

Several comments were received within the allotted time dealing with various items in the standards hereby incorporated. After consideration of such comments, some revisions were made in the standards, principally concerning: (1) The provision of the elements for general hospital services which are to be purchased or shared by cooperative arrangements between a general hospital and other hospitals or medical facilities; (2) the fire-resistive characteristics of partitions in hospitals and long-term care facilities; (3) deletion of the standpipe system requirement for hospitals and long-term care facilities; (4) the percentage of beds in a nursing home which must be provided in one or two bedrooms; (5) deletion of the requirement for special isolation rooms in long-term care facilities.

Requests for copies of the "General Standards of Construction and Equipment for Hospital and Medical Facilities" (PHS No. 930-A-7) containing such revisions, as well as other editorial and minor technical changes, should be directed to the Division of Hospital and Medical Facilities, Public Health Service, Department of Health, Education, and Welfare, Wilkie Building, 7915 Eastern Avenue, Silver Spring, Md. 20910, or to the Public Health Service Information Center or Regional Office Information Center as listed in 45 CFR § 5.31 (32 F.R. 9316).

Effective date. These amendments to the regulations of Part 53 as set forth below shall be effective upon publication in the FEDERAL REGISTER.

1. Paragraph (a) of § 53.101 is revised to read as follows:

§ 53.101 General.

(a) Plans and specifications for each project submitted to the Surgeon General for approval, and in the case of rehabilitation facilities, the approval of the Secretary, under the Federal Act shall be prepared in accordance with "General Standards of Construction and Equipment for Hospital and Medical Facilities" (PHS No. 930-A-7), and any amendments or revisions thereof, which document is hereby incorporated by reference and deemed published herein. Said document will be provided to all applicants for construction grants under this part, and is available to any interested person, whether or not affected by the provisions of this part, upon request to the Division of Hospital and Medical Facilities,[1] Public Health Service, Department of Health, Education, and Welfare, or to the Public Health Service Information Center or Regional Office Information Center as listed in 45 CFR § 5.31 (32 F.R. 9316). The Surgeon General may approve, subject also in the case of rehabilitation facilities to the approval of the Secretary, plans and specifications which contain deviations from the requirements prescribed if he is satisfied that the purposes of such requirements have been fulfilled.

* * * * *

[1] The Division also maintains an official, historic file of PHS No. 930-A-7.

2. Paragraph (f) of § 53.1 is revised to read as follows:

§ 53.1 Definitions.

* * * * *

(f) *Facilities for long-term care.* * * *

(2) In which such nursing care and medical services are prescribed by, or are performed under the general direction of, persons licensed to practice medicine or surgery in the State. Institutions furnishing primarily domiciliary care are not included.

"Chronic disease hospitals" and "nursing homes" as used in the document "General Standards of Construction and Equipment for Hospital and Medical Facilities," incorporated by reference in § 53.101(a), constitute "facilities for long-term care."

* * * * *

3. Section 53.125 is revised to read as follows:

§ 53.125 Construction standards.

The State agency shall adopt general standards of construction and equipment for the various types of hospitals, facilities for long-term care, diagnostic or treatment centers, rehabilitation facilities, and public health centers assisted under this program. The standards adopted shall not be less than the general standards prescribed by the Public Health Service and set forth in the document "General Standards of Construction and Equipment for Hospital and Medical Facilities", as incorporated by reference in § 53.101(a).

4. Subpart N (Appendix A) of part 53, Chapter 1 of Title 42 of the Code of Federal Regulations is revoked.

(Sec. 215, 58 Stat. 690, as amended, sec. 603, 78 Stat. 451, as amended; 42 U.S.C. 216, 291c)

Approved: November 30, 1967.

[SEAL] WILLIAM H. STEWART,
Surgeon General.

WILLIAM H. STEWART,
Chairman,
Federal Hospital Council.

WILBUR J. COHEN,
Acting Secretary.

NOTE: Incorporation by reference provisions in § 53-101(a) approved by Director of the Federal Register on December 11, 1967.

[F.R. Doc. 67-14323; Filed, Dec. 11, 1967; 8:45 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4937]

[Idaho 017167]

IDAHO

Withdrawal for Research and Grazing Study Area

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described lands, which are under the jurisdiction of the Secretary of the Interior, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, and reserved for a research and grazing study area:

BOISE MERIDIAN

T. 13 S., R. 27 E.,
Sec. 1;
Sec. 2, E½E½;
Sec. 11, E½E½;
Secs. 12 and 13;
Sec. 14, E½E½;
Sec. 24.
T. 13 S., R. 28 E.,
Secs. 6 to 8, inclusive;
Sec. 9, W½ except that portion on the east side of Interstate Highway 80 north;
Secs. 17 to 19, inclusive;
Sec. 20, N½ and SW¼.

The areas described aggregate 7,857.08 acres in Cassia County.

2. The withdrawal made by this order does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or the disposal of their mineral or vegetative resources other than under the mining laws.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

DECEMBER 6, 1967.

[F.R. Doc. 67-14383; Filed, Dec. 11, 1967; 8:45 a.m.]

Title 45—PUBLIC WELFARE

Chapter XI—National Foundation on the Arts and the Humanities

PART 1105—STANDARDS OF CONDUCT OF EMPLOYEES

Part 1105 is added to Title 45 of the Code of Federal Regulations to read as follows. This material amends and supersedes that material published in 5 CFR, Chapter XIII, Part 2300.

Sec.
1105.735-1 Purpose.
1105.735-2 Scope.
1105.735-3 Definitions.
1105.735-4 Statutory provisions.
1105.735-5 Conflicts-of-Interest Counselor.
1105.735-6 Statements of employment and financial interest.
1105.735-7 Employee conduct.
1105.735-8 Presenting grievances to Congress.
Appendix—Related Statutory Provisions.

AUTHORITY: The provisions of this Part 1105 issued under Executive Order 11222 of May 8, 1965, 30 F.R. 6469, 3 CFR, 1965 Supp.; 5 CFR 735.104.

§ 1105.735-1 Purpose.

While confident of the integrity and sense of responsibility of the employees of the National Endowment for the Arts and the National Endowment for the Humanities, it is essential to the Government and to the conduct of the business of the National Endowment for the Arts and the National Endowment for the Humanities that unusually high standards of honesty, integrity, impartiality, and conduct be maintained by employees of the Endowments. In accordance with these concepts, this part sets forth policies and procedures of the Endowments with respect to employee conduct, certain permissible and prohibited outside activities, and possible conflicts-of-interest situations.

§ 1105.735-2 Scope.

The policies and procedures contained in this part apply to all employees of the Endowments, except that specific provision is made in § 1105.735-6-(b) for the filing of Statements of Employment and Financial Interests by special Government employees.

§ 1105.735-3 Definitions.

In this part:

(a) "Employee" means an officer or employee of the National Endowment for the Arts or the National Endowment for the Humanities, or a member of the shared staff of both Endowments. The term "employee" includes a "special Government employee" unless expressly qualified.

(b) "Shared staff" and "joint employees" mean employees performing services for both Endowments on a shared basis.

(c) "Endowment" means either the National Endowment for the Arts, or the National Endowment for the Humanities.

(d) "Foundation" means the National Foundation on the Arts and the Humanities.

(e) "Chairman" means the Chairman of the National Endowment for the Arts or the Chairman of the National Endowment for the Humanities.

(f) "Special Government employee" means a "special Government employee" as defined in section 202 of Title 18 of the United States Code who is employed by the National Endowment for the Arts or the National Endowment for the Humanities or by both Endowments jointly.

§ 1105.735-4 Statutory provisions.

Each employee is responsible for acquainting himself not only with the provisions of this part, but also with applicable portions of each Federal statute relating to his conduct as an employee of the National Endowment for the Arts or the National Endowment for the Humanities and of the U.S. Government. This part will be called to the attention of all employees by the Administrative Officer of the Foundation at least once a year and he will provide a copy of the part to each new employee who joins either the National Endowment for the Arts or the National Endowment for the Humanities or becomes a member of the shared staff. (A list of pertinent statutes is provided in the Appendix to this part.)

§ 1105.735-5 Conflicts-of-Interest Counselor.

(a) *Conflicts-of-Interest Counselor.* The General Counsel of the Foundation is designated the Conflicts-of-Interest Counselor, with responsibility for providing, on request from any employee, counsel regarding conflicts-of-interest regulations and requirements, as well as their applicability in particular situations. Each employee is responsible for seeking the advice of the Conflicts-of-Interest Counselor whenever it appears that he may be, or may become, involved in a possible conflicts-of-interest situation. Any supervisor may refer to the Conflicts-of-Interest Counselor any possible conflicts-of-interest situation involving a subordinate of his whenever he deems such action appropriate. In such cases, the subordinate concerned shall be informed that the matter has been referred for consideration and shall be afforded the opportunity to state his case. The General Counsel of the Foundation is responsible for reviewing conflicts-of-interest matters brought to his attention and for attempting to work with the employees concerned in resolving such situations, and for offering employees an opportunity to explain any conflict or appearance of conflict. Matters which cannot be satisfactorily resolved in this manner will be referred to the Chairman of the Endowment concerned, or, in the case of a shared staff member, to the Chairman of both Endowments, for decision and appropriate action. Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws, Executive orders, and regulations.

(b) *Disciplinary and other remedial actions.* When there is a final decision that a conflicts-of-interest situation requires disciplinary or other remedial action, such action shall be taken promptly to end the conflict or appearance of conflict of interest and to carry out any appropriate disciplinary measure. Any action taken, whether disciplinary or otherwise, shall be effected in accordance with applicable laws, Executive orders, Civil Service Commission regulations and the regulations in this part. The action taken may involve, among other things:

(1) Divestment by the employee of his conflicting interest;

(2) Changes in existing duties;

(3) Disqualification for a particular assignment;

(4) Appropriate disciplinary action, up to and including removal.

§ 1105.735-6 Statements of employment and financial interests.

(a) *Employees other than special Government employees.*—(1) *General requirement.* Statements of employment and financial interests are required of all Federal employees occupying positions at or above Grade 16 or the equivalent, as well as all employees occupying positions which either require the exercise of judgment in making a Government decision, or in taking Government action with regard to:

(i) Contracting or procurement;

(ii) Administering or monitoring grants or subsidies;

(iii) Regulating or auditing private or other non-Federal enterprises;

(iv) Other activities where the decision or action has an economic impact on the interest of a particular non-Federal enterprise; or

require the incumbent to report in order to avoid involvement in a possible conflicts-of-interest situation and carry out the purpose of law.

(2) *Requirements of the National Endowment for the Arts and the National Endowment for the Humanities.* In order to fulfill the Endowments' obligations under the general Government requirement described in subparagraph (1) of this paragraph, it has been determined that a Statement of Employment and Financial Interests must be completed and submitted in accordance with the procedures set forth in this section by employees occupying the following positions:

(i) National Endowment for the Arts:
(a) Deputy Chairman.
(b) Special Assistant to the Chairman.
(c) Special Assistant to the Deputy Chairman.
(d) Director of Intergovernmental and Congressional Relations.
(e) Director, Office of State and Community Operations.
(f) Directors of Programs.

(ii) National Endowment for the Humanities:
(a) Deputy Chairman.
(b) Special Assistant to the Chairman.
(c) Division Directors.
(d) Director of Planning and Analysis.
(e) Program Officers.
(f) Director, Office of Grants.

(iii) Shared Staff:
(a) General Counsel.
(b) Administrative Officer.

(3) *Inclusion and exclusion of positions.* (i) Whenever appropriate, the Chairman of an Endowment may amend subparagraph (2) of this paragraph to include additional positions in his Endowment that entail submission of such statements or may exclude any positions in his Endowment listed in subparagraph (2) of this paragraph the inclusion of which is not required by the general requirement in subparagraph (1) of this paragraph. Inclusion or elimination of shared positions will be accomplished by agreement of both Chairmen. Each supervisor is responsible for bringing to the attention of the appropriate Chairman (through the Deputy Chairman) any position which the supervisor believes should be covered or excluded by this requirement.

(ii) If an employee believes that his position has been improperly included among those for which a Statement of Employment and Financial Interests is required, he may bring this matter, via the Foundation's grievance procedures, to the attention of the appropriate Deputy Chairman or, in the case of shared staff, to the attention of both Deputy Chairmen. In the event that the recommendation is made that the position be included, the employee may appeal to the Chairman of the Endowment concerned, or, in the case of shared staff, to both Chairmen, whose ruling shall be final.

(iii) Although an employee's position may generally be included within the terms of subparagraph (1) of this paragraph, such position may be excluded from the reporting requirement when it is determined that:

(a) The duties of a position are such that the likelihood of the incumbent's involvement in a conflicts-of-interest situation is remote; or

(b) The duties of a position are at such a level of responsibility that the submission of a statement of employment and financial interests is not necessary because of the degree of supervision and review over the incumbent or the inconsequential effect on the integrity of the Government.

(4) *Submission of original and supplementary statements.* Each employee covered by this requirement shall complete the statement and submit it within 90 days after the effective date of this part. Each new employee shall complete and submit the statement within 30 days after his entrance on duty or within 90 days after the effective date of this part, whichever date is later. All changes in, or additions to, the information contained in each employee's original statement must be reported in a supplementary statement submitted by the employee as of June 30 each year. If no changes or additions occur a negative report is required. Not withstanding the filing of the annual report required by this subparagraph, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflicts of interest provisions of section 208 of title 18, U.S.C., or § 1105.735–7 of this part. The Administrative Office of the Foundation is responsible for informing each new, affected employee of the requirement for him to submit the statement within 30 days after his entrance on duty.

(5) *Interests of employees' relatives.* For purposes of the statement, the interests of a spouse, minor child, or any other member of an employee's immediate household who is a blood relation of the employee, are considered to be interests of the employee.

(6) *Information not known by employees.* If information required to be included on the statement of employment and financial interests (supplementary or otherwise, including holdings placed in trust) is not known by the employee but is known to another person, the employee shall request such other person to submit the information on his behalf.

(7) *Information not required.* Employees are not required to submit information relating to their financial interests in any professional society not conducted as a business enterprise as described in the next sentence, charitable, religious, social, fraternal, recreational, public service, civic, political, or similar organization not conducted as a business enterprise. Professional societies, educational institutions, and other nonprofit organizations engaged in research, development, or related activities involving grants of money from, or contracts with, the Government are deemed "business enterprises" and are required to be included in employees' statements of employment and financial interests.

(8) *Effect of employees' statements on other requirements.* The statements of employment and financial interests and supplementary statements required of employees are in addition to, and are not in substitution for, or in derogation of, any similar requirement imposed by law, regulation, or Executive order. The submission of the statement or supplementary statement by an employee does not permit him or any other person to participate in any matter in which his or the other person's participation is prohibited by law, regulation, or Executive order.

(9) *Confidentiality of employees' statements.* Each statement of employment and financial interest and each supplementary statement will be held in strictest confidence. The officials designated below to receive such statements will not allow access to, or information to be disclosed from, a statement except to carry out a purpose of this part. Information will not be disclosed from the statement except as the Civil Service Commission or the appropriate Chairman (or Chairmen, in the case of shared staff members) may authorize for good cause shown.

(10) *Review of statements.* (i) Each Deputy Chairman will submit his statement to the appropriate Endowment Chairman.

(ii) Employees of either Endowment shall submit their statements to the Deputy Chairman of that Endowment.

(iii) Joint employees shall submit their statements to both Deputy Chairmen.

(iv) When a statement submitted under subparagraph (2) or (3) of this paragraph indicates a conflict between the interests of an employee and the performance of his services for the Government and when the conflict or appearance of conflict cannot be resolved by the Deputy Chairman (or by both Deputy Chairmen in the case of joint employees), he shall report the information concerning the conflict or appearance of conflict to the Chairman through the General Counsel. In the case of joint employees, information concerning the conflict or appearance of conflict shall be reported to both Chairmen. The employee concerned shall be given an opportunity to explain the conflict or appearance of conflict before remedial action is initiated.

(b) *Special Government employees.* (1) Each special Government employee shall submit a statement of employment, and, unless otherwise directed, a statement of financial interests not later then the time of his employment. It is necessary that the special Government employee report all Federal and non-Federal employment, and, when a statement of financial interests is required, those financial interests which relate, either directly, or indirectly, to his Foundation responsibilities or duties.

(2) Each special Government employee must file a supplementary statement of employment and financial interests whenever a significant change occurs, either in his employment or financial interests, in order that his statement may be kept current.

(3) The provisions of paragraph (a) (5) through (9) of this section apply to special Government employees in the same manner as to other employees.

§ 1105.735–7 Employee conduct.

(a) *General.* (1) Each Endowment assumes that an employee will conduct himself in a manner that will not discredit or embarrass himself or the Endowment. However, it is pointed out that the violation of the regulations in this part, or any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct on the part of an employee (whether in official duty status or not), is cause for immediate disciplinary action, up to and including removal.

(2) Employees shall avoid any action, whether or not specifically prohibited, which might result in or create the appearance of:

(i) Using public office for private gain;

(ii) Giving preferential treatment to any person;

(iii) Impeding Government efficiency or economy;

(iv) Losing complete independence or impartiality;

(v) Making a Government decision outside official channels; or

(vi) Affecting adversely the confidence of the public in the integrity of the Government.

(b) *Indebtedness.* Employees are expected to meet their just financial obligations and not to take advantage of the fact that their wages are not subject to garnishment for private debts. Failure to meet just financial obligations in a proper and timely manner may result in disciplinary action, up to, and including, removal. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court, and "in a proper and timely manner" means in a manner which the agency determines does not, under the circumstances, reflect adversely on the Government as his employer. In the event of dispute between an employee and an alleged creditor, this section does not require the Endowment concerned to determine the validity or amount of the disputed debt.

(c) *Payment of taxes.* Employees are expected to meet their obligations for payment of taxes to Federal, State, and local authorities. Delinquency in payment of Federal, State, and local taxes is cause for disciplinary action, up to, and including, removal. Federal agencies are required to furnish State taxing authorities (including the District of Columbia) with a copy of Form W–2 indicating annual earnings and Federal income tax withheld. Employees are authorized to pay delinquent Federal taxes by payroll deduction: *Provided*, That they make satisfactory arrangements with the Internal Revenue Service to liquidate their tax liabilities in this manner. When such arrangements are not made, District Directors of Internal Revenue have the authority to levy upon the salaries of Federal employees for the full amount of delinquent Federal income tax.

(d) *Financial interests.* Any employee may hold financial interests and engage in financial transactions in the same way as any private citizen, provided that such interests or activities are not prohibited by law, Executive order, or the regulations in this part. In particular, no employee may have any direct or indirect financial interest that conflicts substantially or appears to conflict substantially with his duties and responsibilities as an Endowment employee. No employee shall carry out Endowment duties involving any organization in which he has a direct or indirect financial interest. No employee shall engage directly or indirectly in any financial transaction resulting from, or primarily relying on, information obtained through his employment, or use his employment to coerce, or give the appearance of coercing, a person, to provide financial benefit to himself or another.

(e) *Participation in Endowment grants by former Endowment employees.* In cases not directly coming under the prohibitions of 18 U.S.C. 207 (relating to activities of former Government officials), the following rules shall apply:

(1) In addition to the statutory bars against ever dealing with the U.S. Government in connection with a particular matter in which he participated personally and substantially while an employee, and against dealing with the Government for 1 year after leaving in connection with a matter under his official responsibility while in the Government, a former full-time employee of an Endowment may not negotiate with either Endowment, with a view to obtaining support for himself or his organization, within 1 year after having left the Endowment, except with the written permission of the Chairman of the Endowment in which he had been employed.

(2) A former full-time employee of an Endowment may not be compensated from an Endowment grant directly or indirectly within 1 year of his leaving the Endowment, except with the written permission of the Chairman of the Endowment in which he had been employed.

(3) In the case of joint employees, the written permission referred to in subparagraphs (1) and (2) of this paragraph must be given by both Chairmen.

(f) *Gifts, entertainment, and favors.* Employees may not solicit, or accept directly or indirectly from any person, institution, corporation, or group, anything of economic value as a gift, gratuity, favor, entertainment, or loan, which might be reasonably interpreted by others as being of such a nature that it would affect his impartiality. This is especially applicable in those instances where the employee has reason to believe that the person, institution, corporation, or group:

(1) Has, is seeking, or is likely to seek, assistance, support, or funds from an Endowment; or

(2) Conducts operations or activities which are involved with, or are supported by, an Endowment; or

(3) Has interests which might be substantially affected by the employee's performance or nonperformance of duties; or

(4) May be attempting to affect the employee's official actions.

(i) An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(ii) Employees are not permitted to accept a gift, or decoration, or other objects from a foreign government unless authorized by Congress as provided by the Constitution and in 5 U.S.C. 7342.

(iii) Employees may accept promotional material of nominal intrinsic value such as pens, pencils, note pads, calendars, etc. Employees may, on infrequent occasions, accept items of nominal value such as food in the ordinary course of a luncheon or dinner meeting, site visit, or professional conference, when the employee is properly in attendance.

(iv) Neither this paragraph nor paragraph (g) of this section precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this part for which no Government payment or reimbursement is made. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his behalf, for excessive personal living expenses, gifts, entertainment or other personal benefits, nor does it allow an employee to be reimbursed by a person for travel on official business under agency orders when reimbursement is proscribed by Decision B–138527 of the Comptroller General dated March 7, 1967.

(g) *Outside employment and other activity.* (1) Full-time employees shall not engage in any outside employment or other outside activity not compatible with the full and proper discharge of their duties and responsibilities. Incompatible activities include, but are not limited to, acceptance of anything of monetary value which may result in or create the appearance of a conflict of interest.

(2) Full-time employees shall not engage in outside employment which tends to impair their health or capacity to discharge acceptably their duties and responsibilities.

(3) Full-time employees shall not receive anything of monetary value from a private source as compensation for their activities as Endowment employees.

(4) Employees shall not engage in teaching, lecturing, or writing which is dependent on official information obtained as a result of Government employment, except when the information has been, or is being made available to the general public, or will be made available to the public on request, or when the Chairman or Deputy Chairman of the Endowment concerned gives written authorization for the use of nonpublic information on the basis that the use is in the public interest. However, employees are encouraged to engage in teaching, lecturing, and writing not prohibited by the regulations in this part, by law, or by Executive order.

(5) Employees shall not receive anything of monetary value for any consulting, lecturing, discussion, writing, or presentation, the subject of which is devoted to the responsibilities, programs, or operations of an Endowment, or which draws on official data or ideas which have not become part of the body of public information.

(6) Employees shall not serve as organizers or directors of conferences, colloquia or similar events supported by grant or contract from an Endowment, but may otherwise participate in such events provided they do not receive any compensation or economic benefit for such participation.

(7) Employees may, however, participate in the affairs of, and accept an award for meritorious public contribution or achievement given by a charitable, religious, fraternal, educational, recreational, public service, or civic organization.

(h) *Advice or assistance to nonprofit or commercial organizations.* The conditions under which full-time employees may offer assistance or advice to nonprofit or commercial organizations are set forth in this paragraph (h). Although these conditions are stated as general rules, illustrative applications to specific situations are set forth as an aid to interpretation:

(1) *General rules.* While not on official duty, an employee may provide advice or assistance and receive compensation therefor, to either nonprofit or commercial organizations: *Provided,* That such services are unrelated to his Government activities and do not draw upon information deriving from Government sources not publicly available.

(2) *Specific examples.* (i) *Visiting committees.* Employees should not participate in the deliberations of a college or university visiting committee; however, an employee may meet with such groups as an Endowment official where it would be appropriate to attend a similar meeting with any other comparable group requesting his assistance.

(ii) *Participation in non-Federal institutions.* Employees may not participate in any way in the policy making or administration of a non-Federal institution which receives, or is eligible to receive, funds from a Federal agency.

(iii) *Membership and office holding in professional societies.* An employee may be a member of a professional society but may not serve as an officer except where the society has not received any support from an Endowment during the preceding three years and the employee has no reason to expect it to seek support during the tenure of his office. If the society later requests support from an Endowment, the employee should resign his office in the society or request permission to remain in such office.

(i) *Misuse of information.* For the purpose of furthering a private interest, employees shall not (except as provided in paragraph (g) (4) of this section) directly or indirectly use, or allow the use of, official information obtained through, or in connection with, his Government employment which has not been made available to the general public.

(j) *Compensation from Endowment-awarded funds.* No full-time employee may receive any compensation, either directly or indirectly, from funds awarded to contractors or grantees by either Endowment.

(k) *Use of Federal property.* No employee may use Federal property or facilities of any kind for other than officially approved activities. Every employee has the responsibility to protect and conserve all Federal property which has been entrusted to him.

(l) *Exercise of notary powers.* Employees who are notaries public may not charge or receive any compensation for performing any notarial act during working hours, including the luncheon period.

(m) *Political activity.* Restrictions in this section are applicable to employees on leave, leave without pay, or furlough, as well as to other regular employees. Individuals whose employment is on an intermittent basis (not occupying a substantial portion of their time) are subject to the political activities restrictions only while they are in an active duty status. The period of active duty status for a particular employee includes the entire 24-hour period of any day of actual employment. The "Federal Personnel Manual" may be consulted in the Foundation Administrative Office. If an employee is in doubt about permissible activities, he should contact the Administrative Office for clarification.

(1) Employees may not use their official positions or influence for the purpose of interfering with an election and they may not take an active part in political management or in political campaigns, except as provided in subparagraphs (4) and (5) of this paragraph.

(2) No employee may discriminate against another employee because of his political opinions or affiliations.

(3) An employee may not become a candidate for nomination or election to a Federal, State, county, or municipal office on a partisan political ticket. Nor may an employee become a candidate as an independent when opposed by a partisan political candidate, except as provided in subparagraph (4) of this paragraph.

(4) Certain political subdivisions in the vicinity of Washington, D.C., as well as other municipalities, designated by the Civil Service Commission, have been granted a limited exception to the rules prohibiting political management or candidacy for local office. In such municipalities, employees may become candidates as independents, even when opposed by partisan political candidates.

(5) In general, employees are encouraged to be candidates for, and to hold, State, county, or municipal offices of a nonpartisan nature when permitted by law. Employees desiring to be candidates for, or to hold, a State or local office or to undertake the political management of a candidacy for such office, must secure the approval of the appropriate Endowment Chairman or, in the case of members of the shared staff, of both Chairmen.

(6) Full-time employees, with the prior consent of the Chairman concerned, or of both Chairmen, in the case of members of the shared staff, may hold positions under a State or local government on a part-time basis only. Intermittent employees may hold full-time or part-time State or local government positions. In both cases, the above restrictions on political activity must be observed.

(n) An employee shall not participate, while on Government-owned or leased property or while on duty for the Government, in any gambling activity, such as a lottery or the sale or purchase of numbers, etc.

§ 1105.735–8 Presenting grievances to Congress.

Nothing in this part shall be construed as abridging in any way the right of employees, either individually or collectively, to petition Congress, or any Member thereof, or to furnish information, when appropriate, to either House of Congress, or to any committee or member thereof.

These amendments were approved by the Civil Service Commission on November 9, 1967, and are effective upon publication in the FEDERAL REGISTER.

Dated: December 2, 1967.

ROGER L. STEVENS,
Chairman, National Endowment for the Arts.

Dated: December 4, 1967.

BARNABY C. KEENEY,
Chairman, National Endowment for the Humanities.

APPENDIX—RELATED STATUTORY PROVISIONS

The following is a list of statutes related to the conduct of Government employees and consultants. Upon request, pertinent excerpts of these statutes will be made available by the Administrative Office of the Foundation.

1. House Concurrent Resolution 175, 85th Congress, 2d session, 72 Stat. B12, the "Code of Ethics for Government Service."

2. Chapter 11 of title 18, United States Code, relating to bribery, graft, and conflicts of interest, as appropriate to the employees concerned.

3. The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

4. The prohibitions against disloyalty and striking (5 U.S.C. 7311; 18 U.S.C. 1918).

5. The prohibition against the employment of a member of a Communist organization (50 U.S.C. 784).

6. The prohibitions against (1) the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783); and (2) the disclosure of confidential information (18 U.S.C. 1905).

7. The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

8. The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a.(c)).

9. The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).

10. The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

12. The prohibition against mutilating or statements in a Government matter (18 U.S.C. 1001).

12. The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

13. The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

14. The prohibitions against (1) embezzlement of Government money or property (18 U.S.C. 641); (2) failing to account for public money (18 U.S.C. 643); and (3) embezzlement of the money or property of another person in the possession of an employee by reason of his employment (18 U.S.C. 654).

15. The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

16. The prohibition against proscribed political activities in Subchapter III of Chapter 73 of Title 5, United States Code and 18 U.S.C. 602, 603, 607, and 608.

17. The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

[F.R. Doc. 67-14411; Filed, Dec. 11, 1967; 8:48 a.m.]

Title 46—SHIPPING

Chapter IV—Federal Maritime Commission

SUBCHAPTER B—REGULATIONS AFFECTING MARITIME CARRIERS AND RELATED ACTIVITIES

[General Order 8, Part I; Docket No. 65–14]

PART 526—FREE TIME AND DEMURRAGE CHARGES ON IMPORT PROPERTY APPLICABLE TO ALL COMMON CARRIERS BY WATER

Miscellaneous Amendments

By orders served upon respondents and published in the FEDERAL REGISTER, the Federal Maritime Commission instituted its Docket No. 65–14, In the Matter of Free Time and Demurrage Practices on Inbound Cargo at New York Harbor. The purpose of the proceeding was to investigate such practices to determine the extent to which they are in compliance with section 17 of the Shipping Act, 1916, which requires the establishment, observance and enforcement of "just and reasonable practices and regulations relating to or connected with the receiving, handling, storing, or delivering of property", and General Order 8, Part I, which was promulgated by our predecessor agency in compliance with the requirement of section 17 requiring determination, prescription, order and enforcement of a just and reasonable regulation or practice whenever "any such regulation or practice is unreasonable." The orders also placed in issue the question of the need for amendment to present General Order 8, Part I.

Hearings were held before an Examiner pursuant to which briefs were filed and an Initial Decision issued. Exceptions and replies to this Initial Decision were considered and oral argument was held before and supplemental papers filed with the Commission. Following this procedure the Commission on December 7, 1967, served its report and order in Docket 65–14, finding that certain amendments were required in General Order 8, Part I, in order that just and reasonable practices be established and maintained in the future, prescribed such practices and required that notice of the amendments by published in the FEDERAL REGISTER.

Therefore, for the reasons set forth in the report in Docket No. 65–14, supra, and pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553) and its authority under sections 17 and 43 of the Shipping Act, 1916 (46 U.S.C. 816 and 841(a)), Part 526 of Chapter IV of Title 46 CFR is hereby amended as follows:

1. Section 526.1(c) is amended by adding a new sentence at the end thereof.

2. Section 526.1(d) is amended by inserting the words "longshoremen's strikes" before the words "trucking strikes" and inserting the clause "and when a consignee is prevented from removing his cargo by a longshoremen's strike which affects only one pier or less than a substantial portion of the port area", before the words "carriers shall".

3. A new section 526.1(f) is added reading as follows:

§ 526.1 Free time and demurrage charges at the Port of New York.

* * * * *

(c) Where a carrier is for any reason unable, or refuses, to tender cargo for delivery, free time must be extended for a period equal to the duration of the carrier's disability or refusal. If such condition arises after the expiration of free time, an additional period during which no demurrage is charged or first period demurrage shall be applicable, whichever is specified in the appropriate tariff.

(d) Where a consignee is prevented from removing his cargo by factors beyond his control (such as, but not limited to, longshoremen's strikes, trucking strikes, or weather conditions) which affect an entire port area or a substantial portion thereof, and when a consignee is prevented from removing his cargo by a longshoremen's strike which affects only one pier or less than a substantial portion of the port area, carriers shall (after expiration of free time) assess demurrage against imports at the rate applicable to the first demurrage period, for such time as the inability to remove the cargo may continue. Every departure from the regular demurrage charges shall be reported to the Commission.

* * * * *

(f) Following a longshoremen's strike of 5 days or more, free time or first period demurrage, depending upon the position of the cargo at the commencement of the strike, shall be extended for a period not less than 5 days (exclusive of Saturdays, Sundays and legal holidays) and 5 calendar days, respectively, beyond the time at which they would normally terminate: *Provided, however,* That such extensions shall apply only if cargo is actually picked up within such extended time or, if an appointment system acceptable to both carriers and consignees is adopted, within 24 hours of advance notification that cargo is available for pickup and readily accessible, subject to the requirement that time not be extended more than 24 hours beyond the additional free time or demurrage period.

Effective date. These amendments shall become effective February 15, 1968.

By the Commission.

[SEAL] THOMAS LISI,
Secretary.

[F.R. Doc. 67-14420; Filed, Dec. 11, 1967; 8:48 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Chautauqua National Wildlife Refuge, Ill.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

ILLINOIS

CHAUTAUQUA NATIONAL WILDLIFE REFUGE

Sport fishing on the Chautauqua National Wildlife Refuge, Havana, Ill., is permitted only on the areas designated by signs as open to fishing. These open areas comprising 3,800 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn. 55408. Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

(1) The open season for sport fishing on the refuge extends from sunrise to sunset each day during the following periods: from January 1, 1968, through March 14, 1968, in designated waters of Lake Chautauqua; from March 15, 1968, through September 30, 1968, in all waters of Lake Chautauqua; from October 1, 1968, through December 31, 1968, in designated waters of Lake Chautauqua; and from January 1, 1968, through December 31, 1968, in designated waters of Liverpool Lake and the refuge borrow ditches.

(2) The use of boats, powered by motors of six (6) horsepower or less, is permitted in the waters of Lake Chautauqua.

(3) No person shall enter upon or fish from any dike, water control structure or shoreline within the refuge except at the Recreation Area and Boatyard No. 3.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33, and are effective through December 31, 1968.

RICHARD E. TOLTZMANN,
Refuge Manager, Chautauqua National Wildlife Refuge, Havana, Ill.

DECEMBER 1, 1967.

[F.R. Doc. 67-14381; Filed, Dec. 11, 1967; 8:45 a.m.]

PART 33—SPORT FISHING

Bombay Hook National Wildlife Refuge, Del.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

DELAWARE

BOMBAY HOOK NATIONAL WILDLIFE REFUGE

Sport fishing on the Bombay Hook National Wildlife Refuge, Smyrna, Del., is permitted in tidal waters. These open areas are delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109. Sport fishing shall be in accordance with all applicable State regulations subject to the following special condition:

(1) Fishing from boats only is permitted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1968.

RICHARD E. GRIFFITH,
Regional Director, Bureau of Sport Fisheries and Wildlife.

NOVEMBER 30, 1967.

[F.R. Doc. 67-14423; Filed, Dec. 11, 1967; 8:49 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 812]

HAWAII AND PUERTO RICO

Sugar Requirements and Quotas for Local Consumption for Calendar Year 1968

Notice is hereby given that the Secretary of Agriculture, pursuant to authority vested in him by the Sugar Act of 1948, as amended (61 Stat. 922, as amended), is considering the determination of sugar requirements and the establishment of quotas for local consumption in Hawaii and Puerto Rico for the calendar year 1968.

In accordance with the rule making requirements in 5 U.S.C. 553, all persons who desire to submit written data, views, or arguments for consideration in connection with the proposed regulation may file the same in duplicate with the Director, Sugar Policy Staff, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, on or before December 15, 1967. All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

The proposed determination of sugar requirements and quotas for Hawaii and Puerto Rico for the calendar year 1968, set forth in form and language appropriate for issuance if adopted by the Secretary, is as follows:

Basis and purpose. The purpose of Sugar Regulation 812 is to determine pursuant to sections 201 and 203 of the Sugar Act of 1948, as amended (hereinafter referred to as the "Act"), the amount of sugar needed to meet the requirements of consumers in Hawaii and in Puerto Rico and to establish quotas for local consumption in such areas for the calendar year 1968. To the extent required by section 201 of the Act, this regulation establishes sugar requirements based on official estimates of the Department of Agriculture and on statistics published by other agencies of the government.

Since the Act provides that the Secretary of Agriculture determine sugar requirements for local consumption in Hawaii and in Puerto Rico and establish local consumption quotas to be effective on January 1, 1968, it is found to be impracticable and not in the public interest to comply with the 30-day effective date requirements in 5 U.S.C. 553(d) (80 Stat. 378), and these regulations shall be effective January 1, 1968.

Sec.
812.1 Sugar requirements and quota; Hawaii.
812.2 Sugar requirements and quota; Puerto Rico.
812.3 Restrictions on marketing.

§ 812.1 Sugar requirements and quota; Hawaii.

It is hereby determined, pursuant to section 203 of the Act, that the amount of sugar needed to meet the requirements of consumers in Hawaii for the calendar year 1968 is 55,000 short tons, raw value, and a quota of 55,000 short tons, raw value, is hereby established for Hawaii for local consumption for the calendar year 1968.

§ 812.2 Sugar requirements and quota; Puerto Rico.

It is hereby determined, pursuant to section 203 of the Act, that the amount of sugar needed to meet the requirements of consumers in Puerto Rico for the calendar year 1968 is 130,000 short tons, raw value, and a quota of 130,000 short tons, raw value, is hereby established for Puerto Rico for local consumption for the calendar year 1968.

§ 812.3 Restrictions on marketing.

Pursuant to section 209 of the Act, for the calendar year 1968 all persons are hereby prohibited from marketing, pursuant to Part 816 of this chapter (23 F.R. 1943, 27 F.R. 1450, and 32 F.R. 3045), in Hawaii or in Puerto Rico, for consumption therein, any sugar or liquid sugar after the quota for the area for the calendar year 1968 has been filled. Pursuant to section 211(c) of the Act, the quota for each area may be filled only with sugar produced from sugarcane grown in the respective area.

Statement of bases and considerations. Pursuant to section 203 of the Act, the provisions of section 201 of the Act deemed applicable to the determination of the amounts of sugar needed to meet the requirements of consumers in Hawaii and in Puerto Rico relate to (1) the quantities of sugar distributed for local consumption in Hawaii and in Puerto Rico during the 12-month period ended September 30, 1966, (2) deficiencies or surpluses in inventories of sugar, and (3) changes in consumption because of changes in population and demand conditions.

The quantities of sugar distributed for consumption in Hawaii and in Puerto Rico, including that which was lost in refining after charge to the local quotas, during such 12-month period are estimated to have been approximately 48,000 short tons of sugar, raw value, and 123,000 short tons of sugar, raw value, respectively.

The provisional estimate by the Bureau of Census of the total population for Hawaii as of July 1, 1967, is 739,000 and for Puerto Rico is 2,697,000. This represents a normal increase in population for Hawaii and Puerto Rico over 1966.

In Hawaii industrial use accounts for a substantial portion of the total consumption of sugar and this demand is a significant factor in the total sugar requirements. During the period 1960 through 1966 sugar consumption in this area has varied from 118 to 138 pounds, raw value, per person. These wide year-to-year variations suggest the possibility that requirements could be higher in 1968 than in the 12 months ended September 30, 1967, when sugar marketings approximated 48,000 short tons, raw value.

In Puerto Rico during the 12 months ended September 30, 1967, marketings of sugar for local consumption totaled approximately 123,000 short tons, raw value. After making allowance for possible consumption increases in 1968 resulting from probable population increases, the total sugar needed to meet requirements for local consumption in Puerto Rico in 1968 may be approximately 130,000 short tons, raw value.

Circumstances prevailing in the utilization of quota for local consumption in Hawaii and Puerto Rico are such that no special problems arise nor are the objectives of the Act jeopardized if the 1968 local quota is not completely filled. It is therefore, desirable to establish the 1968 requirements and quotas sufficiently high initially so that later adjustments may be avoided.

In accordance with the above, the requirements for local consumption in Hawaii and Puerto Rico for 1968 have been determined to be 55,000 and 130,000 short tons, raw value, respectively.

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153, secs. 201, 203, 209, 211; 61 Stat. 923, as amended, 925, 926; 7 U.S.C. 1111, 1113, 1119, 1121)

Signed at Washington, D.C., this 8th day of December 1967.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 67-14494; Filed, Dec. 11, 1967; 9:27 a.m.]

[7 CFR Part 817]

CONTINENTAL UNITED STATES

Importation of Sugar-Containing Products or Mixtures

Notice is hereby given that the Secretary of Agriculture pursuant to authority vested in him by the Sugar Act of 1948, as amended (61 Stat. 922, as amended), hereinafter referred to as the Act is considering amendment of Sugar Regulation 817 (32 F.R. 14363) in the manner hereinafter set forth.

All persons who desire to submit written data, views or arguments for consideration in connection with the proposed regulation may file with or mail the same in duplicate to the Director, Sugar Policy Staff, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, to be delivered or postmarked not later than 10 days after this notice is published in the FEDERAL REGISTER.

In view of the limited time remaining in the year and the desirability of issuing and publishing this amendment in final form as early as possible before January 1, 1968, when it should be in effect, it is hereby found and determined that the time permitted to submit data, views, and arguments is reasonable.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

The proposed amendment is set forth essentially in form and language appropriate for issuance if adopted by the Secretary as follows:

Basis and purpose and bases and considerations. The purpose of this amendment is to provide for quantitative import limitations pursuant to section 206 of the Act for the calendar year 1968 and each subsequent calendar year on sugar-containing products or mixtures that contain flour or butterfat or both, if the flour or butterfat content, singly or combined, constitute the principal solid ingredients other than sugar, and the butterfat content is not more than 5.5 percent by weight.

Presidential Proclamation 3790 (32 F.R. 9663), issued pursuant to section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624), established import limitations on articles containing over 5.5 percent by weight of butterfat. Accordingly, the limitations established herein with respect to sugar-containing products or mixtures that contain butterfat apply if the butterfat content is 5.5 percent or less by weight.

Section 206 of the Act provides in substance as follows. If the Secretary determines that the prospective importation or bringing into the continental United States, Hawaii, or Puerto Rico of any sugar-containing product or mixture will substantially interfere with the attainment of the objectives of the Act, he may limit the quantity of such product or mixture to be brought or imported from any country or area to an annual quantity not less than the average imports of such product or mixture from any such country or area during the most recent three consecutive years for which reliable data are available. In the event there are no reliable data available of the importation or bringing in of any sugar-containing product or mixture for 2 consecutive years, the Secretary may limit the quantity of such product or mixture to be imported or brought in annually from any country or area to not less than a quantity containing 100 short tons, raw value, of sugar or liquid sugar. In determining whether the actual or prospective importation of a sugar-containing product or mixture will or will not substantially interfere with attainment of the objectives of the Act, the Secretary shall take into consideration the criteria specified in section 206 of the Act, and such determination shall be made in conformance with the rule-making requirements of 5 U.S.C. 553.

There are no reliable data available indicating that any sugar-containing products or mixtures containing butterfat and/or flour and sugar in the proportions covered by this regulation are currently being imported. Such products have not customarily moved in international trade nor have they been manufactured or generally used in the United States. However, as the absence in Proclamation 3790 of limitations on imports of articles containing 5.5 or less percent of butterfat would permit the importation of sugar-containing products that contain 5.5 or less percent of butterfat, and in view of inquiries received by the Department regarding prospective importation of mixtures of sugar and butterfat or flour, it appears that the import limitations, as provided herein, are warranted.

Most countries exempt sugar used in products for export from any requirements of their own sugar program. Accordingly, the sugar utilized in producing these products generally would be world market sugar i.e., sugar without a protected or preferential market which most developed countries have for the protection of domestic sugar producers. The price of world market sugar is quite volatile and at times below the cost of production. World market sugar prices during 1965, 1966, and 1967 have been at unusually low levels.

The lower price of world market sugar in relation to the price of sugar imported from foreign countries within the quota system embodied in the Sugar Act, could have a marked influence on the potential imports of these mixtures. Indications are that in the absence of limitations on the importation of such sugar-containing mixtures or products, such mixtures would be produced in some foreign countries solely for the purpose of export to this country.

It is evident that any displacement of quota sugar by the quota free importation of low priced world sugar in such sugar-containing products or mixtures would affect the level of sugar requirements and accordingly could reduce the quotas for foreign countries and some domestic areas. These mixtures would be imported for commercial use generally by ice cream manufacturers and bakeries and would replace quota sugar. The prospective importation of such mixtures are of such magnitude as to constitute direct and serious competition with quota sugar.

It is determined that to permit the importation of unlimited quantities of sugar in products consisting of ingredients other than sugar, principally of butterfat and/or flour in the proportions covered by this regulation would substantially interfere with the attainment of the objectives of the Sugar Act of 1948, as amended.

The determination to place limitations on the imports of these mixtures is based upon the total sugar content of the mixtures in relation to other ingredients, the cost of sugar in the mixtures in relation to the cost of sugar in the United States, the prospective volume of importations, the fact that such mixtures or products would not be marketed to the ultimate consumer in the identical form in which imported, and that such mixtures or products would be subject to further processing or mixing with similar or other ingredients.

There are no reliable data available of importations for three consecutive years of sugar products or mixtures which contain solid ingredients consisting principally other than sugar of flour or 5.5 percent or less by weight of butterfat or both. Therefore, the total quantity of all sugar-containing products or mixtures which may be imported from each country during the year 1968 and each calendar year thereafter is limited to 100 short tons, raw value, of sugar content (dry basea) the equivalent of 187,000 pounds of refined sugar.

Pursuant to the provisions of section 403 of the Act (61 Stat. 932) paragraph (d) of § 817.10 of Part 817, Chapter VIII, Title 7, is amended to read as follows:

§ 817.10 Sugar containing products and mixtures.

* * * * *

(d) It is hereby determined that prospective importations into the continental United States, Hawaii, and Puerto Rico of the following described sugar-containing products or mixtures will substantially interfere with the attainment of the objectives of the Act and shall be subject to the import limitations provided in this paragraph: Products or mixtures which (1) contain more than 25 percent sugar expressed as a percent of the total weight of solids (excluding moisture and volatile matter); (2) contain flour or butterfat or both, provided (i) such ingredients, singly or combined, constitute the principal solid ingredients other than sugar, and (ii) the butterfat content is not more than 5.5 percent by weight; and (3) either are to be further subjected to processing or mixing with similar, or other ingredients, or are not to be marketed to the ultimate consumer in the identical form and package in which imported. The total quantity of all such products or mixtures which may be imported from each country during the calendar year 1968 and each subsequent calendar year shall be limited to 100 short tons, raw value, of sugar content (dry basis), the equivalent of 187,000 pounds of refined sugar. None of the described products or mixtures, subject to the import limitation imposed by this paragraph shall be imported except pursuant to the procedural requirements contained in paragraph (c) of this section. All persons should take notice that the total quantity of products or mixtures containing more than 5.5 percent by weight of butterfat which may be imported from a foreign country is subject to the quantity import limitations on butterfat containing products imposed by Presidential Proclamations issued pursuant to section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624). It is for this reason that sugar-containing products containing butterfat of more than 5.5 percent by weight are not dealt with in the regulation.

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153; sec. 206; 61 Stat. 927, as amended, 7 U.S.C. 116)

Signed in Washington, D.C., this 8th day of December 1967.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 67-14405; Filed, Dec. 11, 1967; 8:27 a.m.]

Consumer and Marketing Service

[7 CFR Part 948]

[Area 1]

IRISH POTATOES GROWN IN COLORADO

Notice of Proposed Changes Regarding Fiscal Period and Expenses and Rate of Assessment

Notice is hereby given of a proposal to change the fiscal period for Area No. 1 which began June 1, 1967, to extend it through June 30, 1968, and to change subsequent fiscal periods to begin July 1 each year and to end June 30, inclusive, of the following year. Also, it is proposed to make the current budget of expenses and rate of assessment applicable to the intial 13-month fiscal period. No changes in either the assessment rate or the approved expenses (7 CFR 948.256) will be necessary to cover the 13-month fiscal period.

The proposed changes were recommended by the Area Committee for Area No. 1 (Western Slope) established under Marketing Agreement No. 97, as amended, and Order No. 948, as amended (7 CFR Part 948), pursuant to which this regulatory program is effective.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 30th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposals are:

A. For Area No. 1, the fiscal period for 1967-68 which began June 1, 1967, is amended to end June 30, 1968, both dates inclusive.

B. Change the ending date of the fiscal period appearing in § 948.256 (a) to read "June 30, 1968".

C. Amend § 948.103 to read as follows:

§ 948.103 Fiscal period.

(a) The fiscal periods for Area No. 2 shall begin June 1 of each year and end May 31 of the following year, both dates inclusive.

(b) The fiscal periods for Area No. 1 and Area No. 2 shall begin July 1 and end June 30 of the following year, both dates inclusive.

Dated: December 6, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-14407; Filed, Dec. 11, 1967; 8:47 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 46]

[Docket No. FDC-76]

PEANUT BUTTER

Definitions and Standards of Identity; Proposed Findings of Fact and Tentative Order

Correction

In F.R. Doc. 67-14222 appearing at page 17482 of the issue for Wednesday, December 6, 1967, the following corrections should be made:

1. In paragraph 16 the 10th line is corrected to read "of the finished peanut butter and malt-".

2. In paragraph 16 the word "that" in the 16th line is corrected to read "than".

3. In paragraph 37 the word "monstearate" in the 16th line is corrected to read "monostearate".

[21 CFR Part 130]

NEW DRUGS EXEMPTED FOR INVESTIGATIONAL USE IN HUMAN BEINGS

Notice of Proposed Rule Making

In view of the requirements in the regulations dealing with investigators and the authority to declare them ineligible to receive investigational-use drugs, it is desirable to have a hearing procedure whereby the investigator has an opportunity to present information in explanation of charges of failing to abide by commitments or of submitting false data in reports to sponsors. It is also desirable for similar procedures to be available to sponsors in connection with the termination of their exemptions to ship new drugs for investigational use. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 505(i), 701(a), 52 Stat. 1053, as amended, 1055; 21 U.S.C. 355(i), 371(a)) and under the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (21 CFR 2.120), it is proposed that § 130.3 be amended by revising paragraph (c) and the closing text of paragraph (d) following subparagraph (11) to read as follows:

§ 130.3 New drugs for investigational use in human beings; exemptions from section 505(a).

* * * * *

(c) (1) Whenever the Food and Drug Administration has information indicating that an investigator has repeatedly or deliberately failed to comply with the conditions of these exempting regulations outlined in Form FD-1572 or FD-1573 (set forth in paragraph (a) (12) and (13) of this section), or has submitted to the sponsor of the investigation false information in his Form FD-1572 or FD-1573 or in any required report, the Director of the Bureau of Medicine will furnish the investigator written notice of the matter complained of in general terms and offer him an opportunity to explain the matter in an informal conference. If an explanation is offered but not accepted by the Bureau of Medicine, the Commissioner will provide the investigator an opportunity for an informal hearing on the question of whether the investigator is entitled to receive investigational-use drugs, if the hearing is requested within 10 days after notification that the explanation is not acceptable.

(2) After evaluating all available information, including any explanation and assurance presented by the investigator, if the Commissioner determines that the investigator has repeatedly or deliberately failed to comply with the conditions of the exempting regulations in this section or has submitted false information to the sponsor of an investigation and has failed to furnish adequate assurance that the conditions of the exemption will be met, the Commissioner will notify the investigator and the sponsor of any investigation in which he has been named as a participant that the investigator is not entitled to receive investigational-use drugs with a statement of the basis for such determination.

(3) Each "Notice of Claimed Investigational Exemption for a New Drug" (Form FD-1571 set forth in paragraph (a)(2) of this section) and each approved new-drug application containing data reported by an investigator who has been determined to be ineligible to receive investigational-use drugs will be examined to determine whether he has submitted unreliable data that are essential to the continuation of the investigation or essential to the approval of any new-drug application.

(4) If the Commissioner determines that unreliable data submitted by the investigator are essential to the continuation of an investigation, the exemption will be terminated and the sponsor of such investigation will be afforded an opportunity for an informal hearing by the Commissioner on the question of whether the exemption can be reinstated.

(5) If the Commissioner determines that unreliable data submitted by the

investigator were essential to approval of a new-drug application, the Commissioner will proceed to withdraw approval of the application in accordance with section 505(e) of the act.

(6) An investigator who has been determined to be ineligible may be reinstated as eligible to received investigational-use drugs when the Commissioner determines that he has presented adequate assurance that he will employ such drugs solely in compliance with the exempting regulations in this section for investigational-use drugs.

(d) * * * he shall notify the sponsor and invite his immediate correction. A conference will be arranged with the Bureau of Medicine if requested. If the Bureau of Medicine does not accept the explanation and/or the correction submitted by the sponsor, the Commissioner will provide the sponsor an opportunity for an informal hearing on the question of whether his exemption should be terminated, if the hearing is requested within 10 days after notification that the explanation or correction is not acceptable. After evaluating all the available information including any explanation and/or correction submitted by the sponsor, if the Commissioner determines that the exemption should be terminated he shall notify the sponsor of the termination of the exemption and the sponsor shall recall unused supplies of the drug. If at any time the Commissioner concludes that continuation of the investigation presents an imminent hazard to the public health, he shall terminate the exemption forthwith an notify the sponsor of the termination. The Commissioner will inform the sponsor that the exemption is subject to reinstatement on the basis of additional submissions that eliminate such hazard(s) and will afford the sponsor an opportunity for an informal hearing, on request, on the question of whether the exemption should be reinstated. The sponsor shall recall the unused supplies of the drug upon notification of the termination.

Any interested person may, within 30 days from the date of publication of this notice in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written comments, preferably in quintuplicate, on this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: December 1, 1967.

JAMES L. GODDARD,
Commissioner of Food and Drugs.

[F.R. Doc. 67-14432; Filed, Dec. 11, 1967; 8:50 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 8571]

AIRWORTHINESS DIRECTIVES

British Aircraft Corp. Model BAC 1-11 200 Series Airplanes

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to British Aircraft Corp. Model BAC 1-11 200 Series airplanes. There has been a fatigue failure in the seal groove of a nose undercarriage retraction jack piston head, P/N AB44-321, installed in a system test rig. Since this condition is likely to exist or develop in other airplanes of the same type design, the airworthiness directive would establish a service life of 10,000 landings for these piston heads. In addition the AD would permit the replacement of these piston heads with Modification P M 3069 piston heads which are not subject to a service life limitation.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before January 11, 1968, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

BRITISH AIRCRAFT. Applies to BAC 1-11 200 Series airplanes.

Compliance required as indiacted.

To prevent fatigue damage to the Nose Undercarriage Retraction Jack Piston Head P/N AB44-321, accomplish the following:

(a) Within the next 1,000 landings or before the accumulation of 10,000 landings, whichever occurs later, replace pre Modification P M 3069 piston heads, P/N AB44-321, with serviceable piston heads of the same part number or with BAC Modification P M 3069 piston heads, P/N AB44-321 are used as piston heads, P/N AB44-321 are used as replacements, replace the piston heads at intervals not to exceed 10,000 landings.

(b) The repetitive replacements required by paragraph (a) may be discontinued after the incorporation of BAC Modification P M 3069 piston heads.

(c) For the purpose of complying with this AD, subject to acceptance by the assigned FAA maintenance inspector, the number of landings may be determined by dividing each airplane's hours' time in service by the operator's fleet average time from take off to landing for the airplane type.

(BAC 1-11 Alert Service Bulletin 32-A-P M 3069 and BAC 1-11 Service Bulletin 32-P M 3069 cover this subject.)

Issued in Washington, D.C., on December 5, 1967.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[F.R. Doc. 67-14396; Filed, Dec. 11, 1967; 8:46 a.m.]

[14 CFR Part 39]

[Docket No. 8572]

AIRWORTHINESS DIRECTIVES

British Aircraft Corp. Model BAC 1-11 200 and 400 Series Airplanes Having Flight Recorders Installed on Right Shear Deck at Station 855

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to British Aircraft Corp. Model BAC 1-11 200 and 400 Series airplanes having flight recorders installed on the right shear deck at Station 855. It has been determined that the flight recorder could break away from its mounting and damage the adjacent hydraulic pipes if the installation fastener is not properly locked. Since this could occur on any airplane having flight recorders installed on the right shear deck at Station 855, the proposed airworthiness directive would require the installation of a shield and suitable mounting which will protect the hydraulic pipes from damage if the flight recorder breaks away from its mounting.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before January 11, 1968, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

BRITISH AIRCRAFT. Applies to Model BAC 1-11 200 and 400 Series airplanes, having flight recorders installed on the right shear deck at Station 855.

Compliance required within the next 1,000 hours' time in service after the effective date of this AD, unless already accomplished.

To protect the hydraulic pipes which are routed on the underside of the front fin sloping frame at Station 855 from damage in the event the flight recorder mounted on the right shear deck breaks away from its mounting, install a shield to cover the pipes in accordance with British Aircraft Corp. BAC 1-11 Service Bulletin 53-PM 3064, or later ARB-approved issue, or an equivalent approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region.

Issued in Washington, D.C., on December 4, 1967.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[F.R. Doc. 67-14397; Filed, Dec. 11, 1967; 8:46 a.m.]

[14 CFR Part 39]

[Docket No. 8570]

AIRWORTHINESS DIRECTIVES

Dowty Rotol Propellers Installed on Certain Airplanes

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Dowty Rotol Propellers (c)R.193/4-30-4/50 installed on Fairchild F-27A, F-27F, F-27G, F-27J, and FH-227, and Fokker F-27 Mk 400; (c)R.257/4-30-4/60 installed on Fairchild FH-227B and FH-227C; and (c)R.184/4-30-4/50 installed on Grumman G-159 airplanes. There have been failures of the propeller hub driving center, P/N RA 57500, due to cracking in the area of the flange on the rear face between the bolt holes and the adjoining inboard 0.050" radius. Since this condition is likely to exist or develop in other propellers of the same type design, the proposed airworthiness directive would require the strengthening of the component by the incorporation of Dowty Rotol modification (c) VP.2466 at the next scheduled propeller overhaul, or within the next 2,500 hours' time in service after the effective date of this AD, whichever occurs first.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before January 11, 1968, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

DOWTY ROTOL. Applies to Dowty Rotol Propellers (c)R.193/4-30-4/50 installed on Fairchild F-27A, F27F, F-27G, F-27J and FH-227, and Fokker F-27 Mk 400; (c)R.257/4-30-4/60 installed on Fairchild FH-227B and FH-227C; and (c) R.184/4-30-4/50 installed on Grumman G-159 airplanes.

Compliance required as indicated unless already accomplished.

To prevent failure of the propeller hub driving center, P/M RA 57500, at the next scheduled propeller overhaul or within the next 2,500 hours' time in service after the effective date of this AD, whichever occurs first, incorporate Dowty Rotol modification (c) VP.2466, in accordance with Dowty Rotol Service Bulletin No. 61-573, dated August 1967, or later ARB-approved issue, or an FAA-approved equivalent.

Issued in Washington, D.C., on December 4, 1967.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[F.R. Doc. 67-14398; Filed, Dec. 11, 1967; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-SW-84]

TRANSITION AREAS

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter the Jasper, Tex., and the Lufkin, Tex., transition areas.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

The Jasper, Tex., transition area is described in FAR, Part 71, § 71.181 (32 F.R. 8709, 10,061, 10,844, 13,806). It is proposed to cancel the 1,200-foot portion of the Jasper, Tex., transition area and incorporate it within the recommended description of the 1,200-foot portion of the Lufkin, Tex., transition area.

The Lufkin, Tex., transition area is described in FAR, Part 71, § 71.181 (32 F.R. 2215). It is proposed to amend the 1,200-foot portion of this transition area as follows:

LUFKIN, TEX.

That airspace extending upward from 1,200 feet above the surface within an area bounded by a line beginning at lat. 30°35'00" N., long. 95°21'00" W., to lat. 31°19'00" N., long. 95°58'00" W., to lat. 31°47'00" N., long. 95°55'00" W., to lat. 31°50'00" N., long. 95°31'00" W., to lat. 32°00'00" N., long. 94°30'00" W., to lat. 31°42'00" N., long. 94°37'00" W., to lat. 31°48'00" N., long. 93°56'00" W., to lat. 31°08'00" N., long. 94°03'00" W., to lat. 30°44'00" N., long. 93°51'00" W., to lat. 30°35'45" N., long. 94°14'15" W., to point of beginning.

Redescription of the Lufkin, Tex., transition area will provide controlled airspace for the vectoring of en route aircraft operating between the Lufkin, and the Shreveport, Houston, and Beaumont, Tex., terminal areas. This action will also provide the necessary controlled airspace for the following off-airway routes:

Houston VORTAC to Quitman, Tex., VOR via direct.
Lufkin VORTAC to Canton, Tex., Int. via Reese, Tex. Int.
Lufkin VORTAC to Tyler, Tex., RBN via direct.
Lufkin VORTAC to Tyler, Tex., via LFK 340 radial and TYE ILS southeast course.
Lufkin VORTAC to Monroe, La., VORTAC via direct.
Leona, Tex., VORTAC to Lufkin VORTAC via direct.
Gregg County, Tex., VORTAC to Leona, Tex., VORTAC via GGG 307 radial and LOA 035 radial.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Fort Worth, Tex., on November 30, 1967.

HENRY L. NEWMAN,
Director, Southwest Region.

[F.R. Doc. 67-14399; Filed, Dec. 11, 1967; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-SW-85]

TRANSITION AREAS

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter the Beeville, Tex., and the Victoria, Tex., transition areas.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Forth Forth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

The Beeville, Tex., transition area is described in FAR, Part 71, § 71.181 (32 F.R. 2157). It is proposed to amend the 1,200-foot portion of the transition area to read as follows:

BEEVILLE, TEX.

That airspace extending upward from 1,200 feet above the surface within an area bounded by a line beginning at lat. 29°00'00" N., long. 97°17'00" W., to lat. 29°08'00" N., long. 97°00'00" W., to lat. 29°00'00" N., long. 96°30'00" W., to lat. 28°22'00" N., long. 96°-30'00" W., to lat. 28°14'00" N., long. 96°46'-00" W., to lat. 28°07'00" N., long. 97°15'00" W., to lat. 28°07'00" N., long. 98°27'00" W., to lat. 28°27'00" N., long. 98°14'00" W., to lat. 28°34'00" N., long. 98°23'00" W., to lat. 28°43'30" N., long. 98°17'30" W., to lat. 29°00'00" N., long. 97°43'00" W., to point of beginning.

The Victoria, Tex., transition area is described in FAR, Part 71, § 71.181 (32 F.R. 2264). It is planned to cancel the 1,200-foot portion of the transition area as it is incorporated in the proposed description of the Beeville, Tex., transition area.

The proposed amendments are primarily editorial in nature and will eliminate overlapping descriptions of the Beeville, Victoria, and Corpus Christi, Tex., transition areas.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Fort Worth, Tex., on November 30, 1967.

HENRY L. NEWMAN,
Director, Southwest Region.

[F.R. Doc. 67-14400; Filed, Dec. 11, 1967; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-SW-86]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter the Corpus Christi, Tex., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

The Corpus Christi, Tex., transition area is described in FAR, Part 71, § 71.181 (32 F.R. 2173, 10,193). It is proposed to amend the 1,200-foot portion of the transition area to read as follows:

CORPUS CHRISTI, TEX.

That airspace extending upward from 1,200 feet above the surface within an area bounded by a line beginning at lat. 28°07'00" N., long. 98°27'00" W., to lat. 28°07'00" N., long. 97°15'00" W., to lat. 28°14'00" N., long. 97°46'00" W., thence south along long. 97°46'00" W., to 3 nautical miles from the shoreline, thence southwest 3 nautical miles from and parallel to the shoreline to lat. 27°49'00" N., to lat. 27°45'30" N., long. 97°51'00" W., to lat. 27°28'20" N., long. 97°45'30" W., to lat. 27°14'30" N., long. 97°55'30" W., to lat. 27°23'00" N., long. 97°06'00" W. thence southwest to a point 3 nautical miles from the shoreline at lat. 27°11'20" N., to lat. 26°50'00" N., long. 97°51'00" W., to lat. 26°51'00" N., long. 97°58'30" W., to lat. 27°24'00" N., long. 98°15'30" W., to lat. 27°24'00" N., long. 98°27'00" W., to point of beginning.

The redescription is primarily editorial in nature and eliminates overlapping descriptions between the Beeville, Victoria, and Houston, Tex., transition areas.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Fort Worth, Tex., on November 30, 1967.

HENRY L. NEWMAN,
Director, Southwest Region.

[F.R. Doc. 67-14401; Filed, Dec. 11, 1967; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-SW-83]

TRANSITION AREAS

Proposed Alteration and Revocation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter the Austin, Tex., and Houston, Tex., transition areas and revoke the 1,200-foot portion of the College Station, Tex., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

The Houston, Tex., transition area is described in FAR, Part 71, § 71.181 (32 F.R. 2200, 8891, 12,442). It is proposed to amend the 1,200-foot portion of the transition area as follows:

HOUSTON, TEX.

That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 30°35'00" N., long. 95°21'00" W., to lat. 30°35'45" N., long. 94°14'15" W., to lat. 30°16'20" N., long. 94°05'10" W., thence counterclockwise along the arc of a 25-mile radius circle centered at lat. 29°54'40" N., long. 94°02'40" W., to a point 3 nautical miles from the shoreline at long. 94°10'00" W., thence southwest 3 nautical miles from and parallel to the shoreline to lat. 28°22'00" N., long. 96°30'00" W., to lat. 28°00'00" N., long. 96°30'00" W., to lat. 28°08'00" N., long. 97°00'00" W., to lat. 28°30'00" N., long. 96°30'30" W., to lat. 28°54'00" N., long. 96°48'40" W., to lat. 29°26'00" N., long. 96°58'30" W., to lat. 29°48'00" N., long. 97°05'30" W., to lat. 30°51'00" N., long. 96°56'00" W., to lat. 31°17'00" N., long. 96°11'00" W., to lat. 31°19'00" N., long. 95°58'00" W., to point of beginning.

The proposed amendment will encompass a portion of uncontrolled airspace lying between V13E and V289 and will also provide controlled airspace for radar vectoring of aircraft operating to and from the Houston, Tex., terminal area and between the Lufkin and Beaumont, Tex., terminal areas.

The College Station, Tex., transition area is described in FAR, Part 71, § 71.181 (32 F.R. 2170). It is proposed to revoke the 1,200-foot portion of the transition area as this will be incorporated in the redescription of the 1,200-foot portion of the Houston, Tex., transition area.

The Austin, Tex., transition area is described in FAR, Part 71, § 71.181 (32 F.R. 2154). It is proposed to cancel the 4,500-foot portion of the Austin, Tex., transition area and incorporate it into the description of the Houston, Tex., transition area with a base of 1,200 feet. This action will also provide controlled airspace for off-airway direct routes between the Austin VORTAC and the College Station facility now being converted to a VORTAC; between College Station and the Tracy intersection and between College Station and the Paige, Tex., intersection.

Comparable airspace action is being taken in the adjoining airspace on the north, i.e., Proposed Alteration of the Jasper, Tex., and Lufkin, Tex., Transition Areas, 67-SW-84; on the southwest, i.e., Proposed Alteration of the Beeville, Tex., and Victoria, Tex., Transition Areas, 67-SW-85; and on the south southwest, i.e., Proposed Alteration of the Corpus Christi, Tex., Transition Area, 67-SW-86.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Fort Worth, Tex., on November 30, 1967.

HENRY L. NEWMAN,
Director, Southwest Region.

[F.R. Doc. 67-14402; Filed, Dec. 11, 1967; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-SO-110]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Laurinburg, N.C., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Area Manager, Atlanta Area Office, Attention: Chief, Air Traffic Branch, Federal Aviation Administration, Post Office Box 20636, Atlanta, Ga. 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The Laurinburg transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Laurinburg-Maxton Airport.

The proposed transition area is required for the protection of IFR operations at Laurinburg-Maxton Airport. A prescribed instrument approach procedure to this airport utilizing the Pinehurst, N.C., VORTAC is proposed in conjunction with the designation of this transition area.

The official docket will be available for examination by interested persons at the Southern Regional Office, Federal Aviation Administration, Room 724, 3400 Whipple Street, East Point, Ga.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)).

Issued in East Point, Ga., on November 30, 1967.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 67-14403; Filed, Dec. 11, 1967; 8:47 a.m.]

Notices

DEPARTMENT OF STATE

[Public Notice 262]

CERTAIN NONIMMIGRANT VISAS

Validity

Public Notice 261 of April 6, 1967 authorized consular officers to issue, in their discretion, nonimmigrant visas under section 101(a)(15)(B) of the Immigration and Nationality Act valid for an indefinite period of time to otherwise eligible nationals of certain countries which offer reciprocal or more liberal treatment to nationals of the United States who are in a similar class. The Republic of Botswana is being added to the list of countries contained in that notice.

This notice amends Public Notice 261 of April 6, 1967 (32 F.R. 5643).

Dated: November 28, 1967.

BARBARA M. WATSON,
Acting Administrator, Bureau of Security and Consular Affairs.

[F.R. Doc. 67-14417; Filed, Dec. 11, 1967; 8:48 a.m.]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[Antidumping—ATS 642.2-G]

BETA-OXY-NAPHTHOIC ACID FROM JAPAN

Antidumping Proceeding Notice

DECEMBER 6, 1967.

On August 21, 1967, information was received in proper form pursuant to the provisions of § 14.6(b) of the Customs Regulations indicating a possibility that Beta-oxy-Naphthoic acid imported from Japan is being, or likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

Beta-oxy-Naphthoic acid (BON) is used as an intermediate in the production of aso pigments and azoic color components. It also has a minor pharmaceutical use.

The information was submitted by Leonard, Clammer, Flues and Redmon, Washington, D.C., on behalf of Pfister Chemical, Inc., Ridgefield, N.J.

Ordinarily, merchandise is considered to be sold at less than fair value when the net, f.o.b. factory price for exportation to the United States is less than the net, f.o.b. factory price to purchasers in the home market, or, where appropriate, to purchasers in other countries, after due allowance is made for differences in quantity and circumstances of sale.

Having conducted a summary investigation, and having determined on this basis that there are grounds for so doing, the Bureau of Customs is instituting an inquiry pursuant to the appropriate provisions of the Customs Regulations to determine the validity of the information.

A summary of information received from all sources is as follows:

The net price for export to the United States is substantially lower than the net price for home consumption.

The information was submitted by Leonard, Clammer, Flues and Redmon, Washington, D.C., on behalf of Pfister Chemical, Inc., Ridgefield, N.J.

Ordinarily, merchandise is considered to be sold at less than fair value when the net, f.o.b. factory price for exportation to the United States is less than the net, f.o.b. factory price to purchasers in the home market, or, where appropriate, to purchasers in other countries, after due allowance is made for differences in quantity and circumstances of sale.

Having conducted a summary investigation, and having determined on this basis that there are grounds for so doing, the Bureau of Customs is instituting an inquiry pursuant to the appropriate provisions of the Customs Regulations to determine the validity of the information.

A summary of information received from all sources is as follows:

The net price for export to the United States is substantially lower than the net price for home consumption.

This notice is published pursuant to § 14.6(d)(1)(i) of the Customs Regulations (19 CFR 14.6(d)(1)(i)).

[SEAL] LESTER D. JOHNSON,
Commissioner of Customs.

[F.R. Doc. 67-14435; Filed, Dec. 11, 1967; 8:50 a.m.]

[Antidumping—ATS 642.3-G]

BETA-OXY-NAPHTHOIC ACID FROM WEST GERMANY

Antidumping Proceeding Notice

DECEMBER 6, 1967.

On August 21, 1967, information was received in proper form pursuant to the provisions of § 14.6(b) of the Customs Regulations indicating a possibility that Beta-oxy-Naphthoic acid imported from West Germany is being, or likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

Beta-oxy-Naphthoic acid (BON) is used as an intermediate in the production of aso pigments and azoic color components. It also has a minor pharmaceutical use.

The information was submitted by Leonard, Clammer, Flues and Redmon, Washington, D.C., on behalf of Pfister Chemical, Inc., Ridgefield, N.J.

Ordinarily, merchandise is considered to be sold at less than fair value when the net, f.o.b. factory price for exportation to the United States is less than the net, f.o.b. factory price to purchasers in the home market, or, where appropriate, to purchasers in other countries, after due allowance is made for differences in quantity and circumstances of sale.

Having conducted a summary investigation, and having determined on this basis that there are grounds for so doing, the Bureau of Customs is instituting an inquiry pursuant to the appropriate provisions of the Customs Regulations to determine the validity of the information.

A summary of information received from all sources is as follows:

The net price for export to the United States is substantially lower than the net price for home consumption.

This notice is published pursuant to § 14.6(d)(1)(i) of the Customs Regulations (19 CFR 14.6(d)(1)(i)).

LESTER D. JOHNSON,
Commissioner of Customs.

[F.R. Doc. 67-14436; Filed, Dec. 11, 1967; 8:50 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Redelegation Order 1, Amdt. 8]

SUPERINTENDENTS AND SCHOOL SUPERINTENDENTS

Amendment of Delegation of Authority

DECEMBER 4, 1967.

Anadarko Area Office Redelegation Order 1, as amended, is further amended as hereinafter indicated:

1. The title of Part 2 is revised to read as follows:

PART 2—AUTHORITY OF SUPERINTENDENTS AND SCHOOL SUPERINTENDENTS

2. In Part 2, sections 2.254, 2.261, 2.265, 2.266, and 2.267 are deleted.

3. In Part 2, section 2.12 is revised to read as follows:

Sec. 2.12 *Leases and permits.* All those matters set forth in 25 CFR 131 except (1) the approval of leases which provide for a duration in excess of 5 years; (2) the approval of permits (a) on lands permitted to the tribes with provision for the subpermitting thereof, or (b) on Government-owned land; (3) modification of any forms approved by the Secretary of the Interior, the Commissioner of Indian Affairs or the Area Director.

4. Part 3 is deleted in its entirety.

ROBERT L. BENNETT,
Commissioner.

[F.R. Doc. 67-14382; Filed, Dec. 11, 1967; 8:45 a.m.]

Bureau of Land Management

[OR 2600]

OREGON

Notice of Offering of Land for Sale

DECEMBER 4, 1967.

Under the Act of September 19, 1964 (78 Stat. 988; 43 U.S.C. 1421-27) and 43 CFR Subpart 2243, there will be offered to the highest bidder, but at not less than appraised value, at a public sale to be held at 11 a.m. on the 23d day of January 1968, at the Land Office, 729 Northeast Oregon Street, Portland, Oreg., the following tracts of public land.

WILLAMETTE MERIDIAN

Tract No.	Description	Acres	Appraised value	Publication costs
OR 2602	T. 4 N., R. 26 E., sec. 14, all. Is subject to the Oregon Railroad & Navigation Co., right-of-way as to the E½SW¼, SW¼SE¼.	640	$38,200	$30
OR 2603	T. 4 N., R. 26 E., sec. 12, W½.	320	15,360	30
OR 2614	T. 4 N., R. 28 E., sec. 23, NE¼NE¼, E½NW¼, S½. The N½S½ is subject to the Pacific Telephone and Telegraph Co. right-of-way.	320	30,000	30
OR 2625	T. 5 N., R. 27 E., sec. 28, all. The E½E½ is subject to the Umatilla Electric Cooperative Association right-of-way; and electric power transmission lines constructed by the United States in the S½N½, N½S½, and NW¼SE¼. The purchaser of this tract will be required to make provision to compensate for grazing improvements consisting of 1 mile of fence.	640	20,000	30

If the land is not sold on that day the sale will be adjourned and the unsold land will be reoffered for sale on each succeeding Tuesday at 11 a.m. in the Land Office, 729 Northeast Oregon Street, Portland, Oreg., until sold, but if not sold by June 25, 1968, the sale will be closed on that date.

The lands will be sold subject to a reservation to the United States of rights-of-way for ditches or canals under the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. sec. 945); subject to existing rights-of-way; and all minerals will be reserved to the United States.

No bid will be accepted for less than the appraised value to which bid must be added the cost of publication of $30 for each parcel.

Sealed or oral bids may be made by the principal or his agent. Bids for a parcel must be for all the lands in a parcel. Sealed bids will be considered only if received at the Land Office, 729 Northeast Oregon Street (Post Office Box 2965), Portland, Oreg. 97208, prior to the time of the sale on each date the auction is held. Sealed bids must be in envelopes accompanied by certified checks, post office money orders, bank drafts, or cashier's checks made payable to the Bureau of Land Management for the amount of the bid plus publication costs of $30. The envelopes must be marked in the lower left hand corner "Public Sale Bid, OR 2600, Tract No. _____." Personal checks will be accepted from successful oral bidders. The successful oral bidder at the sale will be required to pay immediately the amount thereof together with the cost of publication. The right is reserved to determine at any time that the lands should not be sold or that any and all bids should be rejected.

The above-described lands are segregated from all forms of appropriation, including location under the mining laws, and from all other petitions and applications pursuant to the Notice of Classification of Public Lands published in the FEDERAL REGISTER on September 14, 1967.

For further information write: Land Office, Bureau of Land Management, Post Office Box 2965, Portland, Oreg. 97208.

IRVING W. ANDERSON,
Chief, Division of Lands and Minerals, Program Management and Land Office.

[F.R. Doc. 67-14384; Filed, Dec. 11, 1967; 8:45 a.m.]

Geological Survey

[Order 65]

NORTH DAKOTA

Coal Land Classification

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and as delegated to me by Departmental Order 2563, May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title thereto remains in the United States, are hereby classified as shown:

FIFTH PRINCIPAL MERIDIAN, NORTH DAKOTA

COAL LANDS

T. 141 N., R. 83 W.,
Sec. 4, SW¼SE¼;
Sec. 5, lots 1 and 2, S½N½, S½;
Sec. 6, SE¼SW¼, SE¼;
Secs. 7 and 8;
Sec. 9, W½NE¼; W½, NW¼SE¼, S½SE¼;
Sec. 10, NE¼, SW¼SW¼, N½SE¼, SE¼SE¼;
Sec. 11, SW¼NW¼, NW¼SW¼;
Sec. 15, NW¼NW¼, S½SW¼;
Sec. 16, N½NE¼, SW¼NE¼, W½, SE¼;
Secs. 17 to 21, inclusive;
Sec. 22, N½NW¼, SW¼NW¼, S½SW¼;
Sec. 27, W½NE¼, W½, W½SE¼;
Secs. 28 to 33, inclusive;
Sec. 34, NW¼NE¼, NW¼, NW¼SW¼.

NONCOAL LANDS

T. 141 N., R. 83 W.,
Secs. 1 to 3, inclusive;
Sec. 4, lots 1 to 4, inclusive, S½N½, SW¼, N½SE¼, SE¼SE¼;
Sec. 5, lots 3 and 4;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, NE¼SW¼;
Sec. 9, E½NE¼, NE¼SE¼;
Sec. 10, NW¼, N½SW¼, SE¼SW¼, SW¼SE¼;
Sec. 11, NE¼, N½NW¼, SE¼NW¼, NE¼SW¼, S½SW¼, SE¼;
Sec. 13;
Sec. 14, N½NE¼, SW¼NE¼, W½;
Sec. 15, NE¼, NE¼NW¼, S½NW¼, N½SW¼, SE¼;
Sec. 16, SE¼NE¼;
Sec. 22, NE¼, SE¼NW¼, N½SW¼;
Sec. 23, W½NW¼.

The area described aggregate 17,779 acres, more or less, of which about 11,722 acres are classified coal lands and about 6,057 acres are classified noncoal lands.

ARTHUR A. BAKER,
Acting Director.

DECEMBER 5, 1967.

[F.R. Doc. 67-14434; Filed, Dec. 11, 1967; 8:49 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

GRAIN STANDARDS

Inspection Points

Statement of considerations. On October 6, 1967, there was published in the FEDERAL REGISTER (32 F.R. 13939) a notice of proposed rule making to consider requests from certain interested parties asking that licensed grain inspectors be authorized to post their licenses to inspect and grade grain under the U.S. Grain Standards Act (7 U.S.C. 71 et seq.) at one or more of the following additional places in Louisiana:

Ama, St. Charles Parish.
Myrtle Grove, Plaquemines Parish.
Reserve, St. John the Baptist Parish.

Inspection agencies, members of the grain trade, and other interested parties were given until November 21, 1967, to submit written data, views, or arguments with respect to the need, operation, and support of the proposed grain inspection points.

Data, views, or arguments in favor of opening grain inspection points at the three places were received from five inspection agencies and six other interested parties. No adverse comments were received with respect to approving the opening of three additional inspection points in Louisiana.

In keeping with the Department's policy, only one official grain inspection agency is approved at any one place. It is also the Department's policy in approving new inspection points, to cooperate with existing inspection agencies when practicable to do so, and to cooperate with inspection agencies that are interested in providing statewide inspection service. All five inspection agencies indicated a willingness to provide statewide inspection service upon request. Four of the inspection agencies now provide inspection service at one of more established inspection points.

Under Public Law 87-718, the Secretary of the Department of Agriculture, whenever he deems it feasible and in the public interest, is authorized and encouraged to cooperate with State agencies in the administration and enforcement of laws, including the U.S. Grain Standards Act, which pertain to the marketing of agricultural products. Only one of the five inspection agencies is a State agency.

One of the letters received from an interested party questioned whether, in view of the State's pay scale, Louisiana could provide an adequate inspection service. Assurances have been received from Louisiana that its pay scale for inspection personnel will be adequate to employ and retain a competent staff to perform official inspections in an approved manner.

After due consideration of all submissions made pursuant to the notice of October 6, 1967, and all other relevant matters, and pursuant to the authority contained in section 8 of the U.S. Grain Standards Act, as amended (7 U.S.C. 84),

Ama, St. Charles Parish; Myrtle Grove, Plaquemines Parish; and Reserve, St. John the Baptist Parish; are hereby approved under the U.S. Grain Standards Act as places where licensed inspectors may post their licenses, and the Louisiana Department of Agriculture is hereby authorized to station licensed inspectors at each place. Notice will be given to interested parties of the effective date that grain inspection services will be provided under the Act at Ama, Myrtle Grove, and Reserve.

(Sec. 8, 39 Stat. 486; 7 U.S.C. 84; 39 F.R. 18310, as amended)

Done at Washington, D.C., this 7th day of December 1967.

G. R. GRANGE,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 67-14443; Filed, Dec. 11, 1967; 8:50 a.m.]

BUREAU OF THE BUDGET

ORGANIZATION AND INFORMATION

The statement of organization and information published in the issue of July 4, 1967 (F.R. Doc. 67-7630; 32 F.R. 9755), is amended as follows:

1. Paragraphs (b), (c), and (e) of section 3 are revised to read as follows; and paragraph (f) is amended as indicated below.

SEC. 3. *Organization.* • • •

(b) Four offices and two staff offices, with Government-wide responsibilities in specialized areas, as follows:
Office of Budget Review.
Office of Executive Management.
Office of Legislative Reference.
Office of Statistical Standards.
Program Evaluation Staff.
Resources Planning Staff.

(c) Six divisions, as follows:
Economics, Science, and Technology Programs Division.
General Government Management Division.
Human Resources Programs Division.
International Programs Division.
National Security Programs Division.
Natural Resources Programs Division.

• • • • • •

(e) • • •

(2) Units of the Bureau of the Budget are presently located in the Executive Office Building, 17th Street and Pennsylvania NW., and in the New Executive Office Building, 17th and H Streets NW., Washington, D.C. 20503. Regular office hours are from 9 a.m. to 5:30 p.m., Monday through Friday.

(3) The Executive Office Building is under the security control of the U.S. Secret Service, and admission to the building is by appointment. The New Executive Office Building is under the security control of the General Services Administration and admission to the building does not require an appointment. Persons desiring to visit Bureau officers or employees in either building will usually find it easier to do so if they write or telephone in advance for an appointment.

(f) [Amended]

The list of employees in paragraph (f) of section 3 is amended by substituting for the words "Administrative Assistant" the words "Special Assistant to the Director"; and by substituting for the words "Head of an office or chief of a program division" the words "Head of an office or director of a program division".

• • • • • •

2. Paragraph (b) of section 11 is amended by deleting the words "Administrative Assistant to the Director or the" in the second sentence of that paragraph.

• • • • • •

3. Subparagraph (3) of paragraph (a) of section 20 is amended by adding at the end of the list of materials indexed therein the following item:

"Federal Statistical Directory.

Dated: December 5, 1967.

CHARLES L. SCHULTZE,
Director of the
Bureau of the Budget.

[F.R. Doc. 67-14379; Filed, Dec. 11, 1967; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket 18298; Order No. E-26093]

ALASKA-CORDOVA MERGER CASE

Opinion and Order and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 6th day of December 1967.

In his initial decision served September 14, 1967, Examiner Milton H. Shapiro granted, subject to conditions, the joint application of Alaska Airlines and Cordova Airlines for approval of an agreement of March 17, 1967, providing for the merger of Alaska Airlines and Cordova Airlines, and for approval of the transfer to Alaska of the certificate of public convenience and necessity issued to Cordova and all exemption authority now possessed by Cordova. Petitions for discretionary review of the initial decision have been filed by Northern Consolidated Airlines and Wien Alaska Airlines, jointly, and by Western Air Lines. Answers to the petitions have been filed by Alaska and Cordova, jointly, and the Bureau of Operating Rights.

Upon consideration of the petitions and answers the Board has determined to review the initial decision, without further proceedings, only to the extent hereafter indicated. Accordingly, except as modified herein, we adopt as our own the findings and conclusions of the examiner on the issues under review.

Petitioners repeat their arguments, made to the examiner, that the merger is inconsistent with the policies laid down in the Intra-Alaska Case,[1] in which the Board deleted Alaska's intra-Alaska local service routes from its system. At the time of that case, Alaska was a heavily subsidized carrier with no prospects for marked improvement, and the necessity of maintaining its intra-Alaskan local services created a drain on its system. However, the economics of States-Alaska services have changed considerably since that time, as reflected in the subsidy position of the States-Alaska carriers. Thus, Pan American's Alaska routes were then, for example, still in a subsidy status, whereas those operations, along with the rest of the Pan American system, are now self-sufficient.[2] Similiarly, prior to its merger with Western Air Lines, Pacific Northern Airlines, whose States-Alaska operations had previously been subsidized, achieved self-sufficiency.[3] Moreover, the Board's most recent subsidy determinations for Alaska demonstrate that that carrier's dependency on subsidy is rapidly diminishing, as reflected by a constantly declining level of subsidy payments under the Board's mail rate order ranging from $1,400,000 in 1967 to zero subsidy in 1971. Considering this fact, along with the examiner's finding that the merger will reduce even further the subsidy requirements of the combined carriers, it is apparent that approval of the merger will further the Board's program of subsidy reduction by incorporating a weak carrier, with a limited route structure and severe financial difficulties, into a stronger carrier which is on the road to self-sufficiency and which may ultimately be in a position to operate Cordova's routes without resort to subsidy. In light of the foregoing, and considering the manifold other benefits of the merger set forth in detail in the initial decision, the Board believes that the application of the policy of separation of local service and trunkline routes enunciated in the Intra-Alaska Case would be inappropriate in this situation.[4]

[1] 28 C.A.B. 57 (1958).

[2] Orders E-13841, May 8, 1959, and E-13956, June 1, 1959.

[3] Orders E-23030, Dec. 23, 1965, and E-23101, Jan. 10, 1966.

[4] In the view which we take of this matter, we find irrelevant the contention of petitioners that the examiner erred in relying upon a purported commitment of Alaska to be entirely free of subsidy by 1971, with respect to Cordova's system as well as Alaska's, in the event of the merger. The petitioners state that the record contains only indications of future "plans" on the part of Alaska which do not reach the level of a commitment. Receiving this point in petitioners' favor would not change the basic result reached here. To begin with, it is clear that Alaska has made a sizable commitment, embodied in the condition to the merger, limiting its right to claim subsidy to sums not exceeding those payable under the present mail rate orders applicable to Alaska and Cordova. Under this provision, the maximum subsidy which Alaska could claim would be approximately $473,000 in 1971 and future years, as opposed to $1,873,000, the maximum payable to both carriers in 1967 under the present orders. In any event, as we have indicated in the text above, our determination here does not rest upon the narrow ground of Alaska's commitment.

Western argues, inter alia, that the procedure followed in this case contains prejudicial error and that remedial action is required. Western's argument in this respect stems from the fact that the examiner issued an initial decision in this matter on September 14, 1967, whereas Cordova had been issued a certificate to serve Dawson, Canada, approved by the President on September 12, 1967, the certificate to become effective on November 11, 1967.[5] Under these circumstances, Western contends that the examiner should have issued a recommended decision, instead of an initial decision, and that it has been deprived of procedural rights under Rule 30 of the rules of practice applying to section 801 cases. Further, Western argues that under section 801 of the Act the transfer of Cordova's certificate for Dawson service to the merged carrier would require Presidential approval, and it also notes that a copy of the application was not transmitted to the President prior to hearing as required by that section.

We do not construe the initial decision as approving the transfer of Cordova's Dawson certificate to Alaska, nor shall we approve such a transfer here. Accordingly, Western's claims of procedural error are without substance. Recognizing, however, that the merger and Dawson route questions remain interrelated, the Board proposes that the Dawson route certificate be transferred to Alaska Airlines and tentatively concludes that such transfer is in the public interest. We make such tentative finding in the basis of our prior findings and conclusions in Cordova Airlines, Inc., Temporary Points Service Investigation, Docket 16325,[6] that the public convenience and necessity require issuance of a certificate to Cordova for the Dawson route and in light of the fact that the merger of Alaska and Cordova involves a concomitant transfer of the basic Cordova route system to Alaska. The effective date of the merger and accompanying domestic route transfers is accordingly stayed until the effective date of approval by the President of transfer to Alaska of the certificate of public convience and necessity issued to Cordova for route 124F, authorizing it to engage in air transportation between Northway, Alaska, and Dawson, Yukon Territory, Canada.

Accordingly, it is ordered, That:

1. Except as otherwise granted herein, the petitions for discretionary review and other requests for relief be, and they hereby are, denied and except as modified herein the initial decision of the examiner shall become effective as the final order of the Board upon the effective date of approval by the President of the transfer to Alaska of the certificate of public convenience and necessity issued to Cordova for Route 124F;

2. All interested persons are directed to show cause why the Board should not, subject to the approval of the President, transfer to Alaska Airlines, Inc., the certificate of public convenience and necessity issued to Cordova Airlines, Inc., for Route 124F, authorizing it to engage in air transportation between Northway, Alaska, and Dawson, Yukon Territory, Canada;

3. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments set forth herein shall, within 10 days after service of a copy of this order, file with the Board and serve upon all persons made parties to this proceeding a statement of objections together with a summary of testimony, statistical data and other evidence expected to be relied upon to support the stated objections;

4. If timely and properly supported objections are filed, further consideration will be accorded the matters and issues raised by any memoranda in opposition before further action is taken by the Board: *Provided,* That the Board may proceed to enter an order in accordance with the tentative findings and conclusions herein if it determines that there are no factual issues presented which warrant the holding of an evidentiary hearing;

5. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the case will be submitted to the Board for final action; and

6. A copy of this order shall be transmitted to the President and served upon all parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

Murphy, Chairman, Murphy, Vice Chairman, Minetti, Gilliland and Adams, Members, concurred in the above opinion and order.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-14416; Filed, Dec. 11, 1967; 8:48 a.m.]

[5] Orders E-23672 and E-25073, served Sept. 13, 1967.

[6] Ibid.

[Docket 19256; Order No. E-26079]

AVIATION SERVICES, INC.

Establishment of Service Mail Rate; Order To Show Cause

Issued under delegated authority December 6, 1967.

By notice of intent filed November 17, 1967, pursuant to 14 CFR, Part 298, the Postmaster General requests the Board to establish for Aviation Services, Inc., an air taxi operator, a final service mail rate of 23.9 cents per aircraft mile for the transportation of mail by air between Dodge City, Kans., and Pueblo, Colo.

The Postmaster General states that scheduled services are not presently provided in this market and that the two interested certificated carriers have indicated they will be unable to meet the Department's requirements.[1] Aviation Services proposes to use twin engine aircraft with all-weather capability in providing the mail service, and the proposed schedules will meet postal needs. No protest or objection has been filed against the services proposed in the notice of intent and the time for filing such objections has now expired.

The Postmaster General also states that the proposed rate is acceptable to the Department and the carrier, and represents a fair and reasonable rate of compensation for the services which the carrier will perform.

Since no mail rate is presently in effect for this carrier in this market, it is in the public interest to fix and determine the fair and reasonable rate of compensation to be paid to Aviation Services by the Postmaster General for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order[2] to include the following findings and conclusions:

1. That the fair and reasonable final service mail rate to be paid to Aviation Services, Inc., pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith between Dodge City, Kans., and Pueblo, Colo., and return, as described in the notice of intent in Docket 19256, shall be 23.9 cents per aircraft mile;

2. The final service mail rate here fixed and determined is to be paid in its entirety by the Postmaster General.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR, Part 302, 14 CFR, Part 298, and 14 CFR 385.14(f),

It is ordered, That:

1. All interested persons and particularly Aviation Services, Inc., the Postmaster General, and Frontier Airlines, Inc., are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above, as the fair and reasonable rate of compensation to be paid to Aviation Services, Inc., for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and if there is any objection to the rate or to the other findings and conclusions proposed herein, notice thereof shall be

[1] The notice of intent was served upon Central Airlines, Inc., and Frontier Airlines, Inc., which have now merged, Frontier, the surviving carrier, has certificate authority to operate between Dodge City, Kans., and Pueblo, Colo.

[2] As this order to show cause does not constitute a final action and merely affords interested persons an opportunity to be heard on the matters herein proposed, it is not regarded as subject to the review provisions of Part 385 (14 CFR, Part 385). The provisions of that part dealing with petitions for Board review will be applicable to any final action which may be taken by the staff in this matter under authority delegated in § 385.14(g).

filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after the date of service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and if answer it not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Aviation Services, Inc., the Postmaster General, and Frontier Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By: Alfred R. Stout,
Chief, Rates Division,
Bureau of Economics.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-14419; Filed, Dec. 11, 1967; 8:48 a.m.]

CIVIL SERVICE COMMISSION

SUPERINTENDENT OF SCHOOLS, PUBLIC SCHOOLS OF DISTRICT OF COLUMBIA

Manpower Shortage

NOTICE OF LISTING

Under the provisions of 5 U.S.C., 5723, the Civil Service Commission has found, effective November 29, 1967, that there is a manpower shortage for the single position of Superintendent of Schools, Public Schools of the District of Columbia.

The appointee may be paid for the expenses of travel and transportation to his first post of duty.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67-14414; Filed, Dec. 11, 1967; 8:48 a.m.]

TRAINING INSTRUCTOR (ELECTRICAL POWER GENERATION)

Manpower Shortage; Correction

FEDERAL REGISTER Document 67-14050 appearing in the issue of December 1, 1967, at page 16509 is amended by adding "Fort Belvoir, Va.", to the end of the first paragraph after the title and grade of position.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67-14415; Filed, Dec. 11, 1967; 8:48 a.m.]

NURSE—DIVISION OF INDIAN HEALTH; CONTINENTAL UNITED STATES (EXCEPT ALASKA)

Notice of Adjustment of Minimum Rates and Rate Ranges

FEDERAL REGISTER Document 67-7933 published July 11, 1967, on page 10227, is amended by adding under coverage: "Fort Sill, Okla."

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67-14416; Filed, Dec. 11, 1967; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 17681; FCC 67-1280]

CAROL L. BRADLEY

Order Designating Application for Hearing on Stated Issues

In the matter of Carol L. Bradley, Clinton, Md., application for authorization in the Citizens Radio Service.

The Commission has under consideration the above-entitled application for a Class D radio station license in the Citizens Radio Service.

There are substantial questions as to:

(a) Whether Carol L. Bradley has operated a radio transmitter without a license, in violation of section 301 of the Communications Act of 1934, as amended; and

(b) Whether Carol L. Bradley, while operating a radio transmitter on Citizens Radio Service frequencies, engaged in conduct prohibited by the Commission's rules governing that service.

In view of these questions, the Commission is unable to find that a grant of the captioned application would serve the public interest, convenience and necessity and must, therefore, designate the application for hearing. Except for the issues specified herein, the applicant is otherwise qualified to hold a Citizens Radio Service license.

Accordingly, it is ordered, Pursuant to section 309(e) of the Communications Act of 1934, as amended, and § 1.973(b) of the Commission's rules, that the captioned application is designated for hearing at a time and place to be specified by subsequent order upon the following issues:

(1) To determine whether Carol L. Bradley operated radio transmitting apparatus without a license, in violation of section 301 of the Communications Act of 1934, as amended.

(2) In the event that applicant has been found under Issue (1) to have violated section 301 of the Communications Act of 1934, as amended, to determine whether Carol L. Bradley, while operating radio apparatus on Citizens Radio Service frequencies, engaged in conduct which, had she been licensed, would have been in violation of §§ 95.83(a)(1), 95.83(a)(11), 95.83(a)(13), 95.41(d)(2), 95.95(c), and 95.91 of the Commission's rules.

(3) To determine whether, in light of the evidence adduced with respect to the foregoing issues, a grant of the captioned application would serve the public interest, convenience, and necessity.

It is further ordered, That, to avail herself of the opportunity to be heard, the applicant herein, pursuant to § 1.221 of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order, file with the Commission in triplicate a written appearance stating an intent to appear on the date fixed for hearing and present evidence on the issues specified in this order; and

It is further ordered, That the Chief, Safety and Special Radio Services Bureau shall, within 10 days after the release of this order, furnish a Bill of Particulars to the applicant herein setting forth the basis for the above issues.

Adopted: November 22, 1967.

Released: December 7, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14433; Filed, Dec. 11, 1967; 8:50 a.m.]

[Docket Nos. 17144, 17155; FCC 67M-1092]

GENERAL ELECTRIC CABLEVISION CORP.

Order Regarding Procedural Dates

In re Petitions of General Electric Cablevision Corp., Peoria, Ill., Docket No. 17144, File No. CATV 100-25; General Electric Cablevision Corp., Peoria Heights and Bartonville, Ill., Docket No. 17155, File No. CATV 100-59; for authority pursuant to § 74.1107 of the rules to operate CATV systems in the Peoria television market.

It is ordered, That the unopposed petition for modification of procedural dates, filed by General Electric Cablevision Corp. on November 29, 1967, is granted, and procedural dates are extended as follows:

GE to furnish direct affirmative written case to counsel for other parties and to Hearing Examiner from December 4, 1967, to January 10, 1968.

Receipt of notification of GE witnesses for cross-examination from December 18, 1967, to January 24, 1968.

Hearing from January 15, 1968, to February 19, 1968.

Issued: November 30, 1967.

Released: December 5, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14435; Filed, Dec. 11, 1967; 8:50 a.m.]

TRI-STATE TELEVISION TRANSLATORS, INC., AND WELLERSBURG TV, INC.

Order Continuing Hearing

In re Tri-State Television Translators, Inc., (WO2AO, WO4AQ, WO5AI, WO8AU, W12AO), Cumberland, Md., Docket No. 17684, petitions for issuance of order to show cause; Wellersburg TV, Inc. (WO7AL, WO9AI, W13AP), Wellersburg, Pa., Docket No. 17655, order to show cause.

Pursuant to procedural arrangements looking toward a hearing and made at the further prehearing conference held on November 30, 1967: *It is ordered,* As follows:

(1) The Broadcast Bureau will furnish to counsel for the other parties and the Hearing Examiner by January 22, 1968, (a) copies of its proposed exhibits and (b) a list of the witnesses to be presented by it with indication of the general areas of their anticipated testimony;

(2) Tri-State Television Translators, Inc., and Wellersburg TV, Inc., will furnish to counsel for the other parties and the Hearing Examiner by January 30, 1968, (a) copies of their proposed exhibits and (b) lists of their witnesses together with indication of the general areas of their anticipated testimony; and

(3) The hearing heretofore scheduled for December 21, 1967, is postponed to February 6, 1968, at 10 a.m., in Cumberland, Md.

Issued: November 30, 1967.

Released: December 5, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14436; Filed, Dec. 11, 1967; 8:50 a.m.]

[Docket No. 16634 etc.; FCC 67R-493]

FLORIDA-GEORGIA TELEVISION CO., INC., ET AL.

Memorandum Opinion and Order Enlarging Issues

In re Applications of Florida-Georgia Television Co., Inc., Jacksonville, Fla., Docket No. 16634, File No. BPCT-1624; Community First Corp., Jacksonville, Fla., Docket No. 17582, File No. BPCT-3681; The New Horizons Telecasting Co., Inc., Jacksonville, Fla., Docket No. 17583, File No. BPCT-3731; Florida Gateway Television Co., Jacksonville, Fla., Docket No. 17584, File No. BPCT-3732; for construction permit for new television broadcast station.

1. The above-captioned mutually exclusive applications for a television station utilizing Channel 12 at Jacksonville, Fla., were designated for consolidated hearing by Commission order, FCC 67-796, 10 RR 2d 846, released July 21, 1967. The issues set forth in that order include, among others, limited financial qualifications issues directed to each of the applicants except Florida-Georgia Television Co., Inc. (Florida-Georgia), and a standard comparative issue. Florida-Georgia is presently operating a station on Channel 12 in Jacksonville, Fla., pursuant to temporary authority issued by the Commission in its order, FCC 65-1021, 1 FCC 2d 1375, released November 19, 1965. On August 10, 1967, Florida-Georgia filed a petition to enlarge issues, seeking the addition of comparative efforts and comparative programing issues.[1]

COMPARATIVE EFFORTS ISSUE

2. In support of this request, Florida-Georgia argues that its 8 years' (1957-65) experience on Channel 12 gives it a special knowledge of the needs of the community which it proposes to serve. Petitioner contends that during the time its station has been on the air, it has maintained a "continuing program to ascertain community needs." For example, it is alleged that Florida-Georgia has encouraged its officers, directors and employees to be active in community affairs and in local civic organizations;[2] that Florida-Georgia employs, full time, a Public Service Director whose duties are, among others, to continuously ascertain community needs and to participate in plans for public service programing; and that Florida-Georgia's staff keeps abreast of viewer opinion as expressed in telephone calls and correspondence. Moreover, Florida-Georgia argues, in early 1966 it conducted "several extensive additional surveys" which consisted of (1) a community leader survey;[3] (2) a personal interview survey;[4] and (3) a telephone survey.[5] The results of the surveys were allegedly distributed to Florida-Georgia's directors. (However, one of the directors, Harold S. Cohn, Sr., has indicated that he did not receive any such survey material.)[6] Florida-Georgia further notes that it has examined the application files of all the other applicants in this proceeding and observed that none of them indicate that they have made surveys or otherwise attempted to ascertain community needs. Furthermore, it is argued that the other applicants have not undertaken to specifically relate their program proposals to any demonstrated programing need in the proposed service area. Based on the foregoing, petitioner, citing Chapman Radio and Television Co., 7 FCC 2d 213, 9 RR 2d 635 (1967), maintains that it has shown a "substantial disparity" between its efforts and those of the other applicants to ascertain community needs. Finally, Florida-Georgia contends that if one or more of the other applicants indicates that it has made no effort to ascertain the needs of the service area, the specification of a Surburban issue[7] by the Review Board would be appropriate citing Henry v. FCC, 302 F. 2d 191, 23 RR 2016 (D.C. Cir.), cert. denied 371 U.S. 821 (1962).

3. Pleadings in response to Florida-Georgia's petition were filed by Community, Gateway, and the Broadcast Bureau. The New Horizons Telecasting Co., Inc. (New Horizons), filed no response at all. Community and Gateway, in separate pleadings, oppose Florida-Georgia's request on the following grounds: (1) The Commission cannot consider any ascertainment efforts made by Florida-Georgia during its operation of Channel 12 between the years 1957 and 1965; and (2) Community and Gateway, respectively, have made sufficient efforts to ascertain the needs and interests of the community so that the addition of a comparative efforts issue is not warranted. First, the opponents object to consideration of any knowledge or experience which Florida-Georgia might have acquired while operating Channel 12 in Jacksonville. They

[1] Also before the Board are the following related pleadings: (a) Opposition, filed Sept. 6, 1967, by Community First Corp. (Community); (b) opposition, filed Sept. 6, 1967, by Florida Gateway Television Co. (Gateway); (c) comments, filed Sept. 6, 1967, by the Broadcast Bureau; and (d) reply, filed Sept. 25, 1967, by Florida-Georgia.

[2] The petition lists the organizations to which Florida-Georgia's directors and employees belonged during the one year prior to November 1965.

[3] Florida-Georgia sent letters to 236 civic and community leaders in the proposed service area. A copy of the form letter is attached to the petition. The 97 replies received were allegedly utilized in preparing Florida-Georgia's proposed program schedule. Twelve additional replies were received after the program schedule was prepared.

[4] Florida-Georgia's staff personally interviewed 103 persons, who allegedly represent a cross-section of the service area. Detailed interview forms were filled out. A list of the persons interviewed and the organizations they represent is attached to the petition.

[5] 375 telephone interviews were completed by the American Research Bureau for Florida-Georgia. A tabulation of the survey results was supposedly distributed to all Florida-Georgia directors prior to the meeting wherein the proposed program schedule was adopted. The questionnaire utilized by the ARB interviewers is attached to the petition.

[6] On Oct. 2, 1967, Gateway filed with the Review Board a request to order Florida-Georgia to produce all correspondence written by Cohn to Florida-Georgia in order to enable Gateway to better oppose the requested comparative issues. Oppositions to the request were filed by the Broadcast Bureau and Florida-Georgia on Oct. 16, and 17, 1967 respectively. Since we are denying the request for the comparative efforts issue (see par. 6, infra), however, a grant of Gateway's request could serve no useful purpose and it therefore will be dismissed.

[7] A disqualifying issue to determine the efforts made by an applicant to ascertain needs and interests, and the manner in which it proposes to meet those needs and interests.

argue that under the Court's decision in Jacksonville Broadcasting Corp. v. FCC, 348 F.2d 75, 5 RR 2d 2004 (D.C. Cir.), cert. denied, 328 U.S. 863 (1965), no credit whatsoever should accrue to Florida-Georgia from that operation. The opponents rely in particular on the Court's determination that the original grant to Florida-Georgia (see City of Jacksonville, 12 RR 113 (1956)) was void ab initio and that in the reopened proceedings Florida-Georgia could "compete, but on a completely equal and in no sense a preferred basis, with any other applicant who might apply." 348 F. 2d at 81, 5 RR 2d at 2010–11. Second, it is argued that each of the opponents has made a significant effort to ascertain the needs and interests of the community to be served. More specifically, Community alleges that in early 1966, before filing its application, it conducted a program survey consisting of: (1) Telephone interviews;[4] (2) a community leader survey; and (3) the monitoring of local television stations for 2 weeks. Furthermore, Community argues, its knowledge of Jacksonville's needs and interests is enhanced "by its stockholders' residence in Jacksonville and their active participation in the civic groups of the community."[5] Like Florida-Georgia, Community would also have the Board add a Suburban issue in the event that one or more of the applicants fails to show that it has taken adequate steps to acquaint itself with the interests and needs of the community to be served. Gateway also alleges "substantial and meaningful efforts" on its part to ascertain community needs and interests. For example, Gateway maintains that it has conducted "extensive and exhaustive" interviews with prominent local residents "in an effort to formulate a significant program proposal." Attached to Gateway's opposition is the affidavit of its President, Judson Freeman, which outlines some of the "formal contacts" with community leaders which were made to ascertain community needs and interests. It is alleged that these interviews were used by Gateway in formulating its program proposal. Finally, Gateway states that its principals are all actively involved in community affairs and have initiated numerous informal contacts to ascertain community needs and interests.

4. The Broadcast Bureau opposes the addition of a comparative efforts issue, arguing that neither Florida-Georgia's past experience on Channel 12, nor its 1966 surveys, warrants the addition of the requested issue. First, the Bureau contends that evidence relating to Florida-Georgia's past broadcast experience on Channel 12 would be more appropriately "tendered" at the hearing under other comparative criteria, such as, integration of ownership and management and past broadcast record, citing the Commission's Policy Statement on Comparative Broadcast Hearings, 1 FCC 2d 393, 5 RR 2d 1901 (1965).[6] Second, it is argued that Florida-Georgia's 1966 surveys while "fairly extensive", do not, standing alone, demonstrate a "substantial disparity of efforts which should be examined in hearing," citing Chapman Radio and Television Co., supra. The Bureau also contends that if one or more of the applicants has made no effort to ascertain the needs and interests of Jacksonville, a request for a Suburban issue would be warranted.[7]

5. In reply, Florida-Georgia disagrees with its opponents' interpretation of the Court's decision in Jacksonville Broadcasting Corp. v. FCC, supra, alleging that their interpretation is "unreasonable and extremely unfair." According to petitioner, what the Court meant when it stated that Florida-Georgia could not compete for Channel 12 on a "preferred basis" was that Florida-Georgia was not entitled to any "special equities" merely because it had been licensed by the Commission; the Court did not intend to preclude, at the hearing, the introduction of otherwise admissible evidence pertaining to Florida-Georgia's past operation and experience on Channel 12. Florida-Georgia then contends that the showings made on behalf of the opponents to demonstrate their efforts to ascertain community needs are inadequate and that there remains a "substantial disparity" between the efforts of the opponents and of Florida-Georgia, even without reference to petitioner's past operation on Channel 12. Florida-Georgia argues that neither Community nor Gateway made any attempt to relate their ascertainment efforts to specific program proposals. Moreover, it is submitted that Community did not name any of the persons it claims to have interviewed; that Community did not explain what new ascertainment efforts led to the amendment of its proposed programing on April 20, 1966; that Gateway did not name the principals who allegedly belong to "unnamed" local civic organizations; and that the Gateway representatives who conducted personal interviews are not named.

6. In Chapman Radio and Television Co., supra, the Commission held that a comparative efforts issue is warranted where there appears to be a significant disparity among applicants in efforts to ascertain community needs. Florida-Georgia's efforts to ascertain the needs and interests of the proposed service area are documented in detail in the subject petition, and appear to be extensive.[8] However, Community and Gateway, in their respective oppositions, have persuasively shown that they, too, have made impressive efforts to ascertain the programing needs and interests of Jacksonville.[9] Florida-Georgia's allegation, in its reply, that its opponents have not made sufficient showings is without merit. Surveys of community needs and interests were made by Community and Gateway.[10] The information supplied by each of these applicants is sufficiently detailed as to the methods employed, the number of contacts made, and the results obtained to offset Florida-Georgia's contention that a significant difference in effort exists. See Elim Bible Institute, Inc., FCC 67R–449, released October 24, 1967. Compare Salter Broadcasting Co., 8 FCC 2d 591, 10 RR 2d 407 (1967). Therefore, an issue inquiring into comparative efforts will not be added.[11]

7. While the requested comparative efforts issue is not being added, the Board believes that the addition of a Suburban issue against New Horizons is warranted. An applicant has the responsibility for a reasonable knowledge of the needs and interests of the community and area it proposes to serve in order to formulate its program proposals in response thereto. See Henry v. FCC, supra. A Suburban issue has been added in the past where it was not clear from the pleadings whether the applicant was familiar with, or investigated, community needs. See Dean and Golden, FCC 61–1160, 22 RR 140. Cf. Don L. Huber, FCC 62–142, 22 RR 954. Here, New Horizons has failed to establish with even a minimal showing that an investigation of community programing needs was made. Compare Tri-Cities Broadcasting Corp., FCC 67R–459, released October 30, 1967; Pinellas Radio Co., FCC 62R–57, 24 RR 300. While it is significant that many of New Horizons' stockholders are local residents (see Rice Capital Broadcasting Co., FCC 66–667, 8 RR 2d 443), the applicant's failure to respond to Florida-Georgia's petition raises a serious question as to whether it has made any attempt to ascertain the needs and interests of Jacksonville. Cf. Rice Capital Broadcasting Co., supra; Adirondack Television Corp., 5 FCC 2d 376, 8 RR 2d 886 (1966). Accordingly, a Suburban issue will be added. However, the Board is of the view that the addition of the Suburban issue should not automatically compel the addition of a comparative efforts issue at this time. Rather, where, as here, one applicant in a multiparty proceeding makes no showing concerning efforts to ascertain programing needs, the Board believes a more expeditious procedure is to await the showing of that applicant under the Suburban issue.

COMPARATIVE PROGRAMING ISSUE

8. In support of its request for a comparative programing issue, Florida-Georgia, citing the Commission's Policy Statement on Comparative Broadcast Hearings, supra,[12] argues that the programing proposals of the other applicants cannot be effectuated to a "significant degree" and are, therefore, deficient. It is contended that the other applicants cannot produce their claimed amount of local, live programing on the basis of their projected annual operating costs and/or their annual estimated program and production expenses. Florida-Georgia first submits that its programing on Channel 12 from 1957 to 1965 has been "outstanding" mainly because of its coverage of local news and public affairs. Petitioner acknowledges that the other applicants "also propose a substantial, indeed an extraordinary, amount of news, public affairs, and local live programing."[13] However, petitioner asserts, these proposals cannot "be accepted at face value" because the other applicants have not allocated sufficient funds to effectuate their program proposals. Florida-Georgia submits a table showing the program proposals and program expenditures of all the applicants,[14] noting that Florida-Georgia's "are actual programs then and now in existence, not paper proposals." Petitioner alleges that "Community is the only one of the three new applicants * * * which has provided any breakdown of its total proposed annual operating expenses."[15] Community's proposed expenses are then compared with Florida-Georgia's actual expenses for 1966.[16]

9. Florida-Georgia contends that, according to its general manager (whose attached affidavit supports petitioner's allegations with regard to the requested programing issue), the total programing budgets of Gateway and New Horizons will not be much larger than that of Community, and that even if Gateway and New Horizons spent twice as much as Community on programing (i.e., $464,000), they would still be spending less than half than Florida-Georgia spent in 1966 for its programs. Next, Florida-Georgia sets forth some of the actual program costs incurred by it in the operation of Channel 12 in Jacksonville, and contrasts these actual costs with Community's projected costs. For example, Florida-Georgia cites the following expense items: (1) Salaries paid to program personnel; (2) news budget; and (3) documentary program costs. Florida-Georgia states that it paid approximately $390,000 in salaries to programing personnel in 1966; that approximately one-third of its regular staff members are union members; that the average annual salary paid to full-time program and production employees exceeds $7,500; that the three new applicants propose total programing staffs of from 39 to 44 full-time employees, that if Community, which proposes a program staff of 44 persons, were to pay salaries equal to Florida-Georgia's present average annual salary, it would exceed its projected annual budget for all programing and production by approximately $100,000; and that if Community paid its program and production employees only $5,000 a year, it would have only $13,000 left in its programing budget, which, according to Florida-Georgia, is insufficient to cover such program costs as film rental, outside news sources, and music license fees. Florida-Georgia further notes that Community proposes to devote more time to news programs than does Florida-Georgia (12 percent for Community versus 10.9 percent for Florida-Georgia); that Florida-Georgia's news staff includes 21 full-time employees and 11 "stringers"; and that Florida-Georgia's annual news budget, which is almost $300,000 per year, is about $70,000 more than the entire programing and production budget of Community. Furthermore, argues Florida-Georgia, while Community substantially amended its program proposal on April 20, 1966,[17] it "made no change in its staffing proposal and no change at all in its proposed budget for programing and production." Finally, Florida-Georgia observes that only it proposes to editorialize daily, that one other applicant, Gateway, would editorialize on Saturday and Sunday only, and the remaining two applicants have not proposed to editorialize at all. Accordingly, Florida-Georgia asserts, there are significant differences in the proposals of the applicants for editorialization which warrant a comparative programing examination at the hearing.

10. In opposition, Community argues that petitioner's request for a comparative programing issue must be denied because its allegations do not support the requested issue. However, asserts Community, even if the merits of petitioner's argument were considered, the request would have to be denied, because Florida-Georgia's costs of operation on Channel 12 have not been "independently established" as the "norm" for the purpose of comparing the operating costs of all the applicants.

11. Gateway, in opposition to Florida-Georgia's request, contends, first, that petitioner's references to its past operation on Channel 12 must be disregarded in view of the Court's decision in Jacksonville Broadcasting Corp. v. FCC, supra. Second, Gateway contests petitioner's allegation that it (Gateway) cannot effectuate its program proposal. In support of its opposition, Gateway submits an affidavit of Horace W. Gross, a professional television consultant, which seeks to establish: (1) That Gateway's program proposals can be effectuated; and (2) that Florida-Georgia's program proposals cannot be effectuated. Gross analyzes the five television markets ranked just above Jacksonville and the five markets ranked just below Jacksonville, finding that the average total 1966 revenues for the markets other than Jacksonville were $4,348,000. On the basis of his analysis, Gross concludes that

[4] The results of the telephone survey, in which 1390 calls were completed, are attached to Community's opposition.

[5] In this regard, Community lists a number of groups to which its stockholders belong.

[6] Florida-Georgia, alleges the Bureau, should not be allowed to seek a "double advantage" by offering the same or similar evidence (i.e., its experience on Channel 12) on separate comparative criteria.

[7] The Board notes, however, that in making this determination, it is not relying on the allegations in the petition which have been challenged by Mr. Harold S. Cohn, Sr., a former Florida-Georgia director. See note 6, supra.

[8] In brief, the opponents have utilized various methods for ascertaining community needs, e.g., local residence, civic participation, personal interviews, telephone surveys, and the monitoring of local television stations.

[9] It is true, as alleged by petitioner, that neither Community nor Gateway specifically related the results of their ascertainment efforts to their proposed program schedules. However, the manner in which the results are reflected in the program proposals relates more directly to the comparative programing issue. See Chapman Radio and Television Co., 7 FCC 2d at 215, 9 RR 2d at 638: "[A] proponent of the programing issue should be required to make a prima facie showing that there are significant differences in the programing proposed and should relate his claimed substantial superiority in program planning to his ascertainment of community needs." Also see the Commission's discussion of the comparative efforts issue, 7 FCC 2d at 215–16, 9 RR 2d at 638.

[10] Since we have determined that the addition of a comparative efforts issue is not warranted, we need not reach the question of whether Florida-Georgia may, in view of Jacksonville Broadcasting Corp. v. FCC, supra, rely on its past experience on Channel 12 in support of its request.

[11] Petitioner relies particularly on the following language in the Policy Statement:

> No independent factor of likelihood of effectuation of proposals will be utilized. The Commission expects every licensee to carry out its proposals, subject to judgment that the public's needs and interests require a departure from original plans. If there is a substantial indication that any party will not be able to carry out its proposals to a significant degree, the proposals themselves will be considered deficient. (Footnote omitted.)

Policy statement, 1 FCC 2d at 398, 5 RR 2d at 1912. (Emphasis added by petitioner.)

[12] In this regard, Florida-Georgia submits the following: (1) The national average of local, live programing by network affiliated television stations is 8.9 percent of total broadcast time, citing Veterans Broadcasting Co., FCC 65–44, 4 RR 2d 875, 894; (2) each new applicant will be on the air approximately 133 hours per week; (3) Community proposes to devote 25.1 percent of its broadcast week (almost 5 hours per day) to local, live programing; New Horizons proposes 24.2 percent of local, live programing; and Gateway proposes 16.6 percent local, live programing, including 17.2 percent local, live programing during "prime time," i.e., between 6 p.m. and 11 p.m.; and (4) during 1966, 15.2 percent of Florida-Georgia's programs were live.

[13] The figures are taken from the pending applications of the other applicants and from Florida-Georgia's records.

[14] Florida-Georgia notes that although Gateway and New Horizons have not itemized their expenses, their total anticipated annual expenses (Gateway: $1,225,000; New Horizons: $1,339,000) are approximately the same as those of Community ($1,260,000).

[15] The expense breakdown presented by Florida-Georgia is as follows:

	Florida-Georgia	Community
General and administrative	$393,200	$225,000
Sales	243,600	134,500
Technical and engineering	354,000	600,500
Program and production	1,021,000	300,000

[16] For example, the percentage of live programing was raised from 12.2 percent to 26.1 percent and the percentage of news was raised from 8.7 percent to 12 percent. See Table III, petition to enlarge, p. 27.

Florida-Georgia, which proposes annual operating expenses of $2,300,000, will need over 50 percent of total Jacksonville television revenues in order to effectuate its program proposals. Gross also analyzes 1966 broadcast expense figures for average stations in the ten markets above and below Jacksonville, finding that the average per station expense figure is approximately $1,387,000, which is almost the same as the amount Gateway proposes to spend during its first year of operation (i.e., $1,225,000). Gross then states that the average operating expenses of stations with revenues ranging from $1 million to $1,500,000 are less than the operating expenses which Gateway proposes. Gross concludes "that in line with the experience of other stations in comparable markets," Gateway's program, staff and expense proposals are adequate to effectuate Gateway's proposals. On the other hand, Gross asserts that Florida-Georgia's annual operating expenses are too high to permit a profitable operation, especially when the new ABC-affiliated UHF station in Jacksonville (Channel 17) is fully competitive. According to Gross, the operation of the new UHF stations in Jacksonville (Channels 17, 30, and 47 [1]) will significantly reduce Florida-Georgia's revenues. Gross believes that "in the light of increased television competition in the market and the overall size of the Jacksonville television market, Florida-Georgia will not be able to maintain a profitable station with its proposed high cost of operation."

12. The Broadcast Bureau opposes Florida-Georgia's request for a comparative programing issue, arguing that petitioner is really requesting an "Evansville" issue (citing Ultravision Broadcasting Co., FCC 64R-192, 2 RR 2d 271; Chicagoland TV Co., FCC 65R-21, 4 RR 2d 261) and that such a request should be appropriately pleaded. Accordingly, the Bureau suggests that the Board dismiss the request.

13. In reply, Florida-Georgia again calls the Board's attention to the Commission's Policy Statement (see note 15, supra) and contends that the Commission will no longer consider inability to effectuate program proposals as a separate question, but will treat it as a deficiency in the program proposals themselves. New Horizons, by failing to respond, is argued to have virtually admitted that its program proposals are deficient. Community's position is alleged to have no support and the Bureau's argument is said to be based upon outdated pre-Policy Statement cases. Next, the affidavit of Gateway's television consultant is critically analyzed. In essence, Florida-Georgia contends that the affidavit "only succeeds in raising many additional questions of fact, thus corroborating the need for a hearing on this issue." For example, Florida-Georgia argues that Jacksonville is not an "average" television market, as Gross (Gateway's consultant) alleges, but that, in fact, 1966 television revenues in Jacksonville were approximately 35 percent higher than the "average" revenues presented in Gross's analysis.[2] Florida-Georgia concludes therefrom that it will not need "more than 50 percent" of Jacksonville's television revenues to meet its cost requirements, but only 37 percent, which, contends petitioner, is not unreasonable for an NBC affiliate in a two-VHF station market. Furthermore, in attacking Gross's expense figures for "average" television stations, Florida-Georgia submits that the local, live programing proposed by all of the applicants in this proceeding is not "average". See note 16, supra. It is noted that Gross has not disclosed the percentage of local, live programing broadcast by the "average" station whose expenses Gross has presented in his affidavit. Similarly, Gross is faulted for failing to provide any information concerning the number of people employed, or the average salary scale, at the "average" station. Finally, Florida-Georgia contests Gross's conclusion that it (Florida-Georgia) will not be able to effectuate its program proposals, arguing that affiant has not shown the correlation, if any, between a reduction in a station's average quarter hour audience caused by the entry of a new station or stations into its market, and a reduction in station revenues.

14. The Review Board agrees with the Broadcast Bureau that Florida-Georgia's allegations support a request for an "Evansville" issue (sufficiency of funds to effectuate program proposals),[3] rather than a comparative programming issue. The Board interprets the Policy Statement, supra Note 15, to mean that this factor (i.e., effectuation of program proposals) will no longer be considered as a comparative factor since all applicants are expected to carry out their proposals; but if this does not appear to be the case, the deficiency relates to the applicant's basic qualifications. Cf. Theodore Granik, 2 FCC 2d 515, 6 RR 2d 930 (1966). In this connection, the Board is of the view that this matter is encompassed within one aspect of an applicant's financial qualifications—the basis of its estimated operating expenses. Moreover, the fact that petitioner proposes more editorialization than the other applicants, does not, standing alone, warrant the addition of a comparative programing issue, especially where, as here, the program proposals of the applicants are substantially similar. However, the Board does not believe, as does the Bureau, that it would be appropriate, under the circumstances, to deny petitioner's request on procedural grounds.[4] The questions raised by petitioner's allegations are clear and appear to have been recognized by the parties; and all of the parties had an opportunity to respond to the allegations. Therefore, we will deal with the request for an effectuation issue on the merits.

15. In view of Florida-Georgia's extensive showing, the Board finds that a substantial question has been raised as to the basis and reasonableness of the other applicants' program costs. See Theodore Granik, supra. See also Chapman Radio and Television Co., 5 FCC 2d 392, 8 RR 2d 912 (1966). The detailed showing made by Florida-Georgia, which is supported by the affidavit of its general manager, emanates from an applicant with intimate knowledge of the operations of the station being applied for, and must be accorded significant weight by the Board in evaluating a need for an issue.[5] The Board rejects Community's argument that Florida-Georgia's operating costs cannot be utilized "for the purpose of comparing the costs of operations of all the applicants." Florida-Georgia's operating costs on Channel 12, while not the "norm" for television stations generally, are relevant in this proceeding, especially when the feasibility of the other applicants' program proposals is challenged. Florida-Georgia has, in our view, raised a substantial question in this regard and none of the other applicants, except Gateway, used their opportunity to oppose the petition to amplify their showing concerning the basis for their estimated program costs. For example, Florida-Georgia raised the question of salaries, and showed that if Community (and by implication, the other applicants) paid the average salary which Florida-Georgia pays to its programing personnel (i.e., $7,500 per year), it would, by this expense item alone, exceed its programing budget! Yet, neither Community nor the other applicants answered this question. Likewise, none of the other applicants showed what their news budgets would be or what they proposed to spend on documentary programs. Gateway's showing relies on the expenses and revenues of "average" television stations in "average" markets. However, Florida-Georgia contends that Jacksonville is not "average" and that the other applicants do not propose an "average" amount of local, live programing. See Note 16, supra. Under the circumstances, then, the Board concludes that the conflict between Florida-Georgia's showing and Gateway's opposition, and the absence of any showing by the other applicants, require that the financial issues be expanded to determine whether Community, Gateway and New Horizons can effectuate their program proposals.

Accordingly, it is ordered, That the petition for enlargement of issues, filed August 10, 1967, by Florida-Georgia Television Co., Inc., is granted to the extent indicated herein, and is denied in all other respects; that the request for order, filed October 2, 1967, by Florida Gateway Television Co., is denied; and

It is further ordered, That the issues in this proceeding are enlarged by the addition of the following issue: To determine the efforts, if any, made by The New Horizons Telecasting Co., Inc. to ascertain the programing needs and interests of the area to be served, and the manner in which it proposes to meet such needs and interests.

It is further ordered, That the issues in this proceeding relating to the financial qualifications of Community First Corp. (Issue 1), The New Horizons Telecasting Co., Inc. (Issue 3), and Florida-Gateway Television Co. (Issue 2), respectively, are enlarged by the addition of the following subissue: To determine the basis of the applicant's estimated programing costs and the reasonableness of that estimate.

Adopted: November 22, 1967.

Released: November 28, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14497; Filed, Dec. 11, 1967; 8:50 a.m.]

[1] Channel 17 began operating in February 1966; Channel 30 has been granted; and Channel 47 is currently vacant, but available for commercial operation.

[2] The total broadcast revenues for Jacksonville in 1966 were $5,877,000, whereas Gross's "average" was $4,348,000. See Attachment A (letter to petitioner's counsel from FCC Secretary), reply to oppositions and comments.

[3] See South Central Broadcasting Corp., 9 RR 1085 (1953).

[4] In Chicagoland TV Co., supra, upon which the Bureau relies, the Board stated that the Evansville request should be addressed to the Hearing Examiner and not to the Review Board. However, that procedure is no longer followed. See Keith L. Reising, 1 FCC 2d 1062, 6 RR 2d 431 (1966); and Theodore Granik, supra.

[5] Florida-Georgia's reliance on information derived from its past operation of Channel 12 is for the purpose of testing the basic qualifications of the other applicants and petitioner derives no comparative advantage therefrom. See Note 14, supra.

[Docket No. 17882; FCC 67-1281]

BUCKEYE CABLEVISION, INC.

Memorandum Opinion and Order Designating Proceeding for Hearing

In re Buckeye Cablevision, Inc., Toledo, Ohio, request for special relief pursuant to § 74.1109.

1. The Commission has before it for consideration a "Petition to Impose Special Requirements with Respect to the Operation of the CATV System Operated by Buckeye Cablevision, Inc., in Toledo, Ohio," and a Supplement thereto, filed on April 29, and August 25, 1966, respectively, by D. H. Overmyer Telecasting Co., Inc., permittee of UHF Station WDHO-TV, Toledo. Buckeye began CATV operations in March 1966, and currently provides 5,000 subscribers with the following Grade B or better signals: WTOL-TV, WSPD-TV, WGTE-TV,[1] and WDHO-TV, Toledo, Ohio; WJBK-TV, WWJ-TV, WXYZ-TV, and WKBD-TV, Detroit, Mich.; and CKLW-TV, Windsor, Ontario.[2] Overmyer seeks to prevent Buckeye's continued carriage of the Detroit-Windsor stations pending an evidentiary hearing to determine whether such carriage is consistent with the public interest.[3] Buckeye has opposed the petition and supplement. It also filed a motion to dismiss the petition on September 8, 1967; Overmyer opposed the motion and Buckeye replied.

2. In support of its request for hearing, Overmyer alleges that public interest considerations, referred to in paragraph 151 and footnote 69 of the Second Report and Order, 2 FCC 725, 786, are raised by the Grade B contour overlap of the Detroit and Toledo markets[4] and should be resolved in an evidentiary hearing; and that Buckeye should be precluded from continued carriage of the Detroit-Windsor stations pending Commission determination whether such carriage is consistent with the public interest.

3. Buckeye replies that the Overmyer petition lacks factual support; that its economic analysis is based on assumptions and comparisons with unrelated situations in other television markets, and thus fails to show in precise terms the actual impact of CATV in Toledo, or any exceptional circumstances there to justify the extraordinary relief requested; that Overmyer was aware of the existing off-the-air competition between Detroit-Windsor and Toledo stations prior to applying for Channel 24; that CATV benefits WDHO-TV by making it available on nonconverted television sets; that Buckeye will suffer discrimination if it is precluded from carrying Detroit-Windsor signals, because Toledo antenna dealers advertise and sell special equipment capable of bringing in signals from 125 miles distant; that compliance with Overmyer's request would rearrange the whole concept of television markets and normally served areas, render CATV subscribers "captives" of the Toledo market, and insulate Toledo stations from natural competition from Detroit signals; and that in any event, no Commission action should be taken pending the outcome of current copyright legislation.

4. In the motion to dismiss, Buckeye further alleges that despite Overmyer's original classification of WDHO-TV as an independent station carrying a "modest" number of network shows on a per program basis, the station's prime time schedule for Fall 1967 includes 40 quarter-hours of NBC and 39 quarter-hours of CBS programing; that as a result, a full schedule of all three networks is now available on the Toledo stations and Toledo's network fare is no longer "inferior," as implied by Overmyer's economic analysis. It also contends that Overmyer has failed to supplement its analysis with any specific facts on viewing habit shifts during more than 1 year of operation by Buckeye and WDHO-TV; that Overmyer has likewise failed to bring its showing up to date with specific facts on WDHO-TV's current financial condition, Toledo market data, or evidence of any actual impact of private injury to WDHO-TV. Overmyer opposes the motion to dismiss and Toledo Telecasting Corp., permittee of a new television station to be operated on Channel 54, Toledo (BPCT-3887) has adopted Overmyer's allegations in a statement which also opposes the motion to dismiss.

5. Overmyer's petition to impose special requirements on Buckeye will be granted to the extent that an evidentiary hearing will be ordered in order to determine whether carriage of Detroit-Windsor signals on the CATV system is consistent with the public interest and healthy maintenance of television broadcast service in Toledo.[5] The petition raises questions which, under the policies expressed in the Second Report and Order, require factual examination. The lack of information concerning the impact of CATV upon UHF activity in Toledo compels that a meaningful record be established before we render a decision. Because of the passage of time and duration of the Buckeye and WDHO-TV operations, both parties should now be able

[1] Board Member Kessler not participating.

[2] In Buckeye Cablevision, Inc. (CATV 100-102), FCC 66-817, released Sept. 22, 1966, the Commission's rules were waived to permit Buckeye to carry any other educational signal when WGTE-TV is not on the air.

[3] On Sept. 18, 1967, pursuant to request of applicant, Buckeye's microwave application (BPCAR-81), to relay Detroit and Windsor signals, was dismissed.

[4] Overmyer's petition was filed at the time the Commission was considering issuance of a cease and desist order against Buckeye for alleged violations of § 74.1107. Overmyer sought to broaden that proceeding (Docket No. 16581) to include the question of continued carriage of the Detroit-Windsor stations. The relief was denied, Buckeye Cablevision, Inc., FCC 66-449, 3 FCC 2d 798, but the Commission stated that the issues raised by Overmyer's petition would be considered in a separate action. In the interim, Buckeye had filed a petition for declaratory ruling concerning those operations which were the subject of the cease and desist proceeding. In Buckeye Cablevision, Inc., FCC 66-455, 3 FCC 2d 808, the petition was treated as a request for waiver of the evidentiary hearing requirement of section 74.1107; was denied by the Commission; and the matter was assigned Case No. CATV 100-5. The Commission's memorandum opinion and order also specified that Overmyer's petition would be ruled on at the time CATV 100-5 was designated for hearing. However, CATV 100-5 was dismissed by request of counsel before designation (Public Notice-B, Dec. 7, 1966, FCC Mimeo No. 93033, Report No. 43); hence Overmyer's petition is now before us on the merits.

[5] Six channels have been assigned to Toledo: 11 (WTOL-TV, CBS); 13 (WSPD-TV, ABC); 24 (WDHO-TV, Inc.); *30 (WGTE-TV, Educ.); 54 (construction permit held by Toledo Telecasting Corp.); and 69 (idle).

[6] In Buckeye Cablevision, Inc., FCC 66-449, 3 FCC 2d 798, we held that a Detroit station whose Grade B contour penetrates Toledo's city limits was entitled to carriage on CATV throughout the community, under sec. 74.1108 of the rules. The sole issue in that case, however, was Buckeye's compliance with the rules; the Commission specifically reserved judgment on the overall Toledo-Detroit question raised by Overmyer, including any public interest questions presented by such carriage. Thus, our determination that a paragraph 69 situation exists in Toledo and that the broad public interest questions inherent therein must be explored in evidentiary hearing does not conflict with our earlier decision on the single issue of compliance.

to substantiate their allegations with appropriate factual information. Commission action based on such a record should thus have some valid relationship to the facts of CATV effect in the market.

6. Finally, Overmyer requests that Buckeye be precluded from carrying any Detroit-Windsor stations pending the outcome of the evidentiary hearing. The Second Report and Order makes clear the impracticability of withdrawing service, once established, because of its disruptive effect. Second Report and Order, supra, 794–796. However, we will grant temporary relief, pending final disposition of this proceeding, in the form of an order requiring Buckeye to confine deliver of the Detroit-Windsor stations carried on its system to areas where feeder cable is located as of the date of this order. Buckeye may continue to expand its system beyond the above limits within its franchised area, so long as the expansion is confined to carriage of the Toledo signals. See Midwest Television, Inc., FCC 66–683, 4 FCC 2d 612, vacated in part, sub nom. Southwestern Cable Co. et al. v. United States of America and Federal Communications Commission, 378 F. 2d 118 (9th Cir. 1967), cert. granted Oct. 23, 1967 (Nos. 363, 420); Ultravision Broadcasting Company, FCC 66–907, 5 FCC 2d 217.

7. Accordingly, in view of the above, and pursuant to § 74.1109 of the Commission's rules, *It is ordered*, That this proceeding is hereby designated for hearing, at a time and place to be specified in a further order, upon the following issues:

1. To determine the present and proposed penetration and extent of CATV service, including television signals carried, in the market area.

2. To determine the effects of current and proposed CATV service in the Toledo area upon existing, proposed and potential television broadcast stations in the market.

3. To determine the present policy and proposed future plans of Buckeye Cablevision, Inc., with respect to the initiation of pay-TV operations based upon or in connection with its CATV operations.

4. To determine whether expansion of Buckeye Cablevision, Inc., CATV system should be limited and, if so, the appropriate conditions thereof.

It is further ordered, That Buckeye Cablevision, Inc., and D. H. Overmyer Telecasting Co., Inc., are made parties to this proceeding, and to participate must comply with the applicable provisions of § 1.221 of the Commission's rules.

It is further ordered, That petitioner D. H. Overmyer Telecasting Co., Inc., has the burden of proceeding and the burden of proof with respect to Issues 2 and 3, except that with respect to Issue 3 Buckeye has the burden of proceeding. Issue 4 is conclusory.

It is further ordered, That pending the outcome of this proceeding, respondent Buckeye Cablevision, Inc. is directed to limit the operation of its CATV system at Toledo as set forth in paragraph 6, supra.

It is further ordered, That the motion to dismiss filed by Buckeye Cablevision, Inc., is denied.

It is further ordered, That the petition to impose special requirements filed by D. H. Overmyer Telecasting Co., Inc., and the supplement thereto, to the extent indicated above, is granted, and, in all other respects, is denied.

It is further ordered, That the ruling as to temporary relief shall be effective on the 3d day, not counting Saturdays, Sundays, and holidays, after the day of release of this opinion, provided that the ruling on temporary relief shall not be effective until judicial determination of the motion for a stay if respondent notifies the Commission within 2 days that it intends to seek judicial review and seeks judicial review and a judicial stay within 14 days of release of this opinion.

Adopted: November 22, 1967.

Released: December 7, 1967.

FEDERAL COMMUNICATIONS COMMISSION,*

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-14434; Filed, Dec. 11, 1967; 8:50 a.m.]

* Commissioner Bradley dissenting and issuing a statement filed as part of the original statement. Commissioner Loevinger dissenting. Commissioner Wadsworth concurring in the result.

FEDERAL MARITIME COMMISSION

PORT OF BOSTON MARINE TERMINAL ASSOCIATION

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW. Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as set forth below), and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. J. J. Connolly, Chairman, Commonwealth Pier No. 5, Room No. 66, Boston, Mass. 02210.

Agreement No. 8785–3 between the members of the Port of Boston Marine Terminal Association modifies the basic agreement which provides for a cooperative working arrangement relative to wharfage, dockage, free time, wharf demurrage, usage charges, passenger charges, water, and electricity at the marine terminal facilities of the parties in Boston, Mass. The purpose of the modification is to include the storage of damaged or empty containers within the scope of the agreement.

Dated: December 6, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI, *Secretary.*

[F.R. Doc. 67-14421; Filed, Dec. 11, 1967; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RI68-203]

SUPERIOR OIL CO.

Order Providing for Hearing on and Suspension of Proposed Change in Rate

DECEMBER 1, 1967.

On November 3, 1967, The Superior Oil Co. (Superior) [1] tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change in rate is designated as follows:

[1] Address is: Post Office Box 1521, Houston, Tex. 77001.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual decrease	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed decreased rate	Rate in effect subject to refund in docket Nos.
RI68-203	The Superior Oil Co., Post Office Box 1521, Houston, Tex. 77001.	117	[3] 3	Arkansas Louisiana Gas Co. (Arkoma Area Units, Sequoyah County, Okla.) (Oklahoma "Other" Area).	$370	11-3-67	[2] 12-4-67	[2] 12-5-67	[4] 15.01556	[5] [6] 14.51556	RI68-83.

[2] The stated effective date is the first day after expiration of the statutory notice.
[3] The suspension period is limited to 1 day.
[4] Renegotiated rate decrease.
[5] Pressure base is 14.65 p.s.i.a.
[6] Includes base rate of 14.5 cents plus excise tax reimbursement of 0.015 cent and production tax reimbursement of 0.00056 cent.
[7] Includes base rate of 15 cents plus excise tax reimbursement of 0.015 cent and production tax reimbursement of 0.00056 cent.
[8] Includes letter dated Oct. 4, 1967, providing for 0.5 cent reduction in contractual rates and that seller will install and operate compression equipment to deliver gas at maximum 1000 p.s.i.a. at no cost to buyer.

Superior requests waiver of the statutory notice to permit its proposed rate change to become effective "immediately", or, in no event later than 30 days from date of filing. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit an earlier effective date for Superior's rate filing and such request is denied.

Superior has filed a proposed decrease in rate to 14.51556 cents from its currently effective rate of 15.01556 cents per Mcf which is in effect subject to refund in Docket No. RI68–83. The proposed decrease covers two of the four units [9] under Superior's FPC Gas Rate Schedule No. 117 covering sales to Arkansas Louisiana Gas Co. in the Oklahoma "Other" Area. Superior is not proposing to decrease the current rate with respect to the other two units.[10] Superior was issued a certificate covering all four units at a rate of 15 cents in Docket No. CI66–481. Both the currently effective rate of 15.01556 cents and the now proposed rate of 14.51556 cents include 0.015 cent for partial reimbursement (75 percent) of the Oklahoma excise tax which was increased by the state from 0.02 cent to 0.04 cent effective July 1, 1967. In addition, both of these rates reflect 0.00056 cent for partial reimbursement of increased taxes based on the application of the existing 5 percent Oklahoma production tax to the increase in the excise tax.[11] The buyer, Arkansas Louisiana Gas Co., has protested the inclusion of the 0.00056 cent tax reimbursement in the proposed decreased rate filed by Superior contending there is no contractual authorization for such tax reimbursement. Even though Superior's proposed rate of 14.51556 cents is below the 15 cents certificated rate it should be suspended for 1 day from December 4, 1967, the date of expiration of statutory notice, because of the contractual question raised by the buyer. This proceeding will pertain only to the contract question and will not involve any question as to the justness and reasonableness of the proposed rate.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed change, and that Supplement No. 3 to Superior's FPC Gas Rate Schedule No. 117 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed rate change contained in Supplement No. 3 to Superior's FPC Gas Rate Schedule No. 117.

(B) Pending a hearing and decision thereon, the above-designated rate supplement is suspended and its use deferred until December 5, 1967, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act: *Provided, however,* That the supplement to the rate schedule filed by Superior, as set forth herein, shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order, Superior shall execute and file under the above docket number, with the Secretary of the Commission, its agreement and undertaking to comply with the refund and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of a copy thereof upon the purchaser, Arkansas Louisiana Gas Co., under the rate schedule involved. Unless Superior is advised to the contrary within 15 days from the filing of its agreement and undertaking, such agreement and undertaking shall be deemed to have been accepted.

(C) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)), on or before January 17, 1968.

By the commission.

[SEAL] KENNETH F. PLUMB, *Acting Secretary.*

[F. R. Doc. 67-14439; Filed, Dec. 11, 1967; 8:45 a.m.]

[9] Galloway and Crowe Units, Sequoyah County, Okla.
[10] Dickins and Maithan Units, Sequoyah and Le Flore Counties, Okla., respectively.
[11] The present 5 percent production tax is computed on the total price, including tax reimbursement, received from buyer.

MOBIL OIL CORP. ET AL.

[Docket Nos. G-3973 etc.]

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

DECEMBER 1, 1967.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service heretofore authorized as described herein, all as more full described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 26, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no protest or petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given: *Provided, however,* That pursuant to § 2.56, Part 2, Statement of General Policy and Interpretations, Chapter I of Title 18 of the Code of Federal Regulations, as amended, all permanent certificates of public convenience and necessity granting applications, filed after July 1, 1967, without further notice, will contain a condition precluding any filing of an increased rate at a price in excess of that designated for the particular area of production for the period prescribed therein unless at the time of filing such certificate application, or within the time fixed herein for the filing of protests or petitions to intervene the Applicant indicates in writing that it is unwilling to accept such a condition. In the event Applicant is unwilling to accept such condition the application will be set for formal hearing.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein, nor should it be so construed.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
G-3973 E 11-13-67	Mobil Oil Corp. (successor to La Gloria Oil & Gas Co.), Post Office Box 2444, Houston, Tex. 77001.	Texas Eastern Transmission Corp., South Cottonwood Creek, De Witt County, Tex.	[2] 9.65376	14.65
		Texas Eastern Transmission Corp., Weakom Field, Harrison County, Tex.	[3] 14.0	14.65
		Natural Gas Pipeline Co. of America, La Gloria Field, Jim Wells and Brooks Counties, Tex.	14.0	14.65
		Arkansas Louisiana Gas Co., Weakom (Minnie Down) Field, Harrison County, Tex.	[4] 12.1860	14.65
		Natural Gas Pipeline Co. of America, La Gloria Field, Jim Wells County, Tex.	14.0	14.65
G-7570 C 11-15-67	Southern Union Gathering Co., Fidelity Union Tower, Dallas, Tex. 75201.	El Paso Natural Gas Co., Basin Dakota Pool, San Juan County, N. Mex.	13.0	15.025
G-10236 E 11-13-67	Mobil Oil Corp. (successor to La Gloria Oil & Gas Co.).	Trunkline Gas Co., Ramsey and Columbus Fields, Colorado County, Tex.	9.110195	14.65
G-12162 D 9-17-66	Texaco, Inc., Post Office Box 52332, Houston, Tex. 77052.	Cities Service Gas Co., Eureka and Medford Fields, Grant County, Okla.	(5)	
G-14096 E 11-13-67	Mobil Oil Corp (successor to La Gloria Oil & Gas Co.).	Texas Eastern Transmission Corp., Bird Island Field, Kleberg County, Tex.	14.65	14.65
G-18238 E 11-13-67	Mobil Oil Corp. (successor to Texas Eastern Transmission Corp.).	United Gas Pipe Line Co., Blocker (Pettit) Field, Harrison County, Tex.	9.6216	14.65
C161-635 E 11-13-67	Mobil Oil Corp. (successor to La Gloria Oil & Gas Co.).	United Gas Pipe Line Co., South El Toro Field, Jackson County, Tex.	15.192	14.65
C163-218 C 10-9-67	Global Oils, Inc. (Operator) et al., 2010 Republic National Bank Bldg., Dallas, Texas. 75201.	El Paso Natural Gas Co., acreage in San Juan County, N. Mex.	13.0	14.65
C163-464 (G-3973) C 11-13-67 [6]	Mobil Oil Corp. (successor to La Gloria Oil & Gas Co.).	Transcontinental Gas Pipe Line Corp., La Gloria Field, Jim Wells and Brooks Counties, Tex.	[7] 11.0	14.65
C163-1205 E 11-13-67	do	El Paso Natural Gas Co., Fulcher Kutz Field, San Juan County, N. Mex.	13.0	15.025
C163-1388 E 11-13-67	do	United Fuel Gas Co., Valentine Field, Lafourche Parish, La.	19.5	15.025
C163-1462 E 11-13-67	do	Arkansas Louisiana Gas Co., Weakomis Area, Garfield County, Okla.	15.0	14.65
C165-767 C 11-20-67	Southern Union Production Co., Fidelity Union Tower, Dallas, Tex. 75201.	El Paso Natural Gas Co., acreage in Rio Arriba County, N. Mex.	13.0	15.025
C166-53 E 11-13-67	Mobile Oil Corp. (successor to La Gloria Oil & Gas Co.).	Northern Natural Gas Co., East Clark Area, Harper County, Okla.	17.0	14.65
C166-718 E 11-1-67	R. L. Dunbar, d.b.a. Greenbrier Oil Co. (successor to James V. Joyce), Post Office Box 1844, Parkersburg, W. Va. 26101.	Consolidated Gas Supply Corp., Spring Creek District, Wirt County, W. Va.	26.0	15.325
C166-1162 C 7-31-67 [8]	Henry H. Howard et al. Box 508, Mount Jewett, Pa. 16740.	Pennsylvania Gas Co., Lafayette Township, McKean County, Pa.	27.0	15.025
C166-1343 C 10-6-67	Development Services Corp. (Operator) et al., 645 Petroleum Club Bldg., Denver, Colo. 80202.	Mountain Fuel Supply Co., Pole Gulch Unit, Moffat County, Colo.	15.0	15.025
C167-676 C 11-20-67	Apache Corp. (Operator) et al., 823 South Detroit, Tulsa, Okla. 74120.	Northern Natural Gas Co., Sharon West Field, Woodward County, Okla.	[9] 17.0	14.65
C167-756 C 11-14-67	do	Panhandle Eastern Pipe Line Co., South Peek Field, Ellis County, Okla.	[9] 17.0	14.65
C168-649 (G-6004) F 11-13-67	Highland Oil Co. (successor to Shell Oil Co.), c/o J. L. Bianchi, attorney, 1201 San Jacinto Bldg., Houston, Tex. 77002.	Texas Eastern Transmission Corp., Brushy Creek Field, De Witt and Lavaca Counties, Tex.	[10] 16.4	14.65
C168-656 A 11-13-67	Sun Oil Co. (Southwest division), 1608 Walnut St., Philadelphia, Pa. 19103.	Panhandle Eastern Pipe Line Co., Northwest Dombey and West Lorena Fields, Texas County, Okla.	[9] 17.0	14.65
C168-660 (G-10926) F 11-13-67	Harry W. Brennan, Jr. (successor to John C. Whitaker et al.), 308 Petroleum Bldg., Longview, Tex. 75601.	United Gas Pipe Line Co., Bethany Field, Harrison County, Tex.	10.8676	14.65
C168-661 (G-12972) (G-16678) (G-12008) (G-16758) (G-16979) (G-11174) F 11-9-67	Morgan Petroleum Co., Operator,[12] 1600 Liberty National Bank Bldg., Oklahoma City, Okla. 73102 (successor to Sun Oil Co., Superior Oil Co., Union Oil Co. of California, Yingling Oil, Inc., Eastcliffe Killam, and Gulf Oil Corp.).	Michigan Wisconsin Pipe Line Co., and Colorado Interstate Gas Co., Laverne Field, Harper County, Okla.	[7] 17.0	14.65
C168-662 A 11-13-67	Carpenter-Yeager, c/o Hays and Co., agent, Box 590, Spencer, W. Va. 25276.	Equitable Gas Co., Birch District, Braxton County, W. Va.	25.0	15.325
C168-663 A 11-13-67	Olico, Inc., Post Office Box 271, San Angelo, Tex. 76901.	Cumberland & Allegheny Gas Co., Washington District, Upshur County, W. Va.	25.0	15.325
C168-664 A 11-13-67	do	do	25.0	15.325
C168-665 A 11-13-67	George Mitchell & Associates, Inc., 12th Floor, Houston Club Bldg., Houston, Tex. 77002.	Arkansas Louisiana Gas Co., acreage in Sequoyah County, Okla.	14.5	14.65

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
C168-665 A 11-14-67	General American Oil Co. of Texas, Meadows Bldg., Dallas, Tex. 75206.	Transcontinental Gas Pipe Line Corp., Southeast Gueydan Field, Vermilion Parish, La.	21.25	15.025
C168-667 A 11-14-67	Sinclair Oil & Gas Co., Post Office Box 521, Tulsa, Okla. 74102.	Texas Eastern Transmission Corp., Cotton Freso Field, Assumption Parish, La.	26.0	15.025
C168-668 A 11-15-67	Penn-Wayne Gas Co., Box 113, Dayton, Pa. 16222.	Consolidated Gas Supply Corp., North Mahoning Township, Indiana County, Pa.	25.0	15.325
C168-669 A 11-15-67	Boyd & Steiner et al., Rooms 6-8 Reed Bldg., South Seventh St., Indiana, Pa. 15701.	do	Depleted	
C168-670 B 11-15-67	Pauley Petroleum, Inc. (Operator) et al., 10,000 Santa Monica Blvd., Los Angeles, Calif. 90067.	United Gas Pipe Line Co., Glendale Dome Area, Trinity County, Tex.	25.0	15.325
C168-671 A 11-15-67	Benco Drilling Co., Inc., Post Office Box 309, Charleston, W. Va. 25322.	Equitable Gas Co., Birch District, Braxton County, W. Va.	15.0	15.025
C168-672 A 11-15-67	Sinclair Oil & Gas Co.	El Paso Natural Gas Co., Picuance Creek Field, Rio Blanco County, Colo.	[11] 15.0	14.65
C168-673 A 11-16-67	An-Son Corp., 3514 North Santa Fe, Oklahoma City, Okla. 73118.	Arkansas Louisiana Gas Co., Kinta Field, Le Flore County, Okla.	16.25	15.025
C168-674 (CP62-142) E 11-13-67	Mobil Oil Corp. (successor to Texas Eastern Transmission Corp.).	Texas Gas Transmission Corp., Calhoun Field, Ouachita Parish, La.	15.75	15.025
C168-675 (CP62-159) E 11-13-67	do	United Gas Pipe Line Co., Calhoun Field, Ouachita Parish, La.	13.0	15.025
C168-676 (CP61-160) E 11-13-67	do	El Paso Natural Gas Co., Flora Vista Field, San Juan County, N. Mex.	15.0	14.65
C168-677 A 11-17-67	Mobil Oil Corp.	Arkansas Louisiana Gas Co., Chismville Field, Logan County, Ark.	12.0	15.025
C168-679 A 11-20-67	Southern Union Production Co.	El Paso Natural Gas Co., acreage in Rio Arriba County, N. Mex.	[7] 17.0	14.65
C168-680 A 11-20-67	Sunray DX Oil Co., Post Office Box 2039, Tulsa, Okla. 74102.	Panhandle Eastern Pipe Line Co., L. P. Humphreys Unit, Hemphill County, Tex.	25.0	15.325
C168-681 A 11-16-67	J & J Enterprises, Inc., 808 Allegheny Ave., Avonmore, Pa. 15618.	Cumberland & Allegheny Gas Co., Union District, Upshur County, W. Va.	Depleted	
C168-682 B 11-17-67	Gulf Oil Corp., Post Office Box 1589, Tulsa, Okla. 74102.	Cities Service Gas Co., Laketon Field, Grey County, Tex.	[7] 17.0	14.65
C168-683 A 11-17-67	A.I.K., Ltd., No. 2, Operator, 706 Bank of the Southwest Bldg., Amarillo, Tex. 79120.	Panhandle Eastern Pipe Line Co., West Chester Field, Woodward County, Okla.	17.0	14.65
C168-684 A 11-20-67	Apache Corp. (Operator) et al.	Arkansas Louisiana Gas Co., Northeast Carlton Field, Blaine County, Okla.	Uneconomical	
C168-685 B 11-20-67	Hugh K. Spencer et al., West Union, W. Va. 26456.	Consolidated Gas Supply Corp., West Union District, Doddridge County, W. Va.	13.75	15.325
C168-686 A 11-20-67	Mobil Oil Corp.	Texas Eastern Transmission Corp., Shiloh Field, Union Parish, La.	15.0	14.65
C168-688 A 11-21-67	Houston Royalty Co., 2027 Humble Bldg., Houston, Tex. 77002.	United Gas Pipe Line Co., Southwest Waconiche Area, Goliad County, Tex.	15.0	14.65
C168-689 A 11-20-67	Lone Star Producing Co. (Operator) et al., 301 South Harwood St., Dallas, Tex. 75201.	Texas Eastern Transmission Corp., Whelan Field, Harrison County, Tex.	15.0	14.65

[1] Rate in effect subject to refund in Docket No. R167-388.
[2] Subject to deduction for compression should Buyer compress gas.
[3] Deletes certain leases that have expired and other leases that have been assigned to Worldwide Petroleum Co. and Calvert Drilling, Inc. (now Continental Oil Co.).
[4] Adds acreage acquired from La Gloria Oil & Gas Co., from which service was being rendered pursuant to La Gloria's FPC GRS No. 2.
[5] Price varies (up to 19 cents per Mcf) according to compression.
[6] Provides for the sale of additional gas which was previously sold in interstate commerce.
[7] Subject to upward and downward B.t.u. adjustment.
[8] Concurrently with application Applicant filed a notice of change in rate to 16.4 cents per Mcf, subject to refund in Docket No. R168-478.
[9] Concurrently with application Applicant filed a notice of change in rate to 16.4 cents per Mcf, subject to refund in Docket No. R168-478.
[10] Price varies (up to 19 cents per Mcf) according to compression.
[11] Provides for the sale of additional gas which was previously sold in interstate commerce.
[12] Concurrently with application Applicant filed a notice of change in rate to 16.4 cents per Mcf, subject to refund in Docket No. R168-478.

SECURITIES AND EXCHANGE COMMISSION

[812-2313]

BURLINGTON INTERNATIONAL, INC.

Notice of Filing of Application for Order Exempting Company

DECEMBER 6, 1967.

Notice is hereby given that Burlington International, Inc. ("Applicant"), 201 North Eugene Street, Greensboro, N.C., a Delaware corporation, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an order exempting Applicant from all provisions of the act and the rules and regulations thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

Applicant was organized by Burlington Industries, Inc. ("Burlington"), under the laws of the State of Delaware on August 9, 1966. All of the outstanding stock of the Applicant consisting of 1,000 shares of common stock, $1 par value, has been issued to Burlington for $100,000 in cash and 2,000 shares of capital stock of Stoffel AG, a Swiss textile concern, and a fully owned subsidiary of Burlington. The fair market value of such shares is estimated by Applicant's Board of Directors to be at least $3,202,932. Any additional securities which Applicant may issue, other than debt securities, will be issued only to Burlington. Burlington will continue to retain its present holdings of Applicant's common stock and any additional securities of Applicant which Burlington may acquire and Burlington will not dispose of any of Applicant's securities (other than debt securities) except to Applicant or to a fully owned subsidiary of Burlington (which term as used herein means a corporation all of the outstanding securities of which, other than short-term paper as defined in section 2(a)(36) of the Act, are owned directly or indirectly, by Burlington); and Burlington will cause each fully owned subsidiary not to dispose of Applicant's securities except to Burlington, Applicant or to one or more fully owned subsidiaries of Burlington.

Burlington is principally engaged in the production and marketing of textiles and related products. Its common stock is listed on the New York Stock Exchange and registered under the Securities Act of 1933.

A principal purpose for the organization of Applicant was to raise funds abroad for financing the expansion and development of Burlington's foreign operations while at the same time providing assistance in improving the balance of payments position of the United States in compliance with the voluntary cooperation program instituted by the President in February 1965.

Applicant intends to issue and sell Swiss Franc Bonds ("Bonds") in the aggregate amount of 50 million Swiss francs (approximately $11,666,000) to a group of underwriters for offering and sale only outside the United States. Burlington will guarantee the payment of principal, interest, and premium, if any, on the Bonds. Any additional debt securities of Applicant which may be issued to or held by the public will be guaranteed by Burlington in a manner substantially similar to the guarantee of the Bonds.

Applicant also intends to offer its 4½ percent Convertible Debentures ("Debentures") in an aggregate principal amount of 55,500,000 Swiss francs (approximately $12,876,000), guaranteed as to principal and interest by Burlington, to the stockholders of a textile company organized under the laws of Switzerland in exchange for stock of that company. Applicant represents that none of the stock of the textile company is held in the United States or by U.S. nationals. The Debentures of the Applicant will be convertible into common stock of Burlington at any time after 3 years from the date of issuance.

It is intended that upon completion of the long-term investment of Applicant's assets, substantially all of the assets of Applicant (exclusive of U.S. Government

securities and cash items) will be invested in securities of or loaned to companies all or substantially all of whose business is carried on abroad either directly or indirectly through foreign companies which are, or upon the making of such investments will be (1) majority-owned subsidiaries of Burlington within the meaning of section 2(a)(23) of the Act, (2) companies under Burlington's control within the meaning of section 2(a)(9) of the Act, or (3) companies in which Burlington or Applicant own directly or indirectly, an equity interest of 15 percent or more. Applicant will not invest, directly or indirectly, in companies primarily engaged in the business of investing, reinvesting, owning, holding or trading in securities provided that this restriction shall not preclude investments by Applicant in fully owned subsidiaries of Burlington primarily engaged in the business of owning or holding securities of companies in which Applicant may invest as stated herein. Applicant will proceed as expeditiously as practicable with the long-term investment of its assets in the manner described above. Pending such investment, and from time to time thereafter in connection with changes in long-term investments, Applicant will invest temporarily in debt obligations (including time deposits) of foreign governments, foreign financial institutions (including foreign branches of U.S. financial institutions) and foreign subsidiaries of Burlington, payable in U.S. dollars or other currencies and in each case maturing in 1 year or less from the date of acquisition. Applicant will not acquire the securities representing its investments or loans for the purpose of resale and will not trade in securities.

The Bonds are to be offered and sold under conditions which are intended to assure that they will not be offered or sold in the United States, its territories or possessions or to nationals, citizens or residents of the United States, its territories or possessions. The contracts relating to such offer and sale will contain various provisions intended to assure that the Bonds will not be purchased by nationals, citizens or residents of the United States, its territories or possessions. Any additional debt securities of Applicant which may be sold to the public in the future will be sold under substantially similar conditions.

Counsel has advised Applicant that U.S. persons will be required to report and pay an interest equalization tax with respect to acquisition of the debt securities, except where a specific statutory exemption is available. By financing its foreign operations through Applicant rather than through the sale of its own obligations, Burlington will utilize an instrumentality the acquisition of whose debt obligations by U.S. persons would generally subject such persons to the interest equalization tax, thus discouraging them from purchasing such debt obligations.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction from any provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that it is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act for the Commission to enter an order exempting Applicant from each and every provision of the Act for the following reasons: (1) A significant purpose of the Applicant is to assist in improving the balance of payments program of the United States by obtaining funds for foreign operations in foreign countries; (2) the payment of the debt securities to be issued by Applicant, which is guaranteed by Burlington, does not depend solely on the operation or investment policy of Applicant, for the security holders may ultimately look to the business enterprise of Burlington; (3) none of the securities of Applicant (other than debt securities) will be held by any person other than Burlington or a fully owned subsidiary of Burlington; (4) Applicant will not deal or trade in securities; (5) the debt securities to be issued by Applicant will be sold only to foreign nationals and the burden of the Interest Equalization Tax will discourage resale to any U.S. national, citizen, or resident.

Notice is further given that any interested person may, not later than December 21, 1967, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67–14386; Filed, Dec. 11, 1967; 8:45 a.m.]

[812–2228]

MASSACHUSETTS INVESTORS GROWTH STOCK FUND, INC.

Notice of Filing of Application for Order Exempting Company

DECEMBER 6, 1967.

Notice is hereby given that Massachusetts Investors Growth Stock Fund, Inc. ("Applicant"), 200 Berkeley Street, Boston, Mass., a Massachusetts corporation registered as a diversified open-end investment company under the Investment Company Act of 1940, 15 U.S.C. sec. 80a–1 et seq. ("Act"), has filed an application pursuant to section 10(e) of the Act for an order of the Commission extending until February 20, 1968, the period during which a vacancy on the board of directors may be filled in order to bring the members of the board into compliance with section 10(a) of the Act. All interested persons are referred to the application on file with the Commission for a statement of Applicant's representations which are summarized below.

Section 10(a) of the Act provides, among other things, that no registered investment company shall have a board of directors more than 60 per centum of the members of which are persons who are officers or employees of, such registered company. Section 10(e) of the Act provides, in pertinent part, that if by reason of the death of any director, the requirements of section 10(a) shall not be met, the operation of the provisions of said section shall be suspended for a period of 30 days if the vacancy may be filled by action of the board of directors of such registered investment company or for such longer period as the Commission may prescribe by order upon application, as not inconsistent with the protection of investors.

Prior to November 8, 1967, Applicant's board of directors consisted of 12 persons, of whom five were unaffiliated within the meaning of section 10(a) of the Act. On that date, one of the unaffiliated directors met accidental death, which reduced the membership of the board of directors to eleven, thereby increasing the percentage represented by the seven affiliated directors from 58.3 percent to 63.6 percent.

Applicant represents that it requires more than 30 days to fill the vacancy, that February 20, 1968 is the date of its annual meeting of shareholders, at which meeting shareholders will be voting for directors, and that in any event the board of directors will either fill the vacancy or select a candidate for election by shareholders by the date of mailing its proxy material (approximately the middle of January). Applicant further points out that there continues to be a substantial percentage of unaffiliated directors.

Notice is further given that any interested person may, not later than December 26, 1967, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address set forth above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the matter may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon this matter shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67–14387; Filed, Dec. 11, 1967; 8:45 a.m.]

NORTH AMERICAN RESEARCH & DEVELOPMENT CORP.

Order Suspending Trading

DECEMBER 6, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of North American Research & Development Corp., 1935 South Main Street, Salt Lake City, Utah, and all other securities of North American Research & Development Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period December 7, 1967, through December 16, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67–14388; Filed, Dec. 11, 1967; 8:46 a.m.]

[812–2219]

NORTHEAST INVESTORS TRUST

Notice of Filing of Application and 6(c) for Order Exempting Proposed Transaction From Provisions of Sections 17(a) and 22(d) of the Investment Company Act of 1940 ("Act")

DECEMBER 6, 1967.

Notice is hereby given that Northeast Investors Trust ("Applicant"), 50 Congress Street, Boston, Mass. 02109, a "Massachusetts trust" organized and existing under an agreement and declaration of trust executed under the laws of Massachusetts, registered under the Act as an open-end, diversified, management investment company, has filed an application pursuant to sections 17(b) and 6(c) of the Act for an order exempting from the provisions of 17(a) and 22(d) of the Act a transaction in which Applicant's redeemable securities will be issued at a price other than the current public offering price described in the prospectus in exchange for substantially all of the assets of The Alsace Corp. ("Alsace"). All persons are referred to the application on file with the Commission for a statement of Applicant's representations which are summarized below.

Alsace, a Massachusetts corporation, was reincorporated in Massachusetts to succeed to a Rhode Island corporation of the same name. The principal business of Alsace and its predecessor since 1955 has been the management of its portfolio securities. Pursuant to an agreement between Applicant and Alsace, substantially all of the cash and securities of Alsace, with a market value of $2,605,339 as of September 30, 1967, will be transferred to Applicant in exchange for shares of its capital stock.

The number of shares of Applicant to be issued to Alsace is to be determined by dividing the aggregate market value (subject to certain adjustments set forth in the agreement and plan of reorganisation) of the assets of Alsace to be transferred to Applicant by the net asset value per share of Applicant as defined in the agreement. If the valuation under the agreement had taken place on September 30, 1967, Alsace would have received approximately 144,667 shares of Applicant.

When received by Alsace, the shares of Applicant are to be distributed to the Alsace shareholders on the liquidation of Alsace. Applicant has been advised by the management of Alsace that the stockholders of Alsace will take these shares of Applicant for investment and will execute letters to that effect to be delivered at the closing.

The following affiliations exist between Applicant and Alsace: Mr. Hollis P. Nichols is chairman of the trustees of Applicant and president and a director of Alsace. He owns beneficially 3.48 percent of the shares of Applicant and 16.69 percent of record as trustee of various trusts in which neither he nor his family has any beneficial interest. He and his family own beneficially approximately 67 percent of the stock of Alsace. Mr. Ernest C. Monrad, a trustee of Applicant, owns of record but not beneficially, as a trustee of several of the trusts for Mr. Nichols or members of his family, 27 percent of the stock of Alsace. In addition, Mr. Monrad is a vice-president, director and the clerk of Alsace.

Section 17(a) of the Act, as here pertinent, makes it unlawful for any affiliated person of a registered investment company (as defined in section 2(a)(3) of the Act), or any affiliated person of such a person, to sell to or to buy from such registered company any security or other property unless the Commission upon application grants an exemption from such prohibitions pursuant to section 17(b) of the Act after finding that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of the registered investment company and with the general purposes of the Act.

Section 22(d) of the Act provides that a registered open-end investment company may sell its shares only at the current public offering price as described in the prospectus. Section 6(c) permits the Commission, upon application, to exempt such a transaction if it finds that such an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant contends that the proposed offering of its stock will comply with the provisions of the Act, other than sections 17(a) and 22(d), and submits that the terms of the proposed acquisition by Applicant of substantially all of the assets of Alsace in exchange solely for shares of Applicant are reasonable and fair and do not involve overreaching on the part of any person and that the proposed transaction is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 21, 1967, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations

promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14389; Filed, Dec. 11, 1967; 8:46 a.m.]

SILVER SHIELD CORP.

Order Suspending Trading

DECEMBER 6, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Silver Shield Corp. (formerly Silver Shield Mining & Milling Co.) Spokane, Wash., otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period December 7, 1967, through December 16, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14390; Filed, Dec. 11, 1967; 8:46 a.m.]

[812-2161]

TRAVELERS INSURANCE CO. AND TRAVELERS FUND FOR VARIABLE ANNUITIES

Notice of Application for Exemptions

DECEMBER 6, 1967.

Notice is hereby given that The Travelers Insurance Co. ("Insurance Company") and The Travelers Fund For Variable Annuities ("Separate Account"), One Tower Square, Hartford, Connecticut (herein collectively called "Applicants"), have filed an application pursuant to section 6(c) of the Investment Company Act of 1940, 15 U.S.C. sec. 80a-1, et seq. ("Act") for an order exempting Applicants from the provisions of sections 14(a), 15(a), 16(a), 17(f), 22(d), 22(e), 27(a)(4), 27(c)(1), 27(c)(2), and 32(a) of the Act. Separate Account is an open-end diversified management investment company registered under the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations which are summarized below.

Insurance Company established Separate Account in order (1) to offer contracts designed for annuity purchase plans adopted by public school systems and certain tax exempt organizations which contracts qualify as tax deferred annuities under section 403(b) of the Internal Revenue Code of 1954 ("Code") and (2) to offer contracts which are to be issued with respect to plans established by persons entitled to the benefits of the Self-Employed Individuals Tax Retirement Act of 1962, as amended ("H.R. 10").

Section 14(a)(1) provides, in pertinent part, that no registered investment company shall make a public offering of a security of which such company is the issuer, unless such company has a net worth of at least $100,000.

Applicants state that the only contracts which will be offered initially are tax sheltered variable annuity contracts which initially meet the requirements of section 403(b) of the Code or which are issued with respect to plans established by persons entitled to the benefits of H.R. 10. Applicants declare that since Separate Account will only hold assets of tax sheltered contracts, it is not feasible to raise the minimum capital requirement through a nonpublic offering because the limitations under the Code on tax deferred contributions on behalf of a single participant make it unlikely that $100,000 could be raised under circumstances not constituting a public offering.

Applicants further state, among other things, that it is not feasible to raise the minimum capital requirement through the sale of nontax sheltered contracts since to combine in a single separate account assets pertaining to tax sheltered contracts and assets pertaining to nontax sheltered contracts could result in the imposition of tax liabilities which might not otherwise be incurred or in the misallocation of tax benefits.

Finally, Applicants state that under the Connecticut Insurance Code, the Fund is a segregated investment account which is an integral part of Insurance Company. Under Connecticut law the contract obligations of Insurance Company under the variable annuity contracts cannot be abandoned until such obligations have been discharged. The Insurance Company's capital and surplus at the end of 1966 of $429 million provides ample evidence of its financial qualifications. Insurance Company admitted assets at the same date amounted to $3.9 billion.

Sections 15(a), 16(a), and 32(a), in substance, require shareholder approval of the investment advisory agreement, the election of directors by shareholders, and shareholder ratification of the selection of an independent public accountant, respectively. Applicants state that since there will be no contract owners, hence no holders of voting securities, until after the registration statement under the Securities Act of 1933 becomes effective, the requirements of the aforesaid sections cannot be complied with. Applicants represent, however, that the first meeting of contract owners will take place no later than 9 months and 2 weeks from the effective date of the registration statement. Applicants state that by that time it is expected that some variable annuity contracts will have been sold so that the participants therein can then vote on such matters. The Applicants request a temporary exemption from the requirements of sections 15(a), 16(a), and 32(a) to allow Separate Account to operate until the first annual meeting of contract owners, at which time the requirements of those sections can be met.

Section 17(f)(3) provides, in pertinent part, that a registered management investment company may maintain its securities and investments in its own custody in accordance with such rules, regulations and orders as may be adopted by the Commission in the interests of investors. Rule 17f-2 under the Act requires, among other things, that such assets be placed in a bank subject to the other requirements of the rule. One of such other requirements limits the persons who shall have access to such assets to only certain specified individuals. Applicants request an exemption from the provisions of section 17(f)(3) and Rule 17f-2 to the extent necessary to permit not more than five officers or responsible employees of Insurance Company as well as duly authorized representatives of the Connecticut Commissioner of Insurance to have access to the assets of Separate Account. Such assets will be deposited by Insurance Company with The Connecticut Bank and Trust Co., Hartford, Conn. Insurance Company is subject to supervision and inspection by the Connecticut Commissioner of Insurance.

Section 22(d) provides, in pertinent part, that no registered investment company shall sell any redeemable security of which it is the issuer except at a current public offering price described in the prospectus. The contracts which will be issued by Applicants provided for a combined 5.25 percent charge for sales and administrative services. The combined charge is appropriate because of the impossibility of determining in advance of the sale of the contract the proportions of such combined charge which will be incurred by the Insurance Company for each type of expense. Such proportions will vary from case to case depending on the amount of assistance provided by the employer-purchaser of the contract in connection with the sale and administration of such contract. Since on the basis of actual experience the proportions of sales charges and accordingly the current public offering price will vary from contract to contract for the reasons referred to above, Applicants request an exemption from the requirements of section 22(d).

Applicants request a further exemption to permit the allocation of an experience rating provision for the H.R. 10 plans and tax sheltered contracts initially meeting the requirements of section 403(b) of the Code. The combined

sales and administrative expenses applicable to each contract will be determined annually. If the actual expenses exceed the amount previously deducted for such expenses, no additional deduction will be made. On the other hand, if the actual expenses are less than the amount deducted, Insurance Company, in its discretion, may allocate all, a portion, or none of such excess as an experience rating credit to the participants in the Separate Account. Any excess so allocated will be applied in one of two ways: (a) By a reduction in the amount deducted from subsequent contributions for sales and administrative expenses or (b) by the crediting to participants under the group policy of a number of additional accumulation units or annuity units as applicable, equal in value to the amount of credits due less applicable premium taxes.

Sections 22(e) and 27(c)(1) provide, in pertinent part, that (1) a registered investment company may not suspend the right of redemption or postpone the date of payment upon redemption of any redeemable security in accordance with its terms for more than seven days after the tender of such security for redemption, and (2) a registered investment company issuing periodic payment plan certificates may not sell such certificates unless such certificates are redeemable securities. Applicants represent that prior to their maturity dates the contracts are redeemable and satisfy the redemption provisions of the Act. However, on their respective maturity dates, the then value of the contracts is determined and applied to provide for lifetime annuity payments of variable amounts. Applicants state that because the amount of annuity payments under the variable option are calculated actuarially, based upon the life expectancies of the annuitants, if an annuitant were to be permitted to redeem his contract after the maturity date, it would upset the actuarial computations made with respect to the remaining annuitants. Applicants request exemption from sections 22(e) and 27(c)(1) to the extent that once an annuitant begins to receive annuity payments he cannot redeem the value credited to his account. Such prohibitions shall only apply after annuity payments to the annuitant commence.

Section 27(a)(4) provides, in pertinent part, that the first payment on a periodic payment plan certificate be not less than $20. In order to minimize the administrative and accounting burdens involved for employers in making payroll deductions, Applicants request an exemption to permit the first payment to be in an amount of not less than $10. This exemption is requested with respect to those contracts which are group variable annuity contracts meeting the requirements of section 403(b) of the Internal Revenue Code.

Section 27(c)(2) prohibits a registered investment company or a depositor or underwriter for such company from selling periodic payment plan certificates unless the proceeds of all payments, other than the sales load, are deposited with a bank as trustee or custodian and held under an indenture or agreement containing in substance, the provisions required by sections (26(a)(2) and (3)) for a unit investment trust. Section (26(a)(2)) requires that the trustee or custodian segregate and hold in trust all securities and cash of the trust and places certain restrictions on charges which may be made against the trust income and corpus and excludes from expenses which the trustee or custodian may charge against the trust any payments to the depositor or principal underwriter, other than a fee not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative services delegated to them by the trustee or custodian. Section 26(a)(3) governs the circumstances under which the trustee or custodian may resign and is designed to prevent "orphanage" of the trust.

Applicants state that Insurance Company functions as a regulated insurance company and is subject to extensive and detailed supervision and inspection by the Connecticut Commissioner of Insurance in all of its dealings with the contract purchasers. Insurance Company states that such control provides ample assurance against misfeasance and adequately protects the interests of the purchasers and annuitants. Accordingly, Applicants state that such authority and jurisdiction affords the essential protection which the trusteeship or custodianship under section 26(a)(2) is designed to provide. Moreover, in addition to the supervision and inspection by the Commissioner of Insurance, Insurance Company states that it will undertake binding commitments to contract owners which it may not legally abrogate. Such supervision, inspection, and undertakings will provide substantial protection against the hazards which section 27(c)(2) is designed to protect against.

Applicants have consented to the requested exemptions being subject to the condition that the charges under the contracts for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, and that the Commission shall reserve jurisdiction for such purpose.

Section 6(c) authorizes the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 27, 1967, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14391; Filed, Dec. 11, 1967; 8:46 a.m.]

DEPARTMENT OF LABOR

Bureau of Labor Standards

RADIATION STANDARDS FOR MINING

Standard Forms for Recording Radiation Exposure

Standard forms have been adopted which, when properly maintained, will satisfy the requirements of 41 CFR 50-204.321(e) (32 F.R. 15641) concerning records of exposure to environmental concentrations of radiation in various parts of mines. These are as follows: "Weekly Record of Mine Air Concentrations of Radon Daughters", Form No. LSB-CA-17, August 1967 and "Weekly Record of Employee Time-Occupancy in Work Areas of Mines", Form No. LSB-CA-18, August 1967. The standard forms do not have to be used when the information required by the regulation is kept in another form.

Forms are available from: District Supervisor, Office of Occupational Safety, Bureau of Labor Standards, U.S. Department of Labor, Denver Federal Center, Room 21-S, Building 53, Kipling and 6th Avenue, Denver, Colo. 80225.

Signed at Washington, D.C., this 4th day of December 1967.

NELSON M. BORTZ, *Director, Bureau of Labor Standards.*

[F.R. Doc. 67-14400; Filed, Dec. 11, 1967; 8:48 a.m.]

Wage and Hour Division

CERTIFICATES AUTHORIZING THE EMPLOYMENT OF LEARNERS AT SPECIAL MINIMUM WAGES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.) and Administrative Order No. 596 (31 F.R. 13661) the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. For each certificate, the effective and expiration dates, number or proportion of learners and the principal product manufactured by the establishment are as indicated. Conditions on occupations, wage rates, and learning periods which are provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations; such conditions in certificates not issued under the supplemental industry regulations are as indicated.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.20 to 522.25, as amended).

The following normal labor turnover certificates authorize ten percent of the total number of factory production workers except as otherwise indicated.

Apparel Manufacturing Corp., Mebane, N.C.; 11-6-67 to 11-5-68; 10 learners (children's dresses and blouses).

Archibald Sewing Co., Archibald, Pa.; 11-1-67 to 10-31-68 (children's dresses).

The Arrow Co., Division of Cluett, Peabody & Co., Inc., Shamokin, Pa.; 11-4-67 to 11-3-68 (men's sport shirts).

Baby Bliss, Inc., Nashville, Mich.; 11-27-67 to 11-26-68; 10 learners (infants' wear).

Blanchard Shirt Corp., Mountain View, Ark.; 11-26-67 to 11-25-68 (men's dress and sport shirts).

Blue Bell, Inc., Shenandoah, Va.; 11-29-67 to 11-28-68; 10 learners (men's and boys' dungarees).

Bonacci Sportswear Co., Scranton, Pa.; 11-18-67 to 11-17-68; 5 learners (boys' benchwarmers and peacoats).

Collinwood Manufacturing Co., Collinwood, Tenn.; 11-14-67 to 11-13-68 (women's washable service uniforms).

Colebire of California, Inc., Watsonville, Calif.; 11-27-67 to 11-26-68 (men's, boys', and ladies' pajamas).

Cowden-Lancaster Co., Lancaster, Ky.; 11-28-67 to 11-27-68 (cotton denim overalls).

Dixie Manufacturing Co., Columbia, Tenn.; 11-12-67 to 11-11-68 (ladies' and girls' sportswear).

Dunmore Sewing Co., Dunmore, Pa.; 11-1-67 to 10-31-68; 5 learners (children's dresses).

E & W of Canton, Inc., Canton, Miss.; 11-20-67 to 11-19-68 (men's sport shirts).

The Eastern Isles Manufacturing Corp., Richlands, Va.; 11-10-67 to 11-9-68 (ladies' pajamas and nightgowns).

Edison Textiles, Inc., Edison, Ga.; 11-17-67 to 11-16-68 (infants' and girls' panties, toddlers', and girls' sportswear).

The Euro Shirt Co., Inc., Louisville, Ky.; 11-10-67 to 11-9-68 (men's dress shirts).

The Farmville Corp., Farmville, N.C.; 11-4-67 to 11-3-68 (ladies' jeans, slacks, and shorts).

Florence Manufacturing Co., Inc., Florence, S.C.; 11-29-67 to 11-28-68 (ladies' dresses).

Four's Co., Inc., Blairsville, Pa.; 11-16-67 to 11-15-68 (children's dresses).

Guntown Slacks, Inc., Guntown, Miss.; 11-12-67 to 11-11-68 (men's and boys' dress and play slacks).

Hartsville Manufacturing Co., Inc., Hartsville, S.C.; 11-26-67 to 11-25-68 (ladies' dresses).

The Hercules Trouser Co., Manchester, Ohio; 12-1-67 to 11-30-68 (men's and boys' pants).

The Hercules Trouser Co., Hillsboro, Ohio; 12-1-67 to 11-30-68 (men's and boys' pants).

Hicks-Ponder Co., Yuma, Ariz.; 11-21-67 to 11-20-68 (men's slacks).

Honea Path Shirt Makers, Inc., Honea Path, S.C.; 10-31-67 to 10-30-68 (men's sport shirts).

The H. W. Gossard Co., Bicknell, Ind.; 11-16-67 to 11-15-68 (foundation garments).

Imperial Reading Corp., Marshall, Tex.; 11-14-67 to 11-13-68 (denim and twill jeans).

Jacket King, Inc., Fort Smith, Ark.; 12-1-67 to 11-30-68; 10 learners (children's outerwear jackets).

Lamar Manufacturing Co., Millport, Ala.; 11-23-67 to 11-22-68 (men's and boys' pants).

The H. D. Lee Co., Inc., Boaz, Ala.; 11-5-67 to 11-4-68 (men's work clothing).

Linden Apparel Corp., Linden, Tenn.; 11-13-67 to 11-12-68 (men's and boys' dungaree and pants).

Lismore Manufacturing Corp., Fall River, Mass.; 12-1-67 to 11-30-68 (women's and children's woven underwear and sleepwear).

Loris Manufacturing Co., No. 1, Loris, S.C.; 11-30-67 to 11-29-68 (ladies' dresses).

Masterson, Inc., Booneville, Miss.; 11-8-68 to 11-2-68 (outerwear jackets and parkas).

McNair Clothing Manufacturing Co., Brownsville, Tex.; 11-8-67 to 11-6-68 (men's and boys' work pants, work shirts and casual pants).

McPenn Manufacturing Co., Nanticoke, Pa.; 11-3-67 to 11-2-68 (men's sport shirts).

Charles Meyers & Co., Belleville, Ill.; 11-28-67 to 11-27-68 (men's trousers).

Meyers & Son Manufacturing Co., Inc., Madison, Ind.; 11-1-67 to 10-31-68; 10 learners (men's work clothes).

Panola Inc. of Batesville, Batesville, Miss.; 11-21-67 to 11-20-68 (women's foundation garments).

Baltoo Manufacturing Co., Inc., Winfield, Ala.; 11-28-67 to 11-27-68 (men's slacks).

Salant & Salant, Inc., Paris, Tenn.; 11-9-67 to 11-8-68 (men's and boys' sport shirts).

Seminole Manufacturing Co., Aberdeen, Miss.; 11-28-67 to 11-22-68 (men's and boys' pants).

Seminole Manufacturing Co., Columbus, Miss.; 11-28-67 to 11-22-68 (men's and boys' pants).

The Shirtmaker Guild, Ltd.; Easley, S.C.; 11-7-67 to 11-6-68 (men's and boys' shirts and pajamas).

Spring City Manufacturing Co., Spring City, Tenn.; 11-20-67 to 11-19-68 (men's and boys' pants).

Steele Apparel Co., Inc., Steele, Mo.; 11-5-67 to 11-4-68; 10 learners (ladies' dresses).

Levi Strauss & Co., Roswell, N. Mex.; 11-19-67 to 11-18-68 (men's and boys' jeans).

Levi Strauss & Co., Knoxville, Tenn.; 11-9-67 to 11-8-68 (men's, ladies' and children's overalls).

Tri-County Shirt Corp., Salem, Ark.; 11-26-67 to 11-25-68 (men's dress shirts).

Walhalla Garment Co., Walhalla, S.C.; 11-6-67 to 11-5-68 (women's dresses).

Warner Shimwear-Lingerie, Barbourville, Ky.; 11-21-67 to 11-20-68 (corsets and brassieres).

Warsaw Manufacturing Co., Kingstree, S.C.; 11-29-67 to 11-28-68 (ladies' capris, shorts, and jamaicas).

Wentworth Manufacturing Co., Lake City, S.C.; 11-9-67 to 11-8-68 (ladies' wash frocks).

Wilgree Manufacturing Co., Inc., Camilla, Ga.; 12-1-67 to 11-30-68 (men's sport and dress shirts).

The following plant expansion certificates were issued authorizing the number of learners indicated.

Blanchard Shirt Corp., Mountain View, Ark.; 11-26-67 to 5-25-68; 50 learners (men's dress and sport shirts).

Sommerville Manufacturing Co., Inc., Vivian, La.; 7-29-67 to 1-28-68; 200 learners (men's slacks) (replacement certificate).

Stitchcraft, Inc., Athens, Ga.; 11-27-67 to 5-26-68; 10 learners (dresses).

Levi Strauss & Co., Roswell, N. Mex.; 11-26-67 to 5-25-68; 30 learners (men's and boys' jeans).

Tri-County Shirt Corp., Salem, Ark.; 11-26-67 to 5-25-68; 70 learners (men's dress shirts).

Glove Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.60 to 522.65, as amended).

Lambert Manufacturing Co., Inc., Kirksville, Mo.; 11-7-67 to 11-6-68; 10 learners for normal labor turnover purposes (work gloves).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.40 to 522.43, as amended).

Charles H. Bacon Co., Inc., Loudon, Tenn.; 11-8-67 to 11-2-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.30 to 522.35, as amended).

Athens Lingerie Corp., Athens, Ala.; 11-7-67 to 11-6-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (ladies' lingerie and sleepwear).

Ilena Mills, Inc., Chattanooga, Tenn.; 11-14-67 to 11-13-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (men's and boys' tee shirts and children's sleepwear).

Kain-Murphy Corp., Chattanooga, Tenn.; 11-14-67 to 11-13-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (men's and boys' briefs).

Lismore Manufacturing Corp., Fall River, Mass.; 12-1-67 to 11-30-68; 5 percent of the total number of factory production workers engaged in the production of women's and children's knitted underwear and sleepwear for normal labor turnover purposes (women's and children's underwear and sleepwear).

Signal Knitting Mills, Inc., Chattanooga, Tenn.; 11-14-67 to 11-13-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (children's knitted sleeping garments).

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.9, as amended).

The following learner certificates were issued in Puerto Rico to the companies hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods and the number of learners authorized to be employed, are indicated.

Caguas Tobacco and Processing Corp., Caguas, P.R.; 10-23-67 to 10-22-68; 15 learners for normal labor turnover purposes in the occupations of: (1) Machine stripping, for a learning period of 160 hours at the rate of $1.05 an hour; and (2) selecting of half leaves, for a learning period of 240 hours at the rate of 90 cents an hour (machine stripping and selecting of half leaves).

Consolidated Cigar Corp. of Cayey, Plant No. 22 Cayey, P.R.; 10-30-67 to 10-29-68; 113 learners for normal labor turnover purposes in the occupations of: (1) Machine stripping, for a learning period of 160 hours at the rate of $1.05 an hour; and (2) selecting of half leaves, for a learning period of 240 hours at the rate of 90 cents an hour (machine stripping and selecting of half leaves).

Meyers & Son Manufacturing Co. of P.R., Inc., Cidra, P.R.; 10-18-67 to 4-17-68; 50 learners for plant expansion purposes in the occupation of sewing machine operating, for a learning period of 320 hours at the rate of 89 cents an hour (overalls).

Puritana Manufacturing Corp., Aguas Buenas, P.R.; 10-30-67 to 10-9-68; 26 learners for normal labor turnover purposes in the occupations of: (1) Knitting, for a learning period of 480 hours at the rates of 96 cents an hour for the first 240 hours and $1.15 an hour for the remaining 240 hours; and (2) machine stitching, pressing; each for a learning period of 320 hours at the rates of 96 cents an hour for the first 160 hours and $1.15 an hour for the remaining 160 hours (full-fashioned sweaters and shirts).

R. B. Tobacco Corp., Caguas, P.R.; 10-27-67 to 10-26-68; 22 learners for normal labor turnover purposes in the occupations of: (1) Machine stripping, for a learning period of 160 hours at the rate of $1.05 an hour; and (2) selecting of half leaves, for a learning period of 240 hours at the rate of 90 cents an hour (machine stripping and selecting of half leaves).

R. J. & D. Corp., Aguirre, P.R.; 11-6-67 to 5-5-68; 25 learners for plant expansion purposes in the occupation of sewing machine operating, for a learning period of 480 hours at the rates of 90 cents an hour for the first 240 hours and $1.08 an hour for the remaining 240 hours (men's and ladies' gloves).

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in 29 CFR, Part 528.

Signed at Washington, D.C., this 1st day of December 1967.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[F.R. Doc. 67-14410; Filed, Dec. 11, 1967; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 907]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 7, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67, (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 30837 (Sub-No. 348 TA), filed November 27, 1967. Applicant: KENOSHA AUTO TRANSPORT CORPORATION, 4519 76th Street, Kenosha, Wis. 53141. Applicant's representative: Albert P. Barber (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, in initial truckaway service, from Holland, Mich., to military installations and Ports of Embarkation in the States of California, Georgia, Illinois, Maryland, New Jersey, New York, Pennsylvania, Texas, and Utah, for 180 days. Supporting shipper: Mr. Leonard Hynes, Military Traffic Management Terminal Service, Washington, D.C. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 103993 (Sub-No. 311 TA), filed November 30, 1967. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, Ind. 46514. Applicant's representative: Ralph H. Miller (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, from points in Lincoln County, Ky., to points in Tennessee, Virginia, West Virginia, Ohio, Indiana, Illinois, Missouri, and Mississippi, for 180 days. Supporting shipper: Stanford Mobile Homes, Inc., North U.S. 27, Stanford, Ky. 40484. Send protests to: District Supervisor, J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 208 Federal Building, Fort Wayne, Ind. 46803.

No. MC 113024 (Sub-No. 65 TA), filed November 30, 1967. Applicant: ARLINGTON J. WILLIAMS, INC., Rural Delivery No. 2, Smyrna, Del. 19977, South Du Pont Highway. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Toilet preparations, toilet articles, drugs, and materials and supplies* used in the manufacture, sale and distribution thereof (except commodities in bulk, in bulk vehicles), between Edison, N.J., and Phoenix, Ariz., for account of Revlon, Inc., for 180 days. Supporting Shipper: Revlon, Inc., Route 27 and Talmadge Road, Edison, N.J., H. J. Newman, Corporate Distribution Adviser. Send protests to: Paul J. Lowry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 206 Old Post Office Building, Salisbury, Md. 21801.

No. MC 119443 (Sub-No. 19 TA), filed November 30, 1967. Applicant: P. E. KRAMME, INC., Main Street, Monroeville, N.J. 08343. Applicant's representative: Gerald A. Kramme (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chocolate*, in bulk, in tank vehicles, from Scotch Plains, N.J., to Philadelphia, Pa., for 150 days. Supporting shipper: Abbotts Dairies, 3175 John F. Kennedy Boulevard, Philadelphia, Pa. 19104. Send protests to: Raymond T. Jones, District Supervisor, 410 Post Office Building, 402 East State Street, Trenton, N.J. 08608.

No. MC 125446 (Sub-No. 3 TA), filed November 27, 1967. Applicant: SAMUEL R. FOX, 12 Second Street, Bridgeport, Ohio 43912. Applicant's representative: D. L. Bennett, 213 First National Bank Building, 2207 National Road, Wheeling, W. Va. 26003. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy store equipment and supplies* (except such commodities in bulk) from Worthington, Ohio, to points in Delaware; Maryland; Pennsylvania (except Aliquippa, Altoona, Appollo, Beaver Falls, Blairsville, Brownsville, Butler, Canonsburg, Kittanning, Greensburg, Jeannette, Johntown, Latrobe, Charlerio, Connellsville, Indiana, Irwin, Mount Pleasant, Somerset, Uniontown, Washington, and points in Allegheny County); all points in Kentucky on, east, or north of a line beginning at Louisville, on the Ohio River, thence over U.S. Highway 60 to Mount Sterling, Ky., thence over U.S. Highway 460 to the Kentucky-Virginia State line; and points in New York on and west of a line beginning at Oswego, N.Y., on Lake Ontario, thence over U.S. Highway 104 to its junction with U.S. Highway 11 at or near Mexico, N.Y., thence over U.S. Highway 11 to Syracuse, N.Y., thence over New York Highway 5 to Utica, N.Y.,

thence over New York Highway 8 to its junction with New York Highway 17 to its junction with U.S. Highway 11 near Binghamptdn, N.Y., thence over U.S. Highway 11 to the New York-Pennsylvania State line; *Paper cups, soda straws,* and *plastic dishes,* from Baltimore, Md., to Worthington, Ohio; *flavor syrups* from Rochester, N.Y., to Worthington, Ohio; *flavor syrups* from Victor, N.Y., to Worthington, Ohio; *meat patties, frozen* from Scranton, Pa., to Worthington, Ohio, for 180 days. Supporting shipper: International Dairy Queen, Inc., Post Office Box 271, Worthington, Ohio 43085, Frank T. Cannon, General Manager. Send protests to: J. A. Niggemyer, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 531 Hawley Building, Wheeling, W. Va. 26003.

No. MC 126427 (Sub-No. 6 TA), filed November 30, 1967. Applicant: PALMER TRANSPORTATION, INC., Chester, N.Y. 10918. Applicant's representative: Edward M. Alfano, 2 West 45th Street, New York, N.Y. 10036. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Corn syrup and blends thereof,* in bulk, in tank vehicles, from Cortland, N.Y., to Scranton, Pa., for 150 days. Supporting shipper: Anheuser-Busch, Inc., St. Louis, Mo. 63118. Send protests to: Charles P. Jacobs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 215-217 Post Office Building, Binghamton, N.Y. 13902.

No. MC 128814 (Sub-No. 7 TA), filed November 30, 1967. Applicant: TRI-STATE MOTOR TRANSIT CO., as operator of H. Messick, Inc., East on Interstate Business Route 44, Post Office Box 113, Joplin, Mo. 64801. Applicant's representative: Max G. Morgan, 450 American National Building, Oklahoma City, Okla. 73102. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Explosives,* from facilities of Hercules, Inc., Kenvil, N.J., to Merriam, Kans., and points within 5 miles, for 180 days. Supporting shipper: Hercules, Inc., Wilmington, Del. 19899. Send protests to: H. J. Simmons, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 128940 (Sub-No. 2 TA), filed November 30, 1967. Applicant: RICHARD A. CRAWFORD, doing business as R. A. CRAWFORD TRUCKING SERVICE, Adelphi, Md. 20673. Applicant's representative: Charles E. Creager, Post Office Box 81, Winchester, Va. 22601. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Meats, poultry, fish, bakery products, fruit, frozen foods, candy and confectionery products, food products and preparations, advertising materials and equipment and supplies* used in the preparation and serving of foods in restaurants or commissaries, from Washington, D.C., to points in Cook, De Kalb, DuPage Grundy, Henry, Iroquois, Kane, Kankakee, Kendall, Lake, La Salle, Livingston, and Will Counties, Ill.; Jasper, Lake, La Porte, Newton, and Porter Counties, Ind.; Ashtabula, Ashland, Columbiana, Cuyahoga, Erie, Geauga, Huron, Lake, Lorain, Mahoning, Medina, Portage, Richland, Stark, Summit, Trumbull, and Wayne Counties, Ohio, restricted to transportation performed under a continuing contract with Fairfield Farm Kitchens of Washington, D.C., for 150 days. Supporting shipper: Fairfield Farm Kitchens, 5200 Addison Road NE., Washington, D.C. 20027. Send protests to: Robert D. Caldwell, District Supervisor, 1220 Interstate Commerce Commission, Bureau of Operations, 12th and Constitution Avenues NW., Washington, D.C. 20423.

No. MC 129557 TA, filed November 30, 1967. Applicant: FRANK A. PAONE, doing business as PAONE TRUCKING CO., 88 Briggs Street, Cranston, R.I. 02909. Applicant's representative: Russell B. Curnett, 36 Circuit Drive, Edgewood Station, Providence, R.I. 02905. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Sodium chloride,* with or without anticaking agents, in bulk, in dump-type vehicles, from Providence, R.I., to points in New London and Windham Counties, Conn., to points in Barnstable, Bristol, Norfolk, and Plymouth Counties, Mass., to points in Rhode Island, for 180 days. Supporting shipper: The Chemical Corp., 54 Waltham Avenue, Springfield, Mass. Send protests to: Gerald H. Curry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 187 Westminster Street, Providence, R.I. 02903.

MOTOR CARRIER OF PASSENGERS

No. MC 129038 (Sub-No. 3 TA), filed November 30, 1967. Applicant: TRI-STATE COACH LINES, INC., 10008 West Pacific Avenue, Franklin Park, Ill. 60131. Applicant's representative: John T. Porter, 710-14 Gay Building, 16 North Carroll Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *Passengers and their baggage, mail, newspapers, and express* in the same vehicle with passengers in vehicles transporting not more than 13 passengers plus driver, between Milwaukee, Wis., on the one hand, and, on the other, the O'Hare Field (Chicago International Airport), Cook County, Ill., and Midway Airport, Chicago, Ill., from Milwaukee, over U.S. Interstate Highway's 94 and 294 to Chicago, Ill., and the above-named airports and return over the same route with pickups and delivery restricted to the city of Milwaukee, Mitchell Field (Milwaukee) Airport, O'Hare and Midway airports and the junction of Wisconsin Highway 50 with U.S. Highway I-94. NOTE: Applicant intends to tack the authority here applied for to its authority MC 129038, Sub 1 TA which permits service between the cities of Racine and Kenosha on the one hand, and Midway and O'Hare airports in Chicago on the other, for 150 days. Supporting shippers: There are approximately 10 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Andrew J. Montgomery, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Courthouse and Federal Office Building, Room 1086, 219 South Dearborn Street, Chicago, Ill. 60604.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-14422; Filed, Dec. 11, 1967; 8:49 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—DECEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during December.

3 CFR

Page

PROCLAMATIONS:
3821 17571

EXECUTIVE ORDERS:
Dec. 5, 1913 (revoked in part by PLO 4327) 16531
Mar. 21, 1914 (revoked in part by PLO 4327) 16531
June 24, 1914 (revoked in part by PLO 4327) 16531
11248 (amended by EO 11384) 17423
11383 17421
11384 17423

5 CFR

210 16474
213 ..... 16477, 17615
315 16474
351 16474
352 16474
353 16475
430 16475
511 16475
531 16475
713 16476
731 16476
752 16476
754 16476
771 16477
772 16477
831 16477
891 16477
2200 17573
2300 17651

7 CFR

401 ..... 16478, 17425, 17513
718 17513
722 17467
724 16478
725 16479
815 16525
905 ..... 16525, 17615, 17616
907 ..... 16526, 17515
910 ..... 16526, 17617, 17651
944 17425
982 16527
989 17467
1062 16479
1073 16480
1094 16527
1103 16527
1106 16480
1126 16480
1421 16528
1427 16528

PROPOSED RULES:
812 17669
817 17669
911 17431
915 17431
948 17671
950 17433
989 17626
993 17434
1001 17626
1008 17626
1036 17626
1048 17626

8 CFR

Page

288 17651
290 17651

PROPOSED RULES:
242 17624
243 17624
244 17624
299 17624

9 CFR

97 17618

12 CFR

1 17574
12 17468
206 17469
224 17425
335 17470
561 17515
605 17652

PROPOSED RULES:
563 17544

14 CFR

39 ..... 16481, 17426, 17515, 17516, 17652
61 16481
71 ..... 16482, 16483, 17426, 17427, 17516–17518, 17574–17576, 17653
73 ..... 17427, 17653
75 17518
91 ..... 16483, 17654
97 ..... 16484, 17577
121 16481
151 17471
301 16491
303 16491
311 16491
320 16491
421 16491
430 16491
431 16491
435 16491

PROPOSED RULES:
1 16495
21 17485
25 17487
39 ..... 17439, 17672, 17673
71 ..... 16495, 17488, 17543, 17596–17598, 17673–17675
73 17488
91 16495
214 16535
295 16535
298 17598

15 CFR

373 17471

16 CFR

13 ..... 17427, 17618
15 17582

PROPOSED RULES:
301 17544
415 17601

17 CFR

Page

240 17583
270 17583
274 17583

19 CFR

5 17619
12 17428
19 17619
23 16528
24 17619

21 CFR

29 17654
120 ..... 16529, 17472
121 ..... 16529, 16530, 17472, 17587, 17654, 17655
130 16531
146 16531
146a 16491, 17657
166 17473

PROPOSED RULES:
31 16533
46 ..... 17482, 17671
130 17671
139 ..... 16533, 17626

22 CFR

10 17454

23 CFR

PROPOSED RULES:
255 16534

24 CFR

234 17587

25 CFR

PROPOSED RULES:
221 17543

26 CFR

1 ..... 17479, 17518, 17657

28 CFR

0 16531

29 CFR

1610 16491

31 CFR

1 17519

32 CFR

52 17661
54 17619
537 17519
701 17588

33 CFR

109 17726
110 17726
114 17726
115 17726
116 17726
117 17726
209 17522

36 CFR

	Page
7	17661

39 CFR

123	17479
742	17479

41 CFR

1–1	16491
9–1	17542
Ch. 18	17002

42 CFR

53	17662

43 CFR

PUBLIC LAND ORDERS:

334 (revoked in part by PLO 4333)	17480
1796 (revoked in part by PLO 4331)	17479
2764 (see PLO 4331)	17479

43 CFR—Continued

PUBLIC LAND ORDERS—Continued

4327	16531
4328	17429
4329	16532
4330	17479
4331	17479
4332	17479
4333	17480
4334	17429
4335	17429
4336	17620
4337	17662

45 CFR

1105	17663

46 CFR

39	17621
98	17621
221	17595
255	17595
510	17480
536	17

PROPOSED RULES:

514	16

47 CFR

97	17

PROPOSED RULES:

2	16
87	16
91	17

49 CFR

890	17
1200	17

50 CFR

28	17
32	17
33	16
	17430, 17481, 17623, 17667, 17
254	16

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PART II

Department of Transportation
Coast Guard

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ANCHORAGES AND BRIDGES

Assumption of Certain Functions, Powers, and Duties from Corps of Engineers and Transfer of Certain Regulations

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

[CGFR 67-46]

ANCHORAGES AND BRIDGES

Assumption of Certain Functions, Powers, and Duties From Corps of Engineers and Transfer of Certain Regulations

1. There were transferred to and vested in the Secretary of Transportation by subsection 6(g) of the Department of Transportation Act (Public Law 89-670, 80 Stat. 931-950, 49 U.S.C. 1651-1659), certain functions, powers, and duties, previously performed by the Secretary of the Army and other officers and offices of the Department of the Army (Corps of Engineers), which included:

a. Location and clearances of bridges and causeways over the navigable waters (see 33 U.S.C. 401, 491, et seq., and 525 et seq.).

b. Administration of the alteration of obstructive bridges (see 33 U.S.C. 511 et seq.).

c. Regulation of drawbridge operations (see 33 U.S.C. 499).

d. Establishment and administration of water vessel anchorages (see 33 U.S.C. 180, 258, 322, 471).

e. Administration of the Oil Pollution Act of 1961 (33 U.S.C. 1001 et seq.).

2. Effective April 1, 1967, the Secretary of Transportation by Department of Transportation Order 1100.1, dated March 31, 1967 (49 CFR 1.4(a)(3)), delegated to and authorized the Commandant, U.S. Coast Guard, to exercise the functions, powers, and duties vested in the Secretary by subsection 6(g) of the Department of Transportation Act except those establishing or revising tolls in 33 U.S.C. 494, 498a, 498b, 503 et seq., and 526. The Commandant, U.S. Coast Guard, by notice effective April 1, 1967, announced the adoption and continuation of applicable orders, rules, regulations, policies, procedures, privileges, waivers, and other actions, which had been issued, made, granted, or allowed to become effective prior to April 1, 1967, under the provisions of laws cited in subsection 6(g) of the Department of Transportation Act, which are also listed in paragraph 1 above (32 F.R. 5611). This notice also stated these actions shall continue in effect according to their terms until modified, terminated, repealed, superseded, or set aside by appropriate authority.

3. In order to maintain continuity of service to the public during the transfer of records and the development of the necessary personnel structure and facilities within the Coast Guard, the Chief of Engineers, W. F. Cassidy, Lieutenant General, U.S. Army, and the Commandant, U.S. Coast Guard, W. J. Smith, Admiral, U.S. Coast Guard, signed a "Memorandum of Understanding Relative to the Implementation of the Transfer of Certain Functions from the Corps of Engineers to the Coast Guard." In this Memorandum it is agreed that with respect to (1) location and clearances of bridges and causeways over the navigable waters; (2) administration of the alteration of obstructive bridges; and (3) regulation of drawbridge operations; the Corps of Engineers will perform for and under the direction of the Commandant, U.S. Coast Guard, such of those services that it previously performed until the Coast Guard's facilities and personnel can provide these services for the public. These responsibilities parallel those of other Coast Guard programs which are administered through the Office of Operations at Coast Guard Headquarters and receive technical support from the Office of Engineering. Under the general administration of the Commandant, these functions, powers, and duties have been assigned as follows:

a. *Maritime law enforcement.* This is assigned to the Chief, Law Enforcement Division, Office of Operations, at Coast Guard Headquarters, and in each Coast Guard District under the District Commander to the Chief, Operations Division. The functions, powers, and duties are:

(1) Establishment, administration, and enforcement of water vessel anchorages under 33 U.S.C. 180, 258, 332, and 471, and implementing regulations in 33 CFR Parts 109 and 110.

(2) Administration and enforcement of Oil Pollution Act of 1961 in 33 U.S.C. 1001 et seq., and implementing regulation in 33 CFR Part 151.

b. *Aids to navigation.* This is assigned to the Chief, Aids to Navigation Division, Office of Operations, at Coast Guard Headquarters, and in each Coast Guard District under the District Commander to the Chief, Operations Division. The functions, powers, and duties are:

(1) Approval or disapproval of the location and clearances of bridges and causeways over the navigable waters under 33 U.S.C. 401, 491 et seq., and 525 et seq., and implementing regulations in 33 CFR Part 115.

(2) Administration of the alteration of obstructive bridges under 33 U.S.C. 511 et seq., and implementing regulations in 33 CFR Part 116.

(3) Regulation of drawbridge operations under 33 U.S.C. 499, and implementing regulations in 33 CFR Part 117.

c. *Engineering support.* This is assigned to the Chief, Civil Engineering Division, Office of Engineering, at Coast Guard Headquarters as a support function to the Chief, Office of Operations. The duties are:

(1) Technical review of plans and specifications for alteration of obstructive bridges under 33 U.S.C. 511 et seq., and implementing regulations in 33 CFR Part 116.

4. The Corps of Engineers' rules and regulations are published in 33 CFR Chapter II. Those requirements which implement the functions, powers, and duties previously performed by the Corps of Engineers and assumed by the Coast Guard are in 33 CFR Parts 202, 203, 209, and 212 and were continued in effect by the notice effective April 1, 1967, and published in the FEDERAL REGISTER of April 5, 1967 (32 F.R. 5611), until modified, terminated, repealed, superseded, or set aside by appropriate authority. Effective April 1, 1967, the Coast Guard assumed full responsibility for establishment and administration of water vessel anchorages and the administration of the Oil Pollution Act of 1961 as a part of the maritime law enforcement described in paragraph 3.a. above. The Corps of Engineers continues to perform the various functions relating to bridges as an agent of the Commandant until the changeover in administration will be accomplished on a Coast Guard District-by-District basis which is scheduled for completion on or before June 30, 1968.

5. The regulations in this document (Subchapter I (Anchorages), containing 33 CFR Parts 109 and 110, and Subchapter J (Bridges), containing 33 CFR Parts 114 to 117, inclusive) are based on the present requirements in the Corps of Engineers' regulations, except for editorial changes to show the transfer of functions to the Coast Guard (changes in names, titles, etc., such as "Secretary of the Army" to "Commandant, U.S. Coast Guard," "Department of the Army" to "Department of Transportation," or "U.S. Coast Guard," as appropriate, "District Engineer" to "Coast Guard District Commander," etc.), and revised procedural rules and regulations to be followed by the public. This document contains all amendments published in the FEDERAL REGISTER prior to date of publication.

6. In revising and rearranging the rules and regulations previously issued by the Corps of Engineers, the requirements in the revised regulations are set forth by general subjects. The Table I lists the part number of the Corps of Engineers regulations, the new assigned part number and subchapter designation in 33 CFR Chapter I, and comments about actions taken. In assuming the Corps of Engineers' regulations the principal change concerns assignment of new part numbers and correction of cross references, names, etc. In the section numbers the primary change relates to the number preceding the decimal point which was changed to reflect the part number to which assigned. No change was made in the portion of the section number following the decimal point nor in the internal designations of paragraphs within a section in 33 CFR Parts 110 and 117.

TABLE I—SUBCHAPTER AND PART HEADINGS

Subchapter designations	New part No.	Former designation	Title	Comments
I			Anchorages	New subchapter.
I	109		General	Purpose and certain procedures.
I	110	202	Anchorage regulations	Editorial changes.
I			Bridges	New subchapter.
J			General	Purpose, definitions, authority added.
J	114		Bridge locations and clearances	Procedures for obtaining permits, etc., revised.
J	115	203, 120	Bridge administrative procedures	Requirements and procedures.
J	116	209, 189	Alteration of obstructive bridges	Editorial changes.
J	117	203	Drawbridges operation regulations	

7. Because certain amendments to the bridge regulations had to be published, the transfer of 33 CFR Part 203 to Part 117 was made by FEDERAL REGISTER Document CGFR 67-52. These amendments are included in this document. The Oil Pollution Regulations in 33 CFR Part 212 did not include changes based on amendments to the Oil Pollution Act of 1961 in Public Law 89-551 (approved Sept. 1, 1966), implementing the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended in 1962, which became effective on May 18, 1967. These statutory changes included a requirement that extensions or reductions of prohibited zones effectuated in accordance with the Convention shall be "published in regulations prescribed by the Secretary." Therefore, the amendments to the Oil Pollution Regulations, which reflect the recent transfer of administrative authority from the Secretary of the Army to the Secretary of Transportation, as well as list the prohibited zones currently in effect and the requirements concerning the keeping of Oil Record Books, are in a separate Federal Register Document CGFR 67-67, and the revised Oil Pollution Regulations are designated as 33 CFR Part 151 (32 F.R. 14390-14392).

8. By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by section 632 of title 14, United States Code, and Department of Transportation Order 1100.1 (49 CFR 1.4(a)(3)) delegating authority to prescribe rules and regulations in the performance of certain functions, powers, and duties under laws transferred by subsection 6(g) (except those provisions of laws relating generally to the reasonableness of tolls) of the Department of Transportation Act, the following actions are ordered:

A. The rules and regulations designated 33 CFR Parts 109 and 110 (Subchapter I) and Parts 114 to 117, inclusive (Subchapter J) are prescribed and shall be followed on and after the date of publication of this document in the FEDERAL REGISTER.

B. The rules and regulations in 33 CFR Parts 202 and 203 pertaining to functions, powers, and duties previously performed by the Corps of Engineers and which were adopted and affirmed by the notice published in the FEDERAL REGISTER of April 5, 1967 (32 F.R. 5611) shall be superseded by the rules and regulations in this document: *Provided*, That all matters under administrative consideration and being processed on or before the date of publication of this document in the FEDERAL REGISTER under or pursuant to the Corps of Engineers' regulations shall be continued under such rules and regulations until completed unless the person or organization affected specifically requests a change to rules and regulations in this document. The requirements, policies, and procedures in 33 CFR Part 209 regarding anchorages and bridges which are adopted are set forth in 33 CFR Parts 109, and 114 to 116, inclusive.

C. The permits, actions, and decisions made by the officers in the Corps of Engineers prior to April 1, 1967, or as agents for the Coast Guard, and by the Coast Guard under the rules and regulations adopted and affirmed by the notice published in the FEDERAL REGISTER of April 5, 1967 (32 F.R. 5611) shall be continued in effect according to their terms until modified, terminated, repealed, superseded, or set aside by appropriate authority.

Dated: Oct. 18, 1967.

P. E. TRIMBLE,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

SUBCHAPTER I—ANCHORAGES

PART 109—GENERAL

Sec.
109.01 Purpose.
109.05 Anchorage grounds.
109.10 Special anchorage areas.
109.15 Enforcement proceedings.
109.20 Publication; notice of proposed rule making.

AUTHORITY: The provisions of this part issued under R.S. 4233, as amended, 28 Stat. 647, as amended, 30 Stat. 98, as amended, sec. 7, 38 Stat. 1053, as amended, sec. 6(g)(1), 80 Stat. 940; 33 U.S.C. 180, 258, 322, 471, 49 U.S.C. 1655(g)(1); Department of Transportation Order 1100.1, March 31, 1967, 49 CFR 1.4(a)(3).

§ 109.01 Purpose.

(a) The purpose of the rules and regulations in this subchapter is to implement certain laws and set forth the requirements for anchorage areas.

(b) There were transferred to and vested in the Secretary of Transportation by subsection 6(g) of the Department of Transportation Act (sec. 6(g), 80 Stat. 941, 49 U.S.C. 1655) all functions, powers, and duties of the Secretary of the Army under specified laws. The Secretary of Transportation by Department of Transportation Order 1100.1 (49 CFR 1.4(a)(3)), with specified limitations, delegated to the Commandant, U.S. Coast Guard, authority to exercise the functions, powers, and duties of the Secretary with respect to anchorages, as further described in § 110.1 of this subchapter.

§ 109.05 Anchorage grounds.

(a) The provisions of Section 7 of the River and Harbor Act of March 4, 1915, as transferred to and vested in the Secretary of Transportation by Sections 6(g)(1)(A) of the Department of Transportation Act (80 Stat. 931) and delegated by the Secretary of Transportation to the Commandant of the U.S. Coast Guard, Section 1.4, Title 49, Code of Federal Regulations, authorize the Commandant to establish anchorage grounds for vessels in navigable waters of the United States whenever it is manifest that the maritime or commercial interests of the United States require such anchorage grounds for safe navigation and the establishment of such anchorage grounds will have been recommended by the District Commander, and to adopt suitable rules and regulations in relation thereto. Such rules and regulations are enforced by the Coast Guard.

(b) District Commanders will, whenever matters relating to the anchorage of vessels are under consideration, ascertain the view of the District and Division Engineer, Corps of Engineers, U.S. Army, and the proper representatives of other departments likely to be interested, including the Commandant of the Naval District concerned and the medical officer in charge of the quarantine station at localities where quarantine anchorages are involved, in order that they may arrange for suitable representation at such hearings. The views of the medical officer in charge of the quarantine station relating to the proposed location and boundaries of the quarantine anchorage will be accepted insofar as practicable and consistent with the establishment of other anchorage areas. (An Act of Congress approved July 1, 1944, as amended (42 U.S.C. 267), authorizes the Surgeon General, with the approval of the Secretary of Health, Education, and Welfare, to designate the boundaries of the quarantine grounds and quarantine anchorages for vessels which are reserved for use at each United States quarantine station.) A notice of public hearing, convening changes to the Anchorage Regulations will be issued by the District Commander and will be mailed to all known interested parties. The District Commander will forward recommendations concerning changes to the Anchorage Regulations to the Commandant.

(c) As soon as publication has been noted in the FEDERAL REGISTER, the District Commander will publish changes to the Anchorage Regulations in the Local Notice to Mariners.

§ 109.10 Special anchorage areas.

An Act of Congress of April 22, 1940, as transferred to and vested in the Secretary of Transportation by Sections 6(g)(1)(D) of the Department of Transportation Act (80 Stat. 931) and delegated to the Commandant of the U.S. Coast Guard in Title 49, Code of Federal Regulations, provides that the Commandant may, after investigation, by rule, regulation, or order, designate such areas as he may deem proper as special anchorage areas wherein vessels not more than sixty-five feet in length, when at anchor, will not be required to carry or exhibit anchorage lights. Administrative procedure in investigating and recommending special anchorage areas will be similar to that followed for anchorage grounds under Section 7 of the River and Harbor Act of March 4, 1915, as referred to in § 109.05 herein. The recommendation should show that the areas are well removed from the fairways and located where general navigation will not endanger or be endangered by unlighted vessels.

§ 109.15 Enforcement proceedings.

Proceedings against a vessel violating the Anchorage Regulations are to be brought in the name of the officer of the Coast Guard assigned for the time being as Captain of the Port. When the vessel is at a port where there is no Coast Guard officer, proceedings will be initiated in the name of the District Commander.

§ 109.20 Publication; notice of proposed rule making.

(a) Section 4 of the Administrative Procedure Act (5 U.S.C. 553), requires publication of general notice of proposed rule making in the FEDERAL REGISTER (unless all persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law), except to the extent that there is involved (1) any military, naval, or foreign affairs function of the United States or (2) any matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. Except where notice or hearing is required by statute, this requirement does not apply to interpretative rules, general statements of policy, rules of agency organization, procedure, or practice, or in any situation in which the agency for good cause finds (and incorporates the finding and a brief statement of the reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

(b) General notice of proposed rule making published in accordance with the above will include (1) a statement of the time, place, and nature of public rule making proceedings; (2) reference to the authority under which the rule is proposed; and (3) either the terms or substance of the proposed rule or a description of the subjects and issues involved.

PART 110—ANCHORAGE REGULATIONS

Sec.
110.1 General.

Subpart A—Special Anchorage Areas

110.2 Sheepscott River, Wiscasset, Maine.
110.3 Kennebec River at Randolph, Maine.
110.4 Kennebec River at Augusta, Maine.
110.5 Casco Bay, Maine.
110.6 Portland Harbor, Portland, Maine (between Little Diamond Island and Great Diamond Island).
110.8 Lake Champlain, N.Y. and Vt.
110.10 Portsmouth Harbor, N.H., north of Newcastle Island.
110.15 Newburyport Harbor, Mass.
110.20 Parker River, Newbury, Mass., 1½ miles above mouth.
110.23 Plum Island Sound off Great Neck, Mass.
110.25 Beverly and Salem Harbors, Mass.
110.30 Boston Harbor, Mass., and adjacent waters.
110.35 Plymouth Harbor, Mass.
110.37 Sesuit Harbor, Dennis, Mass.
110.38 Edgartown Harbor, Mass.
110.40 Silver Beach Harbor, North Falmouth, Mass.
110.45 Onset Bay, Mass.
110.47 Little Narragansett Bay, Watch Hill, R.I.
110.48 Thompson Cove on east side of Pawcatuck River below Westerly, R.I.
110.50 Stonington Harbor, Conn.
110.50a Fishers Island Sound, Stonington, Conn.
110.50b Mystic Harbor, Groton and Stonington, Conn.
110.50c Mumford Cove, Groton, Conn.
110.51 Groton, Conn.
110.53 Thames River, New London, Conn.
110.54 Long Island Sound, on west side of entrance to Pataguanset River, Conn.
110.55 Connecticut River, Conn.
110.58 Cos Cob Harbor, Greenwich, Conn.
110.60 Port of New York and vicinity.
110.65 Indian River Bay, Del.
110.67 Delaware River, Essington, Pa.
110.70 Chesapeake and Delaware Canal, easterly of Courthouse Point, Md.
110.72 Blackhole Creek, Md.
110.73 St. Johns River, Fla.
110.75 Corpus Christi Bay, Tex.
110.80 Milwaukee Harbor, Wis.
110.80a Lake Macatawa, Mich.
110.81 Muskegon Harbor, Mich.
110.82 Charlevoix Harbor, Mich.
110.84 Black Rock Channel opposite foot of Porter Avenue, Buffalo, N.Y.
110.85 Niagara River, Youngstown, N.Y.
110.90 San Diego Harbor, Calif.
110.95 Newport Bay Harbor, Calif.
110.100 Los Angeles and Long Beach Harbors, Calif.
110.105 Avalon Bay, Santa Catalina Island, Calif.
110.110 Santa Monica Harbor, Calif.
110.111 Marina Del Rey Harbor, Calif.
110.115 Santa Barbara Harbor, Calif.
110.120 San Luis Obispo Bay, Calif.
110.125 Morro Bay Harbor, Calif.
110.126 Monterey Harbor, Calif.
110.127 Lake Mohave and Lake Mead, Nevada and Arizona.
110.127a Lake Powell, Utah-Arizona.
110.127b Flaming Gorge Lake, Wyoming-Utah.
110.128 Columbia River at Portland, Oreg.
110.130 Favorite Channel between Point Stephens and Point Louise, Alaska.

Subpart B—Anchorage Grounds

Sec.
110.130 Rockland Harbor, Maine.
110.131 Kennebec River in vicinity of Bath, Maine.
110.132 Portland Harbor, Maine.
110.134 Boston Harbor, Mass.
110.140 Buzzards Bay, Nantucket Sound, and adjacent waters, Mass.
110.142 Nantucket Harbor, Mass.
110.145 Narragansett Bay, R.I.
110.147 New London Harbor, Conn.
110.149 Johnsons River at Bridgeport, Conn.
110.150 Huntington Harbor, Long Island, N.Y.
110.155 Port of New York.
110.156 Randall Bay, Freeport, Long Island, N.Y.
110.157 Delaware Bay and River.
110.159 Annapolis Harbor, Md.
110.166 York River, Va., naval anchorage.
110.168 Hampton Roads, Va., and adjacent waters.
110.172 Port of Charleston, S.C.
110.179 Wilmington River, Ga.
110.179 Skidaway River, Isle of Hope, Ga.
110.182 Atlantic Ocean off Fort George Inlet, near Mayport, Fla.
110.183 St. Johns River, Fla.
110.188 Atlantic Ocean off Miami and Miami Beach, Fla.
110.189a Key West Harbor, Key West, Fla., Naval explosives anchorage area.
110.190 Tortugas Harbor, in vicinity of Garden Key, Dry Tortugas, Fla.
110.193 Tampa Bay, Fla.
110.193a St. Joseph Bay, Fla.
110.194 Mobile Bay, Ala., at entrance.
110.194a Mobile Bay, Ala., and Mississippi Sound, Miss.
110.194b Mississippi Sound and Gulf of Mexico, near Petit Bois Island, Miss.
110.195 Mississippi River below Baton Rouge, La., including South and Southwest Passes.
110.196 Sabine Pass Channel, Sabine Pass, Tex.
110.205 Chicago Harbor, Ill.
110.207 Cleveland Harbor, Ohio.
110.208 Buffalo Harbor, N.Y.
110.210 San Diego Harbor, Calif.
110.212 Newport Bay Harbor, Calif.
110.214 Los Angeles and Long Beach Harbors, Calif.
110.215 Anaheim Bay Harbor, Calif., U.S. Naval Weapons Station, Seal Beach, Calif.; naval explosives anchorage.
110.216 Pacific Ocean at Santa Catalina Island, Calif.
110.218 Pacific Ocean at San Clemente Island, Calif.; in vicinity of Wilson Cove.
110.220 Pacific Ocean at San Nicolas Island, Calif.; restricted anchorage areas.
110.223 Pacific Ocean at Santa Barbara Island, Calif.
110.224 San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, San Joaquin River, and connecting waters, California.
110.226 Columbia River, Oreg. and Wash.
110.230 Puget Sound Area, Wash.
110.235 Pacific Ocean (Mamala Bay), Honolulu Harbor, Hawaii; anchorage for nitrate laden vessels.
110.236 Pacific Ocean off Barbers Point, Island of Oahu, Hawaii; anchorage for tank vessels.
110.240 San Juan Harbor, P.R.
110.245 Vieques Passage and Vieques Sound, near Vieques Island, P.R.
110.250 St. Thomas Harbor, Charlotte Amalie, V.I.
110.255 Ponce Harbor, P.R.

§ 110.1 General.

(a) The areas described in Subpart A of this part are designated as special anchorage areas pursuant to the authority contained in an act amending laws for preventing collisions of vessels approved April 22, 1940 (54 Stat. 150); Article 11 of section 1 of the act of June 7, 1897, as amended (30 Stat. 98; 33 U.S.C. 180), Rule 9 of section 1 of the act of February 8, 1895, as amended (28 Stat. 647; 33 U.S.C. 258), and Rule Numbered 13 of section 4233 of the Revised Statutes as amended (33 U.S.C. 322). Vessels not more than 65 feet in length, when at anchor in any special anchorage area shall not be required to carry or exhibit the white anchor lights required by the Navigation Rules.

(b) The anchorage grounds for vessels described in Subpart B of this part are established, and the rules and regulations in relation thereto adopted, pursuant to the authority contained in section 7 of the act of March 4, 1915, as amended (38 Stat. 1053; 33 U.S.C. 471).

(c) All bearings in the part are referred to true meridian.

(R.S. 4233, as amended, 28 Stat. 647, as amended, 30 Stat. 98, as amended, sec. 7, 38 Stat. 1053, sec. 6(g)(1), 80 Stat. 940; 33 U.S.C. 180, 258, 322, 471, 49 U.S.C. 1655(g)(1); Department of Transportation Order 1100.1, Mar. 31, 1967, 49 CFR 1.4(a)(3))

Subpart A—Special Anchorage Areas

AUTHORITY: The provisions of this Subpart A issued under R.S. 4233, as amended, 28 Stat. 647, as amended, 30 Stat. 98, as amended, sec. 6(g)(1), 80 Stat. 940; 33 U.S.C. 180, 258, 322, 49 U.S.C. 1655(g)(1); Department of Transportation Order 1100.1, Mar. 31, 1967, 49 CFR 1.4(a)(3).

§ 110.2 Sheepscot River, Wiscasset, Maine.

The area comprises that portion of the waterway beginning at a point, about 1,100 feet southerly from the westerly end of the highway bridge between Wiscasset and Davis Island, at latitude 43°59'56", longitude 69°39'52"; thence 205° to latitude 43°59'42", longitude 69°40'00"; thence 338° to latitude 43°59'52", longitude 69°40'05"; and thence 64° to the point of beginning.

NOTE: The area will be principally for use by yachts and other recreational craft. Temporary floats or buoys for marking anchors will be allowed. Fixed mooring piles or stakes are prohibited. All moorings shall be so placed that no vessel, when anchored, shall at any time extend beyond the limits of the area. The anchoring of vessels and the placing of temporary moorings will be under the jurisdiction and at the discretion of the local Harbor Master.

§ 110.3 Kennebec River at Randolph, Maine.

The area comprises that portion of the waterway beginning at a point on the shoreline 450 feet upstream from the east end of the Gardiner-Randolph Highway bridge at latitude 44°13'54", longitude 69°46'06", thence extending 213° to the upstream end of the east bridge pier at latitude 44°13'49", longitude 69°46'11", thence extending along the shoreward side of the pier to its downstream end at latitude 44°13'47", longitude 69°46'10", thence 113° to a point on the shoreline 350 feet downstream from the east end of the bridge at latitude 44°13'46", longitude 69°46'05", thence along the shore to the point of beginning.

NOTE: The area is principally for use by yachts and other recreational craft. Fore and aft moorings will be allowed. Temporary floats or buoys for marking anchors in place will be allowed. Fixed mooring piles or stakes are prohibited. All moorings shall be so placed that no vessel, when anchored, shall at any time extend beyond the limits of the area. All anchoring in the area shall be under the supervision of the local harbor master or such authority as may be designated by authorities of the Town of Randolph, Maine.

§ 110.4 Kennebec River at Augusta, Maine.

The area comprises that portion of the waterway on the east side of the river beginning at a point on the east shore at the east end of the north side of the highway bridge at mile 43.8, thence southwesterly along the north side of the bridge, to a point within 30 feet of the east limit of the project channel, thence northerly along a line 30 feet easterly of and parallel to the east limit of the channel to Kennebec Bridge at mile 44.1, thence easterly along the south side of the bridge to the shore, thence along the shore to the point of beginning.

NOTE: The area is reserved for yachts and other recreational craft. Fore and aft moorings will be allowed. Temporary floats or buoys for marking anchors in place will be allowed in the area. Fixed mooring piles or stakes are prohibited. All moorings shall be so placed that no vessel, when anchored, shall at any time extend into the channel. All anchoring in the area shall be under the supervision of the local harbor master or such other authority as may be designated by the authorities of the City of Augusta, Maine.

§ 110.5 Casco Bay, Maine.

(a) *Beal's Cove, west side of Orr Island, Harpswell.* The entire cove as defined by the shoreline and a line across the entrance bearing 215° and tangent to the shore on the north side.

(a-1) *Merriconeag Sound, Harpswell.* The area comprises that portion of the Sound beginning at a point on the shoreline about 1,000 feet northeasterly from the southwesterly extremity of Orr's Island at latitude 43°45'09", longitude 69°59'14", thence extending 290° to a point at latitude 43°45'10", longitude 69°59'20", thence extending 20° to a point at latitude 43°45'24", longitude 69°59'05", thence extending 110° to a point on the shoreline at latitude 43°-45'33", longitude 69°58'58", thence along the shoreline to the point of beginning.

NOTE: The area is principally for use by yachts and other recreational craft. Fore and aft moorings will be allowed. Temporary floats or buoys for marking anchors in place will be allowed. All moorings shall be so placed that no vessel, when anchored, shall at any time extend beyond the limits of the area. Fixed mooring piles or stakes are prohibited. All anchoring in the area shall be under the supervision of the local harbor master or such authority as may be designated by authorities of the Town of Harpswell, Maine.

(b) *Harpswell Harbor, east side of Harpswell Neck, Harpswell.* The entire area lying westerly of a line bearing 8° from the eastern extremity of Stover's Point to the point of land at the northerly end of the harbor, said point of land bearing approximately 275° from the observatory on Orr Island.

(c) *Basin Cove, west side of Harpswell Neck, Harpswell.* All of the area lying northeasterly of a line bearing 350° from the northwest corner of the entrance to the cove.

(d) *Mussel Cove and adjacent waters at Falmouth Foreside, Falmouth.* All the waters lying westerly of a line bearing 123° from Dock House (F. S.) 200 yards, thence 212° to Prince Point.

(e) *Harrasseket River.* That portion of the Harrasseket River within the mean low water lines, between Stockbridge Point and Weston Point, excluding therefrom a thoroughfare, 100 feet wide, the center line of which follows the natural channel.

NOTE: This area is reserved for yachts and other small recreational craft. Fore and aft moorings will be allowed in this area. Temporary floats or buoys for marking anchors or moorings in place will be allowed. Fixed mooring piles or stakes are prohibited. All moorings shall be so placed that no vessel when anchored shall at any time extend into the thoroughfare. All anchoring in the area shall be under the supervision of the local harbor master or such other authority as may be designated by the authorities of the Town of Freeport, Maine.

§ 110.6 Portland Harbor, Portland, Maine (between Little Diamond Island and Great Diamond Island).

Beginning at the southeasterly corner of the wharf, at the most southerly point of Great Diamond Island at latitude 43°40'13", longitude 70°12'00"; thence extending southwesterly to the northeasterly corner of the wharf on the easterly side of Little Diamond Island at latitude 43°40'03", longitude 70°12'15"; thence extending along the northerly side of the wharf to its shoreward end at latitude 43°40'03", longitude 70°12'17"; thence extending along the shoreline of Little Diamond Island to latitude 43°-40'11", longitude 70°12'20"; thence extending northeasterly to the shoreline of the southerly side of Great Diamond Island at latitude 43°40'21", longitude 70°12'06"; thence extending along the shoreline of Great Diamond Island to the shoreward end of a wharf at latitude 43°40'15", longitude 70°12'02"; thence extending along the southwesterly side of the wharf to the point of beginning.

NOTE: The area is principally for use by yachts and other recreational craft. Temporary floats or buoys for marking anchors will be allowed. Fixed mooring piles or stakes are prohibited. The anchoring of vessels and placing of temporary moorings will be under the jurisdiction, and at the discretion of the local Harbor Master. All moorings shall be so placed that no moored vessels will extend beyond the limit of the area.

§ 110.5 Lake Champlain, N.Y., and Vt.

(a) *Ticonderoga, N.Y.* An area shoreward of a line bearing 312° from Ticonderoga Light to the southeast corner of the New York State Boat Launching Ramp.

(b) *Essex, N.Y.* A small cove at the westerly side of Lake Champlain, shoreward of a line connecting the offshore ends of two promontories located at Essex.

(c) *Shelburne, Vt.* An area shoreward of a line bearing 142° from the eastern point of Collymer Pt. to Allen Hill.

(d) *Mallets Bay, Vt.* The southwesterly portion of Mallets Bay, south of Coates Island and west of a line bearing 170° from the most easterly point of Coates Island to the mainland.

(e) *Mallets Bay, Vt.* An area in the northwesterly portion of Mallets Bay, south of a line extending from the northeasterly end of Mallets Head to the northeasterly end of Marble Island, and west of a line extending from the northeasterly end of Marble Island to the northeasterly side of Cave Island, and southerly to the point on the lower east side of Mallets Head.

(f) *St. Albans Bay, Vt.* An area in the northerly portion of St. Albans Bay westward of the State Pier at St. Albans Bay State Park, northeasterly of a line bearing 256°30′ from the southwesterly corner of the State Pier, and southeasterly of a line parallel to and 500 feet west of the west side of the State Pier.

§ 110.10 Portsmouth Harbor, N.H., north of Newcastle Island.

Southeasterly of a line bearing 74°30′ from the northeasterly extremity of Goat Island; southerly of a line bearing 89° 30′ and passing through a point 100 feet due north of the northern extremity of Salamander Point; southwesterly of a line bearing 300° from Portsmouth Harbor Light; northwesterly of a line bearing 215°30′ from the southwest corner of Prisbee Wharf; and northerly of the shore line and of the breakwater between Newcastle Island and Goat Island.

§ 110.15 Newburyport Harbor, Mass.

Eastward of a line bearing due north from the northeast corner of the American Yacht Club property to a point 237° and about 900 feet from South Pier; southward of a line bearing 70° to a point 212° and 310 feet from South Pier, thence 90° to a point 180° and about 600 feet from North Pier; westward of a line bearing 180° from North Pier to the shore line.

§ 110.20 Parker River, Newbury, Mass., 1½ miles above mouth.

That portion of the river extending 3,800 feet downstream from the highway bridge on Route 1A; excluding therefrom a clear approach to the bridge 100 feet wide following generally the deepest water.

§ 110.22 Plum Island Sound off Great Neck, Mass.

The waters of Plum Island Sound within the quadrant of a circle bounded by radii 2,600 feet long, bearing due north and 90°, respectively, from latitude 42°42′18″, longitude 70°49′12″, and the included arc.

§ 110.25 Beverly and Salem Harbors, Mass.

(a) *Beverly Harbor, north of Salem Neck.* Southwest of a line bearing 315° from a point due north of and 60 yards from the northerly corner of the Salem Willows Municipal Pier, south of a line bearing 90° from Monument Bar Beacon; east of a line bearing 180° from Monument Bar Beacon; north of a line bearing 278° from the northerly end of the Salem Willows Yacht Club house; and northwest of a line extending from the northerly end of the Salem Willows Yacht Club house to the starting point due north of and 60 yards from the northerly corner of the Salem Willows Municipal Pier.

(b) *Bass River.* All of the area upstream of the highway bridge (Popes Bridge) outside of the dredged channel.

(c) *Salem Harbor.* That part of the harbor lying southwesterly of a line bearing 116° from the eastern extremity of Long Point to a point 20° from the beacon southeast of Pickering Point; thence bearing 180° to a point 47° from the aforesaid beacon; thence bearing 99° to the shore; excluding therefrom the dredged channel and basin to the Dion Boat Yard.

§ 110.30 Boston Harbor, Mass., and adjacent waters.

(a) *Lynn Harbor.* North of a line bearing 244° from the tower of the Metropolitan District Building, extending from the shore to a point 100 feet from the east limit of the channel; east of a line bearing 359°, extending thence to a point 100 feet east of the northeast corner of the turning basin; south of a line bearing 88°, extending thence to the shore; and south and west of the shore line to its intersection with the south boundary.

(b) *Vicinity of Pleasant Park Yacht Club, Winthrop.* Southerly of a line bearing 276° from a point on the west side of Pleasant Street, Winthrop, 360 feet from the southwest corner of its intersection with Main Street; westerly of a line bearing 186° from a point on the south side of Main Street 140 feet from the southwest corner of its intersection with Pleasant Street; northerly of a line bearing 256° from a point on the west side of Pleasant Street 550 feet from the southwest corner of its intersection with Main Street; and easterly of a line bearing 182° from a point on the south side of Main Street 640 feet from the southwest corner of its intersection with Pleasant Street.

(c) *Mystic River, east side of Chelsea Bridge North.* Northerly of the northerly fender pier of Chelsea Bridge North; easterly of Chelsea Bridge North; southerly of the shore line; and westerly of a line bearing 7° from the easterly end of the aforesaid fender pier.

(d) *Mystic River, west side of Chelsea Bridge North.* Northerly of the northerly fender pier of Chelsea Bridge North and a line extending from the westerly end of the shoreward face of the aforesaid fender pier to the southeasterly corner of the wharf projecting from the Naval Hospital grounds; easterly of the aforesaid wharf; southerly of the shore of the Naval Hospital grounds; and westerly of Chelsea Bridge North.

(e) *Vicinity of South Boston Yacht Club, South Boston.* Northerly of a line bearing 98° from the stack of the heating plant of the Boston Housing Authority in South Boston; easterly of a line bearing 5° from the west shaft of the tunnel of the Boston Main Drainage Pumping Station; southerly of the shore line; and westerly of a line bearing 158° from the northeast corner of the iron fence marking the east boundary of the South Boston Yacht Club property.

(f) *Dorchester Bay, in vicinity of Savin Hill Yacht Club.* Northerly of a line bearing 64° from the stack of the old power plant of the Boston Elevated Railway on Freeport Street in Dorchester; westerly of a line bearing 163° from the stack of the Boston Main Drainage Pumping Station on the Cow Pasture in Dorchester; and southerly and easterly of the shore line.

(g) *Dorchester Bay, in vicinity of Dorchested Yacht Club.* Eastward of a line bearing 21° from the stack located a short distance northwestward of the Dorchester Yacht Club; southward of a line bearing 294° from the southerly channel pier of the highway bridge; westward of the highway bridge and the shore line; and northward of the shore line.

(h) *Quincy Bay, in vicinity of Wollaston and Squantum Yacht Clubs.* Northwesterly of a line bearing 36°30′ from a point on the shore 2,600 feet easterly of the east side of the Wollaston Yacht Club landing; southwesterly of a line bearing 129°15′ from the water tank in Squantum; and southeasterly and northeasterly of the shore line.

(i) *Quincy Bay, in vicinity of Merrymount Yacht Club.* South of a line starting from a point bearing 246°, 3,510 yards, from the stack of the pumping station on Nut Island, and extending thence 306° to the shore; west of a line bearing 196° from the aforesaid point to the shore; and north and east of the shore line.

(j) *Weymouth Fore River, in vicinity of Quincy Yacht Club.* Southwesterly of a line bearing 119° from the outer end of the wharf at Nut Island; northwesterly of a line bearing 199°30′ from Pig Rock Light to the eastern end of Raccoon Island; northerly of Raccoon Island and of a line from its western extremity bearing 245° from Beacon 2A; and easterly of the shore of Houghs Neck.

(k) *Weymouth Fore River, in vicinity of Wessagussett Yacht Club.* Southwesterly of a line bearing 117° from channel light "4"; southeasterly of a line 150 feet from and parallel to the meandering easterly limit of the dredged channel; easterly of a line bearing 188° from the eastern extremity of Rock Island Head; and northwesterly of the shore line.

(l) *Weymouth Back River, in vicinity of Eastern Neck.* The cove on the north side of the river lying northerly of a line bearing 264°30′ from the southwesterly corner of the American Agricultural Chemical Company's wharf (Bradley's Wharf) to the shore of Eastern Neck, about 2,200 feet distant.

§ 110.35 Plymouth Harbor, Mass.

Southeasterly of a line bearing 39° from Splitting Knife front range light; southwesterly of a line bearing 123° from a point on the southeast face of the State Pier, 40 feet from the northeast corner (intersection of the northeast and southeast faces produced) of said pier; westerly of a line bearing 356° from the northeast corner of the Pilgrim Yacht Club wharf; and northeasterly of the shore line.

§ 110.37 Scusit Harbor, Dennis, Mass.

All the waters of Scusit Harbor southerly of a line extending between the outer end of the jetties on each side of the entrance to the Harbor.

NOTE: The area will be principally for use by yachts and other recreational craft. Temporary floats or buoys for marking anchors will be allowed. Fixed mooring piles or stakes will be prohibited. The anchoring of vessels and the placing of temporary moorings will be under the jurisdiction and at the discretion of the local Harbor Master.

§ 110.38 Edgartown Harbor, Mass.

An area in the inner harbor easterly of the project channel and south of Chappaquiddick Point bounded as follows: Beginning at latitude 41°23′19″, Longitude 70°30′32″; thence southeasterly along the shore to latitude 41°22′52″, longitude 70°30′12″; thence 287°30′ 1,600 feet; thence 327° 30′, 700 feet; thence 359° true, 800 feet; thence 24°15′ approximately 900 feet to the point of beginning.

NOTE: The area is reserved for yachts and other small recreational craft. Fore and aft moorings and temporary floats or buoys for marking anchors in place will be allowed. All moorings shall be so placed that no vessel when anchored shall extend into waters beyond the limits of the area. Fixed mooring piles or stakes are prohibited.

§ 110.40 Silver Beach Harbor, North Falmouth, Mass.

All the waters of the harbor northward of the inner end of the entrance channel.

§ 110.45 Onset Bay, Mass.

Northerly of a line extending from the northernmost point of Onset Island to the easternmost point of Wickets Island; easterly of a line extending from the easternmost point of Wickets Island to the southwest extremity of Point Independence; southerly of the shore line; and westerly of the shore line and of a line bearing due north from the northernmost point of Onset Island.

§ 110.47 Little Narragansett Bay, Watch Hill, R.I.

All of the navigable waters of Watch Hill Cove southeasterly of a line beginning at the shore end of the United States project groin on the southerly shore of the cove and running 41°30′ true, to the northerly shore of the cove at a point about 200 feet west of the west side of the shore end of Meadow Lane, with the exception of a 100-foot wide channel running from the westerly end of the cove in a southeasterly direction to the Watch Hill Yacht Club pier, thence along in front of the piers on the easterly side of the cove northerly to the shore at the north end of the cove.

§ 110.48 Thompson Cove on east side of Pawcatuck River below Westerly, R.I.

Eastward of a line extending from the channelward end of Thompson Dock at the northern end of Thompson Cove 194° to the shore at the southern end of Thompson Cove.

§ 110.50 Stonington Harbor, Conn.

Northerly of a line 150 feet north of and parallel to the main steamboat pier formerly owned by the New York, New Haven and Hartford Railroad Company; and easterly of a line extending from the northwest corner of said pier to the east abutment of the railroad bridge at the head of the harbor.

§ 110.50a Fishers Island Sound, Stonington, Conn.

An area on the east side of Mason Island bounded as follows:

Beginning at the shore line on the easterly side of Mason Island at latitude 41°20′06″; thence due east about 600 feet to latitude 41°20′06″, longitude 71°-57′07″; thence due south about 2,400 feet to latitude 41°19′42″, longitude 71°-57′37″; thence due west about 1,000 feet to the shore line on the easterly side of Mason Island at latitude 41°19′42″; thence along the shore line to the point of beginning.

NOTE: The area will be principally for use by yachts and other recreational craft. Temporary floats or buoys for marking anchors will be allowed. Fixed mooring piles or stakes will be prohibited. The anchoring of vessels and the placing of temporary moorings will be under the jurisdiction and the discretion of the local Harbor Master.

§ 110.50b Mystic Harbor, Groton and Stonington, Conn.

(a) *Area No. 1.* Beginning at Ram Point on the westerly side of Mason Island at latitude 41°19′44″, longitude 71°58′42″; thence to latitude 41°19′30″, longitude 71°58′43″; thence to latitude 41°19′36″, longitude 71°58′58″; thence to latitude 41°19′45″, longitude 71°58′-56″; thence to the point of beginning.

(b) *Area No. 2.* Beginning at a point about 250 feet southerly of Area 1 and on line with the easterly limit of Area 1 at latitude 41°19′27″ longitude 71°58′44″; thence to latitude 41°19′19″, longitude 71°58′45″; thence to latitude 41°19′25″, longitude 71°58′59″; thence to latitude 41°19′23″, longitude 71°58′58″; thence to the point of beginning.

NOTE: The areas will be principally for use by yachts and other recreational craft. Temporary floats or buoys for marking anchors will be allowed. Fixed mooring piles or stakes are prohibited. All moorings shall be so placed that no vessel, when anchored, shall at any time extend beyond the limits of the areas. The anchoring of vessels and the placing of temporary moorings will be under the jurisdiction and at the discretion of the local Harbor Master.

§ 110.50c Mumford Cove, Groton, Conn.

(a) *Area No. 1.* Beginning at a point on the easterly shore of Mumford Cove at latitude 41°19′36″, longitude 72°01′06″; thence to latitude 41°19′30″, longitude 72°01′04″; thence to the shoreline at latitude 41°19′31″, longitude 72°01′00″; and thence along the shoreline to the point of beginning.

(b) *Area No. 2.* Beginning at a point on the easterly shore of Mumford Cove at latitude 41°19′15″, longitude 72°00′54″; thence to latitude 41°19′14.5″, longitude 72°00′59″; thence to latitude 41°19′11″, longitude 72°00′58″; thence to latitude 41°19′10″, longitude 72°00′54″; thence to latitude 41°19′12.5″, longitude 72°-00′52″; thence to latitude 41°19′14″, longitude 72°00′55″; and thence to the point of beginning.

NOTE: The areas are principally for use by yachts and other recreational craft. Temporary floats or buoys for marking anchors will be allowed. Fixed mooring piles or stakes will be prohibited. The anchoring of vessels and placing of temporary moorings will be under the jurisdiction, and at the discretion, of the local Harbor Master.

§ 110.51 Groton, Conn.

The waters within an unnamed cove inclosed by a line between the most easterly land on Avery point at latitude 41°18′59″, longitude 72°03′42″, and the most southerly point of land on the west side of Baker Cove at latitude 41°19′03″, longitude 72°03′22″.

NOTE: The area is reserved for yachts and other small recreational craft. Fore and aft moorings and temporary floats or buoys for marking anchors in place will be allowed. All moorings shall be so placed that no vessel when anchored shall, at any time, extend into the channel adjacent to the southern limit of the area. Fixed mooring piles or stakes are prohibited.

§ 110.52 Thames River, New London, Conn.

(a) *Area No. 1.* An area in the westerly part of Greens Harbor bounded as follows: Beginning at a point on the shore 100 yards southeasterly of the southerly side of Thames Street extended; thence 84°, 420 yards; thence 156°, 425 yards; thence 249°, 210 yards, to the shore; and thence northwesterly along the shore to the point of beginning.

(b) *Area No. 2.* An area in the westerly part of Greens Harbor bounded as follows: Beginning at a point on the shore 15 yards southeasterly of the southerly side of Converse Place extended; thence 84°, 170 yards; thence 114°30′, 550 yards; thence 206°30′, 250 yards; thence 294°, 230 yards, to the shore; and thence northwesterly along the shore to the point of beginning.

§ 110.54 Long Island Sound, on west side of entrance to Pataguanset River, Conn.

An area east of Giants Neck (formerly known as Grant Neck) described as follows: Beginning at a point bearing 114°, 75 feet, from the outer end of the breakwater at the south end of Giants Neck; thence 90°, 1,080 feet; thence 21°17′30″, 2,140 feet; thence

283°27'15.5", 240 feet; thence 220°-36'39", 1,252.6 feet; thence 295°23'16.5", 326.5 feet; thence 269°03'42.6", 240 feet; thence 261°46'50.9", 181.9 feet; thence 226°26'07.7", 275.9 feet; thence 147°43'27.7", 449.4 feet; thence 238°01'-35.8", 379.6 feet; and thence approximately 156°31'05.8", 462.11 feet, to the point of beginning.

§ 110.55 Connecticut River, Conn.

(a) *West of Calves Island at Old Saybrook.* Beginning at a point bearing 254°09'16", 153 yards, from Calves Island 20 Light; thence 157°, 1,037 yards; thence 175°, 150 yards; thence 265°, 250 yards; thence 350°, 660 yards; thence 337°, 480 yards; and thence approximately 67°, 135 yards, to the point of beginning.

(a–1) *Area No. 1, at Essex.* Beginning at a point on the shore on the west side of Haydens Point bearing approximately 211°, 270 yards, from Haydens Point Light; thence 270°, 160 yards; thence due north, 140 yards; thence 300°, 190 yards; thence 330°, 400 yards; thence 90°, 60 yards; thence 150°, 350 yards; thence 120°, about 434 yards to a point on the shore; thence along the shore southwesterly to the point of beginning.

(b) *Area No. 2, at Essex.* Beginning at a point latitude 41°21'22", longitude 72°22'53"; thence 208°30', 375 yards; thence 194°31', 100 yards; thence 135°-00', 440 yards; thence 153°30', 80 yards; thence 121°00', 220 yards; thence due north approximately 1060 yards to the point of beginning.

NOTE: The area will be principally for use by yachts and other recreational craft. Temporary floats or buoys for marking anchors will be allowed. Fixed mooring piles or stakes are prohibited. The anchoring of vessels and the placing of temporary moorings will be under the jurisdiction and at the discretion of the local Harbor Master.

(c) [Reserved]

(d) *Area No. 1, at Eddy Rock Light.* Beginning at latitude 41°26'38", longitude 72°27'37"; thence extending southeasterly to latitude 41°26'12", longitude 72°27'18"; thence extending westerly to latitude 41°26'11", longitude 72°27'22"; thence extending northwesterly to latitude 41°26'23", longitude 72°27'42"; thence extending northerly to latitude 41°26'36", longitude 72°27'43"; thence extending easterly to the point of beginning.

(e) *Area No. 2, at Lord Island.* Beginning at latitude 41°26'11", longitude 72°27'16"; thence extending south southeasterly to latitude 41°26'03", longitude 72°27'03"; thence extending southeasterly to latitude 41°25'59", longitude 72°26'51"; thence extending southwesterly to latitude 41°25'58", longitude 72°26'52"; thence extending northwesterly to latitude 41°26'05", longitude 72°27'11"; thence extending north northwesterly to latitude 41°26'10", longitude 72°27'20"; thence extending easterly to the point of beginning.

NOTE: The areas designated by paragraphs (d) and (e) of this section are principally for use by yachts and other recreational craft. Fore and aft moorings will be allowed. Temporary floats or buoys for marking anchors in place will be allowed. Fixed mooring piles or stakes are prohibited. All moorings shall be so placed that no vessel, when anchored, shall at any time extend beyond the limits of the areas. The anchoring of vessels and placing of mooring floats or buoys will be under the jurisdiction, and at the discretion of the local Harbor Master. Area 2 will not be used during the shad fishing season.

(e–1) *Area at Chester.* Beginning at point about 600 feet southeasterly of the entrance of Chester Creek, at latitude 41°24'23", longitude 70°25'41"; thence due south about 1,800 feet to a point at latitude 41°24'05", longitude 72°25'41"; thence due east about 600 feet to a point at latitude 41°24'05", longitude 72°25'32"; thence due north about 1,800 feet to a point at latitude 41°24'23", longitude 72°25'32"; thence due west about 600 feet to the point of beginning.

NOTE: The area will be principally for use by yachts and other recreational craft. Temporary floats or buoys for marking anchors will be allowed. Fixed mooring piles or stakes are prohibited. The anchoring of vessels and the placing of temporary moorings will be under the jurisdiction, and at the discretion of the local Harbor Master.

(f) *Vicinity of Mouse Island Bar below Portland.* On the north side of the river shoreward of lines described as follows: (1) Beginning at a point bearing 02°, 175 yards, from Mouse Island 73 Light; thence 270°, 480 yards; and thence due north, approximately 230 yards, to the shore. (2) Beginning at the said point bearing 02°, 175 yards, from Mouse Island 73 Light; thence 70°, 400 yards; and thence 350°, approximately 250 yards, to the shore.

(g) *Area at Portland.* Beginning at a point on the shore, about 700 feet southeasterly from the easterly end of the New York, New Haven and Hartford Railroad Company bridge, at latitude 41°33'55", longitude 72°38'43"; thence 250° to latitude 41°33'54", longitude 72°38'46"; thence 160° to latitude 41°33'48", longitude 72°38'43"; thence 145° to latitude 41°33'44", longitude 72°38'39"; thence 55° to a point on the shore at latitude 41°33'47", longitude 72°38'32"; thence along the shore to the point of beginning.

NOTE: The area will be principally for use by yachts and other recreational craft. Temporary floats or buoys for marking anchors will be allowed. Fixed mooring piles or stakes are prohibited. All moorings shall be so placed that no vessel, when anchored, shall at any time extend beyond the limit of the area or closer than 50 feet to the Federal channel limit. The anchoring of vessels and the placing of temporary moorings will be under the jurisdiction, and at the discretion of the local Harbor Master.

§ 110.58 Cos Cob Harbor, Greenwich, Conn.

(a) *Area A.* Beginning at the mean low water line about 2,800 feet downstream from the easterly end of the New York, New Haven and Hartford Railroad Bridge at latitude 41°01'23", longitude 73°35'40", thence extending True west to latitude 41°01'23", longitude 73°35'-42"; thence extending southwesterly to a point at latitude 41°01'02", longitude 73°35'56"; thence True east to a point on the shoreline at latitude 41°01'02", longitude 73°35'48"; thence extending along the mean low water line to the point of beginning.

(b) *Area B.* Beginning at the mean low water line about 700 feet downstream from the westerly end of the New York, New Haven and Hartford Railroad Bridge at latitude 41°01'42", longitude 73°35'47"; thence True east to latitude 41°01'42", longitude 73°35'45"; thence southeasterly to latitude 41°01'23", longitude 73°35'44"; thence southwesterly to latitude 41°01'04", longitude 73°35'52", thence southwesterly to latitude 41°01'02", longitude 73°35'55"; thence True west to a point on shore on the northerly side of Goose Island at latitude 41°01'02", longitude 73°36'00"; thence True north to a point at the mean low water line at latitude 41°01'05", longitude 73°36'00"; thence along the mean low water line to the point of beginning.

NOTE: The areas are principally for use by yachts and other recreational craft. Temporary floats or buoys for marking anchors will be allowed. Fixed mooring piles or stakes are prohibited. The anchoring of vessels and placing of temporary moorings will be under the jurisdiction, and at the discretion of the local Harbor Master. All moorings shall be so placed that no moored vessels will extend into the waters beyond the limits of the areas or closer than 50 feet to the Federal channel limits.

§ 110.60 Port of New York and vicinity.

(a) *Huntington Harbor.* All of the Huntington Harbor anchorage ground described in § 110.150.

(b) *New Rochelle Harbor, west and south of Glen Island.* That portion of Long Island Sound Anchorage No. 1 (described in § 110.155) between Hog Island, Travers Island, Neptune Island and Glen Island and the mainland, to the westward of a line extending from the cupola at the southeast extremity of Glen Island to the easternmost extremity of Hog Island, and to the northeastward of a line extending from the southwest extremity of Hog Island to the southeast corner of Travers Island; excluding therefrom all waters within 25 feet of the 50-foot channel west and south of Glen Island.

(c) *New Rochelle Harbor, east of Glen Island.* That portion of Long Island Sound Anchorage No. 1 (as described in § 110.155(a)) between Glen Island and Goose Islands breakwater, northward of a line extending from the northwest end of Goose Islands breakwater to the cupola at the north end of the bathing beach on Glen Island.

(c–1) *City Island Harbor, east of City Island.* That portion of Long Island Sound Anchorage No. 1 (described in § 110.155) between City Island and Hart Island eastward of a line ranging 339° between the steeple on City Island and the westernmost corner of the Administration Building at Orchard Beach; southward of a line ranging 50° between the northerly abutment on the westerly end of the City Island drawbridge and tangent to Chimney Sweeps; westward of a line tangent to Chimney Sweeps and ranging 163° toward the west gable on Rat Island and westward of a line tangent to the easterly side of High Island and ranging 153°30' from the west gable on Rat Island; and northward of a line ranging 56° between the Duryea Pier at Belden Point, City Island to Hart Island Light, except for the cable and pipe line area extending between City Island and Hart Island.

(d) *Eastchester Bay, west of City Island.* That portion of Long Island Sound Anchorage No. 1 (as described in § 110.155(a)) west of City Island and within the following limits: Northward of a line ranging 244° from the Duryea Pier at the foot of City Island Avenue to Big Tom Nun Buoy No. 2 (latitude 40°50'01", longitude 73°47'25"); thence northeastward of a line ranging 329° from Big Tom Nun Buoy No. 2 through the Nun Buoy (latitude 40°50'46", longitude 73°48'01") off the southern end of Rodman Neck; southeastward of a line ranging 205° from the east abutment of the City Island Bridge through the south tower of the Bronx-Whitestone Bridge; and southward of a line ranging 90° from the Pelham War Memorial in Pelham Bay Park and the steeple of the church at the southeast corner of Elizabeth Street and City Island Avenue.

(e) *Eastchester Bay, along west shore.* That portion of Long Island Sound Anchorage No. 1 (as described in § 110.155 (a)) along the west shore of Eastchester Bay north of and including Weir Creek, shoreward of a line ranging 249° from the end of the timber pier at the foot of Pope Place, Edgewater, and through the transmission tower at the northeast side of the draw of the New York, New Haven and Hartford Railroad Bridge over Eastchester Creek, and having as its northerly limit the line ranging 70° through the row of telephone poles along the north side of Watt Avenue.

(f) *Eastchester Bay, Locust Point Harbor.* That portion of Long Island Sound Anchorage No. 2 (as described in § 110.155(a)) included within the limits of Locust Point Harbor between Wright Island and Throgs Neck and to the westward of a north and south line (longitude 73°47'58") through the southerly corner of the concrete culvert at the southerly end of the stone wall at Locust Point on Wright Island.

(g) *Manhasset Bay, west area at Manorhaven.* That portion of Long Island Sound Anchorage No. 4 (described in § 110.155) westward of a line (longitude 73°42'53") ranging 180° from the end of the Town of North Hempstead pier at Manorhaven; northwestward of a line ranging 223° from the intersection of the shore and the northerly line of Cerchang Avenue (extended) on Tom Point toward Plum Point Shoal Buoy 3 (latitude 40°49'48.5", longitude 73°43'38"); and northeastward of a line ranging 119° from the cupola on Plum Point toward the inshore end of the northerly side of the Purdy Boat Company pier at Port Washington; excluding therefrom the seaplane restricted area described in § 110.35.

(h) *Manhasset Bay, east area at Manorhaven.* That portion of Long Island Sound Anchorage No. 4 (described in § 110.155) bounded as follows: Beginning at the southerly tip of Tom Point; thence 270° to latitude 40°49'58", longitude 73°43'41"; thence 234° to latitude 40°49'48.5", longitude 73°43'58"; thence 90° to latitude 40°49'48.5", longitude 73°43'22.5"; thence 20° to latitude 40°50'01.5", longitude 73°43'16"; thence due north to the point of land at Manorhaven northeasterly of Tom Point; and thence southwesterly along the shore to the point of beginning.

(i) *Manhasset Bay, at Port Washington.* That portion of Long Island Sound Anchorage No. 4 (described in § 110.155) southward of latitude 40°49'44"; eastward of a line ranging 161° from the offshore end of the Yacht Service, Inc., pier on the Copp Estate at Manorhaven toward the flagpole on the end of the Whitney Dock at Plandome; and northward of latitude 40°49'06".

(j) *Manhasset Bay, at Plandome.* That portion of Long Island Sound Anchorage No. 4 (described in § 110.155) southward of the line of the Whitney Dock at Plandome extended; eastward of a line ranging 186° from the Manhasset-Lakeville Water District tank at Thomaston toward the tank at Tom Point; and northward of Thompson's pier at Plandome extended.

(k) *Little Neck Bay.* That portion of Long Island Sound Anchorage No. 5 (as described in § 110.155(a)(7)), southeastward of a line ranging approximately 20°30' from the flagpole at Fort Totten, Willets Point to the outermost dolphin of the U.S. Merchant Marine Academy's pier at Kings Point, Long Island.

(l) *Flushing Bay, north area.* That portion of East River Anchorage No. 10 (described in § 110.155), in the vicinity of College Point, southeastward of a line tangent to the west side of College Point ranging from College point Reef Light to the offshore end of the most northerly rack of the former College Point Ferry slip.

(l–1) *Flushing Bay, north central area.* That portion of East River Anchorage No. 10 (described in § 110.155) on the east side of Flushing Bay, southward of a line projecting due west from the tank located on the north side of the foot of 15th Avenue, College Point, eastward of a line parallel to, and 50 feet east of the east channel line in Flushing Bay, and northward of a line ranging 42° from Flushing Bay Light 8 on the north end of the dike.

(l–2) *Flushing Bay, south central area.* That portion of East River Anchorage No. 10 (described in § 110.155) on the east side of Flushing Bay, southward of a line ranging 53° from a point at latitude 40°46'20", longitude 73°51'-16"; eastward of a line parallel to, and 50 feet east of the east channel line in Flushing Bay, and northward of a line ranging 67° from a point at latitude 40°46'12", longitude 73°51'06" to the shore.

(m) *Flushing Bay, southeast area.* That portion of East River Anchorage No. 10 (described in § 110.155) south of a line ranging 66° from the northeasterly corner of the municipal pier at the Flushing Bay Boat Basin toward the stack (latitude 40°45'54", longitude 73°50'29") of the New York City Asphalt Plant.

(m–1) *Flushing Bay, southwest area.* That portion of East River Anchorage No. 10 (described in § 110.155) southwest of the breakwater, projecting offshore and southeast of La Guardia Airport; southerly of a line extending from the offshore end of the breakwater at latitude 40°45'53", longitude 73°51'06" to Flushing Bay Light 12 on the southerly end of the dike; westerly of a line extending from Flushing Bay Light 12 to a point at latitude 40°45'48", longitude 73°51'00"; northwesterly of a line ranging 229° from the point at latitude 40°45'48", longitude 73°51'00" to the shore.

(m–2) *Flushing Bay, west area.* That portion of East River Anchorage No. 10 (described in § 110.155) adjacent to the northeasterly side of La Guardia Airport, easterly of a line ranging 30° from the control tower at La Guardia Airport to College Point Reef Light, southward of a line extending due west from the tank on the north side of the foot of 15th Avenue, College Point, westward of a line parallel to, and 100 feet west of the west channel line in Flushing Bay and northerly of a line extending due west from Flushing Bay Light 8 on the north end of the dike.

NOTE: The anchoring of vessels and placing of temporary moorings in anchorage areas described in paragraphs (m) and (m–1) of this section will be under the jurisdiction, and at the discretion of the local Harbor Master appointed by the City of New York.

(n) *Bowery Bay.* All of that portion of East River Anchorage No. 10 (described in § 110.155) on the west side of Bowery Bay.

(o) *Hudson River, at Yonkers.* Northward of a line on range with the footbridge across the New York Central Railroad Company tracks at the southerly end of Greystone Station; eastward of a line on range with the square, red brick chimney west of the New York Central Railroad Company tracks at Hastings-on-Hudson and the easterly yellow brick chimney of the Glenwood powerhouse of the Yonkers Electric Light and Power Company; and southward of a line on range with the first New York Central Railroad Company signal bridge north of the Yonkers Yacht Club.

(o–1) *Hudson River, at Glenwood, Yonkers, New York.* That portion of the waters of the easterly side of Hudson River and adjacent to the northerly limits of the City of Yonkers, New York, northward of the northerly face of an outfall sewer pipe which is 2,200 feet north of the Glenwood powerhouse; east of a line on range with the northwest corner of the powerhouse bulkhead and the westerly end of the outfall sewer pipe; and southward of a line ranging 110° true to the first New York Central Railroad Company's signal bridge, north

of the Yonkers Corinthian Yacht Club house.

(p) *Hudson River, at Hastings-on-Hudson.* That portion of the waters northerly of a line extending from a point at latitude 40°59'56.0", longitude 73°53'11.3" to the shore at latitude 40°59'55.7"; easterly of lines extending from the aforementioned point at latitude 40°59'56.0", longitude 73°53'11.3" through a point at latitude 41°00'04.8", longitude 73°53'10.9" to a point at latitude 41°00'14.6", longitude 73°53'08.2"; and southerly of a line extending from the last mentioned point to the shore at latitude 41°00'14.2".

(p-1) *Hudson River, at West Point.* That portion of the waters of the westerly side of the Hudson River, adjacent to the United States Military Academy, shoreward of a line connecting the extreme northwest corner of the south dock with a projection of land located approximately 1,575 feet north thereof.

(q) *Newark Bay, southeast area.* That portion of the waters on the southeasterly side of Newark Bay, north of a line ranging from the offshore end of the breakwater north of the former Elco Boat Works through Newark Bay Channel Buoy 6; east of a line ranging from a point 200 yards east of the east pier of the lift span of the Central Railroad Company of New Jersey bridge to a point 200 yards east of the east end of the lift span of the Pennsylvania-Lehigh Valley Railroad bridge; and south of a line ranging from the southwest corner of the bulkhead at Bayonne City Park through Newark Bay Channel Buoy 11.

NOTE: This special anchorage is within the limits of General Anchorage No. 27, described in § 110.155(h)(4).

(r) *Newark Bay, southwest area.* That portion of the waters on the southwesterly side of Newark Bay, north of a line ranging from Kill Van Kull Light 16 through Kill Van Kull Light 18 and Kill Van Kull Channel Buoy 20, northeast of a line through Kill Van Kull Channel Buoy 20 perpendicular to the Singer Manufacturing Company's bulkhead, and southeast of a line 150 feet east of and parallel to the Singer Manufacturing Company's bulkhead, and south of a line 250 feet south of and parallel to the Central Railroad Company of New Jersey bridge and west of a line perpendicular to the dike at Kill Van Kull Light 16, excluding therefrom the "Pipe Line Area."

NOTE: The greater portion of this special anchorage is within the limits of general anchorage No. 24, described in § 110.155(h)(1).

(s) *Jamaica Bay.* That portion of the waters on the westerly side of Jamaica Bay, westerly of a line ranging from Island Channel Buoy 17 through Island Channel Buoy 21, northward of a line ranging from Island Channel Buoy 17 to the north abutment of the Shore Parkway Bridge across Paerdegat Basin, and southward of a line ranging 310° from Island Channel Buoy 21.

(s-1) *Jamaica Bay, south area.* That portion of Broad Channel westerly of a line bearing 190°30' from the northerly terminus of the New York City Transit Authority trestle across Broad Channel to latitude 40°35'50", longitude 73°49'-06", and thence northerly of a line bearing 254° to the shore.

NOTE: The area will be principally for use by yachts and other recreational craft. Temporary floats or buoys for marking anchors will be allowed. The Captain of the Port of New York is authorized to issue permits for maintaining mooring buoys within the anchorage. The method of anchoring these buoys shall be as prescribed by the Captain of the Port. No vessel shall anchor in the anchorage in such manner as to interfere with the use of a duly authorized mooring buoy.

(t) *Cold Spring Harbor.* That portion of the waters of Cold Spring Harbor easterly of a line ranging from the Cupola in the extreme inner harbor through Cold Spring Harbor Light; southerly of a line ranging from the southernmost point of an L-shaped pier off Wawepex Grove through the Clock Tower at Laurelton and northerly of a line ranging from the outer end of the Socony Mobil Oil Company's pier at Cold Spring Harbor through the Clock Tower at Laurelton, with the exception of an area within a 300-foot radius of the outer end of the Socony Mobil Oil Company's pier.

(u) *Oyster Bay Harbor, New York.* That portion of Oyster Bay Harbor adjacent to the easterly side of Centre Island, westerly of a line on range with Cold Spring Harbor Light and the Stone House on the end of Plum Point, Centre Island.

(u-1) *Hempstead Harbor, New York.* That portion of the waters of Hempstead Harbor southerly of the Glen Cove Breakwater, northerly of a line ranging from "Dome" at Sea Cliff through Hempstead Harbor Buoy 3, and easterly of a line ranging from Glen Cove Breakwater Light through Hempstead Harbor Anchorage Buoys "A" and "B" and Hempstead Harbor Buoy 2, except for the entrance to Glen Cove Creek as defined by Hempstead Harbor Anchorage Buoy "A" and Glen Cove Entrance Buoy 1 on the north side of the entrance, and Hempstead Harbor Anchorage Buoy "B" the Glen Cove Entrance Buoy 2 on the south side of the entrance.

(v) *Hudson River, at Coeymans, New York.* That portion of the waters of the westerly side of Hudson River, west of Coeymans Middle Dike, north of a line bearing due west from a point 700 feet south of Upper Hudson River Light No. 43, and south of a line bearing due west from Upper Hudson River Light No. 45, except for an area 125 feet wide, adjacent to and east of the bulkhead fronting the Village of Coeymans and Barren Island Dike.

(w) *Hudson River, at Cedar Hill, New York.* That portion of the westerly side of the Hudson River, adjacent to Cedar Hill Dike, 350 feet in width, bounded on the south by the northerly side of the cut in the dike at the junction of the Vloman Kill and the Hudson River, and extending northerly therefrom 1,600 feet.

§ 110.65 **Indian River Bay, Del.**

Beginning at a point bearing 174°, 300 feet, from a point on the southerly edge of the project channel 5,800 feet westerly from the State highway bridge across Indian River Inlet; thence 174°, 600 feet; thence 264°, 800 feet; thence 354°, 600 feet; and thence 84°, 800 feet, to the point of beginning.

§ 110.67 **Delaware River, Essington, Pa.**

North of Little Tinicum Island, between the mouth of Darby Creek and Jansen Avenue, Essington, bounded as follows: Beginning at a point (approximately latitude 39°51'31", longitude 75°17'43") on a line in prolongation of the westerly line of Jansen Avenue 125 yards southerly from the mean high water line; thence 124°, 300 yards; thence 274°30', 1,700 yards; thence 64°, 425 yards; thence 100°, 1,225 yards; and thence 95°, 490 yards, to the point of beginning.

§ 110.70 **Chesapeake and Delaware Canal, easterly of Courthouse Point, Md.**

The waters southerly of a line joining the northernmost extremity of Courthouse Point and the westernmost point of Herring Island; westerly of a line bearing 180° from a point on the aforesaid line 220 yards from the westernmost point of Herring Island; and northerly and easterly of the shore line.

§ 110.72 **Blackhole Creek, Md.**

The waters on the west side of Blackhole Creek, a tributary of Magothy River, southwest of a line bearing 310°30' from the most northerly tip of an unnamed island located 0.16 mile upstream from the mouth of the creek approximately 660 feet to the west shore of the creek; northwest of a line ranging from the southwesterly tip of the island toward the point of land on the west shore of the creek immediately southwest thereof; and north of a line 100 feet from and parallel to the shore of the creek to its intersection with the south property line extended of the Potapskut Sailing Association, Inc., thence northwesterly along the said property line extended to the shore.

§ 110.73 **St. Johns River, Fla.**

(a) *Area A.* The waters lying within an area bounded by a line beginning at a point located at the west bank of St. Johns River at latitude 30°15'11", longitude 81°41'23"; thence to latitude 30°15'13", longitude 81°41'14"; thence to latitude 30°15'03", longitude 81°41'-11"; thence to latitude 30°15'04", longitude 81°41'20"; and thence to the point of beginning.

(b) *Area B.* The waters lying within an area bounded by a line beginning at latitude 30°15'03", longitude 81°41'28"; thence to latitude 30°15'02", longitude 81°41'10"; thence to latitude 30°14'56", longitude 81°41'06"; thence to latitude 30°14'54.5", longitude 81°41'10.5"; and thence to the point of beginning.

§ 110.75 **Corpus Christi Bay, Tex.**

(a) *South area.* Southward of the southernmost T-head pier at the foot of Cooper Avenue and of a line bearing 156°44', 340.6 feet, from the southerly corner of said pier to a point on the rubble breakwater; westward and northward of said breakwater; and eastward of the Corpus Christi sea wall.

§ 110.80 **Milwaukee Harbor, Wis.**

(a) *North area.* That part of the north end of the outer basin or Harbor of Refuge bounded as follows: Beginning at the shoreward face of the north breakwater at a point 500 feet northerly from the north end of the fair weather entrance; thence 270°, 1,100 feet; thence 215°, 1,700 feet; thence 270°, approximately 2,000 feet, to the lakeward face of the lake shore revetment at a point approximately 300 feet northerly from the landing pier for small boats in the vicinity of East Wells Street extended; thence following the lakeward face of said revetment and the shore line northeasterly to the shoreward or southwesterly face of the United States breakwater; thence southerly along the shoreward face of said breakwater to the point of beginning.

(b) *South area.* An area extending southeasterly from East Russell Avenue extended, between the lake shore line and the city rubble mound shore protection, bounded as follows: Beginning at a point on the shore line in the vicinity of East Meredith Street extended and 385 feet northwesterly from the center line of East Pennsylvania Avenue extended; thence northwesterly along said shore line and the lake shore revetments to the southerly face of the city revetment on the northwesterly side of the flushing tunnel intake slip in the vicinity of East Russell Avenue extended; thence northeasterly along the southeasterly face of the said revetment and the city pier and a line in extension thereof to the intersection of said line with a line parallel to and 150 feet shoreward from the shoreward side of the city rubble mound shore protection; thence southeasterly along the latter line to the intersection thereof with a line parallel to and 385 feet northwesterly from the centerline of East Pennsylvania Avenue extended; thence southwesterly along the latter line to the point of beginning.

§ 110.80a **Lake Macatawa, Mich.**

An area located on the south side of Lake Macatawa near the entrance to Lake Michigan, shoreward (south) of a line commencing offshore of Macatawa Park at a point 960 feet S 156° E from the light on the south pier at the entrance to the Lake, and extending 1,550 feet N 82° E toward the northwest corner of the Macatawa Bay Yacht Club pier.

§ 110.81 **Muskegon Harbor, Mich.**

The waters on the southwest side of Muskegon Lake shoreward of a line beginning at the intersection of the north line of Arlington Avenue and the east line of Edgewater Street, and bearing thence 145°, 2,110 feet, and thence 230° to the shore.

§ 110.82 **Charlevoix Harbor, Mich.**

The waters on the north side of Round Lake northward of a line beginning at a point approximately 200 feet south of the north shore bearing 90°, 280 feet, from the northeast corner of the Charlevoix Municipal Wharf, and bearing thence 92°, 400 feet, thence 129°, 1,160 feet, and thence 110° to the westerly end of the southwest side of Park Island.

§ 110.84 **Black Rock Channel opposite foot of Porter Avenue, Buffalo, N.Y.**

An area extending northwesterly between Black Rock Channel and Bird Island Pier opposite the foot of Porter Avenue, bounded as follows: Beginning at Triangulation Marker "N-8" on Bird Island Pier; thence southeasterly along the pier a distance of approximately 745 feet; thence 60°52' true, approximately 300 feet to a point 50 feet westerly of the westerly limit of Black Rock Channel; thence northwesterly along an arc of a circle parallel to and 50 feet westerly of the westerly limit of the channel to a point approximately 360 feet southerly of Bird Island Pier Light No. 17; thence 276°20' true, approximately 135 feet to Bird Island Pier; thence southwesterly and southerly along the pier a distance of approximately 1,355 feet to the point of beginning.

§ 110.85 **Niagara River, Youngstown, N.Y.**

Beginning at the intersection of the north line of Lockport Street extended with the east shore line of Niagara River; thence westerly along the north line of Lockport Street extended, 600 feet; thence southerly along a line perpendicular to the north line of Lockport Street extended, approximately 1,920 feet, to the south line of Elliot Street extended; thence easterly along the south line of Elliot Street extended, 400 feet; thence northerly, along a line parallel to the riverward limit of the area, to the south line of Church Street extended; thence easterly along the south line of Church Street extended, approximately 200 feet, to the east shore line of Niagara River; thence northerly along the shore line, approximately 1,350 feet, to the point of beginning; excepting therefrom a rectangular area 300 feet long and extending 150 feet riverward of the east shore line bordering on the property of the Village of Youngstown approximately midway between Church and Lockport Streets extended. This area is designated as a special anchorage area subject to the condition that such buoys as may be prescribed by the United States Coast Guard to mark the area shall be provided and maintained by and at the expense of local interests.

§ 110.90 **San Diego Harbor, Calif.**

(a) *Area A-1.* All of the Municipal Yacht Harbor within the following described boundaries: Beginning at station 120 on the United States pierhead line; thence along the pierhead line through stations 250A, 256A, 260, 262, 264, 266, 268, 270, and 272A; thence (from station 272A) 226°57', 2,893.65 feet; thence 191°, 1,118.30 feet; thence 269°28', 36.83 feet to the point of beginning.

NOTE: This area is reserved for yachts and other recreational craft, and for all types of small craft during storms, sirens, or other emergency. Single and fore and aft moorings will be allowed in the area as permitted by the Port Director, Port of San Diego.

(b) *Area A-2.* An area in the Commercial Basin having the southwesterly side parallel to and 325 feet from the pierhead line and all other sides parallel to and 250 feet from the pierhead line.

NOTE: This area is reserved for commercial fishing boats having a length of 65 feet and under. Single and fore and aft moorings will be allowed in the area as permitted by the Port Director, Port of San Diego.

(c) *Area A-3.* An area between the United States bulkhead and pierhead lines bounded on the north by a portion of the bulkhead line between Stations 218 and 220; on the northeast by a portion of the bulkhead line between Stations 220 and 222; on the southeast by a line perpendicular to that portion of the bulkhead line between Stations 220 and 222, at a point 1,300 feet southeasterly of Station 220; on the southwest by a portion of the pierhead line between Stations 304 and 306; and on the west by the easterly side of the nonanchorage area.

NOTE: This area is reserved for commercial fishing boats having a length of 65 feet and under. Single and fore and aft moorings will be allowed in the area as permitted by the Port Director, Port of San Diego.

(d) *Area A-5.* Shoreward of a line extending from United States Bulkhead Line Station 159 to Station 171.

NOTE: This area is reserved for yachts and other small recreational craft. Fixed moorings will be allowed in the area as permitted by the Port Director, Port of San Diego.

§ 110.95 **Newport Bay Harbor, Calif.**

(a) *Area A-1.* In Lido Channel, northeast of a line parallel to and 195 feet from the pierhead line along the southwest shore of Lido Isle; north of the south U. S. Bulkhead line off Lido Isle extended; southwest of a line parallel to and 120 feet from the pierhead line along the southwest shore of Lido Isle; and southeast of the north side of Via Barcelona, on Lido Isle, extended.

NOTE: This area is reserved for recreational and other small craft. Fore and aft moorings will be allowed in this area conforming to the city of Newport Beach Harbor Ordinance No. 843 for recreational and small craft of such size and alignment as permitted by the harbor master.

(b) *Area A-2.* East of the east side of 15th Street extended; north of a line parallel to and 250 feet from the pierhead line between 14th and 15th Streets, this line being the north line of Newport Channel, and extending east in a straight line to an intersection with a line bearing 268° from the flashing red beacon on the southeast end of Lido Isle, this line being the northwest line of the main fairway; west of the east side of 13th Street extended; and south of a line parallel to and 220 feet from the pierhead line off the south shore of Lido Isle.

NOTE: This area is reserved for recreational and other small craft. Fore and aft moorings will be allowed in this area conforming to the city of Newport Beach Harbor Ordinance No. 543 for recreational and small craft of such size and alignment as permitted by the harbor master.

(c) *Area A–3.* A rectangular area, 40 feet wide and 686 feet long, on the west side of Upper Bay Channel, 120 feet east of and parallel to the west pierhead line, the south end being 50 feet north from U. S. Bulkhead Station 130.

NOTE: This area is reserved for recreational and other small craft. Fore and aft moorings will be allowed in this area conforming to Orange County Harbor Ordinance No. 490 for recreational and small craft of such size and alignment as permitted by the harbor master.

(d) *Area A–4.* South of a line bearing 268° from the flashing green beacon off Bay Island and passing through the beacon off 13th Street, this line being the south line of the main fairway; north of a line parallel to and 200 feet from the pierhead line off 11th to 8th Streets; and west of a line bearing 203° from the flashing red beacon at the south extremity of Bay Shores, passing through the pierhead line at the east end of Lido Isle.

NOTE: This area is reserved for recreational and other small craft. Fore and aft moorings will be allowed in this area conforming to the City of Newport Beach Harbor Ordinance No. 543 for recreational and small craft of such size and alignment as permitted by the harbor master.

(e) *Area A–5 (Newport Harbor Yacht Club).* East of a line bearing 23° from the center of the north end of 8th Street, being parallel to and 150 feet distant from the east end of Area A–4; north of a line parallel to and 200 feet from the pierhead line off 7th and 8th Streets; northwest of a line parallel to and 200 feet from the northwest pierhead line off Bay Island; and south of a line bearing 268° from the flashing green beacon off Bay Island and passing through the beacon off 13th Street, this line being the southerly line of the main fairway.

NOTE: This area is reserved for recreational and other small craft. Single moorings will be allowed in this area conforming to the City of Newport Beach Harbor Ordinance No. 543 for pleasure boats and yachts of such sizes and alignments as permitted by the harbor master.

(f) *Area A–6.* Northwest of Harbor Island, beginning at a point on the Newport City line 107 feet from the angle point northwest of Harbor Island; thence 36°27', 85 feet; thence 303°18', 380 feet; thence 216°27', 72 feet; thence 166°12', 211 feet; thence 75°11'44", approximately 218 feet, to the point of beginning.

NOTE: This area is reserved for recreational and other small craft. Fore and aft moorings will be allowed in this area conforming to Orange County Harbor Ordinance No. 490 for recreational and small craft of such size and alignment as permitted by the harbor master.

(g) *Area A–7.* East of a line parallel to and 150 feet from the east pierhead line off Bay Island; north of a line parallel to and 150 feet from the pierhead line off Fernando Street; northwest of the east side of Adams Street extended; and southwest of a line bearing 121° from the flashing green beacon off Bay Island, being parallel to and 100 feet southwest of the southwest line of the main channel.

NOTE: This area is reserved for recreational and other small craft. Fore and aft moorings will be allowed in this area conforming to the City of Newport Beach Harbor Ordinance No. 543 for recreational and small craft of such size and alignment as permitted by the harbor master.

(h) *Area A–8.* Northeast of a line parallel to and 370 feet from the southwest pierhead line from Collins Isle to Balboa Island; north of a line bearing 311° from the flashing red beacon off the southwest point of Balboa Island and passing through the flashing red beacon off the south point of Bay Shore, this line being the northeast line of the main channel; southwest of a line parallel to and 150 feet from the southwest pierhead line from Collins Isle to Balboa Island; and southeast of a line bearing 298° from U. S. Station 160.

NOTE: This area is reserved for recreational and other small craft. Fore and aft moorings will be allowed in this area conforming to the City of Newport Beach Harbor Ordinance No. 543 for recreational and small craft of such size and alignment as permitted by the harbor master.

(i) *Area A–9.* In Balboa Island Channel, east of a line bearing due north from U. S. Station 151, being 25 feet west of the end of Emerald Avenue; north of a line parallel to and 75 feet from the north pierhead line off Balboa Island; west of the east side of Amethyst Avenue extended; and south of a line parallel to and 150 feet from the north pierhead line of Balboa Island.

NOTE: This area is reserved for recreational and other small craft. Fore and aft moorings will be allowed in this area conforming to the City of Newport Beach Harbor Ordinance No. 543 for recreational and small craft of such size and alignment as permitted by the harbor master.

(j) *Area A–10.* Southeast of a line bearing 209° from the flashing red beacon on the southwest point of Balboa Island and passing through the east side of the end of "A" Street; north of an irregular line parallel to and 150 feet from the north pierhead line off Balboa Peninsula from "A" to "K" Streets; south of the south line of the main channel; and south and southeast of an irregular line parallel to and 375 feet from the north pierhead line off Balboa Peninsula.

NOTE: This area is reserved for recreational and other small craft. Fore and aft moorings will be allowed in this area conforming to the City of Newport Beach Harbor Ordinance No. 543 for recreational and small craft of such size and alignment as permitted by the harbor master.

(k) *Area A–11.* Northeast of a line bearing 106°30' from the flashing red beacon at the southwest point of Balboa Island, passing through the flashing red channel buoy No. 4, this line being the northeast line of the main channel; north of a line parallel to and 350 feet from the south pierhead line off Balboa Island; west of the west bulkhead line of the Grand Canal extended; and south of a line parallel to and 150 feet from the south pierhead line off Balboa Island.

NOTE: This area is reserved for recreational and other small craft. Fore and aft moorings will be allowed in this area conforming to the City of Newport Beach Harbor Ordinance No. 543 for recreational and small craft of such size and alignment as permitted by the harbor master.

(l) *Area A–12 (Balboa Yacht Club).* South of a line parallel to and 150 feet from the south pierhead line off Balboa Island; west of the east end pierhead line off Balboa Island extended and bearing 161°; north of a line parallel to and 700 feet from the south pierhead line off Balboa Island; and east of a line parallel to and 1,000 feet from the east boundary, bearing 161° from the point of intersection of the east bulkhead line of Grand Canal and the south bulkhead line off Balboa Island.

NOTE: This area is reserved for recreational and other small craft. Single moorings will be allowed in this area conforming to the City of Newport Beach Harbor Ordinance No. 543 for pleasure boats and yachts of such sizes and alignments as permitted by the harbor master.

(m) [Reserved]

(n) *Area B–1.* Southeast of a line bearing 227° from the flashing red beacon at the southwest corner of Lido Isle and being parallel to and 300 feet from the pierhead line off the southeast end of Rhine Point; northeast of the southwest bulkhead line off Rhine Point extended; north of a line parallel to and 250 feet from the pierhead line between 15th and 18th Streets, this line being the north line of Newport Channel; west of the west side of 15th Street extended; and south of a line parallel to and 220 feet from the pierhead line off the south shore of Lido Isle.

NOTE: This area is reserved for recreational and other small craft. Fore and aft moorings, conforming to the City of Newport Beach Harbor Ordinance No. 543, will be allowed in this area for recreational and small craft of such size and alignment as permitted by the harbormaster.

§ 110.100 Los Angeles and Long Beach Harbors, Calif.

(a) [Reserved]

(b) *Area A–2.* Consisting of two parts in the outer basin of Fish Harbor on the east and west sides of Fish Harbor Entrance Channel described as follows:

(1) *Part 1.* Beginning at a point at the intersection of westerly side of Fish Harbor Entrance Channel and the outer jetty; thence southwesterly along the jetty about 900 feet to the shore; thence northerly about 500 feet; thence northeasterly about 650 feet, on a line parallel to jetty; thence southeasterly about 500 feet, along the westerly side of Fish Harbor Entrance Channel to the point of beginning.

(2) *Part 2.* Beginning at a point at the intersection of the east side of Fish Harbor Entrance Channel and Fish Harbor mole (outer Fish Harbor); thence northwesterly along channel line about 850 feet to the southerly side of the Fairway; thence northeasterly and easterly along the southerly side of the Fairway, about 478 and 565 feet respectively to its intersection with Fish Harbor mole; thence southerly and southwesterly along the mole to the point of beginning.

§ 110.105 Avalon Bay, Santa Catalina Island, Calif.

Shoreward of a line connecting the promontories known as Casino Point and Bathhouse Point; excluding therefrom the fairways as established by the harbor master, City of Avalon.

NOTE: This area is reserved for yachts and other small craft. Moorings will be allowed in this area conforming to the City of Avalon Ordinance No. 264 of such size and alignment as permitted by the harbor master.

§ 110.110 Santa Monica Harbor, Calif.

The waters inclosed by a line 1,000 feet southwest of and parallel to the axis of the Santa Monica breakwater and extending 2,000 feet northwest and 2,000 feet southeast of the ends of the breakwater, lines extending shoreward from and normal to each end of the said line, and the mean high tide line; excluding therefrom the fairways as established by the harbor master, City of Santa Monica.

NOTE: This area is reserved for small craft. Fore and aft moorings will be allowed in this area conforming to the City of Santa Monica Harbor Ordinances Nos. 541, 705, 708, and 1256 for recreational and other small craft of such size and alignment as permitted by the harbor master. Fixed mooring piles or stakes are prohibited.

§ 110.111 Marina del Rey Harbor, Calif.

An area in the main channel within the following described boundaries:

Beginning at the most northeasterly corner at latitude 33°58'58", longitude 118°26'46"; thence southerly to latitude 33°58'53", longitude 118°26'46"; thence southeasterly to latitude 33°58'52", longitude 118°26'45"; thence southerly to latitude 33°58'39", longitude 118°26'45"; thence westerly to latitude 33°58'38", longitude 118°26'55"; thence northerly to latitude 33°59'00", longitude 118°26'55"; thence easterly to the point of beginning.

NOTE: This area is reserved for yachts and other recreational craft and for all types of small craft during storm, stress, or other emergency. Single and fore-and-aft moorings will be allowed in the area as permitted by the Director of the Department of Small Craft Harbors, Los Angeles County.

§ 110.115 Santa Barbara Harbor, Calif.

North of the Santa Barbara breakwater; seaward of the line of mean high water; and southwest of a line bearing 46°30' from the north corner of Bath Street and Cabrillo Boulevard to the end of the Santa Barbara breakwater; excluding a fairway 225 feet wide, 100 feet from each side of and parallel to the Navy pier.

NOTE: Fore and aft moorings will be allowed in this area conforming to the City of Santa Barbara Harbor Ordinance No. 2106 for yachts and small craft of such size and alignment as permitted by the harbor master.

§ 110.120 San Luis Obispo Bay, Calif.

Eastward of the San Luis Obispo County wharf; northward of a line bearing 116° from the southeast corner of San Luis Obispo County wharf; and westward of a line bearing 210° from the most seaward extremity of Fossil Point.

§ 110.125 Morro Bay Harbor, Calif.

(a) *Area A–1.* Opposite the City of Morro Bay, beginning 50 feet west of the intersection of the west channel line and the prolongation of the center line of Seventh Street; thence in a generally southeasterly direction and parallel to the channel line for a distance of 450 yards; thence 166° and parallel to the revetment for a distance of 1,025 yards; thence 270° for a distance of 200 yards; thence 346° for a distance of about 1,425 yards to meet the prolongation of the center line of Seventh Street; and thence to the point of beginning.

(b) *Area A–2.* Beginning at a point 322° and 150 feet from the high water line on the most westerly part of Fairbanks Point; thence continuing on this bearing for a distance of 1,346 feet; thence 52° for a distance of 450 feet and thence generally southeasterly parallel to and 150 feet from the mean high water line to the point of beginning.

NOTE: Moorings and boating activities will be allowed in these areas conforming to applicable City of Morro Bay ordinances and regulations adopted pursuant thereto.

§ 110.126 Monterey Harbor, Calif.

The waters of Monterey Harbor south of the Monterey Breakwater; and shoreward of a line beginning at Point "A" on the south side of the Monterey Breakwater about 750 feet east of the shore and at the westerly extremity of the U.S. Coast Guard wharf along the southerly side of the breakwater; thence 200°, 175 feet, to Point "B"; thence 110°, 1,300 feet, to Point "C"; thence 120° to Point "D" on the northerly extension of the westerly line of Park Avenue, City of Monterey; and thence 168°30' along the westerly line of Park Avenue extended to the shore; excluding from this area a fairway 125 feet wide whose centerline begins at Point "C" and extends thence 205°, 610 feet, and thence 246°, 720 feet, and the waters between this fairway and the northerly end of Municipal Wharf No. 2 and between the southwesterly end of the fairway and Municipal Wharf No. 1.

§ 110.127 Lake Mohave and Lake Mead, Nevada and Arizona.

(a) *Willow Beach, Ariz.* That portion of Lake Mohave inclosed by the shore and a line connecting the following points, excluding a 100-foot-wide fairway, extending westerly from the launching ramp, as established by the Superintendent, Lake Mead Recreation Area:

Latitude	Longitude
"a" 35°59'30" N.	114°36'35" W.
"b" 35°59'10" N.	114°39'35" W.

(b) *Katherine, Ariz.* That portion of Lake Mohave inclosed by the shore and a line connecting the following points, excluding a 100-foot-wide fairway, extending westerly from the launching ramp, as established by the Superintendent, Lake Mead Recreation Area:

Latitude	Longitude
"a" 35°18'33" N.	114°34'30" W.
"b" 35°13'06" N.	114°34'40" W.

(c) *El Dorado Canyon, Nev.* That portion of Lake Mohave inclosed by the shore and a line connecting the following points, excluding a 50-foot-wide fairway, extending easterly from the launching ramp, as established by the Superintendent, Lake Mead Recreation Area:

Latitude	Longitude
"a" 35°43'37" N.	114°42'21" W.
"b" 35°42'06" N.	114°42'10" W.

(d) *Cottonwood Cove, Nev.* That portion of Lake Mohave inclosed by the shore and a line connecting the following points, excluding a 200-foot-wide fairway extending northeasterly from the launching ramp, as established by the Superintendent, Lake Mead Recreation Area:

Latitude	Longitude
"a" 35°29'49" N.	114°40'55" W.
"b" 35°29'38" N.	114°40'45" W.

(e) *Overton Beach, Nev.*—(1) *Area "A".* That portion of Lake Mead inclosed by the shore and lines connecting the following points, excluding two 300-foot-wide fairways, extending northwesterly and southwesterly from the launching ramps, as established by the Superintendent, Lake Mead Recreation Area:

Latitude	Longitude
"a" 36°27'05" N.	114°21'48" W.
"b" 36°27'15" N.	114°21'20" W.
"c" 36°26'32" N.	114°20'45" W.
"d" 36°25'49" N.	114°20'50" W.
"e" 36°25'00" N.	114°21'27" W.
"f" 36°25'19" N.	114°22'10" W.

(2) *Area "B".* That portion of Lake Mead inclosed by the shore and lines connecting the following points, excluding one 300-foot-wide fairway, extending southeasterly from the launching ramp, as established by the Superintendent, Lake Mead Recreation Area:

Latitude	Longitude
"g" 36°23'20" N.	114°23'45" W.
"h" 36°23'40" N.	114°23'15" W.
"i" 36°20'30" N.	114°24'35" W.
"j" 36°21'00" N.	114°25'35" W.

(f) *Echo Bay, Nev.* That portion of Lake Mead inclosed by the shore and lines connecting the following points, excluding a 100-foot-wide fairway, extending southwesterly from the launching ramp, as established by the Superintendent, Lake Mead Recreation Area:

Latitude	Longitude
"a" 36°18'30" N.	114°26'10" W.
"b" 36°18'20" N.	114°24'00" W.
"c" 36°17'35" N.	114°24'05" W.
"d" 36°17'40" N.	114°24'27" W.

(g) *Callville Bay, Nev.* That portion of Lake Mead inclosed by the shore and lines connecting the following points,

excluding a 200-foot-wide fairway, extending southeasterly from the launching ramp, as established by the Superintendent, Lake Mead Recreation Area:

Latitude	Longitude
"a" 36°03'00" N.	114°43'40" W.
"b" 36°03'10" N.	114°43'03" W.
"c" 36°03'06" N.	114°43'40" W.

(h) *Las Vegas Wash, Nev.* That portion of Lake Mead inclosed by the shore and a line connecting the following points, excluding a 200-foot-wide fairway, extending easterly from the launching ramp, as established by the Superintendent, Lake Mead Recreation Area:

Latitude	Longitude
"a" 36°01'22" N.	114°49'45" W.
"b" 36°00'20" N.	114°49'45" W.

(i) *Hemenway Harbor, Nev.* That portion of Lake Mead inclosed by the shore and lines connecting the following points, excluding a 100-foot-wide fairway, extending easterly from the launching ramp at Boulder Beach and a 600-foot-wide fairway, extending northeasterly from the launching ramp at Hemenway Harbor, both as established by the Superintendent, Lake Mead Recreation Area:

Latitude	Longitude
"a" 36°04'05" N.	114°48'15" W.
"b" 36°03'25" N.	114°48'10" W.
"c" 36°01'20" N.	114°45'15" W.

(j) *Kingman Wash, Ariz.* That portion of Lake Mead inclosed by the shore and a line connecting the following points, excluding a 100-foot-wide fairway, extending westerly from the launching ramp, as established by the Superintendent, Lake Mead Recreation Area:

Latitude	Longitude
"a" 36°03'34" N.	114°42'50" W.
"b" 36°03'05" N.	114°43'05" W.

(k) *Temple Bar, Ariz.* That portion of Lake Mead inclosed by the shore and lines connecting the following points, excluding a 200-foot-wide fairway, extending southwesterly from the launching ramp, as established by the Superintendent, Lake Mead Recreation Area:

Latitude	Longitude
"a" 36°02'21" N.	114°19'29" W.
"b" 36°02'34" N.	114°18'46" W.
"c" 36°02'09" N.	114°18'13" W.

(l) *Greggs, Ariz.* That portion of Lake Mead inclosed by the shore and a line connecting the following points, excluding a 100-foot-wide fairway, extending northerly from the launching ramp, as established by the Superintendent, Lake Mead Recreation Area:

Latitude	Longitude
"a" 36°00'35" N.	114°13'49" W.
"b" 36°00'35" N.	114°14'10" W.

(m) *Pierce Ferry, Ariz.* That portion of Lake Mead inclosed by the shore and a line connecting the following points, excluding a 100-foot-wide fairway, extending easterly from the launching ramp, as established by the Superintendent, Lake Mead Recreation Area:

Latitude	Longitude
"a" 36°09'42" N.	113°50'24" W.
"b" 36°07'18" N.	113°50'32" W.

NOTE: Fixed moorings, piles, or stakes are prohibited. Single and fore and aft temporary moorings will be allowed. The anchoring of vessels and the placing of temporary moorings will be under the jurisdiction and at the discretion of the Superintendent, Lake Mead Recreation Area, National Park Service.

§ 110.127a Lake Powell, Utah-Arizona.

(a) *Castel Butte, Utah.* That portion of Lake Powell inclosed by the shore and a line connecting the following points, excluding a 300-foot-wide fairway extending in an east-west direction perpendicular to the launching ramp, as established by the Superintendent, Glen Canyon National Recreation Area:

Latitude	Longitude
"a" 37°42'45" N.	110°27'00" W.
"b" 37°42'30" N.	110°27'57" W.

(b) *Bullfrog Basin, Utah.* That portion of Lake Powell inclosed by the shore and a line connecting the following points, excluding a 300-foot-wide fairway, extending southeasterly from the launching ramp, as established by the Superintendent, Glen Canyon National Recreation Area:

Latitude	Longitude
"a" 37°29'17" N.	110°42'28" W.
"b" 37°28'44" N.	110°43'40" W.

(c) *Halls Crossing, Utah.* That portion of Lake Powell inclosed by the shore and a line connecting the following points, excluding a 300-foot-wide fairway, extending northwesterly from the launching ramp, as established by the Superintendent, Glen Canyon National Recreation Area:

Latitude	Longitude
"a" 37°23'24" N.	110°42'57" W.
"b" 37°23'00" N.	110°43'31" W.
"c" 37°27'46" N.	110°43'16" W.

(d) *Forbidding Canyon, Utah.* That portion of Lake Powell inclosed by the shore and a line connecting the following points, excluding a 75-foot-wide fairway extending northerly from the boat landing, as established by the Superintendent, Glen Canyon National Recreation Area:

Latitude	Longitude
"a" 37°06'55" N.	110°56'41" W.
"b" 37°06'38" N.	110°56'50" W.

(e) *Wahweap, Arizona-Utah.* That portion of Lake Powell inclosed by the shore and a line connecting the following points, excluding a 200-foot-wide fairway, extending northeasterly from the northerly launching ramp and a 300-foot-wide fairway extending easterly from the southerly launching ramp, as established by the Superintendent, Glen Canyon National Recreation Area:

Latitude	Longitude
"a" 37°00'21" N.	111°30'30" W.
"b" 37°00'40" N.	111°30'00" W.
"c" 36°59'10" N.	111°28'48" W.
"d" 36°59'10" N.	111°29'24" W.

NOTE: Fixed moorings, piles, or stakes are prohibited. Single and fore-and-aft temporary moorings will be allowed. The anchoring of vessels and the placing of temporary moorings will be under the jurisdiction and at the discretion of the Superintendent, Glen Canyon National Recreation Area.

§ 110.127b Flaming Gorge Lake, Wyoming-Utah.

(a) *Buckboard Crossing, Wyo.* That portion of Flaming Gorge Lake inclosed by the shore and a line connecting the following points, excluding a 150-foot-wide fairway, extending southeasterly from the launching ramp, as established by the Superintendent, Flaming Gorge National Recreation Area:

Latitude	Longitude
"a" 41°14'50" N.	109°35'23" W.
"b" 41°14'37" N.	109°35'12" W.

(b) *Squaw Hollow, Wyo.* That portion of Flaming Gorge Lake inclosed by the shore and a line connecting the following points, excluding a 100-foot-wide fairway, extending southeasterly from the launching ramp, as established by the Superintendent, Flaming Gorge National Recreation Area:

Latitude	Longitude
"a" 41°09'55" N.	109°33'18" W.
"b" 41°09'48" N.	109°33'20" W.

(c) *Antelope Flat, Utah.* That portion of Flaming Gorge Lake inclosed by the shore and a line connecting the following points, excluding a 150-foot-wide fairway, extending southeasterly from the launching ramp to a point beyond the floating breakwater and then westerly, as established by the Superintendent, Flaming Gorge National Recreation Area:

Latitude	Longitude
"a" 40°57'46" N.	109°33'30" W.
"b" 40°57'37" N.	109°33'37" W.

(d) *Lucerne Valley, Utah.* That portion of Flaming Gorge Lake inclosed by the shore and a line connecting the following points, excluding a 300-foot-wide fairway extending southeasterly from the launching ramp, as established by the Superintendent, Flaming Gorge National Recreation Area:

Latitude	Longitude
"a" 40°59'07" N.	109°34'54" W.
"b" 40°58'54" N.	109°35'00" W.

NOTE: Fixed moorings, piles, or stakes are prohibited. Single and fore-and-aft temporary moorings will be allowed. The anchoring of vessels and the placing of temporary moorings will be under the jurisdiction and at the discretion of the Superintendent, Flaming Gorge National Recreation Area.

§ 110.128 Columbia River at Portland, Oreg.

The waters of the Columbia River between Sand Island and Government Island, bounded on the west by pile dike U. S. 5.75 and a line extending true north from the northerly end of the dike to the south shore of Sand Island and bounded on the east by a line bearing 339°15' true, from a point on Government Island at latitude 45°35'10", longitude 122°32'41", to the southerly shore of Sand Island.

§ 110.129 Favorite Channel between Point Stephens and Point Louisa, Alaska.

(a) *North Area.* The waters of Lena Cove south and east of a line beginning at a point on shore at latitude 58°24'35", longitude 134°45'52"; thence south 21°15' west, 800 feet to a small unnamed island; and thence south 11°30' east, approximately 3,560 feet to Lena Point at latitude 58°23'48", longitude 134°-45'42", except the waters fronting the Lena Cove Recreation Area from the mean low water line channelward 300 feet.

(b) *South Area.* The waters south of Lena Point and north of a line beginning at a point on shore at latitude 58°23'04", longitude 134°45'32"; thence south 33°15' east, 1,300 feet to an unlighted buoy at latitude 58°22'56", longitude 134°45'24"; thence south 57°30' east, 6,900 feet to an unlighted buoy at latitude 58°22'18", longitude 134°43'36"; and thence due north 900 feet to the shore at Point Louisa.

NOTE: The areas are reserved for recreational and other small craft. Temporary floats and buoys will be allowed in the areas. Anchors must not be placed outside the areas, nor shall any vessel be so anchored that any portion of the hull or rigging will, at any time, extend into the cable areas to the west of the anchorage areas.

Subpart B—Anchorage Grounds

AUTHORITY: The provisions of this Subpart B issued under sec. 7, 38 Stat. 1053, as amended, sec. 6(g)(1), 80 Stat. 940; 33 U.S.C. 471, 49 U.S.C. 1655(g)(1); Department of Transportation Order 1100.1, Mar. 31, 1967, 49 CFR 1.4(a)(3).

§ 110.130 Rockland Harbor, Maine.

(a) *The anchorage grounds*—(1) *Anchorage A.* Beginning at a point bearing 158°, 1,075 yards, from Rockland Breakwater Light; thence 255°, 2,000 yards, to a point bearing 235° from Rockland Breakwater Light; thence 345°, 760 yards, to a point bearing 244° from Rockland Breakwater Light; thence 75°, 1,200 yards, to a point bearing 222° from Rockland Breakwater Light; and thence 120°, 1,000 yards, to the point of beginning.

(2) *Anchorage B.* Beginning at a point bearing 273°, 400 yards, from Rockland Breakwater Light; thence 273°, 700 yards, to a point bearing 273° from Rockland Breakwater Light; thence 349°, 850 yards, to a point bearing 305° from Rockland Breakwater Light; thence 89°, 700 yards, to a point bearing 328° from Rockland Breakwater Light; and thence 169°, 900 yards, to the point of beginning.

(3) *Anchorage C.* Beginning at a point bearing 244°, 1,715 yards, from Rockland Breakwater Light; thence 260°, 490 yards, to a point bearing 248° from Rockland Breakwater Light; thence 350°, 580 yards, to a point bearing 263° from Rockland Breakwater Light; thence 83°, 480 yards, to a point bearing 263° from Rockland Breakwater Light; and thence 169°, 550 yards, to the point of beginning.

(b) *The regulations.* (1) Anchorages A and B are general anchorages reserved for merchant vessels over 100 feet in length. Anchorage C is reserved for small commercial and pleasure craft.

(2) A distance of approximately 500 yards shall be left between Anchorages A and B for vessels entering or departing from the Port of Rockland. Any vessel not anchoring in these areas shall be ready to move on short notice when ordered to do so by the Captain of the Port.

(3) All other vessels within the Rockland Harbor area are prohibited from anchoring within 300 yards or operating within 100 feet of any navy yard, shipbuilding plant, power plant, oil terminal, marine terminal, munitions plant, military or naval arsenal or depot, warehouse, or freight pier without permission from the Captain of the Port, Rockland, Maine, or his authorized representative.

§ 110.131 Kennebec River in vicinity of Bath, Maine.

(a) *The anchorage grounds.* Vessels may anchor only within the following limits:

(1) Northward of a line bearing 54° true and extending from a point on Passmore's wharf in prolongation with the north side of Commerce Street, Bath, Maine, to a point on the shore in Woolwich, approximately 1,200 feet north of the Maine Central Railroad wharf.

(2) Southward of a line drawn from the derrick on the Bath Iron Works wharf to Sassanoa Point in Woolwich.

(b) *The regulations.* (1) Vessels in the north anchorage shall be so anchored as to leave a clear fairway of 150 feet channelward of the established harbor lines at Bath, and a clear fairway 200 feet from the east or Woolwich shore, for the passage of steamers, tows, rafts, and other watercraft.

(2) The launching of vessels into the waters between the anchorages or the bringing up of such vessels by their anchors will be permitted: *Provided*, That the vessels so launched shall be removed therefrom within 12 hours from the time of anchorage.

§ 110.132 Portland Harbor, Maine.

(a) *The anchorage grounds*—(1) *Anchorage A (general).* Beginning at the eastern corner of Grand Trunk Railway Company pier No. 2; thence approximately 90°, 1,700 yards, to Brooklyn Ledge Buoy 16; thence 330°, 350 yards; thence 25°, 780 yards; thence 308°, 750 yards; thence 254°, 500 yards; thence 188°, 780 yards; and thence to the point of beginning.

(2) *Anchorage B (general and quarantine).* Beginning at Brooklyn Ledge Buoy 16; thence 58° to Little Diamond Island; thence along the southwestern shore to the pier on the southern end of Little Diamond Island; thence 143°, 1,200 yards; thence 270° to House Island Light; thence along the western shore of House Island to Fort Scammel Point Light; and thence 329°, 1,620 yards, to the point of beginning.

(3) *Anchorage C.* Bounded on the northwest by House Island; on the north by a line running 90° from House Island Light to Peak Island; on the east by the western shore of Peak Island, by a line running 198° from the westernmost point on Peak Island to Cushing Island, and by the shore of Cushing Island to its westernmost point; and on the southwest by a line running from the westernmost point on Cushing Island to Fort Scammel Point Light.

(4) *Anchorage D.* Southerly and westerly of a line beginning at Lighthouse Channel Buoy 1; thence 35° to Anchorage Buoy E; and thence 145° to the mainland.

(b) *The regulations.* (1) Anchorage B is intended for general purposes, but especially for use by oil tankers and other large deep-draft ships entering harbor at night and intending to proceed to the dock allotted at daylight the following morning or as soon as practicable. This area is also to be used for quarantine anchorage. Vessels must be so anchored in this area as to leave at all times an open usable channel at least 100 feet wide for passage of ferry and other boats between Portland, Peak Island, and Bay Points. Any vessels anchored in this area shall be ready to move on short notice when ordered to do so by the Captain of the Port.

(2) Anchorage C is intended for use only by small vessels and for temporary anchorage.

(3) Anchorage D is for use only by small yachts and pleasure craft and small light-draft coastwise freighters.

§ 110.134 Boston Harbor, Mass.

(a) *The anchorage grounds*—(1) *Bird Island Anchorage.* Beginning at a point bearing 93°, 1,400 yards, from the aerial beacon on top of the Boston Custom House tower; thence to a point bearing 81°, 1,600 yards, from the aerial beacon on top of the Boston Custom House tower; thence to a point bearing 162°, 3,100 yards, from the aerial beacon on top of the Boston Custom House tower; thence to a point bearing 199°, 3,850 yards, from the aerial beacon on top of the Boston Custom House tower; and thence to the point of beginning.

(2) *President Roads Anchorage*—(i) *40-foot anchorage.* Beginning at a point bearing 237°, 522 yards from Deer Island Light; thence to a point bearing 254°, 2,280 yards from Deer Island Light; thence to a point bearing 261°, 3,290 yards from Deer Island Light; thence to a point bearing 278°, 2,438 yards from Deer Island Light; thence to a point bearing 319°, 933 yards from Deer Island Light; thence to a point bearing 319°, 666 yards from Deer Island Light; and thence to point of beginning.

(ii) *35-foot anchorage.* Beginning at a point bearing 256°, 2,663 yards from Deer Island Light; thence to a point bearing 258°30', 3,315 yards from Deer Island Light; thence to a point bearing 264°, 3,967 yards from Deer Island Light; thence to a point bearing 261°, 2,290 yards from Deer Island Light; and thence to point of beginning.

(3) *Long Island Anchorage.* East of Long Island, bounded as follows: Beginning at the southwesternmost point of Gallups Island; thence 270° to Long Island; thence southerly along the eastern shore line of Long Island to Bass Point; thence to the northernmost point of Rainsford Island; thence to Georges Island Gong Buoy 6; and thence to the point of beginning.

(4) *Castle Island Anchorage.* Bounded on the north by Castle Island and adjacent land; on the east by a line

between Castle Rocks Fog Signal Light and Old Harbor Shoal Buoy 2; on the southeast by a line between Old Harbor Shoal Buoy 2 and Old Harbor Buoy 4; and on the west by a line running due north from Old Harbor Buoy 4 to the shore line at City Point.

(5) *Explosives anchorage.* In the lower harbor, bounded on the northeast by a line between the northeast end of Peddocks Island and the northeast end of Rainsford Island; on the northwest by Rainsford Island; on the southwest by a line between the western extremity of Rainsford Island and the westernmost point of Peddocks Island; and on the southeast by Peddocks Island.

(b) *The regulations.* (1) The Captain of the Port may authorize the use of the President Roads Anchorage as an explosives anchorage when he finds that the interests of commerce will be promoted and that safety will not be prejudiced thereby. Vessels anchored in this area shall move promptly upon notification by the Captain of the Port.

(2) In the Long Island Anchorage vessels shall anchor in the position designated by the Captain of the Port.

(3) Floats or buoys for marking anchors or moorings in place will be allowed in all areas. Fixed mooring piles or stakes are prohibited.

§ 110.140 Buzzards Bay, Nantucket Sound, and adjacent waters, Mass.

(a) *New Bedford Outer Harbor*—(1) *Anchorage A.* West of Sconticut Neck, and shoreward of a line described as follows: Beginning at a point 100 yards southwest of Fort Phoenix Point; thence 154° along a line which passes 100 yards east of New Bedford Channel Buoys 8, 6, and 4, to a point bearing approximately 130°, 225 yards, from New Bedford Channel Buoy 4; thence 87°, 340 yards; thence 156° along a line approximately one mile to its intersection with a line ranging 87° from the cupola on Clarks Point; thence 87° to Sconticut Neck.

(2) *Anchorage B.* Southeast of a line ranging 222° from the southwest corner of Fort Phoenix to the New Bedford shore; west of a line ranging 154° from Palmer Island Light to Butler Flats Light; and north of a line bearing 267° from Butler Flats Light to the shore.

(b) *Buzzards Bay near entrance to approach channel to Cape Cod Canal*—(1) *Anchorage C.* West of a line parallel to and 850 feet westward from the centerline of Cleveland Ledge Channel; north of a line bearing 129° from the tower on Bird Island; east of a line bearing 25° 30′ and passing through Bird Island Reef Bell Buoy 13; and south of a line bearing 270° from Wings Neck Light.

(2) *Anchorage D.* Beginning at a point bearing 185°, 1,200 yards, from Hog Island Channel 4 Light; thence 129° to a point bearing 209°, approximately 733 yards, from Wings Neck Light; thence 209° to Southwest Ledge Buoy 10; thence 199° along a line to its intersection with a line bearing 129° from the tower on Bird Island; thence 309° to a point 850 feet easterly, right angle distance, from the centerline of Cleveland Ledge Channel; thence northeasterly along a line parallel to and 850 feet eastward from the centerline of Cleveland Ledge Channel to its intersection with a line bearing 218° 30′ from the point of beginning; thence 38°-30′ to the point of beginning.

(c) *Vineyard and Nantucket Sounds*—(1) *Anchorage E.* South of a line beginning at a point bearing 180° about 3.25 miles from Cuttyhunk Light; thence 65° to a point bearing 180°, 0.625 mile from Nashawena Lighted Whistle Buoy; thence 57°30′ passing 600 yards northerly of Middle Ground Lighted Bell Buoy 25A, to a point bearing 145°, 1.25 miles from Nobska Point Light; southwest of a line ranging 113° through West Chop Buoy 25 to East Chop Flats Bell Buoy 23; and west of a line bearing 163° between East Chop Flats Bell Buoy 23 and Lone Rock Buoy 1; and northerly of a line bearing 269° between Lone Rock Buoy 1 and a point on the mainland at Oak Bluffs about 0.30 mile southerly of Oak Bluffs Wharf.

(2) *Anchorage F.* Southeast of the Elizabeth Islands, north of a line ranging 57° 30′ from Cuttyhunk Light toward Nashawena Lighted Whistle Buoy to a point 0.375 mile from that buoy; northwest of a line bearing 57°30′ from the last-named point to a point opposite the entrance to Woods Hole; and southwest of a line from the shore of Nonamesset Island bearing 114° and ranging through West Chop Light and East Chop Light.

(3) *Anchorage G.* South of a line beginning at a point on the mainland at Oak Bluffs about 0.30 mile southerly of Oak Bluffs Wharf bearing 89° to Lone Rock Buoy 1; thence 113° from Lone Rock Buoy 1 to Outer Flats Bell Buoy 17; thence 86° to Cross Rip Lightship; thence 118°30′ to Tuckernuck Shoal Bell Buoy 7; thence ranging 149° toward Brant Point Light to the breakwater at Brant Point.

(4) *Anchorage H.* In the vicinity of Squash Meadow shoal, east of a line ranging 163° through Squash Meadow West End Buoy 21; north of lines parallel to and 0.5 mile northerly from lines joining Lone Rock Buoy 1, Outer Flats Bell Buoy 17, and Cross Rip Lightship; and south of a line ranging 97° from East Chop Light toward Cross Rip Lightship.

(5) *Anchorage I.* Northerly of a line ranging 109° from Nobska Point Light toward Hedge Fence Lighted Horn and Gong Buoy 16, and of a line ranging 97°-30′ through Hedge Fence East End Buoy to Halfmoon Shoal Lighted Bell Buoy 12, thence 73° to Handkerchief Shoal Buoy 16, and thence to the westernmost point of Monomoy Island.

(6) *Anchorage J.* East of a line bearing 329°, parallel to and 0.875 mile northeasterly of a line running from Brant Point Light through Tuckernuck Shoal Bell Buoy 7, from Coatue Beach to a point 1.35 miles southeasterly from a line between Halfmoon Shoal Lighted Bell Buoy 12 and Handkerchief Shoal Buoy 16; thence 73°, parallel to and 1.25 miles southeasterly from a line running from Halfmoon Shoal Lighted Bell Buoy 12 through Handkerchief Shoal Buoy 16, to a point bearing 218° from Stone Horse North End Lighted Bell Buoy 9; thence 35° to Stone Horse North End Lighted Bell Buoy 9; thence 70° to a point bearing 207° from Pollock Rip Lightship; and thence 27° through, and to a point 5.0 miles northeasterly from, Pollock Rip Lightship.

(7) *Anchorage K.* North of a line tangent to the southeasterly edge of Monomoy Point and extending to Bearse Shoal North End Buoy 2A and west of a line bearing 7° from Bearse Shoal North End Buoy 2A to Chatham Bar Buoy 2.

(d) *The regulations.* (1) Floats or buoys for marking anchors or moorings in place will be allowed in all areas. Fixed mooring piles or stakes are prohibited.

(2) Except in cases of great emergency, no vessels shall be anchored in New Bedford Outer Harbor, Buzzards Bay near the entrance to the approach channel to Cape Cod Canal, or Vineyard and Nantucket Sounds, outside of the anchorage areas defined in paragraphs (a) to (c) of this section.

(3) Anchors must not be placed outside the anchorage areas, nor shall any vessel be so anchored that any portion of the hull or rigging will at any time extend outside the boundaries of the anchorage area.

(4) Any vessel anchoring under the circumstances of great emergency outside any anchorage area must be placed near the edge of the channel and in such position as not to interfere with the free navigation of the channel, nor obstruct the approach to any pier nor impede the movement of any boat, and shall move away immediately after the emergency ceases or upon notification by an officer of the Coast Guard.

(5) A vessel upon being notified to move into the anchorage limits or to shift its position in anchorage grounds must get under way at once or signal for a tug, and must change position as directed with reasonable promptness.

(6) Whenever the maritime or commercial interests of the United States so require, any officer of the Coast Guard is hereby empowered to shift the position of any vessel anchored within the anchorage areas, of any vessel anchored outside the anchorage areas, and of any vessel which is so moored or anchored as to impede or obstruct vessel movements in any channel.

(7) Nothing in this section shall be construed as relieving the owner or person in charge of any vessel from the penalties of the law for obstructing navigation or for obstructing or interfering with range lights, or for not complying with the navigation laws in regard to lights, fog signals, or for otherwise violating the law.

§ 110.142 Nantucket Harbor, Mass.

(a) *The anchorage grounds.* In the Nantucket Harbor, beginning at a point 210 yards, 90°, from Brant Point Light; thence easterly to latitude 41°17′23″, longitude 70°05′14.5″; thence southerly to latitude 41°17′03″, longitude 70°-05′14.5″; thence southwesterly to latitude 41°16′54″, longitude 70°05′23″; thence northwesterly to latitude 41°16′-55″, longitude 70°08′31″; thence northeasterly to latitude 41°17′07.5″, longitude 70°05′27″; thence northeasterly to the point of beginning.

(b) *The regulations.* The anchorage is for the use of commercial and pleasure craft. Temporary floats or buoys for marking anchors or moorings in place will be allowed. Fixed mooring piles or stakes are prohibited. The anchoring of vessels including the placing of anchors and moorings is subject to the supervision and approval of the local harbor master.

§ 110.145 Narragansett Bay, R.I.

(a) *East Passage*—(1) *Anchorage A.* East of Conanicut Island, west of a line bearing 9° from the easternmost of The Dumplings to latitude 41°30′30″, thence ranging 12° toward Fiske Rock Buoy, a line ranging 311°30′ from Bishop Rock Shoal Lighted Bell Buoy 8A, and a line ranging 351° from Rose Island Light; and south of latitude 41°32′07″ which parallel passes through a point 130 yards north of Gould Island Light; excluding the approach of the Jamestown Ferry, a zone 300 yards wide to the southward of a line ranging 103° from a point 100 yards north of the existing ferry landing toward the spire of Trinity Church, Newport.

(i) That portion of the area to the northward of the approach of the Jamestown Ferry shall be restricted for the anchorage of vessels of the United States Navy. In that portion of the area to the southward of the approach of the Jamestown Ferry the requirements of the Navy shall predominate.

(ii) Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes will not be allowed.

(2) *Anchorage B.* Off the west shore of Aquidneck Island to north of Coggeshall Point, northerly of a line ranging 75° from the northerly end of the pier on the northwesterly end of Gould Island towards the shore of Aquidneck Island; east of a line ranging 19° from the easternmost of the Dumplings to latitude 41°36′16″, longitude 71°17′48″; thence northeast to latitude 41°36′53″, longitude 71°17′07.5″; thence east to latitude 41°36′53″, longitude 71°16′40″; thence southwesterly to latitude 41°35′54″, longitude 71°17′17.5″; thence southeasterly to the shore at the easterly end of the north boundary of the cable area in the vicinity of Coggeshall Point; excluding the cable area in the vicinity of Coggeshall Point.

(i) In this area the requirements of the Navy shall predominate.

(ii) Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes will not be allowed.

(2-a) *Anchorage X-1, Naval explosives and ammunition handling anchorage.* The waters of Narragansett Bay northeasterly of Gould Island within a circle having a radius of 500 yards with its center at latitude 41°33′18″, longitude 71°20′03″.

(i) This area will be used for anchoring naval vessels carrying or transferring ammunition or explosives under standard military restrictions as established by the Safety Manual, Armed Services Explosive Board. Explosives or dangerous materials include inflammable liquid or inflammable solids, oxidizing materials, corrosive liquids, compressed gases and poisonous substances.

(ii) No vessel shall anchor within 500 yards of the explosive anchorage area when occupied by vessels carrying explosives.

(iii) Not more than 2,000 tons Net High Explosives limit will be handled in the anchorage area.

(iv) No vessel shall be so anchored in the anchorage that it will at any time extend beyond the limits of the area.

(v) Naval vessels anchoring in the area will display the proper signals, and will be under the supervision of the Commander, U.S. Naval Base, Newport, Rhode Island.

(3) *Anchorage C.*

(i) [Reserved]

(ii) West of Coasters Harbor Island, west of a line bearing 351° from Tracey Ledge Buoy 5 through Seventeen-foot Spot Buoy northeast of Gull Rocks; south of a line bearing 292° from the cupola at the Naval War College; east of a line ranging 19° from the easternmost of The Dumplings toward Dyer Island North Point Shoal Lighted Bell Buoy 12A; and north of latitude 41°30′22″ which parallel passes through a point 230 yards north of Rose Island Shoal Northeast End Buoy 8.

(iii) In this area the requirements of the Navy shall predominate.

(iv) Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes will not be allowed.

(4) *Anchorage D.* West of Goat Island, south of a line bearing 247° from Newport Harbor Light; east of a line bearing 176°30′ from the northwesterly end of Rose Island; north of a line bearing 117° from the northerly end of the ferry slip at Jamestown to longitude 71°20′ and west of a line running north and south along longitude 71°20′.

(i) In this area the requirements of the Navy shall predominate from May 1 to October 1, subject at all times to such adjustments as may be necessary to accommodate all classes of vessels which may require anchorage room.

(ii) Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes will not be allowed.

(5) *Anchorage E.* South of Coasters Harbor Island, east of a line bearing 341° from the outer end of Briggs Wharf to the southwestern shore of Coasters Harbor Island near the War College Building; and north of a line ranging 265° from the flagstaff at Fort Greene toward Rose Island Light.

(i) In this area the requirements of the naval service will predominate from May 1 to October 1, but will at all times be subject to such adjustment as may be necessary to accommodate all classes of vessels that may require anchorage room.

(ii) Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes will not be allowed.

(6) *Anchorage F.* In the central and southerly part of Newport Harbor proper, east of a line ranging 34° through a point 75 yards easterly of the end of the south wharf at Fort Adams toward Goat Island Shoal Light, a line ranging 329° through a point 35 yards east of the north end of the north wharf at Fort Adams toward the northeast corner of the Fort Adams stone wharf, and a line ranging 23° from the south corner of the north wharf at Fort Adams toward Newport Harbor Light; south of a line ranging 116° from Fort Adams Light to Ida Lewis Rock Light, and a line ranging 74° from the south end of the north wharf at Fort Adams toward the spire of the St. Spyridon Hellenic Orthodox Church; east of a line ranging 4° from the city stone pier at King Park toward the end of the Navy Section Base Fleet Wharf; south of a line ranging 95° from the south end of the wharf of the United States Naval Torpedo Station on Goat Island toward the northwest corner of Bowen's wharf; and west of a line ranging 176° from the southwest corner of the city wharf toward the southwest corner of Wellington and Houston Avenues opposite King Park, a line ranging 132° from the south end of the Torpedo Station wharf, Goat Island, toward the powerhouse chimney, Newport, and a line ranging 177° from the southeast corner of the city wharf through a point 50 yards westerly from the outer end of Commercial Wharf.

(i) Floats or buoys for marking anchors or moorings in place and fixed mooring piles or stakes are prohibited in this area:

(7) *Anchorage G.* In Newport Inner Harbor, northeast of a line ranging 108° from the southeast corner of the city wharf toward the northwest corner of the Government wharf.

(i) Floats or buoys for marking anchors or moorings in place and fixed mooring piles or stakes are prohibited in this area.

(b) *West Passage*—(1) *Anchorage H.* North of a line 1,000 yards long bearing 88° from Bonnet Point; west of a line bearing 3° from the eastern end of the last-described line; and south of a line ranging 302° through a point 200 yards south of the Kearny wharf toward the church spire at South Ferry, Boston Neck.

(i) Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes will not be allowed.

(2) *Anchorage I.* North of a line 1,000 yards long bearing 88° from Bonnet Point to the shore at Austin Hollow; east of a line bearing 183° from Dutch Island Light; and south of a line ranging 302° through a point 200 yards south of the Kearny wharf toward the church spire at South Ferry, Boston Neck.

(i) Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes will not be allowed.

(3) *Anchorage J.* At Saunderstown, south of a line ranging 110° from the south side of the ferry wharf toward the cable crossing sign on Dutch Island; west of a line ranging 122° from Plum Beach Shoal Buoy 1 PB toward the east shore of The Bonnet; and north of a line from the shore ranging 108° toward Dutch Island Light and the north end of the wharf at Beaver Head.

(i) Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes will not be allowed.

(4) *Anchorage K.* In the central and southern portion of Dutch Island Harbor, north of a line ranging 106° from Beaver Head Point Shoal Buoy 2 toward the Jamestown standpipe; east of a line ranging 14° from Beaver Head Point Shoal Buoy 2 toward the inshore end of the engineer wharf, Dutch Island; southeast of a line ranging 50° from Dutch Island Light toward the windmill north of Jamestown; and south of a line parallel to and 100 yards southwesterly from a line ranging 132° from the engineer wharf, Dutch Island, and the west ferry wharf, Jamestown.

(i) Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes will not be allowed.

(5) *Anchorage L.* North of a line ranging 101° from a point on shore 300 yards northerly of the Saunderstown ferry wharf toward the entrance to Round Swamp, Conanicut Island; west of a line bearing 15° parallel to and 1,000 feet westerly from a line joining the western point of Dutch Island and Twenty-three Foot Rock Buoy 4, and a line ranging 6° from Dutch Island Light toward Warwick Light; and south of a line ranging 290° from Sand Point, Conanicut Island, to Wickford Harbor Light, and a line bearing 226° from Wickford Harbor Light to Poplar Point tower.

(i) Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes will not be allowed.

(6) *Anchorage M.* East and north of Dutch Island, northeast of a line ranging 316° from the inshore end of the west ferry wharf, Jamestown, toward the north end of Dutch Island to a point bearing 88°, 300 yards, from the engineer wharf, Dutch Island, thence ranging 3° toward the shore of Conanicut Island at Slocum Ledge; north of a line 200 yards off the Dutch Island shore ranging 281° from the entrance to Round Swamp toward a point on shore 300 yards northerly from the Saunderstown ferry wharf; east of a line ranging 15° from the western point of Dutch Island to Twenty-three Foot Rock Buoy 4; and south of a line bearing 77° from Twenty-three Foot Rock Buoy 4 to the shore.

(i) Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes will not be allowed.

(7) *Anchorage N.* West of the north end of Conanicut Island, south of a line bearing 262° from Conanicut Island Light; east of a line bearing 8° from Twenty-three Foot Rock Buoy 4; and north of a line ranging 290° from Sand Point toward Wickford Harbor Light.

(i) Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes will not be allowed.

(c) *Bristol Harbor*—(1) *Anchorage O.* South of the south line of Franklin Street extended westerly; west of a line bearing 164° 30′ parallel to and 400 feet westerly from the State harbor line between Franklin and Constitution Streets, and of a line ranging 244° from a point on the north line of Constitution Street extended 400 feet beyond the State harbor line toward Usher Rock Buoy 3; and north of the north line of Union Street extended to the Popasquash Neck shore.

(i) Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes will not be allowed.

(d) *The regulations.* (1) Except in cases of great emergency, no vessel shall be anchored in the entrances to Narragansett Bay, in Newport Harbor, or in Bristol Harbor, outside of the anchorage areas defined in paragraphs (a), (b) and (c) of this section.

(2) Anchors must not be placed outside the anchorage areas, nor shall any vessel be so anchored that any portion of the hull or rigging shall at any time extend outside the boundaries of the anchorage area.

(3) Any vessel anchoring under the circumstances of great emergency outside the anchorage areas must be placed near the edge of the channel and in such position as not to interfere with the free navigation of the channel, nor obstruct the approach to any pier, nor impede the movement of any boat, and shall move away immediately after the emergency ceases, or upon notification by an officer of the Coast Guard.

(4) A vessel upon being notified to move into the anchorage limits or to shift its position on anchorage grounds must get under way at once or signal for a tug, and must change position as directed with reasonable promptness.

(5) Whenever the maritime or commercial interests of the United States so require, any officer of the Coast Guard is hereby empowered to shift the position of any vessel anchored within the anchorage areas, of any vessel anchored outside the anchorage areas, and of any vessel which is so moored or anchored as to impede or obstruct vessel movements in any channel.

(6) Nothing in this section shall be construed as relieving the owner or person in charge of any vessel from the penalties of the law for obstructing navigation or for obstructing or interfering with range lights, or for not complying with the navigation laws in regard to lights, fog signals, or for otherwise violating the law.

§ 110.147 New London Harbor, Conn.

(a) *The anchorage grounds*—(1) *Anchorage A (Naval).* In the Thames River east of Shaws Cove, bounded by lines connecting points which are the following bearings and distances from Monument, Groton (latitude 41°21′18″, longitude 72°04′28″): 243°, 1,400 yards; 240°, 925 yards; 217°, 1,300 yards; and 236°, 1,450 yards.

(2) *Anchorage B.* In the Thames River southward of New London, bounded by lines connecting points which are the following bearings and distances from New London Harbor Light (latitude 41°19′59″, longitude 72°05′25″): 3°, 2,460 yards; 9°, 2,480 yards; 26°, 1,175 yards; and 8°, 1,075 yards.

(3) *Anchorage C.* In the Thames River southward of New London Harbor, bounded by lines connecting a point bearing 100°, 450 yards, from New London Harbor Light, a point bearing 270°, 575 yards, from New London Ledge Light (latitude 41°18′21″, longitude 72°04′41″), and a point bearing 270°, 1,450 yards, from New London Ledge Light.

(4) *Anchorage D.* In Long Island Sound approximately two miles westsouthwest of New London Ledge Light, bounded by lines connecting points which are the following bearings and distances from New London Ledge Light; 246°, 2.6 miles; 247°, 2.1 miles; 233°, 2.1 miles; and 235°, 2.6 miles.

(b) *The regulations*—(1) Anchorage A is for barges and small vessels drawing less than 12 feet. This anchorage shall be used only by naval vessels, and by other vessels holding special permits issued by the Captain of the Port when he finds that such special permits to anchor are not inimical to the requirements of the Navy.

(2) Except in emergencies, vessels shall not anchor in New London Harbor or the approaches thereto outside the anchorages defined in paragraph (a) of this section unless authorized to do so by the Captain of the Port.

§ 110.148 Johnsons River at Bridgeport, Conn.

(a) *The anchorage grounds.* In Johnsons River, beginning at a point "A" latitude 41°10′12.3″, longitude 73°09′50.2″; thence westerly to a point "B" latitude 41°10′12.2″, longitude 73°09′52.1″; thence southwesterly to point "C" latitude 41°10′10″, longitude 73°09′54.9″; thence south southwesterly to point "D" latitude 41°10′05″, longitude 73°09′56.1″; thence southeasterly to point "E" latitude 41°10′04″, longitude 73°09′55.9″; thence northeasterly to point "F" latitude 41°10′05″, longitude 73°09′54.5″; thence northerly to point "G" latitude 41°10′05.8″, longitude 73°09′54.5″; thence northeasterly to the point of beginning.

(b) *The regulations.* The anchorage is for use by commercial and pleasure craft. Temporary floats or buoys for marking anchors or moorings will be allowed. The anchoring of vessels and placing of temporary anchors or mooring piles are under the jurisdiction of the local harbor master. Fixed mooring piles or stakes will not be allowed.

§ 110.150 Huntington Harbor, Long Island, N.Y.

(a) *The anchorage ground.* Northwestward of a line ranging from New York Telephone Company pole No. 4 with a transformer on top along the northeast side of Mill Dam Road toward the southwest corner of a timber hopper on the Old Town Beach; westward of a line bearing 178° from the tower of Bergomen's Castle along the east side of New York Avenue; southeastward of a line bearing 264°12′ from the southeast corner of the main building of Knutson's Shipyard, north of the Town Park; eastward of a line bearing 35°55′ from the corner of the south abutment of the Mill Dam Road bridge across the Mill Pond spillway; and northeastward of a line bearing 111°33′ from the chimney at the north end of the house at the westerly end of Mill Dam Road.

NOTE: This anchorage ground is described as a special anchorage area in § 110.60.

(b) *The regulations.* (1) When applied for, a berth in this anchorage, if available, may be assigned to any vessel by the Captain of the Port of New York.

(2) The Captain of the Port is authorized to issue permits for maintaining mooring buoys within the anchorage. The method of anchoring these buoys shall be as prescribed by the Captain of the Port.

(3) No vessel shall anchor in the anchorage in such manner as to interfere with the use of a duly authorized mooring buoy.

(4) No vessel shall be navigated within the anchorage at a speed exceeding six knots.

(5) In case of emergencies, the Captain of the Port is authorized to shift the position of any unattended vessel moored in or near the anchorage.

§ 110.155 Port of New York.

(a) *Long Island Sound*—(1) *Anchorage No. 1.* Southwest of a line between Neptune Island and Glen Island ranging from Aunt Phebe Rock Light and tangent to the north edge of Glen Island; southwest of a line tangent to the northeast edge of Glen Island and Goose Island breakwater; southwest of a line bearing southeasterly from the southwest end of Goose Island breakwater and on range with the south gable of the Casino on the northeast end of Glen Island; west of a line ranging from the east edge of Goose Island breakwater to the west edge of the north end of Hart Island; west of Hart Island; and northwest of a line extending from Hart Island Light to Locust Point; excluding from this area, however, (i) the waters northeast of a line ranging 308° from the southwest end of Hart Island; northwest of a line ranging from the water tank at the north end of Davids Island 207°40′ to the northwest end of City Island; and south of latitude 40°52′12″; and (ii) the waters west of Hunter Island; and south of a line ranging from the most southerly end of Glen Island tangent to the most northerly end of Hunter Island.

(i) Boats shall not anchor in this area in buoyed channels.

(ii) Boats shall be so anchored as to leave at all times an open, usable channel at least 50 feet wide, west and south of Glen Island.

NOTE: Special anchorage areas in this anchorage are described in § 110.60.

(2) *Anchorage No. 1–A.* Southwest of a line ranging from Duck Point, Echo Bay, through Bailey Rock Lighted Buoy 3 BR; northwest of a line ranging from Hicks Ledge Buoy 2H to Old Tom Head Rocks Buoy 4; and north of a line ranging from Old Tom Head Rocks Buoy 4 to the southernmost point of Davenport Neck.

(3) *Anchorage No. 1–B.* West of a line ranging from the point on the southwest side of the entrance to Horseshoe Harbor, Larchmont, to Hicks Ledge Buoy 2H; north of a line ranging from Hicks Ledge Buoy 2H to Duck Point; and in Echo Bay north and west of the channel.

(4) *Anchorage No. 2.* West of a line from Locust Point tangent to the northeasterly sea wall at Throgs Neck.

NOTE: Special anchorage areas in this anchorage are described in § 110.60.

(5) *Anchorage No. 3.* Northeast of a line from the south side of Barker Point to Gangway Rock Bell Buoy 27; southeast of a line from Gangway Rock Bell Buoy 27 to Sands Point Reef Lighted Buoy 25; and southwest of a line from Sands Point Reef Lighted Buoy 25 through Sands Point Light to Sands Point.

(6) *Anchorage No. 4.* Manhasset Bay, excluding the seaplane restricted area described in § 207.35; and that portion of Long Island Sound northeast of a line ranging from Stepping Stones Light through Elm Point Buoy 2 to Elm Point; southeast of a line ranging from Stepping Stones Light to Gangway Rock Bell Buoy 27; and southwest of Anchorage No. 3.

NOTE: Special anchorage areas in this anchorage are described in § 110.60.

(7) *Anchorage No. 5.* In Little Neck Bay; and east of a line ranging from Fort Totten flagpole to Hart Island Light; and south of Anchorage No. 4.

NOTE: Special anchorage areas in this anchorage are described in § 110.60.

(b) *East River*—(1) *Anchorage No. 6.* On Hammond Flats north of a line bearing 260° from the head of the pier on Throgs Neck at the foot of Pennyfield Avenue to the north tower of Bronx-Whitestone Bridge at Old Ferry Point.

(2) *Anchorage No. 7.* South of a line from Whitestone Point to the outer end of Willets Point Wharf.

(3) *Anchorage No. 8.* North of a line bearing 259° between the north tower of the Bronx-Whitestone Bridge at Old Ferry Point and a point at latitude 40°47′57″, longitude 73°53′16″; thence east of a line bearing 0° to latitude 40°48′06″; thence southeast of a line parallel to the bulkhead extending northeasterly to latitude 40°48′20″; thence north of a line bearing 296° to shore.

(4) *Anchorage No. 9.* East of a line from College Point Reef Light tangent to the west side of College Point; and south of a line from College Point Reef Light to Whitestone Point.

(5) *Anchorage No. 10.* An area in Flushing Bay, beginning at a point on shore at La Guardia Airport at latitude 40°46′48″, longitude 73°52′21″; thence to latitude 40°47′20″, longitude 73°51′55″; and thence to a point on shore at College Point at latitude 40°47′36″, longitude 73°52′15″; and an area on the west side of Bowery Bay, beginning at a point on shore at latitude 40°46′58″, longitude 73°53′43″; thence to latitude 40°47′03″, longitude 73°53′39″; thence to latitude 40°47′00″, longitude 73°53′32″; thence to latitude 40°46′55″, longitude 73°53′32″; and thence to a point on shore at latitude 40°46′49″, longitude 73°53′39″.

NOTE: Special anchorage areas in this anchorage are described in § 110.60.

(6) *Anchorage No. 11.* An area in East River beginning at a point on a pierhead at latitude 40°47′55″, longitude 73°53′-19.5″; thence to latitude 40°47′40″, longitude 73°51′58″; and thence to a point on shore at latitude 40°47′16″, longitude 73°52′15″.

(7) [Reserved]

(8) *Anchorage No. 14.* In Hallets Cove, east of a line from a point on shore 100 feet west of the southerly prolongation of 2d Street, Astoria, to Gibbs Point.

(c) *Hudson River*—(1) *Anchorage No. 15.* North of a line on a range with the north side of the north pier of the Union Dry Dock and Repair Company Shipyard, Edgewater, New Jersey; west of a line ranging 26° from a point 120 yards east of the east end of said pier to a point (500 yards from the shore and 915 yards from the Fort Lee flagpole) on a line ranging approximately 106° 22′ from the Fort Lee flagpole toward the square chimney on the Medical Center Building at 168th Street, Manhattan; and south of said line ranging between the Fort Lee flagpole and the square chimney on the Medical Center Building.

(i) Subject to the provisions for Anchorage No. 19 (for naval vessels), the Captain of the Port may shift the position, or clear the area, of any vessel so moored as to obstruct the use of this area for the additional anchorage of naval vessels when found necessary.

(2) *Anchorage No. 17.* North of a line bearing 68° from shore to a point at latitude 40°51′34″, longitude 73°56′54″; thence west of a line bearing 29° to latitude 40°52′27″, longitude 73°56′18″; thence 29° to latitude 40°54′17″, longitude 73°55′23″; thence 15° to latitude 40°56′20″, longitude 73°54′39″; thence south of a line bearing 284° to shore.

(i) Subject to the provisions for Anchorage No. 19 (for naval vessels), the Captain of the Port may shift the position, or clear the area, of any vessel so moored as to obstruct the use of this area for the additional anchorage of naval vessels when found necessary.

(3) *Anchorage No. 18–A.* East of lines bearing 8° from the northwest corner of the crib icebreaker north of the New York Central Railroad Company drawbridge across Spuyten Duyvil Creek (Harlem River) to a point 250 yards offshore and on line with the New York Central Railroad signal bridge at the foot of West

231st Street, extended, at Spuyten Duyvil, Bronx, New York; thence bearing 19° to the channelward face of the Mount St. Vincent Dock at the foot of West 261st Street, Riverdale, Bronx, New York.

(i) Subject to the provisions for Anchorage No. 19 (for naval vessels), the Captain of the Port may shift the position, or clear the area, of any vessel so moored as to obstruct the use of this area for the additional anchorage of naval vessels when found necessary.

(4) *Anchorage No. 18–B.* North of the south side of West 181st Street, prolonged; east of a line ranging 28° from the northwest corner of the east tower of George Washington Bridge and tangent to the east shore of the river at Inwood Hill Park; and south of the prolongation of the south side of Dyckman Street, Manhattan, New York, where it passes beneath the tracks of the New York Central Railroad.

(i) Subject to provisions for Anchorage No. 19 (for naval vessels), the Captain of the Port may shift the position, or clear the area, of any vessel so moored as to obstruct the use of this area for the additional anchorage of naval vessels when found necessary.

(5) *Anchorage No. 19 (for naval vessels).* North of a line bearing 298° and ranging from the south side of 70th Street, New York, to the south side of Pier 11–A, Weehawken; east of the east channel line of the federally improved Weehawken-Edgewater Channel, said east channel line being extended to a point opposite West 156th Street; thence east of a line bearing 17° ranging between the end of the pier at the foot of West 134th Street and a point on the George Washington Bridge 250 yards westward of the air beacon on the east bridge tower; and south of said bridge.

(i) [Reserved]

(ii) In the discretion of the Captain of the Port, small commercial or pleasure vessels may anchor in this area shoreward of a line extending from the channelward end of the New York Central Railroad pier at the foot of West 70th Street to the channelward end of the pier at the foot of West 129th Street and shoreward of the United States pierhead line between West 134th Street and a prolongation of the bridge over the New York Central Railroad tracks located 1,000 feet south of the George Washington Bridge.

(iii) The Captain of the Port may grant permission for one stake boat to occupy an area in the westerly 200-yard portion of the naval anchorage.

(iv) The Captain of the Port may permit limited temporary anchorage, not to exceed 24 hours, of commercial vessels awaiting berths in the westerly portion of the naval anchorage south of West 135th Street when use of the anchorage by naval vessels will permit.

(v) The established anchorages for naval vessels having been found inadequate at times when large numbers of such vessels are in the harbor, a numbered series of anchorages is defined and established as shown on Key Charts Nos. 1 to 4, inclusive (not published in this section) in order that when a necessity for additional anchorages arises, permission may be given naval vessels to anchor at designated points serially numbered from 2 to 49 for capital ships, from 100 to 129 for intermediate ships, from 213 to 399 for destroyers and small craft, and from 508 to 611 for the anchorage of destroyers and small craft on the east side of the river, when the space is not required for capital or intermediate ships. Berths 16 to 18, 546, 547, and 551 to 555, are for use only on occasions when the other numbered berths available are not sufficient for the accommodation of the naval ships present. The Captain of the Port, on request from the proper naval authorities, may grant permission to occupy the numbered anchorages outside or extending outside of Anchorage No. 19, provided those specified in the request can be made available, commercial conditions at the time being given proper consideration. If, in his opinion, there are reasons why the anchorage or anchorages asked for should not be assigned, he will confer with the naval officers making the request, and if other numbers can be agreed upon will authorize their use; otherwise he will communicate the request to the Secretary of the Army with a statement of the circumstances and his recommendation.

(vi) Whenever this area is required for the anchoring of naval vessels, it shall be immediately cleared of commercial vessels by the Captain of the Port upon request of the appropriate naval authority.

(d) *Upper Bay*—(1) *Anchorage No. 20.* Northeast of Ellis Island; southeast of a line ranging approximately 51° 15′ from the northwest corner of Ellis Island toward the end of Central Railroad of New Jersey Pier No. 7; south of a line ranging approximately 96° 20′ from the southeast corner of Central Railroad of New Jersey Pier No. 11, toward the outer end of the Staten Island Ferry rack on the Manhattan shore; west of a line ranging approximately 183° 30′ from the southeast corner of Lehigh Valley Railroad Pier "A" to latitude 40°41′54.3″, longitude 74°01′59″; and north of a line ranging approximately 85° 10′ from the southeast corner of the northerly half of Ellis Island toward the outer end of the Staten Island Ferry rack on the Manhattan shore.

(i) No vessel shall cast anchor within this area south of the northerly limit of the cable area shown on United States Coast and Geodetic Survey Chart No. 745, between Ellis Island and the Manhattan shore.

(2) *Anchorage No. 20–A.* South of a line bearing 102° and ranging between the southeast corner of the southerly half of Ellis Island and Governors Island Light; west of a line bearing 194°30′ from latitude 40°41′42″, longitude 74°02′02″, to Main Channel Lighted Bell Buoy 31, thence 206° to latitude 40°40′05″, longitude 74°02′58″; and north of a line extended and ranging 313° through Claremont Terminal Channel Buoy 2 and the northeast corner of Caven Point Pier.

(i) The portion of Anchorage No. 20–A which is easterly of a line ranging 204°30′ from the east end of the east landing pier on Bedloe's Island to Bayonne Terminal Lighted Bell Buoy 2 and Robbins Reef Lighted Gong Buoy 27 and the northerly prolongation of that line is set aside as a temporary anchorage for vessels arriving in and leaving port. No vessel shall occupy this anchorage for a longer period than 72 hours, unless a permit is obtained from the Captain of the Port for that purpose.

NOTE: Anchorage No. 49–B in this area is reserved for vessels carrying explosives (see paragraph (m) (1) of this section) and is excluded from use as a general anchorage.

(3) *Anchorage No. 20–B.* South of a line bearing 129° from the southeast corner of Pennsylvania Railroad pier "B", Greenville Terminal, to the center of the south pier of the Bethlehem Steel Company Drydock, Brooklyn; west of a line bearing 206° from latitude 40°39′50″ longitude 74°03′05″, to latitude 40°39′21.5″, longitude 74°03′17″; north of a line bearing 121° and ranging from New Jersey Pierhead Channel North Entrance Buoy 15 to the northwest corner of Pier 3, Brooklyn; west of a line bearing 204°30′ and ranging from Bayonne Terminal Lighted Buoy 1 through Robbins Reef Lighted Gong Buoy 27 and Coast Guard Depot North Dock Light, St. George, Staten Island; north of a line ranging 262° from Robbins Reef Lighted Gong Buoy 27; and northeast of the channel approach to the north side of Constable Point.

(i) The portion of Anchorage No. 20–B which is easterly of a line ranging 204°30′ from the east end of the east landing pier on Bedloe's Island to Bayonne Terminal Lighted Bell Buoy 2 and Robbins Reef Lighted Gong Buoy 27 is set aside as a naval anchorage. The Captain of the Port may permit commercial vessels to anchor temporarily in this area, ordinarily for not more than 24 hours, when the anchorage will not be needed for naval vessels. Commercial vessels so anchored shall be moved at their own expense whenever the anchorage is needed for naval vessels.

(4) No vessel shall anchor between Ellis Island and the piers of the Central Railroad of New Jersey, or in the dredged channel approaches to this space or the piers and wharves of the railroad, or in the dredged channel approaches to the National Docks at Black Tom Island, to Bedloe's Island, to the Greenville and Claremont Terminals, or in the New Jersey Pierhead Channel or near the entrances to said channels so as to obstruct the approaches or interfere in anyway with the free navigation thereof.

(5) *Anchorage No. 21.* North of the east-west line passing through Gowanus Flats Lighted Gong Buoy 22 and Bay Ridge Channel Lighted Bell Buoy 1; east of a line bearing 355° 45′ from Gowanus Flats Lighted Gong Buoy 22 to Gowanus Flats Lighted Bell Buoy 24, thence bearing 26° 08′ through Gowanus Flats Lighted Bell Buoy 26 and Gowanus Flats Lighted Bell Buoy 28 to Gowanus Flats Lighted Bell Buoy 30; south of a line bearing 65° 38′ from Gowanus Flats Lighted Bell Buoy 30 to Red Hook Channel Lighted Bell Buoy 10, thence bearing 148° 46′ to Red Hook Channel Lighted Bell Buoy 9; west of a line bearing 172°–16′ from Red Hook Lighted Bell Buoy 8 to Bay Ridge Channel Lighted Bell Buoy 1, thence 218° 20′ through Bay Ridge Channel Buoy 5 and Bay Ridge Channel Lighted Bell Buoy 3 to a point at latitude 40°38′41.5″, longitude 74°02′34″ and thence 197° 47′ to Bay Ridge Channel Lighted Bell Buoy 1. A fairway 600 feet wide crossing the anchorage, marked by buoys at each entrance, shall be excluded therefrom. Its northerly side is on range with Claremont Terminal Lighted Buoy 1, at the entrance to Claremont Terminal Channel, and the center of the head of the north pier of the Long Island Railroad Terminal at the foot of 64th Street, Bay Ridge, Brooklyn. Anchorage No. 21 is divided into Anchorages Nos. 21–A and 21–B.

(i) *Anchorage No. 21–A (for barges).* That portion of Anchorage No. 21, northward of the fairway, northward and eastward of Anchorage No. 21–B. Deep-draft vessels are required to use the western half of the anchorage, light-draft vessels are required to use the eastern half, and barges drawing 12 feet or less are required to use that portion of the anchorage southward of a line ranging from the end of the 39th Street Ferry rack (northeast rack), Brooklyn, to Gowanus Flats Lighted Bell Buoy 28.

(ii) *Anchorage No. 21–B (for steamers).* That portion of Anchorage No. 21 southward of the fairway; and that portion of Anchorage No. 21, northward of the fairway, southward of a line ranging from the end of the 39th Street Ferry rack (northeast rack), Brooklyn, to Gowanus Flats Lighted Bell Buoy 28, and westward of a line ranging from the westerly point of Red Hook to the north corner of Pier 21 of the Pouch Terminal at Clifton, Staten Island.

(iii) *Use of Anchorages Nos. 21–A and 21–B.* Vessels of the various types required to use Anchorages Nos. 21–A and 21–B may be anchored in areas other than those set aside for them for a limited time after first obtaining a permit from the Captain of the Port, when and to the extent that they are not needed for vessels of the types assigned to them. No vessel shall occupy these anchorages for a period longer than 30 days, unless a permit is obtained from the Captain of the Port for that purpose.

(6) *Anchorage No. 23 (temporary general anchorage).* South of a line bearing 88° from the Turret Tower (Curtis High School), St. George, to its intersection at latitude 40°39′44″, longitude 74°03′55″, with a line bearing 146°30′ from the westerly tank of Bayonne Naval Depot, west of lines bearing 146°30′ from the westerly tank of Bayonne Naval Depot to latitude 40°38′25″, longitude 74°03′38.5″, thence 167° ranging from Robbins Reef Light to latitude 40°37′26.5″, longitude 74°03′21″; and north of a line bearing 84° on a range with the latten point, the northeast corner of Pier 19, Staten Island, and the tower of the Marine Hospital, Stapleton, Staten Island.

(i) Vessels of deep draft shall anchor in the southern part of this anchorage.

(ii) Vessels of light draft shall anchor in the northern part of this anchorage.

(iii) Vessels shall occupy this anchorage for a period longer than 48 hours, unless a permit is obtained from the Captain of the Port for that purpose.

(iv) The entire area is designated a "temporary general anchorage," but vessels arriving at quarantine may anchor within that portion of this anchorage south of a line bearing 262° which is in prolongation of the north side of Pier 10, Staten Island, whenever Quarantine Anchorage No. 24 is congested and fully utilized.

(7) *Anchorage No. 24 (quarantine anchorage).* South of a line bearing 84° from the tower of the Marine Hospital, Stapleton, Staten Island, through the northeast corner of Pier 19, Staten Island; to latitude 40°37′26.5″, longitude 74°03′21″; west of a line bearing 167° ranging from Robbins Reef Light to latitude 40°36′32″, longitude 74°03′04″; and north of a line bearing 270° on range with the latter point and the northerly corner of Fort Lafayette.

(i) Vessels arriving at quarantine and awaiting inspection shall anchor to the south of a line bearing 262° and ranging from the southeast corner of Pier 25, Staten Island, to the south chimney of the Wrigley Plant, and shall clear said area immediately after being granted pratique. Whenever the area south of Pier 25, Staten Island, is congested, vessels arriving at quarantine and awaiting inspection may anchor in the northern section of the quarantine anchorage. Such vessels must clear the anchorage within 24 hours after being granted pratique. Vessels arriving for quarantine may anchor in that portion of Anchorage No. 23 south of a line bearing 262° which is in prolongation of the north side of Pier 10, Staten Island, whenever the quarantine anchorage is congested and fully utilized. No vessel shall occupy this section of the anchorage for a period longer than 48 hours, unless a permit is obtained from the Captain of the Port for that purpose.

(ii) Whenever the quarantine anchorage and the southerly part of Anchorage No. 23 are fully utilized, vessels shall anchor as directed by the Captain of the Port.

NOTE: The establishment of quarantine anchorages and the issuance of rules and regulations governing quarantine and their enforcement are under the jurisdiction of the administrator, Federal Security Agency, and the foregoing quarantine anchorage has been established under his authority.

(e) *Gravesend Bay; Anchorage No. 25.* North of a line ranging 274°30′ between Coney Island Light on Norton Point and the south point of Hoffman Island; east of a line bearing 342° from latitude 40°34′30″, longitude 74°01′42″, to latitude 40°35′59″, longitude 74°02′17″, and ranging through a point 250 yards due west of Fort Lafayette and a point 300 yards due east of Robbins Reef Light; and south of a line bearing 70° from latitude 40°35′59″, longitude 74°02′17″, through Fort Hamilton Southwest Buoy 29.

NOTE: Anchorage No. 49–C in this area is reserved for vessels carrying explosives (see paragraph (m) (2) of this section), and is excluded from use as a general anchorage.

(f) *Lower Bay*—(1) *Anchorage No. 26.* In Sandy Hook Bay south of a line extending from Point Comfort to Sandy Hook Point Light.

NOTE: Anchorages Nos. 49–F and 49–G in this area are reserved for vessels carrying explosives (see paragraph (m) (2) and (3) of this section) and are excluded from use as general anchorages.

(i) Pleasure or commercial craft may not navigate or moor within 750 yards of the Naval Ammunition Depot Pier at Leonardo, New Jersey, nor anchor in the approach channel or the turning basin adjacent thereto.

(ii) When immediate action is required and representatives of the Coast Guard are not present in sufficient force to exercise effective control of shipping, the Commanding Officer of the Naval Ammunition Depot at Earle, New Jersey, may control the anchorage or movement of any vessel, foreign or domestic, to the extent he deems necessary to insure the safety and security of his command.

(2) *Anchorage No. 27*—(i) *Atlantic Ocean.* South of Gedney Channel; west of a line ranging due north and south through Scotland Lightship, and north of a line ranging due east from Navesink Light: *Provided,* That no vessel shall anchor in South Channel.

(ii) *Romer Shoal.* Beginning at Gedney Channel Lighted Bell Buoy 2; thence to Ambrose Channel Entrance Lighted Whistle Buoy 1A; thence along the southwest side of Ambrose Channel to Ambrose Channel Lighted Whistle Buoy 9, and thence to Ambrose Channel Lighted Whistle Buoy 13; thence along a line ranging toward West Bank Light to its intersection with a line ranging from Ambrose Channel Lighted Buoy 15 to Chapel Hill Channel Buoy 14; thence to Swash Channel Lighted Gong Buoy 6; thence to Swash Channel Buoy 4A; thence to Romer South Edge Buoy 28; and thence to Gedney Channel Lighted Bell Buoy 6 and along the north side of Gedney Channel to the point of beginning.

(iii) *Flynns Knoll.* Beginning at Sandy Hook Channel Lighted Bell Buoy 18; thence along the north side of Sandy Hook Channel to Sandy Hook Channel Lighted Buoy; thence along the southwest side of Swash Channel to Junction Buoy; thence along the east side of Chapel Hill Channel to Chapel Hill Channel Buoy 2; and thence to the point of beginning.

(3) *Anchorage No. 28.* West of lines bearing 154° 30′ from Fort Wadsworth Light to Craven Shoal Lighted Bell Buoy 19A, thence in succession to the buoys marking the east side of West Bank and the buoys on the west side of Chapel Hill Channel to Southwest Spit Junction Lighted Gong Buoy, thence 180° to a line extending from Sandy Hook Point Light to Point Comfort; north of the latter line and the New Jersey shore; and east of a line bearing 353° from the head of the Keansburg Steamboat Pier at Point Comfort, through Great Kills Flat Buoy 4, to the Staten Island shore; excluding from this area, however, (i) the waters west

of a line ranging from the stack on Hoffman Island 344° through the northeast corner of the T-shaped pier at South Beach; northwest of a line ranging from Great Kills Light 39° and tangent to the offshore face of the T-shaped pier at Midland Beach; and northeast of a line ranging from the stack on Swinburne Island 301° to the shore end of the north jetty at New Creek; and (ii) the waters west of a line ranging from Conover Light at Leonardo, New Jersey, 240° through Old Orchard Shoal Light; northwest of a line bearing 230° from the stack on Hoffman Island; and northeast of a line ranging from Great Kills Light 332° through Marine Park Light at Crooks Point.

(g) *Kill Van Kull; Anchorage No. 29.* West of the westerly rack of the Bergen Point Ferry at Bayonne, New Jersey; north of a line ranging from the north end of Frank McWilliams, Inc., Pier 2, West New Brighton, Staten Island, to the southwest corner of the pier, foot of Humphreys Avenue, Bayonne; north of a line ranging 258° from the inshore end of the Bergen Point Ferry at Bayonne; thence north of a line ranging 90° from Bergen Point Light; thence southeast of a line running 55° to the shore at Bergen Point.

(h) *Newark Bay*—(1) *Anchorage No. 34.* South of the bridge of the Central Railroad Company of New Jersey; west of lines from a point on the bridge 100 yards west of the west pier of the west lift span to Newark Bay Channel Buoy 5, thence to the east end of the dike north of Shooters Island; north of the dike and a line ranging from the west end of the dike through Kill Van Kull Light 18 and Kill Van Kull Buoy 20; and east of a line 250 feet east of and parallel to the Singer Manufacturing Company bulkhead.

NOTE: A portion of this general anchorage is described as a special anchorage in § 110.60(r).

(2) *Anchorage No. 35.* North of Anchorage No. 29; east of lines ranging from the center of Bergen Point Light to the west pier of the west lift span of the Central Railroad of New Jersey bridge, extending to a point off the north side of the pier of the Texas Company, and thence to a point 100 yards east of the east pier of the east lift span of the railroad bridge; and south of the bridge.

(3) *Anchorage No. 36.* South of Port Newark Terminal Channel; west of a line ranging from a point 200 yards west of Newark Bay Light 3 to a point 100 yards west of the west pier of the west lift span of the Central Railroad of New Jersey Bridge; and north of said bridge.

(4) *Anchorage No. 37.* North of the Central Railroad of New Jersey bridge; east of a line ranging from a point 300 yards east of the east pier of the east lift span of the bridge to a point 200 yards east of the east end of the lift span of the Pennsylvania-Lehigh Valley Railroad bridge; and south of the latter bridge.

NOTE: A portion of this general anchorage is described as a special anchorage in § 110.60(q).

(5) *Anchorage No. 38.* North of the Pennsylvania-Lehigh Valley Railroad bridge; east of lines ranging through a point 200 yards east of the east end of the lift span of the said bridge and the red channel buoys marking the dredged channel in Newark Bay and Hackensack River; and south of the Central Railroad Company of New Jersey bridge.

(6) *Anchorage No. 39.* Between the entrance channels of the Hackensack and Passaic Rivers, northwest of lines from the abutment of the Central Railroad of New Jersey bridge on the west side of the Hackensack River to Hackensack River Light 1, and thence to Newark Bay Light 5, and east of a line from said light ranging toward the southeast corner of the Texas Company wharf, and of a line ranging from the southeast corner of Gross Wharf to the abutment and end of fill of the Central Railroad of New Jersey bridge on the east side of the Passaic River.

(i) *Arthur Kill*—(1) *Anchorage No. 41.* The passage between Pralls Island and Staten Island included between a line running 29° from the extreme northwest point of Pralls Island to a point on Staten Island and a line from the southern point of Pralls Island to the north side of the mouth of Neck Creek at Travis, Staten Island.

(2) *Anchorage No. 42.* East of lines ranging from the head of the Tottenville Shipyard Company pier at Tottenville, Staten Island, to the first pier of the Outerbridge Crossing west from the Staten Island shore, thence to Arthur Kill Light 10, thence to Arthur Kill Light 14, and thence to Arthur Kill Lighted Buoy 16; and south of a line from thence to Smoking Point.

(j) *Raritan Bay*—(1) *Anchorage No. 44.* An area in Raritan Bay located at the junction of Arthur Kill and Raritan River, beginning at a point at latitude 40°30'07", longitude 74°15'13"; thence to latitude 40°30'01", longitude 74°-15'30"; thence to latitude 40°29'27", longitude 74°15'06"; thence to latitude 40°29'24", longitude 74°15'01"; thence to latitude 40°29'15", longitude 74°-14'55"; thence to latitude 40°29'14", longitude 74°15'25"; thence to latitude 40°29'48", longitude 74°15'48"; and thence to the point of beginning.

(i) The anchorage is restricted to deep-draft vessels except that barges may moor in that portion of the anchorage southerly of latitude 40°29'22".

(ii) No vessel shall occupy the deep-draft portion of the anchorage for a longer period than 48 hours without a permit from the Captain of the Port.

(2) *Anchorage No. 45.* West of the Raritan Bay Channel leading into Arthur Kill; north of the Raritan River Channel leading into Raritan River; and east of the Cutoff Channel between Raritan River and Arthur Kill, except that part of the said area occupied by Anchorage No. 44.

(3) *Anchorage No. 45–A.* West of the Cutoff Channel between Raritan River and Arthur Kill; north of the Raritan River Channel; east of the New York and Long Branch Railroad bridge; and north of the Raritan River Channel to the prolongation of Market Street, Perth Amboy, New Jersey, in Arthur Kill.

(4) *Anchorage No. 46.* West of the west limit of Anchorage No. 28, as defined by a line bearing 353° from the head of the Keansburg Steamboat Pier at Point Comfort, through Great Kills Flat Buoy 4 to the Staten Island shore; north of Raritan Bay Channel as defined by the buoys and lights marking the north side of the channel, including Princess Bay; northeast of Raritan Bay Channel leading into Arthur Kill; and south of a line bearing 243° from the gable of a house at Ward Point, Staten Island.

(5) *Anchorage No. 47.* South of the Raritan River Channel from opposite the Sun Oil Company pier at South Amboy to Raritan River Buoy 3; thence south of a line in the direction of Boundary Daybeacon to latitude 40°28'48.5", longitude 74°14'31.6"; thence south of lines through Raritan Bay Light 7B, Raritan Bay Light 3A, and the buoys marking the south side of Raritan Bay Channel Off Seguine Point to the west limit of Anchorage No. 28 as defined by a line bearing 353° from the head of the Keansburg Steamboat Pier through Great Kills Flat Buoy 4 to the Staten Island shore; and west of the latter line.

(i) Vessels shall not anchor in the channel to Keyport Harbor west of lines ranging from Keyport Channel Buoy 1 to Keyport Channel Buoy 9, thence through Keyport Channel Buoys 11 and 13 to the northeast corner of the easterly steamboat wharf; and east of a line extending from a point 400 yards west of Keyport Channel Buoy 1 tangent to the west shore at the mouth of Matawan Creek.

NOTE: Anchorage No. 48–D in this area is reserved for vessels carrying explosives (see paragraph (m) (3) of this section) and is excluded from use as a general anchorage.

(k) *Sheepshead Bay*—(1) *Anchorage No. 48–A.* South of a line 25 feet south of and parallel to the bulkhead wall along the south side of Emmons Avenue; east of a line 200 feet east of and parallel to the prolonged west line of East 15th Street; north of a line 75 feet north of and parallel to the bulkhead wall along the north side of Shore Boulevard between Amherst Street and Dover Street and as prolonged to a point 315 feet south of the bulkhead wall along the south side of Emmons Avenue and 25 feet west of the prolonged west side of Ocean Avenue; and west of a line parallel to and 25 feet west of the prolonged west line of Ocean Avenue.

(2) *Anchorage No. 48–B.* South of the established United States Pierhead Line on the north side of the bay; west of the prolonged west line of Coyle Street; north of a line ranging from a point 90 feet south of said pierhead line in said prolonged west line of Coyle Street to the intersection of the south line of Shore Boulevard and the west line of Kensington Street; north of a line parallel to and 325 feet north of the bulkhead wall along the north side of Shore Boulevard; northeast of a line ranging from the point of intersection of the last-mentioned line with the prolonged east line of East 28th Street, toward a point, on the prolonged east line of East 27th Street and 245 feet south of the established United States Pierhead Line on the north side of the bay; and east of the prolonged east side of East 27th Street.

(3) *Anchorage No. 48–C.* South of a line extending from a point 175 feet northerly of the bulkhead wall along the north side of Shore Boulevard (perpendicular distance) and in the prolonged west side of Hastings Street to a point on the prolonged east side of Mackenzie Street 125 feet north of the bulkhead wall on the north side of Shore Boulevard; thence south of a line parallel to and 125 feet northerly of the bulkhead wall along the north side of Shore Boulevard from the last-mentioned point to the prolonged west line of Coyle Street; west of the prolonged west line of Coyle Street; north of a line parallel to and 25 feet north of the bulkhead wall along the north side of Shore Boulevard; and east of the prolonged west side of Hastings Street.

(l) *General regulations.* (1) Except in cases of great emergency, no vessel shall be anchored in the navigable waters of the Port of New York outside of the anchorage areas established in this section, nor cast anchor within a cable or pipe line area shown on a Government chart, nor be moored, anchored, or tied up to any pier, wharf, or vessel in such manner as to obstruct or endanger the passage of any vessel in transit by, or to or from, adjacent wharves, piers, or slips.

(2) No vessel shall occupy for a longer period than 30 days, unless a permit is obtained from the Captain of the Port for that purpose, any anchorage for which the time of occupancy is not otherwise prescribed in this section. No vessel in a condition such that it is likely to sink or otherwise become a menace or obstruction to navigation or anchorage of other vessels shall occupy an anchorage except in an emergency, and then only for such period as may be permitted by the Captain of the Port.

(3) Whenever, in the opinion of the Captain of the Port, such action may be necessary, that officer may require any or all vessels in any designated anchorage area to moor with two or more anchors.

(4) Every vessel whose crew may be reduced to such number that it will not have sufficient men on board to weigh anchor at any time shall be anchored with two anchors, with mooring swivel put on before the crew shall be reduced or released, unless the Captain of the Port shall waive the requirement of a mooring swivel.

(5) Anchors of all vessels must be placed well within the anchorage areas, so that no portion of the hull or rigging shall at any time extend outside the boundaries of the anchorage area.

(6) Any vessel anchoring under circumstances of great emergency outside of the anchorage areas must be placed near the edge of the channel and in such position as not to interfere with the free navigation of the channel nor obstruct the approach to any pier nor impede the movement of any boat, and shall move away immediately after the emergency ceases, or upon notification by the Captain of the Port.

(7) When applied for, a berth in an anchorage, if available, shall be assigned to any vessel by the Captain of the Port. He may grant revocable permits for habitually maintaining and using the same mooring space in an anchorage area, but no vessel shall occupy continuously a berth in an anchorage area when a vessel in regular traffic requires the berth or when navigation would be menaced or inconvenienced thereby. The Captain of the Port is authorized to issue permits for maintaining mooring buoys. The method of anchoring these buoys shall be as prescribed by the Captain of the Port. No vessel shall moor in any anchorage in such a manner as to interfere with the use of a duly authorized mooring buoy. In case of emergencies the Captain of the Port is hereby authorized to shift the position of any unattended vessel moored in or near any anchorage. No vessel shall be navigated within the limits of an anchorage at a speed exceeding six knots when in the vicinity of a moored vessel.

(8) Barge dispensing stations and stake boats may be anchored in such places as the Captain of the Port may designate.

(9) Upon approval of the District Engineer, Corps of Engineers, the Captain of the Port may permit wrecking plant or other vessels legally engaged in recovering sunken property, or in laying or repairing pipe lines or cables legally established, or plant engaged in dredging operations, to anchor within channels of the Port of New York. Permit issued by the Captain of the Port is not necessary for plant engaged upon works of river and harbor improvement under the supervision of the District Engineer, but the District Engineer will notify the Captain of the Port in advance of all such proposed work.

(10) Whenever the maritime or commercial interests of the United States so require, the Captain of the Port is hereby empowered to shift the position of any vessel anchored within the anchorage areas, of any vessel anchored outside the anchorage areas, of any vessel which is so moored or anchored as to impede or obstruct vessel movements in any channel or obstruct or interfere with range lights and of any vessel which, lying at the exterior end of a pier or alongside an open bulkhead, obstructs or endangers the passage of vessels in transit by, or to or from, adjacent wharf property or impedes the movements of vessels entering or leaving adjacent slips.

(11) A vessel upon being notified to move into the anchorage limits or to shift its position on anchorage grounds, shall get under way at once or signal for a tug, and shall change position as directed, with reasonable promptness.

(12) Nothing in this section shall be construed as relieving any vessel or the owner or person in charge of any vessel from the penalties of law for obstructing navigation or for obstructing or interfering with range lights, or for not complying with the navigation laws in regard to lights, fog signals, or for otherwise violating law.

(m) *Anchorages for vessels carrying explosives*—(1) *Anchorage No. 49–B.* On the New Jersey Flats, south of a line parallel to and 500 yards south of the National Docks (Black Tom) dredged channel; west of a line bearing 208° from the Torch, Statue of Liberty, and ranging through National Docks Channel Buoy 1 and New Jersey Pierhead Channel North Entrance Buoy 4; north of a line ranging through the latter buoy and New Jersey Pierhead Channel North Entrance Lighted Buoy 6; northeast of a line bearing 313° being parallel to and 500 yards north of Caven Point Pier; and east of a line bearing 38° from the twin chimneys on Constable Hook, New Jersey, through the brick pump house on the inshore end of the trestle to Caven Point Pier.

(i) Vessels shall not anchor within 800 yards of Bedloe's Island, within 500 yards of any pier, or within 100 yards of the New Jersey Pierhead Channel.

(ii) No vessel using this anchorage shall carry more than 20 tons of high explosives.

(iii) No vessel carrying explosives of any kind shall anchor in this anchorage within 500 feet of any other vessel carrying high explosives; except that the Captain of the Port may authorize the placing of moorings not less than 500 feet apart within this area and the making fast thereto of not to exceed three barges at each mooring, provided the combined load of the barges at a mooring is not more than 20 tons of high exposives.

(iv) Insofar as practicable, in the use of this anchorage preference shall be given to vessels storing explosives for current consumption.

(v) In cases of great emergency and when weather conditions are such that it is impossible for barges, scows, or lighters loaded with more than 20 tons of high explosives to proceed to Gravesend Bay or Raritan Bay, or lie at anchor there, such vessels may anchor temporarily in the Jersey Flats anchorage, but in each case the Captain of the Port must be immediately notified, and such vessel will not remain so anchored without his special permission.

(vi) This area shall not be used by vessels which do not carry explosives except in cases of great emergency.

(2) *Anchorage No. 49–C (naval and military anchorage).* In Gravesend Bay, north of a line bearing 280°30' from latitude 40°34'58", longitude 74°01'20", to latitude 40°34'54", longitude 74°01'49", and ranging through the stack on Hoffman Island; east of a line bearing 342° from the last-mentioned point to latitude 40°35'59", longitude 74°02'17", and ranging 250 yards due west of Fort Lafayette; south of a line bearing 96° from the last-mentioned point to latitude 40°35'56", longitude 74°01'45"; and west of a line bearing 343° from the last-mentioned point to latitude 40°34'58", longitude 74°01'20", and passing through Fort Hamilton Southwest Buoy 20.

(i) The Captain of the Port may permit the anchorage of commercial ves-

sels in the southerly part of the area south of a line bearing 263° from the flagpole in the vicinity of Bay Parkway, Brooklyn, when use of the anchorage by naval or military vessels will permit. Any commercial vessels so moored as to obstruct the use of the area for the anchorage of naval or military vessels may be required by the Captain of the Port to shift its position or clear the area when found necessary, at its own expense.

(ii) Fishing and navigation by pleasure and commercial craft are prohibited within the area at all times when vessels which are moored in the area for the purpose of loading or unloading explosives display a red flag by day or a red light by night, unless special permission is granted by the Captain of the Port.

(iii) Vessels carrying high explosives in this anchorage shall not anchor closer than 400 yards to one another, but the number of vessels which may anchor in the area at any one time shall be at the discretion of the Captain of the Port. This provision is not intended to prohibit barges or lighters from tying up alongside ships for the transfer of cargoes.

(iv) Vessels carrying high explosives shall not occupy this anchorage for a period of time longer than is necessary to receive or discharge such cargoes, or between sunset and sunrise except by special permit from the Captain of the Port in cases of great emergency.

(v) Barges and lighters loaded with explosives may anchor in the easterly portion of this area provided such barges and lighters are anchored so as not to approach one another closer than 360 feet. The Captain of the Port may authorize the placing of moorings in the easterly portion of the area and the making fast thereto of not to exceed three barges or lighters at each mooring, provided these moorings are so spaced that the vessels at one mooring shall at all times be not less than 300 feet from the vessels at an adjacent mooring.

(3) *Anchorage No. 49–D.* In Raritan Bay, south of a line bearing 250° from West Bank Light; west of a line ranging 137° from the tower of former Princess Bay Light to the tower of former Waackaack Light; north of a line ranging 256° from Old Orchard Shoal Light to Boundary Daybeacon; and east of a line bearing 306° from Boundary Daybeacon.

(i) This area shall not be used by vessels which do not carry explosives except in cases of great emergency.

(4) *Anchorage No. 49–F (emergency naval anchorage).* That portion of Sandy Hook Bay bounded by a line bearing 170°, 3,800 yards, from a point bearing 281°30', 2,050 yards, from Sandy Hook Light; thence 260°, 800 yards; thence 350°, 3,800 yards; thence 80°, 800 yards, to the point of beginning.

(i) This anchorage is to be used for the anchorage of naval vessels during emergencies only.

(ii) No pleasure or commercial craft shall navigate or moor within this area at any time when naval vessels which are moored in the area display a red flag by day or a red light by night.

(5) *Anchorage No. 49–G (naval anchorage).* That portion of Sandy Hook Bay bounded by a line bearing 209°, 1,350 yards, from a point bearing 232°30', 3,600 yards, from Sandy Hook Light; thence 269°, 630 yards; thence 2°, 1,260 yards; thence 107°, 1,150 yards, to the point of beginning.

(i) No pleasure or commercial craft shall navigate or moor within this area at any time when vessels which are moored in the area display a red flag by day or a red light by night.

(n) *Regulations for explosives anchorages.* (1) Anchorages Nos. 49–B, 49–C, 49–D, 49–F, and 49–G are reserved for vessels carrying explosives. All vessels carrying explosives shall be within these areas when anchored, except as provided in subparagraph (6) of this paragraph.

(2) A written permit shall be obtained from the Captain of the Port before vessels carrying explosives, or on which explosives are to be loaded, may proceed to the anchorages provided for them; and no vessel shall occupy a berth in such anchorage except by authority of such permit, which permit may be revoked at any time.

(3) Vessels used in connection with loading or unloading explosives on vessels in anchorage areas, including tugs and stevedore boats, shall carry a written permit from the Captain of the Port. The Captain of the Port may, in his discretion, require every person having business on board vessels which are being loaded with explosives, other than members of the crew, to have a pass from the Captain of the Port in such form as he shall prescribe. Such permit or pass shall be shown whenever required by him or by his authorized agents.

(4) Whenever any vessel not fitted with mechanical power anchors in the explosives anchorages while carrying explosives, the Captain of the Port may require the attendance of a tug upon such vessel when in his judgment such action is necessary.

(5) Vessels carrying explosives shall comply with the general regulations in paragraph (l) of this section when applicable.

(6) The District Engineer, Corps of Engineers, may authorize, in writing, a vessel carrying explosives for use on river and harbor works or on other work under federal permit issued by the District Engineer to anchor in or near the vicinity of such work without a permit from the Captain of the Port. The District Engineer will prescribe the quantities of such explosives allowed on such vessel and the conditions under which they are to be stored and handled, and will furnish the Captain of the Port with a copy of such safety instructions together with a copy of his written authorization.

(7) Every vessel loading, unloading, transporting, or containing explosives shall display by day a red flag at least 18 square feet in area at its masthead, or at least 10 feet above the upper deck if the vessel has no mast, and shall display by night a red light in the same position specified for the flag.

(8) When local regulations of any place require previous local authority for the transfer of explosives or fireworks between vessels or between a vessel and a wharf or other place ashore, the Captain of the Port will permit the removal from the anchorage of such vessel containing explosives to any place covered by such local regulations only when he is satisfied that the required local authority has been granted.

§ 110.156 Raritan Bay, Freeport, Long Island, N.Y.

(a) *The anchorage grounds.* Southward of a line 312 feet south of and parallel to the south side of Casino Street; eastward of a line 215 feet east of and parallel to the east side of West Side Avenue, said line extending southerly to a point 233 feet north of the prolonged north side of Clinton Street; northeastward of a line from the last-mentioned point to a point 243 feet southerly of the prolonged south side of Clinton Street and 210 feet east of the east side of Prospect Street; eastward of a line 210 feet east of and parallel to the east side of Prospect Street; northward of a line 25 feet north of and parallel to the prolonged north side of Suffolk Street; westward of a line 210 feet west of and parallel to the west side of South Long Beach Avenue, said line extending northerly to a point 222 feet south of the prolonged south side of Queens Street; southwestward of a line from the last-mentioned point to a point 74 feet northerly of the prolonged north side of Queens Street and 120 feet west of the west side of Roosevelt Avenue; and westward of a line 120 feet west of and parallel to the west side of Roosevelt Avenue.

(b) *The regulations.* (1) When applied for, a berth in this anchorage, if available, may be assigned to any vessel by the Captain of the Port of New York.

(2) The Captain of the Port is authorized to issue permits for maintaining mooring buoys within the anchorage. The method of anchoring these buoys shall be as prescribed by the Captain of the Port.

(3) No vessel shall anchor in the anchorage in such manner as to interfere with the use of a duly authorized mooring buoy.

(4) No vessel shall be navigated within the anchorage at a speed exceeding six knots.

(5) In case of emergencies, the Captain of the Port is authorized to shift the position of any unattended vessel moored in or near the anchorage.

§ 110.157 Delaware Bay and River.

(a) *The anchorage grounds*—(1) *Anchorage A (tanker lightering) off the entrance to Mispillion River.* To the southwest of the channel along Brandywine Range, bounded as follows: Beginning at a point at latitude 38°57'42" N., longitude 75°11'02" W., bearing 246.5° true 7,400 yards from Brandywine Shoal Light; thence 330°, 5,000 yards; thence 240°, 2,000 yards; thence 150°, 5,000 yards; thence 060°, 2,000 yards, to the point of beginning. This anchorage is intended for the specific purpose of allowing deep draft tankers to anchor and lighter their cargo before proceeding up the Delaware River. Supervision over the anchoring of vessels in the anchorage area will be exercised by the District Commander or his authorized representative. The provisions of paragraph (b) of this section shall be applicable to the anchoring of vessels in this anchorage, except for subparagraphs (1) and (2).

(2) *Anchorage 1 off Bombay Hook Point.* On the southwest side of the channel along Liston Range, bounded as follows: Beginning at a point (approximately latitude 39°17'59", longitude 75°23'07") bearing 228 from Ship John Shoal Light, 167 yards southwest of the southwest edge of the channel along Liston Range; thence 228°, 2,000 yards; thence 318°, 8,000 yards; thence 48°, 2,000 yards; and thence 138°, 8,000 yards, to the point of beginning.

(3) *Anchorage 2 (explosives) northwest of Artificial Island.* On the east side of the channel along Reedy Island Range, bounded as follows: Beginning at a point bearing 105° from the northernmost point of Reedy Island, 167 yards easterly of the east edge of the channel along Reedy Island Range; thence 105°, 800 yards; thence 195°, 4,500 yards; thence 285°, 800 yards, to a point (approximately latitude 39°28'58", longitude 75°33'37") opposite the intersection of Reedy Island and Baker Ranges; and thence 15°, 4,500 yards, to the point of beginning. This anchorage is intended for vessels engaged in the transportation and handling of explosives and other dangerous articles. No vessel not so engaged will be permitted to anchor in this anchorage except in case of emergency or by special permission of the District Commander. For special regulations relating to this anchorage, see paragraph (c) of this section.

NOTE: The term "District Commander" as used in this section means the Commander, Third Coast Guard District, or his authorized representative.

(4) *Anchorage 3 southeast of Reedy Point.* Southeast of the entrance to the Chesapeake and Delaware Canal at Reedy Point, bounded on the east by the west edge of the channel along Reedy Island and New Castle Ranges; on the west by a line beginning at a point on the west edge of the channel along Reedy Island Range at latitude 39°31'43", thence to a point bearing 168° 30', 3,150 yards, from Chesapeake and Delaware Canal 2 Light, and thence to a point bearing 131°, 1,160 yards, from Chesapeake and Delaware Canal 2 Light; and on the north by a line running from the last-described point 113° 30', approximately 813 yards, to the west edge of the channel along New Castle Range.

(5) *Anchorage 4 north of Reedy Point.* North of the entrance to the Chesapeake and Delaware Canal at Reedy Point, on the West side of the river, bounded as follows: Beginning at a point (approximately latitude 39°33'51", longitude 75°33'35") 244°56' true, 160 yards from Chesapeake and Delaware Canal Light 2; thence 306°26', 1,442 yards; thence 36°26', 877 yards; thence 126°26', 1,442 yards; thence 216°26', 877 yards to the point of beginning.

(6) *Anchorage 5 southeast of Pea Patch Island.* On the northeast side of the channel along New Castle Range, bounded as follows: Beginning at latitude 39°34'28", longitude 75°32'06"; thence 334°, 2,343 yards; thence 64°, 512 yards; thence 154°, 2,343 yards; and thence 244°, 512 yards, to the point of beginning.

(7) *Anchorage 6 off Deepwater Point.* Southeast of the entrance to Christina River, on the east side of the channel along Cherry Island Range, bounded as follows: Beginning at latitude 39°41'-31", longitude 75°30'55"; thence 17°, 2,747 yards; thence 112°, 847 yards; thence 215°, 1,340 yards; thence 204°, 893 yards; thence 186° 30', 500 yards; and thence 286°, 377 yards, to the point of beginning. Vessels must not cast anchor in the cable area at the lower end of this anchorage except in case of emergency.

(8) *Anchorage 7 off Marcus Hook.* On the southeast side of the channel along Marcus Hook Range, bounded as follows: Beginning at a point on the southeast edge of the channel at longitude 75°25'50"; thence northeasterly along the edge of the channel to longitude 75°23'30"; thence 207°, 933 yards; thence 237°, 2,692 yards; thence 267°, 933 yards, to the point of beginning. A preferential area in this anchorage is designated for the use of vessels awaiting quarantine inspection, this area being 333 yards wide on the downstream side of a line projected from Blueball Road in Marcus Hook. Should the remainder of the anchorage be in use, the preferential area, when available, may be used by vessels not subject to quarantine inspection.

(9) *Anchorage 8 off Thompson Point.* On the south side of the channel along Tinicum Range, between Thompson Point and the east side of Crab Point, bounded as follows: Beginning at a point on the south edge of the channel along Tinicum Range at longitude 75°18'24"; thence easterly along the edge of the channel to longitude 75°17'54"; thence 179°, 267 yards; thence 260°30', 793 yards; thence 358°, 425 yards, to the point of beginning.

(10) *Anchorage 9 near entrance to Mantua Creek.* On the southeast side of the channel along Mifflin Range, bounded as follows: Beginning at a point on the southeast edge of the channel at longitude 75°14'26"; thence northeasterly along the edge of the channel to longitude 75°12'01.5"; thence 203° 30', 933 yards; thence 233° 30', 3,858 yards; and thence 263° 30', 933 yards, to the point of beginning. Vessels must not cast anchor in this anchorage in such manner as to interfere unreasonably with the passage of other vessels to and from Mantua Creek.

(11) *Anchorage 10 (naval) at Naval Base, Philadelphia.* On the north side of the channel along West Horseshoe Range, bounded as follows: Beginning at the southeasterly corner of Pier 7 (approximately latitude 39°53'11", longitude 75°09'58.5"); thence 174°, 525 yards, to the north edge of the channel along West Horseshoe Range; thence 273° 30' along the edge of the channel, 880 yards; thence 354°, 438 yards, to the southeasterly corner of Pier 1; and thence 88° 30', 875 yards, to the point of beginning. This is a restricted naval anchorage.

(12) *Anchorage 11 at Gloucester.* On the east side of the channel south of the Walt Whitman Bridge at Gloucester, bounded as follows: Beginning at a point on the east edge of the channel at latitude 39°54'16"; thence 174°30', 500 yards, to latitude 39°54'02", longitude 75°07'43"; thence 202°, 1,133 yards; thence 217°30', 1,142 yards, to the east edge of channel; thence northeasterly along the edge of the channel to the point of beginning.

(13) *Anchorage 12 between Gloucester and Camden.* On the east side of the channel adjoining and on the upstream side of Anchorage 11, from Gloucester to Camden, bounded as follows: Beginning at a point on the east edge of the channel at latitude 39°54'16"; thence northerly along the edge of the channel to latitude 39°56'32.5"; thence 133°, 283 yards to a point on a line 100 feet west of the established pierhead line; thence southerly along this line to latitude 39°54'02"; thence 354°36', 500 yards to the point of beginning. The area between New York Shipbuilding Corporation Pier No. 2 and the MacAndrews and Forbes Company pier, Camden, shall be restricted to facilitate the movement of carfloats to and from Bulson Street, Camden. The area in front of the Public Service Electric and Gas Company pier shall be restricted to facilitate the movement of vessels to and from the pier. Should the anchorage become so congested that vessels are compelled to anchor in these restricted areas, they must move immediately when another berth is available.

(14) *Anchorage 13 at Camden.* On the east side of the channel adjoining and on the upstream side of Anchorage 12, to Cooper Point, Camden, bounded as follows: Beginning at a point on the east edge of the channel at latitude 39°56'32.5"; thence northerly along the edge of the channel to latitude 39°57'39.7"; thence 139°, 217 yards to a point on a line 100 feet west of the established pierhead line; thence southerly along this line to latitude 39°56'26.5"; thence 313°, 283 yards to the point of beginning.

(15) *Anchorage 14 opposite Port Richmond.* On the southeast side of the channel, north of Petty Island, bounded as follows: Beginning at a point on the southeast edge of the channel at longitude 75°05'43"; thence 163°, 248 yards; thence 253°, 1,978 yards, to the southeast edge of the channel; and thence northeasterly along the edge of the channel to the point of beginning. Vessels having a draft of less than 20 feet must anchor southwest of Pier No. 11, Port Richmond. The area off the Cities Service Oil Company wharves, Petty Island, shall be restricted to facilitate the movement of vessels to and from the wharves.

FEDERAL REGISTER, VOL. 32, NO. 239—TUESDAY, DECEMBER 12, 1967

(16) *Anchorage 15 off northeasterly end of Petty Island.* On the southeast side of the channel, bounded as follows: Beginning at a point on the southeast edge of the channel at longitude 75°05'34.7"; thence northeasterly along the southeast edge of the channel to longitude 75°05'09.5"; thence 171°, 198 yards; thence 260°30', 667 yards; and thence 351°, 198 yards, to the point of beginning. When necessary, this anchorage will be reserved for vessels under the custody of the United States, at which time other vessels may be required by the District Commander to shift position.

(17) *Anchorage 16 between Port Richmond and Five Mile Point.* On the northwest side of the channel, bounded as follows: Beginning at a point on the northwest edge of the channel at longitude 75°05'35"; thence northeasterly along the edge of the channel to longitude 75°04'20"; thence 328°, 125 yards; thence 243°, 450 yards; thence 251°, 475 yards; thence 257°, 1,042 yards; thence 174°30', 122 yards, to the point of beginning. When necessary, this anchorage will be reserved for vessels under the custody of the United States, at which time other vessels may be required by the District Commander to shift position.

(b) *General regulations.* (1) Except in cases of great emergency, no vessel shall be anchored in Delaware Bay and River between Ship John Light and The Pennsylvania Railroad Company bridge at Delair, New Jersey, outside of the anchorage areas established in this section, or within a cable or pipe line area shown on a Government chart, or be moored, anchored, or tied up to any pier, wharf, or other vessel in such manner as to obstruct or endanger the passage of any vessel. When an emergent condition exists due to congestion in the prescribed anchorage areas in the Delaware River, the District Commander may authorize the anchorage of vessels in locations other than the prescribed areas. Vessels so anchored must not be anchored within the channel limits. Any vessel anchored outside of the prescribed anchorage limits must move to a prescribed anchorage area when space becomes available.

(2) No vessel shall occupy any prescribed anchorage for a longer period than 48 hours without a permit from the District Commander. Vessels expecting to be at anchor for more than 48 hours shall obtain a permit from the District Commander for that purpose in either Anchorage 15 or Anchorage 16. No vessel in such condition that it is likely to sink or otherwise become a menace or obstruction to navigation or anchorage of other vessels shall occupy an anchorage except in an emergency, and then only for such period as may be permitted by the District Commander.

(3) Whenever, in the opinion of the District Commander such action may be necessary, he may require any or all vessels in any designated anchorage area to moor with two or more anchors.

(4) Every vessel whose crew may be reduced to such number that it will not have sufficient men on board to weigh anchor at any time shall, before release or reduction of the crew, be anchored with two anchors with mooring swivel unless the District Commander shall waive the requirement of a mooring swivel.

(5) Anchors shall be placed well within the anchorage areas, so that no portion of the hull or rigging will at any time extend outside of the anchorage area.

(6) Light-draft barges using the anchorages shall be anchored away from the deeper portions of the anchorages, so as not to interfere with the anchoring of deep-draft vessels. Any barges towed in tandem to an anchorage area shall be bunched together when anchoring.

(7) Upon approval of the District Engineer, Corps of Engineers, the District Commander may permit wrecking plant or other vessels legally engaged in recovering sunken property, or in laying or repairing pipe lines or cables, or plant engaged in dredging operations, to anchor in channels. Such permission is not necessary for plant engaged upon works of river and harbor improvement under the supervision of the District Engineer, but the District Engineer will notify the District Commander in advance of all such proposed work.

(8) Whenever the maritime or commercial interests of the United States so require, the District Commander is hereby empowered to shift the position of any vessel anchored or moored within or outside an anchorage area, including any vessel which is so moored or anchored as to obstruct navigation or interfere with range lights.

(9) A vessel upon being notified to shift its position shall get under way at once or signal for a tug and shall change position as directed with reasonable promptness.

(10) Nothing in this section shall be construed as relieving any vessel or the owner or person in charge of any vessel from the penalties of law for obstructing navigation or for obstructing or interfering with range lights, or for not complying with the laws relating to lights and fog signals or other navigation laws and regulations.

(c) *Regulations for explosives anchorage.* (1) All vessels carrying explosives and other dangerous cargo as defined in Title 46, Code of Federal Regulations, § 146.03–8, or on which explosives and other dangerous cargoes are to be loaded, shall be within Anchorage 2 when anchored, except as provided in subparagraph (7) of this paragraph. The maximum amount of explosives, or other dangerous cargo for which a permit is required in 46 CFR Parts 146–149, which may be carried or loaded at any time by a vessel anchored within Anchorage 2 shall not exceed 800 tons, except in cases of great emergency or by special permit from the District Commander.

(2) A written permit shall be obtained from the District Commander before vessels carrying explosives and other dangerous cargoes, or on which explosives and other dangerous cargoes are to be loaded within the weight limit specified in subparagraph (1) of this paragraph, may anchor in Anchorage 2, and no vessel shall anchor therein except by authority of such permit, which may be revoked at any time. This anchorage shall not be used by vessels which do not carry explosives and other dangerous cargoes, or on which explosives and other dangerous cargoes are not to be loaded, except in cases of great emergency or by special permit from the District Commander. All other vessels used in connection with loading or unloading explosives and other dangerous cargoes in this anchorage shall carry written permits from the District Commander and shall show such permits whenever required by him.

(3) Vessels shall be anchored in Anchorage 2 so as to be at least 2,200 feet apart, but the number of vessels which may anchor in the anchorage at any one time shall be at the discretion of the District Commander. This provision is not intended to prohibit barges or lighters from tying up alongside the vessels for the transfer of cargoes.

(4) Whenever any vessel or barge not mechanically self-propelled anchors in Anchorage 2 while carrying explosives and other dangerous cargoes, or on which explosives and other dangerous cargoes are to be loaded within the weight limit specified in subparagraph (1) of this paragraph, the District Commander may require the attendance of a tug upon such vessel or barge when in his judgment such action is necessary.

(5) Every vessel transporting, stowing, storing, or handling explosives and other dangerous articles as cargo, within the weight limit specified in subparagraph (1) of this paragraph, in the vicinity of Anchorage 2 shall display by day a red flag at least 16 square feet in area at its masthead, or at least 10 feet above the upper deck if the vessel has no mast, and shall display by night a red light in the same position specified for the flag.

(6) Fishing and navigation are prohibited within Anchorage 2 at all times when vessels which are moored in the area display a red flag by day or a red light by night.

(7) The District Engineer, U.S. Army Engineer District, Philadelphia, may authorize, in writing, a vessel carrying explosives for use on river and harbor works or on other work under Department of the Army permit, to anchor in or near the vicinity of such work. The District Commander will prescribe the quantity of explosives allowed and the conditions under which explosives shall be stored and handled in such cases.

(8) Vessels carrying explosives and other dangerous cargoes, or on which explosives and other dangerous cargoes are to be loaded, within the weight limit specified in subparagraph (1) of this paragraph, shall comply with the general regulations in paragraph (b) of this section when applicable.

(9) Nothing in this section shall be construed as relieving any vessel or the owner or person in charge of any vessel, and all others concerned, of the duties and responsibilities imposed upon them

to comply with the regulations governing the handling, loading or discharging of explosives, and other dangerous articles, entitled "Subchapter N—Dangerous Cargoes." (46 CFR Parts 146 and 147.)

§ 110.159 Annapolis Harbor, Md.

(a) *The anchorage grounds*—(1) *Naval anchorage for deep draft vessels.* In Chesapeake Bay, bounded on the north by latitude 38°58'; on the east by a line bearing 203°05' from latitude 38°58', longitude 76°24'; on the south by latitude 38°56'30"; and on the west by a line bearing 139° from Greenbury Point Shoal Light. This anchorage is reserved for deep-draft naval vessels. Berths in the area will be assigned on application to the Commandant, Severn River Naval Command.

(2) *Middle Ground anchorage.* In Severn River, beginning at a point bearing 126°, 800 yards, from the mast at the intersection of the northeast and southeast seawalls of the Naval Academy grounds; thence 79°20', 485 yards, to Annapolis Harbor Buoy 13; thence 144°, 220 yards; thence 159°10', 715 yards; thence 270°, 175 yards; and thence 313°30', 1,060 yards, to the point of beginning.

(3) *South anchorage.* In Severn River, begining at a point on the shoreline of Horn Point, Eastport, bearing 270° from Annapolis Harbor Buoy 5; thence 90° to Annapolis Harbor Buoy 5; thence 313°30', 1,040 yards; thence 259°20', 710 yards, to a point bearing 169°30', 615 yards, from the mast at the intersection of the northeast and southeast seawalls of the Naval Academy grounds; and thence 180° to the shoreline at Eastport. No vessels shall anchor within 100 feet of any wharf, marine railway, or other structure without permission of the owner thereof.

(4) *Naval anchorage for small craft.* In Severn River, beginning at a point on the prolongation of the line of the northeast seawall of the Naval Academy grounds, 80 feet from the face of the southeast seawall of the Naval Academy grounds; thence 31°, 470 yards, to Annapolis Harbor Buoy 15; thence 125°45', 580 yards; thence 259°20', 1,035 yards; thence 310°, 230 yards; and thence 40°, parallel to the southeast seawall of the Naval Academy grounds, 400 yards, to the point of beginning. Except in case of emergency, no vessel shall be anchored in this area without permission of the Commandant, Severn River Naval Command. Anchorages will be assigned upon request to the station ship at the Naval Academy.

(5) *Anchorage A.* In Spa Creek, beginning at a point bearing 214°, 420 yards, from the mast at the intersection of the northeast and southeast seawalls of the Naval Academy grounds; thence 130°, 200 yards; thence 246°30', 230 yards; thence 334°, 130 yards; thence 257°, 115 yards; thence 50°30', 190 yards; thence 42°30', 125 yards; and thence 34°, 200 yards, to the point of beginning.

(6) *Anchorage B.* In Spa Creek, beginning at a point bearing 204°, 660 yards, from the mast at the intersection of the northeast and southeast seawalls of the Naval Academy grounds; thence 144°, 32 yards; thence 204°45', 140 yards; thence 214°, 196 yards; thence 331°, 160 yards; and thence 54°, 285 yards, to the point of beginning.

(b) *The regulations.* (1) Except in case of emergency, no vessel shall be anchored in the area to the north and east of the Annapolis Channel bounded on the east by Greenbury Point; on the south by a line bearing 270° from the southern tip of Greenbury Point; on the west by the Annapolis channel; and on the north by the southern boundary of the cable area and the shoreline of the Government reservation and Carr Creek.

(2) Except in case of emergency, no vessel shall be anchored in Annapolis Harbor to the westward of the dredged channel and northward of Annapolis Harbor Buoy 5 (off Horn Point, Eastport) outside of the established anchorage areas, except in Spa Creek and the area to the southwestward of the Naval anchorage for small craft. No vessel shall be so anchored that any part of the vessel extends at any time within this area. Any vessel anchoring, under great emergency, within this area shall be placed as close to an anchorage area as practicable, and shall move away immediately after the emergency ceases.

(3) No vessel shall be anchored in the cable and pipe-line area, lying between the Naval Academy and the Naval Engineering Experiment Station and having the following limits: Eastern limit, from mast at the landward end of Reina Mercedes Pier approximately 67° to white "Cable Crossing" sign at the Experiment Station; western limit, from "Cable Crossing" sign on the point at Fort Severn Beach 223° to America Dock, Naval Academy.

(4) Except in case of emergency, no vessel shall be anchored, without permission of the Commandant, Severn River Naval Command, in the Naval Academy Drill area described as follows: That portion of the Severn River lying to the northeastward of the Naval Academy, bounded on the north by the State Highway Bridge and on the south by the northern limit of the cable and pipe-line area, excluding that area off the eastern shoreline inclosed by a line extending approximately 131° between the eastern abutment of the State Highway Bridge and the outboard end of the pier on Ferry Point. This drill area also includes the lower part of Dorseys Creek below the Naval Academy Drawbridge. Requests to anchor in this drill area shall be made to the station ship at the Naval Academy.

(5) The restrictions in this section do not apply to the anchoring or marking by buoys of apparatus used for the purpose of taking sea food, except within the cable and pipeline area described in subparagraph (3) of this paragraph.

(6) The regulations in this section shall be enforced by the Commandant, Severn River Naval Command, and the Superintendent, United States Naval Academy, and such agencies as they may designate.

§ 110.166 York River, Va., naval anchorage.

(a) *The anchorage grounds.* Between Yorktown and the Naval Mine Depot, beginning at latitude 37°15'34", longitude 76°31' 25"; thence to latitude 37°-15'25", longitude 76°31'39.5"; thence to latitude 37°16'21.5", longitude 76°-32'46"; thence to latitude 37°17'07.5", longitude 76°34'17"; thence to latitude 37°17'55", longitude 76°35'14.5"; thence to latitude 37°18'05", longitude 76°35'01"; thence to latitude 37°17'20", longitude 76°34'07"; thence to latitude 37°16'32.5", longitude 76°32'34", and thence to the point of beginning.

(b) *The regulations.* This anchorage is reserved for the exclusive use of naval vessels and except in cases of emergency, no other vessel shall anchor therein without permission from the local naval authorities, obtained through the Captain of the Port, Norfolk, Virginia. Movement of vessels through the anchorage will not be restricted.

§ 110.168 Hampton Roads, Va., and adjacent waters.

(a) *Hampton Roads*—(1) *Anchorage A, Hampton Bar.* South of a line running from latitude 37°00'45", longitude 76°20'36", across the mouth of Hampton Creek to latitude 37°00'47", longitude 76°19'56"; thence along the shore to a point east of Mill Creek at latitude 37°00'44", longitude 76°19'38"; thence to latitude 37°00'15", longitude 76°19'29"; thence to latitude 36°59'33", longitude 76°18'57"; thence to latitude 36°59'11", longitude 76°19'00"; thence to latitude 36°59'09", longitude 76°19'-05"; thence to latitude 37°00'00", longitude 76°22'08"; and thence northeast along the shoreline to the point of beginning.

(i) No vessel shall be anchored in such manner as to swing within 200 feet of the dredged channel leading to Hampton.

(ii) This anchorage is reserved for the use of vessels while undergoing examination by quarantine, customs, or immigration authorities. Upon completion of these examinations vessels shall move promptly to a regular anchorage.

(iii) The master of every mechanically propelled vessel using this anchorage shall keep the vessel in condition to move promptly under its own power upon notification by the Captain of the Port, and when any such vessel is in charge of a pilot the pilot shall remain on board until the vessel is safely anchored in a regular anchorage. No sailing vessel using this anchorage shall be left unattended by a tugboat while undergoing examination by quarantine, customs, or immigration authorities, except when its stay is likely to be of several hours' duration when it shall be anchored in the western part of the anchorage out of the way of other vessels before the tug and pilot leave.

(iv) No master of a vessel awaiting or undergoing quarantine inspection shall release any part of the crew until the vessel has been passed by the proper quarantine officials and safely anchored or moored in a regular anchorage.

(2) *Anchorage B, Hampton Flats (Naval).* Shoreward of a line described as follows: Beginning at latitude 37°00'00", longitude 76°22'08"; thence to latitude 36°59'08.5", longitude 76°-19'04.5"; thence to latitude 36°57'57.5", longitude 76°20'46.5"; and thence to latitude 36°58'56", longitude 76°23'47", including within the above-described limits an Explosives Handling Berth W covering a circular area of 1,200 yards diameter with its center at latitude 36°58'18", longitude 76°20'51".

(i) Vessels shall not be anchored within 425 yards of Anchorage F–1 when that anchorage is occupied by a vessel carrying explosives.

(ii) Vessels shall not be anchored within 300 yards of Explosives Handling Berth W when that berth is occupied by a vessel handling explosives.

(iii) Anchorage B, including Explosives Handling Berth W, is reserved for the use of Naval vessels, but in the absence of the fleet the Captain of the Port may, in his discretion, permit the anchorage and berth to be used by merchant vessels. Upon notification that need for occupancy by Naval vessels is expected, the Captain of the Port may cause a sufficient area in the anchorage to be vacated to accommodate the number of Naval vessels scheduled to arrive.

(3) *Anchorage C, Newport News Bar.* Shoreward of a line described as follows: Beginning at latitude 36°58'56", longitude 76°23'47"; thence to latitude 36°57'57.5", longitude 76°20'46.5"; thence to latitude 36°57'41", longitude 76°21'12.5"; thence to latitude 36°57'-35.5", longitude 76°21'29"; thence along the north side of Newport News Channel to latitude 36°57'20", longitude 76°24'-38"; and thence to the radio tower at approximately latitude 36°57'47.5", longitude 76°24'40.5".

(i) When Anchorage F–1, which lies within Anchorage C, is not occupied by vessels carrying explosives, it may be used as a general anchorage in the same manner as other portions of Anchorage C. It shall be vacated promptly upon notice from the Captain of the Port when a vessel carrying explosives, of a draft too great to permit it to use Anchorage F, desires to anchor therein. Vessels shall not be anchored within 425 yards of Anchorage F–1 when that anchorage is occupied by a vessel carrying explosives.

(ii) This anchorage is a general anchorage for all vessels, but when fleet operations are scheduled the Captain of the Port may, in his discretion, permit it to be used by naval vessels. Upon receiving word that any part of the fleet is expected, the Captain of the Port may cause a sufficient area in this anchorage to be vacated to accommodate the number of vessels scheduled to arrive,

(4) *Anchorage D.* Beginning at a point west of Norfolk Harbor Channel at latitude 36°57'33.5", longitude 76°20'31.7"; thence south to latitude 36°57'26", longitude 76°20'31.7"; thence to latitude 36°56'08", longitude 76°22'23"; thence to latitude 36°56'00", longitude 76°22'50"; thence to latitude 36°56'00", longitude 76°23'34"; thence to latitude 36°56'09.5", longitude 76°23'33.5"; thence to a point on the south side of Newport News Channel at latitude 36°57'27.5", longitude 76°21'41"; and thence along the south side of Newport News Channel and a line in prolongation thereof to the point of beginning.

(i) Vessels shall be anchored so as to leave a clear fairway 300 yards wide through this anchorage for the operation of shallow-draft vessels and tows.

(ii) This anchorage shall be used by deep-draft vessels, wind-bound vessels from Lambert Point and Sewall Point, and vessels awaiting turn for docking. Other vessels may use this anchorage when permitted by the Captain of the Port.

(5) *Anchorage E, Newport News Middle Ground.* Beginning at a point on the south side of Newport News Channel at latitude 36°57'27.5", longitude 76°21'-41"; thence to latitude 36°56'09.5", longitude 76°23'33.5"; thence to latitude 36°57'11", longitude 76°25'02.5"; and thence to and along the south side of Newport News Channel to the point of beginning.

(i) Vessels shall be anchored so as to leave a clear fairway 200 yards wide through this anchorage for the operation of shallow-draft vessels and tows.

(6) *Anchorage H.* Beginning at a point west of Norfolk Harbor Channel at latitude 36°57'26", longitude 76°20'-31.7"; thence southerly to latitude 36°57'07.7", longitude 76°20'31.9"; thence southeasterly to a point on the west side of Norfolk Harbor Channel at latitude 36°57'01.5", longitude 76°20'-32.3"; thence along the west side of Norfolk Harbor Channel to latitude 36°56'-00", longitude 76°20'27"; thence to latitude 36°56'00", longitude 76°22'50"; thence to latitude 36°56'08", longitude 76°22'23"; thence to the point of beginning.

(i) Vessels shall be anchored so as to leave a clear fairway 200 yards wide through this anchorage for the operation of shallow-draft vessels and tows.

(6–a) *Anchorage H–2 (Explosives).* (i) A circular area with a radius of 150 yards centered at latitude 36°55'52", longitude 76°21'21".

(ii) The net high-explosive content of any vessel anchored in the area shall not exceed 27 tons.

(iii) No vessel shall anchor within 500 yards of any vessel occupying the explosives-handling area.

(iv) The area shall not be occupied more than an average of two days per week.

(7) *Anchorages for vessels carrying explosives—*(i) *Anchorage F (for shallow-draft vessels).* Beginning at latitude 36°56'03", longitude 76°23'50"; thence to latitude 36°54'30", longitude 76°23'-55.5"; thence to latitude 36°54'30", longitude 76°24'59"; thence to latitude 36°56'44", longitude 76°24'50"; thence to the point of beginning.

(ii) *Anchorage F–1 (for deep-draft vessels).* Within Anchorage C and having a northeast boundary coincident with a portion of the northeast boundary of Anchorage C, beginning at latitude 36°58'06", longitude 76°21'13"; thence to latitude 36°57'49.5", longitude 76°21'-36"; thence to latitude 36°57'47.5", longitude 76°22'04"; thence to latitude 36°-57'56", longitude 76°22'30"; thence to latitude 36°58'19.5", longitude 76°21'-56"; thence to the point of beginning.

(iii) Vessels are forbidden to anchor within 425 yards of Anchorage F or between the northeast boundary of Anchorage F and the southwest boundary of Anchorage E.

(iv) When Anchorage F–1 is not occupied by vessels carrying explosives it may be used as a general anchorage in the same manner as other portions of Anchorage C, except that it shall be vacated promptly upon notice from the Captain of the Port when a vessel carrying explosives of a draft too great to permit it to use Anchorage F desires to anchor. When Anchorage F–1 is occupied by a vessel carrying explosives, vessels shall not anchor in Anchorages B and C within 425 yards of Anchorage F–1. No vessel carrying explosives shall be anchored in Anchorage F–1 so as to swing within 500 yards of the Newport News Channel.

(v) Vessels carrying explosives or other dangerous cargo, including inflammable liquids, inflammable solids, oxidizing materials, corrosive liquids, compressed gases, and poisonous substances, shall be within Anchorage F or F–1 when anchored, except as provided in subdivision (x) of this subparagraph. Anchorage F is reserved for this special purpose and shall not be used by vessels carrying other classes of cargo except in cases of great emergency or by special permit from the Captain of the Port.

(vi) A written permit shall be obtained from the Captain of the Port before a vessel carrying explosives, or on which explosives are to be loaded, may proceed to an explosives anchorage; and no vessel shall occupy a berth in such an anchorage except by authority of such a permit which may be revoked at any time.

(vii) Vessels used in connection with loading or unloading explosives in anchorage areas, including tugs and stevedore boats, shall carry a written permit from the Captain of the Port. Such permits shall be shown whenever required by him or by his properly authorized agents.

(viii) Whenever any vessel not mechanically self-propelled anchors in an explosives anchorage while carrying explosives, the Captain of the Port may require the attendance of a tug upon such vessel when in his judgment such action is necessary.

(ix) Vessels carrying explosives shall comply with the general regulations in paragraph (h) of this section when applicable.

(x) The District Engineer, Corps of Engineers, may authorize a vessel carrying explosives for use on river and harbor works or on other work under permit issued by the District Engineer to anchor in or near the vicinity of such work without a permit from the Captain of the Port. The District Engineer will prescribe the quantities of such explosives allowed on such vessel and the conditions under which they are to be stored and handled, and will furnish the Captain of the Port with a copy of such instructions.

(b) *James River—*(1) *Anchorage G.* At the mouth of the river opposite Newport News; east of a line running from Barrel Point, latitude 36°54'59", longitude 76°28'51", across the mouth of Batten Bay to Candy Island, latitude 36°56'-18", longitude 76°29'05"; and shoreward of a line described as follows: Beginning at Fishing Point, latitude 36°57'50", longitude 76°29'38"; thence to latitude 36°59'08", longitude 76°27'56"; thence to latitude 36°58'37", longitude 76°26'-41"; thence to latitude 36°57'50", longitude 76°26'04"; thence to latitude 36°57'08.5", longitude 76°25'27"; thence to latitude 36°57'11", longitude 76°25'-04"; thence to latitude 36°55'52.5", longitude 76°25'09.5"; and thence to latitude 36°54'00", longitude 76°28'59".

(2) *Anchorage G–1.* On the northeast side of the river downstream from the James River Bridge, and shoreward of a line described as follows: Beginning at latitude 36°59'41", longitude 76°26'40"; thence to latitude 37°00'15", longitude 76°27'52"; and thence to latitude 37°00'-45", longitude 76°27'17".

(3) *Anchorage G–2.* On the northeast side of the river upstream from the James River Bridge, and shoreward of a line described as follows: Beginning at latitude 37°00'58", longitude 76°27'23"; thence to latitude 37°00'24", longitude 76°28'08"; thence to latitude 37°01'55", longitude 76°31'19"; and thence to latitude 37°03'06", longitude 76°30'29".

(c) *East of Norfolk Harbor Channel—*(1) *Anchorage K–1.* Shoreward of a line described as follows: Beginning at the shoreward end of the jetty north of Army Base Pier No. 2, latitude 36°55'13", longitude 76°19'42"; thence along the jetty to latitude 36°55'14", longitude 76°19'46.5"; thence along the jetty to latitude 36°55'10", longitude 76°19'49.5"; thence to a point on the east side of Norfolk Harbor Channel at latitude 36°55'06", longitude 76°20'22"; thence northerly along the east side of Norfolk Harbor Channel to latitude 36°55'36.5", longitude 76°20'20"; and thence to latitude 36°55'38", longitude 76°19'47".

(2) *Anchorage K–2.* South of a line running from Tanner Point latitude 36°54'13", longitude 76°19'25", across the mouth of Lafayette River to latitude 36°54'14", longitude 76°18'43"; and shoreward of a line described as follows: Beginning at latitude 36°52'56", longitude 76°19'08"; thence to a point on the east side of the dredged area alongside Norfolk Harbor Channel at latitude 36°53'04.5", longitude 76°19'58.5", thence northerly along the side of the dredged area to latitude 36°53'27", longitude 76°20'02"; thence northwesterly along the side of the dredged area to latitude 36°53'31", longitude 76°20'06"; thence northerly along the east side of Norfolk Harbor Channel to latitude 36°54'45.5", longitude 76°20'19"; and thence to latitude 36°54'49", longitude 76°19'40.5".

(i) Anchorage is prohibited in the dredged channel to Lafayette River.

(3) *Anchorage K–3 (for yachts and pleasure craft).* That part of Lafayette River upstream from Anchorage K–2 and downstream from a line crossing the river below the Hampton Boulevard bridge from latitude 36°54'27.5", longitude 76°18'22.5", to latitude 36°54'11", longitude 76°18'18".

(i) Anchorage is prohibited in the dredged channel in Lafayette River.

(d) *Elizabeth River—*(1) *Anchorage H–1, West Norfolk.* An improved anchorage on the west side of Norfolk Harbor Channel, south of Craney Island, providing anchorage spaces 38 and 35 feet deep, each with a swing radius of 750 feet, and 3 anchorage spaces 30 feet deep, each with a swing radius of 500 feet, bounded as follows: Beginning at a point on the western boundary of Norfolk Harbor Channel at latitude 36°52'51.6", longitude 76°20'06.8"; thence westerly to latitude 36°52'48.2", longitude 76°20'39.3"; thence southerly to latitude 36°52'18.8", longitude 76°20'34.3"; thence easterly to latitude 36°52'22.2", longitude 76°20'03.8"; and thence northerly along the western boundary of Norfolk Harbor channel to the point of beginning.

(i) No vessel shall remain anchored in this anchorage awaiting loading for a period longer than 48 hours, except when non-availability of loading facilities, inclement weather, ice conditions, or other conditions reasonably require a longer period in awaiting turn for docking.

(ii) No vessel after receiving its load shall remain more than 12 daylight hours in this anchorage, i. e., vessels loaded during the afternoon or night shall clear the anchorage prior to the hour of darkness of the following day.

(2) *Anchorage L.* On the northeast side of Elizabeth River, south of Lambert Point, and shoreward of a line described as follows: Beginning at latitude 36°52'06.5", longitude 76°19'04.5"; thence to latitude 36°51'56.5", longitude 76°19'20"; thence to latitude 36°52'13", longitude 76°19'44.5"; and thence to latitude 36°52'21", longitude 76°19'34".

(3) *Anchorage M.* On the northeast side of Elizabeth River, opposite Pinner Point, and shoreward of a line described as follows: Beginning at latitude 36°51'29.5", longitude 76°18'37"; thence to latitude 36°51'32", longitude 76°18'45.5"; thence to latitude 36°51'42", longitude 76°19'00"; and thence to latitude 36°51'52", longitude 76°18'47.5".

(4) *Anchorage N–1, Smith Creek (for yachts and pleasure craft)—*(i) *Mowbray Arch.* Between Mowbray Arch and a line described as follows: Beginning at Ghent Bridge 150 feet from Mowbray Arch and continuing westerly the same distance therefrom to the intersection of the prolongation of the east side of Colonial Avenue; thence in a straight line to a point on the south side of Mill Street prolonged and 70 feet from Mowbray Arch; thence parallel to and 70 feet from Mowbray Arch to the south side of Pembroke Avenue prolonged; thence along the prolongation of the south side of Pembroke Avenue to a point 50 feet from Mowbray Arch; and thence in a straight line to a point on the south side of Fairfax Avenue prolonged and 40 feet from Mowbray Arch.

(ii) *The Hague.* Between the wall on the west side of the Hague and a straight line joining a point 40 feet easterly thereof in the south side of Fairfax Avenue prolonged with a point 70 feet easterly from the wall in a line perpendicular to the wall at the south end thereof.

(iii) No floats, rafts, lighters, houseboats, or other craft laid up for any reason shall be permitted within these anchorages, except by permission of the Captain of the Port.

(iv) No vessel shall anchor or moor alongside any wharf or pier in Smith Creek so as to extend more than 40 feet beyond the pierhead line except in the authorized anchorages.

(5) *Anchorage O, Hospital Point.* On the southwest side of Elizabeth River, adjacent to the Portsmouth Naval Hospital, and shoreward of a line described as follows: Beginning at latitude 36°50'57", longitude 76°18'43"; thence to a point on the southwest side of Norfolk Harbor Channel at latitude 36°51'-05", longitude 76°18'23"; thence southeasterly along the side of the channel to latitude 36°50'49.5", longitude 76°18'06"; thence southeasterly along the side of the channel to latitude 36°50'33.5", longitude 76°17'50.5"; and thence to latitude 36°50'27", longitude 76°17'58".

(6) *Anchorage P, Port Norfolk.* On the southwest side of Elizabeth River, between Pinner Point and Western Branch Channel, and shoreward of a line described as follows: Beginning at latitude 36°51'25", longitude 76°19'50"; thence to latitude 36°51'44.5", longitude 76°19'47"; thence to a point on the southwest side of Norfolk Harbor Channel at latitude 36°52'01", longitude 76°19'42.5"; thence southeasterly along the side of the channel to latitude 36°51'32", longitude 76°19'01"; and thence to latitude 36°51'18", longitude 76°19'16".

(e) *Eastern Branch of Elizabeth River—*(1) *Anchorage Q, Berkley.* South of the channel, shoreward of a line described as follows: Beginning at latitude 36°50'20", longitude 76°17'12.5"; thence to latitude 36°50'24", longitude 76°17'14.5"; thence to latitude 36°50'-22.5", longitude 76°16'58.5"; and thence to latitude 36°50'13", longitude 76°16'59".

(2) *Anchorage R—*(i) *Section 1.* South of the channel, shoreward of a line described as follows: Beginning at latitude 36°50'11", longitude 76°16'17"; thence to latitude 36°50'18", longitude 76°16'19"; thence to latitude 36°50'20", longitude 76°16'05"; and thence to latitude 36°50'14.5", longitude 76°16'03".

(ii) *Section 2.* South of the channel, shoreward of a line described as follows: Beginning at latitude 36°50'15", longitude 76°15'48.5"; thence to latitude 36°50'21", longitude 76°15'50.5"; thence to latitude 36°50'17", longitude 76°-15'18"; and thence to latitude 36°50'11", longitude 76°15'20".

(iii) *Section 3.* South of the channel, shoreward of a line described as follows:

Beginning at latitude 36°58'10", longitude 76°15'15"; thence to latitude 36°-56'15.9", longitude 76°15'12.5"; thence to latitude 36°56'16.8", longitude 76°14'-50"; and thence to latitude 36°56'08", longitude 76°14'51".

(iv) No vessel shall anchor within 200 feet of permanent improvements.

(3) *Anchorage S*—(i) *Section 1.* On the north side of the river, upstream from the Virginian Railway bridge, and shoreward of a line described as follows: Beginning at latitude 36°56'23", longitude 76°14'18"; thence to latitude 36°-56'18.5", longitude 76°14'18"; thence to latitude 36°56'14", longitude 76°14'39"; and thence to latitude 36°56'19.5", longitude 76°14'39".

(ii) *Section 2.* On the north side of the Eastern Branch, below the mouth of Broad Creek, and shoreward of a line described as follows: Beginning at latitude 36°56'22.5", longitude 76°13'50"; thence to latitude 36°56'19.5", longitude 76°14'-12.5"; and thence to latitude 36°56'24", longitude 76°14'13".

(iii) Anchorage is prohibited within 200 feet of permanent improvements.

(f) *Willoughby Bay*—(1) *Anchorage J-1 (for yachts and pleasure craft).* East of the west end of Willoughby Spit, shoreward of a line running from latitude 36°57'54", longitude 76°17'46", to latitude 36°57'50.5", longitude 76°17'-49".

(2) *Anchorage J-2 (for yachts and pleasure craft).* South of Willoughby Spit, shoreward of a line described as follows: Beginning at latitude 36°57'42", longitude 76°16'21.5"; thence to latitude 36°57'44.5", longitude 76°17'27"; thence to latitude 36°57'48", longitude 76°17'-43"; and thence to latitude 36°57'55.5", longitude 76°17'44".

(g) *Lower Chesapeake Bay south of Thimble Shoal Channel*—(1) *Anchorage L-A (naval).* Between Cape Henry and Little Creek, beginning at latitude 36°57'11.0", longitude 76°03'03.0"; thence to latitude 36°55'41.0", longitude 76°03'14.5"; thence to latitude 36°56'-22.0", longitude 76°05'53.5"; thence to latitude 36°57'01.5", longitude 76°05'-59.0"; thence to latitude 36°57'57.0", longitude 76°09'35.0"; thence to latitude 36°58'47.0", longitude 76°09'08.5"; thence to the point of beginning.

(i) This anchorage is reserved primarily for the use of naval vessels, but in the absence of the fleet the Captain of the Port may, in his discretion, permit it to be used by merchant vessels. Movement of vessels through the area will not be restricted.

(2) *Anchorage L-C.* Northwest of Anchorage L-A, beginning at latitude 36°59'14", longitude 76°16'56.5"; thence to latitude 36°58'18.3", longitude 76°19'-54"; thence to latitude 36°58'50", longitude 76°13'32.5"; thence to latitude 36°59'56", longitude 76°13'36.3"; thence to the point of beginning.

(i) This anchorage is primarily for the use of merchant vessels but the Captain of the Port may, in his discretion, permit it to be used by naval vessels, the commercial conditions at the time being given due consideration. No vessels shall occupy any berth in this anchorage without first obtaining permission from the Captain of the Port.

(2) *Anchorage L-E (for naval amphibious craft).* Southwest of Anchorage L-A, east of the Little Creek thoroughfare, and shoreward of a line described as follows: Beginning at Little Creek Harbor Jetty 1 light (approximately latitude 36°56'57.9", longitude 76°10'36.0"); thence to latitude 36°56'04.0", longitude 76°10'02.0"; thence to latitude 36°57'-31.5", longitude 76°07'55.0"; thence to latitude 36°56'25.9", longitude 76°06'-28.5".

(i) This anchorage is reserved for the exclusive use of naval vessels and, except in case of emergency, no other vessel shall anchor therein without permission from local naval authorities, obtained through the Captain of the Port, Norfolk, Virginia. Movement of vessels through the anchorage will not be restricted.

(h) *General regulations.* (1) Except in cases of great emergency, no vessel shall be anchored in Hampton Roads or adjacent waters outside of the anchorage areas established in this section or within a cable or pipe line area shown on a Government chart, nor be moored, anchored, or tied up to any pier, wharf, or other vessel in such manner as to obstruct or endanger the passage of any vessel.

(2) No vessel shall occupy for a longer period than 30 days, unless a permit is obtained from the Captain of the Port for that purpose, any anchorage for which the time of occupancy is not otherwise prescribed in this section. No vessel in a condition such that it is likely to sink or otherwise become a menace or obstruction to navigation or anchorage of other vessels shall occupy an anchorage except in an emergency, and then only for such period as may be permitted by the Captain of the Port.

(3) Whenever, in the opinion of the Captain of the Port, such action may be necessary, that officer may require any or all vessels in any designated anchorage area to moor with two or more anchors.

(4) Every vessel whose crew may be reduced to such number that it will not have sufficient men on board to weigh anchor at any time shall, before release or reduction of the crew, be anchored with two anchors with mooring swivel unless the Captain of the Port shall waive the requirement of a mooring swivel.

(5) Anchors shall be placed well within the anchorage areas, so that no portion of the hull or rigging will at any time extend outside the boundaries of the anchorage area.

(6) Any vessel anchoring under circumstances of great emergency outside an anchorage area shall be placed near the edge of the channel and in such position as not to interfere with the free navigation of the channel nor obstruct the approach to any pier nor impede the movement of any other vessel, and shall move away immediately after the emergency ceases, or upon notification by the Captain of the Port.

(7) Upon application, a berth in an anchorage, if available, will be assigned to any vessel by the Captain of the Port. He may grant revocable permits for the habitual use of the same berth, and no vessel shall occupy a berth habitually except under authority of such a permit.

(8) Upon approval of the District Engineer, Corps of Engineers, the Captain of the Port may permit wrecking plant or other vessels legally engaged in recovering sunken property or in laying or repairing legally established pipe lines or cables, or plant engaged in dredging operations, to anchor in channels. Such permission is not necessary for plant engaged upon works of river and harbor improvement under the supervision of the District Engineer, but the District Engineer will notify the Captain of the Port in advance of all such proposed work.

(9) Whenever the maritime or commercial interests of the United States so require, the Captain of the Port is hereby empowered to shift the position of any vessel anchored or moored within or outside an anchorage area, including any vessel which is so moored or anchored as to obstruct navigation or interfere with range lights.

(10) A vessel upon being notified to shift its position shall get under way at once or signal for a tug and shall change position as directed with reasonable promptness.

(11) Nothing in this section shall be construed as relieving any vessel or the owner or person in charge of any vessel from the penalties of law for obstructing navigation or for obstructing or interfering with range lights, or for not complying with the laws relating to lights and fog signals or other navigation laws.

§ 110.173 Port of Charleston, S.C.

(a) *The anchorage grounds.* The anchorage grounds for general use shall include all the navigable portions of the harbor and the portions of Cooper, Ashley, and Wando Rivers adjacent thereto, except the following:

(1) *Areas of prohibited anchorage.* (i) A ship channel 1,000 feet wide between the jetties, thence 800 to 400 feet wide (or as much wider as an improved channel may hereafter be dredged), following the established ranges and usual courses and passing east of Drum Island to Goose Creek. Between the north Customhouse Wharf and the northernmost building ways of the Todd Shipyard Corporation, this shall include all the area between the western limit of the Channel and the eastern waterfront of Charleston.

(ii) A ship channel 500 feet wide from the northernmost building ways of the Todd Shipyards Corporation north through Town Creek, following the established ranges and usual courses and connecting at both ends with the main channel.

(iii) A ship channel in Ashley River from its mouth to Standard Wharf 300 feet wide following the established ranges and usual courses and widened at bends and at the upstream and downstream ends.

(iv) The commonly used channel in Wando River, with width of 200 feet.

(v) The commonly used channel in Hog Island Channel with a width of 200 feet from Cooper River to the area opposite Shem Creek.

(2) *Anchorage for explosives.* Vessels carrying explosives may anchor only in that section of the Wando River designated as "Anchorage for Explosives," which lies on the west side of that river in the area one mile upstream of the south end of Daniel Island: *Provided*, That vessels carrying explosives shall not anchor within 400 yards of each other, but this provision is not intended to prohibit lighters from lying alongside ships for the transfer of cargo.

(3) *Special anchorages.* Two special anchorages are provided in Cooper River along the eastern waterfront of Charleston. The use of these special anchorages is limited to loaded vessels for a period of not more than 72 hours. The bearings and distances for the centers of these special anchorages are from the tank atop the Fort Sumter Hotel on the Battery at Charleston:

(i) 30°30' true; 2, 687 yards; diameter of anchorage, 1,400 feet.

(ii) 37°00' true; 2,017 yards; diameter of anchorage, 1,400 feet.

(b) *The regulations.* (1) Except in cases of great emergency, no vessel shall be anchored in the prohibited areas described in paragraph (a) of this section, nor shall any vessel be so anchored that it can swing within 400 feet of any wharf or pier on the eastern waterfront of Charleston.

(2) Vessels using the two special anchorages opposite the eastern waterfront of Charleston shall place their anchors as near as possible in the center of the anchorage. Vessels not using a special anchorage shall not place their anchors within the areas of prohibited anchorage, but vessels may be so anchored as to swing into these areas: *Provided*, That that they are so placed, with reference to the customary winds, tides, and currents of the harbor, that they will swing only during slack water, and at this period there shall remain in the waters adjacent to the channel an area providing sufficient depth so as to permit the safe passage of loaded vessels.

(3) Vessels must be anchored in such a way as not to interfere with the free navigation of channels of the port, including Cooper, Ashley, and Wando Rivers, Town Creek, and Hog Island Channel, or to obstruct the approach to any pier or entrance to any slip, or to impede the movement of any vessel or craft.

(4) Dragging of anchors in or across the areas of prohibited anchorage is prohibited.

(5) Vessels which, through force of great emergency, are anchored contrary to the foregoing regulations in this section shall be shifted to new berths in accordance with such regulations at the earliest opportunity.

(6) A vessel, upon notification from the Captain of the Port to shift its position in anchorage grounds or out of areas of prohibited anchorage, must get under way at once or signal for a tug, and must change position as directed with reasonable promptness.

(7) Vessels carrying explosives shall be anchored only within the anchorage ground described in paragraph (a) (2) of this section, which may be used also by vessels carrying other classes of freight when proper anchorage space is not available elsewhere in the harbor, including the connecting rivers.

(8) Vessels carrying explosives shall be at all times in charge of competent persons, and must display by day a red flag, of at least 16 square feet, at the masthead, or at least 10 feet above the upper deck if the vessel has no mast; at night a red light shall be displayed in the same positions specified for the red flag. No smoking will be permitted on or near such vessels, and no persons under the influence of liquor will be allowed on board any vessel, barge, or scow carrying explosives, nor will they be allowed to approach such vessels.

(9) Nothing in this section shall be construed as relieving the owner or person in charge of any vessel from the penalties of law for obstructing navigation, or for obstructing or interfering with range lights, or for not complying with the navigation laws in regard to lights, fog signals, etc.

§ 110.178 Wilmington River, Ga.

(a) *The anchorage grounds.* An area in the Wilmington River in the vicinity of Thunderbolt Harbor to the westward of a line from the southeasterly corner of the outer end of the wharf of the Shrine Club, bearing 183°, 480 feet, to a point marked with a buoy; thence 204°30', 2,280 feet, to the Maggioni Packing Plant.

NOTE: Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes are prohibited.

(b) *The regulations.* (1) Except in cases of great emergency, no vessel shall anchor in Wilmington River between the State Highway bridge at Thunderbolt, and 4,000 feet to the southward, except in the anchorage area hereby defined and established: *Provided, however*, That vessels may moor to any lawfully constructed wharf.

(2) Anchors must not be placed outside the anchorage area, nor shall any vessel be so anchored that any portion of the hull or rigging shall at any time extend outside the boundary of the anchorage area.

(3) Any vessel anchoring under circumstances of great emergency outside of the anchorage area should be placed near the edge of the channel and in such position as not to interfere with the free navigation of the channel nor obstruct the approach to any pier nor impede the movement of any boat, and shall move away immediately after the emergency ceases or upon notification by the District Commander.

(4) A vessel, upon being notified to move into the anchorage limits or to shift its position on anchorage grounds, must get underway at once and must change position as directed, with reasonable promptness.

(5) Whenever the maritime or navigation interest of the United States so require, the District Engineer is hereby empowered to shift the position of any vessel anchored within the anchorage area and of any vessel which is so moored or anchored as to impede or obstruct vessel movements in any channel.

(6) Nothing in this section shall be construed as relieving the owner of or person in charge of any vessel from the penalties of the law for obstructing navigation or for not complying with the navigation laws in regard to lights, fog signals, or for otherwise violating the law.

§ 110.179 Skidaway River, Isle of Hope, Ga.

(a) *The anchorage ground.* An area in Skidaway River beginning at a point on the mean low water line 400 feet south of Brady Boat Works, thence 76°30', 300 feet to a buoy; thence 152°30', 900 feet to a buoy; thence 251°00', 450 feet to the mean low water line at Wymberly Yacht Club dock.

(b) *The regulations.* (1) Except in cases of great emergency, no vessels shall anchor in Skidaway River between the north end of Barbee's dock and southward to Day Marker 48 except in the anchorage area hereby defined and established: *Provided, however*, That vessels may moor to any lawfully constructed wharf.

(2) Except in cases of great emergency, no vessel shall be anchored where it can swing within 50 feet of any lawfully constructed wharf or within 50 feet of the mean low water line, nor shall any vessel be so anchored that any portion of the hull or rigging shall at any time extend outside the boundary of the anchorage area.

(3) Any vessel anchoring under circumstances of great emergency outside the anchorage area should be placed in such a position as not to interfere with the free navigation of the channel nor obstruct the approach to any lawfully constructed wharf nor impede the movement of any boat, and shall move away immediately after the emergency ceases or upon notification of the District Commander.

(4) No vessels with an overall length greater than 65 feet will use the anchorage area except in cases of great emergency.

(5) Vessels operating within the anchorage area will not exceed a speed of five (5) miles per hour.

§ 110.182 Atlantic Ocean off Fort George Inlet, near Mayport, Fla.

(a) *The Anchorage areas*—(1) *Anchorages for aircraft carriers and other deep draft vessels.* Four circular areas each with a radius of 600 yards and with their centers located at: "A"—latitude 30°25'35", longitude 81°21'23"; "B"—latitude 30°26'13", longitude 81°21'13"; "C"—latitude 30°26'19", longitude 81°-20'27"; "D"—latitude 30°26'55", longitude 81°20'47".

(2) *Anchorages for destroyers and other ships of similar size.* Six circular areas each with a radius of 300 yards and with their centers located at: "1"—latitude 30°24'38"; longitude 81°21'57"; "2"—latitude 30°24'57", longitude 81°-

21°48''; "3"—latitude 30°24'56", longitude 81°21'38''; "4"—latitude 30°26'13", longitude 81°22'05''; "5"—latitude 30°25'13", longitude 81°21'43''; "6"—latitude 30°25'07", longitude 81°21'24".

(3) *Explosives anchorage.* The circular area "A" described in paragraph (a) (1) of this section is also designated as an explosives anchorage for use during periods when ammunition must be handled outside the limits of the U.S. Naval Station, Mayport, Fla.

(b) *The regulations for all designated areas.* (1) Usage of these areas by naval vessels shall predominate only when necessary for military requirements; at such times other vessels shall remain clear of the areas.

(2) Prudent assignment of the anchorage areas shall be made by the Commanding Officer, U.S. Naval Station, Mayport, Fla.

(c) *Additional regulations for Explosives Anchorage Area "A".* (1) When occupied by a vessel handling explosives, no other vessel may enter the area unless authorized by the enforcing agency.

(2) Only one vessel handling explosives may anchor in the area at one time. A patrol craft shall be utilized to assure that other vessels remain clear when explosives are exposed or being transferred to and from the anchorage.

(3) No more than 500,000 pounds net high explosives or equivalent may be exposed in the area at any one time.

(d) The regulations in this section shall be enforced by the Commanding Officer, U.S. Naval Station, Mayport, Fla., or other agencies that he may designate.

§ 110.183 St. Johns River, Fla.

(a) *The anchorage grounds*—(1) *Anchorage A.* Beginning at the west shore and at the south side of Fuller Warren Bridge, latitude 30°18'58", longitude 81°40'36"; thence easterly along the south side of said bridge to the easterly shoreline at latitude 30°18'47", longitude 81°39'52"; thence southerly along the easterly shoreline and along a portion of a straight line extending N. 00°15' E. from Point La Vista to latitude 30°17'48", longitude 81°39'52"; thence west to longitude 81°40'45"; thence to the westerly shoreline at Winter Point and northeasterly along the westerly shoreline to Fuller Warren Bridge.

(2) *Anchorage B.* Beginning at Point La Vista, latitude 30°16'48", longitude 81°39'54"; thence to latitude 30°16'52", longitude 81°40'54"; thence to latitude 30°17'48", longitude 81°40'45"; thence east to longitude 81°39'52"; thence S. 00°15' W. to Point La Vista.

(3) *Anchorage C.* Shoreward of a line located as follows:

Beginning at a point on the south shore westerly of the entrance to Miller Creek at longitude 81°38'15"; thence north 300 yards; thence east to longitude 81°37'40"; thence to latitude 30°19'06", longitude 81°37'27"; thence east to longitude 81°37'02"; thence south to Empire Point.

(4) *Anchorage D.* Bounded on the west by a line along the easterly side of Terminal Channel and bounded on the east by a line along the westerly side of Arlington Cut. Beginning at a point at latitude 30°19'30", longitude 81°37'25"; thence to latitude 30°20'07", longitude 81°37'18"; thence to latitude 30°20'06", longitude 81°37'08"; thence to latitude 30°19'20", longitude 81°37'17"; thence to the point of beginning. No vessels shall anchor within 300 feet of Terminal Channel or Arlington Cut.

(5) *Anchorage E.* Beginning at a point near the easterly shore of the river at latitude 30°21'42", longitude 81°36'52"; thence west to longitude 81°37'15"; thence north to latitude 30°22'07"; thence to the point of beginning.

(6) *Anchorage F.* Shoreward of a line located as follows: Beginning at a point on the east shore at latitude 30°21'42", longitude 81°36'45"; thence west to longitude 81°36'52"; thence to latitude 30°22'07", longitude 81°37'15"; thence N. 56°15' E. to the east shore.

(b) *The regulations.* (1) Anchorages A, B, D, and F are permanent anchorages. Anchorage A is reserved for deep-draft vessels, Anchorage B is reserved for shallow-draft vessels, Anchorage D is reserved for light-draft barges and schooners, and Anchorage F is reserved for deep-draft barges and schooners.

(2) Anchorage C is a temporary anchorage for deep-draft vessels. This anchorage shall be an anchorage for vessels exceeding 24 feet in draft. No vessel shall remain in the anchorage more than 24 hours without obtaining a permit from the Captain of the Port.

(3) Anchorage E shall be used only by vessels awaiting quarantine inspection, or by special permit from the Captain of the Port.

§ 110.188 Atlantic Ocean off Miami and Miami Beach, Fla.

(a) *The anchorage grounds.* The area to the eastward of a line bearing 12° (N. 12° E.) through a point X, which is 1½ nautical miles due east of the intersection of the Miami Beach shore line with the north jetty; to the northward of a line bearing 102° (S. 78° E.) and intersecting the 12° line at a point A, one-half nautical mile north of the said point X; and to the southward of a line bearing 102° (S. 78° E.) and intersecting the 12° line at a point B, 2½ nautical miles north of the said point X. The northern and southern extremities of the 12° line are marked by spar buoys. The entire anchorage area lies north of the entrance channel to Miami Harbor.

(b) *The rules and regulations.* (1) Except in cases of great emergency, no vessel shall be anchored in the Atlantic Ocean in the vicinity of the entrances to the approach channels leading to the cities of Miami Beach and Miami, Fla., outside of the anchorage area hereby defined and established—that is, they shall not anchor shoreward of the line first named nor southward of the second nor northward of the third line—but may anchor as far to the eastward as may be desired.

(2) Any vessel anchoring under circumstances of great emergency outside of the anchorage area shall be shifted to new berths within the area immediately after the emergency ceases.

(3) All vessels shall lie at anchor with as short a cable as conditions will permit.

(4) A vessel upon being notified to move into the anchorage limits or to shift its position on the anchorage ground must get under way at once or signal for a tug, and must change position as directed with reasonable promptness.

(5) Whenever the maritime or commercial interests of the United States so require, the Captain of the Port, U.S. Coast Guard, Miami, Fla., is hereby empowered to shift the position of any vessel anchored on the anchorage ground or outside thereof, or of any vessel moored or anchored so as to impede or obstruct vessel movements or obstruct or interfere with range lights.

(6) Vessels carrying explosives shall be anchored only under a written permit issued by the Captain of the Port and at such point as he may direct.

(7) Vessels carrying explosives shall be at all times in charge of a competent person, and must display by day a red flag, of not less than 16 square feet, at the masthead, or not less than 10 feet above the upper deck if the vessel has no mast; at night a red light shall be displayed in the positions specified for the red flag.

(8) Nothing in this paragraph shall be construed as relieving the owner or person in charge of any vessel from the penalties of the law for obstructing navigation, or for obstructing or interfering with range lights, or for not complying with the navigation laws in regard to lights, fog signals, or other aids to navigation, or for otherwise violating law.

§ 110.189a Key West Harbor, Key West, Fla.; naval explosives anchorage area.

(a) *The anchorage ground.* A circular area with its center at latitude 24°-30'50.6", longitude 81°50'31.6" with a radius of 300 yards, for use for ammunition exceeding the prescribed limits for pier-side handling.

(b) *The regulations.* (1) When occupied by a vessel handling explosives, no other vessel may enter the area unless authorized by the enforcing agency.

(2) Only one vessel handling explosives may anchor in the area at one time.

(3) No more than 300,000 pounds net of high explosives or equivalent may be handled in the area at any one time.

(4) The regulations in this section shall be enforced by the Commander, U.S. Naval Base, Key West, Fla., and any other agencies he may designate.

§ 110.190 Tortugas Harbor, in vicinity of Garden Key, Dry Tortugas, Fla.

(a) *The anchorage grounds.* All of Bird Key Harbor, southwest of Garden Key, bounded by the surrounding reefs and shoals and, on the northeast, by a line extending from Fort Jefferson West Channel Daybeacon 2 to Fort Jefferson West Channel Daybeacon 4, thence to Fort Jefferson West Channel Daybeacon 6, and thence to Fort Jefferson West Channel Daybeacon 8.

(b) *The regulations.* Except in cases of emergency involving danger to life or property, no vessel engaged in commercial fishing or shrimping shall anchor in any of the channels, harbors, or lagoons in the vicinity of Garden Key, Bush Key, or the surrounding shoals, outside of Bird Key Harbor.

§ 110.193 Tampa Bay, Fla.

(a) *The anchorage grounds*—(1) *Explosives anchorage east of Mullet Key.* A rectangular area in Tampa Bay, approximately 4,459 yards long and 1,419 yards wide, beginning at latitude 27°38'30", longitude 82°39'09", and extending northeasterly to latitude 27°39'48", longitude 82°37'15"; thence southeasterly to latitude 27°39'17", longitude 82°-36'46"; thence southwesterly to latitude 27°37'52", longitude 82°38'38"; thence northwesterly to the point of beginning.

(2) *Temporary explosives anchorage south of Interbay Peninsula.* Beginning at a point bearing 107°, 1,750 yards from Cut F Range Front Light; thence to a point bearing 125°, 2,050 yards, from Cut F Range Front Light; thence to a point bearing 180°, 1,725 yards, from Cut F Range Front Light; thence to a point bearing 222°, 2,180 yards, from Cut F Range Front Light; thence to a point bearing 261°, 1,540 yards, from Cut F Range Front Light; and thence to the point of beginning.

(3) *Temporary explosives anchorage off Port Tampa.* A circular area with a radius of 200 yards with the point at latitude 27°50'22", longitude 82°34'15".

(4) *Quarantine Anchorage.* South east of the temporary explosive anchorage, beginning at a point bearing 97° true, 4,370 yards, from Cut "F" Range Front Light; thence to a point bearing 113°30', 5,370 yards, from Cut "F" Range Front Light; thence to a point bearing 161°30', 3,770 yards, from Cut "F" Range Front Light; thence to a point bearing 163°30', 2,070 yards, from Cut "F" Range Front Light; thence to the point of beginning.

(b) *The regulations.* (1) The explosives anchorage east of Mullet Key shall be used by vessels awaiting loading or unloading at Port Tampa that have explosives actually on board and where the duration of anchorage will exceed 72 hours.

(2) The temporary explosives anchorages south of Interbay Peninsula and off Port Tampa shall be used for vessels engaged in loading explosives when the duration of the anchorage is less than 72 hours.

§ 110.193a St. Joseph Bay, Fla.

(a) *The anchorage grounds*—(1) *Explosives Anchorage Area 1.* A rectangular area 3,000 yards long by 700 yards wide beginning at a point 1,350 yards west of U. S. Highway 98 Bridge over Gulf County Canal. The area is parallel to and 450 yards northeast of the north entrance channel to Port St. Joe, Florida.

(2) *Explosives Anchorage Area 2.* A circular area with a 500-yard radius around a center point located at latitude 29°47'30"; longitude 85°21'30", 3,100 yards southeast of FW South Channel Light and 5,250 yards south of FW North Channel Light, in St. Joseph Bay, Port St. Joe, Florida.

(b) *The regulations.* (1) The explosives anchorage areas shall be used as temporary anchorage for vessels engaged in loading and unloading explosives at the port of Port St. Joe, Florida, when the duration of the anchorage period is less than 96 hours.

(2) No vessel shall occupy this anchorage without obtaining a permit from the Captain of the Port.

§ 110.194 Mobile Bay, Ala., at entrance.

(a) *The anchorage grounds.* The waters within a radius of 750 yards from a point located 1,000 yards true north from Fort Morgan Light.

(b) *The regulations.* (1) This anchorage shall be used by vessels loading or discharging high explosives. It shall also be used by vessels carrying dangerous or inflammable cargoes requiring an anchorage. It may be used for a general anchorage when not required for vessels carrying explosives or dangerous or inflammable cargoes.

(2) No vessel shall occupy this anchorage without obtaining a permit from the Captain of the Port.

§ 110.194a Mobile Bay, Ala., and Mississippi Sound, Miss.

(a) *The anchorage grounds.* (1) The waters of lower Mobile Bay, near Cedar Point, within an area bounded on the north by latitude 30°21'00", on the east by longitude 88°05'00", on the south by latitude 30°20'00", and on the west by longitude 88°06'00".

(2) The waters of Mississippi Sound, south of Biloxi, within an area bounded on the north by latitude 30°20'00", on the east by longitude 88°54'00", on the south by latitude 30°19'00", and on the west by longitude 88°55'00".

(b) *The regulations.* (1) The anchorages are exclusively for the use of unmanned barges, canal boats, scows, and other nondescript vessels. Such craft shall be so anchored that they will not at any time extend outside the limits of the anchorages.

(2) In emergencies or whenever maritime or commercial interests of the United States so require, the Captain of the Port is authorized to shift the position of any craft in the anchorages.

(3) Whenever in the opinion of the Captain of the Port, such action may be necessary, any or all craft in these anchorages may be required to be moored with two or more anchors.

(4) No vessel shall be navigated within the anchorages at a speed exceeding six knots.

§ 110.194b Mississippi Sound and Gulf of Mexico, near Petit Bois Island, Miss.

(a) *The anchorage grounds*—(1) *Explosives Anchorage Area No. 1.* A circular area with a one-half mile radius with its center located at latitude 30°14'09", longitude 88°29'13", in the waters of Mississippi Sound north of the west end of Petit Bois Island.

(2) *Explosives Anchorage Area No. 2.* A circular area with a three-fourths mile radius with its center located at latitude 30°11'12", longitude 88°30'07", in the waters of Gulf of Mexico south of the west end of Petit Bois Island.

(b) *The regulations.* (1) The areas shall be used as temporary anchorages for vessels engaged in loading and unloading explosives at the Port of Pascagoula, Miss.

(2) No vessel shall occupy the areas without obtaining a permit from the Captain of the Port.

§ 110.195 Mississippi River below Baton Rouge, La., including South and Southwest Passes.

(a) *The anchorage grounds*—(1) *Pilottown anchorage.* An area approximately 4.7 miles in length along the right descending bank or west side of the river, 800 feet wide, extending from a point directly opposite Pilottown Wingdam Light, about 1.7 miles upstream from Head of Passes, upstream to a point 1.0 mile downstream from Wilder Flats Light. The area is marked by large signs, "Pilottown Anchorage," located on the right bank at the lower and upper limits. This anchorage is for ships which cannot proceed to sea because of fog at the Gulf ends of South and Southwest Passes or for any other reason.

(2) *Explosives anchorage.* An area along the right descending bank or west side of the river, 1,000 feet wide, extending upstream and downstream from a point located 1.4 miles upstream from Oak Point Light. The Commander, Eighth Coast Guard District, will designate anchorages upstream and downstream from this point. This anchorage is reserved for vessels carrying explosives. It may be used for a general anchorage when not required for vessels carrying explosives or dangerous or inflammable cargo. No vessel shall occupy this anchorage without obtaining a permit from the Commander, Eighth Coast Guard District.

(3) *New Orleans general anchorage.* An area approximately 2.1 miles in length along the right descending bank or southwest side of the river, 800 feet wide, extending from Cutoff Light upstream to the lower limits of the quarantine anchorage, approximately 0.7 mile downstream from the United States Quarantine Station Wharf. The area is marked by large signs, "General Anchorage," located on the right bank at the lower and upper limits. Vessels anchoring alongside of each other or in fleets are permitted, but during slack or low-water periods bow and stern anchors shall be provided.

(4) *Quarantine anchorage.* An area approximately 4,000 feet in length along the right descending bank or southwest side of the river, 800 feet wide, extending from the upper limits of the New Orleans general anchorage, approximately 0.7 mile downstream from the United States Quarantine Station Wharf, upstream to a point marked by a sign located at the lower end of the Todd-Johnson Wharf, approximately 100 feet upstream from the Quarantine Station Wharf. This anchorage must be used by vessels awaiting inspection by United States Public Health officials or under actual quarantine, and is under the supervision of the

Officer in Charge of the United States Quarantine Station (section 364, Public Health Service Act, July 1, 1944, 58 Stat. 704; 42 U. S. C. 267).

(5) *Cargo transfer anchorage.* An area approximately 1.7 miles in length along the left descending bank of the river, about 600 feet wide, extending from Mile 127.3 to Mile 129.0 above Head of Passes. This area is located adjacent to the river end of Bonnet Carre Spillway. During the time when the Bonnet Carre Spillway is operating, vessels will not be permitted to use this area but will moor at areas as directed by the District Commander. Upon completion of the transfer of cargo, vessels shall move from this area.

(6) *Temporary anchorages, Baton Rouge, New Orleans.* Vessels awaiting berthing at riverside wharves between Mile 233 above Head of Passes and the upper limits of the Port of New Orleans, Mile 107 above Head of Passes, will anchor in a manner and area as prescribed by the District Commander.

(7) *Baton Rouge general anchorage.* An area, 1,400 feet wide, between Mile 225 and Mile 226.5 above Head of Passes with its west limit along the low water line.

(b) *The regulations.* (1) Except in cases of poor visibility or other emergency, anchoring is prohibited in the Mississippi River below Baton Rouge outside of the established anchorages or in South and Southwest Passes. If it becomes necessary in an emergency to anchor a vessel outside of the prescribed anchorages the vessel shall be so anchored that it will not interfere with or endanger other vessels, and it shall be moved as soon as the emergency is over. If it becomes necessary in an emergency to anchor a vessel in South Pass or Southwest Pass, the vessel shall take a position as close to the east bank as possible.

(2) When tied up individually or in fleets vessels shall be moored with sufficient lines and shore fastenings to insure their remaining in place and withstanding the action of winds, currents, or the suction of passing vessels.

(3) Except in case of great emergency, no vessel or craft shall anchor over revetted banks of the river. Every precaution shall be exercised at all times to avoid damage to the revetment works. The location of mattress work in New Orleans Harbor is indicated by warning signs erected at the ends and center of each reach of mattress work. Generally, mattress work extends out into the river 600 feet from the low water line. Information as to the location of revetted areas may be obtained from, and will be published from time to time by, the District Engineer, Corps of Engineers, New Orleans, Louisiana.

(4) The masters and pilots of all seagoing steamers, tugboats, and other vessels passing the explosives anchorage shall regulate the speed of their vessels over the bed of the river so as not to exceed seven miles per hour going downstream or five miles per hour going upstream whenever any vessel is anchored or moored within the explosives anchorage and engaged in handling explosives.

§ 110.196 Sabine Pass Channel, Sabine Pass, Tex.

(a) *The anchorage area.* The navigable waters of Sabine Pass within a trapezoidal area 1,500 feet wide and varying uniformly in length from 5,800 feet to 3,000 feet with the long side adjacent to the northeasterly edge of Sabine Pass Channel at a location opposite the town of Sabine Pass.

(b) *The regulations.* (1) The anchorage area is for the temporary use of vessels of all types, but especially for naval and merchant vessels awaiting weather and tidal conditions favorable to the resumption of their voyages.

(2) Except when stress of weather or adverse tides or currents make sailing impractical or hazardous, vessels shall not anchor in the anchorage area for periods exceeding 48 hours unless expressly authorized by the Captain of the Port to anchor for longer periods.

(3) Vessels shall not anchor so as to obstruct the passage of other vessels proceeding to or from available anchorage spaces.

(4) Anchors shall not be placed channelward from the anchorage area, and no portion of the hull or rigging of any anchored vessel shall extend channelward from the limits of the anchorage area.

(5) Vessels using spuds for anchors shall anchor as close to shore as practicable having due regard for the provisions in subparagraph (3) of this paragraph.

(6) Fixed moorings, piles or stakes, and floats or buoys for marking anchorages or moorings in place are prohibited.

(7) Whenever the maritime or commercial interests of the United States so require, the Captain of the Port is hereby empowered to shift the position of any vessel anchored or moored within or outside of the anchorage area including any vessel which is moored or anchored so as to obstruct navigation or interfere with range lights.

§ 110.205 Chicago Harbor, Ill.

(a) *The anchorage grounds*—(1) *Anchorage A, exterior breakwater.* Southwest of a line parallel with and 150 feet southwestward of the exterior breakwater; west of a line parallel with and 150 feet west of the south extension of the exterior breakwater; northeast of a line parallel with and 1,500 feet southwestward of the exterior breakwater; and east of a line parallel with the south extension of the exterior breakwater and 500 feet eastward of the east face of the filtration plant.

NOTE: This area is reserved for commercial vessels operated for profit. Floats or buoys for marking anchors or moorings in place, and fixed mooring piles or stakes are prohibited in this area.

(2) *Anchorage B, south arm.* West of a line parallel with and 150 feet west of the south arm of the exterior breakwater; north of a line perpendicular to the south arm at its south end; east of a line parallel with the south arm, about 2,200 feet therefrom and on line with the east face of the Municipal Pier; and south of a line perpendicular to the south arm 700 feet from its north end.

NOTE: This area is reserved for commercial vessels operated for profit. Floats or buoys for marking anchors or moorings in place, and fixed mooring piles or stakes are prohibited in this area.

(3) *Anchorage C, shore arm.* South of a line parallel with and 150 feet southward of the shore arm of the exterior breakwater; west of a line parallel with the south extension of the exterior breakwater, 100 feet westward of the east end of the shore arm; northwest of a line perpendicular to the Lake Shore Drive revetment and 300 feet northwest of the northwest corner of the filtration plant; and east of a line parallel with and 600 feet lakeward of the Lake Shore Drive revetment.

NOTE: Commercial vessels operated for profit and measuring more than 50 gross tons are forbidden to anchor in this area. Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes are prohibited.

(4) *Anchorage D, Grant Park North.* Beginning at a point 2,700 feet south of the south face of the Naval Armory Dock and 100 feet east of the Grant Park bulkhead along the west side of the harbor, said bulkhead at that point being approximately on the harbor line approved by the Department of the Army on August 3, 1940; thence north along a straight line parallel to said harbor line and to the overall alignment of said Grant Park bulkhead between its north and south ends, 1,460 feet to a point which is 100 feet east of said harbor line and 150 feet east of the Grant Park bulkhead; thence east at a right angle, 150 feet; thence north at a right angle, parallel to the first described line, passing 100 feet east of the Chicago Yacht Club dock, 693 feet; thence east at a right angle, 75 feet; thence north parallel to and 375 feet east of aforesaid Grant Park bulkhead, 390 feet; thence east at a right angle, 385 feet; thence north at a right angle 97 feet to a point 760 feet east of said Grant Park bulkhead (or 710 feet east of said harbor line) and 60 feet south of a line drawn east at a right angle thereto, from the north end of said Grant Park bulkhead at the south face of said Naval Armory Dock; thence east perpendicular to said Grant Park bulkhead, 840 feet; thence southerly 2,415 feet to a point 1,500 feet east of said harbor line and about 1,505 feet east of said Grant Park bulkhead; thence southwesterly 740 feet to a point 700 feet due east, in a direction perpendicular to the west line hereof, from the point of beginning; and thence west to the point of beginning.

NOTE: Commercial vessels operated for profit and measuring more than 50 gross tons are forbidden to anchor in this area. Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes are prohibited. Steamers and motor vessels measuring over 5 gross tons are forbidden to use this area as a through channelway.

(5) *Anchorage E, Grant Park South.* Beginning at a point 3,000 feet south of the south face of the Naval Armory Dock and 100 feet east of the Grant Park bulkhead along the west side of the harbor, said bulkhead at that point being approximately on the harbor line approved by the Department of the Army on August 3, 1940; thence east, perpendicular to the overall alignment of the Grant Park bulkhead and perpendicular to said harbor line, 700 feet; thence southeasterly 697 feet to a point 1,460 feet east of said Grant Park bulkhead and 225 feet south of an extension of the first described line; thence south perpendicular to the first described line, 225 feet; thence southwesterly 2,225 feet along a line generally 150 feet northwesterly from and parallel to the northwesterly face of the narrow section of the U.S. Inner Breakwater; thence northwesterly 190 feet to a point 150 feet east of said Grant Park bulkhead (or 100 feet east of the aforesaid harbor line) and 5,140 feet south of the south face of the Naval Armory Dock; and thence north 2,140 feet to the point of beginning.

NOTE: Commercial vessels operated for profit and measuring more than 50 gross tons are forbidden to anchor in this area. Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes are prohibited. Steamers and motor vessels measuring over 5 gross tons are forbidden to use this area as a through channelway.

(6) *Anchorage F, Filtration Plant Slip.* South of the south face of the filtration plant; west of the east face of the filtration plant; north of a line 80 feet south of the south face of the filtration plant; and east of a line 1,400 feet west of the east face of the filtration plant.

NOTE: This area is reserved for commercial vessels operated for profit. Mooring facilities have been provided along the south side of the filtration plant.

(b) *The rules and regulations.* (1) Except in cases of great emergency no vessel shall be anchored in Chicago Harbor outside of the anchorage areas hereby defined and established.

(2) Anchors must not be placed outside the anchorage areas, nor shall any vessel be so anchored that any portion of the hull or rigging shall at any time extend outside the boundaries of the anchorage area.

(3) Any vessel anchoring under circumstances of great emergency outside of the anchorage areas must be placed near the edge of the channel and in such position as not to interfere with the free navigation of the channel nor obstruct the approach to any pier nor impede the movement of any boat, and shall move away immediately after the emergency ceases, or upon notification by the Captain of the Port.

(4) The maneuvering of a vessel by means of a dragged anchor, except within an established anchorage ground or in stress of weather or to avoid collision, is prohibited. Unnecessary maneuvering in any of the anchorage grounds is prohibited.

(5) The directions of the Captain of the Port assigning vessels to parts of the anchorage grounds suitable to their draft, requiring vessels to anchor bow and stern, requiring shifting the anchorage of any vessel within any anchorage ground for the common convenience, or for otherwise enforcing this section, shall be promptly executed by owners, masters, and persons in charge of vessels.

(6) Nothing in this section shall be construed as relieving the owner or person in charge of any vessel from the penalties of the law for obstructing navigation or for obstructing or interfering with range lights, or for not complying with the navigation laws in regard to lights, fog signals, or for otherwise violating law.

§ 110.207 Cleveland Harbor, Ohio.

(a) *The anchorage grounds*—(1) *West anchorage.* The northwesterly portion of the West Basin between the northwest limits of the West Basin and a line parallel to and 1,050 feet distant from the West Breakwater; and from the southwest limits of the West Basin to a line perpendicular to the West Breakwater, 2,050 feet southwesterly along the West Breakwater from Cleveland West Breakwater Light.

(2) *East anchorage.* The southeasterly portion of the East Basin between the mainland and a line parallel to and 1,250 feet distant from the East Breakwater; from opposite Cleveland East Entrance Light to a due north line passing through the flashing white light on the Allied Oil Company dock.

(3) *Explosives anchorage.* In Lake Erie, northwest of Cleveland Harbor East Breakwater, and including a rectangular area marked by four white spar buoys at the following true bearings and distances from Cleveland East Pierhead Light: 38°30′, 2,050 feet; 68°, 2,050 feet; 57°, 7,050 feet; and 49°, 7,050 feet.

(b) *The regulations.* (1) The west and east anchorages are general anchorages.

(2) Use of the explosives anchorage shall be subject to the supervision of the Captain of the Port.

§ 110.208 Buffalo Harbor, N.Y.

(a) *The anchorage grounds*—(1) *Explosives Anchorage A.* Inside the south section of the main breakwater 700 feet wide starting at a point 500 feet southerly from the south end of the north section and extending approximately 153° true, 3,000 feet parallel to the line of the south section of the main breakwater.

(2) *Explosives and Inflammables Anchorage B.* The area bounded by a line extending from the South Buffalo Pier Head Light 180° true, 2,000 feet; thence 270° true, 2,000 feet; thence due north, 2,000 feet; and thence 90° true, 2,000 feet.

(b) *The regulations.* (1) Both anchorages may be used either day or night.

(2) Anchorage B is intended primarily for explosives loading, but when no such loading is being carried on therein it may be used for the transfer of inflammables.

§ 110.210 San Diego Harbor, Calif.

(a) *The anchorage grounds.* The anchorage grounds for general use shall include all of the navigable waters of the harbor except cable and pipe-line areas, the special anchorage areas described in § 110.90, the seaplane restricted area described in § 207.612 of this chapter, and the following:

(1) *Special anchorage for U. S. Government vessels.* Shoreward of a line extending from Ballast Point Light approximately 351°30′ to the shore end of the Quarantine Dock.

(2) *Seaplane area, U. S. Coast Guard Air Station.* An area extending easterly from the Coast Guard Air Station, bounded on the north by a line parallel to and 100 feet bayward of the high-water line, on the east by a line from United States Pierhead Line Station 300 to Bulkhead Station 210 and extended northward, and on the south by that portion of the pierhead line between Stations 206 and 300.

(3) *Nonanchorage area.* A lane between San Diego and Coronado bounded on the east by a line extending southerly from a point 410 feet west of United States bulkhead line Station 220 on the San Diego side of the bay to a point 350 feet west of United States bulkhead line Station 149 on the Coronado side of the bay, and on the west by a line extending due north from the intersections of the west side of "E" Avenue with the south side of First Street, Coronado, and a line extending 225° from the intersection of the west side of Pacific Highway with the north side of Harbor Drive, San Diego.

(4) *Temporary naval anchorage.* Beginning at a point on the high-tide line bearing 25°30′, approximately 1,300 feet, from North Tower, Coronado Heights; thence 25°30′, 7,343 feet; thence approximately 351°57′41″; 11,930 feet, to United States Pierhead Line Station 318; thence 261°57′41″, approximately 902 feet, to a point on the east boundary line of the seaplane restricted area approximately 168 feet southerly of a point "e" as described in § 207.612 of this chapter; thence southerly and southwesterly along the boundary line of the seaplane restricted area through point "f" to point "g"; and thence southerly along the high-tide line to the point of beginning.

(b) *The regulations.* (1) Vessels anchoring in portions of the harbor other than the areas excepted in paragraph (a) of this section shall leave a free passage for other craft and shall not unreasonably obstruct the approaches to the wharves in the harbor.

(2) The special anchorage described in paragraph (a) (1) of this section is reserved exclusively for the anchorage of vessels of the United States Government and of authorized harbor pilot boats. No other vessels shall anchor in this area except by special permission obtained in advance from the Commandant, Eleventh Naval District, San Diego, California.

(3) The seaplane area described in paragraph (a) (2) of this section is re-

served exclusively for the use of seaplanes and their attendant plant. Vessels may pass through the area but are not permitted to anchor in the area at any time.

(4) The area described in paragraph (a) (3) of this section is occupied by submerged pipe lines, power cables, and communication cables and is extensively used as a ferry lane by the San Diego-Coronado ferries. No vessels shall anchor in this area at any time.

(5) The temporary naval anchorage described in paragraph (a) (4) of this section is reserved as a special anchorage for naval vessels of the United States and authorized harbor pilot boats. When the area or a part thereof is not required for the use of naval craft, navigation by other craft may be permitted provided permission is obtained in advance from the Commandant, Eleventh Naval District, San Diego, California.

§ 110.212 Newport Bay Harbor, Calif.

(a) *The anchorage grounds*—(1) *Temporary Anchorage C–1.* Southeast of a line parallel to and 170 feet from the pierhead line at the east end of Lido Isle; north of a line parallel to and 250 feet north of a line bearing 268° from the flashing green beacon off Bay Island and passing through the beacon off 13th Street, this line being the north line of the main fairway; northwest of a line 120 feet in length bearing 203° from the point of the pierhead line off the west end of Harbor Island; and southwest of the pierhead line off the northeast shore of Lido Isle extended.

(2) *Temporary Anchorage C–2.* A parallelogram-shaped area, 100 feet wide and 400 feet long, lying 100 feet bayward from and parallel to the existing pierhead line, and adjoining and on the north side of Anchorage C–3 described in subparagraph (3) of this paragraph.

(i) Vessels may anchor temporarily in Temporary Anchorages C–1 and C–2 when necessary and space permits, but shall move promptly when the necessity passes or upon order of the harbor master.

(ii) Vessels anchoring in Temporary Anchorages C–1 and C–2 shall comply with all applicable Pilot Rules, including that requiring anchor lights at night.

(iii) Floats or buoys for marking anchors or mooring in place and fixed mooring piles or stakes are prohibited.

(3) *Anchorage C–3.* A parallelogram-shaped area, 100 feet wide and 500 feet long, lying 100 feet bayward from and parallel to the existing pierhead line, and adjoining and on the south side of Temporary Anchorage C–2 described in subparagraph (2) of this paragraph.

(i) This area is reserved for recreational and other small craft.

(ii) Fore and aft moorings will be allowed in this area conforming to Orange County Harbor Ordinance No. 490 and other local harbor regulations for recreational and small craft of such size and alignment as permitted by the harbor master.

(iii) All vessels using this area are required to maintain anchor lights from sunset to sunrise.

(b) *The regulations.* (1) Vessels may anchor temporarily in these areas when necessary and space permits, but shall move promptly when the necessity passes or upon order of the harbor master.

(2) Vessels anchoring in these areas shall comply with all applicable Pilot Rules, including that requiring anchor lights at night.

(3) Floats or buoys for marking anchors or moorings in place and fixed mooring piles or stakes are prohibited.

§ 110.214 Los Angeles and Long Beach Harbors, Calif.

(a) *The anchorage grounds*—(1) *Commercial Anchorage A (Los Angeles Harbor).* An area north of a line 200 feet from and parallel to the axis of the San Pedro Breakwater; west of a line bearing 172° from Fish Harbor 2 Light and passing through the east white cross on the San Pedro Breakwater; south of the south line of the Super Tanker Channel and Turning Basin, which line is described as follows:

Latitude	*Longitude*
33°43'50.2"	118°18'40.0"
33°43'45"	118°16'04.0"
33°43'37"	118°16'09.2"
33°43'35.8"	118°16'19"
33°43'36"	118°16'28.2"
33°43'45.4"	118°16'35.7"
33°43'50.1"	118°16'35.2"
33°43'48"	118°16'28.8"

thence southeasterly along the east line of the Cabrillo Beach Marina to latitude 33°42'26", longitude 118°16'29", which point is located on the San Pedro Breakwater.

(i) In this area the requirements of commercial ships will predominate. In case of Navy requirements, see subdivision (iv) of this subparagraph.

(ii) Vessels requiring examination by quarantine, customs, or immigration authorities may anchor in this area when Quarantine Anchorage B is not available for this purpose.

(iii) Fixed mooring piles or stakes and floats or buoys for marking anchors or moorings in place are prohibited.

(iv) Consistent with the requirements of commercial navigation the Captain of the Port may, upon request from proper naval authorities, assign naval vessels to designated numbered anchorages within the commercial anchorage areas. For control purposes, the Navy authorities shall prepare and supply to the Captain of the Port and other officials directly concerned, an overlay to U.S. Coast and Geodetic Chart No. 5148 bearing number designations for individual vessel anchorages in all anchorage areas in Los Angeles and Long Beach Harbors.

(2) *Quarantine Anchorage B (Los Angeles Harbor).* An area north of a line parallel to and 200 feet from the axis of the San Pedro Breakwater; east of a line bearing 172° from Fish Harbor 2 Light and passing through the east white cross on the San Pedro Breakwater; and southwest of a line bearing 302° from the Los Angeles Harbor Light Station.

(i) Vessels arriving at quarantine and awaiting inspection will anchor in this anchorage, except that if space in this anchorage is not available, then any available anchorage in Anchorages A and C may be temporarily occupied for examination. In case of Navy requirements, see subdivisions (iv) of subparagraph (1) of this paragraph.

(ii) No vessels, except those awaiting quarantine inspection or those in an emergent circumstance, shall anchor in this area. When the emergency has passed, the vessel will at once vacate the area. This anchorage shall not be used for vessels bunkering or working cargo.

(iii) United States Public Health Service quarantine laws and regulations are quoted in part as follows:

"Paragraph 34—Every vessel subject to quarantine inspection, entering a port of the United States, its possessions, or dependencies, shall be considered in quarantine until given free pratique. Such vessels shall fly a yellow flag at the foremast head and shall observe all the other requirements of vessels actually quarantined."

(3) *Commercial Anchorage C (Los Angeles and Long Beach Harbors).* An area north of a line 200 feet from and parallel to the axis of the Middle Breakwater; northeast of a line about 3,600 feet long, bearing 302° from Los Angeles Entrance East Light; northeast of a line bearing 152° from Fish Harbor 2 Light; south of a westerly prolongation of the southern side of the Naval Base Mole; west of the Los Angeles-Long Beach City boundary; south of, and at various distances from, the Naval Base Mole; and southwest of the southwest side of the Long Beach Entrance Channel. This area is basically outlined as follows:

Latitude	*Longitude*
33°42'40.0"	118°14'40.0"
33°43'00.0"	118°15'18.0"
33°43'45.0"	118°15'46.5"
33°43'32.5"	118°15'39.0"
33°44'15.0"	118°14'25.0"
33°43'45.5"	118°14'12.0"
33°43'54.0"	118°13'40.5"
33°44'13.5"	118°13'11.0"
33°44'34.0"	118°13'20.0"
33°44'40.0"	118°13'00.0"
33°44'00.0"	118°12'14.0"
33°43'28.0"	118°11'13.0"
33°43'25.5"	118°12'22.0"
33°43'40.0"	118°14'40.0"

(i) In this area the requirements of commercial ships will predominate. Vessels requiring examination by quarantine, customs, or immigration authorities for the ports of Los Angeles or Long Beach may anchor in this area when Quarantine Anchorage B is not available for this purpose.

(ii) Fixed mooring piles or stakes and floats or buoys for marking anchors or moorings in place are prohibited.

(iii) In case of Navy requirements, see subdivision (iv) of subparagraph (1) of this paragraph.

(iv) The southeast portion of this anchorage is reserved for use as an explosive anchorage whenever a necessity arises therefor.

(4) Commercial Anchorage D (Long Beach Harbor). An area east of Long Beach Entrance Channel extending about 10,000 feet easterly and south and east of Pier J. This area is basically outlined as follows:

Latitude	*Longitude*
33°43'30.0"	118°11'41.0"
33°43'59.0"	118°09'46.0"
33°44'23.5"	118°10'08.5"
33°44'32.5"	118°11'04.5"
33°44'13.0"	118°10'57.5"
33°44'19.0"	118°12'01.5"
33°43'39.0"	118°11'41.0"

(i) In this area the requirements of commercial ships will predominate.

(ii) Fixed mooring piles or stakes and floats or buoys for marking anchors or moorings in place are prohibited.

(iii) In case of Navy requirements, see subdivision (iv) of subparagraph (1) of this paragraph.

(5) *Naval Anchorage E (Long Beach Harbor).* An area north of a line 200 feet from and parallel to the axis of the Long Beach Breakwater; northeast of the northeast side of Long Beach Channel; south of a line 2,000 feet from and parallel to the south side of Pier J; east of a line 5,000 feet from the east side of Pier J; east of a line 600 feet from and parallel to a line from the center of the Long Beach Arena (latitude 33°45'50.6", longitude 118°11'14.8") to its intersection with the northeast corner of Pier J (latitude 33°45'10", longitude 118°11'-25.5"); south of a line 1,500 feet from and parallel to the newly developed shoreline; and west of a line bearing due north from the east end of the Long Beach Breakwater. This area is basically outlined as follows:

Latitude	*Longitude*
33°43'35.0"	118°10'51.0"
33°43'59.0"	118°11'41.0"
33°43'59.0"	118°09'46.0"
33°44'32.5"	118°10'08.5"
33°44'32.5"	118°11'04.5"
33°45'11.0"	118°11'18.0"
33°45'21.0"	118°11'16.0"

thence 1,500 feet from and parallel to the newly developed shoreline; thence:

Latitude	*Longitude*
33°44'53.0"	118°08'02.0"
33°44'39.0"	118°08'06.0"
33°43'26.5"	118°08'06.0"
33°43'25.5"	118°10'51.0"

(i) In this area, the requirements of the naval service will predominate. Under certain conditions and for sufficient reason, the Captain of the Port may permit anchorage by other than naval vessels. Non-naval vessels shall clear the area immediately when ordered to do so by the Captain of the Port, either for his own reasons or upon request of appropriate naval authorities.

(ii) Floats or buoys for marking anchors or moorings in place and fixed mooring piles or stakes are prohibited, except those which may be required by the Navy and approved by the Captain of the Port.

(iii) The southeast portion of this anchorage is reserved for use as an explosive anchorage whenever a necessity arises therefor.

(6) *Nonanchorage Area F (Long Beach, Calif.) Mouth of the Los Angeles River.* The water area extending westward and northward to the head of navigation from a line drawn from the center of the Long Beach Arena (latitude 33°45'50.6", longitude 118°11'14.8") to the northeasterly corner of Pier J (latitude 33°45'10", longitude 118°11'28.5"), and northward of a line 200 feet northerly of and parallel to the centerline of the diversion dike.

(i) This area is reserved for recreational and other small craft, including aircraft when waterborne.

(ii) Anchoring will not be permitted.

(iii) Moorings and recreational boating activities will be allowed in this area conforming to applicable city of Long Beach ordinances and regulations adopted pursuant thereto.

(iv) A 450-foot fairway channel from the eastern boundary of this area to the Navy Landing and Marina will be maintained free of moorings and other obstructions at all times. Points on the fairway are as follows:

Latitude	*Longitude*
33°45'17.7"	118°11'24"
33°45'13"	118°11'28"
33°45'45.7"	118°12'10"

(v) The regulations for moorings and recreational use of this area shall be enforced by the city of Long Beach.

(7) *Nonanchorage Area G (Los Angeles Harbor).* An area extending 1,900 feet south from the existing shoreline, 300 feet wide on each side of the prolongation of the centerline of Ferry Street.

(i) This nonanchorage area is established for the protection of a submerged outfall sewer pipe line.

(ii) No vessel shall anchor within the area at any time.

(iii) Dragging, seining, fishing operations, and other activities which might foul underwater installations within the restricted area are prohibited. Dredging or filling within this area should be conducted so as to avoid fouling any underwater installations, unless other provision has been made for protecting, reconstructing, or relocating any such installations.

(iv) All vessels entering the nonanchorage area shall proceed across the area by the most direct route and without unnecessary delay.

(v) The city of Los Angeles Board of Harbor Commissioners will mark this area with signs reading: "Do not anchor in this area."

(8) *Nonanchorage Area H (Los Angeles Harbor).* An area known as Cabrillo Beach Marina, west of the east line of the Marina, which line is the prolongation of the west side of West Channel to its intersection with the San Pedro Breakwater at latitude 33°42'26", longitude 118°16'29", north of the San Pedro Breakwater; and south and east of the high-tide line.

(i) This area is reserved for recreational and other small craft.

(ii) Anchoring will not be permitted.

(iii) Moorings and recreational boating activities will be allowed in this area conforming to applicable city of Los Angeles ordinances and regulations adopted pursuant thereto.

(iv) The regulations for moorings and recreational use of this area shall be enforced by the city of Los Angeles.

(9) *Explosives Anchorage No. 1 (Long Beach Harbor).* A circular area within Anchorage C of 300-yard radius with its center at latitude 33°43'35.5", longitude 118°13'00.8".

(10) *Explosives Anchorage No. 2 (Long Beach Harbor).* A circular area within Anchorage E of 300-yard radius with its center at latitude 33°43'44.8", longitude 118°06'54.8".

(11) *Explosives Anchorages No. 1 and No. 2 Safety Zones (Long Beach Harbor).* When an explosives anchorage is occupied by a vessel carrying, loading, or unloading explosives, a circular safety zone surrounding the explosives anchorage of 600 yards or of 1,000 yards in width, as the Captain of the Port may determine, may be declared by the Captain of the Port to be a forbidden anchorage in the interests of port security and commerce. Vessels within such circular safety zone, upon being notified by the Captain of the Port to move or shift position, shall get underway at once or signal for a tug and change position as directed with reasonable promptness.

(b) *Regulations.* (1) Any vessels, other than those operated by or for the United States, the State of California, the cities of Los Angeles and Long Beach, and Los Angeles County, anchored or moored in the navigable channels or waters outside of the anchorage areas established in this section in Los Angeles or Long Beach Harbors shall be considered prima facie to prevent or obstruct the passage of other vessels or craft.

(2) Anchors must not be placed outside the anchorage areas, nor shall any vessel be so anchored that any portion of the hull or rigging shall at any time extend outside the boundaries of the anchorage areas.

(3) Any vessel anchoring under circumstances of emergency outside of the anchorage areas must be placed near the edge of the channel and in such position as not to interfere with the free navigation of the channel nor obstruct the approach to any pier nor impede the movement of any vessel, and shall move away immediately after the emergency ceases.

(4) The maneuvering of a vessel by means of a dragged anchor, except within an established anchorage ground or in stress of weather or to avoid collision, is prohibited. Unnecessary maneuvering in any of the anchorage grounds is prohibited.

(5) The instructions of the Captain of the Port assigning vessel to parts of anchorage grounds suitable to their draft, requiring vessels to anchor bow and stern, or with two bow anchors, requiring shifting the anchorage of any vessel within any anchorage ground for the common safety or convenience or for otherwise enforcing the regulations in this section, shall be promptly complied with by owners, masters, and persons in charge of vessels.

(6) Nothing in this section shall be construed as relieving the owner or person in charge of any vessels or plant from the penalties of law for obstructing navigation or for obstructing or interfering with range lights, or for not complying with the navigation laws in regard to lights, fog signals, or for otherwise violating law.

(7) Permission to anchor in the channels within the limits of Los Angeles and Long Beach Harbors may be granted by the Captain of the Port to plant or vessels engaged in recovering sunken property or in laying or repairing pipe or cable lines legally established, when approved by the District Engineer, Corps of Engineers, and to plant or vessels engaged in dredging operations when authorized by the District Engineer. The provisions of this subparagraph shall not apply to plant or vessels engaged under the supervision of the District Engineer upon works for the improvement of the harbor, but the District Engineer will advise the Captain of the Port in all cases where plant is to be employed under his supervision.

(8) The Captain of the Port is hereby authorized to require any vessel to proceed to designated anchorage, to direct any vessel to shift position, whether inside or outside of an established anchorage area, whenever, in that officer's discretion, such action is considered necessary in the interests of safety and navigation.

(9) Any vessel upon being notified to move as provided in subparagraph (8) of this paragraph into the anchorage limits or to shift its position in anchorage grounds must get underway at once on signal for a tug, and must change position as directed with reasonable promptness.

(10) The regulations in this section shall not be considered to cover all the obligations imposed by law upon vessels and their operators, and shall not be construed as relieving the owners or persons operating vessels from any penalties which might be incurred in the violation of any of the general navigation laws.

(11) Except as otherwise prescribed in this section, no vessel shall occupy an anchorage for more than 10 consecutive days, unless an extended anchorage permit is granted by Captain of the Port. Extended permits will not ordinarily be granted if objectionable to local port authorities. In determining whether an extended anchorage permit will be granted, consideration will be given, but not limited, to the then activities of the port and of problems of safety.

(12) Vessels not in sound and seaworthy condition, or vessels which for any reason may be considered likely to sink or cause a menace or obstructions to navigation, or vessels being dismantled, stripped, or undergoing major alterations shall not enter nor occupy an anchorage except in an emergency, and then only under specific permission from the Captain of the Port. Before granting such specific permission for emergency anchorage, the Captain of the Port will advise the Port Traffic Manager, Port of Long Beach and the Port Warden, Port of Los Angeles, of the emergency and coordinate the granting of such specific permission in light of the then and future activities of the Port and safety relating to the granting of such permission.

(13) Whenever, in the opinion of the Captain of the Port, such action may be necessary, any or all craft in these anchorage areas may be required to have a watchman aboard at all times.

(14) The Captain of the Port may supervise and control the movement of any vessel and shall take full or partial possession or control of any vessel or any part thereof, within the territorial waters of the United States under his jurisdiction, whenever it appears to him that such action is necessary in order to secure such vessels from damage or injury, or to prevent damage or injury to any vessel or waterfront facility or waters of the United States, or to secure the observance of rights and obligations of the United States. (33 CFR Part 6, Subpart 6.04, General Provisions, § 6.04-3, *Possession and control of vessels*).

(15) No vessel while carrying, loading, or unloading explosives as commercial cargo, shall anchor in any of the established anchorages, including the explosives anchorages, or in any other areas within Los Angeles and Long Beach Harbors as defined by the San Pedro Middle, and Long Beach Breakwaters, or closer than one nautical mile to any part of said breakwaters in the waters seaward thereof, without permission of the Captain of the Port. In granting such permission, the Captain of the Port will be guided by the activities in the harbor and safety problems relating to such anchorage. Captain of the Port will advise the Port Traffic Manager, Port of Long Beach and the Port Warden, Port of Los Angeles of any such anchorage assignments of explosive-laden vessels under the following conditions as classified in the regulations entitled "Subchapter N—Dangerous Cargoes" (46 CFR Part 146).

(i) Explosives, Class "A", any amount.

(ii) Explosives, Class "B", in excess of 1 net ton at any one time.

(iii) Explosives, Class "C", in excess of 10 net tons at any one time.

(16) The regulations in this section are to be enforced by the U.S. Coast Guard Officer designated as Captain of the Port of Los Angeles–Long Beach. The office of the Captain of the Port is on Pier A in Long Beach Harbor.

§ 110.215 Anaheim Bay Harbor, Calif., U.S. Naval Weapons Station, Seal Beach, Calif.; naval explosives anchorage.

(a) *The anchorage ground.* The waters of Anaheim Bay Harbor lying between the east side of the entrance channel and the east jetty, basically outlined as follows:

Latitude	*Longitude*
33°44'28"	118°06'38"
33°42'59"	118°06'18"
33°42'49"	118°06'18"
33°43'36"	118°05'56"
33°43'37"	118°05'56"
33°44'05"	118°06'36"

(b) *The regulations.* (1) This area is reserved for use of naval vessels carrying or transferring ammunition or explosives under standard military restrictions as established by the Safety Manual, Armed Services Explosives Board.

(2) No pleasure or commercial craft shall navigate or anchor within this area at any time without first obtaining permission from the Commanding Officer, Naval Weapons Station, Seal Beach, California. This Officer will extend full cooperation relating to the public use of the area and will fully consider every reasonable request for the passage of small craft in light of requirements for national security and safety of persons and property.

(3) Nothing in this section shall be construed as relieving the owner or operator of any vessel from the regulations, contained in § 204.195 of this chapter, covering navigation in Anaheim Bay Harbor.

(4) The regulations in this section shall be enforced by the Commanding Officer, U.S. Naval Weapons Station, Seal Beach, California, and by such agencies as may be designated by the Commandant, Eleventh Naval District, San Diego, California.

§ 110.216 Pacific Ocean at Santa Catalina Island, Calif.

(a) *The anchorage grounds*—(1) *Descanso Bay.* Shoreward of a line connecting the promontories known as White Rock and Casino Point.

(2) *Isthmus Cove.* All waters shoreward of a line connecting the promontories known as Lion Head and Blue Cavern Point, excluding the following-described non-anchor area: An area 300 feet wide (170 feet west and 130 feet east of the centerline of the Catalina Island Steamship Line pier), extending 1,600 feet from the root of the pier, and an area 150 feet seaward of the shore line extending approximately 1,500 feet east and 1,500 feet northwest of the centerline of said pier.

(b) *The regulations.* (1) The Descanso Bay anchorage is reserved for yachts and other small craft. Floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes are prohibited.

(2) The Isthmus Cove anchorage shall be available for anchorage of all types of craft. Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes are prohibited.

(3) The non-anchorage area described in paragraph (a) (2) of this section shall be used only by commercial vessels. Commercial vessels of 15 feet draft or over may anchor in this area seaward of the Catalina Island Steamship Line pier during hours between sunrise and sunset. The use of this area for anchorage is forbidden to all other craft at all times. Fixed mooring piles or stakes and floats or buoys for marking anchors or moorings in place are prohibited.

(4) The instructions of the Captain of the Port requiring vessels to anchor bow and stern, or with two bow anchors, or requiring shifting the anchorage of any vessel within the anchorage grounds for the common safety or convenience, or for otherwise enforcing the regulations in this section, shall be promptly complied with by owners, masters, and persons in charge of vessels.

(5) Nothing in this section shall be construed as relieving the owner or person in charge of any vessels or plant from the penalties of law for obstructing navigation or for obstructing or interfering with range lights, or for not complying with the navigation laws in regard to lights, fog signals, or for otherwise violating law.

§ 110.218 Pacific Ocean at San Clemente Island, Calif.; in vicinity of Wilson Cove.

(a) *The anchorage grounds.* Shoreward of a line beginning at a point on the beach bearing 153° true, 1,400 yards, from the flashing green light on the southeast headland at Wilson Cove; thence 62° true, 0.67 nautical mile; thence 332° true, 1.63 nautical miles; thence 241°31' true to the shore line.

(b) *The regulations.* (1) This area is reserved exclusively for anchorage of United States Government vessels or vessels temporarily operating under Government direction, and no vessel, except in an emergency, shall anchor in the area without first obtaining permission from the Commandant, Eleventh Naval District, or the Senior Naval Officer present who shall in turn notify the Commandant promptly.

(2) No vessel shall anchor in such a manner as to unreasonably obstruct the approach to the wharf.

§ 110.220 Pacific Ocean at San Nicolas Island, Calif.; restricted anchorage areas.

(a) *The restricted areas*—(1) *East area.* All waters within a circle having a radius of one nautical mile centered at latitude 33°13'45", longitude 119°25'50" (the former position of San Nicolas Island East End Light), which point bears approximately 101°, 420 yards, from San Nicolas Island East End Light.

(2) *West area.* Shoreward of a line bearing 276° true from San Nicolas Island south side light a distance of six nautical miles; thence to a point bearing 270° true, two nautical miles, from the westernmost point of the island; thence 60° to a point due north of the northernmost point of the island; thence 180° true to the shore.

(b) *The regulations.* Except in an emergency, no vessel shall anchor in these restricted areas without authority of the Commandant, Eleventh Naval District. Cargo vessels destined for San Nicolas Island may anchor in the east area for unloading or loading.

§ 110.222 Pacific Ocean at Santa Barbara Island, Calif.

(a) *The anchorage grounds.* Shoreward of a line beginning at the Santa Barbara Island Light on the northeast end of the island and bearing 23° true a distance of 1.515 nautical miles seaward from the beach; thence 140°30' true, 2.54 nautical miles; thence 212°30' true, 2.30 nautical miles; thence 296°30' true, 0.96 nautical mile; and thence 335° true to the beach.

(b) *The regulations.* The anchorage shall be available for anchorage of all types of craft. Temporary floats or buoys for marking anchors in place will be permitted in this area.

§ 110.224 San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, San Joaquin River, and connecting waters, California.

(a) *San Francisco Bay*—(1) *Anchorage 1 (general).* (i) That portion of San Francisco Bay bounded by the north shore of the City of San Francisco and lines joining points which are the following bearings and distances from Alcatraz Light: 201°40', 2,670 yards; 220°20', 1,800 yards; 251°, 4,210 yards; 234°30', 4,410 yards.

(ii) All of this area is a general anchorage with the exception of a 333-yard wide cable area therein.

(2) *Anchorage 2 (general).* That portion of Richardson Bay north of a line bearing 257° from Peninsula Point to the shore at Sausalito, except so much of this area as is included in Naval Anchorage 11 and the improved channel to, and the turning basin at, Sausalito.

(3) *Anchorage 3 (general).* That portion of Belvedere Cove west of a line bearing 25° 30' from Peninsula Point to the shore at Tiburon.

(4) *Anchorage 4 (general).* Bounded by the westerly shore of San Francisco Bay and the following lines: Beginning on shore at Bluff Point; thence to a point bearing 286°, 3,630 yards, from Southampton Shoal Light; thence to a point bearing 228°, 4,450 yards from East Brother Island Light; thence along a line bearing 266° to the shore south of Point San Quentin. Excluded from this anchorage are the portions of the following areas included therein: The restricted area at the Naval Net Depot, Tiburon (see § 207.640 (h) of this chapter); Quarantine Anchorage 17 when being used for quarantine purposes; and Explosives Anchorage 13 and the forbidden anchorage zone surrounding it.

(5) *Anchorage 5 (general).* (i) Bounded by the easterly shore of San Francisco Bay and the following lines: Beginning at the shoreward end of the Standard Oil Wharf at Point Orient; thence along the wharf to the southwest corner thereof; thence to a point bearing 334°30', 4,050 yards, from Southampton Shoal Light; thence along a line bearing 93° to the shore; except so much of this area as is included in the restricted area, Naval Fuel Annex, Molate Point (see § 207.640 (i) of this chapter), and the improved channel to Richmond Inner Harbor.

(ii) Vessels may anchor in this anchorage immediately adjacent to the improved channel to Richmond Inner Harbor: *Provided*, That any ship obstructing the channel must move from its position immediately if and when the fairway is required by a vessel navigating the channel.

(6) *Anchorage 6 (general).* Bounded by the easterly shore of San Francisco Bay and the following lines: Beginning at the shore at the southernmost extremity of Point Isabel; thence along the northerly shore of Brooks Island to the training wall extending westerly therefrom; thence westerly along the training wall to its bayward end; thence to a point bearing 104°, 1,035 yards, from Treasure Island North End Light; thence along a line bearing 144°30' to a point 290 yards northerly of the center of Pier K of the San Francisco–Oakland Bay Bridge; thence along a line bearing 71° to the shore; excluding from this area however, the cable areas therein and a fairway delineated by lines joining the following points:

Latitude	*Longitude*
37°51'50"	122°19'01"
37°51'48"	122°19'06"
37°51'51"	122°19'10"
37°50'50"	122°22'03"
37°51'00"	122°22'07"
37°52'00"	122°19'15"
37°52'04"	122°19'17"
37°52'06"	122°19'06"
37°52'03"	122°19'06"
37°51'58"	122°19'02"

(7) *Anchorage 7 (Temporary).* (i) That portion of San Francisco Bay bounded by the westerly shore of Treasure Island and the following lines: Beginning at the most westerly shore of Treasure Island at a point bearing 89°, 4,135 yards from Alcatraz Light; thence to points which are the following bearings and distances from Alcatraz Light: 73°30', 3,100 yards; 65°00', 2,040 yards; 117°40', 2,087 yards; 122°30', 3,730 yards; 111°00', 4,167 yards; 109°30', 3,833 yards; 98°30', 4,583 yards.

(ii) That portion of this anchorage lying westerly of a line having a bearing of 311°30' from Pier E of the San Francisco–Oakland Bay Bridge is reserved for the use of vessels while undergoing examination by quarantine, customs, immigration, Coast Guard, and other governmental authorities. Upon completion of these examinations, vessels shall promptly move out of this portion of the anchorage.

(iii) That portion of this anchorage lying easterly of the said line, having a bearing of 311°30' from Pier E of the San Francisco–Oakland Bay Bridge, is for use of vessels undergoing examination, as in subdivision (ii) of this subparagraph, and also for use of vessels requiring a temporary anchorage. Vessels shall not remain in this portion of the anchorage for longer than 36 hours.

(8) *Anchorage 8 (general).* That portion of San Francisco Bay east of the City of San Francisco, the corners of which are the following bearings and distances from the center of the anchor pier (Pier C) of the San Francisco–Oakland Bay Bridge: 118°, 2,635 yards; 175°30', 2,420 yards; 172°, 3,470 yards; and 168°, 3,520 yards.

(9) *Anchorage 9 (general).* Bounded on the north by the shore, the breakwater and turning basin at the Naval Air Station, Alameda, and a line from Air Station Channel Lighted Buoy 6 to Air Station Channel Entrance Lighted Buoy 2; bounded on the west by a line beginning at Air Station Channel Entrance Lighted Buoy 2, thence to a point bearing 17°, 4,050 yards, from Hunters Point Light, thence to a point bearing 343°30', 4,000 yards, from Hunters Point Light, and thence to a point bearing 343°30', 3,330 yards from Hunters Point Light, and thence 148°; bounded on the south by a line 1,000 yards northerly from and parallel to the Hayward–San Mateo

Bridge; and bounded on the east by the shore, including all of San Leandro Bay. The following areas are excluded from this anchorage: The seaplane restricted area, Naval Air Station, Alameda (described in § 207.640(c) of this chapter); Explosives Anchorage 14 and the forbidden anchorage zone surrounding this anchorage.

(10) *Anchorage 9–A (general).* Shoreward of the following lines: Beginning at the outer end of the south fender of the former automobile ferry slip at the end of the Alameda Mole; thence 270°, 400 yards; thence 216°, approximately 2,000 yards; thence along a line bearing 127° from Alcatraz Light, 1,200 yards; thence 36° to the shore.

(11) *Anchorage 10 (naval).* (i) The triangular-shaped area immediately east of Sausalito northwest of a line bearing 234° from Point Stuart Light, and southwest of a line bearing 303° from Alcatraz light.

(ii) This anchorage is for the use of public vessels of the United States, but may be used by yachts when not required for use by public vessels. All yachts making use of this anchorage shall be prepared to move immediately upon notice should the anchorage be required for public vessels. With the permission of the District Commander or Captain of the Port, permanent yacht moorings may be placed within this anchorage, not more than 360 yards from the shore.

NOTE: As used in this section, the term "District Commander" means the Commander, Twelfth Coast Guard District, and the term "Captain of the Port" means the officer who has been designated by the Commandant, U. S. Coast Guard, as Captain of the Port, San Francisco.

(12) *Anchorage 11 (naval).* (i) That portion of Richardson Bay the corners of which are the following bearings and distances from Point Stuart Light: 273°, 1,150 yards; 271°, 2,520 yards; 257°30', 2,580 yards; and 248°30', 1,530 yards; except so much of this area as is included in the improved channel to Sausalito.

(ii) This anchorage is reserved for the exclusive use of vessels and seaplanes of the United States Navy.

(13) *Anchorage 12 (naval).* (i) That portion of San Francisco Bay east of the City of San Francisco the corners of which are the following bearings and distances from the center of the anchor pier (Pier C) of the San Francisco-Oakland Bay Bridge: 95°, 3,035 yards; 110°, 980 yards; 188°, 1,170 yards; 175°-30', 2,420 yards; and 118°, 2,635 yards.

(ii) This anchorage is reserved for the use of vessels of the United States or foreign navies and for other public vessels of the United States. With the permission of the District Commander or Captain of the Port, this anchorage may be used temporarily by vessels other than public vessels, but vessels availing themselves of this privilege must hold themselves in readiness to shift berth immediately upon receiving notice to do so.

(14) *Anchorage 13 (explosives).* (i) A circular area having a radius of 333 yards around a white buoy used to mark its location bearing 51°30', 1,900 yards, from the northerly extremity of California Point.

(ii) This anchorage is for the use of vessels loaded with, loading, or unloading explosives. This provision is not intended to prohibit lighters and barges from lying alongside ships for transfer of cargo.

(iii) The maximum total quantity of explosives that may be on board vessels in this anchorage shall be limited to 50 tons; except that, at the discretion of the District Commander or Captain of the Port, vessels in transit, loaded with explosives in excess of this limitation, may be permitted to anchor temporarily in this area provided the hatches to the holds containing explosives are not opened.

(iv) A circular zone 667 yards wide partially surrounding the anchorage is a forbidden anchorage zone and shall not be used for anchorage purposes by any vessels.

(15) *Anchorage 14 (explosives).* (i) The area 1,000 yards wide and 2,760 yards long, the end boundaries of which are semicircles with radii of 500 yards and centers, respectively, 100°00', 3,270 yards, and 112°30', 4,800 yards from Hunters Point South End Light, and the side boundaries of which are parallel tangents joining said semicircles. The anchorage is marked at each extremity by a white buoy.

(ii) The anchorage is for the use of vessels loaded with, loading, or unloading explosives. This provision is not intended to prohibit lighters and barges from lying alongside ships for transfer of cargo.

(iii) The maximum total quantity of explosives that may be on board any one vessel moored in this anchorage shall be limited to 3,000 tons. Vessels will be assigned berths in this anchorage by the District Commander or Captain of the Port on the basis of the maximum quantity of explosives that will be on board the vessel.

(iv) Vessels in this anchorage shall not anchor closer than 400 yards to one another but the number of vessels which may anchor in this area at any one time shall be at the discretion of the District Commander or Captain of the Port. This provision is not intended to prohibit barges or lighters from lying alongside vessels for transfer of cargo.

(v) The 667-yard wide area partially surrounding this anchorage is a forbidden anchorage zone and shall not be used for anchorage purposes by any vessels.

(vi) This anchorage and the surrounding forbidden anchorage zone may be temporarily discontinued by the District Engineer, Corps of Engineers, San Francisco, California, when the area is required for general anchorage purposes.

(16) [Reserved]

(17) *Anchorage 17 (quarantine).* An area 1,800 yards square, the easterly side of which is coincident with the easterly boundary of General Anchorage 4 and the northeasterly corner of which is on the said easterly boundary 97°30', 2,250 yards, from the northerly extremity of California Point.

NOTE: This anchorage is under the jurisdiction of the Medical Officer in charge of the Port of San Francisco and is included in this section for information only.

(b) *San Pablo Bay*—(1) *Anchorage 18 (general).* Bounded by the westerly shore of San Pablo Bay and the following lines: Beginning at the shore at Point San Pedro; thence 90° to the easterly of the Sisters Islands; thence to points which are the following bearings and distances from Petaluma Creek Entrance Channel Light and Echo Board 2: 202°30', 1,200 yards; and 288°30', 5,870 yards; excluding from this area, however, the channel to Hamilton Field and the extension of this channel easterly to the boundary of the anchorage, and the pipeline area therein.

(2) *Anchorage 19 (general).* Bounded by the northeasterly shore of San Pablo Bay and the following lines: Beginning at the shore at a point bearing 03°15', 6,830 yards, from Petaluma Creek Entrance Channel Light and Echo Board 2; thence to points which are the following bearings and distances from Petaluma Creek Entrance Channel Light and Echo Board 2: 177°30', 8,600 yards; 131°7,000 yards; 103°00', 9,500 yards; 95°30', 13,370 yards, 93° 30', 13,330 yards; and thence along the long dike extending southwesterly from Mare Island to the shore at Mare Island.

NOTE: See § 204.215 of this chapter establishing a target area in San Pablo Bay adjacent to the westerly shore of Mare Island for use of the Mare Island Navy Yard.

(3) *Anchorage 20 (general).* Bounded by the southeasterly shore of San Pablo Bay and the following lines: Beginning at the northeast corner of Parr Terminal No. 4 at Point San Pablo; thence to a point bearing 14°, 1,135 yards from the northeast corner of the wharf at Pinole Point; thence to a point on the Union Oil Company Pier at Oleum, 206°00', 1,870 yards from Mare Island Pier 35 Light; and thence along this pier to the shore; excluding from this area Explosive Anchorages 22 and 23.

(4) *Anchorage 21 (naval).* A rectangular area south of Mare Island the corners of which are the following bearings and distances from the tall stack at the Selby Smelting Works: 331°30', 1,285 yards; 300°30', 1,830 yards; 286°30', 1,530 yards; and 321°, 800 yards.

(5) *Anchorage 22 (explosives).* (i) A circular area having a radius of 500 yards whose center is at the northwest corner of the wharf of the Atlas Powder Company at Pinole Point.

(ii) This anchorage is for the use of vessels loaded with, loading, or unloading explosives, and this anchorage shall not be used by any other vessel.

(iii) The maximum quantity of explosives that may be in this anchorage at one time shall be limited to 500 tons.

(6) *Anchorage 23 (explosives).* (i) A circular area having a radius of 500 yards whose center is at the northwest corner of the wharf of the Hercules Powder Company which is located approximately 2,330 yards southwesterly of Lone Tree Point at Rodeo, California.

(ii) This anchorage is for the use of vessels loaded with, loading, or unloading explosives, and this anchorage shall not be used by any other vessels.

(iii) The maximum quantity of explosives that may be in this anchorage at any one time shall be limited to 100 tons.

(c) *Carquinez Strait*—(1) *Anchorage 24 (general).* Bounded by the northerly shore of Carquinez Strait and lines joining points which are the following bearings and distances from Port Costa Light: 332°30', 1,820 yards; 347°, 1,330 yards; 347°, 710 yards; and 109°30', 1,800 yards.

(2) *Anchorage 25 (general).* Bounded by the south shore of Carquinez Strait and lines joining points which are the following bearings and distances from Benicia City Wharf Light; 145°30', 2,970 yards; 141°, 1,970 yards; and 234°, 1,300 yards.

(d) *Suisun Bay*—(1) *Anchorage No. 26 (general).* On the west side of Suisun Bay, adjacent to and northeast of the City of Benicia within the following boundaries: The northeast edge of the Southern Pacific Bridge from the north shore to the first stren; thence 77°30', 430 yards; thence 38°47', 7,800 yards; thence 312° to shore; thence along the shore to the point of beginning.

NOTE: A portion of Anchorage 26 is occupied by the Suisun Bay Reserve Fleet of the Maritime Administration, and § 207.900 of this chapter establishes a restricted area in the vicinity of this Reserve Fleet.

(2) *Anchorage 27 (general).* An area in the northeast portion of Suisun Bay lying east of a line due north through tripod on Roe Island at Preston Point; north of a line bearing 84° from fixed range light located 1,187 yards to the southwest of said tripod on Roe Island, to the old lighthouse at the most southerly point of Roe Island; thence bearing 101° to Middle Ground Light, thence bearing 88° Chipps Island.

(e) *San Joaquin River*—(1) *Anchorage 28 (general).* The waters adjacent to Lower Sherman Island southeasterly of a line 450 yards long bearing 238° from Sherman Island North End Light; easterly of a line bearing 163°30' from the west end of said 450-yard line; and northerly of a line bearing 27° from New York Slough East End Light and Echo Board.

(2) [Reserved]

(3) *Anchorage 30 (explosives).* (i) That portion of the Old San Joaquin River channel bounded on the west by Mandeville Point and on the north, east, and south by lines joining points which are the following bearings and distances from Stockton Channel 3 Light: 341°, 1,400 yards; 348°30', 1,520 yards; 355°-20', 1,340 yards; 08°30', 835 yards; and 341°, 870 yards.

(ii) This anchorage is for the use of vessels, lighters, and barges loaded with, loading, or unloading explosives or explosive materials, and shall not be used by any other vessel or craft while such operations are in progress. At all other times the area will be open to fishing and navigation without restriction.

(iii) Notice of loading and unloading operations will be given by notice published by the United States Coast Guard in "Notice to Mariners", and by notice given by the Port of Stockton to local radio stations and newspapers, and by telephonic means to any organization that may request that such advice be given. In all cases the notice will state how long the operations will be in progress and on what days.

(f) *Sacramento River, Decker Island; restricted anchorage for vessels of the United States Government*—(1) *The anchorage ground.* An elongated area in the waters of the Sacramento River adjacent to the northeast shore of Decker Island within the following boundaries: Beginning at Sacramento River Light 4, Fl. R., at the northerly tip of Decker Island, thence 90°, 117 yards; thence 180°, 633 yards; thence 184°, 817 yards; thence 186°30', 450 yards; thence 209°, 467 yards; thence 231°, 383 yards; thence 330° to shore; thence with the shore to the point of beginning.

(2) *The regulations.* No vessel or other craft except those owned by or operating under contract with the United States shall navigate or anchor within fifty feet of any moored Government vessel in the area. Commercial and pleasure craft shall not moor to buoys or chains of Government vessels, nor shall they, while moored or underway, unreasonably obstruct the passage of Government or other vessels through the area.

(3) *Enforcement.* The regulations in this paragraph shall be enforced by the Commanding General, San Francisco Port of Embarkation, Fort Mason, California, or his authorized representative.

(g) *General regulations.* (1) Except in cases of distress, great emergency, or heavy fog, no vessel shall be anchored in the navigable waters of San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, New York Slough, San Joaquin River Deep Water Channel, and the Stockton Turning Basin, California, outside of the anchorages defined and established in this section, nor anchor within an improved channel or a cable or pipe line area shown on Government charts, nor be moored, anchored, or made fast to any pier, wharf, bulkhead, or vessel in such manner as to impede or endanger the passage of any vessel in transit by, or to or from, adjacent wharves, piers, slips, or navigation channels.

(2) Whenever in the opinion of the District Commander or Captain of the Port such action may be necessary that officer may require any or all vessels in any designated anchorage area to moor with two or more anchors.

(3) Every vessel whose crew may be reduced to such number that it will not have sufficient men on board to weigh anchor at any time shall be anchored with two anchors, with mooring swivel put on before the crew is reduced or released.

(4) Anchors shall not be placed outside the anchorage areas, nor shall any vessel be so anchored that any portion of the hull or rigging extends outside the boundaries of the anchorage area.

(5) Vessels anchoring outside of the designated anchorage areas because of distress or heavy fog, shall be placed in such position as not to interfere with navigation or obstruct the approach to any pier, wharf, slip, or boat harbor. They shall move from such position as soon as the emergency ceases or when ordered by the District Commander or Captain of the Port or by his duly authorized representative.

(6) The anchorages will be used only for the purposes stated for each and under the special limitations applicable thereto.

(7) The District Commander or Captain of the Port shall assign berths in the anchorages to all vessels applying for such permission. He may grant permits to those vessels habitually maintaining and using the same mooring place in an anchorage area, and no vessel shall occupy a permanent berth in an anchorage area except under authority of such permit which may be revoked at any time.

(8) A vessel, upon being notified to move into the anchorage limits or to shift its position in the anchorage grounds shall get under way at once or obtain a tug and change its position with reasonable promptness, as directed.

(9) Whenever required by maritime or commercial interests of the United States, the District Commander or Captain of the Port is empowered to shift the position of any vessel anchored within or outside of an anchorage area, of any vessel which is so moored or anchored that its position impedes or obstructs vessel movements in any channel or obstructs or interferes with range lights, and of any vessel which, lying at the exterior end of a pier or alongside of a wharf or bulkhead, obstructs or endangers the passage of vessels to or from adjacent wharf property or impedes the movement of vessels entering or leaving slips and boat harbors.

(10) Permits to anchor in channels within the limits of the waterways covered by the regulations in this section may be granted by the District Commander or Captain of the Port to wrecking plants or other vessels legally engaged in recovering sunken property or in laying pipe or cable lines legally established or in repairing same when the application for such anchorage is approved by the District Engineer, Corps of Engineers, and to plant engaged in dredging operations when authorised by the District Engineer. The provisions of this subparagraph will not apply to plant engaged under the supervision of the District Engineer upon works for the improvement of rivers and harbors, but the District Engineer will advise the District Commander or Captain of the Port in advance of the proposed work for such improvement in all cases where the plant is to be employed under his supervision.

(11) Nothing in this section shall be construed as relieving the owner or person in charge of any vessel from the penalties of law for obstructing naviga-

tion or for obstructing or interfering with range lights, or for not complying with the navigation laws in regard to lights, fog signals, or for otherwise violating the law.

(12) (i) Anchorages 13, 14, 22, 23, and 30 are reserved for vessels carrying explosives. All vessels carrying explosives shall be within these areas when anchored, except as provided in subparagraph (15) of this paragraph.

(ii) A written permit shall be obtained from the District Commander or Captain of the Port before vessels carrying explosives, or on which explosives are to be loaded, may proceed to the anchorages provided for them, and no vessel shall occupy a berth in such anchorage except by authority of such permit, which may be revoked at any time.

(iii) At the discretion of the District Commander or Captain of the Port, written permits to occupy a berth in explosive anchorages may be issued to vessels carrying flammable liquids, flammable solids, oxidising materials, corrosive liquids, compressed gases and poisonous substances. Such permits must be obtained prior to entering the anchorage and are revocable at any time.

(iv) Vessels used in connection with transporting explosives to be loaded on or unloaded from other vessels in explosive anchorage areas, shall obtain and carry a written permit from the District Commander or Captain of the Port. The District Commander or Captain of the Port may, at his discretion, require every person having business on board vessels which are either laden or being loaded with explosives, to have a document which is acceptable to the Coast Guard for identification purposes. Such identification shall be shown whenever required by the District Commander or Captain of the Port.

(13) (i) Whenever any non-self-propelled vessel, or any self-propelled vessel that is unable to maneuver under its own power due to mechanical difficulties, lack of personnel, or for any other reason, occupies explosives anchorages 13, 14, 22, 23, and 30, the District Commander or Captain of the Port may require the attendance of a tug upon such vessels when, in his judgment, such action is deemed necessary.

(ii) Every vessel loading, unloading, or laden with explosives shall, while within an explosive anchorage, display by day at its masthead, or at least 10 feet above the upper deck if the vessel has no masthead, a red flag 16 square feet or more in area, and shall display by night, in the same position specified for the flag, an electric red light visible through 360° for a distance of at least one mile.

(14) When vessels are conducting loading operations from barges at any of the established anchorages, as indicated by the display at its masthead of a red flag by day or a red light by night, passing vessels shall reduce speed to six knots.

(15) The District Engineer, Corps of Engineers, is empowered to authorise in writing, the anchoring of a single barge carrying explosives in or near the vicinity of work being done directly under his supervision, or under a Department of the Army permit, but only in quantities considered by him as safe and necessary. The District Engineer shall prescribe the conditions under which this explosive shall be stored and handled and in each case shall furnish the District Commander or Captain of the Port with a copy of the written permit to anchor explosives on the wharf and a copy of the rules and regulations for storing and handling.

(16) Vessels other than those under Federal supervision shall not go alongside or in any manner moor to any Government-owned vessel, mooring buoy, or pontoon boom, their anchor cables, or any of their appendages. Vessels other than those under Federal supervision shall not obstruct or interfere in any manner with the mooring, unmooring or servicing of vessels owned by the United States.

(17) Vessels anchoring in the San Joaquin River Deep Water Channel or the Stockton Turning Basin because of distress or heavy fog, shall be placed as near the edge of the channels or turning basin as possible, and in such position as not to interfere with the free navigation thereof, nor obstruct the approach to any pier, wharf, slip, or boat harbor. They shall move from such position as soon as the emergency ceases or when ordered by the District Commander or Captain of the Port, San Francisco. No vessel shall be permanently moored in areas adjacent to the San Joaquin River Deep Water Channel except on permission in writing from the District Commander or Captain of the Port.

§ 110.228 Columbia River, Oreg. and Wash.

(a) *The anchorage grounds*—(1) *Lower Tongue Point Anchorage.* A rectangular area bounded as follows: Beginning at a point bearing 253°30′, 675 yards, from Tongue Point Light; thence to a point bearing 247°30′, 2,015 yards, from Tongue Point Light; thence to a point bearing 281°, 2,125 yards, from Tongue Point Light; thence to a point bearing 284°, 950 yards, from Tongue Point Light; and thence to the point of beginning.

(2) *Upper Tongue Point Anchorage.* Northwesterly of a line running from a point bearing 42°, 1,200 yards, from Tongue Point Light, to a point bearing 253°30′, 675 yards, from Tongue Point Light; northeasterly of the northeast boundary of Lower Tongue Point Anchorage; southeasterly of a line ranging from a point bearing 284°, 950 yards, from Tongue Point Light, toward a point bearing 24°, 1,425 yards, from Tongue Point Light; southerly of a line 50 yards south of and parallel to the south side of the main ship channel; and southwesterly of a line ranging from a point bearing 42°, 1,200 yards, from Tongue Point Light, toward a point bearing 24°, 1,425 yards, from Tongue Point Light.

(b) *The regulations.* (1) No vessel shall anchor in anchorages described in paragraph (a) (1) and (2) of this section without prior permission from the Captain of the Port, or his authorized representative. No vessel shall occupy either anchorage for a period longer than 30 days unless a permit is obtained from the Captain of the Port for that purpose. No vessel in a condition such that it is likely to sink or otherwise become a menace or obstruction to the navigation or anchorage of other vessels shall occupy an anchorage except in an emergency and then only for such period as may be permitted by the Captain of the Port. A berth in an anchorage, if available, shall be assigned to any vessel by the Captain of the Port upon application and he may grant revocable permits for the continuous use of the same berth.

§ 110.230 Puget Sound Area, Wash.

(a) *The anchorage grounds*—(1) *Freshwater Bay emergency explosives anchorage, Strait of Juan de Fuca.* All of Freshwater Bay and adjacent waters shoreward of a line beginning at Observatory Point, latitude 48°09′03″, longitude 123°38′12″, thence due north approximately 1,150 yards to latitude 48°09′36″, longitude 123°38′12″; thence 90°, approximately 6,450 yards, to latitude 48°09′36″, longitude 123°33′27″; thence 180° to the shoreline.

(i) This area does not constitute an explosives anchorage for loading or discharging explosives, but is established exclusively for use by explosives laden vessels enroute to the ammunition dumping area which encounter adverse weather and sea conditions and are forced to await more favorable conditions before proceeding to sea.

(1–a) *Bellingham Bay general anchorage.* The waters of Bellingham Bay within a circular area with a radius of 2,000 yards, having its center at latitude 48°44′15″, longitude 122°32′25″.

(1–b) *Bellingham Bay explosives anchorage.* The waters of Bellingham Bay within a circular area with a radius of 1,000 yards, having its center at latitude 48°42′48″, longitude 122°33′37″.

(2) *Port Townsend explosives anchorages*—(i) *Fair weather anchorage area.* A circular area having a radius of 300 yards, whose center is at latitude 48°06′26″, longitude 122°43′46″.

(ii) *Foul weather anchorage area.* A circular area having a radius of 300 yards, whose center is at latitude 48°04′05″, longitude 122°44′52″.

(3) *Holmes Harbor general anchorage.* All of Holmes Harbor lying southerly of a line ranging 310° through Hackney Island, between the shores of Whidbey Island.

(4) *Port Gardner general anchorage, Possession Sound.* Beginning at a point bearing 211°, 560 yards, from Everett Jetty Light; thence 180°, 675 yards; thence 216°, 250 yards; thence 254°, 800 yards; thence 302°, 1,700 yards; thence 49°, 1,280 yards; thence approximately 115°, 1,525 yards, to the point of beginning.

(5) *Port Madison explosive anchorage, Puget Sound.* The waters of Port Madison south of the 3-fathom line between longitude 122°28′54″ and 122°30′00″, and north of latitude 47°44′00″.

(6) *Thorndike Bay emergency explosives anchorage, Hood Canal.* Beginning at a point bearing 267°, 3,500 yards, from Hood Canal 5 Light; thence 180°, 1,000 yards, to a point approximately 251°, 3,725 yards, from Hood Canal 5 Light; thence 270°, 1,350 yards, to a point approximately 258°, 5,000 yards, from Hood Canal 5 Light; thence due north 1,000 yards, to a point approximately 268°, 4,900 yards, from Hood Canal 5 Light; thence approximately 90°, 1,350 yards, to the point of beginning.

(7) *Smith Cove general anchorage (west), Elliott Bay.* Shoreward of a line beginning at Fourmile Rock Light; thence to a point bearing 207°, 1,100 yards, from Fourmile Rock Light; thence southeasterly to point bearing 6°30′, 2,975 yards, from Duwamish Head Light; thence due north to the shore of Smith Cove.

(8) *Smith Cove general anchorage (east), Elliott Bay.* Beginning at the intersection of the Federal pierhead line and a line drawn along the north side of Denny Way; thence westerly on said line 2,000 feet; thence northwesterly along a line paralleling the Federal pierhead line to its intersection with a straight line drawn along the east side of Pier 88; thence due north to the intersection with the Federal pierhead line; thence along said pierhead line to the point of beginning.

(9) *Elliott Bay general anchorage (east).* Shoreward of a line beginning at the northeast corner of Harbor Island; thence northerly and in a straight line to its intersection with a line drawn along the south side of King Street; thence west on said line to its intersection with the east line of West Waterway; thence along said line to the northwest corner of Harbor Island.

(10) *Elliott Bay general anchorage (west).* Shoreward of a line beginning at a point of intersection of the Federal pierhead line with a straight line drawn along the west line of West Waterway; thence north to a point intersecting a straight line drawn along the south side of Dearborn Street; thence in a westerly direction to the foot of West Fairmount Avenue.

(11) *Orchard Point general anchorage, Puget Sound.* Beginning at Orchard Point Light; thence 106°, two miles; thence 180° to the northern shore of Blake Island; thence west and south along the shoreline to the southern end of Blake Island at approximate longitude 122°29′16″; thence 250° to the dock at Harper; thence westerly and northerly along the shoreline to the point of beginning.

(12) *Blake Island explosives anchorage, Puget Sound.* Shoreward of a line bearing 90° from the south tangent of Blake Island, 2,000 yards; thence due north, 1,400 yards; thence 270°, 1,300 yards, to the east point of Blake Island.

(b) *The regulations.* (1) No vessel shall anchor in any general anchorage described in paragraph (a) of this section without prior permission from the Captain of the Port, or his authorized representative. No vessel shall occupy any general anchorage for a period longer than 30 days unless a permit is obtained from the Captain of the Port for that purpose. No vessel in a condition such that it is likely to sink or otherwise become a menace or obstruction to the navigation or anchorage of other vessels shall occupy a general anchorage except in an emergency and then only for such period as may be permitted by the Captain of the Port. A berth in a general anchorage, if available, may be assigned to any vessel by the Captain of the Port upon application and he may grant revocable permits for the continuous use of the same berth.

(2) Explosive anchorages are reserved for vessels carrying explosives. All vessels carrying explosives shall be within these areas when anchored.

(3) Whenever any vessel not fitted with mechanical power, anchors in an explosive anchorage, the Captain of the Port may require the attendance of a tug upon such vessel, when, in his judgment, such action is necessary.

(4) Vessels carrying explosives shall comply with the general regulations in subparagraph (1) of this paragraph, when applicable.

(5) Every vessel at anchor in an explosives anchorage shall display by day a red flag at least 16 square feet in area at its mast head or at least 10 feet above the upper deck if the vessel has no mast, and by night a red light in the same position specified for the flag. These signals shall be in addition to day signals and lights required to be shown by all vessels when at anchor.

(6) Every vessel constructed of wood shall, unless there are steel bulwarks or metallic cases or cargo on board, be fitted with radar reflector screens of metal of sufficient size to permit target indication on the radar screen of commercial type radars.

(7) Fishing and navigation by pleasure and commercial craft are prohibited within the area at all times when vessels which are anchored in the area for the purpose of loading or unloading explosives display a red flag by day and a red light by night, unless special permission is granted by the Captain of the Port.

(8) No explosives handling in any explosive anchorage will be undertaken by any vessel unless personnel from the Captain of the Port are on board to supervise the handling of explosives.

(9) No vessel shall remain at anchor in any explosive anchorage unless there is on board such vessel a competent watchman or a tug in attendance.

§ 110.235 Pacific Ocean (Mamala Bay), Honolulu Harbor, Hawaii; anchorage for nitrate laden vessels.

(a) *The anchorage ground.* The waters of the Pacific Ocean (Mamala Bay) within an area directly offshore of Keehi Lagoon at Honolulu, Hawaii, described as follows: Beginning at a point bearing 251° true, 5,925 yards, from Honolulu Harbor Light (Aloha Tower); thence on a bearing of 202° true, 1,000 yards; thence on a bearing of 292°30′ true, 800 yards; thence on a bearing 22° true, 1,000 yards; thence on a bearing of 110°30′ true, 800 yards to point of beginning. This area provides anchorage space for one (1) vessel.

(b) *The regulations.* (1) Anchorage within this area shall be restricted to not more than one (1) nitrate laden vessel at any one time. Other vessels are cautioned against frequenting the area at any time, and they shall not, without specific authority from the District Commander, enter or remain in the area when a nitrate laden vessel is anchored within or is approaching the area, or anchor outside the area within 1,000 yards of a nitrate laden vessel anchored within the area.

NOTE: The term "District Commander," as used in this section, means the Commander, 14th Coast Guard District, Honolulu, Hawaii, or his duly authorized representative.

(2) Except in an emergency involving danger to life or property, no nitrate laden vessel shall anchor within the area without first obtaining permission from the District Commander. The master of a nitrate laden vessel shall notify the District Commander in advance of his intention to anchor within the area, giving the name of the vessel and the time he expects to anchor and any additional information requested such as the reason for the stopover, anticipated period of the stopover, kind and amount of cargo carried, destination, and proposed location of any necessary torches or welding anticipated, etc. The vessel shall not enter the area until permission to anchor has been received from the District Commander, and it shall then anchor along the longitudinal center line of the area 600 yards from any corner as designated by the District Commander.

(3) The master of the vessel shall request permission from the District Commander for any necessary additional stopover privilege longer than the period originally anticipated. He shall also notify the District Commander when his vessel is ready to leave the area.

(4) In addition to the appropriate day and night signals, the anchored vessel shall display by day a red flag of at least 16 square feet, and by night a red light visible all around the horizon, at the mast head or at least 10 feet above the upper deck if the vessel has no mast.

(5) The master of the vessel shall have the vessel properly patrolled at all times, and anchor bearings carefully checked at frequent intervals. During rough seas, if he is in doubt as to being securely anchored and is without ship power he shall call for tug service from any of the commercial tug-service firms available in Honolulu Harbor. All charges incurred thereby shall be charged to the vessel owner or agent.

(6) Upon being notified to shift its position a vessel shall get under way at once or signal for a tug and change position as directed with reasonable promptness.

(7) In the event of fire on board any anchored vessel, the master or other officer in charge shall immediately sound five blasts of five seconds each of a

whistle or siren, which signal may be repeated at intervals to attract attention. This signal shall be used in addition to any other means available for reporting a fire. If for any reason the whistle signal is inoperative the master shall make arrangements whereby the radio transmitter and operator will be available.

(8) Nothing in this section shall be construed as relieving the owner or person in charge of any vessel from strict compliance with all applicable navigation laws and regulations established by the Commandant of the Coast Guard with respect to explosives and other dangerous articles and substances on board vessels.

§ 110.236 Pacific Ocean off Barbers Point, Island of Oahu, Hawaii; anchorage for tank vessels.

(a) *The anchorage ground.* The waters of the Pacific Ocean within an area described as follows: Beginning at a point at latitude 21°16'58" N., longitude 158°04'39" W.; thence on a bearing of 90° true, 850 yards; thence on a bearing of 180° true, 450 yards; thence on a bearing of 270° true, 850 yards; thence on a bearing of 360° true, 450 yards to point of beginning.

(b) *The regulations.* (1) This anchorage is for the use of tank vessels loaded with, loading, or unloading oil, and shall not be used by any other vessel except as provided in subparagraph (9) of this paragraph.

(2) The anchorage will be used only for the purposes stated and under the special limitations applicable thereto.

(3) When tank vessels are conducting loading or unloading operations as indicated by the display of a red flag (International Code Flag "B") at the masthead, passing vessels of over 100 tons displacement will reduce speed to six (6) knots over the ground.

(4) Owners of tank vessels shall notify the Captain of the Port, 14th Coast Guard District, Honolulu, and the Commanding Officer, U.S. Naval Air Station, Barbers Point, not less than twenty-four (24) hours prior to actual occupancy of the anchorage ground by a tank vessel. Such notification shall include the maximum height above the waterline of the uppermost portion of the tank vessel's masts and a description, including height of the highest anchor light which will be displayed by the vessel at night when at anchor.

(5) During periods when Navy mining training is being conducted in the mining area defined in this subparagraph, owners of tank vessels shall insure that these vessels remain clear of this area. Frequency of mining operations will be approximately twice a year. The mining area is contained within the rectangle formed by the following coordinates:

Latitude	*Longitude*
21°17'21" N.	158°03'43" W.
21°17'40" N.	158°01'58" W.
21°17'09" N.	158°01'42" W.
21°16'51" N.	158°03'27" W.

(6) Owners of tank vessels shall delay actual occupancy of the anchorage ground by a tank vessel for a period not to exceed forty-eight hours approximately twice a year upon notification by the Commander, Naval Air Bases, 14th Naval District. Such notification shall be received not less than two weeks in advance.

(7) Tank vessels engaged in loading or unloading operations will normally occupy the area every two to three weeks with an occupancy time therein of approximately thirty-six hours per tank vessel.

(8) The use of this anchorage will neither restrict nor prohibit in any manner the operation of military aircraft over or near the anchorage, or the operation of naval vessels or other craft in the immediate vicinity.

(9) The following vessels only shall navigate or anchor in the area:

(i) Tank vessels using the mooring for loading or unloading operations.

(ii) Vessels belonging to the United States Government.

(iii) Commercial tugs, lighters, barges, and launches engaged in business pertaining to the mooring area.

(10) Tank vessels equipped with a "Butterworth" system shall refrain from employing such equipment during occupancy of the anchorage area.

(11) Vessels occupying the area shall refrain from pumping of bilges.

(12) Permanent mooring buoys may be installed within the area subject to Department of the Army permits being obtained for such installations.

(13) Nothing in this section shall be construed as relieving the owner or person in charge of any vessel from the penalties of law for not complying with the navigation laws in regard to lights, fog signals, or for otherwise violating the laws.

(14) The regulations of this section shall be enforced by the Captain of the Port, U.S. Coast Guard, Honolulu, and such agencies as he may designate.

§ 110.240 San Juan Harbor, P.R.

(a) *The anchorage grounds*—(1) *Yacht, schooner, and small craft Anchorage D.* That part of San Antonio Channel eastward of longitude 66°05'45".

(2) *Temporary Anchorage E (general).* Beginning at a point which bears 214°24', 943 yards from Isla Grande Light; thence along a line 75°47', 498 yards; thence along a line 134°49', 721 yards; thence along a line 224°49' to the northerly channel limit of Graving Dock Channel; thence along the northerly channel limit of Graving Dock Channel, 307 yards; and thence to the point of beginning.

(3) *Restricted Anchorage F.* Beginning at a point which bears 212°30', 1,337.5 yards from Isla Grande Light; thence along a line 269°00', 550 yards; thence along a line 330°00' to the westerly channel limit of Anegado Channel; and thence along the westerly channel limit of Anegado Channel to the point of beginning.

(b) *The regulations.* (1) The anchorage described in paragraph (a)(1) of this section shall be reserved for the anchorage of yachts, schooners, and small craft.

(2) Vessels awaiting customs or quarantine shall use the anchorage described in paragraph (a)(2) of this section. No vessel shall remain in this anchorage more than 24 hours without a permit from the U.S. Coast Guard Captain of the Port.

(3) Restricted Anchorage F shall serve both as an additional general anchorage area in cases where the temporary anchorage is full, and as an explosives anchorage for vessels loading or unloading explosives in quantities no greater than forty (40) tons, Commercial Class "A" Explosives, when so authorized by the United States Coast Guard Captain of the Port. No vessel shall enter or anchor therein without first obtaining a permit from the United States Coast Guard Captain of the Port.

§ 110.245 Vieques Passage and Vieques Sound, near Vieques Island, P.R.

(a) *The anchorage grounds*—(1) *Vieques Passage explosives anchorage and ammunition handling berth (Area 1).* A circular area having a radius of 2,000 yards with its center at latitude 18°09'-10", longitude 65°32'40".

(2) *Vieques Sound explosives anchorage and ammunition handling berth (Area 2).* A circular area having a radius of 2,000 yards with its center at latitude 18°11'48", longitude 65°26'06".

(3) *Southern Vieques Passage explosives anchorage and ammunition handling berth (Area 3).* A circular area having a radius of 2,000 yards with its center at latitude 18°06'51", longitude 65°36'14".

(b) *The regulations.* (1) No vessel or craft shall enter or remain in these anchorages while occupied by vessels having on board explosives or other dangerous cargo. Explosives in quantities no greater than 1,625 short tons will be handled in any area at one time.

(2) The regulations of this section shall be enforced by the Commander, Greater Antilles Section, U.S. Coast Guard Base, San Juan, Puerto Rico, and such agencies as he may designate.

§ 110.250 St. Thomas Harbor, Charlotte Amalie, V.I.

(a) *The anchorage grounds*—(1) *Inner harbor anchorage.* Beginning at a point bearing 85°, 525 yards from the outer end of a pier at latitude 18°20'19", longitude 64°56'26" (approximate); thence 148°, 800 yards; thence 70°, 360 yards; thence 340°, 500 yards; and thence to the point of beginning.

(2) *Outer harbor anchorage.* Beginning at Scorpion Rock lighted buoy No. 1 (latitude 18°19'25.8", longitude 64°55'41.8"); thence 180°, 1,580 yards; thence 264°30', 2,490 yards; thence due north 1,255 yards; thence due east to the southerly tip of Sprat Point, Water Island; thence to Cowell Point, Hassel Island; and thence to the point of beginning.

(3) *East Gregerie Channel anchorage (general purpose).* Bounded on the northeast by Hassel Island; on the southeast by the northwest boundary of the outer harbor anchorage; on the southwest by Water Island; and on the northwest by a line running from Banana Point, Water Island, 55° to Hassel Island.

(4) *Small-craft anchorage.* All the waters north of a line passing through the outer end of a pier at latitude 18°20'19", longitude 64°56'26" (approximate) and ranging 85°.

(5) *Deep-draft anchorage.* A circular area having a radius of 400 yards with its center at latitude 18°19'12.2", longitude 64°58'47.8".

(6) *Long Bay anchorage.* The waters of Long Bay bounded on the north by the southerly limit line of Anchorage E, on the west by the easterly limit line of Anchorage A to a point at latitude 18°-20'18", thence to latitude 18°20'13", longitude 64°55'21"; and thence to the shoreline at latitude 18°20'15", longitude 64°55'13".

(b) *The regulations.* (1) The outer harbor anchorage shall be used by vessels undergoing examination by quarantine, customs, immigration, and Coast Guard officers. Upon completion of these examinations, vessels shall move promptly to anchorage. This anchorage shall also be used by vessels having drafts too great to permit them to use the inner harbor anchorage. No vessel shall remain more than 48 hours in this anchorage without a permit from the Harbor Master.

(2) The small-craft anchorage shall be used by small vessels undergoing examination and also by small vessels anchoring under permit from the Harbor Master.

(3) The requirements of the Navy shall predominate in the deep-draft anchorage. When occupied by naval vessels all other vessels and craft shall remain clear of the area. When the area is not required for naval vessels, the Harbor Master may upon application made in advance assign other vessels to the area. Vessels so assigned and occupying the area shall move promptly upon notification by the Harbor Master.

(4) The harbor regulations for the Port of St. Thomas, V.I. of the United States and approaches thereto, including all waters under its jurisdiction, as adopted by the Government of the Virgin Islands, will apply to the Long Bay Anchorage.

(5) In addition, the Long Bay Anchorage is reserved for all types of small vessels, including sailing and motor pleasure craft, and such craft shall anchor in no other area except Anchorage E, in the northern portion of the harbor of Charlotte Amalie.

(6) Floats for marking anchors in place will be allowed in the Long Bay anchorage; stakes or mooring piles are prohibited.

(7) Vessels not more than 65 feet in length are not required to exhibit or carry anchor lights within the Long Bay anchorage, but must display them if emergency requires anchoring in any other part of the harbor.

(8) No vessel may anchor in any of the St. Thomas Harbor Anchorages without a permit from the Harbor Master.

(9) The U.S. Coast Guard Captain of the Port of St. Thomas, is hereby empowered, whenever the maritime or commercial interests of the United States so require, to shift the position of any vessel anchored within the Long Bay anchorage, and of any vessel which is so moored or anchored as to impede or obstruct vessel movement in the harbor, and to enforce all regulations of this section should the need arise.

§ 110.255 Ponce Harbor, P.R.

(a) *Small-craft anchorage.* On the northwest of Ponce Municipal Pier and northeast of Cayitos Reef, bounded as follows: Beginning at latitude 17°58'27", longitude 66°37'29.5", bearing approximately 325° true, 2,200 feet from the most southwest corner of Ponce Municipal Pier; thence 273°30' true, 1,800 feet; thence 15° true, 900 feet; thence 93°30' true, 1,800 feet; thence 195° true, 900 feet to the point of beginning.

(b) *The regulations.* (1) The Commonwealth Captain of the Port may authorize use of this anchorage whenever he finds such use required in safeguarding the maritime or commercial interests.

(2) No vessel shall anchor within the area until assigned a berth by the Commonwealth Captain of the Port. Application for permission to occupy the anchorage must be submitted in advance by the master or authorized representative of the vessel.

(3) Vessels occupying the anchorage will at all times keep within the limits of the area, and shall move or shift their position promptly upon notification by the Commonwealth Captain of the Port.

(4) The anchorage is reserved for all types of small craft, including schooners, fishing vessels, yachts and pleasure craft.

(5) Floats for marking anchors in place will be allowed; stakes or mooring piles are prohibited.

SUBCHAPTER J—BRIDGES

PART 114—GENERAL

Sec.

114.01 Purpose.
114.05 Definitions.
114.10 General policies on issuance of permits.
114.20 Departure from permit plans.
114.25 Work constructed without prior authority.
114.30 Revocation and relinquishment of permits.
114.35 Final opinions and orders in adjudication of cases.
114.40 Violations of law.
114.50 Rules and regulations.
114.60 Publication; notice of proposed rule making.

AUTHORITY: The provisions of this Part 114 issued under sec. 5, 28 Stat. 362, as amended, sec. 11, 54 Stat. 501, as amended, sec. 12, 60 Stat. 244, as amended, sec. 6(g), 80 Stat. 941; 33 U.S.C. 499, 521, 5 U.S.C. 559, 49 U.S.C. 1655(g); Department of Transportation Order 1100.1, Mar. 31, 1967, 49 CFR 1.4(a)(3).

§ 114.01 Purpose.

(a) The purpose of the rules and regulations in this subchapter is to implement certain laws and set forth the requirements for:

(1) Locations and clearances of bridges and causeways over the navigable waters (33 U.S.C. 401, 491 to 507, and 525 to 534).

(2) Administration of the alteration of obstructive bridges (33 U.S.C. 511 to 524).

(3) Regulation of drawbridge operation (33 U.S.C. 499).

(b) The rules and regulations in this subchapter also describe the procedures and practices, including forms and instructions, which are applicable to the public subject to certain laws governing bridges and causeways over the navigable waters of the United States.

(c) There were transferred to and vested in the Secretary of Transportation by subsection 6(g) of the Department of Transportation Act (sec. 6(g), 80 Stat. 941, 49 U.S.C. 1655) all functions, powers, and duties of the Secretary of the Army and other officers and offices of the Department of the Army under specified laws. The Secretary of Transportation by Department of Transportation Order 1100.1 (49 CFR 1.4(a)(3)), with specified limitations, delegated to the Commandant, U.S. Coast Guard, authority to exercise the functions, powers, and duties of the Secretary with respect to the following provisions of law:

(1) Section 5 of the Act of August 18, 1894, as amended (28 Stat. 362; 33 U.S.C. 499), regarding drawbridge operation regulations.

(2) The act of June 21, 1940, as amended (54 Stat. 497; 33 U.S.C. 511 et seq.), regarding obstructive bridges.

(3) Section 9 of the Act of March 3, 1899, as amended (30 Stat. 1151; 33 U.S.C. 401), regarding construction of bridges, causeways, etc., to the extent that it relates generally to the location and clearances of bridges and causeways in the navigable waters of the United States.

(4) The act of March 23, 1906, as amended (34 Stat. 84; 33 U.S.C. 491 et seq.), regarding general bridge authority to the extent that it relates generally to the location and clearances of bridges and causeways in the navigable waters of the United States.

(5) The General Bridge Act of 1946, as amended (60 Stat. 847; 33 U.S.C. 525 et seq.), to the extent that it relates generally to the location and clearances of bridges and causeways in the navigable waters of the United States.

§ 114.05 Definitions.

(a) *General.* Certain terms as used in this subchapter are defined in this section.

(b) *Approved.* The term "approved" means approved by the Commandant unless otherwise stated.

(c) *Bridges.* The term "bridge" means a structure erected across navigable waters of the United States, and includes causeways, approaches, fenders, and other appurtenances thereto.

(d) *Coast Guard District Commander or District Commander.* The term "Coast Guard District Commander" or "District Commander" means an officer of the Coast Guard designated as such by the Commandant to command all Coast Guard activities within his district. (See

Part 3 of this chapter for descriptions of Coast Guard Districts.)

(e) *Commandant.* The term "Commandant" means Commandant, U.S. Coast Guard, Department of Transportation, Washington, D.C. 20591.

(f) *District Office or Coast Guard District Office.* The term "District Office" or "Coast Guard District Office" means the Office of the Commander of a Coast Guard District.

(g) *Headquarters or Coast Guard Headquarters.* The term "Headquarters" or "Coast Guard Headquarters" means the Office of the Commandant, U.S. Coast Guard, Department of Transportation, Washington, D.C. 20591.

(h) *Permit.* The term "permit" means the document authorizing work and structures to be built or placed in or over navigable waters of the United States, which is issued pursuant to the rules and regulations in this subchapter.

(i) *Secretary.* The term "Secretary" means the Secretary of Transportation or any person to whom he has delegated his authority in the matter concerned.

(j) *United States Coast Guard or Coast Guard.* The term "United States Coast Guard" or "Coast Guard" means the organization or agency established by the act of January 28, 1915, as amended (14 U.S.C. 1).

§ 114.10 General policies on issuance of permits.

(a) The decision as to whether a permit will be issued must rest primarily upon the effect of the proposed work on navigation. However, in cases where the structure is unobjectionable from the standpoint of navigation but when State or local authorities decline to give their consent to the work, it is not usual for the Coast Guard actually to issue a permit. This is for the reason that while the instrument merely expresses assent so far as concerns the public rights of navigation, it practically becomes of no value in the event of opposition by State or local authority and may be regarded by such authority as an act of discourtesy. In such cases the applicant is informed that the structure is unobjectionable from the standpoint of navigation and that permit would be issued were the consent of the local authority also forthcoming.

(b) In cases of conflicting property rights the Coast Guard cannot undertake to adjudicate rival claims.

(c) Where it is found that the work for which a permit is desired may interfere with a proposed flood control project, the applicant and the party or parties responsible for fulfillment of the requirements of local cooperation will be apprised in writing of the fact and of the possibility that a flood control project which may be constructed in the vicinity of the proposed work will necessitate its removal or reconstruction. It is pointed out to the applicant and to local interests that the Coast Guard's function in approving plans for bridges across navigable waters is only to insure that structures meet the requirements of navigation and that the application for a permit will be considered on that basis; and that the United States will in no case be liable for any damage or injury to the structures which may be caused by or result from future operations undertaken by the Government for the conservation or improvement of navigation, or for other purposes, and no claims or right to compensation will accrue from any such damage.

§ 114.20 Departure from permit plans.

(a) If the final inspection shows a minor departure from the authorized plans which does not materially affect navigation, the permittee will be required to furnish a tracing showing the work as actually constructed but no further action will be taken by the Coast Guard.

(b) It is not the practice of the Coast Guard to issue letters certifying that completed work conforms to that which was authorized. That question is a matter of fact to be determined in case of controversy by the usual rules of court procedure.

§ 114.25 Work constructed without prior authority.

The Commandant will approve plans and issue permits authorizing bridges across navigable waters, in cases where the application therefor is submitted after the commencement or completion of the bridges subject to the following rules: Approval will be limited to those cases where the necessary primary authority, State or Federal as the case may be, validly existed, when the work was innocently constructed, and where the work will not unreasonably interfere with navigation. Upon issuance of the permit, applicant will be informed that the law contemplates prior approval and that in the future plans must be submitted in ample time for their consideration by the Commandant before construction is begun.

§ 114.30 Revocation and relinquishment of permits.

(a) Permits may be revoked by the Commandant for failure on the part of the permittee to comply with any of the conditions therein, or where the structures or other work constitute an unreasonable obstruction to navigation or to operations of the United States in the interests of navigation or flood control.

(b) District Commanders may accept from the permittee a voluntary relinquishment of the permit, and will inform the Commandant of this fact.

§ 114.35 Final opinions and orders in adjudication of cases.

Final opinions and orders in the adjudication of cases will not be published. They will be served on the parties directly affected thereby and subject thereto. Copies of such opinions and orders will be made available to public inspection in the office of the District Commander in whose district the case arose and at Coast Guard Headquarters.

§ 114.40 Violations of law.

Although the Coast Guard has the authority and responsibility for enforcement of the applicable provisions of law for the protection and preservation of navigable waters, it has been the long standing policy to secure compliance with their provisions short of legal proceedings. Accordingly every effort is made to accomplish corrective measures prior to initiation of action leading to such proceedings. As a general rule, no action is taken when the violation is minor, unintentional, or accidental, and the party responsible makes good the damages suffered. It is the established policy of the Coast Guard not to recommend prosecution when the violation is trivial, apparently unpremeditated, and results in no material public injury. Prosecution is recommended in all cases of willful or intentional violations and all cases in which the parties responsible refuse or neglect to remove the unlawful structure or to make good the damages suffered.

§ 114.50 Rules and regulations.

Publication of all rules is required by 5 U.S. Code 552 except to the extent that there is involved any function of the United States requiring secrecy in the public interest or any matter relating solely to the internal management of an agency, in which cases rules are not published. Except to the extent that there is involved any function of the United States requiring secrecy in the public interest, all rules, whether published or unpublished, will be made available to public inspection in all offices of District Commanders and at Coast Guard Headquarters.

§ 114.60 Publication; notice of proposed rule making.

(a) Publication of general notice of proposed rule making in the FEDERAL REGISTER (unless all persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law), is required by 5 U.S. Code 553, except to the extent that there is involved any military, naval, or foreign affairs function of the United States or any matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. Except where notice or hearing is required by statute, this requirement does not apply to interpretative rules, general statements of policy, rules of agency organization, procedure, or practice, or in any situation in which the agency for good cause finds (and incorporates the finding and a brief statement of the reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

(b) General notice of proposed rule making published in accordance with the above will include (1) a statement of the time, place, and nature of public rule making proceedings; (2) reference to the authority under which the rule is proposed; and (3) either the terms or substance of the proposed rule or a description of the subjects and issues involved.

PART 115—BRIDGE LOCATIONS AND CLEARANCES; ADMINISTRATIVE PROCEDURES

Sec.
115.01 Purpose.
115.05 Necessary primary authority.
115.10 Limiting date in permits.
115.15 Permit bonds.
115.20 Transfer of permits.
115.25 Assignment of bridge franchises.
115.30 Sufficiency of State authority for bridges.
115.40 Bridge repairs.
115.50 Bridges across waterways.
115.60 Procedures for handling applications for bridge construction authorization.
115.70 Advance approval of bridges.

AUTHORITY: The provisions of this Part 115 issued under sec. 5, 28 Stat. 362, as amended, sec. 11, 54 Stat. 501, as amended, sec. 12, 60 Stat. 244, as amended, sec. 6(g), 80 Stat. 941; 33 U.S.C. 499, 521, 5 U.S.C. 559, 49 U.S.C. 1655(g); Department of Transportation Order 1100.1, Mar. 31, 1967, 49 CFR 1.4(a)(3).

§ 115.01 Purpose.

This part states the general course and method by which certain functions, powers, and duties delegated to the Commandant, U.S. Coast Guard, are channeled and determined, including the nature and requirements of all procedures as well as forms and instructions. They are intended to show what the Coast Guard requires and how it acts in a given type of case.

§ 115.05 Necessary primary authority.

For bridges constructed by State or municipal agencies, the primary authority will be presumed without proof. If the law of the State requires a license for or approval of the bridge from a constituted State agency, a copy of such license or approval will be required and may be accepted as evidence of the primary authority. If there be no State regulation of bridges in navigable waters, the necessary primary authority may be that granted in the charter of a corporation, or the authority inherent in the ownership of the land on which the structure is placed. The applicant will in such cases be required to furnish an extract from the charter, or a statement of ownership. Especial care will be taken that Federal approval is not granted when there is doubt of the right of the builder to construct and utilize the bridge.

§ 115.10 Limiting date in permits.

Specific time limitations will be inserted in all permits, normally two years for start of construction and two additional years for completion. Extensions of time may be requested for good reason, and will normally be granted by the Commandant when so recommended by the District Commander. Work or operations of a temporary and obstructive character, however, should be limited to a period as short as is considered reasonable.

§ 115.15 Permit bonds.

When compensatory works or the removal of temporary structures should be required of the permittee, or in other unusual cases when there is reason to anticipate that the permittee may fail to carry out parts of the work that are against his interest, an additional condition will be included in the permit requiring the permittee to furnish a bond insuring compliance with the permit requirements.

§ 115.20 Transfer of permits.

Permits express merely the assent of the Federal Government so far as concerns the public rights of navigation. Although issued to a specific party, the assent is not limited to execution of the work by that party and may be availed of by the assignees or purchasers of the property affected, provided the terms of the instrument are strictly complied with.

§ 115.25 Assignment of bridge franchises.

Authority granted by an act of Congress to construct a bridge is a franchise which cannot be assigned without the permission of Congress. The Coast Guard has no authority to approve the plans of a bridge on an application made by a party or corporation to which the franchise has been transferred without authority of Congress. When plans have been approved and the bridge has been built the franchise is regarded as passing with the title to the property, and in such case plans for the renewal, reconstruction, or repair of the bridge may be accepted from the person or corporation in actual possession or control of the property. A similar rule applies to bridges authorized by State laws.

§ 115.30 Sufficiency of State authority for bridges.

An opinion of the attorney general of the State as to the sufficiency of State authority for the construction of a bridge is acceptable to the Coast Guard in doubtful cases.

§ 115.40 Bridge repairs.

Repairs to a bridge which do not alter the clearances, type of structure, or any integral part of the substructure or superstructure or navigation conditions, but which consist only in the replacement of worn or obsolete parts, may, if the bridge is a legally approved structure, be made as routine maintenance without approval of the U.S. Coast Guard.

§ 115.50 Bridges across waterways.

(a) *Approval of plans.* To obtain approval of the Commandant, an application for authorization to construct a bridge across navigable waters of the United States must show the name and address of the applicant; the waterway and location of the bridge; citation to the act of Congress or the State legislature authorizing the bridge; be accompanied by a map of the location and plans of the bridge showing these features which affect navigation; papers to establish the identity of the applicant.

(b) *Prior authority necessary.* A bridge cannot lawfully be constructed across any navigable waterway of the United States until legislative authority has been obtained and the plans have been approved by the Commandant. (See section 9, River and Harbor Act of Mar. 3, 1899 (30 Stat. 1151; 33 U.S.C. 401), General Bridge Act of Mar. 23, 1906 (34 Stat. 84; 33 U.S.C. 491), and General Bridge Act of 1946 (60 Stat. 847; 33 U.S.C. 525 et seq.).)

(c) *Legislation required.* The legislative authority must be obtained from Congress if the bridge crosses an international waterway. If the navigable portions of the waterway are not within the limits of a single State, the General Bridge Act of 1946 grants authority of Congress and no special act is necessary. If the navigable portions of the waterway are within the limits of a single State, State authority is necessary.

(d) *Form.* The application for the approval of plans consists of a letter accompanied with maps and plans of the proposed structure.

(e) *Signature.* In case of signature by an agent or by an official of a corporation, a duly authenticated copy of the authority for the action must accompany the application.

(f) *Identification.* If the applicant is a corporation, it must furnish certified copies of the following papers, all properly authenticated: The charter or articles of incorporation; the minutes of organization; extract from minutes showing the names of the present officers of the corporation.

(1) Where State laws vest in State or county officers, such as boards of supervisors and county courts, the power to authorize the construction of bridges, they must furnish with their application certified extracts from their proceedings showing their action authorizing the proposed structure.

(g) *Plans.* Four sets of plans must be submitted with the application, on which the location of the work and the essential features covered by the application will be outlined in red. Each drawing must have a simple title, date and number, preferably in the lower righthand corner.

(h) *Size of sheets.* The drawings will be on sheets 8 by 10½ inches in size. As few sheets will be used as necessary to show clearly what is proposed.

(i) *Special instructions.* (1) The scale will be shown graphically. The north and south line will be indicated by a meridian arrow. Soundings and elevations will be shown in feet and referred to the established Government datum plane at the locality.

(2) The direction of currents will be indicated by an arrow, and the strength of currents, both ebb and flow, or low water and high water, will be shown close to the proposed location of the bridge, and at both ends of the waterway shown on the map of location.

(3) The plans will show in figures the least clear height of the lowest part of the superstructure over navigation openings, with reference to the planes of mean high water and mean low water if the bridge

is to cross tidal water. If the waters are nontidal, the least clear height will be shown with reference to the planes of extreme high water and mean low water. If records of river heights are available, the plane above which flood waters have not remained more than 2 percent of the time will be indicated. Reference will also be made to other datum planes if appropriate for the waterway in question.

(4) If harbor lines have been established at the site of the bridge, their position will be shown on the plans.

(j) *Structural details.* Only those should be shown which are needed to illustrate the effect of the proposed structure on navigation. If the bridge is to be equipped with a draw, the latter will be shown in two positions: closed and open.

(k) *To whom application should be presented.* The application and the papers and plans accompanying it should be submitted to the District Commander having jurisdiction over the area in which the bridge site is located.

(l) *Action on application.* When an application is received for approval of plans for a bridge, the District Commander will verify the authority for construction of the bridge, review the application and plans as to sufficiency, ascertain the views of local authorities and other interested parties, and submit a report with the application to the Commandant.

§ 115.60 Procedures for handling applications for bridge construction authorization.

The following procedures will be observed in the handling of applications involving proposed bridges or modification or replacement of existing bridges over navigable waters.

(a) *Verification of construction authorization.* District Commanders will require applicants to establish their identity to insure that the applicant represents the individual, agency or corporation to whom Congress or the State has granted the authority for bridge construction. If the applicant is a corporation, it must state its acceptance of the provisions of the act of Congress, if applicable.

(b) *Preliminary review of application and plans.* If upon preliminary examination of the application the District Commander feels that it must inevitably be denied (as might be the case, for example, if a bridge with too little clearance were proposed to be built), he will notify the applicant that the desired permit cannot be granted and states his reasons. If, however, the applicant desires that his application receive the further consideration of the Commandant, and in all other cases in which the application is not defective on its face, the District Commander is required to give public notice that the application has been filed and proceed with the case.

(c) *Notice and hearing.* (1) Public hearings will be held in those cases which are of special importance or where significant differences of opinion have not been resolved. The Commandant must specifically authorize the holding of a public hearing. In any event a public notice must be issued to all interested parties.

(2) The notice is a brief formal statement identifying the application, to which the hearing relates, indicates the place and time of hearing, customarily 30 days after notice, and indicates the particular issues to which the hearing will pertain. Notice is communicated to the applicant by letter and mailed to State, county, and municipal authorities and all other known interested parties. It is also posted at the post office nearest the site and public places in the vicinity.

(3) Hearings are public and conducted in an informal manner. The District Commander, or another officer attached to his staff, presides. At the opening of the hearing the presiding officer announces (i) the purpose of the hearing, (ii) that the Coast Guard desires all interested parties to make full and frank statements of their views, (iii) that the Coast Guard will consider all evidence and arguments presented, and (iv) that later ex parte evidence and arguments are not desired unless the matter is new, material, and could not be presented at the hearing. The statutes bearing on the subject matter of the hearing and any other pertinent documents are read aloud and the discussion is then opened. The submission of written statements is invited and encouraged. Anyone desiring to do so may speak. Statements, written or oral, are not under oath, and cross-examination is not usually permitted. No fixed order has been established for the presentation of evidence or argument although proponents are generally heard first, followed by opponents with full opportunity afforded for rebuttals.

(d) *District Commander's report.* (1) When the study has been completed and the minutes of the hearing (if held) has been transcribed, the District Commander prepares his report. It is a detailed statement of his findings, conclusions, and recommendations based on information obtained at the hearing (if held) and knowledge derived from his experience and office data. His report must include:

(1) Comparison of proposed bridge with existing bridges over the waterway; attitude of local authorities; summary of objections offered at public hearing (if held), with his comments thereon; probable effect on navigation, present and prospective, with reasons, on harbor lines and on flood heights and drift; his remarks and recommendations; and a list of the parties notified, the record of hearing (if held), and all other pertinent papers to complete the record.

(2) Description of the navigation on the waterway past the site of the proposed bridge, the number and type of vessels, the number of vessel trips, and the principal method of handling traffic, whether in single vessels or in tows. If tows are used, the manner in which they are made up shall be stated, whether in fleets or in single vessels arranged tandem. The probable maximum length and breadth of tows during the lifetime of the bridge shall be given and the manner in which they are likely to pass the navigation opening, whether directly ahead on a line approximately parallel to the channel axis, or by flanking movement. If flanking movement is likely, the report shall also give the width of waterway required for the passage of the maximum-sized tow in the most oblique position it will probably have with respect to the channel axis.

(3) Specifically whether he recommends approval of the plans. If he finds them objectionable, a detailed statement of his objections must be submitted. If the clearances which he recommends are smaller than the corresponding clearances on that portion of the waterway bearing the larger or more important traffic between the proposed location and principal connecting waterways, he must state the names and locations of the bridges in which the larger clearances are found and give in detail the reasons for his recommendations. If he considers the plans do not afford reasonable passage of floodwaters in and outside of the natural stream bed, the applicant will be so advised. If the applicant declines to submit plans with adequate water passages, the case is referred to the Commandant with full information and appropriate recommendation.

(4) If approval is recommended, all conditions to which the permit should be subject will be stated.

(e) *Final action.* The file is received in the office of the Commandant (OAN) where it is again subjected to analysis and review. When the Commandant disagrees with the District Commander on a substantive matter, he may return the case for reconsideration, or, when he disagrees as to a matter of procedure, he may return the case with instructions to correct the procedural defect (such as the failure to give notice, or to hold a public hearing). When favorable action is taken on an application, the permit is signed by the Commandant and transmitted directly to the applicant. When unfavorable action is taken, the Commandant will inform the applicant of the reasons for rejection and the modifications of plans which would justify reconsideration.

§ 115.70 Advance approval of bridges.

(a) The General Bridge Act of 1946 requires the approval of the location and plans of bridges prior to start of construction (33 U.S.C. 525). The Commandant has given his advance approval to the location and plans of bridges to be constructed across reaches of waterways navigable in law, but not actually navigated other than by logs, log rafts, rowboats, canoes and small motorboats. In such cases the clearances provided for high water stages will be considered adequate to meet the reasonable needs of navigation.

(b) Before any waterway is designated as having such advance approval, the District Commander shall issue a public notice to give interested parties full opportunity to be heard. Following designation of the waterways to which the advance approval procedure will be applied, a second public notice shall be issued advising interested parties of the action taken.

(c) The term "small motorboats" shall be interpreted in the light of the things and conditions with which it is associated. The term means rowboats, canoes and other similar craft with outboard motors. It does not include sailing or cabin cruiser craft. The term is used to distinguish such craft from the definition of "motorboat" in the Motorboat Act of June 25, 1940 (46 U.S.C. 526), which includes craft up to 65 feet in length.

(d) In general, the advance approval procedure is intended to apply only to routine and obvious circumstances. Any case of reasonable doubt will be resolved by the usual practice of notice or hearing prior to specific approval of location and plans based upon findings made at the time and under the conditions then existing.

PART 116—ALTERATION OF OBSTRUCTIVE BRIDGES

Sec.
116.01 Purpose.
116.05 Alteration of bridges other than railroad or publicly owned highway bridges.
116.10 Alteration of railroad or publicly owned highway bridges.
116.15 Investigation of complaints of obstructive bridges.
116.20 Hearings to be held on obstructive bridges.
116.25 Order to alter obstructive bridges.
116.30 Approval of award and guaranty of cost under Truman-Hobbs Act.

AUTHORITY: The provisions of this Part 116 issued under sec. 5, 28 Stat. 362, as amended, sec. 11, 54 Stat. 501, as amended, sec. 12, 60 Stat. 244, as amended, sec. 6(g), 80 Stat. 941; 33 U.S.C. 499, 521, 5 U.S.C. 559, 49 U.S.C. 1655(g); Department of Transportation Order 1100.1, Mar. 31, 1967, 49 CFR 1.4(a)(3).

§ 116.01 Purpose.

This part states the general course and method by which certain functions, powers, and duties regarding alteration of obstructive bridges delegated to the Commandant, U.S. Coast Guard, are channeled and determined, including the nature and requirements of all procedures as well as forms and instructions. They are intended to show what the Coast Guard requires and how it acts in a given situation.

§ 116.05 Alteration of bridges other than railroad or publicly owned highway bridges.

Whenever the Commandant has good reason to believe that a bridge across any of the navigable waters of the United States, other than a railroad or publicly owned highway bridge, is an unreasonable obstruction to navigation, it shall be his duty, after giving the parties interested reasonable opportunity to be heard, to notify the persons or corporation owning or controlling such bridge to alter it so as to render navigation through or under it reasonably free, easy, and unobstructed. He shall specify the changes that are required to be made and shall prescribe a reasonable time in which to accomplish them. Failure to comply with such notice will subject the owner or controller of the bridge to the penalties prescribed by law (33 U.S.C. 494; 33 U.S.C. 502).

§ 116.10 Alteration of railroad or publicly owned highway bridges.

(a) Whenever the Commandant has good reason to believe that a railroad or publicly owned highway bridge across any of the navigable waters of the United States is an unreasonable obstruction to navigation, it shall be his duty, after giving notice to interested parties, to hold a public hearing at which the bridge owner, those interested in water navigation, railway and/or highway traffic, and any other parties in interest shall have full opportunity to offer evidence and be heard as to whether alterations to the bridge are necessary and, if so, to what extent. Due regard shall be given to the necessities of free and unobstructed water navigation and of rail and/or highway traffic. If the Commandant thereafter determines that alteration of the bridge is necessary, he shall issue to the bridge owner an order to alter, under the provisions of the Truman-Hobbs Act (act of June 21, 1940, as amended; 54 Stat. 497; 33 U.S.C. 511 et seq.), specifying such changes as he finds necessary for the purpose of navigation.

(b) The Truman-Hobbs Act further provides for the approval by the Commandant of general plans and specifications and contracts for the project and apportionment of the total cost thereof between the United States and the bridge owner.

(c) Penalties for noncompliance with lawful orders issued pursuant to the Truman-Hobbs Act are prescribed by law.

§ 116.15 Investigation of complaints of obstructive bridges.

(a) Upon receipt of a complaint that a bridge over a navigable waterway of the United States is an obstruction to navigation, the District Commander will investigate to determine if, in his opinion, the complaint is justified. If the District Commander does not consider the bridge unreasonably obstructive to navigation he will so notify the complainant. If the District Commander finds that the bridge is unreasonably obstructive or is unable to satisfy the complainant that the bridge is not obstructive, he will submit a report to the Commandant, specifying the character of obstruction, the changes necessary to render navigation through or under the bridge reasonably free, easy, and unobstructed, and his estimate of a reasonable period of time in which to make the required changes. In cases under the Truman-Hobbs Act, the estimate of time required need not be included but the best available preliminary estimate of total cost of the required changes and probable portion of cost to be borne by the United States will be stated.

(b) The Commandant will notify the District Commander of the action desired after consideration of the report on the complaint.

§ 116.20 Hearings to be held on obstructive bridges.

(a) Upon receipt of authority from the Commandant, the District Commander will arrange for a hearing at which the owners and controllers of the bridge, the complainants, and all other known interested parties will be given reasonable opportunity to be heard.

(b) The notice of the hearing will include statements of the changes required and, except in cases under the Truman-Hobbs Act, the estimate of time considered reasonable for accomplishment of the changes.

(c) Upon conclusion of hearings, the District Commander will submit to the Commandant a full report on the subject, including statements on:

(1) Whether the bridge unreasonably obstructs navigation.

(2) Whether rafts, selfpropelled vessels, or other watercraft have difficulty in passing the draw opening or drawspan.

(3) The changes necessary to render navigation through or under the bridge reasonably free, easy, and unobstructed.

(4) The reasonable time in which such changes should be made, except in the case of railroad or publicly owned highway bridges.

(5) The character and the approximate amount of commerce affected by the obstructive features of the bridge.

(6) Whether, in the judgment of the District Commander, the commerce affected is sufficient to justify the proposed changes in the bridge.

(7) An estimate of cost of alterations and proportionate share to be borne by the United States in actions relating to railroad or publicly owned highway bridges.

(8) A sketch on letter size paper showing the principal features of the bridge, the particular features against which complaint is made, and any other natural or artificial feature pertinent to consideration of the complaint.

(9) A transcript of the proceedings of the hearing.

§ 116.25 Order to alter obstructive bridges.

(a) Should the Commandant decide, after review of the report of the District Commander, that a bridge is an unreasonable obstruction to navigation, he will issue an "Order to Alter." Such order will be promptly served on the proper parties. A copy of the order as served, together with a statement thereon executed by the person serving the order showing on whom, when and where the service was made will be returned to the Commandant.

(b) The owner of a bridge to be altered under the provisions of the Truman-Hobbs Act, as amended (54 Stat. 497; 33 U.S.C. 511 et seq.), will be advised by the District Commander of the requirements for submission of general plans and specifications. These general plans and specifications will be submitted to the District Commander, who will forward them to the Commandant for ap-

proval, together with his comments and recommendations on the proposed navigational clearances. The Commandant will then determine:

(1) Whether the plans and specifications provide for the minimum structure meeting the requirements of the "Order to Alter."

(2) Whether the plans and specifications include items of features not necessary to meet the "Order to Alter" but desired by the bridge owner.

(3) Whether the plans and specifications provide for materials or workmanship of a higher grade than that of comparable items of features of the existing bridge, or where no counterpart, of a higher grade than provided in recommended practice of the Association of American Railroads.

(4) Necessary revisions, if any, of the preliminary estimate of cost and apportionment.

(c) The Commandant will notify the bridge owner of the approval of the plans and specifications and will inform him of the requirements of sections 5 and 6 of the Truman-Hobbs Act, as amended (54 Stat. 498, 499; 33 U.S.C. 515, 516), with respect to submission of bids and guaranty of cost.

§ 116.30 Approval of award and guaranty of cost under Truman Hobbs Act.

(a) Bids obtained by the bridge owner will be submitted to the Commandant. The Commandant will notify the bridge owner when award is approved and will request him to furnish the guaranty of cost and a statement of the proportionate shares of cost to be borne by the United States and the owner in the following form:

Cost of alteration	$
Cost attributable to bridge owner, viz:	
Direct and special benefits	$
Expectable savings in repair or maintenance costs	
Costs attributable to the requirements of railroad traffic	
Expenditure for increased carrying capacity	
Expired service life of old bridge	
Cost	$
Cost to be borne by the United States	$

(b) Direct and special benefits will ordinarily include such items as improved signal and fender system, prorata share of dismantling costs, and improvements included but not required in the interests of navigation. The foregoing statements will include or be accompanied by breakdown of the statements of total cost and proportionate shares and sufficient details of the features of construction to show how the apportionment was determined and to permit review and auditing of the statements.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Sec.
117.1 General.
117.2 Machias River, Maine; East Machias Highway Bridge between Machiasport and East Machias, Maine.
117.2a Narraguagus River, Maine; Maine State Highway Commission bridge across Narraguagus River, Millbridge, Maine.
117.3 Taunton River, Maine; Maine State Highway Commission highway bridge between Hancock and Sullivan.
117.5 Townsend Gut, Maine; bridge (highway) of town of Southport.
117.5a Sheepscot River, Maine; Maine State Highway Commission bridge (U.S. Route No. 1) between Wiscasset and Edgecomb.
117.6 Back River, Maine; highway bridge between Hodgdon and Barter Islands in the town of Boothbay, Maine.
117.8 Kennebec River, Maine; Maine State Highway Commission highway and railroad bridge (Carlton Bridge) between Bath and Woolwich.
117.10 Kennebec River, Maine; Maine State Highway Commission bridges between Richmond and Dresden and between Gardiner and Randolph.
117.15 Presumpscot River, Portland, Maine; bridge (highway) at Martins Point, Portland, Maine.
117.20 Back Cove, Portland, Maine; Canadian National Railway bridge.
117.25 Fore River, Portland Harbor, Maine; bridge (highway), known as "Portland Bridge."
117.26 Kennebunk River, Maine Dock Square Highway Bridge between Kennebunk and Kennebunkport, Maine.
117.35 Piscataqua River, Maine and N.H.
117.40 Bellamy River, N.H.; bridge (highway) between Cedar Point and Dover Point, N.H.
117.45 Little Harbor, N.H.; bridge (highway) between Rye and New Castle, N.H.
117.50 Hampton River, N.H.; bridge (highway) between Seabrook and Hampton Beaches, N.H.
117.55 Merrimack River, Mass.
117.60 Plum Island River, Mass.; bridge (highway).
117.64 Manchester Harbor Mass.; Boston and Maine Railroad Bridge at Manchester.
117.65 Danvers River, Mass.; bridges (highway and railroad).
117.75 Boston Harbor, Mass., and adjacent waters; bridges.
117.77 North River, Mass.; State of Massachusetts highway bridge between Scituate and Marshfield.
117.80 Acushnet River, Mass.; State of Massachusetts bridge between New Bedford and Fairhaven.
117.81 Apponagansett River, Mass.; Padanarum Highway Bridge at South Darmouth.
117.85 Sakonnet River, R.I.; State of Rhode Island highway bridge and New York, New Haven & Hartford Railroad Co. bridge at Tiverton.
117.87 Taunton River, Mass.; bridges.
117.90 Providence Harbor, R.I.; bridges.
117.95 Mystic River at Mystic, Conn.
117.100 Thames River, Conn.; The New York, New Haven & Hartford Railroad Co. bridge between New London and Groton.
117.105 Shaws Cove, New London Harbor, Conn.; bridge of New York, New Haven & Hartford Railroad Co. at New London, Conn.
117.110 Niantic River, Conn.; bridges of New York, New Haven & Hartford Railroad Co., and the State of Connecticut at Niantic, Conn.
117.115 Connecticut River, Conn.; bridges.
117.120 New Haven Harbor, Quinnipiac and Mill Rivers, Conn.; bridges owned and operated by the State of Connecticut and city of New Haven.
117.121 West River, Kimberly Avenue Bridge between New Haven and West Haven, Conn.
117.125 Housatonic River, Conn.; bridges (highway and railroad) between Milford and Stratford, Conn., known as the Washington Bridge and bridge of New York, New Haven & Hartford Railroad Co.
117.130 Poquonock and Johnsons Rivers, Conn.; bridges (highway and railroad) at Bridgeport.
117.131 Poquonock River, Grand Street Highway Bridge and Yellow Mill Channel, Yellow Mill Highway Bridge at Stratford Avenue, Bridgeport, Conn.
117.135 Saugatuck River, Conn.; bridge of New York, New Haven & Hartford Railroad Co., at Saugatuck, Conn.
117.145 Norwalk River at Norwalk, Conn.; Washington Street Highway Bridge and the New York, New Haven & Hartford Railroad bridge.
117.150 Mianus River, Conn.; bridge of New York, New Haven & Hartford Railroad Co. at Cosoob, Conn.
117.155 Hutchinson River, N.Y.; bridges.
117.156 Westchester Creek and Bronx River, N.Y.; city of New York Bridges at Bruckner Expressway.
117.160 Harlem River, N.Y., bridges.
117.165 Newton Creek, N.Y.
117.175 Jamaica Bay and connecting waterways, New York.
117.180 Long Island Intracoastal Waterway; Nassau County highway bridges across Reynolds Channel at Long Beach and Atlantic Beach, N.Y.
117.185 Hudson River, N.Y.; bridges at Albany and Troy.
117.190 Navigable waters in the State of New York and their tributaries; bridges where constant attendance of bridge tenders is not required.
117.200 Newark Bay, Passaic, and Hackensack Rivers, and their navigable tributaries; General Regulations.
117.210 Raritan River and Arthur Kill, and their navigable tributaries; bridges.
117.215 Navigable streams flowing into Raritan Bay (except Raritan River and Arthur Kill), the Shrewsbury River and its tributaries, and all inlets on the Atlantic Ocean including their tributaries and canals between Sandy Hook and Bay Head, N.J.; bridges.
117.220 New Jersey Intracoastal Waterway and tributaries; bridges.
117.225 Navigable waters in the State of New Jersey; bridges where constant attendance of draw tenders is not required.
117.227 Delaware and Schuylkill Rivers, N.J. and Pa., in vicinity of Philadelphia and Bristol; bridges.

Sec.
117.228 Darby Creek, Pa., The Pennsylvania Railroad Co. and Reading Co. bridges near Essington.
117.229 Chester River, Pa.; the Reading Co. bridge at Front Street, Chester, Pa.
117.230 Brandywine River, Del.; bridges.
117.235 Christina River, Del.; bridges.
117.236 Appoquinimink River, Del.; Delaware State Highway Department bridge at Fennimores, Del.
117.237 St. Jones River, Del.; Delaware State Highway Department bridges at Barkers Landing and at Lebanon.
117.237a Mispillion River, Del.; Delaware State Highway Department bridge at Washington Street, Milford.
117.237b Lewes and Rehoboth Canal, Del.; Delaware State Highway Department bridges at Rehoboth.
117.240 Navigable waters discharging into the Atlantic Ocean south of Delaware Bay (including the Lewes and Rehoboth Canal, Del.), and into the Gulf of Mexico (including coastal waterways contiguous thereto and tributaries to such waterways and the Lower Atchafalaya River, La.), except the Mississippi River and its tributaries and outlets; bridges.
117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.
117.270 Cambridge Harbor, Md.; bridge.
117.280 Miles River, Md.; bridge (highway) at Easton, Md.
117.285 Oak Creek, tributary of Miles River, Md.; bridge of the Baltimore, Chesapeake and Atlantic Railroad Co. at Royal Oak, Md.
117.290 Kent Island Narrows, Md.
117.305 Baltimore Harbor, Md.; bridge (highway) at Hanover Street across Middle Branch of Patapsco River.
117.310 Severn River, Md.; bridge (highway) near Annapolis, Md.
117.311 Spa Creek, Md.; highway bridge at Annapolis.
117.325 Potomac River at Washington, D.C.; drawbridges.
117.330 Anacostia River, Washington, D.C.; bridges.
117.340 Rappahannock River, Va.; all bridges.
117.343 Milford Haven, Va.; Virginia Department of Highways bridge between the mainland and Gwynns Island.
117.349 Eastern Branch of Elizabeth River, Va.; Elizabeth River Tunnel Commission bridge between Norfolk and Berkley.
117.350 Albemarle and Chesapeake Canal (AIWW), Va.; U.S. Government bridge at Great Bridge.
117.355 Bogue Sound (Atlantic Intracoastal Waterway), N.C.; North Carolina State Highway Commission bridge at Atlantic Beach.
117.370 Wappoo Creek (Atlantic Intracoastal Waterway), S.C.; South Carolina State Highway Department bridge (State Route 700) at Charleston.
117.404 Tybee (Bull) River, Ga.; highway bridge on U.S. Highway 80 between Savannah Beach and Thunderbolt.
117.408 Back River, Ga.; drawbridge in the causeway between Brunswick and St. Simons Island.
117.430 St. Johns River, Fla.; Main Street, Acosta and Fuller Warren bridges, Jacksonville.
117.430a St. Johns River, Fla.; Florida State Road Department bridge between Sanford and Osteen.
117.431 Ortega River, Fla.; Florida State Road Department bridge (Roosevelt Boulevard) near Jacksonville.
117.431a Black Creek, Fla.; Florida State Highway Department bridge on State Road 15 (U.S. Highway 17) and Atlantic Coast Line Railroad Co. bridge near Doctors Inlet.
117.432 Matanzas River (Intracoastal Waterway), Fla.; Bridge of Lions (State Road No. A1A) in St. Augustine.
117.432a Matanzas Pass, Fla., Florida State Road Department bridge (State Road 865) at Fort Myers Beach.
117.434 Oklawaha River, Haines Creek and Dead River, Fla.; Bridges over Oklawaha River on State Road S-316 at Eureka, State Road 40 at Delks Bluff (Colbys Landing), State Road 464 at Moss Bluff, and State Road 42 at Starkes Ferry, and over Haines Creek on State Road 44 near Lisbon.
117.435 Indian River (Intracoastal Waterway), Fla.; automatic operation of Florida East Coast Railway bridge near Jay Jay north of Titusville.
117.435a Banana River, Fla.; NASA Causeway Bridge near Cocoa.
117.436 Indian River, Fla.; Florida State Road Department bridges at Titusville, Cocoa, Eau Gallie, Melbourne, and the National Aeronautics and Space Administration bridge at Addison Point.
117.436a Loxahatchee River at Jupiter, St. Lucie River (Okeechobee Waterway) at Stuart and St. Lucie Canal (Okeechobee Waterway) at Port Mayaca, Fla.; automatic operation of Florida East Coast Railway bridges.
117.437 Canaveral Harbor Barge Canal, Fla.; Florida State Road Department bridges, State Road A1A on Merritt Island and State Road 401 at Canaveral Harbor, Fla.
117.439 St. Lucie Canal, Fla.; Seaboard Air Line Railroad Co. bridge near Indiantown.
117.439a St. Lucie Canal, Fla.; the Martin County Bridge on State Road 76A near the Arundel Shops (Palm City Farms).
117.439b Lake Worth (Intracoastal Waterway), Fla.; Singer Island Bridge, at Riviera Beach.
117.440 Lake Worth (Intracoastal Waterway), Fla.; Flagler Memorial and Royal Park bridges, Palm Beach, Fla.
117.441 Hillsboro Inlet, Fla.; State Road Department of Florida highway bridge (State Road No. A1A) near Pompano Beach, Fla.
117.443 Intracoastal Waterway, Fla.; State Road Department of Florida highway bridge at Atlantic Boulevard in Pompano Beach, Fla.
117.446 New River Sound and Stranahan River (Intracoastal Waterway), Fort Lauderdale, Fla.; bridges.
117.446a Intracoastal Waterway Fla.; Hollywood Boulevard bridge, Hollywood, Fla.
117.446b Intracoastal Waterway, Fla.; Hallandale bridge at Hallandale, Fla.
117.446c New River and South Fork of New River, Fort Lauderdale, Fla.; bridges.
117.446d Indian Creek, Fla.; bridge at 63d Street, Miami Beach.
117.447 Biscayne Bay, Fla.; State Road Department of Florida highway bridge (MacArthur or 13th Street Causeway) and Dade County Port Authority highway bridge (Venetian or 15th Street Causeway), Miami, Fla.
117.447a Biscayne Bay, Fla.; Dade County Bridge (Rickenbacker Causeway), Miami, Fla.
117.448 Miami River, Fla.; highway bridges from mouth to and including city of Miami bridge at Northwest 37th Avenue, Miami.
117.449 Miami River, Fla.; Seaboard Air Line Railroad Co. bridge, Miami.
117.462 Caloosahatchee River, Fla.; Florida State Road Department bridge (Edison Bridge) at Fort Myers.
117.463 Manatee River, Fla.; State Road Department of Florida bridge near Bradenton.
117.465 Hillsborough River, Tampa, Fla.
117.466 Clearwater Harbor, Fla.; the city of Clearwater bridge (Memorial Causeway), Clearwater, Fla.
117.491 Mobile River and Chickasaw Creek, Ala.; Alabama State Highway bridge across Mobile River and Louisville & Nashville Railroad Co. bridge across Chickasaw Creek at Mobile, Ala.
117.555 Mississippi River and its navigable tributaries and outlets, including the Atchafalaya River, La., above Grand Lake; bridges.
117.560 Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.
117.563 White River, Ark.; Missouri and Arkansas Railway Co. bridge near Georgetown, Ark.
117.596 Missouri River; bridges.
117.605 Illinois Waterway, Ill.; bridges (highway and railroad) at Pekin, Peoria, and Joliet, Ill.
117.620 Quincy Bay at Quincy, Ill.; bridge (railroad) opposite Broadway Street.
117.640 Red River of the North, Minnesota and North Dakota; bridges.
117.640a Duluth-Superior Harbor, Minn. and Wis.; bridges (highway and railroad).
117.641 Great Lakes tributaries; bridges where constant attendance of draw tenders is not required.
117.642 Kewaunee Waterway, Mich.; Michigan State Highway Department bridge between Houghton and Hancock.
117.643 Fox River and Portage Canal, Wis.
117.645 Sturgeon Bay, Wis.; bridges at Sturgeon Bay, Wis.
117.650 Manitowoc River, Wis.; bridges.
117.652 Sheboygan River, Wis.; city of Sheboygan Highway Bridge at Eighth Street, Sheboygan.
117.655 Milwaukee, Menomonee, and Kinnickinnic Rivers, and South Menomonee Canal, Milwaukee, Wis.; bridges.
117.660 Root River, Wis.; bridges at Racine, Wis.
117.662 The Chicago River, the Ogden Slip, the North Branch of the Chicago River, the North Branch Canal, the South Branch, the West Fork of the South Branch, the South Fork of the South Branch, and the West Arm of South Fork of South Branch of the Chicago River, Ill.; bridges.
117.670 Calumet River, Ill. and Ind.; bridges.

Sec.
117.675 Little Calumet River, Ill.; Michigan Central Railroad bridge 8.11 miles from Lake Michigan.
117.676 Indiana Harbor Canal, Ind.; drawbridges.
117.680 Trail Creek, Ind.; The Michigan Central Railroad Co. bridge, Michigan City.
117.685 Grand River and the channel at mouth of Spring Lake, Mich.; bridge.
117.690 Charlevoix Harbor, Mich. (upper and lower channels); bridge.
117.692 Crooked River, Mich.; village of Alanson bridge in Alanson, Mich.
117.695 St. Marys Falls Canal, Mich.; International Bridge.
117.697 Thunder Bay River, Mich.; city of Alpena bridge at Second Avenue.
117.700 Saginaw River, Mich.; bridges.
117.705 Rouge River, Mich.; Short-Cut Canal and Rouge River between Short-Cut Canal and Maples Road; bridges.
117.705a Portage River, Ohio; the New York Central Railroad Co. bridge at Port Clinton, Mile 1.51.
117.706 Sandusky Bay, Ohio.
117.706a Ashtabula River, Ashtabula, Ohio, bridges.
117.707 Buffalo Harbor, N.Y.; city of Buffalo bridges across Buffalo River and Buffalo Ship Canal.
117.707a Niagara River; City of Buffalo Ferry Street bridge across Black Rock Channel.
117.708 Niagara River; Canadian National Railway bridge (International Bridge) between Buffalo, N.Y., and Port Erie, Ontario, Canada.
117.710 Navigable waters of the United States within the State of California; bridges generally.
117.711 Los Angeles and Long Beach Harbors, Calif.
117.712 Tributaries of San Francisco Bay and San Pablo Bay, Calif.
117.713 Minor tributaries of Suisun Bay, Calif.
117.714 San Joaquin River and its tributaries, California.
117.715 Georgiana Slough, Calif.
117.716 Sacramento River and its tributaries, California.
117.718 Eureka Slough, near Eureka, Calif.
117.720 Coos Bay, Oreg.
117.725 Umpqua River, Oreg.
117.730 Siuslaw River, Oreg.
117.739 Umpqua River, Dean Creek, Little Nestucca River, and Siletpanon River, Oreg.; bridges.
117.740 Youngs Bay, Walluski River, Lewis and Clark River, Skipanon River, John Day River, Blind Slough, and Clatskanie River, Oreg.; bridges.
117.745 John Day River, Oreg.; bridge (highway).
117.750 Willamette River at Portland, Oreg., Columbia River at Vancouver, Wash., and North Portland Harbor (Oregon Slough), Oreg.; bridges (highway and railroad): Signals.
117.755 Willamette River, Oreg.; bridges above Oregon City, Oreg.
117.758 Skamokawa Creek, Wash.; Washington State Highway bridge at Skamokawa.
117.759 Columbia River; Oregon-Washington Bridge Co. highway bridge between Hood River, Oreg., and White Salmon, Wash.
117.759a Columbia River; Spokane, Portland, and Seattle Railway Co. bridge between Wishram, Wash., and Celilo, Oreg.
117.760 Columbia and Snake Rivers in vicinity of Pasco, Wash.; bridges.
117.765 Cowlitz and Lewis Rivers, Wash.; bridges.
117.770 Willapa Harbor and navigable tributaries, Washington; bridges.
117.775 Grays Harbor and tributaries, Washington; bridges.
117.784 Hood Canal, Wash.; Washington State Department of Highways bridge near Port Gamble.
117.785 City Waterway, Tacoma Harbor, Wash.; bridges.
117.790 Duwamish Waterway at Seattle, Wash.; bridges.
117.795 Lake Washington Ship Canal, Wash.; bridge.
117.800 Lake Washington, Wash.; pontoon bridge between Seattle and Mercer Island, Wash.
117.801 Lake Washington, Wash.; pontoon bridge between Foster Island and Evergreen Point, Wash.
117.805 Snohomish River, Steamboat Slough, and Ebey Slough, Wash.; bridges.
117.810 Navigable waters in the State of Washington; bridges where constant attendance of draw tenders is not required.
117.815 Pend Oreille Lake, Idaho; bridge of Northern Pacific Railway Co. near Sandpoint.
117.900 Honolulu Harbor, Hawaii; Kalihi Channel Bridge.

AUTHORITY: The provisions of this Part 117 issued under sec. 5, 26 Stat. 362, as amended, sec. 6(g), 80 Stat. 941; 33 U.S.C. 499, 49 U.S.C. 1655(g); Department of Transportation Order 1100.1, March 31, 1967; 49 CFR 1.4(a)(3)(v); unless otherwise noted.

§ 117.1 General.

(a) The operation of drawbridges, in the absence of specific regulations in this part, shall be as required by section 5 of the act of August 18, 1894, as amended (28 Stat. 362; 33 U.S.C. 499). It shall be the duty of persons owning, operating, and tending drawbridges built across navigable waters of the United States, to open, or cause to be opened, the draws of such bridges under such rules and regulations as in the opinion of the Commandant the public interests require. Insofar as criminal liability on the part of the bridge owner is concerned, the Commandant is of the opinion that, in the absence of Federal regulations, there is no Federal authority requiring the opening of any drawbridge to which the General Bridge Act of March 23, 1906, does not apply. With reference to the civil liability of the bridge owner, however, it has been held that the duty to take proper care of a bridge includes the duty to make proper provision for the passage of vessels through the draw. In constructing a bridge with a draw, and in undertaking to open and manage the draw so as to allow vessels to pass, the owner has recognized the right of vessels to pass through without any appeal to the national authority to protect that right. Having thus recognized the rights of commerce, and undertaken to provide accommodations for the passage of vessels, the owner is bound that the custodians of the bridge shall use ordinary diligence to avoid accidents to vessels going through the draw at customary hours, and in the customary manner, as one of the incidents of the care, management, and control of the bridge itself. The owner is responsible, therefor, for the want of ordinary care and diligence in his servants, and for the consequent damage.

(b) The Attorney General has held (Jan. 28, 1899; 22 Opin. 314) that the first part of section 5 of the 1894 act is merely declaratory of the legal duty of the owners or operators which attaches to the maintenance and operation of a drawbridge across navigable waters. "It is the duty of all persons operating such drawbridges to open or cause them to be opened in a reasonable manner and at a reasonable time, consistent with the uses for which drawbridges are constructed, for the passage of vessels. The repair of such draws and of the bridges with which they are connected is also necessary for their maintenance. It is reasonable that a sufficient time should be allowed for such repairs and if they cannot be prosecuted without closing the bridge for a number of successive days, such closing cannot be considered an unreasonable interference with navigation." "It is entirely competent for the Secretary of the Army to make rules and regulations governing this subject, but in the absence of such rules and regulations the law is as I have above stated it." (The Commandant prescribes these rules and regulations.)

(c) Notwithstanding any general or special regulation heretofore or hereafter prescribed, drawbridges across navigable waters of the United States will not be opened-to navigation for certain periods determined by the proper civil defense authorities to be in the interest of public safety during a major disaster or civil defense emergency indicated by a civil defense condition of "Air Raid Warning" (attack by enemy aircraft probable, imminent, or taking place).

(d) As used in this part, the term "long blast" means a distinct blast of a whistle, horn, siren, or other efficient sound producing device, of approximately three (3) seconds' duration. The term "blast" or "short blast" means a distinct blast of one (1) second's duration, or where specified, a distinct stroke of a bell.

§ 117.2 Machias River, Maine; East Machias Highway bridge between Machiasport and East Machias, Maine.

(a) The draw shall be opened promptly on signal for the passage of vessels between the hours of 7:00 a.m. and 5:00 p.m. (local time) throughout the year.

(b) At times other than those specified in paragraph (a) of this section, the draw need not be opened for the passage of vessels, except on advance notice to the drawtender to be given between the hours of 7:00 a.m. and 5:00 p.m. when the drawtender is on duty.

(c) The owner or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in a position where it can be easily read at any time, a copy of the regulations in this section.

§ 117.2a Narraguagus River, Maine; Maine State Highway Commission bridge across Narraguagus River, Milbridge, Maine.

(a) The owner of or agency controlling the drawbridge will not be required to keep a drawtender in constant attendance.

(b) Whenever a vessel desires an opening of the drawspan at least a 24-hour advance notice of the time the opening is required shall be given in person, in writing, or by telephone to the Maine State Highway Commission, Division Office, Ellsworth, Maine.

(c) Upon receipt of such notice, the authorized representative of the owner of or agency controlling the bridge in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

(d) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in a manner that it can be easily read at any time, a copy of the regulations in this section, together with a notice stating exactly how the representative stated in paragraph (b) of this section may be reached.

§ 117.3 Taunton River, Maine; Maine State Highway Commission highway bridge between Hancock and Sullivan.

(a) The owner of or agency controlling this bridge will not be required to keep draw tenders in constant attendance.

(b) Whenever a vessel unable to pass under the closed bridge desires to pass through the draw, at least 48 hours' advance notice of the time the opening is required shall be given to the authorized representative of the owner of or agency controlling the bridge, except as provided in paragraph (c) of this section. Advance notice as required by this paragraph shall be given either in person, by telephone, or otherwise to the Maine State Highway Commission, Augusta, Maine, or Ellsworth, Maine, or to such person or persons as may be designated an authorized representative.

(c) In case of emergency, the draw shall be opened promptly upon notification. For this purpose the owner of or agency controlling the bridge shall provide arrangements whereby the draw tender can be readily reached by telephone or otherwise at any hour of the day or night.

(d) Upon receipt of such notice, the authorized representative of the owner of or agency controlling the bridge, in compliance therewith, shall arrange for the prompt opening of the draw, at the time specified in the notice for the passage of the vessel.

(e) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in such manner that it can be easily read at any time, a copy of the regulations in this section, together with a notice stating exactly how the draw tender may be reached in an emergency and how the authorized representative may be reached by telephone or otherwise.

(f) The operating machinery of the draw shall be maintained in a serviceable condition, and the draw shall be opened and closed at intervals frequent enough to make certain the machinery is in proper order for satisfactory operation.

§ 117.5 Townsend Gut, Maine; bridge (highway) of town of Southport.

(a) That the draw of the bridge shall be opened promptly upon reasonable signal for the passage of boats except when there are vehicles, animals, or foot passengers on the bridge; but in no case shall the delay in opening the bridge from this cause exceed five minutes: *Provided*, That the signal may be given by three distinct blasts of whistle, horn, or conch, or by shouting with the voice.

(b) All boats desiring to pass through the draw shall be allowed to do so freely and without interference at a speed not exceeding 5 knots per hour.

§ 117.5a Sheepscot River, Maine; Maine State Highway Commission bridge (U.S. Route No. 1) between Wiscasset and Edgecomb.

(a) From June through September between the hours of 9:00 a.m. and 9:00 p.m. the draw will be opened promptly on signal given to the drawtender on duty. Between 9:00 p.m. and 9:00 a.m. during the period June through September the draw will be opened on advance notice given to the drawtender while he is on duty between 9:00 a.m. and 9:00 p.m.

(b) From October through May the draw will be opened on a 24-hour advance notice in person, in writing or by telephone to the Maine State Highway Commission, Augusta, Maine.

(c) The owner or agency controlling the bridge shall provide arrangements whereby the agent may be conveniently reached by telephone or otherwise, and shall keep posted conspicuously on both the upstream and downstream sides of the bridge in a position where it can be read easily at any time, a copy of these regulations together with a notice stating how the agent may be reached at any time.

(d) The draw need not be opened at any time for vessels capable of passing under the bridge with the draw closed.

§ 117.6 Back River, Maine; highway bridge between Hodgdon and Barter Islands in the town of Boothbay, Maine.

(a) The draw shall be opened promptly on signal for the passage of vessels between the hours of 8:00 a.m. and 5:00 p.m. (local time) during the months of June to October, inclusive. At other hours during these months the draw need not be opened for the passage of vessels except on previous notice in person, by telephone, or in writing to the drawtender. Such previous notice to be received during the hours the drawtender is on duty.

(b) From November to May, inclusive, the draw need not be opened for the passage of vessels any hour of the day or night except on a 24-hour advance notice to the drawtender of the bridge over Townsend Gut between Southport and Boothbay Harbor, Maine, or to the Maine State Highway Commission, Augusta, Maine.

(c) Upon receipt of such notice, the authorized representatives of the owner or agency controlling the bridge, in compliance therewith, shall arrange for the opening of the draw at the time specified in the notice for the passage of the vessel.

(d) The owner or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in a manner that it can be easily read at any time, a copy of the regulations in this section, together with a notice stating exactly how the representative stated in paragraph (b) of this section may be reached.

§ 117.8 Kennebec River, Maine; Maine State Highway Commission highway and railroad bridge (Carlton Bridge) between Bath and Woolwich.

(a) The owner of or agency controlling this bridge shall provide the necessary draw tenders and the proper mechanical appliances for the safe, prompt, and efficient opening of the draw for the passage of vessels.

(b) The draw shall, upon receiving the prescribed call signal, be opened promptly at any time, day or night, for the passage of any vessel or other watercraft not able to pass under the closed bridge: *Provided*, That the draw shall not be opened when a train is approaching so closely that it cannot safely be stopped before reaching the bridge, or when a passenger or mail train is approaching within sight or hearing of the draw tender.

NOTE: If it is desired to give advance notice of the approximate time an opening will be required, the draw tender may be reached by telephone at any time.

(c) Sound and visual signals: Both sound and visual signals shall be given together under any weather conditions and whether sound signals can or cannot be heard.

(1) *Call signal for opening of draw.* Three blasts or three loud and distinct strokes of a bell, and a flag by day or a lighted lantern at night swung in circles at arm's length from the bridge or pilot house of the vessel. The call signal shall be given when the vessel is within a reasonable distance of the bridge, and shall be repeated at intervals until acknowledged.

(2) *Acknowledging signals when draw can be opened immediately and is in process of being lifted.* Flashing yellow light and whistle in series of three flashes and blasts with four seconds between each series, to be continued until confirmed. The vessel shall confirm by three blasts or three loud and distinct strokes of a bell, and a flag by day or a lighted lantern at night raised and lowered in vertical plane a number of times.

(3) *Acknowledging signals when draw cannot be opened immediately.* Flash-

ing red light and whistle in series of five flashes and blasts with five seconds between each series, to be continued until confirmed. The vessel shall confirm by five blasts or five loud and distinct strokes of a bell, and a flag by day or a lighted lantern at night swung to and fro horizontally a number of times.

NOTE: As used in this paragraph, the term "blasts" means distinct blasts of a whistle, horn, or megaphone each of one second's duration and at one-second intervals. The flashing yellow and red lights referred to will be located on the west side of the river on the upstream and downstream sides of the bridge near the operator's house at a height of about 75 feet above mean high water.

(d) Trains and vehicles shall not be stopped on the bridge for the purpose of delaying its opening, nor shall watercraft be handled so as to hinder or delay the operation of the draw, but all passage over or through the bridge shall be prompt to prevent delay to either land or water traffic.

(e) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can be read easily at any time, a copy of the regulations in this section.

§ 117.10 Kennebec River, Maine; Maine State Highway Commission bridges between Richmond and Dresden and between Gardiner and Randolph.

(a) The owner of or agency controlling these bridges shall provide the necessary draw tenders and the proper mechanical appliances for the safe, prompt, and efficient opening of the draws for the passage of vessels.

(b) The draw of each bridge shall, upon receiving the prescribed call signal, be opened promptly at any time, day or night, for the passage of any vessel or other watercraft not able to pass under the closed bridge: *Provided*, That the draw shall not be required to be opened between 9:00 p.m. and 5:00 a.m. except when advance notice of the time an opening is desired is given to the draw tender in person or by telephone or letter. The owner of or agency controlling the bridges shall provide arrangements whereby the draw tenders can be readily reached by telephone or otherwise at any time between 5:00 a.m. and 9:00 p.m. Notices stating exactly how the draw tender may be reached shall be posted in the same manner as the copies of the regulations posted in accordance with paragraph (e) of this section.

(c) Sound and visual signals: Both sound and visual signals shall be given together under any weather conditions and whether sound signals can or cannot be heard.

(1) *Call signal for opening of draw.* Three blasts, and a flag by day or a lighted lantern by night swung in circles at arm's length from the bridge or pilot house of the vessel. The call signal shall be given when the vessel is within a reasonable distance of the bridge, and shall be repeated at intervals until acknowledged.

(2) *Acknowledging signals when draw can be opened immediately.* Three blasts, and a flag by day or a lighted lantern at night raised and lowered in vertical plane a number of times.

(3) *Acknowledging signals when draw cannot be opened immediately.* Five blasts, and a flag by day or a lighted lantern at night swung to and fro horizontally a number of times.

NOTE: As used in this paragraph, the term "blasts" means distinct blasts of a whistle, horn, or megaphone, or loud and distinct stroke of a bell.

(d) Vehicles shall not be stopped on a bridge for the purpose of delaying its opening, nor shall watercraft be handled so as to hinder or delay the operation of the draw, but all passage over or through a bridge shall be prompt to prevent delay to either land or water traffic.

(e) The owner of or agency controlling the bridges shall keep conspicuously posted on both the upstream and downstream sides of each, in such manner that it can be read easily at any time, a copy of the regulations in this section.

§ 117.15 Presumpscot River, Portland, Maine; bridge (highway) at Martins Point, Portland, Maine.

(a) That on week days between April 1 and November 30 the draw shall be opened promptly upon signal between the hours of 7 a.m. and 6 p.m. Between December 1 and March 31 and on holidays and Sundays throughout the year the draw shall be opened only upon timely previous notice in person or in writing or by telephone to the draw tender.

(b) That the signal for opening the draw shall be five blasts of steam whistle on steam vessels or towboats, and five blasts from a horn on sailing or gasoline-driven vessels.

(c) That boats and tows shall approach and pass through the draw at a speed no higher than that required for good steerageway.

§ 117.20 Back Cove, Portland, Maine; Canadian National Railway bridge.

(a) The draw of the bridge shall be opened promptly on signal for the passage of vessels that cannot pass the closed draw between 8:00 a.m. and 12:00 midnight (local time) from June 1 to October 1. At all times other than those specified above, the draw will be opened on a twelve hour advance notice given to the General Agent of Grand Trunk Railway, 1 India Street, Portland, Maine. The owner of or agency controlling the bridge shall provide arrangements whereby the General Agent may be conveniently reached by telephone or otherwise, and shall keep conspicuously posted on both the upstream and downstream side of the bridge in a position where it can be read easily at any time, a copy of the regulations of this section together with a notice stating how the agent may be reached at any time.

(b) The signal for opening the draw promptly when required shall be three short blasts of a whistle or horn.

§ 117.25 Fore River, Portland Harbor, Maine; bridge (highway), known as "Portland Bridge".

(a) The owner of or agency controlling the drawbridge shall provide the same with the necessary tenders and the proper mechanical appliances for the safe, prompt, and efficient opening of the draw for the passage of vessels.

(b) If the weather conditions are good and sound signals can be heard when a vessel approaches the drawbridge and desires to pass through the draw, three distinct blasts of a whistle, horn, or megaphone shall be sounded from the vessel when within reasonable hearing distance of the bridge.

(1) When the draw of the bridge can be opened immediately, the draw tender shall reply by three distinct blasts of a whistle, horn, or megaphone or by three loud and distinct strokes of a bell.

(2) When the draw of the bridge cannot be opened immediately or when the bridge is open and is to be closed immediately, the draw tender shall reply by two long distinct blasts of a whistle, horn, or megaphone or by two loud and distinct strokes of a bell.

(c) When weather conditions prevent hearing the sound signals, when a vessel approaches the drawbridge and desires to pass through the draw, signals shall be made from the vessel by swinging in circles at arm's length a lighted lantern at night and a flag by day.

(1) When the draw of the bridge can be opened immediately, the draw tender shall reply by raising and lowering in a vertical plane a number of times a lighted lantern at night and a flag by day.

(2) When the draw of the bridge cannot be opened immediately or when the bridge is to be closed immediately, the draw tender shall reply by swinging to and fro horizontally a number of times a lighted lantern at night and a flag by day.

(d) When two or more vessels are approaching the drawbridge at nearly the same time from the same or opposite directions with the draw opened or closed, each of these vessels shall signal independently for the opening of the draw and the draw tender shall reply as prescribed and in turn to the signal of each vessel.

(e) The draw shall be opened with the least possible delay at all hours upon receiving the prescribed signal for the passage of any vessel or vessels or other water craft not able to pass underneath it.

(f) When a bridge tender is about to close a draw, he shall sound two distinct blasts of a whistle, horn, or megaphone, or two loud and distinct strokes of a bell.

(g) Wagons and other vehicles shall not be stopped on a drawbridge for the purpose of delaying its opening, nor shall water craft or vessels be so manipulated as to hinder or delay the operation of a drawspan, but all passage over, through, or under a drawbridge shall be prompt, to prevent delay to either land or water traffic.

(h) The owners of or agency controlling the drawbridge shall provide and keep in good legible condition two board gages painted white, with black figures not less than 6 inches high, to indicate the headroom clearance under the lower chords of the closed drawspan at all stages of the tide. The gages shall be so placed on the ends of the drawspan fender that they will be plainly visible to the operator of a vessel approaching the bridge either upstream or downstream, and the said gages shall be illuminated at night.

(i) Vessels which can pass under the drawbridge with a clearance of 2 feet or more should not signal for the opening of the draw. In case such a vessel gives the prescribed signal and the draw tender is uncertain as to whether the vessel can safely pass, he will open the draw and if he finds that there would have been a clearance of 2 feet or more had the draw remained closed, he will report the matter immediately to the District Commander giving the name of the vessel, the time of opening the draw, the headroom under the bridge as indicated by the gage at the time of opening the draw, and the approximate headroom required by the vessel.

§ 117.28 Kennebunk River, Maine Dock Square Highway Bridge between Kennebunk and Kennebunkport, Maine.

(a) The draw shall be opened promptly on signal for the passage of vessels between the hours of 7:00 a.m. and 5:00 p.m. (local time) on all days of the year.

(b) At times other than those specified in paragraph (a) of this section, the draw need not be opened for the passage of vessels except on advance notice to the drawtender to be given between the hours of 7:00 a.m. and 5:00 p.m. when the drawtender is on duty.

(c) The owner or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in a position where it can be easily read at any time, a copy of the regulations in this section.

§ 117.35 Piscataqua River, Maine and N.H.

(a) *Bridge (highway) between Portsmouth, N.H., and Kittery, Maine.* (1) The draw shall, upon the signals prescribed in subparagraphs (2) and (3) of this paragraph being given, be opened promptly at all hours for the passage of any vessel or vessels or other watercraft not able to pass underneath it.

(2) The signal for opening the draw shall be four blasts of a whistle or horn.

(3) Upon receiving the prescribed signal from an approaching vessel or watercraft, the draw tender, in case the draw can be opened immediately, shall promptly reply by an answering signal of three blasts of a whistle or horn. If, for any reason, the draw cannot be opened promptly when the prescribed signal is given, the draw tender shall so indicate by sounding five blasts of a whistle or horn, repeated at intervals until answered in like manner by the approaching vessel.

(4) There shall be provided, and kept in good legible condition, two board gages, painted white, with black figures not less than 6 inches high, to indicate the headroom clearance under the lower chords of the closed drawspan at all stages of the tide. The gages shall be so placed on the piers at the ends of the drawspan, that they will be plainly visible to the operator of a vessel approaching the bridge either upstream or downstream.

(5) Pedestrians and vehicles shall not be stopped on the bridge for the purpose of delaying its opening, nor shall watercraft or vessels be so manipulated as to hinder or delay the operation of a drawspan, but all passage over, through, or under a drawbridge shall be prompt, to prevent delay to either land or water traffic.

(b) *Bridge (combined highway and railroad) between Portsmouth, N.H., and Kittery, Maine.* (1) The corporation or persons owning or controlling this drawbridge shall provide the same with the necessary tenders and the proper mechanical appliances for the safe, prompt, and efficient opening of the draw for the passage of vessels.

(2) If the weather conditions are good and sound signals can be heard when a vessel approaches this drawbridge and desires to pass through the draw, two long and two short distinct blasts of a whistle, horn, or megaphone shall be sounded from the vessel when within reasonable hearing distance of the bridge.

(i) When the draw of the bridge can be opened immediately, the draw tender shall reply by two long distinct blasts of a whistle, siren, horn, or megaphone or by two loud and distinct strokes of a bell.

(ii) When the draw of the bridge cannot be opened immediately or when the bridge is open and is to be closed immediately, the draw tender shall reply by five short distinct blasts of a whistle, siren, horn, or megaphone or by five loud and distinct strokes of a bell, repeated at intervals until answered in like manner from the approaching vessel.

(3) When weather conditions prevent hearing the sound signals when a vessel approaches this drawbridge and desires to pass through the draw, signals shall be made from the vessel by swinging in circles at arm's length, a lighted lantern at night and a flag by day.

(i) When the draw of the bridge can be opened immediately, the draw tender shall reply by raising and lowering in a vertical plane a number of times, a lighted lantern at night and a flag by day.

(ii) When the draw of the bridge cannot be opened immediately or when the bridge is to be closed immediately, the draw tender shall reply by swinging to and fro horizontally a number of times a lighted lantern at night and a flag by day.

(4) When two or more vessels are approaching this bridge at nearly the same time from the same or opposite directions with the draw opened or closed, each of these vessels shall signal independently for the opening of the draw, and the draw tender shall reply as prescribed and in turn to the signal of each vessel.

(5) The draw shall be opened with the least possible delay at all hours upon receiving the prescribed signal for the passage of any vessel or vessels or other watercraft not able to pass underneath it: *Provided*, That the drawspan shall not be opened when a train is approaching so closely that it cannot safely be stopped before reaching the railroad signal block in which the drawspan of the bridge is located.

(6) When the draw tender is about to close the draw, he shall sound one distinct blast of a whistle, siren, horn or megaphone, or one loud and distinct stroke of a bell.

(7) Trains and vehicles shall not be stopped or pedestrians loiter on this drawbridge for the purpose of delaying its opening, nor shall watercraft or vessels be so manipulated as to hinder or delay the operation of the drawspan, but all passage over, through, or under it shall be prompt, to prevent delay to either land or water traffic.

(8) The owners of this bridge shall provide and keep in good legible condition two suitable gages approved by the Commandant, to indicate the headroom clearance under the lower chords of the closed drawspan at all stages of the tide. These gages shall be so placed on the piers at the ends of the drawspan that they will be plainly visible to the operator of a vessel approaching the bridge either upstream or downstream.

§ 117.40 Bellamy River, N.H.; bridge (highway) between Cedar Point and Dover Point, N.H.

(a) The owner of or agency controlling the bridge will not be required to keep draw tenders in constant attendance at the bridge.

(b) Whenever a vessel unable to pass under the closed bridge desires to pass through the draw between the hours of 6:00 a.m. and 10:00 p.m., from April 1 to October 31, at least 4 hours' advance notice of the time the opening is required shall be given to the authorized representative of the owner or agency controlling the bridge: *Provided*, That in an emergency the draw will be opened as soon as possible after notification. At all other hours during the period April 1 to October 31 and at all times during the period November 1 to March 31, the draw will be opened only in an emergency. The owner of or agency controlling the bridge shall provide arrangements whereby the draw tenders can be readily reached by telephone or otherwise at any hour of the day or night.

(c) Upon receipt of such notice, the authorized representative of the owner of or agency controlling the bridge, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

(d) The owner of or agency controlling the bridge shall keep conspicuously posted on both sides of the bridge, in a position where it can easily be read at any time, a copy of the regulations in this

section, together with a notice stating exactly how the representative specified in paragraph (b) of this section may be reached.

(e) Automobiles, trucks, vehicles, vessels or other water craft shall not be stopped or manipulated in a manner hindering or delaying the operation of the draw. All passage over the draw or through the draw opening shall be in a manner to expedite both land and water traffic.

(f) The operating machinery of the draw shall be maintained in serviceable condition, and the draw opened and closed at least once each quarter to make certain that the machinery is in proper order for satisfactory operation.

§ 117.43 Little Harbor, N.H.; bridge (highway) between Rye and New Castle, N.H.

(a) The owner or agency controlling the bridge will not be required to keep draw tenders in constant attendance at the bridge.

(b) Whenever a vessel unable to pass under the closed bridge desires to pass through the draw between the hours of 6:00 a.m. and 10:00 p.m., from April 1 to October 31, at least 4 hours' advance notice of the time the opening is required shall be given to the authorized representative of the owner or agency controlling the bridge: *Provided*, That in an emergency the draw will be opened as soon as possible after notification. At all other hours during the period April 1 to October 31 and at all times during the period November 1 to March 31, the draw will be opened only in an emergency. The owner of or agency controlling the bridge shall provide arrangements whereby the draw tenders can be readily reached by telephone or otherwise at any hour of the day or night.

(c) Upon receipt of such notice, the authorized representative of the owner or agency controlling the bridge, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

(d) The owner or agency controlling the bridge shall keep conspicuously posted on both sides of the bridge, in a position where it can easily be read at any time, a copy of the regulations of this section, together with a notice stating exactly how the representative specified in paragraph (b) of this section may be reached.

(e) Automobiles, trucks, vehicles, vessels, or other watercraft shall not be stopped or manipulated in a manner hindering or delaying the operation of the draw. All passage over the draw or through the draw opening shall be in a manner to expedite both land and water traffic.

(f) The operating machinery of the draw shall be maintained in a serviceable condition, and the draw opened and closed at least once each quarter to make certain that the machinery is in proper order for satisfactory operation.

§ 117.50 Hampton River, N.H.; bridge (highway) between Seabrook and Hampton Beaches, N.H.

(a) The owner of or the agency controlling the drawbridge shall provide the appliances and the personnel necessary for the safe, prompt, and efficient operation of the draw.

(b) The draw shall be operated as prescribed in paragraphs (c) and (d) of this section and shall be opened promptly when the signal prescribed in paragraph (i) of this section for the opening of the draw is received.

(c) On all week days between April 1 and October 31, both dates inclusive, the draw shall be opened promptly for the passage of vessels during the daylight portions of the periods beginning 3 hours before and ending 3 hours after each high water. For the purpose of this section, daylight is construed to begin 30 minutes before sunrise and to end 30 minutes after sunset, and high water shall be deemed to occur 30 minutes later than the time of high water for Portland, Me., as given in the tide tables for the United States published by the Department of Commerce, United States Coast and Geodetic Survey.

(d) At times other than those specified in paragraph (c) of this section, the draw shall be opened only upon at least 3 hours' previous notice given in person or in writing or by telephone to the representative of the owner or agency controlling the bridge except that in case of emergency the draw shall be opened promptly upon such notice. For this purpose the owner shall install and maintain at the bridge a telephone and shall keep conspicuously posted on both the upstream and downstream sides of the bridge in such manner that it can easily be read at any time a copy of the regulations in this section together with a notice stating exactly how the representative specified in this section may be reached.

(e) The owners of the bridge shall provide and keep in good legible condition two board gages painted white, with black figures not less than 6 inches high, to indicate the headroom clearance under the closed drawspan at all stages of the tide. The gages shall be so placed on the bridge that they will be plainly visible to the operator of a vessel approaching the bridge either up or down stream.

(f) Vessels which can pass under the bridge with a clearance of 1 foot or more should not signal for the opening of the draw. In case such a vessel gives the prescribed signal and the draw tender is uncertain as to whether the vessel can safely pass, he will open the draw and if he finds that there would have been a clearance of 1 foot or more had the draw remained closed, he will report the matter immediately to the District Commander, giving the name of the vessel, the time of opening the draw, the headroom under the bridge as indicated by the gage at the time of opening the draw, and the approximate headroom required by the vessel.

(g) Pilots or masters of vessels are prohibited from signaling for or serving notice of passage unless it is necessary for the draw to be opened for the passage of the vessel. If notice or signal is given and the passage not effected at the proper time, report shall be made to the District Commander, by the draw tender.

(h) Automobiles, trucks, vehicles, vessels or other water craft shall not be stopped or manipulated in a manner hindering or delaying the operation of the draw, but all passage over the drawspan or through the draw opening shall be in a manner so as to expedite both land and water traffic.

(i) *Signals*—(1) *Call signals for opening of draw*—(i) *Sound signal.* Three distinct blasts of a whistle, horn, or megaphone, or three loud and distinct strokes of a bell sounded within a reasonable hearing distance of the bridge.

(ii) *Visual signal.* A white flag by day, a white light by night, swung in full circles at arm's length in full sight of the bridge and facing the draw. This signal is to be used in conjunction with sound signals when conditions are such that sound signals may not be heard.

(2) *Acknowledging signals by bridge operator*—(i) *Sound signals.* Draw to be opened immediately: Same as call signal. Draw cannot be opened immediately, or if open must be closed immediately: Two long distinct blasts of a whistle, horn, or megaphone or by two loud and distinct strokes of a bell, to be repeated at regular intervals until acknowledged by the vessel.

(ii) *Visual signals.* Draw to be opened immediately: A white flag by day or a green light at night swung up and down vertically a number of times in full sight of the vessel. Draw cannot be opened immediately or if open must be closed immediately: A red flag by day, a red light by night swung to and fro horizontally in full sight of the vessel, to be repeated until acknowledged by the vessel.

(3) *Acknowledging signals by the vessel.* Vessels or other water craft having signaled for the opening of the draw and having received a signal that the draw cannot be opened immediately, or if open must be closed immediately, will acknowledge said signal by one long blast followed by a short blast, or by swinging to and fro horizontally a red flag by day or a red light by night.

§ 117.55 Merrimack River, Mass.

(a) *Massachusetts Department of Public Works highway bridge and Boston and Maine Railroad bridge between Newburyport and Salisbury.* (1) Between 6:00 a.m. and 10:00 p.m. from May to October, inclusive, and between 8:00 a.m., and 5:00 p.m. from November to April, inclusive, the draw of each of these bridges shall, upon receipt of the signal prescribed in subparagraph (5) of this paragraph or upon verbal request at the bridge, be opened promptly for the passage of any vessel or other watercraft not able to pass under the closed draw.

(2) At all other times, the draw shall be opened within a reasonable time after notice to the draw tender in person, by letter, or by telephone. For this purpose the owner of or agency controlling the bridge shall provide arrangements whereby the draw tender can be reached readily by telephone or otherwise at any hour of the day or night, and shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in a position where it can be read easily at any time, a copy of the regulations in this paragraph together with a notice stating exactly how the draw tender may be reached at all times by telephone or otherwise.

(3) The draw shall not be opened if there is a train, car, or other vehicle passing over the draw, or if a train or car is approaching so closely that it cannot be stopped safely before reaching the draw, but the draw shall be opened as soon as it can be cleared, and no person, vehicle, car, or train shall be permitted to begin to cross the draw after it has been signaled to open except as provided in this paragraph.

(4) When the draw shall have been opened for 10 minutes it may be closed for the crossing of trains, cars, vehicles, or individuals if there be any waiting to cross, and after being so closed for 10 minutes or for such shorter time as may be necessary for the said trains, cars, vehicles, or individuals to cross, it shall again be opened promptly for the passage of any vessel or other watercraft desiring to pass. The length of time that the draw has been open shall be computed from the time it is fully opened, and the length of time that the draw has been closed shall be computed from the time it ceases to move in closing.

(5) When a vessel or other watercraft intends to pass through the draw of either bridge, the master or pilot thereof shall, on approaching within signaling distance, signify his intention to pass through the draw by sounding two long blasts followed immediately by two short blasts. If the draw can be opened immediately, the draw tender shall reply by three long blasts. If a delay in opening the draw is permitted by the regulations in this paragraph and it is not to be opened immediately, the draw tender shall reply by two long blasts.

(6) Trains and vehicles shall not be stopped on a bridge for the purpose of delaying its opening, nor shall watercraft be navigated so as to hinder or delay the operation of the draw, but all passage over or through the bridge shall be prompt to prevent delay to either land or water traffic.

(7) The owner of or agency controlling each bridge shall maintain in good and efficient order the draw and the machinery and appliances for operating the same and for assisting vessels while passing through the draw, shall provide such draw tenders as may be necessary to open and close the draw promptly, and shall provide and maintain in good order on the bridge piers or fenders such fixtures as may be necessary to vessels in mooring or making fast while waiting for the draw to open.

(8) This paragraph shall not apply to vessels owned or leased by the United States, nor to vessels employed for police or fire protection by any town or municipality touching on the Merrimack River. All such United States and municipal vessels shall be passed without delay through the draw of either bridge during the periods specified in subparagraph (1) of this paragraph upon signaling by four long blasts, and at all other times as soon as possible after notice to the draw tender in person or by telephone.

(b) *Essex County highway bridge between Deer Island and Salisbury and drawbridges upstream therefrom.* (1) The owner of or agencies controlling these bridges will not be required to keep draw tenders in constant attendance.

(2) Whenever a vessel unable to pass under a closed bridge desires to pass through the draw, at least two hours' advance notice of the time the opening is required shall be given to the authorized representative of the owner of or agency controlling the bridge: *Provided*, That all vessels owned or leased by the United States, and all vessels employed for police or fire protection by any town or municipality touching on the Merrimack River, shall be passed through the draw as soon as possible after notice to the authorized representative in person or by telephone.

(3) Upon receipt of such advance notice, the authorized representative, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

(4) The owner of or agency controlling each bridge shall keep conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can be read easily at any time, a copy of the regulations in this paragraph together with a notice stating exactly how the authorized representative may be reached.

(5) The operating machinery of the draws shall be maintained in a serviceable condition, and the draws shall be opened and closed at intervals frequent enough to make certain that the machinery is in proper order for satisfactory operation.

§ 117.60 Plum Island River, Mass.; bridge (highway).

(a) The owner of or the agency controlling the drawbridge shall provide the appliances and the personnel necessary for the safe, prompt, and efficient operation of the draw.

(b) On every calendar day between April 1 and November 30, both dates inclusive, the draw shall be opened promptly for the passage of vessels during the daylight portions of the periods beginning 2 hours before and ending 2 hours after each high tide. For the purpose of this section, daylight is construed to begin 30 minutes before sunrise and to end 30 minutes after sunset, and high tide shall be deemed to occur 30 minutes later than the time of high tide for Portland, Maine, as given in the tide tables for the United States published by the Department of Commerce, United States Coast and Geodetic Survey.

(c) Persons requiring the opening of the draw at times other than those specified in paragraph (b) of this section shall, except in an emergency, give at least 3 hours' notice of the time at which such opening will be required. Said notice may be given in person, in writing, or by telephone to the draw tender while in attendance at the bridge or to a designated representative of the owner or agency controlling the bridge. Upon receipt of such notice said owner or agency shall cause a suitable draw tender to be on duty at the bridge at the time specified in the notice, and the bridge shall at such time and for a reasonable period thereafter be opened promptly for the passage of vessels.

(d) The owner of or agency controlling the bridge shall install and maintain at the bridge a telephone and shall keep conspicuously posted on both the upstream and downstream sides of the bridge in such manner that it can easily be read at any time a copy of the regulations in this section together with a notice stating exactly how the representative specified in this section may be reached.

(e) The owners of the bridge shall provide and keep in good legible condition two board gages painted white, with black figures not less than 6 inches high, to indicate the headroom clearance under the closed drawspan at all stages of the tide. The gages shall be so placed on the bridge that they will be plainly visible to the operator of a vessel approaching the bridge either up or down stream.

(f) Vessels which can pass under the bridge with a clearance of 1 foot or more should not signal for the opening of the draw. In case such a vessel gives the prescribed signal and the draw tender is uncertain as to whether the vessel can safely pass, he will open the draw, and if he finds that there would have been a clearance of 1 foot or more had the draw remained closed, he will report the matter immediately to the District Commander, giving the name of the vessel, the time of opening the draw, the headroom under the bridge as indicated by the gage at the time of opening the draw, and the approximate headroom required by the vessel.

(g) Pilots or masters of vessels are prohibited from signaling for or serving notice of passage unless it is necessary for the draw to be opened for the passage of the vessel. If notice or signal is given and the passage not effected at the proper time, report shall be made to the District Commander, by the draw tender.

(h) Automobiles, trucks, vehicles, vessels or other water craft shall not be stopped or manipulated in a manner hindering or delaying the operation of the draw, but all passage over the drawspan or through the draw opening shall be in a manner so as to expedite both land and water traffic.

(i) *Signals*—(1) *Call signals for opening draw.* (i) *Sound signal.* Three distinct blasts of a whistle, horn, or megaphone, or three loud and distinct strokes

of a bell sounded within a reasonable hearing distance of the bridge.

(ii) *Visual signal.* A white flag by day a white light by night, swung in full circles at arm's length in full sight of the bridge and facing the draw. This signal is to be used in conjunction with sound signals when conditions are such that sound signals may not be heard.

(2) *Acknowledging signals by bridge operator*—(i) *Sound signals.* Draw to be opened immediately: Same as call signal. Draw cannot be opened immediately, or if open must be closed immediately: Two long distinct blasts of a whistle, horn, or megaphone or by two loud and distinct strokes of a bell, to be repeated at regular intervals until acknowledged by the vessel.

(ii) *Visual signals.* Draw to be opened immediately: A white flag by day or a green light at night swung up and down vertically a number of times in full sight of the vessel. Draw cannot be opened immediately or if open must be closed immediately: A red flag by day, a red light by night swung to and fro horizontally in full sight of the vessel, to be repeated until acknowledged by the vessel.

(3) *Acknowledging signals by the vessel.* Vessels or other water craft having signaled for the opening of the draw and having received a signal that the draw cannot be opened immediately, or if opened must be closed immediately, will acknowledge said signal by one long blast followed by a short blast, or by swinging to and fro horizontally a red flag by day or a red light by night.

§ 117.64 Manchester Harbor; Mass.; Boston and Maine Railroad Bridge at Manchester.

(a) The draw shall be opened promptly on signal for the passage of vessels from 9:00 a.m. to 1:00 p.m. and from 2:00 p.m. to 6:00 p.m. (local time) each day of the week from April 1 to November 1, inclusive.

(b) At times other than those specified in paragraph (a) of this section, advance notice of at least 2 hours is required for opening the draw between the hours of 6:45 a.m. and 3:45 p.m., and 5 hours for opening at times other than specified above. The notice is to be given to the Chief Dispatcher, Boston and Maine Railroad, Boston, Massachusetts.

(c) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides thereof in such manner that it can easily be read at any time, a copy of the regulations in this section together with a notice stating exactly how the representative in paragraph (b) of this section may be reached.

§ 117.65 Danvers River, Mass.; bridges (highway and railroad).

(a) The corporations or persons owning or controlling the bridge shall provide the same with the necessary tenders and proper mechanical appliances for the safe, prompt, and efficient opening of the draw for the passage of vessels.

(b) The draw of each of the bridges shall, upon the signal prescribed in paragraphs (d) and (e) of this section being given, be opened promptly for the passage of vessels from 8:00 a.m. to 12:00 midnight each day of the year.

(c) Between 12:00 midnight and 8:00 a.m. each day of the year, the bridges shall be opened on advanced notice in person, or in writing, or by telephone to the draw tenders, either at the bridges during the time the operators are on duty or at the residences thereafter, except that in case of emergency, the draw shall be opened promptly upon notification. For this purpose, the bridge owners shall install and maintain telephones at the bridges and provide arrangements whereby the draw tenders can be reached by telephone or otherwise at any hour of the day or night, and notice of such arrangements shall be conspicuously posted on the bridges.

(d) If weather conditions are good and sound signals can be heard when a vessel approaches a drawbridge and desires to pass through the draw, the person in charge of said vessel shall cause to be sounded, within reasonable hearing distance of the bridge, three distinct blasts of a whistle, horn, or megaphone, or three loud and distinct strokes of a bell.

(1) When the draw of the bridge can be opened immediately, the draw tender shall reply by three distinct blasts of a whistle, horn, or megaphone, or by three loud and distinct strokes of a bell.

(2) When the draw of the bridge cannot be opened immediately, the draw tender shall reply by two long distinct blasts of a whistle, horn, or megaphone, or by two loud and distinct strokes of a bell.

(e) When weather conditions prevent hearing the sound signals, signals shall be made from the vessel by swinging in circles at arm's length a flag.

(1) When the draw of the bridge can be opened immediately, the draw tender shall reply by raising and lowering in vertical plane a number of times a flag.

(2) When the draw of the bridge cannot be opened immediately, the draw tender shall reply by swinging to and fro horizontally a number of times a flag.

(f) The draw shall be opened with the least possible delay upon receiving the prescribed signals: *Provided,* That the drawspan shall not be opened when a train is approaching so closely that it cannot safely be stopped before reaching the bridge, or when a passenger or mail train is approaching within sight or hearing of the operator of the drawspan.

(g) Trains, wagons, and other vehicles shall not be stopped on a drawbridge for the purpose of delaying its opening, nor shall watercraft or vessels be so manipulated as to hinder or delay the operation of a drawspan, but all passage over, through, or under a drawbridge shall be prompt, to prevent delay to either land or water traffic.

§ 117.75 Boston Harbor, Mass., and adjacent waters; bridges.

(a) The regulations in this section shall govern the operation of all drawbridges across Boston Harbor, Massachusetts, including the following waters in and adjacent thereto:

(1) Chelsea River.
(2) Mystic River.
(3) Malden River (excluding the Massachusetts Department of Public Works highway bridge at Medford Street, Malden).
(4) Little Mystic Channel.
(5) Charles River.
(6) Fort Point Channel (excluding therefrom the portion of Fort Point Channel lying above the easterly side of the highway bridge at Dorchester Avenue).
(7) Reserved Channel.
(8) Neponset River.
(9) Weymouth Fore River.
(10) Weymouth Back River.

(b) The owners of or agencies controlling the bridges shall provide the necessary tenders and the proper mechanical appliances for the safe, prompt, and efficient opening of the draws for the passage of vessels and for assisting vessels while passing through the draws. They shall also provide and maintain in good order on the bridge piers or fenders such fixtures as may be necessary to vessels in mooring or making fast while waiting for the draws to open.

(c) Except as otherwise provided in paragraphs (g) to (l) of this section, the draw of each bridge shall, upon oral request or upon receiving the prescribed call signal, be opened promptly for the passage of any vessel or other watercraft not able to pass under the closed bridge: *Provided,* That the draw shall not be opened when a train or vehicle is approaching so closely that it cannot safely be stopped before reaching the draw: *Provided further,* That when any draw shall have been open for 10 minutes or longer it may be closed to permit any waiting trains, vehicles, or persons to cross, and after being so closed for 10 minutes or for such shorter time as may be necessary it shall again be opened promptly for the passage of vessels or other watercraft if there be any such desiring to pass.

NOTE: The length of time a draw has been open shall be computed from the time that the draw begins to move in opening, and the length of time that a draw has been closed shall be computed from the time that the draw ceases to move in closing.

(d) *Signals*—(1) *Call signal for opening of draw.* Two long blasts followed immediately by two short blasts, sounded within signaling distance of the bridge: *Provided,* That the call signal for the City of Boston bridge across Chelsea River connecting Meridian Street, East Boston, and Pearl Street, Chelsea, shall be two long blasts followed immediately by two short blasts and one long blast: *Provided further,* That the call signal for those bridges across Mystic River, Charles River, and Fort Point Channel referred to in paragraphs (g), (h), and (i) of this section, to be given by vessels entitled to passage during closed periods under the provisions of paragraphs (f) to (l), inclusive, of this section, shall be four long blasts.

(2) *Acknowledging signals*—(i) *When draw can be opened immediately.* Three long blasts.

(ii) *When draw cannot be opened immediately.* Two long blasts.

(e) Trains and vehicles shall not be stopped on a bridge for the purpose of delaying its opening, nor shall watercraft be handled so as to hinder or delay the operation of the draw, but all passage over or through a bridge shall be prompt to prevent delay to either land or water traffic.

(f) The general regulations contained in paragraphs (a) to (e), inclusive, of this section shall apply to all bridges except as modified by the special regulations contained in paragraphs (g) to (l) of this section prescribed where local conditions require to govern the operation of certain bridges. The special regulations shall not apply to vessels owned or controlled by the United States Government or to vessels employed by the City of Boston or other municipality for police and fire protection. All such United States and municipal vessels shall be passed without delay through the draws of all bridges at any hour day or night.

(g) *Mystic River*—(1) *Bridges from mouth to and including Boston and Maine Railroad bridge between Somerville and Medford.* The draws of these bridges shall not be required to be opened for the passage of vessels whose draft is less than 18 feet between 7:48 and 9:00 a.m., 9:10 and 10:00 a.m., and 5:00 and 6:00 p.m., except on Sundays and on legal holidays observed in the locality: *Provided,* That any vessel or other watercraft proceeding either upstream or downstream which has passed any of these bridges shall be afforded continuous passage through the succeeding bridges.

(2) *Metropolitan District Commission highway bridge (General Lawrence Bridge) opposite Harvard Street, Medford.* The draw need not be opened for the passage of vessels, and paragraphs (b) to (f) of this section shall not apply to this bridge.

(h) *Charles River*—(1) *Bridges from mouth to and including Metropolitan District Commission Bridge at Charles River Dam.* The draws of all bridges, except the Charlestown Bridge and the Metropolitan Transit Authority Bridge, from the mouth to and including the Metropolitan District Commission bridge between Boston and Cambridge (at Charles River Dam) shall not be required to be opened for the passage of vessels between 6:15 and 9:10 a.m., and 4:15 and 7:40 p.m., except on Sundays and on legal holidays observed in the locality: *Provided,* That when high tide at Charlestown Navy Yard occurs between 6:15 and 9:10 a.m., the draws shall be opened within 45 minutes before or after high tide for a period of 10 minutes for the passage of all vessels or other watercraft whose draft is 12 feet or over if there be any such desiring to pass, the exact time of opening to be prescribed by the railroad companies, due regard being had for causing minimum interference with railroad schedules, highway traffic, and the interests of navigation, and the opening time of each bridge to be so fixed as to permit continuous passage through the next and following bridges located in direction of course of the vessels or other watercraft.

(2) *Charlestown Bridge.* The draw need not be opened for the passage of vessels, and paragraphs (b) to (f), of this section shall not apply to this bridge.

(3) *Metropolitan Transit Authority (East Cambridge Viaduct) Bridge.* The draw need not be opened for the passage of vessels, and paragraphs (b) to (f), of this section, shall not apply to this bridge. However, the operating machinery of the draw shall be maintained in an operable condition.

NOTE: The temporary special regulations contained in paragraphs (i) and (j) are on a trial basis and are subject to review and amendment at any time by the U.S. Coast Guard.

(i) *Fort Point Channel*—(1) *City of Boston highway bridge at Northern Avenue, Congress Street, and Summer Street.* The draws of these bridges shall not be required to be opened for the passage of vessels whose draft is less than 18 feet between 7:00 and 9:00 a.m. and 4:30 and 6:30 p.m., except on Sundays and legal holidays observed in the locality: *Provided,* That any vessel or other watercraft preceding either upstream or downstream which has passed any of these bridges shall be afforded continuous passage through the succeeding bridges.

(2) *Congress Street and Summer Street Bridges.* The draws of these bridges shall not be required to open for the passage of vessels between 4:00 p.m. and 9:30 a.m., Monday to Saturday, inclusive, except on 10 hours' advance notice. Between March 31 and November 1, the draws shall not be required to open for the passage of vessels before 9:30 a.m. and after 4:00 p.m. on Sundays, except on 10 hours' advance notice. Between November 1 and March 31, the draws shall not be required to open for the passage of vessels at any time on Sundays, except on 10 hours' advance notice.

(j) *Reserved Channel.* The draw of the Summer (L) Street Bridge shall not be required to be opened for the passage of vessels between 4:00 p. m. and 9:30 a. m., Monday to Saturday, inclusive, except on 10 hours' advance notice. Between March 31 and November 1, the draw shall not be required to open for the passage of vessels before 9:30 a.m. and after 4:00 p.m. on Sundays, except on 10 hours' advance notice. Between November 1 and March 31, the draw shall not be required to open for the passage of vessels at any time on Sundays, except on 10 hours' advance notice.

(k) *Dorchester Bay.* The draw of Dorchester Bay Highway Bridge on William T. Morrissey Boulevard (Old Colony Parkway) between Savin Hill and Commercial Point, Dorchester, Massachusetts, shall not be required to be opened for the passing of vessels from 7:30 a.m. to 9:00 a.m., and from 4:30 p.m. to 6:00 p.m. every day of the week except Saturdays, Sundays or legal holidays observed in the locality and except in case of emergency or during extreme storm conditions.

(l) *Neponset River.* (1) The New York, New Haven and Hartford Bridge and the highway bridges at Neponset Avenue and Granite Avenue, shall not be required to be opened for the passage of vessels from November 1 to April 30, inclusive, between the hours of 10:00 p.m. and 6:00 a.m., except on at least a 24-hour notice in advance of the time an opening is required.

(2) The 24-hour advance notice will not apply to vessels owned or operated by the United States nor to vessels employed for police and fire protection, nor in an emergency by any vessel when danger to life and/or property is involved. For the type of vessel specified, and in emergencies by any vessel, the owner or agency operating the bridge shall, upon request, arrange for the opening of the drawspan as soon as practicable after receipt of the request.

(3) The owners or agencies controlling the bridges shall keep conspicuously posted on both sides of the bridges, in a position where it can be easily read at any time, a copy of the regulations of this section together with a notice stating to whom the advance notice should be given and directions for communicating with such person.

§ 117.77 North River, Mass.; State of Massachusetts highway bridge between Scituate and Marshfield.

(a) The owner of or agency controlling the bridge will not be required to keep draw tenders in constant attendance at the bridge.

(b) Whenever a vessel unable to pass under the closed bridge desires to pass through the draw during the period between May 1, and October 31, at least 4-hours advance notice of the time the opening is required shall be given to the authorized representative of or agency controlling the bridge. For the remainder of the year at least 24-hours advance notice for a desired opening shall be given. For this purpose the owner of the bridge shall provide arrangements whereby the draw tenders can be readily reached by telephone or otherwise at any time of the day or night.

(c) Upon receipt of such notice, the authorized representative of the owner of or agency controlling the bridge, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

(d) The owner of or agency controlling the bridge shall keep conspicuously posted on both sides of the bridge, in a position where it can easily be read at any time, a copy of these regulations together with a notice stating exactly how the representative specified in paragraph (b) of this section may be reached.

(e) Automobiles, trucks, vehicles, vessels, or other watercraft shall not be stopped or manipulated in a manner hindering or delaying the operation of the draw. All passage over the draw or through the draw opening shall be

in a manner to expedite both land and water traffic.

(f) The operating machinery of the draw shall be maintained in serviceable condition, and the draw opened and closed at least once each quarter to make certain that the machinery is in proper order for satisfactory operation.

§ 117.80 Acushnet River, Mass.; State of Massachusetts bridge between New Bedford and Fairhaven.

(a) *Prompt opening required.* Except as otherwise provided in paragraph (b) of this section, the draw of the bridge shall, upon proper signal, be opened promptly for the passage of vessels unable to pass under the closed draw.

(b) *Exceptions.* (1) From 6:30 a.m. to 8:30 a.m., from 11:30 a.m. to 1:30 p.m., and from 4:00 p.m. to 6:00 p.m., on all days other than Sundays and legal holidays observed in the locality, the draw need not be opened for the passage of any vessels drawing less than 15 feet of water. The above periods of closure will not apply to vessels owned or operated by the U.S. Government, State or local authorities.

(2) During the period May 1 to October 1 between the hours of 9:00 p.m. and 5:00 a.m. (local time) and during the period October 1 to May 1, from one hour after sunset to one hour before sunrise, advance notice of two hours will be required for an opening. This advance notice will be given to the draw tender by telephone or otherwise. The owner of or agency controlling the bridge shall provide arrangements whereby the draw tender can be conveniently reached by telephone or otherwise at any hour of the night, and shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in a position where it can be read easily at any time, a copy of the regulations of this section together with a notice stating exactly how the draw tender may be reached.

(c) *Signals*—(1) *By the vessel.* The signal for opening the draw promptly when required shall be three short blasts of a whistle or horn. When a vessel drawing more than 15 feet of water intends to pass through the draw during the period described in paragraph (b)(1) of this section, three short blasts followed by one long blast shall be sounded. When any United States, State or municipal vessel as described in paragraph (b)(1) of this section intends to pass through the draw, four long blasts are sounded.

(2) *By the bridge.* If the draw is to be opened promptly, the draw tender shall reply by one long blast of a whistle or horn. If the draw cannot be opened promptly, the draw tender shall reply by three long blasts and, in addition, a red flag or ball by day and a red light by night shall be conspicuously displayed on the bridge.

§ 117.81 Appenaganset River, Mass.; Padanaram Highway Bridge at South Dartmouth.

(a) The draw shall be opened promptly on signal for the passage of vessels between sunrise and 7:30 a.m., 8:30 a.m., and 11:30 a.m. 1:00 p.m., and 4:30 p.m., 6:30 p.m. and 1 hour after sunset, on all days from May 1 to October 31, inclusive, of each year.

(b) At all other times during the year when a bridge opening is desired a 6-hour advance notice must be given, in person, by telephone, or in writing, to the operator of the bridge or to the Selectmen of the Town of Dartmouth, Massachusetts. Upon receipt of such notice, the operator of the bridge, in compliance therewith, shall at the time specified in the notice and for a reasonable period thereafter be prepared to open the draw promptly on signal for the passage of the vessel.

(c) The advance notice required in paragraph (b) of this section shall not apply to vessels in an emergency, or to vessels operated by the United States and vessels employed for police or fire protection by any Town or municipality bordering on the Apponaganset River. The draw shall be opened promptly upon notification at any time of the day or night for such United States and municipal vessels, and for other vessels in an emergency.

(d) The call signal for opening the draw shall be three short blasts of a whistle or horn. If the draw can be opened immediately the call signal shall be acknowledged by one long blast of a whistle or horn. When the draw cannot be opened immediately the operator shall sound three long blasts and in addition a red flag or ball by day and a red light by night shall be conspicuously displayed on the bridge.

(e) Automobiles and other vehicles shall not be stopped or pedestrians loiter on this drawbridge for the purpose of delaying the opening of the draw, nor shall watercraft or vessels be so manipulated as to hinder or delay the operation of the drawspan, but all passage over or through the bridge shall be prompt, to prevent delay to either land or water traffic.

(f) The owner of or agency controlling the bridge shall maintain in good and efficient order the drawspan and the mechanical appliances for operating the same and shall provide and maintain in good order on the bridge piers or fenders such fixtures as may be necessary to vessels in mooring or making fast while waiting for the drawspan to open.

(g) The owner of or agency controlling the bridge shall keep conspicuously posted on both sides of the bridge, in a position where it can easily be read at any time, a copy of the regulations of this section together with a notice stating exactly how the operator may be reached by telephone or otherwise.

§ 117.85 Sakonnet River, R.I.; State of Rhode Island highway bridge and New York, New Haven & Hartford Railroad Co. bridge at Tiverton.

(a) The owner of or agency controlling each bridge shall maintain in good and efficient order the drawspan and the machinery and appliances for operating the same and for assisting vessels while passing through the draw. The owner of or agency controlling each bridge shall also provide and maintain at the drawspan such number of draw tenders or operators as may be necessary to open and close the same promptly; and shall also provide and maintain in good order on the bridge piers or fenders such fixtures as may be necessary to vessels in mooring or making fast while waiting for the drawspan to open.

(b) The signal for opening the draw of each of these bridges shall be three short blasts of a whistle or horn. This signal shall be answered by one long blast of a whistle or horn on the bridge when the operation of opening is commenced, or, if the draw cannot be opened promptly, by three long blasts and in addition a red flag or ball by day and a red light by night shall be conspicuously displayed on the bridge.

(c) Except as otherwise provided in paragraphs (d) and (h) of this section the draw of each bridge shall be immediately opened upon receiving the prescribed signal for the passage of vessels at any hour of the day or night.

(d) Exceptions: (1) When a train which will entirely cross the railroad bridge before stopping has reached the distance signal of the bridge and is in motion toward the bridge, the train may continue across the bridge, but in no case, except as provided in subparagraph (2) of this paragraph, shall the opening of the bridge for a vessel be delayed more than four minutes after the signal is given.

(2) When the draw of either of the bridges shall have been open for 10 minutes or longer, it may be closed for the crossing of trains, cars, vehicles, or persons, if any be waiting to cross, and after being so closed for 10 minutes or for such shorter time as may be necessary for the trains, cars, vehicles, or persons to cross, it shall again be opened promptly for the passage of all vessels if there be any such desiring to pass. The length of time that a draw shall have been open shall be computed from the time that the draw is fully open, and the length of time that a draw has been closed shall be computed from the time that the draw ceases to move in closing.

(3) The exceptions contained in this paragraph shall not apply to vessels owned or operated by the United States, vessels in distress, and vessels employed for police and fire protection by any town or municipality touching upon Sakonnet River. All such United States and municipal vessels, and vessels in distress, shall be passed through the draws of the bridges at any hour of the day or night.

(e) For every vessel that cannot pass a closed bridge the operation of the draw shall affofd full horisontal and vertical clearance in the draw opening regardless of the size or requirements of the passing vessel.

(f) Trains, cars, vehicles, or persons shall not be stopped on a bridge for the purpose of delaying its opening, nor shall watercraft be so handled or placed as to delay the opening or closing of the draw, but all passage over, under, or through a draw shall be prompt to prevent delay to either land or water traffic.

(g) The general regulations contained in paragraphs (a) to (f), inclusive, of this section shall apply to each bridge except as modified by the special regulation contained in paragraph (h) of this section. The special regulations shall not apply to vessels owned or operated by the United States, a vessel in distress, or to vessels employed for police or fire protection by any town or municipality touching upon Sakonnet River. All such United States and municipal vessels, and vessels in distress, shall be passed through the draws of the bridges during the closed period.

(h) State of Rhode Island highway bridge: From 7:10 a.m. to 7:40 a.m., Monday through Friday, inclusive, the draw of the highway bridge will not be required to be opened for the passage of vessels.

§ 117.87 Taunton River, Mass.; bridges.

(a) The signal for opening the draw of each of the drawbridges shall be three short blasts of a whistle or horn. This signal shall be answered by one long blast of a whistle or horn on the bridge when the operation of opening is commenced, or, if the draw cannot be opened promptly, by three long blasts and in addition a red flag or ball by day and a red light by night shall be conspicuously displayed on the bridge.

(b) Except as otherwise provided in this section, the draws of the bridges shall be immediately opened, upon receiving the prescribed signal, at all times during the day or night for the passage of foreign vessels and "vessels of the United States" as defined in R. S. 4311 (46 U. S. C. 251) unable to pass under the closed draws.

(c) When a train which will entirely cross a railroad bridge before stopping has reached the distance signal of the bridge and is in motion toward the bridge, the train may continue across the bridge, but in no case, except as provided in paragraph (f) of this section, shall the opening of the bridge for a vessel be delayed more than four minutes after the signal is given.

(d) Between 10:00 p.m. and 5:00 a.m. from May to October, inclusive, and between 6:00 p.m. and 6:00 a.m. from November to April, inclusive, the draw of the Bristol County highway bridge at Berkley shall be opened for the passage of all vessels which cannot pass the closed bridge upon notice given by telephone or otherwise to the operator at least 30 minutes in advance of the time the vessel desires to pass through the draw. The owner of or agency controlling the bridge shall provide arrangements whereby the draw tender can be reached by telephone or otherwise from the bridge, or through a public telephone exchange, and notice of such arrangements shall be kept conspicuously posted on the bridge.

(e) For all vessels or watercraft other than those described in paragraph (b) of this section which cannot pass the closed bridges, the draws shall, upon receiving the prescribed signal, be opened when two or more such vessels or other watercraft may be ready to pass through: *Provided*, That in no case shall the delay be more than 20 minutes.

(f) When the draw of any of the bridges shall have been open for 10 minutes or longer, it may be closed for the crossing of trains, cars, vehicles, or persons, if any be waiting to cross, and after being so closed for 10 minutes or for such shorter time as may be necessary for the trains, cars, vehicles, or persons to cross, it shall again be opened promptly for the passage of foreign vessels or "vessels of the United States," if there be any such desiring to pass. The length of time that a draw shall have been open shall be computed from the time that the drawspan is fully open, and the length of time that a draw has been closed shall be computed from the time that the drawspan ceases to move in closing.

(g) For every vessel that cannot pass the closed bridges the operation of the draw shall afford full horisontal and vertical clearance in the draw opening regardless of the size or requirements of the passing vessel.

(h) Trains, cars, vehicles, or persons shall not be stopped on any drawspan for the purpose of delaying the opening of the draw, nor shall any vessel or other watercraft be so handled or placed as to delay the opening or closing of any drawspan, but all passage over, under, or through a drawspan shall be prompt so as to reduce delays to water and land traffic to a minimum.

(i) The owner of or agency controlling each bridge shall maintain in good and efficient order the drawspan and the machinery and appliances for operating the same and for assisting vessels while passing through the draw. The owner of or agency controlling the bridge shall also provide and maintain at the drawspan such number of draw tenders or operators as may be necessary to open and close the same promptly; and shall also provide and maintain in good order on the bridge piers or fenders such fixtures as may be necessary to vessels in mooring or making fast while waiting for the drawspan to open.

§ 117.90 Providence Harbor, R.I.; bridges.

(a) The regulations in this section shall govern the operation of the city of Providence highway bridge at Point Street across the upper Providence River and the New York, New Haven and Hartford Railroad Co. India Point Bridge at India Street, the State of Rhode Island Washington Bridge at Fox Point Boulevard, the New York, New Haven and Hartford Railroad Co. Tunnel Bridge, and the city of Providence Red Bridge at Waterman Street across Seekonk River.

(b) Except as otherwise provided in paragraphs (c) and (d) of this section the draw of each bridge across Seekonk River shall be opened promptly upon receiving the prescribed signal at all times during the day or night for the passage of vessels.

(c) Between 7 a.m. and 9 a.m. and between 4 p.m. and 6 p.m. daily the draws of the highway bridges over Seekonk River, except the Washington Bridge as provided in paragraph (d) of this section, need not be opened for the passage of vessels other than loaded self-propelled cargo vessels and any assisting tugs: *Provided*, That the bridges, except the Washington Bridge as provided in paragraph (d) of this section, shall be opened promptly at all times for vessels owned or operated by the United States or the city of Providence desiring passage because of an emergency involving danger to life or property, upon sounding four distinct blasts of a whistle or horn.

(d) The owner of or agency controlling the Washington Bridge across Seekonk River need not open the draw for the passage of vessels.

(e) The call signal for opening of the draw of each bridge shall be three short blasts of a whistle or horn. If the draw can be opened immediately, the call signal shall be acknowledged by one long blast of a whistle or horn on the bridge. If the draw cannot be opened immediately, the call signal shall be acknowledged by three long blasts, and in addition a red flag or ball by day and a red light at night shall be conspicuously displayed on the bridge.

(f) *Point Street Bridge.* Between 7 a.m. and 9 a.m. and between 4 p.m. and 6 p.m. daily the draw of the bridge need not be opened for the passage of vessels; at all other times at least 24 hours' advance notice is required, such notice to be given to the Director of Public Works, City Hall, Providence, R.I.: *Provided*, That the draw shall be opened at all times, upon request, for vessels owned or operated by the United States or the city of Providence desiring passage in an emergency involving danger to life or property. The owner of or agency controlling the bridge shall provide arrangements whereby the drawtenders can be reached readily by telephone or otherwise at any hour of the day or night, in case of emergency.

§ 117.95 Mystic River at Mystic, Conn.

(a) *The New York, New Haven and Hartford Railroad Company bridge.* (1) From April 1 to October 31, inclusive, at any time, day or night, the draw of this bridge shall be opened immediately upon receipt of the call signal for the passage of commercial vessels, vessels owned or operated by the United States Government, and vessels employed for police or fire protection by any town or municipality touching on the Mystic River, and as soon as practicable and in no case later than 20 minutes after receipt of the call signal for the passage of all other vessels which cannot pass the closed bridge: *Provided*, That the draw shall not be opened when an express passenger train, scheduled to pass beyond the bridge without stop, has entered the block in which the bridge is located, or when any other train which will entirely cross the bridge before stopping has reached the distance signal of the bridge, or when a passenger or mail train is actually ready to pass over it, but in any such case the opening of the bridge shall not be delayed more than eight minutes after the call signal is given.

(2) The call signal for opening the draw shall be one long blast and one short blast. When the draw is to be opened immediately the draw tender shall reply with one long blast. If the draw cannot be opened immediately the draw tender shall reply with three long blasts, and in addition a red flag or ball by day or a red light by night shall be conspicuously displayed on the bridge.

(3) From November 1 to March 31, inclusive, at any time between the hours of 5:00 a.m. and 9:00 p.m. the draw of this bridge shall be opened immediately upon receipt of the above-described call signal and subject to all conditions contained in subparagraph (1) of this paragraph. From 9:00 p.m. to 5:00 a.m., the draw of the bridge shall not be required to be opened except on an 8-hour notice in advance of the time an opening is required.

(4) The 8-hour advance notice will not apply to vessels owned or operated by the United States, nor to vessels employed for police or fire protection, nor in an emergency by any vessel when danger to life and/or property is involved. For the type of vessel specified, and in emergencies by any vessel, the owners or agency operating the bridge shall, upon request, arrange for the opening of the drawspan as soon as practicable after receipt of the request.

(5) The owners or agency controlling the bridge shall keep conspicuously posted on both sides of the bridge, in a position where it can be easily read at any time, a copy of the regulations in this section together with a notice stating exactly how the representative of the owner or agency may be reached.

(b) *Connecticut State Highway Department bridge.* (1) The owner or agency controlling the bridge shall provide the appliances and personnel necessary for the safe, prompt and efficient operation of the draw.

(2) The draw shall normally be opened on the following schedule when the signal, hereinafter prescribed for the opening of the draw, is received from an approaching vessel or other watercraft which cannot pass under the closed draw. This schedule shall not be construed to prevent the opening of the draw immediately for governmental, police or fire protection or commercial vessels or any vessels in case conditions of wind, tide or heavy volume of river traffic are such as to cause a hazard to vessels or to the bridge.

(3) Between the hours of 8:15 a.m. and 7:17 p.m. the draw need be opened only once an hour at 15 minutes after the hour for the passage of vessels other than vessels owned or operated by the Government of the United States, vessels employed for police or fire protection and commercial vessels or any vessel under conditions described in subparagraph (2) of this paragraph.

(4) From May 1 to October 31, inclusive, between the hours of 7:15 p.m. and 8:15 a.m. and from November 1 to April 30, inclusive, between the hours of 7:15 p.m. and 8 p.m. and between the hours of 4 a.m. and 8:15 a.m. the draw shall be opened on call for the passage of vessels owned or operated by the Government of the United States, vessels employed for police and fire protection and commercial vessels. The draw shall be opened as soon as practicable and in no case later than 20 minutes after receipt of the call signal for all other vessels which cannot pass the closed draw.

(5) From November 1 to April 30, inclusive, between the hours of 8 p.m. and 4 a.m. the draw shall be opened for the passage of vessels upon notice to the drawtender given at least 1 hour in advance of the time of the requested opening.

(6) All times listed are referred to local times at Mystic.

(7) The signal for opening the draw shall be given by one long blast and two short blasts of a horn or whistle. If the draw cannot be opened immediately when the signal is given, a red flag or ball by day or a red light by night shall be conspicuously displayed on the bridge.

(8) The signal for opening the draw shall be answered by a whistle on the bridge with one long blast when the opening is commenced, or by three long blasts repeated at regular intervals until acknowledged by the vessel when the bridge cannot be opened promptly or, if opened, must be closed immediately.

(9) A copy of the regulations in this paragraph shall be conspicuously posted on both the upstream and downstream sides of the bridge in such a manner that it can be easily read at any time.

§ 117.100 Thames River, Conn.; The New York, New Haven & Hartford Railroad Co. bridge between New London and Groton.

(a) The draw of this bridge shall be opened at any time, day or night, immediately upon receipt of the call signal for the passage of commercial vessels, vessels owned or operated by the United States Government, and vessels employed for police or fire protection by any town or municipality touching on the Thames River, and as soon as practicable and in no case later than 20 minutes after receipt of the call signal for the passage of all other vessels which cannot pass the closed bridge: *Provided*, That when a westbound train scheduled to cross the bridge without stop has passed Midway Station, or a Southbound train Groton Station, or an eastbound train New London Station, and is in motion toward the bridge, the draw shall not be opened for the passage of any vessel until the train has crossed the bridge.

(b) The call signal for opening the draw shall be three blasts. When the draw is to be opened immediately the draw tender shall reply with one blast. If the draw cannot be opened immediately the draw tender shall reply with four blasts, and in addition a red flag or ball by day or a red light by night shall be conspicuously displayed on the bridge.

§ 117.105 Shaws Cove, New London Harbor, Conn.; bridge of New York, New Haven & Hartford Railroad Co. at New London, Conn.

(a) Except as provided in subparagraphs (1) and (2) of this paragraph, the draw shall be immediately opened for the passage of foreign vessels and "vessels of the United States," as defined by section 4311 of the Revised Statutes (46 U.S.C. 251) at any time between 6 a.m. and 7 p.m. upon a signal given by one long and one short blast of a whistle or horn.

(1) *First exception.* Between 11 a.m. and 1:30 p.m. and between 3:15 p.m. and 4:30 p.m., the bridge may remain closed to all vessels, except in the case of fire above the bridge or other similar emergency, when the draw shall be immediately opened upon the prescribed signal being given.

(2) *Second exception.* When a westbound train scheduled to cross the bridge without stop has passed New London Station, or an eastbound train Waterford Station, and is in motion toward the bridge, the draw shall be opened for the above-named vessel as soon as the train has crossed the bridge, but in no case shall the opening of the draw for the vessels above-described be delayed more than 10 minutes.

(b) The draw shall be opened as soon as practicable for the passage of all other vessels which cannot pass the closed bridge, at any time between 6 a.m. and 7 p.m., when the above-prescribed signal is given, but in no case shall such vessel be delayed more than 20 minutes, except as provided in the first exception under paragraph (a) of this section.

(c) Between 7 p.m. and 6 a.m., the draw shall be opened for the passage of all vessels which cannot pass the closed bridge, upon notice given by telephone or otherwise to the draw tender or the operator in the signal tower controlling the bridge signals at least 1 hour in advance of the time the vessel desires to pass through the draw, except that in case of fire or similar emergency the draw shall be promptly opened upon notification. Arrangements shall be provided whereby the draw tender or signal operator on duty can be conveniently reached by telephone between 7 p.m. and 6 a.m., and notice of such arrangements shall be kept conspicuously posted on the bridge.

(d) In case the bridge cannot be immediately opened when the signal is given, a red flag or ball by day and a red light by night shall be conspicuously displayed.

(e) Signals for the opening of the draw shall be answered by a whistle or horn on the bridge with the same signal named in paragraph (a) of this section (one long and one short blast) when opening is commenced; and by a series of four short blasts, each of not more than 1 second duration, when the bridge cannot be promptly opened.

§ 117.110 Niantic River, Conn.; bridges of New York, New Haven & Hartford Railroad Co., and the State of Connecticut at Niantic, Conn.

(a) The owners of, or agencies controlling the above-named bridges shall provide the appliances and personnel necessary for the safe, prompt and efficient operation of the draw.

(b) The draw shall be opened promptly when the signal, prescribed in paragraph (c) of this section for the opening of the draw, is received from an approaching vessel or other water craft which cannot pass under the closed draw except as provided in paragraph (c) of this section.

(c) *Signals*—(1) *Call signals for opening of draw*—(i) *Sound signals.* Railroad Bridge, one long and two short blasts of horn or whistle. Highway Bridge, three short blasts of horn or whistle.

(ii) *Visual signals.* To be used in conjunction with sound signals when conditions are such that sound signals cannot be heard. A white flag by day, and a white light by night, swung in full circles at arm's length in full sight of the bridge and facing the draw.

(2) *Acknowledging signals by bridge operator*—(i) *Sound signals.* Draw to be opened immediately: Same as call signal. Draw cannot be opened immediately, or, if open, must be closed immediately: Two long blasts of a horn or whistle, to be repeated at regular intervals until acknowledged by the vessel.

(ii) *Visual signals.* To be used in conjunction with sound signals when conditions are such that sound signals cannot be heard. Draw to be opened immediately: A white flag by day or a green light at night swung up and down vertically a number of times in full sight of the vessel. Draw cannot be opened immediately, or, if open, must be closed immediately: A red flag by day, a red light by night, swung to and fro horizontally in full sight of the vessel, to be repeated until acknowledged by the vessel.

(3) *Acknowledging signals by the vessel.* Vessels or other water craft having signaled for the opening of the draw and having received a signal that the draw cannot be opened immediately, or if open must be closed immediately, shall acknowledge said signal by one long blast followed by a short blast, or by swinging to and fro horizontally a red flag by day and a red light by night.

(4) *Exceptions*—(i) *For both bridges.* Between 8 p.m. and 4 a.m. during the period from April 1 to October 31 and 6 p.m. and 6 a.m. during the remaining months of the year the draw shall be opened for the passage of all vessels which cannot pass the closed bridges upon notice given by telephone or otherwise to the operators at least one hour in advance of the time the vessel desires to pass through. The owners of the bridges shall provide arrangements whereby the draw tenders may be reached by telephone or otherwise, and notice of such arrangements shall be kept conspicuously posted on the bridges.

(ii) *For the railroad bridge.* When a train scheduled to pass beyond the bridge without stop has entered the block in which the bridge is located the draw shall be opened as soon as the train has crossed the bridge, unless another train similarly scheduled and running in the opposite direction to the first train enters the block before the first train clears the bridge, in which case the draw shall be opened as soon as both trains have crossed the bridge. Further delay for train operation across the bridge is prohibited.

(d) A copy of the regulations in this section shall be conspicuously posted on both the upstream and downstream sides of the bridges in such a manner that it can be easily read at any time.

§ 117.115 Connecticut River, Conn.; bridges.

(a) The signal for opening the draw of each of the drawbridges shall be one long blast (of about five seconds' duration) of a whistle or horn. This signal shall be answered by one long blast of a whistle or horn on the bridge when the operation of opening is commenced, or, if the draw cannot be opened promptly, by a series of not less than four short, sharp blasts (each of not more than one second's duration) and in addition a red flag or ball by day and a red light by night shall be conspicuously displayed on the bridge.

(b) Except as provided in subparagraph (c) of this section, the draws of the bridges described in this section shall be promptly opened, upon the prescribed signal, at all times during the day or night, for the passage of foreign vessels and "vessels of the United States", as defined in section 4311 of the Revised Statutes (46 U. S. C. 251).

(c) *Exceptions*—(1) *Railroad bridge at Lyme.* When a westbound train scheduled to cross the bridge without stop has passed Lyme and Blackhall Station, or an eastbound train Saybrook Junction Station, and is in motion toward the bridge, the draw shall be opened for the vessels described in paragraph (b) of this section as soon as the train has crossed the bridge.

(2) *Railroad bridge at Middletown.* When a westbound train scheduled to cross the bridge without stop has passed Portland Station, or an eastbound train Middletown Station, and is in motion toward the bridge, the draw shall be opened for the vessels described in paragraph (b) of this section as soon as the train has crossed the bridge.

(d) For all other vessels which cannot pass the closed bridges the draws shall, upon the prescribed signal, be opened as soon as practicable, but in no case shall the delay be more than 20 minutes.

(e) For every vessel that cannot pass the closed bridge the operation of the draw shall afford full horizontal and vertical clearance in the draw opening, regardless of the size or requirements of the passing vessel.

§ 117.120 New Haven Harbor, Quinnipiac and Mill Rivers, Conn.; bridges owned and operated by the State of Connecticut and city of New Haven.

(a) The regulations in this section shall govern the operation of Chapel Street Bridge across Mill River, and Tomlinson Bridge, Perry Street and Grand Avenue Bridges across Quinnipiac River.

(b) The owners of or agencies controlling the above-named bridges shall provide the appliances and personnel necessary for the safe, prompt, and efficient operation of the draws.

(c) The draw of each bridge shall be opened when the prescribed signal for the opening of the draw is received from an approaching vessel or other watercraft which cannot pass under the closed draw, except as hereinafter provided.

(d) *Closed periods.* The draws of the above-named bridges need not be opened between 7:30 and 8:30 a.m., 12:00 noon and 12:15 p.m., 12:45 and 1:00 p.m., and 4:45 and 5:45 p.m.

(e) *Signals*—(1) *Call signals for opening of draw*—(i) *Sound signals.*

Tomlinson Bridge, two short blasts of horn or whistle.

Chapel Street Bridge, three short blasts of horn or whistle.

Perry Street Bridge, one short blast of horn or whistle.

Grand Avenue Bridge, one long blast of horn or whistle.

(ii) *Visual signals.* To be used in conjunction with sound signals when conditions are such that sound signals cannot be heard. A white flag by day, and a white light by night, swung in full circles at arm's length in full sight of the bridge and facing the draw.

(2) *Acknowledging signals*—(i) *By bridge operator*—(a) *Sound signals.* Draw to be opened immediately: Same as call signal. Draw cannot be opened immediately, or if open, must be closed immediately. Two long blasts of a horn or whistle, to be repeated at regular intervals until acknowledged by the vessel.

(b) *Visual signals.* Draw to open immediately: A white flag by day or a green light at night swung up and down vertically a number of times in full sight of the vessel. Draw cannot be opened immediately, or if open, must be closed immediately: A red flag by day, a red light by night, swung to and fro horizontally in full sight of the vessel, to be repeated until acknowledged by the vessel.

(ii) *By the vessel.* Vessels or other watercraft having signaled for the opening of the draw and having received a signal that the draw cannot be opened immediately, or if open, must be closed immediately, shall acknowledge said signal by one long blast followed by a short blast, or by swinging to and fro horizontally, a red flag by day and a red light by night.

(f) *Posting of regulations.* A copy of the regulations of this section shall be conspicuously posted on both the upstream and downstream sides of the above-named bridges in such manner that it can be easily read at any time.

§ 117.121 West River, Kimberly Avenue Bridge between New Haven and West Haven, Conn.

(a) The owner of or agency controlling the bridge shall provide the appliances and personnel necessary for the safe, prompt, and efficient operation of the draw for the safe passage of vessels.

(b) From April 1 to November 30, inclusive, between the hours of 6:00 a.m. and 12:00 midnight, local time, the draw will be opened on signal, except between

7:30 a.m. and 8:30 a.m., 12:00 noon and 12:15 p.m., 12:45 p.m. and 1:00 p.m., and 4:45 p.m. and 5:45 p.m., during which times the draw will not need to be opened for vessel traffic. From December 1 to March 31, inclusive, at all hours of the day and night, and from April 1 to November 30, inclusive, between 12:00 midnight and 6:00 a.m., local time, the draw will be opened upon one hour advance notice given to the draw tender.

(c) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge in such a manner that it can be easily read at any time, a copy of the regulations of this section, together with a notice stating exactly how the draw tender may be reached in an emergency and how he may be reached by telephone or otherwise.

(d) Signals:

(1) *Call signals for opening of draw*—(i) *Sound signals.* Three short blasts of the horn or whistle.

(ii) *Visual signals.* To be used in connection with sound signals when conditions are such that sound signals cannot be heard. A white flag by day, and a white light by night, swung in full circles at arm's length in full sight of the bridge and facing the draw.

(2) *Acknowledging signals*—(i) *By bridge operator*—(a) *Sound signals.* Draw to be opened immediately: Same as call signal. Draw cannot be opened immediately, or if open, must be closed immediately: Two long blasts of a horn or whistle, to be repeated at regular intervals until acknowledged by the vessel.

(b) *Visual signals.* Draw to open immediately: A white flag by day or a green light by night swung up and down vertically a number of times in full sight of the vessel. Draw cannot be opened immediately, or if open, must be closed immediately: A red flag by day, a red light by night, swung to and fro horizontally in full sight of the vessel, to be repeated until acknowledged by the vessel.

(ii) *By the vessel.* Vessels or other watercraft having signaled for the opening of the draw and having reached a signal that the draw cannot be opened immediately, or if open, must be closed immediately, shall acknowledge said signal by one long blast followed by a short blast, or by swinging to and fro horizontally, a red flag by day and a red light by night.

§ 117.125 Housatonic River, Conn.; bridges (highway and railroad) between Milford and Stratford, Conn., known as the Washington Bridge, and bridge of New York, New Haven & Hartford Railroad Co.

(a) *For the highway bridge.* (1) Except as provided for in subparagraph (2) of this paragraph, the draw shall be immediately opened at any hour of the day or night for the passage of foreign vessels and "vessels of the United States," as defined by section 4311, Revised Statutes (46 U.S.C. 251), upon a signal given by one long and one short blast of a horn or steam whistle.

(2) The draw of the bridge need not be opened, except in an emergency, between 7:00 a.m. and 9:00 a.m., Monday to Friday, inclusive, and between 4:00 p.m. and 5:45 p.m. every day throughout the year. At all other times including the period 7:00 a.m. and 9:00 a.m. on Saturdays, Sundays, and legal holidays, the draw shall, when the signal described in subparagraph (1) of this paragraph is given, be opened as soon as practicable for all other vessels which cannot pass the closed bridge, but in no case shall the delay be over 20 minutes.

(3) In case the bridge cannot be immediately opened when the signal is given, a red flag or ball by day or a red light by night shall be conspicuously displayed.

(4) Signals for the opening of the draw shall be answered by a whistle or Klaxon horn on the bridge with the same signal, one long and one short blast named in paragraph (a) of this section, when the operation of opening is commenced, or by a series of not less than four short sharp blasts, each of not more than 1 second duration, when the bridge cannot be promptly opened.

(b) *For the railroad bridge.* (1) Except as provided for in subdivision (i) of this subparagraph, the draw shall be immediately opened at any hour of the day or night for the passage of foreign vessels and "vessels of the United States", as defined by section 4311, Revised Statutes (46 U. S. C. 251), upon a signal given by one long and two short blasts of a horn or steam whistle.

(i) *Exception.* When a train scheduled to pass beyond the bridge without stop has passed the last station nearest the bridge and is in motion toward the bridge, the bridge shall be opened for the vessels named in subparagraph (4) of this paragraph as soon as the approaching train has been brought to a stop at the drawbridge signal.

(2) The draw shall, when the signal described in subparagraph (1) (i) of this paragraph is given, be opened as soon as practicable for all other vessels which cannot pass the closed bridge, but in no case shall the delay be over 20 minutes.

(3) In case the bridge cannot be immediately opened when the signal is given, a red flag or ball by day or a red light by night shall be conspicuously displayed.

(4) Signals for the opening of the draw shall be answered by a whistle or Klaxon horn on the bridge with the same signal, one long and two short blasts, named in paragraph (c) of this section, when the operation of opening is commenced, or by a series of not less than four short sharp blasts, each of not more than one second duration, when the bridge cannot be promptly opened.

§ 117.130 Pequonock and Johnsons Rivers, Conn.; bridges (highway and railroad) at Bridgeport.

(a) The regulations in this section are prescribed to govern the opening of certain drawbridges in the city of Bridgeport, Connecticut:

Pequonock River:
- Stratford Avenue Highway Bridge.
- New York, New Haven and Hartford Railroad Bridge.
- Congress Street Highway Bridge.
- East Washington Avenue Highway Bridge.

Johnsons River:
- Pleasure Beach Highway Bridge at end of Seaview Avenue.

(b) *The signals.* (1) The signals for opening the draws of the bridges shall be given by blast of a horn or steam whistle as follows:

For Stratford Avenue Highway Bridge, one long and one short blast.

For New York, New Haven and Hartford Railroad Bridge, three short blasts.

For Congress Street Highway Bridge, four short blasts.

For East Washington Avenue Highway Bridge, one long and two short blasts.

For Pleasure Beach Highway Bridge, one long and one short blast.

(2) In case the draw of any of the above bridges cannot be immediately opened when the signals are given, a red flag or ball by day and a red light by night shall be conspicuously displayed on the bridge.

(c) *The regulations.* (1) Except as hereinafter provided, the draws of the bridges shall be immediately opened upon the prescribed signal at all times of the day or night for the passage of foreign vessels and "vessels of the United States" as defined in section 4311 of the Revised Statutes (46 U.S.C. 251), and for any other vessels or watercraft which cannot pass the closed bridges the draws shall be opened at such time within 20 minutes after the prescribed signal as in the judgment of the bridge tender will cause the least interference with the land traffic over the bridge.

(2) *Exceptions.* Closed periods when the draws of the above highway bridges over the Poquonock River need not be opened:

(i) For vessels of any class:

6:45 a.m. to 7:15 a.m.
7:45 a.m. to 8:15 a.m.

(ii) Opened only for the passage of power-driven vessels other than yachts and pleasure craft, 50 feet or over in length or 25 tons or over net register:

11:45 a.m. to 1:15 p.m.

(iii) For vessels of any class, except when emergency condition exists, such emergency to be decided mutually by the Superintendent of Bridges or his authorized representative, and navigation interests involved, and is provisionally defined as the passage of boats that are unavoidably compelled to pass through the bridges during the period due to urgency of service or condition of tide:

4:30 p.m. to 6:10 p.m.

(iv) Pleasure Beach Highway Bridge for vessels of any class:

10:30 p.m. to 11:00 p.m.
11:15 p.m. to 11:45 p.m.

(v) Delay in opening the draw of the New York, New Haven, and Hartford Railroad Bridge for not more than 7 minutes after the giving of signal, is authorized when a train is actually ready to pass over the bridge.

(3) For every vessel that cannot pass the closed bridges, the operation of the draws shall afford full horizontal and vertical clearance of the draw opening regardless of the size or requirements of the passing vessel.

(4) There shall be conspicuously posted on both the upstream and downstream sides of the bridges in a manner that it can readily be read at any time a copy of the regulations of this section; a notice shall also be posted at the Stratford Avenue Bridge over the Poquonock River stating exactly how the Superintendent of Bridges, or his authorized representative, specified in subparagraph (2) (iii) of this paragraph may be reached.

§ 117.131 Poquonock River, Grand Street Highway Bridge and Yellow Mill Channel, Yellow Mill Highway Bridge at Stratford Avenue, Bridgeport, Conn.

(a) The owner of or agency controlling these bridges will not be required to keep drawtenders in constant attendance.

(b) Whenever a vessel unable to pass under the closed bridges desires to pass through the draw, at least 24 hours' advance notice of the time the opening is required shall be given to the authorized representative of the owner of or agency controlling the bridges, except in case of emergency the draw shall be opened promptly upon notification. Advance notice shall be given either in person, by telephone, or otherwise to the mayor, city of Bridgeport, Bridgeport, Conn., or to such person as may be designated an authorized representative for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

(c) The owner of or agency controlling the bridges shall keep conspicuously posted on both the upstream and downstream sides of the bridges in such manner that it can be easily read at any time, a copy of the regulations of this section, together with a notice stating exactly how the drawtender may be reached in an emergency and how the representative specified in paragraph (b) of this section may be reached by telephone or otherwise.

§ 117.135 Saugatuck River, Conn.; bridge of New York, New Haven & Hartford Railroad Co., at Saugatuck, Conn.

(a) Except as otherwise provided in this section, the draw shall be opened as soon as practicable for the passage of vessels that cannot pass under the closed bridge, upon a signal given by three short blasts (each of about 2 seconds' duration) of a horn or steam whistle, between 5:00 a.m. and 9:00 p.m. from June 1 to September 30, inclusive, and between 8:00 a.m. and 4:00 p.m. from October 1 to May 31, inclusive. An eight-hour advance notice shall be required for opening the draw from October 1 to May 31, inclusive, between 5:00 a.m. and 8:00 a.m. and between 4:00 p.m. and 9:00 p.m. The draw may remain closed at all other times.

(1) *Exception.* When a train scheduled to pass beyond the bridge without stop has passed the last station nearest the bridge and is in motion toward the bridge, the bridge shall be opened as soon as the approaching train has been brought to a stop at the drawbridge signal.

(b) In case the bridge cannot be opened immediately when the signal is given, a red flag or ball by day or a red light by night shall be conspicuously displayed.

(c) Signals for the opening of the draw shall be answered by a whistle or Klaxon horn on the bridge with the same signal, three short blasts, described in paragraph (a) of this section, when the operation of the opening is commenced, or by a series of not less than four short, sharp blasts, each of not more than 1 second duration, when the bridge cannot be promptly opened.

§ 117.145 Norwalk River at Norwalk, Conn.; Washington Street Highway Bridge and the New York, New Haven & Hartford Railroad bridge.

(a) The owners of or agencies controlling the bridges described in this section shall provide the appliances and personnel necessary for the safe, prompt and efficient operation of the draw.

(b) The draw shall be opened promptly when the signal, prescribed in paragraph (c) (1) of this section for the opening of the draw, is received from an approaching vessel or other water craft which cannot pass under the closed draw except as provided in paragraph (d) of this section.

(c) *Signals*—(1) *Call signals for opening of draw*—(i) *Sound signals.* Highway Bridge, three short blasts of horn or whistle. Railroad Bridge, one long and two short blasts of horn or whistle. Except that for vessels drawing at the time 14 feet and more the above signals shall be followed by one long blast of horn or whistle.

(ii) *Visual signals.* To be used in conjunction with sound signals when conditions are such that sound signals cannot be heard. A white flag by day, and a white light by night, swung in full circles at arm's length in full sight of the bridge and facing the draw.

(2) *Acknowledging signals by bridge operator*—(i) *Sound signals.* Draw to be opened immediately: Same as call signal. Draw cannot be opened immediately, or, if open, must be closed immediately: Two long blasts of a horn or whistle, to be repeated at regular intervals until acknowledged by the vessel.

(ii) *Visual signals.* Draw to be opened immediately: A white flag by day or a green light at night swung up and down vertically a number of times in full sight of the vessel. Draw cannot be opened immediately, or, if open, must be closed immediately: A red flag by day, a red light by night, swung to and fro horizontally in full sight of the vessel, to be repeated until acknowledged by the vessel.

(3) *Acknowledging signals by the vessel.* Vessels or other watercraft having signaled for the opening of the draw and having received a signal that the draw cannot be opened immediately, or if open must be closed immediately, shall acknowledge said signal by one long blast followed by a short blast, or by swinging to and fro horizontally a red flag by day and a red light by night.

(d) *Exceptions.* (1) The highway bridge: Closed periods, when the draw need not be opened except on Saturdays, Sundays, and holidays and except for vessels drawing at the time more than 14 feet of water:

Between 7:00 a.m. and 8:45 a.m.
Between 11:45 a.m. and 1:15 p.m.
Between 4:00 p.m. and 6:00 p.m.

(2) The railroad bridge: Closed periods when the draw need not be opened: When signal for opening the bridge is given between the hours of 7:00 a.m. and 9:00 a.m., or between 4:00 p.m. and 6:00 p.m. and low tide is predicted in the tide tables published by the United States Coast and Geodetic Survey to occur within 1 hour before or after the time when such signal is given, the opening of the bridge may be delayed not to exceed 20 minutes from the time such signal is given: *Provided, however,* That when a train scheduled to pass beyond the bridge without stop has passed the last station nearest the bridge and is in motion toward the bridge, the bridge need not be opened until the approaching train has been brought to a stop.

(e) A copy of the regulations in this section shall be conspicuously posted on both the upstream and downstream sides of the bridge in such manner that it can be easily read at any time.

§ 117.150 Mianus River, Conn.; bridge of New York, New Haven & Hartford Railroad Co. at Cocob, Conn.

(a) The signal for opening the draw of the bridge described in this section shall be given by three short blasts of a horn or steam whistle. In case the draw cannot be immediately opened when the signal is given, a red flag or ball by day or a red light by night shall be conspicuously displayed on the bridge.

(b) The signal for the opening of the draw shall be answered by three short blasts of a whistle or horn on the bridge when the operation of opening is commenced, or, if the bridge cannot be promptly opened, by a series of not less than four short, sharp blasts, each of not more than 1 second duration.

(c) (1) Except as provided in subparagraph (2) of this paragraph, the draw shall be immediately opened upon the prescribed signal at any time between 5 a.m. and 9 p.m. for the passage of foreign vessels and "vessels of the United States," as defined by section 4311 of the Revised Statutes (46 U. S. C. 251).

(2) *Exception.* When a train scheduled to pass beyond the bridge without stop has passed the last station nearest the bridge and is in motion toward the bridge, the bridge shall be opened for the vessels described in subparagraph (1) of

No. 239—Pt. II——9

this paragraph as soon as the train has crossed the bridge.

(d) For all other vessels which cannot pass the closed bridge, the draw shall, upon the prescribed signals and between the hours of 5 a. m. and 9 p. m., be opened as soon as practicable, but in no case shall the delay be over 20 minutes.

§ 117.155 Hutchinson River, N.Y.; bridges.

(a) The owners of or agencies controlling these drawbridges shall provide the appliances and personnel necessary for the safe, prompt, and efficient operation of the draws.

(b) The bridges shall be opened promptly at any time, day or night, when the prescribed signal is given by an approaching vessel which cannot pass under the closed draw.

(c) *Signals*—(1) *Call signals for opening of draw*—(i) *Sound signals.* By vessels of the United States or of the City of New York, four distinct blasts of a whistle, horn, or megaphone, or four loud and distinct strokes of a bell, and by all other vessels, three distinct blasts of a whistle, horn, or megaphone, or three loud and distinct strokes of a bell, sounded within reasonable hearing distance of the bridge.

(ii) *Visual signals.* To be used in conjunction with sound signals when conditions are such that sound signals may not be heard. A white flag by day, a white light by night, swung in full circles at arm's length in full sight of the bridge and facing the draw.

(2) *Acknowledging signals by the bridge operator*—(i) *Sound signals.* Draw to be opened immediately: Same as call signal. Draw cannot be opened immediately or, if open, must be closed immediately: Two long distinct blasts of a whistle, horn, or megaphone, or two loud and distinct strokes of a bell, to be repeated at regular intervals until acknowledged by the vessel.

(ii) *Visual signals.* To be used in conjunction with sound signals when conditions are such that sound signals may not be heard. Draw to be opened immediately: A white flag by day, a green light by night, swung up and down vertically a number of times in full sight of the vessel. Draw cannot be opened immediately or, if open, must be closed immediately: A red flag by day, a red light by night, swung to and fro horizontally in full sight of the vessel, to be repeated until acknowledged by the vessel.

(3) *Acknowledging signals by the vessel.* Vessels having signaled for the opening of the draw and having received a signal that the draw cannot be opened immediately or, if open, must be closed immediately, shall acknowledge such signal by one long blast followed by one short blast, or by swinging to and fro horizontally a red flag by day or a red light by night.

(d) Trains, automobiles, trucks, other vehicles, and vessels shall not be stopped or operated in such manner as to hinder or delay the operation of the bridges, but all passage over drawspans or through draw openings shall be such as to expedite both land and water traffic.

(e) A copy of the regulations in this section shall be conspicuously posted on both the upstream and downstream sides of each bridge in such manner that it can be easily read at any time.

§ 117.156 Westchester Creek and Bronx River, N.Y.; city of New York Bridges at Bruckner Expressway.

(a) The owner of or agency controlling the bridges shall provide the appliances and personnel necessary for the safe, prompt, and efficient operation of the draws for the passage of vessels.

(b) Vessels owned, controlled, or employed by the U.S. Government, State government, or by municipal departments shall be passed without delay through the draws of the bridges at any time, day or night, after giving a signal of four distinct blasts of a horn, whistle, or megaphone.

(c) All other vessels unable to pass under the closed bridges shall be passed through the draws of the bridges at any time, day or night, after giving a signal of three distinct blasts of a horn, whistle or megaphone, repeated at intervals when necessary until answered from the bridges, except between 7 a.m. and 9 a.m. and between 4 p.m. and 6 p.m., Mondays through Fridays, inclusive.

(d) Upon receiving the signal from the vessel, the operators of the bridges, in case the draws can be opened immediately shall reply by three blasts of a horn, whistle, or megaphone. In case of accident to the machinery or other contingency necessitating delay in opening of the draws, the signal from the vessel shall be answered by the operators of the bridges by two blasts of a horn, whistle, or megaphone.

(e) Pedestrians and vehicles shall not be stopped on the bridges for the purpose of delaying their opening, nor shall watercraft or vessels be so manipulated as to hinder or delay the operation of the drawspans, but all passage over, through, or under the bridges shall be prompt, to prevent delay to either land or water traffic.

(f) Clearance gages of a type to be approved by the Commandant, shall be provided and kept in good legible condition. Unless otherwise specified, such clearance gages shall consist of two board gages painted white with black figures not less than 9 inches high, which shall indicate the headroom clearances under the closed spans at all stages of the tide. These gages shall be so placed that they will be plainly visible to the operator of a vessel approaching the bridges either upstream, or downstream, and shall be illuminated at night and during periods of decreased visibility caused by fog, rain, or snow.

(g) The bridges shall not be required to open for craft carrying appurtenances unessential to navigation which extend above the normal superstructure nor for those vessels regularly and habitually navigating the waterways which may be or are equipped with hinged or removable stacks, masts and flagpoles which can be lowered to pass under the closed draws of the bridges. Upon request, the District Commander, will cause inspection to be made of the superstructure and appurtenances of any craft habitually frequenting these waterways with a view to adjusting any differences of opinion in this regard between the vessel owner and the bridge owner.

§ 117.160 Harlem River, N.Y.; bridges.

(a) The drawbridges which leave a clear space, between the under sides thereof and the high water of spring tides, of 24 feet, shall not be opened except for vessels propelled by steam with or without vessels in tow; nor shall they be required to be opened at any times other than between 10:00 a.m. and 5:00 p.m.

(b) To the end that the draws of the bridges shall not be required to be opened or operated oftener than necessary between 10:00 a.m. and 5:00 a.m., the pilothouses, flagpoles, and smokestacks of all tugs propelled by steam, with or without vessels in tow, habitually using the river, shall not exceed 24 feet in height above the water line or, if exceeding that height, shall be reduced in height or hinged so that they can conveniently pass underneath the draws when closed.

(c) Any tug passing the draw of any of the bridges as often as once a day for 10 days of any month will be regarded as using the river "habitually" and shall conform to paragraph (b) of this section. A failure to comply with such requirement by any tug after one warning by the owner of or agency controlling any of the bridges shall be sufficient cause for a refusal to open the draw for the accommodation of such tug until such later time as may be convenient to the owner of or agency controlling the bridge.

(d) When a steam vessel wishes to pass a bridge within the time prescribed for opening the draw, it shall signify its intention by three blasts of the whistle. If the draw is ready to be opened, the signal shall be answered by three blasts of the whistle from the bridge; if the draw is not ready for opening, the signal shall be answered by two blasts from the bridge.

(e) The draw shall be opened with the least possible delay upon receiving the prescribed signal except when such signal is given to a railroad bridge five minutes or less before the scheduled arrival of an express passenger train. In such case the draw need not be opened until after the passage of the train unless the bridge tender has information that the train is delayed as much as five minutes.

(f) The draw of the low bridge at the mouth of Spuyten Duyvil Creek shall be opened at all times during the day and night when approached by boats desiring to pass it upon receiving the prescribed signal.

(g) Vessels owned, controlled, or employed by the United States or by the City of New York shall be passed without delay through the draw of any of the bridges at any time, day or night, after giving a signal of four blasts of the whistle.

§ 117.165 Newton Creek, N.Y.

(a) *City of New York highway bridge at Vernon Avenue.* The draw of this bridge shall be opened promptly, upon signal, for the passage of all vessels unable to pass under the closed bridge at any time, day or night, except on weekdays between 6:20 and 6:30 a.m., 7:20 and 7:30 a.m., 7:50 and 8:00 a.m., 8:20 and 8:30 a.m., 12:00 noon and 12:10 p.m., 12:50 and 1:00 p.m., 5:10 and 5:20 p.m., and 5:50 and 6:00 p.m.

(b) *City of New York highway bridge across East Branch at Grand Street.* The draw of this bridge shall be opened promptly, upon signal, for the passage of all vessels unable to pass under the closed bridge at any time, day or night, except between 6:45 and 7:00 a.m., 7:15 and 7:30 a.m., 7:45 and 8:00 a.m., 4:30 and 4:45 p.m., and 5:00 and 5:15 p.m. on all days other than Sundays and holidays.

(c) *Signals.* Whenever a vessel unable to pass under either closed bridge approaches it, the signal of its desire for the draw to be opened shall be three blasts of a whistle or horn blown on the vessel. This signal shall be repeated at intervals until it is answered from the bridge. Upon receiving the signal from the vessel, the operator of the bridge, in case the draw can be opened immediately, shall reply by three blasts of a whistle or horn, or by three loud and distinct strokes of a bell. In case of accident to the machinery or other contingency necessitating delay in opening the draw, the signal from the vessel shall be answered by the operator of the bridge by two blasts of a whistle or horn or by two loud and distinct strokes of a bell.

§ 117.175 Jamaica Bay and connecting waterways, New York.

(a) *City of New York highway bridge across Mill Basin on Belt Parkway.* On Sundays from May 15 to September 30, inclusive, and on Memorial Day, Independence Day, and Labor Day, the draw of this bridge shall not be required to open for the passage of vessels between 12:00 noon and 9:00 p.m. (e.d.s.t.): *Provided,* That during the period from two hours before to one hour after the time of predicted high tide for the locality the bridge shall be opened promptly upon proper signal for the passage of vessels unable to pass under the bridge: *Provided further,* That the draw shall be opened promptly at any time for the passage of vessels owned, controlled, or employed by the United States or by the City of New York.

NOTE: For the purpose of the regulations in this part, high tide at the bridge shall be deemed to occur 15 minutes later than the time of high tide for Sandy Hook as given in the tide tables for the United States, published by the United States Coast and Geodetic Survey, Department of Commerce. The time stated in the tables is eastern standard time and one hour should be added thereto to convert to eastern daylight saving time.

(b) *City of New York highway bridges across North Channel (Grassy Bay) at Jamaica Bay Boulevard, Shellbank Basin at Nolins Avenue, and Hawtree Basin at Nolins Avenue.* (1) On Sundays, holidays, and between 6:00 p.m. and 6:00 a.m., the draws of these bridges shall not be required to open for the passage of vessels: *Provided,* That the draws shall be opened promptly at any time for the passage of vessels owned, controlled, or employed by the United States or by the City of New York when operators are present, and when operators are not required to be present the draws shall be opened for the passage of such vessels with the least possible delay upon receipt of verbal or written notice: *Provided further,* That the draws shall be opened for the passage of other vessels unable to pass under a closed bridge on Sundays, holidays, or between 6:00 p.m. and 6:00 a.m., if at least 24 hours' advance notice of the time the opening is required is given, by telephone or otherwise, to the authorized representative of the owner of or agency controlling the bridge. In addition to the posting of a copy of the regulations, required by paragraph (h) of this section, a notice shall be conspicuously posted on both the upstream and downstream sides of these bridges in such manner that it can be easily read at any time stating exactly how the authorized representative may be reached.

(2) When two or more vessels are approaching from opposite directions and intend to pass a bridge, each vessel shall signal for the opening of the draw as prescribed in paragraph (f) of this section. The vessel running with the current shall have the right of way. At slack tide the vessel running in ebb current direction shall have the right of way. When vessels are approaching the bridge from the same direction each vessel shall signal independently for the opening of the draw and shall be navigated in accordance with the applicable pilot rules.

(c) [Reserved]

(d) *City of New York highway bridge across Beach Channel at Jamaica Bay Boulevard.* On Sundays and holidays from May 15 to September 15, inclusive, the draw of this bridge shall not be required to open for the passage of vessels between 12:00 noon and 9:00 p.m.: *Provided,* That during the period from two hours before to one hour after the time of predicted high tide for the locality the bridge shall be opened promptly upon proper signal for the passage of vessels unable to pass under the bridge: *Provided further,* That the draw shall be opened promptly at any time for the passage of vessels owned, controlled, or employed by the United States or by the City of New York.

NOTE: For the purpose of the regulations in this part, high tide at the bridge shall be deemed to occur 35 minutes later than the time of high tide for Sandy Hook as given in the tide tables for the United States, published by the United States Coast and Geodetic Survey, Department of Commerce.

(e) *Requirements for operation of draws.* The owners of or agencies controlling the bridges shall provide the appliances and the personnel necessary for the safe, prompt, and efficient operation of the draws. Except as otherwise provided in paragraphs (a) to (d) of this section, the draws shall be opened promptly when the prescribed signal for the opening of a draw is received from an approaching vessel which cannot pass under the closed bridge.

(f) *Signals*—(1) *Call signals for opening of draw*—(i) *Sound signals.* By vessels of the United States or of the City of New York, four distinct blasts of a whistle, horn, or megaphone, or four loud and distinct strokes of a bell, and by all other vessels, three distinct blasts of a whistle, horn, or megaphone, or three loud and distinct strokes of a bell, sounded within reasonable hearing distance of the bridge.

(ii) *Visual signals.* To be used in conjunction with sound signals when conditions are such that sound signals may not be heard. A white flag by day, a white light by night, swung in full circles at arm's length in full sight of the bridge and facing the draw.

(2) *Acknowledging signals by the bridge operator*—(i) *Sound signals.* Draw to be opened immediately: Same as call signal. Draw cannot be opened immediately or, if open, must be closed immediately: Two long distinct blasts of a whistle, horn, or megaphone, or two loud and distinct strokes of a bell, to be repeated at regular intervals until acknowledged by the vessel.

(ii) *Visual signals.* To be used in conjunction with sound signals when conditions are such that sound signals may not be heard. Draw to be opened immediately: A white flag by day, a green light by night, swung up and down vertically a number of times in full sight of the vessel. Draw cannot be opened immediately or, if open, must be closed immediately: A red flag by day, a red light by night, swung to and fro horizontally in full sight of the vessel, to be repeated until acknowledged by the vessel.

(3) *Acknowledging signals by the vessel.* Vessels having signaled for the opening of the draw and having received a signal that the draw cannot be opened immediately or, if open, must be closed immediately, shall acknowledge such signal by one long blast followed by one short blast, or by swinging to and fro horizontally a red flag by day or a red light by night.

(g) *Land and water traffic.* Trains, automobiles, trucks, other vehicles, and vessels shall not be stopped or operated in such manner as to hinder or delay the operation of the bridges, but all passage over drawspans or through draw openings shall be such as to expedite both land and water traffic.

(h) *Posting of regulations.* A copy of the regulations in this section shall be conspicuously posted on both the upstream and downstream sides of each bridge in such manner that it can be easily read at any time.

§ 117.180 Long Island Intracoastal Waterway; Nassau County highway bridges across Reynolds Channel at Long Beach and Atlantic Beach, N.Y.

(a) The owner of or agency controlling these bridges shall provide the appliances and the personnel necessary for the safe, prompt, and efficient operation of the draws.

(b) Except as provided in paragraph (c) of this section, the draws shall be opened promptly when the prescribed

signal for the opening of the draw is received from an approaching vessel which cannot pass under the closed draw.

(c) (1) *Atlantic Beach Bridge.* From May 15 to September 30, inclusive, of each year, on Saturdays and Sundays and on Memorial Day, Independence Day, and Labor Day between 11:00 a.m. and 9:00 p.m., and on weekdays between 4:00 p.m. and 7:00 p.m., openings of the draw will be made, only if necessary, every half-hour on the hour and on the half-hour: *Provided,* That during the period from two hours before to one hour after the time of predicted high tide the bridge shall be opened promptly upon proper signal for the passage of vessels unable to pass under the closed draw: *Provided further,* That the draw shall be opened promptly at any time for the passage of vessels owned, controlled, or employed by the United States. The time specified is eastern daylight saving time or eastern standard time, whichever is in force.

NOTE: For the purpose of the regulations in this part, predicted high tide shall be deemed to occur ten minutes earlier than the time of predicted high tide for Sandy Hook as given in the tide tables for the United States published by the United States Coast and Geodetic Survey, Department of Commerce. The time stated in the tables is eastern standard time, and one hour should be added to convert to eastern daylight saving time.

(2) *Long Beach Bridge.* From May 15 to September 30, inclusive, of each year, on Saturdays and Sundays and on Memorial Day, Independence Day, and Labor Day between 3:01 p.m. and 7:59 p.m., openings of the draw will be made, only if necessary, every half-hour on the hour and on the half-hour: *Provided,* That the draw shall be opened promptly at any time for the passage of vessels owned, controlled, or employed by the United States. The time specified is eastern daylight saving time or eastern standard time, whichever is in force.

(d) *Signals*—(1) *Call signals for opening of draw*—(i) *Sound signals.* By vessels owned, controlled, or employed by the United States, four distinct blasts of a whistle, horn, or megaphone, or four loud and distinct strokes of a bell, and by all other vessels, three distinct blasts of a whistle, horn, or megaphone, or three loud and distinct strokes of a bell, sounded within reasonable hearing distance of the bridge.

(ii) *Visual signals.* To be used in conjunction with sound signals when conditions are such that sound signals may not be heard. A white flag by day, a white light by night, swung in full circles at arm's length in full sight of the bridge and facing the draw.

(2) *Acknowledging signals by the bridge operator*—(i) *Sound signals.* Draw to be opened immediately: Same as call signal. Draw cannot be opened immediately or, if open, must be closed immediately: Two long distinct blasts of a whistle, horn, or megaphone, or two loud and distinct strokes of a bell, to be repeated at regular intervals until acknowledged by the vessel.

(ii) *Visual signals.* To be used in conjunction with sound signals when conditions are such that sound signals may not be heard. Draw to be opened immediately: A white flag by day, a green light by night, swung up and down vertically a number of times in full sight of the vessel. Draw cannot be opened immediately or, if open, must be closed immediately: A red flag by day, a red light by night, swung to and fro horizontally in full sight of the vessel, to be repeated until acknowledged by the vessel.

(3) *Acknowledging signals by the vessel.* Vessels having signaled for the opening of the draw and having received a signal that the draw cannot be opened immediately or, if open, must be closed immediately, shall acknowledge such signal by one long blast followed by one short blast, or by swinging to and fro horizontally a red flag by day or a red light by night.

(e) Automobiles, trucks, other vehicles, and vessels shall not be stopped or operated in such manner as to hinder or delay the operation of the bridges, but all passage over drawspans or through draw openings shall be such as to expedite both land and water traffic.

(f) The owner of or agency controlling the bridges shall provide and keep in good legible condition on each bridge two board gages painted white, with black figures not less than eight inches high, to indicate the minimum headroom clearance under the closed drawspan at all stages of the tide. The gages shall be so placed on each bridge that they will be plainly visible to the operator of a vessel approaching the bridge either upstream or downstream.

(g) The bridges shall not be required to open for craft carrying appurtenances unessential for navigation which extend above the normal superstructure. Military masts shall be considered as part of the normal superstructure.

NOTE: Upon request, the District Commander will cause inspection to be made of the superstructure and appurtenances of any craft habitually frequenting the waterway with a view to adjusting any differences of opinion in this matter between the vessel owner and the bridge owner.

(h) A copy of the regulations in this section shall be conspicuously posted on both the upstream and downstream sides of each bridge in such manner that it can be easily read at any time.

§ 117.185 Hudson River, N.Y.; bridges at Albany and Troy.

(a) Except as provided in paragraph (h) of this section, the draws of each of the bridges shall be opened promptly when the prescribed signal for the opening of the draw is received from an approaching vessel which cannot pass under the closed draw.

(b) The draw of any bridge shall not be required to remain open for the passage of vessels for a period longer, consecutively, than 15 minutes. Upon being closed it may remain closed for a time sufficient to allow delayed land traffic to pass, but in no case for a period longer, consecutively, than 10 minutes if a vessel desires to pass, unless at the expiration of such period a train in motion having passed the derailing point is approaching the draw, which train shall be permitted to pass before opening of the draw: *Provided,* That no train shall be stopped on the bridge between the derailing points except in a case of great emergency, after which the draw shall be opened promptly for any vessel desiring to pass: *Provided further,* That these limitations shall not apply to any vessel of more than 500 tons burden, to any tug with a tow on a hawser, to single tows which require longer than 15 minutes to pass through the draw, or to vessels downbound during a freshet whose height exceeds an elevation determined upon by the District Commander.

(c) The length of time that a draw has been opened shall be computed from the time that the drawspan begins to move in opening, and the length of time that a draw has been closed shall be computed from the time that the drawspan ceases to move in closing.

(d) Vessels with tows shall not so approach a bridge as to attempt to pass the draw in succession without interval. They shall arrange their approach so as to cause no delay in closing the draw promptly for the relief of land traffic.

(e) The draw of a bridge shall not be required to be opened for the passage of vessels habitually using the river which have stacks, jack staffs, or flagstaffs exceeding 21 feet in height above the water line and which are otherwise capable of clearing the bridge when closed. If such vessels wish to pass the bridge the stacks, jack staffs, or flagstaffs must be so erected that they may be lowered to permit the passage under the bridge. Any tug or vessel passing the draw of a bridge as often as once a day for 10 consecutive days of any month shall be regarded as using the river habitually within the meaning of this paragraph. A failure to comply with such requirement by any tug or vessel after one warning by the owner of or agency controlling any of the bridges shall be sufficient cause for a refusal to open the draw for the accommodation of such tug or vessel until such later time as may be convenient to the owner of or agency controlling the bridge.

(f) Vessels which are owned or controlled by the United States or by the police or fire departments of any of the neighboring cities or villages shall be passed without delay through the draws of any of the bridges on identification of such vessels.

(g) *Signals*—(1) *Call signals for opening of draw.* By vessels bound north: Three long blasts of the whistle or horn. By vessels bound south: Three long blasts followed by one short blast of the whistle or horn. If a vessel desires to pass through more than one bridge the call signal shall be repeated for each bridge. Private signals of towing or steamboat companies which may be mistaken by a bridge tender for call signals shall not be used.

(2) *Acknowledging signals by the bridge operator*—(i) *All bridges.* If the draw is to be opened, three long blasts of a whistle or horn. If the draw cannot be opened in time for the vessel to pass through safely, five short blasts of a whistle or horn.

(ii) *Additional visible signals to be displayed by the bridges at Albany.* The day signal shall be displayed at least 15 feet above the fixed day signal at the middle point of the drawspan and so as to be visible from both sides of the bridge. The night signal shall be displayed at least 15 feet above the fixed light at the center of the draw. The "fixed" signals referred to are those required by the regulations for lighting bridges prescribed by the United States Coast Guard (see Part 68 of this title). By day, if the draw is to be opened, the visible signal shall be a round ball not less than three feet in diameter and painted green, and if the draw is not to be opened, the visible signal shall be a lattice-work barrel-shaped sign five feet six inches high and four feet in diameter and painted red. By night, if the draw is to be opened, the visible signal shall be a green light from a standard marine lamp, and if the draw is not to be opened, the visible signal shall be a red light from a standard marine lamp.

(h) The general regulations contained in paragraphs (a) to (g), inclusive, of this section shall apply to all bridges except as modified by special regulations contained in this paragraph.

(1) *Dunn Memorial Bridge.* The draw will be opened for the passage of vessels except during the hours of 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.: *Provided,* That the draw need not be opened during the period from December 16 to March 31, between 6:00 p.m. and 7:00 a.m. unless notice has been given before 4:30 p.m. of the time a vessel may be expected to pass through.

(2) *New York Central Passenger Bridge.* The draw need not be opened for the passage of vessels during the period from December 16 to March 31, unless notice has been given 24 hours in advance of the time a vessel may be expected to pass through.

(3) *New York Central Freight Bridge.* The draw need not be opened for the passage of vessels during the period from December 16 to March 31, unless notice has been given 24 hours in advance of the time a vessel may be expected to pass through.

(4) [Reserved]

(5) *Congress Street Bridge.* The draw will be opened for the passage of vessels except during the hours of 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.: *Provided,* That the draw need not be opened during the period from December 16 to March 31, between 6:00 p.m. and 7:00 a.m. unless notice has been given before 4:30 p.m. of the time a vessel may be expected to pass through.

(6) *Troy-Green Island Bridge.* The draw need not be opened for the passage of vessels during the period from December 16 to March 31 of each year. From April 1 to December 15, inclusive, of each year, openings will be made for the passage of vessels except during the hours of 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.: *Provided,* That the draw need not be opened between 6:00 p.m. and 7:00 a.m. unless notice has been given before 4:30 p.m. of the time a vessel may be expected to pass through.

(7) *112th Street Bridge.* The draw need not be opened for the passage of vessels during the period that the Federal Lock at Troy is inoperative: *Provided,* That provision is made for emergency operation of the bridge with the least possible delay upon receipt of oral or written notice. During the balance of the year, the bridge shall be opened for the passage of vessels except during the hours of 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.: *Provided,* That the draw need not be opened between 6:00 p.m. and 7:00 a.m. unless notice has been given before 4:30 p.m. of the time a vessel may be expected to pass through.

NOTE: The time specified in all cases is eastern daylight saving or eastern standard time, whichever is in force.

§ 117.190 Navigable waters in the State of New York and their tributaries; bridges where constant attendance of draw tenders is not required.

(a) The owners of or agencies controlling the bridges listed in paragraph (f) of this section will not be required to keep draw tenders in constant attendance.

(b) Whenever a vessel unable to pass under a closed bridge desires to pass through the draw, advance notice, as specified, of the time the opening is required shall be given to the authorized representative of the owner of or agency controlling the bridge.

(c) Upon receipt of such advance notice, the authorized representative of the owner of or agency controlling the bridge, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

(d) The owners of or agencies controlling the bridges shall keep conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can easily be read at any time, a copy of the regulations in this section together with a notice stating exactly how the representative specified in paragraph (b) of this section may be reached.

(e) The operating machinery of the draws shall be maintained in a serviceable condition, and the draws shall be opened and closed at intervals frequent enough to make certain that the machinery is in proper order for satisfactory operation.

(f) The bridges to which this section applies, and the regulations applicable in each case, are as follows:

(1) Arm of Eastchester Bay; City of New York highway bridge between Rodman Neck and City Island. At least 24 hours' advance notice required.

(2) Bronx River; City of New York highway bridge at Westchester Avenue. At least 24 hours' advance notice required, except that the draw shall be opened for the passage of vessels owned, controlled or employed by the United States or by the City of New York, with the least possible delay upon receipt of oral or written notice.

(3) Bronx River; New York, New Haven and Hartford Railroad Company bridge, north of Westchester Avenue. The draw need not be opened for the passage of vessels and the special regulations contained in paragraphs (b) to (e) of this section shall not apply to this bridge.

(4) Flushing Creek; Whitestone Parkway Bridge and the City of New York highway and rapid transit bridge at Roosevelt Avenue. The draws need not be opened for the passage of vessels, and the special regulations contained in paragraphs (b) to (e), inclusive, of this section shall not apply to these bridges.

(5) Coney Island Creek; City of New York highway bridge at Harway (Cropsey) Avenue. At least 24 hours' advance notice required, except that the draw shall be opened promptly at any time for the passage of vessels owned, controlled, or employed by the United States or by the City of New York, upon reasonable notice.

(6) Coney Island Creek; City of New York highway bridge at Stillwell Avenue and New York City Transit Authority bridge near Stillwell Avenue. The draws of the bridges need not be opened for the passage of vessels, and special regulations contained in paragraphs (b) to (e), inclusive, of this section shall not apply to these bridges.

(7) Jamaica Bay, North Channel; New York City Transit Authority bridge at Hamilton Beach, Borough of Queens, New York, New York. At least 24 hours' advance notice required, except that the draw shall be opened promptly at any time for the passage of vessels owned, controlled or employed by the United States or by the City of New York, upon reasonable notice.

(8) Richmond Creek; City of New York highway bridge at Richmond Avenue, Staten Island. At least 24 hours' advance notice required.

(9) *Peekskill (Annsville) Creek; New York Central Railroad Company bridge near Peekskill, N.Y.* The draw need not be opened for the passage of vessels, and the special regulations contained in paragraphs (b) to (e), inclusive, of this section shall not apply to this bridge.

(10) Wappinger Creek; New York Central System bridge at New Hamburg. During the period May 15 to October 15, inclusive, a draw tender will be on duty from 5:00 a.m. to 9:00 p.m. At all other times at least 12 hours' advance notice required. Notice may be given to the Chief Dispatcher, New York Central System, Albany, N.Y., or New York, N.Y.

(10-a) Hudson River; State of New York highway (Troy-Menands) bridge between Albany and Rensselaer Counties The draw need not be opened for the passage of vessels, and the special regulations contained in paragraphs (b) to (e) inclusive, of this section shall not apply to this bridge.

(11) Lake Champlain; Vermont Department of Highways bridge across Alburg Passage, between Alburg Tongue and North Hero Island, at South Alburg, Vt. At least one hour's advance notice required.

(12) Lake Champlain; Vermont Department of Highways bridge across entrance to Missisquoi Bay, between Alburg Tongue and Hog Island, at East Alburg, Vt. At least 24 hours' advance notice required.

(13) Tonawanda Creek: The New York Central Railroad Company bridge between Tonawanda and North Tonawanda. From December 16 to March 31, inclusive, at least 12 hours' advance notice required. From April 1 to December 15, inclusive, the bridge shall be left in full open position whenever a draw tender is not in attendance.

(14) Tonawanda Inner Harbor (Little River); the New York Central Railroad Company bridge between Island Street, North Tonawanda, and Tonawanda Island. At least 24 hours' advance notice required.

(15) Genesee River; New York Central Railroad Company bridge at mile 0.9 in Rochester Harbor. From December 16 to March 31, inclusive, at least 12 hours' advance notice required. From April 1 to December 15, inclusive, the draw shall be opened promptly for the passage of any vessel unable to pass under the closed bridge.

§ 117.200 Newark Bay, Passaic and Hackensack Rivers, and their navigable tributaries; General Regulations.

(a) The draws shall be opened promptly, upon signal, for the passage of vessels during the day or night, except as prescribed in paragraph (b), (c), or (f) of this section.

(b) During the hours between 7:30 and 10:00 a.m. and between 5:00 and 7:30 p.m. drawbridges shall not be required to remain open longer than 10 minutes nor shall the passage of any vessel be delayed for longer than 10 minutes except as provided in paragraph (f) of this section.

(c) The draw of any bridge used solely for the United States mail, passenger, and express trains need not be opened for a vessel reaching said draw less than 5 minutes before the scheduled arrival of any such train until such train passes, unless the bridge tender has notice that the train is delayed more than 5 minutes. The owners of bridges acting under this rule shall maintain a tug at the drawbridge to control and aid in the passage of vessels.

(d) When a vessel approaches within signaling distance of a bridge for passage, the master thereof shall signify his intention by three blasts of a whistle or horn. For those bascule bridges that have two separate and distinct drawspans the approaching vessel shall signal for an opening of the bridge in the customary manner by three blasts of a whistle or horn, and this shall be followed after a short interval with one blast, if it is desired that the drawspan on the starboard hand as the vessel approaches be opened, or by two blasts if it is desired that the one on the port hand be opened. The signal of the craft shall be immediately answered by the tender or operator of the bridge. If the draw is ready to be immediately opened, the answer shall be three blasts of a whistle or horn from the bridge. In case of delay in opening the draw, as is provided for in this section, or as may be necessary by accident to the machinery or other contingency, the signal from the vessel shall be answered by two long blasts of a whistle or horn from the bridge. In all cases when delay signals have been given, a signal of three blasts of a whistle or horn shall be given as soon as it is possible to open the draw.

(e) Upon hearing or perceiving the signals prescribed, the tenders or operators of a drawbridge, except as provided in paragraphs (b), (c) and (f) of this section, shall at once open the draw signaled for so as to allow the prompt passage of any vessel or craft: *Provided*, That the bridge may not be opened when there is a train, wagon, or vehicle at the time passing over said drawspan, or a train approaching so closely that it cannot be safely stopped before reaching the bridge, but it shall be opened as soon as the drawspan can be cleared. In case the opening of the draw will be delayed under the provisions of paragraph (c) of this section the tug stationed at the draw shall immediately go to the assistance of the vessel.

(f) Each tug, towboat, barge and other small craft regularly and habitually navigating the aforementioned waterways shall be subject to inspection and measurement by the District Commander to determine which vessels, if any, would, by reasonable reductions in heights of masts and/or stacks, be capable of passing under the closed draw of any bridge affording at least vertical clearance of 35 feet at mean high water. The District Commander will notify the owners of such vessels as can be so modified, of the date by which the modifications shall be completed. In the event of the failure of said owners to comply with such notification, the District Commander will authorize the above bridge owners to delay opening their bridges, for the passage of said vessels, until convenient to do so, but on no occasion for more than 45 minutes: *Provided, however*, That such vessel shall not be so delayed when it has in tow another vessel or craft of such height as to require the opening of the bridge, or when, because of the stress of weather, prompt opening is necessary.

(g) Trains, vehicles, vessels or other watercraft shall not be stopped or manipulated in a manner hindering or delaying the operation of the draw, but all passage over the drawspan or through the draw opening shall be in a manner to expedite both land and water traffic.

(h) The regulations in paragraphs (a) to (g) of this section apply only to commercial or pleasure vessels. Steamers or vessels employed or controlled by the United States Government, State government, or by municipal departments shall be passed without delay through the draws of said bridges at any hour of the day or night, upon giving four blasts of the whistle.

(i) Clearance gages of a type to be approved by the Commandant shall be provided by the owner of each bridge and be kept in good legible condition. Unless otherwise specified, such clearance gages shall consist of two board gages painted white with black figures not less than 8 inches high, which shall indicate the headroom clearances under the closed span at all stages of the tide. These gages shall be illuminated at night and during the time of fog, rain and snow. These gages shall be so placed that they will be plainly visible to the navigator of a vessel approaching the bridge either up or downstream.

§ 117.210 Raritan River and Arthur Kill, and their navigable tributaries; bridges.

(a) All drawbridges spanning Raritan River and Arthur Kill, and their navigable tributaries, shall be opened promptly upon signal, for the passage of vessels during the day or night, except as prescribed in paragraph (b) of this section.

(b) During the hours between 7:30 and 10 a.m. and between 5 and 7:30 p.m. drawbridges shall not be required to remain open longer than 10 minutes nor be permitted to remain closed longer than 10 minutes to the exclusion of vessels approaching for passage: *Provided*, That the draw of any bridge used solely for United States mail, passenger, and express trains need not be opened for a vessel reaching said draw less than 5 minutes before the scheduled arrival of any such train, until such train passes, unless the bridge tender has notice that the train is delayed more than 5 minutes: *Provided further*, That the owners of bridges acting under this rule shall maintain a tug at the drawbridge to control and aid in the passage of vessels.

(c) When a vessel approaches within signaling distance of a bridge for passage, the master thereof shall signify his intention by three blasts of a whistle or horn. The signal shall be answered by three blasts of a whistle or horn from the bridge unless, under paragraph (b) of this section a delay in opening is permitted, when the answer from the bridge will be two blasts of whistle or horn, and the tug stationed at the draw shall immediately go to the assistance of the vessel.

(d) Upon hearing or perceiving the signals prescribed, the tenders or operators of a drawbridge, except as provided in paragraph (b) of this section shall at once open the drawspans of the bridge for the prompt passage of any vessel or craft: *Provided*, That the bridge may not be opened when there is a train, wagon, or vehicle at the time passing over said drawspan, or a train approaching so closely that it cannot be safely stopped before reaching the bridge, but it shall be opened as soon as the drawspan may be cleared.

(e) Wagons, vehicles, and trains shall not be stopped on a drawbridge or on a drawspan for the purpose of delaying the operation of the drawbridge, nor shall watercraft or vessels be so manipulated as to hinder or delay the operation of the drawspan, but all passage upon, through, or under a drawbridge shall be prompt, to prevent delay to either land or water communication.

(f) Paragraphs (a) to (e) of this section apply only to commercial or pleasure vessels. Steamers or vessels employed or controlled by the United States Government or by municipal departments shall be passed without delay through the draws of said bridges at any hour of the day or night upon giving four blasts of the whistle.

§ 117.215 Navigable streams flowing into Raritan Bay (except Raritan River and Arthur Kill), the Shrewsbury River and its tributaries, and all inlets on the Atlantic Ocean including their tributaries and canals between Sandy Hook and Bay Head, N.J.; bridges.

(a) The owners of or agencies controlling drawbridges shall provide the appliances and the personnel necessary for the safe, prompt and efficient operation of the draws.

(b) Drawbridges shall be opened promptly for the passage of any vessel or other watercraft unable to pass under the closed spans, except as hereinafter provided.

(c) *Signals*—(1) *Call signals for opening of draw.* (i) *Sound Signal.* Three distinct blasts of a whistle, horn or megaphone, or three loud and distinct strokes of a bell, sounded within a reasonable hearing distance of the bridge.

(ii) *Visual signal.* To be used in conjunction with sound signals when conditions are such that sound signals cannot be heard. A white flag by day, a white light by night, swung in full circles at arm's length in full sight of the bridge and facing the draw.

(2) *Acknowledging signals by bridge operator*—(i) *Sound signals.* Draw to be opened immediately: Same as call signal. Draw cannot be opened immediately, or, if open, must be closed immediately: Two long distinct blasts of a whistle, horn or megaphone, or two loud and distinct strokes of a bell, to be repeated at regular intervals until acknowledged by the vessel.

(ii) *Visual signals.* To be used in conjunction with sound signals when conditions are such that sound signals cannot be heard. Draw to be opened immediately: A white flag by day or a green light at night swung up and down vertically a number of times in full sight of the vessel. Draw cannot be opened immediately, or, if open, must be closed immediately: A red flag by day, a red light by night, swung to and fro horizontally in full sight of the vessel, to be repeated until acknowledged by the vessel.

(3) *Acknowledging signals by the vessel.* Vessels or other water craft having signaled for the opening of the draw and having received a signal that the draw cannot be opened immediately, or if open must be closed immediately, shall acknowledge said signal by one long blast followed by a short blast, or by swinging to and fro horizontally a red flag by day and a red light by night.

(d) Trains, automobiles, trucks, and other vehicles, vessels or other water craft shall not be stopped or manipulated in a manner hindering or delaying the operation of these drawbridges, but all passage over drawspans or through draw openings shall be so as to expedite both land and water traffic.

(e) The owners of or agencies controlling these bridges shall provide and keep in good legible condition two board gages painted white, with black figures not less than 8 inches high, to indicate the headroom clearance under the closed drawspan at all stages of the tide. The gages shall be so placed on the bridge that they will be plainly visible to the operator of the vessel approaching the bridge either up or downstream.

(f) These drawbridges shall not be required to open for craft carrying appurtenances unessential for navigation which extend above the normal superstructure. Military masts shall be considered as part of the normal superstructure. Upon request, the District Commander in charge of the locality will cause inspection to be made of the superstructure and appurtenances of any craft habitually frequenting those waterways, with a view to adjusting any differences of opinion in this matter between the vessel owner and the bridge owner.

(g) Copies of the regulations in this section shall be conspicuously posted on both the upstream and downstream sides of the bridges in such manner that it can be easily read at any time.

(h) [Reserved]

(i) [Reserved]

(j) The general regulations contained in paragraphs (a) to (g), inclusive, of this section shall apply to all bridges except as modified by the special regulations contained in this paragraph.

(1) Lemon Creek, N.Y.; the City of New York highway bridge at Bayview Avenue, Borough of Richmond, Staten Island, New York. The draw need not be opened for the passage of vessels between the hours of 4:00 p.m. and 8:00 a.m. from November 1, to March 31, inclusive, and between the hours of 10:00 p.m. and 6:00 a.m. from April 1, to May 15, inclusive, and from October 16, to October 31, inclusive.

(2) Shark River, N.J. (i) For the purposes of the regulations in this paragraph, the Route 71, the New York and Long Branch Railroad Company and the Route 35 bridges, being less than 800 feet apart, shall be considered and operated as a unit. The owners thereof shall provide and install, for uninterrupted service, systems of electric signals on their respective bridges, so connected that the operator of any of the bridges may thereby simultaneously notify, by signal, the operators of all the other drawbridges of the desire of any vessel or other watercraft to pass through the draws. The operator of the first bridge to be passed by an approaching vessel or other watercraft shall be responsible for observing the approach of such vessel or other watercraft toward the bridge, for receiving and acknowledging the signal or notice for passing, and for communicating to the operators of the other bridges, the intention of such vessel or other watercraft to pass.

(ii) Except as otherwise provided in subdivisions (iii) and (iv) of this subparagraph from May 15, to September 30, inclusive, on Saturdays, Sundays, Memorial Day, Independence Day and Labor Day, between the hours of 9:00 a.m. and 9:00 p.m., and on weekdays, between the hours of 4:00 p.m. and 7:00 p.m., the lift span of the Route 71, the New York and Long Branch Railroad Company and the Route 35 bridges shall not be required to open except at half-hourly intervals on the hour and half-hour, for those vessels or other watercraft waiting to pass through the draws, provided that when once opened for the passage of any vessel or craft, the said bridge or bridges shall remain open sufficiently long to permit the passage of all vessels or craft which may be engaged in passing or which may be presenting themselves for passage.

(iii) The draws shall be opened promptly on signal for the passage of vessels in the event of emergencies.

(iv) The draws shall be opened promptly at any time for the passage of vessels owned, controlled or employed by the United States Government, the State government or municipal and local governments.

(3) Shrewsbury River (South Branch), N.J. (i) Monmouth County bridge between the Boroughs of Rumson and Sea Bright. From May 15 to September 30, inclusive, of each year, on Saturdays, Sundays, Memorial Day, Independence Day, and Labor Day, between the hours of 11 a.m., e.d.s.t., and 7 p.m., e.d.s.t., openings of the draw shall be made only if necessary, every half-hour on the hour and half-hour.

(ii) The draw shall not be opened for a sailboat unless it is propelled by auxiliary power or is towed by a powered vessel.

§ 117.220 New Jersey Intracoastal Waterway and tributaries; bridges.

(a) The New Jersey Intracoastal Waterway referred to in this section is defined as that waterway extending through the bays and thoroughfares on the eastern coast of New Jersey from Manasquan Inlet on the north to Cape May on the south, including Cape May Canal to Delaware Bay.

(b) When drawbridges are less than 1,000 feet apart they shall, for the purposes of this section, be considered and operated as a unit. The owners thereof shall provide and install, for uninterrupted service, systems of electric signals on their respective bridges, so connected that the operator of any bridge of the group may thereby simultaneously notify, by signal, the operators of all the other drawbridges of that group of the desire of the master of any vessel or other watercraft to pass through the draws. The operator of the bridge first in any group of bridges to be passed by an approaching vessel or other watercraft shall be responsible for observing the approach of such vessel or other watercraft toward that bridge, also for receiving the signal or notice for passing and for communicating, by means of the electric signals prescribed above, to the operators of the other bridges composing such group the

purpose of such vessel or other watercraft to pass.

(c) Whenever any vessel or watercraft approaches a bridge affected by this section, and under which it cannot pass, the lawful signal of the desire of the master of the vessel or craft to pass through the draw opening shall be three blasts of a whistle or horn blown on the vessel or craft. These drawbridges shall not be required to open for craft carrying appurtenances unessential for navigation which extend above the normal superstructure. Upon request, District Commander will cause inspection to be made of the superstructure and appurtenances of any craft habitually frequenting those waterways, with a view to adjusting any differences of opinion in this matter between the vessel owner and the bridge owner. Appurtenances unessential for navigation shall include but not be limited to fishing outriggers, radio or television antennae, false stacks, and masts purely for ornamental purposes. Appurtenances unessential to navigation will not include flying bridges, sailboat masts, pile driver leads, spud frames on hydraulic dredges, or other items of equipment clearly necessary to the intended use of the vessel.

(d) The draws in each and every bridge or group of bridges shall, upon the signal prescribed in paragraph (c) of this section, be promptly opened at any and all hours of the day or night, except as provided in paragraphs (m) and (n) of this section, for the passage of any vessel, vessels, or other watercraft unable to pass safely beneath the draw when closed. For bridges crossing the New Jersey Intracoastal Waterway, failure of the draws to be fully opened within 4 minutes from the signal to open shall be considered a violation of the requirement for prompt opening, except as provided in paragraphs (m) and (n) of this section.

(e) If a car, train of cars, or other vehicle is, at the time of receiving the signal prescribed in paragraph (c) of this section, approaching any draw so closely that it cannot be safely stopped before reaching such draw, two blasts of a whistle or horn shall be blown on the bridge. As soon thereafter as such draw shall be cleared, such draw or all draws comprised in any group of bridges concerned shall be promptly opened, and three blasts of a whistle or horn blown on the bridge to indicate such clearance.

(f) After the draw or draws of any bridge or group of bridges shall have remained open for a period of 10 minutes or for such shorter period as may be necessary for the passage of vessels or other watercraft waiting to pass, the draw or draws may be closed for the crossing of cars, trains, vehicles, or individuals, if any be waiting to cross. After being so closed for a period of 10 minutes or for such shorter times as may be necessary, the draw or draws shall be again promptly opened for the passage of vessels or other watercraft, if there be any desiring to pass.

(g) No vehicle, car, locomotive, or train shall be stopped on the drawspan of any bridge subject to this section; nor shall any such bridges carrying railway or tramway tracks be used for switching purposes, except those bridges for which special regulations are prescribed in paragraph (m) of this section; nor shall locomotives or trains be stopped in bridge blocks of railroad bridges in such manner as to hinder or delay the operation of any draw, except in cases of urgent necessity. Vessels shall not be so moored nor maneuvered as to delay or hinder unnecessarily closing the draw of any bridge. All passages of vessels and other watercraft through or under the drawbridges and all passage of cars, locomotives, trains, and other vehicles over drawbridges shall be prompt and as rapid as practicable in order to avoid unnecessary delay to either land or water traffic.

(h) The owner or owners of each and every drawbridge covered by this section shall maintain in good and serviceable order the drawspan, together with the machinery and appliances required for operating the same, and the electric signal system prescribed in paragraph (b) of this section; shall provide such number of draw operators or tenders as may be found necessary to open and close the draws promptly; and shall also provide and maintain in good order on the bridge piers or fenders such fixtures as may be necessary for vessels to moor or make fast while waiting for the drawspan to be opened.

(i) The length of time that a draw has been opened shall be computed from the time that the drawspan begins to move in opening, and the length of time that a draw has been closed shall be computed from the time that the drawspan ceases to move in closing.

(j) At each opening of a draw full horizontal and vertical clearances shall be provided, regardless of the size or requirements of the passing vessel or other watercraft.

(k) The owner or owners of each and every bridge covered by this section shall provide and maintain in good legible condition two board gages, with figures not less than 6 inches high, the figures painted black on a white background, or vice versa, to indicate the vertical clearance under the closed drawspan at all stages of the tide. The gages shall be so placed on the ends of the drawspan fender that they shall be plainly visible to the master of a vessel or other watercraft approaching such bridge either upstream or down-stream.

(l) The owner or owners of each and every bridge covered by this section shall cause to be kept a complete record of all openings of the draw and shall promptly report to the District Commander cases in which the drawspan has been required to remain open for an unreasonable length of time or to remain closed for more than 10 minutes after the prescribed signal to open the draw has been given.

(m) The provisions of paragraph (d) of this section shall be applicable to the bridge of the Pennsylvania-Reading Seashore Lines, over Beach Thorofare at Atlantic City, N. J., only between the hours of 11:00 p. m. and 6:00 a. m. daily. Between the hours of 6:00 a. m. and 11:00 p. m. this bridge shall be opened upon signal from any vessel or craft desiring to pass at any time during the periods from 20 to 30 minutes past each hour, but may remain closed during such periods if no vessel or craft give such signal, provided that when once opened for the passage of any vessel or craft the said bridge shall remain open sufficiently long to permit the passage of all vessels or craft which may be engaged in passing or which may be presenting itself for passage. Between such hours (6:00 a. m. and 11:00 p. m.) this bridge shall not be opened except as provided for in this paragraph.

(n) From June 1 to September 30, inclusive, the drawspan of the Albany Avenue bridge over Inside Thorofare at Atlantic City, N.J., shall be required to open only on the hour and half hour between 9 a.m. and 9 p.m., daily, except that between 4 p.m. and 6 p.m., daily, the drawspan shall not be required to open for the passage of vessels or craft. When once opened for the passage of any vessel or craft during these hours the said bridge shall remain open sufficiently long to permit the passage of all vessels or craft which may be engaged in passing or which may be presenting themselves for passage.

§ 117.225 Navigable waters in the State of New Jersey; bridges where constant attendance of draw tenders is not required.

(a) The owners of or agencies controlling the bridges listed in paragraph (f) of this section will not be required to keep draw tenders in constant attendance.

(b) Whenever a vessel unable to pass under a closed bridge desires to pass through the draw, advance notice, as specified, of the time the opening is required shall be given to the authorized representative of the owner of or agency controlling the bridge.

(c) Upon receipt of such advance notice, the authorized representative of the owner of or agency controlling the bridge, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

(d) The owners of or agencies controlling the bridges shall keep conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can easily be read at any time, a copy of the regulations in this section together with a notice stating exactly how the representative specified in paragraph (b) of this section may be reached.

(e) The operating machinery of the draws shall be maintained in a serviceable condition, and the draws shall be opened and closed at intervals frequent enough to make certain that the machinery is in proper order for satisfactory operation.

(f) The bridges to which this section applies, and the regulations applicable in each case, are as follows:

(1) Overpeck Creek, New York, Susquehanna and Western Railroad Company bridge and West Shore Railroad Company (New York Central System) bridge at Ridgefield Park. From January 1 to March 31, inclusive, the bridges need not be opened for the passage of vessels. From April 1 to December 31, inclusive, at least 2 hours' advance notice required, except from May 1 to November 30, inclusive, between the hours of 8 a.m. and 5 p.m., the bridges will be opened promptly upon signal for the passage of vessels, in accordance with the regulations contained in § 117.200.

(1–b) Hackensack River, New Jersey State Highway Department bridge at Little Ferry. At least six hours' advance notice required.

(2) Passaic River, Passaic and Bergen Counties highway bridges at Market Street and at West Eighth Street, Passaic. The draws need not be opened for the passage of vessels, and paragraphs (b) to (e) of this section shall not apply to these bridges.

(2–a) Passaic River, Erie Lackawanna Railroad bridge between Newark and West Arlington. The draw need not be opened for the passage of vessels throughout the year, between the hours of 11 p.m. and 7 a.m., either e.d.s.t. or e.s.t., whichever is in force.

(3) Elizabeth River; The Central Railroad Company of New Jersey bridge and Union County bridges at Baltic Street, Summer Street, South Street, and Bridge Street, in the City of Elizabeth. The draws need not be opened for the passage of vessels and the special regulations contained in paragraphs (b) to (e) inclusive, of this section shall not apply to these bridges.

(4) Elizabeth River; Union County Bridge at South First Street in the City of Elizabeth. At least three hours' advance notice required.

(5) Woodbridge Creek; Middlesex County highway bridge and The Central Railroad Company of New Jersey bridge at Maurer. At least four hours' advance notice required.

(6) Shrewsbury River (South Branch) at junction of Parker Creek and Oceanport Creek; Monmouth County Gooseneck Highway Bridge. From November 1 to April 30, inclusive, at least four hours' advance notice required. At all other times and in all other respects the regulations contained in § 117.215 shall govern the operation of this bridge.

(7) Oceanport Creek; The New York and Long Branch Railroad Company bridge near Oceanport. At least four hours' advance notice required.

(8) Beaver Dam Creek; Ocean County highway bridge near Point Pleasant. At all times during January, February, March and December and between 4:00 p.m. and 8:00 a.m., during April, May, October and November, at least 24 hours' advance notice required. At all other times the regulations in § 117.220 shall govern the operation of this bridge.

(8–a) Bass River; New Jersey State Highway Department bridge on U.S. Route 9 at New Gretna. At all times during January, February, and December, and between 11 p.m. and 7 a.m. from March 1 to November 30, inclusive, at least 6 hours' advance notice required.

(9) Patcong Creek; Atlantic County highway bridge 0.5 mile upstream from the mouth. At least 24 hours' advance notice required.

(10) Tuckahoe River; New Jersey State Highway Department bridge at Tuckahoe. At least 24 hours' advance notice required.

(11) Great Channel; Cape May County Bridge Commission bridge between Stone Harbor and Nummy Island. From November 1 to April 30, inclusive, at least 24 hours' advance notice required.

(11–a) Cape Island Creek; Cape May County highway bridge. The draw need not be opened for the passage of vessels, and the special regulations contained in paragraphs (b) to (e), inclusive, of this section shall not apply to this bridge.

(12) Maurice River; New Jersey State Highway Department bridge at Main Street, Millville. At least 24 hours' advance notice required.

(13) Manantico Creek; New Jersey State Highway Department bridge near Millville. The draw need not be opened for the passage of vessels, and paragraphs (b) to (e), inclusive, of this section shall not apply to this bridge.

(14) Cohansey River; New Jersey State Highway Department bridge at Broad Street, Bridgeton. The draw need not be opened for the passage of vessels, and paragraphs (b) and (e), inclusive, of this section shall not apply to this bridge.

(15) Alloway Creek; Salem County highway bridges at Hancocks Bridge and at Upper Hancocks Bridge, and New Jersey State Highway Department bridge at Quinton. At least 24 hours' advance notice required.

(16) Oldmans Creek; New Jersey State Highway Department bridge near Nortonville, Pennsylvania-Reading Seashore Lines railroad bridge near Pedricktown, and Salem County highway bridge at Pedricktown. At least 24 hours' advance notice required.

(16–a) Raccoon Creek; Pennsylvania-Reading Seashore Lines railroad bridge at Bridgeport. At least four hours' advance notice required for opening this bridge during January, February and December between 10:00 p.m. and 6:00 a.m. on regular weekdays and at all times on Saturdays, Sundays and national holidays during these months.

(17) Woodbury Creek; Gloucester County highway bridge at National Park. At least 24 hours' advance notice required during December, January and February of each year.

(17–a) Cooper River; Pennsylvania Railroad Company bridge at North River Avenue, Camden County highway bridge at Federal Street and New Jersey State Highway Department bridge at Admiral Wilson Boulevard, Camden. At least four hours' advance notice required.

(18) Delaware River (back channel); The Pennsylvania Railroad Company bridge between Petty Island and Camden. At least 24 hours' advance notice required.

(19) Rancocas River; Burlington County highway bridge and Pennsylvania Railroad Company bridge between Riverside and Delanco, New Jersey State Highway Department bridge at Bridgeboro, and Burlington County highway bridge at Centerton. Between 11:00 p.m. and 7:00 a.m. each day of the year the draws of these bridges need not be opened for the passage of vessels. At least 24 hours' advance notice required for opening these bridges between 7:00 a.m. and 11:00 p.m. during January, February, March and December.

§ 117.227 Delaware and Schuylkill Rivers, N.J. and Pa., in vicinity of Philadelphia and Bristol; bridges.

(a) *Signals and lights*—(1) *Signals.* When at any time during the day or night any vessel, tug, or other watercraft unable to pass under a closed drawbridge, approaches it with the intention of passing through the draw, the signal for the draw to be opened shall be three blasts of a whistle or horn blown on the vessel or craft. If the drawspan is to be opened immediately when the signal is given on the vessel or craft, the bridgetender will reply with one blast of a whistle or horn indicating he is preparing to open the bridge. If at any time after signal from the vessel the drawbridge is not ready to be opened, the bridgetender will immediately sound four blasts of a whistle or horn. When the bridge is open and clear for vessel passage, the bridgetender will sound two blasts of a whistle or horn.

(2) *Lights.* The foregoing whistle or horn signals by the bridgetender will be supplemented by the following lights in the center of the drawspan, on both the upstream and downstream sides of the bridge:

(i) *Supplementary bridge operating lights*—(a) *Fixed amber light.* Bridge being prepared for opening. (b) *Flashing red light.* Bridge opening to be delayed.

(ii) *Fixed navigation lights required by the Coast Guard*—(a) *Fixed red light.* Bridge closed to navigation. Vessel unable to pass under closed drawspan must be kept under control so it can be stopped if necessary.

(b) *Fixed green light.* Bridge open to navigation. Vessel may proceed.

(iii) The fixed navigation lights referred to in subdivision (ii) of this subparagraph are those prescribed by the Coast Guard under Part 68 of this title. The supplementary bridge operating lights referred to in subdivision (i) of this subparagraph shall be of such visibility and placed at such locations as are satisfactory to the Coast Guard, so as not to conflict with the locations and intended purpose of the fixed lights. Supplementary bridge operating lights are not required for bridges across the Schuylkill River.

(b) *Opening the draw.* Upon hearing or perceiving the prescribed signal, the bridge tender shall immediately clear the drawspan and open the draw to its full extent for the passage of the vessel or other craft: *Provided,* That the draw of a railroad bridge need not be opened

when there is a train in the bridge block approaching the bridge with the intention of crossing, nor within 5 minutes of the known time of passage of a scheduled passenger, mail, or express train; but in no event, except in case of breakdown of the operating machinery, shall the opening of the draw be delayed more than 5 minutes in the case of a highway bridge nor more than 10 minutes in the case of a railroad bridge: *And provided further*, That the draw need not be opened for the passage of a tug or other craft equipped with a movable stack or mast which can readily be lowered so as to permit its passage under the closed draw, unless such craft has in tow a vessel which is unable to pass under the closed draw or by reason of stress of weather it is unsafe to lower such stack or mast.

(c) *Interference with operation.* Vehicles, streetcars, locomotives, and trains shall not be stopped on the drawspans, nor shall locomotives or trains be stopped in the bridge blocks of railroad bridges in such manner as to delay the operation of the draw, except in case of urgent necessity, nor shall vessels be moored to the bridge fenders or so maneuvered as to unnecessarily hinder or delay the closing of the draw, but all passages over, through, or under the bridges shall be prompt, to avoid delay to either land or water traffic.

(d) *Hinged stacks and masts.* Each tug, towboat, barge, and other small craft regularly and habitually navigating the Schuylkill River shall be subject to inspection and measurement by the District Commander to determine the exact height above the water surface of its pilot or deckhouses when such vessel is in its ordinary trim; and the District Commander is hereby empowered to decide in each case whether or not the vessel shall be equipped with hinged or removable stacks, masts, and flagpoles which can be lowered to enable the vessel to pass under the closed draw of any or all of the bridges. If the District Commander decides that such action should be taken, he shall notify the vessel owner and the bridge owner of his decision, specifying a reasonable time for making the alterations; and after the expiration of the time specified the draw need not be opened for the passage of such vessel unless it has in tow a vessel unable to pass under the closed draw or by reason of stress of weather it is unsafe to lower such stack or mast.

(e) *Operating machinery.* All drawbridges shall be equipped with adequate, quick-operating power machinery for opening and closing the draw, and this machinery shall at all times be kept in good and effective working condition and manned by competent operators.

(f) *Clearance gages.* The owners of each bridge shall provide and keep in good legible condition two board gages, painted white with black figures not less than six inches high, to indicate the headroom clearance under the closed span at all stages of the tide. These gages shall be so placed or the ends of the drawspan fenders that they will be plainly visible to the navigator of a vessel approaching the bridge either upstream or downstream.

(g) The general regulations contained in paragraphs (a) to (f), inclusive, of this section shall apply to all bridges except as modified by the special regulations contained in paragraphs (h) and (i) of this section.

(h) *Pennsylvania Railroad Company bridge across Schuylkill River near Christian Street.* (1) The owner of or agency controlling this drawbridge will not be required to keep drawtenders in constant attendance. Whenever a vessel unable to pass under the closed bridge desires to pass through the draw, at least 2 hours' advance notice of the time the opening is required shall be given to the authorized representative of the owner of or agency controlling the bridge.

(2) Upon receipt of such advance notice the authorized representative, in compliance therewith, shall arrange for the prompt opening of the draw on proper signal at the time specified in the notice for the passage of the vessel.

(3) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can easily be read at any time, a copy of the regulations in this section together with a notice stating exactly how the representative specified in subparagraph (1) of this paragraph may be reached by telephone or otherwise.

(i) *City of Philadelphia bridge across Schuylkill River at South Street.* (1) The draw need not be opened for the passage of vessels and paragraphs (a) to (e), inclusive, of this section shall not apply to the bridge.

(2) The owner of or agency controlling this bridge shall keep conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can be easily read at any time, a copy of the regulations of this section.

Cross Reference: For Inland Waterway from Delaware River to Chesapeake Bay, Del. and Md. (Chesapeake and Delaware Canal); see § 207.100.

§ 117.228 Darby Creek, Pa., The Pennsylvania Railroad Co. and Reading Co. bridges near Essington.

(a) The owners of or agencies controlling these bridges will not be required to keep draw tenders in constant attendance.

(b) Between 11:00 p.m. and 7:00 a.m. each day from May 15 to October 15, inclusive, the draws of these bridges need not be opened for the passage of vessels.

(c) Between 7:00 a.m. and 11:00 p.m. each day from May 15 to October 15, inclusive, the bridges will be opened upon signal from an approaching vessel or vessels at 7:15 a.m., 10:30 a.m., 1:00 p.m., 3:00 p.m., 7:30 p.m., and 10:30 p.m. and at other times on signal during these hours if such openings will not unduly delay railroad operations. Any vessel which may have passed through one of these bridges shall be passed through the draw of the other bridge without delay. When once opened for the passage of any vessel or craft the said bridges shall remain opened sufficiently long to permit the passage through both bridges of all vessels or craft which may be engaged in passing and all accumulated vessels presenting themselves for passage.

(d) From October 16 to May 14, inclusive, whenever a vessel unable to pass under the closed bridges desires to pass through the draws, 24 hours' advance notice of the time opening is required must be given to the authorized representative of the owner of or agency controlling each of the bridges to insure prompt opening thereof at the time required. On receipt of such advance notice the authorized representative, in compliance therein, shall arrange for the prompt opening of the draw on proper signal at approximately the time specified in the notice.

(e) In an emergency, the drawspans of these bridges will be opened as soon as possible after notification.

(f) The owners of or agencies controlling these bridges shall provide and keep in good legible condition two board gages of a type to be approved by the Commandant to indicate the controlling minimum vertical clearance under both closed drawspans at all stages of the tide. These gages shall be so placed on the upstream and downstream ends of the right channel drawspan piers or fenders so that they will be plainly visible to the navigators approaching from either direction.

(g) The owner of or agency controlling each bridge shall keep conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can easily be read at any time, a copy of the regulations in this section together with information as to whom notice should be given, as specified in paragraphs (d) and (e) of this section, when it is desired that the bridge be opened and directions for communicating with such person by telephone or otherwise.

(h) The operating machinery of the draws shall be maintained in a serviceable condition, and the draws shall be opened and closed at intervals frequent enough to make certain that the machinery is in proper order for satisfactory operation.

§ 117.229 Chester River, Pa.; the Reading Co. bridge at Front Street, Chester, Pa.

(a) Between 6 a.m. and 10 p.m., the draw shall be opened promptly on signal for a vessel desiring to pass through the bridge. From 10 p.m. to 6 a.m., the draw will remain closed and the bridge unattended.

(b) The owner of or agency controlling this bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in such manner that it can easily be read at any time, a copy of the regulations in this section.

§ 117.230 Brandywine River, Del.; bridges.

(a) *Seventh Street bridge, Wilmington, Del.* (1) The owner of or agency controlling the bridge will not be required to keep a draw tender in constant attendance.

(2) The owner of or agency controlling the bridge shall provide the appliances and the personnel necessary for the safe, prompt and efficient opening of the draw at any time during the day or night, except as provided in subparagraph (5) of this paragraph, for the passage of any vessel or other watercraft which cannot pass under the closed draw, when the following signal is received: Three blasts of a whistle or horn. When the draw of the bridge can be opened immediately, the draw tender shall reply by two blasts of a whistle or horn. When the draw of the bridge cannot be opened immediately or when the bridge is open and is to be closed immediately, the draw tender shall reply by one blast of a whistle or horn.

(3) Vehicles shall not be stopped on the drawspan, in such manner as to delay the operation of the draw except in case of urgent necessity, nor shall vessels be moored to the bridge fenders or so maneuvered as to unnecessarily hinder or delay the closing of the draw, but all passage over, through, or under the bridge shall be prompt to avoid delay to either land or water traffic.

(4) The owner of or agency controlling the bridge shall provide and keep in good legible condition two board gages painted white with black figures not less than 6 inches high, to indicate the headroom clearance under the closed span at all stages of the tide. These gages shall be so placed on the ends of the drawspan fenders that they will be plainly visible to the navigators of a vessel approaching the bridge from either direction.

(5) At least 24 hours' advance notice will be required for opening this bridge at all times during January, February, March and December and between 8:00 p.m. and 6:00 a.m. from April to November, inclusive.

(i) Whenever a vessel unable to pass under the closed bridge desires to pass through the draw, advance notice, as specified, of the time the opening is required shall be given to the authorized representative of the owner of or agency controlling the bridge.

(ii) Upon receipt of such advance notice, the authorized representative of the owner of or agency controlling the bridge, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

(iii) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can easily be read at any time, a copy of the regulations in this paragraph together with a notice stating exactly how the representative specified in subdivision (i) of this subparagraph may be reached.

(iv) The operating machinery of the draw shall be maintained in a serviceable condition, and the draw shall be opened and closed at intervals frequent enough to make certain the machinery is in proper order for satisfactory operation.

(b) *Pennsylvania Railroad bridge above Seventh Street and Highway bridges at Church Street and Sixteenth Street, Wilmington, Del.* (1) The draws of these bridges need not be opened for the passage of vessels.

(2) The owners of or agencies controlling the bridges shall keep conspicuously posted on both the upstream and downstream sides of the respective bridges, in such manner that it can easily be read at any time, a copy of the regulations in this paragraph.

§ 117.235 Christina River, Del.; bridges.

(a) The owners of or agencies controlling the bridges shall provide the appliances and the personnel necessary for the safe, prompt, and efficient opening of the draws at any time during the day or night for the passage of any vessel or other watercraft which cannot pass under the closed draws.

(b) Except as otherwise provided in paragraphs (g) and (h) of this section, the bridge tender upon hearing or perceiving the prescribed call signal shall immediately clear the drawspan and open the draw to its full extent for the passage of the vessel or other craft: *Provided*, That the draw of a railroad bridge need not be opened when there is a train in the bridge block approaching the bridge with the intention of crossing, nor within 5 minutes of the known time of passage of a scheduled passenger, mail, or express train; but in no event, except in case of breakdown of the operating machinery, shall the opening of the draw be delayed more than 5 minutes in the case of a highway bridge, nor more than 10 minutes in the case of a railroad bridge.

(c) (1) *Call signal for opening of draw.* Three blasts of a whistle or horn.

(2) *Acknowledging signal*—(i) *When the draw can be opened immediately.* Two blasts of a whistle or horn.

(ii) *When the draw cannot be opened immediately, or when it is open and is to be closed immediately.* One blast of a whistle or horn.

(d) Vehicles, street cars, locomotives, and trains shall not be stopped on the drawspan, nor shall locomotives or trains be stopped in the bridge blocks of railroad bridges in such manner as to delay the operation of the draws, except in case of urgent necessity, nor shall vessels be moored to the bridge fenders or so maneuvered as to unnecessarily hinder or delay the closing of the draw, but all passages over, through, or under the bridges shall be prompt, to avoid delay to either land or water traffic.

(e) The owners of, or agencies controlling, the bridges shall provide and keep in good legible condition two board gages painted white with black figures not less than 6 inches high, to indicate the headroom clearance under the closed span at all stages of the tide. These gages shall be so placed on the ends of the drawspan fenders that they will be plainly visible to the navigators approaching from either direction.

(f) The foregoing general regulations contained in paragraphs (a) to (e), inclusive, of this section shall apply to all bridges except as modified by the special regulations contained in paragraphs (g) and (h), of this section, prescribed to provide for closed or open periods when land or water traffic predominates and for the operation of a particular bridge on advance notice.

(g) (1) The owners of or agencies controlling the bridges listed in subparagraph (6) of this paragraph will not be required to keep draw tenders in constant attendance.

(2) Whenever a vessel unable to pass under a closed bridge desires to pass through the draw, advance notice as specified, of the time the opening is required shall be given to the authorized representative of the owner of or agency controlling the bridge.

(3) Upon receipt of such advance notice, the authorized representative of the owner of or agency controlling the bridge, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

(4) The owners of or agencies controlling the bridges shall keep conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can easily be read at any time, a copy of the regulations together with a notice stating exactly how the representative specified in subparagraph (2) of this paragraph may be reached.

(5) The operating machinery of the draws shall be maintained in a serviceable condition, and the draws shall be opened and closed at intervals frequent enough to make certain the machinery is in proper order for satisfactory operation.

(6) The bridges to which the special regulations in this paragraph apply, the periods when draws need not be operated and advance notice required, are as follows:

(i) *Pennsylvania Railroad Company bridge at Mile 4.12, Reading Company bridge at Mile 4.15 and Pennsylvania Railroad Company bridge at Mile 5.38.* Between 8:00 p. m. and 6:00 a. m. the draws need not be opened for the passage of vessels. Between 6:00 a. m. and 8:00 p. m., at least 24 hours' advance notice required.

(ii) Delaware State Highway Department bridge at Newport. At least 24 hours' advance notice required.

(h) *Closed periods.* The Third Street, Walnut Street and Market Street bridges shall not be required to open for the passage of vessels between 7:00 a. m. and 8:00 a. m. and between 4:30 p. m. and 5:30 p. m., except on Sundays and legal holidays: *Provided*, That any vessel which has passed through one or more of these three bridges immediately prior to a closed period and will require passage through the other bridge or bridges in order to continue to its destination shall be passed through the draw or draws of such bridge or bridges without

delay: *Provided further*, That in time of flood or other emergency the closed periods may be suspended or modified by the District Commander.

§ 117.236 Appoquinimink River, Del.; Delaware State Highway Department bridge at Fennimores, Del.

(a) The owner of this bridge will not be required to keep a draw tender in constant attendance.

(b) Whenever a vessel unable to pass under the closed bridge desires to pass through the draw, at least 24 hours' advance notice of the time the opening is required shall be given to the authorized representative of the owner of the bridge.

(c) Upon receipt of such advance notice, the authorized representative shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

(d) The owner of the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in such manner that it can easily be read at any time, a copy of these regulations together with a notice stating exactly how the representative specified in paragraph (b) of this section may be reached.

(e) The operating machinery of the draw shall be maintained in a serviceable condition, and the draw shall be opened and closed at intervals frequent enough to make certain that the machinery is in proper order for satisfactory operation.

§ 117.237 St. Jones River, Del.; Delaware State Highway Department bridges at Barkers Landing and at Lebanon.

(a) The owner of or agency controlling these bridges will not be required to keep draw tenders in constant attendance.

(b) Whenever a vessel unable to pass under the closed bridges desires to pass through the draws, at least 24 hours' advance notice of the time opening is required must be given to the authorized representative of the owner of or agency controlling the bridges to insure prompt opening thereof at the time required.

(c) On receipt of such advance notice the authorized representative, in compliance therewith, shall arrange for the prompt opening of the draw on signal at approximately the time specified in the notice.

(d) The owner of or agency controlling the bridges shall keep conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can easily be read at any time, a copy of the regulations in this section together with a notice stating exactly how the representative specified in paragraph (b) of this section may be reached.

(e) The operating machinery of the draws shall be maintained in a serviceable condition, and the draws shall be opened and closed at intervals frequent enough to make certain that the machinery is in proper order for satisfactory operation.

§ 117.237a Mispillion River, Del.; Delaware State Highway Department bridge at Washington Street, Milford.

(a) The owner of or agency controlling this bridge will not be required to keep draw tenders in attendance from 8:00 p.m. to 8:00 a.m.

(b) Whenever a vessel unable to pass under the closed bridge desires to pass through the draw from 8:00 p.m. to 8:00 a.m., at least 24 hours' advance notice of the time opening is required must be given to the authorized representative of the owner of or agency controlling the bridge to insure prompt opening thereof at the time required.

(c) On receipt of such advance notice the authorized representative, in compliance therewith, shall arrange for the prompt opening of the draw on signal at approximately the time specified in the notice.

(d) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can easily be read at any time, a copy of the regulations in this section together with a notice stating exactly how the representative specified in paragraph (b) of this section may be reached.

(e) The operating machinery of the draw shall be maintained in a serviceable condition and the draw shall be opened and closed at intervals frequent enough to make certain that the machinery is in proper order for satisfactory operation.

§ 117.237b Lewes and Rehoboth Canal, Del.; Delaware State Highway Department bridges at Rehoboth.

(a) The owner of or agency controlling these bridges will not be required to keep draw tenders in attendance from 5:00 p.m. to 7:00 a.m.

(b) Whenever a vessel unable to pass under the closed bridges desires to pass through the draws from 5:00 p.m. to 7:00 a.m., at least 24 hours' advance notice of the time opening is required must be given to the authorized representative of the owner of or agency controlling the bridges to insure prompt opening thereof at the time required.

(c) On receipt of such advance notice the authorized representative, in compliance therewith, shall arrange for the prompt opening of the draws on signal at approximately the time specified in the notice.

(d) The owner of or agency controlling the bridges shall keep conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can easily be read at any time, a copy of the regulations in this section together with a notice stating exactly how the representatives specified in paragraph (b) of this section may be reached.

(e) The operating machinery of the draws shall be maintained in a serviceable condition, and the draws shall be opened and closed at intervals frequent enough to make certain that the machinery is in proper order for satisfactory operation.

§ 117.240 Navigable waters discharging into the Atlantic Ocean south of Delaware Bay (including the Lewes and Rehoboth Canal, Del.), and into the Gulf of Mexico (including coastal waterways contiguous thereto and tributaries to such waterways and the Lower Atchafalaya River, La.), except the Mississippi River and its tributaries and outlets; bridges.

(a) Corporations or persons owning or controlling a drawbridge shall provide the same with the necessary tenders and the proper mechanical appliances for the safe, prompt, and efficient opening of the draw for the passage of vessels.

(b) If the weather conditions are good and sound signals can be heard when a vessel approaches a drawbridge and desires to pass through the draw, three distinct blasts of a whistle or horn shall be sounded or three calls through a megaphone shall be made from the vessel when within reasonable hearing distance of the bridge.

(1) When the draw of the bridge can be opened immediately, the drawtender shall reply by three distinct blasts of a whistle or horn, by three calls through a megaphone, or by three loud and distinct strokes of a bell.

(2) When the draw of the bridge cannot be opened immediately or when the bridge is open and is to be closed immediately, the drawtender shall reply by four or more short, distinct blasts of a whistle or horn, by four or more calls through a megaphone, or by four or more loud and distinct strokes of a bell (danger signal).

(c) When weather conditions prevent hearing the sound signals when a vessel approaches a drawbridge and desires to pass through the draw, signals shall be made from the vessel by swinging in circles at arm's length a lighted lantern at night and a flag by day.

(1) When the draw of the bridge can be opened immediately, the drawtender shall reply by raising and lowering in vertical plane a number of times a lighted lantern at night and a flag by day.

(2) When the draw of the bridge cannot be opened immediately or when the bridge is open and is to be closed immediately, the drawtender shall reply by swinging to and fro horizontally a number of times a lighted lantern at night and a flag by day.

(d) When a vessel wishes to pass two or more bridges close together or crossing a section of the waterway less than 500 feet in length, signals as prescribed above shall be given from the vessel for opening the first bridge, followed at an interval of about five seconds by the same signals for the second bridge, and so on, thus giving, at intervals of about five seconds, separate signals for each bridge the vessel desires to pass.

(e) When two or more vessels are approaching a bridge at nearly the same time from the same or opposite directions with the draw opened or closed, each of these vessels shall signal independently for the opening of the draw, and the drawtender shall reply as prescribed and in turn to the signal of each vessel.

(f) Where bridges are less than 500 feet apart, the signals to govern the movements of the approaching vessel shall be given from the bridge nearest the vessel. If the bridge can be opened immediately, the bridgetender shall await the reply signals from the other bridges and then give the signal circumstances require. If the nearest bridge cannot be opened immediately, the prescribed signal shall be given the approaching vessel at once to be followed as soon as possible by the signal from that bridge that the draws are about to open.

(g) The draw shall be opened with the least possible delay upon receiving the prescribed signal: *Provided*, That the drawspan shall not be opened when a train is approaching so closely that it cannot safely be stopped before reaching the bridge, or when a passenger or mail train is approaching within sight or hearing of the operator of the drawspan.

(h) When a bridgetender is about to close a draw, he shall sound four or more short, distinct blasts of a whistle or horn, four or more calls through a megaphone, or four or more loud and distinct strokes of a bell (danger signal).

(i) Trains, wagons, and other vehicles shall not be stopped on a drawbridge for the purpose of delaying its opening, nor shall watercraft be so manipulated as to hinder or delay the operation of a drawspan, but all passage over, through, or under a drawbridge shall be prompt, to prevent delay to either land or water traffic.

(j) The following provisions shall not relieve the owner of or agency controlling a drawbridge from opening the draw for the passage of vessels in accordance with paragraphs (a) thrcugh (i) of this section.

(1) A vessel shall not require the opening of the draw when such opening is needed only to provide additional clearance for appurtenances unessential to navigation of the vessel, or for appurtenances essential to navigation but which may be altered by hinging, telescoping, collapsing, or otherwise, so as to require no greater clearance than the highest fixed and essentially unalterable point of the vessel.

(2) Appurtenances unessential to navigation shall include but not be limited to fishing outriggers, radio antennae which are or can reasonably be made flexible or collapsible, television antennae, false stacks, and masts purely for ornamental purposes. Appurtenances unessential to navigation shall not include radar antennae, flying bridges, sailboat masts, piledriver leads, spud frames on hydraulic dredges, drilling derricks, derrick substructures and/or buildings, cranes on drilling or construction vessels, or other items of permanent and fixed equipment clearly necessary to the intended use of the vessel.

(3) Owners of or agencies controlling drawbridges shall report to the District Commander in charge of the locality the names of any vessels causing bridge openings considered to be in violation of this paragraph. The District Commander may at any time cause an inspection to be made of any craft so reported and is empowered to decide in each case whether or not the appurtenances are unessential to navigation. If the District Commander decides a vessel has apurtenances unessential to navigation, he shall notify the vessel owner of his decision, specifying a reasonable time for making necessary alterations. If the vessel owner is aggrieved by the decision of the District Commander, he may within 30 days after receipt of the request to perform necessary alterations appeal the decision to the Commandant in writing. If the Commandant rules that an appurtenance is unessential to navigation, the District Commander shall again specify to the vessel owner a reasonable time for making necessary alterations to the appurtenance, and after the expiration of the time specified, any operation of the vessel in such a manner as to require drawbridge openings shall be deemed in violation of the regulations of this paragraph unless the necessary alterations shall have been made.

(4) The provisions of subparagraphs (1), (2) and (3) of this paragraph shall not be applicable to ocean or coastwise vessels engaged in foreign or domestic commerce.

(k) Clearance gages, of a type to be approved by the Commandant, shall be installed on the upstream and downstream sides of each drawbridge by and at the expense of the owner of or agency controlling the bridge and such gages shall be kept in good repair and legible condition.

NOTE: The special regulations contained in §§ 117.237(b) and 117.245 to 117.491, prescribed where local conditions require to govern the operation of certain bridges, supplement the general regulations contained in § 117.240.

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

(a) The owners of or agencies controlling certain bridges will not be required to keep draw tenders in constant attendance. The bridges to which this section applies are listed, and the special regulations applicable in each case are set forth, in paragraphs (f) to (j) inclusive, of this section. At all times not covered by the regulations in this section, and in all other respects, the regulations contained in § 117.240 shall govern the operation of these bridges.

(b) Whenever a vessel unable to pass under a closed bridge desires to pass through the draw, advance notice, as specified, of the time the opening is required shall be given to the authorized representative of the owner of or agency controlling the bridge.

(c) Upon receipt of such advance notice, the authorized representative of the owner of or agency controlling the bridge, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

(d) The owners of or agencies controlling the bridges shall keep conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can easily be read at any time, a copy of the regulations in this section together with a notice stating exactly how the representative specified in paragraph (b) of this section may be reached.

(e) The operating machinery of the draws shall be maintained in a serviceable condition, and the draws shall be opened and closed at intervals frequent enough to make certain the machinery is in proper order for satisfactory operation.

(f) *Waterways discharging into Chesapeake Bay.* (1) Susquehanna River, Md.; The Pennsylvania Railroad Company bridge at Perryville. At least 24 hours' advance notice required.

(2) *Bohemia River, Md.; Maryland State Roads Commission bridge at Cayots.* From May 30 to September 30, inclusive, except on Saturdays, Sundays, State and Federal holidays, between sunrise and sunset, and from October 1 to May 29, inclusive, except between the hours of 7:00 p. m. on Fridays and 7:00 a. m. on Mondays, inclusive, the draw will not be required to be opened except upon 3 hours' advance notice. From October 1 to May 29, inclusive, between the hours of 7:00 p. m. on Fridays and 7:00 a. m. on Mondays, inclusive, the draw will not be required to be opened except upon advance notice given prior to 7:00 p. m. on Friday. From May 30 to September 30, inclusive, between sunrise and sunset on Saturdays, Sundays, State and Federal holidays, the regulations contained in § 117.240 shall govern operation of this bridge.

(3) Bush River, Md.; The Pennsylvania Railroad Company bridge at Bush River. From June 1 to September 30, inclusive, the draw will be required to be opened not more than two times each day on Saturdays and Sundays only between 10:00 a. m. and 5:00 p. m., on receipt of at least 24 hours' advance notice from the duly authorized representative of the Bush River Boat Club. At all other times the draw need not be opened for the passage of vessels. The notice posted in accordance with paragraph (d) of this section shall state exactly how the representative of the Bush River Boat Club may be reached.

(4) Chester River, Md.; Maryland State Roads Commission bridge at Chestertown. From October 1 to March 31, inclusive, and between 6 p. m. and 6 a. m. from April 1 to September 30, inclusive, at least six hours' advance notice required. Between 6 a. m. and 6 p. m. from April 1 to September 30, inclusive, the regulations contained in § 117.240 shall govern operation of this bridge.

(5) Bear Creek, Md.; The Baltimore County Revenue Authority highway toll bridges between Dundalk and Sparrows Point, Miles 1.3 and 1.8. Between the hours of 12 midnight and 8:00 a.m., inclusive (except Saturdays, Sundays, and the national and State legal holidays between April 16 and November 15 inclusive), at least one-half hour advance notice required.

(5–a) Bear Creek, Md.; the Baltimore County highway bridge at Wise Avenue. At least 4 hours' advance notice required.

(6) Colgate Creek, Md.; City of Baltimore highway bridge at Baltimore. At least 8 hours' advance notice required.

(7) [Reserved]

(8) Dorseys Creek, Md.; United States Naval Academy highway and railroad bridges; Maryland State Roads Commission bridge and Baltimore and Annapolis Railroad Company bridge at Annapolis. The draws need not be opened for the passage of vessels, and paragraphs (b) to (e), inclusive, of this section shall not apply to these bridges.

(9) Weems Creek, Md.; Anne Arundel County highway bridge at West Annapolis. From October 1 to April 30, inclusive, and between sunset and sunrise from May 1 to September 30, inclusive, at least five hours' advance notice required.

(10) South River, Md.; Maryland State Roads Commission bridge at Edgewater. From December 1 to March 31, inclusive, the draw will not be required to be opened except upon at least 3 hours' advance notice for openings between 10:00 a.m. Monday and 7:30 p.m. Friday, inclusive, such notice to be given between 7:00 a.m. and 4:30 p.m. Monday through Friday; and the draw will not be required to be opened from 7:30 p.m. Friday until 10:00 a.m. Monday except upon advance notice given between 7:00 a.m. and 4:30 p.m. Monday through Friday. From April 1 to November 30, inclusive, the regulations contained in § 117.240 shall govern operation of this bridge.

(11) [Reserved]

(12) Choptank River, Md.; the Pennsylvania Railroad Co. bridge at Denton. The draw shall, upon signal, be opened for the passage of vessels from May 30 through September 30, inclusive, between sunrise and sunset. Between sunset and sunrise from May 30 through September 30, inclusive, and during all hours between October 1 and May 29, inclusive, the draw will be opened upon 4 hours advance notice.

(13) Marshyhope Creek, Md.; Maryland State Roads Commission bridge at Brookview. The draw need not be opened for the passage of vessels and paragraphs (b) to (d), inclusive, of this section shall not apply to this bridge. Paragraph (e) of this section shall apply to this bridge only to the extent that the operating machinery of the draw shall be maintained in a serviceable condition.

(13–a) Nanticoke River, Del.; Pennsylvania Railroad Company bridge at Seaford. From May 1, to September 30, inclusive, between the hours of 8:00 p.m. and 8:00 a.m., the draw will not be required to be opened. From October 1, to April 30, inclusive, the draw will not be required to be opened except on 4 hours' advance notice. From May 1, to September 30, inclusive, between the hours of 8:00 a.m. and 8:00 p.m., inclusive, the regulations contained in § 117.240 shall govern operation of this bridge.

(14) Broad Creek River, Del.; Delaware State Highway Department bridges at Bethel, and at Poplar Street and U.S. Route 13A, Laurel. Between the hours of 5:00 p.m. and 7:00 a.m., at least four hours' advance notice required. Pennsylvania Railroad Company bridge at Laurel. At least four hours' advance notice required. Delaware State Highway Department bridge at Delaware Avenue, Laurel. The draw need not be opened for the passage of vessels, and paragraphs (b) to (e), inclusive, of this section shall not apply to this bridge.

(15) Patuxent River, Md.; Maryland State Roads Commission bridge at Benedict. Between 6:00 p. m. and 6:00 a. m. (local time), advance notice required, to be given verbally or by telephone to the Toll Captain at the Administration Building at the east end of the bridge before 6:00 p. m. The owner of or agency controlling the bridge shall keep a complete record of all openings of the draw in such form as may be prescribed by the District Commander, and shall report to him all cases where the draw has been required to be kept open for an unreasonable length of time.

(16) [Reserved]

(16–a) Wicomico River (North Prong), Maryland; Maryland State Roads Commission bridges at Main Street and U.S. Route 50. The draws need not be opened for the passage of vessels between the hours of 8:00 a.m. and 9:00 a.m., 12 noon and 1:00 p.m., and 4:30 p.m. and 5:30 p.m.

(16–b) Wicomico River (South Prong), Md.; County Commissioners of Wicomico County bridge at Camden Avenue, Salisbury. The draw need not be opened for the passage of vessels and paragraphs (b) to (e), inclusive, of this section shall not apply to this bridge.

(16–c) Wicomico River (South Prong), Maryland; County Commissioners of Wicomico County bridge at South Division Street. The draw need not be opened for the passage of vessels and paragraphs (b) to (e) inclusive, of this section shall not apply to this bridge.

(17) Pocomoke River, Md.; Maryland State Roads Commission bridge at Snow Hill. At least five hours' advance notice required.

(18) Onancock River (Warrington Branch), Va.; highway bridge at Onancock. At least three hours' advance notice required.

(19) Kinsale Creek, Va.; Virginia Department of Highways bridge at Kinsale. The draw need not be opened for the passage of vessels, and paragraphs (b) to (e), inclusive, of this section shall not apply to this bridge.

(20) Great Wicomico River, Va.; Virginia Department of Highways bridge at Tipers Ferry. Between 6:00 p. m. and 6:00 a. m., advance notice required to be given to the draw tender on duty at the bridge before 6:00 p. m.

(21) [Reserved]

(22) Cat Point Creek, Va.; Virginia Department of Highways bridge near Warsaw. The draw need not be opened for the passage of vessels, and paragraphs (b) to (e), inclusive, of this section shall not apply to this bridge.

(22–a) *Mattaponi River, Va.;* Virginia Department of Highways bridge on Route 629 at Walkerton. At least 24 hours' advance notice required: *Provided,* That the draw tender service shall be increased on 30 days notice in writing from the District Commander; the degree of such service to be determined by the said District Commander.

(23) Chuckatuck Creek, Va.; Virginia Department of Highways bridge on U.S. Route 17 at Eclipse. Between 7:00 a.m. and 3:00 p.m., daily, except Sundays, the regulations contained in § 117.240 shall govern the operation of this bridge. At all other times, 4 hours' advance notice required, provided that if an emergency exists, the advance notice may be given without time limit.

(24) Elizabeth River, Eastern Branch, Va.; City of Norfolk highway bridge (Campostella Bridge) at Norfolk. Between 7:35 a. m. and 7:50 a. m., on week days only, the draw need not be opened except for the passage of tugs with tows.

(25) Elizabeth River, Western Branch, Va.; Atlantic Coast Line Railroad Company bridge at Bruce. Between 1:00 a.m. and 6:00 a.m., from April 1 to October 31, inclusive, at least 8 hours' advance notice required. Any vessel operator intending to make a return passage through the bridge during this period shall notify the bridge tender prior to 6:00 a.m. of the time he desires to make the return passage and the draw shall be opened at the specified time. From November 1 to March 31, inclusive, at least 4 hours' advance notice required.

(26) Elizabeth River, Western Branch, Va.; Virginia Department of Highways bridge at Hodges Ferry. At least eight hours' advance notice required.

(27) Baines Creek, Va.; Atlantic Coast Line Railroad Company bridge at Portsmouth. At least 24 hours' advance notice required.

(28) Nansemond River, Western Branch, Va.; Virginia Department of Highways bridge at Reid's Ferry. The draw need not be opened for the passage of vessels, and paragraphs (b) to (e), inclusive, of this section shall not apply to this bridge.

(28–a) Nansemond River, Va.; Virginia Department of Highways bridge on U.S. Route 460 at Suffolk. At least 12 hours' advance notice required.

(29) *Appomattox River, Va.; Seaboard Air Line Railroad Company bridge near Hopewell.* At least 24 hours' advance notice required, such notice to be given to the Seaboard Air Line Railroad Agent at Hopewell, Virginia: *Provided,* That a drawtender shall be placed in constant attendance, on 30 days' notice in writing from the District Commander.

(g) *Waterways discharging into Atlantic Ocean between Chesapeake Bay and Charleston*—(1) Pasquotank River, N. C.; Norfolk Southern Railway Company bridge at Elizabeth City; from 3:30 p. m. to 11:30 p. m., the bridge will be operated in full open position. Between 11:30 p. m. and 3:30 p. m., the regulations prescribed in § 117.240 shall govern the operation of the drawspan.

(2) Kendrick (Mackay) Creek, N. C.; Norfolk Southern Railway Company bridge at Mackeys. The draw need not be opened for the passage of vessels, and paragraphs (b) to (d), inclusive, of this section shall not apply to this bridge: *Provided,* That the bridge owner will restore attendance, when, in the opinion of the Commandant, U.S. Coast Guard, vessel traffic warrants service.

(3) Scuppernong River, N.C., North Carolina State Highway Commission bridge at Columbia.

(i) The owner of, or agency controlling the bridge will not be required to keep a bridge tender in constant attendance between the hours of 7:00 p.m. and 7:00 a.m.

(ii) Whenever, in the event of an emergency, a vessel requires passage through the drawspan between the hours stated in subdivision (i) of this subparagraph the authorized representative of the owner of, or agency controlling the bridge shall be given at least six (6) hours' advance notice of the time the opening is desired.

(3–a) Scuppernong River, N. C.; North Carolina State Highway and Public Works Commission bridges at Creswell and Cross Landing. At least 24 hours' advance notice required.

(3–b) Blackwater River, Va.; Virginia Department of Highways bridge on Route 189 at South Quay. At least 24 hours' advance notice required.

(4) *Pamlico and Tar Rivers, N.C., North Carolina State Highway Commission bridges at Washington and near Grimesland.* At least 24 hours' advance notice required: *Provided,* That the bridge owner will restore constant attendance when, in the opinion of the District Commander, river traffic warrants additional service.

(5) Neuse River, N.C.; Atlantic and East Carolina Railway Company bridge at Kinston and drawbridges upstream therefrom. At least 24 hours' advance notice required.

(6) Trent River, N.C.; Atlantic Coast Line Railroad Company bridge at Pollocksville, and drawbridges upstream therefrom. At least 24 hours' advance notice required.

(7) Newport River, N.C.; Atlantic and East Carolina Railway Company bridge at Newport. The draw need not be opened for the passage of vessels, and paragraphs (b) to (e), inclusive, of this section shall not apply to this bridge.

(8) New River, N.C.; Atlantic Coast Line Railroad Company bridge at Jacksonville. At least 24 hours' advance notice required.

(9) Smiths Creek, N.C.; North Carolina State Highway and Public Works Commission bridge in Wilmington. At least 24 hours' advance notice required.

(10) Northeast River, N.C.; Atlantic Coast Line Railroad Company bridge at Castle Hayne. Between 7:30 a.m. and 4:30 p.m. Monday through Friday of each week, the draw will be opened for the passage of vessels on signal. At all other times, the draw will be closed and the bridge unattended: *Provided,* That the draw will be opened for tugs with tows upon 24 hours' advance notice.

(11) Kingston Lake, S. C.; South Carolina State Highway Department bridge near Conway. At least 24 hours' advance notice required.

(12) Pee Dee River, S. C.; Seaboard Air Line Railway Company bridge near Poston. The draw need not be opened for the passage of vessels, and the special regulations contained in paragraphs (b) to (e), inclusive, of this section shall not apply to this bridge.

(13) Pee Dee River, S. C.; South Carolina State Highway Department bridge near Georgetown (Pee Dee River drawspan of the Lafayette Bridge). At least 12 hours' advance notice required.

(14) Black River, S. C.; South Carolina State Highway Department bridge near Georgetown. At least 12 hours' advance notice required. South Carolina State Highway Department bridge at Brown's Ferry near Rhems. At least 24 hours' notice required. The agency controlling the above bridges shall arrange for its representative to be reached at the same place that the representative for the Lafayette Bridge (Great Pee Dee River) may be reached in order that one notice may suffice to secure the prompt opening of any or all of these bridges.

(15) Santee and Congaree Rivers, S. C.; drawbridges upstream from South Carolina State Highway Department bridge near Lanes. At least 24 hours' advance notice required.

(16) Wando River, S. C.; South Carolina State Highway Department bridge near Cainhoy. At least 12 hours' advance notice required.

(17) Cooper River, S. C.; Seaboard Air Line Railway Company bridge near Cordesville. At least 24 hours' advance notice required: *Provided,* That a draw tender shall be placed in constant attendance on 10 days' notice in writing from the District Commander.

(18) Ashley River, S.C.; South Carolina State Highway Department bascule bridges at mile 2.4 and mile 2.5 above the mouth of the river at Charleston. Between 7:00 a.m., and 9:00 a.m., Monday through Friday, and between 4:00 p.m., and 7:00 p.m., daily, at least 12 hours' advance notice required: *Provided,* That the draw shall be opened at any time for a vessel in an emergency involving danger to life and property. Such emergency shall be indicated by four blasts of the signalling device.

(h) *Waterways discharging into Atlantic Ocean south of Charleston.* (1) Rantowles Creek, S.C.; Atlantic Coast Line Railroad Company bridge near Rantowles. The draw need not be opened for the passage of vessels, and paragraphs (b) to (e), inclusive, of this section shall not apply to this bridge.

(2) Edisto River, S.C.; Seaboard Air Line Railway Company bridge near Fenwick. At least 24 hours' advance notice required.

(3) Ashepoo River, S.C.; South Carolina State Highway Department bridge at Brickyard Ferry near Bennetts Point. At least 24 hours' advance notice required. Any vessel navigating Ashepoo River with the intention of making repeated trips shall notify the authorised representative of the owner of or agency controlling the bridge of the expected frequency of such trips. The bridge shall then be maintained in readiness to open promptly upon signal from the vessel without any further notice. Repeated trips shall be understood to mean trips not more than 24 hours apart.

(4) Ashepoo River, S.C.; Seaboard Air Line Railway Company bridge near Fenwick. At least 96 hours' advance notice required: *Provided,* That a draw tender shall be placed in constant attendance on 10 days' notice in writing from the District Commander.

(5) Harbor River, a tidal estuary in St. Helena Sound, S. C.; South Carolina State Highway Department bridge on State Highway No. 285 at Hunting Island. At least 24 hours' advance notice required.

(6) Combahee River, S.C.; Seaboard Air Line Railway Company bridge near Wiggins and South Carolina State Highway Department bridge near Sheldon. At least 12 hours' advance notice required.

(7) North Wimbee Creek, S.C.; Seaboard Air Line Railway Company bridge near Lobeco. At least 24 hours' advance notice required.

(8) Coosaw River (Whale Branch), S. C.; Charleston and Western Carolina Railway Company bridge near Seabrook and the South Carolina State Highway Department bridge on State Highway No. 28 between Beaufort and Yemassee near Lobeco. From 8:00 p. m. Saturday to 6:00 a. m. Monday and from 8:00 p. m. to 6:00 a. m. on all other days, at least 24 hours' advance notice required.

(9) Battery Creek, S.C.; South Carolina State Highway Department bridge between Beaufort and Parris Island. At least 24 hours' advance notice required.

(10) Broad River, S.C.; South Carolina State Highway Department bridge near Beaufort. At least 24 hours' advance notice required.

(11) Broad River, S.C.; Seaboard Air Line Railway Company bridge near Whale Branch. At least 24 hours' advance notice required.

(12) Savannah River, S.C., and Ga.; Charleston & Western Carolina Railway Company bridge near Augusta, Ga. At least three hours' advance notice required.

(13) Ogeechee River, Ga. The Atlantic Coast Line Railroad Company bridge near Richmond Hill (Ways Station). At least 15 days' advance notice required.

(14) Ogeechee River, Ga. The State Highway Department of Georgia bridge near Richmond Hill. The draw need not not be opened for the passage of vessels, and paragraphs (b) to (e), inclusive, of this section shall not apply to this bridge.

(15) Altamaha River, Ga.; all drawbridges except the Atlantic Coast Line Railroad Company bridge at Doctortown. At least 24 hours' advance notice required. The Atlantic Coast Line Railroad Company bridge at Doctortown. At least seven days' advance notice required: *Provided,* That the bridge owner will restore constant attendance, when in the opinion of the District Com-

mander, river traffic warrants additional service.

(16) Oconee River, Ga.; drawbridges downstream from Central of Georgia Railroad Company bridge at Oconee. At least 24 hours' advance notice required.

(17) Oconee River, Ga.; Central of Georgia Railway Company bridge at Oconee. At least seven days' advance notice required. Paragraph (e) of this section shall not apply to this bridge.

(18) Ocmulgee River, Ga.; all drawbridges. At least 24 hours' advance notice required.

(19) Satilla River, Ga.; Seaboard Air Line Railroad bridge at Woodbine. At least 24 hours' advance notice required.

(20) [Reserved]

(21) St. Marys River, Ga. and Fla.; State Road Department of Florida and Seaboard Air Line Railway Company bridges at Kingsland, Ga. At least 48 hours' advance notice required.

(22) Nassau Sound Fla.; Fernandina Port Authority bridge on Toll Road No. 105 between Fernandina and Jacksonville. From one hour after sunset to one hour before sunrise, the times of sunset and sunrise being as published by the United States Hydrographic Office for latitude 30° north, the draw need not be opened for the passage of vessels.

(23) Clapboard Creek and Broward River (Cedar Creek), Fla.; bridges on Heckscher Drive. At least 12 hours' advance notice required.

(23–a) Broward River, Fla.; Atlantic Coast Line Railroad Co. bridge near Heckscher Drive, Duval County. At least 24 hours' advance notice required.

(24) Trout River, Fla.; Seaboard Air Line Railroad Company bridge at Panama. Between 10:00 p.m. and 6:00 a.m., at least 12 hours' advance notice required. At all other times the regulations contained in § 117.240 shall govern the operation of this bridge.

(25) [Reserved]

(26) Kissimmee River, Fla.; State Road Department of Florida bridge 0.5 mile above the mouth of the river on State Road 78, C. H. Carlton bridge 2.7 miles above the mouth, State Road Department of Florida bridge 19.5 miles above the mouth on State Road 70, and Seaboard Air Line Railroad bridge 37 miles above the mouth at Fort Basinger. At least 48 hours' advance notice required.

(27) Kissimmee River, Fla.; State Road Department of Florida bridge near Basinger (at Fort Bassenger). At least 96 hours' advance notice required. Paragraph (e) of this section shall not apply to this bridge.

(l) *Waterways discharging into Gulf of Mexico east of Mississippi River.* (1) Caloosahatchee Canal, Fla.; Atlantic Coast Line Railroad Company bridge at Moore Haven. Between 10:00 p. m. and 6:00 a. m., the draw need not be opened for the passage of vessels.

(2) Orange River, Fla.; State Road Department of Florida bridge 0.9 mile above mouth and Seaboard Air Line Railway Company bridge 2.25 miles above mouth, near Fort Myers. At least 24 hours' advance notice required, except during a hurricane alert issued by the United States Weather Bureau affecting the area adjacent to Caloosahatchee and Orange Rivers when a draw tender shall be constantly on duty and the bridge opened at any time for the passage of vessels giving the usual signal.

(3) Myakka River, Fla.; railroad drawbridge near Charlotte Beach. At least 36 hours' advance notice required.

(3–a) Gasparilla Sound, Fla.; Seaboard Air Line Railroad Company bridge between the mainland and Gasparilla Island. Between the hours of 6:00 p.m. and 6:00 a.m. the following day, the southerly swingspan in the bridge need not be opened for the passage of vessels.

(4) Coffee Pot Bayou, St. Petersburg, Fla.; highway bridge at foot of Poplar Street. At least one hour's advance notice required.

(5) Pithlachascotee River, Fla.; State Road Department of Florida bridge 1.3 miles above mouth at New Port Richey. At least six hours' advance notice required, except during a hurricane alert issued by the United States Weather Bureau affecting the area when a draw tender shall be constantly on duty and the bridge opened promptly on signal.

(6) Suwannee River, Fla.; Atlantic Coast Line Railroad Company bridge at Old Town. At least five days' advance notice required.

(6–a) St. Marks River, Fla.; Florida State Road Department bridge over St. Marks River on U.S. Highway 98 at Newport. At least 48 hours' advance notice to be given to State Road Department Maintenance Office, Tallahassee, Fla.

(7) Flint River, Ga.; Seaboard Air Line Railway Company bridge and Atlantic Coast Line Railroad Company bridge at Bainbridge. At least 24 hours' advance notice required.

(8) Chattahoochee River, Ga. and Ala; State of Alabama Highway Department bridge on U.S. Highway 84 and Atlantic Coast Line Railroad Company bridge at Alaga, Ala., Central of Georgia Railway Company bridge at Columbia, Ala., and Seaboard Air Line Railway Company bridge near Omaha, Ga. At least 6 hours' advance notice required.

(9) [Reserved]

(10) Choctawhatchee River, Fla.; State Road Department of Florida bridge on State Road No. 10 approximately 14 miles east of Freeport. At least 12 hours' advance notice required.

(11) Bayou Chico, Florida. Escambia County bridge in Pensacola. Between 7:30 a.m. and 8:30 a.m., 3:30 p.m. and 4:30 p.m., and 5:00 p.m. and 6:30 p.m., except Saturdays, Sundays and national holidays, the draw need not be opened for the passage of vessels: *Provided*, That the draw shall be opened at any time for the passage of a tow: *And provided further*, That the draw shall be opened at any time for the passage of a vessel in an emergency involving danger to life or property which shall be indicated by four blasts of the signalling device.

(12) Alabama River, Ala.; St. Louis-San Francisco Railway Company bridge at Yellow Bluff, near Coy. At least 48 hours' advance notice required.

(13) Coosa River, Ala.; Seaboard Air Line Railway Company bridge at Lock. At least 24 hours' advance notice required.

(14) Coosa River, Ala.; Louisville and Nashville Railroad Company bridge at Gadsden. At least six hours' advance notice required.

(15) Tombigbee River, Ala.; Southern Railway Company bridge near Epes. At least 24 hours' advance notice required, to be given to the railroad company's station agent at Epes between 8:00 a. m. and 4:00 p. m. on any day except Saturdays and Sundays, either by telephone maintained on the bridge by the railroad company for the purpose or in any other manner convenient to the operator of the vessel.

(16) Tensaw River, Alabama. State of Alabama Highway Department bridge over the Tensaw River on U.S. Highway No. 90 near Mobile, Alabama. The draw need not be opened for the passage of vessels, and paragraphs (b) and (e), inclusive, of this section shall not apply to this bridge.

(17) Tensaw River, Alabama; Louisville and Nashville Railroad Company bridge near Mobile. Between 12:00 midnight and 8:00 a. m., the draw will not be required to open except in an emergency for the passage of fire boats and patrol boats operated by the Maritime Administration for security of vessels within the Mobile Reserve Fleet Anchorage extending above and below the bridge: *Provided*, That during periods of severe storms or hurricanes from the time the United States Weather Bureau sounds an "Alert" for the area until the "all clear" is sounded or for such period as the Fleet Superintendent, Mobile Reserve Fleet, may request, draw tenders will be constantly on duty and the draw opened on signal for the passage of vessels. The notice posted in accordance with paragraph (d) of this section shall state exactly how the draw tender may be reached.

(18) Bayou Sara, Ala.; Louisville and Nashville Railroad Company bridge near Satsuma. Between 6 a.m. and 10 p.m., daily, the bridge will be opened on signal for the passage of vessels. Between 10 p. m. and 6 a. m., daily, at least 4 hours' advance notice required, except during hurricane alerts for the area when a draw tender will be on duty and the bridge opened on signal for the passage of vessels. The notice posted in accordance with paragraph (d) of this section shall state exactly how the draw tender may be reached by telephone or otherwise between 10 p.m. and 6 a.m.

(19) Three Mile Creek, Ala.; State of Alabama Highway Department bridge at Mobile. Between 7:00 a.m. and 9:00 a.m. and between 4:30 p.m. and 6:30 p.m. daily the draw need not be opened for the passage of vessels. At all other times, at least 12 hours' advance notice required.

(20) *Three Mile Creek, Alabama.* Southern Railway Company bridge at Mobile. On Sundays, legal holidays, and

between 4:00 p.m. and 8:00 a.m. on all other days, the draw need not be opened for the passage of vessels, except in the event of emergency. At all other times, and in all other respects the regulations contained in § 117.240 shall govern the operation of this bridge. Whenever in the event of an emergency, a vessel is required to pass through the drawspan on Sunday, legal holidays, or between 4:00 p.m. and 8:00 a.m., the draw shall be opened promptly upon receipt of notice by the drawtender, who is domiciled in the immediate vicinity of the bridge. The notice posted in accordance with paragraph (d) of this section shall state how the drawtender may be reached.

(21) West Pearl River, La.; New Orleans and Northeastern Railroad Company bridge at Pearl River Station. At least six hours' advance notice required.

(22) [Reserved]

(23) Bayou Lacombe, La.; Louisiana Department of Highways bridge at Lacombe. At least 48 hours' advance notice required.

(23–a) Lake Pontchartrain, La.; Louisiana Department of Highways and Southern Railway System bridges near New Orleans. At least 48 hours' advance notice required for opening the south drawspan except in case of an emergency, the drawspans shall be placed in operation not later than 12 hours after notice of the emergency and shall be kept in condition for immediate operation until the emergency is over.

(24) Bayou Bienvenue, La.; Louisiana Department of Highways bridge near Chalmette. At least 24 hours' advance notice required.

(25) Amite River, La.; Louisiana Department of Highways bridge near French Settlement. At least 48 hours' advance notice required.

(26) Bayou Colyell, La.; Louisiana Department of Highways bridge near Port Vincent. At least 48 hours' advance notice required.

(j) *Waterways discharging into Gulf of Mexico west of Mississippi River.* (1) Bayou Plaquemine, La.; The Texas and Pacific Railway Company and the Louisiana Department of Highways bridges at Plaquemine. The draws need not be opened for the passage of vessels, and the special regulations contained in paragraphs (b) to (e), inclusive, of this section shall not apply to these bridges.

(2) Bayou Terrebonne, La.; State of Louisiana, Department of Highways bridge near Presque Isle. At least 24 hours' advance notice rsquired.

(3) Bayou Lafourche, La.; Texas and New Orleans Railroad Co. bridge at Lafourche. At least 48 hours' advance notice required.

(4) Bayou Lafourche, La.; The State of Louisiana, Department of Highways bridge at Thibodaux and all bridges above. The draws need not be opened for the passage of vessels, and the special regulations contained in paragraphs (b) to (e), inclusive, of this section shall not apply to these bridges.

(5) Grand Bayou, La.; State of Louisiana Department of Highways bridge near Paincourtville. At least 24 hours' advance notice required.

(6) Bayou Black, La.; Morgan's Louisiana and Texas Railroad and Steamship Company bridge at Southdown. At least 24 hours' advance notice required.

(7) Bayou Black, La.; Louisiana Department of Highways bridge near Gibson, and the Terrebonne Parish Police Jury and Southdown, Incorporated, bridges (6) between Gibson and Houma. At least 24 hours' advance notice required.

(8) Little Bayou Black, La.; Texas and New Orleans Railroad Company bridge at Southdown. The draw need not be opened for the passage of vessels, and the special regulations contained in paragraphs (b) to (e), inclusive of this section shall not apply to this bridge.

(9) Bayou Grosse Tete, La.; The Texas and Pacific Railway Company bridge at Grosse Tete, and Louisiana Department of Highways bridge near Rosedale. At least 48 hours' advance notice required.

(10) Bayou Teche, La.; Louisiana Department of Highways bridge at Ruth. At least 48 hours' advance notice required.

(11) Bayou Teche, Louisiana: State of Louisiana, Department of Highways, and Southern Pacific Lines (Morgan's Louisiana and Texas Railroad and Steamship Company) bridges at Breaux Bridge, at least 48 hours' advance notice required.

(12) Stumpy Bayou, La.; Louisiana Department of Highways bridge near Weeks Island. At least six days' advance notice required.

(13) Bayou Courtableau, La.; Texas and New Orleans Railroad Company bridge at Washington. The draw need not be opened for the passage of vessels, and paragraphs (b) to (e), inclusive, of this section shall not apply to this bridge.

(14) Vermilion River, La.; Louisiana Department of Highways bridge near Lafayette. At least 48 hours' advance notice required.

(15) [Reserved]

(16) Bayou Plaquemine Brule, La.; Texas and New Orleans Railroad Company bridge near Midland. At least 24 hours' advance notice required.

(17) Bayou Nezpique, La.; Louisiana Department of Highways bridge near Jennings. At least 48 hours' advance notice required.

(18) Bayou Choupique, La.; Louisiana Department of Highways bridges near Calcasieu. At least 48 hours' advance notice required.

(19) Bayou Lacassine, La.; State of Louisiana, Department of Highways, bridge near Hayes. At least 24 hours' advance notice required.

(20) Bayou Lacassine, La.; Texas and New Orleans Railroad Company bridge near Hayes. At least 24 hours' advance notice required.

(21) Bayou D'Inde, La.; Louisiana Department of Highways bridge. At least 48 hours' advance notice required.

(22) Bayou D'Inde, La.; railroad bridge of Defense Plant Corporation, Cities Service Refining Corporation, Agent. At least 72 hours' advance notice required.

(23) [Reserved]

(24) Houston River, La.; The Kansas City Southern Railway Company bridge near Lake Charles. At least 24 hours' advance notice required.

(25) English Bayou, La.; Louisiana Department of Highways bridge near Lake Charles. At least 48 hours' advance notice required.

(26) Sabine River, La. and Tex.; Texas and New Orleans Railroad Company bridge near Echo, Tex., Kansas City Southern Railway Company bridge near Ruliff, Tex., and Louisiana Department of Highways bridge between Starks, La., and Deweyville, Tex. At least 24 hours' advance notice required.

(27) Cow Bayou, Tex.; Orange County highway bridge on Round Bunch Road and Texas Highway Department bridge at Bridge City. At least 6 hours' advance notice required.

(28) Neches River, Tex.; Gulf, Colorado and Santa Fe Railway Company bridge at Evadale. The draw need not be opened for the passage of vessels, and paragraphs (b) to (e), inclusive, of this section shall not apply to this bridge.

(29) Taylors Bayou, Tex.; Texas and New Orleans Railroad Company bridge and Texas Highway Department bridge at West Port Arthur. The draws need not be opened for the passage of vessels, and paragraphs (b) to (e), inclusive, of this section shall not apply to these bridges.

(30) Trinity River, Tex.; Texas and New Orleans Railroad Company bridge at Liberty, Missouri Pacific Railroad Company bridges near Kenefick and at Riverside, and Gulf, Colorado and Santa Fe Railway Company bridge near Romayor. The draws needs not be opened for the passage of vessels, and paragraphs (b) to (e), inclusive, of this section shall not apply to these bridges.

(31) Buffalo Bayou, Tex.: (i) Texas and New Orleans Railroad Company bridge at the head of Houston Turning Basin, Houston, and drawbridges upstream therefrom to, but not including, the Houston Belt & Terminal Railway Company bridge near Shiloh Street, Houston. At least 24 hours advance notice required.

(ii) Houston Belt & Terminal Railway Company bridges near Shiloh Street and at Mary Street, Houston. The draws need not be opened for the passage of vessels and paragraphs (b) to (e), inclusive, of this section shall not apply to these bridges.

(32) [Reserved].

(33) Clear Creek, Tex.; Texas and New Orleans Railroad Company bridge at Seabrook. The draw will be maintained in the open position for the passage of vessels except when it is necessary to close the draw for the passage of trains. A draw tender shall be in constant attendance when the draw is closed. Paragraphs (b) to (d), inclusive, of this section shall not apply to this bridge.

(34) Chocolate Bayou, Tex.; Missouri Pacific Railroad Company bridge near

Liverpool. The draw is fixed in the closed position to navigation. Paragraphs (b) to (e), inclusive, of this section shall not apply to this bridge.

(35) Freeport Harbor, Tex.; Missouri Pacific Railroad Company bridge between Freeport and Velasco. At least 24 hours' advance notice required.

(36) Brazos River, Tex.; (i) Texas Highway Department bridge near Freeport. At least 12 hours' advance notice required.

(ii) Missouri Pacific Railroad Company bridge at Brazoria. The draw is fixed in the closed position to navigation. Paragraphs (b) to (e), inclusive, of this section shall not apply to this bridge.

(37) Colorado River, Tex.; Texas Highway Department bridge near Wadsworth. At least 24 hours' advance notice required.

(38) Lavaca River, Tex.; Missouri Pacific Railroad Company and Texas Highway Department bridges near Vanderbilt. At least 48 hours' advance notice required, except in emergencies, when the draws will be opened as soon as possible after the receipt of notice.

(39) Nueces Bay, Tex.; Texas Highway Department bridge between Corpus Christi and Portland. The draw need not be opened for the passage of vessels, and the special regulations contained in paragraphs (b) to (e), inclusive, of this section shall not apply to this bridge.

(40) Laguna Madre, Tex.; Padre Island Causeway (Nueces County) swing barge bridge across Humble Oil and Refining Company channel. Between 4:00 p.m. and 7:00 a.m., at least 1 hour advance notice required: *Provided*, That the regulations of this section may be temporarily suspended by the District Commander, for such periods as he may determine to be necessary upon notice to Nueces County.

(41) Arroyo Colorado, Tex.; Texas Highway Department bridge at Rio Hondo. At least 12 hours' advance notice required.

§ 117.270 Cambridge Harbor, Md.; bridge.

(a) The draw shall be promptly opened at any time for the passage of vessels unable to pass under the closed bridge, except during the following hours (eastern standard time) when it need not be opened: From 8 p.m. to 6 a.m.; from 12 noon to 12:10 p.m.; from 12:50 p.m. to 1 p.m.; and for 20 minutes before the scheduled time of departure from Cambridge of any regularly scheduled passenger train on the Pennsylvania Railroad.

(b) With the exceptions noted in paragraph (a) of this section, vessels have the right of way over vehicles or persons using the bridge.

(c) Whenever a vessel unable to pass under the closed bridge approaches it, the signal of a desire for the draw to be opened shall be three blasts of a whistle or horn blown on the vessel. This signal shall be repeated at intervals until it is answered from the bridge. Upon receiving the signal from the vessel, the tender or operator of the bridge, in case the draw can be operated immediately, shall reply by three blasts of a whistle or horn. In case of accident to the machinery or other contingency necessitating delay in opening the draw, the signal from the vessel shall be answered by the tender or operator of the bridge by one blast of a whistle or horn.

(d) The owner of the bridge shall post and maintain a copy of the regulations in this section in a conspicuous place at each end of said bridge.

§ 117.280 Miles River, Md.; bridge (highway) at Easton, Md.

(a) Between sunrise and sunset the draw of the above-mentioned bridge shall be promptly opened for the passage of any vessel unable to pass under the closed bridge.

(b) Whenever a vessel unable to pass under the closed bridge approaches it, the signal of a desire for the draw to be opened shall be three blasts of a whistle or horn blown on the vessel. Upon receiving the signal from the vessel the tender or operator of the bridge, in case the bridge can be opened immediately, shall reply by three blasts of a whistle or horn. In case, however, of accident to the machinery or other contingency involving unavoidable delay in the opening of the draw, the signal shall be answered by one blast of a whistle or horn.

(c) A vessel wishing to pass the bridge between sunset and sunrise and unable to pass under the closed draw will request that the bridge be opened by notifying the draw tender of the time at which it is desired to pass and the draw of the bridge shall be opened as soon as practicable after the receipt of notice.

(d) A copy of the regulations in this section will be conspicuously posted on both the upstream and downstream sides of the bridge in such manner that it can be easily read at any time, together with a notice stating exactly how the draw tender, when not on duty at the bridge, may be reached.

(e) The operating machinery of the draw shall be kept in serviceable condition and the draw shall be opened and closed at intervals frequent enough to make certain that the machinery is kept in proper condition for satisfactory operation.

§ 117.285 Oak Creek, tributary of Miles River, Md.; bridge of the Baltimore, Chesapeake and Atlantic Railroad Co. at Royal Oak, Md.

(a) During the period from June 1 to September 30, inclusive, the draw shall be opened promptly at any time during the day or night for the passage of any vessel unable to pass under the closed bridge. During the period from October 1 to May 31, inclusive, the hours for opening the draw shall be from sunrise to sunset.

(b) Whenever a vessel unable to pass under the closed bridge approaches it, the signal of a desire for the draw to be opened shall be three blasts of a whistle or horn blown on the vessel. This signal shall be repeated at intervals until it is answered from the bridge. Upon receiving the signal from the vessel the tender or operator of the bridge, in case the draw can be opened immediately, shall reply by three blasts of a whistle or horn. In case of accident to the machinery or other contingency necessitating delay in opening the draw, the signal from the vessel shall be answered by the tender or operator of the bridge by one long blast of a whistle or horn.

(c) A copy of the regulations in this section shall be posted in a conspicuous place on each side of the bridge.

§ 117.290 Kent Island Narrows, Md.

(a) *Bridge (highway) of Maryland State Roads Commission.* (1) Between the hours of 1 hour before sunrise and 1 hour after sunset the draw shall be promptly opened for all vessels desiring to pass through it whose masts permanently remain standing or which have masts that may be unstepped but which are 20 feet or more in height and 5 inches or more in diameter at butt.

(2) Whenever a vessel of the kind described in subparagraph (1) of this paragraph shall approach the bridge and desire to pass through the draw, the signal therefor shall be three blasts of a whistle or horn blown on the craft, and when such signal is given the draw shall be opened forthwith if no person or vehicle is then in the way, and immediately upon the person or vehicle then on the bridge, if any, passing out of the way, and before any person or vehicle not then on the bridge shall be allowed to come upon it.

(3) If the draw is ready to be opened immediately when the signal is given on the craft, the signal shall be answered immediately by three blasts of a whistle or horn blown on the bridge, and if the draw is not ready to be opened immediately, by reason of persons or vehicles being on the bridge as aforesaid, or by reason of accident to the machinery or other contingency involving unavoidable delay in opening the draw, the signal for the craft shall be answered immediately by one blast of a whistle or horn blown on the bridge.

§ 117.305 Baltimore Harbor, Md.; bridge (highway) at Hanover Street across Middle Branch of Patapsco River.

(a) When, at any time between the hours of 5 a.m. and 6:30 a.m., 9:30 a.m. and 4 p.m., and 6 p.m. and 9 p.m., a vessel, tug, or any watercraft unable to pass under the bridge approaches it, the signal of intention to pass through the draw and for the draw to be opened shall be three blasts of a whistle or horn blown on the craft. When such signal is given, the bridge shall be immediately cleared, no vehicle or person not then on the drawspan shall be allowed to come upon it, and the draw shall be opened forthwith.

If the draw is ready to be opened immediately, the draw operator shall answer immediately by three blasts of a whistle or horn blown on the bridge; and if the draw is not ready to be opened immediately, he shall answer by one short blast of a whistle or horn blown on the bridge.

(b) The draw shall not be required to open to vessels between 6:30 a. m. and 9:30 a. m. and between 4 p. m. and 6 p. m., except in cases involving the passage of fire boats, police boats, and craft similarly engaged in emergency operations. An attendant shall be kept on duty during these periods.

(c) When a vessel, tug, or any watercraft unable to pass under the bridge desires to pass through the draw at any time between the hours of 9 p. m. and 5 a. m., notice of such intention shall be given to the superintendent of the bridge by telephone or otherwise, either at the bridge before 9 p. m. or at his residence thereafter. If the notice is given between the hours of 5 a. m. and 9 p. m., or if at least one-half hour has elapsed since it was given, the draw shall be promptly opened at the time specified in the notice on signal given and answered as hereinbefore prescribed.

(d) The owner of the bridge shall keep conspicuously posted thereon, in such manner that it may be easily read at any time, a notice stating how the superintendent may be reached and shall arrange for ready telephonic communication with him at any time between 9 p. m. and 5 a. m., either from the bridge or from its immediate vicinity.

§ 117.310 Severn River, Md.; bridge (highway) near Annapolis, Md.

(a) The leaves of the draw shall be promptly raised to their full height so as to provide full horizontal clearance through the bridge at any time during the day or night for all vessels desiring to pass through it whose masts are 15 feet or more in height or for any vessels whose hulls, deckhouses, or cargoes are of such height that they will not pass under the bridge when it is closed.

(b) Vessels have the right of way over vehicles or persons using the bridge.

(c) A vessel approaching the bridge and desiring to pass through the draw shall signal by three blasts of a whistle or horn. The signal shall be answered by three blasts of a whistle or horn that can be heard three-fourths of a mile from the bridge, and the draw shall be opened forthwith. In case, however, of accidents to the machinery or other contingency involving unavoidable delay in opening the draw, the signal shall be answered by one blast of a whistle or horn.

§ 117.311 Spa Creek, Md.; highway bridge at Annapolis.

(a) The owner of or agency controlling the bridge shall not be required to open the draw between the hours of 7:30 a.m. and 9:00 a.m. and between the hours of 4:30 p.m. and 6:00 p.m., Monday through Friday, inclusive, except on State and Federal holidays: *Provided*, That the draw shall be opened at any time for the passage of a vessel in an emergency involving danger to life or property, which shall be indicated by four blasts of a whistle, horn or megaphone.

(b) Whenever any emergency vehicle sounds an alarm for the purpose of crossing the bridge toward a fire or other emergency situation involving life or property, the bridgetender shall, if the draw is open, close the same as soon as practicable; and after the draw is closed, or if it is closed at the time, keep it closed until such emergency vehicle has crossed the bridge.

(c) The owner of or agency controlling the bridge shall keep a copy of the regulations in this section conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can be easily read at any time.

(d) In all other respects, the regulations contained in § 117.240 of this part shall govern the operation of this bridge.

§ 117.325 Potomac River at Washington, D.C.; drawbridges.

The draws of the bridges need not be opened for the passage of vessels.

§ 117.330 Anacostia River, Washington, D.C.; bridges.

(a) *Pennsylvania Railroad Company Freight Bridge No. 134.35.* (1) During the period from April 1 to September 30, inclusive, on Saturdays, Sundays, and legal holidays, the lift span shall be opened on signal. During the same period, on weekdays between the hours of 10:00 a.m. and 6:00 p.m., the lift span shall be opened on signal on the hour for the passage of two or more vessels or other watercraft: *Provided*, That in no case shall the delay to a single vessel be more than 30 minutes.

(2) During the period from April 1 to September 30, inclusive, on weekdays between the hours of 8:00 p.m. and 10:00 a.m., and from October 1 to March 31, inclusive, on Saturdays, Sundays, and legal holidays between the hours of 10:00 a.m. and 6:00 p.m., the lift span shall be opened on signal on the hour for the passage of any vessel or other watercraft: *Provided*, That when once opened the bridge shall remain open sufficiently long to permit the passage of all vessels or other watercraft which may be in sight of the bridgetender and expected to desire a passage of the bridge. The time referred to shall be eastern standard or eastern daylight time, whichever is in effect locally.

(3) At all other times not covered, at least two hours' advance notice is required to be given to the designated representative of the owner of or agency controlling the bridge. The notice shall contain the name or number of the vessel and the expected time of its arrival at the bridge.

(4) Vessels employed or controlled by the United States Government, the District of Columbia and agencies of the State of Maryland shall be passed without delay through the draw of said bridge at any hour of the day or night upon giving the proper signal.

(5) Clearance gages, of a type approved by the Commandant, shall be provided by the owners of the bridge. These gages shall be so set and maintained on the upstream and downstream fenders of the bridge as to show accurately and clearly the distance between the water surface and the lowest point of the closed lift span.

(6) The bridge shall not be required to be opened for the passage of vessels habitually using the waterway and carrying appurtenances such as radio antenna or flag staffs which as determined by the District Commander, can readily be removed, lowered or hinged, and which are otherwise capable of clearing the bridge when closed. Habitual users are defined as any vessel passing the bridge as often as seven (7) times in a 30-day period.

(7) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in such a manner that it can easily be read at all times, a copy of the regulations in this paragraph, together with a notice stating a local telephone number where the representative specified in subparagraph (3) of this paragraph may be reached.

(c) *District of Columbia highway bridge at South Capitol Street.* (1) Between the hours of 6:00 a.m. and 9:00 a.m., and between the hours of 3:30 p.m. and 6:30 p.m., daily, the draw need not be opened for the passage of navigation, except that in the case of an emergency the draw will be opened for the passage of U.S. Government owned vessels, regardless of the hour.

(2) The draw will occasionally be closed to navigation, without advance notice, to permit uninterrupted transit of dignitaries across the bridge.

(3) At all times not covered by the regulations in this paragraph, and in all other respects, the regulations contained in § 117.240 shall govern the operation of this bridge.

(4) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can be easily read at any time, a copy of the regulations of this paragraph.

§ 117.340 Rappahannock River, Va.; all bridges.

(a) The corporations or persons owning or controlling a drawbridge shall provide the same with the necessary tenders and the proper mechanical appliances for the safe, prompt, and efficient opening of the draw and shall maintain the fender system in good condition for the passage of vessels.

(b) If the weather conditions are good and sound signals can be heard when a vessel approaches a drawbridge and desires to pass through the draw, three distinct blasts of a whistle, horn, or megaphone shall be sounded from the vessel when within reasonable hearing distance of the bridge.

(1) When the draw of the bridge can be opened immediately, the draw tender shall reply by three distinct blasts of a whistle, horn, or megaphone or by three loud and distinct strokes of a bell.

(2) When the draw of the bridge cannot be opened immediately or when the bridge is open and is to be closed immediately, the draw tender shall reply by two long distinct blasts of a whistle, horn, or megaphone or by two loud and distinct strokes of a bell.

(c) When weather conditions prevent hearing the sound signals when a vessel approaches a drawbridge and desires to

pass through the draw, signals shall be made from the vessel by swinging in circles at arm's length a lighted lantern at night and a flag by day.

(1) When the draw of the bridge can be opened immediately, the draw tender shall reply by raising and lowering in vertical plane a number of times a lighted lantern at night and a flag by day.

(2) When the draw of the bridge cannot be opened immediately or when the bridge is open and is to be closed immediately, the draw tender shall reply by swinging to and fro horisontally a number of times a lighted lantern at night and a flag by day.

(d) When a vessel wishes to pass two or more bridges close together signals as prescribed above shall be given from the vessel for opening the first bridge, followed at an interval of about 5 seconds by the same signals for the second bridge, and so on, thus giving at intervals of about 5 seconds, separate signals for each bridge the vessel desires to pass.

(e) When two or more vessels are approaching the bridge at nearly the same time from the same or opposite directions with the draw opened or closed, each of these vessels shall signal independently for the opening of the draw, and the draw tender shall reply as prescribed and in turn to the signal of each vessel.

(f) Where bridges are less than 500 feet apart, the signals to govern the movements of the approaching vessel shall be given from the bridge nearest the vessel. If that bridge can be opened immediately, the bridge tender shall await the reply signals from the other bridges and then give the signal circumstances require. If the nearest bridge cannot be opened immediately, the prescribed signal shall be given the approaching vessel at once, to be followed as soon as possible by the signal from that bridge that the draws are about to open.

(g) The draw shall be opened with the least possible delay, upon receiving the prescribed signal: *Provided*, That the drawspan shall not be opened when a train is approaching so closely that it cannot safely be stopped before reaching the bridge, or when a passenger or mail train is approaching within sight or hearing of the operator of the drawspan.

(h) When a bridge tender is about to close a draw, he shall sound two distinct blasts of a whistle, horn, or megaphone, or two loud and distinct strokes of a bell.

(i) Trains, vehicles, vessels or other water craft shall not be stopped or manipulated in a manner hindering or delaying the operation of the draws, but all passage over the drawspans or through the draw openings shall be in a manner to expedite both land and water traffic.

(j) Any vessel with or without tows requiring the opening of the draw of a bridge on which only one draw opening is protected by a fender system, shall pass through the opening so protected.

(k) A copy of the regulations in this section will be conspicuously posted on both upstream and downstream sides of the bridges in such manner that it can be easily read at any time.

§ 117.343 Milford Haven, Va.; Virginia Department of Highways bridge between the mainland and Gwynns Island.

(a) The draw of the bridge shall not be required to be opened for the passage of vessels, habitually using the waterway and carrying appurtenances unessential for navigation (such as patent tong masts, flagstaffs, radio antennas, etc.), which are otherwise capable of clearing the bridge when closed: *Provided*, That vessels engaged in commercial oystering or haul seine fishing shall be passed promptly at any time during the respective legal oystering or haul seine fishing seasons.

(b) Any vessel passing through the bridge as often as once a day for 5 consecutive days of any month will be regarded as a habitual user within the meaning of this section. Failure of any vessel to comply with the regulations after one warning by the person controlling the bridge shall be sufficient cause for refusal to open the draw for the future passage of the vessel.

§ 117.349 Eastern Branch of Elizabeth River, Va.; Elizabeth River Tunnel Commission bridge between Norfolk and Berkley.

(a) *Sound signals.* To be used if weather conditions are such that sound signals can be heard:

(1) *Call signal for opening of draw.* When a vessel approaches the bridge and desires to pass through the draw, three distinct blasts of a whistle, horn or megaphone or three loud and distinct strokes of a bell shall be sounded from the vessel when within reasonable hearing distance of the bridge.

(2) *Acknowledging signals*—(i) *When the draw must be cleared of traffic and prepared for opening.* The draw tender shall reply with two distinct blasts of a whistle, horn or megaphone or by two loud and distinct strokes of a bell. The vessel shall be checked and standby for either the signal in subdivision (ii) or subdivision (iii) of this subparagraph.

(ii) *When the draw is clear of traffic and can be opened immediately.* The draw tender shall reply with three distant blasts of a whistle, horn or megaphone or by three loud and distinct strokes of a bell.

(iii) *When the draw cannot be opened for an indefinite period or when it is open and must be closed immediately.* The draw tender shall reply with four or more distinct blasts of a whistle, horn or megaphone or four or more loud and distinct strokes of a bell, to be followed by the signal in subdivision (ii) of this subparagraph when the draw is to be opened.

(b) *Visual signals.* To be used if weather conditions are such that sound signals may not be heard.

(1) *Call signal for opening of draw.* When a vessel approaches the bridge and desires to pass through the draw signals shall be made from the approaching vessel by swinging in vertical circles at arm's length a lighted lantern at night and a flag by day.

(2) *Acknowledging signals*—(i) *When the draw must be cleared of traffic and prepared for opening.* The draw tender shall reply by swinging in vertical circles at arm's length a lighted lantern at night and a flag by day. The vessel shall be checked and standby for either the signal in subdivision (ii) or subdivision (iii) of this subparagraph.

(ii) *When the draw is clear of traffic and can be opened immediately.* The draw tender shall reply by raising and lowering in a vertical plane a number of times a lighted lantern at night and a flag by day.

(iii) *When the draw cannot be opened for an indefinite period or when it is open and must be closed immediately.* The draw tender shall reply by swinging to and fro horisontally a number of times a lighted lantern at night and a flag by day, to be followed by the signal in subdivision (ii) of this subparagraph when the draw is to be opened.

(c) *Posting of regulations in this section.* The owner of or agency controlling the bridge shall keep a legible copy of the regulations in this section posted conspicuously on both the upstream and downstream sides of the bridge.

§ 117.350 Albemarle and Chesapeake Canal (AIWW), Va.; U.S. Government bridge at Great Bridge.

(a) The agency operating the bridge shall not be required to open the drawspan for pleasure craft between the hours of 7:30 a.m. and 8:30 a.m. and between the hours of 5 p.m. and 6 p.m., Monday through Friday, State and Federal holidays excepted. All commercial water traffic and all vessels of the United States shall be passed at all times. Other vessels shall be passed during restricted hours if life or property are endangered.

(b) Mooring facilities are provided for pleasure craft awaiting passage during the hours of restricted operation. These vessels shall be allowed to pass whenever the drawspan is opened for commercial or Federal traffic.

(c) During all other hours not specifically noted in this section, the drawspan of the bridge shall be opened for any vessel requiring passage.

(d) Signs shall be posted on both the upstream and downstream sides of the bridge regarding the hours of restricted operation in such a manner that they can easily be read at any time.

§ 117.355 Bogue Sound (Atlantic Intracoastal Waterway), N.C.; North Carolina State Highway Commission bridge at Atlantic Beach.

(a) During the period from June 15 to Labor Day, inclusive, on Saturdays and Sundays, and on Independence Day, the owner of or agency controlling this bridge will not be required to open the drawspan for the passage of vessels between the hours of 12 noon and 6:00 p.m., e.s.t., except at 2:00 p.m. and 4:00 p.m. when the bridge shall be opened to allow all accumulated vessels to pass, and except as provided in paragraphs (b) and (c) of this section.

(b) The drawspan shall be opened promptly upon the prescribed signal being given for the passage of towboats with tows, freight boats, and vessels owned or operated by the United States.

(c) The draw shall be opened promptly for the passage of any vessel in an emergency involving danger to life or property. Such an emergency shall be indicated by four blasts of a whistle, horn or similar device.

(d) The owner of or agency controlling the bridge shall erect and maintain on both sides thereof, signs acceptable to the District Commander setting forth the salient features of the special regulations of this section.

§ 117.370 Wappoo Creek (Atlantic Intracoastal Waterway), S.C.; South Carolina State Highway Department bridge (State Route 700) at Charleston.

(a) The owner of or agency controlling the bridge shall not be required to open the draw between 7 a.m. and 9 a.m. and between 4 p.m. and 6 p.m. daily, excluding Sundays and Federal holidays, except as provided in paragraph (b) of this section.

(b) The draw shall be opened promptly upon the prescribed signal being given for the passage of tugboats, freight boats, commercial fishing boats, vessels owned and operated by the United States, and boats or vessels in distress.

(c) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides thereof the salient features of the regulations in this section.

§ 117.404 Tybee (Bull) River, Ga.; highway bridge on U.S. Highway 80 between Savannah Beach and Thunderbolt.

(a) The owner or agency controlling the bridge may keep the drawspan closed to navigation between 7:00 a.m. and 10:00 a.m. and between 4:00 p.m. and 7:00 p.m., except on the hour, when the bridge shall be opened to allow all accumulated vessels to pass, with the exception that during the period 1 April to 30 September, both dates inclusive, on Saturdays the drawspan will remain closed to navigation between 7:00 a.m. and 10:00 p.m., except on the hour, when the bridge will be opened to allow all accumulated vessels to pass, and on Sundays, July 4 and Labor Day the drawspan will remain in closed position between 6:00 a.m. and 10:00 p.m.

(b) The draw shall be opened at any time to allow the passage of a tow, common carrier, Coast Guard vessel, or vessel in distress.

(c) The owner of or agency controlling the bridge shall keep a copy of the regulations of this section conspicuously posted on both the upstream and downstream sides of the bridge in such a manner that it can be easily read at any time.

§ 117.408 Back River, Ga.; drawbridge in the causeway between Brunswick and St. Simons Island.

(a) The owner of or agency controlling the bridge shall not be required to open the drawspan between the hours of 6 a.m. and 9 a.m. and between the hours of 4 p.m. and 6 p.m., daily, except on the hour when the bridge shall be opened to allow all accumulated vessels to pass, and except as provided in paragraph (b) of this section.

(b) The draw shall be opened to allow the passage of a vessel in distress, a commercial tow or a Government vessel at any time upon sounding by the vessel of four blasts of a whistle or horn.

(c) The owner of or agency controlling the bridge shall keep a copy of the regulations in this section conspicuously posted on both the upstream and downstream sides of the bridge in such a manner that it can be easily read at any time.

§ 117.430 St. Johns River, Fla.; Main Street, Acosta and Fuller Warren bridges, Jacksonville.

(a) Between 7:30 a.m. and 9:00 a.m., and between 4:30 p. m. and 6:00 p. m., on all days other than Sundays and legal holidays, the draws need not be opened for the passage of vessels: *Provided*, That the draws shall be be opened at any time for the passage of a vessel in an emergency involving danger of life or property, which shall be indicated by four blasts of a whistle, horn, or megaphone.

(b) In all other respects, the regulations contained in § 117.240 of this part shall govern the operation of these bridges.

§ 117.430a St. Johns River, Fla.; Florida State Road Department bridge between Sanford and Osteen.

(a) The owner of or agency controlling the bridge will not be required to keep a draw tender in attendance or to open the drawspan between the hours of 7:00 p.m. and 7:00 a.m. except on 12 hours' advance notice to be given to the authorized representative of the owner of the bridge. Regular draw tender service will be maintained between 7:00 a.m. and 7:00 p.m.

(b) The owner of or the agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in such a manner that they can easily be read at any time, signs setting forth the salient features of the regulations and stating exactly how the authorized representative specified in paragraph (a) of this section may be reached for opening the bridge.

§ 117.431 Ortega River, Fla.; Florida State Road Department bridge (Roosevelt Boulevard) near Jacksonville.

(a) Except as otherwise provided in paragraphs (b), (c), and (d) of this section, the owner of or agency controlling the bridge shall not be required to open the drawspan for the passage of vessels between 6:30 a.m. to 9:00 a.m., and between 3:30 p.m. and 6:00 p.m. except that during these closure periods the bridge shall be opened on the hour and half-hour to allow any accumulated vessels to pass.

(b) The regulations in this section shall not be in force or effect on Saturdays, Sundays, or the following legal holidays:

New Year's Day.
Washington's Birthday.
Memorial Day (May 30).
Independence Day.
Labor Day.
Veterans Day (November 11).
Thanksgiving Day.
Christmas Day.

(c) The regulations in this section shall not apply to vessels owned or operated by the United States. All such vessels shall be passed without delay through the draw of the bridge at any time on giving the usual signal.

(d) The draw shall be opened at any time for the passage of a vessel in an emergency caused by rough weather or otherwise to an extent sufficient to endanger life or property. Such an emergency shall be indicated by four blasts of a whistle, horn, or megaphone.

(e) The owner of, or the agency controlling the bridge shall keep a copy of the regulations in this section conspicuously posted on both the upstream and downstream sides thereof in such manner that it can be easily read at any time.

§ 117.431a Black Creek, Fla.; Florida State Highway Department bridge on State Road 15 (U.S. Highway 17) and Atlantic Coast Line Railroad Co. bridge near Doctors Inlet.

(a) The owners of or agencies controlling the bridges shall not be required to keep draw tenders at the bridges between the hours of 7 p.m. and 10 a.m. each day. Regular draw tender service will be maintained between the hours of 10 a.m. and 7 p.m.

(b) The owners of or agencies controlling the bridges shall keep conspicuously posted on both the upstream and downstream sides of the bridges, in such manner that they can be easily read at any time, signs setting forth the salient features of the regulations in this section.

§ 117.432 Matanzas River (Intracoastal Waterway), Fla.; Bridge of Lions (State Road No. A1A) in St. Augustine.

(a) Except as otherwise provided in paragraph (b) of this section, the owners or agency controlling the bridge shall not be required to open the drawspan for the passage of vessels between 7:30 a.m. and 8:15 a.m. and between 5:00 p.m. and 5:45 p.m., Monday through Friday of each week.

(b) The drawspan shall be opened promptly at any time to allow the passage of tugboats with tows, vessels owned or operated by the United States, and vessels in distress. Such vessels desiring to pass shall so indicate by four blasts of a whistle or similar device.

(c) The owners of or agency controlling the bridge shall keep a copy of the regulations in this section conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can be easily read at any time.

§ 117.432a Matanzas Pass, Fla., Florida State Road Department bridge (State Road 865) at Fort Myers Beach.

(a) The owner of or agency controlling the bridge shall not be required to

open the drawspan between the hours of 4:30 p.m. and 6 p.m. except on the hour and half-hour when the draw shall be opened to allow all accumulated vessels to pass.

(b) The drawspan shall be opened at any time upon a signal of 4 short blasts of a whistle or horn or similar device to allow the passage of a tow or vessel in distress.

(c) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge in such manner that they can easily be read at any time, signs setting forth the salient features of the regulations of this section.

§ 117.434 Oklahoma River, Haines Creek, and Dead River, Fla.; Bridges over Oklawaha River on State Road S-316 at Eureka, State Road 40 at Delks Bluff (Colbys Landing), State Road 464 at Moss Bluff, and State Road 42 at Starkes Ferry, and over Haines Creek on State Road 44 near Lisbon.

(a) The owner of or agency controlling these bridges will not be required to keep a draw tender at the bridges between the hours of 7:00 p.m. and 7:00 a.m. Operators of vessels unable to pass under the bridges in closed position shall give the authorized representative of the owner of the bridges by telephone at least 2 hours' advance notice for passages between 7:00 p.m. and 7:00 a.m. Regular draw tender service will be maintained between 7:00 a.m. and 7:00 p.m.

(b) Seaboard Coastline Railroad Company bridge near Tavares: The owner of or agency controlling the bridge will not be required to open the drawspan between 10:00 p.m. and 6:00 a.m. the following day.

(c) The owner of or agency controlling the bridges shall keep conspicuously posted on both the upstream and downstream sides of the bridges, in such a manner that they can easily be read at any time, copies of the regulations together with a notice stating exactly how the representatives specified in paragraph (a) of this section may be reached for opening the bridges.

§ 117.435 Indian River (Intracoastal Waterway), Fla.; automatic operation of Florida East Coast Railway bridge near Jay Jay north of Titusville.

(a) The bridge will not be manned by a regular attendant.

(b) The bascule span will normally be in the open position, displaying flashing green signals, to allow the movement of water traffic.

(c) When a train approaches the bridge, the navigation signals will go to flashing red, and a horn starts four blasts, pauses and then continues four blasts, etc.

(d) After an eight (8) minute time delay, the bridge will lower and lock providing the scanning equipment reveals nothing under the bridge.

(e) After the train has cleared, the bridge will raise and the signals will return to flashing green for navigation.

(f) Train crews can hold the bridge down by pushing a hold button, and the bridge will remain down for a period of eight (8) minutes or while the approach track circuit is occupied.

§ 117.435a Banana River, Fla.; NASA Causeway Bridge near Orsino.

(a) Any authorized vessel or person requiring the drawspan to be opened for the passage of navigation shall give the NASA Security Office by telephone at least 4 hours' advance notice of the time at which such opening will be required.

(b) The owner of or operator of the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in such manner that they can easily be read at any time, copies of the regulations together with a notice stating exactly how the Security Office specified in paragraph (a) of this section may be reached for opening the drawspan.

§ 117.436 Indian River, Fla.; Florida State Road Department bridges at Titusville, Cocoa, Eau Gallie, Melbourne, and the National Aeronautics and Space Administration bridge at Addison Point.

(a) Except as provided in paragraphs (b) and (c) of this section, the owner of or agency controlling the bridges at Titusville, Addison Point, Cocoa, Eau Gallie and Melbourne shall not be required to open the drawspans between 6:45 a.m. and 7:45 a.m. and between 4:15 p.m. and 5:45 p.m., Monday through Friday of each week.

(b) The draws shall be opened promptly upon the prescribed signal being given for the passage of towboats with tows and vessels owned or operated by the United States.

(c) The draws shall be opened promptly for the passage of a vessel in an emergency involving danger to life or property. Such an emergency shall be indicated by four blasts of a whistle, horn, or similar device.

(d) The owner of or agency controlling the bridges shall keep conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can be easily read at any time, a copy of the regulations in this section.

§ 117.436a Loxahatchee River at Jupiter, St. Lucie River (Okeechobee Waterway) at Stuart and St. Lucie Canal (Okeechobee Waterway) at Port Mayaca, Fla.; automatic operation of Florida East Coast Railway bridges.

(a) The bridges will not be manned by a regular attendant.

(b) The spans will normally be in open position, displaying flashing green signals, to allow the movement of water traffic.

(c) When a train approaches one of the bridges the navigation signals will go to flashing red, and a horn starts four blasts, pauses and then continues four blasts, etc.

(d) After an eight (8) minute time delay, the bridge will lower and lock providing the scanning equipment reveals nothing under the bridge.

(e) After the train has cleared, the bridge will raise and the signals will return to flashing green for navigation.

(f) Train crews can hold the bridge down by pushing a hold button, and the bridge will remain down for a period of eight (8) minutes or while the approach track circuit is occupied.

§ 117.437 Canaveral Harbor Barge Canal, Fla.; Florida State Road Department bridges, State Road A1A on Merritt Island and State Road 401 at Canaveral Harbor, Fla.

(a) The owner of or operator of the bridges shall not be required to maintain constant bridgetender service between the hours of 10 p.m. and 6 a.m. daily.

(b) Upon advance notice of at least 2 hours to the authorized representative of the owner of the bridges, the drawspans will be opened for passage of commercial craft between the hours of 10 p.m. and 6 a.m. daily.

(c) The owner of or operator of the bridges shall not be required to open the drawspans between the hours of 6:45 a.m. and 7:45 a.m. and 4:15 p.m. and 5:45 p.m., Mondays through Fridays, except as follows:

(1) The drawspans shall be opened promptly upon the prescribed signal being given for the passage of towboats with tows and vessels owned or operated by the United States.

(2) The drawspans shall be opened promptly for the passage of a vessel in an emergency involving danger to life or property. Such an emergency shall be indicated by four blasts of a whistle, horn, or similar device.

(d) The owner of or operator of the bridges shall keep conspicuously posted on both the upstream and downstream sides of the bridges, in such manner that they can easily be read at any time, copies of the regulations in this section together with notices stating exactly how the authorized representative in paragraph (b) of this section may be reached to open the bridges.

§ 117.439 St. Lucie Canal, Fla.; Seaboard Air Line Railroad Co. bridge near Indiantown.

(a) The owner of or agency controlling the bridge shall not be required to keep a drawtender in constant attendance or to open the drawspan between the hours of 10 p.m. and 6 a.m. except as provided in paragraph (b) of this section.

(b) Owners and operators of vessels unable to pass under the bridge in a closed position are urged to schedule their trips to pass the bridge between the hours of 6 a.m. and 10 p.m. The drawspan will be opened between the hours of 10 p.m. and 6 a.m., however, for the passage of commercial tows when it can be shown that the passage could not be scheduled during regular hours of operation without extreme inconvenience and added cost: *Provided*, That at least 3 hours' advance notice of the time at which such opening will be required is given to the Chief Dispatcher, Seaboard Air Line Railroad Co., Jacksonville, Fla.

(c) The owner of or agency controlling the bridge shall keep conspicuously posted on both sides of the bridge, in such manner that they can easily be read at any time, signs setting forth the salient features of the regulations and the current telephone number of the authorized representative specified in paragraph (b) of this section, and shall keep the District Commander and the Locktender at St. Lucie Lock notified of the current telephone number.

§ 117.439a St. Lucie Canal, Fla.; the Martin County bridge on State Road 76A near the Arundel Shops (Palm City Farms).

(a) The owner of or agency controlling the bridge shall not be required to keep a drawtender in constant attendance or to open the drawspan between the hours of 10 p.m. and 6 a.m., except upon 2 hours' advance notice for the passage of commercial tows. Regular drawtender service will be maintained between the hours of 6 a.m. and 10 p.m.

(b) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in a manner that they can easily be read at any time, signs setting forth the salient features of the regulations and stating exactly how the representative currently designated to receive the advance notice for opening the bridge may be reached.

§ 117.439b Lake Worth (Intracoastal Waterway), Fla.; Singer Island bridge at Riviera Beach.

(a) The owner of or agency controlling the bridge shall not be required to open the drawspan between the hours of 8 a.m. and 6 p.m., daily, except on the hour and half-hour when the bridge shall be opened to allow all accumulated vessels to pass, and except as otherwise provided in paragraph (b) of this section.

(b) The drawspan shall be opened to allow the passage of a vessel in distress, a cruise boat operating on regular schedule, a commercial tow, or a vessel owned and operated by the United States at any time upon sounding by the vessel of four blasts of a whistle or horn.

(c) The owner of or agency controlling the bridge shall place conspicuously on both sides of the bridge signs of such size that they can be easily read at any time, clearly indicating the nature of the regulations.

§ 117.440 Lake Worth (Intracoastal Waterway), Fla.; Flagler Memorial and Royal Park bridges, Palm Beach, Florida.

(a) During the period 15 November to 30 April, both dates inclusive, the owners of or agencies controlling these bridges will not be required to open the drawspans between the hours of 7:30 a. m. and 9:30 a. m., and between the hours of 4:30 p. m. and 6:30 p. m., except that the drawspan of the Flagler Memorial Bridge shall be opened on the hour and half-hour and the drawspan of the Royal Park Bridge shall be opened 15 minutes before and 15 minutes after the hour to allow all accumulated vessels to pass, and except as provided in paragraph (b) of this section.

(b) The draws shall be opened to allow the passage of a vessel in distress or of a commercial tow at any time upon the sounding by the vessel of four blasts of a whistle or horn.

(c) The owner of or agencies controlling the bridges shall place conspicuously on both sides of each bridge signs of such size that they can be easily read at any time, clearly indicating the nature of the regulations.

§ 117.442 Hillsboro Inlet, Fla.; State Road Department of Florida highway bridge (State Road No. A1A) near Pompano Beach, Fla.

(a) During the period 1 December to 30 April, both dates inclusive, except as otherwise provided in paragraphs (b) and (c) of this section, the owner of or agency controlling the bridge shall not be required to open the drawspan between the hours of 7:00 a.m. and 7:00 p.m., except on the hour and half-hour when the drawspan shall be opened to allow all accumulated vessels to pass, and except that from 7:30 a.m. to 8:30 a.m., from 11:45 a.m., to 1:30 p.m., and from 4:45 p.m. to 5:30 p.m., the bridge will be opened at any time upon request.

(b) The regulations in this section shall not apply to vessels owned or operated by the United States. All such vessels shall be passed without delay through the draw of the bridge at any time on giving the usual signal.

(c) The draw of the bridge shall be opened at any time for the passage of a tow or of a vessel in an emergency involving danger to life or property. Such an emergency shall be indicated by four blasts of a whistle, horn, or megaphone.

(d) The owner of or agency controlling the bridge shall keep a copy of the regulations in this section conspicuously posted on both the upstream and downstream sides thereof, in such a manner that it can be easily read at any time.

§ 117.443 Intracoastal Waterway, Fla.; State Road Department of Florida highway bridge at Atlantic Boulevard in Pompano Beach, Fla.

(a) During the period November 1 to May 31, both dates inclusive, except as provided in paragraphs (b) and (c) of this section, the owner of or agency controlling this bridge shall not be required to open the drawspan between the hours of 7:00 a.m. and 6:00 p.m., both inclusive, except on the hour and the half-hour.

(b) The draw shall be opened promptly upon the prescribed signal being given for the passage of towboats with tows and vessels owned or operated by the United States.

(c) The draw shall be opened promptly for the passage of a vessel in an emergency involving danger to life or property. Such an emergency shall be indicated by four blasts of a whistle, horn, or similar device.

(d) The owner of or agency controlling the bridge shall erect and maintain on both sides thereof, signs acceptable to the District Commander setting forth the salient features of the special regulations of this section.

§ 117.446 New River Sound and Stranahan River (Intracoastal Waterway), Fort Lauderdale, Fla., bridges.

(a) *East Las Olas Boulevard Bridge across New River Sound.* During the period November 15 to May 15, both dates inclusive, except as provided in paragraph (c) of this section, the owner of or agency controlling this bridge will not be required to open the drawspan between the hours of 7 a.m. and 6 p.m., except on the hour and half-hour when the bridge shall be opened to allow all accumulated vessels to pass.

(b) *Sunrise Boulevard Bridge across New River Sound.* During the period November 15 to May 15, both dates inclusive, except as provided in paragraph (c) of this section, the owner of or agency controlling this bridge will not be required to open the drawspan between the hours of 7:15 a.m. and 6:15 p.m., except on the quarter-hour and three-quarter hour when the bridge shall be opened to allow all accumulated vessels to pass.

(c) The draws of the bridges listed in paragraphs (a) and (b) of this section shall be opened at any time upon a signal of 4 short blasts of a whistle, horn or similar device to allow the passage of a tow or vessel in distress.

(d) The owner of or agency controlling the bridges shall place signs, of a size and description designated by the District Commander, at each side of these bridges and at a distance of one-half mile above and below each bridge indicating the nature of the regulations.

(e) *Southeast 17th Street bridge across Stranahan River (Intracoastal Waterway).* (1) During the period November 15 to May 15, both dates inclusive, except as provided in subparagraphs (2) and (3) of this paragraph, the owner of or agency controlling this bridge will not be required between the hours of 7 a.m. and 7 p.m. to reopen the bridge for waterway traffic for a period of 15 minutes after each closure. The owner of or agency controlling the bridge will display on both sides thereof a time clock acceptable to the District Commander which will indicate to approaching waterway traffic the number of minutes remaining before the bridge will be available for opening.

(2) Upon receipt of the proper signal the draw shall be opened at any time to allow the passage of a tug with a tow, a vessel owned and operated by the United States or a vessel in distress. The proper signal for such an opening shall be indicated by four blasts of a whistle, horn, or similar device.

(3) The owner of or agency controlling the bridge shall erect and maintain conspicuously on both sides thereof signs acceptable to the District Commander, setting forth the salient features of the regulations in this paragraph.

§ 117.446a Intracoastal Waterway, Fla.; Hollywood Boulevard bridge, Hollywood, Fla.

(a) During the period November 15 to May 15, inclusive, the owner of or agency controlling the Hollywood Boulevard bridge will not be required to open the

drawspan between the hours of 10:00 a.m. and 6:00 p.m., except on half-hour intervals, on the hour and half-hour when the bridge shall be opened to allow all accumulated vessels to pass, and except as provided in paragraph (c) of this section.

(b) During the period May 16 to November 14, inclusive, on Saturdays, Sundays, Memorial Day, Independence Day, Labor Day and Veterans Day, the owner of or agency controlling the bridge will not be required to open the drawspan between the hours of 9:00 a.m. and 7:00 p.m., except on the hour and half-hour when the bridge shall be opened to allow all accumulated vessels to pass, and except as provided in paragraph (c) of this section.

(c) Upon receipt of the proper signal the draw shall be opened at any time to allow the passage of a tow, sailing vessel, vessel in distress, and cruise boats operating on regular schedule. The proper signal for such openings shall be indicated by four blasts of a whistle, horn or similar device.

(d) The owner or agency controlling the bridge shall keep a copy of the regulations of this section conspicuously posted on both the upstream and downstream sides thereof in such manner that it can be easily read at any time.

§ 117.446b Intracoastal Waterway, Fla.; Hallandale bridge at Hallandale, Fla.

(a) During the period November 15, to May 15, both dates inclusive, the owner or agency controlling this bridge will not be required to open the drawspan between the hours of 10:15 a.m. and 6:15 p.m., except on half-hour intervals, on the quarter-hour and three quarter-hour when the bridge shall be opened to allow all accumulated vessels to pass, and except as provided in paragraph (b) of this section.

(b) Upon receipt of proper signal the draw shall be opened at any time to allow the passage of a tow, sailing vessel, vessel in distress, and cruise boats operating on regular schedule.

(c) The owner of or agency controlling this bridge shall erect and maintain, on both sides thereof, signs acceptable to the District Commander, setting forth the salient features of the special regulations of this section.

§ 117.446c New River and South Fork of New River, Fort Lauderdale, Fla.; bridges.

(a) *Andrews Avenue bridge over New River.* Except as provided in subparagraphs (2) and (3) of paragraph (b) of this section, the owner of or agency controlling this bridge will not be required to open the drawspan for an upbound boat when the nearby Florida East Coast Railroad bridge is in a down position.

(b) *Southwest 12th Street bridge over South Fork of New River.* (1) During the period November 15 to May 15, both dates inclusive, except as provided in subparagraphs (2) and (3) of this paragraph, the owner of or agency controlling this bridge will not be required to open the drawspan for the passage of waterway traffic between the hours of 7 a.m. and 9 a.m. and 4 p.m. and 6 p.m., Monday through Friday, except on the hour and half-hour when the bridge shall be opened to allow any accumulated vessels to pass.

(2) Upon receipt of the proper signal the draw shall be opened at any time to allow the passage of a tug with a tow, a vessel owned and operated by the United States, a vessel in distress, or a cruise boat operating on regular schedule. The proper signal for such an opening shall be indicated by four blasts of a whistle, horn, or similar device.

(3) The owner of or agency controlling the bridge shall erect and maintain conspicuously on both sides thereof signs acceptable to the District Commander, setting forth the salient features of the regulations in this paragraph and paragraph (a) of this section.

(c) *State Road No. 84 bridge at Mile 4.4 over South Fork of New River.* The owner of or agency controlling this bridge will not be required to keep a draw tender constantly on duty. An advance notice of at least 24 hours will be required to open the drawspan.

§ 117.446d Indian Creek, Fla.; bridge at 63d Street, Miami Beach.

(a) During the period from December 1 to April 1, inclusive, the owners of or agencies controlling the bridge shall not be required to open the drawspan between 11 a.m. and 6 p.m. except that the drawspan shall be opened each hour on the hour for sufficient time to pass any vessels awaiting passage, and except as provided in paragraph (b) of this section.

(b) The drawspan shall be opened promptly for passage of a vessel in an emergency involving danger to life or property, cruise boats operating on regular schedules and vessels owned and operated by the United States. The proper signal for such openings shall be indicated by four blasts of a whistle, horn or similar device.

(c) The owner of or agency controlling the bridge shall keep a copy of the regulations of this section conspicuously posted on both the upstream and downstream sides of the bridge in such manner that it can be easily read at any time.

§ 117.447 Biscayne Bay, Fla.; State Road Department of Florida highway bridge (MacArthur or 13th Street Causeway) and Dade County Port Authority highway bridge (Venetian or 15th Street Causeway), Miami, Fla.

(a) During the period from November 1 to April 30, both dates inclusive, the owners of or agencies controlling these bridges shall not be required to open the west drawspans of the MacArthur and Venetian Causeways between 7:00 a.m. and 9:00 a.m. or between 4:30 p.m. and 6:30 p.m., except that both drawspans shall be opened on the half hour and even hour for sufficient time to pass any vessels awaiting passage.

(b) During the period from November 1 to April 30, both dates inclusive, the owner of or agency controlling Venetian Causeway shall not be required to open the east drawspan between 7:15 a. m. and 8:45 a. m. or between 4:45 p. m. and 6:15 p. m., except that the drawspan shall be opened at 7:45 a. m. and 5:15 p. m. for sufficient time to pass any vessels awaiting passage.

(c) Any of the drawspans shall be opened at any time when required by a tow, or in an emergency. An emergency shall be indicated by four blasts of the signalling device.

(d) Officers of the Police Departments of Miami and Miami Beach shall be stationed at the respective draws and at the ends of the causeways during the above hours to regulate traffic in conjunction with the bridge tenders.

(e) Boat owners shall cooperate insofar as possible to facilitate the operation of the draws of the bridges.

(f) Signs indicating the nature of the regulations will be placed by the State Road Department and the Dade County Port Authority where and as directed by the District Commander.

§ 117.447a Biscayne Bay, Fla.; Dade County Bridge (Rickenbacker Causeway), Miami, Fla.

(a) Except as otherwise provided in paragraphs (b), (c), and (d) of this section, the owner or agency controlling the bridge shall not be required to open the drawspan for the passage of vessels from 4:00 p.m. to 5:00 p.m. and from 5:15 p.m. to 6:00 p.m. on Saturdays, Sundays and the following legal holidays:

New Year's Day.
Independence Day.
Labor Day.
Veterans Day (November 11).
Thanksgiving Day.
Christmas Day.

(b) The regulations in this section shall not apply to vessels owned or operated by the United States. All such vessels shall be passed without delay through the draw of the bridge at any time on giving the usual signal.

(c) During the display of small craft warnings or warnings for winds of greater force by the United States Weather Bureau affecting the area, the bridge shall be opened for the passage of vessels giving the usual signal at any time.

(d) The draw of the bridge shall be opened at any time for the passage of a tow or of a vessel in an emergency involving danger to life or property. Such an emergency shall be indicated by four blasts of a whistle, horn, or megaphone.

(e) The owner of or agency controlling the bridge shall keep a copy of the regulations in this section conspicuously posted on both sides thereof, in such manner that it can be easily read at any time.

§ 117.448 Miami River, Fla.; highway bridges from mouth to and including city of Miami bridge at Northwest 27th Avenue, Miami.

(a) Except as otherwise provided in paragraphs (b), (c), and (d) of this section, the owners of or agencies controlling these bridges shall not be required to open the drawspans for the passage of vessels from 7:30 a.m. to 9:00 a.m. and from 4:30 p.m. to 6:00 p.m. on all days other than Sundays and the following legal holidays: New Year's Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day and Christmas Day.

(b) This section shall not apply to vessels owned or operated by the United States. All such vessels shall be passed without delay through the draw of any bridge at any time on giving the usual signal.

(c) During the existence of a hurricane alert duly issued by the United States Weather Bureau affecting the Miami area, all of the bridges shall be opened for the passage of vessels giving the usual signal at any time.

(d) The draw of any bridge shall be opened at any time for the passage of a vessel in an emergency involving danger to life or property. Such an emergency shall be indicated by four blasts of a whistle, horn, or megaphone.

(e) The owners of or agencies controlling the bridges shall keep a copy of the regulations of this section conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can be easily read at any time.

(f) This section shall remain in full force and effect until revoked or modified by the Commandant.

§ 117.449 Miami River, Fla.; Seaboard Air Line Railroad Co. bridge, Miami.

The owner of or agency controlling the bridge will be required to provide bridge tender service only between the hours of 8:30 a.m. and 5:30 p.m., Monday through Friday. At all other times the draw will be opened for the passage of vessels upon three hours' advance notice.

§ 117.462 Caloosahatchee River, Fla.; Florida State Road Department bridge (Edison Bridge) at Fort Myers.

(a) Except as otherwise provided in paragraphs (b) and (c) of this section, the owner of or agency controlling the bridge shall not be required to open the drawspan between the hours of 4:30 p.m., and 8:30 p.m., daily except on Sundays and the following legal holidays: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day and Christmas Day.

(b) The regulations in this section shall not apply to vessels owned or operated by the United States. All such vessels shall be passed without delay through the draw of the bridge at any time on giving the usual signal.

(c) The draw of the bridge shall be opened at any time for the passage of a tow or of a vessel in an emergency involving danger of life or property. Such an emergency shall be indicated by four blasts of a whistle, horn, or megaphone.

(d) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in a manner that they can easily be read at any time, signs setting forth the salient features of the regulations in this section.

§ 117.463 Manatee River, Fla.; State Road Department of Florida bridge near Bradenton.

(a) Between 7 a.m. and 9 a.m. and between 4 p.m. and 6 p.m., the draw need not be opened for the passage of vessels, except as provided in paragraph (b) of this section.

(b) The draw shall be opened promptly on signal for the passage of (1) Government owned or operated vessels, (2) any vessel during the existence of a hurricane alert issued by the United States Weather Bureau and affecting the area, and (3) any vessel in an emergency involving danger of life or property. An emergency shall be indicated by four blasts of a whistle, horn, or megaphone blown on the vessel.

(c) At times other than those specified in paragraph (a) of this section, and in all other respects the regulations contained in § 117.240 shall govern the operation of this bridge.

(d) The owner of or agency controlling the bridge shall keep conspicuously posted on both sides of the bridge, in such manner that it can easily be read at any time, a copy of the regulations of this section.

§ 117.465 Hillsborough River, Tampa, Fla.

(a) *City of Tampa highway bridges at Platt and Kreuse Streets and State Road Department of Florida highway bridge at Lafayette Street.* (1) Except as otherwise provided in subparagraph (2) of this paragraph, the owners of or agencies controlling these bridges shall not be required to open the draws for the passage of vessels between 8:30 a. m. and 9:30 a. m. and between 5:00 p. m. and 6:15 p. m. on all days except Sundays.

(2) The draws shall be opened at any time to allow the passage of vessels owned or operated by the United States and vessels in distress. A vessel owned or operated by the United States or a vessel in distress desiring to pass either bridge shall so indicate by four blasts of a whistle or similar device.

(3) The owners of or agencies controlling the bridges shall keep a copy of the regulations in this paragraph conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can be easily read at any time.

(b) *City of Tampa highway bridge at West Columbus Drive (Michigan Avenue).* (1) The owner of or agency controlling the bridge will not be required to keep a draw tender in constant attendance between 10:00 p.m. and 6:00 a.m.

(2) Persons requiring the opening of the draw of the bridge between 10:00 p.m. and 6:00 a.m. shall, except in an emergency, give one hour's advance notice of the time at which such opening will be required. Such notice may be given in person, in writing, or by telephone to the authorized representative of the owner of or agency controlling the bridge. Upon receipt of such notice, the authorized representative shall cause a draw tender to be on duty at the bridge at the time specified in the notice, and the bridge shall at such time and for a reasonable period thereafter be prepared to open promptly for the passage of vessels.

(3) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can be easily read at any time, a copy of the regulations in this paragraph, together with a notice stating exactly how the representative specified in subparagraph (2) of this paragraph may be reached.

(c) *State Road Department of Florida highway bridge at West Hillsborough Avenue.* (1) The owner of or agency controlling this bridge shall not be required to keep a draw tender in constant attendance between 10:00 p. m. and 6:00 a. m.

(2) Whenever, in the event of an emergency, a vessel, unable to pass under the closed bridge, is required to pass through the drawspan between 10:00 p. m. and 6:00 a. m., at least one hour's advance notice of the time the opening is required shall be given to the authorized representative of the owner of or agency controlling the bridge. Upon receipt of such notice, the authorized representative, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

(3) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can be easily read at any time, a copy of the regulations in this paragraph, together with a notice stating exactly how the representative specified in subparagraph (2) of this paragraph may be reached.

(d) *City of Tampa highway bridge at West High Avenue.* (1) The owner of or agency controlling this bridge shall not be required to keep a draw tender in constant attendance between 6:00 p.m. and 7:00 a.m.

(2) Whenever, in the event of an emergency a vessel, unable to pass under the closed bridge, is required to pass through the drawspan between 6:00 p.m. and 7:00 a.m., at least one hour's advance notice of the time the opening is required shall be given to the authorized representative of the owner of or agency controlling the bridge. Upon receipt of such notice, the authorized representative, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

(3) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can be easily read at any time, a copy of the regulations in this paragraph, together with a notice stating exactly how the representative specified in subparagraph (2) of this paragraph may be reached.

§ 117.466 Clearwater Harbor, Fla.; the City of Clearwater bridge (Memorial Causeway), Clearwater, Fla.

(a) Except as otherwise provided in paragraphs (b) and (c) of this section, the owner or agency controlling the bridge shall not be required to open the drawspan for the passage of vessels on Saturdays, Sundays, Memorial Day, Independence Day and Labor Day between the hours of 4:30 p.m. and 7:00 p.m., except that the drawspan shall be opened at 5:15 p.m., 6:00 p.m., and 6:45 p.m. to allow all accumulated vessels to pass.

(b) The regulations in this section shall not apply to vessels owned or operated by the United States. All such vessels shall be passed without delay through the draw of the bridge at any time on giving the usual signal.

(c) The draw of the bridge shall be opened at any time for the passage of a tow or of a vessel in an emergency involving danger to life or property. Such an emergency shall be indicated by four blasts of a whistle, horn, or megaphone.

(d) The owner of or agency controlling the bridge shall keep a copy of the regulations in this section conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can be easily read at any time.

§ 117.491 Mobile River and Chickasaw Creek, Ala.; Alabama State Highway bridge across Mobile River and Louisville & Nashville Railroad Co. bridge across Chickasaw Creek at Mobile, Ala.

(a) *Sound signals for vessels.* (1) For vessels proceeding up or down Mobile River and requiring an opening of the highway bridge only, the vessel will give a signal of three long blasts.

(2) For vessels coming down Mobile River and intending to proceed up Chickasaw Creek, requiring an opening of the railroad bridge, the vessel will give a signal of one long blast, followed after a one minute interval by three long blasts.

(3) For vessels coming up Mobile River and intending to proceed up Chickasaw Creek, requiring an opening of both bridges, the vessel will give a signal of three long blasts, a one minute interval, and one long blast followed by three long blasts.

(4) The owners of or agencies controlling the bridges shall keep a legible copy of these regulations posted conspicuously on both the upstream and downstream sides of the bridges.

§ 117.555 Mississippi River and its navigable tributaries and outlets, including the Atchafalaya River, La., above Grand Lake; bridges.

(a) The owner of or the agency controlling a drawbridge crossing a navigable water of the United States shall provide the appliances and the personnel necessary for the safe, prompt, and efficient operation of the draw.

(b) The draw shall be opened promptly when the signal prescribed in paragraph (d) of this section for the opening of the draw is received from an approaching vessel or other water craft which cannot pass under the closed draw, excepting when an approaching train is so close that it cannot be stopped safely before reaching the bridge or an approaching passenger or mail train is within sight or hearing of the bridge operator.

(c) Trains, vehicles, vessels, or other water craft shall not be stopped or manipulated in a manner hindering or delaying the operation of the draw, but all passage over the draw span or through the draw opening shall be in a manner to expedite both land and water traffic.

(d) *Signals*—(1) *Call signals for opening of draw*—(i) *Sound signals.* The general signal shall be one long blast of a whistle, horn, or siren, or one loud and distinct stroke of a bell, repeated at intervals until the acknowledging signal hereinafter prescribed is received from the bridge operator, except when a vessel or other water craft is about to leave a point between two drawbridges and within sight or hearing of them to pass through the draw downstream or in the direction of the ebb current, the signal shall be followed after a brief interval by an additional blast or distinct stroke of a bell.

(ii) *Visual signal.* A white flag by day, a white light by night, swung in full circles at arm's length in full sight of the bridge and facing the draw. This signal is to be used in conjunction with sound signals when conditions are such that sound signals may not be heard.

(2) *Acknowledging signals by bridge operation*—(i) *Sound signals.* Draw to be opened immediately: Same as call signal. Draw cannot be opened immediately, or if open must be closed immediately: Four or more short and rapid blasts of a whistle, horn, or siren, or four sharp and rapid strokes of a bell, to be repeated at regular intervals until acknowledged by the vessel.

(ii) *Visual signals.* The system of visual signals (hereinafter described) to be used in each individual case will be subject to the approval of the District Commander. They will be used in conjunction with sound signals when conditions are such that sound signals alone are insufficient. Draw to be opened immediately: Green light (or a white flag during daylight hours) swung up and down vertically a number of times in full sight of the vessel, or three flashing green lights so located as to be visible to approaching vessels, or during daylight hours three cylinders or balls so located as to be visible to approaching vessels. Draw cannot be opened immediately, or if open must be closed immediately: A red light (or a red flag during daylight hours) swung to and fro horizontally in full sight of the vessel, or during daylight hours one cylinder or ball so located as to be visible to approaching vessels.

(3) *Acknowledging signals by the vessel.* Vessels or other watercraft having signaled for the opening of a draw and having received a signal that the draw cannot be opened immediately, or if open must be closed immediately, will acknowledge said signal by one long blast followed by a short blast or by swinging to and fro horizontally a red flag by day or a red light at night.

(e) A vessel approaching to pass two or more bridges less than 800 feet apart shall signal the first bridge as prescribed in paragraph (d) of this section and give the same signals for the second bridge after an interval of about 10 seconds, and so on, thus giving at intervals of about 10 seconds separate signals for each bridge to be passed. The operator of each bridge shall reply as prescribed in paragraph (d) of this section.

(f) When two or more vessels are approaching to pass a drawbridge from opposite directions, the person in charge of each vessel shall signal for the opening of the draw as prescribed in paragraph (d) of this section. The vessel running with the current shall have the right of way. At slack tide the vessel running in ebb current direction shall have right of way. The bridge operator shall reply as prescribed in paragraph (d) of this section.

(g) When vessels are approaching a bridge span or a draw from the same direction, each vessel shall signal independently for the opening of the draw and shall be navigated in accordance with the pilot rule applicable to the waterway governing such vessels.

(h) Special supplemental regulations may be prescribed to provide for closed or open periods when land or water traffic predominates and to provide for intermittent attendance of bridge operators on bridges across streams where water traffic is minor or at times nonexistent. Owners of or the agency controlling bridges for which such special supplemental regulations are prescribed will be required to keep a copy thereof posted in a conspicuous place on both the upstream and downstream sides of the bridges.

NOTE: The special regulations contained in §§ 117.560 to 117.620, inclusive, prescribed where local conditions require to govern the operation of certain bridges, supplement the general regulations contained in § 117.555.

§ 117.560 Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

(a) The owners of or agencies controlling certain bridges will not be required to keep draw tenders in constant attendance. The bridges to which this section applies are listed, and the special regulations applicable in each case are set forth, in paragraphs (f) and (g) of this section.

(b) Whenever a vessel unable to pass under a closed bridge desires to pass through the draw, advance notice, as specified, of the time the opening is required shall be given to the authorized representative of the owner of or agency controlling the bridge.

(c) Upon receipt of such advance notice, the authorized representative of the owner of or agency controlling the bridge, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

(d) The owners of or agencies controlling the bridges shall keep conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can easily be read at any time, a copy of the regulations in this section together with a notice stating exactly how the representative specified in paragraph (b) of this section may be reached.

(e) The operating machinery of the draws shall be maintained in a serviceable condition, and the draws shall be opened and closed at intervals frequent enough to make certain that the machinery is in proper order for satisfactory operation.

(f) Lower Mississippi River. (1) Tante Phine Pass, La.; Tide Water Associated Oil Company bridge near Venice. At least 24 hours' advance notice required.

(2) Red River, La.; State of Louisiana Department of Highways bridge at Moncla. At least 48 hours' advance notice required.

(2-a) Red River, La.; State of Louisiana, Department of Highways bridge at Fulton Street in Alexandria. At least 24 hours' advance notice required.

(3) Red River, La.; Louisiana and Arkansas Railway Company bridge, Rapides Parish highway bridge, and Missouri Pacific Railroad Company bridge, at Alexandria. At least four hours' advance notice required.

(4) Red River, La.; State of Louisiana Department of Highways bridges at Boyce, at Grand Ecore, and at Coushatta and St. Louis Southwestern Railway Company bridge at Shreveport. At least 48 hours' advance notice required.

(5) Red River, Ark.; St. Louis Southwestern Railway Company bridge at Garland City. The draw need not be opened for the passage of vessels, and the special regulations contained in paragraphs (b) to (e), inclusive, of this section shall not apply to this bridge.

(6) Red River, Ark.; Missouri Pacific Railroad Company bridge at Fulton. At least 24 hours' advance notice required.

(7) Red River, Ark.; Arkansas Highway Department and Kansas City Southern Railway Company bridges at Index. The draws need not be opened for the passage of vessels, and paragraphs (b) to (e), inclusive, of this section shall not apply to these bridges.

(8) Little River, Ark.; St. Louis-San Francisco Railway Company bridge near Redbluff. The draw need not be opened for the passage of vessels, and paragraphs (b) to (e), inclusive, of this section shall not apply to this bridge.

(9) Caddo Lake, La.; The Kansas City Southern Railway Company bridge near Mooringsport. At least 24 hours' advance notice required.

(10) Little River, La.; Louisiana and Arkansas Railway Company bridge at Archie. During normal river stages, at least 12 hours' advance notice required. During high-water periods a draw tender shall be maintained in constant attendance when so directed by the District Commander.

(11) Tensas River, La.; Missouri Pacific Railroad Co. bridge at Clayton. From May 1 to December 31, inclusive, during normal river stages, at least 12 hours' advance notice to be given to the Dispatcher, Missouri Pacific Railroad Co., Little Rock, Ark. During high-water periods a draw tender shall be maintained in constant attendance when so directed by the District Commander.

(12) Tensas, La.; State of Louisiana Department of Highways bridges at Clayton and near New Light. At least 48 hours' advance notice required.

(13) Macon Bayou, La.; State of Louisiana Department of Highways bridge near Winnsboro. At least 24 hours' advance notice required.

(14) Boeuf River, La.; State of Louisiana Department of Highways bridge near Mason. At least 48 hours' advance notice required.

(15) Ouachita River, Ark.; Chicago, Rock Island and Pacific Railroad Company bridge at Calion. During periods when the river is in pool stage, at least 24 hours' advance notice required. Notice shall be given to the Dispatcher, Chicago, Rock Island and Pacific Railroad Company, Little Rock, Arkansas. Any vessel passing through the bridge requiring an open span for such passage and intending to return through it within 24 hours shall inform the draw tender of the probable time of its return, and the draw shall be opened promptly on signal from the vessel on the return trip without any further notice. The District Commander will notify the Dispatcher at Little Rock, one day in advance when a bridge tender will be required in constant attendance. For the purpose of the regulations of this section, pool stage is defined as 21 feet or less on the upper gage at Lock and Dam No. 8. A copy of the notice posted in accordance with paragraph (d) of this section shall also be conspicuously posted at all Ouachita River locks.

(16) Ouachita River, Ark.; St. Louis Southwestern Railway Company bridge near Camden. At least 48 hours' advance notice required.

(17) Yazoo River, Miss.; the Yazoo and Mississippi Valley Railroad Company bridge at Redwood, Mississippi State Highway Department bridge at Yazoo City, and The Yazoo and Mississippi Valley Railroad Company bridge at Home Park. During normal river stages, at least three hours' advance notice required. During high-water periods a draw tender shall be maintained in constant attendance when so directed by the District Commander. Copies of the notice posted in accordance with paragraph (d) of this section shall also be conspicuously posted at the mouth of Yazoo Canal, Vicksburg, and at Satartia for the Redwood Bridge, at Satartia and Belzoni for the Yazoo City Bridge, and at Yazoo City and Belzoni for the Home Park Bridge.

(18) Yazoo River, Miss.; Columbus and Greenville Railway Company bridge at Fort Loring. At least four hours' advance notice required.

(19) Big Sunflower River, Miss.; Columbus and Greenville Railway Company bridge near Baird. At least four hours' advance notice required.

(20) Arkansas River, Ark.; Missouri Pacific Lines drawbridge at Yancopin. During normal river stages at least 24 hours' advance notice required except between midnight Friday and midnight Sunday when at least 48 hours' advance notice is required. Notice to be given to the Missouri Pacific Lines Dispatcher, Wynne, Arkansas. During high water periods when so directed by the District Commander, a draw tender shall be in constant attendance and the bridge shall be operated in accordance with regulations contained in § 117.555.

(21) Arkansas River, Ark.; St. Louis Southwestern Railway Company bridge at Rob Roy. During normal river stages, at least 24 hours' advance notice required. During high-water periods a draw tender shall be maintained in constant attendance when so directed by the District Commander.

(22) Arkansas River, Ark.; Arkansas Highway Department bridge near Pine Bluff. At least 4 hours' advance notice required to be given to the District Engineer, Arkansas Highway Department, Pine Bluff, Arkansas.

(23) Arkansas River, Ark.; The Chicago, Rock Island and Pacific Railway Company Bridge at McClean Street, Little Rock. At least 48 hours' advance notice required to be given to the Chicago, Rock Island and Pacific Railway Company Dispatcher, Little Rock, Arkansas.

(24) Arkansas River, Ark.; Arkansas Highway Department bridges near Morrilton and at Dardanelle. At least 72 hours' advance notice required to be given to the District Engineer, Arkansas Highway Department, Russellville, Arkansas.

(25) Arkansas River, Ark.; Arkansas Highway Department and St. Louis-San Francisco Railway Company bridges at Van Buren and Missouri Pacific Railroad Company bridge at Fort Smith. The draws need not be opened for the passage of vessels, and paragraphs (b) to (e), inclusive, of this section shall not apply to these bridges.

(26) White River, Ark.; Missouri Pacific Railroad Company bridge near Bensal. At least 24 hours' advance notice required for openings Monday through Friday and at least 48 hours' advance notice required for openings on Saturday and Sunday to be given to the Dispatcher, Missouri Pacific Railroad Company, Monroe, Louisiana. Whenever any vessel passing through the bridge intends to return through it within 24 hours and informs the draw tender of the probable time of its return, the draw shall be opened promptly on signal for the passage of the vessel on its return trip without further notice.

(27) White River, Ark.; St. Louis Southwestern Railway Lines bridge at Clarendon. The draw shall be opened promptly on signal between the hours of 7:30 a. m. and 7:30 p. m. from 1 December to 30 June, inclusive, and at all other times at least 12 hours' advance notice required to be given to the Dispatcher, St. Louis Southwestern Railway Lines, Pine Bluff, Arkansas. Whenever any vessel passing through the bridge in-

tends to return through it within 12 hours and informs the draw tender of the probable time of its return, the draw shall be opened promptly on signal for the passage of the vessel on its return trip without further notice.

(28) White River, Ark.; Arkansas State Highway bridge at DeValls Bluff. At least 12 hours' advance notice required for openings to be given to Division Maintenance Superintendent, Division No. 6, Arkansas Highway Department, Little Rock, Arkansas. Whenever any vessel passing through the bridge intends to return through it within 12 hours and informs the draw tender of the probable time of its return, the draw shall be opened promptly on signal for the passage of the vessel on its return trip without further notice.

(29) White River, Ark.; Chicago, Rock Island and Pacific Railway Company bridge near DeValls Bluff. At least 12 hours' advance notice required for openings to be given to the Chief Dispatcher, Chicago, Rock Island and Pacific Railway Company, Little Rock, Arkansas. Whenever any vessel passing through the bridge intends to return through it within 12 hours and informs the draw tender of the probable time of its return, the draw shall be opened promptly on signal for the passage of the vessel on its return trip without further notice.

(30) White River, Ark.; Missouri Pacific Railroad Company bridge near Augusta. At least 24 hours' advance notice required for openings Monday through Friday and at least 48 hours' advance notice for openings on Saturday and Sunday. Notice to be given to the Dispatcher, Missouri Pacific Lines, Little Rock, Arkansas. Whenever any vessel passing through the bridge intends to return through it within 24 hours and informs the draw tender of the probable time of its return, the draw shall be opened promptly on signal for the passage of the vessel on the return trip without further notice.

(31) White River, Ark.; Missouri Pacific Railroad Company bridge at Newport. At least 24 hours' advance notice required for openings Monday through Friday and at least 48 hours' advance notice required for openings on Saturday and Sunday. Notice to be given to the Station Agent, Missouri Pacific Lines, Newport, Arkansas. Whenever any vessel passing through the bridge intends to return through it within 24 hours and informs the draw tender of the probable time of its return, the draw shall be opened promptly on signal for the passage of the vessel on the return trip without further notice.

(32) White River, Ark.; Arkansas Highway Department bridge at Batesville and Missouri Pacific Railroad Company bridge at Cotter. The draws need not be opened for the passage of vessels and paragraphs (b) to (e), inclusive, of this section shall not apply to these bridges.

(33) Little Red River, Ark.; Missouri Pacific Railroad Company bridge at Judsonia and Arkansas Highway Department bridges at Judsonia and Searcy. The draws need not be opened for the passage of vessels and paragraphs (b) to (e), inclusive, of this section shall not apply to these bridges.

(34) Black River, Ark.; Missouri Pacific Railroad Company bridge at Paroquet, St. Louis-San Francisco Railway Company bridges at Black Rock and Pocahontas, Arkansas Highway Department bridges at Pocahontas and Corning, and Missouri Pacific Railroad Company bridge near Corning. The draws need not be opened for the passage of vessels, and paragraphs (b) to (e), inclusive, of this section shall not apply to these bridges.

(35) Current River, Ark.; Arkansas Highway Department bridge at Biggers. The draw need not be opened for the passage of vessels, and paragraphs (b) to (e), inclusive, of this section shall not apply to this bridge.

(36) Current River, Ark.; St. Louis-San Francisco Railway Company bridge at Biggers. The draw need not be opened for the passage of vessels, and paragraphs (b) to (e), inclusive, of this section shall not apply to this bridge.

(37) St. Francis River, Ark.; Missouri Pacific Railroad Co. bridge at Cody. At least 72 hours' advance notice required to be given to the Dispatcher, Missouri Pacific Railroad Co., Little Rock, Ark. Whenever a vessel passing through the bridge intends to return through it within 72 hours and informs the draw tender of the probable time of its return, the draw shall be opened promptly on signal for the passage of the vessel on its return trip without further notice.

(38) St. Francis River, Ark.; Arkansas State Highway bridge at Cody. At least 72 hours' advance notice required to be given to the Division Maintenance Superintendent, Division No. 1, Arkansas State Highway Department, Wynne, Arkansas. Whenever any vessel passing through this bridge intends to return through it within 72 hours and informs the draw tender of the probable time of its return, the draw shall be opened promptly on signal for the passage of the vessel on its return trip without further notice.

(39) St. Francis River, Ark.; Chicago, Rock Island and Pacific Railroad Company bridge at Madison, Arkansas State Highway bridge at Madison, Arkansas State Highway bridge near Madison, Cross County Road Improvement District No. 1 bridge at Parkin, Arkansas State Highway bridge at Marked Tree, St. Louis-San Francisco Railway Company bridge near Marked Tree, St. Louis-Southwestern Railway Lines bridge at Lunsford, Arkansas State Highway bridge at Lake City, St. Louis-Southwestern Railway Lines bridge at Bertig, St. Louis-San Francisco Railway Company bridge at West Kennett, St. Louis-Southwestern Railway Lines bridge at St. Francis. The draws need not be opened for the passage of vessels, and paragraphs (b) to (e), inclusive, of this section shall not apply to these bridges.

(40) Hatchie River, Tenn.; Illinois Central Railroad bridge at Rialto and Louisville and Nashville Railroad Company bridge at Shepp. The draws need not be opened for the passage of vessels, and paragraphs (b) to (e), inclusive, of this section shall not apply to these bridges.

(41) Obion River, Tenn.; Dyer County highway bridges at Bradley Ferry, McCleres Ferry and Lanes Ferry, and Illinois Central Railroad bridge at Lenox. The draws need not be opened for the passage of vessels, and paragraphs (b) to (e), inclusive, of this section shall not apply to these bridges.

(g) Ohio River and Upper Mississippi River. (1) Ohio River, Ky., and Ind.; Kentucky and Indiana Terminal Railroad Company bridge at New Albany, Indiana. The draw need not be opened for the passage of vessels, and paragraphs (b) to (e), inclusive, of this section shall not apply to this bridge.

(2) Tennessee River, Tenn.; City of Chattanooga highway bridge at Market Street, Chattanooga. When the river is below a 25-foot stage as determined from readings of the Chattanooga gage posted daily at the Chattanooga City Wharf, at least two hours' advance notice required. A copy of the notice posted in accordance with paragraph (d) of this section shall also be conspicuously posted at the City Wharf.

(3) Tennessee River, Tenn.; Southern Railway Company bridge at Hixson. When a minimum vertical clearance of 47 feet is available under the lift span as determined from gages suitably marked to indicate the minimum clearance and attached to the upstream and downstream sides of the right and left channel piers, respectively, at least two hours' advance notice required. A copy of the notice posted in accordance with paragraph (d) of this section shall also be conspicuously posted at the Chattanooga City Wharf.

(4) *Cumberland River, Tenn.* Louisville and Nashville Railroad Company bridge at Clarksville. When the river stage is below 35 feet on the United States Weather Bureau gage at Clarksville, at least 2 hours' advance notice required. Copies of the notice posted in accordance with paragraph (d) of this section shall also be conspicuously posted on Locks B and C, Cumberland River. The owner of or agency controlling the bridge shall arrange for ready telephonic communication with its authorized representative at any time from the bridge or its immediate vicinity, and from Lock B and Lock C.

(5) Cumberland River, Tenn.; Tennessee Central Railway Company bridge near Bordeaux. When the stage of the river permits a vertical clearance of 47 feet or more under the lift span when in a closed position as determined from gages suitably marked to indicate the minimum clearance and attached to the upstream and downstream sides of the bridge, at least two hours' advance notice required. The owner of or agency controlling the bridge shall report monthly to the District Commander, the number of requests for opening the bridge during periods when continuous bridge tender service is not required, from whom received, date and hour received, time bridge was ready to open, and time boat passed.

(6) Wabash River, Ill. and Ind., and White River, Ind.; all drawbridges. At least 24 hours' advance notice required.

(7) Green River, Ky.; Louisville and Nashville Railroad Company bridges at Spottsville, Livermore, and Smallhouse, and Illinois Central Railroad Company bridge at Rockport. When the stage of the river permits a vertical clearance of 30 feet or more under the closed draws, as determined from gages suitably marked to indicate the minimum clearance and attached to the upstream and downstream sides of the bridges, respectively, at least 8 hours' advance notice required. If for any reason the vessel is delayed and cannot arrive for passage at the time specified in the notice the authorized representative shall be promptly notified of the estimated delay for opening the draw. When the stage of the river does not permit a vertical clearance of 30 feet or more under the closed draw at any of the bridges, a draw tender shall be on duty and the draw opened on signal for the passage of a vessel requiring a clearance exceeding the clearance indicated on the gage. The owners of the bridges shall arrange for ready telephone communication with the authorized representatives at any time from the bridges or their immediate vicinity. Copies of the regulations and notices posted in accordance with paragraph (d) of this section shall be conspicuously posted at Green River navigation Locks Nos. 1, 2, 3, and 4.

(8) Missouri River, Nebr. and Iowa; Nebraska-Iowa (Combination) highway bridge between Sioux City and South Sioux City, Nebr. Between March 2 and November 30, at least 2 hours' advance notice required. The drawspan shall be opened and closed at least once each three-month period between March 2 and November 30 to assure that the operating machinery is in serviceable condition, provided that operation of the drawspan for passage of a vessel shall constitute a test operation for that period. Between December 1 and March 1, the regulations in § 117.596 shall govern the operation of this bridge.

(9) Missouri River, Nebr. and South Dakota; Nebraska-South Dakota (Meridian) highway bridge at Yankton, South Dakota; and Missouri River, South Dakota; Chicago and Northwestern Railway Company bridge at Pierre, South Dakota. Between March 2 and November 30, at least 4 hours' advance notice required. The drawspan shall be opened and closed at least once each three-month period between March 2 and November 30 to assure that the operating machinery is in serviceable condition, provided that operation of the drawspan for passage of a vessel shall constitute a test operation for that period. Between December 1 and March 1, the regulations in § 117.596 shall govern the operation of these bridges.

(10) Osage River, Mo.; Missouri Pacific Railroad Company and Missouri State Highway Commission bridges near Osage City. The draws need not be opened for the passage of vessels and paragraphs (b) to (e), inclusive, of this section shall not apply to these bridges.

(11) Wisconsin River, Wis.; all drawbridges. At least 48 hours' advance notice required.

(12) Black River, Wis.; Chicago, Milwaukee, St. Paul and Pacific Railroad Company bridge at La Crosse. At least two hours' advance notice required.

(13) Black River, Wis.; Wisconsin State Highway Commission bridge at North La Crosse. At least 24 hours' advance notice required.

(14) Upper Mississippi River; During the winter months from December 15 to March 1, at least 24 hours' advance notice required for opening all drawbridges between Lock and Dam No. 10 (Mile 615.1) and Lock and Dam No. 2 (Mile 815.2). During the above period, at least 12 hours' advance notice required for opening all drawbridges between Lock and Dam No. 2 and Lock and Dam No. 1 (Mile 847.6).

NOTE: Mileage is above the mouth of the Ohio River.

(15) St. Croix River, Wis. and Minn.; During the winter months from December 15 to March 1, at least 24 hours' advance notice required for opening all drawbridges between the mouth and Bayport, Minn.

(16) St. Croix River, Wis. and Minn.; States of Wisconsin and Minnesota highway bridge at Stillwater, Minn. At least two hours' advance notice required, except between 8:00 a. m. and 2:00 p. m., and between 9:00 p. m. and midnight on Saturdays, Sundays, and Federal and State holidays, and between 1:00 p. m. and 9:00 p. m. on all other days, from May 15, to October 15, inclusive, when the regulations contained in § 117.555 shall govern the operation of this bridge except that between 2:00 p. m. and 9:00 p. m. on Saturdays, Sundays, and Federal and State holidays from May 15, to October 15, inclusive, the draw shall be opened only once every hour on the hour. During the period of hourly openings, the bridge tender will be in constant attendance and will open the draw at any time for emergencies. The hours indicated are central daylight saving time. Standard time is one hour earlier.

(17) St. Croix River, Wisconsin and Minnesota; The Soo line Railroad Co. bridge near Otisville, Minn. The draw need not be opened for the passage of vessels, and paragraphs (b) to (e), inclusive, of this section shall not apply to this bridge.

(18) Minnesota River, Minn.; all drawbridges between the mouth and Le Sueur. At least 24 hours' advance notice required. The draws of bridges above Le Sueur need not be opened for the passage of vessels.

§ 117.583 White River, Ark.; Missouri and Arkansas Railway Co. bridge near Georgetown, Ark.

(a) The owner of or agency controlling this bridge will not be required to keep a draw tender in constant attendance or to maintain a sound signal device at the bridge.

(b) For the purpose of this section, the chief engineer of the Missouri and Arkansas Railway Company, located at Harrison, Arkansas, is the authorised representative of the owner. Notice to him may be given by telephone, telegraph, mail, or orally, as the vessel owner or representative may elect.

(c) Whenever a vessel, unable to pass under the closed bridge, desires to pass through the draw, at least 48 hours' advance notice of the time the opening is required shall be given to the authorised representative of the owner. Upon receipt of such notice, the authorized representative shall arrange for the prompt opening of the bridge at the time specified in the notice for the passage of the vessel.

(d) Any vessel passing through the bridge and intending to return through it within 48 hours shall inform the representative of the probable time of its return, and the draw shall be opened promptly on signal from the vessel on the return trip without any further notice.

(e) The word "vessel" shall include rafts, houseboats, and all forms of watercraft.

(f) The owner shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in such manner that it can be easily read at any time, a copy of the regulations in this section, together with a notice stating how the representative specified in paragraph (b) of this section may be reached.

(g) The owner shall erect and maintain a sign at a conspicuous point above high water about 1 mile upstream from the bridge. The sign shall read, in letters 16 inches high: "Caution, Drawbridge 1 Mile".

(h) The Missouri and Arkansas Railway Company shall keep the operating machinery of the draw in serviceable condition and shall have the draw opened at intervals frequent enough to make certain that the machinery is in proper working condition.

§ 117.596 Missouri River; bridges.

(a) The owners of or agencies controlling drawbridges over the Missouri River will not be required to keep draw tenders in attendance during the winter months from December 1 to March 1.

(b) Whenever a vessel, unable to pass under a closed bridge, desires to pass through the draw during the winter months from December 1 to March 1, at least 24 hours' advance notice of the time opening is required shall be given by telephone or otherwise, to the authorised representative of the owner or agency controlling the bridge.

(c) Upon receipt of such notice, the authorised representative of the owner or agency controlling the bridge, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

(d) The owner of or agency controlling the bridge shall, if no draw

tender is in attendance as above provided, keep conspicuously posted on both the upstream and downstream sides of the bridge, in a manner that it can be easily read at any time, a copy of the regulations of this section together with a notice stating exactly how the representative, specified in paragraph (b) of this section may be reached.

(c) The operating machinery of the draw shall be maintained in a serviceable condition and the draws opened and closed at least once on or about 1 March to assure that the machinery is in proper order for satisfactory operation: *Provided*, That the operation of a drawspan for the passage of a vessel shall be deemed to constitute such test operation.

§ 117.605 Illinois Waterway, Ill.; bridges (highway and railroad) at Pekin, Peoria, and Joliet, Ill.

(a) The following special regulations are prescribed to govern the operation of the following bridges across the Illinois Waterway:

Mile	Bridge	Vertical clearance closed: Above high water	Vertical clearance closed: Above present low water
163.9	Margaret Street Highway, Pekin, Ill.	8.3	20.4
163.9	Peoria Terminal Company Railroad (C. R. I. & P. Ry.), Pekin, Ill.	2.4	21.6
162.2	Illinois Terminal Railroad, Peoria, Ill.	[1] 16.1	[1] 34.2
162.2	Toledo, Peoria and Western Railroad, Peoria, Ill.	−0.7	17.4
162.2	Lower Highway Bridge, Peoria, Ill.	[1] 13.7	[1] 31.8
287.3	McDonough Street Highway, Joliet, Ill.	10.5	10.5
287.6	Chicago, Rock Island & Pacific Railway, Joliet, Ill.	2.4	2.5
287.9	Jefferson Street Highway, Joliet, Ill.	10.4	10.6

[1] For 20-foot width of channel.

(b) When a vessel reaches a distance of about one-half mile from the Peoria Terminal Company Railroad bridge at Pekin, Illinois; the Toledo, Peoria, and Western Railroad bridge at Peoria, Illinois, and the Chicago, Rock Island, and Pacific Railway bridge, at Joliet, Illinois, a call signal of three long blasts of a whistle, horn, or siren, or three loud and distinct strokes of a bell shall be sounded if the clearance requirements of the vessel are such that opening of the adjacent bridges at these respective cities is unnecessary; and if the draw is to be opened immediately, the acknowledging signal by the bridge operators on these railroad bridges shall be the same as the call signal; if the draw cannot be opened immediately, or if opened must be closed immediately, four or more short and rapid blasts of a whistle, horn, or siren, or four sharp and rapid strokes of a bell to be repeated at regular intervals until acknowledged by the vessel must be sounded.

(c) *Supplemental regulations.* (1) Except on Sundays the owner of or agency controlling the highway bridges in Joliet, Ill., listed below will not be required to open the draws between the hours of 7:30 a. m. and 8:00 a. m. and between the hours of 4:30 p. m. and 5:30 p. m.:

McDonough Street, Mile 287.3.
Jefferson Street, Mile 287.9.
Chase Street, Mile 288.1.
Jackson Street, Mile 288.4.
Ruby Street, Mile 288.7.

(2) The regulations in this paragraph will be effective until a high level fixed bridge is constructed across the Des Plaines River at Joliet, Illinois, and opened to highway traffic at which time the question of maintaining closed bridge hours will be reviewed by the Commandant.

NOTE: The regulations in paragraph (c) of this section will also be subject to review by the Commandant with a view of determining whether they should be modified in any respect from actual experience gained.

§ 117.620 Quincy Bay at Quincy, Ill.; bridge (railroad) opposite Broadway Street.

(a) The owner of or agency controlling the bridge will not be required to keep a draw tender in constant attendance at this bridge.

(b) Whenever a vessel unable to pass under the closed bridge desires to pass through the draw, advance notice to that effect shall be given to the authorized representative of the owner of or agency controlling the bridge, as follows: Between the hours of 7:30 a. m. and 5:30 p. m. at least 30 minutes and between the hours of 5:30 p. m. and 7:30 a. m. at least 90 minutes.

(c) Upon receipt of such notice the authorized representative of the owner of or agency controlling the bridge, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

(d) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in such a manner that it can be easily read at any time, a copy of the regulations in this section, together with a notice stating exactly how the representative specified in paragraph (b) of this section may be reached.

(e) The operating machinery of the draw shall be maintained in serviceable condition and the draw opened and closed at least once each month to make certain that the machinery is in proper order for satisfactory operation.

(f) This section may be revoked upon 2 weeks' notice by the Commandant whenever, in his judgment, the interests of navigation so warrant.

§ 117.640 Red River of the North, Minnesota and North Dakota; bridges.

The draws of the drawbridges across the river need not be opened for the passage of vessels.

§ 117.640a Duluth-Superior Harbor, Minn. and Wis.; bridges (highway and railroad).

(a) The regulations in this section shall govern the opening of the draws in the Duluth Ship Canal, Northern Pacific Railway, Grassy Point and Arrowhead bridges from March 16 to December 31.

(b) The owners of or agencies controlling the bridges shall provide necessary tenders and the proper mechanical appliances for the safe, prompt and efficient opening of the draws for the passage of vessels. The tender's house shall be high enough to clear trains, buses, trucks, or other vehicles, and allow the tender to see readily the channels in all directions.

(c) *Signals*—(1) *Call signals.* Call signals for opening of bridges are:

Duluth Ship Canal Bridge: 1 long, 1 short, 1 long, 1 short.
Northern Pacific Railway Bridge:
Minnesota Draw: 1 long, 3 short.
Wisconsin Draw: 2 long, 1 short.
Grassy Point Bridge: 2 short, 1 long.
Arrowhead Bridge (Twin Ports): 3 long.
The duration of a long blast should not exceed 3 seconds, and a short blast should not exceed 1 second.

(2) *Acknowledging signals by bridge tenders.* (i) Each of the bridges listed in subparagraph (1) of this paragraph must be provided with a signal of sufficient strength of sound to be heard distinctly three-fourths of a mile in any condition of weather.

(ii) Upon receiving a signal for opening the draw the tender shall at once answer with a return signal, which shall be the same as the signal for opening, to indicate that the vessel signal has been heard. The tender shall take note of the vessel's position and speed, and open the bridge in time to allow the vessel to pass through. (See, however, subdivision (iii) of this subparagraph.)

(iii) In case the bridge, other than the Duluth Ship Canal Bridge (see subdivision (iv) of this subparagraph), is not ready to open at the time of receiving a signal or very soon thereafter for any cause, as for instance when a train is passing over or in case the bridge should be so disabled that it cannot be opened at all, the tender will answer the vessel with five short blasts given in quick succession, as a signal to check down and stop. As soon as the bridge is ready to open, he will give the return signal stated in subdivision (ii) of this subparagraph.

(iv) In case the Duluth Ship Canal bridge is disabled, the bridge authorities must give incoming and outgoing vessels timely and dependable notice, by tug service if necessary, so that they will not attempt to enter the canal. At all other times the bridge tender must lift the bridge promptly on receiving signal to do so. In case of a sudden breakdown during the lifting operation, five short blasts shall be given as a danger signal.

(v) Vessels must be given precedence over highway or railway traffic. When a signal is given by a vessel to open the bridge, a railroad train or any vehicle that may be approaching to cross the bridge must be required to wait for the vessel to pass: *Provided, however*, That except at the Duluth Ship Canal bridge, vessels of 100 gross tons or under may be held for a short period in case a first-class passenger train carrying United States mails is ready to cross the bridge.

§ 117.641 Great Lakes tributaries; bridges where constant attendance of draw tenders is not required.

(a) The owners of or agencies controlling certain bridges will not be required to keep draw tenders in constant attendance. The bridges to which this section applies are listed, and the special regulations applicable in each case are set forth in paragraph (f) of this section.

(b) Whenever a vessel, unable to pass under a closed bridge, desires to pass through the draw, advance notice, as specified, of the time when the opening is required shall be given by telephone or other means to the authorized representative of the owner of or agency controlling the bridge.

(c) Upon receipt of such notice, the authorized representative of the owner of or agency controlling the bridge, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

(d) The owners of or agencies controlling the bridges shall, if no draw tender is in attendance, keep conspicuously posted on both the upstream and downstream sides of the bridges, in a manner that it can be easily read at any time, a copy of the regulations in this section together with a notice stating exactly how the representative specified in paragraph (b) of this section may be reached.

(e) The operating machinery of the draws shall be maintained in a serviceable condition and the draw opened and closed at least once about the midpoint of the period specified in paragraph (f) of this section for each bridge to assure that the machinery is in proper order for satisfactory operation: *Provided*, That the operation of a drawspan for the passage of a vessel shall be deemed to constitute such test operation.

(f) The bridges to which this section applies, and the special regulations applicable in each case, are as follows:

(1) Duluth-Superior Harbor, Minn. and Wis.; all drawbridges. During the winter months from January 1 to March 15, at least 24 hours' advance notice required except for the Duluth and Superior Bridge Company Interstate Railroad and Highway Toll Swing Bridge. Also from March 16 to December 31 at least 3 hours' advance notice is required for opening the Duluth Missabe and Iron Range Railway Company Bridge (Transfer Bridge). The Duluth and Superior Bridge Company Interstate Railroad and Highway Toll Bridge will remain in an open position at all times, except for the passage of trains. When this bridge is locked in an open position, a continuous amber light will be visible.

(2) Ontonagon Harbor, Mich.: Michigan State Highway Department bridge at Ontonagon. During the winter months from January 1 to March 15, inclusive, at least 24 hours' advance notice required. During the period March 16 to December 31, inclusive, a bridge tender will be in attendance from 6 a.m. to 6 p.m., e.s.t. Vessel operators desiring to pass through the draw between 6 p.m. and 6 a.m. can contact the office of the sheriff, Ontonagon County, Ontonagon, Mich.

(2-a) St. Joseph Harbor, Mich.; The Michigan State Highway Department Main Street (Blossomland) Bridge, Mi. 0.90, at St. Joseph. From 15 December to 1 March, at least 12 hours' advance notice required.

(3) Grand River, Mich.; The Grand Trunk Western Railroad Company bridge at Grand Haven. During the winter months from January 1 to March 1, at least 24 hours' advance notice required.

(4) Spring Lake Outlet, Mich.; The Grand Trunk Western Railroad Company bridge at Ferrysburg. During the winter months from January 1 to March 1, at least 24 hours' advance notice required.

(4-a) Manistee River at Manistee, Mich.; All drawbridges across Manistee River from its mouth at Lake Michigan upstream to Manistee Lake. During the winter months from January 1 to April 1, at least 24 hours' advance notice required.

(5) Black River at Port Huron, Mich.: All drawbridges across Black River from its mouth at the St. Clair River to the upper limits of the Turning Basin. During the winter months from January 1 to March 1, at least 3 hours' advance notice required.

(5-a) Detroit River (Trenton Channel), Mich.; The Wayne County highway bridge between Trenton and Grosse Ile. During the winter months from December 15 to March 15, at least 5 hours' advance notice required.

(6) Calumet River, Chicago, Ill.: The New York Central Railroad Company bridges, Mile 1.34, and the Pennsylvania Railroad Company bridges, Mile 1.36. During the winter months from December 15 to March 15, at least 2 hours' advance notice required on Saturday and Sunday and from 3:00 p.m. to 7:00 a.m. Monday through Friday.

(7) Chicago River, North Branch, Chicago, Ill.; The Chicago and North Western Railway bridge, mile 5.06, will be opened on 2-hour advance telephone notice except during closed bridge hours which are between 7:00 and 8:00 in the morning and 5:30 and 6:30 in the evening, Monday through Saturday.

(8) Portage River, Ohio; The New York Central Railroad Company bridge at Port Clinton, Mile 1.51. During the months from 1 December to 1 May, at least 24 hours' advance notice required. During the months from 1 May to 1 December, the draw need not be opened for the passage of vessels between 10:00 p.m. and 6:00 a.m. At all times not covered by the regulations in this subparagraph the regulations contained in § 117.705a shall govern the operation of this bridge.

§ 117.642 Keweenaw Waterway, Mich.; Michigan State Highway Department bridge between Houghton and Hancock.

(a) The owner of or agency controlling this bridge shall provide the appliances and personnel necessary for the safe, prompt, and efficient operation of the draw. The bridge shall be provided with a whistle or siren capable of being heard distinctly three-fourths mile away in any condition of weather, and an electric light signal, on the top of and near the center of the swing span, which will give flashes of the same duration and at the same time as the audible signals.

(b) Vessels approaching the bridge shall reduce their speed sufficiently to enable them to come to a stop before arrival at the bridge should the draw fail to open.

(c) The call signal for opening of the draw shall be one long and two short blasts. If the draw can be opened promptly the bridge tender shall reply by repeating the call signal. If the draw cannot be opened promptly, or if it is open and must be closed immediately, the bridge tender shall reply by sounding five short and rapid blasts, to be repeated at regular intervals until acknowledged by the vessel. The vessel shall acknowledge by sounding five short and rapid blasts. Thereafter, as soon as the draw can be opened, the draw tender shall repeat the call signal.

(d) The draw shall be opened promptly on signal for the passage of vessels of 30 net registered tons and upward except as provided in paragraph (f) of this section. The draw shall be opened as soon as convenient for the passage of vessels of less than 30 tons, but no such vessel shall be delayed for more than 10 minutes except as provided in paragraph (f) of this section.

(e) The owner of or agency controlling the drawbridge will not be required to keep a draw tender in constant attendance during the winter months from January 1 to March 15.

(f) Whenever a vessel, unable to pass under the closed bridge, desires to pass through the draw during the winter months from January 1 to March 15, at least 24 hours' advance notice of the time when the opening is required shall be given by telephone or other means to the authorized representative of the owner of or agency controlling the bridge.

(g) Upon receipt of such notice, the authorized representative of the owner of or agency controlling the bridge, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

(h) The owner of or agency controlling the bridge shall, if no draw tender is in attendance as above provided, keep conspicuously posted on both the upstream and downstream sides of the bridge, in a manner that it can be easily read at any time, a copy of the regulations of this section together with a notice stating exactly how the representative specified in paragraph (f) of this section may be reached.

(i) The operating machinery of the draw shall be maintained in a serviceable condition and the draw opened and closed at least once on or about March 15 to assure that the machinery is in proper order for satisfactory operation: Provided, that the operation of the drawspan for the passage of a vessel shall be deemed to constitute such test operation.

§ 117.643 Fox River and Portage Canal, Wis.

(a) *City-owned bridges at Main Street, Walnut Street, and Mason Street, Green Bay, Wis.* (1) Except on Sundays and legal holidays, the owner of or agency controlling these bridges will not be required to open the draws from 7:45 a. m. to 8 a. m., from 12 noon to 12:15 p. m., from 12:50 p. m. to 1:10 p. m., and from 4:55 p. m. to 5:25 p. m.: *Provided*, That the draws shall be opened promptly at all times for the passage of vessels carrying United States mails, vessels belonging to the United States, vessels of 300 short tons or over cargo capacity engaging in commercial transportation and their attendant towing tugs, and tugs or fireboats when responding to emergency calls.

(2) Except as provided in subparagraph (1) of this paragraph, the draws shall be opened promptly upon signals, given by blasts of a horn, steam whistle, or other approved signalling device, as follows: For Main Street bridge, two short blasts followed by one long blast; for Walnut Street bridge, one long blast followed by two short blasts; for Mason Street bridge, one long blast followed by one short blast and one long blast.

(3) In case the draw cannot be opened immediately when the signals are given, a red flag or ball by day, or a red light by night, shall be conspicuously displayed.

(b) *Bridge (highway) at De Pere, Wis.* (1) The owner of or agency controlling the bridge will not be required to keep draw tenders in constant attendance or maintain a signal device at this bridge.

(2) For the purpose of this paragraph the bridge tender and the acting clerk of the City of De Pere, Wisconsin, are designated as authorized representatives of the owner.

(3) The bridge shall be opened promptly upon the call signal of three distinct blasts of a whistle or horn for the passage of any vessel unable to pass safely under the closed draw span from 10:00 a. m. to 6:00 p. m., c. s. t., on all days of the regular navigation season. In case the draw cannot be opened immediately when the signal is given, a red flag or a ball by day, or a red light by night, shall be conspicuously displayed.

(4) At all other times during the regular navigation season, whenever a vessel unable to pass under the closed bridge desires to pass through the draw, at least 2 hours' advance notice of the time the opening is required shall be given to the authorized representative of the owner of or agency controlling the bridge. Upon receipt of such advance notice, the representative shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

(5) The owner of or agency controlling such bridge shall provide arrangements whereby the representative specified in subparagraph (2) of this paragraph can be reached readily by telephone or otherwise at any time, and shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in such a manner that it can be read easily at any time, a copy of these regulations together with a notice stating exactly how he may be reached.

(c) *Bridges at or between Berlin and Portage, Wis.* (1) The owners of or agencies controlling the bridges will not be required to open the draw span for the passage of vessels.

(2) The owners of or agencies controlling the bridges shall keep a legible copy of this section posted conspicuously on both the upstream and downstream sides of the bridge.

§ 117.645 Sturgeon Bay, Wis.; bridges at Sturgeon Bay, Wis.

The following regulations are prescribed to govern the operation of drawspans in the Ahnapee & Western Railway bridge and the highway bridge over Sturgeon Bay at Sturgeon Bay, Wis.:

(a) The corporations or persons owning or controlling the above-mentioned drawbridges shall provide the same with the necessary tenders and the proper mechanical appliances for the safe, prompt, and efficient opening of the draw for the passage of vessels.

(b) Both bridges shall be promptly opened for the passage of any approaching vessel on the signal specified in paragraphs (c) to (e) of this section.

(c) The signal for the prompt and simultaneous opening of the draws of these bridges, upon the approach of a vessel from either direction, shall be given by three short blasts of a whistle.

(d) The signal of a vessel desiring to pass through only one bridge shall be four short blasts of a whistle.

(e) The signal to be given on each bridge, to indicate that the draw can be promptly opened, shall be three long and distinct strokes of a bell or three distinct blasts of a whistle.

(f) If for any reason the draw of the bridge cannot be operated, a conspicuous red flag by day and a red light by night shall be waved from the bridge, so that it can be seen clearly by the master of the vessel, promptly upon receipt of the signal from the vessel.

(g) A red ball by day and a red light by night shall be kept in a conspicuous elevated position above the top of each bridge while the bridge is closed and each shall be lowered into a box out of sight from all directions when the opening of the bridge is begun.

§ 117.650 Manitowoc River, Wis.; bridges.

(a) *Bridges at Eighth and Tenth Streets, Manitowoc, Wis.* (1) The draws of the above-named bridges shall be immediately opened for the passage of vessels at all times during the day or night except between the hours of 6:50 a.m. and 7:00 a.m., 7:50 a.m. and 8:00 a.m., 11:55 a.m. and 12:10 p.m., and 12:45 p.m. and 1:00 p.m., upon a signal of three short blasts of the vessel's signaling device for the Eighth Street bridge, and upon a signal of two short and one long blasts, similarly given for the Tenth Street bridge: *Provided*, That the exception as to hours stated in this subparagraph shall not apply on Saturdays, Sundays, and legal holidays, consisting of New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, or on the Monday following such holidays when they occur on a Sunday.

(2) In case street traffic shall have been delayed by reason of the draws of either of the above-named bridges having been continuously open for 10 minutes or more for the passage of vessels, the draws of said bridges may be closed, but shall be again opened for the passage of any vessel as soon as practicable: *Provided*, That in such case the opening of either of the above-named bridges for the passage of any vessel shall not be delayed more than 5 minutes after the proper signal is given.

(3) When signal is given by a car ferry or other large vessel to pass either of the two bridges, the remaining bridge shall also be promptly opened so that such vessel shall not be held between the two bridges.

(4) In case either draw cannot be immediately opened when the signals are given, a red flag or ball by day or a red light at night shall be conspicuously displayed on the bridge in full view of the vessel.

(b) *Minneapolis, St. Paul, and Sault Ste. Marie Railway Co. bridge at Manitowoc, Wis.* (1) The owners or operators of the drawbridge shall provide the same with the necessary tender and the proper mechanical appliances for the safe, prompt, and efficient opening of the draw for the passage of vessels.

(2) The draw of the bridge shall be immediately opened on proper signal for the passage of approaching vessels.

(3) The signal for the opening of the draw, upon the approach of a vessel from either direction, shall be two short and one long blasts of the vessel's signaling device sounded within reasonable hearing distance of the bridge.

(4) The signal from the bridge to indicate that the vessel's signal has been received, but not to indicate passage, shall be three loud and distinct strokes of a bell or three distant blasts of a whistle.

(5) If for any reason the draw cannot be operated, two red lights mounted 30 inches between centers, horizontally, in an elevated position above the bridge and showing both upstream and downstream, shall be flashed alternately, or if the lights cannot be flashed, a conspicuous red flag by day and a red light by night shall be waved from the bridge upon receipt of the signal from the vessel so that it can be seen clearly by the master of the vessel.

(6) A red ball by day and a red light by night shall be kept in a conspicuous elevated position above the top of the control house while the bridge is closed and each shall be lowered into a box out of sight from all directions when the opening of the bridge is begun.

§ 117.652 Sheboygan River, Wis.; city of Sheboygan Highway Bridge at Eighth Street, Sheboygan.

(a) The owner of or agency controlling the above-named bridge shall provide the necessary personnel for the efficient operation of the draw during the period April 1 to November 30, inclusive, and provide and maintain the proper appliances at all times for satisfactory operation of the drawspan.

(b) During the period April 1 to November 30, inclusive, the draw shall be opened promptly upon the call signal of three distinct blasts of a whistle or horn for the passage of any vessel unable to pass safely under the closed drawspan. In case the draw cannot be opened immediately when the signal is given, a red flag or a ball by day, or a red light at night, shall be conspicuously displayed on the bridge.

(c) During the period December 1 to March 31, inclusive, whenever a vessel, unable to pass under the closed bridge, desires to pass through the draw, at least one hour advance notice of the time the opening is required shall be given to the authorized representative of the owner of or agency controlling the bridge.

(d) Upon receipt of such notice the authorized representative shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

(e) A copy of the regulations in this section, together with a notice stating exactly how the representative may be reached by telephone or otherwise, shall be conspicuously posted on both the upstream and downstream sides of the bridge in a manner that it can be read at any time and arrangements provided whereby the representative can be reached by telephone from the vicinity of the bridge.

§ 117.655 Milwaukee, Menomonee, and Kinnickinnic Rivers, and South Menomonee Canal, Milwaukee, Wis.; bridges.

(a) *Regulations for all bridges owned or operated by the City of Milwaukee across the Milwaukee, Menomonee, and Kinnickinnic Rivers, including the South Menomonee Canal, except bridges across the Milwaukee River north of and including Buffalo Street Bridge.* (1) The draws of the above-named bridges shall be immediately opened for the passage of foreign vessels and "vessels of the United States" as defined by section 4311 of the Revised Statutes (46 U.S.C. 251), at all times during the day or night except between the hours of 7:30 a.m. and 8:30 a.m., and 4:30 p.m. and 5:30 p.m., upon signals to be given by blasts of a horn, steam whistle, or other approved signaling devices, as follows, viz.: For the North Plankinton Avenue bridge across the Menomonee River and the Kinnickinnic Ave. bridge across the Kinnickinnic River, four short blasts; for all other bridges specified in this subparagraph, three short blasts: *Provided*, That the exception as to hours stated in this subparagraph shall not apply to vessels having a license to carry 50 or more passengers when proceeding to or from their regular landing places on their regular trips, nor to vessels carrying United States mails, nor to vessels belonging to the United States, nor to fireboats of the City of Milwaukee; *And provided, further*, That the exception as to hours stated in this subparagraph shall not apply on Sundays and legal holidays, consisting of New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, and Christmas Day, or on the Monday following such holidays when they occur on a Sunday.

(2) In case street traffic shall have been delayed by reason of the draws of any of the above-described bridges having been continuously open for 5 minutes or more for the passage of any of the vessels before described, the draws of said bridges may be closed but shall be again opened for the passage of said vessels as soon as practicable: *Provided*, That in such case the opening of any of the above-described bridges for the passage of any vessels before described shall not be delayed more than 5 minutes after the proper signal is given, except during the hours stated in subparagraph (1) of this paragraph.

(3) The draws shall, when the above described signals are given, except between the hours of 7:30 a. m. and 8:30 a. m., and 4:30 p. m. and 5:30 p. m., be opened as soon as practicable for all other vessels which cannot pass the closed bridges: *Provided, however*, That no vessel of this class shall be delayed for a longer period than 15 minutes, except during the hours stated herein.

(4) In case the draws cannot be immediately opened when the signals are given a red flag or ball by day, or a red light at night shall be conspicuously displayed.

(5) Pedestrians and vehicles shall not stop on a bridge for the purpose of delaying its opening, nor shall watercraft be handled so as to hinder or delay the operation of the draw, but all passage over or through a bridge shall be prompt to prevent delay to either land or water traffic.

(b) *Regulations for all bridges owned and operated by the City of Milwaukee across the Milwaukee River north of and including the Buffalo Street Bridge.* (1) The draws of the above-named bridges shall be immediately opened for the passage of foreign vessels and "vessels of the United States" as defined by section 4311 of the Revised Statutes (46 U. S. C. 251), at all times during the day or night except between the hours of 7:30 a. m. and 8:30 a. m., and 4:30 p. m. and 5:30 p. m., only upon advance notice given by telephone or otherwise to the Superintendent of the Bureau of Bridges, City Hall, Milwaukee, Wisconsin, at least 2 hours in advance of the time the vessel desires to pass through the draw upon signals to be given by three short blasts of a horn, steam whistle, or other approved signaling device: *Provided*, That the exception as to hours and advance notice stated in this subparagraph shall not apply to fireboats of the City of Milwaukee, nor to vessels belonging to the United States.

(2) In case street traffic shall have been delayed by reason of the draws of any of the above-described bridges having been continuously open for 5 minutes or more for the passage of any of the vessels before described, the draws of said bridges may be closed, but shall be again opened for the passage of said vessels as soon as practicable: *Provided*, That in such case the opening of any of the above-described bridges for the said vessels shall not be delayed more than 5 minutes after the proper signal is given, except during the hours stated under subparagraph (1) of this paragraph.

(3) The draws shall, when the above-described signals are given, except between the hours of 7:30 a. m. and 8:30 a. m., and 4:30 p. m. and 5:30 p. m., be opened as soon as practicable for all other vessels which cannot pass the closed bridges: *Provided, however*, That no vessel of this class shall be delayed for a longer period than 15 minutes, except during the hours stated herein.

(4) A copy of the regulations contained in this section shall be conspicuously posted on both the upstream and downstream sides of each bridge in such manner that it can be easily read at any time; also a sign shall be placed on the downstream side of the Buffalo Street Bridge and the upstream side of the Walnut Street Bridge on the Milwaukee River stating the hours during which advance notice is required and the amount of such notice and also stating exactly how the Superintendent of the Bureau of Bridges specified in subparagraph (1) of this paragraph may be reached to give the required advance notice.

(c) *Regulations for all bridges owned and operated by the Chicago and North Western Railway Co., and the Chicago, Milwaukee, St. Paul and Pacific Railroad Co., across the Milwaukee, Menomonee, and Kinnickinnic Rivers within the limits of the City of Milwaukee.* (1) The draws of the above-named bridges shall be immediately opened for the passage of foreign vessels and "vessels of the United States" as defined by section 4311 of the Revised Statutes (46 U.S.C. 251), at all times during the day or night, upon signals to be given by blasts of a horn, steam whistle, or other approved signaling device, as follows, viz: For the Chicago, Milwaukee, St. Paul and Pacific Railroad bridge across the Menomonee River at North Plankinton Avenue, and the Chicago and North Western Railway bridge across the Kinnickinnic River between Kinnickinnic Avenue and South First Street, four short blasts; for all other of above-described bridges, three short blasts, except when a passenger or mail train is actually ready to pass over the bridge, but in no case shall the opening of any of the above-described bridges for the vessels above-described be delayed more than 7 minutes after the signal is given and except as provided in subparagraph (4) of this paragraph.

(2) The owners shall, when the above-described signals are given, be opened as soon as practicable for all other vessels which cannot pass the closed bridges:

Provided, however, That no vessel of this class shall be delayed for a longer period than 15 minutes except as provided in subparagraph (4) of this paragraph.

(3) In case the draws cannot be immediately opened when the signals are given, a red flag or ball by day or a red light at night shall be conspicuously displayed.

(4) Advance notice as specified in subparagraph (5) of this paragraph will be required for opening the following bridges:

(i) Kinnickinnic River; Chicago and North Western Railway Co. bridge, Mile 1.52.

(ii) Kinnickinnic River; Chicago, Milwaukee, St. Paul and Pacific Railroad Co. bridge, Mile 1.49.

(iii) Burnham Canal; Chicago, Milwaukee, St. Paul and Pacific Railroad Co. bridge, Mile 0.76.

(5) Whenever a vessel, except the City of Milwaukee fireboat, unable to pass under the bridges listed in subparagraph (4) of this paragraph, desires passage, 2 hours' advance notice of the time opening is required shall be given to the Chicago and North Western Train Dispatcher, Milwaukee, Wisconsin, Telephone Broadway 6-6540, Extension 35, or to the Chicago, Milwaukee, St. Paul and Pacific Railroad Co. phone director, Telephone Broadway 1-6120, Extension 359, Milwaukee, Wisconsin. The draws shall, when the signals described in subparagraph (1) of this paragraph are given, be opened as soon as practicable for the City of Milwaukee fireboat.

(6) The owners of the bridges listed in subparagraph (4) of this paragraph shall keep conspicuously posted on both the upstream and downstream sides thereof, in such a manner that it can be easily read at any time, a copy of the regulations of this section pertaining to the respective bridges together with information as to whom notice is to be given when opening is required.

§ 117.660 Root River, Wis.; bridges at Racine, Wis.

(a) *Regulations for the bridges owned and operated by the City of Racine, Wis., across the Root River at Main, State, and Fourth Streets.* (1) The draws of these bridges shall be immediately opened for the passage of foreign vessels and "vessels of the United States" as defined by section 4311 of the Revised Statutes (46 U.S.C. 251), at all times during the day or night except between the hours of 6:30 and 7 a.m., between 12 noon, and 12:15 p.m., and between 12:45 and 1 p.m., upon signals to be given by blasts of a horn or steam whistle, as follows: For the Main Street Bridge, two short blasts; State Street Bridge, three short blasts; Fourth Street Bridge, four short blasts.

(2) In case street traffic shall have been delayed by reason of the draws of any of the bridges having been continuously open for 5 minutes or more for the passage of any of the vessels before described, the draws of said bridges may be closed, but shall be again opened for the passage of said vessels as soon as practicable: *Provided,* That in such a case the opening of any of the above-described bridges for the passage of any vessel before described shall not be delayed more than 5 minutes after the proper signal is given.

(3) The draws shall, when the signals described in subparagraph (1) of this paragraph are given, be opened as soon as practicable for all other vessels which cannot pass the closed bridges: *Provided, however,* That no vessel of this class shall be delayed for a longer period than 15 minutes.

(4) In case the draws cannot be immediately opened when the signals are given, a red flag or ball by day or a red light at night shall be conspicuously displayed.

(b) *Regulations for the bridge owned and operated by the Chicago, Milwaukee, St. Paul & Pacific Railroad Co., across the Root River at or near St. Clair Street, within the limits of the City of Racine, Wis.* (1) The draw of this bridge shall be immediately opened for the passage of foreign vessels and "vessels of the United States" as defined by section 4311 of the Revised Statutes (46 U. S. C. 251), at all times during the day or night, upon signal to be given by five short blasts of a horn or steam whistle.

(2) The draw shall, when the signal described in subparagraph (1) of this paragraph is given, be opened as soon as practicable for all other vessels which cannot pass the closed bridge: *Provided, however,* That no vessel of this class shall be delayed for a longer period than 15 minutes.

(3) In case the draw cannot be immediately opened when the signal is given, a red flag or ball by day or a red light at night shall be conspicuously displayed.

§ 117.663 The Chicago River, the Ogden Slip, the North Branch of the Chicago River, the North Branch Canal, the South Branch, the West Fork of the South Branch, the South Fork of the South Branch, and the West Arm of South Fork of South Branch of the Chicago River, Ill.; bridges.

(a) (1) No bridge across these waters, on any day of the week, excepting Sunday, shall be opened during the times specified in this section.

(2) Across Ogden Slip at Outer Drive, across the main river and across the South Branch of the Chicago River from its junction with the main river south to and including West Roosevelt Road, and across the North Branch of the Chicago River at West Kinzie Street and at the Northwest Expressway Feeder Bridge, between the hours of 7:30 a.m. and 10:00 a.m. and, on any day excepting Saturday, between the hours of 4:00 p.m. and 6:30 p.m. and on Saturdays between the hours of 12:30 p.m. and 2:00 p.m. and between 5:00 p.m. and 6:00 p.m.: *Provided, however,* That the Outer Link bridge across the main river shall be opened to permit the passage of passenger boats operating on a fixed schedule between 9:45 a.m. and 10:00 a.m.

(3) Across the North Branch of the Chicago River at Grand Avenue and at all bridges north of the Northwest Expressway Feeder Bridge to and including North Halsted Street, between the hours of 7:00 a.m. and 8:00 a.m. and 5:00 p.m. and 6:00 p.m.

(4) Across the South Branch of the Chicago River south of West Roosevelt Road to and including South Halsted Street, between the hours of 7 and 8 o'clock in the morning and 5 and 6 o'clock in the evening.

(5) Across the North Branch of the Chicago River north of North Halsted Street and across the South Branch of the Chicago River south of South Halsted Street, between the hours of 7 and 8 o'clock in the morning and 5:30 and 6:30 o'clock in the evening.

(6) The provisions of subparagraphs (1) to (5) of this paragraph shall not apply to bridges which have a clearance of less than sixteen feet above Chicago city datum. Such bridges shall open at any time except as hereinafter provided to permit the passage of tugs and tugboats.

(b) During the hours between 6 o'clock in the morning and 12 o'clock midnight, no bridge shall be required to remain open for the purpose of permitting vessels to pass through the same, for a longer period at any one time than ten minutes, at the expiration of which period it shall be the duty of the bridge tender or other person in charge of the bridge to display the proper signal and immediately close such bridge and keep it closed for fully ten minutes for such persons or vehicles as may be in waiting to pass over, if so much time shall be required, when the said bridge shall again be opened (if necessary for vessels to pass) for a like period, and so on alternately (if necessary) during the hours last aforesaid; and in every instance where any such bridge shall be opened for the passage of any vessel, and closed before the expiration of ten minutes from the time of opening, said bridge shall then, in every such case, remain closed for fully ten minutes, if necessary, in order to allow all persons and vehicles in waiting to pass over said bridge: *Provided,* This paragraph shall not be construed as being in conflict with paragraph (a) of this section, nor as requiring the opening of bridges during the time specified in said paragraph (a) for the same to remain closed: *Provided further,* That any vessel that, previous to the beginning of a closed bridge period, has passed through the Michigan Avenue bridge on its way eastward, shall thereafter, upon signal, be permitted also to pass through the Outer Link Bridge.

(c) (1) When a vessel signals for the opening of any bridge to which this section applies, the bridge tender shall immediately open the bridge except as otherwise provided in this section. Bridges across the North Branch at and above North Halsted Street and across the North Branch Canal shall be opened after at least one hour's advance notice has been given to the operator of any one of the bridges of the City of Chicago across the North Branch at North Halsted Street, Ogden Avenue, Division Street, North Avenue, or North Ashland Avenue, or across the North Branch Canal at North Halsted Street, Ogden Avenue, or Division Street: *Provided,* That any notice shall be sufficient if given to the operator of the bridge of the City of Chicago across the North Branch at Kinzie Street by an upbound vessel when passing that bridge.

(2) If from any cause the bridge tender cannot open the bridge, he shall immediately notify the vessel by waving a red flag by day and a red lantern by night and continue waving the same until the vessel has stopped, continuing thereafter to display the same until the bridge can be opened. As soon as the cause for stopping the vessel has been removed, the bridge shall be immediately opened.

(3) No owner, officer, or other person in charge of any vessel in transit upon the Chicago River and its branches shall attempt to navigate any such vessel past any of the bridges over said listed waters while a stop signal is being given or displayed.

(d) (1) When any vessel shall signal for any railroad bridge across any part of the waters listed in this section, the bridge tender shall immediately open the bridge, unless a train be on the bridge or approaching it so closely as to be unable to stop, and in that case the bridge may be kept closed long enough for the passage of one train and no more.

(2) If from any cause the bridge tender cannot open the bridge, he shall immediately notify the vessel by waving a red flag by day and a red lantern by night, and continue waving the same until the vessel has stopped, continuing thereafter to display the same until the bridge can be opened. As soon as the cause for stopping the vessel has been removed the bridge shall be immediately opened.

(3) No owner, officer, or other person in charge of any vessel shall attempt to pass any railroad bridge while a stop signal is being given or displayed by the bridge tender.

(4) Nothing in this or the preceding paragraph (c) of this section shall be considered as superseding the bridge hours as set forth in the regulations in this section.

(e) Every owner, officer, or person in charge of any vessel, craft, or float navigating the waters listed in this section shall sound or cause to be sounded a whistle to signal bridge tenders to open and swing bridges, and such signal shall be three sharp, short sounds of the whistle, to be given in succession as quickly as possible and not to be prolonged, and the whistle used for this purpose shall be of suitable size to be heard: *Provided,* Such signal shall be four sharp, short sounds of the whistle for vessels approaching the North Western Railway bridge near West Kinzie Street and the Chicago, Milwaukee, St. Paul & Pacific Railroad bridge near West North Avenue from either direction, and shall be five sharp, short sounds of the whistle for vessels approaching the Lake Street bridge from the north.

(f) All vessels, craft, or floats navigating the waters listed in this section when passing any bridge, shall be moved past the same as expeditiously as is consistent with a proper movement; but in no case shall any such vessel, craft, or float, while passing any bridge and obstructing the passage across such bridge, move at a rate of speed less than two miles per hour; and in no case shall any vessel, craft, or float, while passing any bridge and obstructing the same, remain or obstruct the passage across such bridge more than five minutes; and no vessel, craft, or float shall be so anchored, laid, moored, fastened, or brought to a stop as to prevent any bridge from a free and speedy opening or closing, or any vessel from a free and direct passage, nor shall any line or fastening be so thrown, laid, or made fast as to cross the track of any bridge or vessel.

(g) Whenever upon any alarm of fire, any fire boat shall approach a bridge and sound the proper signal for such bridge to open, the bridge tender shall, if such bridge is closed, open the same as soon as practicable; or, if open, shall keep such bridge open until such fire boat shall have had opportunity to pass through the draw of said bridge, notwithstanding that street traffic may thereby be delayed.

(h) Whenever at any alarm of fire any fire engine, hose cart, or other fire apparatus, shall approach any bridge for the purpose of crossing the same toward such fire, the bridge tender shall, if such bridge is open, close the same as soon as practicable; and after the same is closed, or if closed at the time, keep it closed until such engine, hose cart, or other fire apparatus shall have had an opportunity to pass over said bridge, notwithstanding vessels may thereby be delayed.

§ 117.670 Calumet River, Ill. and Ind.; bridges.

(a) The owners of or agencies controlling drawbridges across the Calumet River between Lake Michigan and the north side of 130th Street, Chicago, Illinois, shall provide the appliances and the personnel necessary for the prompt, safe and efficient operation of the draws for the passage of vessels.

(b) The drawbridges shall be opened promptly when the signal hereinafter prescribed is received from an approaching vessel or other watercraft which cannot pass under the closed draws excepting in the case of a railroad bridge, when an approaching train is so close that it cannot be stopped safely before reaching the bridge.

(c) Trains shall not, except in emergencies or under compelling circumstances, be stopped on, nor shall switching be permitted on, a drawbridge or within a bridge block home signal limits, nor shall any vehicle, person or persons assemble, walk, stand, or otherwise interfere with the operation of the draw or be authorized to do so, so as to prevent or delay a required opening, nor shall water craft be navigated so as to hinder or delay the operation of or passage of other vessels through the draw, but all passage over or through a drawbridge shall be prompt in order to prevent delay to either land or water traffic.

(d) Signals:

(1) *Call signals for opening of drawbridge or passing through an open draw.*—(i) *Sound signals.* Three short blasts of a whistle, horn or siren, sounded within reasonable hearing distance of the bridge, repeated if necessary, and in time to give due notice to the draw tender.

or

(ii) *Visual signals.* A white flag by day or a white light by night, swung in vertical circles at arm's length in full sight of the bridge and facing the draw. This signal shall be used in conjunction with sound signals when conditions are such that sound signals may not be heard and at other times if considered desirable.

(2) *Acknowledging signals to be given by operator of the drawbridge.*—(i) *Sound signals.* None required.

(ii) *Visual signals.*—(a) *When draw cannot be opened promptly or when draw is opened and is to be closed for any reason.* (1) Two red lights (see Note 1 at the end of this section) flashed alternately; or

(2) A red flag by day or a red light by night, swung in vertical circles at arm's length in full sight of the vessel.

(b) *When draw can be opened promptly.* (1) Two amber lights (see Note 1 at the end of this section) flashed alternately; or

(2) A white flag by day or a white light by night, swung in vertical circles at arm's length in full sight of the vessel.

(c) *When draw is open for passage.* (1) Two green lights (see Note 1 at the end of this section) flashed alternately; or

(2) A green flag by day or a green light by night, swung in vertical circles at arm's length in full sight of the vessel.

(e) No vessel shall attempt to navigate the draw of a bridge until the green light or green flag signals prescribed in paragraph (d)(2)(ii)(c) of this section are displayed.

(f) When vessels are approaching a bridge from the same direction, each vessel shall give the call signal for opening of the draw.

(g) Special provisions for opening the five railroad bridges located at Mile 1.31 to 1.36 from the east end of the North Pier: Upon receipt of a call signal for opening of the draws, all bridges which do not have a train in the bridge block home signal limits shall be raised immediately. However, this provision will not apply if it is known that one of the bridges is inoperable because of equipment breakdown.

NOTE 1: The two red, amber and green light units will be arranged in horizontal planes approximately 48" apart; flashed for about 2 seconds duration; provided with candlepower sufficient to be readily visible at least ½ mile; placed on the upstream and downstream sides of each bridge, except at the five railroad bridges, where one unit will be placed on the upstream (inboard) side of the B. & O. Railroad Bridge and the other on the downstream side of the southernmost Pennsylvania Railroad Bridge; and located so as to be readily visible to approaching navigation as will be determined by the District Commander.

Note 2: The above signals are in addition to the bridge lights required by law to be displayed on all bridges across navigable waters of the United States.

§ 117.675 Little Calumet River, Ill.; Michigan Central Railroad bridge 8.11 miles from Lake Michigan.

(a) The railroad company shall provide and maintain suitable signals for signaling vessels. The signal for use in the daytime shall be a red ball not less than 2 feet in diameter; for use at night it shall be a red lantern; arranged in both cases so as to be visible on the river for a distance of at least 600 feet in each direction from the bridge.

(b) A vessel approaching the bridge and desiring to pass shall give a signal consisting of three short sounds of the whistle or horn given in rapid succession.

(c) When a vessel gives the above signal, the bridge shall be immediately opened, unless a train be on the bridge or approaching it so closely as to be unable to stop; and in that case the bridge may be kept closed long enough for the passage of one train and no more.

(d) When the bridge cannot be opened immediately after the signal from the vessel, the bridge tender shall hoist the signal specified in paragraph (a) and shall keep it elevated until the bridge can be opened, when he shall lower it.

(e) Vessels shall not attempt to pass the bridge while the bridge signal is up, or while the bridge is in course of opening or closing.

(f) The bridge shall not be used for switching purposes.

(g) The locking devices for securing the bridge when closed must be such as can be promptly opened. The use of splices bolted to the rail, which involve the screwing or unscrewing of nuts whenever the bridge is closed or opened, is forbidden.

§ 117.676 Indiana Harbor Canal, Ind.; drawbridges.

(a) The owners of or agencies controlling drawbridges across Indiana Harbor Canal and the Lake George Branch of Indiana Harbor Canal to and including the Indianapolis Boulevard bridge, shall provide the appliances and the personnel necessary for the prompt, safe, and efficient operation of the draws for the passage of vessels.

(b) The draw shall be opened promptly when the signal hereinafter prescribed for the opening of the draw is received from an approaching vessel or other watercraft which cannot pass under the closed draw, excepting when an approaching train is so close to a drawbridge that it cannot be stopped safely before reaching the bridge.

(c) Trains and vehicles shall not be stopped on a drawbridge or within a bridge block interlocking system, nor shall any person or persons assemble, walk, stand, or otherwise interfere with the operation of the draw or be permitted to do so, so as to prevent or delay a required opening, nor shall water craft be navigated so as to hinder or delay the operation of or passage of other vessels through the draw, but all passage over or through a drawbridge shall be prompt in order to prevent delay to either land or water traffic.

(d) Signals:

(1) *Call signals for opening of draw*—(i) *Sound signals.* One long blast, one short blast, and one long blast of a whistle, horn or siren, sounded within reasonable hearing distance of the bridge, repeated if necessary, and in time to give due notice to the draw tender.

(ii) *Visual signals.* A white flag by day or a white light by night, swung in vertical circles at arm's length in full sight of the bridge and facing the draw. This signal to be used in conjunction with sound signals when conditions are such that sound signals may not be heard and at other times if considered desirable.

(2) *Acknowledging signals*—(i) *Sound signals*—(a) *When draw can be opened immediately.* One long blast and one short blast of a whistle, horn, or siren.

(b) *When draw cannot be opened immediately or when it is open and must be closed immediately.* Five short blasts of a whistle, horn, or siren, repeated at regular intervals until similarly acknowledged by the vessel, or until the vessel has been brought to a stop. Thereafter, as soon as the draw can be opened, the draw tender shall sound a signal of one long blast and one short blast of a whistle, horn, or siren.

(ii) *Visual signals.* The systems of visual signals hereinafter described to be used in each individual case will be subject to the approval of the District Commander. They will be used in conjunction with sound signals when conditions are such that sound signals alone are insufficient. When the flashing red and green lights are in use and an operating failure occurs, the flag and lantern signals shall be used during the emergency.

(a) *When the draw can be opened immediately.* (1) A white flag by day or a white light by night, swung in vertical circles at arm's length in full sight of the vessel, or

(2) Two green lights, flashed alternately, arranged in a vertical plane approximately 48 inches between centers.

(b) *When the draw cannot be opened immediately, or when it is open and must be closed immediately.* (1) A red flag by day or a red light by night, swung in vertical circles at arm's length in full sight of the vessel, and repeated until acknowledged by a like signal from the vessel. Thereafter, as soon as the draw can be opened the draw tender shall so indicate with a white flag by day or a white light by night, swung in vertical circles at arm's length in full sight of the vessel, or

(2) Two red lights, flashed alternately, arranged in a horizontal plane approximately 48 inches between centers. Thereafter, as soon as the draw can be opened the draw tender shall so indicate by flashing two green lights.

(c) No vessel shall attempt to navigate the draw of a bridge when audible or visual signals indicate the bridge cannot be opened or if the draw is open it must be closed immediately.

(f) When vessels are approaching a bridge from the same direction, each vessel shall give the call signal for the opening of the draw, and such vessels shall be navigated in accordance with the applicable pilot rules.

(g) Special rules for the Elgin, Joliet and Eastern Railway Company bridge, Baltimore and Ohio Railroad Company bridge, both New York Central Railroad Company bridges, and Indiana Harbor Belt Railroad Company bridge:

(1) An amber light shall be located on the lakeward and landward bridges, and readily visible to approaching vessels, and shall be synchronised with a sound signal system so as to light as each signal blast is sounded.

(2) Upon receipt of call signal for opening of the draws, all bridges which do not have a train in the signal block shall be raised immediately.

§ 117.680 Trail Creek, Ind.; The Michigan Central Railroad Co. bridge, Michigan City.

(a) The draw shall be opened promptly on signal for the passage of vessels between 6:30 a.m. and 2:30 p.m. daily, except Sundays, from February 16 to December 14, inclusive, of each year.

(b) From December 15 to February 15, inclusive, on all Sundays, and between 2:30 p. m. and 6:30 a. m. on all other days, the owner of or agency controlling the bridge need not keep a draw tender in constant attendance.

(c) Whenever a vessel, unable to pass under the closed bridge, desires to pass through the draw during one of the periods specified in paragraph (b) of this section and a draw tender is not in attendance, the Chief Dispatcher, The Michigan Central Railroad Company, Chicago, Illinois, shall be so notified by telephone (collect). The Chief Dispatcher shall then make arrangements for the draw to be opened within 20 minutes after notification or at such other time as may be specified in the notice.

(d) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can easily be read at any time, a copy of the regulations in this section together with a notice stating exactly how the Chief Dispatcher may be reached by telephone.

§ 117.685 Grand River and the channel at mouth of Spring Lake, Mich.; bridge.

(a) The following is the number of blasts of a whistle or horn which shall be given as a signal for opening the corresponding bridges:

(1) Grand Trunk Railway Bridge across Grand River, one blast.

(2) The highway bridge and the railway bridge (two bridges) across channel at mouth of Spring Lake, four blasts.

(3) All other bridges across Grand River, three blasts.

(b) When, at any time during the day or night, a vessel, tug, or any boat unable to pass under the bridge approaches it for the purpose of passing through the draw, and the signal prescribed in paragraph (a) of this section is given, the drawspans of the bridge shall be opened forthwith for the prompt passage of said vessel or craft, unless there is a train, wagon, or other vehicle actually on the bridge at the time, in which case the drawspans shall be opened immediately after the said train, wagon, or other vehicle shall have passed out of the way: *Provided*, That when the signal is given on the craft not more than 5 minutes before a time at which the bridge tender has information that a train will arrive, the opening of the draw may be delayed until immediately after the passage of that train; but in no case shall there be longer delay than 10 minutes in opening the draw.

§ 117.690 Charlevoix Harbor, Mich. (upper and lower channels); bridge.

(a) When, at any time during the day or night, a vessel, tug, or any boat unable to pass under the bridge approaches it for the purpose of passing through the draw, the signal for the draw to be opened shall be three short blasts of a whistle or horn blown on the craft, and when such signal is given the drawspan of the bridge shall be opened forthwith for the prompt passage of said vessel or craft, unless there is a train, wagon, or other vehicle actually on the bridge at the time, in which case the drawspan shall be opened immediately after the said train, wagon, or other vehicle shall have passed out of the way: *Provided*, That when the signal is given on the craft not more than 5 minutes before a time at which the bridge tender has information that a train will arrive, the opening of the draw may be delayed until immediately after the passage of that train; but in no case shall there be longer delay than 10 minutes in opening the draw, except in case of some unavoidable accident on the bridge or its mechanism.

§ 117.692 Crooked River, Mich.; village of Alanson bridge in Alanson, Mich.

(a) The owner of or agency controlling this bridge shall provide the appliances and personnel necessary for the safe, prompt, and efficient operation of the draw during the period May 16 to October 31, inclusive, or leave the bridge in an open position when unattended.

(b) Whenever a vessel, unable to pass under the closed bridge, desires to pass through the draw during the period November 1 to May 15, inclusive, at least eight hours' advance notice of the time the opening is required shall be given to the authorized representative of the owner of or agency controlling the bridge.

(c) Upon receipt of such advance notice, the authorized representative of the owner of or agency controlling the bridge, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

(d) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can easily be read at any time, a copy of the regulations in this section together with a notice stating exactly how the representative specified in paragraph (b) of this section may be reached.

(e) Whenever a vessel, unable to pass under the closed bridge, approaches it, the signal for the draw to be opened shall be three blasts of a whistle or horn blown on the vessel. This signal shall be repeated at intervals until it is answered from the bridge. Upon receiving the signal from the vessel, the tender or operator of the bridge, in case the draw will be opened immediately, shall reply by one long blast of a whistle or horn. In case the opening of the draw will be delayed on account of accident to the machinery or other contingency, the signal from the vessel shall be answered by the tender or operator of the bridge by five short blasts of a whistle or horn, to be followed by one long blast when the draw is to be opened.

(f) The operating machinery of the draw shall be maintained in a serviceable condition, and the draw shall be opened and closed at intervals frequent enough to make certain that the machinery is in proper order for satisfactory operation.

§ 117.695 St. Marys Falls Canal, Mich.; International Bridge.

(a) Except as closed for the approach and actual passage of railway trains, the bascule span and the swing span shall be maintained in open position during the season of navigation.

(b) All vessels approaching either drawspan of the bridge when closed, and desiring passage through it, shall signal therefor by three whistle blasts.

(c) Upon receiving the opening signal, the bridge operator shall answer by giving one long and one short blast of the bridge horn, and he shall then proceed immediately to open the bridge.

(d) In case the bridge cannot be opened for any cause, the bridge operator shall answer by giving five short blasts of bridge horn; and the vessel shall then be stopped until the bridge is ready to be opened, when the bridge operator shall give one long and one short blast of the bridge horn for passage, and the vessel may proceed.

(e) Bridge operators shall not give precedence to railway traffic and shall not close the bridge against an upbound vessel after lock gates are open and vessel proceeding toward the bridge, nor against a downbound vessel, 1,200 feet or less west of the bridge, unless said vessel is moored at either canal pier awaiting its turn to take position at lock approaches.

§ 117.697 Thunder Bay River, Mich.; city of Alpena bridge at Second Avenue.

(a) The owner of or agency controlling the bridge will not be required to keep draw tenders in constant attendance.

(b) For openings of the draw, at least 3-hours' advance notice is required.

(c) Advance notice shall be given to the Dispatcher, Police Department, City of Alpena, Michigan, telephone Alpena 375. Notice shall include the name of the vessel, its location at the time notice is given, if inbound, the destination and expected time of arrival, and if outbound, the point and expected time of departure. The actual opening in each case will be accomplished only after exchange of the prescribed signals.

(d) The signal for opening the bridge shall be three distinct blasts of a whistle or horn blown on the vessel. If the draw is ready and will be opened immediately, the draw operator shall answer by three blasts of a siren on the bridge.

(e) The owner of or agency controlling the bridge shall keep a copy of this section conspicuously posted on both sides of the bridge in such manner that it can be read easily at any time.

(f) The operating machinery of the draw shall be maintained in a serviceable condition, and the draw shall be opened and closed at intervals frequent enough to make certain that the machinery is in proper order for satisfactory operation.

§ 117.700 Saginaw River, Mich.; bridges.

(a) The owners of or agencies controlling drawbridges across Saginaw River shall provide the necessary tenders and the proper mechanical appliances for the safe, prompt, and efficient opening of the draws for the passage of vessels.

(b) Except as otherwise provided in paragraphs (d), (i), and (j) of this section, the draw of each bridge, upon receiving the prescribed call signal shall be opened (1) promptly for the passage of any vessel or other watercraft of 20 tons and upward not able to pass under the closed bridge: *Provided*, That the opening of the draw of a railroad bridge may be delayed not to exceed five minutes after receipt of signal to permit the passage thereover of a mail or passenger train which is ready to cross at the time the signal is given, and (2) as soon as practicable for the passage of any vessel or other watercraft of less than 20 tons: *Provided*, That no such vessel shall be delayed for a longer period than fifteen minutes.

(c) *Signals*—(1) *Call signals for opening of draw*—(i) *Sound signal.* One long blast, two short blasts, and one long blast of a whistle, horn, or siren, repeated at intervals until the acknowledging signal is received from the bridge: *Provided*, That when a vessel is about to leave a point between two drawbridges and within sight or hearing of both to pass through the draw upstream, the call signal shall be followed after a brief interval by an additional short blast.

(ii) *Visual signals.* A white flag by day or a white light at night, swung in full circles at arm's length in full sight of the bridge and facing the draw.

(2) *Acknowledging signals*—(i) *When draw can be opened immediately*—(a) *Sound signals.* Same as call signal.

(b) *Visual signals.* A white flag by day or a green light at night swung up and down vertically a number of times in full sight of the vessel.

(ii) *When draw cannot be opened immediately, or when it is open and must be closed immediately*—(a) *Sound signals.*

Four or more short and rapid blasts of a whistle, horn, or siren, or four or more sharp and rapid strokes of a bell, repeated at intervals until acknowledged by the vessel. The vessel shall acknowledge by one long blast followed by one short blast.

(b) *Visual signals.* A red flag by day or a red light at night, swung to and fro horizontally in full sight of the vessel; or in lieu thereof, if considered advisable by the owner of or agency controlling any bridge, two red lights mounted 30 inches between centers, horizontally, in an elevated position above the bridge and showing both upstream and downstream, may be flashed alternately. These signals shall be repeated until acknowledged by the vessel. The vessel shall acknowledge with a red flag by day or a red light at night swung to and fro horizontally.

NOTE: Visual signals are to be used in conjunction with sound signals if weather conditions are such that sound signals may not be heard or at other times if desired.

(d) *Closed periods.* (1) Belinda Street, Third Street, Lafayette Street and Cass Avenue bridges shall not be opened for the passage of any vessel under 50 gross tons between 6:30 and 8:30 a.m. and between 3:30 and 5:30 p. m., except on Sundays.

(2) Belinda Street, Third Street, and Lafayette Street bridges shall not be opened for the passage of any downbound vessel over 50 gross tons between 7:30 and 8:30 a. m. and between 4:30 and 5:30 p. m., except on Sundays and legal holidays observed in the locality.

(e) The bridges shall not be required to open for pleasure craft carrying appurtenances unessential for navigation which extend above the normal superstructure. Upon request, the District Commander will cause an inspection to be made of the superstructures and appurtenances of any such craft habitually frequenting the waterway, with a view to adjusting any differences of opinion in this matter between the vessel owner and the bridge owner.

(f) Trains and vehicles shall not be stopped on a bridge for the purpose of delaying its opening, nor shall watercraft be handled so as to hinder or delay the operation of the draw, but all passage over or through a bridge shall be prompt to prevent delay to either land or water traffic.

(g) The owner of or agency controlling each bridge shall keep conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can be easily read at any time, a copy of the regulations in this section pertaining to the particular bridge.

(h) The general regulations contained in paragraphs (a) to (g), inclusive, of this section shall apply to all bridges except as modified by the special regulations contained in paragraphs (i) and (j) of this section. The closed periods in paragraph (d) of this section shall not apply to vessels operated by the United States and municipal vessels. All such vessels shall be passed through the draws of these bridges during any closed period.

(i) *Bridges at Saginaw.* (1) The owners of or agencies controlling drawbridges at Saginaw need not keep draw tenders in constant attendance.

(2) For openings of the draws of the City of Saginaw highway bridge at Sixth Avenue and bridges upstream therefrom below the Court Street fixed bridge, from November 16 to March 31, inclusive, and between 11:00 p. m. and 7:00 a. m. from April 1 to November 15, inclusive, at least three hours' advance notice is required.

(3) For openings of the draws of bridges upstream from the Court Street fixed bridge, at least 24 hours' advance notice is required.

(4) Advance notice as required by this paragraph shall be given to the Bridge Operations Officer, Police Department, City of Saginaw, Michigan, telephone Saginaw 8191. In the case of bridges which are not owned or controlled by the City of Saginaw, the Bridge Operations Officer shall be responsible for relaying the necessary information to the owners or agencies concerned. Advance notice shall include the name of the vessel, its location at the time notice is given, if inbound the exact destination and expected time of arrival, and if outbound the point and time of departure. The actual opening in each case will be accomplished only after exchange of the prescribed signals.

(j) *Bridges at Bay City.* (1) The owners of or agencies controlling drawbridges at Bay City need not keep draw tenders in constant attendance during period from December 16 to March 15, inclusive.

(2) For openings of draws of all bridges from Saginaw Bay upstream to and including Cass Avenue bridge, at least 24 hours' advance notice is required during this period.

(3) Advance notice as required by this paragraph shall be given to the Dispatcher, Police Department, City of Bay City, Michigan, telephone Bay City 5521. In the case of bridges which are not owned or controlled by the City of Bay City, the Dispatcher shall be responsible for relaying the necessary information to owners or agenices concerned. Advance notice shall include the name of the vessel, its location at time notice is given, if inbound, the exact destination and expected time of arrival, and if outbound, the point and time of departure. The actual opening in each case will be accomplished only after exchange of the prescribed signals.

§ 117.705 Rouge River, Mich.; Short-Cut Canal and Rouge River between Short-Cut Canal and Maples Road; bridges.

(a) The regulations in this section shall govern the operation of all drawbridges across Short-Cut Canal and Rouge River between Short-Cut Canal and Maples Road.

(b) The owners of or agencies controlling the bridges shall provide the necessary tenders and the proper mechanical appliances for the safe, prompt, and efficient opening of the draws for the passage of vessels.

(c) Except as otherwise provided in paragraph (g) of this section, the draw of each bridge shall, upon verbal request or upon receiving the prescribed call signal (1) be opened immediately for the passage of a vessel of 20 tons and upward: *Provided*, That the opening of the draw of a railroad bridge may be delayed not to exceed 7 minutes after receipt of signal to permit the passage thereover of a mail or passenger train which is ready to cross at the time of the vessel signal and (2) be opened as soon as possible for the passage of a vessel or other watercraft of less than 20 tons: *Provided*, That no such vessel or other watercraft shall be delayed for a longer period than 15 minutes.

(d) Signals:

(1) *Call signal for opening of draw.* Three long blasts of a whistle, horn, or megaphone, or three loud and distinct strokes of a bell, sounded within signalling distance of the bridge: *Provided*, That the call signal for those bridges referred to in paragraph (g) of this section, to be given by vessels entitled to passage during closed periods under the provisions of paragraph (f) of this section, shall be four long blasts of a whistle, horn, or megaphone, or four loud and distinct strokes of a bell.

(2) *Acknowledging signals*—(i) *When draw can be opened immediately.* One long blast of a whistle or horn.

(ii) *When draw cannot be opened immediately.* Five short blasts of a whistle or horn to be followed by one long blast of a whistle or horn when the draw is to be opened.

(e) Trains and vehicles shall not be stopped on a bridge for the purpose of delaying its opening, nor shall watercraft be handled so as to hinder or delay the operation of the draw, but all passage over or through a bridge shall be prompt to prevent delay to either land or water traffic.

(f) The general regulations contained in paragraphs (a) to (e), inclusive, of this section shall apply to all bridges except as modified by the special regulations contained in paragraph (g) of this section, prescribed where local conditions require to govern the operation of certain bridges. The special regulations shall not apply to vessels owned or controlled by the United States Government or to vessels employed by the City of Detroit or other municipalities for police and fire protection or to a vessel in distress. All such United States and municipal vessels and vessels in distress, shall be passed through the draws of all bridges at any hour day or night.

(g) Jefferson Avenue and Fort Street highway bridges: During the normal navigation season, from March 15, through December 15, inclusive, the draws of these bridges shall not be required to be opened for the passage of vessels between 6:30 and 7:10 a. m., 7:30 and 8:30 a. m., 4:00 and 4:40 p. m., 5:00 and 6:00 p. m., except on Saturdays, Sundays, and on legal holidays observed in the locality: *Provided*, That any vessel or other watercraft proceeding either upstream or downstream which has passed either of these bridges shall be afforded continuous passage through the other bridge.

§ 117.705a Portage River, Ohio; the New York Central Railroad Co. bridge at Port Clinton, Mile 1.51.

(a) The owners of or agencies controlling the bridge shall provide the necessary tenders and the proper mechanical appliances for the safe, prompt, and efficient opening of the draw for the passage of vessels.

(b) The draw of the bridge shall, upon receiving from a vessel the prescribed call signal, be opened immediately for the passage of the vessel: *Provided*, That the opening of the draw may be delayed not to exceed 7 minutes after receipt of signal to permit the passage thereover of a mail or passenger train which is ready to cross at the time of the vessel's signal: *Provided*, That no such vessel or other watercraft shall be delayed for a longer period than 15 minutes.

(c) Signals:

(1) *Call signal for opening of draw.* Three long blasts and one short blast of a whistle, horn, or siren, repeated at intervals until the acknowledging signal is received from the bridge tender.

(2) *Acknowledging signal.* Same as call signal.

(d) Trains and vehicles shall not be stopped on the bridge for the purpose of delaying the opening, nor shall watercraft be handled so as to hinder or delay the operation of the draw, but all passage over or through the bridge shall be prompt to prevent delay to either land or water traffic.

(e) The bridge shall not be required to open for pleasure craft carrying appurtenances unessential to navigation which extend above the normal superstructure. Upon request, the District Commander will cause an inspection to be made of the superstructures and appurtenances of any such craft habitually frequenting the waterway, with a view to adjusting any differences of opinion in this matter between the vessel owner and the bridge owner.

NOTE: The special regulations contained in § 117.641, subparagraph (f)(8), prescribed where local conditions require to govern the operation of this bridge, supplement the general regulations in this section.

§ 117.706 Sandusky Bay, Ohio.

(a) *New York Central Railroad Company bridge between Baybridge and Danbury.* (1) The owner of or agency controlling this bridge shall keep a draw tender in constant attendance except during the period from December 1 to April 1. During this period at least 24 hours' advance notice is required for opening the bridge for any vessel unable to pass under the closed bridge. The required advance notice shall be given the Division Engineer, New York Central System, Toledo, Ohio.

(2) The call signal for opening of the draw shall be three long blasts of a whistle or horn, sounded at such distance from the bridge as to permit the vessel to stop if the draw cannot be opened, and repeated if not acknowledged.

(3) If the draw can be opened immediately, the call signal shall be acknowledged by one long blast of a whistle or horn. If the draw cannot be opened immediately, the draw tender shall sound a warning or danger signal of five short, rapid blasts of a whistle or horn, and the vessel shall change its course or stop and shall not proceed toward the bridge until the draw tender sounds one long blast.

(4) The draw shall be opened to full open position with the least possible delay on receiving the call signal.

(5) Trains shall not be stopped on or near the bridge for the purpose of delaying its opening, nor shall watercraft be navigated so as to hinder or delay the operation of the draw, but all passage over or through the bridge shall be prompt to prevent delay to either rail or water traffic.

(6) The owner of or agency controlling the bridge shall keep conspicuously posted on both the east and west sides thereof, in such manner that they can be easily read from approaching vessels, signs showing the call and acknowledging signals prescribed in subparagraphs (2) and (3) of this paragraph.

(b) *Ohio Department of Highways bridge between Martin Point and Danbury.* (1) The owner of or agency controlling this bridge shall keep a draw tender in constant attendance except when ice prevents navigation.

(2) The call signal for opening of the draw and the acknowledging signals shall be those prescribed in paragraph (a) (2) and (3) of this section.

(c) *The New York Central Railroad Company Bridge across East Cove at foot of Washington Street, Sandusky.* (1) The draw shall be in full open position at all times from March 16 to December 31, inclusive, except that it may be closed five minutes in advance of the time a train is expected to cross the bridge. The cycle of the draw from open position through closed position to open position shall not exceed 20 minutes.

(2) Five minutes in advance of the start of closing, the draw tender shall signal boat operators that the draw is to be closed by hoisting a four-foot by six-foot white pennant on a staff located at the northerly end of the bridge, clearly visible from Sandusky Bay and East Cove, and by sounding five short blasts of a whistle, horn, or megaphone or by ringing a bell continuously for five seconds.

(3) A train shall not be stopped on the bridge for the purpose of delaying its opening, nor shall watercraft be navigated so as to hinder or delay the operation of the draw, but all passage over or through the bridge shall be prompt to prevent delay to either rail or water traffic.

(4) From January 1 to March 15, inclusive, whenever a vessel unable to pass under the closed bridge desires to pass through the draw, at least 24 hours' advance notice of the time the opening is required shall be given to the authorised representative of the owner of or agency controlling the bridge.

(5) Upon receipt of such advance notice, the authorized representative shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

(6) The owner of or agency controlling the bridge shall keep conspicuously posted on both sides thereof, in such manner that it can be easily read at any time, a copy of the regulations in this paragraph together with a notice stating exactly how the representative specified in subparagraph (4) of this paragraph may be reached.

§ 117.706a Ashtabula River, Ashtabula, Ohio; bridges.

(a) *Ashtabula County Commissioners Fifth Street bridge.* (1) The owner of or agency controlling the bridge shall keep a drawtender in constant attendance.

(2) The bridge shall be opened promptly upon signal for the passage of commercial and emergency vessels.

(3) The bridge shall be opened promptly on the hour and half hour for all other floating craft that may desire passage through the draw.

(4) The call signal for opening the draw shall be three long blasts of a whistle or horn, sounded at such distance from the bridge as to permit the vessel to stop if the draw cannot be opened, and repeated if not acknowledged.

(5) If the draw can be opened immediately, the call signal shall be acknowledged by one long blast of a whistle or horn. If the draw cannot be opened immediately, the drawtender shall sound a warning or danger signal of five short, rapid blasts of a whistle or horn, and the vessel shall stop and not proceed toward the bridge until the drawtender sounds one long blast.

(b) *The New York Central Railroad bridge.* (1) The owner of or agency controlling the bridge shall keep a drawtender in constant attendance except as follows: between the hours of 11 p.m. and 7 a.m., from 1 April to 1 December and the entire period from 1 December to 1 April.

(2) The bridge shall be opened promptly upon signal for the passage of all vessels during the period when a drawtender is in attendance.

(3) The call signal for opening the draw and acknowledging signals shall be those prescribed in paragraphs (a)(4) and (a)(5) of this section.

(4) Whenever a vessel is unable to pass under the closed draw and desires to pass through the draw during the periods of closure specified in subparagraph (1) of this paragraph, at least 24 hours' advance notice of the time the opening is required shall be given to the authorized representative of the owner of or agency controlling the bridge.

(5) Upon receipt of such advance notice, the authorized representative shall arrange for the prompt opening of the draw as specified in the notice for the passage of the vessel.

(6) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can be easily read at any time, a copy of the regulations in this para-

graph together with a notice stating exactly how the representative specified in subparagraph (4) of this paragraph may be reached.

§ 117.707 Buffalo Harbor, N.Y.; city of Buffalo bridges across Buffalo River and Buffalo Ship Canal.

(a) The Michigan Avenue bridges across Buffalo River and Buffalo Ship Canal will not be required to open for the passage of vessels from 7:00 to 7:30 a.m., 8:00 to 8:30 a.m., 3:45 to 4:30 p.m., and 5:15 to 6:00 p.m.

(b) The Ohio Street bridge across Buffalo River will not be required to open for the passage of vessels from 7:30 to 8:00 a. m., 8:45 to 9:15 a. m., 3:00 to 3:45 p. m., and 4:30 to 5:15 p. m.

(c) The South Park Avenue bridge across Buffalo River will not be required to open for the passage of vessels from 7:00 to 8:30 a. m. and 4:30 to 6:00 p. m.

(d) The closed periods prescribed in this section shall not be effective on Sundays and on New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day or days observed in lieu of any of these under State law.

(e) The draws of these bridges shall be opened promptly on signal for the passage of any vessel at all times during the day or night except as otherwise provided in this section.

§ 117.707a Niagara River; City of Buffalo Ferry Street Bridge across Black Rock Channel.

The clear headroom under the bridge at low water datum is 17.3 feet for a width of 86 feet from the pivot pier, thence decreasing to 12.3 feet at the left (westerly) abutment.

(a) All vessels and boats which cannot pass under the bridge shall, on approaching the bridge, reduce speed sufficiently to enable them to come to a dead stop without touching the bridge in case the movable span cannot be lifted. If the wind is dangerously strong, passage shall not be attempted by large vessels without the aid of a tug or tugs.

(b) Vessels and boats bound north shall have the right-of-way and priority for passage through the bridge over those bound south.

(c) All vessels and boats desiring passage through the bridge shall signal therefor by one long and two short whistle blasts.

(d) Upon receiving the opening signal, the bridge operator shall answer by giving the same signal on the bridge whistle and he shall then proceed at once to lift the bridge.

(e) In case the bridge cannot be lifted, for any cause, the bridge operator shall answer a vessel signal by giving five (5) short whistle blasts; and the vessel shall then be stopped until the bridge is ready to be lifted, when the bridge operator shall give the whistle signal for passage and the vessel may proceed.

(f) In case the bridge is disabled so that it cannot be lifted for one-half hour or more pending repairs, red flags will be displayed on the bridge in daytime and two red lantern lights, one above the other, at night. When such signals are displayed no vessel or boat shall signal for or attempt passage through the bridge.

§ 117.708 Niagara River; Canadian National Railway bridge (International Bridge) between Buffalo, N.Y., and Fort Erie, Ontario, Canada.

(a) The owner of or agency controlling the bridge will not be required to keep a draw tender in constant attendance.

(b) Whenever a vessel unable to pass under the closed bridge desires to pass through the draw, at least 24 hours' advance notice of the time the opening is required shall be given to the authorized representative of the owner or agency controlling the bridge.

(c) Upon receipt of such advance notice, the said authorized representative shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

(d) Whenever the bridge is opened for the passage of a vessel, the navigator of such vessel shall fix his course so as to proceed through the westerly opening of the bridge draw.

(e) The operating machinery of the draw shall be maintained in a serviceable condition, and the draw shall be opened and closed at intervals frequent enough to make certain that the machinery is in proper order for satisfactory operation.

§ 117.710 Navigable waters of the United States within the State of California; bridges generally.

(a) *Operation requirements.* The owners of or agencies controlling drawbridges shall provide the necessary tenders and the proper mechanical appliances for the safe, prompt, and efficient opening of the draws for the passage of vessels.

(b) *Signals*—(1) *Sound signals.* To be used if weather conditions are such that sound signals can be heard:

(i) *Call signal for opening of draw.* Three long blasts, sounded within reasonable hearing distance of the bridge, repeated if necessary, and in time to give due notice to the draw tender.

(ii) *Acknowledging signals*—(a) *When draw can be opened immediately.* Same as call signal.

(b) *When draw cannot be opened immediately, or when it is open and must be closed immediately.* Two long blasts, repeated at regular intervals until acknowledged by the vessel. The vessel shall acknowledge by the same signal. Thereafter, as soon as the draw can be opened, the draw tender shall repeat the call signal.

(2) *Visual signals.* To be used if weather conditions are such that sound signals may not be heard:

(i) *Call signal for opening of draw.* A white flag by day or a white lighted lantern by night, swung in vertical circles at arm's length in full sight of the bridge and facing the draw.

(ii) *Acknowledging signals*—(a) *When draw can be opened immediately.* Same as call signal, to be given in full sight of the vessel.

(b) *When draw cannot be opened immediately, or when it is open and must be closed immediately.* A red flag by day or red lighted lantern by night, swung in vertical circles at arm's length in full sight of the vessel, repeated until acknowledged by the vessel. The vessel shall acknowledge by the same signal, given in full sight of the bridge and facing the draw. Thereafter, as soon as the draw can be opened, the draw tender shall repeat the call signal, given in full sight of the vessel.

(3) *Fog signal.* When fog prevails by day or by night the draw tender, after repeating the call signal, shall toll a bell continuously during the approach and passage of the vessel.

(c) *Prompt opening required except when delayed by train.* The draw shall be opened with the least possible delay on receiving the prescribed signal: *Provided*, That the draw shall not be opened when a train is approaching so closely that it cannot be stopped safely before reaching the bridge, or when a passenger or mail train is approaching within sight or hearing of the draw tender.

(d) *Interference with operation of bridge prohibited.* Trains and vehicles shall not be stopped on a drawbridge for the purpose of delaying its opening, nor shall watercraft be navigated so as to hinder or delay the operation of the draw, but all passage over or through a drawbridge shall be prompt to prevent delay to either land or water traffic.

(e) *Vessels for which openings not required.* A drawbridge shall not be required to open for any vessel carrying appurtenances unessential for navigation which extend above the normal superstructure, if the height of the normal superstructure would permit the vessel to pass under the closed bridge. Military masts shall be considered as part of the normal superstructure.

NOTE: On request, the District Commander will cause an inspection to be made of the superstructure and appurtenances of a vessel habitually frequenting that waterway with a view to adjusting any differences of opinion in this matter between the vessel owner and a bridge owner.

(f) *Bridges requiring advance notice for prompt opening.* (1) The owners of or agencies controlling bridges for the prompt opening of which advance notice is required by special regulations (§§ 117.712 to 117.718, inclusive) need not keep draw tenders in constant attendance at such bridges.

(2) Whenever a vessel, unable to pass under a closed bridge, desires to pass through the draw, advance notice, as specified in the special regulations, of the time the opening is required must be given to the authorized representative of the owner of or agency controlling the bridge to insure prompt opening thereof at the time required. Unless otherwise provided in the special regulations, such advance notice may be given at any regular office of the owner of or agency controlling the bridge. Such notice may also be given to the draw tender or to the person named in the notice posted on the bridge in accordance with subparagraph (4) of this paragraph.

(3) On receipt of such advance notice, the authorized representative, in compliance therewith, shall arrange for the prompt opening of the draw on proper signal at approximately the time specified in the notice.

(4) The owners of or agencies controlling the bridges shall keep conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can be read easily at any time, a copy of the special regulations pertaining to the respective bridges together with information as to whom notice should be given when it is desired that a bridge be opened and directions for communicating with such person by telephone or otherwise.

(5) Vessels desiring to pass through these bridges without having given advance notice as specified in the special regulations may be delayed, but the owners of or agencies controlling the bridges shall, under such circumstances, use every reasonable means to expedite openings.

(6) The operating machinery of the draws shall be maintained in a serviceable condition, and the draws shall be opened and closed at intervals frequent enough to make certain that the machinery is in proper order for satisfactory operation.

NOTE: The following special regulations (§§ 117.711 to 117.718, inclusive), modifying and supplementing the foregoing general regulations (§ 117.710), are prescribed for certain bridges where local conditions warrant.

§ 117.711 Los Angeles and Long Beach Harbors, Calif.

(a) *Long Beach Entrance Channel; temporary retractable pontoon bridge*—(1) *Closed periods.* From 7:00 to 8:00 a.m., and from 4:00 to 5:15 p.m., daily except Sundays and holidays for Federal employees, this bridge will not be required to open for the passage of vessels, except in case of extreme emergency.

(2) *Signals.* The call signal for opening the bridge shall be one long blast followed by two short blasts. This signal shall be acknowledged by two long blasts followed by one short blast when the bridge can be opened immediately, and by two long blasts when the bridge cannot be opened immediately.

(3) *Signs.* The owner of or agency controlling the bridge shall keep conspicuously posted on the south and north sides thereof, in such manner that they can be easily read from approaching vessels, signs showing the call and acknowledging signals prescribed in subparagraph (1) of this paragraph.

(b) *Cerritos Channel; Commodore Schuyler F. Heim highway bridge, and Henry Ford (formerly Badger) Avenue railroad and highway bridge approximately 130 feet westerly thereof*—(1) *Closed periods.* From 6:45 to 8:00 a. m. and from 4:00 to 5:15 p. m. daily, except Sundays and holidays for Federal employees, the draw of the Commodore Schuyler F. Heim bridge will not be required to open for the passage of vessels, except in case of extreme emergency. The draw of the Henry Ford Avenue bridge shall be opened with the least possible delay at any time on receiving the prescribed signal.

(2) *Signals for opening both bridges.* The call signal for opening the draws of both bridges at once shall be three long blasts. This signal shall be acknowledged by two long blasts followed by one short blast when the draws of both bridges can be opened immediately, and by two long blasts when the draw of either bridge cannot be opened immediately.

NOTE: The bridges are connected electrically to insure that the call signal of three long blasts will not be acknowledged by the opening signal unless both bridges can be opened.

(3) *Signals for opening of Henry Ford Avenue bridge only.* The call signal for opening the draw of the Henry Ford Avenue bridge only shall be two short blasts followed by one long blast. This signal shall be acknowledged by two long blasts followed by one short blast when the draw can be opened immediately, and by two long blasts when the draw cannot be opened immediately.

(4) *Signs.* The owners of or agencies controlling these bridges shall keep conspicuously posted on the east side of the Commodore Schuyler F. Heim bridge and the west side of the Henry Ford Avenue bridge, in such manner that they can be easily read from approaching vessels, signs showing the call and acknowledging signals prescribed in subparagraphs (2) and (3) of this paragraph.

§ 117.712 Tributaries of San Francisco Bay and San Pablo Bay, Calif.

(a) *Mud Slough; Southern Pacific Company railroad bridge near Alviso.* At least 24 hours' advance notice required.

(b) *Newark Slough; Southern Pacific Company railroad bridge near Newark.* At least 24 hours' advance notice required. To be given to the Superintendent, Southern Pacific Company, Oakland Pier, Oakland, California.

(c) *San Leandro Bay; State of California highway bridge between Alameda and Bayfarm Island.* From 9:00 p.m., to 5:00 a.m., the draw need not be opened for the passage of vessels. From 5:00 a.m., to 8:00 a.m. and from 5:00 p.m., to 9:00 p.m., at least 12 hours' advance notice required, to be given to the operator of the Bayfarm Island Bridge (telephone LAkehurst 2-2969) between 8:00 a.m. and 5:00 p.m., and to the operator of the Park Street Bridge, Alameda (telephone LAkehurst 2-7282) at all other times.

(d) *Oakland Tidal Canal; Department of the Army highway and railroad bridge at Fruitvale Avenue.* All vessels, except motorboats without tow, are forbidden to approach within 300 feet of this bridge for the purpose of eventual passage through the draw except during slack water or when opposing the tidal flow. Vessels and barges shall not attempt passage through the draw while running with the tide, and the bridge will not be opened for vessels under such conditions.

(e) *Corte Madera Creek; The Northern Pacific Railroad Company bridge near Greenbrae.* On Saturdays, Sundays and holidays, at least 72 hours' advance notice required; on all other days at least 24 hours' advance notice required.

(f) [Reserved]

(g) *Petaluma Creek*—(1) *Northwestern Pacific Railroad Company bridges at Blackpoint and Haystack Landing.* The owner of or agency controlling these bridges need not keep draw tenders in constant attendance except when the draws are closed for the passage of railroad traffic. At all other times the draws may remain in full open position and unattended. During foggy weather a bell shall be tolled continuously when the draws are in open position.

(2) *City of Petaluma highway bridges at "D" and Washington Streets, Petaluma.* At least 6 hours' advance notice required, to be given to the Petaluma Police Department, telephone Petaluma 2-2727.

(h) *Sonoma Creek*—(1) *State of California highway bridge.* At least 4 hours' advance notice required.

(2) *Northwestern Pacific Railroad Company bridge at Wingo.* At least 24 hours' advance notice required.

(i) *Mare Island Strait, Napa River, and their tributaries*—(1) *Department of the Navy bridge (Mare Island Causeway) at Vallejo.* From 6:30 a.m. to 7:30 a.m. and from 3:45 p.m. to 4:45 p.m. daily, except Saturdays, Sundays, and holidays, the draw need not be opened for the passage of vessels other than vessels owned, operated, or controlled by the United States.

(2) *Southern Pacific Company railroad bridge at Brazos.* The owner of or agency controlling this bridge need not keep a draw tender in constant attendance except when the draw is closed for the passage of railroad traffic. At all other times the draw may remain in full open position and unattended. During foggy weather a bell shall be tolled continuously when the draw is in open position.

(3) *State Highway bridge near Imola.* From 7 a.m. to 9 a.m. and from 4:30 p.m. to 6:30 p.m. daily, except Saturdays, Sundays, and holidays, the draw need not be opened for the passage of vessels. At all other times, at least twenty-four (24) hours' advance notice required for opening the draw.

(4) *Dutchman Slough; James Irvine Bridge.* At least 24 hours' advance notice required.

(5) *Devil Slough; Russ Investment Company highway bridge.* At least 24 hours' advance notice required.

§ 117.713 Minor tributaries of Suisun Bay, Calif.

(a) *Pacheco Creek; Contra Costa County highway bridge and Southern Pacific Company railroad bridge near Martinez.* At least 24 hours' advance notice required.

(b) *Cordelia Slough; a tributary of Suisun Slough; Southern Pacific Company railroad bridge.* At least 24 hours' advance notice required.

§ 117.714 San Joaquin River and its tributaries, California.

(a) *San Joaquin River*—(1) *Stockton Port District railroad bridge between Rough and Ready Island and Stockton.* At least 12 hours' advance notice required. To be given to the Director of the Port, Stockton Port District, Stockton, California.

(2) *San Joaquin County highway bridge between Rough and Ready Island and Stockton.* At least 12 hours' advance notice required. To be given to the San Joaquin County Highway Department or to the County Surveyor at Stockton, California.

(3) *Atchison, Topeka and Santa Fe Railway Company bridge near Stockton.* At least 12 hours' advance notice required. To be given to the bridge owner's agent at Stockton, California.

(4) *State of California highway bridge (Garwood Bridge).* At least 12 hours' advance notice required.

(5) *San Joaquin County highway bridge (Brandt Bridge).* At least 12 hours' advance notice required. To be given to the County Surveyor of San Joaquin County, Stockton, California.

(6) *Southern Pacific Co. railroad bridge, State of California highway bridges (Mossdale Bridges) and Western Pacific Railroad Co. bridge near Mossdale.* The draws of these bridges need not be opened for the passage of vessels.

(7) *Drawbridges above Paradise Dam.* At least seven days' advance notice required.

(b) *Burns Cutoff; San Joaquin County highway bridges (Jacobs Road and Upper Highway Bridges) between Roberts Island and Rough and Ready Island.* At least two days' advance notice required. To be given to the County Surveyor of San Joaquin County, Stockton, California.

(c) *Middle River*—(1) *San Joaquin County highway bridge between Bacon Island and Lower Jones Tract.* On Sundays and national holidays, and between 5:00 p. m. and 8:00 a. m. on all other days, at least 12 hours' advance notice required, to be given to the County Surveyor of San Joaquin County, Stockton, California, except that if, during crop moving seasons, 20 or more passages through the bridge in any 30-day period are contemplated and 15 days' notice is given of the proposed traffic, the owner will be required to keep a draw tender in constant attendance for the duration of such period.

(1-a) *The Atchison, Topeka and Santa Fe Railway Company bridge near Middle River Station.* At least 12 hours' advance notice required, to be given the railway company's agent at Stockton, California, except that if, during crop moving seasons, 20 or more passages through the bridge in any 30-day period are contemplated and 15 days' notice is given of the proposed traffic the owner will be required to keep the draw tender in constant attendance for the duration of such period.

(2) *State of California highway bridge between Victoria Island and Drexler Tract.* At least 12 hours' advance notice required.

(3) *San Joaquin County highway bridge between Union Island and Drexler Tract, at Fish Camp Landing.* At least 24 hours' advance notice required. To be given to the County Surveyor of San Joaquin County, Stockton, California.

(4) *San Joaquin County highway bridge (Williams Bridge) between Union Island and Roberts Island.* At least two days' advance notice required. To be given to the County Surveyor of San Joaquin County, Stockton, California.

(d) *Mormon Channel; City of Stockton highway bridge (Washington Street Bridge), Atchison, Topeka and Santa Fe Railway Company bridge (Edison Street Bridge), and City of Stockton (Lincoln Street Bridge).* (1) The signal for opening at once all three of these bridges shall be the call signal described in § 117.710(b) (1). The signal for opening any one of these bridges, and that bridge only, shall be as follows: For the Washington Street Bridge, two long blasts followed by one short blast; for the Edison Street Bridge, two short blasts followed by one long blast; and for the Lincoln Street Bridge, one long blast followed by one short blast and one long blast.

(2) At least 12 hours' advance notice required. To be given to the representative of the City of Stockton and to the railway company's agent at Stockton, California.

(e) *King Island Cut; San Joaquin County highway bridge between King Island and Bishop Tract.* At least 12 hours' advance notice required. To be given to the San Joaquin County Highway Department or to the County Surveyor at Stockton, California.

(f) *Honker Cut; San Joaquin County highway bridge between Empire Tract and King Island.* At least 12 hours' advance notice required, to be given to the County Surveyor of San Joaquin County, Stockton, California, except during crop moving seasons when, in the opinion of District Commander the constant attendance of a draw tender is warranted, and the operators of vessels engaged in the crop moving operations give 15 days' written notice to the District Commander of the contemplated traffic.

(g) *Little Potato Slough; State of California highway bridge at Terminous.* (1) The owner of or agency controlling this bridge shall keep a draw tender in constant attendance: (i) From 8:00 a. m. to 5:00 p. m. during the months of July to September, inclusive.

(ii) During periods when, in the opinion of the District Commander, an emergency exists; or during crop moving seasons when, in the opinion of the District Commander, the attendance of a draw tender is required, provided the operators of vessels engaged in the crop moving operations give 15 days' written notice to the District Commander, and at the same time furnish sufficient evidence that such service is necessary to take care of the contemplated traffic. In the event that special periods are established by the District Commander for the constant attendance of a draw tender during an emergency or a crop moving season, information concerning the hours and lengths of such periods will be published in local newspapers and in the "Notice to Mariners" issued by the United States Coast Guard.

(2) From 5:00 p.m. to 8:00 a.m. during the months of July to September, inclusive, when a draw tender is not in attendance, advance notice required to be given to the draw verbally or by telephone to the Rio Vista Bridge before 4:00 p.m. At all other times, at least 12 hours' advance notice required.

(h) *Mokelumne River, including North and South Forks*—(1) *Mokelumne River*—(i) *State of California highway bridge near East Isleton.* The owner of or agency controlling this bridge shall keep a draw tender in constant attendance from 9:00 a. m. to 5:00 p. m. throughout the year; and during periods when, in the opinion of the District Commander, an emergency exists, or during crop moving seasons when, in the opinion of the District Commander, the attendance of a draw tender is required provided the operators of vessels engaged in the crop moving operations give 15 days' written notice to the District Commander and at the same time furnish sufficient evidence that such service is necessary to take care of the contemplated traffic. In the event that special periods are established by the District Commander for the constant attendance of a draw tender during an emergency or a crop moving season, information concerning the hours and lengths of such periods will be published in local newspapers and in the "Notice to Mariners" issued by the United States Coast Guard. When a draw tender is not in attendance, advance notice required; to be given to the draw tender verbally, or by telephone through the Isleton Exchange, before 4:00 p. m.

(ii) *Drawbridges above New Hope Landing.* At least two days' advance notice required.

(2) *North Fork; Sacramento and San Joaquin Counties Highway bridge (Millers Ferry Bridge).* At least 12 hours' advance notice required. To be given to the San Joaquin County Highway Superintendent or to the County Surveyor at Stockton, California.

(3) *South Fork; San Joaquin County highway bridge (New Hope Landing Bridge).* When an emergency exists which requires opening of the bridge, the bridge owner shall, upon notice from the District Commander, remove the removable bridge portion over the main channel expeditiously and with as little delay as possible to water traffic.

(i) *Snodgrass Slough; Southern Pacific Company railroad bridge and Sacramento County highway bridge.* From 8:00 a. m. to 5:00 p. m., daily, at least 24 hours' advance notice required. From 5:00 p. m. to 8:00 a. m., the draws need not be opened for the passage of vessels except in cases of extreme emergency.

§ 117.715 Georgiana Slough, Calif.

(a) *Sacramento County highway bridge near Isleton.* (1) The signal for opening this bridge shall be four long blasts.

(2) The owner of or agency controlling this bridge shall keep a draw tender in constant attendance from 8:00 a.m. to 5:00 p.m. throughout the year, and from 5:00 p.m. to 8:00 p.m. from May to October, inclusive, during such other periods as regular crop movements may justify, and during periods when, in the opinion of the District Commander, an emergency exists. In the event that the crop moving season is started earlier than May 1 or is extended later than October 31, the period for prompt opening of the bridge on proper signal from 5:00 p.m. to 8:00 a.m. shall be adjusted accordingly, provided the operators of vessels navigating this waterway give 15 days' written notice that such an adjustment is necessary to take care of contemplated traffic. At all other times, at least 16 hours' advance notice required.

(b) *Southern Pacific Company railroad bridge near Isleton.* The signal for opening this bridge shall be four long blasts.

(c) *Sacramento County highway bridge near Walnut Grove.* (1) The signal for opening this bridge shall be four long blasts.

(2) The owner of or agency controlling this bridge shall keep a draw tender in constant attendance from 8:00 a.m. to 5:00 p.m. throughout the year, and from 5:00 p.m. to 9:00 p.m. from May to October, inclusive, during such other periods as regular crop movements may justify, and during periods when, in the opinion of the District Commander, an emergency exists. In the event that the crop moving season is started earlier than May 1 or is extended later than October 31, the period for prompt opening of the bridge on proper signal from 5:00 p.m. to 8:00 a.m. shall be adjusted accordingly, provided the operators of vessels navigating this waterway give 15 days' written notice that such adjustment is necessary to take care of contemplated traffic. At all other times, at least 16 hours' advance notice required.

§ 117.716 Sacramento River and its tributaries, California.

(a) *Sacramento River*—(1) *Sacramento County highway bridge at Walnut Grove and State of California highway bridge at Painterville.* (i) For signaling vessels proceeding downstream and upstream the owner of or agency controlling the Sacramento County highway bridge shall provide lights which shall be operated in conjunction with sound and visual signals from the bridge. The lights shall be visible to approaching vessels and shall be located on the east side of the river. The lights for directing downbound traffic shall be located approximately 3,500 feet upstream from the bridge. The lights for directing upbound traffic shall be located approximately 750 feet downstream from the bridge. When the draw of the bridge can be opened a flashing green light shall be operated. When the draw of the bridge cannot be opened immediately, a flashing red light shall be operated.

(ii) When weather conditions prevent hearing sound signals and obstructions prevent seeing lantern signals, a vessel proceeding downstream may signal for opening of the draw of each of these bridges by swinging the beam of its searchlight from side to side in a vertical arc of about 60 degrees. If the draw can be opened immediately the draw tender shall so signal by projecting a steady beam of his searchlight vertically into the air and holding it steadily in that position until the vessel passes through the draw. If the draw tender finds, after giving the opening signal, that the bridge cannot be opened, he shall extinguish his searchlight immediately, but shall relight it when he is able to open the bridge.

(2) *State of California highway (Tower) bridge and Southern Pacific Company railroad ("I" Street) bridge at Sacramento*—(i) *Closed periods.* From 4:30 p.m. to 6:00 p.m. Monday to Friday, inclusive, and 4:00 p.m. to 6:00 p.m. on Sundays and national holidays, the draws need not be opened for the passage of vessels except in time of flood or other emergency when the closed periods may be suspended or modified by the District Commander.

(ii) The signal for opening the Southern Pacific Railroad Bridge shall be four long blasts.

(3) *Southern Pacific Company railroad bridge and State of California highway bridge at Knights Landing.* (i) The signal for opening at once both of these bridges shall be the call signal described in § 117.710(b) (1). The signal for opening either of these bridges, and that bridge only, shall be as follows: For the railroad bridge, two long blasts followed by one short blast; and for the highway bridge, two short blasts followed by one long blast.

(ii) When weather conditions prevent hearing sound signals and obstructions prevent seeing lantern signals, a vessel proceeding downstream may signal for opening of the draw of each of these bridges by swinging the beam of its searchlight from side to side in a vertical arc of about 60 degrees. If the draw can be opened immediately the draw tender shall so signal by projecting a steady beam of his searchlight vertically into the air and holding it steadily in that position until the vessel passes through the draw. If the draw tender finds, after giving the opening signal, that the bridge cannot be opened, he shall extinguish his searchlight immediately, but shall relight it when he is able to open the bridge.

(iii) The owner of or agency controlling each bridge shall keep a draw tender in constant attendance from 8:00 a. m. to 5:00 p. m., and at all times during periods when, in the opinion of the District Commander, an emergency exists, or during a hauling season which requires 20 or more passages through the bridge in any 30-day period provided 15 days' written notice of the contemplated traffic is given by the operators of the hauling vessels to the Southern Pacific Company's Division Engineer at Sacramento and to the Division of Highways Maintenance Superintendent at Woodland, respectively. At all other times, advance notice required. To be given to the Southern Pacific Company's Chief Dispatcher at Sacramento and to the Division of Highways Maintenance Superintendent, respectively, before 4:00 p.m.

(3-a) *State of California highway bridge at Meridian.* At least 12 hours' advance notice required.

(4) *Colusa County highway bridge at Colusa.* At least 12 hours' advance notice required. To be given to the Colusa County Sheriff's office at Colusa, California.

(5) *State of California highway bridge at Butte City.* At least 24 hours' advance notice required. To be given to the California State Highway Commission or to its representative in the vicinity.

(6) *Drawbridges above Chico Landing.* At least seven days' advance notice required.

(b) *Steamboat Slough, State of California highway bridge at the head of Grand Island.* (1) From 9:00 a.m. to 5:00 p.m., the bridge shall be opened promptly on receipt of the prescribed signal from a vessel desiring to pass through the bridge. Between 5:00 p.m. and 9:00 a.m. advance notice required before 4:00 p.m., to be given to the draw tender verbally or by telephone to the Rio Vista Bridge.

(2) The signal for opening this bridge shall be two long blasts followed by one short blast.

(c) *Miner Slough.* (1) *Ponton bridge between Ryer Island and Prospect Island.* At least 12 hours' advance notice required.

(2) *State of California highway bridge between northerly end of Ryer Island and Holland Tract.* At least 12 hours' advance notice required. To be given to the Division of Highways Maintenance Superintendent, Rio Vista, Calif.

(3) *Continuous attendance of the draws when Prospect Slough is impassable.* In the event that Prospect Slough is impassable for any reason, the owners of or agencies controlling these bridges shall, on notification of that fact, provide continuous attendance of the draws during the period of such blocking and consequent hauling season on Miner Slough. Vessel owners shall notify the owners of or agencies controlling these bridges promptly, under such conditions, of the removal of obstruction from Prospect Slough or the termination of their shipping movements through Miner Slough.

(d) *Sutter Slough; Sacramento County highway bridge near Courtland.* (1) The signal for opening this bridge shall be four long blasts.

(2) At least eight hours' advance notice required. To be given to the Sacramento County Engineer or to the operator of the Sacramento County highway bridge across Sacramento River at Walnut Grove.

(e) *Lindsey Slough; Hastings Farms highway bridge between Egbert and Lower Hastings Tracts.* At least 72 hours' advance notice required for removal of the center span. To be given to Hastings Farms, Merchants Exchange Building, San Francisco 4, California.

(f) *American River; State of California highway bridge at Sacramento.* The draw need not be opened for the passage of vessels and the special regula-

tions contained in § 117.710 shall not apply to this bridge.

§ 117.718 Eureka Slough, near Eureka, Calif.

At least 24 hours' advance notice required.

§ 117.720 Coos Bay, Oreg.

(a) *Highway bridge across South Slough.* (1) The bridge shall open for passage of vessels or other watercraft of any description upon verbal request to the authorized representative of the owner of or agency controlling the bridge.

(2) Notice shall be conspicuously posted on the bridge stating where the authorized representative may be found in case it is necessary for the draw to be opened.

(b) *Bridge of Southern Pacific Railroad Co. below North Bend.* (1) The drawspan of the bridge shall be kept open at all times except while actually required for the necessary passage of trains over the drawspan.

(2) During foggy weather a fog bell installed in the center of the drawspan shall be rung continuously, striking every 10 seconds.

(3) Any time during foggy weather, when the draw is closed and the passage is not clear for boats, there shall be sounded continuously a siren which may be heard at a distance of 1 mile from the drawspan. When the bridge is again opened the siren shall be stopped, indicating that the way is clear for the passage of boats.

(c) *Railroad bridge across Coalbank Slough.* (1) Whenever a vessel or other watercraft unable to pass under the closed bridge desires to pass through the draw, at least 24 hours' advance notice of the time the opening is required shall be given to the authorized representative of the owner of the bridge.

(2) Upon receipt of such advance notice, the authorized representative shall, in compliance therewith, arrange for the opening of the draw within the specified 24-hour period.

(3) Notice shall be conspicuously posted on the bridge stating where the authorized representative may be found in case it is necessary for the draw to be opened.

(d) *Highway bridge across Coalbank Slough.* (1) Whenever a vessel or other watercraft unable to pass under the closed bridge desires to pass through the draw, at least 24 hours' advance notice shall be given to the authorized representative of the owner of the bridge.

(2) Upon receipt of such advance notice, the authorized representative shall in compliance therewith arrange for opening the draw at a time designation (within the 24-hour period) which will not coincide with a period of peak highway traffic.

(3) Notice shall be conspicuously posted on the bridge stating where the authorized representative may be found in case it is necessary for the draw to be opened.

§ 117.725 Umpqua River, Oreg.

(a) *Bridge of Willamette-Pacific Railroad Co. at Reedsport, Oreg.* (1) The drawspan of the bridge across the Umpqua River at the mouth of Smith River shall be promptly opened for the passage of steamboats or other watercraft upon the following signals: One long blast of the whistle followed quickly by one short blast and one long blast.

(2) Vessels or other watercraft without power shall hail the bridge by horn or megaphone, or the bridge tender shall be notified by verbal communication of the desire to pass through the drawspan.

(3) During foggy weather an answering signal of one long blast from the whistle on the bridge will indicate that everything is clear and the draw open for the passage of boats. An answering signal from the whistle on the bridge of a succession of short blasts will indicate that there is some difficulty in immediately opening the draw, due to a passing train or some other cause.

(b) *Bridge (highway) at Reedsport, Oreg.* (1) The owner of or agency controlling the bridge shall provide the appliances and the personnel necessary for the safe, prompt, and efficient opening of the draw at any time during the day or night for the passage of any vessel or other watercraft, which cannot pass under the closed draw, when the following signal is received:

(i) One long blast followed immediately by one short blast of a whistle, siren, trumpet, horn or megaphone, or one loud and distinct stroke of a bell.

(ii) When the draw of the bridge can be opened immediately the draw tender shall reply by one long blast of a whistle, horn, siren, trumpet or megaphone, or one loud and distinct stroke of a bell.

(iii) If the draw of the bridge cannot be opened immediately, the draw tender shall reply by a succession of short blasts of a whistle, horn, siren, trumpet, or megaphone or loud and distinct ringing of a bell.

(2) A copy of the regulations in this section shall be conspicuously posted on both the upstream and downstream sides of the bridge in such manner that it can be easily read at any time.

(3) The operating machinery of the draw shall be maintained in a serviceable condition, and the draw opened and closed at least once every 4 months to make certain that the machinery is in proper order for satisfactory operation.

§ 117.730 Siuslaw River, Oreg.

(a) *Oregon State Highway Commission bridge at Florence.* (1) The owner of or agency controlling this bridge shall provide the appliances and personnel necessary for the safe, prompt, and efficient opening of the draw at any time during the day or night for the passage of any vessel or other watercraft which cannot pass under the closed draw, when the call signal is received.

(2) The call signal for opening the draw shall be one long blast of a whistle, siren, trumpet, horn, or megaphone followed immediately by one short blast, or one loud and distinct stroke of a bell. When the draw of the bridge can be opened immediately the draw tender shall reply by one long blast of a whistle, horn, siren, trumpet, or megaphone, or one loud and distinct stroke of a bell. If the draw of the bridge cannot be opened immediately, the draw tender shall reply by a succession of short blasts of a whistle, horn, siren, trumpet, or megaphone, or loud and distinct strokes of a bell.

(3) The operating machinery of the draw shall be maintained in a serviceable condition, and the draw shall be opened and closed at intervals frequent enough to make certain that the machinery is in proper order for satisfactory operation.

(4) A copy of the regulations in this paragraph shall be conspicuously posted on both the upstream and downstream sides of the bridge in such manner that it can be easily read at any time.

(b) *Southern Pacific Company railroad bridge at Cushman.* (1) Whenever a vessel unable to pass under the closed bridge desires to pass through the draw, at least 24 hours' advance notice of the time the opening is required shall be given to the authorized representative of the owner of or agency controlling the bridge.

(2) Upon receipt of such advance notice, the authorized representative shall, in compliance therewith, arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

(3) The operating machinery of the draw shall be maintained in a serviceable condition, and the draw shall be opened and closed at intervals frequent enough to make certain that the machinery is in proper order for satisfactory operation.

(4) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can be read easily at any time, a copy of the regulations in this paragraph together with a notice stating exactly how the authorized representative may be reached.

§ 117.739 Umpqua River, Dean Creek, Little Nestucca River, and Skipanon River, Oreg.; bridges.

The Oregon State Highway Department drawbridges across Umpqua River, Mile 11.0, side channel, near Gardiner, north of Bolon Island; Dean Creek at its mouth near Reedsport; Little Nestucca River, Mile 2.0, near Oretown; and Skipanon River, Mile 2.5, upstream from Warrenton need not be opened for the passage of vessels.

§ 117.740 Youngs Bay, Walluski River, Lewis and Clark River, Skipanon River, John Day River, Blind Slough, and Clatskanie River, Oreg.; bridges.

(a) The drawbridges across Youngs Bay, Walluski River, Lewis and Clark River, Skipanon River, John Day River, and Blind Slough, all in Clatsop County, Oreg., and the bridge across Clatskanie River, in Columbia County, Oreg., shall be promptly opened for the passage of vessels or other watercraft upon the following signals:

(1) Highway bridge across Youngs Bay at Smith Point, two long blasts followed quickly by two short blasts.

(1-a) Spokane, Portland & Seattle Railway bridge across Youngs Bay at Smith Point, one long blast followed quickly by one short blast.

(2) Youngs Bay highway bridge at foot of Fifth Street, Astoria, Oreg., two long blasts followed quickly by one short blast.

(3) Walluski River highway bridge, one long blast followed quickly by three short blasts.

(4) Lewis and Clark River highway bridge, near the mouth, one long blast followed quickly by four short blasts.

(5) Skipanon River railroad and highway bridges at Warrenton, Oreg. (both to be opened on one signal), one long blast followed quickly by one short blast.

(6) John Day River, Spokane, Portland & Seattle Ry. bridge, one long blast followed quickly by one short blast.

(7) John Day River highway bridge. (See special regulations in § 117.745.)

(8) Blind Slough, Spokane, Portland & Seattle Ry. bridge, one long blast followed quickly by one short blast.

(9) Clatskanie River, Spokane, Portland & Seattle Ry. bridge, one long blast followed quickly by one short blast.

(b) The bridges listed in paragraph (a) of this section shall be opened for the passage of vessels or watercraft of any kind upon prescribed signals being given on any form of whistle, horn, siren or trumpet, or upon verbal request of the person in charge of such vessel or watercraft except that the draw of the highway bridge across Youngs Bay at the foot of Fifth Street, Astoria, Oregon, shall not be required to open for vessels habitually using the waterway carrying appurtenances unessential for navigation which extend above the normal superstructure, unless such vessel has in tow a vessel which is unable to pass under the closed draw. Military masts shall be considered as a part of the superstructure.

NOTE: On request, the District Commander will cause an inspection to be made of the superstructure and appurtenances of a vessel habitually frequenting the waterway with a view to adjusting any differences of opinion in this matter between the vessel and the bridge owner.

§ 117.745 John Day River, Oreg.; bridge (highway).

(a) The owner of or agency controlling the bridge will not be required to keep a draw tender in constant attendance at this bridge.

(b) Whenever a vessel unable to pass under the closed bridge desires to pass through the draw, at least 12 hours' advance notice of the time the opening is required shall be given to the authorized representative of the owner of or agency controlling the bridge.

(c) Upon the receipt of such notice, the authorized representative of the owner of or agency controlling the bridge, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

(d) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge in such manner that it can easily be read at any time a copy of the regulations in this section, together with a notice stating exactly how the representative specified in paragraph (b) of this section may be reached.

(e) The operating machinery of the draw shall be maintained in a serviceable condition, and the draw opened and closed at least once each quarter to make certain that the machinery is in proper order for satisfactory operation.

§ 117.750 Willamette River at Portland, Oreg., Columbia River at Vancouver, Wash., and North Portland Harbor (Oregon Slough), Oreg.; bridges (highway and railroad); Signals.

(a) *Call signals for opening of draw.* These signals shall be as prescribed for each bridge in paragraph (b) of this section. It is given by vessels as notice to bridge operators to open the draw, or in case the draw is already open, that they intend to pass through. A call signal given twice in rapid succession indicates that vessel has authority to pass bridges during closed periods (see paragraph (f) (1) of this section).

(b) *Answering signals*—(1) *Acknowledging signal.* Shall be the same as the call signal for each bridge. Its purpose is to acknowledge the call signal of a vessel and to indicate that the operator intends to open the draw as soon as practicable, or that he will hold it open.

(2) *Danger signal.* Shall consist of a series of short blasts, at least four, given in rapid succession, and repeated if necessary. Its purpose is to answer the call signal of a vessel, but to indicate that the draw cannot or will not be opened at once, or, when vessels are waiting in the vicinity, that the draw, if open, is about to be closed. It is also to be used in emergency to revoke an acknowledging signal.

(3) *Rescinding signal.* Shall be the reverse of the call signal for each bridge. It is given by a vessel to cancel a previous call signal, to indicate that the vessel does not intend to pass through and that the draw need not be opened, or may be closed.

(4) *Answer to rescinding signal:* (i) Answer by the bridge operator to a rescinding signal shall be the danger signal (see subparagraph (2) of this paragraph).

(5) *Call signals.* The following call signals are prescribed for vessels wishing to have the drawspans opened or held open.

(i) Spokane, Portland & Seattle Ry. bridge, at Vancouver, Wash., one long followed by one short blast.

(ii) Interstate Highway Bridge, at Vancouver, Wash., two long followed by one short blast.

(iii) Spokane, Portland, and Seattle Railway Bridge at North Portland Harbor (Oregon Slough).

(a) The owner of or agency controlling this bridge shall not be required to keep a tender at the bridge. Operators of vessels unable to pass under the bridge in closed position shall give the authorized representative of the owner of or agency controlling the bridge, by telephone or two-way marine radio, at least one-half hours' advance notice of the time at which such opening will be required. The bridge shall be opened at any time upon receipt of the required notice.

(b) Vessels requiring an opening of the bridge shall direct their calls to the Spokane, Portland, and Seattle Railway drawbridge over the Columbia River at Vancouver, Wash.

(c) The owner of or agency controlling this bridge shall keep conspicuously posted on the bridge a notice stating exactly how the representative stated above may be reached, including radio frequencies and call sign. This notice shall be posted on both the upstream and downstream sides of the bridge and in such a manner that it can be read at all times.

(iv) Spokane, Portland & Seattle Ry. bridge, at St. Johns, Oreg., one long followed by one short blast.

(v) Broadway Bridge, two long followed by one short blast.

(vi) Oregon-Washington Railroad & Navigation Co. bridge, one long followed by one short blast.

(vii) Burnside Bridge, one long followed by two short blasts.

(viii) Morrison Bridge, one long followed by three short blasts.

(ix) Hawthorne Bridge, one long followed by four short blasts.

Call signals may be given on any form of whistle, horn, siren, or trumpet with sufficient range or volume to be heard by bridge operators.

(c) *To bridge owners.* All bridges to which this section applies shall be equipped with suitable air whistles of sufficient size and range that signals sounded on same shall be distinctly audible up and down stream under adverse wind and weather conditions for a distance of 2,500 feet, except for the Spokane, Portland & Seattle Ry. Co. bridges over Columbia and Willamette Rivers, which shall have a range of at least 5,000 feet under the same conditions.

(d) *To navigators.* (1) A vessel, desiring at any time (except during closed periods, see paragraph (f) (1) of this section) to pass through any of the above-mentioned bridges, under which it cannot pass with the draw closed, shall sound the call signal for such bridge as prescribed in paragraph (b) of this section, and shall repeat such signal at intervals until it is answered by the operator of the bridge (see paragraphs (a) and (e) of this section). In case two vessels approaching from opposite directions would meet at or near the bridge, the vessel bound downstream shall be considered as having the right of way. When either vessel waits for passage of the other, it shall again give the call signal for the bridge and receive acknowledgment before proceeding. It is incumbent upon navigators to make sure that their signals are understood before proceeding through a drawspan, and when approaching bridges, vessels should be kept under control, with a view to stopping, if necessary, before reaching the bridge.

(2) Vessels authorized to pass through bridges during closed periods, as pro-

vided in paragraph (f) (1) of this section, shall sound the call signal twice in rapid succession. Signals to open shall be given by vessels at a distance of at least 1,000 feet from the bridge, except in case of a vessel leaving a wharf or anchorage or when waiting less than 1,000 feet from the bridge. In such cases the signal shall be given early enough to allow the operator of the bridge sufficient time in which to clear and open the draw before arrival of the vessel.

(3) All vessels when passing any bridge shall be moved as expeditiously as is consistent with established rules governing speed in the harbor of Portland, and all towboats engaged in handling other craft or in towing logs through any of the bridges shall be of sufficient power to handle the tow without unduly delaying the closing of the drawspan.

(4) Vessels with hinged or adjustable masts or booms projecting above their fixed structures shall lower same and pass under the bridge, if practicable, without signaling for the draw to open.

(e) *To bridge operators.* (1) If the bridge can be opened, or is already open, when a call signal is given, the operator shall promptly answer the vessel calling by giving the acknowledging signal and promptly open the draw (except during closed periods, see paragraph (f) (1) of this section) or hold it open, as the case may be.

(2) In case the draw cannot be opened at once when the call signal is given, the operator shall promptly answer the vessel calling by giving the danger signal and shall repeat same, if necessary. As soon as the exigency which prevented opening has been removed the bridge operator shall promptly sound the regular acknowledging signal for that bridge to advise vessels that the draw can be opened at once, and he shall thereupon proceed to open same if there is a vessel waiting to pass through.

(3) When two vessels arrive at a bridge at or near the same time and blow the call signal, lift spans, when opened, shall be raised high enough to clear the taller vessel. If either vessel at any drawbridge waits for passage of the other and again gives the call signal, the bridge operator shall promptly answer with the acknowledging signal and shall hold the span open. In case the intentions of a waiting vessel are not understood by a bridge operator, when the draw is open he shall sound the danger signal as a warning to vessels that he is about to close the draw.

(4) If a rescinding signal is given by a vessel to cancel a previously given call signal, and it is evident the vessel does not intend to pass through, the bridge operator shall answer with the danger signal (four or more short blasts) and may then close the draw, or need not open it.

(f) *Closed periods.* (1) The periods from 7:00 a.m. to 9:00 a.m. and 4:45 p.m. to 6:15 p.m. are hereby designated closed periods during which the drawspans of bridges carrying street traffic over Willamette River at Portland shall not be opened to navigation except as below provided, or when necessary to prevent accidents.

(2) Closed periods above defined shall not be effective on Sundays, New Year's Day, Washington's Birthday, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day, or days observed in lieu of these under State law: *Provided*, That closed periods shall not apply against harbor patrol or fireboats answering calls, nor oceangoing vessels of 750 gross tons or over which are entering the harbor from points outside Willamette River: *And provided further*, That upon securing the approval and permission of the harbor master, but not otherwise, other oceangoing vessels of 750 gross tons or over may signal for and pass through these bridges at any hour. Vessels desiring and authorized to pass through bridges during closed periods as provided in subparagraph (1) of this paragraph, or in case of emergency when opening of the draw is necessary to prevent accident, shall sound the call signal twice in rapid succession, i. e., with an interval of not over 5 seconds between signals. Drawspans shall be opened, however, for oceangoing vessels of 750 gross tons or over under the rule in paragraph (e) of this section whether the vessel gives a single or double call signal.

§ 117.755 Willamette River, Oreg.; bridges above Oregon City, Oreg.

(a) *Southern Pacific Company's bridge at Salem.* (1) Except as provided in subparagraph (2) of this paragraph, the drawspan shall be opened promptly for the passage of river craft unable to pass under the closed bridge upon the following signal: One long blast, followed quickly by one short blast; or upon verbal request of the operator of any watercraft of his desire to have the drawspan opened.

(2) When river stages are below 20 feet, Corps of Engineers gage, and a vessel unable to pass under the bridge desires to pass through the draw, at least 24 hours' advance notice of the time the opening is required shall be given to the authorized representative of the owner or agency controlling the bridge. Such advance notice may be given to the dispatchers of the Southern Pacific Company at Portland or to the Southern Pacific Company Agent at Salem.

(3) Upon receipt of such advance notice, arrangements shall be made for the prompt opening of the drawspan at the time given in the notice for passage of the vessel, and the draw shall be so opened.

(4) The owner or agency controlling the bridge shall keep a copy of the regulations in this paragraph conspicuously posted on both the upstream and downstream sides of the bridge, in such place and manner that it can be easily read from the river at any time.

(b) *Southern Pacific Company's bridge at Albany, Oreg., and Benton County highway bridge at Corvallis, Oreg.* (1) Whenever a vessel unable to pass under the Southern Pacific Company's railroad bridge at Albany, or the Benton County highway bridge at Corvallis, desires to pass through the draw of either bridge, at least 6 hours' advance notice of the time the opening is required shall be given to the authorized representative of the owner or agency controlling the bridge through which passage is desired.

(2) Upon receipt of such advance notice, arrangements shall be made for the prompt opening of the draw at the time given in the notice for passage of the vessel, and the draw shall be so opened.

(3) The owner or agency controlling the bridge shall keep a copy of the regulations in this paragraph conspicuously posted on both the upstream and downstream sides of the bridge, in such place and manner that it can be easily read from the river at any time, together with a notice stating exactly how the representative specified in paragraph (b) (1) of this section may be reached.

(4) The operating machinery of the draws of these bridges shall be maintained in a serviceable condition, and the draw opened and closed at least once each three months, to insure that the machinery is in proper order for satisfactory operation.

§ 117.758 Skamokawa Creek, Wash.; Washington State Highway bridge at Skamokawa.

The draw of the bridge need not be opened for the passage of vessels.

§ 117.759 Columbia River; Oregon-Washington Bridge Co. highway bridge between Hood River, Oreg., and White Salmon, Wash.

(a) The owner of or agency controlling the bridge will not be required to keep a draw tender in constant attendance.

(b) Whenever a vessel unable to pass under the closed bridge desires to pass through the draw, at least 12 hours' advance notice of the time the opening is required, and the vertical clearance required for the vessel, shall be given to the authorized representative of the owner of or agency controlling the bridge.

(c) Upon receipt of such notice, the authorized representative, in compliance therewith, shall arrange for the prompt opening of the draw upon signal at the time specified in the notice for the passage of the vessel.

(d) The call signal for opening of the draw shall be one long blast followed by two short blasts and one long blast. When the draw has been opened sufficiently to pass the vessel, the draw tender shall reply by waving conspicuously a green flag by day or a green light by night. When the draw cannot be opened immediately, or when it is open and due to an emergency must be closed immediately, the draw tender shall reply by waving conspicuously a red flag by day or a red light by night.

(e) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in such manner that it can be easily read at any time, a copy of the regulations in this section, together with a notice stating exactly how the authorized representative may be reached.

(f) The operating machinery of the draw shall be maintained in a serviceable condition, and the draw shall be opened and closed at intervals frequent enough to make certain that the machinery is in proper order for satisfactory operation.

§ 117.759a Columbia River; Spokane, Portland and Seattle Railway Co. bridge between Wishram, Wash., and Celilo, Oreg.

(a) The owner of, or agency controlling the bridge, shall provide the necessary equipment, controls and personnel necessary for the safe, prompt and efficient opening of the draw upon signal at any time of the day or night for the passage of any vessel or other watercraft which cannot pass under the closed draw.

(b) The call signal for opening the draw shall be one long blast of a whistle, siren, trumpet, horn or megaphone, followed immediately by one short blast. When the draw of the bridge can be opened immediately or if the draw is open and will be held open, for the passage of the vessel, the draw tender shall reply by one long blast of a whistle, siren, trumpet, horn or megaphone, followed by one short blast. If the draw cannot be opened immediately the draw tender shall reply by a succession of short blasts on a whistle, siren, trumpet, horn or megaphone.

(c) The operating machinery of the draw shall be maintained in a serviceable condition and the draw shall be opened and closed at intervals frequent enough to make certain that the machinery is in proper condition for prompt operation.

(d) The owner of, or agency controlling the bridge, shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in such a manner that it can be easily read at any time, a copy of the regulations of this section.

§ 117.760 Columbia and Snake Rivers in vicinity of Pasco, Wash.; bridges.

(a) *Bridges covered by the regulations of this section.* (1) The Union Pacific Railroad Company bridge across the Columbia River about 5 miles downstream from Pasco, Washington.

(2) The Northern Pacific Railway Company bridge across the Columbia River between Pasco and Kennewick, Washington.

(3) The Northern Pacific Railway Company bridge across the Snake River at Burbank, Washington.

(b) *Posting of regulations.* The owner of or agency controlling each bridge shall keep conspicuously posted on the bridge a copy of the regulations of this section together with a notice stating exactly how the representative stated below may be reached. The regulations of this section and notice shall be posted on both the upstream and downstream sides of the bridge and in such a manner that they can be easily read at all times. The names, addresses, and telephone numbers of the bridge representatives are as follows:

(1) For the Union Pacific Railroad Company bridge—The Chief Dispatcher, Spokane, Washington, telephone Main 4121.

(2) For the Northern Pacific Railway Company bridges—The General Yardmaster, Clark and Tacoma Streets, Pasco, Washington, telephone 6242 or 4401.

(c) *Advance notification.* The owners or operators of vessels requiring that the drawspan of either of the bridges owned by the Northern Pacific Railway Company referred to above, be opened between the hours of 4:00 p. m. and 8:00 a. m., will notify the representative of the bridge owner at least 2 hours in advance of the estimated time of arrival of the vessel at the bridge.

(d) *Signals.* (1) *Call signals for opening of draw.* The following signals shall be given by vessels as notice to bridge tender to open the draw, or in case the draw is already open, that they intend to pass through.

(i) *Sound signals.* (a) For the Union Pacific Railroad Company bridge, 2 long blasts and 1 short blast, sounded at least 10 minutes and not more than 30 minutes before passage is desired.

(b) For the Northern Pacific Railway Company bridges, 1 long blast and 2 short blasts, sounded at least 10 minutes and not more than 30 minutes before passage is desired.

(ii) *Visual signals.* A white flag by day or a white light at night, swung in full circles at arm's length in full sight of the bridge and facing the draw.

(2) *Answering signals*—(i) *Acknowledging signals.* Shall be the same as the call signal for each bridge. The purpose of the signal is to acknowledge the call signal of a vessel and to indicate that the bridge tender intends to open the draw as soon as practicable, or that he will hold the draw open.

(ii) *Danger signals.* Shall consist of a series of short blasts, at least four, given in rapid succession, and repeated if necessary, or a red flag during the day or a red light at night swung in full circles in full sight of the vessel. The signals will be used in answering the call signal of a vessel to indicate that the draw cannot or will not be opened at once, or, when vessels are waiting in the vicinity, that the draw, if open is about to be closed. It is also to be used in emergency to revoke an acknowledging signal.

(iii) *Rescinding signals.* Shall be the reverse of the call signal for each bridge. The signal will be used by a vessel to cancel a previous call signal, and to indicate that the vessel does not intend to pass through and that the draw need not be opened, or may be closed.

(iv) Answer by the bridge tender to a rescinding signal shall be the danger signal.

(e) All bridges to which the regulations of this section apply shall be equipped with a whistle or horn of sufficient size and range that signals sounded on same shall be distinctly audible up and down stream on a still day for a distance of approximately 2.5 miles.

(f) A vessel, desiring to pass through any of the above bridges, under which it cannot pass with the draw closed, except when advance notice is required by paragraph (c) of this section, shall sound the call signal for such bridge as prescribed and shall repeat such signal at intervals until it is answered by the draw tender. In case two vessels approaching from opposite directions would meet at or near the bridge, the vessel bound downstream shall be considered as having the right of way. When either vessel waits for the passage of the other, the vessel shall again give the call signal for the bridge and receive an acknowledging signal from the draw tender before proceeding. It is incumbent upon navigators to make sure that their signals are understood before proceeding through a drawspan, and when approaching bridges, vessels should be kept under control, with a view to stopping, if necessary, before reaching the bridge.

(g) All vessels when passing any bridge shall be moved as expeditiously as is consistent with safe navigation, and all towboats engaged in towing barges or other craft through any of the bridges shall be of sufficient power to handle the tow without unduly delaying the closing of the drawspan.

(h) Vessels with hinged or adjustable masts or booms projecting above their fixed structure shall lower the same and pass under the bridges, if practicable, without signaling for the draw to open.

(i) If the bridge can be opened, or is already open, when a call signal is given, the draw tender shall promptly answer the vessel calling by giving the acknowledging signal and promptly open the draw or hold it open, as the case may be, except that the opening of the draw may be delayed until immediately after the passage of any train which will cross the bridge before stopping and which has passed any bridge signal block located not more than two miles from the bridge. Trains shall in no event stand in such location as to prevent operation of the draw when a vessel desiring passage through the bridge has signaled for the draw to be opened.

(j) In case the draw cannot be opened at once when the call signal is given, the draw tender shall promptly answer the vessel calling by giving the danger signal and shall repeat the same, if necessary. As soon as the exigency which prevented opening has been removed the bridge tender shall promptly sound the regular acknowledging signal for the bridge to advise vessels that the draw can be opened at once, and he shall thereupon proceed to open same if there is a vessel waiting to pass through.

(k) When two vessels arrive at a bridge at or near the same time and blow the call signal, the lift span, when opened, shall be raised high enough to clear the taller vessel. If either vessel at any drawbridge waits for passage of the other and again gives the call signal, the bridge tender shall promptly answer with the acknowledging signal and shall hold the span open. In case the intentions of a waiting vessel are not fully understood by a draw tender, when the draw is open he shall sound the

danger signal as a warning to vessels that he is about to close the draw.

(i) If a rescinding signal is given by a vessel to cancel a previously given call signal, and it is evident the vessel does not intend to pass through, the draw tender shall answer with the danger signal and may close the draw, or need not open the draw.

§ 117.765 *Cowlitz and Lewis Rivers, Wash.; bridges.*

(a) *General regulations.* (1) The corporations or persons owning or controlling a drawbridge shall provide the same with the necessary tenders and the proper mechanical devices for the safe, prompt, and efficient opening of the draw for the passage of vessels.

(2) If the weather conditions are good and sound signals can be heard, when a vessel approaches a drawbridge and desires to pass through the draw:

(i) The person in charge of such vessel desiring to pass shall cause to be sounded, within reasonable hearing distance of the bridge, repeating if necessary, and in time to give due notice to its operator, three long distinct blasts of a whistle, horn, or megaphone, or three loud and distinct strokes of a bell.

(ii) When the draw of the bridge can be opened immediately, the draw tender shall reply by two long blasts followed by one short distinct blast of a whistle, horn, or megaphone, or by three loud and distinct strokes of a bell.

(iii) When the draw of the bridge cannot be opened immediately the draw tender shall reply by two long distinct blasts of a whistle, horn, or megaphone, or three loud and distinct strokes of a bell. (This signal may also be used by a vessel to countermand its signal to open draw.)

(iv) When, after a delay, as in subparagraph (2) (iii) of this paragraph, the draw of the bridge can be opened and the vessel still desires to pass, the draw tender shall give the signal described in subparagraph (2) (iii) of this paragraph, viz, two long blasts followed by one short distinct blast of a whistle, horn, or megaphone, or three loud and distinct strokes of a bell.

(3) When weather conditions prevent hearing sound signals:

(i) The person in charge of a vessel desiring to pass shall swing a white lighted lantern or white flag, the former by night, the latter by day; the person signaling to face the drawbridge and swing the lantern or flag in front of him at arm's length, in vertical circles.

(ii) When the draw of the bridge can be opened immediately, the draw tender shall reply by raising and lowering a white lighted lantern or a white flag, the former by night, the latter by day, the movement to be vertical.

(iii) When the draw of the bridge cannot be opened immediately, the draw tender shall reply by swinging a red lighted lantern or red flag, the former by night, the latter by day; the person signaling to face the vessel and swing the lantern or flag in front of him at arm's length in vertical circles. (This signal may also be used by a vessel to countermand its signal to open draw.)

(iv) When, after a delay, as in subparagraph (3) (iii) of this paragraph the draw of the bridge can be opened and the vessel still desires to pass, the draw tender shall give the signal described in subparagraph (3) (ii) of this paragraph viz, raising and lowering a lighted lantern or a flag.

(4) When fog prevails by day or by night the draw tender on giving signal (subparagraphs (2) (ii), (2) (iv), (3) (ii), and (3) (iv) of this paragraph) that draw will be opened, shall toll a bell continuously during the approach and passage of the vessel.

(5) The draw shall be opened with the least possible delay upon receiving the prescribed signal: *Provided*, That the drawspan shall not be opened when a train is approaching so closely that it cannot safely be stopped before reaching the bridge, or when a passenger or mail train is approaching within sight or hearing of the operator of the drawspan.

(6) Trains, wagons, and other vehicles shall not be stopped on a drawbridge for the purpose of delaying its opening, nor shall water craft or vessels be so manipulated as to hinder or delay the operation of a drawspan, but all passage over, through, or under a drawbridge shall be prompt, to prevent delay to either land or water traffic.

(7) This paragraph shall apply in the cases of all bridges, but to provide for intermittent attendance of bridge tenders on bridges across streams where water traffic is minor, or at times nonexistent, the special regulations and exceptions in paragraph (b) of this section are prescribed.

(b) *Special regulations*—(1) *Northern Pacific Railway Company bridge across Lewis River.* The draw of the bridge need not be opened for the passage of vessels, and paragraph (a) of this section shall not apply to this bridge.

(2) *Cowlitz River; highway bridge at Allen Street, Kelso, Wash.*

(i) The owner of or agency controlling the drawbridge will not be required to keep a draw tender in constant attendance.

(ii) Whenever a vessel unable to pass under the closed bridge desires to pass through the draw, at least 2 hours' advance notice of the time the opening is required shall be given to the authorized representative of the owner of or agency controlling the bridge. In the event a vessel is delayed by weather conditions or otherwise, the operator will remain a reasonable time, not to exceed two hours, and open the bridge on signal for the passage of the vessel. If a vessel is expected to be delayed more than two hours the operator will be so advised, and notified of the later time the opening will be required.

(iii) Upon receipt of advance notice the authorized representative of the owner of or agency controlling the bridge, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel. If a vessel passing through the bridge intends to return through within two hours the bridge tender will be advised of the fact and he will remain at and open the bridge upon signal for the vessel's return passage.

(iv) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in a manner that it can be easily read at any time, a copy of these regulations, together with a notice stating exactly how the authorized representative may be reached by telephone or otherwise.

(v) The operating machinery of the draw shall be maintained in a serviceable condition and the draw opened and closed at intervals frequent enough to make certain that the machinery is in proper order for satisfactory operation.

§ 117.770 *Willapa Harbor and navigable tributaries, Washington; bridges.*

(a) *General regulations.* (1) The corporations or persons owning or controlling a drawbridge shall provide the same with the necessary tenders and the proper mechanical devices for the safe, prompt, and efficient opening of the draw for the passage of vessels.

(2) The person in charge of a vessel desiring to pass shall cause to be sounded, within reasonable hearing distance of the bridge, repeating if necessary, and in time to give due notice to its operator, the proper signal for the bridge, as described in paragraph (b) of this section.

(3) When the draw of the bridge can be opened immediately, the draw tender shall reply by one long distinct blast, followed by one short distinct blast of a horn or whistle.

(4) When the draw of the bridge cannot be opened immediately, the draw tender shall reply by four short distinct blasts of a horn or whistle. (This signal may also be used by a vessel to countermand its signal to open the draw.)

(5) Trains and other vehicles shall not be stopped on a drawbridge for the purpose of delaying its opening nor shall watercraft or vessels be so manipulated as to hinder or delay the operation of a drawspan, but all passage over, through, or under the drawbridge shall be prompt to prevent delay to either land or water traffic.

(b) *Special regulations.* (1) The following signals are prescribed for vessels wishing to have the draws opened:

(i) Washington State highway bridge, North Fork, Willapa River, at Raymond, Washington: One long blast of horn or whistle followed quickly by one short blast and one long blast.

(ii) Northern Pacific Railroad bridge, South Fork, Willapa River at Raymond, Washington: Two long blasts of a horn or whistle, followed quickly by one short blast.

(iii) Washington State highway bridge, South Fork, Willapa River at Raymond, Washington: Two long blasts of a horn or whistle followed quickly by two short blasts.

(iv) Washington State highway bridge, Naselle River, about 6 miles downstream from Naselle, Washington: One long blast of a horn or whistle.

(2) Constant attendance by draw tenders is not required at the State highway bridges across the North and South Forks of Willapa River at Raymond and the Naselle River about 6 miles downstream from Naselle. Vessels requiring openings of these bridges shall give advance notice of not more than 2 hours for openings between 8:00 a.m. and 5:00 p.m. on all days except Saturdays, Sundays and legal holidays, and advance notice of not more than 8 hours for openings at any other time. The owner of the bridges shall keep conspicuously posted on both the upstream and downstream sides, in such a manner that they can be easily read at any time, copies of the regulations of this section, together with notices stating exactly how the bridge operators may be reached to obtain openings of the bridges, including names, addresses and telephone numbers.

§ 117.775 *Grays Harbor and tributaries, Washington; bridges.*

(a) *General regulations.* (1) The corporations or persons owning or controlling a drawbridge shall provide the same with the necessary tenders and the proper mechanical devices for the safe, prompt, and efficient opening of the draw for the passage of vessels.

(2) If the weather conditions are good and sound signals can be heard when a vessel approaches a drawbridge and desires to pass through the draw:

(i) The person in charge of such vessel desiring to pass shall cause to be sounded, within reasonable hearing distance of the bridge, repeating if necessary, and in time to give due notice to its operator, three long distinct blasts of a whistle, horn, or megaphone, or three loud and distinct strokes of a bell.

(ii) When the draw of the bridge can be opened immediately the draw tender shall reply by two long blasts followed by one short distinct blast of a whistle, horn, or megaphone, or by three loud and distinct strokes of a bell.

(iii) When the draw of the bridge cannot be opened immediately, the draw tender shall reply by two long distinct blasts of a whistle, horn, or megaphone, or two distinct strokes of a bell. (This signal may also be used by a vessel to countermand its signal to open draw.)

(iv) When, after a delay as in subparagraph (2) (iii) of this paragraph, the draw of the bridge can be opened and the vessel still desires to pass, the draw tender shall give the signal described in subparagraph (2) (ii) of this paragraph, viz, two long blasts followed by one short distinct blast of a whistle, horn, or megaphone, or three loud and distinct strokes of a bell.

(3) When weather conditions prevent hearing sound signals:

(i) The person in charge of a vessel desiring to pass shall swing a white lighted lantern or white flag, the former by night, the latter by day; the person signaling to face the drawbridge and swing the lantern or flag in front of him at arm's length, in vertical circles.

(ii) When the draw of the bridge can be opened immediately, the draw tender shall reply by raising and lowering a white lighted lantern or a white flag, the former by night, the latter by day; the movement to be vertical.

(iii) When the draw of the bridge cannot be opened immediately, the draw tender shall reply by swinging a red lighted lantern or red flag, the former by night, the latter by day; the person signaling to face the vessel and swing the lantern or flag in front of him at arm's length, in vertical circles. (This signal may also be used by a vessel to countermand its signal to open draw.)

(iv) When, after a delay, as in subparagraph (3) (iii) of this paragraph, the draw of the bridge can be opened and the vessel still desires to pass, the draw tender shall give the signal described in subparagraph (3) (ii) of this paragraph, viz, raising or lowering a lighted lantern or a flag.

(4) When fog prevails by day or by night the draw tender on giving signal (subparagraphs (2) (ii), (2) (iv), (3) (ii), or (3) (iv) of this paragraph) that draw will be opened, shall toll a bell continuously during the approach and passage of the vessel.

(5) The draw shall be opened with the least possible delay upon receiving the prescribed signal: *Provided*, That the drawspan shall not be opened when a train is approaching so closely that it cannot safely be stopped before reaching the bridge, or when a passenger or mail train is approaching within sight or hearing of the operator of the drawspan.

(6) Trains, wagons, and other vehicles shall not be stopped on a drawbridge for the purpose of delaying its opening, nor shall water craft or vessels be so manipulated as to hinder or delay the operation of a drawspan, but all passage over, through, or under a drawbridge shall be prompt to prevent delay to either land or water traffic.

(7) This paragraph shall apply in the cases of all bridges, but to provide for distinctive signals given by vessels to particular bridges, as where to or more are within sight or hearing and but one bridge is desired to be opened, the special regulations and exceptions in paragraph (b) are prescribed.

(b) *Special regulations.*

(1) State bridge over Hoquiam River at Simpson Avenue: two long blasts of whistle followed quickly by one short blast of whistle.

(2) City bridge over Hoquiam River, Eighth Street, Hoquiam: two long blasts of whistle followed quickly by two short blasts.

(3) Northern Pacific Railway bridge over Hoquiam River near forks of river: one long blast of whistle followed quickly by one short and one long blast.

(4) Northern Pacific Railway bridge over Wishkah River at Aberdeen: one long blast of whistle followed quickly by one short blast.

(5) City bridge over Wishkah River at Heron Street, Aberdeen: One long blast of whistle followed quickly by two short blasts.

(6) City bridge over Wishkah River at Wishkah Street: One long blast of whistle followed quickly by three short blasts.

(7) City bridge over Wishkah River at Second Street, Aberdeen: One long blast of whistle followed quickly by four short blasts.

NOTE: For other special regulations governing operation of this bridge, see § 117.810.

(8) State Highway bridge over Chehalis River at Aberdeen: Two short blasts of whistle followed quickly by one long blast.

§ 117.784 *Hood Canal, Wash.; Washington State Department of Highways bridge near Port Gamble.*

(a) The owner of or agency controlling the bridge will not be required to keep a draw tender in constant attendance, except as otherwise provided in paragraph (b) (3) of this section.

(b) Whenever a vessel is unable to safely pass under either of the two fixed approach spans and desires to pass through the draw of the bridge, at least one hour advance notice of the time of required opening shall be given to the authorized representative of the owner of or agency controlling the bridge by any of the methods indicated below.

(1) Telephone requests for bridge opening will be directed as collect calls to the Toll Office at the bridge site. The call may also be made by direct telephone communication, through the Seattle Marine Operator, Station KOW, or through other marine wire or radio telephone service.

(2) Audio requests for watercraft without facilities as set forth in subparagraph (1) of this paragraph will be made by sounding one long blast of a horn or whistle followed quickly by two short blasts in the immediate vicinity of the drawspan. The bridge attendant will acknowledge by repeating the signal.

(3) During unusual or emergency periods, the authorized representative of the owner of or agency controlling the bridge will be required to operate the draw of the bridge on a demand basis for specified periods of time, which will normally not exceed 48 hours, when requested by the Department of the Navy. While on a demand basis the draw tender will be in attendance on the bridge with radio communications equipment in operation.

(c) After receipt of proper advance notice of a required opening of the drawspan the authorized representative of the owner of or agency controlling the bridge shall arrange for opening the span at the specified time. When opening of the bridge is imminent, all signals, radio or audio, will be promptly acknowledged by both the bridge and vessels desiring to pass through the draw.

(d) Communication when opening is imminent:

(1) Radio: The draw tender will monitor radio telephone frequency 2738 kilocycles and will communicate with vessels on the frequency regarding the intended opening. In the event that radio contact cannot be made on frequency 2738 kilocycles, an attempt will then be made on 2182 kilocycles.

(2) Audio: The draw tender will communicate with vessels not equipped with

radiotelephone or in instances where radio communication is not satisfactory by use of audio signals as follows:

(i) Vessels wishing to have the draw opened will sound one long blast of a horn or whistle followed quickly by two short blasts.

(ii) If the drawspan cannot be opened immediately, or if open and must close immediately, the draw tender will sound four or more short blasts of a horn or whistle, to be repeated at regular intervals until acknowledged.

(c) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in such a manner that it can easily be read at any time, a copy of the regulations in this section.

§ 117.785 City Waterway, Tacoma Harbor, Wash.; bridges.

(a) *Draw tenders and operating machinery.* The owners of or agencies controlling drawbridges shall provide the necessary tenders and the proper mechanical appliances for the safe, prompt, and efficient opening of the draws for the passage of vessels in accordance with the regulations in this section. The operating machinery of the draws shall be maintained in a serviceable condition, and the draws shall be opened and closed at intervals frequent enough to make certain that the machinery is in proper order for satisfactory operation.

(b) *Signals*—(1) *Sound signals.* To be used if weather conditions are such that sound signals can be heard.

(i) *Call signal for opening of draw.* For the City of Tacoma bridge at South Eleventh Street, three long blasts followed by one short blast, for the Northern Pacific Railway Company bridge at South Fourteenth Street, two long blasts followed by one short blast, and for the Union Pacific Railroad Company bridge near South Fifteenth Street, one long blast followed by one short blast and one long blast, of a whistle, horn, or megaphone, sounded within reasonable hearing distance of the bridge in each case, repeated if necessary, and in time to give due notice to the draw tender.

(ii) *Acknowledging signal when draw can be opened immediately (opening signal).* Two long blasts followed by one short blast of a whistle, horn or megaphone, or three loud and distinct strokes of a bell.

(iii) *Acknowledging signal when draw cannot be opened immediately, or when it is open and must be closed immediately.* Two long blasts of a whistle, horn, or megaphone, or two loud and distinct strokes of a bell. (This signal may also be used by a vessel to countermand its call signal.) Thereafter, as soon as the draw can be opened, the draw tender shall sound the opening signal.

(2) *Visual signals.* To be used if weather conditions are such that sound signals may not be heard.

(i) *Call signal for opening of draw.* A white flag by day or a white lighted lantern by night, swung in vertical circles at arm's length in full sight of the bridge and facing the draw.

(ii) *Acknowledging signal when draw can be opened immediately (opening signal).* Same as call signal, to be given in full sight of the vessel.

(iii) *Acknowledging signal when draw cannot be opened immediately, or when it is open and must be closed immediately.* A red flag by day or a red lighted lantern by night, swung in vertical circles at arm's length in full sight of the vessel. (This signal may also be used by a vessel to countermand its call signal.) Thereafter, as soon as the draw can be opened, the draw tender shall give the opening signal.

(3) *Fog signal.* When fog prevails by day or by night the draw tender, after giving the opening signal, shall toll a bell continuously during the approach and passage of the vessel.

(c) *Prompt opening required except when delayed by train.* Except as otherwise provided in paragraph (e) of this section, the draw shall be opened with the least possible delay on receiving the prescribed signal: *Provided,* That the draw shall not be opened when a train is approaching so closely that it cannot safely be stopped before reaching the bridge, or when a passenger or mail train is approaching within sight or hearing of the draw tender.

(d) *Interference with operation of bridge prohibited.* Trains and vehicles shall not be stopped on a drawbridge for the purpose of delaying its opening, nor shall watercraft be navigated so as to hinder or delay the operation of the draw, but all passage over or through a drawbridge shall be prompt to prevent delay to either land or water traffic.

(e) *Special regulations* (1) *City of Tacoma bridge at South Eleventh Street.* (i) The owner of or agency controlling this bridge need not keep a draw tender in constant attendance.

(ii) Whenever a vessel, unable to pass under the closed bridge, desires to pass through the draw, at least two hours' advance notice of the time the opening is required must be given to the authorized representative of the owner of or agency controlling the bridge to insure prompt opening thereof at the time required.

(iii) On receipt of such advance notice, the authorized representative, in compliance therewith, shall arrange for the prompt opening of the draw on proper signal at approximately the time specified in the notice: *Provided,* That the draw need not be opened between 6:45 a. m. and 7:45 a. m. and between 3:30 p. m. and 5:30 p. m. except when necessary to prevent disaster to shipping.

(iv) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can easily be read at any time, a copy of the regulations in this section pertaining to the bridge together with information as to whom notice should be given when it is desired that the bridge be opened and directions for communicating with such person by telephone or otherwise.

(2) *Union Pacific Railroad Company bridge near South Fifteenth Street.* The draw of this bridge need not be opened between 7:15 a. m. and 8:00 a. m. and between 4:15 and 5:00 p. m. except when necessary to prevent disaster to shipping.

§ 117.790 Duwamish Waterway at Seattle, Wash.; bridges.

(a) *General regulations.* (1) The corporations or persons owning or controlling a drawbridge shall provide the same with necessary tenders and the proper mechanical devices for the safe, prompt, and efficient opening of the draw for the passage of vessels.

(2) If the weather conditions are good and signals can be heard when a vessel approaches a drawbridge and desires to pass through the draw:

(i) The person in charge of such vessel desiring to pass shall cause to be sounded, within reasonable hearing distance of the bridge, repeating if necessary, and in time to give due notice to its operator, the opening signal prescribed in paragraph (b) of this section for the particular bridge.

(ii) When the draw of the bridge can be opened immediately, the draw tender shall reply by the signal prescribed under special regulations in paragraph (b) of this section. As used in this section, the term long blast of a whistle or horn shall mean a blast of 4 seconds' duration, and a short blast shall mean one of 1 second duration.

(iii) When the draw of the bridge cannot be opened immediately, the draw tender shall reply by the signal prescribed under special regulations in paragraph (b) of this section.

(iv) When, after a delay, as in subparagraph (2) (iii) of this paragraph, the draw of the bridge can be opened and the vessel still desires to pass, the draw tender shall give the signal prescribed under special regulations in paragraph (b) of this section.

(3) When weather conditions prevent hearing sound signals:

(i) The person in charge of a vessel desiring to pass shall swing a white lighted lantern or white flag, the former by night, the latter by day; the person signaling to face the drawbridge and swing the lantern or flag in front of him at arm's length in vertical circles.

(ii) When the draw of the bridge can be opened immediately, the draw tender shall reply by raising and lowering a white lighted lantern or a white flag, the former by night, the latter by day, the movement to be vertical.

(iii) When the draw of the bridge cannot be opened immediately, the draw tender shall reply by swinging a red lighted lantern or red flag, the former by night, the latter by day; the person signaling to face the vessel and swing the lantern or flag in front of him at arm's length in vertical circles. (This signal may also be used by a vessel to countermand its signal to open draw.)

(iv) When, after a delay, as in subparagraph (3) (iii) of this paragraph the draw of the bridge can be opened and the vessel still desires to pass, the draw tender shall give the signal prescribed in subparagraph (3) (ii) of this paragraph, viz, raising and lowering a lighted lantern or a flag.

(4) When fog prevails by day or by night the draw tender, on giving signal (subparagraphs (2) (ii), (2) (iv), (3) (ii) or (3) (iv) of this paragraph) that draw will be opened, shall toll a bell continuously during the approach and the passage of the vessel.

(5) The draw shall be opened with the least possible delay, upon receiving the prescribed signal: *Provided,* That the drawspan shall not be opened when a train is approaching so closely that it cannot safely be stopped before reaching the bridge, or when a passenger or mail train is approaching within sight or hearing of the operator of the drawspan.

(6) Trains, wagons, and other vehicles shall not be stopped on a drawbridge for the purpose of delaying its opening, nor shall water craft or vessels be so manipulated as to hinder or delay the operation of a drawspan, but all passage over, through, or under a drawbridge shall be prompt, to prevent delay to either land or water traffic.

(b) *Special regulations.* (1) The general regulations in paragraph (a) of this section shall apply in the cases of all bridges, but to provide for distinctive signals given by vessels to particular bridges, as where two or more are within sight or hearing and but one bridge is desired to be opened, and to provide for closed or open periods when land or water traffic predominates, the special regulations and exceptions in this paragraph are prescribed.

(2) The following signals are prescribed for vessels wishing to have the draws opened:

(i) *Northern Pacific Ry. and West Spokane Street Bridge*—(a) *Opening signal.* For the Northern Pacific Ry. bridge only: One long blast of whistle, followed quickly by one short blast. For both the Northern Pacific Ry. and West Spokane Street bridges: One long blast of whistle, followed quickly by three short blasts.

NOTE: Northern Pacific Ry. bridge, clearance 18 feet at mean lower low water; West Spokane Street Bridge, clearance 52 feet at mean lower low water.

(b) *Closed periods.* Between the hours of 7:00 a.m. and 9:00 a.m. and 4:00 p.m. and 6:00 p.m., the draw of the West Spokane Street bridge need not be opened on any day of the week except Saturdays, Sundays and National Holidays for the passage of any vessel of less than 1,000 gross tons unless such vessel has in tow a vessel of 1,000 gross tons or over, or is required to open the bridge to pick up for towing a vessel of 1,000 gross tons or over, except that openings will be made under emergency conditions upon certification to the Seattle City Engineer by responsible representatives of affected navigation interests.

(ii) *City bridge at First Avenue South.* Clearance 52 feet at mean lower low water.

(a) *Opening signal.* The signal for opening this bridge shall be three long blasts of the whistle.

(b) *Closed periods.* Between the hours of 7:00 a.m. and 9:00 a.m., and 4:00 p.m. and 6:00 p.m., the draw of the First Avenue South bridge need not be opened on any day of the week except Saturdays, Sundays and national holidays for the passage of any vessel of less than 1,000 gross tons unless such vessel has in tow a vessel of 1,000 gross tons or over, or is required to open the bridge to pick up for towing a vessel of 1,000 gross tons or over, except that openings will be made under emergency conditions upon certification to the Seattle City Engineer by responsible representatives of affected navigation interests.

(iii) [Reserved]

(iv) *County bridge at Fourteenth Avenue South.* Clearance 45 feet at mean lower low water.

(a) *Opening signal.* The signal for opening this bridge shall be one long blast followed quickly by one short blast and one long blast of the whistle.

(b) *Closed periods.* Between the hours of 7:00 a. m. and 8:00 a. m., and 3:30 p. m. and 5:00 p. m., Monday through Friday of each week, the draw need not be opened for the passage of vessels.

(v) *Additional instructions.* The bridges described in this subparagraph shall also be opened for the passage of vessels or watercraft of any description propelled by other than steam power, upon like signals given by whistle or trumpet, or upon verbal request of the person or persons in charge of same. If the draw of any of the bridges is ready to be opened immediately when the prescribed signal is given from the vessel, the signal shall be answered immediately by the same prescribed signal from a whistle or horn on the bridge; but if the draw is not ready to be opened immediately upon the prescribed signal being given on the vessel, the signal shall be answered immediately from the bridge by four or more short blasts of a whistle, horn, or megaphone, or four or more distinct strokes of a bell.

(3) All vessels when passing any bridge shall be moved as expeditiously as is consistent with established rules governing speed in the Duwamish Waterway.

(4) All vessels, crafts, or rafts, not self-propelled, navigating the Duwamish Waterway, for which the opening of any bridge may be necessary, shall while passing such bridge, be towed by a suitable self-propelled boat.

(5) When the draw of any of the bridges listed in this subparagraph shall have been opened for 10 minutes, or for such shorter period as may have been necessary for the passage of vessels or other watercraft desiring to pass, it shall be closed for the crossing of trains, cars, vehicles, or individuals, if any be waiting to cross, and after being so closed for 10 minutes, or for such shorter time as may be necessary for the said trains, cars, vehicles, or individuals to cross, it shall again be opened promptly for the passage of vessels or other watercraft, if there be any such desiring, and authorized hereinabove, to pass at such time.

§ 117.795 Lake Washington Ship Canal, Wash.; bridge.

(a) *General regulations.* (1) The corporations or persons owning or controlling a drawbridge shall provide same with the necessary tenders and the proper mechanical devices for the safe, prompt, and efficient opening of the draw for the passage of vessels.

(2) If the weather conditions are good and sound signals can be heard when a vessel approaches a drawbridge and desires to pass through the draw:

(i) The person in charge of such vessel desiring to pass shall cause to be sounded, within reasonable hearing distance of the bridge, repeating if necessary, and in time to give due notice to its operator, the opening signal prescribed under paragraph (b) (1) of this section for the particular bridge.

(ii) When the draw of the bridge can be opened immediately, the draw tender shall reply by the signal prescribed under paragraph (b) (1) of this section.

(iii) When the draw of the bridge cannot be opened immediately, the draw tender shall reply by the signal prescribed under paragraph (b) (1) of this section.

(iv) When, after a delay, as in subdivision (iii) of this subparagraph, the draw of the bridge can be opened and the vessel still desires to pass, the draw tender shall give the signal prescribed under paragraph (b) (1) of this section.

(3) When weather conditions prevent hearing sound signals:

(i) The person in charge of a vessel desiring to pass shall swing a white lighted lantern or white flag, the former by night, the latter by day, the person signaling to face the drawbridge and swing the lantern or flag in front of him at arm's length, in vertical circles.

(ii) When the draw of the bridge can be opened immediately, the draw tender shall reply by raising and lowering a white lighted lantern or a white flag, the former by night, the latter by day, the movement to be vertical.

(iii) When the draw of the bridge cannot be opened immediately, the draw tender shall reply by swinging a red lighted lantern or red flag, the former by night, the latter by day, the person signaling to face the vessel and swing the lantern or flag in front of him at arm's length, in vertical circles. (This signal may also be used by a vessel to countermand its signal to open draw.)

(iv) When, after a delay, as in subparagraph (3) (iii) of this paragraph, the draw of the bridge can be opened and the vessel still desires to pass, the draw tender shall give the signal prescribed in subparagraph (3) (ii) of this paragraph viz, raising and lowering a lighted lantern or a flag.

(4) When fog prevails by day or by night the draw tender on giving signal (subparagraph (2) (ii), (2) (iv), (3) (ii), or (3) (iv) of this paragraph) that draw will be opened, shall toll a bell continuously during the approach and passage of the vessel.

(5) The draw shall be opened with the least possible delay, upon receiving the

prescribed signal: *Provided*, That the drawspan shall not be opened when a train is approaching so closely that it cannot safely be stopped before reaching the bridge, or when a passenger or mail train is approaching within sight or hearing of the operator of the drawspan.

(6) Trains, wagons, and other vehicles shall not be stopped on a drawbridge for the purpose of delaying its opening, nor shall watercraft or vessels be so manipulated as to hinder or delay the operation of a drawspan, but all passage over, through, or under a drawbridge shall be prompt, to prevent delay to either land or water traffic.

(7) This paragraph shall apply in the cases of all bridges, but to provide for distinctive signals given by vessels to particular bridges, as where two or more are within sight or hearing and but one bridge is desired to be opened, and to provide for closed or open periods when land or water traffic predominates, the special regulations and exceptions in paragraph (b) of this section are prescribed.

(b) *Special regulations.* (1) The following signals are prescribed for vessels wishing to have the draws opened:

(i) *Great Northern Railway bridge, clearance 42 feet at high tide.* One long blast of whistle, followed quickly by one short blast.

(ii) *Ballard Bridge, clearance 45 feet.* One long blast of whistle, followed quickly by one short blast.

(iii) *Northern Pacific Railway bridge, clearance 16 feet.* One long blast of whistle, followed quickly by three short blasts.

(iv) *Fremont Avenue Bridge, clearance 30 feet.* One long blast of whistle, followed quickly by one short blast.

(v) *University Bridge, clearance 44 feet.* One long blast of whistle, followed quickly by three short blasts.

(vi) *Montlake Bridge, clearance 46 feet.* One long blast of whistle, followed quickly by one short blast.

The bridges listed in subparagraph (1) of this paragraph shall also be opened for the passage of vessels or watercraft of any description propelled by other than steam power, upon like signals given by whistle or trumpet, or upon verbal request of the person or persons in charge of same. If the draw of any of the bridges listed in this subparagraph is ready to be opened immediately when the prescribed signal is given from the vessel, the signal shall be answered immediately by the same prescribed signal from a whistle or horn on the bridge; but if the draw is not ready to be opened immediately upon the prescribed signal being given on the vessel, the signal shall be answered immediately from the bridge by four or more short blasts of a whistle, horn, or megaphone or four or more distinct strokes of a bell.

(2) All vessels when passing any bridge shall be moved as expeditiously as is consistent with established rules governing speed in the Lake Washington Ship Canal.

(3) All vessels, crafts, or rafts, not self-propelled, navigating the Lake Washington Ship Canal, for which the opening of any bridge may be necessary, shall, while passing such bridge, be towed by a suitable self-propelled boat.

(4) The draws in each and every bridge shall, upon the signal prescribed above being given, be opened promptly for the passage of any vessel, or vessels, or other watercraft not able to pass underneath it:

(i) *Provided*, That the Ballard bridge, Fremont Avenue bridge, University bridge, and Montlake bridge will not be required to open on any day of the week except on Saturdays, Sundays and national holidays between the hours of 7:00 a.m. and 9:00 a.m. and 4:00 p.m. and 6:00 p.m. for vessels or other watercraft of less than 1,000 gross tons unless such vessel has in tow a vessel of 1,000 gross tons or over, or is required to open the bridge to pick up for towing a vessel of 1,000 gross tons or over, except that openings will be made under emergency conditions upon certification of the Seattle City Engineer by responsible representatives of affected navigation interests, and

(ii) *Provided further*, That the draw in any of the above four city bridges need not be opened at any time for the passage of any vessel of less than 300 gross tons equipped with a movable stack or mast which can readily be lowered so as to permit its passage under the closed draw, unless it has in tow a vessel which is unable to pass under the closed draw. Any vessel of less than 300 gross tons regularly navigating the canal shall be subject to inspection and measurement by the District Commander who is hereby empowered to decide in each case whether or not the vessel shall be equipped with hinged or movable stacks, masts and flagpoles which can be lowered to enable the vessel to pass under the closed draw of any or all the bridges. If the District Commander decides that such action should be taken, he shall notify the vessel owner and the bridge owner of his decision, specifying a reasonable time for making the alterations; and after the expiration of the time specified the draw need not be opened for the passage of such vessel unless it has in tow a vessel unable to pass under the closed draw; and

(iii) *Provided further*, That when the draw in any of the above bridges shall have been opened for 10 minutes, or for such shorter period as may have been necessary for the passage of vessels, or other watercraft, desiring to pass, it shall be closed for the crossing of trains, cars, vehicles, or individuals, if any be waiting to cross, and after being so closed for 10 minutes, or for such shorter time as may be necessary for the said trains, cars, vehicles, or individuals to cross, it shall again be opened promptly for the passage of vessels or other watercraft, if there be any such desiring and authorized hereinabove, to pass at such time.

§ 117.800 Lake Washington, Wash.; pontoon bridge between Seattle and Mercer Island, Wash.

(a) The owners of or agencies controlling the drawbridge shall provide the appliances and personnel necessary for the safe, prompt, and efficient operation of the draw.

(b) *Signals.* (1) *Call signals for opening of draw*—(i) *Sound signal.* One long blast followed by one short blast of whistle, horn, or megaphone, sounded within a reasonable distance of the bridge. As used in the regulations in this section long blast shall mean a blast of four seconds duration, short blast shall mean one of one second duration.

(ii) *Visual signal.* To be used in conjunction with sound signals when conditions prevent sound signals being heard. A white flag by day, a white light by night, swung in full vertical circles at arm's length in full sight of the bridge and facing the draw.

(2) *Acknowledging signals*—(i) *By bridge operator*—(a) *Sound signals.* Draw to be opened immediately: Same as call signal. Draw cannot be opened immediately, or, if open, must be closed immediately: Four or more short blasts of a whistle, horn or megaphone or four or more loud and distinct strokes of a bell, to be repeated at regular intervals until acknowledged by the vessel.

(b) *Visual signals.* To be used in conjunction with sound signals when conditions prevent sound signals being heard. Draw to be opened immediately: A white flag by day, a white light by night swung up and down vertically a number of times in full sight of the vessel. Draw cannot be opened immediately: A red flag by day, a red light by night swung in full vertical circles at arm's length facing the vessel.

(ii) *By the vessel.* Vessels or other watercraft having signaled for opening of the draw and having received a signal that the draw cannot be opened immediately, shall acknowledge said signal by four or more short blasts or by swinging in full vertical circles at arm's length a red flag by day or a red light by night.

(c) Automobiles, trucks, or other vehicles shall not be stopped on the draw of the bridge, except in cases of urgent necessity, nor shall vessels or other watercraft be manipulated in a manner hindering or delaying the operation of the draw. All passage over the draw or through the draw opening shall be prompt, in order to prevent delay to either land or water traffic.

(d) All vessels, craft, or rafts, not self-propelled, navigating Lake Washington, for which the opening of the bridge may be necessary, shall, while passing the bridge, be towed by a suitable self-propelled boat.

(e) Upon the signal prescribed in paragraph (b) of this section being given, the draw shall be opened promptly for the passage of any vessel, or vessels, or other water craft not able to pass through the openings under the fixed spans of the pontoon bridge near each shore, or under the spans of the fixed bridge on the east side of Mercer Island:

(1) *Provided*, That the bridge will not be required to open on any day of the week between the hours of 7:00 a.m. and 9:00 a.m. and 4:00 p.m. and 6:00 p.m. for any vessel or other watercraft of less than 2,000 gross tons, unless such vessel has in tow a vessel of 2,000 gross tons or over, or a piledriver that is unable to pass under the fixed spans, and

(2) *Provided further*, That the bridge need not be opened at any time for the passage of any vessel of less than 300 gross tons equipped with a movable stack or mast which can readily be lowered so as to permit its passage under the fixed spans, unless it has in tow a vessel which is unable to pass under the fixed spans. Any vessel of less than 300 gross tons regularly navigating the lake shall be subject to inspection and measurement by the District Commander who is hereby empowered to decide in each case whether or not the vessel shall be equipped with hinged or movable stacks, masts and flagpoles which can be lowered to enable the vessel to pass under the fixed spans. If the District Commander decides that such action should be taken, he shall notify the vessel owner and the bridge owner of his decision, specifying a reasonable time for making the alterations; and after the expiration of the time specified, the draw need not be opened for the passage of such vessel unless it has in tow a vessel unable to pass under the fixed spans; and

(3) *Provided further*, That the bridge will not be required to be opened at any time for any craft towing logs or scows, provided fenders, approved by the Commandant at the openings under the approach span of the pontoon bridge, adjacent to Mercer Island, and under the main span of the fixed bridge between Mercer Island and the mainland east of Lake Washington, unless such craft cannot pass under those spans; and

(4) *Provided further*, That when the draw shall have been opened for ten minutes, or for such shorter period as may have been necessary for the passage of vessels, or other watercraft, desiring to pass, it shall be closed for the crossing of vehicles or individuals, if any be waiting to cross, and after being so closed for ten minutes, or for such shorter time as may be necessary for the said vehicles or individuals to cross, it shall again be opened promptly for the passage of vessels or other watercraft, if there be any such desiring, and authorised herein, to pass at such time; and

(5) *Provided further*, That, at night, between the hours of 9 p. m. and 5 a. m., the draw shall be opened for the passage of all vessels that cannot pass under the fixed spans upon notice given by telephone or otherwise to the bridge operator at least 30 minutes in advance of the time that the vessel desires to pass through the draw.

(f) [Reserved]

(g) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in such a manner that it can be easily read at any time, a copy of the regulations in this section, together with a notice stating exactly how the bridge operator specified in paragraph (e) of this section may be reached.

§ 117.801 Lake Washington, Wash.; pontoon bridge between Foster Island and Evergreen Point, Wash.

(a) The owner of or agency controlling the bridge will not be required to keep a draw tender in constant attendance.

(b) Whenever a vessel is unable to safely pass under either of the two fixed approach spans and desires to pass through the draw of the bridge, at least one hour advance notice of the time of required opening shall be given to the authorized representative of the owner of or agency controlling the bridge by any of the methods indicated below.

(1) Telephone requests for bridge opening will be directed as collect calls to the Toll Office at the bridge site. The call may also be made by direct telephone communication, through the Seattle Marine Operator, Station KOW, or through other marine wire or radio telephone service.

(2) Audio requests for watercraft without facilities as set forth in subparagraph (1) of this paragraph will be made by sounding one long blast of a horn or whistle followed quickly by two short blasts in the immediate vicinity of the drawspan. The bridge attendant will acknowledge by repeating the signal.

(c) After receipt of proper advance notice of a required opening of the drawspan the authorized representative of the owner of or agency controlling the bridge shall arrange for opening the span at the specified time. When opening of the bridge is imminent, all signals will be promptly acknowledged by both the bridge and vessels desiring to pass through the draw. If the drawspan cannot be opened immediately, or if open and must close immediately, the draw tender will sound four or more short blasts of a horn or whistle, to be repeated at regular intervals until acknowledged by the vessel.

(d) Automobiles, trucks, or other vehicles shall not be stopped on the draw of the bridge, except in cases of urgent necessity, nor shall vessels or other watercraft be manipulated in a manner hindering or delaying the operation of the draw. All passage over the draw or through the draw opening shall be prompt, in order to prevent delay to either land or water traffic.

(e) All vessels, craft, or rafts, not self-propelled, navigating Lake Washington, for which the opening of the bridge may be necessary, shall while passing the bridge, be towed by a suitable self-propelled boat.

(f) The bridge will not be required to open on week days between the hours of 7:00 a.m. and 9:00 a.m. and 4:00 p.m. and 6:00 p.m. for any vessel or other watercraft of less than 2,000 gross tons, unless such vessel has in tow a vessel of 2,000 gross tons or over, or a piledriver that is unable to pass under the fixed spans.

(g) The bridge need not be opened at any time for the passage of any vessel of less than 300 gross tons equipped with a movable stack or mast which can readily be lowered so as to permit its passage under the fixed spans, unless it has in tow a vessel which is unable to pass under the fixed spans. Any vessel of less than 300 gross tons regularly navigating the lake shall be subject to inspection and measurement by the District Commander who is hereby empowered to decide in each case whether or not the vessel shall be equipped with hinged or movable stacks, masts and flagpoles which can be lowered to enable the vessel to pass under the fixed spans. If the District Commander decides that such action should be taken, he shall notify the vessel owner and the bridge owner of his decision, specifying a reasonable time for making the alterations; and after the expiration of the time specified, the draw need not be opened for the passage of such vessel unless it has in tow a vessel unable to pass under the fixed spans.

(h) When the draw shall have been opened for ten minutes, or for such shorter period as may have been necessary for the passage of vessels, or other watercraft, desiring to pass, it shall be closed for the crossing of vehicles or individuals, if any be waiting to cross, and after being so closed for ten minutes, or for such shorter time as may be necessary for the said vehicles or individuals to cross, it shall again be opened promptly for the passage of vessels or other watercraft, if there be any such desiring, and authorized herein, to pass at such time.

(i) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides thereof, in such a manner that it can easily be read at any time, a copy of the regulations in this section.

§ 117.805 Snohomish River, Steamboat Slough, and Ebey Slough, Wash.; bridges.

(a) *Draw tenders and operating machinery.* The owners of or agencies controlling drawbridges shall provide the necessary tenders and the proper mechanical appliances for the safe, prompt, and efficient opening of the draws for the passage of vessels in accordance with the regulations in this section. The operating machinery of the draws shall be maintained in a serviceable condition, and the draws shall be opened and closed at intervals frequent enough to make certain that the machinery is in proper order for satisfactory operation.

(b) *Signals*—(1) *Sound signals.* To be used if weather conditions are such that sound signals can be heard.

(i) *Call signal for opening of draw.* Three long blasts of a whistle, horn, or megaphone, or three loud and distinct strokes of a bell, sounded within reasonable hearing distance of the bridge repeated if necessary, and in time to give due notice of the draw tender: *Provided*, That distinctive call signals are prescribed for certain bridges as follows:

Snohomish River; State of Washington Department of Highways bridges near the mouth. Three long blasts fol-

lowed by one short blast (one signal opens both bridges).

Steamboat Slough; Great Northern Railway Company bridge near the mouth. One long blast followed by one short blast and one long blast.

Steamboat Slough; State of Washington Department of Highways bridges near the mouth. Two long blasts followed by one short blast (one signal opens both bridges).

Ebey Slough; State of Washington Department of Highways bridge near the mouth. Three long blasts followed by one short blast.

(ii) *Acknowledging signals*—(a) *When draw can be opened immediately (opening signal).* Two long blasts followed by one short blast of a whistle, horn, or megaphone, or three loud and distinct strokes of a bell.

(b) *When draw cannot be opened immediately, or when it is open and must be closed immediately.* Two long blasts of a whistle, horn, or megaphone, or two loud and distinct strokes of a bell. (This signal may also be used by a vessel to countermand its call signal.) Thereafter, as soon as the draw can be opened, the draw tender shall sound the opening signal.

(2) *Visual signals.* To be used if weather conditions are such that sound signals may not be heard.

(i) *Call signal for opening of draw.* A white flag by day or a white lighted lantern by night, swung in vertical circles at arm's length in full sight of the bridge and facing the draw.

(ii) *Acknowledging signal when draw can be opened immediately (opening signal).* Same as call signal, to be given in full sight of the vessel.

(iii) *Acknowledging signal when draw cannot be opened immediately, or when it is open and must be closed immediately.* A red flag by day or a red lighted lantern at night, swung in vertical circles at arm's length in full sight of the vessel. (This signal may also be used by a vessel to countermand its call signal.) Thereafter as soon as the draw can be opened, the draw tender shall give the opening signal.

(3) *Fog signal.* When fog prevails by day or by night, the draw tender, after giving the opening signal, shall toll a bell continuously during the approach and passage of the vessel.

(c) *Prompt opening required except when delayed by train.* Except as otherwise provided in paragraph (e) of this section, the draw shall be opened with the least possible delay on receiving the prescribed signal: *Provided*, That the draw shall not be opened when a train is approaching so closely that it cannot safely be stopped before reaching the bridge, or when a passenger or mail train is approaching within sight or hearing of the draw tender.

(d) *Interference with operation of bridge prohibited.* Trains and vehicles shall not be stopped on a drawbridge for the purpose of delaying its opening, nor shall watercraft be navigated so as to hinder or delay the operation of the draw, but all passage over or through a drawbridge shall be prompt to prevent delay to either land or water traffic.

(e) *Bridges where constant attendance of draw tenders is not required.* (1) The owners of or agencies controlling the bridges listed in subparagraph (5) of this paragraph need not keep draw tenders in constant attendance.

(2) Whenever a vessel, unable to pass under a closed bridge, desires to pass through the draw, advance notice, as specified, of the time the opening is required must be given to the authorized representative of the owner of or agency controlling the bridge to insure prompt opening thereof at the time required.

(3) On receipt of such advance notice, the authorized representative, in compliance therewith, shall arrange for the prompt opening of the draw on proper signal at approximately the time specified in the notice.

(4) The owners of or agencies controlling each bridge shall keep conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can easily be read at any time, a copy of the regulations in this section pertaining to the bridge together with information as to whom notice should be given when it is desired that the bridge be opened and directions for communicating with such person by telephone or otherwise.

(5) The bridges to which this paragraph applies, and the special regulations applicable in each case, are as follows:

Snohomish River; State of Washington Department of Highways bridges north of Everett, at least 2 hours' advance notice required: *Provided*, That during freshets a draw tender shall be kept in constant attendance upon order of the District Commander.

Snohomish River; State of Washington Department of Highways bridge at the foot of Hewitt Avenue, Everett. At least 4 hours' advance notice required: *Provided*, That during freshets a draw tender shall be kept in constant attendance upon order of the District Commander.

Steamboat Slough; bridges of Great Northern Railway Company and State of Washington Department of Highways near Marysville. At least 4 hours' advance notice required.

§ 117.810 Navigable waters in the State of Washington; bridges where constant attendance of draw tenders is not required.

(a) The owners of or agencies controlling the bridges listed in paragraph (f) of this section will not be required to keep draw tenders in constant attendance.

(b) Whenever a vessel unable to pass under a closed bridge desires to pass through the draw, advance notice, as specified, of the time the opening is required must be given to the authorized representative of the owner of or agency controlling the bridge to insure prompt opening thereof at the time required.

(c) On receipt of such advance notice, the authorized representative, in compliance therewith, shall arrange for the prompt opening of the draw on proper signal at approximately the time specified in the notice.

(d) The owner of or agency controlling each bridge shall keep conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can easily be read at any time, a copy of the regulations in this section pertaining to the bridge together with information as to whom notice should be given when it is desired that the bridge be opened and directions for communicating with such person by telephone or otherwise.

(e) The operating machinery of the draws shall be maintained in a serviceable condition, and the draws shall be opened and closed at intervals frequent enough to make certain that the machinery is in proper order for satisfactory operation.

(f) The bridges to which this section applies, and the regulations applicable in each case, are as follows:

(1) Puyallup Waterway and River, Tacoma Harbor; State of Washington Department of Highways bridge at East Eleventh Street need not be opened for the passage of vessels, and paragraphs (b) to (e), inclusive, of this section shall not apply to this bridge: *Provided*, That the bridge shall be returned to an operable condition within six months after notification by the Commandant to take such action. At least 4 hours' advance notice will be required for opening the Chicago, Milwaukee, St. Paul and Pacific Railroad Co. bridge near East Eleventh Street.

(2) South Fork, Skagit River, Skagit County highway bridge at Fir. The bridge need not be opened for the passage of vessels, and paragraphs (b) to (e), inclusive, of this section shall not apply to this bridge.

(3) Skagit River; State of Washington highway bridge, Skagit County highway bridge, Great Northern Railway Co. bridge, and Northern Pacific Railway Co. bridge near Mount Vernon and Sedro Woolley, Wash., need not be opened for the passage of vessels, and paragraphs (b) to (e), inclusive, of this section shall not apply to these bridges: *Provided*, That they shall be returned to an operable condition within 1 year after notification by the Commandant to take such action.

(4) Wishkah River; City of Aberdeen highway bridge at East Second and Young Streets, Aberdeen. Between sunrise and sunset, at least 2½ hours' advance notice required. Between sunset and sunrise the draw need not be opened for the passage of vessels.

(5) Wishkah River; City of Aberdeen bridge at Heron Street and State Department of Highways bridge at Wishkah Street, Aberdeen. Between 9:00 p. m. and 5:00 a. m., at least 8 hours' advance notice required: *Provided*, That the District Commander may require the constant attendance of draw tenders during seasonal activity in the logging and fishing industries.

(6) Hoquiam River; State Department of Highways bridge at Simpson Street, Hoquiam. Between 6:00 p. m. and 5:00 a. m., at least 8 hours' advance notice required.

(7) Chehalis River; State Department of Highways and Union Pacific Railroad Company bridges at South Montesano. Between 9:00 p. m. and 5:00 a. m., at least 8 hours' advance notice required: *Provided*, That during freshets a draw tender shall be kept in constant attendance upon the order of the District Commander.

(8) Snake River; Union Pacific Railroad Company bridge at Riparia, and Idaho-Washington Department of Highway bridge at Clarkston. The draws need not be opened for the passage of vessels, and paragraphs (b) to (e), inclusive, of this section shall not apply to these bridges.

§ 117.815 Pend Oreille Lake, Idaho; bridge of Northern Pacific Railway Co. near Sandpoint.

(a) The owner of or agency controlling the bridge will not be required to keep a draw tender in constant attendance.

(b) Whenever a vessel, unable to pass under the closed bridge, desires to pass through the draw, at least 36 hours' advance notice of the time the opening is required shall be given to the authorized representative of the owner of or agency controlling the bridge.

(c) Upon receipt of such notice, the authorized representative of the owner of or agency controlling the bridge, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

(d) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in such manner that it can easily be read at any time, a copy of the regulations in this section together with a notice stating exactly how the representative specified in paragraph (b) of this section may be reached.

(e) The operating machinery of the draw shall be maintained in a serviceable condition and the draw opened and closed at intervals frequent enough to assure that the machinery is in proper order for satisfactory operation.

§ 117.900 Honolulu Harbor, Hawaii; Kalihi Channel bridge.

(a) The agencies controlling the bridge shall provide the necessary bridge tenders and the proper mechanical appliances for the safe, prompt and efficient opening of the draw for the passage of vessels during the scheduled hours of operation as follows:

Monday Through Friday, Except Legal Holidays

Open on signal	*Closed periods*
5:00 a.m. to 7:00 a.m.	7:00 a.m. to 8:00 a.m.
8:00 a.m. to 4:00 p.m.	4:00 p.m. to 5:00 p.m.
5:00 p.m. to 7:00 p.m.	7:00 p.m. to 5:00 a.m.

(b) From 5:00 a.m. on Saturdays to 5:00 a.m. on Mondays and on legal holidays, the bridge will be opened for traffic upon six (6) hours' advance notice to the Honolulu Harbor Pilot Station at Aloha Tower. In event of emergencies during the closed periods specified in paragraph (a) of this section, the Pilot Station will be called for clearance. In the event that a seismic sea-wave (tidal wave) is imminent, the bridge shall be opened to full horizontal and vertical clearances upon orders of the Harbor Master, Port of Honolulu. Emergency ship movements or imminence of wave arrival may require the bridge to be opened even though all persons have not evacuated the Sand Island area. Every effort shall be made to keep the bridge in the down position as long as reasonably possible; however, the Harbor Master may open the bridge within thirty (30) minutes of estimated time of wave arrival if he deems it prudent.

(c) The following described visual signals shall be mounted on a mast on the bridge control tower:

(1) A flashing green light to indicate that the draw can be opened immediately. The light shall be exhibited during the time the draw is opening and until the draw is to be closed.

(2) A flashing red light to indicate that the draw cannot be opened immediately, or being opened, is to be closed immediately. The light shall be exhibited during the time the draw is closing.

(3) Two (2) amber lights in a vertical line, one over the other, 6 feet apart, with the uppermost 6 feet below the flashing red light. The uppermost amber light shall be flashing and, when exhibited, shall indicate incoming traffic only. The lowermost amber light shall be fixed, and, when exhibited, shall indicate outgoing traffic only. When both lights are exhibited, the harbor is closed to all traffic.

(4) The flashing red and green lights shall be mounted on a mast on the bridge control tower at a height of 65 feet above the water plane at mean lower low water datum, shall be visible between 50 degrees and 245 degrees true from seaward and visible for a distance of approximately 3 miles. The fixed and flashing amber lights shall conform to the bearings and visibility as prescribed for the red and green lights.

(5) In addition to the above described lights, two (2) shapes shall be exhibited from a yardarm on the mast at a distance of 60 feet above the water plane at mean lower low water datum. One shape shall be an orange ball 2 feet in diameter. The other shape shall be an orange cone 2 feet in diameter across the base.

(d) When a vessel or other watercraft intends to pass through the draw of the bridge, the master or pilot thereof shall, on approaching within signaling distance, signify his intention to pass through the draw by sounding two (2) prolonged blasts followed immediately by two (2) short blasts. If the draw can be opened immediately, the bridge tender shall exhibit the flashing green light. The orange ball will be exhibited to indicate an inbound vessel; the cone will be exhibited to indicate an outbound vessel.

During daylight hours when the drawbridge cannot be opened immediately, the bridge tender shall exhibit the flashing red light and hoist the ball and cone simultaneously to the yardarm. If for some reason the drawbridge cannot be opened after the tender has signified immediate opening by the flashing green light and either the ball or cone, he shall immediately exhibit the rescinding signal of the flashing red light and hoist the ball and cone simultaneously to the yardarm. As soon as the exigency which prevented opening has been removed, the tender shall promptly exhibit the flashing green light and either the ball or cone as the case may require to advise vessels that the drawbridge can be opened at once and he shall thereupon proceed to open the drawbridge if there is a vessel waiting to pass through. No vessel shall attempt to navigate the drawbridge when the visual signals indicate the bridge cannot be opened. During the period of darkness, when the drawbridge cannot be opened immediately, the bridge tender shall exhibit the flashing red light and the fixed and flashing amber lights simultaneously. If for any reason the draw cannot be opened after the tender has signified immediate opening by the flashing green light and either the flashing amber light or fixed amber light, he shall immediately exhibit the rescinding signal of the flashing red light and the fixed and flashing amber lights simultaneously. As soon as the exigency which prevented opening has been removed, the tender shall promptly exhibit the flashing green light and either the flashing or fixed amber lights as the case may require to advise vessels that the drawbridge can be opened at once. He shall thereupon proceed to open the drawbridge if there is a vessel waiting to pass through. No vessel shall attempt to navigate through the drawbridge when the visual signals indicate that the bridge cannot be opened.

(e) Vessels having a length greater than one hundred fifty (150) feet shall not pass through the opened bridge span at the same time going either in the same direction or approaching each other from opposite directions. When vessels having a length less than one hundred fifty (150) feet are approaching from opposite directions to pass through the bridge, each vessel shall give the call signal for opening the draw. The vessel approaching from seaward shall have the right of way. Both vessels shall then be navigated in accordance with the applicable pilot rule.

(f) Clearance gages of a type to be approved by the Commandant shall be provided and kept in good legible condition. Unless otherwise specified, such clearance gages shall consist of two board gages painted white with black figures not less than nine inches high, which shall indicate the headroom clearances under the closed center of the span at all stages of the tide. These gages shall be so placed, that they will be plainly visible to the operator of a vessel approaching the bridge either inbound or outbound, and shall be illuminated at night and during periods of decreased visibility caused by heavy rain or mist.

(g) At each opening of the draw full horizontal and vertical clearances shall be provided, regardless of the size or requirements of the passing vessel or other watercraft.

(h) The agencies controlling the bridge shall keep a complete record of all openings of the draw and shall promptly report to the District Commander all cases in which the drawspan has been required to remain open for an unreasonable length of time or to remain closed for more than 10 minutes after the prescribed signal to open the draw has been given.

(i) The length of time that a draw has been opened shall be computed from the time that the drawspan begins to move in opening, and the length of time that a draw has been closed shall be computed from the time that the drawspan ceases to move in closing.

(j) The bridge shall not be required to open for craft carrying appurtenances unessential to navigation and any vessel operator who causes the bridge to be opened in order to clear appurtenances unessential for navigation shall be considered in violation of the regulations of this section.

(k) Appurtenances unessential for navigation shall include but not be limited to fishing outriggers, radio or television antennae, false stacks, and masts purely for ornamental purposes. Appurtenances unessential to navigation will not include flying bridges, sailboat masts, pile driver leads, spud frames on hydraulic dredges, or other items of equipment clearly necessary to the intended use of the vessel.

(l) The agencies controlling the bridge shall report to the District Commander the names of any vessels requiring bridge openings considered to be in violation of this section. The District Commander may at any time cause an inspection to be made of any craft using the waterway and is empowered to decide in each case whether or not the appurtenances are unessential to navigation. If the District Commander decides a vessel has appurtenances unessential to navigation, he shall notify the vessel owner of his decision, specifying a reasonable time for making the alterations. If the vessel owner is aggrieved by the decision of the District Commander, he may within 30 days after receipt of the request to perform necessary alterations, appeal the decision to the Commandant in writing. If the Commandant rules that an appurtenance is unessential to navigation, the District Commander shall again specify to the vessel owner a reasonable time for making necessary alterations to the appurtenance, and after the expiration of the time specified, any operation of the vessel on the waterway in such a manner as to require drawbridge openings shall be deemed in violation of the regulations of this section, unless the necessary alterations shall have been made.

(m) All vessels when passing the bridge shall be moved as expeditiously as is consistent with safe navigation, and all towboats engaged in towing barges or other craft through the bridge shall be of sufficient power to handle the tow without unduly delaying the closing of the drawspan.

(n) Vessels with hinged or adjustable masts or booms projecting above the fixed structure shall lower the same to pass under the bridge, if practicable, without signaling for the draw to open.

(o) Vehicles and pedestrians shall not be stopped on the bridge for the purpose of delaying its opening, nor shall vessels craft be handled so as to hinder or delay the operation of the draw, but all vessels sage over or through the bridge shall prompt to prevent delay to either land or water traffic.

(p) The operating machinery of the draw shall be maintained in a serviceable condition, and the draw shall be opened and closed at intervals frequent enough to make certain the machinery is in proper order for satisfactory operation.

(q) The term District Commander used in this section shall mean the Commander, 14th Coast Guard District, Honolulu, Hawaii.

(r) The agencies controlling the bridge shall keep a legible copy of the regulations in this section posted conspicuously under glass on both the harbor and channel sides of the bridge in such manner that it can be easily read at all times.

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Interstate Commerce Commission
Land Management Bureau
Monetary Offices
Narcotics Bureau
Post Office Department
Securities and Exchange Commission
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Detailed list of Contents appears inside.

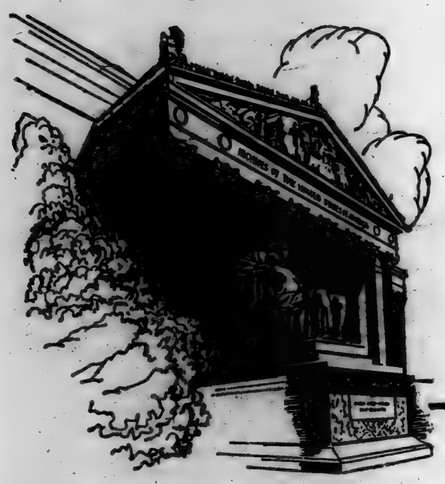

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Contents

AGRICULTURE DEPARTMENT
See Commodity Credit Corporation; Consumer and Marketing Service.

BUSINESS AND DEFENSE SERVICES ADMINISTRATION
Notices
Decisions on applications for duty-free entry of scientific articles:
Iowa State University 17865
Massachusetts Institute of Technology 17865
University of California 17865
Yale University 17865

CIVIL AERONAUTICS BOARD
Notices
Hearings, etc.:
Air carrier discussions 17866
International Air Transport Association (2 documents) 17867

CIVIL SERVICE COMMISSION
Rules and Regulations
Excepted service; Department of Housing and Urban Development 17849

COMMERCE DEPARTMENT
See Business and Defense Services Administration.

COMMODITY CREDIT CORPORATION
Rules and Regulations
Tobacco; loan program; 1967 crop 17849

CONSUMER AND MARKETING SERVICE
Rules and Regulations
Grapefruit grown in Arizona and California; shipments limitation 17849

FEDERAL AVIATION ADMINISTRATION
Rules and Regulations
Certification procedures for products and parts; issue of special conditions 17850
Pilot schools; approval of training courses 17851
Transition area; alteration 17851
Proposed Rule Making
Federal airway segments and reporting point; alteration and revocations 17861

FEDERAL MARITIME COMMISSION
Notices
Agreements filed for approval:
City of Los Angeles et al. 17868
Japan-Atlantic and Gulf Freight Conference 17868
Mexican Line "Transportacion Maritima Mexicana, S.A." and Gulf-Puerto Rico Lines—U.S.A., Inc. 17869
Port of Seattle and Alaska Steamship Co. 17869
Petitions filed for approval:
Portugal/U.S. North Atlantic Westbound Freight Conference 17869
Spain/U.S. North Atlantic Westbound Freight Conference 17870
Revocation orders:
B D & D Corp. 17870
Dixie Traffic 17870

FEDERAL POWER COMMISSION
Notices
United Natural Gas Co. and Iroquois Gas Corp.; hearing, etc. 17870

FEDERAL TRADE COMMISSION
Rules and Regulations
Administrative opinions and rulings; product certification program 17856
Prohibited trade practices:
Continental Oil Co. and Stauffer Chemical Co. 17853
Monsieur Fourrure, Inc., et al. 17855
Schneider & Falk, Inc., et al. 17855

FOOD AND DRUG ADMINISTRATION
Rules and Regulations
Food additives:
Antioxidants and/or stabilizers for polymers 17857
n-Butoxypolyoxyethylene polyoxypropylene glycol 17856
Hexane 17856
Surface lubricants used in manufacture of metallic articles 17857
White mineral oil 17857
Notices
Dow Corning Corp.; withdrawal of food additives petition 17866

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
See also Food and Drug Administration.
Notices
General Counsel et al.; authority delegation 17866

INTERIOR DEPARTMENT
See Land Management Bureau.

INTERNAL REVENUE SERVICE
Rules and Regulations
Interest equalization tax; exclusion of original or new Japanese issues 17858

INTERSTATE COMMERCE COMMISSION
Notices
Diversion and rerouting of traffic; Lehigh Valley Railroad Co. 17879
Motor carriers:
Alternate route deviation notices 17871
Applications and certain other proceedings 17872
Temporary authority applications 17877
Transfer proceedings 17878

LAND MANAGEMENT BUREAU
Notices
California; classification of public lands for multiple-use management 17863
Washington; proposed withdrawal and reservation of lands 17864

MONETARY OFFICES
Rules and Regulations
Silver coins, U.S.; authorization of export 17859

NARCOTICS BUREAU
Proposed Rule Making
Regulatory taxes on narcotic drugs; inventory and record-keeping requirements 17861

POST OFFICE DEPARTMENT
Rules and Regulations
Code of ethical conduct; soliciting or canvassing; correction 17860

SECURITIES AND EXCHANGE COMMISSION
Proposed Rule Making
Finance subsidiaries; exemption 17861
Notices
Hearings, etc.:
Glen Alden Corp. (Delaware) 17871
Roto American Corp. 17871

SMALL BUSINESS ADMINISTRATION
Notices
Oregon; declaration of disaster loan area 17871

TRANSPORTATION DEPARTMENT
See Federal Aviation Administration.

TREASURY DEPARTMENT
See Internal Revenue Service; Monetary Offices; Narcotics Bureau.

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

5 CFR

213 17849

7 CFR

909 17849
1464 17849

14 CFR

21 17850
71 17851
141 17851

PROPOSED RULES:

71 17861

16 CFR

13 (3 documents) 17853–17855
15 17856

17 CFR

PROPOSED RULES:

270 17861

21 CFR

121 (5 documents) 17856, 17857

26 CFR

147 17858

PROPOSED RULES:

151 17861

31 CFR

82 17859

39 CFR

742 17860

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

Section 213.3384 is amended to show that the title of the position of Secretary to the Congressional Liaison Officer is changed to Secretary to the Assistant for Congressional Services. Effective on publication in the FEDERAL REGISTER, paragraph (a) of § 213.3384 is amended as set out below.

§ 213.3384 Department of Housing and Urban Development.

(a) *Office of the Secretary.* * * *

(15) One Secretary to the Assistant for Congressional Services.

* * * * * * *

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67–14445; Filed, Dec. 12, 1967; 8:45 a.m.]

Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Grapefruit Reg. 34, Amdt. 1]

PART 909—GRAPEFRUIT GROWN IN ARIZONA; IN IMPERIAL COUNTY, CALIF.; AND IN THAT PART OF RIVERSIDE COUNTY, CALIF., SITUATED SOUTH AND EAST OF WHITE WATER, CALIF.

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 909, as amended (7 CFR Part 909), regulating the handling of grapefruit grown in the State of Arizona; in Imperial County, Calif.; and in that part of Riverside County, Calif., situated south and east of White Water, Calif., effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the Administrative Committee (established under the aforesaid amended marketing agreement and order), and upon other available information, it is hereby found that the limitation of shipments of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective date. The Administrative Committee held an open meeting on December 7, 1967, to consider recommendation for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such open meeting; necessary supplemental economic and statistical information upon which this recommended amendment is based were received on December 7, 1967; information regarding the provisions of the regulation recommended by the committee has been disseminated to shippers of grapefruit, grown as aforesaid, this amendment, including the effective time thereof, is identical with the recommendation of the committee; it is necessary, in order to effectuate the declared policy of the act, to make this amendment effective on the date hereinafter set forth; and compliance with this amendment will not require any special preparation on the part of the persons subject thereto which cannot be completed on or before the effective date hereof.

Order. In § 909.334 (Grapefruit Regulation 34, 32 F.R. 14201) the provisions of paragraph (a)(1)(i) are amended to read as follows:

§ 909.334 Grapefruit Regulation 34.

(a) *Order.* (1) * * *

(i) Any grapefruit which do not meet the requirements of the U.S. No. 2 grade which for purpose of this regulation shall include the requirement that the grapefruit be fairly well colored, instead of slightly colored, and free from peel that is more than 1 inch in thickness at the stem end (measured from the flesh to the highest point of the peel): *Provided,* That the tolerance prescribed for the U.S. No. 2 grade shall be the tolerance applicable to the requirements of this subparagraph except that an additional tolerance of 15 percent shall be allowed for grapefruit having light colored scarring on an aggregate of more than 25 percent of the fruit surface and a tolerance of 5 percent shall be allowed for grapefruit having peel more than 1 inch in thickness at the stem end; or

* * * * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 11, 1967, to become effective December 13, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67–14538; Filed, Dec. 12, 1967; 8:49 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1464—TOBACCO

Subpart—Tobacco Loan Program

Set forth below is a schedule of advance rates, by grades, for the 1967 crop of types 42–44, 51, 52, 53, 54, and 55 tobacco, under the tobacco loan program published July 16, 1966 (31 F.R. 9679, 32 F.R. 10249, 32 F.R. 11416, and 32 F.R. 14203).

§ 1464.1771 1967 crop—Ohio Filler Tobacco, Types 42–44, advance schedule.[1]

(Dollars per hundred pounds, farm sales weight)

Grade	Advance rate
Crop run (stripped together):	
X1	31
X2	29
X3	26.5
X4	23
Nondescript:	
N	16

§ 1464.1772 1967 crop—Connecticut Valley Broadleaf Tobacco, Type 51, advance schedule.[2]

(Dollars per hundred pounds, farm sales weight)

Grade	Advance rate
Binders:	
B1	52
B2	48
B3	45
B4	41
B5	36
Nonbinder:	
X1	30

Footnotes at end of docket.

§ 1464.1773 1967 crop—Connecticut Valley Havana Seed Tobacco, Type 52, advance schedule.[2]

(Dollars per hundred pounds, farm sales weight)

Grade	Advance rate
Binders:	
B1	51
B2	47
B3	44
B4	40
B5	36
Nonbinder:	
X1	30

§ 1464.1774 1967 crop—New York and Pennsylvania Havana Seed Tobacco, Type 53, and Southern Wisconsin Tobacco, Type 54, advance schedule.[3]

(Dollars per hundred pounds, farm sales weight)

Grade	Advance rate
Crop-run:	
X1	35
X2	31
X3	25.5
Farm fillers:	
Y1	26
Y2	24
Y3	22
Nondescript:	
N1	31
N2	16

§ 1464.1775 1967 crop—Northern Wisconsin Tobacco, Type 55, advance schedule.[4]

(Dollars per hundred pounds, farm sales weight)

Grade	Advance rate
Binders:	
B1	43
B2	40
B3	38
Strippers:	
C1	36.5
C2	34
C3	30.5
Crop-run:	
X1	34.5
X2	31.0
X3	25.5
Farm fillers:	
Y1	28
Y2	26
Y3	24
Nondescript:	
N1	21
N2	16

[1] The cooperative association through which price support is made available is authorized to deduct from the amount paid the grower 50 cents per hundred pounds to apply against receiving and overhead costs. Only the original producer is eligible to receive advances. No advance is authorized for tobacco graded "No-G" (no grade).

[2] The cooperative association through which price support is made available is authorized to deduct from the amount paid the grower $1 per hundred pounds to apply against receiving and overhead costs. Only the original producer is eligible to receive advances. No advance is authorized for tobacco graded "N1" (first quality nondescript), "N2" (second quality nondescript), "S" (scrap), or "No-G" (no grade).

[3] The cooperative association through which price support is made available is authorized to deduct from the amount paid the grower 50 cents per hundred pounds to apply against receiving and overhead costs. Only the original producer is eligible to receive advances. No advance is authorized for tobacco graded "No-G" (no grade), or "S" (scrap).

[4] The cooperative association through which price support is made available is authorized to deduct from the amount paid the grower $1 per hundred pounds on tobacco of the B grade group and 50 cents per hundred pounds on tobacco of all other grade groups to apply against receiving and overhead costs. Only the original producer is eligible to receive advances. No advance is authorized for tobacco graded "No-G" (no grade), or "S" (scrap).

(Sec. 4, 62 Stat. 1070, as amended, sec. 5, 62 Stat. 1072, secs. 101, 106, 401, 403, 63 Stat. 1051, as amended, 1054, sec. 125, 70 Stat. 198, 74 Stat. 6; 7 U.S.C. 1441, 1445, 1421, 1423, 7 U.S.C. 1813, 15 U.S.C. 714b, 714c)

Effective date: Date of filing with Office of Federal Register.

Signed at Washington, D.C., on December 7, 1967.

E. A. JAENKE,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 67-14463; Filed, Dec. 12, 1967; 8:46 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

SUBCHAPTER C—AIRCRAFT

[Docket No. 8098; Amdt. No. 21-19]

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

Issue of Special Conditions

The purpose of these amendments is to clarify the status of special conditions issued during type certification of aircraft, aircraft engines, and propellers, and to prescribe the procedures for their issuance.

These amendments are issued for the reasons set forth in the notice of proposed rule making published in 32 F.R. 6098 on April 18, 1967, and circulated as Notice 67-16 dated April 12, 1967. The comments received in response to the notice and the changes in the proposal resulting therefrom are discussed below.

In response to a comment on the notice, §§ 21.16 and 21.101 now refer to "adequate" safety standards rather than "complete" safety standards. The FAA agrees that this minor change is appropriate to remove any implication that special conditions are designed to raise the level of airworthiness for a product beyond the minimum which has been generally set by the applicable existing regulations. In addition, this proposal has been revised to make it clear that special conditions apply to a novel or unusual design feature not otherwise covered by the existing regulations.

The FAA, however, has not adopted a recommendation to revise the proposal to expressly state that the Administrator prescribes "minimum" special conditions. The FAA does not consider that this change is necessary since the regulation specifically provides that the Administrator prescribes such special conditions as may be necessary to establish a level of safety equivalent to that established in the existing airworthiness regulations.

Another comment stated that under present practice, the FAA and the manufacturer resolve, through negotiation, any problems that may arise from special conditions. The comment stated that the proposed rules should specifically recognize and provide for this need. In this connection it should be noted that the Administrative Procedure Act (APA) requires that all persons subject to a rule, such as a special condition, must be given notice thereof and an opportunity to participate in the rule making. As pointed out by the commentator, in the past special conditions have been developed only after extensive consultation with the interested persons. This informal procedure represents an effective and practical means of providing the notice and opportunity to participate that is required in rule-making actions by the APA and it will be continued. The proposal has been changed to expressly acknowledge that the manufacturer of a product is afforded the opportunity to participate in the formulation of special conditions applicable to his product. Moreover, for purposes of clarification, the final rule elaborates on the term "private rule" as used in the proposal by specifying that special conditions are issued to an applicant for a type certificate as rules of particular applicability for his product.

Finally, a suggestion was made that the proposal should also allow the Administrator to relieve an applicant from regulations deemed burdensome and not relevant in particular cases. While this comment is outside the scope of the proposal, it should, nevertheless, be pointed out that the suggested change is unnecessary. The current regulations governing type certification require compliance only with the applicable airworthiness regulations and expressly provide for noncompliance with any airworthiness regulation whenever equivalent safety is provided. Irrelevant regulations are thus excluded from the certification basis for a product during the certification process. In some instances this has been reflected in special conditions.

Interested persons have been afforded the opportunity to participate in the making of these amendments. All relevant material submitted has been fully considered.

In consideration of the foregoing, Part 21 of the Federal Aviation Regulations (14 CFR Part 21) is amended, effective January 12, 1968, as follows:

1. A new § 21.16 is added to read as follows:

§ 21.16 Special conditions.

(a) If the Administrator finds that the airworthiness regulations of this subchapter do not contain adequate or appropriate safety standards for an aircraft, aircraft engine, or propeller because of a novel or unusual design feature of the aircraft, aircraft engine or propeller, he prescribes special conditions and amendments thereto for the product. The special conditions are issued in accordance with paragraph (b) of this section and contain such safety standards for the aircraft, aircraft engine or propeller as the Administrator finds necessary to establish a level of safety equivalent to that established in the regulations.

(b) Special conditions are issued to the applicant for the type certificate of the product involved as rules of particular applicability for his product after affording the applicant and other interested persons an opportunity to participate in this rule making. Any special conditions adopted under this section may be subsequently published in the FEDERAL REGISTER in summary form or, if the Administrator determines that the requirements of any special conditions may also apply generally to other aircraft, they may be issued in the form of proposed amendments to the airworthiness parts of the regulations, in accordance with the general rule-making procedures of Part 11 of this chapter.

2. Paragraph (a) of § 21.17 is amended to read as follows:

§ 21.17 Designation of applicable regulations.

(a) Except as provided in § 25.2 of this chapter, an applicant for a type certificate (other than for restricted category, import, or surplus military, aircraft) must show that the aircraft, aircraft engine, or propeller concerned meets—

(1) The applicable requirements of this subchapter that are effective on the date of application for that certificate unless—

(i) Otherwise specified by the Administrator; or

(ii) Compliance with later effective amendments is elected or required under this section; and

(2) Any special conditions prescribed by the Administrator.

* * * * *

§ 21.21 [Amended]

3. The introductory paragraph in § 21.21(b) is amended by inserting the words "and any special conditions prescribed by the Administrator" immediately after the words "Federal Aviation Regulations."

4. Paragraph (b) of § 21.101 is amended to read as follows:

§ 21.101 Designation of applicable regulations.

* * * * *

(b) If the Administrator finds that a proposed change consists of a new design or a substantially complete redesign of a component, equipment installation, or system installation, and that the regulations incorporated by reference in the type certificate for the product do not provide adequate standards with respect to the proposed change, the applicant must comply with—

(1) The applicable provisions of this subchapter, in effect on the date of the application for the change, that the Administrator finds necessary to provide a level of safety equal to that established by the regulations incorporated by reference in the type certificate for the product; and

(2) Any special conditions prescribed by the Administrator to provide a level of safety equal to that established by the regulations incorporated by reference in the type certificate for the product.

* * * * *

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354, 1421, 1423)

Issued in Washington, D.C., on December 7, 1967.

WILLIAM F. MCKEE,
Administrator.

[F.R. Doc. 67-14457; Filed, Dec. 12, 1967; 8:45 a.m.]

SUBCHAPTER E—AIRSPACE

[Airspace Docket No. 67-WE-76]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the 1,200-foot floor portion of the Lewiston, Idaho, transition area.

On or about January 4, 1968, the Federal Aviation Administration proposes to commission the Orchards fan marker at latitude 46°22'40" N., longitude 116°58'-14" W. Installation of this fan marker will provide for lower approach minima. Because of terrain, the approach radial has been moved counterclockwise 10°. The 1,200-foot portion of the transition area east of the VOR, therefore, had to also be shifted 10°. The 1,200-foot portion of the transition west of the airport is required for the protection of the missed approach procedure.

In consideration of the foregoing, the Lewiston, Idaho, transition area in § 71.181 (32 F.R. 2212) is amended to read as follows:

LEWISTON, IDAHO

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Lewiston Nez Perce County Airport (latitude 46°22'34" N., longitude 117°00'53" W.), and within 2 miles either side of the Lewiston VOR 268° radial extending from the 5-mile radius area to the VOR; and that airspace extending upward from 1,200 feet above the surface within 8 miles northwest and 5 miles southeast of the Lewiston VOR 065° radial extending from the VOR to 12 miles northeast of the VOR, and within 5 miles either side of the Lewiston VOR 268° radial extending from 7 to 15 miles west of the VOR.

Since this action is minor in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary.

Effective date. This amendment is effective February 1, 1968.

(Sec. 307(a), Federal Aviation Act of 1958, as amended; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Los Angeles, Calif., on December 1, 1967.

ARVIN O. BASNIGHT,
Director, Western Region.

[F.R. Doc. 67-14458; Filed, Dec. 12, 1967; 8:45 a.m.]

SUBCHAPTER H—SCHOOLS AND OTHER CERTIFICATED AGENCIES

[Docket No. 8687; Amdt. 141-6]

PART 141—PILOT SCHOOLS

Approval of Pilot Training Courses

The purpose of these amendments to Part 141 of the Federal Aviation Regulations is to provide rules under which the FAA will approve pilot training courses, that were not previously included in that part. Under the rules of these amendments a certificated pilot school may obtain FAA approval for pilot courses providing instruction for the following purposes:

(1) The addition of an aircraft category or class rating, or an original or additional type rating, on a pilot certificate.

(2) The addition of a rating on a flight instructor certificate.

(3) The proficiency required of an applicant for an airline transport pilot certificate.

(4) The proficiency required of an applicant for a rotorcraft external-load operator certificate or his designated chief pilot.

(5) The proficiency required of an applicant for an agricultural aircraft operator certificate or his designated chief supervisor.

Part 141 provides for the issuance of certificates and associated ground, flying, and flight instructor school ratings that may be issued to pilot schools. It also prescribes, among other things, the detailed standards for the instruction given by schools with each of these ratings. However, the part does not provide for the approval of many of the additional pilot training courses given by some certificated schools to serve the needs of certain pilots.

Some requests have been received in the past for the extension of the provisions of Part 141 to include additional courses of ground and flight instruction, and these have been under consideration in connection with a contemplated revision of Part 141. However, many more requests have been received recently from certificated schools, since enactment of the Veterans' Pension and Readjustment Assistance Act of 1967. This Act, effective October 1, 1967, provides for reimbursement from the Veterans Administration to eligible veterans for flight training "generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation". Two conditions are attached. First, the eligible veteran must have a valid private pilot certificate (or have satisfactorily completed the number of hours of flight training required therefor), and at least a second-class medical certificate. Second, the "flight school

courses must meet the Federal Aviation Administration standards and be approved both by that Agency and the appropriate State approving agency." It has not been possible for courses to meet the second condition, without FAA standards not already provided by Part 141.

To draft, propose, receive industry comments, and then issue a final rule containing detailed standards for pilot training courses to be given by certificated pilot schools, in the same manner as is done for pilot school ratings, can be satisfactorily accomplished only over a substantial period of time. This would delay implementing the purposes for which financial assistance to veterans in this field is contemplated by the recent legislation.

Therefore, as an interim measure pending consideration in connection with the contemplated revision of Part 141, these amendments are issued to provide the basis for FAA approval of the listed pilot training courses given by certificated pilot schools to students with at least private pilot certificates (needed for additional ratings to be attached to certificates, or for meaningful particularized proficiency).

Course approval will be afforded to certificated pilot schools—those that already have shown capability to provide the instruction necessary for the pilot and instructor certificates (and ratings thereon) ordinarily sought upon graduation from the schools. Under the Veterans' Benefits legislation, enrollment of an eligible veteran in a course may not be approved unless the course (or one similar in character) has been given by the institution involved for at least 2 years—a limitation not suitable for incorporation in these amendments of general applicability, but nevertheless limiting in scope with respect to schools desiring course approval under the recent legislation.

The courses eligible for approval under these amendments are set forth in a new Subpart D added to Part 141. As a standard for course approval, the school must show that the course provides adequate instruction for a graduate of the course to achieve the desired objective. Thus, the school must show in its application that a course in preparation for an additional category, class, or type rating (or original type rating) under Part 61 provides adequate instruction for a graduate of the course to perform the required procedures and maneuvers for the appropriate practical test for that rating. Likewise, a school must show that a course in preparation for the addition of a rating on a flight instructor certificate provides adequate instruction for a graduate of the course to pass the required written and practical tests. In the case of a course preparing students for airline transport pilot certificates, the school must show that the course provides adequate ground and flight instruction for a graduate of the course to pass the required written and practical tests for that certificate. Part 141 (like its predecessor Part 50 of the Civil Air Regulations) has not provided a rating and curriculum for the conduct of an airline transport flying school. Now there are numerous discharged military pilots with commercial pilot certificates, instrument ratings, and ample flight time, who desire to obtain training that will prepare them to pass the tests for airline transport pilot certificates.

With respect to courses leading to proficiency in a particularized vocational occupation, namely, rotorcraft external-load or agricultural aircraft operations (the two now covered), the school must show that the course provides adequate instruction for a graduate of the course to show the knowledge and skill regarding the particular operation required by Part 133 or 137 of the Federal Aviation Regulations, respectively.

It is considered that this standard sufficiently assures, prospectively at the time of course approval, that an approved course will accomplish its objective, at least as an interim measure, without the details of instruction that are required for certificated flying school ratings.

Under these amendments, the pilot school seeking course approval must accompany its application with a proposed course curriculum including the actual course content, facilities and equipment appropriate for the course objective, and qualifications of instructors to be used for the particular course. Thus, for approval of a multiengine course, multiengine aircraft suitable for flight instruction must be furnished. Similarly, the instructors used must have ratings appropriate for the instruction they give.

As a requirement applicable promptly after the course has been approved and in operation, these amendments add to § 141.11(a) a requirement that the quality of the instruction must be such that, of the course graduates who apply for a rating or an airline transport pilot certificate within 60 days after they are graduated, at least eight out of each 10 most recent graduates tested by an FAA inspector qualify on their first test for the particular rating or certificate. Courses for particularized vocational proficiency, as in rotocraft external-load or agricultural aircraft operations, do not lead to ratings. In these situations, the amendments require at least eight out of 10 students enrolled in such a course to show competence in pregraduation tests under the procedures of § 141.11(c) already applicable to determine a pilot school's compliance with its school curriculum and instruction quality. Other general provisions of Part 141 by their context will apply to these courses, namely, the balance of § 141.11, and §§ 141.13 (Student tests), 141.21 (Records), and 141.25 (Inspections).

In view of the need for prompt action to allow FAA approval of standards for pilot training courses in which eligible veterans will enroll, I find that notice and public procedure on these amendments would be impracticable and that these amendments may be made effective on less than 30 days' notice.

In consideration of the foregoing, Part 141 of the Federal Aviation Regulations is amended, effective December 13, 1967, as follows:

1. By adding a sentence to § 141.1 to read as follows:

§ 141.1 Applicability.

* * * This part also provides for the approval of pilot training courses given by certificated pilot schools.

2. By inserting the words "flying school" between the words "its" and "graduates" in § 141.11(a), and adding a sentence to that paragraph to read as follows:

§ 141.11 Quality of instruction.

(a) * * * Each certificated pilot school shall provide instruction in each approved pilot training course of such quality that (1) of the course graduates who apply for a rating or airline transport pilot certificate within 60 days after they are graduated from the course, at least eight out of each 10 most recent graduates tested by an FAA inspector qualify for the particular rating or certificate on their first test; and (2) of the students enrolled in any pilot training course mentioned in § 141.75 (d) or (e) who are questioned, tested, or flight checked under paragraph (c) of this section, at least eight out of each 10 thereof show competence in the items of the course in which they are enrolled and that have, according to the school schedule and records, been covered in that course.

* * * * *

§ 141.27 [Amended]

3. By inserting the words "or approval of a pilot training course that it obtains" after the word "holds" in § 141.27.

(Secs. 313(a), 601, 607, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1427)

4. By inserting a new Subpart D after § 141.67, to read as follows:

Subpart D—Pilot Training Courses

Sec.
141.71 Courses approved.
141.73 Application and issue.
141.75 Course instruction.
141.77 Course curriculum.
141.79 Enrollment certificates and notifications to the FAA.

AUTHORITY: The provisions of this Subpart D issued under secs. 313(a), 601, 607, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, and 1427.

Subpart D—Pilot Training Courses

§ 141.71 Courses approved.

In addition to the issuance of the school ratings listed in § 141.9, pilot courses providing instruction for the following purposes are approved under the rules of this subpart:

(a) The addition of an aircraft category or class rating, or an original or additional type rating, on a pilot certificate.

(b) The addition of a rating on a flight instructor certificate.

(c) The proficiency required of an applicant for an airline transport pilot certificate.

(d) The proficiency required of an applicant for a rotorcraft external-load operator certificate or his designated chief pilot.

(e) The proficiency required of an applicant for an agricultural aircraft operator certificate or his designated chief supervisor.

§ 141.73 Application and issue.

(a) The Administrator may, upon application of a certificated pilot school, approve a pilot training course given under, and appropriate to, that school's rating under this part.

(b) An application for approval of a pilot training course is made in writing to the FAA District Office that has jurisdiction over the area in which the pilot school is located.

(c) The application must show that the proposed course provides the instruction required by § 141.75, and be accompanied by two copies of the proposed course curriculum required by § 141.77.

§ 141.75 Course instruction.

The course must provide instruction to train enrolled students (holding at least private pilot certificates and at least third-class medical certificates) as follows:

(a) For the addition of an aircraft category or class rating, or for an original or additional type rating, in accordance with § 61.17 of this chapter, the course must provide adequate instruction for a graduate of the course to perform the required procedures and maneuvers for the appropriate practical test under Part 61 of this chapter.

(b) For the addition of a rating on a flight instructor certificate, in accordance with § 61.178 of this chapter, the course must provide adequate instruction for a graduate of the course to pass the required written and practical tests under that section.

(c) For the proficiency required of applicants for airline transport pilot certificates, the course must provide adequate ground and flight instruction for a graduate of the course to pass the required written and practical tests under §§ 61.143 and 61.147, and Appendix A of Part 61 of this chapter.

(d) For the proficiency required of applicants for rotorcraft external-load operator certificates or their designated chief pilots, the course must provide adequate instruction for a graduate of the course to show the required knowledge and skill regarding rotorcraft external-load operations under § 133.23 of this chapter.

(e) For the proficiency required of applicants for agricultural aircraft operator certificates or their designated chief supervisors, the course must provide adequate instruction for a graduate of the course to show the required knowledge and skill regarding agricultural aircraft operations under § 137.19(e) of this chapter.

§ 141.77 Course curriculum.

(a) Each course curriculum must include:

(1) The hours of ground and flight instruction and practice to be included, the content of each lesson, and the coverage of all progress checks;

(2) The facilities and equipment to be used, including aircraft and aircraft equipment, appropriate for instruction for the aircraft rating or operating proficiency involved; and

(3) The qualifications of all flight and ground instructors to be used, including airman ratings appropriate to the instruction given by them.

(b) Any change in an approved course curriculum must be approved by the FAA District Office that originally approved the course.

§ 141.79 Enrollment certificates and notifications to the FAA.

The school shall issue:

(a) To each student upon enrollment in a course approved under this subpart, a certificate showing the date of enrollment and the course entered, accompanied by a copy of the approved course curriculum; and

(b) To the FAA District Office that approved the course—

(1) A copy of each certificate of enrollment described in subparagraph (1) of this paragraph, within 3 days after it is issued; and

(2) A notice of graduation from, or of termination of training in, the course by each enrolled student, within 3 days thereafter.

Issued in Washington, D.C., on December 7, 1967.

WILLIAM F. MCKEE,
Administrator.

[F.R. Doc. 67-14459; Filed, Dec. 12, 1967; 8:46 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-1270]

PART 13—PROHIBITED TRADE PRACTICES

Continental Oil Co. and Stauffer Chemical Co.

Subpart—Acquiring corporate stock or assets: § 13.7 *Joint ventures.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

[Cease and desist order, Continental Oil Co. et al., New York, N.Y., Docket C-1270, Nov. 21, 1967]

In the Matter of Continental Oil Co., a Corporation, and Stauffer Chemical Co., a Corporation

Consent order requiring two corporations with headquarters in New York City to terminate a joint venture in the manufacture and sale of vinyl chloride monomer (VCM) and polyvinyl chloride resins (PVC).

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

I. *It is ordered*, That, within ninety (90) days from the startup of vinyl chloride monomer production or six (6) months from the effective date of this order, whichever is earlier, (A) Stauffer Chemical Co. (hereinafter referred to as "Stauffer") shall sell to Continental Oil Co. (hereinafter referred to as "Continental"), and Continental shall purchase from Stauffer, all interests held by Stauffer in or relating to the vinyl chloride monomer manufacturing facility constructed by Continental and Stauffer near Lake Charles, La., and all assets, rights, and other interests obtained by Stauffer pursuant to the monomer agreement and related agreements effective as of February 1, 1966, and (B) Stauffer and Continental shall terminate said monomer agreement and related agreements.

II. *It is further ordered*, That Continental, within two (2) years from the effective date of this order, divest absolutely and in good faith, to a purchaser or purchasers (such purchaser or purchasers being hereinafter referred to as "Purchaser") approved by the Federal Trade Commission, all assets, properties, rights, and privileges, tangible and intangible (subject to any outstanding foreign licenses), including, but not limited to, all plants, machinery, equipment, patents, patent rights, know-how and technology, trade names, trademarks, customer lists and good will acquired by Continental as a result of its acquisition of the stock of Thompson Chemical Co. and Apex Tire and Rubber Co. and of certain real estate utilized by these companies and owned by Hay Realty Corp., together with all additions and improvements thereto and replacements thereof; such divestiture shall be in good faith to a purchaser who, insofar as Continental can reasonably determine, will operate such assets as a going concern and effective competitor in the manufacture and sale of polyvinyl chloride resins and compounds and fabricated products processed from such compounds; that the purchaser of the divested facilities and Continental enter into a purchase and sale contract under which Continental will agree to sell and such purchaser will agree to buy the divested facilities' total needs of vinyl chloride monomer through December 31, 1969, at a price which is reasonable and in no event less favorable than that then being offered by Continental to, or received by Continental from, any other customer; and that the purchaser of the divested facilities grant to Continental a nonexclusive, royalty-free license, with the right to sublicense outside the United States, under all patents, patent rights, know-how and technology acquired by said purchaser from Continental pursuant to this order which relate to polyvinyl chloride resins and compounds, plasticizers, and garden hose.

III. *It is further ordered*, That, if the consideration received for the divestiture required to be made pursuant to this order is not entirely cash, nothing in this order shall be deemed to prohibit Continental or any of its subsidiaries from accepting and enforcing a lien, mortgage, pledge, deed of trust or other security interest for the purpose of securing to

Continental full payment of the price, with interest, received by Continental in connection with the divestiture; but if after bona fide divestiture including any disposal of any of the assets, in accordance with the provisions of this order, Continental, by enforcement of such security interest regains direct or indirect ownership or control of any substantial portion of the assets, said ownership or control regained shall be redivested subject to the provisions of this order, within such reasonable period as is granted by the Commision for this purpose.

IV. *It is further ordered*, That, pending divestiture or sale, Continental shall not make or permit any deterioration in any of the plants, machinery, buildings, equipment or other property or assets of the companies and/or plants to be divested or sold pursuant to this order which may impair their present capacity or market value, unless such capacity or value is restored prior to divestiture or sale.

V. *It is further ordered*, That Continental shall assist any one (1) firm, not engaged in the production of either vinyl chloride monomer or polyvinyl chloride resin, desiring to enter into the production of vinyl chloride monomer in the United States and approved by the Federal Trade Commission, by any portion or all of the following, at the option of such firm:

(A) Within five (5) years from the effective date of this order, granting (to the extent it is legally free to do so) a nonexclusive license to such firm under any or all patents, patent rights, know-how and technology and any improvements therein relating to the production of vinyl chloride monomer then owned or controlled by Continental at a price and on terms and conditions which are reasonable and in no event less favorable than those granted to any other domestic licensee of Continental, and/or

(B) Entering into and performing a purchase and sale contract with such firm under which Continental will agree to purchase and such firm will agree to supply, for a period of three (3) years from the startup of production by such firm, but in no event beyond December 31, 1977, a quantity of vinyl chloride monomer estimated to be 20 percent of Continental's needs of vinyl chloride monomer for internal use in each year of said contract period, or such lesser quantity as such firm may specify in the contract, at a competitive price, provided such firm has been approved by the Federal Trade Commission and has notified Continental, within five (5) years from the effective date of this order, of its intent to sell under this paragraph.

VI. *It is further ordered*, That Stauffer shall assist any one (1) firm, not engaged in the production of either vinyl chloride monomer or polyvinyl chloride resin, desiring to enter into the production of vinyl chloride monomer in the United States and approved by the Federal Trade Commission, by any portion or all of the following, at the option of such firm, provided Stauffer has not already committed itself in good faith to build a new plant in the United States for the commercial production of vinyl chloride monomer and notified the Commission of its commitment:

(A) Within five (5) years from the effective date of this order, granting (to the extent it is legally free to do so) a nonexclusive license to such firm under any or all patents, patent rights, know-how and technology and any improvements therein relating to the production of vinyl chloride monomer then owned or controlled by Stauffer at a price and on terms and conditions which are reasonable and in no event less favorable than those granted to any other domestic licensee of Stauffer, and/or

(B) Entering into and performing a purchase and sale contract with such firm under which Stauffer will agree to purchase and such firm will agree to supply, for a period of three (3) years from the startup of production by such firm, but in no event beyond December 31, 1977, a quantity of vinyl chloride monomer estimated to be 20 percent of Stauffer's total needs of vinyl chloride monomer in each year of said contract period, or such lesser quantity as such firm may specify in the contract, at a competitive price, provided such firm has been approved by the Federal Trade Commission and has notified Stauffer, within five (5) years from the effective date of this order, of its intent to sell under this paragraph.

VII. *It is further ordered*, That for a period of five (5) years from the startup of its vinyl chloride monomer production or from the effective date of this order, whichever is later, Continental shall make available to producers of polyvinyl chloride who are not also producers of vinyl chloride monomer (by joint venture or otherwise) and who will enter into a contract of at least one (1) year's duration a quantity of vinyl chloride monomer equal to thirty-three and one-third (33⅓) percent of Continental's production thereof at a price which is reasonable and in no event less favorable than that then being offered by Continental to any other customer, regardless of the quantity purchased or the duration of the contract (For the purposes of this order, "offered" shall include the voluntary renewal or extension of a contract by action or inaction on the part of Continental.): *Provided, however*, That if because of its own requirements and contractual commitments with other customers Continental would be required to purchase vinyl chloride monomer in order to satisfy its obligation under this paragraph, Continental shall be obligated to supply vinyl chloride monomer under this paragraph only if and to the extent that it can purchase for resale vinyl chloride monomer, and in such event Continental's resale price shall be determined as provided above in this paragraph but shall not be less than the price actually paid by Continental.

VIII. *It is further ordered*, That, within ninety (90) days from the effective date of this order, Stauffer shall grant to Continental a nonexclusive license, on reasonable terms, to Stauffer's vinyl chloride monomer process, patents, patent rights, know-how, and technology.

IX. *It is further ordered*, That for a period of ten (10) years from the effective date of this order, Continental shall not acquire, directly or indirectly, through subsidiaries, joint venture or otherwise, the whole or any part of the stock, share capital or assets (other than products, machinery or equipment purchased in the ordinary course of business and nonexclusive licenses under patents, know-how and technology) of any domestic concern engaged in the production or sale of any polyvinyl chloride monomer or production, processing, conversion or sale of any polyvinyl chloride resin, compound or fabricated product (except a domestic concern the business activities of which in polyvinyl chloride are limited to the production and sale of polyvinyl chloride fabricated products and which, in the year prior to Continental's acquisition, had total sales of polyvinyl chloride fabricated products of less than one million dollars ($1,000,000)), without the prior approval of the Federal Trade Commission.

X. *It is further ordered*, That for a period of ten (10) years from the effective date of this order, Stauffer shall not acquire, directly or indirectly, through subsidiaries, joint venture or otherwise, the whole or any part of the stock, share capital or assets (other than products, machinery or equipment purchased in the ordinary course of business and nonexclusive licenses under patents, know-how and technology) of any domestic concern engaged in the production or sale of vinyl chloride monomer, without the prior approval of the Federal Trade Commission.

XI. *It is further ordered*, That in the event Continental, despite bona fide efforts to do so, is unable to divest as required by this order within the specified time, Continental may apply to the Commission at such time for relief from such obligation; and the Commission may issue such order as it deems appropriate regarding such obligation.

XII. *It is further ordered*, That: (A) Within twenty (20) days from the sale to Continental of Stauffer's interests in the vinyl chloride monomer manufacturing facility, Continental and Stauffer shall each report in writing to the Federal Trade Commission their compliance with paragraphs I and VIII of this order;

(B) Within sixty (60) days from the effective date of this order, and every sixty (60) days thereafter until the divestiture required by paragraph II of this order has been completed, Continental shall report in writing to the Federal Trade Commission its plans for effecting such divestiture and the action it has taken in implementation thereof, including, (i) the name, address, and official capacity of the individual or individuals designated to carry out such divestiture and to negotiate with interested parties, (ii) a brochure, presentation or other writing containing all of the essential information necessary to permit an interested party to evaluate the facilities to be divested, (iii) a summary of any efforts made and to be made in advertising and affirmatively announcing the availability of the facilities to be divested, (iv) the particular efforts made to locate and interest prospective purchasers not previously engaged in the industry, (v) a summary of contacts and negotiations relating to the sale of facilities ordered to be divested, including the identities of all parties expressing interest in the acquisition of any of the facilities to be divested and, subject to any legally recognized privilege, copies of all written communications pertaining to negotiations, offers to buy or indications of interest in the acquisition of the whole or any part of the facilities to be divested, and (vi) copies of all agreements and forms of agreement relating directly or indirectly to the proposed sale of the facilities to be divested;

(C) Within sixty (60) days from the effective date of this order and every six (6) months thereafter, Continental and Stauffer shall each report in writing to the Federal Trade Commission the steps they have taken to comply with paragraphs V, VI and VII of this order and any steps taken to inform possible interested parties; and

(D) Within sixty (60) days from the effective date of this order and annually thereafter, Continental and Stauffer shall each report in writing to the Federal Trade Commission the manner and form in which they intend to comply, are complying or have complied with paragraphs IX and X of this order.

Issued: November 21, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-14448; Filed, Dec. 12, 1967; 8:45 a.m.]

[Docket No. C-1272]

PART 13—PROHIBITED TRADE PRACTICES

Monsieur Fourrure, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.30 *Composition of goods:* 13.30–30 Fur Products Labeling Act; § 13.73 *Formal regulatory and statutory requirements:* 13.73–10 Fur Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–35 Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Monsieure, Inc., et al., Everett, Wash., Docket C-1272, Nov. 27, 1967]

In the Matter of Monsieur Fourrure, Inc., a Corporation, and John Martin Haugen and Robert A. Kilpatrick, Individually and as Officers of Said Corporation.

Consent order requiring an Everett, Wash., retail furrier to cease falsely advertising its fur products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That Monsieur Fourrure, Inc., a corporation, and its officers, and John Martin Haugen and Robert A. Kilpatrick, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the sale, advertising, offering for sale, transportation, or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as the terms "commerce," "fur," and "fur products" are defined in the Fur Products Labeling Act, do forthwith cease and desist from falsely or deceptively advertising any fur product through the use of any advertisement, representation, public announcement, or notice which is intended to aid, promote or assist, directly or indirectly, in the sale, or offering for sale of any fur products, and which:

1. Fails to set forth in words and figures plainly legible all the information required to be disclosed by each of the subsections of section 5(a) of the Fur Products Labeling Act.

2. Falsely or deceptively identifies any such fur product as to the name or designation of the animal or animals that produced the fur contained in the fur product.

3. Falsely or deceptively identifies any such fur product made of fur from the "Japanese Weasel" formerly set forth in the Fur Products Name Guide as "Japanese Mink" as "Mink".

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: November 27, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-14449; Filed, Dec. 12, 1967; 8:46 a.m.]

[Docket No. C-1271]

PART 13—PROHIBITED TRADE PRACTICES

Schneider & Falk, Inc., et al.

Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* 13.1108–80 Textile Fiber Products Identification Act. Subpart—Misbranding or misleading: § 13.1185 *Composition:* 13.1185–80 Textile Fiber Products Identification Act: § 13.1212 *Formal regulatory and statutory requirements:* 13.1212–80 Textile Fiber Products Identification Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition:* 13.1845–70 Textile Fiber Products Identification Act; § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–70 Textile Fiber Products Identification Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 72 Stat. 1717; 15 U.S.C. 45, 70) [Cease and desist order, Schneider & Falk, Inc., et al., New York, N.Y., Docket C-1271, Nov. 24, 1967]

In the Matter of Schneider & Falk, Inc., a Corporation, and Aaron Schneider and David Falk, Individually and as Officers of Said Corporation.

Consent order requiring a New York City textile wholesaler and converter to cease misbranding its textile fiber products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Schneider & Falk, Inc., a corporation, and its officers, and Aaron Schneider and David Falk, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, sale, advertising, or offering for sale in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States of textile fiber products; or in connection with the sale, offering for sale, advertising, delivery, transportation or causing to be transported, of any textile fiber products, which have been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation or causing to be transported, after shipment in commerce of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Indentification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by:

1. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising, or otherwise identifying such products as to the name or amount of constituent fibers contained therein.

2. Failing to affix labels to such textile fiber products showing in a clear, legible, and conspicuous manner each element of information required to be disclosed by section 4(b) of the Textile Fiber Products Identification Act.

3. Setting forth information required under section 4(b) of the Textile Fiber Products Identification Act and the rules and regulations promulgated thereunder in abbreviated form on labels affixed to textile products.

4. Failing to set forth all parts of the information as to fiber content required under section 4(b) of the Textile Fiber Products Identification Act and the rules and regulations promulgated thereunder in type or lettering of equal size and conspicuousness.

5. Setting forth on labels nonrequired information that interferes with, minimizes, detracts from, or conflicts with the required information.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: November 24, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-14450; Filed, Dec. 12, 1967; 8:45 a.m.]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Product Certification Program

§ 15.152 Product certification program.

(a) The Commission rendered an advisory opinion involving a trade association's proposed use of a certification mark which is designed to upgrade the safety and quality of a particular product.

(b) Specifically, the Commission was requested to rule upon the following two questions:

(1) Can the association require nonmembers to join the association as a condition precedent to using the association's patented certification mark?

(2) If not, can the association charge nonmembers a higher fee than members for use of the mark?

(c) In response to the first question, the Commission said that it should not grant approval to a program where the "trade association requires nonmembers to join the association as a condition to using the association's patented certification mark because there is at this time insufficient information to evaluate the impact on competition of such a restriction." Commenting further upon the first question, the Commission sent the requesting party a copy of Advisory Opinion Digest No. 96, dealing with a closely related situation where the Commission did give its approval to a similar program on condition that all competitors be given unrestricted and nondiscriminatory access to its certification program whether they were members of the association or not.

(d) In response to the second question, the Commission reached the following conclusion: "* * * nonmembers of the association may be charged a higher fee than members provided it represents no more than a reasonable differential to insure that members and nonmembers of the association alike pay an equal share of the costs necessary to support the program. In short, if members of the association by payment of dues or other assessments have borne some of the cost of the program not reflected in the certification fees charged them then the payment of that portion of the costs may be reflected in the fees charged to nonmembers. This advisory opinion of course can not give you more than general guidance on this matter and the question of what is a reasonable differential would have to be decided on the facts of each case."

(38 Stat. 717, as amended; 15 U.S.C. 41–58)

Issued: December 12, 1967.

By direction of the Commission. Commissioner Jones dissented. Commissioner Reilly associates himself with the dissenting statement.[1]

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-14461; Filed, Dec. 12, 1967; 8:46 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

HEXANE

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 8A2195) filed by John I. Haas, Inc., Post Office Box 1441, Yakima, Wash. 98901, and other relevant material, has concluded that the food additive regulations should be amended to provide for the safe use of hexane as a solvent in the extraction of hops for use in beer production. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), § 121.1045 is revised to read as follows:

§ 121.1045 Hexane.

Hexane may be present in the following foods under the conditions specified:

(a) In spice oleoresins as a residue from the extraction of spice, at a level not to exceed 25 parts per million.

(b) In hops extract as a residue from the extraction of hops, at a level not to exceed 2.2 percent by weight: *Provided*, That:

(1) The hops extract is added to the wort before or during cooking in the manufacture of beer.

(2) The label of the hops extract specifies the presence of the hexane and provides for the use of the hops extract only as prescribed by subparagraph (1) of this paragraph.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: December 6, 1967.

R. E. DUGGAN, *Acting Associate Commissioner for Compliance.*

[F.R. Doc. 67-14486; Filed, Dec. 12, 1967; 8:48 a.m.]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

n-BUTOXYPOLYOXYETHYLENE POLYOXYPROPYLENE GLYCOL

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 1A0403) filed by Hasleton-Nuclear Science Corp., 4062 Fabian Way, Palo Alto, Calif. 94303, and other relevant material, has concluded that the food additive regulations should be amended to provide for the safe use of n-butoxypolyoxyethylene polyoxypropylene glycol as a component of defoaming agents used in processing beet sugar. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), § 121.1099(a) is amended by adding a new subparagraph, as follows:

§ 121.1099 Defoaming agents.

(a) * * *

(4) The substance listed in this subparagraph, provided it is a component of defoaming agents limited to use in processing beet sugar only, and subject to the limitations imposed:

Substance	*Limitations*
n-Butoxypolyoxyethylene polyoxypropyeene glycol.	Molecular weight range, 3,900–4,100 (hydroxyl determination).

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: December 6, 1967.

R. E. DUGGAN, *Acting Associate Commissioner for Compliance.*

[F.R. Doc. 67-14487; Filed, Dec. 12, 1967; 8:48 a.m.]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

WHITE MINERAL OIL

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 8A2212) filed by American Hoechst Corp., 777 Third Avenue, New York, N.Y. 10017, and other relevant material, has concluded that the food additive regulations should be amended to provide for the safe use of white mineral oil as an antidusting agent in sorbic acid for use in food. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secertary of Health, Education, and Welfare (21 CFR 2.120), § 121.1146(c) is amended by adding a new item 13, as follows:

§ 121.1146 White mineral oil.

* * *

(c) * * *

Use	*Limitation (inclusive of all petroleum hydrocarbons that may be used in combination with white mineral oil)*
* * *	* * *
13. As an antidusting agent in sorbic acid for food use.	Not to exceed 0.25 percent in the sorbic acid.

* * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: December 6, 1967.

R. E. DUGGAN, *Acting Associate Commissioner for Compliance.*

[F.R. Doc. 67-14489; Filed, Dec. 12, 1967; 8:48 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

SURFACE LUBRICANTS USED IN MANUFACTURE OF METALLIC ARTICLES

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 8B2200) filed by The Proctor & Gamble Co., Ivorydale Technical Center, Cincinnati, Ohio 45217, and other relevant material, has concluded that the food additive regulations should be amended to provide for the safe use of stearyl stearate in surface lubricants used in the manufacture of metallic food-contact articles under conditions such that the total residual lubricant does not exceed 0.2 milligram per square inch of food-contact surface. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), § 121.2531(b)(2) is amended by alphabetically inserting in the list of substances a new item, as follows:

§ 121.2531 Surface lubricants used in the manufacture of metallic articles.

* * *

(b) * * *

(2) * * *

List of substances	*Limitations*
* * *	* * *
Stearyl stearate	
* * *	* * *

* * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: December 6, 1967.

R. E. DUGGAN, *Acting Associate Commissioner for Compliance.*

[F.R. Doc. 67-14488; Filed, Dec. 12, 1967; 8:48 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

ANTIOXIDANTS AND/OR STABILIZERS FOR POLYMERS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 7B2189) filed by Geigy Industrial Chemicals, Division of Geigy Chemical Corp., Ardsley, N.Y. 10502, and other relevant material, has concluded that the food additive regulations should be amended to provide for the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate as an antioxidant and/or stabilizer in olefin polymers used in the manufacture of articles intended for food-contact use. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), § 121.2566(b) is amended by alphabetically inserting in the list of substances a new item, as follows:

§ 121.2566 Antioxidants and/or stabilizers for polymers.

* * *

(b) * * *

	Limitations
* * *	* * *
Octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate.	For use only at levels not to exceed 0.25 percent by weight of olefin polymer film complying with § 121.2501 and used for packaging food of the types identified in § 121.2526(c), table 1, under types I, II, IV–B, VI, VII–B, and VIII. The average thickness of such olefin polymer film shall not exceed 0.0015 inch.
* * *	* * *

[1] Copies of Commissioner Jones' dissenting statement may be obtained upon request to the Federal Trade Commission, Washington, D.C. 20580.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: December 6, 1967.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 67-14485; Filed, Dec. 12, 1967; 8:48 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 6940]

PART 147—TEMPORARY REGULATIONS UNDER THE INTEREST EQUALIZATION TAX ACT

Exclusion of Original or New Japanese Issues From Interest Equalization Tax

In order to conform § 147.4–1 of the Temporary Regulations (26 CFR Part 147) to section 3 of Executive Order No. 11368, dated August 28, 1967, the following amendments are adopted:

Paragraph (d) of § 147.4–1 is amended by revising subparagraphs (1) and (5) and adding, after subparagraph (6), new subparagraphs (7) and (8). The amended provisions read as follows:

§ 147.4–1 Exclusion for original or new issues where required for international monetary stability.

* * * * *

(d) *Notice of acquisition of Japanese issues*—(1) *In general.* Pursuant to applicable Executive orders, the interest equalization tax does not apply to an acquisition made after November 1, 1967, by a U.S. person of a debt obligation repayable exclusively in U.S. currency which is issued or guaranteed as to payment of principal and interest by the Government of Japan, or is issued, with the prior approval of the Government of Japan, by a corporation organized under the laws of Japan which is neither regulated under the Investment Company Act of 1940 (54 Stat. 847; 15 U.S.C. 80a–1 to 80a–52) nor formed or availed of for the principal purpose of acquiring stock or debt obligations of a Japanese or other foreign issuer or obligor, other than stock or debt obligations described in section 4916(a) of the Code, provided that—

(i) Such debt obligation is acquired as all or part of an original or new issue as to which there is filed the notice of acquisition described in subparagraph (2) of this paragraph;

(ii) The Government of Japan determines and certifies to the acquiring U.S. person that his acquisition of such debt obligation complies with the criteria set forth in such orders; and

* * * * *

(5) *Status of limitation under Executive order.* Upon receipt of a notice of acquisition (Part I), the Commissioner will issue to the person filing such notice a statement on Form 3973 as to whether or not the intended acquisition with respect to which such notice was filed is within the limitation referred to in subparagraph (1)(iii) of this paragraph.

* * * * *

(7) *Acquisition of stock pursuant to exercise of conversion right*—(i) *In general.* In accordance with applicable Executive orders, the interest equalization tax does not apply to an acquisition by a U.S. person of stock of a corporation pursuant to the exercise of a right (without the payment of additional consideration) to convert into stock a convertible debt obligation of such corporation acquired as all or part of an original or new issue under the exclusion described in subparagraph (1) of this paragraph provided that—

(a) Such debt obligation had not been acquired by a person other than a U.S. person (as such term is defined in section 4920(a)) at any time prior to conversion (see subparagraph (8) of this paragraph for methods of proof); and

(b) The stock into which such debt obligation is converted is acquired as all or part of an original or new issue as to which there is filed on Form 4363 the notice of acquisition required under section 4917(a).

(ii) *Filing of notice of acquisition of stock acquired upon conversion.* The Notice of Acquisition (Form 4363) required to be filed by a U.S. person claiming an exclusion under subdivision (i) of this subparagraph shall be filed with the Commissioner of Internal Revenue (Attention: Treasury, IET) Washington, D.C. 20224, not later than 30 days after the date on which the debt obligation is surrendered for conversion.

(8) *Proof of continuous American ownership*—(i) *Conclusive proof.* If a debt obligation acquired by a U.S. person as all or part of an original or new issue under the exclusion described in subparagraph (1) of this paragraph is converted into stock by such person, or by any other U.S. person subsequently acquiring such debt obligation, it will be conclusively presumed that the continuous American ownership requirement prescribed in subdivision (i)(a) of subparagraph (7) of this paragraph has been satisfied, if—

(a) The period remaining to maturity of such debt obligation, at the time of acquisition by the U.S. person converting such debt obligation, is 1 year or more;

(b) In the case where the U.S. person converting such debt obligation did not acquire the debt obligation under the exclusion described in subparagraph (1) of this paragraph, the exemption for prior American ownership and compliance provided in section 4918(a) applied to such acquisition;

(c) The first interest payment on all debt obligations included in the original or new issue of which such debt obligation is part, is due not later than 9 months following the issuance date and thereafter interest is due not less frequently than semiannually;

(d) There is no indication on the face of the bond, debenture, or other written evidence of such debt obligation (or in the statement of the participating custodian described in subdivision (ii)(d) of this subparagraph) that the stock into which such obligation is convertible is subject to the interest equalization tax;

(e) All debt obligations included in such original or new issue (and all other debt obligations with an identical description not included in such original or new issue), which are not registered as to principal and interest, are sold by the issuing corporation, or by any underwriter or dealer participating in the initial distribution of such debt obligations, under arrangements designed to assure that the purchasers are only persons other than U.S. persons, and each bond, debenture, or other written evidence of any debt obligation not so registered has, at all times prior to its conversion, marked clearly and prominently (on the face thereof) a legend substantially as follows:

> This debt obligation has been acquired by a person other than a U.S. person and any acquisition of stock upon its conversion by a U.S. person is subject to the U.S. interest equalization tax.

(f) A participating custodian (within the meaning of section 4918(f) has exclusive authority, with respect to all debt obligations included in the original or new issue of which such debt obligation is part (and all other debt obligations with an identical description not included in such original or new issue),

(1) To register all such debt obligations (including transfers and exchanges thereof) and to authenticate (in its capacity as trustee) bonds, debentures, or other written evidence of all such debt obligations,

(2) To receive bonds, debentures, or other written evidence of any such debt obligations which are surrendered for conversion, and

(3) To physically replace bonds, debentures, and other written evidence of any such debt obligations which are stolen, lost, mutilated, or accidentally destroyed;

(g) Prior to the issuance of such debt obligation or any other part of such original or new issue (or any other debt obligations with an identical description not included in such original or new issue), such participating custodian notifies the Commissioner of Internal Revenue (Attention: CP:A) Washington, D.C. 20224, in writing that, with respect to all such debt obligations, it agrees to comply with the conditions of subdivision (ii) of this subparagraph and submits, with such notification, evidence of such exclusive authority; and

(h) The U.S. person making the conversion does not have reason to believe that the debt obligation being converted had been acquired by a person other than a U.S. person prior to conversion.

(ii) *Responsibilities of participating custodian.* A participating custodian referred to in subdivision (i)(f) of this subparagraph shall, with respect to all debt obligations described in such subdivision, comply with the following conditions:

(a) Each bond, debenture, or other written evidence of any such debt obligation will bear the following caption, "Japanese Convertible Debt Obligation", clearly and prominently inscribed above the name of the issuing corporation or on the top margin of the face thereof;

(b) Each bond, debenture, or other written evidence of any such debt obligation which is registered as to principal and interest (other than a bond, debenture, or other written evidence of such debt obligation described in (c) of this subdivision) will at all times prior to its conversion make provision on the face thereof for an adequate space (not less than 2 inches wide and 1½ inches high) within which an authorized officer or employee of the Internal Revenue Service, in the event such bond, debenture, or other written evidence is presented with an application for a validation certificate (referred to in section 4918(b)(1)), and the proof submitted in support of the application indicates prior ownership of such debt obligation by a person other than a U.S. person, may note (by legend) that the stock acquired pursuant to the conversion of such debt obligation by a U.S. person will be subject to the interest equalization tax;

(c) Each bond, debenture, or other written evidence of a debt obligation issued upon the surrender of any bond, debenture, or other written evidence of any such debt obligation, which contains a legend to the effect that stock acquired upon the conversion of such debt obligation by a U.S. person is subject to the interest equalization tax, will contain the same legend;

(d) Such participating custodian will, not later than the date of delivery of any stock acquired by a U.S. person pursuant to conversion of any such debt obligation, file with the Commissioner of Internal Revenue (Attention: CP:A) Washington, D.C. 20224 (and also transmit to such U.S. person) a signed statement containing the following information:

(1) The serial numbers of the debt obligation being converted and the stock issued upon conversion,

(2) The name, address, and taxpayer identification number (if available) of the person in whose name such debt obligation is registered at the time of conversion and of the person in whose name such stock is being registered,

(3) The name and address of the person to whom such stock is delivered, and

(4) A statement to the effect that its records, or the bond, debenture, or other written evidence of the debt obligation being surrendered for conversion, indicate (or do not indicate) that the stock acquired upon conversion is subject to the interest equalization tax;

(e) Such participating custodian will maintain in the U.S. separate records, readily available for inspection by authorized officers or employees of the Internal Revenue Service, relating to the authentication, registration, and physical replacement and conversion of all debt obligations described in subdivision (i)(f) of this subparagraph, and such records will specifically identify each transaction invoIving a bond, debenture, or other written evidence of any such debt obligation described in (c) of this subdivision; and

(f) Such participating custodian will file with the Commissioner of Internal Revenue (Attention: CP:A) Washington, D.C. 20224, the following:

(1) Reports regarding all such debt obligations surrendered for conversion, to be filed not later than the 7th day following the date of surrender;

(2) Reports as to the authentication, registration, and physical replacement of all such debt obligations occurring during each day of each calendar quarter, to be filed not later than the 30th day after the close of such calendar quarter;

(3) Such other reports as may be requested relating to the functions described in subdivision (i)(f) of this subparagraph; and

(4) A written notice of any change in its authority with respect to such functions.

(iii) *Other proof.* Any person claiming an exclusion from tax under subparagraph (7) of this paragraph may, in lieu of relying on the presumption provided in subdivision (ii) of this subparagraph, furnish other evidence to establish to the satisfaction of the Commissioner of Internal Revenue or his delegate that the requirements of subdivision (i)(a) of subparagraph (7) of this paragraph have been satisfied.

* * * * *

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

Approved: December 11, 1967.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

[F.R. Doc. 67-14531; Filed, Dec. 11, 1967; 8:38 p.m.]

Title 31—MONEY AND FINANCE: TREASURY

Chapter I—Monetary Offices, Department of the Treasury

PART 82—SILVER COIN REGULATIONS

Authorization of Export of Certain Silver Coins of United States

The Silver Coin Regulations (31 CFR Part 82) prohibit the export of silver coins of the United States, as defined in § 82.3 of the regulations, from the United States or places subject to the jurisdiction of the United States except as specifically authorized by the Secretary of the Treasury or his delegate.[1] The regulations are being amended to generally authorize the export of certain silver coins in the amounts indicated, if exported for legitimate use as coins or for legitimate numismatic purposes, and to require that this be noted on the shipper's export declaration for such exports. No further authorization will be needed, although the export of silver dollars in amounts exceeding $100 per shipment will continue to need special authorization from the Treasury Department.

1. Section 82.5 is hereby added to the regulations:

§ 82.5 General authorization.

The following listed coins of the United States, in the amounts indicated, are authorized to be exported from the United States, without further authorization from the Treasury Department if exported for legitimate use as coins or for legitimate numismatic purposes:

(a) *1965–67 U.S. Special Mint Sets.* No limit on face value amount.

(b) *U.S. proof coins, whenever minted.* No limit on face value amount.

(c) *Silver dollars of the United States.* In amounts not exceeding $100 face value amount per shipment.

2. Section 82.6 is hereby added to the Regulations:

[1] See Treasury Order 190 (Rev. 4) of Dec. 15, 1965, and Treasury Order 193–1 (Rev. 2) of Oct. 26, 1967. These orders delegate to the Under Secretary for Monetary Affairs and the Director, Office of Domestic Gold and Silver Operations, respectively, the authority to act under the regulations.

§ 82.6 Export declaration.

In the case of coins exported pursuant to the provisions of § 82.2(a) of § 82.5, the shipper's export declaration shall contain a statement that such shipment contains U.S. silver coins being exported pursuant to the provisions of § 82.2(a) or § 82.5, and such additional documentation shall be furnished as may be requested by the Bureau of Customs or any other government agency charged with the enforcement of laws relating to the exportation of merchandise from the United States.

(31 U.S.C. 395)

[SEAL] THOMAS W. WOLFE,
Director, Office of Domestic Gold and Silver Operations.

[F.R. Doc. 67-14492; Filed, Dec. 12, 1967; 8:49 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 742—CODE OF ETHICAL CONDUCT

Other Conduct by Employee; Soliciting or Canvassing; Correction

In F.R. Doc. 67-14190 appearing in the daily issue for Wednesday, December 6, 1967, § 742.735-29(f) is corrected to read as follows:

§ 742.735-29 Other conduct by employee.

* * * * *

(f) *Soliciting or canvassing.* (1) Rural carriers when on duty shall not solicit business or receive orders for any person. Whether on or off duty they shall not engage in any business that interferes with their official duties. Neither shall they engage in any business which, by reason of their official employment, will give them an advantage over others not in the Postal Service who are engaged in a similar business. Substitute rural carriers when on duty shall not solicit business or receive orders for any person.

* * * * *

NOTE: The corresponding Postal Manual section is 742.296a.

(5 U.S.C. 301, 39 U.S.C. 501, Executive Order 11222)

TIMOTHY J. MAY,
General Counsel.

DECEMBER 11, 1967.

[F.R. Doc. 67-14580; Filed, Dec. 12, 1967; 10:44 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Narcotics

[26 CFR Part 151]

REGULATORY TAXES ON NARCOTIC DRUGS

Inventory and Recordkeeping Requirements

Notice is hereby given that pursuant to the authority granted by 26 U.S.C. 7805, and the requirements concerning proposed rule making contained in 5 U.S.C. 553, that the Commissioner of Narcotics proposes to amend sections 27, 28, 41, and 413 of Part 151 of Title 26 of the Code of Federal Regulations to allow institutions registered under the Federal narcotic law in Classes III (retail dealer) and IV (institution) to order narcotic drugs on a single order form, prepare a single narcotic inventory, and keep a single set of narcotic records.

Information recently received from concerned parties indicates that considerable savings would be possible by allowing institutions registered in Classes III and IV to order narcotic drugs on a single order form, prepare a single narcotic inventory, and keep a single set of records concerning narcotics. There is no indication that the proposed system would in any manner lessen the controls over narcotic drugs.

All interested persons are invited to present views and comments in writing regarding this proposal. Such comments should be submitted, preferably in quintuplicate, to the Commissioner of Narcotics, 633 Indiana Avenue NW., Washington, D.C. 20226, within 30 days from the date of publication of this notice in the FEDERAL REGISTER.

[SEAL] HENRY L. GIORDANO,
Commissioner of Narcotics.

Approved: December 7, 1967.

JAMES POMEROY HENDRICK,
Special Assistant to the Secretary (for Enforcement).

[F.R. Doc. 67-14493; Filed, Dec. 12, 1967; 8:49 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 67-CE-80]

FEDERAL AIRWAY SEGMENTS AND REPORTING POINT

Proposed Alteration and Revocations

The Federal Aviation Administration is considering amendments to Part 71 of the Federal Aviation Regulations that would alter segments of VOR Federal airway Nos. 72 and 88 and revoke V-426 segment in the vicinity of Richwoods, Mo.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Building, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The Federal Aviation Administration proposes the following airspace actions:

1. Realign VOR Federal airway No. 72 segment from Maples, Mo., with a 1,200-foot floor direct to Troy, Ill.

2. Realign VOR Federal airway No. 88 segment from Vichy, Mo., with a 1,200-foot floor to the intersection of the Vichy 084° T (078° M) and St. Louis, Mo., 170° T (166° M) radials.

3. Revoke VOR Federal airway No. 426 segment from Richwoods to St. Louis.

4. Revoke the Richwoods domestic low altitude reporting point.

The realignment of V-72 and V-88 segments and the revocation of V-426 segment as proposed would permit the deletion of the Richwoods VOR as a facility within the VOR airway structure and permit its decommissioning without derogation of the airway system. These proposed actions would slightly reduce the extent of controlled airspace.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on December 1, 1967.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-14460; Filed, Dec. 12, 1967; 8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 270]

FINANCE SUBSIDIARIES

Proposed Exemption

DECEMBER 7, 1967.

Notice is hereby given that the Securities and Exchange Commission has under consideration the adoption of Rule 6c-1 under the Investment Company Act of 1940 ("Act") (§ 270.6c-1 of Chapter II of Title 17, Code of Federal Regulations) to exempt from all of the provisions of the Act certain subsidiaries of U.S. corporations organized primarily for the purpose of financing the foreign operations of their parent companies through the sale of debt securities to foreign investors. The proposed rule would be adopted pursuant to the authority granted to the Commission in section 6(c) of the Act.

Section 6(c) (of the Act) provides that the Commission may conditionally or unconditionally exempt any person or class of persons from any provision or provisions of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes intended by the policy and provisions of the Act.

The above-mentioned companies ("finance subsidiaries") are designed and created to comply with the voluntary cooperation program instituted by President Johnson in February 1965 by raising capital for the foreign operations of U.S. corporations in a manner which which would not adversely affect the balance of payments position of the United States. The Presidential Task Force on promoting increased foreign investment in U.S. corporate securities and increased foreign financing for U.S. corporations operating abroad had published its report (the "Fowler Report") the previous April.

The Fowler Report recommended that the Commission publish a release announcing its position on the applicability of the Securities Act of 1933 to securities offered by domestic issuers to foreign purchasers including dealers and the application of the broker-dealer requirements of the Securities Exchange Act of 1934 to foreign underwriters participating in distributions of securities exclusively to nonresidents of the United States. In response to this recommendation, on July 9, 1964, the Commission published a release entitled "Registration of Foreign Offerings by Domestic Issuers; Registration of Underwriters of Foreign Offerings as Broker-Dealers" (Securities Act Release No. 33-4708, Securities Exchange Act Release No. 34-7366 (29 F.R. 9828)).

The Fowler Report also suggested the establishment of programs designed to maximize the use of foreign sources of finance in order to increase the overall positive contribution which U.S.-based international corporations could make to the U.S. balance of payments. Specific recommendations were made for action by the private sector which formed the basis of the voluntary cooperation program.

Since February 1965 when the program was instituted by the President, finance subsidiaries have offered and sold over $900 million principal amount of securities outside of the United States. These securities have been sold under conditions designed to assure that they would not be purchased by nationals or residents of the United States, its territories, or possessions. The Interest Equalization Tax would have been applicable to the acquisition of these securities by U.S. nationals and residents, thus further deterring their purchase by such persons.

In order to clarify the status of any finance subsidiary under the Investment Company Act of 1940, it has been necessary for the company and its parent to file a request for exemption from the Act in each case.

After processing the applications of some 30 finance subsidiaries and reviewing the reports they have been required to make, the Commission is of the view that it is no longer necessary to follow this application procedure. With the experience gained in processing the 30 applications, it now appears appropriate to codify existing procedures. Accordingly, to further implement the Fowler Report, the Commission proposes to adopt a rule under section 6 of the Act which would provide a complete exemption from that statute for all such finance subsidiaries without need for application.

Generally, the proposed rule (§ 270.6c–1) provides that a finance subsidiary shall be exempt from all the provisions of the Act if:

1. All of its securities, other than debt securities, are owned by its parent,

2. Its primary purpose is the financing of its parent's foreign operations through the sale of debt securities outside of the United States,

3. The parent is the issuer of securities registered under section 12 of the Securities Exchange Act of 1934,

4. Its securities are unconditionally guaranteed by the parent,

5. Its securities are offered and sold under conditions designed to assure that they will not be acquired by U.S. nationals and residents,

6. Any convertible securities issued by the subsidiary will be convertible no sooner than 6 months after issuance, or such shorter period as the Secretary of the Treasury or his delegate may approve in writing to the finance subsidiary or the parent company,

7. At least 80 percent of the subsidiary's assets will consist of investments in foreign companies or domestic companies substantially all of the business of which is conducted abroad,

8. Any company in which the finance subsidiary invests is or will be under the parent's control or wholly owned by the parent, if an investment company,

9. The acquisition of the securities by U.S. nationals would be subject to the Interest Equalization Tax.

If the proposed rule (§ 270.6c–1) is adopted, the Commission anticipates that any finance subsidiary which would qualify for exemption under Rule 6c–1 (§ 270.6c–1) need not be concerned as to the applicability of the Securities Act of 1933 or the Trust Indenture Act of 1939 to any offering of its debt securities under limitations prescribed in the rule (§ 270.6c–1). It would not be necessary to register under the Securities Act of 1933 the securities of any company which would qualify for the Rule 6c–1 (§ 270.6c–1) exemption or to qualify an indenture therefor under the Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.). However, registration of the securities into which the subject securities are convertible would be subject to the registration requirements of the Securities Act of 1933 (15 U.S.C. 77a et seq.) absent an appropriate exemption. All such issuers are requested to notify the Commission of such offerings so that the Commission may be informed of the scope of such offerings in the future.

The text of proposed Rule 6c–1 (§ 270.6c–1) reads as follows:

§ 270.6c–1 Exemption for finance subsidiaries under section 6 of the Act.

(a) For the purpose of this § 270.6c–1, a "finance subsidiary" shall mean any corporation

(1) Organized under the laws of the United States or of a State, all of whose securities other than debt securities are owned by a corporation organized under the laws of the United States or of a State (the "parent company"), or by a subsidiary of such parent company, provided neither the parent company nor the subsidiary is an investment company as defined in section 3(a) of the Act, and

(2) The primary purpose of which is to finance the foreign operations (direct or indirect) of the parent company through the sale of the finance subsidiary's securities, including borrowings, outside the United States by the finance subsidiary, and its organization is consistent with the President's program to improve the balance of payments position of the United States;

(b) A finance subsidiary shall be exempt from all provisions of the Act, subject to the conditions set forth in paragraph (c) of this section, provided:

(1) The parent company is the issuer of a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 781);

(2) The debt securities of the finance subsidiary issued to or held by the public are unconditionally guaranteed by the parent company as to payment of principal, interest, and premium, if any;

(3) Any public offering of the debt securities of the finance subsidiary is made pursuant to underwriting or distribution agreements, the terms of which prohibit the offer or sale thereunder of the debt securities to nationals or residents of the United States or its territories or possessions;

(4) Any debt securities of the finance subsidiary which are convertible or exchangeable shall only be convertible or exchangeable for securities of the parent company not less than six months from the date of issuance of the debt securities or such shorter period of time as the Secretary of the Treasury or his delegate may approve in writing to the finance subsidiary or the parent company;

(5) Upon completion of the long-term investment program of the finance subsidiary, at least 80 percent of its assets, exclusive of U.S. Government securities and cash items, will consist of investments in or loans to foreign companies (or domestic companies, substantially all of the business of which is conducted outside of the United States); and

(6) Any company in which the finance subsidiary directly or indirectly invests in, or at the completion of the investment will be, a company under the parent company's control, or, if an investment company, a wholly owned subsidiary of the parent company.

(c) The exemption applicable to any finance subsidiary which meets the requirements of paragraph (a) of this section shall be subject to the conditions that:

(1) At the time of their issuance the debt securities issued by the finance subsidiary would, if purchased by nationals or residents of the United States, its territories, or possessions, be subject to the Interest Equalization Tax (Internal Revenue Code, Chapter 41, sections 4911–4931) (26 U.S.C. 4911 et seq.) or another tax providing a comparable deterrent to the purchase of the finance subsidiary's securities by U.S. nationals or residents in the event the U.S. Interest Equalization Tax expires, is repealed or the rate thereof is reduced to zero, and such fact will be prominently indicated on such securities;

(2) The finance subsidiary will not issue, without an order of the Commission, any securities (except to its parent company or to a subsidiary of the parent company which is not an investment company) in the event the U.S. Interest Equalization Tax expires, is repealed and is not replaced by another comparable tax, or the rate thereof is reduced to zero.

(Sec. 6(c), 73 Stat. C 74, 15 U.S.C. 80a–6)

All interested persons are invited to submit views and comments on the proposed Rule 6c–1 (§ 270.6c–1). Written statements of views and comments in respect of the proposed rule (§ 270.6c–1) should be submitted to the Securities and Exchange Commission, Washington, D.C. 20549 on or before January 2, 1968. All such communications will be available for public inspection.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14453; Filed, Dec. 12, 1967; 8:45 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[R 702]

CALIFORNIA

Notice of Classification of Public Lands for Multiple-Use Management

DECEMBER 6, 1967.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18) and to the regulations in 43 CFR Parts 2410 and 2411, the public lands described in paragraph 3 are classified for multiple use, together with any land therein that may become public lands in the future. As used herein, "Public Lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

Publication of this notice has the effect of segregating the described lands from appropriation only under the Agricultural Land Laws (43 U.S.C. Chs. 7 and 9; 25 U.S.C. sec. 334) and from sale under section 2455 of the Revised Statutes as amended (43 U.S.C. 1171), and the land described in paragraph 4 from appropriations under the mining laws (30 U.S.C. Ch. 2). The land shall remain open to all other applicable forms of appropriation.

2. Comments were received following publication of the notice of proposed classification (32 F.R. 13598), and at the public hearing held at El Centro, Calif., on October 26, 1967. All comments were carefully considered and no changes were deemed necessary.

3. The public lands are located in Imperial and Eastern Riverside Counties and are shown on the Chuckwalla Planning Unit Classification Map, which is on file in the Riverside District and Land Office, Bureau of Land Management, 1414 University Avenue, Riverside, Calif. 92502.

The overall descriptions of the areas are as follows:

SAN BERNARDINO MERIDIAN, CALIFORNIA

T. 5 S., R. 12 E.,
Secs. 25 and 36.
T. 6 S., R. 12 E.
T. 7 S., R. 12 E.
T. 8 S., R. 12 E.,
Secs. 1 to 17, inclusive;
Secs. 20 to 28, inclusive;
Secs. 35 and 36.
T. 9 S., R. 12 E.,
Secs. 1 and 12.
T. 3 S., R. 13 E.,
Secs. 19 to 36, inclusive.
T. 4 S., R. 13 E.
T. 5 S., R. 13 E.,
Secs. 1 to 5, inclusive;
Secs. 8 to 17, inclusive;
Secs. 20 to 36, inclusive.
T. 6 S., R. 13 E.
T. 7 S., R. 13 E.
T. 8 S., R. 13 E.
T. 9 S., R. 13 E.,
Secs. 1 to 18, inclusive;
Secs. 20 to 27, inclusive;
Sec. 36.
T. 3 S., R. 14 E.,
Secs. 19 to 36, inclusive.
T. 4 S., R. 14 E.,
Sec. 1, lots 4, 6, and 7, SW¼NW¼, SW¼, NW¼SE¼, and S½SE¼;
Sec. 2, lots 1, 2, 3, and 4, S½NE¼, SE¼ NW¼, S½SW¼, N½NE¼SE¼, NE¼ NW¼SE¼, SW¼SE¼, and W½SE¼ SE¼;
Secs. 3 to 36, inclusive.
T. 5 S., R. 14 E.
T. 6 S., R. 14 E.
T. 7 S., R. 14 E.
T. 8 S., R. 14 E.
T. 9 S., R. 14 E.
T. 10 S., R. 14 E.,
Secs. 1 to 6, inclusive;
Secs. 8 to 16, inclusive;
Secs. 22 to 26, inclusive;
Sec. 36.
T. 2 S., R. 15 E.,
Sec. 1.
T. 3 S., R. 15 E.,
Secs. 13 to 17, inclusive;
Secs. 19 to 36, inclusive.
T. 4 S., R. 15 E.,
Secs. 1 to 5, inclusive;
Sec. 6, S½, lot 2 of SW¼, E½NE¼, and E½SE¼;
Secs. 7 to 36, inclusive.
T. 5 S., R. 15 E.
T. 6 S., R. 15 E.
T. 7 S., R. 15 E.
T. 8 S., R. 15 E.
T. 9 S., R. 15 E.
T. 10 S., R. 15 E.
T. 11 S., R. 15 E.,
Secs. 1 to 6, inclusive;
Secs. 8 to 16, inclusive;
Secs. 21 to 27, inclusive;
Secs. 35 and 36.
T. 12 S., R. 15 E.,
Sec. 1.
T. 1 S., R. 16 E.,
Secs. 21 to 28, inclusive;
Secs. 33 to 36, inclusive.
T. 2 S., R. 16 E.,
Secs. 1 to 17, inclusive;
Secs. 20 to 29, inclusive;
Secs. 32 to 36, inclusive.
T. 3 S., R. 16 E.,
Secs. 1 to 5, inclusive;
Secs. 8 to 36, inclusive.
T. 4 S., R. 16 E.
T. 5 S., R. 16 E.
T. 6 S., R. 16 E.
T. 7 S., R. 16 E.
T. 8 S., R. 16 E.
T. 9 S., R. 16 E.
T. 10 S., R. 16 E.
T. 11 S., R. 16 E.
T. 12 S., R. 16 E.,
Secs. 1 to 3, inclusive;
Sec. 4 N½, N½NE¼SW¼, SE¼NE¼SW¼, W½SW¼SW¼, SE¼SW¼SW¼, SW¼ SE¼SW¼, N½SE¼, N½SW¼SE¼, SE¼SW¼SE¼, and SE¼SE¼;
Secs. 5 to 9, inclusive;
Sec. 10, NE¼, N½NW¼, NE¼SW¼NW¼, N½SE¼NW¼, SE¼SE½NW¼, SW¼ NE¼SW¼, NW¼NW¼SW¼, S½NW¼ SW¼, SW¼SW¼, SE¼SW¼, NE¼SE¼, N½NW¼SE¼, SE¼NW¼SE¼, NE¼ SE¼SE¼, and SW¼SW¼SE¼;
Secs. 11 to 20, inclusive;
Secs. 25 and 36.
T. 13 S., R. 16 E.,
Sec. 1.
T. 1 S., R. 17 E.,
Secs. 19 to 36, inclusive.
T. 2 S., R. 17 E.
T. 3 S., R. 17 E.
T. 4 S., R. 17 E.
T. 5 S., R. 17 E.
T. 6 S., R. 17 E.
T. 7 S., R. 17 E.
T. 8 S., R. 17 E.
T. 9 S., R. 17 E.
T. 10 S., R. 17 E.
T. 11 S., R. 17 E.
T. 12 S., R. 17 E.
T. 13 S., R. 17 E.
Secs. 1 to 17, inclusive;
Secs. 20 to 28, inclusive;
Secs. 34, 35, and 36.
T. 13 S., R. 17½ E.
T. 14 S., R. 17 E.,
Secs. 1, 2, 12, 13, and 24.
T. 1 S., R. 18 E.,
Secs. 19 to 36, inclusive.
T. 2 S., R. 18 E.
T. 3 S., R. 18 E.
T. 4 S., R. 18 E.
T. 5 S., R. 18 E.
T. 6 S., R. 18 E.
T. 7 S., R. 18 E.
T. 8 S., R. 18 E.
T. 9 S., R. 18 E.
T. 10 S., R. 18 E.
T. 11 S., R. 18 E.
T. 12 S., R. 18 E.
T. 13 S., R. 18 E.
T. 14 S., R. 18 E.
T. 15 S., R. 18 E.,
Secs. 1 to 5, inclusive;
Secs. 9 to 16, inclusive;
Secs. 22 to 26, inclusive;
Sec. 36.
T. 1 S., R. 19 E.,
Secs. 19 to 36, inclusive.
T. 2 S., R. 19 E.
T. 3 S., R. 19 E.
T. 4 S., R. 19 E.
T. 5 S., R. 19 E.
T. 6 S., R. 19 E.
T. 7 S., R. 19 E.
T. 8 S., R. 19 E.
T. 9 S., R. 19 E.
T. 10 S., R. 19 E.
T. 11 S., R. 19 E.
T. 12 S., R. 19 E.
T. 13 S., R. 19 E.
T. 14 S., R. 19 E.
T. 15 S., R. 19 E.
T. 16 S., R. 19 E.,
Secs. 1 to 5, inclusive;
Secs. 10 to 14, inclusive;
Secs. 24 and 25.
T. 1 S., R. 20 E.,
Secs. 19 to 36, inclusive.
T. 2 S., R. 20 E.
T. 3 S., R. 20 E.
T. 4 S., R. 20 E.
T. 5 S., R. 20 E.
T. 6 S., R. 20 E.
T. 7 S., R. 20 E.
T. 8 S., R. 20 E.
T. 9 S., R. 20 E.
T. 10 S., R. 20 E.
T. 11 S., R. 20 E.
T. 12 S., R. 20 E.
T. 13 S., R. 20 E.
T. 14 S., R. 20 E.
T. 15 S., R. 20 E.
T. 16 S., R. 20 E.
T. 17 S., R. 20 E.
T. 1 S., R. 21 E.,
Secs. 19 to 36, inclusive.

T. 2 S., R. 21 E.
T. 3 S., R. 21 E.
T. 4 S., R. 21 E.
T. 5 S., R. 21 E.
T. 6 S., R. 21 E.
T. 7 S., R. 21 E.
T. 8 S., R. 21 E.
T. 8½ S., R. 21 E.,
Sec. 31.
T. 14 S., R. 21 E.
T. 15 S., R. 21 E.
T. 1 S., R. 22 E.,
Secs. 19 to 36, inclusive.
T. 2 S., R. 22 E.
T. 3 S., R. 22 E.
T. 4 S., R. 22 E.
T. 5 S., R. 22 E.
T. 6 S., R. 22 E.
T. 7 S., R. 22 E.
T. 13½ S., R. 22 E.,
Secs. 31 to 36, inclusive.
T. 14 S., R. 22 E.
T. 15 S., R. 22 E.
T. 1 S., R. 23 E.,
Secs. 19 to 36, inclusive.

The public lands described above aggregate approximately 1,571,627 acres.

4. As provided in paragraph 1 above, the following lands are further segregated from appropriation under the mining laws (totaling approximately 12,875 acres in Riverside and Imperial Counties, Calif.).

SAN BERNARDINO MERIDIAN, CALIFORNIA

T. 5 S., R. 13 E.,
Sec. 14, SE¼SE¼SW¼, unsurveyed;
Sec. 23, W½NW¼NE¼, SE¼NW¼NE¼, SW¼NE¼, W½SE¼NE¼, E½NE¼NW¼, SW¼SE¼NW¼, E½SE¼NW¼, SW¼, NW¼NE¼SE¼, NW¼SE¼, and W½SW¼SE¼, unsurveyed;
Sec. 26, NW¼NW¼NE¼, N½N½NW¼, SW¼NE¼NW¼, S½NW¼NW¼, and W½SW¼NW¼, unsurveyed;
Sec. 27, E½NE¼, unsurveyed.
T. 5 S., R. 15 E.,
Sec. 32, N½S½ and S½SE¼, unsurveyed;
Sec. 33, SW¼SW¼, unsurveyed.
T. 4 S., R. 16 E.,
Sec. 26, SW¼NW¼ and W½SW¼;
Sec. 27, S½NE¼, SE¼NW¼, and S½;
Sec. 28, SE¼;
Sec. 33, N½NE¼;
Sec. 34, N½N½.
T. 6 S., R. 16 E.,
Sec. 19, SW¼NE¼, S½NW¼, E½SW¼, and SE¼, unsurveyed;
Sec. 20, SW¼ and S½SE¼, unsurveyed;
Sec. 21, S½SW¼, unsurveyed;
Sec. 28, NW¼NE¼, S½NE¼, NW¼, and N½S½, unsurveyed;
Sec. 29, E½NE¼, NW¼NE¼, N½NW¼, and NE¼SE¼, unsurveyed.
T. 13 S., R. 18 E.,
Sec. 12;
Sec. 13, SE¼;
Sec. 14, N½ and SW¼;
Sec. 22;
Sec. 23, SE¼;
Sec. 24.
T. 13 S., R. 19 E.,
Sec. 7, S½;
Sec. 8, SW¼;
Sec. 17, W½;
Secs. 18 and 19.
T. 3 S., R. 20 E.,
Sec. 21, E½SE¼SE¼, unsurveyed;
Sec. 22, SW¼SW¼, unsurveyed;
Sec. 27, NW¼NW¼, unsurveyed;
Sec. 28, E½NE¼NE¼, unsurveyed.
T. 5 S., R. 20 E.,
Sec. 17, S½NE¼ and N½SE¼, unsurveyed.
T. 6 S., R. 20 E.,
Sec. 4, N½NW¼;
Sec. 5, N½NE¼;
Sec. 22, E½E½NE¼, unsurveyed, and SE¼NE¼;
Sec. 23, N½, unsurveyed;
Sec. 24, N½, excluding M–S. 6400–B, unsurveyed.
T. 3 S., R. 20 E.,
Sec. 9, E½ and E½W½;
Sec. 20, E½, unsurveyed;
Sec. 21, W½, unsurveyed;
Sec. 28, W½, unsurveyed;
Sec. 29, E½ and E½W½, unsurveyed;
Sec. 32, NE¼ and E½NW¼, unsurveyed;
Sec. 33, W½NW¼, unsurveyed.
T. 5 S., R. 20 E.,
Sec. 3, S½S½, unsurveyed;
Sec. 10, N½, unsurveyed.
T. 10 S., R. 20 E.,
Sec. 32.
T. 5 S., R. 21 E.,
Sec. 18, lot 14.
T. 7 S., R. 21 E.,
Sec. 30, NE¼NE¼, E½NW¼NE¼, NE¼SW¼NE¼, and N½SE¼NE¼.
T. 8 S., R. 22 E.,
Sec. 9, SE¼NE¼SW¼, NE¼SE¼SW¼, S½NW¼SE¼, and N½SW¼SE¼, unsurveyed.

5. For a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2411.2(c).

R. E. MCCARTHY,
Acting State Director.

[F.R. Doc. 67–14451; Filed, Dec. 12, 1967; 8:45 a.m.]

[OR 2711 (Wash.)]

WASHINGTON

Notice of Proposed Withdrawal and Reservation of Lands

DECEMBER 5, 1967.

The Department of the Army, Corps of Engineers, has filed application, OR 2711 (Wash.), for the withdrawal of national forest lands described below, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, subject to valid existing rights.

The applicant desires the use of the lands for construction, operation, and maintenance of the Wynoochee Reservoir Project.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 729 Northeast Oregon Street (Post Office Box 2965), Portland, Oreg. 97208.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources.

He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place which will be announced.

The lands involved in the application are:

OLYMPIC NATIONAL FOREST

WILLAMETTE MERIDIAN

Wynoochee Reservior Project

T. 22 N., R. 7 W.,
Sec. 3, W½NW¼, NW¼SW¼ and that portion of E½NW¼, E½SW¼, and SW¼SW¼ lying westerly of a line 50 feet easterly of the centerline of the relocated Forest Service Development Road No. 2312;
Sec. E½, NE¼SW¼, and S½SW¼;
Sec. 9, N½NE¼, SW¼NE¼, W½, and that portion of SE¼NE¼, NE¼SE¼, and W½SE¼ lying westerly of a line 50 feet easterly of the centerline of the relocated Forest Service Development Road No. 2312;
Sec. 10, that portion of W½NW¼ lying westerly of a line 50 feet easterly of the centerline of the relocated Forest Service Development Road No. 2312;
Sec. 16, N½NW¼, SW¼NW¼, NW¼SW¼, and that portion of W½NE¼, SE¼NW¼, NE¼SW¼, SW¼SW¼, and SE¼SW¼ lying westerly of a line 50 feet easterly of the centerline of the relocated Forest Service Development Road No. 2312;
Sec. 17, E½NE¼, SW¼, NE¼SE¼, and S½SE¼;
Sec. 20, NE¼, SE¼NW¼, and N½SW¼;
Sec. 21, that portion of W½NW¼ lying westerly of a line 50 feet easterly of the centerline of the relocated Forest Service Development Road No. 2312.
T. 23 N., R. 7 W.,
Sec. 33, SE¼;
Sec. 34, W½SW¼, and that portion of NW¼SE¼ and E½SW¼ lying westerly of a line 50 feet easterly of the centerline, including the elongation of said centerline a distance of 135± feet in the NW¼SE¼, of the relocated Forest Service Development Road No. 2312.

The areas described aggregate approximately 2,464 acres.

VIRGIL O. SEIBEL,
Chief, Branch of Lands.

[F.R. Doc. 67–14452; Filed, Dec. 12, 1967; 8:45 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

IOWA STATE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68–00082–65–46040. Applicant: Ames Laboratory, Iowa State University, Ames, Iowa 50010. Article: Electron Microscope, Model HU–125 including heating-tilting stage model HK–2BM and cooling stage model HC–2. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: Applicant states: "The article is intended to be used to study the relation between the properties of metals and alloys and their microstructural characteristics." Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The accelerating voltage of 125 kilovolts of the foreign article is a pertinent characteristic for studying the morphology and crystallographic features of second phase particles in metals and alloys as well as dislocations and radiation effects on metals and alloys. For these intended uses, the maximum accelerating voltage of the electron microscope sets limits on the thickness and therefore the type of samples that can be studied. The only domestic instrument, the Model EMU–4 Electron Microscope, manufactured by the Radio Corporation of America, has a maximum accelerating voltage of 100 kilovolts. The additional voltage possible with the foreign article will allow the study of thicker metal specimens which will be more characteristic of the bulk materials. We have found, therefore, that there is a characteristic in the foreign article that is absent in the domestic instrument which is pertinent to the intended uses of the article and which thereby establishes that the domestic article is not scientifically equivalent to the foreign article for these intended uses.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67–14467; Filed, Dec. 12, 1967; 8:46 a.m.]

MASSACHUSETTS INSTITUTE OF TECHNOLOGY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68–00095–00–77040. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, Mass. 02139. Article: Mass Spectrometer Replacement Part, Special MS 101. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: Applicant states. "For use in place of T–2N Ion Source in a Special Hitachi Perkin-Elmer Single Focusing Mass Spectrometer RMU–6D". Comments: No comments with respect to this application have been received. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The applicant intends to use the MS 101 "bright spot" ion source in place of the T–2N ion source in a Hitachi RMU–6D single focusing mass spectrometer. The article is a specially designed part for the foreign manufacturer's own model equipment and there is no known substitute. No known domestic manufacturer builds this article for the Hitachi Mass Spectrometer.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67–14466; Filed, Dec. 12, 1967; 8:46 a.m.]

UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 67–00154–65–61040. Applicant: University of California, Lawrence Radiation Laboratory, Post Office Box 808, End of East Avenue, Livermore, Calif. 94550. Article: Nikon High Temperature Microhardness Tester, Model EOPY type No. 1. Manufacturer: Nippon Kogaku K.K., Japan. Intended use of article: The article will be used for measuring and photographically recording the hardness of metallic and nonmetallic solids that are at temperatures to 1,600° C. and in a nonocorrosive atmosphere. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which the article is intended to be used, is being manufactured in the United States. Reasons: Microhardness testers have been made by researchers for use at elevated temperatures. None however have been constructed for use in a vacuum or at 1,600° C. No domestic commercial source for such a microhardness tester is known.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67–14464; Filed, Dec. 12, 1967; 8:46 a.m.]

YALE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public

review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00131-00-46040. Applicant: Yale University, Box 1501A, Yale Station Post Office, New Haven, Conn. 06520. Article: Shutter for Siemens Electron Microscope. Manufacturer: Siemens Aktiengesellschaft, West Germany. Intended use of article: Applicant states: "Accurate preset exposure of photoplates in the Siemens Elmiskop." Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is an accessory intended for use with a Siemens electron microscope which was manufactured in West Germany. The accessory must be designed to work compatibly with the Siemens electron microscope. The only known source for such accessory is the manufacturer of the Siemens electron microscope. The Department of Commerce knows of no comparable accessory which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-14465; Filed, Dec. 12, 1967; 8:46 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

DOW CORNING CORP.

Notice of Withdrawal of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Dow Corning Corp., Midland, Mich. 48640, has withdrawn its petition (FAP 7B2175), notice of which was published in the FEDERAL REGISTER of May 18, 1967 (32 F.R. 7408), proposing an amendment to paragraph (b)(2) of § 121.2526 *Components of paper and paperboard in contact with aqueous and fatty foods* to provide for the safe use of liquid methylhydrogenpolysiloxane (viscosity 30 to 40 centistokes at 25° C., refractive index 1.3949 to 1.3975 at 25° C.) as a release agent applied at levels up to 50 grams per 1,000 square feet of paper and paperboard products used for packaging frozen and concentrated fruit and vegetable juices.

Dated: December 5, 1967.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 67-14490; Filed, Dec. 12, 1967; 8:49 a.m.]

Office of the Secretary

GENERAL COUNSEL ET AL.

Delegation of Authority Regarding Certification of True Copies of Documents, Records, Extracts From Records, or Nonexistence of Records

This delegation supersedes all previous delegations and redelegations pertaining to the certification of documents and the use of the Department Seal.

Under the authority vested in me by the Secretary, 32 F.R. 17550, I hereby redelegate to the following the authority to certify true copies of any books, records, papers, or other documents, extracts from such, or to certify the nonexistence of records on file within the Department in the area of authority set forth after the name of each delegatee and to cause the Seal of the Department to be affixed to such certifications.

These same officials are authorized to cause the Seal to be affixed to agreements, awards, citations, diplomas and similar documents.

This authority may be redelegated.

To whom delegated	*Area of Authority*
General Counsel	Department.
Executive Officer Office of the Secretary.	Office of the Secretary.
Administrator, Social and Rehabilitation Service.	Social and Rehabilitation Service.
Commissioner of Education.	Office of Education.
Commissioner of Food and Drugs.	Food and Drug Administration.
Commissioner of Social Security.	Social Security Administration.
Surgeon General of the Public Health Service.	Public Health Service.

Dated: December 8, 1967.

DONALD F. SIMPSON,
Assistant Secretary for Administration.

[F.R. Doc. 67-14491; Filed, Dec. 12, 1967; 8:49 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 12255; Order E-26092]

AIR CARRIER DISCUSSIONS

Order Regarding Commodity Description and Numbering System

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 8th day of December 1967.

By joint petition filed November 21, 1967, the air-carrier participants in Official Air Freight Tariff No. 5-B (Tariff),[1] request authority from the Board to continue the joint discussions previously authorized by the Board[2] concerning a commodity description and numbering system. The prior Board authority for such discussions expired with December 1, 1967.

In support of their petition, the carriers assert that discussions have been held pursuant to the authorization granted, and that the tariff participants now have before them for study the recommmendations of a special working group containing a partial "translation" of the commodity descriptions presently used in the tariff into the Worldwide Air Cargo Commodity Classification (WACCC), the commodity description and numbering system adopted by the International Air Transport Association (IATA) based on the Standard International Trade Classification (SITC). The working group also recommended procedures to be followed by domestic carriers in adding new descriptions and numbers to the WACCC master list. The participants in the tariff further state that they cannot complete their study of the WACCC system and its adaptability for domestic use, and agree upon a full "translation" of the present descriptions into the new system, prior to the expiration date of the authorization granted by the Board, and that additional changes in the WACCC system itself may be made by IATA before that system is placed in effect internationally. As a result, the carriers state that further consideration and discussion is needed. The carriers request that the authorization granted by Order No. E-25193 be extended for a period of not less than six months from December 1, 1967.

No objections to the proposed extension have been filed with the Board.

Upon consideration of the petition and other relevant matters, the Board will grant the extension sought.

As required by the Board in its prior order, the carriers have filed with the Board minutes of their meetings. It is apparent that a high degree of coordination with IATA is necessary in this area and that the delays in IATA progress prevent prompt resolution of the domestic efforts. It therefore appears reasonable to the Board to provide the domestic carriers a further opportunity to pursue their effort to a conclusion. Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 412, and 414 thereof:

It is ordered, That:

1. The expiration date of the authority granted in paragraph 1 of Order E-25193, dated May 25, 1967, is extended to June 1, 1968;

2. Paragraph 5 of Order E-25193 is amended to read as follows:

5. Any agreement or agreements reached as a result of such discussions shall be filed with the Board in accordance with section 412 of the Federal Aviation Act of 1958 and approved by the Board prior to being placed into effect and/or filed as tariffs; and

3. All other provisions of Order E-25193 shall remain unchanged.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-14474; Filed, Dec. 12, 1967; 8:47 a.m.]

[1] Airline Tariff Publishers, Inc., agent, Tariff, CAB No. 12.

[2] Order E-25193 dated May 25, 1967.

[Docket No. 17828; Order E-26089]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding North/Central Pacific Group Inclusive Tour Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 8th day of December 1967.

An agreement has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Joint Conference 3-1 of the International Air Transport Association (IATA) and adopted by mail vote. The resolutions embodied in the mail vote agreement propose the establishment of group inclusive tour (GIT) fares to apply via the North/Central Pacific during the period January 1, 1968, through March 31, 1969. The agreement has been designated CAB agreement number 19916.

The current basic North/Central Pacific fare agreement, which became effective October 1 of this year, by its terms, would have expired at the end of the year in the absence of the adoption of GIT fares in the interim period. The subject resolutions embracing such fares would permit the initial agreement to remain applicable through its intended period of effectiveness, that is March 31, 1969.

The group inclusive tour fare resolutions propose a West Coast-Tokyo fare of $560 in the peak season (July through October for westbound originating traffic) and $530 the balance of the year for groups of 15 or more persons traveling together. These fares compare with the current individual inclusive tour fares of $641 and $584, respectively. The group inclusive tour fares beyond Tokyo would provide a uniform $50 reduction from current individual inclusive tour fares.

The agreement proposes a minimum stay of 14 days and a maximum of 28 days. However, for Japanese residents, 8-day tours may be offered for travel to the continental United States and return, and 8-day tours for travel to Hawaii and Alaska and return. Presumably this variation in tour provisions is intended to accommodate Japanese residents who, in part because of currency restrictions, seem to prefer trips of shorter duration. The price for accommodations other than air transportation under the resolutions would be $200, except for travel to Hawaii and Alaska and return, which would be $100, but in no event could the total minimum tour price be less than the applicable normal round-trip economy-class fare.

As in the case of the Atlantic GIT fares, the agreement would proscribe the tour conductor privilege except for tours for Japanese residents traveling to Hawaii, Alaska, and the continental United States. This exception would permit one free passage for a tour conductor of groups of 15 or more passengers. The tour requirements are somewhat more restrictive than via the Atlantic.[1] Other provisions are substantially similar.

We are herein approving the GIT fare agreement, subject to conditions. It offers some further reductions in addition to those provided in the basic agreement which became effective October 1, 1967. However, while we have approved the reductions which have been accomplished in transpacific fares, we believe that the carriers have a financial margin to offer greater reductions, and we strongly urge that they move in that direction when fares are renegotiated for the new fare period beginning April 1, 1969.

Although we are approving the agreement, certain of the terms pertaining to the forfeiture provisions are substantially similar to those contained in the North Atlantic GIT fare resolutions which the Board found objectionable. The conditions herein imposed modifying such provisions are essentially the same as those attached to the Board's approval of the North Atlantic GIT fares.[2]

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, does not find IATA Resolutions JT31 (Mail 140) 001b, 015b, and 087a to be adverse to the public interest or in violation of the Act, provided that approval shall be conditioned as hereinafter ordered.

Accordingly, it is ordered, That:

1. Those portions of Agreement CAB 19916 set forth below be and hereby are approved.

Agreement CAB 19916	IATA number	Title
R-1.....	JT31 (Mail 140)001b.	Special Effectiveness Resolution-Amending.
R-2.....	JT31(Mail 140)015b.	North American Proportional Fares—North/Central Pacific.

2. Agreement CAB 19916, R-3, which incorporates IATA Resolution JT31 (Mail 140)087a (North and Central Pacific Group Inclusive Tour Basing Fares) be and hereby is approved, provided that insofar as air transportation as defined by the Act is concerned such approval shall be subject to the following conditions:

(a) The provision which at departure would permit a lesser number of passengers than that prescribed by the resolution to travel shall not be limited to situations caused by circumstances beyond the control of the passengers dropping out of the group, and the balance of the group may travel at no added costs.

(b) In the event a passenger discontinues his journey en route for any reason, the amount of the fare paid may be applied as a credit toward the purchase of transportation at the applicable fare calculated from the original point of origin.

(c) Full refund shall be made in the event of death or illness of the passenger or of a member of the passenger's immediate family prior to departure.

(d) The amount of the forfeiture to be imposed in the event of cancellation by the group or member of the group at departure time for any reason shall not exceed 25 percent of the fare paid, and after departure the forfeiture shall not exceed 25 percent of the excess of the price of the group fare ticket over the cost of applicable fare transportation from point of origin to point of cancellation.[3]

(e) Copies of any notice issued pursuant thereto shall be filed with the Board at the time of circulation to members.

(f) Any agreements reached at meetings pursuant thereto shall be filed with the Board pursuant to section 412 of the Act and approved prior to being placed in effect.

Any air carrier party to the agreement, or any interested person, may, within 15 days from the date of service of this order, submit statements in writing containing reasons deemed appropriate, together with supporting data, in support of or in opposition to the Board's action herein. An original and 19 copies of the statements should be filed with the Board's Docket Section. The Board may, upon consideration of any such statements filed, modify or rescind its action herein by subsequent order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-14475; Filed, Dec. 12, 1967; 8:47 a.m.]

[1] For example, with the exception of 2 free days of time out of seven (which may not be consecutive) a regular daily program of sightseeing and/or entertainment, which are not required for similar travel via the Atlantic, would be required under the North/Central Pacific group inclusive tours.

[2] Order E-24633.

[3] Stated differently, after transportation commences the carrier need not refund 75 percent of the price of the group fare ticket, but only 25 percent of the balance, if any, after deducting the normal fare for the transportation used.

[Docket No. 17828; Order E-26093]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fare Matters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 8th day of December 1967.

An agreement has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 1 of the International Air Transport Association (IATA). The agreement, which was adopted at the Vina del Mar Conference in October 1967, has been assigned CAB. Agreement Number 19913, R–1 through R–20, and is intended to be effective through March 31, 1969.

The agreement for the most part relates to sales of air transportation in currencies of South American countries and is of primary interest to the governments of those countries. The agreement includes resolutions which make previously approved resolutions more generally applicable. For example, provisions now applicable in Brazil, which would require the reissuance of tickets after 30 days if travel has not commenced within that time on the basis of exchange rates in effect on dates of reissuance, have been extended to several other countries. Other provisions would tighten restrictions on sales made under installment plans where payment is to be made in currencies of South American countries. Amendments proposed with respect to such sales would increase the interest rate from 7 to 12 percent per annum, increase the down payment from 10 to 20 percent for air transportation, and shorten the credit period from 18 to 12 months.

Additionally, we are herein approving (1) a resolution which permits the carriage of baggage at cargo rates, and (2) procedural resolutions including those which update rates of exchange to reflect current exchange rates. Further, we will disclaim jurisdiction with respect to "B" type fares applicable only within South America.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, makes the following findings:

1. The Board finds that the following resolution, incorporated in the agreement indicated, does not affect air transportation within the meaning of the Act:

CAB agreement 19913	IATA number	Subject
R–17	078g	"B" Fares—South America—(Amending).

2. The Board does not find the following resolutions, incorporated in the agreement indicated, to be adverse to the public interest or in violation of the Act:

CAB agreement 19913	IATA number	Subject
R–1	002e	Special Readoption Resolution.
R–2	021	Conversion of Passenger Fares and Excess Baggage Rates (Amending).
R–3	021b	Rates of Embargo—Amending.
R–4	021m	Argentina—Sales in Pesos.
R–5	021n	Bolivia—Sales in Pesos.
R–6	021p	Chile—Sales in Escudos.
R–7	021q	Paraguay—Sales in Guaranis.
R–8	021r	Peru—Sales in Soles.
R–9	021s	Uruguay—Sales in Pesos.
R–10	049	Changes in Fares—Argentina.
R–11	049	Changes in Fares—Chile.
R–12	049	Changes in Fares—Uruguay.
R–13	049c	Changes in Fares—Colombia.
R–14	049f	Changes in Fares—Argentina, Uruguay.
R–15	049g	Changes in Fares—Uruguay.
R–16	049h	Changes in Fares—Peru.
R–18	281	Sale of Air Transportation/Inclusive Tours Under Installment Plans in Currencies of South American Countries Marked with an Asterisk in Resolution 021b—Except Brazil.
R–19	281b	Sale of Tickets Under Installment Plans—Brazil—Amending.
R–20	283	Sale of Air Transportation/Inclusive Tours Under Installment Plans in U.S./Canadian Dollars in South America.

Accordingly, it is ordered, That:

1. Jurisdiction is disclaimed with respect to that portion of Agreement CAB 19913 described in finding paragraph 1; and

2. Those portions of Agreement CAB 19913 described in finding paragraph 2 are approved.

Any air carrier party to the agreement, or any interested person, may, within 15 days from the date of service of this order, submit statements in writing containing reasons deemed appropriate, together with supporting data, in support of or in opposition to the Board's action herein. An original and nineteen copies of the statements should be filed with the Board's Docket Section. The Board may, upon consideration of any such statements filed, modify or rescind its action herein by subsequent order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary*.

[F.R. Doc. 67–14476; Filed, Dec. 12, 1967; 8:47 a.m.]

FEDERAL MARITIME COMMISSION

JAPAN-ATLANTIC AND GULF FREIGHT CONFERENCE

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. C. A. Cole, Jr., Chairman, Japan-Atlantic and Gulf Freight Conference, Sumitomo Seimei Yaesu Building, 8, Yaesu 4-Chome, Chuo-Ku, Tokyo, Japan.

Agreement No. 3103–34, between the member lines of the Japan-Atlantic and Gulf Freight Conference, proposes the amendment of Article 15 of the basic agreement (3103, as amended) to increase the amount of the admission fee for new members from $1,000 (one thousand dollars) to $2,000 (two thousand dollars).

Dated: December 8, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI, *Secretary*.

[F.R. Doc. 67–14477; Filed, Dec. 12, 1967; 8:47 a.m.]

CITY OF LOS ANGELES ET AL.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter), and the comments should indicate that this has been done.

City of Los Angeles and Japan Line, Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., Yamashita-Shinnihon Steamship Co., Ltd.

Notice of agreement filed for approval by:

Mr. Bernard J. Caughlin, General Manager, Port of Los Angeles, Post Office Box 151, San Pedro, Calif. 90733.

Agreement No. T–2108 between the City of Los Angeles (City) and Japan Line, Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., and Yamashita-Shinnihon Steamship Co., Ltd. (the Lines), provides for the preferential assignment by City to the Lines of approximately 10 acres of terminal property identified as Parcel No. 1, with an option to assign approximately 10 additional acres, identified as Parcels No. 2 and No. 3. The premises and facilities thereon will be used for the handling of vessels and containerized cargo. The term of the assignment will be for three years following approval of the agreement by the Federal Maritime Commission, with an option to extend for an additional period of 2 years. City reserves the right to assign the premises to other users provided such use does not interfere with use by the Lines. With certain specified exceptions, the Lines agree to handle at and route through the Port of Los Angeles all of their containerized cargo vessel business the shipment of which originates or terminates in Japan or the United States and which originates at, is destined to, or transits through metropolitan Los Angeles and the surrounding area tributary to the Port of Los Angeles. City agrees to construct and install certain facilities outlined in the agreement at no cost or expense to the Lines. Any additional special facilities required by the Lines will be furnished by City at no cost or expense, except that the basic compensation shall be increased to provide for the ten year amortization of the special facilities. As compensation the Lines will pay City the total amount of all charges, accruing for dockage, wharfage, wharf storage, wharf demurrage, and all other charges which accrue under the Port of Los Angeles' tariff, with a minimum payment of $63,420 and a maximum payment of $235,000 per 12-month period. This amount is subject to a percentage adjustment in the event that construction figures are more or less than the estimated costs. In computing their rental obligation, the Lines will be entitled to a credit each month in the amount of revenues received by City from containerized cargo handled by or on behalf of secondary users of the premises. The rental is subject to adjustment in the event the Lines exercise their option to include Parcels Nos. 2 and 3.

Agreement No. T–2108–A, between the same parties provides for the preferential assignment to the Lines of a gantry type container crane at Berths 129–131, at rates set forth in the Port of Los Angeles tariff, with a maximum payment of $89,000 for each 12-month period. City will permit secondary use by other persons and will retain revenues received therefrom.

Dated: December 8, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI, *Secretary*.

[F.R. Doc. 67–14480; Filed, Dec. 12, 1967; 8:48 a.m.]

MEXICAN LINE "TRANSPORTACION MARITIMA MEXICANA, S.A." AND GULF-PUERTO RICO LINES—U.S.A., INC.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. T. H. Schroeder, Vice President—Traffic, c/o Smith & Johnson (Shipping), Inc., 11 Broadway, New York, N.Y. 10004.

Agreement 9674 between Mexican Line "Transportacion Maritima Mexicana, S.A." and Gulf-Puerto Rico Lines—U.S.A., Inc., establishes a through billing arrangement from ports in Mexico to ports in Puerto Rico with transshipment at New Orleans, La., in accordance with terms and conditions set forth in the agreement.

Dated: December 8, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI, *Secretary*.

[F.R. Doc. 67–14481; Filed, Dec. 12, 1967; 8:48 a.m.]

PORT OF SEATTLE AND ALASKA STEAMSHIP CO.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 15 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. Donald Leland, Bogle, Gates, Dobrin, Wakefield & Long, 14th Floor Norton Building, Seattle, Wash. 98104.

Agreement No. T–2111 between the Port of Seattle (Port) and Alaska Steamship Co. (Steam) is a 1-year lease agreement covering the rental of marine terminal space at Pier 42 and adjacent area at a fixed monthly rental. Steam will use the leased area in the conduct of its steamship terminal operations.

Dated: December 8, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI, *Secretary*.

[F.R. Doc. 67–14484; Filed, Dec. 12, 1967; 8:48 a.m.]

PORTUGAL/U.S. NORTH ATLANTIC WESTBOUND FREIGHT CONFERENCE

Notice of Petition Filed for Approval

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 814).

Interested parties may inspect a copy of the proposed contract form and of the petition at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to the proposed contract form and the petition including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the proposed contract form and of the petition (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of application to institute an exclusive patronage (dual rate) system filed by:

Mr. Guy L. Retournat, Secretary, Portugal/U.S. North Atlantic Westbound Freight Conference, 10 Place de la Joliette, Marseilles 2, France.

A proposed form of dual rate contract has been filed and application has been made for permission to institute a dual rate contract system on all cargo transported on vessels of the carriers comprising the Portugal/U.S. North Atlantic Westbound Freight Conference, within the scope of the Conference Agreement.

The form of contract provides that (1) the merchant ship or cause to be shipped all of its ocean shipments for which contract and noncontract rates are offered in the trade on vessels of the carrier members unless otherwise provided in the contract, and (2) the noncontract rates shall be 15 percent higher than the rates presently published in the Conference tariff, in addition to other terms and conditions which are set forth therein.

Dated: December 8, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-14462; Filed, Dec. 12, 1967; 8:48 a.m.]

SPAIN/U.S. NORTH ATLANTIC WESTBOUND FREIGHT CONFERENCE

Notice of Petition Filed for Approval

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 814).

Interested parties may inspect a copy of the proposed contract form and of the petition at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609, or at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to the proposed contract form and the petition including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the proposed contract form and of the petition (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of application to institute a dual rate contract system filed by:

Mr. Guy L. Retournat, Secretary, Spain/U.S. North Atlantic Westbound Freight Conference, 10, Place de la Joliette, Marseilles 2, France.

A proposed form of dual rate contract has been filed and application has been made to institute a dual rate contract system on all cargo transported on vessels of the carriers members of the Spain/U.S. North Atlantic Westbound Freight Conference (Agreement No. 9615) in the trade from Spanish ports to ports in the North Atlantic Coast of the United States.

The form of contract provides that noncontract rates shall be 15 percent higher than prevailing tariff rates which would, upon its approval, become the contract rates, in addition to other terms and conditions which are set forth therein.

Dated: December 8, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-14463; Filed, Dec. 12, 1967; 8:48 a.m.]

[Independent Ocean Freight Forwarder License No. 576]

B D & D CORP.

Order of Revocation

Whereas, B D & D Corporation, 11 Broadway, New York, N.Y., has discontinued its operations as an Independent Ocean Freight Forwarder; and,

Whereas, B D & D Corporation has returned its Independent Ocean Freight Forwarder License No. 576 to the Commission for cancellation.

Now therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised) § 6.03:

It is ordered, That the Independent Ocean Freight Forwarder License No. 576 of B D & D Corporation be and is hereby revoked effective December 6, 1967.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served on the licensee.

LEROY F. FULLER,
Acting Director,
Bureau of Domestic Regulation.

[F.R. Doc. 67-14479; Filed, Dec. 12, 1967; 8:48 a.m.]

[Independent Ocean Freight Forwarder License No. 414]

DIXIE TRAFFIC

Order of Revocation

Whereas, on November 9, 1967, the National Surety Corp. notified the Commission that Independent Ocean Freight Forwarder Surety Bond No. 4072438 underwritten in behalf of Edward T. Cornell d/b/a Dixie Traffic, Mobile, Ala., would be canceled effective December 14, 1967, and,

Whereas, Dixie Traffic was notified that unless a new surety bond was submitted to the Commission its Independent Ocean Freight Forwarder License No. 414 would be revoked effective December 14, 1967, pursuant to General Order 4, Amendment 12 (46 CFR 510.9), and;

Whereas, Dixie Traffic has advised the Commission that it suspended its operations as an independent ocean freight forwarder on November 1, 1967:

It is ordered, That Independent Ocean Freight Forwarder License No. 414 of Dixie Traffic be and is hereby revoked effective December 14, 1967.

It is further ordered, That Independent Ocean Freight Forwarder License No. 414 be returned to the Commission for cancellation.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served on the licensee.

LEROY F. FULLER,
Acting Director,
Bureau of Domestic Regulation.

[F.R. Doc. 67-14478; Filed, Dec. 12, 1967; 8:47 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP66-349]

UNITED NATURAL GAS CO. AND IROQUOIS GAS CORP.

Notice of Petition To Amend

DECEMBER 6, 1967.

Take notice that on November 21, 1967, United Natural Gas Co. (Petitioner United), 308 Seneca Street, Oil City, Pa. 16301, and Iroquois Gas Corp. (Petitioner Iroquois), 10 Lafayette Square, Buffalo, N.Y. 14203, filed in Docket No. CP66-349 a petition to amend the order issued in said docket on August 31, 1966, as subsequently amended, requesting authorization to acquire certain natural gas pipeline facilities from Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee),[1] instead of constructing the facilities authorized by the order of August 31, 1966, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the order issued August 31, 1966, as amended June 27, 1967, Petitioner United was authorized to construct and operate 8 miles of 24-inch transmission line and Petitioner Iroquois was authorized to construct and operate 75 miles of 24-inch transmission line. The total estimated cost of the proposed construction was $8,172,290.

Having made further studies, Petitioners now request that the aforementioned order be amended by authorizing the acquisition from Tennessee of its 75-mile 24-inch transmission line known as the "Hebron-Hamburg-East Aurora pipeline facility". The Tennessee facility is proposed to be acquired in lieu of constructing and operating Petitioner Iroquois' 75 miles of 24-inch pipeline as authorized in the aforementioned order of August 31, 1966. Petitioners further request authorization to construct and operate facilities to connect the purchased facility with their own existing facilities.

The total estimated cost of the proposed acquisition is $6,322,600 plus a connecting cost of $200,050.

[1] Tennessee has filed an application in Docket No. CP68-110 pursuant to section 7(b) of the Natural Gas Act concerning the subject facilities.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (§ 157.10) on or before January 2, 1968.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 67-14446; Filed, Dec. 12, 1967; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 7-2801]

GLEN ALDEN CORP. (DELAWARE)

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

DECEMBER 11, 1967.

In the matter of application of the Midwest Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Glen Alden Corp. (Delaware), File No. 7-2801.

Upon receipt of a request, on or before December 26, 1967, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-14454; Filed, Dec. 12, 1967; 8:45 a.m.]

[File No. 1-3215]

ROTO AMERICAN CORP.

Order Suspending Trading

DECEMBER 7, 1967.

The common stock, $1 par value, of Roto American Corp., being listed and registered on the National Stock Exchange pursuant to the provisions of the Securities Exchange Act of 1934 and the 7 percent cumulative preferred, $10 par value, being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the National Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period December 8, 1967, through December 17, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-14455; Filed, Dec. 12, 1967; 8:45 a.m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 643]

OREGON

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of December 1967, because of the effects of certain disasters, damage resulted to residences and business property located in Clatsop County, Oreg.;

Whereas, the Small Business Administration has investigated and received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property, situated in the aforesaid county and areas adjacent thereto, suffered damage or destruction resulting from high winds and floods caused by high tides occurring on December 2, 1967.

OFFICE

Small Business Administration Regional Office, 921 Southwest Washington Street, Portland, Oreg. 97205.

2. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to June 30, 1968.

Dated: December 6, 1967.

ROBERT C. MOOT,
Administrator.

[F.R. Doc. 67-14456; Filed, Dec. 12, 1967; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 476]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

DECEMBER 8, 1967.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission, under the Commission's Deviation Rules Revised, 1957 (49 CFR 211.1(c)(8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1(d)(4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1(e)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 95265 (Deviation No. 5), ROBERTSON TRANSPORTATION CO., INC., 1000 Robertson Road, Box 3159, Madison, Wis. 53704, filed November 27, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction U.S. Highway 14 and Wisconsin Highway 26, over U.S. Highway 14 to junction Wisconsin Highway 140, thence over Wisconsin Highway 140 to the Wisconsin-Illinois State line, thence over Illinois Highway 76 to junction U.S. Highway 20, at Belvidere, Ill., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Chicago, Ill., over U.S. Highway 20 to Rockford, Ill., thence over U.S. Highway 51 via Beloit, Wis., to Janesville, Wis., thence over Wisconsin Highway 26 to Milton, Wis., thence over Wisconsin Highway 59 to Edgerton, Wis., thence over U.S. Highway 51 to Madison, Wis. (also from Beloit over Wisconsin Highway 13 to Madison), and return over the same routes.

No. MC 105457 (Sub-No. 19) (Deviation No. 4), THURSTON MOTOR LINES, INC., Post Office Box 10638, Charlotte, N.C. 28201, filed November 30, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Greensboro, N.C., over Interstate Highway 40 to junction North Carolina Highway 901 and U.S. Highway 158 approximately 10 miles southwest of Winston-Salem, N.C., thence over U.S. Highway 158 to junction U.S. Highway 64 at Mocksville, N.C., thence over U.S. Highway 64 to junction Interstate Highway 40 approximately 3 miles east of Statesville, N.C. (or Interstate Highway 40 when completed), thence over Interstate Highway 40 to junction North Carolina Highway 16, at or near Conover, N.C., thence over North Carolina Highway 16 to junction U.S. Highway 70, thence over U.S. Highway 70 to junction unnumbered highway 1 mile east of Hildebran, N.C., thence over unnumbered highway to junction Interstate Highway 40 (or Interstate Highway 40 when completed), thence westerly over Interstate Highway 40 to Memphis, Tenn., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Winston-Salem, N.C., over U.S. Highway 311 to High Point, N.C., thence over U.S. Highway 70 via Durham, N.C., to Raleigh, N.C., thence over U.S. Highway 1 to Henderson, N.C., thence over U.S. Highway 1 to Richmond, Va., (2) from Charlotte, N.C., over U.S. Highway 29 to High Point, N.C., and (3) from Charlotte, N.C., over North Carolina Highway 16 to junction U.S. Highway 70 at or near Conover, N.C., thence over U.S. Highway 70 to junction U.S. Highway 70N at or near Crossville, Tenn., thence over U.S. Highway 70N to junction U.S. Highway 70, approximately 14 miles southwest of Nashville, Tenn., thence over U.S. Highway 70 to junction Alternate U.S. Highway 70, at or near Huntingdon, Tenn., thence over Alternate U.S. Highway 70 to junction U.S. Highway 70 at or near Brownsville, Tenn., thence over U.S. Highway 70 to Memphis, Tenn., and return over the same routes.

No. MC 108461 (Deviation No. 4), WHITFIELD TRANSPORTATION, INC., 300–316 North Clark Road, Post Office Drawer 9697, El Paso, Tex. 79989, filed November 27, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Weatherford, Tex., over U.S. Highway 80 to Roscoe, Tex., thence over U.S. Highway 84 to junction U.S. Highway 180, 3 miles southeast of Snyder, Tex., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Dallas, Tex., over the Dallas-Fort Worth Turnpike to Fort Worth, Tex., thence over U.S. Highway 180 to Snyder, Tex., thence over U.S. Highway 84 to Post, Tex., thence over U.S. Highway 380 to Hondo, N. Mex., thence over U.S. Highway 70 to Tularosa, N. Mex., and (2) from Dallas, Tex., over the Dallas-Fort Worth Turnpike to Fort Worth, Tex., thence over U.S. Highway 180 to Snyder, Tex., thence over U.S. Highway 84 via Post, Tex., to Fort Sumner, N. Mex., thence over U.S. Highway 60 to Encino, N. Mex., thence over U.S. Highway 285 to Clines Corners, N. Mex., thence over U.S. Highway 66 to Albuquerque, N. Mex., and return over the same routes.

MOTOR CARRIERS OF PASSENGERS

No. MC 1515 (Deviation No. 417) (Cancels Deviation No. 392), GREYHOUND LINES, INC. (Southern Division) 219 East Short Street, Lexington, Ky. 40507, filed November 29, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From junction U.S. Highway 51 and Interstate Highway 55 at Brooks Road in Memphis, Tenn., over Interstate Highway 55 to junction Mississippi Highway 7, thence over Mississippi Highway 7 (an access road) to junction U.S. Highway 51, approximately 2 miles west of Grenada, Miss., (2) from Canton, Miss., over Mississippi Highway 22 (an access road) to junction Interstate Highway 55, thence over Interstate Highway 55 to Jackson, Miss., (3) from Jackson, Miss., over Interstate Highway 55 to junction Mississippi Highway 472 (an access road), thence over Mississippi Highway 472 to junction U.S. Highway 51, 1 mile north of Hazlehurst, Miss. (also over Mississippi Highway 27 (an access road) from junction Interstate Highway 55, 1 mile west of Crystal Springs, Miss., to Crystal Springs, Miss.), and (4) from Brookhaven, Miss., over U.S. Highway 84 (an access road) to junction Interstate Highway 55, thence over Interstate Highway 55 to junction Louisiana Highway 16 (an access road), thence over Louisiana Highway 16 to junction U.S. Highway 51 at Amite, La. (also over access road U.S. Highway 98 from McComb, Miss., to junction Interstate Highway 55, and also from McComb, Miss., over Mississippi Highway 24 (an access road) to junction Interstate Highway 55), and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over pertinent service routes as follows: (1) From St. Louis, Mo., over U.S. Highway 67 to Mehlville, Mo., thence over U.S. Highway 61 to junction old U.S. Highway 61 at a point approximately 1 mile northeast of Turrell, Ark., thence over U.S. Highway 61 via Clarksdale, Miss., to Vicksburg, Miss., (2) from Clarksdale, Miss., over U.S. Highway 49 to Tutwiler, Miss., thence over U.S. Highway 49E to a point approximately 1.3 miles north of Yazoo City, Miss., thence over old U.S. Highway 49E to Yazoo City, Miss., thence over old U.S. Highway 49 to Jackson, Miss., and (3) from Jackson, Miss., over U.S. Highway 51 to Laplace, La., and return over the same routes.

No. MC 1515 (Deviation No. 418), GREYHOUND LINES, INC. (Southern Division), 219 East Short Street, Lexington, Ky. 40507, filed November 29, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Chillicothe, Ohio, over U.S. Highway 23 to Columbus, Ohio, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Chillicothe, Ohio, over Ohio Highway 104 to junction unnumbered highway (near U.S. Veterans Hospital), thence over unnumbered highway to U.S. Veterans Hospital, thence return over said unnumbered highway to junction Ohio Highway 104, thence over Ohio Highway 104 to Columbus, Ohio, and return over the same route.

No. MC 1515 (Deviation No. 419), GREYHOUND LINES, INC. (Southern Division), 219 East Short Street, Lexington, Ky. 40507, filed November 29, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Newport, Tenn., over Tennessee Highway 32 to junction Interstate Highway 40, thence over Interstate Highway 40 to junction U.S. Highway 25W, 3 miles west of Dandridge, Tenn., with the following access routes: (1) From Dandridge, Tenn., over Tennessee Highway 66 to junction Interstate Highway 40, and (2) from junction U.S. Highway 25W and Tennessee Highway 113, over Tennessee Highway 113 to junction Interstate Highway 40, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Knoxville, Tenn., over U.S. Highway 25W to Newport, Tenn., thence over U.S. Highway 25 to Asheville, N.C., and return over the same route.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-14469; Filed, Dec. 12, 1967; 8:46 a.m.]

[Notice 1121]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

DECEMBER 8, 1967.

The following publications are governed by Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER issue of April 20, 1966, which became effective May 20, 1966.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 11185 (Sub-No. 123) (Republication), filed July 7, 1967, published FEDERAL REGISTER issue of July 20, 1967, and republished this issue. Applicant: J-T TRANSPORT COMPANY, INC., 3501 Manchester Trafficway, Kansas City, Mo. 64120. Applicant's representative: James W. Wrape, 2111 Sterick Building, Memphis, Tenn. By application filed July 7, 1967, applicant seeks a permit authorizing operations, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of (1) airplane parts and equipment, which because of their delicate and fragile nature, require the use of special equipment or special handling, and (2) airplane parts and airplane equipment, which do not require special handling, when loaded in the same vehicle with airplane parts and equipment which require the use of special equipment or special handling, from points in King, Pierce, and Snohomish Counties, Wash., to Wichita, Kans. An order of the Commission, Operating Rights Board dated November 21, 1967, and served December 6, 1967, as amended, finds that operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of *airplane parts and aircraft assemblies* requiring special handling or special equipment, from Auburn, Everett, Kent, Reston and Seattle, Wash., to Wichita, Kans., under a continuing contract with The Boeing Co., of Wichita, Kans., the holding by applicant of the permit authorized to be issued herein and the holding by Jack Cooper, Jr., and Thom Cooper, a partnership, doing business as J-T Transport Co., of their certificate No. MC 110077 will be consistent with the public interest and the national transportation policy; and that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 121561 (Republication), State Docket No. M-11470, filed July 30, 1963, published FEDERAL REGISTER issue of August 14, 1963, and republished this issue. Applicant: DONALD E. MILLER AND NORMA H. MILLER, a partnership, doing business as MILLER TRANSFER, Box 217, Ceresco, Nebr. 68017. In the above-numbered proceeding, applicant filed an application on Form BOR-100 seeking a certificate of registration under section 206(a)(6) of the Interstate Commerce Act, as amended, as evidence of the right to conduct operations, in interstate or foreign commerce, within limits which do not exceed the scope of the intrastate operations for which applicant holds certificate of public convenience and necessity No. M-11470, issued by the Nebraska State Railway Commission, September 11, 1963, authorizing operations as a common carrier by motor vehicle solely within the State of Nebraska; that the said application was not filed within the 30-day time limit specified in Rule 1.245(d)(1) of the Commission's rules of practice, but that for good cause shown, as provided in Rule 1.245(d)(4) of the said rules of practice, the said 30-day time limit is hereby waived and the application is hereby accepted for filing. The Nebraska Certificate No. M-11470 is comprised of (1) those rights acquired by applicant, pursuant to transfer of Nebraska Certificate No. M-8301 from Nelson Transfer, and (2) rights granted pursuant to an application filed with the Nebraska State Railway Commission on July 30, 1963, seeking new and additional authority. That Nelson Transfer did not have on file with this Commission the said Nebraska State Certificate No. M-8301 pursuant to the provisions of the former second proviso of section 206(a)(1) of the Act as in effect prior to October 15, 1962.

An order of the Commission, Operating Rights Board dated November 20, 1967, and served November 22, 1967, orders that pursuant to a portion of certificate of public convenience and necessity No. M-11470, issued September 11, 1963, by the Nebraska State Railway Commission, a certificate of registration shall be issued to applicant, unless otherwise ordered, as evidence of a right to engage in operations in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of *sand, gravel, crushed rock, dam and road construction materials* requiring the use of dump vehicles, between points in Nebraska. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate of registration in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 128273 (Sub-No. 11) (Republication), filed July 24, 1967, published FEDERAL REGISTER issue of August 10, 1967, and republished this issue. Applicant: MIDWESTERN EXPRESS, INC., Post Office Box 189, Fort Scott, Kans. 66701. Applicant's representative: John Jandera, 641 Harrison Street, Topeka, Kans. 66603. By application filed July 24, 1967, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of fertilizer, except in bulk, in tank and hopper vehicles, from and to the points indicated below. An order of the Commission, Operating Rights Board dated November 30, 1967, and served December 6, 1967, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of *dry fertilizer*, from Texas City, Tex., to points in Montana, North Dakota, South Dakota, Minnesota, Iowa, Illinois, Wisconsin, Arkansas, Kansas, Oklahoma, and Missouri; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 128766 (Sub-No. 1) (Republication), filed December 22, 1966, published FEDERAL REGISTER issue of February 24, 1967, and republished this issue. Applicant: GEORGE V. HESSELGRAVE, doing business as BELLINGHAM-FERNDALE STAGES, Box 55, Rock Road, Sumas, Wash. 98295. Applicant's representative: Joseph O. Earp, 411 Lyon Building, 607 Third Avenue, Seattle, Wash. 98104. By application filed December 22, 1966, applicant seekr a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over regular and irregular routes, of passengers and baggage, and express and newspapers in the same vehicle with passengers; (a) over regular routes: (1) Between Bellingham, Wash., and Ferndale, Wash., from Bellingham over Washington Highway 540 (also over U.S. Highway 99 or Interstate Highway 5), to Ferndale, and return

over the same routes; (2) between Bellingham, Wash., and Legoe Bay, Wash., from Bellingham over unnumbered highway (known as Marine Drive), via Marietta, Wash., to junction unnumbered highway (known as Lummi Shore Road), thence over Lummi Shore Road to Gooseberry Point, Wash., thence via ferry to Lummi Island, Wash., and thence over unnumbered highways to Legoe Bay, and return over the same routes; (3) between Bellingham, Wash., and Birch Bay, Wash., from Bellingham over Marine Drive to Marietta, thence over unnumbered highway (known as Ferndale River Road), to Ferndale, thence over unnumbered highway (known as Old Blaine-Ferndale Highway), to Pleasant Valley, thence over unnumbered highway (known as Birch Bay Road), to Birch Bay, and return over the same route.

(4) Between Birch Bay and Blaine, Wash., from Birch Bay over unnumbered highway (known as Shintaffer Road), to junction unnumbered highway (known as Drayton Harbor Road), thence over Drayton Harbor Road to Old Blaine-Ferndale Highway, thence over Old Blaine-Ferndale Road to junction U.S. Highway 99, and thence over U.S. Highway 99 to Blaine, Wash., and return over the same routes; and (5) between Bellingham, Wash., and Neptune Beach, Wash., from Bellingham over Marine Drive to junction unnumbered highway (known as Slater Road), thence over Slater Road to junction unnumbered highway (known as Kickerville Road), thence over Kickerville Road to Neptune Beach, (also from Bellingham over unnumbered highway (known as Mountain View Road), to junction Kickerville Road, and thence over Kickerville Road to Neptune Beach), and return over the same routes; serving all intermediate points on the routes described in (1) through (5) above; and (b) over irregular routes: In charter operations, beginning and ending at points on the regular routes in (a) above, and extending to points of entry on the international boundary line between the United States and Canada at or near Blaine and Sumas, Wash., and points in Oregon, Idaho, Washington, California, Nevada, Arizona, Montana, and Utah. A report of the Commission, Review Board Number 3 decided November 24, 1967, and served December 5, 1967, as amended, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over regular routes, of *express and newspapers*, in passenger carrying vehicles, (1) between Bellingham and Ferndale, Wash., from Bellingham over Washington Highway 540 (also over U.S. Highway 99 or Interstate Highway 5) to Ferndale, and return over the same routes, serving all intermediate points.

(2) Between Bellingham and Legoe Bay, Wash., from Bellingham over an unnumbered highway known as Marine Drive, through Marietta, Wash., to junction unnumbered highway known as Lummi Shore Road, thence over Lummi Shore Road to Gooseberry Point, Wash., thence by the way of ferry to Lummi Island, Wash., thence over unnumbered highways to Legoe Bay, and return over the same route, serving all intermediate points; (3) between Bellingham and Neptune Beach, Wash., from Bellingham over Marine Drive to junction unnumbered highway known as Slater Road, thence over Slater Road to junction unnumbered highway known as Kickerville Road, thence over Kickerville Road to Neptune Beach (also from Bellingham over unnumbered highway known as Mountain View Road to junction Kickerville Road, and thence over Kickerville Road to Neptune Beach), and return over the same routes, serving all intermediate points; (4) between Bellingham and Birch Bay, Wash., from Bellingham over Marine Drive to Marietta, Wash., thence over unnumbered highway known as Fern River Road to Ferndale, thence over unnumbered highway known as Old Blaine-Ferndale Highway to Pleasant Valley, Wash., thence over unnumbered highway known as Birch Bay Road to Birch Bay, and return over the same route, serving all intermediate points; and

(5) Between Birch Bay and Blaine, Wash., from Birch Bay over unnumbered highway known as Shintaffer Road to junction unnumbered highway known as Drayton Harbor Road, thence over Drayton Harbor Road to Old Blaine-Ferndale Highway, thence over Old Blaine-Ferndale Highway to junction U.S. Highway 99, thence over U.S. Highway 99 to Blaine, and return over the same route, serving all intermediate points; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

NOTICE OF FILING OF PETITIONS

No. MC 10761 (Sub-No. 113) (Notice of Filing of Petition To Modify Certificate), filed November 7, 1967. Petitioner: TRANSAMERICAN FREIGHT LINES, INC., Detroit, Mich. Petitioner's representatives: A. Alvis Layne and Kim D. Mann, 915 Pennsylvania Building, Washington, D.C. 20004. Petitioner was issued a certificate in No. MC 10761 Sub 113 dated June 8, 1962, authorizing the following regular-route operation: Meats, meat products, and meat byproducts, as described in section A of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from Dallas, Tex., to San Angelo, Tex., serving no intermediate points, and serving Dallas only for purposes of joinder with carrier's other authorized routes: From Dallas over U.S. Highway 67 to San Angelo, and return with no transportation for compensation except as otherwise authorized, restricted against the movement of any shipment between San Angelo, and any authorized service points on carrier's routes in Illinois, Indiana, Michigan, and Ohio. By the instant petition, petitioner requests that its certificate be modified (1) to authorize operations from and to San Angelo, and (2) specify without ambiguity the points it is authorized to serve on its regular routes. Any interested person desiring to participate, may file an original and six copies of his written representations, views or argument, in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 34778 (Sub-No. 4) (Notice of filing of petition for removal of restriction), filed November 9, 1967. Petitioner: COCHRAN TERMINAL AND TRANSPORTATION CO., Hoboken, N.J. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Petitioner states that it is authorized to transport, over irregular routes, general commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, restricted to traffic having an immediately prior or immediately subsequent movement in freight forwarder service, between points in Hudson, Essex, Bergen, Passaic, Middlesex, and Union Counties, N.J., on the one hand, and, on the other, Elizabeth, N.J. By the instant petition, petitioner prays that in lieu of the restrictions now set forth in said certificate, that the following restrictions be imposed: "Restriction: The service authorized herein is subject to the following condition: The service to be performed by said carrier shall be limited to that which had prior or subsequent movement in interstate commerce." Any interested person desiring to participate, may file an original and six copies of his written representations, views, or argument, in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 65475 and No. MC 65475 (Sub-Nos. 5 and 6) (Notice of filing of petition under Rule 1.102 for extraordinary relief, for waiver of Rule 1.101(e) and for reconsideration), filed September 11, 1967. Petitioner: JETCO, INC., Arlington, Va. Petitioner's representative: W. T. Croft, Federal Bar Building, 1815 H Street NW., Washington, D.C. 20006. Petitioner is authorized in No. MC 65475, pertinent herein, to transport contractors' machinery, tools, and equipment, moving to or from construction jobs, and heavy machinery, between points in New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, North Carolina, and the District of Columbia. In the Sub-6 proceeding petitioner sought common carrier authority to transport commodities which because of size or weight requires the use of special equipment or rigging, with certain exceptions, between the points named in No. MC 65475. Petitioner's Sub No. 5, application was for the purpose of clarification of its presently-held authority, which was denied. The purpose of the instant petition, which was filed under Rule 1.102, seeks extraordinary relief, including waiver of Rule 1.101(e) and (A) reconsideration of its "grandfather" proceeding in No. MC 65475 with a view to a grant of "heavy-hauling" authority in lieu of multiple specific commodity grants, and (B) reconsideration in MC 65475 Sub-Nos. 5 and 6 in both of which proceeding "heavy-hauling" authority in lieu of presently held "grandfather" authority was sought and denied. Any interested person desiring to participate, may file an original and six copies of his written representations, views or argument in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 79147 (Notice of filing of petition for removal of restriction), filed November 7, 1967. Petitioner: TAYLOR TRUCKING CO., INC., East Rutherford, N.J., Petitioner's representative: George A. Olsen, 39 Tonnele Avenue, Jersey City, N.J. 07306. Petitioner states that the portion of the authority involved in this petition, reads as follows: Such commodities as are dealt in by auction houses, from Philadelphia, Pa., to New York, N.Y., with no transportation for compensation on return except as otherwise authorized. From points in New Jersey, Delaware, and Maryland, to Philadelphia, Pa., with no transportation for compensation on return except as otherwise authorized. By the instant petition, petitioner requests the Commission remove the restriction "as are dealt in by auction houses," and in lieu thereof, issue a certificate to read: "General commodities, except in bulk and commodities which because of size or weight require the use of special equipment or special handling." Any interested person desiring to participate, may file an original and six copies of his written representations, views, or argument, in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 115841 (Notice of filing of petition to modify certificate), filed November 20, 1967. Petitioner: COLONIAL REFRIGERATED TRANSPORTATION, INC., Birmingham, Ala. Petitioner's representative: C. E. Wesley, Post Office Box 2160, Birmingham, Ala. 35201. Petitioner is authorized in No. MC 115841, the part here pertinent, to transport: Meats, meat products, and meat byproducts, as described in section A of appendix I of the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Birmingham, Ala., to Mobile, Ala., Miami, Jacksonville, Tampa, St. Petersburg, Orlando, West Palm Beach, Pensacola, and Panama City, Fla., Jackson, Meridian, Gulfport, Columbus, Greenville, and Hattiesburg, Miss., New Orleans, La., and Chattanooga, Knoxville, Memphis, and Nashville, Tenn., with no transportation for compensation on return except as otherwise authorized, restricted to the transportation of shipments consisting wholly, or partly, of carcasses hung on meat rails. By the instant petition, petitioner seeks to modify the above-certificate whereby the restriction would be removed which presently reads "The operations authorized next above are restricted to the transportation of shipments consisting wholly, or partly, of carcasses hung on meat rails". Any interested person desiring to participate may file an original and six copies of his written representations, views or argument in support of, or against the petition within 30 days from the date of such publication in the FEDERAL REGISTER.

No. MC 127163 (Sub-Nos. 1 and 2) (Notice of Filing of Petition for Substitution of Present Restriction), filed November 17, 1967. Petitioner: LOUIS MAURO, Elizabethport, N.J. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Petitioner states he is authorized in No. MC 127163 Sub 1 to transport, over irregular routes, foodstuffs (except in bulk), from the warehouse of L & F Stores, Inc., at Elizabethport, N.J., to points in Connecticut, with no transportation for compensation on return except as otherwise authorized. The authority involved in MC 127163 Sub 2 reads as follows: Foodstuffs, except in bulk, in tank vehicles, from the warehouse facilities of L & F Stores, Inc., at Elizabeth, N.J., to points in New Jersey, with no transportation for compensation on return, except as otherwise authorized. In the instant petition, petitioner states that inasmuch as this restriction provides that the authority is restricted to the warehouse and warehouse facilities of L & F Stores, Inc. and inasmuch as L & F Stores, Inc., no longer exists at Elizabethport, N.J., for which this authority was granted to the points involved herein, it is prayed that the Commission remove the restrictions in these certificates and substitute in lieu thereof the name of East Coast Warehouse and Distribution Corp., of Elizabethport, N.J., in order that it may engage in interstate commerce in connection with East Coast Warehouse and Distribution Corp. Any interested person desiring to participate, may file an original and six copies of his written representations, views, or argument, in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 127232 (Sub-No. 1) (Notice of Filing of Petition To Modify Permit), filed November 3, 1967. Petitioner: BEL-FORD TRUCKING, LTD., 3014 Cedar Creek Drive, Cooksville, Ontario, Canada. Petitioner's representative: William J. Hirsch, 43 Niagara Street, Buffalo, N.Y. 14202. Petitioner holds permit in No. MC 127232 (Sub-No. 1) to transport, over irregular routes, brick, from ports of entry on the United States-Canada boundary line at or near Buffalo, Niagara Falls, and Lewiston, N.Y., to points in New York; and returned shipments of brick, from points in New York, to ports of entry on the United States-Canada boundary line at or near Buffalo, Niagara Falls, and Lewiston, N.Y., limited to a transportation service to be performed, under a continuing contract with Ontario Building Materials, Ltd., of Toronto, Canada. By the instant petition, petitioner seeks to render contract motor carrier transportation services in behalf of Glazed Finishes, Ltd., and Milton Brick Co., Ltd., to the extent presently authorized to serve Ontario Building Materials, Ltd. Any interested person desiring to participate, may file an original and six copies of his written representations, views, or argument, in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 1.240 TO THE EXTENT APPLICABLE

No. MC 41932 (Sub-No. 11), filed November 20, 1967. Applicant: BROWNING FREIGHT LINES, INC., 244 South Fourth West, Salt Lake City, Utah 84111. Applicant's representative: Ben Browning, Post Office Box 8195, Foothill Station, Salt Lake City, Utah 48108. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, in tank vehicles and those injurious or contaminating to other lading). Regular routes: Between Boise and McCall, Idaho, from Boise over U.S. Highway 30 to junction U.S. Highway 95, thence over U.S. Highway 95 to junction Idaho Highway 15, thence over Idaho Highway 15 to McCall, and return over the same same route, serving all intermediate points and the *off*-route points of Homedale, Wilder, Marsing, Parma, Notus, and Mountain Home Air Force Base, and irregular routes: Between points in Adams, Washington, Payette, Canyon, Owyhee, Valley, Boise, Elmore, Ada, and Gem, Idaho. NOTE: This application is directly related to MC-F-9943 published FEDERAL REGISTER issue of November 22, 1967. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho.

No. MC 119914 (Sub-No. 11), filed November 15, 1967. Applicant: MINNESOTA-WISCONSIN TRUCK LINES, INC., 925 Eustis Street, St. Paul, Minn. 55114. Applicant's representative: Jack R. Turney, Jr., 2001 Massachusetts Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission,

commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), (1) between Benson and Browns Valley, Minn., from Benson over Minnesota Highway 9 to Morris, thence over Minnesota Highway 28 to Browns Valley, and return over the same route serving all intermediate points except that service to Morris is restricted against traffic from the Twin Cities, (2) between Graceville and Clinton, Minn. over U.S. Highway 75, serving all intermediate points, and (3) between Ortonville and Clinton, Minn., over U.S. Highway 75 serving all intermediate points. NOTE: This application is directly related to MC-F-9946 published FEDERAL REGISTER issue of November 22, 1967. If a hearing is deemed necessary, applicant requests it to be held at St. Paul, Minn., or Washington, D.C.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-9940 (Correction) (UNIT TRANSPORT, INC.—Purchase—OLEAN HAULING CORP.), published in the November 22, 1967, issue of the FEDERAL REGISTER, on page 16075. The correct addresses for vendee and vendor are as follows: UNIT TRANSPORTATION, INC., Box 86, Ford Boulevard and North Fifth Street, Hamilton, Ohio 45011, and OLEAN HAULING CORP., Box 86, Ford Boulevard and North Fifth Street, Hamilton, Ohio 45011. The correct names of the parties in control of UNIT TRANSPORT, INC., are ROBERT J. FREW and MARGARET E. FREW, in lieu of Robert J. Frey and Margaret E. Frey.

No. MC-F-9655 (Republication) (C. B. JOHNSON, INC.—purchase—HUGO L. WILLIS), published in the February 1, 1967, issue of the FEDERAL REGISTER, on page 1157; and No. MC-124230 Sub-6 (C. B. JOHNSON, INC.—extension), published in the February 22, 1967, issue of the FEDERAL REGISTER, on page 3201. By order dated April 20, 1967, the Commission, Finance Board No. 1, granted authority under section 5 of the Interstate Commerce Act, and that, on August 11, 1967, the transaction, as approved, was consummated. By supplemental order dated November 28, 1967, the Commission, Review Board No. 5, redescribed the operating rights authorized to be issued in a certificate of public convenience and necessity to C. B. JOHNSON, INC., in No. MC-124230 Sub-6, in order to clarify the territory authorized. Redescribed operating rights are as follows: *Ores and concentrates, and mine and mill machinery and supplies, as a common carrier*, over irregular routes between points in San Juan County, Colo., those in that part of Dolores and San Miguel Counties, Colo., on and east of a straight line running north and south through Placerville, Colo., those in that portion of Ouray County, Colo., on and south of a straight line running east and west through Ridgeway, Colo., including Ridgeway, those in that portion of La Plata County, Colo., on and north of a straight line running east and west 10 miles south of and parallel to the northern boundary of La Plata County, and those in that portion of Hinsdale County, Colo., on and west of a straight line running north and south through Lake City, Colo.; and *ores and concentrates*, from San Juan County, Colo., to Leadville, Montrose, and Durango, Colo. Any proper party in interest, may file a petition, if they so desire, within 30 days from this republication. Supplemental order shall be effective 35 days from this publication. Except as herein modified, the order of April 20, 1967, and the appendix thereto to the extent not contrary to the redescription herein, shall remain in full force and effect.

No. MC-F-9865. Authority sought for purchase by TOPEKA MOTOR FREIGHT, INC., 319 Orchard, Kansas City, Kans., of the operating rights and property of McKAY FREIGHT LINE, INC., Fairbury, Nebr., and for acquisition by JEFF A. ROBERTSON, 2855 Fairway Drive, Topeka, Kans., of control of such rights and property through the purchase. Applicants' attorney: Donald E. Leonard, Box 2028, 605 South 14th Street, Lincoln, Nebr. 68501. Operating rights sought to be transferred: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Fairbury, Nebr., and Montrose, Kans., serving all intermediate points, between Fairbury, Nebr., and Red Cloud, Nebr., serving intermediate points between Guide Rock and Red Cloud, Nebr., and the off-route point of Northbranch, Kans., between Alma, Nebr., and Omaha, Nebr., serving intermediate points between Alma and Lincoln, Nebr., including Lincoln, between Fairbury, Nebr., and Linn, Kans., serving intermediate points in Kansas, and the off-route point of Munden, Kans.; from Hebron, Nebr., to Chester, Nebr., from Nelson, Nebr., to Nora, Nebr., serving all intermediate points; from Milligan, Nebr., to Exeter, Nebr., serving all intermediate points and the off-route point of Burress, Nebr.; from Dorchester, Nebr., to Crete, Nebr., from Wilber, Nebr., to De Witt, Nebr., serving all intermediate points; from Grand Island, Nebr., to junction U.S. Highway 281 and Nebraska Highway 4, serving all intermediate points and the off-route point of Pauline, Nebr., from Beatrice, Nebr., to Western, Nebr., serving all intermediate points, from Ong, Nebr., to Grand Island, Nebr., serving all intermediate points and the off-route point of Stockham, Nebr., between Strang, Nebr., and junction unnumbered highway and Nebraska Highway 74 at a point approximately 2 miles west of Tobias, Nebr., serving all intermediate points, between Edgar, Nebr., and Hastings, Nebr., serving all intermediate points and the off-route point of Harvard, Nebr., between Edgar, Nebr., and Oak, Nebr., serving all intermediate points, between Tobias, Nebr., and Omaha, Nebr., serving the intermediate points between Tobias, and Lincoln, including the latter, and the off-route points of Dorchester, Belvidere, Bruning, and Alexandria, Nebr., unrestricted, and Beaver Crossing, Mount Clare and Cadams, Nebr., restricted against the transportation of livestock, between Tobias, Nebr., and Lincoln, Nebr., serving all intermediate and the off-route points of Princeton, Cortland, and Hallam, Nebr., between Wilber, Nebr., and junction Nebraska Highway 41 and U.S. Highway 77, serving all intermediate points, between Tobias, Nebr., and Beatrice, Nebr., serving all intermediate points, and the off-route point of Pickrell, between Alma, Nebr., and Beatrice, Nebr., serving all intermediate points, between junction of U.S. Highway 281 and Nebraska Highway 4, approximately 3 miles south of Blue Hill, Nebr., and Fairbury, Nebr., serving all intermediate points, unrestricted, and the off-route point of Daykin, Nebr., restricted against the transportation of livestock; *fruits*, from Fairbury, Nebr., to Washington, Kans., serving no intermediate points; *commodities usually dealt in by wholesale grocery companies*, between Fairbury, Nebr., and Osborne and Clyde, Kans., serving Osborne and Clyde, Kans., and intermediate points in Kansas, restricted to traffic moving from Fairbury, Nebr., between Osborne, Kans., and Stockton, Kans., serving all intermediate points; *household goods*, over irregular routes, between Fairbury, Nebr., on the one hand, and, on the other, points in Kansas and Iowa; and *windmills, and other parts*, manufactured by Windmill Manufacturing Cos., from Fairbury, Nebr., to Sioux City and Des Moines, Iowa, and Salina and Hutchinson, Kans. Vendee is authorized to operate as a *common carrier* in Kansas, Missouri, and Nebraska. Application has been filed for temporary authority under section 210a(b).

No. MC-F-9966. Authority sought for purchase by CEL TRANSPORTATION COMPANY, Post Office Box 447, Latrobe, Pa. 15650, of the operating rights and property of HARRY R. RIDILLA, doing business as H & H MOTOR FREIGHT CO., 2702 Raymond Avenue, Latrobe, Pa. 15650, and for acquisition by CHARLES E. LIZZA, JR., and ROSE F. LIZZA, both also of Post Office Box 447, Latrobe, Pa. 15650, of control of such rights and property through the purchase. Applicants' attorney: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Operating rights sough to be transferred: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Pittsburgh, Pa., and Derry and Youngwood, Pa., serving the intermediate point of Latrobe, Pa. Vendee is authorized to operate as a *contract carrier* in Ohio, Michigan, Pennsylvania, West Virginia, and Maryland. Application has been filed for temporary authority under section 210a(b).

No. MC-F-9967. Authority sought for purchase by MARY ELLEN STIDHAM, I. M. STIDHAM, A. E. MANKINS (INEZ MANKINS, EXECUTRIX) AND JAMES E. MANKINS, SR., doing business as EAGLE TRUCKING COMPANY, Post Office Box 471, Kilgore, Tex. 75662, of a portion of the operating rights of GULF STATES TRUCK LINES, INC., Post Office Box 8090, Shreveport, La. Applicants' attorney: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Operating rights sought to be transferred: *Structural steel forms, metal railroad tank car tanks, and tank car parts* when moving with structural steel forms or metal tanks, as a *common carrier*, over irregular routes, from Texarkana, Ark., to Shreveport, La.; and *metal tanks*, from Shreveport, La., to Texarkana, Ark. Vendee is authorized to operate as a *common carrier* in Arkansas, Louisiana, Mississippi, Texas, Georgia, Alabama, Florida, Colorado, Wyoming, Utah, Montana, Kansas, and Oklahoma. Application has been filed for temporary authority under section 210a (b). NOTE: See also No. MC-F-9893 (MARY ELLEN STIDHAM, ET AL.—Purchase (Portion)—GULF STATES TRUCK LINES, INC.), published in the October 4, 1967, issue of the FEDERAL REGISTER, on page 13843.

No. MC-F-9968. Authority sought for purchase by NEMASKET TRANSPORTATION COMPANY, INC., 54 Grove Street, Middleboro, Mass. 02346, of the operating rights of NELSON'S TRUCKING, INC., Milford, Mass. 01757, and for acquisition by GEORGE KATTAR, Powers Road, Meredith, N.H., and ALLEN F. COMEAU, Robins Pond Road, East, Bridgewater, Mass., of control of such rights through the purchase. Applicants' attorney and representative: Kenneth B. Williams, 111 State Street, Boston, Mass. 02109, and Norman T. Theriault, 234 Main Street, Milford, Mass. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC-97621 Sub-1, covering the transportation of general commodities, as a common carrier, in intrastate commerce, within the State of Massachusetts. Vendee is authorized to operate as a *common carrier* in Massachusetts and Rhode Island. Application has been filed for temporary authority under section 210a(b). NOTE: MC-7075 Sub-17 is a matter directly related.

No. MC-F-9969. Authority sought for purchase by LEMMON TRANSPORT COMPANY, INCORPORATED, Post Office Box 580, Marion, Va. 24354, of a portion of the operating rights of SMITH'S TRANSFER CORPORATION OF STAUNTON, VA., Post Office Box 1000, Staunton, Va. 24401, and for acquisition by LEMMON INVESTMENT CORPORATION, 1424 North Main Street, Marion, Va. 24354, of control of such rights through the purchase. Applicants' attorneys: Harry C. Ames, Jr., and E. Stephen Heisley, 529 Transportation Building, Washington, D.C. 20006. Operating rights sought to be transferred: *Activated carbon*, in powder form, in bulk in hopper-type vehicles, as a *common carrier*, over irregular routes, from Covington, Va., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, West Virginia, Wisconsin, and the District of Columbia; and *activated carbon powder*, in bulk, in hopper-type vehicles, from Covington, Va., to points in Kansas and Utah. Vendee is authorized to operate as a *common carrier* in Tennessee, Virginia, North Carolina, Wyoming, West Virginia, South Carolina, Delaware, Maryland, Louisiana, Colorado, California, Arizona, Arkansas, Florida, Kansas, New York, Kentucky, Mississippi, and the District of Columbia; and as a *contract carrier* in points in the United States. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-9970. Authority sought for control and merger by BRIGGS TRANSPORTATION CO., 2360 West County Road C, St. Paul, Minn. 55113, of the operating rights and property of ROBERTSON TRANSPORTATION CO., INC., 1000 Robertsen Road, Post Office Box 3169, Madison, Wis. 53704, and for acquisition by GEORGE E. BRIGGS and MICHAEL P. WARDWELL, both also of St. Paul, Minn., of control of such rights and property through the transaction. Applicants' attorneys: Axelrod, Goodman and Steiner, 39 South La Salle Street, Chicago, Ill. 60603, and John Porter, 16 North Carroll Street, Madison, Wis. 53703. Operating rights sought to be controlled and merged: *General commodities*, with certain specified exceptions, and numerous other specified commodities, as a *common carrier*, over regular and irregular routes, from, to, and between specified points in the States of Illinois, Wisconsin, Indiana, Iowa, Minnesota, and Missouri, with certain restrictions, serving various intermediate and off-route points, over five alternate routes for operating convenience only, as more specifically described in Docket No. MC 95365 and Sub-numbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights, without stating, in full, the entirety, thereof. BRIGGS TRANSPORTATION CO. is authorized to operate as a *common carrier* in Minnesota, Illinois, Wisconsin, Iowa, Indiana, and Nebraska. Application has been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-14476; Filed, Dec. 12, 1967; 8:46 a.m.]

[Notice 506]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 8, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 966 (Sub-No. 20 TA), filed November 30, 1967. Applicant: CAPITOL TRUCK LINES, INC., 200 West First Street, Topeka, Kans. 66603. Applicant's representative: Clyde N. Christey, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving Central High School—Unified School District No. 288, located approximately 4 miles east and 2 miles south of Princeton, Kans., as an off-route point in connection with carrier's regular-route operations between Kansas City, Mo., and Coffeyville, Kans., for 180 days. Supporting shipper: B. J. Frick Co., Inc., Building 820, Schilling Industrial Area, Salina, Kans. 67401. Send protests to: I. C. Peterson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 234 Federal Building, Topeka, Kans. 66603.

No. MC 1936 (Sub-No. 29 TA), filed December 4, 1967. Applicant: B & P MOTOR EXPRESS, INC., 725 Gross Street, Pittsburgh, Pa. 15224. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, from the plantsite of Jones & Laughlin Steel Corp. at or near Hennepin, Putnam County, Ill., to points in Indiana, Iowa, Arkansas, Kentucky, Minnesota, Michigan, Missouri, Ohio, Oklahoma, Nebraska, Tennessee, and Wisconsin, for 150 days. Supporting shipper: Jones & Laughlin

Steel Corp., 3 Gateway Center, Pittsburgh, Pa. 15230. Send protests to: John J. England, District Supervisor, 2109 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 22301 (Sub-No. 3 TA), filed December 4, 1967. Applicant: SIOUX TRANSPORTATION CO., INC., 1619 11th Street, Post Office Box 3068, Sioux City, Iowa 51102. Applicant's representative: Arnold L. Burke, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, serving the Johnson & Johnson plant and warehouse site, Argonne Industrial District, Will County, Ill., in connection with carrier's regular-route operations to and from Chicago, for 180 days. Supporting shipper: Walter K. Cabot, General Traffic Manager, Johnson & Johnson, 501 George Street, N.J. 08903. NOTE: Applicant intends to tack the authority here applied for to other authority held by it, or to interline with other carriers. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 304 Post Office Building, Sioux City, Iowa 51101.

No. MC 52374 (Sub-No. 35 TA), filed November 30, 1967. Applicant: ELIZABETH FREIGHT FORWARDING CORP., 120 South 20th Street, Irvington, N.J. 07111. Applicant's representative: Edward Bowes, 744 Broad Street, Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products, potato chips, and popcorn*, from Philadelphia Pa., to Linden, N.J., for the account of Gourmet Bakers, Inc., for 150 days. Supporting shipper: Gourmet Bakers, Inc., 1601 West Edgar Road, Post Office Box 543, Linden, N.J. 07036. Send protests to: Robert S. H. Vance, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1060 Broad Street, Newark, N.J.

No. MC 59264 (Sub-No. 38 TA), filed November 30, 1967. Applicant: SMITH & SOLOMON TRUCKING COMPANY, How Lane, New Brunswick, N.J. 08902. Applicant's representative: Zalby & Burstein, 160 Broadway, New York, N.Y. 10038. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Class A, class B and class C explosives, blasting materials and supplies, ammunition, and component parts of ammunition and explosives*, between West Hanover and/or Hingham, Mass., Dover, N.J., and Yorktown, Va., for 150 days. NOTE: Applicant intends to tack the authority here applied for with MC 59264 and Sub Numbers thereunder at Philadelphia, Pa., and Dover, N.J. Supporting shipper: Atlantic Research Corp., Ordnance Division, Post Office Box 1175, King Street, West Hanover, Mass. 02339. Send protests to: District Supervisor, Robert S. H. Vance, Interstate Commerce Commission, Bureau of Operations, 1060 Broad Street, Newark, N.J. 07102.

No. MC 77594 (Sub-No. 10 TA), filed November 30, 1967. Applicant: EARL GUILLORY, doing business as 4552 North Villere Street, New Orleans, La. 70117. Applicant's representative: John Schwab, 617 North Boulevard, Baton Rouge, La. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, from Baton Rouge, La., to Hammond, La., and from Hammond, La., to Baton Rouge, La., serving all intermediate points, over U.S. Highway 190, serving all intermediate points, for 180 days. NOTE: Applicant intends to tack the authority here applied for to other authority held by it with MC 77594, MC 77594 (Sub-No. 2), and MC 77594 (Sub-No. 7) and to interline at New Orleans, La. Supporting Shippers: Gibson Wholesale Distributors, Inc., Post Office Box 4319, Monroe, La. 71201; Fowler Lumber Co., Walker, La. 70785; Albert Pope Store and Garage, Livingston, La. 70754; Watts Furniture Co., Post Office Box 41, Livingston, La. 70754; Hutchinson's Grocery, Corbin, La. 70724; United States Plywood—Champion Papers, Inc. (New York), reply to Knightsbridge, Hamilton, Ohio 45011. Send protests to: W. R. Atkins, District Supervisor, Bureau of Operations, Interstate Commerce Commission, T-4009 Federal Building, 701 Loyola Avenue, New Orleans, La. 70113.

No. MC 116997 (Sub-No. 1 TA), filed December 4, 1967. Applicant: GRIFFIN MOBILE HOME TRANSPORTING CO., 9000 Southeast 29th Street, Oklahoma City, Okla. 73110. Applicant's representative: Jack L. Griffin (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mobile Homes*, in initial movements, from Claremore, Okla., to points in Missouri, Iowa, Illinois, Arkansas, Mississippi, Louisiana, Texas, Arizona, Colorado, Wyoming, New Mexico, Nebraska, and Kansas, for 180 days. Supporting shipper: Scott Rich Homes, Ralph Connely, Jr., President, 710 West Ninth Street, Claremore, Okla. 74017. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 350, American General Building, 210 Northwest Sixth, Oklahoma City, Okla. 73102.

No. MC 117815 (Sub-No. 132 TA), filed December 4, 1967. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, Iowa 50317. Applicant's representative: William A. Landau, 1451 East Grand Avenue, Des Moines, Iowa 50306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned vegetables and noncarbonated beverages*, from Clyman and Watertown, Wis., to points in Kansas, Missouri, and Nebraska, for 150 days. Supporting shipper: Aunt Nellie's Foods, Inc., Clyman, Wis. Send protests to: Ellis L. Annett, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 227 Federal Office Building, Des Moines, Iowa 50309.

No. MC 129566 TA, filed November 30, 1967. Applicant: WALLACE PETERSON, doing business as AMERICAN MOVING & STORAGE OF MARIN, 160 Paul Drive, San Rafael, Calif. 94903. Applicant's representative: Alan F. Wohlstetter, 1 Farragut Square South, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Marin, San Francisco, Solano, Santa Clara, San Mateo, Alameda, Contra Costa, Napa, Yolo, and Sonoma Counties, Calif., restricted to shipments having a prior or subsequent movement beyond said points in containers, and further restricted to pickup and delivery services incidental to and in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such shipments, for 180 days. Supporting shipper: Columbia Export Packers, Inc., 19000 South Vermont Avenue, Torrance, Calif. 90502; Imperial Household Shipping Co., Inc., 2809 Columbia Street, Post Office Box 2963, Torrance, Calif. 90509; Vanpac Carriers, Inc., 2114 Macdonald Avenue, Richmond, Calif. 94801. Send protests to: District Supervisor William E. Murphy, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-14471; Filed, Dec. 12, 1967; 8:47 a.m.]

[Notice 61]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 8, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-70033. By order of November 30, 1967, the Transfer Board approved the transfer to Richard C. Jones, doing business as Jones Trucking, Laurel, Nebr., of the operating rights of Eli S. Jones, Lela Jones, Administratrix, Laurel, Nebr., in certificate No. MC-89060, issued June 15, 1949, authorizing the transportation, over irregular routes, of livestock, grain, hay, and agricultural implements, between Randolph, Nebr., and points within 20 miles of Randolph, on the one hand, and Yankton, S. Dak., on the other, and of livestock feeds, block salt, coal, lumber, tile, brick, cement, plaster, and petroleum oils and greases in packages, from Sioux City, Iowa, to Randolph, Nebr., and points within 20 miles of Randolph, with no transportation for compensation on return, except as otherwise authorized.

No. MC-FC-70064. By order of November 30, 1967, the Transfer Board approved the transfer to DiUbaldo Trucking Company, a corporation, Piedmont, W. Va., of the operating rights of Emil DiUbaldo, doing business as DiUbaldo Trucking Co., Beryl, W. Va., issued June 3, 1966, in permit No. MC-127780 and March 3, 1967, in permit No. MC-127780 (Sub-No. 2), authorizing the transportation over irregular routes, of wood residuals, from Newcreek, W. Va., and Oakland (Garrett County), Mountain Lake Park, and Shaft, Md., to Beryl, W. Va., and charcoal, from Luke, Md., to the plantsite of the Kingsford Co., at or near Parsons, W. Va. E. Stephen Heisley, Transportation Building, Washington, D.C. 20006, attorney for applicants.

No. MC-FC-70036. By order of November 30, 1967, the Transfer Board approved the transfer to Kahanic Trucking Co., a corporation, 131 Lakeland Road, Santa Fe Springs, Calif., of the operating rights of Frank Andrew Kahanic and Reeta Eva Kahanic, a partnership, doing business as Kahanic Trucking Co., Santa Fe Springs, Calif., in certificate No. MC-96623 issued October 23, 1959, authorizing the transportation over irregular routes, of general commodities, excluding those of unusual value, Classes A and B explosives, household goods as defined, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading.

No. MC-FC-70091. By order of December 7, 1967, the Transfer Board approved the transfer to D & C Storage Co., Inc., Lansing, Mich., of a portion of the certificate of registration in No. MC-96848 (Sub-No. 1) issued September 24, 1964, to Donald O. Blue, doing business as Don Blue Heavy Hauling Co., Flint, Mich., evidencing a right of the holder to engage in transportation in interstate or foreign commerce corresponding in scope to the grant of authority in common carrier certificate No. L-8438 issued prior to October 15, 1962, by the Michigan Public Service Commission. The portion of the certificate of registration authorized to be transferred covers the transportation, intrastate, of telephone central-exchange equipment, manufactured and installed by Western Electric Co., uncrated, new and used, from, to, or between telephone central exchanges, but excluding any of the aforesaid that by reason of size, weight, or bulk thereof cannot be transported in the standard equipment of the certificated common carrier of commodities generally, and also excluding new office furniture and fixtures; and, meat, meat products, packinghouse products, both fresh and smoked; butter, and eggs, over irregular routes, between Flint, Mich., and various points in Michigan within a 50-mile radius of Flint, excluding the transportation of meat and meat products of specified companies. Verne Davis, Jr., 112 North Larch, Lansing, Mich. 48933, representative for applicants.

No. MC-FC-70092. By order of December 7, 1967, the Transfer Board approved the transfer to J. Verne Davis, Sr., Lansing, Mich., of the remaining portion of the certificate of registration in No. MC-96848 (Sub-No. 1) issued September 24, 1964, to Donald O. Blue, doing business as Don Blue Heavy Hauling Co., Flint, Mich., evidencing a right of the holder to engage in transportation in interstate or foreign commerce corresponding in scope to the grant of authority in common carrier certificate No. L-8438 issued prior to October 15, 1962, by the Michigan Public Service Commission. The portion authorized for transfer covers the transportation of household goods, store fixtures, and office furniture, between various Michigan points. J. Verne Davis, Sr., 421 Lathrop Street, Lansing, Mich. 48906, representative for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-14472; Filed, Dec. 12, 1967; 8:47 a.m.]

[S.O. 994; ICC Order 10-A]

LEHIGH VALLEY RAILROAD CO.

Diversion or Rerouting of Traffic

Upon further consideration of ICC Order No. 10 (the Lehigh Valley Railroad Co.), and good cause appearing therefor:

It is ordered, That:

(a) ICC Order No. 10 be, and it is hereby vacated and set aside.

(b) Effective date: This order shall become effective at 10 a.m., December 7, 1967.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., December 7, 1967.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER, *Agent.*

[F.R. Doc. 67-14473; Filed, Dec. 12, 1967; 8:47 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—DECEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during December.

3 CFR

Page

PROCLAMATIONS:
3821 ... 17571

EXECUTIVE ORDERS:
Dec. 8, 1913 (revoked in part by PLO 4327) ... 16531
Mar. 21, 1914 (revoked in part by PLO 4327) ... 16531
June 24, 1914 (revoked in part by PLO 4327) ... 16531
11248 (amended by EO 11384) ... 17423
11383 ... 17421
11384 ... 17423

5 CFR

210 ... 16474
213 ... 16477, 17615, 17849
315 ... 16474
351 ... 16474
352 ... 16474
353 ... 16475
430 ... 16475
511 ... 16475
531 ... 16475
713 ... 16476
731 ... 16476
752 ... 16476
754 ... 16476
771 ... 16477
772 ... 16477
831 ... 16477
891 ... 16477
2200 ... 17573
2300 ... 17651

7 CFR

401 ... 16478, 17425, 17513
718 ... 17513
722 ... 17467
724 ... 16478
725 ... 16479
815 ... 16525
905 ... 16525, 17615, 17616
907 ... 16526, 17515
909 ... 17849
910 ... 16526, 17617, 17651
944 ... 17425
982 ... 16527
989 ... 17467
1062 ... 16479
1073 ... 16480
1094 ... 16527
1103 ... 16527
1106 ... 16480
1126 ... 16480
1421 ... 16528
1427 ... 16528
1464 ... 17849

PROPOSED RULES:
812 ... 17669
817 ... 17669
911 ... 17431
915 ... 17431
948 ... 17671
950 ... 17433
989 ... 17625
993 ... 17434
1001 ... 17626
1006 ... 17626
1036 ... 17626
1048 ... 17626

8 CFR

Page

238 ... 17651
280 ... 17651

PROPOSED RULES:
242 ... 17624
243 ... 17624
244 ... 17624
299 ... 17624

9 CFR

97 ... 17618

12 CFR

1 ... 17574
12 ... 17468
206 ... 17469
224 ... 17425
335 ... 17470
561 ... 17515
605 ... 17652

PROPOSED RULES:
563 ... 17544

14 CFR

21 ... 17850
39 ... 16481, 17426, 17515, 17516, 17652
61 ... 16481
71 ... 16482, 16483, 17426, 17427, 17516–17518, 17574–17576, 17653, 17851
73 ... 17427, 17653
75 ... 17518
91 ... 16483, 17654
97 ... 16484, 17577
121 ... 16481
141 ... 17851
151 ... 17471
301 ... 16491
303 ... 16491
311 ... 16491
320 ... 16491
421 ... 16491
430 ... 16491
431 ... 16491
435 ... 16491

PROPOSED RULES:
1 ... 16495
21 ... 17485
25 ... 17487
39 ... 17439, 17672, 17673
71 ... 16495, 17488, 17543, 17596–17598, 17673–17675, 17861
73 ... 17488
91 ... 16495
214 ... 16535
295 ... 16535
296 ... 17598

15 CFR

373 ... 17471

16 CFR

13 ... 17427, 17618, 17853–17855
15 ... 17582, 17856

PROPOSED RULES:
301 ... 17544
415 ... 17601

17 CFR

Page

240 ... 17583
270 ... 17583
274 ... 17583

PROPOSED RULES:
270 ... 17861

19 CFR

5 ... 17619
12 ... 17428
19 ... 17619
23 ... 16528
24 ... 17619

21 CFR

29 ... 17654
120 ... 16529, 17472
121 ... 16529, 16530, 17472, 17587, 17654, 17655, 17856, 17857
130 ... 16531
146 ... 16531
146a ... 16491, 17657
166 ... 17473

PROPOSED RULES:
31 ... 16533
46 ... 17482, 17671
130 ... 17671
138 ... 16533, 17626

22 CFR

10 ... 17454

23 CFR

PROPOSED RULES:
255 ... 16534

24 CFR

234 ... 17587

25 CFR

PROPOSED RULES:
221 ... 17543

26 CFR

1 ... 17479, 17518, 17657
147 ... 17858

PROPOSED RULES:
151 ... 17861

28 CFR

0 ... 16531

29 CFR

1610 ... 16491

31 CFR

1 ... 17519
82 ... 17859

32 CFR

52 ... 17661
54 ... 17619
537 ... 17519
701 ... 17588

33 CFR

109 ... 17726
110 ... 17726

33 CFR—Continued

Page

114 ... 17726
115 ... 17726
116 ... 17726
117 ... 17522
209 ... 17661

36 CFR

7 ... 17479

39 CFR

123 ... 17479
742 ... 17479, 17860

41 CFR

1–1 ... 16491
9–1 ... 17542
Ch. 18 ... 17002

42 CFR

53 ... 17662

43 CFR

Page

PUBLIC LAND ORDERS:
334 (revoked in part by PLO 4333) ... 17480
1796 (revoked in part by PLO 4331) ... 17479
2764 (see PLO 4331) ... 17479
4327 ... 16531
4328 ... 17429
4329 ... 16532
4330 ... 17479
4331 ... 17479
4332 ... 17479
4333 ... 17480
4334 ... 17429
4335 ... 17429
4336 ... 17620
4337 ... 17662

45 CFR

1105 ... 17663

46 CFR

39 ... 17621
98 ... 17621

46 CFR—Continued

Page

221 ... 17595
265 ... 17596
510 ... 17480
526 ... 17667

PROPOSED RULES:
514 ... 16496

47 CFR

97 ... 17429

PROPOSED RULES:
2 ... 16495
87 ... 16495
91 ... 17440

49 CFR

890 ... 17480
1200 ... 17480

50 CFR

28 ... 17622
32 ... 17542
33 ... 16532, 17430, 17481, 17623, 17667, 17668
254 ... 16492

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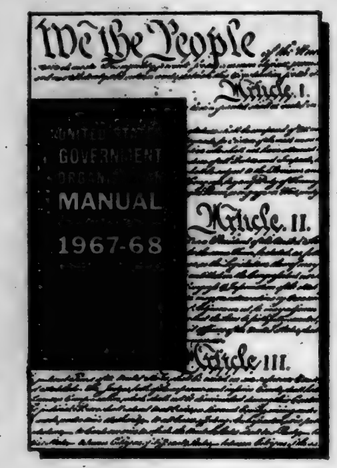

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Pages 17883–17917

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Agencies in this issue—

Agricultural Stabilization and Conservation Service
Civil Aeronautics Board
Civil Rights Office
Coast Guard
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Federal Aviation Administration
Federal Highway Administration
Federal Maritime Commission
Federal Power Commission
Health, Education, and Welfare Department
Interior Department
Internal Revenue Service
Interstate Commerce Commission
Land Management Bureau
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Securities and Exchange Commission
Tax Court of the United States

Detailed list of Contents appears inside.

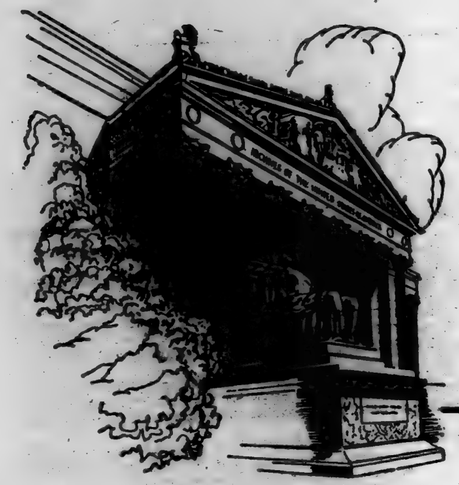

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Contents

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Rules and Regulations

Extra long staple cotton, 1968 crop; acreage allotments and marketing quotas; county reserves 17887

Peanuts; allotment and marketing quotas 17887

AGRICULTURE DEPARTMENT

See Agricultural Stabilization and Conservation Service; Commodity Credit Corporation; Consumer and Marketing Service.

CIVIL AERONAUTICS BOARD

Notices

Hearings, etc.:

Aeroplane Rental Services Ltd. 17899

Certain air carriers 17899

International Air Transport Association (2 documents) 17900

CIVIL RIGHTS OFFICE

Notices

Director, Operations Division, Office for Civil Rights; delegation of authority 17899

COAST GUARD

Rules and Regulations

Anchorage and bridge regulations; assumption of certain functions, powers, and duties from Corps of Engineers and transfer of certain regulations; correction 17890

COMMERCE DEPARTMENT

See Maritime Administration.

COMMODITY CREDIT CORPORATION

Rules and Regulations

Farm storage facilities; farm storage and drying equipment loan program regulations 17888

Notices

Price support programs; 1964 and subsequent crops; announcement of interest rate 17899

CONSUMER AND MARKETING SERVICE

Rules and Regulations

Navel oranges grown in Arizona and designated part of California; handling limitations 17888

Proposed Rule Making

Proposed standards for grades:

Edible dry casein (acid) 17893

Shelled pecans 17893

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations

Certification and operations; air carriers and commercial operators of large aircraft; recorder correlation tests 17889

Proposed Rule Making

Airworthiness directives; Rolls Royce Spey Models 506-14, 510-14, 511-8, and 511-14 airplane engines 17895

FEDERAL HIGHWAY ADMINISTRATION

Rules and Regulations

Hours of service of drivers; monthly reports; revocation 17892

FEDERAL MARITIME COMMISSION

Notices

Golfo Y. Caribe Steamship Lines, S.A., and N. V. Scheepvaart Maatschappij "Trans-Ocean"; indemnification of passengers for nonperformance of transportation 17900

Princess Cruises Corp., Inc., (Princes Cruises) and N. V. Scheepvaart Maatschappij "Trans-Ocean"; application for certificate of financial responsibility to meet liability incurred for death or injury to passengers 17900

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:

Arkansas Louisiana Gas Co. (2 documents) 17902, 17903

Champlin Petroleum Co., et al. 17901

Lone Star Gas Co. 17902

Manufacturers Light and Heat Co., et al. 17902

Transwestern Pipeline Co. (2 documents) 17903

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Civil Rights Office.

Rules and Regulations

Claims collection 17891

INTERIOR DEPARTMENT

See also Land Management Bureau.

Notices

Statements of changes in financial interests:

Burlingame, Mark V. 17898

McGraw, E. Clyde 17898

INTERNAL REVENUE SERVICE

Rules and Regulations

Income tax; treatment of income from unrelated trade or business; correction 17890

INTERSTATE COMMERCE COMMISSION

Notices

Fourth section application for relief 17914

Motor carrier:

Broker, water carrier and freight forwarder applications 17905

Transfer proceedings 17915

LAND MANAGEMENT BUREAU

Rules and Regulations

Nevada; public land order 17891

Occupancy; authority and applications 17890

Notices

Administrative Officer, Mountain Home Job Corps Conservation Center; delegation of authority 17897

California; classification of public lands for multiple-use management 17896

Colorado:

Classification of lands for multiple-use management 17896

Proposed withdrawal and reservation of lands 17897

Montana; opening of public lands 17897

Nevada; notice of public sale of land 17898

Oregon; opening of public lands 17898

Utah; opening lands to application, entry and patenting 17898

MARITIME ADMINISTRATION

Rules and Regulations

War risk insurance; record retention requirements 17891

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:

Continental Vending Machine Corp 17903

Delmarva Power & Light Co. 17903

Fastline, Inc. 17904

First Investors Income Fund, Inc 17904

Nylo-Thane Plastics Corp. 17905

Pakco Companies, Inc. 17905

Westec Corp. 17905

(Continued on next page)

TAX COURT OF THE UNITED STATES

Rules and Regulations

Rules of practice; computation of time; exclusions 17890

TRANSPORTATION DEPARTMENT

See Coast Guard; Federal Aviation Administration; Federal Highway Administration.

TREASURY DEPARTMENT

See Internal Revenue Service.

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

7 CFR

722 17887
729 17887
907 17888
1474 17888

PROPOSED RULES:

51 17893
58 17893

14 CFR

121 17889

PROPOSED RULES:

39 17895

26 CFR

1 17890
701 17890

33 CFR

109 17890
110 17890
114 17890
115 17890
116 17890
117 17890

43 CFR

2210 17890

PUBLIC LAND ORDERS:

4338 17891

45 CFR

30 17891

46 CFR

308 17891

49 CFR

295 17892

Rules and Regulations

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 722—COTTON

Subpart—1968 Crop of Extra Long Staple Cotton; Acreage Allotments and Marketing Quotas

COUNTY RESERVES

Basis and purpose. Section 722.563 is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.). This section establishes the county reserves for the 1968 crop of extra long staple cotton. Such determinations were made initially by the respective county committees and are hereby approved and made effective by the Administrator, ASCS, pursuant to delegated authority (28 F.R. 4368, 29 F.R. 16210, 30 F.R. 8756, 32 F.R. 11895).

Notice that the Secretary was preparing to establish State and county allotments and reserves was published in the FEDERAL REGISTER on August 9, 1967 (32 F.R. 11475), in accordance with 5 U.S.C. 553. No written submissions were received in response to such notice.

Since the establishment of county reserves requires immediate action by the county committees, it is essential that § 722.563 be made effective as soon as possible. Accordingly, it is hereby determined and found that compliance with the 30-day effective date requirement of 5 U.S.C. 553 is impracticable and contrary to the public interest and § 722.563 shall be effective upon filing this document with the Director, Office of the Federal Register.

§ 722.563 County reserves for the 1968 crop of extra long staple cotton.

The county reserves for the 1968 crop of extra long staple cotton are established in accordance with § 722.560 of the regulations for Acreage Allotments for 1966 and Succeeding Crops of Extra Long Staple Cotton (31 F.R. 6247). The following table sets forth the county reserves:

ARIZONA

County	County reserve (acres)	County	County reserve (acres)
Cochise	2.0	Pima	.9
Gila	0	Pinal	2.1
Graham	6.9	Yuma	4.0
Maricopa	13.7		

CALIFORNIA

Imperial	6.4	Riverside	4.6

FLORIDA

County	County reserve (acres)	County	County reserve (acres)
Alachua	0	Marion	0
Hamilton	0	Sumter	1.5
Jefferson	0	Suwannee	0
Lake	0	Union	0
Madison	0		

GEORGIA

Berrien	11.4	Cook	0

NEW MEXICO

Chaves	2.4	Luna	0
Dona Ana	1.7	Otero	0
Eddy	1.3	Sierra	0
Hidalgo	.2		

TEXAS

Brewster	0	Pecos	1.6
Culberson	.9	Presidio	.2
El Paso	11.4	Reeves	1.7
Hudspeth	3.0	Ward	0
Loving	0		

PUERTO RICO

North Area	3.1

(Secs. 344, 375, 63 Stat. 670, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1344, 1375)

Effective date: Date of filing this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on December 7, 1967.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 67-14523; Filed, Dec. 13, 1967; 8:47 a.m.]

[Amdt. 12]

PART 729—PEANUTS

Subpart—Allotment and Marketing Quota Regulations for Peanuts of the 1963 and Subsequent Crops

CONDITIONS OF ELIGIBILITY FOR NEW FARM ALLOTMENT

Basis and purpose. The amendment contained herein is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.), to amend the allotment and marketing quota regulations for peanuts of the 1963 and subsequent crops (27 F.R. 11920, as amended).

This amendment expands the 5-year experience period for new farm allotment applicants. If the applicant was in the Armed services during any part or all of the 5-year period, the experience period will be expanded year for year for each year of military service during such 5-year period. Applicants for new farm allotments for the 1968 crop are now being accepted and the relaxation of the experience requirements provided by this amendment should be made effective as soon as possible so that farmers and county committees may apply such amended requirements to those applications. Accordingly, it is hereby determined and found that compliance with the notice, public procedure and 30-day effective date requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest and this amendment shall become effective upon publication in the FEDERAL REGISTER.

Section 729.1432 is amended to read as follows:

§ 729.1432 Conditions of eligibility for new farm allotment.

(a) A farm which includes land acquired by an agency having the right of eminent domain for which the entire peanut allotment was pooled pursuant to Part 719 of this chapter, which is subsequently returned to agricultural production, shall not be eligible for a new farm peanut allotment for a period of 3 years from the date the former owner was displaced from the acquired farm. Also, a farm which includes land which has no peanut acreage allotment because the owner did not designate a peanut allotment for such land when the parent farm was reconstituted pursuant to Part 719 of this chapter, shall not be eligible for a new farm peanut allotment for a period of 3 years beginning with the year in which the farm reconstitution becomes effective.

(b) An allotment shall not be established for a new farm from acreage made available for the new farm national reserve unless each of the following conditions is met:

(1) A written application for a new farm allotment is filed by the farm operator at the office of the county committee on or before February 15 of the year for which application for an allotment is being filed.

(2) The farm shall be operated by the owner thereof. A person who owns only part of a farm cannot be considered the owner of the farm except that both husband and wife shall be considered the owner of the farm if the farm is jointly owned by such husband and wife;

(3) The farm is the only farm in the United States, owned or operated by the farm operator for which a farm peanut allotment is established for the current year;

(4) The type of soil and topography of the available land on the farm for which the allotment is requested is suitable for the production of peanuts, and continuous production of peanuts on the farm will not result in an undue erosion hazard;

(5) The farm operator shall own, or otherwise have readily available, adequate equipment and any other facilities of production (including irrigation water) necessary to the successful production of peanuts on the farm;

(6) The operator expects to obtain, during the current year, more than 50 percent of his income from the production of agricultural commodities or products from the farm for which the new

farm allotment application is filed. In making this computation of income from the farm, no value will be allowed for the estimated return from the production of the requested allotment. However, in addition to the value of agricultural products sold from the farm, credit will be allowed for the estimated value of home gardens, livestock and livestock products, poultry, or other agricultural products produced for home consumption or other use on the farm. Where the farm operator is a partnership, each partner must expect to obtain, during the current year, more than 50 percent of his income from agricultural commodities or products from the farm; where the farm operator is a corporation, such corporation must have no major corporate purpose other than operation and ownership of such farm, and the officers and general manager of the corporation must expect to obtain more than 50 percent of their income, including dividends and salary, from the corporation;

(7) The farm operator shall have had experience in producing, harvesting and marketing peanuts either as a sharecropper, tenant, or farm operator during at least 2 of the 5 years immediately preceding the year for which the new farm allotment is requested, except that, if the applicant was in the Armed services during any part or all of the 5-year period, the experience period shall be expanded year for year for each year of military service during such 5-year period. In making a determination of any person's experience in growing peanuts, no credit shall be given for the person's interest in peanuts grown on a farm for which no farm peanut allotment was established for such year.

(8) Notwithstanding the provisions of subparagraphs (2) and (7) of this paragraph, a new farm allotment may be established for a farm if a producer thereon, other than the owner-operator, has experience in producing, harvesting and marketing peanuts in at least 2 of the 5 years immediately preceding the year for which the new farm allotment is requested if the county committee determines that such producer, acting in good faith and in reliance upon advice of a member or employee of the State or county committee, produced, harvested and marketed peanuts prior to 1965 for the specific purpose of gaining eligibility for a new farm peanut allotment.

(Secs. 358, 359, 375, 55 Stat. 86, as amended, 90, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1358, 1359, 1375)

Effective date: Date of publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on December 7, 1967.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 67-14534; Filed, Dec. 13, 1967; 8:47 a.m.]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Navel Orange Reg. 139]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.439 Navel Orange Regulation 139.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 11, 1967.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period December 15, 1967, through December 21, 1967, are hereby fixed as follows:

(i) District 1: 500,000 cartons;
(ii) District 2: 46,898 cartons;
(iii) District 3: 75,000 cartons;
(iv) District 4: 35,000 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," "District 4," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 12, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-14604; Filed, Dec. 13, 1967, 8:48 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Farm Storage and Drying Equipment Loan Program Regs., Amdt. 1]

PART 1474—FARM STORAGE FACILITIES

Subpart—Farm Storage and Drying Equipment Loan Program Regulations

MISCELLANEOUS AMENDMENTS

The regulations issued by the Commodity Credit Corporation published in 32 F.R. 9510, pertaining to the Farm Storage and Drying Equipment Loan Program, are amended as follows:

1. Section 1474.1, General statement is amended by substituting for the words "purchase and construction" in the first sentence thereof the words "purchase, construction, erection, remodeling, or installation." The amended section reads as follows:

§ 1474.1 General statement.

This subpart sets forth the policies, procedures, and requirements governing loans by the Commodity Credit Corporation (hereinafter referred to as "CCC"), under the Farm Storage and Drying Equipment Loan Program, for the purchase, construction, erection, remodeling, or installation of either farm storage or drying equipment, or both. Interested persons should also consider related implementing procedures and forms adopted by each State ASC Committee to permit compliance with State law, in order to take full advantage of the program.

2. In § 1474.2, subparagraph (e) is amended to remove the reference to 29 F.R. 2390 regarding the authority to execute documents. The amended subparagraph reads as follows:

§ 1474.2 Administration.

* * * * *

(e) Except for such of Forms CCC–185 to be signed by the chairman or a member of the State committee in accordance with § 1474.3(c), all documents required to be signed on behalf of CCC in connection with loans or other related actions under the Farm Storage and Drying Equipment Loan Program shall be signed by the chairman or a member of the State committee in accept for Form CCC–185, by the county office manager if he has the written authorization of the county committee to do so: *Provided*, That all approvals required for loans or other related actions have been given in accordance with the provisions of this subpart.

3. In § 1474.5, paragraph (a) regarding eligible storage structures is amended to read as follows:

§ 1474.5 Loans to purchase eligible storage or drying equipment.

(a) *General.* Loans will be made only for the purchase, construction, erection, remodeling, or installation of farm storage and drying equipment meeting the eligibility requirements in paragraph (b) of this section. The term "farm storage" means new or newly constructed conventional storage structures (cribs, bins, or buildings) and oxygen-free storage structures (silo, or other type structures designed primarily for "wet" storage, if such structure is of a type which can safely store commodities in the form in which the commodities are normally placed under price support loan), or used storage structures (including the real estate upon which located, if any) to be purchased from CCC. The term "drying equipment" means new mechanical dryers," dryers with wagons or trailers as integral parts thereof, air circulators, ventilators, tunnels, and power fans, or any combination thereof, or used drying equipment (including the real estate upon which located, if any) to be purchased from CCC. The term "remodeling" shall mean increasing the capacity or efficiency of a structure or dryer, or converting a structure or dryer for use or purpose other than the one for which the structure or dryer was originally intended. It may include the incorporation of materials or the addition of operating, conditioning, or handling equipment to existing structures and dryers when such material or equipment is considered necessary to increase the capacity or efficiency of the existing installation. The equipment must be designed for and used with the existing structures or dryers and be of the type which will facilitate the safe storing and orderly marketing of commodities in the form in which the commodities are normally placed under price support. Remodeling shall not include the addition of materials or parts to existing structures or dryers when such materials or parts are, in the opinion of the approving committee, items of repair or maintenance.

4. Section 1474.7 is amended to read as follows:

§ 1474.7 Security for loan.

(a) *First lien on farm storage or drying equipment.* All loans shall be secured, under applicable State law, by chattel mortgages or other security instruments covering the farm storage or drying equipment, which shall be filed or recorded as required by State law and shall constitute the sole lien on such property, except for prior liens on realty which by operation of law attach to the collateral if it is or will become a fixture. If any such prior lien on realty does attach to the collateral, CCC may require that its security interest be protected as follows:

(1) If the lien is obtained by means of a security agreement and financing statement in States in which the Uniform Commercial Code is in effect, CCC may require that a disclaimer of or written consent to CCC's security interest in the farm storage or drying equipment as fixtures be obtained from each person, other than the borrower, having any interest in the real estate on which the storage or equipment is placed.

(2) If the lien is obtained by means of a chattel mortgage in States in which the Uniform Commercial Code is not in effect, CCC may require that a severance agreement or a consent and subordination agreement be obtained from each person, other than the borrower, having an interest in the real estate on which the storage or equipment is to be placed.

(3) Fees for filing or recording financing and continuation statements or chattel mortgages and any extensions thereof shall be paid by CCC. All other filing or recording fees shall be paid by the borrower.

(b) *First lien on real estate.* In addition, a first lien on real estate shall be required for any loan of $10,000 or more, and may be required for any other loan in the discretion of the approving State or county committee. Such first lien shall be in the form of a real estate mortgage, deed of trust, or other form of security instrument approved by CCC, and shall be on the borrower's farm or other real estate owned by the borrower on which the farm storage or drying equipment is to be located, or on such acreage thereof as will, in the judgment of the county committee, make the site easily accessible for use of other farmers, and, in the event of foreclosure, will constitute a salable unit.

(1) Where the real estate is subject to any other lien, the priority of CCC's lien must be obtained through a consent and subordination agreement which shall be filed or recorded with the lien on the real estate.

(2) All fees for filing or recording shall be paid by the borrower.

5. Section 1474.15 is amended to also provide for loan assumptions. The amended section reads as follows:

§ 1474.15 Sale or conveyance of security and assumption of loan indebtedness.

(a) The collateral securing a loan shall be sold by CCC when a loan has been called and not repaid or when the borrower requests the county committee to sell the collateral before repaying the loan.

(b) When the borrower desires to sell or convey the facilities or other property securing a loan without repaying the loan in full, he shall apply to the county committee for approval of the sale or conveyance on behalf of CCC. If such approval is granted, the borrower and the purchaser shall execute an assumption agreement in form prescribed by CCC, for the assumption by the purchaser of the unpaid balance of both the principal amount of the loan and the interest computed to the date of assumption, and any other charges which may be provided for in the loan application and approval and in the security instruments furnished by the borrower pursuant to § 1474.7.

6. Section 1474.17 is added to read as follows:

§ 1474.17 Forms.

The following forms shall be used in connection with the Farm Storage and Drying Equipment Loan Program: CCC–185 Loan Application and Approval, CCC–186 Promissory Note, Chattel Mortgage and Security Agreement, CCC–187 Disbursement, Repayment and Inspection Record, CCC–298 Assumption Agreement, CCC–299 Certificate of Title, CCC–308 Supplier's Agreement, CCC–401 Bill of Sale, CCC–500 Repayment Record. These forms, as well as any form required by State law, may be obtained in the ASCS State and county offices.

(Sec. 4 (d), (h), 62 Stat. 1070, as amended, 15 U.S.C. 714 (b), (d), (h))

Effective date: Upon publication in FEDERAL REGISTER.

Signed at Washington, D.C., on December 7, 1967.

H. D. GODFREY,
Executive Vice President, Commodity Credit Corporation.

[F.R. Doc. 67-14525; Filed, Dec. 13, 1967; 8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 6486; Amdt. 121-37]

PART 121—CERTIFICATION AND OPERATIONS: AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Recorder Correlation Tests

The purpose of this amendment to § 121.343(d) of the Federal Aviation Regulations is to make it clear that there is no requirement for establishing correlation between the flight recorder and the first pilot's instruments on each airplane of a given type where the same recorder and the same installations are used.

On December 29, 1965, the Federal Aviation Administration, in Amendment 121–15, adopted § 121.343 of the Federal Aviation Regulations. Paragraph (d) of that section requires as follows: "After December 15, 1967, each flight recorder must be installed in accordance with the requirements of § 25.1459 of Part 25 of this chapter. The most recent instrument calibration, including the recording medium from which this calibration is derived, and the recorder correlation, must be retained by the certificate holder."

Thus, to comply with the literal requirements of § 121.343(d) it would be necessary to correlate each flight recorder installation on each airplane. This would be true even if the same model recorder and the same approved installation was used for each airplane for a given type owned by a Part 121 certificate holder. The relevant Part 25 requirement is contained in paragraph (c) of § 25.1459 which states:

"A correlation must be established between the flight recorder readings of airspeed, altitude, and heading and the corresponding readings (taking into account correction factors) of the first pilot's instruments. The correlation must cover the airspeed range over which the airplane is to be operated, the range of altitude to which the airplane is limited, and 360 degrees of heading. Correlation may be established on the ground as appropriate."

For a given combination of airplane type, flight recorder, recorder installation, and first pilot's instrument installation, the differences in correlation data from airplane to airplane (after taking into account correction factors for the first pilot's instruments) would be negligible. Therefore, there is no need to comply with paragraph (c) of § 25.1459 on more than one airplane of any group of airplanes: (1) That are of the same type; (2) on which the model flight recorder and its installation are the same; and (3) on which there is no difference in type design with respect to those first pilot's instruments associated with the flight recorder. The National Transportation Safety Board concurs in this conclusion.

In view of the above, to eliminate an unnecessary requirement that could delay compliance with the December 15, 1967 date, the Federal Aviation Administration is amending § 121.343(d) to make it clear that where all of the above stated conditions are met the required correlation need be established for only one airplane in any group of airplanes of the same type.

Since, to the extent that this amendment is other than clarifying, it is relaxatory, and in view of the imminent compliance date, I find that notice and public procedure hereon are unnecessary, and that good cause exists for making it effective on less than 30 days notice.

In consideration of the foregoing, paragraph (d) of § 121.343 is hereby amended effective December 14, 1967, to read as follows:

§ 121.343 Flight recorders.

* * * * *

(d) After December 15, 1967, each flight recorder must be installed in accordance with the requirements of § 25.1459 of Part 25 of this chapter. The correlation required by paragraph (c) of § 25.1459 of this chapter need be established only on one airplane of any group of airplanes (1) that are of the same type; (2) on which the model flight recorder and its installation are the same; and (3) on which there is no difference in type design with respect to the installation of those first pilot's instruments associated with the flight recorder. The most recent instrument calibration, including the recording medium from which this calibration is derived, and the recorder correlation, must be retained by each certificate holder.

(Secs. 313(a), 601, 604, 605, Federal Aviation Act of 1958; 49 U.S.C. 1354, 1421, 1424, 1425)

Issued in Washington, D.C., on December 8, 1967.

WILLIAM F. MCKEE,
Administrator.

[F.R. Doc. 67–14430; Filed, Dec. 13, 1967; 8:47 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6939]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Treatment of Income From Unrelated Trade or Business

Correction

In F.R. Doc. 67–14463 appearing at page 17657 of the issue for Tuesday, December 12, 1967, make the following changes:

1. In § 1.513–1(g), line 3, the reference to "December 13, 1967" should read "December 12, 1967."

2. In § 1.512(a)–1(f), line 2, the reference to "December 13, 1967," should read "December 12, 1967."

3. Amendatory paragraph 5 should read as follows:

PAR. 5. Paragraph (f)(4) of § 1.512(b)–1 is amended to read as follows:

Chapter II—The Tax Court of the United States

PART 701—RULES OF PRACTICE

Computation of Time; Saturdays, Sundays, and Holidays

This amendment is effective December 1, 1967.

Section 701.61, as amended, is as follows:

§ 701.61 Computation of time; Saturdays, Sundays, and Holidays.

(a) *Computation of time; exclusions.* The day of the act, event, or default starting any period of time prescribed or allowed by these rules or by an order of this Court shall not be counted as a part of the period, but Saturdays, Sundays, legal holidays in the District of Columbia, and legal holidays established by other Federal statute it shall extend to and include the next succeeding day that is not a Saturday, Sunday, or such legal holiday.

(b) *The legal holidays within the District of Columbia are.*

January 1—New Year's Day.
Inauguration Day—every 4th year.
February 22—Washington's Birthday.
May 30—Memorial Day.
July 4—Independence Day.
First Monday in September—Labor Day.
November 11—Veteran's Day.
Fourth Thursday of November—Thanksgiving Day.
December 25—Christmas Day.
When a legal holiday falls on a Sunday the next day shall be a holiday (D.C. Code Ann. sec. 28–2701 (1967)).

(c) *Legal holidays established by other Federal statute.* When a holiday occurs on a Saturday, the Friday immediately before is a legal public holiday (5 U.S.C. sec. 6103.

Dated: December 12, 1967.

By the Court.

WILLIAM M. DRENNEN,
Chief Judge,
Tax Court of the United States.

[F.R. Doc. 67–14594; Filed, Dec. 13, 1967; 8:48 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

[CGFR 67–48]

ANCHORAGES AND BRIDGES

Assumption of Certain Functions, Powers, and Duties From Corps of Engineers and Transfer of Regulations

Correction

In the issue for Tuesday, December 12, 1967, the following file line should appear at the end of Part II of the issue on page 17844: "[F.R. Doc. 67–14444; Filed, Dec. 11, 1967; 8:51 a.m.]".

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

SUBCHAPTER B—LAND TENURE MANAGEMENT (2000)

[Circular 2337]

PART 2210—OCCUPANCY

Subpart 2215—Mining Claims Occupancy Act

MISCELLANEOUS AMENDMENTS

By the Act of October 23, 1967 (81 Stat. 311) the time within which applications may be filed under the Mining Claims Occupancy Act of October 23, 1962 (76 Stat. 1127, 30 U.S.C. 701–709) was extended to June 30, 1971. This amendment conforms the regulations to the statute. Since the change is being made because of a change in the law, notice and public procedure thereon have been deemed unnecessary. The provisions of this regulation are effective as of October 23, 1967.

1. Paragraphs (a) and (c) of § 2215.0–3 are amended to read:

§ 2215.0–3 Authority.

(a) The Act of October 23, 1962, as amended (76 Stat. 1127; 30 U.S.C. 701–709), hereinafter referred to as "the Act", authorizes the Secretary of the Interior, in his discretion, to convey to any qualified applicant who is an occupant of an unpatented mining claim which is determined by the Secretary to be invalid, an interest, up to and including a fee simple, in and to an area within the claim of not more than (1) five acres, or (2) the acreage actually occupied by him, whichever is less. The Act permits the Secretary to make a like conveyance to any occupant of an unpatented mining claim, who, after notice from a qualified officer of the United States that the claim is believed to be invalid, relinquishes to the United States all right in and to such claim which he may have under the mining laws. Such conveyances may be made only to a qualified applicant who applies therefor within the period ending June 30, 1971, and upon payment of an amount established in accordance with the Act.

* * * * *

(c) The Act provides that the execution of any conveyance thereunder does not relieve an applicant of any liability, existing on the date of the conveyance, to the United States, for unauthorized use of the land in and to which an interest is granted. However, it provides that with respect to persons who file applications for conveyance pursuant to the Act within the period ending June 30, 1971, trespass charges shall not be sought or collected from any qualified applicant who has filed an application for land in the mining claim pursuant to the Act, based upon occupancy of such claim, whether residential or otherwise, for any period preceding the final administrative determination of the invalidity of the mining claim by the Secretary or the voluntary relinquishment of the mining claim, whichever occurs earlier, provided that the mining claim embracing the land applied for was not located at a time when the land included therein was withdrawn or otherwise not subject to location.

2. Paragraph (a) of § 2215.2 is amended to read:

§ 2215.2 Applications.

(a) Applicants must file applications on or before June 30, 1971, in the proper land office (see § 821.2–1 of this chapter).

* * * * *

DAVID S. BLACK,
Under Secretary of the Interior.

DECEMBER 8, 1967.

[F.R. Doc. 67–14503; Filed, Dec. 13, 1967; 8:45 a.m.]

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4336]

[Nevada 1346]

NEVADA

Withdrawal for Underground Atomic Energy Experiment

By virtue of the authority vested in the President and pursuant to Executive Order 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described lands which are under the jurisdiction of the Secretary of the Interior are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), and the mineral leasing laws, and reserved for use of the Atomic Energy Commission for experimental purposes:

MOUNT DIABLO MERIDIAN

T. 9 N., R. 51 E., unsurveyed.
Beginning at a point which is N. 36°08'09" W., 15,911.46 feet, from the southeast corner of T. 9 N., R. 51 E., thence W., 5,280 feet; thence N., 5,280 feet; thence E., 5,280 feet; thence S., 5,280 feet, to the point of beginning.

The area described contains approximately 640 acres in Nye County.

2. The withdrawal made by the order does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining and mineral leasing laws. However, leases, licenses, or permits will be issued only if Atomic Energy Commission finds that the proposed use of the lands will not interfere with the proper conduct of its experiments.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

DECEMBER 6, 1967.

[F.R. Doc. 67–14501; Filed, Dec. 13, 1967; 8:45 a.m.]

Title 45—PUBLIC WELFARE

Subtitle A—Department of Health, Education, and Welfare, General Administration

PART 30—CLAIMS COLLECTION

Part 30 of Title 45 of the Code of Federal Regulations is added to read as follows:

Sec.
30.1 Incorporation by reference.
30.2 Scope of regulations.
30.3 Delegation of authority.

AUTHORITY: The provisions of this Part 30 issued under sec. 3, Federal Claims Collection Act of 1966, Public Law 89–508, 80 Stat. 309, 31 U.S.C. 951–953; Joint Regulations of GAO and Department of Justice, 4 CFR Ch. II Parts 101–105; Statement of Organization and Delegation of Authority of the Department as amended, 31 F.R. 16875.

§ 30.1 Incorporation by reference.

The regulations of this part incorporate herein and supplement as necessary for Department operation all provisions of the Joint Regulations issued by the Comptroller General of the United States and the Attorney General of the United States under section 3 of the Federal Claims Collection Act of 1966, which prescribes standards for administrative collection of civil claims by the Government as well as compromise, suspension, or termination of agency collection action, with respect to claims not exceeding $20,000 exclusive of interest, and the referral to the General Accounting Office, and to the Department of Justice for litigation, of civil claims by the Government.

§ 30.2 Scope of regulations.

The standards set forth in this chapter are not applicable where standards are prescribed under statutes other than the Federal Claims Collection Act of 1966, for compromise or termination of collection action, or waiver in whole or in part of claims thereunder.

§ 30.3 Delegation of authority.

The Department Claims Officer shall collect, compromise, suspend or terminate claims in accordance with the provisions of this part.

The appropriate office, local, regional, or headquarters, shall take all necessary administrative action required under the Act and Joint Regulations except that no compromise of a claim shall be effected, nor collection action suspended or terminated except upon prior approval of the Department Claims Officer or upon his specific delegation.

Dated: December 8, 1967.

MANUEL B. HILLER,
Department Claims Officer.

[F.R. Doc. 67–14544; Filed, Dec. 13, 1967; 8:48 a.m.]

Title 46—SHIPPING

Chapter II—Maritime Administration, Department of Commerce

SUBCHAPTER G—EMERGENCY OPERATIONS

[General Order 75, 2d Rev., as amended]

PART 308—WAR RISK INSURANCE

Record Retention Requirements

In order to incorporate the record retention requirements relating to certain records specified in §§ 308.8 *War risk insurance underwriting agency agreement*, 308.517 *Open cargo policy, Form MA–300*, and 308.548 *Standard form of underwriting agency agreement for cargo; Form MA–318*, a note is hereby added following § 308.552 *Effective date* reading as follows:

NOTE: The records specified in sections 308.8, 308.517, and 308.548 of this part shall be retained until a release is granted by the Maritime Administration, at which time the Maritime Administration will take custody of the records.

Dated: December 8, 1967.

By order of the Acting Maritime Administrator.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 67-14594; Filed, Dec. 13, 1967; 8:48 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission and Department of Transportation

SUBCHAPTER B—CARRIERS BY MOTOR VEHICLES

PART 295—HOURS OF SERVICE OF DRIVERS

Monthly Reports; Revocation

The purpose of this Amendment is to revoke § 295.9 of the Motor Carrier Safety Regulations (49 CFR 295.9) which requires the filing of Form MCS 60, Monthly Reports, of drivers excess hours of service. A petition has been filed by the Oil Field Haulers Association, Inc., and Oil Field Haulers Conference of American Trucking Associations, Inc., requesting revocation of § 295.9 of the Motor Carrier Safety Regulations.

Section 295.9 was originally issued to provide a ready reference to possible hours of service violations. Continuing study and experience reveals that the information contained in the form is (a) of little or no value, and (b) is duplicative of information contained elsewhere.

Since this amendment relates to procedures and practices notice and further proceedings hereon are unnecessary and the amendment may be made effective in less than thirty (30) days after publication in the FEDERAL REGISTER.

In view of the final action taken here, the issues raised by the petitions referred to above are moot and require no further action.

In consideration of the foregoing, Part 295 of Chapter I of Title 49 of the Code of Federal Regulations is amended by revoking § 295.9, effective December 14, 1967.

(Sec. 204 of the Interstate Commerce Act (49 U.S.C. 304), sec. 6 of the Department of Transportation Act (49 U.S.C. 1655), and delegation of authority dated April 5, 1967 (32 F.R. 5606))

Issued in Washington, D.C., on November 9, 1967.

LOWELL K. BRIDWELL,
Federal Highway Administrator.

[F.R. Doc. 67-14529; Filed, Dec. 13, 1967; 8:48 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 51]

SHELLED PECANS

U.S. Standards for Grades

Notice is hereby given that the U.S. Department of Agriculture is considering the amendment of U.S. Standards for Shelled Pecans (7 CFR 51.1430–51.1453) pursuant to the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621–1627).

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposal should file the same in duplicate, not later than January 15, 1968, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, where they will be available for public inspection during official hours of business (paragraph (b) of § 1.27, as amended at 29 F.R. 7311).

Statement of considerations leading to the proposed amendment of the grade standards. Two of the requirements in the U.S. Standards for Shelled Pecans are considered by pecan shellers to be unreasonable and out of date in the light of present industry practices of shelling and sorting pecan kernels.

Upon their recommendation, it is proposed to delete the references to "chipped halves" from the requirements and tolerance for U.S. No. 1 Halves. This would necessitate deletion of the definition of the term "chipped half" which would be replaced by a definition of the term "half-kernel," presently defined only in the grading chart accompanying the standards. The proposed change would make the U.S. No. 1 Halves grade more realistic and considerably easier to apply.

A further recommendation is to change the minimum size requirement for the "midget" pieces designation from 7/16 (8/64) to 5/64 inch. Industry spokesmen state that a large amount of trading is being done on the basis of the 5/64 inch minimum, and that this size cannot be described by any of the designations provided in the U.S. Standards. The present size range for the "midget" designation, which is 7/16 to 9/16, is too narrow and is impractical. The proposed size change should encourage use of the midget size designation and reduce the confusion in the industry in regard to size of very small pieces.

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act or with applicable State laws and regulations.

As proposed to be amended, §§ 51.1431, 51.1437, and 51.1442 are set forth below:

§ 51.1431 U.S. No. 1 Halves.

"U.S. No. 1 Halves" consists of pecan half-kernels which are well dried and clean, and which are free from pieces of shell and center wall, foreign material, broken kernels, particles and dust, noticeable shriveling, rancidity, mold, decay, and insect injury, and are free from damage caused by leanness, hollowness, discoloration, or other means. The pecan halves in any lot shall be fairly uniform in size and fairly uniform in color. (See § 51.1438, Size Requirements for Halves.)

(a) *Tolerances.* In order to allow for variations incident to proper grading and handling, the following tolerances shall be permitted:

(1) One-fifth of 1 percent (0.20 percent), by weight, for pieces of shell, center wall and foreign material: *Provided*, That not more than one-fourth of this amount, or one-twentieth of 1 percent (0.05 percent), shall be allowed for pieces of shell and foreign material;

(2) 12 percent, by weight, for broken kernels and particles and dust: *Provided*, That not more than one-fourth of this amount, or 3 percent, shall be allowed for broken kernels which are less than one-half of a complete half-kernel, including therein not more than one-half of 1 percent (0.50 percent) for particles and dust; and,

(3) 7 percent, by weight, for portions of kernels which fail to meet the remaining requirements of this grade, including therein not more than 4 percent for damage caused by internal discoloration, and not more than 1 percent for rancidity, mold, decay, insect injury, or serious damage caused by shriveling, leanness, external discoloration, internal discoloration, or other means.

§ 51.1437 Size requirements for pieces.

The size of pecan pieces may be specified in accordance with the size designations shown in Table II:

TABLE II

Size designation	Minimum diameter (will pass through a sieve with round openings of the following diameter)	Minimum diameter (will not pass through a sieve with round openings of the following diameter)
	Inch	Inch
Extra large	9/16	11/16
Large	8/16	9/16
Medium	7/16	8/16
Small	6/16	7/16
Midget	5/64	6/16
Regular amber [1]		6/16
Small amber [1]	5/64	7/16

[1] This designation is provided for use only in connection with the U.S. Commercial grade.

(a) In lieu of the size designations in Table II, the size of pieces may be specified in terms of minimum diameter, or as a range in terms of minimum and maximum diameters expressed in sixteenths or sixty-fourths of an inch.

(b) Tolerances for size of pieces: In order to allow for variations incident to proper sizing, the following tolerances shall be permitted:

(1) When the size designations "Extra Large," "Large," "Medium," "Small," and "Regular Amber" are used to specify size, not more than 15 percent, by weight, of the pieces may fail to meet the size requirements specified in Table II, including therein not more than 2 percent for pieces which are less than two-sixteenths inch in diameter.

(2) When the size designations "Midget" or "Small Amber" are used to specify size, not more than 15 percent, by weight, of the pieces may fail to meet the size requirements specified in Table II, including therein not more than 5 percent for pieces which are less than the minimum diameter shown in Table II for the respective size classifications; and,

(3) When minimum diameters or ranges of diameters, other than those shown in Table II, are used to specify size, not more than 15 percent, by weight, of the pieces may fail to meet the size specified, including therein not more than 2 percent for pieces which are less than two-sixteenths inch in diameter: *Provided*, That when a minimum of two-sixteenths inch or smaller is specified, not more than 5 percent of the pieces may be less than the minimum diameter specified.

§ 51.1442 Half-kernel.

"Half-kernel" means one of the separated halves of an entire pecan kernel with not more than one-eighth of its original volume missing, exclusive of the portion which connected the two halves of the kernel.

(Secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended; 7 U.S.C. 1622, 1624)

Dated: December 8, 1967.

G. R. GRANGE,
Deputy Administrator, Marketing Services.

[F.R. Doc. 67-14528; Filed, Dec. 13, 1967; 8:48 a.m.]

[7 CFR Part 58]

GRADING AND INSPECTION, GENERAL SPECIFICATIONS FOR APPROVED DAIRY PLANTS AND STANDARDS FOR GRADES OF DAIRY PRODUCTS

U.S. Standards for Grades of Edible Dry Casein (Acid)

Notice is hereby given that the U.S. Department of Agriculture is considering the issuance, as hereinafter proposed, of

U.S. Standards for Grades of Edible Dry Casein pursuant to the authority contained in the Agricultural Marketing Act of 1946 (sec. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627).

The proposed standards are applicable only to casein intended for human food, manufactured from skim milk by acid precipitation.

Statement of consideration. Casein, a component of milk, has been growing in importance as a supplement in other food products to improve their nutritional qualities and as a basic product for the manufacture of sodium caseinate, a compound being used more extensively in numerous food products. Until recent years casein for edible purposes was obtained by reprocessing and refining industrial type casein used in the paint and paper industries, and for other industrial uses. Practically all of the casein used is imported from foreign countries.

The Department has considered that the growing importance of casein for edible purposes warrants the issuance of grade standards which will reflect the quality characteristics of an acceptable food product. In developing the proposed standards, copies of specifications were obtained from buyers and processors as well as standards in effect in New Zealand and Canada. Both countries are large exporters of casein. In addition, technical advice was obtained from several members of the industry. This information, together with technical data from research literature and the experience and technical knowledge within the Department, formed the basis for establishing the proposed standards.

All persons who desire to submit written data, views, or arguments in connection with this proposal should file the same in duplicate with the Hearing Clerk, Room 112A, Administration Building, Washington, D.C. 20250, not later than 60 days from the date of publication in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspections at the office of the Hearing Clerk during regular business hours (7 CFR 1.27b).

The proposed standards are as follows:

Subpart V—U.S. Standards for Grades of Edible Dry Casein (Acid) [1]

DEFINITIONS

§ 58.2800 Edible dry casein (acid).

For the purposes of these standards edible dry casein (acid) is the ground or unground product resulting from washing, drying or otherwise processing the coagulum resulting from acid precipitation of skimmed milk which has been pasteurized. The product shall have been produced in a plant under conditions suitable for the manufacture of human food and packaged in such a container which will obviate contamination, deterioration, or development of a public health hazard under normal conditions of storage and transportations.

[1] Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

U.S. GRADES

§ 58.2801 Nomenclature of U.S. Grades.

The nomenclature of U.S. grades is as follows:

(a) U.S. Extra.
(b) U.S. Standard.

§ 58.2802 Basis for determination of U.S. Grades.

(a) The U.S. Grades of edible dry casein (acid)—are determined on the basis of:

(1) Flavor and odor, physical appearance, bacterial estimate on the basis of standard plate count and coliform count, protein content, moisture content, milkfat content, extraneous materials, and free acid.

(2) Additional optional tests listed in 58.2805 that have been requested by the applicant for the service.

(b) The final U.S. Grade shall be established on the basis of the lowest ratings of any one of the applicable quality characteristics present in representative samples of the lot.

§ 58.2803 Requirements for U.S. Extra Grade.

U.S. Extra Grade edible dry casein (acid) shall conform to the following requirements:

(a) *Flavor and odor.* Bland natural flavor and odor free from offensive flavors and odors, such as; sour, cheesy, or stale.

(b) *Physical appearance.* Is white to cream colored; if ground, free from lumps that do not break up under slight pressure.

(c) *Bacterial estimates.* Standard plate count not more than 30,000 per gram. Coliform count negative per 0.1 gram.

(d) *Protein content.* Not less than 95 percent, dry basis (Nitrogen x6.38).

(e) *Moisture content.* Not more than 10 percent.

(f) *Milkfat content.* Not more than 1.5 percent.

(g) *Extraneous materials.* Scorched particles not more than 15 mg. and free from objectionable materials, such as, hair, wood, metal, or insect fragments in 50 grams.

(h) *Free acid.* Titrated to not more than 0.20 ml. of 0.1 N NaOH per gram.

§ 58.2804 Requirements for U.S. Standard Grade.

U.S. Standard Grade edible dry casein (acid) shall conform to the following requirements:

(a) *Flavor and odor.* Not more than slight unnatural flavors or odors and has no offensive flavors and odors, such as sour, cheesy, or stale.

(b) *Physical appearance.* Is white to cream colored; if ground, free from lumps that do not break up under moderate pressure.

(c) *Bacterial estimates.* Standard plate count not more than 100,000 per gram. Coliform count not more than 2 per 0.1 gram.

(d) *Protein content.* Not less than 90 percent, dry basis (Nitrogen x6.38).

(e) *Moisture content.* Not more than 12 percent.

(f) *Milkfat content.* Not more than 2 percent.

(g) *Extraneous materials.* Scorched particles not more than 22.5 mg. and free from objectionable materials, such as, hair, wood, metal, or insect fragments in 50 grams.

(h) *Free acid.* Titrated to not more than 0.27 ml. of 0.1 N NaOH per gram.

§ 58.2805 Optional tests.

Certain tests, such as, ash, heavy metals, and lactose should be run on first lots received and periodically thereafter. Also, specific uses of the product may necessitate additional tests. These optional tests are listed below together with appropriate criteria.

(a) *Particle size.* 30, 60, or 80 mesh.

(1) 30 mesh:
100 percent—must pass 30 ASTM screen.
10 percent—may pass 60 ASTM screen.

(2) 60 mesh:
90 percent—must 50 ASTM screen.
10 percent—may pass 80 ASTM screen.

(3) 80 mesh:
100 percent—must pass 60 ASTM screen.
85 percent—may pass 80 ASTM screen.

(b) *Ash (phosphorus fixed).* Not more than 2.2 percent.

(c) *Percent by weight of heavy metals.*

(1) Copper, maximum, 5 p.p.m.
(2) Lead, maximum, 5 p.p.m.
(3) Iron, maximum, 20 p.p.m.

(d) *Yeast and mold.* Not more than 5 per 0.1 gram.

(e) *Thermophiles.* Not more than 5,000 per gram.

(f) *Staphylococcus.* Negative (Beta Hemolytic—coagulase positive) per gram.

(g) *Salmonella.* Negative in 100 gram sample.

(h) *Reducing sugars (as lactose).* Not more than 1 percent.

§ 58.2806 U.S. Grade not assignable.

Edible dry casein (acid) which fails to meet the requirements of U.S. Standard Grade; or one or more optional test, when such tests have been requested; or product manufactured, packaged or transported under conditions unsuitable for human food shall not be assigned a U.S. Grade.

§ 58.2807 Test methods.

(a) Testing methods contained in "Methods for the Analysis of Edible Dry Casein (acid)," Dairy Division Inspection and Grading Branch Laboratory, Consumer and Marketing Service, U.S. Department of Agriculture, or latest revision thereof, shall be used.

§ 58.2808 Sampling methods.

(a) An inspection lot shall be a consignment of units of the same size, type and style which have been manufactured or processed under essentially the same conditions and not exceeding 80,000 pounds net weight.

(b) Unit containers for sampling shall be selected at random from the inspection lot at the following rate:

Number of containers in inspection lot=N	*Minimum number of containers to be selected*
1 to 4	Each container.
5 to 40	$N-10^{1}$ / $4+\frac{}{10}$
41 or more	6+one for each 4,000 pounds or fraction thereof in the lot.

[1] Raise fractions of ½ or more to next whole number; disregard negative fractions or fractions less than ½.

(c) A representative portion of the edible dry casein shall be taken from the sample unit by means of a sampling tube and placed in properly identified sample bag. When five or more containers are to be sampled, representative portions from not more than five containers may be commingled on a proportionate basis. Each sample bag, whether from a single container or a composite, should contain at least 500 grams.

(d) Preparation of the sample for analysis. All samples representing an inspection lot shall be composite just prior to analysis to form a sufficient sample for analysis. Results of the analysis of the composited sample will be reported for the inspection lot.

Done at Washington, D.C., this 8th day of December 1967.

G. R. GRANGE,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 67-14527; Filed, Dec. 13, 1967; 8:47 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 7942]

AIRWORTHINESS DIRECTIVES

Rolls Royce Spey Models 506–14, 510–14, 511–8, and 511–14 Airplane Engines

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to the Rolls Royce Spey Models 506–14, 510–14, 511–8, and 511–14 airplane engines installed on but not necessarily limited to British Aircraft Corp. Model BAC 1–11 and Grumman Model G–1159 airplanes. There have been two failures of the high pressure air duct on a Rolls Royce Spey engine during takeoff due to a propagation of a crack in the air duct. Since this condition is likely to exist or develop in other engines of the same type design, the proposed AD would require the periodic inspection of the H.P. air system center section duct, P/N EU.29670A, for cracks, particularly adjacent to the welds, the inspection of the cowling and engine adjacent to the ducts for signs of heat discoloration, and the replacement of cracked ducts with an uncracked duct of the same part number or with a new duct, P/N EU.63415A. The proposal would allow the inspections to be discontinued after the new duct, P/N EU.63415A, has been installed.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before January 15, 1968, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

ROLLS ROYCE. Applies to Spey Engines Models 506–14, 510–14, 511–8, and 511–14.
Compliance required as indicated.
To prevent a possible failure of the H.P. center section air duct, accomplish the following:

(a) Within the next 200 hours' time in service after the effective date of this AD and thereafter at each scheduled aircraft inspection when the engine is uncowled, or at intervals not to exceed 600 hours' time in service, from the last inspection, whichever occurs first, visually inspect (with the aid of a mirror as necessary) the H.P. air system center section duct, P/N EU.29670A, particularly adjacent to welds, for cracks. (Discoloration of the cowling and engine adjacent to the duct would be indicative of a duct crack.)

(b) If a crack is detected during the inspection required by paragraph (a), before further flight replace the duct with an uncracked duct of the same part number or incorporate H.P. air system center section duct, P/N EU.63415A, in accordance with Rolls-Royce Service Bulletin Sp 75–68, Revision 2, or an FAA-approved equivalent. The repetitive inspection required by paragraph (a) may be discontinued after duct, P/N EU.63415A, has been installed.

(c) Upon the request of an operator, an FAA maintenance inspector, subject to prior approval of the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region, may adjust the repetitive inspection interval specified in this AD to permit compliance at an established inspection period of the operator, if the request contains substantiating data to justify the increase for such operator.

Issued in Washington, D.C., on December 7, 1967.

EDWARD C. HODSON,
Acting Director,
Flight Standards Service.

[F.R. Doc. 67-14521; Filed, Dec. 13, 1967; 8:47 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[R 697]

CALIFORNIA

Notice of Classification of Public Lands for Multiple-Use Management

DECEMBER 7, 1967.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18) and the regulations in 43 CFR Parts 2410 and 2411, the public lands within the areas described in paragraph 3 are hereby classified for multiple-use management, together with any lands therein that may become public lands in the future. Publication of this notice has the effect of segregating the described lands from appropriation only under the agricultural land laws (43 U.S.C. chs. 7 and 9; 25 U.S.C. sec. 334); from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171); and the lands described in paragraph 4 from appropriation under the mining laws (30 U.S.C. ch. 2). The lands shall remain open to all other applicable forms of appropriation. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. No adverse comments were received following publication of a notice of proposed classification (32 F.R. 187), or at the public hearing at Independence, Calif., which was held on October 11, 1967. The record showing the comments received and other information is on file and can be examined in the Bakersfield District Office, Room 311, Federal Building, 800 Truxtun Avenue, Bakersfield, Calif. 93301.

3. The public lands affected by this classification are located within the following described area and are shown on maps designated 2412–04–01–03 in the Bakersfield District Office, and at the Land Office of the Bureau of Land Management, 1414 University Avenue, Riverside, Calif.:

MOUNT DIABLO MERIDIAN

MONO AND INYO COUNTIES

T. 3 S., R. 35 E.,
Secs. 27, 35, and 36.
T. 4 S., R. 35 E.,
Secs. 1, 2, 11, 12, and 13.
T. 7 S., R. 35 E.,
Secs. 23 to 26, inclusive;
Secs. 35 and 36.
T. 8 S., R. 35 E.,
Secs. 1, 12, and 13.
T. 4 S., R. 36 E.,
Secs. 16 to 22, inclusive;
Secs. 26 to 30, inclusive;
Secs. 32 to 36, inclusive.
T. 5 S., R. 36 E.,
Secs. 1, 2, 3, 11 to 14, inclusive;
Secs. 23 to 26, inclusive;
Secs. 35 and 36.
T. 6 S., R. 36 E.,
Secs. 1 and 2;
Secs. 11 to 14, inclusive;
Secs. 23 to 27, inclusive;
Secs. 34, 35, and 36.
T. 7 S., R. 36 E.,
Secs. 1 to 4, inclusive;
Secs. 8 to 36, inclusive.
T. 8 S., R. 36 E.,
Secs. 1 to 18, inclusive;
Secs. 21 to 28, inclusive;
Secs. 33 to 36, inclusive.
T. 9 S., R. 36 E.,
Secs. 1, 2, and 3;
Secs. 10 to 13, inclusive;
Secs. 24, 25, and 36.
T. 5 S., R. 37 E.,
Secs. 5 to 10, inclusive;
Secs. 14 to 36, inclusive.
T. 6 S., R. 37 E.,
Secs. 1 to 36, inclusive.
T. 7 S., R. 37 E.,
Secs. 1 to 36, inclusive.
T. 8 S., R. 37 E.,
Secs. 1 to 36, inclusive.
T. 9 S., R. 37 E.,
Secs. 1 to 36 inclusive.
T. 10 S., R. 37 E.,
Secs. 1 to 36, inclusive.
T. 5 S., R. 38 E.,
Secs. 30, 31, and 32.
T. 6 S., R. 38 E.,
Secs. 4 to 10, inclusive;
Secs. 14 to 36, inclusive.
T. 7 S., R. 38 E.,
Secs. 1 to 36, inclusive.
T. 8 S., R. 38 E.,
Secs. 1 to 36, inclusive.
T. 9 S., R. 38 E.,
Secs. 1 to 36, inclusive.
T. 10 S., R. 38 E.,
Secs. 1 to 36, inclusive.
T. 6 S., R. 39 E.,
Secs. 30 to 33, inclusive.
T. 7 S., R. 39 E.,
Secs. 3 to 11, inclusive;
Secs. 13 to 36, inclusive.
T. 8 S., R. 39 E.,
Secs. 1 to 36, inclusive.
T. 9 S., R. 39 E.,
Secs. 1 to 36, inclusive.
T. 10 S., R. 39 E.,
Secs. 1 to 36, inclusive.
T. 7 S., R. 40 E.,
Sec. 19;
Secs. 29 to 33, inclusive.
T. 8 S., R. 40 E.,
Secs. 3 to 11, inclusive;
Secs. 13 to 36, inclusive.
T. 9 S., R. 40 E.,
Secs. 1 to 36, inclusive.
T. 10 S., R. 40 E.,
Secs. 1 to 36, inclusive.
T. 8 S., R. 41 E.,
Secs. 18 and 19;
Secs. 28 to 34, inclusive.
T. 9 S., R. 41 E.,
Secs. 2 to 36, inclusive.
T. 10 S., R. 41 E.,
Secs. 1 to 18, inclusive.
T. 9 S., R. 42 E.,
Secs. 7, 17 to 21, inclusive;
Secs. 27 to 35, inclusive.
T. 10 S., R. 42 E.,
Secs. 1 to 18, inclusive.
T. 10 S., R. 43 E.,
Secs. 7, 17, and 18.

The public lands in the area described aggregate approximately 496,588.49 acres.

4. The following described public lands are further segregated under the mining laws (30 U.S.C. ch. 2), approximately 4,135 acres:

MOUNT DIABLO MERIDIAN

500 feet either side of centerline of Cottonwood Creek beginning in SW¼SW¼ sec. 33, through SE¼ of sec. 32 of T. 5 S., R. 37 E., through secs. 4, 5, and 6 of T. 6 S., R. 37 E., and through secs. 1 and 2 of T. 6 S., R. 36 E.

T. 10 S., R. 39 E.,
Secs. 1, 2, and 11;
Sec. 12: NW¼NE¼, W½W½, E½NW¼, NE¼SW¼;
Sec. 13: W½W½;
Sec. 14: All;
Sec. 23: N½, N½S½;
Sec. 24: NW¼NW¼.

5. For a period of 30 days from date of publication in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2411.2(c).

R. E. MCCARTHY,
Acting State Director.

[F.R. Doc. 67–14503; Filed, Dec. 13, 1967; 8:45 a.m.]

[C–9684]

COLORADO

Notice of Classification of Public Lands for Multiple-Use Management

DECEMBER 4, 1967.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18) and to the regulations in 43 CFR, Parts 2410 and 2411, the public lands within the areas described below together with any lands therein that may become public lands in the future are hereby classified for multiple-use management. Publication of this notice segregates all the described lands from appropriation only under the agricultural land laws (43 U.S.C. chs. 7 and 9, 25 U.S.C. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171). The described lands shall remain open to all other applicable forms of appropriation including the mining and mineral leasing laws. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. No protests or objections were received following publication of a notice of proposed classification (32 F.R. 13601–02) or at the public hearing held on October 10, 1967, at Hot Sulphur Springs, Colo. Therefore, no changes have been made in the list of lands included in the classification. The record showing the comments received and other information is on file and can be examined in the Glenwood Springs District Office, Bureau of Land Management, Glenwood Village Inn, Glenwood Springs, Colo. 81601. The public lands affected by this classification are located within the following described area and are shown on a map designated by Serial Number 2684 on file in the Glenwood Springs District Office, Bureau of Land Management, Glenwood Village Inn, Post Office Box 1009, Glenwood Springs, Colo. 81601 and in the Land Office, Bureau of Land Management, Room 15019 Federal Building, Denver, Colo. 80202.

SIXTH PRINCIPAL MERIDIAN, COLORADO

GRAND COUNTY

T. 1 N., R. 78 W.,
Secs. 3 to 9, inclusive;
Secs. 17 and 18.
T. 1 N., R. 79 W.,
Secs. 1 to 12, inclusive.
T. 1 N., R. 80 W.,
Secs. 1 to 11, inclusive;
Sec. 15.
T. 1 N., R. 81 W.,
Sec. 1.
T. 2 N., R. 77 W.,
Secs. 3 to 10, inclusive;
Secs. 15 to 22, inclusive;
Secs. 27 to 30, inclusive.
T. 2 N., R. 78 W.,
Secs. 13 to 15, inclusive;
Secs. 19 to 36, inclusive.
T. 2 N., R. 79 W.,
Secs. 13 to 36, inclusive.
T. 2 N., R. 80 W.,
Secs. 3 to 11, inclusive;
Secs. 15 to 22, inclusive;
Secs. 25 to 35, inclusive.
T. 2 N., R. 81 W.,
Secs. 23 to 26, inclusive.
T. 3 N., R. 77 W.,
Secs. 20 and 21;
Secs. 26 to 28; inclusive;
Secs. 33 and 34.
T. 3 N., R. 79 W.,
Secs. 7, 18, 19, 30, and 31.
T. 3 N., R. 80 W.,
Secs. 1 to 5, inclusive;
Secs. 7 to 36, inclusive.
T. 3 N., R. 81 W.,
Secs. 12 to 15, inclusive;
Secs. 22 to 28, inclusive;
Secs. 33 to 35, inclusive.

The areas described aggregate approximately 83,800 acres of public lands.

3. For a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER, interested parties may submit comments to the Secretary of the Interior, LLM, 721, Washington, D.C. 20240 (43 CFR 2411.1–2(d)).

E. I. ROWLAND,
State Director.

[F.R. Doc. 67–14504; Filed, Dec. 13, 1967; 8:45 a.m.]

[C 380]

COLORADO

Notice of Proposed Withdrawal and Reservation of Lands

DECEMBER 7, 1967.

The Forest Service, U.S. Department of Agriculture, has filed an application, Serial Number C–380, for the withdrawal of the lands described below from appropriation under the public land laws, but not the general mining or mineral leasing laws.

The application was made in aid of future legislation to add the lands to the Gunnison National Forest.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Colorado Land Office, Room 15019 Federal Building, 1961 Stout Street, Denver, Colo. 80202.

The Department's regulations (43 CFR 2311.1–3(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

T. 15 S., R. 88 W., 6th P.M.,
Sec. 7, Lots 5 thru 12, E½W½, E½NE¼.

The areas described aggregate approximately 453 acres.

J. ELLIOTT HALL,
Chief, Division of Lands and Minerals, Program Management and Land Office.

[F.R. Doc. 67–14505; Filed, Dec. 13, 1967; 8:45 a.m.]

ADMINISTRATIVE OFFICER, MOUNTAIN HOME JOB CORPS CONSERVATION CENTER

Delegation of Authority

By authority delegated to me under Bureau Order 696, Amendment 9, dated August 19, 1965, I hereby redelegate authority to the Administrative Officer, Mountain Home Job Corps Conservation Center, Mountain Home, Idaho, to issue purchase orders in amounts not to exceed $2,000 per transaction for supplies and materials, without advertising under section 302(c)(3) of the Federal Property and Administrative Services Act of 1949 as amended (305 DM 11.4B); provided the amounts purchased are not available under GSA schedules, contracts or other established sources. He is also authorized to issue purchase orders in amounts up to $5,000 for supplies and materials obtained through GSA schedules, contracts, Federal Prison Industries and other established Government sources.

JOHN S. BOYLES,
Director, Mountain Home Job Corps Conservation Center.

[F.R. Doc. 67–14506; Filed, Dec. 13, 1967; 8:46 a.m.]

[Montana 956]

MONTANA

Order Providing for Opening of Public Lands

DECEMBER 7, 1967.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1272), as amended June 26, 1936 (49 Stat. 1976; 43 U.S.C. 315g) the following lands have been reconveyed to the United States:

PRINCIPAL MERIDIAN, MONTANA

T. 35 N., R. 35 E.,
Sec. 3, lot 1 and S½NE¼;
Sec. 5, E½SW¼;
Sec. 7, E½;
Sec. 8, W½NE¼, SE¼NE¼, E½NW¼, NW¼NW¼, and SW¼SW¼;
Sec. 9, S½;
Sec. 26, W½SW¼.

The areas described aggregate 1,199.39 acres.

2. The lands comprise three separate parcels and are located in Valley County, 25 to 30 miles north of Hinsdale, Mont. Access to the lands is from county roads and over prairie trails. The lands are in native grass and are used for livestock grazing. The lands lay adjacent to an extensive block of public land and are located in pastures consisting predominantly of public land. The lands have two good stockwater structures on them.

3. Subject to valid existing rights, the provisions of existing withdrawals and multiple-use classifications, and the requirements of applicable law, the lands are hereby open to application, petition, location and selection. All valid application received at or prior to 10 a.m., on January 15, 1968, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. The mineral rights in the lands were not exchanged. Therefore the mineral status of the lands are not affected by this order.

5. Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Billings, Mont. 59101.

ROLAND F. LEE,
Acting Land Office Manager.

[F.R. Doc. 67–14507; Filed, Dec. 13, 1967; 8:46 a.m.]

[Serial No. N-847]

NEVADA

Notice of Public Sale

DECEMBER 8, 1967.

Under the provisions of the Public Land Sale Act of September 19, 1964 (78 Stat. 988, 43 U.S.C. 1421–1427), 43 CFR Subpart 2243, a tract of land will be offered for sale to the highest bidder at a sale to be held at 1:30 p.m., local time, on Wednesday, January 17, 1968, at the Nevada Land Office, Bureau of Land Management, Room 3104, Federal Building, 300 Booth Street, Reno, Nev. The land is described as follows:

MOUNT DIABLO MERIDIAN, NEVADA

T. 17 N., R. 23 E.,
Sec. 20, all;
Sec. 30, NE¼, SE¼NW¼, N½SE¼, SW¼SE¼.

The area described contains 960 acres. The appraised value of the tract is $24,000 and the publication costs to be assessed are $10.

The land will be sold subject to all valid existing rights. Reservations will be made to the United States for ditches and canals in accordance with the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945). All minerals are to be reserved to the United States and withdrawn from appropriation under the public land laws, including the general mining laws.

Bids may be made by the principal or his agent, either at the sale, or by mail. Bids must be for all the land in the parcel. A bid for less than the appraised value of the land is unacceptable. Bids sent by mail will be considered only if received at the Nevada Land Office, Bureau of Land Management, Room 3008, Federal Building, Reno, Nev. 89502, prior to 1:30 p.m., on Wednesday, January 17, 1968. Bids made prior to the public auction must be in sealed envelopes, and accompanied by certified checks, postal money orders, bank drafts, or cashier's checks, payable to the Bureau of Land Management, for the full amount of the bid plus publication costs. The envelopes must be marked in the lower left-hand corner "Public Sale Bid, Parcel No. 1, sale of January 17, 1968."

The authorized officer shall publicly declare the highest qualifying sealed bid received. Oral bids shall then be invited in specified increments. The person declared to have entered the highest qualifying bid shall be required to make full payment for the tract and cost of publication at the close of bidding. The authorized officer shall afford a successful oral bidder until 3:30 p.m., January 17, 1968, to provide a guaranteed remittance.

If no bids are received for the sale tract on Wednesday, January 17, 1968, the tract will be reoffered on the first Tuesday of subsequent months at 1:30 p.m., beginning February 6, 1968.

Any adverse claimants to the above-described land should file their claims, or objections, with the undersigned before the time designated for sale.

The land described in this notice has been segregated from all forms of appropriation, including locations under the general mining laws, except for sale under this Act, from the date of the proposed classification decision. Inquiries concerning this sale should be addressed to the Land Office Manager, Bureau of Land Management, Room 3008, Federal Building, 300 Booth Street, Reno, Nev. 89502.

ROLLA E. CHANDLER,
Manager, Nevada Land Office.

[F.R. Doc. 67-14508; Filed, Dec. 13, 1967; 8:46 a.m.]

[Oregon 017835]

OREGON

Order Providing for Opening of Public Lands

DECEMBER 8, 1967.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1272), as amended June 26, 1936 (49 Stat. 1976; 43 U.S.C. 315g), the following lands have been reconveyed to the United States:

WILLAMETTE MERIDIAN

T. 11 S., R. 44 E.,
Sec. 18, SE¼SW¼ and S½SE¼;
Sec. 24, N½NE¼, SW¼NE¼, and W½.

The areas described aggregate 560 acres.

2. The lands are located in Baker County. They are semiarid in character and are not suitable for farming.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands are hereby open to application, petition, location, and selection. All valid applications received at or prior to 10 a.m., January 15, 1968, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. The United States did not acquire minerals in the lands described herein.

5. Inquiries concerning the lands should be addressed to the Chief, Division of Lands and Minerals, Program Management and Land Office, Post Office Box 2965, Portland, Oregon 97208.

VIRGIL O. SEIBER,
Chief, Branch of Lands.

[F.R. Doc. 67-14509; Filed, Dec. 13, 1967; 8:46 a.m.]

[Utah 4170]

UTAH

Order Opening Lands to Application, Entry and Patenting

DECEMBER 7, 1967.

1. In an exchange of lands made under the provisions of section 8 of the act of June 28, 1934 (48 Stat. 1269), as amended (43 U.S.C. 315g), the following described lands have been reconveyed to the United States:

SALT LAKE MERIDIAN

T. 36 S., R. 22 E.,
Sec. 31, S½SE¼.
T. 37 S., R. 22 E.,
Sec. 5, lot 4, SW¼NW¼;
Sec. 6, lots 1 and 2, and SE¼NE¼.

The areas described aggregate 280.04 acres.

2. The lands are located in San Juan County about 2 miles southwest of Blanding, Utah. Soils are a deep, fine, sandy loam. The lands are not suitable for agricultural purposes due to low precipitation and lack of water. The lands have values for watershed, grazing, wildlife, and recreation which can best be managed under principles of multiple use.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands will at 10 a.m. on January 15, 1968, be opened to application, petition, location, and selection. Minerals in the lands were reserved by the grantor. All valid applications received at or prior to 10 a.m. on January 15, 1968, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Inquiries concerning the lands should be addressed to the Bureau of Land Management, Post Office Box 11505, Salt Lake City, Utah 84111.

R. D. NIELSON,
State Director.

[F.R. Doc. 67-14510; Filed, Dec. 13, 1967; 8:46 a.m.]

Office of the Secretary

MARK V. BURLINGAME

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of December 1, 1967.

Dated: November 11, 1967.

MARK V. BURLINGAME.

[F.R. Doc. 67-14511; Filed, Dec. 13, 1967; 8:46 a.m.]

E. CLYDE McGRAW

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) None.
(2) Add: Consolidated Natural Gas Co.; State of California 2 percent Veterans Bonds.
(3) None.
(4) None.

This statement is made as of December 9, 1967.

Dated: November 21, 1967.

E. CLYDE McGRAW.

[F.R. Doc. 67-14512; Filed, Dec. 13, 1967; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

[Amdt. 8]

Commodity Credit Corporation

PRICE SUPPORT PROGRAMS

1964 and Subsequent Crops; Announcement of Interest Rate

The announcement issued by the Commodity Credit Corporation, published in 29 F.R. 4109, as amended at 29 F.R. 11133 and 30 F.R. 7198, of the rate of interest applicable to price support programs on 1964 and subsequent crops or production, is hereby further amended to provide special procedure for determining the calendar month of repayment in certain circumstances.

Section (1) is amended to read as follows:

(1) Loans on barley, corn, dry edible beans, flaxseed, grain sorghums, honey, oats, farm-stored peanuts, rice, rye, soybeans, tung oil, and wheat, and Form A loans on cotton shall bear interest at the rate of 30 cents per $100 (fractions disregarded) for each calendar month or fraction thereof that the loan is outstanding, excluding the calendar month of repayment. When the last day of a calendar month falls on a nonworkday for the ASCS county office, repayment made on the first work day of the next succeeding calendar month shall be considered as repayment during the preceding calendar month for computation of interest.

Signed at Washington, D.C. on December 7, 1967.

E. A. JAENKE,
Acting Executive Vice President, Commodity Credit Corporation.

[F.R. Doc. 67-14536; Filed, Dec. 13, 1967; 8:47 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office for Civil Rights

DIRECTOR, OPERATIONS DIVISION, OFFICE FOR CIVIL RIGHTS

Delegation of Authority

I. Pursuant to the Secretary's Delegation of Authority, dated October 26, 1967, 32 F.R. 15190, the following functions and duties of the Responsible Department Official are redelegated to the Director, Operations Division, Office for Civil Rights:

1. *Acceptability of submitted materials.* To determine the acceptability of Assurances, Statements of Compliance and of Plans for the desegregation of elementary or secondary schools or school systems pursuant to 45 CFR 80.4, including determinations under 45 CFR 80.4(d)(2) regarding the separability of practices in part of an institution.

2. *Compliance information.* To assist recipients in achieving compliance; to specify records to be kept and reports to be made; to receive reports and obtain information; and to designate others to do any or all of the foregoing, pursuant to 45 CFR 80.6.

3. *Investigations.* To make investigations; to attempt to resolve matters on noncompliance; to provide information about the outcome of investigations; and to designate others to do any or all of the foregoing, pursuant to 45 CFR 80.7.

4. *Restoration of eligibility.* To make determinations concerning eligibility pursuant to 45 CFR 80.10(g)(1)–(3).

5. *Regional Offices.* The function and duty to establish, staff and direct the operations of Regional Offices, Office for Civil Rights.

II. *Notices and hearings.* The providing of notice of opportunity for hearing or notice of hearing and arrangements for consolidated or joint hearings, pursuant to 45 CFR 80.9 and the legal representation of the Department of Health, Education, and Welfare in hearings under 45 CFR, Part 80, are the responsibility of the General Counsel and may be exercised through any assigned members of his staff.

III. All other functions and duties previously delegated to the Director, Office for Civil Rights and not herein redelegated are reserved to the Director, Office for Civil Rights.

Dated: December 4, 1967.

F. PETER LIBASSI,
Director, Office for Civil Rights.

[F.R. Doc. 67-14543; Filed, Dec. 13, 1967; 8:48 a.m.]

CIVIL AERONAUTICS BOARD

[Docket 19365]

AEROPLANE RENTAL SERVICES, LTD.

Notice of Hearing

Application for a foreign air carrier permit, issued pursuant to section 402 of the Federal Aviation Act of 1958, as amended, to perform operations of a casual, occasional or infrequent nature, in common carriage, into the United States from Canada.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled matter is assigned to be held on December 28, 1967, at 1 p.m., e.s.t., in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Joseph L. Fitzmaurice.

Dated at Washington, D.C., December 8, 1967.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 67-14560; Filed, Dec. 13, 1967; 8:48 a.m.]

[Docket 14235; Order No. E-26100]

CERTAIN AIR CARRIERS

Agreement Concerning Promotional Area-Fare Tariffs for Foreign Visitors

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 11th day of December 1967.

On October 9, 1967, Bonanza Air Lines, Inc., on behalf of itself and certain other air carriers[1] filed with the Board an amendment of an existing agreement concerning the "Visit USA" tariff. The existing agreement was first approved by Order E-19961, of August 29, 1963, and by subsequent amendments the carriers have continued this agreement.[2]

By the amended agreement, the carriers would extend the agreed expiration date on the current "Visit USA" tariff for 1 year, to December 31, 1968.

In view of the nature of the amendment made, and on the basis of the reasons stated by the Board in Order E-19961, adopted August 29, 1963, the Board does not find Agreement CAB 17281–A4 adverse to the public interest or in violation of the Act.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 412, and 414 thereof,

It is ordered, That:

1. Agreement CAB 17281–A4 is approved.

2. Any air carrier party to the agreement, or any interested person may within 10 days from the date of service of this order submit statements in writing containing reasons deemed appropriate, together with supporting data in support of or in opposition to the Board's action herein. An original and 19 copies of the statement should be filed with the Board's Docket Section. The Board may, upon consideration of any statements filed, modify or rescind its action herein by subsequent order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-14540; Filed, Dec. 13, 1967; 8:48 a.m.]

[1] Alaska Airlines, Inc.; Allegheny Airlines, Inc.; Frontier Airlines, Inc.; Lake Central Airlines, Inc.; Mohawk Airlines, Inc.; North Central Airlines, Inc.; Ozark Air Lines, Inc.; Pacific Air Lines, Inc.; Piedmont Aviation, Inc.; Southern Airways, Inc.; and West Coast Airlines, Inc.

[2] Orders E-21246 of Sept. 4, 1964; E-21851, of Feb. 26, 1965; E-23075 of Dec. 7, 1965; E-24503 of Dec. 9, 1966.

[Docket 17826; Order No. E-26103]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreement Relating to Currency Matters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 11th day of December 1967.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in resolutions of the Conferences of the International Air Transport Association (IATA), and adopted at a special meeting which convened in London November 22, 1967. The agreement has been assigned the above-designated CAB agreement number and carries an effectiveness date of November 27, 1967.

The agreement has been occasioned by the recent devaluation in British currency, and it reflects technical adjustments necessary to avoid losses in revenues in terms of dollars and other currencies not devalued for sales of international air transportation. In general, IATA fares specified in terms of pounds sterling will be increased by about 16.67 percent. Fares specified in terms of dollars will remain unchanged, and rates of exchange for conversion of IATA specified fares to selling fares in local currencies will be appropriately adjusted.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, does not find the following resolutions, incorporated in the agreement indicated, to be adverse to the public interest or in violation of the Act:

CAB agreement 19946	IATA Number	Title
R-1	021h	Rates of Exchange-Amending.
R-2	021f	Conversion Rates-Adjustment of Cargo Rates and Charges.
R-3	021i	Conversion Rates-Adjustment of Passenger Fares and Charges.

Accordingly, it is ordered, That:

Agreement CAB 19946, R-1 through R-3, is approved.

Any air carrier party to the agreement, or any interested person, may, within 15 days from the date of service of this order, submit statements in writing containing reasons deemed appropriate, together with supporting data, in support of or in opposition to the Board's proposed action. An original and 19 copies of the statements should be filed with the Board's Docket Section. The Board may, upon consideration of any such statements filed, modify or rescind its action herein by subsequent order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 67-14541; Filed, Dec. 13, 1967; 8:48 a.m.]

[Docket 18650; Order No. E-26095]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreement Relating to Specific Commodity Rates

Issued under delegated authority December 8, 1967.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Joint Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement, adopted pursuant to unprotested notices to the carriers and promulgated in IATA letters dated October 26, November 16, and November 27, 1967, as set forth in the attachment hereto,[1] (1) names rates under new commodity descriptions, (2) names rates under existing commodity descriptions, and (3) cancels a few rates which the carriers found unproductive. Additionally, the following specific commodity item numbers have been changed without affecting the descriptions or rates contained therein: 4420 to 4417,[2] 6004 to 6002,[3] and 8228 to 8426.[4] Further, the Bombay to East Coast rates named under specific commodity item number 5520 ("Mica Products") have been moved to item number 5500 ("Mica").[5] The new rates reflect reductions ranging from 14.0 to 77.3 percent and are consistent with the present level of commodity rates within the applicable areas.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act, provided that approval thereof is conditioned as hereinafter ordered.

Accordingly, it is ordered, That:

Agreement CAB 19703, R-27 through R-49, be approved, provided approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

[1] Filed as part of the original document.
[2] R-30.
[3] R-34.
[4] R-36.
[5] R-32.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 67-14542; Filed, Dec. 13, 1967; 8:48 a.m.]

FEDERAL MARITIME COMMISSION

GOLFO Y. CARIBE STEAMSHIP LINES, S.A., AND N. V. SCHEEPVAART MAATSCHAPPIJ "TRANS-OCEAN"

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate; Performance

Notice is hereby given that pursuant to the provisions of section 3, Public Law 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20 (46 CFR Part 540) that a certificate of financial responsibility for indemnification of passengers for nonperformance of transportation has been issued to the following:

Golfo Y. Caribe Steamship Lines, S.A., Certificate No. P-62, Effective date: November 21, 1967.

N. V. Scheepvaart Maatschappij "Trans-Ocean" (Trans-Ocean Steamship Co.). Certificate No. P-63. Effective date: November 27, 1967.

Dated: December 11, 1967.

THOMAS LISI, *Secretary.*

[F.R. Doc. 67-14545; Filed, Dec. 13, 1967; 8:48 a.m.]

PRINCESS CRUISES CORP., INC., AND N. V. SCHEEPVAART MAATSCHAPPIJ

Security for the Protection of the Public; Application for Certificate of Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Certificate; Casualty

Notice is hereby given that pursuant to the provisions of section 2, Public Law 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20 (46 CFR 540), that a certificate of financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages has been issued to the following:

Princess Cruises Corp., Inc. (Princess Cruises). Certificate No. C-1,067. Effective date: November 21, 1967.

N. V. Scheepvaart Maatschappij "Trans-Ocean" (Trans-Ocean Steamship Co.). Certificate No. C-1,068. Effective date: November 27, 1967.

Date: December 11, 1967.

THOMAS LISI, *Secretary.*

[F.R. Doc. 67-14546; Filed, Dec. 13, 1967; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-2098 etc.]

CHAMPLIN PETROLEUM CO. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

DECEMBER 6, 1967.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service heretofore authorized as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 2, 1968.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no protest or petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given: Provided, however, that pursuant to 18 CFR 2.56, as amended, all permanent certificates of public convenience and necessity granting applications, filed after July 1, 1967, without further notice, will contain a condition precluding any filing of an increased rate at a price in excess of that designated for the particular area of production for the period prescribed therein unless at the time of filing such certificate application, or within the time fixed herein for the filing of, protests or petitions to intervene the Applicant indicates in writing that it is unwilling to accept such a condition. In the event Applicant is unwilling to accept such condition the application will be set for formal hearing.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB, *Acting Secretary.*

[1] This notice does not provide for consolidation for hearing of the several matters covered herein, nor should it be so construed.

Docket No. and date filed	Applicant	Purchaser, Field, and location	Price per Mcf	Pressure base
G-2098 D 11-13-67	Champlin Petroleum Co., Post Office Box 9365, Fort Worth, Tex. 76107.	Tennessee Gas Pipeline Co., a division of Tenneco, Inc., acreage in Victoria County, Tex.	(1)	
G-13810 D 10-20-67	Union Oil Co. of California, Union Oil Center, Los Angeles, Calif. 90017.	Transwestern Pipeline Co., Crawford Field, Eddy County, N. Mex.	(1)	
G-17862 C 11-20-67	Pan American Petroleum Corp. (Operator) et al., Post Office Box 591, Tulsa, Okla. 74102.	Texas Gas Transmission Corp., Minden Field, Webster Parish, La.	[2] 15.75	15.025
G-19681 D 11-27-67 [3]	Sinclair Oil & Gas Co., Post Office Box 521, Tulsa, Okla. 74102.	United Gas Pipe Line Co., Springer Field, Montgomery County, Tex.	Assigned	
CI60-540 11-24-67 [3]	Manco Corp. (Operator) et al. (formerly G. M. McGarr (Operator) et al.), 1706 The Six Hundred Bldg., Corpus Christi, Tex. 78401.	Valley Gas Transmission, Inc., C. A. Winn Field, Live Oak County, Tex.	15.0	14.65
CI61-329 D 10-20-67	Union Oil Co. of California	Transwestern Pipeline Co., Como Area, Beaver County, Okla.	(1)	
CI62-98 E 11-27-67	Signal Oil & Gas Co. (successor to Twin Gas Co.), Post Office Box 17126, Foy Station, Los Angeles, Calif. 90017.	Lone Star Gas Co., acreage in Carter County, Okla.	15.0	14.65
CI62-304 D 11-27-67	do	do	15.0	14.65
CI64-1155 C&D 11-29-67 [4]	Chevron Oil Co., Western Division, 1700 Broadway, Denver, Colo. 80202.	Cascade Natural Gas Corp., Mam Creek Area, Garfield County, Colo.	15.0	15.025
CI64-1251 C 11-30-67	Ashland Oil & Refining Co., Post Office Box 18695, Oklahoma City, Okla. 73118.	Arkansas Louisiana Gas Co., Southwest Leon Field, Kingfisher County, Okla.	15.0	14.65
CI65-451 C 11-24-67	Sinclair Oil & Gas Co., et al., Post Office Box 521, Tulsa, Okla. 74102.	El Paso Natural Gas Co., Basin Dakota Field, San Juan County, N. Mex.	15.0	15.025
CI67-154 C 11-15-67	Big Chief Drilling Co., Post Office Box 14237, Oklahoma City, Okla. 73114.	Oklahoma Natural Gas Gathering Corp.,[5] Ringwood Field, Major County, Okla.	12.0	14.65
CI67-683 C 11-27-67	Ashland Oil & Refining Co.	Arkansas Louisiana Gas Co., Chenniere Creek Field, Quachita Parish, La.	13.5	15.025
CI67-1460 C 11-24-67	Continental Oil Co., Post Office Box 2197, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., South Peek Field, Roger Mills County, Okla.	[2] 15.0	14.65
CI68-543 A 10-16-67	Tom Brown Drilling Co., Inc. (Operator), et al.,[6] Post Office Box 5706, Midland, Tex. 79701.	Northern Natural Gas Co., Ozona Northeast (Canyon 7320') Field, Crockett County, Tex.	16.5	14.65
CI68-660 A 11-21-67	Sinclair Oil & Gas Co.[10]	Natural Gas Pipeline Company of America, acreage in Loving and Winkler Counties, Tex.	16.5	14.65
CI68-691 A 11-21-67	do[10]	Natural Gas Pipeline Company of America, Lochridge Area, Ward County, Tex.	16.5	14.65
CI68-692 A 11-22-67	Newmont Oil Co., et al., 1125 Capital National Bank Bldg., Houston, Tex. 77002.	Transcontinental Gas Pipe Line Corp., West Marmentau Field, Jefferson Davis Parish, La.	20.0	15.025
CI68-693 A 11-24-67	Brazos Oil & Gas Co. (Operator) et al., 2236 Bank of the Southwest Bldg., Houston, Tex. 77002.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., East Oak Grove Field, Cameron Parish, La.	20.5	15.025
CI68-694 A 11-24-67	Humble Oil & Refining Co., Post Office Box 2180, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., Dover-Hemessey Gas Products Plant, Kingfisher County, Okla.	[2] 15.0	14.65
CI68-695 A 11-24-67	Prather Drilling & Producing Co., Inc., Post Office Box 1669, Ashland, Ky. 41101.	United Fuel Gas Co., acreage in Martin County, Ky.	23.0	15.325
CI68-696 A 11-24-67	do	do	25.0	15.325
CI68-697 A 11-24-67	B & D Corp., Operator, Suite 302, 236 Bldg., Jackson, Miss. 39201.	United Gas Pipe Line Co., Gwinville Field, Jefferson Davis County, Miss.	17.0	15.025
CI68-698 A 11-24-67	Marine Minerals, Inc. (Operator) et al., 1919 Bank of the Southwest Bldg., Houston, Tex. 77002.	Trunkline Gas Co., Devils Pocket Field, Newton County, Tex.	[11] 17.0	14.65
CI68-699 B 11-27-67	Sea & Warner Gas Co., 410 Courtfield Ave., Winchester, Va. 22601.	Consolidated Gas Supply Corp., Collins Settlement District, Lewis County, W. Va.	Uneconomical	
CI68-700 B 11-27-67	A. S. Alexander, et al. d.b.a. Brinkley Gas Co., c/o E. M. Kahn, agent, Box 1408, Charleston, W. Va. 25301.	Consolidated Gas Supply Corp., Glenville and Courthouse Districts, Lewis and Gilmer Counties, W. Va.	Uneconomical	
CI68-701 B 11-27-67	Summers Oil & Gas Co., c/o W. C. Reeves, agent, Smithville, W. Va. 26178.	Consolidated Gas Supply Corp., Murphy District, Ritchie County, W. Va.	Uneconomical	
CI68-702 A 11-27-67	W. G. Rogers et al., c/o Jacob Geidberg, attorney, 810 Pennsylvania Bldg., Washington, D.C. 20004.	Panhandle Eastern Pipe Line Co., Mocane-Laverne Area, Beaver County, Okla.	[11] 18.7	14.65
CI68-703 A 11-22-67	Banquete Gas Co., a division of Crestmont Oil & Gas Co., 2622 Mission St., San Marino, Calif. 91108.	United Gas Pipe Line Co., Odem and Taft Fields, San Patricio County, Tex.	14.0	14.65

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, Field, and location	Price per Mcf	Pressure base
CI68-704 A 11-20-67	Russell V. Johnson, Jr., 925 Cravens Bldg., Oklahoma City, Okla. 73102.	Natural Gas Pipeline Co. of America, Brisk Area, Beckham County, Okla.	[1] 15.0	14.65
CI68-705 B 11-17-67	McCarrick, Gouger & Mitchell (Operator) et al., 915 N B C Bldg., San Antonio, Tex. 78205.	Transkline Gas Co., South Holdeman Field, Jim Wells County, Tex.	Depleted	
CI68-707 B 11-20-67	Bright & Schiff, 307 Mercantile Continental Bldg., Dallas, Tex. 75201.	Texas Eastern Transmission Corp., Texana, South (Cole) Field, Live Oak County, Tex.	Depleted	
CI68-708 B 11-20-67	La Gloria Oil & Gas Co., Post Office Box 2221, Houston, Tex. 77001.	Texas Eastern Transmission Corp., Cottonwood Creek Field, De Witt County, Tex.	Depleted	

[1] Purchaser has indicated to Applicant that it will be unable to purchase and receive from it the total available production.
[2] Leases are undeveloped or have expired since execution of the gas purchase contract.
[3] Includes 1.75 cents per Mcf tax reimbursement.
[4] Deletes acreage assigned to Gideon Oil Co.
[5] Amendment to certificate filed to reflect change in Operator.
[6] Deletes nonproductive leases.
[7] National Fuels Corp. purchases liquids extracted from Applicant's gas at the Ringwood Gasoline Plant.
[8] Subject to upward and downward B.t.u. adjustment.
[9] By letter filed Nov. 17, 1967, Applicant agreed to accept permanent certificate containing conditions similar to those imposed by Opinion No. 468, as modified by Opinion No. 468-A.
[10] Applicant states its willingness to accept permanent certificate containing conditions similar to those imposed by Opinion No. 468, as modified by Opinion No. 468-A.
[11] 0.25 cent per Mcf added for dehydration.
[12] Includes 1.7 cents per Mcf upward B.t.u. adjustment. Subject to upward and downward B.t.u. adjustment.

[F.R. Doc. 67-14447; Filed, Dec. 13, 1967; 8:45 a.m.]

[Docket No. CP67-347]

ARKANSAS LOUISIANA GAS CO.

Notice of Petition To Amend

DECEMBER 6, 1967.

Take notice that on November 27, 1967, Arkansas Louisiana Gas Co. (Petitioner), Post Office Box 1126, Shreveport, La. 71102, filed in Docket No. CP67-347 a petition to amend the order issued October 30, 1967, in said docket by requesting an increase in the annual volumetric limitation to an industrial customer, Nekoosa-Edwards Paper Co. (Nekoosa-Edwards), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Under the sales contract Petitioner has agreed to supply Nekoosa-Edwards requirements for its new paper mill located near the town of Ashdown in Little River County, Ark., such requirements being estimated at 6,000 Mcf per day in normal operations and 14,400 Mcf per day under extraordinary conditions.

By the order issued October 30, 1967, in the instant docket, Petitioner was authorized to transport for sale to Nekoosa-Edwards a maximum of 1,680,000 Mcf per annum, which figure was Nekoosa-Edwards' best estimate of its annual requirements for a new paper mill not yet in operation. Accordingly, in order to prevent any interruption in service to Nekoosa-Edwards, Petitioner requests that the aforementioned order be amended to allow maximum deliveries to Nekoosa-Edwards of 2,190,000 Mcf per annum (6,000 Mcf×365).

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 29, 1967.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 67-14496; Filed, Dec. 13, 1967; 8:45 a.m.]

[Docket No. CP68-161]

LONE STAR GAS CO.

Notice of Application

DECEMBER 5, 1967.

Take notice that on November 17, 1967, Lone Star Gas Co. (Applicant), 301 South Harwood Street, Dallas, Tex. 75201, filed in Docket No. CP68-161 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the operation of certain natural gas facilities for the transportation of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks permission and approval to abandon certain lateral pipelines and related facilities extending from Applicant's existing pipeline system to (1) a single source of gas supply in the area of production, and (2) various points of sale, principally to well drilling and lease operating oil field customers. Said lines and facilities, located on portions of Applicant's system operated for the transportation of natural gas in interstate commerce, are, according to Applicant, no longer needed or required to transport gas due to the termination of sales of gas, the rearrangement of gathering facilities or the disconnection of depleted sources of gas supply.

Specifically, Applicant seeks permission and approval to abandon by sale to Signal Oil & Gas Co. for $14,859.19 a 13,410-foot portion of Line GD-L. Various other segments of pipeline and appurtenant facilities will be abandoned by removal and salvage.

The total estimated cost of the removal is $8,406, which will be financed from working funds on hand.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 28, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 67-14497; Filed, Dec. 13, 1967; 8:45 a.m.]

MANUFACTURERS LIGHT AND HEAT CO. ET AL.

Order Providing for Hearing and Suspending Proposed Revised Tariff Provisions, Consolidating Proceedings, and Prescribing Prehearing Conference Procedure; Correction

DECEMBER 7, 1967.

Issued: November 29, 1967.

The Manufacturers Light and Heat Co., Docket No. RP68-5; United Fuel Gas Co., Docket No. RP68-6; Atlantic Seaboard Corp., Docket No. RP68-7; Kentucky Gas Transmission Corp., Docket No. RP68-8; The Ohio Fuel Gas Co., Docket No. RP68-9; Home Gas Co. Docket No. RP68-10.

Change footnote 2 of Commissioner Ross' accompanying statement as follows:

Atlantic Seaboard Corp. et al., Docket Nos. G-16401 et al., Op. 523, July 14, 1967, ——— FPC ———.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 67-14498; Filed, Dec. 13, 1967; 8:45 a.m.]

[Docket No. CP67-292]

TRANSWESTERN PIPELINE CO.

Notice of Petition To Amend

DECEMBER 6, 1967.

Take notice that on November 20, 1967, Transwestern Pipeline Co. (Petitioner), Post Office Box 1502, Houston, Tex. 77001, filed in Docket No. CP67-292 a petition to amend the order issued in said docket on June 23, 1967, and subsequently amended October 2, 1967, requesting authorization to enlarge its service area, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the order issued in the instant docket on June 23, 1967, as amended October 2, 1967, Petitioner was authorized to sell and deliver to Southern Union Gas Co. (Southern) up to 100,000 Mcf of natural gas per year in Loving, Winkler, Ward, Reeves, Crane, and Pecos Counties, Tex.

In the instant petition, Petitioner seeks to enlarge the service area to add Curry, Roosevelt, Chaves, Eddy, and Lea Counties, N. Mex., all sales to Southern to be made under Petitioner's existing Rate Schedule RW-1.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 28, 1967.

KENNETH F. PLUMB,
Acting Secretary.

F.R. Doc. 67-14499; Filed, Dec. 13, 1967; 8:45 a.m.]

[Docket No. CP68-163]

TRANSWESTERN PIPELINE CO.

Notice of Application

DECEMBER 5, 1967.

Take notice that on November 20, 1967, Transwestern Pipeline Co. (Applicant), Post Office Box 1502, Houston, Tex. 77001, filed in Docket No. CP68-163 a "budget-type" application pursuant to section 7(c) of the Natural Gas Act and section 157.7(c) of the regulations under the Act for a certificate of public convenience and necessity authorizing the construction, installation, and operation of gas sales facilities for the sale of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to construct during the calendar year 1968 and operate various gas sales and transportation facilities in order to expedite the effecting of minor sales and the construction and operation of minor adjustments to its transmission system. Applicant states that delivery to any one purchaser through such facilities will not exceed 100,000 Mcf annually and will not be used for boiler fuel purposes as defined in section 157.7(c)(9) of the Commission's regulations.

The total estimated cost of the proposed facilities will not exceed $150,000 which will be financed from funds made available from company operations.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 28, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 67-14500; Filed, Dec. 13, 1967; 8:45 a.m.]

[Docket Nos. RP68-12, RP68-13]

ARKANSAS LOUISIANA GAS CO.

Notice of Proposed Changes in Rates and Charges

DECEMBER 11, 1967.

Take notice that on November 28, 1967, Arkansas Louisiana Gas Co. (ArkLa) tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 2, relating to sales of natural gas for resale in interstate commerce.

Supplement No. 11 to Rate Schedule XFS-1, assigned Docket No. RP68-12, proposes a rate of 12.27 cents per Mcf (plus gathering tax reimbursement) to Mississippi River Fuel Corp. from producing area of Lincoln Parish, La. The resulting increase amounts to approximately $383 per year based on 1968 sales estimates.

Supplement No. 2 to ArkLa's Rate Schedule XFS-18, assigned Docket No. RP68-13, proposes a rate of 13.5 cents per Mcf (plus gathering tax reimbursement) to Texas Gas Transmission Corp. from the producing area of Ouachita Parish, La. The resulting increase amounts to approximately $376 per year based on 1968 sales estimates.

Both of the above-proposed changes are requested to become effective January 1, 1968.

Protests, petitions to intervene, or notices of intervention with respect to the above described proposed tariff changes may be filed with the Federal Power Commission, Washington, D.C. 20426, pursuant to the Commission's rules of practice and procedure on or before December 27, 1967.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-14568; Filed, Dec. 13, 1967; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-3421]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

DECEMBER 8, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period December 9, 1967, through December 18, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-14513; Filed, Dec. 13, 1967; 8:48 a.m.]

[70-4504]

DELMARVA POWER & LIGHT CO.

Notice of Proposed Issue and Sale of Notes to Banks and to Dealer in Commercial Paper and Exemption From Competitive Bidding

DECEMBER 8, 1967.

Notice is hereby given that Delmarva Power & Light Co. ("Delmarva"), 600 Market Street, Wilmington, Del. 19899, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 6(b) of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Delmarva requests that, for the period commencing on the granting of this application and ending 1 year thereafter, the exemption from the provisions of section 6(a) of the Act afforded to it by the first sentence of section 6(b) of the

Act, relating to the issue of short-term notes, be increased from 5 percent to approximately 8 percent of the principal amount and par value of the other securities of Delmarva at the time outstanding. Delmarva proposes, under said exemption, to issue and sell short-term notes (including commercial paper) in an aggregate face amount of not to exceed $15 million to be outstanding at any one time.

The proceeds from the issue and sale of the short-term notes, including the commercial paper, are to be utilized by Delmarva to finance the 1967–68 construction program of Delmarva and of its subsidiary companies, Delmarva Power & Light Co. of Maryland and Delmarva Power & Light Co. of Virginia, which program is estimated at approximately $76,436,000, including expenditures of $29,696,000 made during the 9 months ended September 30, 1967.

The notes to be issued to banks will aggregate not in excess of $11 million outstanding at any one time, will mature during the 1-year effective period of the application and not more than 180 days from the date of issue, and will bear interest at the prime commercial bank rate (presently 6 percent per annum) in effect as of the dates the notes are executed. The proposed borrowings will be effected from among banks in maximum amounts as set forth below:

Wilmington Trust Co., Wilmington, Del	$4,000,000
Bank of Delaware, Wilmington, Del	2,300,000
Farmers Bank of the State of Delaware, Wilmington, Del	1,100,000
Delaware Trust Co., Wilmington, Del	600,000
First National Bank of Maryland, Salisbury, and Baltimore, Md	3,000,000
Total	$11,000,000

The notes may be prepaid at any time without penalty, except that Delmarva may not repay any note in whole or in part from the proceeds of any subsequent bank loan at a lower rate of interest. Repayment of bank loans may also be made from the proceeds from the issuance and sale of short-term commercial paper as described below. No commitment fee or similar fee will be paid to the banks.

Delmarva also proposes to issue and sell, from time to time during 1968, commercial paper in the form of short-term promissory notes to an investment banker and dealer in commercial paper, A. G. Becker & Co., Inc. ("dealer"), of up to $8 million face amount to be outstanding at one time. The total amount of commercial paper and bank loans outstanding at any one time will not exceed $15 million. The commercial paper notes will be of varying maturities, with no such notes maturing more than 270 days after the date of issue. None of such notes will mature later than the termination date of the 1-year effective period requested in the application, and none will be prepayable prior to maturity. Such notes, in denominations of not less than $50,000 and not more than $1 million, will be issued and sold by Delmarva directly to the dealer at a discount which will not be in excess of the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and of the particular maturity sold by issuers thereof to commercial paper dealers. The application states that the commercial paper will be sold by Delmarva at effective interest costs not to exceed the prime rate of commercial banks on the date of issue.

It is stated that no commission or fee will be payable in connection with the issue and sale of the commercial paper notes. The dealer, as principal, will reoffer such notes at a discount of one-eighth of 1 percent per annum less than the prevailing discount rate to Delmarva. The notes will be reoffered in a manner which will not consitute a public offering to no more than 100 identified and designated customers in a list (nonpublic) prepared in advance by the dealer. No additions will be made to this customer list, which includes commercial banks, insurance companies, corporate pension funds, investment trusts, foundations, colleges and universities, municipal and State benefit funds, eleemosynary institutions, finance companies, and nonfinancial corporations which invest surplus funds in commercial paper. It is expected that Delmarva's commercial paper notes will be held by customers to maturity, but, if they wish to resell prior thereto, the dealer, pursuant to a verbal repurchase agreement, will repurchase the notes and reoffer the same to others in the group of customers.

The application states that Delmarva tentatively plans a sale of long-term bonds during 1968 and anticipates that the bank loans and commercial paper then outstanding will be repaid from the proceeds of such sale.

Delmarva requests exception from the competitive bidding requirements of Rule 50 for the proposed issue and sale of its commercial paper pursuant to paragraph (a) (5) thereof. The company states that the proposed commercial paper notes will have a maturity of 270 days or less and will be sold at effective interest costs that will not exceed the bank prime rate and that it expects to sell its commercial paper at lower effective interest costs. It is further stated that it is not practical to invite competitive bids for commercial paper and that current rates for commercial paper for such prime borrowers as Delmarva are published daily in financial publications.

The application states that fees and expenses related to the proposed transactions are estimated not to exceed $1,000. It is further stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 27, 1967, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20 (a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14514; Filed, Dec. 13, 1967; 8:46 a.m.]

FASTLINE, INC.

Order Suspending Trading

DECEMBER 8, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Fastline, Inc., New York, N.Y., otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period December 9, 1967, through December 18, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14515; Filed, Dec. 13, 1967; 8:46 a.m.]

[811-1472]

FIRST INVESTORS INCOME FUND, INC.

Notice of Filing of Application for Order Declaring That Company Has Ceased To Be Investment Company

DECEMBER 8, 1967.

Notice is hereby given that First Investors Income Fund, Inc. ("applicant"), 120 Wall Street, New York, N.Y., a Maryland corporation registered as an open-end nondiversified management company under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of applicant's representations, which are summarized below.

Applicant states that it has determined not to proceed with its proposed public offering, that it expects to file an application for dissolution under State law upon receipt of the Commission's order on the application pursuant to section 8(f), that no shares of the applicant have ever been issued, and that it has no assets and has had no operations. Applicant has applied for the Commission's consent to withdrawal of its registration statement pursuant to Rule 477 under the Securities Act of 1933.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than December 29, 1967, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address set forth above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14516; Filed, Dec. 13, 1967; 8:47 a.m.]

NYLO-THANE PLASTICS CORP.

Order Suspending Trading

DECEMBER 8, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Nylo-Thane Plastics Corp., Farmingdale, N.Y., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period December 8, 1967, through December 12, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14517; Filed, Dec. 13, 1967; 8:47 a.m.]

[File No. 0-892]

PAKCO COMPANIES, INC.

Order Suspending Trading

DECEMBER 8, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Pakco Companies, Inc., and all other securities of Pakco Companies, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period December 9, 1967, through December 18, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14518; Filed, Dec. 13, 1967; 8:47 a.m.]

[File No. 1-4871]

WESTEC CORP.

Order Suspending Trading

DECEMBER 8, 1967.

The common stock, 10 cents par value, of Westec Corp., being listed and registered on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Westec Corp., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the American Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period December 9, 1967, through December 18, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14519; Filed, Dec. 13, 1967; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 1132]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

DECEMBER 8, 1967.

The following applications are governed by Special Rule 1.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceedings. A protest under these rules should comply with § 1.247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request

[1] Copies of Special Rule 1.247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

for oral hearing, such requests shall meet the requirements of § 1.247(d)(4) of the special rule, and shall include the certification required therein.

Section 1.247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's General Policy Statement Concerning Motor Carrier Licensing Procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 2368 (Sub-No. 13), filed November 22, 1967. Applicant: BRALLEY-WILLETT TANK LINES, INC., 200 Stockton Street, Post Office Box 495, Richmond, Va. 23204. Applicant's representative: E. Stephen Heisley, 529 Transportation Building, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from Montvale, Va., to points in Sullivan County, Tenn. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Richmond, Va.

No. MC 2567 (Sub-No. 12), filed November 4, 1967. Applicant: BELBEY TRANSFER COMPANY, a corporation, 520 Belleville Turnpike, Kearny, N.J. 07032. Applicant's representative: Bert Collins, 140 Cedar Street, New York, N.Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Elevators, escalators, and machinery, materials, and supplies*, used in the manufacture, installation, or maintenance of elevators and escalators, between Yonkers, N.Y., and points within 5 miles thereof, and Harrison, N.J., and points within 5 miles thereof on the one hand, and, on the other, points in Maryland, Washington, D.C., and the commercial zone thereof, Rhode Island, Massachusetts, and points in Pennsylvania on and west of U.S. Highway 11, and points in New York on and west of U.S. Highway 14. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 2962 (Sub-No. 35), filed November 21, 1967. Applicant: A. & H. TRUCK LINE, INC., 1111 East Louisiana Street, Evansville, Ind. 47717. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading, between junction U.S. Highway 460 and Indiana Highway 64 near Edwardsville, Ind., and Huntingburg, Ind., over Indiana Highway 64, serving no intermediate points and serving the termini points for purpose of joinder only, as an alternate route for operating convenience only. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Louisville, Ky.

No. MC 10345 (Sub-No. 85) (Correction), filed November 15, 1967, published FEDERAL REGISTER issue of December 7, 1967, and republished as corrected this issue. Applicant: C & J COMMERCIAL DRIVEAWAY, INC., 1905 West Mount Hope Avenue, Lansing, Mich. Applicant's representative: James W. Wrape, 2111 Sterick Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles* (except trailers), assembled in Canada for Oldsmobile Division, General Motors Corp. in truckaway service, in secondary movements, from Pittsburgh, Pa., to points in Pennsylvania, Ohio, West Virginia, and Frostburg and Cumberland, Md., restricted to vehicles which have had an immediately prior movement by rail. NOTE: The purpose of this republication is to more clearly set forth the commodities proposed to be transported. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., Chicago, Ill., or Washington, D.C.

No. MC 13250 (Sub-No. 94), filed November 24, 1967. Applicant: J. H. ROSE TRUCK LINE, INC., 5003 Jensen Drive, Post Office Box 16190, Houston, Tex. 77022. Applicant's representative: Thomas E. James, The 904 Lavaca Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Material handling equipment, winches, compaction and roadmaking equipment, rollers, self-propelled and non-self-propelled, mobile cranes and highway freight trailers*, (2) *parts, attachments, and accessories* of the commodities described in (1) above, between the plantsites of the Hyster Co., located at or near Danville, Kewanee, and Peoria, Ill., on the one hand, and, on the other, points in Indiana, Arkansas, Texas, Utah, Kentucky, Missouri, New Mexico, Nevada, Tennessee, Kansas, Colorado, California, Louisiana, Oklahoma, and Arizona. Restricted to the handling of traffic originating at or destined to the named plantsites. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 19251 (Sub-No. 9) (Correction), filed July 13, 1967, published in the FEDERAL REGISTER issues of August 23, 1967, and October 26, 1967, and republished as corrected, this issue. Applicant: HERBERT M. ADAMS, doing business as ADAMS VAN & STORAGE CO., 80 Dutton Street, Box 803, Bangor, Maine 04401. Applicant's representative: Robert J. Gallagher, Professional Building, 66 Central Street, Wellesley, Mass. 02181. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, restricted to the transportation of shipments both moving on the through bill of lading of a freight forwarder operating under the exemption provisions of section 402(b)(2) of the Interstate Commerce Act, as amended, and having an immediately prior or subsequent out of state line haul movement by rail, motor, water, or air between points in Maine. NOTE: The purpose of this republication is to add the territory description which was inadvertently omitted from previous publication. If a hearing is deemed necessary, applicant requests it be held at Bangor, Augusta, or Portland, Maine.

No. MC 20317 (Sub-No. 1), filed November 29, 1967. Applicant: CASEY & HAYES, INC., 295 Franklin Street, Boston, Mass. Applicant's representative: Robert J. Gallagher, Professional Building, 66 Central Street, Wellesley, Mass. 02181. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are generally sold by furniture stores, appliance stores, musical instrument stores (that is specifically new furniture, musical instruments, and appliances such as refrigerators, stoves, and other appliances), between points in Massachusetts, east of the Connecticut River, Providence, R.I., and Hartford, Conn., on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, and New York. NOTE: If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 20992 (Sub-No. 19), filed November 22, 1967. Applicant: DOTSETH TRUCK LINE, INC., Knapp, Wis. 54749. Applicant's representative: W. T. Doar, Jr., 103 North Main Avenue, New Richmond, Wis. 54017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Assembled wood forage boxes with self-unloading metal parts kits and farm wagons*, all of which require special equipment, from Glenwood City, Wis., to points in Wisconsin, Minnesota, Iowa, South Dakota, and North Dakota. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Madison, Wis.

No. MC 22278 (Sub-No. 36), filed November 22, 1967. Applicant: TAKIN BROS. FREIGHT LINE, INC., 2125 Commercial, Waterloo, Iowa 50704. Applicant's representative: Truman A Stockton, Jr., The 1650 Grant Street Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products, and articles* distributed by meat packinghouses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except liquid commodities in bulk and hides), from Le Mars, Iowa, to points in Illinois on and north of U.S. Highway 136. NOTE: If a hearing is deemed necessary, applicant requests it be held at Des Moines or Waterloo, Iowa, or Chicago, Ill.

No. MC 25798 (Sub-No. 168), filed November 22, 1967. Applicant: CLAY HYDER TRUCKING LINES, INC., 502 East Bridgers Avenue, Post Office Box 1186, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from points in Chester County, Pa., to points in Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 29886 (Sub-No. 235) (Amendment), filed November 2, 1967, published in the FEDERAL REGISTER issue of November 23, 1967, amended and republished as amended, this issue. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46621. Applicant's representative: Charles Pieroni, 4000 West Sample Street, South Bend, Ind. 46621. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Material handling equipment; winches; compaction and roadmaking equipment, rollers, self-propelled and non-self-propelled mobile cranes; and highway freight trailers*; and (2) *parts, attachments, and accessories* for the commodities described in (1) above, between the plantsites of the Hyster Co., located at or near Danville, Kewanee, and Peoria, Ill., on the one hand, and, on the other, points in Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, Vermont, West Virginia, and the District of Columbia, restricted to the handling of traffic originating at or destined to the named plantsites. NOTE: The purpose of this republication is to include the District of Columbia as a destination point. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Nashville, Tenn.

No. MC 30844 (Sub-No. 243), filed November 22, 1967. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, Iowa 50704. Applicant's representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates* 209 and 766 (except liquid commodities in bulk and hides), from Le Mars, Iowa, to points in Colorado, Connecticut, Delaware, District of Columbia, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Vermont. NOTE: If a hearing is deemed necessary, applicant requests it be held at Des Moines or Waterloo, Iowa, or Chicago, Ill.

No. MC 31600 (Sub-No. 625), filed November 24, 1967. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street., Waltham, Mass. 02154. Applicant's representative: Harry C. Ames, Jr., 529 Transportation Building, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals* (except calcium chloride) in bulk, in tank or hopper-type, from Solvay, N.Y., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 45736 (Sub-No. 32), filed November 22, 1967. Applicant: GUIGNARD FREIGHT LINES, INC., Highway 21 North, Post Office Box 26067, Charlotte, N.C. 28213. Applicant's representative: W. D. Turner, Sr., 1415 East Boulevard, Post Office Box 3715, Charlotte, N.C. 28203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials, siding and siding materials*, from Charleston, S.C., to points in North Carolina on and west of U.S. Highway 1, and points in Virginia. NOTE: Applicant states the instant application is a duplication in part of its Sub 14 with the exception of two counties located on the eastern shore of Virginia. Applicant further states that its authorized authority in Sub 14 requires that traffic from Charleston, S.C., be transported through the gateway of Concord, N.C., and the granting of this application would eliminate the gateway requirement on this commodity. Applicant requests that should the instant application as filed be granted, its Sub 14 be canceled. If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C.

No. MC 50002 (Sub-No. 57), filed November 24, 1967. Applicant: T. CLARENCE BRIDGE AND HENRY W. BRIDGE, a partnership, doing business as BRIDGE BROTHERS, Bridge and Anderson Streets, Box 929, Lamar, Colo. 81052. Applicant's representative: C. Zimmerman, 503 Schweiter Building, Wichita, Kans. 67202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer solutions*, from the airport storage facilities of Terra Chemicals International, Inc., at Air Park West, located at or near Lincoln, Nebr., to points in Colorado, Kansas, Nebraska, and South Dakota. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Sioux City, Iowa, or Omaha, Nebr.

No. MC 51146 (Sub-No. 68), filed November 24, 1967. Applicant: SCHNEIDER TRANSPORT & STORAGE, INC., 817 McDonald Street, Green Bay, Wis. 54306. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Woodpulp*, except in bulk, in tank or hopper type vehicles, between points in Wisconsin. NOTE: Applicant states it does not seek any duplication. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 55777 (Sub-No. 6), filed November 28, 1967. Applicant: MILLS TRANSFER CO., a corporation, 47 Sycamore Street, Gallipolis, Ohio 45631. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Structural steel, assembled and unassembled, and parts for coal mining machinery, coal handling machinery and coal preparation machinery*, from Ironton, Ohio, to points in Illinois, Indiana, Kentucky, Pennsylvania, Tennessee, Virginia, and West Virginia. Restricted to interchange traffic only. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., Columbus, Ohio, or Washington, D.C.

No. MC 59367 (Sub-No. 54), filed November 24, 1967. Applicant: DECKER TRUCK LINE, INC., Post Office Box 915, Fort Dodge, Iowa 50501. Applicant's representative: William A. Landau, 1451 East Grand Avenue, Des Moines, Iowa 50306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Fort Dodge, Iowa, to points in Minnesota, Nebraska, North Dakota, and South Dakota. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 68572 (Sub-No. 4), filed November 16, 1967. Applicant: WAHOO TRANSFER, INC., Mead, Nebr. 68041. Applicant's representative: Duane W. Acklie, Box 2028, 605 South 14th, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *General commodities*, except those requiring special equipment, (1) over regular routes, (a) between Lincoln and Wahoo, Nebr., over U.S. Highway 77 (also from Lincoln, north over 14th Street and unnumbered county roads to junction U.S. Highway 77 east of Davey, Nebr.), and return over the same routes, serving all intermediate points, and the off-route points of Weston, Malmo, Colon, and Cedar Bluffs, Nebr.; and (b) between junction U.S. Highway 77 and Nebraska Highway 92, and Omaha, Nebr., over Nebraska Highway 92, serving all intermediate points, and the off-route points of Ithaca, Fireston (Nebraska Ordnance Plant), Yutan and Venice, Nebr.; and (2) over irregular routes, (a) between points in

Saunders County, Nebr.; and (b) between points in Saunders County, Nebr., on the one hand, and, on the other, points in Nebraska. NOTE: Applicant states the purpose of the instant application is to seek conversion of its certificate of registration in MC 685/2 (Sub-No. 2), to a certificate of public convenience and necessity, as a condition stipulated in the Commission's order of March 6, 1967, in the pending transfer application in MC-FC-69473, in which applicant is named as transferee. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 76032 (Sub-No. 221), filed November 15, 1967. Applicant: NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, Colo. 80223. Applicant's representative: William E. Kenworthy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except explosives, heavy machinery, livestock, fresh fish, coal, ore, sand, gravel, and household goods as defined by the Commission, between junction U.S. Highway 30 and Interstate Highway 35, at or near Cameron, Mo., and junction U.S. Highway 69 and Interstate Highway 35, at or near Liberty, Mo., over Interstate Highway 35, as an alternate route for operating convenience only, serving no intermediate points. NOTE: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Kansas City, Mo.

No. MC 76032 (Sub-No. 222) filed November 22, 1967. Applicant: NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, Colo. 80223. Applicant's representative: William E. Kenworthy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except classes A and B explosives, livestock, household goods as defined by the Commission, and commodities in bulk, between junction U.S. Highway 50 and Interstate Highway 5-580, and the intersection of California Highway 152 and Interstate Highway 5-580; from junction U.S. Highway 50 and Interstate Highway 5-580 near Tracy, Calif., thence over Interstate Highway 5-580 to junction California Highway 152 and Interstate Highway 580 near Los Banos, Calif., and return over the same route, serving no intermediate points, and serving the Aforesaid junctions for purpose of joinder only, as an alternate route for operating convenience only in connection with applicant's regular route service between San Francisco, and Barstow, Calif. NOTE: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or San Francisco, Calif.

No. MC 82101 (Sub-No. 5), filed November 24, 1967. Applicant: WESTWOOD CARTAGE, INC., 26 Everett Street, Westwood, Mass. 02090. Applicant's representative: Frank J. Weiner, Investors Building, 536 Granite Street, Braintree, Mass. 02184. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail and chain grocery and food business houses, and in connection therewith, *equipment, materials, and supplies* used in the conduct of such business (except commodities in bulk, in tank vehicles), from Dedham, Mass., to Salem, N.H., limited to a transportation service to be performed under a continuing contract or contracts with General Foods Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 95876 (Sub-No. 75) (Amendment), filed October 26, 1967, published FEDERAL REGISTER issues of November 16 and November 30, 1967, and republished as amended, this issue. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. Applicant's representative: Donald A. Morken, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Material handling equipment, winches, compaction and road making equipment, rollers, self-propelled and non-self-propelled mobile cranes, and highway freight trailers*, (2) *parts, attachments, and accessories* for the commodities described in (1) above, between the plantsite of the Hyster Co. located at or near Danville, Kewanee, and Peoria, Ill., on the one hand, and, on the other, points in Minnesota, North Dakota South Dakota, and Wisconsin. NOTE: The purpose of this republication is to broaden the radial authority of the application. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 97729 (Sub-No. 6), filed November 24, 1967. Applicant: AAA MOTOR LINES, INC., 1205 Reeve Street, Post Office Box 1326, Dothan, Ala. Applicant's representative: Samuel W. Taylor, 57 Adams Avenue, Post Office Box 2069, Montgomery, Ala. 36104. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except commodities of unusual value, classes A and B explosives, commodities in bulk and commodities requiring special equipment), (1) between Montgomery and Opp, Ala., over U.S. Highway 331 to Opp, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only, (2) between Montgomery and Andalusia, Ala., from Montgomery over U.S. Highway 331 to Brantley, Ala.; thence over U.S. Highway 29 to Andalusia, and return over the same route, serving no intermediate points as an alternate route for operating convenience only, (3) between Troy and Andalusia, Ala., over U.S. Highway 29 to Andalusia and return over the same route, serving no intermediate points as an alternate route for operating convenience only, and (4) between Ozark and Ariton, Ala., from Ozark over U.S. Highway 231 to the intersection of U.S. Highway 231 and Alabama Highway 51, at or near Rockyhead, Ala., thence northeastwardly over Alabama Highway 51 to Ariton and return over the same route, serving no intermediate points as an alternate route for operating convenience only. NOTE: If a hearing is deemed necessary, applicant requests it be held at Montgomery, Ala.

No. MC 102616 (Sub-No. 822), filed November 24, 1967. Applicant: COASTAL TANK LINES, INC., 501 Grantley Road, York, Pa. 17405. Applicant's representative: Harold G. Hernly, 711 14th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Chemicals, dry*, in bulk, in tank or hopper vehicles, from Neal, W. Va., to points in Alabama, Arkansas, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio (except points in Ashtabula, Cuyahoga, Lake, Summit, Muskingum, Licking, Franklin, and Wayne Counties), Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 103683 (Sub-No. 261), filed November 15, 1967. Applicant: HUGHES TRANSPORTATION, INC., Box 851, Charleston, S.C. Applicant's representative: Frank B. Hand, Jr., 1111 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dangerous explosives, component parts* (not including ingredients) thereof, *ammunition not classified as a dangerous or less dangerous explosives, and empty ammunition containers*, between points within 10 miles of Nashville, Tenn. (not including Nashville), on the one hand, and, on the other, the site of Camp Atterbury, Ind., points in that part of Louisiana east of the Mississippi River and points in Delaware, Florida, Georgia, Kentucky, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia with service at points within 10 miles of Nashville restricted to the interchange of traffic with other motor carriers which presently may interchange traffic with applicant at the site of the Blue Grass Ordnance Depot near Richmond, Ky., and points within 3 miles of such depot. NOTE: Applicant presently holds property contract carrier authority under MC 80340 Sub 2, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 106398 (Sub-No. 210), filed November 24, 1967. Applicant: MORGAN DRIVE AWAY, INC., 2800 West Lexington Avenue, Elkhart, Ind. 46514. Applicant's representative: Robert G. Tessar (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, from points in Lincoln County, Ky., to points in Virginia, West Virginia, Tennessee, Ohio, Indiana, Illinois, Missouri, Mississippi, Georgia, North Carolina, and South Carolina. NOTE: If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky.

No. MC 105375 (Sub-No. 36), filed November 24, 1967. Applicant: DAHLEN TRANSPORT OF IOWA, INC., 875 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Leonard A. Jaskiewicz, 1155 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal food and animal food supplements*, in bulk, in tank vehicles, from La Platte and Omaha, Nebr., to points in Iowa, Kansas, Minnesota, Missouri, North Dakota, and South Dakota. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 106398 (Sub-No. 356), filed November 24, 1967. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings in sections*, mounted on wheeled undercarriages with hitchball connector, from Elizabethton, Tenn., to points in Kentucky, West Virginia, Virginia, Indiana, Pennsylvania, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Maryland, Ohio, and Michigan. NOTE: If a hearing is deemed necessary, applicant requests it be held at Knoxville, Tenn.

No. MC 106603 (Sub-No. 100), filed November 27, 1967. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street SW., Grand Rapids, Mich. 49508. Applicant's representative: Robert A. Sullivan, 1800 Buhl Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles, including downspouts, shutters, siding, and accessories* used in connection therewith, from the plantsite of Bird & Son, Inc., in Bardstown, Ky., to points in Missouri, Iowa, Wisconsin, Ohio, West Virginia, Pennsylvania, New York, Illinois, Indiana, and Michigan. NOTE: Applicant holds contract carrier authority under Docket No. MC 46240 and Subs 12 and 13, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 107010 (Sub-No. 31), filed November 27, 1967. Applicant: D & R BULK CARRIERS, INC., Post Office Box 106, Auburn, Nebr., 68305. Applicant's representative: Leonard A. Jaskiewicz, Madison Building, 1155 Fifteenth Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals and fertilizer materials*, from Lincoln, Nebr., to points in Nebraska, Kansas, Colorado, and South Dakota. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 107227 (Sub-No. 98), filed November 24, 1967. Applicant: INSURED TRANSPORTERS, INC., 1944 Williams Street, San Leandro, Calif. 94577. Applicant's representative: John G. Lyons, 1418 Mills Tower, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Motor vehicles* (except passenger automobiles), and *chassis*, in initial movements, in driveaway service, and (2) *bodies, cabs, and parts of, and accessories for, such vehicles*, from Portland, Oreg., to points in the United States (except Hawaii). NOTE: If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., Seattle, Wash., San Francisco or Los Angeles, Calif.

No. MC 107403 (Sub-No. 736), filed November 22, 1967. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour* in bulk, in tank vehicles, from Treichlers, Pa., to points in New Jersey. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107544 (Sub-No. 77), filed November 22, 1967. Applicant: LEMMON TRANSPORT COMPANY, INCORPORATED, Post Office Box 580, Marion, Va. 24354. Applicant's representative: E. Stephen Heisley, 529 Transportation Building, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from Montvale, Va., to points in Sullivan County, Tenn. NOTE: Applicant is also authorized to conduct operations as a contract carrier in Permit No. MC 113959 and Sub 2, therefor, dual operations may be involved. If a hearing is deemed necessary, applicant requests it to be held at Washington, D.C., or Richmond, Va.

No. MC 107839 (Sub-No. 119), filed November 24, 1967. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., 4985 York Street, Denver, Colo. 80216. Applicant's representative: Edward T. Lyons, Jr., 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration, (1) from Denver, Colo., to points in New Mexico; and (2) from points in Bernalillo County, N. Mex., to points in Colorado. Restriction: The service proposed from the origin to the destinations specified in (1) above is restricted against the transportation of canned goods, except in mixed loads with other foodstuffs. NOTE: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 108119 (Sub-No. 20), filed November 24, 1967. Applicant: E. L. MURPHY TRUCKING CO., 2330 West County Road C, St. Paul, Minn. 55113. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Material handling equipment; winches; compaction and road making equipment, rollers, self-propelled and non-self-propelled; mobile cranes; and highway freight trailers*; and (2) *parts, attachments, and accessories* for the commodities, described in (1) above, between the plantsites of the Hyster Co. located at or near Danville, Kewanee, and Peoria, Ill., on the one hand, and, on the other, points in Minnesota, North Dakota, South Dakota, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 110525 (Sub-No. 850), filed November 24, 1967. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representatives: Leonard A. Jaskiewicz, Madison Building, 1155 15th Street, NW., Washington, D.C. 20005, and Edwin H. van Deusen (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Core oil and resin*, in bulk, from Mishawaka, Ind., to points in Illinois, Iowa, Kentucky, Michigan, Minnesota, Missouri, New York, Ohio, Pennsylvania, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 112266 (Sub-No. 4), filed November 30, 1967. Applicant: CRAY-CRAFT TRUCKING, INC., Post Office Box 267, Upper Sandusky, Ohio 43351. Applicant's representative: Paul F. Beery, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick*, (1) from points in Weller and Franklin Townships, Richland County, Ohio, to points in Indiana and (2) from points in Hocking County, Ohio, to points in Indiana and Michigan. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 113459 (Sub-No. 43), filed November 24, 1967. Applicant: H. J. JEFFRIES TRUCK LINES, INC., Post Office Drawer 94850, Oklahoma City, Okla. 73109. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Material handling equipment; winches; compaction and road making equipment, rollers, self-propelled and non-self-propelled; mobile cranes; and highway freight trailers*, and (2) *parts, attachments and accessories* for the commodities described in (1) above, between the plantsites of the Hyster Co. located at or near Danville, Kewanee, and Peoria, Ill., on the one hand, and, on the other, points in Arkansas, Colorado, Kansas, Louisiana, Missouri, Montana, New Mexico, Oklahoma, Texas, North Dakota, South Dakota, and

Wyoming. Restricted to the handling of traffic originating at or destined to the named plantsites. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Kansas City, Mo.

No. MC 113843 (Sub-No. 138), filed November 27, 1967. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02110. Applicant's representatives: Lawrence T. Sheils (same address as applicant), and William J. Boyd, 20 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oleomargarine, salad dressing, and table sauces* (except commodities in bulk in tank vehicles), from the plantsite and/or storage facilities used by Miami Margarine Co., at Cincinnati, Ohio, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, Rhode Island, Virginia, and West Virginia, and the District of Columbia, restricted to traffic originating at Cincinnati, Ohio. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 114819 (Sub-No. 189), filed November 27, 1967. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 700 South Pulaski Road, Chicago, Ill. 60620. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oleomargarine, mayonnaise, salad dressings, and table sauces* (except in bulk, in tank vehicles), from Cincinnati, Ohio, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to traffic originating at the plantsite and storage facilities utilized by Miami Margerine Co. located at or near Cincinnati, Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Cincinnati, Ohio, or Chicago, Ill.

No. MC 114284 (Sub-No. 37), filed November 22, 1967. Applicant: FOX-SMYTHE TRANSPORTATION CO., a corporation, Post Office Box 82307, Stockyards Station, Oklahoma City, Okla. 73102. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from the plant and/or storage facilities of the Cudahy Co., at Wichita, Kans., to Brownwood, Coleman, Ballinger, and San Angelo, Tex., restricted to traffic originating at the plant and/or storage facilities of the Cudahy Co., at Wichita, Kans. NOTE: If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz.

No. MC 114364 (Sub-No. 147) (Amendment), filed October 23, 1967, published in the FEDERAL REGISTER issue of November 9, 1967, amended and republished as amended this issue. Applicant: WRIGHT MOTOR LINES, INC., Post Office Box 1191, 1401 North Little Street, Cushing, Okla. 74023. Applicant's representative: Marion F. Jones, 420 Denver Club Building, Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Products used in the agricultural, water treatment, food processing, wholesale grocery and institutional supply industries*, when shipped in mixed truck loads with salt and salt products (as presently authorized) from Hutchinson, Lyons, and Kanopolis, Kans., to points in Arizona, Colorado, New Mexico, and Texas. NOTE: The purpose of this republication is to broaden the authority sought. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Oklahoma City, Okla.

No. MC 115841 (Sub-No. 319), filed November 24, 1967. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 Bankhead Highway West, Post Office Box 2169, Birmingham, Ala. 35201. Applicant's representative: C. E. Wesley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Inedible meats and meat byproducts* (except in bulk and in tank vehicles), from points in Wisconsin, Illinois, Minnesota, Indiana, Michigan, Ohio, Kentucky, Arkansas, West Virginia, Virginia, Iowa, Missouri, Kansas, and Nebraska to Toledo, Marion, and Bowling Green, Ohio; Deep Run, Allentown, Camp Hill, and Philadelphia, Pa.; New Bedford, Woburn, and Boston, Mass.; and Princess Anne, Md. NOTE: If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., Nashville, Tenn., or Chicago, Ill.

No. MC 116077 (Sub-No. 223), filed November 24, 1967. Applicant: ROBERTSON TANK LINES, INC., 5700 Polk Avenue, Post Office Box 1505, Houston, Tex. 77001. Applicant's representative: Thomas E. James, The 904 Lavaca Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizers, fertilizer materials, and blends thereof, insecticides, pesticides, herbicides, and fungicides*, from points in Hunt County, Tex., and Houston, Tex., to points in Arizona, Arkansas, Colorado, Kansas, Louisiana, Mississippi, Missouri, New Mexico, Nebraska, and Oklahoma. NOTE: If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 116077 (Sub-No. 224), filed November 24, 1967. Applicant: ROBERTSON TANK LINES, INC., 5700 Polk Avenue, Post Office Box 1505, Houston, Tex. 77001. Applicant's representative: Thomas E. James, The 904 Lavaca Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk from points in Brazos County, Tex., to points in Arkansas, Florida, and Louisiana. NOTE: If a hearing is deemed necessary, applicant did not specify a location.

No. MC 116077 (Sub-No. 225), filed November 24, 1967. Applicant: ROBERTSON TANK LINES, INC., 5700 Polk Avenue, Post Office Box 1505, Houston, Tex. 77001. Applicant's representative: Thomas E. James, The 904 Lavaca Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum grease*, in bulk, in thermostatically controlled heater tank vehicles, from Port Arthur, Tex., to Cleveland, Ohio, and Cornopolis, Pa. NOTE: If a hearing is deemed necessary, applicant does not specify a location.

No. MC 116077 (Sub-No. 226), filed November 27, 1967. Applicant: ROBERTSON TANK LINES, INC., 5700 Polk, Post Office Box 1505, Houston, Tex. 77001. Applicant's representative: Thomas E. James, The 904 Lavaca Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pulp mill waste*, in bulk, from Evadale, Tex., to Oakdale, La. NOTE: If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 116646 (Sub-No. 4), filed November 27, 1967. Applicant: FONTANA TRUCKING, INC., 199 Florida Street, Laurium, Mich. 49914. Applicant's representative: John P. Boeschenstein, Hackley Bank Building, Muskegon, Mich. 49440. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from points in Houghton County, Mich., to points in Oneida, Langlade, Marathon, Shawano, Winnebago, and Washburn Counties, Wis., under contract with Bosch Brewing Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lansing, Mich., or Madison, Wis.

No. MC 116386 (Sub-No. 24), filed November 3, 1967. Applicant: BOWELL'S MOTOR FREIGHT, INCORPORATED, 2210 Winston Avenue SW., Roanoke, Va. 24104. Applicant's representative: R. R. Rush, 309 Shenandoah Building, Post Office Box 614, Roanoke, Va. 24004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, dairy products, and articles distributed by meat packinghouses* as defined in sections A, B, and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 and *frozen foods* in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), between points in Hamilton County, Ohio; that portion of Indiana on and south of U.S. Highway 40 and that portion of Kentucky on and east of U.S. Highway 41. NOTE: If a hearing is deemed necessary, applicant requests it be held at Roanoke, Va., or Washington, D.C.

No. MC 117574 (Sub-No. 166), filed November 24, 1967. Applicant: DAILY EXPRESS, INC., Post Office Box 39, Carlisle, Pa. 17013. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Material, handling equipment; winches; compaction and roadmaking equipment, rollers, self-propelled and non-self-propelled; mobile cranes; and highway freight trailers*, and (2) *parts, attachments, and accessories* for the commodities described in (1) above, between the plantsites of the Hyster Co. located at or near Danville, Kewanee, and Peoria, Ill., on the one hand, and, on the other, points in Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, North Carolina, Ohio, and the District of Columbia, restricted to the handling of traffic originating at or destined to the named plantsites. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Nashville, Tenn.

No. MC 117883 (Sub-No. 105), filed November 13, 1967. Applicant: SUBLER TRANSFER, INC., East Maine Street, Versailles, Ohio 45380. Applicant's representative: Kenneth Subler, Post Office Box 62, Versailles, Ohio 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oleomargarine, mayonnaise, salad dressing, and table sauces* (except commodities in bulk, in tank vehicles), from the plantsite and/or storage facilities used by Miami Margarine Co., located in Cincinnati, Ohio, to points in Connecticut, District of Columbia, Delaware, Maine, Maryland, Massachusetts, Vermont, Michigan, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, and West Virginia, restricted to traffic originating at the above plantsite and destined to the named States. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 118452 (Sub-No. 5), filed November 20, 1967. Applicant: ARCTIC MOTOR FREIGHT, INC., Box 6243 Annex, Mile 2, Seward Highway, Anchorage, Alaska. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bulk commodities*, between points in Alaska. NOTE: If a hearing is deemed necessary, applicant requests it be held at Anchorage, Alaska.

No. MC 118535 (Sub-No. 35) (amendment), filed November 6, 1967, published in the FEDERAL REGISTER issue of November 23, 1967, amended and republished as amended, this issue. Applicant: JIM TIONA, JR., 803 West Ohio Street, Butler, Mo. 64106. Applicant's representative: Carll V. Kretsinger, 450 Professional Building, Kansas City, Mo. 64106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are useful and incidental to and used in connection with the business, operations, and maintenance of farms and ranches*, (1) between points in Bates and Vernon Counties, Mo., on the one hand, and, on the other, points in Alabama, Colorado, Arkansas, Illinois, Indiana, Louisiana, Minnesota, Mississippi, Michigan, North Dakota, New Mexico, Ohio, Oklahoma, Kansas, Kentucky, Nebraska, Iowa, South Dakota, Texas, Wisconsin, and Tennessee; and, (2) between points in Bates and Vernon Counties, Mo., on the one hand, and, on the other, ports of entry on and along the Gulf of Mexico extending from and including Mobile, Ala., and Brownsville, Tex., and ports of entry on and along the international boundary line between the United States and Mexico, located in Texas. NOTE: The purpose of this republication is to broaden the authority sought. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 119702 (Sub-No. 29), filed November 24, 1967. Applicant: STAHLY CARTAGE CO., a corporation, Post Office Box 486, 130A Hillsboro Avenue, Edwardsville, Ill. 62025. Applicant's representative: Wendell Wohlford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia, fertilizers, and fertilizer ingredients*, in bulk, from the plantsite of the United States Steel Corp. at or near Tilton, Ill., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119777 (Sub-No. 92), filed November 16, 1967. Applicant: LIGON SPECIALIZED HAULER, INC., Post Office Drawer L, Madisonville, Ky. 42431. Applicant's representative: Robert M. Pearce, Post Office Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, pallets, skids, bases, boxes, crating, veneer, baskets, oak treads, oak risers, oak sills, oak molding, cardboard cartons, and nails*, (1) between points in Kentucky on and west of U.S. Highway 31E on the one hand, and, on the other, points in Illinois, Indiana, Michigan, Ohio, Pennsylvania, and Wisconsin; and (2) between points in Alabama, Arkansas, Louisiana, Mississippi, and Tennessee on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Michigan, Ohio, Pennsylvania, and Wisconsin. NOTE: Applicant states this is an application to eliminate the gateways of Muhlenberg and Logan Counties, Ky. Applicant further states it now holds authority in certificate MC 119777 and subs to perform all of the service requested in this application by use of gateways through Muhlenberg and Logan Counties, Ky., and will rely upon abstract of shipments at the hearing. Applicant is also authorized to conduct operations as a contract carrier in Permit No. MC 126970 Sub 1, therefor dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Louisville, Ky.

No. MC 123393 (Sub-No. 194), filed November 24, 1967. Applicant: BILYEU REFRIGERATED TRANSPORT CORPORATION, 2105 East Dale Street, Springfield, Mo. 65803. Applicant's representative: Harley E. Laughlin, Post Office Box 948, Commercial Station, Springfield, Mo. 65803. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products, products* produced or distributed by manufacturers and converters of paper and paper products, *materials, equipment, and supplies* used in the manufacture and distribution of the above-described commodities, between points in McMinn County, Tenn., on the one hand, and, on the other, points in Iowa, Kansas, Missouri, and Nebraska. NOTE: If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C.

No. MC 124078 (Sub-No. 306), filed November 27, 1967. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, Wis. 53246. Applicant's representative: James R. Ziperski (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia, fertilizers, and fertilizer ingredients*, in bulk, from the plantsite of the United States Steel Corp. at or near Tilton, Ill., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. NOTE: Applicant states that tacking could take place at Clinton, Iowa, in conjunction with its present authority in MC 124078 Sub 80, to serve points in North Dakota, South Dakota, and Nebraska. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 124174 (Sub-No. 62), filed November 17, 1967. Applicant: MOMSEN TRUCKING CO., a corporation, Highways 71 and 8 North, Spencer, Iowa 51301. Applicant's representative: Kari E. Momsen, 6801 L Street, Omaha, Nebr. 68117. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel castings*, from Lynchburg and Radford, Va., to Joplin, Mo.; Omaha and Grand Island, Nebr. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 124650 (Sub-No. 1), filed November 24, 1967. Applicant: W. E. DAVENPORT, Route 1, Elizabethton, Tenn. 37643. Applicant's representative: Clifford E. Sanders, 321 East Center Street, Kingsport, Tenn. 37660. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick, cinder blocks, concrete blocks, clay and clay products, shale and shale products, and concrete and concrete products*, (1) between Kingsport and Johnson City, Tenn., on the one hand, and, on the other, points in Virginia, West Virginia, North Carolina, and Kentucky, (2) between Groseclose, Va., on the one hand, and, on the other, points in Tennessee, West Virginia, North Carolina, and Kentucky, under contract with General Shale Products Corp., Johnson City, Tenn. NOTE: If a hearing is deemed

necessary, applicant requests it be held at Washington, D.C., or Nashville, Tenn.

No. MC 124941 (Sub-No. 4), filed November 24, 1967. Applicant: DALE D. JACOBS, Route 4, Dell Avenue, Walla Walla, Wash. Applicant's representative: George R. LaBissoniere, 920 Logan Building, Seattle, Wash. 98101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods, plant supplies, and plant equipment*, between Milwaukie, Portland, Salem, Hillsboro, Woodburn, Ontario, Weston, Pendleton, and Milton-Freewater, Oreg.; Walla Walla, Spokane, Quincy, Burlington, and Wheeler, Wash., and Heyburn, Nampa, Caldwell, Burley, Lewiston, and American Falls, Idaho, under a continuing contract with Terminal Ice & Cold Storage Co. of Portland, Oreg., and (2) *beet pulp* in sacks and in bulk, from Wheeler, Moses Lake, Quincy, and Toppenish, Wash., to points in Umatilla County, Oreg., under contract with Archie Harris Feed Lot. NOTE: Applicant states that it now holds authority under Docket MC 124841 Sub 2 to transport commodities in (1) above and merely seeks to add Quincy, Burlington, and Wheeler, Wash., to the authority already authorized at Terminal Ice & Cold Storage Co. locations in the State of Washington, in order to give a complete interplant service for this supporting shipper. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 124947 (Sub-No. 4), filed November 22, 1967. Applicant: MACHINERY TRANSPORTS, INC., 617 Chicago Street, East Peoria, Ill. 61611. Applicant's representative: J. G. Dail, Jr., Federal Bar Building, 1815 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Material handling equipment; winches; compaction and road making equipment, rollers*, self-propelled and non-self-propelled; *mobile cranes; and highway freight trailers*; and (2) *parts, attachments*, and accessories for the commodities described in (1) above, between the plantsites of the Hyster Co. located at or near Danville, Kewanee, and Peoria, Ill., on the one hand, and, on the other, points in Arkansas, Colorado, Illinois, Indiana, Kansas, Kentucky, Louisiana, Missouri, New Mexico, Ohio, Oklahoma, Texas, and Wyoming, restricted to the handling of traffic originating at or destined to the named plantsites. NOTE: If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Nashville, Tenn.

No. MC 125161 (Sub-No. 9), filed November 24, 1967. Applicant: UNITED FREIGHTWAYS, INC., 671 Chestnut Street, North Andover, Mass. Applicant's representative: George C. O'Brien, 31 Broad Street, Boston, Mass. 02109. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lime, limestone, limestone products and limestone by-products*, in bulk and in bags, from Lee and West Stockbridge, Mass., to points in Maine, under contract with Lee Lime Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 126949 (Sub-No. 1), filed October 24, 1967. Applicant: AWAWEGO DELIVERY, INC., Town Line and East Malloy Roads, Syracuse, N.Y. Applicant's representative: W. O. Locke, Post Office Box 8361, International Airport, San Francisco, Calif. 94128. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), restricted to shipments having an immediately prior or immediately subsequent movement by air, between Albany Airport, N.Y., and John F. Kennedy International Airport, N.Y., Newark Airport, N.J., and LaGuardia Airport N.Y. NOTE: Applicant is a wholly owned subsidiary of Airborne Freight Corp., an air-freight forwarder. If a hearing is deemed necessary, applicant requests it be held at Albany, N.Y., or Washington, D.C.

No. MC 127215 (Sub-No. 33), filed November 27, 1967. Applicant: KENDRICK CARTAGE CO., a corporation, Post Office Box 63, Salem, Ill. 62881. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia, fertilizers, and fertilizer ingredients*, in bulk, from the plantsite of the United States Steel Corp. at or near Tilton, Ill. to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., St. Louis, Mo., or Washington, D.C.

No. MC 127344 (Sub-No. 4), filed November 27, 1967. Applicant: CHARDEL TRANSPORTATION CORP., 573 West Street, New York, N.Y. Applicant's representative: Arthur J. Piken, 160-16 Jamaica Avenue, Jamaica, N.Y. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, in temperature-controlled vehicles, from Spencer and Des Moines, Iowa, Luverne, Minn., and Omaha, Nebr., to New York, N.Y., under contract with Charles Holzer. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 127668 (Sub-No. 12), filed November 24, 1967. Applicant: PASCAGOULA DRAYAGE COMPANY, INC., 705 East Pine Street, Hattiesburg, Miss. 39401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refrigeration equipment, walk-in type refrigeration units, parts, accessories, and assemblies* for walk-in type refrigeration units, from Laurel, Miss., to points in Alabama, Arkansas, Florida, Georgia, Kansas, Kentucky, Louisiana, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas. NOTE: If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss.

No. MC 127739 (Sub-No. 3), filed November 20, 1967. Applicant: BENEDETTI TRUCKING CORPORATION, 228 Berry Street, Brooklyn, N.Y. 11211. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Housewares and kitchen gadgets*, between Old Bethpage, N.Y., on the one hand, and, on the other, points in the New York, N.Y., commercial zone, including Port Newark and the port authority piers in Elizabeth, N.J., under contract with Wall Trading Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 127820 (Sub-No. 2), filed November 22, 1967. Applicant: TRANSSERVICE, INC., Route No. 2, Coshocton, Ohio 43812. Applicant's representative: Taylor C. Burneson, 88 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gloves, boots, products, materials and supplies used in the manufacture, sale, and packaging of gloves and boots, and diagnostic equipment and apparatus*, (1) from Coshocton and Canton, Ohio, to Los Gatos and Emeryville, Calif.; and (2) from Los Gatos, Calif., to Coshocton and Canton, Ohio, under contract with Boston Dickinson & Co., Edmont-Wilson Division, Coshocton, Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 129081 (Sub-No. 2), filed November 24, 1967. Applicant: KLAUSNER TRANSPORTATION CO., INC., 809 South Main Street, Los Angeles, Calif. 90014. Applicant's representative: William Davidson, 2455 East 27th Street, Vernon, Calif. 90058. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Materials and supplies* necessary for the manufacture of garments, from Commerce, Los Angeles, and Whittier, Calif., to port of entry on the international boundary line between the United States and Mexico located at or near Calexico, Calif., and (2) *garments on hangers, and garments in containers* (when moving in the same vehicle with garments on hangers) and *empty containers* returning subsequent to original movement outbound, from port of entry on the international boundary line between the United States and Mexico located at or near Calexico, Calif. to Commerce, Los Angeles, and Whittier, Calif., under contract with Catalina, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 129085 (Sub-No. 1), filed November 24, 1967. Applicant: R. L. BERTOLINO LIVESTOCK TRUCKING, INC., 201 Hilltop Road, Billings, Mont. 59102. Applicant's representative: J. F. Meglen, 2822 Third Avenue North, Post Office Box 1581, Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feeds*, from points in Woodbury County, Iowa, to points in Montana and Wyoming. NOTE: If a hearing is deemed necessary, applicant requests it to be held at Billings, Mont.

No. MC 129247 (Sub-No. 1), filed November 22, 1967. Applicant: CLARK'S FROZEN EXPRESS, INC., 2525 Airport Way South, Seattle, Wash. Applicant's representative: George R. LaBissoniere, 920 Logan Building, Seattle, Wash. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal food* (derived from meat, meat byproducts, and articles distributed by meat packinghouses, products as described in sections A and C of appendix I to the report and *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766), from Sioux Falls, S. Dak., to points in Montana, Idaho, Washington, and Oregon under contract with Northwest Fur Breeders Cooperative. NOTE: Applicant has common carrier authority in MC 117589 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 129266 (Sub-No. 2) (Correction) filed November 1, 1967, published in the FEDERAL REGISTER issue of November 23, 1967, corrected November 27, 1967, and republished as corrected, this issue. Applicant: BALLANTYNE TRUCKING COMPANY, a corporation, 3030 East Fourth Street, Pueblo, Colo. 81001. Applicant's representative: V. Baker Smith, 123 South Broad Street, Philadelphia, Pa. 19109. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, and packinghouse products*, as described in parts A, B, and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, between Pueblo, Colo., Lincoln and McCook, Nebr., under contract with American Stores Packing Co., Acme Markets Division. NOTE: The purpose of this republication is to correctly set forth the authority sought. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 129350 (Sub-No. 1) filed November 24, 1967. Applicant: CHARLES E. WOLFE, doing business as EVERGREEN EXPRESS, 410 North 10th Street, Billings, Mont. 59101. Applicant's representative: J. F. Meglen, 2822 Third Avenue North, Post Office Box 1581, Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap iron*, for remelting only, (1) from points in Wyoming to points in Montana and (2) from points in Montana to ports of entry on the international boundary line between the United States and Canada at or near Raymond, Sweetgrass, and Piegan, Mont. NOTE: If a hearing is deemed necessary, applicant requests it be held at Billings, Mont.

No. MC 129411 (Sub-No. 2), filed November 27, 1967. Applicant: DREWRY L. LUKE, 42 McArthur Drive, Camilla, Ga. 31730. Applicant's representative: Frank S. Twitty, Jr., 52 East Oakland Avenue, Camilla, Ga. 31730. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cotton seed meal*, (2) *peanut meal*, and (3) *agricultural commodities* the transportation of which is partially exempt under the provisions of section 203(b)(6) of the Interstate Commerce Act if transported in vehicles not used in carrying any other property, when moving in the same vehicle at the same time with the commodities in (1) and (2) above, from Camilla, Ga., to points in Florida. NOTE: If a hearing is deemed necessary, applicant requests it be held at Albany or Thomasville, Ga.

No. MC 129417 (Sub-No. 1), filed December 1, 1967. Applicant: GUARDIAN VAN LINES, INC., 605 South Second Street, Post Office Box 274, Blytheville, Ark. 72315. Applicant's representative: Robert J. Gallagher, 66 Central Street, Wellesley, Mass. 02181. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Mississippi, Randolph, Clay, Greene, Lawrence, Craighead, Poinsett, Crittenden, Jackson, Cross, and St. Francis Counties, Ark.; Carter, Ripley, Butler, Stoddard, Scott, Dunklin, Pemiscott, Mississippi, New Madrid, and Cape Girardeau Counties, Mo.; Dyer, Gibson, Lauderdale, Crockett, Shelby, Tipton, Haywood, and Fayette Counties, Tenn.; restricted to (1) shipments moving on the through bill of lading of a freight forwarder operating under the exemption provisions of section 402(b)(2) of the Interstate Commerce Act, as amended, and (2) shipments having an immediately prior or subsequent line-haul movement by rail, motor, water, or air. NOTE: If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark.

No. MC 129521, filed November 5, 1967. Applicant: B AND L TRUCKING, INC., Second and Mississippi Avenue, Gary, Ind. Applicant's representative: William J. Boyd, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, from points in the Chicago, Ill., commercial zone to points in Indiana located on and north of U.S. Highway 40; points in Illinois located on and north of U.S. Highway 150 and on and east of U.S. Highway 51; points in Wisconsin located on and east of U.S. Highway 51 and on and south of U.S. Highway 94; and points in Michigan on and south of Michigan Highway 43 and on and west of U.S. Highway 131, under contract with Steel Mill Service, Inc., and Steel Storage, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 129539, filed November 12, 1967. Applicant: CARIBBEAN TRANSPORT ASSOCIATION, INC., 1317 Intervale Avenue, Bronx, N.Y. 10459. Applicant's representative: John J. Hayden, 15 William Street, New York, N.Y. 10005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods, household furnishings, appliances and personal effects and automobiles*, between points within the exempt New York City commercial zone. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 129581, filed November 13, 1967. Applicant: CROWN PRINCE TRANSPORTATION COMPANY, INC., 2800 East Eighth Street, North Platte, Nebr. 69101. Applicant's representative: Donald E. Leonard, 2028, 605 South 14th, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal, fowl, fish and pet food and feed ingredients and packinghouse products* as described in appendix A to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 and *supplies and materials* used in the manufacturing and distribution of animal, fowl, fish, and pet food and feed ingredients and packinghouse products, between North Platte, Nebr., and points in the United States, except Alaska and Hawaii, under contract with Central Nebraska Packing Co., North Platte, Nebr. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr. or Denver, Colo.

No. MC 129637 (Sub-No. 1), filed November 16, 1967. Applicant: OLIVER W. REEVES AND BOBBY G. REEVES, a partnership, doing business as REEVES TRANSPORTATION, 153 Hill Drive, Valrico, Fla. Applicant's representative: John C. Vogt, Jr., Post Office Box 21, Tampa, Fla. 33601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpets and rugs*, from points in Floyd, Bartow, Gordon, Whitfield, Murray, Catoosa, and Walker Counties, Ga., to points in Hillsborough and Pinellas Counties, Fla. NOTE: If a hearing is deemed necessary, applicant requests it be held at Tampa, Fla., or Dalton, Ga.

No. MC 129648, filed November 15, 1967. Applicant: JOHNSON TRANSFER CO., INC., Post Office Box 446, Hopkinsville, Ky. 42240. Applicant's representative: Robert J. Gallagher, 66 Central Street, Wellesley, Mass. 02181. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Christian County, Ky., and Stewart, Robinson and Montgomery Counties, Tenn., restricted both to (1) shipments moving on through bills of lading for a freight forwarder operating under section 402(b)(2) exemption, and (2) to shipments having an immediately prior or subsequent line-haul movement by rail, motor, water, or air. NOTE: If a hearing is deemed necessary, applicant requests it be held at Hopkinsville, Ky.

No. MC 129551, filed November 24, 1967. Applicant: J. SWANSON RUSSELL, doing business as JOHN S. RUSSELL TRUCKING, 82 Fifth Avenue,

Kenbridge, Va. 23944. Applicant's representative: James T. Edmunds, 303 Fifth Avenue, Kenbridge, Va. 23944. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal briquets and lump charcoal* (both all hardwood), from Kenbridge, Va., to Baltimore, Md., and vicinity, Wilson and Winston-Salem, N.C., Greensboro and eastern North Carolina, Washington, D.C. and vicinity, under contract with Imperial Briquet Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Richmond or Lynchburg, Va.

MOTOR CARRIER OF PASSENGERS

No. MC 3700 (Sub-No. 57), filed November 22, 1967. Applicant: MANHATTAN TRANSIT COMPANY, a corporation, Route 46, East Paterson, N.J. 07407. Applicant's representative: Robert E. Goldstein, 8 West 40th Street, New York, N.Y. 10018. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, express, and newspapers* in the same vehicle with passengers, between Teterboro and Carlstadt, N.J., in Teterboro, from junction of Industrial Avenue and Malcolm Avenue, thence over Industrial Avenue to junction Railroad Street, thence over Railroad Street to junction of Berger Street, thence over Berger Street to junction of Moonachie Avenue, thence over Moonachie Avenue to junction of Washington Avenue in Carlstadt, and return from junction of Washington Avenue and Empire Boulevard Loop in Carlstadt, N.J., thence over Empire Boulevard Loop to junction Empire Boulevard, thence over Empire Boulevard to junction Moonachie Avenue, thence over the above described route to Teterboro, serving all intermediate points. NOTE: If a hearing is deemed necessary, applicant requests it be held at Newark, N.J.

No. MC 94774 (Sub-No. 5), filed November 21, 1967. Applicant: BROWN'S BUS SERVICE, INC., doing business as PENN-JERSEY COACHWAYS, 35 Cornell Avenue, Gloucester City, N.J. 08030. Applicant's representative: Walter S. Anderson, 118 Leslie Avenue, Merchantville, N.J. 08109. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, between Chester, Pa., and Gloucester City, N.J., as follows: (1) From Chester over U.S. Highway 13 to junction Pennsylvania Highway 420, thence over Pennsylvania Highway 420 to Essington, Pa., thence over Pennsylvania Highway 291 to Philadelphia, Pa., thence over the Walt Whitman Bridge and city streets to Camden and Gloucester City, N.J., and return over the same route, serving all intermediate points and (2) from Chester over Pennsylvania Highway 291 to Philadelphia, Pa., thence over the Walt Whitman Bridge and city streets to Camden and Gloucester City, N.J., and return over the same route, serving all intermediate points. NOTE: Applicant states that the instant application is filed for the purpose of (1) seeking extension of its regular route operations to Gloucester City, N.J., over two additional routes, and (2) for a modification of its present restriction in its certificate MC 94774 Sub 2, which reads as follows: "Service * * * is restricted to the transportation of passengers who are picked up or discharged at the site of the plant of the New York Ship Building Corp. at Camden," and substitute in lieu thereof the following restriction, "The service herein authorized is restricted against the transportation of passengers whose trips begin or end in Philadelphia in the area north of Interstate Highway 676 or west of Pennsylvania Highway 291". If a hearing is deemed necessary, applicant requests it be held at Camden, N.J., or Philadelphia, Pa

No. MC 120457 (Sub-No. 4), filed November 8, 1967. Applicant: H. E. NICKELS, ARTHUR B. COHN AND LEE NICKELS, a partnership, doing business as WILLIAMS BUS LINES, Post Office Box 342, Waynesville, Mo. 65583. Applicant's representative: Joseph R. Nacy, 117 West High Street (Post Office Box 352), Jefferson City, Mo. 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: (1) Over regular routes, *passengers and their baggage, express, newspapers, and mail* in the same vehicle with passengers, (a) between Rolla, Mo., and Mountain Home, Ark., from Rolla over U.S. Highway 63 to junction Missouri Highway 137, thence over Missouri Highway 137 to junction Texas County Highway T, thence over Texas County Highway T to junction Missouri Highway 17, thence over Missouri Highway 17 to junction U.S. Highway 160, thence over U.S Highway 160 to junction Missouri Highway 101, thence over Missouri Highway 101 to junction Arkansas Highway 101 at the Missouri-Arkansas State line, thence over Arkansas Highway 101 to junction U.S. Highway 62, thence over U.S. Highway 62 to Mountain Home, and return over the same routes, serving all intermediate points; and (b) between Fort Leonard Wood, Mo., and Mountain Home, Ark., from Fort Leonard Wood over Pulaski and Texas Counties Routes AW to junction Missouri Highway 17, thence over Missouri Highway 17 to junction U.S. Highway 160, thence over U.S. Highway 160 to junction Missouri Highway 101, thence over Missouri Highway 101 to junction Arkansas Highway 101 at the Missouri-Arkansas State line, thence over Arkansas Highway 101 to junction U.S. Highway 62, thence over U.S. Highway 62 to Mountain Home, and return over the same routes, serving all intermediate points; and (2) Over irregular routes, *passengers and their baggage* in the same vehicle with passengers in round-trip, special, and charter operations beginning and ending at points on the above-described regular routes, and extending to points in the United States except Alaska and Hawaii. NOTE: If a hearing is deemed necessary applicant requests it be held at Jefferson City or St. Louis, Mo.

APPLICATIONS FOR BROKERAGE LICENSE

No. MC 130048, filed November 15, 1967. Applicant: D. A. WALTERMIRE, doing business as TRAFFIC COUNSELORS AND ADVISORS COMPANY, 15020 Schuyler Avenue, Cleveland, Ohio 44111. Applicant's representative: Bernard S. Goldfarb, 1625 The Illuminating Building, 55 Public Square, Cleveland, Ohio. For a license (BMC 4) to engage in operations as a *broker* at Cleveland, Ohio, in arranging for the transportation of *general commodities*, between points in the United States, including Alaska and Hawaii.

WATER CARRIER OF PROPERTY

No. W-461 (Sub-No. 2) INGRAM CORPORATION—Conversion Application, filed November 8, 1967. Applicant: INGRAM CORPORATION, 2800 International Trade Mart Building, New Orleans, La. 70131. Applicant's representative: Donald Macleay, Commonwealth Building, 1625 K Street NW., Washington 6, D.C. Application of Ingram Corp., filed November 8, 1967, for a revised permit authorizing extension of its operation as a *contract carrier* by towing vessels in the performance of general towage, in interstate or foreign commerce, in the transportation of *general commodities*, between ports and points east of and including Houston, Tex., on the Gulf Intracoastal Waterway, including tributaries other than the Mississippi River System above Baton Rouge, La., and between such ports and points, on the one hand, and, on the other, ports and points south of and including Norfolk, Va., on the Atlantic Intracoastal Waterway, by way of said waterways. NOTE: Applicant is presently authorized to conduct the above operations in W-461 as a common carrier. Applicant seeks conversion of common carrier certificate to contract carrier permit covering the same routes. Applicant requests that the above application be heard simultaneously with FD 24817.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-14468; Filed, Dec. 13, 1967; 8:45 a.m.]

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 8, 1967.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41184—*Sugar from Houston and Sugarland, Tex.* Filed by Southwestern Freight Bureau, agent (No. B-9036), for interested rail carriers. Rates on sugar, beet or cane, in carloads, from Houston and Sugarland, Tex., to Kankakee, Ill.

Grounds for relief—Market competition.

Tariff—Supplement 79 to Southwestern Freight Bureau, agent, tariff ICC 4514.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-14533; Filed, Dec. 13, 1967; 8:48 a.m.]

[Notice 62]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 11, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

Transfer Board approved the transfer to H. A. Nevlin Moving & Transfer Co., a corporation, Alton, Ill., of the operating rights in certificate No. MC-849 issued August 24, 1940, to H. A. Nevlin, Alton, Ill., authorizing the transportation of household goods between points in Madison and St. Clair Counties, Ill., on the one hand, and, on the other, points in Iowa, Indiana, and Ohio. John B. Coppinger, 601 East Third Street, Alton, Ill., attorney for applicants.

No. MC-FC-70022. By order of November 30, 1967, the Transfer Board approved the transfer to Seminole Express Service, Inc., St. Petersburg, Fla., of certificate of registration No. MC-121426 (Sub-No. 1), issued January 9, 1963, to Ewing West Coast Delivery Service, Inc., Sarasota, Fla., authorizing transportation pursuant to certificate of public convenience and necessity No. 590, dated November 19, 1951, issued by the Florida Railroad and Public Utilities Commission. W. K. Zewadski, First Federal Building, St. Petersburg, Fla. 33701, attorney for transferee.

No. MC-FC-70045. By order of November 30, 1967, the Transfer Board approved the transfer to Colorado Van Lines, Inc., Commerce City, Colo., of the operating rights set forth in certificate No. MC-127893 issued June 13, 1966, to R. & B. Moving and Storage, Inc., doing business as Broadway Moving and Storage, Denver, Colo., and authorizing the transportation of household goods, between Snyder, Colo., and points within 50 miles thereof, on the one hand, and, on the other, points in New Mexico. Richard A. Dudden, 250 Capitol Life Center, Denver, Colo. 80203, attorney for applicants.

No. MC-FC-70052. By order of November 30, 1967, the Transfer Board approved the transfer to Ridgeway Tours, Inc., Lancaster, Pa., of License No. MC-12744 (Sub-No. 1), issued July 30, 1963, to Christian H. Shenk and Helen E. R. Shenk, a partnership, doing business as Ridgeway Tours, Lancaster, Pa., authorizing the brokerage operations in connection with transportation by motor vehicle of passengers and their baggage, both as individuals and groups, between points in the United States, including Alaska and Hawaii, authorized to engage in such operations as a broker at Lancaster, Pa. Robert H. Griswold, 100 Pine Street, Post Office Box 432, Harrisburg, Pa. 17108, attorney for applicants.

No. MC-FC-70054. By order of November 30, 1967, the Transfer Board approved the transfer to Don F. White, 2709 Chestnut Hill Drive, Cinnaminson, N.J., of the operating rights of Norman E. Pike, doing business as Pike's Express, 517 Looney Avenue, Palmyra, N.J., in certificate No. MC-181, issued November 2, 1961, authorizing the transportation, over regular routes, of general commodities except household goods, commodities in bulk, and other specified commodities, between Philadelphia, Pa., and Bordentown, N.J. John B. Mathews, 313 East Broad Street, Palmyra, N.J., attorney for applicants.

No. MC-FC-70056. By order of November 30, 1967, the Transfer Board approved the transfer to Vic Bender Brothers Corp., 913 South Bodine Street, Philadelphia, Pa., of certificate in No. MC-50649 (Sub-No. 1), issued September 8, 1967, to Victor Bender, doing business as B & S Rigging, 913 South Bodine Street, Philadelphia, Pa., authorizing the transportation of: Printing machinery, type cabinets, motors, and generators, between Philadelphia, Pa., on the one hand, and, on the other, points in New Jersey, Delaware, and Maryland, within 75 miles of Philadelphia.

No. MC-FC-70077. By order of November 30, 1967, the Transfer Board approved the transfer to Mauk's Transfer, Inc., Atlantic, Iowa, of the operating rights set forth in permits Nos. MC-117694 (Sub-No. 1), MC-117694 (Sub-No. 2), and MC-117694 (Sub-No. 3), issued August 28, 1959, April 20, 1962, and July 18, 1967, respectively, to Alva E. Mauk, doing business as Mauk Transfer, Atlantic, Iowa, and authorizing the transportation of animal and poultry feed, animal and poultry feed ingredients, and fertilizer (except liquid fertilizer, in bulk, in tank vehicles), from and to specified points in Iowa, Illinois, Minnesota, Wisconsin, South Dakota, Colorado, Nebraska, Kansas, and Missouri. Robert E. Dreher and Richard A. Miller, 212 Equitable Building, Des Moines, Iowa 50309, attorneys for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-14469; Filed, Dec. 13, 1967; 8:46 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—DECEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during December.

3 CFR

Page

PROCLAMATIONS:
3821 ... 17571

EXECUTIVE ORDERS:
Dec. 5, 1913 (revoked in part by PLO 4327) ... 16531
Mar. 21, 1914 (revoked in part by PLO 4327) ... 16531
June 24, 1914 (revoked in part by PLO 4327) ... 16531
11248 (amended by EO 11384) ... 17423
11383 ... 17421
11384 ... 17423

5 CFR

210 ... 16474
213 ... 16477, 17615, 17849
315 ... 16474
351 ... 16474
352 ... 16474
353 ... 16475
430 ... 16475
511 ... 16475
531 ... 16475
713 ... 16476
731 ... 16476
752 ... 16476
754 ... 16476
771 ... 16477
772 ... 16477
831 ... 16477
891 ... 16477
2200 ... 17573
2300 ... 17651

7 CFR

401 ... 16478, 17425, 17513
718 ... 17513
722 ... 17467, 17887
724 ... 16478
725 ... 16479
729 ... 17887
815 ... 16525
906 ... 16525, 17615, 17616
907 ... 16526, 17515, 17888
909 ... 17849
910 ... 16526, 17617, 17651
944 ... 17425
982 ... 16527
989 ... 17467
1062 ... 16479
1073 ... 16480
1094 ... 16527
1103 ... 16527
1106 ... 16480
1126 ... 16480
1421 ... 16528
1427 ... 16528
1464 ... 17849
1474 ... 17888

PROPOSED RULES:
51 ... 17893
58 ... 17893
812 ... 17669
817 ... 17669
911 ... 17431
915 ... 17431
948 ... 17671
950 ... 17433
989 ... 17625
993 ... 17434

7 CFR—Continued

Page

PROPOSED RULES—Continued
1001 ... 17626
1006 ... 17626
1036 ... 17626
1046 ... 17626

8 CFR

238 ... 17651
280 ... 17651

PROPOSED RULES:
242 ... 17624
243 ... 17624
244 ... 17624
299 ... 17624

9 CFR

97 ... 17618

12 CFR

1 ... 17574
12 ... 17468
206 ... 17469
224 ... 17425
335 ... 17470
561 ... 17515
605 ... 17652

PROPOSED RULES:
563 ... 17544

14 CFR

21 ... 17850
39 ... 16481, 17426, 17515, 17516, 17652
61 ... 16481
71 ... 16482, 16483, 17426, 17427, 17516–17518, 17574–17576, 17653, 17851
73 ... 17427, 17653
75 ... 17518
91 ... 16483, 17654
97 ... 16484, 17577
121 ... 16481, 17859
141 ... 17851
151 ... 17471
301 ... 16491
303 ... 16491
311 ... 16491
320 ... 16491
421 ... 16491
430 ... 16491
431 ... 16491
435 ... 16491

PROPOSED RULES:
1 ... 16496
21 ... 17485
25 ... 17487
39 ... 17439, 17672, 17673, 17895
71 ... 16495, 17488, 17543, 17596–17598, 17672–17675, 17861
73 ... 17488
91 ... 16496
214 ... 16535
296 ... 16535
298 ... 17596

15 CFR

373 ... 17471

16 CFR

Page

13 ... 17427, 17618, 17853–17856
15 ... 17582, 17856

PROPOSED RULES:
301 ... 17544
415 ... 17601

17 CFR

240 ... 17583
270 ... 17583
274 ... 17583

PROPOSED RULES:
270 ... 17861

19 CFR

5 ... 17619
12 ... 17428
19 ... 17619
23 ... 16528
24 ... 17619

21 CFR

29 ... 17654
120 ... 16529, 17472
121 ... 16529, 16530, 17472, 17587, 17654, 17655, 17856, 17857
130 ... 16531
146 ... 16531
146a ... 16491, 17657
166 ... 17473

PROPOSED RULES:
31 ... 16533
46 ... 17482, 17671
130 ... 17671
138 ... 16533, 17626

22 CFR

10 ... 17454

23 CFR

PROPOSED RULES:
255 ... 16534

24 CFR

234 ... 17587

25 CFR

PROPOSED RULES:
221 ... 17543

26 CFR

1 ... 17479, 17518, 17657, 17890
147 ... 17858
701 ... 17890

PROPOSED RULES:
151 ... 17861

28 CFR

0 ... 16531

29 CFR

1610 ... 16491

31 CFR

1 ... 17519
82 ... 17859

32 CFR

Page

52 ... 17661
54 ... 17619
537 ... 17519
701 ... 17588

33 CFR

109 ... 17726, 17890
110 ... 17726, 17890
114 ... 17726, 17890
115 ... 17726, 17890
116 ... 17726, 17890
117 ... 17726, 17890
209 ... 17522

36 CFR

7 ... 17661

39 CFR

123 ... 17479
742 ... 17479, 17860

41 CFR

1-1 ... 16491
9-1 ... 17542
Ch. 18 ... 17002

42 CFR

53 ... 17662

43 CFR

Page

2210 ... 17890

PUBLIC LAND ORDERS:
334 (revoked in part by PLO 4333) ... 17480
1796 (revoked in part by PLO 4331) ... 17479
2764 (see PLO 4331) ... 17479
4327 ... 16531
4328 ... 17429
4329 ... 16532
4330 ... 17479
4331 ... 17479
4332 ... 17479
4333 ... 17480
4334 ... 17429
4335 ... 17429
4336 ... 17620
4337 ... 17662
4338 ... 17891

45 CFR

30 ... 17891
1105 ... 17663

46 CFR

39 ... 17621
98 ... 17621

46 CFR—Continued

Page

221 ... 17595
255 ... 17595
308 ... 17891
510 ... 17480
526 ... 17667

PROPOSED RULES:
514 ... 16496

47 CFR

97 ... 17429

PROPOSED RULES:
2 ... 16495
87 ... 16495
91 ... 17440

49 CFR

295 ... 17892
890 ... 17480
1200 ... 17480

50 CFR

28 ... 17622
32 ... 17542
33 ... 16532, 17430, 17481, 17623, 17667, 17668
254 ... 16492

PUBLIC PAPERS OF THE PRESIDENTS OF THE UNITED STATES

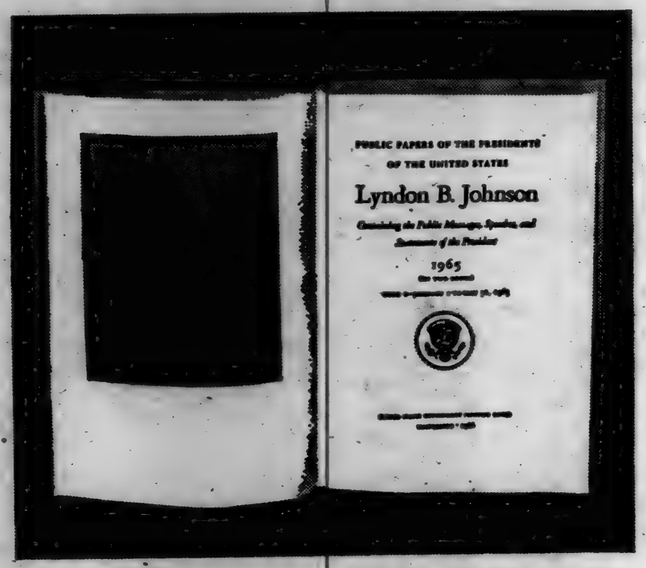

Lyndon B. Johnson–1965

Book I (January 1–May 31, 1965)
Book II (June 1–December 31, 1965)

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CONTENTS

- Messages to the Congress
- Public speeches and letters
- The President's news conferences
- Radio and television reports to the American people
- Remarks to informal groups

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242

FEDERAL REGISTER

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Friday, December 15, 1967 • Washington, D.C.

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- Agricultural Stabilization and Conservation Service
- Atomic Energy Commission
- Automotive Agreement Adjustment Assistance Board
- Civil Aeronautics Board
- Civil Service Commission
- Coast Guard
- Comptroller of the Currency
- Consumer and Marketing Service
- Customs Bureau
- Federal Aviation Administration
- Federal Communications Commission
- Federal Highway Administration
- Federal Home Loan Bank Board
- Federal Power Commission
- Food and Drug Administration
- General Services Administration
- Internal Revenue Service
- Interstate Commerce Commission
- Maritime Administration
- National Park Service
- Securities and Exchange Commission
- Small Business Administration
- Special Representative for Trade Negotiations Office
- Wage and Hour Division

Detailed list of Contents appears inside.

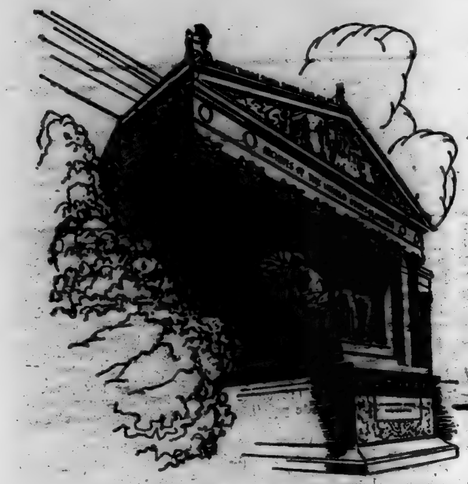

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Contents

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Rules and Regulations

Upland cotton, 1966 crop; acreage allotments and marketing quotas 17923

AGRICULTURE DEPARTMENT

See Agricultural Stabilization and Conservation Service; Consumer and Marketing Service.

ATOMIC ENERGY COMMISSION

Notices

State of Colorado; proposed agreement for assumption of certain AEC regulatory authority 17985

AUTOMOTIVE AGREEMENT ADJUSTMENT ASSISTANCE BOARD

Rules and Regulations

Organization, functions, and procedures; material available to public 17940

CIVIL AERONAUTICS BOARD

Proposed Rule Making

Certified air carriers; uniform system of accounts and reports 17983

Notices

Caledonian Airways (Prestwick) Ltd.; notice of hearing 17986

CIVIL SERVICE COMMISSION

Notices

Executive Assistant and Special Assistant, District of Columbia; manpower shortage 17986

Nurses, Spokane, Wash. (including Fairchild Air Force Base); notice of adjustment of minimum rates and rate ranges 17986

COAST GUARD

Rules and Regulations

Atlantic Intercoastal Waterway, S.C.; drawbridge operation regulations 17939

COMMERCE DEPARTMENT

See Maritime Administration.

COMPTROLLER OF THE CURRENCY

Rules and Regulations

Water and Sewer Improvement Bonds, Series 1967; Northwest Houston Water Supply Corp.; investment securities regulation 17936

CONSUMER AND MARKETING SERVICE

Rules and Regulations

Grapefruit grown in Florida; shipment limitations 17925

CUSTOMS BUREAU

Notices

Harmal Corp.; application for recordation of trade name 17985

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations

Airworthiness directives; Allison-Aero Products Models A6441FN-606, and A6441FN-606A propellers 17927

Standard instrument approach procedures; miscellaneous amendments 17928

Proposed Rule Making

Federal airway segment; designation 17982

VOR Federal airway; extension 17982

FEDERAL COMMUNICATIONS COMMISSION

Notices

Canadian broadcast stations; notice of changes, proposed changes and corrections in assignments 17987

Hearings, etc.:

Aiken Cablevision, Inc., and Home CATV Co., Inc. 17986

Americana Broadcasting Corp., and Loyola University 17988

Athens Broadcasting Co., Inc., and 3 J's Broadcasting Co. 17986

Bettervision Systems, Inc. (2 documents) 17987, 17991

Blancett Broadcasting Co., and Breckinridge Broadcasting Co 17987

Bluefield Television Cable and Bluefield Cable Corp. (2 documents) 17987, 17991

Durham-Raleigh Telecasters, Inc., et al 17987

General Electric Cablevision Corp 17988

Heard Broadcasting, Inc. 17991

Madison County Broadcasting Co., Inc. (WRTH) 17988

Malrite, Inc., and Philip Y. Hahn, Jr 17992

Roach, John C., and Gordon County Broadcasting Co. (WCGA) 17988

Triple C Broadcasting Corp., and Collins Broadcasting Co. 17992

United Transmission, Inc. 17992

Welch Antenna Co 17988

FEDERAL HIGHWAY ADMINISTRATION

Rules and Regulations

Initial Federal motor vehicle safety standards; new pneumatic tires 17938

Motor carrier safety regulations 17941

FEDERAL HOME LOAN BANK BOARD

Rules and Regulations

Bonus plans; miscellaneous amendments 17926

Notices

Bonus plan for savings account holders; statement concerning operations 17992

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:

Arkansas Louisiana Gas Co 17996

Gulf Power Co 17995

Marathon Oil Co., et al 17996

Osborn, W. B., Jr., et al 17992

Robinson Petroleum Corp., et al 17994

FOOD AND DRUG ADMINISTRATION

Proposed Rule Making

Human foods; current good manufacturing practice (sanitation) in manufacture, processing, packing, or holding 17980

GENERAL SERVICES ADMINISTRATION

Rules and Regulations

Procurement sources and programs; procurement leadtime 17939

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Food and Drug Administration.

INTERIOR DEPARTMENT

See National Park Service.

INTERNAL REVENUE SERVICE

Rules and Regulations

Income tax; treatment of income from unrelated trade or business; correction 17938

INTERSTATE COMMERCE COMMISSION

Notices

Fourth section applications for relief 18004

Motor carrier temporary authority applications 18005

(Continued on next page)

LABOR DEPARTMENT
See Wage and Hour Division.

MARITIME ADMINISTRATION
Proposed Rule Making
Subsidized operators; guidelines for payment 17980

NATIONAL PARK SERVICE
Notices
Administrative Officer et al., Curecanti Recreation Area, Colo., and Black Canyon of the Gunnison National Monuments; delegation of authority 17985
Certain designated officials; delegation of authority 17985
Grand Teton National Park; notice of intention to issue concession permit 17985

SECURITIES AND EXCHANGE COMMISSION
Rules and Regulations
Short form for registration 17933

CONTENTS

Proposed Rule Making
Certain transactions involving receipt and sale of subscription rights; exemption 17983
Notices
Hearings, etc.:
Amoco International Finance Corp 17998
Coditron Corp. 17999
Fifty States Mutual Fund, Inc. 17999
Lakeside Holding Co., et al. 18000
State Street Investment Corp. 18001

SMALL BUSINESS ADMINISTRATION
Notices
Delegations of authority:
Associate Administrator for Procurement and Management Assistance 18002
Chief, Accounting, Clerical and Training Division 18002

SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS OFFICE
Notices
Future of U.S. foreign trade policy; notice of public hearing 17997

TRANSPORTATION DEPARTMENT
See Coast Guard; Federal Aviation Administration; Federal Highway Administration.

TREASURY DEPARTMENT
See Comptroller of the Currency; Customs Bureau; Internal Revenue Service.

WAGE AND HOUR DIVISION
Notices
Certificates authorizing employment of full-time students working outside of school hours at special minimum wages in retail or service establishments or in agriculture 18002

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

7 CFR
722 17923
905 17925

12 CFR
1 17926
545 17926

14 CFR
39 17927
97 17928
PROPOSED RULES:
71 (2 documents) 17982
241 17983

17 CFR
230 17933
239 17933
PROPOSED RULES:
240 17983

21 CFR
PROPOSED RULES:
128 17980

23 CFR
255 17938

26 CFR
1 17938

33 CFR
117 17939

41 CFR
101-26 17939

46 CFR
PROPOSED RULES:
Ch. II 17980

48 CFR
501 17940

49 CFR
290 17941
291 17941
292 17941
293 17941
294 17941
295 17941
296 17941
297 17941

Rules and Regulations

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 722—COTTON

Subpart—1968 Crop of Upland Cotton; Acreage Allotments and Marketing Quotas

COUNTY RESERVES

Basis and purpose. Section 722.485 is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.). This section establishes the county reserves for the 1968 crop of upland cotton. Such determinations were made initially by the respective county committees and are hereby approved and made effective by the Administrator, ASCS, pursuant to delegated authority (28 F.R. 4368, 29 F.R. 16210, 30 F.R. 8756, 32 F.R. 11895).

Notice that the Secretary was preparing to establish State and county allotments and reserves was published in the FEDERAL REGISTER on August 9, 1967 (32 F.R. 11475), in accordance with 5 U.S.C. 553. No written submissions were received in response to such notice.

Since the establishment of county reserves requires immediate action by the county committees, it is essential that § 722.485 be made effective as soon as possible. Accordingly, it is hereby determined and found that compliance with the 30-day effective date requirement of 5 U.S.C. 553 is impracticable and contrary to the public interest and § 722.485 shall be effective upon filing this document with the Director, Office of the Federal Register.

§ 722.485 County reserves for the 1968 crop of upland cotton.

The county reserves for the 1968 crop of upland cotton are established in accordance with § 722.409 of the regulations for Acreage Allotments for 1966 and Succeeding Crops of Upland Cotton (31 F.R. 5300, as amended). The following table sets forth the county reserves:

ALABAMA

County	County reserve (acres)	County	County reserve (acres)
Autauga	36.5	Butler	83.2
Baldwin	30.7	Calhoun	29.4
Barbour	148.1	Chambers	21.9
Bibb	2.4	Cherokee	35.6
Blount	66.3	Chilton	12.6
Bullock	45.4	Choctaw	196.8
Clarke	151.2	Lee	77.1
Clay	10.4	Limestone	99.3
Cleburne	9.5	Lowndes	25.4
Coffee	44.9	Macon	64.4
Colbert	27.2	Madison	28.3
Conecuh	143.4	Marengo	139.6
Coosa	3.6	Marion	88.6
Covington	40.2	Marshall	14.5
Crenshaw	35.3	Mobile	13.1
Cullman	153.3	Monroe	16.6
Dale	64.9	Montgomery	77.3
Dallas	102.4	Morgan	12.9
De Kalb	7.6	Perry	17.1
Elmore	20.4	Pickens	12.0
Escambia	74.1	Pike	129.7
Etowah	41.7	Randolph	58.1
Fayette	41.4	Russell	27.0
Franklin	32.0	St. Clair	39.3
Geneva	36.0	Shelby	10.3
Greene	18.1	Sumter	58.4
Hale	13.0	Talladega	15.2
Henry	46.0	Tallapoosa	67.9
Houston	99.9	Tuscaloosa	36.9
Jackson	78.3	Walker	151.5
Jefferson	48.2	Washington	97.5
Lamar	44.0	Wilcox	37.1
Lauderdale	52.6	Winston	33.9
Lawrence	8.7		

ARIZONA

Cochise	14.2	Pima	2.8
Gila	0	Pinal	10.4
Graham	3.9	Santa Cruz	1.0
Greenlee	.7	Yavapai	0
Maricopa	14.0	Yuma	12.9
Mohave	1.0		

ARKANSAS

Arkansas	2.4	Lee	1.9
Ashley	2.6	Lincoln	2.6
Baxter	0	Little River	2.8
Boone	0.7	Logan	0
Bradley	0	Lonoke	2.8
Calhoun	.8	Marion	0
Chicot	2.7	Miller	.3
Clark	.2	Mississippi	2.2
Clay	2.6	Monroe	2.8
Cleburne	.3	Montgomery	4.2
Cleveland	.2	Nevada	.2
Columbia	23.0	Newton	0
Conway	.8	Ouachita	.3
Craighead	2.9	Perry	.3
Crawford	2.4	Phillips	2.7
Crittenden	1.4	Pike	0
Cross	4.4	Poinsett	2.1
Dallas	.9	Polk	3.4
Desha	2.6	Pope	.8
Drew	2.3	Prairie	2.3
Faulkner	.6	Pulaski	2.8
Franklin	.4	Randolph	2.3
Fulton	3.5	St. Francis	2.7
Garland	.4	Saline	2.8
Grant	.7	Scott	0
Greene	2.1	Searcy	.9
Hempstead	0	Sebastian	0
Hot Spring	38.5	Sevier	5.0
Howard	.8	Sharp	.9
Independence	.5	Stone	4.2
Izard	0	Union	13.3
Jackson	2.1	Van Buren	.1
Jefferson	2.3	Washington	0
Johnson	0	White	1.7
Lafayette	2.1	Woodruff	21.9
Lawrence	2.8	Yell	.7

CALIFORNIA

County	County reserve (acres)	County	County reserve (acres)
Fresno	41.6	Riverside	2.4
Imperial	29.6	San Benito	0
Kern	55.7	San Bernardino	4.9
Kings	18.3	San Diego	1.1
Los Angeles	28.0	Stanislaus	0
Madera	34.8	Tulare	75.3
Merced	4.3		

FLORIDA

Alachua	0.3	Lafayette	1.5
Baker	0	Leon	71.3
Bay	3.0	Levy	0
Calhoun	1.1	Liberty	1.0
Clay	0	Madison	196.9
Columbia	44.9	Nassau	0
Dixie	0	Okaloosa	8.4
Escambia	37.4	Santa Rosa	16.9
Gadsden	12.2	Suwannee	164.2
Gilchrist	0	Taylor	0
Hamilton	55.8	Union	1.6
Holmes	37.1	Walton	84.2
Jackson	268.0	Washington	65.7
Jefferson	99.0		

GEORGIA

Appling	21.1	Echols	.2
Atkinson	10.5	Effingham	7.4
Bacon	11.1	Elbert	41.4
Baker	15.0	Emanuel	79.5
Baldwin	5.0	Evans	13.0
Banks	12.4	Fayette	11.4
Barrow	25.7	Floyd	40.4
Bartow	26.9	Forsyth	5.4
Ben Hill	24.6	Franklin	35.3
Berrien	16.8	Fulton	11.1
Bibb	8.1	Gilmer	.1
Bleckley	34.1	Glascock	23.0
Brantley	0	Gordon	46.2
Brooks	42.7	Grady	17.6
Bryan	2.9	Greene	6.0
Bulloch	69.4	Gwinnett	198.1
Burke	65.6	Habersham	.2
Butts	14.3	Hall	17.7
Calhoun	6.8	Hancock	40.9
Candler	31.4	Haralson	5.0
Carroll	49.8	Harris	10.3
Catoosa	4.3	Hart	55.0
Charlton	1.6	Heard	10.6
Chatham	.6	Henry	42.4
Chattahoochee	2.2	Houston	44.3
Chattooga	21.1	Irwin	47.2
Cherokee	20.9	Jackson	30.2
Clarke	8.6	Jasper	9.0
Clay	16.8	Jeff Davis	10.9
Clayton	7.6	Jefferson	49.7
Clinch	1.7	Jenkins	56.8
Cobb	85.2	Johnson	74.9
Coffee	15.4	Jones	10.6
Colquitt	100.7	Lamar	7.3
Columbia	5.2	Lanier	3.2
Cook	18.7	Laurens	138.4
Coweta	50.0	Lee	17.6
Crawford	8.1	Liberty	1.3
Crisp	49.6	Lincoln	8.7
Dade	10.4	Long	2.5
Dawson	.5	Lowndes	15.9
Decatur	48.2	Lumpkin	.2
De Kalb	3.9	McDuffie	30.3
Dodge	63.8	McIntosh	.1
Dooly	34.9	Macon	56.8
Dougherty	19.1	Madison	47.5
Douglas	26.3	Marion	19.0
Early	31.2	Meriwether	84.2
		Miller	7.2

GEORGIA—Continued

County	County reserve (acres)	County	County reserve (acres)
Mitchell	70.1	Talbot	1.0
Monroe	5.1	Taliaferro	19.8
Montgomery	18.4	Tattnall	24.6
Morgan	67.8	Taylor	12.9
Murray	1.2	Telfair	22.6
Muscogee	.2	Terrell	24.4
Newton	30.1	Thomas	28.6
Oconee	37.7	Tift	31.6
Oglethorpe	22.6	Toombs	27.8
Paulding	23.1	Treutlen	16.1
Peach	10.6	Troup	8.5
Pickens	19.6	Turner	23.9
Pierce	7.6	Twiggs	16.9
Pike	28.7	Upson	1.1
Polk	26.7	Walker	7.7
Pulaski	44.5	Walton	20.7
Putnam	2.6	Ware	5.7
Quitman	1.2	Warren	20.8
Randolph	31.4	Washington	21.6
Richmond	11.1	Wayne	29.2
Rockdale	18.4	Webster	8.3
Schley	17.6	Wheeler	16.6
Screven	78.7	White	4.8
Seminole	18.9	Whitfield	20.8
Spalding	12.8	Wilcox	58.7
Stephens	2.7	Wilkes	16.0
Stewart	14.9	Wilkinson	11.4
Sumter	80.7	Worth	80.3

ILLINOIS

Alexander	15.2	Pulaski	15.9
Massac	0.0		

KANSAS

Montgomery	0

KENTUCKY

Ballard	0	Graves	1.6
Calloway	0.6	Hickman	0
Carlisle	0	McCracken	0
Fulton	7.1	Marshall	0

LOUISIANA

Acadia	22.9	Lincoln	5.0
Allen	19.2	Livingston	17.2
Ascension	16.6	Madison	2.6
Assumption	0	Morehouse	102.6
Avoyelles	1,337.8	Natchitoches	62.9
Beauregard	3.6	Ouachita	45.7
Bienville	12.9	Pointe Coupee	749.7
Bossier	190.5	Rapides	53.0
Caddo	95.2	Red River	26.2
Calcasieu	0	Richland	146.0
Caldwell	24.6	Sabine	26.5
Cameron	0	St. Helena	41.5
Catahoula	26.6	St. Landry	226.3
Claiborne	9.0	St. Martin	512.6
Concordia	26.2	St. Tammany	0
De Soto	25.9	Tangipahoa	.6
East Baton Rouge	6.6	Tensas	56.8
East Carroll	11.4	Union	19.6
East Feliciana	2.9	Vermilion	200.6
Evangeline	62.8	Vernon	10.9
Franklin	58.6	Washington	205.8
Grant	13.2	Webster	128.7
Iberia	76.9	West Baton Rouge	97.2
Iberville	2.6	West Carroll	90.9
Jackson	5.1	West Feliciana	9.9
Jefferson Davis	27.4	Winn	7.2
Lafayette	41.9		
La Salle	4.7		

MISSISSIPPI

Adams	12.9	Bolivar	5.1
Alcorn	17.0	Calhoun	20.2
Amite	12.7	Carroll	33.9
Attala	20.6	Chickasaw	19.9
Benton	19.8	Choctaw	30.1

MISSISSIPPI—Continued

County	County reserve (acres)	County	County reserve (acres)
Claiborne	35.9	Marshall	49.5
Clarke	122.7	Monroe	54.4
Clay	344.6	Montgomery	17.1
Coahoma	22.8	Neshoba	94.9
Copiah	29.7	Newton	51.9
Covington	71.7	Noxubee	39.6
De Soto	14.7	Oktibbeha	40.8
Forrest	4.6	Panola	12.6
Franklin	14.8	Pearl River	18.7
George	26.8	Perry	6.6
Greene	36.2	Pike	12.8
Grenada	21.1	Pontotoc	56.8
Hancock	0	Prentiss	17.6
Harrison	0	Quitman	27.4
Hinds	57.8	Rankin	38.2
Holmes	11.4	Scott	109.6
Humphreys	9.4	Sharkey	2.4
Issaquena	1.1	Simpson	119.8
Itawamba	27.7	Smith	54.4
Jackson	0	Stone	0
Jasper	71.4	Sunflower	5.7
Jefferson	16.8	Tallahatchie	10.4
Jefferson Davis	133.6	Tate	23.8
Jones	122.2	Tippah	31.7
Kemper	92.1	Tishomingo	16.0
Lafayette	35.0	Tunica	34.7
Lamar	5.9	Union	27.2
Lauderdale	74.1	Walthall	85.2
Lawrence	50.5	Warren	17.2
Leake	6.7	Washington	11.9
Lee	50.5	Wayne	42.0
Leflore	8.4	Webster	17.9
Lincoln	10.0	Wilkinson	9.2
Lowndes	57.0	Winston	49.3
Madison	34.9	Yalobusha	7.2
Marion	64.5	Yazoo	8.7

MISSOURI

Bollinger	1.5	New Madrid	14.1
Butler	7.0	Oregon	4.1
Cape Girardeau	1.0	Pemiscot	8.4
Carter	1.5	Ripley	2.6
Dunklin	3.8	Scott	63.0
Howell	1.9	Stoddard	10.0
Mississippi	5.1	Vernon	0
		Wayne	0

NEVADA

Clark	0	Nye	0

NEW MEXICO

Chaves	22.8	Lea	15.7
Curry	.2	Luna	1.6
De Baca	1.6	Otero	5.2
Dona Ana	27.2	Quay	5.6
Eddy	45.9	Roosevelt	10.0
Grant	0	Sierra	.4
Harding	0	Socorro	7.6
Hidalgo	5.2		

NORTH CAROLINA

Alamance	2.0	Davie	39.4
Alexander	4.7	Duplin	36.6
Anson	99.5	Durham	1.9
Beaufort	78.2	Edgecombe	22.3
Bertie	265.9	Forsyth	9.1
Bladen	5.9	Franklin	77.4
Brunswick	2.5	Gaston	24.5
Burke	.2	Gates	217.9
Cabarrus	13.0	Granville	27.5
Caldwell	0	Greene	13.6
Camden	10.6	Guilford	5.7
Carteret	2.4	Halifax	66.0
Catawba	32.0	Harnett	42.4
Chatham	32.2	Hertford	310.3
Cherokee	73.6	Hoke	1,287.5
Cleveland	668.9	Hyde	2.1
Columbus	.1	Iredell	10.9
Craven	36.2	Johnston	236.9
Cumberland	178.2	Jones	4.0
Currituck	5.8	Lee	9.9
Davidson	34.2	Lenoir	7.5
		Lincoln	21.9

NORTH CAROLINA—Continued

County	County reserve (acres)	County	County reserve (acres)
Martin	203.8	Polk	5.5
Mecklenburg	48.9	Randolph	5.4
Montgomery	36.2	Richmond	99.9
Moore	9.4	Robeson	57.7
Nash	733.8	Rowan	73.7
New Hanover	2.0	Rutherford	11.8
Northhampton	610.2	Sampson	248.5
Onslow	37.6	Scotland	1,547.3
Orange	5.6	Stanly	95.5
Pamlico	1.8	Tyrell	3.4
Pasquotank	5.1	Union	42.5
Pender	14.9	Vance	24.4
Perquimans	4.8	Wake	40.0
Person	0	Warren	29.3
Pitt	42.6	Washington	24.6
		Wayne	15.2
		Wilkes	3.7
		Wilson	368.2
		Yadkin	1.9

OKLAHOMA

Adair	8.0	Le Flore	27.8
Atoka	3.0	Lincoln	22.4
Beaver	0	Logan	64.5
Beckham	24.7	Love	361.0
Blaine	50.8	McClain	247.8
Bryan	373.7	McCurtain	34.8
Caddo	226.0	McIntosh	32.9
Canadian	98.7	Major	128.6
Carter	49.5	Marshall	36.3
Cherokee	9	Mayes	1.1
Choctaw	8.2	Murray	1.8
Cimarron	0	Muskogee	206.8
Cleveland	95.5	Noble	.9
Coal	27.3	Nowata	1.4
Comanche	268.1	Okfuskee	114.1
Cotton	48.0	Oklahoma	50.0
Craig	.7	Okmulgee	36.4
Creek	183.4	Osage	39.4
Custer	67.7	Pawnee	58.9
Dewey	141.1	Payne	12.5
Ellis	2.8	Pittsburg	42.6
Garfield	0	Pontotoc	51.8
Garvin	5.2	Pottawatomie	57.0
Grady	109.1	Pushmataha	12.7
Grant	.5	Roger Mills	137.8
Greer	24.6	Rogers	24.0
Harmon	37.1	Seminole	30.3
Harper	0	Sequoyah	9.0
Haskell	46.1	Stephens	30.6
Hughes	181.0	Texas	0
Jackson	67.1	Tillman	27.5
Jefferson	240.1	Tulsa	9.7
Johnston	28.0	Wagoner	179.9
Kay	22.0	Washington	0
Kingfisher	52.4	Washita	201.6
Kiowa	134.5	Woodward	8.7
Latimer	10.8		

SOUTH CAROLINA

Abbeville	38.4	Hampton	42.5
Aiken	107.9	Horry	38.4
Allendale	57.2	Jasper	99.8
Anderson	134.6	Kershaw	96.5
Bamberg	75.9	Lancaster	36.4
Barnwell	82.3	Laurens	80.5
Beaufort	33.5	Lee	217.6
Berkeley	99.2	Lexington	56.4
Calhoun	91.6	McCormick	16.4
Charleston	24.7	Marion	74.4
Cherokee	57.2	Marlboro	239.9
Chester	54.8	Newberry	35.0
Chesterfield	162.8	Oconee	30.1
Clarendon	206.1	Orangeburg	338.7
Colleton	55.8	Pickens	18.9
Darlington	176.9	Richland	32.2
Dillon	186.9	Saluda	40.7
Dorchester	46.1	Spartanburg	24.4
Edgefield	34.6	Sumter	238.6
Fairfield	19.4	Union	22.4
Florence	185.0	Williamsburg	203.4
Georgetown	12.4	York	75.7
Greenville	59.5		
Greenwood	17.8		

TENNESSEE

County	County reserve (acres)	County	County reserve (acres)
Bedford	20.8	Lewis	8.2
Benton	73.1	Lincoln	.9
Bradley	19.8	Loudon	0
Cannon	.4	McMinn	8.2
Carroll	15.7	McNairy	10.6
Chester	19.1	Madison	41.4
Coffee	104.8	Marion	1.2
Crockett	55.2	Marshall	8.3
Decatur	80.5	Maury	8.4
Dyer	41.2	Meigs	2.6
Fayette	54.2	Moore	5.0
Franklin	32.2	Obion	6.2
Gibson	62.2	Perry	8.3
Giles	116.8	Polk	9.8
Grundy	1.4	Rhea	0
Hamilton	15.3	Robertson	0
Hardeman	33.6	Rutherford	1.6
Hardin	1.0	Shelby	18.4
Haywood	17.6	Tipton	69.3
Henderson	10.3	Warren	.2
Henry	48.5	Wayne	97.4
Humphreys	0	Weakley	19.9
Lake	16.0	Williamson	0
Lauderdale	31.6	Wilson	4.2
Lawrence	3.5		

TEXAS

County	County reserve (acres)	County	County reserve (acres)
Anderson	79.9	Dawson	13.8
Andrews	8.1	Deaf Smith	17.5
Angelina	184.6	Delta	49.6
Aransas	.7	Denton	91.6
Archer	21.2	DeWitt	60.7
Armstrong	2.8	Dickens	1.9
Atascosa	101.3	Dimmit	9.6
Austin	24.1	Donley	0.3
Bailey	22.9	Duval	8.5
Bastrop	145.5	Eastland	62.3
Baylor	12.4	Ector	29.9
Bee	18.7	Ellis	431.0
Bell	102.5	El Paso	24.8
Bexar	19.6	Erath	65.9
Blanco	.1	Falls	244.4
Borden	.8	Fannin	212.7
Bosque	90.9	Fayette	300.1
Bowie	83.9	Fisher	26.6
Brazoria	13.3	Floyd	28.6
Brazos	11.7	Foard	3.2
Brewster	0	Fort Bend	11.3
Briscoe	25.0	Franklin	25.9
Brooks	12.3	Freestone	26.3
Brown	29.2	Frio	8.7
Burleson	183.8	Gaines	99.0
Burnet	15.8	Galveston	.6
Caldwell	24.5	Garza	11.2
Calhoun	10.1	Gillespie	24.7
Callahan	31.2	Glasscock	.1
Cameron	17.7	Goliad	6.7
Camp	4.8	Gonzales	25.0
Carson	4.8	Gray	5.0
Cass	42.9	Grayson	112.9
Castro	12.1	Gregg	17.6
Chambers	2.2	Grimes	27.7
Cherokee	11.0	Guadalupe	47.4
Childress	133.5	Hale	44.4
Clay	24.4	Hall	11.1
Cochran	11.5	Hamilton	48.4
Coke	4.0	Hansford	.9
Coleman	145.4	Hardeman	35.8
Collin	162.1	Hardin	2.4
Collingsworth	30.9	Harris	35.6
Colorado	64.0	Harrison	48.0
Comal	9.9	Hartley	0
Comanche	42.6	Haskell	344.1
Concho	40.3	Hays	17.7
Cooke	75.4	Hemphill	4.4
Coryell	93.6	Henderson	72.7
Cottle	7.7	Hidalgo	375.2
Crockett	0	Hill	296.6
Crosby	14.6	Hockley	4.8
Culberson	1.7	Hood	30.2
Dallam	3.7	Hopkins	23.0
Dallas	298.4	Houston	480.9
		Howard	4.9

TEXAS—Continued

County	County reserve (acres)	County	County reserve (acres)
Hudspeth	4.4	Pecos	4.1
Hunt	149.9	Polk	11.2
Hutchinson	.2	Potter	1.1
Irion	1.7	Presidio	.5
Jack	22.8	Rains	18.9
Jackson	15.4	Randall	1.2
Jasper	10.0	Reagan	7.8
Jeff Davis	0	Real	.6
Jefferson	1.4	Red River	34.0
Jim Hogg	66.2	Reeves	4.5
Jim Wells	29.0	Refugio	15.9
Johnson	270.2	Roberts	.1
Jones	66.5	Robertson	7.6
Karnes	19.9	Rockwall	219.3
Kaufman	88.5	Runnels	95.0
Kendall	0	Rusk	87.3
Kent	4.1	Sabine	169.6
Kerr	3.3	San Augustine	60.8
Kimble	2.7	San Jacinto	22.3
King	.1	San Patricio	31.3
Kinney	31.5	San Saba	28.6
Kleberg	17.9	Schleicher	4.2
Knox	22.9	Scurry	5.5
Lamar	36.7	Shackelford	17.1
Lamb	22.1	Shelby	449.9
Lampasas	20.3	Smith	354.0
La Salle	6.3	Somervell	21.3
Lavaca	76.8	Starr	78.5
Lee	28.8	Stephens	5.6
Leon	26.0	Sterling	2.0
Liberty	155.0	Stonewall	2.8
Limestone	141.0	Swisher	1.4
Live Oak	19.4	Tarrant	27.5
Llano	1.0	Taylor	18.5
Loving	.1	Terry	2.2
Lubbock	63.2	Throckmorton	38.6
Lynn	1.2	Titus	201.9
McCulloch	34.4	Tom Green	51.1
McLennan	456.9	Travis	178.6
McMullen	5.6	Trinity	16.6
Madison	20.1	Tyler	31.2
Marion	49.1	Upshur	108.4
Martin	3.7	Upton	1.3
Mason	9.8	Uvalde	20.1
Matagorda	3.9	Val Verde	2.0
Maverick	10.2	Van Zandt	229.0
Medina	25.5	Victoria	22.7
Menard	13.4	Walker	1.8
Midland	6.6	Waller	10.2
Milam	134.6	Ward	1.9
Mills	21.1	Washington	154.7
Mitchell	13.0	Webb	11.4
Montague	37.5	Wharton	24.3
Montgomery	31.7	Wheeler	13.7
Moore	2.0	Wichita	14.8
Morris	105.3	Wilbarger	46.3
Motley	5.2	Willacy	8.7
Nacogdoches	58.2	Williamson	73.4
Navarro	174.5	Wilson	51.7
Newton	40.3	Winkler	0
Nolan	14.4	Wise	24.7
Nueces	44.1	Wood	312.7
Ochiltree	5.9	Yoakum	40.9
Oldham	0	Young	43.8
Palo Pinto	25.8	Zapata	9.0
Panola	94.3	Zavala	10.7
Parker	51.7		
Parmer	30.6		

VIRGINIA

Brunswick	56.1	Prince Edwards	.2
Charlotte	0.7	Prince George	5.2
Dinwiddie	29.8	Southampton	43.9
Greenville	15.6	Surry	.6
Henrico	0	Sussex	19.5
Isle of Wight	28.6		
Lunenburg	12.5		
Mecklenburg	31.3		
Nansemond	45.8		

(Secs. 344, 375, 68 Stat. 670, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1344, 1375)

Effective date: Date of filing this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on December 7, 1967.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 67-14522; Filed, Dec. 14, 1967; 8:45 a.m.]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Grapefruit Reg. 66, Amdt. 2]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective upon publication in the FEDERAL REGISTER. Shipments of grapefruit are currently regulated pursuant to Grapefruit Regulation 66, as amended (32 F.R. 12907, 16525) and, unless sooner terminated or modified, will continue to be so regulated through September 8, 1968; determinations as to need for, and

extent of regulation under § 905.52 (a) (3) of the order must await the development of the crop and the availability of information about the demand for such fruit; the recommendation and supporting information for limiting the total quantity of fresh grapefruit by prohibiting the shipment thereof, pursuant to said section, during the period December 21 through December 27, 1967, as herein provided, were promptly submitted to the Department after an open meeting on November 28, 1967, to consider recommendations for such regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; information regarding the provisions of the regulation recommended by the committee has been disseminated among shippers of grapefruit grown in the production area, and this regulation, including the effective time thereof, is identical with the recommendation of the committee; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of grapefruit grown in the production area; and compliance with this regulation will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective time hereof. No useful purpose would be served by postponing the effective time hereof to a date later than that of publication in the FEDERAL REGISTER.

Order. In § 905.496 (Grapefruit Reg. 66, 32 F.R. 12907, 16525), the provisions of paragraph (a) are amended in the following respects.

1. The provisions of subparagraph (1) immediately preceding subdivision (i) thereof are revised to read as follows:

(1) Except as otherwise provided in subdivision (vii) of this subparagraph, during the period September 11, 1967, through September 8, 1968, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

2. The following provisions are added as subdivision (vii) immediately after subdivision (vi):

(vii) During the period December 21, 1967, through December 27, 1967, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico, any grapefruit grown in the production area.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated December 12, 1967, to become effective upon publication in the FEDERAL REGISTER.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-14586; Filed, Dec. 14, 1967; 8:46 a.m.]

Title 12—BANKS AND BANKING

Chapter I—Bureau of the Comptroller of the Currency, Department of the Treasury

PART 1—INVESTMENT SECURITIES REGULATION

Water and Sewer Improvement Bonds, Series 1967, of the Northwest Houston Water Supply Corp.

§ 1.203 Water and Sewer Improvement Bonds, Series 1967, of the Northwest Houston Water Supply Corp.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $2,200,000 Water and Sewer Improvement Bonds, Series 1967, of the Northwest Houston Water Supply Corp. for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Northwest Houston Water Supply Corp. was organized at the request and for the benefit of the City of Houston as a nonprofit water supply corporation under a provision of Texas law which authorizes the formation of such a corporation for the exclusive purpose of furnishing a water supply or sewer service or both to cities and others. The Corporation is authorized to issue bonds to finance the acquisition of water and sewer projects. A city is authorized by law to enter into a contract for the purchase of water and sewer systems from such a corporation and to agree to make periodic payments to the corporation in amounts which together with other income of the corporation will be sufficient to pay the principal of and interest on the bonds of the corporation. The law also authorizes a city to provide for the levying of a tax to make such payments.

(2) The Corporation has entered into a contract with the City of Houston under which the Corporation will finance and construct a water and sewer system for a suburban area immediately adjacent to the City and the City will annex the area and purchase the system. Construction of the project will be assisted by a federal grant of $1 million. The Corporation is issuing these bonds to finance the remaining costs.

(3) In the purchase contract the City has unconditionally promised to make periodic payments to the corporation in amounts which will be sufficient to pay the principal of and interest on these bonds. The contract also provides that the periodic payments shall be payable from a continuing, direct annual ad valorem tax on all taxable property in the City sufficient to make such payments in each year and the City has by ordinance levied such a tax. The City which possesses general powers of taxation has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion, therefore, that the $2,200,000 Water and Sewer Improvement Bonds, Series 1967, of the Northwest Houston Water Supply Corp. are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and, accordingly, are eligible for purchase, dealing in, underwriting and unlimited holding by national banks.

Dated: December 7, 1967.

[SEAL] WILLIAM B. CAMP,
Comptroller of the Currency.

[F.R. Doc. 67-14590; Filed, Dec. 14, 1967; 8:48 a.m.]

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 21,182]

PART 545—OPERATIONS

Bonus Plans

DECEMBER 7, 1967.

Resolved that, notice and public procedure having been duly afforded (32 F.R. 14283) and all relevant material presented or available having been considered by it, the Federal Home Loan Bank Board, upon the basis of such consideration and for the purpose of authorizing a new 48-to-96-month bonus plan for Federal savings and loan associations to supersede, as to future monthly payment bonus accounts, the existing plans now authorized, hereby amends Part 545 of the rules and regulations for the Federal Savings and Loan System (12 CFR Part 545) as follows, effective January 15, 1968:

1. Paragraph (d) of § 545.2–1 of the rules and regulations for the Federal Savings and Loan System is amended to read as follows:

§ 545.2–1 Bonus on savings accounts.

* * * * * *

(d) *Abolition of bonus plan.* The bonus plan provided by this section is abolished except as to accounts opened prior to January 15, 1968.

2. A new section, § 545.2–2, is added immediately after § 545.2–1, as revised, to read as follows:

§ 545.2–2 48-to-96-month bonus plan.

(a) *Offering the plan.* A Federal association may offer the bonus plan under this section by a resolution of its board of directors if the plan is consistent with its charter, and a Federal association shall offer the bonus plan under this section if its bylaws include the provisions of paragraph (f) of § 544.6 of this chapter.

(b) *Qualification for bonus.* An account qualifies under this section if:

(1) At the time the account is opened, the member gives to the association a signed statement of intention to make regular monthly payments of a specified amount to the account;

(2) The member opens the account by making the first monthly payment;

(3) The member makes the regular monthly payments without delay of more than 90 days on to any such payment; and

(4) No withdrawals have been made from the account.

(c) *Bonus rate.* The association's board of directors shall determine a bonus rate not in excess of 1 percent per annum, subject to the following provisions:

(1) A reduction in the bonus rate shall not apply to accounts which were opened prior to the effective date of the reduction;

(2) An increased bonus rate shall apply to all accounts which qualify under this section from the effective date of the increase; and

(3) A change in the bonus rate may become effective only at the beginning of a future distribution period.

(d) *Bonus earnings.* (1) A bonus is earned on and shall be credited together with all other earnings, to accounts which qualify under this section:

(i) At one-half of the bonus rate for distribution periods which begin during the 48-month period from the date the account is opened, but no bonus for the first 12 months of such period shall be earned or credited until the end of the distribution period in which the expiration of such first 12-month period occurs; and

(ii) At the full bonus rate for distribution periods which begin 48 months or more from the date the account is opened, but no bonus is earned for any distribution period which begins 96 months or more from such date.

(2) A bonus earned under this section shall be computed as of the same dates and in the same manner as are other earnings for distribution.

(3) A bonus shall not be earned under this section on any account which earns any other bonus or a variable rate.

(e) *Prepayment of regular monthly payment.* The association shall not accept a prepayment of a regular monthly payment more than 90 days in advance.

(f) *Options with respect to the plan.* The association's board of directors may, by resolution, with respect to accounts not opened on or before the date of such resolution:

(1) Terminate the plan under this section if the association's bylaws do not include the provisions of paragraph (f) of § 544.6; or

(2) Fix either or both a minimum and maximum amount of regular monthly payments.

(g) *Certificate.* The association shall issue, to each member who opens an account pursuant to this section, a certificate attached to or incorporated in an account book and containing the following language:

This certifies that [name of member] holds a 48-to-96-Month Bonus Plan Account which is subject to the provisions of § 545.2–2 of the rules and regulations for the Federal Savings and Loan System.

(h) *Existing bonus rights.* A Federal association which, prior to January 15, 1968, has outstanding bonus agreements shall continue to suspend the provisions thereof and distribute bonus payments thereunder. On or after such date, no Federal association shall make any bonus agreement other than as provided in this section or in paragraph (b) of § 545.3.

3. Subparagraph (4) of paragraph (a) of § 545.3 of the rules and regulations for the Federal Savings and Loan System is amended.

4. Paragraph (c) of § 545.3 of the rules and regulations for the Federal Savings and Loan System is revoked.

§ 545.3 Bonus on monthly payment and fixed-balance accounts.

(a) * * *

(4) The bonus plan provided by this paragraph is abolished except as to accounts opened prior to January 15, 1968.

* * * * * *

(sec) [Revoked]

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] HARRY W. CAULSEN,
Secretary.

[F.R. Doc. 67-14585; Filed, Dec. 14, 1967; 8:48 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

SUBCHAPTER C—AIRCRAFT

[Docket No. 8018, Amdt. 39-329]

PART 39—AIRWORTHINESS DIRECTIVES

Allison-Aero Products Models A6441FN-606, A6441FN-606A Propellers

Amendment 39-317 (32 F.R. 7126), AD 67-17-1, requires daily inspection, or replacement where necessary, of Allison-Aero Products Models A6441FN-606 and A6441FN-606A Propellers in which were installed fixed splines Part No. 6522974, Serial Nos. 1367 and up, or Part Nos. 6523110 and 6509978. Amendment 39-481 (32 F.R. 13268, 13269) added a paragraph (e) to the AD requiring the marking and inspection as outlined in paragraphs (b) and (c) of AD 67-17-1 of those propellers in which fixed spline Part No. 6508538 are installed and which do not have the restrictions required by AD 67-20-1.

Amendment 39-439 (32 F.R. 9819) as amended by Amendment 39-466 (32 F.R. 12119), AD 67-20-1, requires modification of the aforementioned propellers by replacing the master gear retention bolts with higher strength bolts bearing Part Number 6520861 bolts, as outlined in Allison's Propeller Bulletin, CPB No. 60-317.

Both AD 67-17-1 and AD 67-20-1 were made applicable to those Allison-Aero Products Models A6441FN-606 and A6441 FN-606A Propellers installed on Allison Convair Model 340/440 airplanes modified in accordance with STC SA4-110 or Lockheed Model L-188 series airplanes. After issuing AD 67-17-1 and AD 67-20-1, and amendments, it has been determined that the unsafe conditions to which the ADs relate can involve all Allison-Aero Products Models A6441FN-606 and A6441 FN-606A Propellers and are not necessarily limited to those installed in Allison-Convair 340/440 or Lockheed Model L-188 series airplanes. Consequently, the ADs are being amended to make them applicable to all such Allison-Aero Products Models Propellers.

Since immediate action is required in the interest of safety, compliance with the notice and public procedures provisions of the Administrative Procedures Act is not practicable and good cause exists for making this amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5657) § 39.13 of Part 39 of the Federal Aviation Regulations, amendment 39-317 (32 F.R. 7126) as amended by amendment 39-481 (32 F.R. 13268, 13269), AD 67-17-1, and amendment 39-439 (32 F.R. 9819) as amended by amendment 39-466 (32 F.R. 12119), AD 67-20-1, are amended by revising the applicability statements of these ADs to read as follows:

ALLISON-AERO PRODUCTS. Applies to Models A6441FN-606 and A6441FN-606A Propellers.

This amendment becomes effective December 15, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421 and 1423)

Issued in Kansas City, Mo., on December 6, 1967.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 67-14561; Filed, Dec. 14, 1967; 8:46 a.m.]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 8506; Amdt. 372]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

The amendments to the standard instrument approach procedures contained herein are adopted to become effective when indicated in order to promote safety. The amended procedures supersede the existing procedures of the same classification now in effect for the airports specified therein. For the convenience of the users, the complete procedure is republished in this amendment indicating the changes to the existing procedures.

As a situation exists which demands immediate action in the interests of safety in air commerce, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In view of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 97 (14 CFR Part 97) is amended as follows:

1. By amending the following automatic direction finding procedures prescribed in § 97.11(b) to read:

ADF Standard Instrument Approach Procedure

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above types is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
CLT VOR	LOM	Direct	2800	T-dn§	800–1	800–1	800–1½
Fort Mill VOR	Clover Int	Direct	2200	C-dn	500–1	500–1	500–1½
Clover Int	LOM (final)	Direct	2200	S-dn-6	400–1	400–1	400–1
York Int	Clover Int	Direct	2200	A-dn	800–2	800–2	800–2
Bradley Int	LOM	Direct	2800				
Mount Holly Int	LOM	Direct	2200				
Bethany Int	LOM	Direct	2200				

Radar available.
Procedure turn N side of SW crs, 230° Outbnd, 050° Inbnd, 2200' within 10 miles.
Minimum altitude over LOM Inbnd final, 2200'.
Crs and distance, facility to airport, 050°—4.6 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.6 miles of LOM, climb to 3000' on crs of 050° from LOM within 15 miles or, when directed by ATC, turn left, climb to 3000' on FML VOR R 007° to Mount Holly Int.
§ RVR 2400' authorized Runway 5 for aircraft with more than two engines; RVR 5000' aircraft two engines or less.
MSA within 25 miles of facility: 000°–090°—3000'; 090°–180°—2200'; 180°–270°—3100'; 270°–360°—2800'.

City, Charlotte; State, N.C.; Airport name, Douglas Municipal; Elev., 749'; Fac. Class., LOM; Ident., CL; Procedure No. NDB(ADF) Runway 5, Amdt. 20; Eff. date, 6 Jan. 68; Sup. Amdt. No. 19; Dated, 28 Jan. 67

EUG VOR	LOM	Direct	2700	T-dn§	800–1	800–1	800–1½
CVO VOR	LOM	Direct	2200	C-dn	500–1	500–1	500–1½
				S-dn-16	400–1	400–1	400–1
				A-dn	800–2	800–2	800–2

Procedure turn E side of crs, 326° Outbnd, 146° Inbnd, 2100' within 10 miles. Final approach from holding pattern at EU LOM not authorized, procedure turn required.
Minimum altitude over facility on final approach crs, 1500'.
Crs and distance, facility to airport, 146°—3.7 miles.
NOTE: All turns to be made on the E side of the crs; high terrain to W.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.7 miles after passing EU LOM, turn right and climb direct to EU LOM, thence continue climb to 2600' on crs, 326° Outbnd, 146° Inbnd, within 10 miles of EU LOM or, when directed by ATC, turn right, climb to 3100' on R 262° EUG VOR within 10 miles.
CAUTION: High terrain E and W.
§ Takeoffs all runways: Climb on the EUG VOR R 085° within 10 miles to cross the EUG VOR, southeastbound, V23, 900'; southbound V23W, 900'; westbound R 262°, 1000'.
MSA within 25 miles of facility: 000°–180°—3500'; 180°–270°—4500'; 270°–360°—3100'.

City, Eugene; State, Oreg.; Airport name, Mahlon Sweet Field; Elev., 368'; Fac. Class., LOM; Ident., EU; Procedure No. NDB(ADF) Runway 16, Amdt. 17; Eff. date, 4 Jan. 68; Sup. Amdt. No. ADF1, Amdt. 16; Dated, 16 July 66

MKC VOR	MC LOM	Direct	2600	T-dn	800–1	800–1	800–1½
Farley Int	MC LOM	Direct	2600	C-dn	500–1	500–1	500–1½
Lansing Int	MC LOM	Direct	2600	S-dn-36	400–1	400–1	400–1
Bonner Springs Int	MC LOM	Direct	2600	A-dn	800–2	800–2	800–2
Camden Int	MC LOM	Direct	2600				
BSP VOR	MC LOM	Direct	3000				

Radar available.
Procedure turn W side of crs, 126° Outbnd, 066° Inbnd, 2600' within 10 miles.
Minimum altitude over facility on final approach crs, 2600'.
Crs and distance, facility to airport, 066°—4.4 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.4 miles after passing LOM, climb to 2800' on bearing 066°. Proceed to Camden Int or, when directed by ATC, turn left, climbing to 2600' proceed to MC LOM.
MSA within 25 miles of facility: 000°–090°—3600'; 090°–180°—3100'; 180°–360°—2700'.

City, Kansas City; State, Mo.; Airport name, Mid-Continent International; Elev., 1026'; Fac. Class., LOM; Ident., MC; Procedure No. NDB(ADF) Runway 36, Amdt. 4; Eff. date, 6 Jan. 68; Sup. Amdt. No. ADF 1, Amdt. 3; Dated, 10 Sept. 66

ADF Standard Instrument Approach Procedure—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Wilmington VOR	LOM	Direct	2000	T-dn	800–1	800–1	800–1½
Swamp Int	LOM	Direct	1600	C-dn	500–1	500–1	500–1½
				S-dn-34	400–1	400–1	400–1
				A-dn	800–2	800–2	800–2

Procedure turn W side of S crs, 162° Outbnd, 342° Inbnd, 1600' within 10 miles.
Minimum altitude over facility on final approach crs, 1600'.
Crs and distance, facility to airport, 342°—4.6 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.6 miles after passing LOM, climb to 1600' on crs 342° within 15 miles or, when directed by ATC, execute left turn to 250° climbing to 2000'. Intercept R-34 VOR R-342 C.R.-295 and proceed to Swamp Int.
§ RVR 5000' authorized Runway 34.
‡ RVR 2400' authorized Runway 24.
MSA within 25 miles of facility: 000°–090°—1800'; 090°–180°—1700'; 180°–270°—2200'; 270°–360°—2000'.

City, Wilmington; State, N.C.; Airport name, New Hanover County; Elev., 32'; Fac. Class., LOM; Ident., IL; Procedure No. NDB (ADF) Runway 6, Amdt. 2; Eff. date, 6 Jan. 68; Sup. Amdt. No. ADF 1, Amdt. 3; Dated, 17 July 66

2. By amending the following very high frequency omnirange (VOR) procedures prescribed in § 97.11(c) to read:

VOR Standard Instrument Approach Procedure

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above types is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
RMG EBn	RMG VOR	Direct	3000	T-dn	800–1	800–1	NA
Dalton Int	RMG VOR	Direct	3000	C-dn	700–1	700–1	NA
Kennesaw Int	RMG VOR	Direct	3000	C-cat.	700–2	700–2	NA
				A-dn	NA	NA	NA

Procedure turn E side of crs, 026° Outbnd, 206° Inbnd, 3000' within 10 miles.
Minimum altitude over facility on final approach crs, 1700'.
Crs and distance, facility to airport, 186°—3.5 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.5 miles after passing RMG VOR, make climbing right turn to 3000', proceed to RMG VOR. Hold SE on R 166°, 1-minute right turns, 346° Inbnd.
NOTE: For IFR clearances, contact Atlanta FSS by transmitting on appropriate frequency and receiving on RMG VOR.
§ Use Atlanta altimeter 1400 to 0800 local. Use RMG altimeter 0800 to 1400 local.
MSA within 25 miles of facility: 000°–090°—4200'; 090°–180°—3000'; 180°–270°—3100'; 270°–360°—2900'.

City, Cedartown; State, Ga.; Airport name, Polk County; Elev., 970'; Fac. Class., L-BVOR; Ident., RMG; Procedure No. VOR-1, Amdt. Orig.; Eff. date, 4 Jan. 68

13-mile DME Fix, R 316° counterclockwise	13-mile DME Fix, R 316°	Claude DME Arc	2700	T-dn§	800–1	800–1	800–1½
13-mile DME Fix, R 322° clockwise	12-mile DME Fix, R 317°	13-mile DME Arc	2700	C-dn	500–1	500–1	500–1½
13-mile DME Fix, R 047°	4-mile DME Fix, R 047° (final)	Direct	1600	A-dn	800–2	800–2	800–2
				ADF/VOR or DME minimums:			
				C-dn	500–1	500–1	500–1½
				S-dn-18‡	400–1	400–1	400–1

Procedure turn W side of crs, 347° Outbnd, 167° Inbnd, 2700' within 10 miles.
Final approach from holding pattern at EUG VOR not authorized, procedure turn required.
Final approach from holding pattern at EUG VOR not authorized, procedure turn required.
Minimum altitude over Junction City Int/EUG R 347° 4-mile DME Fix on final approach crs, 1167'.
Crs and distance, Junction City Int/EUG R 347°, 4-mile DME Fix to airport, 167°—5.4 miles; breakoff point to approach end on Runway 18, 167°—4.6 mile (MSA).
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6 mile after passing EUG VOR, turn right, climb to 2000' on R 265° within 10 miles or, when directed by ATC, turn right and climb to 4000' on R 265° EUG VOR, within 10 miles of EUG VOR.
CAUTION: High terrain E and W.
‡400–1 authorized with operative HIRL, except for 4-engine turbojets. 400–½ authorized with operative ALS, except for 4-engine turbojets.
§ Takeoff all runways: Climb on the Eugene VOR R 265°, within 10 miles to cross the EUG VOR, southeastbound V23 and southbound V23W, 900'; westbound R 262°, 1000'.
MSA within 25 miles of facility: 000°–090°—4200'; 090°–180°—3000'; 180°–270°—3100'.

City, Eugene; State, Oreg.; Airport name, Mahlon Sweet Field; Elev., 368'; Fac. Class., L-BVORTAC; Ident., EUG; Procedure No. VOR Runway 16, Amdt. 11; Eff. date, 4 Jan. 68; Sup. Amdt. No. VOR-23, Amdt. 10; Dated, 16 Sept. 66

MKC VOR, R 012° clockwise	MKC VOR, R 095°	Via 7-mile DME Arc	2000	T-dn§	800–1	800–1	800–1½
MKC VOR, R 149°, counterclockwise	MKC VOR, R 095°	Via 7-mile DME Arc	2000	C-dn	500–1	500–1	500–1
7-mile DME Fix MKC VOR, R 095°	MKC VOR (final)	Direct	2600	S-dn-27	400–1	400–1	400–1
				A-dn	800–2	800–2	800–2

Radar available.
Procedure turn N side of crs, 095° Outbnd, 275° Inbnd, 2600' within 10 miles.
Minimum altitude over facility on final approach crs, 2600'.
Crs and distance, facility to airport, 095°—4.6 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.6 miles after passing MKC VOR, climb to 2700' on MKC VOR R 095°, intercept OFJ VOR R 170° and proceed S to Lansing Int.
§ RVR 2600' authorized Runway 36.
MSA within 25 miles of facility: 090°–270°—3100'; 270°–090°—2600'.

City, Kansas City; State, Mo.; Airport name, Mid-Continent International; Elev., 1026'; Fac. Class., H-BVORTAC; Ident., MKC; Procedure No. VOR Runway 36, Amdt. Orig.; Eff. date, 4 Jan. 68

VOR STANDARD INSTRUMENT APPROACH PROCEDURES—Continued

From—	To—	Course and distance	Minimum altitude (feet)	Condition	Ceiling and visibility minimums: 2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots
Pawling VORTAC	Kingston VOR	Direct	3000	T-dn	300-1	300-1	NA
				C-dn	700-1	700-1	NA
				S-dn			NA
				A-dn	NA	NA	NA

Radar available.
Procedure turn not authorized; descend to 2300' in Kingston VOR holding pattern. 1-minute left turns, 070° Inbnd.
Minimum altitude over facility on final approach crs, 2300'.
Crs and distance, facility to airport, 070°—4.5 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.5 miles after passing IGN VON, make left-climbing turn, proceed direct to IGN VOR climbing to 2300'. Hold SW, R 250°, 1-minute left turns, 070° Inbnd.
NOTE: Use Poughkeepsie FSS altimeter setting.
MSA within 25 miles of facility: 000°-090°—3400'; 090°-180°—2900'; 180°-270°—2900'; 270°-360°—4300'.

City, Millbrook; State, N.Y.; Airport name, Sky Acres; Elev., 700'; Fac. Class., L-BVOR; Ident., IGN; Procedure No. VOR-1, Amdt. 1; Eff. date, 6 Jan. 68; Sup. Amdt. No. VOR-1, Orig.; Dated, 26 Aug. 67

				T-dn	300-1	300-1	300-1
				C-dn&‡	500-1	500-1	500-1½
				S-dn-31@&‡	300-1	500-1	500-1
				A-dn&‡	800-2	800-2	800-2
				Fan Marker minimums:			
				S-dn-31@&‡	400-1	400-1	400-1

Procedure turn E side of crs, 126° Outbnd, 315° Inbnd, 3000' within 10 miles.
Minimum altitude over Norfolk Fan Marker on final approach crs, 2071'.
Facility on airport.
Crs and distance, Fan Marker to airport, 315°—2.9 miles. Breakoff point to Runway 31, 313°—0.9 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6 mile after passing OFK VOR, climb to 3000' on OFK R 315° within 10 miles and return to OFK VOR.
NOTE: Use Sioux City, Iowa, altimeter setting when control zone not effective.
@Reduction not authorized for nonstandard REIL.
&These minimums apply at all times for air carriers with approved weather reporting service.
$Circling and straight-in ceiling minimums are raised 200' and alternate minimums are not authorized when control zone not effective.
MSA within 25 miles of facility: 000°-090°—3600'; 090°-180°—3100'; 180°-270°—4500'; 270°-360°—3300'.

City, Norfolk; State, Nebr.; Airport name, Karl Stefan Memorial; Elev., 1571'; Fac. Class., L-BVOR; Ident., OFK; Procedure No. VOR Runway 31, Amdt. 3; Eff. date, 6 Jan. 68; Sup. Amdt. No. 2; Dated, 14 Oct. 67

Oxford Int	RKA VOR (final)	Direct	3000	T-dn	800-1	800-1	NA
				C-dn	900-1	900-1	NA
				S-dn-6	800-1	900-1	NA
				A-dn	NA	NA	NA

Procedure turn S side of crs, 295° Outbnd, 075° Inbnd, 3000' within 10 miles.
Minimum altitude over facility on final approach crs, 2600'.
Crs and distance, facility to airport, 075°—4.2 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.2 miles after passing RKA VOR, make climbing left turn to 3000' direct to RKA VOR. Hold W of RKA VOR, 1-minute right turns, 076° Inbnd.
NOTE: Use Utica altimeter setting.
MSA within 25 miles of facility: 000°-090°—3000'; 090°-180°—4400'; 180°-270°—3000'; 270°-360°—3200'.

City, Oneonta; State, N.Y.; Airport name, Municipal; Elev., 1760'; Fac. Class., L-BVOR; Ident., RKA; Procedure No. VOR Runway 6, Amdt. 1; Eff. date, 6 Jan. 68; Sup. Amdt. No. VOR-1, Orig.; Dated, 13 Nov. 66

				T-dn	300-1	300-1	
				C-dn	600-1	600-1	
				A-dn	NA	NA	

Procedure turn N side of crs, 096° Outbnd, 276° Inbnd, 2800' within 10 miles.
Minimum altitude over facility on final approach crs, 2600'.
Crs and distance, facility to airport, 276°—4.8 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.8 miles after passing MFD VOR, make right-climbing turn to 2800', proceed to MFD VOR. Hold E, 1-minute right turn, 261° Inbnd.
NOTE: Use Mansfield, Ohio, altimeter setting.
MSA within 25 miles of facility: 000°-090°—3600'; 090°-180°—3200'; 180°-270°—3200'; 270°-360°—3400'.

City, Shelby; State, Ohio; Airport name, Shelby Community; Elev., 1125'; Fac. Class., L-BVORTAC; Ident., MFD; Procedure No. VOR-1, Amdt. Orig.; Eff. date, 6 Jan. 68

3. By amending the following very high frequency omnirange—distance measuring equipment (VOR/DME) procedures prescribed in § 97.15 to read:

VOR/DME STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

From—	To—	Course and distance	Minimum altitude (feet)	Condition	Ceiling and visibility minimums: 2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots

PROCEDURE CANCELED, EFFECTIVE 6 JAN. 1968.

City, Charleston; State, S.C.; Airport name, John's Island; Elev., 10'; Fac. Class., BVORTAC; Ident., CHS; Procedure No. VOR/DME No. 1, Amdt. Orig.; Eff. date, 25 Apr. 66

VOR/DME STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

From—	To—	Course and distance	Minimum altitude (feet)	Condition	Ceiling and visibility minimums: 2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots
R 230° DHN VORTAC clockwise	R 230°	13-mile Arc DHN R 316°, lead radial.	2000	T-dn	800-1	800-1	800-1¼
				C-dn	800-1	800-1	800-1½
				S-dn-13	800-1	800-1	800-1
R 069° DHN VORTAC counter clockwise	R 230°	13-mile Arc DHN R 336°, lead radial.	2000	A-dn	800-2	800-2	800-2
10-mile DME Fix, R 230°	10-mile DME Fix (final)	Via DHN R 228°	2000				

Radar available.
No procedure turn. Approach crs starts at 10-mile DME/Radar Fix, R 226°.
Minimum altitude over 10-mile DME/Radar Fix on final approach crs, 2000'; over 6-mile DME/Radar Fix, 1600'.
Crs and distance, 6-mile DME/Radar Fix to airport, 143°—3.1 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished at 3-mile DME/Radar Fix, climb to 2000', proceed direct to DHN VORTAC, hold SE on R 150° DHN VORTAC, 1-minute left turns, 330° Inbnd or Radar vector at 2000' as directed by ATC.
Charting information only: Final approach crs intercepts Runway CL 3000' from threshold.
CAUTION: Water tank 555' MSL on missed approach radial 0.45 mile from MAP.
MSA within 25 miles of facility: 000°-090°—2800'; 090°-180°—2600'; 180°-270°—1800'; 270°-360°—1800'.

City, Dothan; State, Ala.; Airport name, Dothan; Elev., 395'; Fac. Class., L-BVORTAC; Ident., DHN; Procedure No. VOR/DME Runway 13, Amdt. Orig.; Eff. date, 4 Jan. 68

14-mile DME Fix, R 152°	14-mile DME Fix, R 152°	Direct	3100	T-dn%	300-1	300-1	300-1
Vaughn VHF/DME Int counterclockwise	14-mile DME Fix, R 152°	14-mile DME Arc	3100	C-dn	500-1	500-1	500-1½
				S-dn-34	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Procedure turn not authorized. Approach crs starts at 14-mile DME Fix, EUG R 152°.
Minimum altitude over 14-mile DME Fix, R 152° on final approach crs, 3100'; over 9-mile DME Fix, R 152°, 2600'; over 5-mile DME Fix, R 152°, 1900'; over 2.5-mile DME Fix, R 152°, 1000'.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6 mile of EUG VOR, climb to 2600' on EUG R 265° within 10 miles; or, when directed by ATC, climb to 4000' on EUG R 356° within 10 miles.
%Takeoff all runways: Climb on EUG VOR R 356° within 10 miles to cross EUG VOR for direction of flight; southeastbound V23 and V23W, southbound 900', R 282°; westbound 1000'.
MSA within 25 miles of facility: 000°-180°—4800'; 180°-270°—4000'; 270°-360°—3100'.

City, Eugene; State, Oreg.; Airport name, Mahlon Sweet Field; Elev., 365'; Fac. Class., L-BVORTAC; Ident., EUG; Procedure No. VOR/DME Runway 34, Amdt. Orig., Eff. date, 4 Jan. 68

MKC VOR, R 228° clockwise	MKC VOR, R 228°	Via 17-mile DME Arc.	2000	T-dn&	800-1	800-1	800-1¼
MKC VOR, R 321° counterclockwise	MKC VOR, R 228°	Via 17-mile DME Arc.	2000	C-dn	800-1	800-1	800-1½
17-mile DME Fix MKC VOR, R 228°	12-mile DME Fix MKC VOR, R 228° (final).	Direct	2000	S-dn-9	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Radar available.
Procedure turn S side of crs, 228° Outbnd, 048° Inbnd, 2600' between 12- and 22-mile DME Fixes MKC VOR, R 228°.
Minimum altitude over 12-mile DME Fix MKC VOR, R 228° on final approach crs, 2600'.
Crs and distance, 12-mile DME Fix MKC VOR, R 228° to airport, 048°—5.6 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished at 6.4-mile DME Fix MKC VOR, R 228°, make left turn, climbing to 2600'; intercept MKC VOR R 321°, proceed to Camden Int.
#RVR 2400' authorized Runway 24.
MSA within 25 miles of facility: 000°-270°—3100'; 270°-090°—2600'.

City, Kansas City; State, Mo.; Airport name, Mid-Continent International; Elev., 1026'; Fac. Class., H-BVORTAC; Ident., MKC; Procedure No. VOR/DME Runway 9, Amdt. Orig.; Eff. date, 4 Jan. 68

FSD VOR	10-mile DME Fix, R 147°	Direct	3600	T-dn%	300-1	300-1	300-1¼
R 051°, FSD VOR clockwise	R 147°, FSD VOR	Via 16-mile DME Arc.	4400	C-dn	500-1	500-1	500-1½
R 270°, FSD VOR counterclockwise	R 147°, FSD VOR	Via 16-mile DME Arc.	3400	S-dn-22	500-1	500-1	500-1
16-mile DME Fix, R 147°	10-mile DME Fix, R 147° (final)	Direct	2600	A-dn	800-2	800-2	800-2

Procedure turn E side of crs, 147° Outbnd, 327° Inbnd, 3600' between 10- and 20-mile DME Fixes.
Minimum altitude over 10-mile DME Fix on final approach crs, 2600'.
Crs and distance, 10-mile DME Fix to airport, 327°—5 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished at 5-mile DME Fix, proceed direct to VOR climbing to 2700'.
‡ Sliding scale below ¾ not authorized.
& 300-1 required for takeoff on Runway 15.
% For southeastbound aircraft when weather is below 2100-2, flight below 3600' beyond 5 miles E and SE of airport is prohibited between R 096° and R 135° of the SFD VOR. Restriction due to 3444' tower 10 miles SE of airport.
MSA within 25 miles of facility: 000°-090°—3800'; 090°-180°—4800'; 180°-270°—4100'; 270°-360°—3100'.

City, Sioux Falls; State, S. Dak.; Airport name, Joe Foss Field; Elev., 1428'; Fac. Class., H-BVORTAC; Ident., FSD; Procedure No. VOR/DME Runway 33, Amdt. Orig.; Eff. date, 6 Jan. 68

4. By amending the following instrument landing system procedures prescribed in § 97.17 to read:

ILS STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition					Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)		Condition	2-engine or less		More than 2-engine, more than 65 knots
						65 knots or less	More than 65 knots	
CLT VORTAC	LOM	Direct	2800		T-dn*#	300-1	300-1	300-1½
Fort Mill VORTAC	Clover Int	Direct	2300		C-dn	400-1	400-1	400-1½
Clover Int	LOM (final)	Direct	2300		S-dn-6°#	300-1½	300-1½	300-1½
Union Int (via CLT R 236°)	York Int	Direct	2800		A-dn	600-2	600-2	600-2
Bradley Int	LOM	Direct	2300					
Mount Holly Int	LOM	Direct	2300					
Fort Mill VORTAC	LOM	Direct	2300					
Bethany Int	LOM	Direct	2300					
York Int	Clover Int	Direct	2800					

Radar available.
Procedure turn N side of SW crs, 230° Outbnd, 050° Inbnd, 2800' within 10 miles.
Minimum altitude at glide slope intersception Inbnd, 2300'.
Altitude of glide slope and distance to approach end of runway at OM, 2280'—4.6 miles; at MM, 950'—0.5 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.6 miles from LOM, climb to 3000' on CLT VORTAC R 060°, within 10 miles or, when directed by ATC, turn left, climb to 3000' on FML VORTAC R 007° to Mount Holly Int or turn right, climb to 3000' on R 067° to FML VORTAC.
NOTE: Glide slope unusable below 1040'. Back crs unusable.
*400-¼ (RVR 4000') required when glide slope inoperative. 400-½ (RVR 2400') authorized, with operative ALS, except for 4-engine turbojets.
#RVR 2400'. Descent below 1040' not authorized unless ALS visible.
@RVR 2400' authorized Runway 5 for aircraft with more than two engines; RVR 4000' aircraft two engines or less.
MSA within 25 miles of CL LOM: 000°-090°—3500'; 090°-180°—2300'; 180°-270°—2300'; 270°-360°—3500'.

City, Charlotte; State, N.C.; Airport name, Douglas Municipal; Elev., 748'; Fac. Class., ILS; Ident., I-CLT; Procedure No. ILS Runway 5, Amdt. 21; Eff. date, 6 Jan. 68; Sup. Amdt. No. 20; Dated, 20 Jan. 67

				T-dn*#	300-1	300-1	300-1½
				C-dn	400-1	400-1	400-1½
				S-dn-22°	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Radar required.
Final approach crs, 125° Inbnd. Procedure turn not authorized.
Minimum altitude over 6-mile Radar Fix on final approach crs, 2100'.
Aircraft will be released for final approach over 5-mile Radar Fix.
Crs and distance, radar fix to airport, 125°—6 miles.
No glide slope. No markers.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5 miles after passing radar fix, climb to 2400' on SE crs of DSM ILS to DS LOM, or when directed by ATC, make right turn, climbing to 2600' and proceed to DSM VOR.
*When 1546' tower, 3.2 miles NNE of airport not visible on takeoffs to N and NW, climb to 2100' on 205° heading and takeoffs to NE climb to 2100' on 095° heading before turning toward tower.
@400-¼ authorized with operative SALS, except for 4-engine turbojets.
#RVR 2400' authorized Runway 30.

City, Des Moines; State, Iowa; Airport name, Des Moines Municipal; Elev., 957'; Fac. Class., ILS; Ident., I-DSM; Procedure No. LOC (BC) Runway 13, Amdt. 2; Eff. date, 6 Jan. 68; Sup. Amdt. No. 1; Dated, 15 Feb. 67

EUG VOR	OM	Direct	2300	T-dn*#	300-1	300-1	300-1½
CVO VOR via CVO VOR R 138° and N crs EUG localizer.	OM (final)	Direct	2300	C-dn	400-1	400-1	400-1½
				S-dn-14#	300-1½	300-1½	300-1½
12-mile DME Fix, R 010° via 13-mile Counterclockwise Arc and N crs EUG localizer.	OM (final)	Direct	2300	A-dn	600-2	600-2	600-2

Procedure turn E side of crs, 336° Outbnd, 156° Inbnd, 2100' within 10 miles. Final approach from holding pattern EU LOM not authorized. Procedure turn required.
Minimum altitude at glide slope intersception Inbnd, 2100'.
Altitude of glide slope and distance to approach end of runway at OM, 1696'—3.7 miles; at MM, 870'—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, climb straight ahead to 700', turn right, climb direct to EU LOM, thence climb northbound on EUG localizer crs to 2600' within 10 miles EU LOM; or, when directed by ATC, climb straight ahead to 700', turn right and climb to 3100' on R 262° EUG VOR within 10 miles.
CAUTION: High terrain E and W.
%Takeoffs all runways: Climb on EUG VOR R 336° within 25 miles to cross EUG VOR, southeastbound V23 and southbound V287, 095°, westbound R 262°, 1600'.
#300-1 authorized with glide slope inoperative, 300-½ authorized with operative HIRL, 300-½ authorized with operative ALS, except for 4-engine turbojets.
MSA within 25 miles of LOM: 000°-180°—4500'; 180°-270°—4500'; 270°-360°—3100'.

City, Eugene; State, Oreg.; Airport name, Mahlon Sweet Field; Elev., 368'; Fac. Class., ILS; Ident., I-EUG; Procedure No. ILS Runway 16, Amdt. 20; Eff. date, 6 Jan. 68; Sup. Amdt. No. ILS-16, Amdt. 19; Dated, 20 Oct. 66

MKC VOR	MC LOM	Direct	2600	T-dn#%	300-1	300-1	300-1½
Farley Int	MC LOM	Direct	2600	C-dn	400-1	400-1	400-1½
Lansing Int	MC LOM	Direct	2600	S-dn-36#%	300-1½	300-1½	300-1½
Bonner Springs Int	MC LOM	Direct	2600	A-dn	600-2	600-2	600-2
Camden Int	MC LOM	Direct	2600				
BSF VOR	MC LOM	Direct	3000				

Radar available.
Procedure turn W side of crs, 188° Outbnd, 008° Inbnd, 2600' within 10 miles.
Minimum altitude at glide slope intersception Inbnd, 2500'.
Altitude of glide slope and distance to approach end of runway at OM, 2470'—4.4 miles; at MM, 1229'—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.4 miles after passing MC LOM, climb to 2600' on N crs MCI localizer and proceed to Camden Int, or when directed by ATC, turn left, climbing to 2600' on S crs of localizer, proceed to LOM.
@400-¼ (RVR 4000') required when glide slope not utilized, 400-½ (RVR 2400') authorized with operative ALS, except for 4-engine turbojets.
#RVR 2400'. Descent below 1229' not authorized unless approach lights are visible.
%RVR 2400' authorized Runway 36.
MSA within 25 miles of MC LOM: 000°-090°—2800'; 090°-180°—3100'; 180°-360°—2700'.

City, Kansas City; State, Mo.; Airport name, Mid-Continent International; Elev., 1026'; Fac. Class., ILS; Ident., I-MCI; Procedure No. ILS Runway 36, Amdt. 5; Eff. date, 4 Jan. 68; Sup. Amdt. No. ILS-36, Amdt. 4; Dated, 10 Sept. 66

ILS STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
LCH VOR	LOM	Direct	1500	T-dn	300-1	300-1	300-1½
Sulphur Int	LOM	Direct	1500	C-dn	400-1	400-1	400-1½
Gillis Int	Maple Int	Via DR 199° and NW crs LCH ILS.	1500	S-dn-13°	300-1½	300-1½	300-1½
				A-dn	600-2	600-2	600-2
Maple Int	LOM (final)	Direct	1200				

Procedure turn W side of crs, 328° Outbnd, 148° Inbnd, 1800' within 10 miles.
Minimum altitude at glide slope intersception Inbnd, 1200'.
Altitude of glide slope and distance to approach end of runway at OM, 1170'—4.3 miles; at MM, 199'—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.3 miles after passing LOM, climb to 1800' on the SE crs of ILS within 20 miles or, when directed by ATC, make immediate right turn, climbing to 1800' on the LCH VOR R 210° within 20 miles.
*400-¼ required when glide slope not utilized; 400-½ authorized with operative ALS except for 4-engine turbojets.
MSA within 25 miles of LOM: 000°-360°—1800'.

City, Lake Charles; State, La.; Airport name, Lake Charles Municipal; Elev., 16'; Fac. Class., ILS; Ident., I-LCH; Procedure No. ILS Runway 15, Amdt. 9; Eff. date, 6 Jan. 68; Sup. Amdt. No. ILS Runway 15, Amdt. 8; Dated, 1 Apr. 67

Lake Charles VOR	Brown Int	Direct	1500	T-dn	300-1	300-1	300-1½
				C-dn*	400-1	400-1	400-1½
				S-dn-33°#	400-1	400-1	400-1
				A-dn*	600-2	600-2	600-2

Procedure turn W side of crs, 146° Outbnd, 326° Inbnd, 1800' within 10 miles.
Minimum altitude over Brown Int on final approach crs, 1500'.
Crs and distance, Brown Int to airport, 326°—5.7 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.7 miles after passing Brown Int, climb to 1500' on the NW crs of the ILS within 20 miles.
*If Brown Int not received, descent below 1200' not authorized.
#400-¼ authorized with operative HIRL, except for 4-engine turbojets.

City, Lake Charles; State, La.; Airport name, Lake Charles Municipal; Elev., 16'; Fac. Class., ILS; Ident., I-LCH; Procedure No. LOC (BC) Runway 33, Amdt. 6; Eff. date, 6 Jan. 68; Sup. Amdt. No. ILS-33 (BC), Amdt. 5; Dated, 5 June 65

Swamp Int	LOM	Direct	1600	T-dn#%	300-1	300-1	300-1½
Wilmington VOR	LOM	Direct	1600	C-dn	400-1	400-1	400-1½
				S-dn-24°%	300-1½	300-1½	300-1½
				A-dn	600-2	600-2	600-2

Procedure turn W side of S crs, 162° Outbnd, 342° Inbnd, 1600' within 10 miles.
Minimum altitude at glide slope intersception Inbnd, 1200'.
Altitude of glide slope and distance to approach end of runway at OM, 1408'—4.6 miles; at MM, 227'—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.6 miles after passing LOM, climb to 1600' on 342° crs from ILM LOM within 15 miles, or when directed by ATC, make left turn to 270°, climbing to 1600'. Intercept ILM VORTAC R 226° and proceed to Swamp Int.
*400-¼ (RVR 4000') required when glide slope not utilized. 400-½ (RVR 2400') authorized, with operative ALS, except for 4-engine turbojets.
#RVR 2400'. Descent below 231' not authorized unless ALS visible.
%RVR 2400' authorized Runway 24 for aircraft with more than two engines. RVR 4000' aircraft two engines or less.
@RVR 2400' authorized Runway 24 for aircraft with more than two engines; RVR 4000' aircraft two engines or less.
MSA within 25 miles of IL LOM: 000°-090°—1800'; 090°-180°—1700'; 180°-270°—2200'; 270°-360°—2100'.

City, Wilmington; State, N.C.; Airport name, New Hanover County; Elev., 31'; Fac. Class., ILS; Ident., I-ILM; Procedure No. ILS Runway 24, Amdt. 10; Eff. date, 6 Jan. 68; Sup. Amdt. No. 9; Dated, 4 Mar. 67

These procedures shall become effective on the dates specified therein.

(Secs. 307(c), 313(a), 601, of the Federal Aviation Act of 1958; 49 U.S.C. 1348(c), 1354(a), 1421; 72 Stat. 749, 752, 775)

Issued in Washington, D.C., on November 29, 1967.

R. S. SLIFF,
Acting Director, Flight Standards Service.

[F.R. Doc. 67-14253; Filed, Dec. 14, 1967; 8:45 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release No. 33-4936]

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

Short Form for Registration

On November 16, 1966, the Securities and Exchange Commission published for comment, in Securities Act Release No. 4849 (31 F.R. 14845, Nov. 23, 1966), a proposed short form, designated Form S-7 (17 CFR 239.26), for registration of equity securities to be offered for cash by listed companies having long records of earnings and stability of management and business. The Commission received many comments upon the proposed form which it has carefully examined and which were of valuable assistance.

The Commission in response to comments, revised and has adopted Form S-7, which may be used for either equity or debt securities to be offered to the public for cash. The new form may be used not only by issuers of listed securities but also by domestic issuers which are subject to, and have complied with, the reporting and proxy disclosure requirements of the Securities Exchange Act of 1934 because they have securities registered under section 12(g) of that Act. Issuers which use the form must also meet the following additional requirements which have been relaxed from those published for comment:

The registrant must have been engaged in business of the same general character since the beginning of the last 5 fiscal years;

A majority of the board of directors must have been directors of the registrant for at least 3 fiscal years;

The registrant must not have been in default on its indebtedness, preferred stock or long-term leases during the past 10 years;

Sales or gross revenues of the registrant and its consolidated subsidiaries must have totaled $50 million for the last

fiscal year; net income for such year must have been at least $2,500,000; and net income for each of the preceding 4 fiscal years must have been at least $1 million;

If common stock, or securities convertible into common stock, are to be registered, any dividends paid during the past 5 fiscal years must have been earned in the year in which paid. If stock dividends were paid, they must have been charged to earned surplus at the fair market value of the stock issued as a dividend.

Although, as indicated above, the new form may be used for debt securities, Form S–9 (17 CFR 239.22) remains available for debt securities of issuers which meet certain tests.

The Commission is sensitive to its responsibilities under the Securities Act of 1933 which requires that investors be provided with sufficient information upon the basis of which they may reach an informed judgment as to the merits of the security offered. Form S–7 is in the nature of an experiment. The Commission will carefully watch and review the operation of Form S–7 in conjunction with the reporting and proxy requirements of the Securities laws to determine whether the omission of information in the prospectus, particularly with respect to the identity, remuneration and other perquisites received by management and their interest in transactions with the issuer, carries out the statutory objectives. The Commission will amend or rescind Form S–7, or change the conditions for its use should its experience indicate that such action is necessary or desirable in the public interest or for the protection of investors.

Briefly stated, the form requires that a prospectus for securities registered thereon need contain only the following information: The price and underwriting data; information as to the use of the proceeds; information with respect to the kind of business in which the registrant is engaged; earnings statements; a description of the securities to be registered; and balance sheets of the registrant, its subsidiaries and 50-percent-owned persons, if any. However, registrants are not relieved of the duty to furnish, as required by Rule 408 (17 CFR 230.408), any further material information necessary to make the required information not misleading in the light of the circumstances of the particular case. The only exhibits required are those pertinent to the proposed offering, including any material contracts referred to in the prospectus.

The form represents a closer integration of the requirements of the Securities Act of 1933 and the Securities Exchange Act of 1934 within the present statutory framework. In this connection, the Commission and its staff is engaged in a careful review of the existing reporting and disclosure requirements under the Securities Exchange Act of 1934 with a view to modifying these requirements to improve both the information contained in, and the timeliness of the reports filed under that Act.

The Commission anticipates that prospectuses and registration statements on this form will be substantially shorter than heretofore and will, therefore, be substantially easier both for the issuer to prepare and for the Commission to process. For this reason, bearing in mind the information about the issuer publicly available, the Commission hopes to be in a position to consider favorably, in most cases, requests to shorten substantially the waiting period between filing and effectiveness of statements on the new form. The success of this program depends, of course, on the cooperation of issuers and underwriters in preparing the registration statement so that Commission review and comment can be expeditious.

Delivery of prospectus. The Commission has also amended paragraph (a) of Rule 174 (17 CFR 230.174) under the Securities Act so that securities registered on the Form S–7 will be exempt from the prospectus delivery requirements of section 4(3) of the Act. Under this amendment a dealer is not required to deliver a prospectus to his customer if he is no longer acting as an underwriter of the offering or is not engaged in a transaction involving his participation in the offering.

Inasmuch as Form F–1 (17 CFR 239.9) for Voting Trust Certificates has been superseded by Form S–13 (17 CFR 239.25), the reference in paragraph (a) of Rule 174 to Form F–1 has been deleted and a reference to Form S–13 substituted therefor.

Commission action. I. Rule 174 (17 CFR 230.174) under the Securities Act of 1933 is amended to read as follows:

§ 230.174 Delivery of Prospectus by dealers; exemptions under section 4(3) of the Act.

* * * * *

(a) No prospectus need be delivered by such dealer if the registration statement is on Form S–7 (17 CFR 239.26), S–8 (17 CFR 239.16b), S–9 (17 CFR 239.22), S–12 (17 CFR 239.19) or S–13 (17 CFR 239.25): *Provided*, That in the case of a registration statement on Form S–12 or S–13, this provision shall not apply if registration of the deposited securities is also required.

* * * * *

II. Form S–7 (17 CFR 239.26) is hereby adopted as set forth below.

(Secs. 4, 6, 7, 10, and 19; 48 Stat. 77, 78, 81, and 85 as amended; 15 U.S.C. 77d, 77f, 77g, 77j, and 77s.)

Effective date. The foregoing action, which is taken pursuant to the Securities Act of 1933, particularly sections 4, 6, 7, 19, and 19(a) thereof, shall become effective December 31, 1967.

By the Commission, December 28, 1967.

ORVAL L. DUBOIS,
Secretary.

§ 239.26 Form S–7, for registration under the Securities Act of 1933 of securities of certain issuers to be offered for cash.

(a) *General instructions.*

A. *Rule as to use of Form S–7.* Any registrant which meets the following conditions may use this form for registration under the Securities Act of 1933 of any securities which are offered for cash by or on behalf of the registrant or any other person, in a rights offering or otherwise:

(a) The registrant meets either of the following conditions:

(1) It has a class of equity securities registered pursuant to section 12(b) of the Securities Exchange Act of 1934; or

(2) It is organized under the laws of the United States or any State or Territory or the District of Columbia, has its principal business operations in the United States or its Territories and has a class of equity securities registered pursuant to section 12(g) of the above Act.

(b) The registrant has been subject to and has complied in all respects, including timeliness, with the requirements of sections 13 and 14 of the Securities Exchange Act of 1934 for a period of at least 5 fiscal years immediately preceding the filing of the registration statement on this form.

(c) The registrant has been engaged in business of substantially the same general character since the beginning of the last 5 fiscal years.

(d) A majority of the existing board of directors of the registrant have been directors of the registrant during each of the last 3 fiscal years.

(e) The registrant and its subsidiaries have not during the past ten years defaulted in the payment of any dividend or sinking fund installment on preferred stock, or in the payment of any principal, interest or sinking fund installment on any indebtedness for borrowed money, or in the payment of rentals under long term leases.

(f) The registrant and its consolidated subsidiaries had sales or gross revenues of at least $50 million for the last fiscal year and a net income, after taxes but before extraordinary items net of tax effect, of at least $2,500,000 for the last fiscal year and of at least $1 million for each of the preceding 4 fiscal years.

(g) If the securities to be registered are common stock or securities convertible into common stock, the registrant earned in each of the last 5 fiscal years any dividends paid in each such year on all classes of securities. If the registrant paid a stock dividend in any of such fiscal years, the aggregate amount transferred from surplus to capital in respect of each such dividend was charged only to the earned surplus account and was equal to the aggregate fair market value of the stock issued as such dividend.

B. *Application of general rules and regulations.* Attention is directed to the General Rules and Regulations under the Act, particularly Regulation C (17 CFR 230.400 et seq.). That regulation contains general requirements regarding the use of registration forms and the preparation and filing of the registration statement. The definitions contained in Rule 405 (17 CFR 230.405) should be especially noted.

C. *Documents comprising registration statement.* The registration statement shall consist of the facing sheet of the form, the prospectus containing the information specified in Part I, the information called for by Part II, the required signatures, consents of experts, financial statements and exhibits and any other prospectus, information, undertaking or documents which are required or which the registrant may file as a part of the registration statement.

D. *Form and content of prospectus.* (a) The information set forth in the prospectus should be presented in clear, concise, understandable fashion. Avoid unnecessary and irrelevant details, repetition or the use of unnecessary technical language. The prospectus shall contain the information called for by all of the items of Part I of the form, except that no reference need be made to inapplicable items, and negative answers to any item may be omitted.

(b) Unless clearly indicated otherwise, information set forth in any part of the prospectus need not be duplicated elsewhere in the prospectus. Where it is deemed necessary or desirable to call attention to such information in more than one part of the prospectus, this may be accomplished by appropriate cross reference. In lieu of restating information in the form of notes to the financial statements, references should be made to other parts of the prospectus where such information is set forth.

E. *Foreign subsidiaries.* Information required by any item or other requirement of this form with respect to any foreign subsidiary may be omitted to the extent that the required disclosure would be detrimental to the registrant, provided a statement is made that such information has been omitted. In such case, a statement of the names of the subsidiaries omitted shall be separately furnished. The Commission may, in its discretion, call for justification that the required disclosure would be detrimental.

F. *Filing of other financial statements in certain cases.* The Commission may, upon the request of the registrant, and where consistent with the protection of investors, permit the omission of one or more of the financial statements herein required or the filing in substitution therefor of appropriate statements of comparable character. The Commission may also by informal written notice require the filing of other financial statements in addition to, or in substitution for, the statements herein required in any case where such statements are necessary or appropriate for an adequate presentation of the financial condition of any person whose financial statements are required, or whose statements are otherwise necessary for the protection of investors.

G. *Preparation of Part II.* Part II of the registration statement shall contain the numbers and captions of the items in Part II of the form but the text of the items and the instructions thereto are to be omitted. The answers to the items are to be so prepared as to indicate to the reader the coverage of the items without the necessity of referring to the text of the items or the instructions thereto. If the information required by any item of Part II is completely disclosed in the prospectus, such item may be answered by a reference to the specific page or caption of the prospectus which contains such information. If any item of Part II is inapplicable or the answer thereto is in the negative, a statement to that effect shall be made in answer to the item.

(b) *Facing page.*

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

Form S–7

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1967

(Exact name of registrant as specified in its charter)

(State or other jurisdiction of incorporation or organization)

(I.R.S. employer identification No.)

(Address of principal executive offices)

(ZIP Code)

(Name and address of agent for service)

(Approximate date of commencement of proposed sale to the public)

CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered	Amount to be registered	Proposed maximum offering price per unit	Proposed maximum aggregate offering price	Amount of registration fee

(c) *Part I. Information Required in Prospectus.*

Item 1. Distribution spread. The information called for by the following table shall be given in substantially the tabular form indicated, on the outside front cover page of the prospectus as to all securities to be registered (estimated, if necessary).

	Price to public	Underwriting discounts and commissions	Proceeds to registrant or other persons
Per unit			
Total			

Instructions. 1. Only commissions paid by the registrant or selling security holders in cash are to be included in the table. Commissions paid by other persons, and other considerations to the underwriters, shall be set forth following the table with a reference thereto in the second column of the table. Any finder's fee or similar payments shall be appropriately disclosed.

2. If it is impracticable to state the price to the public, the method by which it is to be determined shall be explained. In addition, if the securities are to be offered at the market, or if the offering price is to be determined by a formula related to market prices, indicate the market involved and the market price as of the latest practicable date.

3. If any of the securities to be registered are to be offered for the account of security holders, refer on the first page of the prospectus to the information called for by Item 4.

Item 2. Plan of Distribution. (a) If the securities to be registered are to be offered through underwriters, give the names of the principal underwriters, and state the respective amounts underwritten. Identify each such underwriter having a material relationship to the registrant and state the nature of the relationship. State briefly the nature of the underwriters' obligation to take the securities.

Instruction. All that is required as to the nature of the underwriters' obligation is whether the underwriters are or will be committed to take and to pay for all of the securities if any are taken, or whether it is merely an agency or "best efforts" arrangement under which the underwriters are required to take and pay for only such securities as they may sell to the public. Conditions precedent to the underwriters' taking the securities, including "market outs", need not be described except in the case of an agency or "best efforts" arrangement.

(b) State briefly the discounts and commissions to be allowed or paid to dealers, including all cash, securities, contracts, or other consideration to be received by any dealer in connection with the sale of the securities.

Instruction. If any dealers are to act in the capacity of subunderwriters and are to be allowed or paid any additional discounts or commissions for acting in such capacity, a general statement to that effect will suffice without giving the additional amounts to be so paid.

(c) Outline briefly the plan of distribution of any securities to be registered which are to be offered otherwise than through underwriters.

Item 3. Use of proceeds to registrant. State the principal purposes for which the net proceeds to the registrant from the securities to be offered are intended to be used, and the approximate amount intended to be used for each such purpose.

Instruction. Details of proposed expenditures are not to be given; for example, there need be furnished only a brief outline of any program of construction or addition of equipment. If any material amount of other funds is to be used in conjunction with the proceeds, state the amount and sources of such other funds. If any material amount of the proceeds is to be used to acquire assets, otherwise than in the ordinary course of business, briefly describe the assets and give the names of the persons from whom they are to be acquired. State the cost of the assets to the registrant and the principle followed in determining such cost.

Item 4. Selling security holders. If any of the securities to be registered are to be offered for the account of security holders, name each such security holder and state the amount of securities of the class owned by him, the amount to be offered for his account and the percentage of the class (if 1 percent or more) to be owned by him after completion of the offering.

Item 5. Business. (a) Identify the business done and intended to be done by the registrant and its subsidiaries. If the business consists of the production or distribution of different kinds of products or the rendering of different kinds of services, indicate, insofar as practicable, the relative importance of each product or service or class of similar products or services which contributed 15 percent or more to the gross volume of business done during the last fiscal year. In the case of an extractive enterprise, give appropriate information as to development, reserves, and production.

(b) Briefly describe any pending legal proceedings to which the registrant or its subsidiaries is a party which may have a substantial effect upon the earnings or financial condition of the registrant.

Item 6. Statement of income and earned surplus. Furnish in comparative columnar form a statement of income for the registrant, or for the registrant and its subsidiaries consolidated, or both, as appropriate, for each of the last 5 fiscal years of the registrant and for any interim period between the end of the latest of such fiscal years and the date of the latest balance sheet furnished pursuant to Item 10(a), and for the corresponding interim period of the preceding fiscal year. Include comparable data for any additional fiscal years necessary to keep the statement from being misleading. Where

necessary, include information or explanation of material significance to investors in appraising the results shown, or refer to such information or explanation set forth elsewhere in the prospectus. An analysis of earned surplus shall be furnished for each period covered by an income statement, as a continuation thereof or elsewhere in the prospectus.

Instructions. 1. The statements required shall be prepared in compliance with the applicable profit and loss and surplus requirements of Regulation S–X (17 CFR 210) and shall be certified to the date of the respective certified balance sheet(s) included in the prospectus.

2. If the registrant is engaged primarily (i) in the generation, transmission or distribution of electricity, the manufacture, mixing, transmission, or distribution of gas, the supplying or distribution of water or the furnishing of telephone or telegraph service, or (ii) in holding securities of companies engaged in such business, it may at its option include a statement of income for the 12-month period prior to the date of the latest balance sheet furnished, in lieu of the statements for the interim periods specified.

3. If common stock is to be registered, the statements shall be prepared to present earnings applicable to common stock. Per share earnings and dividends declared for each period of the statement shall also be included and the basis of computation stated.

4. If preferred stock is to be registered, there shall be shown the annual dividend requirements on such preferred stock. To the extent that an issue represents refinancing, only the additional dividend requirements shall be stated.

5. (a) If debt securities are to be registered, the registrant shall show in tabular form for each fiscal year or other period the ratio of earnings to fixed charges. A pro forma ratio of earnings to fixed charges, adjusted to give effect to the issuance of the securities to be registered and any presently proposed issuance, retirement or redemption of securities shall also be shown for the latest fiscal year or 12-month period.

(b) Earnings shall be computed in accordance with generally accepted accounting principles, after all operating and income deductions except fixed charges and taxes based on income or profits. In the case of utilities, interest credits charged to construction shall be added to gross income and not deducted from interest.

(c) The term "fixed charges" shall mean (i) interest and amortization of debt discount and expense and premium on all indebtedness; (ii) one-third of all rentals reported in the schedule prepared in accordance with Rule 12–16 of Regulation S–X (17 CFR 210.12–16), or such portion as can be demonstrated to be representative of the interest factor in the particular case; an (iii) in case consolidated figures are used, preferred stock dividend requirements of consolidated subsidiaries, excluding in all cases items eliminated in consolidation.

(d) The registrant shall file as an exhibit a statement setting forth in reasonable detail the computations of the required ratios. For the purpose of this exhibit and the pro forma ratio required above, an assumed maximum interest rate may be used on securities as to which the interest rate has not yet been fixed, which assumed rate shall be shown.

6. In connection with any unaudited statement for an interim period, a statement shall be made that all adjustments necessary to a fair statement of the results for such interim period have been included. If all such adjustments are of a normal recurring nature, a statement to that effect shall be made; otherwise, there shall be furnished as supplemental information but not as a part of the registration statement, a letter describing in detail the nature and amount of any adjustments, other than normal recurring adjustments, entering into the determination of the results shown.

7. Statements of income and earned surplus conforming to the foregoing shall be furnished, here or elsewhere in the prospectus, for each subsidiary or group of subsidiaries or 50-percent-owned persons for which a balance sheet is furnished in response to Item 10(b).

Item 7. Capital stock to be registered. If capital stock is to be registered, state the title of the class and furnish the following information:

(a) Outline briefly (1) dividend rights; (2) voting rights; (3) liquidation rights; (4) preemptive rights; (5) conversion rights; (6) redemption provisions; (7) sinking fund provisions; and (8) liability to further calls or to assessment by the registrant.

(b) If the rights of holders of such stock may be modified otherwise than by a vote of a majority or more of the shares outstanding, voting as a class, so state and explain briefly.

(c) If preferred stock is to be registered, outline briefly any restriction on the repurchase or redemption of shares by the registrant while there is any arrearage in the payment of dividends or sinking fund installments. If there is no such restriction, so state.

Instructions. 1. This item requires only a brief summary of the provisions which are pertinent from an investment standpoint. A complete legal description of the provisions referred to is not required and should not be given. Do not set forth the provisions of the governing instruments verbatim; only a succinct resume is required.

2. If the rights evidenced by the securities to be registered are materially limited or qualified by the rights of any other class of securities, include such information regarding such other securities as will enable investors to understand the rights evidenced by the securities to be registered. No information need be given, however, as to any class of securities all of which will be redeemed and retired, provided appropriate steps to assure such redemption and retirement will be taken prior to or upon delivery by the registrant of the securities to be registered.

3. If the securities described are to be offered pursuant to warrants or rights, state the amount of securities called for by such warrants or rights, the period during which and the price at which the warrants or rights are exercisable.

Item 8. Debt securities to be registered. If debt securities are to be registered, outline briefly such of the following as are relevant:

(a) Provisions with respect to interest, conversion, maturity, redemption, amortization, sinking fund, or retirement.

(b) Provisions with respect to the kind and priority of any lien securing the issue, together with a brief identification of the principal properties subject to such lien.

(c) Provisions with respect to the subordination of the rights of holders of the securities registered to other security holders or creditors of the registrant.

(d) Provisions restricting the declaration of dividends or requiring the maintenance of any ratio of assets, the creation or maintenance of reserves or the maintenance of properties.

(e) Provisions permitting or restricting the issuance of additional securities, the withdrawal of cash deposited against such issuance, the incurring of additional debt, the release or substitution of assets securing the issue, the modification of the terms of the security, and similar provisions.

Instructions. 1. In the case of secured debt, there should be stated (i) the approximate amount of unbonded bondable property available for use against the issuance of bonds, as of the most recent practicable date, and (ii) whether the securities being registered are to be issued against such property, against the deposit of cash, or otherwise.

2. Provisions permitting the release of assets upon the deposit of equivalent funds or the pledge of equivalent property, the release of property no longer required in the business, obsolete property or property taken by eminent domain, the application of insurance moneys, and similar provisions, need not be described.

(f) The name of the trustee and the nature of any material relationship with the registrant or any of its affiliates; the percentage of securities of the class necessary to require the trustee to take action, and what indemnification the trustee may require before proceeding to enforce the lien.

(g) The general type of event which constitutes a default and whether or not any periodic evidence is required to be furnished as to the absence of default or as to compliance with the terms of the indenture.

Instruction. The instructions to Item 7 shall also apply to this item. Section 305(a)(2) of the Trust Indenture Act of 1939 shall not be deemed to require the inclusion in the registration statement or in the prospectus of any information not required by this form.

Item 9. Other securities to be registered. If securities other than capital stock or debt are to be registered, outline briefly the rights evidenced thereby. If subscription warrants or rights are to be registered, state the title and amount of securities called for, the period during which and the price at which the warrants or rights are exercisable.

Instruction. The instructions to Item 7 shall also apply to this item.

Item 10. Other financial statements and schedules. (a) There shall be furnished a balance sheet of the registrant and a consolidated balance sheet of the registrant and its subsidiaries as of a date within 6 months prior to the date of filing the registration statement. These balance sheets need not be certified but if they are not certified, there shall be furnished in addition certified balance sheets as of a date within 1 year, unless the fiscal year of the registrant has ended within 90 days prior to the date of filing, in which case the certified balance sheets may be as of the end of the preceding fiscal year. These balance sheets shall be prepared in compliance with the applicable balance sheet requirements of Regulation S–X.

Instructions. The individual balance sheets of the registrant may be omitted if (i) consolidated balance sheets of the registrant and one or more of its subsidiaries are furnished, (ii) either one of the following conditions is met, and (iii) the Commission is advised as to the reasons for such omission:

(1) The registrant is primarily an operating company and all subsidiaries included in the consolidated balance sheets furnished are totally held subsidiaries; or

(2) The registrant's total assets, exclusive of investments in and advances to the consolidated subsidiaries, constitute 85 percent or more of the total assets shown by the consolidated balance sheets filed and the registrant's total gross revenues for the period for which its profit and loss statements would be filed, exclusive of interest and dividends received from the consolidated subsidiaries, constitute 85 percent or more of the total gross revenue shown by the consolidated profit and loss statements filed.

(b) (1) Subject to Rule 4–08 of Regulation S–X (17 CFR 210.4–08), regarding group statements of unconsolidated subsidiaries, there shall be furnished for each majority-owned subsidiary of the registrant not included in the consolidated statements, the balance sheets which would be required if the subsidiary were itself a registrant.

(2) If the registrant owns, directly or indirectly, approximately 50 percent of the voting securities of any person and approximately 50 percent of the voting securities of such person is owned, directly or indirectly, by another single interest, there shall be filed for each such person the balance sheets which would be required if it were a registrant. The statements filed for each such person shall identify the other single interest. Where appropriate, group statements may be filed for such persons.

Instructions. 1. Insofar as practicable, these balance sheets shall be as of the same dates as those of the registrant.

2. There may be omitted all balance sheets of any one or more unconsolidated subsidiaries or 50 percent owned persons if all such subsidiaries and persons whose balance sheets are so omitted, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary.

(c) (1) There shall be filed for any business directly or indirectly acquired by the registrant after the date of the latest balance sheet filed pursuant to (a) above and for any business to be directly or indirectly acquired by the registrant, the financial statements which would be required if such business were a registrant.

(2) The acquisition of securities shall be deemed to be the acquisition of a business if such securities give control of the business or combined with securities already held give such control.

(3) No financial statements need be filed, however, for any business acquired or to be acquired from a totally held subsidiary. In addition, the statements of any one or more businesses may be omitted if such businesses, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary.

(d) Notwithstanding the provision of Regulation S–X, no schedules other than those prepared in accordance with Rules 12–16, 12–27, and 12–32 (17 CFR 210.12–16, 210.12–27, 210.12–32) of that regulation need be furnished.

Item 11. Statement of available information. (a) A statement shall be included on the outside front cover page or on the inside front cover page of the prospectus that the registrant is subject to the informational requirements of the Securities Exchange Act of 1934 and in accordance therewith files reports and other information with the Securities and Exchange Commission. It shall also be pointed out that information, as of particular dates, concerning directors and officers, their remuneration, options granted to them, the principal holders of securities of the registrant and any material interest of such persons in transactions with the registrant, is disclosed in proxy statements or in information statements in lieu of proxy statements distributed to shareholders of the registrant and filed with the Commission.

(b) The statement shall also indicate that such reports, proxy statements, and other information can be inspected at the principal office of the Commission at 500 North Capital Street NW., Washington, D.C., and that copies of such material can be obtained from the Commission at prescribed rates. In addition, any national securities exchange on which the registrant's securities are listed, and where reports, proxy material and other information concerning the registrant can be inspected, shall be named.

(d) *Part II. Information not required in prospectus.*

Item 12. Marketing arrangements. Briefly describe any arrangement known to the registrant, any person named in answer to Item 6 or to any principal underwriter of the securities to be registered which is not contained in an exhibit filed with the registration statement and has been made for any of the following purposes:

(a) To limit or restrict the sale of other securities of the same class as those to be offered for the period of distribution.

(b) To stabilize the market for any of the securities to be offered.

(c) For withholding commissions, or otherwise to hold each underwriter or dealer responsible for the distribution of his participation.

Item 13. Other expenses of issuance and distribution. Furnish a reasonably itemized statement of all expenses in connection with the issuance and distribution of the securities to be registered, other than underwriting discounts and commissions.

Instruction: Insofar as practicable, registration fees, Federal taxes, State taxes and fees, trustees' and transfer agents' fees, cost of printing and engraving, and legal, accounting and engineering fees shall be separately itemized. The information may be given as subject to future contingencies. If the amounts of any items are not known, estimates designated as such shall be given.

Item 14. Relationship with registrant of experts named in registration statement. If any expert named in the registration statement as having prepared or certified any part thereof was employed for such purpose on a contingent basis or, at the time of such preparation or certification or at any time thereafter, has a substantial interest in the registrant or any of its parents or subsidiaries or was connected with the registrant or any of its subsidiaries as a promoter, underwriter, voting trustee, director, officer, or employee, furnish a brief statement of the nature of such contingent basis, interest, or connection.

Instruction. In the case of an accountant, any direct financial interest or any material indirect financial interest held during the period covered by the financial statements prepared or certified shall be deemed a "substantial interest" for the purpose of this item.

Item 15. Indemnification of directors and officers. State the general effect of any charter provisions, bylaws, contract, arrangement, or statute under which any director or officer of the registrant is insured or indemnified in any manner against any liability which he may incur in his capacity as such.

Item 16. Treatment of proceeds from stock to be registered. If capital stock is to be registered hereunder and any portion of the consideration to be received by the registrant for such stock is to be credited to an account other than the appropriate capital stock account, state to what other account such portion is to be credited and the estimated amount per share. If the consideration from the sale of par value shares is less than par value, state the amount per share involved and its treatment in the accounts.

Item 17. Other documents filed as a part of the registration statement. List all of the following documents filed as a part of the registration statement.

(a) Statements of eligibility and qualification of persons designated to act as trustee under an indenture to be qualified under the Trust Indenture Act of 1939.

(b) All exhibits.

(e) *Undertakings.*

A. The following undertaking, with appropriate modifications to suit the particular case, shall be included in the registration statement if the securities to be registered are to be offered in a continuous offering over an extended period of time:

"The registrant undertakes: (a) to file any prospectuses required by section 10(a)(3) in post-effective amendments to the registration statement, (b) that for the purpose of determining any liability under the Act each such post-effective amendment may be deemed to be a new registration statement relating to the securities offered therein and the offering of such securities at that time may be deemed to be the initial bona fide offering thereof, and (c) that all post-effective amendments will comply with the applicable forms, rules, and regulations of the Commission in effect at the time such post-effective amendments are filed, (d) to remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering and (e) to furnish the Division of Corporation Finance a letter informing said Division when all of the securities registered have been sold."

B. The following undertaking, with appropriate modifications to suit the particular case, shall be included in the registration statement if the securities to be registered are to be offered to existing security holders pursuant to warrants or rights and any securities not taken by security holders are to be reoffered to the public:

"The undersigned registrant hereby undertakes to supplement the prospectus, after the expiration of the subscription period, to set forth the results of the subscription offer, the transactions by the underwriters during the subscription period, the amount of unsubscribed securities to be purchased by the underwriters and the terms of any subsequent reoffering thereof. If any public offering by the underwriters is to be made on terms differing from those set forth on the cover page of the prospectus, a post-effective amendment will be filed to set forth the terms of such offering."

C. The following undertaking, with appropriate modifications to suit the particular case, shall be included in the registration statement if the securities to be registered are to be offered at competitive bidding:

"The undersigned registrant hereby undertakes to file an amendment to the registration statement reflecting the results of bidding, the terms of the reoffering and related matters to the extent required by the applicable form, not later than the first use, authorized by the registrant after the opening of bids, of a prospectus relating to the securities offered at competitive bidding, unless no further public offering of such securities by the registrant and no reoffering of such securities by the purchasers is proposed to be made."

(f) *Signatures.*

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of _____, and State of _____, on the _____ day of _____, 19_____.

_____
(Registrant)

By _____
(Signature and title)

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed below by the following persons in the capacities and on the dates indicated.

(Signature)	(Title)	(Date)

Instructions. 1. The registration statement shall be signed by the registrant, its principal executive officer or officers, its principal financial officer, its controller or principal accounting officer and by at least the majority

of the board of directors or persons performing similar functions. If the registrant is a foreign person, the registration statement shall also be signed by its authorized representative in the United States.

2. The name of each person who signs the registration statement shall be typed or printed beneath his signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he signs the registration statement.

(g) *Instructions as to Exhibits.*

Subject to the rules regarding incorporation by reference, the following exhibits shall be filed as a part of the registration statement. Exhibits shall be appropriately lettered or numbered for convenient reference. Exhibits incorporated by reference may bear the designation given in the previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits called for by Item 17.

1. Copies of each underwriting contract with a principal underwriter, each syndicate agreement and each purchase, subunderwriting or selling group agreement or letter pursuant to which the securities to be registered are to be distributed or, if the terms of such documents are not determined, the proposed forms thereof.

2. (a) Specimens or copies of all securities to be registered hereunder and copies of all constituent instruments defining the rights of the holders of such securities.

(b) If any of the securities to be registered are, or are to be, issued under an indenture to be qualified under the Trust Indenture Act of 1939, the copy of such indenture which is filed as an exhibit shall include or be accompanied by (1) a reasonably itemized and informative table of contents, and (2) a cross-reference sheet showing the location in the indenture of the provisions inserted pursuant to sections 310 through 318(a) inclusive of the Trust Indenture Act of 1939.

3. An opinion of counsel, as to the legality of the securities to be registered, indicating whether they will when sold be legally issued, fully paid and nonassessable, and, if debt securities, whether they will be binding obligations of the registrant.

4. Copies of all indemnification contracts or arrangements described in answer to Item 15.

5. Copies of every material contract not made in the ordinary course of business which is referred to in the prospectus. Only contracts need be filed as to which the registrant or a subsidiary of the registrant is a party or has succeeded to a party by assumption or assignment, or in which the registrant or such subsidiary has a beneficial interest.

[F.R. Doc. 67-14555; Filed, Dec. 14, 1967; 8:46 a.m.]

Title 23—HIGHWAYS AND VEHICLES

Chapter II—Vehicle and Highway Safety

[Docket No. 18]

PART 255—INITIAL FEDERAL MOTOR VEHICLE SAFETY STANDARDS

New Pneumatic Tires

Motor Vehicle Safety Standard No. 109 (32 F.R. 15792) specifies tire dimensions and laboratory test requirements for bead unseating resistance, strength, endurance, and high speed performance; defines tire load ratings; and specifies labeling requirements for new pneumatic tires for use on passenger cars manufactured after 1948.

Certain labelling requirements are set forth in S4.3, including, in paragraph (i), a requirement for an approved recital (or the symbol specified in Figure 1) that the tire conforms to applicable Federal Motor Vehicle Safety Standards. Figure 1 contains lettering detail dimensions for that symbol.

The Federal Highway Administration has determined that it is not necessary to specify the width and stroke of individual letters nor the space between letters if the overall length and height is specified, and that more latitude is needed in the depth and overall length requirements for this symbol. Therefore, Standard No. 109 is being amended by striking out the unneeded dimensions and by providing increased latitude for the letter depth and the overall length requirements.

Since this amendment provides an alternative means of compliance, relieves a restriction, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause is shown that an effective date earlier than 180 days after issuance is in the public interest and the amendment may be made effective less than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, § 225.21 of Part 255, Initial Federal Motor Vehicle Safety Standards, Standard No. 109 is amended by deleting Figure 1 (32 F.R. 15794) and in its place inserting the following Figure 1.

(Secs. 103, 119, National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1407); delegation of authority of Mar. 31, 1967 (32 F.R. 6606), as amended Apr. 6, 1967 (32 F.R. 6495), July 27, 1967 (32 F.R. 11276), Oct. 11, 1967 (32 F.R. 14277), and Nov. 8, 1967 (32 F.R. 15719))

This amendment becomes effective January 1, 1968.

Issued in Washington, D.C., on December 11, 1967.

LOWELL K. BRIDWELL,
Federal Highway Administrator.

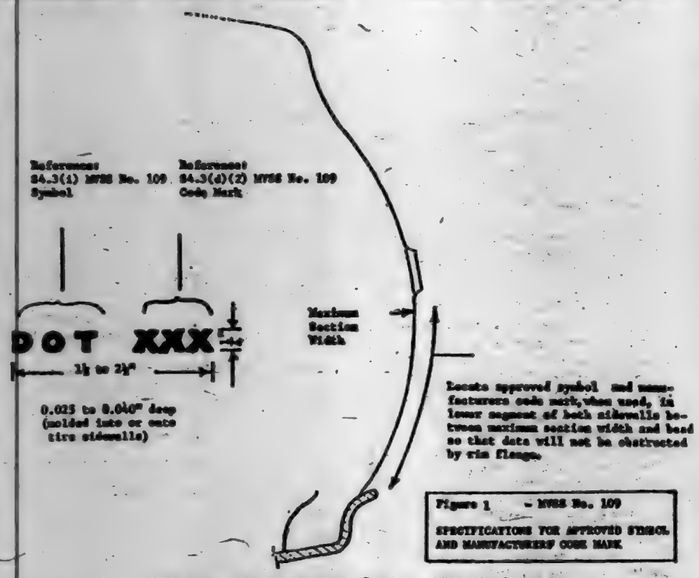

Figure 1 — MVSS No. 109

SPECIFICATIONS FOR APPROVED SYMBOL AND MANUFACTURERS CODE MARK

[F.R. Doc. 67-14537; Filed, Dec. 14, 1967; 8:45 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6930]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Treatment of Income From Unrelated Trade or Business

Correction

In F.R. Doc. 67-14463, appearing at page 17657 of the issue for Tuesday, December 12, 1967, make the following changes:

1. In § 1.513-1(c)(2)(i), line 12, the word following "hospital" should read "auxiliary".

2. In column 1, page 17658, line 18 (§ 1.513-1(c)(2)(ii)), following the word "functions" insert the word "or".

3. In § 1.513-1(d)(4)(ii), line 3, transpose the word "from" to the line below, following the word "result".

4. In § 1.512(a)-1, in line 10 of the undesignated paragraph following paragraph (d)(2)(ii), insert "exploiting such exempt function" following the word "business".

In line 16 of this undesignated paragraph following the word "to" insert the word "any".

5. Following paragraph (e) of § 1.512-(a)-1 and preceding *Example* (1), delete subparagraph (3) in its entirety.

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER J—BRIDGES

[CGFR 67-78]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Atlantic Intracoastal Waterway, South Carolina

1. There were transferred to and vested in the Secretary of Transportation by subsection 6(g) of the Department of Transportation Act (Public Law 89-670, 80 Stat. 931-950, 49 U.S.C. 1651 et seq.), certain functions, powers, and duties, previously performed by the Secretary of the Army and other officers and offices of the Department of the Army (Corps of Engineers), including the regulation of drawbridge operations under 33 U.S.C. 499. The Secretary of Transportation, by Department of Transportation Order 1100.1 dated March 31, 1967 (49 CFR 1.4(a)(3)), delegated to and authorized the Commandant, U.S. Coast Guard, to prescribe rules and regulations under the provisions of section 5 of the River and Harbor Act of August 18, 1894, as amended (28 Stat. 326; 33 U.S.C. 499).

2. The South Carolina State Highway Department, by letter dated 15 August 1967, requested the Corps of Engineers, Department of the Army, to revise the requirements for opening the Ben M. Sawyer Swing Bridge between Sullivan's Island and Mount Pleasant, S.C. In accordance with the procedures in 33 CFR 209.520, public notice dated August 18, 1967, setting forth the proposed revision of the regulations governing this drawbridge, was issued by the Charleston District, Corps of Engineers, and was made available to all persons known to have an interest in this subject. After consideration of all comments submitted in response thereto the proposal is accepted, subject to the right to change these requirements and to amend the regulations if and when necessary in the public interest. The purpose of this document is to prescribe special regulations for the operation of the South Carolina State Highway Ben M. Sawyer Swing Bridge across, the Intracoastal Waterway (mile 462.2) between Sullivan's Island and Mount Pleasant, S.C.

3. By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by 14 U.S.C. 532 and Department of Transportation Order 1100.1 (49 CFR 1.4(a)(3)), the text of 33 CFR 117.365 shall read as follows and shall be effective on and after the 30th day after publication of this document in the FEDERAL REGISTER:

§ 117.365 Atlantic Intracoastal Waterway (mile 462.2), South Carolina State Highway Department Ben M. Sawyer Swing Bridge (State Road 703) between Sullivan's Island and Mount Pleasant.

(a) The owner of or agency controlling the bridge shall not be required to open the draw between 7 a.m. and 9 a.m. and between 4 p.m. and 6 p.m. daily, except as provided in paragraph (b) of this section.

(b) The draw shall be opened promptly upon the prescribed signal being given for the passage of tug boats, freight boats, commercial fishing boats, vessels owned and operated by the United States, and boats or vessels in distress.

(c) The owner of or agency controlling the bridge shall erect and maintain adjacent to the channel, on both sides of the bridge, signs acceptable to the Commandant, U.S. Coast Guard setting forth the salient features of the regulations in this section.

(Sec. 5, 28 Stat. 362, as amended; 33 U.S.C. 499. Department of Transportation Order 1100.1, Mar. 31, 1967; 49 CFR 1.4(a)(3)(v), 32 F.R. 5606)

Dated: December 7, 1967.

W. J. SMITH,
Admiral, U.S. Coast Guard, Commandant.

[F.R. Doc. 67-14563; Filed, Dec. 14, 1967; 8:47 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations

SUBCHAPTER E—SUPPLY AND PROCUREMENT

PART 101-26—PROCUREMENT SOURCES AND PROGRAMS

Procurement Leadtime

Section 101-26.102-3 is added to indicate the procurement leadtime that should be allowed when GSA is called upon to perform special purchasing services for other agencies.

The table of contents of Part 101-26 is amended by the addition of the following entries:

101-26.102-3 Procurement leadtime.

Subparts 101-26.7—101-26.47 [Reserved]

Subpart 101-26.48—Exhibits

101-26.4800 Scope of subpart.
101-26.4801 Procurement leadtimes.

Subpart 101-26.1—General

Section 101-26.102-3 is added as follows:

§ 101-26.102-3 Procurement leadtime.

When GSA performs the purchasing services for other agencies or activities as contemplated by this § 101-26.102, calculation of the delivery dates required for the items involved shall be based on the procurement leadtimes illustrated in § 101-26.4801. These leadtimes are based on the normal time required after receipt of agency requisitions by GSA to effect delivery to destinations within the 48 states.

(a) Time required to obtain any additional essential information from the requisitioning office for use in issuing a solicitation for bids or offers is not included in the leadtimes.

(b) If unusually large quantities or complex items are required, leadtime adjustments should be made to reflect the specific requirement. As an example, standard electronic and communication equipment can usually be delivered within 4 months after receipt of the requisition. The same items requiring special manufacturing modifications could require 6 months. Footnotes relating to classes where this is a frequent occurrence are shown in the table (§ 101-26.4801).

(c) The table does not apply to public exigency or other high priority requisitions; however, it should be used as a guide to establish realistic required delivery dates for such requisitions.

Subparts 101-26.7—101-26.47 [Reserved]

Subpart 101-26.48 is added to read as follows:

Subpart 101-26.48—Exhibits

§ 101-26.4800 Scope of subpart.

This Subpart 101-26.48 illustrates information referenced in the text of Part 101-26 but not suitable for inclusion elsewhere in that part.

§ 101-26.4801 Procurement leadtimes.

The following table shall be used in calculation of required delivery dates when GSA is requested to perform the purchasing service:

Commodity class	Commodity class description	Leadtime in calendar days a
1000-1290	Ammunition, weapons, and explosives	90
1400-1890	Civil aircraft	90
b 1600-2490	Aircraft components, railway equipment, and motor vehicles	180
2500-2590	Vehicle parts	70
2600-2790	Tires and tubes	65
2800-2890	Engines, turbines, and parts	150
2900-3190	Engine accessories, power equipment, and bearings	c 90
3200-3490	Woodworking and metal working machinery	180
3500-3590	Service and trade equipment	90
3600-3690	Special industry machinery	75
3700-3790	Agricultural machinery and equipment	105
c 3800-3990	Construction, materials handling, and highway equipment	210
4000-4090	Rope, cable, chain, and fittings	75
4100-4190	Refrigeration and air conditioning equipment	90
4200-4290	Firefighting and safety equipment	90
4300-4390	Pumps and compressors	90
4400-4490	Furnace, steam plant, and drying equipment	140
4500-4890	Plumbing, heating, and related equipment	105
4900-5099	Maintenance and repair shop equipment	90

See footnotes at end of table.

Class number and title	Commodity class description	Limitations applicable (see footnotes)
5120-5130	Handtools, nonpowered	
5133-5133	Handtools, power-driven	
5136-5136	Drill bits, taps, dies, and collets	
5140-5179	Tool and hardware boxes	
5180-5199	Sets, kits, and outfits of tools	
5200-5209	Measuring tools	
5210-5239	Knives, cutlasses, and axes	
5240-5249	Miscellaneous hardware	
5250-5259	Vises, clamps, and attachments	
5260-5269	Metalworking machinery	
5305-5399	Lumber	
5410-5419	Construction and building materials	
5805-5809	Communication equipment	
5810-5819	Electrical and electronic equipment	
5820-5829	Electron tubes	
5870-5879	Electrical parts	
5880-5889	Electrical wire	
5890-5899	Lighting fixtures and lamps	
5930-5939	Alarm and signal systems	
5940-5949	Medical, dental, and veterinary equipment and supplies	
5950-5959	Instruments and laboratory equipment	
5960-5969	Photographic equipment	
5810-5819	Chemicals and chemical products	
7310-7319	Cooking, dining, and serving training devices	
7320-7329	Household furniture	
7110-7124	Office furniture	
7125-7194	Cabinets, lockers, bins, and shelving	
7195-7199	Miscellaneous furniture and fixtures	
7210-7219	Household furnishings	
7220-7229	Floor coverings	
7230-7239	Draperies, awnings, and shades	
7340-7349	Household and commercial utility items	
7350-7359	Miscellaneous household and commercial appliances	
7310-7319	Food, cooking, baking, and serving kitchen equipment	
7330-7339	Kitchen handtools and utensils	
7400-7409	Office machines and parts	
7410-7419	Visible record equipment	
7420-7429	Miscellaneous office machines	
7510-7519	Office supplies	
7520-7529	Office devices and accessories	
7530-7539	Stationery and record forms	
7540-7549	Standard forms	
7610-7619	Books, papers, etc	
7710-7719	Musical instruments, phonographs, and radios	
7810-7849	Recreational and athletic equipment	
7910-7949	Cleaning equipment and supplies	
8405-8409	Fabrics, woolens, cottons, etc	
8410-8429	Leather, pelts, and skins	
8430-8439	Boots and shoes	
8440-8449	Clothing and accessories	
8450-8459	Textiles, leathers, and furs	
8460-8469	Clothing and individual equipment	
8510-8519	Perfumes and toiletries	
8520-8529	Toilet soap, personal	
8540-8549	Toiletry paper products	
8910-8949	Agricultural supplies and live animals	
8960-8969	Subsistence	
9130-9199	Fuels, lubricants, oils, and waxes	
9310-9329	Nonmetallic fabricated materials	
9410-9429	Nonmetallic crude materials, metals, and ores	
9905-9909	Miscellaneous	

* Deduct 30 days from time shown when total requirements do not exceed $2,500.

* For vehicles in Federal Supply Classes 7310, 7320, and 7330 included in GSA's consolidated volume and monthly purchase programs, see §§ 101-26.501-4 and 101-26.501-5 for procurement and delivery time schedules. For other vehicles in these classes and those in Federal Supply Class 7340, the leadtime shown is for standard vehicles without special features or attachments.

* The following classes will be considered on a case-by-case basis because of special features that may be required. The leadtime shown is for routine requirements.

RULES AND REGULATIONS

Class	Class title
3805	Earth-moving and conveying equipment.
3810	Cranes and crane-shovels.
3895	Miscellaneous construction equipment.

Allotments in FSC Group 38, Construction equipment, will be considered on a case-by-case basis because of special features that may be required. The leadtime shown is for standard requirements.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER.

Dated: December 8, 1967.

LAWRENCE R. KNOTT, JR.,
Administrator of General Services.

[F.R. Doc. 67-14567; Filed, Dec. 14, 1967; 8:45 a.m.]

Title 48—TRADE AGREEMENTS AND ADJUSTMENT ASSISTANCE PROGRAMS

Chapter V—Automotive Agreement Adjustment Assistance Board

PART 501—ORGANIZATION, FUNCTIONS, AND PROCEDURES

Material Available to the Public

Pursuant to authority contained in the Automotive Products Trade Act of 1965 (Public Law 89-283, 79 Stat. 1016), Executive Order 11254 of October 21, 1965 (30 F.R. 13569), Board Order No. 1 (31 F.R. 8637), and 5 U.S.C. 552, the Regulations of the Automotive Agreement Adjustment Assistance Board (48 CFR, Chapter V, Part 501) are amended as set forth below concerning availability of information to the public. The Regulations in this part relate to public benefits. Accordingly, these amendments shall become effective immediately upon their publication in the FEDERAL REGISTER.

Section 501.12 is amended to read as follows:

§ 501.12 Material available to the public.

(a) Petitions and related documents filed with the Board, identifiable records of the Board, and materials issued for general distribution by the Board may be inspected and copied by any person on written request to the Executive Secretary of the Board at Washington, D.C., except as set forth in §§ 501.13 and 501.14 and except as provided for in 5 U.S.C. 552(b).

(b) In considering requests, the Executive Secretary may consult with members of the Automotive Assistance Committee of the Board.

(c) Any person whose request for such material of the Board is denied by the Executive Secretary may obtain review of such denial by filing a request therefor in writing with the Chairman of the Board within 15 days after notification of such denial. Such request shall set forth a description of the material requested and the basis for believing that such material is required to be made available under applicable law. Two copies of the request for review shall be filed with the Executive Secretary. A decision on such review shall be made by the Chairman of the Board who may consult with the other members of the Board. Persons requesting review by the Chairman of denials made by the Executive Secretary shall be promptly advised of the Chairman's decision on their request. The decision shall constitute final action of the Board.

(d) Persons whose request for the inspection and copying of material is approved will, on request, be provided facilities by the Executive Secretary for inspection and for making manual copies of such material. An index to materials required to be made available under 5 U.S.C. 552(a)(2) shall also be available for inspection and copying during regular business hours at the Office of the Executive Secretary of the Board, located in the Department of Labor, 14th and Constitution Avenue NW., Washington, D.C. 20210, Room T113.

(e) Any material which has been released for inspection will be copied by the Executive Secretary on the request and at the expense of the requesting party. Except for copies duplicated for distribution for no fee, a fee of 25 cents will be charged for each facsimile page reproduction in a maximum size of 10½" x 15½". An appropriate fee will be charged for copies of other size. Where the request is for receipt of such copies by mail, such postal fees in excess of domestic first-class postal rates as are necessary for transmittal of copies requested will be added to the per-page fee specified, unless appropriate stamps or stamped envelopes are furnished with the request.

(Sec. 552(k) of the Automotive Products Trade Act of 1965, Public Law 89-283, 79 Stat. 1026; E.O. 11254, 30 F.R. 13569; Board Order No. 1, 31 F.R. 8637; and 5 U.S.C. 552, as amended by Public Law 90-23)

Dated this 8th day of December 1967.

Automotive Agreement Adjustment Assistance Board by the Automotive Assistance Committee.

EDGAR I. EATON,
Executive Secretary.

[F.R. Doc. 67-14566; Filed, Dec. 14, 1967; 8:45 a.m.]

side or 200 feet collectively on both sides of the highway.

§ 290.13 Residence district.

The term "residence district" means the territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of 300 feet or more is in the main improved with residences or residences and buildings in use for business.

§ 290.14 Other terms.

Any other term used in Parts 290-297 of this subchapter is used in its commonly accepted meaning, except where such other term has been defined elsewhere in this part or in section 203(a) of the Interstate Commerce Act (49 U.S.C. 303(a)), in which event the definition therein given shall apply.

Subpart B—General

§ 290.30 State and local laws, effect on.

Except as otherwise specifically indicated, Parts 290-297 of this subchapter are not intended to preclude States or subdivisions thereof from establishing or enforcing State or local laws relating to safety, the compliance with which would not prevent full compliance with these regulations by the persons subject thereto.

§ 290.31 Vehicles used for purposes other than as defined.

Whenever any motor vehicle other than a bus is used to perform the functions normally performed by a bus, the regulations pertaining to buses and to the transportation of passengers shall apply to that motor vehicle and to its operation as though it were a bus, except with respect to vehicles operated by a motor carrier to transport its employees to and from their place of work in the regular course of the carrier's business. Likewise, whenever any motor vehicle of one type is so used as to perform the functions normally performed by a motor vehicle of another type, the requirements of Parts 290-297 of this subchapter shall apply to such motor vehicle and to its operation in the same manner as though such motor vehicle were actually a motor vehicle of the latter type.

AUTHORITY: The provisions of this Part 290 issued under sec. 204, 49 Stat. 546, as amended; 49 U.S.C. 304, unless otherwise noted.

CROSS REFERENCE: See 41 2345 and 2349 for references to said clause.

Subpart A—Definitions

§ 290.1 Motor vehicle.

The term "motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof determined by the Federal Highway Administration, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service.

§ 290.2 Vehicle.

The term "vehicle" means any conveyance of any type whatsoever operated upon the highways.

§ 290.3 Bus.

The term "bus" means any motor vehicle designed, constructed, and used for the transportation of passengers; including taxicabs.

§ 290.4 Truck.

The term "truck" means any self-propelled motor vehicle except a truck tractor, designed and used, or exclusively used whether or not so designed, for the transportation of property.

§ 290.5 Truck tractor.

The term "truck tractor" means a self-propelled motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

§ 290.6 Semitrailer.

The term "semitrailer" means any motor vehicle other than a "pole trailer," with or without motive power, designed to be drawn by another motor vehicle and so constructed that some part of its weight rests upon the towing vehicle.

§ 290.7 Full trailer.

The term "full trailer" means any motor vehicle, with or without motive power, other than a "pole trailer," designed to be drawn by another motor vehicle and so constructed that no part of its weight except the towing device rests upon the towing vehicle. A semitrailer equipped with an auxiliary front axle (dolly) shall be deemed to be a "full trailer."

§ 290.8 Pole trailer.

The term "pole trailer" means any vehicle without motive power, possibly of variable wheel base, designed to be drawn by another vehicle by means of a "reach," or "pole," or by being "boomed" to the towing vehicle secured or otherwise and ordinarily used for transporting long or irregular-shaped loads such as poles, pipes, or structural members capable generally of sustaining themselves as beams between the supporting connections.

§ 290.9 Driveaway-towaway operation.

The term "driveaway-towaway operation" means any operation in which any motor vehicle or motor vehicles, new or used, constitute the commodity being transported, when one set or more of wheels of any such motor vehicle or motor vehicles are on the roadway during the course of transportation; whether or not any such motor vehicle furnishes the motive power.

§ 290.10 Gross weight.

The term "gross weight" means the combined weight of the motor vehicle and any load thereon.

§ 290.11 Driver.

The term "driver" means any person who drives any motor vehicle.

§ 290.12 Business district.

The term "business district" means the territory contiguous to and including a highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings, railroad stations, and public buildings which occupy at least 300 feet of frontage on one

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission and Department of Transportation

SUBCHAPTER B—CARRIERS BY MOTOR VEHICLE

MOTOR CARRIER SAFETY REGULATIONS

The primary purpose of this publication of the Motor Carrier Safety Regulations is to collect all currently-effective provisions in a single place and to reflect the transfer of certain regulatory functions from the Interstate Commerce Commission to the Federal Highway Administration of the Department of Transportation pursuant to Public Law 89-670 (80 Stat. 931; 49 U.S.C. et seq.). The revisions made hereby are organizational, procedural, and grammatical only and are not intended to create, alter or revoke pre-existing substantive rights and duties. Accordingly notice of proposed rule making is deemed unnecessary, and these regulations are effective immediately upon publication of the FEDERAL REGISTER.

PARTS 290–298: SAFETY REGULATIONS

PART 290—GENERAL

Subpart A—Definitions

Sec.
290.1 Motor vehicle.
290.2 Vehicle.
290.3 Bus.
290.4 Truck.
290.5 Truck tractor.
290.6 Semitrailer.
290.7 Full trailer.
290.8 Pole trailer.
290.9 Driveaway-towaway operation.
290.10 Gross weight.
290.11 Driver.
290.12 Business district.
290.13 Residence district.
290.14 Other terms.

Subpart B—General

290.30 State and local laws, effect on.
290.31 Vehicles used for purposes other than as defined.
290.32 Motor carrier to require observance of driver regulations.
290.33 Applicability of regulations.
290.40 Accident and hours of service reports.

§ 290.32 Motor carrier to require observance of driver regulations.

Whenever in Parts 290–297 of this subchapter a duty is prescribed for a driver or a prohibition is imposed upon him, it shall be the duty of the motor carrier to require observance of such prescription or prohibition; and, if the motor carrier is himself a driver, he shall likewise be bound thereby.

§ 290.33 Applicability of regulations.

Parts 290–297 of this subchapter shall be applicable to common carriers, contract carriers, and private carriers subject to the Department of Transportation Act (49 U.S.C. 1651 et seq.) as shown in the following table:

	Applicable parts of regulations						
	291	292	293	294	295	296	297
A. Vehicles and drivers used wholly within a municipality or the commercial zone thereof as defined by the Interstate Commerce Commission:							
1. When transporting explosives or other dangerous articles of such type and in such quantity as to require the vehicle to be placarded under the Explosives and Other Dangerous Articles Regulations, 49 CFR 177.823, or when operating without cargo under conditions which require the vehicle to be so marked or placarded under the cited regulations, except that shall further order of the Federal Highway Administration § 290.33(A)(1) shall be governed by the quantity provisions of § 177.823 which were in effect prior to January 1, 1967, i.e., when transporting 2,500 pounds or more gross weight of and dangerous articles or 1,000 pounds or more gross weight of two or more such items	Yes	Yes	Yes	Yes	Yes	Yes	Yes
2. When operating under such conditions that special marking or placarding is not required under the regulations cited in paragraph A-1 of this table	No	No	No	Yes	Yes	No	No
B. Vehicles and drivers used beyond a municipality or the commercial zone thereof as defined by the Interstate Commerce Commission:							
1. When transporting explosives or other dangerous articles	Yes	Yes	Yes	Yes	Yes	Yes	Yes
2. When not transporting explosives or other dangerous articles	Yes	Yes	Yes	Yes	Yes	Yes	No

NOTE: The operations outlined in A and B above, include the transportation and use of certain vehicles as specifically described in section 203(b) of the Interstate Commerce Act, which include, generally, the following: (1) School buses; (2) hotbuses; (3) hotel buses; (4) motor vehicles under control of the Secretary of the Interior; (5) motor vehicles of agricultural cooperative associations; (6) motor vehicles used exclusively in carrying ordinary livestock, fish, or agricultural commodities; (7) motor vehicles used exclusively in distribution of newspapers; (7a) transportation incidental to transportation by aircraft; (8) transportation wholly within a municipality or between contiguous municipalities or within a zone adjacent to and commercially a part of such municipality or municipalities; (9) the casual, occasional, or reciprocal transportation of passengers (when arranged for by bona fide nonprofit corporations or other persons not for compensation); and (10) transportation of property consisting of explosives or other dangerous articles by motor vehicle, except that Part 295 is applicable to all casual, occasional, or reciprocal transportation by motor vehicle in interstate or foreign commerce for compensation by any person not engaged in transportation by motor vehicle as a regular occupation or business.

The term "private carrier of property by motor vehicle" means any person not included in the terms "common carrier by motor vehicle" or "contract carrier by motor vehicle", who or which transports in interstate or foreign commerce by motor vehicle property of which such person is the owner, lessee, or bailee, when such transportation is for the purpose of sale, lease, rent, or bailment, or in furtherance of any commercial enterprise. (Section 203(a)(17) of the Interstate Commerce Act.) Except as otherwise specifically provided, motor vehicles controlled and operated by any farmer when used in the transportation of agricultural commodities and products thereof from his farm, or in the transportation of supplies to his farm, are subject to the same regulations as those applicable to private carriers of property.

§ 290.40 Accident and hours of service reports.

Where filed. Motor carriers shall file reports required by §§ 294.5, 294.7, 294.9, and 295.9 of this subchapter by serving or mailing by first-class mail to the Regional Federal Highway Administrator, Bureau of Motor Carrier Safety, Federal Highway Administration, for the region in which such carrier has his or its principal place of business as shown in the following table:

Region No.	Territory included	Location of regional office
1	Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont. That part of Canada east of Highways 10 and 3 from Fort Burwell to Goderich, thence a straight line running north through Tobermory and Sudbury and thence due north to the Canadian border.	New York, N.Y. 10022.
2	Delaware, District of Columbia, Maryland, Ohio, Pennsylvania, Virginia, and West Virginia.	Columbus, Ohio 43212.
3	Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee.	Atlanta, Ga. 30323.
4	Illinois, Indiana, Kentucky, Michigan, and Wisconsin. That part of Canada on the west of Highways 10 and 3 from Fort Burwell to Goderich, thence a straight line running north through Tobermory and Sudbury and thence due north to the Canadian border; and on the east of Highway 11 from Nipigon to Macdiarmid and thence a straight line due north to the Canadian border.	Chicago, Ill. 60604.
5	Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota. That part of Canada west of Highway 11 from Nipigon to Macdiarmid and thence a straight line due north to the Canadian border; and on and east of Highway 6 from Regway to Melfort and thence a straight line due north to the Canadian border.	Kansas City, Mo. 64105.
6	Arkansas, Louisiana, Oklahoma, and Texas. All Mexican States except the State of Chihuahua, Baja California, and Sonora, Mexico.	Fort Worth, Tex. 76102.
7	Arizona, California, and Nevada; Baja California and Sonora, Mexico. Idaho, Montana, Oregon, Washington, and Alaska. That part of Canada west of Highway 6 from Regway to Melfort and thence a straight line due north to the Canadian border, and all of the Provinces of Alberta and British Columbia.	San Francisco, Calif. 94102. Portland, Oreg. 97204.
8	Colorado, New Mexico, Utah, and Wyoming, State of Chihuahua, Mexico.	Denver, Colo. 80202.

PART 291—QUALIFICATIONS OF DRIVERS

Sec.
291.1 Compliance required.
291.2 Minimum requirements.
291.3 Driving experience.
291.4 Driving skill.
291.5 Knowledge of regulations.
291.6 Age.
291.7 Knowledge of English.
291.8 Original physical examination of drivers.
291.9 Periodic physical examination of drivers.
291.10 Certificate of physical examination.
291.11 Doctor's certificate.
291.12 Carrier's right to require additional qualifications.
291.13 Driver's past record.

AUTHORITY: The provisions of this Part 291 issued under sec. 204, 49 Stat. 546, as amended; 49 U.S.C. 304, unless otherwise noted.

§ 291.1 Compliance required.

Every motor carrier, and his or its officers, agents, representatives, and employees who drive motor vehicles or are responsible for the hiring, supervision, training, assignment, or dispatching of drivers shall comply and be conversant with the requirements of this part.

§ 291.2 Minimum requirements.

Except as provided in paragraph (c) of this section, no person shall drive, nor shall any motor carrier require or permit any person to drive, any motor vehicle unless such person possesses the following minimum qualifications:

(a) *Mental and physical condition.* (1) No loss of foot, leg, hand, or arm.

(2) No mental, nervous, organic, or functional disease, likely to interfere with safe driving.

(3) No loss of fingers, impairment of use of foot, leg, fingers, hand or arm, or other structural defect or limitation, likely to interfere with safe driving.

(b) *Eyesight.* Visual acuity of at least 20/40 (Snellen) in each eye either without glasses or by correction with glasses; form field of vision in the horizontal meridian shall not be less than a total of 140 degrees; ability to distinguish colors red, green, and yellow; drivers requiring correction by glasses shall wear properly prescribed glasses at all times when driving.

(c) *Hearing.* Hearing shall not be less than 10/20 in the better ear, for conversational tones, without a hearing aid.

(d) *Liquor, narcotics, and drugs.* Shall not be addicted to the use of narcotics or habit-forming drugs, or the excessive use of alcoholic beverages or liquors.

(e) *Waiver of physical requirements.* Any person failing to meet the requirements of paragraph (a) (1) or (a) (3) of this section may be permitted to drive a vehicle, other than a vehicle transporting passengers, or a vehicle transporting explosives or other dangerous articles of such type and in such quantity as to require the vehicle to be specifically marked or placarded under the Explosives and Other Dangerous Articles Regulations (49 CFR 177.823) or when operating without cargo under conditions which require the vehicle to be so marked or placarded under the said regulations, if the Director, Bureau of Motor Carrier Safety, finds that a waiver may be granted consistent with safety and the public interest, and grants such a waiver, on the basis of an application meeting all of the following requirements:

(1) The application must be submitted jointly by a person seeking relief to permit him to drive and by a carrier wishing to employ such person as a driver, who both agree to fulfilling all conditions of the waiver;

(2) The application must be accompanied by reports of medical examinations satisfactory to the Director, Bureau of Motor Carrier Safety, and recommendations by at least two medical examiners, at least one of whom shall have been selected and compensated by the carrier. Such reports and recommendations must indicate the opinions of the medical examiners as to the ability of the driver to operate safely a commercial vehicle of the type to be driven by him.

(3) The application shall contain a description, satisfactory to the Director, Bureau of Motor Carrier Safety, of the type, size, and special equipment (if any) of the vehicle or vehicles to be driven, the general area and type of roads to be traversed, the distances and time periods contemplated, the nature of the commodities to be transported and the method of loading and securing them, and the experience (if any) of the applicant in driving vehicles of the type to be driven by him.

(4) The application shall specify agreement by both the person and the carrier that the carrier will file promptly with the Director, Bureau of Motor Carrier Safety, such periodic reports as are required and that such reports will contain complete and truthful information as to the extent of the person's driving activity, any accidents in which he may be involved, and any arrests, suspensions, or convictions in which the person is involved.

(i) If the applicant motor carrier is a corporation, the application shall be signed by a corporation officer and the applicant driver.

(ii) If the applicant motor carrier is a partnership, the application shall be signed by at least one of the partners and the applicant driver.

(iii) If the applicant motor carrier is a sole proprietorship, the application shall be signed by the proprietor and the applicant driver.

(5) The applicants shall agree that the waiver shall authorize driving in interstate commercial service for the applicant carrier only, that any arrests or convictions for violations of laws or ordinances, and any revocation or suspension of driving privileges will be reported to the Director, Bureau of Motor Carrier Safety, immediately on occurrence.

(6) The waiver shall not exceed 2 years and will be renewable, upon submission of a new application, if approved by the Director, Bureau of Motor Carrier Safety.

(7) The waiver may be suspended at any time at the discretion of the Director, Bureau of Motor Carrier Safety, and may be canceled by him after the applicant has been given reasonable opportunity to show cause, if any, why such cancellation should not be made.

(8) A copy of the letter granting the waiver under this section, or a legible photographically reproduced copy thereof, shall be retained in the files of the motor carrier at its principal place of business during the period the driver is in the carrier's employment and 12 months after the termination of the driver's employment.

(9) Every driver granted a waiver under this section shall have in his possession while on duty a copy of the letter granting the waiver or a legible photographically reproduced copy thereof covering himself.

(Sec. 12, 80 Stat. 931; 49 U.S.C. 1651 note)

§ 291.3 Driving experience.

Every driver shall be experienced in driving some type of motor vehicle (including private automobiles) for not less than 1 year, including experience throughout the four seasons.

§ 291.4 Driving skill.

Every driver shall be competent by reason of experience or training to operate safely the type of motor vehicle or motor vehicles which he drives.

§ 291.5 Knowledge of regulations.

Every driver shall be familiar with the rules and regulations established by the Federal Highway Administration pertaining to the driving of motor vehicles.

§ 291.6 Age.

Every driver shall be not less than 21 years of age: *Provided, however,* That a person not less than 18 years of age may be permitted to drive a motor vehicle controlled and operated by any farmer and used in the transportation of agricultural commodities and products thereof from his farm or in the transportation of supplies to his farm, if such vehicle does not exceed a gross weight, including the load, of 10,000 pounds.

§ 291.7 Knowledge of English.

Every driver shall be able to read and speak the English language.

§ 291.8 Original physical examination of drivers.

No person shall drive nor shall any motor carrier require or permit any person to drive any motor vehicle unless such person shall have been physically examined and shall have been certified by a licensed doctor of medicine or osteopathy as meeting the requirements of § 291.2: *Provided, however,* That as to visual acuity, form field of vision, and ability to distinguish colors specified in § 291.2(b) examination and certification may be made by a licensed optometrist: *Provided further,* That this section shall not apply to drivers of motor vehicles controlled and operated by any farmer when used in the transportation of agricultural commodities or products thereof from his farm, or in the transportation of supplies to his farm.

§ 291.9 Periodic physical examinations of drivers.

Every driver shall be physically reexamined at least once in every 36 months and no person shall drive nor shall any motor carrier require or permit any person to drive any motor vehicle unless such person shall have been physically examined and certified by a licensed doctor of medicine or osteopathy as meeting the requirements of § 291.2: *Provided, however,* That as to visual acuity, form field of vision, and ability to distinguish colors specified in § 291.2(b) examination and certification may be made by a licensed optometrist: *Provided further,* That this section shall not apply to drivers of motor vehicles controlled and operated by any farmer when used in the transportation of agricultural commodities or products thereof from his farm, or in the transportation of supplies to his farm.

§ 291.10 Certificate of physical examination.

If a physical examination is required by § 291.8 or § 291.9 (formerly § 191.8 or § 191.9) every motor carrier shall have in its files at its principal place of business for every driver employed or used by it a legible certificate of a licensed doctor of medicine or osteopathy based on a physical examination as required by §§ 291.8 and 291.9 or a legible photographically reproduced copy thereof: *Provided, however,* That as to visual acuity, form field of vision, and ability to distinguish colors specified in § 291.2 (b) examination and certification may be made by a licensed optometrist; provided further that a motor carrier may upon written request to and upon receiving consent from the Director, Bureau of Motor Carrier Safety, Federal Highway Administration, Washington, D.C. 20591, retain such certificates at such

regional or terminal offices as are proposed by the carrier and approved by the Director. Every driver, if a physical examination is required with respect to him by §§ 291.8 and 291.9, shall have in his possession while on duty, such a certificate, or a photographically reproduced copy thereof covering himself.

(Sec. 12, 80 Stat. 981; 49 U.S.C. 1651 note)

§ 291.11 Doctor's certificate.

The doctor's certificate shall certify as follows:

DOCTOR'S CERTIFICATE

This is to certify that I have this day examined _____ in accordance with section 291.2 and the physical examination procedure prescribed by the Motor Carrier Safety Regulations of the Federal Highway Administration, and that I find him qualified under said rules.

_____ _____
(Date) (Place)

_____
(Signature of driver)

_____
(Address of driver)

_____
(Signature of examining doctor)

_____
(Address of doctor)

The following shall be completed to show compliance with the eyesight requirements of section 291.2.

☐ Qualified when not wearing glasses.
☐ Qualified only when wearing glasses.

_____
(Signature of (check one): ☐ Doctor ☐ Optometrist)

_____
(Address)

NOTE: Stocks of doctor's certificates in the possession of carriers or their suppliers as of the effective date of this order may be used until January 1, 1969, provided the information required by section 291.11 is entered thereon.

Such certificate shall be based on a physical examination made and recorded generally in accordance with the following instructions and examination form.

GENERAL INSTRUCTIONS FOR MAKING PHYSICAL EXAMINATION AND RECORDING FINDINGS

[Be sure to record an answer to each question. When negative or positive, so state]

MEDICAL HISTORY

The purpose of this physical examination is to detect the presence of physical and mental defects of such a character and extent as to affect the applicant's ability to operate safely a motor vehicle. The examination should be made carefully and at least as complete as is indicated by the attached form. Defects may be recorded which do not, because of their character or degree, indicate that a certificate of physical fitness should be denied. The presence, however, of these defects should be discussed with the applicant and he should be encouraged to take the necessary steps to insure correction particularly of those which if neglected might lead to a condition likely to affect his ability to drive safely. Careful inquiry regarding past illness, the character and date of such illness, may reveal cause for defects found upon physical examination. Lack of knowledge concerning the etiology of certain defects may result in the rejection for employment. Such data also may indicate the need for making certain laboratory tests.

General appearance and development: Note marked underweight or overweight; any posture defects; perceptible limp, anemia, tremor, or other form of nervousness such as might be caused by chronic alcoholism, thyroid intoxication, or other illnesses. The regulations of the Federal Highway Administration provide that no driver shall be addicted to the use of narcotics or habit-forming drugs, or the excessive use of alcoholic liquors or beverages.

Head—Eyes: The telebinocular, Snellen chart, and/or other approved tests may be used to measure visual acuity. It is desired, however, when other than the Snellen chart is used, that the results of such test be expressed in values comparable to the standard Snellen test. If applicant wears glasses, these should be worn while applicant's visual acuity is being tested. Indicate on record by striking the inapplicable phrase on form "without glasses" or "with glasses if worn." In recording distance vision use 20 feet as normal. Report all vision as a fraction with 20 as numerator and the smallest type read at 20 feet as denominator. Note ptosis, discharge, corneal scar, exophthalmos, or strabismus uncorrected by glasses.

Ears: Note evidence of mastoid or middle ear disease; discharge. In recording hearing, record 20 feet as normal distance for conversational voice and record deviation from normal as fraction with 20 feet as denominator and actual distance as numerator.

Mouth: Note evidence of infection, pyorrhea.

Throat: Note evidence of disease, enlarged or infected tonsils.

Thorax—Heart: Stethoscopic examination is required. Note murmurs and arrhythmias. Electro-cardiogram is required when other findings indicate desirability.

Blood pressure: May be recorded with either spring or mercury column type of sphygmomanometer.

Pulse: Normal pulse taken after being seated at least 2 minutes, then have applicant stand and placing one foot on the seat of an ordinary chair raise his body to an erect position 20 times in 30 seconds. Pulse rate should return to his normal after 2 minutes' rest. Because of abnormal conditions, some applicants will be unable to do this. This test has been found helpful in ascertaining physical ability for work.

Lungs: It is necessary that the auscultatory cough be used. Tuberculosis, if suspected, state whether active or arrested, and if arrested, your opinion as to how long it has been quiescent. Sputum to be examined for tubercle bacilli in all suspected cases.

Abdomen—Scars: If present, state whether recent and if abnormally tender or if there is any evidence of hernia at the site of scar.

Abnormal masses: If present, note tenderness and whether or not individual knows how long they have been present.

Tenderness: When noted, state where most pronounced and cause suspected.

Hernia: Note whether no hernia, but impulse on coughing; no hernia or impulse, but abnormally large rings. Any hernia should be noted, and if present, state whether it is retained by well-fitted truss.

Genito-urinary: When scars or urethral discharge are present, indicate patient's reason for same and when indicated, submit smear of discharge to laboratory for examination.

Reflexes: If positive Rhomberg is reported, indicate degree. Pupillary reflexes should be reported for both light and accommodation. Knee jerks are to be reported absent only when not obtainable upon reinforcement and as increased when foot is actually lifted from the floor following light blow upon the patella; otherwise as normal.

Extremities: Be sure to record loss of foot, leg, fingers, hand or arm, or impairment of use thereof, or other structural defect or limitation, likely to interfere with safe driving.

Upper: Note deformities and limitation of motion.

Lower: Note deformities, limitation of motion; varicose veins.

In case of hand deformities, note particularly whether or not sufficient grip is present to enable driver to secure a grip on the wheel. Record chronic ulcers. Note any atrophy or paralysis.

Spine: Note deformities and limitation of motion.

Laboratory findings: Urine analysis is indicated whenever systolic blood pressure is over 150 and diastolic over 100 and such other times as medical history or findings upon physical examination may indicate that they are necessary. A serological test should always be taken in case of those giving history of luetic infection or present physical findings upon examination presenting possibility of latent syphilis.

Upon completion of the examination, physician should always date and sign his record of the same.

MINIMUM REQUIREMENTS OF § 291.2

(a) Mental and physical condition:
(1) No loss of foot, leg, hand, or arm.
(2) No mental, nervous, organic, or functional disease, likely to interfere with safe driving.
(3) No loss of fingers, impairment of use of foot, leg, fingers, hand or arm, or other structural defect or limitation, likely to interfere with safe driving.

(b) Eyesight: Visual acuity of at least 20/40 (Snellen) in each eye either without glasses or by correction with glasses; form field of vision in the horizontal meridian shall not be less than a total of 140 degrees, ability to distinguish colors red, green, and yellow; drivers requiring correction by glasses shall wear properly prescribed glasses at all times when driving.

(c) Hearing: Hearing shall not be less than 10/20 in the better ear, for conversational tones, without a hearing aid.

(d) Liquor, narcotics, and drugs: Shall not be addicted to the use of narcotics or habit-forming drugs, or the excessive use of alcoholic beverages or liquors.

PHYSICAL EXAMINATION OF DRIVERS

Date _____

Name _____
(Please print) (Last) (First) (Middle)

Present address _____
(Number) (Street)

_____
(City) (State)

_____
(Social Security Account No.)

Birth _____ Age _____
(Month, day, year) (Place)

HEALTH HISTORY

Yes	No	
☐	☐	Head or spinal injuries (severe).
☐	☐	Convulsions (fits, epilepsy).
☐	☐	Encephalitis (sleeping sickness).
☐	☐	Ever confined as chronic invalid.
☐	☐	Heart disease.
☐	☐	Tuberculosis.
☐	☐	Syphilis.
☐	☐	Gonorrhea.

HEALTH HISTORY—Continued

Yes	No	
☐	☐	Diabetes.
☐	☐	Stomach ulcer.
☐	☐	Rheumatic fever.
☐	☐	Asthma.
☐	☐	Kidney disease.
☐	☐	Suffering from incurable disease.
☐	☐	Permanent defect as result of disease or accident.

Other illnesses or injuries _____

PHYSICAL EXAMINATION

General appearance and development:
Good _____ Fair _____ Poor _____
Height _____ Weight _____
Head:
(Without glasses)
Eyes: For distance _____
Right 20/ _____ Left 20/ _____
(With glasses if worn)
Evidence of disease or injury:
Right _____ Left _____
Color vision _____ Horizontal field of vision:
Right _____ Left _____
Ears: Hearing, 20 feet:
Right ear _____/20. Left ear _____/20.
Disease of injury _____
Mouth _____ Throat _____
Thorax:
Heart _____
If organic disease is present, is it fully compensated? _____
Blood pressure (sitting):
Systolic _____ Diastolic _____
Pulse: Before exercise _____
Two minutes' rest after exercise _____
Lungs: _____
Abdomen:
Scars _____ Abnormal masses _____
Tenderness _____
Hernia: Yes _____ No _____ If so, where? _____
Is truss worn? _____
Genito-Urinary:
Scars _____ Urethral discharge _____
Reflexes:
Rhomberg _____
Pupillary _____ Light R _____ L _____
Accommodation R _____ L _____
Knee Jerks:
Right: Normal___ Increased___ Absent___
Left: Normal___ Increased___ Absent___
Extremities:
Upper _____
Lower _____
Spine _____
Laboratory findings:
Urine: Sp. Gr. _____ Alb. _____ Sugar _____
Blood Serology _____
Chest X-ray _____

_____
(Date)

_____
(Examining doctor)

_____
(Address)

§ 291.12 Carrier's right to require additional qualifications.

Nothing contained in Parts 290–297 of this subchapter shall be so construed as to prevent a motor carrier from requiring additional or more stringent physical, mental, or intellectual qualifications or age requirements than prescribed in this part as minima; or to require more frequent or more stringent physical or mental examinations than prescribed in this part, notwithstanding that a driver may have in his possession a doctor's certificate as herein required.

§ 291.13 Driver's past record.

In addition to the other qualifications required by this part, motor carriers shall in the employment and use of drivers and from time to time thereafter in continuing drivers in their service give due consideration to the following factors where they exist:

(a) Violations of laws or regulations governing the operation of motor vehicles of which the driver is guilty, especially as to those violations which tend to establish a disregard for regulatory requirements and for the public safety.

(b) The driver's accident record insofar as it tends to establish a lack of concern for or indifference to his own or the public's safety.

(c) Violations of criminal laws of which the driver is guilty, especially with respect to those offenses which tend to demonstrate his unfitness in the public interest to be a driver of a motor vehicle in interstate or foreign commerce.

Motor carriers shall maintain and preserve as a part of each driver's personnel record a summary of all driver acts and offenses which are within the purview of this section. In addition to the periodic review of such records as contemplated by this regulation, motor carriers shall specifically review the individual record of a driver when he is involved in a serious accident to the end that reckless or accident-prone drivers may not continue to drive vehicles as a hazard to the public safety.

PART 292—DRIVING OF MOTOR VEHICLES

Subpart A—General

Sec.
292.1 Compliance required.
292.2 Additional carrier rules permitted.
292.3 Driving rules to be obeyed.
292.4 Driving while ill or fatigued.
292.5 Alcoholic beverages.
292.6 Schedules to conform with speed limits.
292.7 Equipment, inspection and use.
292.8 Emergency equipment, inspection and use.
292.9 Safe loading.

Subpart B—Driving of Vehicles

292.10 Railroad grade crossings; stopping required.
292.11 Railroad grade crossings; slowing down required.
292.12 Drawbridges; stopping of buses.
292.13 Drawbridges; slowing down of other vehicles.
292.14 Hazardous conditions; extreme caution.
292.15 Required and prohibited use of turn signals.

Subpart C—Stopped Vehicles

292.20 Unattended vehicles; precautions.
292.21 Stopped vehicles not to interfere with other traffic.
292.22 Emergency signals; disabled vehicles.
292.23 Emergency signals; stopped or parked vehicles.
292.24 Emergency signals; flame-producing.
292.25 Emergency signals; dangerous cargoes.
292.26 Red flags; stopped vehicles.

Subpart D—Use of Lighted Lamps and Reflectors

292.30 Lighted lamps; moving vehicles.
292.31 Lighted lamps; stopped or parked vehicles.
292.32 Upper and lower head-lamp beams.
292.33 Obscured lamps or reflectors.

Subpart E—Accidents; Duties of Driver

292.40 All accidents.
292.41 Striking unattended vehicle.

Subpart F—Fueling Precautions

292.50 Ignition of fuel; prevention.
292.51 Reserve fuel.
292.52 Buses, fueling.

Subpart G—Prohibited Practices

292.60 Unauthorized persons not to be transported.
292.61 Driving by unauthorized person.
292.62 Bus driver; distraction.
292.63 Towing or pushing loaded buses.
292.64 Riding within closed vehicles without proper exits.
292.65 Sleeper berth; transfer to or from.
292.66 Carbon monoxide; use of vehicle when detected.
292.67 Heater, flame-producing; on vehicle in motion.
292.68 Motive power not to be disengaged.

AUTHORITY: The provisions of this Part 292 issued under sec. 204, 49 Stat. 546, as amended; 49 U.S.C. 304.

Subpart A—General

§ 292.1 Compliance required.

Every motor carrier shall comply with the requirements of this part, shall instruct its officers, agents, representatives, and drivers with respect thereto, and shall take such measures as are necessary to insure compliance therewith by such persons. All officers, agents, representatives, drivers, and employees of motor carriers, directly concerned with the management, maintenance, operation, or driving of motor vehicles, shall comply with and be conversant with the requirements of this part.

§ 292.2 Additional carrier rules permitted.

Nothing contained in Parts 290–297 of this subchapter shall be construed as prohibiting any motor carrier from enforcing additional rules and regulations relating to safety of operation, not inconsistent with Parts 290–297 of this subchapter, tending to a greater degree of precaution against accidents.

§ 292.3 Driving rules to be obeyed.

Every motor vehicle shall be driven in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated, unless such laws, ordinances and regulations are at variance with specific regulations of this Federal Highway Administration which impose a greater affirmative obligation or restraint.

§ 292.4 Driving while ill or fatigued.

No driver shall drive or be required or permitted to drive a motor vehicle while his ability or alertness is so impaired through fatigue, illness, or any other cause as to make it unsafe for him to begin or continue to drive, except in case of grave emergency where the hazard to

passengers would be increased by observance of this section and then only to the nearest point at which the safety of passengers is assured.

§ 292.5 Alcoholic beverages.

No driver shall drive or be required or permitted to drive a motor vehicle, be in active control of any such vehicle, or go on duty or remain on duty, when under the influence of any alcoholic beverage or liquor, regardless of its alcoholic content, nor shall any driver drink any such beverage or liquor while on duty.

§ 292.6 Schedules to conform with speed limits.

No motor carrier shall schedule a run nor permit nor require the operation of any motor vehicle between points in such period of time as would necessitate the vehicle being operated at speeds greater than those prescribed by the jurisdictions in or through which the vehicle is being operated.

§ 292.7 Equipment, inspection and use.

No motor vehicle shall be driven unless the driver thereof shall have satisfied himself that the following parts and accessories are in good working order, nor shall any driver fail to use or make use of such parts and accessories when and as needed:

Service brakes, including trailer brake connections.
Parking (hand) brake.
Steering mechanism.
Lighting devices and reflectors.
Tires.
Horn.
Windshield wiper or wipers.
Rear-vision mirror or mirrors.
Coupling devices.

§ 292.8 Emergency equipment, inspection, and use.

No motor vehicle shall be driven unless the driver thereof shall have satisfied himself that the emergency equipment required by §§ 293.95 and 293.96 of this subchapter is in place and ready for use; nor shall any driver fail to use or make use of such equipment when and as needed.

§ 292.9 Safe loading.

(a) *Distribution and securing of load.* No motor vehicle shall be driven nor shall any motor carrier permit or require any motor vehicle to be driven if it is so loaded, or if the load thereon is so improperly distributed or so inadequately secured, as to prevent its safe operation.

(b) *Doors, tarpaulins, tailgates and other equipment.* No motor vehicle shall be driven unless the tailgate, tailboard, tarpaulins, doors, all equipment and rigging used in the operation of said vehicle, and all means of fastening the load, are securely in place.

(c) *Interference with driver.* No motor vehicle shall be driven when the lading or any other object obscures his view ahead, or to the right or left sides, or interferes with the free movement of his arms or legs, or prevents his free and ready access to the accessories required for emergencies, or prevents the free and ready exit of any person from the cab or driver's compartment.

(d) *Passengers on buses.* No bus shall be driven unless:

(1) Standees are to the rear of a line or other device prescribed in § 293.90 of this subchapter.

(2) Aisle seats, if any, are in accordance with § 293.91 of this subchapter.

(e) *Freight or express on buses.* No bus transporting baggage, express or freight shall be driven unless such articles are stowed in a manner which will assure: (1) Unrestricted freedom of motion to the driver for proper operation of the bus; (2) unobstructed passage to all exits by any person; and (3) adequate protection to passengers and others from injury as a result of the displacement or falling of such articles.

Subpart B—Driving of Vehicles

§ 292.10 Railroad grade crossings; stopping required.

(a) Except as provided in paragraph (b) of this section, the driver of any motor vehicle described in subparagraphs (1) through (6) of this paragraph, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within 50 feet, but not less than 15 feet from the nearest rail of such railroad, and while so stopped shall listen and look in both directions along such track for any approaching train, and shall not proceed until such precautions have been taken and until he has ascertained that the course is clear.

(1) Every bus transporting passengers,

(2) Every motor vehicle transporting any quantity of chlorine,

(3) Every motor vehicle which, in accordance with the regulations of the Department of Transportation, is required to be marked or placarded with one of the following markings:

(i) Explosives A.
(ii) Explosives B.
(iii) Poison.
(iv) Flammable.
(v) Oxidizers.
(vi) Compressed Gas.
(vii) Corrosives.
(viii) Flammable Gas.
(ix) Radioactive.
(x) Dangerous.

(4) Every cargo tank motor vehicle, whether loaded or empty, used for the transportation of any dangerous article as defined in the regulations of the Department of Transportation or for the transportation of any liquid having a flashpoint below 200° Fahrenheit, as determined by the Standard Method of Test for Flash Point of the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103, as set forth in ASTM D–56–61, ASTM D–92–57, or ASTM D–93–62, and referenced by the National Fire Protection Association, 60 Batterymarch Street, Boston, Mass. 02110, in Pamphlet No. 385, 1964 edition.

(5) Every cargo tank motor vehicle transporting a commodity which at the time of loading has a temperature above its flashpoint as determined by the same standard method of testing as prescribed in subparagraph (4) of this paragraph.

(6) Every cargo tank motor vehicle, whether loaded or empty, transporting any commodity under special permit in accordance with the provisions of § 173.22 of this chapter.

(b) A stop need not be made at:

(1) A streetcar crossing, or railroad tracks used exclusively for industrial switching purposes, within a business district as defined in § 290.12 of this chapter,

(2) A railroad grade crossing when a police officer or crossing flagman directs traffic to proceed,

(3) A railroad grade crossing where a stop and go traffic light controls movement of traffic,

(4) An abandoned railroad grade crossing which is marked with a sign indicating that the rail line is abandoned,

(5) An industrial or spur line railroad grade crossing marked with a sign reading "Exempt Crossing." Such "Exempt Crossing" signs shall be erected only by or with the consent of the appropriate State or local authority.

(Sec. 12, 80 Stat. 931; 49 U.S.C. 1651 note)

§ 292.11 Railroad grade crossings; slowing down required.

Every motor vehicle other than those listed in § 292.10 shall, upon approaching a railroad grade crossing, be driven at a rate of speed which will permit said motor vehicle to be stopped before reaching the nearest rail of such crossing and shall not be driven upon or over such crossing until due caution has been taken to ascertain that the course is clear.

§ 292.12 Drawbridges; stopping of buses.

Every motor vehicle transporting passengers shall, upon approaching any drawbridge, known or marked as such be brought to a complete stop, not less than 50 feet from the lip of the draw, and shall proceed only when the driver has definitely ascertained that the draw is completely closed. A full stop need not be made at any drawbridge protected by a traffic "stop and go" signal giving positive indication to approaching vehicles to proceed, or where upon the opening of the draw, traffic is controlled by an attendant or traffic officer.

§ 292.13 Drawbridges; slowing down of other vehicles.

Any other motor vehicle, shall, upon approaching a drawbridge, be driven at a rate of speed which will permit said motor vehicle to be stopped before reaching the lip of the draw and shall

proceed only when the draw is completely closed.

§ 292.14 Hazardous conditions; extreme caution.

Extreme caution in the operation of a motor vehicle shall be exercised when hazardous conditions, such as those caused by snow, ice, sleet, fog, mist, rain, dust, or smoke, adversely affect visibility or traction. Speed shall be reduced when such conditions exist. If conditions become sufficiently dangerous, the operation of the vehicle shall be discontinued and shall not be resumed until the vehicle can be safely operated. Whenever compliance with the foregoing provisions of this rule increases hazard to passengers, the motor vehicle may be operated to the nearest point at which the safety of passengers is assured.

§ 292.15 Required and prohibited use of turn signals.

(a) *Turns.* Every motor vehicle turn shall be signaled for a distance of not less than 100 feet in advance of, and during, the turning movement by flashing the turn signals at the front and the rear of the vehicle on the side toward which the turning movement is made.

(b) *Entry into traffic stream.* Turn signals shall be flashed to indicate the direction of vehicle movement, prior to and during entry of the vehicle into the traffic stream from a parked position.

(c) *Lane changes.* Turn signals shall be flashed to indicate the direction of vehicle movement continuously, for a distance of not less than 100 feet in advance of, and during, the turning movement of the vehicle from one traffic lane to another.

(d) *Parking or disablement.* Turn signals shall not be flashed on one side only on parked or disabled vehicles.

(e) *Courtesy or "do pass" signals.* Turn signals shall not be used as courtesy or "do pass" signals to operators of vehicles approaching from the rear.

Subpart C—Stopped Vehicles

§ 292.20 Unattended vehicles; precautions.

No motor vehicle shall be left unattended until the parking brake has been securely set and all reasonable precautions have been taken to prevent the movement of such vehicle.

§ 292.21 Stopped vehicles not to interfere with other traffic.

No motor vehicle shall be stopped, parked, or left standing, whether attended or unattended, upon the traveled portion of any highway outside of a business or residential district, when it is practicable to stop, park, or leave such vehicle off the traveled portion of the highway. In the event that conditions make it impracticable to move such motor vehicle from the traveled portion of the highway, the driver shall make every effort to leave all possible width of the highway opposite the standing vehicle for the free passage of other vehicles and he shall take care to provide a clear view of the standing vehicle as far as possible to the front and rear.

§ 292.22 Emergency signals; disabled vehicles.

(a) *Turn signals.* Whenever any motor vehicle is disabled upon the traveled portion of any highway or the shoulder thereof, during the period lighted lamps are required, except where there is sufficient all-night street or highway lighting provided as such to make it clearly discernible to persons on the highway at a distance of 500 feet, the driver of such vehicle shall immediately, upon learning of the disability, flash the two front and two rear turn signals simultaneously as a vehicular traffic hazard warning and continue such flashing until he shall have placed the portable emergency signals required by paragraphs (b) to (e) of this section in use on the highway, and during the time such portable emergency signals are being picked up for storage prior to movement of the vehicle. These warning signals may be given at other times during vehicle disablement in addition to but not in lieu of the portable emergency signals required in paragraphs (b) to (e) of this section.

(b) *Fusee, lantern, or reflector.* The driver of such vehicle shall immediately place on the traveled portion of the highway at the traffic side of the disabled vehicle, a lighted fusee, a lighted red electric lantern, or a red emergency reflector.

(c) *Flares, lanterns, or reflectors.* Except as provided in paragraphs (d), (e), and (f) of this section, as soon thereafter as possible, but in any event within the burning period of the fusee, the driver shall place three liquid-burning flares (pot torches), or three red electric lanterns, or three red emergency reflectors on the traveled portion of the highway in the following order:

(1) One at a distance of approximately 100 feet from the disabled vehicle in the center of the traffic lane occupied by such vehicle and toward traffic approaching in that lane;

(2) One at a distance of approximately 100 feet in the opposite direction from the disabled vehicle in the center of the traffic lane occupied by such vehicle; and

(3) One at the traffic side of the disabled vehicle, not less than 10 feet to the front or rear thereof. If a red electric lantern or red emergency reflector has been placed on the traffic side of the vehicle in accordance with paragraph (b) of this section, it may be used for this purpose.

(d) *Hills, curves, and obstructions.* If disablement of any motor vehicle occurs within 500 feet of a curve, crest of a hill or other obstruction to view, the driver shall so place the warning signal in that direction as to afford ample warning to other users of the highway, but in no case less than 100 feet nor more than 500 feet from the disabled vehicle.

(e) *Divided or one-way roads.* If disablement of any motor vehicle occurs upon any roadway of a divided or one-way highway, the driver shall place one warning signal at a distance of 200 feet and one such signal at a distance of 100 feet to the rear of the vehicle in the center of the lane occupied by the stopped vehicle; one such signal at the traffic side of the vehicle not less than 10 feet to the rear of the vehicle.

(f) *Leaking, flammable material.* If gasoline or any other flammable liquid, or combustible liquid or gas seeps or leaks from a fuel container or a motor vehicle disabled or otherwise stopped upon a highway, no emergency warning signal producing a flame shall be lighted or placed except at such a distance from any such liquid or gas as will assure the prevention of a fire or explosion.

§ 292.23 Emergency signals; stopped or parked vehicles.

(a) *Stops 10 minutes or less.* Whenever for any cause other than disablement or necessary traffic stops, any motor vehicle is stopped upon the traveled portion of any highway, or shoulder thereof, during the period lighted lamps are required, except where there is sufficient all-night street or highway lighting provided as such to make it clearly discernible to persons on the highway at a distance of 500 feet, the driver of such vehicle shall immediately flash the two front and two rear turn signals simultaneously as a vehicular traffic hazard warning signal. These flashing warning signals shall be given continually if the stop is not to exceed 10 minutes.

(b) *Stops over 10 minutes.* If the stop is to exceed 10 minutes, the driver shall place emergency signals as required and in the manner prescribed by § 292.22 (b), (c), (d), and (e).

§ 292.24 Emergency signals; flame-producing.

No driver shall attach or permit any person to attach a lighted fusee or other flame-producing emergency signal to any part of a motor vehicle.

§ 292.25 Emergency signals; dangerous cargoes.

No driver shall use or permit the use of any flame-producing emergency signal for protecting any motor vehicle transporting explosives, Class A or Class B; any cargo tank motor vehicle used for the transportation of any flammable liquid or flammable compressed gas, whether loaded or empty; or any motor vehicle using compressed gas as a motor fuel. In lieu thereof, red electric lanterns or red emergency reflectors shall be used, the placement of which shall be in the same manner as prescribed in § 292.22 (b) and (c).

§ 292.26 Red flags; stopped vehicles.

During the time when lighted lamps are not required, whenever a motor vehicle is disabled, stopped, or parked upon the traveled portion of any highway or shoulder thereof, except within the business or residential district of a municipality, the driver of such vehicle shall place red flags as follows:

(a) One at a distance of approximately 100 feet from the vehicle in the center of the traffic lane occupied by such vehicle toward traffic approaching in that lane;

(b) One at a distance of approximately 100 feet in the opposite direction from the vehicle in the center of the traffic lane occupied by such vehicle.

Subpart D—Use of Lighted Lamps and Reflectors

§ 292.30 Lighted lamps; moving vehicles.

No motor vehicle shall be driven upon the highway unless the lamps required by Part 293 of this subchapter are lighted:

(a) During the period of one-half hour after sunset to one-half hour before sunrise;

(b) During any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet.

§ 292.31 Lighted lamps; stopped or parked vehicles.

Whenever any motor vehicle is parked or stopped upon the highway within a business or residential district of a municipality, whether attended or unattended, during the times mentioned in § 292.30, at least one white or amber light shall be displayed on the traffic side of the motor vehicle, visible from a distance of 500 feet to the front of the motor vehicle and at least one red light visible from a distance of 500 feet to the rear; and head-lamp beam shall be dimmed or depressed, if in use: *Provided, however,* That no lamps need be lighted if there is sufficient highway lighting to make clearly discernible persons and vehicles at a distance of 500 feet, unless lighted lamps are required by local regulations.

§ 292.32 Upper and lower head-lamp beams.

During the times when lighted lamps are required, every driver shall obey the following:

(a) *Upper beam.* He shall use the upper distribution of light when there is no on-coming vehicle within 500 feet: *Provided, however,* That a lower distribution of light may be used when fog, dust, or other atmospheric conditions make it desirable for reasons of safety, and when within the confines of municipalities where there is sufficeint light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet ahead;

(b) *Lower beam.* When within 500 feet of an on-coming vehicle, he shall use a distribution of light or composite beam so aimed that the glaring rays are not projected into the eyes of the on-coming driver and such distribution of light shall also be used when following another vehicle within 500 feet.

§ 292.33 Obscured lamps or reflectors.

No motor vehicle shall be driven when any of the required lamps or reflectors are obscured by the tailboard, by any part of the load, by dirt, or otherwise.

Subpart E—Accidents; Duties of Driver

§ 292.40 All accidents.

Every driver of a motor vehicle involved in an accident from which there results injury to or death of any person or persons, or property damage of any kind, regardless of the amount, shall:

(a) Stop immediately;

(b) Take all necessary precaution to prevent further accident at the scene;

(c) Render all reasonable assistance to injured persons (movement of injured persons by a driver should not be undertaken if likely to cause further injury);

(d) Give to any person demanding the same, his name and address, the name and address of the motor carrier for whom he is then driving, the State tag registration number of the vehicle involved, and if requested, exhibit his chauffeur's or operator's license;

(e) Report all details of the accident as soon as practicable after its occurrence to the motor carrier then using his services.

§ 292.41 Striking unattended vehicle.

If a moving vehicle strikes a vehicle standing unattended upon a highway, the driver of the former shall immediately stop and endeavor to locate the custodian of the unattended vehicle, and if his reasonable effort to do so is unsuccessful, the driver of the vehicle doing the striking shall place securely and conspicuously in or on the unattended vehicle his name and address and that of the motor carrier for whom he is then driving.

Subpart F—Fueling Precautions

§ 292.50 Ignition of fuel; prevention.

No driver or any employee of a motor carrier shall:

(a) Fuel a motor vehicle with the engine running, except when it is necessary to run the engine to fuel the vehicle;

(b) Smoke or expose any open flame in the vicinity of a vehicle being fueled;

(c) Fuel a motor vehicle unless the nozzle of the fuel hose is continuously in contact with the intake pipe of the fuel tank;

(d) Permit, insofar as practicable, any other person to engage in such activities as would be likely to result in fire or explosion.

§ 292.51 Reserve fuel.

No supply of fuel for the propulsion of said motor vehicle or for the operation of accessories shall be carried on any motor vehicle except in a properly mounted fuel tank or tanks.

§ 292.52 Buses; fueling.

No bus shall be fueled in a closed building with passengers aboard. The fueling of buses when passengers are being carried shall be reduced to the minimum number of times necessary during such transportation.

Subpart G—Prohibited Practices

§ 292.60 Unauthorized persons not to be transported.

Unless specifically authorized in writing to do so by the motor carrier under whose authority the motor vehicle is being operated, no driver shall transport any person or permit any person to be transported on any motor vehicle other than a bus. When such authorization is issued, it shall state the name of the person to be transported, the points where the transportation is to begin and end, and the date upon which such authority expires. No written authorization, however, shall be necessary for the transportation of:

(a) Employees or other persons assigned to a vehicle by a motor carrier;

(b) Any person transported when aid is being rendered in case of an accident or other emergency;

(c) An attendant delegated to care for livestock.

This section shall not apply to the operation of motor vehicles controlled and operated by any farmer and used in the transportation of agricultural commodities or products thereof from his farm or in the transportation of supplies to his farm.

§ 292.61 Driving by unauthorized person.

Except in case of emergency, no driver shall permit a motor vehicle to which he is assigned to be driven by any person not authorized to drive such vehicle by the motor carrier in control thereof.

§ 292.62 Bus driver; distraction.

No driver while driving a bus shall engage in any unnecessary conversation or other activities tending to distract his attention from the operation of such vehicle.

§ 292.63 Towing or pushing loaded buses.

No disabled bus with passengers aboard shall be towed or pushed; nor shall any person use or permit to be used a bus with passengers aboard for the purpose of towing or pushing any disabled vehicle, except in such circumstances where the hazard to passengers would be increased by observance of the foregoing provisions of this section, and then only in traveling to the nearest point where the safety of the passengers is assured.

§ 292.64 Riding within closed vehicles without proper exits.

No person shall ride within the closed body of any motor vehicle unless there are means on the inside thereof of obtaining exit. Said means shall be in such condition as to permit ready operation by the occupant.

§ 292.65 Sleeper berth; transfer to or from.

No person shall transfer to or from a sleeper berth while a motor vehicle is in motion unless by means of a direct access between the cab and the berth.

§ 292.66 Gasoline receptacle; use of vehicle when detected.

No person shall dispatch or drive any motor vehicle or permit any passengers thereon, when the following conditions are known to exist, until such conditions have been remedied or repaired:

(a) Where an occupant has been affected by carbon monoxide;

(b) Where carbon monoxide has been detected in the interior of the vehicle;

(c) When a mechanical condition of the vehicle is discovered which would be likely to produce a hazard to the occupants by reason of carbon monoxide.

§ 292.67 Heater, flame-producing; on vehicle in motion.

No open flame heater used in the loading or unloading of the commodity transported shall be in operation while the vehicle is in motion.

§ 292.68 Motive power not to be disengaged.

No motor vehicle shall be driven with the source of motive power disengaged from the driving wheels except when such disengagement is necessary to stop or to shift gears.

PART 293—PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

Subpart A—General

Sec.
293.1 Compliance.
293.2 Additional equipment and accessories.

Subpart B—Lighting Devices, Reflectors, and Electrical Equipment

293.11 Lamps and reflectors, small buses and trucks.
293.12 Lamps and reflectors, large buses and trucks.
293.13 Lamps and reflectors, truck tractors.
293.14 Lamps and reflectors, large semitrailers and full trailers.
293.15 Lamps and reflectors, small semitrailers and full trailers.
293.16 Lamps and reflectors, pole trailers.
293.17 Lamps and reflectors, combinations in driveaway-towaway operations.
293.18 Lamps on motor vehicles with projecting loads.
293.19 Requirements for turn signaling systems.
293.20 Clearance lamps to indicate extreme width and height.
293.21 Combination of lighting devices and reflectors.
293.22 Lighting devices to be electric.
293.24 Requirements for head lamps and auxiliary road lighting lamps.
293.25 Requirements for lamps other than head lamps.
293.26 Requirements for reflectors.
293.27 Wiring specifications.
293.28 Wiring to be protected.
293.29 Grounds.
293.30 Battery installation.
293.31 Overload protective devices.
293.32 Detachable electrical connections.
293.33 Wiring, installation.

Subpart C—Brakes

293.40 Adequacy of brakes.
293.41 Parking brakes.
293.42 Brakes required on all wheels.
293.43 Breakaway and emergency braking.
293.44 Front brake lines, protection.
293.45 Brake tubing and hose, adequacy.
293.46 Brake tubing and hose connections.
293.47 Brake lining.
293.48 Brakes to be operative.
293.49 Single valve to operate all brakes.
293.50 Reservoirs required.
293.51 Warning devices and gauges.
293.52 Brake performance.

Subpart D—Glazing and Window Construction

293.60 Glazing in specified openings.
293.61 Window construction.
293.62 Window obstructions.
293.63 Windows, markings.

Subpart E—Fuel Systems

293.65 Fuel systems.
293.66 Liquefied petroleum gas fuel systems.

Subpart F—Coupling Devices and Towing Methods

293.70 Coupling devices and towing methods, except for driveaway-towaway operations.
293.71 Coupling devices and towing methods, driveaway-towaway operations.

Subpart G—Miscellaneous Parts and Accessories

293.75 Tires.
293.76 Sleeper berths.
293.77 Heaters.
293.78 Windshield wipers.
293.79 Defrosting device.
293.80 Rear-vision mirrors.
293.81 Horn.
293.82 Speedometer.
293.83 Exhaust system location.
293.84 Floors.
293.85 Protection against shifting cargo.
293.86 Rear end protection.
293.87 Flags on projecting loads.
293.88 Television receivers.
293.89 Buses, driveshaft protection.
293.90 Buses, standee line or bar.
293.91 Buses, aisle seats prohibited.
293.92 Buses, marking emergency doors.

Subpart H—Emergency Equipment

293.95 Emergency equipment on all power units.
293.96 Buses, additional emergency equipment.

AUTHORITY: The provisions of this Part 293 issued under sec. 204, 49 Stat. 546, as amended; 49 U.S.C. 304, unless otherwise noted.

Subpart A—General

§ 293.1 Compliance.

Every motor carrier, and its officers, agents, drivers, representatives, and employees directly concerned with the installation and maintenance of equipment and accessories, shall comply and be conversant with the requirements and specifications of this part, and no motor carrier shall operate any motor vehicle, or cause or permit it to be operated, unless it is equipped in accordance with said requirements and specifications.

§ 293.2 Additional equipment and accessories.

Nothing contained in Parts 290–297 of this subchapter shall be construed to prohibit the use of additional equipment and accessories, not inconsistent with or prohibited by Parts 290–297 of this subchapter, provided such equipment and accessories do not decrease the safety of operation of the motor vehicles on which they are used.

Subpart B—Lighting Devices, Reflectors, and Electrical Equipment

§ 293.11 Lamps and reflectors, small buses and trucks.

Every bus or truck less than 80 inches in overall width shall be equipped as follows:

(a) On the front, at least two head lamps, an equal number at each side; two turn signals, one at each side;

(b) On the rear, two tail lamps, one at each side; two stop lamps, one at each side; two turn signals, one at each side, and two reflectors, one at each side.

(Diagram to illustrate § 293.11.)

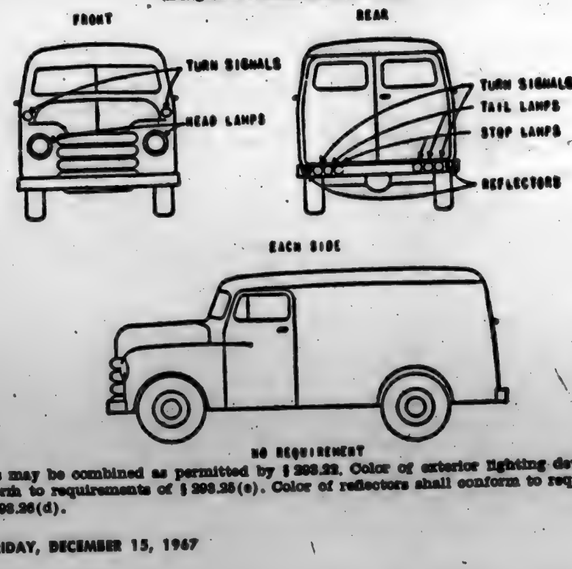

Lamps may be combined as permitted by § 293.22. Color of exterior lighting devices shall conform to requirements of § 293.25(e). Color of reflectors shall conform to requirements of § 293.26(d).

FEDERAL REGISTER, VOL. 32, NO. 242—FRIDAY, DECEMBER 15, 1967

§ 393.12 Lamps and reflectors, large buses and trucks.

Every bus or truck 80 inches or more in overall width shall be equipped as follows:

(a) On the front, at least two headlamps, an equal number at each side; two turn signals, one at each side; two clearance lamps, one at each side; three identification lamps, mounted on the vertical centerline of the vehicle, or the vertical centerline of the cab where different from the centerline of the vehicle, except that where the cab is not more than 42 inches wide at the front roofline, a single lamp at the center of the cab shall be deemed to comply with the requirement for identification lamps. No part of the identification lamps or their mountings may extend below the top of the vehicle windshield.

(b) On the rear, two tail lamps, one at each side; two stop lamps, one at each side; two turn signals, one at each side; two clearance lamps, one at each side; two reflectors, one at each side; three identification lamps, mounted on the vertical center line of the vehicle, provided that the identification lamps need not be lighted if obscured by a vehicle towed by the truck;

(c) On each side, one side-marker lamp at or near the front, one side-marker lamp at or near the rear; one reflector at or near the front, and one reflector at or near the rear.

(Bus diagram to illustrate § 393.12.)

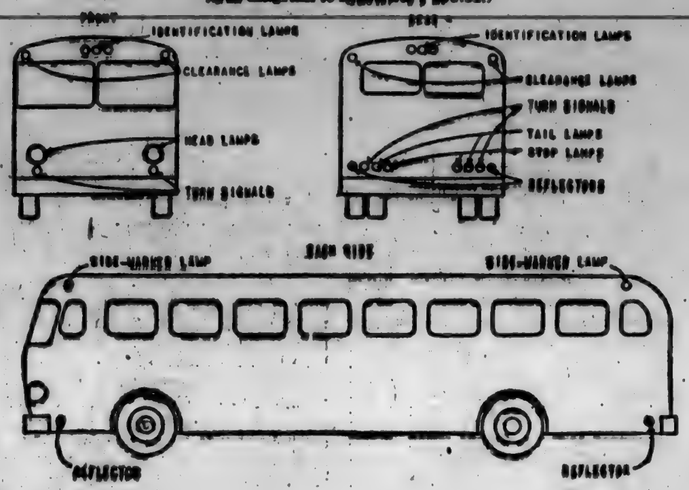

§ 393.13 Lamps and reflectors, truck tractors.

Every truck tractor shall be equipped as follows:

(a) On the front, at least two headlamps, an equal number at each side; two turn signals, one at each side; two clearance lamps, one at each side; three identification lamps, mounted on the vertical centerline of the vehicle, or the vertical centerline of the cab where different from the centerline of the vehicle, except that where the cab is not more than 42 inches wide at the front roofline, a single lamp at the center of the cab shall be deemed to comply with the requirement for identification lamps. No part of the identification lamps or their mountings may extend below the top of the vehicle windshield.

(b) On the rear, one tail lamp; one stop lamp; two reflectors, one at each side; and, unless the turn signals on the front are so constructed (double faced) and located as to be visible to passing drivers, two turn signals on the rear of the cab, one at each side.

(Diagram to illustrate § 393.13.)

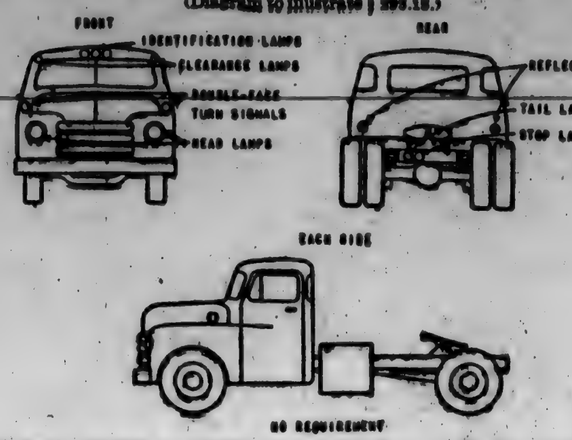

Lamps may be combined as permitted by § 393.22. Color of exterior lighting devices shall conform to requirements of § 393.25(e). Color of reflectors shall conform to requirements of § 393.26(d).

§ 393.14 Lamps and reflectors, large semitrailers and full trailers.

Every semitrailer or full trailer 80 inches or more in overall width, except converter dollies, shall be equipped as follows:

(a) On the front, two clearance lamps, one at each side;

(b) On the rear, two tail lamps, one at each side; two stop lamps, one at each side; two turn signals, one at each side; two clearance lamps, one at each side; two reflectors, one at each side; three identification lamps, mounted on the vertical centerline of the vehicle, provided that the identification lamps need not be lighted if obscured by another vehicle in the same combination;

(c) On each side, one side-marker lamp at or near the front; one side-marker lamp at or near the rear; one reflector at or near the front; one reflector at or near the rear; and, in case of semitrailers and full trailers 30 feet or more in length, at least one additional side-marker lamp at optional height and at least one additional reflector, the additional side-marker lamp (or lamps) and reflector (or reflectors) to be at or near the center or at approximately uniform spacing in the length of the vehicle.

(d) For the purposes of these regulations, a converter dolly is a motor vehicle with a fifth wheel lower half or equivalent mechanism, the attachment of which vehicle converts a semitrailer to a full trailer. Each dolly, when towed singly by another vehicle, and not as part of a full trailer, shall be equipped with one stop lamp, one tail lamp, and two reflectors on the rear. No lighting devices or reflectors are required on the front or sides of any dolly.

(Diagram to illustrate § 393.14.)

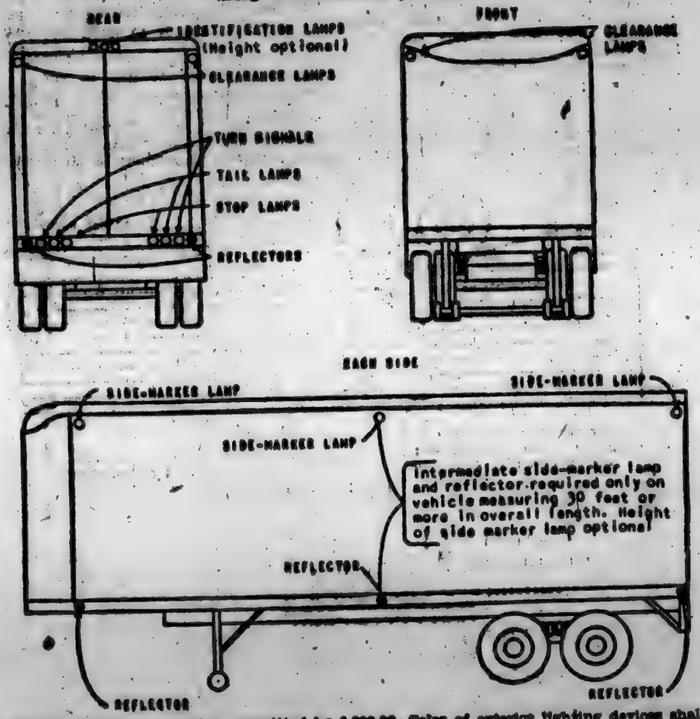

Lamps may be combined as permitted by § 393.22. Color of exterior lighting devices shall conform to requirements of § 393.25(e). Color of reflectors shall conform to requirements of § 393.26(d).

§ 393.15 Lamps and reflectors, small semitrailers and full trailers.

Every semitrailer or full trailer less than 80 inches in overall width shall be equipped as follows:

(a) On the rear, two tail lamps, one at each side; two turn signals, one at each side; two reflectors, one at each side; and two stop lamps, one at each side.

(Diagram to illustrate § 393.15.)

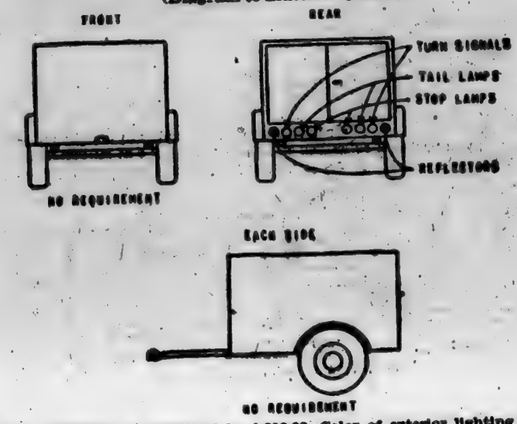

Lamps may be combined as permitted by § 393.22. Color of exterior lighting devices shall conform to requirements of § 393.25(e). Color of reflectors shall conform to requirements of § 393.26(d).

§ 393.16 Lamps and reflectors, pole trailers.

Every pole trailer shall be equipped as follows:

(a) On the rear, two tail lamps, one at each side; two stop lamps, one at each side; two turn signals, one at each side; two reflectors, one at each side, placed to indicate extreme width of the pole trailer; three identification lamps mounted on the vertical centerline of the pole trailer or in lieu thereof mounted on the vertical centerline of the rear of the cab of the truck tractor drawing the pole trailer and higher than the load being transported;

(b) On the rear of projecting loads. (See § 393.18.)

(c) On each side, one amber side-marker lamp at or near the front of the load; one amber reflector at or near the front of the load; on the rearmost support for the load, one combination marker lamp showing amber to the front and red to the rear and side, mounted to indicate maximum width of the pole trailer; on the rearmost support for the load, one red reflector.

(Diagram to illustrate § 293.16.)

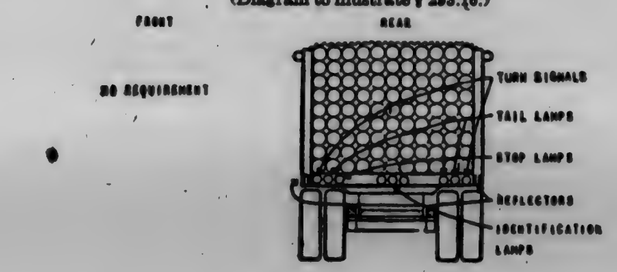

(3) On the rear, one tail lamp and one stop lamp;

(b) On the towed vehicle of a tow-bar combination, the towed vehicle of a single saddle-mount combination, and on the rearmost towed vehicle of a double or triple saddle-mount combination, or on a vehicle full-mounted on a saddle-mount vehicle:

(1) On each side and near the rear, one side-marker lamp;

(2) On the rear, one tail lamp, one stop lamp, two turn signals, two clearance lamps, and two reflectors, one at each side; and, if any vehicle in the combination is 80 inches or more in overall width, three identification lamps;

(c) On the first saddle-mounted vehicle of a double saddle-mount combination and on the first and second saddle-mounted vehicles of a triple saddle-mount combination:

(1) On each side and near the rear, one side-marker lamp.

(Sec. 13, 80 Stat. 931; 49 U.S.C. 1651 note)

(Tow-bar diagram to illustrate § 293.17.)

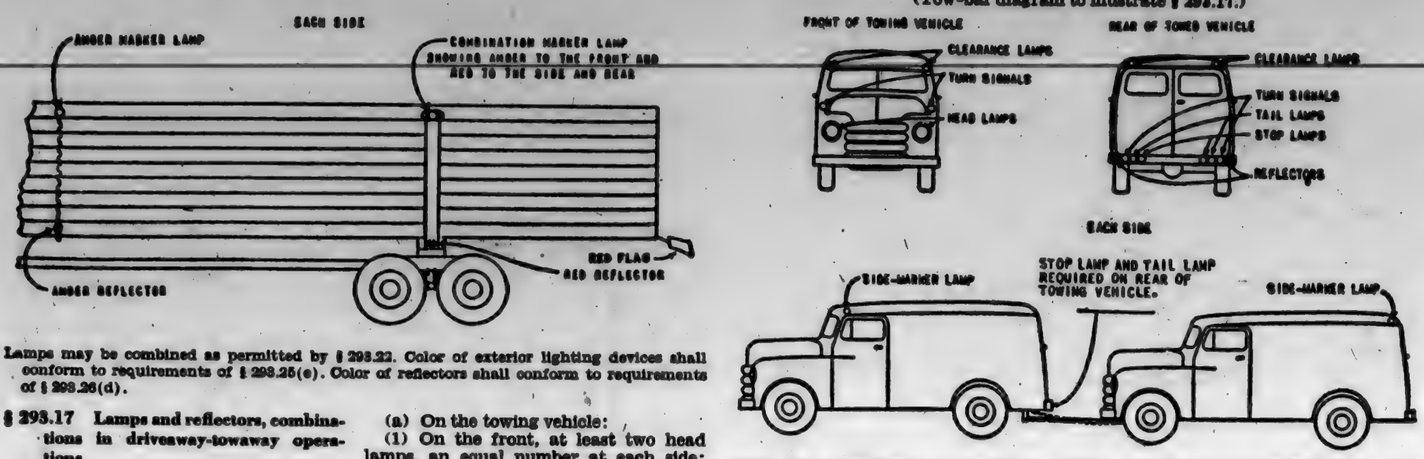

Lamps may be combined as permitted by § 293.22. Color of exterior lighting devices shall conform to requirements of § 293.25(e). Color of reflectors shall conform to requirements of § 293.26(d).

§ 293.17 Lamps and reflectors, combinations in driveaway-towaway operations.

Combinations of motor vehicles engaged in driveaway-towaway operations shall be equipped as follows:

(a) On the towing vehicle:

(1) On the front, at least two head lamps, an equal number at each side; two turn signals and two clearance lamps, one at each side;

(2) On each side and near the front, one side-marker lamp;

(Double-saddle-mount diagram to illustrate § 293.17.)

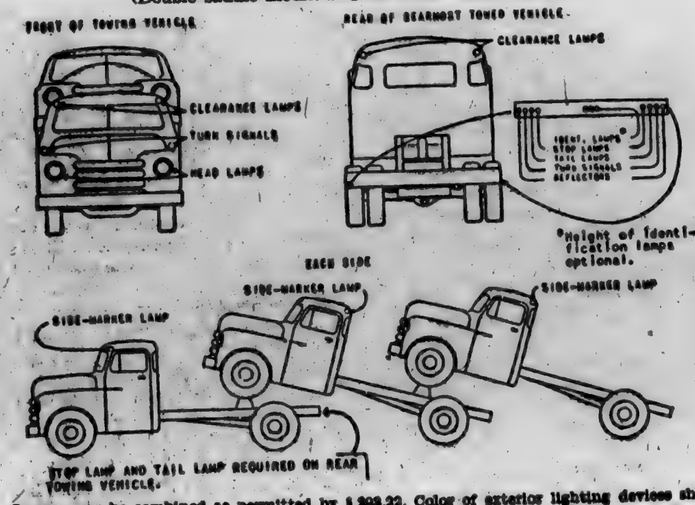

Lamps may be combined as permitted by § 293.22. Color of exterior lighting devices shall conform to requirements of § 293.25(e). Color of reflectors shall conform to requirements of § 293.26(d).

(Single-saddle-mount diagram to illustrate § 293.17.)

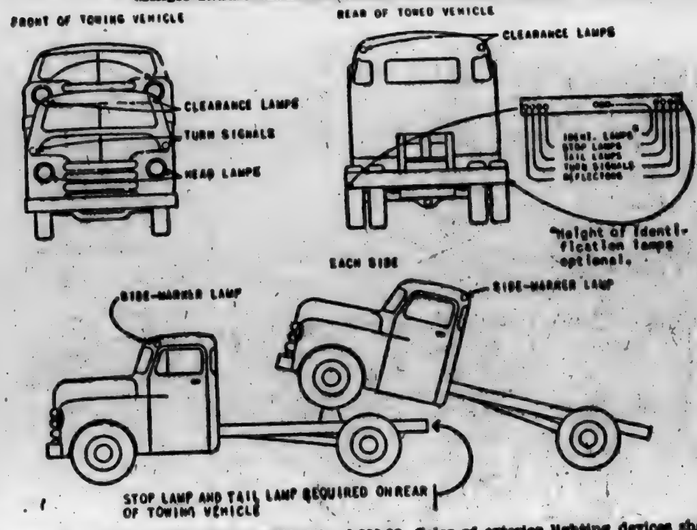

Lamps may be combined as permitted by § 293.22. Color of exterior lighting devices shall conform to requirements of § 293.25(e). Color of reflectors shall conform to requirements of § 293.26(d).

§ 293.18 Lamps on motor vehicles with projecting loads.

Any motor vehicle transporting a load which extends beyond the width or having projections beyond the rear of such vehicle shall be equipped with the following lamps in addition to other required lamps. (See § 293.27 for flags on such vehicles.)

(a) *Loads projecting beyond sides of motor vehicles.* (1) The foremost edge of the projecting load at its outermost extremity shall be marked with an amber lamp visible from the front and side;

(2) The rearmost edge of the projecting load at its outermost extremity shall be marked with a red lamp visible from the rear and side;

(3) If any portion of the projecting load extends beyond both the foremost and rearmost edge, it shall be marked with an amber lamp visible from the front, side, and rear;

(4) If the projecting load does not measure over 8 feet from front to rear, it shall be marked with an amber lamp visible from the front, side, and rear except that if the projection is located at or near the rear, it shall be marked by a red lamp visible from the front, side, and rear.

(b) *Projections beyond rear of motor vehicles.* Motor vehicles transporting loads which extend over four feet beyond the rear of the motor vehicle or which have tailboards or tailgates extending over 4 feet beyond the body shall have these projections marked:

(1) On each side of the projecting load one red lamp, visible from the side located so as to indicate maximum overhang;

(2) On the rear of the projecting load two red lamps, visible from the rear, one at each side and two red reflectors visible from the rear, one at each side, located so as to indicate maximum width.

(Diagrams to illustrate § 293.18 for two types of projecting loads.)

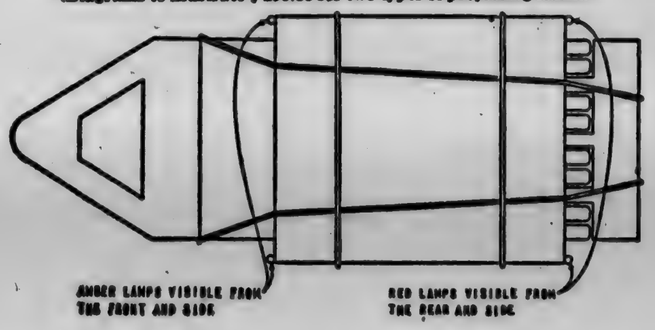

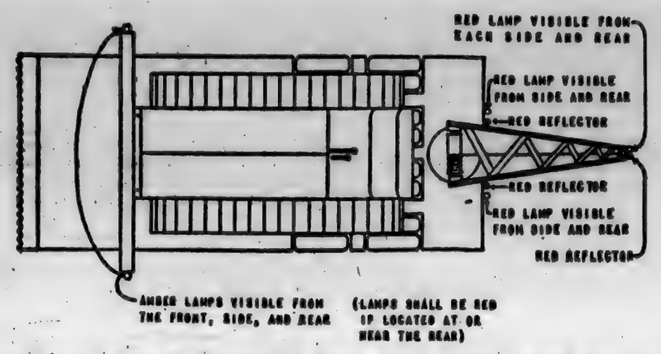

Lamps may be combined as permitted by § 293.22. Color of exterior lighting devices shall conform to requirements of § 293.25(e). Color of reflectors shall conform to requirements of § 293.26(d).

§ 293.19 Requirements for turn signaling systems.

Every motor vehicle shall be equipped with a signaling system that in addition to signaling turning movements as required by § 292.15 shall have a switch or combination of switches that will cause the two front turn signals and the two rear turn signals to flash simultaneously as a vehicular traffic hazard warning required by §§ 292.22(a) and 292.23. The system shall be capable of flashing simultaneously with the ignition of the vehicle turned on or off.

§ 293.20 Clearance lamps to indicate extreme width and height.

Clearance lamps shall be mounted so as to indicate the extreme width of the motor vehicle (not including mirrors) and as near the top thereof as practicable: *Provided*, That when rear identification lamps are mounted at the extreme height of the vehicle, rear clearance lamps may be mounted at optional height: *And provided further*, That when mounting of front clearance lamps at the highest point of a trailer results in such lamps failing to mark the extreme width of the trailer, such lamps may be mounted at optional height but must indicate the extreme width of the trailer. Clearance lamps on truck tractors shall be so located as to indicate the extreme width of the truck tractor cab.

(Diagram to illustrate § 293.20 for mounting of lamps on vehicles without permanent top or sides.)

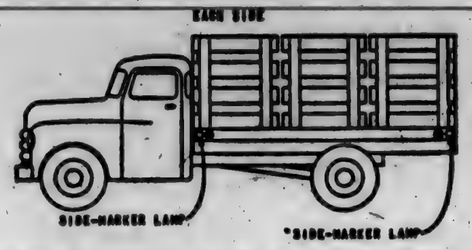

Lamps may be combined as permitted by § 293.22. Color of exterior lighting devices shall conform to requirements of § 293.25(e).

(Diagram to illustrate § 293.20 for mounting of front clearance lamps on truck tractors with sleeper cabs.)

§ 293.22 Combinations of lighting devices and reflectors.

Any two or more lighting devices and reflectors, whether required by these regulations or not, may be combined into one shell or housing, with exceptions enumerated below, and provided that the requirements for each required lighting device and reflector are met and that neither the mounting nor the use of any nonrequired lighting device is inconsistent with these regulations in any respect:

(a) No turn signal may be combined with any head lamp or other lighting device or combination of lighting devices capable of producing a greater intensity of light than the turn signal when the turn signal is operating.

(b) No turn signal may be combined with a stop lamp unless the arrangement of switches or other parts is such that the stop lamp as such is always extinguished when the turn signal is in use.

(c) No clearance lamp may be combined with any tail lamp or identification lamp.

§ 293.23 Lighting devices to be electric.

Lighting devices shall be electric, except that red liquid-burning lanterns may be used on the end of loads in the nature of poles, pipes, and ladders projecting to the rear of the motor vehicle.

§ 293.24 Requirements for head lamps and auxiliary road lighting lamps.

(a) *Mounting.* Head lamps and auxiliary road lighting lamps shall be mounted so that the beams are readily adjustable, both vertically and horizontally, and the mounting shall be such that the aim is not readily disturbed by ordinary conditions of service.

(b) *Head lamps required.* Every bus, truck, and truck tractor shall be equipped with a headlighting system composed of at least two head lamps, not including fog or other auxiliary lamps, with an equal number on each side of the vehicle. The headlighting system shall provide an upper and lower distribution of light, selectable at the driver's will.

(c) *Fog, adverse-weather, and auxiliary road-lighting lamps.* For the purposes of this section, fog, adverse-weather, and auxiliary road lighting lamps, when installed, are considered to be a part of the headlighting system. Such lamps may be used in lieu of head lamps under conditions making their use advisable if there be at least one such lamp conforming to the appropriate SAE Standard[1] for such lamps on each side of the vehicle.

(d) *Aiming and intensity.* Head lamps shall be constructed and installed so as to provide adequate and reliable illumination and shall conform to the appropriate specification set forth in the SAE Standards[1] for "Electric Head Lamps for Motor Vehicles" or "Sealed-Beam Head Lamp Units for Motor Vehicles."

§ 293.25 Requirements for lamps other than head lamps.

(a) *Mounting.* All lamps shall be permanently and securely mounted in workmanlike manner on a permanent part of the motor vehicle, except that temporary lamps on motor vehicles being transported in driveaway-towaway operations and temporary electric lamps on projecting loads need not be permanently mounted nor mounted on a permanent part of the vehicle. The requirement for three identification lamps on the centerline of a vehicle will be met as to location by one lamp on the centerline, with the other two at right and left. All temporary lamps must be firmly attached.

(b) *Visibility.* All required exterior lamps shall be so mounted as to be capable of being seen at all distances between 500 feet and 50 feet under clear atmospheric conditions during the time lamps are required to be lighted. The light from front clearance and front identification lamps shall be visible to the front, that from sidemarker lamps to the side, that from rear clearance, rear identification, and tail lamps to the rear, and that from projecting load-marker lamps from those directions required by § 293.18. This shall not be construed to apply to lamps on one unit which are obscured by another unit of a combination of vehicles.

(c) *Specifications.* All required lamps except those already installed on vehicles tendered for transportation in driveaway and towaway operations shall conform to appropriate requirements of the SAE Standards and/or Recommended Practices[1] as indicated below, except that the minimum required marking of lamps conforming to the 1959 requirements shall be as specified in paragraph (d) of this section. Projecting load marker lamps shall conform to the requirements for clearance, side-marker, and identification lamps. Turn signals shall conform to the requirements for class A, Type I turn signals, provided.

(1) Lamps on vehicles made before July 1, 1961, excepting replacement lamps as specified in subparagraph (2) of this paragraph, shall conform to the 1952 requirements.

(2) Lamps on vehicles made on and after July 1, 1961, and replacement lamps installed on and after December 31, 1961, shall conform to the 1959 requirements.

(3) Lamps temporarily attached to vehicles transported in driveaway and towaway operations on and after December 31, 1961, shall conform to the 1959 requirements.

(d) *Certification and markings.* All lamps required to conform to the requirements of the 1959 SAE Standards[1] shall be certified by the manufacturer or supplier that they do so conform, by markings indicated below. The markings in each case shall be visible when the lamp is in place on the vehicle.

(1) Stop lamps shall be marked with the manufacturer's or supplier's name or trade name and shall be marked "SAE–S".

(2) Turn signal units shall be marked with the manufacturer's or supplier's name or trade name and shall be marked "SAE–AI" or "SAE–I".

(3) Tail lamps shall be marked with the manufacturer's or supplier's name or trade name and shall be marked "SAE–T".

(4) Clearance, side marker, identification, and projecting load-marker lamps, except combination lamps, shall be marked with the manufacturer's or supplier's name or trade name and shall be marked "SAE" or "SAE–P".

(5) Combination lamps shall be marked with the manufacturer's or supplier's name or trade name and shall be marked "SAE" followed by the appropriate letters indicating the individual lamps combined. The letter "A", as specified in § 293.26(c), may be included to certify that a reflector in the combination conforms to the requirements appropriate to such marking. If the letter "I" follows the letter "A" immediately, the two letters shall be deemed to refer to a turn signal unit, as specified in subparagraph (2) of this paragraph. Combination clearance and side marker lamps may be marked "SAE–PC".

(e) *Color.* The color of exterior lighting devices not otherwise specified in these regulations shall be as follows:

(1) All front clearance and identification lamps, and all sidemarker lamps except those at or near the rear shall when lighted display an amber color;

(2) No lighted red lamp of any character shall be displayed at any place other than on the rear or on the sides near the rear, except that this prohibition shall not apply to any school bus when operating as such, to lamps on projecting loads as specified in § 293.18, or to rear-facing lenses of turn signals;

(3) All rear clearance and identification lamps, the sidemarker lamps at or near the rear, and any other lamps mounted on the rear or on the sides near the rear shall when lighted display a red color except as specified by §§ 293.16 and 293.18, and as permitted by paragraphs (4), (5), and (6) of this section;

(4) The stop lamp or lamps, and the turn signals on or facing the rear of any motor vehicle shall be red, yellow, amber, or any shade of color between red and yellow; and the turn signals facing the front of any motor vehicle shall be white, amber, or any shade of color between white and amber;

(5) Back-up lamp or lamps showing white to amber to the rear may be mounted on the rear of any vehicle if such lamp or lamps can be lighted only when the vehicle is in reverse gear or when a pilot lamp readily visible to the driver is burning to indicate that such back-up lamp or lamps are lighted;

(6) White lamps may be used for the purpose of illuminating license plates on any vehicle or destination signs on buses;

(7) This section shall not be so construed as to prohibit the use of motor vehicles in combination if such motor vehicles are separately lighted as required by §§ 293.11 to 293.17 inclusive;

(8) Wherever reference is made in these regulations to the colors red, amber, or white, said colors shall be as pre-

[1] Wherever reference is made in these regulations to SAE Standards or SAE Recommended Practices, they shall be:

(a) As found in the 1952 edition of the "SAE Handbook" with respect to parts and accessories other than lighting devices and reflectors.

(b) As found in the 1952 edition of the "SAE Handbook" with respect to lighting devices and reflectors on motor vehicles made before July 1, 1961, except replacement lighting devices and reflectors as specified in §§ 293.25(c)(2) and 293.26(b)(2).

(c) As found in the 1959 edition of the "SAE Handbook" as supplemented by Pamphlet No. TR–34, published March 1959, with respect to lighting devices and reflectors on motor vehicles made on and after July 1, 1961, and with respect to replacement lighting devices and reflectors as specified in §§ 293.25(c)(2) and 293.26(b)(2).

The "SAE Handbook" and Pamphlet No. TR–34 are published by the Society of Automotive Engineers, 485 Lexington Avenue, New York, N.Y. 10017.

scribed in the SAE Standard[1] "Color Specification for Electric Lamps".

(f) *Lighting devices to be steady-burning.* All exterior lighting devices shall be of the steady-burning type except turn signals on any vehicle, stop lamps when used as turn signals, warning lamps on school buses when operating as such, and warning lamps on emergency and service vehicles authorized by State or local authorities, and except that lamps combined into the same shell or housing with any turn signal may be turned off by the same switch that turns the signal on for flashing and turned on again when the turn signal as such is turned off. This paragraph shall not be construed to prohibit the use of turn signals to give vehicular traffic hazard warning signals as required by §§ 293.36 and 293.25.

(g) *Stop lamp operation.* All stop lamps on each motor vehicle or combination of motor vehicles shall be actuated upon application of any of the service brakes, except that such actuation is not required upon activation of the emergency feature of trailer brakes by means of either manual or automatic control on the towing vehicle, and except that stop lamps on a towing vehicle need not be actuated when service brakes are applied to the towed vehicles or vehicles only, and except that no stop lamp need be actuated as such when it is in use as a turn signal or when it is turned off by the turn signal switch as provided in paragraph (f) of this section.

§ 293.26 Requirements for reflectors.

(a) *Mounting.* All required reflectors shall be mounted upon the motor vehicle at a height not less than 24 inches nor more than 60 inches above the ground on which the motor vehicle stands, except that reflectors shall be mounted as high as practicable on motor vehicles which are so constructed as to make compliance with the 24-inch requirement impractical. They shall be so installed as to perform their function adequately and reliably, and except for temporary reflectors required for vehicles in driveaway-towaway operations, or on projecting loads, all reflectors shall be permanently and securely mounted in workmanlike manner so as to provide the maximum of stability and the minimum likelihood of damage. Required reflectors otherwise properly mounted may be securely installed on flexible strapping or belting provided that under conditions of normal operation they reflect light in the required directions. Required temporary reflectors mounted on motor vehicles during the time they are in transit in any driveaway-towaway operation must be firmly attached.

(b) *Specifications.* All required reflectors except those already installed on vehicles tendered for transportation in driveaway and towaway operations shall conform to the requirements for Class A reflectors in the SAE Recommended Practice or SAE Standard[1] "Reflex Reflectors", as indicated below, except that the minimum required marking of reflectors conforming to the 1959 requirements shall be as specified in paragraph (c) of this section.

(1) Reflectors on vehicles made before July 1, 1961, excepting replacement reflectors as specified in subparagraph (2) of this paragraph, shall conform to the 1952 requirements.

(2) Reflectors on vehicles made on and after July 1, 1961, and replacement reflectors installed on and after December 31, 1961, shall conform to the 1959 requirements.

(3) Reflectors temporarily attached to vehicles transported in driveaway and towaway operations on and after December 31, 1961, shall conform to the 1959 requirements.

(c) *Certification and markings.* All reflectors required to conform to the requirements of the 1959 SAE Standard[1] shall be certified by the manufacturer or supplier that they do so conform, by marking with the manufacturer's or supplier's name or trade name and the letters "SAE-A". The marking in each case shall be visible when the reflector is in place on the vehicle.

(d) *Color.* All reflectors on the rear and those nearest to the rear on the sides, except those referred to in paragraph (e) of this section, shall reflect a red color; all other reflectors, except those referred to in paragraph (e) of this section, shall reflect an amber color, provided that this requirement shall not be construed to prohibit the use of motor vehicles in combination if such motor vehicles are separately equipped with reflectors as required by §§ 293.11 to 293.17, inclusive. Wherever reference is made to the colors red or amber for reflectors, such colors shall correspond to the requirements in the SAE Standard[1] "Color Specification for Electric Lamps".

(e) *Retroreflective surfaces.* Retroreflective surfaces other than required reflectors may be used, provided:

(1) Designs do not resemble traffic control signs, lights, or devices, except that straight edge striping resembling a barricade pattern may be used.

(2) Designs do not tend to distort the length and/or width of the motor vehicle.

(3) Such surfaces shall be at least 3 inches from any required lamp or reflector unless of the same color as such lamp or reflector.

(4) No red color shall be used on the front of any motor vehicle, except for display of markings or placards required by § 177.823 of this chapter.

(5) Retroreflective license plates required by State or local authorities may be used.

§ 293.27 Wiring specifications.

Wiring for both low tension and high tension circuits shall be constructed and installed so as to function reliably and adequately and shall conform to the appropriate requirements in the SAE Standard[1] for "Insulated Cable" or by wiring which is mechandically and electrically at least equal to such cable. Required lamps shall be connected to the source of power with stranded wire. The source of power and the electrical wiring shall be of such size and characteristics that required lamps shall when lighted be capable of being seen at least 500 feet under clear atmospheric conditions during the time lamps are required to be lighted. This shall not be so construed as to prohibit the use of the frame or other metal parts of a motor vehicle as a return ground system provided that for truck-tractor-semitrailer combinations, the truck-tractor is electrically bonded to the semitrailer.

§ 293.28 Wiring to be protected.

Wiring shall, when possible, be grouped together and protected by nonmetallic tape, braid, or other covering capable of withstanding severe abrasion or shall be protected by being enclosed in a metallic sheath or tube. Wiring shall be properly supported. Wiring shall not be so located as to be likely to be charred, overheated, or enmeshed in moving parts. Insofar as is practicable, wiring shall not be adjacent to any part of the fuel system. The edges of all holes in metal through which the wiring passes, unless the wiring is metal-covered, shall be rolled or bushed with a grommet of rubber or other suitable material.

§ 293.29 Grounds.

The battery ground and trailer return ground connections on a grounded system shall be readily accessible. The contact surfaces of electrical connections shall be clean and free of oxide, paint, or other nonconductive coating.

§ 293.30 Battery installation.

Every storage battery on every vehicle, unless located in the engine compartment, shall be covered by a fixed part of the motor vehicle or protected by a removable cover or enclosure. Removable covers or enclosures shall be substantial and shall be securely latched or fastened. The storage battery compartment and adjacent metal parts which might corrode by reason of battery leakage shall be painted or coated with an acid-resisting paint or coating and shall have openings to provide ample battery ventilation and drainage. Wherever the cable to the starting motor passes through a metal compartment, the cable shall be protected against grounding by an acid and waterproof insulating bushing. Wherever a battery and a fuel tank are both placed under the driver's seat, they shall be partitioned from each other, and each compartment shall be provided with an independent cover, ventilation, and drainage.

§ 293.31 Overload protective devices.

The current to all low tension circuits shall pass through overload protective

[1] See footnote 1 to § 293.24(c).

[1] See footnote 1 to § 293.24(c).

[1] See footnote 1 to § 293.24(c).

devices except that this requirement shall not be applicable to battery-to-starting motor or battery-to-generator circuits, ignition and engine control circuits, horn circuits, electrically-operated fuel pump circuits, or electric brake circuits. Protective devices for electric circuits on every motor vehicle the date of manufacture of which is subsequent to June 30, 1953, except buses having a seating capacity of eight or less persons or motor vehicles being transported in driveaway-towaway operations, shall be arranged so that either the head lamp circuit or circuits shall not be affected by a short circuit in any of the other lighting circuits on the motor vehicle, or if the head lamp circuit is protected in common with other electrical circuits, the protection device shall be an automatic reset overload circuit breaker.

§ 293.32 Detachable electrical connections.

Electrical wiring between towing and towed vehicles shall be contained in a cable or cables or entirely within another substantially constructed protective device. All such electrical wiring shall be mechanically and electrically adequate and free of short or open circuits. Suitable provision shall be made in every such detachable connection to afford reasonable assurance against connection in an incorrect manner or accidental disconnection. Detachable connections made by twisting together wires from the towed and towing units are prohibited. Precaution shall be taken to provide sufficient slack in the connecting wire or cable to accommodate without damage all normal motions of the parts to which they are attached.

§ 293.33 Wiring, installation.

Electrical wiring shall be systematically arranged and installed in a workmanlike manner. All detachable wiring, except temporary wiring connections for driveaway-towaway operations, shall be attached to posts or terminals by means of suitable cable terminals which conform to the SAE Standard[1] for "Cable Terminals" or by cable terminals which are mechanically and electrically at least equal to such terminals. The number of wires attached to any post shall be limited to the number which such post was designed to accommodate. The presence of bare, loose, dangling, chafing, or poorly connected wires is prohibited.

Subpart C—Brakes

§ 293.40 Adequacy of brakes.

Every bus, truck, truck tractor, and combination of motor vehicles, except as provided in § 293.42, shall be equipped with brakes adequate to control the movement of, and to stop and to hold, such vehicle or combination of vehicles. Two separate means of brake application shall be provided. One such means shall be a parking brake which will conform to the requirements of § 293.41. If these two separate means of applying the brakes are connected in any way, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the vehicle without operative brakes.

§ 293.41 Parking brakes.

(a) Every singly driven motor vehicle and every combination of motor vehicles shall at all times be equipped with a parking brake or brakes adequate to hold the vehicle or combination on any grade on which it is operated, under any condition of loading, on a surface free from ice or snow.

(b) The parking brake or brakes shall at all times be capable of being applied in conformance with the requirements of paragraph (a) by either the driver's muscular effort or by spring action or by other energy, provided that if such other energy is depended on for application of the parking brake, then an accumulation of such energy shall be isolated from any common source and used exclusively for the operation of the parking brake.

(c) The parking brake or brakes, shall be so designed, constructed, and maintained that when once applied they shall remain in the applied condition with the required effectiveness despite exhaustion of any source of energy or leakage of any kind, and so that they cannot be released unless adequate energy is available upon release of such brake or brakes to make immediate further application with the required effectiveness.

§ 293.42 Brakes required on all wheels.

Every motor vehicle shall be equipped with brakes acting on all wheels, except:

(a) Any full trailer, semitrailer, or pole trailer of a gross weight not exceeding 3,000 pounds: *Provided*, That the gross weight of any such full trailer or pole trailer, no part of the load of which rests upon the towing vehicle, shall not exceed 40 percent of the gross weight of the towing vehicle and that the gross weight of any such semitrailer or pole trailer part of the load of which rests upon the towing vehicle, shall not exceed 40 percent of the gross weight of the towing vehicle when connected to such semitrailer or pole trailer;

(b) Any vehicle being towed in a driveaway-towaway operation, provided the combination of vehicles is capable of complying with the performance requirements of § 293.52; only such brakes on the vehicle or vehicles being towed in driveaway-towaway operations need be operative as may be necessary to insure compliance with the performance requirements of § 293.52. This paragraph is not applicable to any motor vehicle towed by means of a tow-bar when any vehicle is full-mounted on such motor vehicle or any combination of motor vehicles utilizing three saddle-mounts.

(c) Trucks and truck tractors having three or more axles need not have brakes on the front wheels, except when such vehicles are equipped with at least two steerable axles the wheels of one such axle need not be equipped with brakes.

(Sec. 12, 80 Stat. 931; 49 U.S.C. 1651 note)

(Diagrams to illustrate § 293.42 for brake requirements for light trailers.)

(Full trailer or 4-wheel pole trailer of 3,000 pounds gross weight or less must be equipped with brakes if the sum of W–3 and W–4 is greater than 40 percent of the sum of W–1 and W–2.)

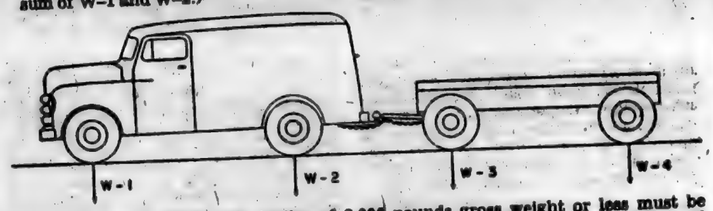

(Semitrailer or 2-wheel pole trailer of 3,000 pounds gross weight or less must be equipped with brakes if W–3 is greater than 40 percent of the sum of W–1 and W–2.)

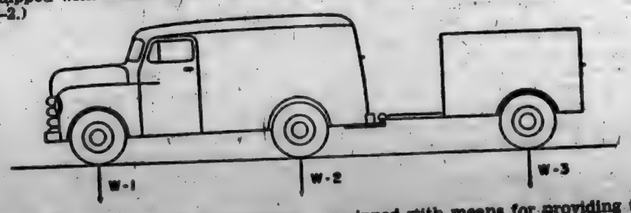

§ 293.43 Breakaway and emergency braking.

(a) Every motor vehicle, if used to tow a trailer equipped with brakes, shall be equipped with means for providing that in case of breakaway of such trailer the service brakes on the towing vehicle will be sufficiently operative to stop the towing vehicle.

(b) Every truck or truck tractor equipped with air brakes, when used for towing other vehicles equipped with air brakes, shall be equipped with two means of activating the emergency features of the trailer brakes. One of these means shall operate automatically in the event of reduction of the towing vehicle air supply to a fixed pressure which shall not be lower than 20 pounds per square inch nor higher than 45 pounds per square inch. The other means shall be a manually controlled device readily operable by a person seated in the driving seat. Its emergency position or method of operation shall be clearly indicated. In no instance may the manual means be so arranged as to permit its use to prevent operation of the automatic means. The automatic and manual means required by this section may be, but are not required to be, separate.

(c) Every truck tractor and truck when used for towing other vehicles equipped with vacuum brakes, shall have, in addition to the single control required by § 293.49 to operate all brakes of the combination, a second manual control device which can be used to operate the brakes on the towed vehicles in emergencies. Such second control shall be independent of brake air, hydraulic, and other pressure, and independent of other controls, unless the braking system be so arranged that failure of the pressure on which the second control depends will cause the towed vehicle brakes to be applied automatically. The second control is not required by this rule to provide modulated or graduated braking.

(d) Every trailer required to be equipped with brakes shall be equipped with brakes of such character as to be applied automatically and promptly upon breakaway from the towing vehicle, and means shall be provided to maintain application of the brakes on the trailer in such case for at least 15 minutes.

(e) Air brake systems installed on towed vehicles shall be so designed, by the use of "no-bleed-back" relay emergency valves or equivalent devices, that the supply reservoir used to provide air for brakes shall be safeguarded against backflow of air to the towing vehicle upon reduction of the towing vehicle air pressure.

(f) The requirements of paragraphs (b), (c), and (d) of this section shall not be applicable to motor vehicles in driveaway-towaway operations.

§ 293.44 Front brake lines, protection.

On every bus, made after June 30, 1954, if equipped with air brakes, except buses being transported in driveaway-towaway operations, the braking system shall be so constructed that in the event any connection to the brake system forward of the driver's seat or any brake line to any of the front wheels is broken, the driver can apply the brakes on the rear wheels despite such breakage. The means used to apply the brakes on the rear wheels shall be adjacent to but neither forward nor to the left of the driver's seat.

§ 293.45 Brake tubing and hose, adequacy.

Brake tubing and brake hose shall be:

(a) Designed and constructed of proper material and so installed as to insure proper continued functioning;

(b) Sufficiently long and flexible as to accommodate without damage all normal motions of the parts to which they are attached;

(c) Suitably secured against chafing, kinking, or other mechanical injury; and

(d) Brake hose shall be so constructed as to insure adequate and reliable functioning and shall conform to the appropriate specification set forth in the SAE Standards[1] for "Hydraulic Brake Hose," "Air-Brake Hose," or "Vacuum Brake Hose."

§ 293.46 Brake tubing and hose connections.

All connections for air, vacuum, or hydraulic braking systems shall:

(a) Be adequate in material and construction to insure proper continued functioning;

(b) Be designed, constructed, and installed so as to insure, when properly connected, an attachment free of leaks, constrictions, or other defects;

(c) Have suitable provision in every detachable connection to afford reasonable assurance against accidental disconnection;

[1] See footnote 1 to § 293.34(c).

(d) Have the vacuum brake engine manifold connection at least three-eighths inch in diameter.

§ 293.47 Brake lining.

The brake lining on every motor vehicle shall be so constructed and installed as not to be subject to excessive fading and grabbing and shall be adequate in thickness, means of attachment, and physical characteristics to provide for safe and reliable stopping of the motor vehicle.

§ 293.48 Brakes to be operative.

All brakes with which motor vehicles are equipped shall be operative at all times except as provided in § 293.42(b) and except brakes on disabled vehicles being towed; but means may be used for reducing the braking effort on the front wheels of any bus, truck, or truck tractor or of removing the braking effort on the front wheels of any three-axle truck or truck tractor provided that the means for reducing or removing the braking effort shall be used only when operating under adverse road conditions such as wet, snowy, or icy roads.

§ 293.49 Single valve to operate all brakes.

Every motor vehicle, the date of manufacture of which is subsequent to June 30, 1953, which is equipped with power brakes, shall have the braking system so arranged that one application valve shall when applied operate all the service brakes on the motor vehicle or combination of motor vehicles. This requirement shall not be construed to prohibit motor vehicles from being equipped with an additional valve to be used to operate the brakes on a trailer or trailers or as provided in § 293.44. This section shall not be applicable to driveaway-towaway operations unless the brakes on such operations are designed to be operated by a single valve.

§ 293.50 Reservoirs required.

(a) *General.* As provided in paragraph (c) of this section, every bus, truck, and truck tractor made after June 30, 1953, and using air or vacuum for braking, shall be equipped with reserve capacity or a reservoir sufficient to insure a full service brake application with the engine stopped without depleting the air pressure or vacuum below 70 percent of that pressure or degree of vacuum indicated by the gauge immediately before the brake application is made. For purposes of this section, a full service brake application is considered to be made when the service brake pedal is pushed to the limit of its travel.

(b) *Safeguarding of air and vacuum.* (1) Every bus, truck, and truck tractor, when equipped with air or vacuum reservoirs and regardless of date of manufacture, shall have such reservoirs so safeguarded by a check valve or equivalent device that in the event of failure or leakage in its connection to the source of compressed air or vacuum the air or vacuum supply in the reservoir shall not be depleted by the leak or failure.

(2) Means shall be provided to establish the check valve to be in working order. On and after May 1, 1966, means other than loosening or disconnection of any connection between the source of compressed air or vacuum and the check valve, and necessary tools for operation of such means, shall be provided to prove that the check valve is in working order. The means shall be readily accessible either from the front, side, or rear of the vehicle, or from the driver's compartment.

(i) In air brake systems with one reservoir, the means shall be a cock, valve, plug, or equivalent device arranged to vent a cavity having free communication with the connection between the check valve and the source of compressed air or vacuum.

(ii) Where air is delivered by a compressor into one tank or compartment (wet tank), and air for braking is taken directly from another tank or compartment (dry tank) only, with the required check valve between the tanks or compartments, a manually operated drain cock on the first (wet) tank or compartment will serve as a means herein required if it conforms to the requirements herein.

(iii) In vacuum systems stopping the engine will serve as the required means, the system remaining evacuated as indicated by the vacuum gauge.

(c) *Application.* This section applies to passenger-carrying vehicles each having a seating capacity of nine or more persons, driver included, and to all property-carrying vehicles and combinations of property-carrying vehicles having three or more axles.

§ 293.51 Warning devices and gauges.

(a) *Air brakes as provided in paragraph (d) of this section.* Every bus, truck, and truck tractor using compressed air for the operation of its own brakes or the brakes on any towed vehicle shall be equipped with a warning signal readily audible or visible to the driver, which will give continuous warning at all pressures below a fixed pressure not less than one-half of the compressor governor cut-out pressure. In addition, each such vehicle shall be equipped with a pressure gauge which will indicate to the driver the pressure in pounds per square inch available for braking.

(b) *Vacuum brakes as provided in paragraph (d) of this section.* Every bus, truck, and truck tractor using vacuum for the operation of its own brakes or the brakes on any towed vehicle shall be equipped with a warning signal readily audible or visible to the driver, which will give continuous warning at any time the vacuum in the vehicle's supply reservoir is less than 8 inches of mercury. In addition, each such vehicle shall be equipped with a vacuum gauge which will indicate to the driver the vacuum in inches of mercury available for braking.

(c) *Maintenance.* The warning devices and gauges required by this section shall be maintained in operative condition.

(d) *Application.* This section applies to passenger-carrying vehicles each having a seating capacity of nine or more persons, driver included, and to all property-carrying vehicles and combinations of property-carrying vehicles having three or more axles.

§ 293.52 Brake performance.

(a) Every motor vehicle and combination of vehicles, at all times and under all conditions of loading, upon application of the service brake, shall be capable of:

(1) Developing a braking force that is not less than the percentage of its gross weight tabulated in paragraph (b) of this section for its classification.

(2) Decelerating to a stop from not more than 20 miles per hour at not less than the feet per second per second tabulated in paragraph (b) of this section for its classification, and

(3) Stopping from a speed of 20 miles per hour in not more than the distance tabulated in paragraph (b) of this section for its classification, such distance to be measured from the point at which movement of the service brake pedal or control begins.

Tests for deceleration and stopping distance shall be made on a substantially level, dry, smooth, hard surface that is free from loose material.

(b) Classification of vehicles:

	Braking force as a percentage of gross vehicle or combination weight Percent	Deceleration in feet per second	Brake system application and braking distance in feet from an initial speed of 20 m.p.h.
(1) Passenger vehicles with a seating capacity of 10 people or less including driver, not having a manufacturer's gross weight rating	52.8	17	25
(2) Single unit vehicles with a manufacturer's gross weight rating of 10,000 pounds or less	43.8	14	30
(3) Single unit vehicles with a manufacturer's gross weight rating of more than 10,000 lbs.	43.8	14	40
(4) Combinations of a two-axle towing vehicle and a trailer with a gross trailer weight of 3,000 pounds or less	43.8	14	40
(5) Buses, regardless of the number of axles, not having a manufacturer's gross weight rating	43.8	14	40
(6) All combinations of vehicles in driveaway or towaway operations	43.8	14	40
(7) All other vehicles and combinations of vehicles	43.8	14	50

NOTE: (a) There is a definite mathematical relationship between the figures in columns 2 and 3. If the decelerations set forth in column 3 are divided by 32.2 feet per second, the column 2 figures will be obtained. (For example, 17 divided by 32.2 gives 53.8 percent.) Column 2 is included in the tabulation because certain brake-testing devices utilize this factor.

(b) The decelerations as in column 3 are an indication of the effectiveness of the basic brakes, and as measured in practical brake testing are the maximum braking decelerations attained at some time during the stop.

This deceleration as measured in brake tests cannot be used to compute the values in column 4 because it is not sustained at the same rate over the entire period of the stop. The deceleration increases from zero to a maximum during a period of brake-system application and brake-force build-up. Also, other factors may cause the deceleration to decrease after reaching a maximum. The added distance which results because a maximum deceleration is not sustained is included in the figures in column 4 but is not indicated by the usual brake-testing devices for checking deceleration.

(c) The distances in column 4 and the deceleration in column 3 are not directly related. "Brake-system application and braking distance in feet" (column 4) is a definite measure of the overall effectiveness of the braking system, being the distance traveled between the point at which the driver starts to move the braking controls and the point at which the vehicle comes to rest. It includes distance traveled while the brakes are being applied and the distance traveled while the brakes are retarding the vehicle.

(d) The distance traveled during the period of brake-system application and brake-force build-up varies with vehicle type, being negligible for many passenger cars and greatest for combinations of commercial vehicles. This fact accounts for the variation from 25 to 50 feet in the numerical values in column 4 for the various classes of vehicles.

(e) The deceleration requirement in column 3 is the same for all classifications of vehicles except for passenger vehicles, not including buses, because brakes on vehicles in the second through the seventh classifications are all capable with reasonable maintenance of producing the designated deceleration as measured by brake-testing devices. A higher deceleration requirement is warranted for passenger vehicles in view of Bureau of Public Roads test data.

Subpart D—Glazing and Window Construction

§ 293.60 Glazing in specified openings.

(a) *Kind of glass.* Whenever glazing is used in the windshield, window, door, or any other opening into a bus, truck, or truck tractor, except vehicles engaged in armored car service, such glazing shall conform to the requirements contained in the "American Standard Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways, Z26.1A–1964", of the American Standards Association, Inc., 10 East 40th Street, New York, N.Y. 10016: *Provided, however,* That glazing conforming to ASA Code Z26.1–1950 is acceptable for vehicles manufactured prior to January 1, 1966.

(b) *Windshield condition.* Every motor vehicle windshield shall be free of discoloration or other damage in that portion thereof extending upward from the height of the topmost portion of the steering wheel, but not including a 2 inch border at the top and a 1 inch border at each side of the windshield or each panel thereof, except that discoloration and damage as follows are allowable: (1) Coloring or tinting applied in manufacture, for reduction of glare; (2) any crack not over ⅛-inch wide, if not intersected by any other crack; (3) any damaged area which can be covered by a disc ¾-inch in diameter, if not closer than 3 inches to any other such damaged area.

(c) *Use of vision-reducing matter.* No motor vehicle may be operated with any label, sticker, decalcomania, or other vision-reducing matter covering any portion of its windshield or windows at either side of the driver's compartment, except that stickers required by law may be affixed at the bottom of the windshield, provided no portion of any label, sticker, decalcomania, or other vision-reducing matter may extend upward more than 4½ inches from the bottom of such windshield.

§ 293.61 Window construction.

(a) *Windows in trucks and truck tractors.* Every truck and truck tractor, except vehicles engaged in armored car service, shall have, in addition to the area provided by the windshield, at least one window on each side of the driver's compartment, which window shall have sufficient area to contain either an ellipse having a major axis of 18 inches and a minor axis of 13 inches or an opening containing 300 square inches formed by a rectangle 13 inches by 17¾ inches with corner arcs of 6-inch maximum radius.

The major axis of the ellipse and the long axis of the rectangle shall not make an angle of more than 45 degrees with the surface on which the unladen vehicle stands; however, if the cab is designed with a folding door or doors or with clear openings where doors or windows are customarily located, then no windows shall be required in such locations.

(b) *Bus windows.* On and after December 31, 1952, every bus, except buses having a seating capacity of eight or less persons shall have, in addition to the area provided by the windshield, adequate means of escape for passengers through windows. The adequacy of such means shall be determined in accordance with the following standards: For each seated passenger space provided, inclusive of the driver, there shall be at least 67 square inches of glazing if such glazing is not contained in a push-out window; or at least 67 square inches of free opening resulting from opening of a push-out type window. No area shall be included in this minimum prescribed area unless it will provide an unobstructed opening sufficient to contain an ellipse having a major axis of 18 inches and a minor axis of 13 inches or an opening containing 200 square inches formed by a rectangle 13 inches by 17¾ inches with corner arcs of 6-inch maximum radius. The major axis of the ellipse and the long axis of the rectangle shall make an angle of not more than 45 degrees with the surface on which the unladen vehicle stands. The area shall be measured either by removal of the glazing if not of the push-out type or of the movable sash if of the push-out type, and it shall be either glazed with laminated safety glass or comply with paragraph (c) of this section. No less than 40 percent of such prescribed glazing or opening shall be on one side of any bus.

(c) *Push-out window requirements.* Every glazed opening in a bus, except buses having a seating capacity of eight or less persons, used to satisfy the requirements of paragraph (b) of this section, if not glazed with laminated safety glass, shall have a frame or sash so designed, constructed, and maintained that it will yield outwardly to provide the required free opening when subjected to the drop test specified in Test 25 of the American Standard Safety Code referred to in § 293.60. The height of drop required to open such push-out windows shall not exceed the height of drop required to break the glass in the same window when glazed with the type of laminated glass specified in Test 25 of the Code. The sash for such windows shall be constructed of such material and be of such design and construction as to be continuously capable of complying with the above requirement. Such windows shall not be secured by latches, locks, or similar fastening devices, if such devices, when fastened, will require a greater effort to push out the window than is above required.

§ 293.62 Window obstructions.

Windows, if otherwise capable of complying with § 293.61 (a) and (b), shall not be obstructed by bars or other such means located either inside or outside such windows such as would hinder the escape of occupants unless such bars or other such means are so constructed as to provide a clear opening, at least equal to the opening provided by the window to which it is adjacent, when subjected to the same test specified in § 293.61 (c). The point of application of such test force shall be such as will be most likely to result in the removal of the obstruction.

§ 293.63 Windows, markings.

Each push-out window and any other escape window glazed with laminated safety glass in every bus, except buses having a seating capacity of eight or less persons, shall be identified as such by clearly legible and visible signs, lettering or decalcomania. Such marking shall include appropriate wording to indicate that it is an escape window and also the method to be used for obtaining emergency exit.

§ 293.65 Fuel systems.

(a) *Fuel container location.* No part of any fuel tank or container or intake pipe shall project beyond the overall width of any motor vehicle upon which it is mounted. No part of any fuel tank shall be located forward of the front axle of the power unit upon which it is located, except that this requirement shall not apply to trucks manufactured prior to September 30, 1953, which have a total fuel capacity of less than 20 gallons, nor shall fuel be supplied to the engine of a bus, truck, or truck tractor from a fuel tank or container located on a semitrailer or full trailer.

(b) *Fuel container on bus.* No part of any fuel tank or container or intake pipe shall be located within or above the passenger-carrying portion of any bus unless securely sealed off from such compartment by means of a substantial metal cover. Except for buses having a seating capacity of eight or less persons and except those being transported in driveaway-towaway operations, the fuel containers, including intake pipes, caps, and vents on every bus, the date of manufacture of which is subsequent to September 30, 1953, shall be so designed that, in the event of overturn, the fuel will not be spilled at a rate in excess of 1 ounce per minute.

(c) *Gravity or syphon feed prohibited.* No fuel system on a motor vehicle shall be so constructed as to permit gravity or syphon feed direct to the carburetor or injector.

(d) *Selector valves.* If a motor vehicle is equipped with a selector control valve for fuel feed from two or more tanks, such valve shall be installed so that either (1) it is in normal reach of the driver so that he can readily operate it without taking his eyes from the road or moving from his customary driving position, or (2) the driver must stop the vehicle and leave his seat in order to operate the valve.

(e) *Liquid fuel tank requirements.* (1) Every liquid fuel tank or container used for fuel for use on any motor vehicle shall be of substantial construction, free of leaks, securely attached to the motor vehicle, and shall have its filling opening provided with a plug or cap with means for securing it in place, such as by the use of properly fitted screw threads or bayonet type joint, and without leaks except as elsewhere provided in these regulations with regard to tank vents.

(2) Replacement side-mounted gasoline tanks, the date of manufacture of which is subsequent to November 30, 1953, on every motor vehicle, and side-mounted gasoline tanks on every motor vehicle, the date of manufacture of which is subsequent to November 30, 1953, shall comply with the requirements of paragraphs (f) to (k) inclusive, of this section.

(3) Replacement gasoline tanks, of the other than side-mounted type, the date of manufacture of which is subsequent to November 30, 1953, unless constructed in conformity with the original tank on the motor vehicle, shall comply with the requirements of paragraphs (f) and (i) of this section. Other than side-mounted gasoline tanks on every truck or truck tractor, the date of manufacture of which is subsequent to November 30, 1953, shall comply with the requirements of paragraphs (f) and (i) of this section.

(f) *Liquid fuel tank construction.*—(1) *Material.* Material used in the construction of the tank and its fittings shall be suitable for the purpose intended.

(2) *Joints.* Joints of the tank body shall be closed only by arc, gas, seam, or spot welding, brazing, or silver soldering.

(3) *Fittings.* The tank shall be provided with suitable flanges or spuds for the assembly of all fittings.

(4) *Threads.* Threads on all fittings shall be American (National) Standard Taper Pipe Thread or SAE Standard[1] Short Dryseal Taper Pipe Thread except that straight (nontapered) threads may be used on fittings having integral flanges and using gaskets for sealing. There shall not be less than four full threads in engagement in any fitting.

(5) *Drains and bottom fittings.* Drains and other bottom fittings shall not extend more than three-quarter inch below the lowest part of the tank and shall be designed or guarded to minimize their being torn loose. All drain fittings shall be so designed and located as to permit complete drainage. The drain shall be located in a suitable flange or spud.

(6) *Fuel discharge line.* The fitting through which the fuel is drawn from the tank shall be located above the normal full line of the tank.

(7) *Excess flow valve.* When pressure devices are used to force fuel from the tank, means shall be provided to prevent

[1] See footnote 1 to § 293.24(c).

the continued flow of fuel in the event the fuel feed line is broken.

(8) *Fill-pipe design.* The fill-pipe shall be designed and located so as to minimize the probability of its being torn loose in the event of an accident. The fill-pipe and vents on any fuel tank having a fuel capacity in excess of 25 gallons shall be so designed and constructed as to permit filling at a rate of at least 20 gallons per minute without spillage.

(9) *Air vent.* Every fuel tank shall be equipped with an air vent of a nonspill type (ball check or equivalent). The air vent may be mounted separately or combined with the filler cap or safety vent.

(10) *Safety vents.* (i) Side-mounted fuel tanks having a fuel capacity in excess of 25 gallons shall be provided with a fusible safety vent or vents which shall be so designed as to limit the pressure rise in the tank under any fire condition to a maximum of 50 pounds per square inch gage. The vent area shall be sufficient to prevent a rise in pressure in the tank of more than 10 percent of the release pressure of the safety vent or vents when the tank is subjected to a fire of any magnitude. If but one fusible safety vent is provided, it shall be located in the top of the tank; if more than one fusible safety vent is provided at least one shall be in the top of the tank.

(ii) All fuel tanks having a fuel capacity in excess of 25 gallons shall be provided with means of relieving pressure in the tank due to fire before such pressure would result in the failure of the body, seams, or any bottom opening in the tank.

(g) *Liquid fuel tank capacity markings.* The tank shall be marked with its liquid capacity and shall be provided with means to indicate that it shall not be filled to more than 95 percent of its total capacity.

(h) *Liquid fuel tank identity markings.* Each tank shall be marked to identify its manufacturer and to indicate the approximate date of manufacture by lot number or otherwise.

(i) *Liquid fuel tank installation.*—(1) *General requirement.* The tank shall be mounted in accordance with the best commercial practice.

(2) *Location of fill-pipe.* The nozzle opening in the fill-pipe shall be outside the cab or body and must be so located as to minimize the likelihood of spillage of fuel during the filling process on the exhaust system or battery.

(j) *Liquid fuel tank tests.*—(1) *Drop test on corner of tank.* The tank when filled with water equal in weight to that of its fuel capacity shall withstand without leakage a drop of 30 feet falling so as to strike squarely on one corner on concrete or equivalent surface which shall not rupture under the impact. The fill-pipe and cap, fuel gauge sending device, and the air intake and safety vents shall not leak more than 1 ounce of water per minute as a result of this test.

(2) *Drop test on fill-pipe.* The tank when filled with water equal in weight to that of its fuel capacity shall withstand without leakage a drop of 10 feet falling so as to strike squarely on the fill-pipe on concrete or equivalent surface which shall not rupture under the impact. The fill-pipe or cap shall not leak more than 1 ounce of water per minute as a result of this test.

(3) *Safety vent test.* The safety vent, or vents, shall limit the rise in internal pressure in the tank to a maximum of 50 pounds per square inch guage when the tank is filled to three-fourths of rated capacity with standard fuel and placed in inverted position with the fuel feed outlet connection plugged when an enveloping flame is applied to the tank with sufficient intensity to produce an internal fuel temperature rise of 5° to 8° F per minute starting from a fuel temperature of 50° to 80° F. Neither the tank, fill-pipe, fuel gauge, air intake vent, nor any other opening except blown fusible plugs shall leak more than 1 ounce of fuel per minute after having been subjected to these conditions. Other types of tests or calculations may be employed to determine compliance with this requirement if a comparable result is obtained.

(4) *Rupture test.* The tank and all appurtenances including the fill-pipe, cap, fuel gauge, and air intake vent shall withstand without rupture an internal hydrostatic pressure of 150 percent of the maximum at which the safety vent is required to release.

(5) *Spillage test.* At ordinary room temperature the tank when filled to capacity with its normal fuel and turned through an angle of 150° from its normal position, with outlet pipe plugged, shall not spill or leak fuel at a rate greater than 1 ounce per minute. The fill-pipe, cap, fuel gauge outlet, air intake vent, safety vent, and any other openings shall withstand this test.

(k) *Liquid fuel tank certification.* Every side-mounted gasoline fuel tank designed and constructed to comply with these requirements shall be plainly and permanently marked with the date of manufacture and a certification of the manufacturer that it complies with such requirements. The certification shall contain the words "Meets FHWA requirements—side-mounted—gasoline", or words of similar meaning.

§ 293.66 Liquefied petroleum gas fuel systems.

Every motor vehicle utilizing liquefied petroleum gas for any purpose shall be equipped with a fuel system, being utilized for such purpose, which complies with Division IV, June 1959 edition of the "Standards for the Storage and Handling of Liquefied Petroleum Gas" of the National Fire Protection Association, 60 Batterymarch Street, Boston, Massachusetts 02110: *Provided, however,* That such fuel systems installed on motor vehicles prior to Dec. 31, 1962, shall comply with the "standards for the Storage and Handling of Liquefied Petroleum Gas" of the National Fire Protection Association, as published in the 1951 edition, or such subsequent edition of the "Standards for the Storage and Handling of Liquefied Petroleum Gas" of the National Fire Protection Association, in effect at the time of such installation: *Provided further, however,* That in any case compliance with the 1959 edition shall be deemed to be permissible. This section, in every case, requires the marking of the container in such fuel system to indicate compliance with the Standard as provided herein.

Subpart F—Coupling Devices and Towing Methods

§ 293.70 Coupling devices and towing methods, except for driveaway-towaway operations.

(a) *Fifth wheel mounting.* The lower half of every fifth wheel mounted on any truck tractor or dolly shall be securely affixed to the frame thereof by U-bolts of adequate size, securely tightened, or by other means providing at least equivalent security. Such U-bolts shall not be of welded construction. The installation shall be such as not to cause cracking, warping, or deformation of the frame. Adequate means shall be provided positively to prevent the shifting of the lower half of a fifth wheel on the frame to which it is attached.

(b) *Fifth wheel parts, securing.* The upper half of every fifth wheel shall be fastened to the motor vehicle with at least the security required for the securing of the lower half to a truck tractor or dolly.

(c) *Fifth wheel, locking.* Locking means shall be provided in every fifth wheel mechanism, including adapters when used, so that the upper and lower halves may not be separated without the operation of a positive manual release. A release mechanism operated by the driver from the cab shall be deemed to meet this requirement. On fifth wheels designed and constructed as to be readily separable, the fifth wheel locking devices shall apply automatically on coupling for any motor vehicle the date of manufacture of which is subsequent to December 31, 1962.

(d) *Tow-bar.* Every full trailer shall be equipped with a tow-bar and means of attaching the tow-bar to the towing and towed units which shall be structurally adequate for any weight drawn, properly and securely mounted, without excessive slack but with sufficient play to allow for universal action of the connection, and provided with a suitable locking means to prevent accidental separation of the towed and towing motor vehicles. The mounting of the trailer hitch (pintle-eye or equivalent mechanism) on the towing motor vehicle shall include sufficient reinforcement or bracing of the frame to provide sufficient strength and rigidity and to prevent undue distortion of the frame.

(e) *Trucking.* Coupling devices shall be so designed, constructed, and installed, and the vehicles in the combination shall be so designed and constructed, as to insure that any motor vehicle or motor vehicles being towed on level, smooth, paved surface will follow in the path of the towing vehicle without shift-

ing or swerving from side to side over three inches to each side of the path of the towing vehicle when it is moving in a straight line.

(f) *Requirements for safety chains or cables.* Safety chains or cables shall comply with the following requirements:

(1) Every full trailer and every converter dolly used to convert a semitrailer to a full trailer shall be coupled with one or more safety chains or cables to the frame, or to an extension of the frame, of the motor vehicle by which it is towed. Attachment of these chains or cables to the pintle hook or to any other device on the towing vehicle to which the tow-bar is attached will not meet this requirement: *Provided, however,* That a separate place of attachment independent of the pintle hook on a pintle hook forging or casting may be used to attach the safety chains or cables to the towing vehicle.

(2) Safety chains or cables shall have no more slack than is necessary to permit proper turning.

(3) Each chain or cable and each means of attachment shall have an ultimate strength at least equal to the gross weight of the vehicle or vehicles being towed.

(4) Chains or cables shall be so connected to the towed and towing vehicle and to the tow-bar as to prevent the tow-bar from dropping to the ground in the event the tow-bar fails or becomes disconnected.

(5) Every full trailer and every converter dolly with a hinged tow-bar shall be equipped with two safety chains or cables, or a bride arrangement of a single chain or cable, attached to its frame or axle at two points as far apart as the configuration of the frame or axle permits. Such chains or cables shall be either two separate pieces, each equipped with a hook or other means for attachment to the towing vehicle, or a single piece leading along each side of the tow-bar from the two points of attachment on the towed vehicle and arranged into a bridle with a single means of attachment to be connected to the towing vehicle. When a single length of cable is used a thimble and twin-base cable clamps shall be used to form the forward bridle eye. The hook or other means of attachment to the towing vehicle shall be secured to the chains or cables in a fixed position.

(6) Converter dollies with solid tongues and without hinged tow-bars or other swivels between the fifth wheel mounting and the attachment point of the tongue eye or other hitch device may be equipped with either one or two safety chains or cables: *Provided,* That if only one chain or cable is used, it shall be in line with the centerline of the trailer tongue. The point of attachment of these chains or cables to such solid tongue converter dollies is optional: *Provided,* only that such attachment is to the rear of the attachment of the tongue eye or other hitch device.

(7) Where two safety chains or cables are used and attached to the towing vehicle at separate points, the points of attachment on the towing vehicle shall be located equally distant from, and on opposite sides of, the centerline of the towing vehicle. Where two chains or cables are attached to the same point on the towing vehicle, and where a bridle or a single chain or cable is used, the point of attachment must be on the centerline of the towing vehicle.

(g) *Location of lower half of fifth wheel.* The lower half of every fifth wheel shall be so located that, for any condition of loading, the relationship of position of king pin to the rear axle or axles of the towing motor vehicle results in proper distribution of the total gross weight of the motor vehicles to the axles and does not unduly interfere with the steering, braking, or maneuvering of the towing motor vehicle, or otherwise contribute to unsafe operation of the motor vehicles comprising the combination.

(h) *Location of upper half of fifth wheel.* The upper half of every fifth wheel shall be so located as to accomplish proper distribution of weight to the axles and safe movement of the combination of motor vehicles in all turning maneuvers.

§ 393.71 Coupling devices and towing methods, driveaway-towaway operations.

(a) *Number in combination.* (1) No more than three saddle-mounts may be used in any combination.

(2) No more than one tow-bar may be used in any combination.

(3) When motor vehicles are towed by means of triple saddle-mounts, the towed vehicles shall have brakes acting on all wheels which are in contact with the roadway.

(b) *Carrying vehicles on towing vehicle.* (1) When adequately and securely attached by means equivalent in security to that provided in paragraph (j) (2) of this section, a motor vehicle or motor vehicles may be full-mounted on the structure of a towing vehicle engaged in any driveaway-towaway operation.

(2) No motor vehicle or motor vehicles may be full-mounted on a towing vehicle unless the relationship of such full-mounted vehicles to the rear axle or axles results in proper distribution of the total gross weight of the vehicles and does not unduly interfere with the steering, braking, or maneuvering of the towing vehicle, or otherwise contribute to the unsafe operation of the vehicles comprising the combination.

(c) *Carrying vehicles on towed vehicles.* (1) When adequately and securely attached by means equivalent in security to that provided in paragraph (j) (2) of this section, a motor vehicle or motor vehicles may be full-mounted on the structure of towed vehicles engaged in any driveaway-towaway operation.

(2) No motor vehicle shall be full-mounted on a motor vehicle towed by means of a tow-bar unless the towed vehicle is equipped with brakes and is provided with means for effective application of brakes acting on all wheels and is towed on its own wheels.

(3) No motor vehicle or motor vehicles shall be full-mounted on a motor vehicle towed by means of a saddle-mount unless the center line of the kingpin or equivalent means of attachment of such towed vehicle shall be so located on the towing vehicle that the relationship to the rear axle or axles results in proper distribution of the total gross weight of the vehicles and does not unduly interfere with the steering, braking, or maneuvering of the towing vehicle or otherwise contribute to the unsafe operation of vehicles comprising the combination; and unless a perpendicular to the ground from the center of gravity of the full-mounted vehicles lies forward of the center line of the rear axle of the saddle-mounted vehicle.

(4) If a motor vehicle towed by means of a double saddle-mount has any vehicle full-mounted on it, such saddle-mounted vehicle shall at all times while so loaded have effective brakes acting on those wheels which are in contact with the roadway.

(d) *Bumper tow-bars on heavy vehicles prohibited.* Tow-bars of the type which depend upon the bumpers as a means of transmitting forces between the vehicles shall not be used to tow a motor vehicle weighing more than 5,000 pounds.

(e) *Front wheels of saddle-mounted vehicles restrained.* A motor vehicle towed by means of a saddle-mount shall have the motion of the front wheels restrained if under any condition of turning of such wheels they will project beyond the widest part of either the towed or towing vehicle.

(f) *Vehicles to be towed in forward position.* Unless the steering mechanism is adequately locked in a straight-forward position, all motor vehicles towed by means of a saddle-mount shall be towed with the front end mounted on the towing vehicle.

(g) *Means required for towing.* (1) No motor vehicle or motor vehicles shall be towed in driveaway-towaway operations by means other than tow-bar or saddle-mount connections which shall meet the requirements of this section.

(2) For the purpose of the regulations of this part:

(i) Coupling devices such as those used for towing house trailers and employing ball and socket connections shall be considered as tow-bars.

(ii) Motor vehicles or parts of motor vehicles adequately, securely, and rigidly attached by devices meeting the requirements of paragraph (n) of this section shall be considered as one vehicle in any position in any combination.

(h) *Requirements for tow-bars.* Tow-bars shall comply with the following requirements:

(1) *Tow-bars, structural adequacy and mounting.* Every tow-bar shall be structurally adequate and properly installed and maintained. To insure that it is structurally adequate, it must, at least, meet the requirements of the following table:

Gross weight of towed vehicle (pounds) [1]	Longitudinal strength in tension and compression [2]		Strength as a beam (in any direction concentrated load at center) [2] [3]
	All tow-bars	New tow-bars acquired and used by a motor carrier after Sept. 30, 1948	
	Pounds	Pounds	Pounds
Less than 5,000	2,000	5,000	2,000
5,000 and over	4,000	(3)	(3)
Less than 10,000			
10,000 and over	8,000	(3)	(3)
Less than 15,000			

[1] The required strength of tow-bars for towed vehicles of 15,000 pounds and over gross weight and of new tow-bars acquired and used after Sept. 30, 1948, for towed vehicles of 5,000 pounds and over gross weight shall be computed by means of the following formulas: Longitudinal strength=gross weight of towed vehicle x 1.2. Strength as a beam=gross weight of towed vehicle x 0.6.

[2] In testing, the whole unit shall be tested with all clamps, joints, and pins so mounted and fastened as to approximate conditions of actual operation.

[3] This test shall be applicable only to tow-bars which are, in normal operation, subjected to a bending movement such as tow-bars for house trailers.

(2) *Tow-bars, jointed.* The tow-bar shall be so constructed as to freely permit motion in both horizontal and vertical planes between the towed and towing vehicles. The means used to provide the motion shall be such as to prohibit the transmission of stresses under normal operation between the towed and towing vehicles, except along the longitudinal axis of the tongue or tongues.

(3) *Tow-bar fastenings.* The means used to transmit the stresses to the chassis or frames of the towed and towing vehicles may be either temporary structures or bumpers or other integral parts of the vehicles: *Provided, however,* That the means used shall be so constructed, installed, and maintained that, when tested as an assembly, failure in such members shall not occur when the weakest new tow-bar which is permissible under paragraph (h) (1) of this section is subjected to the tests given therein.

(4) *Means of adjusting length.* On tow-bars, adjustable as to length, the means used to make such adjustment shall fit tightly and not result in any slackness or permit the tow-bar to bend. With the tow-bar supported rigidly at both ends and with a load of 50 pounds at the center, the sag, measured at the center, in any direction shall not exceed 0.25 inch under any condition of adjustment as to length.

(5) *Method of clamping.* Adequate means shall be provided for securely fastening the tow-bar to the towed and towing vehicles.

(6) *Tow-bar connection to steering mechanism.* The tow-bar shall be provided with suitable means of attachment to and actuation of the steering mechanism, if any, of the towed vehicle. The attachment shall provide for sufficient angularity of movement of the front wheels of the towed vehicle so that it may follow substantially in the path of the towing vehicle without cramping the tow-bar. The tow-bar shall be provided with suitable joints to permit such movement.

(7) *Tracking.* The tow-bar shall be so designed, constructed, maintained, and mounted as to cause the towed vehicle to follow substantially in the path of the towing vehicle. Tow-bars of such design or in such condition as to permit the towed vehicle to deviate more than 3 inches to either side of the path of a towing vehicle moving in a straight line are prohibited.

(8) *Passenger-car trailer couplings.* Trailer couplings used for driveaway-towaway operations of passenger car trailers shall comply with the SAE Recommended Practice [1] "Passenger Car Trailer Couplings."

(9) *Marking tow-bars.* Every tow-bar acquired and used in drive-away-tow-away operations by a motor carrier shall be plainly marked with the following certification of the manufacturer thereof (or words of equivalent meaning):

This tow-bar complies with the requirements of the Federal Highway Administration for (maximum gross weight for which tow-bar is manufactured) vehicles.
Manufactured _____ (Month and year)
by _____ (Name of manufacturer)

(10) *Safety chains and cables.* (1) The towed vehicle shall be connected to the towing vehicle by means of two safety chains or cables. The tensile strength of such chains or cables and their means of attachment to the vehicles shall be at least equivalent to the corresponding longitudinal strength for tow-bars required in the table of paragraph (h) (1) of this section. The required strength shall be of the combined strength of the combination of chains and cables.

(11) The chains or cables shall be crossed and attached to the vehicles near the points of bumper attachments to the chassis of such vehicles. The length of chain used shall be no more than necessary to permit free turning of the vehicles. The chains shall be attached to the tow-bar at the point of crossing or as close thereto as is practicable.

(i) *Saddle-mount definitions.* The following terms, when used in this part, mean:

(1) *Saddle-mount.* "Saddle-mount" means a device, designed and constructed as to be readily demountable, used in driveaway-towaway operations to perform the functions of a conventional fifth wheel.

(2) *Upper-half.* "Upper-half" of a "saddle-mount" means that part of the device which is securely attached to the towed vehicle and maintains a fixed position relative thereto, but does not include the "king-pin."

(3) *Lower-half.* "Lower-half" of a "saddle-mount" means that part of the device which is securely attached to the towing vehicle and maintains a fixed position relative thereto but does not include the "king-pin."

(4) *King-pin.* "King-pin" means that device which is used to connect the "upper-half" to the "lower-half" in such manner as to permit relative movement in a horizontal plane between the towed and towing vehicles.

(j) *Requirements for upper-half of saddle-mounts.* The upper-half of any saddle-mount shall comply with the following requirements:

(1) *Upper-half connection to towed vehicle.* The upper-half shall be securely attached to the frame or axle of the towed vehicle by means of U-bolts or other means providing at least equivalent security.

(2) *U-bolts or other attachments.* U-bolts used to attach the upper half to the towed vehicle shall be made of steel rod, free of defects, so shaped as to avoid at any point a radius of less than 1 inch: *Provided, however,* That a lesser radius may be utilized if the U-bolt is so fabricated as not to cause more than 5 percent reduction in cross-sectional area at points of curvature, in which latter event the minimum radius shall be one-sixteenth inch. U-bolts shall have a diameter not less than required by the following table:

DIAMETER OF U-BOLTS IN INCHES

Weight in pounds of heaviest towed vehicle	Double or triple saddle-mount			
	Front mount	Middle or front mount	Rear mount	Single saddle-mount [1]
Up to 5,000	0.625	0.3625	0.500	0.500
5,000 and over	0.6875	0.625	0.5625	0.5625

[1] The total weight of all the vehicles being towed shall govern. If other devices are used to accomplish the same purposes as U-bolts they shall have at least equivalent strength of U-bolts made of mild steel. Cast Iron shall not be used for clamps or any other holding devices.

(3) *U-bolts and points of support, location.* The distance between the most widely separated U-bolts shall not be less than 9 inches. The distance between the widely separated points where the upper-half supports the towed vehicle shall not be less than 9 inches, except that saddle-mounts employing ball and socket joints shall employ a device which clamps the axle of the towed vehicle throughout a length of not less than 5 inches.

(4) *Cradle-type upper-halves, specifications.* Upper-halves of the cradle-type using vertical members to restrain the towed vehicle from relative movement in the direction of motion of the vehicles shall be substantially constructed and adequate for the purpose. Such cradle-mounts shall be equipped with at least one bolt or equivalent means to provide against relative vertical movement between the upper-half and the towed vehicle. Bolts, if used, shall be at least one-half inch in diameter. Devices using equivalent means shall have at least equivalent strength. The means used to provide against relative vertical motion between the upper-half and the towed vehicle shall be such as not to permit a relative motion of over one-half inch. The distance between the most widely separated points of support between the upper-half and the towed vehicle shall be at least 9 inches.

[1] See footnote 1 to § 393.24(c).

(5) *Lateral movement of towed vehicle.* (i) Towed vehicles having a straight axle or an axle having a drop of less than 3 inches, unless the saddle-mount is constructed in accordance with paragraph (m)(2) of this section, shall be securely fastened by means of chains or cables to the upper-half so as to insure against relative lateral motion between the towed vehicle and the upper-half. The chains or cables shall be at least 5/16-inch diameter and secured by bolts of at least equal diameter.

(ii) Towed vehicles with an axle with a drop of 3 inches or more, or connected by a saddle-mount constructed in accordance with paragraph (m)(2) of this section, need not be restrained by chains or cables provided that the upper-half is so designed as to provide against such relative motion.

(iii) Chains or cables shall not be required if the upper-half is so designed as positively to provide against lateral movement of the axle.

(k) *Requirements for lower half of saddle-mounts.* The lower half of any saddle-mount shall comply with the following requirements:

(1) *U-bolts or other attachments.* U-bolts used to attach the lower half to the towing vehicle shall be made of steel rod, free of defects, so shaped as to avoid at any point a radius of less than 1 inch: *Provided, however,* That a lesser radius may be utilized if the U-bolt is so fabricated as not to cause more than 5 percent reduction in cross-sectional area at points of curvature, in which latter event the minimum radius shall be one-sixteenth inch. U-bolts shall have a total cross-sectional area not less than as required by the following table:

TOTAL CROSS-SECTIONAL AREA OF U-BOLTS IN SQUARE INCHES

Weight in pounds of heaviest towed vehicle	Double or triple saddle-mount			
	Front mount	Middle or front mount	Rear mount	Single saddle-mount [1]
Up to 5,000	1.2	1.0	0.8	0.8
5,000 and over	1.6	1.2	1.0	1.0

[1] The total weight of all the vehicles being towed shall govern. If other devices are used to accomplish the same purposes as U-bolts they shall have at least equivalent strength of U-bolts made of mild steel. Cast iron shall not be used for clamps or any other holding devices.

(2) *Shifting.* Adequate provision shall be made by design and installation to provide against relative movement between the lower-half and the towing vehicle especially during periods of rapid acceleration and deceleration. To insure against shifting, designs of the tripod type shall be equipped with adequate and securely fastened hold-back chains or similar devices.

(3) *Swaying.* (i) Adequate provision shall be made by design and installation to provide against swaying or lateral movement of the towed vehicle relative to the towing vehicle. To insure against swaying, lower-halves designed with cross-members attached to but separable from vertical members shall have such cross-members fastened to the vertical members by at least two bolts on each side. Such bolts shall be of at least equivalent cross-sectional area as those required for U-bolts for the corresponding saddle-mount as given in the table in paragraph (k)(1) of this section. The minimum distance between the most widely separated points of support of the cross-member by the vertical member shall be three inches as measured in a direction parallel to the longitudinal axis of the towing vehicle.

(ii) The lower-half shall have a bearing surface on the frame of the towing vehicle of such dimensions that the pressure exerted by the lower-half upon the frame of the towing vehicle shall not exceed 200 pounds per square inch under any conditions of static loading. Hardwood blocks or blocks of other suitable material, such as hard rubber, aluminum or brakelining, if used between the lower half and the frame of the towing vehicle shall be at least ½ inch thick, 3 inches wide, and a combined length of 6 inches.

(iii) Under no condition shall the highest point of support of the towed vehicle by the upper-half be more than 24 inches, measured vertically, above the top of the frame of the towing vehicle, measured at the point where the lower-half rests on the towing vehicle.

(4) *Wood blocks.* (i) Hardwood blocks of good quality may be used to build up the height of the front end of the towed vehicle, provided that the total height of such wood blocks shall not exceed 8 inches and not over two separate pieces are placed upon each other to obtain such height; however, hardwood blocks, not over 4 in number, to a total height not to exceed 14 inches, may be used if the total cross-sectional area of the U-bolts used to attach the lower-half of the towing vehicle is at least 50 percent greater than that required by the table contained in paragraph (k)(1) of this section, or, if other devices are used in lieu of U-bolts, they shall provide for as great a resistance to bending as is provided by the larger U-bolts above prescribed.

(ii) Hardwood blocks must be at least 4 inches in width and the surfaces between blocks or block and lower-half or block and upper-half shall be planed and so installed and maintained as to minimize any tendency of the towed vehicle to sway or rock.

(5) *Cross-member, general requirements.* The cross-member, which is that part of the lower-half used to distribute the weight of the towed vehicle equally to each member of the frame of the towing vehicle, if used, shall be structurally adequate and properly installed and maintained adequately to perform this function.

(6) *Cross-member, use of wood.* No materials, other than suitable metals, shall be used as the cross-member, and wood may not be used structurally in any manner that will result in its being subject to tensile stresses. Wood may be used in cross-members if supported throughout its length by suitable metal cross-members.

(7) *Lower half strength.* The lower half shall be capable of supporting the loads given in the following table. For the purpose of test, the saddle-mount shall be mounted as normally operated and the load applied through the upper half:

MINIMUM TEST LOAD IN POUNDS

Weight in pounds of heaviest towed vehicle	Double or triple saddle-mount			
	Front mount	Middle or front mount	Rear mount	Single saddle-mount [1]
Up to 5,000	15,000	10,000	5,000	5,000
5,000 and over	20,000	20,000	10,000	10,000

[1] The total weight of all the vehicles being towed shall govern.

(l) *Requirements for kingpins of saddle-mounts.* The kingpin of any saddle-mount shall comply with the following requirements:

(1) *Kingpin size.* (i) Kingpins shall be constructed of steel suitable for the purpose, free of defects, and having a diameter not less than required by the following table:

DIAMETER OF SOLID KINGPIN IN INCHES

Weight in pounds of heaviest towed vehicle	Double or triple saddle-mount							
	Front mount		Middle or front mount		Rear mount		Single saddle-mount [1]	
	Mild steel	H.T.S.[2]	Mild steel	H.T.S.[2]	Mild steel	H.T.S.[2]	Mild steel	H.T.S.[2]
Up to 5,000	1.125	1.000	1.000	0.875	0.875	0.750	0.875	0.750
5,000 and over	1.500	1.125	1.250	1.000	1.000	0.875	1.000	0.875

[1] The total weight of all the vehicles being towed shall govern.
[2] High-tensile steel is steel having a minimum ultimate strength of 65,000 pounds per square inch.

(ii) If a ball and socket joint is used in place of a kingpin, the diameter of the neck of the ball shall be at least equal to the diameter of the corresponding solid kingpin given in the above table. If hollow kingpins are used, the metallic cross-sectional area shall be at least equal to the cross-sectional area of the corresponding solid kingpin.

(2) *Kingpin fit.* If a kingpin bushing is not used, the king-pin shall fit snugly into the upper and lower-halves but shall not bind. Those portions of the upper or lower-halves in moving contact with the kingpin shall be smoothly machined with no rough or sharp edges. The bearing surface thus provided shall not be less in depth than the radius of the kingpin.

(3) *Kingpin bushing on saddle-mounts.* The kingpin of all new saddle-mounts acquired and used shall be snugly enclosed in a bushing at least along such length of the kingpin as may be in moving contact with either the upper or lower-halves. The bearing surface thus provided shall not be less in depth than the radius of the kingpin.

(4) *Kingpin to restrain vertical motion.* The kingpin shall be so designed and installed as to restrain the upper-half from moving in a vertical direction relative to the lower-half.

(m) *Additional requirements for saddle-mounts.* Saddle-mounts shall comply with the following requirements:

(1) *Bearing surface between upper and lower-halves.* The upper and lower-halves shall be so constructed and connected that the bearing surface between the two halves shall not be less than 16 square inches under any conditions of angularity between the towing and towed vehicles: *Provided, however,* That saddle-mounts using a ball and socket joint shall have a ball of such dimension that the static bearing load shall not exceed 800 pounds per square inch, based on the projected cross-sectional area of the ball: *And further provided,* That saddle-mounts having the upper-half supported by ball, taper, or roller-bearings shall not have such bearings loaded beyond the limits prescribed for such bearings by the manufacturer thereof. The upper-half shall rest evenly and smoothly upon the lower-half and the contact surfaces shall be lubricated and maintained so that there shall be a minimum of frictional resistance between the parts.

(2) *Saddle-mounts, angularity.* All saddle-mounts acquired and used shall provide for angularity between the towing and towed vehicles due to vertical curvatures of the highway. Such means shall not depend upon either the looseness or deformation of the parts of either the saddle-mount or the vehicles to provide for such angularity.

(3) *Tracking.* The saddle-mount shall be so designed, constructed, maintained, and installed that the towed vehicle or vehicles will follow substantially in the path of the towing vehicle without swerving. Towed vehicles shall not deviate more than 3 inches to either side of the path of the towing vehicle when moving in a straight line.

(4) *Prevention of frame bending.* Where necessary, provision shall be made to prevent the bending of the frame of the towing vehicle by insertion of suitable blocks inside the frame channel to prevent kinking. The saddle-mount shall not be so located as to cause deformation of the frame by reason of cantilever action.

(5) *Extension of frame.* No saddle-mount shall be located at a point to the rear of the frame of a towing vehicle.

(6) *Nuts, secured.* All nuts used on bolts, U-bolts, king-pins, or in any other part of the saddle-mount shall be secured against accidental disconnection by means of cotter-keys, lock-washers, double nuts, safety nuts, or equivalent means. Parts shall be so designed and installed that nuts shall be fully engaged.

(7) *Inspection of all parts.* The saddle-mount shall be so designed that it may be disassembled and each separate part inspected for worn, bent, cracked, broken, or missing parts.

(8) *Saddle-mounts, marking.* Every new saddle-mount acquired and used in driveaway-towaway operations by a motor carrier shall have the upper-half and the lower-half separately marked with the following certification of the manufacturer thereof (or words of equivalent meaning).

This saddle-mount complies with the requirements of the Federal Highway Administration for vehicles up to 5,000 pounds (or over 5,000 pounds):

Manufactured _____
(Month and year)

by _____
(Name of manufacturer)

(n) *Requirements for devices used to connect motor vehicles or parts of motor vehicles together to form one vehicle—*

(1) *Front axle attachment.* The front axle of one motor vehicle intended to be coupled with another vehicle as defined in paragraph (g)(2)(ii) of this section shall be attached with U-bolts meeting the requirements of paragraph (j)(2) of this section.

(2) *Rear axle attachment.* The rear axle of one vehicle shall be coupled to the frame of the other vehicle by means of a connecting device which when in place forms a rectangle. The device shall be composed of two pieces, top and bottom. The device shall be made of 4-inch by ½-inch steel bar bent to shape and shall have the corners reinforced with a plate at least 3 inches by ½ inch by 8 inches long. The device shall be bolted together with ¾-inch bolts and at least three shall be used on each side. Wood may be used as spacers to keep the frames apart and it shall be at least 4 inches square.

(Sec. 12, 80 Stat. 931; 49 U.S.C. 1651 note)

Subpart G—Miscellaneous Parts and Accessories

§ 393.75 Tires.

(a) No motor vehicle shall be operated on tires which have been worn so smooth as to expose any tread fabric or which have any other defect likely to cause failure. No bus shall be operated on any tire which does not have tread configurations on that part of the tire which is in contact with the road surface. No buses shall be operated with regrooved, recapped, or retreaded tires on the front wheels.

§ 393.76 Sleeper berths.

Every sleeper berth shall comply with the following requirements:

(a) *Ready exits.* The sleeper berth shall be so designed, constructed, and maintained as to provide the occupant, without the assistance of other persons, with at least two exits at opposite sides of the vehicle, each being at least 18 inches high and 21 inches wide: *Provided,* That if the berth space is part of the original cab or made part of the cab by remodeling of the cab, and has a doorway or opening at least 18 inches high and 36 inches wide between the berth and the driving seat, the requirement for two exits need not apply. It is further provided that the ready means of exit from sleeper berths into the driver's compartment, on sleeper berths which are installed on motor vehicles before December 31, 1962, shall have sufficient area to contain an ellipse having a major axis of 24 inches and a minor axis of 16 inches.

(b) *Equipment.* The sleeper berth shall be properly equipped for sleeping and shall be equipped with springs and a mattress or an innerspring or air mattress, or a cellular rubber mattress at least four inches in thickness and adequate bed-clothing and blankets. The sleeper berth shall be so constructed as to permit the ready removal of the mattress and bed-clothing for cleaning purposes.

(c) *Communication with driver.* Unless the sleeper berth is located within the driver's compartment or is provided with a direct entrance thereto means shall be provided to enable the occupant of the berth to communicate with the driver. Such means may include telephones, speaker tubes, buzzers, pull cords, or other mechanical or electrical means.

(d) *Size.* The sleeper berth shall be of such dimensions as to provide at least the following inside dimensions: 72 inches long measured on the center line of the longitudinal axis, 18 inches wide at its center, 18 inches deep at its center, measured from top of mattress. The sleeper berth shall be so constructed as not unduly to hinder the ready entrance or exit of the occupant.

(e) *Ventilation.* Sleeper berths shall be provided with louvers or other means of providing proper ventilation but shall be reasonably tight against dust and rain.

(f) *Protection against exhaust and fuel systems.* Sleeper berths shall not be so located as to permit the ready entrance of gases from the exhaust system. The sleeper berth shall not be so located as to be overheated or damaged by reason of its proximity to the exhaust system. The sleeper berth shall not be so located that defects in the fuel system would result in leakage on or in the sleeper berth.

(g) *Location limited.* No sleeper berth shall be located within the cargo space of a motor vehicle unless such berth is completely and securely compartmentized from the remainder of the cargo space. No sleeper berth shall be installed in or on any semitrailer or full trailer other than house trailers.

(h) *New vehicles, additional specifications.* Every sleeper berth installed in or on any truck or truck-tractor shall comply with the following requirements,

in addition to those set forth in paragraphs (a) to (g) of this section:

(1) *Berth to be part of cab.* Every sleeper berth shall be located within the cab or be immediately adjacent thereto, or be located within the cargo space of a truck. Such sleeper berth shall be securely fixed with relation to the cab and shall be provided with a direct and ready means of exit into the driver's compartment, which exit shall comply with the requirements of paragraph (a) of this section.

(2) *Berths, dimensions.* The sleeper berth shall be so constructed and maintained as to provide, at least, the following inside dimensions: 75 inches long measured on the centerline of the longitudinal axis, 21 inches wide and 21 inches deep measured from the top of the mattress, of generally rectangular shape, except that the horizontal corners and the roof corners may be rounded to radii not exceeding 10½ inches.

§ 293.77 Heaters.

On every motor vehicle, every heater shall comply with the following requirements:

(a) *Definition.* The term "heater" means any device or assembly of devices or appliances used to heat the interior of any motor vehicle.

(b) *Prohibited types of heaters.* The installation or use of the following types of heaters is prohibited:

(1) *Exhaust heaters.* Any type of exhaust heater in which the engine exhaust gases are conducted into or through any space occupied by persons or any heater which conducts engine compartment air into any such space.

(2) *Unenclosed flame heaters.* Any type of heater employing a flame which is not fully enclosed, except that such heaters are not prohibited when used for heating the cargo of tank motor vehicles.

(3) *Heaters permitting fuel leakage.* Any type of heater from the burner of which there could be spillage or leakage of fuel upon the tilting or overturning of the vehicle in which it is mounted.

(4) *Heaters permitting air contamination.* Any heater taking air, heated or to be heated, from the engine compartment or from direct contact with any portion of the exhaust system; or any heater taking air in ducts from the outside atmosphere to be conveyed through the engine compartment, unless said ducts are so constructed and installed as to prevent contamination of the air so conveyed by exhaust or engine compartment gases.

(5) *Solid fuel heaters except wood charcoal.* Any stove or other heater employing solid fuel except wood charcoal.

(6) *Portable heaters.* Portable heaters shall not be used in any space occupied by persons except the cargo space of motor vehicles which are being loaded or unloaded.

(c) *Heater specifications.* All heaters shall comply with the following specifications:

(1) *Heating elements, protection.* Every heater shall be so located or protected as to prevent contact therewith by occupants, unless the surface temperature of the protecting grilles or of any exposed portions of the heaters, inclusive of exhaust stacks, pipes, or conduits shall be lower than would cause contact burns. Adequate protection shall be afforded against igniting parts of the vehicle or burning occupants by direct radiation. Wood charcoal heaters shall be enclosed within a metal barrel, drum, or similar protective enclosure which enclosure shall be provided with a securely fastened cover.

(2) *Moving parts, guards.* Effective guards shall be provided for the protection of passengers or occupants against injury by fans, belts, or any other moving parts.

(3) *Heaters, secured.* Every heater and every heater enclosure shall be securely fastened to the vehicle in a substantial manner so as to provide against relative motion within the vehicle during normal usage or in the event the vehicle overturns. Every heater shall be so designed, constructed, and mounted as to minimize the likelihood of disassembly of any of its parts, including exhaust stacks, pipes, or conduits, upon overturn of the vehicle in or on which it is mounted. Wood charcoal heaters shall be secured against relative motion within the enclosure required by subparagraph (1) of this paragraph, and the enclosure shall be securely fastened to the motor vehicle.

(4) *Relative motion between fuel tank and heater.* When either in normal operation or in the event of overturn, there is or is likely to be relative motion between the fuel tank for a heater and the heater, or between either of such units and the fuel lines between them, a suitable means shall be provided at the point of greatest relative motion so as to allow this motion without causing failure of the fuel lines.

(5) *Operating controls to be protected.* On every bus, except buses having a seating capacity of eight or less persons, means shall be provided to prevent unauthorized persons from tampering with the operating controls. Such means may include remote control by the driver; installation of controls at inaccessible places; control of adjustments by key or keys; enclosure of controls in a locked space, locking of controls, or other means of accomplishing this purpose.

(6) *Heater hoses.* Hoses for all hot water and steam heater systems shall be specifically designed and constructed for that purpose.

(7) *Electrical apparatus.* Every heater employing any electrical apparatus shall be equipped with electrical conductors, switches, connectors, and other electrical parts of ample current-carrying capacity to provide against overheating; any electric motor employed in any heater shall be of adequate size and so located that it will not be overheated; electrical circuits shall be provided with fuses and/or circuit breakers to provide against electrical overloading; and all electrical conductors employed in or leading to any heater shall be secured against dangling, chafing, and rubbing and shall have suitable protection against any other condition likely to produce short or open circuits.

NOTE: Electrical parts certified as proper for use by Underwriters' Laboratories, Inc., shall be deemed to comply with the foregoing requirements.

(8) *Storage battery cage.* If a separate storage battery is located within the personnel or cargo space, such battery shall be securely mounted and equipped with nonspill filler caps.

(9) *Combustion heater exhaust construction.* Every heater employing the combustion of oil, gas, liquefied petroleum gas, or any other combustible material shall be provided with substantial means of conducting the products of combustion to the outside of the vehicle: *Provided, however,* That this requirement shall not apply to heaters used solely to heat the cargo space of motor vehicles where such motor vehicles or heaters are equipped with means specifically designed and maintained so that the carbon monoxide concentration will never exceed 0.2 percent in the cargo space. The exhaust pipe, stack, or conduit if required shall be sufficiently substantial and so secured as to provide reasonable assurance against leakage or discharge of products of combustion within the vehicle and, if necessary, shall be so insulated as to make unlikely the burning or charring of parts of the vehicle by radiation or by direct contact. The place of discharge of the products of combustion to the atmosphere and the means of discharge of such products shall be such as to minimize the likelihood of their reentry into the vehicle under all operating conditions.

(10) *Combustion chamber construction.* The design and construction of any combustion-type heater except cargo space heaters permitted by the proviso of subparagraph (9) of this paragraph and unenclosed flame heaters used for heating cargo of tank motor vehicles shall be such as to provide against the leakage of products of combustion into air to be heated and circulated. The material employed in combustion chambers shall be such as to provide against leakage because of corrosion, oxidation, or other deterioration. Joints between combustion chambers and the air chambers with which they are in thermal and mechanical contact shall be so designed and constructed as to prevent leakage between the chambers and the materials employed in such joints shall have melting points substantially higher than the maximum temperatures likely to be attained at the points of jointure.

(11) *Heater fuel tank location.* Every bus, except those having a seating capacity of eight or less persons, with heaters of the combustion type shall have fuel tanks therefor located outside of and lower than the passenger space. When necessary, suitable protection shall be afforded by shielding or others means

against the puncturing of any such tank or its connections by flying stones or other objects.

(12) *Heater, automatic fuel control.* Gravity or siphon feed shall not be permitted for heaters using liquid fuels. Heaters using liquid fuels shall be equipped with automatic means for shutting off the fuel or for reducing such flow of fuel to the smallest practicable magnitude, in the event of overturn of the vehicle. Heaters using liquefied petroleum gas or fuel shall have the fuel line equipped with automatic means at the source of supply for shutting off the fuel in the event of separation, breakage, or disconnection of any of the fuel lines between the supply source and the heater.

(13) *"Tell-tale" indicators.* Heaters subject to subparagraph (14) of this paragraph and not provided with automatic controls shall be provided with "tell-tale" means to indicate to the driver that the heater is properly functioning. This requirement shall not apply to heaters used solely for the cargo space in semi-trailers or full trailers.

(14) *Shut-off control.* Automatic means, or manual means if the control is readily accessible to the driver without moving from the driver's seat, shall be provided to shut off the fuel and electrical supply in case of failure of the heater to function for any reason, or in case the heater should function improperly or overheat. This requirement shall not apply to wood charcoal heaters or to heaters used solely to heat the contents of cargo tank motor vehicles, but wood charcoal heaters must be provided with a controlled method of regulating the flow of combustion air.

(15) *Certification required.* Every combustion-type heater, except wood charcoal heaters, the date of manufacture of which is subsequent to December 31, 1952, and every wood charcoal heater, the date of manufacture of which is subsequent to September 1, 1953, shall be marked plainly to indicate the type of service for which such heater is designed and with a certification by the manufacturer that the heater meets the applicable requirements for such use. For example, "Meets I.C.C. Bus Heater Requirements," Meets I.C.C. Flue-Vented Cargo Space Heater Requirements," and after December 31, 1967, such certification shall read "Meets FHWA Bus Heater Requirements," "Meets FHWA Flue-Vented Cargo Space Heater Requirements," etc.

§ 293.78 Windshield wipers.

(a) Every bus, truck, and truck tractor, having a windshield, shall be equipped with at least two automatically-operating windshield wiper blades, one on each side of the centerline of the windshield, for cleaning rain, snow, or other moisture from the windshield and which shall be in such condition as to provide clear vision for the driver, unless one such blade be so arranged as to clean an area of the windshield extending to within 1 inch of the limit of vision through the windshield at each side: *Provided, however,* That in driveaway-towaway operations this section shall apply only to the driven vehicle: *And provided further,* That one windshield wiper blade will suffice under this section when such driven vehicle in driveaway-towaway operation constitutes part or all of the property being transported and has no provision for two such blades.

(b) Every bus, truck, and truck tractor, the date of manufacture of which is subsequent to June 30, 1953, which depends upon vacuum to operate the windshield wipers, shall be so constructed that the operation of the wipers will not be materially impaired by change in the intake manifold pressure.

§ 293.79 Defrosting device.

Every bus, truck, and truck tractor having a windshield, when operating under conditions such that ice, snow, or frost would be likely to collect on the outside of the windshield or condensation on the inside of the windshield, shall be equipped with a device or other means, not manually operated, for preventing or removing such obstructions to the driver's view: *Provided, however,* That this section shall not apply in driveaway-towaway operations when the driven vehicle is a part of the shipment being delivered.

§ 293.80 Rear-vision mirrors.

Every bus, truck, and truck-tractor shall be equipped with two rear-vision mirrors, one at each side firmly attached to the outside of the motor vehicle and so located as to reflect to the driver a view of the highway to the rear along both sides of the vehicle; *Provided, however,* That only one outside mirror shall be required, which shall be at the driver's side, on trucks which are so constructed that the driver has a view to the rear by means of an interior mirror: *And provided further,* That in driveaway-towaway operations the driven vehicle shall have at least one mirror furnishing a clear view to the rear.

§ 293.81 Horn.

Every bus, truck, truck-tractor, and every driven motor vehicle in driveaway-towaway operations shall be equipped with a horn and actuating elements which shall be in such condition as to give an adequate and reliable warning signal.

§ 293.82 Speedometer.

Every bus, truck, and truck-tractor shall be equipped with a speedometer indicating vehicle speed in miles per hour, which shall be operative with reasonable accuracy; however, this requirement shall not apply to any driven vehicle which is part of a shipment being delivered in a driveaway-towaway operation if such driven vehicle is equipped with an effective means of limiting its maximum speed to 45 miles per hour, nor to any towed vehicle.

§ 293.83 Exhaust system location.

No part of the exhaust system of any motor vehicle shall be so located as would be likely to result in burning, charring, or damaging the electrical wiring, the fuel supply, or any combustible part of the motor vehicle. The exhaust system of every bus shall discharge to the atmosphere at or within 6 inches forward of the rearmost part of the bus. The exhaust system of every truck and truck-tractor shall discharge to the atmosphere at a location to the rear of the cab or, if the exhaust projects above the cab, at a location near the rear of the cab.

§ 293.84 Floors.

The flooring in all motor vehicles shall be substantially constructed, free of unnecessary holes and openings, and shall be maintained so as to minimize the entrance of fumes, exhaust gases, or fire. Floors shall not be permeated with oil or gasoline, and shall have the interior surface in good condition.

§ 293.85 Protection against shifting cargo.

Every motor vehicle carrying cargo, the nature of which is such that the shifting thereof due to rapid deceleration or accident would be likely to result in penetration or crushing of the driver's compartment must, in addition to having the load securely fastened or braced, be provided with header boards or similar devices of sufficient strength to prevent such shifting and penetration. All motor vehicles shall be so constructed or be equipped with adequate cargo fastening devices so that the load will not penetrate the cargo compartment wall when subjected to the maximum braking deceleration of which the vehicle is capable.

§ 293.86 Rear end protection.

Every motor vehicle, except truck-tractors, pole trailers, and vehicles engaged in driveaway-towaway operations, the date of manufacture of which is subsequent to December 31, 1952, which is so constructed that the body or the chassis assembly if without a body has a clearance at the rear end of more than 30 inches from the ground when empty, shall be provided with bumpers or devices serving similar purposes which shall be so constructed and located that: (a) The clearance between the effective bottom of the bumpers or devices and the ground shall not exceed 30 inches with the vehicle empty; (b) the maximum distance between the closest points between bumpers, or devices, if more than one is used, shall not exceed 24 inches; (c) the maximum transverse distance from the widest part of the motor vehicle at the rear to the bumper or device shall not exceed 18 inches; (d) the bumpers or devices shall be located not more than 24 inches forward of the extreme rear of the vehicle; and (e) the bumpers or devices shall be substantially constructed and firmly attached. Motor vehicles constructed and maintained so that the body, chassis, or other parts of

the vehicle afford the rear end protection contemplated shall be deemed to be in compliance with this section.

§ 293.87 Flags on projecting loads.

Any motor vehicle having a load which extends beyond the sides or more than four feet beyond the rear shall have the extremities of the load marked with a red flag, not less than 12 inches square, at each point where a lamp is required by § 293.18.

§ 293.88 Television receivers.

Any motor vehicle equipped with a television viewer, screen or other means of visually receiving a television broadcast shall have the viewer or screen located in the motor vehicle at a point to the rear of the back of the driver's seat if such viewer or screen is in the same compartment as the driver and the viewer or screen shall be so located as not to be visible to the driver, while he is driving the motor vehicle. The operating controls for the television receiver shall be so located that the driver cannot operate them without leaving the driver's seat.

§ 293.89 Buses, driveshaft protection.

Any driveshaft extending lengthways under the floor of the passenger compartment of a bus, except buses having a seating capacity of eight or less persons, shall be protected by means of at least one guard or bracket at that end of the shaft which is provided with a sliding connection (spline or other such device) to prevent the whipping of the shaft in the event of failure thereof or of any of its component parts. A shaft contained within a torque tube shall not require any such device.

§ 293.90 Buses, standee line or bar.

Except as provided below, every bus, which is designed and constructed so as to allow standees, shall be plainly marked with a line of contrasting color at least 2 inches wide or equipped with some other means so as to indicate to any person that he is prohibited from occupying a space forward of a perpendicular plane drawn through the rear of the driver's seat and perpendicular to the longitudinal axis of the bus. Every bus shall have clearly posted at or near the front, a sign with letters at least one-half inch high stating that it is a violation of the Federal Highway Administration's regulations for a bus to be operated with persons occupying the prohibited area. The requirements of this section shall not apply to any bus being transported in driveaway-towaway operation or to any level of the bus other that the level in which the driver is located nor shall they be construed to prohibit any seated person from occupying permanent seats located in the prohibited area provided such seats are so located that persons sitting therein will not interfere with the driver's safe operation of the bus.

§ 293.91 Buses, aisle seats prohibited.

No bus, except buses having a seating capacity of eight or less persons, shall be equipped with aisle seats unless such seats are so designed and installed as to automatically fold and leave a clear aisle when they are unoccupied. No bus shall be operated if any seat therein is not securely fastened to the vehicle: *Provided, however*, That this section shall not apply with respect to any bus while engaged exclusively in the transportation of agricultural workers in charter transportation if such bus carries not to exceed eight passengers on temporary folding seats located in the center aisle of the bus: *And provided further*, That if such temporary seats are used, the carrier at the end of each month in which such transportation is provided, shall promptly file a report with the Director, Bureau of Motor Carrier Safety, Federal Highway Administration, Washington, D.C. 20591, containing the following information: (a) Number of bus trips during the month involving the use of such temporary seats; (b) Aggregate passenger miles of such trips; (c) Details concerning any injuries sustained by persons riding on the temporary seats; (d) Details of injuries sustained by others in same bus not riding the temporay seats.

(Sec. 12, 80 Stat. 931; 49 U.S.C. 1651 note)

§ 293.92 Buses, marking emergency doors.

Any bus equipped with an emergency door shall have such door clearly marked in letters at least 1 inch in height with the words "Emergency Door" or "Emergency Exit." Emergency doors shall also be identified by a red electric lamp readily visible to passengers which lamp shall be lighted at all times when lamps are required to be lighted by § 292.30.

Subpart H—Emergency Equipment

§ 293.95 Emergency equipment on all power units.

On every bus, truck, truck tractor, and every driven vehicle in driveaway-towaway operation, there shall be:

(a) *Fire extinguisher.* At least one fire extinguisher with physical characteristics and fire extinguishing ability equivalent to or better than fire extinguishers which qualify under Classification B of the Standards of Underwriters' Laboratories, Inc., 207 East Ohio Street, Chicago, Illinois 60611, in effect on June 30, 1951. The extinguisher shall utilize an extinguishing agent which does not need protection from freezing and shall be properly filled and securely mounted in a bracket. The minimum size shall be 1½-quart carbon tetrachloride type, 4-pound carbon dioxide type, 4-pound dry chemical type, or extinguishers of other types having extinguishing capacity equivalent to any of these types. Two extinguishers may be carried to obtain the capacity required. It is further provided that a fire extinguisher marked and labeled as rated not less than 4 B:C under Standards of Underwriters' Laboratories in effect on January 1, 1961, if equipped with a gauge or similar device to indicate whether or not the fire extinguisher is fully charged, or is designed and constructed so as to permit visual inspection to determine if it is fully charged may be used in lieu of the fire extinguishers specified in this subparagraph, whether they meet the size requirements or not if all other pertinent requirements herein are met. This requirement shall not apply to any bus having a seating capacity of eight or less persons or any driveaway-towaway operation.

(b) [Reserved]

(c) *Spare fuses.* At least one spare fuse or other overload protective device, if the devices used are not of a reset type, for each kind and size used. In driveaway-towaway operations, spares located on any one of the vehicles will be deemed adequate.

(d) *Tire chains.* One set of tire chains for at least one driving wheel on each side, during the time when likely to encounter conditions requiring them, except that this requirement shall not apply to motor vehicles engaged in driveaway-towaway operations if such motor vehicles are not operated when such conditions exist.

(e) [Reserved]

(f) *Warning devices for stopped vehicles.* One of the following combinations of warning devices:

(1) Three flares (liquid-burning pot torches) and three fusees and two red flags; or

(2) Three red electric lanterns and two red flags; or

(3) Three red emergency reflectors and two red flags.

(4) Flares (pot torches), fusees, oil lanterns, or any signal produced by a flame shall not be carried on any motor vehicle transporting explosives, class A or class B; any cargo tank motor vehicle used for the transportation of flammable liquids or flammable compressed gas whether loaded or empty; or any motor vehicle using compressed gas as a motor fuel; but in lieu of such flares or fusees, three electric lanterns or three red emergency reflectors shall be carried.

(5) The protective devices used shall comply with the requirements given in paragraphs (g), (h), (i), (j), and (k) of this section.

(g) *Requirements for flares.* Flares (pot torches) shall be adequate and reliable and shall comply with the requirements contained in the SAE Recommended Practice[1] "Liquid-Burning Emergency Flares."

(h) *Requirements for red electric lanterns.* Red electric lanterns shall be adequate, reliable, equipped with a battery or batteries within each unit, and shall comply with the requirements contained in the SAE Recommended Practice[1] "Electric Emergency Lanterns."

(i) *Requirements for red emergency reflectors.* Each red emergency reflector, whether triangular or of other design, shall conform to the following requirements:

(1) *Reflecting surfaces required.* Each reflector shall either be composed of not less than two approximately parallel

[1] See footnote 1 to § 293.24(c).

reflecting elements on each side, front and back, or be an equilateral triangle, with one point upward, with sides not less than 15 inches in length and not less than 2 inches in width, with reflecting surfaces on each leg of the triangle, front and back. The area within the sides of the triangle shall be open.

(2) *Reflecting surfaces, candlepower.* The aggregate candlepower output of all the reflecting elements or surfaces in one direction shall not be less than 12 when tested in a perpendicular position with observation at one-third degree when tested as specified for Class A reflex reflectors in the Photometric Test contained in the SAE Recommended Practice[1] "Reflex Reflectors."

(3) *Reflecting surfaces, protection.* If the reflector or the reflecting elements are so designed or constructed that the reflecting surfaces would be adversely affected by dust, soot, or other foreign matter or contacts with other parts of the reflector or its container, then such reflecting surfaces shall be adequately sealed within the body of the reflector.

(4) *Reflecting surfaces to be perpendicular.* Every reflector shall be so constructed that, when the reflector is properly placed, every reflecting element or surface is in a plane perpendicular to the plane of the roadway surface. Reflectors which are collapsible shall be provided with means for locking the reflector elements or surfaces in the required position; such locking means shall be readily capable of adjustment without the use of tools or special equipment.

(5) *Reflectors, mechanical adequacy.* Every reflector shall be of such weight and dimensions as to remain stationary when subjected to a 40-mile-per-hour wind when properly placed on any clean, dry, paved road surface. The reflector shall be so constructed as to withstand reasonable shocks without breakage.

(6) *Reflectors, incorporation in holding device.* Each set of reflectors and the reflecting elements or surfaces incorporated therein shall be adequately protected by enclosure in a box, rack, or other adequate container specially designed and constructed so that the reflectors may be readily extracted for use.

(7) *Certification.* Every red emergency reflector designed and constructed to comply with these requirements shall be plainly marked with the certification of the manufacturer that it complies therewith.

(j) *Requirements for fusees.* Each fusee shall be adequate, reliable, capable of burning at least 15 minutes, and shall comply with the specifications of the Bureau of Explosives, 30 Vesey Street, New York, N.Y. 10017, dated December 15, 1944, and be so marked.

(k) *Requirements for red flags.* Red flags shall be not less than 12 inches square, with standards adequate to maintain the flags in an upright position.

§ 293.96 Buses, additional emergency equipment.

On every bus, except buses engaged in driveaway-towaway operations there shall be:

(a) All items required by § 293.95, and in addition,

(b) One hand axe, except for buses having a seating capacity of eight or less persons,

(c) One first-aid kit complying with the following requirements:

(1) *Size of kit.* The kit shall be of heavy duty 10-unit type or larger, or have contents at least equivalent in quality and number to the contents of such a kit.

(2) *Material for case and cover.* The case and the cover shall be substantially constructed of sheet steel, wood, fiber, or other durable material. If made of sheet steel, the case and cover shall be of metal at least number 24 U.S. Gage (nominal).

(3) *Tightness of case.* The case and cover shall be so constructed, including corners, covers, and closure means, that it shall be reasonably dust and weather proof when the cover is in the closed position, or the kit shall be mounted in a protected location within the passenger compartment of the motor vehicle so as to be reasonably dust and weather proof.

(4) *Opening and stop for cover.* If made of sheet steel or other metals, the case shall be so designed and constructed that the cover will be capable of being easily opened to an angle of 90° to 100° with the case and a substantial stop shall be provided at the angle of full opening; such stop shall not interfere with the smooth operation of the cover.

(5) *Method of hinging cover.* If made of metal, the cover shall be attached to the case by, at least, two substantial hinges or by a continuous piano-type hinge. If nonmetallic, the cover shall be attached by either a sliding or a hinged joint; if hinged, it shall be as prescribed for metallic construction.

(6) *Size of case.* The dimensions of the case shall be such as to permit the contents to be easily extracted and yet maintain the contents in a relatively fixed position.

(7) *Contents of kit.* The kit shall contain at least the contents specified, in not less than the quantities shown, in either of the two following types of kits:

A—Unit Type Kit

4-inch bandage compress	1 package.
2-inch bandage compress	1 package.
1-inch adhesive compress	8 packages.
40-inch triangular bandage with two safety pins.	1 package.
Burn ointment	1 package.
Iodine applicator or applicator of other antiseptic solutions of, at least, equivalent bacteriological properties.	1 package.
Wire or wood splint	1 package.
Tourniquet	1 package.

B—Commercial Type Kit

3-inch by 3-inch sterile gauze pads	Package of 12.
Gauze bandages as follows (each package opened to be replaced by unopened package):	
1-inch by 10 yards	2 packages.
2-inch by 10 yards	2 packages.
3-inch by 10 yards	1 package.
¾-inch adhesive compress	Package of 24.
1-inch by 2½ yards adhesive tape.	1 roll.
40-inch triangular bandage with two safety pins.	1 package.
Burn ointment	1-ounce tube.
Iodine applicator or applicator of other antiseptic solution of, at least, equivalent bacteriological properties.	1 package.
Wire or wood splint	1 package.
Tourniquet	1 package.
Scissors	1.

Each kit shall be provided with instructions for the use of the contents. The contents of the kits, whether required by Parts 290–297 of this subchapter or in addition thereto, either in number or kind, shall conform either to the requirements contained in Federal Specification GG–K–391(a) (Oct. 19, 1964), as amended March 3, 1965, or the standards as found in the Fifteenth Revision of the Pharmacopoeia of the United States and Supplement No. 2 thereof dated September 1, 1958, except that the 40-inch triangular bandage in the commercial type kit may be non-sterile and not compressed in the required manner if the package containing it clearly indicates that the contents are not sterile, and except that no specification type scissor is required. Federal Specification GG–K–391(a) and amendments may be obtained from the Superintendent of Documents, Washington, D.C. 20402, at a cost of 15 cents per copy.

[1] See footnote 1 to § 293.24(c).

PART 294—RECORDING AND REPORTING OF ACCIDENTS

Sec.	
294.1	Accident reports confidential.
294.2	Definitions.
294.3	Accident Register.
294.4	Accident reporting.
294.5	Filing of accident reports of Forms MCS 50–B and MCS 50–T.
294.7	Immediate notice of fatal accidents.
294.8	Deaths occurring before filing report.
294.9	Notice of death after filing report.
294.10	Carrier to assist in investigation.
294.11	Supplies of accident report Forms MCS 50–B and MCS 50–T.
294.12	Instructions for preparing accident reports.

AUTHORITY: The provisions of this Part 294 issued under sec. 204, 49 Stat. 546, as amended, Sec. 220, 49 U.S.C. 320.

§ 294.1 Accident reports confidential.

Accident reports made by motor carriers in compliance with the regulations in this part shall be for the information of the Federal Highway Administration, and shall not be open to public inspection: *Provided however*, When the Federal Highway Administrator considers such action consistent with the public interest and necessary to the proper administration and enforcement of the provisions of Part II of the Interstate Commerce Act, or of orders, rules,

and regulations issued thereunder, he may in his discretion, upon prior approval of an application of a Bureau of the Federal Highway Administration, allow such reports, or excerpts therefrom to be offered in evidence, (a) by attorneys in the employ of the Federal Highway Administration in a Federal agency proceeding, and (b) by attorneys in the employ of the Department of Transportation or by U.S. attorneys in a court proceeding instituted by or at the request of the Federal Highway Administration.

§ 294.2 Definitions.

(a) *Recordable accident.* Any occurrence in the interstate, foreign, or intrastate operations of a motor carrier subject to the Department of Transportation Act (sec. 6, 80 Stat. 937; 49 U.S.C. 1655(e)) which involves a motor vehicle, whether loaded or empty, and which results in the death or injury of a person, or in property damage to any and all vehicles, cargo, and other property to an extent of $250 or more; except those occurrences which take place in boarding or alighting from stationary motor vehicles or in loading or unloading cargoes, unless explosives (or other dangerous articles as defined in Parts 171 to 190 of this chapter) or fire is involved. The term "recordable accidents" shall include, but is not limited to, the following:

(1) The contact of a motor vehicle, vehicle part or vehicle accessory, or of the cargo of a motor vehicle with another vehicle, a person, or an animal or any inanimate object.

(2) The overturn, running off the roadway, or rolling away from a parked position, by a motor vehicle,

(3) The unintended separation of units of a combination vehicle.

(4) Fire or explosion in or on a motor vehicle.

(5) The shifting of cargo within or upon a motor vehicle resulting in damage to property other than the cargo itself.

(6) The falling of cargo or of any person from a moving motor vehicle.

(7) Escape of any injurious, flammable or contaminating solid, liquid or gas, or of radiation from the cargo or other contents of a motor vehicle.

(8) Injury, as defined in paragraph (b) of this section, to any person in or on a motor vehicle, including injury resulting from inhalation of fumes.

(b) *Injury.* Bodily harm to any person resulting in one or more of the following:

(1) Loss of consciousness.

(2) Necessity to carry the person from the scene.

(3) Necessity for medical treatment.

(4) Disability which prevents the discharge of normal duties or the pursuit of normal activities beyond the day of the accident.

(c) *Property damage.* Physical damage, in dollars, to any and all vehicles, cargo, and other property, based upon actual cost or reliable estimates.

§ 294.3 Accident Register.

(a) Every motor carrier shall have in its files at its principal place of business—or at such regional office or offices as the Director, Bureau of Motor Carrier Safety, upon application by the motor carrier, may approve—a register, maintained currently and containing at least the following items of information with respect to each recordable accident:

(1) Accident Claim number, or carrier's file number.

(2) Date and hour of accident.

(3) Location of the accident (city or town and State).

(4) Name of driver.

(5) Numbers of deaths and of nonfatal injuries, and amounts of damage to property, in dollars.

(6) Nature of accident such as collision, overturn, fire, cargo damage, etc.

(7) Local or intercity operation (Did run extend beyond municipal commercial zone?).

(b) A copy of each report of a recordable accident made to the Bureau of Motor Carrier Safety, Federal Highway Administration, to any State or local regulatory agency, or to any insurance company, shall be filed with the Accident Register and shall be arranged in accordance with an orderly plan which is coordinated with the entries on the Accident Register.

(c) Retention of Accident Register: The Accident Register provided for in paragraph (a) of this section and the additional information provided for in paragraph (b) of this section, shall be retained in the carrier's files at least for three years following occurrence of any accident so recorded.

(Sec. 12, 80 Stat. 931; 49 U.S.C. 1651 note)

§ 294.4 Accident reporting.

(a) Every motor carrier, except private carriers of property, shall file a report prepared on the form prescribed in this section for such carrier's use, for each recordable accident (as defined in § 294.2(a)) which occurs in the operations of such carrier.

(b) Reports of accidents involving passenger-carrying vehicles: A detailed report of every recordable accident involving a bus operated by him or it shall be prepared by the motor carrier on Form MCS 50–B.

(c) Reporting of accidents involving property-carrying vehicles: A detailed report of every recordable accident involving a motor vehicle other than a bus operated by him or it shall be prepared by the motor carrier on Form MCS 50–T.

§ 294.5 Filing of accident reports of Forms MCS 50–B (formerly BMC 50–B) and MCS 50–T.

The original and one copy of each accident report on Forms MCS 50–B and MCS 50–T, prepared in compliance with this section, shall be filed by the motor carrier as soon as possible, and in every instance within 15 days after occurrence of the accident, with the Regional Federal Highway Administrator, Bureau of Motor Carrier Safety, Federal Highway Administration, listed in § 290.40 of this subchapter for the region in which the motor carrier has his or its principal place of business: *Provided*, That motor carriers may continue to use forms BMC 50–B and BMC 50–T prescribed by the Interstate Commerce Commission until further order.

§ 294.7 Immediate notice of fatal accidents.

Whenever a reportable accident results in the death of any person at the time of the accident or within 24 hours thereafter, the motor carrier, whether domiciled in the United States or elsewhere, shall immediately transmit notice of such accident by telegraph or telephone to the proper Regional Federal Highway Administrator as indicated in § 294.5. Such notices shall include the following information: The date, time, and exact location of the accident; the number of persons killed and the number injured; and the name and address of the motor carrier.

(Sec. 12, 80 Stat. 931; 49 U.S.C. 1651 note)

§ 294.8 Deaths occurring before filing report.

In addition to the requirements of § 294.7, every death shall be reported on Form MCS 50–B or Form MCS 50–T whether it occurs at the time of the accident or subsequently if such deaths occur prior to the filing of said accident report form.

(Sec. 12, 80 Stat. 931; 49 U.S.C. 1651 note)

§ 294.9 Notice of death after filing report.

Whenever any accident results in the death of any person after the motor carrier has filed his or its report of the accident on Form MCS 50–B or Form MCS 50–T, notice of such death shall be given in writing, as soon as possible after such death becomes known to the motor carrier, to the proper Regional Federal Highway Administrator as indicated in § 294.5. Such notice shall include the following information: The date and location of the accident; the name and age of the deceased; and the name and address of the motor carrier.

(Sec. 12, 80 Stat. 931; 49 U.S.C. 1651 note)

§ 294.10 Carrier to assist in investigation.

Every motor carrier shall make available to the duly authorized representative or representatives of the Federal Highway Administration all records and information which in any way pertain to any reportable accident, and shall afford all reasonable assistance in the investigation of any such accident.

(Sec. 12, 80 Stat. 931; 49 U.S.C. 1651 note)

§ 294.11 Supplies of accident report Forms MCS 50–B and MCS 50–T.

For the purpose of compliance with the regulations in this part, every common and contract motor carrier shall keep on hand an adequate supply of Form MCS 50–B and/or Form MCS 50–T to enable prompt reporting of accidents.[1]

§ 294.12 Instructions for preparing accident reports.

Reports of accidents on Form MCS 50–B and Form MCS 50–T shall be prepared in accordance with the following instructions:

General: Every applicable item, and the detachable stub, must be filled in as fully and as accurately as information accessible to the motor carrier at the time of filing the report will permit.

Item 1: Enter name of legal entity.

Item 2: Check "Yes" if you have been notified that your revenues place you in Class I. Otherwise check "No."

Item 3: Enter the address of your principal place of business.

Item 4: Always make two entries under this item: First, show whether the operation involved is common, contract, or exempt. Second, enter your docket (MC) number if you have one. Otherwise enter "none."

Item 5: Enter all three names, State, county, and city or town in or near which accident occurred.

Item 9: Under this item give information fixing the accident location as nearly exactly as possible. This is especially important when highway design or condition, or some other local feature was involved in any way.

Item 15: Indicate the commodities which compose the vehicle's cargo, and not merely the class of such cargo. For example: enter "gasoline" or "No. 2 fuel oil" rather than "petroleum products."

Item 16(b), on MCS 50–T only: If a second driver was on the vehicle, whether he is called a relief driver, a helper driver, or by some other designation, check "Yes."

Item 17, on MCS 50–T and 18 on MCS 50–B: If the vehicle, or any unit of a combination of vehicles, was itself the cargo being transported, by the driveaway-towaway method, check "Yes"; otherwise check "No."

Item 18(a), on MCS 50–T only: Check "Yes" only if the vehicle was equipped with a berth meeting the specifications set forth in the Motor Carrier Safety Regulations.

Item 19(b), on MCS 50–T only: If the power unit was owned by the driver whose name is reported under item 20, check "Yes." If it was owned by the person riding as relief driver at the time of the accident, write in the words "relief driver" and check "Yes."

Item 20: Enter the name and home address of the person at the wheel when the accident occurred, or who last drove the vehicle if it was stopped or parked without a driver at the time of the accident.

Items 21 through 30: These items are to be filled in whether the driver was operating a company-owned vehicle, a vehicle which he himself owned and leased to the carrier, or a vehicle owned by a third party and leased to the carrier.

Item 23: Accuracy in entering the Social Security number is very important. Error in entering any one of the nine digits which compose this number, or the omission of a digit, will render the number useless.

Items 28 and 29: If the driver has made use of the sleeper-berth provisions for breaking his off-duty time into two periods totaling 8 hours, write in the words "sleeper berth" in addition to entering the hours on duty and hours driving since last period of 8 consecutive hours off duty.

Items 33 and 34: If another vehicle involved in the accident was operated by a motor carrier, regardless of ownership, the name and address of that motor carrier should be given.

Item 37: Enter the best available estimate of the amount of damage (in dollars) to each vehicle or unit of a combination of vehicles involved in the accident. Make this entry in every case, whether or not it is also reported that the vehicle or unit was a total loss.

If damage to a vehicle or unit is so extensive that it is not practical to repair it, check the appropriate space to indicate that it was a total loss.

If any vehicle or unit involved in the accident was not damaged, write "none" in the appropriate space.

Items 38, 39, and 40: For each person either killed or injured in the accident, enter name, address and age, if known, or approximate age, and check all applicable boxes. The number of checks necessary to give full information will vary for different persons. For example: John Smith may have been affected by carbon monoxide and also burned, the degree of his injuries being serious. If he were driver in vehicle No. 1, the total number of check marks required to report these facts would be five. On the other hand, Mary Brown may have been struck and killed instantly as she walked across the street. Two boxes only need be checked "killed outright" and "pedestrian."

If no one was killed or injured, enter the word "none" under item 38.

Item 42: Check each defect known to exist before the accident, brought to light by the accident itself, or discovered by investigation following the accident. Do not show breakage of sound parts which resulted from the accident. Include defects which caused the vehicle to be stopped, if accident occurred while it was so stopped.

Item 43: If opposing lanes of travel are separated by a parkway or other strip, check the word "Divided" in addition to showing the total number of lanes.

Item 46: Whenever the driver survives the accident and is able to make a statement, his own account of the accident is to be entered here. The account obtained from the driver for this purpose must be sufficiently complete and detailed to convey an understanding of his version of the accident. This account should be continued on an extra sheet of paper if more space is needed.

Item 47: An account of the accident containing the most reliable information to which the motor carrier has access at the time of reporting, sufficiently detailed and complete to convey an understanding of his version of the accident, shall be entered under this item, and shall be signed by a responsible official of the motor carrier. This account should be continued on an extra sheet of paper if more space is needed.

Diagram. In addition, a diagram showing pertinent highway information such as the approximate angle at which roads intersect, the width of pavement and of shoulders, etc., the course of travel of each vehicle involved, and the point at which collision occurred, should be prepared in those cases in which such a diagram would clarify the presentation of the facts.

[1] Supplies of these forms may be obtained from the Superintendent of Documents, Washington, D.C. 20402, at prevailing cost.

PART 295—HOURS OF SERVICE OF DRIVERS

Sec.
295.1 Compliance with, and knowledge of regulations required.
295.2 Definitions.
295.3 Maximum driving and on-duty time.
295.6 Sleeper berth, occupation.
295.7 Travel time.
295.8 Driver's daily log.
295.10 Adverse driving conditions.
295.11 Emergency conditions.
295.12 Relief from regulations.
295.13 Drivers declared "Out of Service."

AUTHORITY: The provisions of this Part 295 issued under sec. 204, 49 Stat. 546, as amended; 49 U.S.C. 304, unless otherwise noted.

§ 295.1 Compliance with, and knowledge of regulations required.

Every motor carrier and its officers, drivers, agents, employees, and representatives shall comply with the following regulations, and every motor carrier shall require that its officers, drivers, agents, employees, and representatives be conversant with this part.

§ 295.2 Definitions.

As used in this part, the following words and terms are construed to mean:

(a) *On-duty time.* All time from the time a driver begins to work or is required to be in readiness to work until the time he is relieved from work and all responsibility for performing work. The term "On-duty" time shall include:

(1) All time at a carrier or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the motor carrier.

(2) All time inspecting equipment as required by §§ 292.7 and 292.8 or otherwise inspecting, servicing, or conditioning any motor vehicle at any time;

(3) All driving time as defined in paragraph (b) of this section;

(4) All time, other than driving time, in or upon any motor vehicle except time spent resting in a sleeper berth as defined in paragraph (g) of this section;

(5) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;

(6) All time spent performing the driver requirements of §§ 292.40 and 292.41 relating to accidents;

(7) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle;

(8) Performing any other work in the capacity of, or in the employ or service of, a common, contract or private motor carrier.

(9) In the case of specially trained drivers of specially constructed oil well servicing vehicles, on-duty time shall not include waiting time at a natural gas or oil well site: *Provided*, That all such time shall be fully and accurately accounted for in records to be maintained by the motor carrier. Such records shall be made available upon request of the Federal Highway Administration.

(b) *Driving time.* The term "drive" and "driving time" shall include all time spent at the driving controls of a motor vehicle in operation. All stops made in

any one village, town, or city, may be computed as one.

(c) *Seven consecutive days.* The term "7 consecutive days" means the period of 7 consecutive days beginning at 12:01 a.m. on any day.

(d) *Eight consecutive days.* The term "8 consecutive days" means the period of 8 consecutive days beginning at 12:01 a.m. on any day.

(e) *Twenty-four consecutive hours.* The term "24 consecutive hours" means any such periods starting at the time the driver reports for duty as defined in paragraph (a) of this section.

(f) *Regularly employed driver.* The term "regularly employed driver" means a driver who in any period of 7 consecutive days is employed or used as a driver solely by a single motor carrier.

(g) *Sleeper berth.* The term "sleeper berth" means a berth conforming to the requirements of § 293.76 of this subchapter.

(h) *Driver-salesman.* The term "driver-salesman" means any employee who is employed solely as such by a private carrier of property by motor vehicle, who is engaged both in selling goods, services, or the use of goods, and in delivering by motor vehicle the goods sold or provided or upon which the services are performed, who does so entirely within a radius of 100 miles of the point at which he reports for duty, who devotes not more than 50 percent of his hours on duty to driving time. The term "selling goods" for purposes of this subsection shall include in all cases solicitation or obtaining of reorders or new accounts, and may also include other selling or merchandising activities designed to retain the customer or to increase the sale of goods or services, in addition to solicitation or obtaining of reorders or new accounts.

§ 295.5 Maximum driving and on-duty time.

(a) Except as provided in paragraphs (c) and (e) of this section and in § 296.16, no motor carrier shall permit or require any driver used by it to drive nor shall any such driver drive more than 10 hours following 8 consecutive hours off duty or drive for any period after having been on duty 15 hours following 8 consecutive hours off duty: *Provided, however,* That drivers using sleeper-berth equipment, or off duty at a natural gas or oil well location, may cumulate the aforementioned total of at least 8 hours off duty in two periods of at least 2 hours each, resting in a sleeper berth, as defined in § 295.2(g), or resting while off duty in other sleeping accommodations at a natural gas or oil well location.

(b) Except as provided in paragraph (e) of this section, no motor carrier shall permit or require any driver used by it to be on duty, nor shall any such driver be on duty, more than 60 hours in any 7 consecutive days as defined in § 295.2(c) regardless of the number of motor carriers using the driver's services. *Provided, however,* That carriers operating vehicles every day in the week may permit drivers to remain on duty for a total of not more than 70 hours in any period of 8 consecutive days. *Provided further, however,* That the limitations of this paragraph shall not apply with respect to any driver-salesman whose total driving time does not exceed 40 hours in any 7 consecutive days.

(c) The provisions of paragraph (a) of this section shall not apply with respect to drivers used wholly in driving motor vehicles having not more than 2 axles and whose gross weight, as defined in § 290.10, does not exceed 10,000 pounds, unless such vehicle is used to transport passengers or explosives or other dangerous articles of such type and in such quantity as to require the vehicle to be specifically marked or placarded under the Explosives and Other Dangerous Articles Regulations, § 177.823 of this chapter, or when operated without cargo under conditions which require the vehicle to be so marked or placarded under the cited regulations: *Provided further, however,* That this section shall not apply with respect to drivers of motor vehicles engaged solely in making deliveries for retail stores during the period from December 10 to December 25, both inclusive, of each year.

(d) In the instance of drivers of motor vehicles used exclusively in the transportation of oilfield equipment, including the stringing and picking up of pipe used in pipelines, and servicing of the field operations of the natural gas and oil industry, any period of 8 consecutive days may end with the beginning of any off-duty period of 24 or more successive hours.

(e) In the instance of a driver who drives motor vehicles solely within the State of Alaska such driver may be permitted to drive not more than 15 hours following 8 consecutive hours off duty and may not be permitted to drive after having been on duty 20 hours following 8 consecutive hours off duty. Such driver shall not be on duty more than 70 hours in any period of 7 consecutive days: *Provided,* That carriers operating every day in a week may permit drivers to remain on duty for a total of not more than 80 hours in any period of 8 consecutive days.

§ 295.6 Sleeper berth, occupation.

No sleeper berth shall be occupied by more than one person at any time.

§ 295.7 Travel time.

When a driver at the direction of a motor carrier is traveling, but not driving or assuming any other responsibility to the carrier, such time shall be counted as on-duty time unless the driver is afforded at least 8 consecutive hours off duty when arriving at destination, in which case he shall be considered off duty for the entire period.

§ 295.8 Driver's daily log.

(a) Except as provided in paragraph (t) of this section, every motor carrier shall require that a driver's daily log, Form MCS–59 set forth below, shall be made in duplicate by every driver used by him or it and every driver who operates a motor vehicle shall make such a log. Failure to make logs, failure to make required entries therein, falsification of entries, or failure to preserve logs shall make both the driver and the carrier liable to prosecution. Driver's logs shall be prepared and retained in accordance with the provisions of paragraphs (b) through (s) of this section.

(b) *Entries to be current.* Drivers shall keep the log current to the time of the last change of duty status.

(c) *Entries made by driver only.* Except that the name and principal place of business address of the carrier may be printed, all entries shall be made by the driver in his own handwriting.

(d) *Date.* Enter month, day, and year for each calendar day on or off duty.

(e) *Total mileage.* Total mileage entered shall be that mileage traveled while driving, on duty but not driving, and resting in a sleeper berth, as defined in § 295.2(g) during the day covered by the log. Mileage while driving shall be shown separately.

(f) *Vehicle identification.* The carrier's vehicle number or numbers or the State and license number or numbers of each vehicle or unit of a combination operated during the calendar day shall be entered.

(g) *Name of carrier.* The name or names of the carrier or carriers shall be that or those for which duty is performed. When work is performed for more than one carrier on the same calendar day, the beginning and finishing time, showing a.m. or p.m., worked for each carrier shall be shown after each carrier name. Drivers of leased vehicles shall show the name of the carrier performing the transportation.

(h) *Driver's signature.* The driver shall certify to the correctness of the log by signing his first name and last name in full and his middle name or middle initial, if any. Below the driver's signature he shall list the initials and last name of each codriver.

(i) *Home terminal.* The driver's home terminal address shown shall be that at which he normally reports for duty.

(j) *Time base to be used.* The log shall be prepared, maintained, and submitted, using the time standard in effect at the driver's home terminal, for a 24-hour calendar day beginning at midnight: *Provided, however,* That if written notification is given by a carrier to the Regional Federal Highway Administrator of the Bureau of Motor Carrier Safety for the region in which the carrier's principal office is located, drivers of any named terminal or terminals of the carrier may prepare logs for a 24-hour period beginning at noon of 1 day and ending at noon of the next succeeding day. For drivers preparing logs on a noon-to-noon basis, the term 7 or 8 consecutive days means the period of 7 or 8 consecutive days beginning at 12:01 p.m., on any day.

(k) *Line 1, Off duty.* Except for time spent resting in a sleeper berth, a continuous line shall be drawn between the appropriate time markers to record the period or periods of time when the driver is not on duty, not required to be in readiness to work, or is not under any responsibility for performing work.

(l) *Line 2, Sleeper berth.* A continuous line shall be drawn between the appropriate time markers to record the period or periods of time off duty resting in a sleeper berth, as defined in § 295.2(g).

(m) *Line 3, Driving.* A continuous line shall be drawn between the appropriate time markers to record the period or periods of time on duty driving a motor vehicle, as defined in § 295.2(b).

(n) *Line 4, On duty not driving.* A continuous line shall be drawn between the appropriate time markers to record the period or periods of time on duty not driving specified in § 295.2(a) (1), (2), (4), (5), (6), (7), (8), or any other time on duty but not driving as defined by §§ 295.2(a) and 295.7.

(o) *Remarks.* The appropriate time marker and the name of the city, town, or village, with State abbreviation, or place at or near which each change of duty occurs, shall be recorded, such as the place of reporting for work, starting to drive, on duty not driving, and where released from work. Explain the reason resulting in hours exceeding those permitted by § 295.3. Show the transportation performed each day by entering a shipping document number or numbers, or name of a shipper and commodity.

(p) *Total hours.* The total hours in each duty status: Off duty other than in a sleeper berth; off duty in a sleeper berth; driving; and on duty not driving shall be entered, the total of which entries shall equal 24 hours.

(q) *Origin and destination.* The name of the place where a trip begins and the final destination or farthest turn-around point shall be shown at the bottom of the log. If the trip requires more than 1 calendar day, the log for each day shall show the origin and final destination. If a driver departs from and returns to the same place on any day, the destination shall be indicated by entering the farthest point reached followed by the words "and return".

(r) *Filing driver's log.* The driver shall forward each day the original log to his home terminal or to the motor carrier's principal place of business. When the services of a driver are used by more than one carrier during any calendar day, the driver shall furnish each such carrier a copy of the log containing full and complete entries including: The entry of all duty time for the entire day; the name of each such carrier served by the driver that day; and the beginning and finishing time, showing a.m. or p.m., worked for each carrier. Motor carriers when using a driver for the first time or intermittently shall obtain from the driver a signed statement giving the total time on duty during the immediately preceding 7 days and time at which such driver was last relieved from duty prior to beginning work for such carrier.

(s) *Preservation of driver's log.* Daily logs for each calendar month may be retained at the driver's home terminal until the 20th day of the succeeding calendar month and shall then be forwarded to the carrier's principal place of business where they shall be retained for 12 months from date of receipt: *Provided, however,* That a motor carrier may upon written request to and upon receiving consent from the Director, Bureau of Motor Carrier Safety, forward and retain such logs at such regional or terminal offices as are proposed by the carrier and approved by the Director. The driver shall retain a copy of each daily log for 30 days which shall be in his possession while on duty.

(t) *Driver's log, when not required.* The requirements of this section shall not apply: (1) To any regularly employed driver who drives wholly within a radius of 50 miles of the garage or terminal at which he reports for work: *Provided,* That the motor carrier employing such driver maintains and retains for period of 1 year accurate and true records showing the total number of hours the driver is on duty per day and the time at which the driver reports for and is released from duty each day; or (2) to drivers of motor vehicles having not more than 2 axles and whose gross weight, as defined in § 290.10, does not exceed 10,000 pounds, unless such vehicle is used to transport passengers or explosives or other dangerous articles of such type and in quantity as to require the vehicle to be specifically marked or placarded under the Explosives and Other Dangerous Articles Regulations, § 177.823 of this chapter, or when operated without cargo under conditions which require the vehicle to be so marked or placarded under the cited regulations.

FEDERAL REGISTER, VOL. 32, NO. 242—FRIDAY, DECEMBER 15, 1967

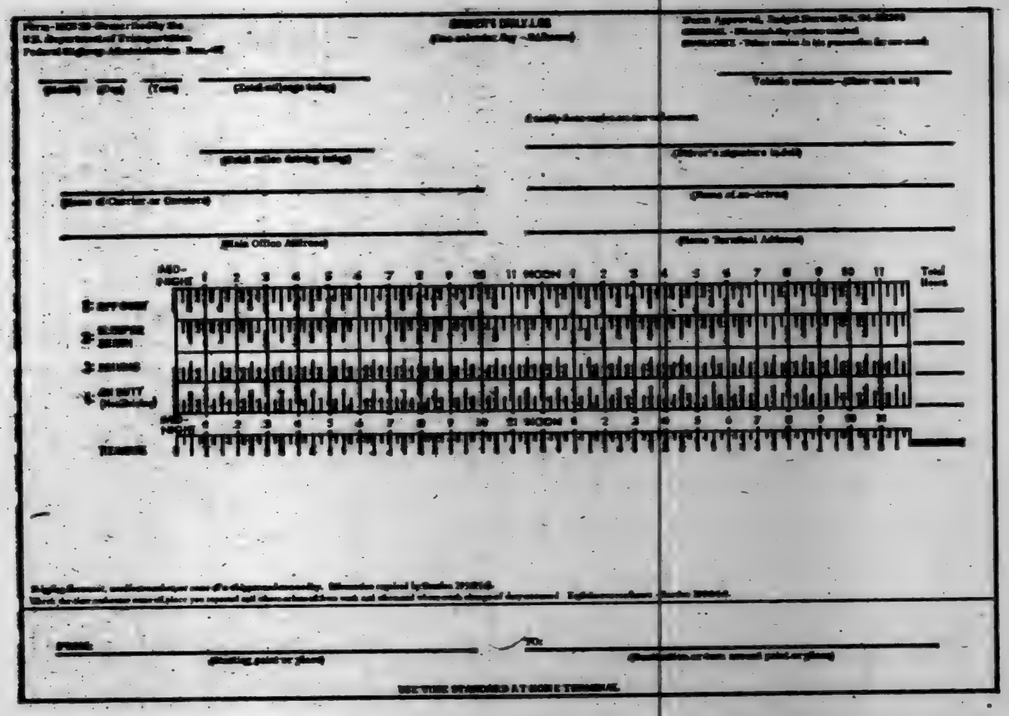

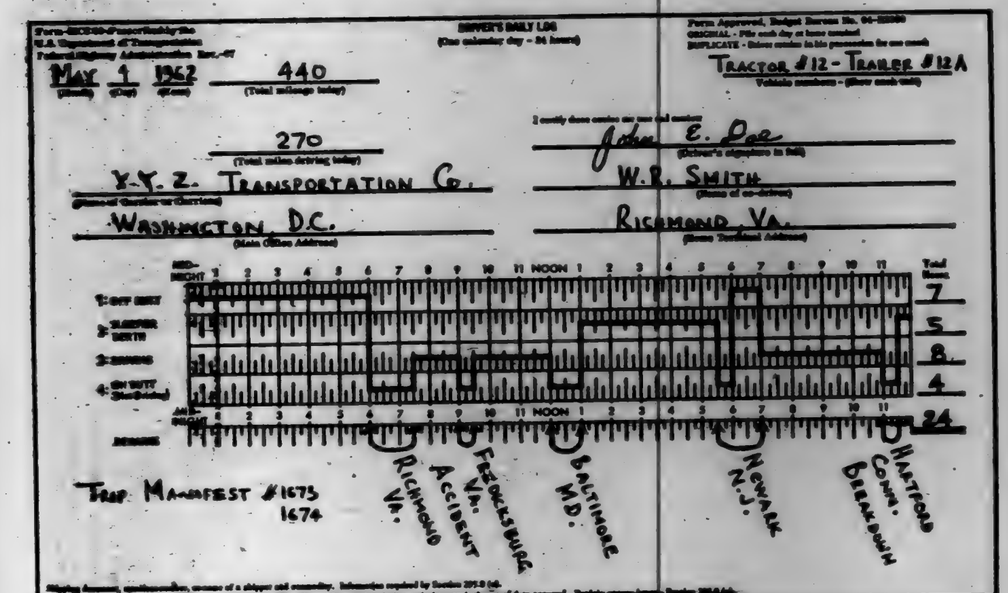

NOTE: *Driver's Daily Log (Form MCS 59).* The Federal Highway Administration will not provide supplies of the log. The log may be incorporated as a part of any daily form used by a carrier, provided it is so ruled that the log appears distinct and separate from other portions of such form. In reproducing the log, dimensions of not less than 6¼ x 7⅝ inches shall be used. Books of logs in the possession of carrier or their suppliers as of the effective date of these regulations may be used, provided the information required by these regulations is entered thereon.

This entered specimen document shows how a driver is to prepare a daily log. It covers a driver's activities on the first day of a trip in which he left Richmond, Va., with a shipment of miscellaneous freight to be delivered in Newark, N.J., and Boston, Mass.

The driver in this instance reported for duty with his co-driver at the carrier's Richmond terminal at 6 a.m., at which time he was given papers for the shipments and instructions for making the trip. The vehicle examination was being issued at the time he reported for duty and the driver attended to this while the loading was completed. He then made a prestrip inspection of the vehicle (§ 292.7 and 393.5), made entries upon his driver's log to 7:30 a.m. as "on duty not driving" and started driving at that time (§ 395.8(a) (1) and (2)). At 9 a.m. in Fredericksburg, Va., he was involved in an accident with an automobile which was damaged to the extent of $250. He remained at the accident scene for one-half hour while the police conducted their investigation. He obtained information relating to the accident (§ 390.40) and performed an inspection of the vehicle (§ 396.5). He then made entries upon his log to 9:30 a.m., showing this stop as "on duty not driving," and started driving at that time (§ 395.8(a)(6)). At 12 noon he stopped near Baltimore, Md., at a truck stop for gas and a meal. He then made entries upon his log to 1 p.m., showing this stop as "on duty not driving." He then entered the driving watch while his co-driver assumed the driving duties. At 5:30 p.m., he arrived at the carrier's Newark, N.J., terminal and reported to the dispatcher. He gave to the dispatcher his statement concerning the accident and other information needed to complete a report to the Federal Highway Administration. He was told by the dispatcher that helpers would not have the Newark bound freight unloaded until 7 p.m. He then walked to a nearby diner, leaving the vehicle at the terminal, ate a meal and returned at the specified time. He then made entries upon his log to 7 p.m., showing 5:30 p.m. to 6 p.m. as "on duty not driving" (§ 395.8(a)(6)) and showing 6 p.m. to 7 p.m. as "off duty" due to the fact that the vehicle and its cargo were under the care and custody of the carrier's dispatcher during this time, and then started driving.

At 11:00 p.m., the vehicle broke down near Hartford, Conn. He placed warning devices upon the highway (§ 392.22) while the co-driver telephoned the carrier's Hartford shop to ask that a shop man be sent to repair the vehicle. He then waited until the man had completed the repairs. He made entries upon his log to 11:30 p.m. showing this stop as "on duty not driving" (§ 395.8(a)(2)) and entered the sleeper berth for the balance of the calendar day.

The name of the co-driver for this trip is shown directly below the driver's signature (§ 395.8(a)(1)). Additionally, the total miles traveled during the day and the actual miles spent driving are shown on the appropriate lines near the top of the form (§ 395.8(c)).

The total hours for each line about 7 hours of duty; 8 hours in sleeper berth; 8 hours driving and 4 hours on duty (not driving) for the day covered by the log. The sum of these hours shown under the "Total Hours" equals 24 hours.

Under "Remarks" a check on time made en and entries will show that the driver reported for work at Richmond, Va., at 6 a.m. and was on duty (not driving) until he started to drive at 7:30 a.m. The time spent driving is shown on line 3 and the time spent in the sleeper berth on line 2. All stops are shown on line 4 in the lower left hand corner, the driver shows the transportation performed by entering shipping document numbers (§ 395.8(c)).

At the destination of the cargo on this trip in Boston, Mass., he enters the original starting point and the final destination on the appropriate line near the bottom of the form, thus: "From: Richmond, Va., To: Boston, Mass." The original starting point and final destination are to be shown on the log for each day throughout the trip. If a driver departs from and returns to the same place on any day, the "destination or turn-around point" shall be the farthest point reached before the driver begins his return trip.

Form MCS 59 shall be used by those drivers who prepare daily logs on a noon-to-noon basis instead of a calendar day, or midnight-to-midnight basis, except that the word "noon" will be shown at the point where the word "midnight" now appears and the word "midnight" shall appear where the word "noon" now appears. The word "calendar" which appears in parentheses under "One calendar day — 24 hours" shall be changed. The phrase "driver's daily log" shall be blocked out. The driver shall enter the date by showing on each log, both dates covered by the noon-to-noon period.

§ 295.10 Adverse driving conditions.

In case of snow, sleet, fog, or other adverse weather conditions, or in case the highways are covered with snow or ice, or presence of unusual road and traffic conditions, a driver may be permitted or required to drive or operate a motor vehicle, in order to complete his run, for not more than 10 hours in the aggregate following 8 consecutive hours off duty, instead of the limit of 10 hours driving following 8 consecutive hours off duty as provided in § 395.3: *Provided, however,* That no driving shall be permitted or performed after the driver has been on duty 15 hours following 8 consecutive hours off duty. *It is further provided,* That in the instance of a driver who drives motor vehicles solely within the State of Alaska such driver under the aforementioned adverse driving conditions may be permitted to drive or operate a motor vehicle in order to complete his run, which shall be followed by 8 consecutive hours off duty before further driving.

§ 295.11 Emergency conditions.

In case of any emergency, a driver may complete his run without being in violation of the provisions of these regulations, if such run could reasonably have been completed without such violation.

§ 295.12 Relief from regulations.

These regulations shall not apply to any carrier subject thereto when transporting passengers or property to or from any section of the country with the object of providing relief in case of earthquake, flood, fire, famine, drought, epidemic, pestilence, or other calamitous visitation or disaster.

§ 295.13 Drivers declared "Out of Service".

Every field safety specialist, safety supervisor, mechanical engineer, regional safety officer, or safety compliance investigator of the Bureau of Motor Carrier Safety, Federal Highway Administration, is authorized to notify and declare "Out of Service" with the prescribed Form MCS 63, any driver whom he finds at the time and place of examination to have been on duty or to have driven or operated immediately prior to such examination, longer than the maximum period permitted by § 395.3, § 395.10, or § 395.11. No motor carrier shall permit or require a driver who has been notified and declared "Out of Service" to drive or operate nor shall any such driver drive or operate, any motor vehicle unless and until such time as he has met the requirements of the specified sections.

PART 296—INSPECTION AND MAINTENANCE

Sec.
296.1 Compliance.
296.2 Inspection and maintenance.
296.3 Lubrication.
296.4 Unsafe operations forbidden.
296.5 Inspection of motor vehicles in operation.
296.6 Damaged vehicles, inspection.
296.7 Vehicle condition report by driver.
296.8 Driveaway-towaway operations, inspections.
296.9 Recommended practices and forms.

AUTHORITY: The provisions of this Part 296 issued under sec. 204, 49 Stat. 546, as amended; 49 U.S.C. 304, unless otherwise noted.

§ 296.1 Compliance.

Every motor carrier, its officers drivers, agents, representatives, and employees directly concerned with the inspection or maintenance of motor vehicles, shall comply and be conversant with the requirements of this part.

§ 296.2 Inspection and maintenance.

Every motor carrier shall systematically inspect and maintain, or cause to be systematically maintained, all motor vehicles subject to its control, and the accessories required by Part 393 of this subchapter, to be mounted thereon, to insure that such motor vehicles and accessories are in safe and proper operating condition. Such inspections, for buses, shall include a test at least once every 90 days of all push-out windows and emergency doors to determine that they are operating properly and that the windows comply with the requirements of Subpart D of Part 393 of these regulations. A systematic inspection and maintenance record shall be maintained for each motor vehicle controlled by a motor carrier for the period during which such vehicle is subject to the motor carrier's control. Such records shall include, at least: (a) An identification of the vehicle including make, model, serial number, and number of tires, their size, and number of ply; (b) a record of inspection and repairs indicating their date and nature; (c) a lubrication record; (d) a systematic means for indicating for each vehicle the nature and due date of the various inspection and maintenance operations to be performed; (e) if leased, or otherwise contracted for, such records shall also include an identification of the lessor or contractor furnishing the motor vehicle. (Recommend procedure and forms set forth in § 296.9.)

§ 296.3 Lubrication.

Every motor carrier shall institute such procedures as may be necessary to insure that motor vehicles are properly lubricated; that proper action is taken to correct oil and grease leaks; that undue accumulations of grease and oil are investigated, removed, and the cause thereof corrected.

§ 296.4 Unsafe operations forbidden.

No motor carrier shall permit or require a driver to drive any motor vehicle revealed by inspection or operation to be in such condition that its operation would be hazardous or likely to result in a breakdown of the vehicle nor shall any driver drive any motor vehicle which by reason of its mechanical condition is so imminently hazardous to operate as to be likely to cause an accident or a breakdown of the vehicle. If while any motor vehicle is being operated on a highway, it is discovered to be in such unsafe condition, it shall be continued in operation only to the nearest place where repairs can safely be effected, and even such operations shall be conducted only if it be less hazardous to the public than permitting the vehicle to remain on the highway.

§ 296.5 Inspection of motor vehicles in operation.

(a) *Personnel authorized to perform inspections.* Every field safety specialist, mechanical engineer, safety supervisor, regional safety officer, and safety compliance investigator employed in the Bureau of Motor Carrier Safety, Federal Highway Administration, is authorized and hereby ordered, to enter upon and perform inspections of motor carriers' vehicles in operation.

(b) *Prescribed inspection report.* Form MCS 63, Driver-Equipment Compliance Check shall be used to record findings from motor vehicles selected for final inspection by authorized employees.

(c) *Motor vehicles declared "out of service."* (1) Authorized employees shall declare and mark "out of service" any motor vehicle which by reason of its mechanical condition or loading is so imminently hazardous to operate as to be likely to cause an accident or a breakdown. Form MCS 64, "Out of Service Vehicle" sticker, shall be used to mark vehicles "out of service."

(2) No motor carrier shall require or permit any person to operate nor shall any person operate any motor vehicle declared and marked, "out of service" until all repairs required by the "out of service notice" on Form MCS 63 have been satisfactorily completed. The term operate as used in this section shall include towing the vehicle: *Provided, however,* That vehicles marked "out of service" may be towed away by means of a vehicle using a crane or hoist: *And provided further,* That the vehicle combination consisting of the emergency towing vehicle and the "out of service" vehicle meets the performance requirements of § 393.52.

(3) No person shall remove the "Out of Service Vehicle" sticker from any motor vehicle prior to completion of all repairs required by the "out of service notice" on Form MCS 63.

(4) The person or persons completing the repairs required by the "out of service notice" shall sign the "Certification of Repairman" in accordance with the terms prescribed on Form MCS 63, entering the name of his shop or garage and the date and time the required repairs were completed. If the driver completes the required repairs, he shall sign and complete the "Certification of Repairman."

(d) *Motor Carrier's disposition of Form MCS 63.* (1) The driver of any motor vehicle receiving a Form MCS 63 shall deliver such MCS 63 to the motor carrier operating the vehicle upon his arrival at the next terminal or facility of the motor carrier, if such arrival occurs within twenty-four (24) hours. If the driver does not arrive at a terminal or facility of the motor carrier operating the vehicle within twenty-four (24) hours he shall immediately mail the Form MCS 63 to the motor carrier: *Provided, however,* That for operating convenience, motor carriers may designate any shop, terminal, facility or person to which it may instruct its drivers to deliver or forward Form MCS 63: *Provided further, however,* That it shall be the sole responsibility of the motor carrier that Form MCS 63 is returned to the Federal Highway Administration, in accordance with the terms prescribed thereon and in subparagraphs (2) and (3) of this paragraph. A driver, if himself a motor carrier, shall return Form MCS 63 to the Federal Highway Administration, in accordance with the terms prescribed thereon and in subparagraphs (2) and (3) of this paragraph.

(2) Motor carriers shall carefully examine Forms MCS 63. Any and all violations or mechanical defects noted thereon shall be corrected. To the extent drivers are shown not to be in compliance with the Motor Carrier Safety Regulations, appropriate corrective action shall be taken by the motor carrier.

(3) Motor carriers shall complete the "Motor Carrier Certification of Action Taken" on Form MCS 63 in accordance with the terms prescribed thereon. Motor carriers shall return Forms MCS 63 to the Regional Safety Officer of the Bureau of Motor Carrier Safety, Federal Highway Administration, at the address indicated upon Form MCS 63 within fifteen (15) days following the date of the vehicle inspection.

§ 296.6 Damaged vehicles, inspection.

No motor carrier shall permit or require a driver to drive nor shall any driver drive a motor vehicle which has been damaged in an accident or by other cause until inspection has been made by a person qualified to ascertain the nature and extent of the damage and the relationship of such damage to the safe operation of the motor vehicle, nor shall such motor vehicle be operated until such person has determined it to be in safe operating condition.

§ 296.7 Vehicle condition report by driver.

Except as provided for driveaway-towaway operations in § 296.8, every motor carrier operating more than one motor vehicle shall require its drivers to report and every driver shall prepare such a report in writing at the completion of his day's work or tour of duty, which report shall list any defect or deficiency of the motor vehicle discovered by said driver or reported to him as would be likely to affect the safety of operation of the motor vehicle or result in its mechanical breakdown or shall indicate that no such defects or deficiencies were discovered by or reported to him. Such reports shall be carefully examined, the defects reported thereon shall be checked and the report shall be retained by the motor carrier for a period of at least 3 months.

§ 296.8 Driveaway-towaway operations, inspections.

Every motor carrier, with respect to motor vehicles engaged in driveaway-towaway operations, shall comply with this section in addition to §§ 296.1 to 296.7, inclusive, except that the driver's "Vehicle Condition Report" required by § 296.7 and the maintenance records required by § 296.2 shall not be required for any vehicle which is part of the shipment being delivered. Before the beginning of any driveaway-towaway operation of motor vehicles in combination, the motor carrier shall make a careful inspection and test to ascertain that the tow-bar or saddle-mount connections are properly secured to the towed and towing vehicles, that they function adequately without cramping or binding of any of the parts, and that the towed motor vehicle follows substantially in the path of the towing vehicle without whipping or swerving. Every motor carrier shall maintain practices to insure that following completion of any trip in a driveaway-towaway operation of motor vehicles in combination, and before they are used again, the tow-bars and saddle-mounts are disassembled and inspected for worn, bent, cracked, broken, or missing parts. Before reuse, suitable repair or replacement shall be made of any defective parts and the devices shall be properly reassembled.

§ 296.9 Recommended practices and forms.

The following practices and forms are recommended to motor carriers for consideration as one means of establishing the inspection and maintenance practices which are required by §§ 296.2 to 296.8.

(a) *Report of vehicle condition.* As a convenient means of providing for the report required by § 296.7, the "Driver's Vehicle Condition Report" at the end of this paragraph is suggested. The items are arranged in a logical order of inspection. While the regulations do not require a written report of the inspection prior to driving, the form may be adapted for such a report by duplicating the text of the following form and using an appropriate heading. Changes may be made to suit the particular carrier's operations, such as by providing for the recording of more than one inspection on a single form.

DRIVER'S VEHICLE CONDITION REPORT

Name of motor carrier _____
Company vehicle No. _____ (Date)

REPORT AFTER TRIP

	Driver's report [1]	Mechanic's report [1]
Mileage reading on speedometer (insert)		
Before starting engine:		
Oil, if added, insert number of quarts		
Water		
Gasoline, if added, insert number of gallons		
Brake lines to trailers		
Electric lines to trailers		
Drive line		
Coupling devices		
Tires and wheels		
Springs		
Body and load		
Glass		
Emergency equipment:		
Fire extinguishers		
Torches, lanterns, or reflectors		
Fuses		
Flags		
Fuses		
First-aid kit (buses)		
Axe (buses)		
After starting engine (out of cab):		
Fuel system		
Cooling system		
Engine		
Leaks		
Lights:		
Head		
Tail		
Stop		
Clearance and marker		
Reflectors		
After starting engine (in cab):		
Oil pressure		
Ammeter		
Horn		
Windshield wipers		
Parking brakes		
Clutch		
Transmission		
Rear vision mirrors		
Steering		
Service brakes		
Speedometer		
Other items requiring attention		

(Driver's name) _____

[1] Drivers should (✓) items which are satisfactory and (X) items which are not, and explain defects next to the X or if there is insufficient room, at bottom of the form. Items which are marked (X) by the driver must show a (✓) with mechanic's initials indicating correction before continuance of operation and a short explanation of the repairs completed either next to the ✓ or if there is insufficient room, at bottom of form.

(b) *Inspection and maintenance record forms.* (1) Section 296.2 requires that motor carriers maintain systematic inspection and maintenance records but the regulations do not require any particular type of form of records. As a convenient means for providing the systematic inspection and maintenance records required by § 296.2, the following forms are suggested. Other systems recommended by the vehicle manufacturers are suggested as alternative methods.

(2) It is recommended that a cardboard check sheet for each inspection period for each vehicle be placed at a convenient point in the garage. Under the suggested system, when the four 1,000-mile inspections have been completed, the mechanic will know that he should perform the 5,000-mile inspection in accordance with the 5,000-mile inspection card. These forms, especially the mileage intervals, are suitable for the average over-the-road operator but changes may be made to adapt them to the individual operation. The items listed may be too numerous for some operations and in such cases, carriers may select items applicable to their own operations. Carriers may alter the recommended mileage figures to suit their needs or inspection periods may be determined on other than a mileage basis such as time or fuel consumption. The fundamental requirement is that there be a systematic inspection and maintenance system.

_____ (Name of carrier)

1,000-mile inspection, vehicle No.
(After inspection No. 4 perform 5,000-mile check which shall include the fifth 1,000-mile check.)

Type of inspection [1]		Inspection No. 1	2	3	4
	Speedometer reading				
	Date of inspection				
	Group 1—Axle, front:				
L	Axle and wheel alignment				
AOL	Tie rod assembly, etc.				
	Group 2—Axle, rear:				
OL	Differential housing				
L	Radius rods, etc.				
	Group 3—Body and cab				
	Group 4—Brakes				
	Group 5—Clutch				
	Group 6—Cooling system				
	Group 7—Electrical system				
	Group 8—Engine				
	Group 9—Frame and springs				
	Group 10—Fuel and exhaust system				
	Group 11—Steering				
	Group 12—Transmission				
	Group 13—Propeller shaft				
	Group 14—Wheels, rims, and tires				
	Group 15—Special equipment				

[1] A=Adjustment; H=heavy inspection; L=visual check-up; O=oil or grease; R=replace or rebuild; T=test.

(Name of carrier)

5,000-mile inspection, vehicle No.
(After inspection No. 9, perform 50,000-mile inspection which shall include the tenth 5,000-mile inspection.)

Type of inspection [1]		Inspection No. 1	2	3	4	5	6	7	8	9
	Speedometer reading									
	Date of inspection									
	Group 1 axle, front:									
H	Axle, center									
TA	Axle and wheel alignment									
H	Brake spider, etc.									

NOTE: Have similar forms for the 50,000-mile inspection and the 100,000-mile inspection with type of inspection in accordance with the inspection procedure.

PART 297—TRANSPORTATION OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES BY MOTOR VEHICLES [1]

Sec.
297.01 Application of regulations.
297.02 Compliance required.
297.03 Emergency equipment and accessories not prohibited.
297.1 Driving rules.

AUTHORITY: The provisions of this Part 297 issued under 18 U.S.C. 834.

NOTE: Order, June 24, 1944, 9 F.R. 7528 provides that after July 5, 1944, the transportation by motor vehicle in intrastate commerce of liquefied petroleum gases named and described in Parts 172 and 178 of this chapter, in containers other than cargo tanks, by common, contract, and private carriers, shall not be subject to the provisions of the two orders of April 20, 1943 (8 F.R. 6479, 6481), as amended: *Provided, however,* That the containers other than cargo tanks so used shall conform in all respects with those authorized for use under regulations prescribed in Part 178 of this chapter.

[1] As to what articles are included within the term "explosives and other dangerous articles", the motor carrier is referred to the definitions contained in "Part 173—Regulations Applying to Shippers" of the "Regulations for Transportation of Explosives and Other Dangerous Articles by Land and Water in Rail Freight, Express, and Baggage Services, and by Motor Vehicle (Highway), and Water, Including Specifications for Shipping Containers" (Parts 171–179 of this chapter). As will be noted from said regulations, the term "explosives and other dangerous articles" encompasses the following classes of articles: (1) Explosives, (2) flammable liquids, (3) flammable solids and oxidising materials, (4) corrosive liquids, (5) compressed gases, and (6) poisons. "Part 172—Commodity List of Explosives and Other Dangerous Articles Containing the Shipping Name or Description of All Articles Subject to These Regulations" (Parts 171–179 of this chapter) is also to be found in the aforementioned regulations.

§ 297.01 Application of regulations.

(a) The regulations in this part shall be applicable to every common carrier by motor vehicle, contract carrier by motor vehicle, and private carrier of property by motor vehicle engaged in interstate or foreign commerce, with respect to the transportation by motor vehicle of explosives and other dangerous articles, as defined in the regulations for transportation of explosives and other dangerous articles by land and water in rail freight, express, and baggage services, and by motor vehicle (highway), and water, including specifications for shipping containers.

(b) Parts 290 to 297, inclusive, of this subchapter, shall be applicable to all motor carriers designated in paragraph (a) of this section, whether or not operating wholly within a municipality or between contiguous municipalities, or within a zone adjacent to and commercially a part of any such municipality or municipalities, to the extent that the motor vehicles and drivers of the aforesaid carriers are engaged in the transportation of explosives and other dangerous articles: *Provided, however,* That Part 294 of this subchapter relating to the reporting of accidents shall not apply to any private carrier of property.

§ 297.02 Compliance required.

Every motor carrier and his or its officers, agents, employees, and representatives concerned with the transportation of explosives and other dangerous articles by motor vehicle, shall become conversant and comply with the regulations prescribed in this part; and, to this end, each motor carrier shall instruct such persons.

§ 297.03 Emergency equipment and accessories not prohibited.

The provisions of this part are not to be construed to pertain to the carrying of (a) emergency flares (pot torches), electric lanterns, and fuses intended to be used to protect the motor vehicle so long as the carrying of such equipment is in accordance with §§ 292.8 and 293.95, or (b) well protected and properly installed accessories for operation, such as fuel in fuel tanks or other fuel containers, storage or other electric battery or batteries, or other equipment used in the operation of the motor vehicle: *Provided,* That the carrying of such equipment and accessories is otherwise in compliance with the regulations in this part.

§ 297.1 Driving rules.

(a) *Applicability.* Every motor carrier, and its officers, agents, drivers, representatives, and employees directly concerned with the transportation of explosives and other dangerous articles shall comply and be conversant with the requirements of this section. This section shall be applicable with respect to motor vehicles transporting:

(1) Any quantity of class A explosives, class A poison gas, or class D poison requiring a red radioactive materials label.

(2) 2,500 pounds gross weight (contents and containers) of class B explosives, flammable liquids, flammable solids, oxidising materials, corrosive liquids, compressed gases, class B poisons, class C poisons, or class D poisons not requiring a red radioactive materials label.

(3) 5,000 pounds or more gross weight (contents and containers) of two or more different classes of dangerous articles set forth in subparagraph (2) of this paragraph.

(4) Cargo tank motor vehicles used for the transportation of dangerous articles, regardless of the amount of dangerous articles being transported, or whether loaded or empty.

(5) Except that paragraphs (b) and (h) of this section shall be applicable without regard to the gross weight of class B explosives being tranported.

(6) Except that this section shall not be applicable with respect to motor vehicles transporting those classes of dangerous articles set forth in subparagraph (2) if such articles are, because of size and kind of containers, exempted from the packaging, marking, and labeling requirement of Part 173 of this chapter, provided such exempted commodities do not have a gross weight (contents and containers) exceeding 5,000 pounds.

(b) *Motor vehicles not to be left unattended at any time.* Motor vehicles transporting class A or class B explosives shall not be left unattended at any time during the course of transportation. Nothing contained in this paragraph shall be construed to relieve the driver of any requirement for the protection of any such motor vehicle when disabled or stopped upon any street or highway as provided in Part 292 of this subchapter.

(c) *Motor vehicles not to be left unattended on streets or highways.* Motor vehicles transporting dangerous articles other than class A or class B explosives shall not be left unattended upon any public street or highway except when the driver is engaged in performing normal operations incident to his duties as the operator of the vehicle to which he is assigned. Nothing contained in this paragraph shall be construed to relieve the driver of any requirement for the protection of any such motor vehicle when disabled or stopped upon any street or highway as provided in Part 292 of this subchapter.

(d) *Avoidance of congested places.* Motor vehicles transporting explosives and other dangerous articles shall be so driven as to avoid, so far as practicable, and, where feasible, by prearrangement of routes, congested thoroughfares, places where crowds are assembled, street car tracks, tunnels, viaducts, and dangerous crossings.

(e) *Reduce refuelings to minimum.* Except for fuel containers for diesel engine fuels, the fuel tank or tanks on any motor vehicle in which is to be transported explosives, flammable liquids, flammable compressed gases or poisonous gases shall be suitably filled prior to the commencement of transportation, and subsequent refilling shall be reduced to the minimum number necessary. If the engine is provided with an electric ignition system, it shall be turned off and the engine stopped during the refueling process; and if with a magneto it shall be grounded.

(f) *Caution passing fires.* Motor vehicles transporting explosives, flammable liquids, flammable solids, oxidizing materials or flammable compressed gases shall not be driven past fires of any kind burning on or near the highway or other thoroughfare until after having taken due caution to ascertain that such passing can be made with safety.

(g) *No smoking while driving.* Smoking on or about any motor vehicle loaded with or transporting explosives, flammable liquids, flammable solids, oxidizing materials, or flammable compressed gases, or smoking on or about any tank motor vehicle used for the transportation of the liquids described is forbidden.

(h) *Parking in congested places.* Except where the necessities of the operation make impracticable the application of this paragraph, no motor vehicle transporting any class A or class B explosive shall be parked, even though attended, on any public street adjacent to or in proximity to any bridge, tunnel, dwelling, building, or place where persons work, congregate, or assemble.

(i) *Safety matches.* Drivers or anyone else, except passengers on buses, upon a motor vehicle transporting flammable liquids or any tank motor vehicle used for the transportation of such dangerous articles, whether loaded or empty, may carry only matches commonly known as "safety matches."

(j) *Jars, jolts, etc.* Motor vehicles transporting corrosive liquids shall be so driven as to avoid violent jars, jolts, bumps, or sudden accelerations or decelerations in any direction likely to produce shifting or breaking of the content of the motor vehicle.

LOWELL K. BIRDWELL,
Federal Highway Administrator.

[F.R. Doc. 67-14580; Filed, Dec. 14, 1967; 8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF COMMERCE

Maritime Administration

[46 CFR Ch. II]

SUBSIDIZED OPERATORS

Guidelines for Payment

In F.R. Doc. 67-14066 appearing in the FEDERAL REGISTER issue of November 30, 1967 (32 F.R. 16436), comments by interested parties were invited to be submitted by December 18, 1967, relative to the guidelines set forth therein for payment of operating-differential subsidy to subsidized operators.

In response to requests, notice is hereby given that the date of December 18, 1967, the closing date for submitting comments, is extended to close of business on February 5, 1968.

Dated: December 14, 1967.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, JR.,
Secretary.

[F.R. Doc. 67-14669; Filed, Dec. 14, 1967; 10:49 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 128]

HUMAN FOODS

Current Good Manufacturing Practice (Sanitation) in Manufacture, Processing, Packing, or Holding

Pursuant to the provisions of the Federal Food, Drug, and Cosmetics Act (secs. 402(a)(4), 701(a), 52 Stat. 1046, 1055; 21 U.S.C. 342(a)(4), 371(a)) and under the authority delegated to him by the Secretary of Health, Education, and Welfare (21 CFR 2.120), the Commissioner of Food and Drugs proposes the promulgation of the following regulations to establish criteria for current good manufacturing practice (sanitation) in the manufacture, processing, packing, or holding of human foods to effect compliance with section 402(a)(4) of the act:

PART 128—HUMAN FOODS; CURRENT GOOD MANUFACTURING PRACTICE (SANITATION) IN MANUFACTURE, PROCESSING, PACKING, OR HOLDING

Sec.
128.1 Definitions.
128.2 Current good manufacturing practice (sanitation).
128.3 Plant and grounds.
128.4 Equipment and utensils.
128.5 Sanitary facilities and controls.
128.6 Sanitary operations.
128.7 Processes and controls.
128.8 Personnel.

AUTHORITY: The provisions of this Part 128 issued under secs. 402(a)(4), 701(a), 52 Stat. 1046, 1055; 21 U.S.C. 342(a)(4), 371(a).

§ 128.1 Definitions.

The definitions and interpretations contained in section 201 of the Federal Food, Drug, and Cosmetic Act shall be applicable to such terms when used in this part. As applicable in this part, the following definitions shall pertain:

(a) "Adequate" means in conformance with local, State, and Public Health Service requirements or recommendations. In the absence of such requirements or recommendations "adequate" means in keeping with good public health practice.

(b) "Corrosion-resistant material" means a material that maintains its original surface characteristic under repeated and prolonged exposure to food products, food ingredients, cleaning compounds, and sanitizing solutions to which it is normally subjected.

(c) "Readily cleanable" means easily accessible and of such design, material, and finish that residues from or caused by processing operations may be completely removed by normal, safe cleaning methods.

(d) "Plant" means the building or buildings, or parts thereof, used for or in connection with the manufacturing, processing, packaging, labeling, or storage of human food.

(e) "Sanitize" means adequate bactericidal treatment of cleaned surfaces by a process that is generally recognized as effective in destroying micro-organisms other than spores.

§ 128.2 Current good manufacturing practice (sanitation).

The criteria in §§ 128.3 through 128.8 shall apply in determining whether the facilities, methods, practices, and controls used in the manufacture, processing, packing, or holding of food are in conformance with and are operated or administered in conformity with good manufacturing practices to produce under sanitary conditions food for human consumption.

§ 128.3 Plant and grounds.

(a) *Grounds.* The location and grounds surrounding a food plant shall be free from conditions incompatible with food manufacturing, processing, packing, or holding operations, including but not limited to the following:

(1) Unused equipment, litter, waste, refuse, and uncut weeds or grass within the immediate vicinity of the plant buildings or structures that may constitute an attractant, breeding place, or harborage for rodents, insects, and other pests.

(2) Excessively dusty roads, yards, or parking lots.

(3) Inadequately drained areas that may contribute contamination to food products through seepage or foot-borne filth and by providing a breeding place for insects or micro-organisms.

(b) *Plant construction and design.* Plant buildings and structures shall be of suitable size, construction, and location to facilitate maintenance and operation for their intended purpose. The plant and facilities shall:

(1) Provide sufficient space for orderly placement of equipment and storage of materials used in any of the operations. Floors, walls, and ceilings in the plant shall be of such construction as to be readily cleanable and shall be clean and in good repair. Fixtures, ducts, and pipes shall not be suspended over working areas in such a manner that drip or condensate may contaminate foods, raw materials, or equipment.

(2) Provide separation by partitions or by location so as to separate those operations which may cause cross-contamination of food products with bacteria, molds, toxic chemicals, filth, or other extraneous and deleterious materials.

(3) Provide adequate lighting to all areas where food or food ingredients are processed, examined, or stored and where equipment and utensils are washed, and to hand-washing areas, dressing and locker rooms, and toilet rooms. Light bulbs, fixtures, skylights, or other glass suspended over food in any step of preparation shall be of the safety type or otherwise protected to prevent food contamination in case of breakage.

(4) Provide adequate ventilation to eliminate objectionable odors and noxious fumes or vapors (including steam), and such ventilation shall not create conditions that may contribute to food contamination by airborne contaminants.

(5) Provide adequate employee facilities for eating and for orderly storage of employee's clothing and personal belongings in appropriate areas to prevent contamination of food or food-contact surfaces.

(6) Provide adequate screening and other protection as necessary to exclude birds, dogs, cats, and vermin (including but not limited to insects and rodents).

§ 128.4 Equipment and utensils.

All plant equipment and utensils shall be suitable for their intended use, so designed and of such material and workmanship as to be readily cleanable and durable, and kept in good repair. The product-contact surfaces of such equipment and utensils shall be smooth, nontoxic, corrosion resistant, and nonabsorbent. In addition, the design, construction, and use of such equipment and utensils shall preclude the contamination of food with lubricants, fuel, metal fragments, contaminated water, or any other contaminants. All equipment shall be so installed and maintained as to facilitate the cleaning thereof and of all adjacent areas. Aisles or working spaces between equipment and between equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties without contamination of food or food-contact surfaces with clothing or personal contact.

§ 128.5 Sanitary facilities and controls.

Each plant shall be equipped with adequate sanitary facilities and accommodations including but not limited to the following:

(a) *Water supply.* The water supply shall be ample for the operations intended, of a safe and sanitary quality, and derived from a public or private water supply system that is constructed, protected, operated, and maintained in an adequate manner. Hot and cold running water under pressure shall be provided in all areas where foods are processed or equipment, utensils, or containers washed.

(b) *Sewage disposal.* Sewage disposal shall be made into a public sewerage system or in the absence thereof into an adequate private sewerage system.

(c) *Plumbing.* Plumbing shall be of adequae size and design and adequately installed and maintained to:

(1) Carry ample quantities of water to required locations throughout the plant.

(2) Properly convey sewage and waste from the plant to the sewerage or sewage disposal system.

(3) Not constitute a source of contamination to foods, food products or ingredients, water supplies, equipment, or utensils, or create an insanitary condition or nuisance.

Adequate floor drains shall be provided in all areas where floors are subject to flooding-type cleaning or where normal operations release or discharge water or other liquid waste on the floor.

(d) *Toilet facilities.* Each plant shall provide its employees with adequate and conveniently located toilets and associated hand-washing facilities within the plant structure. Toilet rooms shall be furnished with toilet tissue. The facilities shall be maintained in a sanitary condition and be kept in good repair at all times. Doors to toilet rooms shall be self closing and shall not open directly into areas where food is exposed to airborne contamination. Signs shall be posted requiring employees to wash their hands with cleansing soap or detergents after using toilet.

(e) *Hand-washing facilities.* Adequate and convenient facilities for hand washing and hand sanitizing (where appropriate) shall be provided at each location in the plant where good sanitary practices require employees to wash, sanitize, and dry their hands. Such facilities shall be furnished with hot and cold running water, hand-cleansing soaps or detergents, single-use towels or suitable drying devices, and easily cleanable waste receptacles. Hand-sanitizing facilities shall also be provided with effective hand-sanitizing solutions. In food-processing and food-handling areas, hand-washing and sanitizing facilities shall be in a location where employee practices can be supervised.

(f) *Offal and rubbish disposal.* Offal and rubbish shall be so conveyed, disposed, or stored as to minimize the development of odor, prevent waste from becoming an attractant and harborage or breeding place for vermin, and prevent contamination of food, food-contact surfaces, ground surfaces, and water supplies.

§ 128.6 Sanitary operations.

(a) *General maintenance.* Buildings, fixtures, and other physical facilities of the plant shall be kept in good repair and shall be maintained in an orderly, sanitary condition at all times. Cleaning operations shall be conducted in such a manner as to minimize the danger of contamination of food and food-contact surfaces. Detergents and disinfectants and other supplies employed in cleaning and sanitizing procedures shall be safe and effective under conditions of use. Only such poisonous and toxic materials as are required to maintain sanitary conditions and for sanitization purposes shall be used or stored in the plant. These materials shall be identified and shall be used only in such manner and under such conditions as will not constitute a health hazard to employees or the public.

(b) *Animal and vermin control.* No animals or birds other than those essential as raw material shall be allowed in any area of a food plant. Effective measures shall be taken to protect against the contamination of foods in or on the premises by dogs, cats, birds, and vermin (including but not limited to rodents and insects). The use of poisonous insecticides or rodenticides shall not be permitted, except under such precautions and restrictions as will prevent the contamination of food with illegal residues, and shall not constitute a health hazard to employees.

(c) *Sanitation of equipment and utensils.* All utensils and product-contact surfaces of equipment shall be maintained in a sanitary condition through cleaning as frequently as necessary to prevent contamination of food and food products. Nonproduct-contact surfaces of equipment used in the operation of food plants shall be cleaned as frequently as necessary to be kept free of accumulation of dust, dirt, food particles, and other debris. Suitable facilities for cleaning shall be provided at convenient locations. Single-service articles (such as utensils intended for one-time use, paper cups, paper towels, etc.) shall not be reused and shall be stored in closed containers and handled, dispensed, and used in a manner that prevents contamination of food-contact surfaces.

(d) *Sanitization of equipment and utensils.* Where necessary to prevent microbiological contamination of food products, all utensils and product-contact surfaces of equipment used in the plant shall be cleaned and sanitized prior to such use and following any interruption during which such utensils and contact surfaces may have become contaminated. Where such equipment and utensils are used in a continuous production-line basis, the contact surfaces of such equipment and utensils shall be cleaned and sanitized on a predetermined schedule using adequate methods for washing and sanitizing. Sanitizing agents shall be effective and safe under conditions of use. Any facility, procedure, machine, or device may be acceptable for cleaning and sanitizing equipment and utensils if it is readily established that such machines, devices, facilities, and procedures will routinely render equipment and utensils clean to sight and touch and provide adequate bactericidal treatment.

(e) *Storage and handling of cleaned equipment and utensils.* Cleaned and sanitized portable equipment and utensils shall be stored above the floor in a clean, dry location and in such a manner that product-contact surfaces are protected from splash, dust, and other contamination.

§ 128.7 Processes and controls.

All operations in the receiving, transporting, packaging, segregating, preparing, processing, and storing of food shall be conducted in accord with adequate sanitation principles and under supervision of a person responsible for the overall sanitation of the plant and its operations. All reasonable precautions, including the following, shall be taken to assure that production procedures do not contribute contamination such as filth, chemicals, molds, bacteria, or any other extraneous or deleterious material to the processed product:

(a) Raw material and ingredients shall be inspected on receipt and segregated as necessary to assure that they are clean, wholesome, and fit for processing into human food and shall be stored under conditions that will protect against contamination and minimize deterioration. Raw materials shall be washed or cleaned as required to remove soil or other contamination. Water used for washing, rinsing, or conveying of food products shall be of potable quality and shall not be recirculated unless suitably treated to assure its potability.

(b) Containers and carriers of raw ingredients shall be inspected on receipt to assure that their condition has not contributed to the contamination or deterioration of the products.

(c) When ice is used in contact with food products, it shall be made of potable water and shall be used only if it has been manufactured in accordance with adequate standards and stored, transported, and handled in a sanitary manner.

(d) Food-processing areas and equipment used for processing human food shall not be used to process animal food or inedible products unless such use cannot result in contamination of human food.

(e) Processing equipment shall be maintained in a sanitary condition through frequent cleaning including sanitization where indicated. Insofar as possible equipment should be taken apart for thorough cleaning.

(f) All food processing, including packaging and storage, shall be conducted under such conditions and controls as are necessary to minimize the potential for undesirable bacterial or other microorganism growth, toxin formation, or deterioration or contamination of the processed product or ingredients. This may include careful monitoring of such physical factors as time, temperature, humidity, pressure, flow-rate and such processing operations as freezing, dehydration, sterilization, and refrigeration to ensure that mechanical breakdowns, time delays, temperature fluctuations, and other factors do not contribute to the decomposition or contamination of the processed products.

(g) Chemical, microbiological, or extraneous material testing procedures shall be utilized where necessary to identify sanitation failures or food adulterants, and all foods and ingredients that may have become contaminated shall be rejected.

(h) Packaging processes and materials shall not transmit contaminants or objectionable substances to the product, shall conform to any applicable food additive regulation, and shall provide adequate protection from adulteration.

(i) Recordkeeping and product coding shall be utilized to enable identification in cases of sanitation failures and to facilitate, where necessary, the segregation of specific food lots that may have become contaminated or otherwise unfit for human consumption. Records shall be retained for 2 years.

(j) Storage and transport of finished products shall be under such conditions as will preclude all contamination, including development of pathogenic or toxigenic micro-organisms, and protect against deterioration of the product and the container.

§ 128.3 Personnel.

The plant management shall be responsible for assuring the following:

(a) *Disease control.* No person affected by disease in a communicable form, or while a carrier of such disease, or while affected with boils, sores, infected wounds, or other abnormal sources of bacterial contamination, shall work in a food plant in any capacity in which there is a possibility of food or food ingredients becoming contaminated or of disease being transmitted to other individuals.

(b) *Cleanliness.* All persons handling food, ingredients, or their contact surfaces shall:

(1) Wear clean outer garments, maintain a high degree of personal cleanliness, and conform to hygienic practices while on duty.

(2) Remove all jewelry including wrist watches, rings, etc., during work periods in which foods or components are manipulated by hand.

(3) Wash their hands thoroughly (and sanitize if necessary to preclude contamination by micro-organisms) in an adequate handwashing facility before starting work, after each absence from the work station, and at any other time when the hands may have become soiled or contaminated.

(4) Maintain gloves used in food handling in an intact, clean, and sanitary condition. Such gloves shall be of an impermeable material except where their usage would be inappropriate or incompatible with the work involved.

(5) Wear hair nets, headbands, caps, or other effective hair restraints while working at processing operations.

(6) Not use tobacco in any form while in food-processing, food-handling, or equipment- and utensil-washing areas.

(7) Take any other necessary precautions to prevent contamination of foods with micro-organisms or foreign substances including, but not limited to, perspiration, hair, cosmetics, tobacco, chemicals, and medicants.

(c) *Education and training.* Key personnel responsible for identifying sanitation failures or food adulterants shall have a background of education or experience, or a combination thereof, to provide the required level of technical competency necessary to fulfill their responsibilities. Food handlers and supervisors shall receive appropriate training in proper food-handling techniques and food-protection principles and shall be cognizant of the danger of poor personal hygiene and insanitary practices.

(d) *Supervision.* All personnel practices and operations shall be under responsible supervision to assure compliance with all sanitation requirements of this Part 128.

Any interested person may, within 60 days from the date of publication of this notice in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written comments, preferably in quintuplicate, on this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: December 6, 1967.

JAMES L. GODDARD,
Commissioner of Food and Drugs.

[F.R. Doc. 67-14498; Filed, Dec. 14, 1967; 8:49 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 67-SO-207]

FEDERAL AIRWAY SEGMENT

Proposed Designation

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate VOR Federal airway No. 57 west alternate segment from Birmingham, Ala., to Decatur, Ala.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 20636, Atlanta, Ga. 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

The FAA is proposing the designation of V-57 west alternate from Birmingham to Decatur with a 1,300-foot AGL floor via the intersection of the Birmingham 235° T (232° M) and the Decatur 295° T (292° M) radials.

The proposed west alternate segment would provide an additional route that will be utilized by air traffic between Birmingham and Decatur. This proposed west alternate would permit expeditious routing of this intercity traffic when back course ILS approaches are being conducted at the new Huntsville-Madison County Airport.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on December 7, 1967.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-14564; Filed, Dec. 14, 1967; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-CE-129]

VOR FEDERAL AIRWAY

Proposed Extension

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations which would extend VOR Federal airway No. 177 from Stevens Point, Wis., direct to Duluth, Minn.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Building, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The FAA proposes to extend V-177 from Stevens Point with a 1,200-foot AGL floor for 31 nautical miles, 5,500 feet MSL floor for 115 nautical miles, thence 1,200-foot AGL floor to Duluth. This proposed airway segment would provide a primary direct route for scheduled and itinerant instrument type air traffic operating between Stevens Point and Duluth.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on December 7, 1967.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-14564; Filed, Dec. 14, 1967; 8:48 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 241]

[Docket No. 19388; EDR-131]

UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Filing Preliminary Schedule P-3(a)

DECEMBER 12, 1967.

Notice is hereby given that the Civil Aeronautics Board has under consideration a proposed amendment to Part 241 of the Economic Regulations concerning filing by certificated route air carriers of a preliminary schedule P-3(a)—Income Taxes for the final quarter of calender year 1967 and thereafter. The amendment is proposed under authority of sections 204(a) and 407(a) of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 766; 49 U.S.C. 1324, 1377).

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before December 29, 1967, will be considered by the Board before taking action on the proposal. Copies of communications will be available for examination by interested persons in the Docket Section of the Board, Room 710, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

Explanatory statement. Section 22(b) of Part 241 provides that schedules in the B and P series may be filed 90 days after the final quarter of the calendar year provided preliminary schedules B-1, P-1.1 or P-1.2, and P-3 are filed within the prescribed 40-day period following close of the quarter. These preliminary schedules are the source of significant year-end financial results which are quickly distributed internally for information pending the filing of final reports for the year. Included in this internal distribution are data on carrier rates of return, which have recently been expanded to show the return both before and after investment tax credits not allocated by the carrier to cost of service. In order that the Board and staff may have access to all data needed for preliminary calendar year distribution, information on investment tax credits must be provided as contained in schedule P-3(a) (Income Taxes). A preliminary report on schedule P-3(a) for calendar year 1967, and subsequent years, is therefore being added to the other preliminary schedules set forth in section 22(b).

Proposed rule. It is proposed to amend section 22(b) of Part 241 of the Economic Regulations, effective December 31, 1967, to read as follows:

Section 22—General Reporting Instructions

* * * * *

(b) Each air carrier shall file the schedules of the CAB Form 41 reports with the Civil Aeronautics Board in accordance with the above instructions, except that B and P report schedules for the final quarter of each calendar year may be extended to 90 days following the year's end: *Provided*, That schedules B-1, P-1.1 or P-1.2, P-3, and P-3(a) are submitted within the standard prescribed 40-day period. At the request of an air carrier, and upon a showing by such air carrier that public disclosure of its preliminary yearend report would adversely affect its interests and would not be in the public interest, the Board will withhold such preliminary yearend report from public disclosure until such time as (1) the final report is filed, (2) the final report is due, or (3) information covered by the preliminary report is publicly released by the carrier concerned, whichever first occurs.

* * * * *

[F.R. Doc. 67-14565; Filed, Dec. 14, 1967; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release 34-8304]

EXEMPTION OF CERTAIN TRANSACTIONS INVOLVING RECEIPT AND SALE OF SUBSCRIPTION RIGHTS

Notice of Proposed Rule Making

DECEMBER 11, 1967.

Notice is hereby given that the Securities and Exchange Commission has under consideration the adoption of Rule 16b-11 (17 CFR 240.16b-11) under the Securities Exchange Act of 1934. The proposed rule would exempt from the operation of section 16(b) under the Act the receipt and sale of certain short-term subscription rights distributed by an issuer to a class of its security holders pro rata in the course of an offering to such security holders of additional securities of such issuer.

Section 16(b) of the Act was enacted for the purpose of discouraging the unfair use of information in short-term trading by beneficial owners of more than 10 percent of a class of equity security registered pursuant to section 12 of the Act and by officers and directors of the issuer of such a security. Section 16(b) provides that profits realized by such persons from the purchase and sale, or sale and purchase, of any equity, security of the issuer, whether or not registered, within a period of less than 6 months, inure to and are recoverable by or on behalf of the issuer. The Commission is authorized to exempt from the provision of section 16(b) transactions not comprehended within the purpose of the section.

The exemption proposed to be afforded by the new rule would cover only the receipt of subscription rights from the issuer in the course of a pro rata distribution of such rights by the issuer without consideration to a class of its security holders, and the sale of the rights so received. Purchases of subscription rights for cash or other consideration, sales of subscription rights purchased for cash or other consideration, and the purchase of securities upon the exercise of subscription rights would not be exempted. Further, the exemptive provisions of the proposed rule would exclude a sale of subscription rights, by a person who has purchased subscription rights for cash or other consideration within the 6-month period preceding or following such sale, to the extent of any such purchase.

The text of proposed Rule 16b-11 (17 CFR 240.16b-11) is as follows:

§ 240.16b-11 Exemption from section 16(b) of certain transactions involving the receipt and sale of subscription rights.

(a) Any receipt or sale of a subscription right to acquire any subject security

of the same issuer shall be exempt from the provisions of section 16(b) of the Act, to the extent prescribed in this section, as not comprehended within the purpose of said section of the Act, if:

(1) Such subscription right is acquired, directly or indirectly, from the issuer without the payment of consideration;

(2) Such subscription right by its terms expires within 30 days after the issuance thereof;

(3) Such subscription right by its terms is issued on a pro rata basis to all holders of the beneficiary security of the issuer; and

(4) A registration statement under the Securities Act of 1933 (15 U.S.C. 77a et seq.) is in effect as to each subject security, or the applicable terms of any exemption from such registration have been met in respect to each subject security.

(b) When used within this section the following terms shall have the meaning indicated:

(1) The term "subscription right" means any warrant or certificate evidencing a right to subscribe to or otherwise acquire another security.

(2) The term "beneficiary security" means a security registered pursuant to section 12 of the Act to the holders of which a subscription right is granted.

(3) The term "subject security" means a security which is the subject of a subscription right.

(c) Notwithstanding anything contained herein to the contrary, if a person purchases subscription rights for cash or other consideration, then a sale by such person of subscription rights otherwise exempted by this section will not be so exempted to the extent of such purchases within the 6-month period preceding or following such sale.

(Sec. 16, 48 Stat. 896, 15 U.S.C. 78p)

All interested parties are invited to submit their comments in writing on the above-proposed action to the Securities and Exchange Commission, Washington, D.C. 20549 on or before January 5, 1968. All such communications will be available for public inspection unless the sender of any such communication requests that his views not be disclosed.

By the Commission.

ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-14640; Filed, Dec. 14, 1967; 8:50 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[RM 304.12]

HARMAL CORP.

Notice of Application for Recordation of Trade Name

DECEMBER 11, 1967.

Application has been filed pursuant to section 11.16, Customs Regulations (19 CFR 11.16), for recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124) of the trade name Harmal Corp. used by Harmal Corp., an Illinois corporation, 939 West Lake Street, Chicago, Ill. 60607, and Ball Machinery Co., an Illinois corporation, 939 West Lake Street, Chicago, Ill. 60607.

The application states that the trade name is applied to metal working machine tools manufactured in Italy; that Ball Machinery Co. and the Harmal Corp. have the sole and exclusive right to the use of the trade name in connection with this merchandise; that there is no foreign person, partnership, association, or corporation authorized to use the trade name sought to be recorded. Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Any such submission should be addressed to the Commissioner of Customs, Washington, D.C. 20226, in time to be received not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER. No hearing will be held.

Notice of the action taken on the application for recordation of the trade name will be published in the FEDERAL REGISTER.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

[F.R. Doc. 67-14591; Filed, Dec. 14, 1967; 8:48 a.m.]

DEPARTMENT OF THE INTERIOR

National Park Service

[Order 2]

FOREMAN IV (MAINTENANCE) AND ADMINISTRATIVE OFFICER

Delegation of Authority Regarding Purchasing

SECTION 1. *Foreman IV (Maintenance) and Administrative Officer.* The Foreman IV (Maintenance) and the Administrative Officer may issue purchase orders not in excess of $500 for supplies and equipment in conformity with applicable regulations and statutory authority and subject to availability of allotted funds.

SEC. 2. *Revocation.* This order supersedes Order No. 1, Badlands National Monument, published May 9, 1963.

(National Park Service Order No. 24 (31 F.R. 4255); 39 Stat. 535; 16 U.S.C., sec. 2. Midwest Region Order No. 4 (31 F.R. 5769).)

Dated: November 17, 1967.

JOHN R. EARNST,
Superintendent, Badlands National Monument.

[F.R. Doc. 67-14552; Filed, Dec. 14, 1967; 8:45 a.m.]

[Order 3]

ADMINISTRATIVE OFFICER AND PROCUREMENT ASSISTANT

Delegation of Authority Regarding Execution of Contracts and Purchase Orders for Supplies, Equipment, or Services

SECTION 1. *Administrative Officer.* The Administrative Officer may execute, approve, and administer contracts not in excess of $25,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriations. This authority may be exercised on behalf of any office or area under the supervision of the Superintendent of Curecanti Recreation Area, Colo., and Black Canyon National Monuments.

SEC. 2. *Procurement Assistant.* The Procurement Assistant may issue purchase orders not in excess of $1,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriations. This authority may be exercised on behalf of any office or area under the supervision of the Superintendent of Curecanti Recreation Area, Colo., and Black Canyon National Monuments.

SEC. 3. *Revocation.* This order supersedes Order No. 2, issued December 17, 1965.

(National Park Service Order No. 24 (31 F.R. 4255) as amended; 39 Stat. 535, 16 U.S.C., Sec. 2; Midwest Region Order No. 4 (31 F.R. 5769).)

Dated: November 20, 1967.

J. M. CARPENTER,
Superintendent, Curecanti Recreation Area, Colo., and Black Canyon of the Gunnison National Monuments.

[F.R. Doc. 67-14553; Filed, Dec. 14, 1967; 8:45 a.m.]

GRAND TETON NATIONAL PARK, WYO.

Notice of Intention To Issue Concession Permit

Pursuant to the provisions of section 5, Public Law 89-249, public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Superintendent of Grand Teton National Park proposes to issue a concession permit with Kathleen Starratt, doing business as Elbo Ranch, authorizing her to provide concession facilities and services for the public at Grand Teton National Park, Wyo., for a period of 5 years from January 1, 1968 through December 31, 1972.

The foregoing concessioner has performed her obligations under the permit to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice.

Interested parties should contact the Superintendent of Grand Teton National Park, Moose, Wyo., for information as to the requirements of the proposed permit.

Date: November 20, 1967.

HOWARD H. CHAPMAN,
Superintendent, Grand Teton National Park.

[F.R. Doc. 67-14554; Filed, Dec. 14, 1967; 8:45 a.m.]

ATOMIC ENERGY COMMISSION

STATE OF COLORADO

Proposed Agreement for Assumption of Certain AEC Regulatory Authority

On October 10 (32 F.R. 14069), October 17 (32 F.R. 14337), October 24 (32 F.R. 14698), and October 31 (32 F.R. 15049), 1967, the U.S. Atomic Energy Commission published in the FEDERAL REGISTER for public comment a proposed agreement received from the Governor of the State of Colorado for the assumption of certain of the Commission's regulatory authority pursuant to section 274 of the Atomic Energy Act of 1954, as amended. The proposed agreement as published included a proposed effective date of January 1, 1968.

Notice is hereby given that the proposed effective date is changed from January 1, 1968, to February 1, 1968.

Dated at Washington, D.C., this 5th day of December 1967.

For the Atomic Energy Commission.

W. H. McCool,
Secretary.

[F.R. Doc. 67-14399; Filed, Dec. 7, 1967; 8:49 a.m.]

CIVIL AERONAUTICS BOARD

[Docket 19282]

CALEDONIAN AIRWAYS (PRESTWICK), LTD.

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on December 20, 1967, at 10 a.m., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner William F. Cusick.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., December 11, 1967.

[SEAL] WILLIAM F. CUSICK,
Hearing Examiner.

[F.R. Doc. 67-14592; Filed, Dec. 14, 1967; 8:48 a.m.]

CIVIL SERVICE COMMISSION

NURSES, SPOKANE, WASH. (INCLUDING FAIRCHILD AIR FORCE BASE)

Notice of Adjustment of Minimum Rates and Rate Ranges

Under authority of 5 U.S.C. 5303 and Executive Order 11073, the Civil Service Commission has increased the minimum rates and rate ranges as follows:

GS-610 Nurse Series.
FFS-610 Nurse Series.

Geographic coverage: Spokane, Wash. (including Fairchild Air Force Base).

Effective date: First day of the first pay period beginning on or after December 2, 1967.

PER ANNUM RATES

Grade	1[1]	2	3	4	5	6	7	8	9	10
GS-6	$6,055	$6,211	$6,367	$6,523	$6,729	$6,915	$7,091	$7,267	$7,443	$7,619
GS-5	5,461	5,599	5,737	7,055	7,253	7,451	7,649	7,847	8,045	8,243

[1] Corresponding statutory rates: GS-5—Fifth; GS-6—Fourth.

Level	1[2]	2	3	4	5	6	7	8	9	10	11	12
FFS-5	$6,461	$6,663	$6,865	$7,084	$7,285	$7,416	$7,607	$7,798	$7,989	$8,180	$8,371	$8,562

[2] Corresponding statutory rate: FFS-5—Fifth.

All new employees in the specified occupational levels will be hired at the new minimum rates.

As of the effective date, all agencies will process a pay adjustment to increase the pay of employees on the rolls in the affected occupational levels. An employee who immediately prior to the effective date was receiving basic compensation at one of the rates of the statutory rate range shall receive basic compensation at the corresponding numbered rate authorized by this notice on and after such date. The pay adjustment will not be considered an equivalent increase within the meaning of 5 U.S.C. 3552.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67-14586; Filed, Dec. 14, 1967; 8:48 a.m.]

EXECUTIVE ASSISTANT AND SPECIAL ASSISTANT, DISTRICT OF COLUMBIA

Manpower Shortage; Notice of Listing

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission found a manpower shortage on November 8, 1967, for the positions of Executive Assistant (Executive Assistant to the Deputy Mayor-Commissioner, District of Columbia), GS-301-15, and Special Assistant (Special Assistant to the Chairman of the Council), GS-301-15, District of Columbia Government. This finding terminates when the two positions are filled.

The appointees to these positions may be paid for the expense of travel and transportation to the first post of duty.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67-14585; Filed, Dec. 14, 1967; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 17067, 17629; FCC 67M-2014]

AIKEN CABLEVISION, INC., AND HOME CATV CO., INC.

Order Scheduling Further Prehearing Conference

In re petition of: Aiken Cablevision, Inc., Aiken, S.C., Docket No. 17057, File No. CATV 100-19, for authority pursuant to § 74.1107 to operate CATV systems in North Augusta and Aiken, S.C., and in re petition of: Home CATV Co., Inc., City of Barnwell and town of Williston, S.C., Docket No. 17629, File No. CATV 100-145, for authority pursuant to § 74.1107 to operate CATV systems in the Augusta, Ga. television market.

The Hearing Examiner has under consideration a copy of a letter dated December 1, 1967, addressed to the Secretary of the Commission, from counsel for Aiken Cablevision, Inc., one of the parties to the above-entitled proceeding. This letter was written in order to confirm a telephone conversation between the writer and the Examiner, the purpose of which was to advise the latter that all parties other than the Broadcast Bureau had reached an agreement looking toward the termination of this proceeding without hearing and to request the Examiner, in light thereof, to cancel the hearing now scheduled to convene at 10 a.m., December 18 and to set up a further prehearing conference to be held at 9 a.m. on the same date. It was also requested that the date for exchange of exhibits, December 1, be canceled. It appears that the Commission's Broadcast Bureau, as well as all other parties, has consented orally to these procedural changes. The informal motion contained in the December 1 letter will therefore be granted. However, counsel are directed to be prepared to spread the substance of the settlement agreement on the record during the December 18 prehearing conference and to commit themselves to have the completed agreement, accompanied by whatever other documents or pleadings may be called for, on file with the Commission by not later than the close of business December 22d, in the event that this may not be accomplished before December 18,

It is so ordered, And the hearing scheduled to convene at 10 a.m., Monday, December 18, 1967, is hereby canceled, along with the December 1 deadline for the exchange of exhibits; and

It is ordered further, That a further prehearing conference in the above-entitled proceeding is hereby scheduled to convene at 9 a.m. on Monday, December 18, 1967, at the Commission's Offices, Washington, D.C.

Issued: December 5, 1967.

Released: December 7, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14569; Filed, Dec. 14, 1967; 8:46 a.m.]

[Docket Nos. 17617, 17618; FCC 67M-1097]

ATHENS BROADCASTING CO., INC., AND 3 J'S BROADCASTING CO.

Order Following Prehearing Conference

In re applications of Athens Broadcasting Co., Inc., Athens, Tenn., Docket No. 17617, File No. BPH-5668; John P. Frew and Julia N. Frew doing business as 3 J's Broadcasting Co., Athens, Tenn., Docket No. 17618, File No. BPH-5768; for construction permits.

At a prehearing conference held today all parties agreed that the following procedural steps would be effected on the dates designated:

December 26, 1967—Exchange of direct written presentations.

January 2, 1968—Notification of lay witnesses desired for cross examination.

January 8, 1968—Final exchange of engineering exhibits.

January 9, 1968—Notification of engineering witnesses desired for cross examination.

January 12, 1968—Hearing.

So ordered.

Issued: December 4, 1967.

Released: December 7, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14570; Filed, Dec. 14, 1967; 8:46 a.m.]

[Docket No. 17845; FCC 67M-2024]

BETTERVISION SYSTEMS, INC.

Order Scheduling Hearing

In re cease and desist order to be directed against Bettervision Systems, Inc., Docket No. 17845, owner and operator of a CATV system at Shinnston, W. Va.

It is ordered, That Isadore A. Honig shall serve as Presiding Officer in the above-entitled proceeding; that the hearings therein shall be convened on January 16, 1968, at 10 a.m.; and that a prehearing conference shall be held on December 21, 1967, commencing at 9 a.m.; and, *It is further ordered,* That all proceedings shall take place in the Offices of the Commission, Washington, D.C.

Issued: December 7, 1967.

Released: December 7, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14571; Filed, Dec. 14, 1967; 8:47 a.m.]

[Docket Nos. 17856, 17857; FCC 67M-2018]

BLANCETT BROADCASTING CO. AND BRECKINRIDGE BROADCASTING CO.

Order Scheduling Hearing

In re Applications of J. C. Blancett trading as Blancett Broadcasting Co., Hardinsburg, Ky., Docket No. 17856, File No. BPH-5815; Dr. O. C. Carter, Paul Fuqua and Dr. Robert D. Ingram doing business as Breckinridge Broadcasting Co., Hardinsburg, Ky., Docket No. 17857, File No. BPH-5827; for construction permits.

It is ordered, That James D. Cunningham shall serve as Presiding Officer in the above-entitled proceeding; that the hearings therein shall be convened on January 15, 1968, at 10 a.m.; and that a prehearing conference shall be held on December 28, 1967, commencing at 9 a.m.; and, *It is further ordered,* That all proceedings shall take place in the Offices of the Commission, Washington, D.C.

Issued: December 6, 1967.

Released: December 8, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14572; Filed, Dec. 14, 1967; 8:47 a.m.]

[Docket No. 17469; FCC 67M-2013]

BLUEFIELD TELEVISION CABLE AND BLUEFIELD CABLE CORP.

Order Scheduling Further Prehearing Conference

In re Petition of Bluefield Television Cable, Bluefield, W. Va., request for waiver of § 74.1103 of the Commission's rules, and cease and desist order to be directed against Bluefield Cable Corp., owner and operator of a CATV system at Bluefield, W. Va.; Docket No. 17469.

On the unopposed joint oral request of counsel for Bluefield and WCYB-TV, *It is ordered,* That the schedule directed in the statement and order of November 29, 1967, including the hearing of December 19, 1967, is canceled; and that a further prehearing conference is scheduled for January 10, 1968, at 9:30 a.m. to consider the technical feasibility of a proposed solution to the carriage problem and possible avoidance of hearing.

Issued: December 5, 1967.

Released: December 7, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14573; Filed, Dec. 14, 1967; 8:47 a.m.]

[Canadian Change List 234]

CANADIAN BROADCAST STATIONS

List of Changes, Proposed Changes, and Corrections in Assignment

NOVEMBER 15, 1967.

Notification under the provision of Part III, section 2 of the North American Regional Broadcasting Agreement.

List of changes, proposed changes and corrections in assignment of Canadian Broadcast Stations modifying Appendix containing Assignments of Canadian Stations (Mimeograph No. 47214-3) attached to the Recommendation of the North American Regional Broadcasting Agreement Engineering Meeting.

Call letters	Location	Power kw	Antenna	Schedule	Class	Expected date of commencement of operation
CFRB (this notification is for purposes of updating the daytime supplementary data in agreement with station's actual operation as proven by the latest measurement data. The nighttime operation is as previously notified).	Toronto, Ontario	*1010 kilocycles* 50 kw	DA-2	U	II	
CFSL (change from that notified on List No. 220—PO: 1340 kc, 1 kwD/0.25 kwN).	Weyburn, Saskatchewan.	*1180 kilocycles* 10 kwD/5 kwN.	DA-N	U	II	E.I.O. 11-1-68.
CHQM (now in operation with increased power).	Vancouver, British Columbia.	*1320 kilocycles* 50 kw	DA-2	U	III	

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14574; Filed, Dec. 14, 1967; 8:47 a.m.]

[Docket Nos. 17670-17672; FCC 67M-2000]

DURHAM-RALEIGH TELECASTERS, INC., ET AL.

Order Cancelling Hearing

In re Applications of Durham-Raleigh Telecasters, Inc., Durham, N.C., Docket No. 17670, File No. BPCT-3882; Triangle Telecasters, Inc., Durham, N.C., Docket No. 17671, File No. BPCT-3883; WTVY, Inc., Durham, N.C., Docket No. 17672, File No. BPCT-3885; for construction permit for new television broadcast station (Channel 28).

The Hearing Examiner is in receipt of a motion filed by Triangle Telecasters, Inc., requesting the postponement of certain procedural dates heretofore established;

It appearing, that good cause exists why said motion should be granted, and the movant pleads that all parties to the

proceeding have agreed to the grant of this motion;

Accordingly, it is ordered, That the motion is granted, and the date for the exchange of exhibits is extended from November 29, 1967, to and including December 12, 1967, and the date for notification of witnesses desired for cross-examination shall be December 20, 1967, in lieu of December 6, 1967; and

It is further ordered, That the hearing scheduled for December 18, 1967, be and the same is hereby canceled, and there will be a further hearing conference in this proceeding on January 8, 1968, 2 p.m., in the Commission's Offices, Washington, D.C.

Issued: November 28, 1967.

Released: December 8, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14575; Filed, Dec. 14, 1967; 8:47 a.m.]

[Docket No. 17861; FCC 67M-2018]

GENERAL ELECTRIC CABLEVISION CORP.

Order Scheduling Hearing

In re petition by General Electric Cablevision Corp., Merced, Calif., Docket No. 17861, File No. CATV 109-62, for authority pursuant to § 74.1107 of the rules to operate a CATV system in the Fresno, Calif., television market (ARB 90).

It is ordered, That Basil P. Cooper shall serve as Presiding Officer in the above-entitled proceeding; that the hearings therein shall be convened on January 8, 1968, at 10 a.m.; and that a prehearing conference shall be held on December 20, 1967, commencing at 9 a.m.; and, *It is further ordered*, That all proceedings shall take place in the Offices of the Commission, Washington, D.C.

Issued: December 6, 1967.

Released: December 8, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14576; Filed, Dec. 14, 1967; 8:47 a.m.]

[Docket No. 16966; FCC 67M-2023]

MADISON COUNTY BROADCASTING CO., INC. (WRTH)

Order Scheduling Hearing

In re application of Madison County Broadcasting Co., Inc. (WRTH), Wood River, Ill., Docket No. 16966, File No. BP-16612, for construction permit.

It is ordered, That the hearing (engineering) in the above matter now scheduled for 10 a.m., December 18, 1967 is continued without date.

Issued: December 4, 1967.

Released: December 7, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14577; Filed, Dec. 14, 1967; 8:47 a.m.]

[Docket Nos. 17695, 17696; FCC 67M-2001]

JOHN C. ROACH AND GORDON COUNTY BROADCASTING CO. (WCGA)

Order Regarding Procedural Dates

In re applications of John C. Roach, Calhoun, Ga., Docket No. 17695, File No. BP-16665, for construction permit; Gordon County Broadcasting Co. (WCGA), Calhoun, Ga., Docket No. 17696, File No. BR-2831, for renewal of broadcast license.

The Hearing Examiner having under consideration a "Petition for Postponement of Procedural Dates" filed by Gordon County Broadcasting Co. (WCGA) on November 21, 1967, requesting that the procedural dates heretofore established be continued;

It appearing, that the other parties to this proceeding have consented to the requested postponement; and

It further appearing, that good cause has been shown;

It is ordered, That the above-mentioned "Petition for Postponement of Procedural Dates", be, and the same is, hereby granted; and the following dates shall supersede those heretofore established:

Exchange of exhibits presently scheduled for November 21, 1967, is continued to December 27, 1967;

Notification of witnesses presently scheduled for November 29, 1967, is continued to January 10, 1968; and

Hearing presently scheduled for December 5, 1967, is continued to January 22, 1968.

Issued: November 28, 1967.

Released: December 8, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14578; Filed, Dec. 14, 1967; 8:47 a.m.]

[Docket No. 17855; FCC 67M-2019]

WELCH ANTENNA CO.

Order Scheduling Hearing

In re cease and desist order to be directed against the following CATV operator: Welch Antenna Co., Welch, W. Va. Docket No. 17855.

It is ordered, That David I. Kraushaar shall serve as Presiding Officer in the above-entitled proceeding; that the hearings therein shall be convened on January 8, 1968, at 10 a.m.; and that a prehearing conference shall be held on December 21, 1967, commencing at 9 a.m.; and, *It is further ordered*, That all proceedings shall take place in the Offices of the Commission, Washington, D.C.

Issued: December 6, 1967.

Released: December 8, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14579; Filed, Dec. 14, 1967; 8:47 a.m.]

[Docket Nos. 17607, 17608; FCC 67R-498]

AMERICANA BROADCASTING CORP. AND LOYOLA UNIVERSITY

Memorandum Opinion and Order Enlarging Issues

In re applications of Americana Broadcasting Corp., New Orleans, La., Docket No. 17607, File No. BPH-5404; Loyola University, New Orleans, La., Docket No. 17608; File No. BPH-5466; for construction permit for new FM broadcast station.

1. This proceeding involves the mutually exclusive applications of Americana Broadcasting Corp. (Americana) and Loyola University (Loyola) for a new FM broadcast station in New Orleans, La. The Commission, by Order (FCC 67-851, released July 31, 1967) designated the applications for hearing on a standard comparative issue, including the question of the comparative benefits to be derived from duplication of AM programing as proposed by the respective applicants.[1] Presently before the Review Board is a motion to enlarge issues, filed August 21, 1967, by Loyola, requesting the addition of five issues to this proceeding.[2]

Comparative Efforts. 2. Among the issues requested by Loyola is a comparative effort: issue, viz, "Whether on a comparative basis significant differences exist with respect to the efforts made by each applicant to ascertain the needs and interests of the community and area each proposes to serve." In support of the request, Loyola asserts the alleged superiority of its own canvas of the New Orleans area. It alleges that as licensee of WWL-AM and WWL-TV, New Orleans, it has over the years made a continuous study of the needs of the area.[3] As a result of this alleged "open-ended dialogue with many representative groups and agencies," it determined that there was a need for a good music station "able to provide a full and complete news service, and willing to allocate and devote substantial programing time to the dissemination of opinion on controversial local issues."[4] Loyola maintains that Americana, on the other hand, interviewed only seven community leaders; that this "'survey' appears to be nothing more than a 'token' effort to comply with the requirements of Form 301"; that nowhere does Americana indicate the results of the interviews nor can it "give the Commission (any) assurance that a correlation exists between New Orleans' FM broadcast needs as determined in its survey and its proposed programing fare"; and that Americana's format as proposed (country and western, and gospel) is similar to the format offered on its principals' other broadcast stations. Further, Loyola alleges that Americana's proposed FM programing is "not believable in light of WSHO-AM's (Americana's existing AM station) past, present, and proposed programing format."[5]

3. In opposition, Americana contends that Loyola's showing with respect to its survey is "largely window dressing" and is not related to the critical question of what are the FM needs of New Orleans, as opposed to its AM and television needs. Thus, it concludes, "Loyola has not demonstrated that its efforts with respect to ascertainment of programing needs were significantly superior to those of Americana." Also opposing the requested issue, the Broadcast Bureau alleges that Loyola's showing is misleading because the contacts were made over a period of years in connection with the operation of its AM and television stations. Moreover, the Bureau questions the usefulness of these contacts in determining FM broadcasting needs. The Bureau alleges that Loyola "tacitly admits" that it has not made a separate determination of the FM needs of New Orleans and "that these needs might differ from its AM and television needs * * *." In support of this allegation, it quotes a sentence from Loyola's application, Exhibit 1, which reads as follows:

> The applicant submits that the same type of continuing study will be applied to determination of community needs in the area of FM as has been applied to AM and TV.

In conclusion, the Bureau states that "[a]lthough Americana's efforts to determine the community's needs do not appear to be extensive. Loyola has not shown that its own efforts were significantly superior."

4. Loyola filed replies to the pleadings of both Americana and the Broadcast Bureau. The reply to Americana's opposition essentially reiterates the points of its original motion. The reply to the Bureau's opposition of this issue asserts that the Bureau fails to give the Loyola method of ascertainment the weight it deserves. Loyola, it contends, has been serving New Orleans since 1922 and has practiced a policy of "total community involvement", one aspect of which is the continuing ascertainment of needs. As a result of this continuing effort, it alleges, it determined to seek an FM broadcast license; thereafter, it formulated a programming proposal pursuant to a specific FM survey made by its "agent", William Dean (listed as "General Manager" in the FM application). Loyola contends that its situation is different from a "newcomer" like Americana which, it alleges, lacks the intimate familiarity with New Orleans that Loyola has. Loyola further contends that it was therefore incumbent upon Americana to exert an extensive effort to ascertain the community's needs.

5. It appears from the allegations before us that Loyola has maintained continuing contacts with many facets of New Orleans life, and without question, this is a proper and relevant method of determining needs and interests of a broadcaster's community. Statement on Comparative Broadcast Hearings, FCC 65-689, 5 RR 2d 1901. On the other hand, Americana has not disputed the allegation that it has made only seven contacts with community leaders in the New Orleans area.[6] Further, we note that Americana entered into the New Orleans broadcast market relatively recently,[7] and that its president and major stockholder, H. C. Young, Jr., does not reside in the New Orleans area. In view of the foregoing, we are of the opinion that a substantial question of a significant disparity in efforts has been raised and therefore that a comparative efforts issue should be added. Chapman Radio and Television Co., FCC 67-234, 9 RR 2d 635; Lee Broadcasting, FCC 67R-261, 10 RR 2d 486. Our determination to add this issue should not be construed as a determination that we are disposed to automatically add a comparative efforts issue whenever an established broadcast interest in a given community (as here) proposes new facilities, and another mutually exclusive applicant who is new or relatively new to an area also proposes new facilities. However, when a broadcaster proposes to enter a new area, he, of course, cannot rely on continuing contacts to formulate his proposal; he must ascertain the needs in some other meaningful way. In this case, Americana appears to have contacted only seven persons in the entire New Orleans area. Based upon the pleadings before us, we cannot say that such ascertainment is sufficient to avoid the requested issue.

Commercial practices. 6. Two of Loyola's requested issues and part of a third relate to Americana's proposed commercial practices. First, in partial support of a general § 1.65 issue,[8] Loyola asserts that Americana has changed its proposed commercial practices without amending its application. Second, Loyola contends that in view of this fact, an issue should be added to determine whether Americana has misrepresented to the Commission its proposed commercial practices. Third, Loyola requests that an issue should be added to determine whether the alleged duplicated daily scheduling of 23 minutes of commercial matter per hour during several hours of the day is inconsistent with the public interest.

7. In support of the requested issues, Loyola points out that Americana, in the subject FM application, stated that the maximum amount of advertising it would allow in any 60-minute segment would be 16 minutes. On the other hand, Loyola asserts, "this is a substantial variance with the proposal contained in its AM

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[1] Americana proposes 50 percent duplication of its AM station, WSHO; and Loyola proposes 19 percent duplication of its AM station, WWL.

[2] The following related pleadings are also before the Review Board: (a) comments, filed Sept. 6, 1967, by the Broadcast Bureau; (b) opposition to motion to enlarge, filed Sept. 13, 1967, by Americana; (c) reply to the Bureau's comments, filed Sept. 18, 1967, by Loyola; and (d) reply to Americana's opposition, filed Sept. 28, 1967, by Loyola.

[3] For example, Loyola's Exhibit One specifically lists 48 "General" contacts (Chamber of Commerce, New Orleans Hotel Association, YMCA, etc.), 27 "Agricultural" contacts, 7 "Religious" contacts, 8 "Education" contacts (universities, and local high schools), 12 "Cultural" contacts, and 20 "Sports" contacts.

[4] Loyola illustrates this point by referring to its "specifically designed" format: 105 hours of operation per week, 5 hours and 20 minutes (5.28 percent) devoted to news, 5 hours and 20 minutes (5.28 percent) devoted to public affairs, and 3 hours and 15 minutes (3 percent) devoted to programing other than entertainment or sports (Exhibit One, pp. 10, 11, 14).

[5] In support of this allegation, Loyola cites Americana's FM programing proposal: 126 hours of operation per week, 8 percent news, 1.4 percent public affairs, and 1 percent programing other than entertainment or sports. It also alleges a substantial difference in Americana's programing proposal for its AM station (in its assignment of license application), and its "actual performance" as reflected in its renewal application.

[6] According to Americana's Exhibit No. 4, the seven contacts were with the following: (a) The mayor of New Orleans, (b) the chairman of the Music Therapy Fund, (c) the Public Relations Director of the New Orleans Total Community Action Center, (d) the District Commander of the American Legion, (e) the vice president of the New Orleans Chamber of Commerce, (f) the president of a local bank, and (g) the head of Adult Education in Louisiana.

[7] WSHO-AM, presently the only licensed station to Americana in New Orleans, began operations on Jan. 7, 1966.

[8] Loyola also contends that Americana has undergone certain financial changes which were not reported to the Commission, and also that certain program changes have likewise not been reported to the Commission. We will discuss these contentions, as well as other related financial matters hereinafter. Section 1.65 of the Commission's rules states in pertinent part, as follows: "Each applicant is responsible for the continuing accuracy and completeness of information furnished in a pending application or in Commission proceedings involving a pending application. Whenever the information furnished in the pending application is no longer substantially accurate and complete in all significant respects, the applicant shall as promptly as possible and in any event within 30 days, unless good cause is shown, amend or request the amendment of his application so as to furnish such additional or corrected information as may be appropriate."

license renewal application,"[9] and is significant because the applicant proposes to duplicate 50 percent of its AM programs. Thus, the implication from Loyola is that if in fact the proposed FM station does duplicate WSHO-AM 50 percent of the time, it cannot operate within its self-imposed 10-minute limitation as set forth above; hence, arises the § 1.65 and misrepresentation issues. Furthermore, Loyola contends that, if indeed it is true that commercial time will exceed the proposal, then it may constitute overcommercialization contrary to the public interest.

8. Americana, in opposition, denies that there has been any change in its proposal of 10 minutes of commercial matter per 60-minute segment of broadcast time. Its explanation of how it will effect a 50 percent duplication and at the same time stay within its proposal is stated as follows in its pleadings:

> Commercial continuity on AM will be duplicated on FM only if it is separately paid for. AM commercial continuity not separately paid for on FM will be deleted from the FM transmissions.

Americana further asserts that since its original proposal is unchanged, the Loyola allegation that there is a question of overcommercialization also "must fail."[10] Loyola, in its reply to the Americana opposition, as well as to the Bureau's comments, concedes the technical feasibility of the Americana explanation, but contends that "this is a highly irregular and an expensive business practice."

9. Petitioner's contention that Americana will exceed the amount of commercialization specified in its application cannot be accepted. Americana's explanation of how it will effectuate its proposed commercial policy is adequate to overcome any inferences raised by the subject petition. Loyola's reply to this explanation does not challenge its veracity or feasibility; it merely alleges that such a practice as proposed by Americana would be "irregular". Such an allegation is no more than speculation and clearly not sufficient, in light of the requirements of § 1.229 of the Commission's rules, to warrant the addition of an issue in this regard. We therefore find that no substantial question is raised as to whether Americana misstated its proposed commercial policy. Since the misrepresentation, overcommercialization, and the § 1.65 issues are all based upon the contention that Americana will exceed its proposed amount of duplication, petitioner's requests therefor will be denied.

Finances. 10. Finally, Loyola seeks the addition of two issues related to the applicant's financial qualifications. Loyola alleges that there is a substantial question as to whether or not Americana is qualified under the Commission's Ultravision test (FCC 65-581, 5 RR 2d 343); and even if it is, whether it can construct and operate its proposed FM station without impairing the ability of its AM station to operate in the public interest. Loyola also alleges that there is a substantial question as to whether Americana has kept the Commission informed of "substantial and significant" changes in its financial status pursuant to § 1.65 of the rules. In support of the addition of these issues, Loyola asserts that Americana will require $37,900 to construct and operate the station for 1 year (this figure apparently comes from the applicant's original application; however, by amendment of Nov. 3, 1966, the actual amount required is $39,890); that the February 28, 1966 balance sheet of Americana shows a cash balance of $19,108.59; and that this, plus a $20,000 loan commitment from its president, H. C. Young, Jr., "appears" to qualify it under the Ultravision test. However, Loyola alleges that there are several factors which subtract from the weight which can be attached to this showing." Essentially, the factors revolve around a chance that Loyola alleges has taken place in Americana's financial position since the filing of its original balance sheet.[11] Loyola alleges that Americana is operating at an undetermined loss. The exact size of this loss, it alleges, is unknown due to the addition in the renewal balance sheet of a $30,000 item to assets captioned "Goodwill".[12] Loyola asserts that there have been no acquisitions to justify the inclusion of this item, and that actually there has been a loss of $24,828.59, instead of $4,828.59, as reflected in its renewal balance sheet. Cash balances also declined, Loyola asserts, between the time of the original balance sheet (for the FM application) and the renewal balance sheet (for renewal of AM license). Loyola also asserts that current assets were shown to exceed current liabilities only because accounts receivable increased; but this was the result of an increase in the number of "marginal advertisers".[13] Thus, it contends, accounts receivable cannot be relied upon to meet the necessary costs. Loyola concludes therefore, that with only $13,751 in cash and $20,000 in loans, Americana can only show $33,751 available for first-year costs, an amount less than that which the application reflects is required.

11. In opposition to the requested issues, Americana relies on an amendment to its application (see footnote 11, supra) which, it contends, "clearly shows that Americana will have adequate funds available (in excess of $40,000) for construction and operation of its proposed FM station." The amendment, Americana alleges, also shows that there have been no significant changes in its application (§ 1.65); that WSHO, its existing AM station, is operating at a profit; and that the FM venture will not adversely affect the operation of the AM station. Replying to Americana's opposition, Loyola presents a more detailed analysis of the Americana financial position based upon the amended balance sheets. First, it notes that Americana has current assets (including accounts receivable) of $71,533.30, and current liabilities of $26,345.12, or a surplus of $45,188.18. However, Loyola contends that Americana does not have enough cash to cover its current liabilities,[14] and that other "current assets" are too speculative to be considered. Loyola also contends that Mr. Young, who now has committed himself to loan the applicant "such additional monies as may be required for the construction and operation of the proposed station," might not himself possess the sufficient liquid assets to perform in accordance with his promise. Loyola contends that the only items upon which reliance can be placed are cash, "United Funds", cash value of life insurance, and municipal bonds—a total of $3,599.50. Loyola alleges that Young's position is further weakened "[i]n light of [his] $25,000 loan commitment * * * to Broadcasting Associates of America, Inc., permittee of Radio Station WGUS-FM, Augusta, Ga.;" and that, accordingly, "approximately only $18,600 remains available for use in construction and first-year operation of WSHO-FM."[15] Thus, Loyola alleges, even if Americana's cash holdings as shown in the revised balance sheet is $13,074, and all this were available for first-year costs, Americana would still be short $3,116. Further, Loyola alleges that because of the necessity of providing the additional amount of money to construct and operate Americana's proposed FM station, its AM station will suffer, and, as a result, its public interest obligations may very well not be met.

13. Petitioner's requests for all issues regarding the applicant's financial status will be denied. Loyola's allegation that Americana's proposed FM station may financially impede the operation of its AM station, thereby preventing the latter from meeting the public interest standard, is not supported by sufficient allegations (§ 1.229 of the Commission's rules). There are no allegations that the AM station is to supply needed funds to the FM station out of its revenues. Nor are there any allegations that there are funds specifically allocated to the AM operation which may be diverted from it to the proposed FM operation; or that, even if there are, how such diversion would cause the AM station to operate in a manner detrimental to the public. Further, there is no indication that Americana's existing station is now operating at a loss. Thus, petitioner's request will be denied.

14. The Review Board does not agree with Loyola's analysis of Americana's financial position. The balance sheet contained in Americana's amended application shows current assets in the amount of $71,533.30, and current liabilities in the amount of $26,345.12. There is thus a surplus of $45,188.18. However, we can give credit for only the $13,074.93 in cash, absent any specific allegations establishing the liquidity of the other listed assets. Young is now obligated to loan Americana any amount necessary, and, considering the corporation's cash balance, he must show the availability of at least $21,815.07. Young's most recent balance sheet shows total assets of over half a million dollars, and a net worth just under that figure. His liabilities, on the other hand, total only $45,000. Included among Young's assets are $43,599.50 in liquid assets (cash, "United Funds", cash value of life insurance, and municipal bonds). No valid reason has been presented why Young cannot rely on these liquid assets, and we therefore conclude that Young will be able to supply the necessary funds and that no financial issue is warranted. Further, although there may have been fluctuations in Americana's financial position since it filed its original FM application, in light of the facts that we find no question as to its present ability to meet costs of construction and first-year's operation, and that there is no indication that it was not financially qualified in the past, such fluctuations are not "significant" within the meaning of § 1.65 of the Commission's rules;[16] therefore, petitioner's request for an issue in this regard will also be denied.

Accordingly, it is ordered, That the motion to enlarge issues, filed August 21, 1967, by Loyola University, is granted to the extent indicated below, and denied in all other respects; and

It is further ordered, That the issues in this proceeding are enlarged by the addition of the following issue:

> To determine whether, on a comparative basis, significant differences exist with respect to the efforts made by each applicant to ascertain the needs and interests of the community and area each proposes to serve.

Adopted: November 24, 1967.

Released: December 11, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14596; Filed, Dec. 14, 1967; 8:45 a.m.]

[Docket No. 17894; FCC 67M-2028]

BETTERVISION SYSTEMS, INC.

Order After Prehearing Conference

In re cease and desist order to be directed against: Bettervision Systems, Inc., owner and operator of a CATV system at Buckhannon, W. Va., Docket No. 17834.

A prehearing conference was held before the Hearing Examiner today. Certain rulings were made, which are incorporated herein by reference to the transcript, and a hearing date was established.

It is so ordered, And the hearing in the above-entitled proceeding is hereby scheduled to convene at 9 a.m., on Wednesday, December 20, 1967, at the Commission's offices, Washington, D.C.

Issued: December 6, 1967.

Released: December 11, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14597; Filed, Dec. 14, 1967; 8:46 a.m.]

[Docket No. 17469; FCC 67M-1995]

BLUEFIELD TELEVISION CABLE AND BLUEFIELD CABLE CORP.

Statement and Order After Further Prehearing Conference

In re petition of Bluefield Television Cable, Bluefield, W. Va., request for waiver of § 74.1103 of the Commission's rules and cease and desist order to be directed against Bluefield Cable Corp., owner and operator of a CATV system at Bluefield, W. Va.; Docket No. 17469.

At today's further prehearing conference the following schedule was agreed to:

Bluefield to furnish its direct affirmative exhibits and affidavits of possible oral witnesses to other counsel and Hearing Examiner by December 7, 1967;

Informal meeting of counsel, December 8, 1967;

Receipt of notice of witnesses for cross examination by December 11, 1967;

Hearing, December 19, 1967.

So ordered.

Issued: November 29, 1967.

Released: November 30, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14598; Filed, Dec. 14, 1967; 8:46 a.m.]

[Docket Nos. 17730, 17731; FCC 67M-2030]

HEARD BROADCASTING, INC., AND NORFOLK BROADCASTING CORP.

Order Scheduling Hearing

In re applications of: Heard Broadcasting, Inc., Leesburg, Fla., Docket No. 17730, File No. BPH-5614; Norfolk Broadcasting Corp., Leesburg, Fla., Docket No. 17731, File No. BPH-5763; for construction permits.

The Hearing Examiner has under consideration the Order scheduling the hearing in the above-entitled proceeding; a "Joint Petition For Approval of Agreement and Dismissal of Application", filed November 14, which is pending before the Review Board; and the transcript of the prehearing conference held November 2. It appears that the parties have reached an agreement, which they submitted with their "Joint Petition" for the consideration of the Commission's Review Board, looking towards the dismissal of one of the applications and the termination of this proceeding. Pending approval of the agreement by the Review Board the hearing, presently scheduled to convene December 20, ought therefore to be postponed.

It is so ordered, On the Hearing Examiner's own motion and the hearing (assuming one is ultimately required) is hereby rescheduled to convene at 10 a.m.,

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[9] Loyola's reasoning in support of this conclusion is as follows: Americana's AM license renewal application shows a commercial proposal which would allow a maximum of 20 minutes of commercial matter per 60-minute segment, with an allowance of up to 30 minutes during "drive time", or 4 hours per day; 50 percent of the number of hours its FM station is proposed to be on the air is nine; therefore, Loyola asserts, "at least 1 hour of its scheduled 'drive time' will be duplicated of necessity."

[10] The Broadcast Bureau also opposes the addition of any issue relating to an alleged change in commercialization proposals: "There is no indication, however, that Americana will permit its AM station to broadcast commercial matter in excess of the maximum stated in its FM application while the AM station is being duplicated. Any contrary conclusion is based on speculation and conjecture."

[11] Loyola, in its motion, relies on an Americana balance sheet dated Dec. 31, 1966, which was submitted with Americana's AM renewal application, to support allegations. Americana, however, in its opposition, relies on an amendment to its application, accepted by the Hearing Examiner (Memorandum of Ruling, FCC 67M-1697, released Oct. 4, 1967), containing amended balance sheets of Americana and H. C. Young, Jr., and a letter of commitment from Young to loan whatever funds are necessary.

[12] The renewal balance sheet also showed a negative operations item—a loss of $4,828.59.

[13] This assertion is based on the facts that in its original balance sheet, Americana allowed only 4.5 percent of accounts receivable as a reserve for bad debts, whereas the December 1966 balance sheet showed the reserve to be 28 percent of accounts receivable. The bad debt to accounts receivable ratio is allegedly too high. According to the most recent amendment, the reserve is approximately 19.5 percent of accounts receivable.

[14] "Deferred Income" of $2,200.00 was excluded from this total because it was a noncash item.

[15] A copy of this alleged loan commitment, dated Jan. 16, 1967, was attached to the Loyola reply. However, there is no allegation that such is still outstanding (it does not appear on Young's amended balance sheet); or that the permittee station still has need of any or all of the amount. Moreover, the alleged commitment was not previously raised by the petitioner, and the applicant has had no opportunity to explain it. For all of these reasons, we will not consider the alleged obligation in our disposition, hereafter, of petitioner's requests.

[16] We do not regard the fact that Americana's AM station may have been operating at a loss as significant, in itself, since Americana is not relying on its AM revenues to finance its proposed FM station.

[17] Board Members Berkemeyer and Slone absent.

on Monday, January 22, 1968, at the Commission's offices, Washington, D.C.

Issued: December 6, 1967.

Released: December 11, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14599; Filed, Dec. 14, 1967; 8:49 a.m.]

[Docket Nos. 17706, 17707; FCC 67M-2031]

MALRITE, INC., AND PHILIP Y. HAHN, JR.

Order Continuing Hearing

In re applications of Malrite, Inc., Rochester, N.Y., Docket No. 17706, File No. BPCT-3873; Philip Y. Hahn, Jr., Rochester, N.Y., Docket No. 17707, File No. BPCT-3927; for construction permit for new television broadcast station (Channel 31).

Under consideration is a joint motion for continuance of procedural dates filed by Malrite, Inc., and Philip Y. Hahn, Jr., on December 4, 1967; and

It appearing that the parties have reached an agreement looking toward dismissal of the application of Malrite and that upon approval of the agreement need for hearing will be eliminated; and

It further appearing that counsel for the Broadcast Bureau, the only other party to the proceeding, has consented to grant of the motion;

Accordingly, it is ordered, That the joint motion is granted, and the procedural dates set forth in the Examiner's order of November 17, 1967, are continued to dates possibly to be determined later and that hearing, now scheduled for January 15, 1968, is continued to March 1, 1968.

Issued: December 6, 1967.

Released: December 11, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14600; Filed, Dec. 14, 1967; 8:49 a.m.]

[Docket Nos. 17853, 17854; FCC 67M-2017]

TRIPLE C BROADCASTING CORP. AND COLLINS BROADCASTING CO.

Order Scheduling Hearing

In re applications of Triple C Broadcasting Corp., Thomasville, Ga., Docket No. 17853, File No. BPH-5739; T. O. Collins and Robert P. Singletary doing business as Collins Broadcasting Co., Thomasville, Ga., Docket No. 17854, File No. BPH-5840; for construction permits.

It is ordered, That Millard F. French shall serve as Presiding Officer in the above-entitled proceeding; that the hearing therein shall be convened on January 11, 1968, at 10 a.m.; and that a prehearing conference shall be held on December 21, 1967, commencing at 9 a.m.; *And, it is further ordered*, That all proceedings shall take place in the offices of the Commission, Washington, D.C.

Issued: December 6, 1967.

Released: December 11, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14601; Filed, Dec. 14, 1967; 8:49 a.m.]

[Docket No. 17653; FCC 67M-2029]

UNITED TRANSMISSION, INC.

Order Regarding Procedural Dates

In re petition of United Transmission, Inc., Galax, Va., Docket No. 17653, File No. CATV 100-22; for authority pursuant to § 74.1107 to operate a CATV system in the Greensboro-High Point-Winston-Salem, N.C., and the Roanoke, Va., television markets, ranked 47th and 64th, respectively.

A prehearing conference having been held on December 6, 1967;

It is ordered, That on or before February 2, 1968, United Transmission, Inc., shall exchange the sworn, written exhibits to be offered in support of its direct case, and shall identify those witnesses it proposes to present orally together with a brief statement as to the scope of the testimony of such witnesses; that any party wishing to call for cross-examination the sponsor of any United exhibit shall give notification thereof on or before February 21, 1968; and that hearing shall commence on February 28, 1968, at 10 a.m. in the offices of the Commission at Washington, D.C.

Issued: December 6, 1967.

Released: December 11, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14602; Filed, Dec. 14, 1967; 8:49 a.m.]

FEDERAL HOME LOAN BANK BOARD

[No. 21,193]

BONUS PLAN FOR SAVINGS ACCOUNT HOLDERS

Statement Concerning Operation

DECEMBER 7, 1967.

Whereas, by Federal Home Loan Bank Board Resolution No. 21,182, dated December 7, 1967, and duly published in the FEDERAL REGISTER,[1] this Board amended the rules and regulations for the Federal Savings and Loan System (12 CFR, Chapter V, Subchapter C) to authorize a new bonus plan for savings account holders; and

Whereas, this Board has determined that it would be in the public interest to publish concurrently with the amended regulation a statement concerning the operation of the new bonus plan:

Now, therefore, it is hereby resolved that the following statement is hereby adopted as an official statement of the Federal Home Loan Bank Board.

EXPLANATION OF MONTHLY BONUS ACCOUNT PLAN

The Federal Home Loan Bank Board has amended its regulations to authorize a new bonus plan for savings account holders who make regular monthly payments of a specified amount to savings accounts in Federal savings and loan associations.

The new bonus plan will offer a dual benefit of rewarding savers interested in a regular long-term thrift program and providing a more stable supply of funds for the home mortgage market.

Each Federal savings and loan association which offers the new plan may determine the rate of bonus to be paid, subject to the limitations that (1) this may not exceed 1 percent per annum above regular earnings on the account and (2) the bonus plan plus regular earnings does not exceed the ceiling rate for certificate accounts.

The account holder will receive at each earnings distribution date a bonus, above regular earnings, at one-half of the bonus rate until the expiration of 48 months. The bonus for the first 12 months will not be credited to the account holder until the first distribution date following the end of the 12 months. Beyond 48 and until 96 months, the account holder who continues to make regular, fixed monthly payments will receive the full bonus plus regular earnings.

Be it further resolved that the Secretary to the Board is directed to submit this resolution to the Office of the Federal Register for publication.

By the Federal Home Loan Bank Board.

[SEAL] HARRY W. CAULSEN,
Secretary.

[F.R. Doc. 67-14587; Filed, Dec. 14, 1967; 8:48 a.m.]

[1] See Title 12, Part 545 in Rules and Regulations Section, *supra*.

FEDERAL POWER COMMISSION

[Docket No. RI68-256, etc.]

W. B. OSBORN, JR., ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

DECEMBER 8, 1967.

The Respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before January 24, 1968.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI68-254	W. B. Osborn, Jr. (Operator) et al., 6108 Broadway, San Antonio, Tex. 78209.	19	2	Colorado Interstate Gas Co. (Hugoton Field, Kearny County, Kans.).	$2,526	11- 8-67	*1- 1-68	6- 1-68	*12.0	*[4]13.5	
	do	20	3	Flatrock Natural Gas Co. (Hugoton Field, Kearny County, Kans.).	10,901	11- 8-67	*1- 1-68	6- 1-68	*12.0	*[4]13.5	
	do	21	5	Colorado Interstate Gas Co. (Hugoton Field, Kearny County, Kans.).	782	11- 8-67	*1- 1-68	6- 1-68	*12.0	*[4]13.5	
	do	22	3	Cities Service Gas Co. (Hugoton Field, Finney and Kearny Counties, Kans.).	701	11- 8-67	*1- 1-68	6- 1-68	*13.0	*[4]13.0	
RI68-255	Sun Oil Co., Post Office Box 2880, Dallas, Tex. 75221.	117	5	Arkansas Louisiana Gas Co. (Calhoun Field, Ouachita Parish, La.) (North Louisiana).	980	11- 6-67	*1- 1-68	6- 1-68	*13.75	*[4]20.25	
RI68-256	Champlin Petroleum Co. (Operator) et al., Post Office Box 9365, Forth Worth, Tex. 76107.	98	1	Northern Natural Gas Co. (West Tangier Field, Ellis and Woodward Counties, Okla.) (Panhandle Area).	2,720	11-13-67	*1- 1-68	6- 1-68	*17.0	*[4]18.0	
RI68-257	Petroleum, Inc. (Operator) et al., 300 West Douglas, Wichita, Kans. 67202.	45	4	Panhandle Eastern Pipe Line Co. (Northwest Carthage Area, Texas County, Okla.) (Panhandle Area).	2,009	11-13-67	*1- 1-68	6- 1-68	*16.0	*[4]17.0	
RI68-258	Hassie Hunt Trust, 1401 Elm St., Dallas, Tex. 75202.	31	1	Texas Gas Transmission Corp. (Sugar Creek Field, Claiborne Parish, La.) (North Louisiana).	225	11-16-67	*1- 1-68	6- 1-68	*[7]18.25	*[4][7]19.75	
	do	33	2	Texas Gas Transmission Corp. (Cotton Valley Field, Webster Parish, La.) (North Louisiana).	1,500	11-16-67	*1- 1-68	6- 1-68	*[7]18.25	*[4][7]19.75	
RI68-259	Hunt Oil Co. (Operator) et al., 1401 Elm St., Dallas, Tex. 75202.	67	2	Texas Gas Transmission Corp. (Red-Rock-North Shongallo Field, Webster and Claiborne Parishes, La.) (North Louisiana).	780	11-16-67	*1- 1-68	6- 1-68	*[7]18.25	*[4][7]19.75	
	do	68	2	Texas Gas Transmission Corp. (Hico-Knowles Field, Lincoln Parish, La.) (North Louisiana).	3,780	11-16-67	*1- 1-68	6- 1-68	*[7]18.25	*[4][7]19.75	
	do	69	2	Texas Gas Transmission Corp. (Cotton Valley Field, Webster Parish, La.) (North Louisiana).	5,000	11-16-67	*1- 1-68	6- 1-68	*[7]18.25	*[4][7]19.75	
	do	96	1	Texas Gas Transmission Corp. (Minden Field, Webster Parish, La.) (North Louisiana).	11,250	11-16-67	*1- 1-68	6- 1-68	*[7]18.25	*[4][7]19.75	
RI68-260	Ashland Oil & Refining Co. (Operator) et al., Post Office Box 18695, Oklahoma City, Okla. 73118.	112	[3] 3	Cities Service Gas Co. (Guymon-Hugoton Field, Texas County, Okla.) (Panhandle Area).	4,005	11-13-67	*[2]12-14-67	5-14-68	*13.0	*[4]15.0	G-11454.
RI68-261	Humble Oil & Refining Co., Post Office Box 2180, Houston, Tex. 77001.	856	2	Panhandle Eastern Pipe Line Co. (Northwest Avard Field, Woods County, Okla.) (Oklahoma "Other" Area).	140	11-16-67	[2]12-17-67	5-17-68	[3]15.067	[4][3]17.067	
	do	870	4	Natural Gas Pipeline Co. of America (Putnam Field, Dewey County, Okla.) (Oklahoma "Other" Area).	205	11-16-67	[2]12-17-67	5-17-68	*15.0	*[4]17.0	
RI68-262	Wood Oil Co., 320 Midstates Bldg., Tulsa, Okla. 74103.	7	1	Plateau Natural Gas Co. (Hugoton Field, Kearny County, Kans.).	780	11-16-67	[2]12-17-67	5-17-68	*12.0	*[4]13.5	

See footnotes at end of table.

APPENDIX A—continued

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI68-265...	Hassie Hunt Trust (Operator) et al., 1401 Elm St., Dallas, Tex. 75202.	25	2	Texas Gas Transmission Corp. (Sugar Creek Field, Claiborne Parish, La.) (North Louisiana).	2,700	11-16-67	[1] 1-1-68	6-1-68	[7] 18.25	[8] [9] [7] 19.75	
RI68-266...	H. L. Hunt et al., 1401 Elm St., Dallas, Tex. 75202.	31	3	Texas Gas Transmission Corp. (Hico-Hugoton Field, Lincoln Parish, La.) (North Louisiana).	3,000	11-16-67	[7] 1-1-68	6-1-68	[7] 18.25	[8] [9] [7] 19.75	

[1] The stated effective date is the effective date requested by Respondent.
[2] Periodic rate increase.
[3] Pressure base is 14.65 p.s.i.a.
[4] Subject to a downward B.t.u. adjustment.
[5] Pressure base is 15.025 p.s.i.a.
[7] Includes 1.75 cents tax reimbursement.
[8] Subject to upward and downward B.t.u. adjustment.
[9] Unilateral rate increase.
[10] The stated effective date is the first day after expiration of the statutory notice.
[11] Respondent is filing from initial certificated rate to initial contract rate.
[12] Includes base rate of 15 cents before increase and base rate of 17 cents after increase plus 0.067 cent upward B.t.u. adjustment (1,067 B.t.u. gas). Base rate subject to upward and downward B.t.u. adjustment.
[13] Includes letter to buyer terminating contract. Contract expires under its own terms on Dec. 23, 1967.

Humble Oil & Refining Co. (Humble) requests that its proposed rate increases be permitted to become effective as of November 16, 1967. Wood Oil Co. (Wood) requests a retroactive effective date of January 1, 1968, the contractual effective date, for its proposed rate increase. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit earlier effective dates for Humble's and Wood's rate filings and such requests are denied. Humble also requests that should the Commission suspend its rate filings that the suspension period be limited to 1 day. Good cause has not been shown for limiting to 1 day the suspension periods with respect to Humble's rate filings and such request is denied.

All of the proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56).

[F.R. Doc. 67-14547; Filed, Dec. 14, 1967; 8:45 a.m.]

[Docket No. RI68-265, etc.]

ROBINSON PETROLEUM CORP. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

DECEMBER 8, 1967.

The Respondents named herein have filed proposed changes in rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplements to the rate schedules filed by Respondents, as set forth herein, shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order Respondents shall each execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless Respondents are advised to the contrary within 15 days after the filing of their respective agreements and undertakings, such agreements and undertakings shall be deemed to have been accepted.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practices and procedure (18 CFR 1.8 and 1.37(f)) on or before January 24, 1968.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Acting Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI68-263...	Robinson Petroleum Corp. (Operator) et al., First National Bank Bldg., Pampa, Tex. 79065.	[1] 1	3	El Paso Natural Gas Co. (Panhandle Field, Wheeler County, Tex.) (R.R. District No. 10).	9265	11-13-67	[1] 1-1-68	[4] 1-2-68	12.0	[5] 14.0	
RI68-266...	Standard Oil Co. of Texas, a division of Chevron Oil Co. Post Office Box 1249, Houston, Tex. 77001.	20	[7] 2	Cimarron Transmission Co. (Southwest Enville Field, Love County, Okla.) (Oklahoma "Other" Area).	110	11-9-67	[2] 12-10-67	[4] 12-11-67	[3] [6] 15.7667	[3] [5] [6] 15.7675	
RI68-267...	Standard Oil Co. of Texas, a division of Chevron Oil Co. (Operator) et al.	87	[7] 18	Cimarron Transmission Co. (Southeast Marietta Basil Oil Creek Sand Unit, Love County, Okla.) (Oklahoma "Other" Area).	775	11-9-67	[2] 12-10-67	[4] 12-11-67	[3] [6] 15.943	[3] [5] [6] 15.960	
RI68-268...	Dan J. Harrison, Jr. (Operator) et al., c/o Blades, Crain, Slator, Winters, and Ross, 1020 San Jacinto Bldg., Houston, Tex. 77002, Attn: J. M. Slator, III, Esq.	[8] 3	2	Texas Eastern Transmission Corp. (Northwest Nada Field, Colorado County, Tex.) (R.R. District No. 3).	12,000	11-17-67	[2] 12-18-67	[4] 12-19-67	[3] [6] 15.0	[5] [6] 16.0	

[1] Contract dated after Sept. 28, 1960, the date of issuance of general policy statement No. 61-1.
[2] The stated effective date is the effective date requested by Respondent.
[3] The suspension period is limited to 1 day.
[4] Periodic rate increase.
[5] Pressure base is 14.65 p.s.i.a.
[6] As corrected by letter dated Nov. 16, 1967.
[7] Tax reimbursement increase.
[8] Includes base price of 15 cents plus upward B.t.u. adjustment before increase and 15 cents plus upward B.t.u. adjustment plus tax reimbursement after increase.
[9] Base price subject to upward and downward B.t.u. adjustment.
[10] Subject to a downward B.t.u. adjustment.
[11] Initial certificated rate.

Standard Oil Company of Texas, a division of Chevron Oil Co., and Standard Oil Co., a division of Chevron Oil Co. (Operator) et al. (both referred to herein as Standard), propose rate increases reflecting tax reimbursement for the recently enacted increase in Oklahoma Excise Tax from 0.02 cents to 0.04 cents per Mcf which became effective on July 1, 1967. The proposed increased rates exceed the applicable 11 cents per Mcf increased rate ceiling for the Oklahoma "Other" Area as announced in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56). Since the proposed increases relate to tax reimbursement resulting from the increase in the Oklahoma Excise Tax, it is appropriate to suspend them for 1 day from December 10, 1967, the proposed effective date.

The contracts related to the rate filings of Robinson Petroleum Corp. (Operator) et al. (Robinson) and Dan J. Harrison, Jr. (Operator) et al. (Harrison) were executed subsequent to September 28, 1960, the date of issuance of the Commission's statement of general policy No. 61-1, as amended, and the proposed increased rates are above the applicable ceilings for increased rates but do not exceed the applicable ceiling prices for initial rates in the areas involved. We believe, in this situation, Robinson and Harrison's proposed rate filings should be suspended for 1 day from January 1, 1968 (Robinson) and December 18, 1967 (Harrison), the proposed effective dates.

[F.R. Doc. 67-14549; Filed, Dec. 14, 1967; 8:45 a.m.]

[Docket No. E-7382]

GULF POWER CO.

Order Suspending Rate Filing, Providing for Hearing and Directing the Submission of Special Report

DECEMBER 8, 1967.

This order suspends and directs a hearing on the lawfulness of the proposed changes in its filed rate schedules by Gulf Power Co. (Gulf) for service to Florida Public Utilities Co. (Florida Utilities) at its Marianna and Altha, Fla., delivery points. The proposed changes in rate schedule tendered for filing on October 16, 1967, pursuant to section 205 of the Federal Power Act, have been designated as Gulf's Rate Schedule FPC Nos. 41 (Marianna) and 42 (Altha). The proposed Rate Schedule FPC Nos. 41 (includes Exhibit A thereto) [1] and 42 (includes Exhibit A thereto) [1] supersede Gulf's presently effective Rate Schedule FPC Nos. 32 and 33, respectively. Gulf states that the proffered rate filings are filed to become effective as of December 31, 1967.

The proposed superseding rate schedules embody renewal contracts dated September 13, 1967, providing for electric service by Gulf to Florida Utilities under a separate contract for each of the two delivery points for an additional 5-year period commencing December 31, 1967. The new contracts reflect Gulf's present level of rates and charges for electric service pursuant to its existing agreements providing for an initial 5-year term. The renewal contracts increase the maximum capacity deliveries by Gulf to Florida Utilities from 17,500 kva to 24,000 kva at Marianna and from 3,000 kva to 8,500 kva at Altha.

The superseding contracts continue service at the present two-part rate applicable to both delivery points, which contains a demand charge of $1.50 per month per kva and an energy charge of 8.3 mills per kwh for the first 150,000 kwh and 6.1 mills per kwh for all kwh in excess thereof. The energy charge is subject to a fuel adjustment clause reflecting variations in the cost of fuel delivered to Gulf's generating plants in accordance with a formula prescribed by a Florida Public Service Commission order.

Staff studies based upon cost and revenue data submitted by Gulf and other data currently available to the Commission indicate that Gulf's present and proposed rate schedules for service to Florida Utilities at the Marianna and Altha delivery points (currently effective Rate Schedule FPC Nos. 32, 33 and superseding Rate Schedule FPC Nos. 41, 42) may result in excessive rates or charges; may place an undue burden upon ultimate consumers; and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful within the meaning of the Federal Power Act. It also appears that additional factual data necessary for a resolution of those questions must be obtained.

Several conferences among Gulf, Florida Utilities, and the Commission staff have failed to result in a settlement of the issues here involved.

In view of the foregoing, it is necessary and appropriate for the purposes of the Federal Power Act, particularly sections 205, 206, 308, and 309 thereof, that the Commission enter upon a hearing concerning the lawfulness of the aforementioned file rate schedules as proposed to be superseded in the manner provided in Gulf's proffered Rate Schedule FPC Nos. 41 and 42; that the operation or effectiveness of the proposed Rate Schedule FPC Nos. 41 and 42 be suspended and the use thereof deferred for a period of 1 day; and that Gulf be directed to submit such cost and revenue data as may be required, all in the manner hereinafter provided.

[1] Exhibit A to both superseding rate schedules sets forth a fuel adjustment formula applicable to billing thereunder.

The Commission orders:

(A) A public hearing shall be held concerning the lawfulness of Gulf's proposed Rate Schedule FPC Nos. 41 and 42 at a time and place to be specified by notice of the Secretary.

(B) Pending such hearing and decision thereon, the operation under the Federal Power Act of the proffered rate schedule filings referred to in paragraph (A) above, is suspended and the use thereof deferred until January 1, 1968. On that date the proffered rate schedules shall take effect in the manner prescribed by the Federal Power Act, subject to further order of the Commission, unless this proceeding has been disposed of at a date previous thereto.

(C) During the period of suspension Gulf's currently effective Rate Schedule FPC Nos. 32 and 33 on file with the Commission shall remain and continue in effect.

(D) Unless otherwise ordered by the Commission, Gulf shall not change the terms or provisions of its proposed rate schedules referred to in paragraph (A) above until this proceeding has been disposed of, or until the period of suspension has expired.

(E) Gulf shall file, on or before March 15, 1968, a special report using 1967 as the test year, showing Gulf's cost of rendering service to Florida Utilities and its other electric wholesale customers, calculated in accordance with applicable Commission precedents and submitted in the form prescribed in Statements A through G, section 35.13(b)(4)(iv) (18 CFR 35.13(b)(4)(iv)) of the Commission's regulations under the Federal Power Act.

(F) The foregoing showing shall not preclude or limit any additional showing by Gulf or others and shall be without prejudice to any future action taken by the Commission or its staff, or to any future position Gulf or others may wish to take as to the significance of, or conclusions to be drawn from, the above factual showing.

(G) The foregoing showing shall be submitted in writing with sufficient copies to provide this Commission with an original and nine copies, to provide each State Commission affected with six copies and to provide two copies for each other party which has been or may hereafter be granted intervention in this proceeding.

(H) During the course of this proceeding Gulf shall submit or make available to this Commission staff any cost, revenue, operating, or other pertinent data as may be requested by the staff.

(I) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37) on or before February 5, 1968.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Acting Secretary.*

[F.R. Doc. 67-14550; Filed, Dec. 14, 1967; 8:46 a.m.]

[Docket Nos. RI67-465, RI67-466]

MARATHON OIL CO. ET AL.

Order Amending Order Accepting Contract Amendments, Providing for Hearings on and Suspension of Proposed Changes in Rates To Permit Substitute Rate Filings

DECEMBER 8, 1967.

On June 8, 1967, Marathon Oil Co. (Operator) et al., and Marathon Oil Co. (both referred to herein as Marathon) filed with the Commission proposed changes in rates from 18 cents to 19.1 cents[1] and 17.9 cents to 19 cents[2] under its FPC Gas Rate Schedule Nos. 30 and 31, respectively, which pertain to its jurisdictional sales of natural gas from Harper and Beaver Counties, Okla. (Panhandle Area) to Colorado Interstate Gas Co. The Commission by order issued June 30, 1967, in Docket Nos. RI67-465 and RI67-466, suspended for 5 months Marathon's rate filings until December 9, 1967, and thereafter until made effective in the manner prescribed by the Natural Gas Act. Marathon's proposed rate increases have not been made effective pursuant to section 4(e) of the Natural Gas Act.

On November 16, 1967, Marathon submitted amended notices of change in rates, designated as Supplement No. 1 to Supplement Nos. 11 and 14, respectively, amending the supplements to the aforementioned rate schedules to provide for rate increases to 19.15 cents (Supplement No. 1 to Supplement No. 11) and 19.015 cents (Supplement No. 1 to Supplement No. 14) instead of the 19.1 cents and 19 cents per Mcf rates filed on June 8, 1967. Marathon now proposes to further increase the suspended rates to include partial tax reimbursement for the increase in the Oklahoma Excise Tax which became effective on July 1, 1967.

Marathon's proposed 19.15 cents and 19.015 cents per Mcf rates exceed the area ceiling for increased rates in the Panhandle Area as announced in the Commission's statement of general policy No. 61-1, as amended, as did the previously suspended rates in said dockets. Since Marathon's amended filings include partial reimbursement for the tax increase imposed by the State of Oklahoma, we believe that it would be in the public interest to accept the amended filings subject to the suspension proceedings in Docket Nos. RI67-465 and RI67-466, with the suspension periods of such amended rate filings to terminate concurrently with the suspension periods (Dec. 9, 1967) of the original rate filings in said dockets.

Marathon requests an effective date of July 1, 1967, the date the Oklahoma tax increase became effective, for its amended rate filings. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit a July 1, 1967, effective date for Marathon's rate filings and such request is denied. However, good cause exists for waiving the 30-day notice requirement to the extent necessary to permit the suspension periods for Marathon's rate filings to be shortened to coincide with the suspension periods ordered in Marathon's proceedings in Docket Nos. RI67-465 and RI67-466.

The Commission orders:

(A) The suspension order issued June 30, 1967, in Docket Nos. RI67-465 and RI67-466, is amended only so far as to permit the 19.15 cents and 19.015 cents rates provided in Supplement No. 1 to Supplement Nos. 11 and 14 to Marathon's FPC Gas Rate Schedule Nos. 30 (Marathon (Operator) et al.) and 31 (Marathon), respectively, to be filed to supersede the 19.1 cents and 19 cents rates contained in Supplement Nos. 11 and 14 to the aforementioned rate schedules, subject to the suspension proceedings in Docket Nos. RI67-465 and RI67-466. The suspension periods for such substitute filings shall terminate concurrently with the suspension periods (Dec. 9, 1967) presently in effect in said dockets.

(B) In all other respects, the order issued by the Commission on June 30, 1967, in Docket Nos. RI67-465 and RI67-466, shall remain unchanged and in full force and effect.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Acting Secretary.*

[F.R. Doc. 67-14551; Filed, Dec. 14, 1967; 8:45 a.m.]

[Docket No. RP68-14]

ARKANSAS LOUISIANA GAS CO.

Notice of Proposed Change in Rates and Charges

DECEMBER 13, 1967.

Take notice that on December 1, 1967, Arkansas Louisiana Gas Co. (ArkLa) tendered for filing proposed changes in its FPC Gas Tariff, Revised Volume No. 1, relating to sales for resale of natural gas in interstate commerce.

The filing, designated as Second Revised Sheet No. 1, First Revised Sheet No. 4, First Revised Sheet No. 5, First Revised Sheet No. 7, and Second Revised Sheet No. 15, reflects changes in rate structure and an increased rate level applicable to the towns of Granite, Mangum, and Willow, Okla., and Winfield, Kans., and the Western Power & Light Company of Kansas. The proposed effective date is January 1, 1968. In the aggregate the increase amounts to approximately $95,000 per year, based on sales for the year 1966.

Protests, petitions to intervene, or notices of intervention with respect to the foregoing proposed tariff may be filed with the Federal Power Commission, Washington, D.C. 20426, pursuant to the Commission's rules of practice and procedure, on or before December 27, 1967.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-14637; Filed, Dec. 14, 1967; 8:50 a.m.]

[1] Designated as Supplement No. 11 to Marathon (Operator) et al. FPC Gas Rate Schedule No. 30.

[2] Designated as Supplement No. 14 to Marathon's FPC Gas Rate Schedule No. 31.

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

[Docket No. 67-4]

FUTURE OF U.S. FOREIGN TRADE POLICY

Notice of Public Hearing

Timetable. A. Requests to present oral testimony must be received by Friday, March 8, 1968.

B. Written briefs must be received by Friday, March 15, 1968.

C. Hearing begins Monday, March 25, 1968.

1. *Notice of public hearing.* Pursuant to section 3(b)(3) of Directive No. 1 of the Office of the Special Representative for Trade Negotiations (48 CFR 302.3(b)(3)) and upon its own motion pursuant to section 2(d) of its regulations (48 CFR 211.2(d)), the Trade Information Committee (hereinafter referred to as the Committee) has ordered a public hearing to be held concerning the future of U.S. foreign trade policy.

2. *Subject matter of public hearing.* At the direction of the President, the Office of the Special Representative for Trade Negotiations is conducting a comprehensive study of U.S. foreign trade policy and will recommend such legislative and other measures as may be required. This study is focusing on ways to further expand trade among industrialized and developing countries.

The Office will seek the views and assistance of members of Congress, of representatives of industry, agriculture, and labor, and of other interested parties. The views of foreign governments will also be taken into account.

The hearing to be held by the Committee is for the purpose of providing a full and detailed exposition of public views on all aspects of U.S. foreign trade policy. The following list of topics is illustrative of those on which interested parties may wish to submit views:

(a) *General.* (1) The competitive position of the United States in world trade and the prospects for the future.

(2) Foreign trade and U.S. foreign investment.

(3) Foreign trade and U.S. employment.

(b) *Trade of the Developed Countries.* (1) The significance of post-Kennedy Round tariffs for the trade of the United States and of the other major industrialized countries.

(2) The impact on trade of agricultural policies and programs in the United States and in the other major producing and consuming countries.

(3) The impact of regional and other preferential trading arrangements.

(4) East-West trade.

(c) *Measures that may constitute nontariff barriers to trade.* (1) Quantitative restrictions.

(2) Licensing.

(3) State trading and state monopolies.

(4) Government procurement policies and practices.

(5) Variable import levy systems.

(6) Customs classification and valuation practices.

(7) Documentation and customs procedures.

(8) Border tax adjustments.

(9) Subsidies and countervailing duties.

(10) Internal restrictions affecting marketing and distribution.

(11) Restrictive business practices.

(12) Sanitary, safety, health, and similar restrictions.

(d) *Future trade negotiations.* (1) Item-by-item negotiations.

(2) Linear negotiations.

(3) Sector (industry or commodity group) negotiations.

(4) Tariff harmonization.

(5) Participation in free trade areas.

(6) Nontariff barrier negotiations.

(e) *Trade policies particularly affecting the developing countries.* (1) Tariff preferences.

(2) Commodity arrangements.

(3) Regional integration.

(4) Tariff structures and their effect on the exports of the developing countries.

(5) Relationship between trade policies and economic development.

(f) *Problems of adjustment.* (1) Impact of imports.

(2) Disparate labor standards.

(3) Adjustment assistance.

(4) "Escape clause" relief.

(g) *Trade promotion.* (1) Export incentives.

(2) Export financing.

(3) Export programs (such as trade fairs and trade missions).

(h) *Administration of trade policy.* (1) Organization and administration of U.S. trade policy.

(2) The roles of the General Agreement on Tariffs and Trade, the Organization for Economic Cooperation and Development, and the United Nations Conference on Trade and Development.

This list is illustrative and interested parties are invited to submit views on any matter relating to U.S. foreign trade policy or to the trade policies of other countries, which in their judgment should be considered.

In order to have maximum utility, submissions should be specific and should include relevant statistics and their source. To the maximum extent possible, information on nontariff barriers should refer to specific instances and countries and should give all details, including an assessment of their impact on trade. Any applicable statutes or regulations should be cited. Confidential material may be submitted in accordance with paragraph 6 below.

3. *Time and place of public hearing.* The public hearing will commence in Washington, D.C., on Monday, March 25, 1968.

4. *Requests to present oral testimony.* All requests to present oral testimony must be received by the Chairman of the Committee not later than Friday, March 8, 1968.

Requests to present oral testimony must conform with the regulations of the Committee (48 CFR Part 211). Requests shall be submitted in an original and three copies and must include the following information:

(a) The name, address, and telephone number of the party submitting the request;

(b) The name, address, telephone number, and official position of the person submitting the request on behalf of the party referred to in subparagraph (a);

(c) A list of the topics on which the party intends to submit views and a brief indication of the interest of, and the position to be taken by, the party;

(d) The name, address, and telephone number of the person or persons who will present oral testimony; and

(e) The amount of time desired for the presentation of oral testimony.

In order to facilitate the scheduling of the hearing it is especially important that each party making a request to present oral testimony specify the topics on which it is desired to submit views.

Each party whose request is granted will be notified of the date on which he is scheduled to appear, the amount of time allotted for his presentation, and the place of the hearing. The Committee reserves the right to restrict the time allotted for the presentation of oral testimony. Any party whose request is denied will be notified of the reasons therefor.

5. *Submission of written briefs.* Any interested party may submit a written brief to the Committee concerning the subject matter of the public hearing. Each party presenting oral testimony must submit a brief. All briefs must be received not later than Friday, March 15, 1968.

6. *Information exempt from public inspection.* Parties are encouraged to support their briefs with all available information, including material that may be of a confidential nature. In this regard, parties are referred to sections 7 and 8 of the regulations of the Committee (48 CFR 211.7 and 211.8) for the provisions concerning information exempt from public inspection. These regulations will be provided upon request.

Requests to present oral testimony should contain no confidential information, and any requests marked "For Official Use Only", or similarly marked, will not be accepted. In addition, every written brief must present in nonconfidential form, on separate pages, a statement of the party's position and supporting arguments.

7. *Public inspection of written materials.* Subject to the regulations of the Committee, and in particular sections 7 and 8 (48 CFR 211.7 and 211.8), all written materials filed with the Committee in connection with the hearing will be open to public inspection, by appointment, at the office of the Chairman, Room 720, 1800 G Street NW., Washington, D.C. 20506. Transcripts of the hearing will also be available for inspection, but not for reproduction. Transcripts may be purchased from the official reporter.

6. *Communications.* All communications with regard to the hearing should be addressed to: Chairman, Trade Information Committee, Office of the Special Representative for Trade Negotiations, Room 729, 1800 G Street NW., Washington, D.C. 20506.

LOUIS C. KRAUSKOPF II,
Chairman.

[F.R. Doc. 67-14624; Filed, Dec. 14, 1967; 8:50 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[812-2026]

AMOCO INTERNATIONAL FINANCE CORP.

Notice of Filing of Application for Order Exempting Company

DECEMBER 11, 1967.

Notice is hereby given that Amoco International Finance Corp. ("Applicant"), 910 South Michigan Avenue, Chicago, Ill. 60680, a Delaware corporation, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940, 15 U.S.C. sec. 80a-1 et seq. ("Act") for an order exempting Applicant from all provisions of the Act and the rules and regulations thereunder. All interested persons are referred to the application on file with the Commission for a statement of Applicant's representations which are summarized below.

Applicant was organized by Standard Oil Company of Indiana ("Standard") under the laws of the State of Delaware on May 29, 1967. Of Applicant's 1 million authorized shares ($10 par value), Standard has subscribed for 250,000 shares and has paid an aggregate amount of $2,500,000 in cash for said shares. On November 22, 1967, Standard made an additional capital contribution to Applicant of $10 million. Any additional securities which Applicant may issue, other than debt securities, shall be issued only to Standard or to a fully owned subsidiary of Standard. Standard will continue to retain its present holdings of Applicant's common stock and any additional securities of Applicant which Standard may acquire and Standard will not dispose of any of Applicant's securities (other than debt securities) except to Applicant or to a fully owned subsidiary of Standard and Standard will cause each fully owned subsidiary not to dispose of Applicant's securities (other than debt securities) except to Standard, Applicant or to one or more fully owned subsidiaries of Standard.

Standard is engaged in exploration for, and development, production, purchasing, and transportation of, crude oil and natural gas and in the manufacturing, transportation, and marketing of petroleum products, including petrochemicals.

In August, 1967, Applicant sold in Switzerland 50 million Swiss Francs ($11,516,000) of its 5½ percent Guaranteed Bonds due August 31, 1982. Such Bonds were fully guaranteed by Standard and the proceeds from the sale of the Bonds are being used for corporate purposes of foreign corporations outside the United States.

Applicant intends to issue and sell an aggregate of up to $30 million of its Guaranteed Debentures due 1982 ("Debentures"). Standard will guarantee the principal of (and premium, if any) and interest on the Debentures. Any additional debt securities of Applicant which may be issued to or held by the public will be guaranteed by Standard in a manner substantially similar to the guarantee of the Debentures.

Standard is interested in developing and expanding its foreign operations and is using Applicant to fulfill this objective and at the same time to support the balance of payments position of the United States in accordance with the President's voluntary cooperation program instituted in February 1965.

It is intended that upon completion of the long-term investment of Applicant's assets, substantially all of the assets of Applicant (exclusive of U.S. Government securities and cash items) will be invested in or loaned to foreign companies which are primarily engaged in a business or businesses other than investing, reinvesting, owning, holding, or trading in securities and which are, or upon the making of such investments will be (1) majority-owned subsidiaries under Standard's control within the meaning of section 2(a)(23) of the Act, (2) companies under Standard's control within the meaning of section 2(a)(9) of the Act, or (3) companies which are engaged in a business related to the business of Standard, in which Standard owns, directly or indirectly, an equity interest of 15 percent or more; provided, however, that nothing contained herein shall preclude investments by Applicant in fully owned subsidiaries of Standard primarily engaged in the business of owning or holding securities of companies in which applicant may invest as stated herein. Applicant will proceed as expeditiously as possible with the long-term investment of its assets in the manner described above. Pending such investment, and from time to time thereafter in connection with changes in long-term investments, Applicant will invest temporarily in debt obligations (including time deposits) of foreign governments, or the U.S. government, foreign financial institutions (including foreign branches of U.S. financial institutions) and foreign subsidiaries of Standard or Applicant, payable in U.S. dollars or other currencies and in each case maturing in 1 year or less from the date of acquisition. Applicant will not acquire securities for the purpose of resale and will not trade in securities.

The Debentures are to be sold to a group of underwriters for offering and sale only outside the United States. The Debentures are to be offered and sold under conditions which are intended to assure that the Debentures will not be offered or sold in the United States, its territories or possessions or to nationals, citizens, or residents of the United States, its territories or possessions. The contracts relating to such offer and sale will contain various provisions intended to assure that the Debentures will not be purchased by nationals, citizens, or residents of the United States, its territories or possessions. Any additional debt securities of Applicant which may be sold to the public in the future will be sold under substantially similar conditions.

Applicant will use its best efforts to have the Debentures listed on the New York Stock Exchange and registered under the Securities Exchange Act of 1934. The Debentures will also be listed on the Luxembourg Stock Exchange. The common stock of Standard is listed on the New York Stock Exchange and registered under the Securities Exchange Act of 1934.

Tax advisers have advised Standard and Applicant that U.S. persons will be required to report and pay an interest equalization tax with respect to acquisition of the Debentures, except where a specific statutory exemption is available. By financing its foreign operations through Applicant rather than through the sale of its own obligations, Standard will utilize an instrumentality the acquisition of whose debt obligations by U.S. persons would generally subject such persons to the interest equalization tax, thus discouraging them from purchasing such debt obligations.

Applicant submits that it is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act for the Commission to enter an order exempting Applicant from each and every provision of the Act for the following reasons: (1) A significant purpose of Applicant is to assist in improving the balance of payments program of the United States by obtaining funds for international operations in foreign countries; (2) the payment of principal of (and premium, if any) and interest on the Debentures, which is guaranteed by Standard, does not depend solely upon the operations or investment policy of Applicant, for the debenture holders may ultimately look to the business enterprise of Standard; (3) none of the securities of Applicant (other than debt securities) will be held by any person other than Standard or a fully owned subsidiary of Standard; (4) Applicant will not permit any debt securities to be issued to or held by the public unless they are guaranteed by Standard in a manner substantially similar to the guarantee of the Debentures; (5) Applicant will not deal or trade in securities; (6) Applicant's security holders will have the benefit of the disclosure and reporting provisions of the Securities Exchange Act of 1934 and of the New York Stock Exchange; (7) the Debentures will be sold only to foreign nationals and the burden of the Interest Equalization Tax will discourage resale to any U.S. national, citizen, or resident.

Notice is further given that any interested person may, not later than December 29, 1967, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority),

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-14556; Filed, Dec. 14, 1967; 8:46 a.m.]

CODITRON CORP.

Order Suspending Trading

DECEMBER 11, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $3 par value, of Coditron Corp., New York, N.Y., otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period December 12, 1967, through December 21, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-14557; Filed, Dec. 14, 1967; 8:46 a.m.]

[812-1997]

FIFTY STATES MUTUAL FUND, INC.

Notice of Filing of Application for Exemption

DECEMBER 11, 1967.

Notice is hereby given that Fifty States Mutual Fund, Inc. ("Applicant"), 246 North High Street, Columbus, Ohio 43216, an open-end diversified management investment company registered under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section 6(c) of the Act for an order of the Commission exempting Applicant from the provisions of sections 17(f), 17(g), 30(a), 30(b), 30(c), 30(d), and 30(e) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below:

Applicant registered under the Act on November 10, 1960. On January 23, 1961, Applicant filed its registration statement on Form N-8B-1 and a registration statement on Form S-5 which was withdrawn on March 9, 1962.

A special meeting of shareholders, held on October 15, 1965, approved and adopted resolutions passed earlier on the same date by the Board of Directors of Applicant which stated that Applicant was to be dissolved unless one or more shareholders desired to maintain its existence, in which event all other shareholders were to redeem their shares in accordance with Applicant's Articles of Incorporation and in addition, the shareholders determined that in any event all of Applicant's assets would be converted into cash.

Pursuant to the resolution passed at the aforesaid meeting, three shareholders of Applicant, Nationwide Foundation, Nationwide Mutual Insurance Co., and Nationwide Mutual Fire Insurance Co., decided to retain the existence of the Applicant and remain as its sole shareholders. They own 300, 150, and 100 shares respectively of the Applicant; that amount being the total amount of securities of the Applicant outstanding. The three shareholders are each affiliated with each other.

As of August 31, 1967, Applicant's assets consisted of $4,986, in United States Government Securities and $658 in cash. Applicant represents that it intends to keep its assets either invested in U.S. Government Securities or represented by cash until such time as it may decide to engage in the business of an investment company, although it has no present intention of engaging in such a business. In addition, Applicant is not making and has no present intention of making a public offering of its securities.

Section 17(f) requires that the securities and similar investments of a registered investment company be kept in the custody of one of an enumerated class of persons.

Section 17(g) requires the maintenance of a fidelity bond for those officers and employees of registered investment companies who have access to the securities or funds of the registered company.

Sections 30(a), 30(b), 30(c), 30(d), and 30(e) require certain periodic reports to be filed with the Commission and submitted to shareholders of registered companies.

Applicant has undertaken to notify the Commission not less than 30 days before any transaction or change from its present inactive status giving details of the contemplated change. It further agrees to notify the Commission of any business activity that it undertakes no later than 15 days after the inception of such transaction or activity. Furthermore, in lieu of filing periodic reports, the Applicant will file with the Commission not later than 30 days after the close of its fiscal year, a balance sheet and a statement of assets and liabilities as well as a schedule of investments showing the amounts and values (both cost and market, of securities owned) as of the close of the fiscal period. The Applicant will also file a statement of income and expense, a statement of changes in net assets, a statement of aggregate remuneration paid to officers, directors, and affiliates, and a statement of aggregate total amounts of purchases and sales of investment securities other than Government securities for each fiscal year. Applicant requests the aforementioned exemptions for only so long as it maintains its inactive status.

Section 6(c) allows the Commission by order upon application to exempt any person from provisions of the Act if the exemption requested is necessary or appropriate in the public interest and consistent with the protection of shareholders and the purposes fairly intended by the policies and provisions of the Act.

Notice is further given that any interested person may, not later than December 29, 1967, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-14558; Filed, Dec. 14, 1967; 8:46 a.m.]

[812-2212]

LAKESIDE HOLDING CO. ET AL.

Notice of Filing of Application for Order Exempting Proposed Transactions

DECEMBER 11, 1967.

Notice is hereby given that Lakeside Holding Co. ("Lakeside"), Baker Foundation ("Foundation"), and The Center, Inc. ("Center") (collectively, the "Applicants," 510 Baker Building, Minneapolis, Minn.), have filed an application pursuant to section 17(b) of the Investment Company Act of 1940 ("Act") and Rule 17d-1 promulgated under section 17(d) of the Act. Pursuant to section 17(b) of the Act, Applicants request that the Commission exempt from the prohibitions of section 17(a) of the Act: (1) The proposed sale to IDS Properties, Inc. ("IDSP"), a wholly owned subsidiary of Investors Diversified Services, Inc. ("IDS"), a face-amount certificate company registered under the Act, of real property and related assets and securities of affiliated companies which own, service or manage real property; and (2) the future exercise of an option by IDSP to purchase all of the capital stock of an affiliated company which owns real property. Pursuant to Rule 17d-1 under the Act, Applicants request that the Commission authorize: (1) The participation of IDS or IDSP in the liquidation of two enterprises, now owned jointly by IDS and an affiliated person of IDS, (2) the entering into agreements between IDSP and Baker Properties Management Co. ("Management"), a corporation to be formed, which will be a wholly owned subsidiary of IDSP, to manage real property to be acquired by IDSP or owned jointly by IDSP and persons affiliated therewith, and (3) the employment of affiliates of affiliated persons of IDS, William M. Baker and Roger L. Baker ("Baker Brothers") by IDSP. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

The proposed transactions. Sales are to be made to IDSP by Lakeside, Center, and Foundation. A brief description of the relationship of the sellers to IDS, of the assets proposed to be sold to IDSP and of the basic purchase price to be paid for such assets follows:

(A) Lakeside owns 86.3 percent of Baker Properties Inc. ("Baker Properties"). IDS and Baker Properties own 47 percent and 51 percent, respectively, of the capital stock of Roanoke Building Co. ("Roanoke"). Roanoke is, therefore, an affiliated person of IDS and of Baker Properties. Lakeside proposes to sell:

(i) A 51 percent undivided interest in the assets of Baker Trust (consisting principally of downtown Minneapolis office buildings) for $8,435,400 to be paid $4,236,751 by the assumption of outstanding indebtedness and $4,198,649 in cash and securities; (ii) a 53.148 percent undivided interest in the assets of Roanoke (consisting of the Roanoke Building in downtown Minneapolis) for $2,657,407 to be paid $1,560,797 by the assumption of outstanding indebtedness and $1,096,610 in cash and securities; (iii) 51 percent of the capital stock of Central Heating Co. (which provides steam for heating a number of buildings in downtown Minneapolis) for $10,000 to be paid in cash; (iv) 49 percent of the common stock of One Hundred Twelve, Inc. (which, directly and through a wholly owned subsidiary, owns and is developing properties in Minneapolis suburbs) for $1 million to be paid in cash and securities; (The agreement of purchase provides that at any time within 5 years of the purchase date, the Minneapolis Star and Tribune Co., holder of the remaining 51 percent interest in One Hundred Twelve, Inc., may require IDSP to purchase its interest at its fair market value determined by appraisers to be selected by each party.) (v) The $3,177,894 note bearing interest at a rate of 6 percent of Seaboard Properties, Inc. ("Seaboard") (which owns and is developing a resort hotel and other properties on Key Largo, Fla.) for $2,898,000 to be paid in cash and securities; (The agreement also grants IDSP a 25-year option to purchase all of the outstanding capital stock of Seaboard for $400,000 plus an amount equal to any additional investments made in Seaboard by Lakeside or other owners.) (vi) 100 percent of the capital stock of Management for $10,000 to be paid in cash; (vii) the principal assets of Syndicate Land Trust (which owns a half block in downtown Minneapolis) for $2 million to be paid $1,715,708 by the assumption of liabilities of Syndicate Land Trust and $284,292 in cash and securities; (viii) the Sheridan Hotel, located on the edge of downtown Minneapolis, for $595,000 to be paid in cash and securities; and (ix) an 87.79 percent undivided interest in the assets of Marquette Joint Venture (which owns the Marquette Bank Building and the Marquette Ramp in downtown Minneapolis) for $2,897,070 to be paid $1,606,983 by the assumption of outstanding indebtedness and $1,290,087 in cash and securities.

(B) Baker Properties owns 54 percent of the common stock of Center. Thus Roanoke, an affiliated person of IDS, is under common control with Center. Therefore, Center is an affiliated person of Roanoke and an affiliated person of an affiliated person of IDS. Center proposes to sell its principal assets (consisting of downtown Minneapolis office buildings, a motor-hotel and a parking ramp) for $31,400,000 to be paid $23,460,613 by the assumption of outstanding indebtedness and $7,939,387 in cash and securities.

(C) The Baker Brothers are the officers and directors of Foundation, a nonprofit corporation. Each brother owns 50 percent of the stock of Lakeside. Thus Roanoke, an affiliated person of IDS, is under common control with Foundation and Foundation may be an affiliated person of Roanoke and thereby an affiliated person of an affiliated person of IDS. Foundation proposes to sell its 12.21 percent undivided interest in the assets of Marquette Joint Venture for $402,930 to be paid $223,562 by the assumption of outstanding indebtedness and $179,423 in cash and securities.

The aggregate purchase price for all of the assets to be acquired by IDSP is $53,205,807, to be paid in part (approximately $33,804,354) by the assumption by IDSP of mortgage and certain other long-term indebtedness of the sellers (including $23,000,948 of mortgage indebtedness owed to Investors Syndicate of America, Inc., a company under common control with IDSP) with the balance (approximately $19,501,453) to be paid in cash, partly in short-term noninterest bearing notes of IDSP, and partly in 20-year 6 percent debentures of IDSP. The basic purchase price, in some instances, is subject to adjustments, described in the application, which it is estimated in the aggregate, will reduce the price by approximately $580,000.

Initially, the notes and debentures of IDSP will be offered only to the three Applicants. Within 1 year Lakeside and Center will be liquidated and all of the debentures will then be held by: (i) The Foundation; (ii) the Baker Brothers and their four children (or trusts for their benefit); (iii) Leslie C. Park, a minority shareholder of Center and Properties, his wife, and his three children; (iv) the three minority shareholders of Center; and (v) not more than five other shareholders of Baker Properties who will be offered a choice of the debentures of IDSP (at par) or cash. All of the remaining holders of equity interests in the assets to be sold to IDSP (including the public shareholders of Baker Properties) will receive their proportionate distributive shares in cash upon the liquidation of Lakeside and Center.

Immediately prior to the closing, Baker Properties, Roanoke, Baker Trust, and Baker-Florida, Inc., which is owned 87 percent by Lakeside, will be liquidated and the assets of such entities to be purchased by IDSP will be distributed to Lakeside. IDS will contribute to IDSP its 49 percent interests in Baker Trust and Central Heating Co. and its 47 percent interest in Roanoke, as well as its interests in other real estate which are carried on IDS' books at approximately $2,750,000 in the aggregate.

The Baker Brothers, who as persons controlling Roanoke are affiliated with IDS, as of the proposed closing date (Jan. 2, 1968), will execute employment contracts with IDSP each for a term of 5 years at $45,000 per year.

Commission jurisdiction. Section 17(a) of the Act, as here pertinent, makes it unlawful for Applicants, affiliated persons of an affiliated person of IDS, a registered investment company, to sell to IDSP, a company controlled by such registered investment company, any securities or other property, unless the Commission finds, upon application pursuant to section 17(b) of the Act, that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of the registered investment company and with the general purposes of the Act.

Section 17(d) of the Act and Rule 17d-1 thereunder, taken together, provide as here pertinent, that it shall be unlawful for an affiliated person of a registered investment company or an affiliated person of such a person, acting as principal, to participate in, or to effect any transaction in connection with, any joint enterprise or other joint arrangement in which any company controlled by such registered company is a participant unless an application regarding such arrangement has been granted by the Commission. In passing upon such application, the Commission must consider whether the participation of such registered company or controlled company in such arrangement is consistent with the provisions, policy, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Applicants seek exemption to the extent necessary, to permit the participation of IDS, IDSP, and Lakeside in the liquidation of Baker Trust and Roanoke, to permit Management to enter certain agreements to manage the properties acquired in the aforementioned transaction and to permit IDSP to enter into employment contracts with the Baker Brothers. Applicants do not concede that section 17(d) of the Act and Rule 17d-1 thereunder are applicable to the proposed employment contracts and property management agreements, but seek relief in order to eliminate any question as to full compliance with section 17(d) of the Act.

Supporting statements. The application states that the subject sales were negotiated during several months of arm's length bargaining between the Baker Brothers, representing the prospective sellers, and IDS representing IDSP. It also states that each sale of real estate is at a basic purchase price equal to the appraised value thereof as determined by a recent appraisal of an independent appraiser selected by IDS. Further it asserts that each sale of securities of a company owning real estate is at a price which, for reasons described in the application, is less than the value thereof computed by substituting appraised values of the real estate owned by that company for the book value of such real estate.

In addition, it states that Baker Properties, pursuant to contract, manages the real estate to be sold, or owned by companies whose securities are to be sold, to IDSP. Such contracts are to be assigned by Baker Properties to Management, all the stock of which is proposed to be sold to IDSP. It also declares that Baker Properties has arranged to secure the services of the present employees of Properties' Management Division for IDSP and Management, so that IDSP and Management will have experienced personnel with which to continue the management of the various properties.

The application states that (i) neither Lakeside nor IDS controls the other or is under common control with the other; (ii) neither Lakeside nor IDS (nor any parent or subsidiary of either of them) owns any stock in the other or in any person controlling the other, nor are there any common officers or directors; (iii) the officers and directors of Lakeside and of its subsidiaries own, in the aggregate, directly or indirectly, only a fraction of 1 percent of the stock of IDS or of any person controlling IDS; and (iv) the officers and directors of IDS own no stock of Lakeside and to Applicants' knowledge, no stock of any subsidiary of Lakeside. The application also states that the proposed purchase and management of real property and of securities of companies owning real property is consistent with the investment policies of IDS as recited in its registration statement and reports filed under the Act.

Notice is further given that any interested person may, not later than December 28, 1967, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14559; Filed, Dec. 14, 1967; 8:46 a.m.]

[812-2221]

STATE STREET INVESTMENT CORP.

Notice of Filing of Application for Order Exempting Sale by an Open-End Company of Its Securities at Other Than Public Offering Price

DECEMBER 11, 1967.

Notice is hereby given that State Street Investment Corp. ("Applicant"), 226 Franklin Street, Boston, Mass. 02110, a Massachusetts corporation registered under the Investment Company Act of 1940, 15 U.S.C. sec. 80a-1 et seq. ("Act") as an open-end diversified management investment company, has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission exempting from the provisions of section 22(d) of the Act a transaction in which Applicant's redeemable securities will be issued at a price other than the current public offering price in exchange for substantially all the assets of Reeves Fund, Inc. ("Reeves"). All interested persons are referred to the application on file with the Commission for a statement of Applicant's representations which are summarized below.

Reeves, an Indiana corporation, is a personal holding company all of whose outstanding stock is owned of record and beneficially by 24 stockholders and is exempt from registration under the Act by reason of the provisions of section 3(c)(1) thereof. Pursuant to an agreement between Applicant and Reeves, assets owned by Reeves with a value of approximately $10 million on October 31, 1967, will be transferred to Applicant in exchange for shares of its capital stock.

The number of shares of Applicant to be issued to Reeves is to be determined by dividing the aggregate market value of the assets of Reeves (subject to certain adjustments set forth in the application) to be transferred to Applicant by Applicant's net asset value per share (as defined in the agreement, similarly adjusted), both to be determined as of the valuation time. If the valuation in the agreement had taken place on October 31, 1967, Reeves would have received approximately 183,000 shares of Applicant's stock.

When received by Reeves, the shares of Applicant are to be distributed to the Reeves shareholders on the liquidation of Reeves. Applicant has been advised by the management of Reeves that the stockholders of Reeves do not have any present intention of redeeming or otherwise transferring the shares of Applicant to be received on such liquidation following the sale of assets transaction. Applicant does presently intend to sell a portion of the securities acquired from Reeves subsequent to their acquisition as set out in the application.

No affiliation exists between Reeves, or any officer, director, or stockholder thereof, and Applicant, and the agreement was negotiated at arm's-length by the two companies. The Board of Directors of Applicant approved the agreement as being in the best interests of its shareholders, taking all relevant considerations into account.

Section 22(d) of the Act provides that registered open-end investment companies may sell their shares only at the current public offering price as described in the prospectus. Section 6(c) permits the Commission, upon application, to exempt such a transaction if it finds that such an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant contends that the proposed offering of its stock will comply with the provisions of the Act, other than section 22(d) and submits that the granting of the application would be in accordance with established practice of the Commission, is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 28, 1967 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14560; Filed, Dec. 14, 1967; 8:46 a.m.]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 30 (Midwestern Area) Rev. 1, Amdt. 1]

CHIEF, ACCOUNTING, CLERICAL, AND TRAINING DIVISION

Delegation of Authority To Conduct Program Activities in the Midwestern Area

Pursuant to the authority delegated to the Area Administrator by Delegation of Authority No. 30 (Rev. 12), 32 F.R. 179, dated January 7, 1967, and Amendment 1, 32 F.R. 6113, dated June 6, 1967, Delegation of Authority No. 30 (Rev. 1), Midwestern Area, 32 F.R. 11827, dated August 16, 1967, is hereby amended by adding paragraphs 5, 6, and 7 to Item II.1. Paragraphs 5, 6, and 7 hereby added to Item II.1 read as follows:

II. * * *

I. Chief, Accounting, Clerical and Training Division. * * *

** 5. To cancel, reinstate, modify and amend authorizations for business, economic opportunity and disaster loans.

** 6. To extend the disbursement period on all loan authorizations or undisbursed portions of loans.

** 7. To approve final actions concerning current direct or participation loans:

a. Use of the cash surrender value of life insurance to pay the premium on the policy.

b. Release of dividends of life insurance or consent to application against premiums.

c. Minor modifications in the authorization.

d. Adjustment of interest payment dates.

e. Release of hazard insurance checks not in excess of $200 and endorse such checks on behalf of the Agency where SBA is named as joint loss payee.

f. Release of equipment with or without consideration where the value of equipment being released does not exceed $200.

Effective date: November 22, 1967.

RICHARD E. LASSAR, *Area Administrator Midwestern Area.*

[F.R. Doc. 67-14581; Filed, Dec. 14, 1967; 8:47 a.m.]

[Delegation of Authority No. 5-A]

ASSOCIATE ADMINISTRATOR FOR PROCUREMENT AND MANAGEMENT ASSISTANCE

Delegation of Authority in Section 8(a) of the Small Business Act

Pursuant to the authority vested in the Administrator of the Small Business Administration by the Small Business Act (72 Stat. 384), as amended, the following authority relating to the implementation of section 8(a) of the Small Business Act (72 Stat. 384) is hereby delegated to the Associate Administrator for Procurement and Management Assistance:

1. To enter into contracts on behalf of the Small Business Administration with the U.S. Government and any department, agency, or officer thereof having procurement powers, obligating the Small Business Administration to furnish articles, equipment, supplies, or materials to the Government and agreeing as to the terms and conditions of such contracts;

2. To certify to any officer of the Government having procurement powers that the Small Business Administration is competent to perform any specific Government procurement contract to be let by any such officer; and

3. To arrange for the performance of such contracts by negotiating or otherwise letting subcontracts to small business concerns or others for the manufacture, supply, or assembly of such articles, equipment, supplies, or materials, or parts thereof, or servicing or processing in connection therewith, or such management services as may be necessary to enable the Small Business Administration to perform such contracts.

Effective Date: December 7, 1967.

ROBERT C. MOOT, *Administrator.*

[F.R. Doc. 67-14562; Filed, Dec. 14, 1967; 8:47 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATES AUTHORIZING THE EMPLOYMENT OF FULL-TIME STUDENTS WORKING OUTSIDE OF SCHOOL HOURS AT SPECIAL MINIMUM WAGES IN RETAIL OR SERVICE ESTABLISHMENTS OR IN AGRICULTURE

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 20 U.S.C. 201 et seq.), the regulation on employment of full-time students (29 CFR Part 519), and Administrative Order No. 596 (31 F.R. 12981), the establishments listed in this notice have been issued special certificates authorizing the employment of full-time students working outside of school hours at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. The effective and expiration dates are as indicated below. The minimum certificate rates are not less than 85 percent of the applicable statutory minimum.

The following certificates provide for an allowance not to exceed the proportion of the total hours worked by full-time students at rates below $1 an hour to the total number of hours worked by all employees in the establishment during the base period in occupations of the same general classes in which the establishment employed full-time students at wages below $1 an hour in the base period.

Annes Department Store, department store; 4810 Milwaukee, Chicago, Ill.; 10-29-67 to 10-26-68.

Bright Stores, Inc., department stores from 10-18-67 to 10-17-68: 22 West Ridge Street, Lansford, Pa.; 109-113 South First Street, Lehighton, Pa.

Butler's Department Store, department store; 54 Main Street, Waterville, Maine; 11-6-67 to 11-7-68.

City Service Furniture, furniture store; 1502 Hidalgo, Laredo, Tex.; 10-3-67 to 10-2-68.

Community Memorial Hospital, hospital; Park Street, Sheldon, Iowa; 10-5-67 to 10-4-68.

Davis Super Market, Inc., food store; 730 East Pittsburgh Street, Greensburg, Pa.; 10-10-67 to 10-9-68.

Duckwall's Stores, Inc., variety stores from 11-15-67 to 11-14-68: 2584 Baseline Road, Boulder, Colo.; 436 Main, Longmont, Colo.

Pandel Co., department store; St. Cloud, Minn.; 11-4-67 to 11-3-68.

Goldblatt Brothers, Inc., department store; 211 West 26th Street, Chicago, Ill.; 10-26-67 to 10-27-68.

W. T. Grant Co., variety stores: No. 243, Galesburg, Ill. (10-28-67 to 10-27-68); No. 226, Des Moines, Iowa (11-16-67 to 11-15-68); No. 5, New Bedford, Mass. (11-17-67 to 9-16-68); No. 767, Flemington, N.J. (10-22-67 to 10-21-68); No. 578, Millville, N.J. (10-27-67 to 10-26-68); No. 628, Wyckoff, N.J. (10-1-67 to 9-30-68); No. 576, High Point, N.C. (10-7-67 to 10-6-68); No. 572, Cleveland, Ohio (10-11-67 to 10-10-68); No. 761, El Paso, Tex. (10-27-67 to 10-26-68).

Haines Super Market, food stores from 10-26-67 to 10-25-68: 551 State Street, Clairton, Pa.; Route 51, Pleasant Hills, Pittsburgh, Pa.

The Hand Trading Co., food store; 404 West Railroad Street, Pelham, Ga.; 11-4-67 to 11-3-68.

Hart's Department Store, Inc., department store; 955 Fourth Avenue, New Kensington, Pa.; 10-25-67 to 10-24-68.

IGA Foodliner, food store; Hiway 98 South, Macon, Mo.; 10-18-67 to 10-17-68.

Joplin Home, nursing home; McLouth, Kans.; 12-1-67 to 1-31-68.

K-G Men's Store, apparel store; Minot, N. Dak.; 11-17-67 to 11-16-68.

Kahanek Food Store, Inc., food store; 1000 West Main, Prague, Okla.; 10-17-67 to 10-16-68.

Kistler-Collister Co., department store; 1100 Mateo, Northeast, Albuquerque, N. Mex.; 10-20-67 to 10-19-68.

S. S. Kresge Co., variety stores: No. 66, Washington, D.C. (10-11-67 to 10-10-68); No. 158, Washington, D.C. (10-9-67 to 10-1-68); No. 28, Belleville, Ill. (11-1-67 to 10-31-68); No. 201, Chicago Heights, Ill. (10-11-67 to 10-10-68); No. 167, Logansport, Ind. (10-8-67 to 10-7-68); No. 101, South Bend, Ind. (10-24-67 to 10-23-68); No. 154, Council Bluffs, Iowa (10-1-67 to 9-30-68); No. 1089, Newport, Ky. (11-4-67 to 11-3-68); No. 4625, Bladensburg, Md. (10-19-67 to 10-18-68); No. 6, Bay City, Mich. (10-23-67 to 10-21-68); No. 452, Clawson, Mich. (10-19-67 to 10-18-68); No. 490, Dearborn, Mich. (10-25-67 to 10-24-68); No. 166, Detroit, Mich. (9-9-67 to 9-3-68); No. 241, Detroit, Mich. (10-19-67 to 9-2-68); No. 696, Farmington, Mich. (10-28-67 to 10-27-68); No. 406, Inkster, Mich. (9-23-67 to 9-22-68); No. 404, Pontiac, Mich. (9-26-67 to 9-25-68); No. 111, Irvington, N.J. (11-3-67 to 11-3-68); No. 616, Cleveland, Ohio (10-24-67 to 10-23-68); No. 640, Columbus, Ohio (10-10-67 to 10-9-68); No. 223, Hamilton, Ohio (11-16-67 to 11-15-68); No. 86, Racine, Wis. (9-3-67 to 9-2-68).

Dan Marsh Drugs, Inc., drug store; 523 St. Germain, St. Cloud, Minn.; 11-6-67 to 11-7-68.

Marstallers Grocery and Market, food store; 1928 Circle Road, Waco, Tex.; 10-23-67 to 10-22-68.

McCrory-McLellan-Green Stores, variety stores: No. 1009, Norwalk, Conn. (10-6-67 to 10-5-68); No. 1219, Doraville, Ga. (10-6-67 to 10-5-68); No. 318, Natchez, Miss. (10-4-67 to 10-3-68); No. 328, Yazoo City, Miss. (11-22-67 to 11-21-68); No. 576, Raleigh, N.C. (11-10-67 to 11-9-68); No. 1045, Wilmington, N.C. (10-9-67 to 9-3-68); No. 1022, Easton, Pa. (10-6-67 to 10-5-68); No. 109, Monongahela, Pa. (10-27-67 to 10-26-68); No. 1048, Anderson, S.C. (10-27-67 to 10-26-68); No. 177, Waco, Tex. (10-11-67 to 10-10-68); No. 138, Charlottesville, Va. (10-1-67 to 9-30-68); No. 1069, Falls Church, Va. (10-7-67 to 10-6-68).

McKinley's Food Market, food store; Hancock, Md.; 11-22-67 to 11-21-68.

H. Minkovitz & Sons, Inc., department store; 1 South Main Street, Statesboro, Ga.; 10-5-67 to 10-4-68.

Morgan & Lindsey, Inc., variety store; No. 3060, Westwego, La.; 11-1-67 to 10-31-68.

M. H. Moses Co., variety store; No. 22, Marquite, Tex.; 11-16-67 to 11-15-68.

Weimer Brothers, Inc., variety store; No. 136, Miami, Fla.; 11-3-67 to 11-2-68.

J. J. Newberry Co., variety stores: No. 794, Moorhead, Minn. (10-18-67 to 10-17-68); No. 308, Hackettstown, N.J. (10-11-67 to 10-10-68); No. 17, New Brunswick, N.J. (10-26-67 to 10-24-68); 600 Race Street, Cincinnati, Ohio (10-16-67 to 10-15-68); 19-21 North Second Street, Newport, Pa. (10-26-67 to 10-25-68).

Oshkosh Ellms Co., department store; 220 North Main, Oshkosh, Wis.; 10-6-67 to 10-4-68.

Piggly Wiggly, Inc., food store; 3110 Grand Avenue, Fort Smith, Ark.; 10-12-67 to 10-11-68.

Royal's, Inc., department stores from 10-26-67 to 10-27-68: 400 West Avenue A, Belle Glade, Fla.; 112 Bond Street, Clewiston, Fla.

Sabo Park Manor, nursing home; Lakin, Kans.; 11-6-67 to 11-5-68.

Schaper Foods, Inc., food store; 526 West Main Street, Jackson, Mo.; 11-6-67 to 11-5-68.

Samuel Schlesinger, Inc., apparel store; 5716 Bergenline Avenue, West New York, N.J.; 10-18-67 to 10-17-68.

Shelton Supermarket, food store; 206 West Main, Stigler, Okla.; 10-3-67 to 10-2-68.

Spurgeon's, department stores: 113 First Street, Dixon, Ill. (11-6-67 to 11-7-68); 604 Broadway, Lincoln, Ill. (11-15-67 to 11-14-68); 723 Washington Street, Mendota, Ill. (11-6-67 to 11-7-68); 227 South Main Street, Monmouth, Ill. (11-15-67 to 11-14-68); 519 South Main Street, Princeton, Ill. (11-6-67 to 11-5-68); 429 Lincoln Highway, Rochelle, Ill. (11-6-67 to 11-5-68); 117-119 First Avenue West, Newton, Iowa (11-22-67 to 11-21-68); 216-218 Bush Street, Red Wing, Minn. (11-15-67 to 11-14-68).

Sterling Stores Co., Inc., variety store; 209 East Cypress, Brinkley, Ark.; 10-23-67 to 10-22-68.

The Strouss-Hirshberg Co., department store; 20 West Federal Street, Youngstown, Ohio; 10-19-67 to 10-18-68.

T. G. & Y. Stores Co., variety stores: No. 117, Wichita, Kans. (11-21-67 to 11-20-68); No. 228, Baton Rouge, La. (11-15-67 to 11-14-68); No. 156, Kansas City, Mo. (11-21-67 to 11-20-68); No. 18, Woodward, Okla. (10-24-67 to 10-23-68).

The Webber Co., Inc., dry goods store; Corner Perry and Monroe Streets, Montgomery, Ala.; 10-25-67 to 10-24-68.

Wm. C. Wiechmann Co., dry goods store; 116 South Jefferson Avenue, Saginaw, Mich.; 11-6-67 to 11-5-68.

Worth's, apparel store; 95 Bank Street, Waterbury, Conn.; 11-15-67 to 11-17-68.

The following certificates were issued to retail or service establishments relying on the base-year employment experience of other establishments, either because they came into existence after the beginning of the applicable base year or because they did not have available base-year records. The certificates permit the employment of full-time students at rates of not less than 85 percent of the statutory minimum in the classes of occupations listed, and provide for the indicated monthly limitations on the percentage of full-time student hours of employment at rates below the applicable statutory minimum to total hours of employment of all employees.

Breen's Market, Inc., food store; 234 North Main Street, Milford, Mich.; carryout, stock clerk; between 18 percent and 20 percent; 11-16-67 to 11-15-68.

Centers Discount Store, variety store; 80 Railroad Street, St. Johnsbury, Vt.; stock clerk, checkout clerk, fountain and sales-clerk; between 4.8 percent and 10 percent; 10-2-67 to 9-17-68.

Crest Stores Co., variety store; Tarboro, N.C.; salesclerk, stock clerk; between 10.3 percent and 45.3 percent; 10-1-67 to 9-30-68.

Duckwall Stores, Inc., variety store; 728 West Cheyenne Boulevard, Colorado Springs, Colo.; salesclerk, stock clerk; between 18.3 percent and 31.6 percent; 11-15-67 to 11-14-68.

Erdman Supermarkets, Inc., food store; Highway 65 South, Owatonna, Minn.; checker, stock clerk, carryout, cleanup; 10 percent; 11-20-67 to 11-19-68.

W. T. Grant Co., variety stores for the occupations of salesclerk, stock clerk, office clerk, cashier except as otherwise indicated: No. 579, Milford, Del. (between 1.4 percent and 10 percent, 10-9-67 to 10-8-68); No. 1061, Indianapolis, Ind. (between 6.9 percent and 10 percent, 10-24-67 to 10-23-68); No. 1100, Cedar Falls, Iowa (salesclerk, stock clerk, between 1.9 percent and 13.6 percent, 10-24-67 to 10-23-68); No. 1184, North Las Vegas, Nev. (salesclerk, between 1.6 percent and 14.5 percent, 10-24-67 to 10-23-68); No. 1160, Park Ridge, N.J. (salesclerk, stock clerk, office clerk, between 12.7 percent and 15.4 percent, 11-3-67 to 11-2-68); No. 945, Union, N.J. (between 7.9 percent and 23.9 percent, 10-27-67 to 10-26-68); No. 926, Cleveland, Ohio (between 5.6 percent and 12.5 percent, 11-8-67 to 11-1-68); No. 24, Erie, Pa. (between 0.1 percent and 16 percent, 10-9-67 to 10-8-68); No. 789, Johnstown, Pa. (salesclerk, between 0.7 percent and 1.3 percent, 10-24-67 to 10-23-68); No. 1012, Pittsburgh, Pa. (salesclerk, between 5.8 percent and 10 percent, 10-9-67 to 10-8-68); No. 1108, Richmond, Va. (between 1.7 percent and 8.3 percent, 10-1-67 to 9-30-68).

Handy-Andy, Inc., food stores; No. 38, San Antonio, Tex.; package clerk, stock clerk, dairy stock clerk, bottle sorter, produce clerk, bakery clerk, office cashier, porter, checker; between 22.5 percent and 31.1 percent; 10-26-67 to 10-25-68.

S. H. Heironimus Co., Inc., apparel store; Crossroads Mall, Roanoke, Va.; salesclerk, stock clerk, gift wrapper; between 0 percent and 5.8 percent; 11-1-67 to 10-31-68.

Jenny Lee Bakery, bakery; Fort Couch and Washington Road, Pittsburgh, Pa.; salesclerk; between 15.5 percent and 23.2 percent; 11-2-67 to 11-1-68.

K-G Men's Store, apparel stores from 11-17-67 to 11-16-68, salesclerk, stock clerk, office clerk, delivery clerk, receiving clerk, between 9 percent and 22 percent: 7200 West Alameda, Denver, Colo.; 1548 Grand Avenue, Billings, Mont.; Holiday Village, Great Falls, Mont.; Helena, Mont.; Holiday Village, Missoula, Mont.

S. S. Kresge Co., variety stores for the occupation of salesclerk except as otherwise indicated, 10 percent except as otherwise indicated: No. 4070, Atlanta, Ga. (salesclerk, stock clerk, office clerk, checker-cashier, between 3.5 percent and 10 percent, 10-12-67 to 10-11-68); No. 4230, Atlanta, Ga. (between 3.5 percent and 13.5 percent, 11-16-67 to 11-15-68); No. 4071, Marietta, Ga. (salesclerk, checker-cashier, 10-11-67 to 10-10-68); No. 4189, Savannah, Ga. (between 3.5 percent and 13.5 percent, 10-26-67 to 10-25-68); No. 4030, Danville, Ill. (salesclerk, stock clerk, office clerk, checker-cashier, between 6.6 percent and 28.9 percent, 10-26-67 to 10-25-68); No. 4097, Elgin, Ill. (salesclerk, stock clerk, office clerk, checker-cashier, between 0 percent and 10 percent, 11-1-67 to 10-31-68); No. 4095, Joliet, Ill. (salesclerk, stock clerk, office clerk, checker-cashier, between 0 percent and 21.9 percent, 10-12-67 to 10-12-68); No. 4107, Peoria, Ill. (salesclerk, office clerk, stock clerk, checker-cashier, between 8.7 percent and 15.6 percent, 10-24-67 to 10-23-68); No. 4048, Springfield, Ill. (salesclerk, stock clerk, office

clerk, checker-cashier, between 2.7 percent and 13.8 percent, 10-21-67 to 10-20-68); No. 4065, Anderson, Ind. (salesclerk, stock clerk, checker-cashier, 10-21-67 to 10-20-68); No. 213, Speedway, Ind. (10-9-67 to 10-8-68); No. 4566, Topeka, Kans. (between 6.6 percent and 10 percent, 10-9-67 to 10-8-68); No. 4105, Ann Arbor, Mich. (11-9-67 to 11-8-68); No. 4065, Battle Creek, Mich. (between 8 percent and 10 percent, 11-13-67 to 11-12-68); No. 4091, Bay City, Mich. (10-1-67 to 9-30-68); No. 4118, Grand Rapids, Mich. (between 2.5 percent and 10 percent, 11-8-67 to 11-1-68); No. 4068, Monroe, Mich. (salesclerk, stock clerk, 11-9-67 to 11-1-68); No. 4145, Mount Clemens, Mich. (11-9-67 to 11-8-68); No. 4089, Mount Morris, Mich. (11-8-67 to 11-1-68); No. 4535, Owosso, Mich. (salesclerk, stock clerk, office clerk, 11-9-67 to 11-1-68); No. 4096, Saginaw, Mich. (salesclerk, stock clerk, 11-9-67 to 11-1-68); No. 4106, Ypsilanti, Mich. (10-31-67 to 10-30-68); No. 4069, Charlotte, N.C. (salesclerk, stock clerk, office clerk, checker-cashier, 10-22-67 to 10-21-68); No. 4165, Cincinnati, Ohio (between 8.6 percent and 23 percent, 11-16-67 to 11-15-68); No. 4190, Dayton, Ohio (between 8 percent and 10 percent, 10-6-67 to 10-5-68); No. 4150, Altoona, Pa. (between 3.4 percent and 10 percent, 11-16-67 to 11-15-68); No. 4082, Greensburg, Pa. (between 4 percent and 10 percent, 10-1-67 to 9-30-68); No. 422, New Castle, Pa. (between 4.2 percent and 10 percent, 10-1-67 to 9-30-68); No. 4119, Rochester, Pa. (between 6.5 percent and 10 percent, 10-9-67 to 10-8-68); No. 4009, Washington, Pa. (between 6.5 percent and 10 percent, 10-1-67 to 9-30-68); No. 4016, Greenville, S.C. (stock clerk, salesclerk, checker-cashier, 10-19-67 to 10-18-68); No. 4141, West Columbia, S.C. (salesclerk, stock clerk, checker-cashier, 11-8-67 to 11-7-68); Nos. 4127, 4228 and 4236, Houston, Tex. (between 7.2 percent and 27.3 percent, 11-18-67 to 11-15-68); No. 4029, San Angelo, Tex. (between 7.2 percent and 10 percent, 10-1-67 to 9-30-68); No. 4026, Tyler, Tex. (between 7.2 percent and 10 percent, 10-21-67 to 10-20-68); No. 4042, Fredericksburg, Va. (salesclerk, stock clerk, office clerk, checker-cashier, 10-1-67 to 9-30-68); No. 547, Springfield, Va. (salesclerk, stock clerk, office clerk, checker-cashier, 10-1-67 to 9-30-68); 2400 West College Avenue, Appleton, Wis. (salesclerk, office clerk, stock clerk, checker-cashier, between 6.9 percent and 13.6 percent, 11-13-67 to 11-12-68); No. 4517, Janesville, Wis. (salesclerk, stock clerk, office clerk, cashier-checker, between 10.7 percent and 24.3 percent, 10-10-67 to 10-9-68).

Lerner Shops, apparel stores: No. 197, Gainesville, Fla. (salesclerk, between 0.3 percent and 25.4 percent, 11-9-67 to 11-8-68); No. 196, West Palm Beach, Fla. (salesclerk, stock clerk, between 8.9 percent and 14.5 percent, 10-19-67 to 10-18-68); No. 280, Michigan City, Ind. (salesclerk, office clerk, between 2.7 percent and 8.6 percent, 10-19-67 to 10-18-68); No. 254, Omaha, Nebr. (salesclerk, office clerk, stock clerk, between 10.4 percent and 17.2 percent, 11-16-67 to 11-15-68); No. 72, Perth Amboy, N.J. (salesclerk, stock clerk, office clerk, between 9.4 percent and 10 percent, 10-16-67 to 10-15-68).

May's Drug Store, drug store; No. 201, Peru, Ill.; salesclerk, stock clerk; between 5.1 percent and 8.3 percent; 10-20-67 to 10-19-68.

McCrory-McLellan-Green Stores, variety stores for the occupations of salesclerk, office clerk, stock clerk except as otherwise indicated, 10-7-67 to 10-6-68 except as otherwise indicated: No. 290, Fayetteville, Ark. (between 2.3 percent and 14.3 percent); No. 374, Danbury, Conn. (between 6.7 percent and 28.4 percent); No. 1083, Milford, Conn. (between 6.7 percent and 15.2 percent); No. 331, East Dover, Del. (salesclerk, cashier, between 27 percent and 38 percent, 11-15-67 to 11-14-68); No. 7504, Casselberry, Fla. (between 4.1 percent and 15 percent); No. 388, Live Oak, Fla. (between 6.7 percent and 22.9 percent, 10-21-67 to 10-20-68); Nos. 219 and 4262, Orlando, Fla. (between 4.1 percent and 15 percent); No. 266, Plant City, Fla. (between 10.3 percent and 20.3 percent, 10-3-67 to 10-2-68); No. 286, Carrollton, Ga. (between 6.3 percent and 18.7 percent); No. 302, North Riverside, Ill. (between 10.5 percent and 26.6 percent, 11-6-67 to 11-1-68); No. 245, Ellicott City, Md. (between 27 percent and 38 percent); No. 389, Fall River, Mass. (between 6.6 percent and 15.1 percent, 10-20-67 to 10-19-68); No. 376, Framingham, Mass. (between 6.6 percent and 15.1 percent, 11-8-67 to 11-7-68); No. 641, Greenfield, Mass. (between 9.1 percent and 13.1 percent); No. 643, Winchendon, Mass. (between 9.1 percent and 12.1 percent); No. 393, Detroit, Mich. (between 10.4 percent and 26.8 percent, 10-9-67 to 10-8-68); No. 258, Grand Rapids, Mich. (between 10.5 percent and 26.6 percent); No. 692, Ionia, Mich. (between 2.1 percent and 20.1 percent, 11-9-67 to 11-8-68); No. 236, Menominee, Mich. (between 10.5 percent and 23.8 percent, 11-9-67 to 11-8-68); No. 260, Oxford, Miss. (salesclerk, stock clerk, between 6.6 percent and 27.4 percent, 11-16-67 to 11-15-68); No. 377, Stirling, N.J. (between 9 percent and 19.6 percent, 10-9-67 to 10-9-68); No. 708, Grants, N. Mex. (between 3.5 percent and 27.3 percent, 10-25-67 to 10-24-68); No. 267, Norwood, Ohio (between 6.8 percent and 20.2 percent, 10-19-67 to 10-18-68); No. 224, Hazleton, Pa. (between 15.2 percent and 21.8 percent, 11-16-67 to 11-15-68); No. 391, Philadelphia, Pa. (between 2.9 percent and 13.6 percent, 10-3-67 to 10-2-68); No. 1030, Fort Worth, Tex. (salesclerk, stock clerk, between 18.8 percent and 39.3 percent, 10-27-67 to 10-26-68).

Minimax Super Market, food store; 1201 Strawberry Road, Pasadena, Tex.; bagger, carryout, janitor, stock clerk; between 6.2 percent and 10.5 percent; 10-19-67 to 10-18-68.

Morgan & Lindsey, Inc., variety store; No. 3114, Long Beach, Miss.; salesclerk, stock clerk, office clerk; between 4.2 percent and 21.9 percent; 11-8-67 to 11-7-68.

G. C. Murphy Co., variety store; No. 82, Atlanta, Ga.; salesclerk, office clerk, stock clerk, janitor; between 4.7 percent and 12.8 percent; 10-4-67 to 10-3-68.

Nacogdoches Foods, Inc., food store; 1028 South Street, Nacogdoches, Tex.; checker, carryout, stock clerk, bottle clerk; between 9 percent and 20.2 percent, 11-1-67 to 10-31-68.

Neisner Brothers, Inc., variety stores for the occupations of salesclerk, office clerk, stock clerk: No. 22, Brooksville, Fla. (between 0.7 percent and 29.3 percent, 10-28-67 to 10-27-68); No. 190, Cape Coral, Fla. (between 9.7 percent and 29.3 percent, 10-18-67 to 10-17-68); No. 95, Englewood, Fla. (between 9.8 percent and 29 percent, 10-10-67 to 10-9-68); No. 5, Palatka, Fla. (between 7.6 percent and 16.8 percent, 10-14-67 to 10-13-68).

J. J. Newberry Co., variety store; No. 476, Macon, Ga.; salesclerk; between 9.9 percent and 10 percent; 11-1-67 to 10-31-68.

Parks IGA, food store; 228 Auckerman Street, Eaton, Ohio; carryout, stock clerk, cleanup; 10 percent; 11-15-67 to 11-15-68.

Piggly Wiggly, Inc., food stores from 10-12-67 to 10-11-68 except as otherwise indicated, package clerk, stock clerk, checker except as otherwise indicated, 17 percent and 24 percent except as otherwise indicated: No. 11, Phenix City, Ala. (sacker, bottle clerk, carryout, janitor, between 10.5 percent and 13.3 percent, 10-1-67 to 9-30-68); 2500 Jenny Lind, 2222 Midland Boulevard, and Phoenix Village, Fort Smith, Ark.; 15th and East Main Street, Van Buren, Ark.; 710 East Blackhawk Avenue, Prairie Du Chien, Wis. (carryout, 9.5 percent, 11-10-67 to 11-9-68).

Seifert's, apparel store; 227 Second Street, Southeast, Cedar Rapids, Iowa; salesclerk, merchandising, cleanup; between 2.4 percent and 9 percent; 10-12-67 to 10-12-68.

Serve-All Food Store, food store; 214 East Austin Street, Kermit, Tex.; carryout; 20 percent; 11-22-67 to 11-21-68.

Sterling Stores Co., Inc., variety store; Fayetteville, Ark.; salesclerk, stock clerk, janitor; between 16.7 percent and 40.4 percent; 11-10-67 to 11-9-68.

Sunshine Department Store, department store; 1241 Moreland Avenue, Southeast, Atlanta, Ga.; salesclerk; between 7.8 percent and 10 percent; 10-11-67 to 10-6-68.

T. G. & Y. Stores Co., variety stores for the occupations of salesclerk, stock clerk, office clerk except as otherwise indicated: No. 249, Pine Bluff, Ark. (salesclerk, stock clerk, between 11.4 percent and 39.6 percent, 10-3-67 to 10-1-68); No. 725, St. Petersburg Beach, Fla. (between 2 percent and 17 percent, 10-9-67 to 10-8-68); No. 466, Emporia, Kans. (between 15.5 percent and 29.4 percent, 11-8-67 to 11-3-68); No. 470, Wichita, Kans. (between 19 percent and 30 percent, 12-1-67 to 11-30-68); No. 464, Chickasha, Okla. (between 10 percent and 30 percent, 10-10-67 to 10-9-68); No. 822, Odessa, Tex. (between 8 percent and 30 percent, 11-15-67 to 11-14-68); No. 114, Wichita Falls, Tex. (between 8 percent and 30 percent, 12-1-67 to 11-30-68).

Wood's 5 'n 10¢ Stores, variety store; Chapel Hill, N.C.; salesclerk, stock clerk; between 10.4 percent and 32.9 percent; 11-1-67 to 10-31-68.

F. W. Woolworth Co., variety stores: No. 2462, Farmington, N. Mex. (salesclerk, office clerk, stock clerk, between 7.2 percent and 10 percent, 10-23-67 to 10-22-68); No. 2559, El Paso, Tex. (salesclerk, between 7.8 percent and 10 percent, 10-10-67 to 10-15-68).

Each certificate has been issued upon the representations of the employer which, among other things, were that employment of full-time students at special minimum rates is necessary to prevent curtailment of opportunities for employment, and the hiring of full-time students at special minimum rates will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under a certificate. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 30 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 519.9.

Signed at Washington, D.C., this 8th day of December 1967.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[F.R. Doc. 67-14566; Filed, Dec. 14, 1967; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 11, 1967.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41185—*Starch or dextrine from Lafayette, Ind.* Filed by Traffic Executive Association-Eastern Railroads, agent (No. 2901), for interested rail carriers. Rates on starch or dextrine, in carloads, as described in the application from Lafayette, Ind., to points in Alabama, Florida, Georgia, Louisiana, North Carolina, and South Carolina.

Grounds for relief—Market competition.

Tariffs—Supplement 70 and 27 to Traffic Executive Association, agent, tariffs ICC C-438 and C-611, respectively.

FSA No. 41186—*Liquid caustic soda from Charleston, Tenn.* Filed by O. W. South, Jr., agent (No. A-5072), for interested rail carriers. Rates on liquid caustic soda, in tank carloads, from Charleston, Tenn., to Fairfax, Lanett, Opelika, and Pepperell, Ala.

Grounds for relief—Market competition.

Tariff—Supplement 165 to Southern Freight Association, agent, tariff ICC S-484.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 67-14568; Filed, Dec. 14, 1967; 8:48 a.m.]

[Notice 509]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 12, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 52579 (Sub-No. 97 TA), filed December 4, 1967. Applicant: GILBERT CARRIER CORP., 1 Gilbert Drive, Secaucus, N.J. 07094. Authority to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Wearing apparel*, loose, on hangers, and *materials and supplies* used in the manufacture of wearing apparel, between Hallandale, Fla., and points in the New York, N.Y., commercial zone as defined by Commission; (b) *materials and supplies* used in the manufacture of wearing apparel, from Miami, Fla., to points in the New York, N.Y., commercial zone as defined by the Commission. NOTE: Applicant requests authority to interline with authorized ICC carriers at points in the New York, N.Y., commercial zone, for 150 days. Supporting shippers: Mary-Martin, Inc., 226 Northwest Sixth Avenue, Hallandale, Fla.; Smartknit, Inc., 276 Northwest 26th Street, Miami, Fla. Send protests to: District Supervisor W. J. Grossmann, Bureau of Operations, Interstate Commerce Commission, 1060 Broad Street, Newark, N.J. 07102.

No. MC 106207 (Sub-No. 234 TA), filed December 6, 1967. Applicant: FROZEN FOOD EXPRESS, 318 Cadiz Street 75207, Post Office Box 5888, Dallas, Tex. 75222. Applicant's representative: J. B. Ham (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Human blood plasma*, from Houston, Tex., to Kankakee, Ill., for 150 days. Supporting shipper: Metabolic Research Foundation, Inc., 4529 Yoakum Boulevard, Houston, Tex. 77006. Send protests to: E. K. Willis, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 513 Thomas Building, 1314 Wood Street, Dallas, Tex. 75202.

No. MC 109501 (Sub-No. 9 TA), filed December 4, 1967. Applicant: CALHOUN TRUCKING CORP., 319 Jacet Road, Post Office Box 357, Kearny, N.J. 07032. Applicant's representative: Bert Collins, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Air conditioning units*, from the plantsite of the Fedders Corp. in Edison Township, N.J., to New York, N.Y., for 180 days. Supporting shipper: Fedders Corp., Edison, N.J. 08817, Charles J. Fallon, Traffic Manager. Send protests to: Walter J. Grossmann, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1060 Broad Street, Newark, N.J. 07102.

No. MC 114364 (Sub-No. 154 TA), filed December 4, 1967. Applicant: WRIGHT MOTOR LINES, INC., 1401 North Little Street, Post Office Box 1191, Cushing, Okla. 74023. Applicant's representative: Rodger Spahr, Post Office Box 1191, Cushing, Okla. 74023. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpet and textile products*, from points in Lafayette County, Ark., to points in Arizona, California, Colorado, Iowa, Kansas, Oklahoma, Missouri, New Mexico, and Texas, for 180 days. Supporting shipper: Cherokee Carpet Mills, Inc., Post Office Box 487, Lewisville, Ark. 71845. Send protests to: C. L. Phillips, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 210 Northwest Sixth, Oklahoma City, Okla. 73102.

No. MC 116523 (Sub-No. 11 TA), filed December 4, 1967. Applicant: KEYSTONE TRUCK LINES, INC., 316 South Quincy, Tulsa, Okla. 74120. Applicant's representative: Prentiss Shelley (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading) between Ponca City, Okla. and Enid, Okla., from Ponca City over Oklahoma Highway 11, to junction U.S. Highway 177, thence over U.S. Highway 177 to junction Oklahoma Highway 15, thence over Oklahoma Highway 15 to junction U.S. Highway 64, and thence over U.S. Highway 64 to Enid, and return over the same route, serving the intermediate points of Tonkawa, Garber, and Billings, Okla., for 180 days. NOTE: Carrier intends to tack the authority here applied for to other authority held by it, at the points of Enid and Ponca City, Okla. Supporting shippers: White's News Agency, Third and Emporia, Ponca City, Okla. 74601; Texas-Oklahoma Express, Inc., Post Office Box 743, Dallas 21, Tex.; Nickles Machine Corp., Post Office Box 1747, Ponca City, Okla.; Krivohlavek Hardware, Garber, Okla.; Bradshaw Dry Goods, Garber, Okla.; Rush Metals, Inc., Billings, Okla.; Britton Hardware, Billings, Okla. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 210 Northwest Sixth, Oklahoma City, Okla. 73102.

No. MC 116887 (Sub-No. 1 TA) (Correction), filed December 4, 1967, published in FEDERAL REGISTER in Notice 508, and republished as corrected this issue. Applicant: GRIFFIN MOBLIN HOME TRANSPORTING CO., 9000 Southeast 29th Street, Oklahoma City, Okla. 73110. Applicant's representative: Jack L. Griffin (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mobile homes*, in initial movements, from Claremore, Okla., to points in Missouri, Iowa, Illinois, Arkansas, Mississippi, Louisiana, Texas, Arizona, Colorado, Wyoming, New Mexico, Nebraska, and Kansas, for 180 days. NOTE: The purpose of this republication is to show the correct docket number as MC 116887 (Sub-No. 1 TA) in lieu of MC 116997 (Sub-No. 1 TA) as previously published. Supporting shipper: Scott Rich Homes, Ralph Connely, Jr., President, 710 West Ninth Street, Claremore, Okla. 74017 Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 350, American General Building, 210 Northwest Sixth, Oklahoma City, Okla. 73102.

No. MC 121593 (Sub-No. 1 TA), filed December 1, 1967. Applicant: JAMES C. RUSSELL, doing business as ABLE MOVING & STORAGE COMPANY, 711

Scott Street, Charleston Heights, S.C. 29405. Applicant's representative: Alan P. Wohlstetter, 1 Farragut Square South, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Dorchester, Charleston, and Berkeley Counties, S.C., restricted to shipments having a prior or subsequent movement beyond said counties in containers, and further restricted to pickup and delivery service incidental to and in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such shipments, for 180 days. Supporting shippers: Trans-American World Transit, Inc., 7540 South Western Avenue, Chicago, Ill. 60620; Pyramid Van Lines, Post Office Box 2973, Station B, San Francisco, Calif. 94126; Routed Thru-Pac, Inc., 350 Broadway, New York, N.Y. 10013. Send protests to: Arthur E. Abercrombie, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 601A Federal Building, 901 Sumter Street, Columbia, S.C. 29201.

No. MC 128903 (Sub-No. 6 TA), filed December 4, 1967. Applicant: FOGLEMAN TRUCK LINE, INC., 1704 West Mill Street, Post Office Box 1504, Crowley, La. 70526. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand bags*, from Crowley, La., to Defense General Supply Center, Richmond, Va., for 180 days. Supporting shipper: Crowley Industrial Bag Co., Inc., Post Office Box 726, Crowley, La. 70526; Continental Bag Co., 401 East Clay, Post Office Box 491, Crowley, La. 70526. Send protests to: W. R. Atkins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, T-4009 Federal Building, 701 Loyola Avenue, New Orleans, La. 70113.

No. MC 124692 (Sub-No. 45 TA), filed December 1, 1967. Applicant: SAMMONS TRUCKING, Post Office Box 933, Missoula, Mont. 59801. Applicant's representative: Charles R. Nieman, 1160 Northwest Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fabricated steel beams, wall plates, channel lagging, liner plates, bolts, and nuts*, from Bedford Park, Ill., to jobsites of the Straight Creek Highway Tunnel, near Loveland Pass, between Dillon and Silver Plume, Colo., for 180 days. Supporting shipper: Commercial Shearing & Stamping Co., Youngstown, Ohio 44501. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 251 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 125420 (Sub-No. 16 TA), filed December 1, 1967. Applicant: MERCURY TANKLINES LIMITED, Post Office Box 5858, South Edmonton, Alberta, Canada. Applicant's representative: J. F. Meglen, 2822 Third Avenue North, Billings, Mont. 59101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages*, in bulk, in tank vehicles, for the account of Barton Distilling Co., between the port of entry at or near Port Huron, Mich., on the international boundary line between the United States and Canada, and Bardstown, Ky., for 180 days. Supporting shipper: Barton Distilling Co., Bardstown, Ky. 40004. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 251 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 127689 (Sub-No. 13 TA), filed December 4, 1967. Applicant: PASCAGOULA DRAYAGE COMPANY, INC., 705 East Pine Street, Post Office Box 1326, Hattiesburg, Miss. 39401. Applicant's representative: W. M. Inmis (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boards or sheets* (not wallboard or insulation), made from wood shavings, sawdust, or ground wood, from plantsite of Kroehler Manufacturing Co., Meridian, Miss., to plantsite of Singer Sewing Machine Co., Truman, Ark., for 180 days. Supporting shipper: Kroehler Manufacturing Co., Post Office Box 4174, West Station, Meridian, Miss. 39301. Send protests to: District Supervisor, Floyd A. Johnson, Interstate Commerce Commission, Bureau of Operations, 212-A U.S. Post Office Building, Jackson, Miss. 39201.

No. MC 127834 (Sub-No. 15 TA), filed December 4, 1967. Applicant: CHEROKEE HAULING & RIGGING, INC., 540 Merritt Avenue, Nashville, Tenn. 37203. Applicant's representative: M. Bryan Stanley (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from plantsite of Jones & Laughlin Steel Corp., Putnam County, Ill., to points in Alabama, Arkansas, Georgia, Florida, Mississippi, and Tennessee, and *materials, equipment supplies* used in the manufacture and processing of iron and steel articles (except commodities in bulk), from points in Alabama, Arkansas, Georgia, Florida, Mississippi, and Tennessee, to the plantsite of Jones & Laughlin Steel Corp., Putnam County, Ill., for 180 days. Supporting shipper: Jones & Pittsburgh, Pa. 15230. Send protests to: Pittsburgh, Pa. 15230. Send protests to: J. E. Gamble, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 706 U.S. Courthouse, Nashville, Tenn. 37203.

No. MC 129396 (Sub-No. 1 TA), filed December 1, 1967. Applicant: REESE, REESE & SHERMAN, INC., 323 Orchard Lane, Billings, Mont. 59101. Applicant's representative: R. P. Hibbs, Post Office Box 1321, Billings, Mont. 59103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, fresh, salted cooked, cured, or preserved*, from Billings Mont., to points in California, Nevada, Oregon, Utah, and Washington, for 180 days. Supporting shipper: Midland Empire Packing Co., Inc., Post Office Box 1375, Billings, Mont. 59103. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 251 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 129498 (Sub-No. 1 TA) (Correction), filed October 26, 1967, published FEDERAL REGISTER, issue of November 7, 1967, and republished as corrected this issue. Applicant: HOLMES DEHAVEN, doing business as FRIGID INSTITUTIONAL DELIVERIES, Route 3, Box 86, Berkeley Springs, W. Va. 25411. Applicant's representative: Charles E. Creager, Post Office Box 81, Winchester, Va. 22601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen meats* from Chicago, Ill., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Indiana, Kansas, Kentucky, Maryland, Michigan, Missouri, New Jersey, New York, North Caroline, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and the District of Columbia; and (2) *fresh meats* on return, from points in Texas to Chicago, Ill., for the account of Frigidmeats, Inc., for 150 days. Supporting shipper: Frigidmeats, Inc., 3755 South Racine Avenue, Chicago, Ill., 60609, Sidney Jaffe, President. NOTE: The purpose of this republication is to add the return movement inadvertently omitted from the previous publication. Send protests to: J. A. Niggemyer, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 531 Hawley Building, Wheeling, W. Va. 26003.

No. MC 129562 TA, filed December 4, 1967. Applicant: MARCEL AUDET, Rural Route No. 1, Chambly, Quebec, Canada. Applicant's representative: W. Norman Charles, 80 Bay Street, Glens Falls, N.Y. 12801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Laminated wood board and dressed wood*, from ports of entry on the international boundary line between the United States and Canada at or near Detroit, Mich.; Alexandria Bay, Champlain, Ogdensburg, and Rouses Point, N.Y.; and Highgate Springs, Newport, North Troy, and Norton, Vt.; to Hartford, Conn.; Wilmington and Dover, Del.; Washington, D.C.; Chicago, Ill.; Richmond, Salem, and Terre Haute, Ind.; Portland, Maine; Baltimore, Md.; Boston and Gardner, Mass.; Detroit, Mich.; Keene, N.H.; Cranburg, N.J.; Brooklyn, Buffalo; New York, Syracuse, and Rochester, N.Y.; Cleveland and Columbus, Ohio; Montrose, Philadelphia, Pittsburgh, and Scranton, Pa.; Cranston and Providence, R.I.; Burlington, Montpelier, and Barre, Vt.; Richmond, Va.; and Charleston, W. Va., for 150 days. Supporting shipper: J. C. Martel, Inc., St. Michel des Saints, Quebec, Canada. Send protests to: Martin P. Monaghan, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 38, Montpelier, Vt. 05602.

No. MC 129563 TA, filed December 4, 1967. Applicant: ONONDAGA BEVERAGE TRANSPORT, INC., 345 Spencer Street, Syracuse, N.Y. 13204. Applicant's representative: Herbert M. Canter, 345 South Warren Street, Syracuse, N.Y. 13202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* in *containers* only (and not in bulk in tank trucks), from Natick and Willimansett, Mass.; Cleveland, Ohio; New York, N.Y.; and the port of entry between the United States and Canada at or near Buffalo, N.Y.; and Newark, N.J.; to Syracuse, Watertown, and Auburn, N.Y., and *empty containers* on return, under continuing contracts with Onondaga Beverage Corp., Owasco Beverage Corp., and Best Distributing Co., Inc., for 150 days. Supporting shippers: Onondaga Beverage Corp., 345 Spencer Street, Syracuse, N.Y. 13204; Owasco Beverage Corp., 161 York Street, Post Office Box 97, Auburn, N.Y. 13022; Best Distributing Co., Inc., Post Office Box 205, Watertown, N.Y. 13601. Send protests to: Morris H. Gross, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 104, O'Donnell Building, 301 Erie Boulevard, West Syracuse, N.Y. 13202.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 67-14589; Filed, Dec. 14, 1967; 8:49 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—DECEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during December.

3 CFR

Page

PROCLAMATION:
3821 ... 17571

EXECUTIVE ORDERS:
Dec. 8, 1913 (revoked in part by PLO 4327) ... 16531
Mar. 21, 1914 (revoked in part by PLO 4327) ... 16531
June 24, 1914 (revoked in part by PLO 4327) ... 16531
11248 (amended by EO 11384) ... 17423
11383 ... 17421
11384 ... 17423

5 CFR

210 ... 16474
213 ... 16477, 17615, 17849
315 ... 16474
351 ... 16474
352 ... 16474
353 ... 16475
430 ... 16475
511 ... 16475
531 ... 16475
713 ... 16476
731 ... 16476
752 ... 16476
754 ... 16476
771 ... 16477
772 ... 16477
831 ... 16477
891 ... 16477
2200 ... 17573
2300 ... 17651

7 CFR

401 ... 16475, 17425, 17513
718 ... 17513
722 ... 17467, 17887, 17923
724 ... 16478
725 ... 16479
729 ... 17887
815 ... 16525
905 ... 16525, 17615, 17616, 17925
907 ... 16526, 17515, 17888
909 ... 17849
910 ... 16526, 17617, 17851
944 ... 17425
982 ... 16527
989 ... 17467
1062 ... 16479
1073 ... 16480
1094 ... 16527
1103 ... 16527
1106 ... 16480
1126 ... 16480
1421 ... 16528
1427 ... 16528
1464 ... 17849
1474 ... 17888

PROPOSED RULES:
51 ... 17893
58 ... 17893
812 ... 17669
817 ... 17669
911 ... 17431
915 ... 17431
948 ... 17671
950 ... 17433
989 ... 17625
993 ... 17434

7 CFR—Continued

Page

PROPOSED RULES—Continued
1001 ... 17626
1008 ... 17626
1036 ... 17626
1048 ... 17626

8 CFR

238 ... 17651
280 ... 17651

PROPOSED RULES:
242 ... 17624
243 ... 17624
244 ... 17624
299 ... 17624

9 CFR

97 ... 17618

12 CFR

1 ... 17574, 17926
12 ... 17468
206 ... 17469
224 ... 17425
335 ... 17470
545 ... 17926
561 ... 17515
605 ... 17652

PROPOSED RULES:
563 ... 17544

14 CFR

21 ... 17850
39 ... 16481, 17426, 17515, 17516, 17652, 17927
61 ... 16481
71 ... 16482, 16483, 17426, 17427, 17516–17518, 17574–17576, 17653, 17851
73 ... 17427, 17653
75 ... 17518
91 ... 16483, 17654
97 ... 16484, 17577, 17928
121 ... 16481, 17889
141 ... 17851
151 ... 17471
301 ... 16491
303 ... 16491
311 ... 16491
320 ... 16491
421 ... 16491
430 ... 16491
431 ... 16491
435 ... 16491

PROPOSED RULES:
1 ... 16495
21 ... 17485
25 ... 17487
39 ... 17439, 17672, 17673, 17895
71 ... 16495, 17488, 17543, 17596–17598, 17673–17675, 17861, 17962.
73 ... 17488
91 ... 16495
214 ... 16535
241 ... 17963
295 ... 16535
298 ... 17598

15 CFR

373 ... 17471

16 CFR

Page

13 ... 17427, 17618, 17853–17855
15 ... 17582, 17856

PROPOSED RULES:
301 ... 17544
415 ... 17691

17 CFR

230 ... 17933
239 ... 17933
240 ... 17583
270 ... 17583
274 ... 17583

PROPOSED RULES:
240 ... 17963
270 ... 17861

19 CFR

5 ... 17619
12 ... 17428
19 ... 17619
23 ... 16528
24 ... 17619

21 CFR

29 ... 17654
120 ... 16529, 17472
121 ... 16529, 16530, 17472, 17587, 17654, 17655, 17856, 17857.
130 ... 16531
146 ... 16531
146a ... 16491, 17657
166 ... 17473

PROPOSED RULES:
31 ... 16533
46 ... 17482, 17671
128 ... 17980
130 ... 17671
136 ... 16533, 17626

22 CFR

10 ... 17454

23 CFR

255 ... 17938

PROPOSED RULES:
255 ... 16534

24 CFR

234 ... 17587

25 CFR

PROPOSED RULES:
221 ... 17543

26 CFR

1 ... 17479, 17518, 17657, 17890, 17938
147 ... 17858
701 ... 17890

PROPOSED RULES:
151 ... 17861

28 CFR

0 ... 16531

29 CFR

1610 ... 16491

31 CFR

Page

1 ... 17519
51 ... 17859

32 CFR

51 ... 17661
54 ... 17619
537 ... 17519
701 ... 17588

33 CFR

109 ... 17726, 17890
110 ... 17726, 17890
114 ... 17726, 17890
115 ... 17726, 17890
116 ... 17726, 17890, 17939
117 ... 17522
209 ... 17661

36 CFR

7 ... 17661

39 CFR

123 ... 17479
742 ... 17479, 17860

41 CFR

1-1 ... 16491
9-1 ... 17542
Ch. 18 ... 17002
101-26 ... 17939

42 CFR

53 ... 17662

43 CFR

Page

2210 ... 17890

PUBLIC LAND ORDERS:
334 (revoked in part by PLO 4333) ... 17480
1796 (revoked in part by PLO 4331) ... 17479
2764 (see PLO 4331) ... 17479
4327 ... 16531
4328 ... 17429
4329 ... 16532
4330 ... 17479
4331 ... 17479
4332 ... 17479
4333 ... 17480
4334 ... 17429
4335 ... 17429
4336 ... 17620
4337 ... 17663
4338 ... 17891

45 CFR

30 ... 17891
1105 ... 17663

46 CFR

39 ... 17621
98 ... 17621
221 ... 17595
255 ... 17595
308 ... 17891
510 ... 17486
526 ... 17667

46 CFR—Continued

Page

PROPOSED RULES:
Ch. II ... 17980
514 ... 16496

47 CFR

97 ... 17429

PROPOSED RULES:
2 ... 16495
87 ... 16495
91 ... 17440

48 CFR

501 ... 17940

49 CFR

290 ... 17941
291 ... 17941
292 ... 17941
293 ... 17941
294 ... 17892, 17941
295 ... 17941
296 ... 17941
297 ... 17480
890 ... 17480
1200 ... 17480

50 CFR

28 ... 17622
221 ... 17542
32 ... 16532, 17430, 17481, 17623, 17667, 17668
33 ... 16492
254 ...

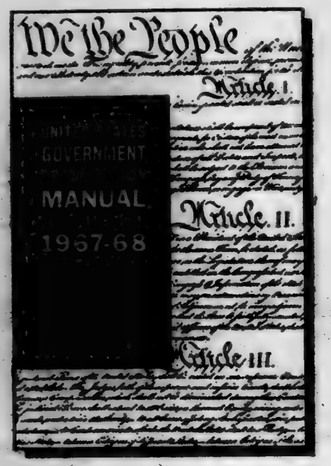

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Pages 18011–18075

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Agencies in this issue—

Agricultural Research Service
Atomic Energy Commission
Civil Aeronautics Board
Commodity Credit Corporation
Consumer and Marketing Service
Federal Aviation Administration
Federal Highway Administration
Federal Maritime Commission
Federal Power Commission
Federal Reserve System
Federal Trade Commission
Fiscal Service
Fish and Wildlife Service
General Services Administration
Interior Department
Internal Revenue Service
Interstate Commerce Commission
Land Management Bureau
Packers and Stockyards Administration
Post Office Department
Securities and Exchange Commission
Social Security Administration
Transportation Department

Detailed list of Contents appears inside.

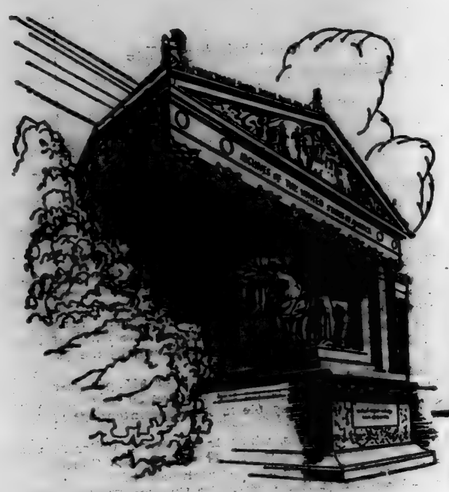

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Contents

AGRICULTURAL RESEARCH SERVICE

Rules and Regulations

Black stem rust:
- Eradication areas 18017
- Quarantine and regulations 18015

AGRICULTURE DEPARTMENT

See Agricultural Research Service; Commodity Credit Corporation; Consumer and Marketing Service; Packers and Stockyards Administration.

ATOMIC ENERGY COMMISSION

Notices

Vermont Yankee Nuclear Power Corp.; issuance of provisional construction permit 18066

CIVIL AERONAUTICS BOARD

Rules and Regulations

Construction, publication, filing and posting of tariffs of air carriers and foreign air carriers; limitation of liability under Warsaw Convention 18022

Reporting data pertaining to civil aircraft charters performed by foreign air carriers 18020

Terms, conditions and limitations of foreign air carrier permits authorizing charter transportation; reporting requirement 18020

Uniform system of accounts and reports for certificated air carriers; reporting of charter travel 18023

Notices

Seagreen Air Transport Ltd.; prehearing conference 18067

COMMODITY CREDIT CORPORATION

Rules and Regulations

Financing of sales of agricultural commodities; miscellaneous amendments 18018

CONSUMER AND MARKETING SERVICE

Rules and Regulations

Lemons grown in California and Arizona:
- Expenses and rate of assessment 18018
- Handling limitation 18017

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations

Control zone; alteration 18020

Proposed Rule Making

Control zone and transition area:
- Alteration 18060
- Designation 18061

Jet route; alteration 18062

Transition area:
- Alteration 18061
- Designation 18062

FEDERAL HIGHWAY ADMINISTRATION

Rules and Regulations

Initial Federal motor vehicle safety standards; lamp, reflective devices, and associated equipment (2 documents) 18032, 18033

FEDERAL MARITIME COMMISSION

Notices

Petitions filed for approval:
- American Great Lakes-Mediterranean Eastbound Freight Conference 18067
- Mediterranean/U.S.A. Great Lakes Westbound Freight Conference 18067

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:
- Armer, Elva, et al 18071
- Marathon Oil Co. et al 18072
- Northern Natural Gas Co 18071
- Ohio Fuel Gas Co 18072
- Panhandle Producing Co. et al 18067

FEDERAL RESERVE SYSTEM

Notices

Federal Open Market Committee; current economic policy directive 18072

FEDERAL TRADE COMMISSION

Rules and Regulations

Prohibited trade practices:
- Atomic Sportswear Co., Inc., et al 18025
- Kanebo U.S.A. Inc., and Shichiro Miyasaki 18025
- Modern Juniors, Inc., and William Paul 18025

FISCAL SERVICE

Rules and Regulations

Depositories for Federal taxes 18044

FISH AND WILDLIFE SERVICE

Rules and Regulations

Sport fishing; Lower Souris National Wildlife Refuge, North Dakota 18049

GENERAL SERVICES ADMINISTRATION

Rules and Regulations

Federal procurement regulations; miscellaneous amendments to chapter 18045

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Social Security Administration.

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Land Management Bureau.

Notices

Director, Bureau of Outdoor Recreation; delegation of authority 18066

Virgin Islands Government; Secretarial approval of obligation and expenditure of matching funds 18065

INTERNAL REVENUE SERVICE

Rules and Regulations

Deposit of certain taxes 18039

INTERSTATE COMMERCE COMMISSION

Notices

Motor carrier transfer proceedings 18072

LAND MANAGEMENT BUREAU

Notices

California; proposed withdrawal and reservation of lands 18065

Colorado; classification of public lands for multiple-use management 18065

PACKERS AND STOCKYARDS ADMINISTRATION

Notices

Market agencies at Sioux City, Iowa, stock yards; petition to vacate order and dismiss proceedings 18066

POST OFFICE DEPARTMENT

Rules and Regulations

Customs clearance and delivery fees on international mail 18045

(Continued on next page)

SECURITIES AND EXCHANGE COMMISSION

Proposed Rule Making

Ownership of more than ten percent of a class of equity securities 18063

Notices

Lead Shoes, Inc.; order suspending trading 18072

SOCIAL SECURITY ADMINISTRATION

Rules and Regulations

Federal health insurance for the aged:
- Principles for reimbursable costs 18027
- Review and hearing under supplementary medical insurance program 18027

Federal old-age, survivors, disability, and health insurance; miscellaneous amendments 18026

Organization and procedures; applications and related forms 18030

Proposed Rule Making

Federal health insurance for the aged:
- Agreements with and functions of providers, intermediaries, carriers, and State agencies 18050
- Providers of services and independent laboratories; determinations and appeals procedures 18054

TRANSPORTATION DEPARTMENT

See also Federal Aviation Administration; Federal Highway Administration.

Proposed Rule Making

Kansas; standard time zone boundaries; request for additional comments 18061

TREASURY DEPARTMENT

See Fiscal Service; Internal Revenue Service.

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

7 CFR

301 (2 documents) 18015, 18017
910 (2 documents) 18017, 18018
1488 18018

14 CFR

71 18020
214 18020
217 18020
221 18022
241 18023

PROPOSED RULES:

71 (4 documents) 18060–18062
75 18062

16 CFR

13 (3 documents) 18025

17 CFR

PROPOSED RULES:

240 18063

20 CFR

404 18026
405 (3 documents) 18026, 18027
422 18030

PROPOSED RULES:

405 (2 documents) 18050, 18054

23 CFR

255 (2 documents) 18032, 18033

26 CFR

1 18039
31 18039
46 18039
48 18039
49 18039

31 CFR

214 18044

39 CFR

224 18045
232 18045

41 CFR

1–1 18045
1–2 18049
1–16 18049

49 CFR

PROPOSED RULES:

239 18062

50 CFR

33 18049

Rules and Regulations

Title 7—AGRICULTURE

Chapter III—Agricultural Research Service, Department of Agriculture

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Black Stem Rust

QUARANTINE AND REGULATIONS

Pursuant to sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), Notice of Quarantine No. 38 relating to black stem rust and regulations supplemental to said quarantine (7 CFR 301.38, 301.38–1, 301.38–2, 301.38–3 through 301.38–9), are hereby revised to read as follows:

QUARANTINE AND REGULATIONS

Sec.
301.38 Quarantine; restriction on interstate movement of specified regulated articles.
301.38–1 Definitions.
301.38–2 Authorization for Director to list eradication areas.
301.38–3 Conditions governing the interstate movement of regulated articles from quarantined States.
301.38–4 Issuance and cancellation of certificates and permits.
301.38–5 Compliance agreements; and cancellation thereof.
301.38–6 Assembly and inspection of regulated articles.
301.38–7 Attachment and disposition of certificates or permits.
301.38–8 Inspection and disposal of regulated articles and pests.
301.38–9 Movement of black stem rust spores.
301.38–10 Nonliability of the Department.

AUTHORITY: The provisions of this subpart issued under secs. 8, 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150ee; 29 F.R. 16210, as amended, 30 F.R. 5799, as amended.

QUARANTINE AND REGULATIONS

§ 301.38 Quarantine; restriction on interstate movement of specified regulated articles.

(a) *Notice of quarantine.* Pursuant to the provisions of section 8 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 150ee), the Secretary of Agriculture heretofore determined, after public hearing, that it was necessary to quarantine all States within the conterminous United States and the District of Columbia in order to prevent the spread of black stem rust (Puccinia graminis), a dangerous plant disease of small grains, and accordingly quarantined said States and District. Under the authority of said provisions, the Secretary hereby continues such quarantine in effect with respect to the interstate movement from the quarantined States and the District of the articles described in paragraph (b) of this section, issues the regulations in this subpart governing such movement, and gives notice of said quarantine and regulations.

(b) *Quarantine restrictions on interstate movement of specified regulated articles.* No common carrier or other person shall move interstate from any quarantined State or District of the United States any of the following articles (defined in § 301.38–1(l) as regulated articles), except in accordance with the conditions prescribed in this subpart: All plants, seeds, fruits, and other parts of plants which are capable of propagation, and belong in the genera Berberis, Mahoberberis, or Mahonia, except Mahonia cuttings for decorative purposes.

§ 301.38–1 Definitions.

Terms used in the singular form in this subpart shall be deemed to import the plural, and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively, to mean:

(a) *Black stem rust.* The disease commonly known as the black stem rust of grains (Puccinia graminis).

(b) *Certificate.* A document issued or authorized to be issued under this subpart by an inspector to allow the interstate movement of regulated articles to any destination.

(c) *Compliance agreement.* A written agreement between a person engaged in growing, handling, or moving regulated articles, and the Plant Pest Control Division, wherein the former agrees to comply with the requirements of this subpart identified in the agreement by the inspector who executes the agreement on behalf of the Division as applicable to the operations of such person.

(d) *Director.* The Director of the Plant Pest Control Division, Agricultural Research Service, U.S. Department of Agriculture, or any other officer or employee of said Service to whom authority to act in his stead has been or may hereafter be delegated.

(e) *Eradication area.* Any quarantined State or District, or portion of a State or District, listed as an eradication area in § 301.38–2a by the Director in accordance with § 301.38–2.

(f) *Inspector.* Any employee of the Plant Pest Control Division, Agricultural Research Service, U.S. Department of Agriculture, or other person, authorized by the Director to enforce the provisions of the quarantine and regulations in this subpart.

(g) *Interstate.* From any State, Territory, or District of the United States into or through any other State, Territory, or District of the United States (including Puerto Rico).

(h) *Limited permit.* A document issued or authorized to be issued by an inspector to allow the interstate movement of noncertified regulated articles to a specified destination for limited handling or utilization.

(i) *Moved (movement, move).* Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved or allowed to be moved by any means. "Movement" and "move" shall be construed accordingly.

(j) *One year's growth.* The growth of a plant during all growing seasons of any calendar year.

(k) *Person.* Any individual, corporation, company, society, or association, or other organized group of any of the foregoing.

(l) *Regulated articles.* Any articles described in § 301.38(b).

(m) *Restricted destination permit.* A document issued or authorized to be issued by an inspector to allow the interstate movement of regulated articles not certified under all applicable Federal domestic plant quarantines to a specified destination for other than scientific purposes.

(n) *Rust-resistant plants.* Berberis, Mahoberberis, and Mahonia plants listed as rust-resistant by the Director in the "Manual of Administratively Authorized Procedures to be Used Under the Black Stem Rust Quarantine"[1].

(o) *Scientific permit.* A document issued by the Director to allow the interstate movement to a specified destination of regulated articles for scientific purposes.

(p) *Seedlings.* Any plant grown from seed within the genus Berberis of less than 2 years' growth.

(q) *Treatment manual.* The provisions currently contained in the "Manual of Administratively Authorized Procedures To Be Used Under the Black Stem Rust Quarantine" and any amendments thereto.[2]

(r) *Two years' growth.* The growth of a plant during all growing seasons of 2 successive calendar years.

§ 301.38–2 Authorization for Director to list eradication areas.

The Director shall list as eradication areas in a supplemental regulation designated as § 301.38–2a, the quarantined

[1] A pamphlet containing a list of rust-resistant plants is available, upon request, from the Director of the Plant Pest Control Division, Agricultural Research Service, U.S. Department of Agriculture, Hyattsville, Md. 20782, or from an inspector.

[2] A pamphlet containing such provisions is available, upon request, from the Director of the Plant Pest Control Division, Agricultural Research Service, U.S. Department of Agriculture, Hyattsville, Md. 20782, or from an inspector.

States or Districts, or portions of States or Districts, which have adopted and are enforcing specific procedures to eradicate Berberis, Mahoberberis, and Mahonia plants susceptible to black stem rust, in cooperation with the Plant Pest Control Division; and shall amend such list from time to time as the facts warrant.

§ 301.38–3 Conditions governing the interstate movement of regulated articles from quarantined States.[1]

The following regulated articles may be moved interstate from a quarantined State or District under this subpart if all of the applicable conditions as specified below have been fulfilled and if certificates or permits are issued and attached in accordance with §§ 301.38–4 and 301.38–7:

(a) *Rust-resistant Berberis, Mahoberberis, and Mahonia plants.* (1) Seedlings of rust-resistant Berberis plants may be moved interstate if accompanied by a permit, to any destination authorized by such permit.

(2) Rust-resistant Berberis plants of at least 2 years' growth, Mahoberberis and Mahonia plants, and cuttings taken from such plants, may be moved interstate to any destination if an inspector determines that the plants and cuttings are true to type and if the plants and cuttings are accompanied by a certificate or permit.

(b) *Seeds and fruits of rust-resistant Berberis plants.* (1) Seeds and fruits of rust-resistant Berberis plants originating within an eradication area may be moved interstate between eradication areas if accompanied by a permit.

(2) Seeds and fruits of rust-resistant Berberis plants may be moved interstate between noneradication areas and from an eradication area to a noneradication area without further restriction under this subpart.

(c) *Seeds and fruits of rust-resistant Mahonia plants.* (1) Seeds and fruits of rust-resistant Mahonia plants originating within an eradication area may be moved interstate between eradication areas if accompanied by a permit.

(2) Seeds and fruits determined by an inspector to be from rust-resistant Mahonia plants originating in a noneradication area may be moved interstate from such an area into an eradication area if accompanied by a permit.

(3) Seeds and fruits of rust-resistant Mahonia plants may be moved interstate between noneradication areas and from an eradication area to a noneradication area without further restriction under this subpart.

(d) *Any regulated articles.* Any regulated articles may be moved to a specified destination authorized by the Director under a scientific permit.

§ 301.38–4 Issuance and cancellation of certificates and permits.

(a) Certificates may be issued for any regulated articles by an inspector if he determines that they are eligible for certification for movement to any destination under all Federal domestic plant quarantines applicable to such articles and upon examination they have been found to be free from evidence of black stem rust and to be rust-resistant.

(b) Limited permits may be issued by an inspector to allow interstate movement of regulated articles, not eligible for certification under this subpart, to specified destinations for limited handling or utilization, when upon evaluation of the circumstances involved in each specific case he determines that such movement will not result in the spread of the black stem rust and requirements of other applicable Federal domestic plant quarantines have been met.

(c) Restricted destination permits may be issued by an inspector to allow the interstate movement of regulated articles for other than scientific purposes to any destination permitted under all applicable Federal domestic plant quarantines, if such articles are not eligible for certification under all such quarantines, but would otherwise qualify for certification under this subpart.

(d) Scientific permits may be issued by the Director to allow the interstate movement of regulated articles for scientific purposes under such conditions as may be prescribed in each specific case by the Director.

(e) Certificate, limited permit, and restricted destination permit forms may be issued by an inspector to any person for use by the latter for subsequent shipments provided such person is operating under a compliance agreement; and any such person may be authorized by an inspector to reproduce such forms on shipping containers or otherwise. Any such person may use the certificate forms, or reproductions of such forms, for the interstate movement of regulated articles from the premises of such person identified in the compliance agreement if such person has made the determination specified in paragraph (a) of this section with respect to such articles. Any such person may use the limited permit forms, or reproductions of such forms, for interstate movement of regulated articles to specific destinations authorized by the inspector in accordance with paragraph (b) of this section. Any such person may use the restricted destination permit forms, or reproductions of such forms, for the interstate movement of regulated articles not eligible for certification under all Federal domestic plant quarantines applicable to such articles, under the conditions specified in paragraph (c) of this section.

(f) Any certificate or permit which has been issued or authorized may be withdrawn by the inspector if he determines that the holder thereof has not complied with any condition for the use of such document imposed by this subpart.

§ 301.38–5 Compliance agreements; and cancellation thereof.

(a) Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the movement of such articles under this subpart. Compliance agreement forms may be obtained from the Director or an inspector.

(b) Any compliance agreement may be canceled by the inspector who is supervising its enforcement whenever he finds, after notice and reasonable opportunity to present views has been accorded to the other party thereto, that such other party has failed to comply with the conditions of the agreement.

§ 301.38–6 Assembly and inspection of regulated articles.

Persons (other than those authorized to use certificates, limited permits, or restricted destination permits, or reproductions thereof, under § 301.38–4(e)) who desire to move interstate regulated articles which must be accompanied by a certificate or permit shall, as far in advance as possible, request an inspector to examine the articles prior to movement. Such articles shall be assembled at such points and in such manner as the inspector designates to facilitate inspection.

§ 301.38–7 Attachment and disposition of certificates or permits.

(a) If a certificate or permit is required for the interstate movement of regulated articles, the certificate or permit shall be securely attached to the outside of the container in which such articles are moved, except that, where the certificate or permit is attached to the waybill or other shipping document, and the regulated articles are adequately described on the certificate, permit, or shipping document, the attachment of the certificate or permit to each container of the articles is not required.

(b) In all cases, certificates or permits shall be furnished by the carrier to the consignee at the destination of the shipment.

§ 301.38–8 Inspection and disposal of regulated articles and pests.

Any properly identified inspector is authorized to stop and inspect, and to seize, destroy, or otherwise dispose of, or require disposal of regulated articles and black stem rust spores as provided in section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and section 105 of the Plant Pest Act (7 U.S.C. 150dd), in accordance with instructions issued by the Director.

§ 301.38–9 Movement of black stem rust spores.

Regulations requiring a permit for, and otherwise governing the movement of black stem rust spores in interstate or foreign commerce, are contained in the Federal Plant Pest regulations in Part 330 of this chapter. Applications for the movement of such spores may be made to the Director.

§ 301.38–10 Nonliability of the Department.

The U.S. Department of Agriculture disclaims liability for any costs incident to inspections or compliance with provisions of the quarantine and regulations in this subpart, other than for the services of the inspector.

This revision of the black stem rust quarantine and regulations removes the restriction that Mahonia seedlings be held through one year's growth and that Mahoberberis plants be held through two years' growth to determine that they are true to type. The revision also makes it unnecessary for nurserymen to be on the list of specifically approved sources as a basis for moving regulated articles and now requires the movement of all such articles to be under certificate or permit. The list of specifically approved sources (§ 301.38–2b, effective Oct. 29, 1966) is hereby canceled. Provisions are also added under which certificates will not be issued or authorized to be issued for regulated articles unless the articles are certifiable under all applicable Federal domestic plant quarantine requirements; and, restricted destination permits are authorized. The list of rust-resistant plants (§ 301.38–2a, effective Oct. 29, 1966) is hereby canceled. The list of rust-resistant plants will now be included in the "Manual of Administratively Authorized Procedures To Be Used Under the Black Stem Rust Quarantine". Nonsubstantive changes are made to simplify and clarify the black stem rust quarantine and regulations.

In most respects, the revision does not make more stringent requirements than are presently applied, and, in some respects, it relieves restrictions. Insofar as it relieves restrictions, it should be made effective promptly in order to be of maximum benefit to persons subject to the restrictions being relieved. Insofar as the revision imposes more stringent requirements than are now applicable, it should be made effective promptly in order to prevent the spread of black stem rust. Therefore, under the administrative procedures provisions of 5 U.S.C. 553, it is found upon good cause that notice of rule making and other public procedure with respect to these provisions are impracticable and unnecessary and good cause is found for making the revision effective less than 30 days after publication in the FEDERAL REGISTER.

This revision shall become effective upon publication in the FEDERAL REGISTER when it shall supersede Quarantine No. 38 effective October 29, 1966 (31 F.R. 13887).

Done at Washington, D.C., this 12th day of December 1967.

[SEAL] R. J. ANDERSON,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 67–14641; Filed, Dec. 15, 1967; 8:45 a.m.]

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Black Stem Rust

ERADICATION AREAS

Under the authority of § 301.38–2 of the Black Stem Rust Quarantine regulations (7 CFR 301.38–1, as amended[2]), a supplemental regulation designating eradication areas is hereby issued to appear in 7 CFR 301.38–2a, as follows:

§ 301.38–2a Eradication areas.

The States, or portions of States, designated below have adopted and are enforcing specific procedures to eradicate Berberis, Mahoberberis, and Mahonia plants susceptible to black stem rust in cooperation with the Plant Pest Control Division. Therefore, such States, or portions of States, are designated as eradication areas within the meaning of the provisions of this subpart:

All counties within the States of:

Colorado.	Montana.
Illinois.	Nebraska.
Indiana.	North Dakota.
Iowa.	Ohio.
Kansas.	South Dakota.
Michigan.	West Virginia.
Minnesota.	Wisconsin.
Missouri.	Wyoming.

All portions of the following States except the counties and cities specified:

Pennsylvania. Delaware and Philadelphia Counties.

Virginia. Accomack, Amelia, Brunswick, Caroline, Charles City, Charlotte, Chesterfield, Cumberland, Dinwiddie, Elizabeth City, Essex, Gloucester, Goochland, Greensville, Halifax, Hanover, Henrico, Henry, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Lunenburg, Mathews, Mecklenburg, Middlesex, Nansemond, New Kent, Northampton, Northumberland, Nottoway, Patrick, Pittsylvania, Powhatan, Prince Edward, Prince George, Richmond, Southampton, Sussex, Surry, Warwick, Westmoreland, and York Counties; and, the cities of Norfolk and Virginia Beach.

Washington. Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific, Pierce, San Juan, Skagit, Skamania, Snohomish, Thurston, Wahkiakum, and Whatcom Counties.

(29 F.R. 16210, as amended; 30 F.R. 5789, as amended; 7 CFR 301.38–2, as amended)

Norfolk and Princess Anne counties have been reclassified by the State of Virginia and are now designated as the cities of Norfolk and Virginia Beach. The purpose of this revision is to delete Norfolk and Princess Anne Counties, Va., from the list of those counties where eradication work is not undertaken in the State of Virginia and to substitute therefor the cities of Norfolk and Virginia Beach. This revision neither includes additional restrictions nor modifies those currently imposed. Therefore, under the administrative procedures provisions of 5 U.S.C. 553, it is found upon good cause that notice of rule making and other public procedure with respect to the revision are impracticable and unnecessary, and good cause is found for making the revision effective less than 30 days after publication in the FEDERAL REGISTER.

This revision shall become effective upon publication in the FEDERAL REGISTER when it shall supersede § 301.38–2c, effective May 19, 1967 (32 F.R. 7427).

Done at Hyattsville, Md., this 13th day of December 1967.

[SEAL] D. R. SHEPHERD,
Director,
Plant Pest Control Division.

[F.R. Doc. 67–14643; Filed, Dec. 15, 1967; 8:46 a.m.]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Lemon Reg. 299]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.599 Lemon Regulation 299.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period

[1] Requirements under all other applicable Federal domestic plant quarantines must also be met.

[2] See F.R. Doc. 67–14641 supra.

herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 12, 1967.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period December 17, 1967, through December 23, 1967, are hereby fixed as follows:

(i) District 1: 18,600 cartons;
(ii) District 2: 46,500 cartons;
(iii) District 3: 130,200 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 14, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67–14670; Filed, Dec. 15, 1967; 8:49 a.m.]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Expenses and Rate of Assessment

On November 28, 1967, notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 16220) regarding the proposed expenses and the proposed rate of assessment for the period November 1, 1967, through October 31, 1968, pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in the States of California and Arizona. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Lemon Administrative Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

§ 910.206 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and necessary to be incurred by the Lemon Administrative Committee during the period November 1, 1967, through October 31, 1968, will amount to $224,316.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 910.41, is fixed at $0.018 per carton of lemons.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of the current crop of lemons grown in the designated production area are now being made; (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all accessible lemons handled during the aforesaid period, and (3) such period began on November 1, 1967, and said rate of assessment will automatically apply to all such lemons beginning with such date.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 12, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67–14636; Filed, Dec. 15, 1967; 8:46 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER C—EXPORT PROGRAMS

[Amdt. 3]

PART 1488—FINANCING OF SALES OF AGRICULTURAL COMMODITIES

Subpart A—Financing of Export Sales of Agricultural Commodities From Private Stocks Under CCC Export Credit Sales Program (GSM–4)

MISCELLANEOUS AMENDMENTS

The regulations in this Subpart A, Part 1488, containing the terms and conditions governing the Commodity Credit Corporation Export Credit Sales Program, published in the FEDERAL REGISTER of April 27, 1967 (32 F.R. 6496–6500), as corrected on May 4, 1967 (32 F.R. 6836), and as amended on May 19, 1967 (32 F.R. 7437), and August 8, 1967 (32 F.R. 11416–17), are further amended as follows:

1. A new subheading is added before § 1488.1 which reads; "General Regulations".

2. Section 1488.1 *General statement* is amended by adding the following new paragraph (d):

§ 1488.1 General statement.

* * * * *

(d) The regulations contained in this Subpart A may be supplemented by such additional terms and conditions, applicable to specified agricultural commodities, as may be set forth in supplements hereto, and, to the extent that they may be in conflict or inconsistent with any other provisions of this Subpart A, such additional terms and conditions shall prevail.

3. In addition to the other provisions of the regulations in Part 1488, Subpart A, the following additional subheading and special provisions are added with respect to the financing of export credit sales of beef breeding cattle under this Subpart A:

SUPPLEMENT I—BEEF BREEDING CATTLE

A. Additional definitions.
B. Submission of applications for financing.
C. Additional documents required after export.
D. Miscellaneous.

A. *Additional definitions.* 1. "Port value" means the net amount of the exporter's sales price for beef breeding cattle to be exported under the financing agreement, basis f.a.s. or f.o.b. export carrier at U.S. ports, U.S. border points of exit, or at U.S. points of flight if transported by air freight; provided the point of exportation is designated for animals by the Agricultural Research Service, U.S. Department of Agriculture. The port value shall not include the ocean freight for a c. & f. sale or ocean freight and marine and war risk insurance for a c.i.f. sale, and shall also not include any animal care or servicing cost incurred after such animals are loaded aboard the export carrier. The net amount of the exporter's sales price means the contract price for the animals less any payments made by the importer and less any discounts, credits, or allowances to the importer. Such net amount shall not exceed (a) for registered bulls, $1200 each or, with prior approval of the General Sales Manager, $2500 if performance has been superior to the performance records specified in Exhibit II attached hereto; (b) for registered females, $600 each, or, with prior approval of the General Sales Manager, $1000 if performance has been superior to the performance records specified in Exhibit I attached hereto; (c) for nonregistered females, an average, for the sale, of $450 each or, with prior approval of the General Sales Manager, $650 if performance has been superior to the performance records specified in said Exhibit I. The difference, if any, between the maximum net amount specified in (a), (b), or (c) of this paragraph 1 and the contract price for the individual animal, if registered, or the average contract price for the individual animal, if nonregistered, shall not be included as part of the port value.

2. "Producer" means the person holding legal title to the animal at time of birth and who has had continuous ownership of such animal until sold for export under an approved financing agreement.

3. "Bred female" means either a bred heifer or bred cow as set forth in Exhibit I, Option B, which has been certified to as pregnant at the time of inspection.

4. "Breeder" means the person holding legal title to the female animal at the time she was served to qualify such animal hereunder as a bred female.

5. "Eligible animal" means an animal which meets all the following requirements:

(a) The animal must be the progeny of a nationally recognized beef cattle breed (Exhibits I and II);

(b) The animal must have been owned by a person who had continuous title to such animal for a period of at least 90 days immediately before acquisition by the exporter, unless the exporter is the producer of the animal;

(c) The animal must, at the time of export, have an eartag attached by USDA testing authority; and

(d) The animal must qualify under the specifications of Exhibit I for females and Exhibit II for bulls.

6. "Registered animal" means:

An eligible animal which the appropriate national breed association has officially registered or otherwise classified as a purebred animal of that breed. Such animal must be marked with a legible tattoo or brand which corresponds with the number shown in the certificate of registration or other official document issued by the appropriate national breed association.

7. "Nonregistered animal" means:

An eligible animal, whether or not purebred, which is predominantly of the color characteristics and body conformation of the beef breed stated in the contract between the exporter and the importer. (See Exhibits I and II.)

B. *Submission of applications for financing.* 1. In addition to the information required by section 1488.3(c) (2) through (7), applications for financing export credit sales of beef breeding cattle shall include the following:

(a) A general description by breed of the animals to be exported, separately describing the animals under the following classes:

(1) Registered bulls;
(2) Registered bred females;
(3) Registered unbred females;
(4) Nonregistered bred females; and
(5) Nonregistered unbred females.

(b) A statement that such animals will conform to the general specification requirements set forth in Exhibit I or II, as applicable to the class of animals to be exported.

2. In addition to the justifications specified in § 1488.3(d), a financing period in excess of 6 months but not in excess of 36 months for beef breeding cattle may be justified when it will result in the use by the importer, or by purchasers from the importer, of the animals in the destination country under conditions which will promote expanded demand for additional breeding animals or feed stuffs from the United States.

3. An application for financing an export credit sale of beef breeding cattle shall be accompanied by a written statement, by (a) an official of the appropriate ministry or department of the importing country or (b) the U.S. agricultural attaché or other designated U.S. employee, that the importer is qualified, by experience or otherwise, to receive, unload and clear for import, feed and house cattle.

C. *Additional documents required after export.* In addition to the documents specified in § 1488.9(a) (1), (2), (3), (6), (6), and (7), the exporter shall submit the following documents to the Treasurer, Commodity Credit Corporation:

1. Separate animal tag lists for registered animals and for nonregistered animals, containing the following information:

(a) Eartag identification number.

(b) For each registered animal, shown separately opposite the identification number, the sales price as specified in the sales invoice to the foreign importer.

(c) For nonregistered animals, shown for each lot group by tag list, the average sales price per animal based upon the sales invoice for such nonregistered animals.

2. Performance records for animals for which a higher maximum port value has been approved by the General Sales Manager as provided in paragraph A. 1.

3. A certification by the exporter that animals of the description in the exporter's sales contract with the foreign importer have been delivered, and that the exporter knows of no defenses to the account receivable assigned to CCC.

D. *Miscellaneous.* The following documents or certifications, as applicable, shall be furnished to the importer by the exporter:

1. The certificates issued by an agent of the Consumer and Marketing Service, U.S. Department of Agriculture, as to official registration of the animal(s) and listing the eartag number(s), corresponding registration certificate and tattoo numbers for each registered animal showing that such numbers have been verified as legible and accurate for such animal, and that the person holding legal title to the animal at the time of export sale has appropriately executed such certificate for transfer to the party designated by the importer. (See Exhibit I or II.)

2. A certification by the breeder of females sold as "bred females" showing the eartag numbers and stating that the service bull was a registered bull of the same beef cattle breed as the female to which bred. (See Exhibit I.)

3. The certificates issued or endorsed by the Animal Health Division, Agricultural Research Service, listing the eartag number(s) and showing that such animal has been inspected for compliance with "Health" requirements. (See Exhibit I or II.)

4. The certificates issued by the Consumer and Marketing Service listing the eartag number(s) for each animal showing for such animal compliance with breed, age, weight, and conformation grade, for the class, as shown in Exhibit I or II, as applicable.

5. Certificates issued by a veterinarian accredited by the Agricultural Research Service, showing that bred females, sold as such, were examined and found to be with calf at time of inspection.

6. A semen certification by a veterinarian accredited by the Agricultural Research Service, for bulls over 1 year of age.

(Sec. 5(f), 62 Stat. 1072, 15 U.S.C. 714c; sec. 407, 68 Stat. 1055, as amended, 7 U.S.C. 1427; sec. 4, Public Law 89–808, 80 Stat. 1538)

Effective date: Date of signature.

Signed at Washington, D.C. on December 12, 1967.

RAYMOND A. IOANES,
Vice President, Commodity Credit Corporation, and Administrator, Foreign Agricultural Service.

EXHIBIT I

USDA APPROVED BEEF BREEDING CATTLE EXPORT SPECIFICATIONS—FEMALES

Option A (to be specified by purchaser):
1. Registered:[1]

Breed

a. Angus.
b. Hereford.
c. Polled Hereford.
d. Charolais.
e. Santa Gertrudis.
f. Shorthorn.
g. Polled Shorthorn.
h. Brahman.

2. Nonregistered.[2]

Predominant Breed (specify from breed above)

Option B (to be specified by purchaser):

Age[3]

1. Calf—(7–12 months old).
2. Yearling open—(12–18 months old).
3. Bred heifer—(18–24 months old).
4. Bred cow—(36–48 months old).

General requirements:

A. Health:[4]

1. Tested negative for tuberculosis within 30 days of loading aboard export carrier.

2. Tested negative for brucellosis within 30 days of loading aboard export carrier, or is an official vaccinate under thirty months of age.

3. Certified from a country where foot-and-mouth disease has not existed since 1929; contagious bovine pleuropneumonia has not existed since 1892; and rinderpest has never occurred.

4. Animals come from farms that have not been under State or Federal quarantine for any communicable disease during the past year.

5. Animals have been inspected and found sound (including freedom from blindness, structural defects, etc.), free of evidence of communicable disease and exposure thereto, and free of mites, ticks, and ringworm, or freed from the same.

B. Minimum weight:[5]

1. Calf—400 pounds.
2. Yearling—500 pounds.
3. Bred Heifer—700 pounds.
4. Bred Cow—950 pounds.

C. Minimum conformation—Choice.[6]

All nonregistered females must be dehorned or naturally polled. Horn stubs in excess of one inch will not be acceptable.

D. Performance records[6] (optional, unless specified). (See attached Appendix I to Exhibits I and II.)

1. Minimum adjusted daily gain to weaning 1.6 pounds per day.

2. Minimum adjusted daily gain to weaning of offspring 1.6 pounds per day (if appropriate).

E. Statement of Service:

1. Bred females must have been bred to a registered bull of the same breed and the calf from a registered female must be eligible for registration.[7]

2. Bred animals must be at least 2 months but no more than 5 months pregnant at time of inspection.[8]

EXHIBIT II

USDA APPROVED BEEF BREEDING CATTLE EXPORT SPECIFICATIONS—BULLS

All animals for delivery under these specifications must be registered with the appropriate National Breed Association.[1]

Option A (to be specified by purchaser):

Breed

1. Angus.
2. Hereford.
3. Polled Hereford.
4. Charolais.
5. Santa Gertrudis.
6. Shorthorn.
7. Polled Shorthorn.
8. Brahman.

Option B (to be specified by purchaser):

Age[3]

1. Bull calf—(7–12 months old).
2. Yearling bull—(12–18 months old).
3. Bull—(18–24 months old).
4. Mature bull—(36–48 months old).

General requirements:

A. Health:[4]

1. Tested negative for tuberculosis within 30 days of loading aboard export carrier.

2. Tested negative for brucellosis within 30 days of loading aboard export carrier.

3. Certified from a country where foot-and-mouth disease has not existed since 1929; contagious bovine pleuropneumonia has not existed since 1892; and rinderpest has never occurred.

4. Animals come from farms that have not been under State or Federal quarantine for any communicable disease during the past year.

5. Animals have been inspected and found sound (including freedom from blindness, structural defects, etc.), free of evidence of communicable disease and exposure thereto, and free of mites, ticks, and ringworm, or freed from the same.

[1] Animals must be officially registered with the appropriate National Breed Association and be so certified by C&MS agent.

[2] Nonregistered animals will be certified for breed by the C&MS agent.

[3] Certification by C&MS agent.

[4] Certification or endorsement furnished by Animal Health Division, Agricultural Research Service, USDA.

[5] Certification furnished by Livestock Division, C&MS, USDA. Conformation grade to be based on official USDA Feeder Cattle Standards. (See Appendix II attached.)

[6] Official State records or National Breed Association records, or Performance Registry International records.

[7] Must be certified to by the breeder of the female at time of sale to exporter.

[8] The certification of pregnancy shall be issued by an accredited veterinarian.

[1] Animals must be officially registered with the appropriate National Breed Association and be so certified by C&MS agent.

[2] Certification by C&MS agent.

[3] Certification or endorsement furnished by Animal Health Division, Agricultural Research Service, USDA.

B. Minimum weight:[4]
1. 7–12 months—470 pounds.
2. 12–18 months—700 pounds.
3. 18–24 months—1100 pounds.
4. Over 24 months—1300 pounds.

C. Minimum conformation—Prime.[5]

D. Performance records[6] (optional, unless specified). (See attached Appendix I to Exhibits I and II.)

1. Minimum adjusted daily gain to weaning 1.9 pounds per day.

E. A semen check indicating at least 60 percent sperm motility must be supplied for bulls over 1 year of age.[7]

APPENDIX I TO EXHIBITS I AND II

PERFORMANCE TESTING

Performance testing is known by several names in the United States, but practically all organizations evaluate similar characteristics in beef cattle. The two principle factors evaluated are growth rate and/or conformation. Animals which are tested are weighed at birth and again at weaning. The weaning weight is adjusted to an equivalent of 205 days of age and is also adjusted depending on the age of the dam. This is done to make weights of calves from first-calf heifers comparable to weights of calves from older cows.

The adjusted daily gain from birth to weaning is indicative not only of inherited gaining ability but also of the milking ability of the dam.

APPENDIX II TO EXHIBITS I AND II

SPECIFICATIONS FOR OFFICIAL UNITED STATES STANDARDS FOR GRADES OF FEEDER CATTLE (STEERS, HEIFERS AND COWS)[1]

Prime

Feeder cattle which possess typical minimum qualifications for the Prime grade are very thickly muscled throughout. They are wide through the chest with well sprung ribs and are moderately wide and thick through the crops, back and loin. The rounds tend to be thick and the twist is moderately deep. They usually have straight top and bottom lines and usually are moderately deep in the fore and rear flanks. The legs tend to be short, are set wide apart, and usually are straight. The head is usually short and wide and the neck usually is short and thick. They have large, rugged frames with moderately large but refined bone. They have a high degree of symmetry and smoothness throughout.

Choice

Feeder cattle which possess typical minimum qualifications for the Choice grade are thickly muscled throughout. They are moderately wide through the chest with a moderate spring of ribs and are slightly wide and thick through the crops, back and loin. The rounds are slightly thick and the twist is slightly deep. They usually have straight top lines and usually are moderately deep in the fore and rear flanks. The legs are slightly short, and are set moderately wide apart and usually are straight. The head is usually short and wide and the neck usually is short and thick. They have moderately large, rugged frames, and the bone usually is moderately large, but may be slightly fine or slightly large and coarse. They have a moderate degree of symmetry and smoothness throughout.

[F.R. Doc. 67–14636; Filed, Dec. 15, 1967; 8:46 a.m.]

[4] Certification furnished by Livestock Division, CAMS, USDA. Conformation grade based on official USDA Feeder Cattle Standards. (See Appendix II attached.)

[5] Official State records or National Breed Association records, or Performance Registry International records.

[6] Certification must be issued by an accredited veterinarian.

[7] Adopted from Service and Regulatory Announcement CAMS 182, issued March 1965. A copy of this publication and charts picturing the grades of feeder cattle may be obtained upon request from the Livestock Division, CAMS, USDA, Washington, D.C. 20250.

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 67–CE–150]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Sault Ste Marie, Mich. (Kincheloe AFB), control zone.

The Kincheloe AFB VOR will be decommissioned on February 1, 1968. The instrument approach procedures predicated on the Kincheloe AFB VOR will be canceled effective on the decommissioning date. As a result, controlled airspace for the protection of aircraft executing these canceled procedures is no longer required. Therefore, alteration of the Sault Ste Marie, Mich. (Kincheloe AFB), control zone is necessary to delete this airspace from the control zone designation.

Since the proposed alteration will reduce the existing designated Sault Ste Marie, Mich. (Kincheloe AFB), control zone it will not impose any additional burden on any person. Therefore, notice and public procedure hereon will be unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective February 1, 1968, as hereinafter set forth:

In § 71.171 (33 F.R. 2071), the following control zone is amended to read:

SAULT STE MARIE, MICH. (KINCHELOE AFB)

Within a 5-mile radius of Kincheloe AFB (latitude 46°15'00" N., longitude 84°28'00" W.); within 2 miles each side of the Kincheloe AFB TACAN 145° radial, extending from the 5-mile radius zone to 8 miles southeast of the TACAN; within 2 miles each side of the Kincheloe AFB TACAN 327° radial extending from the 5-mile radius zone to 8 miles northwest of the TACAN; and within 2 miles each side of the Kincheloe AFB ILS localizer northwest course, extending from the 5-mile radius zone to the OM.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued at Kansas City, Mo., on November 30, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 67–14642; Filed, Dec. 15, 1967; 8:46 a.m.]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. No. ER–520]

PART 214—TERMS, CONDITIONS, AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS AUTHORIZING CHARTER TRANSPORTATION ONLY

Deletion of Reporting Requirement

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 22d of November 1967.

By ER–519, adopted November 22, 1967, issued simultaneously herewith, the Board has promulgated a new Part 217 which will require the reporting of civilian charter travel information by all foreign air carriers in a new CAB Form 217 report, to be submitted quarterly. With the enactment of Part 217, the Board will no longer need the annual reports called for by § 214.5,[1] which are applicable solely to foreign charter carriers and which are essentially duplicative of those required by the new part. Therefore, § 214.5 will be deleted.[2]

Since this amendment relieves a restriction and will not adversely affect any person, we find that notice and public procedure herein are not required and that the amendment should be made effective upon the effective date of Part 217.

Accordingly, the Board hereby amends Part 214 of the Economic Regulations (14 CFR Part 214), effective January 1, 1968, as follows: Section 214.5 is deleted.

(Secs. 204(a), 406, Federal Aviation Act of 1958, as amended; 72 Stat. 743, 757; 49 U.S.C. 1324, 1372)

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67–14644; Filed, Dec. 15, 1967; 8:46 a.m.]

[Reg. No. ER–519]

PART 217—REPORTING DATA PERTAINING TO CIVIL AIRCRAFT CHARTERS PERFORMED BY FOREIGN AIR CARRIERS

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 22d day of November 1967.

In EDR–122, August 1, 1967, 32 F.R. 11237, the Board proposed to issue a new Part 217 which would require all foreign air carriers to report civilian charter travel information on a new CAB Form 217, to be submitted quarterly. The notice was related to a previously issued notice (EDR–116)[1] which would require similar reporting of civilian charter travel information by all the certificated route and supplemental air carriers in a new Schedule T–6 of the CAB Form 41 report, to be submitted quarterly.

Interested persons were invited to submit written data, views, or arguments on the proposed rule. Pursuant thereto, four comments were filed; one by a supplemental air carrier[2] and three by foreign air carriers.[3] Two comments support the rule[4] and two oppose it, either in whole or in part. All relevant matter submitted has been considered.

The Board has decided to adopt the rule as proposed. Except as modified herein, the tentative findings set forth in the explanatory statement attached to the notice (EDR–122, supra) are incorporated herein by reference and made final.

Swissair contends that enactment of Part 217 is beyond the Board's powers. It states that the Board cannot impose the reporting requirement under section 204(a) of the Act—the general rule-making provision—since this section gives the Board no additional power other than has been granted to it by other provisions of the Act. It further asserts that, insofar as section 402 of the Act is concerned, the Board is not purporting to assert the rule thereunder as a term, condition and limitation of a foreign air carrier permit and, even if it were attempting to do so, it would be necessary to afford notice and hearing as required by section 402(f) of the Act and to secure Presidential approval as required by section 801 thereof, conditions which obviously are not being complied with in this rule-making proceeding. Moreover, Swissair argues that since Congress expressly empowered the Board in section 407 to impose reporting requirements upon air carriers, but said nothing in the case of reports from foreign air carriers, it inferentially withheld from the Board the power to require reports from the latter class of carriers.

We are not persuaded by these arguments that the Board cannot proceed to finalize EDR–122. In our opinion, the imposition of the proposed reporting requirement is a valid exercise of the Board's rule-making powers. We need not pass upon the question as to whether the Board, under its general rule-making powers of section 204(a),[5] would have the power to impose a broad scale system of accounts and reports upon foreign air carriers. For the present purposes, we may assume that the Board does not have such power.[6] The fact that foreign air carriers are not included within the broad scope of the Board's accounting, reporting and visitation powers in section 407 does not preclude us from obtaining minimal information as to the extent of operations under the permits granted. Each foreign air carrier's permit specifically provides that the exercise of the privileges granted thereby shall be subject "to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board." In our judgment, our general powers under section 204(a), in conjunction with the reserved powers under the permit, provide us with ample substantive authority to require these reports of foreign air carriers.

Nor do we believe that we must proceed by a permit amendment proceeding under section 402 in order to establish these requirements.[7] The proposed rule affects an entire class of carrier, and the subject matter is of the type which is typically dealt with in rule-making proceedings. The rule does not affect the basic operating authority of the carrier, but merely seeks to prescribe relatively minor conditions to the exercise of the operating authority. It is significant that, while the rule will affect some 80 foreign air carriers, no carrier has contended that the rule is unwise or unduly burdensome or inappropriate for any other reason, except in one minor respect subsequently discussed.[8] Although Swissair suggests that the Board must proceed through notice and hearing under section 402, it does not indicate the nature of the factual issues which require a hearing for their resolution.[9]

It is clear that adoption of Part 217 does not involve consideration of the sort of facts which would be susceptible to development at an evidentiary hearing. Rather, our determination rests primarily upon policy considerations, i.e., our regulatory needs weighed against the carrier burden of submitting the information. We need not, of course, develop an evidentiary record in order to convince ourselves of our regulatory needs, and from the routine nature of the report, combined with the lack of any contention that the reports would be unduly costly, it is apparent that a hearing would serve no useful purpose. Nor can we find any basis for reading into section 801 a requirement that the President of the United States be burdened with the necessity of passing upon Board actions of the sort embodied in Part 217.

Air Canada opposes the rule in part. EDR–122 would exempt from the reporting requirement foreign air carriers holding permits authorizing casual, occasional and infrequent flights with small aircraft in transborder operations, and Air Canada would have the Board extend such exemption to cover United States-Canada transborder charter operations of all Canadian carriers holding permits issued by the Board. In support of this request, Air Canada asserts that United States-Canada transborder charter operations by United States and Canadian carriers pose no regulatory problems for the Board; that, in terms of total charter operations to and from the United States, the volume of United States-Canada charter operations is nominal; that the Board's decision in EDR–122 and EDR–116, supra, to exempt from the reporting requirements the transborder charter flights of both nonscheduled Canadian carriers (i.e., those whose permits are restricted to the use of small aircraft) and U.S. air taxi operators will substantially reduce the volume of information on transborder charters which the Board would otherwise receive; and that the flight and traffic data which the Board would receive under EDR–116 and EDR–122 would have very limited value and would do little to alleviate the information deficiency concerning civil charters to and from the United States, cited by the Board as a reason for the proposed rule.

We are not persuaded to modify the exemption in the proposed rule with respect to transborder United States-Canada charter operations. The volume of charter movement between the United States and Canada is not known to the Board, and this is the type of deficiency which the rule is intended to correct. While flight and traffic data from carriers authorized only to conduct occasional transborder flights with small aircraft could contribute little to satisfying this deficiency, the same cannot be said with respect to transborder charter operations of other Canadian carriers. Moreover, the absence of charter activity in particular markets which the data filed under the rule may disclose could be of significance to the Board in both

[1] Comments have been filed with respect to EDR–116 proposing amendments to Part 241, and the final rule is being issued simultaneously herewith (ER–518).

[2] American Flyers Airline Corp.

[3] Air Canada; Caledonian Airways (Prestwick) Ltd.; and Swissair, Swiss Air Transport Co., Ltd.

[4] Although Caledonian supports the rule, it requests that the reporting requirement of § 214.5, applicable to foreign air carriers authorized to engage in charter transportation only, be eliminated as duplicative of the requirements of EDR–122. This request has merit and, accordingly, we are deleting the reporting requirement from Part 214 by ER–520, issued simultaneously herewith.

[5] Section 204(a) provides: "The Board is empowered to perform such acts, to conduct such investigations, to issue and amend such orders, and to make and amend such general or special rules, regulations, and procedure, pursuant to and consistent with the provisions of this Act, as it shall deem necessary to carry out the provisions of, and to exercise and perform its powers and duties under this Act."

[6] But cf. Public Service Commission of State of New York v. Federal Power Commission, 327 F. 2d 808 (1964).

[7] See ER–427, Feb. 28, 1966, and cf. American Airlines, Inc. v. Civil Aeronautics Board, 359 F. 2d 624 (C.A.D.C. 1966), cert. den. 366 U.S. 843 (1966).

[8] Caledonian Airways, while asserting that the proposal would impose a considerable administrative burden on small carriers, supported the adoption of the part on the ground, inter alia, that the Board's regulatory functions would be assisted by the access to the market data obtained thereby.

[9] Indeed, it affirmatively appears from Swissair's comments that there is no factual basis for its opposition, since it states that the information requested is substantially the same as that which it has voluntarily submitted to the Board, and which it is willing to continue to submit on a voluntary basis.

[1] Section 214.5 entitled "Reporting" requires an annual report from each foreign air carrier authorized to engage in charter transportation only which shall set forth the following information pertaining to each charter flight performed during the year pursuant to that part: (a) Date of trip; (b) points served; (c) number of round-trip and one-way passengers.

[2] This action does not relieve carriers with respect to the annual report for 1967.

its rule-making and licensing functions. If the exemption were expanded as requested by Air Canada, there would always be doubt as to the extent of charters of large aircraft in United States-Canada transborder operations. Finally, Air Canada does not contend, nor is there any reason to believe, that the proposed reporting would unduly burden the carrier.

Accordingly, in consideration of the foregoing, the Board hereby adopts a new Part 217 of its Economic Regulations (14 CFR Part 217), effective January 1, 1968, to read as follows:

Sec.
217.1 Definitions.
217.2 Applicability.
217.3 Report of civil aircraft charters performed by foreign air carriers.
217.4 Extension of filing time.
217.5 Certification.
217.6 Reporting instructions.

AUTHORITY: The provisions of this Part 217 are issued under sections 204(a) and 408 of the Federal Aviation Act of 1958, 72 Stat. 743, 767; 49 U.S.C. 1324, 1372.

§ 217.1 Definitions.

As used in this part:

"Foreign air carrier" means a carrier which holds a permit under section 402 of the Act.

"Small aircraft" means aircraft with a gross takeoff weight of 12,500 pounds or less.

§ 217.2 Applicability.

This part applies to foreign air carriers which are authorized to perform civil aircraft charters to or from the United States: *Provided, however,* That foreign air carriers holding permits authorizing casual, occasional, and infrequent flights with small aircraft across the border between the United States and a contiguous nation shall not be subject to the requirements of this part.

§ 217.3 Report of civil aircraft charters performed by foreign air carriers.

(a) Each foreign air carrier shall file CAB Form 217 entitled "Report of Civil Aircraft Charters Performed by Foreign Air Carriers" in accordance with the provisions of this part and in the manner set forth in said form which is made a part hereof and annexed hereto.*

(b) CAB Form 217 shall be prepared for the quarters ending March 31, June 30, September 30, and December 31 of each calendar year. CAB Form 217 shall be completed in triplicate and filed with the Board (i.e., postmarked) not more than forty (40) days after the end of each calendar quarter, and shall be addressed to the Civil Aeronautics Board, Attention of the Bureau of Accounts and Statistics, Washington, D.C. 20428.

§ 217.4 Extension of filing time.

If circumstances prevent the filing of a report within the prescribed time limit, consideration will be given to the granting of an extension upon receipt of a written request therefor. Such a request must give a sufficient reason for granting the extension, set forth the date when the report can be filed, and be submitted sufficiently in advance of the due date to permit proper time for consideration and communication to the foreign air carrier of the action taken. Except in cases of emergency, no request for extension will be entertained which is not received in sufficient time to enable the Board to pass thereon before the prescribed due date. If a request is denied, the foreign air carrier remains subject to the filing requirements to the same extent as if no request for extension had been made.

§ 217.5 Certification.

The certificate contained in CAB Form 217 shall be executed by the officer in charge of the carrier's accounts and shall apply to all reports of civil aircraft charters and supporting documents, if any, filed therewith.

§ 217.6 Reporting instructions.

(a) A complete report shall be made on this form for the overall or system operations conducted by a foreign air carrier to or from the United States.

(b) Separate reports shall be filed for each of the below-named types of charters and the type shall be inserted opposite the caption "Type of Charter."

(1) Single entity charter, as defined in Part 214 of this chapter (Board's Economic Regulations).

(2) Pro rata charter, as defined in Part 214 of this chapter (Board's Economic Regulations). Mixed charters, as defined in Part 214 of this chapter, are to be reported as pro rata charters.

(3) All-cargo charter.

(4) Inclusive tour charter, as defined in Part 378 of this chapter (Board's Special Regulations).

(5) Split charter, as defined in § 214.2 (b) (2) of this chapter (Board's Economic Regulations) by carriers subject to Part 214 of this chapter. For reporting purposes, a split charter is to be listed as one flight, and listed only on the split charter report even though a portion of the split charter may be pro rata and the other portion single entity.

(c) The data for each flight shall be reported in the quarter in which its performance actually begins. If a charter contract calls for more than one flight, each of the flights shall be reported in the quarter in which it actually begins. Round trips shall be reported as a single service without breakdown by directional components.

(d) All points included in the report shall be identified by the three-letter airport code used in the Official Airline Guide.

(e) Columns 1 and 2 shall reflect the origin and destination, respectively, of the charter flight. For round-trip charters, the origin point shall be shown also as the destination point.

(f) Column 3 shall reflect the number of flights which begin in the current quarter.

(g) Columns 4 and 5 shall reflect, respectively, the aggregate number of seats and the aggregate cargo capacity in tons contracted for on flights reported in column 3.

(h) Columns 6 through 12 shall reflect the intermediate points (where a portion of the charter traffic is either enplaned or deplaned) in operating sequence between origin and destination. On round-trip flights, all stopover points other than the common origin and destination shall be shown as intermediate points. Indicate instances where there is a break in air transportation, such as surface travel, by placing an asterisk between the pairs of points where such a break occurs.

NOTE: The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 67-14650; Filed, Dec. 18, 1967; 8:48 a.m.]

* Filed as part of the original document.

[Reg. No. ER-523]

PART 221—CONSTRUCTION, PUBLICATION, FILING, AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Notice of Limitation of Liability Under Warsaw Convention

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of December 1967.

The Board has published in 32 F.R. 12190, and circulated to the industry in EDR-124, dated August 21, 1967, Docket 18930, a notice of proposed rule making with respect to Part 221 (14 CFR Part 221) which proposed to delete from the notice of limitations of liability under the Warsaw Convention prescribed by the Board (§ 221.175(a)) the reference to limitations of liability for loss of or damage to baggage. The Board invited interested persons to submit pertinent information and data with respect to the proposed rule.

Pursuant to EDR-124, supra, two comments were received, one from Eastern Air Lines, Inc., and the other from a private person, and due consideration has been given to all relevant matter presented. The Board has decided to adopt the rule as proposed. We are therefore incorporating herein by reference the tentative findings set forth in the explanatory statement to the proposed rule (EDR-124, supra), which we are hereby incorporating herein.[1]

Our action, however, should not be regarded as relieving the carriers of their obligation to the public to provide effective notice of the baggage liability limitation. In this connection, we call attention to the Board's decision in the Baggage Liability Rules Case, Order E-24198, September 19, 1966. There the Board noted that carriers were using a variety of methods of giving notice of limits of liability and availability of opportunity to declare excess valuation,[2] and did not find that the carriers' practices of giving notice of liability rules were unreasonable. In that decision the Board adopted the carriers' suggestion that methods of giving notice of liability rules as to baggage be left to their discretion principally to provide them with flexibility of operations. In that case, however, the Board admonished the carriers that it expected them to continue their efforts to improve practices with respect to giving advance notice to as many passengers as practicably possible, and stated that if it should become necessary in the public interest to order the adoption of specific practices in the future, it would institute appropriate rule making or other proceedings to do so.

In finalizing this rule, we are reminding all carriers, both foreign and domestic, of their obligation to provide notice as to liability limitations for baggage which is adequate depending on the particular conditions of the transportation. And the Board reserves the right to take action to specify the notice of baggage liability limitations which should be required, should the carriers not fulfill their obligations to take care of this matter.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 221 of the Economic Regulations (14 CFR Part 221), effective January 15, 1968, by modifying § 221.175(a) to read as follows:

§ 221.175 Special notice of limited liability for death or injury under the Warsaw Convention.

(a) In addition to the aforesaid requirements of this subpart, each air carrier and foreign air carrier which, to any extent, avails itself of the limitation on liability to passengers provided by the Warsaw Convention, shall, at the time of delivery of the ticket, furnish to each passenger whose transportation is governed by the Convention and whose place of departure or place of destination is in the United States, the following statement in writing:

ADVICE TO INTERNATIONAL PASSENGERS ON LIMITATION OF LIABILITY

Passengers embarking upon a journey involving an ultimate destination or a stop in a country other than the country of departure are advised that the provisions of a treaty known as the Warsaw Convention may be applicable to their entire journey including the portion entirely within the countries of departure and destination. The Convention governs and in most cases limits the liability of carriers to passengers for death or personal injury to approximately $8,300.

Additional protection can usually be obtained by purchasing insurance from a private company. Such insurance is not affected by any limitation of the carrier's liability under the Warsaw Convention. For further information please consult your airline or insurance company representative.

Provided, however, That when the carrier elects to agree to a higher limit of liability to passengers than that provided in Article 22(1) of the Warsaw Convention, such statement shall be modified to reflect the higher limit. The statement prescribed herein shall be printed in type at least as large as 10-point modern type and in ink contrasting with the stock on (1) each ticket; (2) a piece of paper either placed in the ticket envelope with the ticket or attached to the ticket; or (3) the ticket envelope.

(Sec. 204(a), 72 Stat. 743; 49 U.S.C. 1324. Interpret or apply secs. 401(e), 402(e), 403, 411, 72 Stat. 754, 757, 758, 769; 49 U.S.C. 1371, 1372, 1373, 1381)

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 67-14651; Filed, Dec. 15, 1967; 8:49 a.m.]

[1] Pursuant to Eastern's request, we are issuing simultaneously herewith Board Order E-26119 which amends a conditional approval of an IATA resolution in order to make the Board's approval thereof conform to the final rule promulgated herein.

[2] Such as the conditions of the contract in small print on the back of the passenger ticket, language on baggage tags, claim checks, ticket envelopes, or timetables, or signs posted at ticket counters or in baggage wells.

[Reg. No. ER-518]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Reporting of Charter Travel

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 22d day of November 1967.

In EDR-116, dated May 11, 1967, 32 F.R. 7343, the Board issued a notice of proposed rule making that it had under consideration an amendment to Part 241 which would require the reporting of civilian charter information by all certificated carriers in a new schedule T-6 of the CAB Form 41 report, to be submitted quarterly.

Interested persons were invited to submit written data, views, or arguments on the proposal and seven carriers have filed comments.[1] All relevant matter submitted has been considered.

The Board has decided to adopt the rule with the modifications set forth below.[2] Except as modified herein, the tentative findings set forth in the explanatory statement attached to the proposed rule (EDR-116, supra) are incorporated herein by reference and made final.

Northwest and Universal oppose the proposal as being burdensome and unwarranted because the Board already receives adequate information on charter operations. However, the data reported will reveal to the Board the number of charters conducted in each market, broken down by type of charter, and no such information disclosing the impact of charter transportation is presently available. Furthermore, the carriers should have a minimum of difficulty supplying the data requested because the charter contract itself contains all of the necessary information.

Pan American, in its comment in support of the proposed rule, suggests that the Board require the reporting of actual traffic data, instead of the capacities sold to charterers, and of enplanements and deplanements at intermediate points. The Board believes that the gathering of such information would increase the burden on the carriers without materially improving the present value of the report, although such information might become more valuable at some time in the future. Therefore, Pan American's recommendations in this respect will not be adopted.[3] In addition, since the report as originally proposed in EDR-116 will disclose whether a charter is one-way or round-trip, these two categories need not be reported separately as recommended by Pan American.

Pan American and Northwest believe, respectively, that the reports should be disclosed only to reporting carriers and that the information could be used to unfair advantage by competitors. However, neither carrier has disclosed sufficient grounds, nor is the Board aware of any grounds, which would justify a conclusion that disclosure would adversely affect any person and is not required by the public interest, as required by section 1104 of the Act.

We will also reject Universal's requested exclusion from the report of its operations with the automotive companies due to the confidential relationship concerning the cargo carried, rates and destination. It may be noted that the report does not call for information concerning rates. Moreover, the fact that the reported material might be confidential would, at most, justify its withholding from public disclosure under section 1104. And, as in the case of Pan American and Northwest, we find no basis for such action here.

The three Alaskan carriers commenting have requested that Alaskan air carriers be exempted from reporting their intra-Alaskan charters. We agree with the Alaskan carriers that charters by these carriers within Alaska are unique, because lack of other practical means of transportation within Alaska has resulted in large numbers (literally thousands) of short-haul charters, many flown in bush aircraft, and we agree that point-to-point data on such charters would be of little value in assessing the impact of charter travel. Therefore, Alaskan air carriers will not be required to file the new schedule T-6 as to their intra-Alaskan charters.

In the original notice the effective date of the amendment was to have been

[1] Northwest Airlines, Inc., Pan American World Airways, Inc., United Air Lines, Inc., Universal Airlines, Inc., Alaska Coastal Airlines, Inc., Northern Consolidated Airlines, Inc., and Wien Alaska Airlines, Inc. The latter three carriers, all Alaskan air carriers, filed a joint comment.

[2] Issued simultaneously herewith is a new Part 217 requiring the reporting of data pertaining to civil aircraft charters performed by foreign air carriers (ER-519).

[3] United recommended the reporting of actual operations as opposed to operations contracted for. The original proposal has been modified in order to make crystal clear that the Board desires information as to flights actually performed, and not as to unperformed contracts.

January 1, 1967. In the light of comments filed, we have determined to eliminate the retroactivity of the requirement and will make the regulation effective January 1, 1968.

In consideration of the foregoing, the Board hereby amends Part 241 of the Economic Regulations (14 CFR Part 241), effective January 1, 1968, as follows:

1. By amending Section 22, by inserting schedule T–6 in the list of schedules in paragraph (a) to read as follows:

Section 22—General Reporting Instructions

(a) • • •

Schedule No.		Filing	
		Frequency	Postmark interval (days)
• • •	• • •	• • •	• • •
T–3	Monthly listing of summarized passenger loads by flight stages—local service air carriers.	Monthly	(1)
T–6	Summary of civil aircraft charters.	Quarterly	40
T–41	Charter and special service revenue aircraft miles flown.	Annually	90
• • •	• • •	• • •	• • •

2. By amending section 25—"Traffic and Capacity Elements" by inserting after the text of schedule T–5 the following:

Schedule T–6—Summary of Civil Aircraft Charters

(a) This schedule shall be filed by each route air carrier, except that intra-Alaskan charters performed by Alaskan air carriers shall not be reported.

(b) A complete report shall be made on this schedule for the overall or system operations conducted by the air carrier.

(c) Separate reports shall be filed for each of the below-named types of charters and the type shall be inserted opposite the caption "Type of Charter."

(1) Single entity charter, as defined in Part 208 of the Board's Economic Regulations. Mixed charters, as defined in Part 207, are to be reported as single entity charters.

(2) Pro rata charter, as defined in Part 208 of the Board's Economic Regulations. Mixed charters, as defined in Part 208, are to be reported as pro rata charters.

(3) All-cargo charter.

(d) The data for each flight shall be reported in the quarter in which its performance actually begins. If a charter contract calls for more than one flight, each of the flights shall be reported in the quarter in which it actually begins. Round trips shall be reported as a single service without breakdown by directional components.

(e) All points included in the report shall be identified by the three-letter airport code used in the Official Airline Guide.

(f) Military charter flights shall not be reported.

(g) Columns 1 and 2 shall reflect the origin and destination, respectively, of the charter flight. For round-trip charters, the origin point shall be shown also as the destination point.

(h) Column 3 shall reflect the number of flights which begin in the current quarter.

(i) Columns 4 and 5 shall reflect, respectively, the aggregate number of seats and the aggregate cargo capacity in tons contracted for on flights reported in column 3.

(j) Columns 6 through 12 shall reflect the intermediate points (where a portion of the charter traffic is either enplaned or deplaned) in operating sequence between origin and destination. On round-trip flights, all stopover points other than the common origin and destination shall be shown as intermediate points. Indicate instances where there is a break in air transportation, such as surface travel, by placing an asterisk between the pairs of points where such a break occurs.

3. By amending section 32, by inserting schedule T–6[1] in the list of schedules in paragraph (a) to read as follows:

Section 32—General Reporting Instructions

(a) • • •

Schedule No.		Filing	
		Frequency	Postmark interval (days)
• • •	• • •	• • •	• • •
T–3.1	Statement of traffic and capacity statistics.	do	30
T–6	Summary of civil aircraft charters.	Quarterly	40
G–41	Persons holding more than 5 per centum of respondent's capital stock or capital.	Annually	90
• • •	• • •	• • •	• • •

4. By amending section 35—"Traffic and Capacity Elements" by inserting after the text of schedule T–3.1 the following:

Schedule T–6—Summary of Civil Aircraft Charters

(a) This schedule shall be filed by each supplemental air carrier.

(b) Separate reports shall be filed for each of the below-named types of charters and the type shall be inserted opposite the caption "Type of Charter."

(1) Inclusive tour charter, as defined in Part 378 of the Board's Special Regulations.

(2) Single entity charter, as defined in Part 208 of the Board's Economic Regulations. Mixed charters, as defined in Part 207, are to be reported as single entity charters.

(3) Split charter, as defined in § 208.3 (s) (2) (ii) or § 296.2 (b) (2) of the Board's Economic Regulations, as applicable. For reporting purposes, a split charter is to be listed as one flight, and listed only on the split charter report even though a portion of the split charter may be pro rata and the other portion single entity.

(4) Pro rata charter, as defined in Part 208 of the Board's Economic Regulations. Mixed charters, as defined in Part 208, are to be reported as pro rata charters.

(5) All-cargo charter.

(c) The data for each flight shall be reported in the quarter in which its performance actually begins. If a charter contract calls for more than one flight, each of the flights shall be reported in the quarter in which it actually begins. Round trips shall be reported as a single service without breakdown by directional components.

(d) All points included in the report shall be identified by the three-letter airport code used in the Official Airline Guide.

(e) Military charter flights shall not be reported.

(f) Columns 1 and 2 shall reflect the origin and destination, respectively, of the charter flight. For round-trip charters, the origin point shall be shown also as the destination point.

(g) Column 3 shall reflect the number of flights which begin in the current quarter.

(h) Columns 4 and 5 shall reflect, respectively, the aggregate number of seats and the aggregate cargo capacity in tons contracted for on flights reported in column 3.

(i) Columns 6 through 12 shall reflect the intermediate points (where a portion of the charter traffic is either enplaned or deplaned) in operating sequence between origin and destination. On round-trip flights, all stopover points other than the common origin and destination shall be shown as intermediate points. Indicate instances where there is a break in air transportation, such as surface travel, by placing an asterisk between the pairs of points where such a break occurs.

(Secs. 204(a), 407(a), Federal Aviation Act of 1958, as amended; 72 Stat. 743, 766; 49 U.S.C. 1324, 1377)

NOTE: The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 67-14649; Filed, Dec. 15, 1967; 8:49 a.m.]

[1] Schedule filed as part of the original document.

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket C-1273]

PART 13—PROHIBITED TRADE PRACTICES

Kanebo U.S.A., Inc., and Shichiro Miyazaki

Subpart—Importing, selling, or transporting flammable wear: § 13.1060 *Importing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Kanebo U.S.A., Inc., et al., New York, N.Y., Docket C-1273, Nov. 27, 1967]

In the Matter of Kanebo U.S.A., Inc., a corporation, and Shichiro Miyazaki, individually and as an officer of said corporation.

Consent order requiring a New York City importer of fabrics to cease importing or selling any fabric so highly flammable as to be dangerous when worn.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Kanebo U.S.A., Inc., a corporation, and its officers, and Shichiro Miyazaki, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from:

(a) Importing into the United States; or

(b) Selling, offering for sale, introducing, delivering for introduction, transporting, or causing to be transported, in commerce, as "commerce" is defined in the Flammable Fabrics Act; or

(c) Transporting or causing to be transported, for the purpose of sale or delivery after sale in commerce;

any fabric which, under the provisions of section 4 of said Flammable Fabrics Act, as amended, is so highly flammable as to be dangerous when worn by individuals.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: November 27, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-14611; Filed, Dec. 15, 1967; 8:45 a.m.]

[Docket C-1274]

PART 13—PROHIBITED TRADE PRACTICES

Atomic Sportswear Co., Inc., et al.

Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* § 13.1185–90 Wool Products Labeling Act: § 13.1212 *Formal regulatory and statutory requirements:* § 13.1212–90 Wool Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* § 13.1852–80 Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; secs. 2–5, 54 Stat. 1128–1130; 15 U.S.C. 45, 68) [Cease and desist order, Atomic Sportswear Co., Inc., et al., New York, N.Y., Docket C-1274, Nov. 27, 1967]

In the Matter of Atomic Sportswear Co., Inc., a Corporation, and Leo Stahl, William Stahl, and Elliott Schneiderman, Individually and as Officers of Said Corporation

Consent order requiring a New York City clothing manufacturer to cease misbranding its wool products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Atomic Sportswear Co., Inc., a corporation, and its officers, and Leo Stahl, William Stahl, and Elliott Schneiderman, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the manufacture for introduction into commerce, the introduction into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment, or shipment, in commerce, of wool products as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding wool products by:

1. Falsely and deceptively stamping, tagging, labeling, or otherwise identifying such products as to the character or amount of the constituent fibers contained therein.

2. Failing to securely affix to, or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: November 27, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-14610; Filed, Dec. 15, 1967; 8:45 a.m.]

[Docket C-1275]

PART 13—PROHIBITED TRADE PRACTICES

Modern Juniors, Inc., and William Paul

Subpart—Furnishing false guaranties: § 13.1053 *Furnishing false guaranties:* § 13.1053–90 Wool Products Labeling Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* § 13.1185–90 Textile Fiber Products Identification Act; § 13.1185–90 Wool Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* § 13.1212–90 Textile Fiber Products Identification Act; § 13.1212–90 Wool Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* § 13.1852–70 Textile Fiber Products Identification Act; § 13.1852–80 Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; secs. 2–5, 54 Stat. 1128–1130, 72 Stat. 1717; 15 U.S.C. 45, 68, 70) [Cease and desist order, Modern Juniors, Inc., et al., New York, N.Y., Docket C-1275, Nov. 28, 1967]

In the Matter of Modern Juniors, Inc., a Corporation, and William Paul, Individually and as an Officer of Said Corporation

Consent order requiring a New York City women's wear manufacturer to cease misbranding its wool and textile fiber products and furnishing its customers false guaranties.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Modern Juniors, Inc., a corporation, and its officers, and William Paul, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the manufacture for introduction into commerce, the introduction into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

1. Falsely or deceptively stamping, tagging, labeling, or otherwise identifying such products as to the character or amount of constituent fibers included therein.

2. Failing to securely affix to, or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

It is further ordered, That respondents Modern Juniors, Inc., a corporation, and its officers, and William Paul, individually and as an officer of said corporation, and

respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from furnishing a false guaranty that any wool product is not misbranded under the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, when there is reason to believe that such wool product so guaranteed may be introduced, sold, transported or distributed in commerce.

It is further ordered, That respondents Modern Juniors, Inc., a corporation, and its officers, and William Paul, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce," and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from misbranding textile fiber products by:

1. Failing to affix labels to such products showing each element of information required to be disclosed by section 4(b) of the Textile Fiber Products Identification Act.

2. Failing to set forth all parts of the required information conspicuously and separately on the same side of the label in such a manner as to be clearly legible and readily accessible to the prospective purchaser.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: November 28, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary*.

[F.R. Doc. 67-14612; Filed, Dec. 15, 1967; 8:46 a.m.]

Title 20—EMPLOYEES' BENEFITS

Chapter III—Social Security Administration, Department of Health, Education, and Welfare

[Regs. Nos. 4, 5]

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950-____)

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED (1965-____)

Miscellaneous Amendments

Parts 404 and 405 are amended as follows:

1. Section 404.506 is revised to read as follows:

§ 404.506 When waiver of adjustment or recovery may be applied.

Sections 204(b) and 1870(c) of the Act provide that there shall be no adjustment or recovery in any case where an incorrect payment under title II (old-age, dependent's, survivor's and disability insurance benefits) or under title XVIII (hospital and supplementary medical insurance benefits) has been made (including a payment under section 1814(e) of the Act) with respect to an individual:

(a) Who is without fault, and

(b) Adjustment or recovery would either:

(1) Defeat the purpose of title II of the Act, or

(2) Be against equity and good conscience.

2. Section 404.507 is amended to read as follows:

§ 404.507 Fault.

"Fault" as used in "without fault," (see §§ 404.506 and 405.355) applies only to the individual. Although the Administration may have been at fault in making the payment, that fact does not relieve the individual if he is not without fault. In determining whether an individual is at fault, the Administration will consider all pertinent circumstances, including his age, intelligence, education, and physical and mental condition. What constitutes fault (except for "deduction overpayments"—see § 404.510) depends upon whether the facts show the incorrect payment to the individual or to a provider of services or other person, or an incorrect payment made under section 1814(e) of the Act, resulted from:

(a) An incorrect statement made by the individual which he knew or should have known to be incorrect;

(b) Failure to furnish information which he knew or should have known to be material; or

(c) Acceptance of a payment which he either knew or could have been expected to know was incorrect.

3. Section 404.508 is revised to read as follows:

§ 404.508 Defeat the purpose of title II.

(a) *General.* "Defeat the purpose of title II," for purposes of this subpart, means defeat the purpose of benefits under this title, i.e., to deprive a person of income required for ordinary and necessary living expenses. This depends upon whether the person has an income or financial resources sufficient for more than ordinary and necessary needs, or is dependent upon all of his current benefits for such needs. An individual's ordinary and necessary expenses include:

(1) Fixed living expenses, such as food and clothing, rent, mortgage payments, utilities, maintenance, insurance (e.g., life, accident, and health insurance including premiums for supplementary medical insurance benefits under title XVIII), taxes, installment payments, etc.;

(2) Medical, hospitalization, and other similar expenses;

(3) Expenses for the support of others for whom the individual is legally responsible; and

(4) Other miscellaneous expenses which may reasonably be considered as part of the individual's standard of living.

(b) *When adjustment or recovery will defeat the purpose of title II.* Adjustment or recovery generally will defeat the purposes of title II in (but is not limited to) situations where the overpaid person needs substantially all of his current income (including social security monthly benefits) to meet his current ordinary and necessary living expenses.

4. In § 404.509 the opening paragraph is amended and a new example 5 is added to read as follows:

§ 404.509 Against equity and good conscience; defined.

"Against equity and good conscience" means that adjustment or recovery of an incorrect payment (under title II or title XVIII) will be considered inequitable if an individual, because of a notice that such payment would be made or by reason of the incorrect payment, relinquished a valuable right (examples (1), (2), and (5)) or changed his position for the worse (examples (3), and (4)). In reaching such a determination, the individual's financial circumstances are irrelevant.

* * * * *

Example 5. In June 1966, H filed for hospital insurance benefits and submitted evidence, which he believed was correct, showing he was 65 years old. He was subsequently notified that he was entitled to hospital insurance coverage effective July 1, 1966. At the same time, H was notified that he was entitled to monthly social security benefits, but because he was working regularly and earning in excess of $4,000 a year, no payments would be made until his work status changed. On the basis of the notice of entitlement to hospital insurance coverage, H allowed his private insurance policy, which provided for full reimbursement of hospital expenses up to a maximum of $1,000 in each calendar year, to lapse as of July 1, 1966. In August 1966, H was an inpatient at a hospital for 20 days and incurred $500 of hospital expenses. For the services received by H, the hospital was paid $460 ($500 minus the $40 deductible) under the hospital insurance program. Later that year, H became aware of and submitted other evidence showing beyond doubt that he was 63 years old in August 1966. Based on this new evidence, the Administration determined that H was not entitled under the hospital insurance program and the hospital had been incorrectly paid $460 (no monthly benefits had been paid). With respect to H's liability for the incorrect payment of $460, unless waiver applied, this amount would be adjusted against future payment (if any) of monthly social security or railroad retirement benefits or would be recovered from H. Under the facts presented, however, adjustment or recovery of the incorrect payment from H is considered against equity and good conscience because in reliance on the award notice advising him of his entitlement to hospital insurance coverage, H relinquished a valuable right when he allowed his private health insurance to lapse.

5. Section 405.354 is added to read as follows:

§ 405.354 Procedures for adjustment or recovery—title II beneficiary.

The procedures applied in making an adjustment or recovery in the case of a title II beneficiary are the applicable procedures of § 404.502 of this chapter.

6. Section 405.355 is amended to read as follows:

§ 405.355 Waiver of adjustment or recovery.

The provisions of § 405.352 may not be applied and there may be no adjustment or recovery of an overpayment (§ 405.350(a)) or payment (§ 405.350(b)) in any case where the overpayment has been made with respect to an individual who is without fault, and where such adjustment or recovery would defeat the purpose of title II of the Act or would be against equity and good conscience.

7. Section 405.356 is added to read as follows:

§ 405.356 Principles applied in waiver of adjustment or recovery.

The principles applied in determining waiver of adjustment or recovery (§ 405.355) are the applicable principles of §§ 404.506–404.509 of this chapter.

(Secs. 204, 205, 1102, 1870, 1871; 53 Stat. 1368, as amended 49 Stat. 647 as amended, 79 Stat. 331; 42 U.S.C. 404, 405, 1302, 1395gg, 1395hh)

8. *Effective date.* The foregoing amendments shall become effective on the date of publication in the FEDERAL REGISTER.

Dated: November 27, 1967.

[SEAL] ROBERT M. BALL, *Commissioner of Social Security.*

Approved: December 9, 1967.

WILBUR J. COHEN, *Acting Secretary of Health, Education, and Welfare.*

[F.R. Doc. 67-14630; Filed, Dec. 15, 1967; 8:47 a.m.]

[Regs. No. 5]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED (1965-____)

Subpart D—Principles for Reimbursable Costs

OPTIONAL ALLOWANCE FOR DEPRECIATION BASED ON PERCENTAGE OF OPERATING COSTS

Subpart D of Part 405 of Chapter III of Title 20 of the Code of Federal Regulations is amended as set forth below.

Paragraph (a) of § 405.416 is revised to make an editorial change needed to clarify the principles dealing with the optional allowance for depreciation based on a percentage of operating costs. Paragraph (a) of § 405.416 is revised to read as follows:

§ 405.416 Depreciation: optional allowance for depreciation based on a percentage of operating costs.

(a) *Principle.* With respect to all assets acquired before 1966, the provider, at its option, may choose an allowance for depreciation based on a percentage of operating costs. The operating costs to be used are the provider's 1965 operating costs or the provider's current year's allowable costs, whichever are the lower. The percent to be applied is 5 percent starting with the year 1966–67, with such percentage being uniformly reduced by one-half percent each succeeding year. The allowance based on operating costs is in addition to regular depreciation on assets acquired after 1965; however, when the optional allowance is selected, the combined amount of such allowance on pre-1966 assets and the straight-line depreciation on assets acquired after 1965 (including the estimated depreciation on assets held on a rental basis during the current year) may not exceed 6 percent of the provider's allowable cost for the current year.

* * * * *

(Secs. 1102, 1814(b), 1861(v), and 1871, 49 Stat. 647, as amended, 79 Stat. 296, 79 Stat. 322, 79 Stat. 331; 42 U.S.C. 1302, 1395 et seq.)

2. *Effective date.* The foregoing amendment shall become effective on the date of publication in the FEDERAL REGISTER.

Dated: November 27, 1967.

[SEAL] ROBERT M. BALL, *Commissioner of Social Security.*

Approved: December 9, 1967.

WILBUR J. COHEN, *Acting Secretary of Health, Education, and Welfare.*

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[Regs. No. 5]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED (1965-____)

Subpart H—Review and Hearing Under the Supplementary Medical Insurance Program

On June 22, 1967, there was published in the FEDERAL REGISTER (32 F.R. 8916) a notice of proposed rule making relating to the principles and guidelines for the review and hearing procedures to be instituted by carriers in providing an enrollee, or a physician or other person accepting an assignment of payment, an opportunity for an informal review and a hearing when dissatisfied with a carrier's action in processing a request for payment under Part B of title XVIII of the Social Security Act. Interested parties were given the opportunity to submit written comments within 30 days after publication.

Written comments were received and considered; certain changes were made in the proposed regulations. The general provisions of § 405.801 were amended by deleting those provisions which discussed the Administration's actions in the review of carrier hearing decisions since they merely relate to internal arrangements between the Administration and carriers, and were not intended to establish either a line of communication between Part B enrollees and the Administration or a further level of administrative appeal beyond the appeal to the carrier. Section 405.801 was further amended, by introducing a new paragraph (b), to provide a time period for determining whether carrier action on a request for payment is being taken with reasonable promptness. Section 405.802 was amended to provide a clarification of the terms "party," "enrollee," and "representative" as used in the regulations. A technical change was made in § 405.824 to provide that the fact that a hearing officer is an employee of the carrier may not serve as prima facie cause for his disqualification. Section 405.841 was amended to provide a time limitation for the reopening of an initial or informal review determination of the carrier, and decision of a hearing officer.

Other changes of a clarifying and editorial nature have also been made.

Chaper III, Title 20 is amended by adding thereto Subpart H of Part 405, to read as set forth below. The addition of Subpart H of Part 405, Title 20, shall be effective upon publication in the FEDERAL REGISTER.

Dated: November 27, 1967.

[SEAL] ROBERT M. BALL, *Commissioner of Social Security.*

Approved: December 9, 1967.

WILBUR J. COHEN, *Acting Secretary of Health, Education, and Welfare.*

Subpart H—Review and Hearing Under the Supplementary Medical Insurance Program

Sec.

405.801 Title XVIII, Part B—General.
405.802 Definitions.
405.803 Initial determination.
405.804 Notice of initial determination.
405.805 Parties to the initial determination.
405.806 Effect of initial determination.
405.807 Filing for review of initial determination.
405.808 Parties to the review.
405.809 Opportunity to submit evidence.
405.810 Informal review determination.
405.811 Notice of informal review determination.
405.812 Effect of informal review determination.
405.820 Right to hearing.
405.821 Request for hearing.
405.822 Parties to a hearing.
405.823 Hearing officer.
405.824 Disqualification of hearing officer.
405.825 Location of hearing.
405.826 Notice of hearing.
405.830 Conduct of the hearing.
405.831 Waiver of right to appear and present evidence.
405.832 Dismissal of request for hearing.
405.833 Record of hearing.
405.834 Hearing officer's decision.
405.835 Effect of hearing officer's decision.
405.841 Reopening initial or informal review determination of the carrier, and decision of a hearing officer.
405.842 Notice of reopening and revision.
405.850 Change of ruling or legal precedent.
405.860 Authority of the hearing officer.
405.870 Appointment of representative.
405.871 Qualifications of representatives.
405.872 Authority of representatives.

AUTHORITY: The provisions of this Subpart H issued under sections 1102, 1831–1843, 1871, 49 Stat. 647, as amended, 79 Stat. 301–318; 79 Stat. 301; 42 U.S.C. 1302, 1395 et seq.

Subpart H—Review and Hearing Under the Supplementary Medical Insurance Program

§ 405.801 Title XVIII, Part B—General.

(a) Section 1842(b)(3)(c) of the Act provides that a carrier shall establish and maintain procedures under which an individual enrolled in the supplementary medical insurance plan (see Subpart B of this part) is provided with the opportunity for a hearing by the carrier when he is dissatisfied with the carrier's determination denying a request for payment, or with the amount of payment under the supplementary medical insurance plan or when he believes that the request for payment is not being acted upon with reasonable promptness. A physician or other person who furnishes items or services to a person enrolled under the supplementary medical insurance plan and who accepts an assignment from the enrollee has the same right as the enrollee to appeal the carrier's determination.

(b) For the purpose of paragraph (a) of this section and determining whether action is being taken on a request for payment with reasonable promptness, it will be deemed unreasonable if the request for payment has not been acted upon within a period of 60 days after the receipt of such request by the carrier.

§ 405.802 Definitions.

As used in this Subpart H the term:

(a) "Carrier" means an organization which has entered into a contract with the Secretary pursuant to section 1842 of the Act and which is authorized to make determinations with respect to Part B of title XVIII of the Social Security Act.

(b) "Party" means an enrollee or an assignee or any other entity determined to have an appealable interest (i.e., the patient, physician) in the proceeding.

(c) "Enrollee" means an individual who was enrolled under Part B of title XVIII of the Social Security Act at the time the items and services for which payment is being requested were rendered.

(d) "Assignee" means a physician or other person who furnished covered services to an enrollee under the supplementary medical insurance plan and who has accepted a valid assignment executed by such enrollee.

(e) "Assignment" means an agreement between an enrollee and a physician or other person furnishing services under the supplementary medical insurance plan, which contains the following provisions:

(1) The enrollee transfers the right to request payment for such services to the physician or other person furnishing services under the supplementary medical insurance plan, and

(2) The physician, or other person furnishing such services to the enrollee, agrees to accept the carrier's determination of the reasonable charges for his services as his full charge for such services.

(f) "Representative" means any authorized individual qualified under § 405.871 to effectively represent any party to the proceeding.

§ 405.803 Initial determination.

(a) The carrier shall evaluate the evidence and make an initial determination with respect to the benefits to be paid under the supplementary medical insurance plan to any party who has filed a request for payment of such benefits.

(b) An initial determination for purposes of this subpart includes among others, a determination as to whether items and services furnished are covered; whether the deductible has been met; whether the receipted bill or other evidence of payment is acceptable; and whether the charges for items or services furnished are reasonable.

(c) For purposes of this subpart, a carrier may not make an initial determination with respect to any issue or factor for which the Social Security Administration has sole responsibility (for example, whether or not an individual is entitled to coverage under the supplementary medical insurance plan; whether an independent laboratory meets the conditions for coverage of services; etc.), or which relates to hospital insurance benefits under Part A of title XVIII of the Act.

§ 405.804 Notice of initial determination.

After a carrier has made an initial determination on a request for payment, written notice of this determination shall be mailed to each party to the determination at his last known address. The notice of the determination shall inform each party to the determination of his right to have such determination reviewed.

§ 405.805 Parties to the initial determination.

The parties to the initial determination (see § 405.803) are the enrollee and/or the assignee, and/or any other entity determined to have an appealable interest in the proceedings.

§ 405.806 Effect of initial determination.

The initial determination shall be final and binding upon the party or parties to such determination unless it is reviewed in accordance with §§ 405.810–405.812, or is revised in accordance with § 405.841.

§ 405.807 Filing for review of initial determination.

(a) *General; informal review.* A party to an initial determination by a carrier, who is dissatisfied with such initial determination, may request that the carrier review such determination. If a review is requested, such action shall not constitute a waiver of the right to hearing (see § 405.820) subsequent to such review.

(b) *Place of filing request.* A request for a carrier to review the initial determination is to be made in writing and filed at an office of the carrier which made the initial determination or at an office of the Social Security Administration.

(c) *Time of filing request.* The carrier shall provide a period of not less than 6 months after the date of the notice of the initial determination within which a party to the initial determination may request review. The carrier may, upon request by the party affected, extend the period for requesting the review.

§ 405.808 Parties to the review.

The parties to the review shall be the persons who were parties to the carrier's initial determination as described in § 405.805, and any other party whose rights with respect to the particular claim being reviewed may be affected by such review.

§ 405.809 Opportunity to submit evidence.

The parties to the review shall have a reasonable opportunity to submit written evidence and contentions as to fact or law relative to the claim at issue.

§ 405.810 Informal review determination.

The carrier shall review the claim in dispute and, upon the basis of the evidence of record, shall make an informal review determination affirming or revising in whole or in part the findings and determination in question.

§ 405.811 Notice of informal review determination.

Written notice of the determination after informal review shall be mailed to the parties thereto at their last known addresses. The review determination shall state the basis therefor and advise the parties of their right to a hearing, the place and manner of requesting a hearing, and the time limit during which a hearing must be requested (see §§ 405.820 and 405.821).

§ 405.812 Effect of informal review determination.

The informal review determination shall be final and binding upon all parties to the informal review unless a hearing determination is rendered pursuant to a request made in accordance with § 405.821 or is revised in accordance with § 405.841.

§ 405.820 Right to hearing.

(a) *General.* Any party designated in § 405.822 shall be entitled to a hearing after an informal review determination has been made by the carrier, if such party files a written request.

(b) *Place of filing request.* The hearing request must be filed at an office of the carrier or at an office of the Social Security Administration.

(c) *Time of filing request.* The carrier shall provide a period of not less than 6 months after the date of the notice of the informal review determination within which a party to the initial or informal review determination may request a hearing. The carrier may, upon request by the party affected, extend the period for filing the request for hearing.

§ 405.821 Request for hearing.

A request for a hearing is any clear expression in writing by a party to a review determination which states, in effect, that he is dissatisfied with the carrier's review determination and wants further opportunity to appeal the matter to the carrier.

§ 405.822 Parties to a hearing.

The parties to a hearing shall be the persons who were parties to the carrier's informal review determination (§ 405.808) which is in question. Any other person may be made a party if that person's rights with respect to supplementary medical insurance benefits may be prejudiced by the decision, or if the hearing officer notifies him to appear at the hearing or to present such evidence and contentions of law or fact as he may desire in support of his interest.

§ 405.823 Hearing officer.

The hearing provided for in this subpart shall be conducted by a hearing officer designated by the appropriate official of the carrier.

§ 405.824 Disqualification of hearing officer.

A hearing officer shall not conduct a hearing in any case in which he is prejudiced or partial with respect to any party, or if he has any interest in the matter before him. Notice of any objection with respect to the hearing officer who will conduct the hearing shall be made by the objecting party at his earliest opportunity. The hearing officer shall consider such objection and shall, at his discretion, withdraw. If the hearing officer withdraws, the appropriate official of the carrier shall designate another hearing officer to conduct the hearing. If the hearing officer does not withdraw, the objecting party may present his objections to the carrier for consideration at any time prior to the issuance of a decision. The carrier shall review the request and take appropriate action. The fact that a hearing officer is an employee of the carrier may not serve as prima facie cause for disqualification.

§ 405.825 Location of hearing.

(a) *Time and place.* The hearing officer shall fix a time and place for the hearing reasonably convenient to the requesting party and not inconsistent with the public interest.

(b) *Adjournment or postponement.* The hearing officer may, for a good and sufficient reason, fix a new time and/or place for the hearing; he may change the time and place for the hearing or adjourn the hearing on his own motion upon reasonable notification to the parties.

§ 405.826 Notice of hearing.

The notice of hearing is to include notice of the time and place of the hearing; information as to the specific issues to be determined; and the matters on which findings will be made and conclusions will be reached. The notice is to contain sufficient information about the hearing procedure (including the party's right to representation) for effective preparation for the hearing.

§ 405.830 Conduct of the hearing.

(a) *General.* Hearings shall be open to the parties and to such other persons as the hearing officer deems necessary and proper for the orderly and efficient conduct of the hearing. The hearing officer shall inquire fully into the matters at issue and shall receive in evidence the testimony of witnesses and any documents which are relevant and material to such matters. The parties shall be provided an opportunity to enter any objection to the inclusion of any document. The order in which evidence and allegations shall be presented and the procedure at the hearing, except as this subpart otherwise expressly provides, shall be at the discretion of the hearing officer and of such nature as to afford the parties a proper hearing.

(b) *Evidence.* Evidence may be received at the hearing even though inadmissible under rules of evidence applicable to court procedures.

(c) *Witnesses.* The hearing officer may examine the witnesses and shall allow the parties or their representatives to do so. If the hearing officer conducts the examination of a witness, he may allow the parties to suggest matters upon which they desire the witness to be questioned, and the hearing officer shall question the witness with respect to such matters if they are relevant and material to any issue pending for decision before him.

(d) *Oral argument and written allegations.* The parties, upon their request, shall be allowed a reasonable time for the presentation of oral argument or for the filing of briefs or other written statements or allegations of facts or law.

(e) *Consolidated issues.* When one or more new issues are raised at any time after a request for hearing has been made, but before the mailing of notice of the decision, the hearing officer may, at his discretion, consider the issues along with the other issues pending before him on the same request for hearing.

§ 405.831 Waiver of right to appear and present evidence.

If all parties waive their right to appear before the hearing officer and present evidence and contentions personally or by representative, it shall not be necessary for the hearing officer to give notice of or conduct a formal hearing as provided in §§ 405.825 through 405.830. A waiver of the right to appear is to be in writing and filed with the hearing officer or the carrier. Such waiver may be withdrawn by a party at any time prior to the mailing of notice of the decision in the case. Even though all of the parties have filed a waiver of the right to appear and present evidence and contentions at a hearing before the hearing officer, the hearing officer may, nevertheless, give notice of a time and place and conduct a hearing as provided in §§ 405.825 through 405.830, if he believes that the personal appearance and testimony of the party or parties would assist him to ascertain the facts at issue in the case. For purposes of this section, failure of the parties to appear shall not be cause for a finding of abandonment and the hearing officer shall make his decision on the basis of all evidence adduced.

§ 405.832 Dismissal of request for hearing.

(a) *By application of party.* With the approval of the hearing officer, a request for a hearing may be withdrawn or dismissed at any time prior to the mailing of notice of the decision upon the application of the party or parties filing the request for such hearing. A party may request a dismissal by filing a written notice of such request with the carrier, the hearing officer or orally stating such request at the hearing. The dismissal of a request for hearing shall be final and binding unless vacated (see paragraph (d) of this section).

(b) *Dismissal by abandonment of party.* A hearing officer may dismiss a request for hearing upon abandonment by the party or parties who filed the request. A party shall be deemed to have abandoned a request for hearing, other than where personal appearance is waived in accordance with § 405.831, if neither the party nor his representative appears at the time and place fixed for

the hearing and within 10 days after the mailing of a notice to him by the hearing officer to show cause, such party does not show good and sufficient cause for such failure to appear and failure to notify the hearing officer prior to the time fixed for hearing that he cannot appear.

(c) *Dismissal for cause.* The hearing officer may, on his own motion, dismiss a hearing request, either entirely or as to any stated issue, under either of the following circumstances:

(1) Where the party requesting a hearing is not a proper party under § 405.822 or does not otherwise have a right to a hearing under section 1842(b)(3)(C) of the Act; or

(2) Where the party who filed the hearing request dies and there is no information before the hearing officer showing that an individual who is not a party may be prejudiced by the carrier's determination.

(d) *Vacation of dismissal.* A hearing officer may, on request of a party and for good and sufficient cause shown, vacate any dismissal of a request for hearing at any time within 6 months from the date of mailing notice of the dismissal to the party requesting the hearing at his last known address.

§ 405.833 Record of hearing.

A complete record of the proceedings at the hearing shall be made. The testimony shall be transcribed and copies of other documentary evidence shall be reproduced in any case when directed by the hearing officer, the carrier or the Administration. The record will also be transcribed and reproduced at the request of a party to the hearing provided he bears the cost thereof.

§ 405.834 Hearing officer's decision.

As soon as practicable after the close of a hearing, the hearing officer, except as provided in this subpart, shall make a decision in the case which shall be based upon the evidence adduced at the hearing (see §§ 405.820 to 405.830) or otherwise included in the hearing record (see § 405.833). The decision shall be made in writing and contain findings of fact and statement of reasons. A copy of the decision shall be mailed to each party to the hearing at his last known address.

§ 405.835 Effect of hearing officer's decision.

The hearing officer's decision, provided for in § 405.834, shall be final and binding upon all parties to the hearing unless it is revised in accordance with § 405.841.

§ 405.841 Reopening initial or informal review determination of the carrier, and decision of a hearing officer.

(a) *Initial or review determination.* An initial or review determination may be reopened and revised by the carrier on its own motion or, on the petition of any party to such determination within 1 year of the date of such determination, to allow for correction of a procedural or substantive defect in the proceedings.

(b) *Decision of hearing officer.* Either on the motion of the hearing officer, or upon the motion of any party to a hearing, any decision of a hearing officer may be reopened and revised by such hearing officer within 1 year of the date of such determination, or if such hearing officer is unavailable for reasons including death, termination of employment, illness, or leave of absence, by another hearing officer selected by the carrier.

§ 405.842 Notice of reopening and revision.

(a) *Notice.* When any determination or decision is reopened as provided in § 405.841, notice of such reopening shall be mailed to the parties to such determination or decision at their last known addresses. A notice of revision following a reopening of a decision, shall be mailed to the parties and shall state the basis for the revised determination or decision.

(b) *Effect of revised determination.* The revision of a determination shall be final and binding upon all parties thereto unless a party (see § 405.841) files a written request for a hearing with respect to a revised determination.

§ 405.850 Change of ruling or legal precedent.

Change of a legal interpretation or administrative ruling upon which a determination or decision was made shall not be considered as good and sufficient reason for reopening the determination or decision.

§ 405.860 Authority of the hearing officer.

The hearing officer in exercising the authority to conduct a hearing under section 1842(b)(3)(C) of the Act is to comply with all the provisions of title XVIII of the Act and regulations issued thereunder, as well as with policy statements, instructions and other guides issued by the Social Security Administration in accordance with the Secretary's agreement with the carriers.

§ 405.870 Appointment of representative.

A party to an initial determination, informal review or hearing as provided in §§ 405.803 through 405.834, may appoint as his representative in any such proceeding any person qualified under § 405.871. Where the representative is an attorney, in the absence of information to the contrary, his representation that he has such authority shall be accepted as evidence of the attorney's authority to represent a party.

§ 405.871 Qualifications of representatives.

Any individual may be appointed to act as representative in accordance with § 405.870, unless he is disqualified or suspended from acting as a representative in proceedings before the Social Security Administration or unless otherwise prohibited by law.

§ 405.872 Authority of representatives.

A representative, appointed and qualified as provided in §§ 405.870 and 405.871, may make or give, on behalf of the party he represents, any request or notice relative to any proceeding before the carrier including review and hearing. A representative shall be entitled to present evidence and allegations as to facts and law in any proceeding affecting the party he represents and to obtain information with respect to the claim of such party to the same extent as such party. Notice to any party of any action, determination, or decision, or request to any party for the production of evidence, shall be sent to the representative of such party.

[F.R. Doc. 67-14631; Filed, Dec. 15, 1967; 8:47 a.m.]

[Regs. No. 22]

PART 422—ORGANIZATION AND PROCEDURES

Subpart F—Applications and Related Forms

Regulations No. 22 of the Social Security Administration, as amended (20 CFR 422.1 et seq.) are further amended by adding new Subpart F to reads as follows:

Subpart F—Applications and Related Forms

Sec.
422.501 Applications and other forms used in Social Security Administration programs.
422.505 Applications and related forms for retirement, survivors, and disability insurance programs.
422.510 Applications and related forms used in the health insurance for the aged program.
422.515 Forms used for withdrawal, reconsideration and other appeals, and appointment of representative.
422.520 Forms related to maintenance of earnings records.
422.525 Where applications and other forms are available.

AUTHORITY: The provisions of this Subpart F secs. 205, 1102, and 1871, 86 Stat. 1368, as amended, 49 Stat. 647, as amended, 79 Stat. 331; sec. 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 18, 631; 42 U.S.C. 405, 1302 and 1395hh.

Subpart F—Applications and Related Forms

§ 422.501 Applications and other forms used in Social Security Administration programs.

This subpart lists the applications and some of the related forms prescribed by the Social Security Administration for use by the public in applying for benefits under titles II and XVIII of the Social Security Act. It also includes information as to where such forms may be obtained.

§ 422.505 Applications and related forms for retirement, survivors, and disability insurance programs.

(a) *Application forms.* The application forms used by the public to file claims for benefits under title II of the Act are as follows:

OA-C1—Application for Retirement Insurance Benefits.

SSA-2—Application for Wife's Insurance Benefits. (For use by a wife or divorced wife (see section 202(b) of the Act) of an individual entitled to retirement or disability insurance benefits.)

OA-C4—Application for Child's Insurance Benefits. (For use in applying for benefits for a child or children of a living wage earner or self-employed person.)

SSA-5—Application for Mother's Insurance Benefits. (For use by a widow, or surviving divorced mother (see section 202 (g) of the Act), applying for mother's insurance benefits and, if the applicant is a widow, as an application for a lump-sum death payment.)

OA-C6—Application for Surviving Child's Insurance Benefits. (For use in applying for benefits for a child or children of a deceased wage earner or self-employed person.)

OA-C7—Application for Parent's Insurance Benefits.

SSA-8—Application for Lump-Sum Death Payment.

OA-C10—Application for Widow's Insurance Benefits. (For use by a claimant who was previously entitled as a widow to the lump-sum death payment, or who was previously entitled as a widow or surviving divorced mother to monthly benefits.)

SSA-10A—Application for Widow's Insurance Benefits. (For use by a widow or surviving divorced wife (see section 202(e) of the Act) who is filing an initial claim on the deceased's earnings record and, in the case of a widow applicant, it also constitutes an application for the lump-sum death payment.)

OA-C13—Application for Widower's Insurance Benefits.

SSA-14—Application for Husband's Insurance Benefits.

SSA-16—Application for Disability Insurance Benefits. (For use by an applicant for a period of disability or for a period of disability and monthly disability insurance benefits.)

SSA-19—Application for Special Age-72-Or-Over Monthly Payments. (For use by an applicant age 72 or over who is neither fully nor transitionally insured (see §§ 404.109 and 404.113a of this chapter).)

OA-C24—Application for Survivors Benefits Payable Under Title II of the Social Security Act. (For use by survivors of veterans when filing an application for Veterans' Administration benefits with the Veterans' Administration. It is available at the various offices of the Veterans' Administration.)

(b) *Related forms.* The following are some related forms:

SSA-3—Husband's Certification. (For use in in connection with Application for Wife's Insurance Benefits, Form OA-C3.)

OA-C8a—Supplement to Form OA-C8 (Application for Lump-Sum Death Payment). (For use with a funeral home's application for lump-sum death payment, Form OA-C8.)

SSA-11—Application To Be Selected as Payee. (For use when the individual proposing to be substituted for current payee files application to receive payment of benefits on behalf of himself, a disabled child or child under age 18, a student beneficiary, or an incompetent beneficiary.)

SSA-15—Wife's Certification. (For use in connection with Application for Husband's Insurance Benefits, Form OA-C14.)

SSA-17—Disabled Child—Statement Regarding Disability. (For use in connection with a request for payment of child's insurance benefits for a child who is age 18 or over and is under a disability which began before age 18.)

OA-C22—Supplement for Claim on Behalf of Child Outside the United States. (To be completed for a child who is, was, or will be outside the United States.)

SSA-25—Certificate of Election for Reduced Wife's Benefits. (For use by a wife age 62 through 64 who has an entitled child in her care and elects to receive reduced benefits for months during which she will not have a child in her care.)

SSA-719—Statement of Burial Expenses by Funeral Director. (To be completed by the funeral director in connection with an individual's (other than a widow or widower who was living in the same household with the insured individual at the time of his death) application authorizing direct payment of the lump-sum death payment to the funeral director.) (See Form OA-C8 under § 422.505(a).)

SSA-721—Statement of Death by Funeral Director. (This form may be used as evidence of death (see § 404.704 of this chapter).)

OA-C760—Certificate of Support (Parent's, Husband's, or Widower's).

OA-C766—Statement of Self-Employment Income. (For use by a claimant to establish insured status based on self-employment income in the current year.)

OA-C780—Certificate of Applicant for Benefits on Behalf of Another. (This form accompanies an individual's or institution's request to be selected payee for a beneficiary and is used to determine the requester's interest in the welfare of the beneficiary.)

SSA-786—Physician's Statement. (For use in requesting medical evidence of a beneficiary's capacity to manage benefits.)

OA-D622—Request for Medical Evidence to Hospital or Institution. (For use in requesting information regarding hospitalization or treatment of a disability claimant.)

OA-D624—Report on Individual with Mental Impairment. (For use in requesting information regarding a disability claimant's mental impairment.)

SSA-826—Medical Report—General. (For use in obtaining medical information concerning a disability claimant.)

SSA-826.1—Medical Report—Pulmonary Tuberculosis. (For use in requesting medical evidence from a hospital in which a disability claimant is confined for the treatment of tuberculosis.)

SSA-827—Applicant's Request for Medical Information. (To be completed by a disability claimant to authorize release of medical information.)

SSA-1001—Statement of Employer. (For use by an employer to provide evidence of quarterly wage payments.)

SSA-1002—Statement of Agricultural Employer. (For use by an employer to provide evidence of annual wage payments for agricultural work.)

SSA-1372—Statement Regarding School Attendance. (For use in connection with a request for payment of child's insurance benefits for a child who is age 18 through 21 and a full-time student.)

SSA-1372A—Certification by School Official of Student's Full-Time Attendance. (For use with requests for child's insurance benefits for students age 18 through 21.)

SSA-1372A(F)—Statement to U.S. Social Security Administration by School Outside the United States About Student's Attendance. (For use in connection with a request for payment of child's insurance benefits for a child who is age 18 through 21 and a full-time student outside the United States.)

SSA-1384—Student's Statement of Intent To Continue Schooling. (For use by a student beneficiary in determining eligibility for continuing child's insurance benefits during a period of nonattendance in school of not more than 4 calendar months' duration.)

SSA-1442—Statement by Divorced Woman Regarding Contributions and Support From Her Former Husband.

SSA-7156—Farm Self-Employment Questionnaire. (For use in connection with claims for benefits based on farm income to determine whether the income is covered under the Social Security Act.)

SSA-7160—Employment Relationship Questionnaire. (For use by an individual and the alleged employer to determine the individual's employment status.)

OAC-7208—Sick Pay and Plan or System Questionnaire. (To be completed by an employer for the purpose of determining the nature of special payments to an employee.)

§ 422.510 Applications and related forms used in the health insurance for the aged program.

(a) *Application forms.* The following forms are prescribed for use in applying for entitlement to benefits under the health insurance for the aged program:

SSA-18—Application for Hospital Insurance Entitlement. (For use by individuals who are not entitled to retirement benefits under title II of the Social Security Act or under the Railroad Retirement Act. This form may also be used for enrollment in the supplementary medical insurance benefits plan.)

SSA-40—Application for Enrollment in the Supplementary Medical Insurance Program. (This form is mailed directly to beneficiaries at the beginning of their initial enrollment period.)

SSA-40A—Application for Enrollment in Supplementary Medical Insurance. (For use by civil service employees who are not eligible for enrollment in the hospital insurance plan.)

SSA-40B—Application for Medical Insurance. (For general use in requesting medical insurance protection.)

SSA-40C—Application for Enrollment. (This form is mailed to beneficiaries as a followup on Form SSA-40 (Application for Enrollment in the Supplementary Medical Insurance Program).)

SSA-40F—Application for Medical Insurance. (For use by beneficiaries residing outside the United States.)

An individual who upon attainment of age 65 is entitled to a monthly benefit based on application OA-C1, SSA-2, OA-C7, OA-C10, SSA-10A, OA-C13, or SSA-14 is automatically entitled to hospital insurance protection. (For conditions of entitlement to hospital insurance benefits see § 405.102 of this chapter.) For medical insurance protection, an applicant must request supplementary medical insurance coverage (see Forms SSA-40, SSA-40A, SSA-40B, SSA-40C, and SSA-40F under § 422.510(a)). (For conditions of entitlement to supplementary medical insurance benefits see § 405.202 et seq. of this chapter.)

(b) *Related forms.* The following are the prescribed forms for use in requesting payment for services under the hospital insurance benefits program and the supplementary medical insurance benefits program:

SSA–1459—Inpatient Hospital Admission and Billing. (To be completed by hospital for payment of hospital expenses for treatment of patient confined in the hospital.)

SSA–1478—Extended Care Admission and Billing. (To be completed by an extended care facility for payment of post-hospital services.)

SSA–1483—Outpatient Hospital Billing. (To be completed by hospital for payment of hospital expenses for treatment of patient who is not confined in the hospital.)

SSA–1484—Explanation of Accommodation Furnished. (To be completed by the hospital to explain accommodation of a patient in other than a semi-private (2- to 4-bed) room.)

SSA–1485—Inpatient Psychiatric or Tuberculosis Hospital Admission and Billing.

SSA–1486—Inpatient Admission and Billing—Christian Science Sanatorium (To be completed by Christian Science Sanatoriums for payment for treatment of patients confined in the sanatorium.)

SSA–1487—Home Health Agency Report and Billing. (For use by an organization providing home health services.)

SSA–1490—Request for Payment. (For use by patient or physician to request payment for medical expenses.)

SSA–1554—Provider Billing for Patient Services by Physicians. (For use by hospitals for payment for services provided by hospital-based physicians.)

SSA–1556—Prepayment Plan for Group Medical Practices Dealing Through a Carrier. (For use by organizations (which have been determined to be Group Practice Prepayment Plans for Medicare purposes) for reimbursement for medical services provided to beneficiaries.)

SSA–1966—Health Insurance Card. (This card is issued to a person entitled to benefits under the health insurance for the aged program and designates Whether he is entitled to hospital insurance benefits or supplementary medical insurance benefits or both.)

§ 422.515 Forms used for withdrawal, reconsideration and other appeals, and appointment of representative.

The following is a list of forms prescribed by the Social Security Administration for use by the public to request a withdrawal of an application, a reconsideration of an initial determination, a hearing, a review of a hearing examiner's decision, or for appointment of a representative:

OA–C321—Request for Withdrawal of Application. (For use by an individual to cancel his application.)

OA–C561—Request for Reconsideration. (For use by an individual who disagrees with an initial determination concerning (a) entitlement to benefits or any other right under title II of the Social Security Act, or (b) entitlement to hospital insurance benefits or supplementary medical insurance benefits under title XVIII of the Act, or (c) the amount of hospital insurance benefits under such title XVIII to obtain a review of his case. See § 422.140 for a discussion of the reconsideration procedure.)

HA–501—Request for Hearing. (For use by an individual or institution to obtain a hearing before a hearing examiner of the Social Security Administration. See § 422.208 for a discussion of the hearing procedure.)

HA–512—Appointment of Representative. (For use by person other than an attorney authorized by a claimant to act for him in a claim or related matter.)

HA–513.1—Notice by Attorney of Appointment as Representative. (For use by an attorney authorized by a claimant to act for him in a claim or related matter.)

HA–520—Request for Review of Hearing Examiner's Action. (For use by an individual or institution to obtain a review of a decision by a hearing examiner of the Social Security Administration.)

§ 422.520 Forms related to maintenance of earnings records.

The following forms are used by the Social Security Administration and by the public in connection with the maintenance of earnings records of wage earners and self-employed persons:

SS–4—Application for Employer Identification Number.

SS–4A—Agricultural Employer's Application. (For use by employers of agricultural workers to request an employer identification number under the FICA.)

SS–5—Application for Social Security Number (or Replacement of Lost Card).

SS–15—Certificate Waiving Exemption From Taxes Under the FICA. (For use by certain nonprofit organizations requesting coverage of its employees.)

SS–15a—List of Concurring Employees. (To be signed by each employee who concurs in the filing of the Certificate Waiving Exemption From Taxes Under the FICA, Form SS–15.)

OASI–21—Social Security and Your Household Employee. (For use by employers of household workers to request information from the District Director of Internal Revenue regarding filing employee tax reports.)

OA–702—Account Number Card.

OA–702.1—Duplicate Account Number Card.

Form 2031—Waiver Certificate To Elect Social Security Coverage for Use by Ministers, Certain Members of Religious Orders, and Christian Science Practitioners.

Form 4029—Application for Exemption From Tax on Self-Employment Income, and Waiver of Benefits. (To be completed by self-employed individuals who are members of certain recognized religious sects (or division thereof) and do not wish to pay FICA taxes or participate in the programs provided under titles II and XVIII.)

OAAN–5032—Temporary Account Number Card.

OAAN–7008—Request for Change in Social Security Records. (For use by an individual to change information given on original application for an account number.)

OAR–7004—Request for Statement of Earnings. (For use by worker to obtain a statement of earnings recorded in his earnings record.)

OAR–7008—Request for Correction of Earnings Record. (For use by an individual who wishes to have his earnings record revised.)

SSA–7011—Statement of Employer. (For use by an employer to provide evidence of wage payments in cases of a wage discrepancy in an individual's earnings record.)

§ 422.525 Where applications and other forms are available.

Forms for use in requesting payment for services provided under the health insurance for the aged programs can be obtained from the intermediaries or carriers (organizations under contract with the Social Security Administration to make payment for such services). All applications and other forms can be obtained from any social security district office or branch office (see § 422.5). Form 2031 (Waiver Certificate To Elect Social Security Coverage for Use by Ministers, Certain Members of Religious Orders, and Christian Science Practitioners), Form 4029 (Application for Exemption From Tax on Self-Employment Income, and Waiver of Benefits), Form SS–4 (Application for Employer Identification Number), Form SS–4A (Agricultural Employer's Application for Identification Number), Form SS–15 (Certificate Waiving Exemption From Taxes Under the FICA), and Form SS–15a (List of Concurring Employees) can also be obtained from offices of District Directors of Internal Revenue. For other offices where applications and certain other forms can be obtained, see Subparts B and C of this part.

Effective date. The foregoing regulations shall become effective upon publication in the FEDERAL REGISTER.

Dated: November 27, 1967.

[SEAL] ROBERT M. BALL,
Commissioner of Social Security.

Approved: December 9, 1967.

WILBUR J. COHEN,
Acting Secretary of Health, Education, and Welfare.

[F.R. Doc. 67–14683; Filed, Dec. 15, 1967; 8:48 a.m.]

Title 23—HIGHWAYS AND VEHICLES

Chapter II—Vehicle and Highway Safety

[Docket No. 9]

PART 255—INITIAL FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Lamps, Reflective Devices, and Associated Equipment—Multipurpose Passenger Vehicles, Trucks, Trailers, and Buses, 80 Inches or More in Overall Width

Motor Vehicle Safety Standard No. 108 (32 F.R. 2411) specifies requirements for lamps, reflective devices and associated equipment for multipurpose passenger vehicles, trucks, trailers, and buses, 80 inches or more in overall width.

Paragraph S3.1.1.3 permits the installation of additional lamps, reflective devices and associated equipment, provided they do not impair the effectiveness of the required equipment.

Paragraphs S3.1.1 and S3.2.1 and Tables I and II require that trailers be equipped with rear identification lamps, located as close as practicable to the vertical centerline of the trailer; and with front and rear clearance lamps, located at the upper left and right extreme edges of the trailer.

Paragraph S3.1.1 and Table I require that applicable vehicles be equipped with a license plate lamp and a backup lamp.

Paragraph S3.1.1 and Table I require that vehicles be equipped with lamps conforming to certain SAE standards. A number of these SAE standards specify that bulb sockets conform to SAE Standard J567, "Bulb Sockets", August 1966.

Paragraph S3.2.1 and Table II require that front side reflex reflectors and front side-marker lamps be located as far forward as practicable on the side of the vehicle.

Paragraph S3.4.3 requires that taillamps, license plate lamps, and side-marker lamps be illuminated when the headlamps are illuminated.

Paragraph S3.4.7 requires that a means for indicating to the driver that the turn signal system is energized be provided in accordance with SAE standard J588d, "Turn-Signal Lamps", June 1966.

Paragraph S3.5 requires that all lamps specified in Table I be steady-burning except turn-signal lamps, which shall flash.

The National Highway Safety Bureau has determined that—

(a) Clarification is needed with respect to the extent to which additional equipment may be installed without exceeding the provisions of paragraph S3.1.1.3;

(b) Due to the special configuration and utilization of boat trailers, need has been shown for additional time to comply with the requirements for identification lamps, clearance lamps, and front side-marker lamps.

(c) Due to the essentially triangular configuration of some trailers, it would not be practicable to apply the location requirements for front side reflex reflectors and front side-marker lamps to these trailers;

(d) Clarification is needed with respect to the number of license plate lamps and backup lamps that may be used to meet the requirement of the standard;

(e) Bulb sockets other than those conforming to SAE Standard J567 may be suitable for use;

(f) With respect to the requirement of paragraph S3.4.3, illumination of the taillamps when the headlamps are illuminated will provide rear lighting while permitting more reliable switching and lighting systems and a more effective balance of the electrical loads imposed on these systems;

(g) With respect to the means of indicating turn-signal operation required by S3.4.7, the exception of truck tractor-trailer combinations with variable load flashers, as permitted by SAE Standard J588d, should be equally applicable to other vehicles using variable load flashers; and

(h) Clarification is needed with respect to the requirement for steady-burning lamps as specified in S3.5.

Therefore the standard is being amended—

(a) To specify that no additional lamp, reflective device, or associated equipment shall be installed if it impairs the effectiveness of the required equipment;

(b) By adding new paragraphs S3.1.1.3 and S3.1.1.4 to except boat trailers from location requirements for clearance lamps and to extend the effective date of requirements for identification lamps, clearance lamps, and front side-marker lamps on boat trailers to June 1, 1968, respectively;

(c) By adding a new paragraph S3.2.1.4 to provide an alternative means of complying with the location requirement for front side reflex reflectors and front side-marker lamps on trailers;

(d) By adding new paragraph S3.1.1.5, to provide that two or more lamps, functioning as a system, may be used to fulfill the illumination requirements of a single license plate lamp or a single backup lamp;

(e) By adding new paragraph S3.1.1.6 to provide for the use of SAE J822 wedge base type bulb sockets as an alternative to the sockets specified in SAE Standard J567;

(f) To require in paragraph S3.4.3 that only the taillamps need be illuminated when the headlamps are illuminated, and to extend the effective date of this amended requirement to May 1, 1968;

(g) To except from the requirements of paragraph S3.4.7 all vehicles using a variable load flasher; and

(h) To permit temporary flashing of steady-burning lamps for signalling purposes.

In addition, a definition of "boat trailer" is being added to § 255.3(b).

Since these amendments provide clarification and alternative means of compliance, relieve restrictions, and impose no additional burden on any person, notice and public procedure hereon are unnecessary. The Administrator finds, for good cause shown, that an effective date earlier than 180 days after issuance is in the public interest because an early effective date is in the interest of motor vehicle safety.

In consideration of the foregoing, Part 255, Initial Federal Motor Vehicle Safety Standards, section 255.3(b) and section 255.21 are amended as follows:

1. In section 255.3(b), the following new definition is added:

"Boat trailer" means a trailer designed with cradle-type mountings to transport a boat and configured to permit launching of the boat from the rear of the trailer.

2. In § 255.21, Motor Vehicle Safety Standard No. 108 (32 F.R. 2411):

(a) Paragraph S3.1.1 is revised to read as follows:

S3.1.1 Except as provided in S3.1.1.1 through S3.1.1.6, vehicles shall be equipped with lamps, reflective devices and associated equipment, in the number of units and designed to conform to the standards specified in Table I.

(b) The following new paragraph is added after paragraph S3.1.1:

S3.1.2 No additional lamp, reflective device, or associated equipment shall be installed if it impairs the effectiveness of the required equipment.

(c) Present paragraph S3.1.1.3 is revoked and new paragraph S3.1.1.3 is added to read as follows:

S3.1.1.3 Boat trailers need not be equipped with front and rear clearance lamps located as specified in Table II, provided amber (to front) and red (to rear) clearance lamps are located on each side at or near the midpoint between front and rear of the trailer and indicate the extreme width of the trailer.

(d) The following new paragraphs are added after paragraph S3.1.1.3:

S3.1.1.4 Until June 1, 1968, boat trailers need not be equipped with identification lamps, clearance lamps, or front side-marker lamps.

S3.1.1.5 Two or more license plate lamps and two or more backup lamps may be used to fulfill the requirements specified in Table I for a single license plate lamp and a single backup lamp, respectively.

S3.1.1.6 Wedge base type bulb sockets conforming to SAE Recommended Practice J822, "Wedge Base Type Socket", April 1962, may be used in lieu of the bulb sockets specified by SAE Standard J567, "Bulb Sockets", August 1965.

(e) The following new paragraph is added after paragraph S3.2.1.3:

S3.2.1.4 On trailers, the amber front side reflex reflector and amber front side-marker lamp may be located as far forward as practicable exclusive of the trailer tongue.

(f) Paragraphs S3.4.3, S3.4.7, and S3.5 are revised to read as follows:

S3.4.3 As a minimum the taillamps of vehicles manufactured on or after May 1, 1968, shall be illuminated when the headlamps are illuminated.

S3.4.7 Except on vehicles using variable load flashers, a means for indicating to the driver that the turn-signal system is energized shall be provided in accordance with SAE Standard J588d, "Turn-Signal Lamps", June 1966.

S3.5 *Lighting display.* When energized, each lamp specified in Table I shall, in normal operation, be steady-burning except turn-signal lamps and hazard warning signal lamps which shall flash. However, normally steady-burning lamps may be capable of being flashed for signaling purposes.

(Secs. 108 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966; 15 U.S.C. 1392, 1407; and the delegation of authority of Mar. 31, 1967 (32 F.R. 5606), as amended Apr. 6, 1967 (32 F.R. 6495), July 27, 1967 (32 F.R. 11276), and Oct. 11, 1967 (32 F.R. 14277), and become effective Jan. 1, 1968)

Issued in Washington, D.C., on December 11, 1967.

LOWELL K. BRIDWELL,
Federal Highway Administrator.

[F.R. Doc. 67–14585; Filed, Dec. 15, 1967; 8:45 a.m.]

[Docket No. 9]

PART 255—INITIAL FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Lamps, Reflective Devices, and Associated Equipment—Passenger Cars, Multipurpose Passenger Vehicles, Trucks, Buses, Trailers, and Motorcycles

A proposal to amend § 255.21 of Part 255, Initial Federal Motor Vehicle Safety

Standards, by amending Standard No. 108 (32 F.R. 2411) and by adding Standard No. 112 was published in the FEDERAL REGISTER on February 3, 1967 (32 F.R. 2415).

The requirements of proposed Standard No. 112 have been combined with the proposed amendments to Standard No. 108 and are now being issued as a complete revision of Standard No. 108, applicable to passenger cars, multipurpose passenger vehicles, trucks, buses, trailers, and motorcycles.

Interested persons have been afforded an opportunity to participate in the making of the amendments.

Several comments objected to the provision which permits optional use of either reflective materials (conforming to Federal Specification L–S–300, obtainable from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402) or plastic type reflectors (conforming to SAE Standard J594c) for side reflex reflectors. The basis of this opposition was the variance in test procedures and requirements for the two materials, particularly with respect to weatherability and color performance. The Administrator agrees that the differences do exist between the specification and the SAE standard; however, these differences are considered natural (since two widely different materials are involved) and will not reduce the effectiveness or durability of the materials when used for side reflex reflectors. Also, an adequate level of reflective illumination has been assured by requiring that both materials conform to the photometric values of Table I, SAE Standard J594c. Design flexibility, which will be permitted by optional use of either material, is considered desirable and, in many instances, will contribute to traffic safety. Accordingly, the requirement has been included, without change, in revised Standard No. 108.

One comment contended that Federal Specification L–S–300 represents requirements for a proprietary material. The Administrator does not agree, because this specification is a performance-type specification. In addition, this requirement is only an alternative to the performance requirements for plastic type reflectors conforming to SAE J594c.

Several comments claimed that the proposed requirements for school bus lighting were special and had been adopted by only a few States and that the economic burdens and driver retraining, which would be imposed by the requirements, would be substantial. They further noted that the proposed requirements were not in accordance with the regulations of many States or the national standards established by the National Conference on School Transportation. The Administrator is convinced that special consideration should be given to the subject of school bus lighting, and that all issues should be carefully weighed before establishing requirements for a single system in a Federal Standard. Accordingly, the proposed requirements have been included in revised Standard No. 108 as a lighting system that may be used as an alternative to a system with red warning lights only. Switching requirements for both systems have been delineated in the revised Standard.

Several comments recommended that amber school bus warning lamps be required to provide at least 2½ times the photometric candlepower of red warning lamps. The Administrator agrees that this recommendation has merit and is in accord with industry practice. Accordingly, revised Standard No. 108 includes this requirement.

Several comments contended that, for vehicles with air service brake systems, special design and production problems would be imposed by the requirement that the stop lamp be activated when emergency brakes are operated. They claimed that further investigations were necessary for the purpose of eliminating possible current feedback and determining component reliability. The Administrator agrees that careful consideration should be given to the redesign and evaluation of an air brake system to assure reliable performance. However, the design problems cited by the comments do not appear to involve any major new developments or extensive endurance type testing. The components that make up the redesigned system are presently available and their performance and reliability characteristics are generally known. Therefore, the requirement, as proposed, has been included in revised Standard No. 108.

Numerous European comments requested reciprocal recognition of existing Economic Commission for Europe (ECE) Regulations with the SAE standards on lighting equipment specified in the proposal. Specifically cited were ECE Regulations 3 and 4 on reflex reflectors and license plate lamps, respectively; and proposed regulations on turn-signal lamps and other miscellaneous lamps. The comments noted that Regulation 3 had been adopted by eleven European countries and that Regulation 4 had been adopted by four. The Administrator believes that an accurate technical comparison of performance requirements of the ECE regulations and related SAE standards is not possible, since specified test procedures and requirements vary considerably between the two documents. While effectiveness of the ECE regulations in promoting traffic safety in Europe is not questioned, the Administrator considers that extensive, time-consuming investigations and tests would have to be conducted to determine their effectiveness under traffic conditions encountered in the United States. Therefore, their use in the United States is not being specified.

Several comments recommended that the color designation range of red to amber, for stop lamps and turn-signal lamps, be changed to red or amber, since the two colors are readily identified by existing SAE standards. The Administrator agrees; therefore, this change has been reflected in the Tables of the revised standard.

Several comments objected to the proposed requirement for Class A reflex reflectors on the rear of vehicles manufactured on or after January 1, 1969. The Administrator believes that the increased effectiveness of Class A reflectors has been thoroughly validated. However, to provide the necessary lead time for retooling, a provision has been included in revised Standard No. 108 to postpone this requirement for passenger cars until January 1, 1970.

Several comments were opposed to the requirement for four side-marking devices (two lamps and two reflectors) on each side of the vehicle. The primary reasons for this opposition were that no substantiating evidence is available to indicate that four devices would contribute to traffic safety and, therefore, the requirement exceeds the intent of the National Traffic and Motor Vehicle Safety Act; and that two devices (either lamps or reflectors) are adequate and would be visible from a distance of 600 feet. These devices are normally placed in an extremely vulnerable position and, therefore, it is only speculative that all will be in operating condition 100 percent of the time, once the vehicle is put into use. Four devices instead of two will provide added assurance that the vehicle is adequately marked. Therefore, the requirement for both side-marker lamps and side reflex reflectors has been retained in revised Standard No. 108, with a provision that only two markers, either lamps or reflectors, need be provided until January 1, 1970.

Several comments observed that a definition of the term "curb weight" has been issued by the Administrator. To avoid ambiguity and diversity of interpretation, they recommended that the term "vehicle at curb weight" be substituted for the term "unloaded vehicle" appearing in heading of Column 4, Table II. The Administrator agrees with this recommendation and the substitution has been made in revised Standard No. 108.

Several comments observed that an interpretation of the term "emergency brake" (32 F.R. 3390), February 27, 1967, had previously been issued. Since this interpretation was addressed to Standard No. 105, the comments questioned whether or not the same interpretation applies to "emergency brake" as used in Standard No. 108. Although addressed to Standard No. 105, the interpretation refers to § 255.3(b) of the Motor Vehicle Standards, and is, therefore, applicable to standards other than Standard No. 105.

Several comments requested that use of any size headlamp be permitted, provided it meets the performance requirements of the specified SAE standard. The Initial standard, requires headlamps conforming to existing SAE Standard J579a, which limits lamp sizes to 7-inch diameter and 5¾-inch diameter. A number of related and cross-referenced SAE test standards and equipment standards provide supporting test procedures, data, and equipment, which are based on the two lamp sizes specified in SAE J579a. The Administrator believes that introduction of sizes other than the J579a size would require the preparation or selection of similar interrelated test procedures and requirements, which could easily vary with each additional lamp size. This operation would be too time-consuming to permit incorporation of an alternative requirement in revised Standard No. 108. Accordingly, these comments will be considered for future rule-making.

A number of European comments requested that use of a license plate lamp conforming to ECE Regulation 4 be permitted as an alternative to a lamp conforming to SAE J587b. As previously stated, the Administrator believes that a direct comparison of performance of lamps conforming to the ECE regulation and those conforming to the SAE standard is not possible, since test procedures and requirements vary considerably. Regulation 4 requires photometric tests using two different test plates—one 13.386'' x 9.449'' and one 20.472'' x 4.724'', while SEA J587b requires that photometric tests be conducted on one test plate which is 6'' x 12''. As a result location of test points, area of test points, and luminous values also vary considerably. To determine the relative effectiveness of the Regulation 4 and SAE J587b lamps when applied to vehicles would require considerable study and tests, which would result in an extended delay in issuance of revised Standard No. 108. Therefore the requirement for SAE J587b lamps has been retained in revised Standard No. 108.

Several European comments requested that use of white parking lamps be permitted as an alternative to amber lamps, since white lamps are required by regulation in most European countries. The selection of a single color for parking lamps is considered to be essential for standardization of lamp coloring and identification in the United States. Consequently, the requirement for amber parking lamps has been retained in revised Standard No. 108.

Numerous European comments urged that use of reflex reflectors conforming to ECE Regulation 3 be permitted as an alternative to reflectors conforming to SAE J594c. Again, the Administrator believes that a direct comparison of the performance values of Regulation 3, and SAE J594c reflectors cannot be made because of varying test procedures and test requirements. On a generalized basis it can be determined that the Regulation 3, Class I, reflector will provide a minimum candlepower of approximately twice that of a SAE Class B and approximately one-fourth that of a SAE Class A reflector. SAE J594c specifies that Class A reflectors should be visable at night from all distances between 100 feet and 600 feet when illuminated by the upper headlight beam. Under similar conditions, the Regulation 3, Class I, reflector will provide visability at a distance of approximately 400 feet. The major objections to SAE Class A reflectors appear to be based on the size required to provide the specified photometric values. However, no size requirements are imposed by the referenced SAE Standard J594c. Therefore, the requirement for Class A reflectors is being retained as proposed.

One comment objected to the 45° horizontal visibility angle as specified for SAE J592b side-marker lamps, claiming a 20° angle to be more realistic, particularly for passenger cars, which would, in some instance, permit use of combination tail or parking and side-marker lamps. The comment further indicated that the 45° angle was intended solely for truck applications; that a 20° angle far exceeds a 3° angle, which would be obtained by application of a Federal Standard No. 515/23 lamp to a small passenger car; and that the 20° angle would result in less blind angle than is currently permitted by Standard No. 108 on vehicles approaching, but not exceeding, a 30-foot length. The Administrator agrees that the ability to combine tail or parking lamps with side-marker lamps is desirable from both a design and an economic standpoint. Accordingly, requirements for side-marker lamps have been revised to permit optional use of either lamps conforming to SAE J592b or lamps that provide, at a distance of 15 feet from the vehicle and on a vertical plane that is perpendicular to the longitudinal axis of the vehicle and located midway between the front and rear side-marker lamps, photometric values equivalent to those of the SAE J592b lamps.

Many comments, while concurring with the photometric requirements, objected to the 12 square inch dimensional requirements of SAE J588d Class A turn-signal lamps. In addition to general comments regarding redesign and tooling problems imposed, major arguments included the following: Class A turn-signal lamps are intended for use on large trucks above 80 inches overall width; use of optically combined lamps will be promoted, thereby eliminating effectiveness of separate, more distinctive lamps with different coloring; greater difficulty will be experienced in distinguishing between signals of slow moving commercial vehicles and passenger cars; and the high luminous level of large lamps will be objectionable under certain driving conditions. The Administrator recognizes that Class A photometric values may be obtained with less than the specified area of 12 square inches. However, the possibility of an extremely small area, with Class A photometric values, producing a blinding effect on observers is also recognized. Accordingly, and until further research establishes the most effective size, revised Standard No. 108 will permit the use of turn-signal lamps having Class A photometric values and a minimum area of Class B lamps.

Numerous comments recommended a relaxation of the proposed visibility requirements for backup lamps. While they admitted that this requirement can be met with a completely exposed lamp, they emphasized that the lamp would be in a vulnerable location and that frequent breakages, resulting in no backup lighting, would present a safety hazard. Several comments recommended a horizontal visibility angle of 90° (which corresponds to the maximum angle for rear lamps in the ISO recommendations and in the proposed ECE regulations) and a vertical visibility angle varying from 45° upward and downward to 45° upward only. Other comments recommended that the required visibility area be defined with reference to a vertical plane located 3 feet to rear of the vehicle, extending 3 feet on each side, and perpendicular to the longitudinal axis of the vehicle. The Administrator believes that the comments regarding vulnerability of the lamp have merit and recognizes that some compromise in the proposed visibility requirements is warranted. Accordingly, the requirements have been modified to exclude the area within 3 feet of the vehicle from the specified visibility area.

In addition, several editorial changes have been made for clarification.

Many comments submitted suggestions for revising the proposed requirements for lighting equipment that were determined to be beyond the scope of the notice, and will, therefore, be considered for future rule-making action.

In consideration of the foregoing, Part 255, Initial Federal Motor Vehicle Safety Standards, is amended, effective January 1, 1969, by superseding section 255.21, Motor Vehicle Safety Standard No. 108 (32 F.R. 2411), with a new Motor Vehicle Safety Standard No. 108 to read as set forth below.

(Secs. 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966; 15 U.S.C. 1392, 1407; and the delegation of authority of Mar. 31, 1967 (32 F.R. 5606), as amended Apr. 6, 1967 (32 F.R. 6498), July 27, 1967 (32 F.R. 11276), and Oct. 11, 1967 (32 F.R. 14777), and becomes effective Jan. 1, 1969)

The Administrator finds, for good cause shown, that an effective date later than 1 year from the date of this order is in the public interest, in that he proposes the issuance of other new and revised motor vehicle safety standards on or before January 31, 1968, with the same effective date of January 1, 1969, and that it is in the interest of motor vehicle safety that these standards become simultaneously effective to avoid disruption of the productive process and dilution of quality control.

Issued in Washington, D.C., on December 11, 1967.

LOWELL K. BRIDWELL,
Federal Highway Administrator.

MOTOR VEHICLE SAFETY STANDARD No. 108

LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT—PASSENGER CARS, MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, BUSES, TRAILERS, AND MOTORCYCLES

S1. *Purpose and scope.* This standard specifies requirements for lamps, reflective devices, and associated equipment, for signalling and to enable safe operation in darkness and other conditions of reduced visibility.

S2. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, buses, trailers, and motorcycles, except pole trailers and trailer converter dollies.

S3. *Requirements.*

S3.1 *Equipment.*

S3.1.1 Except as provided in S3.1.1.1 through S3.1.1.11 vehicles shall be equipped with lamps, reflective devices, and associated equipment, in the numbers of units and designed to conform to the standards specified in—

(a) Table I for multipurpose passenger vehicles, trucks, trailers, and buses, of 80 or more inches overall width; or

(b) Table III for passenger cars; motorcycles; and multipurpose passenger vehicles, trucks, trailers, and buses, of less than 80 inches overall width.

S3.1.1.1 Truck tractors need not be equipped with turn-signal lamps mounted on the rear if the turn-signal lamps at or near the front are so constructed (double-faced) and so located that they are visible to overtaking passing drivers.

S3.1.1.2 Intermediate side-marker lamps and intermediate reflex reflectors are required only on vehicles of 80 or more inches overall width and 30 or more feet overall length.

S3.1.1.3 Reflective material conforming to Federal Specification L–S–300, "Sheeting and Tape, Reflective; Nonexposed Lens, Adhesive Backing", September 7, 1965, may be used in lieu of the side reflex reflectors, provided that this material, as used on the vehicle, meets the performance standards in Table I of SAE Standard J594c, "Reflex Reflectors", February 1965.

S3.1.1.4 Truck tractors of less than 80 inches overall width need not be equipped with more than two red Class A reflex reflectors (mounted on the rear), nor with any red rear side-marker devices.

S3.1.1.5 Passenger cars manufactured before January 1, 1970, shall be equipped with either two Class B red reflex reflectors or two Class A red reflex reflectors on the rear of the vehicle.

S3.1.1.6 Passenger cars; and multipurpose passenger vehicles, trucks, trailers, and buses, of less than 80 inches overall width manufactured before January 1, 1970, shall be equipped on each side of the vehicle, with at least one of the following combinations:

(a) 1 (red) Class A and 1 (amber) Class A reflex reflector;

(b) 1 red and 1 amber side-marker lamp;

(c) 1 red side-marker lamp and 1 (amber) Class A reflex reflector;

(d) 1 (red) Class A reflex reflector and 1 amber side-marker lamp.

S3.1.1.7 Passenger cars shall be equipped with turn-signal lamps that provide Class A photometric values and effective projected illuminated areas at least as large as that of Class B lamps. If a multiple compartment lamp or multiple lamps are used to meet this requirement, the effective projected illuminated area of each compartment or lamp shall be not less than that of a Class B lamp, and Class A photometric requirements shall be provided by one or a combination of the compartments or lamps.

S3.1.1.8 Passenger cars; and multipurpose passenger vehicles, trucks, trailers, and buses, of less than 80 inches overall width, and of less than 30 feet overall length, shall be equipped with side-marker lamps conforming to SAE Standard J592b, April 1964, except that the photometric minimum candlepower requirements specified therein may be met for inboard test points at a distance of 15 feet from the vehicle and on a vertical plane that is perpendicular to the longitudinal axis of the vehicle and located midway between the front and rear side-marker lamps.

S3.1.1.9 Boat trailers need not be equipped with front and rear clearance lamps located as specified in Table II, provided amber (to front) and red (to rear) clearance lamps are located on each side at or near the midpoint between front and rear of the trailer and indicate the extreme width of the trailer.

S3.1.1.10 Two or more license plate lamps and two or more backup lamps may be used to fulfill the requirements specified in Tables I and III for a single license plate lamp and a single backup lamp, respectively.

S3.1.1.11 Wedge base type bulb sockets conforming to SAE Recommended Practice J822, "Wedge Base Type Socket", April 1962, may be used in lieu of the bulb sockets specified by SAE Standard J567, "Bulb Sockets", August 1965.

S3.1.2 No additional lamp, reflective device, and associated equipment shall be installed if it impairs the effectiveness of the required equipment.

S3.1.3 *School buses.*

S3.1.3.1 School buses shall be equipped with a system of either:

(a) Four red signal lamps designed to conform to SAE Standard J887, "School Bus Red Signal Lamps", July 1964, and four amber signal lamps designed to conform to that standard, except for color and except the candlepower requirement shall be 2½ times that specified; or

(b) Four red signal lamps designed to conform to SAE Standard J887, "School Bus Red Signal Lamps", July 1964.

S3.1.3.2 The red and amber signal lamp system specified in S3.1.3.1(a) shall be installed in accordance with SAE Standard J887, July 1964, except that:

(a) An amber signal lamp shall be located near each red signal lamp, at the same level, but closer to the vertical centerline of the bus; and

(b) The system of red and amber signal lamps shall be wired so that:

(1) The amber lamps are energized manually; and

(2) The red signal lamps are automatically energized, and the amber signal lamps are automatically deenergized, when the bus entrance door is opened.

S3.1.3.3 The red signal lamp system specified in S3.1.3.1(b) shall be installed in accordance with SAE Standard J887, July 1964.

S3.2 *Location of lamps and reflectors.*

S3.2.1 Except as provided in S3.2.1.1 through S3.2.1.3, lamps, reflective devices and associated equipment required by S3.1 shall be installed in accordance with:

(a) Table II for multipurpose passenger vehicles, trucks, trailers, and buses, of 80 or more inches overall width; or

(b) Table IV for passenger cars; motorcycles; and multipurpose passenger vehicles, trucks, trailers, and buses of less than 80 inches overall width.

S3.2.1.1 On tractor trailer combination vehicles of 80 or more inches overall width, the requirement that intermediate side reflex reflectors and intermediate side-marker lamps be located at or near the midpoint between the forward and aft side reflex reflectors and forward and aft side-marker lamps, respectively, applies only to the trailer.

S3.2.1.2 On truck tractors, the red rear reflex reflectors may be mounted on the back of the cab.

S3.2.1.3 The visibility provision for a backup lamp may be fulfilled by two or more lamps functioning as a system.

S3.2.1.4 On trailers, the amber front side reflex reflectors and amber front side-marker lamps may be located as far forward as practicable exclusive of the trailer tongue.

S3.3 *Lamp combinations and equipment combinations.* Two or more lamps, reflective devices, and items of associated equipment may be combined if the requirements for each lamp, reflective device, and item of associated equipment are met, except that—

(a) No turn-signal lamp may be combined optically with any lamp (other than a stop lamp) that produces more than one-fifth the light intensity of the turn-signal lamp at test points of H–V, H–5L, H–5R, and 5U–V, nor more than one-third the intensity at any other test point on or above the horizontal.

(b) No turn-signal lamp may be combined optically with a stop lamp unless the stop lamp is extinguished when the turn-signal is flashing; and

(c) No clearance lamp may be combined optically with any taillamp or identification lamp on multipurpose passenger vehicles, trucks, trailers, and buses, of 80 or more inches overall width.

S3.4 *Special wiring requirements.*

S3.4.1 A means for switching between lower and upper headlamp beams shall be provided in accordance with SAE Recommended Practice J564a, "Headlamp Beam Switching", April 1964, or with SAE Recommended Practice J565a, "Semiautomatic Headlamp Beam Switching Devices", April 1964.

S3.4.2 A means for indicating to the driver when the upper beams of headlamps are on shall be provided in accordance with SAE Recommended Practice J564a, April 1964, except that the signal color need not be red.

S3.4.3 As a minimum the taillamps shall be illuminated when the headlamps are illuminated, except when the headlamps are being flashed.

S3.4.4 Except as provided in S3.4.4.1 through S3.4.4.3, stoplamps shall be actuated upon application of any service or emergency brakes.

S3.4.4.1 Stoplamps need not be actuated upon application of the parking brake. If the emergency brake system is used also as a parking brake, the stoplamp need not be actuated when the vehicle is parked.

S3.4.4.2 Stoplamps on a towing vehicle need not be actuated upon application of brakes to the towed vehicle only.

S3.4.4.3 Stoplamps on a towed vehicle need not be actuated if the towed vehicle becomes separated from the towing vehicle.

S3.4.5 The vehicular hazard warning signal operating unit shall operate independently of the ignition or equivalent switch, and when energized, cause all turn-signal lamps to flash simultaneously.

S3.4.6 On all vehicles required to be equipped with a backup lamp by this standard, the backup lamp shall be illuminated when the ignition or equivalent switch is energized and reverse gear is engaged.

S3.4.7 Except on vehicles using variable load flashers, a means for indicating to the driver that the turn-signal system is energized shall be provided in accordance with SAE Standard J588d, "Turn-Signal Lamps", June 1966.

S3.5 *Lighting display.* When energized, each lamp specified in Tables I and III shall, in normal operation, be steady-burning except turn-signal lamps, which and hazard warning signal lamps, which shall flash. However, normally steady-burning lamps may be capable of being individually flashed for signaling purposes.

TABLE I—LOCATION OF EQUIPMENT

MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, TRAILERS, AND BUSES, OF 80 OR MORE INCHES OVERALL WIDTH

Item	Location on—			Height above road surface measured from center of lamp on vehicle at curb weight
	Multipurpose passenger vehicles, trucks (other than truck tractors), and buses	Trailers	Truck tractors	
Headlamps	Type 1 headlamps at the same height, 1 on each side of the vertical centerline. Type 2 headlamps at the same height, 1 on each side of the vertical centerline, as far apart as practicable.		Same as trucks and buses.	Not less than 24 inches, nor more than 54 inches.
Taillamps	On the rear, 1 on each side of the vertical centerline, at the same level, and as far apart as practicable.	On the rear, 1 on each side of the vertical centerline, at the same level, and as far apart as practicable.	On the rear, 1 on each side of the vertical centerline, at the same level, and as far apart as practicable.	Not less than 15 inches, nor more than 72 inches.
Stop lamps	On the rear, 1 on each side of the vertical centerline, at the same level, and as far apart as practicable.	On the rear, 1 on each side of the vertical centerline, at the same level, and as far apart as practicable.	On the rear, 1 on each side of the vertical centerline, at the same level, and as far apart as practicable.	Not less than 15 inches, nor more than 72 inches.
License plate lamp	At rear license plate.	At rear license plate.	At rear license plate.	
Reflex reflectors	2 red—on rear, 1 on each side of the vertical centerline, as far apart as practicable and as high as practicable. 2 red—on sides, 1 on each side as far aft as practicable. 2 amber—on sides, 1 on each side as far forward as practicable.	2 red—on rear, 1 on each side of the vertical centerline, as far apart as practicable and as high as practicable. 2 red—on sides, 1 on each side as far aft as practicable. 2 amber—on sides, 1 on each side as far forward as practicable.	2 red—on rear, 1 on each side of the vertical centerline, as far apart as practicable and as high as practicable. 2 amber—on sides, 1 on each side as far forward as practicable.	Not less than 15 inches, nor more than 60 inches.
Side-marker lamps	On each side: 1 red lamp as far to the rear as practicable and 1 amber lamp as far forward as practicable.	On each side: 1 red lamp as far to the rear as practicable and 1 amber lamp as far forward as practicable.	On each side: 1 amber lamp as far forward as practicable.	Not less than 15 inches.

See footnotes at end of table.

TABLE II—LOCATION OF EQUIPMENT

MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, TRAILERS, AND BUSES, OF 80 OR MORE INCHES OVERALL WIDTH

Item	Number and color in accordance with Society of Automotive Engineers Standard J578a, April 1965 required on—			In accordance with SAE standard or recommended practice
	Multipurpose passenger vehicles, trucks (other than truck tractors), and buses	Trailers	Truck tractors	
Headlamps	2 white, 7-inch, Type 1 headlamp units; or 2 white, 5¾-inch, Type 1 headlamp units and 2 white, 4½-inch, Type 2 headlamp units.		Same as trucks and buses.	J580b, June 1966, and J579a, August 1966.
Taillamps	2 red	2 red	2 red	J585c, June 1966.
Stop lamps	2 red or amber	2 red or amber	2 red or amber	J585c, June 1966.
License plate lamp	1 white	1 white	1 white	J587c, April 1964.
Reflex reflectors	4 Class A red; 2 Class A amber.	4 Class A red; 2 Class A amber.	2 Class A red (on rear); 2 Class A amber.	J594c, February 1965.
Side-marker lamps	2 red; 2 amber.	2 red; 2 amber.	2 amber.	J592c, April 1964.
Backup lamp	1 white	1 white	1 white	J593b, May 1966.
Turn-signal lamps	2 Class A red or amber; 2 Class A amber.	2 Class A red or amber.	2 Class A red or amber; 2 Class A amber.	J588d, June 1966.
Turn-signal operating unit	1		1	J589, April 1964.
Turn-signal flasher	1		1	
Vehicular hazard warning signal operating unit	1		1	J944, February 1966.
Vehicular hazard warning signal flasher	1		1	
Identification lamps	3 amber and 3 red	3 red	3 amber	J592c, April 1964.
Clearance lamps	3 amber and 3 red	3 amber and 3 red	3 amber	J592c, April 1964.
Intermediate side-marker lamps	2 amber	2 amber	2 Class A amber	J592c, April 1964.
Intermediate reflex reflectors	2 Class A amber	2 Class A amber		J946c, February 1966.

TABLE II—LOCATION OF EQUIPMENT

MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, TRAILERS, AND BUSES, OF 80 OR MORE INCHES OVERALL WIDTH—CON.

Item	Location on—			Height above road surface measured from center of item on vehicle at curb weight
	Multipurpose passenger vehicle, truck (other than truck tractor), and buses	Trailers	Truck tractors	
Intermediate side-marker lamp.	On each side: 1 amber lamp located at or near the midpoint between the front and rear side marker lamps.	On each side: 1 amber lamp located at or near the midpoint between the front and rear side marker lamps.	----------	Not less than 15 inches.
Intermediate side reflex reflectors.	On each side: 1 amber located at or near the midpoint between the forward and rear side reflex reflectors.	On each side: 1 amber located at or near the midpoint between the forward and rear side reflex reflectors.	----------	Not less than 15 inches nor more than 60 inches.

TABLE III—EQUIPMENT

PASSENGER CARS; MOTORCYCLES; AND MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, TRAILERS, AND BUSES, OF LESS THAN 80 INCHES OVERALL WIDTH

Item	Number and color in accordance with Society of Automotive Engineers Standard J578a, April 1965 required on—			In accordance with SAE standard or recommended practice
	Passenger cars, multipurpose passenger vehicles, trucks, and buses	Trailers	Motorcycles	
Headlamps	2 white, 7-inch, Type 1 headlamps, or 2 white, 5¾-inch, Type 1 headlamps and 2 white, 5¾-inch, Type 2 headlamp units.	----------	1 white	J584, April 1964.
Taillamps	2 red	----------	1 red	J585c, June 1965.
Stop lamps	2 red or amber	----------	1 red or amber	J586b, June 1964.
License plate lamp	1 white	----------	1 white	J587b, April 1964.
Parking lamps	2 amber	----------	----------	J592c, April 1964.
Reflex Reflectors	4 Class A red; 2 Class A amber.[1]	4 Class A red; 2 Class A amber.[1]	3 Class B red; 2 Class B amber.	J594c, February 1963.
Side-marker lamps	2 red; 2 amber[2]	2 red; 2 amber[2]	----------	J592b, April 1964.
Backup lamp	1 white	----------	----------	J593b, May 1964.
Turn-signal lamps	2 Class A red or amber; 2 Class A amber.[3]	2 Class A red or amber.	----------	J588d, June 1964.
Turn-signal operating unit.	1	----------	----------	J589, April 1964.
Turn-signal flasher	1	----------	----------	J590b, October 1965.

[1] See S3.1.1.5 and S3.1.1.6.
[2] See S3.1.1.6.
[3] See S3.1.1.7.

TABLE IV—EQUIPMENT LOCATION

PASSENGER CARS; MOTORCYCLES; AND MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, TRAILERS, AND BUSES, OF LESS THAN 80 INCHES OVERALL WIDTH

Item	Location on—		Height above road surface measured from center of item on vehicle at curb weight
	Passenger cars, multipurpose passenger vehicles, trucks, trailers, and buses	Motorcycles	
Col. 1	Col. 2	Col. 3	Col. 4
Headlamps	Type 1 headlamps at the same height, 1 on each side of the vertical centerline; Type 2 headlamps at the same height, 1 on each side of the vertical centerline, as far apart as practicable.	On front centerline, except that, if two lamps are used, they may be symmetrically disposed about the front centerline.	Not less than 24 inches, nor more than 54 inches.
Taillamps	On the rear, 1 on each side of the vertical centerline, at the same level, and as far apart as practicable.	On rear centerline except that, if two lamps are used, they may be symmetrically disposed about the rear centerline.	Not less than 15 inches, nor more than 72 inches.
Stop lamps	On the rear, 1 on each side of the vertical centerline, at the same level, and as far apart as practicable.	On rear centerline except that, if two lamps are used, they may be symmetrically disposed about the rear centerline.	Not less than 15 inches, nor more than 72 inches.
License plate lamp	At rear license plate	At rear license plate.	
Reflex reflectors	2 red—on rear, 1 on each side of the vertical centerline as far apart as practicable and at the same level.[1] 2 red—1 on each side as far aft as practicable.[2] 2 amber—1 on each side as far forward as practicable.[3]	1 red on rear centerline except that, if two reflectors are used on the rear, they may be symmetrically disposed about the centerline. 2 red—1 on each side, as far aft as practicable. 2 amber—1 on each side as far forward as practicable.	Not less than 15 inches nor more than 60 inches.
Backup lamp	On rear, so that the optical center of the lens surface is visible from any eye point elevation from 2 feet to 6 feet above the horizontal plane on which the vehicle is standing, and from any position in the area rearward of a vertical plane, perpendicular to the longitudinal axis of the vehicle 3 feet to the rear of the vehicle, and extending 3 feet beyond each side of the vehicle.	----------	
Turn-signal lamps[4]	At or near the front: 1 amber on each side of the vertical centerline, at the same level, and as far apart as practicable.[4] On rear: 1 red or amber on each side of the vertical centerline, at the same level, and as far apart as practicable.	----------	Not less than 15 inches.
Side-marker lamps	On each side: 1 red lamp as far to the rear as practicable and 1 amber lamp as far forward as practicable.[5]	----------	Not less than 15 inches.

[1] See S3.1.1.5.
[2] See S3.1.1.6.
[3] Front turn signal lamps not required for trailers.
[4] See S3.1.1.7.

[F.R. Doc. 67-14536; Filed, Dec. 15, 1967; 8:45 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

[T.D. 6941]

SUBCHAPTER A—INCOME TAX

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

SUBCHAPTER C—EMPLOYMENT TAXES

PART 31—EMPLOYMENT TAXES; APPLICABLE ON AND AFTER JANUARY 1, 1955

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

PART 46—REGULATIONS RELATING TO MISCELLANEOUS EXCISE TAXES PAYABLE BY RETURN

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

PART 49—FACILITIES AND SERVICES EXCISE TAXES

Deposit of Certain Taxes

On November 18, 1967, notice of proposed rule making with respect to the revision of rules for the deposit of certain income, employment and excise taxes with Government depositaries was published in the FEDERAL REGISTER (32 F.R. 15879). After consideration of all such revelant matter as was presented by interested persons, the amendments of the regulations (26 CFR Parts 1, 31, 46, 48, 49) so proposed are hereby adopted.

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

Approved: December 13, 1967.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

In order to revise the rules for the deposit of certain income, employment, and excise taxes, the following regulations are amended as follows:

PARAGRAPH 1. Paragraph (a)(1) of § 1.1461–3 is amended to read as follows:

§ 1.1461–3 Payment of withheld tax.

(a) *Payments of tax*—(1) *Quarterly payments.* Every withholding agent who, pursuant to chapter 3 of the Code, withholds tax during any calendar quarter beginning after December 31, 1966, shall, to the extent such amounts have not been deposited pursuant to § 1.6302–2 with a Federal Reserve bank or an authorized commercial bank, pay such withheld tax to the Director of International Operations, Internal Revenue Service, Washington, D.C. 20225, on or before the last day of the first calendar month following the close of the calendar quarter. Any amounts required to be paid to the Director of International Operations pursuant to this subparagraph shall be made with quarterly transmittal Form 4277, even though the withholding agent

has made no deposits pursuant to paragraph (a) of § 1.6302–3 and has no validated depositary receipts to accompany that transmittal form.

* * * * *

PAR. 2. Paragraph (a) of § 1.6302–1 is amended to read as follows:

§ 1.6302–1 Use of Government depositaries in connection with corporation income and estimated income taxes.

(a) *Requirement.* For taxable years ending on or after December 31, 1967, a corporation (other than a nonresident foreign corporation and, for taxable years ending before December 31, 1968, other than a resident foreign corporation) shall deposit with a Federal Reserve bank all payments of tax imposed by Chapter 1 of the Code (including any payments of estimated tax) on or before the date otherwise prescribed for paying such tax.

* * * * *

PAR. 3. Section 1.6302–2 is amended by revising subparagraphs (1) and (2) of paragraph (a) and by revising paragraphs (b), (c), and (g) to read as follows:

§ 1.6302–2 Use of Government depositaries for payment of tax withheld on nonresident aliens and foreign corporations.

(a) *Time for making deposits.*—(1) *Monthly deposits.* Except as provided in subparagraph (2) of this paragraph, every withholding agent who, pursuant to chapter 3 of the Code, withholds during any calendar month other than the last month of a calendar quarter more than $100 in the aggregate shall deposit such aggregate amount with a Federal Reserve bank within 15 days after the close of such calendar month, and who so withholds during the last calendar month of any calendar quarter occurring in a year after 1967 more than $100 in the aggregate shall so deposit such aggregate amount on or before the last day of the first calendar month following the close of the calendar quarter.

(2) *Semimonthly deposits.* Every withholding agent, who, pursuant to chapter 3 of the Code, withholds during any calendar month of a calendar quarter more than $2,500 in the aggregate shall deposit any tax, which is required to be withheld under such chapter during any semimonthly period of the next succeeding calendar quarter, in a Federal Reserve bank within 3 banking days after the close of the semimonthly period during which the amounts to which such withholding relates are paid. For purposes of this subparagraph, the term "semimonthly period" means the first 15 days of a calendar month or the part of a calendar month following the 15th day of such month. A withholding agent will be considered to have complied with the deposit requirements of this subparagraph in respect of any semimonthly period if (i) his deposit for such semimonthly period is made within the time otherwise prescribed, (ii) is not less than 90 percent of the aggregate amount of the tax required to be withheld under chapter 3 of the Code during such semimonthly period, and (iii), if such semimonthly period occurs in a calendar month other than the last month in a calendar quarter, he deposits, within 3 banking days after the 15th day of the month following such calendar month, the balance of any amount withheld during such calendar month and not previously deposited, or if such semimonthly period occurs in the last calendar month in a calendar quarter occurring in a year after 1967, he deposits, on or before the last day of the first calendar month following the close of the calendar quarter, the balance of any amount withheld during such calendar month and not previously deposited. In a case where an adjustment in the amount of a deposit for a semimonthly period is allowed pursuant to paragraph (b) of § 1.1461–4, the 90-percent requirement of subdivision (ii) of this subparagraph will be considered met if the deposit for such period is not less than 90 percent of the aggregate amount of tax required to be withheld during such semimonthly period (determined without regard to such adjustment), reduced by the amount of such adjustment. See paragraph (b) of § 1.1461–4 and example (2) thereunder. For determining the amount of tax required to be withheld under chapter 3 of the Code where there has been a reimbursement of overwithheld tax, see paragraph (a) (2) of § 1.1461–4.

* * * * *

(b) *Depositary forms.*—(1) *Remittances.*—(i) *Deposits for 1967.* Each remittance of amounts required to be deposited by paragraph (a) of this section for 1967 only, shall be accompanied by a Federal Depositary Receipt (Form 450) which shall be prepared in accordance with the instructions applicable thereto. The withholding agent shall forward such remittance, together with such depositary receipt, to a Federal Reserve bank or, at his election to a commercial bank authorized in accordance with Treasury Department Circular No. 848, 31 CFR Part 213, to accept remittances of the taxes for transmission to a Federal Reserve bank. After the Federal Reserve bank has validated the depositary receipt, such depositary receipt will be returned to the withholding agent. For purposes of this subparagraph Form 450 and Treasury Department Circular No. 848 shall be deemed to apply to the tax required to be withheld under chapter 3 of the Code.

(ii) *Deposits for 1968 and subsequent years.* Each remittance of amounts required to be deposited by paragraph (a) of this section for years subsequent to 1967 shall be accompanied by a Federal Tax Deposit, Tax Withheld at Source on Nonresident Aliens, Foreign Corporations, Tax-Free Covenant Bonds, form (Form 512) which shall be prepared in accordance with the instructions applicable thereto. The remittance, together with Form 512, shall be forwarded to a Federal Reserve bank, or at the election of the withholding agent to a commercial bank authorised in accordance with Treasury Department Circular No. 1079, 31 CFR Part 214, to accept remittances of the tax for transmission to a Federal Reserve bank. The timeliness of the deposit will be determined by the date of receipt by a Federal Reserve bank or by the authorized commercial bank, whichever is earlier. Each withholding agent making deposits pursuant to this section shall report on the return for the period with respect to which such deposits are made information regarding such deposits in accordance with the instructions applicable to such return.

(2) *Quarterly transmission of depositary receipts for 1967.* For deposits for the year 1967 only, every withholding agent making deposits pursuant to subparagraph (1) (i) of this paragraph shall forward the validated depositary receipts (Form 450) to the Director of International Operations, Internal Revenue Service, Washington, D.C. 20225, on or before the last day of the first calendar month following the close of the calendar quarter during which the tax was withheld to which such receipts apply. The depositary receipts shall be forwarded with quarterly transmittal Form 4277, which shall be prepared in accordance with the instructions applicable thereto and shall identify the withholding agent for whose account such transmittal form is made. In order to secure a proper crediting of deposits or payments of tax for the account of a withholding agent against the tax liability of such withholding agent, the identification of the withholding agent on the quarterly transmittal Form 4277 must conform to the identification of the withholding agent on the annual return of tax on Form 1042 required by paragraph (b) of § 1.1461–2.

(3) *Voluntary deposits.* An amount of tax which is not required to be deposited may nevertheless be deposited if the withholding agent so desires. If such a voluntary deposit is made for 1967, the withholding agent shall make it in ample time to enable the Federal Reserve bank to return the validated receipt to the withholding agent so that it can be transmitted to the Internal Revenue Service in accordance with subparagraph (2) of this paragraph.

(4) *Separation of deposits.* A deposit required by paragraph (a) of this section for any period occurring in one calendar year shall be made separately from any deposit for any period occurring in another calendar year. In addition, a deposit required to be made by paragraph (a) of this section shall be made separately from a deposit required by any other section.

(5) *Multiple remittances.* A withholding agent may make one, or more than one, remittance of the amount required to be deposited if each remittance is accompanied by the applicable deposit form.

(6) *Time deemed paid.* In general, amounts deposited under this section shall be considered as paid on the last day prescribed for filing the return (Form 1042) in respect of such tax (determined without regard to any extension of time for filing such return), or at the time deposited, whichever is later. For purposes of section 6511 and the regulations thereunder, relating to period of limitation on credit or refund, if an amount is so deposited prior to April 15th of a calendar year immediately succeeding the calendar year in which occurs the period for which such amount was so deposited, such amount shall be considered as paid on such April 15th.

(c) *Procurement of prescribed forms.* Copies of the applicable deposit form will so far as possible be furnished withholding agents. A withholding agent will not be excused from making a deposit, however, by the fact that no form has been furnished to it. A withholding agent not supplied with the proper form should make application therefor in ample time to make the required deposits within the time prescribed. The withholding agent may secure the form or additional forms by applying therefor and supplying its name, identification number, address, and the taxable period to which the deposits will relate. Copies of Form 450, for deposits for 1967 only, may be secured by application to the district director or to a Federal Reserve bank. The address of the withholding agent as entered on such form should be the address to which the receipt should be returned following validation by the Federal Reserve bank. Copies of Form 512, for deposits only for years subsequent to 1967, may be secured by application therefor to the district director or director of a service center.

* * * * *

(g) *Effective date.* Except as otherwise provided, this section shall apply to tax required to be withheld under chapter 3 of the Code after 1966.

PAR. 4. Paragraph (a) (1) of § 31.6071 (a)–1 is amended to read as follows:

§ 31.6071(a)–1 Time for filing returns and other documents.

(a) *Federal Insurance Contributions Act and income tax withheld from wages.*—(1) *Quarterly or annual returns.* Except as provided in subparagraph (4) of this paragraph each return required to be made under § 31.6011(a)–1, in respect of the taxes imposed by the Federal Insurance Contributions Act, or required to be made under § 31.6011(a)–4, in respect of income tax withheld, shall be filed on or before the last day of the first calendar month following the period for which it is made. However, a return may be filed on or before the 10th day of the second calendar month following such period if timely deposits under section 6302(c) of the Code and the regulations thereunder have been made in full payment of such taxes due for the period. For the purpose of the preceding sentence, a deposit which is not required by such regulations in respect of the return period may be made on or before the last day of the first calendar month following the close of such period, and the timeliness of any deposit will be determined by the earliest date stamped on the applicable deposit form by an authorized commercial bank or by a Federal Reserve bank.

* * * * *

PAR. 5. Paragraph (a) of § 31.6302(c)–1 is amended by revising subparagraphs (3) and (4) thereof to read as follows:

§ 31.6302(c)–1 Use of Government depositaries in connection with taxes under Federal Insurance Contributions Act and income tax withheld.

(a) *Requirement.* * * *

(3) *Depositary forms.*—(i) *In general.* A deposit required to be made by an employer under subparagraph (1) of this paragraph shall be made separately from any deposit required to be made by him under subparagraph (2) of this paragraph. Similarly, a deposit required to be made by this section shall be made separately from a deposit required by any other section. An employer may make one, or more than one, remittance of the amount required to be deposited. However, a deposit for a period in one calendar quarter shall be made separately from any deposit for a period in another calendar quarter. An amount of tax which is not required to be deposited may nevertheless be deposited if the employer so desires.

(ii) *Deposits for 1967 and prior years.* Each remittance of amounts required to be deposited for periods prior to 1968 shall be accompanied by a Federal Depositary Receipt (Form 450) which shall be prepared in accordance with the instructions applicable thereto. The employer shall forward such remittance, together with such depositary receipt, to a Federal Reserve bank or, at his election, to a commercial bank authorized in accordance with Treasury Department Circular No. 848, 31 CFR Part 213, to accept remittances of the taxes for transmission to a Federal Reserve bank. After the Federal Reserve bank has validated the depositary receipt, such depositary receipt will be returned to the employer. Every employer making deposits pursuant to this section shall attach to his return for the period with respect to which such deposits are made, in part or in full payment of the taxes shown thereon, depositary receipts so validated, and shall pay the balance, if any, of the taxes due for such period. If a voluntary deposit for a period prior to 1968 is made, the employer shall make it in ample time to enable the Federal Reserve bank to return the validated receipt to the employer so that it can be attached to and filed with the employer's return.

(iii) *Deposits for 1968 and subsequent years.* Each remittance of amounts required to be deposited under subparagraph (1) of this paragraph for periods subsequent to 1967 shall be accompanied by a Federal Tax Deposit, Withheld Income and FICA Taxes, form (Form 501). Each remittance of amounts required to be deposited under subparagraph (2) of this paragraph for years subsequent to 1967 shall be accompanied by a Federal Tax Deposit, FICA Taxes (Employer and Employee Taxes) for Agricultural Workers, form (Form 511). Such forms shall be prepared in accordance with the instructions applicable thereto. The remittance, together with Form 501, or Form 511, as the case may be, shall be forwarded to a Federal Reserve bank or, at the election of the employer, to a commercial bank authorized in accordance with Treasury Department Circular No. 1079, 31 CFR Part 214, to accept remittances of the taxes for transmission to a Federal Reserve bank. The timeliness of the deposit will be determined by the date of receipt by a Federal Reserve bank or by the authorized commercial bank, whichever is earlier. Each employer making deposits pursuant to this section shall report on the return for the period with respect to which such deposits are made information regarding such deposits in accordance with the instructions applicable to such return and pay therewith (or deposit by the due date of such return) the balance, if any, of the taxes due for such period.

(iv) *Time deemed paid.* In general, amounts deposited under subdivision (iii) of this subparagraph shall be considered as paid on the last day prescribed for filing the return in respect of such tax (determined without regard to any extension of time for filing such return), or at the time deposited, whichever is later. For purposes of section 6511 and the regulations thereunder, relating to period of limitation on credit or refund, if an amount is so deposited prior to April 15th of a calendar year immediately succeeding the calendar year which contains the period for which such amount was so deposited, such amount shall be considered as paid on such April 15th.

(4) *Procurement of prescribed forms.* Copies of the applicable deposit form will so far as possible be furnished employers. An employer will not be excused from making a deposit, however, by the fact that no form has been furnished to it. An employer not supplied with the proper form should make application therefor in ample time to make the required deposits within the time prescribed. The employer may secure the form or additional forms by applying therefor and supplying his name, identification number, address, and the taxable period to which the deposits will relate. Copies of Form 450 for deposits for periods prior to 1968 may be secured by application to the district director or to a Federal Reserve bank. The address of the employer as entered on such form should be the address to which the receipt should be returned following validation by the Federal Reserve bank. Copies of Form 501 and Form 511 for deposits for periods subsequent to 1967 may be secured by application therefor to the district director or director of a service center.

* * * * *

PAR. 6. Section 31.6302(c)–2 is amended by revising paragraphs (b) and (c) thereof to read as follows:

§ 31.6302(c)–2 Use of Government depositaries in connection with employee and employer taxes under Railroad Retirement Tax Act.

* * * * *

(b) *Depositary forms.*—(1) *In general.* A deposit required to be made by this section shall be made separately from a deposit required by any other section. An

employer may make one, or more than one remittance of the amount required to be deposited. An amount of tax which is not required to be deposited may nevertheless be deposited if the employer so desires. If the aggregate amount of the taxes deposited is in excess of the taxes shown on the return, a credit or refund may be obtained; and in the event the excess is applied as a credit against such taxes for a subsequent return period, the employer shall reduce the amount of one or more of the deposits otherwise required for such subsequent return period by the amount of such credit.

(2) *Deposits for 1967 and prior years.* Each remittance of amounts required to be deposited for periods prior to 1968 shall be accompanied by a Railroad Retirement Depositary Receipt (Form 515) which shall be prepared in accordance with the instructions applicable thereto. The employer shall forward such remittance, together with such depositary receipt, to a Federal Reserve bank or, at his election, to a commercial bank authorized in accordance with Treasury Department Circular No. 848, 31 CFR Part 213, to accept remittances of the taxes for transmission to a Federal Reserve bank. After the Federal Reserve bank has validated the depositary receipt, such depositary receipt will be returned to the employer. Every employer making deposits pursuant to this section shall attach to his return for the period with respect to which such deposits are made, in part or in full payment of the taxes shown thereon, depositary receipts so validated, and shall pay the balance, if any, of the taxes due for such period. If a voluntary deposit for a period prior to 1968 is made, the employer shall make it in ample time to enable the Federal Reserve bank to return the validated receipt to the employer so that it can be attached to and filed with the employer's return.

(3) *Deposits for 1968 and subsequent years.* Each remittance of amounts required to be deposited for periods subsequent to 1967 shall be accompanied by a Federal Tax Deposit, Railroad Retirement Taxes, form (Form 507) which shall be prepared in accordance with the instructions applicable thereto. The remittance, together with Form 507, shall be forwarded to a Federal Reserve bank or, at the election of the employer, to a commercial bank authorized in accordance with Treasury Department Circular No. 1079, 31 CFR Part 214, to accept remittances of the taxes for transmission to a Federal Reserve bank. The timeliness of the deposit will be determined by the date of receipt by a Federal Reserve bank or by the authorized commercial bank, whichever is earlier. Each employer making deposits pursuant to this section shall report on the return for the period with respect to which such deposits are made information regarding such deposits in accordance with the instructions applicable to such return and pay therewith (or deposit by the due date of such return) the balance, if any, of the taxes due for such period.

(4) *Time deemed paid.* In general, amounts deposited under subparagraph (3) of this paragraph shall be considered as paid on the last day prescribed for filing the return in respect of such tax (determined without regard to any extension of time for filing such return), or at the time deposited, whichever is later. For purposes of section 6511 and the regulations thereunder, relating to period of limitation on credit or refund, if an amount is so deposited prior to April 15th of a calendar year immediately succeeding the calendar year in which occurs the period for which such amount was so deposited, such amount shall be considered as paid on such April 15th.

(c) *Procurement of prescribed forms.* Copies of the applicable deposit form will so far as possible be furnished employers. An employer will not be excused from making a deposit, however, by the fact that no form has been furnished to it. An employer not supplied with the proper form should make application therefor in ample time to make the required deposits within the time prescribed. The employer may secure the form or additional forms by applying therefor and supplying his name, identification number, address and the taxable period to which the deposits will relate. Copies of Form 515 for periods prior to 1968 may be secured by application to the district director or to a Federal Reserve bank. The address of the employer as entered on such form should be the address to which the receipt should be returned following validation by the Federal Reserve bank. Copies of Form 507 for periods subsequent to 1967 may be secured by application therefor to the district director or director of a service center.

PAR. 7. Paragraph (a) of § 46.6071(a)–1 is amended to read as follows:

§ 46.6071(a)–1 Time for filing returns.

(a) *Quarterly returns.* Each return required to be made under paragraph (a) of § 46.6011(a)–1 for a return period of not less than one calendar quarter shall be filed on or before the last day of the first calendar month following the period for which it is made. However, a return may be filed on or before the 10th day of the second calendar month following such period if timely deposits under section 6302(c) of the Code and the regulations thereunder have been made in full payment of such taxes due for the period. For the purpose of the preceding sentence, a deposit which is not required by such regulations in respect of the return period may be made on or before the last day of the first calendar month following the close of such period, and the timeliness of any deposit will be determined by the earliest date stamped on the applicable deposit form by an authorized commercial bank or by a Federal Reserve bank.

* * * * *

PAR. 8. Section 46.6302(c)–1 is amended by deleting subparagraph (2) of paragraph (a), revising paragraph (c) and by adding at the end thereof a new paragraph (d). The revised and added paragraphs read as follows:

§ 46.6302(c)–1 Use of Government depositaries.

* * * * *

(c) *Depositary forms—(1) In general.* A person required to make deposits by paragraph (a) of this section may make one, or more than one, remittance of the amount required to be deposited. An amount of such tax which is not required to be deposited may nevertheless be deposited if the person liable for the tax so desires.

(2) *Deposits for 1967 and prior years.* Each remittance of amounts required to be deposited for periods prior to 1968 shall be accompanied by a Depositary Receipt for Federal Excise Taxes (Form 537) which shall be prepared in accordance with the instructions applicable thereto. The person so required to deposit shall forward such remittance, together with such depositary receipt, to a Federal Reserve bank or, at his election, to a commercial bank authorized in accordance with Treasury Department Circular No. 848, 31 CFR Part 213, to accept remittances of the taxes for transmission to a Federal Reserve bank. After the Federal Reserve bank has validated the depositary receipt, such depositary receipt will be returned to the person. Every person making deposits pursuant to this section shall attach to his return for the period with respect to which such deposits are made, in part or in full payment of the taxes shown thereon, depositary receipts so validated, and shall pay the balance, if any, of the taxes due for such period. If a voluntary deposit for a period prior to 1968 is made, the person liable for the tax shall make it in ample time to enable the Federal Reserve bank to return the validated receipt to the person so that it can be attached to and filed with the person's return.

(3) *Deposits for 1968 and subsequent years.* Each remittance of amounts required to be deposited for periods subsequent to 1967 shall be accompanied by a Federal Tax Deposit, Excise Taxes, form (Form 504) which shall be prepared in accordance with the instructions applicable thereto. The remittance, together with Form 504, shall be forwarded to a Federal Reserve bank or, at the election of the person making the remittance, forwarded to a commercial bank authorized in accordance with Treasury Department Circular No. 1079, 31 CFR Part 214, to accept remittances of the taxes for transmission to a Federal Reserve bank. The timeliness of the date of receipt by a Federal Reserve bank or by the authorized commercial bank, whichever is earlier. Each person making deposits pursuant to this section shall report on the return for the period with respect to which such deposits are made information regarding such deposits in accordance with the instructions applicable to such return and pay therewith (or deposit by the due date of such return) the balance, if any, of the taxes due for such period.

(4) *Time deemed paid.* Amounts deposited under subparagraph (3) of this paragraph shall be considered as paid

on the last day prescribed for filing the return in respect of such tax (determined without regard to any extension of time for filing such return), or at the time deposited, whichever is later.

(d) *Procurement of prescribed forms.* Copies of the applicable deposit form will so far as possible be furnished persons required to deposit. Such a person will not be excused from making a deposit, however, by the fact that no form has been furnished to him. A person not supplied with the proper form should make application therefor in ample time to make the required deposits within the time prescribed. The person may secure the forms or additional forms by applying therefor and supplying his name, identification number, address, and the taxable period to which the deposits will relate. Copies of Form 537 for deposits for periods prior to 1968 may be secured by application to the district director or to a Federal Reserve bank. The address of the person as entered on such form should be the address to which the receipt should be returned following validation by the Federal Reserve bank. Copies of Form 504 for deposits for periods subsequent to 1967 may be secured by application therefor to the district director or director of a service center.

PAR. 9. Paragraph (a) of § 48.6071(a)–1 is amended to read as follows:

§ 48.6071(a)–1 Time for filing returns.

(a) *Quarterly returns.* Each return required to be made under paragraph (a) of § 48.6011(a)–1 for a return period of not less than one calendar quarter shall be filed on or before the last day of the first calendar month following the period for which it is made. However, a return may be filed on or before the 10th day of the second calendar month following such period if timely deposits under section 6302(c) of the Code and the regulations thereunder have been made in full payment of such taxes due for the period. For the purpose of the preceding sentence, a deposit which is not required by such regulations in respect of the return period may be made on or before the last day of the first calendar month following the close of such period, and the timeliness of any deposit will be determined by the earliest date stamped on the applicable deposit form by an authorized commercial bank or by a Federal Reserve bank.

* * * * *

PAR. 10. Section 48.6302(c)–1 is amended by deleting subparagraph (2) of paragraph (a), revising paragraph (c) and adding at the end thereof a new paragraph (d). The revised and added paragraphs read as follows:

§ 48.6302(c)–1 Use of Government depositaries.

* * * * *

(c) *Depositary forms—(1) In general.* A person required to make deposits by paragraph (a) of this section may make one, or more than one, remittance of the amount required to be deposited. An amount of such tax which is not required to be deposited may nevertheless be deposited if the person liable for the tax so desires.

(2) *Deposits for 1967 and prior years.* Each remittance of amounts required to be deposited for periods prior to 1968 shall be accompanied by a Depositary Receipt for Federal Excise Taxes (Form 537) which shall be prepared in accordance with the instructions applicable thereto. The person so required to deposit shall forward such remittance, together with such depositary receipt, to a Federal Reserve bank or, at his election, to a commercial bank authorized in accordance with Treasury Department Circular No. 848, 31 CFR Part 213, to accept remittances of the taxes for transmission to a Federal Reserve bank. After the Federal Reserve bank has validated the depositary receipt, such depositary receipt will be returned to the person. Every person making deposits pursuant to this section shall attach to his return for the period with respect to which such deposits are made, in part or in full payment of the taxes shown thereon, depositary receipts so validated, and shall pay the balance, if any, of the taxes due for such period. If a voluntary deposit for a period prior to 1968 is made, the person liable for the tax shall make it in ample time to enable the Federal Reserve bank to return the validated receipt to the person so that it can be attached to and filed with the person's return.

(3) *Deposits for 1968 and subsequent years.* Each remittance of amounts required to be deposited for periods subsequent to 1967 shall be accompanied by a Federal Tax Deposit, Excise Taxes, form (Form 504) which shall be prepared in accordance with the instructions applicable thereto. The remittance, together with Form 504, shall be forwarded to a Federal Reserve bank or, at the election of the person making the remittance, to a commercial bank authorized in accordance with Treasury Department Circular No. 1079, 31 CFR Part 214, to accept remittances of the taxes for transmission to a Federal Reserve bank. The timeliness of the deposit will be determined by the date of receipt by a Federal Reserve bank or by the authorized commercial bank, whichever is earlier. Each person making deposits pursuant to this section shall report on the return for the period with respect to which such deposits are made information regarding such deposits in accordance with the instructions applicable to such return and pay therewith (or deposit by the due date of such return) the balance, if any, of the taxes due for such period.

(4) *Time deemed paid.* Amounts deposited under subparagraph (3) of this paragraph shall be considered as paid on the last day prescribed for filing the return in respect of such tax (determined without regard to any extension of time for filing such return), or at the time deposited, whichever is later.

(d) *Procurement of prescribed forms.* Copies of the applicable deposit form will so far as possible be furnished persons required to deposit. Such a person will not be excused from making a deposit, however, by the fact that no form has been furnished to him. A person not supplied with the proper form should make application therefor in ample time to make the required deposits within the time prescribed. The person may secure the form or additional forms by applying therefor and supplying his name, identification number, address and the taxable period to which the deposits will relate. Copies of Form 537 for deposits for periods prior to 1968 may be secured by application to the district director or to a Federal Reserve bank. The address of the person as entered on such form should be the address to which the receipt should be returned following validation by the Federal Reserve bank. Copies of Form 504 for deposits for periods subsequent to 1967 may be secured by application therefor to the district director or director of a service center.

PAR. 11. Section 49.6302(c)–1 is amended by deleting subparagraph (2) of paragraph (a), and revising paragraph (c). The revised paragraph (c) reads as follows:

§ 49.6302(c)–1 Use of Government depositaries.

* * * * *

(c) *Depositary forms—(1) In general.* A person required to make deposits by paragraph (a) of this section may make one, or more than one, remittance of the amount required to be deposited. An amount of such tax which is not required to be deposited may nevertheless be deposited if the person liable for the tax so desires.

(2) *Deposits for 1967 and prior years.* Each remittance of amounts required to be deposited for periods prior to 1968 shall be accompanied by a Depositary Receipt for Federal Excise Taxes (Form 537) which shall be prepared in accordance with the instructions applicable thereto. The person so required to deposit shall forward such remittance, together with such depositary receipt, to a Federal Reserve bank or, at his election, to a commercial bank authorized in accordance with Treasury Department Circular No. 848, 31 CFR Part 213, to accept remittances of the taxes for transmission to a Federal Reserve bank. After the Federal Reserve bank has validated the depositary receipt, such depositary receipt will be returned to the person. Every person making deposits pursuant to this section shall attach to his return for the period with respect to which such deposits are made, in part or in full payment of the taxes shown thereon, depositary receipts so validated, and shall pay the balance, if any, of the taxes due for such period. If a voluntary deposit for a period prior to 1968 is made, the person liable for the tax shall make it in ample time to enable the Federal Reserve bank to return the validated receipt to the person so that it can be attached to and filed with the person's return.

(3) *Deposits for 1968 and subsequent years.* Each remittance of amounts required to be deposited for periods subsequent to 1967 shall be accompanied by a Federal Tax Deposit, Excise Taxes, form (Form 504) which shall be prepared in

accordance with the instructions applicable thereto. The remittance, together with Form 504, shall be forwarded to a Federal Reserve bank or, at the election of the person making the remittance to a commercial bank authorized in accordance with Treasury Department Circular No. 1079, 31 CFR Part 214, to accept remittances of the taxes for transmission to a Federal Reserve bank. The timeliness of the deposit will be determined by the date of receipt by a Federal Reserve bank or by the authorized commercial bank, whichever is earlier. Each person making deposits pursuant to this section shall report on the return for the period with respect to which such deposits are made information regarding such deposits in accordance with the instructions applicable to such return and pay therewith (or deposit by the due date of such return) the balance, if any, of the taxes due for such period.

(4) *Time deemed paid.* Amounts deposited under subparagraph (3) of this paragraph shall be considered as paid on the last day prescribed for filing the return in respect of such tax (determined without regard to any extension of time for filing such return), or at the time deposited, whichever is later.

(5) *Procurement of prescribed forms.* Copies of the applicable deposit form will so far as possible be furnished persons required to deposit. Such a person will not be excused from making a deposit, however, by the fact that no form has been furnished to him. A person not supplied with the proper form should make application therefor in ample time to make the required deposits within the time prescribed. The person may secure the form or additional forms by applying therefor and supplying his name, identification number, address and the taxable period to which the deposits will relate. Copies of Form 537 for deposits for periods prior to 1968 may be secured by application to the district director or to a Federal Reserve bank. The address of the person as entered on such form should be the address to which the receipt should be returned following validation by the Federal Reserve bank. Copies of Form 504 for deposits for periods subsequent to 1967 may be secured by application therefor to the district director or director of a service center.

[F.R. Doc. 67-14666; Filed, Dec. 15, 1967; 8:49 a.m.]

Title 31—MONEY AND FINANCE: TREASURY

Chapter II—Fiscal Service, Department of the Treasury

SUBCHAPTER A—BUREAU OF ACCOUNTS

[Dept. Circular 1079 [1st Revision]]

PART 214—DEPOSITARIES FOR FEDERAL TAXES

Part 214, Subchapter A, Chapter II of Title 31 of the Code of Federal Regulations (also appearing as Treasury Department Circular No. 1079, dated Mar. 3, 1967) is hereby revised effective January 1, 1968,[1] to read as follows:

Sec.
214.1 Scope of regulations.
214.2 Definitions.
214.3 Particular locations.
214.4 Designation of depositaries for Federal taxes.
214.5 Qualification.
214.6 Handling of deposits of Federal taxes.
214.7 Specific instructions.

AUTHORITY: The provisions of this Part 214 issued under sec. 10, 56 Stat. 356, as amended (12 U.S.C. 265); sec. 15, 38 Stat. 265 (12 U.S.C. 391); sec. 3, 40 Stat. 291, as amended (31 U.S.C. 771); and sec. 6302(c), Internal Revenue Code of 1954, as amended.

§ 214.1 Scope of regulations.

The regulations in this part govern the designation and qualification of Depositaries for Federal Taxes and the handling by them of deposits of Federal taxes.

§ 214.2 Definitions.

As used in this part, the term:

"Depositary" means a Depositary for Federal taxes.

"Federal taxes" means those Federal taxes which have been specified by the Secretary of the Treasury or his delegate as eligible for payment through the procedure prescribed by this part.

"Federal tax deposit form" means a form, preinscribed with the name, address, and identification number of the taxpayer, supplied to a taxpayer by the Treasury Department to accompany deposits of Federal taxes made under the procedure prescribed by this part.

§ 214.3 Particular locations.

For the purposes of this part, depositaries located in Puerto Rico, the Virgin Islands, and the Panama Canal Zone will be considered as being located in the New York Federal Reserve district and those located in Guam and American Samoa will be considered as being located in the San Francisco Federal Reserve district.

§ 214.4 Designation of depositaries for Federal taxes.

Every incorporated bank and trust company in the United States; Puerto Rico, the Virgin Islands, the Panama Canal Zone, Guam, and American Samoa, and every United States branch of a foreign banking corporation authorized by the State in which it is located to transact commercial banking business, is designated as a Depositary for Federal Taxes.

§ 214.5 Qualification.

(a) *Authorization.* A depositary is not authorized to act under its designation and the procedure prescribed by this part until it has been qualified.

(b) *Application.* To qualify a depositary must file with the Federal Reserve Bank of its district an application accompanied by a resolution of its board of directors authorizing the application, both on forms available from the Federal Reserve Bank.

(c) *Agreement.* Receipt by a depositary of notice of approval of its application by the Federal Reserve Bank completes the depositary's qualification and creates an agreement between it and the Treasury Department under which the depositary agrees to be bound by all the terms and provisions of this part and the provisions prescribed in section 202 of Executive Order 11246, entitled "Equal Employment Opportunity" (30 F.R. 12319).

(d) *Existing agreements.* Existing agreements between depositaries and the Treasury Department shall continue in effect without further action until terminated. A depositary which accepts a deposit of Federal taxes under an existing agreement thereby agrees to be bound by all the terms and provisions of this part and the provisions prescribed in section 202 of Executive Order 11246, entitled "Equal Employment Opportunity" (30 F.R. 12319).

(e) *Termination of agreement.* The Secretary of the Treasury may terminate at any time the agreement with any depositary. Failure upon the part of a depositary to comply with the terms of its agreement, or with instructions issued pursuant to this part, may, in the discretion of the Secretary of the Treasury, constitute grounds for the termination of the agreement. A depositary may terminate its agreement by notice, in writing, to the Federal Reserve Bank of its district.

§ 214.6 Handling of deposits of Federal taxes.

(a) *Deposits with depositaries.* A depositary shall, through any of its offices that accept demand or time deposits:

(1) Accept from a taxpayer cash, a postal money order drawn to the order of the depositary, or a check or draft drawn on and to the order of the depositary, which shall be without risk to the depositary, covering an amount to be deposited as Federal taxes when accompanied by a Federal tax deposit form on which the amount of the deposit has been properly entered in the space provided.

(2) When requested to do so by a taxpayer who makes a deposit of Federal taxes in cash over the counter, issue a counter receipt, which may be accomplished by completing and returning to the taxpayer the stub portion of the Federal tax deposit form.

(3) Place, in the space provided on the face of each Federal tax deposit form, a stamp impression reflecting the date on which the tax deposit was received by the depositary, by reference to which the timeliness of the tax payment will be determined, and the name and location of the depositary.

(4) Forward each day to the Federal Reserve Bank of its district the Federal tax deposit forms, with stubs detached, for all tax deposits received that day, together with payment in funds immediately available at the Federal Reserve Bank, or with advice that the amount has been credited in the Treasury Tax and Loan Account into which the depositary is authorized to credit funds representing the payment of taxes pursuant to its designation as a Special Depositary of Public Money under the provisions of Part 203 of this subchapter. Each transmittal shall be accompanied by a transmittal letter in the form prescribed by the Federal Reserve Bank of the district.

(5) Establish, prior to transmittal to the Federal Reserve Bank, an adequate record of all deposits of Federal taxes so that it will be able to identify deposits in the event tax deposit forms are lost in shipment between it and the Federal Reserve Bank. For this purpose a record must be made of each deposit, showing as a minimum the date of deposit, the taxpayer's identifying number, and the amount of deposit. The depositary's copies of transmittal letters may be used to provide the necessary information if individual deposits are listed separately showing date, taxpayer's identifying number, and amount.

(6) Not accept compensation from taxpayers for accepting deposits of Federal taxes and handling them as required by this section.

(b) *Deposits with Federal Reserve Banks.* A Federal Reserve Bank shall, through any of its offices:

(1) Accept directly from a taxpayer cash, a check or money order drawn to the order of the Bank, or Treasury bills as authorized in Part 309 of this chapter, covering an amount to be deposited as Federal taxes when accompanied by a Federal tax deposit form on which the amount of the deposit has been properly entered in the space provided.

(2) When requested to do so by a taxpayer who makes a deposit of Federal taxes in cash over the counter, issue a counter receipt, which may be accomplished by completing and returning to the taxpayer the stub portion of the Federal tax deposit form.

(3) Place, in the space provided on the face of each Federal tax deposit form accepted directly from a taxpayer, a stamp impression reflecting the date on which the tax deposit was received by the Bank, by reference to which the timeliness of the tax payment will be determined, and the name of the Bank.

§ 214.7 Specific instructions.

Federal Reserve Banks are authorized to issue instructions consistent with these regulations for carrying out the requirements of this part.

Dated: December 13, 1967.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[F.R. Doc. 67-14678; Filed, Dec. 15, 1967; 8:49 a.m.]

[1] The procedure prescribed by this part will supersede the procedure prescribed by Part 213 of this chapter (Department Circular 848 (Second Revision)) for the deposit of Federal taxes for which the liability accrues on or after Jan. 1, 1968.

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 224—TREATMENT OF INCOMING POSTAL UNION MAIL

PART 232—INCOMING PARCELS

Customs Clearance and Delivery Fees on International Mail

A notice of proposed rule making was published in the FEDERAL REGISTER on October 26, 1967 (32 F.R. 14851) which would increase customs fees collected on incoming postal union articles. One proposed revision to paragraph (a)(1) of § 224.1 would increase the fee collected from the addressee of 13 cents to 20 cents on every incoming postal union article other than a small packet on which customs duty or internal revenue tax is collected. A second proposed revision to paragraph (a)(1) of § 224.1 would reflect an increase of fees collected from 33 cents to 50 cents on every small packet. This second proposed increase would be reflected in paragraph (a) of § 232.1 where the customs clearance and delivery fee would be changed from 33 cents to 50 cents on every incoming parcel post package on which customs duty or internal revenue tax is collected. Interested parties were invited to submit written comments concerning the proposed increased fees.

As the Department has received no comments concerning the proposals, it has decided to adopt the increased fees proposals. Accordingly, §§ 224.1(a)(1) and 232.1(a) read as follows and are to be effective on January 15, 1968.

§ 224.1 Charges.

(a) *Customs clearance and delivery fees.* (1) Post offices will collect a fee of 20 cents from the addressee of every postal union article, other than a small packet, on which customs duty or internal revenue tax is collected. On every small packet on which duty or internal revenue tax is collected, the fee is 50 cents for each packet. The fees apply also when post office service is rendered for formal entry articles on which importers pay the customs charges directly to the Customs Service. The fees are retained by the Postal Service, and are accounted for by affixing postage due stamps to the articles or packets and canceling. See § 232.1(a) of this chapter concerning fees on incoming dutiable parcel post, and § 261.5(e) of this chapter concerning recording and reporting duty collections.

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NOTE: The corresponding Postal Manual Section is 224.111.

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§ 232.1 Charges.

(a) *Customs clearance and delivery fees.* Post offices will collect a fee of 50 cents from the addressee of every parcel post package on which customs duty or internal revenue tax is collected. The fee applies also when post office service is rendered for formal entry parcels on which importers pay the customs charges directly to the Customs Service. The fee is retained by the Postal Service, and is accounted for by affixing postage-due stamps to the parcel or to a postage-due bill and canceling. The fee is authorized by international parcel post agreements as reimbursement to the Postal Service for the work it performs in clearing parcels through customs and for delivery to the addressee. The provisions of § 224.1 (a) (3) through (5) of this chapter also apply. See § 261.5(e) of this chapter concerning recording and reporting duty collections.

* * * * * *

NOTE: The corresponding Postal Manual section is 232.11.

(5 U.S.C. 301, 39 U.S.C. 501, 505)

TIMOTHY J. MAY,
General Counsel.

DECEMBER 14, 1967.

[F.R. Doc. 67-14696; Filed, Dec. 15, 1967; 8:49 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 1—Federal Procurement Regulations

MISCELLANEOUS AMENDMENTS TO CHAPTER

This amendment of the Federal Procurement Regulations prescribes changed policies and procedures which reflect the October 16, 1967, amendments of Defense Manpower Policy No. 4, 32A CFR Ch. 1, DMP 4 (32 F.R. 14388), and the Department of Labor regulations, 29 CFR Part 8 (32 F.R. 14387). The changes appear in Subpart 1–1.7, Small Business Concerns, Subpart 1–1.8, Labor Surplus Area Concerns, § 1–2.407–6, Equal low bids, and § 1–16.101, Contract forms, and provide a preference for firms which agree to perform, or cause to be performed, a substantial proportion of a contract in areas classified by the Department as sections of concentrated unemployment and underemployment and to employ or require subcontractors to employ a proportionate number of persons residing within such sections in accordance with plans approved by the Secretary of Labor.

PART 1–1—GENERAL

Subpart 1–1.7—Small Business Concerns

Section 1–1.706–6 is amended to read as follows:

§ 1–1.706–6 Partial set-asides.

* * * * * *

(c) * * *

NOTICE OF PARTIAL SMALL BUSINESS SET-ASIDE

(a) *General.* A portion of this procurement, as identified elsewhere in the Schedule, has been set aside for award only to one or more small business concerns. Negotiations for award of this set-aside portion will be conducted only with responsible

small business concerns who have submitted responsive bids on the non-set-aside portion at a unit price within 120 percent of the highest award made on the non-set-aside portion. Negotiations shall be conducted with such small business concerns in the following order of priority:

Group 1. Small business concerns which are also certified-eligible concerns.

Group 2. Small business concerns which are also persistent labor surplus area concerns.

Group 3. Small business concerns which are also substantial labor surplus area concerns.

Group 4. Small business concerns which are not labor surplus area concerns.

* * * * *

(b) * * *

(2) The term "labor surplus area" means a geographical area which is either a section of concentrated unemployment or underemployment, a persistent labor surplus area, or a substantial labor surplus area, as defined below:

(i) "Section of concentrated unemployment or underemployment" means appropriate sections of States or "labor areas" so classified by the Secretary of Labor.

(ii) "Persistent labor surplus area" means an area which (A) is classified by the Department of Labor as an "Area of Substantial and Persistent Labor Surplus" (also called "Area of Substantial and Persistent Unemployment") and is listed as such by that Department in conjunction with its publication "Area Trends in Employment and Unemployment," or (B) is certified as an area of substantial and persistent labor surplus by the Department of Labor pursuant to a request by a prospective contractor.

(iii) "Substantial labor surplus area" means an area which (A) is classified by the Department of Labor as an "Area of Substantial Labor Surplus" (also called "Area of Substantial Unemployment") and which is listed as such by that Department in conjunction with its publication "Area Trends in Employment and Unemployment," or (B) is certified as an area of substantial labor surplus by the Department of Labor pursuant to a request by a prospective contractor.

(3) The term "labor surplus area concern" includes certified-eligible concerns, persistent labor surplus area concerns, and substantial labor surplus area concerns, as defined below:

(i) "Certified-eligible concern" means a concern located in or near a section of concentrated unemployment or underemployment which has been certified by the Secretary of Labor in accordance with 29 CFR 8.7 (b) with respect to employment of disadvantaged persons residing within such sections, and which will agree to perform, or cause to be performed by a certified concern, a substantial proportion of a contract in or near such sections; it includes a concern which, though not so certified, agrees to have a substantial proportion of a contract performed by certified concerns in or near such sections. A concern shall be deemed to perform a substantial proportion of a contract in or near sections of concentrated unemployment or underemployment if the costs that the concern will incur on account of manufacturing or production in or near such sections (by itself, if a certified concern, or by certified concerns acting as first-tier subcontractors) amount to more than 50 percent of the contract price.

(ii) "Persistent labor surplus area concern" means a concern that agrees to perform, or cause to be performed, a substantial proportion of a contract in persistent labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in persistent labor surplus areas if the costs that the concern will incur on account of manufacturing or production performed in such areas (by itself or its first-tier subcontractors) amount to more than 50 percent of the contract price.

(iii) "Substantial labor surplus area concern" means a concern that agrees to perform, or cause to be performed, a substantial proportion of a contract in substantial labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in substantial labor surplus areas if the costs that the concern will incur on account of manufacturing or production performed in such areas (by itself or its first-tier subcontractors) amount to more than 50 percent of the contract price.

(c) *Identification of Areas of Performance.* Each bidder desiring to be considered for award as a small business labor surplus area concern on the set-aside portion of this procurement shall identify in his bid the geographical areas in which he proposes to perform, or cause to be performed, a substantial proportion of the production of the contract. If the Department of Labor classification of any such area changes after the bidder has submitted his bid, the bidder may change the areas in which he proposes to perform: *Provided*, That he so notifies the Contracting Officer before award of the set-aside portion. Priority for negotiation will be based upon the labor surplus classification of the designated production areas as of the time of the proposed award.

(d) *Eligibility Based on Certification.* Where eligibility for preference is based upon the status of the bidder, or bidder's subcontractors, as a "certified-eligible concern," the bidder shall furnish with his bid evidence of certification by the Secretary of Labor.

(e) *Agreement.* The bidder agrees that: (1) If awarded a contract as a certified-eligible concern under the set-aside portion of this procurement, he will perform, or cause to be performed, a substantial proportion of the contract in or near sections of concentrated unemployment or underemployment, and in the performance of such contract will employ, or require certified subcontractors to employ, a proportionate number of disadvantaged persons residing within sections of concentrated unemployment or underemployment in accordance with plans approved by the Secretary of Labor;

(2) If awarded a contract as a persistent labor surplus area concern under the set-aside portion of this procurement, he will perform, or cause to be performed, a substantial proportion of the production in areas classified at the time of award, or at the time of performance of the contract, as persistent labor surplus areas; and

(3) If awarded a contract as a substantial labor surplus area concern under the set-aside portion of this procurement, he will perform, or cause to be performed, a substantial proportion of the production in areas, classified at the time of award, or at the time of performance of the contract, as substantial or persistent labor surplus areas.

* * * * *

Subpart 1–1.8—Labor Surplus Area Concerns

Sections 1–1.800, 1–1.801, 1–1.804–3, and 1–1.807 are revised and §§ 1–1.802, 1–1.804–2, and 1–1.805–3 are amended to read as follows:

§ 1–1.800 Scope of subpart.

This subpart sets forth policies and procedures with respect to aiding sections classified as having concentrated unemployment or underemployment and areas of persistent or substantial labor surplus hereinafter referred to as labor surplus areas, in the United States, its possessions, and Puerto Rico. This subpart implements Defense Manpower Policy No. 4 (Revised), October 16, 1967 (32A CFR ch. 1), and U.S. Department of Labor Regulations (Revised), October 16, 1967 (29 CFR Part 8).

§ 1–1.801 Definitions.

§ 1–1.801–1 Labor surplus area concern.

The term "labor surplus area concern" includes certified-eligible concerns, persistent labor surplus area concerns, and substantial labor surplus area concerns, as defined in this § 1–1.801–1.

(a) "Certified-eligible concern" means a concern located in or near a section of concentrated unemployment or underemployment which has been certified by the Secretary of Labor in accordance with 29 CFR 8.7(b) with respect to employment of disadvantaged persons residing within such sections, and which will agree to perform, or cause to be performed by a certified concern, a substantial proportion of a contract in or near such sections; it includes a concern, which, though not so certified, agrees to have a substantial proportion of a contract performed by certified concerns in or near such sections. A concern shall be deemed to perform a substantial proportion of a contract in or near sections of concentrated unemployment or underemployment if the costs that the concern will incur on account of manufacturing or production in or near such sections (by itself, if a certified concern, or by certified concerns acting as first-tier subcontractors) amount to more than 50 percent of the contract price.

(b) "Persistent labor surplus area concern" means a concern which will perform, or cause to be performed, a substantial proportion of a contract in persistent labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in persistent labor surplus areas if the costs that the concern will incur on account of manufacturing or production performed in such areas (by itself or its first-tier subcontractors) amount to more than 50 percent of the contract price.

(c) "Substantial labor surplus area concern" means a concern which will perform, or cause to be performed, a substantial proportion of a contract in substantial labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in substantial labor surplus areas if the costs that the concern will incur on account of manufacturing or production performed in substantial labor surplus areas or in substantial and persistent labor surplus areas (by itself or its first-tier subcontractors) amount to more than 50 percent of the contract price.

§ 1–1.801–2 Labor surplus area.

The term "labor surplus area" means a geographical area which at the time of award is either a section of concentrated unemployment or underemployment, a persistent labor surplus area, or a substantial labor surplus area, as defined in this § 1–1.801–2.

(a) "Section of concentrated unemployment or underemployment" means appropriate sections of States or "labor areas" so classified by the Secretary of Labor.

(b) "Persistent labor surplus area" means an area which (1) is classified by the Department of Labor as an "Area of Substantial and Persistent Labor Surplus" (also called "Area of Substantial and Persistent Unemployment") and is listed as such by that Department in conjunction with its publication "Area Trends in Employment and Unemployment" or (2) is certified as an area of substantial and persistent labor surplus by the Department of Labor pursuant to a request by a prospective contractor.

(c) "Substantial labor surplus area" means an area which (1) is classified by the Department of Labor as an "Area of Substantial Labor Surplus" (also called "Area of Substantial Unemployment") and which is listed as such by that Department in conjunction with its publication "Area Trends in Employment and Unemployment" or (2) is certified as an area of substantial labor surplus by the Department of Labor pursuant to a request by a prospective contractor.

§ 1–1.801–3 Small business concern.

For definition of small business concern, see Subpart 1–1.7.

§ 1–1.802 Labor surplus area policies.

§ 1–1.802–1 General policy.

It is the policy of the Government to encourage the placing of contracts in sections of concentrated unemployment and underemployment and in areas of persistent and substantial labor surplus, to the extent consistent with procurement objectives, and where such contracts can be awarded at prices no higher than those obtainable from other concerns, and by encouraging prime contractors to place subcontracts with concerns which will perform a substantial proportion of the production in such sections and in labor surplus areas.

§ 1–1.802–2 Specific policies.

* * * * *

(b) * * *

(2) In order to accommodate both labor surplus area and small business policies, labor surplus area set-aside awards shall be made in accordance with the following order of priority: (i) Certified-eligible concerns which are also small business concerns; (ii) other certified-eligible concerns; (iii) persistent labor surplus area concerns which are also small business concerns; (iv) other persistent labor surplus area concerns; (v) substantial labor surplus area concerns which are also small business concerns; (vi) other substantial labor surplus area concerns; and (vii) small business concerns which are not labor surplus area concerns.

(c) Procurement agencies shall disseminate promptly to appropriate procurement personnel available publications and other information identifying sections of concentrated unemployment and underemployment and other labor surplus areas and production capabilities therein.

(d) The classification and certification of labor surplus areas and concerns by the Department of Labor shall be considered conclusive with respect to the particular procurement concerned.

* * * * *

§ 1–1.804–2 Notice of bidders or offerors.

* * * * *

(b) Notice:

NOTICE OF LABOR SURPLUS AREA SET-ASIDE

(a) *General.* A portion of this procurement, as identified elsewhere in the Schedule, has been set aside for award only to one or more labor surplus area concerns and, to a limited extent, to small business concerns which do not qualify as labor surplus area concerns. Negotiations for award of the set-aside portion will be conducted only with responsible labor surplus area concerns (and small business concerns to the extent indicated below) which have submitted responsive bids or proposals on the non-set-aside portion at a unit price no greater than 120 percent of the highest award made on the non-set-aside portion. Negotiations for the set-aside portion will be conducted with such bidders in the following order of priority:

Group 1. Certified-eligible concerns which are also small business concerns.

Group 2. Other certified-eligible concerns.

Group 3. Persistent labor surplus area concerns which are also small business concerns.

Group 4. Other persistent labor surplus area concerns.

Group 5. Substantial labor surplus area concerns which are also small business concerns.

Group 6. Other substantial labor surplus area concerns.

Group 7. Small business concerns which are not labor surplus area concerns.

Within each of the above groups, negotiations with such concerns will be in the order of their bids on the non-set-aside portion, beginning with the lowest responsive bid. The set-aside portion shall be awarded at the highest unit price awarded on the non-set-aside portion, adjusted to reflect transportation and other cost factors which were considered in evaluating bids on the non-set-aside portion. However, the Government reserves the right not to consider token bids or other devices designed to secure an unfair advantage over other bidders eligible for the set-aside portion.

(b) *Definitions.* (1) The term "labor surplus area" means a geographical area which is either a section of concentrated unemployment or underemployment, a persistent labor surplus area, or a substantial labor surplus area, as defined below:

(i) "Section of concentrated unemployment or underemployment" means appropriate sections of States or "labor areas" so classified by the Secretary of Labor.

(ii) "Persistent labor surplus area" means an area which (A) is classified by the Department of Labor as an "Area of Substantial and Persistent Labor Surplus" (also called "Area of Substantial and Persistent Unemployment") and is listed as such by that Department in conjunction with its publication "Area Trends in Employment and Unemployment" or (B) is certified as an area of substantial and persistent labor surplus by the Department of Labor pursuant to a request by a prospective contractor.

(iii) "Substantial labor surplus area" means an area which (A) is classified by the Department of Labor as an "Area of Substantial Labor Surplus" (also called "Area of Substantial Unemployment") and is listed as such by that Department in conjunction with its publication "Area Trends in Employment and Unemployment" or (B) is certified as an area of substantial labor surplus by the Department of Labor pursuant to a request by a prospective contractor.

(2) The term "labor surplus area concern" includes certified-eligible concerns, persistent labor surplus area concerns, and substantial labor surplus area concerns, as defined below:

(i) "Certified-eligible concern" means a concern located in or near a section of concentrated unemployment or underemployment which has been certified by the Secretary of Labor in accordance with 29 CFR 8.7(b) with respect to employment of disadvantaged persons residing within such sections, and which will agree to perform, or cause to be performed by a certified concern, a substantial proportion of a contract in or near such sections; it includes a concern which, though not so certified, agrees to have a substantial proportion of a contract performed by certified concerns in or near such sections. A concern shall be deemed to perform a substantial proportion of a contract in or near sections of concentrated unemployment or underemployment if the costs that the concern will incur on account of manufacturing or production in or near such sections (by itself, if a certified concern, or by certified concerns acting as first-tier subcontractors) amount to more than 50 percent of the contract price.

(ii) "Persistent labor surplus area concern" means a concern that agrees to perform, or cause to be performed, a substantial proportion of a contract in persistent labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in persistent labor surplus areas if the costs that the concern will incur on account of manufacturing or production performed in such areas (by itself or its first-tier subcontractors) amount to more than 50 percent of the contract price.

(iii) "Substantial labor surplus area concern" means a concern that agrees to perform, or cause to be performed, a substantial proportion of a contract in substantial labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in substantial labor surplus areas if the costs that the concern will incur on account of manufacturing or production performed in substantial labor surplus areas or in substantial and persistent labor surplus areas (by itself or its first-tier subcontractors) amount to more than 50 percent of the contract price.

(3) A "small business concern" is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is bidding on Government contracts, and can further qualify under the criteria set forth in regulations of the Small Business Administration (13 CFR 121.3–8). In addition to meeting these criteria, a manufacturer or a regular dealer submitting bids or proposals in his own name must agree to furnish in the performance of the contract end items manufactured or produced in the United States, its possessions, or Puerto Rico, by small business concerns: *Provided*, That this additional requirement does not apply in connection with construction or service contracts.

(c) *Identification of Areas of Performance.* Each bidder desiring to be considered for award as a labor surplus area concern on the set-aside portion of this procurement shall identify in his bid the geographical areas in which he proposes to perform, or cause to be performed, a substantial proportion of the production of the contract. If the Department of Labor classification of any such area changes after the bidder has submitted his bid, the bidder may change the areas in which he proposes to perform, provided that he so notifies the Contracting Officer before award of the set-aside portion. Priority for negotiation will be based upon the labor surplus classification of the designated production areas as of the time of the proposed award.

(d) *Eligibility Based on Certification.* Where eligibility for preference is based upon the status of the bidder or bidders subcontractors as a "certified-eligible concern," the bidder shall furnish with his bid evidence of certification by the Secretary of Labor.

(e) *Agreement.* The bidder agrees that: (1) If awarded a contract as a certified-eligible concern under the set-aside portion of this procurement, he will perform, or cause to be performed, a substantial proportion of the contract in or near sections of concentrated unemployment or underemployment, and in the performance of such contract will employ, or require certified subcontractors to employ, a proportionate number of disadvantaged persons residing within sections of concentrated unemployment or underemployment in accordance with plans approved by the Secretary of Labor;

(2) If awarded a contract as a persistent labor surplus area concern under the set-aside portion of this procurement, he will perform, or cause to be performed, a substantial proportion of the production in areas classified at the time of award, or at the time of performance of the contract, as persistent labor surplus areas; and

(3) If awarded a contract as a substantial labor surplus area concern under the set-aside portion of this procurement, he will perform, or cause to be performed, a substantial proportion of the production in areas classified at the time of award, or at the time of performance of the contract, as substantial or persistent labor surplus areas.

§ 1–1.804–3 Award procedures.

(a) *Awarding the non-set-aside portion.* Awards on the non-set-aside portion shall be made in accordance with normal procurement procedures.

(b) *Awarding the set-aside portion.* (1) After all awards have been made on the non-set-aside portion, award of the set-aside portion shall be effected by negotiation with eligible concerns as provided in the notice. To determine whether a concern is eligible for preferential consideration as a labor surplus area concern the area classification of the Department of Labor in effect at the time of the award, as well as any applicable evidence of a Department of Labor certification, shall be used. Contracts for the set-aside portion shall specify the preferential status of the bidder or offeror on which the award was based.

(2) If equal low bids were received on the non-set-aside portion from concerns which are eligible for the set-aside portion, the concern which is awarded the non-set-aside portion (under the equal low bid procedures of § 1–2.407–6 shall have the first priority with respect to negotiations for the set-aside portion.

(c) *Nonawarded set-aside portion.* If any part of the set-aside quantity cannot be awarded by the method described in this § 1–1.804, any unawarded portion may be procured by advertising or negotiation, as appropriate, in accordance with existing regulations. A record of the reasons for failure to award the set-aside portion to labor surplus area concerns shall be included in the contract file.

§ 1–1.805–3 Required clauses.

(a) The "Utilization of Concerns in Labor Surplus Areas" clause, set forth below, shall be inserted in all contracts in amounts which may exceed $5,000, except:

(1) Contracts with foreign contractors which, including all subcontracts thereunder, are to be performed entirely outside the United States, its possessions, and Puerto Rico;

(2) Contracts for services which are personal in nature; and

(3) Contracts for construction.

UTILIZATION OF CONCERNS IN LABOR SURPLUS AREAS

It is the policy of the Government to place contracts with concerns which will perform such contracts substantially in or near concentrated unemployment or underemployment sections of States or in areas of persistent or substantial labor surplus, where this can be done consistent with the efficient performance of the contract and at prices no higher than are obtainable elsewhere. The Contractor agrees to use his best efforts to place his subcontracts in accordance with this policy. In complying with the foregoing and with paragraph (b) of the clause of this contract entitled "Utilization of Small Business Concerns" the Contractor in placing his subcontracts shall observe the following order of preference: (a) Certified-eligible concerns which are also small business concerns; (b) other certified-eligible concerns; (c) persistent labor surplus area concerns which are also small business concerns; (d) other persistent labor surplus area concerns; (e) substantial labor surplus area concerns which are also small business concerns; (f) other substantial labor surplus area concerns; and (g) small business concerns which are not labor surplus area concerns.

(b) The "Labor Surplus Area Subcontracting Program" clause, set forth in this paragraph (b), shall be included in all contracts which may exceed $500,000, which contain the clause required by § 1–1.805–3(a) and which, in the opinion of the procuring activity, offer substantial subcontracting possibilities. Furthermore, prime contractors who are to be awarded contracts which may not exceed $500,000 but which, in the opinion of the procuring activity, offer substantial subcontracting possibilities, shall be urged to accept this clause.

LABOR SURPLUS AREA SUBCONTRACTING PROGRAM

* * * * *

(b) A "labor surplus area concern" is a concern which will perform, or cause to be performed, a substantial proportion of any contract awarded to it (1) in or near sections of concentrated unemployment or underemployment as a certified-eligible concern, or (2) a concern which will perform, or cause to be performed, a substantial proportion of any contract awarded to it in "Areas of Substantial Labor Surplus" (also called "Areas of Substantial Unemployment"), as designated by the Department of Labor. A concern shall be deemed to perform a substantial proportion of a contract in or near sections of concentrated unemployment or underemployment if the costs that the concern will incur on account of manufacturing or production in or near such sections (by itself, if a certified concern, or by certified concerns acting as first-tier subcontractors) amount to more than 50 percent of the contract price. A concern shall be deemed to perform a substantial proportion of a contract in a labor surplus area if the costs that the concern will incur on account of manufacturing or production performed in persistent or substantial labor surplus areas (by itself or its first-tier subcontractors) amount to more than 50 percent of the price of such contract.

* * * * *

§ 1–1.807 Report on preference procurement in labor surplus areas.

(a) *Agencies required to report.* Each agency which places contracts to be performed in surplus labor areas under this Subpart 1–1.8 and § 1–2.407–8 shall report such procurement in accordance with this section. When procurement is performed by one agency for, and at the request of, another agency, the agency doing the procurement shall report.

(b) *Frequency and due date.* Reports shall be prepared semiannually and submitted to the General Services Administration, Office of Administration, Washington, D.C. 20405, within 45 work days after January 1 and June 30 of each year. Agencies having no reportable procurement during any report period shall submit negative reports.

(c) *Preparation of report*—(1) *Procurement to be reported.* (i) Reports shall state the total dollar amount of procurement awards placed in labor surplus areas as a result of preference procedures under this Subpart 1–1.8 and § 1–2.407–8, with subtotals showing the dollar amount placed with small business concerns and other than small business concerns. Amendments and modifications shall be included to reflect the total value of such actions. Agencies entering into indefinite quantity contracts to be performed in labor surplus areas as a result of preference procedures shall estimate, in accordance with agency procedures, the total dollar amount of orders which will be placed thereunder and include such data in the report.

(ii) Detailed information as to the dollar amount of contracts placed in specific labor surplus areas shall not be reported to the General Services Administration. However, such information should be retained by each agency for a period of at least 1 year and be available for reference by the Office of Emergency Planning and other interested activities.

(2) *Report format.* No standard report form is prescribed. The data reported shall be entered in the "Remarks" portion of Standard Form 37, Report on Procurement by Civilian Executive Agencies, or as an attachment thereto (see § 1–16.204).

(3) *Procurement from textile industry (Notification No. 34).* In addition to the requirements of subparagraph (2) of this paragraph, any preference awards placed with the textile industry during the report period under the provisions of § 1–1.806–5 shall also be reported and shall include the following information:

(i) Dollar amount of such awards placed with concerns which will perform in or near sections of concentrated unemployment and underemployment or in persistent or substantial labor surplus areas.

(ii) Dollar amount of such awards placed with concerns which will not perform in or near sections of concentrated unemployment and underemployment or in persistent or substantial labor surplus areas.

PART 1–2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 1–2.4—Opening of Bids and Award of Contract

Section 1–2.407–8 is amended to include references to certified-eligible concerns. As amended, the section reads as follows:

§ 1–2.407–6 Equal low bids.

(a) * * *

(1) Certified-eligible concerns (as defined in § 1–1.801–1(a)) that are also small business concerns.

(2) Other certified-eligible concerns.

(3) Persistent labor surplus area concerns (as defined in § 1–1.801–1(b)) that are also small business concerns (as defined in Subpart 1–1.7).

(4) Other persistent labor surplus area concerns.

(5) Substantial labor surplus area concerns (as defined in § 1–1.801(c)) that are also small business concerns.

(6) Other substantial labor surplus area concerns.

(7) Other small business concerns.

(8) Other concerns.

* * * * *

PART 1–16—PROCUREMENT FORMS

Subpart 1–16.1—Forms for Advertised Supply Contracts

Section 1–16.101 is amended to read as follows:

§ 1–16.101 Contract forms.

* * * * *

(c) General Provisions (Supply Contract) (Standard Form 32, June 1964 edition). Pending the publication of a new edition of the form, the clause prescribed in § 1–1.805–3(a) shall be substituted for the present provision of Article 22, Utilization of Concerns in Labor Surplus Areas.

* * * * *

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This amendment is effective with respect to invitations for bids issued after the date of publication of the amendment in the FEDERAL REGISTER but may be observed earlier with respect to invitations issued prior to such date.

Dated: December 13, 1967.

LAWSON B. KNOTT, JR.,
Administrator of General Services.

[F.R. Doc. 67–14674; Filed, Dec. 15, 1967; 8:49 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Lower Souris National Wildlife Refuge, N. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

NORTH DAKOTA

LOWER SOURIS NATIONAL WILDLIFE REFUGE

Sport fishing on the Lower Souris National Wildlife Refuge, N. Dak., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 11,430 acres or 100 percent of the total water area of the refuge, are delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn. 55408. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from December 15, 1967, through March 24, 1968, daylight hours only.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33, and are effective through March 24, 1968.

JERALD J. WILSON,
Refuge Manager, Lower Souris National Wildlife Refuge, Upham, N. Dak.

DECEMBER 11, 1967.

[F.R. Doc. 67–14618; Filed, Dec. 15, 1967; 8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 405]

[Reg. 5]

FEDERAL HEALTH INSURANCE FOR THE AGED

Proposed Agreements With and Functions of Providers, Intermediaries, Carriers, and State Agencies

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be promulgated by the Commissioner of Social Security with the approval of the Secretary of Health, Education, and Welfare. The proposed regulations (20 CFR Part 405, § 405.601 et seq.) add a new Subpart F relating to contracts with providers of service, intermediaries, carriers, and States for the performance of functions under the Federal Health Insurance for the Aged program.

Prior to the final adoption of the proposed regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, D.C. 20201, within a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER.

The proposed Federal Health Insurance for the Aged regulations are to be issued under the authority contained in sections 1102, 1816, 1842, 1861(u), 1864, 1866, 1871, 49 Stat. 647, as amended, 79 Stat. 297–299; 79 Stat. 309–312; 79 Stat. 322; 79 Stat. 326; 79 Stat. 327–329; 79 Stat. 331; 42 U.S.C. 1302, 1395 et seq.

1. Chapter III, Title 20 is amended by adding thereto Subpart F of Part 405 to read as follows:

Subpart F—Agreements With and Functions of Providers, Intermediaries, Carriers, and State Agencies

§ 405.601 Scope of subpart.

The provisions of §§ 405.602–405.621 discuss provider agreements which an eligible provider of services must file with the Secretary in order to qualify for participation in the health insurance program for the aged. Sections 405.651–405.663 and §§ 405.670–405.678 discuss agreements under which Part A intermediaries and Part B carriers will perform specified functions necessary in the administration of the hospital insurance and supplementary medical insurance programs. Section 405.685 discusses agreements which the Secretary shall enter into with any State for the purpose of assisting the Secretary in determining whether an institution situated in such State is a hospital, extended care facility, or home health agency, and whether an independent laboratory meets the conditions for coverage of services.

§ 405.602 Provider agreements; general.

A hospital, extended care facility, or home health agency which meets the conditions of participation (see Subparts J, K, and L of this part) will be qualified to participate and shall be eligible for payments if it is found to be in compliance with the provisions of title VI of the Civil Rights Act and if it submits to the Secretary a duly executed agreement to participate and such agreement is accepted for filing by the Secretary.

§ 405.605 Provider of services; scope of term.

As used in the Act and the regulations, the term "provider of services" (or "provider") refers only to a hospital, an extended care facility, or a home health agency (see Subparts J, K, and L of this part).

§ 405.606 Acceptance of provider as a participant.

(a) Where the Secretary, after reviewing the agency certification (see § 405.686) and other evidence relating to the qualifications of the institution, determines that the requirements for participation are met by the institution, such institution will be furnished:

(1) Written notice of the determination; and

(2) Two copies of the provider agreement to be entered into pursuant to section 1866 of the Act.

(b) If the provider wishes to participate in the program, both copies of the agreement must be signed by an authorized official of the organization and filed with the Secretary and, upon acceptance for filing by the Secretary, a copy of such agreement shall be returned to the provider with notice of acceptance.

§ 405.607 Essentials of agreements with providers of services.

Under the terms of the agreement (see § 405.606) the provider agrees:

(a) Not to charge any individual, or an yother person (except as described in §§ 405.608–405.610):

(1) For items and services for which such individual is entitled to have payment made under the provisions described in the regulations in this Part 405; or

(2) For items and services for which he would be so entitled to have payment made if such provider of services had complied with the procedural and other requirements described in § 405.612; or

(3) For inpatient hospital services furnished an individual who has exhausted his benefits under Subpart A of this part, if the provider is reimbursed by the Secretary as discussed in § 405.161;

(b) To return or make disposition, in accordance with the provisions of §§ 405.618–405.621, of any amounts incorrectly collected from an individual, or from any other person on his behalf.

§ 405.608 Allowable charges; deductible, coinsurance and copayment.

(a) Subject to the provision of paragraph (b) of this section, a participating provider of services may charge an individual, or other person:

(1) The amount of the inpatient hospital deductible or if less, the actual charges for such services, and the amount of the inpatient hospital coinsurance for each day the individual is furnished inpatient hospital services during a spell of illness after the 60th day and before the 91st day;

(2) The outpatient hospital diagnostic services deductible;

(3) Twenty percent of the reasonable charges for outpatient hospital diagnostic services during a diagnostic study period for which payment is made under the hospital insurance plan;

(4) The posthospital extended care services coinsurance amount;

(5) The $50 supplementary medical insurance deductible;

(6) Twenty percent of the reasonable charges in excess of the $50 deductible for items and services covered under the supplementary medical insurance plan.

(b) A provider may not charge an individual more than the amount customarily charged by such provider for items and services furnished such individual.

§ 405.609 Allowable charges; whole blood costs.

(a) A provider of services may charge an individual or other person for any of the first 3 pints of whole blood furnished the individual as an inpatient during a spell of illness except that:

(1) A provider may not charge an individual more than the amount customarily charged by such provider for whole blood furnished such individual;

(2) Such charge may not be made for any of such first 3 pints of whole blood which are replaced at least pint for pint, by or on behalf of the individual;

(3) Such charge may not be made for any of such first 3 pints of whole blood which are furnished to the provider by a blood bank which:

(i) Makes no charge to the provider for such blood; or

(ii) Makes a service charge for such blood and such charge applies whether or not such blood is replaced at least pint for pint by or on behalf of the individual.

(b) Any excess of such charge over the cost incurred by the provider for such blood shall be deducted from any payment to such provider under this Part 405.

§ 405.610 Allowable charges; items or services more expensive than, or in excess of, those for which payment may be made.

Where items or services furnished by a provider of services at the request of an individual are more expensive than, or in excess of, items and services for which an individual is entitled to have payment made under the provisions described in Subpart A and B of this Part 405, a provider of services may charge such individual an amount equal to the difference between that amount which the provider of services customarily charges for such items or services and the amount customarily charged by it for the items or services with respect to which payment can be made under title XVIII of the Act.

§ 405.612 Compliance with procedural and other requirements; individual's refusal to execute request for payment.

(a) For purposes of § 405.607(a)(2), compliance with procedural and other requirements means that the provider of services:

(1) Has secured, from the individual or a proper person acting on his behalf, a written request for payment to be made to the provider, and the provider has properly filed such request; and

(2) Has in its files the required certification and recertification by a physician relating to the individual; and

(3) Has furnished to the Secretary such information as the Secretary has found necessary in order to determine the amount due the provider on behalf of the individual for the period with respect to which payment is to be made or any prior period; and

(4) Has complied with the provisions requiring timely utilization review of long stay cases so that a limitation on days of service has not been imposed under section 1866(d) of the Act (see § 405.617).

(b) Failure on the part of the provider to be in compliance with each of the procedural and other requirements prescribed in paragraph (a) of this section prevents the provider from charging the individual, or any other person, for items and services for which the individual is entitled to have payment made under the provisions described in the regulations in this Part 405, except that, the provisions of paragraph (a) of this section will not be applicable when the individual refuses to execute a written request for payment to be made on his behalf to the provider. In such cases, the provider may charge the individual, subject to the provisions of § 405.618, for all items and services furnished.

§ 405.613 Termination by provider of services.

(a) A provider may terminate a section 1866 agreement by filing with the Secretary a written notice of its intention to terminate such agreement. The notice of intent to terminate should set the effective date for the termination of the agreement (the date must be the first day of a month) and is to be filed with the Secretary 6 months in advance of the selected termination date. If the notice of termination does not specify the effective date for the termination of the agreement, the date is to be set by the Secretary. In addition to giving notice to the Secretary, the provider should also give at least 15 days notice to the public by publishing in one or more local newspapers a statement of the effective date of termination of its agreement with the Secretary. The notice also should inform the public of the applicability of termination (see § 405.615) as it relates to the services of the provider.

(b) The Secretary may accept a notice of termination which is filed by a provider less than 6 months before the effective termination date, if the Secretary determines that to do so would not unduly disrupt the furnishing of services to the community serviced by the provider or otherwise interfere with the effective and efficient administration of the health insurance benefits program provided by title XVIII of the Act. If the notice of termination is accepted by the Secretary, the provider should also give notice to the public in accordance with the provisions of paragraph (a) of this section.

§ 405.614 Termination by the Secretary.

(a) *Cause for termination.* The Secretary may terminate an agreement if the Secretary determines that the provider of services:

(1) Is not complying substantially with the provisions of title XVIII and this Part 405, or with the provisions of the agreement entered into pursuant to § 405.606; or

(2) No longer meets the appropriate conditions of participation necessary to qualify as a hospital (see Subpart J of this part), extended care facility (see Subpart K of this part), or home health agency (see Subpart L of this part), as the case may be; or

(3) Fails to furnish information as the Secretary finds to be necessary for a determination as to whether payments are due or were due under this Part 405 and the amounts thereof; or

(4) Refuses to permit examination of its fiscal or other records by, or on behalf of, the Secretary as may be necessary for verification of information furnished as a basis for payment under the health insurance benefits program.

(b) *Notice of termination.* The Secretary shall give notice of termination to the provider of services at least 15 days before the effective date of termination of the provider's agreement. In addition to giving notice to the provider, the Secretary shall also give notice of such termination to the public. The notice of termination by the Secretary shall state the effective date of the termination of the provider agreement and the applicability of termination (see § 405.615), as it relates to the services of the provider.

(c) *Appeal by agency or institution.* Any provider dissatisfied with a determination terminating the section 1866 agreement with such provider, shall be entitled to a hearing with respect to such determination (see Subpart O of this part).

§ 405.615 Applicability of termination.

A termination of an agreement under the conditions described in § 405.613 or § 405.614, shall be applicable:

(a) In the case of inpatient hospital services (including inpatient tuberculosis hospital services and inpatient psychiatric hospital services), or posthospital extended care services, furnished to any individual who is admitted to the hospital or extended care facility furnishing such services on or after the effective day of the termination;

(b) In the case of home health services furnished to an individual under a plan therefor established on or after the effective date of such termination or, if a plan is established before such effective date, with respect to such services furnished to such individual after the calendar year in which such termination is effective; and

(c) In the case of items and services (other than those described in paragraphs (a) and (b) of this section) furnished on or after the effective date of such termination. (For example, outpatient hospital services.)

§ 405.616 Reinstatement of provider as participant after termination.

Where an agreement between a provider of services and the Secretary is terminated by the Secretary, such institution or agency may not file another agreement to participate in the health insurance benefits program unless the Secretary finds that the reason for the termination of the prior agreement has been removed and that there is reasonable assurance that it will not recur.

§ 405.617 Limitation; failure to make timely utilization review.

(a) If it is found that there is a substantial failure to make timely utilization review of long-stay cases in a hospital or extended care facility the Secretary may determine that no payment shall be made for inpatient hospital services (including inpatient tuberculosis hospital services and inpatient psychiatric hospital services) or for posthospital extended care services furnished an individual after the 20th day of a continuance period of such services.

(b) Before making any such determination to withhold payment as described in paragraph (a) of this section, notice shall be given to the provider of the intention to make such determination and will afford the institution or agency an opportunity for a hearing (see Subpart O of this part).

(c) The limitation described in paragraph (a) of this section, shall become effective as of the date specified in the determination and shall be applicable to services furnished to individuals admitted after such date. The limitation shall remain in effect until such date as the Secretary finds that:

(1) The reason for such limitation has been removed; and

(2) There is reasonable assurance that it will not recur.

§ 405.618 Disposition of incorrect collections.

Under the terms of the agreement between a provider and the Secretary (see § 405.607), a provider must make adequate provision for the return (or other disposition) of any moneys incorrectly collected from an individual or any other person on his behalf. The term "moneys incorrectly collected" means amounts in excess of the deductible or coinsurance, paid to a provider of services by an individual (or other person on his behalf) for items and services for which the individual is entitled to have payment made under the health insurance program. For purposes of this section, a payment by an individual to a provider which was proper when made, will be deemed to be an "incorrect collection," for which refund or other disposition must be made where the individual is retroactively entitled to hospital insurance benefits.

§ 405.619 Notice of charges and collections by a provider of services.

Where a provider of services collects moneys from a beneficiary or any other person on his behalf, for items and services furnished to the beneficiary, such provider shall inform the intermediary of such collection (see § 405.621).

§ 405.620 Return or other disposition of moneys incorrectly collected.

(a) *General.* A provider of services in possession of an incorrect collection (see § 405.618) is required to refund or set aside the money. Until such time as the provider returns or sets aside the incorrectly collected funds, an amount equal to such incorrect collections may be offset against the amounts otherwise due the provider.

(b) *Refund.* Refund is to be made to the beneficiary (including the estate of a deceased beneficiary), or any other person from whom the provider collected the moneys. If the individual to whom refund is to be made cannot be located, or is determined to have died, the provider is to make disposition of the moneys in accordance with the applicable State law.

(c) *Moneys set aside.* Where it appears that refund will be delayed indefinitely, the provider of services will so notify the intermediary and will then set the funds aside in a separate account identified as to the individual to whom the payment is due. These amounts will be carried on the provider's records in this manner until final disposition is made in accordance with the applicable State law.

(d) *Applicable State law.* The applicable State law means the law which would be applied by the courts of the State in which the hospital, extended care facility, or home health agency is located.

§ 405.621 Appropriate time limits within which provider action must be taken.

The incorrect collection should be refunded as promptly as possible. If refund cannot be made within 60 days after the date of notice to the provider that an incorrect collection was made, the funds must be set aside as described in § 405.620(c).

§ 405.651 Nomination of agency or organization as "intermediary"; contractual undertakings with intermediaries.

(a) Under section 1816 of the Act, groups of providers, or associations of providers, may nominate on behalf of the members of such group or association, a national, State, or other public or private agency or organization for the purpose of entering into an agreement with the Secretary providing for the determination of amounts payable under title XVIII, and the making of such payments, by such agency or organization to providers of services. A member of a group or association may, however, deal directly with the Secretary rather than through an intermediary. The nomination of an agency or organization by a group or association of providers of services (see § 405.653) shall not be binding on any member of such group or association if such member notifies the Secretary of its desire not to be bound by such nomination.

(b) In order to accomplish the objectives of the supplementary medical insurance benefits provisions described in Subpart B of this part, with maximum efficiency and convenience to both the enrollees and providers of services furnishing medical and other health services to them and, at the same time, to coordinate the implementation of hospital insurance benefits provisions (see Subpart A of this part), the Secretary may, in his discretion, contract with nominated agencies or organizations with which agreements discussed in paragraph (a) of this section are in effect, to perform all or some of the functions described in section 1842 of the Act; except that, such agencies or organizations (which otherwise do not qualify as a carrier described in § 405.671) are "carriers" with respect to providers of service only.

(c) In the performance of their contractual undertakings, the fiscal intermediaries act on behalf of the Secretary, carrying on for him the administrative responsibilities imposed by the law. The Secretary, however, is the real party in interest in the administration of the program and will endeavor to safeguard the interests of his contractual representatives with respect to their actions in the fulfillment of commitments under the agreements entered into by them with the Secretary.

(d) Contractual undertakings with intermediaries, pursuant to section 1842 of the Act, may be entered into without regard to section 3709 of the U.S. Revised Statutes or any other provision of law requiring competitive bidding.

§ 405.652 Nomination procedure.

The nomination of an agency or organization to determine the amount of and make payments to providers of services, must be made by an association or groups of providers of services, in writing to the Secretary and such writing shall:

(a) Identify the agency or organization being nominated; i.e., complete name and address;

(b) Include, or furnish as an attachment, the name, address, and bed capacity (or patient care capacity in the case of home health agencies) of each member of the group or association;

(c) List those members which have concurred in the nomination of such agency or organization; and

(d) Be signed by an authorized individual of such group or association.

§ 405.653 Nomination by providers of services; nonmembers or nonconcurring members of a group or association.

Providers of services which are not members of a group or association, and those providers of services not concurring in the nomination of their group or association may form a group of two or more individual providers of services for the specific purpose of nominating a national, State, or other public or private agency or organization and such nomination shall be made as discussed in § 405.652.

§ 405.654 Election to deal through a nominated agency or organization or to deal directly with the Secretary.

A provider which is not a member of a group or association which has nominated an intermediary or a nonconcurring member of a group or association of providers of services, may with the consent of the Secretary and an agency or organization which has entered into an agreement with the Secretary, elect such agency or organization to determine the amount of and make payment to such provider under the provisions described in Subpart A of this part or, elect to receive payment directly from the Secretary. This procedure is also available to any provider of services which has forwarded notice of intent to withdraw its concurrence in the nomination or its election of a particular agency or organization (see § 405.656).

§ 405.655 Notification of selection or nonselection of nominated agency or organization.

(a) The Secretary, upon selection or nonselection of a nominated agency or organization (see § 405.660), shall send written notice to each member of the nominating group or association of the selection or the nonselection of the nominated agency or organization. Any member of such group or association may elect, instead, to receive payment in accordance with the provisions discussed in § 405.654.

(b) Any member of a group or association having more than one nominated agency or organization approved and selected by the Secretary to act on its behalf shall be given the opportunity to withdraw from all but one of such nominations or, as provided in paragraph (a) of this section, to elect to receive payment in accordance with the provisions of § 405.654.

§ 405.656 Withdrawal of nomination or election.

(a) Any provider which has nominated an intermediary may, subject to the provisions of this section, withdraw its concurrence in the nomination or its election of such agency or organization. Notice of its intent to withdraw from its concurrence in the nomination or its election must be given to the Secretary at least 120 days prior to the end of such provider's current fiscal year. Concurrently with the notice to the Secretary, the provider shall also notify its intermediary of its intent to withdraw from its concurrence in the nomination or its election in order to elect another intermediary, or to deal directly with the Secretary. The notice of intent to withdraw must be signed by an authorized representative of such provider.

(b) Where the Secretary approves the withdrawal and election, the provider, the outgoing intermediary, and the newly elected intermediary will be advised that the election shall be effective on the first day following the close of the fiscal year in which it filed the timely withdrawal, or July 1, 1967, whichever is later.

§ 405.660 Criteria considered by Secretary in determining whether to enter into an agreement pursuant to section 1816 with a nominated agency or organization.

The Secretary may enter into an agreement with an agency or organization which has been nominated by a group or association of providers under the provisions of section 1816 of the Act, if the Secretary finds that:

(a) To do so would be consistent with effective and efficient administration of the hospital insurance benefits plan;

(b) Where the proposed agreement is to provide that the nominated agency or organization is to assist providers in the application of safeguards against unnecessary utilization of services under Subpart A of this part, such agency or organization is willing and able to provide such assistance;

(c) Such agency or organization agrees to furnish to the Secretary such of the information acquired by it in carrying out its agreement as the Secretary may find necessary for the proper administration of the hospital insurance benefits plan;

(d) The nominated agency or organization (or an agency or organization which is affiliated with such nominated agency or organization and which has undertaken by subcontract to perform the functions and obligations of such nominated agency or organization) meets all requirements as to solvency and financial responsibility imposed by the statutes and regulatory authorities of any State, or States in which it would serve;

(e) The nominated agency or organization has the overall resources and experience to administer effectively and efficiently the responsibilities it would undertake under the hospital insurance program and that such agency or organization has an existing operational, statistical, and recordkeeping capacity commensurate with the magnitude of the additional program responsibilities it proposes to assume. An agency's or organization's capacity to perform is presumed where such agency or organization has at least 5 years' experience in paying for or reimbursing the cost of health services. If an agency or organization has less than 5 years' experience but there is other evidence which clearly shows it has the capacity to perform such services, the Secretary will consider entering into an agreement with such nominated agency or organization;

(f) The nominated agency or organization serves a sufficient number of providers of services to permit a finding of effective and efficient administration of the hospital insurance program by the Secretary; except that:

(1) The Secretary may enter into an agreement with a nominated agency or organization servicing only a few providers of services if the Secretary finds it is in the best interest of the program to do so; and

(2) The selection of such agency or organization by the Secretary shall not be based exclusively on the number of providers of services such agency or organization will serve;

(g) The nominated agency or organization has an ongoing professional and institutional relationship that successful administration of the hospital insurance program will necessitate and that the extent and substance of these relationships will assure affirmative and effective cooperation with such agency or organization by the providers of services with whom it will deal, and by the physicians and medical societies in the area or areas it will serve;

(h) The nominated agency or organization has established a record of integrity and satisfactory service to the public; and

(i) The nominated agency or organization has personnel practices which reflect an affirmative equal employment opportunity program which is in compliance with the fair employment provisions of the Civil Rights Act of 1964 and Executive Order 11246.

§ 405.662 Termination by intermediary.

An intermediary which has entered into an agreement with the Secretary, may terminate such agreement at any time provided it gives 180 days notice of intention to terminate the agreement to the Secretary, and the providers of service receiving payment through such intermediary. In addition to giving notice to the Secretary and the providers of service, the intermediary will also notify the public of its intention to terminate its agreement with the Secretary by publishing, at least 180 days before the date of termination, a statement of the effective date of termination. Publication is to be in a newspaper of general circulation which serves each community in which a provider receiving payment through such intermediary is located.

§ 405.663 Termination by Secretary.

If the Secretary finds, after 60 days notice and opportunity for hearing to the intermediary, that:

(a) The intermediary has failed substantially to carry out the provisions of the agreement; or

(b) The continuation of some or all of the functions provided for in the agreement is disadvantageous or is inconsistent with the efficient administration of title XVIII of the Act, the Secretary may terminate the agreement at any time upon 120 days notice to the public, to the intermediary and to providers receiving payment through such intermediary.

§ 405.670 Contracts with carriers pursuant to section 1842; general.

In order to accomplish the objectives of the supplementary medical insurance benefits provisions described in Subpart B of this part, with maximum efficiency and convenience to both the enrollees and persons furnishing medical and other health services to them, the Secretary may enter into a contract, pursuant to section 1842 of the Act, with carriers (see § 405.671) to perform, in areas determined on the basis of geographical convenience, all or some of the functions as described in section 1842 of the Act as shall be specified in such contract. With respect to the performance of functions involving payments for services of physicians, the Secretary shall, to the extent possible, enter into such contracts with carriers. In the performance of their contractual undertakings, the carriers act on behalf of the Secretary, carrying on for him the administrative responsibilities imposed by the law. The Secretary, however, is the real party in interest in the administration of the program and will endeavor to safeguard the interests of his contractual representatives with respect to their actions in the fulfillment of commitments under the contracts entered into by them with the Secretary.

§ 405.671 Carrier; defined.

An organization is classified as a carrier for purposes of entering into a contract (see § 405.670) if it is:

(a) A voluntary association, corporation, partnership, or other nongovernmental organization which is lawfully engaged in providing, paying for, or reimbursing the cost of, health services under group insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, or similar group arrangements, in consideration of premiums or other periodic charges payable to the carrier, including a health benefits plan duly sponsored or underwritten by an employee organization;

(b) A State agency, specified in an agreement to enroll welfare recipients under the supplementary medical insurance benefits plan, which administers, or supervises the administration of, the plan of such State approved under title I, XVI, or XIX of the Act.

§ 405.672 Competitive bidding for contract not required.

Contracts with carriers may be entered into without regard to section 3709 of the U.S. Revised Statutes or any other provision of law requiring competitive bidding.

§ 405.673 Carrier's ability to perform duties; financial responsibility; etc.

The Secretary shall not enter into a contract with any carrier unless the Secretary finds that such carrier will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, and other matters as the Secretary finds pertinent.

§ 405.675 Termination of section 1842 contract by notice of nonrenewal.

Except as provided in § 405.676, a contract between the Secretary and a carrier shall terminate at the end of the last day of the term prescribed in the contract unless automatically renewable. An automatic renewal provision shall have the effect of continuing the contract from term to term in the absence of at least 90 days notice by either party to the contract of intention to terminate at the end of the current term.

§ 405.676 Termination of section 1842 contract by Secretary for cause.

The Secretary may terminate a contract with a carrier at any time if it is determined that the carrier has failed substantially to carry out any material terms of the contract or is carrying out the contract in a manner inconsistent with the efficient administration of the supplementary medical insurance benefits program. However, before a final determination of termination for cause is made, the Secretary shall give such carrier at least 60 days notice and opportunity for a hearing.

§ 405.677 Functions which a carrier may perform under contract with the Secretary.

A contract between the Secretary and a carrier may provide for the performance of some or all of the following functions:

(a) Determining the rates and amounts of payments required pursuant to the provisions described in Subpart B of this part to be made to providers of services and other persons on a reasonable cost basis (see Subpart D of this part) or reasonable charge basis (see Subpart E of this part) as may be applicable;

(b) Receiving, disbursing, and accounting for funds in making such payments;

(c) Auditing the records of providers of services, as necessary, to assure that proper payments are made under the provisions described in Subpart B of this part;

(d) Assisting providers of services and other persons who furnish services for which payment may be made under the supplementary medical insurance benefits provisions described in Subpart B of this part:

(1) In the development of procedures relating to utilization practices;

(2) In making studies of the effectiveness of such procedures and methods for their improvement;

(3) In the application of safeguards against unnecessary utilization of services furnished by providers of services and other persons to individuals entitled to supplementary medical insurance benefits (see Subpart B of this part); and

(4) In establishing procedures for, and assisting in arranging, where necessary, the establishment of groups outside hospitals to make reviews of utilization;

(e) Serving as a channel of communication of information relating to the administration of the supplementary medical insurance benefits provisions described in Subpart B of this part; and

(f) Otherwise assisting, in such manner as the contract may provide, in discharging administrative duties necessary to carry out the purposes of the supplementary medical insurance benefits program.

§ 405.678 Duties specifically required to be performed by a carrier.

A carrier which has entered into a contract with the Secretary shall:

(a) Take such action as may be necessary to assure that, where payment under the supplementary medical insurance benefits plan is on a cost basis, the cost is the reasonable cost as determined under the provisions discussed in Subpart D of this part;

(b) Take such action as may be necessary to assure that, where payment under the supplementary medical insurance benefits plan is on a charge basis (see Subpart E of this part):

(1) Such charge will be reasonable and not higher than the charge applicable for a comparable service and under comparable circumstances to the policyholders and subscribers of the carrier; and

(2) Such payment will be made on the basis of a receipted bill, or on the basis of an assignment (see Subpart R of this part) under the terms of which the reasonable charge is the full charge for the service;

(c) Furnish to the Secretary such timely information and reports as he may find necessary in performing his functions in the administration of the supplementary medical insurance benefits plan;

(d) Maintain such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of the information and reports under paragraph (c) of this section and otherwise to carry out the purposes of the supplementary medical insurance benefits plan;

(e) Establish and maintain procedures in accordance with Subpart O of this part, pursuant to which an individual enrolled under the supplementary medical insurance benefits plan, will be granted an opportunity for a fair hearing by such carrier when a request for payment is denied, or is not acted upon with reasonable promptness, or the amount of payment is in controversy; and

(f) Comply with such other terms and conditions as the Secretary may find necessary or appropriate for inclusion in the particular contract to which such carrier is a party.

§ 405.685 Agreements with States pursuant to section 1864; general.

The Secretary shall enter into an agreement with any State which is able and willing to do so, under which the services of the State health agency or other appropriate State agency (or the appropriate local agencies) will be utilized by the Secretary:

(a) For the purpose of assisting the Secretary in determining whether an institution situated in such State is a hospital (see Subpart J of this part), or extended care facility (see Subpart K of this part), or whether an agency is a home health agency (see Subpart L of this part), for purposes of title XVIII of the Act, or whether an independent laboratory meets the conditions for coverage of services of such laboratory (see Subpart M of this part). In making such certifications, the State agency shall undertake such surveys of institutions, agencies, and independent laboratories, and such other necessary supporting activities following such procedures and policies as the Secretary shall require from time to time.

(b) To provide consultative services by the State agency to institutions and agencies to assist such institutions and agencies to comply with the provisions of title XVIII of the Act.

2. *Effective date.* The addition of Subpart P to Part 405 of Chapter III, Title 20, shall be effective upon publication in the FEDERAL REGISTER.

[SEAL] ROBERT M. BALL,
Commissioner of Social Security.

NOVEMBER 13, 1967.

Approved: December 9, 1967.

WILBUR J. COHEN,
Acting Secretary of Health, Education, and Welfare.

[F.R. Doc. 67-14639; Filed, Dec. 15, 1967; 8:47 a.m.]

[20 CFR Part 405]

[Reg. 5]

HEALTH INSURANCE PROGRAM FOR THE AGED

Providers of Services and Independent Laboratories, Determinations and Appeals Procedures

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth below in tentative form are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed regulations (§ 405.1501 et seq.) set forth the procedures for making and reviewing determinations with respect to whether an institution or agency is a provider of services (i.e., a hospital, extended care facility, or home health agency) within the meaning of section 1861 (e)–(g), (j), or (o), as appropriate, of Title XVIII of the Social Security Act; the termination of the Secretary's agreement with a provider of services pursuant to section 1866(b)(2) of the Act; and whether a laboratory is, or continues to be, an independent laboratory within the meaning of section 1861(s) of the Act.

Prior to final adoption of the proposed regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, D.C. 20201, within a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed Federal Health Insurance for the Aged regulations are to be issued under the authority contained in sections 1102, 1866, 1869, 1871, 1872, 49 Stat. 647, as amended, 79 Stat. 327; 79 Stat. 330–332; 42 U.S.C. 1302, 1395 et seq.

[SEAL] ROBERT M. BALL,
Commissioner of Social Security.

NOVEMBER 13, 1967.

Approved: December 9, 1967.

WILBUR J. COHEN,
Acting Secretary of Health, Education, and Welfare.

Chapter III, Title 20 is amended by adding thereto Subpart O of Part 405 to read as follows:

Subpart O—Providers of Services and Independent Laboratories; Determinations and Appeals Procedures

§ 405.1501 Providers of services and independent laboratories; determinations and appeals procedures.

(a) The provisions contained in this Subpart O shall govern the procedures for making and reviewing determinations with respect to whether an institution or agency is a provider of services (i.e., a hospital, extended care facility, or home health agency) within the meaning of title XVIII of the Social Security Act and Subparts J, K, or L of this part, as appropriate; the termination of the Secretary's agreement with a provider of services; and whether a laboratory is, or continues to be, an independent laboratory within the meaning of title XVIII of the Social Security Act and Subpart M of this part.

(b) Any institution or agency dissatisfied with an initial determination (see § 405.1502) that it does not qualify as a provider of services may request the Administration to reconsider that determination (see § 405.1519). If dissatisfied with the reconsidered determination of the Administration, or with an initial determination terminating the Secretary's agreement with it, an institution or agency is entitled to a hearing thereon and, if dissatisfied with the Secretary's final decision after such hearing, to Appeals Council review and then judicial review of such decision (see § 405.1539 et seq.).

(c) Any laboratory dissatisfied with an initial determination that it does not qualify as an independent laboratory may request the Administration to reconsider that determination (§ 405.1510). If dissatisfied with the reconsidered determination of the Administration, or where a determination has been made that it qualified as an independent laboratory, with an initial determination that it no longer qualifies, a laboratory may request a hearing thereon (see § 405.1530), and if dissatisfied with the decision of the hearing examiner may request Appeals Council review. A laboratory is not entitled to judicial review of the Secretary's final decision after such hearing and review.

(d) To be a participating provider of services, eligible for payment, a provider must be in compliance with Title VI of the Civil Rights Act of 1964 and must enter into an agreement with the Secretary under section 1866 of the Social Security Act (see Subpart F of this Part 405). The provisions of this Subpart O do not govern in any respect the adjudication of issues related to the compliance of an institution or agency with Title VI of the Civil Rights Act of 1964, or the implementing regulation (§ 80.1 et seq. of this title) issued by the Secretary of Health, Education, and Welfare.

§ 405.1502 Initial determinations.

The Administration will make findings, setting forth the pertinent facts and conclusions, and an initial determination with respect to:

(a) Whether an institution or agency is a provider of services within the meaning of title XVIII of the Social Security Act and the provisions set forth in Subpart J, Subpart K, or Subpart L of this part, as appropriate, if the institution or agency has filed a written request for such a determination;

(b) (1) Whether a laboratory is an independent laboratory within the meaning of title XVIII of the Social Security Act and Subpart M of this part, if the laboratory has filed a written request for such a determination; or

(2) Whether a laboratory continues to be an independent laboratory following such visit, resurvey, and/or certification by a State agency as is provided in § 405.1306 or § 405.1307 of this part, as appropriate; and

(c) The termination by the Secretary of an agreement with a provider of services, because the provider no longer meets the appropriate conditions of participation necessary to qualify as a provider, or for any other cause for termination by the Secretary described in the provisions in Subpart P of this part.

§ 405.1503 Notice of initial determination.

Written notice of an initial determination (see § 405.1502) with respect to whether an institution or agency is or is not a provider; or with respect to the termination of an agreement; or with respect to whether a laboratory is or is not an independent laboratory, will be mailed to the institution, agency, or laboratory concerned and will include the basis or reasons for the determination, and information concerning the appeal rights of the institution, agency, or laboratory (see §§ 405.1519 and 405.1539).

§ 405.1504 Effect of initial determination.

The initial determination shall be final and binding upon the parties to the determination unless it is revised (see § 405.1519), or unless, in the case of a determination described in § 405.1503 (a) or (b)(1), it is reconsidered in accordance with § 405.1514 or, in the case of a determination described in § 405.1502 (b)(2) or (c), a request for a hearing is filed and a decision rendered.

§ 405.1505 Administrative actions which are not initial determinations.

Administrative actions which shall not be considered initial determinations under any provision of the regulations in this Subpart O include, but are not limited to, the following:

(a) The finding, in accordance with the provisions set forth in § 405.1005, § 405.1105, § 405.1205, or § 405.1305, as appropriate, that an institution or agency determined to be a provider has deficiencies with respect to one or more conditions of participation, or that an independent laboratory, determined to be in substantial compliance with the conditions, has deficiencies with respect to one or more conditions for coverage of services of independent laboratories.

(b) The finding that an institution or agency does not meet the conditions for participation as set out in Subpart J, Subpart K, or Subpart L of this part, as appropriate, but only where such institution or agency is nevertheless approved as a provider of services on the basis of a special access certification (see §§ 405.1010, 405.1110, and 405.1209).

(c) The refusal by the Secretary to accept for filing an agreement submitted by an institution or agency under the terms of section 1866 of the Social Security Act where such institution or agency is not in compliance with the provisions of Title VI of the Civil Rights Act of 1964.

§ 405.1510 Reconsideration; right to reconsideration.

Any institution, agency, or laboratory which is dissatisfied with an initial determination (see § 405.1502) that it does not qualify as a provider of services or independent laboratory, as appropriate, may request that the Administration reconsider the determination. The Administration will reconsider an initial determination if a written request for reconsideration is filed by the institution, agency, or laboratory concerned, as provided in § 405.1511.

§ 405.1511 Time and place of filing request for reconsideration.

(a) A request for reconsideration must be in writing (see § 405.1512) and should state the issues or findings of fact with which the institution, agency, or laboratory, as appropriate disagrees and the reasons for disagreement.

(b) The request for reconsideration must be filed within 6 months after the date of the mailing of the notice of the initial determination unless the time for filing is extended as provided in § 405.1518. The request is to be filed at an office of the Social Security Administration or with an employee of the Administration authorized to accept such requests at a place other than such office. A request for reconsideration which has been timely filed with the State agency that performed the survey and certification function will be considered to have been filed with the Social Security Administration.

§ 405.1512 Proper party for filing request for reconsideration.

The legal representative or other authorized official of the institution, agency, or laboratory which was a party to an initial determination shall file the request for reconsideration of such determination (see §§ 405.1510 and 405.1511).

§ 405.1513 Withdrawal of request for reconsideration.

A request for reconsideration may be withdrawn prior to the mailing of notice of the reconsidered determination (see § 405.1516) if a written request for withdrawal is filed with the Administration by the institution, agency, or laboratory which filed the request for reconsideration and the Administration approves the request.

§ 405.1514 Reconsidered determination.

When a request for reconsideration has been filed as provided in § 405.1511, the Administration shall reconsider the initial determination in question and the findings on which it was based. The Administration shall make a reconsidered determination affirming or revising, in whole or in part, the findings and determination in question (see § 405.1515).

§ 405.1515 Submission of evidence.

The Administration will receive in evidence any documents or written statements which are relevant and material to the matters at issue and which are submitted within a reasonable time after the filing of a request for reconsideration. The reconsidered determination will be based on the evidence considered in making the initial determination and whatever other written evidence may be submitted prior to the time of the reconsidered determination, taking into account facts relating to the status of the institution, agency, or laboratory, as of a date subsequent to the initial determination.

§ 405.1516 Notice of reconsidered determination.

Written notice of a reconsidered determination (see § 405.1514) will be mailed to the institution, agency, or laboratory concerned. The notice of the reconsidered determination will contain findings on conditions with respect to which the institution, agency, or laboratory fails to meet the requirements of the law and regulations, if such be the case, and a statement of the reasons for the determination, and will inform the institution, agency, or laboratory of its right to a hearing (see § 405.1530).

§ 405.1517 Effect of reconsidered determination.

The reconsidered determination shall be final and binding upon the parties to the determination unless it is revised in accordance with § 405.1519 or a hearing is requested in accordance with § 405.1530 and a decision rendered.

§ 405.1518 Extension of time to request reconsideration.

If a party to an initial determination desires to file a request for reconsideration after the time for filing has passed (see § 405.1511(b)), such party may file a petition with the Administration for an extension of the time. The petition shall be in writing and shall state the reasons why the request for reconsideration was not filed within the required time. For good cause shown, the Administration may extend the time for filing a request for reconsideration.

§ 405.1519 Revision of initial or reconsidered determination.

Except in the case of a determination that an institution or agency qualifies as a provider of services, an initial or reconsidered determination which is otherwise final under § 405.1504 or § 405.1517 may be reopened by the Administration upon its own motion within 12 months after the date of the notice of the initial determination (see § 405.1503). Notice of the reopening of a determination and any revision thereof shall be given to the institution, agency, or laboratory which was a party to the determination (see § 405.1520).

§ 405.1520 Notice of revision.

Written notice of the revision of an initial or reconsidered determination (see § 405.1519) will be mailed to the institution, agency, or laboratory which was a party to the determination. The notice of revision will state the basis or reasons for the revised determination and, if the determination be that a laboratory does not qualify as an independent laboratory, will contain findings on conditions with respect to which the laboratory fails to meet the requirements of the law and regulations and will inform the laboratory of its right to a hearing as provided in § 405.1530.

§ 405.1521 Effect of revised determination.

The revision of an initial or reconsidered determination (see § 405.1519) shall be final and binding upon the parties to the determination unless a request for a hearing is filed and a decision rendered.

§ 405.1530 Hearing; right to hearing.

After an initial and reconsidered determination that it does not qualify as a provider of services or an independent laboratory (see §§ 405.1502 (a) and (b)(1) and 405.1514); or after an initial determination described in § 405.1502 (b)(2) and (c); or after a revised determination described in § 405.1519, an institution, agency, or laboratory shall be entitled to a hearing with respect to such determination, if the representative of the institution, agency, or laboratory files a written request for a hearing as provided in § 405.1531.

§ 405.1531 Filing a request for a hearing; time and manner of filing.

(a) The request for a hearing shall be made in writing, signed by a proper official of the institution, agency, or laboratory concerned and filed at an office of the Administration, or with a hearing examiner or the Appeals Council of the Bureau of Hearings and Appeals. The request must be filed within 6 months after the date on which written notice of an initial determination provided for in § 405.1502 (b)(2) or (c), or a reconsidered or revised determination is mailed to the institution, agency, or laboratory (see §§ 405.1503, 405.1516, and 405.1520), except where the time is extended for "good cause" (see § 405.1569).

(b) The request for a hearing shall contain a statement as to the specific issues or findings of fact and conclusions of law in the preceding determination with which the institution, agency, or laboratory disagrees, and the basis for its contention that the specific issues and/or findings and conclusions were incorrect.

(c) The legal representative or any other authorized official of the institution, agency, or laboratory shall be a proper person to file the request for hearing.

§ 405.1532 Parties to the hearing.

The parties to the hearing shall be the institution, agency, or laboratory which was a party to the prior determination (see §§ 405.1502 (b)(2) and (c), 405.1514, and 405.1519) and the Bureau of Health Insurance. The Bureau of Health Insurance shall be represented at the hearing (see § 405.1543).

§ 405.1533 Hearing examiner.

The hearing provided for in this Subpart O shall be conducted by a hearing examiner designated by the Director, Bureau of Hearings and Appeals, or his delegate. In an appropriate case, the Director or his delegate may substitute another hearing examiner or designate, initially or by substitution, a member or members of the Appeals Council to conduct the hearing. The conduct of hearings shall be governed by this subpart.

§ 405.1534 Disqualification of hearing examiner.

No hearing examiner shall conduct a hearing in a case in which he is prejudiced or partial with respect to the institution, agency, or laboratory, or where he has any interest in the matter pending for decision before him. Notice of any objection which a party to the hearing may have to the hearing examiner who will conduct the hearing shall be made at the earliest opportunity. The hearing examiner shall consider the objection(s) and shall, in his discretion, either proceed with the hearing or withdraw. If the hearing examiner withdraws, another hearing examiner shall be designated (see § 405.1533) to conduct the hearing. If the hearing examiner does not withdraw, the objecting party may, after the hearing, present his objections to the Appeals Council as reasons why he believes the hearing examiner's decision should be revised or a new hearing held before another hearing examiner.

§ 405.1535 Prehearing conference.

At any time after a request for a hearing has been received, but prior to the time of the hearing (see §§ 405.1540 and 405.1541) the hearing examiner may, in his discretion, call a prehearing conference for the purpose of delineating the issues in controversy, identifying the evidence and witnesses to be presented at the hearing, and obtaining stipulations accordingly. On the request of either party or on his own motion, the hearing examiner may adjourn the prehearing conference and reconvene at a later date.

§ 405.1536 Time and place of prehearing conference.

The hearing examiner shall fix a time and place for the prehearing conference, written notice of which shall be mailed to the parties not less than 10 days prior to the conference date. The notice shall inform the parties of the purpose of the prehearing conference and the issues sought to be resolved, stipulated to, or excluded. If a party has information which will involve additional issues for consideration at the prehearing conference, other than those set forth in the notice of determination (see §§ 405.1503, 405.1516, and 405.1520) and the institution's, agency's, or laboratory's request for hearing, timely notice should be given to the hearing examiner and the other party of such information. The hearing examiner may also raise any additional issues by including them in his notice of the prehearing conferences or during the conference.

§ 405.1537 Conduct of prehearing conference.

The prehearing conference shall be open to the representatives of the institution, agency, or laboratory and the representatives of the Bureau of Health Insurance, to their technical advisors, and to such other persons as the hearing examiner deems necessary or proper. The hearing examiner may accept the agreement of the parties as to those facts which are not in controversy and as to questions which have been resolved favorably to the institution, agency, or laboratory subsequent to the determination in dispute. The hearing examiner may accept the agreement of the parties as to the remaining issues to be resolved. The parties may be requested to indicate what witnesses will be present to testify at the hearing, the qualifications of such witnesses, and the nature of other evidence to be submitted.

§ 405.1538 Record of prehearing conference.

A record shall be made of all agreements and stipulations entered into at the prehearing conference. The record will be transcribed on the request of either party or the hearing examiner. The hearing examiner shall issue an order setting forth the results of the prehearing conference and including the agreements made by the parties as to facts not in controversy, the matters to be considered at the hearing and the issues to be resolved. Copies of the order shall be sent to all parties. The parties shall be granted 10 days in which to file their objections to the order, following which the hearing examiner shall settle the order.

§ 405.1539 Effect of prehearing conference.

The agreements entered into at the prehearing conference as to issues in controversy, facts stipulated to and evidence to be presented at the hearing shall be binding on all parties unless, in the discretion of the hearing examiner, facts are presented which would make the agreement unreasonable or inequitable.

§ 405.1540 Time and place of hearing.

The hearing examiner shall fix a time and place for the hearing, written notice of which shall be mailed to the parties to the hearing not less than 10 days prior to the scheduled date of hearing. The notice shall inform the parties of the general and specific issues to be resolved at the hearing.

§ 405.1541 Change of time and place for hearing.

The hearing examiner may change the time and place for the hearing (see § 405.1540) either on his own motion or at the request of a party for good cause shown. The hearing examiner may adjourn or postpone the hearing, or he may reopen the hearing for the receipt of additional evidence at any time prior to the mailing of notice of the decision in the case (see § 405.1557). Reasonable notice shall be given to the parties of any change in the time or place of hearing or of an adjournment or of a reopening of the hearing.

§ 405.1542 Hearing on new issues.

(a) On the application of either party, or on his own motion, the hearing examiner may give notice at any time after a request for hearing has been filed (see § 405.1531), but prior to the closing of the record, that he will consider any specific new issue which may affect the rights of the institution, agency, or laboratory, even though the Administration has not made an initial and reconsidered determination with respect to the issue and even though the issue arose after the request for hearing or prehearing conference: Except that, in the case of an initial determination described in § 405.1502 (b)(2) or (c), the hearing examiner shall not consider any issue which arose on or after (1) the effective date of the termination of an institution's or agency's agreement with the Secretary or (2) the date on which a laboratory is determined to no longer qualify as an independent laboratory. Notice of the time and place of the hearing on any new issue shall, unless waived (see § 405.1550), be given to the parties within the time and manner prescribed in § 405.1540. Upon giving of such notice, the hearing examiner shall, except as otherwise provided, proceed to hearing on such new issues in the same manner as he would on an issue in which an initial and reconsidered determination had been made by the Administration and a hearing request with respect thereto had been filed.

(b) On the application of either party, or on his own motion, in lieu of considering any new issue in the manner described in the preceding paragraph, the hearing examiner may remand the case to the Bureau of Health Insurance for consideration of the new issue and, where appropriate, a determination. Where necessary the hearing examiner may direct that the case be returned to him for further proceedings. See also § 405.1560.

§ 405.1543 Joint hearings.

When two or more institutions, agencies, or laboratories have requested hearings and the same or substantially similar matters are in issue, the hearing examiner may, if all parties agree, fix the same times and places for each prehearing conference or hearing and conduct all such proceedings jointly. Where joint hearings are held, a single record of the proceedings shall be made and a separate decision issued for each institution, agency, or laboratory.

§ 405.1544 Subpoenas.

When reasonably necessary for the full presentation of a case, the hearing examiner may upon his own motion, or upon the request of a party to the hearing, issue subpoenas for the attendance and testimony of witnesses and for the production of books, records, correspondence, papers, or other documents which are relevant and material to any matter in issue at the hearing. A party which desires the issuance of a subpoena shall, not less than 5 days prior to the time fixed for a hearing, file with the hearing examiner a written request therefor, designating the witnesses or documents to be produced, and describing the address and location thereof with sufficient particularity to permit such witnesses or documents to be found. The request for a subpoena shall state the pertinent facts which the party expects to establish by such witnesses or documents and whether such facts could be established by other evidence without the use of a subpoena. A subpoena issued under the provisions of this section shall be issued in the name of the Secretary of Health, Education, and Welfare. The Social Security Administration shall pay the cost of the issuance and the fees and the mileage of any witnesses so subpoenaed, as provided in section 205(d) of the Act.

§ 405.1545 Conduct of the hearing.

The hearing shall be open to the representatives of the institution, agency, or laboratory and the representatives of the Bureau of Health Insurance, their technical advisors, and to such other persons as the hearing examiner deems necessary or proper. The hearing examiner shall inquire fully into all of the matters at issue (see § 405.1543) and shall receive in evidence the testimony of witnesses and any documents which are relevant and material to such matters. If the hearing examiner believes that there is relevant and material evidence available which has not been presented at the hearing, the hearing examiner may at any time prior to the mailing of notice of the decision, reopen the hearing for the receipt of such evidence. The order in which the evidence and the allegations shall be presented and the conduct of the hearing shall be at the discretion of the hearing examiner.

§ 405.1546 Evidence.

Evidence may be received at the hearing even though inadmissible under the rules of evidence applicable to court procedure. The hearing examiner shall rule on the admissibility of evidence.

§ 405.1547 Witnesses.

Witnesses at the hearing shall testify under oath or affirmation. The representative of each party shall be permitted to examine his own witnesses subject to interrogation by the representative of the other party. The hearing examiner may ask such questions as he deems necessary. He shall rule upon any objection made by either party as to the propriety of any question.

§ 405.1548 Oral and written summation.

The parties to a hearing shall be allowed a reasonable time for the presentation of an oral summation and for the filing of briefs or other written statements of proposed findings of fact and conclusions of law. Copies of any briefs or other written statements shall be sent in accordance with § 405.1595.

§ 405.1549 Record of hearing.

A complete record of the proceedings at the hearing shall be made and transcribed in all cases.

§ 405.1550 Waiver of right to appear and present evidence.

If the institution, agency, or laboratory waives its right to appear before the hearing examiner and present testimony, it shall not be necessary for the hearing examiner to give notice of and conduct an oral hearing. A waiver of this right shall be made in writing and filed with the hearing examiner. A waiver may be withdrawn by an institution, agency, or laboratory, for good cause shown, at any time prior to the mailing of notice of the decision in the case. Even though an institution, agency, or laboratory has filed a waiver of a hearing before a hearing examiner, the hearing examiner may, nevertheless, give notice of a time and place and conduct a hearing if he believes that testimony of the representatives of the institution, agency, or laboratory or other persons is needed to clarify the facts in issue, or on a showing of good cause by the Bureau of Health Insurance of the need to present oral evidence. When such a waiver has been filed and no testimony received, the hearing examiner shall make a record of the relevant written evidence, including applications, written statements, certificates, affidavits, reports, and other documents which were considered in connection with the initial, reconsidered, or revised determination (see §§ 405.1502, 405.1514, and 405.1519), and whatever additional relevant and material evidence was submitted by the parties for consideration by the hearing examiner. Any additional evidence submitted by either party shall be furnished to the other party and that party shall be given a reasonable opportunity to submit further evidence in rebuttal. The parties may submit briefs or other written statements of evidence and/or proposed findings of fact or conclusions of law, copies of which shall be sent in accordance with § 405.1595. After the hearing examiner sets the case for oral hearing and gives notice of the time and place set for the hearing, the request for hearing shall be dismissed in accordance with § 405.1552 where the institution, agency, or laboratory fails to appear without good cause.

§ 405.1551 Dismissal of request for hearing; by application of an institution, agency, or laboratory.

The hearing examiner, at any time prior to the mailing of notice of the decision (see § 405.1557), may dismiss a hearing request where a party withdraws its request for a hearing or where the institution, agency, or laboratory asks that its request be dismissed. An institution, agency, or laboratory may request a dismissal by filing a written notice with the hearing examiner.

§ 405.1552 Dismissal by abandonment.

The hearing examiner may dismiss a request for hearing upon its abandonment by the institution, agency, or laboratory on whose behalf it was filed. An institution, agency, or laboratory may be deemed to have abandoned a request for hearing if the representative or proper official does not appear at the prehearing conference or hearing and prior to that time has not shown good cause as to why he could not appear; or, within 10 days after the mailing of a notice to the representative by the hearing examiner to show cause, did not show good cause for failing to appear or to notify the hearing examiner prior to the time for the prehearing conference or hearing that he could not appear.

§ 405.1553 Dismissal for cause.

On his own motion, or on the motion of a party to the hearing, the hearing examiner may dismiss a hearing request either entirely or as to any stated issue, under any of the following circumstances:

(a) *Res judicata.* Where there has been a previous determination or decision by the Secretary with respect to the rights of the same institution, agency, or laboratory on the same facts and law pertinent to the same issue or issues which has become final either by judicial affirmance or, without judicial consideration, upon failure of the institution, agency, or laboratory timely to request reconsideration, hearing, or review, or to commence a civil action with respect to such determination or decision.

(b) *No right to hearing.* Where the party requesting a hearing is not a proper party (see § 405.1531(c)) or does not otherwise have a right to a hearing.

(c) *Hearing request not timely filed.* Where an institution, agency, or laboratory has failed to file a hearing request timely and the time for filing such request has not been extended.

§ 405.1554 Notice of dismissal and right to request review thereof.

Notice of the hearing examiner's dismissal action shall be mailed to the parties. Such notice shall advise the institution, agency, or laboratory of its right to request review by the Appeals Council as provided in §§ 405.1561 and 405.1562.

§ 405.1555 Effect of dismissal.

The dismissal of a request for hearing shall be final and binding unless vacated (see § 405.1556).

§ 405.1556 Vacation of dismissal of request for hearing.

On the request of a party filed within 60 days of the date of the mailing of the notice of dismissal, a hearing examiner or the Appeals Council may, for good cause shown, vacate any dismissal of a request for hearing.

§ 405.1557 Hearing examiner's decision.

As soon as practical after the close of the hearing, the hearing examiner shall issue a decision in the case. The decision shall be based upon the evidence of record. The decision shall be made in writing and contain separate numbered findings of fact and conclusions of law. A copy of the decision shall be mailed to the parties.

§ 405.1558 Effect of hearing examiner's decision.

The hearing examiner's decision shall be final and binding unless reviewed by the Appeals Council or unless it is revised in accordance with § 405.1570.

§ 405.1559 Removal of hearing to the Appeals Council.

The Appeals Council on its own motion may, prior to receipt of oral testimony before a hearing examiner, remove to itself any pending request for a hearing. Any hearing on any matter so removed to the Appeals Council shall be conducted in accordance with the requirements of this subpart governing a hearing before a hearing examiner. Notice of such removal shall be mailed to each party.

§ 405.1560 Remand by the hearing examiner.

At the request of the Bureau of Health Insurance and with the written or on the record concurrence of the other party to the hearing, the hearing examiner may remand any case properly before him to the Bureau of Health Insurance for a determination satisfactory to such other party. Such remand may be made at any time after the request for hearing and before mailing of the notice of decision.

§ 405.1561 Right to request a review of hearing examiner's decision or dismissal.

If the hearing examiner has issued a decision or dismissed a request for hearing, either of the parties thereto (see § 405.1532) may request the Appeals Council to review the decision or dismissal. The hearing examiner shall notify the parties of their right to request review by the Appeals Council of the decision or dismissal and the manner of making the request.

§ 405.1562 Time and place of filing requests for review.

(a) The request for review shall be made in writing and filed with the Appeals Council. The request shall be accompanied by whatever additional documents or other evidence the requesting party desires the Appeals Council to consider in its review and must be filed within 60 days from the date of mailing notice of the hearing examiner's dismissal or decision except where the time is extended for good cause.

(b) A request for review of a hearing examiner's decision shall contain a statement as to the specific issues or findings of fact and conclusions of law in the decision with which the party disagrees and the basis for its contention that the specific issues and/or findings or conclusions were incorrect.

§ 405.1563 Action by the Appeals Council on request for review.

The review or denial of review of the hearing examiner's decision shall be conducted by a panel of at least two members of the Appeals Council designated by the Chairman or Deputy Chairman and one person from the U.S. Public Health Service designated by the Surgeon General, Public Health Service, Department of Health, Education, and Welfare, or his delegate. Except as provided in § 405.1566, the Appeals Council shall review the hearing examiner's decision or dismissal where an institution, agency, or laboratory files a request for review. The Appeals Council may dismiss, deny, or grant a request for review filed by the Bureau of Health Insurance. If review is granted, the Appeals Council may either modify, affirm, or reverse the hearing examiner's decision. Notice of the action by the Appeals Council shall be mailed to the institution, agency, or laboratory and the Bureau of Health Insurance.

§ 405.1564 Procedures before the Appeals Council on review.

The parties shall be given, upon request, a reasonable opportunity to file briefs or other written statements as to fact and law and to appear before the Appeals Council for the purpose of presenting evidence or oral argument. Copies of any brief or other written statements shall be sent in accordance with § 405.1595.

§ 405.1565 Evidence admissible on review.

Evidence in addition to (a) that introduced at the hearing before the hearing examiner, or (b) documents before the hearing examiner where such hearing was waived, may not be admitted except where it appears to the Appeals Council that the evidence is relevant and material to an issue before it. Where it appears to the Appeals Council that additional relevant material is available, the Appeals Council shall require the production of such evidence. Before additional evidence is admitted into the record, notice that evidence will be received with respect to certain issues shall be mailed to the parties, and each party shall be given a reasonable opportunity to comment thereon and to present other evidence which is relevant and material to the issues unless such notice is waived. Where the additional evidence is presented orally to a member of the Appeals Council, a transcript shall be made available to any party upon request.

§ 405.1566 Decision of the Appeals Council or remanding of case.

(a) When the Appeals Council reviews a hearing examiner's decision or order of dismissal, or if the case has been remanded by a court for further proceedings by the Secretary, the Appeals Council may either issue a decision or remand the case to a hearing examiner for a hearing and decision or recommended decision, which decision may be further reviewed as provided in this Subpart O.

(b) In a case remanded to a hearing examiner, the hearing examiner shall initiate such additional proceedings and take such other actions as directed by the Appeals Council in its order of remand and he may take any additional action not inconsistent with the order of remand. Upon completion of all action called for by the order of remand and any other action initiated by the hearing examiner, the hearing examiner shall promptly make a decision (see § 405.1557) or, as directed by the Appeals Council, certify the case with a recommended decision to the Appeals Council for its decision. The parties shall have 20 days from the date of the notice of a recommended decision in which to submit any exception, objection and comment on the findings of fact, conclusions of law and recommended decision of the hearing examiner to the Appeals Council. Following the expiration of the 20 days, the Appeals Council will issue its decision adopting, confirming, modifying, or rejecting the recommended decision of the hearing examiner.

(c) Where the case is not remanded to a hearing examiner, the decision of the Appeals Council shall be based upon the evidence received into the hearing record and such further evidence as the Appeals Council may receive. This decision shall be made in writing and contain separate numbered findings of fact and conclusions of law. A copy of the decision shall be mailed to each party.

§ 405.1567 Effect of the Appeals Council decision.

The decision of the Appeals Council shall be final and binding unless a civil action (see § 405.1501(b)) is filed by the institution or agency in a district court of the United States as authorized by section 1869(c) of the Act or unless the decision is revised in accordance with § 405.1570.

§ 405.1568 Dismissal by Appeals Council.

The Appeals Council may dismiss a request for review in any of the following circumstances:

(a) *Upon request of party.* Proceedings pending before the Appeals Council may be discontinued and dismissed upon written application of the party which filed the request for review.

(b) *Request for review not timely filed.* Request for review of a hearing examiner's dismissal or decision shall be dismissed when the party has failed to file a request for review within the time specified and good cause was not established in accordance with § 405.1560 for such failure to file.

(c) *Where the hearing examiner could have dismissed.* The hearing examiner's decision may be set aside and the request for hearing dismissed for any reason for which it could have been dismissed by the hearing examiner.

§ 405.1569 Extension of time to request a hearing or review or begin civil action.

Any institution, agency, or laboratory which is a party to an initial determination described in § 405.1502 (b)(2) or (c); or to a reconsidered determination that it does not qualify as a provider of services or an independent laboratory; or to a revised determination described in § 405.1519; or which is a party to a decision of a hearing examiner may request an extension of time for filing a request for hearing or review, as the case may be, although the time for filing the request has passed. If an extension of time for filing a request for hearing before a hearing examiner is sought, the request may be filed with the hearing examiner. In any other case, the request shall be filed with the Appeals Council. The request shall be in writing and shall state the reasons why the request was not filed within the required time. An institution or agency which is a party to a decision of the Appeals Council, may ask the Appeals Council for an extension of time for commencing civil action in a district court within 60 days from the date of the notice of the Appeals Council action and shall state the reasons an extension is required. For good cause shown, the hearing examiner may extend the time for filing a request for hearing or the Appeals Council may extend the time for filing a request for review or civil action.

§ 405.1570 Reopening decisions of a hearing examiner or the Appeals Council.

A decision of a hearing examiner or of the Appeals Council which is otherwise final under § 405.1558 or § 405.1567 may be reopened within 60 days from the date of mailing notice of the decision by the hearing examiner or Appeals Council. Upon the motion of the hearing examiner or the Appeals Council, as the case may be, or upon the petition of any party to a hearing, the decision of a hearing examiner may be reopened by such hearing examiner, or by another hearing examiner if the hearing examiner who issued the decision is unavailable, or by the Appeals Council within the time prescribed above. A decision of the Appeals Council may be reopened only by the Appeals Council. For the purposes of this paragraph, a hearing examiner shall be considered to be unavailable if, among other circumstances, he has died, terminated his employment, is on leave of absence, has had a transfer of official station, or is unable to conduct a hearing because of illness.

§ 405.1571 Notice of revision.

(a) Where a hearing examiner or the Appeals Council proposes to revise a decision under § 405.1570, and the revision would be based on evidence not included in the record on which the said decision was based, the parties shall be given notice of the hearing examiner's or the Appeals Council's proposal to revise such decision, and unless hearing is waived, a hearing with respect to the proposed revision shall be granted as provided in this Subpart O.

(b) If a revised decision is necessary, it shall be rendered by the hearing examiner or the Appeals Council, as appropriate, on the basis of the entire record. If the decision is revised by a hearing examiner, either party thereto may request review by the Appeals Council or the Appeals Council may review the decision on its own motion.

(c) When any decision of a hearing examiner or of the Appeals Council is revised, notice of the revision shall be mailed to the parties to the decision. The notice shall state the basis for the revised decision and inform the parties of the right to Appeals Council review or judicial review as appropriate.

§ 405.1572 Effect of revised determination.

A revised decision by a hearing examiner shall be final and binding upon the parties thereto unless reviewed by the Appeals Council in accordance with §§ 405.1561–405.1563. A revised decision by the Appeals Council shall be final and binding unless a civil action (see § 405.1501(b)) is filed by the institution or agency in a district court of the United States as authorized by section 1869(c) of the Act.

§ 405.1590 Representation.

An institution, agency, or laboratory may appoint as its representative any individual except an individual disqualified or suspended from acting as a representative in proceedings before the Social Security Administration or otherwise prohibited by law. Except where the representative appointed is an attorney, an institution, agency, or a laboratory must give written notice of the appointment of a representative. The notice of appointment shall be filed at an office of the Administration, or with the hearing examiner or the Appeals Council. Where the representative appointed is an attorney, in the absence of information to the contrary, his representation that he has the authority to represent the party shall be accepted as evidence of his authority.

§ 405.1591 Authority of representatives.

A representative appointed and qualified as provided in § 405.1590 may accept or give on behalf of the party he represents any request or notice relative to any proceedings before the Social Security Administration under title XVIII of the Act including reconsideration, hearing and review. A representative shall be entitled to present evidence and allegations as to facts and law in any proceeding affecting the party he represents and to obtain information with respect to the claim of the party to the same extent as the party. Notice to any party of any administrative action, determination or decision, or a request to any party for the production of evidence, may be sent to the representative of the party, and the notice or request shall have the same force and effect as if it had been sent to the party represented.

§ 405.1592 Fees for services.

Fees for any services rendered by a representative appointed and qualified as in §§ 405.1590 and 405.1591 on behalf of any institution, agency, or laboratory shall not be subject to the provisions of section 206 of title II of the Social Security Act.

§ 405.1593 Cost of transcript.

On the request of a party, a transcript of the agreements and stipulations made at the prehearing conference, or a transcript of the hearing before a hearing examiner, or before the Appeals Council, as the case may be, will be prepared and sent to the requesting party upon the payment of cost, or if the cost is not readily determinable, the estimated amount thereof, unless for good cause such payment is waived by the hearing examiner or the Appeals Council as the case may be.

§ 405.1594 Notice.

When, in accordance with the provisions of this Subpart O, a notice is required to be sent to the parties, the notice shall be sent to the parties and/or their representative(s).

§ 405.1595 Filing of briefs or other related statements.

Any brief, written argument, contention, suggested finding of fact, or conclusion of law, or any other related written statement shall be filed, in person or by mail (original and one copy), with the hearing examiner or Appeals Council, as appropriate, with a statement certifying that a copy has been mailed to the other party. The other party shall have 20 days from the date of mailing to submit any rebuttal statement or additional evidence. Where the party does submit a rebuttal statement or additional evidence an original and one copy shall be filed with the hearing examiner or the Appeals Council and a copy sent to the other party. The hearing examiner shall grant an opportunity to reply to the rebuttal statement only upon a showing of good cause.

[F.R. Doc. 67-14626; Filed, Dec. 15, 1967; 8:47 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 67-CE-148]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Mattoon, Ill.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

Since designation of the Mattoon, Ill., control zone and transition area, two public use instrument approach procedures for Coles County Memorial Airport, Mattoon, Ill., have been modified. In addition, the existing special ADF instrument approach procedure for this airport is not presently protected with controlled airspace designation. Also there is insufficient controlled airspace in the Mattoon area to contain the primary airline direct routes into and out of Coles County Memorial Airport. Therefore, it is necessary to alter the Mattoon control zone and transition area to provide controlled airspace protection for aircraft executing the prescribed public use instrument approach and the special instrument approach procedures and operating via these airline direct routes.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

1. In § 71.171 (32 F.R. 2071), the following control zone is amended to read:

MATTOON, ILL.

Within a 5-mile radius of Coles County Memorial Airport (latitude 39°28'45" N., longitude 88°17'05" W.); within 2 miles each side of the Mattoon VOR 060° radial, extending from the 5-mile radius zone to 8 miles northeast of the VOR; within 2 miles each side of the Mattoon VOR 239° radial, extending from the 5-mile radius zone to 8 miles southwest of the VOR; and 2 miles each side of the 128° bearing from Coles County Memorial Airport, extending from the 5-mile radius zone to 6 miles southeast of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airmans Information Manual.

2. In § 71.181 (32 F.R. 2148), the following transition area is amended to read:

MATTOON, ILL.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Coles County Memorial Airport (latitude 39°28'45" N., longitude 88°17'05" W.); within 2 miles each side of the Mattoon VOR 060° radial, extending from the 6-mile radius area to 8 miles northeast of the VOR; within 2 miles each side of the 128° bearing from Coles County Memorial Airport, extending from the 6-mile radius area to 8 miles southeast of the airport; and within 5 miles northwest and 8 miles southeast of the Mattoon VOR 239° radial, extending from the VOR to 12 miles southwest of the VOR; and that airspace extending upward from 1,200 feet above the surface within the area bounded on the north by V-56, on the east by longitude 88°00'00" W., on the south by V-14 and on the west by V-213, excluding the area which overlies the Decatur, Ill., transition area.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued at Kansas City, Mo., on November 30, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 67-14611; Filed, Dec. 15, 1967; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-CE-144]

CONTROL ZONE AND TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a control zone and transition area at Havre, Mont.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

Two VOR public use instrument approach procedures have been developed to serve City-County Airport, Havre, Mont., which will utilize a State-owned VOR facility to be installed on the airport, as a navigational aid. In addition, the existing special ADF instrument approach procedure for this airport, which utilizes a private radio beacon on the airport as a navigational aid, is not presently contained within controlled airspace. Therefore, it is necessary to designate a control zone and transition area at Havre, Mont., to provide controlled airspace protection for aircraft executing these public and special instrument approach procedures.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

1. In § 71.171 (32 F.R. 2071), the following control zone is added:

HAVRE, MONT.

Within a 5-mile radius of City-County Airport (latitude 48°33'40" N., longitude 109°45'40" W.); within 2 miles each side of the 261° bearing from City-County Airport, extending from the 5-mile radius zone to 8 miles west of the airport; within 2 miles each side of the 080° bearing from City-County Airport, extending from the 5-mile radius zone to 8 miles east of the airport, and within 2 miles each side of the 261° bearing from City-County Airport, extending from the 5-mile radius zone to 8 miles west of the airport.

2. In § 71.181 (32 F.R. 2148), the following transition area is added:

HAVRE, MONT.

That airspace extending upward from 700 feet above the surface within a 13½ mile radius of City-County Airport (latitude 48°-33'40" N., longitude 109°45'40" W.).

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued at Kansas City, Mo., on November 30, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 67-14622; Filed, Dec. 15, 1967; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-SW-87]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter the El Dorado, Ark., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

As a result of the development of a new public use instrument approach procedure to serve Goodwin Field, El Dorado, Ark., it is necessary to alter the El Dorado transition area to provide airspace protection for aircraft executing

this approach procedure. Additionally, it is planned to cancel the 1,200-foot portion of this transition area and incorporate it within the description of the proposed Crossett, Ark., transition area.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation regulations as hereinafter set forth:

In § 71.181 (32 F.R. 2181) the El Dorado, Ark., transition area is amended to read:

EL DORADO, ARK.

That airspace extending upward from 700 feet above the surface within 5 miles southeast and 8 miles northwest of the El Dorado VORTAC 050° radial (052° magnetic), extending from the VORTAC to 12 miles northeast; within 5 miles each side of the 239° radial (232° magnetic), extending from the VORTAC to 8 miles southwest; and within 2 miles each side of the 236° radial (229° magnetic), extending from the VORTAC to 18 miles southwest.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Fort Worth, Tex., on December 4, 1967.

A. L. COULTER,
Acting Director, Southwest Region.

[F.R. Doc. 67-14631; Filed, Dec. 15, 1967; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-CE-139]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Osceola, Wis.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

A public use instrument approach procedure has been developed to serve the Osceola, Wis., Municipal Airport utilizing a planned radio beacon to be located on the airport as a navigational aid. Consequently, it is necessary to designate a transition area at Osceola, Wis., to provide protection for aircraft that will be executing this approach procedure. The proposal will become effective upon completion of the radio beacon installation and when controlled airspace has been designated for its protection.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (32 F.R. 2148) the following transition area is added:

OSCEOLA, WIS.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Osceola Municipal Airport (latitude 45°-18'45" N., longitude 92°41'48" W.); and within 2 miles each side of the 114° bearing from Osceola Municipal Airport, extending from the 6-mile radius area to 8 miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface within 5 miles southwest and 8 miles northeast of the 114° bearing from Osceola Municipal Airport, extending from the airport to 12 miles southeast of the airport.

This amendment is proposed under the authority of section 307(a) of Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued at Kansas City, Mo., on November 30, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 67-14623; Filed, Dec. 15, 1967; 8:46 a.m.]

[14 CFR Part 75]

[Airspace Docket No. 67-CE-135]

JET ROUTE

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 75 of the Federal Aviation Regulations that would realign the segment of Jet Route No. 102 from Lamar, Colo., to Salina, Kans. This realigned jet route segment would permit route continuity for flight planning and reduce additional radar vectoring for high altitude traffic desiring to be routed direct between Salina and Lamar.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Building, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on December 11, 1967.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-14630; Filed, Dec. 15, 1967; 8:46 a.m.]

Office of the Secretary

[49 CFR Part 239]

[OST Docket No. 8; Notice 4(a)]

STANDARD TIME ZONE BOUNDARIES

Kansas; Request for Additional Comments

By notice published in the FEDERAL REGISTER on August 9, 1967 (32 F.R. 11479), the Department of Transportation proposed that the entire State of Kansas be included within the central standard time zone. The proposal was made pursuant to a petition from the Governor and Legislature of Kansas to that effect. The notice stated that consideration would be given to all comments received on or before October 20, 1967.

The responses received as a result of the original notice are considered to be an insufficient basis for arriving at a final determination of the issue. The Department of Transportation has therefore determined that reissuance of the notice of proposed rule making to solicit additional comments would serve the interests of the citizens of Kansas by providing a more comprehensive record than that compiled to date.

The Department is authorized to modify the limits of time zones "having regard for the convenience of commerce and the existing junction points and division points of common carriers engaged in interstate or foreign commerce." The Department will consider the timely comments of all interested persons, and makes specific mention of those counties in northwestern Kansas which would be moved from mountain standard time into central standard time if this proposal is made final. It is the low volume of response from this northwestern section of the State which is primarily responsible for the issuance of this second notice.

Section 239.5(d) of Title 49 of the Code of Federal Regulations describes the present boundary between the mountain standard time zone and the central standard time zone, in pertinent part, as follows:

From the point dash described (the intersection of the township lines between townships 17 and 18, west of the sixth principal meridian on the boundary line of Kansas and Nebraska), in a southerly direction through Phillipsburg, Glendale, and Hutchinson to Main, crossing in said course the Chicago, Rock Island & Pacific Railway at Phillipsburg, the Missouri Pacific Railroad near Glade, and the Union Pacific Railroad at Plainville and Ellis; thence south along the west line of Ellis County and the east line of Ness County to the northeast corner of Hodgeman County, crossing in said course the Missouri Pacific Railroad near McCracken and the Santa Fe near Alexander; thence west along the north line of Hodgeman County to the 100° meridian, west; thence south along said meridian to a point north of Dodge City; thence along the north and west boundary of Dodge City to the fifth standard parallel, south; thence westerly along said parallel and the southern boundary lines of Finney, Kearney, and Hamilton Counties to the Kansas-Colorado border; thence south along the border between Kansas and Colorado to the intersection of the boundary between such States with the boundary line of Oklahoma.

Under this proposal § 239.5(d) would be amended to move the boundary between the mountain standard time zone and the central standard time zone west, and make it coincide with the western boundary of the State of Kansas.

In consideration of the foregoing, it is proposed that § 239.5(d) (formerly § 139.5(d)) of Title 49 of the Code of Federal Regulations be amended to include the entire State of Kansas within the U.S. central standard time zone.

Communications should identify the regulatory docket or notice number (see above) and be submitted in duplicate to: Docket Clerk; Office of the General Counsel; Department of Transportation; 800 Independence Avenue SW.; Washington, D.C. 20590.

Communications received on or before January 31, 1968, and all other petitions and communications received before the date of this notice, will be considered by the Department before taking final action on the petition. All docketed comments from this notice and the prior notice will be available for examination by interested persons, both before and after the closing date for comments.

These proceedings do not concern adherence to or exemption from advanced (daylight saving) time during the summer months. The Uniform Time Act requires observance of advanced time within established time zones from the last Sunday in April to the last Sunday in October, but permits an individual State to exempt itself, by law, from observing advanced time within the State.

This proposal is issued under the authority of the Act of March 19, 1918, ch. 24, as amended by the Uniform Time Act of 1966 (15 U.S.C. 260-267); section 6 (e) (5) of the Department of Transportation Act (80 Stat. 938, 49 U.S.C. 1655); and 49 CFR Part 5.

Issued in Washington, D.C., on December 12, 1967.

JOHN E. ROBSON,
General Counsel.

[F.R. Doc. 67-14617; Filed, Dec. 15, 1967; 8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-8289]

OWNERSHIP OF MORE THAN 10 PERCENT OF CLASS OF EQUITY SECURITIES

Proposed Amendment

DECEMBER 6, 1967.

Notice is hereby given that the Securities and Exchange Commission has under consideration the proposed amendment of Rule 16a-2 (17 CFR 240.16a-2) under the Securities Exchange Act of 1934. This rule deals with the determination of when a person is the beneficial owner, directly or indirectly, of more than 10 percent of a class of equity securities for the purpose of reporting the ownership of such securities, or changes therein, pursuant to section 16(a) of the above Act.

The proposed amendment would add a new paragraph to the rule which would provide that, for the purpose of determining whether a person is the beneficial owner of more than 10 percent of any class of equity securities, he shall be deemed to be the beneficial owner of securities of that class which he has the right to acquire through the exercise of presently exercisable options, warrants or rights or through the conversion of presently convertible securities. Securities subject to such options, warrants, rights, or conversion privileges would be deemed outstanding for the purpose of computing the percentage of the class owned by such person but would not be deemed outstanding for the purpose of computing the percentage of the class owned by any other person.

The proposed amendment reflects the Commission's belief that the immediate right to acquire equity securities gives the holder of such right much the same ability to influence the management of the company and to have access to inside information as would ownership of the underlying equity security, and that such right is a fact of which stockholders and investors should be apprised. An interest in the security such as the right to acquire it at a determined price and manner is a material part of the bundle of rights in the security and ownership of such an interest should be deemed a beneficial ownership of the underlying security for the purposes of section 16(a) of the Act.

The Commission has previously recognized the importance of reporting rights to acquire securities. For example, the Commission's Rule 16a-6 (17 CFR 240.16a-6) and Forms 3 (17 CFR 249.103) and 4 (17 CFR 249.104) presently require persons otherwise filing ownership reports to report their transactions in transferable options to purchase any equity security of the issuer. Moreover, Rule 16a-6 and the ownership report forms as proposed to be amended January 20, 1966, by Exchange Act Releases 7704 and 7705 (31 F.R. 1017, Feb. 1, 1966), would, among other changes, require that transactions in options be reported whether or not the options are transferable.

Under the present Rule 16a-2 the Commission has taken the position that ownership reports are required for persons owning in excess of 10 percent of a class of registered securities convertible into equity securities of the issuer. Although the U.S. Court of Appeals for the Second Circuit has held in Chemical Fund v. Xerox Corp., 377 F. 2d 107 (1967) that such a class should not be considered a separate class of equity securities for the purposes of determining liabilities for short-swing profits under section 16(b), the Commission does not believe, in light of the differing purposes of section 16(a), that that decision was determinative of the obligation to file ownership reports. The Commission, therefore, will continue to take the position that reports are required of person holding 10 percent of a class of registered securities convertible into equity securities.

The text of the rule as proposed to be amended is set forth below:

§ 240.16a-2 Ownership of more than 10 percent of a class of equity securities.

(a) In determining for the purpose of section 16(a) of the Act, whether a person is the beneficial owner, directly or indirectly, of more than 10 percent of any class of equity securities, such class shall be deemed to consist of the total amount of such class outstanding, exclusive of any securities of such class held by or for the account of the issuer or a subsidiary of the issuer. However, for the purpose of determining percentage ownership of voting trust certificates or certificates of deposit for equity securities, the class of voting trust certificates or certificates of deposit shall be deemed to consist of the amount of voting trust certificates or certificates of deposit issuable with respect to the total amount of outstanding equity securities of the class which may be deposited under the voting trust agreement or deposit agreement in question, whether or not all of such outstanding securities have been so deposited. For the purpose of this section a person acting in good faith may rely on the information contained in the latest consolidated financial statement in a registration statement or annual report filed with the Commission under the Act with respect to the amount of securities of the class outstanding or in the case of voting trust certificates or certificates of deposit the amount thereof issuable.

(b) In determining for the purpose of section 16(a) of the Act whether a person is the beneficial owner, directly, or indirectly, of more than 10 percent of any class of equity securities, such person shall be deemed to be the beneficial owner of securities of such class which such person has the right to acquire through the exercise of presently exercisable options, warrants or rights, or through the conversion of presently convertible securities. The securities subject to such

options, warrants, rights or conversion privileges shall be deemed to be outstanding for the purpose of computing, in accordance with paragraph (a) of this section, the percentage of outstanding securities of the class owned by such person.

The foregoing action would be taken pursuant to the Securities Exchange Act of 1934, particularly sections 16(a) and 23(a) thereof.

(Secs. 16(a), 23(a); 48 Stat. 896, 901, as amended; 15 U.S.C. 78p, 78w)

All interested persons are invited to submit their views and comments on the proposed amendment, including their views as to whether compliance therewith would involve undue hardship or expense. Such views and comments shall be submitted in writing, in duplicate, to the Securities and Exchange Commission, Washington, D.C. 20549, on or before January 2, 1968. Except where it is requested that such communications not be disclosed, they will be considered available for public inspection.

By the Commission, December 6, 1967.

ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-14615; Filed, Dec. 15, 1967; 8:45 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[R-1151]

CALIFORNIA

Notice of Proposed Withdrawal and Reservation of Lands

DECEMBER 8, 1967.

The Corps of Engineers, Department of the Army, has filed an application, Serial No. R 1151, for withdrawal of lands from all forms of appropriation under the public land laws, including the mining laws and mineral leasing laws, subject to valid existing rights. The applicant desires the land for construction and inundation rights as a part of the area required for the Mojave River Forks Reservoir Project.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 1414 University Avenue, Post Office Box 723, Riverside, Calif. 92502.

The Department's regulations (43 CFR 2311.1–3(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

SAN BERNARDINO MERIDIAN, CALIFORNIA

T. 3 N., R. 4 W.,
Sec. 28, SE¼NE¼.

The area described contains 40 acres in San Bernardino County, California.

HALL H. MCCLAIN,
Manager.

[F.R. Doc. 67-14617; Filed, Dec. 15, 1967; 8:46 a.m.]

[C-27121]

COLORADO

Notice of Classification of Public Lands for Multiple-Use Management

DECEMBER 8, 1967.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18) and to the regulations in 43 CFR Parts 2410 and 2411, the public lands within the areas described below together with any lands therein that may become public lands in the future are hereby classified for multiple-use management. Publication of this notice segregates all the described lands from appropriation only under the agricultural land laws (43 U.S.C. chs. 7 and 9; 25 U.S.C. 334); from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171); Small Tract Act of June 1, 1938, as amended (43 U.S.C. 682 (a) and (b)). The land shall remain open to all other applicable forms of appropriation including the mining and mineral leasing laws; the Public Land Sale Act of September 19, 1964 (43 U.S.C. 4121–27); exchanges under section 8, Taylor Grazing Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315(g)); and Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869; 869–1 to 869–4). As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended; or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. No protests or objections were received following publication of a notice of proposed classification (32 F.R. 13275–13276) or at the public hearing held on October 18, 1967, at Grand Junction, Colo. The record showing the comments received and other information is on file and can be examined in the Grand Junction District Office, Grand Junction, Colo. The public lands affected by this classification are located within the following described area and are shown on a map designated by Serial No. C–2713 in the Grand Junction District Office, Bureau of Land Management, Federal Building, Fourth and Rood, Grand Junction, Colo. 81502 and at the Land Office, Bureau of Land Management, Room 15019 Federal Building, 1961 Stout Street, Denver, Colo. 80202.

UTE PRINCIPAL MERIDIAN, COLORADO

MESA COUNTY

T. 1 S., R. 1 W.,
Sec. 27 west of Gunnison River;
Sec. 28;
Sec. 29, lots 1, 2, and 3, NE¼SW¼, N½SE¼, S½NE¼;
Sec. 30, SE¼, E½SW¼;
Sec. 33 and 34;
Sec. 35 and 36 south and west of Gunnison River.

T. 1 S., R. 1 E.,
Sec. 31, lot 3.

UTE PRINCIPAL MERIDIAN, COLORADO

MESA COUNTY

T. 12 S., R. 99 W.,
Sec. 19;
Secs. 28 to 31 inclusive;
Secs. 33 and 34 above west rim of Unaweep Canyon.

T. 12 S., R. 100 W.,
Secs. 7 to 11 inclusive;
Secs. 13 to 30 inclusive;
Sec. 31 east of east Pinon Mesa Rim;
Secs. 32 to 36 inclusive.

T. 13 S., R. 101 W.,
Secs. 15 to 17 inclusive;
Sec. 20, E½;
Secs. 21 to 24 inclusive;
Sec. 25, lots 1, 2, and 3, tract 75, SW¼, E½SW¼;
Sec. 26, NE¼, N½SE¼;
Sec. 36, portion of lot 1 lying east of east Pinon Mesa Rim.

T. 13 S., R. 99 W.,
Secs. 5, 6, 7, and 18 above west rim of Unaweep Canyon;
Sec. 19, lots 3 and 4.

T. 13 S., R. 100 W.,
Secs. 1 to 4 inclusive;
Sec. 5 east of east Pinon Mesa Rim;
Sec. 6, E½, and lot 9 east of east Pinon Mesa Rim;
Secs. 9 to 16 inclusive;
Sec. 17, E½, NE¼NW¼, NE¼SW¼;
Sec. 24, E½, NW¼;
Secs. 22 to 24 inclusive;
Sec. 25, above the west rim of Unaweep Canyon;
Secs. 26 and 27;
Sec. 28, E½E½, southeast fragment of SW¼NE¼ and that part of SW¼ lying east of east Pinon Mesa Rim;
Sec. 34, E½NE¼, SE¼, NE¼;
Secs. 35 and 36 lying south and east of east Pinon Mesa Rim;
Secs. 24, 25, and 26 above the west rim of Unaweep Canyon.

T. 14 S., R. 100 W.,
Secs. 2 and 4 lying above west rim of Unaweep Canyon;
Sec. 5;
Sec. 6, E½, SW¼;
Secs. 7 and 8 lying above west rim of Unaweep Canyon.

The areas described aggregate approximately 42,624 acres of public lands.

3. For a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER, interested parties may submit comments to the Secretary of the Interior, LLM, 721, Washington, D.C. 20240 (43 CFR 2411.1–2(d)).

E. I. ROWLAND,
State Director.

[F.R. Doc. 67-14634; Filed, Dec. 15, 1967; 8:48 a.m.]

Office of the Secretary

[Order 2908]

VIRGIN ISLANDS GOVERNMENT

Obligation and Expenditure of Matching Funds

DECEMBER 12, 1967.

Secretarial approval of the obligation and expenditure by the Virgin Islands

Government of matching funds under section 7652(b)(3) of the Internal Revenue Code of 1954.

SECTION 1. *Purpose.* The purpose of this order is to establish certain criteria for the approval of the obligation and expenditure by the Virgin Islands Government of the sums paid into the separate fund in the local treasury.

SEC. 2. *Authority.* This order is issued pursuant to the authority vested in the President by section 7652(b)(3) of the Internal Revenue Code of 1954 (26 U.S.C. sec. 7652(b)(3) (1964 Ed.)) and delegated to the Secretary of the Interior by Executive Order 10802, dated March 23, 1958 (3 CFR 1954–58 Comp., p. 248).

SEC. 3. *Approval of Obligations and Expenditures.* (a) In acting upon any request for approval of the obligation and expenditure by the Virgin Islands Government of monies in the separate fund in the Virgin Islands treasury pursuant to section 7652(b)(3) of the Internal Revenue Code of 1954, approval shall be withheld of the obligation and expenditure of amounts equal to the amounts of any deficiencies in accruals in the preceding calendar year to the special Virgin Islands Conservation Fund authorized by Act No. 2036 of the Seventh Legislature of the Virgin Islands, Third Special Session, dated August 7, 1967, which deficiencies arise by reason of offsets provided for under the Agreement between the Virgin Islands Government and Hess Oil Virgin Islands Corp. dated September 1, 1965, and supplemented by the Agreement dated September 13, 1966, to the extent that such offsets result from actions by or under the control of the Virgin Islands Government.

(b) In acting upon any request for approval of the obligation and expenditure by the Virgin Islands Government of monies in the aforesaid separate fund, approval may be withheld of the obligation and expenditure of amounts equal to the amount of accruals in the preceding calendar year to the said Conservation Fund which remain unprogramed or unobligated pursuant to Act No. 2036 of the Seventh Legislature of the Virgin Islands.

STEWART L. UDALL,
Secretary of the Interior.

[F.R. Doc. 67-14639; Filed, Dec. 15, 1967; 8:48 a.m.]

DIRECTOR, BUREAU OF OUTDOOR RECREATION

Delegation of Authority

The delegation of authority from the Secretary of the Interior to the Director, Bureau of Outdoor Recreation and published at 32 F.R. 16656 is revised as set forth below. The revision affects the format of the previously published delegation and removes extraneous, nondelegatory material. The delegation is a part of the Departmental Manual and the numbering is that of the Manual:

248 DM 1.1 *General delegation.* • • •

H. By cooperating and consulting with the Secretary, Department of Transportation, in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of the lands traversed and in undertaking and coordinating Interior Department participation in the planning of transportation programs and projects which require the use of any land from a public park, recreation area, wildlife and waterfowl refuge, to insure that there is no feasible and prudent alternative to the use of such land and that such programs and projects include all possible planning to minimize harm to such lands. In carrying out this delegated authority the Director, Bureau of Outdoor Recreation shall consult and coordinate with the Director, Bureau of Sport Fisheries and Wildlife, the Director, National Park Service, and the heads of other interior bureaus (section 4(f) of the Act of October 15, 1966 (80 Stat. 931)).

Delete 248 DM 1.1I. This section which contained nondelegatory material is superseded by other documentation.

GEORGE E. ROBINSON,
Deputy Assistant Secretary for Administration.

DECEMBER 11, 1967.

[F.R. Doc. 67-14638; Filed, Dec. 15, 1967; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

[P. & S. Docket No. 308]

MARKET AGENCIES AT SIOUX CITY, IOWA, STOCK YARDS

Petition To Vacate Order and Dismiss Proceeding

Pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), a basic order was issued in the case of In Re Market Agencies at the Sioux City Stock Yards, Sioux City, Iowa, respondents (P. & S. Docket No. 308), on July 25, 1931, prescribing the rates and charges to be assessed by the respondents for the services rendered by them at the Sioux City Stock Yards, Sioux City, Iowa. Such rates and charges have been modified from time to time by subsequent orders issued in the proceeding. The latest such order was issued on June 16, 1966 (25 A.D. 765) prescribing the rates and charges to be assessed by the respondents to and including July 31, 1968, unless modified or extended by further order before the latter date.

On November 17, 1967, a petition was filed on behalf of respondents requesting that the rate order in this proceeding be vacated and the proceeding be dismissed in conformity with § 203.11 (9 CFR 203.11) of the statements of general policy under the Packers and Stockyards Act. The petition reads as follows:

This is a rate proceeding under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.). The respondents are now operating under order issued June 10, 1966 (25 A.D. 765). The current schedule of rates and charges became effective June 16, 1966, and is to remain in effect, unless modified or extended by further order, to and including July 31, 1968.

The basic rate order in this proceeding was issued July 25, 1931. During the period since the basic rate order has been in effect, respondents have followed the procedure, prior to filing of a petition for modification of the basic order, of seeking an advance indication of the attitude of the Packers and Stockyards Administration toward the changes to be proposed. Information in support of such proposals has been submitted and a tentative agreement is reached before a formal petition for modification has been filed.

The respondents do not believe economic conditions in the industry, the marketing structure in the trade territory, or any other circumstance necessitates the continuation of the formal procedure for obtaining modification in the rates and charges assessed by respondents.

It is requested therefore that in conformity with the policy expressed in section 203.11 of the statements of general policy under the Packers and Stockyards Act (9 CFR 203.11) that the rate order in this proceeding be vacated and the proceeding be dismissed.

Any interested person may file with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, within 15 days after the publication of this notice in the FEDERAL REGISTER, written data, views, comments, or arguments with respect to the petition filed by the respondents.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 12th day of December 1967.

DONALD A. CAMPBELL,
Acting Administrator, Packers and Stockyards Administration.

[F.R. Doc. 67-14643; Filed, Dec. 15, 1967; 8:48 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-271]

VERMONT YANKEE NUCLEAR POWER CORP.

Notice of Issuance of Provisional Construction Permit

Notice is hereby given that, pursuant to the Initial Decision of the Atomic Safety and Licensing Board, dated December 8, 1967, the Director of the Division of Reactor Licensing has issued Provisional Construction Permit No. CPPR-36 to Vermont Yankee Nuclear Power Corp. for the construction of a boiling water nuclear reactor, designated as the Vermont Yankee Nuclear Power Station to be located at Vermont Yankee Nuclear Power Corp.'s site in the town of Vernon in Windham County, Vt.

A copy of the Initial Decision is on file in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 13th day of December 1967.

For the Atomic Energy Commission.

PARIS A. MCMURRAN,
Director, Division of Reactor Licensing.

[F.R. Doc. 67-14666; Filed, Dec. 15, 1967; 8:48 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 19838]

SEAGREEN AIR TRANSPORT, LTD.

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter will be held on January 25, 1968, at 10 a.m., Room 211, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Joseph L. Fitzmaurice.

Dated at Washington, D.C., December 13, 1967.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 67-14647; Filed, Dec. 15, 1967; 8:49 a.m.]

FEDERAL MARITIME COMMISSION

AMERICAN GREAT LAKES-MEDITERRANEAN EASTBOUND FREIGHT CONFERENCE

Notice of Petition Filed for Approval

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 813).

Interested parties may inspect a copy of the proposed contract form and of the petition at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to the proposed contract form and the petition including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the proposed contract form and of the petition (as set forth below), and the comments should indicate that this has been done.

Notice of application to institute an exclusive patronage (dual-rate) system filed by:

Mr. Eric G. Brown, Secretary, American Great Lakes-Mediterranean Eastbound Freight Conference, 39 Place de la Joliette, Bouches-du-Rhone, Marseilles, France.

A proposed form of dual rate contract has been filed and application has been made for permission to institute a dual rate contract system on all cargo transported on vessels of the carriers members of the American Great Lakes-Mediterranean Eastbound Freight Conference in the trade covered thereby.

The form of contract provides that (1) the merchant ship or cause to be shipped all of its ocean shipments for which contract and noncontract rates are offered in the Conference trade on vessels of the carrier members unless otherwise provided in the contract, and (2) the noncontract rates shall be 15 percent higher than the rates shown in the Conference tariff, in addition to other terms and conditions which are set forth therein.

Dated: December 13, 1967.

By order of the Federal Maritime Commission.

THOMAS LIST,
Secretary.

[F.R. Doc. 67-14644; Filed, Dec. 15, 1967; 8:48 a.m.]

MEDITERRANEAN/U.S.A. GREAT LAKES WESTBOUND FREIGHT CONFERENCE

Notice of Petition Filed for Approval

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 814).

Interested parties may inspect a copy of the proposed contract form and of the petition at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to the proposed contract form and the petition including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the proposed contract form and of the petition (as set forth below), and the comments should indicate that this has been done.

Notice of application to institute an exclusive patronage (dual-rate) system filed by:

Mr. Eric G. Brown, Secretary, Mediterranean/U.S.A. Great Lakes Westbound Freight Conference, 39 Place de la Joliette, Bouches-du-Rhone, Marseilles, France.

A proposed form of dual-rate contract has been filed and application has been made for permission to institute a dual-rate contract system on all cargo transported on vessels of the carriers members of the Mediterranean/U.S.A. Great Lakes Westbound Freight Conference in the trade covered thereby.

The form of contract provides that (1) the merchant ship or cause to be shipped all of its ocean shipments for which contract and noncontract rates are offered in the Conference tariff, in addition to other terms and conditions which are set forth therein.

Dated: December 13, 1967.

By order of the Federal Maritime Commission.

THOMAS LIST,
Secretary.

[F.R. Doc. 67-14645; Filed, Dec. 15, 1967; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-2892 etc.]

PANHANDLE PRODUCING CO. ET AL.

Findings and Order

DECEMBER 7, 1967.

Findings and order after statutory hearing issuing certificates of public convenience and necessity, amending certificates, permitting and approving abandonment of service, terminating certificates, terminating rate proceeding, making successors co-respondents, substituting respondent, redesignating proceedings, requiring filing of agreements and undertakings, and accepting related rate schedules and supplements for filing.

Each of the Applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce, for permission and approval to abandon service, or a petition to amend an existing certificate authorization, all as more fully described in the respective applications and petitions (and any supplements or amendments thereto) which are on file with the Commission.

The Applicants herein have filed related FPC gas rate schedules and propose to initiate or abandon, add or delete natural gas service in interstate commerce as indicated by the tabulation herein. All sales certificated herein are at rates either equal to or below the ceiling prices established by the Commission's statement of general policy No. 61-1, as amended, or involve sales for which permanent certificates have been previously issued; except that the sale from the Permian Basin area of Texas is authorized to be made at the applicable area base rate and under the conditions prescribed in Opinion Nos. 468 and 468-A.

Panhandle Producing Co. et al., Applicants in Docket No. G-2892 propose to continue the sale of natural gas heretofore authorized in said docket to be made

pursuant to Ashland Oil & Refining Co. FPC Gas Rate Schedule No. 107. Said rate schedule will be redesignated as that of Applicants. The presently effective rate under said rate schedule is in effect subject to refund in Docket No. RI64–576. Therefore, Applicants will be made co-respondents in the proceeding pending in Docket No. RI64–576; the proceeding will be redesignated accordingly; and Applicants will be required to file an agreement and undertaking to assure the refund of any amounts collected by them in excess of the amount determined to be just and reasonable in said proceeding.

Dunigan Operating Co., Inc. (Operator), et al., Applicant in Docket No. G–11890, proposes to continue the sale of natural gas heretofore authorized in said docket to be made pursuant to Huval & Dunigan (Operator) et al., FPC Gas Rate Schedule No. 1. Said rate schedule will be redesignated as that of Applicant. The presently effective rate under said rate schedule is in effect subject to refund in Docket No. RI63–24. The predecessor has also filed an increased rate which is suspended in Docket No. RI67–128. Therefore, Applicant will be made a co-respondent in the proceeding pending in Docket No. RI63–24 and will be substituted as respondent in the proceeding pending in Docket No. RI67–128; the proceedings will be redesignataed accordingly; and Applicant will be required to file an agreement and undertaking in Docket No. RI63–24 to assure the refund of any amounts collected by it in excess of the amount determined to be just and reasonable in said proceeding.

The Commission's staff has reviewed each application and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

After due notice, no petitions to intervene, notices of intervention, or protests to the granting of any of the respective applications or petitions in this order have been received.

At a hearing held on November 30, 1967, the Commission on its own motion received and made a part of the record in these proceedings all evidence, including the applications, amendments, and exhibits thereto, submitted in support of the respective authorizations sought herein, and upon consideration of the record.

The Commission finds:

(1) Each Applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and will, therefore, be a "natural-gas company" within the meaning of said Act upon the commencement of the service under the respective authorizations granted hereinafter.

(2) The sales of natural gas hereinbefore described, as more fully described in the respective applications, amendments, and/or supplements herein, will be made in interstate commerce, subject to the jurisdiction of the Commission and such sales by the respective Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

The respective Applicants are able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The sales of natural gas by the respective Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity and certificates therefore should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the certificate authorizations heretofore issued by the Commission in Docket Nos. G–3892, G–4579, G–11890, G–12238, G–18719, G–19383, G–19387, CI60–739, CI61–272, CI61–669, CI62–657, CI62–1210, CI63–128, CI63–284, CI63–833, CI63–1000, CI64–1380, CI64–1436, CI64–1531, CI65–466, CI66–326, and CI66–395 should be amended as hereinafter ordered and conditioned.

(6) The sales of natural gas proposed to be abandoned by the respective Applicants, as hereinbefore described, all as more fully described in the respective applications and in the tabulation herein, are subject to the requirements of subsection (b) of section 7 of the Natural Gas Act, and such abandonments should be permitted and approved as hereinafter ordered.

(7) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates of public convenience and necessity heretofore issued to the respective Applicants relating to the abandonments hereinafter permitted and approved should be terminated.

(8) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the rate suspension proceeding pending in Docket No. RI67–467 should be terminated only insofar as it pertains to Jack W. Grigsby (Operator), et al., FPC Gas Rate Schedule No. 7.

(9) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Panhandle Producing Company, et al., should be made co-respondents in the proceeding pending in Docket No. RI64–576, that said proceeding should be redesignated accordingly, and that Panhandle Producing Company, et al., should be required to file an agreement and undertaking in said proceeding.

(10) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Dunigan Operating Company, Inc. (Operator), et al., should be made a co-respondent in the proceeding pending in Docket No. RI63–24 and should be substituted as respondent in the proceeding pending in Docket No. RI67–128, that said proceedings should be redesignated accordingly, and that Dunigan Operating Company, Inc. (Operator), et al., should be required to file an agreement and undertaking in Docket No. RI63–24.

(11) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the respective related rate schedules and supplements as designated in the tabulation herein should be accepted for filing as hereinafter ordered.

The Commission orders:

(A) Certificates of public convenience and necessity are issued upon the terms and conditions of this order, authorizing the sales by the respective Applicants herein of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary for such sales, all as hereinbefore described and as more fully described in the respective applications, amendments, supplements and exhibits in this proceeding.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as Applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 4 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's regulations thereunder, and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against the respective Applicants. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. Nor shall the grant of the certificates aforesaid for service to the particular customers involved imply approval of all of the terms of the respective contracts particularly as to the cessation of service upon termination of said contracts, as provided by section 7(b) of the Natural Gas Act. Nor shall the grant of the certificates aforesaid be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) The grant of the certificates issued herein on all applications filed after July 1, 1967, is upon the condition that no increase in rate which would exceed the ceiling prescribed for the given area by paragraph (d)(3) of the Commission's statement of general policy No. 61–1, as amended, shall be filed prior to the applicable date as indicated by footnote 21 in the attached tabulation.

(E) The initial rate for the sale authorized in Docket No. CI66–61 shall be the applicable base area rate prescribed in Opinion No. 468, as modified by Opinion No. 468–A, as adjusted for quality, or the contract rate, whichever is lower; and no increase in rate in excess of said initial rate shall be filed before January 1, 1968.

(F) If the quality of the gas delivered by Applicant in Docket No. CI66–61 deviates at any time from the quality standards set forth in Opinion No. 468, as modified by Opinion No. 468–A, so as to require a downward adjustment of the existing rate, a notice of change in rate shall be filed pursuant to the provisions of section 4 of the Natural Gas Act: *Provided, however,* That adjustments reflecting changes in Btu content of the gas shall be computed by the applicable formula and charged without the filing of a notice of change in rate.

(G) Within 90 days from the date of initial delivery Applicant in Docket No. CI66–61 shall file a rate schedule quality statement in the form prescribed in Opinion No. 468–A.

(H) The acceptance for filing of the related rate filing in Docket No. CI66–568 is contingent upon Applicant's filing three copies of a billing statement as required by the regulations under the Natural Gas Act.

(I) A certificate is issued herein in Docket No. CI66–315 authorizing Applicant to continue the sale of natural gas which was initiated without prior Commission authorization.

(J) The certificates heretofore issued in Docket Nos. CI63–128, CI63–1000, CI65–466, and CI66–326 are amended by adding thereto or deleting therefrom authorization to sell natural gas to the same purchasers and in the same areas as covered by the original authorizations pursuant to the rate schedule supplements as indicated in the tabulation herein.

(K) The certificates heretofore issued in Docket Nos. G–4579, G–18719, CI64–1380, and CI66–326 are amended by deleting therefrom authorization to sell natural gas from acreage assigned to Applicants in Docket Nos. CI63–833, CI66–395, CI68–516, and CI68–980, respectively.

(L) The certificates heretofore issued in Docket Nos. G–3892, G–11890, G–12238, G–19383, G–19387, CI60–739, CI61–272, CI61–669, CI62–657, CI62–1210, CI63–284, CI63–833, CI64–1436, and CI64–1531 are amended by changing the certificate holders to the respective successors in interest as indicated in the tabulation herein.

(M) Permission for and approval of the abandonment of service by the respective Applicants, as hereinbefore described, all as more fully described in the respective applications and in the tabulation herein are granted.

(N) Permission for and approval of the abandonment in Docket No. CI66–568 shall not be construed to relieve Applicant of its refund obligation in Docket No. CI60–71 ordered in Opinion No. 468, Skelly Oil Co. et al., Docket No. G–16338 et al.

(O) The certificates heretofore issued in Docket Nos. CI60–428, CI61–196, and CI62–1073 are terminated.

(P) The rate suspension proceeding pending in Docket No. RI67–467 is terminated only insofar as it pertains to Jack W. Grigsby (Operator) et al., FPC Gas Rate Schedule No. 7.

(Q) Panhandle Producing Co. et al., are made co-respondents in the proceeding pending in Docket No. RI64–576, and the proceeding is redesignated accordingly.[1]

(R) Dunigan Operating Co., Inc. (Operator) et al., is made a co-respondent in the proceeding pending in Docket No. RI63–24 and is substituted in lieu of Huval & Dunigan (Operator) et al., as respondent in the proceeding pending in Docket No. RI67–128. Said proceedings are redesignated accordingly.[2]

(S) Within 20 days from the issuance of this order Panhandle Producing Co. et al., and Dunigan Operating Co., Inc. (Operator) et al., shall execute, in the form set out below, and shall file with the Secretary of the Commission acceptable agreements and undertakings in Docket Nos. RI64–576 and RI63–24, respectively, to assure the refunds of any amounts collected by them, together with interest at the rate of 7 percent per annum, in excess of the amounts determined to be just and reasonable in said proceedings. Unless notified to the contrary by the Secretary of the Commission within 90 days from the date of submission, such agreements and undertakings shall be deemed to have been accepted for filing.

(T) Panhandle Producing Co. et al., and Dunigan Operating Co., Inc. (Operator) et al., shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, and the agreements and undertakings filed by them in Docket Nos. RI64–576 and RI63–24, respectively, shall remain in full force and effect until discharged by the Commission.

(U) The respective related rate schedules and supplements as indicated in the tabulation herein are accepted for filing; further, the rate schedules relating to the successions herein are accepted and redesignated, subject to the applicable Commission regulations under the Natural Gas Act to be effective on the dates as indicated in the tabulation herein.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Acting Secretary.*

[1] Ashland Oil & Refining Co. and Panhandle Producing Co. et al.

[2] Docket No. RI63–24, Huval & Dunigan (Operator) et al., and Dunigan Operating Co., Inc. (Operator) et al.; Docket No. RI67–128, Dunigan Operating Co., Inc. (Operator) et al.

Docket No. and date filed	Applicant	Purchaser, field, and location	RRC rate schedule to be accepted		
			Description and date of document	No.	Supp.
G–3892 E 7-6-67	Panhandle Producing Co. et al. (successor to Ashland Oil & Refining Co.).	Colorado Interstate Gas Co., West Panhandle Field, Hutchinson County, Tex.	Ashland Oil & Refining Co., FPC GRS No. 107.	3	----
			Supplement Nos. 1–16	3	1–16
			Notice of succession 7–5–67.	3	17
			Assignment 5–5–67 [1]		
			Effective date: 5–1–67		
G–11890 E 9–10–67	Dunigan Operating Co., Inc. (Operator), et al. (successor to Huval & Dunigan (Operator) et al.).	Natural Gas Pipeline Co. of America, Gulfstone Field, Roberts County, Tex.	Huval & Dunigan (Operator) et al., FPC GRS No. 1.	1	----
			Supplement Nos. 1–2	1	1–2
			Notice of succession (undated).	1	3
			Assignment 9–15–67 [1]		
			Effective date: 6–2–67		
G–4579 E 8–28–67	Shea Petroleum Co. (Operator) et al. (successor to Petroleum Exploration, Inc. of Texas (Operator) et al.).		Shea Petroleum, Inc. et al. (Huval & Dunigan (Operator) et al., FPC GRS No. 2.	26	----
			Supplement Nos. 1–2	26	1–2
			Notice of succession 8–28–67.	26	3
			Merger agreement 4–14–67.	26	4
			Effective date: 4–28–67.		
G–18719 E 8–28–67	Mora Petroleum Co. et al. (successor to Petroleum Exploration, Inc. of Texas, et al.).	Northern Natural Gas Co., Monroe Field, Ochiltree County, Tex.	Petroleum Exploration, Inc. of Texas et al., FPC GRS No. 2.	20	----
			Supplement No. 1	20	1
			Notice of succession 8–28–67.	20	2
			Merger agreement 4–14–67.	20	3
			Effective date: 4–28–67.		
G–19387 E 8–28–67	do	Colorado Interstate Gas Co., Mocane Field, Beaver County, Okla.	Petroleum Exploration, Inc., of Texas et al., FPC GRS No. 1.	21	----
			Supplement Nos. 1–6	21	1–6
			Notice of succession 8–28–67.	21	8
			Merger agreement 4–14–67.	21	9
			Effective date: 4–28–67.		

Billing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted: Description and date of document	No.	Supp.
CI61-1425 E 1-2-67	Mesa Petroleum Co. et al. (successor to Petroleum Exploration, Inc. of Texas et al.)	Panhandle Eastern Pipe Line Co., Keyes Field, Cimarron and Texas Counties, Okla.	Petroleum Exploration, Inc. of Texas et al. FPC G RS No. 15. Notice of cancellation 1-26-67. Master agreement 1-1-67. Effective date: 1-26-67	23	1
CI61-1426 E 1-26-67	do	Lone Star Gas Co. acreage in McClain County, Okla.	Petroleum Exploration, Inc. of Texas et al. FPC G RS No. 15. Notice of cancellation 1-26-67. Master agreement 1-1-67. Effective date: 1-26-67	23	1
CI61-465 D 1-2-67	Gulf Oil Corp., (Operator) et al.	Transwestern Pipeline Co., Waka Field, Beaver and Texas Counties, Okla.	Effective date: 1-26-67 Letter agreement 1-2-67 [3]	24	5
CI62-360 (G-15710) C 1-12-67 [4] 10-1-67	El Paso Natural Gas Co.	El Paso Natural Gas Co., acreage in Eumont Area, Lea County, N. Mex. [5]	Assignment 1-11-67 [6] Assignment 1-11-67 [7] Effective date: 1-1-67 [8]	1	1
CI62-364 A 1-9-67 [9]	John P. Streng	El Paso Natural Gas Co., Bronberry (Tvaid Area) Field, Reagan County, Tex.	Contract 6-15-67 [10] Assignment 1-1-67 [11] Assignment 1-26-67 [12]	2	2
CI62-365 A 1-9-67 [9]	Tennco Oil Co.	Transcontinental Gas Pipe Line Corp., Vermilion Area, Louisiana Gas Co., Mansfield Field, Logan and Sabine Counties, Ark.	Contract 1-12-67 [13] Contract 1-13-67 [14]	1	1
CI62-366 (CI60-569) F 1-26-67	Ben Monahan (successor to Clark Oil & Refining Corp.).	Kansas-Nebraska Natural Gas Co., Inc., Ohio Field, Seward County, Kans.	Contract 1-26-67 [15] Assignment 1-1-67 [16] Contract 1-14-67 [17]	3	1
CI62-368 A 1-26-67 [9]	Rhodes & Hicks Drilling Corp. (Operator) et al.	Valley Gas Transmission, Inc., Rhome Field, Live Oak County, Tex.	Contract 1-23-67 [18]	1	1
CI62-369 A 1-26-67 [9]	Coastal States Gas Producing Co.	United Gas Pipe Line Co., North Bonnieu Field, Fort Bend County, Tex.	Contract 1-23-67 [19]	24	1
CI62-367 A 1-9-67 [9]	Halliburton Oil Producing Co.	Arkansas Western Gas Co., Grapevine Field, Jackson County, Ark.	Ratified 1-31-67. Contract 1-20-58. Amendatory agreement 1-16-62 [20]	1	1
CI62-368 (CI60-71) B 10-1-67	Continental Oil Co.	South Texas Natural Gas Gathering Co., Javalina Field, Hidalgo County, Tex.	Notice of cancellation 1-26-67 [21]	178	14
CI62-371 (CI61-1240) B 10-1-67	Jack W. Grigsby (Operator) et al.	United Gas Pipe Line Co., Mark-Pleal Ridge Field, Forest County, Miss.	Notice of cancellation 1-26-67 [22]	67	6
CI62-372 A 1-9-67 [9]	Rodessa & Pittsburgh Coal Co.	The Manufacturers Light & Heat Co., Armstrong Township, Indiana County, Pa.	Contract 10-4-67 [23]	1	1
CI62-373 E 1-26-67	Monsanto Co. (successor to Shell Oil Co.).	Arkansas Louisiana Gas Co., Scallon Creek Field, Sebastian County, Ark.	Contract 1-17-67 [24] Contract 10-31-63 [25] Letter agreement 1-26-67 [26] Contract 1-30-67 [27]	22	2
CI62-317 A 10-1-67 [9]	Dorchk, Inc.	Reynolds Gas Co., Sardis Field, Gilmer County, W. Va.			

[1] Assigns acreage and contractual rights from Ashland to Panhandle. This filing supersedes Panhandle's FPC GRS No. 2 which covered Panhandle's sale to Ashland.
[2] Partnership dissolved and I. J. Haval assigned his interest to four other parties whom Applicant is filing to cover.
[3] Pressure too low to meet buyer requirements. Acreage released as to the Morrow Formation only.
[4] Effective date: Date of this order.
[5] Universal, Inc., assigns contract rights to F. Connor Creigh.
[6] Universal, Inc., assigns acreage to F. Connor Creigh.
[7] F. Connor Creigh assigns contract rights to A. L. Phillips (Operator).
[8] F. Connor Creigh assigns acreage to A. L. Phillips (Operator).
[9] Assigns acreage to Cleary Petroleum, Inc., and Robert P. Learmonth.
[10] Deletes acreage which is uneconomical to connect (estimated reserves are 324,500 Mcf; cost of connection estimated at 9.26 cents per Mcf).
[11] Production from formations down to and including the Pictured Cliffs.
[12] From M. J. Florance Trust to Reynolds Mining Corp. and Cities Service Oil Co.
[13] From Reynolds and Cities Service to H. K. Keese; adds acreage previously dedicated to M. J. Florance Trust) FPC GRS No. 2.
[14] Fractional interest in Cinco Diablos Well No. 1 (NW¼ sec. 28, 25° N., 2° W.) from Keese to V. L. Wiederhelt et al.
[15] Jan. 1, 1968, moratorium provided by Opinion No. 468.
[16] By letter filed Sept. 26, 1967, Applicant agreed to accept a permanent certificate conditioned as Opinion No. 468.
[17] MWJ Producing Co. owns no working interest but is acting as Agent for Martin, Williams and Judson et al.
[18] Between Martin, Williams and Judson, a partnership and El Paso Natural Gas Co.
[19] Martin, Williams and Judson, as assignor of a fractional interest to Myron Anderson, Howard R. Rudy and W. C. Kile, Jr.
[20] Martin, Williams and Judson, as assignor of a fractional interest to Lott, Zero Equipment Co., Eyster, Schegal and Rathbun.
[21] Jan. 1, 1970, moratorium pursuant to the Commission's statement of general policy No. 61-1, as amended.
[22] Adopts the terms of the May 12, 1967 contract.
[23] Contract between Midwest Oil Corp. and Arkansas Louisiana Gas Co. for a sale from Scott County, Ark.; on file as Midwest Oil Corp. FPC GRS No. 68.
[24] Effective date: Date of initial delivery (Applicant shall advise the Commission as to such date).
[25] Also on file as Clark Oil & Refining Corp. FPC GRS No. 1.
[26] From Clark Oil & Refining Corp. to Ben Monahan.
[27] The certificate application in Docket No. CI60-71 is consolidated in the proceeding in Docket No. G-18638 et al., which is under judicial review, and will not be terminated.
[28] Source of gas depleted.
[29] Applicant filed for an increased rate to 22.8 cents in Docket No. RI67-467. Increased rate was suspended until Dec. 9, 1967; therefore, the rate suspension proceeding pending in Docket No. RI67-467 will be terminated only insofar as it pertains to Jack W. Grigsby (Operator) et al., FPC GRS No. 7.
[30] Sale being rendered without prior Commission authorization.
[31] Adopts terms set forth in contract between Shell Oil Co. and Arkansas Louisiana Gas Co., dated Oct. 21, 1963.
[32] Currently on file as Shell Oil Co., FPC GRS No. 206.
[33] Amends basic contract to provide for a 5-year makeup period for prepaid gas.
[34] Agreement reinstates contract of Aug. 20, 1962 that had previously been canceled.
[35] Sunray was previously authorized to sell gas under this contract in Docket No. CI65-344 and FPC GRS No. 226; abandonment of service was authorized in Docket No. CI66-778.
[36] Also on file as Cities Service Oil Co. (Operator) et al., FPC GRS No. 169.

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted: Description and date of document	No.	Supp.
CI62-518 A 10-5-67 [1]	Petay Oil, Inc.	Michigan Wisconsin Pipe Line Co., Wildcat Field, Seward County, Kans.	Contract 9-15-67	1	
CI62-520 A 10-5-67 [1]	Savoy DX Oil Co.	Kansas-Nebraska Natural Gas Co., Inc., Minto Field, Logan County, Colo.	Letter agreement 9-16-67 [2]	277	
			Contract 9-26-67 [3]	277	1
CI62-521 (CI60-426) B 10-9-67	do	South Texas Natural Gas Gathering Co., Javalina Field, Hidalgo County, Tex.	Notice of cancellation 10-5-67 [4]	199	4
CI62-522 (CI62-1072) B 10-5-67	Hall-Jones, Ltd. (Operator) et al.	Michigan Wisconsin Pipe Line Co., Laverne Area, Harper County, Okla.	Notice of cancellation 10-4-67 [4]	2	1
CI62-524 A 10-6-67 [1]	Robert J. Riedel, d.b.a. R & R Lease Service.	Panhandle Eastern Pipe Line Co., acreage in Meade County, Kans.	Contract 9-15-67	1	
CI62-526 (G-4579) F 10-2-67	Donald W. Jackson (successor to Cities Service Oil Co.).	Northern Natural Gas Co., Hugoton Field, Texas County, Okla.	Contract 9-22-67 [5]	1	
CI62-530 A 10-9-67 [1]	Brooks Hall Oil Corp. (Operator) et al.	Cities Service Gas Co., acreage in Woods County, Okla.	Assignment 7-1-67	1	1
			Effective date: 7-1-67		
			Contract 9-25-67	5	

[1] Assigns acreage and contractual rights from Ashland to Panhandle. This filing supersedes Panhandle's FPC GRS No. 2 which covered Panhandle's sale to Ashland.
[2] Partnership dissolved and I. J. Haval assigned his interest to four other parties whom Applicant is filing to cover.
[3] Pressure too low to meet buyer requirements. Acreage released as to the Morrow Formation only.
[4] Effective date: Date of this order.
[5] Universal, Inc., assigns contract rights to F. Connor Creigh.
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[9] Assigns acreage to Cleary Petroleum, Inc., and Robert P. Learmonth.
[10] Deletes acreage which is uneconomical to connect (estimated reserves are 324,500 Mcf; cost of connection estimated at 9.26 cents per Mcf).
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[15] Jan. 1, 1968, moratorium provided by Opinion No. 468.
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[19] Martin, Williams and Judson, as assignor of a fractional interest to Myron Anderson, Howard R. Rudy and W. C. Kile, Jr.
[20] Martin, Williams and Judson, as assignor of a fractional interest to Lott, Zero Equipment Co., Eyster, Schegal and Rathbun.
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[25] Also on file as Clark Oil & Refining Corp. FPC GRS No. 1.
[26] From Clark Oil & Refining Corp. to Ben Monahan.
[27] The certificate application in Docket No. CI60-71 is consolidated in the proceeding in Docket No. G-18638 et al., which is under judicial review, and will not be terminated.
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[30] Sale being rendered without prior Commission authorization.
[31] Adopts terms set forth in contract between Shell Oil Co. and Arkansas Louisiana Gas Co., dated Oct. 21, 1963.
[32] Currently on file as Shell Oil Co., FPC GRS No. 206.
[33] Amends basic contract to provide for a 5-year makeup period for prepaid gas.
[34] Agreement reinstates contract of Aug. 20, 1962 that had previously been canceled.
[35] Sunray was previously authorized to sell gas under this contract in Docket No. CI65-344 and FPC GRS No. 226; abandonment of service was authorized in Docket No. CI66-778.
[36] Also on file as Cities Service Oil Co. (Operator) et al., FPC GRS No. 169.

Suggested agreement and undertaking:

BEFORE THE FEDERAL POWER COMMISSION

(Name of Respondent _____)

Docket No. _____

AGREEMENT AND UNDERTAKING OF (NAME OF RESPONDENT) TO COMPLY WITH REFUNDING AND REPORTING PROVISIONS OF SECTION 154.-102 OF THE COMMISSION'S REGULATIONS UNDER THE NATURAL GAS ACT

(Name of Respondent) hereby agrees and undertakes to comply with the refunding and reporting provisions of section 154.102 of the Commission's regulations under the Natural Gas Act insofar as they are applicable to the proceeding in Docket No. _____ (and has caused this agreement and undertaking to be executed and sealed in its name by its officers, thereupon duly authorized in accordance with the terms of the resolution of its board of directors, a certified copy of which is appended hereto),[1] this _____ day of _____, 196__.

(Name of Respondent)

By _____

Attest:

_____

[1] If a corporation.

[F.R. Doc. 67-14543; Filed, Dec. 15, 1967; 8:45 a.m.]

[Docket No. CP68-167]

NORTHERN NATURAL GAS CO.

Notice of Application

DECEMBER 5, 1967.

Take notice that on November 24, 1967, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP68-167 an application pursuant to sections 7(b) and 7(c) gas facilities and for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities for the transmission of natural gas in interstate commerce for resale, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate new sales measuring and regulating facilities to deliver natural gas to Producers Utilities Corp. (Producers) at a point of interconnection of Applicant's Kermit-to-Beaver pipeline in Carson County, Tex.

Applicant further proposes to abandon its present sales measuring and regulating facilities serving Producers in lieu of the new facilities.

Producers will reimburse Northern for the actual cost of providing and installing the facilities at the new delivery point which cost is estimated to be $4,480.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 26, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission-and-approval for the proposed abandonment are required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 67-14606; Filed, Dec. 15, 1967; 8:45 a.m.]

[Docket No. G-3609 etc.]

ELVA ARMER ET AL.

Findings and Orders; Correction

NOVEMBER 30, 1967.

Elva Armer et al. (successor to Lee Drilling Co.), and other applicants listed of the Natural Gas Act for permission and approval to abandon certain natural herein, Docket Nos. G-3609 et al.; D. W. Skinner (Operator), et al. and Westmore

Drilling Co., Inc. (Operator), et al., Docket No. R68-36.

In findings and orders after statutory hearing issuing certificate of public convenience and necessity, amending certificates, permitting and approving abandonment of service, terminating certificate, making successor co-respondents, redesignating proceedings, requiring filing of agreements and undertakings, accepting agreement and undertaking for filing, and accepting related rate schedules and supplements for filing, issued October 30, 1967, and published in the FEDERAL REGISTER, November 7, 1967 (F.R. Doc. 67-12925), 32 F.R. 15567, Docket Nos. G-3600 et al., paragraph (W), 1st line: Change Cluster Corp. (Operator) et al., to read Westmoore Drilling Co., Inc. (Operator), et al.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-14606; Filed, Dec. 15, 1967; 8:45 a.m.]

[Docket No. R68-37 etc.]

MARATHON OIL CO. ET AL.

Order Accepting Contract Amendments, Providing for Hearings on and Suspension of Proposed Changes in Rates; Correction

DECEMBER 20, 1967.

Marathon Oil Co. (Operator) et al., Docket Nos. R68-37 et al.; H. L. Hunt (Operator) et al., Docket No. R68-230.

In order accepting contract amendments, providing for hearings on and suspension of proposed changes in rates, issued November 9, 1967, and published in the FEDERAL REGISTER, November 16, 1967 (F.R. Doc. 67-13516), 32 F.R. 15666, Docket Nos. R68-37 et al., Docket No. R68-230, H. L. Hunt (Operator) et al.; under column headed "Proposed Increased Rate", change "20.5054" to read "22.5054".

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-14607; Filed, Dec. 15, 1967; 8:45 a.m.]

[Docket No. R765-7]

OHIO FUEL GAS CO.

Notice of Proposed Changes in Rates and Tariff Revisions

DECEMBER 14, 1967.

Take notice that on December 11, 1967, The Ohio Fuel Gas Co. tendered for filing revised tariff sheets in its FPC Gas Tariff, Fourth Revised Volume No. 1, proposed to be effective as of November 1, 1966. The tendered filing would reduce the rates and charges applicable to all customers, reflecting a reduction in Ohio Fuel's cost of service of approximately $4.3 million below that shown in support of its present rates which have been effective subject to refund since November 1, 1966.

The reduced cost of service includes the flow-through of liberalized depreciation and in addition, the company proposes to make refunds to reflect such flow-through for the 10-months period commencing January 1, 1966. The settlement agreement also provides for the flow-through of supplier refunds and rate reductions commencing as of November 1, 1965, the date upon which the presently effective rates became effective subject to refund, and for changes in the level of Contract Demand and Winter Service Maximum Daily Quantity for six customers.

Copies of the proposed changes were served on all parties, customers, and interested State commissions. Comments on the aforementioned filing and changes may be filed with the Commission on or before December 26, 1967.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-14677; Filed, Dec. 15, 1967; 8:49 a.m.]

FEDERAL RESERVE SYSTEM

FEDERAL OPEN MARKET COMMITTEE

Current Economic Policy Directive

In accordance with § 271.5 of its Rules Regarding Availability of Information, there is set forth below the Committee's Current Economic Policy Directive issued at its meeting held on September 12, 1967:[1]

The economic and financial developments reviewed at this meeting indicate that economic activity has strengthened and, despite the strike in the automobile industry, that prospects favor more rapid growth later in the year. Upward pressures on costs persist and average prices of industrial commodities have turned up following several months of stability. While there recently have been large inflows of liquid funds from abroad, the balance of payments continues to reflect a substantial underlying deficit. Bank credit expansion has continued large, while most short- and long-term interest rates have fluctuated close to their highs of the year, under the combined pressure of heavy private security market financing and of recent and prospective Federal financing. The President's new fiscal program calling for a sizable increase in income taxes, which would make a substantial contribution to balanced economic growth, is now before Congress. In this situation, it is the policy of the Federal Open Market Committee to foster financial conditions, including bank credit growth, conducive to sustainable economic expansion, recognizing the need for reasonable price stability for both domestic and balance of payments purposes.

To implement this policy, System open market operations until the next meeting of the Committee shall be conducted with a view to maintaining about the prevailing conditions in the money market; but operations shall be modified as necessary to moderate any apparent tendency for bank credit to expand significantly more than currently expected.

Dated at Washington, D.C., the 8th day of December 1967.

By order of the Federal Open Market Committee.

ROBERT C. HOLLAND,
Secretary.

[F.R. Doc. 67-14608; Filed, Dec. 15, 1967; 8:45 a.m.]

[1] The Record of Policy Actions of the Committee for the meeting of Sept. 12, 1967, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551

SECURITIES AND EXCHANGE COMMISSION

LEEDS SHOES, INC.

Order Suspending Trading

DECEMBER 12, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Leeds Shoes, Inc., Tampa, Fla., and all other securities of Leeds Shoes, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period December 12, 1967 through December 21, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-14616; Filed, Dec. 15, 1967; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 32]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 13, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceeding within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-69630. By order of November 30, 1967, the Transfer Board, on reconsideration, approved the transfer to Totem Mobile Home Movers, Inc., Anchorage, Alaska, of the operating rights set forth in certificate No. MC-125039 (Sub-No. 1) issued June 3, 1966, to Kenneth N. Mattison, doing business as Totem Mobile Home Movers, Anchorage, Alaska, and authorizing the transportation of mobile homes, between points in Oregon, Washington, Idaho, and Montana, on the one hand, and, on the other, points in Alaska, and between points in Alaska. David J. Pree, Post Office Box 392, Anchorage, Alaska 99501, attorney for applicants.

No. MC-FC-69904. By order of November 30, 1967, the Transfer Board approved the transfer to Michael J. Bobb Warehouse Corp., Philadelphia, Pa., of permits Nos. MC-30561, MC-30561 (Sub-No. 1), MC-30561 (Sub-No. 2), MC-30561 (Sub-No. 3), MC-30561 (Sub-No. 4), and MC-30561 (Sub-No. 5), issued September 29, 1950, September 12, 1950, November 12, 1953, January 7, 1954, December 23, 1954, and March 10, 1960, to Fees, Inc., Philadelphia, Pa., authorizing the transportation of: Such merchandise as is dealt in by wholesalers and distributors of hardware, electrical appliances, tools, radios, sound equipment, sporting goods, house furnishings, and automobile accessories, between points in the Philadelphia, Pa., commercial zone, on the one hand, and, on the other, points in New Jersey within 60 miles of Philadelphia, from Philadelphia to points in New Jersey, except those within 60 miles of Philadelphia, and those in Cape May County, N.J., from Philadelphia to points in Cape May County, N.J.; such merchandise as is dealt in by wholesale and distributors of hardware, from Philadelphia to points in Delaware, Maryland, and the District of Columbia, from Philadelphia on the one hand, and, on the other, New York, N.Y.; steel wire springs and component parts thereof, from the site of the Sterling Wire Products Co. plant in Philadelphia, to Washington, D.C., Baltimore, Md., Wilmington, Del., New York, N.Y., and points in New Jersey. Robert B. Einhorn, 12 South 12th Street, Philadelphia, Pa. 19107, attorney for applicants.

No. MC-FC-69925. By order of November 30, 1967, the Transfer Board approved the transfer to Warren Loutenschlager, doing busines as Laquet Motor Service, New Baden, Ill., of certificates Nos. MC-38984 and MC-38984 (Sub-No. 1), issued May 11, 1950, and October 10, 1950 respectively, to John A. Laquet, doing business as Laquet Motor Service, Mascoutah, Ill., authorizing the transportation of: General commodities, with the usual exceptions, over regular routes, between St. Louis, Mo., and St. Rose, New Baden, and St. Liberty, Ill., with service to points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone in connection with the routes into St. Louis, Mo. Delmar O. Koebel, 107 West St. Louis Street, Lebanon, Ill. 62254, attorney for applicants.

No. MC-FC-70062. By order of November 30, 1967, the Transfer Board approved the transfer to Jewett Scott Truck Line, Inc., Mangum, Okla., of certificate in No. MC-123987, issued April 9, 1967, to Helen Morris, doing business as Jewett Scott Truck Line, Mangum, Okla., authorizing the transportation of: Brick and structural facing tile, glazed and unglazed, from Hope, Ark., and points within a specified Texas territory, to points within a specified Oklahoma territory. Thomas F. Sedberry, 1607 Broadway, Lubbock, Tex. 79401, attorney for applicants.

No. MC-FC-70065. By order of November 30, 1967, the Transfer Board approved the transfer to Kempt Truck Lines, Inc., Joplin, Mo., of permit in No. MC-117568, issued January 19, 1966, to Russell Kempt, doing business as Kempt Truck Lines, Joplin, Mo., authorizing the transportation of: Fertilizer, from Walport and Blytheville, Ark., Sikeston, Mo., and Pascagoula, Miss., to points as specified in Illinois, Tennessee, Mississippi, Louisiana, Texas, New Mexico, Kentucky, Missouri, and Arkansas; potash, from points in New Mexico, to Pascagoula, Miss., and points in Arkansas and Missouri; and ammonium nitrate, ammonium sulphate, phosphates, mixed fertilizers, nitrate of soda, and or agricultural insecticides, from points as specified, in Caruthersville, Mo., Cairo, Ill., Fredericktown, Mo., Texas, Mississippi, Kentucky, Louisiana, and Tennessee, to points as specified in Arkansas, Missouri, and Texas. George C. Baldridge, 313-319 First National Building, Joplin, Mo. 64801, attorney for applicants.

No. MC-FC-70067. By order of November 30, 1967, the Transfer Board approved the transfer to Bartleson Brothers, Inc., Penns Grove, N.J., of the operating rights in permits Nos. MC-125826 (Sub-No. 2), and MC-125826 (Sub-No. 3) issued May 24, 1965, and May 12, 1966, respectively, to James E. Bartleson and Charles Bartleson, a partnership, doing business as Bartleson Brothers, Penns Grove, N.J., authorizing the transportation, over irregular routes, of liquefied carbon dioxide moving in shipper-owned trailers and solidified carbon dioxide, from the plantsite of Cardox Division of Chemetron Corp., Gibbstown, N.J., to depots operated by Cardox Division of Chemetron Corp. located at Stratford, Conn., Boston, Mass., Pittsburgh, Pa., Providence, R.I., Suffolk, Va., and Frederick, Md., and liquefied carbon dioxide, in bulk, in shipper-owned trailers, and solidified carbon dioxide, from Hopewell, Va., to Deepwater, and Newark, N.J. Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006, applicants' representative.

No. MC-FC-70074. By order of November 30, 1967, the Transfer Board approved the transfer to Bill Bornholdt, Inc., Farmingdale, N.Y., of the operating rights in certificate No. MC-43752 issued February 7, 1950 to Steve Ledermann Machinery Moving, Inc., Newark, N.J., authorizing the transportation, over irregular routes, of machinery, between New York, N.Y., on the one hand, and, on the other, Baltimore and Belair, Md., points and places in a described portion of New Jersey, a described portion of Pennsylvania, and a described portion of Connecticut; of contractor's equipment, between New York, N.Y., on the one hand, and, on the other, points in New Jersey, Connecticut, and a described portion of Pennsylvania; and of asphalt from Linden, N.J., to New York, N.Y. Charles J. Williams, 47 Lincoln Park, Newark, N.J. 07102, attorney for applicants.

No. MC-FC-70081. By order of November 30, 1967, the Transfer Board approved the transfer to Doric Transportation Corp., New York, N.Y., of the operating rights of Marvin Satenstein and Sam Pravder, a partnership, doing business as West Side Transportation Co., New York, N.Y., in permits Nos. MC-123900, MC-123900 (Sub-No. 2), MC-123900 (Sub-No. 4), and MC-123900 (Sub-No. 5), issued April 26, 1962, September 30, 1965, December 2, 1966, and November 25, 1966, respectively, authorizing the transportation, over irregular routes, of printed paper, unprinted paper, books, and materials, and supplies, used in the production of printed paper and books, between Saddle Brook, N.J., on the one hand, and, on the other, points in the New York, N.Y., commercial zone, as defined, printed and unprinted paper, books, and materials and supplies used in the production of printed paper and books, except in bulk, between the plantsite of American Book-Stratford Press, Inc., at Cornwall, N.Y., on the one hand, and, on the other, the plantsites of American Book-Stratford Press, Inc., at Saddle Brook, N.J., and New York, N.Y., books, printed, finished and unfinished, from the plantsite of American Book-Stratford Press, Inc., at New York, N.Y., to points in Bergen, Passaic, Essex, and Union Counties, N.J., and from the plantside of American Book-Stratford Press, Inc., at Saddle Brook, N.J., to points in Nassau County, N.Y., books, pamphlets, brochures, and printed and unprinted paper, from New York, N.Y., and Saddle Brook and Englewood Cliffs, N.J., to West Nyack, N.Y., and from West Nyack, N.Y., to New York, N.Y., and points in Nassau, Suffolk, and Westchester Counties, N.Y., and Bergen, Passaic, Essex, Hudson, Union, Somerset, Middlesex, and Morris Counties, N.J., and books, printed, finished and unfinished, from the plantsite of the American Book-Stratford Press, Inc., at New York, N.Y., to points in Hudson County, N.J., all as restricted. Bert Collins, 140 Cedar Street, New York, N.Y. 10006, applicants' representative.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 67-14636; Filed, Dec. 15, 1967; 8:48 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—DECEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during December.

3 CFR

Page

PROCLAMATION:
3821 ... 17571

EXECUTIVE ORDERS:
Dec. 8, 1913 (revoked in part by PLO 4327) ... 16531
Mar. 21, 1914 (revoked in part by PLO 4327) ... 16531
June 24, 1914 (revoked in part by PLO 4327) ... 16531
11248 (amended by EO 11384) ... 17423
11382 ... 17421
11384 ... 17423

5 CFR

210 ... 18074
213 ... 16477, 17515, 17940
315 ... 18074
351 ... 18074
352 ... 18074
353 ... 18075
430 ... 18075
511 ... 18075
531 ... 18075
713 ... 18076
731 ... 18076
752 ... 18076
754 ... 18076
771 ... 18077
772 ... 18077
831 ... 18077
891 ... 18077
2300 ... 17573
2900 ... 17661

7 CFR

301 ... 18015, 18017
401 ... 18078, 17425, 17513
718 ... 17513
722 ... 17467, 17887, 17923
724 ... 18078
725 ... 18429
729 ... 17897
815 ... 18525
905 ... 18525, 17615, 17616, 17925
907 ... 18526, 17515, 17888
909 ... 17849
910 ... 18528, 17817, 17651, 18017, 18018
944 ... 17425
982 ... 18527
989 ... 17467
1062 ... 18479
1073 ... 18480
1094 ... 18527
1103 ... 18527
1106 ... 18480
1126 ... 18480
1421 ... 18528
1427 ... 18528
1464 ... 17849
1474 ... 17888
1488 ... 18018

PROPOSED RULES:
51 ... 17866
58 ... 17866
812 ... 17669
817 ... 17669
911 ... 17431
915 ... 17431
948 ... 17671
950 ... 17433

7 CFR—Continued

Page

PROPOSED RULES—Continued
869 ... 17425
902 ... 17424
903 ... 17426
1001 ... 17626
1036 ... 17626
1049 ... 17626

8 CFR

238 ... 17651
260 ... 17651

PROPOSED RULES:
242 ... 17624
243 ... 17624
244 ... 17624
299 ... 17624

9 CFR

97 ... 17619

12 CFR

1 ... 17574, 17928
12 ... 17463
206 ... 17480
224 ... 17425
335 ... 17476
545 ... 17926
561 ... 17513
605 ... 17852

PROPOSED RULES:
563 ... 17544

14 CFR

21 ... 17850
39 ... 18481, 17426, 17515, 17516, 17652, 17927
61 ... 18481
71 ... 16482, 16483, 17426, 17427, 17516–17518, 17574–17576, 17852, 17851, 18020
73 ... 17427, 17853
75 ... 17518
91 ... 16482, 17654
97 ... 16484, 17877, 17923
121 ... 16481, 17839
141 ... 17851
151 ... 17471
214 ... 18020
217 ... 18020
221 ... 18022
241 ... 18023
301 ... 18491
303 ... 18491
311 ... 18491
320 ... 18491
421 ... 18491
430 ... 18491
431 ... 18491
485 ... 18491

PROPOSED RULES:
1 ... 18495
21 ... 17466
25 ... 17467
39 ... 17429, 17672, 17673, 17895
71 ... 16495, 17428, 17543, 17596–17598, 17672–17675, 17861, 17862, 18060–18062
73 ... 17468
75 ... 18062
91 ... 16495

14 CFR—Continued

Page

PROPOSED RULES—Continued
214 ... 16535
241 ... 17893
295 ... 16536
298 ... 17893

15 CFR

373 ... 17471

16 CFR

13 ... 17427, 17618, 17859–17855, 18025
15 ... 17582, 17856

PROPOSED RULES:
301 ... 17544
435 ... 17661

17 CFR

230 ... 17933
239 ... 17933
240 ... 17583
270 ... 17583
274 ... 17583

PROPOSED RULES:
240 ... 17963, 18063
270 ... 17861

19 CFR

5 ... 17619
12 ... 17428
19 ... 17619
23 ... 16528
24 ... 17619

20 CFR

404 ... 18026
405 ... 18026, 18027
422 ... 18030

PROPOSED RULES:
405 ... 18050, 18054

21 CFR

29 ... 17654
120 ... 16530, 17472
121 ... 16529, 16530, 17472, 17582, 17654, 17655, 17856, 17857.
130 ... 16531
146 ... 16531
146a ... 16481, 17657
602 ... 17473

PROPOSED RULES:
51 ... 16533
46 ... 17482, 17671
128 ... 17960
130 ... 17671
138 ... 16533, 17626

22 CFR

10 ... 17454

23 CFR

255 ... 17968, 18062, 18033

PROPOSED RULES:
255 ... 16534

24 CFR

234 ... 17587

25 CFR

Page

PROPOSED RULES:
221 ... 17543

26 CFR

1 ... 17479, 17518, 17657, 17890, 17938, 18039
31 ... 18039
46 ... 18039
48 ... 18039
49 ... 17858
147 ... 17890
701 ... 17890

PROPOSED RULES:
151 ... 17861

28 CFR

0 ... 16531

29 CFR

1610 ... 16491

31 CFR

1 ... 17519
82 ... 17859
214 ... 18044

32 CFR

52 ... 17661
54 ... 17519
537 ... 17519
701 ... 17588

33 CFR

109 ... 17726, 17890
110 ... 17726, 17890
114 ... 17726, 17890
115 ... 17726, 17890
116 ... 17726, 17890
117 ... 17726, 17890, 17939
209 ... 17522

36 CFR

Page

7 ... 17661

39 CFR

123 ... 17479
224 ... 18045
232 ... 18045
742 ... 17479, 17860

41 CFR

1–1 ... 16491, 18045
1–2 ... 18049
1–16 ... 18049
9–1 ... 17542
Ch. 18 ... 17002
101–26 ... 17939

42 CFR

53 ... 17662

43 CFR

Page

2210 ... 17890

PUBLIC LAND ORDERS:
334 (revoked in part by PLO 4333) ... 17480
1796 (revoked in part by PLO 4331) ... 17479
2764 (see PLO 4331) ... 17479
4327 ... 16531
4328 ... 17429
4329 ... 16532
4330 ... 17479
4331 ... 17479
4332 ... 17479
4333 ... 17480
4334 ... 17429
4335 ... 17429
4336 ... 17620
4337 ... 17662
4338 ... 17891

45 CFR

30 ... 17891
1105 ... 17663

46 CFR

Page

39 ... 17621
96 ... 17621
221 ... 17595
255 ... 17595
308 ... 17891
510 ... 17480
526 ... 17667

PROPOSED RULES:
Ch. II ... 17980
514 ... 16496

47 CFR

97 ... 17429

PROPOSED RULES:
2 ... 16495
87 ... 16495
91 ... 17440

48 CFR

501 ... 17940

49 CFR

290 ... 17941
291 ... 17941
292 ... 17941
293 ... 17941
294 ... 17941
295 ... 17892, 17941
296 ... 17941
297 ... 17941
890 ... 17480
1200 ... 17480

PROPOSED RULES:
239 ... 18062

50 CFR

28 ... 17622
32 ... 17542
33 ... 16532, 17430, 17481, 17623, 17667, 17668, 18049.
254 ... 16492

PUBLIC PAPERS OF THE PRESIDENTS OF THE UNITED STATES

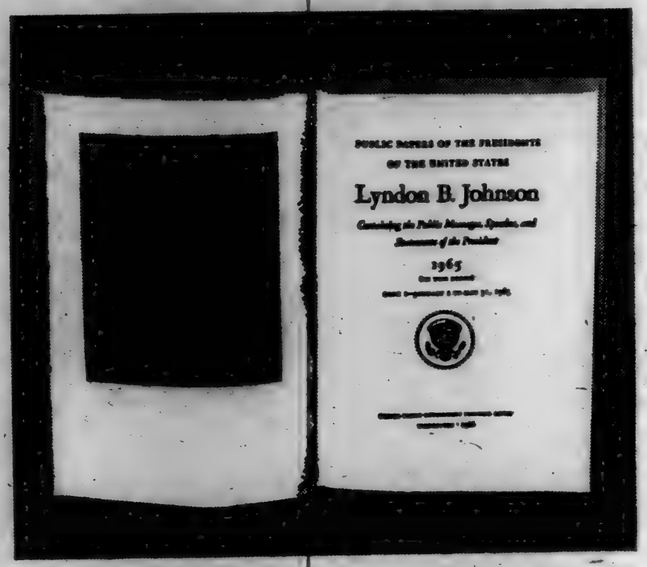

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244

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Tuesday, December 19, 1967 • Washington, D.C.

Pages 18077–19149

(Part II begins on page 19001)

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Agencies in this issue—

The President
The Congress
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Agriculture Department
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Civil Aeronautics Board
Consumer and Marketing Service
Defense Department
Federal Aviation Administration
Federal Communications Commission
Federal Deposit Insurance Corporation
Federal Highway Administration
Federal Home Loan Bank Board
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Federal Trade Commission
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Detailed list of Contents appears inside.

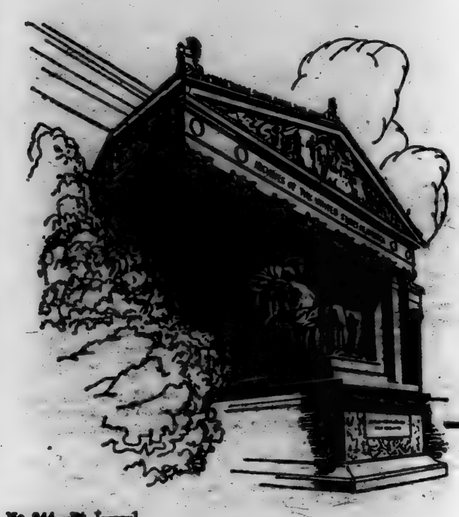

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Contents

THE PRESIDENT

PROCLAMATION

Proclamation to carry out Geneva (1967) Protocol to the General Agreement on Tariffs and Trade and other agreements 19002

EXECUTIVE ORDER

Placing an additional position in Level IV of the Federal Executive Salary Schedule 18081

THE CONGRESS

Acts Approved 18131

EXECUTIVE AGENCIES

AGRICULTURAL RESEARCH SERVICE

Rules and Regulations

Brucellosis; public stockyards 18086

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Rules and Regulations

Sugar; requirements and quotas for 1968 18083

AGRICULTURE DEPARTMENT

See also Agricultural Research Service; Agricultural Stabilization and Conservation Service; Consumer and Marketing Service.

Notices

Great Plains Conservation Program; applicability in certain Kansas counties 18117

ARMY DEPARTMENT

Rules and Regulations

Public information activities 18089

ATOMIC ENERGY COMMISSION

Notices

Arkansas Power & Light Co.; application for construction permit and facility license 18119

General Electric Co. and Southwest Atomic Energy Associates; extension of completion date of provisional construction permit 18119

Plutonium and uranium enriched in U-233; guaranteed purchase prices 18119

CIVIL AERONAUTICS BOARD

Notices

International Air Transport Association; specific commodity rates 18119

COMMERCE DEPARTMENT

See International Commerce Bureau.

CONSUMER AND MARKETING SERVICE

Rules and Regulations

Lemons grown in California and Arizona; handling limitation 18085

Raisins produced from California grapes; handling; correction 18086

DEFENSE DEPARTMENT

See also Army Department.

Rules and Regulations

Service flag and lapel button 18087

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations

Restricted areas and controlled airspace; alteration; correction 18087

FEDERAL COMMUNICATIONS COMMISSION

Proposed Rule Making

Aircraft radio altimeters; frequency allocations 18115

Notices

Hearings, etc.:

American Telephone and Telegraph Co 18120

Furr, J. W. (WMBC) 18120

Grayson Television Co., Inc., and Hercules Broadcasting Co 18120

Manor, Joe, and Mobilfone Communications, Inc 18120

Minshall Broadcasting Co., Inc., and University City Television Cable Co., Inc 18121

FEDERAL DEPOSIT INSURANCE CORPORATION

Notices

Insurance coverage afforded deposit accounts in banks insured by FDIC; examples 18121

FEDERAL HIGHWAY ADMINISTRATION

Proposed Rule Making

Private motor carriers of hazardous materials; annual safety accident report 18114

FEDERAL HOME LOAN BANK BOARD

Notices

Insurance coverage afforded accounts in institutions insured by FSLIC; examples 18122

FEDERAL MARITIME COMMISSION

Notices

Agreements filed for approval:

Brazil-United States-Atlantic cocoa beans agreement 18122

Brazil-United States-Atlantic coffee agreement 18123

Brazil-United States-Atlantic general cargo agreement 18123

Concordia Line-Great Lakes Service and Niagara Line 18123

Mediterranean/Canada & Great Lakes agreement 18124

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:

Fleet, Howard W., et al 18124

Maine Public Service Co 18125

FEDERAL RESERVE SYSTEM

Notices

First Wisconsin Bankshares Corp.; order for oral presentation 18126

Moody Foundation; request for determination and order regarding hearing 18126

FEDERAL TRADE COMMISSION

Rules and Regulations

Administrative opinions and rulings; discounts for increased annual purchases 18087

FOOD AND DRUG ADMINISTRATION

Rules and Regulations

Cheeses, pesticide chemical tolerances, and gentamicin; miscellaneous amendments 18096

Food additives; resinous and polymeric coatings 18096

Proposed Rule Making

Soft drinks; exemption from certain requirements of Fair Packaging and Labeling Act 18113

Standards of identity; extensions of time:

Peanut butter 18114

Vegetable protein products 18114

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Food and Drug Administration.

Notices

Social and Rehabilitation Service; organization and authority delegations; correction 18119

(*Continued on next page*)

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

Notices

Certain cotton textiles and products produced or manufactured in Republic of Korea; entry and withdrawal from warehouse for consumption 18126

INTERIOR DEPARTMENT

See Land Management Bureau; Mines Bureau.

INTERNATIONAL COMMERCE BUREAU

Notices

Export control orders:
- Amos, Lionel, and Amos (Machinery), Ltd. 18117
- Savoy International, Ltd. 18118

INTERSTATE COMMERCE COMMISSION

Notices

Fourth section applications for relief 18127
Motor carrier temporary authority applications 18128

LAND MANAGEMENT BUREAU

Notices

Arizona; termination of proposed classifications 18116
Colorado; proposed withdrawal and reservation of lands 18116
Nevada; notice to scrip claimants 18116
Wyoming; proposed classification of public lands 18117

MINES BUREAU

Proposed Rule Making

Electric motor driven mine equipment and accessories; requirements for investigation, testing, approval, certification, and acceptance 18098

SMALL BUSINESS ADMINISTRATION

Notices

Florida; declaration of disaster loan area 18127

TARIFF COMMISSION

Notices

Employees of Mosaic Tile Co., Zanesville, Ohio; petition for determination of eligibility to apply for adjustment assistance; investigation 18127

TRANSPORTATION DEPARTMENT

See Federal Aviation Administration; Federal Highway Administration.

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

3 CFR

PROCLAMATIONS:
- 2761A (see Proc. 3822) 19002
- 3548 (see Proc. 3822) 19002
- 3822 19002

EXECUTIVE ORDERS:
- 11075 (see Proc. 3822) 19002
- 11248 (amended by EO 11385) 18081
- 11385 18081

7 CFR
- 811 18083
- 910 18085
- 989 18086

9 CFR
- 78 18086

14 CFR
- 73 18087

16 CFR
- 15 18087

21 CFR
- 19 18096
- 120 18096
- 121 18096
- 148q 18096

PROPOSED RULES:
- 1 18113
- 15 18114
- 46 18114

30 CFR

PROPOSED RULES:
- 18 18098
- 34 18098

32 CFR
- 57 18087
- 504 18089

47 CFR

PROPOSED RULES:
- 2 18115
- 87 18115

49 CFR

PROPOSED RULES:
- 177 18114
- 294 18114

Presidential Documents

Title 3—THE PRESIDENT

Executive Order 11385

PLACING AN ADDITIONAL POSITION IN LEVEL IV OF THE FEDERAL EXECUTIVE SALARY SCHEDULE

By virtue of the authority vested in me by section 5317 of title 5 of the United States Code, as amended, and as President of the United States, section 1 of Executive Order No. 11248 of October 10, 1965, as amended, is further amended by adding thereto the following:

(6) Deputy Administrator, Federal Highway Administration, Department of Transportation.

Lyndon B. Johnson

THE WHITE HOUSE,
December 16, 1967.

[F.R. Doc. 67-14792; Filed, Dec. 18, 1967; 11:39 a.m.]

Rules and Regulations

Title 7—AGRICULTURE

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

PART 811—CONTINENTAL SUGAR REQUIREMENTS AND AREA QUOTAS

Requirements and Quotas for 1968

Basis and purpose and bases and considerations. This regulation is issued pursuant to the authority vested in the Secretary of Agriculture by the Sugar Act of 1948, as amended 61 (Stat. 922, as amended), hereinafter referred to as the "Act". The purpose of Sugar Regulation 811 is to determine pursuant to section 201 of the Act the amount of sugar needed to meet the requirements of consumers in the continental United States for the calendar year 1968, and to establish sugar quotas for the supplying areas in terms of short tons of sugar, raw value, equal to the amount determined by the Secretary of Agriculture to be needed in 1968. Further, this regulation establishes quantities of certain quotas that may be filled by direct-consumption sugar and establishes a liquid sugar quota.

In accordance with the rule making requirements in 5 U.S.C. 553 there was published in the FEDERAL REGISTER (32 F.R. 16045) a notice of proposed rule making for the issuance of a regulation determining sugar requirements for the continental United States and establishing quotas for the calendar year 1968. Written data, views, or arguments for consideration in connection with the proposed regulation were to be submitted by interested persons prior to December 8, 1967. All data, views, and comments received relative to the proposed regulation were thoroughly considered.

Section 201 of the Act directs the Secretary to determine for each calendar year the amount of sugar needed to meet the requirements of consumers in the continental United States and to revise such determination during the calendar year whenever he deems it necessary. The section sets forth criteria to guide the Secretary in his determination and states that such determination shall be made so as to protect the welfare of consumers and of those engaged in the domestic sugar industry by providing such supply of sugar as will be consumed at prices which will not be excessive to consumers and which will fairly and equitably maintain and protect the welfare of the domestic sugar industry.

Distribution of refined sugar for consumption in the United States totaled about 10,160,000 short tons, raw value during the 12-month period which ended September 30, 1967. This was about 200,000 tons less than the quantity distributed in the previous 12-month period which ended September 30, 1966. However, it cannot be assumed that the actual consumption of sugar decreased in like degree. Inventories of sugar in the hands of secondary distributors and inventories of sugar and sugar containing products in the hands of food processors were abnormally low on September 30, 1965, and normal or slightly above normal on September 30, 1966. At the end of September 1967, such inventories were again somewhat below normal. After allowances for these factors, it would appear that disappearance of sugar during the 12-month period ending September 30, 1966, was of the order of 10,250,000 tons and for the year ending September 30, 1967, of about the same magnitude.

Absence of year-to-year growth may have resulted largely from the fact that weather during the most recent period was not as conducive to the consumption of sugar as in the earlier period when the weather was unusually favorable.

It appears reasonable to expect that sugar consumption during calendar year 1968 will resume its long-term trend of increasing about in line with population growth. On that basis, consumption of about 10,400,000 tons would be anticipated in 1968.

Sugar requirements for calendar year 1968 will amount to the sum of actual consumption, plus the usual refining loss of about 60,000 tons, as adjusted by any change which users, refiners, and importers may elect to make in their sugar inventories during the year. Those inventories at the beginning of 1968 are now expected to be larger than they had been a year earlier. What they may be at the end of next year cannot now be determined, but it is possible that some reduction could occur during the year. A reduction, should it occur, would have the effect of reducing requirements.

The domestic price of raw sugar increased steadily during the first 10 months of 1967. The average for that period was 7.26 cents per pound or 4 percent higher than the 6.97 cents per pound average for the first 10 months of 1966. In the development of this determination, consideration has been given to the desirability of obtaining generally stable prices that will carry out, over the long term, the price objectives of the act. In recognition of the foregoing and all relevant criteria, the amount of sugar needed to meet the requirements of consumers in the continental United States is herein determined to be 10,400,000 short tons, raw value.

A quota of 1,200,000 short tons, raw value, is established herein for Hawaii based on estimates of Hawaii's 1967 crop production. Such quota is subject to revision pending final data on the production and marketing of sugar by Hawaii in 1967.

The quota for Southern Rhodesia has been withheld pursuant to Executive Order 11322 issued on January 7, 1967, and is prorated herein to Western Hemisphere countries pursuant to section 202(d)(1)(B) of the Act. A quota has not been established herein for the Bahamas as that country will not have sugar to export in 1968.

In view of the wide differential between the price of domestic raw sugar and the world price, there would be a strong tendency for an excessive quantity of foreign sugar to be shipped to this country early in 1968. This would likely preclude the meeting of the objectives of the act. Accordingly, it is necessary that provisions be made for quantitative limitations on the total importation of raw sugar from foreign countries for the first and second quarters of the year.

The total quantity of raw sugar which may be charged to quotas of foreign countries during the first half of 1968 is established at 2,100,000 short tons, raw value. All quantities imported in late 1967 under bond for refining and storage plus additional importations during January, February, and March of 1968 of 750,000 short tons, raw value, may be charged to foreign country quotas during the first quarter of 1968.

To give recognition to the seasonality of production and movement of sugar from the foreign countries, quota allocations to foreign countries during the first quarter and first half of 1968 will primarily be based on average imports from such foreign countries during such periods for the 5-year period 1963 through 1967.

Sec.
811.60 Sugar requirements 1968.
811.61 Quotas for domestic areas.
811.62 [Reserved]
811.63 Quotas for foreign countries.
811.64 Applicability of quotas.
811.65 Restrictions on importations and marketings.

AUTHORITY: §§ 811.60 to 811.65 issued under sec. 403, 61 Stat. 932, 7 U.S.C. 1153. Interprets or applies secs. 201, 202, 207, 208, 209, 210; 61 Stat. 928, as amended, 924, as amended, 925, as amended, 927, as amended, and 928, as amended; 7 U.S.C. 1111, 1112, 1117, 1118, and 1119.

§ 811.60 Sugar requirements 1968.

The amount of sugar needed to meet the requirements of consumers in the continental United States for the calendar year 1968 is hereby determined to be 10,400,000 short tons, raw value.

§ 811.61 Quotas for domestic areas.

(a) For the calendar year 1968, domestic area quotas limiting the quantities of sugar which may be brought into or

marketed for consumption in the continental United States are established, pursuant to section 202(a) of the act in column (1), and the amounts of such quotas for offshore areas that may be filled by direct-consumption sugar are established, pursuant to section 207 of the act in column (2), as follows:

Area	Quotas (1)	Direct-consumption limits (2)
	(Short tons, raw value)	
Domestic beet sugar	3,025,000	No limit
Mainland cane sugar	1,100,000	No limit
Hawaii	[1] 1,200,000	35,000
Puerto Rico	1,140,000	150,000
Virgin Islands	15,000	0

[1] Subject to revision based on final production and marketing data for 1967.

(b) Of the quantity established in paragraph (a) of this section for Puerto Rico which may be filled by direct-consumption sugar, 126,033 short tons, raw value, may be filled only by sugar principally of crystalline structure.

Country	Basic quotas	Temporary quotas and prorations: Pursuant to sec. 202(d)(1)(A)[1]	Temporary quotas and prorations: Pursuant to sec. 202(d)(1)(B)[2]	Total quotas and prorations
	(Short tons, raw value)			
Mexico	215,861	225,922	1,306	442,789
Dominican Republic	210,820	220,963	1,278	433,061
Brazil	210,820	220,963	1,276	433,059
Peru	168,154	176,244	1,019	345,417
British West Indies	84,217	73,448	467	158,132
Ecuador	30,675	32,150	186	62,011
French West Indies	26,402	23,109	147	49,744
Argentina	22,994	27,183	157	53,273
Costa Rica	24,819	26,012	150	50,981
Nicaragua	24,819	26,012	150	50,981
Colombia	22,309	23,383	135	45,827
Guatemala	20,915	21,931	127	42,973
Panama	18,616	16,368	95	35,079
El Salvador	15,338	16,075	93	31,506
Haiti	11,712	12,276	71	24,059
Venezuela	10,597	11,107	64	21,768
British Honduras	6,135	5,351	24	11,510
Bolivia	2,510	2,631	15	5,156
Honduras	2,510	2,631	15	5,156
Australia	100,391	67,554		167,945
Republic of China	41,320	36,491		78,310
India	40,156	35,022		75,178
South Africa	20,559	25,780		46,339
Fiji Islands	22,030	19,213		41,243
Thailand	9,203	8,026		17,229
Mauritius	9,203	8,026		17,229
Malagasy Republic	4,741	4,134		8,875
Swaziland	3,625	3,132		6,757
Ireland	3,361			3,361
Total	1,396,043	1,391,122	6,757	2,793,922

[1] Proration of the quota withheld from Cuba.
[2] Proration of the quota withheld from Southern Rhodesia.

(d) (1) Of the total quotas and proration for foreign countries established in paragraphs (b) and (c) of this section, an amount not to exceed 2,100,000 short tons, raw value, of raw sugar, which includes quantities imported in late 1967 under bond for refining and storage, may be charged against such 1968 quotas and authorized for importation or release from bond from all such foreign countries in accordance with Part 817 of this chapter during the first 6 months of 1967. Such charges to such 1968 quotas shall be made in the following manner: (i) The quantities imported in late 1967 under bond for refining and storage will be released from bond and charged to such quotas on January 1, 1968; (ii) in addition 750,000 short tons, raw value of sugar will be authorized for importation and charged to such quotas during the first quarter of the year and; (iii) that part of the 2,100,000 short tons, raw value, not charged to such 1968 quotas under subdivisions (i) and (ii) of this subparagraph will be authorized for importation and charged to such quotas during the second quarter of 1968.

(2) (i) The importation of raw sugar within the quarterly limitations specified in subdivisions (ii) and (iii) of subparagraph (1) of this paragraph (d) will be authorized on the basis of applications for "Set Aside of Quota" on Form SU-8A or "Sugar Quota Clearance" on Form SU-3 in accordance with the provisions of Part 817 of this chapter, subject to the priorities for countries as provided in subparagraph (3) of this paragraph for first quarter importations and in subparagraph (4) of this paragraph for second quarter importations and the limitations as provided in subdivision (ii) of this subparagraph. Applications to import raw sugar from the Republic of the Philippines must, before final approval within the quantity reserved for the Republic of the Philippines pursuant to subparagraphs (3) and (4) of this paragraph, be supplemented by certification from the Sugar Quota Administrator for the Government of the Philippines granting the applicant the permission to export sugar to the U.S. market.

(ii) Applications for the importation of sugar during the first quarter received on or before 5 days after the effective date of this subdivision will be considered as having been received at the same time. Applications for the importation of sugar during the second quarter received on or before January 15, 1968, will be considered as having been received at the same time.

(3) (i) Allocations of first quarter importations among countries will be made in the following manner within the limits of applications received.

(ii) First priority shall be given to countries from which sugar was imported during the first quarter of 1963, 1964, 1965, 1966, or 1967, but not to exceed the average of the country's first quarter importations as set forth in subparagraph (5) of this paragraph: *Provided*, That if the quantity of sugar which may be imported during the first quarter is less than the quantity needed to approve all applications for importation in the first quarter, the quantity of sugar which may be imported during the first quarter under this priority shall be prorated among countries on the basis of first quarter importations from countries as set forth in subparagraph (5) of this paragraph.

(iii) Second priority shall be given to countries by making an initial allocation under this priority to countries in order of size of quota, smallest first, limiting such initial allocation to any country to the smaller of 10,000 short tons, raw value, or the quantity which would permit the total importation from the country during the first quarter of up to 20 percent of the country's annual quota. Additional allocations under this priority shall be made to those countries receiving an initial allocation under this priority of 10,000 short tons, raw value, which additional allocation to any such country shall be so limited that the total allocations under priorities in subdivisions (ii) and (iii) of this subparagraph during the first quarter for such country as a percentage of its annual quota will not exceed the percentage similarly calculated for any other such country and shall be further limited so that the total quantity which may be imported from such country during the first quarter shall not exceed 20 percent of the country's annual quota.

(iv) Any quantity not allocated under subdivisions (ii) and (iii) of this subparagraph shall be prorated among countries having priority under subdivision (ii) of this subparagraph that received allocations less than the full amount applied for, and such additional proration shall be made on the basis of the average imports of sugar from the countries during the first quarter as set forth in subparagraph (5) of this paragraph.

(4) (i) Allocations of second quarter importations among countries will be made in the following manner within the limits of applications received.

(ii) First priority shall be given to countries from which sugar was imported during the first half of 1963, 1964, 1965, 1966, or 1967, but not to permit charges to the quotas of such countries by virtue of this subdivision during the first half to exceed the average importations from such country as set forth in subparagraph (5) of this paragraph: *Provided*, That if the quantity of sugar which may be imported during the second quarter is less than the quantity needed to approve all applications for importation in the second quarter, the quantity of sugar which may be imported during the second quarter under this priority shall be prorated among countries on the basis of first half importations from countries as set forth in subparagraph (5) of this paragraph.

(iii) Second priority shall be given to countries by making an initial allocation under this priority to countries in order of size of quota, smallest first, limiting such initial allocation to any country to the smaller of 10,000 short tons, raw value, or the quantity which would permit total charges during the first half of up to 50 percent of the country's annual quota. Additional allocations under this priority shall be made to those countries receiving an initial allocation under this priority of 10,000 short tons, raw value, which additional allocation to any such country shall be so limited that the total quota charges under subparagraph (3) of this paragraph, subdivision (ii) of this subparagraph and this subdivision during the first half for such country as a percentage of its annual quota will not exceed the percentage similarly calculated for any other such country; and shall be further limited so that the total quantity which may be imported from such country during the first half shall not exceed 50 percent of the country's annual quota.

(iv) Any quantity not allocated under subdivisions (ii) and (iii) of this subparagraph shall be prorated among countries having priority under subdivision (ii) of this subparagraph that received allocations less than the full amount applied for, and such proration shall be made on the basis of the average imports of sugar from the countries during the first half as set forth in subparagraph (5) of this paragraph.

(5) Average importations into the continental United States within quotas, during the first quarter and first half of the years 1963, 1964, 1965, 1966, and 1967 are as follows:

Country	First quarter	First half
	(Short tons, raw value)	
Philippines	216,408	520,252
Mexico	152,715	302,781
Dominican Republic	87,289	286,981
Brazil	79,141	129,786
Peru	73,395	182,913
British West Indies	30,283	75,671
Ecuador	9,720	14,561
French West Indies	7,234	20,869
Argentina	6,002	38,205
Costa Rica	7,089	27,830
Nicaragua	7,395	32,049
Colombia	5,346	15,019
Guatemala	14,927	36,998
Panama	3,880	10,980
El Salvador	4,696	16,078
Haiti	8,453	10,208
Venezuela	210	4,247
British Honduras	0	2,979
Bolivia	0	0
Honduras	0	0
Australia	0	0
Republic of China	8,540	8,540
India	5,208	57,478
South Africa	4,700	26,297
Fiji Islands	22,779	25,750
Thailand	213	312
Mauritius	146	146
Malagasy Republic	0	0
Swaziland	0	0
Total	1,317	1,317
	720,631	1,539,631

(e) For the calendar year 1968, the quantity of each proration established in paragraph (c) of this section that may be filled by direct-consumption sugar pursuant to section 207(e) of the act is as follows:

County	Short tons, raw value
Ireland	5,281
Panama	3,817

(f) For the calendar year 1968, the quota for liquid sugar for foreign countries as a group is 2 million gallons of sirup of cane juice of the type of Barbados molasses, limited to liquid sugar containing soluble nonsugar solids (excluding any foreign substance that may have been added or developed in the product) of more than 5 percent of the total soluble solids, which is not to be used as a component of any direct-consumption sugar but is to be used as molasses without substantial modification of its characteristics after importation.

§ 811.64 Applicability of quotas.

(a) All sugar and liquid sugar marketed or imported into the continental United States is subject to the provisions of Part 816 or Part 817 of this chapter which prescribe the time, manner, and conditions under which quotas and prorations are filled by the marketing and importation of sugar or liquid sugar.

(b) The quantitative limitations established by §§ 811.61 to 811.63, inclusive, do not apply to sugar or liquid sugar marketed or imported pursuant to section 211 and 212 of the act in accordance with the provisions of Part 816 or Part 817 of this chapter.

§ 811.65 Restrictions on importations and marketings.

Subject to the provisions of Parts 816 and 817 of this chapter all persons are prohibited from bringing or importing into or marketing in the continental United States, (a) any sugar or liquid sugar from any country for which no quota is established or in excess of or after the applicable quota or quantity set forth in §§ 811.61 to 811.63 inclusive has been filled, or (b) any sugar or liquid sugar as direct-consumption sugar from any country for which no direct-consumption sugar limitation is established or after the direct-consumption portion of the applicable quota has been filled.

Effective date. The Act provides that the Secretary of Agriculture shall, during the last 3 months of 1967, determine sugar requirements and establish sugar quotas for the continental United States for the calendar year 1968. The regulations determining 1968 sugar requirements and quotas apply not only to sugar imported or marketed beginning January 1, 1968, but also to any sugar imported prior thereto for refining, storage, and subsequent release within 1968 quotas as may be provided for by regulation. Accordingly, it is hereby found to be impracticable and not in the public interest to comply with the 30-day effective date requirements in 5 U.S.C. 553. The aspects of § 811.63 relating to the submission and approval or acceptance of applications shall be effective when filed with the Office of the Federal Register and all other provisions of this regulation shall become effective January 1, 1968.

Signed at Washington, D.C., this 14th day of December 1967.

JOHN A. SCHNITTKER,
Under Secretary.

[F.R. Doc. 67-14622; Filed, Dec. 14, 1967; 3:42 p.m.]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Lemon Reg. 296, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations

and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

Order, as amended. The provisions in paragraph (b)(1) (i), (ii), and (iii) of § 910.598 (Lemon Reg. 298, 32 F.R. 17617) are hereby amended to read as follows:

§ 910.598 Lemon Regulation 298.

* * * * *

(b) *Order.* (1) * * *

(i) District 1: 17,670 cartons;
(ii) District 2: 69,750 cartons;
(iii) District 3: 159,030 cartons.

* * * * *

(Secs. 1–19, 48 Stat. 31 as amended; 7 U.S.C. 601–674)

Dated: December 14, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-14672; Filed, Dec. 18, 1967; 8:46 a.m.]

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Order Amending Order, as Amended, Regulating Handling; Correction

The order amending the order, as amended, regulating handling, F.R. Doc. 67-9987, appearing at page 12157 in the August 24, 1967, issue of the FEDERAL REGISTER, contains several inadvertent errors. These errors include: (a) Omissions of a line in revised § 989.67(j); (b) an incorrect cross reference in revised § 989.73(b)(4); (c) omission of a line in revised § 989.96 (g); and (d) in several provisions of the order then being amended, failure to delete the word "surplus", or change it to "reserve", as required for conformity with the amendatory action. The errors are corrected as follows:

1. In the last two sentences of § 989.55 and in § 989.60, the word "reserve" is substituted for "surplus".

2. In the last sentence of § 989.58(e)(4) the words "surplus and" are deleted.

3. In § 989.67(j), as set forth in the amendatory order, the proviso at the end of the last sentence is corrected to read: "*Provided*, That, where the outlook for the next crop year or other factors have caused a downward trend in the prices received by producers for free tonnage raisins or in the prices received by handlers for free tonnage packed raisins, reserve tonnage may be sold to handlers at the currently prevailing or the approximate computed field price for free tonnage raisins, as determined by the committee."

4. In § 989.73(b), as set forth in the amendatory order, subparagraph (4) is corrected to read: "(4) the total quantity of off-grade raisins acquired pursuant to § 989.58(e)(1)(i), and".

5. In § 989.96, as set forth in the amendatory order, paragraph (g) is corrected to read:

(g) One member for District No. 21 (Stanislaus, San Joaquin, Santa Clara, San Francisco, San Mateo, Santa Cruz, Alameda, Contra Costa, Calaveras, Alpine, Marin, Solano, Sacramento, Amador, Eldorado, Placer, Nevada, Sutter, Yolo, Napa, Sonoma, Mendocino, Lake, Colusa, Yuba, Sierra, Plumas, Butte, Glenn, Tehama, Shasta, Lassen, Modoc, Siskiyou, Del Norte, Humboldt, and Trinity Counties).

Dated: December 14, 1967.

RODNEY E. LEONARD,
Deputy Assistant Secretary.

[F.R. Doc. 67-14702; Filed, Dec. 18, 1967; 8:49 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 78—BRUCELLOSIS

Public Stockyards

Pursuant to the provisions of sections 4, 5, and 13 of the Act of May 29, 1884, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, and section 3 of the Act of March 3, 1905, as amended (21 U.S.C. 111–113, 114a–1, 120, 121, 125); § 78.14(a) of Part 78, Title 9, Code of Federal Regulations is hereby amended to read as follows:

§ 78.14 Public stockyards and specifically approved stockyards.

(a) Federal inspection is maintained for the inspection of livestock for communicable diseases at the following stockyards:

Name of stockyard and location

ARIZONA

Cornelius Livestock Co., Phoenix.

ARKANSAS

Arkansas National Stockyards, Little Rock.

COLORADO

Burlington Producers Livestock Marketing Association, Burlington.
Producers Livestock Marketing Association, Greeley.
Union Stockyards, Denver.

IDAHO

Blackfoot Livestock Commission Co., Blackfoot.
Davis Livestock Auction, Caldwell.
Idaho Livestock Auction, Inc., Idaho Falls.
OK Livestock Market and Feed Yard (Boise Valley), Caldwell.
Spencer Livestock Commission Co., Lewiston.
Twin Falls Livestock Commission Co., Twin Falls.

ILLINOIS

St. Louis National Stockyards, National Stockyards.
Union Stockyard & Transit Co., Chicago.

INDIANA

Evansville Union Stockyards, Evansville.
Indianapolis Stockyards Co., Indianapolis.

IOWA

Sioux City Stockyards Co., Sioux City.

KANSAS

Parsons Stockyards Co., Parsons.
Wichita Union Stockyards, Wichita.

KENTUCKY

Bourbon Stockyard Co., Louisville.

MARYLAND

Baltimore Livestock Exchange, West Friendship.

MICHIGAN

Detroit Stockyards Co., Detroit.

MINNESOTA

Pipestone Livestock Auction Market, Pipestone.
St. Paul Union Stockyards, South St. Paul.

MISSOURI

Joplin Stockyards, Joplin.
Kansas City Stockyards, Kansas City.
Saint Joseph Stockyards, South St. Joseph.
Union Stockyards Co., Inc., Springfield.

MONTANA

Billings Public Livestock Market Center, Billings.

NEBRASKA

Union Stockyards Company of Omaha, Omaha.

NEW MEXICO

B–W Cattle Co., Clovis.
Clovis Cattle Commission Co., Clovis.
Ranchers & Farmers Livestock Sales Co., Clovis.

NEW YORK

Niagara Frontier Stockyards, Inc., Buffalo.

NORTH DAKOTA

Union Stockyards Company of Fargo, West Fargo.

OHIO

Cincinnati Union Stockyard Co., Cincinnati.
Cleveland Union Stockyard Co., Cleveland.

OKLAHOMA

Ft. Smith Stockyards Co., Inc., West Fort Smith.
Oklahoma National Stockyards Co., Oklahoma City.
Tulsa Stockyards, Inc., Tulsa.

OREGON

Ontario Livestock Commission Co., Ontario.
Portland Livestock Market, Inc., North Portland.
Vale Livestock Auction, Inc., Vale.

PENNSYLVANIA

Union Stockyard Company of Lancaster, Lancaster.

SOUTH DAKOTA

Sioux Falls Stockyards Co., Sioux Falls.

TENNESSEE

Dixie National Stockyards, Memphis.
Nashville Union Stockyards, Nashville.
South Memphis Stockyards, Memphis.

TEXAS

Fort Worth Stockyards, Fort Worth.
Owen Brothers Livestock Commission Co., Texarkana.
Port City Stockyards Co., Houston.
Texarkana Stockyards Co., Texarkana.
Texas Livestock Marketing Association, Saginaw.
Texas Livestock Marketing Association, San Antonio.
Union Stockyards, San Antonio.
Vann Cattle Co., Fort Worth.

UTAH

Ogden Union Stockyards, Ogden.
Salt Lake Union Stockyards, North Salt Lake.

VIRGINIA

Richmond Union Stockyards, Richmond.

WASHINGTON

Stockland Union Stockyards, Spokane.

WISCONSIN

Milwaukee Stockyards Co., Milwaukee.

* * * * *

(Secs. 4, 5, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791–792, as amended, sec. 2, 65 Stat. 693; 21 U.S.C. 111–113, 114a–1, 120, 121, 125; 29 F.R. 16210, as amended, 30 F.R. 5799, as amended; 9 CFR 78.16)

Effective date. The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER.

The foregoing amendment adds the names of the following stockyards to the list of public stockyards set forth in 9 CFR 78.14(a), as such stockyards are now operating as public stockyards where Federal inspection is maintained: Baltimore Livestock Exchange, West Friendship, Md.; Owen Brothers Livestock Commission Co., Texarkana, Tex.; Texas Livestock Marketing Association, Saginaw, Tex.; Texas Livestock Marketing Association, San Antonio, Tex.; OK Livestock Market and Feed, Caldwell, Idaho; Spencer Livestock Commission Co., Lewiston, Idaho; and Twin Falls Livestock Commission Co., Twin Falls, Idaho. The amendment also deletes the names of the following stockyards from such list as Federal inspection is no longer maintained at such stockyards: Baltimore Livestock Auction Market, Baltimore, Md.; Baltimore Union Stockyards, Baltimore, Md.; Payne's Livestock Auction, Tucson, Ariz.; and Southern Idaho Stockyards Co., Twin Falls, Idaho.

In addition, the amendment reflects certain minor changes in the names of certain other public stockyards.

Inasmuch as notice and other public procedure regarding the amendment would not make additional information available to the Department and since interested persons should be informed promptly of such changes, it is found upon good cause under the provisions in 5 U.S.C., section 553, that notice and other public procedure regarding the amendment are impracticable and contrary to the public interest, and the amendment should be made effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 13th day of December 1967.

E. E. SAULMON,
Director, Animal Health Division, Agricultural Research Service.

[F.R. Doc. 67-14671; Filed, Dec. 18, 1967; 8:46 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 67-PC-5]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Areas and Controlled Airspace

Correction

In F.R. Doc. 67-14425 appearing on page 17653 in the issue of Tuesday, December 12, 1967, an insertion should be made above the sixth paragraph under R-3104A Island of Kahoolawe, Hawaii, in § 73.31 as follows:

R-3104B ISLAND OF KAHOOLAWE, HAWAII

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Proposal To Grant Discounts for Increased Annual Purchases

§ 15.153 Proposal to grant discounts for increased annual purchases.

(a) The Commission rendered an advisory opinion in which an applicant was informed a proposal to grant discounts to a certain class of customers—jobbers who bought his products for resale—to be given at the end of a sales year based on increased amounts of purchases over purchases in the preceding sales year cannot be approved because it appears on its face the proposal would violate section 2(a) of the Clayton Act if it were put into operation. The proposal was based on the following scale:

(1) 2 percent discount on a 20 percent to 29 percent inclusive increase;

(2) 3 percent discount on a 30 percent to 39 percent inclusive increase;

(3) 4 percent discount on a 40 percent to 49 percent inclusive increase; and

(4) 5 percent discount on a 50 percent or more increase.

(b) The Commission further pointed out that price discriminations to customers who in fact compete with each other in resale of commodities of like grade and quality would violate section 2(a) of the Clayton Act unless cost justified or unless the lower price is a good faith meeting of a competitor's equally low price.

(38 Stat. 717, as amended; 15 U.S.C. 41–58; 49 Stat. 1526; 15 U.S.C. 13, as amended)

Issued: December 18, 1967.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 67-14678; Filed, Dec. 18, 1967; 8:46 a.m.]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER S—PERSONNEL; MILITARY AND CIVILIAN

PART 57—SERVICE FLAG AND LAPEL BUTTON

The Deputy Secretary of Defense approved the following on December 1, 1967:

Sec.
57.1 Purpose.
57.2 Applicability.
57.3 Definitions.
57.4 Policy.
57.5 Delegation of authority.
57.6 Design.
57.7 Display of the service flag.
57.8 Wearing of the service lapel button.
57.9 Application for licensing.
57.10 Purchase of service flag and service lapel button.

AUTHORITY: The provisions of this Part 57 issued under sec. 301, 80 Stat. 379, 5 U.S.C. 301; sec. 4, 56 Stat. 796, 36 U.S.C. 182.

§ 57.1 Purpose.

This part carries out the provisions of 36 U.S.C. 176; 179–182 hereinafter referred to as "the Act," by:

(a) Describing an approved design for a service flag and service lapel button,

(b) Providing for the licensing of persons to manufacture and sell the approved service flag and service lapel button, and

(c) Providing rules for the display of the service flag and the wearing of the service lapel button.

§ 57.2 Applicability.

The provisions of this part are applicable to the Department of the Army for implementation and to the Departments of the Army, Navy, and Air Force for information.

§ 57.3 Definitions.

(a) "Members of the immediate family" include wife, husband, mother, father, stepmother, stepfather, parent through adoption, foster parents who stand or stood in loco parentis, children, stepchildren, children through adoption, brothers, sisters, half brothers, and half sisters.

(b) "Organization" includes those group organizations such as churches, schools, colleges, fraternities, sororities, societies, and places of business with which the member of the Armed Forces was or is associated.

§ 57.4 Policy.

(a) The service flag authorized by the Act may be displayed in a window of the place of residence of persons who are members of the immediate family of a person serving in the Armed Forces of the United States during any period of war or hostilities in which the Armed Forces of the United States may be engaged, for the duration of such period of war or hostilities.

(b) The service flag may be displayed by an organization to honor the members of that organization serving in the Armed Forces of the United States during any period of war or hostilities in which the Armed Forces of the United States may be engaged, for the duration of such period of war or hostilities.

(c) The service lapel button authorized by the Act may be worn by members of the immediate family of a person serving in the Armed Forces of the United States during any period of war or hostilities in which the Armed Forces of the United States may be engaged, for the duration of such period of war or hostilities.

§ 57.5 Delegation of authority.

The Secretary of the Army is hereby designated to act as the executive agent of the Secretary of Defense for the purpose of granting certificates of authority for the manufacture and sale of service flags and service lapel buttons conforming to the approved design described herein; providing appropriate design instructions to manufacturers; and administering the provisions of 36 U.S.C. 181, under which any person, firm, or corporation who manufactures such service flag or service lapel button without having first obtained such a certificate of authority, or otherwise violates the provisions of the Act, shall, upon conviction thereof, be fined not more than $1,000.

§ 57.6 Design.

(a) A design for the service flag is approved as follows:

(1) *Flag for immediate family.* On a white rectangular field a blue star or stars within a red border.

(i) The number of blue stars will correspond to the number of individuals from the "immediate family" who are symbolized on the flag.

(ii) The flag horizontally displayed will have the stars arranged in a horizontal line or lines with one point of each star up (figure 1).[1]

(iii) The flag described in subdivisions (i) and (ii) of this subparagraph may be displayed vertically (figure 2).[1]

(iv) If the individual symbolized is killed or dies while serving, from causes other than dishonorable, the star representing that individual will have superimposed thereon a gold star of smaller size so that the blue forms a border. When the flag is suspended, as against a wall, the gold star shall be to the right of, or above, the blue star (figures 1 and 2).[1]

(2) *Flag for organizations.* The flag for organizations will correspond to that described for an immediate family, above, subject to the following additional provisions:

(i) Instead of using a separate star for each member, one star may be used with the number of the members indicated by Arabic numerals, which will appear below the star.

(ii) If any members are deceased as determined under the circumstances cited in subparagraph (1)(iv) of this paragraph a gold star will be placed nearest the staff, or above the blue star in the case of a flag used in a vertical display (figures 3 and 4).[1] Below this star will be the Arabic numerals.

(iii) The gold stars in both cases will be smaller than the blue stars so that the blue will form a border. The numerals in all cases will be in blue.

(3) *Color and relative proportions.* The shades of colors used in the flag and the relative proportions shall be in accordance with manufacturing instructions furnished to licensed manufacturers by the Department of the Army.

(b) *Service lapel button.* The service lapel button shall be a blue star on a white rectangular field within a red border, 5/8 inch x 3/8 inch in overall size (figure 5).[1] The shades of colors and the detailed dimensions shall be in accordance with manufacturing instructions furnished to licensed manufacturers by the Department of the Army.

§ 57.7 Display of the service flag.

(a) The service flag shall be treated with dignity and respect. When displayed with the flag of the United States, the service flag shall be of approximately equal size but never larger than the flag of the United States. The flag of the United States will occupy the position of honor.

(b) When the service flag is displayed other than by being flown from a staff, it will be suspended either horizontally or vertically.

(c) Users are cautioned against the use of the service flag for advertising purposes. It will not be embroidered on such articles as cushions, handkerchiefs, and the like; printed, or otherwise impressed on paper napkins or boxes or anything that is designed for temporary use and discarded; or used as any portion of a costume or athletic uniform. Advertising signs will not be fastened to a staff or halyard from which the service flag is flown.

(d) For cautions against the improper use of the service flag, users should be guided generally by the provisions of 36 U.S.C. 176, which apply to the flag of the United States of America.

§ 57.8 Wearing of the service lapel button.

(a) The blue star of the service lapel button worn by members of the immediate family shall signify that one or more members are serving in the Armed Forces under the conditions specified in § 57.4(c). Multiple blue stars are not authorized.

(b) A person eligible to wear the Gold Star Lapel Button under the provisions of DoD Directive 1348.2, "Gold Star Lapel Button (32 CFR 142)" may wear the service lapel button in conjunction therewith if that person is also entitled to wear the service lapel button under the provisions of this part. A gold star is not authorized as part of the service lapel button.

§ 57.9 Application for licensing.

(a) Applicants desiring to enter into the manufacture and sale of the service flag or the service lapel button should address applications to The Commandant, The Institute of Heraldry, U.S. Army, Cameron Station, Alexandria, Va. 22314.

(b) A certificate of authority to manufacture and sell the service flag or the service lapel button will be granted only upon agreement in writing by the applicant that he will not deviate in the manufacture or sale of the approved official service flag or service lapel button as described herein. The certificate of authority shall refer to 36 U.S.C. 176; 179–182.

(c) Drawings and instructions for the service flag and the service lapel button will be provided to manufacturers with the issuance of their certificates of authority.

§ 57.10 Purchase of service flag and service lapel button.

Service flags and service lapel buttons must be procured from commercial sources. The Government does not have authority to manufacture, issue, or sell service flags or service lapel buttons.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Administration).

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[1] Filed as part of original document.

Chapter V—Department of the Army

SUBCHAPTER A—AID OF CIVIL AUTHORITIES AND PUBLIC RELATIONS

PART 504—PUBLIC INFORMATION ACTIVITIES

Part 504 is revised to read as follows:

GENERAL

Sec.
504.1 Application and purpose.
504.2 Explanation of terms.
504.3 Direct communication.
504.4 Objectives.
504.5 Principles.

AUTHORITY AND RESPONSIBILITIES

504.6 Command responsibility.
504.7 Specific responsibilities.

POLICIES, PROCEDURES AND REQUIREMENTS GOVERNING PUBLIC INFORMATION ACTIVITIES

504.8 Authority to release material.
504.9 Clearance requirements.
504.10 Cooperation with individuals or media representatives.
504.11 Cooperation with U.S. news media representatives at the scene of military accidents outside military installations which involve classified material.
504.12 Media access to Armed Forces Examining and Entrance Stations.
504.13 Media credentials.
504.14 Release of information regarding travel by very important persons (VIP's).

POLICIES REGARDING SPECIFIC SUBJECTS AND TYPES OF INFORMATION

504.15 Advertising.
504.16 Audiovisual media.
504.17 Accidents involving chemical and biological material in CONUS.
504.18 Casualties.
504.19 Disaster relief.
504.20 Inactivation of installations, facilities or activities, or substantial personnel or contract reductions.
504.21 Department of the Army personal letters or communications.
504.22 Photography.
504.23 Questionnaires, surveys, polls, and opinion research projects.
504.24 Unit activations, training and movements.

AUTHORITY: The provisions of this Part 504 issued under sec. 3012, 70A Stat. 157; 10 U.S.C. 3012.

SOURCE: AR 360-5, Sept. 27, 1967.

GENERAL

§ 504.1 Application and purpose.

This part applies to all members of the Army on active duty and civilian employees of the Department of the Army and sets forth basic public information objectives, principles, and procedures; specific policies and procedures governing review, clearance and release of public information, and the authority and responsibility for planning and conducting public information activities within the Department of the Army.

§ 504.2 Explanation of terms.

(a) "Audiovisual" covers public information activities such as still photography, motion pictures, television films, live television productions, videotapes, radiotapes and programs, kinescope recordings, motion picture stock footage, and associated materials and activities.

(b) "Clearance" means notification by the reviewing authority that there is no objection to publication of the submitted material. Clearance will be granted unless its withholding is clearly authorized by this part.

(c) "Local" refers to material which in the determination of the local commander is considered to be of news significance only in the specific geographical locale of origin and the impact caused by the use of the material will not escalate into regional, national, or international interest.

(d) "Regional" refers to material which in the determination of the commander of the Army agency or activity involved is considered to be of news significance only in the specific geographical region or origin. It exceeds the criteria of the "local" definition but is not of national or international interest.

(e) "National" refers to material generated by Army agencies or subordinate commands or requested by non-Government agencies which in the determination of the head of commander of the Army agency or activity involved exceeds criteria of the "local" or "regional" definition either in geographical locale or program impact and/or features national policy, programs, and projects.

(f) "Military matters" covers information concerning or bearing on military subjects or the national defense of the United States to include plans, programs, policies, missions, functions, responsibilities, or actions of the Department of Defense or any element thereof.

(g) "Non-Government media" refers to all agencies outside the Federal Government involved in the production of audiovisual materials and printed materials. This includes electronic media, advertising agencies, industrial firms, and other commercially oriented enterprises engaged in the production or securing of audiovisual or printed materials.

(h) "Official" information means information released on military matters which can be identified as emanating from a representative of the Department of Defense acting in his official capacity.

(i) "Release" of information is defined as dissemination of information to the public, whether upon Army initiative or external request. It includes written news releases, still pictures, motion picture film, question-and-answer interviews, audiotape recordings, articles for publication in printed media or broadcast via radio or television, and oral responses to queries.

(j) "Safeguarded information" includes defense information which requires protection under the provisions of AR 380-5 (Part 505 of this chapter) and nondefense information which requires protection under the provisions of AR 345-16.

§ 504.3 Direct communication.

The normal channels of communication for information purposes will be followed. However, when necessary to expedite handling of public information matters, the Chief of Information, Department of the Army, is authorized direct communication with Department of the Army agencies and with Army commands and installations. Headquarters which must be bypassed will be informed as soon as possible regarding the action.

§ 504.4 Objectives.

To keep the public fully informed concerning the Army and thereby—

(a) Develop public esteem and respect for the Army and Army personnel.

(b) Gain public understanding and support of the Army's role in a sound national military program.

(c) Inspire public confidence in the Army's ability to accomplish its mission now and in the future.

§ 504.5 Principles.

(a) Information officially released to the public which appears to be a Department of the Army position must reflect the Army's position in fact. Conformance with this part will help insure that the public can properly judge the manner in which the Army discharges its responsibilities for national security.

(b) In public discussions, all officials of the Department of the Army should avoid discussion of matters which are the responsibility of other Governmental agencies, i.e., foreign policy is a responsibility of the Department of State.

(c) The American public has a right to maximum information concerning the Army and its activities. Defense Department and Army policy require maximum disclosure of information except for that which would be of material assistance to potential enemies. Nothing must inhibit the flow of unclassified information to the American public. Any identifiable Army record must be released on request unless it falls within one or more of the exemptions authorized in paragraph 10, AR 345-20 (§ 518.10 of this chapter).

AUTHORITY AND RESPONSIBILITIES

§ 504.6 Command responsibility.

(a) Each commander is responsible for the information program within his command. This includes the formulation of plans, programs, and policies which, consistent with military security, provide the public with maximum information about the U.S. Army and its activities.

(b) Individuals are encouraged to broaden and enhance the public's understanding of the Army by responding frankly and factually about those unclassified matters of which they have personal knowledge and experience. This can be accomplished both informally and formally by discussion, association with civilian professional groups, formal speaking engagements on matters in which the individual is an expert, writing bylined articles for publication, and local participation in community affairs. Uninformed and indiscriminate remarks or responses about military matters beyond an individual's knowledge and experience are undesirable. However, individuals

are entitled to express their personal opinions except as limited by law or regulation.

§ 504.7 Specific responsibilities.

(See AR 10–5; 31 F.R. 7005, May 12, 1966.) (The Chief of Information serves in a dual capacity as Chief of Public Information.)

(a) *The Chief of Public Information.* The Chief of Public Information is directly responsible to the Secretary of the Army, and is responsive to requirements of the Chief of Staff in all matters pertaining to public understanding of the Army. Specifically, he is responsible for:

(1) Formulating Army public information policies and programs.

(2) Advising the Secretary of the Army, the Chief of Staff, and agencies of the Department of Defense on public information matters relating to public understanding and support of the Army.

(3) Advising and assisting the Secretary of Defense, through the Assistant Secretary of Defense (Public Affairs), in the development and accomplishment of Department of Defense information objectives, as requested.

(4) Coordination and supervision of the worldwide implementation of public information policies and programs of the Department of the Army.

(5) Supervision of the Army's public information security review program in the field.

(6) Conducting a continuing review of the implementation of section 18 of Executive Order 10501, within the Department of the Army, to insure that no information is withheld which the people of the United States have a right to know.

(b) *Chief of Information.* The Chief of Information has Army staff responsibility for all matters pertaining to public and command information and for Department of the Army information plans and programs in support of Army basic plans and programs. He is directly responsible to the Chief of Staff. He commands personnel, organizations, and facilities as assigned.

(c) *Department of the Army staff agencies.* (1) Department of the Army staff agencies are responsible for establishing procedures governing public release of information regarding their missions and functions and preparing information material for dissemination to the public. Such material will be cleared through the Chief of Information, except that those staff agencies having a technical liaison officer may furnish information of a routine nature.

(2) Staff agencies having primary interest will insure that information prepared for public release is coordinated with other interested agencies. Security questions are referred to the Assistant Chief of Staff for Intelligence. If material to be released concerns information which falls within the provisions of AR 345–15 it will also be coordinated with The Adjutant General.

(3) Staff agencies exercising command of class II installations and activities will review the proposed releases of such installations and activities which pertain to the national mission of the staff agency prior to submission to the Chief of Information for clearance.

(4) Staff agency heads exercising command over class II installations and activities will insure that information released by such installations and activities is coordinated with the appropriate continental United States Army commander if the material is of more than local interest or otherwise warrants the attention of the Army commander.

(5) Staff agency heads will establish procedures to insure that policies governing levels of release of information are applied in class II installations and activities under their jurisdiction.

(d) *Commanding General, U.S. Continental Army Command.* In accordance with his assigned mission and responsibilities, the Commanding General, U.S. Continental Army Command is responsible for—

(1) Coordination and supervision of public information instruction at those Army schools under his jurisdiction.

(2) Coordination with other military services of those public information matters of joint, regional, or local interest.

(3) General direction of public information activities of continental United States armies and the Military District of Washington.

(4) Preparation of releases on field exercises and maneuvers under his jurisdiction for release through the Chief of Information.

(5) Public information planning in connection with Army and joint exercises and maneuvers under his jurisdiction.

(6) Review, clearance, and release of material pertaining to his specific mission and responsibilities.

(e) *Major Army commanders, Continental United States Army commanders, and the Commanding General, Military District of Washington.* Major Army commanders, continental United States Army commanders, and the Commanding General, Military District of Washington, are responsible for the execution of the public information program within their commands. Each commander is, in addition, responsible for—

(1) Coordination of local public information matters with other commands or services if the information impact of the action will affect the mission or responsibilities of those commands or services.

(2) Review, as provided in this part of material proposed for public release by an individual or element of his command.

(f) *Commanders of class II installations and activities.* Commanders of class II installations and activities will conduct public information programs in accordance with this regulation and with procedures established by heads of Department of the Army staff agencies having jurisdiction over them. They are responsible for coordination of local information matters with continental United States Armies, the Military District of Washington, and/or other military services in all cases where there is a possibility that the public information impact of an action affects those commands.

(g) *Commanding General, U.S. Army Air Defense Command.* The public information responsibilities of the Commanding General, U.S. Army Air Defense Command, are the same as those assigned to the major Army commands. In the event of conflict with unified command responsibilities, those of the unified command will govern. For public information purposes, field units of the U.S. Army Air Defense Command are considered in the same category as class II installations.

(h) *Overseas commanders.* Overseas commanders are responsible for the conduct of public information activities within their commands. They will be guided by the announced policies of the Department of the Army and the commanders of unified commands if they are components thereof. In the event of conflicts the policies of the unified command will govern.

POLICIES, PROCEDURES, AND REQUIREMENTS GOVERNING PUBLIC INFORMATION ACTIVITIES

§ 504.8 Authority to release material.

(a) *General.* Information in any form concerning the overall plans, policies, programs, or operations of the Department of Defense, Department of the Army or the national Government is normally released at the seat of Government by the Department of Defense. If material meets any of the criteria listed below, it will be submitted to the Office, Chief of Information, Department of the Army, for clearance prior to release. Cases of doubt shall be resolved in favor of submission.

(1) Information of national interest.

(2) Information originated at or proposed for release at the seat of Government.

(3) Atomic energy; nuclear components of weapons systems; chemical, biological, or radiological weapons; new developments in guided or ballistic missiles or other new developments of defense significance unless such information has previously been cleared for release by the Department of the Army. Unofficial prior publication does not constitute authority for official release.

(4) Information concerning subjects of potential controversy among the military services.

(5) Material concerning significant policy within the purview of other agencies of the Federal Government.

(b) *Within Department of the Army.* (1) The Office, Chief of Information, is responsible for responding to media requests for information about the Army. Such information is normally obtained from the Department of the Army agency having primary interest and cleared with the Department of Defense. Army agencies having technical liaison officers may respond directly to requests for routine information. Other agencies will refer media requests to the Office, Chief of Information.

(2) In coordination with the Army staff, the Office, Chief of Information, generates and releases through the Department of Defense, newsworthy information about the Army's roles, missions, and functions.

(3) Normally, interviews and press conferences will be arranged by the Office, Chief of Information and, where appropriate, attended by an information officer or by the technical liaison officer of the Army agency concerned. Safeguarded information and proposed policies not yet adopted by the Department of the Army will not be discussed unless approval has been granted for such discussion.

(c) *Commanders below Headquarters, Department of the Army are authorized to release the following.* (1) Information to local media which is wholly within the mission and scope of their commands. Normally such material is submitted to the information officer who conducts a review in accordance with the criteria established above and either grants clearance or forwards the materials to the appropriate command for its review.

(2) Judicious use of this delegation of authority should be made by each command level with respect to scientific results of research, development, test, and evaluation performed by both in-house and contract laboratories. Expeditious release of scientific and technical information should be accomplished at the lowest possible command level, where such release does not conflict with criteria established above.

(3) Scientific and professional articles prepared by members of the U.S. Army Medical Service should be forwarded in triplicate, with two copies of all illustrations, through channels to The Surgeon General, Attention: MEDTL–R, Department of the Army, Washington, D.C. 20310.

§ 504.9 Clearance requirements.

(a) *Official release of information.* (1) Material prepared for official public release, including manuscripts, question-and-answer interviews, or speeches before groups outside the Department of Defense, will be submitted to the appropriate Headquarters for review and clearance prior to release. It will be reviewed for—

(i) Accuracy, propriety, and consistency with official policy.

(ii) Security of safeguarded information.

(2) Speeches prepared by personnel at Headquarters, Department of the Army, if the speeches have an official connotation (whether or not they are formally designated as official) and are to be delivered before groups outside the Department of Defense, will be submitted in five copies to the Chief of Public Information at least 8 working days in advance of proposed delivery. The Chief of Public Information will conduct coordination and clearance with the Department of Defense. The speaker must initial the first page of one copy of the speech, which will be retained by the Department of Defense.

(b) *Unofficial writings or speeches by individuals acting in a private capacity.* (1) Individuals may write or speak on subjects not involving military matters or foreign policy without submitting their writings or speeches for review and clearance. They also may write "letters to the editor," which constitute statements of personal opinion and knowledge, without submitting them for review and clearance even though the subject matter of such letters may involve military matters or foreign policy. However, individuals are not relieved of their responsibility to protect information safeguarded by AR 380–5 (Part 505 of this chapter) or AR 345–15. Also, any writing or speaking by individuals should not—

(i) Delay dissemination of information that would be released through the usual public information media; or

(ii) Be contrary to law, e.g., if applicable, the Uniform Code of Military Justice (10 U.S.C. 801–940) or the Hatch Act (5 U.S.C. 7324–7327);

(iii) Violate the standards of conduct set out in AR 600–50 (Part 579 of this chapter).

(2) Except as provided in subparagraph (3) of this paragraph, individuals may write or speak for publication on military matters or foreign policy subjects: *Provided,* That they submit the material to the appropriate Headquarters for review and clearance prior to release. The requirement for submission applies to works of fiction as well as of nonfiction.

NOTE: Although not subject to the regulations of this part, retired personnel and members of the Reserve components not on active duty may voluntarily submit manuscripts for advisory security review to the Chief of Public Information, Department of the Army.

(3) Clearance procedures:

(i) Security: Unofficial writings or speeches will be reviewed for security. If the material contains information protected by AR 380–5 (Part 505 of this chapter) or AR 345–15, the specific words which disclose such information should be indicated to the author so that he may revise his material accordingly. Works of fiction will be reviewed for security only.

(ii) Policy: All public writings or speeches submitted by individuals described in subparagraph (9) of this paragraph will be reviewed to assure conformity with established Department of Defense and Government policies and programs. The same conformity will be required of individuals who write concerning matters as to which they occupy a policymaking role as part of their official duties.

(iii) Accuracy and propriety: Reviewing officials may make constructive suggestions to authors in matters of accuracy and propriety. However, such suggestions are purely advisory in nature, and will be identified as such. The final decision in matters of accuracy, style, and good taste rests with the author.

(iv) Clearance of any material does not constitute endorsement by the Department of the Army or the Department of Defense of the views expressed or the manner of expression. It does not relieve the author of responsibility for compliance with other regulations, with any applicable Federal or State laws, and, in the case of persons subject thereto, with the Uniform Code of Military Justice. It does constitute authoritative assurance that there is no violation of AR 380–5 (Part 505 of this chapter) or AR 345–15.

(v) No material shall be refused clearance because it might tend to reveal administrative error or inefficiency.

(vi) All materials submitted will be reviewed expeditiously and returned promptly to the author with whatever comments may be appropriate. In any case in which changes are directed or clearance refused, the author will be notified of the reasons for refusal and informed of his right to appeal as to any change or the entire work.

(vii) If material submitted for review is returned to the author with a refusal of clearance or with changes directed, the refusal or any of the changes may be appealed by the author personally or by his authorized representative. Appeals will be directed initially to the Chief of Public Information, Attention: Office for the Freedom of Information, Department of the Army, Washington, D.C. 20310.

(4) Any individual who, in an unofficial writing or speech, uses a title or other identification with the Defense Establishment will include with such material a published announcement to the effect that "the views of the author do not purport to reflect the position of the Department of the Army or the Department of Defense." In the case of items submitted for review, he will, if requested by the authority reviewing his material to do so, refrain from use of his title or other identification with the Defense Establishment in connection with the material.

(5) Personal literary efforts may not be conducted during normal working hours or accomplished with the use of Department of Defense facilities, personnel, or property. The use of official information which is not available on request to outside writers is prohibited.

(6) Individuals may accept payment for literary efforts, including both writings and speeches. However, such persons will not:

(i) Receive pay (including honorariums) for speeches or other informational material which are provided as a part of their normal duties.

(ii) Speak or write on a regularly scheduled basis for commercial publications or interests without prior written approval of the Chief of Information, Headquarters, Department of the Army.

(7) Individuals will not make commitments to furnish manuscripts to non-Department of Defense publications on subjects requiring Department of the Army or Department of Defense clearance, until the manuscript has been cleared or Department of Defense approval for commitment has been obtained. Manuscripts will be submitted in three double-spaced copies to the Chief of Public Information at least 30 days in advance of proposed submission for publication.

(8) Individuals may make commitments to provide articles to official Department of Defense publications without prior Department of the Army or Department of Defense approval, provided the manuscripts are submitted for clearance before publication. Such material may be prepared as an official duty utilizing military facilities and clerical assistance. Official publications of the Department of Defense include newspapers and magazines which officially represent a particular branch or group of branches of the Army. They do not include service-oriented civilian publications such as the "Army Times" or the "Journal of the Armed Forces."

(9) Key civilian and military officials may publish writings dealing with national defense plans, policies, programs, or operations for exclusive publication under their bylines only when such material is to be published in official publications of the Department of Defense and other Government agencies, service journals, house organs, recognized scientific and professional journals, and encyclopedias.

(i) This policy applies to all civilians of grade GS–16 or higher, all general officers, and civilian or military personnel of lesser grade or rank whose official assignments are of unusual prominence or authority.

(ii) Where it is clear that a significant benefit will accrue to the national interest through publication of material bylined by a key official, a request and justification for an exception to the byline policy may be submitted to the Office, Chief of Public Information, Department of the Army, for clearance with the Department of Defense. Approval must be obtained before any commitment is made.

(c) *Procedures to be followed by field commands.* The following procedures are prescribed for handling articles or manuscripts submitted by writers to field commands for security review:

(1) If manuscripts are to be published as books or are prepared for publication in nationally circulated media, review at Department of the Army and Department of Defense levels is required. In such cases the findings of the field review should be forwarded to the Chief of Information, Department of the Army, with three copies of the basic manuscript. Writers will be informed that final review and clearance will be accomplished by the Department of Defense. Upon completion of the review the writer will be informed of the clearance and/or changes or rejection through the same channel that the manuscript was submitted.

(2) The results of field level review, except for matters of accuracy, are not to be discussed with individual writers unless materials are primarily of local interest and intended for publication in local media only.

(3) When a writer's material is for use in local media only and is strictly of local interest, review for security may be accomplished at that level. In those cases, the notification of clearance will contain the following or a similarly written statement:

> This material has been reviewed solely to ensure that it contains no classified military security information. Its clearance for publication is not intended to be construed as an endorsement of factual accuracy or opinion.

(4) Protection of classified information in preliminary discussions with writers should not be relaxed by reliance on the safeguard afforded by the existence of the security review system. Security review of information at a higher level of authority is to be considered only as an additional, not a primary, safeguard.

§ 504.10 Cooperation with individuals or media representatives.

(a) Army installations or commands are authorized to assist individuals or media representatives without prior coordination with the Department of the Army when the subject matter is of local interest, or deals with news events which take place without prior planning or knowledge, and is releasable under existing regulations. All other requests for assistance will be forwarded, with recommendations, for review and approval by the Department of the Army.

(b) Subject to the provisions of DoD 5220.22–R (Industrial Security Regulation), and the Industrial Security Manual for Safeguarding Classified Information, installation commanders or contractors concerned may, at their discretion, cooperate with media representatives, who request permission to visit an installation under Army jurisdiction or facilities of Department of Defense contractors to obtain information for public release, provided that—

(1) Requests originate with a responsible representative of the media concerned.

(2) Safeguarded information is not discussed, shown, or made available to media representatives and provision is made to insure that information to be released is reviewed and cleared as prescribed in this part and AR 360–27.

(c) Local procedures will be developed to facilitate news media in meeting their requirements for access to information concerning newsworthy events within limits of security. Particular attention should be directed toward procedures for handling news media personnel during disaster conditions.

(d) Writers or media representatives may solicit official cooperation in obtaining information about the Department of the Army and its programs and activities. The following factors may indicate that it is desirable to grant cooperation only on the condition that the writer agrees to submit his manuscript for security review and accept changes dictated by security considerations.

(1) If the writer is inadvertently exposed to or becomes aware of safeguarded information.

(2) If the subject of the writer's interest is related to a subject of military or national security sensitivity.

(3) If there is the possibility that individual items of unclassified information may lead the writer to form an accurate conclusion with respect to the existence or the nature of a classified weapon, plan, project, program, or activity.

(e) The responsibility for judging whether to grant official cooperation on condition of agreement that the writer will submit his final product for security review rests with the commander authorized to review and grant clearance on the subject matter.

§ 504.11 Cooperation with U.S. news media representatives at the scene of military accidents outside military installations which involve classified material.

(a) Military authorities will provide maximum cooperation, consistent with national security responsibilities, to properly identified U.S. news representatives desiring to cover military accidents occurring outside military installations. This requirement does not apply to military accidents occurring outside the United States, its territories or its possessions, guidance for which is set forth in applicable treaties, intergovernmental agreements, and laws of other nations, or to accidents involving nuclear weapons, which are covered in separate directives. The military authority at the scene of such an accident shall—

(1) Inform news media representatives of the presence of exposed classified material which cannot be removed or covered immediately and ask them to cooperate in its protection. Photographers will be informed that violations of the prohibition of photographing classified material are also violations of Federal criminal statutes (18 U.S.C. 795, 797).

(2) Refrain from using force if news media representatives refuse to cooperate in the protection of classified material. Immediately request the assistance of appropriate law-enforcement officials in preventing compromise of such material and in recovering all photographs, negatives, and sketches which are presumed to contain classified information. Also request the cooperation of the superiors of the offending news media representatives, informing them that publication of such classified information or refusal to return it to the military authority will be a violation of Federal statutes (18 U.S.C. 793(d), 795, 797).

(3) Submit through channels to the Chief of Information, Attention: PID, Department of the Army, for transmittal to the Assistant Secretary of Defense (Public Affairs), a message report concerning refusals of news media representatives or their superiors to cooperate as prescribed above.

(b) Commanders of military installations should inform civil law enforcement officials in their areas that they may be called upon for assistance and cooperation when military accidents occur outside military installations and should acquaint them with the provisions of law which make it a criminal offense to photograph, publish, or refuse to surrender information of a classified nature (18 U.S.C. 793(d), 795, 797).

§ 504.12 Media access to Armed Forces Examining and Entrance Stations (AFEES).

(a) Interviews with processees at AFEES will not be permitted while personnel are receiving mental and physical examinations or when engaged in administrative processing. Interviews may be permitted before and after processing provided there is no interference with other scheduled activities as determined by the AFEES commander. Local live or recorded radio and television interviews will not be conducted within the AFEES without permission of the U.S. Army Recruiting Command. Subjects to be covered in interviews with the electronic media should be preplanned. No commitments should be made to regional or national media without prior approval by Department of the Army and Department of Defense.

(b) Photographs will not be permitted while personnel are receiving mental and physical tests. If there is no interference with scheduled activities, photographs are permitted before and after processing has been completed. Photographs should be in good taste and individuals attired in accordance with normally acceptable standards.

(c) Processees are not obligated to be interviewed or photographed. The rights of those desiring to remain anonymous will be respected.

§ 504.13 Media credentials.

(a) Department of Defense accreditation provides identification credentials to media representatives assigned to report on military affairs.

(b) Identification as a Department of Defense accredited correspondent does not authorize access to safeguarded information, restricted areas or the right to Government transportation.

(c) Applications for accreditation should be submitted to Media Accreditation and Tours Staff, Office of the Assistant Secretary of Defense (PA), Washington, D.C. 20310, approximately 6–8 weeks prior to date required. Applications must include—

(1) A complete personal history statement and an employer's certification form.

(2) A letter from the employer concerned indicating the reason for the request at that time, i.e., for immediate or future use; story to be covered; whether full or part-time employee; and period of accreditation as a representative of the employer, if applicable.

§ 504.14 Release of information regarding travel by very important persons (VIP's).

(a) A very important person is an individual (civilian official, ranking member of a military service, foreign government head, etc.) whose position is of such importance that his travels are of special interest to the public information media representatives.

(b) The movement of VIP's will not be classified; except where required in the interest of national security, or where it is deemed that adverse foreign reaction will result if information regarding the movement is released. Classification is authorized only when directed by the Secretary of the Army, the Secretaries of other military departments concerned, the Secretary of State, the Secretary of Defense, or higher authority.

(c) Itineraries of VIP's will be released in advance to commanders of installations and activities concerned. Where the VIP does not desire media coverage, every effort will be made to comply with his wishes.

POLICIES REGARDING SPECIFIC SUBJECTS AND TYPES OF INFORMATION

§ 504.15 Advertising.

(a) Activities of the Army may be used in commercial advertisements providing they do not disclose safeguarded information, bring discredit on the military service, or express or imply Army endorsement of or preference for the commercial products advertised. The advertiser will be informed in writing of this disclaimer in each case in which a commitment is made.

(b) Individuals may not indorse commercial products in such a way as to involve the Army uniform or their title or grade or express or imply other official Army connection therewith.

(c) In cooperating with an advertiser, the Department of the Army does not assume responsibility for the accuracy of the advertiser's claims or for his compliance with laws protecting the rights of privacy of military personnel whose photographs, names, or statements appear in the advertisement.

§ 504.16 Audiovisual media.

(a) *Audiovisual productions by Army agencies and commands.* Motion pictures, television films, live television productions, videotapes, radiotapes, and programs, and kinescope recordings produced by the Army intended primarily for public release (excluding materials to be used locally or dealing with spot news events which take place without prior planning or knowledge) must be approved by Department of the Army and the Department of Defense prior to the commitment of funds. The following information will be submitted in support of such requests:

(1) Objectives of the production.

(2) Audience, e.g., television, professional organizations, religious groups, educational groups or schools, or theatrical exhibitions.

(3) Résumé of content.

(4) Technical information to include—running time; medium, e.g., motion picture, kinescope recording, videotape recording; black and white or color; live sound or narration over picture; presentation technique, e.g., dramatic episodes, animation demonstration; producing activity—military or contract.

(5) Cost of entire project to include release material.

(6) Number of copies to be distributed.

(7) Activities or concerns outside the Department of the Army with whom the proposed project may have been coordinated.

(b) *Cooperation with non-Government audiovisual media.* Army installations and commands are authorized to assist nongovernmental audiovisual media without prior cooperation with the Department of the Army when the subject matter of the production is of local interest only. Requests for assistance falling within the categories of "regional" or "national" assistance will be forwarded to the Department of the Army. General principles which govern cooperation with non-Governmental audiovisual media are as follows:

(1) The production, program, project, or assistance will benefit the Army or otherwise be in the national interest based on consideration of the following factors:

(i) Authenticity of the portrayal of military operations or historical incidents, persons, or places depicting a true interpretation of military life.

(ii) Compliance with accepted standards of dignity and propriety in the industry.

(2) There can be no deviation from established Department of the Army safety standards.

(3) Operational readiness of Army organizations shall not be impaired.

(4) Official activities of military personnel in assisting the production must be within the scope of normal military activities, with exceptions being made only in unusual circumstances.

(5) Diversion of equipment, personnel, and material resources from normal military locations or military operations may be authorized only when circumstances preclude the production without it, and such diversions shall be held to a minimum and without interference with military operations and will be on the basis that the production company will reimburse the Government for expenses incurred in the diversion.

(6) Army materiel and personnel services will not be employed in such a manner as to compete with commercial and private enterprises. The requestor will furnish a statement certifying that materiel or personnel services are not available through commercial or private enterprises.

(c) *Little theater.* "Little theater" productions normally are restricted to local audiences, therefore commanders of installations in the vicinity of such activities may authorize cooperation. Such cooperation normally will consist of technical advice and informational assistance and should be based on consideration in paragraph (b) (1) (ii) of this section.

NOTE: Should the nature of the media request be the cause of doubt as to which definition, "local," "regional," or "national" applies; the request should be referred to the Department of the Army.

(d) *Promotional assistance to non-Government audiovisual media.* All requests for promotional assistance from motion picture and/or television producers will be submitted with recommendations through appropriate channels or the requestor may be referred directly to the Assistant Secretary of Defense (Public Affairs).

(e) *Participation of military personnel in commercially sponsored radio-television broadcasts.* Personnel may

appear in commercially sponsored radio-television broadcasts as follows:

(1) For entertainment purposes; when the military participation sought is unique in character, has no commercial counterpart, and contributes to a specific Army interest or when deemed by appropriate authority to be in the best interest of the Army. Such participation will not interfere with the customary employment and regular engagement of civilian performers and, when required, the sponsor agrees, before the broadcast, to satisfy all copyright owners. Also see AR 210–10.

(2) For information purposes when the person appearing is newsworthy in his own right, or when appearing as an official representative of the Department of the Army or his command for the sole purpose of informing the viewing or listening audience of the operation or functioning of the Department of the Army or of his command.

(3) As an exception to the above, personnel may take part in audience participation programs when securing approval is not feasible. In such cases the individual assumes the responsibility for conduct that reflects favorably upon himself and the military profession.

(4) Army installations or commands are authorized to approve participation in local programs. Participation in regional and national programs requires approval of the Department of the Army and the Department of Defense.

§ 504.17 Accidents involving chemical and biological material in Continental United States.

See AR 360–41.

§ 504.18 Casualties.

(a) *In news releases the term "casualty" itself will be avoided.* Releases will identify personnel as follows:

(1) Dead—indicating cause.

(2) Very seriously wounded/injured or ill.

(3) Seriously wounded/injured or ill.

(4) Slightly wounded as a result of hostile action.

(5) Injured or ill as a result of hostile action.

(6) Missing persons.

(b) *Release of information and names of injured and deceased personnel.* Public release of information on injured or deceased personnel will be made as soon as practicable after the next-of-kin have been officially notified. Casualty matters are assigned protective markings of "For Official Use Only." These markings are terminated on injured and deceased personnel after verification that the next-of-kin have been notified. On missing in action or captured personnel the protective markings remain in effect, except as provided in paragraph (c) (2) (iv) of this section, until the individual returns to military control or his status changes to deceased. When deceased, the procedures on deceased personnel apply.

(c) *Information and photography of personnel in a hostile area.* (1) Care must be exercised by all public information personnel in releasing information and photographs of U.S. personnel and allied forces who have been killed, wounded in action, or hospitalized, missing in action, or detained as a result of hostile action. Every consideration must be given to the rights of the individuals concerned, to the effects of publication on families and friends and to potential adverse effect on military morale. The following will govern the official release of information concerning casualties. In the case of wounded personnel, these provisions apply while the individual is in an area of hostile action, during transit, while at points of embarkation or entry, and while at hospitals or other military convalescent installations.

(2) The following is releasable:

(i) Pictures and information concerning wounded personnel which are likely to improve military morale, patriotism, and determination and to contribute to the war effort, provided they are not a violation of other provisions of this part.

(ii) Pictures and information showing handling and treatment of wounded personnel, provided they are not in violation of other provisions of this part.

(iii) Photography and interviews of war wounded in medical facilities in transit are authorized if:

(a) Any intelligence debriefing determined necessary has been completed. In special cases the wounded individuals' files should contain documentary evidence that intelligence debriefing, if required, has been accomplished.

(b) The physical condition of the patient warrants and there is no interference with medical treatment.

(c) The patient has no personal objections.

(iv) Photographs of personnel missing in action or detained, if next-of-kin have been notified and search and rescue operations have been terminated. If these conditions are met, the service member's name, rank, service number, and date of birth, plus a statement that he is missing in action or detained, may be released.

(3) The following is not releasable:

(i) Pictures of recognizable wounded or dead not identified by name.

(ii) Pictures of recognizable wounded personnel identified by name, until the next-of-kin have been notified.

(iii) Pictures of recognizable wounded personnel who have requested that their next-of-kin not be notified.

(iv) Surgical or other major medical care pictures which show the patient.

(v) Pictures showing killed and/or wounded personnel in large numbers, unless such pictures will serve clearly the purpose indicated in subparagraph (2) (i) of this paragraph. Official photographs of combat dead under field conditions normally will not be released to public media.

(vi) Pictures showing mangled bodies, obvious expressions of agony, severe shock, or conditions indicating doubt of the patient's recovery.

(vii) Pictures of, information about, or interviews with, neuropsychiatric or other types of mental patients.

(viii) Pictures of plastic surgery cases, or cases of severe disfigurement except where the restorative effects are evidently so successful that population will tend to create confidence. In all such cases permission of the patient will be obtained. (Notations as to permission will be placed at the end of the identifying captions.)

(ix) Pictures of blind, deaf, or dumb patients except with permission of the patient. (Notations as to permission will be placed at the end of the identifying captions.)

(x) Pictures of amputees and of amputees demonstrating prosthetic appliances except with permission of the patient. (Notations as to permission will be placed at the end of the identifying captions.)

(xi) Information concerning service personnel in a missing status except for that which the man is required to give possible captors in accordance with the Geneva Conventions, namely: Name, rank, service number, and date of birth. This information may be released only after next-of-kin have been notified, and search and rescue operations have been terminated, and will not contain the name or address of his next-of-kin.

(d) *Release of information on personnel involved in accidents or incidents.* (1) Whenever circumstances permit, one-story coverage of accidents or incidents is desirable. Normally information released will be substantially as follows:

(i) Announcement that an accident or incident occurred.

(ii) Location and time.

(iii) Names and addresses of deceased and/or injured. See details in AR 600–10.

(iv) In answer to questions on the cause of accidents/incidents, the customary reply will be that an investigation will be conducted to determine the cause. AR 345–20 (Part 518 of this chapter) and AR 385–40 are the governing regulations and The Judge Advocate General is the authority on release of information from the investigation.

(2) In case of accidents or incidents within military installations, public release of names and addresses of injured and deceased personnel may be withheld until next-of-kin have been notified. In order to allay the anxiety of relatives of other personnel of the installation every effort will be made to release such names and addresses at the same time the accident or incident is announced. In cases where there is delay in notifying the next-of-kin of one or more of the victims, the names and addresses of injured or deceased personnel should be released separately as notification is accomplished.

(3) Information regarding line of duty status or misconduct of individuals will not be released to the public except with express approval of The Adjutant General. See AR 345–20 (Part 518 of this chapter) and AR 600–10.

(4) In the case of accidents outside the confines of military installations the following exceptions apply:

(i) When local civil authorities have released the names of deceased personnel, the oversea command responsible for casualty reporting under AR 600–10 or Continental United States installation commanders, may authorize release or confirmation without regard to next-of-kin notification actions. These actions will be reported to Chief, Casualty Division, Office of The Adjutant General, Department of the Army by "immediate" precedence message.

(ii) If military personnel are involved in accidents in civilian or military automobiles, trains, commercial or private aircraft, or in any other types of accidents with the exception of subdivision (iv) of this subparagraph, the names and addresses of the military personnel should be released immediately upon positive identification or, in the case of commercial transportation, upon release of names of other passengers by the carrier.

(iii) If military aircraft crash in or near the borders of cities or towns, or cause civilian deaths or injuries or appreciable damage to property, the names and addresses of the military personnel should be released immediately upon positive identification. If positive identification will be delayed because of condition of victims of aircraft, and if in the judgment of the information officer concerned release of the flight manifest (identified as such) is indicated, such release is authorized.

(iv) If military aircraft crash in localities remote from populated areas, cause no civilian deaths or injuries, and no appreciable property damage, names and addresses of military personnel may be withheld until the next of kin have been notified.

(5) For the purpose of this part, a civilian aircraft under military charter for the exclusive use of the military will be considered to be military aircraft, and the releasing of information relative to casualties will be governed accordingly.

§ 504.19 Disaster relief.

(a) Information regarding efforts of the U.S. Army to alleviate suffering or prevent the spread of disease in local populations in the wake of fire, flood, storm, avalanche, or other natural calamity should be made available promptly to news and pictorial media.

(b) Responsibilities for information activities in connection with domestic disaster relief operations under AR 500–60 (Part 502 of this chapter) are as prescribed therein.

§ 504.20 Inactivation of installations, facilities or activities, or substantial personnel or contract reductions.

(a) Accurate and timely information, consistent with security, will be released initially at Department of the Army level through the Department of Defense when the decision has been made by the Department of the Army to—

(1) Close, reduce population of, or otherwise change the status of an installation or facility which may be of interest to Congress or the public.

(2) Reduce Government, or contract employment at an installation, facility, or activity by 50 or more civilian personnel.

(3) Substantially reduce contract operations.

(b) After coordination with Department of Defense and prior to public release of the information, the Chief of Legislative Liaison, Office of the Secretary of the Army, will notify appropriate members of Congress. Such notification will include the time that Department of Defense intends to release the information to the public. Subsequent public release will be through public information channels. These criteria are not intended to be inflexible or without exception. The principal consideration at which they are pointed is the economic effect in the community concerned which may be aggravated through inaccurate or incomplete information.

§ 504.21 Department of the Army personal letters or communications.

Personal letters and similar communications, previously unpublished, are the literary property of the author. The author does not publish his work or give up his rights by sending the letter to the addressee. The addressee is not entitled to publish the letter unless the author, or a person legally entitled to do so, has given permission. Therefore, in every case where it is proposed to release correspondence of a personal nature to the public, written consent will be obtained in advance of the release. In the event the writer is deceased, the written consent of the personal representative will be obtained. In those cases where written consent cannot be obtained or where current ownership is doubtful, requests for exception will be submitted to the Department of the Army for determination.

§ 504.22 Photography.

(a) *General.* Photographic coverage to support public and command information programs and similar matters, is authorized. However, photographic coverage of parades, inspections, presentations of awards, official parties, and visiting dignitaries are limited to official requirements. Civilian activities and social events are not normally considered subjects for military photography. For release of photographic material on injured or deceased personnel in a hostile area, see § 504.17(c).

(b) *Photographing women in the Army.* Women will not be photographed in poses which reflect lack of feminine dignity and decorum, and will not be included in pictures posed with hand-fired weapons or showing artillery or missiles except as follows:

(1) Women may be pictured with hand-fired weapons if wearing appropriate civilian clothing, if there is no military implication, and if the picture and caption indicate that they are participating in a sport or hobby.

(2) Women may be included in pictures showing artillery or missiles if the picture and caption clearly indicate that they are not assigned to any duties directly connected with the firing units.

(c) *Photography at courts-martial.* (1) In the interest of both the Army and the accused, photographing of prisoners except for official purposes is discouraged. Disregard of this policy could subject the Army to criticism on grounds of defamation, embarrassment, mental anguish, and similar charges.

(2) Requests from news media for permission to take photographs during the period of a trial by court-martial, will be guided by the following:

(i) Photography of the interior of the courtroom may be permitted when personnel involved in the proceedings are not present.

(ii) During the trial, photography of the accused may be permitted at such times as he is out-of-doors in public view. At their option, members of the court or the accused may be photographed in the room or rooms assigned to the press. Any photography of the accused will be accomplished only under appro-private circumstances, never in a courtroom, cell, cellblock, prison yard, or similar area. A military prisoner will not be photographed when other prisoners are present or be forced to pose for photographs, except for official purposes. Any photography permitted will not impede or interfere with the progress of the trial.

(d) *Release of aerial photographs.* The photographing of classified military installations without the permission of the commander of the installation concerned is punishable by law. The reproduction, publication, or sale of an aerial photograph of such installations is also an offense punishable by law unless such a photograph indicates it has been reviewed and cleared for release by competent authority. (See title 18, U.S.C., secs. 795, 796, and 797, as implemented by Executive Order No. 10104, Feb. 1, 1950, and sec. I, DA Bulletin 5, 1959.) Where recourse to legal proceedings becomes necessary, guidance should be obtained from the staff judge advocate of the installation.

(e) *Release of unclassified official pictorial information materials to foreign nationals.* This paragraph is an exception to AR 380–10. It does not apply to release of information to government representatives through intelligence channels. The procedures and policies regarding release of information to U.S. media apply to release of official pictorial material to foreign nationals except that—

(1) Requests received directly from organizations or individuals residing in foreign countries other than Canada will be forwarded to the Chief of Information, Department of the Army, for approval, coordination with appropriate agencies, and release through the Department of Defense. The latter will forward the material requested through the U.S. Information Agency.

(2) Requests received from individuals or organizations in the United States who represent news media or other interests in foreign countries other than Canada will be handled as in subparagraph (1) of this paragraph except that release will be made by Department of Defense after coordination with U.S. Information Agency.

(3) Requests from representatives of media or other interests located in Canada or directly from such agencies residing in Canada will be handled as are those from the United States.

The above provisions apply to requests received from countries with which the United States maintains friendly relations.

§ 504.23 Questionnaires, surveys, polls, and opinion research projects.

(a) *Response pertaining to military matters.* Response to questionnaires, surveys, polls, and opinion research projects directed to individuals which pertain to military matters or which are specifically directed to their military status is not authorized unless approved by Department of the Army.

(b) *Response pertaining to nonmilitary matters.* (1) Personnel may cooperate with individuals and nongovernmental organizations conducting bona fide nonmilitary research projects, questionnaires, polls, opinion surveys, and similar projects. The following considerations apply:

(i) Individuals subject to this part enjoy the same rights of privacy and protection from invasion thereof and the same privilege to participate or refrain from participation as do other citizens.

(ii) Individuals may express a personal preference for a particular commercial product (i.e., automobile, cigarette, soap product, periodical, television or radio program) so long as it does not represent or in any way indicate that he is expressing an organizational or Army preference.

(iii) Personal correspondence may be used both for propaganda purposes and for the collection of information later interpreted into intelligence of value to enemies or potential enemies of the United States. Therefore, an individual who receives a request for information from an individual or nongovernmental organization that is worded unclearly or the recipient is uncertain about the propriety of a reply, should refer the request to his unit commander or the information officer for advice. Such referral is especially appropriate when the individual does not know the exact nature of the project and the possible implications of his participation. Doubtful cases should be referred to the Chief of Information, Department of the Army.

(2) All requests from agencies outside the Department of Defense for cooperation in surveys by organizations or units will be referred through normal channels to the Chief of Information, Department of the Army, with recommendation as to the extent of assistance considered appropriate. Such cooperation is subject to the following considerations and/or limitations:

(i) *Educational surveys.* Generally, participation in educational or research projects of a nonprofit nature are approved. Examples are: Hobbies of unit personnel, types of publications read (as distinguished from a particular magazine), and types of television programs watched. However, participation should not be burdensome on the unit or interfere with the performance of official duties.

(ii) *Commercial surveys.* Participation in commercial surveys should not give the impression that the unit or the Army is endorsing or has a preference for any commercial product. Moreover, it is not proper to conduct polls or otherwise use Government facilities and personnel for the purpose of compiling materials for the use of commercial enterprises.

§ 504.24 Unit activations, training, and movements.

(a) Initial release of information concerning activation and inactivation of units of brigade-size or larger normally will be announced at the national level. Activation or inactivation of smaller units may be announced by the major command concerned.

(b) Release of information concerning training of units, which is not safeguarded nor restricted by paragraph (c) of this section, may be released by the responsible commander, except in the case of major joint exercises. In the latter case, initial release will be made by the Department of Defense and thereafter by the joint commander.

(c) The following safeguarded information is not releasable concerning any phase of activation, redesignation, reorganization, training, or movements of units (either within the United States or to oversea destinations):

(1) Exact personnel strength and composition of units.

(2) Status, amount, or quality of equipment.

(3) Combat efficiency.

(4) Information regarding deployment of units to combat areas.

For the Adjutant General.

J. W. HURD,
Colonel, AGC,
Comptroller, TAGO.

[F.R. Doc. 67-14656; Filed, Dec. 18, 1967; 8:45 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 19—CHEESES, PROCESSED CHEESES, CHEESE FOODS, CHEESE SPREADS, AND RELATED FOODS

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

SUBCHAPTER C—DRUGS

PART 148q—GENTAMICIN

Miscellaneous Amendments

Effective on the date of publication of this order in the FEDERAL REGISTER, Title 21 is amended as follows to effect minor editorial changes and corrections:

1. In § 19.605 *Low-moisture mozzarella cheese, low-moisture scamorza cheese; identity; label statement of optional ingredients*, paragraph (b), third sentence, the portion reading "not more than 0.2 percent" is changed to read "not more than 0.02 percent".

2. In § 120.206 *Phorate; tolerances for residues* (32 F.R. 14022), first sentence, the portion reading "residues of phorate" is changed to read "residues of the insecticide phorate".

3. In § 148q.1 *Gentamicin sulfate*, paragraph (b)(9), the portion reading "from 2 mμ to 15 mμ" is changed to read "from 2 μ to 15 μ".

Since these amendments are minor editorial and correction changes, notice and public procedure and delayed effective date are not prerequisites to the promulgation of this order.

(Sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a))

Dated: December 11, 1967.

WINTON B. RANKIN,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 67-14683; Filed, Dec. 18, 1967; 8:47 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

RESINOUS AND POLYMERIC COATINGS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 7E2185) filed by Monsanto Co., Hydrocarbons and Polymers Division, 730 Worcester Street, Indian Orchard, Mass. 01105, and other relevant material, has concluded that the food additive regulations should be amended to provide for the safe use of additional polymers, as indicated below, in the formulation of coatings for food-contact use. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), § 121.2514 (b)(3)(xxxiii) is amended by alphabetically inserting in the list of substances a new item, as follows:

§ 121.2514 Resinous and polymeric coatings.

* * * * *

(b) * * *

(3) * * *

(xxxiii) Miscellaneous materials:

* * * * *

Vinyl acetate-dibutyl maleate copolymers produced when vinyl acetate and dibutyl maleate are copolymerized with or without one of the monomers: Acrylic acid or glycidyl methacrylate. For use only in coatings for metal foil used in contact with foods that are dry solids with the surface containing no free fat or oil. The finished copolymers shall contain at least 50 weight-percent of polymer units derived from vinyl acetate and shall contain no more than 8 weight-percent of total polymer units derived from acrylic acid or glycidyl methacrylate.	

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: December 11, 1967.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 67-14684; Filed, Dec. 18, 1967; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Bureau of Mines

[30 CFR Parts 18, 34]

[Bureau of Mines Schedule 2G]

ELECTRIC MOTOR-DRIVEN MINE EQUIPMENT AND ACCESSORIES

Requirements for Investigation, Testing, Approval, Certification, and Acceptance

Pursuant to section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) notice is hereby given that under authority contained in section 5 of the Act of May 16, 1910 (36 Stat. 370; 30 U.S.C. sec. 7), as amended, and section 212(a) of the Act of July 16, 1952 (66 Stat. 709; 30 U.S.C. 482(a)) it is proposed to revise the regulations issued as Part 18 of Chapter I, Title 30, Code of Federal Regulations. The current revision of the regulations was adopted on August 9, 1955 (20 F.R. 5711), and subsequently was amended on February 13, 1958, August 27, 1960, March 7, 1961, June 5, 1964, and March 23, 1965 (23 F.R. 947, 25 F.R. 8235, 26 F.R. 1950, 29 F.R. 7318, 30 F.R. 3752).

The purposes of the proposed revision are to: (1) Change the regulations for approval and certification to reflect technological advancements and new developments in the design and construction of electric motor-driven equipment and accessories, (2) present the regulations in a more comprehensive, easier-to-use manner, and (3) incorporate the regulations of Part 34 of Chapter I, Title 30, Code of Federal Regulations (Bureau of Mines Schedule 28—Fire-Resistant Conveyor Belts) in Part 18.

In accordance with the policy of the Department of the Interior, interested persons may submit written comments, suggestions, or objections relating to the proposed revision of these regulations to the Director, Bureau of Mines, Interior Building, Washington, D.C. 20240, within 30 days after the date of publication in the FEDERAL REGISTER.

EARL T. HAYES,
Acting Director,
Bureau of Mines.

Part 18 of Chapter I, Title 30, Code of Federal Regulations, is revised to read as follows:

Subpart A—General Provisions

Sec.
18.1 Purpose.
18.2 Definitions.
18.3 Consultation.
18.4 Equipment for which approval will be issued.
18.5 Equipment for which certification will be issued.
18.6 Applications.
18.7 Fees.
18.8 Date for conducting investigation and tests.
18.9 Conduct of investigations and tests.
18.10 Notice of approval or disapproval.
18.11 Approval plate.
18.12 Letter of certification.
18.13 Certification plate.
18.14 Identification of tested noncertified explosion-proof enclosures.
18.15 Changes after approval or certification.
18.16 Withdrawal of approval, certification, or acceptance.

Subpart B—Construction and Design Requirements

18.20 Quality of material, workmanship, and design.
18.21 Machines equipped with powered dust collectors.
18.22 Boring-type machines equipped for auxiliary face ventilation.
18.23 Limitation of external surface temperatures.
18.24 Electrical clearances.
18.25 Combustible gases from insulating material.
18.26 Static electricity.
18.27 Gaskets.
18.28 Devices for pressure relief, ventilation, or drainage.
18.29 Access openings and covers, including unused lead-entrance holes.
18.30 Windows and lenses.
18.31 Enclosures—joints and fastenings.
18.32 Fastenings—additional requirements.
18.33 Finish of surface joints.
18.34 Motors.
18.35 Portable (trailing) cables.
18.36 Cables between machine components.
18.37 Lead entrances.
18.38 Leads through common walls.
18.39 Hose conduit.
18.40 Cable clamps and grips.
18.41 Plug and receptacle-type connectors.
18.42 Explosion-proof distribution boxes.
18.43 Explosion-proof splice boxes.
18.44 Battery boxes and batteries (exceeding 12 volts).
18.45 Cable reels.
18.46 Headlights.
18.47 Voltage limitation.
18.48 Circuit-interrupting devices.
18.49 Connection boxes on machines.
18.50 Protection against external arcs and sparks.
18.51 Electrical protection or circuits and equipment.
18.52 Renewal of fuses.

Subpart C—Inspections and Tests

18.60 Detailed inspection of components.
18.61 Final inspection of complete machine.
18.62 Tests to determine explosion-proof characteristics.
18.63 Tests of battery boxes.
18.64 Tests for flame resistance of cables.
18.65 Flame test of conveyor belting and hose.
18.66 Tests of windows and lenses.
18.67 Static-pressure tests.
18.68 Tests for intrinsic safety.
18.69 Adequacy tests.

Subpart D—Machines Assembled With Certified or Explosion-Proof Components, Field Modifications of Approved Machines, and Permits To Use Experimental Equipment

18.80 Approval of machines assembled with certified or explosion-proof components.
18.81 Field modification of approved (permissible) equipment; application for approval of modification; approval of plans for modification before modification.
18.82 Permit to use experimental electric face equipment in a gassy mine or tunnel.

AUTHORITY: The provisions of this Part 18 issued under sec. 5, 36 Stat. 370 (30 U.S.C. 7) as amended, and sec. 212(a), 66 Stat. 709 (30 U.S.C. 482(a)). Interpret or apply secs. 2, 3, 36 Stat. 370 (30 U.S.C. 3, 5) as amended, and secs. 201, 209, 66 Stat. 692, 703 (30 U.S.C. 471, 479).

Subpart A—General Provisions

§ 18.1 Purpose.

The regulations in this part set forth the requirements to obtain Bureau of Mines: (a) Approval of electrically operated machines and accessories intended for use in gassy mines or tunnels, (b) certification of components intended for use on or with approved machines, (c) permission to modify the design of an approved machine or certified component, (d) acceptance of flame-resistant cables, hoses, and conveyor belts, (e) sanction for use of experimental machines and accessories in gassy mines or tunnels; also, procedures for applying for such approval, certification, acceptance for listing; and fees.

§ 18.2 Definitions.

As used in this part—

"Acceptance" means written notification by the Bureau that a cable, hose, or conveyor belt has met the applicable requirements of this part and will be listed by the Bureau as acceptable flame-resistant auxiliary equipment.

"Acceptance marking" means an identifying marking indicating that the cable, hose, or conveyor belt has been accepted by the Bureau for listing as flame resistant.

"Accessory" means associated electrical equipment, such as a distribution or splice box, that is not an integral part of an approved (permissible) machine.

"Afterburning" means the combustion of a flammable mixture that is drawn into a machine compartment after an internal explosion in the compartment.

"Applicant" means an individual, partnership, company, corporation, organization, or association that designs, manufactures, assembles, or controls the assembly of an electrical machine or accessory and seeks approval, certification, or permit, or Bureau acceptance for listing of flame-resistant cable, hose, or conveyor belt.

"Approval" means a formal document issued by the Bureau stating that a completely assembled electrical machine or accessory has met the applicable requirements of this part and authorizing the attachment of an approval plate so indicating.

"Approval plate" means a metal plate, the design of which meets the Bureau's requirements, for attachment to an approved machine or accessory, identifying it as permissible for use in gassy mines or tunnels.

"Branch circuit" means an electrical circuit connected to the main circuit, the condutors of which are of smaller size than the main circuit.

"Bureau" means the U.S. Bureau of Mines.

"Certification" means a formal written notification, issued by the Bureau, stating that an electrical component complies with the applicable requirements of this part and, therefore, is suitable for incorporation in approved (permissible) equipment.

"Certification label" means a plate, label, or marking, the design of which meets the Bureau's requirements, for attachment to a certified component identifying the component as having met the Bureau's requirements for incorporation in a machine to be submitted for approval.

"Component" means an integral part of an electrical machine or accessory that is essential to the functioning of the machine or accessory.

"Connection box" (also referred to as conduit or terminal box) means an enclosure mounted on an electrical machine or accessory to facilitate wiring, without the use of external splices. (Such boxes may have a joint common with an explosion-proof enclosure provided the adjoining surfaces conform to the requirements of Subpart B of this part.)

"Cylindrical joint" means a joint comprised of two contiguous, concentric, cylindrical surfaces.

"Distribution box" means an enclosure through which one or more portable cables may be connected to a source of electrical energy, and which contains a short-circuit protective device for each outgoing cable.

"Experimental equipment" means any electrical machine or accessory that an applicant or the Bureau may desire to operate experimentally for a limited time in a gassy mine or tunnel. (For example, this might include a machine constructed at a mine, an imported machine, or a machine or device designed and developed by the Bureau.)

"Explosion-proof enclosure" means an enclosure that complies with the applicable design requirements in Subpart B of this part and is so constructed that it will withstand internal explosions of methane-air mixtures: (1) Without damage to or excessive distortion of its walls or cover(s), and (2) without ignition of surrounding methane-air mixtures or discharge of flame from inside to outside the enclosure.

"Fire-resistant" as applied to conveyor belts means belting that will pass the flame tests hereafter specified.

"Flame-arresting path" means two or more adjoining or adjacent surfaces between which the escape of flame is prevented.

"Flame resistant" as applied to cable, hose, and insulating materials means material that will burn when held in a flame but will cease burning when the flame is removed.

"Flammable mixture" means a mixture of methane or natural gas[1] and air that when ignited will propagate flame.

"Gassy mine" means a coal mine classed as "gassy" by the Bureau or by the State in which the mine is situated.

"Incendive arc or spark" means an arc or spark releasing enough electrical or thermal energy to ignite a flammable mixture of the most easily ignitible composition.

"Intrinsically safe" means incapable of releasing enough electrical or thermal energy under normal or abnormal conditions to cause ignition of a flammable mixture of methane or natural gas and air of the most easily ignitible composition.

"Mobile equipment" means equipment that is self-propelled.

"Normal operation" means the regular performance of those functions for which a machine or accessory was designed.

"Permissible equipment" means a completely assembled electrical machine or accessory for which a formal approval has been issued, as authorized by the Director of the Bureau of Mines under section 212(a) of the Federal Coal Mine Safety Act, as amended (66 Stat. 709; 30 U.S.C. sec. 482(a)).

"Permit" means a formal document, signed by the Director of the Bureau of Mines, authorizing the operation of specific experimental equipment in a gassy mine or tunnel under prescribed conditions.

"Plane joint" means two adjoining surfaces in parallel planes.

"Portable cable", or "trailing cable" means a flame-resistant, flexible cable or cord through which electrical energy is transmitted to a permissible machine or accessory. (A portable cable is that portion of the power-supply system between the last short-circuit protective device, acceptable to the Bureau, in the system and the machine or accessory to which it transmits electrical energy.)

"Portable equipment" means equipment that may be moved frequently and is constructed or mounted to facilitate such movement.

"Potted component" means a component that is entirely embedded in a solidified insulating material within an enclosure.

"Pressure piling" means the development of abnormal pressure as a result of accelerated rate of burning of a gas-air mixture. (Frequently caused by restricted configurations within enclosures.)

"Qualified representative" means a person authorized by the Bureau to determine whether the applicable requirements of this part have been complied with in the original manufacture, rebuilding, or repairing of equipment for which approval, certification, or a permit is sought.

[1] Natural gas containing a high percentage of methane has proved to be a satisfactory substitute for pure methane in most tests.

"Splice box" means a portable enclosure in which electrical conductors may be joined.

"Step (rabbet) joint" means a joint comprised of two adjoining surfaces with a change(s) in direction between its inner and outer edges. (A step joint may be composed of a cylindrical portion and a plane portion or of two or more plane portions.)

"Threaded joint" means a joint consisting of a male- and a female-threaded member, both of which are of the same type and gage.

§ 18.3 Consultation.

By appointment, applicants or their representatives may visit the Bureau's Health and Safety Research and Testing Center, 4800 Forbes Avenue, Pittsburgh, Pa. 15213, to discuss a proposed design to be submitted for approval, certification, or acceptance for listing. No charge is made for such consultation and no written report thereof will be made to the applicant.

§ 18.4 Equipment for which approval will be issued.

An approval will be issued only for a complete electrical machine or accessory. Assemblies that include one or more nonexplosion-proof components will not be considered for approval unless such component(s) contains intrinsically safe circuits or is constructed in accordance with paragraph (b), § 18.31.

§ 18.5 Equipment for which certification will be issued.

Certification will be issued for a component or subassembly suitable to incorporate in an approved machine. Certification may be issued for such components as explosion-proof enclosures, battery trays, and connectors.

§ 18.6 Applications.

(a) Investigation leading to approval, certification, extension thereof, or acceptance of cables, hose, or conveyor belt, will be undertaken by the Bureau only pursuant to a written application, in duplicate, accompanied by a check, bank draft, or money order, payable to the U.S. Bureau of Mines, to cover the fees. The application shall be accompanied by all necessary drawings, specifications, descriptions, and related materials, as hereinafter provided. The application, all related matters, and all correspondence concerning it shall be addressed to the Bureau of Mines, 4800 Forbes Avenue, Pittsburgh, Pa. 15213, Attention: Approval and Testing.

(b) Applications for acceptance of cable and cord as flame resistant shall include the following information: Number and gage of conductors, type of material and identifying compound numbers for conductor insulation, fillers, and jackets; and any other description or specifications as may be required by the Bureau.

(c) Applications for acceptance of a conveyor belt as fire resistant shall include the following information: Trade name of the conveyor belt, thickness of

covers, friction and skim coats, number of plies, type and weight of ply material, designation of breaker strip or flioted ply, and any other description or specification as may be required by the Bureau.

(d) Applications for acceptance of hose as flame resistant shall include information comparable to that in paragraph (c) of this section.

(e) (1) Drawings, drawing lists, specifications, wiring diagrams, and descriptions shall be adequate in number and detail to identify fully the complete assembly, component parts, and subassemblies. Drawings shall be titled, numbered, dated and shall show the latest revision. Each drawing shall include a warning statement that changes in design must be authorized by the Bureau before they are applied to approved equipment. When intrinsically safe circuits are incorporated in a machine or accessory, the wiring diagram shall include a warning statement that any change(s) in the intrinsically safe circuitry or components may result in an unsafe condition.

(2) The specifications shall include an assembly drawing(s)[3] showing the overall dimensions of the machine and the identity of each component part which may be listed thereon or separately, as in a bill of material.[4] Purchased parts shall be identified by the manufacturer's name, catalog number(s), and rating(s). In the case of standard hardware and miscellaneous parts, such as insulating pieces, size and kind of material shall be specified. All drawings of component parts submitted to the Bureau shall be identical to those used in the manufacture of the parts. Dimensions of parts designed to prevent the passage of flame shall specify allowable tolerances. A notation "Do Not Drill Through" or equivalent should appear on drawings with the specifications for all "blind" holes.

(f) The Bureau reserves the right to require the applicant to furnish supplementary drawings showing sections through complex flame-arresting paths, such as labyrinths used in conjunction with ball or roller bearings, and also drawings containing dimensions not indicated on other drawings submitted to the Bureau.

(g) The applicant may ship his equipment to the Bureau for investigation at the time of filing his application and payment of the required fees. Shipping charges shall be prepaid by the applicant.

(h) For a complete investigation leading to approval or certification the applicant shall furnish the Bureau with the components necessary for inspection and testing. Expendable components shall be supplied by the applicant to permit continuous operation of the equipment while being tested. If special tools are necessary to assemble or disassemble any component for inspection or test, the applicant shall furnish them with the equipment to be tested.

(i) For investigation of a cable, hose, or conveyor belt, the applicant shall furnish samples as follows:

Cable—a sample having a minimum length of 12 feet;

Hose—a sample having a minimum length of 2 feet;

Conveyor belt—a sample of each type 8 inches long cut across the entire width of the belt.

(j) The applicant shall submit a sample caution statement[4] specifying the conditions for maintaining permissibility of the equipment.

(k) The applicant shall submit a factory-inspection form[5] used to maintain quality control at the place of manufacture or assembly to insure that component parts are made and assembled in strict accordance with the drawings and specifications covering a design submitted to the Bureau for approval or certification.

(l) The Bureau will accept an application for an approval, a letter of certification, or an acceptance for listing of a product that is manufactured in a country other than the United States provided: (1) All correspondence, specifications, lettering on drawings (metric-system dimensions acceptable), instructions, and related information is in English; and (2) all other requirements of this part are met the same as for a domestic applicant.

§ 18.7 Fees.

(a) Detailed inspection of each explosion-proof enclosure $105

NOTE: When 20 or less explosion tests are required under (b), the fee shall be $60.

(b) Explosion tests of each explosion-proof enclosure 70

NOTE: When 20 or less explosion tests are required, the fee shall be $35.

(c) Each field inspection of a completely assembled machine or accessory 80

(d) Adequacy tests of potting material 50

(e) Test to determine adequacy of ventilation (battery enclosure) .. 80

(f) Intrinsic-safety investigation and test 105

(g) High-potential test 50

(h) Surface-temperature test 50

(i) 1. Flame test of cable 80

1. Development flame tests shall be charged at the rate of $10 per specimen. The minimum charge is $25.

(j) 1. Flame test of conveyor belt or hose conduit 25

2. Development flame tests shall be charged at the rate of $5 per specimen. The minimum charge is $15.

(k) Impact test each window or lens ... 25

(l) Thermal shock test each window or lens 25

(m) No charge will be made for inspection or tests made solely for the Bureau's information.

(n) Examining and recording drawings and specifications preparatory to issuing:

1. Approval 110
2. Certification 55
3. Extension of approval 70
4. Extension of certification 40

NOTE: When investigation, inspection, or testing is required to be performed at locations other than the Bureau's premises, the applicant shall reimburse the Bureau for traveling, subsistence and incidental expenses of its representative(s) in accordance with Standardized Government Travel Regulations. Such reimbursement shall be in addition to the fee charged for investigation, inspection, or testing.

Any funds deposited with the Bureau that exceed the fees required in accordance with the above charges will be refunded at the completion of the work or applied to future work, as directed by the applicant.

§ 18.8 Date for conducting investigation and tests.

The date of receipt of an application will determine the order of precedence for investigation and testing. If an electrical machine component or accessory fails to meet any of the requirements, it shall lose its order of precedence. If an application is submitted to resume investigation and testing after correction of the cause of failure, it will be treated as a new application and the order of precedence for investigation and testing will be so determined.

§ 18.9 Conduct of investigations and tests.

(a) Prior to the issuance of an approval, certification, or acceptance of a cable, hose, or conveyor belt, only Bureau personnel, representative(s) of the applicant, and such other person(s) as may be mutually agreed upon may observe any part of the investigation or tests. The Bureau will hold as confidential and will not disclose principles or patentable features; nor will it disclose the results of tests, chemical analyses of materials, or any details of the applicant's drawings, specifications, instructions, and related material.

(b) Unless notified to the contrary by the Bureau, the applicant shall provide assistance in disassembling parts for inspection, preparing parts for testing, and preparing equipment for return shipment. Explosion-proof enclosures shall be drilled and tapped for pipe connections in accordance with instructions supplied by the Bureau.

(c) The Bureau reserves the right to inspect a complete machine, component part, or accessory at a place other than the Bureau's premises, such as the assembly plant or other location acceptable to the Bureau, at the applicant's expense.

(d) Applicants shall be responsible for their representatives present during tests and for observers admitted at their request and shall save the Government harmless in the event of damage to applicant's property or injury to applicant's representatives or to observers admitted at their request.

[3] In certain instances, the Bureau will accept photographs (minimum size 5" x 10½") in lieu of assembly drawing(s).

[4] See figures 1 and 2 in Appendix II.

[5] See figure 3 in Appendix II.

[6] See figure 4 in Appendix II.

§ 18.10 Notice of approval or disapproval.

(a) Upon completing investigation of a complete assembly of an electrical machine or accessory, the Bureau will issue to the applicant either a written notice of approval or a written notice of disapproval, as the case may require. No informal notification of approval will be issued. If a notice of disapproval is issued, it will be accomplished by details of the defects, with recommendations for possible correction. The Bureau will not disclose, except to the applicant, any information upon which a notice of disapproval has been issued.

(b) A formal notice of approval will be accompanied by a list of drawings, specifications, and related material, covering the details of design and construction of the equipment upon which the approval is based. Applicants shall keep exact duplicates of the drawings, specifications, and descriptions that relate to equipment for which an approval has been issued, and the drawings and specifications shall be adhered to exactly in production of the approved equipment.

(c) An applicant shall not advertise or otherwise represent his equipment as approved (permissible) until he has received the Bureau's formal notice of approval.

§ 18.11 Approval plate.

(a) (1) The notice of approval will be accompanied by a photograph of an approval plate, bearing the seal of the Bureau of Mines, the name of the complete assembly, the name of the applicant, and spaces for the approval number, serial number, and the type or model of machine.

(2) An extension of approval will not affect the original approval number except that the extension number shall be added to the original approval number on the approval plate. (Example: Original approval No. 2G-3000; seventh extension No. 2G-3000-7.)

(b) The applicant shall reproduce the design on a separate plate, which shall be attached in a suitable place, on each complete assembly to which it relates. The size, type, location, and method of attaching an approval plate are subject to the Bureau's concurrence. The method for affixing the aproval plate shall not impair any explosion-proof feature of the equipment.

(c) The approval plate identifies as permissible the machine or accessory to which it is attached and is the applicant's guarantee that the equipment complies with the requirements of this part.

(d) A completely assembled approved machine with an integral powered dust collector shall bear an approval plate indicating that the requirements of this part and also the requirements of Part 33 of this chapter (Bureau of Mines Schedule 25B), have been complied with. Approval numbers will be assigned under each part of such joint approvals.

(e) Use of the approval plate obligates the applicant to whom the approval was issued to maintain in his plant the quality of each complete assembly and guarantees that the equipment is manufactured and assembled according to the drawings, specifications, and descriptions upon which the approval and subsequent extension(s) of approval were based.

§ 18.12 Letter of certification.

(a) A letter of certification may be issued by the Bureau for a component intended for incorporation in a complete machine or accessory for which an approval may be subsequently issued. A letter of certification will be issued to an applicant when a component has met all the applicable requirements of this part. Included in the letter of certification will be an assigned Bureau of Mines certification number that will identify the certified component.

(b) A letter of certification will be accompanied by a list of drawings, specifications, and related material covering the details of design and construction of a component upon which the letter of certification is based. Applicants shall keep exact duplicates of the drawings, specifications, and descriptions that relate to the component for which a letter of certification has been issued; and the drawings and specifications shall be adhered to exactly in production of the certified component.

(c) A component shall not be represented as certified until the applicant has received the Bureau's letter of certification for the component. Certified components are not to be represented as "approved" or "permissible" because such terms apply only to completely assembled machines or accessories.

§ 18.13 Certification plate.

Each certified component shall be identified by a certification plate attached to the component in a manner acceptable to the Bureau and the method of attachment shall not impair any explosion-proof characteristics of the component. The plate shall be of serviceable material, acceptable to the Bureau, and shall contain the following inscription with space for appropriate identification of the component and assigned certification number:

Model or Type No. _____
(Name)
Certified as complying with the applicable requirements of Bureau of Mines Schedule _____
Certification No. _____[6]

§ 18.14 Identification of tested noncertified explosion-proof enclosures.

An enclosure that meets all applicable requirements of this part, but has not been certified by the Bureau, shall be identified by a permanent marking on it in a conspicious location. The design of such marking shall consist of capital letters USBM not less than ¼ inch in height, enclosed in a circle not less than 1 inch in diameter.

[6] The blank spaces shall be filled with appropriate designations. Inclusion of the information on a company name plate will be permitted provided the plate is made of material acceptable to the Bureau.

§ 18.15 Changes after approval or certification.

If an applicant desires to change any feature of approved equipment or a certified component, he shall first obtain the Bureau's concurrence pursuant to the following procedure:

(a) Application shall be made as for an original approval or letter of certification requesting that the existing approval or certification be extended to cover the proposed change(s) and shall be accompanied by drawings, specifications, and related information, showing the change(s) in detail.

(b) The application will be examined by the Bureau to determine whether inspection or testing will be required. Testing will be required if there is a possibility that the change(s) may adversely affect safety.

(c) If the change(s) meets the requirements of this part, a formal extension of approval or certification will be issued, accompanied by a list of new or revised drawings, specifications, and related information to be added to those already on file for the original approval or certification.

(d) Revisions in drawings or specifications that do not involve actual change in the explosion-proof features of equipment may be handled informally, without fee.

§ 18.16 Withdrawal of approval, certification, or acceptance.

The Bureau reserves the right to rescind, for cause, any approval, certification, acceptance, or extension thereof, issued under this part.

Subpart B—Construction and Design Requirements

§ 18.20 Quality of material, workmanship, and design.

(a) Electrically operated equipment intended for use in coal mines shall be rugged in construction and shall be designed to facilitate inspection and maintenance.

(b) The Bureau will test only electrical equipment that in the opinion of its qualified representatives is constructed of suitable materials, is of good quality workmanship, based on sound engineering principles, and is safe for its intended use. Since all possible designs, circuits, arrangements, or combinations of components and materials cannot be foreseen, the Bureau reserves the right to modify design, construction, and test requirements to obtain the same degree of protection as provided by the tests described in Subpart C of this part.

(c) Moving parts, such as rotating saws, gears, and chain drives, shall be guarded to prevent personal injury.

(d) Flange joints and lead entrances shall be accessible for field inspection, where practicable.

(e) An audible warning device shall be provided on each mobile machine that travels at a speed greater than 2.5 miles per hour.

(f) Parking brakes shall be provided for each wheel-mounted mobile machine.

(g) A headlight and red light-reflecting material shall be provided on both front and rear of each mobile transportation unit that travels at a speed greater than 2.5 miles per hour. Red light-reflecting material should be provided on each end of other mobile machines.

§ 18.21 Machines equipped with powered dust collectors.

Powered dust collectors on machines submitted for approval shall meet the applicable requirements of Part 33 of this chapter (Bureau of Mines Schedule 25B), and shall bear the approval number assigned by the Bureau.

§ 18.22 Boring-type machines equipped for auxiliary face ventilation.

Each boring-type continuous-mining machine that is submitted for approval shall be constructed with an unobstructed continuous space(s) of not less than 200 square inches total cross-sectional area on or within the machine to which flexible tubing may be attached to facilitate auxiliary face ventilation.

§ 18.23 Limitation of external surface temperatures.

The temperature of the external surfaces of mechanical or electrical components shall not exceed 150° C. (302° F.) under normal operating conditions.

§ 18.24 Electrical clearances.

The clearance between live parts and casings shall be sufficient to minimize the possibility of arcs striking the casings. Where space is limited, the casing shall be lined with adequate insulation.

§ 18.25 Combustible gases from insulating material.

(a) Insulating materials that give off flammable or explosive gases when decomposed electrically shall not be used within enclosures where the materials are subjected to destructive electrical action.

(b) Parts coated or impregnated with insulating materials shall be heat-treated to remove any combustible solvent(s) before assembly in an explosion-proof enclosure. Air-drying insulating materials are excepted.

§ 18.26 Static electricity.

Nonmetallic rotating parts, such as belts and fans, shall be provided with a means to prevent an accumulation of static electricity.

§ 18.27 Gaskets.

A gasket(s) shall not be used between any two surfaces forming a flame-arresting path except as follows:

(a) A gasket of lead, elastomer, or equivalent will be acceptable provided the gasket does not interfere with an acceptable metal-to-metal joint.

(b) A lead gasket(s) or equivalent will be acceptable between glass and a hard metal to form all or a part of a flame-arresting path.

§ 18.28 Devices for pressure relief, ventilation, or drainage.

(a) *Devices* for installation on explosion-proof enclosures to relieve pressure, ventilate, or drain will be acceptable provided the length of the flame-arresting path and the clearances or size of holes in perforated metal will prevent discharge of flame in explosion tests.

(b) Devices for pressure relief, ventilation, or drainage shall be constructed of materials that resist corrosion and distortion, and be so designed that they can be cleaned readily. Provision shall be made for secure attachment of such devices.

(c) Devices for pressure relief, ventilation, or drainage will be acceptable for application only on enclosures with which they are explosion tested.

§ 18.29 Access openings and covers, including unused lead-entrance holes.

(a) Access openings in explosion-proof enclosures will be permitted only where necessary for maintenance of internal parts such as motor brushes and fuses.

(b) Covers for access openings shall meet the same requirements as any other part of an enclosure except that threaded covers shall be secured against loosening, preferably with screws having heads requiring a special tool. (See figure 1 in Appendix II.)

(c) Holes in enclosures that are provided for lead entrances but which are not in use shall be closed with metal plugs secured by spot welding, brazing, or equivalent.

§ 18.30 Windows and lenses.

(a) Material for windows or lenses shall, at the discretion of the Bureau, meet the test requirements prescribed in § 18.66 and shall be sealed in place or provided with flange joints in accordance with § 18.31.

(b) Windows or lenses shall be protected from mechanical damage by structural design, location, or guarding. Windows or lenses, other than headlight lenses, having an exposed area greater than 8 square inches, shall be provided with guarding or equivalent.

§ 18.31 Enclosures—joints and fastenings.

(a) Explosion-proof enclosures:

(1) Cast or welded enclosures shall be designed to withstand a minimum internal pressure of 150 pounds per square inch (gage). Castings shall be free from blowholes.

(2) Welded joints forming an enclosure shall have continuous gas-tight welds. All welds shall be made in accordance with American Welding Society standards.

(3) Enclosures shall not be constructed of aluminum alloys containing more than 0.5 percent magnesium.

(4) The Bureau reserves the right to require the applicant to conduct static-pressure tests on each enclosure when the Bureau determines that the particular design will not permit complete visual inspection or when the joint(s) forming an enclosure is welded on one side only. (See § 18.67.)

(5) Threaded covers shall be designed with Class 1 (coarse, loose fitting) threads. The flame-arresting path of threaded joints shall conform to the requirements of subparagraph (6) of this paragraph.

(6) Enclosures shall meet the following requirements based on the internal volumes of the empty enclosure.

	Volume of empty enclosure—		
	Less than 45 cu. in.	45 to 124 cu. in., inclusive	More than 124 cu. in.
Minimum thickness of material for walls	⅛"	⅛" [1]	⅛"
Minimum thickness of material for flanges	⅛" [1]	⅛" [1]	¼" [2]
Minimum thickness of material for cover	⅛" [1]	⅛" [1]	¼" [2]
Minimum width of joint—all in one plane	⅛"	⅛"	1"
Maximum clearance—joint all in one plane	0.003"	0.008"	0.004".
Minimum width of joint, portions of which are in different planes—cylinders or equivalent	⅛" [3]	⅛" [3]	¼". [3]
Maximum clearance—joint in two or more planes, cylinders or equivalent:			
(a) Portion perpendicular to plane	0.008" [4]	0.008" [4]	0.008". [4]
(b) Plane portion	0.009"	0.009"	0.009".
Maximum bolt [5] spacing—joints all in one plane	6" with minimum of 4 bolts.	6" with minimum of 4 bolts.	6".
Maximum bolt spacing—joints, portions of which are in different planes	(6)	(6)	(6).
Minimum diameter of bolt (without regard to type of joint)	¼"	¼"	⅜".
Minimum thread engagement [7]	¼"	¼"	⅜".
Maximum diametrical clearance between bolt body and unthreaded holes through which it passes [8]	1/64"	1/64"	1/16".
Minimum distance from interior of enclosure to the edge of a bolt hole:			
Plane joint—minimum width 1"	¼"	¼"	⅜". [9]
Plane joint—less than 1" wide	⅜"	⅜"	⅜".
Step joint—rabbet ¼" wide or more	⅛"	⅛"	⅛".
Step joint—rabbet less than ¼" wide	⅜"	⅜"	¼".

See footnotes at end of table.

	Volume of empty enclosure—		
	Less than 45 cu. in.	45 to 124 cu. in., inclusive	More than 124 cu. in.
Cylindrical Joints			
Shafts centered by ball or roller bearings:			
Minimum length of flame-arresting path	½"	⅝"	1"
Maximum radial clearance	0.010"	0.0126"	0.015".
Shafts through journal bearings: [10]			
Minimum length of flame-arresting path	½"	⅝"	1"
Maximum radial clearance	0.008"	0.004"	0.006".
Other than shafts:			
Minimum length of flame-arresting path	½"	⅝"	1"
Maximum radial clearance	0.0015"	0.003"	0.003".

[1] ⅛-inch less is allowable for machining rolled plate.
[2] ⅛-inch less is allowable for machining rolled plate.
[3] If only two planes are involved, neither portion of a joint shall be less than ½-inch wide, unless the wider portion conforms to the same requirements as those for a joint that is all in one plane. If more than two planes are involved (as in labyrinths or tongue-and-groove joints) the combined lengths of those portions having prescribed clearances will be considered.
[4] The allowable diametrical clearance is 0.008 inch when the portion perpendicular to the plane portion is ¼ inch or greater in length. If the perpendicular portion is more than ¼ inch but less than ½-inch wide, the diametrical clearance shall not exceed 0.006 inch.
[5] Where the term "bolt" is used, it refers to a machine bolt or a cap screw, and for either of these studs may be substituted provided the studs bottom in blind holes are completely welded in place, or the bottom of the hole is closed with a secured plug. Bolts shall be provided at all corners.
[6] Adequacy of bolt spacing will be judged on basis of size and configuration of the enclosure, strength of materials, and explosion-test results.
[7] In general, minimum thread engagement shall be equal to or greater than the diameter of the bolt specified.
[8] Threaded holes for fastening bolts shall be machined to remove burrs or projections that affect planarity of a surface forming a flame-arresting path.
[9] Less than 7/16 inch (⅜-inch minimum) will be acceptable provided the diametrical clearance for fastening bolts does not exceed 1/32 inch.
[10] Shafts or operating rods through journal bearings shall be not less than ¼-inch in diameter. The length of fit shall not be reduced when a prohibition is depressed. Operating rods shall have a shoulder or head on the portion inside the enclosure. Essential parts riveted or bolted to the inside portion will be acceptable in lieu of a head or shoulder, but cotter pins and similar devices will not be acceptable.

(b) Enclosures for potted components: Enclosures shall be rugged and constructed with materials having 75 percent, or greater, of the thickness and flange width specified in paragraph (a) of this section. These enclosures shall be provided with means for attaching hose conduit, unless energy carried by the cable is intrinsically-safe.

(c) No assembly will be approved that requires the opening of an explosion-proof enclosure to operate a switch, rheostat, or other device during normal operation of a machine.

§ 18.32 Fastenings—additional requirements.

(a) Bolts, screws, or studs shall be used for fastening adjoining parts to prevent the escape of flame from an enclosure. Hinge pins or clamps will be acceptable for this purpose provided the Bureau determines them to be equally effective.

(b) Lockwashers shall be provided for all bolts, screws, and studs that secure parts of explosion-proof enclosures. Special fastenings designed to prevent loosening will be acceptable in lieu of lockwashers, provided the Bureau determines them to be equally effective.

(c) Fastenings shall be as uniform in size as practicable to preclude improper assembly.

(d) Holes for fastenings shall not penetrate to the interior of an explosion-proof enclosure, except as provided in paragraph (a) (9) of § 18.34, but shall be threaded to insure that a specified bolt or screw will not bottom even if its lockwasher is omitted.

(e) A minimum of ⅛ inch of stock shall be left at the center of the bottom of each hole drilled for fastenings.

(f) Fastenings used for joints on explosion-proof enclosures shall not be used for attaching nonessential parts or for making electrical connections.

(g) The acceptable sizes for and spacings of fastenings shall be determined by the size of the enclosure, as indicated in § 18.31 of this subpart.

(h) The Bureau reserves the right to conduct explosion tests with standard bolts, nuts, cap screws, or studs substituted for any special high-tensile strength fastening(s) specified by the applicant.

§ 18.33 Finish of surface joints.

Flat surfaces between bolt holes that form any part of a flame-arresting path shall be plane to within a maximum deviation of one-half the maximum clearance specified in § 18.31(a) (6). All metal surfaces shall be finished in manufacture to 250 microinches (maximum). A thin film of nonhardening preparation to inhibit rusting may be applied to finished steel surfaces.

§ 18.34 Motors.

(a) *General.* (1) Motors shall have explosion-proof enclosures.

(2) Motors submitted to the Bureau for test shall be equipped with unshielded bearings regardless of whether that type of bearing is specified.

(3) The Bureau reserves the right to test motors with the maximum clearance specified between the shaft and the mating part which forms the required flame-arresting path. Also reserved is the right to remachine these parts, at the applicant's expense, to specified dimensions to provide the maximum clearance.

(NOTE: For example, a shaft with a diameter greater than 2 inches at the flame-arresting portion might require such machining.)

(4) Ball and roller bearings and oil seals will not be acceptable as flame-arresting paths; therefore, a separate path shall be provided between the shaft and another part, preferably inby the bearing. The length and clearances of such flame-arresting path shall conform to the requirements of § 18.31.

(5) Labyrinths or other arrangements that provide change(s) in direction of escaping gases will be acceptable but the use of small detachable pieces shall not be permitted unless structurally unavoidable. The lengths of flame-arresting path(s) and clearance(s) shall conform to the requirements of § 18.31.

(6) The widths of oil grooves and grooves for holding oil seals will be deducted in measuring the widths of flame-arresting paths.

(NOTE: Oil seals will be removed from motors prior to explosion tests and therefore may be omitted from motors submitted for investigation.)

(7) Openings for filling and draining bearing lubricants shall be so located as to prevent escape of flame through them.

(8) An outer bearing cap will not be considered as forming any part of a flame-arresting path unless the cap is used as a bearing cartridge.

(NOTE: The outer bearing cap will be omitted during explosion tests unless it houses the bearing.)

(9) If unavoidable, holes may be made through motor casings for bolts, studs, or screws to hold essential parts such as pole pieces, brush rigging, and bearing cartridges. Such parts shall be attached to the casing by at least two fastenings. The threaded holes in these parts shall be blind, unless the fastenings are inserted from the inside, in which case the fastenings shall not be accessible with the armature of the motor in place.

(b) *Direct-current motors.* For direct-current motors with narrow interpoles, the distance from the edge of the pole piece to any bolt hole in the frame shall be not less than ⅛ inch. If the distance is ⅛ to ¼ inch, the diametrical clearance for the pole bolt shall not exceed 1/64 inch for not less than ½ inch through the frame. Furthermore, the pole piece shall have the same radius as the inner surface of the frame. Pole pieces may be shimmed as necessary.

(c) *Alternating-current motors.* Stator laminations that form a part of an explosion-proof enclosure will be acceptable provided: (1) The laminations and their end rings are fastened together under pressure; (2) the joint between the end rings and the laminations is not less than ¼ inch, but preferably as close to 1 inch as possible; and (3) it shall be impossible to insert a 0.0015-inch thickness gage to a depth exceeding ⅛ inch between adjacent laminations or between end rings and laminations.

(d) *Small motors (alternating- and direct-current).* Motors having internal free volume not exceeding 350 cubic inches and joints not exceeding 32 inches in outer circumference will be acceptable for investigation if provided with rabbet joints between the stator frame and the end bracket having the following dimensions:

Minimum total width	Minimum width of clamped radial portion	Maximum clearance at radial portion	Maximum diametrical clearance at axial portion
¾	¾₄	0.0015	0.003
1	⅞	.002	.003
1½	1⅜	.002	.004

§ 18.35 Portable (trailing) cables.

(a) Portable cables used to conduct electrical energy to face equipment shall conform to the following:

(1) Have each conductor of a current-carrying capacity consistent with the Insulated Power Cable Engineers Association (IPCEA) standards. (See Tables 1 and 2 in Appendix I.)

(2) Have current-carrying conductors not smaller than No. 14 (AWG). Cables with sizes 14 to 10 (AWG) conductors shall be constructed with extra heavy jackets, the diameters of which are given in Table 6 in Appendix I.

(3) Have flame-resistant properties. (See § 18.64.)

(4) Have short-circuit protection at the outby (circuit-connecting) end of ungrounded conductors. (See Table 8 in Appendix I.) The fuse rating or trip setting shall be included in the assembler's specifications.

(5) Ordinarily the length of a portable (trailing) cable shall not exceed 500 feet. Where the method of mining requires the length of a portable (trailing) cable to be more than 500 feet, such length of cable shall be permitted only under the following prescribed conditions:

(i) The lengths of portable (trailing) cables shall not exceed those specified in Table 9, Appendix I, titled "Specifications for Portable Cables Longer Than 500 Feet."

(ii) Short-circuit protection shall be provided by a protective device with an instantaneous trip setting as near as practicable to the maximum starting-current-inrush value, but the setting shall not exceed the trip value specified in the Bureau of Mines approval for the equipment for which the portable (trailing) cable furnishes electric power.

(6) Have nominal outside dimensions consistent with IPCEA standards. (See Tables 4, 5, 6, and 7 in Appendix I.)

(7) Have conductors of No. 4 (AWG) minimum for direct-current mobile haulage units or No. 6 (AWG) minimum for alternating-current mobile haulage units.

(8) Have not more than five well-made temporary splices in a single length of portable cable.

(b) Sectionalized portable cables will be acceptable provided the connectors used inby the last open crosscut in a gassy mine meet the requirements of § 18.41.

(c) A portable cable having conductors smaller than No. 6 (AWG), when used with a trolley tap and a rail clamp, shall have well insulated single conductors not smaller than No. 6 (AWG) spliced to the outby end of each conductor. All splices shall be made in a workmanlike manner to insure good electrical conductivity, insulation, and mechanical strength.

(d) Suitable provisions shall be made to facilitate disconnection of portable cable quickly and conveniently for replacement.

§ 18.36 Cables between machine components.

(a) Cables between machine components shall have: (1) Adequate current-carrying capacity for the loads involved, (2) short-circuit protection, (3) insulation compatible with the impressed voltage, and (4) flame-resistant properties unless totally enclosed within a flame-resistant hose conduit or other flame-resistant material.

(b) Cables between machine components shall be: (1) Clamped in place to prevent undue movement, (2) protected from mechanical damage by position, flame-resistant hose conduit, metal tubing, or troughs (flexible or threaded rigid metal conduit will not be acceptable), (3) isolated from hydraulic lines, and (4) protected from abrasion by removing all sharp edges which they might contact.

(c) Cables (cords) for remote-control circuits extending from permissible equipment will be exempted from the requirements of conduit enclosure provided the total electrical energy carried is intrinsically safe or that the cables are constructed with special heavy jackets, the sizes of which are stated in Table 6 of Appendix I. Cables (cords) provided with hose-conduit protection shall have a tensile strength not less than No. 16 (AWG) three-conductor, type SO cord. (Reference: 7.7.7 IPCEA Pub. No. S-19-81, Fourth Edition.) Cables (cords) constructed with special heavy jackets shall consist of conductors not smaller than No. 14 (AWG) regardless of the number of conductors.

§ 18.37 Lead entrances.

(a) Insulated cable(s), which must extend through an outside wall of an explosion-proof enclosure, shall pass through a stuffing-box lead entrance. All sharp edges that might damage insulation shall be removed from stuffing boxes and packing nuts.

(b) Stuffing boxes shall be so designed, and the amount of packing used shall be such, that with the packing properly compressed, the gland nut still has a clearance distance of ⅛ inch or more to travel without meeting interference by parts other than packing. (See Figures 8, 9, and 10 in Appendix II.)

(c) Packing nuts and stuffing boxes shall be secured against loosening.

(d) Compressed packing material shall be in contact with the cable jacket for a length of not less than ½ inch.

(e) Special requirements for glands in which asbestos-packing material is specified are:

(1) Asbestos-packing material shall be untreated, not less than 5/16-inch diameter if round, or not less than 5/16 by 5/16-inch if square. The width of the space for packing material shall not exceed by more than 50 percent the diameter or width of the uncompressed packing material.

(2) The allowable diametrical clearance between the cable and the holes in the stuffing box and packing nut shall not exceed 75 percent of the nominal diameter or width of the packing material.

(f) Special requirements for glands in which a compressible material[1] other than asbestos is specified are:

(1) The packing material shall be flame resistant.

(2) The radial clearance between the cable jacket and the nominal inside diameter of the packing material shall not exceed 1/32 inch, based on the nominal specified diameter of the cable.

(3) The radial clearance between the nominal outside diameter of the packing material and the inside wall of the stuffing box (that portion into which the packing material fits) shall not exceed 1/32 inch.

§ 18.38 Leads through common walls.

(a) Insulated studs will be acceptable for use in a common wall between two explosion-proof enclosures.

(b) When insulated wires or cables are extended through a common wall between two explosion-proof enclosures in insulating bushings, such bushings shall be not less than 1-inch long and the diametrical clearance between the wire or cable insulation and the holes in the bushings shall not exceed 1/16 inch.[2] The insulating bushings shall be secured in the metal wall.

(c) Insulated wires or cables conducted from one explosion-proof enclosure to another through conduit, tubing, piping, or other solid-wall passageways will be acceptable provided one end of the passageway is plugged, thus isolating one enclosure from the other. Glands or secured bushings with close-fitting holes through which the wires or cables are conducted will be acceptable for plugging. The tubing or duct specified for the passageway shall be brazed or welded into the walls of both explosion-proof enclosures with continuous gas-tight welds.

(d) If wires and cables are taken through openings closed with sealing compounds, the design of the opening and characteristics of the compounds shall be such as to hold the sealing material in place without tendency of the material to crack or flow out of its place. The material also must withstand explosion tests without cracking or loosening.

(e) Openings through common walls between explosion-proof enclosures not provided with bushings or sealing compound, shall be large enough to prevent pressure piling.

§ 18.39 Hose conduit.

Hose conduit shall be provided for mechanical protection of all machine cables that are exposed to damage. Hose conduit shall be flame resistant[1] and have a minimum wall thickness of 1/16 inch.

[1] Example—synthetic elastomers.

[2] Based on the nominal diameter of the cable specified.

§ 18.40 Cable clamps and grips.

Insulated clamps shall be provided for all portable (trailing) cables to prevent strain on the cable terminals of a machine. Also insulated clamps shall be provided to prevent strain on both ends of each cable or cord leading from a machine to a detached or separately mounted component. Cable grips anchored to the cable may be used in lieu of insulated strain clamps. Supporting clamps shall be provided for cables used for wiring around machines in a manner acceptable to the Bureau.

§ 18.41 Plug and receptacle-type connectors.

(a) Plug and receptacle-type connectors for use inby the last open crosscut in a gassy mine shall be so designed that insertion or withdrawal of a plug cannot cause incendive arcing or sparking. Also, connectors shall be so designed that no live terminals, except as hereinafter provided, are exposed upon withdrawal of a plug. The following types will be acceptable:

(1) Connectors in which the mating or separation of the male and female electrodes is accomplished within an explosion-proof enclosure.

(2) Connectors that are mechanically or electrically interlocked with an automatic circuit-interrupting device.

(i) *Mechanically interlocked connectors.* If a mechanical interlock is provided the design shall be such that the plug cannot be withdrawn before the circuit has been interrupted. Also, this type shall be so designed that the circuit cannot be established with the plug partially withdrawn.

(ii) *Electrically interlocked connectors.* If an electrical interlock is provided, the total load shall be removed before the plug can be withdrawn and the electrical energy in the interlocking pilot circuit shall be intrinsically safe, unless the pilot circuit is opened within an explosion-proof enclosure.

(3) Single-pole connectors for individual conductors of a circuit used at terminal points shall be so designed that all plugs must be completely inserted before the control circuit of the machine can be energized.

(b) Plug and receptacle-type connectors used for sectionalizing the cables outby the last open crosscut in a gassy mine need not be explosion-proof or electrically interlocked provided such connectors are designed and constructed to prevent accidental separation.

(c) Conductors shall be securely attached to the electrodes in a plug or receptacle and the connections shall be totally enclosed.

(d) Molded-elastomer connectors will be acceptable provided:

(1) Any free space within the plug or receptacle is isolated from the exterior of the plug.

(2) Joints between the elastomer and metal parts are not less than 1 inch wide and the elastomer is either bonded to or fits tightly with metal parts.

(e) The contacts of all line-side connectors shall be shielded or recessed adequately.

(f) For a mobile battery-powered machine, a plug padlocked to the receptacle will be acceptable in lieu of an interlock provided the plug is held in place by a threaded ring or equivalent mechanical fastening in addition to the padlock. Also, a connector within a padlocked enclosure will be acceptable.

§ 18.42 Explosion-proof distribution boxes.

(a) A cable passing through an outside wall(s) of a distribution box shall be conducted either through a packing gland or an interlocked plug and receptacle.

(b) Short-circuit protection shall be provided for each branch circuit connected to a distribution box. The current-carrying capacity of the specified connector shall be compatible with the automatic circuit-interrupting device.

(c) Each branch receptacle shall be plainly and permanently marked to indicate its current-carrying capacity and each receptacle shall be such that it will accommodate only an appropriate plug.

(d) Provision shall be made to relieve mechanical strain on all connectors to distribution boxes.

§ 18.43 Explosion-proof splice boxes.

Internal connections shall be rigidly held and adequately insulated. Strain clamps shall be provided for all cables entering a splice box.

§ 18.44 Battery boxes and batteries (exceeding 12 volts).

(a) A battery box (tray), including the cover, shall be made of steel[3] the thickness of which is to be based on the total weight of the battery and tray, as follows:

Weight	Thickness
2,000 lb. maximum	3/16"
2,001–4,500 lb.	¼"
Over 4,500 lb.	5/16"

(b) Battery-box covers shall be lined with a flame-resistant insulating material, preferably bonded to the inside of the cover, unless equivalent protection is provided.

(c) Battery-box covers shall be provided with a means for securing them in closed position.

(d) Battery boxes shall be adequately ventilated. The size and locations of openings for ventilation shall prevent access to cell terminals.

(e) Battery cells shall be insulated from the battery-box walls and supported on insulating material. Insulating materials that may be subject to chemical reaction with electrolyte shall be treated to resist such action.

(f) Drainage holes shall be provided in the bottom of each battery box.

(g) Cell terminals shall be "burned" on. Bolted connectors (two-bolt type) may be accepted on end terminals.

(h) Battery connections shall be so designed that battery potential will be minimized between adjacent cells, and total battery potential shall not be available between adjacent cells.

(i) Cables within a battery box shall be protected against abrasion of the insulation.

(j) Each wire or cable leaving a battery box on storage-battery-operated equipment shall have short-circuit protection in an explosion-proof enclosure as close as practicable to the battery terminals. A protective device installed within a nearby explosion-proof enclosure will be acceptable provided the exposed portion of the cable from the battery box to the enclosure does not exceed approximately 36 inches in length; in addition, special care shall be taken to protect each wire or cable from damage.

(k) A diagram showing the battery connections between cells and between trays shall be submitted. The number, type, rating, and manufacturer of the battery cells shall be included in specifications.

§ 18.45 Cable reels.

(a) A self-propelled machine, that receives electrical energy through a portable cable and is designed to travel at speeds exceeding 2.5 miles per hour, shall have a mechanically, hydraulically, or electrically driven reel upon which to wind the portable cable.

(b) The enclosure for moving contacts or slip rings of a cable reel shall be explosion-proof.

(c) Cable-reel bearings shall not constitute an integral part of a circuit for transmitting electrical energy.

(d) Cable reels for shuttle cars and locomotives shall maintain positive tension on the portable cable during reeling and unreeling. Such tension shall only be high enough to prevent a machine from running over its own cable(s).

(e) Cable reels and spooling devices shall be insulated with flame-resistant material.

(f) The maximum speed of travel of a machine when receiving power through a portable (trailing) cable shall not exceed 6 miles per hour.

(g) Diameters of cable reel drums and sheaves should be large enough to prevent undue bending strain on cables.

§ 18.46 Headlights.

(a) Headlights shall be constructed as explosion-proof enclosures.

(b) Headlights shall be mounted to provide illumination where it will be most effective. They shall be protected from damage by guarding or location.

(c) Lenses for headlights shall be glass or other suitable material with physical characteristics equivalent to ½-inch-thick tempered glass, such as "Pyrex."

[1] The flame resistance of hose conduit will be determined in accordance with the requirements of section 18.65.

[3] Materials that provide equivalent strength will be considered.

Lenses shall meet the requirements of the tests prescribed in § 18.96.

(d) Lenses permanently fixed in a ring with lead, epoxy, or equivalent will be acceptable provided only lens assemblies meeting the original manufacturer's specifications are used as replacements.

(e) If a single lead gasket is used, the contact surface of the opposite side of the lens shall be plane within a maximum deviation of 0.002 inch.

§ 18.47 Voltage limitations.

(a) A tool or switch normally held in the operator's hand or supported against his body will not be approved with a nameplate rating exceeding 300 volts direct current or alternating current.

(b) A battery-powered machine shall not have a nameplate rating exceeding 240 volts, nominal (120 lead-acid cells or equivalent).

(c) Other direct-current machines shall not have a nameplate rating exceeding 550 volts.

(d) An alternating-current machine shall not have a nameplate rating exceeding 660 volts, except that a machine may have a nameplate rating greater than 660 volts but not exceeding 4,160 volts when the following conditions are complied with:

(1) Adequate clearances and insulating for the particular voltage(s) are provided in the design and construction of the equipment, its wiring, and accessories.

(2) A continuously monitored, fail-safe grounding system is provided that will maintain the frame of the equipment and the frames of all accessory equipment at ground potential. Also, the equipment, including its controls and portable (trailing) cable, will be deenergized automatically upon the occurrence of an incipient ground fault. The ground-fault-tripping current shall be limited by grounding resistor(s) to that necessary for dependable relaying. The maximum ground-fault-tripping current shall not exceed 25 amperes.

(3) All high voltage switch gear and control for equipment having a nameplate rating exceeding 1,000 volts are located remotely and operated by remote control at the main equipment. Potential for remote control shall not exceed 120 volts.

(4) Portable (trailing) cable for equipment with nameplate ratings from 661 volts through 1,000 volts shall include grounding conductors, a ground check conductor, and grounded metallic shields around each power conductor or a grounded metallic shield over the assembly; except that on machines employing cable reels, cables without shields may be used if the insulation is rated 2,000 volts or more.

(5) Portable (trailing) cable for equipment with nameplate ratings from 1,001 volts through 4,160 volts shall include grounding conductors, a ground check conductor, and grounded metallic shields around each power conductor.

(6) The Bureau reserves the right to require additional safeguards for high-

voltage equipment, or modify the requirements to recognize improved technology.

§ 18.48 Circuit-interrupting devices.

(a) Each machine shall be equipped with a circuit-interrupting device by means of which all power conductors can be deenergized at the machine. A manually operated controller will not be acceptable as a service switch.

(b) When impracticable to mount the main-circuit-interrupting device on a machine, a remote enclosure will be acceptable. When contactors are used as a main-circuit-interrupting device, a means for opening the circuit shall be provided at the machine and at the remote contactors.

(c) Separate two-pole switches shall be provided to deenergize power conductors for headlights or floodlights.

(d) Each handheld tool shall be provided with a two-pole switch of the "dead-man-control" type that must be held closed by hand and will open when hand pressure is released.

(e) A machine designed to operate from both trolley wire and portable cable shall be provided with a transfer switch, or equivalent, which prevents energizing one from the other. Such a switch shall be designed to prevent electrical connection to the machine frame when the cable is energized.

(f) Belt conveyors shall be equipped with control switches to automatically stop the driving motor in the event the belt is stopped, or abnormally slowed down.

(NOTE: Short transfer-type conveyors will be exempted from this requirement when attended.)

§ 18.49 Connection boxes on machines.

Connection boxes used to facilitate replacement of cables or machine components shall be explosion-proof. Portable-cable terminals on cable reels need not be in explosion-proof enclosures provided that connections are well made, adequately insulated, protected from damage by location, and securely clamped to prevent mechanical strain on the connections.

§ 18.50 Protection against external arcs and sparks.

Provision shall be made for maintaining the frames of all off-track machines and the enclosures of related detached components at safe voltages by using one or a combination of the following:

(a) A separate conductor(s) in the portable cable in addition to the power conductors by which the machine frame can be connected to an acceptable grounding medium, and a separate conductor in all cables connecting related components not on a common chassis. The cross-sectional area of the additional conductor(s) shall not be less than 50 percent of that of one power conductor unless a ground-fault tripping relay is used, in which case the minimum size may be No. 8 (AWG). Cables smaller than No. 6 (AWG) shall have an additional conductor(s) of the same size as the power conductor.

(b) A means of actuating a circuit-interrupting device, preferably at the outby end of the portable cable.

(NOTE: The frame to ground potential shall not exceed 40 volts.)

(c) A device(s) such as a diode(s) of adequate peak inverse voltage rating and current-carrying capacity to conduct possible fault current through the grounded power conductor. Diode installations shall include: (1) An overcurrent device in series with the diode, the contacts of which are in the machine's control circuit; and (2) a blocking diode in the control circuit to prevent operation of the machine with the polarity reversed.

§ 18.51 Electrical protection of circuits and equipment.

(a) An automatic circuit-interrupting device(s) shall be used to protect each ungrounded conductor of a branch circuit at the junction with the main circuit when the branch-circuit conductor(s) has a current carrying capacity less than 50 percent of the main circuit conductor(s), unless the protective device(s) in the main circuit will also provide adequate protection for the branch circuit. The setting of each device shall be specified. For headlight and control circuits, each conductor shall be protected by a fuse or equivalent. Any circuit that is entirely contained in an explosion-proof enclosure shall be exempt from this requirement.

(b) Each motor shall be protected by an automatic overcurrent device. One protective device will be acceptable when two motors of the same rating operate simultaneously and perform virtually the same duty.

(1) If the overcurrent-protective device in a direct-current circuit does not open both lines, particular attention shall be given to marking the polarity at the terminals or otherwise preventing the possibility of reversing connections which would result in changing the circuit interrupter to the grounded line.

(2) Three-phase alternating-current motors shall have an overcurrent-protective device in at least two phases such that actuation of a device in one phase will cause the opening of all three phases.

(c) Circuit-interrupting devices shall be so designed that they can be reset without opening the compartment in which they are enclosed.

(d) All magnetic circuit-interrupting devices shall be mounted in a manner to preclude the possibility of their closing by gravity.

§ 18.52 Renewal of fuses.

Enclosure covers that provide access to fuses, other than headlight, control-circuit, and handheld-tool fuses, shall be interlocked with a circuit-interrupting device. Fuses shall be inserted on the load side of the circuit interrupter.

Subpart C—Inspections and Tests

§ 18.60 Detailed inspection of components.

An inspection of each electrical component shall include the following:

(a) A detailed check of parts against the drawings submitted by the applicant to determine that: (1) The parts and drawings coincide; and (2) the minimum requirements stated in this part have been met with respect to materials, dimensions, configuration, workmanship, and adequacy of drawings and specifications.

(b) Exact measurement of joints, journal bearings, and other flame-arresting paths.

(c) Examination for unnecessary through holes.

(d) Examination for adequacy of lead-entrance design and construction.

(e) Examination for adequacy of electrical insulation and clearances between live parts and between live parts and the enclosure.

(f) Examinations for weaknesses in welds and flaws in castings.

(g) Examination for distortion of enclosures before tests.

(h) Examination for adequacy of fastenings, including size, spacing, security, and possibility of bottoming.

§ 18.61 Final inspection of complete machine.

(a) A completely assembled new machine or a substantially modified design of a previously approved one shall be inspected by a qualified representative(s) of the Bureau. When such inspection discloses any unsafe condition or any feature not in strict conformance with the requirements of this part it shall be corrected before an approval of the machine will be issued. A final inspection will be conducted at the site of manufacture, rebuilding, or other locations at the option of the Bureau.

(b) Complete machines shall be inspected for:

(1) Compliance with the requirements of this part with respect to joints, lead entrances, and other pertinent features.

(2) Wiring between components, adequacy of mechanical protection for cables, adequacy of clamping of cables, positioning of cables, particularly with respect to proximity to hydraulic components.

(3) Adequacy of protection against damage to headlights, push buttons, and any other vulnerable component.

(4) Settings of overload- and short-circuit protective devices.

(5) Adequacy of means for connecting and protecting portable cable.

§ 18.62 Tests to determine explosion-proof characteristics.

(a) In testing for explosion-proof characteristics of an enclosure, it shall be filled and surrounded with various explosive mixtures of natural gas and air. The explosive mixture within the enclosure will be ignited electrically and the explosion pressure developed therefrom recorded. The point of ignition within the enclosure will be varied. Motor armatures and/or rotors will be stationary in some tests and revolving in others. Coal dust, produced by grinding coal from the Pittsburgh coal bed to a fineness of minus 200 mesh, will be added to the explosive gas-air mixtures in some tests. At the Bureau's discretion dummies may be substituted for internal electrical components during some of the tests. Not less than 16 explosion tests shall be conducted; however, the nature of the enclosure and the results obtained during the tests will determine whether additional tests shall be made.

(b) Explosion tests of an enclosure shall not result in:

(1) Discharge of flame.

(2) Ignition of an explosive mixture surrounding the enclosure.

(3) Development of afterburning.

(4) Rupture of any part of the enclosure or any panel or divider within the enclosure.

(5) Permanent distortion of the enclosure exceeding 0.040 inch per linear foot.

(6) Development of pressures exceeding 125 pounds per square inch (gage). When a pressure exceeding 125 pounds per square inch (gage) is developed during explosion tests, the Bureau reserves the right to reject an enclosure(s) unless (i) constructional changes are made that result in a reduction of pressure to 125 pounds per square inch (gage) or less, or (ii) the enclosure withstands a dynamic pressure of twice the highest value recorded in the initial test.

§ 18.63 Tests of battery boxes.

Battery boxes will be tested at the Bureau's discretion to determine the adequacy of ventilation, electrical clearances insulation, and suitability for the intended service. Such tests will be conducted at the site of manufacture or assembly, or on the Bureau's premises.

§ 18.64 Tests for flame resistance of cables.

(a) *Size of test specimen.* Three specimens each 3 feet long with 5 inches of cable jacket 2½ inches of conductor insulation removed from each conductor at both ends of each specimen.

(b) *Flame-test apparatus.* The principal parts of the apparatus within and/or appended to the 17-inch deep x 14½-inch high x 29-inch wide rectangular test gallery are:

(1) A source of electric current (either a.c. or d.c.) for loading the cable specimen with means for close regulation.

(2) A suitable ammeter to measure the electric current imposed on the cable specimen conductors.

(3) A suitable temperature measuring device to determine the conductor temperature.

(4) A rack for supporting the cable specimen. It shall have three (3) metal rods installed on the same level with spaces of 16 and 8 inches between rods from left to right. The rods shall be wrapped with asbestos tape to reduce the cooling effect. The height of the rack shall be sufficient to permit the tip of the inner cone of a Tirrell burner flame to touch the jacket of the cable specimen when the flame has been adjusted to proper height.

(5) An electric timer or stopwatch to measure the duration of the tests.

(6) A standard ⅜-inch Tirrell burner for igniting the cable specimen.

(7) A ventilated hood or canopy that is substantially free from external air currents on the specimen.

(c) *Mounting of test specimen.* The test specimen shall be placed on the rack and connected to the electric current source. It shall be centered on the two outside supporting rods with approximately one inch of jacket extending beyond each rod. The thermocouple of the temperature measuring device shall be held in intimate contact with the conductor under a flap of jacket and insulation 26 inches from the left end of the specimen. The flap shall be held tightly, after insertion of the thermocouple, by tying with wire.

(d) *Procedure for flame tests of cables.* (1) The specimen will be heated electrically until the conductor reaches a temperature of 400° F., using a current that is five times the conductor rating given in Tables 1, 2, and 3 in Appendix I.

(2) When the conductor has reached a temperature of 400° F. the flame of a Tirrell gas burner, adjusted to give an overall free flame height of 5 inches and a 3-inch inner cone with natural gas, will be applied directly beneath the specimen at a point 14 inches from its left end.

(3) After subjecting the specimen to external flame for 1 minute, the heating current and gas flame will be cut off simultaneously.

(e) *Test requirements.* The specimen will be considered as having failed the test if the length of the burned area exceeds 6 inches or if burning continues longer than 4 minutes after the gas flame has been cut off. Three specimens of cable will be subjected to the flame-resistance test. If two of the three specimens meet the test requirements, the cable will be accepted for listing by the Bureau as "flame resistant".

(f) *Acceptance marking.* Accepted cables shall be suitably marked with an identifying number assigned by the Bureau. Portable and remote-control cables shall have the marking impressed in the jacket or as raised letters and figures on an impressed background at intervals not exceeding 12 feet. Other accepted cables shall be marked at intervals not exceeding 3 feet in the same manner or have durable marking printed on the surface of the jacket.

§ 18.65 Flame test of conveyor belting and hose.

(a) *Size of test specimen.* (1) Conveyor belting—four specimens each 6 inches long by ½ inch wide by belt thickness, two cut parallel to the weft.

(2) Hose—four specimens each 6 inches long by ½ inch wide by thickness of the hose.

(b) *Flame-test apparatus.* The principal parts of the apparatus within and/or appended to a 21-inch cubical test gallery are:

(1) A support stand with a ring clamp and wire gauze.

(2) A Pittsburgh-Universal Bunsen-type burner (inside diameter of burner tube 11 mm.), or equivalent, mounted in a burner placement guide in such a manner that the burner may be placed beneath the test specimen, or pulled away

from it by an external knob on the front panel of the test gallery.

(3) A variable-speed electric fan and an ASME flow nozzle (16–8½ inches reduction) to attain constant air velocities at any speed between 20–500 feet a minute.

(4) An electric timer or stopwatch to measure the duration of the tests.

(5) A mirror mounted inside the test gallery to permit a rear view of the test specimen through the viewing door.

(c) *Mounting of test specimen.* The specimen shall be clamped in a support with its free end centered 1 inch above the burner top. The longitudinal axis shall be horizontal and the transverse axis inclined at 45 degrees to the horizontal. Under the test specimen shall be clamped a piece of 20-mesh iron-wire gauze, 5 inches square, in a horizontal position ¼ inch below the pulley cover edge of the specimen and with about ½ inch of the specimen extending beyond the edge of the gauze.

(d) *Procedure for flame tests.* (1) The Bunsen burner, retracted from the test position, shall be adjusted to give a blue flame 3 inches in height with natural gas.

(2) The observation door of the gallery shall be closed for the entire test.

(3) The burner flame shall be applied to the free end of the specimen for 1 minute in still air.

(4) At the end of 1 minute the burner flame shall be removed, the ventilating fan turned on to give an air current having a velocity of 200 feet per minute, and the duration of flame measured.

(5) After the test specimen ceases to flame, it shall remain in the air current for at least 3 minutes to determine the presence and duration of afterglow. If a glowing specimen exhibits flame within 3 minutes the duration of flame shall be added to the duration of flame obtained according to subparagraph (4) of this paragraph.

(e) *Test requirements.* The tests of the four specimens cut from any sample shall not result in either duration of flame exceeding an average of 1 minute after removal of the applied flame or afterglow exceeding an average of 3 minutes duration.

(f) *Acceptance markings.* (1) Conveyor belting—conveyor belts accepted by the Bureau of Mines as flame-resistant (fire-resistant) shall be marked as follows: Metal stencils furnished by the manufacturer shall be used during the vulcanizing process to produce letters depressed into the conveyor belt with the words "Fire-Resistant, U.S.B.M. No. _____." This number will be assigned to the manufacturer after the sample has passed the tests. The letters and numbers shall be at least ½ inch high. The acceptance markings shall be placed approximately 1 inch from the edge of the carrying (top) cover of the conveyor belt and spaced at intervals not exceeding 30 feet for the entire length of the conveyor belt. The markings shall be so placed that they are alternately at opposite edges of the belt. Where cover thickness does not permit markings in accordance with the foregoing, other permanent markings may be accepted.

(2) Hose—hose conduit accepted by the Bureau of Mines as flame-resistant shall be marked as follows: Impressed letters, raised letters on depressed background, or printed letters with the words "Flame-Resistant, U.S.B.M. No. _____" at intervals not exceeding 3 feet. This number will be assigned to the manufacturer after the sample has passed the tests. The letters and numbers shall be at least ¼ inch high.

§ 18.66 Tests of windows and lenses.

(a) *Impact tests.* A 4-pound cylindrical weight with a 1-inch diameter hemispherical striking surface shall be dropped (free fall) to strike the window or lens in its mounting, or the equivalent thereof, at or near the center. Three of four samples shall withstand without breakage the impact according to the following table:

Lens diameter, (D), inches	*Height of, inches*
$D < 4$	6
$4 \leq D < 5$	9
$5 \leq D < 6$	15
$6 \leq D$	24

Windows or lenses of smaller diameter than 1 inch may be tested by alternate methods at the discretion of the Bureau.

(b) *Thermal-shock tests.* Four samples of the window or lens will be heated in an oven for 15 minutes to a temperature of 150° C. (302° F.) and immediately upon withdrawal of the samples from the oven they will be immersed in water having a temperature between 15° C. (59° F) and 20° C. (68° F.). Three of the four samples shall show no defect or breakage from this thermal shock test.

§ 18.67 Static-pressure tests.

Static-pressure tests shall be conducted by the applicant on each enclosure of a specific design when the Bureau determines that visual inspection will not reveal defects in castings or in single-seam welds. Such test procedure shall be submitted to the Bureau for approval and the specifications on file with the Bureau shall include a statement assuring that such tests will be conducted. The static pressure to be applied shall be 150 pounds per square inch (gage) or one and one-half times the maximum pressure recorded in the Bureau's explosion tests, whichever is greater.

§ 18.68 Tests for intrinsic safety.

(a) General:

(1) Tests for intrinsic safety will be conducted under the general concepts of "intrinsically safe" as defined in Subpart A of this part. Further tests or requirements may be added at any time if features of construction or use or both indicate them to be necessary. Some tests included in these requirements may be omitted on the basis of previous experience.

(2) Intrinsically safe circuits and/or components will be subjected to tests consisting of making and breaking the intrinsically safe circuit under conditions judged to simulate the most hazardous probable faults or malfunctions. Tests will be made in the most easily ignitable mixture of methane or natural gas and air. The method of making and breaking the circuit may be varied to meet a particular condition.

(3) Those components which determine intrinsic safety must meet the following requirements:

(i) Current limiting components shall consist of two equivalent devices each of which singly will provide intrinsic safety. They shall not be operated at more than 80 percent of their ratings.

(ii) Components of reliable construction shall be used and they shall be so mounted as to provide protection against shock and vibration in normal use.

(iii) Semiconductors shall be amply sized. Rectifiers and transistors shall be operated at not more than two-thirds of their rated current and permissible peak inverse voltage. Zener diodes shall be operated at not more than one-half of their rated current and shall short under abnormal conditions.

(iv) Electrolytic capacitors shall be operated at not more than two-thirds of their rated voltage. They shall be designed to withstand a test voltage of 1,500 volts.

(4) Intrinsically safe circuits shall be so designed that after failure of a single component, and subsequent failures resulting from this first failure, the circuit will remain intrinsically safe.

(5) The circuit will be considered as intrinsically safe if in the course of testing no ignitions occur.

(b) Complete intrinsically safe equipment powered by low energy batteries:

(1) Short-circuit tests shall be conducted on batteries at normal operating temperature. Tests may be made on batteries at elevated temperature if such tests are deemed necessary.

(2) Resistance devices for limiting short-circuit current shall be an integral part of the battery, or installed as close to the battery terminal as practicable.

(3) Transistors of battery-operated equipment may be subjected to thermal "run-away" tests to determine that they will not ignite an explosive atmosphere.

(4) A minimum of 1,000 make-break sparks will be produced in each test for direct current circuits with consideration given to reversed polarity.

(5) Tests on batteries shall include series and/or parallel combinations of twice the normal battery complement, and the effect of capacitance and inductance, added to that normally present in the circuit.

(6) No ignition shall occur when approximately ½ inch of a single wire strand representative of the wire used in the equipment or device is shorted across the intrinsically safe circuit.

(7) Consideration shall be given to insure against accidental reversal of polarity.

(c) Line-powered equipment and devices:

(1) Line-powered equipment shall meet all applicable provisions specified for battery-powered equipment.

(2) Nonintrinsically safe components supplying power for intrinsically safe circuits shall be housed in explosion-proof enclosures and be provided with energy limiting components in the enclosure.

(3) Wiring for nonintrinsically safe circuit shall not be intermingled with wiring for intrinsically safe circuits.

(4) Transformers that supply power for intrinsically safe circuits shall have the primary and secondary windings physically separated. They shall be designed to withstand a test voltage of 1,500 volts when rated 125 volts or less and 2,500 volts when rated more than 125 volts.

(5) The line voltage shall be increased to 120 percent of nominal rated voltage to cover powerline voltage variations.

(6) In investigations of alternating current circuits a minimum of 5,000 make-break sparks will be produced in each test.

(d) The design of intrinsically safe circuits shall preclude extraneous voltages caused by insufficient isolation or inductive coupling. The investigation shall determine the effect of ground faults where applicable.

(e) Identification markings: Circuits and components of intrinsically safe equipment and devices shall be adequately identified by marking or labeling. Battery-powered equipment shall be marked to indicate the manufacturer, type designation, ratings, and size of batteries used.

§ 18.69 Adequacy tests.

The Bureau reserves the right to conduct appropriate test(s) to verify the adequacy of equipment for its intended service.

Subpart D—Machines Assembled With Certified or Explosion-Proof Components, Field Modifications of Approved Machines, and Permits To Use Experimental Equipment

§ 18.80 Approval of machines assembled with certified or explosion-proof components.

(a) A machine may be a new assembly, or a machine rebuilt to perform a service that is different from the original function, or a machine converted from nonpermissible to permissible status, or a machine converted from direct- to alternating-current power or vice versa. Properly identified components that have been investigated and accepted for application on approved machines will be accepted in lieu of certified components.

(b) A single layout drawing [11] or photographs will be acceptable to identify a machine that was assembled with certified or explosion-proof components. The following information shall be furnished:

(1) Overall dimensions.

(2) Wiring diagram.

(3) List of all components [12] identifying each according to its X/P number or the approval number of the machine of which the component was a part.

(4) Specifications for:

(i) Overcurrent protection of motors.

(ii) All wiring between components, including mechanical protection such as hose conduits and clamps.

(iii) Portable cable, including the type, length, outside diameter, and number and size of conductors.

(iv) Insulated strain clamp for machine end of portable cable.

(v) Short-circuit protection to be provided at earthy end of portable cable.

(c) The Bureau reserves the right to inspect and to retest any component(s) that had been in previous service, as it deems appropriate.

(d) Fees for testing under this subpart shall be consistent with those stated in § 18.7.

(e) When the Bureau has determined that all applicable requirements of this part have been met, the applicant will be authorized to attach an approval plate to each machine that is built in strict accordance with the drawings and specifications filed with the Bureau and listed with the Bureau's formal approval. A design of the approval plate will accompany the notification of approval. (Refer to §§ 18.10 and 18.11.)

(f) Approvals are issued only by Approval and Testing, Bureau of Mines, 4800 Forbes Avenue, Pittsburgh, Pa. 15213.

§ 18.81 Field modification of approved (permissible) equipment; application for approval of modification; approval of plans for modification before modification.

(a) An owner of approved (permissible) equipment who desires to make modifications in such equipment shall apply in writing to make such modifications. The application, together with the plans of modifications, shall be filed with the Health and Safety Research and Testing Center, Bureau of Mines, 4800 Forbes Avenue, Pittsburgh, Pa. 15213.

(b) Proposed modifications shall conform with the applicable requirements of Subpart B of this part, and shall not substantially alter the basic functional design that was originally approved for the equipment.

(c) Upon receipt of the application for modification, and after such examination and investigation as may be deemed necessary by the Bureau, the Bureau will notify the owner and the District office of the mine workers' organization having jurisdiction at the mine where such equipment is to be operated stating the modifications which are proposed to be made and the Bureau's action thereon.

§ 18.82 Permit to use experimental electric face equipment in a gassy mine or tunnel.

(a) *Application for permit.* An application for a permit to use experimental electric face equipment in a gassy mine or tunnel will be considered only when submitted by the user of the equipment. The user shall submit a written application to the Director, Bureau of Mines, U.S. Department of the Interior, Washington, D.C. 20240, and send a copy to Approval and Testing, Bureau of Mines, 4800 Forbes Avenue, Pittsburgh, Pa. 15213.

(b) *Fees.* The applicable fees for work to be done according to this subpart shall coincide with the fees stated in § 18.7.

(c) *Requirements*—(1) *Constructional.* (i) Experimental equipment shall be so constructed that it will not constitute a fire or explosion hazard.

(ii) Enclosures designed as explosion-proof, unless already certified, or components of previously approved (permissible) machines, shall be submitted to the Bureau for inspection and test and shall meet the applicable design requirements of Subpart B of this part. Components designed as intrinsically safe also shall be submitted to the Bureau for investigation.

(iii) The Bureau may, at its discretion, waive the requirements for detailed drawings of component parts, inspections, and tests provided satisfactory evidence is submitted that an enclosure has been certified, or otherwise accepted by a reputable testing agency whose standards are substantially equivalent to those set forth in Subpart B of this part.

(2) *Specifications.* The specifications for experimental equipment shall include a layout drawing (see Figure 1 in Appendix II) or photograph(s) with the components, including overcurrent-protective device(s) with setting(s) identified thereon or separately; a wiring diagram; and descriptive material necessary to insure safe operation of the equipment. Drawings already filed with the Bureau need not be duplicated by the applicant.

(d) *Final inspection.* Unless equipment is delivered to the Bureau for investigation, the applicant shall notify Approval and Testing, Bureau of Mines, 4800 Forbes Avenue, Pittsburgh, Pa. 15213, when and where the experimental equipment will be ready for inspection by a duly authorized representative of the Bureau before installing it on a trial basis. Such inspection shall be completed before a permit will be issued.

(e) *Issuance of permit.* When the inspection discloses full compliance with the applicable requirements of this subpart, the Director of the Bureau will issue a permit sanctioning the operation of a single unit in a gassy mine or tunnel, as designated in the application. If the applicant is not the assembler of the equipment, a copy of the permit also may be sent to the assembler.

(f) *Duration of permit.* A permit will be effective for a period of 6 months. For a valid reason, to be stated in a written application, the Director of the Bureau of Mines may grant an extension of a permit for an additional period, not exceeding 6 months. Further extension will be granted only where, after investigation, the Director finds that for reasons beyond the control of the user, it has not been possible to complete the experiment within the period covered by the extended permit.

[11] See figure 1 in Appendix II.
[12] See figure 2 in Appendix II.

TABLE 4—NOMINAL DIAMETERS OF ROUND CABLES WITH TOLERANCES IN INCHES—600 VOLTS

Conductor size—AWG or MCM	Single conductor	5-conductor: Type W & G twisted	5-conductor: Type PG, 3 power, 2 control, ground	5-conductor: Type PG, 3 power, ground	5-conductor: Types W & G	4-conductor: Types W & G	3-conductor: Type PG, 3 power, 2 control, ground	3-conductor: Type PG, 3 power, ground	3-conductor: Types W & G	2-conductor: Type W	2-conductor: Types W & G	Tolerance
8	0.41	0.51	0.54	0.48	0.57	0.57	0.51	0.45	0.54	0.51	0.54	±0.03
6	.46	.57	.60	.54	.64	.64	.57	.51	.60	.57	.60	±.03
4	.52	.64	.67	.60	.71	.71	.64	.57	.67	.64	.67	±.03
3	.55	.67	.70	.63	.74	.74	.67	.60	.70	.67	.70	±.03
2	.58	.70	.73	.66	.77	.77	.70	.63	.73	.70	.73	±.03
1	.64	.77	.80	.73	.84	.84	.77	.70	.80	.77	.80	±.03
1/0	.70	.84	.87	.79	.92	.92	.84	.76	.87	.84	.87	±.03
2/0	.76	.92	.95	.86	1.00	1.00	.92	.83	.95	.92	.95	±.03
3/0	.84	1.00	1.03	.93	1.09	1.09	1.00	.90	1.03	1.00	1.03	±.03
4/0	.92	1.09	1.12	1.01	1.18	1.18	1.09	.98	1.12	1.09	1.12	±.03
250	1.01	1.18	1.21	1.09	1.27	1.27	1.18	1.06	1.21	1.18	1.21	±.03
300	1.09	1.27	1.30	1.17	1.36	1.36	1.27	1.14	1.30	1.27	1.30	±.03
350	1.17	1.36	1.39	1.25	1.45	1.45	1.36	1.22	1.39	1.36	1.39	±.03
400	1.25	1.45	1.48	1.33	1.54	1.54	1.45	1.30	1.48	1.45	1.48	±.03
450	1.33	1.54	1.57	1.41	1.63	1.63	1.54	1.38	1.57	1.54	1.57	±.03
500	1.41	1.63	1.66	1.49	1.72	1.72	1.63	1.46	1.66	1.63	1.66	±.03

TABLE 5—NOMINAL DIMENSIONS OF FLAT CABLES WITH TOLERANCES IN INCHES—600 VOLTS

Conductor size—AWG	2-conductor Type W Major O.D.	Tolerance	2-conductor Type W Minor O.D.	Tolerance	2-conductor Type G Major O.D.	Tolerance	2-conductor Type G Minor O.D.	Tolerance	3-conductor Type G Major O.D.	Tolerance	3-conductor Type G Minor O.D.	Tolerance
8	0.84	±0.04	0.81	±0.03	1.02	±0.04	0.86	±0.03	1.05	±0.06	0.67	±0.05
6	.93	±.04	.86	±.03	1.15	±.04	.61	±.03	1.85	±.06	.75	±.05
4	1.06	±.04	.93	±.03	1.26	±.04	.68	±.03	1.90	±.06	.77	±.05
3	1.14	±.04	.98	±.03	1.35	±.04	.73	±.03	2.10	±.06	.81	±.05
2	1.24	±.04	.73	±.03	1.55	±.04	.81	±.03	2.43	±.06	.97	±.05
1	1.40	±.04	.81	±.03	1.67	±.04	.93	±.03				
1/0	1.51	±.04	.93	±.03	1.85	±.04	.99	±.03				
2/0	1.63	±.04	.99	±.03	2.00	±.04	1.03	±.03				
3/0	1.77	±.04	1.03	±.03	2.10	±.04	1.10	±.03				
4/0	1.89	±.04	1.10	±.03								

TABLE 6—NOMINAL DIAMETERS OF HEAVY JACKETED CORDS WITH TOLERANCES IN INCHES—600 VOLTS

Conductor size—AWG	2-conductor Diameter	Tolerance	3-conductor Diameter	Tolerance	4-conductor Diameter	Tolerance	5-conductor Diameter	Tolerance	6-conductor Diameter	Tolerance	7-conductor Diameter	Tolerance
14	0.64	±0.02	0.67	±0.02	0.71	±0.02	0.78	±0.05	0.83	±0.05	0.99	±0.05
12	.68	±.02	.72	±.03	.76	±.03	.83	±.05	.89	±.05	.92	±.05
10	.73	±.03	.80	±.03	.84	±.05	.90	±.05	1.00	±.05	1.07	±.05

TABLE 7.—NOMINAL DIAMETERS OF THREE-CONDUCTOR PORTABLE POWER CABLES WITH TOLERANCES IN INCHES—601 TO 5,000 VOLTS

Conductor size—AWG or MCM	Type G-GC (nonshielded) 2,000 volts Diameter	Tolerance	Type SHC-GC (shielded overall) 2,000 volts Diameter	Tolerance	Type SHD-GC (individually shielded power conductors) 2,001–5,000 volts Diameter	Tolerance	Type SHD-GC (individually shielded power conductors) 2,001–5,000 volts Diameter	Tolerance
6	1.25	+0.10, −0.06	1.36	+0.11, −0.07	1.62	+0.13, −0.08	1.75	+0.14, −0.09
4	1.40	+.11, −.07	1.53	+.12, −.08	1.77	+.14, −.09	1.90	+.15, −.10
3	1.48	+.12, −.07	1.61	+.13, −.08	1.84	+.15, −.09	1.98	+.16, −.10
2	1.55	+.12, −.08	1.71	+.14, −.09	1.93	+.15, −.10	2.08	+.17, −.11
1	1.74	+.14, −.09	1.89	+.15, −.09	2.04	+.16, −.10	2.12	+.17, −.11
1/0	1.84	+.15, −.09	2.02	+.16, −.10	2.18	+.17, −.11	2.34	+.19, −.12
2/0	1.99	+.16, −.10	2.16	+.17, −.11	2.29	+.18, −.12	2.45	+.20, −.12
3/0	2.13	+.17, −.11	2.30	+.18, −.11	2.45	+.20, −.12	2.62	+.21, −.13
4/0	2.30	+.18, −.12	2.48	+.20, −.12	2.62	+.21, −.13	2.76	+.22, −.14
250	2.46	+.20, −.12	2.79	+.22, −.13				
300	2.63	+.21, −.13	2.96	+.23, −.14				
350	2.78	+.22, −.14	2.97	+.24, −.15				

TABLE 8—FUSE RATINGS OR INSTANTANEOUS SETTINGS OF CIRCUIT BREAKERS FOR SHORT-CIRCUIT PROTECTION OF PORTABLE CABLES

Conductor size—AWG or MCM	Ohms/1,000 ft. at 25° C.	Maximum allowable fuse rating (amperes)	Maximum allowable circuit breaker instantaneous setting (amperes) [1]
14	2.62	30	50
12	1.65	40	75
10	1.04	60	150
8	.654	80	200
6	.410	100	300
4	.259	200	500
3	.205	250	600
2	.162	300	800
1	.129	375	1,000
1/0	.102	500	1,250
2/0	.081		1,500
3/0	.064		2,000
4/0	.051		2,500
250	.043		2,500
300	.036		2,500
350	.031		2,500
400	.027		2,500
450	.024		2,500
500	.022		2,500

[1] Higher circuit-breaker settings may be permitted for special applications when justified.

TABLE 9—SPECIFICATIONS FOR PORTABLE CABLES LONGER THAN 500 FEET [1]

Conductor size—AWG or MCM	Maximum allowable length (feet)	Normal ampacity at 60° C. copper temperature (40° C. ambient)	Resistance at 60° C. copper temperature (ohms)
6	850	80	0.512
4	900	70	.353
3	950	80	.302
2	700	95	.258
1	750	110	.220
1/0	800	130	.185
2/0	850	150	.157
3/0	900	175	.130
4/0	1,000	200	.116
250	1,000	220	.098
300	1,000	240	.082
350	1,000	260	.070
400	1,000	280	.061
450	1,000	300	.054
500	1,000	320	.050

[1] Fuses shall not be used for short-circuit protection of these cables. Circuit breakers shall be used with the instantaneous trip settings not to exceed the values given in Table 8.

TABLE 1—PORTABLE POWER CABLE AMPACITIES—601 TO 5,000 VOLTS (AMPERES PER CONDUCTOR BASED ON 75° C. COPPER TEMPERATURE—40° C. AMBIENT)

Conductor size—AWG or MCM	3-conductor Type G-GC and SHC-GC 2,001–5,000 volts	3-conductor Type G-GC 601–2,000 volts	3-conductor Type SHD-GC 2,001–5,000 volts
8	110	130	145
6	115	135	150
4	125	145	165
2	145	170	190
1	170	195	220
1/0	195	220	245
2/0	220	245	275
3/0	245	275	305
4/0	275	305	340
250	305	340	375
300	340	375	415
350	375	415	460
400	415	460	510
450	460	510	565
500	510	565	625

(g) *Permit label.* With the notification granting a permit, the applicant will receive a photographic copy of a permit label bearing the following:

(1) Seal of the Bureau of Mines.
(2) Permit number.
(3) Expiration date of the permit.
(4) Name of the machine.
(5) Name of the user and mine or tunnel.

The applicant shall attach the photographic copy of the permit label, or replica thereof, to the experimental equipment. If a photograph is used, a clear plastic covering shall be provided for it.

(h) *Withdrawal of permit.* The Director of the Bureau may withdraw, for cause, any permit granted under this subpart.

TABLE I.—PORTABLE POWER CABLE AMPACITIES—600 VOLTS (AMPERES PER CONDUCTOR BASED ON 60° C. COPPER TEMPERATURE—40° C. AMBIENT)

Conductor size—AWG or MCM	Single conductor	3-conductor, round or flat	4-conductor	5-conductor	6-conductor
8	55	55	50	45	40
6	80	75	70	65	55
4	105	100	95	85	75
3	120	115	110	100	90
2	140	135	130	115	105
1	165	155	150	135	120
1/0	190	180	170	155	140
2/0	215	205	195	180	160
3/0	245	230	220	200	180
4/0	275	260	250	230	205
250	305	285	275	250	225
300	340	320	305	280	250
350	375	350	335	305	275
400	415	385	370	335	300
450	460	425	410	370	330
500	510	470	450	410	365

TABLE 2—PORTABLE CORD AMPACITIES—600 VOLTS (AMPERES PER CONDUCTOR BASED ON 60° C. COPPER TEMPERATURE—40° C. AMBIENT)

Conductor size—AWG	1-3 conductor	4-5 conductor	6-9 conductor
14	15	12	8
12	20	16	11
10	25	20	14

APPENDIX I

FEES OF TABLES

Table No.	Title
1	Portable power cable ampacities—600 volts.
2	Portable cord ampacities—600 volts.
3	Portable power cable ampacities—601 to 5,000 volts.
4	Nominal diameters of round cables with tolerances in inches—600 volts.
5	Nominal dimensions of flat cables with tolerances in inches—600 volts.
6	Nominal diameters of heavy jacketed cords with tolerances in inches—600 volts.
7	Nominal diameters of three-conductor portable power cables with tolerances in inches—601 to 5,000 volts.
8	Fuse ratings or instantaneous settings of circuit breakers for short-circuit protection of portable cables.
9	Specifications for portable cables longer than 500 feet.

APPENDIX II

LIST OF FIGURES

Figure No.	Title
1	Typical layout drawing of a machine.
2	Sample bill of material (to accompany layout drawing shown on figure 1).
3	Material to be included with the operating instructions on or with the wiring diagram submitted to each customer.
4	Sample factory inspection form.
5	Typical plane joint.
6	Typical combination joint.
7	Typical threaded joint.
8	Typical threaded straight stuffing box and packing gland lead entrance with provision for hose conduit.
9	Typical slip-fit straight type and angle-type stuffing box and packing gland lead entrances.
10	Typical slip fit angle-type stuffing box and packing gland lead entrance and typical plug for spare lead entrance hole.

Figure 1

TYPICAL LAYOUT DRAWING OF A MACHINE

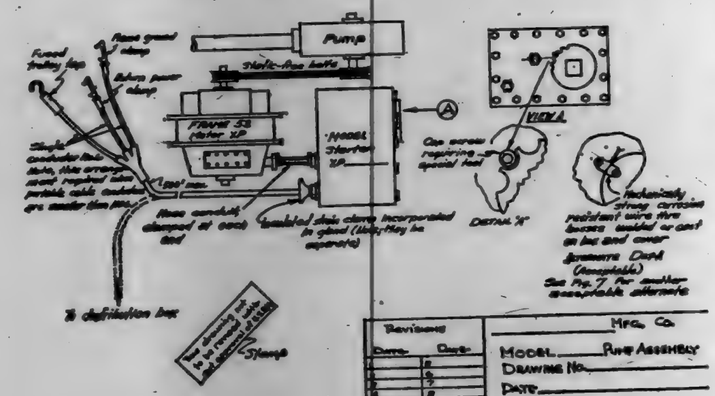

FIGURE 2.—SAMPLE BILL OF MATERIAL

B. of M. No. _____
Date _____
Revision *Date*
1. _____
2. _____
3. _____
4. _____
5. _____

Bill of Material (Electrical)

_____
(Manufacturing Company)
Model: _____
(Unit Name)
Approval 2G—_____
Motor: _____
(Manufacturing Company)
Frame _____
_____ Hp., _____ Volts, _____ Ph.,
_____ Cy., _____ R.P.M.
X/P—_____ _____
(Date)
_____ Extension
(Date)
Starter: _____
(Manufacturing Company)
Model _____
_____ Hp., _____ Volts.
X/P—_____ _____
(Date)
_____ Extension
(Date)
Cable—Motor to Starter:
Cond. No. _____, _____"
O.D., _____" Long
Hose—Motor to Starter Cable:
_____" I.D., _____" O.D., _____" Long
Portable (Trailing) Cable—
Type: _____
Cond. No. _____, _____"
O.D., _____" Long

Hose—for Portable Cable:
_____" I.D., _____" O.D. _____" Long
Hose Clamps—
2 for Motor-Starter Hose conduit _____" D
1 for Portable Cable Hose Conduit _____" D*
*Only when short length of hose is used.
Trolley Tap—
_____
(Manufacturing Company)
Model _____ with
_____-ampere fuse.
Rail Clamps, 2.
1 Ground Clamp, Cat. No. _____
_____
(Manufacturing Company)
1 Return Power Conductor, Cat. No. _____
_____
(Manufacturing Company)
—or—as Optional
Plug on outby end of potable cable for insertion into receptacle on distribution box or equivalent with short-circuit protective device set at _____ amperes.
Static-free Belt
Model
Style
Catalog No. _____,
_____
(Manufacturing Company)
Guard for Belt—
Material _____
Overall Dimensions _____" Long x _____" Wide x _____" High

NOTE: The foregoing is intended as a guide. Additional electrical components used shall be completely identified.

FIGURE 3.—MATERIAL TO BE INCLUDED WITH THE OPERATING INSTRUCTIONS—ON OR WITH THE WIRING DIAGRAM SUBMITTED TO EACH CUSTOMER

(Sometimes referred to as "Caution Statements")

CAUTION

To retain "permissibility" of this equipment, the following conditions shall be satisfied:

1. *General safety.* Frequent inspection shall be made. All electrical parts, including the portable cable and wiring, shall be kept in a safe condition. There shall be no openings into the casings of the electrical parts. A permissible distribution box shall be used for connection to the power circuit unless connection is made in fresh intake air. To maintain the overload protection on direct-current machines, the ungrounded conductor of the portable cable shall be connected to the proper terminal. The machine frame shall be effectively grounded. The power wires shall not be used for grounding except in conjunction with diode(s) or equivalent. The operating voltage should match the voltage rating of the motor(s).

2. *Servicing.* Explosion-proof enclosures shall be restored to the state of original safety with respect to all flame arresting paths, lead entrances, etc., following disassembly for repair or rebuilding, whether by the owner or an independent shop.

3. *Fastenings.* All bolts, nuts, screws, and other means of fastenings, and also threaded covers, shall be in place, properly tightened and secured.

4. *Renewals and repairs.* Inspections, repairs, or renewals of electrical parts shall not be made unless the portable cable is disconnected from the circuit furnishing power, and the cable shall not be connected again until all parts are properly reassembled. Special care shall be taken in making renewals or repairs. Leave no parts off. Use replacement parts exactly like those furnished by the manufacturer. When any lead entrance is disturbed, the original leads or exact duplicates thereof shall be used and stuffing boxes shall be repacked in the approved manner.

5. *Cable requirements.* A flame-resistant portable cable bearing a Bureau assigned identification number, adequately protected by an automatic circuit-interrupting device shall be used. Special care shall be taken in handling the cable to guard against mechanical injury and wear. Splices in portable cables shall be made in a workmanlike manner, mechanically strong, and well insulated. Not more than five temporary splices are permitted in a portable cable regardless of length. Connections and wiring to the outby end of the cable shall be in accordance with recognized standards of safety.

FIGURE 4. SAMPLE FACTORY INSPECTION FORM

Date _____
Inspector _____

MACHINE

Designation: _____
Type: _____ Serial No. _____

MOTOR

Manufacturer: _____
Serial No.: _____ Type: _____
Frame: _____
Hp. ___ F.L. Speed: ____ Volts: ___ Amps. ___
Winding: _____ X/P No. _____ (or parts list designation).

STARTER

Manufacturer: _____
Serial No. _____ Type: _____
Hp. _____ Volts: _____ X/P No. _____ (or parts list designation).
Short-circuit protection _____ amps.
Overload-current protection _____ amps.

PORTABLE CABLE

Manufacturer: _____
Type: _____ Conductors: _____
Length: _____ O.D. _____ BM No: _____
Is all wiring around machine adequately protected from mechanical damage? _____
By hose conduit _____, Troughs _____,
Metal tubing _____, Other _____
By removal of all sharp corners or edges? _____
Is wiring separated from hydraulic components? _____
Is an adequate insulated strain clamp provided for the portable cable? _____
Are all packing glands properly packed so that ¼-inch clearance remains between packing nut and stuffing box? _____
Are lockwashers (or equivalent) provided for all explosion-proof enclosure fastenings? _____
Are all plane joints securely fastened so that an 0.006-inch feeler gage cannot be inserted? _____
Are all threaded covers secured? _____
How? _____
Are all electrical connections secure _____ and properly insulated where necessary?

NOTE: Add appropriate material for each explosion-proof enclosure when more than a motor and starter are on a machine.

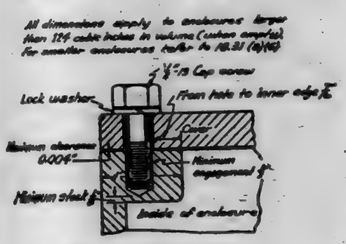

TYPICAL PLANE JOINT

Figure 5

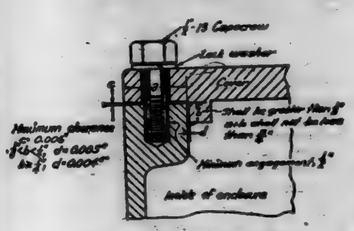

TYPICAL COMBINATION JOINT

Figure 6

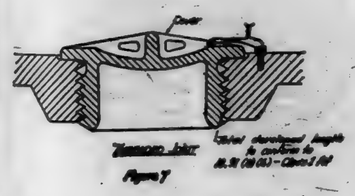

Figure 7

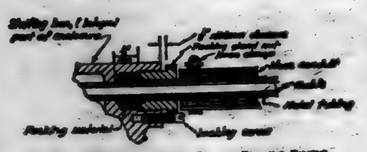

TYPICAL THREADED STRAIGHT STUFFING BOX AND PACKING GLAND LEAD ENTRANCE WITH PROVISION FOR HOSE CONDUIT

Figure 8

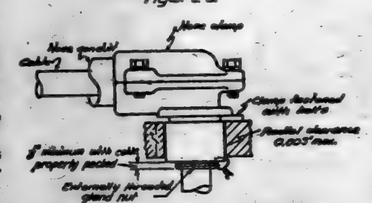

TYPICAL SLIP-FIT ANGLE-TYPE STUFFING BOX PACKING GLAND LEAD ENTRANCE WITH HOSE CONDUIT

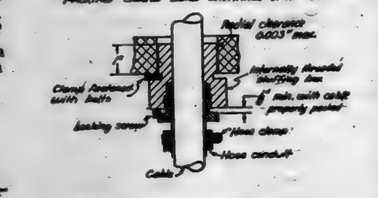

TYPICAL SLIP-FIT STRAIGHT TYPE STUFFING BOX AND PACKING GLAND LEAD ENTRANCE

Figure 9

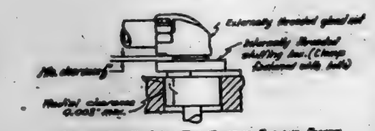

TYPICAL SLIP-FIT ANGLE-TYPE STUFFING BOX AND PACKING GLAND LEAD ENTRANCE

TYPICAL PLUG FOR SPARE LEAD ENTRANCE HOLE

Figure 10

[F.R. Doc. 67-14652; Filed, Dec. 18, 1967; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 1]

SOFT DRINKS

Enforcement of Fair Packaging and Labeling Act; Exemption From Certain Requirements

Notice is given that the National Soft Drink Association, 1128 16th Street NW., Washington, D.C. 20036, has submitted a petition proposing that the regulations for the enforcement of the Fair Packaging and Labeling Act (21 CFR Part 1) be amended to exempt soft drinks from: The placement of the identity statement on the principal display panel of the bottles (§ 1.8 (a) and (d)); the placement of the identity statement on the multiunit retail package (§ 1.8 (a) and (d)); the declaration of the name, address, and ZIP Code of the manufacturer, packer, or distributor on the multiunit package (§ 1.8a); and the placement of the net contents statement in the bottom 30 percent of the principal display panel of the label (§ 1.8b(f)).

1. The petitioner requests exemption of soft drinks in bottles from the requirements of the regulations:

a. That the identity statement be a principal feature on the principal display panel. Grounds for this request are that the exemption would allow the identity statement to appear on the bottle closure, which practice has been well known and accepted by consumers for many years and allows use of multiuse bottles which use permits lower production costs and better retail values for consumers.

b. That the quantity of net contents declaration be placed within the bottom 30 percent of the principal display panel of the label. Grounds for this request are that the exemption would allow such declarations to be blown, formed, or molded into the surface of the bottle in close proximity to the closure and, since other information would be on the closure (see a. above), all information would be in this area as a convenience to consumers and as an aid in value comparison.

2. In the case of soft drinks packaged in multiunit retail packages, the petitioner requests exemption of the multiunit packages from the requirement of the regulations that the statements of identity and the name and address of the manufacturer, packer, or distributor be placed on the multiunit package when such statements are visible on the unit containers therein. Grounds for this requested exemption are that repeating such statements on the multiunit package is unnecessary for the protection of the consumer and that omission of the statements would permit use of multiunit cartons for different drinks, would lower production costs, and would provide better retail values.

3. The petitioner also requested certain other exemptions; however, these are not included in this proposal since reasonable grounds therefor were not given.

Accordingly, pursuant to the provisions of the Fair Packaging and Labeling Act (secs. 5(b), 6(a), 80 Stat. 1298, 1299; 15 U.S.C. 1453, 1455) and the Federal Food, Drug, and Cosmetic Act (sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371), and under the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (21 CFR 2.120), it is proposed that § 1.1c(a) be amended by adding thereto a new subparagraph, as follows:

§ 1.1e Exemptions from required label statements.

* * * * *

(a) *Foods.* * * *

(5) (i) Soft drinks packaged in bottles shall be exempt from the placement requirements for the statement of identity prescribed by § 1.8 (a) and (d) if such statement appears conspicuously on the bottle closure. When such soft drinks are marketed in a multiunit retail package, the multiunit retail package shall be exempt from the statement of identity declaration requirements prescribed by § 1.8 if the statement of identity on the unit container is not obscured by the multiunit retail package.

(ii) A multiunit retail package for soft drinks shall be exempt from the declaration regarding name and place of business required by § 1.8a if the package does not obscure the declaration on unit containers. The declaration required by § 1.8a may appear on the top or side of the closure of bottled soft drinks if the statement is conspicuous and easily legible.

(iii) Soft drinks packaged in bottles which display other required label information only on the closure shall be exempt from the placement requirements for the declaration of contents prescribed by § 1.8b(f) if the required content declaration is blown, formed, or molded into the surface of the bottle in close proximity to the closure.

All interested persons are invited to submit their views in writing, preferably in quintuplicate, regarding this proposal within 60 days following the date of publication of this notice in the FEDERAL REGISTER. Such views and comments should be addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, and may be accompanied by a memorandum or brief in support thereof.

Dated: December 15, 1967.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 67-14719; Filed, Dec. 18, 1967; 8:49 a.m.]

[21 CFR Part 15]

VEGETABLE PROTEIN PRODUCTS

Extension of Time for Filing Comments on Proposals Regarding Standard of Identity

In the matter of establishing a definition and standard of identity for the class of food "vegetable protein products":

The notice of proposed rulemaking in the above-identified matter published in the FEDERAL REGISTER of October 13, 1967 (32 F.R. 14237), provided that comments could be filed regarding the two proposals therein within 60 days following the date of publication.

The Commissioner of Food and Drugs has received a request for an extension of time for filing comments and, good reason therefor appearing, the time for filing comments in this matter is extended to January 11, 1968.

This action is taken pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120).

Dated: December 11, 1967.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 67-14686; Filed, Dec. 18, 1967; 8:47 a.m.]

[21 CFR Part 46]

[Docket No. FDC-76]

PEANUT BUTTER

Notice of Extension of Time for Filing Exceptions to Proposed Findings of Fact and Tentative Order

In the matter of establishing a definition and standard of identity for peanut butter:

The tentative order, including proposed findings of fact and conclusions, in the above-identified matter published in the FEDERAL REGISTER of December 6, 1967 (32 F.R. 17482), provided that any interested person whose appearance was filed at the hearing in this matter could file written exceptions to the tentative order within 30 days following its date of publication.

The Commissioner of Food and Drugs has received requests for an extension of time for filing exceptions and, good reason therefor appearing, the time for filing exceptions to the tentative order in this matter is extended to February 4, 1968.

This action is taken pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and delegated by him to the Commissioner (21 CFR 2.120).

Dated: December 11, 1967.

WINTON B. RANKIN,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 67-14685; Filed, Dec. 18, 1967; 8:47 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[49 CFR Parts 177, 294]

[Docket No. MC-1]

PRIVATE MOTOR CARRIERS OF HAZARDOUS MATERIALS

Annual Safety Accident Report

The Federal Highway Administration is considering amending §§ 177.875 and 177.876 of the Hazardous Materials Regulations of the Department of Transportation (49 CFR Part 177; 32 F.R. 14569), and redesignating the sections as § 294.6 of the Motor Carrier Safety Regulations (49 CFR Part 294), and revoking § 177.877 of the Hazardous Materials Regulations of the Department of Transportation.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments must identify the regulatory docket and must be submitted in three (3) copies to the Federal Highway Administration, Sixth and D Streets SW., Washington, D.C. 20591, Attention: Bureau of Motor Carrier Safety, Room 302. Comments should contain all material and data considered relevant to any statement of fact. All comments received on or before the close of business December 29, 1967, will be considered before action is taken on the proposed rule making. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the Bureau of Motor Carrier Safety, Sixth and D Streets SW., Room 302, Washington D.C. 20591.

The proposals of the Advisory Committee for the Promotion of Compliance with Motor Carrier and Hazardous Materials Regulations have been carefully considered. Paragraph (a) of the proposed rule would require preparation and filing of Form MCS-51 by private motor carriers of hazardous materials on April 1 of each year for operations during the preceding calendar year and thereby furnish the Federal Highway Administration with information concerning: (1) Maximum number of vehicles operated; (2) vehicle miles operated; (3) recordable accidents of any type and those involving the transportation of hazardous materials; and (4) total number of vehicles transporting hazardous materials by primary state of registration. Paragraph (b) would prescribe certain identification requirements for such vehicles which are substantially the same as those requirements of the presently effective § 177.876 of the Hazardous Materials Regulations of the Department of Transportation (49 CFR 177.877).

This proceeding is proposed under the authority of sections 204, 220 and 224 of the Interstate Commerce Act, as amended (49 U.S.C. 304, 320, 324); section 6 of the Department of Transportation Act (49 U.S.C. 1955), and delegation of authority dated April 5, 1967 (32 F.R. 5606).

In consideration of the foregoing, it is proposed to amend Part 294 of the Motor Carrier Safety Regulations by adding a new § 294.6 as follows:

§ 294.6 Annual safety report required; private carriers.

(a) Every private carrier engaged in transporting hazardous materials of such kind and in such quantities as to require that a vehicle be marked or placarded under the provisions of § 177.823 of this chapter must prepare and file, on or before April 1 of each year, Form MCS-51,[1] entitled Private Carrier Annual Safety Report, with the Director, Bureau of Motor Carrier Safety, Federal Highway Administration, Washington, D.C. 20591. This report must include, in addition to the carrier's name and principal address, the following information concerning the operations of the private carrier during the preceding calendar year:

(1) Maximum number of vehicles operated at any time during the calendar year;

(2) Actual number of vehicle miles operated both in intrastate and interstate, except that estimated mileage is acceptable, where accurate mileage figures are not maintained;

(3) Total number of recordable accidents, as defined in § 294.2(a) including:

(i) Total number of fatalities and injuries, and

(ii) Total amount of property damage in dollars;

(4) Total number of vehicles transporting hazardous materials by primary state of registration only; and

(5) Total number of recordable accidents, as defined in § 294.2(a), involving the transportation of hazardous materials.

(b) Identification of vehicles of certain private carriers:

(1) *General requirements.* There shall be displayed on both sides of each vehicle operated under its own power, either alone or in combination, and engaged in the transportation of the articles embraced in paragraph (a) of this section, the name or trade name of any private carrier operating such vehicle, and the city or community in which such carrier maintains its principal office or in which the vehicle is customarily based. If the name of any person other than the operating carrier appears on a vehicle operated under its own power, either alone or in combination, the name of the operating carrier shall be followed by the information required by this paragraph, and be preceded by words "operated by." Nothing in the regulations in this part shall prohibit display of such additional identification as is not inconsistent herewith.

(2) *Size, shape, and color.* The display of name and address prescribed in subparagraph (1) of this paragraph, shall be in letters in sharp color contrast to the background, and be of such size, shape, and color as to be readily legible, during daylight hours, from a distance of 50 feet while the vehicle is not in motion, and such display shall be kept and maintained in such manner as to remain so legible. The display may be accomplished through use of a removable device so prepared as to meet the identification and legibility requirements of this section.

Issued in Washington, D.C., on December 13, 1967.

LOWELL K. BRIDWELL,
Federal Highway Administrator.

[F.R. Doc. 67-14703; Filed, Dec. 18, 1967; 8:49 a.m.]

[1] Form MCS-51 filed as part of the original document. Copies may be obtained from the Bureau of Motor Carrier Safety, Washington, D.C. 20591.

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2, 87]

[Docket No. 17925; FCC 67-1346]

AIRCRAFT RADIO ALTIMETERS

Frequency Allocations

In the matter of amendment of Parts 2 and 87 of the Commission's rules to extend the termination date for the use of the band 420-460 Mc/s by aircraft radio altimeters and to place these altimeters on a secondary basis, Docket No. 17925; RM-1166.

1. Notice of proposed rule making is hereby given in the above-entitled matter.

2. The Commission has under consideration a petition by Aeronautical Radio, Inc. (ARINC) requesting extension to February 15, 1970, of the termination date for use of the band 420-460 Mc/s by radio altimeters. The termination date of February 15, 1968, appears in § 87.183(m) and footnote US6 to the Table of Frequency Allocations, § 2.106. The petitioner also proposes that altimeter use of the band be confined to over-water areas 75 or more nautical miles beyond the land mass of the United States, its territories, possessions, and/or trust territories.

3. In accordance with ITU Radio Regulations, altimeters may be used in the band 420-460 Mc/s "* * * until they are able to operate in a band allocated to the aeronautical radionavigation service or until they are no longer required". Although the altimeters have caused interference to other services operating in accordance with the Table of Frequency Allocations, altimetry is not a secondary use of the band. It is now proposed to place these altimeters on a secondary basis.

4. A survey by ARINC of U.S. operators shows that all domestic aircraft represented in the survey are scheduled to discontinue use of the subject altimeters by 1970. Government users, however, continue to need to use the band for altimeters over land as well as water areas and have requested that the termination date be extended to 1973.

5. The Commission feels that provisions for use of the band by Government and non-Government altimeters should be the same. In view of the position of the Governments users, therefore, it is proposed to amend footnote US6 and § 87.183(m) as set forth below.

6. Authority for the proposed amendment is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.

7. Any interested party who is of the opinion that the proposed amendments should not be adopted or should not be adopted in the form set forth herein, and any party desiring to support this proposal may file with the Commission on or before January 3, 1968, a written statement or brief setting forth their comments. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for the filing of such additional comments is established. All relevant and timely comments will be considered before final action is taken in this matter. In reaching its decision, the Commission also may take into account any other relevant information before it, in addition to the specific comments invited by this notice.

8. In accordance with the provisions set forth in § 1.419 of the Commission's rules, an original and 14 copies of all statements, briefs, or comments, shall be furnished the Commission.

Adopted: December 13, 1967.

Released: December 14, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

§ 2.106 [Amended]

1. In § 2.106, footnote US6 is amended to read as follows:

US6 Radio altimeters operating in the band 420-460 Mc/s under a valid authorization on February 15, 1968, may continue to operate after that date, on the condition that harmful interference is not caused to stations of services operating in accordance with the U.S. Table of Frequency Allocations. Such authorizations may be renewed, but no new authorizations will be granted after February 15, 1968, and all radio altimeter operations in this band shall be discontinued prior to January 1, 1973.

2. In § 87.183, paragraph (m) is amended to read as follows:

§ 87.183 Frequencies available.

* * * * *

(m) 420-460 Mc/s: Frequency band available for aircraft radio altimeter functions. Radio altimeters operating in this band under a valid authorization on February 15, 1968, may continue to operate after that date, on the condition that harmful interference is not caused to stations of services operating in accordance with the U.S. Table of Frequency Allocations. Such authorizations may be renewed, but no new authorizations will be granted after February 15, 1968, and all radio altimeter operations in this band shall be discontinued prior to January 1, 1973.

NOTE: Altimeters are not entitled to protection from harmful interference.

* * * * *

[F.R. Doc. 67-14688; Filed, Dec. 18, 1967; 8:48 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A 58]

ARIZONA

Notice of Termination of Proposed Classifications

Pursuant to section 2 of the Act of September 19, 1964 (43 U.S.C. 1412), the lands described below were proposed for classification in satisfaction of valid scrip rights pursuant to section 3 of the Act of August 31, 1964 (78 Stat. 751), and the regulations under 43 CFR 2221.2–2.

1. The lands were embraced in the notices of proposed classifications of July 15, 1966, and appeared in F.R. Doc. 66–7973, pages 10001 and 10002 of the issue of July 22, 1966, and October 18, 1966, and appeared in F.R. Doc. 66–11534, page 13671 of the issue of October 22, 1966, and are as follows:

GILA AND SALT RIVER MERIDIAN

T. 16 S., R. 10 E.,
Sec. 12, NW¼.
T. 4 N., R. 3 E.,
Sec. 3, lots 3 and 4, SW¼NW¼, N½SW¼ and SE¼SW¼;
Sec. 4, lots 1 to 10 inclusive, S½SE¼, SW¼ and S½NW¼.
T. 5 N., R. 4 E.,
Sec. 6, lots 6 and 7 and E½SW¼;
Sec. 7, lot 1;
Sec. 9, SW¼.
T. 1 N., R. 9 E.,
Sec. 2, lots 3 and 9, SW¼NE¼, SE¼NW¼ and NE¼SW¼;
Sec. 3, lots 29 to 32 inclusive, 35 to 38 inclusive, 42 to 54 inclusive, 56, 57, 59 to 65 inclusive, 67 to 77 inclusive, 80 to 86 inclusive, 95 to 140 inclusive, 144 to 149 inclusive, 152 to 158 inclusive, 160 to 168 inclusive, 171 to 177 inclusive, 179 to 183 inclusive, 185 to 187 inclusive, 189 to 194 inclusive, 199 to 200 inclusive, 203 to 212 inclusive and NW¼NE¼;
Sec. 8, SE¼ and S½SW¼;
Sec. 9, S½ and S½SE¼NE¼;
Sec. 11, E½E½SW¼;
Sec. 14, NE¼;
Sec. 27, NE¼NW¼SE¼ and S½NE¼SW¼SE¼;
Sec. 36, S½SE¼, NE¼NW¼SE¼, NE¼NE¼SW¼NW¼, NW¼NW¼SE¼NW¼, S½N½SW¼NW¼, N½SE¼SW¼NW¼, N½S½SE¼NW¼, S½NW¼SE¼NW¼ and N½NE¼SE¼NW¼.
T. 12 S., R. 13 E.,
Sec. 19, lots 3 and 4, E½SW¼ and SE¼.
T. 14 S., R. 13 E.,
Sec. 33, SW¼NW¼.
T. 15 S., R. 15 E.,
Sec. 15, S½SW¼ and NW¼SW¼.
T. 7 S., R. 11 W.,
Sec. 17, N½N½ and S½;
Sec. 18, SE¼;
Sec. 20, E½ and SW¼;
Sec. 29.
T. 4 N., R. 19 W.,
Sec. 20, SW¼NW¼ and SW¼SE¼NW¼;
Sec. 27, SW¼SW¼;
Sec. 28, SE¼SE¼.
T. 9 S., R. 23 W.,
Sec. 12, SE¼SW¼;
Sec. 13;
Sec. 14, NE¼NE¼, S½NE¼, NW¼NW¼ and S½.
T. 14 N., R. 3 W.,
Sec. 3, W½SW¼;
Sec. 4, S½;
Sec. 9, N½, SW¼SW¼ and N½S½;
Sec. 10, W½NW¼.

The area described aggregates approximately 7,479.75 acres.

The proposed classifications are canceled as to the above lands. In accordance with the regulations contained in 43 CFR 2411.1–2(c) (ii), these lands will be at 10 a.m., on January 16, 1968, relieved of any segregative effect the above-mentioned proposed classifications may have placed upon them.

KENNETH F. HANSEN,
Acting State Director.

DECEMBER 11, 1967.

[F.R. Doc. 67–14664; Filed, Dec. 18, 1967; 8:46 a.m.]

[C–2495]

COLORADO

Notice of Proposed Withdrawal and Reservation of Lands

DECEMBER 8, 1967.

The Forest Service, U.S. Department of Agriculture, has filed an application, Serial Number C–2495, for the withdrawal of the lands described below from appropriation under the public land laws, but not the general mining or mineral leasing laws.

The application was made in aid of future legislation to add the lands to the Arapaho National Forest.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Colorado Land Office, Room 15019 Federal Building, 1961 Stout Street, Denver, Colo. 80202.

The Department's regulations (43 CFR 2311.1–3(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

SIXTH PRINCIPAL MERIDIAN, COLORADO

GRAND COUNTY

T. 1 S., R. 76 W.,
Sec. 31, Lot 4, E½SW¼, W½SE¼.
T. 1 S., R. 77 W.,
Sec. 24, SE¼SE¼;
Sec. 35, E½SE¼.

The areas described aggregate approximately 320 acres.

JOHN S. BAILIUS,
Acting Land Office Manager.

[F.R. Doc. 67–14665; Filed, Dec. 18, 1967; 8:46 a.m.]

[N–598]

NEVADA

Notice to Scrip Claimants

DECEMBER 12, 1967.

An authorized officer of the Bureau of Land Management will make offers of land pursuant to section 4 of the Act of August 31, 1964 (78 Stat. 751), and 43 CFR 2221.2–2. The offers will be made after the tract books have been noted that the offered lands as described hereinafter will not be available for selection, except by the offeree, for a period ending 65 days after the date on which the offer has been mailed to the offeree.

The following lands classified for satisfaction of valid Sioux Halfbreed claims are temporarily made nonavailable for selection for a period of 65 days after the date that an offer pursuant to section 4 of the Act has been mailed:

MOUNT DIABLO MERIDIAN

T. 22 S., R. 61 E.,
Sec. 18, SE¼NE¼NW¼SE¼, E½E½SE¼NW¼SE¼, E½NW¼SE¼NW¼SE¼, SW¼SE¼NW¼SE¼, E½E½NW¼SW¼SE¼, W½NE¼NE¼SW¼SE¼, S½NE¼SW¼SE¼, W½NW¼SE¼SW¼SE¼, SW¼SE¼SW¼SE¼, E½NE¼NW¼SE¼SE¼, W½NW¼NW¼SE¼SE¼, S½NW¼SE¼SE¼ E½SW¼SE¼SE¼, E½SW¼SW¼SE¼SE¼, E½E½NE¼NE¼SW¼, NE¼SE¼NE¼SW¼, E½W½NE¼SW¼SW¼, W½SE¼NE¼SW¼SW¼, W½E½NE¼SE¼SW¼, W½NW¼NE¼SE¼SW¼, SW¼NE¼SE¼SW¼, W½NW¼SE¼SE¼SW¼, SW¼SE¼SE¼SW¼, W½SW¼SE¼SE¼, NW¼SE¼NW¼SW¼, S½SE¼NW¼SW¼, NW¼SW¼SW¼, N½S½SW¼SW¼.

T. 36 N., R. 70 W.,
Sec. 1, S½N½ and S½;
Sec. 2, lot 1;
Sec. 3, lots 1, 2, and 3, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 8, E½ and E½W½;
Sec. 9, NW¼NE¼ and W½;
Sec. 11, SE¼NE¼;
Sec. 12, W½;
Sec. 13, S½NE¼, NW¼, and S½;
Sec. 17, NW¼NW¼, S½NW¼, and S½;
Sec. 18, SE¼NE¼, SE¼, and SE¼SW¼;
Sec. 19, lots 1, 2, 3, and 4, E½W½, and E½;
Sec. 20;
Sec. 24, N½, SE¼, N½SW¼, and SE¼SW¼;
Sec. 26, SW¼NE¼ and SW¼SW¼;
Sec. 29;
Sec. 30, lots 1, 2, 3, and 4, E½W½ and E½;
Sec. 31, lot 1, NE¼, NE¼NW¼, and NE¼SE¼;
Sec. 32, N½.
T. 36 N., R. 70 W.,
Sec. 5, lot 2.
T. 38 N., R. 70 W.,
Sec. 34, E½E½.

Containing 9,650.26 acres.

This proposal has been discussed with local and State government officials and other agencies and interested parties. Information derived from field data, discussions, and other sources indicate that these lands meet the criterion of 43 CFR 2410.13(c)(4), which authorizes classification of lands for "exchange under appropriate authority where they are found to be chiefly valuable for public purposes because they have special values arising from the interest of exchange proponents, for exchange for other lands which are needed for support of a Federal program."

Classification of the above-described lands by a classification order will segregate them from all forms of disposal under the public land laws, including the mining laws, except as to disposal under section 8 of the Taylor Grazing Act (38 Stat. 1272) as amended.

For a period of 60 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the District Manager, Bureau of Land Management, Department of the Interior, 300 North Center, Casper, Wyo. 82601.

Information concerning the lands, including maps and the records of discussions held is available for study purposes at the above address.

ED PIERSON,
State Director.

[F.R. Doc. 67–14667; Filed, Dec. 18, 1967; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

GREAT PLAINS CONSERVATION PROGRAM

Applicability in Certain Kansas Counties

Designation of counties within the Great Plains Area of the 10 Great Plains States where the Great Plains Conservation Program is specifically applicable.

For the purpose of making contracts based upon an approved plan of farming operations pursuant to the Act of August 7, 1956 (70 Stat. 1115, 16 U.S.C. 590p(b)), as amended, the following counties in the following State are designated as susceptible to serious wind erosion by reason of their soil types, terrain, and climatic, and other factors.

KANSAS

Saline. Russell.

Done at Washington, D.C., this 14th day of December 1967.

JOHN A. BAKER,
Assistant Secretary.

[F.R. Doc. 67–14681; Filed, Dec. 18, 1967; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[Case No. 378]

LIONEL AMOS AND AMOS (MACHINERY), LTD.

Consent Probation Order and Termination of Indefinite Denial Order

In the matter of Lionel Amos and Amos (Machinery) Ltd., Ludlow, Shropshire, England, respondents.

By charging letter dated October 31, 1967, the above named respondents were charged by the Director, Investigations Division, Office of Export Control, Bureau of International Commerce, with having violated the U.S. Export Regulations. The respondents were served with the charging letter. Pursuant to the provisions of § 382.10 of the Export Regulations, with agreement of the Director of the Investigations Division, the respondents submitted to the Compliance Commissioner a proposal for the issuance of a consent order substantially in the form hereinafter set forth. In said consent proposal the respondents admitted, for the purpose of this compliance proceeding only, the charges set forth in the charging letter. They waived all right to an oral hearing before the Compliance Commissioner and consented to the issuance of an order. They also waived all right of administrative appeal from, and judicial review of, such order.

On September 20, 1965, effective as of October 19, 1965 (30 F.R. 13272), an order denying export privileges for an indefinite period was entered against Amos (Machinery), Ltd., and was made applicable to Lionel Amos who was named as its agent. Said order was entered because said Amos (Machinery), Ltd., had failed to respond to interrogatories which had been served on it pursuant to § 382.12 of the Export Regulations. In view of the admitted violations by respondents in reexporting certain commodities concerning which inquiries were made in the interrogatories (on the basis of which admission this order is

being entered) the indefinite denial order dated September 20, 1965, is hereby terminated.

The Compliance Commissioner has reviewed the facts in the case and the respondent's proposal. He has approved the proposal and recommended that it be accepted.

After considering the Compliance Commissioner's recommendation and the consent proposal, I hereby make the following findings of fact:

1. At all times here material the respondent Amos (Machinery), Ltd., was a private limited liability company with a place of business in Ludlow, Shropshire, England. The firm was engaged in importing and exporting automotive machinery and parts, diesel engines and parts, trucks, marine supplies, and earthmoving equipment and parts. The respondent Lionel Amos had a responsible role in the operations and management of said firm. In the transactions hereinafter set forth said Lionel Amos acted for and on behalf of Amos (Machinery), Ltd.

2. During the period from February 1964 through April 1965 the respondents ordered and received from a supplier in the United States 21 shipments of U.S.-origin spare parts, of the type described in Finding 1, having a total value of approximately $89,389.

3. The commercial invoices and shipping documents which were received by respondents, covering the aforesaid 21 shipments, contained destination control statements, pursuant to the Export Regulations, prohibiting disposition of the commodities to certain countries, including Cuba, unless otherwise authorized by the United States. Such authorization would have to be obtained from the Office of Export Control, U.S. Department of Commerce.

4. Notwithstanding the prohibition set forth in Finding 3, the respondents reexported or caused the reexportation of the aforementioned 21 shipments from the United Kingdom to Cuba without first obtaining authorization from the Office of Export Control and with knowledge that such reexportations to Cuba were in violation of the U.S. Export Regulations.

From the foregoing I have concluded that the respondents, without specific authorization from the Office of Export Control, knowingly reexported, transshipped and diverted U.S.-origin commodities from the United Kingdom to Cuba contrary to the provisions of § 381.6 of the U.S. Export Regulations.

I have considered the record in the case and also the fact that the respondents have been under denial of U.S. export privileges since October 19, 1965. The consent proposal is hereby accepted and I am of the view that the following order is calculated to achieve effective enforcement of the law and the purposes thereof.

Accordingly, it is hereby ordered:

I. The order denying export privileges for an indefinite period entered on September 20, 1965 (30 F.R. 13272) against Amos (Machinery), Ltd., and also specifically applicable to Lionel Amos, is hereby terminated.

II. For the duration of export controls the respondents Amos (Machinery), Ltd., and Lionel Amos are placed on probation on condition that they do not knowingly violate the Export Control Act of 1949, as amended, or any regulation or order issued thereunder. While the respondents are on probation they shall be permitted all export privileges as though this order had not been entered.

III. In the event that, after full investigation, it is found by the Director, Office of Export Control, or such other official as may at that time be exercising his duties, that either of the respondents has failed during said period of probation, to comply in any respect with the conditions set forth in Part II hereof, such official may summarily and without prior notice to the respondents enter and publish an order against them which in substance shall provide as follows:

(a) Revoke all outstanding validated export licenses to which respondents or either of them is a party.

(b) For the duration of export controls deny to the respondents all privileges of participating directly or indirectly in any manner or capacity in any exportation of any commodity or technical data from the United States to any foreign destination including Canada. Without limitation of the generality of this provision, participation in an exportation is deemed to include and prohibit participation by the respondents, directly or indirectly, in any manner or capacity, (1) as parties or as a representative of a party to any export license application, (2) in the preparation or filing of any export license application or document to be submitted therewith, (3) in the obtaining or using any validated or general export license or other export control document, (4) in the receiving, ordering, buying, selling, using, or disposing in any foreign country of any commodities or technical data, in whole or in part, exported or to be exported, from the United States, and (5) in the financing, forwarding, transporting, or other servicing of exports from the United States.

(c) No person, firm, corporation, or other business organization, shall, without prior disclosure to, and specific authorization from the Bureau of International Commerce, directly or indirectly in any manner or capacity, (1) apply for, obtain, or use any license, shipper's export declaration, bill of lading, or other export control document relating to any such prohibited exportation of commodities or technical data from the United States, or (2) order, receive, buy, use, dispose of, finance, transport, forward or otherwise service or participate in any such prohibited exportation from the United States, or in the reexportation of any commodity or technical data within the scope of this order exported from the United States, with respect to which said company shall have any interest of any kind or nature, direct or indirect.

IV. The entry of an order under Part III herein shall not limit the Bureau of International Commerce from taking other action based on the conduct for which probation was revoked as said Bureau shall deem warranted.

V. A determination was made on September 26, 1966 that South Shropshire Haulage Co., Ltd., Ludlow, Shropshire, England was a related party to Amos (Machinery), Ltd. Said determination is confirmed. All of the terms and conditions of this order are effective against said South Shropshire Haulage Co., Ltd.

This order shall become effective forthwith.

Dated: December 11, 1967.

RAUER H. MEYER,
Director,
Office of Export Control.

[F.R. Doc. 67-14656; Filed, Dec. 18, 1967; 8:45 a.m.]

[File No. 23(66)-38]

SAVOY INTERNATIONAL, LTD.

Notice of Related Party Determination

In the matter of Savoy International, Ltd., 1302 Central Building, Pedder Street, Hong Kong.

By order dated August 18, 1967, the Bureau of International Commerce, U.S. Department of Commerce entered an order against Chris F. Ring, also known as Chris Ring, Christopher Ring, and Christian Ring, of Rome, Italy, denying him all privileges of participating in any manner or capacity in exportations from the United States of commodities or technical data until further notice. This order was published in the FEDERAL REGISTER on August 25, 1967 (32 F.R. 12403).

Section 382.1(b) of the Export Regulations provides in part that, to the extent necessary to prevent evasion of any order denying export privileges, said order may be made applicable to parties other than those named in the order with whom said named parties may then or thereafter be related by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or related services. It has been determined by the Office of Export Control that within the purview of said section the firm Savoy International, Ltd., located at the above address is a related party to said Chris F. Ring. Under this determination the terms and restrictions of the order of August 18, 1967, are effective against said related party.

The said related party has been notified of this determination and has been advised that if it contends that the ruling is not justified, it may make application to have the ruling reconsidered or terminated. Due notice will be given of any termination or change in this related party determination.

Dated: December 11, 1967.

RAUER H. MEYER,
Director,
Office of Export Control.

[F.R. Doc. 67-14657; Filed, Dec. 18, 1967; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

SOCIAL AND REHABILITATION SERVICE

Statement of Organization and Delegations of Authority; Correction

The Statement of Organization and Delegations of Authority of the Social and Rehabilitation Service as it appeared in the FEDERAL REGISTER of August 22, 1967, 32 F.R. 12066, is hereby amended to correct errors therein, as follows:

1. Paragraph (16) under section 7.20 (a) is amended so that the phrase "sections 637 and 654(a)" reads "sections 602(f) and 605(b)."

2. Paragraph (20)(a) under section 7.20(a) is amended to read as follows: "Section 301, 42 U.S.C. 241, to make grants and contracts for research or research training projects in the field of mental retardation recommended by the National Advisory Health Council; and".

3. Section 7.50 is amended to delete the word "and" before "the Administration on Aging," and to add "and the Division of Mental Retardation," after "the Administration on Aging,".

Approved: December 13, 1967.

DONALD F. SIMPSON,
Assistant Secretary for Administration.

[F.R. Doc. 67-14687; Filed, Dec. 18, 1967; 8:48 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-313]

ARKANSAS POWER & LIGHT CO.

Notice of Receipt of Application for Construction Permit and Facility License

Arkansas Power & Light Co., Ninth and Louisiana Streets, Post Office Box 551, Little Rock, Ark. 72203, pursuant to section 104(b) of the Atomic Energy Act of 1954, as amended, has filed an application, dated November 24, 1967, for authorization to construct and operate a pressurized water nuclear reactor on the applicant's site located in the southwestern part of Pope County, about 2 miles southeast of the village of London, Ark.

The proposed reactor, designated by the applicant as the Russellville Nuclear Unit, is designed for initial operation at approximately 2,452 megawatts (thermal), with a net electrical output of approximately 850 megawatts.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 12th day of December 1967.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[F.R. Doc. 67-14653; Filed, Dec. 18, 1967; 8:46 a.m.]

[Docket No. 50-231]

GENERAL ELECTRIC CO. AND SOUTHWEST ATOMIC ENERGY ASSOCIATES

Notice of Issuance of Order Extending Latest Completion Date of Provisional Construction Permit

Please take notice that the Atomic Energy Commission has issued an order extending to December 1, 1968, the latest completion date specified in Provisional Construction Permit No. CPPR-17. The permit authorizes the General Electric Company and Southwest Atomic Energy Associates to construct a 20-megawatt thermal plutonia-urania fueled, fast-spectrum, sodium-cooled, experimental reactor which is to be located in Cove Creek Township, Washington County, Arkansas.

Copies of the Commission's order and the application filed by the General Electric Company are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 12th day of December 1967.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[F.R. Doc. 67-14654; Filed, Dec. 18, 1967; 8:45 a.m.]

PLUTONIUM AND URANIUM ENRICHED IN U^{235}

Guaranteed Purchase Prices

1. *General.* The U.S. Atomic Energy Commission (AEC) hereby gives notice of revisions to the notice entitled "Plutonium and Uranium Enriched in U^{235}; Guaranteed Purchase Prices" as published in the FEDERAL REGISTER on March 25, 1965 (30 F.R. 3886), to reflect the effect of the revisions of AEC's schedule of charges for uranium enriched in the isotope 235 upon the guaranteed purchase prices for privately owned plutonium and uranium enriched in the isotope U^{235}.

2. *Effective date.* This notice shall become effective as of January 1, 1968.

3. Paragraph 2 of the notice is revised to read as follows: "The guaranteed purchase price for plutonium shall be $9.28 per gram of the contained plutonium isotopes Pu^{239} and Pu^{241} in material meeting AEC chemical and physical specifications given in paragraph 7 below."

4. The first two sentences of paragraph 3 of the notice are revised to read as follows: "The guaranteed purchase price for uranium enriched in U^{235} in material meeting AEC chemical and physical specifications given in paragraph 7 below shall be determined by the following procedure. (This price is based on an in-reactor value for uranium highly enriched in U^{235} of $13 per gram of contained U^{235}, exclusive of deductions for handling costs.)"

5. Paragraph 4 of the notice is revised to read as follows: "The AEC has determined that the above guaranteed purchase prices are on a nondiscriminatory basis and do not exceed the estimated value of these materials as fuel in nuclear reactors. The AEC has made this determination with relation to the present schedule of charges for uranium enriched in the isotope 235. If that schedule is revised by the AEC within the term of applicability of the above guaranteed purchase prices, the price of $9.28 per gram of Pu^{239} plus Pu^{241} and the in-reactor value of $13 per gram of uranium highly enriched in U^{235} given above shall be multiplied by the ratio of the base charge in such revised schedule in dollars per kilogram of uranium containing a weight fraction of U^{235} of 0.90 to $10,032.50 (the base charge per kilogram of uranium containing a weight fraction of U^{235} of 0.90 in the schedule of charges published in 32 F.R. 16289, Nov. 29, 1967). The results derived thereby shall be rounded to the nearest cent using uniform rounding practice. The ratio of 14/12 for the in-reactor values of highly enriched U^{235} and U^{235} given above will not change, during the guaranteed purchase price period prior to January 1, 1971, as a result of any change in the AEC schedule of charges for uranium enriched in U^{235}."

Dated at Germantown, Md., this 13th day of December 1967.

For the Atomic Energy Commission.

W. B. McCOOL,
Secretary.

[F.R. Doc. 67-14655; Filed, Dec. 18, 1967; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 18650; Order E-26115]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

DECEMBER 13, 1967.

Issued under delegated authority.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 1 of the International Air Transport Association (IATA), and

adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement, adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated November 27, 1967,[1] as set forth in the attachment hereto, names additional rates under existing commodity descriptions. These rates reflect reductions ranging from 20 to 76.1 percent from the general cargo rates.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act: *Provided*, That approval thereof is conditioned as hereinafter ordered.

Accordingly, it is ordered, That:

Agreement CAB 19654, R–46 through R–48, be and hereby is approved; however, this approval shall not constitute acceptance of the specific commodity descriptions contained therein for purposes of tariff publication.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 67–14695; Filed, Dec. 18, 1967; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 16258, 15011; FCC 67M–1970]

AMERICAN TELEPHONE AND TELEGRAPH CO.

Order Regarding Procedural Dates

In the matter of American Telephone and Telegraph Co. and the Associated Bell System Companies, Docket No. 16258; charges for interstate and foreign communication service; in the matter of American Telephone and Telegraph Co., Docket No. 15011; charges, practices, classifications, and regulations for and in connection with teletypewriter exchange service.

The Telephone Committee having under consideration the necessity for effecting a further change in the procedural dates heretofore established by the Committee's orders of May 11, 1967, and October 23, 1967, respectively; and

It appearing necessary and appropriate on our own motion further to modify such procedural dates:

It is ordered, That the following modifications are hereby effected:

(1) All other parties, including the FCC staff, shall distribute testimony on rate-making principles and factors 14 days after the completion of cross-examination of Respondents' witnesses Frogatt, Ellinghaus, Bonbright, Baumol, Frazier, and Roberts with respect to rate-making principles and factors.[1]

(2) Hearing sessions for cross-examination on the evidence submitted by parties other than Respondents shall begin 30 days after the filing thereof.

(3) If Respondents wish to offer rebuttal to the testimony submitted by other parties, such rebuttal shall be distributed 21 days after the completion of the cross-examination of the testimony referred to in paragraph (2) above.

(4) Hearing sessions for cross-examination on such rebuttal testimony will begin 30 days after the filing thereof.

Adopted: November 22, 1967.

Released: November 22, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67–14689; Filed, Dec. 18, 1967; 8:48 a.m.]

[Docket No. 17444; FCC 67M–2067]

J. W. FURR (WMBC)

Order Regarding Procedural Dates

In re application of J. W. Furr (WMBC), Macon, Miss.; Docket No. 17444, File No. BP–16794; for construction permit.

On the informal request of J. W. Furr, the Broadcast Bureau having consented:

It is ordered, That the procedural dates herein are continued as follows:

Exchange of exhibits and identification of witness: From December 27, 1967, to January 29, 1968;
Notification of witnesses: From January 8, 1968, to February 8, 1968;
Hearing: From January 11, 1968, to February 12, 1968.

Issued: December 11, 1967.

Released: December 14, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67–14690; Filed, Dec. 18, 1967; 8:48 a.m.]

[Docket Nos. 17778, 17779; FCC 67M–2033]

GRAYSON TELEVISION CO., INC., AND HERCULES BROADCASTING CO.

Order Regarding Procedural Dates

In re applications of Grayson Television Co., Inc., Sacramento, Calif., Docket No. 17778, File No. BPCT–3698; Hercules Broadcasting Co., Sacramento, Calif., Docket No. 17779, File No. BPCT–3812; for construction permit for new television broadcast station (Channel 15).

The Examiner having for consideration a request for extension of procedural dates, filed by Grayson Television Co., Inc., on December 5, 1967, all parties having consented:[1]

It is ordered, That the subject request is granted, and the procedural dates herein are extended as follows:

Exhibit exchange: December 18, 1967, to January 19, 1968.
Notification of witnesses: January 5, 1968, to February 5, 1968.
Hearing: January 15, 1968, to February 19, 1968.

Issued: December 7, 1967.

Released: December 14, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67–14691; Filed, Dec. 18, 1967; 8:48 a.m.]

[Docket Nos. 17904, 17905]

JOE MANOR AND MOBILFONE COMMUNICATIONS, INC.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Joe Manor, Docket No. 17904, File No. 205–C2–R–66; for renewal of license of station KKM583 in the Domestic Public Land Mobile Radio Service at Austin, Tex.; Mobilfone Communications, Inc., Docket No. 17905, File No. 5335–C2–ML–66; for a modification of license to modify the facilities of Station KKX714 in the Domestic Public Land Mobile Radio Service at Austin, Tex.

1. The Commission, by its Chief of the Common Carrier Bureau, acting under delegation of authority, pursuant to § 0.292(a) of the Commission's rules, has before it for consideration: (a) An application filed April 11, 1966, by Joe Manor (hereinafter Manor) for a renewal of license for Station KKM583, presently providing two-way communications service in the Domestic Public Land Mobile Radio Service at Austin, Tex., on frequencies 152.03 Mc/s (base) and 158.49 Mc/s (mobile); (b) an application filed March 28, 1966 by Mobilfone Communications, Inc. (hereinafter Mobilfone), for a modification of license to change its present authorization of Station KKX714 in the Domestic Public Land Mobile Radio Service at Austin, Tex., from base frequency 152.15 Mc/s to base frequency 152.03 Mc/s.

2. On March 23, 1966, Manor filed FCC Form 405A for renewal of license of Station KKM583 which was returned as defective. (§ 21.29(f) of the Commission's rules requires that applications for renewal of license in the Domestic Public Land Mobile Radio Service be filed on FCC Form 405.) Since no application for renewal of license was on file with the Commission on April 1, 1966, Special Temporary Authority to operate Station KKM583 pursuant to § 21.27(b) of the Commission's rules was granted based upon a showing by the licensee of emergency need, pending receipt of FCC Form 405, Section 21.28 of the Commission's rules as to timely filing of renewal applications was waived and the filing of the renewal application (File No. 205–C2–R–66) was accepted as timely. Pursuant to § 1.62 of the Commission's rules and section 9(b) of the Administrative Procedure Act, since a timely filed renewal application is on file with the Commission, the licensee may continue to operate under its previous authorization without further operating authority, until the Commission acts on the pending application.

3. Since 1960, Manor utilizing the facilities of Station KKM583 has added no additional nonaffiliated subscribers and only one additional nonaffiliated mobile unit. In this period Manor has increased the number of affiliated mobile units receiving service from Station KKM583 from five to six units. In 1963 Manor was serving one nonaffiliated subscriber (Atkison Electric Co.) using seven mobile units and Hyltin-Manor Funeral Home of which Manor is president and a shareholder using five mobile units. At the present time Atkison Electric Co. is still using seven mobile units while Hyltin-Manor Funeral Home has increased its number of mobile units from five to six.

4. It appears that since Manor is presently providing two-way communication service on frequencies 152.03 Mc/s (base) and 158.49 Mc/s (mobile) and Mobilfone proposes to modify its license and to change frequencies to provide two-way communications service on the same base and mobile frequencies[1] that these applications are mutually exclusive by reason of potential harmful electrical interference (the base stations would be approximately 6.5 miles apart). Therefore, a comparative hearing is required to determine which of the two proposals would better serve the public interest, convenience, and necessity.

5. Section 21.504(a) of the rules and regulations of this Commission describes a field strength contour of 37 decibels above 1 microvolt per meter as the limit of reliable service area for base stations engaged in two-way communications service in the 150–162 Mc/s band; and propagation data set forth in § 21.504(b) are a proper basis for establishing the location of the service contours (F50, 50) and the location of the areas of electrical interference (F50, 10) for the facilities involved in this proceeding. The procedures for determining the latter are set forth in the Commission's Report No. R–6406 entitled "Technical Factors Affecting the Assignment of Facilities in the Domestic Public Land Mobile Radio Service".

6. Accordingly, in view of our conclusions above: *It is ordered*, That pursuant to the provisions of section 309(e) of the Communications Act of 1934, as amended, that the applications are designated for hearing, in a consolidated proceeding, at the Commission's offices in Washington, D.C., on a date to be hereafter specified, upon the following issues:

a. To determine whether any harmful interference within the 37 dbu contours of the proposed base stations, based upon the standards set forth in paragraph 5 above, would result from simultaneous operation on the frequencies 152.03 Mc/s (base) and 158.49 Mc/s (mobile) by Manor and Mobilfone, including the geographic areas of such interference, and if so, whether such interference would be intolerable or undesirable.

b. To determine, on a comparative basis the nature and extent of services now being rendered and proposed to be rendered by Mobilfone utilizing the facilities of Station KKX714 and by Manor utilizing the facilities of KKM583, including the rates, charges, personnel, practices, classifications, regulations, and facilities pertaining thereto.

c. To determine the capacity of each station and the normal message traffic load on each station.

d. To determine the population and area presently served by both applicants based upon the standards set forth in paragraph 5 above; and to determine the need for the proposed services in said areas.

e. To determine the number of nonaffiliated and affiliated subscribers now being served by Manor and also served by Manor during the last renewal period.

f. To determine in the light of the evidence adduced on issue (e) whether Manor has promoted and utilized the facilities of Station KKM583 to serve the public interest, convenience, and necessity.

g. To determine, in light of the evidence adduced on all the foregoing issues, whether or not the public interest, convenience, or necessity will be served by a grant of any or all of the captioned applications and the terms of conditions which should be attached thereto, if any.

7. *It is further ordered*, That the burden on issues (a), (b), (c), (d), and (g) is placed on the respective parties, herein, insofar as such issues relate to their respective facilities and the burden of proof on issues (e) and (f) is on Manor.

8. *It is further ordered*, That the parties desiring to participate herein shall file their notice of appearance in accordance with the provisions of § 1.221 of the Commission's rules.

Adopted: November 30, 1967.

Released: December 12, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67–14692; Filed, Dec. 18, 1967; 8:48 a.m.]

[Docket Nos. 17609, 17610; FCC 67M–2046]

MINSHALL BROADCASTING CO., INC., AND UNIVERSITY CITY TELEVISION CABLE CO., INC.

Order Rescheduling Prehearing Conference

In re applications of Minshall Broadcasting Co., Inc., Gainesville, Fla., Docket No. 17609, File No. BPCT–3879; University City Television Cable Co., Inc., Gainesville, Fla., Docket No. 17610, File No. BPCT–3939; for construction permit for new television broadcast station:

It is ordered, That the hearing conference now scheduled for January 5, 1968, be and the same is hereby rescheduled for January 4, 1968, 9 a.m., in the Commission's offices, Washington, D.C.

Issued: December 8, 1967.

Released: December 12, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67–14693; Filed, Dec. 18, 1967; 8:48 a.m.]

FEDERAL DEPOSIT INSURANCE CORPORATION

DEPOSIT ACCOUNTS IN BANKS INSURED BY FEDERAL DEPOSIT INSURANCE CORPORATION

Examples of Insurance Coverage

Effective September 1, 1967, the Board of Directors of the Federal Deposit Insurance Corporation adopted rules and regulations which define, clarify, and limit deposit insurance coverage in insured banks. These rules, Part 330 (12 CFR Part 330) were published in the FEDERAL REGISTER on July 14, 1967 (32 F.R. 10408), together with the Board's official interpretations thereof in the form of questions and answers.

The Board of Directors has further determined that it would be in the public interest to publish additional interpretations of the aforesaid regulations and has adopted the following supplemental examples illustrating insurance coverage on deposit accounts maintained in the same insured bank.

[1] Received in the Board Nov. 29, 1967.

[1] For the purpose of determining the date from which such 14-day period will run, and for the purpose of delineation of this date as a discrete calendar day, the Hearing Examiner will call a hearing conference and thereafter issue an appropriate formal notice.

It is understood that Respondents' witness Wolf will be cross-examined sometime during the period Jan. 16, to Feb. 8, 1968 (the specific date to be hereafter announced) but that the completion of the cross-examination of this witness is not material to a determination of the filing date set forth in paragraph (1) above.

Notice is hereby given that the proposed testimony of Respondents' witness Bergfeld, as set forth in Bell Exhibit 30 for identification, has been deleted and said exhibit has been withdrawn.

[1] Mr. Dale Flewelling, a principal of Grayson, is also a party respondent as an individual. However, no separate appearance has been filed with the Examiner on behalf of Mr. Flewelling, and it is assumed that he associates himself with the subject petition.

[1] Mobilfone, Station KKX714, as of December 1965, was serving 40 nonaffiliated subscribers and two affiliated subscribers.

TESTAMENTARY ACCOUNTS

Example 4.

Question: H and W, husband and wife, each deposit $90,000 in a revocable trust account with their son, S, and their daughter, D, named as equal beneficiaries. Under the terms of the trust, the interest of either grantor passes, on his death, to the surviving grantor; upon the death of both grantors, the account is to be divided between S and D. Each of the grantors has the right to revoke the trust at any time. What, assuming S and D do not predecease their parents, is the insurance coverage if insolvency of the bank occurs during the lifetime of both of the grantors? What is the insurance coverage if insolvency of the bank occurs after the death of one but before the death of the other grantor?

Answer: Since S and D are the children of H and W, each of whom is the owner of one-half of the funds in the account, and since the account evidences an intention that the funds shall pass on the death of the owners of the funds to named beneficiaries, the funds are insured for each owner up to $15,000 as to each beneficiary. Thus, during their lifetimes, H and W are each insured up to $15,000 as to S and up to $15,000 as to D, separately from any other individual accounts which they may own, making the account fully insured. If insolvency occurs after the death of one of the grantors, insurance coverage of the account would decrease from $60,000 to $30,000, since the surviving grantor would have power of revocation over the trust and, under section 330.3, a grantor is entitled to insurance coverage only up to $15,000 as to each named beneficiary.

Example 5.

Question: H establishes a revocable trust account with his son, S, named as beneficiary. Under the terms of the trust, S becomes the owner of the account upon the happening of a certain event (for instance, coming of age) or upon the death of H, whichever comes later. What is the insurance coverage?

Answer: During the lifetime of H the account would be insured up to $15,000 to H, the owner, as to S, the son, as a testamentary account, inasmuch as the account evidences an intention that, upon the death of the owner, ownership of the funds shall pass to the named beneficiary. If H dies prior to the happening of the event, the power of revocation dies with him, and the account would be insured up to $15,000 to S, as the beneficiary of an irrevocable trust account established by H.

FEDERAL DEPOSIT INSURANCE CORPORATION
[SEAL] E. F. DOWNEY,
Secretary.

[F.R. Doc. 67-14676; Filed, Dec. 18, 1967; 8:49 a.m.]

FEDERAL HOME LOAN BANK BOARD

[No. 21,002]

ACCOUNTS IN INSTITUTIONS INSURED BY FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Examples of Insurance Coverage

NOVEMBER 2, 1967.

Whereas, by Federal Home Loan Bank Board Resolutions Nos. 20,723 and 20,724, dated July 7, 1967, and duly published in the FEDERAL REGISTER on July 14, 1967 (32 F.R. 10415), this Board amended pertinent provisions of the rules and regulations for Insurance of Accounts (12 CFR, Chapter V, Subchapter D) to define, limit, and clarify the insurance coverage afforded investors in withdrawable accounts in institutions insured by the Federal Savings and Loan Insurance Corporation; and

Whereas, Federal Home Loan Bank Board Resolution No. 20,725, dated July 7, 1967, and duly published in the FEDERAL REGISTER on July 14, 1967 (32 F.R. 10417), sets forth official interpretations of these regulations adopted by the Board; and

Whereas, this Board has determined that it would be in the public interest to publish additional interpretations of the aforesaid regulations in the form of questions and answers setting forth insurance coverage afforded accounts in insured institutions and to advise the public of the fact that no insured institution or other person may affect the extent of the insurance coverage provided by the FSLIC:

Now, therefore, it is hereby resolved, that the examples of insurance coverage identified as Exhibit No. 21,002-A are hereby adopted by the Board as official interpretations of the aforesaid regulations;

Be it further resolved, that savers are advised that no insured institution or any other person may by any representations or interpretations affect the extent of insurance of accounts coverage provided by Title IV of the National Housing Act, the rules and regulations for Insurance of Accounts and the official interpretative and explanatory material adopted by the Board and published in the FEDERAL REGISTER;

Be it further resolved, that the Secretary to the Board is directed to submit copies of this resolution and these approved examples to the Office of the Federal Register for publication.

By the Federal Home Loan Bank Board.

[SEAL] HARRY W. CAULSEN,
Secretary.

The following examples illustrating insurance coverage on accounts maintained in the same insured institution are intended to supplement Federal Home Loan Bank Board Exhibit No. 20,726-A dated July 7, 1967, and published in the FEDERAL REGISTER on July 14, 1967, at 32 F.R. 10417.

B. TESTAMENTARY ACCOUNTS

* * * * * *

Example 4.

Question: H and W, husband and wife, each invest $90,000 in a revocable trust account with their son, S, and their daughter, D, named as equal beneficiaries. Under the terms of the trust, the interest of either grantor passes, on his death, to the surviving grantor; upon the death of both grantors, the account is to be divided between S and D. Each of the grantors has the right to revoke the trust at any time. What, assuming S and D do not predecease their parents, is the insurance coverage if default occurs during the lifetime of both of the grantors? What is the insurance coverage if default occurs after the death of one but before the death of the other grantor?

Answer: Since S and D are the children of H and W, each of whom is the owner of one-half of the funds in the account, and since the account evidences an intention that the funds shall pass on the death of the owners of the funds to named beneficiaries, the funds are insured for each owner up to $15,000 as to each beneficiary. Thus, during their lifetimes, H and W are each insured up to $15,000 as to S and as to D, separately from any other individual accounts which they may own, making the account fully insured. If default occurs after the death of one of the grantors, insurance coverage of the account would decrease from $60,000 to $30,000, since the surviving grantor would have power of revocation over the trust and, under § 564.4, a grantor is entitled to insurance coverage only up to $15,000 as to each named beneficiary.

Example 5.

Question: H establishes a revocable trust account with his son, S, named as beneficiary. Under the terms of the trust, S becomes the owner of the account upon the happening of a certain event (for instance, coming of age) or upon the death of H whichever comes later. What is the insurance coverage?

Answer: During the lifetime of H the account would be insured up to $15,000 to H, the owner, as to S, the son, as a testamentary account, inasmuch as the account evidences an intention that, upon the death of the owner, ownership of the funds shall pass to the named beneficiary. If H dies prior to the happening of the event, the power of revocation dies with him and the account would be insured up to $15,000 to S, as the beneficiary of an irrevocable trust account established by H.

* * * * * *

[F.R. Doc. 67-14715; Filed, Dec. 18, 1967; 8:49 a.m.]

FEDERAL MARITIME COMMISSION

BRAZIL-UNITED STATES-ATLANTIC COCOA BEANS AGREEMENT

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Frank J. McConnell, Esq., Purrington & McConnell, 52 Wall Street, New York, N.Y. 10005.

On behalf of the following lines:

Companhia De Navegacao Loide Brasileiro.
Companhia De Navegacao Maritima Netumar.
Moore-McCormack Lines, Inc.
Empresa Lineas Maritimas Argentinas.
Montemar Sociedad Anonima.
Brodin Line.
Columbus Line.
Ivaran Line.
Norton Line.
The Holland Pan-American Line A/S.

Agreement No. 9684 between the 10 lines named above establishes a pooling agreement for the carriage of cocoa beans in bags and/or bulk from ports in Brazil north of and incuding Vitoria, up to and including Salvador, to U.S. Atlantic Coast ports. Pool participants must be party to the Inter-American Freight Conference, pending Agreement No. 9648, and are divided into two main groups, i.e. National Flag lines (Brazil and United States) and Third Flag lines, which are further subdivided between Pan American lines and all other lines. The pool will be of 10 years duration from date of approval by the respective Government authorities and will maintain its headquarters at Rio de Janeiro.

Division of cocoa bean carryings as set out in a tabulation in the agreement allocates 65 percent to the National Flag lines (Brazil and United States) and 35 percent to the Non-National Flag lines in the first year of operation increasing gradually over a 10-year period to 80 percent for National Flag and 20 percent for Non-National Flag lines. Minimum sailing requirements are also established in the pooling agreement for each line.

Dated: December 14, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-14697; Filed, Dec. 18, 1967; 8:48 a.m.]

BRAZIL-UNITED STATES-ATLANTIC COFFEE AGREEMENT

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Frank J. McConnell, Esq., Purrington & McConnell, 52 Wall Street, New York, N.Y. 10005.

On behalf of the following lines:

Companhia De Navegacao Loide Brasileiro.
Companhia De Navegacao Maritima Netumar.
Moore-McCormack Lines, Inc.
Empresa Lineas Maritimas Argentinas.
Montemar Sociedad Anonima.
Brodin Line.
Columbus Line.
Ivaran Line.
Norton Line.
The Holland Pan-American Line A/S.

Agreement No. 9683 between the 10 lines named above establishes a pooling agreement for the carriage of green coffee in bags or bulk from all ports in Brazil south of and including Vitoria to all U.S. Atlantic Coast ports. Pool participants must be party to the Inter-American Freight Conference, pending Agreement No. 9648, and are divided into two main groups, i.e. National Flag lines (Brazil and United States) and Third Flag lines, which are further subdivided between Pan American lines and all other lines. The pool will be of 10 years duration from date of approval by the respective Government authorities and will maintain its headquarters at Rio de Janeiro.

Division of green coffee carryings as set out in a tabulation in the agreement allocates 65 percent to the National Flag lines (Brazil and United States) and 35 percent to the Non-National Flag lines in the first year of operation increasing gradually over a 10-year period to 80 percent for National Flag and 20 percent for Non-National Flag lines. Minimum sailing requirements are also established in the pooling agreement for each line.

Dated: December 14, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-14698; Filed, Dec. 18, 1967; 8:48 a.m.]

BRAZIL-UNITED STATES-ATLANTIC GENERAL CARGO AGREEMENT

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Frank J. McConnell, Esq., Purrington & McConnell, 52 Wall Street, New York, N.Y. 10005.

On behalf of the following lines:

Companhia De Navegacao Loide Brasileiro.
Companhia De Navegacao Maritima Netumar.
Moore McCormack Lines, Inc.
Empresa Lineas Maritimas Argentinas.
Montemar Sociedad Anonima.
Brodin Line.
Columbus Line.
Ivaran Line.
Norton Line.
The Holland Pan-American Line A/S.
Georgia Steamship Corp.
Dovar Line.
The Booth Steamship Line, Ltd.
The Lamport & Holt Line, Ltd.

Agreement No. 9682 between the 14 lines named above establishes a pooling agreement for the carriage of general cargo from ports in Brazil to U.S. East Coast ports covering "A" general cargo (excluding green coffee, cocoa beans, and other commodities and cargoes as specifically designated in the agreement); "B" bulk vegetable oil; and "C" cargo in containers (20 feet or longer).

Pool participants must be party to the Inter-American Freight Conference, pending Agreement No. 9648. Cargo in the pool will be divided between National Flag lines (Brazil and United States) and Non-National Flag lines on the basis of 65 percent and 35 percent, respectively, in the first year of operation, increasing gradually over a 10-year period to 80 percent and 20 percent respectively.

The Executive Administrator of Section "C" of the Inter-American Freight Conference (pending Agreement No. 9648) will administer the pool and be headquartered in Rio de Janeiro. The general cargo agreement also provides a 90-day period during which the lines shall establish pooling percentages and minimum sailing requirements for the individual lines within the cargo percentage quotas set for the National Flag lines and the Non-National Flag lines.

Dated: December 14, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-14699; Filed, Dec. 18, 1967; 8:48 a.m.]

CONCORDIA LINE-GREAT LAKES SERVICE AND NIAGARA LINE

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the

Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Thomas K. Roche, Esq., Haight, Gardner, Poor & Havens, 90 Broad Street, New York, N.Y. 10004.

Agreement No. 8358-3, between the Concordia Line-Great Lakes Service and Niagara Line provides for (1) the withdrawal of Fred Olsen & Co., a party to the Concordia-Line Great Lakes Service Agreement No. 8351, as amended, and for (2) the substitution of Concordia Line A/S which will continue to operate under the name of Concordia Line-Great Lakes Service.

Dated: December 14, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-14700; Filed, Dec. 18, 1967; 8:48 a.m.]

MEDITERRANEAN/CANADA & GREAT LAKES AGREEMENT

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicted hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Thomas K. Roche, Esq., Haight, Gardner, Poor & Havens, 90 Broad Street, New York, N.Y. 10004.

Agreement No. 9639-1, between Concordia Line-Great Lakes Service and Niagara Line, as one party, Fabre Line, and Montship-Capo Great Lakes Service provides for (1) the withdrawal of Fred Olsen & Co., a party to the Concordia Line-Great Lakes Service Agreement No. 8351, as amended, and for (2) the substitution of Concordia Line A/S as a party thereto which will continue to operate under the name of Concordia Line-Great Lakes Service.

Dated: December 14, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-14701; Filed, Dec. 18, 1967; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. CS68-34, CS68-36]

HOWARD W. FLEET ET AL.

Findings and Order

DECEMBER 12, 1967.

Howard W. Fleet et al., Docket No. CS68-34; James L. Lamb, Jr. et al., Docket No. CS68-36.

Findings and order after statutory hearing issuing small producer certificates of public convenience and necessity, terminating certificate, cancelling FPC gas rate schedule, terminating rate proceeding, and advising applicant of effective date for collecting area base rate.

On October 5, 1967, Howard W. Fleet et al. (Applicant Fleet), filed in Docket No. CS68-34 and on October 9, 1967, James L. Lamb, Jr. et al. (Applicant Lamb), filed in Docket No. CS68-36 each an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations under the Act for a small producer certificate of public convenience and necessity authorizing the sale and delivery in interstate commerce for resale of natural gas produced from the Permian Basin area of Texas and New Mexico, all as more fully set forth in the applications in this proceeding.

Applicant Fleet is presently rendering a sale, pursuant to a certificate issued in Docket No. G-3275, at the Denton Gas Plant, Lea County, N. Mex., to the El Paso Natural Gas Co. at an effective rate of 11 cents per Mcf. A renegotiated increase to 17 cents per Mcf was suspended in Docket No. RI60-157. No motion was ever filed to place the suspended rate into effect. Docket No. RI60-157 is consolidated in the Permian Basin Proceeding, Docket No. AR61-1 et al. Docket No. G-3275 will be terminated insofar as it pertains to sales rendered pursuant to Howard W. Fleet et al., FPC Gas Rate Schedule No. 9, which will be canceled. The proceedings in Docket No. RI60-157 will be severed from the Permian Basin Proceeding, Docket No. AR61-1, et al., and terminated. Applicant Fleet will be advised that he is entitled to collect from September 1, 1965, the applicable area base rate of 13.5 cents per Mcf at 14.65 p.s.i.a. plus applicable State and local production taxes in effect on September 1, 1965, for the sale heretofore made under his FPC Gas Rate Schedule No. 9.

The effective date of the certificate issued in Docket No. CS68-34 to Applicant Fleet will be the date of authorization.

Applicant Lamb is not presently rendering any sales from the Permian Basin area, and, therefore, the effective date of the certificate issued in Docket No. CS68-36 will be effective on the date of initial delivery of gas from the Permian Basin area.

The Commission Staff has reviewed each application and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

Due notice of the applications was published November 3, 1967 (32 F.R. 15411, 15412). No petition to intervene, notice of intervention, or protest to the granting of the applications has been received.

At a hearing held on December 11, 1967, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications, submitted in support of the authorizations sought herein, and upon consideration of the record.

The Commission finds:

(1) Each Applicant is or will be engaged in the sale of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and is or will be, therefore, a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications herein will be made in interstate commerce subject to the jurisdiction of the Commission, and such sales by Applicants together with the construction and operation of any facilities necessary therefor will be subject to the requirements of sections 7(c) and 7(e) of the Natural Gas Act.

(3) Each Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) Each Applicant is an independent producer of natural gas who is not affiliated with natural gas pipeline companies and whose total jurisdictional sales on a nationwide basis, together with the sales of affiliated producers, were not in excess of 10 million Mcf of natural gas at 14.65 p.s.i.a. during the preceding calendar year.

(5) The sales of natural gas by Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity, and small producer certificates of public convenience and necessity therefor should be issued as hereinafter ordered and conditioned.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificate heretofore issued in Docket No. G-3275 be terminated insofar as it pertains to the sales rendered under Howard W. Fleet et al., FPC Gas Rate Schedule No. 9, and said rate schedule be canceled.

(7) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the proceedings in Docket No. RI60-157 be severed from the area rate proceeding in Docket No. AR61-1 et al., and terminated, and that Applicant in Docket No. CS68-34 be allowed to collect from September 1, 1965, the applicable area base rate of 13.5 cents per Mcf at 14.65 p.s.i.a. plus applicable State and local production taxes in effect on September 1, 1965, for the sale heretofore made under his FPC Gas Rate Schedule No. 9.

The Commission orders:

(A) Small producer certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing the sale and delivery of natural gas in interstate commerce for resale by the aforementioned Applicants from the Permian Basin area of Texas and New Mexico, together with the construction and operation of any facilities necessary therefor, all as more fully discribed in the applications in this proceeding.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as Applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission, and particularly:

(1) The subject certificates shall be applicable only to all previous and future "small producer sales", as defined in § 157.40(a)(3) of the regulations under the Natural Gas Act, from the Permian Basin area.

(2) Sales shall not be at rates in excess of those set forth in § 157.40(b)(1) of the regulations under the Natural Gas Act; however, for sales authorized under permanent or temporary certificates prior to September 1, 1965, Applicants may file notices of changes in rate for any contractually authorized rates in excess of the ceiling rates, which increased rates shall be subject to suspension pursuant to section 4(e) of the Natural Gas Act and subsequently may be rejected as of the date of filing as provided by the Order Granting Relief issued February 8, 1967, in Docket No. CS66-48 et al.

(3) Applicants shall file annual statements pursuant to § 154.104 of the regulations under the Natural Gas Act.

(C) The certificates granted in paragraph (A) above shall remain in effect for small producer sales until the Commission on its own motion or on application terminates said certificates because Applicants no longer qualify as small producers or fail to comply with the requirements of the Natural Gas Act, the regulations thereunder, or the terms of the certificates. Upon such termination, Applicants will be required to file separate certificate applications and individual rate schedules for future sales. To the extent compliance with the terms of this order is observed, the small producer certificates will still be effective as to those sales already included thereunder.

(D) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 7 of the Natural Gas Act or Part 157 of the Commission's regulations thereunder, and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against Applicants. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. Nor shall the grant of the certificates aforesaid for service to the particular customers involved imply approval of all of the terms of the contracts, particularly as to the cessation of service upon termination of said contracts as provided by section 7(b) of the Natural Gas Act. Nor shall the grant of the certificates aforesaid be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales subject to said certificates.

(E) The certificate heretofore issued in Docket No. G-3275 is terminated insofar as it pertains to the sale rendered pursuant to Howard W. Fleet et al., FPC Gas Rate Schedule No. 9, and said rate schedule is canceled.

(F) The rate proceedings in Docket No. RI60-157 are severed from the area rate proceeding in Docket No. AR61-1 et al., and terminated; and Howard W. Fleet et al., is advised that he is entitled to collect as of September 1, 1965, the applicable area base rate of 13.5 cents per Mcf at 14.65 p.s.i.a. plus applicable State and local production taxes in effect on September 1, 1965, for the sale heretofore rendered under his FPC Gas Rate Schedule No. 9.

(G) The certificate issued herein to Applicant in Docket No. CS68-34 is effective as of the date of this order; the certificate issued herein to Applicant in Docket No. CS68-36 is effective as of the date of initial delivery.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-14660; Filed, Dec. 18, 1967; 8:45 a.m.]

[Docket No. E-6751]

MAINE PUBLIC SERVICE CO.

Notice of Application

DECEMBER 12, 1967.

Take notice that on December 4, 1967, Maine Public Service Co. (Applicant), incorporated under the laws of the State of Maine and doing business in that State, with its principal place of business at Presque Isle, Maine, filed an application in Docket No. E-6751 for a supplemental order, pursuant to section 202(c) of the Federal Power Act, modifying Applicant's current authorization to transmit electric energy from the United States to Canada.

By Commission order issued December 5, 1963, in Docket No. E-6751, 30 FPC 1414, Applicant was authorized, among other things, to transmit electric energy from the United States to Canada in (1) an amount not to exceed 8,200,000 kwh per year at a maximum rate of transmission of 2,200 kw for delivery to Maine and New Brunswick Electrical Power Co., Ltd. (Canadian Subsidiary), a Canadian corporation owned by Applicant, over certain facilities of Applicant covered by a Presidential Permit signed by the President of the United States on January 3, 1948 (Docket No. IT-6027), as modified by Amendment signed by the Chairman of the Federal Power Commission on December 5, 1963 (Docket No. IT-6027); and (2) an amount not to exceed 30,000,000 kwh per year at a maximum rate of transmission of 20,000 kw for delivery to The New Brunswick Electric Power Commission (New Brunswick Commission), an instrumentality of the Province of New Brunswick, Canada, over certain facilities of Applicant covered by a Permit signed by the Chairman of the Federal Power Commission on September 18, 1957 (Docket No. E-6752).

Applicant now requests that the authorization granted by Commission order issued December 5, 1963, referred to above, be modified so as to authorize Applicant to (1) increase each year for the period 1968 through 1972 the maximum amount and rate of transmission of electric energy which Applicant may transmit to Canadian Subsidiary so that such amount and rate shall be 12,600,000 kwh and 3,100 kw, respectively, in 1972; and (2) increase for the period commencing January 1, 1968 and ending May 31, 1972, the maximum amount and rate of transmission of electric energy which Applicant may transmit to New Brunswick Commission so that such amount and rate shall be 100,000,000 kwh and 40,000 kw, respectively, for each year during that period.

Concurrently with the filing of its application for a supplemental order in Docket No. E-6751, Applicant filed an application in Docket No. E-6752, pursuant to Executive Order No. 10485, dated September 3, 1953, requesting a modification of the permit signed by the Chairman of the Federal Power Commission on September 18, 1957, referred to above, so as to authorize Applicant to

construct and operate certain proposed facilities at the United States-Canadian border in the vicinity of Madawaska, Maine, for the purpose of redelivering electric energy to the New Brunswick Commission.

Any person desiring to be heard or to make any protest with reference to the application filed in Docket No. E-6751 should on or before December 29, 1967, file with the Federal Power Commission, Washington, D.C. 20426, a petition or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 67-14661; Filed, Dec. 18, 1967; 8:45 a.m.]

FEDERAL RESERVE SYSTEM

FIRST WISCONSIN BANKSHARES CORP.

Order for Oral Presentation

In the matter of the application of First Wisconsin Bankshares Corp., Milwaukee, Wis., pursuant to section 3 of the Bank Holding Company Act of 1956.

On July 29, 1967, there was published in the FEDERAL REGISTER (32 F.R. 11098) a notice of receipt by the Board of Governors of an application filed pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)) by First Wisconsin Bankshares Corp., Milwaukee, Wis., a registered bank holding company, for the prior approval of the Board of the acquisition by Applicant of 80 percent or more of the voting shares to be issued by First Northwestern National Bank of Milwaukee, Milwaukee, Wis., a proposed new bank.

The aforestated published notice provided that within 30 days of publication thereof comments and views on the proposed acquisition could be filed with the Board. Opposition to the proposal has been filed on behalf of the following banks located in Milwaukee, Wis.: The Brown Deer Bank, Silver Spring Bank, and Hampton State Bank.

It appears to the Board that it is appropriate in the public interest that there be conducted before the Board an oral presentation at which representatives of the three named opposing banks and Applicant could present views and comments with respect to this application.

Accordingly, it is hereby ordered, That pursuant to § 262.3(f)(3) of the Board's rules of procedure (12 CFR 262.2(f)(3)) and oral presentation be held with respect to this application commencing at 2 p.m., on January 12, 1968, in Room 1202 of the Federal Reserve Building, 20th and Constitution Avenue, Washington, D.C.

It is further ordered, That said oral presentation shall be public, and that participation in the oral argument shall be limited to representatives of The Brown Deer Bank, the Silver Spring Bank, the Hampton State Bank, the Applicant, and the Board of Governors.

Dated at Washington, D.C., this 11th day of December 1967.

By order of the Board of Governors.

[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 67-14662; Filed, Dec. 18, 1967; 8:45 a.m.]

MOODY FOUNDATION

Notice of Request for Determination and Order Providing Opportunity for Hearing

Notice is hereby given that a request has been made to the Board of Governors of the Federal Reserve System, pursuant to the provisions of section 2(g)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(g)(3)), by the Moody Foundation, Galveston, Tex., a bank holding company, for a determination that, with respect to a proposed sale by the Moody Foundation of its interest in W. L. Moody & Co. Bank to Mr. Shearn Moody, Jr., Galveston County, Tex., the said transferor is not in fact capable of controlling the said transferee.

Inasmuch as section 2(g)(3) of the Act requires that any determination thereunder be made only after opportunity for hearing:

It is ordered, That, pursuant to section 2(g)(3) of the Act, an opportunity be and hereby is provided for filing a request for hearing. Any such request should be submitted in writing (in duplicate) to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received on or before January 8, 1968. The request for hearing should contain a statement of the nature of the requesting person's interest in the matter, his reasons for wishing to appear at an oral hearing, and a summary of the matters concerning which said person wishes to give testimony at such hearing. The Board will subsequently designate a time and place for any hearing ordered, and will give notice of such hearing to the transferor, the transferee, and all persons who have requested a hearing. In the absence of a request for hearing, the Board will proceed with consideration of the requested determination on the basis of documentary evidence filed on or before January 8, 1968.

Dated at Washington, D.C., this 12th day of December 1967.

By order of the Board of Governors.

[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 67-14663; Filed, Dec. 18, 1967; 8:45 a.m.]

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE REPUBLIC OF KOREA

Entry and Withdrawal From Warehouse for Consumption

DECEMBER 13, 1967.

On December 11, 1967 the Government of the United States, in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, concluded a bilateral cotton textile agreement with the Republic of Korea, concerning exports of cotton textiles and cotton textile products from the Republic of Korea to the United States. Under this agreement the Republic of Korea has undertaken to limit its exports to the United States of certain cotton textiles and cotton textile products to specified annual amounts. Among the provisions of the agreement are those applying specific export limitations to Categories 7, 9, 18-19, 22, part of 26 (duck only), parts of 26 (other than duck), 31 (wiping cloth only), 34, 45, 46, 49, 50, 51, 52, 54, 60, parts of 64 (tablecloths and napkins only), and part of 64 (nipper tapes only), for the 12-month period beginning January 1, 1967.

There is published below a letter of December 12, 1967, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, directing that as soon as possible and for the period beginning January 1, 1967, and extending through December 31, 1967, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in above Categories produced or manufactured in the Republic of Korea and exported to the United States on or after January 1, 1967 be limited to the designated levels. The letter published below and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement as amended, but are designed to assist only in the implementation of certain of its provisions.

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.

PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE

DECEMBER 12, 1967.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

DEAR MR. COMMISSIONER: This directive supplements and amends but does not cancel the directives issued to you on December 6, 1966, and December 29, 1966, by the Chairman, President's Cabinet Textile Advisory Committee, regarding imports of cotton textiles and cotton textile products produced or manufactured in the Republic of Korea.

Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of December 11, 1967, between the United States and the Republic of Korea, and in accordance with the procedures outlined in Executive Order 11052 of September 28, 1962, as amended by Executive Order 11214 of April 7, 1965, you are directed, effective as soon as possible, and for the period beginning January 1, 1967, and extending through December 31, 1967, to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption, of cotton textiles and cotton textile products in Categories 7, 9, 18-19, 22, 26, 31 (T.S.U.S.A. No. 366.2740 only), 34, 45, 46, 49, 50, 51, 52, 54, 60, and 64 (T.S.U.S.A. Nos.: 366.4500, 366.4600, 366.4700, and 347.3340 only), produced or manufactured in the Republic of Korea, in excess of the following 12-month levels of restraint:

Category		12-month level of restraint
7	square yards[1]	425,023
9	do	2,426,250
18-19	do	1,238,438
22	do	743,601
26 (duck only)[2]	do	10,937,344
26 (other than duck)	do	919,219
31 (only T.S.U.S.A. No. 366.2740)	pieces	950,866
34	do	88,977
45	dozen	39,804
46	go	28,788
49	do	22,885
50	do	41,974
51	do	56,807
52	do	29,391
54	do	42,019
60	do	26,018
64 (only T.S.U.S.A. Nos.: 366.4500, 366.4600, and 366.4700)	pounds	443,353
64 (only T.S.U.S.A. No. 347.3340)	pounds	55,781

[1] This level has been adjusted to reflect entries made during the period Jan. 1, 1967, and extending through Sept. 30, 1967. No adjustments have been made for entries after Sept. 30, 1967.

[2] Only T.S.U.S.A. Nos.:
320....01 through 04, 06, 08
321....01 through 04, 06, 08
322....01 through 04, 06, 08
326....01 through 04, 06, 08
327....01 through 04, 06, 08
328....01 through 04, 06, 08

In carrying out this directive, cotton textiles and cotton textile products in Categories 46 and 60 produced or manufactured in the Republic of Korea and which have been exported to the United States from the Republic of Korea prior to October 1, 1967, shall not be subject to the levels set forth above.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of December 11, 1967, between the Governments of the United States and the Republic of Korea which provides in part that within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements. Any appropriate adjustments pursuant to the provisions of the bilateral agreement, as amended, referred to above, will be made to you by letter from the Chairman of the Interagency Textile Administrative Committee.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton textiles and cotton textile products from the Republic of Korea have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 553 (Supp. II, 1965-66). This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

A. B. TROWBRIDGE,
Secretary of Commerce, Chairman, President's Cabinet Textile Advisory Committee.

[F.R. Doc. 67-14675; Filed, Dec. 18, 1967; 8:46 a.m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 644]

FLORIDA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of December 1967, because of the effects of certain disasters, damage resulted to residences and business property located in Bay, Calhoun, Okaloosa, and Walton Counties, in the State of Florida;

Whereas, the Small Business Administration has investigated and received other reports of investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considerd by the offices below indicated from persons or firms whose property, situated in the aforesaid counties, and areas adjacent thereto, suffered damage or destruction resulting from tornado occurring on December 10, 1967.

OFFICE

Small Business Administration Regional Office, Federal Office Building, 400 West Bay Street, Jacksonville, Fla. 32202.

2. A temporary office will be established at Fort Walton Beach, Fla., address to be announced locally.

3. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to June 30, 1968.

Dated: December 12, 1967.

ROBERT C. MOOT,
Administrator.

[F.R. Doc. 67-14668; Filed, Dec. 18, 1967; 8:46 a.m.]

TARIFF COMMISSION

[TEA-W-6]

EMPLOYEES OF MOSAIC TILE CO., ZANESVILLE, OHIO

Workers' Petition for Determination of Eligibility To Apply for Adjustment Assistance; Notice of Investigation

Upon the receipt of a petition under section 301(a)(2) of the Trade Expansion Act of 1962, properly filed on December 11, 1967, on behalf of workers of the Mosaic Tile Co., Zanesville, Ohio, the U.S. Tariff Commission, on the 14th day of December 1967, instituted an investigation under section 301(c)(2) of the said Act to determine whether, as a result in major part of concessions granted under trade agreements, certain ceramic tiles like or directly competitive with articles produced by the aforementioned company are being imported into the United States in such increased quantities as to cause the unemployment of a significant number or proportion of the workers of such company. Petitioners do not desire a public hearing in connection with the investigation.

The tiles to which the petition relates are presently provided for in items 532.21 and 532.24 of the Tariff Schedules of the United States.

The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, 8th and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the customhouse.

Issued: December 14, 1967.

By order of the Commission.

[SEAL] DONN N. BENT,
Secretary.

[F.R. Doc. 67-14694; Filed, Dec. 18, 1967; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

DECEMBER 13, 1967.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41187—*Newsprint paper from Red Rock, Ont., Canada.* Filed by Western Trunk Line Committee, agent (No. A-2530), for interested rail carriers. Rates on newsprint paper, in carloads, as described in the application, from Red Rock, Ont., Canada, to points in Colorado, and Wyoming.

Grounds for relief—Market competition.

FSA No. 41188—*Newsprint paper from Jonquiere, Quebec, Canada.* Filed by Traffic Executive Association-Eastern Railroads, agent (No. 2900), for interested rail carriers. Rates on newsprint paper, in carloads, from Jonquiere, Quebec, Canada, to Alexandria, Va.

Grounds for relief—Foreign water and truck competition.

Tariff—Supplement 110 to Canadian National Railways tariff ICC E. 519.

FSA No. 41189—*Newsprint paper from Jonquiere, Quebec, Canada.* Filed by Traffic Executive Association-Eastern Railroads, agent (No. 2899), for interested rail carriers. Rates on newsprint paper, in carloads, from Jonquiere, Quebec, Canada, to Cleveland, Ohio.

Grounds for relief—Foreign water and truck competition.

Tariff—Supplement 110 to Canadian National Railways tariff ICC E. 519.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-14679; Filed, Dec. 18, 1967; 8:46 a.m.]

[Notice 510]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 13, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2401 (Sub-No. 41 TA), filed December 6, 1967. Applicant: MOTOR FREIGHT CORPORATION, 2345 South 13th Street, Post Office Box 2057, Idaho Station, Terre Haute, Ind. 47802. Applicant's representative: Arnold L. Burke, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Hospital, medical, and dental supplies and related articles, and materials, and supplies* used in the manufacture and packaging thereof, serving the Johnson & Johnson plant and warehouse site, Argonne Industrial District, Will County, Ill., in connection with carrier's regular-route operations to and from Chicago, for 180 days. Supporting shipper: Johnson & Johnson, New Brunswick, N.J. Send protests to: Bureau of Operations, Interstate Commerce Commission, 802 Century Building, 36 South Pennsylvania Street, Indianapolis, Ind. 46204.

No. MC 4405 (Sub-No. 455 TA), filed December 4, 1967. Applicant: DEALERS TRANSIT, INC., 13101 South Torrence Avenue, Chicago, Ill. 60633. Applicant's representative: R. O. Homberger, 7701 South Lawndale Avenue, Chicago, Ill. 60652. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, except those designed to be drawn by passenger automobiles in initial truckaway service, from Holland, Mich., to military installations and points of embarkation in California, Georgia, Illinois, Maryland, New Jersey, New York, Pennsylvania, Texas, and Utah, for 180 days. Supporting shipper: Leonard Hynes, Military Traffic Management & Terminal Service, Washington, D.C. 20315. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 4483 (Sub-No. 11 TA), December 6, 1967. Applicant: MONSON DRAY LINE, INC., Rural Route 1, Red Wing, Minn. 55066. Applicant's representative: Donald B. Taylor, Box 5068, Minneapolis, Minn. 55406. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay sewer pipe and clay sewer pipe fittings*, from plantsite of Red Wing Sewer Pipe Co., Red Wing, Minn., to points in Iowa, Minnesota, and Nebraska, for 180 days. Supporting shipper: Red Wing Sewer Pipe Corp., Featherstone Road, Red Wing, Minn. 55066. Send protests to: C. H. Bergquist, District Supervisor, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401.

No. MC 24549 (Sub-No. 5 TA), filed December 5, 1967. Applicant: JEAN E. VERMEULEN AND GARY VERMEULEN, a partnership, doing business as G. VERMEULEN TRUCKING, 3477 South Ninth Street, Oshtemo, Mich. 49077. Applicant's representative: Ronald R. Pentecost, 1400 Michigan National Tower, Lansing, Mich. 48933. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ice cream mix*, in bulk, in tank vehicles, for Kalamazoo Creamery Co., from Kalamazoo, Mich., to Kendallville, Ind., for 180 days. Supporting shipper: Kalamazoo Creamery Co., Portage and Lake Street, Kalamazoo, Mich. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 221 Federal Building, Lansing, Mich. 48933.

No. MC 29079 (Sub-No. 40 TA), filed December 6, 1967. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., 1210 Union Street, Kokomo, Ind. 46901. Applicant's representative: Edward G. Baselon, 39 La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plant at or near Hennepin, Putnam County, Ill., to points in Indiana, Michigan, Kentucky, Ohio, Wisconsin, Minnesota, Iowa, Missouri, Arkansas, Tennessee, and Nebraska. Restricted against the transportation of oil field and pipeline commodities as defined in *T. F. Mercer, Extension—Oil Field Commodities*, 74 M.C.C. 459, for 180 days. Supporting shipper: Jones & Laughlin Steel Corp., 3 Gateway Center, Pittsburgh, Pa. 15230. Send protests to: District Supervisor J. H. Gray, Bureau of Operation, Interstate Commerce Commission, 308 Federal Building, Fort Wayne, Ind. 46802.

No. MC 43508 (Sub-No. 2 TA), filed December 4, 1967. Applicant: COLUMBIA VAN LINES, INC. OF CALIFORNIA, 2805 Columbia Street, Torrance, Calif. 90503. Applicant's representative: Alan F. Wohlstetter, 1 Farragut Square South, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Los Angeles, Orange, San Diego, Riverside, Imperial, San Bernardino, Kern, Ventura, Santa Barbara, San Luis Obispo, San Francisco, Marin, Alameda, San Mateo, Napa, Sonoma, Solano, Yolo, Contra Costa, Sacramento, San Joaquin, Stanislaus, Santa Clara, and Santa Cruz Counties, Calif., restricted to shipments having a prior or subsequent movement beyond said points in containers and further restricted to pickup and delivery services incidental to and in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such shipments, for 180 days. Supporting shipper: Imperial Household Shipping Co., Inc., 2809 Columbia Street, Post Office Box 2983, Torrance, Calif. 90509. Send protests to: John E. Nance, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Federal Building, Room 7708, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 48533 (Sub-No. 12 TA), filed December 4, 1967. Applicant: A. L. ROOT TRANSPORTATION, INC., 12 Fairground Road, Brattleboro, Vt. 95302. Applicant's representative: David M. Marshall, 135 State Street, Suite 209, Springfield, Mass. 01103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips, edgings, and debarked wooden slabs*, from Winchester and Madison, N.J., to Westbrook and Rumford, Maine; Boston, Canton, and Lawrence, Mass.; Albany, Schenectady, and Ticonderoga, N.Y.; and Philipsdale and Providence, R.I.; and from Westfield and Chester, Mass., to Winchester and Milford, N.H.; and Mechanicville, N.Y., for 180 days. Supporting shippers: New England Lumber Co., Inc., Box 126 West Ossipee, N.H. 03890; Bannish Lumber Co., Southwick Road, Westfield, Mass. 01085. Sent protests to: Martin P. Monaghan, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 38, Montpelier, Vt. 05602.

No. MC 52579 (Sub-No. 94 TA) (Correction), filed November 27, 1967, published FEDERAL REGISTER of December 9, 1967, and republished as corrected this issue. Applicant: GILBERT CARRIER CORP., 1 Gilbert Drive, Secaucus, N.J. 07094. Applicant's representative: Aaron Hoffman (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, loose, on hangers, from West Helena, Ark., to Philadelphia, Pa., and points in the New York, N.Y., commercial zone as defined by the Commission, with authority to interline at the New York, N.Y., commercial zone, for 150 days. Supporting shipper: The Villager, 19th and Allegheny Avenue, Philadelphia, Pa. 19132. NOTE: Applicant intends to interline at New York, N.Y., commercial zone as defined by the Commission. The purpose of this republication is to show the correct origin point as West Helena, Ark., in lieu of Helena, Ark., as previously published. Send protests to: District Supervisor, Walter J. Grossmann, Interstate Commerce Commission, Bureau of Operations, 1060 Broad Street, Room 363, Newark, N.J. 07102.

No. MC 61877 (Sub-No. 3 TA), filed December 5, 1967. Applicant: S. HOCHHAUSER TRUCKING CORP., 371 West Street, New York, N.Y. 10014. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Books*, between the plant and facilities of John Wiley & Sons, Inc., at Somerset, N.J., on the one hand, and, on the other, points in Hudson, Essex, and Bergen Counties, N.J. (Restricted to shipments having prior or subsequent movement via other carriers), New York, N.Y., and points in Westchester and Nassau Counties, N.Y., for 150 days. Supporting shipper: John Wiley & Sons, Inc., 1 Wiley Drive, Somerset, N.J. 08873. Send protests to: Paul W. Assenza, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 346 Broadway, New York, N.Y. 10013.

No. MC 69116 (Sub-No. 110 TA), filed December 4, 1967. Applicant: SPECTOR FREIGHT SYSTEM, INC., 205 West Wacker Drive, Chicago, Ill. 60606. Applicant's representative: Edward G. Baselon, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, from the plantsite of Jones & Laughlin Steel Corp. at or near Hennepin, Putnam County, Ill., to points in Indiana, Iowa, Arkansas, Kentucky, Minnesota, Michigan, Missouri, Ohio, Oklahoma, Nebraska, Tennessee, and Wisconsin, for 180 days. Supporting shipper: Jones & Laughlin Steel Corp., 3 Gateway Center, Pittsburgh, Pa. 15230. Send protests to: Andrew J. Montgomery, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Courthouse and Federal Office Building, Room 1086, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 69833 (Sub-No. 93 TA), filed December 5, 1967. Applicant: ASSOCIATED TRUCK LINES, INC., Vandenberg Center, Grand Rapids, Mich. 49502. Applicant's representative: Harry Pohlad (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Hospital, medical, and dental supplies, and related articles, and materials, and supplies* used in the manufacture and packaging thereof, serving the Johnson & Johnson plant and warehouse site, Argonne Industrial District, Will County, Ill., in connection with carrier's regular-route operations to and from Chicago, for 180 days. NOTE: Applicant states it does intend to tack with other authority held by it or to interline with other carriers. Supporting shipper: Johnson & Johnson, New Brunswick, N.J. (by Walter K. Cabot, General Traffic Manager). Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 221 Federal Building, Lansing, Mich. 48933.

No. MC 78228 (Sub-No. 18 TA), filed December 6, 1967. Applicant: THE J. MILLER COMPANY, 147 Nichol Avenue, McKees Rocks, Pa. 15136. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, from the plantsite of Jones & Laughlin Steel Corp. at or near Hennepin, Putnam County, Ill., to points in Indiana, Iowa, Arkansas, Kentucky, Minnesota, Michigan, Missouri, Ohio, Oklahoma, Nebraska, Tennessee, and Wisconsin, for 150 days. Supporting shipper: Jones & Laughlin Steel Corp., 3 Gateway Center, Pittsburgh, Pa., 15230. Send protests to: John J. England, District Supervisor, 2109 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 95540 (Sub-No. 718 TA), filed December 5, 1967. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, Fla. Applicant's representative: Hoyt Starr (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and packinghouse products* as set forth in sections A and C, in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Austin, Minn., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the District of Columbia, for 180 days. Supporting shipper: Geo. A. Hormel & Co., Post Office Box 800, Austin, Minn. 55912. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, Room 1226, 51 Southwest First Avenue, Miami, Fla. 33130.

No. MC 113362 (Sub-No. 141 TA), filed December 4, 1967. Applicant: ELLSWORTH FREIGHT LINES, INC., 220 East Broadway, Eagle Grove, Iowa 50533. Applicant's representative: Marshall D. Becker, 630 City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Floor coverings, rubber base and vinyl base, adhesives, waxes, floorstone, ceramic tile, rubber tile, plastic tile, asphalt tile, rubber matting carpets*, and (2) *tools, materials, and supplies* used in installation, maintenance, and repair of the above-named commodities from Kearney and Trenton, N.J., Marcus Hook, Pa., Cedarhurst, Md., and Lawrence, Mass., to Chicago, Rockford, Moline, Rock Island, Quincy, Decatur, and Peoria, Ill., and Ames, Iowa, for 180 days. Supporting shippers: Tilemaster Corp., 4400 North Harlem Avenue, Chicago, Ill.; Midwest Floorcoverings, Inc., 1233 West Belmont Avenue, Chicago 13, Ill.; Decatur Paper House, Decatur, Ill.; Peoria Paper House, Peoria, Ill.; Irwin Paper House, Quincy, Ill.; United Flooring Distributors, 3233 Auburn Street, Rockford, Ill.; Larson Distributing Corp., 1931 Second Avenue, Moline, Ill. 61265. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 227 Federal Office Building, Des Moines, Iowa 50309.

No. MC 113678 (Sub-No. 302 TA), filed December 6, 1967. Applicant: CURTIS, INC., 770 East 51st Avenue, Denver, Colo. 80216. Applicant's representative: Duane W. Acklie, Post Office Box 2028, Lincoln, Nebr. 68508. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meat, meat products, meat byproducts and articles distributed by meat packinghouses and frozen fish and salad dressings when moving in the same vehicle with meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, from Denver, Colo., to points in Minnesota, Ohio, Ames, Iowa, and Eugene, Oreg. (2) *Frozen fish and salad dressings* when moving with meat, meat products, meat byproducts and articles distributed by meat packinghouses, from Denver, Colo., Omaha, Nebr., Sioux, City, Des Moines, and Waterloo, Iowa, Niles, Pontiac, Westland, and Detroit, Mich., and points in Wisconsin, for 180 days. Supporting shipper: Mapelli-Lindner-Sigman, Ltd., 1624 Market Street, Denver, Colo. 80202. Send protests to: District Supervisor Herbert C. Ruoff, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 113974 (Sub-No. 26 TA), filed December 5, 1967. Applicant: PITTSBURGH & NEW ENGLAND TRUCKING CO., 211 Washington Avenue, Post Office Box 67, Dravosburg, Pa. 15034. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a

common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel* and *iron and steel articles*, from the plantsite of Jones & Laughlin Steel Corp. at or near Hennepin, Putnam County, Ill., to points in Iowa, Arkansas, Kentucky, Minnesota, Michigan, Missouri Ohio, Oklahoma, Nebraska, Tennessee, and Wisconsin for 150 days. Supporting shipper: Jones & Laughlin Steel Corp., 3 Gateway Center, Pittsburgh, Pa. 15230. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2109 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 117883 (Sub-No. 107 TA), filed December 5, 1967. Applicant: SUBLER TRANSFER, INC., Post Office Box 62, East Main Street, Versailles, Ohio 45380. Applicant's representative: E. J. Subler (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts*, and *articles* distributed by meat packinghouses, as described in sections A and C of appendix I to the report in Descriptions, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities utilized by Oscar Mayer & Co., Inc., at Davenport, Iowa, to points in Indiana (except points within the Chicago, Ill., commercial zone as defined by the Commission), Kentucky, Michigan, and Ohio, for 180 days. Supporting shipper: Oscar Mayer & Co., Inc., 910 Mayer Avenue, Madison, Wis. 53701. Send protests to: Emil P. Schwab, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1010 Federal Building, 550 Main Street, Cincinnati, Ohio 45202.

No. MC 119702 (Sub-No. 30 TA), filed December 1, 1967. Applicant: STAHLY CARTAGE CO., Post Office Box 486, 130A Hillsboro Avenue, Edwardsville, Ill. 62025. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, from Forsyth, Ill., to Clinton, Iowa, for 150 days. Supporting shipper: Skelly Oil Co., Skelly Building, 605 West 47th Street, Post Office Box 436, Kansas City, Mo. 64141. Send protests to: Harold Joliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 476, 325 West Adams Street, Springfield, Ill. 62704.

No. MC 119707 (Sub-No. 2 TA), filed December 5, 1967. Applicant: YELLOW TRANSFER COMPANY OF TAMPA, INC., Air Freight Building No. 1, Tampa International Airport, Tampa, Fla. 33614. Applicant's representative: James E. Wharton, Suite 506, First National Bank Building, Orlando, Fla. 32802. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, with the usual exceptions, having an immediately prior or subsequent movement by air, between the Tampa International Airport, Tampa, Fla., and the St. Petersburg-Clearwater International Airport, Pinellas County, Fla., on the one hand, and, on the other, points in Highlands, De Soto, Charlotte, Lee, Osceola, Pinellas, and Hillsborough Counties, Fla., and between the Hernando Municipal Airport, Orlando, Fla., on the one hand, and, on the other, points in Sarasota, Manatee, Hardee, Polk, Pasco, Osceola, Hernando, Highlands, De Soto, Charlotte, Lee, Pinellas, and Hillsborough Counties, Fla., for 180 days. Supporting shipper: Airlift International, Post Office Box 6696, Orlando, Fla; Electronic Communications, Inc., 1501 72d Street North, St. Petersburg, Fla.; Polyplastex United, Inc., 6200 49th Street North, Pinellas Park, Fla.; Electro Mechanical Reserach, Inc., Fruitville Road, Sarasota, Fla.; Sperry Microwave Electronic Division, Post Office Box 4648, Clearwater, Fla.; and Honeywell, Inc. 13350 U.S. Highway 19, St. Petersburg, Fla.

No. MC 124078 (Sub-No. 307 TA), filed December 12, 1967. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, Wis. 53215. Applicant's representative: Richard H. Prevette (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Milwaukee, Wis., to points in Will County, Ill., for 180 days. Supporting shipper: General Portland Cement Co., 4400 Republic National Bank Tower, Post Office Box 324, Dallas, Tex. 75221 (W. W. Marten, Traffic Manager). Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 124692 (Sub-No. 46 TA), filed December 5, 1967. Applicant: SAMMONS TRUCKING, Post Office Box 933, Missoula, Mont. 59801. Applicant's representative: Charles E. Nieman, 1160 Northwest Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fabricated steel beams, wall plates, channel lagging, liner plates, bolts, and nuts*, from Bedford Park, Ill., to jobsites of the Straight Creek Highway Tunnel, near Loveland Pass, between Wilson and Silver Plume, Colo., for 180 days. Supporting shipper: Commercial Shearing & Stamping Co., Youngstown, Ohio 44501. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 251 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 126367 (Sub-No. 3 TA), filed December 8, 1967. Applicant: EVERGREEN TRUCKING COMPANY, Box 39, Rural Route, Jewell, Oreg. 97126. Applicant's representative: Earl V. White, 2400 Southwest Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Peeler cores*, from Kettle Falls, Wash., to Priest River, Idaho, for 180 days. Supporting shipper: Merritt Bros. Lumber Co., Route 1, Box 1A, Priest River, Idaho. Send protests to: S. P. Martin, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, 120 Southwest Fourth Street, Portland, Oreg.

No. MC 127488 (Sub-No. 4 TA), filed December 7, 1967. Applicant: LTD, INC., 3250 Southwestern Avenue, Chicago, Ill. 60608. Applicant's representative: Seymour S. Guthman, Eighth Floor, 1025 15th Street, NW., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Typewriter parts*, in cartons, between the plantsite of McRae Products Co., in McRae, Ga., and the plantsite of International Business Machines Corp. at Lexington, Ky., for 180 days. Supporting shipper: Sunbeam Corp., 5400 West Roosevelt Road, Chicago, Ill. 60650. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 128814 (Sub-No. 9 TA), filed December 7, 1967. Applicant: TRI-STATE MOTOR TRANSIT CO., Post Office Box 113, East on Interstate Business Route 44, Joplin, Mo. 64801. Applicant's representative: Max G. Morgan, 450 American National Building, Oklahoma City, Okla. 73102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Blasting caps and electric blasting caps*, between Port Ewen, N.Y., Jasonville, Ind., Fairbanks, Pa., North Salt Lake City, Utah, Sedalia, Colo., Carthage, Mo., Lincoln, Calif., and points within 5 miles of each, for 180 days. Supporting shipper: Hercules, Inc., 910 Market Street, Wilmington, Del. 19899. Send protests to: H. J. Simmons, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 128814 (Sub-No. 10 TA), filed December 7, 1967. Applicant: TRI-STATE MOTOR TRANSIT CO., Post Office Box 113, East on Interstate Business Route 44, Joplin, Mo. 64801. Applicant's representative: Max G. Morgan, 450 American National Building, Oklahoma City, Okla. 73102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Class A explosives*, from the plantsite of Hercules, Inc., near McAdory, Ala., to points in Alameda County, Calif., for 180 days. Supporting shipper: Hercules, Inc., Suite 500, 120 Oakbrook Center Mall, Oak Brook, Ill. 60521. Send protests to: H. J. Simmons, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 129564 TA, filed December 4, 1967. Applicant: R. E. ADAMS, doing business as ADAMS TRANSFER & STORAGE CO., 806 Bradford Street SW., Gainesville, Ga. 30501. Applicant's representative: William Addams, 1776 Peachtree Street NW., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, having a prior or subsequent movement over air, motor, rail, or water, between Athens, Ga., on the one hand and points in Baldwin, Banks, Barrow, Butts, Cherokee, Clarke, Clayton, Cobb, Columbia, Dawson, De Kalb, Elbert, Fannin, Fayette, Forsyth, Franklin, Fulton, Gilmer, Glascock, Greene, Gwinnett, Habersham, Hall, Hancock, Hart, Henry, Jackson, Jasper, Lamar, Lincoln, Lumpkin, McDuffie, Madison, Monroe, Morgan, Murray, Newton, Oconee, Oglethorpe, Pickens, Putnam, Rabun Spalding, Stephens, Taliaferro, Towns, Union, Walton, Washington, Wilkes, White, Warren and Jones Counties, Ga., for 180 days. Supporting shippers: Vanpac Carriers, Inc., 2114 MacDonald Avenue, Richmond, Calif. 94801; Home-Pack Transport, Inc., 57-48 49th Street, Maspeth, N.Y. 11378. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 129567 (Sub-No. 1 TA), filed December 5, 1967. Applicant: HEWITT OIL COMPANY, INC., 516 East First Street, Pratt, Kans. 67124. Applicant's representative: Leland M. Spurgeon, 308 Casson Building, Sixth and Topeka Boulevard, Topeka, Kans. 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fuels*, in bulk, in tank vehicles, from Ponca City, Okla., to Pratt, Dodge City, Kinsley, Greensburg, Coldwater, and Ashland, Kans., and from the Phillips Pipeline Terminal at or near Laverne, Okla., to Ashland and Dodge City, Kans., for 180 days. Supporting shipper: Phillips Petroleum Co., Bartlesville, Okla. 74003. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 906 Schweiter Building, Wichita, Kans. 67202.

No. MC 129572 TA, filed December 1, 1967. Applicant: GAYLE E. ANDERSON, 3367 South 3400 West Street, Magna, Utah 84044. Applicant's representative: Irene Warr, 419 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, fittings, valves, and supplies relative to mechanical piping applications: tubing, bar stock, sheet and plate metals, and supplies and machinery relative to structural and/or machining applications*, between points in Utah, Idaho, Montana, Colorado, Arizona, New Mexico, Nevada, and California, under a continuing contract with Tubular Service Corp., for 180 days. Supporting shipper: Tubular Service Corp., 751 West 1625 South Street, Salt Lake City, Utah 84104. Send protests to: John T. Vaughan, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Salt Lake City, Utah 84111.

No. MC 129576 TA, filed December 7, 1967. Applicant: MARION E. HORNER AND RONALD E. HORNER, a partnership, doing business as HORNER TRUCK SERVICE, R.F.D. No. 1, Canton, Mo. Applicant's representative: Branham Rendlen, 108 North Third Street, Hannibal, Mo. 63401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer* solutions, pressured, and nonpressured; *anhydrous ammonia; dry fertilizers, bagged, and bulk; agricultural chemicals*, packaged or bagged, from points in Clark and Lewis Counties, Mo., to points in Iowa, Missouri, Illinois, and Indiana, and from points in Menard County, Ill., to points in Iowa and Missouri, for 180 days. Supporting shipper: Hawkeye Chemical Co., Post Office Box 899, Clinton, Iowa 52732. Send protests to: H. J. Simmons, District Supervisor, Interstate Commerce Commission, 1100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

MOTOR CARRIER OF PASSENGERS

No. MC 129575 TA, filed December 6, 1967. Applicant: LEWIS PIERCE, doing business as HIGHWAY 2 EXPRESS, 1321 First Avenue North, Grand Forks, N. Dak. 58201. Applicant's representative: E. J. Hanson, Post Office Box 1177, Grand Forks, N. Dak. 58201. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, and express and newspapers* in the same vehicle with passengers, between Grand Forks, N. Dak., and Minot, N. Dak., serving all intermediate points (except those between Grand Forks, N. Dak., and junction U.S. Highway 2 and North Dakota Highway 18), from Grand Forks, N. Dak., over U.S. Highway 2 to Minot, and return over the same route, for 180 days. Supporting shippers: Electrical Service, Inc., Devils Lake, N. Dak. 58301; Hutton Chrysler-Plymouth, Towner, N. Dak. 58788; Young's Auto Parts, Devils Lake, N. Dak. 58301; H. E. Everson Co., Rugby, N. Dak. 58368; Universal Parts Co., Devils Lake, N. Dak. 58301; Goodman Farm Electric, Devils Lake, N. Dak. 58301; Miller Construction, Inc., Devils Lake, N. Dak. 58301; and Andy "B" Truckstop, Rugby, N. Dak. 58368. Send protests to: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1621 South University Drive, Room 213, Fargo, N. Dak. 58102.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 67-14630; Filed, Dec. 18, 1967; 8:46 a.m.]

Title 2—THE CONGRESS

ACTS APPROVED BY THE PRESIDENT

EDITORIAL NOTE: After the adjournment of the Congress *sine die*, and until all public acts have received final Presidential consideration, a listing of public laws approved by the President will appear in the daily FEDERAL REGISTER under Title 2—The Congress. A consolidated listing of the new acts approved by the President will appear in the Daily Digest in the final issue of the Congressional Record covering the 90th Congress, First Session.

Approved December 15, 1967

S. 2565 ..... Public Law 90-204
An Act to amend the Federal Farm Loan Act and the Farm Credit Act of 1933, as amended, and for other purposes.

H.R. 480 ..... Public Law 90-205
An Act to amend the Act of October 4, 1961, relating to the acquisition of wetlands for conservation of migratory waterfowl, to extend for an additional eight years the period during which funds may be appropriated under that Act, and for other purposes.

Approved December 16, 1967

H.R. 7977 ..... Public Law 90-206
Postal Revenue and Federal Salary Act of 1967.

H.R. 13510 ..... Public Law 90-207
An Act to increase the basic pay for members of the uniformed services, and for other purposes.

CUMULATIVE LIST OF PARTS AFFECTED—DECEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during December.

3 CFR

Page

PROCLAMATIONS:
- 2761A (see Proc. 3822) 19002
- 3548 (see Proc. 3822) 19002
- 3821 17571
- 3822 19002

EXECUTIVE ORDERS:
- Dec. 5, 1913 (revoked in part by PLO 4327) 16531
- Mar. 21, 1914 (revoked in part by PLO 4327) 16531
- June 24, 1914 (revoked in part by PLO 4327) 16531
- 11075 (see Proc. 3822) 19002
- 11248:
  - Amended by EO 11384 17423
  - Amended by EO 11385 18081
- 11363 17421
- 11384 17423
- 11385 18081

5 CFR

- 210 16474
- 213 ..... 16477, 17615, 17849
- 315 16474
- 351 16474
- 352 16474
- 353 16475
- 430 16475
- 511 16475
- 531 16475
- 713 16476
- 731 16476
- 752 16476
- 754 16476
- 771 16477
- 772 16477
- 831 16477
- 891 16477
- 2200 17573
- 2300 17651

7 CFR

- 301 ..... 18015, 18017
- 401 ..... 16478, 17425, 17513
- 718 17513
- 722 ..... 17467, 17887, 17923
- 724 16478
- 725 16479
- 729 17887
- 811 18083
- 815 16525
- 905 ..... 16525, 17615, 17616, 17925
- 907 ..... 16526, 17515, 17888
- 909 17849
- 910 ..... 16526, 17617, 17651, 18017, 18018, 18085
- 944 17425
- 982 16527
- 989 ..... 17467, 18086
- 1062 16479
- 1073 16480
- 1094 16527
- 1103 16527
- 1106 16480
- 1126 16480
- 1421 16528
- 1427 16528
- 1464 17849
- 1474 17888
- 1488 18018

7 CFR—Continued

Page

PROPOSED RULES:
- 51 17893
- 58 17893
- 812 17669
- 817 17669
- 911 17431
- 915 17431
- 948 17671
- 950 17433
- 989 17625
- 993 17434
- 1001 17626
- 1008 17626
- 1036 17626
- 1048 17626

8 CFR

- 238 17651
- 280 17651

PROPOSED RULES:
- 242 17624
- 243 17624
- 244 17624
- 299 17624

9 CFR

- 78 18086
- 97 17618

12 CFR

- 1 ..... 17574, 17926
- 12 17468
- 206 17469
- 224 17425
- 335 17470
- 545 17926
- 561 17515
- 605 17652

PROPOSED RULES:
- 563 17544

14 CFR

- 21 17850
- 39 ..... 16481, 17426, 17515, 17516, 17652, 17927
- 61 16481
- 71 ..... 16482, 16483, 17428, 17427, 17516–17518, 17574–17576, 17653, 17851, 18020
- 73 ..... 17427, 17653, 18087
- 75 17518
- 91 ..... 16483, 17654
- 97 ..... 16484, 17577, 17928
- 121 ..... 16481, 17889
- 141 17851
- 151 17471
- 214 18020
- 217 18020
- 221 18022
- 241 18023
- 301 16491
- 303 16491
- 311 16491
- 320 16491
- 421 16491
- 430 16491
- 431 16491
- 435 16491

14 CFR—Continued

Page

PUBLIC LAND ORDERS—Continued
- 1 16495
- 21 17485
- 25 17487
- 29 ..... 17439, 17672, 17673, 17895
- 71 ..... 16495, 17488, 17543, 17596–17598, 17673–17675, 17861, 17982, 18060–18062
- 73 17488
- 75 18062
- 91 16495
- 214 16535
- 241 17983
- 295 16535
- 298 17598

15 CFR

- 373 17471

16 CFR

- 13 ..... 17427, 17618, 17853–17855, 18025
- 15 ..... 17552, 17858, 18087

PROPOSED RULES:
- 301 17544
- 415 17601

17 CFR

- 230 17933
- 239 17933
- 240 17582
- 270 17583
- 274 17583

PROPOSED RULES:
- 240 ..... 17983, 18063
- 270 17861

19 CFR

- 5 17619
- 12 17428
- 19 17619
- 23 16528
- 24 17619

20 CFR

- 404 18026
- 406 ..... 18026, 18027
- 422 18030

PROPOSED RULES:
- 405 ..... 18050, 18054

21 CFR

- 19 18096
- 29 17654
- 120 ..... 16529, 17472, 18096
- 121 ..... 16529, 16530, 17472, 17587, 17654, 17655, 17856, 17857, 18096.
- 130 16531
- 146 16531
- 146a 16491, 17657
- 148q 18096
- 166 17473

PROPOSED RULES:
- 1 18113
- 15 18114
- 31 16533
- 46 ..... 17482, 17671, 18114

21 CFR—Continued

Page

PROPOSED RULES—Continued
- 128 17980
- 130 17671
- 138 ..... 16533, 17626

22 CFR

- 10 17454

23 CFR

- 255 ..... 17938, 18032, 18033

PROPOSED RULES:
- 255 16534

24 CFR

- 234 17587

25 CFR

PROPOSED RULES:
- 221 17543

26 CFR

- 1 ..... 17479, 17518, 17657, 17890, 17938, 18039
- 31 18039
- 46 18039
- 48 18039
- 49 18039
- 147 17858
- 701 17890

PROPOSED RULES:
- 151 17861

28 CFR

- 0 16531

29 CFR

- 1610 16491

30 CFR

PROPOSED RULES:
- 18 18098
- 34 18098

31 CFR

- 1 17519
- 82 17859
- 214 18044

32 CFR

Page
- 52 17661
- 54 17619
- 57 18087
- 504 18089
- 537 17519
- 701 17588

33 CFR

- 109 ..... 17726, 17890
- 110 ..... 17726, 17890
- 114 ..... 17726, 17890
- 115 ..... 17726, 17890
- 116 ..... 17726, 17890
- 117 ..... 17726, 17890, 17939
- 209 17522

36 CFR

- 7 17661

39 CFR

- 123 17479
- 224 18045
- 232 18045
- 742 ..... 17479, 17860

41 CFR

- 1–1 ..... 16491, 18045
- 1–2 18049
- 1–16 18049
- 9–1 17542
- Ch. 18 17002
- 101–26 17939

42 CFR

- 53 17662

43 CFR

- 2210 17890

PUBLIC LAND ORDERS:
- 334 (revoked in part by PLO 4333) 17480
- 1796 (revoked in part by PLO 4331) 17479
- 2764 (see PLO 4331) 17479
- 4327 16531
- 4328 17429
- 4329 16532
- 4330 17479
- 4331 17479
- 4332 17479
- 4333 17480
- 4334 17429
- 4335 17429
- 4336 17620

43 CFR—Continued

Page

PUBLIC LAND ORDERS—Continued
- 4337 17662
- 4338 17891

45 CFR

- 30 17891
- 1105 17663

46 CFR

- 39 17621
- 98 17621
- 221 17595
- 255 17595
- 308 17891
- 510 17480
- 526 17667

PROPOSED RULES:
- Ch. II 17980
- 514 16496

47 CFR

- 97 17429

PROPOSED RULES:
- 2 ..... 16495, 18115
- 87 ..... 16495, 18115
- 91 17440

48 CFR

- 501 17940

49 CFR

- 290 17941
- 291 17941
- 292 17941
- 293 17941
- 294 17941
- 295 ..... 17892, 17941
- 296 17941
- 297 17941
- 890 17480
- 1200 17480

PROPOSED RULES:
- 117 18114
- 239 18062
- 294 18114

50 CFR

- 28 17622
- 32 17542
- 33 ..... 16532, 17430, 17481, 17623, 17667, 17668, 18049.
- 254 16492

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PART II

THE PRESIDENT

Proclamation 3822—to Carry Out Geneva (1967) Protocol to the General Agreement on Tariffs and Trade and Other Agreements

Modification of Tariff Schedules of the United States

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

Presidential Documents

Title 3—THE PRESIDENT

Proclamation 3822

PROCLAMATION TO CARRY OUT GENEVA (1967) PROTOCOL TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE AND OTHER AGREEMENTS

By the President of the United States of America

A Proclamation

1. WHEREAS, pursuant to Section 350 of the Tariff Act of 1930, the President, on October 30, 1947, entered into, and by Proclamation No. 2761A of December 16, 1947 (61 Stat. (pt. 2) 1103), proclaimed, the General Agreement on Tariffs and Trade (hereinafter referred to as the "General Agreement"), containing a schedule of United States concessions designated as Schedule XX, which General Agreement, schedule, and proclamation have been supplemented by other agreements, schedules, and proclamations;

2. WHEREAS, after compliance with the requirements of Section 102 of the Tariff Classification Act of 1962 (76 Stat. 73), the President by Proclamation No. 3548 of August 21, 1963 (77 Stat. 1017), proclaimed, effective on and after August 31, 1963, the Tariff Schedules of the United States, which reflected, with modifications, and, in effect, superseded, Proclamation No. 2761A and proclamations supplementary thereto insofar as they relate to Schedule XX to the General Agreement;

3. WHEREAS, pursuant to Sections 221 and 224 of the Trade Expansion Act of 1962 (19 U.S.C. 1841 and 1844), the President, by a notice dated October 21, 1963, published and furnished to the United States Tariff Commission (hereinafter referred to as the "Tariff Commission"), lists of articles which might be considered for modification or continuance of duties or other import restrictions, including reductions in duties below the 50 percent limitation specified in Section 201(b)(1) of the Trade Expansion Act of 1962 (19 U.S.C. 1821(b)(1)), or continuance of duty-free or excise treatment in the negotiation of trade agreements (48 CFR Part 180), which lists were supplemented by lists published by the President and furnished by him to the Tariff Commission by the notices dated February 18, 1965 (48 CFR Part 181), August 16, 1966 (48 CFR Part 182), and April 22, 1967 (32 F.R. 6429), and the Tariff Commission, after holding public hearings, advised the President with respect to each such article of its judgment as to the probable economic effect of such modifications;

4. WHEREAS, pursuant to Sections 223 and 224 of the Trade Expansion Act of 1962 (19 U.S.C. 1843 and 1844) and in accordance with Section 3(g) of Executive Order No. 11075 of January 15, 1963 (48 CFR 1.3(g)), the Special Representative for Trade Negotiations, appointed by the President pursuant to Section 241(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1871(a)), designated, on April 23, 1963, the Trade Information Committee to afford an opportunity, through public hearings and other means, for any interested person to present his views concerning any article on the lists identified in the third recital of this proclamation or any other matter relevant to the negotiation of trade agreements (48 CFR 202.3), and the Trade Information Committee, after holding public hearings, furnished the President with a summary of its hearings;

5. WHEREAS, pursuant to Section 222 of the Trade Expansion Act of 1962 (19 U.S.C. 1842), the President received information and advice with respect to the trade agreement identified in the seventh recital of this proclamation, from the Departments of Agriculture, Commerce, Defense, the Interior, Labor, State, and the Treasury, and from such other sources as he deemed appropriate, and, pursuant to Section 241(b) of the Trade Expansion Act of 1962 (19 U.S.C. 1871(b)), the Special Representative for Trade Negotiations received

information and advice with respect to that agreement from representatives of industry, agriculture, and labor, and from such agencies as he deemed appropriate;

6. WHEREAS, pursuant to Section 201(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1821(a)), the President determined that certain existing duties or other import restrictions of the United States, of foreign countries which were contracting parties to the General Agreement, or of foreign countries which sought to accede to the General Agreement, were unduly burdening and restricting the foreign trade of the United States and that one or more of the purposes stated in Section 102 of the Trade Expansion Act of 1962 (19 U.S.C. 1801) would be promoted by entering into the trade agreement identified in the seventh recital of this proclamation;

7. WHEREAS, pursuant to Section 201(a)(1) of the Trade Expansion Act of 1962, on June 30, 1967, the President, through his duly empowered representative, entered into a trade agreement with other contracting parties to the General Agreement and with countries seeking to accede to the General Agreement, which trade agreement consists of the Geneva (1967) Protocol to the General Agreement, including a schedule of United States concessions annexed thereto (hereinafter referred to as "Schedule XX (Geneva—1967)"), together with the Final Act Authenticating the Results of the 1964–67 Trade Conference Held under the Auspices of the Contracting Parties to the General Agreement (a copy of which Protocol, including Schedule XX annexed thereto, and a copy of which Final Act being annexed to this proclamation as Annex I);

8. WHEREAS each modification of existing duty proclaimed in this proclamation which provides with respect to an article for a decrease in duty below the limitation specified in Section 201(b)(1) or 253 of the Trade Expansion Act of 1962 (19 U.S.C. 1821(b)(1) or 1883) is authorized by one or more of the following provisions:

(a) Section 202 of the Trade Expansion Act of 1962 (19 U.S.C. 1822), by virtue of the fact that the rate of duty existing on July 1, 1962, applicable to the article was not more than 5 percent ad valorem (or ad valorem equivalent);

(b) Section 213 of the Trade Expansion Act of 1962 (19 U.S.C. 1833), by virtue of the fact that, after being advised by the Tariff Commission pursuant to that section, the President, prior to entering into the trade agreement identified in the seventh recital of this proclamation, determined, pursuant to that section, that the article was a tropical agricultural or forestry commodity, that the like article was not produced in significant quantities in the United States, and that the European Economic Community made a commitment with respect to duties or other import restrictions applicable to such article which is likely to assure access to its markets under the conditions set forth in that section;

(c) Section 254 of the Trade Expansion Act of 1962 (19 U.S.C. 1884), by virtue of the fact that the President determined, pursuant to that section, that the decrease authorized by that section will simplify the computation of the amount of duty imposed with respect to the article; and

(d) Section 203 of the Tariff Classification Act of 1962, as amended (76 Stat. 882), Section 2(b) of Public Law 89–204 (79 Stat. 889), Section 3(a) of the Tariff Schedules Technical Amendments Act of 1965 (79 Stat. 933), Section 4 of Public Law 89–388 (80 Stat. 110), and Section 1 of Public Law 90–14 (81 Stat. 14);

9. WHEREAS, in the case of each decrease in duty of the type specified in clause (a) or (c) of the eighth recital of this proclamation which involves the determination of the ad valorem equivalent of a specific rate of duty, and in the case of each modification in the form of an import duty, the Tariff Commission determined, pursuant to Section 256(7) of the Trade Expansion Act of 1962 (19 U.S.C. 1886(7)) and in accordance with Section 5(a) of Executive Order No. 11075 of January 15, 1963 (48 CFR 1.5(a)), and at the direction

of the President, the ad valorem equivalent of the specific rate or the specific equivalent of the ad valorem rate, as the case may be, on the basis of the value of imports of the article concerned during a period determined by it to be representative, utilizing, to the maximum extent practicable, the standards of valuation contained in Section 402 or 402a of the Tariff Act of 1930 (19 U.S.C. 1401a or 1402) applicable to such article during such representative period;

10. WHEREAS, pursuant to Section 201(a)(2) of the Trade Expansion Act of 1962, I determine that the modification or continuance of existing duties or other import restrictions and the continuance of existing duty-free or excise treatment hereinafter proclaimed are required or appropriate to carry out the trade agreement identified in the seventh recital of this proclamation and related parts of other agreements; and

11. WHEREAS, pursuant to Section 304(a)(3)(J) of the Tariff Act of 1930 (19 U.S.C. 1304(a)(3)(J)) and Section 258 of the Trade Expansion Act of 1962 (19 U.S.C. 1888), I find that the suspension of the effectiveness of the proviso to Section 304(a)(3)(J), with respect to the marking of the articles provided for in headnote 2 of Part 1 of Schedule 2 of the Tariff Schedules of the United States (added thereto by Section A of Annex II to this proclamation), is required to carry out the trade agreement identified in the seventh recital of this proclamation:

NOW, THEREFORE, I, LYNDON B. JOHNSON, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes, including but not limited to Sections 201, 202, 213, and 254 of the Trade Expansion Act of 1962, do proclaim that:

(1) Subject to the applicable provisions of the General Agreement, the Geneva (1967) Protocol, and other agreements supplemental to the General Agreement, the modification or continuance of existing duties or other import restrictions and the continuance of existing duty-free or excise treatment, provided for in Schedule XX (Geneva—1967), shall be effective on and after January 1, 1968, as provided for therein; and

(2) To this end and to give effect to related parts of other agreements, the Tariff Schedules of the United States are modified, effective on and after January 1, 1968, as provided for in Annexes II and III to this proclamation.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of December in the year of our Lord nineteen hundred and sixty-seven, and of the Independence of the United States of America the one hundred and ninety-second.

THE WHITE HOUSE,
WASHINGTON, D.C.

[F.R. Doc. 67-14749; Filed, Dec. 18, 1967; 10:02 a.m.]

ANNEX I

FINAL ACT AUTHENTICATING THE RESULTS OF THE 1964-67 TRADE CONFERENCE HELD UNDER THE AUSPICES OF THE CONTRACTING PARTIES TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE[1]

GENEVA (1967) PROTOCOL TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE[1]

(INCLUDING SCHEDULES OF CONCESSIONS)

[1] Not printed in the FEDERAL REGISTER. The texts of the Final Act and Protocol have been printed by the Contracting Parties to the General Agreement on Tariffs and Trade in a five volume set entitled Legal Instruments Embodying the Results of the 1964-67 Trade Conference, Geneva, 1967 (available from the Columbia University Press). They are being printed in 90th Congress, 1st session, House Document 184, and will also be printed in Treaties and Other International Acts Series and in the bound volumes of United States Treaties and Other International Agreements.

ANNEX II

GENERAL MODIFICATIONS OF THE TARIFF SCHEDULES OF THE UNITED STATES

NOTES:

1. A rate of duty specifically set forth in this annex which does not reflect a trade agreement concession granted in Schedule XX (Geneva-1967) is enclosed in brackets. Such bracketed rates are included in this annex in cases in which items in the Tariff Schedules of the United States are subdivided or redesignated as required or appropriate to carry out trade agreement concessions. Additional bracketed matter is included to assist in the understanding of proclaimed modifications.

2. In instances in this annex in which one or more complete items, with or without preceding superior descriptions, supersede matter now in the Tariff Schedules of the United States, the items and superior descriptions are set forth in columnar form, and material in such columns is inserted in the columns designated "Item", "Articles", "Rates of Duty 1", and "Rates of Duty 2", respectively, in the Tariff Schedules of the United States.

Subject to the above notes and to the insertion, as indicated herein, of the appropriate rates of duty set forth in Annex III to this proclamation, the Tariff Schedules of the United States are modified as follows:

Section A. Effective as to articles entered, or withdrawn from warehouse, for consumption on and after January 1, 1968:

Schedule 1, Part 1

1. In Schedule 1, Part 1, headnote 1, "subpart" is superseded by: "part";

Schedule 1, Part 2, Subpart B

2. Items 107.11 and 107.36 are deleted;

Schedule 1, Part 3, Subpart A

3. Items 110.60 and 110.61 are superseded by:

Item	Articles	Rates of Duty 1	Rates of Duty 2
	[Fish ...:]		
	[Other:]		
	[Otherwise ...:]		
"110.65	Yellow perch	[1.5¢ per lb.]	[2.5¢ per lb.]
110.70	Other	[See Annex III]	[2.5¢ per lb.]";

Schedule 1, Part 3, Subpart B

4. Item 111.16 is deleted;

Schedule 1, Part 3, Subpart C

5. Item 112.70 is superseded by:

Item	Articles	Rates of Duty 1	Rates of Duty 2
	[Fish ...:]		
	[Sardines:]		
	[Valued ...:]		
	"Neither skinned nor boned:		
112.71	Smoked	[See Annex III]	[30% ad val.]
112.73	Not smoked	[15% ad val.]	[30% ad val.]";

6. Item 112.78 is superseded by:

	[Fish ...:]			
	[Sardines:]			
	[Valued ...:]			
	[Neither ...:]			
	"Smoked:			
112.79	Valued 45 cents or more per pound in tin-plate containers or 50 cents or more per pound in other containers	[See Annex III]	[30% ad val.]	
112.80	Other	[See Annex III]	[30% ad val.]";	

Schedule 1, Part 4, Subpart C

7. Item 117.80 is superseded by:

	[Other ...:]			
	[Other:]			
	"Valued over 25 cents per pound:			
117.81	Colby	[20% ad val.]	[35% ad val.]	
117.85	Other	[See Annex III]	[35% ad val.]";	

Schedule 1, Part 5, Subpart A

8. Item 120.13 is superseded by:

	[Hides ...:]			
	[Bovine:]			
	"Other:			
120.14	Whole hides or skins weighing over 12 pounds each when dried or dry-salted, or over 25 pounds each when wet or wet-salted	[See Annex III]	[10% ad val.]	
120.17	Other	[See Annex III]	[10% ad val.]";	

9. Item 121.56 is superseded by:

	[Leather ...:]			
	[Other:]			
	[Other:]			
	[Not ...:]			
	"Vegetable-tanned goat and sheep, in the rough:			
121.52	Goat	[See Annex III]	[10% ad val.]	
121.54	Sheep	[See Annex III]	[10% ad val.]";	

Schedule 1, Part 8, Subpart A

10. Item 137.00 is superseded by:

	[Vegetables ...:]			
	[Peas:]			
	"If entered during the period from July 1 to September 30, inclusive, in any year:			
136.98	Fresh or chilled	[See Annex III]	[3.9¢ per lb.]	
136.99	Frozen	[1¢ per lb.]	[3.9¢ per lb.]";	

11. Item 137.70 is superseded by:

	[Vegetables ...:]			
	"Other:			
137.75	Chayote (Sechium edule)	[See Annex III]	[50% ad val.]	
137.80	Parsnips	[See Annex III]	[50% ad val.]	
137.85	Other	[25% ad val.]	[50% ad val.]";	

Schedule 1, Part 8, Subpart B

12. Item 140.17 is deleted;

Schedule 1, Part 8, Subpart C

13. Item 141.67 is deleted;

14. Item 141.80 is superseded by:

	[Vegetables ...:]			
	[Other:]			
	"Other:			
141.79	Palm hearts	[See Annex III]	[35% ad val.]	
141.81	Other	[17.5% ad val.]	[35% ad val.]";	

Schedule 1, Part 9, Subpart A

15. Item 145.10 is deleted;

Schedule 1, Part 9, Subpart B

16. Item 146.72 is superseded by:

	[Berries ...:]			
	[Otherwise ...:]			
"146.73	Black currants, gooseberries, lingon or partridge berries, and loganberries	[See Annex III]	[35% ad val.]	
146.75	Other berries	[14% ad val.]	[35% ad val.]";	

17. Item 146.98 is superseded by:

	[Cherries ...:]			
"146.97	Frozen	[See Annex III]	[9.5¢ per lb. + 40% ad val.]	
146.99	Otherwise prepared or preserved	[7¢ per lb. + 10% ad val.]	[9.5¢ per lb. + 40% ad val.]";	

18. Item 147.20 is superseded by:

	[Citrus ...:]			
	"Lemons:			
147.19	Fresh	[1.25¢ per lb.]	[2.5¢ per lb.]	
147.21	Prepared or preserved	[See Annex III]	[2.5¢ per lb.]";	

19. Items 147.31 and 147.32 are superseded by:

	[Citrus ...:]			
	[Oranges:]			
"147.30	Kumquats, packed in airtight containers	[See Annex III]	[1¢ per lb.]	
147.31	Other	[1¢ per lb.]	[1¢ per lb.]	
147.32	If product of Cuba	[0.8¢ per lb.(a)]"		

[(a) = Suspended. See general headnote 3(b).];

20. Item 147.52 is superseded by:

	[Figs ...:]		
	"Dried:		
147.51	In immediate containers weighing with their contents over 1 pound each	[4.5¢ per lb.]	[5¢ per lb.]
147.53	Other	[See Annex III]	[5¢ per lb.]";

21. Item 147.62 is superseded by:

	[Grapes ...:]		
	[Fresh ...:]		
	[Other ...:]		
"147.61	If entered during the period from February 15 to March 31, inclusive, in any year	[5.25¢ per cu. ft. of such bulk or the capacity of the package]	[25¢ per cu. ft. of such bulk or the capacity of the package]
147.63	If entered during the period from April 1 to June 30, inclusive, in any year	[See Annex III]	[25¢ per cu. ft. of such bulk or the capacity of the package]";

22. Item 148.76 is superseded by:

	[Peaches ...:]		
	"Otherwise prepared or preserved:		
148.77	White fleshed	[See Annex III]	[35% ad val.]
148.78	Other	[20% ad val.]	[35% ad val.]";

23. Item 148.80 is superseded by:

	[Pears ...:]		
	"Fresh or in brine:		
148.81	If entered during the period from April 1 to June 30, inclusive, in any year	[See Annex III]	[0.5¢ per lb.]
148.82	If entered at any other time	[0.5¢ per lb.]	[0.5¢ per lb.]";

24. Items 149.20 and 149.22 are superseded by:

	[Plums ...:]		
	[Fresh:]		
"149.19	If entered during the month of January in any year	[See Annex III]	[0.5¢ per lb.]
149.20	If entered during the period from February 1 to May 31, inclusive, in any year	[See Annex III]	[0.5¢ per lb.]
149.21	If entered during the period from June 1 to December 31, inclusive, in any year	[0.5¢ per lb.]	[0.5¢ per lb.]";

Schedule 1, Part 9, Subpart C

25. Item 152.06 is deleted;

26. Items 152.70 and 152.71 are superseded by:

	[Fruit ...:]		
"152.72	Banana and plantain	[See Annex III]	[35% ad val.]
152.74	Other	[15% ad val.]	[35% ad val.]
152.75	If product of Cuba	[14% ad val.(a)]"	

[(a) = Suspended. See general headnote 3(b).];

Schedule 1, Part 9, Subpart D

27. Item 154.36 is deleted;

Schedule 1, Part 10, Subpart A

28. In Schedule 1, Part 10A, the heading preceding headnote 1 is superseded by: "Subpart A headnotes:";

29. In Schedule 1, Part 10A, the following is inserted after headnote 1:

"2. The rates in column numbered 1 in items 155.20 and 155.30 on January 1, 1968, shall be effective only during such time as title II of the Sugar Act of 1948 or substantially equivalent legislation is in effect in the United States, whether or not the quotas, or any of them, authorized by such legislation, are being applied or are suspended: Provided,

(i) That, if the President finds that a particular rate not lower than such January 1, 1968, rate, limited by a particular quota, may be established for any articles provided for in item 155.20 or 155.30, which will give due consideration to the interests in the United States sugar market of domestic producers and materially affected contracting parties to the General Agreement on Tariffs and Trade, he shall proclaim such particular rate and such quota limitation, to be effective not later than the 90th day following the termination of the effectiveness of such legislation;

(ii) That any rate and quota limitation so established shall be modified if the President finds and proclaims that such modification is required or appropriate to give effect to the above considerations; and

(iii) That the January 1, 1968, rates shall resume full effectiveness, subject to the provisions of this headnote, if legislation substantially equivalent to title II of the Sugar Act of 1948 should subsequently become effective.";

30. Item 155.76 is deleted;

Schedule 1, Part 11, Subpart A

31. In Schedule 1, Part 11A, headnote 1, "160.20, 160.21, and 160.22" is superseded by: "160.20, and 160.21";

32. Items 160.22 and 160.41 are deleted;

Schedule 1, Part 11, Subpart B

33. Items 161.81 and 161.82 are superseded by:

	[Pepper:]		
	[Capsicum ...:]		
	"Not ground:		
161.80	Anaheim and ancho	[5¢ per lb.]	[5¢ per lb.]
161.82	If product of Cuba	[4¢ per lb.(a)]	
161.83	Other	[See Annex III]	[5¢ per lb.]"

[(a) = Suspended. See general headnote 3(b).];

Schedule 1, Part 12, Subpart D

34. Items 168.20 and 168.22 are superseded by:

	[Brandy:]		
	"In containers each holding not over 1 gallon:		
168.19	Valued not over $9 per gallon	[See Annex III]	[$5 per gal.]
168.20	Valued over $9 per gallon	[$1.25 per gal.1/]	[$5 per gal.]
	In containers each holding over 1 gallon:		
168.21	Valued not over $9 per gallon	[See Annex III]	[$5 per gal.]
168.22	Valued over $9 per gallon	[$1 per gal.1/]	[$5 per gal.]"

[1/ Rate temporarily increased by proclamation. See Appendix to Tariff Schedules.];

Schedule 1, Part 13

35. In Schedule 1, Part 13, headnote 3, "170.31" is superseded by: "170.29, 170.33";

36. In Schedule 1, Part 13, headnote 4, "item 170.72" and "this item" are superseded by: "items 170.68 and 170.74" and "these items", respectively;

37. All matter from item 170.30 to item 170.32, inclusive, is superseded by:

	[Filler ...:]		
	[When ...:]		
	[Cigarette ...:]		
	"Not stemmed:		
170.28	Leaf, oriental or Turkish type, not over 8.5 inches in length	[See Annex III]	[35¢ per lb.]
	If product of the Philippines:		
170.29	If Philippine articles within tariff-rate quota (see headnote 3 of this part)	[Free]	
170.31	Other	[See Annex III]	
170.32	Other	[12.75¢ per lb.]	[35¢ per lb.]
	If product of the Philippines:		
170.33	If Philippine articles within tariff-rate quota (see headnote 3 of this part)	[Free]	
170.34	Other	[12.75¢ per lb.]";	

38. Item 170.75 is redesignated as 170.78;

39. All matter from item 170.70 to item 170.74, inclusive, is superseded by:

	"Cigars and cheroots:		
170.66	Cigars each valued 15 cents or over	[See Annex III]	[$4.50 per lb. + 25% ad val.]
170.67	If product of Cuba	[See Annex III(s)]	
	If product of the Philippines:		
170.68	If Philippine articles: Within tariff-rate quota (see headnote 4 of this part)	[Free]	
170.69	Other	[See Annex III]	
170.70	Other	[See Annex III]	
170.72	Other	[$1.91 per lb. + 10.5% ad val.]	[$4.50 per lb. + 25% ad val.]
170.73	If product of Cuba	[$1.27 per lb. + 8.5% ad val.(s)]	
	If cigars the product of the Philippines:		
170.74	If Philippine articles: Within tariff-rate quota (see headnote 4 of this part)	[Free]	
170.75	Other	[$1.27 per lb. + 8.5% ad val.]	
170.76	Other	[$1.91 per lb. + 10.5% ad val.]"	

[(s) = Suspended. See general headnote 3(b).];

Schedule 1, Part 14, Subpart B

40. Item 176.01 is redesignated as item 176.00;

41. Item 176.02 is superseded by:

	"Castor oil:		
176.01	Valued not over 11.5 cents per pound ...	[See Annex III]	[3¢ per lb.]
176.02	Valued over 11.5 cents per pound	[1.5¢ per lb.]	[3¢ per lb.]";

Schedule 1, Part 14, Subpart C

42. Item 177.70 is superseded by:

	[Other ...:]		
	[Other:]		
	"Edible:		
177.67	Derived from milk	[10% ad val.]	[20% ad val.]
177.69	Other	[See Annex III]	[20% ad val.]";

Schedule 1, Part 15, Subpart B

43. In Schedule 1, Part 15B, headnote 3, "182.91, and 182.92" is superseded by: "182.92, 182.93, and 182.95";

44. Items 182.91 and 182.92 are superseded by:

	[Edible ...:]		
	"Other:		
182.92	Containing over 5.5 percent by weight of butterfat and not packaged for retail sale	[20% ad val.]	[20% ad val.]
182.93	If products of Cuba	[16% ad val.(e)] [See Annex III]	[20% ad val.]"
182.95	Other		

[(e) = Suspended. See general headnote 3(b).];

Schedule 2, Part 1

45. In Schedule 2, Part 1, the heading preceding headnote 1 is superseded by: "Part 1 headnotes:";

46. In Schedule 2, Part 1, the following is inserted after headnote 1:

"2. The effectiveness of the proviso to section 304(a)(3)(J) of the Tariff Act of 1930 (19 U.S.C. 1304(a)(3)(J)), to the extent permitted by that section and as provided for in Schedules XX to the General Agreement on Tariffs and Trade, is suspended, with the result that sawed lumber and sawed timbers however provided for, telephone, trolley, electric-light, and telegraph poles of wood, and bundles of shingles, other than redcedar shingles, shall not be required to be marked to indicate the country of origin.";

Schedule 2, Part 1, Subpart A

47. Item 200.90 is superseded by:

	[Wood ...:]		
	"Plain:		
200.91	Softwood	2.5% ad val.	[5% ad val.]
200.93	Hardwood	[See Annex III]	[5% ad val.]";

Schedule 2, Part 1, Subpart B

48. Item 202.31 is deleted;

49. Item 202.45 is redesignated as item 202.47;

50. Items 202.36 through 202.43 are superseded by:

	[Lumber ...:]		
	[Hardwood:]		
	"Balsa (Ochroma lagopus) and teak (Tectona grandis):		
202.32	Rough	[See Annex III]	[$3 per 1000 ft., board measure]
202.33	Dressed or worked	[See Annex III]	[$3 per 1000 ft., board measure]
202.34	Mahogany (Swietenia spp. or Khaya spp.)	[See Annex III]	[$3.10 per 1000 ft., board measure]
	Spanish cedar (Cedrela spp.), ebony (Diospyros spp.), lancewood (Oxandra spp.), and lignumvitae (Guaiacum spp.):		
202.35	Rough	[See Annex III]	[15% ad val.]
202.37	Dressed or worked	[See Annex III]	[15% ad val.]
202.38	Boxwood (Buxus spp.), Japanese maple (Acer spp.), and Japanese white oak (Quercus spp.)	[See Annex III]	[15% ad val.]

	[Lumber ...:]		
	[Hardwood:]		
202.40	Philippine mahogany (almon (Shorea almon), bagtikan (Parashorea plicata), red lauan (Shorea negrosensis), white lauan (Pentacme contorta and P. winduoensis), mayapis (Shorea squamata), tangile (Shorea polysperma) and tiaong (Shorea spp.));		
	moranti (Shorea spp.);		
	red seraya (Shorea spp.); and		
	white seraya (Parashorea spp.).	[See Annex III]	[$3 per 1000 ft., board measure]
202.42	Alder (Alnus spp.), ash (Fraxinus spp.), aspen and cottonwood (Populus spp.), basswood (Tilia spp.), beech (Fagus spp.), birch (Betula spp.), black or tupelo gum (Nyssa spp.), buckeye (Aesculus spp.), cherry (Prunus spp.), elm (Ulmus spp.), eucalyptus (Eucalyptus spp.), hickory (Carya spp.), magnolia (Magnolia spp.), maple (Acer spp.), oak (Quercus spp.), sen (Kalopanax spp.), sweet (red or sap) gum (Liquidambar spp.), sycamore (Platanus spp.), walnut (Juglans spp.), willow (Salix spp.), and yellow poplar (Liriodendron spp.)	[See Annex III]	[$3 per 1000 ft., board measure]
	Other:		
202.44	Rough	[See Annex III]	[$3 per 1000 ft., board measure]
202.46	Dressed or worked	[See Annex III]	[$3 per 1000 ft., board measure]";

51. Item 202.57 is superseded by:

	[Wood ...:]		
	"Hardwood flooring in strips and planks, whether or not drilled or treated:		
202.56	Oak (Quercus spp.)	[4% ad val.]	[8% ad val.]
202.58	Other	[See Annex III]	[8% ad val.]";

52. Item 202.63 is superseded by:

	[Wood ...:]		
	"Standard wood moldings, not drilled or treated:		
202.62	Pine (Pinus spp.)	[1.5% ad val.]	[5% ad val.]
202.64	Other	[See Annex III]	[5% ad val.]";

Schedule 2, Part 3

53. Item 240.01 is superseded by:

	[Wood ...:]		
	[Not ...:]		
"240.02	Philippine mahogany (almon (Shorea almon), bagtikan (Parashorea plicata), red lauan (Shorea negrosensis), white lauan (Pentacme contorta and P. mindanensis), mayapis (Shorea squamata), tangile (Shorea polysperma) and tiaong (Shorea spp.)); mayanti (Shorea spp.); red seraya (Shorea spp.); and white seraya (Parashorea spp.) .	[10% ad val.]	[20% ad val.]
240.03	Other	[See Annex III]	[20% ad val.]";

54. Item 240.18 is superseded by:

	[Plywood ...:]		
	[Not ...:]		
240.17	With a face ply of Philippine mahogany (almon (Shorea almon), bagtikan (Parashorea plicata), red lauan (Shorea negrosensis), white lauan (Pentacme contorta and P. mindanensis), mayapis (Shorea squamata), tangile (Shorea polysperma) and tiaong (Shorea spp.)); mayanti (Shorea spp.); red seraya (Shorea spp.); and white seraya (Parashorea spp.) .	[20% ad val.]	[40% ad val.]
240.19	With a face ply of walnut (Juglans spp.)	[20% ad val.]	[40% ad val.]
	Other:		
240.21	With a face ply of softwood .	[20% ad val.]	[40% ad val.]
240.23	Other	[See Annex III]	[40% ad val.]";

55. Item 240.20 is redesignated as item 240.25;

Schedule 2, Part 5

56. Item 274.31 is deleted;

Schedule 3

57. In Schedule 3, the following is inserted after headnote 5:

"6. (a) If the rate of duty in column numbered 1 applicable to wool provided for in item 306.31 is at any time increased or decreased, the specific part of the compound rate of duty in column 1 (hereinafter referred to as the compensatory part thereof) applicable to articles provided for in each item listed in paragraph (e) of this note, and so much of each specific rate in column 1 applicable to articles provided for in each item listed in paragraph (f) of this note as is therein designated as the compensatory part thereof, shall, subject to the provisions of paragraphs (b) through (d) of this note, be increased or decreased in the same proportion as such rate applicable to wool provided for in item 306.31 is increased or decreased.

(b) The maximum and minimum levels to which the compensatory part of a rate may be increased or decreased pursuant to paragraph (a) of this note shall be 50 percent above such compensatory part "existing on July 1, 1934", or 50 percent below such part "existing on July 1, 1962", respectively, as such terms are applied for purposes of section 201(b) of the Trade Expansion Act of 1962 (19 U.S.C. (1964) 1821).

(c) Any specific part of a compound rate or any specific rate modified pursuant to paragraph (a) of this note may be rounded, by not exceeding 0.5 cent, to a whole number of cents.

(d) A rate increase or decrease pursuant to this note shall be proclaimed by the President effective on the day on which the modified rate becomes applicable to the wool provided for in item 306.31 or, with or without staging, as soon thereafter as the President determines to be practicable under United States law, but in no event later than 4 years after such modified rate becomes applicable, and shall remain in effect thereafter so long as such modified rate is applicable.

(e) The items containing the compound rates referred to in paragraph (a) of this note are:

307.50	355.16	372.25	382.48
307.52	357.10	372.30	382.54
307.64	357.15	372.35	382.56
336.10	357.20	372.40	382.58
336.15	358.30	372.45	382.60
336.20	363.10	373.15	382.63
336.25	363.15	374.50	388.10
336.30	363.65	376.08	388.20
336.40	363.70	378.35	388.30
336.50	364.20	378.40	702.54
336.60	364.22	378.45	702.56
345.30	367.05	380.57	702.75
346.52	367.10	380.59	702.80
346.82	367.15	380.61	704.60
347.40	367.20	380.63	704.65
355.15	367.25	380.66	704.70

(f) The items containing the specific rates referred to in paragraph (a) of this note and the compensatory parts of such rates are:

Item	Compensatory part of rate
336.35	30¢ per lb.
336.55	37.5¢ per lb.";

Schedule 3, Part 3, Subpart A

58. Schedule 3, Part 3A, headnote 2 is superseded by:

"2. In this subpart, each of the rates of duty provided for fabric, wholly of cotton, not fancy or figured, and not bleached and not colored (items 319.21 through 319.25 and items 320.01 through 320.98, both inclusive) is also the "base rate" for fabrics of the same average yarn number covered by items 319.27 and 319.29, and by items 321.-- through 331.--, inclusive, respectively. For citation purposes, the two blanks on the end of each of the latter item numbers shall be filled in with the last two digits of the item number for the applicable base rate. Thus, "item 324.45" would be the citation for woven fabrics, wholly of cotton, of number 45, fancy or figured, and bleached but not colored.";

59. Schedule 3, Part 3A, headnote 4 is superseded by:

"4. With respect only to the fabrics provided for in items 319.21 through 319.25 and 320.01 through 320.98, none of the ad valorem rates of duty, or the ad valorem parts of the compound rates of duty, shall be less than the equivalent of --

(i) [See Annex III] in rate column 1 for items 320.01 through 320.98;

(ii) 0.3 cent per number per pound in rate column 1 for items 319.21 through 319.25; and

(iii) 0.55 cent per number per pound in rate colum 2 for items 319.21 through 319.25 and 320.01 through 320.98.";

60. The superior description preceding item 320.01 is superseded by:

	"Woven fabrics, wholly of cotton:		
	Colored, whether or not bleached and whether or not fancy or figured, and made on a hand loom (i.e., a nonpower-driven loom) by a cottage industry, and which prior to exportation have been certified by an official of a government agency of the country where the fabrics were produced to have been so made:		
319.01	Of number 14 or coarser	[See Annex III]	[The rate that would apply in the absence of this item]
319.03	Of numbers 15 to 34	[See Annex III]	[The rate that would apply in the absence of this item]
319.05	Of numbers 35 to 49	[See Annex III]	[The rate that would apply in the absence of this item]
319.07	Of numbers 50 to 59	[See Annex III]	[The rate that would apply in the absence of this item]
	Suitable for making typewriter ribbon, not fancy or figured, containing yarns the average number of which exceeds 50 but not 140, the total thread count (treating ply yarns as single threads) of which per square inch, counting warp and filling, is not less than 240 and not more than 340, and in which the thread count of either the warp or filling does not exceed 60 percent of the total thread count of the warp and filling:		
	Not bleached and not colored:		
319.21	Of numbers 51 to 59	[7.5% ad val. + 0.25% ad val. for each number]	[10% ad val. + 0.35% ad val. for each number]

	[Woven ...:]		
	[Suitable ...:]		
	[Not ...:]		
319.23	Of numbers 60 to 79	[5¢ per lb. + 7.5% ad val. + 0.25% ad val. for each number]	[10¢ per lb. + 10% ad val. + 0.35% ad val. for each number]
319.25	Of numbers 80 to 140	[5¢ per lb. + 27.5% ad val.]	[10¢ per lb. + 41.5% ad val.]
319.27 [1/]	Bleached, but not colored	[Base rate + 2.5% ad val.]	[Base rate + 3% ad val.]
319.29 [1/]	Colored, whether or not bleached	[Base rate + 4.5% ad val.]	[Base rate + 6% ad val.]
	Woven fabrics other than the foregoing, wholly of cotton:		
	Not fancy or figured:		
	Not bleached and not colored;"		

[1/ See headnote 2 of this subpart.]

Schedule 3, Part 4, Subpart A

61. Item 349.20 is superseded by:

	[Elastic ...:]		
	"Fabrics, not braided:		
349.15	Of cotton	[20% ad val.]	[60% ad val.]
349.25	Other	[See Annex III]	[60% ad val.]";

Schedule 3, Part 4, Subpart C

62. Item 355.05 is superseded by:

	[Webs ...:]		
	"Of vegetable fibers:		
355.02	Of cotton	[See Annex III]	[40% ad val.]
355.04	Of vegetable fibers, except cotton	[20% ad val.]	[40% ad val.]";

Schedule 3, Part 5, Subpart A

63. In Schedule 3, Part 5A, headnote 1(iii), "the year 1701" is superseded by: "100 years before their date of entry";

64. Item 360.45 is superseded by:

	[Floor ...:]		
	[In ...:]		
	[With ...:]		
	[Other:]		
"360.46	Wilton (including brussels) and velvet (including tapestry) floor coverings, and floor coverings of like character or description	[21% ad val. 1/] [See Annex III]	[60% ad val.] [60% ad val.]"
360.48	Other		

[1/ Temporarily increased. See Appendix to Tariff Schedules.]

65. Item 361.15 is superseded by:

	[Floor ...:]		
	[Other:]		
"361.18	With over 50 percent by weight of the fibers, exclusive of any core, being cotton, man-made fibers, or cotton and man-made fibers	[See Annex III]	[35% ad val.]
361.20	Other	[See Annex III]	[35% ad val.]";

Schedule 3, Part 6, Subpart E

66. Item 372.05 is superseded by:

	[Mufflers ...:]		
	[Lace ...:]		
	"Veils:		
372.04	Of cotton	[See Annex III]	[90% ad val.]
372.06	Of man-made fibers	[26% ad val.]	[90% ad val.]
372.08	Other	[See Annex III]	[90% ad val.]";

Schedule 3, Part 6, Subpart F

67. Item 380.03 is superseded by:

	"Men's or boys' lace or net wearing apparel, whether or not ornamented, and other men's or boys' wearing apparel, ornamented:		
380.00	Of cotton	[See Annex III]	[90% ad val.]
380.02	Of wool	[42.5% ad val.]	[90% ad val.]
380.04	Of man-made fibers	[42.5% ad val.]	[90% ad val.]
380.05	Other	[See Annex III]	[90% ad val.]";

68. Item 380.60 is superseded by:

	[Other ...:]		
	[Of ...:]		
	[Knit:]		
	"Valued over $5 per pound:		
380.59	Sweaters valued over $18 per pound wholly of cashmere	[See Annex III]	[50¢ per lb. + 50% ad val.]
380.61	Other	[37.5¢ per lb. + 20% ad val.]	[50¢ per lb. + 50% ad val.]";

69. Item 382.03 is superseded by:

	"Women's, girls', or infants' lace or net wearing apparel, whether or not ornamented, and other women's, girls', or infants' wearing apparel, ornamented:		
382.00	Of cotton	[See Annex III]	[90% ad val.]
382.02	Of wool	[42.5% ad val.]	[90% ad val.]
382.04	Of man-made fibers	[42.5% ad val.]	[90% ad val.]
382.05	Other	[See Annex III]	[90% ad val.]";

70. Item 382.57 is superseded by:

	[Other ...:]		
	[Of ...:]		
	[Knit:]		
	[Other:]		
	"Valued over $5 per pound:		
382.56	Sweaters valued over $18 per pound wholly of cashmere	[See Annex III]	[50¢ per lb. + 50% ad val.]
382.58	Other	[37.5¢ per lb. + 20% ad val.]	[50¢ per lb. + 50% ad val.]";

Schedule 3, Part 7, Subpart E

71. Item 386.05 is superseded by:

	[Articles ...:]		
	"Lace or net articles, whether or not ornamented, and other articles ornamented:		
386.04	Of cotton	[See Annex III]	[90% ad val.]
386.08	Other	[See Annex III]	[90% ad val.]";

Schedule 4, Part 1, Subpart C

72. Item 405.05 is superseded by:

	[Products ...:]		
	"Explosives:		
405.04	Trinitrotoluene	3.5¢ per lb. + 22.5% ad val.	[7¢ per lb. + 45% ad val.]
405.06	Other	[See Annex III]	[7¢ per lb. + 45% ad val.]";

Schedule 4, Part 2, Subpart B

73. Item 425.40 is superseded by:

	[Nitrogenous ...:]		
	"Dicyandiamide, guanidine salts and other acyclic amidines:		
425.39	Dicyandiamide	[See Annex III]	[25% ad val.]
425.41	Other	[See Annex III]	[25% ad val.]";

74. Item 429.90 is superseded by:

	[Other ...:]		
429.85	Tetramethyl lead	[10.5% ad val.]	[25% ad val.]
429.95	Other	[See Annex III]	[25% ad val.]";

Schedule 4, Part 3, Subpart B

75. Item 437.56 is superseded by:

	[Hormones:]		
	"Synthetic:		
437.56	Adrenocortical hormones	[10.5% ad val.]	[25% ad val.]
437.57	Other	[See Annex III]	[25% ad val.]";

Schedule 4, Part 12

76. In Schedule 4, Part 12, headnote 1, "item 405.05" is superseded by: "items 405.04 and 405.06";

Schedule 5, Part 1, Subpart C

77. Item 513.34 is superseded by:

	[Stone ...:]		
	"Limestone:		
513.35	Imported to be used in the manufacture of cement	[See Annex III]	[$1 per short ton]
513.36	Other	[See Annex III]	[$1 per short ton]";

Schedule 5, Part 1, Subpart E

78. Items 517.30 and 517.33 and "Other:" preceding item 517.30 are superseded by:

	[Graphite ...:]		
	[Natural:]		
"517.31	Other	[See Annex III]	[10% ad val.]";

Schedule 5, Part 2, Subpart C

79. In Schedule 5, Part 2C, headnote 2(a), "(items 533.23, 533.25, 533.27, 533.63, 533.65, 533.67, and 533.69)" is superseded by: "(items 533.23, 533.25, 533.26, 533.28, 533.63, 533.65, 533.66, 533.68, and 533.69)";

80. In Schedule 5, Part 2C, headnote 2(b), "items 533.23, 533.25, 533.27, 533.63, 533.65, or 533.67" is superseded by: "item 533.23, 533.25, 533.26, 533.28, 533.63, 533.65, 533.66, or 533.68";

81. Item 533.27 is superseded by:

	[Articles ...:]			
	[Of ...:]			
	[Available ...:]			
"533.26	In any pattern for which the aggregate value of the articles listed in headnote 2(b) of this subpart is over $7 but not over $12	[10¢ per doz. pcs. + 21% ad val.]	[10¢ per doz. pcs. + 50% ad val.]
533.28	In any pattern for which the aggregate value of the articles listed in headnote 2(b) of this subpart is over $12	[See Annex III]	[10¢ per doz. pcs. + 50% ad val.]";

82. Item 533.37 is superseded by:

	[Articles ...:]			
	[Of ...:]			
	[Not ...:]			
	[Other ...:]			
"533.36	Cups valued over $1 but not over $1.70 per dozen, saucers valued over $0.55 but not over $0.95 per dozen, plates not over 9 inches in maximum diameter and valued over $0.90 but not over $1.55 per dozen, plates over 9 but not over 11 inches in maximum diameter and valued over $1.55 but not over $2.65 per dozen, and other articles valued over $2 but not over $3.40 per dozen	[See Annex III]	[10¢ per doz. pcs. + 50% ad val.]
533.38	Cups valued over $1.70 per dozen, saucers valued over $0.95 per dozen, plates not over 9 inches in maximum diameter and valued over $1.55 per dozen, plates over 9 but not over 11 inches in maximum diameter and valued over $2.65 per dozen, and other articles valued over $3.40 per dozen	[See Annex III]	[10¢ per doz. pcs. + 50% ad val.]";

83. Item 533.67 is superseded by:

	[Articles ...:]		
	[Of ...:]		
	[Household ...:]		
"533.66	In any pattern for which the aggregate value of the articles listed in headnote 2(b) of this subpart is over $24 but not over $56	[10¢ per doz. pcs. + 36% ad val.]	[10¢ per doz. pcs. + 70% ad val.]
533.68	In any pattern for which the aggregate value of the articles listed in headnote 2(b) of this subpart is over $56	[See Annex III]	[10¢ per doz. pcs. + 70% ad val.]";

84. In item 533.69, "item 533.63, 533.65, or 533.67" is superseded by: "item 533.63, 533.65, 533.66, or 533.68";

85. In the superior description preceding item 533.71, "items 533.63, 533.65, 533.67, or 533.69" is superseded by: "item 533.63, 533.65, 533.66, 533.68, or 533.69";

Schedule 5, Part 3, Subpart B

86. Items 544.17 and 544.18 are superseded by:

	[Glass ...:] [Other:] "Other:		
544.16	Glass, drawn or blown and not containing wire netting and not surface ground or polished	[15% ad val.]	[60% ad val.]
544.17	If Canadian article and original motor-vehicle equipment (see headnote 2, part 6B, schedule 6)	[Free]	
544.18 544.20	Other	[See Annex III]	[60% ad val.]
	If Canadian article and original motor-vehicle equipment (see headnote 2, part 6B, schedule 6)	[Free]";	

87. In item 544.31, "items 541.11 through 544.17" is superseded by: "items 541.11 through 544.18";

Schedule 5, Part 3, Subpart C

88. All matter from item 546.41 to item 546.57, inclusive, and "Valued not over $1 each:" preceding item 546.41 are superseded by:

	[Articles ...:] [Other ...:] "Smokers' articles:		
546.40	Valued not over $1 each	[See Annex III]	[60% ad val.]
546.42	Valued over $1 but not over $3 each	[See Annex III]	[60% ad val.]
	Valued over $3 each:		
546.43	Cut or engraved	[22.5% ad val.]	[60% ad val.]
546.44	Other	[See Annex III]	[60% ad val.]
	Perfume bottles fitted with ground glass stoppers:		
546.46	Valued not over $1 each	[See Annex III]	[60% ad val.]
546.48	Valued over $1 but not over $3 each	[See Annex III]	[60% ad val.]
	Valued over $3 each:		
546.49	Cut or engraved	[See Annex III]	[60% ad val.]
546.50	Other	[See Annex III]	[60% ad val.]
	Other:		
546.52	Valued not over $0.30 each ...	[50% ad val.]	[60% ad val.]
546.54	Valued over $0.30 but not over $1 each	[See Annex III]	[60% ad val.]
546.56	Valued over $1 but not over $3 each	[See Annex III]	[60% ad val.]
	Valued over $3 each:		
546.58	Cut or engraved	[See Annex III]	[60% ad val.]
546.59	Other	[See Annex III]	[60% ad val.]";

Schedule 6, Part 1

89. In Schedule 6, Part 1, headnote 3, "item 602.10, 602.20, or 602.30" is superseded by: "item 602.10, 602.20, 602.28, or 602.30";

90. Schedule 6, Part 1, headnote 5 is deleted, and headnote 6 thereof is redesignated as headnote 5;

91. Items 602.30 and 602.31 are superseded by:

	[Any ...:] [All ...:] "Other:		
602.28	When, under the procedures set forth in headnote 5 of part 2C of this schedule, the market price of copper is considered to be below 24 cents per pound	[See Annex III]	[4¢ per lb. on copper content]
602.29	If products of Cuba	[Free of duty on copper content(s)]	
602.30	Other	[See Annex III1/]	[4¢ per lb. on copper content]
602.31	If products of Cuba	[Free of duty on copper content(s)]"	

[(s) = Suspended. See general headnote 3(b).]

[1/ Certain duties on copper content temporarily suspended. See Appendix to Tariff Schedules.];

92. Items 603.50 and 603.55 are superseded by:

	[Other ...:] [Other:] "Materials, other than the foregoing, containing, by weight, over 10 percent of any one of the metals copper, lead, or zinc, and to be initially treated at a copper, lead, or zinc plant:		
603.49	When, under the procedures set forth in headnote 5 of part 2C of this schedule, the market price of copper is considered to be below 24 cents per pound	[See Annex III]	[4¢ per lb. on copper content + 1.5¢ per lb. on lead content + 1.67¢ per lb. on zinc content]
603.50	Other	[See Annex III1/]	[4¢ per lb. on copper content + 1.5¢ per lb. on lead content + 1.67¢ per lb. on zinc content]

[1/ Certain duties on copper content temporarily suspended. See Appendix to Tariff Schedules.];

	[Other ...:]			
	[Other:]			
	Materials, other than the foregoing, containing, by weight, over 5 troy ounces of gold per short ton, or over 100 troy ounces of precious metals per short ton:			
603.54	When, under the procedures set forth in headnote 5 of part 2C of this schedule, the market price of copper is considered to be below 24 cents per pound	[See Annex III]	[4¢ per lb. on copper content + 1.5¢ per lb. on lead content + 1.67¢ per lb. on zinc content]	
603.55	Other	[See Annex III]	[4¢ per lb. on copper content + 1.5¢ per lb. on lead content + 1.67¢ per lb. on zinc content]";	

Schedule 6, Part 2, Subpart B

93. Item 608.92 is superseded by:

	[Plates ...:]			
	[Coated ...:]			
	"Tin plate and tin coated sheets:			
608.91	Valued not over 8.9 cents per pound	[See Annex III]	[1¢ per lb.]	
608.92	Valued over 8.9 cents per pound	[0.8¢ per lb.]	[1¢ per lb.]";	

94. Item 608.95 is superseded by:

	[Plates ...:]			
	[Coated ...:]			
	[Other:]			
	"Other than alloy iron or steel:			
608.94	Valued not over 10 cents per pound	[See Annex III]	[0.2¢ per lb. + 20% ad val.]	
608.95	Valued over 10 cents per pound	[0.1¢ per lb. + 8% ad val.]	[0.2¢ per lb. + 20% ad val.]";	

Schedule 6, Part 2, Subpart C

95. In Schedule 6, Part 2C, headnote 5(b), "in part 1 of this schedule relating to copper-bearing materials covered by headnote 5 of said part 1," is superseded by: "of items 602.28, 602.30, and 603.49 through 603.55 in part 1 of this schedule relating to copper-bearing materials,";

Schedule 6, Part 2, Subpart E

96. Item 620.02 is superseded by:

	"Unwrought nickel; nickel waste and scrap:		
620.03	Unwrought nickel	[See Annex III]	[3¢ per lb.]
620.04	Nickel waste and scrap	[See Annex III]	[3¢ per lb.]";

Schedule 6, Part 3, Subpart E

97. Item 649.45 is superseded by:

	[Interchangeable ...:]		
	[Other:]		
	"Suitable for cutting metal:		
649.44	Twist drills	[21% ad val.]	[50% ad val.]
649.46	Other	[See Annex III]	[50% ad val.]";

98. Items 650.09 and 650.11 are superseded by:

	[Knives ...:]		
	[Knives ...:]		
	[With ...:]		
	"With handles not containing nickel and not containing over 10 percent by weight of manganese:		
650.08	Valued under 25 cents each, not over 10.2 inches in over-all length	[1¢ each + 12.5% ad val.]	[2¢ each + 45% ad val.]
650.09	Other	[See Annex III]	[2¢ each + 45% ad val.]
	With handles containing nickel or containing over 10 percent by weight of manganese:		
650.10	Valued under 25 cents each, not over 10.2 inches in over-all length	[1¢ each + 17.5% ad val.]	[2¢ each + 45% ad val.]
650.12	Other	[See Annex III]	[2¢ each + 45% ad val.]";

99. Items 650.39 and 650.41 are superseded by:

	[Forks ...:]		
	[Forks:]		
	[With ...:]		
	[With ...:]		
	"With handles not containing nickel and not containing over 10 percent by weight of manganese:		
650.38	Valued under 25 cents each, not over 10.2 inches in over-all length	[1¢ each + 12.5% ad val.]	[2¢ each + 45% ad val.]
650.39	Other	[See Annex III]	[2¢ each + 45% ad val.]

	[Forks ...:]			
	[Forks ...:]			
	[With ...:]			
	[With ...:]			
	With handles containing nickel or containing over 10 percent by weight of manganese:			
650.40	Valued under 25 cents each, not over 10.2 inches in over-all length	[1¢ each + 17.5% ad val.]	[2¢ each + 45% ad val.]	
650.42	Other	[See Annex III]	[2¢ each + 45% ad val.]";	

100. Item 650.55 is superseded by:

	[Forks ...:]			
	[Spoons ...:]			
	"With stainless steel handles:			
650.54	Spoons valued under 25 cents each, not over 10.2 inches in over-all length	[17% ad val.]	[40% ad val.]	
650.55	Other	[See Annex III]	[40% ad val.]";	

Schedule 6, Part 3, Subpart F

101. Item 653.40 is superseded by:

	[Illuminating ...:]			
	[Other:]			
	"Other:			
653.37	Of brass	[See Annex III]	[45% ad val.]	
653.39	Other	[19% ad val.]	[45% ad val.]";	

Schedule 6, Part 5

102. In Schedule 6, Part 5, the heading preceding headnote 1 is superseded by: "Part 5 headnotes:";

103. In Schedule 6, Part 5, the following is inserted after headnote 1:

"2. For the purposes of this part (items 682.05 and 682.07), the rated kva of a transformer is the kilovolt-ampere output on a continuous duty basis at the rated secondary voltage (or amperage, when applicable) and at the rated frequency without exceeding the rated temperature limitations.";

104. Item 682.10 is superseded by:

	[Generators ...:]			
	"Transformers:			
682.05	Rated at less than 1 kva	[12.5% ad val.]	[35% ad val.]	
682.07	Other	[See Annex III]	[35% ad val.]";	

105. In item 682.65, "items 682.10 to 682.60, inclusive" is superseded by: "items 682.05 to 682.60, inclusive";

106. Item 685.22 is superseded by:

	[Radiotelegraphic ...:]			
	[Radiotelegraphic ...:]			
	"Other:			
685.23	Solid-state (tubeless) radio receivers	[See Annex III]	[35% ad val.]	
685.25	Other	[See Annex III]	[35% ad val.]";	

Schedule 6, Part 6, Subpart B

107. In Schedule 6, Part 6B, headnote 1(b), "item 692.05" is superseded by: "item 692.02";

108. In Schedule 6, Part 6B, headnote 2(b), "item 692.05 or 692.10" is superseded by: "item 692.02, 692.04, or 692.10";

109. Items 692.05 and 692.06 are superseded by:

	[Motor ...:]			
	"Automobile trucks valued at $1,000 or more, and motor buses:			
692.02	Automobile trucks	[8.5% ad val. 1/]	[25% ad val.]	
692.03	If Canadian article, but not including any three-wheeled vehicle, or trailer accompanying an automobile truck tractor (see general headnote 3(d))	[Free]		
692.04	Motor buses	[See Annex III]	[25% ad val.]	
692.07	If Canadian article, but not including any electric trolley bus or three-wheeled vehicle (see general headnote 3(d))	[Free]"		

[1/ Rate temporarily increased by proclamation. See Appendix to Tariff Schedules.];

110. Item 692.15 is superseded by:

	"Motor vehicle specially constructed and equipped to perform special services or functions, such as, but not limited to, fire engines, mobile cranes, wreckers, concrete mixers, and mobile clinics:			
692.14	Fire engines	[See Annex III]	[25% ad val.]	
692.16	Other	[See Annex III]	[25% ad val.]";	

111. In item 692.23, "in item 692.15 or a three-wheeled vehicle" is superseded by: "in item 692.14 or 692.16, or for a three-wheeled vehicle";

Schedule 7, Part 1, Subpart A

112. In Schedule 7, Part 1A, headnote 2(d), "(items 700.25, 700.26, and 700.27)" is superseded by: "(items 700.25 through 700.29)";

113. In Schedule 7, Part 1A, headnote 3(a), "item 700.50 and item 700.55" is superseded by: "items 700.51 through 700.55";

114. Items 700.26 and 700.27 are superseded by:

	[Footwear ...:]		
	[Welt ...:]		
"700.26	Valued over $2 but not over $5 per pair	[See Annex III]	[20% ad val.]
700.27	Valued over $5 but not over $6.80 per pair	[See Annex III]	[20% ad val.]
	Valued over $6.80 per pair:		
700.28	Ski boots	[See Annex III]	[20% ad val.]
700.29	Other	[5% ad val.]	[20% ad val.]";

115. Item 700.40 is superseded by:

	[Footwear ...:]		
	[Other:]		
	"For other persons:		
700.41	Sandals of buffalo leather, the uppers of which consist primarily of straps across the instep and big toe	[See Annex III]	[20% ad val.]
	Other:		
700.43	Valued not over $2.50 per pair	[See Annex III]	[20% ad val.]
700.45	Valued over $2.50 per pair	[See Annex III]	[20% ad val.]";

116. Item 700.65 is superseded by:

	[Footwear ...:]		
	"With soles of leather:		
700.66	Valued not over $2.50 per pair	[See Annex III]	[35% ad val.]
700.68	Valued over $2.50 per pair	[See Annex III]	[35% ad val.]";

Schedule 7, Part 1, Subpart C

117. In Schedule 7, Part 1C, headnote 3, "(items 705.62, 705.64, 705.68, and 705.70)" is superseded by "(items 705.62, 705.64, and 705.67 through 705.71)";

118. Item 705.44 is superseded by:

	[Gloves ...:]		
	[Seamed:]		
	[Men's ...:]		
	[Seamed ...:]		
"705.43	Valued not over $20 per dozen pairs	[See Annex III]	[$12 per doz. pairs]
705.45	Valued over $20 but not over $24 per dozen pairs	[See Annex III]	[$12 per doz. pairs]";

119. Item 705.52 is superseded by:

	[Gloves ...:]		
	[Seamed:]		
	[Men's ...:]		
	[Seamed ...:]		
"705.51	Valued not over $20 per dozen pairs	[See Annex III]	[$15 per doz. pairs]
705.53	Valued over $20 but not over $30 per dozen pairs	[See Annex III]	[$15 per doz. pairs]";

120. Item 705.56 is superseded by:

	[Gloves ...:]		
	[Seamed:]		
	[Men's ...:]		
	[Not ...:]		
"705.55	Valued not over $20 per dozen pairs	[See Annex III]	[$13 per doz. pairs]
705.57	Valued over $20 but not over $26 per dozen pairs	[See Annex III]	[$13 per doz. pairs]";

121. All matter from item 705.68 to item 705.72, inclusive, and "Valued over $15 per dozen pairs:" preceding item 705.68 are superseded by:

	[Gloves ...:]		
	[Seamed:]		
	[Women's ...:]		
	[Not ...:]		
	"Valued over $15 but not over $20 per dozen pairs:		
705.67	Not over 12 inches in length	[See Annex III]	[50% ad val.]
	Over 12 inches in length:		
705.68	Valued not over $19.43 per dozen pairs	[35% ad val.]	[50% ad val.]
705.69	Valued over $19.43 per dozen pairs..	[See Annex III]	[50% ad val.]
	Valued over $20 per dozen pairs:		
705.70	Not over 12 inches in length	[See Annex III]	[50% ad val.]
705.71	Over 12 inches in length	[See Annex III]	[50% ad val.]
	Women's or children's, lined: Seamed wholly or in part by hand:		
705.72	Valued not over $32 per dozen pairs	[See Annex III]	[$18 per doz. pairs]
705.73	Valued over $32 but not over $36 per dozen pairs	[See Annex III]	[$18 per doz. pairs]";

Schedule 7, Part 2, Subpart D

122. Item 711.35 is superseded by:

	[Hydrometers ...:]		
	[Thermometers ...:]		
	[Non-recording ...:]		
	[Thermometers:]		
	"Liquid-filled thermometers with the graduations on the tube or on a scale enclosed within an outer shell:		
711.34	Clinical	[42.5% ad val.]	[85% ad val.]
711.36	Other	[See Annex III]	[85% ad val.]";

123. Item 712.50 is superseded by:

	[Electrical ...:]		
	[Other:]		
"712.47	Automatic flight control instruments and apparatus designed for use in aircraft, and parts thereof	[See Annex III]	[40% ad val.]
712.49	Other	[See Annex III]	[40% ad val.]";

Schedule 7, Part 4, Subpart A

124. In Schedule 7, Part 4A, headnote 1(v), "schedule 1" is superseded by: "schedule 2";

Schedule 7, Part 5, Subpart D

125. Item 734.55 is superseded by:

	"Baseball equipment, and parts thereof:		
734.54	Baseball and softball gloves and mitts	[15% ad val.] [See Annex III]	[30% ad val.] [30% ad val.]
734.56	Other		

126. Item 734.92 is superseded by:

	[Skates ...:]		
	"Ice-skates, and parts thereof:		
734.91	Footwear with ice-skates permanently attached	[10% ad val.]	[20% ad val.]
734.93	Other	[See Annex III]	[20% ad val.]";

Schedule 7, Part 6, Subpart A

127. In Schedule 7, Part 6A, headnote 2(a), "(items 740.05, 740.10, 740.30, 740.35, and 740.37)" is superseded by: "(items 740.05 through 740.38)";

128. In Schedule 7, Part 6A, headnote 3, "Items 740.30, 740.35, and 740.37" is superseded by: "Items 740.30 through 740.38";

129. Items 740.35 and 740.37 are superseded by:

	[Jewelry ...:]		
	[Valued ...:]		
	"Watch bracelets:		
740.34	Valued not over $5 per dozen..	[See Annex III]	[110% ad val.]
740.35	Valued over $5 per dozen	[35% ad val.]	[110% ad val.]
740.38	Other	[See Annex III]	[110% ad val.]";

Schedule 7, Part 9, Subpart B

130. Item 756.20 is superseded by:

	[Tobacco ...:]		
	[Of ...:]		
	"Valued not over $5 per dozen:		
756.21	Of brier wood or root	[2.5¢ each + 40% ad val.]	[5¢ each + 60% ad val.]
756.23	Other	[See Annex III]	[5¢ each + 60% ad val.]";

Schedule 7, Part 13, Subpart A

131. Item 790.06 is deleted;

Appendix, Part 1, Subpart B

132. In item 911.13, "when headnote 5, part 1, schedule 6 is inapplicable" is deleted;

Appendix, Part 2, Subpart A

133. In item 922.30, "item 360.45" is superseded by: "item 360.46";

Appendix, Part 2, Subpart B

134. In item 945.16, the article description is superseded by: "Brandy provided for in items 168.20 and 168.22";

135. In item 945.69, "item 692.05" is superseded by: "item 692.02"; and

Appendix, Part 3

136. In item 950.13, "item 182.91" is superseded by: "item 182.92".

Section B. Effective as to articles entered, or withdrawn from warehouse, for consumption on and after January 1, 1969:

Schedule 1, Part 3, Subpart C

1. Items 112.06, 112.15, and 112.37 are deleted;

Schedule 1, Part 8, Subpart A

2. Item 136.01 is deleted;

Schedule 1, Part 9, Subpart B

3. Items 147.34, 148.26, and 149.51 are deleted;

Schedule 1, Part 9, Subpart D

4. Item 154.46 is deleted;

Schedule 1, Part 14, Subpart B

5. In items 176.01 and 176.02 as provided for in paragraph 41 of Section A of this annex, "11.5 cents" is superseded by: "12.5 cents";

Schedule 2, Part 5

6. Item 274.25 is deleted;

Schedule 4, Part 5, Subpart A

7. Item 452.29 is deleted;

Schedule 5, Part 1, Subpart B

8. Item 520.34 is deleted;

Schedule 6, Part 2, Subpart B

9. In items 608.91 and 608.92 as provided for in paragraph 93 of Section A of this annex, "8.9 cents" is superseded by: "9.4 cents";

Schedule 7, Part 1, Subpart C

10. In items 705.68 and 705.69 as provided for in paragraph 121 of Section A of this annex, "$19.43" is superseded by: "$18.86";

Schedule 7, Part 1, Subpart D

11. Item 706.07 is deleted; and

Schedule 7, Part 13, Subpart B

12. Item 791.61 is deleted.

Section C. Effective as to articles entered, or withdrawn from warehouse, for consumption on and after January 1, 1970:

Schedule 1, Part 2, Subpart B

1. Item 107.66 is deleted;

Schedule 1, Part 9, Subpart B

2. Items 146.45, 146.81, 147.81, 148.66, and 149.16 are deleted;

Schedule 1, Part 9, Subpart C

3. Items 152.01, 152.55, and 152.59 are deleted;

Schedule 1, Part 9, Subpart D

4. Item 154.51 is deleted;

Schedule 1, Part 10, Subpart C

5. Item 157.11 is deleted;

Schedule 1, Part 12, Subpart D

6. Item 168.31 is deleted;

Schedule 1, Part 14, Subpart B

7. In items 176.01 and 176.02 as provided for in paragraph 41 of Section A, and in paragraph 5 of Section B, of this annex, "12.5 cents" is superseded by: "15 cents"; and

Schedule 7, Part 1, Subpart C

8. In items 705.68 and 705.69 as provided for in paragraph 121 of Section A, and in paragraph 10 of Section B, of this annex, "$18.86" is superseded by: "$18.29".

Section D. Effective as to articles entered, or withdrawn from warehouse, for consumption on and after January 1, 1971:

Schedule 1, Part 9, Subpart A

1. Item 145.05 is deleted;

Schedule 1, Part 13

2. All matter from item 170.67 to item 170.70, inclusive, as provided for in paragraph 39 of Section A of this annex, is superseded by:

	[Cigars ...:]	
	[Cigars ...:]	
	"If product of the Philippines:	
	If Philippine articles within tariff-rate quota (see headnote 4 of this part)	[Free]
170.68		
170.70	Other	[See Annex III]";

Schedule 1, Part 14, Subpart B

3. In items 176.01 and 176.02 as provided for in paragraph 41 of Section A, and in paragraph 7 of Section C, of this annex, "15 cents" is superseded by: "16.7 cents";

Schedule 6, Part 2, Subpart B

4. In items 608.91 and 608.92 as provided for in paragraph 93 of Section A, and in paragraph 9 of Section B, of this annex, "9.4 cents" is superseded by: "10 cents"; and

Schedule 7, Part 1, Subpart C

5. In items 705.68 and 705.69 as provided for in paragraph 121 of Section A, and in paragraph 8 of Section C, of this annex, "$18.29" is superseded by: "$17.71".

Section E. Effective as to articles entered, or withdrawn from warehouse, for consumption on and after January 1, 1972:

Schedule 1, Part 14, Subpart B

1. In items 176.01 and 176.02 as provided for in paragraph 41 of Section A, and in paragraph 5 of Section D, of this annex, "16.7 cents" is superseded by: "20 cents"; and

Schedule 7, Part 1, Subpart C

2. In items 705.68 and 705.69 as provided for in paragraph 121 of Section A, and in paragraph 5 of Section D, of this annex, "$17.71" is superseded by: "$17.14".

ANNEX III

ANNEX III

STAGED RATE MODIFICATIONS OF THE TARIFF SCHEDULES OF THE UNITED STATES

Each rate in the following table, for an item in the Tariff Schedules of the United States (TSUS) identified therein (or for the TSUS, Schedule 3, Part 3A, headnote 4(i)), is inserted in column numbered 1 in such item (or in such headnote 4(i)), effective for articles provided for therein which are entered, or withdrawn from warehouse, for consumption on and after the date at the head of the column in which such rate is set forth and, except for rates in the final column, such rate shall be superseded by the rate for that item (or for such headnote) in the immediately following column, effective for articles which are entered, or withdrawn from warehouse, for consumption on and after the date at the head of such latter column:

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 1, Part 1					
100.20	19¢ each	18¢ each	17¢ each	16¢ each	15¢ each
100.25	15¢ each	13¢ each	11.5¢ each	10¢ each	8¢ each
100.30	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
100.31	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
100.50	1.3¢ per lb.	1.2¢ per lb.	1¢ per lb.	0.9¢ per lb.	0.7¢ per lb.
100.60	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
100.65	$2.70 per head	$2.40 per head	$2.10 per head	$1.80 per head	$1.50 per head
100.73	$4.95 per head	$4.40 per head	$3.85 per head	$3.30 per head	$2.75 per head
100.75	6% ad val.	5% ad val.	4.5% ad val.	4% ad val.	3% ad val.
100.77	$27 per head	$24 per head	$21 per head	$18 per head	$15 per head
100.79	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
100.81	60¢ per head	45¢ per head	30¢ per head	15¢ per head	Free
100.85	0.9¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.6¢ per lb.	0.5¢ per lb.
100.95	6.5% ad val.	6% ad val.	5% ad val.	4% ad val.	3.5% ad val.
Schedule 1, Part 2					
105.60	9¢ per lb.	8¢ per lb.	7¢ per lb.	6¢ per lb.	5¢ per lb.
105.82	4¢ per lb.	4¢ per lb.	4¢ per lb.	3.5¢ per lb.	3.5¢ per lb.
105.84	9¢ per lb.	8¢ per lb.	7¢ per lb.	6¢ per lb.	5¢ per lb.
106.30	3.1¢ per lb.	2.8¢ per lb.	2.4¢ per lb.	2¢ per lb.	1.7¢ per lb.
106.40	1¢ per lb.	1¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.5¢ per lb.
106.50	1¢ per lb.	0.9¢ per lb.	0.5¢ per lb.	0.5¢ per lb.	Free
106.60	4% ad val.	4% ad val.	3% ad val.	3% ad val.	2.5% ad val.
106.80	0.9¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.6¢ per lb.	0.5¢ per lb.
106.85	4% ad val.	4% ad val.	3% ad val.	3% ad val.	2.5% ad val.
107.10	2.9¢ per lb.	2.5¢ per lb.	2.2¢ per lb.	1.9¢ per lb.	1.6¢ per lb.
107.20	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
107.25	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
107.50	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
107.65	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
107.70	2.7¢ per lb.	2.4¢ per lb.	2¢ per lb.	1.8¢ per lb.	1.5¢ per lb.
107.75	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
107.80	3¢ per lb.	3¢ per lb.	2¢ per lb.	2¢ per lb.	1¢ per lb.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, —				
	1968	1969	1970	1971	1972
Schedule 1, Part 3					
110.15	0.4¢ per lb.	0.3¢ per lb.	0.2¢ per lb.	Free	Free
110.20	0.4¢ per lb.	0.3¢ per lb.	Free	Free	Free
110.25	0.4¢ per lb.	0.3¢ per lb.	0.2¢ per lb.	0.1¢ per lb.	Free
110.28	0.65¢ per lb.	0.6¢ per lb.	0.5¢ per lb.	0.45¢ per lb	0.35¢ per lb.
110.30	0.8¢ per lb.	0.6¢ per lb.	0.4¢ per lb.	Free	Free
110.33	0.5¢ per lb.	0.4¢ per lb.	0.3¢ per lb.	Free	Free
110.35	0.9¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.6¢ per lb.	0.5¢ per lb.
110.40	0.8¢ per lb.	0.6¢ per lb.	0.4¢ per lb.	Free	Free
110.45	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
110.47	0.8¢ per lb.	0.6¢ per lb.	0.4¢ per lb.	0.2¢ per lb.	Free
110.57	0.6¢ per lb.	0.5¢ per lb.	0.4¢ per lb.	0.2¢ per lb.	Free
110.70	1¢ per lb.	0.9¢ per lb.	0.5¢ per lb.	0.3¢ per lb.	Free
111.10	0.1¢ per lb.	0.1¢ per lb.	0.1¢ per lb.	0.1¢ per lb.	0.1¢ per lb.
111.15	0.2¢ per lb.	0.2¢ per lb.	0.2¢ per lb.	0.2¢ per lb.	0.2¢ per lb.
111.18	0.1¢ per lb.	0.1¢ per lb.	0.1¢ per lb.	0.1¢ per lb.	0.1¢ per lb.
111.22	0.1¢ per lb.	0.1¢ per lb.	Free	Free	Free
111.28	0.8¢ per lb.	0.4¢ per lb.	0.3¢ per lb.	Free	Free
111.32	0.06¢ per lb.	Free	Free	Free	Free
111.37	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
111.40	0.1¢ per lb.	0.1¢ per lb.	Free	Free	Free
111.44	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
111.48	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
111.52	0.4¢ per lb.	0.2¢ per lb.	0.2¢ per lb.	0.2¢ per lb.	0.2¢ per lb.
111.56	1¢ per lb.	1¢ per lb.	0.6¢ per lb.	0.6¢ per lb.	0.6¢ per lb.
111.60	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
111.64	0.4¢ per lb.	0.3¢ per lb.	0.2¢ per lb.	Free	Free
111.68	0.8¢ per lb.	0.5¢ per lb.	0.4¢ per lb.	0.2¢ per lb.	Free
111.72	Free	Free	Free	Free	Free
111.76	0.5¢ per lb.	0.5¢ per lb.	0.4¢ per lb.	0.35¢ per lb.	0.3¢ per lb.
111.80	0.7¢ per lb.	0.5¢ per lb.	0.3¢ per lb.	0.1¢ per lb.	Free
111.84	5.5% ad val.	5% ad val.	4% ad val.	3.5% ad val.	3% ad val.
111.88	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
111.92	5.5% ad val.	5% ad val.	4% ad val.	3.5% ad val.	3% ad val.
112.05	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
112.08	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
112.10	4% ad val.	3% ad val.	2% ad val.	1% ad val.	Free
112.12	0.9¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.6¢ per lb.	0.5¢ per lb.
112.14	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
112.18	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
112.20	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
112.24	0.9¢ per lb.	0.8¢ per lb.	0.5¢ per lb.	0.5¢ per lb.	0.5¢ per lb.
112.30	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
112.34	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
112.36	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
112.40	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
112.42	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
112.46	22.5% ad val.	20% ad val.	17.5% ad val.	15% ad val.	12.5% ad val.
112.48	12% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
112.50	22.5% ad val.	20% ad val.	17.5% ad val.	15% ad val.	12.5% ad val.
112.52	22.5% ad val.	20% ad val.	17.5% ad val.	15% ad val.	12.5% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, —				
	1968	1969	1970	1971	1972
Schedule 1, Part 3--Continued					
112.58	12% ad val.	12% ad val.	11.5% ad val.	11.5% ad val.	11.5% ad val.
112.66	28% ad val.	26% ad val.	24% ad val.	22% ad val.	20% ad val.
112.71	14% ad val.	13.5% ad val.	12.5% ad val.	12% ad val.	11.5% ad val.
112.79	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
112.80	12% ad val.	12% ad val.	11.5% ad val.	11.5% ad val.	11.5% ad val.
112.94	22.5% ad val.	20% ad val.	17.5% ad val.	15% ad val.	12.5% ad val.
113.01	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
113.05	22.5% ad val.	20% ad val.	17.5% ad val.	15% ad val.	12.5% ad val.
113.08	2% ad val.	1.5% ad val.	1% ad val.	0.5% ad val.	Free
113.11	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
113.15	0.9¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.5¢ per lb.	0.5¢ per lb.
113.20	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
113.25	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
113.30	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
113.35	4.5% ad val.	4% ad val.	3.5% ad val.	3% ad val.	2.5% ad val.
113.40	3.5¢ per lb.	3¢ per lb.	2.5¢ per lb.	2¢ per lb.	2¢ per lb.
113.50	22.5% ad val.	20% ad val.	17.5% ad val.	15% ad val.	12.5% ad val.
113.56	0.9¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.5¢ per lb.	0.5¢ per lb.
113.58	0.8¢ per lb.	0.5¢ per lb.	0.4¢ per lb.	0.2¢ per lb.	Free
113.60	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
114.01	6.5% ad val.	6% ad val.	5% ad val.	4% ad val.	3.5% ad val.
114.05	18.5% ad val.	17.5% ad val.	16% ad val.	15% ad val.	14% ad val.
114.15	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
114.20	20% ad val.	18% ad val.	15.5% ad val.	13% ad val.	11% ad val.
114.25	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
114.34	4¢ per lb. (including wt. of immediate container)	3.5¢ per lb. (including wt. of immediate container)	3¢ per lb. (including wt. of immediate container)	2.5¢ per lb. (including wt. of immediate container)	2.2¢ per lb. (including wt. of immediate container)
114.36	5.4¢ per lb. (including wt. of immediate container)	4.8¢ per lb. (including wt. of immediate container)	4.2¢ per lb. (including wt. of immediate container)	3.5¢ per lb. (including wt. of immediate container)	3¢ per lb. (including wt. of immediate container)
114.50	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
114.55	5.4¢ per lb. (including wt. of immediate container)	4.8¢ per lb. (including wt. of immediate container)	4¢ per lb. (including wt. of immediate container)	3.5¢ per lb. (including wt. of immediate container)	3¢ per lb. (including wt. of immediate container)
Schedule 1, Part 4					
117.10	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
117.30	12% ad val.	10.5% ad val.	9% ad val.	8% ad val.	6.5% ad val.
117.35	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
117.45	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
117.50	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
117.60	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
117.65	11% ad val.	10.5% ad val.	10% ad val.	9.5% ad val.	9% ad val.
117.67	15% ad val.	14% ad val.	13.5% ad val.	12.5% ad val.	12% ad val.
117.70	19% ad val.	18% ad val.	17% ad val.	16% ad val.	15% ad val.
117.85	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
119.50	4¢ per doz.	4¢ per doz.	4¢ per doz.	3.5¢ per doz.	3.5¢ per doz.
119.70	9.5¢ per lb.	8.5¢ per lb.	7.5¢ per lb.	6.5¢ per lb.	5.5¢ per lb.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 1, Part 5					
120.11	1.5% ad val.	1% ad val.	0.5% ad val.	Free	Free
120.14	3% ad val.	2% ad val.	1.5% ad val.	0.5% ad val.	Free
120.17	3.5% ad val.	3% ad val.	2.5% ad val.	2% ad val.	2% ad val.
121.10	11% ad val.	10% ad val.	9% ad val.	8% ad val.	7.5% ad val.
121.15	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
121.20	6.5% ad val.	6% ad val.	5% ad val.	4% ad val.	3.5% ad val.
121.25	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
121.30	11.5% ad val.	11% ad val.	10% ad val.	9.5% ad val.	9% ad val.
121.35	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
121.40	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
121.45	11.5% ad val.	11% ad val.	10% ad val.	9.5% ad val.	9% ad val.
121.50	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
121.52	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
121.54	7.5% ad val.	7% ad val.	6.5% ad val.	6% ad val.	6% ad val.
121.57	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
121.60	9% ad val.	8% ad val.	7.5% ad val.	6.5% ad val.	6% ad val.
121.65	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
123.50	33.5% ad val.	30% ad val.	26% ad val.	22% ad val.	18.5% ad val.
124.20	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
I24.25	4.5% ad val.	4% ad val.	3.5% ad val.	3% ad val.	2.5% ad val.
124.30	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
124.40	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
124.60	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
124.65	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
124.70	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
124.80	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
Schedule 1, Part 6					
125.05	72¢ per 1000	69¢ per 1000	66¢ per 1000	63¢ per 1000	60¢ per 1000
125.10	$1.57 per 1000	$1.40 per 1000	$1.22 per 1000	$1.05 per 1000	87¢ per 1000
125.40	$1.60 per 1000	$1.20 per 1000	80¢ per 1000	40¢ per 1000	Free
125.50	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
125.60	19¢ per 1000	18¢ per 1000	17¢ per 1000	16¢ per 1000	15¢ per 1000
125.65	1.8¢ each	1.5¢ each	1.4¢ each	1¢ each	1¢ each
125.67	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
125.70	5% ad val.	4.5% ad val.	4.5% ad val.	4% ad val.	4% ad val.
125.80	9% ad val.	9% ad val.	8% ad val.	8% ad val.	7.5% ad val.
126.01	1.9¢ per lb.	1.8¢ per lb.	1.5¢ per lb.	1.5¢ per lb.	1.5¢ per lb.
126.05	1¢ per lb.	0.9¢ per lb.	0.5¢ per lb.	0.3¢ per lb.	Free
126.07	11¢ per lb.	10.5¢ per lb.	10¢ per lb.	9.5¢ per lb.	9¢ per lb.
126.11	1¢ per lb.	1¢ per lb.	0.9¢ per lb.	0.7¢ per lb.	0.6¢ per lb.
126.15	2¢ per lb.	1¢ per lb.	1¢ per lb.	Free	Free
126.17	1¢ per lb.	0.9¢ per lb.	0.5¢ per lb.	0.3¢ per lb.	Free
126.19	11¢ per lb.	10¢ per lb.	8¢ per lb.	7¢ per lb.	6¢ per lb.
126.21	0.4¢ per lb.	0.3¢ per lb.	0.2¢ per lb.	0.1¢ per lb.	Free
126.23	1.8¢ per lb.	1.6¢ per lb.	1.4¢ per lb.	1.2¢ per lb.	1¢ per lb.
126.25	0.6¢ per lb.	0.45¢ per lb.	0.3¢ per lb.	0.1¢ per lb.	Free
126.27	1.8¢ per lb.	1.5¢ per lb.	1.4¢ per lb.	1.2¢ per lb.	1¢ per lb.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 1, Part 6--Continued					
126.29	0.7¢ per lb.	0.64¢ per lb.	0.55¢ per lb.	0.45¢ per lb.	0.4¢ per lb.
126.31	2.8¢ per lb.	2.5¢ per lb.	2¢ per lb.	1.9¢ per lb.	1.6¢ per lb.
126.33	1.8¢ per lb.	1.5¢ per lb.	1.4¢ per lb.	1¢ per lb.	1¢ per lb.
126.35	0.9¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.5¢ per lb.	0.5¢ per lb.
126.37	0.4¢ per lb.	0.3¢ per lb.	0.2¢ per lb.	Free	Free
126.39	0.3¢ per lb.	0.2¢ per lb.	Free	Free	Free
126.41	1¢ per lb.	1¢ per lb.	1¢ per lb.	1¢ per lb.	1¢ per lb.
126.51	1.2¢ per lb.	0.9¢ per lb.	0.5¢ per lb.	0.3¢ per lb.	Free
126.53	3.5¢ per lb.	3.5¢ per lb.	3¢ per lb.	3¢ per lb.	3¢ per lb.
126.55	0.9¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.5¢ per lb.	0.5¢ per lb.
126.57	0.3¢ per lb.	0.3¢ per lb.	0.3¢ per lb.	0.3¢ per lb.	0.3¢ per lb.
126.61	11¢ per lb.	10¢ per lb.	10¢ per lb.	9¢ per lb.	9¢ per lb.
126.63	2.2¢ per lb.	2¢ per lb.	1.7¢ per lb.	1.5¢ per lb.	1.2¢ per lb.
126.65	0.7¢ per lb.	0.7¢ per lb.	0.7¢ per lb.	0.7¢ per lb.	0.7¢ per lb.
126.67	1.8¢ per lb.	1.5¢ per lb.	1.4¢ per lb.	1.2¢ per lb.	1¢ per lb.
126.71	6¢ per lb.	6¢ per lb.	5¢ per lb.	4¢ per lb.	3¢ per lb.
126.73	1¢ per lb.	0.9¢ per lb.	0.5¢ per lb.	0.3¢ per lb.	Free
126.77	1.2¢ per lb.	1.1¢ per lb.	1¢ per lb.	1¢ per lb.	1¢ per lb.
126.81	0.2¢ per lb.	0.2¢ per lb.	0.2¢ per lb.	0.2¢ per lb.	0.2¢ per lb.
126.85	0.4¢ per lb.	0.3¢ per lb.	0.2¢ per lb.	Free	Free
126.87	Free	Free	Free	Free	Free
126.89	1¢ per lb.	1¢ per lb.	1¢ per lb.	0.7¢ per lb.	0.7¢ per lb.
126.91	2.7¢ per lb.	2.4¢ per lb.	2.1¢ per lb.	1.8¢ per lb.	1.5¢ per lb.
126.93	0.9¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.6¢ per lb.	0.5¢ per lb.
126.95	0.3¢ per lb.	0.2¢ per lb.	0.1¢ per lb.	Free	Free
127.01	0.3¢ per lb.	0.2¢ per lb.	0.1¢ per lb.	Free	Free
Schedule 1, Part 7					
130.15	8¢ per 100 lbs.	6¢ per 100 lbs.	4¢ per 100 lbs.	2¢ per 100 lbs.	Free
130.20	0.22¢ per lb.	0.2¢ per lb.	0.17¢ per lb.	0.15¢ per lb.	0.12¢ per lb.
130.30	11¢ per bu. of 56 lbs.	10¢ per bu. of 56 lbs.	8¢ per bu. of 56 lbs.	7¢ per bu. of 56 lbs.	6¢ per bu. of 56 lbs.
131.15	0.15¢ per lb.	0.1¢ per lb.	0.05¢ per lb.	0.04¢ per lb.	Free
131.35	0.2¢ per lb.	0.2¢ per lb.	0.2¢ per lb.	0.15¢ per lb.	0.1¢ per lb.
131.57	9¢ per 100 lbs.	8¢ per 100 lbs.	7¢ per 100 lbs.	6¢ per 100 lbs.	5¢ per 100 lbs.
132.25	36¢ per gal.	32¢ per gal.	28¢ per gal.	24¢ per gal.	20¢ per gal.
132.30	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
132.55	0.7¢ per lb.	0.65¢ per lb.	0.63¢ per lb.	0.59¢ per lb.	0.55¢ per lb.
Schedule 1, Part 8					
135.20	4% ad val.	3% ad val.	2% ad val.	1% ad val.	Free
135.30	0.7¢ per lb.	0.65¢ per lb.	0.63¢ per lb.	0.59¢ per lb.	0.55¢ per lb.
135.40	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
135.50	9.5% ad val.	8.5% ad val.	7.5% ad val.	6.5% ad val.	5.5% ad val.
135.51	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
135.60	0.45¢ per lb.	0.4¢ per lb.	0.35¢ per lb.	0.3¢ per lb.	0.25¢ per lb.
135.70	1.8¢ per lb.	1.6¢ per lb.	1.4¢ per lb.	1.2¢ per lb.	1¢ per lb.
136.00	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
136.10	0.15¢ per lb.	0.15¢ per lb.	0.15¢ per lb.	0.15¢ per lb.	0.15¢ per lb.
136.40	1.4¢ per lb.	1.3¢ per lb.	1.2¢ per lb.	1.1¢ per lb.	1.1¢ per lb.

86-000 O - 67 (Pt. II) -3

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 1, Part 8--Continued					
136.50	0.18¢ per lb.	0.16¢ per lb.	0.14¢ per lb.	0.12¢ per lb.	0.1¢ per lb.
136.60	0.75¢ per lb.	0.65¢ per lb.	0.59¢ per lb.	0.5¢ per lb.	0.4¢ per lb.
136.90	1.1¢ per lb.	1¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.6¢ per lb.
136.98	0.9¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.6¢ per lb.	0.5¢ per lb.
137.40	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
137.66	4¢ per 100 lbs.	3¢ per 100 lbs.	2¢ per 100 lbs.	1¢ per 100 lbs.	Free
137.75	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
137.80	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
140.09	1.05¢ per lb.	0.95¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.6¢ per lb.
140.10	1.8¢ per lb.	1.6¢ per lb.	1.4¢ per lb.	1.2¢ per lb.	1¢ per lb.
140.11	1.35¢ per lb.	1.2¢ per lb.	1.05¢ per lb.	0.9¢ per lb.	0.75¢ per lb.
140.14	2.15¢ per lb.	1.9¢ per lb.	1.65¢ per lb.	1.4¢ per lb.	1.2¢ per lb.
140.16	2.7¢ per lb.	2.4¢ per lb.	2.1¢ per lb.	1.8¢ per lb.	1.5¢ per lb.
140.20	2.2¢ per lb.	2¢ per lb.	1.7¢ per lb.	1.5¢ per lb.	1.2¢ per lb.
140.25	0.65¢ per lb.	0.6¢ per lb.	0.5¢ per lb.	0.45¢ per lb.	0.37¢ per lb.
140.35	0.15¢ per lb.	0.15¢ per lb.	0.15¢ per lb.	0.15¢ per lb.	0.15¢ per lb.
140.38	0.2¢ per lb.	0.2¢ per lb.	0.15¢ per lb.	0.15¢ per lb.	0.15¢ per lb.
140.45	0.7¢ per lb.	0.6¢ per lb.	0.5¢ per lb.	0.4¢ per lb.	0.4¢ per lb.
140.46	0.65¢ per lb.	0.6¢ per lb.	0.5¢ per lb.	0.45¢ per lb.	0.4¢ per lb.
140.50	2.4¢ per lb.	2.2¢ per lb.	1.9¢ per lb.	1.6¢ per lb.	1.3¢ per lb.
140.55	16.5% ad val.	15.5% ad val.	14.5% ad val.	13.5% ad val.	13% ad val.
140.70	2.2¢ per lb.	2¢ per lb.	1.7¢ per lb.	1.5¢ per lb.	1.2¢ per lb.
140.75	16.5% ad val.	15.5% ad val.	14.5% ad val.	13.5% ad val.	13% ad val.
141.05	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
141.10	1.3¢ per lb.	1.2¢ per lb.	1¢ per lb.	0.9¢ per lb.	0.7¢ per lb.
141.15	11% ad val.	10.5% ad val.	10% ad val.	9.5% ad val.	9% ad val.
141.25	9% ad val.	9% ad val.	8% ad val.	8% ad val.	7.5% ad val.
141.30	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
141.35	0.9¢ per lb. on entire contents of container	0.9¢ per lb. on entire contents of container	0.8¢ per lb. on entire contents of container	0.8¢ per lb. on entire contents of container	0.75¢ per lb. on entire contents of container
141.40	2.7¢ per lb. on entire contents of container	2.4¢ per lb. on entire contents of container	2.1¢ per lb. on entire contents of container	1.8¢ per lb. on entire contents of container	1.5¢ per lb. on entire contents of container
141.65	16% ad val.	15.5% ad val.	14.5% ad val.	14% ad val.	13.6% ad val.
141.66	19.5% ad val.	18% ad val.	17% ad val.	15.5% ad val.	14.7% ad val.
141.79	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
144.12	3.2¢ per lb. + 18% ad val.	3.2¢ per lb. + 16% ad val.	3.2¢ per lb. + 14% ad val.	3.2¢ per lb. + 12% ad val.	3.2¢ per lb. + 10% ad val.
Schedule 1, Part 9					
145.02	4.5¢ per lb.	4.4¢ per lb.	4¢ per lb.	3.8¢ per lb.	3.5¢ per lb.
145.04	0.1¢ each	0.05¢ each	0.05¢ each	Free	Free
145.07	0.8¢ per lb.	0.6¢ per lb.	0.4¢ per lb.	0.2¢ per lb.	Free
145.08	1.5¢ per lb.	1.4¢ per lb.	1.3¢ per lb.	1.1¢ per lb.	1¢ per lb.
145.09	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 1, Part 9--Continued					
145.14	Free	Free	Free	Free	Free
145.16	Free	Free	Free	Free	Free
145.26	0.45¢ per lb.	0.45¢ per lb	0.45¢ per lb.	0.45¢ per lb	0.45¢ per lb.
145.42	Free	Free	Free	Free	Free
145.44	Free	Free	Free	Free	Free
145.52	1¢ per lb.	1¢ per lb.	1¢ per lb.	1¢ per lb.	1¢ per lb.
145.53	1¢ per lb.	1¢ per lb.	1¢ per lb.	1¢ per lb.	1¢ per lb.
145.54	7¢ per lb.	6.5¢ per lb.	6¢ per lb.	5.5¢ per lb.	5¢ per lb.
146.10	0.2¢ per lb.	0.15¢ per lb.	0.1¢ per lb.	0.05¢ per lb.	Free
146.12	0.9¢ per lb.	0.9¢ per lb.	0.75¢ per lb	0.75¢ per lb.	0.75¢ per lb.
146.14	0.95¢ per lb.	0.85¢ per lb.	0.74¢ per lb.	0.6¢ per lb.	0.5¢ per lb.
146.20	0.4¢ per lb.	0.4¢ per lb.	0.3¢ per lb.	0.3¢ per lb.	0.2¢ per lb.
146.42	6.5% ad val.	6% ad val.	5% ad val.	4% ad val.	3.5% ad val.
146.44	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
146.50	0.6¢ per lb.	0.5¢ per lb.	0.4¢ per lb.	0.4¢ per lb.	0.3¢ per lb.
146.52	0.3¢ per lb.	0.2¢ per lb.	0.1¢ per lb.	Free	Free
146.54	0.4¢ per lb.	0.3¢ per lb.	0.2¢ per lb.	Free	Free
146.56	0.6¢ per lb.	0.6¢ per lb.	0.5¢ per lb.	0.4¢ per lb.	0.3¢ per lb.
146.58	0.4¢ per lb.	0.4¢ per lb.	0.3¢ per lb.	0.2¢ per lb.	0.2¢ per lb.
146.62	0.6¢ per lb.	0.4¢ per lb.	0.3¢ per lb.	0.1¢ per lb.	Free
146.66	1.8¢ per lb.	1.6¢ per lb.	1.4¢ per lb.	1.2¢ per lb.	1¢ per lb.
146.68	5% ad val.	4.5% ad val.	4% ad val.	3.5% ad val.	3% ad val.
146.70	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.	3.5% ad val.
146.73	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
146.80	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7% ad val.
146.90	0.4¢ per lb.	0.4¢ per lb.	0.3¢ per lb.	0.2¢ per lb.	0.2¢ per lb.
146.91	1.8¢ per lb.	1.5¢ per lb.	1.4¢ per lb.	1.2¢ per lb.	1¢ per lb.
146.97	6.3¢ per lb. + 9% ad val.	5.5¢ per lb. + 8% ad val.	4.9¢ per lb. + 7% ad val.	4.2¢ per lb. + 6% ad val.	3.5¢ per lb. + 5% ad val.
147.02	3¢ per lb.	2.7¢ per lb.	2.3¢ per lb.	2¢ per lb.	1.7¢ per lb.
147.10	1.15¢ per lb.	1.1¢ per lb.	1.08¢ per lb.	1.04¢ per lb.	1¢ per lb.
147.13	0.85¢ per lb.	0.85¢ per lb.	0.84¢ per lb.	0.8¢ per lb.	0.8¢ per lb.
147.16	1.4¢ per lb.	1.4¢ per lb.	1.35¢ per lb.	1.3¢ per lb.	1.3¢ per lb.
147.21	1¢ per lb.	1¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.6¢ per lb.
147.26	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
147.29	0.4¢ per lb.	0.4¢ per lb.	0.3¢ per lb.	0.2¢ per lb.	0.2¢ per lb.
147.30	0.9¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.6¢ per lb.	0.5¢ per lb.
147.33	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
147.50	1.9¢ per lb.	1.8¢ per lb.	1.7¢ per lb.	1.6¢ per lb.	1.5¢ per lb.
147.53	4.3¢ per lb.	4.1¢ per lb.	3.9¢ per lb.	3.7¢ per lb.	3.5¢ per lb.
147.54	15% ad val.	14% ad val.	13.5% ad val.	12.5% ad val.	12% ad val.
147.60	11¢ per cu. ft. of such bulk or the capacity of the package	10¢ per cu. ft. of such bulk or the capacity of the package	8¢ per cu. ft. of such bulk or the capacity of the package	7¢ per cu. ft. of such bulk or the capacity of the package	6¢ per cu. ft. of such bulk or the capacity of the package
147.63	4¢ per cu. ft. of such bulk or the capacity of the package	3¢ per cu. ft. of such bulk or the capacity of the package	2¢ per cu. ft. of such bulk or the capacity of the package	1¢ per cu. ft. of such bulk or the capacity of the package	Free

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 1, Part 9--Continued					
147.64	11¢ per cu. ft. of such bulk or the capacity of the package	10¢ per cu. ft. of such bulk or the capacity of the package	8¢ per cu. ft. of such bulk or the capacity of the package	7¢ per cu. ft. of such bulk or the capacity of the package	6¢ per cu. ft. of such bulk or the capacity of the package
147.70	1.4¢ per lb.	1.3¢ per lb.	1.2¢ per lb.	1.1¢ per lb.	1¢ per lb.
147.77	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
147.80	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7% ad val.
147.85	7.5% ad val.	7% ad val.	6% ad val.	5% ad val.	4% ad val.
148.25	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
148.60	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
148.65	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7% ad val.
148.70	0.2¢ per lb.	0.2¢ per lb.	0.2¢ per lb.	0.2¢ per lb.	0.2¢ per lb.
148.72	0.2¢ per lb.	0.2¢ per lb.	0.15¢ per lb.	0.1¢ per lb.	0.1¢ per lb.
148.74	1.8¢ per lb.	1.6¢ per lb.	1.4¢ per lb.	1.2¢ per lb.	1¢ per lb.
148.77	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
148.81	0.45¢ per lb.	0.4¢ per lb.	0.35¢ per lb.	0.3¢ per lb.	0.25¢ per lb.
148.83	1.9¢ per lb.	1.8¢ per lb.	1.5¢ per lb.	1.5¢ per lb.	1.5¢ per lb.
148.86	19.5% ad val.	19% ad val.	18.5% ad val.	18% ad val.	18% ad val.
149.15	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
149.19	0.4¢ per lb.	0.3¢ per lb.	0.25¢ per lb.	0.15¢ per lb.	0.1¢ per lb.
149.20	0.2¢ per lb.	0.2¢ per lb.	0.15¢ per lb.	0.1¢ per lb.	0.1¢ per lb.
149.24	0.1¢ per lb.	0.1¢ per lb.	0.1¢ per lb.	0.1¢ per lb.	0.1¢ per lb.
149.28	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
149.50	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
149.60	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
152.00	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
152.05	19% ad val.	18% ad val.	17% ad val.	16% ad val.	15% ad val.
152.14	0.75¢ per lb.	0.7¢ per lb.	0.65¢ per lb.	0.64¢ per lb.	0.6¢ per lb.
152.18	1.14¢ per lb.	1.05¢ per lb.	1¢ per lb.	0.95¢ per lb.	0.9¢ per lb.
152.22	1.5¢ per lb.	1.5¢ per lb.	1.4¢ per lb.	1¢ per lb.	1¢ per lb.
152.26	3¢ per lb.	2.7¢ per lb.	2.3¢ per lb.	2¢ per lb.	1.7¢ per lb.
152.34	5.4¢ per lb.	4.5¢ per lb.	4¢ per lb.	3.5¢ per lb.	3¢ per lb.
152.54	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
152.58	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
152.72	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
153.00	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
153.04	5.5% ad val.	5% ad val.	4.5% ad val.	3.5% ad val.	3% ad val.
153.08	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
153.16	9.5% ad val.	8.5% ad val.	7.5% ad val.	6.5% ad val.	5.5% ad val.
153.24	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
153.28	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
153.32	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
154.10	4¢ per lb.	4¢ per lb.	3¢ per lb.	3¢ per lb.	2.5¢ per lb.
154.15	3¢ per lb.	2.7¢ per lb.	2.3¢ per lb.	2¢ per lb.	1.7¢ per lb.
154.20	3¢ per lb.	2.7¢ per lb.	2.3¢ per lb.	2¢ per lb.	1.7¢ per lb.
154.25	5.4¢ per lb.	4.5¢ per lb.	4¢ per lb.	3.5¢ per lb.	3¢ per lb.
154.35	7.2¢ per lb.	6.4¢ per lb.	5.6¢ per lb.	4.8¢ per lb.	4¢ per lb.
154.45	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
154.50	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 1, Part 10					
155.50	1.5¢ per lb.	1¢ per lb.	0.8¢ per lb.	0.4¢ per lb.	Free
155.55	1.2¢ per lb.	0.9¢ per lb.	0.5¢ per lb.	0.3¢ per lb.	Free
155.75	19% ad val.	18% ad val.	17% ad val.	16% ad val.	15% ad val.
156.20	0.5¢ per lb.	0.3¢ per lb.	0.2¢ per lb.	0.1¢ per lb.	Free
156.25	0.7¢ per lb.	0.5¢ per lb.	0.5¢ per lb.	0.4¢ per lb.	0.4¢ per lb.
156.30	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
156.35	5.5% ad val.	5% ad val.	4% ad val.	3.5% ad val.	3% ad val.
156.40	0.65¢ per lb.	0.6¢ per lb.	0.5¢ per lb.	0.45¢ per lb.	0.37¢ per lb.
156.45	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
156.47	4% ad val.	4% ad val.	3% ad val.	3% ad val.	2.5% ad val.
156.55	3% ad val.	2% ad val.	1.5% ad val.	0.5% ad val.	Free
157.10	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
Schedule 1, Part 11					
160.21	2¢ per lb.	1.5¢ per lb.	1¢ per lb.	Free	Free
160.30	0.9¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.6¢ per lb.	0.5¢ per lb.
160.35	2.3¢ per lb.	2.1¢ per lb.	1.9¢ per lb.	1.7¢ per lb.	1.5¢ per lb.
160.40	2.5¢ per lb.	2.4¢ per lb.	2¢ per lb.	1.5¢ per lb.	1.5¢ per lb.
160.65	4% ad val.	3% ad val.	2% ad val.	1% ad val.	Free
161.15	2.7¢ per lb.	2.4¢ per lb.	2.1¢ per lb.	1.8¢ per lb.	1.5¢ per lb.
161.19	2.7¢ per lb.	2.4¢ per lb.	2.1¢ per lb.	1.8¢ per lb.	1.5¢ per lb.
161.29	0.9¢ per lb.	0.7¢ per lb.	0.4¢ per lb.	0.2¢ per lb.	Free
161.31	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
161.37	1.8¢ per lb.	1.6¢ per lb.	1.4¢ per lb.	1.2¢ per lb.	1¢ per lb.
161.41	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
161.43	16.2¢ per lb.	14.4¢ per lb.	12.6¢ per lb.	10.8¢ per lb.	9¢ per lb.
161.45	13.5¢ per lb.	12¢ per lb.	10.5¢ per lb.	9¢ per lb.	7.5¢ per lb.
161.49	3.2¢ per lb.	2.4¢ per lb.	1.6¢ per lb.	0.8¢ per lb.	Free
161.53	9% ad val.	9% ad val.	8% ad val.	8% ad val.	7.5% ad val.
161.57	9% ad val.	9% ad val.	8% ad val.	8% ad val.	7.5% ad val.
161.59	3¢ per lb.	2.8¢ per lb.	2.5¢ per lb.	2.2¢ per lb.	2¢ per lb.
161.61	0.78¢ per lb.	0.7¢ per lb.	0.6¢ per lb.	0.5¢ per lb.	0.43¢ per lb.
161.65	2.7¢ per lb.	2.4¢ per lb.	2.1¢ per lb.	1.8¢ per lb.	1.5¢ per lb.
161.69	9% ad val.	9% ad val.	8% ad val.	8% ad val.	7.5% ad val.
161.75	19% ad val.	18% ad val.	17% ad val.	16% ad val.	15% ad val.
161.79	2.7¢ per lb.	2.4¢ per lb.	2.1¢ per lb.	1.8¢ per lb.	1.5¢ per lb.
161.83	4.5¢ per lb.	4¢ per lb.	3.5¢ per lb.	3¢ per lb.	2.5¢ per lb.
161.88	1.8¢ per lb.	1.6¢ per lb.	1.4¢ per lb.	1.2¢ per lb.	1¢ per lb.
161.92	9% ad val.	9% ad val.	8% ad val.	8% ad val.	7.5% ad val.
161.94	0.9¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.5¢ per lb.	0.5¢ per lb.
161.96	2.7¢ per lb.	2.4¢ per lb.	2.1¢ per lb.	1.8¢ per lb.	1.5¢ per lb.
162.03	9% ad val.	9% ad val.	8% ad val.	8% ad val.	7.5% ad val.
162.07	9% ad val.	9% ad val.	8% ad val.	8% ad val.	7.5% ad val.
162.11	9% ad val.	9% ad val.	8% ad val.	8% ad val.	7.5% ad val.
162.15	9% ad val.	9% ad val.	8% ad val.	8% ad val.	7.5% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 1, Part 12,					
165.15	0.4¢ per gal.	0.3¢ per gal.	0.2¢ per gal.	Free	Free
165.25	18¢ per gal.	16¢ per gal.	14¢ per gal.	12¢ per gal.	10¢ per gal.
165.40	45¢ per gal.	40¢ per gal.	35¢ per gal.	30¢ per gal.	25¢ per gal.
165.50	4.7¢ per gal.	4.5¢ per gal.	4.2¢ per gal.	4¢ per gal.	3.8¢ per gal.
165.55	3.5¢ per gal.	3.5¢ per gal.	3¢ per gal.	3¢ per gal.	3¢ per gal.
165.70	33¢ per gal. + $2.37 per proof gal. on alcohol content	31¢ per gal. + $2.24 per proof gal. on alcohol content	29¢ per gal. + $2.11 per proof gal. on alcohol content	27¢ per gal. + $1.98 per proof gal. on alcohol content	26¢ per gal. + $1.85 per proof gal. on alcohol content
166.10	2.5¢ per gal.	2¢ per gal.	2¢ per gal.	1.5¢ per gal.	1.5¢ per gal.
166.20	1.5¢ per gal.	1.5¢ per gal.	1¢ per gal.	1¢ per gal.	1¢ per gal.
166.30	1¢ per gal.	1¢ per gal.	1¢ per gal.	1¢ per gal.	1¢ per gal.
166.40	1.5¢ per gal.	1.5¢ per gal.	1¢ per gal.	1¢ per gal.	1¢ per gal.
167.05	11¢ per gal.	10¢ per gal.	8.5¢ per gal.	7¢ per gal.	6¢ per gal.
167.10	$1.43 per gal.	$1.36 per gal.	$1.30 per gal.	$1.23 per gal.	$1.17 per gal.
167.20	33¢ per gal. + $2.37 per proof gal. on ethyl alcohol content	31¢ per gal. + $2.24 per proof gal. on ethyl alcohol content	29¢ per gal. + $2.11 per proof gal. on ethyl alcohol content	27¢ per gal. + $1.98 per proof gal. on ethyl alcohol content	26¢ per gal. + $1.85 per proof gal. on ethyl alcohol content
167.25	45¢ per gal.	40¢ per gal.	35¢ per gal.	30¢ per gal.	25¢ per gal.
167.34	39¢ per gal.	37¢ per gal.	35¢ per gal.	33¢ per gal.	31.5¢ per gal.
167.40	25¢ per gal.	24¢ per gal.	23¢ per gal.	22¢ per gal.	21¢ per gal.
167.42	38¢ per gal.	36.5¢ per gal.	35¢ per gal.	33.5¢ per gal.	32¢ per gal.
167.50	45¢ per gal.	40¢ per gal.	35¢ per gal.	30¢ per gal.	25¢ per gal.
167.90	$4.75 per proof gal.	$4.50 per proof gal.	$4.25 per proof gal.	$4 per proof gal.	$3.75 per proof gal.
168.05	76¢ per gal.	68¢ per gal.	59¢ per gal.	51¢ per gal.	42¢ per gal.
168.10	$1.80 per gal.	$1.60 per gal.	$1.40 per gal.	$1.20 per gal.	$1 per gal.
168.15	$1.69 per gal.	$1.50 per gal.	$1.31 per gal.	$1.12 per gal.	94¢ per gal.
168.17	90¢ per gal.	80¢ per gal.	70¢ per gal.	60¢ per gal.	50¢ per gal.
168.19	$1.12 per gal.	$1 per gal.	87¢ per gal.	75¢ per gal.	62¢ per gal.
168.21	90¢ per gal.	80¢ per gal.	70¢ per gal.	60¢ per gal.	50¢ per gal.
168.25	90¢ per gal.	80¢ per gal.	70¢ per gal.	60¢ per gal.	50¢ per gal.
168.30	$2.02 per gal.	$1.80 per gal.	$1.57 per gal.	$1.35 per gal.	$1.12 per gal.
168.35	90¢ per gal.	80¢ per gal.	70¢ per gal.	60¢ per gal.	50¢ per gal.
168.45	91¢ per gal.	81¢ per gal.	71¢ per gal.	61¢ per gal.	51¢ per gal.
168.46	$1.12 per gal.	$1 per gal.	87¢ per gal.	75¢ per gal.	62¢ per gal.
168.55	$2.25 per gal.	$2 per gal.	$1.75 per gal.	$1.50 per gal.	$1.25 per gal.
168.90	$4.50 per gal.	$4 per gal.	$3.50 per gal.	$3 per gal.	$2.50 per gal.
Schedule 1, Part 13					
170.28	12.5¢ per lb.	12¢ per lb.	12¢ per lb.	11.5¢ per lb.	11.5¢ per lb.
170.31	12.5¢ per lb.	12¢ per lb.	12¢ per lb.	11.5¢ per lb.	11.5¢ per lb.
170.35	49¢ per lb.	48¢ per lb.	47¢ per lb.	46¢ per lb.	45¢ per lb.
170.37	49¢ per lb.	48¢ per lb.	47¢ per lb.	46¢ per lb.	45¢ per lb.
170.66	$1.71 per lb. + 9.4% ad val.	$1.52 per lb. + 8% ad val.	$1.33 per lb. + 7% ad val.	$1.14 per lb. + 6% ad val.	95¢ per lb. + 5% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 1, Part 13--Continued					
170.67	$1.27 per lb. + 8.5% ad val. (s)	$1.27 per lb. + 8% ad val. (s)	$1.27 per lb. + 7% ad val. (s)	[Item deleted. See Annex II, Section D.]	
170.69	$1.27 per lb. + 8.5% ad val.	$1.27 per lb. + 8% ad val.	$1.27 per lb. + 7% ad val.	[Item deleted. See Annex II, Section D.]	
170.70	$1.71 per lb. + 9.4% ad val.	$1.52 per lb. + 8% ad val.	$1.33 per lb. + 7% ad val.	$1.14 per lb. + 6% ad val.	95¢ per lb. + 5% ad val.
170.78	19.5¢ per lb.	17¢ per lb.	15¢ per lb.	13¢ per lb.	11¢ per lb.
Schedule 1, Part 14					
175.03	2.7¢ per lb.	2.4¢ per lb.	2¢ per lb.	1.8¢ per lb.	1.5¢ per lb.
175.06	0.2¢ per lb.	0.15¢ per lb.	0.1¢ per lb.	0.05¢ per lb.	Free
175.21	0.55¢ per lb.	0.5¢ per lb.	0.5¢ per lb.	0.46¢ per lb.	0.46¢ per lb.
175.24	Free	Free	Free	Free	Free
175.36	7¢ per 100 lbs.	7¢ per 100 lbs.	6¢ per 100 lbs.	6¢ per 100 lbs.	6¢ per 100 lbs.
175.45	0.45¢ per lb.	0.3¢ per lb.	0.2¢ per lb.	0.1¢ per lb.	Free
175.48	1.3¢ per lb.	1.24¢ per lb.	1.15¢ per lb.	1.05¢ per lb.	1¢ per lb.
175.49	1.8¢ per lb.	1.5¢ per lb.	1.4¢ per lb.	1.2¢ per lb.	1¢ per lb.
175.51	0.7¢ per lb.	0.6¢ per lb.	0.55¢ per lb.	0.45¢ per lb.	0.4¢ per lb.
176.01	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
176.24	2¢ per lb. + 9% ad val.	1.8¢ per lb. + 8% ad val.	1.55¢ per lb. + 7% ad val.	1.3¢ per lb. + 6% ad val.	1.125¢ per lb. + 5% ad val.
176.42	0.9¢ per lb.	0.75¢ per lb.	0.75¢ per lb.	0.75¢ per lb.	0.75¢ per lb.
176.46	0.55¢ per lb.	0.5¢ per lb.	0.45¢ per lb.	0.45¢ per lb.	0.45¢ per lb.
176.49	4¢ per lb.	3.5¢ per lb.	3¢ per lb.	2.7¢ per lb.	2.2¢ per lb.
176.50	1.3¢ per lb.	1.2¢ per lb.	1¢ per lb.	0.9¢ per lb.	0.7¢ per lb.
176.52	40% ad val.	36% ad val.	31% ad val.	27% ad val.	22.5% ad val.
176.54	1.6¢ per lb.	1.4¢ per lb.	1.2¢ per lb.	1.05¢ per lb.	0.9¢ per lb.
176.55	1.6¢ per lb. + 7% ad val.	1.4¢ per lb. + 6.4% ad val.	1.2¢ per lb. + 5.5% ad val.	1.05¢ per lb. + 4.5% ad val.	0.9¢ per lb. + 4% ad val.
176.70	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
177.04	4% ad val.	4% ad val.	3% ad val.	3% ad val.	2.5% ad val.
177.12	1.3¢ per lb. + 9% ad val.	1.2¢ per lb. + 8% ad val.	1¢ per lb. + 7% ad val.	0.9¢ per lb. + 6% ad val.	0.75¢ per lb. + 5% ad val.
177.16	0.75¢ per lb. + 3.5% ad val.	0.68¢ per lb. + 3% ad val.	0.59¢ per lb. + 2.5% ad val.	0.51¢ per lb. + 2% ad val.	0.4¢ per lb. + 2% ad val.
177.20	1¢ per lb.	1¢ per lb.	1¢ per lb.	0.7¢ per lb.	0.7¢ per lb.
177.22	0.8¢ per lb.	0.7¢ per lb.	0.6¢ per lb.	0.55¢ per lb.	0.46¢ per lb.
177.24	3¢ per lb.	2.65¢ per lb.	2.35¢ per lb.	2¢ per lb.	1.7¢ per lb.
177.26	1.3¢ per lb. + 9% ad val.	1.2¢ per lb. + 8% ad val.	1¢ per lb. + 7% ad val.	0.9¢ per lb. + 6% ad val.	0.7¢ per lb. + 5% ad val.
177.30	1.7¢ per lb.	1.5¢ per lb.	1.3¢ per lb.	1.1¢ per lb.	0.95¢ per lb.
177.32	0.03¢ per lb.	0.03¢ per lb.	0.03¢ per lb.	0.03¢ per lb.	0.03¢ per lb.
177.34	0.4¢ per lb.	0.35¢ per lb.	0.3¢ per lb.	0.25¢ per lb.	0.2¢ per lb.
177.36	1¢ per lb.	1¢ per lb.	0.6¢ per lb.	0.6¢ per lb.	0.6¢ per lb.
177.40	1.35¢ per lb. + 9% ad val.	1.2¢ per lb. + 8% ad val.	1.05¢ per lb. + 7% ad val.	0.9¢ per lb. + 6% ad val.	0.75¢ per lb. + 5% ad val.
177.56	0.78¢ per lb.	0.7¢ per lb.	0.6¢ per lb.	0.52¢ per lb.	0.43¢ per lb.
177.69	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
177.72	1.3¢ per lb. + 9% ad val.	1.2¢ per lb. + 8% ad val.	1¢ per lb. + 7% ad val.	0.9¢ per lb. + 6% ad val.	0.75¢ per lb. + 5% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 1, Part 14--Continued					
178.05	1.7¢ per lb.	1.5¢ per lb.	1.33¢ per lb.	1.14¢ per lb.	0.95¢ per lb.
178.30	18% ad val., but not less than the rate applicable to component material subject to the highest rate of duty	16% ad val., but not less than the rate applicable to component material subject to the highest rate of duty	14% ad val., but not less than the rate applicable to component material subject to the highest rate of duty	12% ad val., but not less than the rate applicable to component material subject to the highest rate of duty	10% ad val., but not less than the rate applicable to component material subject to the highest rate of duty
Schedule 1, Part 15					
182.05	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
182.10	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
182.15	25% ad val.	22% ad val.	19.5% ad val.	16.5% ad val.	14% ad val.
182.20	5.5% ad val.	5% ad val.	4.5% ad val.	3.5% ad val.	3% ad val.
182.30	4% ad val.	4% ad val.	3% ad val.	3% ad val.	2.5% ad val.
182.32	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
182.35	0.9¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.6¢ per lb.	0.5¢ per lb.
182.36	1.3¢ per lb.	1.2¢ per lb.	1¢ per lb.	0.9¢ per lb.	0.7¢ per lb.
182.40	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
182.45	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
182.46	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
182.50	5.4¢ per lb. (including wt. of immediate container)	4.5¢ per lb. (including wt. of immediate container)	4¢ per lb. (including wt. of immediate container)	3.5¢ per lb. (including wt. of immediate container)	3¢ per lb. (including wt. of immediate container)
182.52	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
182.55	0.9¢ per proof gal.	0.7¢ per proof gal.	0.4¢ per proof gal.	0.2¢ per proof gal.	Free
182.58	3.5¢ per proof gal.	3.5¢ per proof gal.	3¢ per proof gal.	3¢ per proof gal.	3¢ per proof gal.
182.70	4% ad val.	4% ad val.	3% ad val.	3% ad val.	2.5% ad val.
182.90	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
182.95	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
184.10	2% ad val.	1% ad val.	1% ad val.	Free	Free
184.20	$1.36 per short ton	$1.02 per short ton	68¢ per short ton	34¢ per short ton	Free
184.25	88¢ per short ton	66¢ per short ton	44¢ per short ton	22¢ per short ton	Free
184.30	48¢ per short ton	36¢ per short ton	24¢ per short ton	12¢ per short ton	Free
184.35	40¢ per short ton	30¢ per short ton	20¢ per short ton	10¢ per short ton	Free
184.40	2¢ per 100 lbs.	1¢ per 100 lbs.	1¢ per 100 lbs.	Free	Free
184.45	Free	Free	Free	Free	Free
184.47	2% ad val.	1% ad val.	1% ad val.	Free	Free
184.50	0.22¢ per lb.	0.2¢ per lb.	0.17¢ per lb.	0.15¢ per lb.	0.12¢ per lb.
184.54	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
184.61	4% ad val.	3% ad val.	2% ad val.	1% ad val.	Free
184.65	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
184.70	2% ad val.	1% ad val.	1% ad val.	Free	Free
184.75	9% ad val.	9% ad val.	8% ad val.	8% ad val.	7.5% ad val.
186.10	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
186.15	19% ad val.	18% ad val.	17% ad val.	16% ad val.	15% ad val.
186.30	0.75¢ per lb.	0.75¢ per lb.	0.75¢ per lb.	0.75¢ per lb.	0.75¢ per lb.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 1, Part 15--Continued					
186.40	3.5% ad val.	3% ad val.	2.5% ad val.	2% ad val.	2% ad val.
186.50	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
186.60	14% ad val.	13% ad val.	12.5% ad val.	11.5% ad val.	11% ad val.
188.18	Free	Free	Free	Free	Free
188.20	4.5% ad val.	4% ad val.	4% ad val.	3.7% ad val.	3.7% ad val.
188.22	Free	Free	Free	Free	Free
188.24	2% ad val.	1% ad val.	1% ad val.	Free	Free
188.30	45¢ per lb.	40¢ per lb.	35¢ per lb.	30¢ per lb.	25¢ per lb.
188.34	4.5¢ per lb.	4¢ per lb.	3.5¢ per lb.	3¢ per lb.	2.5¢ per lb.
188.36	Free	Free	Free	Free	Free
190.10	9¢ per lb.	8¢ per lb.	7¢ per lb.	6¢ per lb.	5¢ per lb.
190.57	4% ad val.	4% ad val.	3% ad val.	3% ad val.	2.5% ad val.
190.68	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
190.85	6.5% ad val.	6% ad val.	5% ad val.	4% ad val.	3.5% ad val.
190.87	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
190.90	3.5% ad val.	3% ad val.	2.5% ad val.	2% ad val.	2% ad val.
191.15	4% ad val.	4% ad val.	3% ad val.	3% ad val.	2.5% ad val.
192.07	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
192.25	9¢ per lb.	9¢ per lb.	8¢ per lb.	8¢ per lb.	7.5¢ per lb.
192.30	$1.14 per lb.	$1.08 per lb.	$1.02 per lb.	96¢ per lb.	90¢ per lb.
192.35	57¢ per lb.	54¢ per lb.	51¢ per lb.	48¢ per lb.	45¢ per lb.
192.45	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
192.50	20¢ per ton	15¢ per ton	10¢ per ton	5¢ per ton	Free
192.60	60¢ per ton	45¢ per ton	30¢ per ton	15¢ per ton	Free
192.85	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
192.90	9% ad val.	9% ad val.	8% ad val.	8% ad val.	7.5% ad val.
193.10	11¢ per lb.	10¢ per lb.	8.5¢ per lb.	7.5¢ per lb.	6¢ per lb.
193.15	6¢ per lb.	4¢ per lb.	3¢ per lb.	1¢ per lb.	Free
Schedule 2, Part 1					
200.06	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
200.20	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
200.25	15% ad val.	13% ad val.	11.5% ad val.	10% ad val.	8% ad val.
200.45	1.5% ad val.	1.5% ad val.	1% ad val.	1% ad val.	1% ad val.
200.55	Free	Free	Free	Free	Free
200.93	2% ad val.	1% ad val.	1% ad val.	Free	Free
202.03	28¢ per 1000 ft., board measure	21¢ per 1000 ft., board measure	14¢ per 1000 ft., board measure	7¢ per 1000 ft., board measure	Free
202.06	20¢ per 1000 ft., board measure	15¢ per 1000 ft., board measure	10¢ per 1000 ft., board measure	5¢ per 1000 ft., board measure	Free
202.09	80¢ per 1000 ft., board measure	60¢ per 1000 ft., board measure	40¢ per 1000 ft., board measure	20¢ per 1000 ft., board measure	Free
202.12	80¢ per 1000 ft., board measure	60¢ per 1000 ft., board measure	40¢ per 1000 ft., board measure	20¢ per 1000 ft., board measure	Free

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 2, Part 1--Continued					
202.15	80¢ per 1000 ft., board measure	60¢ per 1000 ft., board measure	40¢ per 1000 ft., board measure	20¢ per 1000 ft., board measure	Free
202.18	80¢ per 1000 ft., board measure	60¢ per 1000 ft., board measure	40¢ per 1000 ft., board measure	20¢ per 1000 ft., board measure	Free
202.21	80¢ per 1000 ft., board measure	60¢ per 1000 ft., board measure	40¢ per 1000 ft., board measure	20¢ per 1000 ft., board measure	Free
202.24	80¢ per 1000 ft., board measure	60¢ per 1000 ft., board measure	40¢ per 1000 ft., board measure	20¢ per 1000 ft., board measure	Free
202.27	60¢ per 1000 ft., board measure	45¢ per 1000 ft., board measure	30¢ per 1000 ft., board measure	15¢ per 1000 ft., board measure	Free
202.30	$1.20 per 1000 ft., board measure	90¢ per 1000 ft., board measure	60¢ per 1000 ft., board measure	30¢ per 1000 ft., board measure	Free
202.32	Free	Free	Free	Free	Free
202.33	$2.40 per 1000 ft., board measure	$1.80 per 1000 ft., board measure	$1.20 per 1000 ft., board measure	60¢ per 1000 ft., board measure	Free
202.34	$1.28 per 1000 ft., board measure	96¢ per 1000 ft., board measure	64¢ per 1000 ft., board measure	32¢ per 1000 ft., board measure	Free
202.35	Free	Free	Free	Free	Free
202.37	2% ad val.	1% ad val.	1% ad val.	Free	Free
202.38	2% ad val.	2% ad val.	1.5% ad val.	1% ad val.	1% ad val.
202.40	$1.35 per 1000 ft., board measure	$1.20 per 1000 ft., board measure	$1.05 per 1000 ft., board measure	90¢ per 1000 ft., board measure	75¢ per 1000 ft., board measure
202.42	$1.20 per 1000 ft., board measure	90¢ per 1000 ft., board measure	60¢ per 1000 ft., board measure	30¢ per 1000 ft., board measure	Free
202.44	Free	Free	Free	Free	Free
202.46	$1.20 per 1000 ft., board measure	90¢ per 1000 ft., board measure	60¢ per 1000 ft., board measure	30¢ per 1000 ft., board measure	Free
202.47	40¢ per 1000 sq. ft., surface measure	30¢ per 1000 sq. ft., surface measure	20¢ per 1000 sq. ft., surface measure	10¢ per 1000 sq. ft., surface measure	Free
202.48	60¢ per 1000 sq. ft., surface measure	45¢ per 1000 sq. ft., surface measure	30¢ per 1000 sq. ft., surface measure	15¢ per 1000 sq. ft., surface measure	Free
202.50	80¢ per 1000 sq. ft., surface measure	60¢ per 1000 sq. ft., surface measure	40¢ per 1000 sq. ft., surface measure	20¢ per 1000 sq. ft., surface measure	Free
202.52	1% ad val.	0.5% ad val.	0.5% ad val.	Free	Free
202.53	4% ad val.	3% ad val.	2% ad val.	1% ad val.	Free
202.58	3% ad val.	2% ad val.	1.5% ad val.	0.5% ad val.	Free
202.60	15% ad val.	13% ad val.	11.5% ad val.	10% ad val.	8% ad val.
202.64	1% ad val.	0.5% ad val.	0.5% ad val.	Free	Free
202.66	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
203.10	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
203.20	17¢ per lb. + 14% ad val.	15.5¢ per lb. + 12.5% ad val.	13.9¢ per lb. + 11% ad val.	12.2¢ per lb. + 9.5% ad val.	10.5¢ per lb. + 8.5% ad val.
203.30	17¢ per lb. + 14% ad val.	15.5¢ per lb. + 12.5% ad val.	13.9¢ per lb. + 11% ad val.	12.2¢ per lb. + 9.5% ad val.	10.5¢ per lb. + 8.5% ad val.
204.05	30.5% ad val.	27% ad val.	23.5% ad val.	20% ad val.	17% ad val.
204.10	6.5% ad val.	6% ad val.	5% ad val.	4% ad val.	3.5% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 2, Part 1--Continued					
204.20	15% ad val.	13% ad val.	11.5% ad val.	10% ad val.	8% ad val.
204.25	1% ad val.	1% ad val.	0.5% ad val.	Free	Free
204.35	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
204.50	2¢ per lb. + 4.5% ad val.	2¢ per lb. + 4.5% ad val.	2¢ per lb. + 4% ad val.	2¢ per lb. + 4% ad val.	2¢ per lb. + 4% ad val.
206.30	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
206.45	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
206.47	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
206.50	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
206.52	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
206.53	11.5% ad val.	10% ad val.	9% ad val.	7.5% ad val.	6.5% ad val.
206.54	15% ad val.	13% ad val.	11.5% ad val.	10% ad val.	8% ad val.
206.60	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
206.67	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
206.85	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
206.87	15% ad val.	13% ad val.	11.5% ad val.	10% ad val.	8% ad val.
206.97	15% ad val.	13% ad val.	11.5% ad val.	10% ad val.	8% ad val.
207.00	15% ad val.	13% ad val.	11.5% ad val.	10% ad val.	8% ad val.
Schedule 2, Part 2					
220.10	2.7¢ per lb.	2.4¢ per lb.	2.1¢ per lb.	1.8¢ per lb.	1.5¢ per lb.
220.15	0.9¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.6¢ per lb.	0.5¢ per lb.
220.20	7.1¢ per lb	6.3¢ per lb.	5.5¢ per lb.	4.7¢ per lb.	4¢ per lb.
220.25	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
220.31	4.5¢ per lb.	4¢ per lb.	3.5¢ per lb.	3¢ per lb.	2.5¢ per lb.
220.35	54¢ per lb.	48¢ per lb.	42¢ per lb.	36¢ per lb.	30¢ per lb.
220.38	22¢ per lb.	20¢ per lb.	17¢ per lb.	15¢ per lb.	12¢ per lb.
220.40	18¢ per lb.	16¢ per lb.	14¢ per lb.	12¢ per lb.	10¢ per lb.
220.45	18¢ per lb.	16¢ per lb.	14¢ per lb.	12¢ per lb.	10¢ per lb.
220.50	32% ad val.	28.5% ad val.	25% ad val.	21.5% ad val.	18% ad val.
222.10	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
222.15	Free	Free	Free	Free	Free
222.20	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
222.25	4% ad val.	4% ad val.	3% ad val.	3% ad val.	2.5% ad val.
222.30	25% ad val.	22% ad val.	19.5% ad val.	16.5% ad val.	14% ad val.
222.32	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
222.34	7.5% ad val.	7% ad val.	6% ad val.	5.5% ad val.	5% ad val.
222.36	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
222.41	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
222.42	32% ad val.	30% ad val.	28.5% ad val.	26.5% ad val.	25% ad val.
222.44	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val
222.55	5.5% ad val.	5% ad val.	4% ad val.	3.5% ad val.	3% ad val.
222.57	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
222.60	23% ad val.	20% ad val.	17.5% ad val.	15% ad val.	12.5% ad val.
222.62	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
222.64	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 2, Part 3					
240.00	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
240.03	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
240.04	15% ad val.	13% ad val.	11.5% ad val.	10% ad val.	8% ad val.
240.06	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
240.10	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
240.12	34% ad val.	29% ad val.	23% ad val.	18% ad val.	12.5% ad val.
240.14	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
240.16	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
240.23	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
240.30	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
240.32	34% ad val.	29% ad val.	23% ad val.	18% ad val.	12.5% ad val.
240.34	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
240.36	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
240.38	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
240.40	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
240.50	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
240.52	34% ad val.	29% ad val.	23% ad val.	18% ad val.	12.5% ad val.
240.54	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
240.56	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
240.58	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
240.60	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
245.00	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
245.10	13% ad val., but not more than $7.25 per short ton	12% ad val., but not more than $7.25 per short ton	10% ad val., but not more than $7.25 per short ton	9% ad val., but not more than $7.25 per short ton	7.5% ad val.
245.30	23.5% ad val.	21.5% ad val.	19% ad val.	17% ad val.	15% ad val.
245.45	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
245.50	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
245.60	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
245.70	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
245.80	4.5¢ per lb. + 8% ad val.	4¢ per lb. + 7% ad val.	3.5¢ per lb. + 6% ad val.	3¢ per lb. + 5% ad val.	2.5¢ per lb. + 4.5% ad val.
245.90	3% ad val.	2% ad val.	1.5% ad val.	0.5% ad val.	Free
Schedule 2, Part 4					
251.05	4% ad val.	3% ad val.	2% ad val.	1% ad val.	Free
251.10	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
251.15	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
251.20	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
251.25	6.5% ad val.	6% ad val.	5% ad val.	4% ad val.	3.5% ad val.
251.30	5.5% ad val.	5% ad val.	4.5% ad val.	3.5% ad val.	3% ad val.
251.35	3% ad val.	2% ad val.	1.5% ad val.	0.5% ad val.	Free
251.40	2% ad val.	1.5% ad val.	1% ad val.	0.5% ad val.	Free
251.45	4.5% ad val.	4% ad val.	3.5% ad val.	3% ad val.	2.5% ad val.
251.49	6% ad val.	5% ad val.	4.5% ad val.	4% ad val.	3% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 2, Part 4--Continued					
251.51	3.5% ad val.	2.5% ad val.	1.5% ad val.	0.5% ad val.	Free
252.05	2% ad val.	2% ad val.	1.5% ad val.	1% ad val.	1% ad val.
252.10	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
252.13	2.7¢ per lb. + 9% ad val.	2.4¢ per lb. + 8% ad val.	2.1¢ per lb. + 7% ad val.	1.8¢ per lb. + 6% ad val.	1.5¢ per lb. + 5% ad val.
252.15	2¢ per lb. + 6.5% ad val.	2¢ per lb. + 6% ad val.	1.5¢ per lb. + 5% ad val.	1.5¢ per lb. + 4% ad val.	1.2¢ per lb. + 3.5% ad val.
252.17	6.5% ad val.	6% ad val.	5% ad val.	4% ad val.	3.5% ad val.
252.20	1.1¢ per lb. + 3.5% ad val.	1¢ per lb. + 3% ad val.	0.8¢ per lb. + 2.9% ad val.	0.7¢ per lb. + 2.5% ad val.	0.6¢ per lb. + 2% ad val.
252.25	1.8¢ per lb. + 6% ad val.	1.5¢ per lb. + 5.5% ad val.	1.4¢ per lb. + 4.5% ad val.	1¢ per lb. + 4% ad val.	1¢ per lb. + 3.5% ad val.
252.27	1.4¢ per lb. + 4.9% ad val.	1.2¢ per lb. + 4.4% ad val.	1.1¢ per lb. + 3.5% ad val.	0.9¢ per lb. + 3.2% ad val.	0.8¢ per lb. + 2.5% ad val.
252.30	4.5¢ per lb. + 5% ad val.	4¢ per lb. + 4.5% ad val.	3.5¢ per lb. + 4% ad val.	3¢ per lb. + 3.5% ad val.	2.5¢ per lb. + 3% ad val.
252.35	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
252.40	2.5¢ per lb. + 9% ad val.	2¢ per lb. + 8% ad val.	2¢ per lb. + 7% ad val.	1.5¢ per lb. + 6% ad val.	1.5¢ per lb. + 5% ad val.
252.42	2.2¢ per lb. + 6.5% ad val.	2¢ per lb. + 6% ad val.	1.7¢ per lb. + 5% ad val.	1.5¢ per lb. + 4% ad val.	1.2¢ per lb. + 3.7% ad val.
252.45	0.6¢ per lb. + 2.5% ad val.	0.6¢ per lb. + 2% ad val.	0.5¢ per lb. + 2% ad val.	0.4¢ per lb. + 1.5% ad val.	0.3¢ per lb. + 1.5% ad val.
252.50	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
252.55	3% ad val.	2% ad val.	1.5% ad val.	0.5% ad val.	Free
252.57	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
252.59	2.5¢ per lb. + 9% ad val.	2¢ per lb. + 8% ad val.	2¢ per lb. + 7% ad val.	1.5¢ per lb. + 6% ad val.	1.5¢ per lb. + 5% ad val.
252.61	2.2¢ per lb. + 6.5% ad val.	2¢ per lb. + 6% ad val.	1.7¢ per lb. + 5% ad val.	1.5¢ per lb. + 4% ad val.	1.2¢ per lb. + 3.5% ad val.
252.63	0.9¢ per lb. + 2.5% ad val.	0.8¢ per lb. + 2% ad val.	0.5¢ per lb. + 2% ad val.	0.5¢ per lb. + 1.5% ad val.	0.5¢ per lb. + 1.5% ad val.
252.67	0.15¢ per lb. + 3.5% ad val.	0.13¢ per lb. + 3% ad val.	0.11¢ per lb. + 2.5% ad val.	0.1¢ per lb. + 2% ad val.	0.08¢ per lb. + 2% ad val.
252.70	1.5¢ per lb. + 6.5% ad val.	1.5¢ per lb. + 6% ad val.	1.4¢ per lb. + 5% ad val.	1¢ per lb. + 4.5% ad val.	1¢ per lb. + 3.5% ad val.
252.73	1.8¢ per lb. + 4% ad val.	1.6¢ per lb. + 4% ad val.	1.4¢ per lb. + 3% ad val.	1.2¢ per lb. + 3% ad val.	1¢ per lb. + 2.5% ad val.
252.75	1.3¢ per lb. + 6.5% ad val.	1.2¢ per lb. + 6% ad val.	1¢ per lb. + 5% ad val.	0.9¢ per lb. + 4% ad val.	0.7¢ per lb. + 3.5% ad val.
252.77	1.1¢ per lb. + 5.8% ad val.	1¢ per lb. + 5% ad val.	0.87¢ per lb. + 4.5% ad val.	0.7¢ per lb. + 3.9% ad val.	0.6¢ per lb. + 3% ad val.
252.79	0.9¢ per lb. + 3.5% ad val.	0.8¢ per lb. + 3% ad val.	0.7¢ per lb. + 2.5% ad val.	0.6¢ per lb. + 2% ad val.	0.5¢ per lb. + 2% ad val.
252.81	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
252.84	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
252.86	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
252.90	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 2, Part 4--Continued					
253.05	0.9¢ per lb. + 4% ad val.	0.8¢ per lb. + 4% ad val.	0.7¢ per lb. + 3% ad val.	0.5¢ per lb. + 3% ad val.	0.5¢ per lb. + 2.5% ad val.
253.10	1.1¢ per lb. + 9% ad val.	1¢ per lb. + 8% ad val.	0.8¢ per lb. + 7% ad val.	0.7¢ per lb. + 6% ad val.	0.6¢ per lb. + 5% ad val.
253.15	1.8¢ per lb. + 4% ad val.	1.5¢ per lb. + 4% ad val.	1.4¢ per lb. + 3% ad val.	1.2¢ per lb. + 3% ad val.	1¢ per lb. + 2.5% ad val.
253.25	0.9¢ per lb. + 2.5% ad val.	0.8¢ per lb. + 2% ad val.	0.7¢ per lb. + 2% ad val.	0.6¢ per lb. + 1.5% ad val.	0.5¢ per lb. + 1.5% ad val.
253.30	0.9¢ per lb. + 4% ad val.	0.8¢ per lb. + 4% ad val.	0.7¢ per lb. + 3% ad val.	0.5¢ per lb. + 3% ad val.	0.5¢ per lb. + 2.5% ad val.
253.35	2¢ per lb. + 9% ad val.	2¢ per lb. + 8% ad val.	1¢ per lb. + 7% ad val.	1¢ per lb. + 6% ad val.	1¢ per lb. + 5% ad val.
253.40	3.5¢ per lb. + 7% ad val.	3.2¢ per lb. + 6% ad val.	2.8¢ per lb. + 5.5% ad val.	2.4¢ per lb. + 4.5% ad val.	2¢ per lb. + 4% ad val.
253.45	1.8¢ per lb. + 7% ad val.	1.6¢ per lb. + 6% ad val.	1.4¢ per lb. + 5.5% ad val.	1.2¢ per lb. + 4.5% ad val.	1¢ per lb. + 4% ad val.
254.05	2% ad val.	2% ad val.	1.5% ad val.	1% ad val.	1% ad val.
254,09	1.1¢ per lb. + 7.5% ad val.	1¢ per lb. + 6.5% ad val.	0.8¢ per lb. + 5.9% ad val.	0.7¢ per lb. + 5% ad val.	0.6¢ per lb. + 4% ad val.
254.15	1.5¢ per lb. + 6% ad val.	1.5¢ per lb. + 5.5% ad val.	1.4¢ per lb. + 4.5% ad val.	1¢ per lb. + 4% ad val.	1¢ per lb. + 3.5% ad val.
254.18	1.4¢ per lb. + 4.5% ad val.	1.2¢ per lb. + 4% ad val.	1¢ per lb. + 3.5% ad val.	0.9¢ per lb. + 3% ad val.	0.8¢ per lb. + 2.5% ad val.
254.20	4.5¢ per lb. + 5% ad val.	4¢ per lb. + 4.5% ad val.	3.5¢ per lb. + 4% ad val.	3¢ per lb. + 3.5% ad val.	2.5¢ per lb. + 3% ad val.
254.25	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
254.30	0.9¢ per lb. + 3.5% ad val.	0.8¢ per lb. + 3% ad val.	0.7¢ per lb. + 2.5% ad val.	0.6¢ per lb. + 2% ad val.	0.5¢ per lb. + 2% ad val.
254.35	0.7¢ per lb. + 7% ad val.	0.6¢ per lb. + 6% ad val.	0.5¢ per lb. + 5.5% ad val.	0.4¢ per lb. + 4.5% ad val.	0.4¢ per lb. + 4% ad val.
254.40	2.5¢ per lb. + 9% ad val.	2¢ per lb. + 8% ad val.	2¢ per lb. + 7% ad val.	1.5¢ per lb. + 6% ad val.	1.5¢ per lb. + 5% ad val.
254.42	2.2¢ per lb. + 6.5% ad val.	2¢ per lb. + 6% ad val.	1.7¢ per lb. + 5% ad val.	1.5¢ per lb. + 4% ad val.	1.2¢ per lb. + 3.5% ad val.
254.44	0.9¢ per lb. + 2.5% ad val.	0.8¢ per lb. + 2% ad val.	0.5¢ per lb. + 2% ad val.	0.5¢ per lb. + 1.5% ad val.	0.5¢ per lb. + 1.5% ad val.
254.46	1.8¢ per lb. + 4% ad val.	1.6¢ per lb. + 3.5% ad val.	1.4¢ per lb. + 3% ad val.	1.2¢ per lb. + 2.5% ad val.	1¢ per lb. + 2% ad val.
254.48	1.8¢ per lb. + 7% ad val.	1.6¢ per lb. + 6% ad val.	1.4¢ per lb. + 5.5% ad val.	1.2¢ per lb. + 4.5% ad val.	1¢ per lb. + 4% ad val.
254.50	10.5¢ per lb.	9.5¢ per lb.	8¢ per lb.	7¢ per lb.	6¢ per lb.
254.54	1¢ per lb. + 7% ad val.	0.9¢ per lb. + 6% ad val.	0.8¢ per lb. + 5.5% ad val.	0.7¢ per lb. + 4.5% ad val.	0.6¢ per lb. + 4% ad val.
254.56	1.3¢ per lb. + 11% ad val.	1.2¢ per lb. + 10% ad val.	1¢ per lb. + 8.5% ad val.	0.9¢ per lb. + 7% ad val.	0.7¢ per lb. + 6% ad val.
254.58	10.5¢ per lb.	9.5¢ per lb.	8¢ per lb.	7¢ per lb.	6¢ per lb.
254.63	1.1¢ per lb. + 5.8% ad val.	1¢ per lb. + 5% ad val.	0.85¢ per lb. + 4.5% ad val.	0.7¢ per lb. + 3.9% ad val.	0.6¢ per lb. + 3% ad val.
254.65	0.9¢ per lb. + 3.5% ad val.	0.8¢ per lb. + 3% ad val.	0.7¢ per lb. + 2.5% ad val.	0.6¢ per lb. + 2% ad val.	0.5¢ per lb. + 2% ad val.
254.70	2.7¢ per lb. + 7% ad val.	2.4¢ per lb. + 6% ad val.	2¢ per lb. + 5.5% ad val.	1.8¢ per lb. + 4.5% ad val.	1.5¢ per lb. + 4% ad val.
254.75	2.2¢ per lb.	2¢ per lb.	1.7¢ per lb.	1.5¢ per lb.	1.2¢ per lb.
254.80	1.8¢ per lb. + 4% ad val.	1.6¢ per lb. + 3.5% ad val.	1.4¢ per lb. + 3% ad val.	1.2¢ per lb. + 2.5% ad val.	1¢ per lb. + 2% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 2, Part 4--Continued					
254.85	1.8¢ per lb. + 7% ad val.	1.6¢ per lb. + 6% ad val.	1.4¢ per lb. + 5.5% ad val.	1.2¢ per lb. + 4.5% ad val.	1¢ per lb. + 4% ad val.
254.90	10.5¢ per lb.	9¢ per lb.	8¢ per lb.	7¢ per lb.	6¢ per lb.
254.95	4.5¢ per lb.	4¢ per lb.	3.5¢ per lb.	3¢ per lb.	2.5¢ per lb.
256.05	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
256.10	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
256.13	2% ad val.	2% ad val.	1.5% ad val.	1% ad val.	1% ad val.
256.15	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
256.20	1.3¢ per lb. + 9% ad val.	1.2¢ per lb. + 8% ad val.	1¢ per lb. + 7% ad val.	0.9¢ per lb. + 6% ad val.	0.7¢ per lb. + 5% ad val.
256.25	1¢ per lb. + 13.5% ad val.	1¢ per lb. + 12% ad val.	1¢ per lb. + 10.5% ad val.	0.7¢ per lb. + 9% ad val.	0.7¢ per lb. + 7.5% ad val.
256.30	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
256.35	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
256.40	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
256,42	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
256.44	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
256.48	1.8¢ per lb. + 4% ad val.	1.5¢ per lb. + 4% ad val.	1.4¢ per lb. + 3% ad val.	1¢ per lb. + 3% ad val.	1¢ per lb. + 2.5% ad val.
256.52	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
256.54	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
256.56	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
256.58	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
256.60	12% ad val.	10.5% ad val.	9% ad val.	8% ad val.	6.5% ad val.
256.65	0.4¢ per lb. + 7% ad val.	0.4¢ per lb. + 6% ad val.	0.3¢ per lb. + 5.5% ad val.	0.3¢ per lb. + 4.5% ad val.	0.2¢ per lb. + 4% ad val.
256.67	1.3¢ per lb. + 14.5% ad val.	1.2¢ per lb. + 13% ad val.	1¢ per lb. + 11.5% ad val.	0.9¢ per lb. + 9.5% ad val.	0.7¢ per lb. + 8% ad val.
256.70	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val
256.75	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
256.80	4.5¢ per lb. + 5% ad val.	4¢ per lb. + 4.5% ad val.	3.5¢ per lb. + 4% ad val.	3¢ per lb. + 3.5% ad val.	2.5¢ per lb. + 3% ad val.
256.85	2¢ per lb. + 9% ad val.	2¢ per lb. + 8% ad val.	1.5¢ per lb. + 7% ad val.	1.5¢ per lb. + 6% ad val.	1¢ per lb. + 5% ad val.
256.90	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
Schedule 2, Part 5					
270.45	2.5% ad val.	2% ad val.	2% ad val.	1.5% ad val.	1.5% ad val.
270.50	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.	3.5% ad val.
273.30	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
273.50	2.5% ad val.	2% ad val.	2% ad val.	1.5% ad val.	1.5% ad val.
273.55	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
273.65	67¢ per lb. + 9% ad val.	60¢ per lb. + 8% ad val.	52¢ per lb. + 7% ad val.	45¢ per lb. + 6% ad val.	37¢ per lb. + 5% ad val.
273.70	16¢ per lb. + 9% ad val.	14¢ per lb. + 8% ad val.	12¢ per lb. + 7% ad val.	10¢ per lb. + 6% ad val.	9¢ per lb. + 5% ad val.
273.75	18¢ per lb.	16¢ per lb.	14¢ per lb.	12¢ per lb.	10¢ per lb.
273.80	26¢ per lb.	19¢ per lb.	13¢ per lb.	6¢ per lb.	Free
273.85	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 2, Part 5--Continued					
273.90	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
273.95	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
274.00	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
274.05	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
274.10	10.5¢ per lb.	9.5¢ per lb.	8¢ per lb.	7¢ per lb.	6¢ per lb.
274.15	4.5¢ per lb.	4¢ per lb.	3.5¢ per lb.	3¢ per lb.	2.5¢ per lb.
274.20	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
274.23	27¢ per lb.	24¢ per lb.	21¢ per lb.	18¢ per lb.	15¢ per lb.
274.27	58¢ per lb.	52¢ per lb.	45¢ per lb.	39¢ per lb.	32¢ per lb.
274.29	16¢ per lb.	14¢ per lb.	12¢ per lb.	10¢ per lb.	9¢ per lb.
274.33	27¢ per lb.	24¢ per lb.	21¢ per lb.	18¢ per lb.	15¢ per lb.
274.35	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
274.60	10.5¢ per lb.	9¢ per lb.	8¢ per lb.	7¢ per lb.	6¢ per lb.
274.65	4.5¢ per lb.	4¢ per lb.	3.5¢ per lb.	3¢ per lb.	2.5¢ per lb.
274.70	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
274.75	10.5¢ per lb.	9.5¢ per lb.	8¢ per lb.	7¢ per lb.	6¢ per lb.
274.80	4¢ per lb.	4¢ per lb.	3¢ per lb.	3¢ per lb.	2¢ per lb.
274.85	3.5% ad val.	3% ad val.	2.5% ad val.	2% ad val.	2% ad val.
274.90	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
Schedule 3, Part 1					
300.60	18.5% ad val.	17.5% ad val.	16.5% ad val.	15.5% ad val.	14.5% ad val.
301.01	4.46% ad val.	4.19% ad val.	3.93% ad val.	3.66% ad val.	3.4% ad val.
301.02	4.67% ad val.	4.39% ad val.	4.11% ad val.	3.83% ad val.	3.56% ad val.
301.03	4.88% ad val.	4.59% ad val.	4.3% ad val.	4.01% ad val.	3.72% ad val.
301.04	5.09% ad val.	4.79% ad val.	4.48% ad val.	4.18% ad val.	3.88% ad val.
301.05	5.3% ad val.	4.99% ad val.	4.67% ad val.	4.35% ad val.	4.04% ad val.
301.06	5.52% ad val.	5.19% ad val.	4.86% ad val.	4.53% ad val.	4.2% ad val.
301.07	5.73% ad val.	5.38% ad val.	5.04% ad val.	4.7% ad val.	4.36% ad val.
301.08	5.94% ad val.	5.58% ad val.	5.23% ad val.	4.87% ad val.	4.52% ad val.
301.09	6.15% ad val.	5.78% ad val.	5.41% ad val.	5.04% ad val.	4.68% ad val.
301.10	6.36% ad val.	5.98% ad val.	5.6% ad val.	5.22% ad val.	4.84% ad val.
301.11	6.58% ad val.	6.18% ad val.	5.79% ad val.	5.39% ad val.	5% ad val.
301.12	6.79% ad val.	6.38% ad val.	5.97% ad val.	5.56% ad val.	5.16% ad val.
301.13	7% ad val.	6.58% ad val.	6.16% ad val.	5.74% ad val.	5.32% ad val.
301.14	7.21% ad val.	6.78% ad val.	6.34% ad val.	5.91% ad val.	5.48% ad val.
301.15	7.42% ad val.	6.98% ad val.	6.53% ad val.	6.08% ad val.	5.64% ad val.
301.16	7.64% ad val.	7.18% ad val.	6.72% ad val.	6.26% ad val.	5.8% ad val.
301.17	7.85% ad val.	7.37% ad val.	6.9% ad val.	6.43% ad val.	5.96% ad val.
301.18	8.06% ad val.	7.58% ad val.	7.09% ad val.	6.6% ad val.	6.12% ad val.
301.19	8.27% ad val.	7.77% ad val.	7.27% ad val.	6.77% ad val.	6.28% ad val.
301.20	8.48% ad val.	7.97% ad val.	7.46% ad val.	6.95% ad val.	6.44% ad val.
301.21	8.7% ad val.	8.17% ad val.	7.65% ad val.	7.12% ad val.	6.6% ad val.
301.22	8.91% ad val.	8.37% ad val.	7.83% ad val.	7.29% ad val.	6.76% ad val.
301.23	9.12% ad val.	8.57% ad val.	8.02% ad val.	7.47% ad val.	6.92% ad val.
301.24	9.33% ad val.	8.77% ad val.	8.2% ad val.	7.64% ad val.	7.08% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 3, Part 1--Continued					
301.25	9.54% ad val.	8.97% ad val.	8.39% ad val.	7.81% ad val.	7.24% ad val.
301.26	9.76% ad val.	9.17% ad val.	8.58% ad val.	7.99% ad val.	7.4% ad val.
301.27	9.97% ad val.	9.36% ad val.	8.76% ad val.	8.16% ad val.	7.56% ad val.
301.28	10.18% ad val.	9.56% ad val.	8.95% ad val.	8.33% ad val.	7.72% ad val.
301.29	10.39% ad val.	9.76% ad val.	9.13% ad val.	8.5% ad val.	7.88% ad val.
301.30	10.6% ad val.	9.96% ad val.	9.32% ad val.	8.68% ad val.	8.04% ad val.
301.31	10.82% ad val.	10.16% ad val.	9.51% ad val.	8.85% ad val.	8.2% ad val.
301.32	11.03% ad val.	10.36% ad val.	9.69% ad val.	9.02% ad val.	8.36% ad val.
301.33	11.24% ad val.	10.56% ad val.	9.88% ad val.	9.2% ad val.	8.52% ad val.
301.34	11.45% ad val.	10.76% ad val.	10.06% ad val.	9.37% ad val.	8.68% ad val.
301.35	11.66% ad val.	10.96% ad val.	10.25% ad val.	9.54% ad val.	8.84% ad val.
301.36	11.88% ad val.	11.16% ad val.	10.44% ad val.	9.72% ad val.	9% ad val.
301.37	12.09% ad val.	11.35% ad val.	10.62% ad val.	9.89% ad val.	9.16% ad val.
301.38	12.3% ad val.	11.55% ad val.	10.81% ad val.	10.06% ad val.	9.32% ad val.
301.39	12.51% ad val.	11.75% ad val.	10.99% ad val.	10.23% ad val.	9.48% ad val.
301.40	12.72% ad val.	11.95% ad val.	11.18% ad val.	10.41% ad val.	9.64% ad val.
301.41	12.94% ad val.	12.15% ad val.	11.37% ad val.	10.58% ad val.	9.8% ad val.
301.42	13.15% ad val.	12.35% ad val.	11.55% ad val.	10.75% ad val.	9.96% ad val.
301.43	13.36% ad val.	12.55% ad val.	11.74% ad val.	10.93% ad val.	10.12% ad val.
301.44	13.57% ad val.	12.75% ad val.	11.92% ad val.	11.1% ad val.	10.28% ad val.
301.45	13.78% ad val.	12.95% ad val.	12.11% ad val.	11.27% ad val.	10.44% ad val.
301.46	14% ad val.	13.15% ad val.	12.3% ad val.	11.45% ad val.	10.6% ad val.
301.47	14.21% ad val.	13.34% ad val.	12.48% ad val.	11.62% ad val.	10.76% ad val.
301.48	14.42% ad val.	13.54% ad val.	12.67% ad val.	11.79% ad val.	10.92% ad val.
301.49	14.63% ad val.	13.74% ad val.	12.85% ad val.	11.96% ad val.	11.08% ad val.
301.50	14.84% ad val.	13.94% ad val.	13.04% ad val.	12.14% ad val.	11.24% ad val.
301.51	15.06% ad val.	14.14% ad val.	13.23% ad val.	12.31% ad val.	11.4% ad val.
301.52	15.27% ad val.	14.34% ad val.	13.41% ad val.	12.48% ad val.	11.56% ad val.
301.53	15.48% ad val.	14.54% ad val.	13.6% ad val.	12.66% ad val.	11.72% ad val.
301.54	15.69% ad val.	14.74% ad val.	13.78% ad val.	12.83% ad val.	11.88% ad val.
301.55	15.9% ad val.	14.94% ad val.	13.97% ad val.	13% ad val.	12.04% ad val.
301.56	16.12% ad val.	15.14% ad val.	14.16% ad val.	13.18% ad val.	12.2% ad val.
301.57	16.33% ad val.	15.33% ad val.	14.34% ad val.	13.35% ad val.	12.36% ad val.
301.58	16.54% ad val.	15.53% ad val.	14.53% ad val.	13.52% ad val.	12.52% ad val.
301.59	16.75% ad val.	15.73% ad val.	14.71% ad val.	13.69% ad val.	12.68% ad val.
301.60	4.7¢ per lb. + 17% ad val.	4.4¢ per lb. + 16% ad val.	4.1¢ per lb. + 15% ad val.	3.8¢ per lb. + 14% ad val.	3.6¢ per lb. + 13% ad val.
301.70	4.7¢ per lb. + 17% ad val.	4.4¢ per lb. + 16% ad val.	4.1¢ per lb. + 15% ad val.	3.8¢ per lb. + 14% ad val.	3.6¢ per lb. + 13% ad val.
301.80	4.7¢ per lb. + 17% ad val.	4.4¢ per lb. + 16% ad val.	4.1¢ per lb. + 15% ad val.	3.8¢ per lb. + 14% ad val.	3.6¢ per lb. + 13% ad val.
301.82	4.7¢ per lb. + 17% ad val.	4.4¢ per lb. + 16% ad val.	4.1¢ per lb. + 15% ad val.	3.8¢ per lb. + 14% ad val.	3.6¢ per lb. + 13% ad val.
301.84	4.7¢ per lb. + 17% ad val.	4.4¢ per lb. + 16% ad val.	4.1¢ per lb. + 15% ad val.	3.8¢ per lb. + 14% ad val.	3.6¢ per lb. + 13% ad val.

88-000 O - 67 (Pt. II) - 4

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 3, Part 1--Continued					
301.86	4.7¢ per lb. + 17% ad val.	4.4¢ per lb. + 16% ad val.	4.1¢ per lb. + 15% ad val.	3.8¢ per lb. + 14% ad val.	3.6¢ per lb. + 13% ad val.
301.88	4.7¢ per lb. + 17% ad val.	4.4¢ per lb. + 16% ad val.	4.1¢ per lb. + 15% ad val.	3.8¢ per lb. + 14% ad val.	3.6¢ per lb. + 13% ad val.
301.92	4.7¢ per lb. + 17% ad val.	4.4¢ per lb. + 16% ad val.	4.1¢ per lb. + 15% ad val.	3.8¢ per lb. + 14% ad val.	3.6¢ per lb. + 13% ad val.
301.94	4.7¢ per lb. + 17% ad val.	4.4¢ per lb. + 16% ad val.	4.1¢ per lb. + 15% ad val.	3.8¢ per lb. + 14% ad val.	3.6¢ per lb. + 13% ad val.
301.96	4.7¢ per lb. + 17% ad val.	4.4¢ per lb. + 16% ad val.	4.1¢ per lb. + 15% ad val.	3.8¢ per lb. + 14% ad val.	3.6¢ per lb. + 13% ad val.
301.98	4.7¢ per lb. + 17% ad val.	4.4¢ per lb. + 16% ad val.	4.1¢ per lb. + 15% ad val.	3.8¢ per lb. + 14% ad val.	3.6¢ per lb. + 13% ad val.
302.--	Base rate + 4.2% ad val.	Base rate + 4% ad val.	Base rate + 3.7% ad val.	Base rate + 3.5% ad val.	Base rate + 3.25% ad val.
303.10	18.5% ad val.	17.5% ad val.	16.5% ad val.	15.5% ad val.	14.5% ad val.
303.20	4¢ per lb. + 9.5% ad val.	4¢ per lb. + 9% ad val.	4¢ per lb. + 8.5% ad val.	4¢ per lb. + 8% ad val.	4¢ per lb. + 8% ad val.
304.04	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
304.10	0.18¢ per lb.	0.18¢ per lb.	0.18¢ per lb.	0.18¢ per lb.	0.18¢ per lb.
304.12	0.07¢ per lb.	0.07¢ per lb.	0.07¢ per lb.	0.07¢ per lb.	0.07¢ per lb.
304.14	0.18¢ per lb.	0.18¢ per lb.	0.18¢ per lb.	0.18¢ per lb.	0.18¢ per lb.
304.16	0.46¢ per lb.	0.46¢ per lb.	0.46¢ per lb.	0.46¢ per lb.	0.46¢ per lb.
304.18	7.5% ad val.	7% ad val.	6.5% ad val.	6% ad val.	6% ad val.
304.20	0.3¢ per lb.	0.3¢ per lb.	0.2¢ per lb.	0.2¢ per lb.	0.2¢ per lb.
304.24	0.36¢ per lb.	0.32¢ per lb.	0.28¢ per lb.	0.24¢ per lb.	0.2¢ per lb.
304.26	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
304.34	1.35¢ per lb.	1.2¢ per lb.	1.05¢ per lb.	0.9¢ per lb.	0.75¢ per lb.
304.36	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
304.40	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
304.44	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
304.52	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
304.58	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
305.04	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
305.06	18% ad val.	17% ad val.	15% ad val.	14% ad val.	12.5% ad val.
305.08	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
305.09	12% ad val.	10.5% ad val.	9% ad val.	8% ad val.	6.5% ad val.
305.10	22% ad val.	20% ad val.	18.5% ad val.	16.5% ad val.	15% ad val.
305.12	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
305.16	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
305.18	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
305.20	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
305.22	20% ad val.	18% ad val.	15.5% ad val.	13% ad val.	11% ad val.
305.28	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
305.30	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
305.40	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
305.50	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
306.10	9.9¢ per clean lb.	8.5¢ per clean lb.	7.5¢ per clean lb.	6.5¢ per clean lb.	5.5¢ per clean lb.
306.11	11.5¢ per clean lb.	10.4¢ per clean lb.	9¢ per clean lb.	7.5¢ per clean lb.	6.5¢ per clean lb.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 3, Part 1--Continued					
306.12	12¢ per clean lb.	11¢ per clean lb.	9¢ per clean lb.	8¢ per clean lb.	7¢ per clean lb.
306.13	14.4¢ per clean lb.	12.5¢ per clean lb.	11¢ per clean lb.	9.5¢ per clean lb.	8¢ per clean lb.
306.14	20.7¢ per lb.	18.4¢ per lb.	16.1¢ per lb.	13.8¢ per lb.	11.5¢ per lb.
306.20	13.5¢ per clean lb.	12¢ per clean lb.	10.5¢ per clean lb.	9¢ per clean lb.	7.5¢ per clean lb.
306.21	15¢ per clean lb.	13.5¢ per clean lb.	11.9¢ per clean lb.	10¢ per clean lb.	8.5¢ per clean lb.
306.22	16¢ per clean lb.	14.4¢ per clean lb.	12.5¢ per clean lb.	10.5¢ per clean lb.	9¢ per clean lb.
306.23	18¢ per clean lb.	16¢ per clean lb.	14¢ per clean lb.	12¢ per clean lb.	10¢ per clean lb.
306.24	24.3¢ per lb.	21.6¢ per lb.	18.9¢ per lb.	16.2¢ per lb.	13.5¢ per lb.
306.30	21.5¢ per clean lb.	19¢ per clean lb.	16.8¢ per clean lb.	14.4¢ per clean lb.	12¢ per clean lb.
306.40	19.8¢ per clean lb.	17.6¢ per clean lb.	15.4¢ per clean lb.	13.2¢ per clean lb.	11¢ per clean lb.
306.41	21¢ per clean lb.	19¢ per clean lb.	16.5¢ per clean lb.	14¢ per clean lb.	12¢ per clean lb.
306.42	22.5¢ per clean lb.	20¢ per clean lb.	17.5¢ per clean lb.	15¢ per clean lb.	12.5¢ per clean lb.
306.43	24¢ per clean lb.	21¢ per clean lb.	18.5¢ per clean lb.	16¢ per clean lb.	13¢ per clean lb.
306.44	30.6¢ per lb.	27.2¢ per lb.	23.8¢ per lb.	20.4¢ per lb.	17¢ per lb.
306.50	4¢ per clean lb.	3¢ per clean lb.	2¢ per clean lb.	1¢ per clean lb.	Free
306.51	4¢ per clean lb.	3¢ per clean lb.	2¢ per clean lb.	1¢ per clean lb.	Free
306.52	5¢ per clean lb.	5¢ per clean lb.	4¢ per clean lb.	3¢ per clean lb.	3¢ per clean lb.
306.53	7¢ per clean lb.	6¢ per clean lb.	5¢ per clean lb.	4¢ per clean lb.	4¢ per clean lb.
306.54	10¢ per lb.	9¢ per lb.	8¢ per lb.	6.5¢ per lb.	5¢ per lb.
306.60	14.4¢ per clean lb.	12.8¢ per clean lb.	11.2¢ per clean lb.	9.6¢ per clean lb.	8¢ per clean lb.
306.61	16¢ per clean lb.	14¢ per clean lb.	12¢ per clean lb.	10¢ per clean lb.	9¢ per clean lb.
306.62	17¢ per clean lb.	15¢ per clean lb.	13¢ per clean lb.	11¢ per clean lb.	9¢ per clean lb.
306.63	18¢ per clean lb.	16¢ per clean lb.	14¢ per clean lb.	12¢ per clean lb.	10¢ per clean lb.
306.64	25.2¢ per lb.	22.4¢ per lb.	19.6¢ per lb.	16.8¢ per lb.	14¢ per lb.
306.70	18¢ per clean lb.	16¢ per clean lb.	14¢ per clean lb.	12¢ per clean lb.	10¢ per clean lb.
306.71	19.5¢ per clean lb.	17.5¢ per clean lb.	15¢ per clean lb.	13¢ per clean lb.	11¢ per clean lb.
306.72	20.7¢ per clean lb.	18.4¢ per clean lb.	16.1¢ per clean lb.	13.8¢ per clean lb.	11¢ per clean lb.
306.73	22¢ per clean lb.	20¢ per clean lb.	17¢ per clean lb	15¢ per clean lb.	12.5¢ per clean lb.
306.74	28.8¢ per lb.	25.6¢ per lb.	22.4¢ per lb.	19.2¢ per lb.	16¢ per lb.
306.80	28.8¢ per clean lb.	25.6¢ per clean lb.	22.4¢ per clean lb.	19.2¢ per clean lb.	16¢ per clean lb.
306.81	30¢ per clean lb.	27¢ per clean lb.	23¢ per clean lb.	20¢ per clean lb.	17¢ per clean lb.
306.82	31¢ per clean lb.	28¢ per clean lb.	24¢ per clean lb.	21¢ per clean lb.	17¢ per clean lb.
306.83	33¢ per clean lb.	29¢ per clean lb.	25¢ per clean lb.	22¢ per clean lb.	18¢ per clean lb.
306.84	39.6¢ per lb.	35.2¢ per lb.	30.8¢ per lb.	26.4¢ per lb.	22¢ per lb.
307.02	8¢ per lb.	7¢ per lb.	6.3¢ per lb.	5.4¢ per lb.	4.5¢ per lb.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 3, Part 1--Continued					
307.04	13¢ per lb.	11.5¢ per lb.	10¢ per lb.	8.5¢ per lb.	7¢ per lb.
307.06	10.5¢ per lb.	9.5¢ per lb.	8.4¢ per lb.	7¢ per lb.	6¢ per lb.
307.08	14.4¢ per lb.	12.5¢ per lb.	11¢ per lb.	9.5¢ per lb.	8¢ per lb.
307.10	25¢ per lb.	22¢ per lb.	19.5¢ per lb.	16.5¢ per lb.	14¢ per lb.
307.12	11.5¢ per lb.	10.4¢ per lb.	9¢ per lb.	7.5¢ per lb.	6.5¢ per lb.
307.16	9¢ per lb.	8¢ per lb.	7¢ per lb.	6¢ per lb.	5¢ per lb.
307.18	8¢ per lb.	7¢ per lb.	6.3¢ per lb.	5.4¢ per lb.	4.5¢ per lb.
307.62	36¢ per lb. + 9% ad val.	32¢ per lb. + 8% ad val.	28¢ per lb. + 7% ad val.	24¢ per lb. + 6% ad val.	20¢ per lb. + 5% ad val.
308.06	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
308.10	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
308.16	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
308.18	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
308.20	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
308.35	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
308.40	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
308.45	22.5% ad val.	20% ad val.	17.5% ad val.	15% ad val.	12.5% ad val.
308.47	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
308.50	22.5% ad val.	20% ad val.	17.5% ad val.	15% ad val.	12.5% ad val.
308.51	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
308.55	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
308.60	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
308.65	22.5% ad val.	20% ad val.	17.5% ad val.	15% ad val.	12.5% ad val.
308.66	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
308.70	22.5% ad val.	20% ad val.	17.5% ad val.	15% ad val.	12.5% ad val.
308.71	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
308.75	24.5% ad val.	22% ad val.	19% ad val.	16% ad val.	13.5% ad val.
308.80	24.5% ad val.	22% ad val.	19% ad val.	16% ad val.	13.5% ad val.
308.90	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
309.02	36¢ per lb.	32¢ per lb.	28¢ per lb.	24¢ per lb.	20¢ per lb.
309.03	45% ad val.	40% ad val.	35% ad val.	30% ad val.	25% ad val.
309.05	27¢ per lb.	24¢ per lb.	21¢ per lb.	18¢ per lb.	15¢ per lb.
309.06	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
309.10	22¢ per lb. + 27% ad val.	20¢ per lb. + 24% ad val.	17¢ per lb. + 21% ad val.	15¢ per lb. + 18% ad val.	12¢ per lb. + 15% ad val.
309.20	22.5¢ per lb.	20¢ per lb.	17.5¢ per lb.	15¢ per lb.	12.5¢ per lb.
309.21	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
309.25	22.5¢ per lb. + 27% ad val.	20¢ per lb. + 24% ad val.	17.5¢ per lb. + 21% ad val.	15¢ per lb. + 18% ad val.	12.5¢ per lb. + 15% ad val.
309.28	18.5% ad val.	16.5% ad val.	14.5% ad val.	12.5% ad val.	10.5% ad val.
309.29	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
309.30	15.3¢ per lb.	13.5¢ per lb.	11.9¢ per lb.	10¢ per lb.	8.5¢ per lb.
309.31	18.5% ad val.	16.5% ad val.	14.5% ad val.	12.5% ad val.	10.5% ad val.
309.35	22¢ per lb. + 27% ad val.	20¢ per lb. + 24% ad val.	17¢ per lb. + 21% ad val.	15¢ per lb. + 18% ad val.	12¢ per lb. + 15% ad val.
309.41	2.5¢ per lb.	2¢ per lb.	2¢ per lb.	1.5¢ per lb.	1¢ per lb.
309.43	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
309.50	22.5¢ per lb. + 27% ad val.	20¢ per lb. + 24% ad val.	17.5¢ per lb. + 21% ad val.	15¢ per lb. + 18% ad val.	12.5¢ per lb. + 15% ad val.
309.60	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 3, Part 1--Continued					
309.65	6.7¢ per lb.	6¢ per lb.	5.2¢ per lb.	4.5¢ per lb.	3.7¢ per lb.
309.66	4% ad val.	4% ad val.	3% ad val.	3% ad val.	2.5% ad val.
309.70	4.5¢ per lb. + 11% ad val.	4¢ per lb. + 10% ad val.	3.5¢ per lb. + 8.5% ad val.	3¢ per lb. + 7% ad val.	2.5¢ per lb. + 6% ad val.
309.75	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
309.80	22¢ per lb. + 27% ad val.	20¢ per lb. + 24% ad val.	17¢ per lb. + 21% ad val.	15¢ per lb. + 18% ad val.	12¢ per lb. + 15% ad val.
309.90	4.5¢ per lb. + 13% ad val.	4¢ per lb. + 12% ad val.	3.5¢ per lb. + 10% ad val.	3¢ per lb. + 9% ad val.	2.5¢ per lb. + 7.5% ad val.
309.98	18.5% ad val.	16.5% ad val.	14.5% ad val.	12.5% ad val.	10.5% ad val.
309.99	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
310.01	22.5¢ per lb.	20¢ per lb.	17.5¢ per lb.	15¢ per lb.	12.5¢ per lb.
310.02	21% ad val.	19.5% ad val.	18.5% ad val.	17% ad val.	16% ad val.
310.05	45¢ per lb.	40¢ per lb.	35¢ per lb.	30¢ per lb.	25¢ per lb.
310.06	20¢ per lb. + 22.5% ad val.	18¢ per lb. + 20% ad val.	15¢ per lb. + 17.5% ad val.	13¢ per lb. + 15% ad val.	11¢ per lb. + 12.5% ad val.
310.10	29¢ per lb.	26¢ per lb.	22.5¢ per lb.	19¢ per lb.	16¢ per lb.
310.11	24.5% ad val.	22% ad val.	19% ad val.	16% ad val.	13.5% ad val.
310.20	45¢ per lb.	40¢ per lb.	35¢ per lb.	30¢ per lb.	25¢ per lb.
310.21	20¢ per lb. + 24.5% ad val.	18¢ per lb. + 22% ad val.	15.5¢ per lb. + 19% ad val.	13¢ per lb. + 16.5% ad val.	11¢ per lb. + 13.5% ad val.
310.40	5.6¢ per lb. + 20% ad val.	5¢ per lb. + 18% ad val.	4.3¢ per lb. + 15.5% ad val.	3.7¢ per lb. + 13.5% ad val.	3.1¢ per lb. + 11% ad val.
310.50	5.5¢ per lb. + 22.5% ad val.	5¢ per lb. + 20% ad val.	4¢ per lb. + 17.5% ad val.	3.5¢ per lb. + 15% ad val.	3¢ per lb. + 12.5% ad val.
310.60	22¢ per lb. + 27% ad val.	20¢ per lb. + 24% ad val.	17¢ per lb. + 21% ad val.	15¢ per lb. + 18% ad val.	12¢ per lb. + 15% ad val.
310.80	22¢ per lb. + 27% ad val.	20¢ per lb. + 24% ad val.	17¢ per lb. + 21% ad val.	15¢ per lb. + 18% ad val.	12¢ per lb. + 15% ad val.
312.10	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
312.30	5¢ per lb. + 9% ad val.	4¢ per lb. + 8% ad val.	4¢ per lb. + 7% ad val.	3¢ per lb. + 6% ad val.	3¢ per lb. + 5% ad val.
312.40	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
312.50	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
Schedule 3, Part 2					
315.05	28% ad val.	26% ad val.	24% ad val.	22% ad val.	20% ad val.
315.10	28% ad val.	26% ad val.	24% ad val.	22% ad val.	20% ad val.
315.30	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
315.75	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
315.80	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
315.85	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
315.90	18.5% ad val.	16.5% ad val.	14.5% ad val.	12.5% ad val.	10.5% ad val.
315.95	23% ad val.	20.5% ad val.	18% ad val.	15.5% ad val.	13% ad val.
316.05	22% ad val.	20% ad val.	18.5% ad val.	16.5% ad val.	15% ad val.
316.10	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 3, Part 2--Continued					
316.20	22% ad val.	20% ad val.	18.5% ad val.	16.5% ad val.	15% ad val.
316.25	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
316.30	5.5% ad val.	5% ad val.	4.5% ad val.	3.5% ad val.	3% ad val.
316.40	28.5% ad val.	25.5% ad val.	22% ad val.	19% ad val.	16% ad val.
316.50	24.5% ad val.	22% ad val.	19% ad val.	16% ad val.	13.5% ad val.
316.60	22¢ per lb. + 27% ad val.	20¢ per lb. + 24% ad val.	17¢ per lb. + 21% ad val.	15¢ per lb. + 18% ad val.	12.5¢ per lb. + 15% ad val.
316.70	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
Schedule 3, Part 3					
Part 3A, headnote 4(i)	0.286 cent per number per pound	0.272 cent per number per pound	0.258 cent per number per pound	0.244 cent per number per pound	0.23 cent per number per pound
319.01	16% ad val., but not more than the amount of the duty payable in the absence of this item	14% ad val., but not more than the amount of the duty payable in the absence of this item	12.5% ad val., but not more than the amount of the duty payable in the absence of this item	10.5% ad val., but not more than the amount of the duty payable in the absence of this item	9% ad val.
319.03	20.5% ad val., but not more than the amount of the duty payable in the absence of this item	18% ad val., but not more than the amount of the duty payable in the absence of this item	16% ad val., but not more than the amount of the duty payable in the absence of this item	13.5% ad val., but not more than the amount of the duty payable in the absence of this item	11.5% ad val.
319.05	24% ad val., but not more than the amount of the duty payable in the absence of this item	21% ad val., but not more than the amount of the duty payable in the absence of this item	18.5% ad val., but not more than the amount of the duty payable in the absence of this item	16% ad val.	13% ad val.
319.07	26% ad val., but not more than the amount of the duty payable in the absence of this item	23% ad val., but not more than the amount of the duty payable in the absence of this item	20% ad val.	17.5% ad val.	14.5% ad val.
320.01	7.38% ad val.	7.01% ad val.	6.64% ad val.	6.27% ad val.	5.9% ad val.
320.02	7.61% ad val.	7.23% ad val.	6.85% ad val.	6.47% ad val.	6.09% ad val.
320.03	7.85% ad val.	7.46% ad val.	7.06% ad val.	6.67% ad val.	6.28% ad val.
320.04	8.09% ad val.	7.68% ad val.	7.28% ad val.	6.87% ad val.	6.47% ad val.
320.05	8.33% ad val.	7.91% ad val.	7.49% ad val.	7.07% ad val.	6.66% ad val.
320.06	8.57% ad val.	8.14% ad val.	7.71% ad val.	7.28% ad val.	6.85% ad val.
320.07	8.8% ad val.	8.36% ad val.	7.92% ad val.	7.48% ad val.	7.04% ad val.
320.08	9.04% ad val.	8.59% ad val.	8.13% ad val.	7.68% ad val.	7.23% ad val.
320.09	9.28% ad val.	8.81% ad val.	8.35% ad val.	7.88% ad val.	7.42% ad val.
320.10	9.52% ad val.	9.04% ad val.	8.56% ad val.	8.08% ad val.	7.61% ad val.
320.11	9.76% ad val.	9.27% ad val.	8.78% ad val.	8.29% ad val.	7.8% ad val.
320.12	9.99% ad val.	9.49% ad val.	8.99% ad val.	8.49% ad val.	7.99% ad val.
320.13	10.23% ad val.	9.72% ad val.	9.2% ad val.	8.69% ad val.	8.18% ad val.
320.14	10.47% ad val.	9.94% ad val.	9.42% ad val.	8.89% ad val.	8.37% ad val.
320.15	10.71% ad val.	10.17% ad val.	9.63% ad val.	9.09% ad val.	8.56% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 3, Part 3--Continued					
320.16	10.95% ad val.	10.4% ad val.	9.85% ad val.	9.3% ad val.	8.75% ad val.
320.17	11.18% ad val.	10.62% ad val.	10.06% ad val.	9.5% ad val.	8.94% ad val.
320.18	11.42% ad val.	10.85% ad val.	10.27% ad val.	9.7% ad val.	9.13% ad val.
320.19	11.66% ad val.	11.07% ad val.	10.49% ad val.	9.9% ad val.	9.32% ad val.
320.20	11.9% ad val.	11.3% ad val.	10.7% ad val.	10.1% ad val.	9.51% ad val.
320.21	12.14% ad val.	11.53% ad val.	10.92% ad val.	10.31% ad val.	9.7% ad val.
320.22	12.37% ad val.	11.75% ad val.	11.13% ad val.	10.51% ad val.	9.89% ad val.
320.23	12.61% ad val.	11.98% ad val.	11.34% ad val.	10.71% ad val.	10.08% ad val.
320.24	12.85% ad val.	12.2% ad val.	11.56% ad val.	10.91% ad val.	10.27% ad val.
320.25	13.09% ad val.	12.43% ad val.	11.77% ad val.	11.11% ad val.	10.46% ad val.
320.26	13.33% ad val.	12.66% ad val.	11.99% ad val.	11.32% ad val.	10.65% ad val.
320.27	13.56% ad val.	12.88% ad val.	12.2% ad val.	11.52% ad val.	10.84% ad val.
320.28	13.8% ad val.	13.11% ad val.	12.41% ad val.	11.72% ad val.	11.03% ad val.
320.29	14.04% ad val.	13.33% ad val.	12.63% ad val.	11.92% ad val.	11.22% ad val.
320.30	14.28% ad val.	13.56% ad val.	12.84% ad val.	12.12% ad val.	11.41% ad val.
320.31	14.52% ad val.	13.79% ad val.	13.06% ad val.	12.33% ad val.	11.6% ad val.
320.32	14.75% ad val.	14.01% ad val.	13.27% ad val.	12.53% ad val.	11.79% ad val.
320.33	14.99% ad val.	14.24% ad val.	13.48% ad val.	12.73% ad val.	11.98% ad val.
320.34	15.23% ad val.	14.46% ad val.	13.7% ad val.	12.93% ad val.	12.17% ad val.
320.35	15.47% ad val.	14.69% ad val.	13.91% ad val.	13.13% ad val.	12.36% ad val.
320.36	15.71% ad val.	14.92% ad val.	14.13% ad val.	13.34% ad val.	12.55% ad val.
320.37	15.94% ad val.	15.14% ad val.	14.34% ad val.	13.54% ad val.	12.74% ad val.
320.38	16.18% ad val.	15.37% ad val.	14.55% ad val.	13.74% ad val.	12.93% ad val.
320.39	16.42% ad val.	15.59% ad val.	14.77% ad val.	13.94% ad val.	13.12% ad val.
320.40	16.66% ad val.	15.82% ad val.	14.98% ad val.	14.14% ad val.	13.31% ad val.
320.41	16.9% ad val.	16.05% ad val.	15.2% ad val.	14.35% ad val.	13.5% ad val.
320.42	17.13% ad val.	16.27% ad val.	15.41% ad val.	14.55% ad val.	13.69% ad val.
320.43	17.37% ad val.	16.5% ad val.	15.62% ad val.	14.75% ad val.	13.88% ad val.
320.44	17.61% ad val.	16.72% ad val.	15.84% ad val.	14.95% ad val.	14.07% ad val.
320.45	17.85% ad val.	16.95% ad val.	16.05% ad val.	15.15% ad val.	14.26% ad val.
320.46	18.09% ad val.	17.18% ad val.	16.27% ad val.	15.36% ad val.	14.45% ad val.
320.47	18.32% ad val.	17.4% ad val.	16.48% ad val.	15.56% ad val.	14.64% ad val.
320.48	18.56% ad val.	17.63% ad val.	16.69% ad val.	15.76% ad val.	14.83% ad val.
320.49	18.8% ad val.	17.85% ad val.	16.91% ad val.	15.96% ad val.	15.02% ad val.
320.50	19.04% ad val.	18.08% ad val.	17.12% ad val.	16.16% ad val.	15.21% ad val.
320.51	19.28% ad val.	18.31% ad val.	17.34% ad val.	16.37% ad val.	15.4% ad val.
320.52	19.51% ad val.	18.53% ad val.	17.55% ad val.	16.57% ad val.	15.59% ad val.
320.53	19.75% ad val.	18.76% ad val.	17.76% ad val.	16.77% ad val.	15.78% ad val.
320.54	19.99% ad val.	18.98% ad val.	17.98% ad val.	16.97% ad val.	15.97% ad val.
320.55	20.23% ad val.	19.21% ad val.	18.19% ad val.	17.17% ad val.	16.16% ad val.
320.56	20.47% ad val.	19.44% ad val.	18.41% ad val.	17.38% ad val.	16.35% ad val.
320.57	20.7% ad val.	19.66% ad val.	18.62% ad val.	17.58% ad val.	16.54% ad val.
320.58	20.94% ad val.	19.89% ad val.	18.83% ad val.	17.78% ad val.	16.73% ad val.
320.59	21.18% ad val.	20.11% ad val.	19.05% ad val.	17.98% ad val.	16.92% ad val.
320.60	4.76¢ per lb. + 21.42% ad val.	4.52¢ per lb. + 20.34% ad val.	4.28¢ per lb. + 19.26% ad val.	4.04¢ per lb. + 18.18% ad val.	3.8¢ per lb. + 17.11% ad val.
320.61	4.76¢ per lb. + 21.66% ad val.	4.52¢ per lb. + 20.57% ad val.	4.28¢ per lb. + 19.48% ad val.	4.04¢ per lb. + 18.39% ad val.	3.8¢ per lb. + 17.3% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 3, Part 3--Continued					
320.62	4.76¢ per lb. + 21.89% ad val.	4.52¢ per lb. + 20.79% ad val.	4.28¢ per lb. + 19.69% ad val.	4.04¢ per lb. + 18.59% ad val.	3.8¢ per lb. + 17.49% ad val.
320.63	4.76¢ per lb. + 22.13% ad val.	4.52¢ per lb. + 21.02% ad val.	4.28¢ per lb. + 19.9% ad val.	4.04¢ per lb. + 18.79% ad val.	3.8¢ per lb. + 17.68% ad val.
320.64	4.76¢ per lb. + 22.37% ad val.	4.52¢ per lb. + 21.24% ad val.	4.28¢ per lb. + 20.12% ad val.	4.04¢ per lb. + 18.99% ad val.	3.8¢ per lb. + 17.87% ad val.
320.65	4.76¢ per lb. + 22.61% ad val.	4.52¢ per lb. + 21.47% ad val.	4.28¢ per lb. + 20.33% ad val.	4.04¢ per lb. + 19.19% ad val.	3.8¢ per lb. + 18.06% ad val.
320.66	4.76¢ per lb. + 22.85% ad val.	4.52¢ per lb. + 21.7% ad val.	4.28¢ per lb. + 20.55% ad val.	4.04¢ per lb. + 19.4% ad val.	3.8¢ per lb. + 18.25% ad val.
320.67	4.76¢ per lb. + 23.08% ad val.	4.52¢ per lb. + 21.92% ad val.	4.28¢ per lb. + 20.76% ad val.	4.04¢ per lb. + 19.6% ad val.	3.8¢ per lb. + 18.44% ad val.
320.68	4.76¢ per lb. + 23.32% ad val.	4.52¢ per lb. + 22.15% ad val.	4.28¢ per lb. + 20.97% ad val.	4.04¢ per lb. + 19.8% ad val.	3.8¢ per lb. + 18.63% ad val.
320.69	4.76¢ per lb. + 23.56% ad val.	4.52¢ per lb. + 22.37% ad val.	4.28¢ per lb. + 21.19% ad val.	4.04¢ per lb. + 20% ad val.	3.8¢ per lb. + 18.82% ad val.
320.70	4.76¢ per lb. + 23.8% ad val.	4.52¢ per lb. + 22.6% ad val.	4.28¢ per lb. + 21.4% ad val.	4.04¢ per lb. + 20.2% ad val.	3.8¢ per lb. + 19.01% ad val.
320.71	4.76¢ per lb. + 24.04% ad val.	4.52¢ per lb. + 22.83% ad val.	4.28¢ per lb. + 21.62% ad val.	4.04¢ per lb. + 20.41% ad val.	3.8¢ per lb. + 19.2% ad val.
320.72	4.76¢ per lb. + 24.27% ad val.	4.52¢ per lb. + 23.05% ad val.	4.28¢ per lb. + 21.83% ad val.	4.04¢ per lb. + 20.61% ad val.	3.8¢ per lb. + 19.39% ad val.
320.73	4.76¢ per lb. + 24.51% ad val.	4.52¢ per lb. + 23.28% ad val.	4.28¢ per lb. + 22.04% ad val.	4.04¢ per lb. + 20.81% ad val.	3.8¢ per lb. + 19.58% ad val.
320.74	4.76¢ per lb. + 24.75% ad val.	4.52¢ per lb. + 23.5% ad val.	4.28¢ per lb. + 22.26% ad val.	4.04¢ per lb. + 21.01% ad val.	3.8¢ per lb. + 19.77% ad val.
320.75	4.76¢ per lb. + 24.99% ad val.	4.52¢ per lb. + 23.73% ad val.	4.28¢ per lb. + 22.47% ad val.	4.04¢ per lb. + 21.21% ad val.	3.8¢ per lb. + 19.96% ad val.
320.76	4.76¢ per lb. + 25.23% ad val.	4.52¢ per lb. + 23.96% ad val.	4.28¢ per lb. + 22.69% ad val.	4.04¢ per lb. + 21.42% ad val.	3.8¢ per lb. + 20.15% ad val.
320.77	4.76¢ per lb. + 25.46% ad val.	4.52¢ per lb. + 24.18% ad val.	4.28¢ per lb. + 22.9% ad val.	4.04¢ per lb. + 21.62% ad val.	3.8¢ per lb. + 20.34% ad val.
320.78	4.76¢ per lb. + 25.7% ad val.	4.52¢ per lb. + 24.41% ad val.	4.28¢ per lb. + 23.11% ad val.	4.04¢ per lb. + 21.82% ad val.	3.8¢ per lb. + 20.53% ad val.
320.79	4.76¢ per lb. + 25.94% ad val.	4.52¢ per lb. + 24.63% ad val.	4.28¢ per lb. + 23.33% ad val.	4.04¢ per lb. + 22.02% ad val.	3.8¢ per lb. + 20.72% ad val.
320.80	4.76¢ per lb. + 26.2% ad val.	4.52¢ per lb. + 24.9% ad val.	4.28¢ per lb. + 23.6% ad val.	4.04¢ per lb. + 22.3% ad val.	3.8¢ per lb. + 21% ad val.
320.82	4.76¢ per lb. + 26.2% ad val.	4.52¢ per lb. + 24.9% ad val.	4.28¢ per lb. + 23.6% ad val.	4.04¢ per lb. + 22.3% ad val.	3.8¢ per lb. + 21% ad val.
320.84	4.76¢ per lb. + 26.2% ad val.	4.52¢ per lb. + 24.9% ad val.	4.28¢ per lb. + 23.6% ad val.	4.04¢ per lb. + 22.3% ad val.	3.8¢ per lb. + 21% ad val.
320.86	4.76¢ per lb. + 26.2% ad val.	4.52¢ per lb. + 24.9% ad val.	4.28¢ per lb. + 23.6% ad val.	4.04¢ per lb. + 22.3% ad val.	3.8¢ per lb. + 21% ad val.
320.88	4.76¢ per lb. + 26.2% ad val.	4.52¢ per lb. + 24.9% ad val.	4.28¢ per lb. + 23.6% ad val.	4.04¢ per lb. + 22.3% ad val.	3.8¢ per lb. + 21% ad val.
320.92	4.76¢ per lb. + 26.2% ad val.	4.52¢ per lb. + 24.9% ad val.	4.28¢ per lb. + 23.6% ad val.	4,04¢ per lb. + 22.3% ad val.	3.8¢ per lb. + 21% ad val.
320.94	4.76¢ per lb. + 26.2% ad val.	4.52¢ per lb. + 24.9% ad val.	4.28¢ per lb. + 23.6% ad val.	4.04¢ per lb. + 22.3% ad val.	3.8¢ per lb. + 21% ad val.
320.96	4.76¢ per lb. + 26.2% ad val.	4.52¢ per lb. + 24.9% ad val.	4.28¢ per lb. + 23.6% ad val.	4.04¢ per lb. + 22.3% ad val.	3.8¢ per lb. + 21% ad val.
320.98	4.76¢ per lb. + 26.2% ad val.	4.52¢ per lb. + 24.9% ad val.	4.28¢ per lb. + 23.6% ad val.	4.04¢ per lb. + 22.3% ad val.	3.8¢ per lb. + 21% ad val.
321.--	Base rate + 2.3% ad val.	Base rate + 2.2% ad val.	Base rate + 2.1% ad val.	Base rate + 2% ad val.	Base rate + 1.9% ad val.
322.--	Base rate + 4.3% ad val.	Base rate + 4.2% ad val.	Base rate + 4% ad val.	Base rate + 3.9% ad val.	Base rate + 3.8% ad val.
323.--	Base rate + 2.3% ad val.	Base rate + 2.2% ad val.	Base rate + 2.1% ad val.	Base rate + 2% ad val.	Base rate + 1.9% ad val.
324.--	Base rate + 4.7% ad val.	Base rate + 4.5% ad val.	Base rate + 4.2% ad val.	Base rate + 4% ad val.	Base rate + 3.8% ad val.
325.--	Base rate + 6.6% ad val.	Base rate + 6.3% ad val.	Base rate + 5.9% ad val.	Base rate + 5.6% ad val.	Base rate + 5.3% ad val.
326.--	Base rate + 2.3% ad val.	Base rate + 2.2% ad val.	Base rate + 2.1% ad val.	Base rate + 2% ad val.	Base rate + 1.9% ad val.
327.--	Base rate + 4.7% ad val.	Base rate + 4.5% ad val.	Base rate + 4.2% ad val.	Base rate + 4% ad val.	Base rate + 3.8% ad val.
328.--	Base rate + 6.6% ad val.	Base rate + 6.3% ad val.	Base rate + 5.9% ad val.	Base rate + 5.6% ad val.	Base rate + 5.3% ad val.
329.--	Base rate + 4.7% ad val.	Base rate + 4.5% ad val.	Base rate + 4.2% ad val.	Base rate + 4% ad val.	Base rate + 3.8% ad val.
330.--	Base rate + 7.1% ad val.	Base rate + 6.7% ad val.	Base rate + 6.4% ad val.	Base rate + 6% ad val.	Base rate + 5.7% ad val.
331.--	Base rate + 9.1% ad val.	Base rate + 8.7% ad val.	Base rate + 8.3% ad val.	Base rate + 7.9% ad val.	Base rate + 7.5% ad val.
332.10	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
332.40	19% ad val.	18% ad val.	17% ad val.	16% ad val.	15% ad val.
335.40	0.4¢ per lb.	0.3¢ per lb.	0.2¢ per lb.	Free	Free
335.50	0.4¢ per lb. + 4.5% ad val.	0.4¢ per lb. + 4% ad val.	0.3¢ per lb. + 3.5% ad val.	0.3¢ per lb. + 3% ad val.	0.2¢ per lb. + 2.5% ad val.
335.60	22.5¢ per lb. + 20% ad val.	20¢ per lb. + 18% ad val.	17.5¢ per lb. + 15.5% ad val.	15¢ per lb. + 13% ad val.	12.5¢ per lb. + 11% ad val.
335.80	5.5% ad val.	5% ad val.	4.5% ad val.	3.5% ad val.	3.2% ad val.
335.90	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
336.10	30¢ per lb. + 22% ad val.	30¢ per lb. + 20% ad val.	30¢ per lb. + 17% ad val.	30¢ per lb. + 15% ad val.	30¢ per lb. + 12.5% ad val.
336.15	37.5¢ per lb. + 22% ad val.	37.5¢ per lb. + 20% ad val.	37.5¢ per lb. + 17% ad val.	37.5¢ per lb. + 15% ad val.	37.5¢ per lb. + 12.5% ad val.
336.20	30¢ per lb. + 22% ad val.	30¢ per lb. + 20% ad val.	30¢ per lb. + 17% ad val.	30¢ per lb. + 15% ad val.	30¢ per lb. + 12.5% ad val.
336.25	37.5¢ per lb. + 22% ad val.	37.5¢ per lb. + 20% ad val.	37.5¢ per lb. + 17% ad val.	37.5¢ per lb. + 15% ad val.	37.5¢ per lb. + 12.5% ad val.
336.30	30¢ per lb. + 54% ad val.	30¢ per lb. + 48% ad val.	30¢ per lb. + 42% ad val.	30¢ per lb. + 36% ad val.	30¢ per lb. + 30% ad val.
336.35	98¢ per lb.	90.5¢ per lb.	83¢ per lb.	75¢ per lb.	68¢ per lb.
336.40	30¢ per lb. + 34% ad val.	30¢ per lb. + 30% ad val.	30¢ per lb. + 26.5% ad val.	30¢ per lb. + 22.5% ad val.	30¢ per lb. + 19% ad val.
337.10	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
337.20	20% ad val.	18% ad val.	15.5% ad val.	13% ad val.	11% ad val.
337.30	24.5% ad val.	22% ad val.	19% ad val.	16% ad val.	13.5% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 3, Part 3--Continued					
337.40	18.5% ad val.	16.5% ad val.	14.5% ad val.	12.5% ad val.	10.5% ad val.
337.50	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
337.55	33.5% ad val.	30% ad val.	26% ad val.	22% ad val.	18.5% ad val.
337.60	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
337.70	20.5% ad val.	18% ad val.	16% ad val.	13.5% ad val.	11.5% ad val.
337.80	24.5% ad val.	22% ad val.	19% ad val.	16% ad val.	13.5% ad val.
337.90	24.5% ad val.	22% ad val.	19% ad val.	16% ad val.	13.5% ad val.
338.10	27¢ per lb. + 45% ad val.	24¢ per lb. + 40% ad val.	21¢ per lb. + 35% ad val.	18¢ per lb. + 30% ad val.	15¢ per lb. + 25% ad val.
338.15	27¢ per lb. + 27% ad val.	24¢ per lb. + 24% ad val.	21¢ per lb. + 21% ad val.	18¢ per lb. + 18% ad val.	15¢ per lb. + 15% ad val.
338.25	18.5% ad val.	16.5% ad val.	14.5% ad val.	12.5% ad val.	10.5% ad val.
338.27	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
338.30	22¢ per lb. + 22.5% ad val.	20¢ per lb. + 22.5% ad val.	17¢ per lb. + 22.5% ad val.	15¢ per lb. + 22.5% ad val.	13¢ per lb. + 22.5% ad val.
339.10	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
Schedule 3, Part 4					
345.10	29% ad val.	28% ad val.	27% ad val.	26% ad val.	25% ad val.
345.35	24.5% ad val.	22% ad val.	19% ad val.	16% ad val.	13.5% ad val.
345.60	15.5% ad val.	14% ad val.,	12% ad val.	10% ad val.	8.5% ad val.
346.05	28.5% ad val.	27% ad val.	25.5% ad val.	24% ad val.	23% ad val.
346.10	47.5% ad val.	45% ad val.	42.5% ad val.	40% ad val.	38% ad val.
346.30	21¢ per lb.	20¢ per lb.	19¢ per lb.	18¢ per lb.	17¢ per lb.
346.32	19% ad val.	18% ad val.	17% ad val.	16% ad val.	15% ad val.
346.35	34% ad val.	33% ad val.	32% ad val.	31% ad val.	30% ad val.
346.40	23% ad val.	22% ad val.	20% ad val.	19% ad val.	17.5% ad val.
346.45	19% ad val.	18% ad val.	17% ad val.	16% ad val.	15% ad val.
346.50	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
346.52	33¢ per lb. + 22% ad val.	33¢ per lb. + 20% ad val.	33¢ per lb. + 17% ad val.	33¢ per lb. + 15% ad val.	33¢ per lb. + 12.5% ad val.
346.56	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
346.65	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
346.70	23.5% ad val.	22.5% ad val.	21% ad val.	20% ad val.	19% ad val.
346.80	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
346.82	33¢ per lb. + 22% ad val.	33¢ per lb. + 20% ad val.	33¢ per lb. + 17% ad val.	33¢ per lb. + 15% ad val.	33¢ per lb. + 12.5% ad val.
346.86	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
346.90	13.5¢ per lb. + 22% ad val.	12¢ per lb. + 20% ad val.	10.5¢ per lb. + 17% ad val.	9¢ per lb. + 15% ad val.	7¢ per lb. + 12.5% ad val.
346.95	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
347.10	24% ad val.	23% ad val.	22% ad val.	21% ad val.	20% ad val.
347.15	24% ad val.	23% ad val.	22% ad val.	21% ad val.	20% ad val.
347.20	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
347.25	14% ad val.	13% ad val.	12% ad val.	11% ad val.	10% ad val.
347.30	25% ad val.	22% ad val.	19.5% ad val.	16.5% ad val.	14% ad val.
347.33	16.5% ad val.	15.5% ad val.	14.5% ad val.	14% ad val.	13.3% ad val.
347.35	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
347.40	37.5¢ per lb. + 18% ad val.	37.5¢ per lb. + 16% ad val.	37.5¢ per lb. + 14% ad val.	37.5¢ per lb. + 12% ad val.	37.5¢ per lb. + 10% ad val.
347.45	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
347.50	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 3, Part 4--Continued					
347.55	15¢ per lb. + 19.5% ad val.	15¢ per lb. + 17.5% ad val.	15¢ per lb. + 15% ad val.	15¢ per lb. + 13% ad val.	15¢ per lb. + 11% ad val.
347.60	22¢ per lb. + 18% ad val.	20¢ per lb. + 16% ad val.	17¢ per lb. + 14% ad val.	15¢ per lb. + 12% ad val.	12¢ per lb. + 10% ad val.
347.65	22.5¢ per lb. + 20% ad val.	20¢ per lb. + 18% ad val.	17.5¢ per lb. + 15.5% ad val.	15¢ per lb. + 13% ad val.	12¢ per lb. + 11.25% ad val.
347.68	18.5% ad val.	16.5% ad val.	14.5% ad val.	12.5% ad val.	10.5% ad val.
347.69	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
347.70	22¢ per lb. + 17% ad val.	20¢ per lb. + 15% ad val.	17.5¢ per lb. + 13% ad val.	15¢ per lb. + 11% ad val.	12¢ per lb. + 9.5% ad val.
347.72	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
347.75	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
348.00	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
348.05	38% ad val.	34% ad val.	29.5% ad val.	25% ad val.	21% ad val.
349.10	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
349.25	19% ad val.	18% ad val.	17% ad val.	16% ad val.	15% ad val.
349.30	38% ad val.	34% ad val.	29.5% ad val.	25% ad val.	21% ad val.
350.00	23% ad val.	20.5% ad val.	18% ad val.	15.5% ad val.	13% ad val.
351.05	47.5% ad val.	45% ad val.	42.5% ad val.	40% ad val.	38% ad val.
351.10	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
351.20	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
351.25	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
351.40	27% ad val.	26.5% ad val.	26% ad val.	25.5% ad val.	25% ad val.
351.44	40% ad val.	36% ad val.	31% ad val.	27% ad val.	22.5% ad val.
351.46	61% ad val.	57% ad val.	53% ad val.	49% ad val.	45% ad val.
351.60	29.5% ad val.	27% ad val.	24.5% ad val.	22% ad val.	20% ad val.
351.70	45% ad val.	40% ad val.	35% ad val.	30% ad val.	25% ad val.
351.80	48% ad val.	46% ad val.	44% ad val.	42% ad val.	40% ad val.
351.90	40% ad val.	38% ad val.	36% ad val.	34% ad val.	32% ad val.
352.10	38% ad val.	36% ad val.	34% ad val.	32% ad val.	30% ad val.
352.20	38% ad val.	34% ad val.	29.5% ad val.	25% ad val.	21% ad val.
352.30	40% ad val.	37% ad val.	35% ad val.	32% ad val.	30% ad val.
352.40	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
352.50	38% ad val.	36% ad val.	34% ad val.	32% ad val.	30% ad val.
352.80	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.
353.10	40% ad val.	36% ad val.	31% ad val.	27% ad val.	22.5% ad val.
353.50	38% ad val., but in the case of ornamented fabrics not less than the rate which would apply to such fabrics if not ornamented	34% ad val., but in the case of ornamented fabrics not less than the rate which would apply to such fabrics if not ornamented	29.5% ad val., but in the case of ornamented fabrics not less than the rate which would apply to such fabrics if not ornamented	25% ad val., but in the case of ornamented fabrics not less than the rate which would apply to such fabrics if not ornamented	21% ad val., but in the case of ornamented fabrics not less than the rate which would apply to such fabrics if not ornamented
355.02	19% ad val.	18% ad val.	17% ad val.	16% ad val.	15% ad val.
355.15	22.5¢ per lb. + 18% ad val.	22.5¢ per lb. + 16% ad val.	22.5¢ per lb. + 14% ad val.	22.5¢ per lb. + 12% ad val.	22.5¢ per lb. + 10% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 3, Part 4--Continued					
355.16	30¢ per lb. + 18% ad val.	30¢ per lb. + 16% ad val.	30¢ per lb. + 14% ad val.	30¢ per lb. + 12% ad val.	30¢ per lb. + 10% ad val.
355.18	28.5% ad val.	25.5% ad val.	22% ad val.	19% ad val.	16% ad val.
355.20	24.5% ad val.	22% ad val.	19% ad val.	16% ad val.	13.5% ad val.
355.25	22¢ per lb. + 27% ad val.	20¢ per lb. + 24% ad val.	17¢ per lb. + 21% ad val.	15¢ per lb. + 18% ad val.	12¢ per lb. + 15% ad val.
355.35	23% ad val.	22% ad val.	20% ad val.	19% ad val.	17.5% ad val.
355.42	20% ad val.	18% ad val.	15.5% ad val.	13% ad val.	11% ad val.
355.50	9% ad val.	9% ad val.	8% ad val.	8% ad val.	7.5% ad val.
355.55	9.5% ad val.	8.5% ad val.	7.5% ad val.	6.5% ad val.	5.5% ad val.
355.60	22.5¢ per lb. + 27% ad val.	20¢ per lb. + 24% ad val.	17.5¢ per lb. + 21% ad val.	15¢ per lb. + 18% ad val.	12.5¢ per lb. + 15% ad val.
355.65	10% ad val.	10% ad val.	9% ad val.	9% ad val.	8.5% ad val.
355.75	24.5% ad val.	22% ad val.	19% ad val.	16% ad val.	13.5% ad val.
355.81	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
355.82	22¢ per lb. + 27% ad val.	20¢ per lb. + 24% ad val.	17¢ per lb. + 21% ad val.	15¢ per lb. + 18% ad val.	12.5¢ per lb. + 15% ad val.
355.85	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
356.05	24.5% ad val.	22% ad val.	19% ad val.	16% ad val.	13.5% ad val.
356.10	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
356.15	16.5% ad val.	15.5% ad val.	14.5% ad val.	13.5% ad val.	12.5% ad val.
356.20	9% ad val.	8.5% ad val.	8% ad val.	7.5% ad val.	7% ad val.
356.25	9% ad val.	8.5% ad val.	8% ad val.	7.5% ad val.	7% ad val.
356.35	24.5% ad val.	22% ad val.	19% ad val.	16% ad val.	13.5% ad val.
356.40	22¢ per lb. + 27% ad val.	20¢ per lb. + 24% ad val.	17¢ per lb. + 21% ad val.	15¢ per lb. + 18% ad val.	12¢ per lb. + 15% ad val.
356.45	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
356.51	0.2¢ per sq. yd.	0.1¢ per sq. yd.	0.1¢ per sq. yd.	Free	Free
356.70	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
356.80	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
357.05	26% ad val.	25% ad val.	24% ad val.	23% ad val.	22.5% ad val.
357.10	37.5¢ per lb. + 16% ad val.	37.5¢ per lb. + 14% ad val.	37.5¢ per lb. + 12.5% ad val.	37.5¢ per lb. + 10.5% ad val.	37.5¢ per lb. + 9% ad val.
357.15	37.5¢ per lb. + 12.5% ad val.	37.5¢ per lb. + 11% ad val.	37.5¢ per lb. + 9.5% ad val.	37.5¢ per lb. + 8% ad val.	37.5¢ per lb. + 7% ad val.
357.30	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
357.35	22¢ per lb. + 20% ad val.	20¢ per lb. + 18% ad val.	17¢ per lb. + 15.5% ad val.	15¢ per lb. + 13% ad val.	12¢ per lb. + 11% ad val.
357.40	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
357.45	22¢ per lb. + 20% ad val.	20¢ per lb. + 18% ad val.	17¢ per lb. + 15.5% ad val.	15¢ per lb. + 13% ad val.	12.5¢ per lb. + 11% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 3, Part 4--Continued					
357.60	38% ad val., but not less than the rate which would apply to such fabrics without tucks	34% ad val., but not less than the rate which would apply to such fabrics without tucks	29.5% ad val., but not less than the rate which would apply to such fabrics without tucks	25% ad val., but not less than the rate which would apply to such fabrics without tucks	21% ad val., but not less than the rate which would apply to such fabrics without tucks
357.70	38% ad val.	34% ad val.	29.5% ad val.	25% ad val.	21% ad val.
357.80	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
357.90	17¢ per lb. + 13.5% ad val.	15¢ per lb. + 12% ad val.	13.5¢ per lb. + 10.5% ad val.	11.5¢ per lb. + 9% ad val.	9.7¢ per lb. + 7.5% ad val.
357.95	22.5¢ per lb. + 20% ad val.	20¢ per lb. + 18% ad val.	17.5¢ per lb. + 15.5% ad val.	15¢ per lb. + 13% ad val.	12.5¢ per lb. + 11% ad val.
358.02	11% ad val.	10% ad val.	9.5% ad val.	8.5% ad val.	8% ad val.
358.05	11% ad val.	10% ad val.	9.5% ad val.	8.5% ad val.	8% ad val.
358.06	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
358.08	33.75¢ per lb. + 13% ad val.	30¢ per lb. + 12% ad val.	26.25¢ per lb. + 10% ad val.	22.5¢ per lb. + 9% ad val.	18.7¢ per lb. + 7.5% ad val.
358.09	28.5% ad val.	25.5% ad val.	22% ad val.	19% ad val.	16% ad val.
358.11	24.5% ad val.	22% ad val.	19% ad val.	16% ad val.	13.5% ad val.
358.14	22¢ per lb. + 27% ad val.	20¢ per lb. + 24% ad val.	17¢ per lb. + 21% ad val.	15¢ per lb. + 18% ad val.	12.5¢ per lb. + 15% ad val.
358.16	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
358.24	14.5% ad val.	13.5% ad val.	12% ad val.	11% ad val.	10% ad val.
358.26	18.5% ad val.	17.5% ad val.	16% ad val.	15% ad val.	14% ad val.
358.30	37.5¢ per lb. + 13% ad val.	37.5¢ per lb. + 12% ad val.	37.5¢ per lb. + 10% ad val.	37.5¢ per lb. + 9% ad val.	37.5¢ per lb. + 7.5% ad val.
358.35	28.5% ad val.	25.5% ad val.	22% ad val.	19% ad val.	16% ad val.
358.40	24.5% ad val.	22% ad val.	19% ad val.	16% ad val.	13.5% ad val.
358.50	22¢ per lb. + 27% ad val.	20¢ per lb. + 24% ad val.	17¢ per lb. + 21% ad val.	15¢ per lb. + 18% ad val.	12¢ per lb. + 15% ad val.
358.60	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
359.10	19% ad val.	18% ad val.	17% ad val.	16% ad val.	15% ad val.
359.20	12% ad val.	10.5% ad val.	9% ad val.	8% ad val.	6.5% ad val.
359.40	24.5% ad val.	22% ad val.	19% ad val.	16% ad val.	13.5% ad val.
359.60	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
Schedule 3, Part 5					
360.05	10% ad val.	9% ad val.	7.5% ad val.	6.5% ad val.	5.5% ad val.
360.10	13.5¢ per sq. ft.	12¢ per sq. ft.	10.5¢ per sq. ft.	9¢ per sq. ft.	7.5¢ per sq. ft.
360.15	20% ad val.	18% ad val.	15.5% ad val.	13% ad val.	11% ad val.
360.20	14.5% ad val.	13.5% ad val.	12% ad val.	11% ad val.	10% ad val.
360.25	6.5% ad val.	6.5% ad val.	6% ad val.	6% ad val.	6% ad val.
360.30	13% ad val.	12% ad val.	11.5% ad val.	10.5% ad val.	10% ad val.
360.35	9¢ per sq. ft.	8¢ per sq. ft.	7¢ per sq. ft.	6¢ per sq. ft.	5¢ per sq. ft.
360.36	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
360.40	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
360.48	18.5% ad val.	16.5% ad val.	14.5% ad val.	12.5% ad val.	10.5% ad val.
360.65	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
360.70	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
360.75	15.5% ad val.	14.5% ad val.	14% ad val.	13% ad val.	12.5% ad val.
360.80	21% ad val.	20% ad val.	18.5% ad val.	17.5% ad val.	16.5% ad val.
361.05	38% ad val.	34% ad val.	29.5% ad val.	25% ad val.	21% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 3, Part 5--Continued					
361.18	15% ad val.	14% ad val.	13.5% ad val.	12.5% ad val.	12% ad val.
361.20	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
361.42	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
361.44	20% ad val.	18% ad val.	15.5% ad val.	13% ad val.	11% ad val.
361.46	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
361.48	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
361.50	40% ad val.	36% ad val.	31% ad val.	27% ad val.	22.5% ad val.
361.52	4% ad val.	3% ad val.	2% ad val.	1% ad val.	Free
361.53	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
361.54	21% ad val.	20% ad val.	19% ad val.	18% ad val.	17% ad val.
361.56	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
361.80	28.5% ad val.	25.5% ad val.	22% ad val.	19% ad val.	16% ad val.
361.85	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
363.01	42.5% ad val.	40.5% ad val.	38% ad val.	36% ad val.	34% ad val.
363.02	32% ad val.	28.5% ad val.	25% ad val.	21.5% ad val.	18% ad val.
363.05	42.5% ad val.	40.5% ad val.	38% ad val.	36% ad val.	34% ad val.
363.10	30¢ per lb. + 27% ad val.	30¢ per lb. + 24% ad val.	30¢ per lb. + 21% ad val.	30¢ per lb. + 18% ad val.	30¢ per lb. + 15% ad val.
363.15	37.5¢ per lb. + 22% ad val.	37.5¢ per lb. + 20% ad val.	37.5¢ per lb. + 17% ad val.	37.5¢ per lb. + 15% ad val.	37.5¢ per lb. + 12.5% ad val.
363.20	38% ad val.	34% ad val.	29.5% ad val.	25% ad val.	21% ad val.
363.30	11.5% ad val.	11% ad val.	10.5% ad val.	10% ad val.	9.5% ad val.
363.35	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
363.40	6.9¢ per lb.	6.5¢ per lb.	6.4¢ per lb.	6.2¢ per lb.	6¢ per lb.
363.45	14% ad val.	14% ad val.	13% ad val.	13% ad val.	12.5% ad val.
363.50	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
363.51	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
363.55	19% ad val.	18% ad val.	17% ad val.	16% ad val.	15% ad val.
363.60	19% ad val.	18% ad val.	17% ad val.	16% ad val.	15% ad val.
363.65	30¢ per lb. + 27% ad val.	30¢ per lb. + 24% ad val.	30¢ per lb. + 21% ad val.	30¢ per lb. + 18% ad val.	30¢ per lb. + 15% ad val.
363.70	37.5¢ per lb. + 22% ad val.	37.5¢ per lb. + 20% ad val.	37.5¢ per lb. + 17% ad val.	37.5¢ per lb. + 15% ad val.	37.5¢ per lb. + 12.5% ad val.
363.75	28.5% ad val.	25.5% ad val.	22% ad val.	19% ad val.	16% ad val.
363.80	24.5% ad val.	22% ad val.	19% ad val.	16% ad val.	13.5% ad val.
363.85	22¢ per lb. + 27% ad val.	20¢ per lb. + 24% ad val.	17¢ per lb. + 21% ad val.	15¢ per lb. + 18% ad val.	12.5¢ per lb. + 15% ad val.
363.90	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
364.11	25% ad val.	22% ad val.	20% ad val.	17% ad val.	15% ad val.
364.12	15.5% ad val.	15.5% ad val.	15% ad val.	15% ad val.	15% ad val.
364.15	19% ad val.	18% ad val.	17% ad val.	16% ad val.	15% ad val.
364.20	37.5¢ per lb. + 16% ad val.	37.5¢ per lb. + 14% ad val.	37.5¢ per lb. + 12.5% ad val.	37.5¢ per lb. + 10.5% ad val.	37.5¢ per lb. + 9% ad val.
364.22	37.5¢ per lb. + 12.5% ad val.	37.5¢ per lb. + 11% ad val.	37.5¢ per lb. + 9.5% ad val.	37.5¢ per lb. + 8% ad val.	37.5¢ per lb. + 7% ad val.
364.25	24.5% ad val.	22% ad val.	19% ad val.	16% ad val.	13.5% ad val.
364.30	22¢ per lb. + 27% ad val.	20¢ per lb. + 24% ad val.	17¢ per lb. + 21% ad val.	15¢ per lb. + 18% ad val.	12¢ per lb. + 15% ad val.
364.35	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
365.00	47% ad val.	44% ad val.	41% ad val.	38% ad val.	35% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 3, Part 5--Continued					
365.05	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
365.10	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
365.15	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
365.20	32% ad val.	28.5% ad val.	25% ad val.	21.5% ad val.	18% ad val.
365.25	26.5% ad val.	25% ad val.	23.5% ad val.	22% ad val.	21% ad val.
365.29	40% ad val.	36% ad val.	31% ad val.	27% ad val.	22.5% ad val.
365.31	60% ad val.	55% ad val.	50% ad val.	45% ad val.	40% ad val.
365.35	24% ad val.	23% ad val.	22% ad val.	21% ad val.	20% ad val.
365.40	30.5% ad val.	29% ad val.	27.5% ad val.	26% ad val.	25% ad val.
365.45	45% ad val.	40% ad val.	35% ad val.	30% ad val.	25% ad val.
365.50	48% ad val.	46% ad val.	44% ad val.	42% ad val.	40% ad val.
365.70	40% ad val.	36% ad val.	31% ad val.	27% ad val.	22.5% ad val.
365.75	40% ad val.	38% ad val.	36% ad val.	34% ad val.	32% ad val.
365.77	28% ad val.	26% ad val.	24% ad val.	22% ad val.	20% ad val.
365.78	46% ad val.	42% ad val.	38% ad val.	34% ad val.	30% ad val.
365.80	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
365.82	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
365.85	38% ad val.	34% ad val.	29.5% ad val.	25% ad val.	21% ad val.
366.03	38% ad val.	36% ad val.	34% ad val.	32% ad val.	30% ad val.
366.06	47.5% ad val.	45% ad val.	42.5% ad val.	40% ad val.	38% ad val.
366.09	23.5% ad val.	22.5% ad val.	21% ad val.	20% ad val.	19% ad val.
366.12	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
366.15	19% ad val.	18% ad val.	17% ad val.	16% ad val.	15% ad val.
366.18	18.5% ad val.	17.5% ad val.	16% ad val.	15% ad val.	14% ad val.
366.21	17¢ per lb.	16¢ per lb.	15.5¢ per lb.	14.5¢ per lb.	14¢ per lb.
366.27	19% ad val.	18% ad val.	17% ad val.	16% ad val.	15% ad val.
366.30	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
366.33	24.5% ad val.	22% ad val.	19% ad val.	16% ad val.	13.5% ad val.
366.36	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
366.39	12% ad val.	10.5% ad val.	9% ad val.	8% ad val.	6.5% ad val.
366.42	16.5% ad val.	15.5% ad val.	15% ad val.	14% ad val.	13.5% ad val.
366.45	28% ad val.	26% ad val.	24% ad val.	22% ad val.	20% ad val.
366.46	13.5% ad val.	12.5% ad val.	11% ad val.	10% ad val.	9% ad val.
366.47	18% ad val.	17% ad val.	15% ad val.	14% ad val.	12.5% ad val.
366.48	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
366.51	12% ad val.	10.5% ad val.	9% ad val.	8% ad val.	6.5% ad val.
366.54	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
366.57	23.5% ad val.	22.5% ad val.	21% ad val.	20% ad val.	19% ad val.
366.60	38% ad val.	36% ad val.	34% ad val.	32% ad val.	30% ad val.
366.63	47.5% ad val.	45% ad val.	42.5% ad val.	40% ad val.	38% ad val.
366.65	15.5% ad val.	15.5% ad val.	15% ad val.	15% ad val.	15% ad val.
366.69	23% ad val.	21% ad val.	19% ad val.	17% ad val.	15% ad val.
366.72	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
366.75	17% ad val.	16% ad val.	16% ad val.	15% ad val.	15% ad val.
366.79	19% ad val.	18% ad val.	17% ad val.	16% ad val.	15% ad val.
366.81	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
366.84	12% ad val.	10.5% ad val.	9% ad val.	8% ad val.	6.5% ad val.
367.05	37.5¢ per lb. + 27% ad val.	37.5¢ per lb. + 24% ad val.	37.5¢ per lb. + 21% ad val.	37.5¢ per lb. + 18% ad val.	37.5¢ per lb. + 15% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 3, Part 5--Continued					
367.10	37.5¢ per lb. + 18% ad val.	37.5¢ per lb. + 16% ad val.	37.5¢ per lb. + 14% ad val.	37.5¢ per lb. + 12% ad val.	37.5¢ per lb. + 10% ad val.
367.15	33¢ per lb. + 18% ad val.	33¢ per lb. + 16% ad val.	33¢ per lb. + 14% ad val.	33¢ per lb. + 12% ad val.	33¢ per lb. + 10% ad val.
367.20	22.5¢ per lb. + 18% ad val.	22.5¢ per lb. + 16% ad val.	22.5¢ per lb. + 14% ad val.	22.5¢ per lb. + 12% ad val.	22.5¢ per lb. + 10% ad val.
367.25	30¢ per lb. + 18% ad val.	30¢ per lb. + 16% ad val.	30¢ per lb. + 14% ad val.	30¢ per lb. + 12% ad val.	30¢ per lb. + 10% ad val.
367.30	28.5% ad val.	25.5% ad val.	22% ad val.	19% ad val.	16% ad val.
367.35	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
367.40	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
367.45	24.5% ad val.	22% ad val.	19% ad val.	16% ad val.	13.5% ad val.
367.50	22.5¢ per lb. + 29% ad val.	20¢ per lb. + 26% ad val.	17.5¢ per lb. + 22.5% ad val.	15¢ per lb. + 19% ad val.	12.5¢ per lb. + 16% ad val.
367.55	13.5¢ per lb. + 22% ad val.	12¢ per lb. + 20% ad val.	10.5¢ per lb. + 17% ad val.	9¢ per lb. + 15% ad val.	7¢ per lb. + 12.5% ad val.
367.59	24.5% ad val.	22% ad val.	19% ad val.	16% ad val.	13.5% ad val.
367.60	25¢ per lb. + 27% ad val.	25¢ per lb. + 24.5% ad val.	25¢ per lb. + 22% ad val.	25¢ per lb. + 19.5% ad val.	25¢ per lb. + 17% ad val.
367.65	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
Schedule 3, Part 6					
370.04	1.8¢ each + 18% ad val.	1.6¢ each + 16% ad val.	1.4¢ each + 14% ad val.	1.2¢ each + 12% ad val.	1¢ each + 10% ad val.
370.08	0.9¢ each + 13% ad val.	0.8¢ each + 12% ad val.	0.7¢ each + 10% ad val.	0.6¢ each + 9% ad val.	0.5¢ each + 7.5% ad val.
370.12	0.9¢ each + 13% ad val.	0.8¢ each + 12% ad val.	0.7¢ each + 10% ad val.	0.6¢ each + 9% ad val.	0.5¢ each + 7.5% ad val.
370.17	2.9¢ each + 29.5% ad val.	2.7¢ each + 27% ad val.	2.4¢ each + 24.8% ad val.	2.2¢ each + 22.4% ad val.	2¢ each + 20% ad val.
370.19	1.8¢ each + 18% ad val.	1.6¢ each + 16% ad val.	1.4¢ each + 14% ad val.	1¢ each + 12% ad val.	1¢ each + 10% ad val.
370.20	1.4¢ each + 14.8% ad val.	1.3¢ each + 13.5% ad val.	1.2¢ each + 12.4% ad val.	1.1¢ each + 11% ad val.	1¢ each + 10% ad val.
370.24	19% ad val.	19% ad val.	18% ad val.	18% ad val.	17.5% ad val.
370.28	4¢ per lb. + 24% ad val.	4¢ per lb. + 23% ad val.	3¢ per lb. + 22% ad val.	3¢ per lb. + 21% ad val.	3¢ per lb. + 20% ad val.
370.32	4¢ per lb. + 28% ad val.	4¢ per lb. + 26% ad val.	3¢ per lb. + 24% ad val.	3¢ per lb. + 22% ad val.	3¢ per lb. + 20% ad val.
370.36	21.5% ad val.	20.5% ad val.	19.5% ad val.	18.5% ad val.	17.5% ad val.
370.40	4.5¢ per lb. + 26% ad val.	4¢ per lb. + 24.5% ad val.	3¢ per lb. + 23% ad val.	3¢ per lb. + 21.5% ad val.	3¢ per lb. + 20% ad val.
370.44	4.5¢ per lb. + 30% ad val.	4¢ per lb. + 27.5% ad val.	3¢ per lb. + 25% ad val.	3¢ per lb. + 22.5% ad val.	3¢ per lb. + 20% ad val.
370.48	29% ad val.	28% ad val.	27% ad val.	26% ad val.	25% ad val.
370.56	5¢ per lb. + 39% ad val.	5¢ per lb. + 38% ad val.	5¢ per lb. + 37% ad val.	5¢ per lb. + 36% ad val.	5¢ per lb. + 35% ad val.
370.60	31% ad val.	29.5% ad val.	28% ad val.	26.5% ad val.	25% ad val.
370.64	5¢ per lb. + 37% ad val.	5¢ per lb. + 36.5% ad val.	5¢ per lb. + 36% ad val.	5¢ per lb. + 35.5% ad val.	5¢ per lb. + 35% ad val.
370.68	5¢ per lb. + 41% ad val.	5¢ per lb. + 39.5% ad val.	5¢ per lb. + 38% ad val.	5¢ per lb. + 36.5% ad val.	5¢ per lb. + 35% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 3, Part 6--Continued					
370.72	5.5% ad val.	5% ad val.	4.5% ad val.	3.5% ad val.	3% ad val.
370.80	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.
370.84	27% ad val.	24% ad val.	21.5% ad val.	18.5% ad val.	16% ad val.
370.86	25¢ per lb. + 25% ad val.	25¢ per lb. + 22.5% ad val.	25¢ per lb. + 20.5% ad val.	25¢ per lb. + 18% ad val.	25¢ per lb. + 16% ad val.
370.92	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
372.04	24.5% ad val.	23.5% ad val.	22% ad val.	21% ad val.	20% ad val.
372.08	23% ad val.	20.5% ad val.	18% ad val.	15.5% ad val.	13% ad val.
372.10	40% ad val.	37% ad val.	35% ad val.	32% ad val.	30% ad val.
372.15	19% ad val.	18.5% ad val.	18% ad val.	17.5% ad val.	17% ad val.
372.20	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
372.50	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
372.55	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
372.60	22.5% ad val.	20% ad val.	18% ad val.	15.5% ad val.	13.5% ad val.
372.65	27% ad val.	24% ad val.	21.5% ad val.	18.5% ad val.	16% ad val.
372.75	25¢ per lb. + 24.5% ad val.	25¢ per lb. + 22% ad val.	25¢ per lb. + 19% ad val.	25¢ per lb. + 16.5% ad val.	25¢ per lb. + 14% ad val.
372.80	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
373.05	38% ad val.	34% ad val.	29.5% ad val.	25% ad val.	21% ad val.
373.10	19% ad val.	18.5% ad val.	17.5% ad val.	17% ad val.	16.5% ad val.
373.15	37.5¢ per lb. + 18.5% ad val.	37.5¢ per lb. + 16.5% ad val.	37.5¢ per lb. + 14.5% ad val.	37.5¢ per lb. + 12.5% ad val.	37.5¢ per lb. + 10.5% ad val.
373.20	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
373.22	29% ad val.	26% ad val.	22.5% ad val.	19% ad val.	16% ad val.
373.25	22¢ per lb. + 29% ad val.	20¢ per lb. + 26% ad val.	17¢ per lb. + 22.5% ad val.	15¢ per lb. + 19% ad val.	12¢ per lb. + 16% ad val.
373.27	22¢ per lb. + 24.5% ad val.	20¢ per lb. + 22% ad val.	17¢ per lb. + 19% ad val.	15¢ per lb. + 16% ad val.	12¢ per lb. + 13.5% ad val.
373.30	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
374.05	54% ad val.	48% ad val.	42% ad val.	36% ad val.	30% ad val.
374.10	24.5% ad val.	23.5% ad val.	23% ad val.	22% ad val.	21.5% ad val.
374.15	40% ad val.	37% ad val.	35% ad val.	32% ad val.	30% ad val.
374.35	38% ad val.	34% ad val.	29.5% ad val.	25% ad val.	21% ad val.
374.40	41.5% ad val.	40% ad val.	38.5% ad val.	37% ad val.	36% ad val.
374.45	14% ad val.	13% ad val.	12% ad val.	11% ad val.	10% ad val.
374.50	37.5¢ per lb. + 18% ad val.	37.5¢ per lb. + 16.5% ad val.	37.5¢ per lb. + 15% ad val.	37.5¢ per lb. + 13.5% ad val.	37.5¢ per lb. + 12% ad val.
374.55	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.
374.65	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
376.04	17% ad val.	16% ad val.	16% ad val.	15% ad val.	15% ad val.
376.08	37.5¢ per lb. + 18% ad val.	37.5¢ per lb. + 16% ad val.	37.5¢ per lb. + 14% ad val.	37.5¢ per lb. + 12% ad val.	37.5¢ per lb. + 10% ad val.
376.12	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
376.16	22¢ per lb. + 17% ad val.	20¢ per lb. + 15% ad val.	17¢ per lb. + 13% ad val.	15¢ per lb. + 11% ad val.	12¢ per lb. + 9.5% ad val.
376.20	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
376.28	22% ad val.	21% ad val.	20% ad val.	19% ad val.	18% ad val.

86-000 O - 67 (Pt. II) - 5

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 3, Part 6--Continued					
376.54	14% ad val.	14% ad val	13% ad val.	13% ad val.	12.5% ad val.
376.56	27% ad val.	24.5% ad val.	21.5% ad val.	19% ad val.	16.5% ad val.
378.10	29% ad val.	28% ad val.	27% ad val.	26% ad val.	25% ad val.
378.15	17% ad val.	16% ad val.	16% ad val.	15% ad val.	15% ad val.
378.20	19% ad val.	18.5% ad val.	17.5% ad val.	17% ad val.	16.5% ad val.
378.25	9.5% ad val.	9% ad val.	8.5% ad val.	8% ad val.	8% ad val.
378.30	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
378.35	37.5¢ per lb. + 12% ad val.	37.5¢ per lb. + 10.5% ad val.	37.5¢ per lb. + 9% ad val.	37.5¢ per lb. + 7.5% ad val.	37.5¢ per lb. + 6.5% ad val.
378.40	25¢ per lb. + 18.5% ad val.	25¢ per lb. + 16.5% ad val.	25¢ per lb. + 14.5% ad val.	25¢ per lb. + 12.5% ad val.	25¢ per lb. + 10.5% ad val.
378.45	37.5¢ per lb. + 18.5% ad val.	37.5¢ per lb. + 16.5% ad val.	37.5¢ per lb. + 14.5% ad val.	37.5¢ per lb. + 12.5% ad val.	37.5¢ per lb. + 10.5% ad val.
378.50	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.
378.55	29% ad val.	26% ad val.	22.5% ad val.	19% ad val.	16% ad val.
378.65	22¢ per lb. + 24.5% ad val.	20¢ per lb. + 22% ad val.	17¢ per lb. + 19% ad val.	15¢ per lb. + 16% ad val.	12.5¢ per lb. + 13.5% ad val.
378.70	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
380.00	41% ad val.	39% ad val.	38% ad val.	36% ad val.	35% ad val.
380.05	38% ad val.	34% ad val.	29.5% ad val.	25% ad val.	21% ad val.
380.06	24% ad val.	23% ad val.	22.5% ad val.	21.5% ad val.	21% ad val.
380.09	19% ad val.	18.5% ad val.	17.5% ad val.	17% ad val.	16.5% ad val.
380.12	9.5% ad val.	9% ad val.	8.5% ad val.	8% ad val.	8% ad val.
380.15	19% ad val.	18.5% ad val.	17.5% ad val.	17% ad val.	16.5% ad val.
380.18	9.5% ad val.	9% ad val.	8.5% ad val.	8% ad val.	8% ad val.
380.21	19% ad val.	18.5% ad val.	17.5% ad val.	17% ad val.	16.5% ad val.
380.24	9.5% ad val.	9% ad val.	8.5% ad val.	8% ad val.	8% ad val.
380.27	24% ad val.	23% ad val.	22.5% ad val.	21.5% ad val.	21% ad val.
380.30	9% ad val.	8% ad val.	8% ad val.	7% ad val.	7% ad val.
380.33	19% ad val.	18.5% ad val.	17.5% ad val.	17% ad val.	16.5% ad val.
380.36	9.5% ad val.	9% ad val.	8.5% ad val.	8% ad val.	8% ad val.
380.39	19% ad val.	18.5% ad val.	17.5% ad val.	17% ad val.	16.5% ad val.
380.45	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
380.48	4% ad val.	4% ad val.	3% ad val.	3% ad val.	2.5% ad val.
380.51	15% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
380.59	37.5¢ per lb. + 19% ad val.	37.5¢ per lb. + 18% ad val.	37.5¢ per lb. + 17% ad val.	37.5¢ per lb. + 16% ad val.	37.5¢ per lb. + 15.5% ad val.
380.72	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
380.75	29% ad val.	26% ad val.	22.5% ad val.	19% ad val.	16% ad val.
380.90	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
382.00	41% ad val.	39% ad val.	38% ad val.	36% ad val.	35% ad val.
382.05	38% ad val.	34% ad val.	29.5% ad val.	25% ad val.	21% ad val.
382.06	24% ad val.	23% ad val.	22.5% ad val.	21.5% ad val.	21% ad val.
382.09	19% ad val.	18.5% ad val.	17.5% ad val.	17% ad val.	16.5% ad val.
382.12	9.5% ad val.	9% ad val.	8.5% ad val.	8% ad val.	8% ad val.
382.15	19% ad val.	18.5% ad val.	17.5% ad val.	17% ad val.	16.5% ad val.
382.18	9.5% ad val.	9% ad val.	8.5% ad val.	8% ad val.	8% ad val.
382.21	19% ad val.	18.5% ad val.	17.5% ad val.	17% ad val.	16.5% ad val.
382.24	9.5% ad val.	9% ad val.	8.5% ad val.	8% ad val.	8% ad val.
382.27	19% ad val.	18.5% ad val.	17.5% ad val.	17% ad val.	16.5% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 3, Part 6--Continued					
382.30	9.5% ad val.	9% ad val.	8.5% ad val.	8% ad val.	8% ad val.
382.33	19% ad val.	18.5% ad val.	17.5% ad val.	17% ad val.	16.5% ad val.
382.39	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
382.42	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
382.56	37.5¢ per lb. + 19% ad val.	37.5¢ per lb. + 18% ad val.	37.5¢ per lb. + 17% ad val.	37.5¢ per lb. + 16% ad val.	37.5¢ per lb. + 15.5% ad val.
382.69	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
382.72	29% ad val.	26% ad val.	22.5% ad val.	19% ad val.	16% ad val.
382.87	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
Schedule 3, Part 7					
385.15	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
385.20	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
385.25	23% ad val.	22% ad val.	20% ad val.	19% ad val.	17.5% ad val.
385.30	9% ad val.	8.5% ad val.	8% ad val.	7.5% ad val.	7% ad val.
385.40	14% ad val.	13% ad val.	12% ad val.	11% ad val.	10% ad val.
385.45	0.45¢ per lb. + 2.5% ad val.	0.4¢ per lb. + 2% ad val.	0.3¢ per lb. + 2% ad val.	0.3¢ per lb. + 1.5% ad val.	0.2¢ per lb. + 1.5% ad val.
385.50	0.45¢ per lb. + 4.5% ad val.	0.4¢ per lb. + 4% ad val.	0.35¢ per lb. + 3.5% ad val.	0.3¢ per lb. + 3% ad val.	0.25¢ per lb. + 2.5% ad val.
385.53	22¢ per lb. + 27% ad val.	20¢ per lb. + 24% ad val.	17¢ per lb. + 21% ad val.	15¢ per lb. + 18% ad val.	12¢ per lb. + 15% ad val.
385.55	18.5% ad val.	17.5% ad val.	16% ad val.	15% ad val.	14% ad val.
385.60	11.5% ad val.	11% ad val.	10% ad val.	9.5% ad val.	9% ad val.
385.63	24.5% ad val.	22% ad val.	19% ad val.	16% ad val.	13.5% ad val.
385.70	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
385.75	38% ad val.	34% ad val.	29.5% ad val.	25% ad val.	21% ad val.
385.80	14% ad val.	13% ad val.	12% ad val.	11% ad val.	10% ad val.
385.85	22¢ per lb. + 27% ad val.	20¢ per lb. + 24% ad val.	17¢ per lb. + 21% ad val.	15¢ per lb. + 18% ad val.	12¢ per lb. + 15% ad val.
385.90	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
385.95	9¢ per sq. ft.	8¢ per sq. ft.	7¢ per sq. ft.	6¢ per sq. ft.	5¢ per sq. ft.
386.04	48% ad val.	46% ad val.	44% ad val.	42% ad val.	40% ad val.
386.08	45% ad val.	40% ad val.	35% ad val.	30% ad val.	25% ad val.
386.10	23% ad val.	22% ad val.	20% ad val.	19% ad val.	17.5% ad val.
386.20	47% ad val.	44% ad val.	41% ad val.	38% ad val.	35% ad val.
386.25	18.5% ad val.	17.5% ad val.	16% ad val.	15% ad val.	14% ad val.
386.30	37.5% ad val.	35% ad val.	32.5% ad val.	30% ad val.	28% ad val.
386.40	23% ad val.	22% ad val.	20% ad val.	19% ad val.	17.5% ad val.
386.50	18.5% ad val.	17.5% ad val.	16% ad val.	15% ad val.	14% ad val.
387.10	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
387.20	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
387.30	12% ad val.	10.5% ad val.	9% ad val.	8% ad val.	6.5% ad val.
388.10	37.5¢ per lb. + 27% ad val.	37.5¢ per lb. + 24% ad val.	37.5¢ per lb. + 21% ad val.	37.5¢ per lb. + 18% ad val.	37.5¢ per lb. + 15% ad val.
388.20	37.5¢ per lb. + 18% ad val.	37.5¢ per lb. + 16% ad val.	37.5¢ per lb. + 14% ad val.	37.5¢ per lb. + 12% ad val.	37.5¢ per lb. + 10% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 3, Part 7--Continued					
388.30	33¢ per lb. + 18% ad val.	30¢ per lb. + 16% ad val.	33¢ per lb. + 14% ad val.	33¢ per lb. + 12% ad val.	33¢ per lb. + 10% ad val.
388.40	28.5% ad val.	25.5% ad val.	22% ad val.	19% ad val.	16% ad val.
389.10	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
389.20	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
389.30	24.5% ad val.	22% ad val.	19% ad val.	16% ad val.	13.5% ad val.
389.40	25¢ per lb. + 31% ad val.	25¢ per lb. + 29% ad val.	25¢ per lb. + 28% ad val.	25¢ per lb. + 26% ad val.	25¢ per lb. + 25% ad val.
389.60	25¢ per lb. + 27% ad val.	25¢ per lb. + 24% ad val.	25¢ per lb. + 21% ad val.	25¢ per lb. + 18% ad val.	25¢ per lb. + 15% ad val.
389.70	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
390.12	4% ad val.	4% ad val.	3% ad val.	3% ad val.	2.5% ad val.
390.30	1.8¢ per lb.	1.6¢ per lb.	1.4¢ per lb.	1.2¢ per lb.	1¢ per lb.
390.40	8¢ per lb.	7¢ per lb.	6.3¢ per lb.	5.4¢ per lb.	4.5¢ per lb.
390.50	3.5% ad val.	3% ad val.	2.5% ad val.	2% ad val.	2% ad val.
Schedule 4, Part 1					
403.02	2.5¢ per lb. + 14% ad val.	2.2¢ per lb. + 12.5% ad val.	1.9¢ per lb. + 11% ad val.	1.6¢ per lb. + 9.5% ad val.	1.4¢ per lb. + 8% ad val.
403.04	3¢ per lb. + 22.5% ad val.	2.5¢ per lb. + 20% ad val.	2.4¢ per lb. + 17.5% ad val.	2.4¢ per lb. + 15% ad val.	1.7¢ per lb. + 12.5% ad val.
403.06	1.25¢ per lb. + 7% ad val.	1.12¢ per lb. + 6% ad val.	0.95¢ per lb. + 5.5% ad val.	0.84¢ per lb. + 4.5% ad val.	0.7¢ per lb. + 4% ad val.
403.08	2.15¢ per lb. + 12.5% ad val.	1.9¢ per lb. + 11% ad val.	1.68¢ per lb. + 9.5% ad val.	1.44¢ per lb. + 8% ad val.	1.2¢ per lb. + 7% ad val.
403.10	2.5¢ per lb. + 16% ad val.	2.24¢ per lb. + 14% ad val.	1.9¢ per lb. + 12.5% ad val.	1.65¢ per lb. + 10.5% ad val.	1.4¢ per lb. + 9% ad val.
403.40	2.7¢ per lb. + 15% ad val.	2.4¢ per lb. + 13.5% ad val.	2.1¢ per lb. + 11.5% ad val.	1.8¢ per lb. + 10% ad val.	1.5¢ per lb. + 8.5% ad val.
403.42	1.55¢ per lb. + 9% ad val.	1.4¢ per lb. + 8% ad val.	1.2¢ per lb. + 7% ad val.	1¢ per lb. + 6% ad val.	0.85¢ per lb. + 5% ad val.
403.44	1.5¢ per lb. + 9% ad val.	1.4¢ per lb. + 8% ad val.	1¢ per lb. + 7% ad val.	1¢ per lb. + 6% ad val.	0.8¢ per lb. + 5% ad val.
403.46	3¢ per lb. + 18% ad val.	2.8¢ per lb. + 16% ad val.	2.4¢ per lb. + 14% ad val.	2¢ per lb. + 12% ad val.	1.7¢ per lb. + 10% ad val.
403.48	2¢ per lb. + 18% ad val.	2¢ per lb. + 16% ad val.	2¢ per lb. + 14% ad val.	1.5¢ per lb. + 12% ad val.	1.5¢ per lb. + 10% ad val.
403.50	2.5¢ per lb. + 18% ad val.	2¢ per lb. + 16% ad val.	1.9¢ per lb. + 14% ad val.	1.4¢ per lb. + 12% ad val.	1.4¢ per lb. + 10% ad val.
403.60	3¢ per lb. + 22.5% ad val.	2.5¢ per lb. + 20% ad val.	2¢ per lb. + 17.5% ad val.	2¢ per lb. + 15% ad val.	1.7¢ per lb. + 12.5% ad val.
403.70	2.7¢ per lb. + 18% ad val.	2.4¢ per lb. + 16% ad val.	2¢ per lb. + 14% ad val.	1.8¢ per lb. + 12% ad val.	1.5¢ per lb. + 10% ad val.
403.75	2.7¢ per lb. + 18% ad val.	2.4¢ per lb. + 16% ad val.	2¢ per lb. + 14% ad val.	1.8¢ per lb. + 12% ad val.	1.5¢ per lb. + 10% ad val.
403.78	2.7¢ per lb. + 18% ad val.	2.4¢ per lb. + 16% ad val.	2¢ per lb. + 14% ad val.	1.8¢ per lb. + 12% ad val.	1.5¢ per lb. + 10% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 4, Part 1--Continued					
403.80	3¢ per lb. + 22.5% ad val.	2.8¢ per lb. + 20% ad val.	2.4¢ per lb. + 17.5% ad val.	2¢ per lb. + 15% ad val.	1.7¢ per lb. + 12.5% ad val.
403.90	3.1¢ per lb. + 22.5% ad val.	2.8¢ per lb. + 20% ad val.	2.4¢ per lb. + 17.5% ad val.	2.1¢ per lb. + 15% ad val.	1.7¢ per lb. + 12.5% ad val.
405.06	3¢ per lb. + 20% ad val.	2.5¢ per lb. + 18% ad val.	2.4¢ per lb. + 15.5% ad val.	2.1¢ per lb. + 13% ad val.	1.7¢ per lb. + 11% ad val.
405.10	3¢ per lb. + 20% ad val.	2.5¢ per lb. + 18% ad val.	2.4¢ per lb. + 15.5% ad val.	2.1¢ per lb. + 13% ad val.	1.7¢ per lb. + 11% ad val.
405.15	3¢ per lb. + 22.5% ad val.	2.5¢ per lb. + 20% ad val.	2¢ per lb. + 17.5% ad val.	2¢ per lb. + 15% ad val.	1.7¢ per lb. + 12.5% ad val.
405.20	5.4¢ per lb. + 34% ad val.	4.8¢ per lb. + 30% ad val.	4¢ per lb. + 26.5% ad val.	3.5¢ per lb. + 22.5% ad val.	3¢ per lb. + 19% ad val.
405.25	2.5¢ per lb. + 16% ad val.	2.2¢ per lb. + 14% ad val.	1.9¢ per lb. + 12.5% ad val.	1.6¢ per lb. + 10.5% ad val.	1.4¢ per lb. + 9% ad val.
405.30	2.5¢ per lb. + 14% ad val.	2.2¢ per lb. + 12.5% ad val.	1.9¢ per lb. + 11% ad val.	1.5¢ per lb. + 9.5% ad val.	1.4¢ per lb. + 8% ad val.
405.35	3¢ per lb. + 22.5% ad val.	2.8¢ per lb. + 20% ad val.	2.4¢ per lb. + 17.5% ad val.	2¢ per lb. + 15% ad val.	1.7¢ per lb. + 12.5% ad val.
405.40	3¢ per lb. + 22.5% ad val.	2.8¢ per lb. + 20% ad val.	2.4¢ per lb. + 17.5% ad val.	2¢ per lb. + 15% ad val.	1.7¢ per lb. + 12.5% ad val.
405.45	2.7¢ per lb. + 18.5% ad val.	2.4¢ per lb. + 16.5% ad val.	2.1¢ per lb. + 14.5% ad val.	1.8¢ per lb. + 12.5% ad val.	1.5¢ per lb. + 10.5% ad val.
405.55	6.3¢ per lb. + 40% ad val.	5.5¢ per lb. + 36% ad val.	4.9¢ per lb. + 31% ad val.	4.2¢ per lb. + 27% ad val.	3.5¢ per lb. + 22.5% ad val.
406.02	2.7¢ per lb. + 18% ad val.	2.4¢ per lb. + 16% ad val.	2¢ per lb. + 14% ad val.	1.8¢ per lb. + 12% ad val.	1.5¢ per lb. + 10% ad val.
406.04	2.7¢ per lb. + 18% ad val.	2.4¢ per lb. + 16% ad val.	2¢ per lb. + 14% ad val.	1.8¢ per lb. + 12% ad val.	1.5¢ per lb. + 10% ad val.
406.10	28.5% ad val.	25.5% ad val.	22% ad val.	19% ad val.	16% ad val.
406.50	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
406.60	5¢ per lb. + 32% ad val.	4.4¢ per lb. + 28.5% ad val.	3.5¢ per lb. + 25% ad val.	3¢ per lb. + 21.5% ad val.	2.8¢ per lb. + 18% ad val.
406.70	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
406.80	3¢ per lb. + 18% ad val.	2¢ per lb. + 16% ad val.	2¢ per lb. + 14% ad val.	2¢ per lb. + 12% ad val.	1.7¢ per lb. + 10% ad val.
407.02	3.15¢ per lb. + 22% ad val.	2.8¢ per lb. + 20% ad val.	2.45¢ per lb. + 17% ad val.	2¢ per lb. + 15% ad val.	1.7¢ per lb. + 12.5% ad val.
407.04	3.15¢ per lb. + 22% ad val.	2.8¢ per lb. + 20% ad val.	2.45¢ per lb. + 17% ad val.	2¢ per lb. + 15% ad val.	1.7¢ per lb. + 12.5% ad val.
407.06	3.15¢ per lb. + 22% ad val.	2.8¢ per lb. + 20% ad val.	2.45¢ per lb. + 17% ad val.	2¢ per lb. + 15% ad val.	1.7¢ per lb. + 12.5% ad val.
407.08	3.15¢ per lb. + 22% ad val.	2.8¢ per lb. + 20% ad val.	2.45¢ per lb. + 17% ad val.	2¢ per lb. + 15% ad val.	1.7¢ per lb. + 12.5% ad val.
407.10	3.15¢ per lb. + 22% ad val.	2.8¢ per lb. + 20% ad val.	2.45¢ per lb. + 17% ad val.	2¢ per lb. + 15% ad val.	1.7¢ per lb. + 12.5% ad val.
407.12	3.15¢ per lb + 22% ad val.	2.8¢ per lb. + 20% ad val.	2.45¢ per lb. + 17% ad val.	2¢ per lb. + 15% ad val.	1.7¢ per lb. + 12.5% ad val.
407.20	2¢ per lb. + 18% ad val.	2¢ per lb. + 16% ad val.	1.5¢ per lb. + 14% ad val.	1.5¢ per lb. + 12% ad val.	1.4¢ per lb. + 10% ad val.
407.25	3.15¢ per lb. + 22% ad val.	2.8¢ per lb. + 20% ad val.	2.45¢ per lb. + 17% ad val.	2¢ per lb. + 15% ad val.	1.7¢ per lb. + 12.5% ad val.
407.30	3.15¢ per lb. + 22% ad val.	2.8¢ per lb. + 20% ad val.	2.45¢ per lb. + 17% ad val.	2¢ per lb. + 15% ad val.	1.7¢ per lb. + 12.5% ad val.
407.32	2¢ per lb. + 18% ad val.	2¢ per lb. + 16% ad val.	1.4¢ per lb. + 14% ad val.	1.4¢ per lb. + 12% ad val.	1.4¢ per lb. + 10% ad val.
407.35	3¢ per lb. + 20% ad val.	2¢ per lb. + 18% ad val.	2¢ per lb. + 15.5% ad val.	2¢ per lb. + 13.5% ad val.	1.7¢ per lb. + 11% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 4, Part 1--Continued					
407.40	2¢ per lb. + 15% ad val.	1.2¢ per lb. + 13.5% ad val.	1.2¢ per lb. + 11.5% ad val.	1.2¢ per lb. + 10% ad val.	1.2¢ per lb. + 8.5% ad val.
407.45	2¢ per lb. + 16% ad val.	2¢ per lb. + 14% ad val.	1.4¢ per lb. + 12.5% ad val.	1.4¢ per lb. + 10.5% ad val.	1.4¢ per lb. + 9% ad val.
407.50	2¢ per lb. + 16% ad val.	2¢ per lb. + 14% ad val.	1.4¢ per lb. + 12.5% ad val.	1.4¢ per lb. + 10.5% ad val.	1.4¢ per lb. + 9% ad val.
407.55	2¢ per lb. + 16% ad val.	2¢ per lb. + 14% ad val.	1.4¢ per lb. + 12.5% ad val.	1.4¢ per lb. + 10.5% ad val.	1.4¢ per lb. + 9% ad val.
407.60	2¢ per lb. + 16% ad val.	2¢ per lb. + 14% ad val.	1.4¢ per lb. + 12.5% ad val.	1.4¢ per lb. + 10.5% ad val.	1.4¢ per lb. + 9% ad val.
407.70	2¢ per lb. + 16% ad val.	2¢ per lb. + 14% ad val.	1.4¢ per lb. + 12.5% ad val.	1.4¢ per lb. + 10.5% ad val.	1.4¢ per lb. + 9% ad val.
407.72	2¢ per lb. + 18% ad val.	2¢ per lb. + 16% ad val.	1.4¢ per lb. + 14% ad val.	1.4¢ per lb. + 12% ad val.	1.4¢ per lb. + 10% ad val.
407.75	3.15¢ per lb. + 22% ad val.	2.8¢ per lb. + 20% ad val.	2.45¢ per lb. + 17% ad val.	2¢ per lb. + 15% ad val.	1.7¢ per lb. + 12.5% ad val.
407.80	3.15¢ per lb. + 22% ad val.	2.8¢ per lb. + 20% ad val.	2.45¢ per lb. + 17% ad val.	2¢ per lb. + 15% ad val.	1.7¢ per lb. + 12.5% ad val.
407.85	3.15¢ per lb. + 22% ad val.	2.8¢ per lb. + 20% ad val.	2.45¢ per lb. + 17% ad val.	2¢ per lb. + 15% ad val.	1.7¢ per lb. + 12.5% ad val.
407.90	3.15¢ per lb. + 22% ad val.	2.8¢ per lb. + 20% ad val.	2.45¢ per lb. + 17% ad val.	2¢ per lb. + 15% ad val.	1.7¢ per lb. + 12.5% ad val.
408.05	6.3¢ per lb. + 40% ad val.	5.5¢ per lb. + 36% ad val.	4.9¢ per lb. + 31% ad val.	4¢ per lb. + 27% ad val.	3.5¢ per lb. + 22.5% ad val.
408.10	6.3¢ per lb. + 40% ad val.	5.5¢ per lb. + 36% ad val.	4.9¢ per lb. + 31% ad val.	4¢ per lb. + 27% ad val.	3.5¢ per lb. + 22.5% ad val.
408.15	6.3¢ per lb. + 40% ad val.	5.5¢ per lb. + 36% ad val.	4.9¢ per lb. + 31% ad val.	4¢ per lb. + 27% ad val.	3.5¢ per lb. + 22.5% ad val.
408.20	3¢ per lb. + 20% ad val.	2¢ per lb. + 18% ad val.	2¢ per lb. + 15.5% ad val.	2¢ per lb. + 13.5% ad val.	1.7¢ per lb. + 11% ad val.
408.25	6.3¢ per lb. + 40% ad val.	5¢ per lb. + 36% ad val.	4.9¢ per lb. + 31% ad val.	4¢ per lb. + 27% ad val.	3.5¢ per lb. + 22.5% ad val.
408.30	5¢ per lb. + 16% ad val.	4.4¢ per lb. + 14% ad val.	3.5¢ per lb. + 12.5% ad val.	3¢ per lb. + 10.5% ad val.	2.8¢ per lb. + 9% ad val.
408.35	6.3¢ per lb. + 40% ad val.	5¢ per lb. + 36% ad val.	4.9¢ per lb. + 31% ad val.	4¢ per lb. + 27% ad val.	3.5¢ per lb. + 22.5% ad val.
408.40	6.3¢ per lb. + 40% ad val.	5¢ per lb. + 36% ad val.	4.9¢ per lb. + 31% ad val.	4¢ per lb. + 27% ad val.	3.5¢ per lb. + 22.5% ad val.
408.45	2.5¢ per lb. + 17% ad val.	2¢ per lb. + 15% ad val.	2¢ per lb. + 13% ad val.	1.8¢ per lb. + 11% ad val.	1.5¢ per lb. + 9.5% ad val.
408.60	6.3¢ per lb. + 40% ad val.	5¢ per lb. + 36% ad val.	4.9¢ per lb. + 31% ad val.	4¢ per lb. + 27% ad val.	3.5¢ per lb. + 22.5% ad val.
408.70	6.3¢ per lb. + 40% ad val.	5¢ per lb. + 36% ad val.	4.9¢ per lb. + 31% ad val.	4¢ per lb. + 27% ad val.	3.5¢ per lb. + 22.5% ad val.
408.75	6.3¢ per lb. + 40% ad val.	5¢ per lb. + 36% ad val.	4.9¢ per lb. + 31% ad val.	4¢ per lb. + 27% ad val.	3.5¢ per lb. + 22.5% ad val.
408.80	2¢ per lb. + 17% ad val.	2¢ per lb. + 15% ad val.	2¢ per lb. + 13% ad val.	1.8¢ per lb. + 11% ad val.	1.5¢ per lb. + 9.5% ad val.
409.00	6.3¢ per lb. + 40% ad val.	5.5¢ per lb. + 36% ad val.	4.9¢ per lb. + 31% ad val.	4¢ per lb. + 27% ad val.	3.5¢ per lb. + 22.5% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 4, Part 2					
415.05	9¢ per lb.	8¢ per lb.	7¢ per lb.	6¢ per lb.	5¢ per lb.
415.10	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
415.15	4% ad val.	3% ad val.	2% ad val.	1% ad val.	Free
415.20	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
415.27 1/	9¢ per lb.	8¢ per lb.	7¢ per lb.	6¢ per lb.	5¢ per lb.
415.30	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
415.35	3.5¢ per lb.	3¢ per lb.	2.8¢ per lb.	2.4¢ per lb.	2¢ per lb.
415.40	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
415.50	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
416.05	2.7¢ per lb.	2.4¢ per lb.	2.1¢ per lb.	1.8¢ per lb.	1.5¢ per lb.
416.10 1/	0.4¢ per lb.	0.4¢ per lb.	0.3¢ per lb.	0.2¢ per lb.	0.2¢ per lb.
416.30 1/	0.9¢ per lb.	0.8¢ per lb.	0.5¢ per lb.	0.5¢ per lb.	0.5¢ per lb.
416.40	37¢ per lb. on tungsten content + 18% ad val.	33¢ per lb. on tungsten content + 16% ad val.	29¢ per lb. on tungsten content + 14% ad val.	25¢ per lb. on tungsten content + 12% ad val.	21¢ per lb. on tungsten content + 10% ad val.
416.45	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
417.10	0.27¢ per lb.	0.24¢ per lb.	0.2¢ per lb.	0.18¢ per lb.	0.15¢ per lb.
417.12	0.22¢ per lb.	0.2¢ per lb.	0.17¢ per lb.	0.15¢ per lb.	0.12¢ per lb.
417.14	0.5¢ per lb.	0.4¢ per lb.	0.4¢ per lb.	0.3¢ per lb.	0.3¢ per lb.
417.16	0.09¢ per lb.	0.08¢ per lb.	0.07¢ per lb.	0.06¢ per lb.	0.05¢ per lb.
417.18	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
417.20	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
417.22	1.12¢ per lb.	1¢ per lb.	0.87¢ per lb.	0.75¢ per lb.	0.62¢ per lb.
417.24	0.45¢ per lb.	0.4¢ per lb.	0.35¢ per lb.	0.3¢ per lb.	0.25¢ per lb.
417.26	0.47¢ per lb.	0.42¢ per lb.	0.37¢ per lb.	0.31¢ per lb.	0.26¢ per lb.
417.28	18¢ per lb. on molybdenum content + 5% ad val.	16¢ per lb. on molybdenum content + 4.5% ad val.	14¢ per lb. on molybdenum content + 4% ad val.	12¢ per lb. on molybdenum content + 3.5% ad val.	10¢ per lb. on molybdenum content + 3% ad val.
417.30	0.45¢ per lb.	0.4¢ per lb.	0.35¢ per lb.	0.3¢ per lb.	0.25¢ per lb.
417.32 1/	0.6¢ per lb.	0.5¢ per lb.	0.5¢ per lb.	0.4¢ per lb.	0.3¢ per lb.
417.34	0.54¢ per lb.	0.45¢ per lb.	0.4¢ per lb.	0.35¢ per lb.	0.3¢ per lb.
417.36	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
417.38	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
417.40	37¢ per lb. on tungsten content + 18% ad val.	33¢ per lb. on tungsten content + 16% ad val.	29¢ per lb. on tungsten content + 14% ad val.	25¢ per lb. on tungsten content + 12% ad val.	21¢ per lb. on tungsten content + 10% ad val.
417.42	28.5% ad val.	25.5% ad val.	22% ad val.	19% ad val.	16% ad val.
417.44	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
417.50 1/	0.5¢ per lb.	0.3¢ per lb.	0.3¢ per lb.	0.3¢ per lb.	0.3¢ per lb.
417.52	0.4¢ per lb. + 11% ad val.	0.4¢ per lb. + 10% ad val.	0.3¢ per lb. + 8.5% ad val.	0.3¢ per lb. + 7% ad val.	0.25¢ per lb. + 6% ad val.
417.54	0.4¢ per lb. + 18% ad val.	0.4¢ per lb. + 16% ad val.	0.4¢ per lb. + 14% ad val.	0.4¢ per lb. + 12% ad val.	0.4¢ per lb. + 10% ad val.
417.64	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
417.70	1.44¢ per lb.	1.28¢ per lb.	1.1¢ per lb.	0.95¢ per lb.	0.8¢ per lb.
417.72	4.3¢ per lb.	3.8¢ per lb.	3.3¢ per lb.	2.8¢ per lb.	2.4¢ per lb.
417.74	1.1¢ per lb.	1¢ per lb.	0.85¢ per lb.	0.75¢ per lb.	0.6¢ per lb.
417.76	0.9¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.6¢ per lb.	0.5¢ per lb.

1/ See note at the end of this annex.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 4, Part 2--Continued					
417.78	1.8¢ per lb.	1.6¢ per lb.	1.4¢ per lb.	1.2¢ per lb.	1¢ per lb.
417.80	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
417.90	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
417.92	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
418.00	25% ad val.	22% ad val.	19.5% ad val.	16.5% ad val.	14% ad val.
418.14	0.38¢ per lb.	0.34¢ per lb.	0.29¢ per lb.	0.25¢ per lb.	0.21¢ per lb.
418.18	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
418.22	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
418.24 1/	0.22¢ per lb.	0.2¢ per lb.	0.17¢ per lb.	0.15¢ per lb.	0.12¢ per lb.
418.26	18¢ per lb. on molybdenum content + 5% ad val.	16¢ per lb. on molybdenum content + 4.5% ad val.	14¢ per lb. on molybdenum content + 4% ad val.	12¢ per lb. on molybdenum content + 3.5% ad val.	10¢ per lb. on molybdenum content + 3% ad val.
418.28	8.5% ad val.	7.5% ad val.	6.5% ad val.	5.5% ad val.	4.5% ad val.
418.30	37¢ per lb. on tungsten content + 18% ad val.	33¢ per lb. on tungsten content + 16% ad val.	29¢ per lb. on tungsten content + 14% ad val.	25¢ per lb. on tungsten content + 12% ad val.	21¢ per lb. on tungsten content + 10% ad val.
418.32	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
418.40	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
418.42	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
418.44	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
418.50	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
418.52	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
418.60 1/	1.3¢ per lb.	1.2¢ per lb.	1¢ per lb.	0.9¢ per lb.	0.7¢ per lb.
418.62 1/	1.3¢ per lb.	1.2¢ per lb.	1¢ per lb.	0.9¢ per lb.	0.7¢ per lb.
418.68	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
418.72	1.14¢ per lb. + 9% ad val.	1.02¢ per lb. + 8% ad val.	0.89¢ per lb. + 7% ad val.	0.76¢ per lb. + 6% ad val.	0.637¢ per lb. + 5% ad val.
418.74	1.14¢ per lb. + 9% ad val.	1.02¢ per lb. + 8% ad val.	0.89¢ per lb. + 7% ad val.	0.76¢ per lb. + 6% ad val.	0.637¢ per lb. + 5% ad val.
418.76 1/	1.5¢ per lb. on copper content	1.3¢ per lb. on copper content	1¢ per lb. on copper content	1¢ per lb. on copper content	0.8¢ per lb. on copper content
418.78	1.14¢ per lb. + 9% ad val.	1.02¢ per lb. + 8% ad val.	0.89¢ per lb. + 7% ad val.	0.76¢ per lb. + 6% ad val.	0.637¢ per lb. + 5% ad val.
418.80	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
419.00 1/	1.3¢ per lb.	1.2¢ per lb.	1¢ per lb.	0.9¢ per lb.	0.7¢ per lb.
419.02	1.3¢ per lb.	1.2¢ per lb.	1¢ per lb.	0.9¢ per lb.	0.7¢ per lb.
419.04	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
419.10	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
419.20	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
419.22 1/	0.3¢ per lb.	0.25¢ per lb.	0.24¢ per lb.	0.17¢ per lb.	0.17¢ per lb.
419.24	0.9¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.6¢ per lb.	0.5¢ per lb.
419.28	0.375¢ per lb.	0.33¢ per lb.	0.29¢ per lb.	0.25¢ per lb.	0.21¢ per lb.
419.32	1.8¢ per lb.	1.6¢ per lb.	1.4¢ per lb.	1.2¢ per lb.	1¢ per lb.
419.34	0.335¢ per lb.	0.3¢ per lb.	0.26¢ per lb.	0.225¢ per lb.	0.187¢ per lb.
419.38	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
419.40	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
419.42	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
419.44	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.

1/ See note at the end of this annex.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 4, Part 2--Continued					
419.50	16¢ per lb. + 11% ad val.	14¢ per lb. + 10% ad val.	12.5¢ per lb. + 8.5% ad val.	11.1¢ per lb. + 7% ad val.	9¢ per lb. + 6% ad val.
419.52	16¢ per lb. + 11% ad val.	14¢ per lb. + 10% ad val.	12.5¢ per lb. + 8.5% ad val.	11.1¢ per lb. + 7% ad val.	9¢ per lb. + 6% ad val.
419.54	16¢ per lb. + 11% ad val.	14¢ per lb. + 10% ad val.	12.5¢ per lb. + 8.5% ad val.	11.1¢ per lb. + 7% ad val.	9¢ per lb. + 6% ad val.
419.60	18¢ per lb. on molybdenum content + 5% ad val.	16¢ per lb. on molybdenum content + 4.5% ad val.	14¢ per lb. on molybdenum content + 4% ad val.	12¢ per lb. on molybdenum content + 3.5% ad val.	10¢ per lb. on molybdenum content + 3% ad val.
419.70	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
419.74	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
419.80	2.7¢ per lb.	2.4¢ per lb.	2.1¢ per lb.	1.8¢ per lb.	1.5¢ per lb.
419.82	5.4¢ per lb.	4.8¢ per lb.	4.2¢ per lb.	3.6¢ per lb.	3¢ per lb.
419.84	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
419.90	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
420.00	0.9¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.6¢ per lb.	0.5¢ per lb.
420.02	3.5¢ per lb.	3¢ per lb.	2.8¢ per lb.	2.4¢ per lb.	2¢ per lb.
420.04	0.55¢ per lb.	0.5¢ per lb.	0.43¢ per lb.	0.37¢ per lb.	0.3¢ per lb.
420.06	1.35¢ per lb.	1.2¢ per lb.	1.05¢ per lb.	0.9¢ per lb.	0.75¢ per lb.
420.08	2¢ per lb.	1.8¢ per lb.	1.55¢ per lb.	1.35¢ per lb.	1.1¢ per lb.
420.14 1/	2¢ per lb.	1.8¢ per lb.	1.5¢ per lb.	1.3¢ per lb.	1¢ per lb.
420.16	1.4¢ per lb.	1.2¢ per lb.	1.1¢ per lb.	0.9¢ per lb.	0.8¢ per lb.
420.18 1/	0.15¢ per lb.	0.15¢ per lb.	0.1¢ per lb.	0.1¢ per lb.	0.1¢ per lb.
420.20	22¢ per lb.	20¢ per lb.	17¢ per lb.	15¢ per lb.	12¢ per lb.
420.22	18¢ per lb. on molybdenum content + 5% ad val.	16¢ per lb. on molybdenum content + 4.5% ad val.	14¢ per lb. on molybdenum content + 4% ad val.	12¢ per lb. on molybdenum content + 3.5% ad val.	10¢ per lb. on molybdenum content + 3% ad val.
420.24	0.75¢ per lb.	0.68¢ per lb.	0.59¢ per lb.	0.5¢ per lb.	0.42¢ per lb.
420.26	1.3¢ per lb.	1.2¢ per lb.	1¢ per lb.	0.9¢ per lb.	0.7¢ per lb.
420.28	5.4¢ per lb.	4.8¢ per lb.	4.2¢ per lb.	3.5¢ per lb.	3¢ per lb.
420.30	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
420.32	37¢ per lb. on tungsten content + 18% ad val.	33¢ per lb. on tungsten content + 16% ad val.	29¢ per lb. on tungsten content + 14% ad val.	25¢ per lb. on tungsten content + 12% ad val.	21¢ per lb. on tungsten content + 10% ad val.
420.34	28.5% ad val.	25.5% ad val.	22% ad val.	19% ad val.	16% ad val.
420.36	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
420.40	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
420.60	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
420.68	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
420.70	0.7¢ per lb.	0.6¢ per lb.	0.55¢ per lb.	0.45¢ per lb.	0.4¢ per lb.
420.78	0.1¢ per lb.	0.1¢ per lb.	0.08¢ per lb.	0.07¢ per lb.	0.06¢ per lb.
420.82 1/	9¢ per lb.	8¢ per lb.	7¢ per lb.	6¢ per lb.	5¢ per lb.
420.84	0.22¢ per lb.	0.2¢ per lb.	0.17¢ per lb.	0.15¢ per lb.	0.12¢ per lb.
420.86 1/	0.2¢ per lb.	0.2¢ per lb.	0.15¢ per lb.	0.15¢ per lb.	0.1¢ per lb.
420.88	0.65¢ per lb.	0.6¢ per lb.	0.5¢ per lb.	0.45¢ per lb.	0.37¢ per lb.
420.92	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
420.94	1.5¢ per 100 lb.	1.3¢ per 100 lb.	1.15¢ per 100 lb.	1¢ per 100 lb.	0.8¢ per 100 lb.
420.96	2.5¢ per 100 lb.	2¢ per 100 lb.	1¢ per 100 lb.	0.5¢ per 100 lb.	Free
420.98	1.55¢ per lb.	1.4¢ per lb.	1.2¢ per lb.	1.05¢ per lb.	0.87¢ per lb.

1/ See note at the end of this annex.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 4, Part 2--Continued					
421.04 1/	0.5¢ per lb.	0.45¢ per lb.	0.4¢ per lb.	0.3¢ per lb.	0.3¢ per lb.
421.06	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
421.08 1/	0.2¢ per lb.	0.2¢ per lb.	0.15¢ per lb.	0.15¢ per lb.	0.1¢ per lb.
421.10	18¢ per lb. on molybdenum content + 5% ad val.	16¢ per lb. on molybdenum content + 4.5% ad val.	14¢ per lb. on molybdenum content + 4% ad val.	12¢ per lb. on molybdenum content + 3.5% ad val.	10¢ per lb. on molybdenum content + 3% ad val.
421.14	3.24¢ per lb.	2.85¢ per lb.	2.5¢ per lb.	2.15¢ per lb.	1.8¢ per lb.
421.16 1/	0.4¢ per lb.	0.4¢ per lb.	0.3¢ per lb.	0.3¢ per lb.	0.2¢ per lb.
421.18 1/	0.2¢ per lb.	0.2¢ per lb.	0.15¢ per lb.	0.15¢ per lb.	0.1¢ per lb.
421.22	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
421.34	0.25¢ per lb.	0.24¢ per lb.	0.2¢ per lb.	0.18¢ per lb.	0.15¢ per lb.
421.36	0.55¢ per lb.	0.5¢ per lb.	0.43¢ per lb.	0.37¢ per lb.	0.3¢ per lb.
421.44 1/	45¢ per ton	40¢ per ton	35¢ per ton	30¢ per ton	25¢ per ton
421.46 1/	90¢ per ton	80¢ per ton	70¢ per ton	60¢ per ton	50¢ per ton
421.52	0.67¢ per lb.	0.6¢ per lb.	0.52¢ per lb.	0.45¢ per lb.	0.37¢ per lb.
421.54 1/	0.16¢ per lb.	0.15¢ per lb.	0.13¢ per lb.	0.1¢ per lb.	0.09¢ per lb.
421.56	37¢ per lb. on tungsten content + 18% ad val.	33¢ per lb. on tungsten content + 16% ad val.	29¢ per lb. on tungsten content + 14% ad val.	25¢ per lb. on tungsten content + 12% ad val.	21¢ per lb. on tungsten content + 10% ad val.
421.60	28.5% ad val.	25.5% ad val.	22% ad val.	19% ad val.	16% ad val.
421.62	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
421.72	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
421.74	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
421.76	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
421.84	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
421.86	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
421.90	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
422.00	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
422.10	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
422.12	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
422.14	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
422.20	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
422.24	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
422.26	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
422.30	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
422.40	37.8¢ per lb. on tungsten content + 22% ad val.	33¢ per lb. on tungsten content + 20% ad val.	29.4¢ per lb. on tungsten content + 17% ad val.	25¢ per lb. on tungsten content + 15% ad val.	21¢ per lb. on tungsten content + 12.5% ad val.
422.42	37¢ per lb. on tungsten content + 18% ad val.	33¢ per lb. on tungsten content + 16% ad val.	29¢ per lb. on tungsten content + 14% ad val.	25¢ per lb. on tungsten content + 12% ad val.	21¢ per lb. on tungsten content + 10% ad val.
422.58	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
422.60	28.5% ad val.	25.5% ad val.	22% ad val.	19% ad val.	16% ad val.
422.62	28.5% ad val.	25.5% ad val.	22% ad val.	19% ad val.	16% ad val.
422.70	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
422.72 1/	0.55¢ per lb.	0.5¢ per lb.	0.45¢ per lb.	0.35¢ per lb.	0.3¢ per lb.
422.74	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.

1/ See note at the end of this annex.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 4, Part 2--Continued					
422.76 1/	0.25¢ per lb.	0.24¢ per lb.	0.2¢ per lb.	0.18¢ per lb.	0.15¢ per lb.
422.78	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
422.80	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
422.82	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
422.10 1/	5.5% ad val.	5% ad val.	4% ad val.	3.5% ad val.	3% ad val.
422.92	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
422.94	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
423.00	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
423.80	25% ad val.	22% ad val.	19.5% ad val.	16.5% ad val.	14% ad val.
423.84	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
423.86	16¢ per lb. + 11% ad val.	14¢ per lb. + 10% ad val.	12.5¢ per lb. + 8.5% ad val.	11.1¢ per lb. + 7% ad val.	9¢ per lb. + 6% ad val.
423.88	18¢ per lb. on molybdenum content + 5% ad val.	16¢ per lb. on molybdenum content + 4.5% ad val.	14¢ per lb. on molybdenum content + 4% ad val.	12¢ per lb. on molybdenum content + 3.5% ad val.	10¢ per lb. on molybdenum content + 3% ad val.
423.92	37¢ per lb. on tungsten content + 18% ad val.	33¢ per lb. on tungsten content + 16% ad val.	29¢ per lb. on tungsten content + 14% ad val.	25¢ per lb. on tungsten content + 12% ad val.	21¢ per lb. on tungsten content + 10% ad val.
423.94	28.5% ad val.	25.5% ad val.	22% ad val.	19% ad val.	16% ad val.
423.96	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
425.00	2.2¢ per lb. + 11% ad val.	2¢ per lb. + 10% ad val.	1.7¢ per lb. + 8.5% ad val.	1.5¢ per lb. + 7% ad val.	1.25¢ per lb. + 6% ad val.
425.02	2.7¢ per lb. + 13% ad val.	2.4¢ per lb. + 12% ad val.	2.1¢ per lb. + 10% ad val.	1.8¢ per lb. + 9% ad val.	1.5¢ per lb. + 7.5% ad val.
425.04	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
425.06	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
425.08	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
425.09	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
425.10	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
425.12	2.7¢ per lb. + 13% ad val.	2.4¢ per lb. + 12% ad val.	2.1¢ per lb. + 10% ad val.	1.8¢ per lb. + 9% ad val.	1.5¢ per lb. + 7.5% ad val.
425.14	2.7¢ per lb. + 13% ad val.	2.4¢ per lb. + 12% ad val.	2.1¢ per lb. + 10% ad val.	1.8¢ per lb. + 9% ad val.	1.5¢ per lb. + 7.5% ad val.
425.18	4¢ per lb.	3.6¢ per lb.	3.1¢ per lb.	2.7¢ per lb.	2.2¢ per lb.
425.20	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
425.22	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
425.24	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
425.26	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
425.28	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
425.32	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
425.34	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
425.36	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
425.38	2.7¢ per lb. + 13% ad val.	2.4¢ per lb. + 12% ad val.	2.1¢ per lb. + 10% ad val.	1.8¢ per lb. + 9% ad val.	1.5¢ per lb. + 7.5% ad val.
425.39	Free	Free	Free	Free	Free
425.41	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
425.42	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
425.52	2.7¢ per lb. + 13% ad val.	2.4¢ per lb. + 12% ad val.	2.1¢ per lb. + 10% ad val.	1.8¢ per lb. + 9% ad val.	1.5¢ per lb. + 7.5% ad val.
425.70	0.45¢ per lb.	0.4¢ per lb.	0.35¢ per lb.	0.3¢ per lb.	0.265¢ per lb.
425.72	1.1¢ per lb.	1¢ per lb.	0.85¢ per lb.	0.7¢ per lb.	0.6¢ per lb.

1/ See note at the end of this annex.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 4, Part 2--Continued					
425.74	7.6¢ per lb.	6.8¢ per lb.	5.9¢ per lb.	5¢ per lb.	4.2¢ per lb.
425.76	2.15¢ per lb.	1.9¢ per lb.	1.65¢ per lb.	1.44¢ per lb.	1.2¢ per lb.
425.78	5¢ per lb.	4.5¢ per lb.	4¢ per lb.	3.5¢ per lb.	3¢ per lb.
425.82	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
425.84 1/	5.5% ad val.	5% ad val.	4.5% ad val.	3.5% ad val.	3% ad val.
425.86	3.4¢ per lb.	3¢ per lb.	2.65¢ per lb.	2.25¢ per lb.	1.9¢ per lb.
425.88 1/	10¢ per lb.	9¢ per lb.	8¢ per lb.	7¢ per lb.	6¢ per lb.
425.94	5.4¢ per lb.	4.8¢ per lb.	4.2¢ per lb.	3.5¢ per lb.	3¢ per lb.
425.98	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
426.00	1.35¢ per lb.	1.2¢ per lb.	1.05¢ per lb.	0.9¢ per lb.	0.75¢ per lb.
426.04	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
426.08	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
426.10 1/	0.2¢ per lb.	0.2¢ per lb.	0.15¢ per lb.	0.1¢ per lb.	0.1¢ per lb.
426.12	3.1¢ per lb.	2.8¢ per lb.	2.4¢ per lb.	2.1¢ per lb.	1.7¢ per lb.
426.14 1/	3.5¢ per lb.	3.2¢ per lb.	2.8¢ per lb.	2.4¢ per lb.	2¢ per lb.
426.18	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
426.22	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
426.24	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
426.26	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
426.28 1/	1.5¢ per lb. on copper content	1.35¢ per lb. on copper content	1.15¢ per lb. on copper content	1¢ per lb. on copper content	0.8¢ per lb. on copper content
426.32	1.1¢ per lb. + 9.4% ad val.	1¢ per lb. + 8.4% ad val.	0.8¢ per lb. + 7.5% ad val.	0.7¢ per lb. + 6.5% ad val.	0.6¢ per lb. + 5% ad val.
426.34	1.1¢ per lb. + 9.4% ad val.	1¢ per lb. + 8.4% ad val.	0.8¢ per lb. + 7.5% ad val.	0.7¢ per lb. + 6.5% ad val.	0.6¢ per lb. + 5% ad val.
426.36 1/	1.1¢ per lb.	1¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.6¢ per lb.
426.42 1/	1.3¢ per lb.	1.2¢ per lb.	1¢ per lb.	0.9¢ per lb.	0.7¢ per lb.
426.44	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
426.46	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
426.52	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
426.54	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
426.56	16¢ per lb. + 11% ad val.	14¢ per lb. + 10% ad val.	12¢ per lb. + 8.5% ad val.	11.1¢ per lb. + 7% ad val.	9¢ per lb. + 6% ad val.
426.58	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
426.62	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
426.64	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
426.72	5.4¢ per lb.	4.8¢ per lb.	4¢ per lb.	3.5¢ per lb.	3¢ per lb.
426.77	2.25¢ per lb.	2¢ per lb.	1.75¢ per lb.	1.5¢ per lb.	1.2¢ per lb.
426.78	12.5¢ per lb.	11.2¢ per lb.	9.8¢ per lb.	8.4¢ per lb.	7¢ per lb.
426.82	4.5¢ per lb.	4¢ per lb.	3.5¢ per lb.	3¢ per lb.	2.5¢ per lb.
426.84	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
426.86	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
426.88	9% ad val.	8% ad val.	7.5% ad val.	6.5% ad val.	6% ad val.
426.92	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
426.94	10.8¢ per lb.	9.5¢ per lb.	8.4¢ per lb.	7.2¢ per lb.	6¢ per lb.
426.96	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
426.98	1.8¢ per lb.	1.6¢ per lb.	1.4¢ per lb.	1.2¢ per lb.	1¢ per lb.
427.02	2.2¢ per lb.	2¢ per lb.	1.7¢ per lb.	1.5¢ per lb.	1.2¢ per lb.
427.04	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.

1/ See note at the end of this annex.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 4, Part 2--Continued					
427.06	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
427.08	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
427.12	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
427.14	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
427.16	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
427.18	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
427.20	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
427.22	28.5% ad val.	25.5% ad val.	22% ad val.	19% ad val.	16% ad val.
427.24	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
427.25	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
427.28	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
427.30	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
427.40	2.7¢ per lb. + 13% ad val.	2.4¢ per lb. + 12% ad val.	2.1¢ per lb. + 10% ad val.	1.8¢ per lb. + 9% ad val.	1.5¢ per lb. + 7.5% ad val.
427.42	2.7¢ per lb. + 13% ad val.	2.4¢ per lb. + 12% ad val.	2.1¢ per lb. + 10% ad val.	1.8¢ per lb. + 9% ad val.	1.5¢ per lb. + 7.5% ad val.
427.44	2.7¢ per lb. + 13% ad val.	2.4¢ per lb. + 12% ad val.	2.1¢ per lb. + 10% ad val.	1.8¢ per lb. + 9% ad val.	1.5¢ per lb. + 7.5% ad val.
427.45	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
427.46	2.7¢ per lb. + 13% ad val.	2.4¢ per lb. + 12% ad val.	2.1¢ per lb. + 10% ad val.	1.8¢ per lb. + 9% ad val.	1.5¢ per lb. + 7.5% ad val.
427.48	0.78¢ per lb.	0.7¢ per lb.	0.6¢ per lb.	0.52¢ per lb.	0.43¢ per lb.
427.53	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
427.54	2.7¢ per lb. + 13% ad val.	2.4¢ per lb. + 12% ad val.	2.1¢ per lb. + 10% ad val.	1.8¢ per lb. + 9% ad val.	1.5¢ per lb. + 7.5% ad val.
427.56	3.6¢ per lb.	3.2¢ per lb.	2.8¢ per lb.	2.4¢ per lb.	2¢ per lb.
427.58	2.7¢ per lb. + 13% ad val.	2.4¢ per lb. + 12% ad val.	2.1¢ per lb. + 10% ad val.	1.8¢ per lb. + 9% ad val.	1.5¢ per lb. + 7.5% ad val.
427.60	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
427.62	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
427.64	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
427.70	2.7¢ per lb. + 13% ad val.	2.4¢ per lb. + 12% ad val.	2.1¢ per lb. + 10% ad val.	1.8¢ per lb. + 9% ad val.	1.5¢ per lb. + 7.5% ad val.
427.72 1/	2.5¢ per lb.	2.4¢ per lb.	2¢ per lb.	1.8¢ per lb.	1.5¢ per lb.
427.74	2.2¢ per lb.	2¢ per lb.	1.7¢ per lb.	1.5¢ per lb.	1.2¢ per lb.
427.82	2.7¢ per lb. + 13% ad val.	2.4¢ per lb. + 12% ad val.	2.1¢ per lb. + 10% ad val.	1.8¢ per lb. + 9% ad val.	1.5¢ per lb. + 7.5% ad val.
427.84	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
427.88	5.4¢ per gal.	4.8¢ per gal.	4.2¢ per gal.	3.5¢ per gal.	3¢ per gal.
427.92	2.7¢ per lb.	2.4¢ per lb.	2¢ per lb.	1.8¢ per lb.	1.5¢ per lb.
427.94	2.7¢ per lb.	2.4¢ per lb.	2.1¢ per lb.	1.8¢ per lb.	1.5¢ per lb.
427.96	13.7¢ per gal.	12.2¢ per gal.	10.7¢ per gal.	9.1¢ per gal.	7.6¢ per gal.
427.98	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
428.04	2.7¢ per lb. + 13% ad val.	2.4¢ per lb. + 12% ad val.	2.1¢ per lb. + 10% ad val.	1.8¢ per lb. + 9% ad val.	1.5¢ per lb. + 7.5% ad val.
428.06	2.7¢ per lb.	2.4¢ per lb.	2.1¢ per lb.	1.8¢ per lb.	1.5¢ per lb.
428.12	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
428.20	2.7¢ per lb. + 13% ad val.	2.4¢ per lb. + 12% ad val.	2.1¢ per lb. + 10% ad val.	1.8¢ per lb. + 9% ad val.	1.5¢ per lb. + 7.5% ad val.
428.22	2.7¢ per lb. + 13% ad val.	2.4¢ per lb. + 12% ad val.	2.1¢ per lb. + 10% ad val.	1.8¢ per lb. + 9% ad val.	1.5¢ per lb. + 7.5% ad val.

1/ See note at the end of this annex.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 4, Part 2--Continued					
428.24	2.7¢ per lb. + 13% ad val.	2.4¢ per lb. + 12% ad val.	2.1¢ per lb. + 10% ad val.	1.8¢ per lb. + 9% ad val.	1.5¢ per lb. + 7.5% ad val.
428.26	2.7¢ per lb. + 13% ad val.	2.4¢ per lb. + 12% ad val.	2.1¢ per lb. + 10% ad val.	1.8¢ per lb. + 9% ad val.	1.5¢ per lb. + 7.5% ad val.
428.30	2.7¢ per lb. + 13% ad val.	2.4¢ per lb. + 12% ad val.	2.1¢ per lb. + 10% ad val.	1.8¢ per lb. + 9% ad val.	1.5¢ per lb. + 7.5% ad val.
428.32	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
428.34	2.7¢ per lb. + 13% ad val.	2.4¢ per lb. + 12% ad val.	2.1¢ per lb. + 10% ad val.	1.5¢ per lb. + 9% ad val.	1.5¢ per lb. + 7.5% ad val.
428.36	0.35¢ per lb.	0.3¢ per lb.	0.25¢ per lb.	0.2¢ per lb.	0.2¢ per lb.
428.38	0.9¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.6¢ per lb.	0.5¢ per lb.
428.40	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
428.42	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
428.44	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
428.46	2.7¢ per lb. + 13% ad val.	2.4¢ per lb. + 12% ad val.	2.1¢ per lb. + 10% ad val.	1.8¢ per lb. + 9% ad val.	1.5¢ per lb. + 7.5% ad val.
428.50	1.8¢ per lb.	1.6¢ per lb.	1.4¢ per lb.	1.2¢ per lb.	1¢ per lb.
428.52 1/	3¢ per lb.	2.8¢ per lb.	2.4¢ per lb.	2¢ per lb.	1.7¢ per lb.
428.54	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
428.58	1.35¢ per lb.	1.2¢ per lb.	1.05¢ per lb.	0.9¢ per lb.	0.75¢ per lb.
428.62	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
428.64	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
428.66	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
428.68	1.1¢ per lb. + 5.5% ad val.	1¢ per lb. + 5% ad val.	0.87¢ per lb. + 4% ad val.	0.75¢ per lb. + 3.5% ad val.	0.6¢ per lb. + 3% ad val.
428.72	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
428.80	2.7¢ per lb. + 13% ad val.	2.4¢ per lb. + 12% ad val.	2.1¢ per lb. + 10% ad val.	1.8¢ per lb. + 9% ad val.	1.5¢ per lb. + 7% ad val.
428.82	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
428.84	2.7¢ per lb. + 13% ad val.	2.4¢ per lb. + 12% ad val.	2.1¢ per lb. + 10% ad val.	1.8¢ per lb. + 9% ad val.	1.5¢ per lb. + 7% ad val.
428.86	2.7¢ per lb. + 13% ad val.	2.4¢ per lb. + 12% ad val.	2.1¢ per lb. + 10% ad val.	1.8¢ per lb. + 9% ad val.	1.5¢ per lb. + 7% ad val.
428.88	2.7¢ per lb. + 13% ad val.	2.4¢ per lb. + 12% ad val.	2.1¢ per lb. + 10% ad val.	1.8¢ per lb. + 9% ad val.	1.5¢ per lb. + 7% ad val.
428.90	1.8¢ per lb.	1.6¢ per lb.	1.4¢ per lb.	1.2¢ per lb.	1¢ per lb.
428.92	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
428.94	2.2¢ per lb. + 11% ad val.	2¢ per lb. + 10% ad val.	1.7¢ per lb. + 8.5% ad val.	1.5¢ per lb. + 7% ad val.	1.2¢ per lb. + 6% ad val.
428.96	2.7¢ per lb. + 13% ad val.	2.4¢ per lb. + 12% ad val.	2.1¢ per lb. + 10% ad val.	1.8¢ per lb. + 9% ad val.	1.5¢ per lb. + 7.5% ad val.
429.00	2.7¢ per lb. + 13% ad val.	2.4¢ per lb. + 12% ad val.	2.1¢ per lb. + 10% ad val.	1.8¢ per lb. + 9% ad val.	1.5¢ per lb. + 7.5% ad val.
429.10	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
429.12	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
429.20	2.7¢ per lb. + 13% ad val.	2.4¢ per lb. + 12% ad val.	2.1¢ per lb. + 10% ad val.	1.8¢ per lb. + 9% ad val.	1.5¢ per lb. + 7.5% ad val.
429.22	0.58¢ per lb.	0.5¢ per lb.	0.45¢ per lb.	0.39¢ per lb.	0.32¢ per lb.
429.24	3.6¢ per lb.	3.2¢ per lb.	2.8¢ per lb.	2.4¢ per lb.	2¢ per lb.

1/ See note at the end of this annex.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 4, Part 2--Continued					
429.26 1/	6.75¢ per lb.	6¢ per lb.	5.25¢ per lb.	4.5¢ per lb.	3.7¢ per lb.
429.28	2.1¢ per lb. + 10.8% ad val.	1.9¢ per lb. + 9.5% ad val.	1.6¢ per lb. + 8.4% ad val.	1.4¢ per lb. + 7% ad val.	1.2¢ per lb. + 6% ad val.
429.30	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
429.32	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
429.34 1/	5% ad val.	4.5% ad val.	4% ad val.	3.5% ad val.	3% ad val.
429.38	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
429.42 1/	6.5% ad val.	6% ad val.	5% ad val.	4% ad val.	3.5% ad val.
429.44	2.25¢ per lb. + 11% ad val.	2¢ per lb. + 10% ad val.	1.75¢ per lb. + 8.5% ad val.	1.5¢ per lb. + 7% ad val.	1.25¢ per lb. + 6% ad val.
429.46	2.25¢ per lb. + 11% ad val.	2¢ per lb. + 10% ad val.	1.75¢ per lb. + 8.5% ad val.	1.5¢ per lb. + 7% ad val.	1.25¢ per lb. + 6% ad val.
429.47	2.7¢ per lb. + 13% ad val.	2.4¢ per lb. + 12% ad val.	2.1¢ per lb. + 10% ad val.	1.8¢ per lb. + 9% ad val.	1.5¢ per lb. + 7.5% ad val.
429.48	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
429.52	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
429.60	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
429.95	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
430.00	9% ad val., but not less than the highest rate applicable to any component compound	8% ad val., but not less than the highest rate applicable to any component compound	7% ad val., but not less than the highest rate applicable to any component compound	6% ad val., but not less than the highest rate applicable to any component compound	5% ad val., but not less than the highest rate applicable to any component compound
432.00	9% ad val., but not less than the highest rate applicable to any component material	8% ad val., but not less than the highest rate applicable to any component material	7% ad val., but not less than the highest rate applicable to any component material	6% ad val., but not less than the highest rate applicable to any component material	5% ad val., but not less than the highest rate applicable to any component material
Schedule 4, Part 3					
435.10	2.5% ad val.	2% ad val.	2% ad val.	1.5% ad val.	1.5% ad val.
435.40	Free	Free	Free	Free	Free
435.45	12% ad val.	10.5% ad val.	9% ad val.	8% ad val.	6.5% ad val.
435.70	$6.48 per lb. of anhydrous morphine content	$5.76 per lb. of anhydrous morphine content	$5.04 per lb. of anhydrous morphine content	$4.32 per lb. of anhydrous morphine content	$3.60 per lb. of anhydrous morphine content
436.00	The rate provided for such product in this subpart, but not less than 9% ad val.	The rate provided for such product in this subpart, but not less than 8% ad val.	The rate provided for such product in this subpart, but not less than 7% ad val.	The rate provided for such product in this subpart, but not less than 6% ad val.	The rate provided for such product in this subpart, but not less than 5% ad val.
437.00	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
437.02	45.5¢ per lb.	40.5¢ per lb.	35.5¢ per lb.	30.5¢ per lb.	25¢ per lb.
437.04	67.5¢ per lb.	60¢ per lb.	52.5¢ per lb.	45¢ per lb.	37.5¢ per lb.
437.06	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
437.10	$2.34 per oz.	$2.08 per oz.	$1.82 per oz.	$1.56 per oz.	$1.30 per oz.

1/ See note at the end of this annex.

Item in TSUS as modified by Annex II	1968	1969	1970	1971	1972
	Rates of duty effective on and after January 1, --				
Schedule 4, Part 3--Continued					
437.12	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
437.13	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
437.14	$2.70 per oz.	$2.40 per oz.	$2.10 per oz.	$1.80 per oz.	$1.50 per oz.
437.16	9¢ per oz.	8¢ per oz.	7¢ per oz,	6¢ per oz.	5¢ per oz.
437.18	19.5¢ per lb.	17¢ per lb.	15¢ per lb.	13¢ per lb.	11¢ per lb.
437.20	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
437.22 1/	2.5% ad val.	2% ad val.	2% ad val.	1.5% ad val.	1.5% ad val.
437.24	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
437.30 1/	2.5% ad val.	2% ad val.	2% ad val.	1.5% ad val.	1.5% ad val.
437.32	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
437.36	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
437.38	$1.35 per lb.	$1.20 per lb.	$1.05 per lb.	90¢ per lb.	75¢ per lb.
437.40	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
437.44	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
437.49	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
437.50	18¢ per oz.	16¢ per oz.	14¢ per oz.	12¢ per oz.	10¢ per oz.
437.51	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
437.52	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
437.54	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
437.55 1/	6.5% ad val.	6% ad val.	5% ad val.	4% ad val.	3.5% ad val.
437.57	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
437.58 1/	2.5% ad val.	2% ad val.	2% ad val.	1.5% ad val.	1.5% ad val.
437.60	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
437.64	31¢ per lb.	28¢ per lb.	24¢ per lb.	21¢ per lb.	17¢ per lb.
437.65	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
437.68	8¢ per lb.	7¢ per lb.	6¢ per lb.	5¢ per lb.	4.5¢ per lb.
437.69 1/	4.5¢ per lb.	4¢ per lb.	3.5¢ per lb.	3¢ per lb.	2.7¢ per lb.
437.70	25% ad val.	22% ad val.	19.5% ad val.	16.5% ad val.	14% ad val.
437.72	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
437.74	54% ad val.	48% ad val.	42% ad val.	36% ad val.	30% ad val.
437.82	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
437.84 1/	2.5% ad val.	2% ad val.	2% ad val.	1.5% ad val.	1.5% ad val.
437.86	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
438.01	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
438.02	The rate provided for such product in this subpart, but not less than 9% ad val.	The rate provided for such product in this subpart, but not less than 8% ad val.	The rate provided for such product in this subpart, but not less than 7% ad val.	The rate provided for such product in this subpart, but not less 6% ad val.	The rate provided for such product in this subpart, but not less 5% ad val.
439.30 1/	2% ad val.	1.5% ad val.	1% ad val.	0.5% ad val.	Free
439.50	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
440.00	The rate provided for such product in this subpart, but not less than 9% ad val.	The rate provided for such product in this subpart, but not less than 8% ad val.	The rate provided for such product in this subpart, but not less than 7% ad val.	The rate provided for such product in this subpart, but not less than 6% ad val.	The rate provided for such product in this subpart, but not less than 5% ad val.

1/ See note at the end of this annex.

Item in TSUS as modified by Annex II	1968	1969	1970	1971	1972
	Rates of duty effective on and after January 1, --				
Schedule 4, Part 4					
445.05	2.4¢ per lb. + 18% ad val.	2¢ per lb. + 16% ad val.	1.9¢ per lb. + 14% ad val.	1.5¢ per lb. + 12% ad val.	1.3¢ per lb. + 10% ad val.
445.10	2.4¢ per lb. + 18% ad val.	2.2¢ per lb. + 16% ad val.	1.9¢ per lb. + 14% ad val.	1.6¢ per lb. + 12% ad val.	1.3¢ per lb. + 10% ad val.
445.15	2.4¢ per lb. + 18% ad val.	2.2¢ per lb. + 16% ad val.	1.9¢ per lb. + 14% ad val.	1.6¢ per lb. + 12% ad val.	1.3¢ per lb. + 10% ad val.
445.20 1/	6.7¢ per lb.	6¢ per lb.	5.2¢ per lb.	4.5¢ per lb.	3.7¢ per lb.
445.25	17¢ per lb.	15¢ per lb.	13¢ per lb.	11.5¢ per lb.	9.7¢ per lb.
445.30	2.4¢ per lb. + 18% ad val.	2.2¢ per lb. + 16% ad val.	1.9¢ per lb. + 14% ad val.	1.6¢ per lb. + 12% ad val.	1.3¢ per lb. + 10% ad val.
445.35	2.4¢ per lb. + 18% ad val.	2¢ per lb. + 16% ad val.	1.9¢ per lb. + 14% ad val.	1.5¢ per lb. + 12% ad val.	1.3¢ per lb. + 10% ad val.
445.40	1.1¢ per lb. + 5.5% ad val.	1¢ per lb. + 5% ad val.	0.85¢ per lb. + 4% ad val.	0.7¢ per lb. + 3.5% ad val.	0.6¢ per lb. + 3% ad val.
445.45	2.2¢ per lb. + 11% ad val.	2¢ per lb. + 10% ad val.	1.7¢ per lb. + 8.5% ad val.	1.5¢ per lb. + 7% ad val.	1.25¢ per lb. + 6% ad val.
445.50	2¢ per lb. + 18% ad val.	2¢ per lb. + 16% ad val.	1.5¢ per lb. + 14% ad val.	1.3¢ per lb. + 12% ad val.	1.3¢ per lb. + 10% ad val.
446.10	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
446.12	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
446.15	5.5% ad val.	5% ad val.	4.5% ad val.	3.5% ad val.	3% ad val.
446.30	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
Schedule 4, Part 5					
450.10	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
450.20 1/	6.5% ad val.	6% ad val.	5% ad val.	4% ad val.	3.5% ad val.
450.30	5.4¢ per lb. + 6% ad val.	4.8¢ per lb. + 5.5% ad val.	4.2¢ per lb. + 4.5% ad val.	3.5¢ per lb. + 4% ad val.	3¢ per lb. + 3% ad val.
450.40	10.8¢ per lb. + 6% ad val.	9.5¢ per lb. + 5.5% ad val.	8.4¢ per lb. + 4.5% ad val.	7¢ per lb. + 4% ad val.	6¢ per lb. + 3% ad val.
450.50	21.5¢ per lb. + 6% ad val.	19¢ per lb. + 5.5% ad val.	16.8¢ per lb. + 4.5% ad val.	14.4¢ per lb. + 4% ad val.	12¢ per lb. + 3% ad val.
452.14	3% ad val.	2% ad val.	1.5% ad val.	0.5% ad val.	Free
452.20	Free	Free	Free	Free	Free
452.22	Free	Free	Free	Free	Free
452.24 1/	3.5% ad val.	3.5% ad val.	3% ad val.	3% ad val.	3% ad val.
452.28	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
452.34	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
452.44	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
452.48 1/	3.5% ad val.	3% ad val.	2.5% ad val.	2% ad val.	2% ad val.
452.52	Free	Free	Free	Free	Free
452.54	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
452.58	3.5% ad val.	3% ad val.	2.5% ad val.	2% ad val.	2% ad val.
452.64	Free	Free	Free	Free	Free
452.68	Free	Free	Free	Free	Free
452.80 1/	3.5% ad val.	3% ad val.	2.5% ad val.	2% ad val.	2% ad val.

1/ See note at the end of this annex.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 4, Part 6					
455.02	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
455.04	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
455.06	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
455.16	1.4¢ per lb. + 7% ad val.	1.25¢ per lb. + 6% ad val.	1¢ per lb. + 5.5% ad val.	0.9¢ per lb. 4.5% ad val.	0.8¢ per lb. + 4% ad val.
455.18	2.4¢ per lb. + 9% ad val.	2¢ per lb. + 8% ad val.	1.9¢ per lb. + 7% ad val.	1.5¢ per lb. + 6% ad val.	1.3¢ per lb. + 5% ad val.
455.20	3.5¢ per lb. + 11% ad val.	3¢ per lb. + 10% ad val.	2.9¢ per lb. + 8.5% ad val.	2¢ per lb. + 7.5% ad val.	2¢ per lb. + 6% ad val.
455.22	2.4¢ per lb. + 9% ad val.	2¢ per lb. + 8% ad val.	1.9¢ per lb. + 7% ad val.	1.3¢ per lb. + 6% ad val.	1.3¢ per lb. + 5% ad val.
455.24	3.8¢ per lb. + 11% ad val.	3¢ per lb. + 10% ad val.	2.9¢ per lb. + 8.5% ad val.	2.5¢ per lb. + 7.5% ad val.	2¢ per lb. + 6% ad val.
455.30	0.9¢ per lb. + 11% ad val.	0.8¢ per lb. + 10% ad val.	0.7¢ per lb. + 8.5% ad val.	0.6¢ per lb. + 7% ad val.	0.5¢ per lb. + 6% ad val.
455.32	3.5¢ per lb. + 11% ad val.	3¢ per lb. + 10% ad val.	2.8¢ per lb. + 8.5% ad val.	2.4¢ per lb. + 7% ad val.	2¢ per lb. + 6% ad val.
455.34	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
455.36	0.45¢ per lb. + 6.5% ad val.	0.4¢ per lb. + 6% ad val.	0.35¢ per lb. + 5% ad val.	0.3¢ per lb. + 4% ad val.	0.25¢ per lb. + 3.5% ad val.
455.38	3.5¢ per lb. + 11% ad val.	3¢ per lb. + 10% ad val.	2.8¢ per lb. + 8.5% ad val.	2.4¢ per lb. + 7% ad val.	2¢ per lb. + 6% ad val.
455.40	1.4¢ per lb. + 9% ad val.	1.3¢ per lb. + 8% ad val.	1.1¢ per lb. + 7% ad val.	0.97¢ per lb. + 6% ad val.	0.8¢ per lb. + 5% ad val.
455.42	3.5¢ per lb. + 11% ad val.	3¢ per lb. + 10% ad val.	2.8¢ per lb. + 8.5% ad val.	2.4¢ per lb. + 7% ad val.	2¢ per lb. + 6% ad val.
455.44	0.45¢ per lb. + 6.5% ad val.	0.4¢ per lb. + 6% ad val.	0.35¢ per lb. + 5% ad val.	0.3¢ per lb. + 4% ad val.	0.25¢ per lb. + 3.5% ad val.
455.46	3.5¢ per lb. + 11% ad val.	3¢ per lb. + 10% ad val.	2.5¢ per lb. + 8.5% ad val.	2.4¢ per lb. + 7% ad val.	2¢ per lb. + 6% ad val.
Schedule 4, Part 7					
460.10	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
460.15	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.
460.20	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
460.25	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.
460.30	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
460.35	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
460.40	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.
460.45	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
460.50	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.
460.55	32% ad val.	28.5% ad val.	25% ad val.	21.5% ad val.	18% ad val.
460.60	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
460.65	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.
460.70	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
460.75	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.
460.80	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 4, Part 7--Continued					
460.85	14¢ per lb. + 10.5% ad val.	12¢ per lb. + 9.5% ad val.	11¢ per lb. + 8% ad val.	9¢ per lb. + 7% ad val.	8¢ per lb. + 6% ad val.
460.90	14.4¢ per lb. + 13% ad val.	12¢ per lb. + 12% ad val.	11.2¢ per lb. + 10% ad val.	9¢ per lb. + 9% ad val.	8¢ per lb. + 7.5% ad val.
461.05	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
461.10	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
461.15	14.4¢ per lb. + 21.5% ad val.	12.8¢ per lb. + 19% ad val.	11.2¢ per lb. + 16.5% ad val.	9.6¢ per lb. + 14% ad val.	8¢ per lb. + 12% ad val.
461.20 1/	4% ad val.	4% ad val.	3% ad val.	3% ad val.	2.5% ad val.
461.30	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
461.35	14.4¢ per lb. + 13% ad val.	12¢ per lb. + 12% ad val.	11.2¢ per lb. + 10% ad val.	9¢ per lb. + 9% ad val.	8¢ per lb. + 7.5% ad val.
461.40	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
461.45	14.4¢ per lb. + 13% ad val.	12¢ per lb. + 12% ad val.	11.2¢ per lb. + 10% ad val.	9¢ per lb. + 9% ad val.	8¢ per lb. + 7.5% ad val.
Schedule 4, Part 8					
465.05	2.7¢ per lb. + 13% ad val.	2.4¢ per lb. + 12% ad val.	2.1¢ per lb. + 10% ad val.	1.8¢ per lb. + 9% ad val.	1.5¢ per lb. + 7.5% ad val.
465.10	3.3¢ per lb. + 13.5% ad val.	3¢ per lb. + 12% ad val.	2.5¢ per lb. + 10.5% ad val.	2.2¢ per lb. + 9% ad val.	1.8¢ per lb. + 7.5% ad val.
465.15	2.7¢ per lb. + 13% ad val.	2.4¢ per lb. + 12% ad val.	2.1¢ per lb. + 10% ad val.	1.8¢ per lb. + 9% ad val.	1.5¢ per lb. + 7.5% ad val.
465.20	3.3¢ per lb. + 13.5% ad val.	3¢ per lb. + 12% ad val.	2.5¢ per lb. + 10.5% ad val.	2.2¢ per lb. + 9% ad val.	1.8¢ per lb. + 7.5% ad val.
465.25	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
465.30	1.3¢ per lb. + 9% ad val.	1.2¢ per lb. + 8% ad val.	1¢ per lb. + 7% ad val.	0.9¢ per lb. + 6% ad val.	0.7¢ per lb. + 5% ad val.
465.35	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
465.40	1.3¢ per lb. + 9% ad val.	1.2¢ per lb. + 8% ad val.	1¢ per lb. + 7% ad val.	0.9¢ per lb. + 6% ad val.	0.7¢ per lb. + 5% ad val.
465.45	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
465.50	1.3¢ per lb. + 9% ad val.	1.2¢ per lb. + 8% ad val.	1¢ per lb. + 7% ad val.	0.9¢ per lb. + 6% ad val.	0.7¢ per lb. + 5% ad val.
465.55	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
465.60	0.6¢ per lb. + 9.4% ad val.	0.6¢ per lb. + 8% ad val.	0.5¢ per lb. + 7% ad val.	0.4¢ per lb. + 6% ad val.	0.3¢ per lb. + 5% ad val.
465.65	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
465.70	0.65¢ per lb. + 12.5% ad val.	0.6¢ per lb. + 11% ad val.	0.52¢ per lb. + 9.5% ad val.	0.45¢ per lb. + 8% ad val.	0.3¢ per lb. + 7% ad val.
465.75	1.8¢ per lb. + 12.5% ad val.	1.6¢ per lb. + 11% ad val.	1.4¢ per lb. + 9.5% ad val.	1.2¢ per lb. + 8% ad val.	1¢ per lb. + 7% ad val.
465.80	1.3¢ per lb. + 12.5% ad val.	1.2¢ per lb. + 11% ad val.	1¢ per lb. + 9.5% ad val.	0.9¢ per lb. + 8% ad val.	0.7¢ per lb. + 7% ad val.
465.85	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
465.87	14.4¢ per lb.	12.5¢ per lb.	11¢ per lb.	9.8¢ per lb.	8¢ per lb.
465.90	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
465.92	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.

1/ See note at the end of this annex.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 4, Part 8--Continued					
465.95	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
466.05	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
466.10	0.9¢ per lb. + 9% ad val.	0.8¢ per lb. + 8% ad val.	0.7¢ per lb. + 7% ad val.	0.6¢ per lb. + 6% ad val.	0.5¢ per lb. + 5% ad val.
466.15 1/	0.9¢ per lb. + 5.5% ad val.	0.8¢ per lb. + 5% ad val.	0.7¢ per lb. + 4.5% ad val.	0.6¢ per lb. + 3.5% ad val.	0.5¢ per lb. + 3% ad val.
466.20	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
466.25	0.9¢ per lb. + 7.5% ad val.	0.8¢ per lb. + 6.5% ad val.	0.7¢ per lb. + 5.5% ad val.	0.5¢ per lb. + 5% ad val.	0.5¢ per lb. + 4% ad val.
466.30	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
Schedule 4, Part 9					
470.15 1/	4.5% ad val.	4% ad val.	3.5% ad val.	3% ad val.	2.5% ad val.
470.23	3% ad val.	2% ad val.	1.5% ad val.	0.5% ad val.	Free
470.55	4.5% ad val.	4% ad val.	3.5% ad val.	3% ad val.	2.5% ad val.
470.57	6.5% ad val.	6% ad val.	5% ad val.	4% ad val.	3.5% ad val.
470.65	3% ad val.	2% ad val.	1% ad val.	0.5% ad val.	Free
470.85 1/	4.5% ad val.	4% ad val.	3.5% ad val.	3% ad val.	2.5% ad val.
472.04	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
472.06	1.08¢ per lb.	0.95¢ per lb.	0.84¢ per lb.	0.72¢ per lb.	0.6¢ per lb.
472.10	$2.29 per ton	$2.04 per ton	$1.78 per ton	$1.53 per ton	$1.27 per ton
472.12	$5.85 per ton	$5.20 per ton	$4.55 per ton	$3.90 per ton	$3.25 per ton
472.14	0.55¢ per lb.	0.5¢ per lb.	0.43¢ per lb.	0.35¢ per lb.	0.3¢ per lb.
472.22	0.09¢ per lb.	0.08¢ per lb.	0.07¢ per lb.	0.06¢ per lb.	0.05¢ per lb.
472.24 1/	5.5% ad val.	5% ad val.	4.5% ad val.	3.5% ad val.	3% ad val.
472.30 1/	0.45¢ per lb.	0.4¢ per lb.	0.35¢ per lb.	0.3¢ per lb.	0.25¢ per lb.
472.40	0.1¢ per lb.	0.1¢ per lb.	0.08¢ per lb.	0.06¢ per lb.	0.06¢ per lb.
472.42	0.05¢ per lb.	0.03¢ per lb.	0.03¢ per lb.	0.03¢ per lb.	0.03¢ per lb.
472.44	0.2¢ per lb.	0.2¢ per lb.	0.15¢ per lb.	0.15¢ per lb.	0.1¢ per lb.
472.46	0.05¢ per lb.	0.03¢ per lb.	0.02¢ per lb.	0.01¢ per lb.	Free
472.48	0.15¢ per lb.	0.15¢ per lb.	0.13¢ per lb.	0.1¢ per lb.	0.09¢ per lb.
472.50	14.5% ad val.	13.5% ad val.	12% ad val.	11% ad val.	10% ad val.
473.02	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
473.04	4% ad val.	3% ad val.	2% ad val.	1% ad val.	Free
473.06	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
473.10	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
473.12	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
473.14	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
473.16	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
473.18	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
473.19	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
473.20	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
473.24	1¢ per lb. + 13.5% ad val.	1¢ per lb. + 12% ad val.	0.8¢ per lb. + 10.5% ad val.	0.7¢ per lb. + 9% ad val.	0.6¢ per lb. + 7.5% ad val.
473.28 1/	3¢ per lb.	2.7¢ per lb.	2.3¢ per lb.	2¢ per lb.	1.7¢ per lb.
473.30	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
473.32	0.1¢ per lb.	0.1¢ per lb.	0.08¢ per lb.	0.06¢ per lb.	0.06¢ per lb.
473.36	0.2¢ per lb.	0.2¢ per lb.	0.15¢ per lb.	0.15¢ per lb.	0.1¢ per lb.

1/ See note at the end of this annex.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 4, Part 9--Continued					
473.38	0.16¢ per lb.	0.15¢ per lb.	0.13¢ per lb.	0.1¢ per lb.	0.09¢ per lb.
473.40	14.5% ad val.	13.5% ad val.	12% ad val.	11% ad val.	10% ad val.
473.44	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
473.46 1/	0.5¢ per lb.	0.45¢ per lb.	0.4¢ per lb.	0.3¢ per lb.	0.3¢ per lb.
473.48 1/	0.9¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.6¢ per lb.	0.5¢ per lb.
473.50	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
473.54	1.8¢ per lb.	1.6¢ per lb.	1.4¢ per lb.	1.2¢ per lb.	1¢ per lb.
473.60 1/	0.9¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.6¢ per lb.	0.5¢ per lb.
473.62	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
473.66 1/	27¢ per lb.	24¢ per lb.	21¢ per lb.	18¢ per lb.	15¢ per lb.
473.70	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
473.72	0.78¢ per lb.	0.7¢ per lb.	0.6¢ per lb.	0.52¢ per lb.	0.43¢ per lb.
473.74	0.78¢ per lb. + 6.5% ad val.	0.7¢ per lb. + 6% ad val.	0.6¢ per lb. + 5% ad val.	0.5¢ per lb. + 4.5% ad val.	0.43¢ per lb. + 3.5% ad val.
473.80	2.2¢ per lb.	2¢ per lb.	1.7¢ per lb.	1.5¢ per lb.	1.2¢ per lb.
473.82	8% ad val.	7% ad val.	6% ad val.	5% ad val.	4.5% ad val.
473.84	1.9¢ per lb.	1.7¢ per lb.	1.4¢ per lb.	1.2¢ per lb.	1¢ per lb.
473.86	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
473.88	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
473.90	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
474.02	0.67¢ per piece	0.6¢ per piece	0.52¢ per piece	0.45¢ per piece	0.37¢ per piece
474.04	1.2¢ per piece + 7.5% ad val.	1.1¢ per piece + 6.5% ad val.	0.9¢ per piece + 5.9% ad val.	0.8¢ per piece + 5% ad val.	0.7¢ per piece + 4% ad val.
474.06	1.1¢ per piece + 11% ad val.	1¢ per piece + 10% ad val.	0.85¢ per piece + 8.5% ad val.	0.75¢ per piece + 7% ad val.	0.62¢ per piece + 6% ad val.
474.08	21.5% ad val. on the entire set	19% ad val. on the entire set	16.5% ad val. on the entire set	14% ad val. on the entire set	12% ad val. on the entire set
474.20 1/	2.5% ad val.	2% ad val.	2% ad val.	1.5% ad val.	1.5% ad val.
474.22 1/	4.5% ad val.	4% ad val.	3.5% ad val.	3% ad val.	2.5% ad val.
474.26 1/	2.5% ad val.	2% ad val.	2% ad val.	1.5% ad val.	1.5% ad val.
474.30	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
474.35	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
474.40	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
474.42	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
474.44	10.5¢ per lb.	9.5¢ per lb.	8¢ per lb.	7¢ per lb.	6¢ per lb.
474.46	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
474.50	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
474.60 1/	0.2¢ per lb.	0.2¢ per lb.	0.15¢ per lb.	0.15¢ per lb.	0.1¢ per lb.
474.62	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
Schedule 4, Part 10					
475.40	0.2¢ per gal.	0.2¢ per gal.	0.2¢ per gal.	0.2¢ per gal.	0.2¢ per gal.
Schedule 4, Part 12					
485.10	0.6¢ per lb.	0.5¢ per lb.	0.5¢ per lb.	0.37¢ per lb.	0.37¢ per lb.
485.20	7.5¢ per lb.	6.5¢ per lb.	5.5¢ per lb.	5¢ per lb.	4¢ per lb.
485.30	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.

1/ See note at the end of this annex.

Item in TSUS as modified by Annex II	1968	1969	1970	1971	1972
	Rates of duty effective on and after January 1, --				
Schedule 4, Part 13					
490.10	2.7¢ per lb. + 9% ad val.	2.4¢ per lb. + 8% ad val.	2¢ per lb. + 7% ad val.	1.8¢ per lb. + 6% ad val.	1.5¢ per lb. + 5% ad val.
490.12	2.7¢ per lb. + 11% ad val.	2.4¢ per lb. + 10% ad val.	2.1¢ per lb. + 8.5% ad val.	1.8¢ per lb. + 7% ad val.	1.5¢ per lb. + 6% ad val.
490.14	1.3¢ per lb. + 9% ad val.	1.2¢ per lb. + 8% ad val.	1¢ per lb. + 7% ad val.	0.9¢ per lb. + 6% ad val.	0.7¢ per lb. + 5% ad val.
490.20	4¢ per lb. + 9% ad val.	3.5¢ per lb. + 8% ad val.	3¢ per lb. + 7% ad val.	2.5¢ per lb. + 6% ad val.	2.2¢ per lb. + 5% ad val.
490.22	2¢ per lb. + 9% ad val.	1.8¢ per lb. + 8% ad val.	1.5¢ per lb. + 7% ad val.	1.3¢ per lb. + 6% ad val.	1.1¢ per lb. + 5% ad val.
490.24	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
490.26	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
490.30	1.3¢ per lb. + 9% ad val.	1.2¢ per lb. + 8% ad val.	1¢ per lb. + 7% ad val.	0.9¢ per lb. + 6% ad val.	0.7¢ per lb. + 5% ad val.
490.32	1.3¢ per lb. + 9% ad val.	1.2¢ per lb. + 8% ad val.	1¢ per lb. + 7% ad val.	0.9¢ per lb. + 6% ad val.	0.7¢ per lb. + 5% ad val.
490.40	6.5¢ per lb.	5.8¢ per lb.	5¢ per lb.	4.3¢ per lb.	3.6¢ per lb.
490.42	2¢ per lb. + 13.5% ad val.	1.8¢ per lb. + 12% ad val.	1.5¢ per lb. + 10.5% ad val.	1.3¢ per lb. + 9% ad val.	1¢ per lb. + 7.5% ad val.
490.44	2¢ per lb. + 9% ad val.	1.8¢ per lb. + 8% ad val.	1.5¢ per lb. + 7% ad val.	1.3¢ per lb. + 6% ad val.	1.1¢ per lb. + 5% ad val.
490.46	2¢ per lb. + 9% ad val.	1.8¢ per lb. + 8% ad val.	1.5¢ per lb. + 7% ad val.	1.3¢ per lb. + 6% ad val.	1¢ per lb. + 5% ad val.
490.48	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
490.50	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
490.65	2.2¢ per lb. + 11% ad val.	2¢ per lb. + 10% ad val.	1.7¢ per lb. + 8.5% ad val.	1.5¢ per lb. + 7% ad val.	1.2¢ per lb. + 6% ad val.
490.73	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
490.75	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
490.90	0.65¢ per lb. + 9% ad val.	0.6¢ per lb. + 8% ad val.	0.5¢ per lb. + 7% ad val.	0.4¢ per lb. + 6% ad val.	0.3¢ per lb. + 5% ad val.
490.92	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
490.94	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
491.00	9% ad val., but not less than the highest rate applicable to any component	8% ad val., but not less than the highest rate applicable to any component	7% ad val., but not less than the highest rate applicable to any component	6% ad val., but not less than the highest rate applicable to any component	5% ad val., but not less than the highest rate applicable to any component
493.04	0.5% ad val.	0.5% ad val.	Free	Free	Free
493.10	5% ad val.	4.5% ad val.	4% ad val.	3.5% ad val.	3% ad val.
493.16	2.4¢ per lb.	2¢ per lb.	1.9¢ per lb.	1.5¢ per lb.	1.3¢ per lb.
493.18	14.4¢ per lb.	12.5¢ per lb.	11¢ per lb.	9.5¢ per lb.	8¢ per lb.
493.20 1/	0.4¢ per lb.	0.4¢ per lb.	0.2¢ per lb.	0.2¢ per lb.	0.2¢ per lb.
493.21 1/	2.5¢ per lb.	2.4¢ per lb.	2¢ per lb.	1.5¢ per lb.	1.5¢ per lb.
493.22	4.5¢ per lb.	4¢ per lb.	3.5¢ per lb.	3¢ per lb.	2.5¢ per lb.
493.25	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
493.26	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
493.46	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
493.47 1/	0.45¢ per lb.	0.4¢ per lb.	0.35¢ per lb.	0.3¢ per lb.	0.25¢ per lb.
493.50	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
493.56	2% ad val.	1% ad val.	1% ad val.	Free	Free

1/ See note at the end of this annex.

Item in TSUS as modified by Annex II	1968	1969	1970	1971	1972
	Rates of duty effective on and after January 1, --				
Schedule 4, Part 13--Continued					
493.65	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
493.66	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
493.67	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
493.68	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
493.82	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
494.04	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
494.06	2.2¢ per lb.	2¢ per lb.	1.7¢ per lb.	1.5¢ per lb.	1.2¢ per lb.
494.22	0.4¢ per lb.	0.3¢ per lb.	0.2¢ per lb.	0.1¢ per lb.	Free
494.52	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
494.60	4% ad val.	4% ad val.	3% ad val.	3% ad val.	2.5% ad val.
495.05 1/	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
495.10	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
495.15 1/	4% ad val.	4% ad val.	3% ad val.	3% ad val.	2.5% ad val.
495.20	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
Schedule 5, Part 1					
511.11	2.5¢ per 100 lbs., including weight of container	2¢ per 100 lbs., including weight of container	2¢ per 100 lbs., including weight of container	1.5¢ per 100 lbs., including weight of container	1¢ per 100 lbs., including weight of container
511.14	1.5¢ per 100 lbs., including weight of container	1.3¢ per 100 lbs., including weight of container	0.9¢ per 100 lbs., including weight of container	0.4¢ per 100 lbs., including weight of container	Free
511.21	4% ad val.	3% ad val.	2% ad val.	1% ad val.	Free
511.25	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
511.41	23% ad val.	20.5% ad val.	18% ad val.	15.5% ad val.	13% ad val.
511.51	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
511.61	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
511.71	24% ad val.	21.5% ad val.	18.5% ad val.	16% ad val.	13.5% ad val.
512.11	2¢ per 100 lbs., including weight of container	1.5¢ per 100 lbs., including weight of container	1¢ per 100 lbs., including weight of container	0.5¢ per 100 lbs., including weight of container	Free
512.14	2¢ per 100 lbs., including weight of container	1.5¢ per 100 lbs., including weight of container	1¢ per 100 lbs., including weight of container	0.5¢ per 100 lbs., including weight of container	Free
512.24	$1.07 per ton	95¢ per ton	83¢ per ton	71¢ per ton	59¢ per ton
512.31	$9 per ton	$8 per ton	$7 per ton	$6 per ton	$5 per ton
512.35	$12.60 per ton	$11.20 per ton	$9.80 per ton	$8.40 per ton	$7 per ton
512.41	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
512.44	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
513.11	45¢ per ton	40¢ per ton	35¢ per ton	30¢ per ton	25¢ per ton
513.21	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
513.31	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
513.35	Free	Free	Free	Free	Free
513.36	14¢ per short ton	12¢ per short ton	10¢ per short ton	10¢ per short ton	10¢ per short ton

1/ See note at the end of this annex.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 5, Part 1--Continued					
513.41	4.5% ad val.	4% ad val.	3.5% ad val.	3% ad val.	2.5% ad val.
513.51	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
513.71	Free	Free	Free	Free	Free
513.74	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
513.81	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
513.84	24% ad val.	21.5% ad val.	18.5% ad val.	16% ad val.	13.5% ad val.
513.94	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
514.11	18¢ per short ton	16¢ per short ton	14¢ per short ton	12¢ per short ton	10¢ per short ton
514.21	1¢ per cu. ft.	1¢ per cu. ft.	1¢ per cu. ft.	1¢ per cu. ft.	1¢ per cu. ft.
514.24	18.5% ad val.	16.5% ad val.	14.5% ad val.	12.5% ad val.	10.5% ad val.
514.34	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
514.41	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
514.44	24% ad val.	21.5% ad val.	18.5% ad val.	16% ad val.	13.5% ad val.
514.51	24¢ per cu. ft.	22¢ per cu. ft.	19¢ per cu. ft.	16¢ per cu. ft.	13.5¢ per cu. ft.
514.54	29¢ per cu. ft.	26¢ per cu. ft.	22¢ per cu. ft.	19¢ per cu. ft.	16¢ per cu. ft.
514.57	45¢ per cu. ft.	40¢ per cu. ft.	35¢ per cu. ft.	30¢ per cu. ft.	25¢ per cu. ft.
514.62	4.5% ad val.	4% ad val.	3.5% ad val.	3% ad val.	2.5% ad val.
514.65	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.	3.5% ad val.
514.81	18.5% ad val.	16.5% ad val.	14.5% ad val.	12.5% ad val.	10.5% ad val.
515.11	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
515.14	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
515.21	9¢ per cu. ft.	8¢ per cu. ft.	7¢ per cu. ft.	6¢ per cu. ft.	5¢ per cu. ft.
515.24	18.5% ad val.	16.5% ad val.	14.5% ad val.	12.5% ad val.	10.5% ad val.
515.31	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
515.34	24% ad val.	21.5% ad val.	18.5% ad val.	16% ad val.	13.5% ad val.
515.51	1.5¢ per cu. ft.	1¢ per cu. ft.	1¢ per cu. ft.	1¢ per cu. ft.	1¢ per cu. ft.
515.54	18.5% ad val.	16.5% ad val.	14.5% ad val.	12.5% ad val.	10.5% ad val.
515.61	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
515.64	24% ad val.	21.5% ad val.	18.5% ad val.	16% ad val.	13.5% ad val.
516.11	4% ad val.	4% ad val.	3% ad val.	3% ad val.	2.5% ad val.
516.21	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
516.24	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
516.41	3¢ per lb.	2¢ per lb.	1¢ per lb.	0.5¢ per lb.	Free
516.71	20% ad val.	18% ad val.	15.5% ad val.	13% ad val.	11% ad val.
516.73	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
516.74	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
516.76	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
516.81	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
516.91	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
516.94	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
517.11	4% ad val.	4% ad val.	3% ad val.	3% ad val.	2.5% ad val.
517.21	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
517.24	0.7¢ per lb.	0.65¢ per lb.	0.55¢ per lb.	0.49¢ per lb.	0.4¢ per lb.
517.27	4.5% ad val.	4% ad val.	3.5% ad val.	3% ad val.	2.5% ad val.
517.31	Free	Free	Free	Free	Free

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 5, Part 1--Continued					
517.51	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
517.61	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
517.71	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
517.74	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
517.81	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
517.91	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
518.21	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
518.41	0.25¢ per lb.	0.24¢ per lb.	0.2¢ per lb.	0.18¢ per lb.	0.15¢ per lb.
518.44	0.2¢ per lb.	0.15¢ per lb.	0.15¢ per lb.	0.1¢ per lb.	0.1¢ per lb.
518.51	8% ad val.	7% ad val.	6% ad val.	5% ad val.	4.5% ad val.
519.11	0.038¢ per lb.	0.034¢ per lb.	0.029¢ per lb.	0.025¢ per lb.	0.02¢ per lb.
519.14	0.07¢ per lb.	0.06¢ per lb.	0.055¢ per lb.	0.045¢ per lb.	0.04¢ per lb.
519.31	0.31¢ per lb.	0.28¢ per lb.	0.24¢ per lb.	0.21¢ per lb.	0.17¢ per lb.
519.37 1/	0.4¢ per lb.	0.4¢ per lb.	0.3¢ per lb.	0.3¢ per lb.	0.2¢ per lb.
519.51	5.5% ad val.	5% ad val.	4.5% ad val.	3.5% ad val.	3% ad val.
519.83	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
519.84	18.9¢ per lb. + 15% ad val.	16.8¢ per lb. + 13.5% ad val.	14.7¢ per lb. + 11.5% ad val.	12.5¢ per lb. + 10% ad val.	10¢ per lb. + 8.5% ad val.
519.86	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
519.91	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
519.93	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
519.95	4% ad val.	4% ad val.	3% ad val.	3% ad val.	2.5% ad val.
519.97	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
520.21	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
520.31	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
520.32	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
520.33	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
520.35	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
520.37	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
520.38	2% ad val.	1.5% ad val.	1% ad val.	0.5% ad val.	Free
520.39	4% ad val.	4% ad val.	3% ad val.	3% ad val.	2.5% ad val.
520.51	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
520.54	18.5% ad val.	16.5% ad val.	14.5% ad val.	12.5% ad val.	10.5% ad val.
520.61	38% ad val.	34% ad val.	29.5% ad val.	25% ad val.	21% ad val.
520.71	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
520.75	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
521.17	44¢ per ton	33¢ per ton	22¢ per ton	11¢ per ton	Free
521.41	60¢ per ton	53¢ per ton	46¢ per ton	40¢ per ton	33¢ per ton
521.51	45¢ per ton	40¢ per ton	35¢ per ton	30¢ per ton	25¢ per ton
521.54	90¢ per ton	80¢ per ton	70¢ per ton	60¢ per ton	50¢ per ton
521.61	73¢ per ton	65¢ per ton	56¢ per ton	48¢ per ton	40¢ per ton
521.71	58¢ per ton	54¢ per ton	50¢ per ton	46¢ per ton	42¢ per ton
521.74	$1.13 per ton	$1.06 per ton	99¢ per ton	92¢ per ton	85¢ per ton
521.81	40¢ per ton	30¢ per ton	20¢ per ton	10¢ per ton	Free
521.84	90¢ per ton	80¢ per ton	70¢ per ton	60¢ per ton	50¢ per ton
521.87	0.09¢ per lb. + 11% ad val.	0.08¢ per lb. + 10% ad val.	0.07¢ per lb. + 8.5% ad val.	0.06¢ per lb. + 7% ad val.	0.05¢ per lb. + 6% ad val.

1/ See note at the end of this annex.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 5, Part 1--Continued					
522.31	10¢ per ton	7¢ per ton	5¢ per ton	2¢ per ton	Free
522.41	6.5% ad val.	6% ad val.	5% ad val.	4% ad val.	3.5% ad val.
522.45	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
522.61	$4.72 per ton	$4.20 per ton	$3.67 per ton	$3.15 per ton	$2.62 per ton
522.64	$9.45 per ton	$8.40 per ton	$7.35 per ton	$6.30 per ton	$5.25 per ton
522.71	3.5% ad val.	3% ad val.	2.5% ad val.	2% ad val.	2% ad val.
522.81	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
523.31	0.02¢ per lb.	0.02¢ per lb.	0.02¢ per lb.	0.02¢ per lb.	0.02¢ per lb.
523.33	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
523.35	0.4¢ per lb.	0.4¢ per lb.	0.3¢ per lb.	0.2¢ per lb.	0.2¢ per lb.
523.37	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.
523.51	0.9¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.5¢ per lb.	0.5¢ per lb.
523.61	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
523.91	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
523.94	24% ad val.	21.5% ad val.	18.5% ad val.	16% ad val.	13.5% ad val.
Schedule 5, Part 2					
531.01	0.34¢ per lb.	0.3¢ per lb.	0.26¢ per lb.	0.22¢ per lb.	0.19¢ per lb.
531.04	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
531.11	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
531.21	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
531.24	0.34¢ per lb. + 4.5% ad val.	0.3¢ per lb. + 4% ad val.	0.25¢ per lb. + 3.5% ad val.	0.2¢ per lb. + 3% ad val.	0.19¢ per lb. + 2.5% ad val.
531.27	2% ad val.	1.5% ad val.	1% ad val.	0.5% ad val.	Free
531.33	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
531.35	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
531.39	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
532.11	40¢ per 1,000	30¢ per 1,000	20¢ per 1,000	10¢ per 1,000	Free
532.14	5% ad val.	4.5% ad val.	4% ad val.	3.5% ad val.	3% ad val.
532.31	24% ad val.	21.5% ad val.	18.5% ad val.	16% ad val.	13.5% ad val.
532.41	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
532.61	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
533.11	4% ad val.	4% ad val.	3% ad val.	3% ad val.	2.5% ad val.
533.14	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
533.16	6% ad val.	6% ad val.	6% ad val.	6% ad val.	6% ad val.
533.23	9¢ per doz. pcs. + 25% ad val.	8¢ per doz. pcs. + 22% ad val.	7¢ per doz. pcs. + 19.5% ad val.	6¢ per doz. pcs. + 16.5% ad val.	5¢ per doz. pcs. + 14% ad val.
533.25	10¢ per doz. pcs. + 33.5% ad val.	10¢ per doz. pcs. + 30.5% ad val.	10¢ per doz. pcs. + 27% ad val.	10¢ per doz. pcs. + 24% ad val.	10¢ per doz. pcs. + 21% ad val.
533.28	9¢ per doz. pcs. + 18.5% ad val.	8¢ per doz. pcs. + 16.5% ad val.	7¢ per doz. pcs. + 14.5% ad val.	6¢ per doz. pcs. + 12.5% ad val.	5¢ per doz. pcs. + 10.5% ad val.
533.31	9¢ per doz. pcs. + 22% ad val.	8¢ per doz. pcs. + 20% ad val.	7¢ per doz. pcs. + 17% ad val.	6¢ per doz. pcs. + 15% ad val.	5¢ per doz. pcs. + 12.5% ad val.
533.33	9¢ per doz. pcs. + 27% ad val.	8¢ per doz. pcs. + 20% ad val.	7¢ per doz. pcs. + 17% ad val.	6¢ per doz. pcs. + 15% ad val.	5¢ per doz. pcs. + 12.5% ad val.
533.35	10¢ per doz. pcs. + 36% ad val.	10¢ per doz. pcs. + 32% ad val.	10¢ per doz. pcs. + 28.5% ad val.	10¢ per doz. pcs. + 24e5% ad val.	10¢ per doz. pcs. + 21% ad val.
533.36	10¢ per doz. pcs. + 21.5% ad val.	10¢ per doz. pcs. + 21.5% ad val.	10¢ per doz. pcs. + 21% ad val.	10¢ per doz. pcs. + 21% ad val.	10¢ per doz. pcs. + 21% ad val.
533.38	9¢ per doz. pcs. + 19.5% ad val.	8¢ per doz. pcs. + 17.5% ad val.	7¢ per doz. pcs. + 15% ad val.	6¢ per doz. pcs. + 13% ad val.	5¢ per doz. pcs. + 11% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 5, Part 2--Continued					
533.41	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
533.68	9¢ per doz. pcs. + 32% ad val.	8¢ per doz. pcs. + 28.5% ad val.	7¢ per doz. pcs. + 25% ad val.	6¢ per doz. pcs. + 21.5% ad val.	5¢ per doz. pcs. + 18% ad val.
533.69	9¢ per doz. pcs. + 32% ad val.	8¢ per doz. pcs. + 28.5% ad val.	7¢ per doz. pcs. + 25% ad val.	6¢ per doz. pcs. + 21.5% ad val.	5¢ per doz. pcs. + 18% ad val.
533.71	40% ad val.	36% ad val.	31% ad val.	27% ad val.	22.5% ad val.
533.73	9¢ per doz. pcs. + 40% ad val.	8¢ per doz. pcs. + 36% ad val.	7¢ per doz. pcs. + 31% ad val.	6¢ per doz. pcs. + 27% ad val.	5¢ per doz. pcs. + 22.5% ad val.
533.75	9¢ per doz. pcs. + 54% ad val.	8¢ per doz. pcs. + 48% ad val.	7¢ per doz. pcs. + 42% ad val.	6¢ per doz. pcs. + 36% ad val.	5¢ per doz. pcs. + 30% ad val.
533.77	9¢ per doz. pcs. + 31% ad val.	8¢ per doz. pcs. + 28% ad val.	7¢ per doz. pcs. + 24% ad val.	6¢ per doz. pcs. + 21% ad val.	5¢ per doz. pcs. + 17.5% ad val.
534.11	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
534.21	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
534.31	4% ad val.	4% ad val.	3% ad val.	3% ad val.	2.5% ad val.
534.74	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
534.76	5.5% ad val.	5% ad val.	4% ad val.	3.5% ad val.	3% ad val.
534.81	9.2¢ per doz. pcs. + 23% ad val.	8.4¢ per doz. pcs. + 21.5% ad val.	7.5¢ per doz. pcs. + 20% ad val.	6.5¢ per doz. pcs. + 18.5% ad val.	6¢ per doz. pcs. + 17% ad val.
534.84	9¢ per doz. pcs. + 27% ad val.	8¢ per doz. pcs. + 24% ad val.	7¢ per doz. pcs. + 21% ad val.	6¢ per doz. pcs. + 18% ad val.	5¢ per doz. pcs. + 15% ad val.
534.87	3¢ per doz. pcs. + 18% ad val.	3¢ per doz. pcs. + 16% ad val.	2¢ per doz. pcs. + 14% ad val.	2¢ per doz. pcs. + 12% ad val.	2¢ per doz. pcs. + 10% ad val.
534.91	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
534.94	40% ad val.	36% ad val.	31% ad val.	27% ad val.	22.5% ad val.
534.97	24% ad val.	21.5% ad val.	18.5% ad val.	16% ad val.	13.5% ad val.
535.12	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
535.14	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
535.21	54% ad val.	48% ad val.	42% ad val.	36% ad val.	30% ad val.
535.24	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
535.27	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
535.31	25% ad val.	22.5% ad val.	20% ad val.	17.5% ad val.	15% ad val.
535.41	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
536.11	40% ad val.	36% ad val.	31% ad val.	27% ad val.	22.5% ad val.
Schedule 5, Part 3					
540.11	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
540.13	18.5% ad val.	16.5% ad val.	14.5% ad val.	12.5% ad val.	10.5% ad val.
540.14	3.5% ad val.	3% ad val.	2.5% ad val.	2% ad val.	2% ad val.
540.15	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
540.21	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
540.33	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
540.37	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
540.41	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
540.43	29% ad val.	26% ad val.	22.5% ad val.	19% ad val.	16% ad val.
540.47	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.
540.51	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
540.55	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
540.61	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
540.63	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
540.65	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 5, Part 3--Continued					
540.67	45% ad val.	40% ad val.	35% ad val.	30% ad val.	25% ad val.
540.71	19.5% ad val.	17.5% ad val.	15% ad val.	13% ad val.	11% ad val.
541.11	0.55¢ per lb.	0.5¢ per lb.	0.43¢ per lb.	0.35¢ per lb.	0.3¢ per lb.
541.21	1.05¢ per lb.	0.95¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.6¢ per lb.
541.31	0.55¢ per lb. + 2% ad val.	0.5¢ per lb. + 2% ad val.	0.43¢ per lb. + 1.5% ad val.	0.35¢ per lb. + 1.5% ad val.	0.3¢ per lb. + 1% ad val.
543.11	5.5¢ per sq. ft.	5¢ per sq. ft.	4.5¢ per sq. ft.	4¢ per sq. ft.	3.8¢ per sq. ft.
543.21	3.1¢ per sq. ft.	2.8¢ per sq. ft.	2.4¢ per sq. ft.	2¢ per sq. ft.	1.7¢ per sq. ft.
543.23	4.5¢ per sq. ft.	4¢ per sq. ft.	3.5¢ per sq. ft.	3¢ per sq. ft.	2.5¢ per sq. ft.
543.27	5¢ per sq. ft.	4.4¢ per sq. ft.	3.9¢ per sq. ft.	3.3¢ per sq. ft.	2.8¢ per sq. ft.
543.31	18.5% ad val.	16.5% ad val.	14.5% ad val.	12.5% ad val.	10.5% ad val.
543.61	3.1¢ per sq. ft. + 2% ad val.	2.8¢ per sq. ft. + 2% ad val.	2.4¢ per sq. ft. + 1.5% ad val.	2¢ per sq. ft. + 1.5% ad val.	1.7¢ per sq. ft. + 1% ad val.
543.63	4.5¢ per sq. ft. + 2% ad val.	4¢ per sq. ft. + 2% ad val.	3.5¢ per sq. ft. + 1.5% ad val.	3¢ per sq. ft. + 1% ad val.	2.5¢ per sq. ft. + 1% ad val.
543.67	5¢ per sq. ft. + 2% ad val.	4.4¢ per sq. ft. + 2% ad val.	3.9¢ per sq. ft. + 1.5% ad val.	3.3¢ per sq. ft. + 1.5% ad val.	2.8¢ per sq. ft. + 1% ad val.
543.69	21% ad val.	18.5% ad val.	16% ad val.	14% ad val.	11.5% ad val.
544.14	21% ad val.	18.5% ad val.	16% ad val.	14% ad val.	11.5% ad val.
544.18	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
544.31	19.5% ad val.	17.5% ad val.	15% ad val.	13% ad val.	11% ad val.
544.41	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.
544.51	29.5% ad val.	26.5% ad val.	23.5% ad val.	20.5% ad val.	17.5% ad val.
544.54	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
544.61	19.5% ad val.	17.5% ad val.	15% ad val.	13% ad val.	11% ad val.
544.64	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
545.11	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
545.17	28.5% ad val.	25.5% ad val.	22% ad val.	19% ad val.	16% ad val.
545.21	20¢ per gross	18¢ per gross	16¢ per gross	13¢ per gross	11¢ per gross
545.25	0.65¢ per lb.	0.6¢ per lb.	0.5¢ per lb.	0.45¢ per lb.	0.37¢ per lb.
545.27	0.35¢ per lb.	0.3¢ per lb.	0.25¢ per lb.	0.24¢ per lb.	0.2¢ per lb.
545.31	7¢ each + 36% ad val.	6¢ each + 32% ad val.	5¢ each + 28% ad val.	4¢ each + 24% ad val.	4¢ each + 20% ad val.
545.34	13¢ each + 36% ad val.	12¢ each + 32% ad val.	10¢ each + 28% ad val.	9¢ each + 24% ad val.	7¢ each + 20% ad val.
545.35	18.9¢ each + 36% ad val.	16.8¢ each + 32% ad val.	14.7¢ each + 28% ad val.	12.6¢ each + 24% ad val.	10.5¢ each + 20% ad val.
545.37	29¢ each + 36% ad val.	26¢ each + 32% ad val.	23¢ each + 28% ad val.	19¢ each + 24% ad val.	16.5¢ each + 20% ad val.
545.53	25% ad val.	22% ad val.	19.5% ad val.	16.5% ad val.	14% ad val.
545.55	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.
545.57	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.
545.61	23.5% ad val.	21% ad val.	18.5% ad val.	15.5% ad val.	13% ad val.
545.63	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.
545.65	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
545.67	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.
545.81	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
545.85	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
545.87	22.5% ad val.	20% ad val.	17.5% ad val.	15% ad val.	12.5% ad val.
546.11	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
546.13	25% ad val.	22% ad val.	19.5% ad val.	16.5% ad val.	14% ad val.
546.17	18.5% ad val.	16.5% ad val.	14.5% ad val.	12.5% ad val.	10.5% ad val.
546.21	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 5, Part 3--Continued					
546.23	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
546.25	22.5% ad val.	20% ad val.	17.5% ad val.	15% ad val.	12.5% ad val.
546.35	24% ad val.	23% ad val.	22% ad val.	21% ad val.	20% ad val.
546.38	22.5% ad val.	20% ad val.	17.5% ad val.	15% ad val.	12.5% ad val.
546.40	23.5% ad val.	23% ad val.	23% ad val.	22.5% ad val.	22.5% ad val.
546.42	32% ad val.	30% ad val.	27% ad val.	25% ad val.	22.5% ad val.
546.44	28% ad val.	27% ad val.	25% ad val.	24% ad val.	22.5% ad val.
546.46	29% ad val.	26% ad val.	23% ad val.	20% ad val.	17.5% ad val.
546.48	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
546.49	21% ad val.	20% ad val.	19% ad val.	18% ad val.	17.5% ad val.
546.50	27% ad val.	25% ad val.	22% ad val.	20% ad val.	17.5% ad val.
546.54	46% ad val.	42% ad val.	38% ad val.	34% ad val.	30% ad val.
546.56	34% ad val.	33% ad val.	32% ad val.	31% ad val.	30% ad val.
546.58	21% ad val.	19% ad val.	18% ad val.	16% ad val.	15% ad val.
546.59	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
547.11	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
547.13	43% ad val.	38% ad val.	33.5% ad val.	28.5% ad val.	24% ad val.
547.15	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
547.21	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
547.31	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
547.37	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
547.41	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
547.43	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
547.51	22¢ per gross	20¢ per gross	17¢ per gross	15¢ per gross	12.5¢ per gross
547.53	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
547.55	38% ad val.	34% ad val.	29.5% ad val.	25% ad val.	21% ad val.
548.01	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
548.03	29% ad val.	26% ad val.	22.5% ad val.	19% ad val.	16% ad val.
548.05	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
Schedule 6, Part 1					
601.06	40¢ per ton	30¢ per ton	20¢ per ton	10¢ per ton	Free
601.27	0.22¢ per lb. on manganese content	0.2¢ per lb. on manganese content	0.17¢ per lb. on manganese content	0.15¢ per lb. on manganese content	0.12¢ per lb. on manganese content
601.33	21¢ per lb. on molybdenum content	19¢ per lb. on molybdenum content	16.5¢ per lb. on molybdenum content	14¢ per lb. on molybdenum content	12¢ per lb. on molybdenum content
601.54	45¢ per lb. on tungsten content	40¢ per lb. on tungsten content	35¢ per lb. on tungsten content	30¢ per lb. on tungsten content	25¢ per lb. on tungsten content
602.28	1.8¢ per lb. on copper content	1.6¢ per lb. on copper content	1.4¢ per lb. on copper content	1.2¢ per lb. on copper content	1¢ per lb. on copper content

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 6, Part 1--Continued					
602.30	1.5¢ per lb. on copper content	1.3¢ per lb. on copper content	1.1¢ per lb. on copper content	1¢ per lb. on copper content	0.8¢ per lb. on copper content
603.10	0.2¢ per lb.	0.2¢ per lb.	0.1¢ per lb.	0.1¢ per lb.	0.1¢ per lb.
603.15	67¢ per ton	60¢ per ton	52¢ per ton	45¢ per ton	37¢ per ton
603.40	18¢ per lb. on molybdenum content + 5% ad val.	16¢ per lb. on molybdenum content + 4.5% ad val.	14¢ per lb. on molybdenum content + 4% ad val.	12¢ per lb. on molybdenum content + 3.5% ad val.	10¢ per lb. on molybdenum content + 3% ad val.
603.45	37.5¢ per lb. on tungsten content + 18% ad val.	33.5¢ per lb. on tungsten content + 16% ad val.	29.4¢ per lb. on tungsten content + 14% ad val.	25¢ per lb. on tungsten content + 12% ad val.	21¢ per lb. on tungsten content + 10% ad val.
603.49	1.8¢ per lb. on copper content + 0.75¢ per lb. on lead content + 0.67¢ per lb. on zinc content	1.6¢ per lb. on copper content + 0.75¢ per lb. on lead content + 0.67¢ per lb. on zinc content	1.4¢ per lb. on copper content + 0.75¢ per lb. on lead content + 0.67¢ per lb. on zinc content	1.2¢ per lb. on copper content + 0.75¢ per lb. on lead content + 0.67¢ per lb. on zinc content	1¢ per lb. on copper content + 0.75¢ per lb. on lead content + 0.67¢ per lb. on zinc content
603.50	1.5¢ per lb. on copper content + 0.75¢ per lb. on lead content + 0.67¢ per lb. on zinc content	1.3¢ per lb. on copper content + 0.75¢ per lb. on lead content + 0.67¢ per lb. on zinc content	1.1¢ per lb. on copper content + 0.75¢ per lb. on lead content + 0.67¢ per lb. on zinc content	1¢ per lb. on copper content + 0.75¢ per lb. on lead content + 0.67¢ per lb. on zinc content	0.8¢ per lb. on copper content + 0.75¢ per lb. on lead content + 0.67¢ per lb. on zinc content
603.54	1.8¢ per lb. on copper content + 0.75¢ per lb. on lead content + 0.67¢ per lb. on zinc content	1.6¢ per lb. on copper content + 0.75¢ per lb. on lead content + 0.67¢ per lb. on zinc content	1.4¢ per lb. on copper content + 0.75¢ per lb. on lead content + 0.67¢ per lb. on zinc content	1.2¢ per lb. on copper content + 0.75¢ per lb. on lead content + 0.67¢ per lb. on zinc content	1¢ per lb. on copper content + 0.75¢ per lb. on lead content + 0.67¢ per lb. on zinc content
603.55	1.5¢ per lb. on copper content + 0.75¢ per lb. on lead content + 0.67¢ per lb. on zinc content	1.3¢ per lb. on copper content + 0.75¢ per lb. on lead content + 0.67¢ per lb. on zinc content	1.1¢ per lb. on copper content + 0.75¢ per lb. on lead content + 0.67¢ per lb. on zinc content	1¢ per lb. on copper content + 0.75¢ per lb. on lead content + 0.67¢ per lb. on zinc content	0.8¢ per lb. on copper content + 0.75¢ per lb. on lead content + 0.67¢ per lb. on zinc content
603.70	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
Schedule 6, Part 2					
605.03	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
605.05	45% ad val.	40% ad val.	35% ad val.	30% ad val.	25% ad val.
605.06	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.
605.08	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
605.27	29% ad val.	26% ad val.	22.5% ad val.	19% ad val.	16% ad val.
605.28	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
605.46	29% ad val.	26% ad val.	22.5% ad val.	19% ad val.	16% ad val.
605.47	45% ad val.	40% ad val.	35% ad val.	30% ad val.	25% ad val.
605.48	18.5% ad val.	16.5% ad val.	14.5% ad val.	12.5% ad val.	10.5% ad val.
605.60	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.
605.65	18.5% ad val.	16.5% ad val.	14.5% ad val.	12.5% ad val.	10.5% ad val.
605.66	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
607.01	Additional duty of 1.35¢ per lb. on chromium content in excess of 0.2%	Additonal duty of 1.2¢ per lb. on chromium content in excess of 0.2%	Additional duty of 1.05¢ per lb. on chromium content in excess of 0.2%	Additional duty of 0.9¢ per lb. on chromium content in excess of 0.2%	Additional duty of 0.75¢ per lb. on chromium content in excess of 0.2%

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 6, Part 2--Continued					
607.02	Additional duty of 31.5¢ per lb. on molybdenum content in excess of 0.1%	Additional duty of 28¢ per lb. on molybdenum content in excess of 0.1%	Additional duty of 24.5¢ per lb. on molybdenum content in excess of 0.1%	Additional duty of 21¢ per lb. on molybdenum content in excess of 0.1%	Additional duty of 17.5¢ per lb. on molybdenum content in excess of 0.1%
607.03	Additional duty of 45¢ per lb. on tungsten content in excess of 0.3%	Additional duty of 40¢ per lb. on tungsten content in excess of 0.3%	Additional duty of 35¢ per lb. on tungsten content in excess of 0.3%	Additional duty of 30¢ per lb. on tungsten content in excess of 0.3%	Additional duty of 25¢ per lb. on tungsten content in excess of 0.3%
607.04	Additional duty of 36¢ per lb. on vanadium content in excess of 0.1%	Additional duty of 32¢ per lb. on vanadium content in excess of 0.1%	Additional duty of 28¢ per lb. on vanadium content in excess of 0.1%	Additional duty of 24¢ per lb. on vanadium content in excess of 0.1%	Additional duty of 20¢ per lb. on vanadium content in excess of 0.1%
607.11	30¢ per ton	22¢ per ton	15¢ per ton	7¢ per ton	Free
607.12	33¢ per ton + additional duties	30¢ per ton + additional duties	26¢ per ton + additional duties	22¢ per ton + additional duties	18¢ per ton + additional duties
607.15	16¢ per ton	12¢ per ton	8¢ per ton	4¢ per ton	Free
607.18	50¢ per ton + additional duties	44¢ per ton + additional duties	39¢ per ton + additional duties	33¢ per ton + additional duties	28¢ per ton + additional duties
607.25	Free	Free	Free	Free	Free
607.30	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
607.35	0.5¢ per lb. on manganese content + 4% ad val.	0.4¢ per lb. on manganese content + 3.5% ad val.	0.4¢ per lb. on manganese content + 3% ad val.	0.3¢ per lb. on manganese content + 2.5% ad val.	0.3¢ per lb. on manganese content + 2% ad val.
607.36	0.8¢ per lb. on manganese content	0.7¢ per lb. on manganese content	0.6¢ per lb. on manganese content	0.55¢ per lb. on manganese content	0.46¢ per lb. on manganese content
607.37	0.55¢ per lb. on manganese content	0.5¢ per lb. on manganese content	0.43¢ per lb. on manganese content	0.35¢ per lb. on manganese content	0.3¢ per lb. on manganese content
607.40	18¢ per lb. on molybdenum content + 5% ad val.	16¢ per lb. on molybdenum content + 4.5% ad val.	14¢ per lb. on molybdenum content + 4% ad val.	12¢ per lb. on molybdenum content + 3.5% ad val.	10¢ per lb. on molybdenum content + 3% ad val.
607.45	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
607.50	0.5¢ per lb. on silicon content	0.4¢ per lb. on silicon content	0.2¢ per lb. on silicon content	0.1¢ per lb. on silicon content	Free
607.51	0.75¢ per lb. on silicon content	0.7¢ per lb. on silicon content	0.6¢ per lb. on silicon content	0.55¢ per lb. on silicon content	0.5¢ per lb. on silicon content
607.52	1.8¢ per lb. on silicon content	1.6¢ per lb. on silicon content	1.4¢ per lb. on silicon content	1.2¢ per lb. on silicon content	1¢ per lb. on silicon content
607.53	3.6¢ per lb. on silicon content	3.2¢ per lb. on silicon content	2.8¢ per lb. on silicon content	2.4¢ per lb. on silicon content	2¢ per lb. on silicon content
607.57	0.84¢ per lb. on manganese content + 6.5% ad val.	0.75¢ per lb. on manganese content + 6% ad val.	0.65¢ per lb. on manganese content + 5% ad val.	0.56¢ per lb. on manganese content + 4.5% ad val.	0.46¢ per lb. on manganese content + 3.5% ad val.
607.60	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
607.65	37.8¢ per lb. on tungsten content + 11% ad val.	33.5¢ per lb. on tungsten content + 10% ad val.	29.4¢ per lb. on tungsten content + 8.5% ad val.	25¢ per lb. on tungsten content + 7.5% ad val.	21¢ per lb. on tungsten content + 6% ad val.
607.70	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
607.75	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
607.80	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
608.02	50¢ per ton	37¢ per ton	25¢ per ton	12¢ per ton	Free

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 6, Part 2--Continued					
608.04	56¢ per ton + additional duties	50¢ per ton + additional duties	43¢ per ton + additional duties	37¢ per ton + additional duties	31¢ per ton + additional duties
608.08	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
608.15	8% ad val.	7% ad val.	7% ad val.	6% ad val.	6% ad val.
608.16	9.5% ad val.	8.5% ad val.	7.5% ad val.	6.5% ad val.	6% ad val.
608.18	13% ad val. + additional duties	11.5% ad val. + additional duties	10.5% ad val. + additional duties	9% ad val. + additional duties	8% ad val. + additional duties
608.25	9.5% ad val.	8.5% ad val.	7.5% ad val.	6.5% ad val.	6% ad val.
608.27	13% ad val. + additional duties	11.5% ad val. + additional duties	10.5% ad val. + additional duties	9% ad val. + additional duties	8% ad val. + additional duties
608.32	0.5¢ per lb. + 3.5% ad val. + additional duties	0.5¢ per lb. + 3% ad val. + additional duties	0.5¢ per lb. + 2.5% ad val. + additional duties	0.5¢ per lb. + 2% ad val. + additional duties	0.5¢ per lb. + 2% ad val. + additional duties
608.40	8% ad val.	8% ad val.	7.5% ad val.	7.5% ad val.	7.5% ad val.
608.41	11% ad val.	10% ad val.	9% ad val.	8% ad val.	7.5% ad val.
608.42	15% ad val. + additional duties	13.5% ad val. + additional duties	12% ad val. + additional duties	10.5% ad val. + additional duties	9.5% ad val. + additional duties
608.46	9.5% ad val.	9% ad val.	8% ad val.	7.5% ad val.	7% ad val.
608.48	0.05¢ per lb. + 10% ad val.	0.05¢ per lb. + 9.5% ad val.	9% ad val.	8.5% ad val.	8% ad val.
608.50	0.05¢ per lb. + 10% ad val.	0.03¢ per lb. + 9.5% ad val.	0.02¢ per lb. + 9% ad val.	0.01¢ per lb. + 8.5% ad val.	8.5% ad val.
608.52	13.5% ad val. + additional duties	12.5% ad val. + additional duties	12% ad val. + additional duties	11% ad val. + additional duties	10.5% ad val. + additional duties
608.60	0.33¢ per lb. + 9% ad val.	0.3¢ per lb. + 8% ad val.	0.2¢ per lb. + 7% ad val.	0.2¢ per lb. + 6% ad val.	0.18¢ per lb. + 5% ad val.
608.61	10% ad val.	9% ad val.	8.5% ad val.	8% ad val.	7.5% ad val.
608.62	13.5% ad val. + additional duties	12.5% ad val. + additional duties	11.5% ad val. + additional duties	10.5% ad val. + additional duties	9.5% ad val. + additional duties
608.81	9.5% ad val.	9.5% ad val.	9% ad val.	9% ad val.	9% ad val.
608.84	7.5% ad val.	7.5% ad val.	7.5% ad val.	7.5% ad val.	7.5% ad val.
608.85	11% ad val. + additional duties	11% ad val. + additional duties	10% ad val. + additional duties	10% ad val. + additional duties	9.5% ad val. + additional duties
608.87	0.08¢ per lb. + 8% ad val.	0.05¢ per lb. + 8% ad val.	0.04¢ per lb. + 8% ad val.	8% ad val.	8% ad val.
608.88	11.5% ad val. + additional duties	11% ad val. + additional duties	10.5% ad val. + additional duties	10% ad val. + additional duties	10% ad val. + additional duties
608.90	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.
608.91	9% ad val.	8.5% ad val.	8.5% ad val.	8% ad val.	8% ad val.
608.93	0.95¢ per lb.	0.95¢ per lb.	0.9¢ per lb.	0.9¢ per lb.	0.9¢ per lb.
608.94	9% ad val.	9% ad val.	9% ad val.	9% ad val.	9% ad val.
608.96	11.8% ad val. + additional duties	11.5% ad val. + additional duties	11.4% ad val. + additional duties	11% ad val. + additional duties	11% ad val. + additional duties
609.06	9.5% ad val. + additional duties	9% ad val. + additional duties	8.5% ad val. + additional duties	8% ad val. + additional duties	8% ad val. + additional duties
609.07	12% ad val. + additional duties	11.5% ad val. + additional duties	11% ad val. + additional duties	10.5% ad val. + additional duties	10.5% ad val. + additional duties

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 6, Part 2--Continued					
609.08	13% ad val. + additional duties	12.5% ad val. + additional duties	12% ad val. + additional duties	11.5% ad val. + additional duties	11.5% ad val. + additional duties
609.13	9% ad val.	8.5% ad val.	8.5% ad val.	8% ad val.	8% ad val.
609.15	12% ad val. + additional duties	11.5% ad val. + additional duties	11% ad val. + additional duties	10.5% ad val. + additional duties	10.5% ad val. + additional duties
609.17	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
609.21	8% ad val.	8% ad val.	8% ad val.	8% ad val.	8% ad val.
609.22	9.5% ad val.	9% ad val.	8.5% ad val.	8% ad val.	8% ad val.
609.25	0.05¢ per lb. + 6% ad val.	0.05¢ per lb. + 6% ad val.	0.05¢ per lb. + 6% ad val.	0.05¢ per lb. + 6% ad val.	0.05¢ per lb. + 6% ad val.
609.26	0.09¢ per lb. + 8% ad val.	0.08¢ per lb. + 8% ad val.	0.05¢ per lb. + 8% ad val.	0.05¢ per lb. + 8% ad val.	0.05¢ per lb. + 8% ad val.
609.27	0.05¢ per lb. + 9.5% ad val.	0.05¢ per lb. + 9% ad val.	0.05¢ per lb. + 8.5% ad val.	0.05¢ per lb. + 8% ad val.	0.05¢ per lb. + 8% ad val.
609.30	9.5% ad val. + additional duties	9% ad val. + additional duties	8.5% ad val. + additional duties	8% ad val. + additional duties	8% ad val. + additional duties
609.31	12% ad val. + additional duties	11% ad val. + additional duties	11% ad val. + additional duties	10% ad val. + additional duties	10% ad val. + additional duties
609.32	13% ad val. + additional duties	12% ad val. + additional duties	11.5% ad val. + additional duties	10.5% ad val. + additional duties	10% ad val. + additional duties
609.35	0.09¢ per lb. + 9.5% ad val. + additional duties	0.08¢ per lb. + 9% ad val. + additional duties	0.07¢ per lb. + 8.5% ad val. + additional duties	0.06¢ per lb. + 8% ad val. + additional duties	0.05¢ per lb. + 8% ad val. + additional duties
609.36	0.05¢ per lb. + 12% ad val. + additional duties	0.05¢ per lb. + 11.5% ad val. + additional duties	0.05¢ per lb. + 11% ad val. + additional duties	0.05¢ per lb. + 10.5% ad val. + additional duties	0.05¢ per lb. + 10% ad val. + additional duties
609.37	0.09¢ per lb. + 13% ad val. + additional duties	0.08¢ per lb. + 12% ad val. + additional duties	0.07¢ per lb. + 11.5% ad val. + additional duties	0.06¢ per lb. + 10.5% ad val. + additional duties	0.05¢ per lb. + 10% ad val. + additional duties
609.45	12% ad val. + additional duties	11.5% ad val. + additional duties	11% ad val. + additional duties	10.5% ad val. + additional duties	10.5% ad val. + additional duties
609.70	11.5% ad val.	11% ad val.	10% ad val.	9.5% ad val.	9% ad val.
609.72	0.05¢ per lb. + 11.5% ad val.	0.05¢ per lb. + 11% ad val.	0.05¢ per lb. + 10% ad val.	0.05¢ per lb. + 9.5% ad val.	0.05¢ per lb. + 9% ad val.
609.75	15% ad val. + additional duties	14% ad val. + additional duties	13% ad val. + additional duties	12% ad val. + additional duties	11% ad val. + additional duties
609.76	0.09¢ per lb. + 15% ad val. + additional duties	0.08¢ per lb. + 14% ad val. + additional duties	0.07¢ per lb. + 13% ad val. + additional duties	0.06¢ per lb. + 12% ad val. + additional duties	0.05¢ per lb. + 11% ad val. + additional duties
609.82	0.1¢ per lb. + 3.5% ad val. + additional duties	0.1¢ per lb. + 3% ad val. + additional duties	0.1¢ per lb. + 2.5% ad val. + additional duties	0.1¢ per lb. + 2% ad val. + additional duties	0.1¢ per lb. + 2% ad val. + additional duties
609.84	7% ad val.	7% ad val.	6.5% ad val.	6.5% ad val.	6.5% ad val.
609.86	10.5% ad val. + additional duties	10% ad val. + additional duties	9.5% ad val. + additional duties	9% ad val. + additional duties	8.5% ad val. + additional duties
609.88	8% ad val.	8% ad val.	7.5% ad val.	7.5% ad val.	7.5% ad val.
609.90	11.5% ad val. + additional duties	11% ad val. + additional duties	10.5% ad val. + additional duties	10% ad val. + additional duties	9.5% ad val. + additional duties

88-000 O - 67 (Pt. II) - 7

Item in TSUS as modified by Annex II 1/	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 6, Part 2--Continued					
609.98	0.1¢ per lb. + 3.5% ad val. + additional duties	0.1¢ per lb. + 3% ad val. + additional duties	0.1¢ per lb. + 2.5% ad val. + additional duties	0.1¢ per lb. + 2% ad val. + additional duties	0.1¢ per lb. + 2% ad val. + additional duties
610.43	11% ad val. + additional duties	11% ad val. + additional duties	11% ad val. + additional duties	11% ad val. + additional duties	11% ad val. + additional duties
610.45	11.5% ad val.	11.5% ad val.	11% ad val.	11% ad val.	11% ad val.
610.46	15% ad val. + additional duties	14.5% ad val. + additional duties	14% ad val. + additional duties	13.5% ad val. + additional duties	13% ad val. + additional duties
610.51	15% ad val. + additional duties	14% ad val. + additional duties	14% ad val. + additional duties	13% ad val. + additional duties	13% ad val. + additional duties
610.52	14% ad val. + additional duties	13.5% ad val. + additional duties	13.5% ad val. + additional duties	13% ad val. + additional duties	13% ad val. + additional duties
610.58	13.5% ad val. + additional duties	13% ad val. + additional duties	12.5% ad val. + additional duties	12% ad val. + additional duties	12% ad val. + additional duties
610.63	13.5% ad val. + additional duties	13% ad val. + additional duties	12.5% ad val. + additional duties	12% ad val. + additional duties	12% ad val. + additional duties
610.66	6.5% ad val. + additional duties	6% ad val. + additional duties	5.5% ad val. + additional duties	5% ad val. + additional duties	5% ad val. + additional duties
610.71	11.5% ad val. + additional duties	11% ad val. + additional duties	10.5% ad val. + additional duties	10% ad val. + additional duties	10% ad val. + additional duties
610.74	20% ad val.	18% ad val.	15.5% ad val.	13% ad val.	11% ad val.
610.80	17% ad val.	15.5% ad val.	14% ad val.	12.5% ad val.	11% ad val.
612.02A	1.5¢ per lb. on copper content	1.3¢ per lb. on copper content	1.1¢ per lb. on copper content	1¢ per lb. on copper content	0.8¢ per lb. on copper content
612.02B	1.8¢ per lb. on copper content	1.6¢ per lb. on copper content	1.4¢ per lb. on copper content	1.2¢ per lb. on copper content	1¢ per lb. on copper content
612.03A	1.5¢ per lb. on 99.6% of the copper content	1.3¢ per lb. on 99.6% of the copper content	1.1¢ per lb. on 99.6% of the copper content	1¢ per lb. on 99.6% of the copper content	0.8¢ per lb. on 99.6% of the copper content
612.03B	1.8¢ per lb. on 99.6% of the copper content	1.6¢ per lb. on 99.6% of the copper content	1.4¢ per lb. on 99.6% of the copper content	1.2¢ per lb. on 99.6% of the copper content	1¢ per lb. on 99.6% of the copper content
612.05A	1.5¢ per lb. on copper content + 9% ad val.	1.3¢ per lb. on copper content + 8% ad val.	1.1¢ per lb. on copper content + 7% ad val.	1¢ per lb. on copper content + 6% ad val.	0.8¢ per lb. on copper content + 5% ad val.
612.05B	1.8¢ per lb. on copper content + 9% ad val.	1.6¢ per lb. on copper content + 8% ad val.	1.4¢ per lb. on copper content + 7% ad val.	1.2¢ per lb. on copper content + 6% ad val.	1¢ per lb. on copper content + 5% ad val.
612.06A	1.5¢ per lb. on copper content	1.3¢ per lb. on copper content	1.1¢ per lb. on copper content	1¢ per lb. on copper content	0.8¢ per lb. on copper content
612.06B	1.8¢ per lb. on copper content	1.6¢ per lb. on copper content	1.4¢ per lb. on copper content	1.2¢ per lb. on copper content	1¢ per lb. on copper content
612.08A	1.5¢ per lb. on 99.6% of the copper content + 9% ad val.	1.3¢ per lb. on 99.6% of the copper content + 8% ad val.	1.1¢ per lb. on 99.6% of the copper content + 7% ad val.	1¢ per lb. on 99.6% of the copper content + 6% ad val.	0.8¢ per lb. on 99.6% of the copper content + 5% ad val.

1/ The letter "A" or "B" following an item number in this column is for purposes of identifying the staged rate of duty to be inserted in column 1-a or column 1-b, as the case may be, of the corresponding item in the Tariff Schedules of the United States.

Item in TSUS as modified by Annex II 1/	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 6, Part 2--Continued					
612.08B	1.8¢ per lb. on 99.6% of the copper content + 9% ad val.	1.6¢ per lb. on 99.6% of the copper content + 8% ad val.	1.4¢ per lb. on 99.6% of the copper content + 7% ad val.	1.2¢ per lb. on 99.6% of the copper content + 6% ad val.	1¢ per lb. on 99.6% of the copper content + 5% ad val.
612.10A	1.5¢ per lb. on 99.6% of the copper content	1.3¢ per lb. on 99.6% of the copper content	1.1¢ per lb. on 99.6% of the copper content	1¢ per lb. on 99.6% of the copper content	0.8¢ per lb. on 99.6% of the copper content
612.10B	1.8¢ per lb. on 99.6% of the copper content	1.6¢ per lb. on 99.6% of the copper content	1.4¢ per lb. on 99.6% of the copper content	1.2¢ per lb. on 99.6% of the copper content	1¢ per lb. on 99.6% of the copper content
612.15A	1.5¢ per lb. on copper content + 2.5¢ per lb.	1.3¢ per lb. on copper content + 2.4¢ per lb.	1.1¢ per lb. on copper content + 2¢ per lb.	1¢ per lb. on copper content + 1.5¢ per lb.	0.8¢ per lb. on copper content + 1.5¢ per lb.
612.15B	1.8¢ per lb. on copper content + 2.5¢ per lb.	1.6¢ per lb. on copper content + 2.4¢ per lb.	1.4¢ per lb. on copper content + 2¢ per lb.	1.2¢ per lb. on copper content + 1.5¢ per lb.	1¢ per lb. on copper content + 1.5¢ per lb.
612.17A	1.1¢ per lb. + 11% ad val.	1¢ per lb. + 10% ad val.	0.8¢ per lb. + 8.5% ad val.	0.7¢ per lb. + 7.5% ad val.	0.6¢ per lb. + 6% ad val.
612.17B	1.3¢ per lb. + 11% ad val.	1.2¢ per lb. + 10% ad val.	1¢ per lb. + 8.5% ad val.	0.9¢ per lb. + 7.5% ad val.	0.75¢ per lb. + 6% ad val.
612.20A	1.1¢ per lb. + 18% ad val.	1¢ per lb. + 16% ad val.	0.8¢ per lb. + 14% ad val.	0.7¢ per lb. + 12% ad val.	0.6¢ per lb. + 10% ad val.
612.20B	1.3¢ per lb. + 18% ad val.	1.2¢ per lb. + 16% ad val.	1¢ per lb. + 14% ad val.	0.9¢ per lb. + 12% ad val.	0.75¢ per lb. + 10% ad val.
612.30A	1.1¢ per lb. + 21.5% ad val.	1¢ per lb. + 19% ad val.	0.8¢ per lb. + 16.8% ad val.	0.7¢ per lb. + 14.4% ad val.	0.6¢ per lb. + 12% ad val.
612.30B	1.3¢ per lb. + 21.5% ad val.	1.2¢ per lb. + 19% ad val.	1¢ per lb. + 16.8% ad val.	0.9¢ per lb. + 14.4% ad val.	0.75¢ per lb. + 12% ad val.
612.31A	2.5¢ per lb.	2.3¢ per lb.	2¢ per lb.	1.7¢ per lb.	1.4¢ per lb.
612.31B	2.9¢ per lb.	2.6¢ per lb.	2.2¢ per lb.	1.9¢ per lb.	1.625¢ per lb.
612.32A	1.1¢ per lb. + 20% ad val.	1¢ per lb. + 18% ad val.	0.8¢ per lb. + 15.5% ad val.	0.7¢ per lb. + 13.5% ad val.	0.6¢ per lb. + 11% ad val.
612.32B	1.3¢ per lb. + 20% ad val.	1.2¢ per lb. + 18% ad val.	1¢ per lb. + 15.5% ad val.	0.9¢ per lb. + 13.5% ad val.	0.75¢ per lb. + 11% ad val.
612.34A	1.1¢ per lb. + 21.5% ad val.	1¢ per lb. + 19% ad val.	0.8¢ per lb. + 16.8% ad val.	0.7¢ per lb. + 14.4% ad val.	0.6¢ per lb. + 12% ad val.
612.34B	1.3¢ per lb. + 21.5% ad val.	1.2¢ per lb. + 19% ad val.	1¢ per lb. + 16.8% ad val.	0.9¢ per lb. + 14.4% ad val.	0.75¢ per lb. + 12% ad val.
612.35A	1.5¢ per lb. on copper content + 27% ad val.	1.3¢ per lb. on copper content + 24% ad val.	1.1¢ per lb. on copper content + 21% ad val.	1¢ per lb. on copper content + 18% ad val.	0.8¢ per lb. on copper content + 15% ad val.
612.35B	1.8¢ per lb. on copper content + 27% ad val.	1.6¢ per lb. on copper content + 24% ad val.	1.4¢ per lb. on copper content + 21% ad val.	1.2¢ per lb. on copper content + 18% ad val.	1¢ per lb. on copper content + 15% ad val.
612.36A	1.1¢ per lb. + 20% ad val.	1¢ per lb. + 18% ad val.	0.8¢ per lb. + 15.5% ad val.	0.7¢ per lb. + 13.5% ad val.	0.6¢ per lb. + 11% ad val.
612.36B	1.3¢ per lb. + 20% ad val.	1.2¢ per lb. + 18% ad val.	1¢ per lb. + 15.5% ad val.	0.9¢ per lb. + 13.5% ad val.	0.75¢ per lb. + 11% ad val.
612.38A	1.1¢ per lb. + 21.5% ad val.	1¢ per lb. + 19% ad val.	0.8¢ per lb. + 16.5% ad val.	0.7¢ per lb. + 14.4% ad val.	0.6¢ per lb. + 12% ad val.
612.38B	1.3¢ per lb. + 21.5% ad val.	1.2¢ per lb. + 19% ad val.	1¢ per lb. + 16.5% ad val.	0.9¢ per lb. + 14.4% ad val.	0.75¢ per lb. + 12% ad val.
612.39A	1.5¢ per lb. on copper content + 1.8¢ per lb.	1.3¢ per lb. on copper content + 1.5¢ per lb.	1.1¢ per lb. on copper content + 1.4¢ per lb.	1¢ per lb. on copper content + 1.2¢ per lb.	0.8¢ per lb. on copper content + 1¢ per lb.
612.39B	1.8¢ per lb. on copper content + 1.8¢ per lb.	1.6¢ per lb. on copper content + 1.5¢ per lb.	1.4¢ per lb. on copper content + 1.4¢ per lb.	1.2¢ per lb. on copper content + 1.2¢ per lb.	1¢ per lb. on copper content + 1¢ per lb.

1/ The letter "A" or "B" following an item number in this column is for purposes of identifying the staged rate of duty to be inserted in column 1-a or column 1-b, as the case may be, of the corresponding item in the Tariff Schedules of the United States.

Item in TSUS as modified by Annex II 1/	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 6, Part 2--Continued					
612.40A	1.1¢ per lb. + 21.5% ad val.	1¢ per lb. + 19% ad val.	0.8¢ per lb. + 16.5% ad val.	0.7¢ per lb. + 14.4% ad val.	0.6¢ per lb. + 12% ad val.
612.40B	1.3¢ per lb. + 21.5% ad val.	1.2¢ per lb. + 19% ad val.	1¢ per lb. + 16.5% ad val.	0.9¢ per lb. + 14.4% ad val.	0.75¢ per lb. + 12% ad val.
612.41A	1.1¢ per lb. + 20% ad val.	1¢ per lb. + 18% ad val.	0.8¢ per lb. + 15.5% ad val.	0.7¢ per lb. + 13.5% ad val.	0.6¢ per lb. + 11% ad val.
612.41B	1.3¢ per lb. + 20% ad val.	1.2¢ per lb. + 18% ad val.	1¢ per lb. + 15.5% ad val.	0.9¢ per lb. + 13.5% ad val.	0.75¢ per lb. + 11% ad val.
612.43A	1.1¢ per lb. + 21.5% ad val.	1¢ per lb. + 19% ad val.	0.8¢ per lb. + 16.5% ad val.	0.7¢ per lb. + 14.4% ad val.	0.6¢ per lb. + 12% ad val.
612.43B	1.3¢ per lb. + 21.5% ad val.	1.2¢ per lb. + 19% ad val.	1¢ per lb. + 16.5% ad val.	0.9¢ per lb. + 14.4% ad val.	0.75¢ per lb. + 12% ad val.
612.44A	1.5¢ per lb. on copper content + 1.8¢ per lb.	1.3¢ per lb. on copper content + 1.5¢ per lb.	1.1¢ per lb. on copper content + 1.4¢ per lb.	1¢ per lb. on copper content + 1.2¢ per lb.	0.8¢ per lb. on copper content + 1¢ per lb.
612.44B	1.8¢ per lb. on copper content + 1.8¢ per lb.	1.6¢ per lb. on copper content + 1.5¢ per lb.	1.4¢ per lb. on copper content + 1.4¢ per lb.	1.2¢ per lb. on copper content + 1.2¢ per lb.	1¢ per lb. on copper content + 1¢ per lb.
612.45A	1.1¢ per lb. + 13.5% ad val.	1¢ per lb. + 12% ad val.	0.8¢ per lb. + 10.5% ad val.	0.7¢ per lb. + 9% ad val.	0.6¢ per lb. + 7.5% ad val.
612.45B	1.3¢ per lb. + 13.5% ad val.	1.2¢ per lb. + 12% ad val.	1¢ per lb. + 10.5% ad val.	0.9¢ per lb. + 9% ad val.	0.75¢ per lb. + 7.5% ad val.
612.50A	1.1¢ per lb. + 20% ad val.	1¢ per lb. + 18% ad val.	0.8¢ per lb. + 15.5% ad val.	0.7¢ per lb. + 13.5% ad val.	0.6¢ per lb. + 11% ad val.
612.50B	1.3¢ per lb. + 20% ad val.	1.2¢ per lb. + 18% ad val.	1¢ per lb. + 15.5% ad val.	0.9¢ per lb. + 13.5% ad val.	0.75¢ per lb. + 11% ad val.
612.52A	1.1¢ per lb. + 13.5% ad val.	1¢ per lb. + 12% ad val.	0.8¢ per lb. + 10.5% ad val.	0.7¢ per lb. + 9% ad val.	0.6¢ per lb. + 7.5% ad val.
612.52B	1.3¢ per lb. + 13.5% ad val.	1.2¢ per lb. + 12% ad val.	1¢ per lb. + 10.5% ad val.	0.9¢ per lb. + 9% ad val.	0.75¢ per lb. + 7.5% ad val.
612.55A	10¢ per lb.	9¢ per lb.	7.5¢ per lb.	6.5¢ per lb.	5.6¢ per lb.
612.55B	10.3¢ per lb.	9.2¢ per lb.	8¢ per lb.	6.9¢ per lb.	5.75¢ per lb.
612.56A	1.1¢ per lb. + 15.5% ad val.	1¢ per lb. + 14% ad val.	0.8¢ per lb. + 12% ad val.	0.7¢ per lb. + 10.5% ad val.	0.6¢ per lb. + 8.5% ad val.
612.56B	1.3¢ per lb. + 15.5% ad val.	1.2¢ per lb. + 14% ad val.	1¢ per lb. + 12% ad val.	0.9¢ per lb. + 10.5% ad val.	0.75¢ per lb. + 8.5% ad val.
612.60A	2.5¢ per lb.	2.3¢ per lb.	2¢ per lb.	1.7¢ per lb.	1.4¢ per lb.
612.60B	2.9¢ per lb.	2.6¢ per lb.	2.2¢ per lb.	1.9¢ per lb.	1.6¢ per lb.
612.61A	1.5¢ per lb. on copper content + 27% ad val.	1.3¢ per lb. on copper content + 24% ad val.	1.1¢ per lb. on copper content + 21% ad val.	1¢ per lb. on copper content + 18% ad val.	0.8¢ per lb. on copper content + 15% ad val.
612.61B	1.8¢ per lb. on copper content + 27% ad val.	1.6¢ per lb. on copper content + 24% ad val.	1.4¢ per lb. on copper content + 21% ad val.	1.2¢ per lb. on copper content + 18% ad val.	1¢ per lb. on copper content + 15% ad val.
612.62A	1.5¢ per lb. on copper content + 1.8¢ per lb.	1.3¢ per lb. on copper content + 1.5¢ per lb.	1.1¢ per lb. on copper content + 1.4¢ per lb.	1¢ per lb. on copper content + 1.2¢ per lb.	0.8¢ per lb. on copper content + 1¢ per lb.
612.62B	1.8¢ per lb. on copper content + 1.8¢ per lb.	1.6¢ per lb. on copper content + 1.5¢ per lb.	1.4¢ per lb. on copper content + 1.4¢ per lb.	1.2¢ per lb. on copper content + 1.2¢ per lb.	1¢ per lb. on copper content + 1¢ per lb.
612.63A	1.1¢ per lb. + 20% ad val.	1¢ per lb. + 18% ad val.	0.8¢ per lb. + 15.5% ad val.	0.7¢ per lb. + 13.5% ad val.	0.6¢ per lb. + 11% ad val.

1/ The letter "A" or "B" following an item number in this column is for purposes of identifying the staged rate of duty to be inserted in column 1-a or column 1-b, as the case may be, of the corresponding item in the Tariff Schedules of the United States.

Item in TSUS as modified by Annex II 1/	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 6, Part 2--Continued					
612.63B	1.3¢ per lb. + 20% ad val.	1.2¢ per lb. + 18% ad val.	1¢ per lb. + 15.5% ad val.	0.9¢ per lb. + 13.5% ad val.	0.75¢ per lb. + 11% ad val.
612.64A	1.5¢ per lb. on copper content + 1.8¢ per lb.	1.3¢ per lb. on copper content + 1.5¢ per lb.	1.1¢ per lb. on copper content + 1.4¢ per lb.	1¢ per lb. on copper content + 1.2¢ per lb.	0.8¢ per lb. on copper content + 1¢ per lb.
612.64B	1.8¢ per lb. on copper content + 1.8¢ per lb.	1.6¢ per lb. on copper content + 1.5¢ per lb.	1.4¢ per lb. on copper content + 1.4¢ per lb.	1.2¢ per lb. on copper content + 1.2¢ per lb.	1¢ per lb. on copper content + 1¢ per lb.
612.70A	1.5¢ per lb. on copper content + 27% ad val.	1.3¢ per lb. on copper content + 24% ad val.	1.1¢ per lb. on copper content + 21% ad val.	1¢ per lb. on copper content + 18% ad val.	0.8¢ per lb. on copper content + 15% ad val.
612.70B	1.8¢ per lb. on copper content + 27% ad val.	1.6¢ per lb. on copper content + 24% ad val.	1.4¢ per lb. on copper content + 21% ad val.	1.2¢ per lb. on copper content + 18% ad val.	1¢ per lb. on copper content + 15% ad val.
612.71A	1.5¢ per lb. on copper content + 0.05¢ per lb. + 27% ad val.	1.3¢ per lb. on copper content + 0.05¢ per lb. + 24% ad val.	1.1¢ per lb. on copper content + 0.05¢ per lb. + 21% ad val.	1¢ per lb. on copper content + 0.05¢ per lb. + 18% ad val.	0.8¢ per lb. on copper content + 0.05¢ per lb. + 15% ad val.
612.71B	1.8¢ per lb. on copper content + 0.05¢ per lb. + 27% ad val.	1.6¢ per lb. on copper content + 0.05¢ per lb. + 24% ad val.	1.4¢ per lb. on copper content + 0.05¢ per lb. + 21% ad val.	1.2¢ per lb. on copper content + 0.05¢ per lb. + 18% ad val.	1¢ per lb. on copper content + 0.05¢ per lb. + 15% ad val.
612.72A	1.5¢ per lb. on copper content + 11% ad val.	1.3¢ per lb. on copper content + 10% ad val.	1.1¢ per lb. on copper content + 8.5% ad val.	1¢ per lb. on copper content + 7.5% ad val.	0.8¢ per lb. on copper content + 6% ad val.
612.72B	1.8¢ per lb. on copper content + 11% ad val.	1.6¢ per lb. on copper content + 10% ad val.	1.4¢ per lb. on copper content + 8.5% ad val.	1.2¢ per lb. on copper content + 7.5% ad val.	1¢ per lb. on copper content + 6% ad val.
612.73A	1.5¢ per lb. on copper content + 0.05¢ per lb. + 11% ad val.	1.3¢ per lb. on copper content + 0.05¢ per lb. + 10% ad val.	1.1¢ per lb. on copper content + 0.05¢ per lb. + 8.5% ad val.	1¢ per lb. on copper content + 0.05¢ per lb. + 7.5% ad val.	0.8¢ per lb. on copper content + 0.05¢ per lb. + 6% ad val.
612.73B	1.8¢ per lb. on copper content + 0.05¢ per lb. + 11% ad val.	1.6¢ per lb. on copper content + 0.05¢ per lb. + 10% ad val.	1.4¢ per lb. on copper content + 0.05¢ per lb. + 8.5% ad val.	1.2¢ per lb. on copper content + 0.05¢ per lb. + 7.5% ad val.	1¢ per lb. on copper content + 0.05¢ per lb. + 6% ad val.
612.80A	1.1¢ per lb. + 20% ad val.	1¢ per lb. + 18% ad val.	0.8¢ per lb. + 15.5% ad val.	0.7¢ per lb. + 13.5% ad val.	0.6¢ per lb. + 11% ad val.
612.80B	1.3¢ per lb. + 20% ad val.	1.2¢ per lb. + 18% ad val.	1¢ per lb. + 15.5% ad val.	0.9¢ per lb. + 13.5% ad val.	0.75¢ per lb. + 11% ad val.
612.81A	1.5¢ per lb. on copper content + 5.4¢ per lb.	1.3¢ per lb. on copper content + 4.8¢ per lb.	1.1¢ per lb. on copper content + 4.2¢ per lb.	1¢ per lb. on copper content + 3.6¢ per lb.	0.8¢ per lb. on copper content + 3¢ per lb.
612.81B	1.8¢ per lb. on copper content + 5.4¢ per lb.	1.6¢ per lb. on copper content + 4.8¢ per lb.	1.4¢ per lb. on copper content + 4.2¢ per lb.	1.2¢ per lb. on copper content + 3.6¢ per lb.	1¢ per lb. on copper content + 3¢ per lb.
612.82A	1.1¢ per lb. + 13.5% ad val.	1¢ per lb. + 12% ad val.	0.8¢ per lb. + 10.5% ad val.	0.7¢ per lb. + 9% ad val.	0.6¢ per lb. + 7.5% ad val.
612.82B	1.3¢ per lb. + 13.5% ad val.	1.2¢ per lb. + 12% ad val.	1¢ per lb. + 10.5% ad val.	0.9¢ per lb. + 9% ad val.	0.75¢ per lb. + 7.5% ad val.
613.02A	4.5¢ per lb.	4¢ per lb.	3.5¢ per lb.	3¢ per lb.	2.6¢ per lb.
613.02B	4.9¢ per lb.	4.4¢ per lb.	3.8¢ per lb.	3.3¢ per lb.	2.75¢ per lb.

1/ The letter "A" or "B" following an item number in this column is for purposes of identifying the staged rate of duty to be inserted in column 1-a or column 1-b, as the case may be, of the corresponding item in the Tariff Schedules of the United States.

Item in TSUS as modified by Annex II 1/	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 6, Part 2--Continued					
613.03A	5.5¢ per lb.	4.9¢ per lb.	4.3¢ per lb.	3.5¢ per lb.	3¢ per lb.
613.03B	5.8¢ per lb.	5.2¢ per lb.	4.5¢ per lb.	3.9¢ per lb.	3.2¢ per lb.
613.04A	1.1¢ per lb. + 20% ad val.	1¢ per lb. + 18% ad val.	0.8¢ per lb. + 15.5% ad val.	0.7¢ per lb. + 13.5% ad val.	0.6¢ per lb. + 11% ad val.
613.04B	1.3¢ per lb. + 20% ad val.	1.2¢ per lb. + 18% ad val.	1¢ per lb. + 15.5% ad val.	0.9¢ per lb. + 13.5% ad val.	0.75¢ per lb. + 11% ad val.
613.06A	1.1¢ per lb. + 20% ad val.	1¢ per lb. + 18% ad val.	0.8¢ per lb. + 15.7% ad val.	0.7¢ per lb. + 13.5% ad val.	0.6¢ per lb. + 11% ad val.
613.06B	1.3¢ per lb. + 20% ad val.	1.2¢ per lb. + 18% ad val.	1¢ per lb. + 15.7% ad val.	0.9¢ per lb. + 13.5% ad val.	0.75¢ per lb. + 11% ad val.
613.08A	1.1¢ per lb. + 13.5% ad val.	1¢ per lb. + 12% ad val.	0.8¢ per lb. + 10.5% ad val.	0.7¢ per lb. + 9% ad val.	0.6¢ per lb. + 7.5% ad val.
613.08B	1.3¢ per lb. + 13.5% ad val.	1.2¢ per lb. + 12% ad val.	1¢ per lb. + 10.5% ad val.	0.9¢ per lb. + 9% ad val.	0.75¢ per lb. + 7.5% ad val.
613.10A	1.5¢ per lb. on copper content + 1.8¢ per lb.	1.3¢ per lb. on copper content + 1.5¢ per lb.	1.1¢ per lb. on copper content + 1.4¢ per lb.	1¢ per lb. on copper content + 1¢ per lb.	0.8¢ per lb. on copper content + 1¢ per lb.
613.10B	1.8¢ per lb. on copper content + 1.8¢ per lb.	1.6¢ per lb. on copper content + 1.5¢ per lb.	1.4¢ per lb. on copper content + 1.4¢ per lb.	1.2¢ per lb. on copper content + 1.2¢ per lb.	1¢ per lb. on copper content + 1¢ per lb.
613.11A	1.5¢ per lb. on copper content + 5.4¢ per lb.	1.3¢ per lb. on copper content + 4.8¢ per lb.	1.1¢ per lb. on copper content + 4.2¢ per lb.	1¢ per lb. on copper content + 3.6¢ per lb.	0.8¢ per lb. on copper content + 3¢ per lb.
613.11B	1.8¢ per lb. on copper content + 5.4¢ per lb.	1.6¢ per lb. on copper content + 4.8¢ per lb.	1.4¢ per lb. on copper content + 4.2¢ per lb.	1.2¢ per lb. on copper content + 3.6¢ per lb.	1¢ per lb. on copper content + 3¢ per lb.
613.12A	1.1¢ per lb. + 13.5% ad val.	1¢ per lb. + 12% ad val.	0.8¢ per lb. + 10.5% ad val.	0.7¢ per lb. + 9% ad val.	0.6¢ per lb. + 7.5% ad val.
613.12B	1.3¢ per lb. + 13.5% ad val.	1.2¢ per lb. + 12% ad val.	1¢ per lb. + 10.5% ad val.	0.9¢ per lb. + 9% ad val.	0.75¢ per lb. + 7.5% ad val.
613.15A	1.1¢ per lb. + 20% ad val.	1¢ per lb. + 18% ad val.	0.8¢ per lb. + 15.5% ad val.	0.7¢ per lb. + 13.5% ad val.	0.6¢ per lb. + 11% ad val.
613.15B	1.3¢ per lb. + 20% ad val.	1.2¢ per lb. + 18% ad val.	1¢ per lb. + 15.5% ad val.	0.9¢ per lb. + 13.5% ad val.	0.75¢ per lb. + 11% ad val.
613.18A	1.1¢ per lb. + 13.5% ad val.	1¢ per lb. + 12% ad val.	0.8¢ per lb. + 10.5% ad val.	0.7¢ per lb. + 9% ad val.	0.6¢ per lb. + 7.5% ad val.
613.18B	1.3¢ per lb. + 13.5% ad val.	1.2¢ per lb. + 12% ad val.	1¢ per lb. + 10.5% ad val.	0.9¢ per lb. + 9% ad val.	0.75¢ per lb. + 7.5% ad val.
618.01	2.2¢ per lb.	2¢ per lb.	1.7¢ per lb.	1.5¢ per lb.	1.2¢ per lb.
618.02	1.2¢ per lb.	1.1¢ per lb.	1¢ per lb.	1¢ per lb.	1¢ per lb.
618.04	1.5¢ per lb.	1.5¢ per lb.	1¢ per lb.	1¢ per lb.	1¢ per lb.
618.06	1.2¢ per lb.	1.1¢ per lb.	1¢ per lb.	1¢ per lb.	1¢ per lb.
618.10	1.3¢ per lb.	1.2¢ per lb.	1¢ per lb.	0.9¢ per lb.	0.7¢ per lb.
618.15	2.4¢ per lb.	2.3¢ per lb.	2.2¢ per lb.	2¢ per lb.	2¢ per lb.
618.17	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
618.20	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
618.22	0.09¢ per lb. + 11% ad val.	0.08¢ per lb. + 10% ad val.	0.07¢ per lb. + 8.5% ad val.	0.06¢ per lb. + 7% ad val.	0.05¢ per lb. + 6% ad val.
618.25	2.4¢ per lb.	2.3¢ per lb.	2.2¢ per lb.	2¢ per lb.	2¢ per lb.
618.27	2.4¢ per lb.	2.3¢ per lb.	2.2¢ per lb.	2¢ per lb.	2¢ per lb.
618.29	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.

1/ The letter "A" or "B" following an item number in this column is for purposes of identifying the staged rate of duty to be inserted in column 1-a or column 1-b, as the case may be, of the corresponding item in the Tariff Schedules of the United States.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 6, Part 2--Continued					
618.40	4.5¢ per lb.	4¢ per lb.	3.5¢ per lb.	3¢ per lb.	2.5¢ per lb.
618.42	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
618.45	1.1¢ per lb.	1¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.6¢ per lb.
618.47	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
620.33	Free	Free	Free	Free	Free
620.04	1¢ per lb.	0.7¢ per lb.	0.5¢ per lb.	0.2¢ per lb.	Free
620.08	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.
620.10	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
620.12	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
620.16	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.
620.20	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
620.22	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
620.26	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.
620.30	9¢ per lb.	8¢ per lb.	7¢ per lb.	6¢ per lb.	5¢ per lb.
620.32	Free	Free	Free	Free	Free
620.40	5.5% ad val.	5% ad val.	4% ad val.	3.5% ad val.	3% ad val.
620.42	7.5% ad val.	7% ad val.	6% ad val.	5% ad val.	4% ad val.
620.46	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.
620.50	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
622.04	Free	Free	Free	Free	Free
622.15	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
622.17	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.
622.20	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
622.22	11% ad val.	10% ad val.	8.5% ad val.	7.5% ad val.	6% ad val.
622.25	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
622.35	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
622.40	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
624.12	1.3¢ per lb.	1.2¢ per lb.	1¢ per lb.	0.9¢ per lb.	0.75¢ per lb.
624.14	10% ad val.	9% ad val.	7.5% ad val.	6.5% ad val.	5.5% ad val.
624.16	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.
624.18	1.3¢ per lb.	1.2¢ per lb.	1¢ per lb.	0.9¢ per lb.	0.7¢ per lb.
624.20	10% ad val.	9% ad val.	7.5% ad val.	6.5% ad val.	5.5% ad val.
624.22	1.3¢ per lb.	1.2¢ per lb.	1¢ per lb.	0.9¢ per lb.	0.75¢ per lb.
624.24	10% ad val.	9% ad val.	7.5% ad val.	6.5% ad val.	5.5% ad val.
624.52	1.3¢ per lb.	1.2¢ per lb.	1¢ per lb.	0.9¢ per lb.	0.75¢ per lb.
624.54	10% ad val.	9% ad val.	7.5% ad val.	6.5% ad val.	5.5% ad val.
626.15	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
626.17	0.9¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.6¢ per lb.	0.5¢ per lb.
626.18	1¢ per lb.	0.9¢ per lb.	0.7¢ per lb.	0.6¢ per lb.	0.56¢ per lb.
626.20	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
626.22	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
626.24	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.
626.30	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
626.31	0.09¢ per lb. + 11% ad val.	0.08¢ per lb. + 10% ad val.	0.07¢ per lb. + 8.5% ad val.	0.06¢ per lb. + 7% ad val.	0.05¢ per lb. + 6% ad val.
626.35	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
626.40	0.6¢ per lb.	0.55¢ per lb.	0.45¢ per lb.	0.4¢ per lb.	0.3¢ per lb.
626.42	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
626.45	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
628.05	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
628.10	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 6, Part 2--Continued					
628.15	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
628.17	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
628.20	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.
628.25	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
628.30	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.
628.35	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
628.40	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.
628.45	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
628.50	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.
628.55	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
628.57	14.4¢ per lb. on magnesium content + 7% ad val.	12.8¢ per lb. on magnesium content + 6% ad val.	11¢ per lb. on magnesium content + 5.5% ad val.	9.5¢ per lb. on magnesium content + 4.5% ad val.	8¢ per lb. on magnesium content + 4% ad val.
628.59	12¢ per lb. on magnesium content + 6% ad val.	10.5¢ per lb. on magnesium content + 5.5% ad val.	9.4¢ per lb. on magnesium content + 4.5% ad val.	8¢ per lb. on magnesium content + 4% ad val.	6.5¢ per lb. on magnesium content + 3.5% ad val.
628.70	18.5% ad val.	16.5% ad val.	14.5% ad val.	12.5% ad val.	10.5% ad val.
628.72	18¢ per lb. on molybdenum content + 5% ad val.	16¢ per lb. on molybdenum content + 4.5% ad val.	14¢ per lb. on molybdenum content + 4% ad val.	12¢ per lb. on molybdenum content + 3.5% ad val.	10¢ per lb. on molybdenum content + 3% ad val.
628.74	22.5% ad val.	20% ad val.	17.5% ad val.	15% ad val.	12.5% ad val.
628.90	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
628.95	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.
629.05	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
629.07	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
629.10	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.
629.15	19.5% ad val.	19% ad val.	18.5% ad val.	18% ad val.	18% ad val.
629.25	37.5¢ per lb. on tungsten content + 11% ad val.	35¢ per lb. on tungsten content + 10% ad val.	29¢ per lb. on tungsten content + 8.5% ad val.	25¢ per lb. on tungsten content + 7.5% ad val.	21¢ per lb. on tungsten content + 6% ad val.
629.26	18.5% ad val.	16.5% ad val.	14.5% ad val.	12.5% ad val.	10.5% ad val.
629.28	37¢ per lb. on tungsten content + 22.5% ad val.	33¢ per lb. on tungsten content + 20% ad val.	29¢ per lb. on tungsten content + 17.5% ad val.	25¢ per lb. on tungsten content + 15% ad val.	21¢ per lb. on tungsten content + 12.5% ad val.
629.29	18.5% ad val.	16.5% ad val.	14.5% ad val.	12.5% ad val.	10.5% ad val.
629.30	22.5% ad val.	20% ad val.	17.5% ad val.	15% ad val.	12.5% ad val.
629.32	37.8¢ per lb. on tungsten content + 11% ad val.	33.5¢ per lb. on tungsten content + 10% ad val.	29.4¢ per lb. on tungsten content + 8.5% ad val.	25¢ per lb. on tungsten content + 7.5% ad val.	21¢ per lb. on tungsten content + 6% ad val.
629.33	22.5% ad val.	20% ad val.	17.5% ad val.	15% ad val.	12.5% ad val.
629.35	22.5% ad val.	20% ad val.	17.5% ad val.	15% ad val.	12.5% ad val.
629.50	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
629.60	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
629.62	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
629.65	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.
632.02	1.8¢ per lb.	1.5¢ per lb.	1.4¢ per lb.	1.2¢ per lb.	1¢ per lb.
632.04 1/	2.2¢ per lb.	2¢ per lb.	1.7¢ per lb.	1.5¢ per lb.	1.2¢ per lb.

1/ See note at the end of this annex.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 6, Part 2--Continued					
632.06	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
632.10	1% ad val.	1% ad val.	0.5% ad val.	Free	Free
632.12	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
632.14	3¢ per lb.	2¢ per lb.	1¢ per lb.	Free	Free
632.16	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
632.18	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
632.24	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
632.32	1.8¢ per lb. + 14% ad val.	1.7¢ per lb. + 13% ad val.	1.6¢ per lb. + 12% ad val.	1.5¢ per lb. + 11% ad val.	1.5¢ per lb. + 10% ad val.
632.34	22¢ per lb.	20¢ per lb.	17¢ per lb.	15¢ per lb.	12.5¢ per lb.
632.38	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
632.42	3.6¢ per lb. on silicon content	3.2¢ per lb. on silicon content	2.8¢ per lb. on silicon content	2.4¢ per lb. on silicon content	2¢ per lb. on silicon content
632.43	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
632.46	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
632.48	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
632.50	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
632.52	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
632.58	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
632.60	1.8¢ per lb.	1.5¢ per lb.	1.4¢ per lb.	1.2¢ per lb.	1¢ per lb.
632.62	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.
632.64	Free	Free	Free	Free	Free
632.66	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.
632.68	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
632.78	90¢ per lb.	80¢ per lb.	70¢ per lb.	60¢ per lb.	50¢ per lb.
632.79	90¢ per lb. + 11% ad val.	80¢ per lb. + 10% ad val.	70¢ per lb. + 8.5% ad val.	60¢ per lb. + 7% ad val.	50¢ per lb. + 6% ad val.
632.84	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.
633.00	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.
Schedule 6, Part 3					
640.05	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
640.10	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
640.20	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
640.25	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
640.30	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
640.35	12% ad val.	10.5% ad val.	9% ad val.	8% ad val.	6.5% ad val.
640.40	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
642.06	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
642.08	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
642.10	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
642.12	0.95¢ per lb.	0.85¢ per lb.	0.75¢ per lb.	0.65¢ per lb.	0.5¢ per lb.
642.14	12% ad val.	10.5% ad val.	9% ad val.	8% ad val.	6.5% ad val.
642.16	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
642.18	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
642.20	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 6, Part 3--Continued					
642.25	45% ad val.	40% ad val.	35% ad val.	30% ad val.	25% ad val.
642.27	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
642.30	45% ad val.	40% ad val.	35% ad val.	30% ad val.	25% ad val.
642.35	0.2¢ per lb.	0.2¢ per lb.	0.15¢ per lb.	0.15¢ per lb.	0.1¢ per lb.
642.45	18.5% ad val.	16.5% ad val.	14.5% ad val.	12.5% ad val.	10.5% ad val.
642.47	22.5% ad val.	20% ad val.	17.5% ad val.	15% ad val.	12.5% ad val.
642.50	0.67¢ per sq. ft. + 4.5% ad val.	0.6¢ per sq. ft. + 4% ad val.	0.52¢ per sq. ft. + 3.5% ad val.	0.45¢ per sq. ft. + 3% ad val.	0.37¢ per sq. ft. + 2.5% ad val.
642.52	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
642.54	0.67¢ per sq. ft. + 1.1¢ per lb.	0.6¢ per sq. ft. + 1¢ per lb.	0.52¢ per sq. ft. + 0.8¢ per lb.	0.45¢ per sq. ft. + 0.7¢ per lb.	0.37¢ per sq. ft. + 0.6¢ per lb.
642.56	1.1¢ per lb. + 9% ad val.	1¢ per lb. + 8% ad val.	0.6¢ per lb. + 7% ad val.	0.6¢ per lb. + 6% ad val.	0.6¢ per lb. + 5% ad val.
642.58	0.65¢ per sq. ft.	0.6¢ per sq. ft.	0.5¢ per sq. ft.	0.45¢ per sq. ft.	0.37¢ per sq. ft.
642.60	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
642.62	1.9¢ per sq. ft. + 4.5% ad val.	1.7¢ per sq. ft. + 4% ad val.	1.45¢ per sq. ft. + 3.5% ad val.	1.25¢ per sq. ft. + 3% ad val.	1¢ per sq. ft. + 2.5% ad val.
642.64	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
642.66	1.9¢ per sq. ft. + 1.1¢ per lb.	1.7¢ per sq. ft. + 1¢ per lb.	1.45¢ per sq. ft. + 0.8¢ per lb.	1.25¢ per sq. ft. + 0.7¢ per lb.	1¢ per sq. ft. + 0.6¢ per lb.
642.68	1.1¢ per lb. + 9% ad val.	1¢ per lb. + 8% ad val.	0.8¢ per lb. + 7% ad val.	0.7¢ per lb. + 6% ad val.	0.6¢ per lb. + 5% ad val.
642.70	1.9¢ per sq. ft.	1.7¢ per sq. ft.	1.45¢ per sq. ft.	1.25¢ per sq. ft.	1.06¢ per sq. ft.
642.72	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
642.74	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
642.76	1.1¢ per lb. + 22.5% ad val.	1¢ per lb. + 20% ad val.	0.6¢ per lb. + 17.5% ad val.	0.6¢ per lb. + 15% ad val.	0.6¢ per lb. + 12.5% ad val.
642.78	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
642.80	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
642.82	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
642.85	1.1¢ per lb. + 12% ad val.	1¢ per lb. + 10.5% ad val.	0.8¢ per lb. + 9.4% ad val.	0.6¢ per lb. + 8% ad val.	0.6¢ per lb. + 6.5% ad val.
642.87	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
642.91	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
642.93	0.04¢ per lb.	0.04¢ per lb.	0.03¢ per lb.	0.03¢ per lb.	0.02¢ per lb.
642.97	13.5% ad val.	12% ad val.	11% ad val.	9.5% ad val.	8.5% ad val.
644.02	2.5¢ per lb.	2.4¢ per lb.	2¢ per lb.	1.8¢ per lb.	1.5¢ per lb.
644.06	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
644.08	10.5¢ per lb.	10¢ per lb.	9.5¢ per lb.	9.2¢ per lb.	8.8¢ per lb.
644.09	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
644.11	8.3¢ per lb.	7.4¢ per lb.	6.4¢ per lb.	5.5¢ per lb.	4.6¢ per lb.
644.12	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
644.15	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
644.17	1.3¢ per lb.	1.2¢ per lb.	1¢ per lb.	0.9¢ per lb.	0.75¢ per lb.
644.18	10% ad val.	9% ad val.	7.5% ad val.	6.5% ad val.	5.5% ad val.
644.20	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
644.22	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.
644.24	1.1¢ per lb. + 18% ad val.	1¢ per lb. + 16% ad val.	0.8¢ per lb. + 14% ad val.	0.7¢ per lb. + 12% ad val.	0.6¢ per lb. + 10% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 6, Part 3--Continued					
644.26	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
644.28	10% ad val.	9% ad val.	7.5% ad val.	6.5% ad val.	5.5% ad val.
644.30	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
644.32	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.
644.36	4.7¢ per lb. + 7% ad val.	4.2¢ per lb. + 6% ad val.	3.6¢ per lb. + 5.5% ad val.	3.1¢ per lb. + 4.5% ad val.	2.6¢ per lb. + 4% ad val.
644.38	3.6¢ per lb. + 7% ad val.	3.2¢ per lb. + 6% ad val.	2.8¢ per lb. + 5.5% ad val.	2.4¢ per lb. + 4.5% ad val.	2¢ per lb. + 4% ad val.
644.40	2.9¢ per lb. + 7% ad val.	2.5¢ per lb. + 6% ad val.	2.2¢ per lb. + 5.5% ad val.	1.9¢ per lb. + 4.5% ad val.	1.6¢ per lb. + 4% ad val.
644.42	1.8¢ per lb. + 7% ad val.	1.6¢ per lb. + 6% ad val.	1.4¢ per lb. + 5.5% ad val.	1.2¢ per lb. + 4.5% ad val.	1¢ per lb. + 4% ad val.
644.46	74¢ per 100 leaves	66¢ per 100 leaves	57¢ per 100 leaves	49¢ per 100 leaves	41¢ per 100 leaves
644.48	74¢ for each 1,140 sq. in.	66¢ for each 1,140 sq. in.	57¢ for each 1,140 sq. in.	49¢ for each 1,140 sq. in.	41¢ for each 1,140 sq. in.
644.52	6.05¢ per 100 sq. in. + 22.5% ad val.	5.4¢ per 100 sq. in. + 20% ad val.	4.7¢ per 100 sq. in. + 17.5% ad val.	4¢ per 100 sq. in. + 15% ad val.	3.37¢ per 100 sq. in. + 12.5% ad val.
644.56	4.5¢ per 100 leaves	4¢ per 100 leaves	3.5¢ per 100 leaves	3¢ per 100 leaves	2.5¢ per 100 leaves
644.60	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
644.64	5.4¢ per 100 leaves + 9% ad val.	4.8¢ per 100 leaves + 8% ad val.	4¢ per 100 leaves + 7% ad val.	3.5¢ per 100 leaves + 6% ad val.	3¢ per 100 leaves + 5% ad val.
644.68	5.4¢ for each 3,025 sq. in. + 9% ad val.	4.8¢ for each 3,025 sq. in. + 8% ad val.	4.2¢ for each 3,025 sq. in. + 7% ad val.	3.5¢ for each 3,025 sq. in. + 6% ad val.	3¢ for each 3,025 sq. in. + 5% ad val.
644.72	2.5¢ per 100 leaves	2.4¢ per 100 leaves	2¢ per 100 leaves	1.8¢ per 100 leaves	1.5¢ per 100 leaves
644.76	2.5¢ for each 3,025 sq. in.	2.4¢ for each 3,025 sq. in.	2¢ for each 3,025 sq. in.	1.8¢ for each 3,025 sq. in.	1.5¢ for each 3,025 sq. in.
644.80	5¢ per 100 leaves + 9% ad val.	4.5¢ per 100 leaves + 8% ad val.	4¢ per 100 leaves + 7% ad val.	3.5¢ per 100 leaves + 6% ad val.	3¢ per 100 leaves + 5% ad val.
644.84	5¢ for each 3,025 sq. in. + 9% ad val.	4.5¢ for each 3,025 sq. in. + 8% ad val.	4¢ for each 3,025 sq. in. + 7% ad val.	3.5¢ for each 3,025 sq. in. + 6% ad val.	3¢ for each 3,025 sq. in. + 5% ad val.
644.88	4¢ per 100 leaves	3.5¢ per 100 leaves	3¢ per 100 leaves	2.5¢ per 100 leaves	2¢ per 100 leaves
644.92	4¢ for each 3,025 sq. in.	3.5¢ for each 3,025 sq. in.	3¢ for each 3,025 sq. in.	2.5¢ for each 3,025 sq. in.	2¢ for each 3,025 sq. in.
644.95	0.27¢ per 100 sq. in.	0.24¢ per 100 sq. in.	0.21¢ per 100 sq. in.	0.18¢ per 100 sq. in.	0.15¢ per 100 sq. in.
644.98	11.5¢ per lb.	10.5¢ per lb.	9¢ per lb.	7.5¢ per lb.	6.6¢ per lb.
646.02	2.8¢ per lb.	2.5¢ per lb.	2¢ per lb.	1.9¢ per lb.	1.6¢ per lb.
646.04	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
646.06	0.8¢ per lb.	0.7¢ per lb.	0.6¢ per lb.	0.5¢ per lb.	0.45¢ per lb.
646.15	Free	Free	Free	Free	Free
646.17	13.5% ad val.	12% ad val.	10.5% ad val.	9% ad val.	7.5% ad val.
646.20	0.9¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.5¢ per lb.	0.5¢ per lb.
646.22	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 6, Part 3--Continued					
646.26	0.15¢ per lb.	0.15¢ per lb.	0.14¢ per lb.	0.1¢ per lb.	0.1¢ per lb.
646.27	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
646.28	0.15¢ per lb.	0.15¢ per lb.	0.1¢ per lb.	0.1¢ per lb.	0.1¢ per lb.
646.32	2.8¢ per lb.	2.5¢ per lb.	2.2¢ per lb.	1.9¢ per lb.	1.6¢ per lb.
646.34	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
646.36	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
646.40	0.4¢ per lb.	0.4¢ per lb.	0.3¢ per lb.	0.3¢ per lb.	0.2¢ per lb.
646.41	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
646.42	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
646.45	3.2¢ per lb.	2.8¢ per lb.	2.5¢ per lb.	2.1¢ per lb.	1.8¢ per lb.
646.47	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
646.51	21% ad val.	18.5% ad val.	16% ad val.	14% ad val.	11.5% ad val.
646.53	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.
646.54	0.4¢ per lb.	0.4¢ per lb.	0.3¢ per lb.	0.3¢ per lb.	0.2¢ per lb.
646.56	0.2¢ per lb.	0.2¢ per lb.	0.2¢ per lb.	0.1¢ per lb.	0.1¢ per lb.
646.57	13% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.	7% ad val.
646.60	20% ad val.	18% ad val.	15.5% ad val.	13% ad val.	11% ad val.
646.63	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
646.65	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
646.70	0.2¢ per lb.	0.1¢ per lb.	0.1¢ per lb.	Free	Free
646.72	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
646.74	2.5¢ per lb.	2.4¢ per lb.	2¢ per lb.	1.8¢ per lb.	1.5¢ per lb.
646.75	21% ad val.	18.5% ad val.	16% ad val.	14% ad val.	11.5% ad val.
646.76	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.
646.77	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
646.78	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
646.80	10.8¢ per doz. + 7% ad val.	9.6¢ per doz. + 6% ad val.	8.4¢ per doz. + 5.5% ad val.	7.2¢ per doz. + 4.5% ad val.	6¢ per doz. + 4% ad val.
646.81	16¢ per doz. + 7% ad val.	14.4¢ per doz. + 6% ad val.	12¢ per doz. + 5.5% ad val.	10.5¢ per doz. + 4.5% ad val.	9¢ per doz. + 4% ad val.
646.82	33¢ per doz. + 9% ad val.	30¢ per doz. + 8% ad val.	26¢ per doz. + 7% ad val.	22¢ per doz. + 6% ad val.	18¢ per doz. + 5% ad val.
646.83	48¢ per doz. + 9% ad val.	46¢ per doz. + 8% ad val.	44¢ per doz. + 7% ad val.	42¢ per doz. + 6% ad val.	40¢ per doz. + 5% ad val.
646.84	54¢ per doz. + 7% ad val.	48¢ per doz. + 6% ad val.	42¢ per doz. + 5.5% ad val.	36¢ per doz. + 4.5% ad val.	30¢ per doz. + 4% ad val.
646.85	72¢ per doz. + 7% ad val.	64¢ per doz. + 6% ad val.	56¢ per doz. + 5.5% ad val.	48¢ per doz. + 4.5% ad val.	40¢ per doz. + 4% ad val.
646.86	27¢ per doz. + 7.5% ad val.	24¢ per doz. + 6.5% ad val.	21¢ per doz. + 5.5% ad val.	18¢ per doz. + 5% ad val.	15¢ per doz. + 4.25% ad val.
646.87	38¢ per doz. + 9% ad val.	34¢ per doz. + 8% ad val.	30¢ per doz. + 7% ad val.	25¢ per doz. + 6% ad val.	21¢ per doz. + 5% ad val.
646.88	58¢ per doz. + 7.5% ad val.	52¢ per doz. + 6.5% ad val.	45.5¢ per doz. + 5.5% ad val.	39¢ per doz. + 5% ad val.	32¢ per doz. + 4% ad val.
646.89	72¢ per doz. + 7% ad val.	64¢ per doz. + 6% ad val.	56¢ per doz. + 5.5% ad val.	48¢ per doz. + 4.5% ad val.	40¢ per doz. + 4% ad val.
646.90	20% ad val.	18% ad val.	15.5% ad val.	13% ad val.	11% ad val.
646.92	15% ad val.	14% ad val.	12% ad val.	11% ad val.	9.5% ad val.
646.95	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
646.97	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 6, Part 3--Continued					
646.98	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
647.01	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
647.03	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
647.05	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
647.10	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
648.53	6.5% ad val.	6% ad val.	5% ad val.	4% ad val.	3.5% ad val.
648.57	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
648.61	6.5% ad val.	6% ad val.	5% ad val.	4% ad val.	3.5% ad val.
648.63	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
648.67	20% ad val.	18% ad val.	15.5% ad val.	13% ad val.	11% ad val.
648.69	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
648.71	1.8¢ each + 11% ad val.	1.5¢ each + 10% ad val.	1.4¢ each + 8.5% ad val.	1.2¢ each + 7% ad val.	1¢ each + 6% ad val.
648.73	9¢ each + 20% ad val.	8¢ each + 18% ad val.	7¢ each + 15.5% ad val.	6¢ each + 13% ad val.	5¢ each + 11% ad val.
648.75	3.5¢ each + 7% ad val.	3.2¢ each + 6% ad val.	2.8¢ each + 5.5% ad val.	2.4¢ each + 4.5% ad val.	2¢ each + 4% ad val.
648.85	3¢ each + 18% ad val.	2.5¢ each + 16% ad val.	2.3¢ each + 14% ad val.	2¢ each + 12% ad val.	1.6¢ each + 10% ad val.
648.89	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
648.91	9¢ each + 20% ad val.	8¢ each + 18% ad val.	7¢ each + 15.5% ad val.	6¢ each + 13% ad val.	5¢ each + 11% ad val.
648.93	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
648.95	18.5% ad val.	16.5% ad val.	14.5% ad val.	12.5% ad val.	10.5% ad val.
648.97	19% ad val.	17% ad val.	15% ad val.	13% ad val.	11% ad val.
649.01	10¢ per doz.	9¢ per doz.	8¢ per doz.	7¢ per doz.	6¢ per doz.
649.03	18¢ per doz.	16¢ per doz.	14¢ per doz.	12¢ per doz.	10¢ per doz.
649.05	25¢ per doz.	22¢ per doz.	19¢ per doz.	16¢ per doz.	14¢ per doz.
649.07	15¢ per doz.	14¢ per doz.	12¢ per doz.	10¢ per doz.	8¢ per doz.
649.11	6.5% ad val.	6% ad val.	5% ad val.	4% ad val.	3.5% ad val.
649.14	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
649.17	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
649.19	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
649.21	18¢ per gross	16¢ per gross	14¢ per gross	12¢ per gross	10¢ per gross
649.23	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
649.24	8% ad val.	7% ad val.	6% ad val.	5% ad val.	4.5% ad val.
649.25	6.5% ad val.	6% ad val.	5% ad val.	4% ad val.	3.5% ad val.
649.26	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
649.27	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
649.29	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
649.31	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
649.32	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
649.33	0.9¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.6¢ per lb.	0.5¢ per lb.
649.35	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.
649.37	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
649.39	8% ad val.	7% ad val.	6% ad val.	5% ad val.	4.5% ad val.
649.41	5% ad val.	4.5% ad val.	4% ad val.	3.5% ad val.	3% ad val.
649.43	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
649.46	18.5% ad val.	16.5% ad val.	14.5% ad val.	12.5% ad val.	10.5% ad val.
649.47	20% ad val.	18% ad val.	15.5% ad val.	13% ad val.	11% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 6, Part 3--Continued					
649.48	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
649.49	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
649.53	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
649.57	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
649.67	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
649.71	45% ad val.	40% ad val.	35% ad val.	30% ad val.	25% ad val.
649.73	45% ad val.	40% ad val.	35% ad val.	30% ad val.	25% ad val.
649.75	45% ad val.	40% ad val.	35% ad val.	30% ad val.	25% ad val.
649.77	8.1¢ each + 24.5% ad val.	7.2¢ each + 22% ad val.	6.3¢ each + 19% ad val.	5.4¢ each + 16% ad val.	4.5¢ each + 13.5% ad val.
649.79	11.2¢ each + 22.5% ad val.	10¢ each + 20% ad val.	8.7¢ each + 17.5% ad val.	7.5¢ each + 15% ad val.	6.2¢ each + 12.5% ad val.
649.81	9¢ each + 22% ad val.	8¢ each + 20% ad val.	7¢ each + 17% ad val.	6¢ each + 15% ad val.	5¢ each + 12.5% ad val.
649.83	15.5¢ each + 24.5% ad val.	14¢ each + 22% ad val.	12¢ each + 19% ad val.	10.5¢ each + 16% ad val.	8.7¢ each + 13.5% ad val.
649.85	4.95¢ each + 24.5% ad val.	4.4¢ each + 22% ad val.	3.85¢ each + 19% ad val.	3.3¢ each + 16% ad val.	2.75¢ each + 13.5% ad val.
649.87	15.7¢ each + 24.5% ad val.	14¢ each + 22% ad val.	12.2¢ each + 19% ad val.	10.5¢ each + 16% ad val.	8.7¢ each + 13.5% ad val.
649.89	4.95¢ each + 24.5% ad val.	4.4¢ each + 22% ad val.	3.85¢ each + 19% ad val.	3.3¢ each + 16% ad val.	2.75¢ each + 13.5% ad val.
649.91	33% ad val.	29.5% ad val.	25.5% ad val.	22% ad val.	18.5% ad val.
650.01	0.8¢ each + 9% ad val.	0.73¢ each + 8% ad val.	0.64¢ each + 7% ad val.	0.55¢ each + 6% ad val.	0.46¢ each + 5% ad val.
650.03	3.5¢ each + 15.5% ad val.	3¢ each + 14% ad val.	2.8¢ each + 12% ad val.	2.4¢ each + 10% ad val.	2¢ each + 8.5% ad val.
650.05	7¢ each + 15.5% ad val.	6¢ each + 14% ad val.	5¢ each + 12% ad val.	4¢ each + 10.5% ad val.	4¢ each + 8.5% ad val.
650.07	1.5¢ each + 13.5% ad val.	1.5¢ each + 12% ad val.	1.4¢ each + 10% ad val.	1¢ each + 9% ad val.	1¢ each + 7.5% ad val.
650.09	0.9¢ each + 11% ad val.	0.8¢ each + 10% ad val.	0.7¢ each + 8.5% ad val.	0.6¢ each + 7% ad val.	0.5¢ each + 6% ad val.
650.12	0.9¢ each + 15.5% ad val.	0.8¢ each + 14% ad val.	0.7¢ each + 12% ad val.	0.6¢ each + 10% ad val.	0.5¢ each + 8.5% ad val.
650.13	3.5¢ each + 11% ad val.	3¢ each + 10% ad val.	2.8¢ each + 8.5% ad val.	2.4¢ each + 7% ad val.	2¢ each + 6% ad val.
650.17	3.5¢ each + 15.5% ad val.	3¢ each + 14% ad val.	2.8¢ each + 12% ad val.	2.4¢ each + 10% ad val.	2¢ each + 8.5% ad val.
650.19	1.8¢ each + 11% ad val.	1.5¢ each + 10% ad val.	1.4¢ each + 8.5% ad val.	1.2¢ each + 7% ad val.	1¢ each + 6% ad val.
650.21	0.9¢ each + 15.5% ad val.	0.8¢ each + 14% ad val.	0.7¢ each + 12% ad val.	0.6¢ each + 10% ad val.	0.5¢ each + 8.5% ad val.
650.31	0.8¢ each + 9% ad val.	0.7¢ each + 8% ad val.	0.6¢ each + 7% ad val.	0.5¢ each + 6% ad val.	0.4¢ each + 5% ad val.
650.35	7¢ each + 15.5% ad val.	6¢ each + 14% ad val.	5¢ each + 12% ad val.	4¢ each + 10.5% ad val.	4¢ each + 8.5% ad val.
650.37	0.9¢ each + 11% ad val.	0.8¢ each + 10% ad val.	0.7¢ each + 8.5% ad val.	0.6¢ each + 7% ad val.	0.5¢ each + 6% ad val.
650.39	0.9¢ each + 11% ad val.	0.8¢ each + 10% ad val.	0.7¢ each + 8.5% ad val.	0.6¢ each + 7% ad val.	0.5¢ each + 6% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 6, Part 3--Continued					
650.42	0.9¢ each + 15.5% ad val.	0.8¢ each + 14% ad val.	0.7¢ each + 12% ad val.	0.6¢ each + 10% ad val.	0.5¢ each + 8.5% ad val.
650.43	3.5¢ each + 11% ad val.	3¢ each + 10% ad val.	2.8¢ each + 8.5% ad val.	2.4¢ each + 7% ad val.	2¢ each + 6% ad val.
650.45	1.8¢ each + 11% ad val.	1.6¢ each + 10% ad val.	1.4¢ each + 8.5% ad val.	1.2¢ each + 7% ad val.	1¢ each + 6% ad val.
650.47	1.8¢ each + 11% ad val.	1.6¢ each + 10% ad val.	1.4¢ each + 8.5% ad val.	1.2¢ each + 7% ad val.	1¢ each + 6% ad val.
650.49	0.9¢ each + 15.5% ad val.	0.8¢ each + 14% ad val.	0.7¢ each + 12% ad val.	0.6¢ each + 10% ad val.	0.5¢ each + 8.5% ad val.
650.51	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
650.53	18.5% ad val.	16.5% ad val.	14.5% ad val.	12.5% ad val.	10.5% ad val.
650.55	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
650.57	20% ad val.	18% ad val.	15.5% ad val.	13% ad val.	11% ad val.
650.61	1.8¢ each + 11% ad val.	1.5¢ each + 10% ad val.	1.4¢ each + 8.5% ad val.	1.2¢ each + 7% ad val.	1¢ each + 6% ad val.
650.63	3.5¢ each + 15.5% ad val.	3¢ each + 14% ad val.	2.8¢ each + 12% ad val.	2.4¢ each + 10% ad val.	2¢ each + 8.5% ad val.
650.65	3.5¢ each + 11% ad val.	3¢ each + 10% ad val.	2.8¢ each + 8.5% ad val.	2.4¢ each + 7% ad val.	2¢ each + 6% ad val.
650.71	1.8¢ each + 4% ad val.	1.5¢ each + 4% ad val.	1.4¢ each + 3% ad val.	1.2¢ each + 3% ad val.	1¢ each + 2.5% ad val.
650.73	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
650.75	0.18¢ each + 5% ad val.	0.16¢ each + 4.5% ad val.	0.14¢ each + 4% ad val.	0.12¢ each + 3.5% ad val.	0.1¢ each + 3% ad val.
650.77	8% ad val.	7% ad val.	6% ad val.	5% ad val.	4.5% ad val.
650.79	13.5¢ each + 13% ad val.	12¢ each + 12% ad val.	10.5¢ each + 10% ad val.	9¢ each + 9% ad val.	7.5¢ each + 7.5% ad val.
650.81	13¢ each + 9% ad val.	12¢ each + 8% ad val.	10¢ each + 7% ad val.	9¢ each + 6% ad val.	7¢ each + 5% ad val.
650.83	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
650.85	7.5¢ each + 17% ad val.	6.8¢ each + 15% ad val.	5.9¢ each + 13% ad val.	5.1¢ each + 11% ad val.	4¢ each + 9.5% ad val.
650.87	1.57¢ each + 20% ad val.	1.4¢ each + 18% ad val.	1.22¢ each + 15.5% ad val.	1.05¢ each + 13% ad val.	0.87¢ each + 11% ad val.
650.89	6.75¢ each + 20% ad val.	6¢ each + 18% ad val.	5.25¢ each + 15.5% ad val.	4.5¢ each + 13% ad val.	3.75¢ each + 11% ad val.
651.01	34% ad val.	30% ad val.	26.5% ad val.	22.5% ad val.	19% ad val.
651.03	22.5% ad val.	20% ad val.	17.5% ad val.	15% ad val.	12.5% ad val.
651.04	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
651.07	90¢ per 1,000 + 30.5% ad val.	80¢ per 1,000 + 27% ad val.	70¢ per 1,000 + 23.5% ad val.	60¢ per 1,000 + 20% ad val.	50¢ per 1,000 + 17% ad val.
651.09	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
651.11	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
651.13	34% ad val.	30% ad val.	26.5% ad val.	22.5% ad val.	19% ad val.
651.15	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
651.21	20% ad val.	18% ad val.	15.5% ad val.	13% ad val.	11% ad val.
651.23	4% ad val.	4% ad val.	3% ad val.	3% ad val.	2.5% ad val.
651.25	0.6¢ per lb.	0.5¢ per lb.	0.45¢ per lb.	0.4¢ per lb.	0.3¢ per lb.
651.27	20% ad val.	18% ad val.	15.5% ad val.	13% ad val.	11% ad val.
651.29	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 6, Part 3--Continued					
651.31	20% ad val.	18% ad val.	15.5% ad val.	13% ad val.	11% ad val.
651.33	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
651.37	19% ad val.	17% ad val.	15% ad val.	13% ad val.	11% ad val.
651.45	2.5% ad val.	2% ad val.	2% ad val.	1.5% ad val.	1.5% ad val.
651.47	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
651.49	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
651.51	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
651.53	3¢ per lb. + 15% ad val.	2.5¢ per lb. + 13.5% ad val.	2.4¢ per lb. + 11.5% ad val.	2¢ per lb. + 10% ad val.	1.7¢ per lb. + 8.5% ad val.
651.55	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
651.60	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
651.62	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
651.64	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
652.03	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
652.06	4% ad val.	4% ad val.	3% ad val.	3% ad val.	2.5% ad val.
652.09	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
652.12	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
652.15	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
652.18	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
652.21	0.9¢ per lb.	0.8¢ per lb.	0.7¢ per lb.	0.6¢ per lb.	0.5¢ per lb.
652.24	1.5¢ per lb.	1.3¢ per lb.	1.1¢ per lb.	1¢ per lb.	0.8¢ per lb.
652.27	0.6¢ per lb.	0.6¢ per lb.	0.5¢ per lb.	0.37¢ per lb.	0.37¢ per lb.
652.30	0.4¢ per lb.	0.4¢ per lb.	0.3¢ per lb.	0.3¢ per lb.	0.2¢ per lb.
652.33	0.35¢ per lb.	0.3¢ per lb.	0.3¢ per lb.	0.2¢ per lb.	0.2¢ per lb.
652.35	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
652.36	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
652.38	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
652.41	0.2¢ per lb.	0.2¢ per lb.	0.1¢ per lb.	0.1¢ per lb.	0.1¢ per lb.
652.42	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
652.45	4.5¢ per lb. + 27% ad val.	4¢ per lb. + 24% ad val.	3.5¢ per lb. + 21% ad val.	3¢ per lb. + 18% ad val.	2.5¢ per lb. + 15% ad val.
652.50	3.5¢ per lb. + 11% ad val.	3¢ per lb. + 10% ad val.	2.5¢ per lb. + 8.5% ad val.	2¢ per lb. + 7.5% ad val.	2¢ per lb. + 6% ad val.
652.55	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
652.60	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
652.65	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
652.70	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
652.72	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
652.75	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
652.84	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
652.86	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
652.88	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
652.90	13.5% ad val.	12% ad val.	11% ad val.	10% ad val.	8.5% ad val.
652.92	9% ad val.	8% ad val.	7.5% ad val.	7% ad val.	6% ad val.
652.93	2.5% ad val.	2% ad val.	2% ad val.	1.5% ad val.	1.5% ad val.
652.94	6.5% ad val.	6% ad val.	5% ad val.	4% ad val.	3.5% ad val.
652.95	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
652.96	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 6, Part 3--Continued					
653.02	6.5% ad val.	6% ad val.	5% ad val.	4% ad val.	3.5% ad val.
653.03	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
653.05	4.5¢ per lb.	4¢ per lb.	3.5¢ per lb.	3¢ per lb.	2.6¢ per lb.
653.07	6¢ per lb.	5¢ per lb.	5¢ per lb.	4¢ per lb.	3¢ per lb.
653.10	0.5¢ per lb. on lead content	0.5¢ per lb. on lead content	0.5¢ per lb. on lead content	0.5¢ per lb. on lead content	0.5¢ per lb. on lead content
653.15	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
653.20	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
653.25	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
653.30	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
653.35	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
653.37	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
653.45	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
653.50	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
653.60	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
653.62	18.5% ad val.	16.5% ad val.	14.5% ad val.	12.5% ad val.	10.5% ad val.
653.65	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
653.70	29% ad val.	26% ad val.	22.5% ad val.	19% ad val.	16% ad val.
653.75	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
653.80	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
653.85	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
653.90	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
653.95	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
653.97	1.8¢ per lb. + 4% ad val.	1.5¢ per lb. + 4% ad val.	1.4¢ per lb. + 3% ad val.	1¢ per lb. + 3% ad val.	1¢ per lb. + 2.5% ad val.
654.00	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
654.05	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
654.10	3.1¢ per lb. + 15% ad val.	2.8¢ per lb. + 13.5% ad val.	2.4¢ per lb. + 11.5% ad val.	2¢ per lb. + 10% ad val.	1.7¢ per lb. + 8.5% ad val.
654.15	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
654.20	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
656.05	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
656.10	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
656.15	18.5% ad val.	16.5% ad val.	14.5% ad val.	12.5% ad val.	10.5% ad val.
656.20	29% ad val.	26% ad val.	22.5% ad val.	19% ad val.	16% ad val.
656.25	45% ad val.	40% ad val.	35% ad val.	30% ad val.	25% ad val.
656.30	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
656.35	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.
657.09	2% ad val.	1.5% ad val.	1% ad val.	0.5% ad val.	Free
657.10	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
657.15	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
657.20	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
657.30	1¢ per lb. + 20% ad val.	1¢ per lb. + 18% ad val.	0.8¢ per lb. + 15.5% ad val.	0.7¢ per lb. + 13.5% ad val.	0.6¢ per lb. + 11% ad val.
657.35	1¢ per lb. + 13.5% ad val.	1¢ per lb. + 12% ad val.	0.8¢ per lb. + 10.5% ad val.	0.7¢ per lb. + 9% ad val.	0.6¢ per lb. + 7.5% ad val.
657.40	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
657.50	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.
657.60	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.

88-000 O - 67 (Pt. II) - 8

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 6, Part 3--Continued					
657.70	1.35¢ per lb.	1.2¢ per lb.	1.05¢ per lb.	0.9¢ per lb.	0.75¢ per lb.
657.75	10% ad val.	9% ad val.	7.5% ad val.	6.5% ad val.	5.5% ad val.
657.80	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
657.90	12.1¢ per lb. on magnesium content + 6% ad val.	10.8¢ per lb. on magnesium content + 5.5% ad val.	9.4¢ per lb. on magnesium content + 4.5% ad val.	8¢ per lb. on magnesium content + 4% ad val.	6.7¢ per lb. on magnesium content + 3.5% ad val.
658.00	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.
Schedule 6, Part 4					
660.10	11.5% ad val.	10.5% ad val.	9% ad val.	8% ad val.	6.5% ad val.
660.15	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
660.20	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
660.22	11.5% ad val.	10.5% ad val.	9% ad val.	8% ad val.	7% ad val.
660.25	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
660.30	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
660.35	8% ad val.	7% ad val.	6% ad val.	5% ad val.	4.5% ad val.
660.42	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
660.44	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
660.46	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
660.50	2% ad val.	1.5% ad val.	1% ad val.	0.5% ad val.	Free
660.52	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
660.54	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
660.65	$2.02 each + 31.5% ad val.	$1.80 each + 28% ad val.	$1.57 each + 24.5% ad val.	$1.35 each + 21% ad val.	$1.12 each + 17.5% ad val.
660.70	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
660.75	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
660.80	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
660.85	8% ad val.	7% ad val.	6% ad val.	5% ad val.	4.5% ad val.
660.92	5% ad val.	4.5% ad val.	4% ad val.	3.5% ad val.	3% ad val.
660.94	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
661.09	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
661.10	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
661.12	8.5% ad val.	7.5% ad val.	6.5% ad val.	5.5% ad val.	4.5% ad val.
661.15	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
661.20	9.5% ad val.	8.5% ad val.	7.5% ad val.	6.5% ad val.	5.5% ad val.
661.25	8% ad val.	7% ad val.	6% ad val.	5% ad val.	4.5% ad val.
661.30	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
661.35	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
661.40	25% ad val.	22% ad val.	19.5% ad val.	16.5% ad val.	14% ad val.
661.45	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
661.50	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
661.55	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
661.65	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
661.70	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
661.80	3% ad val.	2% ad val.	1.5% ad val.	0.5% ad val.	Free
661.85	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
661.90	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
661.92	2.5% ad val.	2% ad val.	2% ad val.	1.5% ad val.	1.5% ad val.
661.95	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
662.10	7% ad val.	6.5% ad val.	6% ad val.	5.5% ad val.	5% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 6, Part 4--Continued					
662.15	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
662.20	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
662.26	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
662.30	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.
662.35	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
662.50	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
664.05	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
664.10	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
666.10	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
666.25	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
668.00	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.	3.5% ad val.
668.02	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
668.06	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.	3.5% ad val.
668.07	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
668.10	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
668.15	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
668.20	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
668.32	$3.60 each + 36% ad val.	$3.20 each + 32% ad val.	$2.80 each + 28% ad val.	$2.40 each + 24% ad val.	$2 each + 20% ad val.
668.34	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
668.36	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
668.38	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
670.00	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
670.02	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
670.04	13% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.	7% ad val.
670.06	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
670.12	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
670.14	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
670.16	11.5% ad val.	10% ad val.	9% ad val.	7.5% ad val.	6.5% ad val.
670.17	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
670.18	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
670.19	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
670.20	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
670.22	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
670.23	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
670.25	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
670.27	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
670.29	11.5% ad val.	10% ad val.	9% ad val.	7.5% ad val.	6.5% ad val.
670.33	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
670.35	11.5% ad val.	10% ad val.	9% ad val.	7.5% ad val.	6.5% ad val.
670.40	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
670.41	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
670.42	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
670.43	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
670.50	11.5% ad val.	10% ad val.	9% ad val.	7.5% ad val.	6.5% ad val.
670.52	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, -- 1968	1969	1970	1971	1972
Schedule 6, Part 4--Continued					
670.54	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
670.56	25% ad val.	22% ad val.	19.5% ad val.	16.5% ad val.	14% ad val.
670.58	90¢ per 1,000 + 27% ad val.	80¢ per 1,000 + 24% ad val.	70¢ per 1,000 + 21% ad val.	60¢ per 1,000 + 18% ad val.	50¢ per 1,000 + 15% ad val.
670.60	67.5¢ per 1,000 + 22% ad val.	60¢ per 1,000 + 20% ad val.	52.5¢ per 1,000 + 17% ad val.	45¢ per 1,000 + 15% ad val.	37¢ per 1,000 + 12.5% ad val.
670.62	$1.03 per 1,000 + 36% ad val.	92¢ per 1,000 + 32% ad val.	80¢ per 1,000 + 28% ad val.	69¢ per 1,000 + 24% ad val.	57¢ per 1,000 + 20% ad val.
670.64	67¢ per 1,000 + 18% ad val.	60¢ per 1,000 + 16% ad val.	52¢ per 1,000 + 14% ad val.	45¢ per 1,000 + 12% ad val.	37¢ per 1,000 + 10% ad val.
670.66	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.
670.68	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
670.70	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
670.72	18.5¢ per 1,000 + 22.5% ad val.	16¢ per 1,000 + 20% ad val.	14¢ per 1,000 + 17.5% ad val.	12¢ per 1,000 + 15% ad val.	10¢ per 1,000 + 12.5% ad val.
670.90	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
672.10	6.5% ad val.	6% ad val.	5% ad val.	4% ad val.	3.5% ad val.
672.15	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
672.20	67¢ per 1,000 + 18% ad val.	60¢ per 1,000 + 16% ad val.	52¢ per 1,000 + 14% ad val.	45¢ per 1,000 + 12% ad val.	37¢ per 1,000 + 10% ad val.
672.22	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.
672.25	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
674.10	8% ad val.	7% ad val.	6% ad val.	5% ad val.	4.5% ad val.
674.20	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
674.30	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
674.32	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
674.35	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
674.40	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
674.42	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
674.50	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
674.51	2% ad val.	1.5% ad val.	1% ad val.	0.5% ad val.	Free
674.52	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
674.53	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
674.55	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
674.56	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
674.60	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
674.70	8% ad val.	7% ad val.	6% ad val.	5% ad val.	4.5% ad val.
674.75	8% ad val.	7% ad val.	6% ad val.	5% ad val.	4.5% ad val.
674.80	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
674.90	8% ad val.	7% ad val.	6% ad val.	5% ad val.	4.5% ad val.
676.07	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
676.10	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
676.12	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
676.15	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
676.20	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
676.22	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
676.23	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
676.25	9.5% ad val.	8.5% ad val.	7.5% ad val.	6.5% ad val.	5.5% ad val.
676.30	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
676.50	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
676.52	9.5% ad val.	8.5% ad val.	7.5% ad val.	6.5% ad val.	5.5% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, -- 1968	1969	1970	1971	1972
Schedule 6, Part 4--Continued					
678.20	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
678.30	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
678.32	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
678.35	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
678.40	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
678.45	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
678.50	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
680.05	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
680.07	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
680.12	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
680.15	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
680.20	1.1¢ per lb. + 16% ad val.	1¢ per lb. + 14% ad val.	0.8¢ per lb. + 12.5% ad val.	0.7¢ per lb. + 10.5% ad val.	0.6¢ per lb. + 9% ad val.
680.25	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
680.27	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
680.30	3.5¢ per lb. + 11% ad val.	3¢ per lb. + 10% ad val.	2.8¢ per lb. + 8.5% ad val.	2.4¢ per lb. + 7% ad val.	2¢ per lb. + 6% ad val.
680.33	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
680.35	3¢ per lb. + 13.5% ad val.	2¢ per lb. + 12% ad val.	2¢ per lb. + 10.5% ad val.	2¢ per lb. + 9% ad val.	1.7¢ per lb. + 7.5% ad val.
680.40	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
680.45	8% ad val.	7% ad val.	6% ad val.	5% ad val.	4.5% ad val.
680.47	$2.02 each + 31.5% ad val.	$1.80 each + 28% ad val.	$1.57 each + 24.5% ad val.	$1.35 each + 21% ad val.	$1.12 each + 17.5% ad val.
680.48	40% ad val.	36% ad val.	31% ad val.	27% ad val.	22.5% ad val.
680.52	8% ad val.	7% ad val.	6% ad val.	5% ad val.	4.5% ad val.
680.57	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
680.60	2.5% ad val.	2% ad val.	2% ad val.	1.5% ad val.	1.5% ad val.
680.70	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
680.90	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
Schedule 6, Part 5					
682.07	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
682.20	45% ad val.	40% ad val.	35% ad val.	30% ad val.	25% ad val.
682.30	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
682.40	7.5% ad val.	7% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.
682.50	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
682.52	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
682.55	45% ad val.	40% ad val.	35% ad val.	30% ad val.	25% ad val.
682.60	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
682.70	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
682.80	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
682.90	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
682.95	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
683.10	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
683.15	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
683.20	10.5% ad val.	9% ad val.	8% ad val.	7% ad val.	5.5% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 6, Part 5--Continued					
683.30	12% ad val.	11% ad val.	9.5% ad val.	8% ad val.	6.5% ad val.
683.32	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
683.40	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
683.50	12% ad val.	11% ad val.	9.5% ad val.	8% ad val.	6.5% ad val.
683.60	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
683.65	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
683.90	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
683.95	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
684.10	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
684.15	30.5% ad val.	27% ad val.	23.5% ad val.	20% ad val.	17% ad val.
684.20	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
684.30	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
684.40	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
684.50	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
684.62	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
684.64	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
684.70	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
685.10	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
685.20	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
685.23	12% ad val.	11.5% ad val.	11% ad val.	10.4% ad val.	10.4% ad val.
685.25	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
685.30	12% ad val.	11% ad val.	9.5% ad val.	8% ad val.	6.5% ad val.
685.32	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
685.40	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
685.42	11.5% ad val.	10.5% ad val.	9.5% ad val.	8.5% ad val.	7.5% ad val.
685.50	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
685.60	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
685.70	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
685.80	12% ad val.	11% ad val.	11% ad val.	10% ad val.	10% ad val.
685.90	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
686.10	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
686.22	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
686.24	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
686.40	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
686.50	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
686.60	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
686.70	32% ad val.	28.5% ad val.	25% ad val.	21.5% ad val.	18% ad val.
686.80	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
686.90	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
687.10	7% ad val.	6.5% ad val.	6% ad val.	5.5% ad val.	5% ad val.
687.20	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
687.30	7% ad val.	6.5% ad val.	6% ad val.	5.5% ad val.	5% ad val.
687.50	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
687.60	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
688.04	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
688.06	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
688.12	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
688.15	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
688.20	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 6, Part 5--Continued					
688.25	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
688.35	17% ad val.	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.
688.40	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
Schedule 6, Part 6					
690.05	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
690.20	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
690.25	0.2¢ per lb.	0.2¢ per lb.	0.2¢ per lb.	0.1¢ per lb.	0.1¢ per lb.
690.30	0.3¢ per lb.	0.2¢ per lb.	0.15¢ per lb.	0.05¢ per lb.	Free
690.35	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.
690.40	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
692.04	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
692.10	5.5% ad val.	5% ad val.	4.5% ad val.	3.5% ad val.	3% ad val.
692.14	9.5% ad val.	9% ad val.	9% ad val.	8.5% ad val.	8.5% ad val.
692.16	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
692.20	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
692.22	5.5% ad val.	5% ad val.	4.5% ad val.	3.5% ad val.	3% ad val.
692.24	2% ad val.	1.5% ad val.	1% ad val.	0.5% ad val.	Free
692.27	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
692.35	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
692.40	8.5% ad val.	7.5% ad val.	6.5% ad val.	5.5% ad val.	4.5% ad val.
692.45	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
692.50	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
692.55	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
694.15	8% ad val.	7% ad val.	6% ad val.	5% ad val.	4.5% ad val.
694.20	8% ad val.	7% ad val.	6% ad val.	5% ad val.	4.5% ad val.
694.30	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
694.40	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
694.50	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
694.60	8% ad val.	7% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.
694.70	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
696.05	3.5% ad val.	3% ad val.	2.5% ad val.	2% ad val.	2% ad val.
696.10	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
696.15	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
696.30	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
696.40	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
696.50	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
696.60	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
Schedule 7, Part 1					
700.10	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
700.20	4% ad val.	4% ad val.	3% ad val.	3% ad val.	2.5% ad val.
700.26	30¢ per pair	27¢ per pair	23¢ per pair	20¢ per pair	17¢ per pair
700.27	6% ad val., but not more than 34¢ per pair	6% ad val., but not more than 34¢ per pair	5.5% ad val., but not more than 34¢ per pair	5% ad val.	5% ad val.
700.28	4% ad val.	3% ad val.	2% ad val.	1% ad val.	Free

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 7, Part 1--Continued					
700.30	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
700.32	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
700.35	9.5% ad val.	9% ad val.	9% ad val.	8.5% ad val.	8.5% ad val.
700.41	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
700.43	19% ad val.	18% ad val.	17% ad val.	16% ad val.	15% ad val.
700.45	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
700.55	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
700.66	19% ad val.	18% ad val.	17% ad val.	16% ad val.	15% ad val.
700.68	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
700.70	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
700.75	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
700.80	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
700.83	15% ad val.	13% ad val.	11.5% ad val.	10% ad val.	8% ad val.
700.85	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
702.05	24% ad val.	23% ad val.	22.5% ad val.	21.5% ad val.	21% ad val.
702.20	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
702.25	$1.53 per doz. + 15% ad val.	$1.36 per doz. + 13.5% ad val.	$1.19 per doz. + 11.5% ad val.	$1.02 per doz. + 10% ad val.	85¢ per doz. + 8.5% ad val.
702.28	$1.69 per doz. + 14% ad val.	$1.50 per doz. + 12.5% ad val.	$1.31 per doz. + 11% ad val.	$1.12 per doz. + 9.5% ad val.	94¢ per doz. + 8% ad val.
702.30	$1.44 per doz. + 10.5% ad val.	$1.28 per doz. + 9.5% ad val.	$1.12 per doz. + 8% ad val.	96¢ per doz. + 7% ad val.	80¢ per doz. + 6% ad val.
702.32	$1.08 per doz. + 18% ad val.	96¢ per doz. + 16% ad val.	84¢ per doz. + 14% ad val.	72¢ per doz. + 12% ad val.	60¢ per doz. + 10% ad val.
702.40	10¢ per doz. + 9% ad val.	9¢ per doz. + 8% ad val.	8¢ per doz. + 7% ad val.	7¢ per doz. + 6% ad val.	6¢ per doz. + 5% ad val.
702.47	$1.83 per doz. + 9% ad val.	$1.63 per doz. + 8% ad val.	$1.42 per doz. + 7% ad val.	$1.22 per doz. + 6% ad val.	$1.02 per doz. + 5% ad val.
702.60	22.5¢ per lb. + 49% ad val.	20¢ per lb. + 44% ad val.	17.5¢ per lb. + 38% ad val.	15¢ per lb. + 33% ad val.	12¢ per lb. + 27.5% ad val.
702.65	27¢ per lb. + 36% ad val. + 7¢ per article	24¢ per lb. + 32% ad val. + 6.4¢ per article	21¢ per lb. + 28% ad val. + 5.5¢ per article	18¢ per lb. + 24% ad val. + 4.5¢ per article	15¢ per lb. + 20% ad val. + 4¢ per article
702.70	27¢ per lb. + 27% ad val. + 7¢ per article	24¢ per lb. + 24% ad val. + 6¢ per article	21¢ per lb. + 21% ad val. + 5¢ per article	18¢ per lb. + 18% ad val. + 4¢ per article	15¢ per lb. + 15% ad val. + 4¢ per article
702.85	72¢ each + 14% ad val.	64¢ each + 12.5% ad val.	56¢ each + 11% ad val.	48¢ each + 9.5% ad val.	40¢ each + 8% ad val.
702.90	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
702.95	29% ad val.	26% ad val.	22.5% ad val.	19% ad val.	16% ad val.
703.05	32% ad val.	28.5% ad val.	25% ad val.	21.5% ad val.	18% ad val.
703.10	25¢ per lb. + 23% ad val.	25¢ per lb. + 22% ad val.	25¢ per lb. + 21.5% ad val.	25¢ per lb. + 20.5% ad val.	25¢ per lb. + 20% ad val.
703.15	25¢ per lb. + 26% ad val.	25¢ per lb. + 24% ad val.	25¢ per lb. + 23% ad val.	25¢ per lb. + 21% ad val.	25¢ per lb. + 20% ad val.
703.20	49% ad val.	44% ad val.	38% ad val.	33% ad val.	27.5% ad val.
703.25	42.5% ad val.	38% ad val.	33% ad val.	28% ad val.	23.5% ad val.
703.30	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
703.35	$4.95 per doz. + 7% ad val.	$4.40 per doz. + 6% ad val.	$3.85 per doz. + 5.5% ad val.	$3.30 per doz. + 4.5% ad val.	$2.75 per doz. + 4% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 7, Part 1--Continued					
703.50	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
703.55	$6.12 per doz. + 9% ad val.	$5.44 per doz. + 8% ad val.	$4.76 per doz. + 7% ad val.	$4.08 per doz. + 6% ad val.	$3.40 per doz. + 5% ad val.
703.60	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
703.65	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
703.72	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
703.75	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
703.80	3.5% ad val.	3% ad val.	2.5% ad val.	2% ad val.	2% ad val.
703.85	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
703.90	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
703.95	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.
704.10	29% ad val.	28% ad val.	27% ad val.	26% ad val.	25% ad val.
704.15	41% ad val.	37% ad val.	33% ad val.	29% ad val.	25% ad val.
704.20	82% ad val.	74% ad val.	66% ad val.	58% ad val.	50% ad val.
704.35	40% ad val.	37% ad val.	35% ad val.	32% ad val.	30% ad val.
704.45	29% ad val.	28% ad val.	27% ad val.	26% ad val.	25% ad val.
704.50	37% ad val.	34% ad val.	31% ad val.	28% ad val.	25% ad val.
704.55	38¢ per lb. + 33% ad val.	36¢ per lb. + 31% ad val.	34¢ per lb. + 29.5% ad val.	32¢ per lb. + 27.5% ad val.	30¢ per lb. + 26% ad val.
704.56	36¢ per lb. + 31% ad val.	32¢ per lb. + 28% ad val.	28¢ per lb. + 24% ad val.	24¢ per lb. + 21% ad val.	20¢ per lb. + 17.5% ad val.
704.65	37.5¢ per lb. + 23.5% ad val.	37.5¢ per lb. + 22% ad val.	37.5¢ per lb. + 21% ad val.	37.5¢ per lb. + 19.5% ad val.	37.5¢ per lb. + 18.5% ad val.
704.70	37.5¢ per lb. + 27% ad val.	37.5¢ per lb. + 24% ad val.	37.5¢ per lb. + 21% ad val.	37.5¢ per lb. + 18% ad val.	37.5¢ per lb. + 15% ad val.
704.75	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.
704.80	29% ad val.	26% ad val.	22.5% ad val.	19% ad val.	16% ad val.
704.95	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
705.30	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
705.43	$5.80 per doz. pairs	$5.60 per doz. pairs	$5.40 per doz. pairs	$5.20 per doz. pairs	$5 per doz. pairs
705.45	26.5% ad val., but not more than $6 per doz. pairs	26% ad val., but not more than $6 per doz. pairs	25.5% ad val., but not more than $6 per doz. pairs	25% ad val.	25% ad val.
705.51	$7 per doz. pairs	$6.50 per doz. pairs	$6 per doz. pairs	$5.50 per doz. pairs	$5 per doz. pairs
705.53	27.5% ad val., but not more than $7.50 per doz. pairs	27% ad val., but not more than $7.50 per doz. pairs	26% ad val., but not more than $7.50 per doz. pairs	25.5% ad val., but not more than $7.50 per doz. pairs	25% ad val.
705.55	$6.20 per doz. pairs	$5.90 per doz. pairs	$5.60 per doz. pairs	$5.30 per doz. pairs	$5 per doz. pairs
705.57	28.5% ad val., but not more than $6.50 per doz. pairs	27.5% ad val., but not more than $6.50 per doz. pairs	26.5% ad val., but not more than $6.50 per doz. pairs	25.5% ad val., but not more than $6.50 per doz. pairs	25% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 7, Part 1--Continued					
705.60	$6.80 per doz. pairs	$6.60 per doz. pairs	$6.40 per doz. pairs	$6.20 per doz. pairs	$6 per doz. pairs
705.62	34% ad val.	33% ad val.	32% ad val.	31% ad val.	30% ad val.
705.67	$7.60 per doz. pairs, but not more than 40% ad val.	$7.20 per doz. pairs, but not more than 40% ad val.	$6.80 per doz. pairs, but not more than 40% ad val.	$6.40 per doz. pairs, but not more than 40% ad val.	$6 per doz. pairs
705.69	$6.80 per doz. pairs	$6.60 per doz. pairs	$6.40 per doz. pairs	$6.20 per doz. pairs	$6 per doz. pairs
705.70	38% ad val.	36% ad val.	34% ad val.	32% ad val.	30% ad val.
705.71	34% ad val.	33% ad val.	32% ad val.	31% ad val.	30% ad val.
705.72	$8.60 per doz. pairs	$8.20 per doz. pairs	$7.80 per doz. pairs	$7.40 per doz. pairs	$7 per doz. pairs
705.73	26% ad val., but not more than $9 per doz. pairs	25% ad val.	24% ad val.	23% ad val.	22% ad val.
705.74	24% ad val.	23.5% ad val.	23% ad val.	22.5% ad val.	22% ad val.
705.76	$7.80 per doz. pairs	$7.60 per doz. pairs	$7.40 per doz. pairs	$7.20 per doz. pairs	$7 per doz. pairs
705.78	24% ad val.	23.5% ad val.	23% ad val.	22.5% ad val.	22% ad val.
705.84	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
705.90	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
706.04	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
706.05	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
706.06	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
706.08	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
706.10	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
706.11	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
706.12	32% ad val.	30% ad val.	28.5% ad val.	26.5% ad val.	25% ad val.
706.14	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
706.20	38% ad val.	34% ad val.	29.5% ad val.	25% ad val.	21% ad val.
706.22	19% ad val.	18% ad val.	17% ad val.	16% ad val.	15% ad val.
706.23	12% ad val.	10.5% ad val.	9% ad val.	8% ad val.	6.5% ad val.
706.24	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
706.30	17¢ per lb. + 14% ad val.	15.5¢ per lb. + 12.5% ad val.	13.9¢ per lb. + 11% ad val.	12.2¢ per lb. + 9.5% ad val.	10.5¢ per lb. + 8.5% ad val.
706.45	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
706.50	39.5% ad val.	35% ad val.	30.5% ad val.	26% ad val.	22% ad val.
706.55	31% ad val.	28% ad val.	24% ad val	21% ad val.	17.5% ad val.
Schedule 7, Part 2					
708.01	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
708.03	25% ad val.	22% ad val.	19.5% ad val.	16.5% ad val.	14% ad val.
708.05	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
708.07	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
708.09	38% ad val.	34% ad val.	29.5% ad val.	25% ad val.	21% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 7, Part 2--Continued					
708.21	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
708.23	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
708.25	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
708.27	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
708.29	38% ad val.	34% ad val.	29.5% ad val.	25% ad val.	21% ad val.
708.41	40% ad val.	36% ad val.	31% ad val.	27% ad val.	22.5% ad val.
708.43	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
708.45	16.5% ad val.	16% ad val.	15.5% ad val.	15% ad val.	15% ad val.
708.47	16.5% ad val.	16% ad val.	15.5% ad val.	15% ad val.	15% ad val.
708.51	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
708.52	28% ad val.	26% ad val.	24% ad val.	22% ad val.	20% ad val.
708.53	22% ad val.	21% ad val.	21% ad val.	20% ad val.	20% ad val.
708.55	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
708.57	40% ad val.	36% ad val.	31% ad val.	27% ad val.	22.5% ad val.
708.71	24% ad val.	23% ad val.	22% ad val.	21% ad val.	20% ad val.
708.72	30% ad val.	27% ad val.	25% ad val.	22% ad val.	20% ad val.
708.73	40% ad val.	36% ad val.	31% ad val.	27% ad val.	22.5% ad val.
708.75	40% ad val.	36% ad val.	31% ad val.	27% ad val.	22.5% ad val.
708.76	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
708.78	19.5% ad val.	17.5% ad val.	15% ad val.	13% ad val.	11% ad val.
708.80	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
708.82	19.5% ad val.	17.5% ad val.	15% ad val.	13% ad val.	11% ad val.
708.85	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
708.87	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
708.89	40% ad val.	36% ad val.	31% ad val.	27% ad val.	22.5% ad val.
708.91	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
708.93	40% ad val.	36% ad val.	31% ad val.	27% ad val.	22.5% ad val.
709.01	40% ad val.	36% ad val.	31% ad val.	27% ad val.	22.5% ad val.
709.03	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
709.05	45% ad val.	40% ad val.	35% ad val.	30% ad val.	25% ad val.
709.06	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
709.07	19.5% ad val.	17.5% ad val.	15% ad val.	13% ad val.	11% ad val.
709.09	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
709.10	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
709.11	8% ad val.	7% ad val.	6% ad val.	5% ad val.	4.5% ad val.
709.13	38% ad val.	34% ad val.	29.5% ad val.	25% ad val.	21% ad val.
709.15	32% ad val.	28.5% ad val.	25% ad val.	21.5% ad val.	18% ad val.
709.17	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
709.19	20% ad val.	18% ad val.	15.5% ad val.	13% ad val.	11% ad val.
709.21	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
709.23	28.5% ad val.	25.5% ad val.	22% ad val.	19% ad val.	16% ad val.
709.25	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
709.27	32% ad val.	28.5% ad val.	25% ad val.	21.5% ad val.	18% ad val.
709.45	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
709.50	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
709.54	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
709.55	40% ad val.	36% ad val.	31% ad val.	27% ad val.	22.5% ad val.
709.56	32% ad val.	28.5% ad val.	25% ad val.	21.5% ad val.	18% ad val.
709.57	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
709.61	5.5% ad val.	5% ad val.	4.5% ad val.	3.5% ad val.	3% ad val.

Item in TSUS as modified by Annex II	1968	Rates of duty effective on and after January 1, -- 1969	1970	1971	1972
Schedule 7, Part 2--Continued					
709.63	4.5% ad val.	4% ad val.	3.5% ad val.	3% ad val.	2.5% ad val.
709.66	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
710.04	25% ad val.	22% ad val.	19.5% ad val.	16.5% ad val.	14% ad val.
710.06	40% ad val.	36% ad val.	31% ad val.	27% ad val.	22.5% ad val.
710.08	25% ad val.	22% ad val.	19.5% ad val.	16.5% ad val.	14% ad val.
710.12	25% ad val.	22% ad val.	19.5% ad val.	16.5% ad val.	14% ad val.
710.14	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
710.16	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
710.20	82¢ each + 12.5% ad val.	73¢ each + 11% ad val.	64¢ each + 9.5% ad val.	55¢ each + 8% ad val.	46¢ each + 7% ad val.
710.21	45% ad val.	40% ad val.	35% ad val.	30% ad val.	25% ad val.
710.26	$2.02 each + 31.5% ad val.	$1.80 each + 28% ad val.	$1.57 each + 24.5% ad val.	$1.35 each + 21% ad val.	$1.12 each + 17.5% ad val.
710.27	40% ad val.	36% ad val.	31% ad val.	27% ad val.	22.5% ad val.
710.30	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
710.34	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
710.36	19.5% ad val.	17.5% ad val.	15% ad val.	13% ad val.	11% ad val.
710.40	15% ad val.	13% ad val.	11.5% ad val.	10% ad val.	8% ad val.
710.42	25% ad val.	22% ad val.	19.5% ad val.	16.5% ad val.	14% ad val.
710.46	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
710.50	19.5% ad val.	17.5% ad val.	15% ad val.	13% ad val.	11% ad val.
710.60	12% ad val.	10.5% ad val.	9% ad val.	8% ad val.	6.5% ad val.
710.61	19.5% ad val.	17.5% ad val.	15% ad val.	13% ad val.	11% ad val.
710.63	19.5% ad val.	17.5% ad val.	15% ad val.	13% ad val.	11% ad val.
710.65	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
710.67	23% ad val.	20.5% ad val.	18% ad val.	15.5% ad val.	13% ad val.
710.68	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.
710.70	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
710.72	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
710.76	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
710.78	10% ad val.	9% ad val.	7.5% ad val.	6.5% ad val.	5.5% ad val.
710.80	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
710.86	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
710.88	40% ad val.	36% ad val.	31% ad val.	27% ad val.	22.5% ad val.
710.90	45% ad val.	40% ad val.	35% ad val.	30% ad val.	25% ad val.
711.04	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
711.08	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
711.25	13% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.	7% ad val.
711.30	38% ad val.	34% ad val.	29.5% ad val.	25% ad val.	21% ad val.
711.36	38% ad val.	34% ad val.	29.5% ad val.	25% ad val.	21% ad val.
711.37	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
711.40	45% ad val.	40% ad val.	35% ad val.	30% ad val.	25% ad val.
711.42	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
711.45	25% ad val.	22% ad val.	19.5% ad val.	16.5% ad val.	14% ad val.
711.47	8.5% ad val.	7.5% ad val.	6.5% ad val.	5.5% ad val.	4.5% ad val.
711.49	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
711.55	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.

Item in TSUS as modified by Annex II	1968	Rates of duty effective on and after January 1, -- 1969	1970	1971	1972
Schedule 7, Part 2--Continued					
711.60	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
711.67	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
711.82	$2.02 each + 31.5% ad val.	$1.80 each + 28% ad val.	$1.57 each + 24.5% ad val.	$1.35 each + 21% ad val.	$1.12 each + 17.5% ad val.
711.83	40% ad val.	36% ad val.	31% ad val.	27% ad val.	22.5% ad val.
711.84	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
711.86	45% ad val.	40% ad val.	35% ad val.	30% ad val.	25% ad val.
711.88	19.5% ad val.	17.5% ad val.	15% ad val.	13% ad val.	11% ad val.
711.90	38% ad val.	34% ad val.	29.5% ad val.	25% ad val.	21% ad val.
711.93	49% ad val.	44% ad val.	38% ad val.	33% ad val.	27.5% ad val.
711.98	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
712.05	45% ad val.	40% ad val.	35% ad val.	30% ad val.	25% ad val.
712.10	82¢ each + 12.5% ad val.	73¢ each + 11% ad val.	64¢ each + 9.5% ad val.	55¢ each + 8% ad val.	46¢ each + 7% ad val.
712.12	45% ad val.	40% ad val.	35% ad val.	30% ad val.	25% ad val.
712.15	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
712.20	13.5% ad val.	12% ad val.	10.5% ad val.	9% ad val.	7.5% ad val.
712.25	$2.02 each + 31.5% ad val.	$1.80 each + 28% ad val.	$1.57 each + 24.5% ad val.	$1.35 each + 21% ad val.	$1.12 each + 17.5% ad val.
712.27	40% ad val.	36% ad val.	31% ad val.	27% ad val.	22.5% ad val.
712.47	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
712.49	11.5% ad val.	11% ad val.	10.5% ad val.	10% ad val.	10% ad val.
713.05	$1.35 each + 29% ad val.	$1.20 each + 26% ad val.	$1.05 each + 22.5% ad val.	90¢ each + 19% ad val.	75¢ each + 16% ad val.
713.07	$2.02 each + 29% ad val.	$1.80 each + 26% ad val.	$1.57 each + 22.5% ad val.	$1.35 each + 19% ad val.	$1.12 each + 16% ad val.
713.09	$2.02 each + 20% ad val.	$1.80 each + 18% ad val.	$1.57 each + 15.5% ad val.	$1.35 each + 13% ad val.	$1.12 each + 11% ad val.
713.11	$2.02 each + 31.5% ad val.	$1.80 each + 28% ad val.	$1.57 each + 24.5% ad val.	$1.35 each + 21% ad val.	$1.12 each + 17.5% ad val.
713.15	40% ad val.	36% ad val.	31% ad val.	27% ad val.	22.5% ad val.
713.17	$2.02 each + 31.5% ad val.	$1.80 each + 28% ad val.	$1.57 each + 24.5% ad val.	$1.35 each + 21% ad val.	$1.12 each + 17.5% ad val.
713.19	40% ad val.	36% ad val.	31% ad val.	27% ad val.	22.5% ad val.
715.20	$1.03 each + 15.5% ad val. + 6.3¢ for each jewel, if any	92¢ each + 14% ad val. + 5.6¢ for each jewel, if any	80¢ each + 12% ad val. + 4.9¢ for each jewel, if any	69¢ each + 10% ad val. + 4.2¢ for each jewel, if any	57¢ each + 8.5% ad val. + 3.5¢ for each jewel, if any
715.25	24.5¢ each + 29% ad val. + 11.25¢ for each jewel, if any	22¢ each + 26% ad val. + 10¢ for each jewel, if any	19¢ each + 22.5% ad val. + 8.75¢ for each jewel, if any	16¢ each + 19.5% ad val. + 7.5¢ for each jewel, if any	13.5¢ each + 16% ad val. + 6.25¢ for each jewel, if any
715.27	45¢ each + 29% ad val. + 11.25¢ for each jewel, if any	40¢ each + 26% ad val. + 10¢ for each jewel, if any	35¢ each + 22.5% ad val. + 8.75¢ for each jewel, if any	30¢ each + 19% ad val. + 7.5¢ for each jewel, if any	25¢ each + 16% ad val. + 6.25¢ for each jewel, if any
715.29	67¢ each + 29% ad val. + 11.25¢ for each jewel, if any	60¢ each + 26% ad val. + 10¢ for each jewel, if any	52¢ each + 22.5% ad val. + 8.75¢ for each jewel, if any	45¢ each + 19% ad val. + 7.5¢ for each jewel, if any	37.5¢ each + 16% ad val. + 6.25¢ for each jewel, if any

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 7, Part 2--Continued					
715.31	$1.35 each + 29% ad val. + 11.25¢ for each jewel, if any	$1.20 each + 26% ad val. + 10¢ for each jewel, if any	$1.05 each + 22.5% ad val. + 8.75¢ for each jewel, if any	90¢ each + 19% ad val. + 7.5¢ for each jewel, if any	75¢ each + 16% ad val. + 6.25¢ for each jewel, if any
715.33	$2.02 each + 29% ad val. + 11.25¢ for each jewel, if any	$1.80 each + 26% ad val. + 10¢ for each jewel, if any	$1.57 each + 22.5% ad val. + 8.75¢ for each jewel, if any	$1.35 each + 19% ad val. + 7.5¢ for each jewel, if any	$1.12 each + 16% ad val. + 6.25¢ for each jewel, if any
715.40	$1.62 each + 23% ad val. + 9¢ for each jewel, if any	$1.44 each + 20.5% ad val. + 8¢ for each jewel, if any	$1.26 each + 18% ad val. + 7¢ for each jewel, if any	$1.08 each + 15.5% ad val. + 6¢ for each jewel, if any	90¢ each + 13% ad val. + 5¢ for each jewel, if any
715.45	24.7¢ each + 29% ad val. + 11.25¢ for each jewel, if any	22¢ each + 26% ad val. + 10¢ for each jewel, if any	19.2¢ each + 22.5% ad val. + 8.75¢ for each jewel, if any	16.5¢ each + 19% ad val. + 7.5¢ for each jewel, if any	13.75¢ each + 16% ad val. + 6.25¢ for each jewel, if any
715.47	45¢ each + 29% ad val. + 11.25¢ for each jewel, if any	40¢ each + 26% ad val. + 10¢ for each jewel, if any	35¢ each + 22.5% ad val. + 8.75¢ for each jewel, if any	30¢ each + 19% ad val. + 7.5¢ for each jewel, if any	25¢ each + 16% ad val. + 6.25¢ for each jewel, if any
715.49	67¢ each + 29% ad val. + 11.25¢ for each jewel, if any	60¢ each + 26% ad val. + 10¢ for each jewel, if any	52¢ each + 22.5% ad val. + 8.75¢ for each jewel, if any	45¢ each + 19% ad val. + 7.5¢ for each jewel, if any	37.5¢ each + 16% ad val. + 6.25¢ for each jewel, if any
715.51	$1.35 each + 29% ad val. + 11.25¢ for each jewel, if any	$1.20 each + 26% ad val. + 10¢ for each jewel, if any	$1.05 each + 22.5% ad val. + 8.75¢ for each jewel, if any	90¢ each + 19% ad val. + 7.5¢ for each jewel, if any	75¢ each + 16% ad val. + 6.25¢ for each jewel, if any
715.53	$2.02 each + 31.5% ad val. + 11.25¢ for each jewel, if any	$1.80 each + 28% ad val. + 10¢ for each jewel, if any	$1.57 each + 24.5% ad val. + 8.75¢ for each jewel, if any	$1.35 each + 21% ad val. + 7.5¢ for each jewel, if any	$1.12 each + 17.5% ad val. + 6.25¢ for each jewel, if any
715.60	24.5¢ each + 29% ad val. + 11.25¢ for each jewel, if any	22¢ each + 26% ad val. + 10¢ for each jewel, if any	19¢ each + 22.5% ad val. + 8.75¢ for each jewel, if any	16.5¢ each + 19% ad val. + 7.5¢ for each jewel, if any	13.75¢ each + 16% ad val. + 6.25¢ for each jewel, if any
715.62	45¢ each + 29% ad val. + 11.25¢ for each jewel, if any	40¢ each + 26% ad val. + 10¢ for each jewel, if any	35¢ each + 22.5% ad val. + 8.75¢ for each jewel, if any	30¢ each + 19% ad val. + 7.5¢ for each jewel, if any	25¢ each + 16% ad val. + 6.25¢ for each jewel, if any
715.64	67¢ each + 18% ad val. + 11.25¢ for each jewel, if any	60¢ each + 16% ad val. + 10¢ for each jewel, if any	52¢ each + 14% ad val. + 8.75¢ for each jewel, if any	45¢ each + 12% ad val. + 7.5¢ for each jewel, if any	37.5¢ each + 10% ad val. + 6.25¢ for each jewel, if any
715.66	$1.35 each + 18% ad val. + 11.25¢ for each jewel, if any	$1.20 each + 16% ad val. + 10¢ for each jewel, if any	$1.05 each + 14% ad val. + 8.75¢ for each jewel, if any	90¢ each + 12% ad val. + 7.5¢ for each jewel, if any	75¢ each + 10% ad val. + 6.25¢ for each jewel, if any
715.68	$2.02 each + 29% ad val. + 11.25¢ for each jewel, if any	$1.80 each + 26% ad val. + 10¢ for each jewel, if any	$1.57 each + 22.5% ad val. + 8.75¢ for each jewel, if any	$1.35 each + 19.5% ad val. + 7.5¢ for each jewel, if any	$1.12 each + 16% ad val. + 6.25¢ for each jewel, if any
716.08	$9.67 each	$8.60 each	$7.52 each	$6.45 each	$5.37 each
720.02	67¢ each	60¢ each	52¢ each	45¢ each	37¢ each

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 7, Part 2--Continued					
720.04	$1.12 each + 12.15¢ for each jewel over 7	$1 each + 10.8¢ for each jewel over 7	87¢ each + 9.45¢ for each jewel over 7	75¢ each + 8.1¢ for each jewel over 7	62¢ each + 6.75¢ for each jewel over 7
720.06	$1.35 each	$1.20 each	$1.05 each	90¢ each	75¢ each
720.08	$1.80 each + 12.15¢ for each jewel over 7	$1.60 each + 10.8¢ for each jewel over 7	$1.40 each + 9.45¢ for each jewel over 7	$1.20 each + 8.1¢ for each jewel over 7	$1 each + 6.75¢ for each jewel over 7
720.10	24.5¢ each + 29% ad val. + 11.25¢ for each jewel, if any	22¢ each + 26% ad val. + 10¢ for each jewel, if any	19¢ each + 22.5% ad val. + 8.75¢ for each jewel, if any	16.5¢ each + 19% ad val. + 7.5¢ for each jewel, if any	13.75¢ each + 16% ad val. + 6.25¢ for each jewel, if any
720.12	45¢ each + 29% ad val. + 11.25¢ for each jewel, if any	40¢ each + 26% ad val. + 10¢ for each jewel, if any	35¢ each + 22.5% ad val. + 8.75¢ for each jewel, if any	30¢ each + 19% ad val. + 7.5¢ for each jewel, if any	25¢ each + 16% ad val. + 6.25¢ for each jewel, if any
720.14	67¢ each + 29% ad val. + 11.25¢ for each jewel, if any	60¢ each + 26% ad val. + 10¢ for each jewel, if any	52¢ each + 22.5% ad val. + 8.75¢ for each jewel, if any	45¢ each + 19% ad val. + 7.5¢ for each jewel, if any	37.5¢ each + 16% ad val. + 6.25¢ for each jewel, if any
720.16	$1.35 each + 29% ad val. + 11.25¢ for each jewel, if any	$1.20 each + 26% ad val. + 10¢ for each jewel, if any	$1.05 each + 22.5% ad val. + 8.75¢ for each jewel, if any	90¢ each + 19% ad val. + 7.5¢ for each jewel, if any	75¢ each + 16% ad val. + 6.25¢ for each jewel, if any
720.18	$2.02 each + 29% ad val. + 11.25¢ for each jewel, if any	$1.80 each + 26% ad val. + 10¢ for each jewel, if any	$1.57 each + 22.5% ad val. + 8.75¢ for each jewel, if any	$1.35 each + 19% ad val. + 7.5¢ for each jewel, if any	$1.125 each + 16% ad val. + 6.25¢ for each jewel, if any
720.20	67¢ each + 27% ad val.	60¢ each + 24% ad val.	52¢ each + 21% ad val.	45¢ each + 18% ad val.	37¢ each + 15% ad val.
720.21	33¢ each + 27% ad val.	30¢ each + 24% ad val.	26¢ each + 21% ad val.	22¢ each + 18% ad val.	18¢ each + 15% ad val.
720.22	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
720.24	36¢ each + 27% ad val.	32¢ each + 24% ad val.	28¢ each + 21% ad val.	24¢ each + 18% ad val.	20¢ each + 15% ad val.
720.25	18¢ each + 27% ad val.	16¢ each + 24% ad val.	14¢ each + 21% ad val.	12¢ each + 18% ad val.	10¢ each + 15% ad val.
720.26	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
720.28	9¢ each + 18% ad val.	8¢ each + 16% ad val.	7¢ each + 14% ad val.	6¢ each + 12% ad val.	5¢ each + 10% ad val.
720.29	4.5¢ each + 18% ad val.	4¢ each + 16% ad val.	3.5¢ each + 14% ad val.	3¢ each + 12% ad val.	2.5¢ each + 10% ad val.
720.30	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
720.32	33.5% ad val.	30% ad val.	26% ad val.	22% ad val.	18.5% ad val.
720.33	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
720.34	24.5% ad val.	22% ad val.	19% ad val.	16% ad val.	13.5% ad val.
720.36	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
720.40	2.25¢ each + 40% ad val.	2¢ each + 36% ad val.	1.75¢ each + 31% ad val.	1.5¢ each + 27% ad val.	1.2¢ each + 22.5% ad val.
720.42	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
720.44	45% ad val.	40% ad val.	35% ad val.	30% ad val.	25% ad val.
720.60	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 7, Part 2--Continued					
720.70	31.5¢ each assembly	28¢ each assembly	24.5¢ each assembly	21¢ each assembly	17.5¢ each assembly
720.75	8.1¢ for each jewel (if any) + the column 1 rate specified in item 720.65 for bottom or pillar plates or their equivalent therein (if any) + 1.8¢ for each other part or piece therein (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement for which suitable, nor be less than 40% ad val. unless said 40 percent rate exceeds the column 1 duty for the complete movement	7.2¢ for each jewel (if any) + the column 1 rate specified in item 720.65 for bottom or pillar plates or their equivalent therein (if any) + 1.6¢ for each other part or piece therein (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement for which suitable, nor be less than 36% ad val. unless said 36 percent rate exceeds the column 1 duty for the complete movement	6.3¢ for each jewel (if any) + the column 1 rate specified in item 720.65 for bottom or pillar plates or their equivalent therein (if any) + 1.4¢ for each other part or piece therein (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement for which suitable, nor be less than 31% ad val. unless said 31 percent rate exceeds the column 1 duty for the complete movement	5.4¢ for each jewel (if any) + the column 1 rate specified in item 720.65 for bottom or pillar plates or their equivalent therein (if any) + 1.2¢ for each other part or piece therein (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement for which suitable, nor be less than 27% ad val. unless said 27 percent rate exceeds the column 1 duty for the complete movement	4.5¢ for each jewel (if any) + the column 1 rate specified in item 720.65 for bottom or pillar plates or their equivalent therein (if any) + 1¢ for each other part or piece therein (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement for which suitable, nor be less than 22.5% ad val. unless said 22.5 percent rate exceeds the column 1 duty for the complete movement
720.80	The column 1 rate specified in item 720.67 for the plate or plates + 22.5¢ for each jewel (if any) + 4.5¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement	The column 1 rate specified in item 720.67 for the plate or plates + 20¢ for each jewel (if any) + 4¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement	The column 1 rate specified in item 720.67 for the plate or plates + 17.5¢ for each jewel (if any) + 3.5¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement	The column 1 rate specified in item 720.67 for the plate or plates + 15¢ for each jewel (if any) + 3¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement	The column 1 rate specified in item 720.67 for the plate or plates + 12.5¢ for each jewel (if any) + 2.5¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 7, Part 2--Continued					
720.82	The column 1 rate specified in item 720.67 for the plate or plates + 11.25¢ for each jewel (if any) + 2.25¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement	The column 1 rate specified in item 720.67 for the plate or plates + 10¢ for each jewel (if any) + 2¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement	The column 1 rate specified in item 720.67 for the plate or plates + 8.75¢ for each jewel (if any) + 1.75¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement	The column 1 rate specified in item 720.67 for the plate or plates + 7.5¢ for each jewel (if any) + 1.5¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement	The column 1 rate specified in item 720.67 for the plate or plates + 6.25¢ for each jewel (if any) + 1.25¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement
720.84	58% ad val. + 22.5¢ for each jewel (if any) + 2.7¢ for each other piece or part	52% ad val. + 20¢ for each jewel (if any) + 2.4¢ for each other piece or part	45% ad val. + 17.5¢ for each jewel (if any) + 2.1¢ for each other piece or part	39% ad val. + 15¢ for each jewel (if any) + 1.8¢ for each other piece or part	32.5% ad val. + 12.5¢ for each jewel (if any) + 1.5¢ for each other piece or part
720.86	29% ad val. + 11.25¢ for each jewel (if any) + 1.35¢ for each other piece or part	26% ad val. + 10¢ for each jewel (if any) + 1.2¢ for each other piece or part	22.5% ad val. + 8.75¢ for each jewel (if any) + 1.05¢ for each other piece or part	19% ad val. + 7.5¢ for each jewel (if any) 0.9¢ for each other piece or part	16% ad val. + 6.25¢ for each jewel (if any) + 0.75¢ for each other piece or part
720.90	49% ad val.	44% ad val.	38% ad val.	33% ad val.	27.5% ad val.
720.92	45% ad val.	40% ad val.	35% ad val.	30% ad val.	25% ad val.
720.94	29% ad val.	26% ad val.	22.5% ad val.	19% ad val.	16% ad val.
721.05	40% ad val.	36% ad val.	31% ad val.	27% ad val.	22.5% ad val.
721.10	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
721.12	20% ad val.	18% ad val.	15.5% ad val.	13% ad val.	11% ad val.
722.02	14% ad val.	13.5% ad val.	13% ad val.	12.5% ad val.	12% ad val.
722.04	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
722.10	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
722.12	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
722.16	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
722.18	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
722.30	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
722.32	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
722.34	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
722.40	29.5% ad val.	26.5% ad val.	23.5% ad val.	20.5% ad val.	17.5% ad val.
722.42	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
722.44	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
722.46	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
722.50	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
722.52	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
722.55	40% ad val.	36% ad val.	31% ad val.	27% ad val.	22.5% ad val.
722.56	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
722.60	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.

88-000 O - 67 (Pt. II) - 9

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 7, Part 2--Continued					
722.64	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
722.70	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
722.72	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
722.75	8% ad val.	7% ad val.	6% ad val.	5% ad val.	4.5% ad val.
722.78	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
722.80	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
722.82	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
722.83	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
722.85	24.5% ad val.	22% ad val.	19% ad val.	16% ad val.	13.5% ad val.
722.86	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
722.88	18¢ per lb. + 15% ad val.	16¢ per lb. + 13.5% ad val.	14.5¢ per lb. + 11.5% ad val.	12¢ per lb. + 10% ad val.	10¢ per lb. + 8.5% ad val.
722.90	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
722.92	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
722.94	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
722.96	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
723.05 1/	5.5% ad val.	5% ad val.	4% ad val.	3.5% ad val.	3% ad val.
723.10	0.09¢ per 16.5 sq. in.	0.08¢ per 16.5 sq. in.	0.07¢ per 16.5 sq. in.	0.06¢ per 16.5 sq. in.	0.05¢ per 16.5 sq. in.
723.15 1/	5.5% ad val.	5% ad val.	4% ad val.	3.5% ad val.	3% ad val.
723.20	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
723.25	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
723.30	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
723.32	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
723.35	6.5% ad val.	6% ad val.	5% ad val.	4% ad val.	3.5% ad val.
724.10	0.85¢ per lin. ft.	0.75¢ per lin. ft.	0.65¢ per lin. ft.	0.55¢ per lin. ft.	0.48¢ per lin. ft.
724.12	0.7¢ per lin. ft.	0.64¢ per lin. ft.	0.55¢ per lin. ft.	0.48¢ per lin. ft.	0.4¢ per lin. ft.
724.20	0.9¢ per lin. ft.	0.8¢ per lin. ft.	0.7¢ per lin. ft.	0.6¢ per lin. ft.	0.5¢ per lin. ft.
724.25	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
724.35	0.5¢ per lin. ft.	0.5¢ per lin. ft.	0.4¢ per lin. ft.	0.4¢ per lin. ft.	0.4¢ per lin. ft.
724.40	1.8¢ per sq. ft. of recording surface	1.6¢ per sq. ft. of recording surface	1.4¢ per sq. ft. of recording surface	1.2¢ per sq. ft. of recording surface	1¢ per sq. ft. of recording surface
724.45	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
Schedule 7, Part 3					
725.02	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
725.04	45¢ each + 12.5% ad val.	40¢ each + 11% ad val.	35¢ each + 9.5% ad val.	30¢ each + 8% ad val.	25¢ each + 7% ad val.
725.06	30.5% ad val.	27% ad val.	23.5% ad val.	20% ad val.	17% ad val.
725.10	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
725.12	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.

1/ See note at the end of this annex.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 7, Part 3--Continued					
725.14	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
725.16	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
725.18	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
725.22	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
725.24	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
725.26	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
725.30	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
725.32	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
725.34	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
725.36	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
725.38	5.5% ad val.	5% ad val.	4.5% ad val.	3.5% ad val.	3% ad val.
725.40	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
725.46	30.5% ad val.	27% ad val.	23.5% ad val.	20% ad val.	17% ad val.
725.50	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
725.52	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
726.05	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
726.10	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
726.15	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
726.25	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
726.40	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
726.45	30¢ per 1000 pins + 10.5% ad val.	27¢ per 1000 pins + 9.5% ad val.	25¢ per 1000 pins + 8% ad val.	20¢ per 1000 pins + 7% ad val.	17¢ per 1000 pins + 6% ad val.
726.50	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
726.52	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
726.55	30.5% ad val.	27% ad val.	23.5% ad val.	20% ad val.	17% ad val.
726.60	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
726.62	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
726.63	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
726.65	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
726.70	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
726.75	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
726.80	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
Schedule 7, Part 4					
727.02	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
727.04	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
727.06	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
727.10	17.5% ad val.	17% ad val.	16.5% ad val.	16% ad val.	16% ad val.
727.15	22.5% ad val.	20% ad val.	17.5% ad val.	15% ad val.	12.5% ad val.
727.30	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
727.35	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
727.40	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
727.45	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
727.47	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
727.48	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
727.52	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
727.55	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
727.80	19% ad val.	18% ad val.	17% ad val.	16% ad val.	15% ad val.
728.05	18.5% ad val.	16.5% ad val.	14.5% ad val.	12.5% ad val.	10.5% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 7, Part 4--Continued					
728.10	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
728.15	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
728.20	4.5¢ per lb.	4¢ per lb.	3.5¢ per lb.	3¢ per lb.	2.5¢ per lb.
728.25	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
Schedule 7, Part 5					
730.05	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
730.15	$1.80 each + 49% ad val.	$1.60 each + 44% ad val.	$1.40 each + 38% ad val.	$1.20 each + 33% ad val.	$1 each + 27.5% ad val.
730.17	$1.21 each + 27% ad val.	$1.08 each + 24% ad val.	94¢ each + 21% ad val.	81¢ each + 18% ad val.	67¢ each + 15% ad val.
730.19	$1.26 each + 19.5% ad val.	$1.12 each + 17.5% ad val.	98¢ each + 15% ad val.	84¢ each + 13% ad val.	70¢ each + 11% ad val.
730.23	67¢ each + 20% ad val.	60¢ each + 18% ad val.	52¢ each + 15.5% ad val.	45¢ each + 13% ad val.	37¢ each + 11% ad val.
730.25	$1.80 each + 20% ad val.	$1.60 each + 18% ad val.	$1.40 each + 15.5% ad val.	$1.20 each + 13% ad val.	$1 each + 11% ad val.
730.27	$2.16 each + 16% ad val.	$1.92 each + 14% ad val.	$1.68 each + 12.5% ad val.	$1.44 each + 10.5% ad val.	$1.20 each + 9% ad val.
730.29	$4.50 each + 20% ad val.	$4 each + 18% ad val.	$3.50 each + 15.5% ad val.	$3 each + 13% ad val.	$2.50 each + 11% ad val.
730.31	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
730.39	90¢ each + 15% ad val.	80¢ each + 15% ad val.	70¢ each + 15% ad val.	60¢ each + 15% ad val.	50¢ each + 15% ad val.
730.41	$1.80 each + 13% ad val.	$1.60 each + 12% ad val.	$1.40 each + 10% ad val.	$1.20 each + 9% ad val.	$1 each + 7.5% ad val.
780.43	$1.83 each + 9% ad val.	$1.63 each + 8% ad val.	$1.42 each + 7% ad val.	$1.22 each + 6% ad val.	$1.02 each + 5% ad val.
730.45	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
730.51	58¢ each + 17% ad val.	52¢ each + 15% ad val.	45¢ each + 13% ad val.	39¢ each + 11% ad val.	32¢ each + 9.5% ad val.
730.53	$1.53 each + 17% ad val.	$1.36 each + 15% ad val.	$1.19 each + 13% ad val.	$1.02 each + 11% ad val.	85¢ each + 9.5% ad val.
730.55	$2.29 each + 17% ad val.	$2.04 each + 15% ad val.	$1.78 each + 13% ad val.	$1.53 each + 11% ad val.	$1.27 each + 9.5% ad val.
730.57	$3.82 each + 17% ad val.	$3.40 each + 15% ad val.	$2.97 each + 13% ad val.	$2.55 each + 11% ad val.	$2.12 each + 9.5% ad val.
730.59	24.5% ad val.	22% ad val.	19% ad val.	16% ad val.	13.5% ad val.
730.61	37.5% ad val.	35.5% ad val.	29% ad val.	25% ad val.	21% ad val.
730.63	$1.80 each + 18% ad val.	$1.60 each + 16% ad val.	$1.40 each + 14% ad val.	$1.20 each + 12% ad val.	$1 each + 10% ad val.
730.65	$1.44 each + 18% ad val.	$1.28 each + 16% ad val.	$1.12 each + 14% ad val.	96¢ each + 12% ad val.	80¢ each + 10% ad val.
730.67	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.
730.71	76¢ each + 9% ad val.	68¢ each + 8% ad val.	59¢ each + 7% ad val.	51¢ each + 6% ad val.	42.5¢ each + 5% ad val.
730.73	4% ad val.	4% ad val.	3% ad val.	3% ad val.	2.5% ad val.
730.74	63¢ each + 9% ad val.	56¢ each + 8% ad val.	49¢ each + 7% ad val.	42¢ each + 6% ad val.	35¢ each + 5% ad val.
730.75	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
730.77	24.5% ad val.	22% ad val.	19% ad val.	16% ad val.	13.5% ad val.
730.80	37.5% ad val.	35.5% ad val.	29% ad val.	25% ad val.	21% ad val.
730.81	8% ad val.	7% ad val.	6% ad val.	5% ad val.	4.5% ad val.
730.85	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 7, Part 5--Continued					
730.86	8% ad val.	7% ad val.	6% ad val.	5% ad val.	4.5% ad val.
730.88	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
730.90	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
730.91	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
730.92	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
730.93	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.
731.05	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
731.06	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
731.10	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
731.15	29.5% ad val.	26% ad val.	23% ad val.	19.5% ad val.	16.5% ad val.
731.20	41.5% ad val.	37% ad val.	32.5% ad val.	27.5% ad val.	23% ad val.
731.22	$1.12 each	$1 each	87¢ each	75¢ each	62.5¢ each
731.24	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
731.26	24% ad val.	21.5% ad val.	18.5% ad val.	16% ad val.	13.5% ad val.
731.30	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
731.40	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
731.42	12% ad val.	10.5% ad val.	9% ad val.	8% ad val.	6.5% ad val.
731.44	24.5% ad val.	22% ad val.	19% ad val.	16% ad val.	13.5% ad val.
731.50	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
731.60	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
732.02	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
732.04	$1.68 each	$1.50 each	$1.31 each	$1.12 each	93.5¢ each
732.06	20% ad val.	18% ad val.	15.5% ad val.	13% ad val.	11% ad val.
732.08	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
732.10	$2.70 each	$2.40 each	$2.10 each	$1.80 each	$1.50 each
732.12	20% ad val.	18% ad val.	15.5% ad val.	13% ad val.	11% ad val.
732.14	20% ad val.	18% ad val.	15.5% ad val.	13% ad val.	11% ad val.
732.16	$1.68 each	$1.50 each	$1.31 each	$1.12 each	93¢ each
732.18	10% ad val.	9% ad val.	7.5% ad val.	6.5% ad val.	5.5% ad val.
732.20	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
732.22	27% ad val., but not more than $3.75 each	24% ad val., but not more than $3.75 each	21% ad val.	18% ad val.	15% ad val.
732.24	20% ad val.	18% ad val.	15.5% ad val.	13% ad val.	11% ad val.
732.26	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
732.30	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
732.32	$1.12 each	$1 each	87¢ each	75¢ each	62.5¢ each
732.34	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
732.36	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
732.40	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
732.50	8% ad val.	7% ad val.	6% ad val.	5% ad val.	4.5% ad val.
732.52	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.
732.60	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
732.62	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
734.10	15% ad val.	13% ad val.	11.5% ad val.	10% ad val.	8% ad val.
734.15	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
734.20	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5.5% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 7, Part 5--Continued					
734.25	3.5¢ per pack + 3.5% ad val.	3.2¢ per pack + 3% ad val.	2.8¢ per pack + 2.5% ad val.	2.4¢ per pack + 2% ad val.	2¢ per pack + 2% ad val.
734.32	14.5% ad val.	13.5% ad val.	12% ad val.	11% ad val.	10% ad val.
734.40	15% ad val.	13% ad val.	11.5% ad val.	10% ad val.	8% ad val.
734.42	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
734.45	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
734.56	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
734.70	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
734.71	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
734.72	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
734.75	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
734.77	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
734.80	8% ad val.	7% ad val.	6% ad val.	5% ad val.	4.5% ad val.
734.85	9% ad val.	8% ad val.	7.5% ad val.	6.5% ad val.	6% ad val.
734.86	10% ad val.	9% ad val.	8% ad val.	6.5% ad val.	5.5% ad val.
734.87	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
734.88	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
734.90	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
734.93	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
734.95	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
734.96	15% ad val.	13% ad val.	11.5% ad val.	10% ad val.	8% ad val.
734.97	16.5% ad val.	14.5% ad val.	12.5% ad val.	11% ad val.	9% ad val.
735.05	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
735.10	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
735.11	24.5% ad val.	22% ad val.	19% ad val.	16% ad val.	13.5% ad val.
735.12	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
735.15	8% ad val.	7% ad val.	6% ad val.	5% ad val.	4.5% ad val.
735.17	6.5% ad val.	6% ad val.	5% ad val.	4% ad val.	3.5% ad val.
735.18	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
735.20	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
737.07	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
737.09	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
737.15	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
737.20	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
737.30	16% ad val.	14% ad val.	12.5% ad val.	10% ad val.	9% ad val.
737.35	18.5% ad val.	16.5% ad val.	14.5% ad val.	12.5% ad val.	10.5% ad val.
737.40	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
737.45	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.
737.50	37% ad val.	33% ad val.	29.5% ad val.	25.5% ad val.	22% ad val.
737.55	18.5% ad val.	16.5% ad val.	14.5% ad val.	12.5% ad val.	10.5% ad val.
737.60	24% ad val.	22% ad val.	20% ad val.	18% ad val.	16% ad val.
737.70	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
737.80	37% ad val.	33% ad val.	29.5% ad val.	25.5% ad val.	22% ad val.
737.90	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
Schedule 7, Part 6					
740.05	49% ad val.	44% ad val.	38% ad val.	33% ad val.	27.5% ad val.
740.10	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.
740.34	51% ad val.	47% ad val.	43% ad val.	39% ad val.	35% ad val.
740.38	49% ad val.	44% ad val.	38% ad val.	33% ad val.	27.5% ad val.
740.50	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 7, Part 6--Continued					
740.55	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
740.60	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
740.70	30.5% ad val.	27% ad val.	23.5% ad val.	20% ad val.	17% ad val.
740.75	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
740.80	49% ad val.	44% ad val.	38% ad val.	33% ad val.	27.5% ad val.
741.05	2% ad val.	1.5% ad val.	1% ad val.	0.5% ad val.	Free
741.06	4% ad val.	4% ad val.	3% ad val.	3% ad val.	2.5% ad val.
741.15	4% ad val.	4% ad val.	3% ad val.	3% ad val.	2.5% ad val.
741.20	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
741.25	23% ad val.	20.5% ad val.	18% ad val.	15.5% ad val.	13% ad val.
741.30	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
741.35	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.	3.5% ad val.
741.40	36% ad val.	32% ad val.	28% ad val.	24% ad val.	20% ad val.
741.50	22.5% ad val.	20% ad val.	17.5% ad val.	15% ad val.	12.5% ad val.
Schedule 7, Part 7					
745.04	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.
745.08	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
745.10	49% ad val.	44% ad val.	38% ad val.	33% ad val.	27.5% ad val.
745.20	1.55¢ per line per gross + 22.5% ad val.	1.4¢ per line per gross + 20% ad val.	1.2¢ per line per gross + 17.5% ad val.	1.05¢ per line per gross + 15% ad val.	0.87¢ per line per gross + 12.5% ad val.
745.22	1.55¢ per line per gross + 22.5% ad val.	1.4¢ per line per gross + 20% ad val.	1.2¢ per line per gross + 17.5% ad val.	1.05¢ per line per gross + 15% ad val.	0.87¢ per line per gross + 12.5% ad val.
745.25	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
745.28	16% ad val.	14% ad val.	12.5% ad val.	10.5% ad val.	9% ad val.
745.30	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
745.32	0.72¢ per line per gross + 12% ad val.	0.69¢ per line per gross + 11% ad val.	0.65¢ per line per gross + 11% ad val.	0.63¢ per line per gross + 10% ad val.	0.6¢ per line per gross + 10% ad val.
745.34	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
745.40	34% ad val.	33% ad val.	31% ad val.	30% ad val.	28.5% ad val.
745.45	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
745.50	45% ad val.	40% ad val.	35% ad val.	30% ad val.	25% ad val.
745.54	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
745.58	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
745.60	3.3¢ per lb. (including weight of cards, cartons, and immediate wrappings and labels) + 18.5% ad val.	3¢ per lb. (including weight of cards, cartons, and immediate wrappings and labels) + 16.5% ad val.	2.5¢ per lb. (including weight of cards, cartons, and immediate wrappings and labels) + 14.5% ad val.	2¢ per lb. (including weight of cards, cartons, and immediate wrappings and labels) + 12.5% ad val.	1.87¢ per lb. (including weight of cards, cartons, and immediate wrappings and labels) + 10.5% ad val.
745.63	49% ad val.	44% ad val.	38% ad val.	33% ad val.	27.5% ad val.
745.65	24.5% ad val.	22% ad val.	19% ad val.	16% ad val.	13.5% ad val.
745.66	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.
745.67	49% ad val.	44% ad val.	38% ad val.	33% ad val.	27.5% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 7, Part 7--Continued					
745.68	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
745.70	43% ad val.	38.5% ad val.	34% ad val.	29.5% ad val.	25% ad val.
745.72	34% ad val.	30.5% ad val.	27% ad val.	23.5% ad val.	20% ad val.
745.74	47% ad val.	44% ad val.	41% ad val.	38% ad val.	35% ad val.
748.05	5¢ per lb. + 9% ad val.	4¢ per lb. + 8% ad val.	4¢ per lb. + 7% ad val.	3¢ per lb. + 6% ad val.	3¢ per lb. + 5% ad val.
748.10	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
748.12	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
748.15	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
748.20	26.5% ad val.	25% ad val.	23.5% ad val.	22% ad val.	21% ad val.
748.25	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
748.32	19.5% ad val.	17.5% ad val.	15% ad val.	13% ad val.	11% ad val.
748.34	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
748.36	22.5% ad val.	20% ad val.	17.5% ad val.	15% ad val.	12.5% ad val.
748.40	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
Schedule 7, Part 8					
750.05	0.36¢ each + 9% ad val.	0.32¢ each + 8% ad val.	0.28¢ each + 7% ad val.	0.24¢ each + 6% ad val.	0.2¢ each + 5% ad val.
750.10	1.2¢ each + 21.5% ad val.	1.1¢ each + 19% ad val.	0.95¢ each + 16.5% ad val.	0.84¢ each + 14% ad val.	0.7¢ each + 12% ad val.
750.15	0.7¢ each + 14.4% ad val.	0.6¢ each + 12.8% ad val.	0.5¢ each + 11.2% ad val.	0.45¢ each + 9.6% ad val.	0.4¢ each + 8% ad val.
750.20	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
750.22	49% ad val.	44% ad val.	38% ad val.	33% ad val.	27.5% ad val.
750.35	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
750.40	0.72¢ each + 15% ad val.	0.64¢ each + 13.5% ad val.	0.56¢ each + 11.5% ad val.	0.48¢ each + 10% ad val.	0.4¢ each + 8.5% ad val.
750.45	0.72¢ each + 31% ad val.	0.6¢ each + 28% ad val.	0.56¢ each + 24% ad val.	0.45¢ each + 21% ad val.	0.4¢ each + 17.5% ad val.
750.47	0.4¢ each + 9% ad val.	0.4¢ each + 8% ad val.	0.4¢ each + 7% ad val.	0.4¢ each + 6% ad val.	0.4¢ each + 5% ad val.
750.50	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
750.55	0.7¢ each	0.64¢ each	0.55¢ each	0.45¢ each	0.4¢ each
750.60	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
750.65	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
750.70	25% ad val.	22% ad val.	19.5% ad val.	16.5% ad val.	14% ad val.
750.75	25% ad val.	22% ad val.	19.5% ad val.	16.5% ad val.	14% ad val.
750.80	28.5% ad val.	25.5% ad val.	22% ad val.	19% ad val.	16% ad val.
751.10	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
751.11	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
751.15	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 7, Part 9					
755.05	13.5¢ per gross of immediate containers	12¢ per gross of immediate containers	10.5¢ per gross of immediate containers	9¢ per gross of immediate containers	7.5¢ per gross of immediate containers
755.10 1/	1¢ per 1000 matches	1¢ per 1000 matches	1¢ per 1000 matches	1¢ per 1000 matches	1¢ per 1000 matches
755.20	28.5% ad val.	25.5% ad val.	22% ad val.	19% ad val.	16% ad val.
755.25	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
755.30	24% ad val.	21.5% ad val.	18.5% ad val.	16% ad val.	13.5% ad val.
755.35	90¢ per lb. + 11% ad val.	80¢ per lb. + 10% ad val.	70¢ per lb. + 8.5% ad val.	60¢ per lb. + 7% ad val.	50¢ per lb. + 6% ad val.
755.40 1/	0.15¢ each	0.14¢ each	0.1¢ each	0.1¢ each	0.09¢ each
755.45 1/	0.27¢ each + 0.0675¢ each for each 0.5 gram of explosive over 1.5 grams per cap	0.24¢ each + 0.06¢ each for each 0.5 gram of explosive over 1.5 grams per cap	0.21¢ each + 0.0525¢ each for each 0.5 gram of explosive over 1.5 grams per cap	0.18¢ each + 0.045¢ each for each 0.5 gram of explosive over 1.5 grams per cap	0.15¢ each + 0.0375¢ each for each 0.5 gram of explosive over 1.5 grams per cap
755.50	76¢ per 1,000 ft.	68¢ per 1,000 ft.	59¢ per 1,000 ft.	51¢ per 1,000 ft.	42¢ per 1,000 ft.
756.02	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
756.04	43% ad val.	38.5% ad val.	34% ad val.	29.5% ad val.	25% ad val.
756.06	40% ad val.	36% ad val.	31% ad val.	27% ad val.	22.5% ad val.
756.10	21.5% ad val.	19% ad val.	16.5% ad val.	14% ad val.	12% ad val.
756.15	45% ad val.	40% ad val.	35% ad val.	30% ad val.	25% ad val.
756.23	2.25¢ each + 36% ad val.	2¢ each + 32% ad val.	1.75¢ each + 28% ad val.	1.5¢ each + 24% ad val.	1.25¢ each + 20% ad val.
756.25	2¢ each + 18% ad val.	2¢ each + 16% ad val.	1.5¢ each + 14% ad val.	1.2¢ each + 12% ad val.	1.2¢ each + 10% ad val.
756.30	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
756.35	1.9¢ each + 22.5% ad val.	1.7¢ each + 20% ad val.	1.4¢ each + 17.5% ad val.	1.2¢ each + 15% ad val.	1¢ each + 12.5% ad val.
756.40	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
756.45	2.2¢ each + 13.5% ad val.	2¢ each + 12% ad val.	1.7¢ each + 10.5% ad val.	1.5¢ each + 9% ad val.	1.25¢ each + 7.5% ad val.
756.50	31% ad val.	28% ad val.	24% ad val.	21% ad val.	17.5% ad val.
756.55	0.9¢ each + 13% ad val.	0.8¢ each + 12% ad val.	0.7¢ each + 10% ad val.	0.6¢ each + 9% ad val.	0.5¢ each + 7.5% ad val.
756.60	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
Schedule 7, Part 10					
760.05	3.6¢ each + 24% ad val.	3.2¢ each + 21.5% ad val.	2.8¢ each + 18.5% ad val.	2.4¢ each + 16% ad val.	2¢ each + 13.5% ad val.
760.10	29¢ per gross + 27.5% ad val.	26¢ per gross + 24.5% ad val.	23¢ per gross + 21.5% ad val.	20¢ per gross + 18.5% ad val.	18¢ per gross + 16% ad val.
760.12	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
760.20	14¢ per gross + 12.5% ad val.	12¢ per gross + 11% ad val.	11¢ per gross + 9.5% ad val.	9.5¢ per gross + 8% ad val.	8¢ per gross + 7% ad val.
760.30	22¢ per gross + 18% ad val.	20¢ per gross + 16% ad val.	17¢ per gross + 14% ad val.	15¢ per gross + 12% ad val.	12.5¢ per gross + 10% ad val.

1/ See note at the end of this annex.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 7, Part 10--Continued					
760.32	9¢ per gross	8¢ per gross	7¢ per gross	6¢ per gross	5¢ per gross
760.34	$1.80 per 1000 + 31% ad val.	$1.60 per 1000 + 28% ad val.	$1.40 per 1000 + 24% ad val.	$1.20 per 1000 + 21% ad val.	$1 per 1000 + 17.5% ad val.
760.36	3.6¢ each + 24% ad val.	3.2¢ each + 21.5% ad val.	2.8¢ each + 18.5% ad val.	2.4¢ each + 16% ad val.	2¢ each + 13.5% ad val.
760.38	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
760.40	3.6¢ each + 24% ad val.	3.2¢ each + 21.5% ad val.	2.8¢ each + 18.5% ad val.	2.4¢ each + 16% ad val.	2¢ each + 13.5% ad val.
760.42	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
760.45	13¢ per gross	12¢ per gross	10¢ per gross	9¢ per gross	7.5¢ per gross
760.48	45¢ per gross + 13% ad val.	40¢ per gross + 12% ad val.	35¢ per gross + 10% ad val.	30¢ per gross + 9% ad val.	25¢ per gross + 7.5% ad val.
760.50	3.5¢ per gross	3¢ per gross	2.8¢ per gross	2.4¢ per gross	2¢ per gross
760.52	7¢ per gross	6¢ per gross	5¢ per gross	4.5¢ per gross	4¢ per gross
760.54	0.5¢ per gross	0.5¢ per gross	0.5¢ per gross	0.5¢ per gross	0.5¢ per gross
760.56	14% ad val.	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.
760.58	15¢ per gross + 9% ad val.	13¢ per gross + 8% ad val.	11¢ per gross + 7% ad val.	10¢ per gross + 6% ad val.	8.5¢ per gross + 5% ad val.
760.65	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
Schedule 7, Part 11					
766.30	A duty of 22% ad val. in addition to any other duty imposed on such article under these schedules	A duty of 20% ad val. in addition to any other duty imposed on such article under these schedules	A duty of 17% ad val. in addition to any other duty imposed on such article under these schedules	A duty of 15% ad val. in addition to any other duty imposed on such article under these schedules	A duty of 12.5% ad val. in addition to any other duty imposed on such article under these schedules
Schedule 7, Part 12					
770.05	4.5¢ per lb. + 8% ad val.	4¢ per lb. + 7% ad val.	3.5¢ per lb. + 6% ad val.	3¢ per lb. + 5% ad val.	2.5¢ per lb. + 4.5% ad val.
770.07	15¢ per lb. + 12.5% ad val.	13¢ per lb. + 11% ad val.	11.5¢ per lb. + 9.5% ad val.	10¢ per lb. + 8% ad val.	8¢ per lb. + 7% ad val.
770.10	18.5¢ per lb. + 15% ad val.	16¢ per lb. + 13.5% ad val.	14.5¢ per lb. + 11.5% ad val.	12¢ per lb. + 10% ad val.	10¢ per lb. + 8.5% ad val.
770.30	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
770.40	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
770.45	34% ad val.	30% ad val.	26.5% ad val.	22.5% ad val.	19% ad val.
770.70	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
770.80	21.5% ad val.	19% ad val.	17% ad val.	14.5% ad val.	12.5% ad val.
771.05	6.5¢ per lb.	6¢ per lb.	5¢ per lb.	4.5¢ per lb.	3.7¢ per lb.
771.15	3% ad val.	2% ad val.	1.5% ad val.	0.5% ad val.	Free
771.20 1/	6.5¢ per lb.	6¢ per lb.	5¢ per lb.	4¢ per lb.	3.7¢ per lb.
771.25	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
771.30	20% ad val.	18% ad val.	15.5% ad val.	13% ad val.	11% ad val.
771.31	14¢ per lb.	12.5¢ per lb.	11¢ per lb.	9.5¢ per lb.	8¢ per lb.
771.35	18¢ per lb.	16¢ per lb.	14¢ per lb.	12¢ per lb.	10¢ per lb.

1/ See note at the end of this annex.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 7, Part 12--Continued					
771.40 1/	4.5% ad val.	4% ad val.	3.5% ad val.	3% ad val.	2.5% ad val.
771.42	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
771.45	15.3¢ per lb.	13.5¢ per lb.	11.9¢ per lb.	10¢ per lb.	8.5¢ per lb.
771.50	9¢ per lb.	8¢ per lb.	7¢ per lb.	6¢ per lb.	5¢ per lb.
771.55	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
772.03	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
772.06	18.9¢ per lb. + 15% ad val.	16.5¢ per lb. + 13.5% ad val.	14.7¢ per lb. + 11.5% ad val.	12.5¢ per lb. + 10% ad val.	10.5¢ per lb. + 8% ad val.
772.09	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
772.15	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
772.20	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.
772.25	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
772.35	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
772.40	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
772.42	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
772.45	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
772.48	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
772.51	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
772.54	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
772.57	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
772.60	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
772.65	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
772.70	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
772.80	18.5¢ per lb. + 15% ad val.	16¢ per lb. + 13.5% ad val.	14.5¢ per lb. + 11.5% ad val.	12¢ per lb. + 10% ad val.	10¢ per lb. + 8.5% ad val.
772.85	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
772.95	22.5% ad val.	20% ad val.	17.5% ad val.	15% ad val.	12.5% ad val.
772.97	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
773.05	14% ad val.	13% ad val.	11% ad val.	10% ad val.	8.5% ad val.
773.10	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
773.15	2¢ per lb.	2¢ per lb.	2¢ per lb.	1¢ per lb.	1¢ per lb.
773.20	22.5¢ per lb. + 27% ad val.	20¢ per lb. + 24% ad val.	17.5¢ per lb. + 21% ad val.	15¢ per lb. + 18% ad val.	12.5¢ per lb. + 15% ad val.
773.25	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
773.30	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
773.35	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
774.20	27% ad val.	24% ad val.	21% ad val.	18% ad val.	15% ad val.
774.25	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
774.35	15.3¢ per lb. + 18.5% ad val.	13.5¢ per lb. + 16.5% ad val.	11.5¢ per lb. + 14.5% ad val.	10¢ per lb. + 12.5% ad val.	8¢ per lb. + 10.5% ad val.
774.40	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
774.60	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
Schedule 7, Part 13					
790.00	29% ad val.	26% ad val.	22.5% ad val.	19% ad val.	16% ad val.
790.03	17% ad val.	15% ad val.	13% ad val.	11% ad val.	9.5% ad val.
790.05	18¢ per gross	16¢ per gross	14¢ per gross	12¢ per gross	10¢ per gross
790.07	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
790.08	13% ad val.	12% ad val.	10% ad val.	9% ad val.	7.5% ad val.

1/ See note at the end of this annex.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 7, Part 13--Continued					
790.10	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
790.15	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
790.23	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
790.30	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
790.37 1/	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
790.39	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
790.40	7% ad val.	6% ad val.	5.5% ad val.	4.5% ad val.	4% ad val.
790.45	22.5% ad val.	20% ad val.	17.5% ad val.	15% ad val.	12.5% ad val.
790.47	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
790.50	22% ad val.	20% ad val.	17% ad val.	15% ad val.	12.5% ad val.
790.55	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
790.59	7¢ each + 36% ad val.	6¢ each + 32% ad val.	5.5¢ each + 28% ad val.	4.5¢ each + 24% ad val.	4¢ each + 20% ad val.
790.60	13¢ each + 36% ad val.	12¢ each + 32% ad val.	10¢ each + 28% ad val.	9¢ each + 24% ad val.	7.5¢ each + 20% ad val.
790.61	18¢ each + 36% ad val.	16¢ each + 32% ad val.	14¢ each + 28% ad val.	12¢ each + 24% ad val.	10¢ each + 20% ad val.
790.62	29¢ each + 36% ad val.	26¢ each + 32% ad val.	23¢ each + 28% ad val.	19¢ each + 24% ad val.	16¢ each + 20% ad val.
790.63	40% ad val.	36% ad val.	31% ad val.	27% ad val.	22.5% ad val.
790.70	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
791.05	33.5% ad val.	30% ad val.	26% ad val.	22% ad val.	18.5% ad val.
791.10	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
791.15	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
791.17	33.5% ad val.	30% ad val.	26% ad val.	22% ad val.	18.5% ad val.
791.19	15% ad val.	13.5% ad val.	11.5% ad val.	10% ad val.	8.5% ad val.
791.20	6.5% ad val.	6% ad val.	5% ad val.	4% ad val.	3.5% ad val.
791.25	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
791.30	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
791.35	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.
791.45	5% ad val.	4.5% ad val.	4% ad val.	3.5% ad val.	3% ad val.
791.48	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
791.50	6.5% ad val.	6% ad val.	5% ad val.	4% ad val.	3.5% ad val.
791.54	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
791.57	6.5% ad val.	6% ad val.	5% ad val.	4% ad val.	3.5% ad val.
791.60	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
791.65	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
791.70	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
791.75	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
791.90	7.5% ad val.	6.5% ad val.	5.5% ad val.	5% ad val.	4% ad val.
792.10	10.5% ad val.	9.5% ad val.	8% ad val.	7% ad val.	6% ad val.
792.30	18% ad val.	16% ad val.	14% ad val.	12% ad val.	10% ad val.
792.32	5.5% ad val.	5% ad val.	4.5% ad val.	3.5% ad val.	3% ad val.
792.40	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.

1/ See note at the end of this annex.

Item in TSUS as modified by Annex II	Rates of duty effective on and after January 1, --				
	1968	1969	1970	1971	1972
Schedule 7, Part 13--Continued					
792.50	15.5% ad val.	14% ad val.	12% ad val.	10% ad val.	8.5% ad val.
792.60	10% ad val.	9% ad val.	8% ad val.	7% ad val.	6% ad val.
792.70	11% ad val.	10% ad val.	8.5% ad val.	7% ad val.	6% ad val.
792.75	12.5% ad val.	11% ad val.	9.5% ad val.	8% ad val.	7% ad val.
793.00	3% ad val.	2% ad val.	1.5% ad val.	0.5% ad val.	Free
Schedule 7, Part 14					
799.00	9% ad val.	8% ad val.	7% ad val.	6% ad val.	5% ad val.

NOTE:

In accordance with general note 3(f) to Schedule XX (Geneva - 1967), the rates of duty, for the items listed at the end of this note, in the columns headed 1970, 1971, and 1972 in this annex will become effective unless the European Economic Community and the United Kingdom do not proceed with certain reductions provided for in their respective schedules annexed to the Geneva (1967) Protocol. If these two participants do not so proceed, the President shall so proclaim, and the rates of duty for such items in the column headed 1969 will continue in effect unless or until the President proclaims that they have agreed so to proceed. The items to which this note applies are:

415.27	420.82	425.88	437.55	470.85	493.21
416.10	420.86	426.10	437.58	472.24	493.47
416.30	421.04	426.14	437.69	472.30	495.05
417.32	421.08	426.28	437.84	473.28	495.15
417.50	421.16	426.36	439.30	473.46	519.37
418.24	421.18	426.42	445.20	473.48	632.04
418.60	421.44	427.72	450.20	473.60	723.05
418.62	421.46	428.52	452.24	473.66	723.15
418.76	421.54	429.26	452.48	474.20	755.10
419.00	422.72	429.34	452.80	474.22	755.40
419.22	422.76	429.42	461.20	474.26	755.45
420.14	422.90	437.22	466.15	474.60	771.20
420.18	425.84	437.30	470.15	493.20	771.40
					790.37

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VOL
3
24

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83
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FEDERAL REGISTER

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(Part II begins on page 20001)

Section 1 begins on page 20001
Section 2 begins on page 20193
Section 3 begins on page 20383

Agencies in this issue—

Agricultural Research Service
Agricultural Stabilization and Conservation Service
Atomic Energy Commission
Business and Defense Services Administration
Civil Aeronautics Board
Coast Guard
Commodity Credit Corporation
Consumer and Marketing Service
Customs Bureau
Federal Aviation Administration
Federal Communications Commission
Federal Maritime Commission
Federal Reserve System
Food and Drug Administration
Health, Education, and Welfare Department
International Commerce Bureau
Interstate Commerce Commission
Land Management Bureau
Maritime Administration
National Park Service
Securities and Exchange Commission
Social Security Administration
Treasury Department

Detailed list of Contents appears inside.

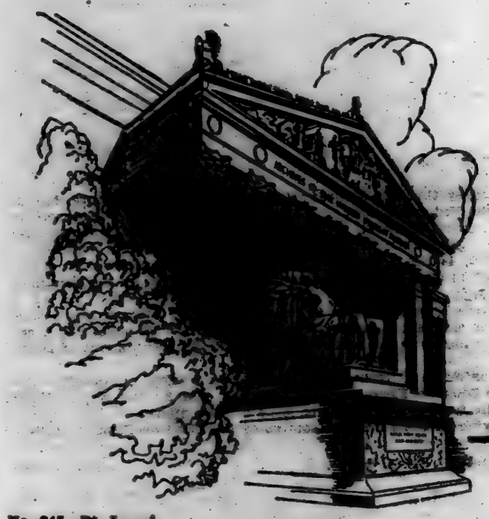

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Contents

AGRICULTURAL RESEARCH SERVICE
Rules and Regulations
Animal breeds; recognized breeds and books of record 19156
Cleaning and disinfecting requirements 19157

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE
Rules and Regulations
Division of payments and certificates 19155

AGRICULTURE DEPARTMENT
See Agricultural Research Service; Agricultural Stabilization and Conservation Service; Commodity Credit Corporation; Consumer and Marketing Service.

ATOMIC ENERGY COMMISSION
Notices
Wisconsin Michigan Power Co. and Wisconsin Electric Power Co.; issuance of amendment to provisional construction permit 19197

BUSINESS AND DEFENSE SERVICES ADMINISTRATION
Notices
Duty-free entry of scientific articles:
Harvard University 19194
Northwestern State College 19194
University of Colorado et al 19193

CIVIL AERONAUTICS BOARD
Notices
Hearings, etc.:
Sedalia, Marshall, Boonville Stage Line, Inc 19198
Trojan Airways, Inc 19199

COAST GUARD
Rules and Regulations
Fire protection on both new and existing passenger vessels (100 gross tons or over) 19179
Notices
Funnel mark of United States Steel Corp. (Intercoastal and Great Lakes Fleet); notice of registration 19197

COMMERCE DEPARTMENT
See Business and Defense Services Administration; International Commerce Bureau; Maritime Administration.

COMMODITY CREDIT CORPORATION
Rules and Regulations
Cotton; warehouseman signatures on warehouse receipts 19156

CONSUMER AND MARKETING SERVICE
Rules and Regulations
Domestic dates produced or packed in designated area of California; revision of free and restricted percentages and withholding factor for 1967–68 crop year 19156

CUSTOMS BUREAU
Rules and Regulations
Liquidation of duties; countervailing duties—sugar content of certain articles from Australia 19159

FEDERAL AVIATION ADMINISTRATION
Proposed Rule Making
Altitude warning devices 19190

FEDERAL COMMUNICATIONS COMMISSION
Rules and Regulations
Experimental period of FM broadcast stations 19187
FM broadcast station; Benton, Ill., et al.; table of assignments 19183
Proposed Rule Making
FM broadcast stations; Warner Robbins and Hawkinsville, Ga.; table of assignments 19191
Notices
Hearings, etc.:
Durham-Raleigh Telecasters, Inc., et al 19199
Industrial Communications Systems, Inc 19199

FEDERAL MARITIME COMMISSION
Proposed Rule Making
Common carriers by water in the foreign commerce of U.S.; discontinuance of proceeding 19192
Compensation and freight forwarder certification 19192
Notices
Agreement filed for approval:
Finnlines and Meyer Line 19200
Port of Oakland and Howard Terminal 19200
Concordia Line A/S and Fred Olsen & Co.; proposed cancellation of agreements 19200

FEDERAL RESERVE SYSTEM
Rules and Regulations
Diversion of Examinations; specific functions 19159

FOOD AND DRUG ADMINISTRATION
Rules and Regulations
Hazardous substances; exemption for small packages, minor hazards, and special circumstances 19176

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
See also Food and Drug Administration; Social Security Administration.
Notices
Motor vehicle pollution control; California State standards; procedures for public hearing 19196
New York-New Jersey metropolitan area; interstate air pollution; notice of conference 19197

INTERIOR DEPARTMENT
See Land Management Bureau; National Park Service.

INTERNATIONAL COMMERCE BUREAU
Notices
Rockelmann, Johann M. (JOMRO); order denying export privileges for an indefinite period 19195

INTERSTATE COMMERCE COMMISSION
Rules and Regulations
Republication and redesignation of regulations 20403
Notices
Motor carrier:
Alternate route deviation notices 19204
Applications and certain other proceedings 19205
Intrastate applications 19201
Temporary authority applications (2 documents) 19201, 19202
Transfer proceedings 19208
Supplemental instructions; shipper certification 19209

LAND MANAGEMENT BUREAU
Idaho; proposed withdrawal and reservation of lands 19193

MARITIME ADMINISTRATION
Notices
American Export Isbrandtsen Lines, Inc.; notice of application for approval of certain cruises 19196

(*Continued on next page*)

NATIONAL PARK SERVICE

Notices

Mesa Verde National Park; notice of intention to negotiate concession contract 19193

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:

Bunker-Ramo Corp. 19200
Interamerican Industries, Ltd. 19201
Penrose Industries Corp. 19201
Rover Shoe Co. 19201

SOCIAL SECURITY ADMINISTRATION

Rules and Regulations

Federal old-age, survivors, and disability insurance; deductions etc 19159

TRANSPORTATION DEPARTMENT

See also Coast Guard; Federal Aviation Administration.

TREASURY DEPARTMENT

See also Customs Bureau.

Notices

Office of Administrative Services; delegation of authority 19193

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

7 CFR

794 19155
987 19156
1427 19156

9 CFR

71 19157
76 19157
79 19157
95 19157
96 19157
151 19158

12 CFR

265 19159

14 CFR

PROPOSED RULES:

91 19190

19 CFR

16 19159

20 CFR

404 19159

21 CFR

191 19176

46 CFR

55 19180
61 19180
72 19180
76 19180

46 CFR—Continued

77 19181
78 19181
111 19181
112 19182
113 19182

PROPOSED RULES:

510 19192
536 19192

47 CFR

73 (2 documents) 19183, 19187

PROPOSED RULES:

73 19191

49 CFR

Ch. X 20003

Rules and Regulations

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER D—PROVISIONS COMMON TO MORE THAN ONE PROGRAM

PART 794—DIVISION OF PAYMENTS AND CERTIFICATES

Sec.
794.1 Applicability.
794.2 Division of diversion payments, price support payments, and wheat marketing certificates.
794.3 Additional provisions relating to tenants and sharecroppers.

AUTHORITY: The provisions of this Part 794 issued under sec. 16(1), 79 Stat. 1190; sec. 105(e), 79 Stat. 1188, as amended; sec. 379j, 76 Stat. 630; sec. 103(d), 79 Stat. 1194; 16 U.S.C. 590p (1), 7 U.S.C. 1441 note, 7 U.S.C. 1379j, 7 U.S.C. 1444(d).

§ 794.1 Applicability.

This part is applicable to the 1968 and 1969 feed grain program, Part 775 of this chapter, as amended; the 1968 and 1969 wheat certificate program, Part 728 of this chapter, as amended; and the 1968 and 1969 upland cotton program, Part 722 of this chapter, as amended. This part supersedes, to the extent of its applicability, regulations relating to the division of payments and certificates contained in individual program regulations.

§ 794.2 Division of diversion payments, price support payments, and wheat marketing certificates.

(a) *General.* Each person on a participating farm shall be given the opportunity to participate in the program in proportion to his interest in the crops covered by the Intention to Participate and Payment Application, hereinafter called "intention form", or the interest he would have had if the crops had been produced on the acreage diverted under the program. His name shall be listed on the intention form together with the share of any diversion payment, price support payment, and wheat marketing certificates which he is to receive. If he refuses or fails to sign the intention form, the share of the payment or certificates to which he would otherwise be entitled shall nevertheless be shown on the form. Federal agencies can earn no program payments or certificates but any shares to which they would otherwise be entitled shall also be shown on the form as though they were earning them. The sum of the percentage shares of the diversion payment shall equal 100 percent, the sum of the percentage shares of the price support payment shall equal 100 percent, and the sum of the percentage shares of wheat marketing certificates shall equal 100 percent.

(b) *Division of diversion payment.* Diversion payments made under a program shall be divided in such a way that all eligible producers will share in the payments on a fair and equitable basis. If each producer whose name is listed on the intention form agrees to his percentage share of the diversion payment and it is fair and equitable, the division of payment shall be approved by a representative of the county committee subject to the provisions of § 794.3 and provisions pertaining to successors-in-interests in the applicable program regulations. The following factors should be considered in arriving at the division of the diversion payment:

(1) The basis on which the producers would have shared in the production of the acreage of the crops diverted;

(2) The savings or benefits accruing to each producer as a result of not producing the crops on the acreage diverted;

(3) The respective contributions of each producer to the establishment and maintenance of the conservation use on the acreage designated as diverted from production; and

(4) The respective relationship of the diverted acreage and increased conservation acreage to the various ownership tracts comprising a farm.

If producers whose names are listed on the intention form cannot agree on the division of the diversion payment among eligible producers on the farm, the county committee will determine the sharing of payments among such producers on a fair and equitable basis, based on the factors provided in this paragraph.

(c) *Division of price support payment or wheat marketing certificates.* Each producer's share of the farm price support payment or wheat marketing certificates for a crop shall be based on his share of the crop on the farm or the proceeds thereof, except that the State committee may approve a different division which is fair and equitable where it is determined that the distribution of crop plantings is abnormal in relation to past history of the farming operation or is contrary to customary practice, and except as provided in provisions pertaining to successors-in-interest in the applicable program regulations.

(d) *Refund of payments and wheat marketing certificates not properly divided.* Payments and wheat marketing certificates which producers receive, to which they are not entitled, including diversion payments which the county committee determines are not fair and equitable based on the factors provided in this section, shall, in the case of payment, be refunded to the county committee and, in the case of certificates, be returned to the county committee or the value thereof paid to the Commodity Credit Corporation. In the event of fraud, the producer shall be subject to the provisions pertaining to fraudulent representation in the applicable program regulations.

§ 794.3 Additional provisions relating to tenants and sharecroppers.

(a) An intention form shall not be approved for the current year if the county committee determines that any of the conditions specified below exist:

(1) The landlord or operator has not given his tenants and sharecroppers an opportunity to participate in the program;

(2) The number of tenants and sharecroppers on the farm is reduced by the landlord or operator below the number on the farm in the year prior to the current year in anticipation of or because of participating in the program. This provision shall not apply to:

(i) A tenant or sharecropper who leaves the farm voluntarily or for some reason other than being forced off the farm by the landlord or operator in anticipation of or because of participating in the program; or

(ii) A cash tenant, standing-rent tenant, or fixed-rent tenant unless such tenant was living on the farm in the year immediately preceding the current year or received 50 percent or more of his income in such year from farming.

(3) There exists between the operator or landlord and any tenant or sharecropper, any lease, contract, agreement or understanding unfairly exacted or required by the operator or landlord which was entered into in anticipation of participating in the program, the effect of which is:

(i) To cause the tenant or sharecropper to pay over to the landlord or operator any payments or wheat marketing certificates earned by him under the program;

(ii) To change the status of any tenant or sharecropper so as to deprive him of any payments, wheat marketing certificates, or other right which he would otherwise have had under the program;

(iii) To reduce the size of the tenant's or sharecropper's producer unit; or

(iv) To increase the rent to be paid by the tenant or decrease the share of the crop or its proceeds to be received by the sharecropper.

(4) The landlord or operator has adopted any other scheme or device for the purpose of depriving any tenant or sharecropper of the payments or wheat marketing certificates to which he would otherwise be entitled under the program.

If any of such conditions occur or are discovered after approval of the intention form, all or such part as the State

committee may determine of the payments or wheat marketing certificates which have been received by the producers shall, in the case of payments, be refunded to the county committee and, in the case of certificates, be returned to the county committee or the value thereof paid to the Commodity Credit Corporation.

(b) Notwithstanding any other provision of this section, a landlord or operator who in the past had tenants or sharecroppers on his land for purposes of producing the crop covered by the intention form and such individuals are now classified as employees under the Fair Labor Standards Act, may pay these individuals on a wage basis and this action will not be considered as reducing the number of tenants or sharecroppers.

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on December 14, 1967.

E. A. JAENKE,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 67-14715; Filed, Dec. 19, 1967; 8:45 a.m.]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN A DESIGNATED AREA OF CALIFORNIA

Revision of Free and Restricted Percentages and Withholding Factor for 1967–68 Crop Year

The Date Administrative Committee has unanimously recommended that the free and restricted percentages and the withholding factor applicable to marketable dates of the Zahidi variety for the 1967–68 crop year (§ 987.215, 32 F.R. 11847) be revised. The revision would reduce the restricted percentage for this variety from the present 28 percent to 12 percent, increase the free percentage from the present 72 percent to 88 percent, and reduce the withholding factor from the present 38.9 percent to 13.6 percent. The Committee is established under, and its recommendations are made pursuant to, the marketing agreement, as amended, and Order No. 987, as amended (7 CFR Part 987; 32 F.R. 12594), regulating the handling of domestic dates produced or packed in a designated area of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The present percentages for marketable Zahidi dates were based on an estimated total supply of such dates subject to regulation of 2.08 million pounds. This total included the 1967–68 production of such dates then estimated to be 1.517 million pounds, and the reported handler carryover on July 31, 1967, of uncertified marketable dates of 0.563 million pounds. The marketable production is now estimated to be 1.479 million pounds, and the carryover is reported (as corrected) to be 0.238 million pounds. The total supply subject to regulation, therefore, is presently estimated to be 1.717 million pounds, a reduction of 0.363 million pounds.

The estimated requirements for free Zahidi dates are unchanged, and total approximately 1.505 million pounds (estimated trade demand of 1.2 million pounds and handler carryover for July 31, 1968, of about 0.305 million pounds). The present supply of marketable Zahidi dates subject to regulation of 1.717 million pounds and the requirements for free dates of 1.505 million pounds require a free percentage of 88 percent.

After consideration of all relevant matter presented, including that in the notice issued in connection with the designation of the free and restricted percentages and the withholding factors for the 1967–68 crop year, the information and recommendation submitted by the Committee, and other available information, it is found that to revise § 987.215 (32 F.R. 11847) so as to change for Zahidi dates, the free and restricted percentages and the withholding factor, as set forth below, will tend to effectuate the declared policy of the act.

§ 987.215 Free and restricted percentages, and withholding factors.[1]

The various free percentages, restricted percentages, and withholding factors applicable to marketable dates of each variety shall be, for the crop year beginning August 1, 1967, and ending July 31, 1968, as follows: (a) Deglet Noor variety dates: Free percentage, 65 percent; restricted percentage, 35 percent; and withholding factor, 53.8 percent; (b) Zahidi variety dates: Free percentage, 88 percent; restricted percentage, 12 percent; and withholding factor, 13.6 percent; (c) Halawy variety dates: Free percentage, 100.0 percent; restricted percentage, 0.0 percent; and withholding factor, 0.0 percent; and (d) Khadrawy variety dates: Free percentage, 100.0 percent; restricted percentage, 0.0 percent; and withholding factor, 0.0 percent.

It is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice of this specific action and engage in public rule making procedure, and that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) Under this marketing program, the percentages and withholding factors designated for a particular crop year, and any revisions thereof, shall be applicable to all marketable dates certified during the entire crop year; (2) the current crop year began August 1, 1967, and the revised percentages and withholding factor designated herein will automatically apply to all marketable dates certified on or after that date; (3) this action relieves restrictions and must be taken promptly to achieve its purpose; and (4) handlers are aware of this action as recommended by the Committee and require no advance notice.

(Secs. 1–19, 48 Stat. 31, as amended, 7 U.S.C. 601–674)

Dated: December 15, 1967.

PAUL A. NICHOLSON,
Deputy Director,
Fruit and Vegetable Division.

[F.R. Doc. 67-14747; Filed, Dec. 19, 1967; 8:48 a.m.]

[1] The Date Administrative Committee included no countries other than the United States and Canada in its determination of trade demand.

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES AND OTHER OPERATIONS

[Cotton Loan Program Regs., Amdt. 8]

PART 1427—COTTON

Subpart—Cotton Loan Program Regulations

WAREHOUSEMAN SIGNATURES ON WAREHOUSE RECEIPTS

In order to remove the requirement that warehouse receipts can only be signed with a machine or rubber-stamp facsimile signature upon authorization by Commodity Credit Corporation, § 1427.1369 of the regulations issued by Commodity Credit Corporation published in 30 F.R. 5096, 15795, 31 F.R. 4389, 9791, 32 F.R. 5671, 6969, 9302, and 14548 as Cotton Loan Program Regulations and containing terms and conditions with respect to the Cotton Loan Program, is hereby amended to read as follows:

§ 1427.1369 Warehouse receipt and insurance.

Producers may obtain loans on warehouse receipts only if they are negotiable machine card-type warehouse receipts, are issued by approved warehouses, provide for delivery of the cotton to bearer or are properly assigned by endorsement in blank so as to vest title in the holder of the receipt, and otherwise are acceptable to CCC. The warehouse receipt must contain the tag number (warehouse receipt number) and the gin bale number, must show that the cotton is covered by fire insurance, and must be dated on or prior to the date the producer signs the note. Open yard endorsement, if any, on the warehouse receipt must have been rescinded with the legend "open yard disclaimer deleted" with appropriate signature of the warehouseman or his authorized representative. Each receipt must set out in its written or printed terms a description by tag number and gross weight of the bale represented thereby, including bagging weight allowance, if any, for bales of upland cotton as specified in § 1427.1359(a). Each warehouse receipt issued for extra long staple cotton must also show the tare weight and net weight of the bale. A warehouse receipt reflecting an alteration in the weight of the bale will not be accepted by CCC unless it bears, on the face of the receipt, the following legend or similar wording approved by CCC, duly executed by the warehouseman or his authorized representative:

Corrected weight _____
_____
(Name of warehouse)
BY _____
By _____
Date _____

Alterations in other inserted data on the receipt must be initialed by the warehouseman or his authorized representative. If warehouse storage charges have been paid, the receipt must be stamped or otherwise noted to show the date through which the storage charges have been paid. If warehouse receiving charges have been paid, the receipt must be stamped or otherwise noted to show such fact. If the warehouse receipt does not show that warehouse receiving charges have been paid, the amount of the loan will be reduced by the amount specified in the warehouseman's tariff for receiving charges. In such cases, the receiving charges will be paid to the warehouseman by CCC after loan maturity if the cotton is not redeemed from the loan, at time of shipment if the cotton is ordered shipped by CCC while in loan status, or after the cotton is destroyed by fire if the cotton is destroyed by fire while in loan status. If the bale was received by rail, the code number of the railroad must be entered on the receipt. If the bale has been compressed to standard density, the warehouse receipt must be stamped or otherwise noted to show whether the bale was compressed to standard density at a warehouse or to gin standard density at a gin. If the compression charge has been paid, the receipt must also be stamped or otherwise noted to show such fact. Each receipt must show the type of bagging used to wrap the bale. Block warehouse receipts will not be accepted except on cotton to be reconcentrated pursuant to § 1427.1371.

(Secs. 4, 5, 62 Stat. 1070, as amended; secs. 101, 103, 401, 63 Stat. 1051, as amended; 15 U.S.C. 714 b and c; 7 U.S.C. 1441, 1444, 1421)

Effective date: This amendment shall become effective upon filing with the Office of the Federal Register for publication.

Signed at Washington, D.C., on December 14, 1967.

E. A. JAENKE,
Acting Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 67-14716; Filed, Dec. 19, 1967; 8:46 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

CLEANING AND DISINFECTING REQUIREMENTS

Pursuant to the provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of May 31, 1920, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114, 114a–1, 114g, 115, 116, 117, 120, 121, 123–126, 134b, 134f), the provisions of Parts 71, 76, 79, 95, and 96, Subchapters C and D, Chapter I, Code of Federal Regulations, are hereby amended in the following respects:

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 71—GENERAL PROVISIONS

1. New subparagraphs (4) and (5) are added to § 71.10(a) of Part 71 to read as follows:

§ 71.10 Substances or materials allowed as permitted disinfectants.

(a) • • •

(4) Sodium hydroxide (Lye) prepared in a fresh solution in the proportion of not less than 1 pound avoirdupois of sodium hydroxide of not less than 96 percent purity to 6 gallons of water, or one 13½ ounce can to 5 gallons of water. Due to the extreme caustic nature of sodium hydroxide solution, precautionary measures such as the wearing of rubber gloves, boots, raincoat, and goggles should be observed. An acid solution such as vinegar shall be kept readily available in case any of the sodium hydroxide solution should come in contact with the body.

(5) General disinfectants which have been registered with the Pesticides Regulation Division of the Agricultural Research Service, U.S. Department of Agriculture, and which have been shown to be tuberculocidal, may be used at a dilution which is imprinted on the label. Products not already tested for their tuberculocidal properties may be used after test and certification to the Pesticides Regulation Division by the manufacturer or distributor. Disinfectants which fail in this category are not permitted for use in outbreaks of foreign animal diseases.

• • • • •

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

2. Section 76.33(a) of Part 76 is amended to read as follows:

§ 76.33 Disinfectants to be used.

• • • • •

(a) Sodium hydroxide (Lye) prepared in a fresh solution in the proportion of not less than 1 pound avoirdupois of sodium hydroxide of not less than 96 percent purity to 6 gallons of water, or one 13½ ounce can to 5 gallons of water. Due to the extreme caustic nature of sodium hydroxide solution, precautionary measures such as the wearing of rubber gloves, boots, raincoat, and goggles should be observed. An acid solution such as vinegar shall be kept readily available in case any of the sodium hydroxide solution should come in contact with the body.

• • • • •

PART 79—SCRAPIE IN SHEEP

3. Section 79.5 of Part 79 is amended to read as follows:

§ 79.5 Disinfection of facilities.

Railroad cars, trucks, boats, aircraft and other means of conveyance, and all other facilities, including facilities for feeding, watering, and resting sheep, which are used in connection with the interstate movement of sheep from a quarantined area shall be thoroughly cleaned and disinfected immediately after each such use. Sodium hydroxide (Lye) prepared in a fresh solution in the proportion of not less than 1 pound avoirdupois of sodium hydroxide of not less than 95 percent purity to 6 gallons of water, or one 13½ ounce can to 5 gallons of water,[1] or sodium carbonate (soda ash) at the rate of 1 pound to 3 gallons of water, shall be used in such disinfection.

Subchapter D—Exportation and Importation of Animals and Animal Products

PART 95—SANITARY CONTROL OF ANIMAL BY-PRODUCTS (EXCEPT CASINGS), AND HAY AND STRAW

4. The heading, introductory paragraph, and paragraphs (b) and (c) of § 95.26 of Part 95 are amended to read as follows:

§ 95.26 Railroad cars, trucks, boats, aircraft and other means of conveyance, equipment or containers, yards, and premises; cleaning and disinfection.

Railroad cars, trucks, boats, aircraft and other means of conveyance, equipment or containers, yards, and premises which have been used in the transportation, handling, or storing of restricted import products or materials, other than those contained in leak proof cases or casks, shall be cleaned and disinfected with a disinfectant approved for use in this part under the supervision of the division at the time and in the manner provided in this section. Except as provided in paragraph (a) of this section, such railroad cars, trucks, boats, aircraft and other means of conveyance, equipment or containers, shall not be moved in interstate or foreign commerce until they have been so treated.

(a) • • •

(b) *Methods of cleaning and disinfecting.* (1) Railroad cars, trucks, aircraft and means of conveyance other than boats, equipment or containers, required by this part to be cleaned and disinfected shall be treated in the following manner: Collect all litter and other refuse therefrom and destroy by burning or other approved method, clean the exterior and interior of the cars or trucks,

[1] Due to the extreme caustic nature of sodium hydroxide solution, precautionary measures such as the wearing of rubber gloves, boots, raincoat, and goggles should be observed. An acid solution such as vinegar shall be kept readily available in case any of the sodium hydroxide solution should come in contact with the body.

68 142 AA A 30

and the areas of the aircraft or other means of conveyance, equipment or containers that may have been contaminated, and saturate the entire surface with a permitted disinfectant approved for use in this part.

(2) Boats required by this part to be cleaned and disinfected shall be treated in the following manner: Collect all litter and other refuse from the decks, compartments, and all other parts of the boat used for the transportation of the products or materials covered by this part, and from the portable chutes or other appliances, fixtures or areas used in loading and unloading same, and destroy the litter and other refuse by burning or by other approved methods, and saturate the entire surface of the said decks, compartments, and other parts of the boat with a permitted disinfectant approved for use in this part.

(3) Buildings, sheds, and premises required by this part to be disinfected shall be treated in the following manner: Collect all litter and other refuse therefrom and destroy the same by burning or other approved methods, and saturate the entire surface of the fencing, chutes, floors, walls, and other parts with a permitted disinfectant approved for use in this part.

(c) *Permitted disinfectants.* The disinfectants permitted for use in disinfecting railroad cars, trucks, boats, aircraft and other means of conveyance, equipment or containers, yards, and premises against infection of foot-and-mouth disease and rinderpest are freshly prepared solutions of:

(1) Sodium carbonate (4 percent) in the proportion of 1 pound to 3 gallons of water.

(2) Sodium carbonate (4 percent) plus sodium silicate (0.1 percent) in the proportion of 1 pound of sodium carbonate plus sodium silicate to 3 gallons of water.

(3) Sodium hydroxide (Lye) prepared in a fresh solution in the proportion of not less than 1 pound avoirdupois of sodium hydroxide of not less than 96 percent purity to 6 gallons of water, or one 13½-ounce can to 5 gallons of water.[1]

* * * * *

PART 96—RESTRICTION OF IMPORTATIONS OF FOREIGN ANIMAL CASINGS OFFERED FOR ENTRY INTO UNITED STATES

5. Section 96.9(a)(1) is amended to read as follows:

§ 96.9 Uncertified casings; transportation for disinfection; original shipping containers; disposition of salt.

(a) * * *

(1) Sodium hydroxide (Lye) prepared in a fresh solution in the proportion of not less than 1 pound avoirdupois of sodium hydroxide of not less than 95 percent purity to 6 gallons of water, or one 12½-ounce can to 5 gallons of water.[1]

* * * * *

(Secs. 4, 5, 32 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791–792, as amended, sec. 3, 33 Stat. 1265, as amended, 41 Stat. 690, sec. 2, 65 Stat. 693, 75 Stat. 481, 76 Stat. 130; 21 U.S.C. 111–113, 114a–1, 114g, 116, 120, 121, 122–124, 134b, 134f; 20 F.R. 16210, as amended)

The purpose of the foregoing amendment is to update the regulations contained in 9 CFR, § 71.10, § 76.33, § 79.5, § 95.26, and § 96.9(a)(1), by: (1) revising the list of substances or materials allowed as permitted disinfectants under § 71.10; (2) adding aircraft and other means of conveyance to § 95.26 bringing this section into conformity with modern means of transportation; and (3) revising § 71.10, § 76.33, § 79.5, § 95.26, and § 96.9(a)(1) to make uniform the regulations and instructions contained in these parts, which are applicable to the use of certain approved disinfectants. Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the foregoing amendment are impracticable and contrary to the public interest and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Effective date. The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 14th day of December 1967.

R. J. ANDERSON,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 67-14745; Filed, Dec. 19, 1967; 8:48 a.m.]

[1] Due to the extreme caustic nature of sodium hydroxide solution, precautionary measures such as the wearing of rubber gloves, boots, raincoat and goggles should be observed. An acid solution such as vinegar shall be kept readily available in case any of the sodium hydroxide solution should come in contact with the body.

SUBCHAPTER G—ANIMAL BREEDS

PART 151—RECOGNITION OF BREEDS AND BOOKS OF RECORD OF PUREBRED ANIMALS

Recognized Breeds and Books of Record

Pursuant to the provisions of Item 100.01 of Title I of the Tariff Act of 1930, as amended (19 U.S.C. 1202, Item 100.01), § 151.9 of Part 151, Title 9, Code of Federal Regulations, is hereby amended to recognize the additional breeds of animals and books of record as follows:

1. The chart in § 151.9(a) is amended by inserting the following in alphabetical order under the respective headings:

Code	Name of breed	Book of record	By whom published
	CATTLE		
1112	Aberdeen-Angus	New Zealand Aberdeen-Angus Herd Book.	New Zealand Aberdeen-Angus Cattle Breeders' Association, Post Office Box 83, Hastings, New Zealand.
	HORSES		
2223	Thoroughbred	Allgemeines deutsches Gestutbuch fur Vollblut.	Direktorium fur Vollblutzucht und Rennen, 6 Cologne Weidenpesch, Rennbahnstrasse 100, Postfach 120, Republic of Germany.
2224	do	Stud Book Uruguayo	Jefe del Stud Book Uruguayo, Jose C. Frigerio, Head, Uruguayan Jockey Club, Montevideo, Uruguay.
	SHEEP		
4218	Southdown	Southdown Sheep Society of New Zealand (Inc.).	The Southdown Sheep Society of New Zealand (Inc.), S.I. McKenzie, Secretary, A.M.P., Chambers, 14 Broadway, Palmerston North, New Zealand.

2. The chart in § 151.9(b) listing the recognised breeds and books of record in Canada is amended by inserting the word "Lacombe" in the proper alphabetical sequence in the column headed "Swine".

(Section 101, 76 Stat. 72, Item 100.01, Title I, Tariff Act of 1930, as amended; 19 U.S.C. 1202, Item 100.01; 30 F.R. 16210)

The amendment recognizes the Thoroughbred breed of horses listed in the Allgemeines deutsches Gestutbuch fur Vollblut and the Stud Book Uruguayo; the Aberdeen-Angus breed of cattle listed in the New Zealand Aberdeen-Angus Herd Book; the Southdown breed of sheep listed in the Southdown Sheep Society of New Zealand (Inc.); and the Lacombe breed of swine listed in the Canadian National Record of Swine.

The effect of the amendment is to provide for duty-free entry of certain purebred animals and, in order to be of maximum benefit to persons desiring to import such animals, the amendment should be made effective as soon as possible. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice of rule-making and other public procedure on the amendment are impracticable and unnecessary, and the amendment may be effective less than 30 days after publication in the FEDERAL REGISTER.

The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 14th day of December 1967.

R. J. ANDERSON,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 67-14746; Filed, Dec. 19, 1967; 8:48 a.m.]

[1] Due to the extreme caustic nature of sodium hydroxide solution, and of sodium carbonate solution to a lesser degree, precautionary measures such as the wearing of rubber gloves, boots, raincoat and goggles should be observed. An acid solution such as vinegar shall be kept readily available in case any of the sodium hydroxide solution should come in contact with the body.

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

Division of Examinations; Specific Functions

1. Effective immediately, § 265.2(c) is amended by adding subparagraph (10) as follows:

§ 265.2 Specific functions delegated.

* * * * *

(c) The Director of the Division of Examinations (or, in his absence, the Acting Director) is authorized:

* * * * *

(10) To exercise the functions described in subparagraphs (1), (2), (4), and (7) of paragraph (f) of this section in cases in which the conditions specified in such subparagraphs as prerequisites to exercise of such functions by the Federal Reserve Banks are not present or in which, even though such conditions are present, the appropriate Federal Reserve Bank considers that nevertheless it should not take action on the member bank's request.

* * * * *

2a. This amendment is promulgated pursuant to and in accordance with the provisions of section 11(k) of the Federal Reserve Act (12 U.S.C. 248(k)). It is designed to provide a more expeditious means for performance of the Board's functions relating to a State member bank (1) establishing domestic branches, (2) declaring dividends in excess of net profits, (3) reducing its capital stock, and (4) investing in bank premises in an amount in excess of its capital stock. It is believed that the amendment will improve the Board's overall efficiency in fulfilling its statutory responsibilities.

b. The provisions of section 553 of Title 5, United States Code, relating to notice and public participation and to deferred effective dates, were not followed in connection with the adoption of this amendment, because such amendment is procedural in nature and accordingly does not constitute substantive rules subject to the requirements of such section.

Dated at Washington, D.C., this 22d day of November 1967.

By order of the Board of Governors.

[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 67-14706; Filed, Dec. 19, 1967; 8:45 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 68-2]

PART 16—LIQUIDATION OF DUTIES

Sugar Content of Certain Articles From Australia

DECEMBER 12, 1967.

The Treasury Department is in receipt of official information that the rates of bounties or grants paid or bestowed by the Australian Government within the meaning of section 303, Tariff Act of 1930 (19 U.S.C. 1303), on the exportation during the month of November 1967, of approved fruit products and other approved products containing sugar amounts to Australian $113.50 per 2,240 pounds of sugar content.

The net amount of bounties or grants on the above-described commodities which are manufactured or produced in Australia is hereby ascertained, determined, and declared to be Australian $113.50 per 2,240 pounds of sugar content. Additional duties on the above-described commodities, except those commodities covered by T.D. 55716 (27 F.R. 9595), whether imported directly or indirectly from that country, equal to the net amount of the bounty shown above shall be assessed and collected.

In view of the change in the periods to be covered by countervailing duty orders relating to the sugar content of certain articles from Australia, only the three last Treasury decisions publishing such orders will be listed at any one time in the table in § 16.24(f) of the Customs Regulations.

The table in § 16.24(f) of the Customs Regulations is amended by inserting after the last line under "Australia—Sugar content of certain articles" the number of this Treasury decision in the column headed "Treasury Decision" and the words "New rate" in the column headed "Action." The table in § 16.24(f) is further amended by deleting therefrom under "Australia—Sugar content of certain articles" the number 67-239 in the column headed "Treasury Decision" and the words "New rate" appearing opposite such number in the column headed "Action."

(R.S. 251, secs. 303, 624, 46 Stat. 687, 759; 19 U.S.C. 66, 1303, 1624)

[SEAL] LESTER D. JOHNSON,
Commissioner of Customs.

Approved: December 12, 1967.

TRUE DAVIS,
Assistant Secretary of the Treasury.

[F.R. Doc. 67-14748; Filed, Dec. 19, 1967; 8:48 a.m.]

Title 20—EMPLOYEES' BENEFITS

Chapter III—Social Security Administration, Department of Health, Education, and Welfare

[Regs. No. 4, further amended]

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE (1950—)

Subpart E—Deductions; Reductions; Nonpayments; Increases

1. This revision of Subpart E of Regulations No. 4 (20 CFR 404.1001 et seq.) reorganizes, expands, and updates the provisions relating to deductions from benefits, and to reduction, increase, and nonpayment of benefits. They reflect the current substantive policies and procedures that have been and are being applied by the Social Security Administration in implementing the Social Security Act, as amended to date.

Sec.
404.401 Modification in amount of benefits or lump-sum death payments.
404.402 Interrelationship of reductions, increases, deductions, adjustments, and nonpayment of benefits.
404.403 Reduction where total monthly benefits exceed maximum family benefits payable.
404.404 How reduction for maximum affects insured individual and other persons entitled on his earnings record.
404.405 Situations where total benefits can exceed maximum because of "savings clause."
404.406 Reduction for maximum because of retroactive effect of application for monthly benefits.
404.407 Reduction because of entitlement to other benefits.
404.408 Reduction of benefits based on disability on account of receipt of workmen's compensation.
404.409 Increase of benefit amount.
404.415 Deductions because of excess earnings; annual earnings test.
404.416 Amount of deduction because of excess earnings.
404.417 Deductions because of noncovered remunerative activity outside the United States; 7-day work test.
404.418 "Noncovered remunerative activity outside the United States," defined.

Sec.
404.420 Persons deemed entitled to benefits based on an individual's earnings record.
404.421 Deductions because beneficiary failed to have a child in her care.
404.422 Deductions because of refusal to accept rehabilitation services.
404.423 Manner of making deductions.
404.424 Total amount of deductions where more than one deduction event occurs in a month.
404.425 Total amount of deductions where deduction events occur in more than 1 month.
404.426 Earnings in a taxable year.
404.429 Earnings; defined.
404.433 Excess earnings; defined for taxable years ending after December 1965.
404.433 Excess earnings; defined for taxable years beginning after December 1960, or ending after June 1961—up to and including taxable years ending December 31, 1965.
404.434 Excess earnings; method of charging.
404.435 Excess earnings; months to which excess earnings cannot be charged.
404.436 Excess earnings; months to which excess earnings cannot be charged because individual is deemed not entitled to benefits.
404.437 Excess earnings; benefit rate subject to deductions because of excess earnings.
404.439 Partial monthly benefits; excess earnings of the individual charged against his benefits and the benefits of persons entitled (or deemed entitled) to benefits on his earnings record.
404.440 Partial monthly benefits; prorated share of partial payment exceeds the benefit before deduction for excess earnings.
404.441 Partial monthly benefits; insured individual and a person entitled (or deemed entitled) on his earnings record both have excess earnings.
404.444 Charging of earnings for taxable years beginning after 1954 and before 1961; and ending before July 1961.
404.446 Definition of "substantial services."
404.447 Evaluation of factors involved in substantial services test.
404.450 Required reports of work outside the United States or failure to have care of a child.
404.451 Penalty deductions for failure to report within prescribed time limit noncovered remunerative activity outside the United States or not having care of a child.
404.452 Reports to Administration of earnings; wages; net earnings from self-employment.
404.453 Penalty deductions for failure to timely report earnings.
404.454 Good cause for failure to make required reports.
404.454 Good cause for failure to make required reports.
404.455 Request by Administration of earnings reports; effect of failure to comply with request.
404.456 Current suspension of benefits because an individual works or engages in self-employment.
404.457 Deductions where taxes neither deducted from wages of certain maritime employees nor paid.
404.458 Limiting deductions where total family benefits payable would not be affected or would be only partly affected.
404.460 Nonpayment of monthly benefits of aliens outside the United States for 6 months.
404.461 Nonpayment of lump sum after death of alien outside United States for 6 months.
404.462 Nonpayment of hospital and medical insurance benefits of alien outside United States for 6 months.
404.463 Nonpayment of benefits of aliens outside the United States; "foreign social insurance system," and "treaty obligation" exceptions defined.
404.464 Nonpayment of benefits where individual is deported; prohibition against payment of lump sum based on deported individual's earnings records.
404.465 Conviction for subversive activities; effect on monthly benefits and entitlement to hospital insurance benefits.
404.466 Conviction for subversive activities; effect on enrollment for supplementary medical insurance benefits.
404.467 Nonpayment of benefits; individual entitled to disability insurance benefits based on blindness is engaging in substantial gainful activity.

AUTHORITY: The provisions of this Subpart I issued under secs. 205 and 1102, 53 Stat. 1368, as amended, 49 Stat. 647, as amended; sec. 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 18; 42 U.S.C. 405, 1302. Additional authority cited in parentheses following the sections affected.

§ 404.401 Modification in amount of monthly benefits or lump-sum death payments.

Under certain conditions the amount of a monthly insurance benefit (see §§ 404.377–404.380 for provisions concerning special payments at age 72) or the lump-sum death payment as calculated under the pertinent provisions of sections 202 and 223 of the Act (excluding reduction for age under section 202(q) of a monthly benefit) must be increased or decreased to determine the amount actually to be paid to a beneficiary. A modification in the amount of a monthly benefit or lump-sum death payment is required in the following instances:

(a) *Reductions.* A reduction of a person's monthly benefit is required where:

(1) The total amount of the monthly benefits payable on an earnings record exceeds the maximum that may be paid (see § 404.403);

(2) An application for monthly benefits is effective for a month during a retroactive period, and the maximum has already been paid for that month or would be exceeded if such benefit were paid for that month (see § 404.406);

(3) An individual is entitled to old-age or disability insurance benefits in addition to any other monthly benefit (see § 404.407);

(4) An individual under age 62 is entitled to disability insurance benefits and to certain periodic workmen's compensation payments after 1965 because of disability (see § 404.408); or

(5) An individual is entitled in a month to a widow's or widower's insurance benefit that is reduced under sections 202(e)(4) or (f)(5) of the Act with respect to recomputation or recalculation):

(1) To raise the benefit up to the minimum payable (see § 404.409); or

(2) If a benefit is not a multiple of 10 cents, to raise it to the next higher multiple of 10 cents (see § 404.409).

(c) *Deductions.* A deduction from a monthly benefit or a lump-sum death payment may be required because of:

(1) An individual's earnings or work (see §§ 404.415 and 404.417);

(2) Failure of certain beneficiaries receiving wife's or mother's insurance benefits to have a child in her care (see § 404.421);

(3) The earnings or work of an old-age insurance beneficiary where a wife, husband, or child is also entitled to benefits (see §§ 404.415 and 404.417);

(4) Failure to report within the prescribed period either certain work outside the United States or not having care of a child (see § 404.451);

(5) Failure to report within the prescribed period earnings from work in employment or self-employment (see § 404.453);

(6) Refusal to accept rehabilitation services in certain cases (see § 404.422); or

(7) Certain taxes were neither deducted from the wages of maritime employees nor paid to the Federal Government (see § 404.547).

(d) *Adjustments.* Adjustments may be required because an error has been made in payments to an individual (see Subpart F of this part).

(e) *Nonpayments.* Nonpayment of monthly benefits may be required because the individual is an alien who has been outside the United States for more than 6 months (see § 404.460), because the individual on whose earnings record entitlement is based has been deported (see § 404.464), or because the individual is engaged in substantial gainful activity while entitled to disability insurance benefits based on "statutory blindness" (see § 404.467).

(f) *Recalculations.* A reduction by recalculation of a benefit amount may be prescribed because an individual has been convicted of certain offenses (see § 404.465).

(g) *Suspensions.* Suspension of monthly benefits may be required pursuant to section 203(h)(3) of the Act (the Administration has information indicating that work deductions may reasonably be expected for the year), or pursuant to section 225 of the Act (the Administration has information indicating a beneficiary is no longer disabled).

§ 404.402 Interrelationship of, reductions, increases, deductions, adjustments, and nonpayment of benefits.

(a) *Deductions, reductions—increases, adjustments.* Deductions because of earnings or work (see §§ 404.415 and 404.417), failure to have a child "in her care" (see § 404.421), refusal to accept rehabilitation services (see § 404.422), as a penalty (for failure to timely report noncovered work outside the United States, failure by a woman to report that she no longer has a child "in her care" or failure to timely report earnings—see §§ 404.451 and 404.453), or because of unpaid maritime taxes (see § 404.457), are made before making any reductions because of the "maximum" (see § 404.403), before any increase because of the benefit "rounding" provisions (see § 404.409), and, except for deductions imposed as a penalty (see §§ 404.451 and 404.453), before any adjustment necessary because an error has been made in the payment of benefits (see Subpart F). However, for purposes of charging excess earnings for taxable years beginning after December 1960, or ending after June 1961, see paragraph (b) of this section and § 404.437 for reductions that apply before such charging.

(b) *Reductions—increases, nonpayments.* Reduction because of the "maximum" (see § 404.403) is made before reduction because of simultaneous entitlement to old-age or disability insurance benefits and to other benefits (see § 404.407); before increases to round the benefit (see § 404.409); before adjustment necessary because an error has been made in the payment of benefits (see Subpart F); before reduction because of entitlement after 1965 to a periodic benefit under a workmen's compensation law or plan of the United States or a State (see § 404.408); before nonpayment of an individual's benefits because he is an alien living outside the United States for 6 months (see § 404.460), or because of deportation (see § 404.464), and also before the redetermination of the amount of benefit payable to an individual who has been convicted of certain offenses (see § 404.465). Reduction of benefits because of entitlement after 1965 to a periodic benefit under a workmen's compensation law or plan (see § 404.408) is made before deductions under section 203 of the Act relating to work (see §§ 404.415, 404.417, 404.451, and 404.453) and failure to have child in care (see §§ 404.421 and 404.451) and under section 222(b) of the Act on account of refusal to accept rehabilitation services (see § 404.422).

(c) *Alien outside the United States; deportation nonpayment—deduction.* If an individual is subject to nonpayment of a benefit for a month under § 404.460 or § 404.464, no deduction is made from his benefit for that month under § 404.415, § 404.417, or § 404.421, and no deduction is made because of that individual's work from the benefit of any person entitled or deemed entitled to benefits under § 404.420, on his earnings record, for that month.

(d) *Order of priority—deductions and other withholding provisions.* Deductions and other withholding provisions are applied in accordance with the following order of priority:

(1) Current nonpayments under §§ 404.460, 404.464, 404.465, and 404.467;

(2) Current deductions under §§ 404.417, 404.421, and 404.422;

(3) Current withholding of benefits under § 404.458;

(4) Unpaid maritime tax deductions (§ 404.457);

(5) Withholdings to recover overpayments (see Subpart F of this part);

(6) Penalty deductions under §§ 404.451 and 404.453.

§ 404.403 Reduction where total monthly benefits exceed maximum family benefits payable.

Where more than one individual is entitled to benefits for the same month on the same earnings record, a reduction in the total benefits payable for that month is required (except in cases involving a "savings clause"—see § 404.405) if the maximum family benefit, as described in the following paragraphs of this section, is exceeded:

(a) *Determining maximum for months after 1964.* Where more than one person is entitled to monthly benefits for the same month on the same earnings record and the total of such monthly benefits exceeds the amount appearing in column V of the table in section 215(a) of the Act on the line on which appears in column IV the primary insurance amount of the insured individual whose earnings record is the basis for the benefits payable, the total benefits for each month after 1964 are reduced to the amount appearing in column V; provided that when any of the persons entitled to benefits on such insured individual's earnings would, except for the limitation described in § 404.353(d), be entitled to child's insurance benefits on the basis of the earnings record of one or more other insured individuals, the total benefits payable may not be reduced to less than the smaller of $368 or the sum of the maximum amounts of benefits payable on the basis of the earnings records of all such insured individuals.

(b) *Determining maximum for months before 1965 and after 1958.* Where more than one person is entitled to monthly benefits for the same month on the same earnings record and the total of such monthly benefits exceeds the amount appearing in column V of the table in section 101 of the Social Security Amendments of 1958 on the line on which appears in column IV the primary insurance amount of the insured individual whose earnings record is the basis for the benefits payable, the total benefits for each month before 1965 and after 1958 are reduced to the amount appearing in column V; provided that when any of the persons entitled to benefits on such insured individual's earnings record would, except for the limitation described in § 404.353(d), be entitled to child's insurance benefits on the basis of the earnings of one or more other insured individuals, the total benefits payable may not be reduced to less than the smaller of $254, or the sum of the maximum amounts of benefits payable on the basis of the earnings records of all such insured individuals.

(c) *Determining maximum for months before 1959 and after August 1954.* (1) Whenever the total amount of benefits payable for a month after August 1954 and before 1959 on an individual's earnings record is more than $50 and exceeds the greater of one and one-half times the individual's primary insurance amount (see § 404.232), or 80 percent of the individual's average monthly wage (see § 404.237), the total benefits are reduced to the greater of 80 percent of his average monthly wage or one and one-half times his primary insurance amount, but in no case to less than $50 nor to any amount which exceeds $200: *Provided*, That when any of the persons entitled to benefits on the individual's earnings would, except for the limitation described in § 404.353(d), be entitled to child's insurance benefits on the earnings of one or more other insured individuals, the total benefits payable may not be reduced to less than the lower of either $200 or 80 percent of the sum of the average monthly wages of all such insured individuals.

(2) Where, based upon applications filed before September 1954, two or more persons are entitled to benefits for August 1954 upon the earnings record of a deceased individual and the total benefits to which all such persons are entitled, based upon such deceased individual's earnings record, for subsequent months would be reduced by reason of this paragraph, such deceased's average monthly wage for the purpose of determining the maximum amount payable is the larger of his average monthly wage determined as described in § 404.237 or his average monthly wage determined as described in § 404.208 plus $7.

(d) *Determining maximum for months before September 1954 and after August 1952.* Whenever the total amount of benefits payable for a month after August 1952 and before September 1954 on an individual's earnings record exceeds $168.75, or is more than $45 and exceeds 80 percent of the insured individual's average monthly wage (see § 404.205), such total benefits are reduced to the lesser of $168.75 or 80 percent of the insured individual's average monthly wage, but in no case to less than $45: *Provided*, That when any of the persons entitled to benefits on such individual's earnings would, except for the limitation described in § 404.353(d), be entitled to child's insurance benefits on the earnings of one or more other insured individuals, such total benefits are reduced to the lesser of $168.75, or 80 percent of the sum of the average monthly wages of all such insured individuals, but in no case to less than $45.

§ 404.404 How reduction for maximum affects insured individual and other persons entitled on his earnings record.

If a reduction of monthly benefits is required under the provisions of § 404.403, the monthly benefit amount of each of the persons entitled to monthly benefits on the same earnings record (with the exception of the individual entitled to old-age or disability insurance benefits) is proportionately reduced so that the total benefits that can be paid in 1 month

(including an amount equal to the primary insurance amount of the old-age or disability insurance beneficiary, when applicable) does not exceed the maximum family benefit (except as provided in § 404.405 where various savings clause provisions are described).

§ 404.405 Situations where total benefits can exceed maximum because of "savings clause."

The following provisions are "savings clauses" and describe exceptions to the rules concerning the maximum amount payable on an individual's earnings record in a month as described in § 404.403. The effect of a "savings clause" is to avoid lowering benefit amounts or to guarantee minimum increases to certain persons entitled on the earnings record of the insured individual when a statutory change has been made that would otherwise disadvantage them. The reduction described in § 404.403 does not apply in the following instances:

(a) *Months after August 1954.* The reduction described in § 404.403(c) does not apply where:

(1) An insured individual was entitled to old-age insurance benefits for August 1954, and one or more other persons were also entitled to benefits for August 1954 on such individual's earnings record, and all such benefits (including the old-age insurance benefit) were based on applications filed prior to September 1954; and

(2) The total benefits payable to such other persons for any month after August 1954 (and during which the individual was entitled to an old-age insurance benefit) would be reduced to an amount lower than the total of such benefits to which such other persons were entitled for August 1954, due to the increase in the insured individual's primary insurance amount resulting from the Social Security Amendments of 1954 and by application of the reduction described in § 404.403(c). Under these circumstances the maximum amount payable on the insured individual's earnings record for such month after August 1954, is the larger of:

(i) The total benefits payable to such persons for August 1954 after the reduction described in § 404.403(d), plus the amount by which the insured individual's old-age insurance benefit was increased for months after August 1954 by reason of the Social Security Amendments of 1954, or

(ii) The maximum amount payable for August 1954, plus the excess of the amount of the old-age insurance benefit for August 1954 (computed as though the increase by the Social Security Amendments of 1954 (see § 404.230) were applicable for that month), over the actual amount of the old-age insurance benefit for such month.

(b) *Months after August 1957.* (1) The reduction described in § 404.403(c) does not apply where:

(i) Based on application filed prior to September 1957, one or more persons were entitled to parent's insurance benefits for August 1957 on the basis of a deceased individual's earnings record, and

(ii) A person becomes entitled to a widow's, widower's, or mother's insurance benefit for any subsequent month based on such deceased individual's earnings, and

(iii) The total of the benefits to which all persons are entitled for such subsequent month on the basis of such earnings record is decreased under the reduction provisions described in § 404.403(c).

(2) Under the circumstances described in subparagraph (1) of this paragraph, the amount of the benefit to which each person referred to in subdivisions (i) or (ii) of subparagraph (1) of this paragraph is entitled for such subsequent month is increased, after the application of the provisions described in § 404.403(c), as follows:

(i) In the case of a parent's insurance benefit, to the amount it would have been if the person entitled to a widow's, widower's, or mother's insurance benefit were not entitled to such benefit;

(ii) In the case of a widow's, widower's, or mother's insurance benefit, to the amount it would have been if no person were entitled to a parent's insurance benefit for such subsequent month.

(c) *Months after August 1958.* The reduction described in § 404.403(c) does not apply where:

(1) Based on applications filed prior to September 1958, one or more persons were entitled to benefits for August 1958 on the basis of the earnings record of an insured individual; and

(2) Only because of the provisions of the Social Security Amendments of 1958, a person is entitled to a parent's insurance benefit for any month after August 1958 based on such insured individual's earnings record; and

(3) The total of the benefits to which all such persons are entitled for such subsequent month on such deceased insured individual's earnings record are reduced by reason of the reduction described in § 404.403(b) or § 404.403(c). In this case the amount of the benefit to which each person described in subparagraph (1) of this paragraph is entitled for such subsequent month is increased, after the reduction described in § 404.403(c), to the amount it would be if no person referred to in subparagraph (2) of this paragraph were entitled to such parent's insurance benefit for such subsequent month.

(d) *Months after December 1958.* The reduction described in § 404.403(b) does not apply:

(1) When any person is entitled to monthly benefits for December 1958 on the basis of an application filed before January 1959 and the primary insurance amount of the individual upon whose earnings record benefits are based is determined under the provisions of section 215(a)(2) of the Act as it read before the Social Security Amendments of 1965 and the maximum amount payable, as determined by the reduction described in § 404.403(b), is less than that which would be payable as determined under the reduction described in § 404.403(c) or the amount determined under paragraph (a) of this section, if applicable, plus the excess of the primary insurance amount of the insured individual, appearing in column IV of the table appearing in section 101 of the Social Security Amendments of 1958, over his primary insurance amount as determined under the provisions of section 101(c) of the Social Security Amendments of 1958. Under these circumstances the maximum amount payable for a month on the individual's earnings is the higher amount specified in the preceding sentence.

(2) Where a person is entitled to monthly benefits based on the earnings record of an insured individual with respect to whom a period of disability began before January 1959 and continued until January 1959, or a later month, when such individual became entitled to old-age or disability insurance benefits, or died, whichever first occurred, and the primary insurance amount of the insured individual is not less than $68. In this case, the total of such benefits shall not be reduced to less than the smaller of:

(i) $254, or

(ii) The amount in column V of the table in section 101 of the Social Security Amendments of 1958 on the same line on which the insured individual's primary insurance amount appears in column IV of such table, plus the difference between such primary insurance amount and the smaller amount appearing on the same line in column II of such table.

(e) *Months after August 1960.* Where:

(1) Based on application filed prior to September 1960, one or more persons are entitled to monthly benefits for August 1960 based upon the earnings record of an insured individual, and

(2) Any person is entitled, on the basis of the insured individual's earnings, to wife's, husband's, child's, widow's, widower's, or mother's insurance benefits for any month after August 1960 and such person would not be entitled to such benefits except for the provisions of section 216(h)(1)(B), section 216(h)(2)(B), and the last sentence of section 216(e) of the Act, and

(3) The total of the monthly benefits to which all persons are entitled for such month, on the basis of the individual's earnings records for such month after August 1960, would be reduced by reason of the reduction described in § 404.403(b), the amount of the benefit to which each person referred to in subparagraph (1) of this paragraph is entitled for a month after August 1960 shall not, after the reduction described in § 404.403(b), be less than the amount it would have been (determined without regard to subparagraph (2) of paragraph (f) of this section) if no person referred to in subparagraph (2) of this paragraph was entitled to a benefit described therein for such month after August 1960. The amount of the benefit to which each person referred to in subparagraph (2) of this paragraph is entitled shall be determined under the reduction described in § 404.403(b) taking into account the benefits payable for such subsequent month to all persons entitled to benefits on the individual's earnings record, including the insured individual himself.

(f) *Months after October 1960.* The reduction described in § 404.403(b) shall not apply to benefits for months after October 1960 in the following cases:

(1) *Prior disability period established.* Where the insured individual became entitled to old-age or disability insurance benefits based on an application filed after October 1960 and before August 1965, or if such individual died prior to becoming so entitled and no person was, based on an application filed prior to November 1960, entitled to monthly benefits for October 1960 or any earlier month, then the reduction described in § 404.403(b) shall not apply:

(i) If a period of disability began for such individual prior to January, 1959, and

(ii) Such period of disability continued until the insured individual became entitled to disability or old-age insurance benefits, or died, whichever occurred first, and

(iii) The primary insurance amount of such insured individual is determined under the provisions of section 215(a)(1) or (3) of the Act, and is $66 or more but less than $97.

Under these circumstances, the total of the benefits payable on the earnings record of the insured individual shall not be reduced to less than the amount in column II of the following table appearing on the same line on which the insured individual's primary insurance amount is shown in column I:

I PIA	II Maximum	I PIA	II Maximum
$66	$99.10	82	160.20
67	102.40	83	163.40
68	106.50	84	167.50
69	110.50	85	171.60
70	113.80	86	174.80
71	117.90	87	178.90
72	121.90	88	183.00
73	126.20	89	186.20
74	129.30	90	190.30
75	133.30	91	194.40
76	136.60	92	197.60
77	140.70	93	201.70
78	144.70	94	205.80
79	148.00	95	208.00
80	152.10	96	209.60
81	156.10		

(2) *Cases in which child's insurance benefit rate increased under 1960 amendments.* Where:

(i) Based on applications filed prior to December 1960, one or more persons were entitled upon the earnings record of a deceased individual to monthly benefits for November 1960 (but not including any person who became so entitled by reason of the provisions of section 216(h)(1)(B), section 216(h)(2)(B), and the last sentence of section 216(e) of the Act, as amended by the Social Security Amendments of 1960), and

(ii) No person (other than those persons referred to in subdivision (i) of this subparagraph and those persons entitled to child's, widow's, widower's, or mother's insurance benefits only by reason of the above cited provisions of the Act) is entitled, based on the deceased individual's earnings record, to benefits for any subsequent month (or for any month after November 1960 and prior to such subsequent month), and

(iii) The total of the benefits to which all persons referred to in clause (i) are entitled for such subsequent month on the basis of the deceased individual's earnings record, exceeds the maximum described in § 404.403(b) then, the amount of the benefit of such person referred to in subdivision (i) of this subparagraph shall be determined as follows:

(a) In the case of a person entitled to widow's, widower's, mother's, or parent's insurance benefits, as though the child's insurance benefit rate had not been increased and the provisions of section 216(h)(1)(B), section 216(h)(2)(B), and the last sentence of section 216(e) of the Act were not effective, and

(b) In the case of a person entitled to child's insurance benefits, as though no person is entitled to widow's, widower's, mother's, or parent's insurance benefits for such subsequent month and as though the maximum payable is the amount as determined under section 203(a) of the Act, as amended by the 1960 amendments, less the amount of each person's benefit for such month determined pursuant to (a) of this subparagraph.

(g) *Months after July 1961.* The reduction described in § 404.403(b) shall not apply where:

(1) Based on applications filed before August 1961, two or more persons were entitled to monthly benefits for July 1961, based on the earnings record of a deceased individual, and one or more of such persons is entitled to a widow's, widower's, or parent's insurance benefit for July 1961; and

(2) No person, other than the persons referred to in subparagraph (1) of this paragraph, is entitled to monthly benefits on the basis of such deceased individual's earnings record for a subsequent month or for any month after July 1961 and before such subsequent month; and

(3) The total of the benefits to which all persons are entitled for such subsequent month on the basis of the deceased individual's earnings record is to be reduced by reason of the reduction described in § 404.403(b). The amount of the benefit to which each person referred to in subparagraph (1) of this paragraph is entitled for such subsequent month, shall be determined without regard to the increase, for months after July 1961, in the benefit rate for widow's, widower's, or parent's insurance benefits to 82½ percent of the deceased individual's primary insurance amount if, after the application of the provisions occasioning such increase, such person's benefit for such month is less than the amount of such benefit for July 1961.

(h) *Months after 1964.* The reduction described in § 404.403(a) does not apply where two or more persons filed application before August 1965 and were entitled to monthly benefits for any month after December 1964 and before August 1965. In such a case, the maximum family benefit on the insured individual's earnings record, for any month after December 1964 may not be less than the larger of:

(1) The maximum family benefit for that month determined under the table in section 215(a) of the Act, or

(2) (i) For months after December 1964 and before August 1965, the total obtained by multiplying each benefit, after reduction for the maximum (and before deduction or reduction for age) as in effect before enactment of the Social Security Amendments of 1965, for each person other than a person entitled to benefits based on full-time school attendance) for that month, by 107 percent and raising each such increased amount, if it is not a multiple of 10 cents, to the next higher multiple of 10 cents.

(ii) For months after July 1965, the total obtained by multiplying each benefit, after reduction for the maximum (and before deduction or reduction for age) as in effect before enactment of the Social Security Amendments of 1965, for each person (other than a person entitled to benefits based on full-time school attendance) for the month of July 1965, by 107 percent and raising each such increased amount, if it is not a multiple of 10 cents, to the next higher multiple of 10 cents. The amount determined to be the maximum family benefit for July 1965 is the maximum payable for months thereafter, without regard to subsequent entitlement (or termination) of persons to benefits on the individual's earnings record.

(i) *Benefits of divorced wife or surviving divorced wife for months after August 1965.* Where a woman is entitled to monthly benefits as a divorced wife or as a surviving divorced wife for a month after August 1965, the benefit to which she is entitled on the earnings record of the insured individual for such month is determined without regard to § 404.403(a), and the benefits of all other persons who are entitled for that month to monthly benefits on the earnings record of the insured individual are determined as if no such divorced wife or surviving divorced wife was entitled to benefits for that month.

§ 404.406 Reduction for maximum because of retroactive effect of application for monthly benefits.

Under the provisions described in § 404.403, beginning with the month in which a person files an application and becomes entitled to benefits on an insured individual's earnings record, the benefit rate of other persons entitled on the same earnings record (aside from the individual on whose earnings record entitlement is based) are adjusted downward, if necessary, so that the maximum benefits payable on one earnings record will not be exceeded. An application may also be effective (retroactively) for benefits for months before the month of filing (see § 404.607). For any month before the month of filing, however, benefits that have been previously certified by

the Administration for payment to other persons (on the same earnings record) are not changed. Rather, the benefit payment of the person filing the application in the later month is reduced for each month of the retroactive period to the extent that may be necessary, so that no earlier payment to some other person is made erroneous. This means that for each month of the retroactive period the amount payable to the person filing the later application is the difference, if any, between (a) the total amount of benefits actually certified for payment to other persons for that month, and (b) the maximum amount of benefits payable for that month to all persons, including the person filing later.

§ 404.407 Reduction because of entitlement to other benefits.

(a) *Entitlement to old-age or disability insurance benefit and other monthly benefit.* If an individual is entitled to an old-age insurance benefit or disability insurance benefit for any month after August 1965 and to any other monthly benefit payable under the provisions of title II of the Act (see Subpart D of this part) for the same month, such other benefit for that month, after any reduction under section 202(q) of the Act because of entitlement to such benefit for months before retirement age and any reduction under section 203(a) of the Act, is reduced (but not below zero) by an amount equal to such old-age insurance benefit (after reduction under section 202(q) of the Act) or such disability insurance benefit, as the case may be.

(b) *Entitlement to widow's or widower's benefit and other monthly benefit.* If an individual is entitled for any month after August 1965 to a widow's or widower's insurance benefit under the provisions of section 202 (e)(4) or (f)(5) of the Act and to any other monthly benefit payable under the provisions of title II of the Act (see Subpart D) for the same month, except an old-age insurance benefit, such other insurance benefit for that month, after any reduction under paragraph (a) of this section, any reduction for age under 202(q) of the Act, and any reduction under the provisions described in section 203(a) of the Act, shall be reduced, but not below zero, by an amount equal to such widow's or widower's insurance benefit after any reduction or reductions under paragraph (a) of this section or section 203(a) of the Act.

(c) *Entitlement to old-age insurance benefit and disability insurance benefit.* Any individual who is entitled for any month after August 1965 to both an old-age insurance benefit and a disability insurance benefit shall be entitled to only the larger of such benefits for such month, except that where the individual so elects, he shall instead be entitled to only the smaller of such benefits for such month.

(d) *Child's insurance benefits.* A child may, for any month, be entitled to a child's insurance benefit on more than one individual's earnings if all the conditions for entitlement described in § 404.320 are met with respect to each

claim. In any case in which a child's entitlement to more than one child's insurance benefit is established for a month, such child shall be paid only the child's insurance benefit for such month which is based on the earnings of the individual who has the highest primary insurance amount.

(e) *Entitlement to more than one benefit where not all benefits are child's insurance benefits and no benefit is an old-age or disability insurance benefit.* If an individual (other than an individual to whom section 202 (e)(4) or (f)(5) of the Act applies) is entitled for any month to more than one monthly benefit payable under the provisions of this subpart, none of which is an old-age or disability insurance benefit and all of which are not child's insurance benefits, only the greater of the monthly benefits to which he would (but for the provisions of this paragraph) otherwise be entitled is payable for such month. For months after August 1965, an individual who is entitled for any month to more than one widow's or widower's insurance benefit to which section 202 (e)(4) or (f)(5) of the Act applies is entitled to only one such benefit for such month, such benefit to be the largest of such benefits.

§ 404.408 Reduction of benefits based on disability on account of receipt of workmen's compensation.

(a) *When reduction required.* Under section 224 of the Act, a disability insurance benefit to which an individual is entitled under section 223 of the Act for a month after 1965 and before the individual attains age 62 (and any monthly benefit for the same month payable to others under section 202 of the Act on the basis of the same earnings record) is reduced (except as provided in paragraph (b) of this section) by an amount as determined under paragraph (c) of this section if:

(1) The individual entitled to the disability insurance benefit is also entitled under a workmen's compensation law or plan of the United States or a State to a periodic benefit for such month for a total or partial disability (whether or not permanent) and

(2) The Secretary has, in a month before such month, received notice of such entitlement for such month, and

(3) The period of disability involved began after June 1, 1965.

(b) *When reduction not made.* The reduction of a benefit otherwise required by paragraph (a) of this section is not made if the workmen's compensation law or plan under which the periodic benefit is payable provides for the reduction of such periodic benefit when anyone is entitled to a benefit under title II of the Act on the basis of the earnings record of an individual entitled to a disability insurance benefit under section 223 of the Act.

(c) *Amount of reduction*—(1) *General.* The total of benefits payable for a month under sections 223 and 202 of the Act to which paragraph (a) of this section applies is reduced (but not below zero) by the amount by which the sum of such total of benefits and such periodic benefits payable (and actually paid) for such month to such individual under the workmen's compensation law or plan exceeds the higher of:

(i) Eighty percent of his "average current earnings," as defined in subparagraph (3) of this paragraph, or

(ii) The total of such individual's disability insurance benefit for such month and all other benefits payable for such month based on such individual's earnings record, prior to reduction under this section.

(2) *Limitation on reduction.* In no case may the total of monthly benefits payable for a month to the disabled worker and to the persons entitled to benefits for such month on his earnings record be less than:

(i) The total of the benefits payable (after reduction under paragraph (a) of this section) to such beneficiaries for the first month for which reduction under this section is made, and

(ii) Any increase in such benefits which is made effective for months after the first month for which reduction under this section is made.

(3) *Average current earnings defined.* An individual's "average current earnings" for purposes of this section means the larger of:

(d) *Items not counted for reduction.* Amounts included in the workmen's compensation award which are specifically identifiable as being for medical, legal or related expenses paid or incurred by the individual in connection with his workmen's compensation claim, or the injury or occupational disease on which it is based, are excluded in computing the reduction under paragraph (a) of this section.

(e) *Certification by individual concerning eligibility for workmen's compensation payment.* Where it appears that an individual may be eligible for a periodic benefit under a workmen's compensation law or plan which would give rise to reduction under paragraph (a) of this section, the individual may be required, as a condition of certification for payment of any benefit under section 223 of the Act to any individual for any month, and of any benefit under section 202 of the Act for such month based on such individual's earnings record, to furnish evidence as requested by the Administration and to certify as to:

(i) The average monthly wage used for purposes of computing the individual's disability insurance benefit under section 223 of the Act, or

(ii) One-sixtieth of the total of his wages and self-employment income for the 5 consecutive calendar years after 1950 for which such wages and self-employment income were highest.

(4) *Reentitlement to disability insurance benefits.* If an individual's entitlement to disability insurance benefits terminates and such individual again becomes entitled to disability insurance benefits, the amount of the reduction is again computed based on the figures specified in this paragraph (c) applicable to the subsequent entitlement.

(1) Whether he has filed or intends to file any claim for such periodic benefit, and

(2) If he has so filed, whether there has been a decision on such claim. In the absence of evidence to the contrary, reliance may be placed upon a certification that he has not filed and does not intend to file such a claim, or that he has filed and no decision has been made, in certifying any benefit for payment pursuant to section 205(i) of the Act.

(f) *Workmen's compensation benefit payable on other than a monthly basis.* Where workmen's compensation benefits are paid periodically but not monthly, or in a lump sum as a commutation of or a substitute for periodic benefits, the reduction under this section is made at such time or times and in such amounts as the Administration determines will approximate as nearly as practicable the reduction required under paragraph (a) of this section.

(g) *Priorities.* (1) For an explanation of when a reduction is made under this section where other reductions, deductions, etc., are involved, see § 404.402.

(2) Whenever a reduction in the total of benefits for any month based on an individual's earnings record is made under paragraph (a) of this section, each benefit, except the disability insurance benefit, is first proportionately decreased, and any excess of such reduction over the sum of all such benefits other than the disability insurance benefit is then applied to such disability insurance benefit.

Example: Under title II of the Act, A is entitled to a monthly disability insurance benefit of $122. His wife, B, and his two children, C and D, are entitled to monthly insurance benefits of $61 each. After adjustment for the family maximum under section 203(a) of the Act, the benefits are $122 for A and $50.80 for B, C, and D making a total of title II benefits of $273.80. In computing A's "average current earnings," it is determined that A's average monthly wage used in computing his benefit rate is $240, and his average monthly wage for his 5 years of highest earnings after 1950 is $400. Therefore, 80 percent of his "average current earnings" for purposes of the workmen's compensation deduction is $320.

A becomes entitled to workmen's compensation of $48 a week, which converted to a monthly rate amount to $208 a month (i.e., 4⅓ times $48). The total monthly benefits payable under title II of the Act ($273.80) plus the monthly workmen's compensation amount ($208) equals $481.80. The amount of the reduction for workmen's compensation is $161.80 ($481.80 minus $320); and the family benefit payable is $112 ($273.80 minus $161.80 equals $112). (The same result is obtained by subtracting the workmen's compensation amount ($208) from the applicable limit ($320).)

In this example, the $161.80 reduction would be applied first against the three section 202 benefits ($50.80 times 3 equals $151.80) leaving $10 to be deducted from the disability insurance benefit.

(h) *Effect of changes in family composition.* The addition or subtraction in the number of beneficiaries in a family may cause the family benefit to become, or cease to be, the applicable limit for reduction purposes under this section. When the family composition changes, the amount of the reduction is recomputed as though the new number of beneficiaries were entitled for the first month the reduction was imposed, i.e., the same average monthly wage, average current earnings, and workmen's compensation amount and the total benefits payable under title II of the Act for the new number of beneficiaries which would have been subjected to reduction for that first month are used. If the applicable limit both before and after the change is 80 percent of the average earnings, the amount payable remains the same and is simply redistributed among the beneficiaries entitled on the same earnings record.

Example: F is entitled to disability insurance benefits of $110.30 based on an average monthly wage of $299. His wife, G, and his child, H, are entitled to benefits under section 202 of the Act of $55.20 each. F becomes entitled to workmen's compensation of $193 a month. His average monthly wage for his 5 years of highest earnings after 1950 is $260.

The applicable limit on total benefits payable under title II of the Act and workmen's compensation is $231.20 (i.e., 80 percent of F's average current earnings). The amount payable is figured as follows:

Total title II benefits	$220.70	$220.70
Monthly workmen's compensation	192.00	
	412.70	
Less 80 percent of F's average current earnings	231.20	
Reduction amount	181.50	181.50
Amount payable		39.20

(Deducting the workmen's compensation amount ($192) from 80 percent of the average current earnings ($231.20) gives the same amount payable ($39.20).)

Later, another child, J, becomes entitled on F's earnings record and the benefits after adjustment for the family maximum but before reduction for the workmen's compensation become $176.80 to F, and $40.90 to G, H, and J each. Since the total family benefit is now higher than 80 percent of F's average current earnings, the total family benefit becomes the applicable limit and the amount payable is figured merely by deducting the workmen's compensation ($192) from the total title II benefits ($233) leaving $41 payable to F.

(i) *Effect on benefit increases.* Any increase in benefits due to a recomputation or a statutory increase in benefit rates is not subject to the reduction for workmen's compensation and does not change the amount to be deducted from the family benefits. The increase is simply added to what amount if any is payable. If a new beneficiary becomes entitled to monthly benefits on the same earnings record after the increase, the amount of the reduction is redistributed among the new number of beneficiaries entitled under section 202 of the Act and deducted from their current benefit rate.

Example: K is entitled to disability insurance benefits of $118.80 and his wife, L, and his two children, M and N, are entitled to benefits under section 202 of the Act of $47.90 each (after reduction under section 203(a) to conform to the family maximum of $262.40). K becomes entitled to workmen's compensation of $80 per week ($320 per month). The total family benefit is higher by 10 cents than 80 percent of K's average current earnings ($0 percent of $328, or $262.40). Therefore, the reduction amount equals the monthly workmen's compensation. One-third of this amount (rounded downward to the nearest 10 cents), i.e., $48.90, is deducted from L, M, and N's benefits leaving benefits payable as follows: $118.80 to K, and $4.60 each to L, M, and N.

Beginning in September 1968, a statutory increase raises K's disability insurance benefit to $122 and causes L, M, and N's benefits to be increased to $50.60 each (an increase of $2.70). The benefits then payable become: $122 to K, and $7.30 (i.e., $4.60 plus $2.70) each to L, M, and N.

In February 1967, O, another child of K, becomes entitled to benefits under section 202 of the Act based on K's earnings record. The benefits payable now become $122 to K, and $37.90 each to L, M, N, and O. The amount to be deducted from the family remains the same, $120, but is to be divided among four beneficiaries instead of three. Deducting one-fourth of $120 ($32.50) from $37.90 leaves $5.40 each to L, M, N, and O, and $122 to K.

(j) *Redetermination of benefits*—(1) *General.* In the second calendar year after the year in which reduction under this section in the total of an individual's benefits under section 223 of the Act and any benefits under section 202 of the Act based on his wages and self-employment income is first required (in a continuous period of months), and in each third year thereafter, the amount of such benefits which are still subject to reduction under this section are redetermined, provided such redetermination does not result in any decrease in the total amount of benefits payable under title II of the Act on the basis of such individual's wages and self-employment income. Such redetermined benefit is effective with the January following the year in which the redetermination is made.

(2) *Average current earnings.* In making the redetermination required by subparagraph (1) of this paragraph, the individual's "average current earnings" (as defined in paragraph (c)(3) of this section) is deemed to be the product of his average current earnings as initially determined under paragraph (c)(3) of this section and the ratio of:

(i) The average of the taxable wages of all persons for whom taxable wages were reported to the Secretary for the first calendar quarter of the calendar year in which such redetermination is made, to

(ii) The average of the taxable wages of such persons reported to the Secretary for the first calendar quarter of the taxable year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability). Any amount determined under the preceding sentence which is not a multiple of $1 is reduced to the next lower multiple of $1.

(3) *Effect of redetermination.* Where the applicable limit on total benefits previously used was 80 percent of the average current earnings, a redetermination under this paragraph may cause an increase in the amount of benefits payable. Also, where the limit previously used was

the total family benefit, the redetermination may cause the average current earnings to exceed the total family benefit and thisu become the new applicable limit. If for some other reason (such as a statutory increase or recomputation) the benefit has already been increased to a level which equals or exceeds the benefit resulting from a redetermination under this paragraph, no additional increase is made. A redetermination is designed to bring benefits into line with current wage levels when no other change in payments has done so.

Example: Beginning January 1968, F is entitled to a disability insurance benefit of $140 and his wife, E, and child, S, are entitled to benefits under section 202 of the Act of $70 each. F becomes entitled to workmen's compensation of $300 per month. In this case, the applicable limit on the combined benefits is $260 (80 percent of F's average current earnings). Deducting the workmen's compensation amount of $200 from this limit leaves family benefits payable of $152 ($140 to F and $6 to E and S each). In 1970 a redetermination raises 80 percent of F's average current earnings to $360 effective January 1971. Thus, the family benefit payable becomes $172 ($360 minus $200). F's benefit is $140, and E's and S's benefits are $16 each.

If there had been a benefit increase in 1969 (either by a statutory increase or a recomputation) increasing F's benefit by $10 (to $150) and each other benefit by $5 (to $11), the family would already be receiving $172 ($150 plus $11 plus $11 equals $172) at the time of the redetermination, so that they would not get an additional increase. If the 1969 benefit increase made less than $172 payable to the family, the redetermination would increase the benefit to $172. Any statutory increase that takes effect after the redetermination would be added to the total family benefit.

§ 404.409 Increase of benefit amount.

(a) *Increase due to "rounding" of benefit amount.* Any monthly benefit, after any applicable computation, reduction and/or deduction, which is not a multiple of 10 cents is raised to the next higher multiple of 10 cents. Since a fraction of a cent is not a multiple of 10 cents, any benefit amount which contains any such fraction is raised to the next higher multiple of 10 cents. Thus, a child's insurance benefit of $26.104 is rounded to $26.20.

(b) *Increase of survivor's benefit to an amount equal to "minimum."* For months beginning with January 1965, where only one person is entitled to a benefit for a month based on the earnings record of a deceased individual and such benefit is less than $44, such benefit, before any reduction described in § 404.407 and any reduction for age under section 202(q) of the Act, is raised to $44. (For months after July 1961 and before January 1965, the minimum benefit was $40. For months after December 1959 and before August 1961, the minimum benefit was $33. For months after August 1954 and before January 1960, the minimum benefit was $30.)

§ 404.415 Deductions because of excess earnings; annual earnings test.

(a) *Deductions because of beneficiary's earnings.* Under the annual earnings test, deductions are made from monthly benefits (except disability insurance benefits or child's insurance benefits based on the child's disability) payable to a beneficiary for each month in a taxable year beginning after December 1954 in which the beneficiary is under age 72 and to which excess earnings are charged under the provisions described in §§ 404.434 or 404.444.

(b) *Deductions from husband's, wife's, or child's benefits because of excess earnings of the insured individual.* Deductions are made from the wife's, husband's, or child's insurance benefits payable (or deemed payable—see § 404.420) on the insured individual's earnings record because of the excess earnings of the insured individual under the provisions described in § 404.416.

§ 404.416 Amount of deduction because of excess earnings.

(a) *Taxable years beginning after December 1960, or ending after June 1961.*—(1) *Deductions because of excess earnings of insured individual.* For taxable years beginning after 1960, or ending after June 1961, if excess earnings (as described in §§ 404.432 and 404.433) of an insured individual are chargeable under the annual earnings test to a month, a deduction is made from the total of the benefits payable to him and to all other persons entitled (or deemed entitled—see § 404.420) on his earnings record for that month. This deduction is an amount equal to the amount of the excess earnings so charged. (See § 404.434 concerning the manner of charging such excess earnings.)

(2) *Deductions because of excess earnings of other beneficiary.* For taxable years beginning after 1960, or ending after June 1961, if benefits are payable to a person entitled (or deemed entitled—see § 404.420) on the earnings record of the insured individual, and such person has excess earnings (as described in §§ 404.432 and 404.433) charged to a month, a deduction is made from his benefits only for that month. This deduction is an amount equal to the amount of the excess earnings so charged. (See § 404.434 for charging of excess earnings where both the insured individual and such person have excess earnings.)

(b) *Taxable years beginning after 1954 and before 1961, and for taxable years ending before July 1961.* For taxable years beginning after 1954 and before 1961, and for taxable years ending before July 1961, if an individual is charged with excess earnings in a month, a deduction is made from the individual's benefit for such month in an amount equal to the benefit payable to the individual for that month. If such a deduction is made and benefits are payable to any other person entitled (or deemed entitled—see § 404.420) on such individual's earnings record, a deduction is also made from the benefits payable to such other person. This deduction is an amount equal to the total of the benefits payable to such other person for that month. (See § 404.444 concerning the manner of charging such excess earnings.)

§ 404.417 Deductions because of noncovered remunerative activity outside the United States; 7-day work test.

(a) *Deductions because of individual's activity.* Under the 7-day work test, a deduction is made from any monthly benefit (except disability insurance benefits or child's insurance benefits based on the child's disability) payable to an individual for each month in a taxable year beginning after December 1954 in which he, while under age 72, engages in noncovered remunerative activity (see § 404.418) outside the United States on seven or more different calendar days. This deduction is an amount equal to the benefit payable to the individual for that month.

(b) *Deductions from benefits because of earnings or work of an insured individual.* If a deduction, as described in paragraph (a) of this section, is made from the insured individual's benefit for a month, a deduction is also made from any wife's, husband's, or child's insurance benefit payable (or deemed payable—see § 404.420) for that month on the insured individual's earnings record. This deduction is an amount equal to any such benefit.

§ 404.418 "Noncovered remunerative activity outside the United States," defined.

An individual is engaged in noncovered remunerative activity outside the United States for purposes of deductions described in § 404.417 if:

(a) He performs services outside the United States as an employee and the services do not constitute employment as defined in Subpart K of this part and, for taxable years ending after 1955, the services are not performed in the active military or naval service of the United States; or

(b) He carries on a trade or business outside the United States (other than the performance of services as an employee) the net income or loss of which is not includable in computing his net earnings from self-employment (as defined in § 404.1050) for a taxable year and would not be excluded from net earnings from self-employment (see § 404.1052) if the trade or business were carried on in the United States. When used in the preceding sentence with respect to a trade or business, the term "United States" does not include the Commonwealth of Puerto Rico, the Virgin Islands and, with respect to taxable years beginning after 1960, Guam or American Samoa, in the case of an alien who is not a resident of the United States (including the Commonwealth of Puerto Rico, the Virgin Islands and, with respect to taxable years beginning after 1960, Guam and American Samoa), and the term "trade or business" shall have the same meaning as when used in section 162 of the Internal Revenue Code of 1954.

§ 404.420 Persons deemed entitled to benefits based on an individual's earnings record.

For purposes of imposing deductions under the annual earnings test (see § 404.415) and the 7-day work test (see § 404.417), a person who is married to an old-age insurance beneficiary and who is entitled to either a mother's insurance benefit or a child's insurance benefit based on the child's disability (and such mother's or child's benefit is based on the earnings record of some third person) is deemed entitled to such benefit based on the earnings record of the old-age insurance beneficiary to whom he or she is married. This paragraph is effective for months in any taxable year of the old-age insurance beneficiary that begins after August 1956.

§ 404.421 Deductions because beneficiary failed to have a child in her care.

Deductions for failure to have a child "in her care" (as defined in Subpart D) are made as follows:

(a) *Wife's insurance benefits.* A deduction is made from the wife's insurance benefit to which a woman (excluding a "divorced wife" as defined in § 404.1105) is entitled for any month in which she is under age 65 and does not have in her care a child of her husband entitled to a child's insurance benefit. However, a deduction is not made for any month in which she is age 62 or over, but under age 65, and there is in effect a certificate of election for her to receive an actuarially reduced wife's insurance benefit for such month (see Subpart D of this part).

(b) *Mother's insurance benefits.*—(1) *Widow.* A deduction is made from the mother's insurance benefit to which a woman is entitled as the widow (see Subpart D of this part) of the deceased individual upon whose earnings such benefit is based, for any month in which she does not have in her care a child of the individual entitled to a child's insurance benefit.

(2) *Surviving divorced mother (previously designated former wife divorced).* A deduction is made from the mother's insurance benefit to which a woman is entitled as the surviving divorced mother (see Subpart D of this part) of the deceased individual upon whose earnings record such benefit is based, for any month in which she does not have in her care a child of the deceased individual who is her son, daughter, or legally adopted child and who is entitled to a child's insurance benefit based on the earnings of the deceased insured individual.

(c) *Amount to be deducted.* The amount deducted from the wife's insurance benefit or the mother's insurance benefit, as described in paragraphs (a) and (b) of this section, is equal to the amount of the benefit which is otherwise payable for the month in which she did not have a child in her care.

(d) *When child is considered not entitled to benefits.* For purposes of paragraphs (a) and (b) of this section a person is considered not entitled to a child's insurance benefit for any month in which he is age 18 or over, and:

(1) Is entitled to a child's insurance benefit based on his own disability and a deduction is made from the child's insurance benefit because of his refusal of rehabilitation services as described in § 404.422(b); or

(2) Is entitled to a child's insurance benefit because he is a full-time student at an educational institution. This subparagraph applies to benefits for months after December 1961.

§ 404.422 Deductions because of refusal to accept rehabilitation services.

(a) *Deductions because individual entitled to disability insurance benefits refuses rehabilitation services.*—(1) *Disability insurance beneficiary.* A deduction is made from any benefit payable to a disability insurance beneficiary for each month in which he refuses without good cause to accept rehabilitation services available to him under a State plan approved under the Vocational Rehabilitation Act.

(2) *Other beneficiaries.* For each month in which a deduction is made from an individual's disability insurance benefit because of his refusal to accept rehabilitation services (as described in subparagraph (1) of this paragraph), a deduction is also made from:

(i) Any wife's, husband's, or child's insurance benefit payable for that month on the earnings record of the individual entitled to disability insurance benefits;

(ii) Benefits payable for that month to the disability insurance beneficiary's spouse who is entitled (on the earnings record of a third person) to a mother's insurance benefit or to a child's insurance benefit based on disability.

(b) *Deductions because individual entitled to a child's insurance benefit based on disability refuses rehabilitation services.* A deduction is made from any benefit payable to an individual who has attained age 18 and is entitled to a child's insurance benefit based on disability, for each month in which he refuses without good cause to accept rehabilitation services available to him under a State plan approved under the Vocational Rehabilitation Act unless, in that month, he is a full-time student at an educational institution.

(c) *Amount of deduction.* The amount deducted from an individual's benefit for a month under the provisions of paragraph (a) or (b) of this section is an amount equal to the benefit otherwise payable for that month.

(d) *Good cause for refusal of rehabilitation services.* An individual may refuse to accept rehabilitation services (for the purposes of paragraphs (a) and (b) of this section) if his refusal is based on good cause. For example, an individual has good cause for refusing rehabilitation services where:

(1) The individual is a member or adherent of any recognized church or religious sect which teaches its members or adherents to rely solely on the treatment and cure of any physical or mental impairment, or prayer or spiritual means through the application and use of the tenets or teachings of such church or sect; and

(2) His refusal to accept rehabilitation services was due solely to his adherence to the teachings or tenets of his church or sect.

§ 404.423 Manner of making deductions.

Deductions provided for in §§ 404.415, 404.417, 404.421, and 404.422 (as modified in § 404.450) are made by withholding benefits (in whole or in part, depending upon the amount to be withheld) for each month in which an event causing a deduction occurred. If the amount to be deducted is not withheld from the benefits payable for the month in which the event causing the deduction occurred, such amount constitutes a "deduction overpayment" and is subject to adjustment or recovery in accordance with the provisions of Subpart F of this part.

§ 404.424 Total amount of deductions where more than one deduction event occurs in a month.

If more than one of the deduction events specified in §§ 404.415, 404.417, and 404.421 occurred in any 1 month, each of which would occasion a deduction equal to the benefit for such month, only an amount equal to such benefit is deducted.

§ 404.425 Total amount of deductions where deduction events occur in more than 1 month.

If a deduction event described in §§ 404.415, 404.417, 404.421, and 404.422 occurs in more than 1 month, the total amount deducted from an individual's benefits is equal to the sum of the deductions for all months in which any such event occurred.

§ 404.428 Earnings in a taxable year.

(a) *General.* In applying the annual earnings test (see § 404.415(a)) under the provisions of this subpart, all of a beneficiary's earnings (as defined in § 404.429) for all months of his taxable year are included even though the individual is not entitled to benefits during all months of his taxable year. The taxable year of an employee is presumed to be a calendar year until it is shown to the satisfaction of the Administration that he has a different taxable year. A self-employed individual's taxable year is a calendar year unless he has a different taxable year for the purposes of subtitle A of the Internal Revenue Code of 1954. In either case, the number of months in a taxable year is not affected by (1) filing a claim for social security benefits, (2) attainment of age 18, 22, 65, 72, or any other age, (3) marriage, (4) termination of marriage, or (5) adoption. A taxable year ends with the death of the beneficiary. In such a case, the month of death is included as a month of the deceased beneficiary's tax-

able year in determining whether the beneficiary had excess earnings as defined in §§ 404.432, 404.433, and 404.444.

(b) *When derived.* Wages as defined in § 404.429(c) are derived and includable as earnings for the months and year in which the beneficiary rendered the services. Net earnings from self-employment, or net losses therefrom, are derived, or incurred, and are includable as earnings or losses, in the year for which such earnings or losses are reportable for Federal income tax purposes.

§ 404.429 Earnings; defined.

(a) *General.* When the term "earnings" is used in this subpart other than as a part of the phrase "net earnings from self-employment," it means an individual's earnings for a taxable year after 1954. It includes the sum of his wages for services rendered in such year, and his net earnings from self-employment for the taxable year, minus any net loss from self-employment for the same taxable year.

(b) *Net earnings from self-employment; net loss from self-employment.* An individual's net earnings from self-employment and his net loss from self-employment are determined under the provisions in Subpart K of this part except that:

(1) For the purposes of this section, the provisions in Subpart K of this part shall not apply that exclude from the definition of "trade or business" the following occupations:

(i) The performance of the functions of a public office;

(ii) The performance of service of a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by the order;

(iii) The performance of service by an individual in the exercise of his profession as a Christian Science practitioner;

(iv) For taxable years ending before 1965, the performance by an individual in the exercise of his profession as a doctor of medicine;

(v) For taxable years ending before 1956, the performance of service by an individual in the exercise of his profession as a lawyer, dentist, osteopath, veterinarian, chiropractor, naturopath, or optometrist.

(2) For the sole purpose of the retirement test under this subpart, an individual's gross earnings for taxable years beginning after December 1954 may not include royalties received in or after the year in which the individual attained age 65 if the royalties are attributable to a copyright or patent obtained before the taxable year in which he attained age 65 on property created by his own personal efforts.

(3) In figuring an individual's net earnings or net loss from self-employment, all net income or net loss is includable even though (i) the individual did not perform personal services in carrying on the trade or business, (ii) the net profit was less than $400, (iii) the net profit was in excess of the maximum amount creditable to his earnings record, or (iv) the net profit was not reportable for social security tax purposes.

(4) An individual's net earnings from self-employment is the excess of income over the deductions (allowed under the Internal Revenue Code) resulting from such computation. An individual's net loss from self-employment is the excess of deductions (that are allowed under the Internal Revenue Code) over income.

(c) *Wages defined.* Wages include the gross amount of an individual's wages rather than the net amount paid after deductions by the employer for items such as taxes and insurance. For purposes of this section, an individual's wages are determined under the provisions of Subpart K of this part, except that, notwithstanding the provisions of Subpart K, wages also includes:

(1) Remuneration of over $6,600 in calendar years beginning with 1966, or over $4,800 in a calendar year 1959 through 1965, or over $4,200 in a calendar year 1955 through 1958; and

(2) Cash remuneration of less than $50 paid in a calendar quarter to an employee for (i) domestic service in the private home of the employer, or (ii) service not in the course of the employer's trade or business; and

(3) Cash remuneration of less than $150 ($100 in calendar years 1955 or 1956) paid by an employer for services in agricultural labor regardless of whether the employee worked for the employer on 20 or more different days in the year; and

(4) Remuneration, cash and noncash, for service as a homeworker even though the cash remuneration paid the employee is less than $50 in a calendar quarter; and

(5) For taxable years ending after 1965, services performed outside the United States in the military or naval service of the United States; and

(6) Remuneration for services excepted from employment performed within the United States by an individual as an employee that are for that reason not considered wages under Subpart K, if the remuneration for such services is not includable in computing his net earnings from self-employment or net loss from self-employment, as defined in paragraph (b) of this section.

(d) *Presumptions concerning wages.* For purposes of this section, where reports received by the Administration show wages (as defined in paragraph (c) of this section) were paid to an individual during a taxable year, it is presumed that they were paid to him for services rendered in that year until such time as it is shown to the satisfaction of the Administration that the wages were paid for services rendered in another taxable year. If the reports of wages paid to an individual show his wages for a calendar year, the individual's taxable year is presumed to be a calendar year for purposes of this section until it is shown to the satisfaction of the Administration that his taxable year is not a calendar year.

§ 404.432 Excess earnings; defined for taxable years ending after December 1965.

For taxable years ending after December 1965, and individual's excess earnings are the amount of his earnings (as described in § 404.429) that exceed $125 times the number of months in his taxable year, except that his excess earnings do not include an amount equal to one-half of the first $1,200 of such excess amount (or equal to one-half of the entire excess amount if the excess is less than $1,200). Where the excess amount so figured is not a multiple of $1, it is reduced to the next lower dollar. Thus, in the usual 12-month-taxable-year case, an individual's excess earnings are computed as follows:

(a) $1 for each $2 of earnings over $1,500, up to and including $2,700; and

(b) $1 for each $1 over $2,700.

§ 404.433 Excess earnings; defined for taxable years beginning after December 1960 or ending after June 1961—up to and including taxable years ending December 31, 1965.

For taxable years beginning after December 1960, or ending after June 1961; up to and including taxable years ending December 31, 1965, an individual's excess earnings in a taxable year are the amount of his earnings (as described in § 404.429) for such year that exceed $100 times the number of months in his taxable year, except that his excess earnings do not include an amount equal to one-half of the first $500 of such excess amount (or equal to one-half of the entire excess amount if the excess is less than $500). Where the excess amount so figured is not a multiple of $1, it is reduced to the next lower dollar. Thus, in the usual 12-month-taxable-year case, an individual's excess earnings are computed as follows:

(a) $1 for each $2 of earnings over $1,200 up to and including $1,700; and

(b) $1 for each $1 over $1,700.

§ 404.434 Excess earnings; method of charging.

(a) *Months charged.* For purposes of imposing deductions for taxable years after 1960, the excess earnings (as described in §§ 404.432 and 404.433) of an individual are charged to each month beginning with the first month the individual is entitled in the taxable year in question and continuing, if necessary, to each succeeding month in such taxable year until all of the individual's excess earnings have been charged. Excess earnings, however, are not charged to any month described in §§ 404.435 and 404.436.

(b) *Amount of excess earnings charged*—(1) *Insured individual's excess earnings.* The insured individual's excess earnings are charged on the basis of $1 of excess earnings for each $1 of monthly benefits to which he and all other persons are entitled (or deemed entitled—see § 404.420) for such month on the insured individual's earnings record. (See § 404.439 where the excess earnings for a month are less than the total benefits payable for that month.)

(2) *Excess earnings of beneficiary other than insured individual.* The excess earnings of a person other than the insured individual are charged on the basis of $1 of excess earnings for each $1 of monthly benefits to which he is entitled (see 404.437) for such month. The excess earnings of such person, however, are charged only against his own benefits.

(3) *Insured individual and person entitled (or deemed entitled) on his earnings record both have excess earnings.* If both the insured individual and a person entitled (or deemed entitled) on his earnings record have excess earnings (as described in §§ 404.432 and 404.433), the insured individual's excess earnings are charged first against the total family benefits payable (or deemed payable) on his earnings record, as described in subparagraph (1) of this paragraph. Next, the excess earnings of a person entitled on the insured individual's earnings record are charged (as described in subparagraph (2) of this paragraph) against his own benefits, but only to the extent that his benefits have not already been charged with the excess earnings of the insured individual. See § 404.441 for an example of this process and the manner in which partial monthly benefits are apportioned.

§ 404.435 Excess earnings; months to which excess earnings cannot be charged.

(a) *Taxable years ending after 1965.* Notwithstanding any of the provisions described in this subpart, an individual's excess earnings in a taxable year ending after 1965 are not charged to any month in which he:

(1) Was not entitled to a monthly benefit;

(2) Was deemed not entitled to benefits (due to noncovered work outside the United States, no child in care, or refusal of rehabilitation, as described in § 404.436);

(3) Was age 72 or over;

(4) Was entitled to payment of a disability insurance benefit;

(5) Was age 18 or over and entitled to a child's insurance benefit based on disability; or

(6) Did not engage in self-employment (see paragraphs (c) and (e) of this section) and did not render services for wages (see paragraph (d) of this section) of more than $125.

(b) *Taxable years beginning after 1960 or ending after June 1961—up to and including taxable years ending before 1966.* Notwithstanding any of the provisions described in this subpart, an individual's excess earnings in a taxable year beginning after December 1960, or ending after June 1961; up to and including taxable years ending before 1966 are not charged to any month in which the individual:

(1) Was not entitled to benefits;

(2) Was deemed not entitled to benefits (see § 404.436);

(3) Was age 72 or over;

(4) Was entitled to a disability insurance benefit payment;

(5) Was age 18 or over and entitled to a child's insurance benefit based on disability; or

(6) Did not engage in self-employment (see paragraphs (c) and (e) of this section) and did not render services for wages (see paragraph (d) of this section) of more than $125, or more than $100, or more than $80, whichever amount is applicable, until it is shown to the satisfaction of the Administration that the individual did not render services in such month for more than such amount.

(c) *When an individual is deemed to have engaged in self-employment.* An individual is deemed to have engaged in self-employment in any month in which he renders substantial services (as defined in § 404.446) in the operation of a trade or business (or in a combination of trades and businesses if there are more than one) as owner or partner even though there may be no earnings or net earnings from self-employment attributable to his services for such month.

(d) *Presumption regarding "services for wages."* With respect to paragraphs (a)(6) and (b)(6) of this section, and § 404.444(c)(5), an individual is presumed to have rendered services in any month for wages (as defined in § 404.429) of more than $125, or more than $100, or more than $80, whichever amount is applicable, until it is shown to the satisfaction of the Administration that the individual did not render services in such month for more than such amount.

(e) *Presumption regarding "engaged in self-employment."* With respect to paragraphs (a)(6) and (b)(6) of this section, and § 404.444(c)(5), an individual is presumed to have engaged in self-employment in each month of his taxable year until it is shown to the satisfaction of the Administration that in a particular month he did not render substantial services (see § 404.446(c)) with respect to any trade or business (or in a combination of trades and businesses if there are more than one) the net income or loss of which is includable in computing his earnings as defined in § 404.429.

§ 404.436 Excess earnings; months to which excess earnings cannot be charged because individual is deemed not entitled to benefits.

Under the annual earnings test, excess earnings (as described in § 404.432 and § 404.433) are not charged to any month in which an individual is deemed not entitled to a benefit. A beneficiary (i.e., the insured individual or any person entitled or deemed entitled on the insured individual's earnings record) is deemed not entitled to a benefit for a month if he is subject to a deduction for that month because of:

(a) Engaging in noncovered remunerative activity outside the United States (as described in § 404.417 and § 404.418); or

(b) Failure to have a child in her care (in the case of a wife under age 65 or a widow or surviving divorced mother under age 62, as described in § 404.421); or

(c) Refusal by a person entitled to a child's insurance benefit based on disability to accept rehabilitation services (as described in § 404.422). (An insured individual's excess earnings are not charged against the benefit of a child entitled (or deemed entitled) on the insured individual's earnings record for any month in which the child is subject to a deduction for refusing rehabilitation services); or

(d) Refusal by an individual entitled to a disability insurance benefit to accept rehabilitation services as described in § 404.422 (e.g., a wife's excess earnings may not be charged against her benefits for months in which the disability insurance beneficiary on whose account she is entitled to wife's benefits incurs a deduction because he refuses rehabilitation services; also, a woman's earnings may not be charged against the mother's insurance benefit or child's insurance benefit she is receiving (on the earnings record of another individual) for months in which her husband refuses rehabilitation services while he is entitled to a disability insurance benefit).

§ 404.437 Excess earnings; benefit rate subject to deductions because of excess earnings.

For purposes of deductions because of excess earnings (as described in §§ 404.432 and 404.433), the benefit rate against which excess earnings are charged is the amount of the benefit (other than a disability insurance benefit) to which the person is entitled for the month:

(a) After reduction for the "maximum" (see § 404.403 and § 404.404). The rate as reduced for the maximum as referred to in this paragraph is the one applicable to remaining entitled beneficiaries after exclusion of beneficiaries deemed not entitled under § 404.436 (due to a deduction for engaging in noncovered remunerative activity outside the United States, failure to have a child in her care, or refusal to accept rehabilitation services);

(b) After any reduction under section 202(q) of the Act because of entitlement to benefits for months before age 65 (this applies only to old-age, wife's, widow's, or husband's benefits);

(c) After any reduction in benefits payable to a person entitled (or deemed entitled; see § 404.439) on the earnings record of the insured individual because of entitlement on his own earnings record to other benefits (see § 404.407); and

(d) After any reduction of benefits payable to a person entitled or deemed entitled on the earnings record of an individual entitled to a disability insurance benefit because of such individual's entitlement to workmen's compensation for months after 1965 (see § 404.408).

§ 404.439 Partial monthly benefits; excess earnings of the individual charged against his benefits and the benefits of persons entitled (or deemed entitled) to benefits on his earnings record.

Deductions are made against the total family benefits where the excess earnings (as described in § 404.432 and § 404.433) of an individual entitled to old-age insurance benefits are charged to a month and require deductions in an amount less than the total family benefits payable on his earnings record for

that month (including the amount of a mother's or child's insurance benefit payable to a spouse who is deemed entitled on the individual's earnings record—see § 404.420). The difference between the total benefits payable and the deductions made under the annual earnings test for such month is paid (if otherwise payable under title II of the Act) to each person in the proportion that the benefit to which each is entitled (before the application of the reductions described in § 404.403 for the family maximum, § 404.407 for entitlement to more than one type of benefit, and section 202(q) of the Act for entitlement to benefits before retirement age) bears to the total of the benefits to which all of them are entitled, except that the total amount payable to any such person may not exceed the benefits which would have been payable to that person if none of the insured individual's excess earnings had been charged to that month.

Example: A is entitled to an old-age insurance benefit of $122. His wife and two children are each entitled to an original benefit rate of $61, making a total unreduced benefit of $305. After A's excess earnings have been charged to the appropriate months in the year, there remains a partial benefit of $300 payable for October, apportioned as follows:

	Original rate	Fraction of total benefit	Maximum and normal rate payable	Partial benefits payable
A	$122	6/10	$122.00	$180
Wife	61	1/5	50.60	60
Child	61	1/5	30.60	60
Child	61	1/5	50.60	60
Total	305	5/5	273.80	300

§ 404.440 Partial monthly benefits; prorated share of partial payment exceeds the benefit before deduction for excess earnings.

Where, under the apportionment described in § 404.439, a person's prorated share of the partial benefit exceeds the benefit rate to which he was entitled before excess earnings of the insured individual were charged, such person's share of the partial benefit is reduced to the amount he would have been paid had there been no deduction for excess earnings (see example). The remainder of the partial benefit is then paid to other persons eligible to receive benefits in the proportion that the benefit of each such other person bears to the total of the benefits to which all such other persons are entitled (before reduction for the family maximum). Thus, if only two beneficiaries are involved, payment is made to one as if no deduction had been imposed; and the balance of the partial benefit is paid to the other. If three or more beneficiaries are involved, however, reapportionment of the excess of the beneficiary's share of the partial benefit over the amount he would have been paid without the deduction is made in proportion to his original entitlement rate (before reduction for the family maximum). If the excess amount involved at any point totals less than $1, it is not reapportioned; instead, each beneficiary is paid on the basis of the last calculation. Also, if in the final apportionment a beneficiary's share of a partial benefit is not a multiple of 10 cents, it is rounded to the next higher multiple of 10 cents.

Example:

	Original rate	Rate after reduction for family maximum that may not be exceeded	Partial payment in proportion to original rate	Paid
Insured individual	$100	$100.00	$70	$74.80
Wife	50	32.40	35	33.40
Child	50	32.40	35	33.40
Child	50	32.40	35	33.40

Family maximum $200; insured individual's excess earnings of $25 charged to month; remaining $175 prorated as partial payment.

§ 404.441 Partial monthly benefits; insured individual and a person entitled (or deemed entitled) on his earnings record both have excess earnings.

Where both the insured individual and a person entitled (or deemed entitled) on his earnings record have excess earnings (as described in §§ 404.432 and 404.433), their excess earnings are charged, and the partial monthly benefit is apportioned, as follows:

Example: M, his wife, and one child are entitled to combined total benefits of $240 based on M's old-age insurance benefit of $120. For the taxable year in question, M's excess earnings were $1,400 and his wife's excess earnings were $360. M had wages of more than $125 in all months of the year except February, while his wife had wages of more than $125 in all months of the year. After M's excess earnings have been charged to the appropriate months (all months through June except February), there remains a partial benefit payment for July of $40, which is allocated among M, his wife, and child in the ratio that the original benefit of each bears to the sum of all their benefits, $20, $10, and $10. His wife's excess earnings are charged against her full benefit for February ($60), her partial benefit for July ($10), her full benefit for August through November, and from $50 of her December benefit, leaving a $10 benefit payable to her for that month.

§ 404.444 Charging of earnings for taxable years beginning after 1954 and before 1961; and taxable years ending before July 1961.

(a) *Taxable years beginning after August 1958 and before 1961, and taxable years ending before July 1961.* For taxable years beginning after August 1958 and before 1961, and taxable years ending before July 1961, an individual's earnings (as defined in § 404.429) are charged to a particular month for purposes of deductions described in § 404.415 as follows:

(1) If an individual's earnings for the taxable year are not more than $100 times the number of months in such taxable year, no month in such year shall be charged with any earnings.

(2) If an individual's earnings for the taxable year exceed $100 times the number of months in such year, then the first $80 of such excess (or the whole of the excess, if it is less than $80) is charged to the first month for which the individual is entitled to benefits in the taxable year; the next $80 of the excess, if any (or the whole of the excess, if it is less than $80) is charged to the next succeeding month and so on, until all of the excess is charged or until every month to which a portion of the excess is chargeable has been so charged.

(b) *Taxable years beginning after 1954 and before September 1958.* For taxable years beginning after 1954 and before September 1958, an individual's excess earnings (see § 404.429) are charged to a particular month for purposes of deductions described in § 404.415 as provided in paragraph (a) of this section except that the excess earnings are charged beginning with the last month for which the individual is entitled to benefits in the taxable year (rather than the first month of such year), and then to the next preceding month (rather than the next succeeding month), and so on until all of the excess is charged or until every month to which a portion of the excess is chargeable has been so charged.

(c) *Months to which earnings cannot be charged.* Notwithstanding any of the provisions described in this section, an individual's excess earnings in a taxable year beginning after 1954 and before 1961 and in a taxable year ending before July 1961, may not be charged to any month in which the individual:

(1) Was not entitled to a monthly benefit under Subpart D of this part; or

(2) Was engaged in noncovered remunerative activity outside the United States (see § 404.418) and a deduction was made from his benefit for such month under the provisions described in § 404.417; or

(3) Was entitled to a wife's insurance benefit or a mother's insurance benefit and for which a deduction was made from such benefit because of failure to have a child in her care; or

(4) Was age 72 or over; or

(5) Did not engage in self-employment (see § 404.435 (c) and (e)) and did not render services for wages (see §§ 404.429 and 404.435(d)) of more than $80, with respect to months in taxable years beginning after 1954 and before September 1958, or of more than $100 with respect to months in taxable years beginning after August 1958.

§ 404.446 Definition of "substantial services."

(a) *General.* In general, the substantial services test is one of whether, in view of all the services rendered by the individual and the surrounding circumstances, the individual can reasonably be considered retired in the month in question. Even though an individual performs some services in a trade or business in a month, such services are not substantial where the evidence establishes to the satisfaction of the Administration that the individual may reasonably be considered retired in that month. In determining whether an individual has or has not performed substantial services in any month, the following factors are considered:

(1) The amount of time the individual devoted to all trades and businesses;

(2) The nature of the services rendered by the individual;

(3) The extent and nature of the activity performed by the individual before he allegedly retired as compared with that performed thereafter;

(4) The presence or absence of an adequately qualified paid manager, partner, or family member who manages the business;

(5) The type of business establishment involved;

(6) The amount of capital invested in the trade or business; and

(7) The seasonal nature of the trade or business.

(b) *Individual engaged in more than one trade or business.* When an individual, in any month, performs services in more than one trade or business, his services in all trades or businesses are considered together in determining whether he performed substantial services in self-employment in such month.

(c) *Evidentiary requirements.* An individual who alleges that he did not render substantial services in any month, or months, shall submit detailed information about the operation of the trades or businesses, including the individual's activities in connection therewith. When requested to do so by the Administration, the individual shall also submit such additional statements, information, and other evidence as the Administration may consider necessary for a proper determination of whether the individual rendered substantial services in self-employment. Failure of the individual to submit the requested statements, information, and other evidence is a sufficient basis for a determination that the individual rendered substantial services in self-employment during the period in question.

§ 404.447 Evaluation of factors involved in substantial services test.

In determining whether an individual's services are substantial, consideration is given to the following factors:

(a) *Amount of time devoted to trades or businesses.* Consideration is first given to the amount of time the self-employed individual devotes to all trades or businesses, the net income or loss of which is includable in computing his earnings as defined in § 404.429. For the purposes of this paragraph, the time devoted to a trade or business includes all the time spent by the individual in any activity, whether physical or mental, at the place of business or elsewhere in furtherance of such trade or business. This includes the time spent in advising and planning the operation of the business, making business contacts, attending meetings, and preparing and maintaining the facilities and records of the business. All time spent at the place of business which cannot reasonably be considered unrelated to business activities is considered time devoted to the trade or business. In considering the weight to be given to the time devoted to trades or businesses the following rules are applied:

(1) *Forty-five hours or less in a month devoted to trade or business.* Where the individual establishes that the time devoted to his trades and businesses during a calendar month was not more than 45 hours, the individual's services in that month are not considered substantial unless other factors (see paragraphs (b), (c), and (d) of this section), make such a finding unreasonable. For example, an individual who worked only 15 hours in a month might nevertheless be found to have rendered substantial services if he was managing a sizeable business or engaging in a highly skilled occupation. However, the services of less than 15 hours rendered in all trades and businesses during a calendar month are not substantial.

(2) *More than 45 hours in a month devoted to trades and businesses.* Where an individual devotes more than 45 hours to all trades and businesses during a calendar month, it will be found that the individual's services are substantial unless it is established that the individual could reasonably be considered retired in the month and, therefore, that such services were not, in fact, substantial.

(b) *Nature of services rendered.* Consideration is also given to the nature of the services rendered by the individual in any case where a finding that the individual was retired would be unreasonable if based on time alone (see paragraph (a) of this section). The more highly skilled and valuable his services in self-employment are, the more likely the individual rendering such services could not reasonably be considered retired. The performance of services regularly also tends to show that the individual has not retired. Services are considered in relation to the technical and management needs of the business in which they are rendered. Thus, skilled services of a managerial or technical nature may be so important to the conduct of a sizable business that such services would be substantial even though the time required to render the services is considerably less than 45 hours.

(c) *Comparison of services rendered before and after retirement.* Where consideration of the amount of time devoted to a trade or business (see paragraph (a) of this section) and the nature of services rendered (see paragraph (b) of this section) is not sufficient to establish whether an individual's services were substantial, consideration is given to the extent and nature of the services rendered by the individual before his "retirement," as compared with the services performed during the period in question. A significant reduction in the amount or importance of services rendered in the business tends to show that the individual is retired; absence of such reduction tends to show that the individual is not retired.

(d) *Setting in which services performed.* Where consideration of the factors described in paragraphs (a), (b), and (c) of this section is not sufficient to establish that an individual's services in self-employment were or were not substantial, all other factors are considered. The presence or absence of a capable manager, the kind and size of the business, the amount of capital invested and whether the business is seasonal, as well as any other pertinent factors, are considered in determining whether the individual's services are such that he can reasonably be considered retired.

§ 404.450 Required reports of work outside the United States or failure to have care of a child.

(a) *Beneficiary engages in noncovered remunerative activity; report by beneficiary.* Any individual entitled to a benefit which is subject to a deduction in that month because the individual engaged in noncovered remunerative activity outside the United States on 7 or more calendar days (see § 404.417) shall report the occurrence of such event to the Administration before the receipt and acceptance of a benefit for the second month following the month in which such event occurred.

(b) *Beneficiary receiving wife's or mother's insurance benefits does not have a child in her care; report by beneficiary.* Any person receiving wife's or mother's insurance benefits which are subject to a deduction (as described in § 404.421) because she did not have a child in her care, shall report the occurrence of such event to the Administration before the receipt and acceptance of a benefit for the second month following the month in which the deduction event occurred.

(c) *Report required by person receiving benefits on behalf of another.* Where a person is receiving benefits on behalf of a beneficiary (see Subpart Q of this part) it is his duty to make the report to the Administration required by paragraph (a) or (b) of this section, on behalf of the beneficiary.

(d) *Report; content and form.* A report required under the provisions of this section shall be filed with the Social Security Administration. (See § 404.606 for procedures concerning place of filing and date of receipt of such a report.) The report should be made on a form prescribed by the Administration and in accordance with instructions, printed thereon or attached thereto, as prescribed by the Administration. Prescribed forms may be obtained at any office of the Administration. If the prescribed form is not used, the report should be properly identified (e.g., show the name and social security claim number of the beneficiary about whom the report is made), describe the events being reported, tell when the events occurred, furnish any other pertinent data (e.g., who has care of the children), and be properly authenticated (e.g., bear the signature and address of the beneficiary making the report or the person reporting on his behalf). The report should contain all the information needed for a proper determination of whether a deduction applies and, if it does, the period for which such deductions should be made.

§ 404.451 Penalty deductions for failure to report within prescribed time limit noncovered remunerative activity outside the United States or not having care of a child.

(a) *Penalty for failure to report.* If an individual (or the person receiving benefits on his behalf) fails to comply with the reporting obligations of § 404.450 within the time specified in § 404.450, a penalty deduction is made from the individual's benefits in addition to the deduction described in § 404.417 (relating to noncovered remunerative activity outside the United States) or § 404.421 (relating to failure to have care of a child).

(b) *Amount of penalty deduction.* The amount of the penalty deduction required under paragraph (a) of this section for each failure to make a timely report is equal to the amount of the deduction from the individual's benefit made under the applicable provisions described in § 404.417 or § 404.421. However, the amount of the first penalty deduction imposed against any individual is equal to the deduction imposed for the first month in which the unreported deduction event occurred, even though the failure to report within the specified time is with respect to a period of more than one month.

(c) *Determining whether failure to report is first or subsequent failure—*(1) *No prior failure.* Where no penalty deduction under paragraph (b) of this section has previously been imposed against the beneficiary for failure to report noncovered remunerative activity outside the United States or for failure to report not having care of a child, all months (and this may include 2 or more months) for which a report is overdue as of the date on which the first delinquent report is made are included in the first failure period. The earliest of the months for which "good cause" (see § 404.454) for failure to make the required report is not found is considered the first failure.

(2) *Second or subsequent failure.* After one penalty deduction under paragraph (b) of this section has been imposed against an individual, each month for which a timely report is not made (and the count commences with reports which become overdue after the date on which the first delinquent report described in subparagraph (1) of this paragraph was made) and for which "good cause" for failure to make the required report is not found, is considered separately in determining whether a penalty applies and, if so, the amount of the penalty.

Example: M became entitled in January 1964 to mother's benefits; these benefits are not payable for any month in which the mother does not have a child in her care. M accepted benefits for each month from January 1964 through June 1966. In July 1966 she reported that she had not had a child in her care in January 1965. As she was not eligible to a benefit for any month she did not have a child in her care, M's July 1966 benefit was withheld to recover the overpayment she had received for January 1965, and the next payment she received was for August 1966. No penalty was imposed for her failure to make a timely report of the deduction event that occurred in January 1965 because it was determined that good cause existed.

In March 1966 M reported that she had not had a child in her care in September or October 1965; however, she had accepted benefit payments for each month from August 1965 through February 1966. Her benefits for March and April 1966 were withheld to recover the overpayment for September and October 1965. Also, it was determined that good cause was not present for M's failure to make a timely report of the deduction event that had occurred in September 1965. A penalty equal to her benefit for September 1965 was deducted from M's May 1966 payment since this was her "first failure" to report not having a child in her care. Payments to her then were continued.

On November 4, 1966, it was learned that M had not had a child in her care in November 1965 or in June, July, or August 1966 although she had accepted benefits for June through October 1966. Consequently, M's benefits for November 1966 through February 1967 were withheld to recover the 4 months' overpayment she received for months in which she did not have a child in her care. In addition, it was determined that good cause was not present for M's failure to report the deduction events, and penalties were imposed equal to M's benefits for June, July, and August 1966. The penalty was on a month-for-month basis as this was M's "second failure" to report not having a child in her care. No further penalty applied for November 1965 because that month was included in M's "first-violation" period.

(3) *Penalty deductions imposed under § 404.453 not considered.* A failure to make a timely report of earnings as required by § 404.452, for which a penalty deduction is imposed under § 404.453, is not counted as a failure to report in determining the first or subsequent failure to report noncovered remunerative activity outside the United States or not having care of a child.

§ 404.452 Reports to Administration of earnings; wages; net earnings from self-employment.

(a) *Conditions under which a report of earnings, wages, and net earnings from self-employment is required.* An individual who, during a taxable year, is entitled to a monthly benefit (except if in each month of his taxable year he was entitled only to a disability insurance benefit) is required to report to the Administration the total amount of his earnings (as defined in § 404.429) for each such taxable year under the following provisions.

(1) *Taxable years ending after 1965.* A report is required when the individual's total earnings or wages (as defined in § 404.429) for any taxable year ending after 1965 exceed the product of $125 multiplied by the number of months in his taxable year, except that the report is not required for a taxable year if:

(i) The individual attained the age of 72 in or before the first month of his entitlement to benefits in his taxable year, or

(ii) The individual's benefit payments were suspended under the provisions described in § 404.456 for all months in a taxable year in which he was entitled to benefits and was under age 72.

(2) *Taxable years beginning after 1954 and ending before 1966.* For taxable years beginning after 1954 and ending before 1966, a report is required when an individual's total earnings or wages (as defined in § 404.429) for a taxable year exceed the product of $100 multiplied by the number of months in the taxable year, except that a report is not required if:

(i) The individual attained the age of 72 in or before the first month of his entitlement to benefits in his taxable year, or

(ii) For taxable years beginning after August 1958, the individual's benefit payments were suspended under the provisions described in § 404.456 for all months in a taxable year in which he was entitled to benefits and was under age 72.

(b) *Time within which report must be filed.* The report for any taxable year beginning after 1954 shall be filed with the Social Security Administration on or before the 15th day of the fourth month following the close of the taxable year; for example, April 15 when the beneficiary's taxable year is a calendar year. (See § 404.3(c) where the last day for filing the report falls on a Saturday, Sunday, or legal holiday, or any other day all or part of which is declared to be a nonwork day for Federal employees by statute or Executive order.) The filing of an income tax return with the Internal Revenue Service is not such a report as is required to be filed under the provisions of this section even where the income tax return shows the same wages and net earnings from self-employment that must be reported to the Administration under this section.

(c) *Report required by person receiving benefits on behalf of another.* Where a person is receiving benefits on behalf of a beneficiary (see Subpart Q of this part), it is his duty to make the report to the Administration required by this section.

(d) *Report to be made on forms prescribed by the Administration.* A report required under the provisions of this section shall be filed with the Social Security Administration. (See § 404.606 for procedures concerning place of filing and date of receipt of such a report.) The report shall be made on a form prescribed by the Administration and in accordance with the instructions printed on or attached to the form. The prescribed forms may be obtained from any office of the Social Security Administration. If the prescribed form is not used, the report should show the name and social security claim number of the beneficiary about whom the report is made; identify the taxable year for which the report is made; show the total amount of wages for which the beneficiary rendered services during his taxable year, the amount of his net earnings from self-employment for such year, and the amount of his net loss from self-employment for such year; and show the name and address of the individual making the report. To overcome the presumptions that the beneficiary rendered services for wages exceeding the allowable amount and rendered substantial services in self-employment in each month (see § 404.435), the report should also show the specific months in which the beneficiary did not render services in employment for wages of more than the allowable amount (as described in § 404.435 and § 404.444) and did not render substantial services in self-employment (as described in § 404.446 and § 404.447).

(e) *Requirement to furnish requested information.* A beneficiary, or the person reporting on his behalf, is required to furnish any other information about the beneficiary's earnings and services that the Administration requests for the purpose of determining the correct amount of benefits payable for a taxable year (see § 404.455).

§ 404.453 Penalty deductions for failure to report earnings timely.

(a) *Penalty for failure to report earnings; general.* Penalty deductions are imposed against an individual's benefits, in addition to the deductions required because of his excess earnings (see § 404.415), if:

(1) He fails to make a timely report of his earnings as specified in § 404.452 for a taxable year beginning after 1954; and

(2) A deduction is imposed because of his earnings (see § 404.415) for that year; and

(3) He received and accepted any payment of benefits for that year.

(b) *Determining amount of penalty deduction.* The amount of the penalty deduction for failure to report earnings for a taxable year within the prescribed time is determined as follows:

(1) *First failure to file timely report.* The penalty deduction for the first failure to file a timely report is an amount equal to the individual's benefit or benefits for the last month for which he was entitled to such benefit or benefits during the taxable year.

(2) *Second failure to file timely report.* The penalty deduction for the second failure to file a timely report is an amount equal to twice the amount of the individual's benefit or benefits for the last month for which he was entitled to such benefit or benefits during such taxable year.

(3) *Subsequent failures to file timely reports.* The penalty deduction for the third or subsequent failure to file a timely report is an amount equal to three times the amount of the individual's benefit or benefits for the last month for which he was entitled to such benefit or benefits during such taxable year.

(c) *Determining whether a failure to file a timely report is first, second, or subsequent failure—*(1) *No prior failure.* Where no penalty deduction under this section has previously been imposed against the beneficiary for failure to make a timely report of his earnings, all taxable years (and this may include 2 or more years) for which a report of earnings is overdue as of the date the first delinquent report is made are included in the first failure. The latest of such years for which "good cause" for failure to make the required report (see § 404.454) is not found is considered the first failure to file a timely report.

Example: X became entitled to benefits in 1964 and had supertaxable earnings for 1964, 1965, and 1966. He did not make his annual reports for those years until July 1967. At that time it was found that 1966 was the only year for which he had good cause for not making a timely report of his earnings. Since all taxable years for which a report is overdue as of the date of the first delinquent report are included in the first failure period, it was found that his first failure to make a timely report was for 1965. The penalty is equal to his December 1965 benefit rate. If good cause had also been found for both 1965 and 1964, then X would have "no prior failure" within the meaning of this subsection.

(2) *Second and subsequent failures.* After one penalty deduction under paragraph (b) of this section has been imposed against an individual, each taxable year for which a timely report of earnings is not made (and the count commences with reports of earnings which become delinquent after the date the first delinquent report described in subparagraph (1) of this paragraph was made), and for which "good cause" for failure to make the required report is not found, is considered separately in determining whether the failure is the second or subsequent failure to report timely.

Example: Y incurred a penalty deduction for not making his 1963 annual report until July 1966. In August 1966 it was found that he had not made a timely report of either his 1964 or 1965 earnings, and good cause was not present with respect to either year. The penalty for 1964 is equal to twice his benefit rate for December 1964. The penalty for 1965 is equal to three times his benefit rate for December 1965.

(3) *Penalty deduction imposed under § 404.451 not considered.* A failure to make a report as required by § 404.450, for which a penalty deduction is imposed under § 404.451, is not counted as a failure to report in determining, under this section, whether a failure to report earnings or wages is the first or subsequent failure to report.

(d) *Limitation on amount of penalty deduction.* Notwithstanding the provisions described in paragraph (b) of this section, the amount of the penalty deduction imposed for failure to file a timely report of earnings for a taxable year may not exceed the number of months in that year for which the individual received and accepted a benefit and for which deductions are imposed by reason of his earnings for such year. (See § 404.456 for other limitations on the amount of the penalty deduction.)

§ 404.454 Good cause for failure to make required reports.

(a) The failure of an individual to make a timely report under the provisions described in § 404.435 and § 404.452 will not result in a penalty deduction if the individual establishes to the satisfaction of the Administration that his failure to file a timely report was due to good cause and not due to any willful neglect. In determining whether good cause for failure to report timely has been established by the individual, consideration is given to whether the failure to report within the proper time limit was the result of untoward circumstances, misleading action of the Administration, or confusion as to the requirements of the Act resulting from amendments to the Act or other legislation. For example, "good cause" may be found where failure to file a timely report was caused by:

(1) Serious illness of the individual, or death or serious illness in his immediate family;

(2) Inability of the individual to obtain, within the time required to file the report, earnings information from his employer because of death or serious illness of the employer or one in the employer's immediate family; or unavoidable absence of his employer; or destruction by fire or other damage of the employer's business records;

(3) Destruction by fire, or other damage, of the individual's business records;

(4) Transmittal of the required report, within the time required to file the report, in good faith to another Government agency even though the report does not reach the Administration until after the period for reporting has expired;

(5) Unawareness of the statutory provision that an annual report of earnings is required for the year in which the individual attained age 72 where his earnings exceeded $1,500 for a taxable year ending after 1965, or exceeded $1,200 for a taxable year ending before 1966;

(6) Failure on the part of the Administration to furnish forms in sufficient time for an individual to complete and file the report on or before the date it was due, provided the individual made a timely request to the Administration for the forms;

(7) Belief that an extension of time for filing income tax returns granted by the Internal Revenue Service was also applicable to the annual report to be made to the Social Security Administration; or

(8) Reliance upon a written report to the Social Security Administration made by, or on behalf of, the beneficiary before the close of the taxable year, if such report contained sufficient information about the beneficiary's earnings, or work, to require suspension of his benefits (see § 404.456) and the report was not subsequently refuted or rescinded.

(b) Where circumstances are similar and an individual fails on more than one occasion to make a timely report, good cause normally is not found for the second or subsequent violation.

§ 404.455 Request by Administration for reports of earnings; effect of failure to comply with request.

(a) *Request by Administration for report during taxable year; effect of failure to comply.* The Administration may, during the course of a taxable year, request a beneficiary to make a declaration of his estimated earnings (as defined in § 404.429) for his taxable year and to furnish any other information

about his earnings that the Administration may specify. If a beneficiary fails to comply with such a request from the Administration, the beneficiary's failure, in itself, constitutes justification (under section 203(h) of the Act) for a determination that it may reasonably be expected that the beneficiary will have deductions imposed under the provisions described in § 404.415 due to his earnings for that taxable year.

(b) *Request by Administration for report after close of taxable year; failure to comply.* After the close of his taxable year, the Administration may request a beneficiary to furnish a report of his earnings for the closed taxable year and to furnish any other information about his earnings for that year that the Administration may specify. If he fails to comply with this request, this failure shall, in itself, constitute justification (under section 203(h) of the Act) for a determination that the beneficiary's benefits are subject to deductions as described in § 404.415 for each month in the taxable year (or only for the months thereof specified by the Administration).

§ 404.456 Current suspension of benefits because an individual works or engages in self-employment.

(a) *Circumstances under which benefit payments may be suspended.* If, on the basis of information obtained by or submitted to the Administration, it is determined that an individual entitled to monthly benefits for any taxable year may reasonably be expected to have deductions imposed against his benefits (as described in § 404.415) by reason of his earnings for such year, the Administration may, before the close of the taxable year, suspend all or part, as the Administration may specify, of the benefits payable to the individual and to all other persons entitled (or deemed entitled—see § 404.420) to benefits on the basis of the individual's earnings record.

(b) *Duration of suspension.* The suspension described in paragraph (a) of this section shall remain in effect with respect to the benefits for each month until the Administration has determined whether or not any deduction under § 404.415 applies for such month.

(c) *When suspension of benefits becomes final.* For taxable years beginning after August 1956, if benefit payments were suspended (as described in paragraph (a) of this section) for all months of entitlement in an individual's taxable year, no benefit payment for any month in that year may be made after the expiration of the period of 3 years, 3 months, and 15 days following the close of the individual's taxable year unless, within that period, the individual, or any person entitled to benefits based on his earnings record, files with the Administration information showing that a benefit for a month is payable to the individual. Subject to the limitations of this paragraph, a determination about deductions may be reopened under the circumstances described in § 404.987.

§ 404.457 Deductions where taxes neither deducted from wages of certain maritime employees nor paid.

(a) *When deduction is required.* A deduction is required where:

(1) An individual performed services after September 1941 and before the termination of Title I of the First War Powers Act, 1941, on or in connection with any vessel as an officer or crew member; and

(2) The services were performed in the employ of the United States and employment was through the War Shipping Administration or, for services performed before February 11, 1942, through the United States Maritime Commission; and

(3) The services, under the provisions described in § 403.803(d) of Part 403 of this chapter (Regulations No. 3 of the Social Security Administration), constituted employment for purposes of title II of the Social Security Act; and

(4) The taxes imposed (by section 1400 of the Internal Revenue Code of 1939, as amended) with respect to such services were neither deducted from the individual's wages nor paid by the employer.

(b) *Amount of deduction.* The deduction required by paragraph (a) of this section is an amount equal to 1 percent of the wages with respect to which the taxes described in paragraph (a)(4) of this section were neither deducted nor paid by the employer.

(c) *How deduction is made.* The deduction required by paragraph (a) of this section is made by withholding an amount as determined under paragraph (b) of this section from any monthly benefit or lump-sum death payment based on the earnings record of the individual who performed the services described in paragraph (a) of this section.

(Sec. 907 of the Social Security Act Amendments of 1939—Public Law 379, 76th Cong.; 53 Stat. 1402, as amended by Public Law 17, 78th Cong.; 57 Stat. 47.)

§ 404.458 Limiting deductions where total family benefits payable would not be affected or would be only partly affected.

Notwithstanding the provisions described in § 404.415, § 404.417, § 404.421, § 404.422, § 404.451, and § 404.453 about the amount of the deduction to be imposed for a month, no such deduction is imposed for a month when the benefits payable for that month to all persons entitled to benefits on the same earnings record and living in the same household remain equal to the maximum benefits payable to them on that earnings record. Where making such deductions and increasing the benefits to others in the household (for the month in which the deduction event occurred) would give members of the household less than the "maximum" (as determined under § 404.404) payable to them, the amount of the deduction imposed is reduced to the difference between the maximum amount of benefits payable to them and the total amount which would have been paid if the benefits of members of the household not subject to deductions were increased to the deduction for such month may be paid the difference between the deduction so reduced and his benefit as adjusted under § 404.403 (without application of § 404.402(a)). All other persons in the household are paid, for such month, their benefits as adjusted under § 404.403 without application of § 404.402(a).

§ 404.460 Nonpayment of monthly benefits of aliens outside the United States for more than 6 months.

(a) *Nonpayment of monthly benefits.* Except as described in paragraph (b) of this section, after December 1956 no monthly benefit may be paid to any individual who is not a citizen or national of the United States, for any month after the sixth consecutive calendar month during all of which he is outside the United States, and before the first calendar month for all of which he is in the United States after such absence. (See § 404.380 regarding special payments at age 72.)

(1) For nonpayment of benefits under this section, it is necessary that the beneficiary be an alien and while an alien be outside the United States for more than six full consecutive calendar months. The period of absence exceeding 6 months does not include any month before the first month the alien became entitled to monthly benefits. A full calendar month includes 24 hours of each day of the calendar month.

(2) Nonpayment of benefits to an individual under this section does not cause nonpayment of benefits to other persons receiving benefits based on the individual's earnings record.

(b) *When nonpayment provisions do not apply.* The provisions described in paragraph (a) of this section do not apply to a benefit for any month if:

(1) The individual was, or upon application would have been, entitled to a monthly benefit for December 1956, based upon the same earnings record; or

(2) The individual upon whose earnings the benefit is based, before that month, has resided in the United States for a period or periods aggregating 10 years or more or has earned not less than 40 quarters of coverage (for purposes of this subsection a period of residence begins with the day the insured individual arrives in the United States with the intention of establishing at least a temporary home here; it continues so long as he maintains a more or less permanent attachment to and abode in the United States, accompanied by actual physical presence in the United States for a significant part of the period; and ends with the day of departure from the United States with the intention to reside elsewhere); or

(3) The individual is outside the United States while in the active military or naval service of the United States; or

(4) The individual on whose earnings the benefit is based died before that month and:

(i) Death occurred while the individual was on active duty or inactive duty training as a member of a uniformed service, or

(ii) Death occurred after the individual was discharged or released from a period of active duty or inactive duty training as a member of a uniformed service, and the Administrator of Veterans' Affairs determines, and certifies to the Secretary, that the discharge or release was under conditions other than dishonorable and that death was as a result of a disease or injury incurred or aggravated in line of duty while on active duty or inactive duty training; or

(5) The individual on whose earnings record the benefit is based worked in service covered by the Railroad Retirement Act, and such work is treated as employment covered by the Social Security Act under the provisions described in Subpart O of this part; or

(6) The nonpayment of monthly benefits under the provisions described in paragraph (a) of this section would be contrary to a treaty obligation of the United States in effect on August 1, 1956 (see § 404.463(b)); or

(7) The individual is a citizen of a foreign country that the Secretary determines has in effect a social insurance or pension system which meets all of the following conditions:

(i) Such system pays periodic benefits or the actuarial equivalent thereof; and

(ii) The system is of general application; and

(iii) Benefits are paid in this system on account of old age, retirement, or death; and

(iv) Individuals who are citizens of the United States but not citizens of the foreign country and who qualify for such benefits are permitted to receive benefits without restriction or qualification, at their full rate, or the actuarial equivalent thereof, while outside of the foreign country and without regard to the duration of their absence therefrom.

§ 404.461 Nonpayment of lump sum after death of alien outside United States for more than 6 months.

Where an individual dies outside the United States after January 1957 and no monthly benefit was or could have been paid to him for the month preceding the month in which he died because of the provisions described in § 404.460, no lump-sum death payment may be made upon the basis of the individual's earnings record.

§ 404.462 Nonpayment of hospital and medical insurance benefits of alien outside United States for more than 6 months.

No payments may be made under Part A (hospital insurance benefits) of title XVIII for items or services furnished to an individual in any month for which the prohibition described in § 404.460 against payment of benefits to an individual outside the United States for more than six full consecutive calendar months is applicable (or would be if he were entitled to any such benefits). Also, no payments may be made under Part B (supplementary medical insurance benefits) of title XVIII for expenses incurred by an individual during any month the individual is not paid a monthly benefit by reason of the provisions described in § 404.469 or for which no monthly benefit would be paid if he were otherwise entitled thereto.

§ 404.463 Nonpayment of benefits of aliens outside the United States; "foreign social insurance system," and "treaty obligation" exceptions defined.

(a) *"Foreign social insurance system" exception.* The following criteria are used to evaluate the social insurance or pension system of a foreign country to determine whether the exception described in § 404.460(b) to the alien nonpayment provisions applies:

(1) *Social insurance or pension system.* A "social insurance system" means a governmental plan which pays benefits as an earned right, on the basis either of contributions or work in employment covered under the plan, without regard to the financial need of the beneficiary. However, a plan of this type may still be regarded as a "social insurance system" though it may provide, in a subordinate fashion, for a supplemental payment based on need. A "pension system" means a governmental plan which pays benefits based on residence or age, or a private employer's plan for which the government has set up uniform standards for coverage, contributions, eligibility, and benefit amounts provided that, in both of these types of plans, the financial need of the beneficiary is not a consideration.

(2) *"In effect."* The social insurance or pension system of the foreign country must be "in effect." This means that the foreign social insurance or pension system is in full operation with regard to taxes (or contributions) and benefits, or is in operation with regard to taxes (or contribution and provision is made for payments to begin immediately upon the expiration of the period provided in the law for acquiring earliest eligibility. It is not "in effect" if the law leaves the beginning of operation to executive or other administrative action; nor is it in effect if the law has been temporarily suspended.

(3) *"General application."* The term "of general application" means that the social insurance or pension system (or combination of systems) covers a substantial portion of the paid labor force in industry and commerce, taking into consideration the industrial classification and size of the paid labor force and the population of the country, as well as occupational, size of employer, and geographical limitations on coverage.

(4) *"Periodic benefit or actuarial equivalent."* The term "periodic benefit" means a benefit payable at stated regular intervals of time such as weekly, biweekly, or monthly. "Actuarial equivalent" of a periodic benefit means the commutation of the value of the periodic benefit into a lump-sum payment, taking life expectancy and interest into account.

(5) *Benefits payable on account of old age, retirement, or death.* The requirement that benefits be payable "on account of old age, retirement, or death," is satisfied if the foreign social insurance plan or system includes provision for payment of benefits to aged or retired persons and to dependents and survivors of covered workers. The requirement is also met where the system pays benefits based only on old age or retirement. The requirement is not met where the only benefits payable are workmen's compensation payments, cash sickness payments, unemployment compensation payments, or maternity insurance benefits.

(6) *System under which U.S. citizens who qualify may receive payment while outside the foreign country.* The foreign social insurance or pension system must permit payments to qualified U.S. citizens while outside such foreign country, regardless of the duration of their absence therefrom and must make the payments without restriction or qualification to these U.S. citizens at full rate, or at the full actuarial value. The foreign system is considered to pay benefits at the full rate if the U.S. citizen receives the full benefit rate in effect for qualified beneficiaries at the time of his award, whether he is then inside or outside the paying country; and he continues to receive the same benefit amount so long as he remains outside that country, even though he may not receive any increases going into effect after his award, provided that in those other countries in which such increases are denied to beneficiaries, they are denied to all beneficiaries including nationals of the paying country.

(7) *List of countries which meet the social insurance or pension system exception in section 202(t)(2) of the Act.* The following countries have been found to have in effect a social insurance or pension system which meets the requirements of section 202(t)(2) of the Act. Unless otherwise specified, each country meets such requirements effective January 1957. The effect of these findings is that beneficiaries who are citizens of such countries may be paid benefits regardless of the duration of their absence from the United States.

Austria (except from January 1966 through June 1961).
Bolivia.
Brazil.
Canada (beginning January 1966).
Chile.
Congo (Kinshasa), Republic of (beginning July 1961).
Costa Rica (beginning May 1963).
Cyprus (beginning October 1964).
Ecuador.
Ivory Coast.
Luxembourg.
Malta (beginning September 1964).
Monaco.
Panama.
Philippines (beginning June 1960).
Poland (beginning March 7, 1957).
San Marino (beginning January 1965).
Spain (beginning May 1966).
Turkey.
United Kingdom.
Upper Volta (beginning October 1960).
Yugoslavia.

(b) *The "treaty obligation" exception.* It is determined that the Treaties of Friendship, Commerce, and Navigation now in force between the United States and the Federal Republic of Germany, Greece, the Republic of Ireland, Israel, Italy, Japan, and Nicaragua, respectively, create treaty obligations precluding the application of § 404.460(a) to citizens of such countries; and that the Treaty of Friendship, Commerce, and Navigation now in force between the United States and the Kingdom of the Netherlands creates treaty obligations precluding the application of § 404.460(a) to citizens of that country with respect to monthly survivors benefits only. There is no treaty obligation that would preclude the application of § 404.460(a) to citizens of any country other than those listed above.

§ 404.464 Nonpayment of benefits where individual is deported; prohibition against payment of lump sum based on deported individual's earnings records.

(a) *Old-age or disability insurance benefits.* When an individual is deported (after September 1, 1954) under the provisions of paragraphs (1), (2), (4), (5), (6), (7), (10), (11), (12), (14), (15), (16), (17), or (18) of section 241(a) of the Immigration and Nationality Act, no old-age or disability insurance benefit is payable to the individual for any month occurring after the month in which the Administration is notified by the Attorney General of the United States that the individual has been deported and before the month in which the individual is thereafter lawfully admitted to the United States for permanent residence. An individual is considered lawfully admitted for permanent residence as of the month he enters the United States with permission to reside here permanently.

(b) *Other monthly benefits.* If, under the provisions described in paragraph (a) of this section, no old-age or disability insurance benefit is payable to an individual for a month, no monthly insurance benefit is payable for that month, based upon the individual's earnings record, to any other person who is not a citizen of the United States and who is outside the United States for any part of that month.

(c) *Lump-sum death payment.* No lump-sum death payment is payable on the basis of the earnings of an individual deported under paragraphs (1), (2), (4), (5), (6), (7), (10), (11), (12), (14), (15), (16), (17), or (18) of section 241(a) of the Immigration and Nationality Act if the individual dies in or after the month in which notice that he has been deported is received by the Administration and before the month in which the individual is thereafter lawfully admitted to the United States for permanent residence.

§ 404.465 Conviction for subversive activities; effect on monthly benefits and entitlement to hospital insurance benefits.

(a) *Effect of conviction.* Where an individual is convicted of any offense (committed after August 1, 1956) under chapter 37 (relating to espionage and censorship), chapter 105 (relating to sabotage), or chapter 115 (relating to treason, sedition, and subversive activities) of title 18 of the United States Code, or under section 4, 112, or 113 of the Internal Security Act of 1950, as amended, the court, in addition to all other penalties provided by law, may order that, in determining whether any monthly benefit is payable to the individual for the month in which he is convicted or for any month thereafter, and in determining whether the individual is entitled to hospital insurance benefits under Part A of title XVIII for any such month, and in determining the amount of the benefit for that month, the following are not to be taken into account:

(1) Any wages paid to such individual, or to any other individual, in the calendar quarter in which such conviction occurred or in any prior calendar quarter, and

(2) Any net earnings from self-employment derived by the individual, or any other individual, during the taxable year in which the conviction occurred or during any prior taxable year.

(b) *Recalculation of benefit.* When notified by the Attorney General that the additional penalty as described in paragraph (a) of this section has been imposed against any individual entitled to benefits under section 202 or section 223 of the Act (see Subpart D), the Administration, for the purposes of determining the individual's entitlement to such benefits as of the month in which convicted and the amount of the benefit, will exclude the applicable wages and net earnings in accordance with the order of the court.

(c) *Effect of pardon.* In the event that an individual, with respect to whom the additional penalty as described in paragraph (a) of this section has been imposed, is granted a pardon of the offense by the President of the United States, such penalty is not applied in determining such individual's entitlement to benefits, and the amount of such benefit, for any month beginning after the date on which the pardon is granted.

§ 404.466 Conviction for subversive activities; effect on enrollment for supplementary medical insurance benefits.

An individual may not enroll under Part B (supplementary medical insurance benefits) of title XVIII if he has been convicted of any offense described in § 404.465.

§ 404.467 Nonpayment of benefits; individual entitled to disability insurance benefits based on blindness is engaging in substantial gainful activity.

An individual who has attained age 55 and who meets the definition of disability for disability insurance benefit purposes based on "statutory blindness," as defined in § 404.1501, may be entitled to disability insurance benefits for months in which he is engaged in certain types of substantial gainful activity. No payment, however, may be made to the individual or to beneficiaries entitled to benefits on his earnings record for any month in which such individual engages in any type of substantial gainful activity.

2. Section 404.368 is deleted. The material contained in this section has been transferred to § 404.464 without substantive change and with a continuity of force and effect. This change has been made solely for the purposes of organization.

3. *Effective date.* The foregoing amendments shall become effective on the date of publication in the FEDERAL REGISTER.

Dated: December 5, 1967.

[SEAL] ROBERT M. BALL,
Commissioner of Social Security.

Approved December 14, 1967.

WILBUR J. COHEN,
Acting Secretary of Health, Education, and Welfare.

[F.R. Doc. 67-14785; Filed, Dec. 19, 1967; 8:47 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER D—HAZARDOUS SUBSTANCES

PART 191—HAZARDOUS SUBSTANCES; DEFINITIONS AND PROCEDURAL AND INTERPRETATIVE REGULATIONS

Exemptions for Small Packages, Minor Hazards, and Special Circumstances

Effective on date of publication of this order in the FEDERAL REGISTER, § 191.63 is republished in its entirety as follows for codification and editorial change purposes. No substantive changes are made hereby.

§ 191.63 Exemptions for small packages, minor hazards, and special circumstances.

(a) The following exemptions are granted for the labeling of hazardous substances under the provisions of § 191.62:

(1) When the sole hazard from a substance in a self-pressurized container is that it generates pressure or when the sole hazard from a substance is that it is flammable or extremely flammable, the name of the component which contributes the hazard need not be stated.

(2) Common matches, including book matches, wooden matches, and so-called "safety" matches are exempted from the labeling requirements of section 2(p)(1) of the act insofar as they apply to the product being considered hazardous because of being "flammable" or "highly flammable" as defined in § 191.1(k).

(3) Paper items such as newspapers, wrapping papers, toilet and cleansing tissues, and paper writing supplies are exempted from the labeling requirements of section 2(p)(1) of the act insofar as they apply to the products being considered hazardous because of being "flammable" or "extremely flammable" as defined in § 191.1(k).

(4) Thread, string, twine, rope, cord, and similar materials are exempted from the labeling requirements of section 2(p)(1) of the act insofar as they apply to the products being considered hazardous because of being "flammable" or "extremely flammable" as defined in § 191.1(k).

(5) Laboratory chemicals intended only for research or investigational and other laboratory uses (except those in home chemistry sets) shall be exempt from the requirements of placement provided in §191.101 if all information required by that section and the act are placed with the required prominence on the label panel adjacent to the main panel.

(6) Small-arms ammunition packaged in retail containers is exempted from the labeling requirements of section 2(p)(1) of the act: *Provided*, That such containers' labels bear the following:

(i) The common or usual name of the ammunition in the container.

(ii) The statement: "Warning—keep out of the reach of children," or its practical equivalent.

(iii) The name and place of business of the manufacturer, packer, seller, or distributor.

The term "ammunition" as used in this subparagraph includes small-arms ammunition and loads for powder-actuated tools in a form ready for use in a pistol, revolver, rifle, shotgun, or powder-actuated tool, including blank cartridges and shells.

(7) Rigid or semirigid ball-point ink cartridges are exempt from the labeling requirements of section 2(p)(1) of the act insofar as such requirements would be necessary because the ink contained therein is a "toxic" substance as defined in § 191.1(f)(1): *Provided*, That:

(i) The ball-point ink cartridge is of such construction that the ink will, under any reasonably foreseeable conditions of manipulation or use, emerge only from the ball-point end.

(ii) When tested by the method described in § 191.1(f)(1), the ink does not have an LD 50 single oral dose of less than 500 milligrams per kilogram of body weight of the test animal.

(iii) The cartridge does not have a capacity of more than 2 grams of ink.

(8) Containers of paste shoe waxes, past auto waxes, and paste furniture and floor waxes containing toluene (also known as toluol), xylene (also known as xylol), petroleum distillates and/or turpetine in the concentrations described in § 191.7(a)(4) and (6) are exempt from the labeling requirements of § 191.7(b)(3)(ii) and (5) if the viscosity of such products is sufficiently high that they will not flow from their opened containers when inverted for 5 minutes at a temperature of 80° F., and are exempt from bearing a flammability warning statement if the flammability of such waxes is due solely to the presence of solvents which have flashpoints above 90° F. when tested by the method described in § 191.12.

(9) Porous-tip ink-marking devices are exempt from the labeling requirements of section 2(p)(1) of the act and § 191.7(b)(3)(ii) and (iii) and (4) insofar as such requirements would be necessary because the ink contained therein is a toxic substance as defined in § 191.1(f)(1); and/or because the ink contains 10 percent or more by weight of toluene (also known as toluol), xylene (also known as xylol), or petroleum distillates as defined in § 191.7(a)(4); and/or because the ink contains 10 percent or more by weight of ethylene glycol: *Provided*, That:

(i) The porous-tip ink-marking devices are of such construction that the ink is held within the device by an absorbent material so that there is no free liquid within the device, and under any reasonably foreseeable conditions of manipulation and use including reasonably foreseeable abuse by children, the ink will emerge only through the porous writing nib of the device; and

(ii)(a) The device has a capacity of not more than 10 grams of ink, and the ink, when tested by methods described in § 191.1(f)(1), has an LD_{50} single oral dose of not less than 2.5 grams per kilogram of body weight of the test animal; or

(b) The device has a capacity of not more than 12 grams of ink and the ink, when tested by methods described in § 191.1(f)(1), has an LD_{50} single oral dose of not less than 3.0 grams per kilogram of body weight of the test animal.

(10) Viscous nitrocellulose-base adhesives containing more than 4 percent methyl alcohol by weight are exempted from the label statement "Cannot be made nonpoisonous" required by § 191.7(b)(2): *Provided*, That:

(i) The total amount of methyl alcohol, by weight, in the product does not exceed 15 percent; and

(ii) The contents of any container does not exceed 2 fluid ounces.

(11) Packages containing polishing or cleaning products which consist of a carrier of solid particulate or fibrous composition and which contain toluene (also known as toluol), xylene (also known as xylol), or petroleum distillates in the concentrations described in § 191.7(a)(4) are exempt from the labeling requirements of § 191.7(b)(3)(ii), provided that such toluene, xylene, or petroleum distillate is fully absorbed by the solid, semisolid, or fibrous carrier and cannot be expressed therefrom with any reasonably foreseeable conditions of manipulation.

(12) Containers of dry ink intended to be used as a liquid ink after the addition of water are exempt from the labeling requirements of section 2(p)(1) of the act and § 191.7(b)(4), insofar as such requirements would be necessary because the dried ink contained therein is a toxic substance as defined in § 191.1(f)(1) and/or because the ink contains 10 percent or more ethylene glycol as defined in § 191.7(a)(3): *Provided*, That:

(i) When tested by the method described in § 191.1(f)(1), the dry ink concentrate does not have an LD_{50}[1] single oral dose of less than 1 gram per kilogram of body weight of the test animal.

(ii) The dry ink concentrate enclosed in a single container does not weigh more than 75 milligrams.

(iii) The dry ink concentrate does not contain over 15 percent by weight of ethylene gycol.

(13) Containers of liquid and semisolid substances such as viscous-type paints, varnishes, lacquers, roof coatings, rubber-vulcanizing preparations, floor-covering adhesives, glazing compounds, and other viscous products containing toluene (also known as toluol), xylene (also known as xylol), or petroleum distillates in concentrations described in § 191.7(a)(4) are exempt from the labeling requirements of § 191.7(b)(3)(ii) insofar as that paragraph applies to such toluene, xylene, or petroleum distillates: *Provided*, That the viscosity of the substance, or of any liquid that may separate or be present in the container, is not less than 150 Sayboit Universal Seconds at 100° F.

(14) Customer-owned portable containers that are filled by retail vendors with gasoline, kerosene (kerosine), or other petroleum distillates are exempt from the provision of section 2(p)(1)(A) of the act, which requires that the name and place of business of the manufacturer, distributor, packer, or seller appear on the label of such containers, provided that all the other label statements required by section 2(p)(1) of the act and § 191.7(b)(3) appear on the labels of containers of the substances named in this subparagraph.

(15) Cellulose sponges are exempt from the labeling requirements of section 2(p)(1) of the act and § 191.7(b)(4), insofar as such requirements would be necessary because they contain 10 percent or more of diethylene glycol as defined in § 191.7(a)(2): *Provided*, That:

(i) The cellulose sponge does not contain over 15 percent by weight of diethylene glycol.

(ii) The diethylene glycol content is completely held by the absorbent cellulose material so that there is no free liquid within the sponge as marketed.

(16) Containers of substances which include salt (sodium chloride) as a component are exempt from the labeling requirements of section 2(p)(1) of the act insofar as such requirements would be necessary because the salt contained therein is present in a quantity sufficient to render the article "toxic" as defined in § 191.1(f)(1): *Provided*, That the labels of such containers bear a conspicuous statement that the product contains salt.

(17) The labeling of substances containing 10 percent or more of ferrous oxalate is exempt from the requirement of § 191.109(f) that it bear the word

[1] Lethal dose, median (lethal for 50 percent or more of test group).

"Poison," which would otherwise be required for such concentration of a salt of oxalic acid.

(18) Packages containing articles intended as single-use spot removers, and which consist of a cotton pad or other absorbent material saturated with a mixture of dry-cleaning solvents, are exempt from the labeling requirements of section 2(p)(1) of the act insofar as they apply to the "flammable" hazard as defined in § 191.1(k)(2): *Provided*, That:

(i) The article is packaged in a sealed foil envelope.

(ii) The total amount of solvent in each package does not exceed 4.5 milliliters.

(iii) The article will ignite only when in contact with an open flame, and when so ignited, the article burns with a sooty flame.

(19) Packages containing articles intended as single-use spot removers, and which consist of a cotton pad or other absorbent material containing methyl alcohol, are exempt from the labeling requirements of § 191.7(b)(2): *Provided*, That:

(i) The total amount of cleaning solvent in each package does not exceed 4.5 milliliters of which not more than 25 percent is methyl alcohol.

(ii) The liquid is completely held by the absorbent materials so that there is no free liquid within the packages marketed.

(20) Cigarette lighters containing petroleum distillate fuel are exempt from the labeling requirements of section 2(p)(1) of the act and § 191.7(b)(3), insofar as such requirements would be necessary because the petroleum distillate contained therein is "flammable" and because the substance is named in § 191.7(a)(4) as requiring special labeling: *Provided*:

(i) That such lighters contain not more than 10 cubic centimeters of fuel at the time of sale; and

(ii) That such fuel is contained in a sealed compartment that cannot be opened without the deliberate removal of the flush-set, screw-type refill plug of the lighter.

(21) Containers of dry granular fertilizers and dry granular plant foods are exempt from the labeling requirements of section 2(p)(1) of the act, insofar as such requirements would be necessary because the fertilizer or plant food contained therein is a toxic substance as defined in § 191.1(f)(1): *Provided*, That:

(i) When tested by the method described in § 191.1(f)(1) the product has a single dose LD-50 of not less than 3.0 grams per kilogram of body weight of the test animal;

(ii) The label of any such exempt dry granular fertilizers discloses the identity of each of the hazardous ingredients;

(iii) The label bears the name and address of the manufacturer, packer, distributor, or seller; and

(iv) The label bears the statement "Keep out of the reach of children" or its practical equivalent.

(22) Small plastic capsules containing a paste composed of powdered metal solder mixed with a liquid flux are exempt from the requirements of section 2(p)(1) of the act: *Provided*, That:

(i) The capsule holds not more than ½ milliliter of the solder mixture;

(ii) The capsule is sold only as a component of a kit; and

(iii) Adequate caution statements appear on the carton of the kit and on any accompanying labeling which bears directions for use.

(23) Chemistry sets and other science education sets intended primarily for use by juveniles, and replacement containers of chemicals for such sets, are exempt from the requirements of section 2(p)(1) of the act: *Provided*, That:

(i) The immediate container of each chemical that is hazardous as defined in the act and regulations thereunder bears on its main panel the name of such chemical, the appropriate signal word for that chemical, and the additional statement "Read back panel before using" (or "Read side panel before using," if appropriate), and bears on the back (or side) panel of the immediate container the remainder of the appropriate cautionary statement for the specific chemical in the container; and

(ii) The experiment manual or other instruction booklet accompanying such set bears on the front page of the leaflet as a preface to any written matter in the leaflet (or on the cover, if any there be), the following caution statement within the borders of a rectangle and in the type size specified in § 191.101:

> WARNING—This set contains chemicals that may be harmful if misused. Read cautions on individual containers carefully. Not to be used by children except under adult supervision.

and

(iii) The outer carton of such set bears on the main display panel within the borders of a rectangle and in the type size specified in § 191.101 the caution statement specified in subdivision (ii) of this subparagraph.

(24) Fire extinguishers containing fire extinguishing agents which are stored under pressure or which develop pressure under normal conditions of use are exempt from the labeling requirements of section 2(p)(1) of the act insofar as such requirements apply to the pressure hazard as defined in § 191.1(m): *Provided*, That:

(i) If the container is under pressure both during storage and under conditions of use, it shall be designed to withstand a pressure of at least 6 times the charging pressure at 70° F., except that carbon dioxide extinguishers shall be constructed and tested in accordance with applicable Interstate Commerce Commission specifications; or

(ii) If the container is under pressure only during conditions of use, it shall be designed to withstand a pressure of not less than 5 times the maximum pressure developed under closed nozzle conditions at 70° F. or 1½ times the maximum pressure developed under closed nozzle conditions at 120° F., whichever is greater.

(25) Cleaning and spot removing kits intended for use in cleaning carpets, furniture, and other household objects, and kits intended for use in coating, painting, antiquing, and similarly processing various surfaces, furniture, furnishings, equipment, sidings, etc., are exempt from the requirements of section 2(p)(1) of the act: *Provided*, That:

(i) The immediate container of each hazardous substance in the kit is fully labeled and in conformance with the requirements of the act and regulations issued thereunder; and

(ii) The carton of the kit bears on the main display panel (or panels) within a borderline, and in the type size specified in § 191.101, the following caution statement: "(Insert proper signal word as specified in subdivision (iii) of this subparagraph.) This kit contains the following chemicals that may be harmful if misused: (List hazardous chemical components by name.) Read cautions on individual containers carefully. Keep out of the reach of children."

(iii) If either the word "POISON" or "DANGER" is required on the container of any component of the kit, the same word shall be required to appear as part of the caution statement on the kit carton. If both "POISON" and "DANGER" are required in the labeling of any component or components in the kit, the word "POISON" shall be used. In all other cases the word "WARNING" or "CAUTION" shall be used.

(26) Packages containing articles intended as single use spot removers and containing methyl alcohol are exempt from the labeling specified in § 191.7(b)(2): *Provided*, That:

(i) The total amount of cleaning solvent in each unit does not exceed 1 milliliter, of which not more than 40 percent is methyl alcohol.

(ii) The liquid is contained in a sealed glass ampoule enclosed in a plastic container with a firmly attached absorbent wick at one end through which the liquid from the crushed ampoule must pass, under the contemplated conditions of use.

(iii) The labeling of each package of the cleaner bears the statement, "WARNING—Keep out of reach of children" or its practical equivalent, and the name and place of business of the manufacturer, packer, distributor, or seller.

(27) Packaged fireworks assortments intended for retail distribution are exempt from section 2(p)(1) of the act: *Provided*, That:

(i) The package contains only fireworks devices suitable for use by the public and designed primarily to produce visible effects by combustion, except that small devices designed to produce audible effects may also be included if the audible effect is produced by a charge of not more than 2 grains of pyrotechnic composition;

(ii) Each individual article in the assortment is fully labeled and in conformance with the requirements of the act and regulations issued thereunder; and

(iii) The outer package bears on the main display panel (or panels) within the borders of a rectangle and in the type size specified in § 191.101 the following caution statement: "*WARNING*—This assortment contains items that may be hazardous if misused and should be used only under adult supervision. Important: Read cautions on individual items carefully."

(28) Packages containing felt pads impregnated with ethylene glycol are exempt from the labeling requirements of § 191.7(b)(4): *Provided*, That:

(i) The total amount of ethylene glycol in each pad does not exceed 1 gram; and

(ii) The liquid is held by the felt pad so that there is no free ethylene glycol within the package.

(29) Cigarette lighters containing butane and/or isobutane fuel are exempt from the labeling requirements of section 2(p)(1) of the act, insofar as such requirements would otherwise be necessary because the fuel therein is extremely flammable and under pressure: *Provided*, That:

(i) The lighters contain not more than 12 grams of fuel at the time of sale.

(ii) The fuel reservoir is designed to withstand a pressure of at least 1½ times the maximum pressure which will be developed in the container at 120° F.

(30) The outer retail containers of solder kits each consisting of a small tube of flux partially surrounded by a winding of wire-type cadmium-free silver solder are exempt from the labeling requirements of section 2(p)(1) of the act: *Provided*, That:

(i) The metal solder contains no cadmium and is not otherwise hazardous under the provisions of the act.

(ii) The tube of flux in the kit is fully labeled and in conformance with the act and regulations thereunder, and any accompanying literature which bears directions for use also bears all the information required by section 2(p) of the act.

(iii) The main panel of the outer container bears in type size specified in § 191.101 the following: The signal word, the statement of principal hazard or hazards, the statement "Keep out of the reach of children," or its practical equivalent, and instructions to read other cautionary instructions on the tube of flux within.

(31) Visual novelty devices consisting of sealed units, each of which unit is a steel and glass cell containing perchloroethylene, among other things, are exempted from the requirements of § 191.101(a) that would otherwise require a portion of the warning statement to appear on the glass face of the device: *Provided*, That:

(i) The device contains not more than 75 milliliters of perchloroethylene and contains no other component that contributes substantially to the hazard.

(ii) The following cautionary statement appears elsewhere on the device in the type size specified in § 191.101 (c) and (d):

> WARNING—HARMFUL VAPORS MAY RESULT IF BROKEN
>
> Contains perchloroethylene. Do not expose to extreme heat or cold. If broken, open windows until all odor of the chemical is gone. Keep out of the reach of children.

A practical equivalent may be substituted for the statement "Keep out of the reach of children."

(32) Hollow plastic toys containing mineral oil are exempt from the labeling specified in § 191.7(b)(3)(ii), under the following conditions:

(i) The article contains no other ingredient that would cause it to possess the aspiration hazard specified in § 191.7(b)(3)(ii).

(ii) The article contains not more than 6 fluid ounces of mineral oil.

(iii) The mineral oil has a viscosity of at least 70 S.U.S. at 100° F.

(iv) The mineral oil meets the specifications in the N.F. for light liquid petrolatum.

(v) The container bears the statement "CAUTION—Contains light liquid petrolatum N.F. Discard if broken or leak develops."

(33) Containers of mineral oil having a capacity of not more than 1 fluid ounce and intended for use in producing a smoke effect for toy trains are exempt from the labeling specified in § 191.7(b)(3)(ii), under the following conditions:

(i) The mineral oil meets the specifications in the N.F. for light liquid petrolatum.

(ii) The mineral oil has a viscosity of at least 130 S.U.S. at 100° F.

(iii) The article contains no other ingredient that contributes to the hazard.

(iv) The label declares the presence of light liquid petrolatum and the name and place of business of the manufacturer, packer, distributor, or seller.

(34) Viscous products containing more than 4 percent by weight of methyl alcohol, such as adhesives, asphalt-base roof and tank coatings, and similar products, are exempt from bearing the special labeling that would otherwise be required by § 191.7(b)(2): *Provided*, That:

(i) The product contains not more than 15 percent by weight of methyl alcohol.

(ii) The methyl alcohol does not separate from the other ingredients upon standing or through any foreseeable use or manipulation.

(iii) The viscosity of the product is not less than 7,000 centipoises at 77° F.

(iv) Labeling bears the statement "Contains methyl alcohol—use only in well-ventilated area—keep out of the reach of children."

(Sec. 3(c), 74 Stat. 374; 15 U.S.C. 1262)

Dated: December 11, 1967.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 67-14794; Filed, Dec. 19, 1967; 8:47 a.m.]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

[CGFR 67-67]

FIRE PROTECTION ON BOTH NEW AND EXISTING PASSENGER VESSELS (100 GROSS TONS OR OVER)

1. Pursuant to the notice of proposed rule making published in the FEDERAL REGISTER of January 24, 1967 (32 F.R. 795-807), and the Merchant Marine Council Public Hearing Agenda dated March 20, 1967 (CG-249), the Merchant Marine Council held a public hearing on March 20, 1967, for the purpose of receiving comments, views, and data. The proposals considered were identified as Items PH 1-67 to PH 13-67, inclusive. Item PH 5-67 contained proposals regarding fire protection on both new and existing passenger vessels (100 gross tons or over) (CG-249, pages 89 to 116, inclusive). Item PH 5k-67 (CG-249, pages 115 and 116) and Item PH 10g-67 (CG-249, pages 183 to 185, inclusive) contained proposed changes to 46 CFR 113.25-5 and 113.25-10(b) regarding general alarm systems for all categories of vessels. These proposals, as revised, are adopted and set forth in this document.

2. Interested persons have been afforded an opportunity to participate in the consideration of these proposals and certain changes were made in the proposals in Item PH 5-67 and Item PH 10g-67. The changes made in various sections are to make it clear that all passenger vessels of 100 gross tons or over, regardless of the date of construction, on an international voyage must substantially meet current fire protection requirements. The change in 46 CFR 113.25-10(b)(1) regarding feeder distribution panels removes a conflict with other regulations and allows more flexibility in application. The Merchant Marine Council's actions with respect to comments received and proposals in Item PH 5-67 and Item PH 10g-67 are approved.

3. By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by section 632 of Title 14, United States Code, and Department of Transportation Order 1100.1, dated March 31, 1967 (49 CFR 1.4(a)(2), 32 F.R. 5606), to promulgate regulations in accordance with the laws cited with regulations below, the following amendments are prescribed and shall be effective on and after November 2, 1968, for both new and existing vessels as described in the regulations; however, the regulations in this document may be complied with in lieu of existing requirements prior to that date.

SUBCHAPTER F—MARINE ENGINEERING

PART 55—PIPING SYSTEMS AND APPURTENANCES

4. The authority note for Part 55 is amended to read as follows:

AUTHORITY: The provisions of this Part 55 issued under R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Interpret or apply R.S. 4399, as amended, 4400, as amended, 4417, as amended, 4417a, as amended, 4418, as amended, 4421, as amended, 4426–4431, as amended, 4433, as amended, 4434, as amended, 4435, as amended, 4440, as amended, sec. 14, 39 Stat. 690, as amended, sec. 10, 35 Stat. 426, as amended, 41 Stat. 305, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 17, 54 Stat. 166, as amended, sec. 3, 54 Stat. 347, as amended, sec. 3, 70 Stat. 153, sec. 3, 68 Stat. 675, sec. 6(b)(1), 80 Stat. 938; 46 U.S.C 361, 362, 391, 391a, 392, 399, 404–409, 411, 412, 485, 481, 489, 366, 395, 363, 367, 526p, 1333, 390b, 50 U.S.C. 198, 49 U.S.C. 1655(b); E.O. 11239, July 31, 1965, 30 F.R. 9671, 3 CFR, 1965 Supp. Department of Transportation Order 1100.1, Mar. 31, 1967, 49 CFR 1.4(a)(2), 32 F.R. 5606, unless as otherwise noted.

Subpart 55.10—Pumping Arrangements and Piping Systems

5. Section 55.10-40(g) is amended to read as follows:

§ 55.10-40 Fuel oil service systems.

* * * * *

(g) Service oil pumps shall be equipped with means of control from a readily accessible position outside of the boiler room which will always be accessible in the event of a fire occurring in the compartment in which the pumps are located. All passenger ships on an international voyage, regardless of the date of construction, shall comply with the requirements of this paragraph.

PART 61—INSTALLATIONS, TESTS, INSPECTIONS, MARKINGS, AND OFFICIAL FORMS

6. The authority note for Part 61 is amended to read as follows:

AUTHORITY: The provisions of this Part 61 issued under R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Interpret or apply R.S. 4399, as amended, 4400, as amended, 4417, as amended, 4417a, as amended, 4418, as amended, 4421, as amended, 4426–4431, as amended, 4433, as amended, 4434, as amended, 4435, as amended, 4440, as amended, sec. 14, 39 Stat. 690, as amended, sec. 10, 35 Stat. 426, as amended, 41 Stat. 305, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 17, 54 Stat. 166, as amended, sec. 3, 54 Stat. 347, as amended, sec. 3, 70 Stat. 153, sec. 3, 68 Stat. 675, sec. 6(b)(1), 80 Stat. 938; 46 U.S.C. 361, 362, 391, 391a, 392, 399, 404–409, 411, 412, 485, 481, 489, 366, 395, 363, 367, 526p, 1333, 390b, 50 U.S.C. 198, 49 U.S.C. 1655(b); E.O. 11239, July 31, 1965, 30 F.R. 9671, 3 CFR, 1965 Supp. Department of Transportation Order 1100.1, Mar. 31, 1967, 49 CFR 1.4(a)(2), 32 F.R. 5606.

Subpart 61.05—Installations

7. Section 61.05-25 is amended by adding a new paragraph (b), reading as follows:

§ 61.05-25 Means of stopping machinery.

* * * * *

(b) All passenger ships on an international voyage, regardless of the date of construction, shall comply with the requirements of this section.

SUBCHAPTER H—PASSENGER VESSELS

PART 72—CONSTRUCTION AND ARRANGEMENT

8. The authority note for Part 72 is amended to read as follows:

AUTHORITY: The provisions of this Part 72 issued under R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Interpret or apply R.S. 4399, as amended, 4400, as amended, 4417, as amended, 4418, as amended, 4421, as amended, 4426, as amended, 4433, as amended, 4434, as amended, 4435, as amended, 4440, as amended, sec. 14, 39 Stat. 690, as amended, sec. 10, 35 Stat. 426, as amended, 41 Stat. 305, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 17, 54 Stat. 166, as amended, sec. 3, 54 Stat. 347, as amended, sec. 3, 70 Stat. 153, sec. 3, 68 Stat. 675, sec. 6(b)(1), 80 Stat. 938; 46 U.S.C. 361, 362, 391, 392, 399, 404, 411, 485, 481, 482, 489, 366, 395, 363, 367, 526p, 1333, 390b, 50 U.S.C. 198, 49 U.S.C. 1655(b); E.O. 11239, July 31, 1965, 30 F.R. 9671, 3 CFR, 1965 supp. Department of Transportation Order 1100.1, Mar. 31, 1967, 49 CFR 1.4(a)(2), 32 F.R. 5606.

Subpart 72.05—Structural Fire Protection

9. Section 72.05-90 is amended to read as follows:

§ 72.05-90 Vessels contracted for prior to May 26, 1965.

(a) Vessels of 100 gross tons and over, contracted for prior to May 26, 1965, on an international voyage; and vessels of 100 gross tons and over, contracted for on or after May 26, 1936, and prior to May 26, 1965, not on an international voyage; shall meet the following requirements:

(1) Existing structure, arrangements, and materials previously approved will be considered satisfactory so long as they meet the minimum requirements of this paragraph and are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection. Minor repairs and alterations may be made to the same standards as the original construction.

(2) For such vessels, contracted for on or after November 19, 1952, and prior to May 26, 1965, on an international voyage, the details shall be in general agreement with §§ 72.05-5 through 72.05-80.

(b) Vessels of 100 gross tons and over, contracted for prior to May 26, 1965, not on an international voyage, shall meet the following requirements:

(1) Existing structure, arrangements, and materials previously approved will be considered satisfactory so long as they meet the minimum requirements of this paragraph and are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection. Minor repairs and alterations may be made to the same standards as the original construction.

(2) All vessels in ocean or coastwise service shall be fitted above the bulkhead deck with fire-resisting bulkheads and doors spaced not more than 131 feet apart which are capable of resisting the passage of flame for a period of at least 1 hour.

(3) All vessels with berth or stateroom accommodations for 50 or more passengers shall be fitted with an approved automatic sprinkling system unless deemed unnecessary by the Commandant. This system shall be so installed as to protect all enclosed parts of the vessel accessible to passengers or crew while the vessel is being navigated, except cargo holds, machinery spaces, and when of fire-resisting construction, toilets, bathrooms, and spaces of similar construction. Where, in the case of a particular vessel, the Commandant does not consider the installation of an automatic water-sprinkling system necessary, such vessel shall be protected in such enclosed parts of the vessel as the Commandant shall deem necessary, with an automatic electric or pneumatic fire-detecting and alarm system, used singly or in combination, of a type approved by the Commandant.

(c) Vessels of less than 100 gross tons, contracted for prior to May 26, 1965, which carry more than 150 passengers, shall meet the following requirements:

(1) Existing structure, arrangements, and materials previously approved will be considered satisfactory so long as they meet the minimum requirements of this paragraph and are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection. Minor repairs and alterations may be made to the same standards as the original construction.

(2) For such vessels, contracted for on or after November 19, 1952, and prior to May 26, 1965, on an international voyage, the details shall be in general agreement with §§ 72.05-5 through 72.05-80.

PART 76—FIRE PROTECTION EQUIPMENT

10. The authority note for Part 76 is amended to read as follows:

AUTHORITY: The provisions of this Part 76 issued under R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Interpret or apply R.S. 4417, as amended, 4418, as amended, 4426, as amended, 4433, as amended, 4434, as amended, 4435, as amended, 4440, as amended, sec. 14, 39 Stat. 690, as amended, sec. 10, 35 Stat. 426, as amended, 41 Stat. 305, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 17, 54 Stat. 166, as amended, sec. 3, 54 Stat. 347, as amended, sec. 3, 70 Stat. 153, sec. 3, 68 Stat. 675, sec. 6(b)(1), 80 Stat. 938; 46 U.S.C. 361, 362, 391, 392, 404, 481, 489, 395, 363, 367, 526p, 1333, 390b, 50 U.S.C. 198, 49 U.S.C. 1655(b); E.O. 11239, July 31, 1965, 30 F.R. 9671, 3 CFR, 1965 Supp. Department of Transportation Order 1100.1, Mar. 31, 1967, 49 CFR 1.4(a)(2), 32 F.R. 5606.

Subpart 76.10—Fire Main System, Details

11. Subpart 76.10 is amended by inserting after § 76.10-1 a new § 76.10-3, reading as follows:

§ 76.10-3 Water availability.

(a) On all vessels on an international voyage, regardless of the date of construction, water pressure from the fire-main protecting enclosed spaces shall be immediately available by maintenance of water pressure on the firemain at all times when passengers are aboard the vessel, or by remote control of fire pumps which control shall be easily operable and readily accessible.

(b) Where approved remote controls are not installed, an alarm shall be fitted which will sound in the engine room indicating a drop of water pressure on the system.

12. Section 76.10-10 is amended by changing paragraphs (f) and (g) to read as follows:

§ 76.10-10 Fire hydrants and hose.

* * * * *

(f) The outlet at each fire hydrant shall be provided with a cock or valve fitted in such a position that the fire hose may be removed while the firemain is under pressure. In addition, the outlet shall be limited to any position from the horizontal to the vertical pointing downward, so that the hose will lead horizontally or downward to minimize the possibility of kinking.

(g) Each fire hydrant shall be provided with a single length of hose with nozzle attached and a spanner. A suitable hose rack or other device shall be provided for the proper stowage of the hose. If the hose is not stowed in the open or behind glass so as to be readily seen, the enclosure shall be marked in accordance with § 78.47-20. In addition, the accommodation and service areas of the ship shall be provided with two approved combination nozzles and suitable applicators. These nozzles and applicators may be stowed at the discretion of the master, but shall be convenient for immediate use in event of an emergency.

* * * * *

13. Section 76.10-90(a) is amended by revising subparagraphs (3) and (4) and by adding a new subparagraph (5), reading as follows:

§ 76.10-90 Installations contracted for prior to May 26, 1965.

(a) * * *

(3) When reasonable and practicable, where two or more fire pumps are required, they shall not all be located in the same space. Vessels on an international voyage shall, however, comply with the requirements of § 76.10-5(h).

(4) The general requirements of § 76.10-5 (c) through (h), 76.10-10 (d) through (i), and 76.10-15 shall be complied with insofar as is reasonable and practicable. In addition, vessels on an international voyage shall comply with the requirements of § 76.10-5(b).

(5) Vessels on an international voyage shall comply with the requirements of § 76.10-3.

Subpart 76.15—Carbon Dioxide Extinguishing Systems, Details

14. Section 76.15-90(a)(2) is amended to read as follows:

§ 76.15-90 Installations contracted for prior to November 19, 1952.

(a) * * *

(2) The details of the systems shall be in general agreement with §§ 76.15-5 through 76.15-40 insofar as is reasonable and practicable, with the exception of § 76.15-5(e) (1) through (3) covering spaces other than cargo spaces, which systems may be installed in accordance with subparagraphs (2) through (6) of this paragraph. However, the foregoing exception shall not be permitted for vessels on an international voyage.

* * * * *

PART 77—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

15. The authority note for Part 77 is amended to read as follows:

AUTHORITY: The provisions of this Part 77 issued under R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Interpret or apply R.S. 4417, as amended, 4418, as amended, 4426, as amended, 4433, as amended, 4434, as amended, 4435, as amended, 4440, as amended, sec. 10, 35 Stat. 426, as amended, 41 Stat. 305, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 17, 54 Stat. 166, as amended, sec. 3, 54 Stat. 347, as amended, sec. 3, 68 Stat. 675, sec. 6(b)(1), 80 Stat. 938; 46 U.S.C. 361, 362, 391, 392, 404, 481, 489, 395, 363, 367, 526p, 1333, 390b, 50 U.S.C. 198, 49 U.S.C. 1655(b); E.O. 11239, July 31, 1965, 30 F.R. 9671, 3 CFR, 1965 Supp. Department of Transportation Order 1100.1, Mar. 31, 1967, 49 CFR 1.4(a)(2), 32 F.R. 5606.

Subpart 77.35—Fireman's Outfit

16. Section 77.35-5 is amended by adding paragraphs (f), (g), and (h), reading as follows:

§ 77.35-5 General.

* * * * *

(f) Boots and gloves shall be of rubber or other electrically nonconducting material.

(g) The helmet shall provide effective protection against impact.

(h) Protective clothing shall be of material that will protect the skin from the heat of fire and burns from scalding steam. The outer surface shall be water resistant.

16a. Section 77.35-10 is amended by revising paragraph (a) to read as follows:

§ 77.35-10 Fireman's outfit.

(a) A fireman's outfit shall consist of one self-contained breathing apparatus with lifeline attached, one flashlight, one flame safety lamp, a rigid helmet, boots and gloves, protective clothing, and one fire ax.

* * * * *

PART 78—OPERATIONS

17. The authority note for Part 78 is amended to read as follows:

AUTHORITY: The provisions of this Part 78 issued under R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Interpret or apply R.S. 4417, as amended, 4418, as amended, 4426, as amended, 4433, as amended, sec. 10, 35 Stat. 426, as amended, 41 Stat. 305, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 17, 54 Stat. 166, as amended, sec. 3, 54 Stat. 347, as amended, sec. 3, 70 Stat. 153, sec. 3, 68 Stat. 675, sec. 6(b)(1), 80 Stat. 938; 46 U.S.C. 361, 362, 391, 392, 404, 481, 489, 395, 363, 367, 526p, 1333, 390b, 50 U.S.C. 198, 49 U.S.C. 1655(b); E.O. 11239, July 31, 1965, 30 F.R. 9671, 3 CFR, 1965 Supp. Department of Transportation Order 1100.1, Mar. 31, 1967, 49 CFR 1.4(a)(2), 32 F.R. 5606; unless otherwise noted.

18. The authority notes for Subparts 78.07, 78.13, 78.14, 78.17, 78.30, 78.47, 78.70, and 78.80 and for §§ 78.45-1, 78.75-1 and 78.85-1 are amended by deleting references to Treasury Department Orders 167-32, 167-33, and 167-46.

Subpart 78.47—Markings for Fire and Emergency Equipment, Etc.

19. Section 78.47-53(a) is amended by inserting between the words "red" and "letters" the phrase "daylight-reflecting" so that it reads as follows:

§ 78.47-53 Automatic ventilation dampers.

(a) The manual operating positions for automatic fire dampers in ventilation ducts passing through main vertical zone bulkheads shall be identified by red daylight-reflecting letters at least one-half-inch high "VENTILATION FIRE DAMPER." In addition, the open and closed positions shall be similarly marked.

SUBCHAPTER J—ELECTRICAL ENGINEERING

PART 111—ELECTRICAL SYSTEM; GENERAL REQUIREMENTS

20. The authority note for Part 111 is amended to read as follows:

AUTHORITY: The provisions of this Part 111 issued under R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Interpret or apply R.S. 4399, as amended, 4400, as amended, 4417, as amended, 4417a, as amended, 4418, as amended, 4421, as amended, 4426, as amended, 4427, as amended, 4433, as amended, 4458, as amended, 4463, as amended, 4491 as amended, sec. 14, 39 Stat. 690, as amended, sec. 10, 35 Stat. 426, as amended, 41 Stat. 305, as amended, sec. 5, 49 Stat. 1394, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 17, 54 Stat. 166, as amended, sec. 3, 70 Stat. 153, sec. 3, 68 Stat. 675, sec. 6(b)(1), 80 Stat. 938; 46 U.S.C. 361, 362, 391, 391a, 392, 399, 404, 405, 411, 435, 481, 489, 366, 395, 363, 390, 367, 526p, 1333, 390b, 50 U.S.C. 198, 49 U.S.C. 1655(b); E.O. 11239 July 31 1965, 30 F.R. 9671, 3 CFR, 1965 Supp. Department of Transportation Order 1100.1, Mar. 31, 1967, 49 CFR 1.4(a)(2), 32 F.R. 5606.

Subpart 111.50—Distribution and Circuit Loads

21. Section 111.50-5(c) is amended by adding a new subparagraph (2) reading as follows:

§ 111.50-5 Ship's service power circuits.

* * * * *

(c) *Ventilation systems.* * * *

(2) The remote control means for stopping accommodation and machinery space ventilation fans required by this paragraph shall be provided on all passenger vessels on an international voyage regardless of the date of construction.

* * * * *

Subpart 111.65—Special Requirements for Certain Locations and Systems

22. Section 111.65–15(a) is amended by revising subparagraph (2) and by adding a new subparagraph (3), reading as follows:

§ 111.65–15 Special requirements for motion picture projection rooms and projection equipment.

(a) *General.* • • •

(2) *Nonprofessional type projectors.* Projectors of the nonprofessional or miniature type may be operated without a projection room.

(3) *Film.* Only acetate or slow-burning film may be used. Nitrocellulose film is specifically prohibited.

• • • • •

PART 112—EMERGENCY LIGHTING AND POWER SYSTEM

23. The authority note for Part 112 is amended to read as follows:

AUTHORITY: The provisions of this Part 112 issued under R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Interpret or apply R.S. 4399, as amended, 4400, as amended, 4417, as amended, 4417a, as amended, 4418, as amended, 4421, as amended, 4426, as amended, 4427, as amended, 4433, as amended, 4488, as amended, 4491, as amended, sec. 14, 29 Stat. 690, as amended, sec. 16, 35 Stat. 428, as amended, 41 Stat. 305, as amended, sec. 5, 49 Stat. 1384, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 17, 54 Stat. 166, as amended, sec. 3, 54 Stat. 347, as amended, sec. 3, 70 Stat. 152, sec. 3, 68 Stat. 675, sec. 6(b)(1), 80 Stat. 938; 46 U.S.C. 361, 362, 391, 391a, 392, 399, 404, 405, 411, 435, 481, 489, 366, 396, 365, 363, 369, 367, 526p, 1333, 390b, 50 U.S.C. 198, 49 U.S.C. 1655(b); E.O. 11239, July 31, 1965, 30 F.R. 9671, 3 CFR, 1965 Supp. Department of Transportation Order 1100.1, Mar. 31, 1967, 49 CFR 1.4(a)(2), 32 F.R. 5606.

Subpart 112.90—Emergency Lighting and Power Systems for Vessels Contracted for Prior to November 19, 1952

24. Subpart 112.90 is amended by inserting after § 112.90–1 a new § 112.90–3 reading as follows:

§ 112.90–3 Emergency lighting and power systems for passenger vessels, contracted for prior to November 19, 1952, on an international voyage.

(a) The emergency lighting and power systems for passenger vessels, contracted for prior to November 19, 1952, on an international voyage shall meet the applicable standards of Subparts 112.05 through 112.55.

25. Section 112.90–5 is amended by changing the heading and paragraph (a) to read as follows:

§ 112.90–5 Emergency lighting system for ocean and coastwise passenger vessels, contracted for prior to November 19, 1952, other than passenger vessels on an international voyage.

(a) The emergency lighting system for ocean and coastwise vessels, contracted for prior to November 19, 1952, other than passenger vessels on an international voyage, shall be in accordance with this section.

• • • • •

26. Section 112.90–10 is amended by changing the heading and paragraph (a) to read as follows:

§ 112.90–10 Emergency lighting system for passenger vessels, contracted for prior to November 19, 1952, other than ocean and coastwise passenger vessels and passenger vessels on an international voyage.

(a) The emergency lighting system for passenger vessels, contracted for prior to November 19, 1952, other than ocean and coastwise passenger vessels and passenger vessels on an international voyage, shall be in accordance with this section.

• • • • •

PART 113—COMMUNICATION AND ALARM SYSTEMS AND EQUIPMENT

27. The authority note for Part 113 is amended to read as follows:

AUTHORITY: The provisions of this Part 113 issued under R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Interpret or apply R.S. 4399, as amended, 4400, as amended, 4417, as amended, 4417a, as amended, 4418, as amended, 4421, as amended, 4426, as amended, 4427, as amended, 4433, as amended, 4488, as amended, 4491, as amended, sec. 14, 29 Stat. 690, as amended, sec. 16, 35 Stat. 428, as amended, 41 Stat. 305, as amended, sec. 5, 49 Stat. 1384, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 17, 54 Stat. 166, as amended, sec. 3, 54 Stat. 347, as amended, sec. 3, 70 Stat. 152, sec. 3, 68 Stat. 675, sec. 6(b)(1), 80 Stat. 938; 46 U.S.C. 361, 362, 391, 391a, 392, 399, 404, 405, 411, 435, 481, 489, 366, 396, 365, 363, 369, 367, 526p, 1333, 390b, 50 U.S.C. 198, 49 U.S.C. 1655(b); E.O. 11239, July 31, 1965, 30 F.R. 9671, 3 CFR, 1965 Supp. Department of Transportation Order 1100.1, Mar. 31, 1967, 49 CFR 1.4(a)(2), 32 F.R. 5606.

Subpart 113.25—General Alarm Systems

28. Section 113.25–5 is amended to read as follows:

§ 113.25–5 Operation.

(a) The general alarm system shall consist of electric vibrating bells located throughout passengers' and crew's quarters, machinery spaces, and work spaces, and so located as to warn all occupants in an emergency. The general alarm system shall be operated by means of manually operated contact makers with one contact maker located in the wheelhouse. Except for the one located in the wheelhouse, all contact makers shall be protected against tampering by an enclosure provided with a breakable transparent window.

(b) On passenger vessels and cargo and miscellaneous vessels the general alarm system shall be operated by two readily accessible, manually operated contact makers. One contact maker shall be located in the same space as the feeder distribution panel, or, if no feeder distribution panel is provided, in the same space as the branch circuit distribution panel. The other contact maker shall be located in the wheelhouse. Where the general alarm power supply is in or adjacent to the wheelhouse only one contact maker need be provided. One additional contact maker may be installed at an accessible location.

(c) On tank vessels four manually operated contact makers shall be provided in accessible locations for operating the general alarm system. The contact makers shall be provided at the following locations: (1) Wheelhouse, (2) space where feeder distribution panel is located, (3) deck officers' quarters furthest from engineroom, and (4) engineroom. Where feeder distribution panels are not provided a contact maker shall be provided in the same space as the branch circuit distribution panel. Where the general alarm power supply is located in or adjacent to the wheelhouse the requirement that a contact maker be provided in the space where the feeder distribution panel is located is not applicable.

(d) On vessels on which an emergency squad is organized, on vessels having a manual fire alarm system, and on all passenger vessels (regardless of date of construction) on an international voyage, an independent manually operated contact maker shall be located in the wheelhouse and so connected as to operate only the general alarm bells located in crew's quarters and machinery spaces.

(1) In lieu of this arrangement on vessels on an international voyage, a separate special alarm system may be fitted for the same purpose, and to sound in the same areas.

29. Section 113.25–10(b) is amended by revising subparagraph (1) and by adding a new subparagraph (7), reading as follows:

§ 113.25–10 General requirements.

• • • • •

(b) *Distribution of general alarm system feeders and branch circuits.* (1) A feeder distribution panel shall be provided to divide the system into the required number of zone feeders. The distribution panel shall afford overcurrent protection for each zone feeder, but no disconnect switches shall be provided. The distribution panel shall be located in an enclosed space adjacent to the general alarm battery enclosure. If the arrangement of the vessel is such that only one zone feeder is required, the branch circuit distribution panel required by this paragraph may be substituted for the feeder distribution panel.

• • • • •

(7) General alarm feeders and branch circuit cables shall be located in passageways and shall avoid staterooms, lockers, galleys, machinery spaces, and other enclosed spaces except insofar as it is necessary to supply general alarm bells in those spaces.

• • • • •

30. Section 113.25–90 is amended by adding a new paragraph (d) reading as follows:

§ 113.25–90 General alarm system for existing vessels.

• • • • •

(d) All passenger vessels, regardless of the date of construction, on an international voyage shall have general alarm systems meeting the requirements in §§ 113.25–5(d) and 113.25–10(b).

Subpart 113.50—Emergency Loudspeaker System

31. Section 113.50–5(a) is amended by adding at end thereof a new subparagraph (7) reading as follows:

§ 113.50–5 General requirements.

(a) • • •

(7) Accommodation spaces and service spaces.

• • • • •

32. Section 113.50–90(b)(1) is amended by adding at the end thereof a new subdivision (v) reading as follows:

§ 113.50–90 Emergency loudspeaker systems for existing vessels.

• • • • •

(b) *General requirements.* (1) • • •

(v) Accommodation spaces and service spaces.

• • • • •

Dated: December 14, 1967.

W. J. SMITH,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 67–14713; Filed, Dec. 19, 1967; 8:45 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 17746; FCC 67–1343]

PART 73—RADIO BROADCAST SERVICES

Table of Assignments; FM Broadcast Stations in Benton, Ill., etc.

Report and Order. In the matter of amendment of § 73.202 *Table of Assignments,* FM Broadcast Stations (Benton, Ill., Erwin, Tenn., Monticello, Ill., Danville, Ky., Rushville, Ind., Dover and New Philadelphia, Ohio, Waco and Corsicana, Tex., Milford, Ohio, Lancaster and Cynthiana, Ky., Oxnard, Calif., West Frankfort, Ill., and Sierra Vista, Ariz.), Docket No. 17746; RM–1176, RM–1182, RM–1189, RM–1190, RM–1161, RM–1187, RM–1183, RM–1193, RM–1181, RM–1174.

1. The Commission has before it for consideration its notice of proposed rule making, FCC 67–1068, issued in this proceeding on September 22, 1967, and published in the FEDERAL REGISTER on September 27, 1967 (32 F.R. 13637), proposing a number of changes in the FM Table of Assignments advanced by various interested parties and on our own motion. A number of comments were filed pursuant to the notice and all were considered in making the following determinations. Except as noted, the proposals were unopposed and all population figures are taken from the 1960 U.S. Census.

2. *RM–1176, Benton, Ill. (Banks and Freeland Broadcasters); RM–1182, Erwin, Tenn. (WEMB, Inc.); RM–1189, Monticello, Ill. (Robert F. Grubb).* In these three cases, interested parties are seeking the assignment of a first Class A channel to a community, without requiring any other changes in the Table. The communities range in size from 3,210 to 7,023 persons. With the exception of Erwin, Tenn., which has a daytime-only AM station, they do not have any AM station. We are of the view that the communities named merit the requested assignments and that they would serve the public interest. We are therefore assigning Channel 252A to Benton, Ill., 280A to Erwin, Tenn., and 288A to Monticello, Ill.

3. *RM–1190. Danville, Ky.* In a petition for rule making filed on July 31, 1967, WHIR, Inc., licensee of radio Station WHIR(AM), Danville, Ky., requested the assignment of Channel 296A to Danville as a first FM outlet. Danville is a community of 9,010 persons. It is the county seat and largest community in Boyle County, which has a population of 21,257. The only AM station in the community, WHIR, is a Class IV station. Petitioner states that sites are available, such as that of WHIR, for the use of the proposed channel from which all the required minimum spacings can be met and from which the required signal can be placed over all of Danville.

4. Kentucky Broadcasting System, prospective applicant for a new FM station at Versailles, Ky., opposes the assignment of Channel 296A to Danville and urges instead that this channel be assigned to Versailles, Ky. Since the two communities are less than the required cochannel spacing, the two proposals are mutually exclusive. No other channel appears to be completely available to resolve the conflict. Kentucky submits that "while Danville has a slightly larger population" than Versailles, the difference between these small towns is not significant. Versailles has a population of 4,000 and the county in which it is located (Woodford) has a population of 11,913. This city and county do not have any AM station or FM assignments. Versailles is located about 12 miles west of Lexington, Ky., but not in its urbanized area or its SMSA. Kentucky presents various statistics concerning the industries, commerce, educational and recreational facilities of Versailles to support the need of this community for an FM outlet. Kentucky attaches a number of letters from local official, civic, and educational leaders purporting to show that the stations in the area do not provide for the local needs of Versailles and that thus the community needs a local FM outlet for local news, sports, emergency announcements and the like. It is also contended that the proposed assignment would service nearby Lawrenceburg, Ky., a number of residents of which are employed in Versailles. Finally, this party states that a site for the use of Channel 296A at Versailles would have to be located about 2 miles out of town (in the direction of Lexington) to conform to the rules and that Channel 296A is the only channel which can be assigned to Versailles in conformance with all the required separations.

5. In its reply comments WHIR urges that there is a substantial community of interest between Versailles and Lexington in view of the convenient commuting distance via a four-lane highway, and the many Versailles residents who work in Lexington. It suggests that there is a more suitable assignment available for the Versailles-Lawrenceburg area but concedes that not all the requirements could be met on this channel (285A) at the assumed sites. WHIR finally submits that in the event the Commission should determine not to use this channel as suggested, that the proposed Channel 296A be assigned to a community, such as Harrodsburg, which is located within 25 miles of Danville, Versailles, and Lawrenceburg, in order that a choice may be made upon a hearing record between the competing applications.

6. We have carefully considered all the comments in this case and the pertinent facts regarding the two communities of Danville and Versailles and conclude, on balance, that the assignment of Channel 296A should go to Danville. Weighing in favor of Versailles is the fact that it has no AM station, whereas Danville has a Class IV station. On the other hand Danville is over twice as large as Versailles and its county is also almost twice as large as that in which Versailles is located. Further, Versailles is much closer to a population center (Lexington) being only 12 miles from that city while Danville is about 26 miles from it. Lexington has three Class C stations in operation. It also has an educational FM station and three unlimited time AM stations. Versailles is also only 12 miles from Frankfort which has a Class IV AM station and a Class A FM station. Thus, the local radio needs of Versailles are more likely to be met by these stations. In view of the above, we believe that Danville should be preferred for its first FM assignment and are therefore assigning Channel 296A to this community. In reaching this decision we have taken into account the suggestions made by the petitioner as to possible solutions to the conflict presented between Danville and Versailles. The assignment of Channel 265A to Versailles has not been shown to be technically feasible and so cannot be considered. The second suggestion to assign Channel 296A to Harrodsburg so that all applications can be judged on the basis of a hearing record is also not without difficulties. Harrodsburg already has an FM assignment and would not merit a second assignment in view of its small size and the scarcity of available channels in this area.

7. *RM–1187. Dover and New Philadelphia, Ohio.* In response to a petition for rule making filed on July 21, 1967, by The Tuscarawas Broadcasting Co., licensee of Station WBTC(AM), Uhrichsville, Ohio, we invited comments on a request for the reassignment of Channel

269A from Dover-New Philadelphia, Ohio, to Dover, and the assignment of Channel 240A to New Philadelphia as follows:

City	Channel No.	
	Present	Proposed
Dover-New Philadelphia, Ohio	269A	
Dover, Ohio		269A
New Philadelphia, Ohio		240A

8. Dover is a community of 11,300 persons and New Philadelphia of 14,241. Both are located in Tuscarawas County, approximately 3 miles apart. The county has a population of 76,789 and New Philadelphia is its seat and largest community. One Class IV AM station is licensed to both communities. An application has been filed for Channel 269A by the licensee of this station for use at Dover. This application (BPH–5866) was granted on November 8, 1967. The purpose of the subject petition is thus to provide each community with its own FM assignment. Petitioner submits that New Philadelphia is an important trade, transportation, and commercial center and includes a large number of statistics in support of this claim. It further urges that the proposal would provide the community with its first local FM service and would provide an outlet for emergency weather reports, news, sports and other public affairs programs.[1]

9. While it appears that each of the communities named is large enough to warrant an FM assignment in spite of their proximity, attention was invited to the public notice of May 12, 1967, Policy to Govern Requests for Additional FM Assignments, FCC 67–577, especially the showing to be made as to the areas which may be precluded from future needed assignments on the channel requested and the six adjacent channels. Petitioner submits a showing which indicates that there would be no areas precluded on all the adjacent Class B channels due to existing stations in the general area. With respect to Channel 240A itself, there would be an area in which Channel 240A could not be used in the event it is assigned to New Philadelphia, but there are no communities of any substantial size in it which do not already have an FM assignment.

10. We are of the view that the subject proposal has merit and that its adoption would serve the public interest. It would provide each of these communities with its own local FM outlet and the people in the county with a choice in programing. We are therefore adopting it.

[1] Dover Broadcasting Co., Inc., the Dover-New Philadelphia AM licensee and FM permittee, Dover-New Philadelphia, Ohio, filed an opposition to the proposal mainly on the ground that a showing of need for the additional assignment, and the areas which will be precluded as a result of the assignment proposed, were not indicated. This party, however, dismissed its opposition in a later pleading.

11. *RM–1183. Milford, Ohio.* In a petition filed on May 9, 1967 and supplemented on July 26, 1967, Milford Associates, prospective applicant for a new FM station in Milford, Ohio, requested the assignment of Channel 296A to Milford. Milford is a community of 4,131 persons and the county in which most of the community and its population is located, Clermont, has a population of 80,430 persons. Petitioner submits that Clermont is essentially agricultural in nature, that it does not have any radio outlet, and that the assignment of Channel 296A is technically feasible at a site about 4 miles southwest of Milford. WTRE–FM on Channel 297 at Greensburg, Ind., was granted a construction permit to change its site (BPH–5517) on January 23, 1967. The assignment of Channel 296A to Milford is only feasible in the event this station does in fact move to the proposed site.

12. In view of the fact that Milford is located approximately 13 miles east of Cincinnati and in its urbanized area (but not in its Standard Metropolitan Statistical Area) petitioner makes the showing required in the May 12, 1967, Public Notice—Policy to Govern Requests for Additional FM Assignments. This showing indicates that there would be no areas precluded on all the six adjacent channels by the proposed assignment due to existing stations in the general area. The assignment of Channel 296A to Milford would, however, preclude the use of this channel in an area to the southeast of Cincinnati, almost all of which falls in the north central tip of Kentucky. The only communities in this area which do not already have an FM assignment are under 2,000 population.

13. After consideration of the pertinent facts presented in this case, we are of the view that Milford merits the assignment of a first FM assignment, especially since it would not deprive any other community of comparable size of such an assignment. However, since Channel 296A is not feasible at Milford, until WTRE–FM moves its site to the one authorized in BPH–5517, we shall accept, but not grant, any application for the assignment until WTRE–FM moves to its approved site. We are therefore assigning Channel 296A to Milford with this condition.

14. *RM–1193. Lancaster and Cynthiana, Kentucky.* In a petition filed on August 21, 1967, South C. Bevins, tr/as Lancaster Broadcasters, licensee of Station WLXI (AM), Lancaster, Ky., requested the assignment of Channel 292A to Lancaster, Ky. by substituting Channel 272 for 292A at Cynthiana, Ky., as follows:

City	Channel No.	
	Present	Proposed
Lancaster, Ky	292A	292A
Cynthiana, Ky		272A

Lancaster is a community of 3,021 persons and the county in which it is located and of which it is the county seat (Garrard) has a population of 9,747 persons. WLXI, a daytime-only AM station licensed to petitioner, is the only radio station in the community. Petitioner states that an FM station would permit a greater service in the area, which is in the center of a prosperous farm, residential, and recreational region. It submits that Channel 292A is the only channel which can be assigned to Lancaster in conformance with the rules.

15. Since a site for Channel 272A at Cynthiana would have to be located about 2 miles from the community in order to meet the required minimum spacings, and since Channel 276A could be assigned to Cynthiana without this deficiency, we invited comments on the following in lieu of the Bevin's proposal:

City	Channel No.	
	Present	Proposed
Lancaster, Ky		292A
Cynthiana, Ky	292A	276A

In an opposition to the original Bevins proposal received just after the notice was issued, WCYN Radio, Inc., licensee of Station WCYN(AM) at Cynthiana and applicant for a new FM station on presently assigned Channel 292A, opposed the 272A assignment because it could not be used at its AM site and meet required mileage separations. It stated that the location of an FM operation at a separate site would be uneconomical, if not altogether impractical. It did not oppose substitution of 276A if it does not present this problem. Cynthiana is a community of 5,641 persons, the county seat and largest community in Harrison County (population 13,704). WCYN, the sole radio station in the county, is a Class IV station.

16. An opposition and counterproposal to the Notice proposal was filed by Robert E. Johnson, licensee of radio Station WAXU(AM), Georgetown, Ky. WAXU urges that Channel 272A be assigned to Cynthiana and that Channel 276A be assigned to Georgetown. This party submits that Channel 276A is the only one which can be assigned to Georgetown in accordance with the rules, that Georgetown has a population of 6,986 and is the county seat of Scott County, which has a population of 15,376, that the only radio station in the community, WAXU, is a daytime-only station, and that the area is an important agricultural, industrial, and educational one. WAXU contends that Georgetown needs Channel 276A more than Cynthiana, but that in any event Channel 272A can be assigned to Cynthiana with only a small derogation of the separation rules (approximately 1.1 miles). Georgetown is located about 11 miles NNW of Lexington and Cynthiana is about 26 miles NNE of that city. Lancaster is about 30 miles SSW of Lexington.

17. In a reply to the Johnson counterproposal to assign Channel 276A to Georgetown and 272A to Cynthiana,[2] WCYN urges that any proposal which would require a separate site for the FM station at Cynthiana would effectively deprive that community of an FM outlet. However, this party states that it would not object to the assignment of Channel 272A to Cynthiana and would be willing to amend its pending application provided it is granted a waiver of the approximate 1 mile separation deficiency toward WLJC(FM) at Beattyville on the same channel.

18. We are presented here with requests for a Class A assignment in each of three communities in northcentral Kentucky, all of which appear to merit a first FM assignment. They range in size from 3,031 to 5,641 and two have only daytime-only AM stations, the third having a Class IV AM station (Cynthiana). The proposal to assign Channel 276A to Cynthiana would permit only two assignments, whereas the Georgetown counterproposal to assign Channel 272A to Cynthiana (and 276A to Georgetown) would permit three assignments. However, the use of Channel 272A at Cynthiana would require the selection of a site over 1 mile from the community. While this deficiency is undesirable, the area in question is one in which available frequencies are very scarce, and it thus may be the only manner in which all three communities may have an available FM channel. We are of the view therefore that the proposal to assign a channel to each community is to be preferred in spite of the problem presented by the restriction in available sites for the applicant in Cynthiana. We are thus adopting the Georgetown proposal and assigning Channel 292A to Lancaster, Ky., 276A to Georgetown, and 272A to Cynthiana. We are not at this time ruling on the WCYN request for a waiver of the spacing rule but will give consideration to such a request in the event it is presented to us in the licensing proceeding.

19. *RM–1181. Oxnard, Calif.* In a petition filed on July 14, 1967, and supplemented on August 24, 1967, Cullen B. Tendick, prospective applicant for a new FM station in Oxnard, Calif., requested the addition of Channel 244A to Oxnard, Calif., as follows:

City	Channel No.	
	Present	Proposed
Oxnard, Calif.	264	244A, 264

Oxnard, the largest community but not the county seat of Ventura County, has a population of 40,265 persons, and its county has a population of 199,128 persons. It has a Class B FM station in operation and two unlimited time AM stations, one of which is licensed to Ventura–Oxnard in combination. Ventura, about 10 miles away, has two Class B stations and a Class IV AM station, in addition to the Ventura–Oxnard station.

[2] This pleading was filed late. However, WCYN points out that the Johnson comments and counterproposal were not found in the public reference file of this docket—due perhaps to the current move of the Commission to its new headquarters—and asks the Commission to accept the reply in light of the circumstances presented. We are of the view that good cause has been shown in this case and are considering this pleading in spite of its lateness.

20. In support of the request for a second assignment in Oxnard, petitioner states that the estimated 1966 population of the city is 62,540, that the proposal conforms to all the spacing rules, and that he intends to file an application for a new FM station in Oxnard in the event the proposal is adopted. Mr. Tendick also points out that there is a need to serve the large Spanish speaking population in the area. As to the possible preclusion of future needed assignments in other communities, petitioner submits that there would be no areas in which assignments would be precluded on any of the adjacent channels due to the proposed assignment due to existing stations in the general area. However, there would be an area so precluded on Channel 244A which would include a number of communities including Port Hueneme, Santa Paula, El Rio, and Fillmore. It is urged that several channels including 252A, 272A, and 288A are available for future use in some of these communities.

21. Oxnard Broadcasting Corp., licensee of KOXR(AM) and KPMJ–FM, Oxnard, Calif., opposes the addition of Channel 244A to Oxnard on the grounds that there is no need for the additional outlet in view of the many AM and FM stations in the county, that it would degrade the quality of FM service in the area, and that other communities, such as Santa Paula, Fillmore, Moorpark, and Ojai, are growing rapidly and are more in need of their own local outlet than Oxnard needs an additional FM station. Answering these contentions in his comments, Tendick, while recognizing that program plans are properly the subject of an application rather than rule making, states that a well balanced format of music and public affairs would not disturb "the decorum of the FM service". He also submits as a further showing of need for the additional FM assignment a letter from a local educator.

22. Upon consideration of all the comments and data submitted in this case, we are of the view that the requested addition of a second FM assignment to Oxnard is warranted and that it would serve the public interest. Oxnard is a rather large community (40,265) and is growing rapidly (1966 estimate 62,540). The only FM assignment to the community is already in operation, so that the additional assignment would provide a competitive service and a possibility of diversity in programing.

23. Because of the possible preclusion of the proposed 244A assignment on use of that channel elsewhere, we also proposed in the Notice to consider Channel 252A for Oxnard instead. Without the Oxnard assignment, either channel could be used at a number of places mentioned by the parties, but 244A can be used at Fillmore and 252 cannot, and thus use of the latter at Oxnard has less of a preclusive effect (because of the existing stations in the area, chiefly at Los Angeles, neither assignment would have any effect on adjacent channels). Therefore, we are assigning Channel 252A to Oxnard, leaving 244A (and some other channels) available for the future needs of other communities in the area. Also, since no other Class B channel can be assigned to Oxnard, we are of the belief that the mixture of Class A and B assignments is justified under the circumstances presented in this case.

24. *RM–1174. Waco and Corsicana, Tex.* On June 28, 1967 (Supplemented on Aug. 21, 1967), Baylor University, licensee of educational FM broadcast station KWBU–FM, Channel 210, Waco, Tex., filed a petition requesting rule making looking toward the addition of Channel 296A to Waco, as follows:

City	Channel No.	
	Present	Proposed
Waco, Tex.	228, 249, 269	228, 249, 269, 296A

Waco has a population of 97,808 and its SMSA has a population of 150,600. The three Class C channels are either occupied or applied for. Waco also has three AM stations and one is assigned to Waco-Marlin.

25. One of the stated purposes of the subject proposal is to remove a problem of interference to reception of television Station KCEN–TV, Channel 6, operating from a site about midway between Waco and Temple, Tex., from the operation of KWBU–FM on educational Channel 210 in the educational band adjacent to Channel 6. KWBU–FM previously operated on Channel 218 which, for "several reasons was not considered satisfactory" (chiefly, second harmonic interference to reception of TV Station WFAA–TV, Dallas, Channel 8) and therefore Baylor requested and was granted permission to move to Channel 210, starting operation thereon in May, 1966. Baylor contends that the interference would remove the sole source of NBC programs in the area of KWBU–FM, since the Dallas NBC outlet (Ch. 5) suffers interference in this area from Temple Channel 6. It further contends that a move out of the educational band is needed and cites the recent report of the Research Division of the Office of Chief Engineer of the Commission "Calculations for Educational FM Channel Assignments in Areas Served by TV Channel 6" dated July 14, 1967, and numbered R–6702. The second reason for the requested assignment is to provide Baylor with an assignment which would permit commercial operation. Baylor previously filed an application for commercial Channel 248 with a request for a waiver of the minimum power requirement but that this was denied by the Commission on December 7, 1966. It submits further that it does not intend to operate KWBU–FM as a commercial station for the foreseeable future but that it is "of

the opinion that there will come a time when the proper training of its students will require the operation of the station as a commercial station". In favor of a commercial assignment, Baylor urges that such an operation would be beneficial to students since such stations operate on split-second timing, require careful scheduling of programs and announcements, and develop skills in persuading advertisers to use the station and customers to buy the products advertised.

26. As to the possible impact of the proposed assignment, a showing is included indicating the areas in which Channel 296A and the six adjacent channels would be precluded as a result of the proposed assignment. This showing indicates that there will be no areas of preclusion on Channels 293, 295, 297, 298 and 299 due to existing stations and assignments in other areas. However, there would be a small area precluded on Channel 294 to the northwest of Waco, and a rather large area on Channel 296A itself. With respect to Channel 296A, Baylor submits that there are three unused Class A assignments in this area (Channel 221A at Hamilton, Channel 244A at Marlin, and 265A at Mexia) and that the only community in the area, other than Waco, with a population of over 10,000 population is Corsicana. This community has a population of 20,344 and has a Class IV AM station. Baylor suggests that Channel 300 can be assigned to Corsicana in the event there is a future demand for a local facility.

27. With respect to the alleged interference problem, Baylor does not give any information on the extent of the interference caused but submits that a large number of Waco households are involved and that complaints have been received by both Baylor and KCEN–TV. In another proceeding, Docket 14185, concerning assignments in the educational FM band, KCEN–TV filed comments on this point in which it submitted the results of a card survey showing that 53 percent of the people reported interference trouble after KWBU–FM went on the air on Channel 210 as compared with those reporting no trouble. The area of interference is asserted to be near Baylor University in an area of high population density.

28. In view of the showing made by the petitioner we invited comments on the Baylor proposal to add a Class A channel to Waco in order that KWBU–FM may shift to it from Channel 210 in the educational FM band. Since, however, Channel 296A appeared desirable as a first assignment Class A for the fairly large community of Corsicana and another Class A channel is available for assignment (Channel 252A) for Waco, we proposed the following amendments to the table:

City	Channel No.	
	Present	Proposed
Corsicana, Tex.		296A
Waco, Tex.	238, 268, 280	238, 268, *252A, 280

29. In view of the fact that the proposed addition of Channel 252A to Waco is for the express purpose of removing the interference problem which now exists due to the operation of KWBU–FM on Channel 210 in the educational band, permitting this channel to be available for application by other parties would defeat the intention of the rule making and would perpetuate the serious interference problem and, since petitioner proposed to continue to operate KWBU–FM as an educational station "for the foreseeable future" we proposed that the proposed channel should be reserved for educational use by means of an asterisk placed on the channel in the Table (similar to the method used in the TV broadcast service) and that we should modify the license of KWBU–FM to specify operation on Channel 252A in lieu of 210, in the event the proposal were adopted. Should the licensee at some future date wish to operate on the reserved channel commercially instead of as a noncommercial educational station, we stated that a petition for rule making could be filed to remove the reservation and that consideration would be given to the situation in the area at that time. We further proposed to add the following to paragraph (a) of § 73.202:

Channels designated with an asterisk are assigned for use by noncommercial educational broadcast stations only.

30. KWTX Broadcasting Co., licensee of television Station KWTX–TV, channel 10, Waco, Tex., opposes the assignment of Channel 252A to Waco on the grounds that, while it would remove the interference to television reception of Channel 6, it would cause harmonic interference to reception of its Channel 10. KWTX urges that Channel 296A, which it submits would not cause interference to any television station received regularly in the Waco area, be assigned to Waco instead. It states that the second harmonic of Channel 252A falls within Channel 10 and attaches a statement of its Chief Engineer to the effect that, in his opinion, Channel 252A will cause interference to the video and lower color sidebands of KWTX–TV within the immediate area of the FM transmitter, which is located in a densely populated residential area. KWTX urges that this potential danger of interference to its signals can and should be eliminated by assigning Channel 296A to Waco in lieu of 252A.

31. Baylor concurs in the KWTX opposition to the assignment of Channel 252A to Waco and again urges that Channel 296A instead be assigned to Waco for use by the university. It states further than Corsicana need not be without an FM channel should Channel 296A be assigned to Waco, since Channel 300 is technically feasible in that community, it suggests that either this assignment be made now or that none be made at this time. It reiterates its position that the time will come when KWBU–FM would best serve the interests of its students by operating as a commercial station and that it therefore contemplates requesting the Commission to remove the educational reservation at some future date.

32. We have considered all the comments and data submitted in this case and conclude that the public interest would be served by making available an FM channel in the commercial band for use by Baylor University and by reserving it for noncommercial educational use at this time. Our concern in proposing Channel 252A for Waco rather than 296A, as proposed by petitioner, was to preserve a channel for future use in the rather large community of Corsicana, which has no FM assignment at present. Since Channel 300 is available for assignment at Corsicana, we believe that this assignment would also serve the public interest. Normally, we would assign a Class A channel to a community the size of Corsicana. However, since no other Class A channel is available and since Corsicana is far removed from population centers (Waco is the nearest at a distance of over 50 miles), we believe the assignment of a Class C channel would be appropriate in this case. The assignment of Channel 296A to Waco would not present any danger of interference to any TV station regularly received in the area, while the assignment of Channel 300 would provide a needed first assignment to Corsicana. We are therefore adopting these assignments and also reserving Channel 296A at Waco for educational use in the manner of the reservations in television. We are further modifying the license of KWBU–FM to specify operation on the new channel and amending Section 73.202 (a) to provide for channel designations for noncommercial educational stations in the commercial band.

33. *RM–1161, Rushville, Ind.* On February 13, 1967 (amended on May 31, 1967), Gene Hammond Kinman, prospective applicant for a new FM station in Rushville, Ind., filed a petition for rule making looking toward the assignment of Channel 232A as a first assignment to Rushville, Ind. Rushville is a community of 7,264 persons and is located about 35 miles southeast of Indianapolis. It is the county seat and largest community in Rush County, which has a population of 20,393. It has no AM station.[1] Various statistics are supplied by petitioner to show the commercial importance of Rushville and the surrounding nearby communities.

34. The previous efforts of another interested party to obtain the assignment of Channel 232A for Rushville and the opposition of Shelby County Broadcasting Co., Inc., licensee of Stations WSVL and WSVL–FM, Shelbyville, Ind., were described in the Notice and need not be repeated here. We wish to note that our previous denial of the proposed assignment was based primarily on the finding in the record that the proposed assignment was not technically feasible.

[1] WSVL–FM, Shelbyville, Ind., located about 17 miles southwest of Rushville maintains auxiliary studios in that community.

We added that the fact that another station in a different community (Shelbyville) maintained auxiliary studios in Rushville did not disqualify it for a local radio assignment. See memorandum opinion and order issued in RM–1035 on December 20, 1966, FCC 66–1165. Based upon the showing in the Kinman petition that a site in fact is available from which all the required minimum spacings can be met and from which the required signal can be placed over all of Rushville, we invited comments on the subject petition.

35. In support of his request, Kinman states that Rushville is the largest city in the county and is its trading center, that it is served by six railroads as well as several bus and private trucking firms, that it contains a number of large industrial and manufacturing firms, and that it has a number of schools, hospitals, banks, and service clubs. Finally he points out that the county does not have any FM or standard broadcast station and that Channel 232A is the only channel which can be assigned to it in conformance with the rules. As to the technical feasibility of the proposed assignment, petitioner submits an engineering exhibit giving complete details about a proposed site, including terrain elevation from 2 to 10 miles in the eight normal directions and in three additional directions through and tangent to the community of Rushville. Based upon this exhibit Mr. Kinman concludes that the assignment would conform to all the required spacings and could place the required signal over all of Rushville. Shelby County Broadcasting Co., opposes the proposed assignment, principally on the grounds that the proposal is not technically feasible. Shelby argues that the Kinman engineering showing "contains a fatal error". The error alluded to refers to the fact that the proposed Kinman site as plotted on a topographic map is not the same as those which would be depicted by the geographical coordinates given and that the distance to the pertinent station for the site shown on the map shows a shortage of about 0.2 mile.

36. In reply comments Kinman concedes that an error was made in the geographical coordinates for the proposed site shown on the topographic map attached to the engineering showing. Kinman now submits a new showing based on a nearby site which indicates that the required spacings can be met and that the required signal can be placed over the city of Rushville.[1]

37. Based upon a careful review of the comments and data submitted in the proceeding we are of the view that the proposal to assign Channel 232A to Rushville would serve the public interest and should be adopted. The assignment would provide the community of 7,264 persons and the surrounding area with a first locally located radio broadcast outlet and another source of programing. While the assignment is not ideal from the point of view of the necessary location of a site about seven miles from Rushville, it appears to be the only way in which a local FM station is feasible in this area in which channels are very scarce. As to technical feasibility, we are of the view that sufficient showing has been made that a site should be available from which all the requirements of the rules can be met. We are therefore assigning Channel 232A to Rushville with the condition that a site be selected which conforms to all the technical rules.

38. *West Frankfort, Ill., and Sierra Vista, Ariz.* In addition to the changes discussed above, the Commission also invited comments to make two Class A substitutions in the Table in order to remove short-spaced assignments as follows:

City	Channel No.	
	Present	Proposed
West Frankfort, Ill.	296A	292A
Sierra Vista, Ariz.	261A	265A

39. We are adopting these changes in order to remove the shortages involved. The use of Channel 292A at West Frankfort, Ill., will require a site about 2 miles east of the town.

40. Authority for the adoption of the amendments adopted herein is contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

41. In accordance with the foregoing determinations: *It is ordered*, That effective January 23, 1968, § 73.202 of the Commission's rules, the FM Table of Assignments, is amended to read, insofar as the communities named are concerned, as follows:

City	Channel No.
Arizona:	
Sierra Vista	265A
California:	
Oxnard	253A, 264
Illinois:	
Benton	253A
Monticello	288A
West Frankfort	292A
Indiana:	
Rushville	232A
Kentucky:	
Cynthiana	272A
Danville	296A
Georgetown	276A
Lancaster	292A
Ohio:	
Dover	269A
Milford	296A
New Philadelphia	249A
Tennessee:	
Erwin	296A
Texas:	
Corsicana	300
Waco	238, 268, 280, *296A

42. *It is further ordered*, Pursuant to section 316 of the Communications Act of 1934, as amended, that the outstanding authorization for Station KWBU–FM, Channel 210, Waco, Tex., held by Baylor University, is modified, to specify operation on Channel 296A in lieu of Channel 210 subject to the following condition:

(a) That the licensee shall submit to the Commission by January 15, 1968, all the technical information normally required for the issuance of a construction permit for operation on Channel 296A, including any changes in antenna and transmission line.

43. *It is further ordered*, That effective January 23, 1968, paragraph (a) of § 73.202 is amended to read as follows:

§ 73.202 Table of Assignments.

(a) *General.* The following table of assignments contains the channels (other than noncommercial educational channels) assigned to the listed communities in the United States, its territories and possessions. Channels designated with an "A" are for Class A FM stations. All other listed channels are for Class B stations in Zones I and I–A and for Class C stations in Zone II. Channels designated with an asterisk are assigned for use by noncommercial educational broadcast stations only.

* * * * *

44. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: December 13, 1967.

Released: December 15, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67–14728; Filed, Dec. 19, 1967; 8:49 a.m.]

[Docket No. 17660; FCC 67–1327]

PART 73—RADIO BROADCAST SERVICES

Experimental Period of FM Broadcast Stations

Report and Order. In the matter of amendment of § 73.262 of the Commission's rules with respect to the experimental period of FM Broadcast Stations, Docket No. 17660, RM–1140.

1. The Commission has before it for consideration its notice of proposed rule making, FCC 67–953, issued in this proceeding on August 14, 1967, and published in the FEDERAL REGISTER on August 17, 1967 (32 F.R. 11886), inviting comments on a proposal to amend the rule concerning the period for experimental operation of FM broadcast stations. The notice was issued in response to a petition filed on April 25, 1967, RM–1140, by the National Association of Broadcasters (NAB) and supported by the American Broadcasting Co. (ABC), requesting both a longer daily experimental period for FM stations to test and maintain appa-

[1] Commissioner Lee dissenting to paragraph 18 and Commissioner Cox dissenting to the additional assignments to Oxnard, Calif. and Waco, Tex.

ratus and to permit experimentation at other times, under certain limitations, for the improvement of the station's technical facilities.

2. The present rule in this regard, § 73.262, limits the experimental period for FM stations to the period between 1 a.m. and 6 a.m., local standard time, and does not make provision for other times as does the TV rule (§ 73.666). The rule as proposed by NAB reads as follows:

§ 73.262 *Experimental operation.* (a) The period between 12 midnight and 6 a.m. local standard time may be used for experimental purposes in testing and maintaining apparatus by the licensee of any FM broadcast station on its assigned frequency and not in excess of its authorized power, without specific authorization from the Commission.

(b) FM broadcast stations may (upon informal application) conduct technical experimentation directed to the improvement of technical phases of operation during other time periods subject to the following conditions:

(1) That the licensee complies with the provisions of § 73.261 with regard to the minimum number of hours of transmission.

(2) That no transmissions are radiated outside of the authorized channel and subject to the condition that no interference is caused to the transmission of other FM broadcast stations.

3. NAB urges, in support of its request for increased hours of experimentation for testing and maintenance of facilities, that FM facilities are allocated upon the same fundamental philosophy as television facilities (which are not limited as to time during which nonprogram material may be transmitted); that the propagation characteristics of FM signals are similar to television signals, that the nature of FM and television signals do not require restrictive time periods for experimentation as is required in the case of standard broadcast signals, and that the mileage separation plan affords the necessary protection to other stations. Because of the similarities of FM and television signals, the NAB requests that the FM experimental period for testing and maintenance of facilities be lengthened one hour so as to permit testing from midnight to 6 a.m., local standard time, instead of from 1 to 6 a.m., local standard time. NAB further states that, because many FM stations operate on limited schedules and with limited personnel, the present rule works, in many cases, an unnecessary hardship on personnel, by having to return to the station for the testing period thereby resulting in added expense to the licensee. NAB claims that this one hour increase will result in no degradation of the Commission's technical standards, and no "perceptible" increase in interference will occur to other FM broadcast stations.

4. With respect to its request for permission for FM stations to conduct experimental tests looking toward improvement of its facilities, the NAB states that, with the increased complexity in the transmission of FM signals brought about by SCA and stereophonic broadcasting, it is necessary to conduct tests other than during the designated experimental period. This is claimed to be necessary because SCA and stereophonic broadcasting, in many cases, requires precise adjustment of both the receiver and the antenna system. Since the receiver adjustments are made by the listener and service personnel during daylight and early evening hours, NAB requests that the Commission provide, upon proper conditions, that experimentation may be made in periods other than the designated experimental period. The conditions for experimentation looking toward improvement of an FM station are (1) that informal application must be made to the Commission; (2) that the FM station complies with § 73.261 of the rules which deals with minimum hours of transmission; and (3) that no interference is caused to other FM stations.

5. All the comments filed in the proceeding support the requested relaxation in the rule. These were filed by J. G. Rountree, Columbia Broadcasting System, Inc., Maryland/District of Columbia/Delaware Broadcaster's Association, Inc., Radio Station WASH(FM), Ohio Association of Broadcasters, and ABC. No oppositions to the NAB proposal were filed. Some of the parties, however, suggest that the proposal does not go far enough and propose two changes in the rule to be finally adopted. One is that routine test and maintenance activities be permitted at any hour of the day without informal application for authority, and the other is that the time reference in the rule be made to local clock time rather than local standard time. With respect to tests conducted during hours other than specified for the experimental period, it is submitted that licensees will not abuse such a privilege since it is to their self-interest to take no action which would alienate their listening audiences.

6. Upon review of the comments, we believe that, as to routine testing at any time, we can relax the requirement for prior informal authority without adversely affecting the public interest while at the same time relieving the Commission and the licensees of the burden of seeking and receiving permission each time such tests are deemed necessary. However, we are of the view that notification of the commencement of such tests and adjustments to the Engineer in Charge of the district in which the station is located, and the Commission in Washington are necessary for the purpose of answering inquiries concerning the operation of the stations. The rule we are adopting will reflect this change. In this respect there is a further clarification needed. While the NAB proposal refers to "technical experimentation", the only references in the petition to experimentation are to routine testing of equipment, adjustments of equipment for SCA and stereo operation, and the like. There appears to be no intention to include actual experimentation with signals and standards other than those authorized in the rules, as is the case with the TV rule. It may be useful to include such experimental operation by FM stations, and, the rule adopted will include it. However, since this type of operation may have an impact on the listening public and the development of the FM broadcast service, we are retaining the requirement for prior Commission approval of such operations.

7. In the matter of changing the rule to specify local clock time rather than local standard time, the contentions are made that people's living habits are geared to locally adopted clock time, and that the purpose of the proposed amendment will be defeated if local standard time is retained in the rule. For example, during the summer months, when daylight saving time is in effect, the station could not begin testing until 1 a.m. daylight saving time or 12 midnight, standard time. If the station during this same summer period, wished to begin programming at 6 a.m. daylight saving time, it would have to cut short its testing period, having only 5 hours instead of the intended 6 hours. Following adoption of the Uniform Time Act of 1966, what was hitherto been called "daylight saving time," and is sometimes called "advanced time," has become all but universal in the conterminous 48 states from late April until late October. We agree with the contention of these parties that the rule should read in terms of the local time prevailing in the community. Accordingly we are changing the time reference to read "prevailing local time." Other Commission rules will be amended to the same effect in the near future.

8. Authority for the adoption of the amendment herein adopted is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

9. In view of the foregoing: *It is ordered*, That effective January 22, 1968, § 73.262 of the Commission's rules is amended to read as shown below. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended 1066, 1082; 47 U.S.C. 154, 303)

Adopted: December 13, 1967.

Released: December 15, 1967.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE, *Secretary.*

1. Section 73.262 is amended to read as follows:

Section 73.262 Experimental operation.

(a) The period between 12 midnight and 6 a.m., prevailing local time, may be used for experimental purposes in testing and maintaining apparatus by the licensee of any FM broadcast station on its assigned frequency and not in excess of its authorized power, without specific authorization from the Commission.

(b) FM broadcast stations may (with prior notification to the Commission and the Engineer in Charge of the radio district in which the station is located) test, maintain, and adjust the apparatus at the station during other time periods; and may (upon informal application) conduct technical experimentation directed to the improvement of technical phases of operation during other time periods, and for such purposes may utilize a signal other than the standard FM signal, subject to the following conditions:

(1) That the licensee complies with the provisions of § 73.261 with regard to the minimum number of hours of operation.

(2) That emissions outside the authorized bandwidth shall comply with § 73.317(a) and that no interference is caused to the transmissions of other FM broadcast stations.

(3) No charges either direct or indirect shall be made by the licensee of an FM broadcast station for the production or transmission of programs when conducting technical experimentation.

[F.R. Doc. 67-14724; Filed, Dec. 18, 1967; 8:46 a.m.]

Proposed Rule Making

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 91]

[Reg. Docket No. 7947; Notice 67-83]

TURBOJET POWERED CIVIL AIRPLANES

Proposed Altitude Warning Devices

The Federal Aviation Administration is considering rule-making action that would require the installation of an altitude warning device on each turbojet powered civil airplane operated in air commerce.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before February 19, 1968, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments, in the Rules Docket, for examination by interested persons.

On February 6, 1967, the FAA issued advance notice of proposed rule making 67-2 (32 F.R. 2360). This advance notice announced that the agency was considering rule making that would require that some type of device to warn of approaches to, and deviations from, preselected altitude be installed in all large airplanes, and small turbine powered airplanes operated in air commerce. A substantial number of comments were received in response to the advance notice, and a review of these comments indicates that there is substantial disagreement throughout the aviation community as to the desirability of requiring the installation of an altitude warning device. The advance notice contained five specific questions which were posed to elicit as much relevant information as possible. The specific questions together with a summary of the comments received follows:

(1) Should the FAA require that all large airplanes, and small turbine powered airplanes, operated in air commerce be equipped with some type of system that would provide additional warnings to the flight deck crew of significant altitude changes? Should such a requirement be limited to IFR equipped airplanes or to Part 121 operations?

Many of the comments agreed that there is an altitude awareness problem, that an altitude warning system was desirable, and urged the FAA to proceed forthwith with rule-making action to require such a system. Other comments, while agreeing that there is an altitude awareness problem, argued that additional cockpit procedures and cockpit noises could create sufficient additional safety hazards to more than offset the gains achieved by the system. A third position taken in a number of comments was that while such a system may ultimately prove to be desirable, regulatory action at this time is premature. These latter comments, for the most part, urged further research. Many of these comments argued that if an efficient, economical system was developed it would no doubt be installed voluntarily by a large percentage of the airplane operators at which regulatory action would be directed. The majority of the comments favorable to the proposal were opposed to a mandatory requirement for reciprocating engine powered airplanes. The concensus was that such a requirement should be limited to high performance jet aircraft. There was only limited support for limiting a requirement to IFR equipped aircraft.

(2) If such a requirement is adopted should a specific system be required or should only the parameters be described so that each operator can modify the system to be installed in its airplanes, as long as the parameters are met?

Of the comments that supported the proposed requirement the vast majority favored prescribing only the parameters of the system so that various systems and operational procedures could be tried.

(3) What types of warning should be provided? Visual, audio, both, or combinations thereof? How close to the preselected altitude should the warning be given?

The majority of the favorable comments favored both visual and audio warnings. To the extent that there was a concensus a visual warning about 1,000 feet and an audio warning about 500 feet preceding the recommended altitude were recommended.

(4) Should both independent and integral systems be permitted? The agency would expect that any regulation proposed would require that an integral system, if permitted, would be incapable of contaminating the altimeter portion or portions of that system.

Most of the relevant comments favored allowing either an independent or an integral system provided that an integral system would not contaminate or degrade the basic altimetry system.

(5) How much lead time would be required for installation on airplanes affected?

Of the few comments that were directed to this question there were several estimates of 1 year while at least one comment recommended 30 months.

After considering all of the comments on ANPRM 67-2, and upon further evaluation of the entire problem of cockpit altitude awareness, the FAA believes that requiring an altitude warning device at this time is necessary and warranted. While the problem of altitude awareness is as old as aviation itself, the magnitude of the problem has increased with the advent of high-performance airplanes and traffic-saturated airways and is becoming acute as the performance capabilities of airplanes and the volume of traffic continue to mount. This prognosis is substantiated by several recent incidents, in addition to those discussed in the advance notice of proposed rule making, involving lack of cockpit altitude awareness where a major disaster was narrowly averted. A summary of the known facts in two of these recent incidents follows:

1. A large turbojet powered airplane was approaching its destination airport with weather approximately 200 feet ceiling and one-half mile visibility. The flight recorder shows the airplane was at 3,000 feet when 9 minutes from the airport. Between 8¼ and 4¼ minutes from the airport, descent was made from 3,000 feet to 180 feet mean sea level (MSL) 10.4 miles from the airport. The terrain in this area is 120 MSL. The Instrument Landing System (ILS) outer marker (OM) for the landing runway is located 5.6 miles from the end of the runway. Glide slope interception altitude at the OM is 1,692 feet. An air disaster would have occurred had the flight been 60 feet lower.

2. A large turbojet powered airplane had been cleared from cruising altitude of 33,000 feet to 6,000 feet at the 30-mile Distance Measuring Equipment (DME) fix from the VOR. The copilot was flying the airplane and initiated the descent using reverse thrust during descent. Apparently realizing he was unsure of his altitude he asked the other crewmembers what the altitude was. At the same time he applied power and pulled up reportedly commenting that things looked too flat. This action was apparently concurrent with response from the other crewmembers that they also were unsure of the altitude. Subsequently the captain estimated that they were within 100 to 150 feet of the surface. The first officer said he believed it was approximately 200 feet. The flight engineer was unsure but estimated 500 feet. A preliminary readout of the flight recorder indicates "sea level." All of the crewmembers said that they must have misread their altimeters by 10,000 feet. The altimeter used is a 3-pointer type. The captain admits his last "call out" of altitude was 22,500 feet.

In the two incidents given above, no human life was lost, but each missed disaster by an extremely narrow margin. Both were directly attributable to lack of altitude awareness.

In making the determination that requiring an altitude warning device is necessary the FAA recognizes that, as many of the commentators argued, no additional system or systems can ever completely eliminate the element of human error. The FAA is also well aware that the benefits to be derived from the addition of any system involving additional cockpit procedures, warning lights, and noises, must be carefully weighed against the potential hazards resulting from the increased burden on the flight deck crew. The agency also considers the cost of any new system to determine whether that cost is justified by the potential benefits to be derived from the new system.

After weighing all of these considerations, and after considering all of the comments on ANPRM 67-2 the FAA has decided that there are sufficient positive benefits to be gained therefrom to justify requiring a cockpit altitude warning device. The FAA has further decided that at this time any requirement for the installation of such a device should be limited to turbojet powered civil aircraft where the problem is accentuated by the high rates of climb and descent. It has also determined that either an independent or an intergral device may be installed so long as the basic altimetry system is not affected. It has further determined that there should be at least 400 feet separation between the points where the visual and audio signals are activated to provide adequate utilization of the two warnings. Since the requirement for such a device would apply to all turbojet powered aircraft operated in air commerce, only a requirement in Part 91 is necessary, and based upon the present state of the art, the FAA believes that installation of an altitude warning device should be accomplished 18 months after adoption of a regulatory requirement.

In consideration of the foregoing, it is proposed to amend Part 91 of the Federal Aviation Regulations by adding a new § 91.34 to read as follows:

§ 91.34 Altitude warning device; turbojet powered civil airplanes.

(a) No person may operate a turbojet powered U.S. registered civil airplane after the applicable date set forth in paragraph (c) of this section unless that airplane is equipped with an approved altitude warning device that can:

(1) Provide both visual and audio warnings as a preselected altitude is approached at activating points, within the parameters described in paragraph (b) of this section, that are selected by the operator;

(2) Provide both visual and audio warnings whenever the airplane deviates from the selected altitude by a preselected margin that is within the parameters described in paragraph (b) of this section;

(3) Be tested prior to flight, without special testing equipment, to determine that the visual and audio warnings are operating properly; and

(4) Accept barometric settings.

(b) Except as provided in paragraph (d) of this section, no person may operate a turbojet powered airplane after the applicable date unless the altitude warning device required by paragraph (a) of this section is in operable condition and is preset to provide the required visual and audio warnings within the following parameters—

(1) The visual warning activates at least 700 feet but not more than 1,500 feet before the selected altitude is reached, and continues at least until the audio warning occurs;

(2) The audio warning activates at least 200 feet but not more than 800 feet before the selected altitude is reached; and

(3) The visual and audio warning activating points are separated by at least 400 feet.

(4) Both the visual and audio warnings activate whenever the airplane deviates from the selected altitude by the amount selected by the operator within the ranges prescribed in subparagraphs (1) and (2) of this paragraph.

(c) Each operator to which this section applies shall prepare procedures for use of the altitude warning device and each flight crewmember shall comply with those procedures.

(d) An operator may:

(1) Ferry a turbojet airplane with an inoperative altitude warning device from a place where repair or replacement cannot be made to a place where they can be made;

(2) Continue a flight as originally planned, if the altitude warning device becomes inoperative after the airplane has taken off;

(3) Conduct an airworthiness flight test, during which the altitude warning device is turned off, to test it or to test any altimeter or other equipment in the airplane; or

(4) Ferry a newly acquired airplane from the place where possession of it was taken to a place where the altitude warning device is to be installed.

(e) The altitude warning device required by paragraph (a) of this section must be installed in each turbojet powered aircraft 18 months after the effective date of any adopted rule.

This notice of proposed rule making is issued under the authority of sections 313(a), and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a) and 1421).

Issued in Washington, D.C., on December 14, 1967.

JAMES F. RUDOLPH,
Director, Flight Standards Service.

[F.R. Doc. 67-14714; Filed, Dec. 19, 1967; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 17924; FCC 67-1336]

FM BROADCAST STATIONS

Table of Assignments; Warner Robins and Hawkinsville, Ga.

In the matter of amendment of § 73.202, Table of Assignments, FM Broadcast Stations. (Warner Robins and Hawkinsville, Ga.), Docket No. 17924, RM-1210.

1. On October 20, 1967, and amended on November 2, 1967, WRBN, Inc., licensee of Radio Station WRBN (AM), Warner Robins, Ga., filed a petition requesting rule making to amend the FM Table of Assignments so as to assign a Class A FM channel to Warner Robins, Ga., by making a change in the Hawkinsville assignment as follows:

City	Channel No.	
	Present	Proposed
Hawkinsville, Ga.	269A	280A
Warner Robins, Ga.		269A

2. Warner Robins is located about 13½ miles south of Macon, outside of its urbanized area but within its Standard Metropolitan Statistical Area. It has no FM assignment but has two daytime-only AM stations. Its population is 18,633 and that of its county (Houston) is 39,154. While it is not the county seat, it is the largest community in Houston County. Hawkinsville, the county seat and largest community in Pulaski County, has a population of 3,967. Pulaski County has a population of 8,204. Hawkinsville is located about 38 miles SSE of Macon. Its sole radio station is a daytime-only operation.

3. Two applications have been filed for the Hawkinsville Channel 269A, one by Tri-County Broadcasting Co., Inc., licensee of Station WCEH, Hawkinsville, and the second by the petitioner, and these have been designated for comparative hearing in Docket Nos. 17579 and 17580. The Warner Robins application was filed under the so-called "25 mile rule", § 73.203(b). Thus, the purpose of the subject petition is to provide a channel to each community and to eliminate the need for the comparative hearing.

4. WRBN submits that Warner Robins is the largest city in Georgia outside an urbanized area with no FM assignment, that the proposal would provide each community with a local FM service, that it would permit prompt establishment of

two new FM services, and that it conforms to all the rules.[2]

5. We are of the view that comments should be invited on the WRBN proposal in order that all interested parties may submit their views and relevant data. Attention is directed to the May 12, 1967, Public Notice, Policy to Govern Requests for Additional FM Assignments, and the showings required for assignments to communities which are near population centers and seeking to eliminate comparative hearings.

6. Authority for the adoption of the amendments proposed herein is contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

7. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules, interested parties may file comments on or before January 12, 1968, and reply comments on or before January 29, 1968. All submissions by parties to this proceeding or by persons acting in behalf of such parties must be made in written comments, reply comments or other appropriate pleadings.

8. In accordance with the provisions of § 1.419 of the rules, an original and 14 copies of all written comments, replies, pleadings, briefs, or other documents shall be furnished the Commission.

Adopted: December 13, 1967.

Released: December 15, 1967.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-14726; Filed, Dec. 19, 1967; 8:46 a.m.]

FEDERAL MARITIME COMMISSION

[46 CFR Part 510]

[Docket No. 67-88]

COMPENSATION AND FREIGHT FORWARDER CERTIFICATION

Notice of Proposed Rule Making

Notice is hereby given that pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553) and sections 43 and 44 of the Shipping Act, 1916 (46 U.S.C. 841a and 841b), the Federal Maritime Commission is considering the amendment of paragraph (a) of § 510.24, Title 46, CFR. The purpose of this amendment is to require a licensee forwarder to disclose the name of the actual shipper on the "shipper" line of the bill of lading, in order to be entitled to compensation, thereby enabling the conferences to more effectively police their Commission approved dual rate contracts.

Section 510.24(a) (Rule 510.24(a)) was promulgated on October 21, 1966. The purpose of the rule, as stated in the preamble thereto, was to prevent unlawful rebating and "• • • to lend a measure of integrity to lawful dual rate contracts." It has recently come to the Commission's attention, however, that certain licensee forwarders are evading the spirit, if not the letter, of the rule by naming themselves on the "shipper" line of the bill of lading as agents for a shipper who is disclosed elsewhere in the body of the bill.[1] As a result of the foregoing, conferences have been frustrated in their efforts to adequately and effectively police their dual rate contracts as required by statute and the Commission's rules.

Accordingly, in order to enable conferences to more effectively police their Commission approved dual rate contracts, it is proposed that § 510.24(a) be amended to read as follows:

§ 510.24 Compensation and freight forwarder certifications.

(a) No oceangoing common carrier shall pay to a licensee, and no licensee shall charge or receive from any such carrier, either directly or indirectly, any compensation or payment of any kind whatsoever, whether called "brokerage," "commission," "fee," or by any other name, in connection with any cargo or shipment unless the name of the actual shipper is disclosed on the shipper identification line appearing above the cargo description data of the ocean bill of lading.

• • • • • •

Interested persons may participate in this rulemaking proceeding by filing with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before January 24, 1968, an original and 15 copies of their views or arguments pertaining to the proposed amended rules. All suggestions for changes in the text as set out above should be accompanied by drafts of the language thought necessary to accomplish the desired change and by statements and arguments in support thereof.

The Federal Maritime Commission, Bureau of Compliance, Office of Hearing Counsel shall participate in the proceeding and shall file Reply to Comments on or before February 14, 1968, by serving an original and 15 copies on the Federal Maritime Commission and one copy to each party who filed written comments. Answers to Hearing Counsel's replies shall be submitted to the Federal Maritime Commission on or before March 6, 1968.

By order of the Federal Maritime Commission.

[SEAL] THOMAS LISI, *Secretary.*

[F.R. Doc. 67-14812; Filed, Dec. 19, 1967; 8:48 a.m.]

[46 CFR Part 536]

[Docket No. 67-34; General Order 13]

COMMON CARRIERS BY WATER IN FOREIGN COMMERCE OF UNITED STATES

Discontinuance of Proceeding

On May 30, 1967 (32 F.R. 7857), the Commission published a proposed rule designed to exempt certain types of vessels providing service for vehicles in the foreign commerce of the United States from the tariff filing requirements of section 18(b) of the Shipping Act, 1916.

A number of strenuous objections to the proposed rule were filed. Hearing Counsel, in reply, suggest that, in view of the number and substance of the objections, the matter warrants further consideration by the Commission staff.

The Commission is of the opinion that publication of the proposed rule in its present form would be inappropriate at this time and that the matter should be given further study. *Accordingly, it is ordered,* That this proceeding is discontinued.

By the Commission.

[SEAL] THOMAS LISI, *Secretary.*

[F.R. Doc. 67-14730; Filed, Dec. 19, 1967; 8:47 a.m.]

[1] Under this practice, the actual shipper's name usually appears in the "Description of packages and goods" column of the bill of lading.

[2] Tri-County Broadcasting Co. conditionally supports the WRBN proposal "with provision for amendment in hearing status of the application of Tri-County Broadcasting Co., Inc. (Docket No. 17569, File No. BPH-5737) to specify Channel 280." We will consider this comment and the conditional support in the proceeding itself.

Notices

DEPARTMENT OF THE TREASURY

OFFICE OF ADMINISTRATIVE SERVICES

Delegation of Authority Relating to Fees for Record Services

Pursuant to the authority vested in the Director of the Office of Administrative Services by 31 CFR 1.6(c), I hereby delegate authority to Heads of Bureaus or their delegates whose records are made available pursuant to 31 CFR Part 1 to establish appropriate fees for services rendered by their bureaus in the disclosure of records under 5 U.S.C. 552, other than fees for furnishing copies of records, and of certified and validated copies of records, and for record search.

The authority hereby delegated shall be exercised in accordance with 31 U.S.C. Supp. II, 483a, Bureau of the Budget Circular No. A-25, and supplements, and Treasury Administrative Circular 67 (Revised), and supplements.

Any fee schedule established under this delegation shall be published in the FEDERAL REGISTER, as a notice or as otherwise appropriate. A copy of the fee schedule shall be forwarded to my office.

In addition, bureaus covered by this delegation are authorized to impose and collect the following fees for furnishing facsimile copies of records by photocopy or similar process:

Size	Each page (one side) cents, each
Up to 8½" x 14"	10
Up to 12" x 18" but larger than 8½" x 14"	40
Up to 18" x 24" but larger than 12" x 18"	80

Effective date. This delegation shall be effective upon publication in the FEDERAL REGISTER.

Dated: November 29, 1967.

[SEAL] PAUL MCDONALD, *Director of Administrative Services.*

[F.R. Doc. 67-14717; Filed, Dec. 19, 1967; 8:46 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

IDAHO

Notice of Proposed Withdrawal and Reservation of Lands

DECEMBER 12, 1967.

The Corps of Engineers, Department of the Army has filed an application, Serial Number I-2013, for the withdrawal of the lands described below, from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C. Ch. 2), mineral leasing laws and the grazing of livestock, subject to valid existing rights.

The applicant desires the land for use in connection with project planning of the Ririe Dam and Reservoir, and for use as a wildfowl reserve.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Room 334, Federal Building, 550 West Fort Street, Boise, Idaho 83702.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the Department of the Army, Corps of Engineers.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in this application are:

T. 6 N., R. 39 E.,
Sec. 30, all lands within the section which are or may later be determined to be omitted Public Lands.

The area described aggregates 54.20 acres, more or less.

ORVAL G. HADLEY, *Manager, Land Office.*

[F.R. Doc. 67-14709; Filed, Dec. 19, 1967; 8:45 a.m.]

National Park Service

MESA VERDE NATIONAL PARK, COLO.

Notice of Intention to Negotiate Concession Contract

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Mr. Emmett C. Koppenhafer d.b.a. MV Pack and Saddle, authorizing him to provide concession facilities and services for the public at Mesa Verde National Park, Colo., for a period of five (5) years from January 1, 1968 through December 31, 1972.

The foregoing concessioner has performed his obligations under the prior contract to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposals to be considered and evaluated must be submitted within thirty (30) days after the publication of this notice.

Interested parties should contact the Chief of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

EDWARD A. HUMMEL, *Assistant Director, National Park Service.*

DECEMBER 12, 1967.

[F.R. Doc. 67-14731; Filed, Dec. 19, 1967; 8:46 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

UNIVERSITY OF COLORADO MEDICAL CENTER ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on

which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C.

A copy of each comment filed with the Director of the Office of Scientific and Technical Equipment must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 68-00231-33-77040. Applicant: University of Colorado Medical Center, 4200 East Ninth Avenue, Denver, Colo. 80220. Article: Double focusing Mass Spectrometer, with ion pumps, field emission source and kit of replacement parts. Manufacturer: Associated Electrical Industries Limited, United Kingdom. Intended use of article: Applicant states:

The Mass Spectrometer will be predominantly used for the identification of abnormal metabolites in biological fluids in conjunction with gas and amino acid column chromatography. These studies will be part of the Center's program for the investigation of inborn errors of metabolism. The instrument will also be used in two other programs; the first is the identification of complex brain lipids from children dying from degenerative central nervous system disease and the second is in the sequence analysis of peptides from urine and of insulin fragments from juvenile diabetics.

Application received by Commissioner of Customs: November 15, 1967.

Docket No. 68-00232-33-33300. Applicant: Carney Hospital, 2100 Dorchester Avenue, Boston, Mass. 02124. Article: Gastroscope, Machida Fiber, Model FGS-B. Manufacturer: Manabu Medical Instruments Co., Ltd., Japan. Intended use of article: Applicant states: That the article will be used "To have direct vision of the stomach—to make target biopsies of stomach. Can confirm Histology of gastric lesions via biop." Application received by Commissioner of Customs: November 15, 1967.

Docket No. 68-00233-33-02800. Applicant: Los Angeles County General Hospital, Southern California Regional Dialysis Center, 1200 North State Street, Los Angeles, Calif. 90033. Article: Artificial Kidney Machine, Jikei Model Electro-Dialyzer. Manufacturer: Tatebe Seishudo Co., Ltd., Japan. Intended use of article: Applicant states:

The Jikei Electrodialyzer, utilizes a scientific principle of electrodialysis which has not been physically evaluated, to my knowledge, in the United States. Our research program will involve the effect of voltage and current plus the effect of material transfer across semipermeable membranes. The research, to date, is limited to specific ion transfer or molecule migration with respect to electrical current inputs. The properties to be determined by the proposed research program involving the Jikei Electrodialyzer will be the above mentioned properties in relationship to whole blood in an effort to determine the operational requirements, and to establish specifications.

The intended use of the purchased equipment item is for scientific investigation into the adequacy of the principles and design of the device. * * *

Application received by Commissioner of Customs: November 15, 1967.

Docket No. 68-00234-33-46500. Applicant: Tulane University, School of Medicine, 1430 Tulane Avenue, New Orleans, La. 70112. Article: Diamond Knives and Adapters for ultramicrotomy. Manufacturer: Friedrich Dehmer, West Germany. Intended use of article: Applicant states: "The articles and accessories * * * are to be used to obtain ultrathin sections of human intestinal mucosal specimens embedded in epoxy resins. * * *" Application received by Commissioner of Customs: November 15, 1967.

Docket No. 68-00235-01-11600. Applicant: Washington University School of Medicine, Lindell and Skinker, St. Louis, Mo. 63130. Article: Combined Gas Chromatograph—Single Focusing Mass Spectrometer, LKB Model 9000 consisting of Model 9001 Analyzer Unit, 9002 Control Unit, 9065 Three-Phase Transformer, 9042 Direct Inlet System, and 9056 Thermostated Galvanometer Block. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The application shows several examples of research problems typical of those for which the instrument will be used, that are highlighted as follows: (1) The stable isotope composition of molecules which have undergone biochemical transformations will be determined. (2) Metabolic studies will be carried out on human subjects afflicted with congenital biochemical disorders. (3) Unidentified substances encountered in the examination of tissue preparations and biochemical reactions by gas chromatography will be identified through mass spectrometry. (4) Substances emerging from the gas chromotography will be studied directly by the mass spectrometer. Application received by the Commissioner of Customs: November 5, 1967.

CHARLES M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-14705; Filed, Dec. 19, 1967; 8:45 a.m.]

HARVARD UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 67-00062-15-14030. Applicant: Harvard University, Purchasing Department, 75 Mount Auburn Street, Cambridge, Mass. 02138. Article: Blink Comparator modified and with motorized drive, Type 4 with M12 drive, Serial No. 6/67. Manufacturer: Grubb Parsons & Co., Ltd., England. Intended use of article: Photographic plates of the same area of the sky taken at different times will be compared on this device to determine the appearance of new or changed objects. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for the purpose for which such article is intended to be used, was available for delivery within reasonable time. (See § 602.1(f), Title 15 CFR, 32 F.R. 2433 et seq.) Reasons: The applicant placed its order for the foreign article in April 1967. The only domestic manufacturer responding to the applicant's invitation to bid on a comparable apparatus was the Astro Mechanics, Inc. (Astro). However, the apparatus offered by Astro was not at that time in production. According to the information received from Astro (letter dated Nov. 30, 1967 and attachment thereto), the comparable domestic apparatus was available for delivery 6 months from receipt of purchase order. It is noted that this offer is dated November 1, 1967.

Accordingly, we find that at the time the applicant placed its order for the foreign article, no instrument or apparatus of equivalent scientific value to the foreign article, for the purpose for which such article is intended to be used, was being manufactured in the United States.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which was being manufactured in the United States when the applicant placed its order for the foreign article.

CHARLES M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-14706; Filed, Dec. 19, 1967; 8:45 a.m.]

NORTHWESTERN STATE COLLEGE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 67-00141-33-46040. Applicant: Northwestern State College, Natchitoches, La. 71457. Article: Electron Microscope, Hitachi Perkin-Elmer Model HU-11C. Manufacturer: Hitachi Ltd., Japan. Intended use of article: Applicant states:

The article will be used for research and teaching at graduate and undergraduate levels in the study of fine structure of cells primarily in microbiology and immunology.

1. Materials to be studied include bacteria, viruses, and related phagocytic and propagating mammalian cells.

2. Ultrastructural studies of cell walls (including cell membranes) of *Brucella*, of lysosomal relationships of staphylococcal toxin, of phagocytised bacteria and ferritin and other antigen-coated inert particles, and of morphological relationships of viruses to propagating cells are to be carried out in which 5 Angstroms resolution will be required. Studies of thin sections of less than 800 Angstroms thickness will require the increased contrast provided by a 25 kilovolt beam in contrast to the 50 kilovolt beam provided by the competitive domestic instrument.

3. Objectives of the studies include: Determination of reactive sites of serum factors upon cell wall layers of *Brucella* following treatments to remove various components. Observations of the structure of lysosomal limiting membranes of kidney tubular epithelial cells under the in vivo labilising influence of purified staphylococcal alpha toxin. Changes in phagocytised bacteria and antigen-coated inert particles upon ingestion by phagocytes. The morphologic relationships of viruses growing in propagating cells.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article provides a guaranteed resolution of 5 Angstroms. The only known comparable domestic instrument, the Model EMU-4 electron microscope manufactured by the Radio Corporation of America (RCA), provides a guaranteed resolution of 8 Angstroms. (The lower the numerical rating in terms of Angstroms, the better the resolving capabilities.) For the purposes for which the foreign article is intended to be used, we find that the difference in the resolving capabilities between the foreign article and the domestic instrument to be pertinent. (2) The foreign instrument provides accelerating voltages of 25, 50, 75, and 100 kilovolts, whereas the domestic instrument provides only 50 and 100 kilovolt accelerating voltages. It has been experimentally established that for thin unstained specimens, the optimum contrast is provided by the lower accelerating voltage of the foreign article. The purposes for which the foreign article is intended to be used include studies of thin sections of less than 800 Angstroms. Therefore, the lower accelerating voltage provided by the foreign article is pertinent.

For the foregoing reasons, we find that the RCA Model EMU-4 electron microscope is not of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLES M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-14707; Filed, Dec. 19, 1967; 8:45 a.m.]

Bureau of International Commerce

[File No. 23(67)-8]

JOHANN M. ROCKELMANN (JOMRO)

Order Denying Export Privileges for Indefinite Period

In the matter of Johann M. Rockelmann (JOMRO), Augustastrasse 59, 3440 Eschwege, Federal Republic of Germany, Respondent, File No. 23(67)-8.

The Director, Investigations Division, Office of Export Control, Bureau of International Commerce, U.S. Department of Commerce, has applied for an order denying to the above-named respondent all export privileges for an indefinite period because the said respondent, without good cause being shown, failed to furnish answers to interrogatories and failed to furnish certain records and other writings specifically requested. This application was made pursuant to § 382.15 of the Export regulations (Title 15, Chapter III, Subchapter B, Code of Federal Regulations).

In accordance with the usual practice, the application for an indefinite denial order was referred to the Compliance Commissioner, Bureau of International Commerce, who after consideration of the evidence has recommended that the application be granted. The report of the Compliance Commissioner and the evidence in support of the application have been considered.

The evidence presented shows that the respondent firm, Johann M. Rockelmann (sometimes called JOMRO), is engaged in the production and distribution of parts and accessories for textile machinery and has a place of business in Eschwege, West Germany; that Josef Heidenreich is the manager of the firm and he and his wife, Ilse Heidenreich, are coowners; that on January 2, 1967, following earlier negotiations, the respondent ordered from a supplier in the United States parts for certain textile machines. The aforesaid Investigations Division is conducting an investigation under the Export Control Act into the facts and circumstances which led to the ordering of said parts by respondent and also as to the intended ultimate destination of said parts (whether Cuba or some other unauthorized destination) to determine whether violations of the Export Control regulations were involved in the transaction. It is impracticable to subpoena the respondent, and relevant and material interrogatories relating to its participation in the transaction were served on it pursuant to § 382.15 of the Export regulations. The respondent also, pursuant to said section, was requested to furnish certain specific documents relating to the transaction. Said respondent has failed to furnish answers to said interrogatories and to furnish the documents requested as required by said section, and it has not shown good cause for such failure. I find that an order denying export privileges to said respondent for an indefinite period may properly be entered under § 382.15 of the Export regulations and that such an order is reasonably necessary to protect the public interest and to achieve effective enforcement of the Export Control Act of 1949, as amended.

Accordingly, it is hereby ordered,

I. All outstanding validated export licenses in which respondent appears or participates in any manner or capacity are hereby revoked and shall be returned forthwith to the Bureau of International Commerce for cancellation.

II. The respondent, its successors, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or which are otherwise subject to the Export regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any validated export license application; (b) in the preparation or filing of any export license application or reexportation authorization, or any document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control document; (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data in whole or in part exported or to be exported from the United States; and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondent, but also to its agents, employees, representatives, and partners, including Joseph Heidenreich and Ilse Heidenreich, coowners, and to any other person, firm, corporation, or business organization with which the respondent now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith.

IV. This order shall remain in effect until the respondent provides responsive answers to the interrogatories heretofore served upon it and furnishes the documents requested therein or gives adequate reasons for failure to do so, except insofar as this order may be amended or modified hereafter in accordance with the Export regulations.

V. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Bureau of International Commerce, shall do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondent or any related party, or whereby the respondent or related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for any such respondent or related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

VI. A copy of this order shall be served on respondent.

VII. In accordance with the provisions of § 382.15 of the Export regulations, the respondent may move at any time to vacate or modify this Indefinite Denial Order by filing with the Compliance Commissioner, Bureau of International Commerce, U.S. Department of Commerce, Washington, D.C. 20230, an appropriate motion for relief, supported by substantial evidence, and may also request an oral hearing thereon, which, if requested shall be held before the Compliance Commissioner at Washington, D.C., at the earliest convenient date.

This order shall become effective on December 21, 1967.

Dated: December 14, 1967.

RAUER H. MEYER,
Director, Office of Export Control.

[F.R. Doc. 67-14720; Filed, Dec. 19, 1967; 8:46 a.m.]

Maritime Administration

AMERICAN EXPORT ISBRANDTSEN LINES, INC.

Notice of Application for Approval of Certain Cruises

Notice is hereby given that American Export Isbrandtsen Lines, Inc., acting pursuant to Public Law 87-65, has applied to the Maritime Administration for approval of the following listed cruises by the SS Constitution in January 1968:

Sails New York	Arrives New York	Itinerary
Jan. 1	Jan. 16	San Juan, St. Thomas, St. Maarten.
Jan. 19	Jan. 27	San Juan, St. Thomas.
Jan. 27	Jan. 25	San Juan, St. Thomas, St. Maarten.

Any person, firm or corporation having any interest, within the meaning of Public Law 87-65, in the foregoing who desires to offer data, views, or arguments should submit the same in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C. 20235, by close of business on December 26, 1967. In the event an opportunity to present oral argument is also desired, specific reason for such request should also be included. The Maritime Subsidy Board will consider these comments and views and take such action with respect thereto as in its discretion it deems warranted.

Dated: December 18, 1967.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 67-14696; Filed, Dec. 19, 1967; 8:46 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

MOTOR VEHICLE POLLUTION CONTROL

California State Standards; Procedures for Public Hearing

Statement. On December 5, 1967, the Secretary of Health, Education, and Welfare, by notice published in the FEDERAL REGISTER (32 F.R. 17443, December 5, 1967) called a public hearing pursuant to section 208(b) of the Clean Air Act as amended (42 U.S.C. 1857 et seq.).

The hearing is intended to provide an opportunity for interested persons to state their views or arguments, or to provide pertinent information relating to the action proposed to be taken by the Secretary which was set out in the notice as follows:

> Now, therefore, I hereby give formal notice that after a public hearing as required by the statute, I will waive application of the prohibitions of section 208(a) to the State of California with respect to applicable State standards which are more stringent than applicable Federal standards unless I find that the State of California does not require standards more stringent than applicable Federal standards to meet compelling and extraordinary conditions or that such State standards and accompanying enforcement procedures are not consistent with section 202(a) * * *.

The pertinent standards and test procedures for 1966, 1968, and 1970 model year new motor vehicles and new motor vehicle engines are contained in the following identified publications:

Federal: 1966 and subsequent model years—45 CFR Part 85.

California: Title 17, Chapter 5, Article 2, California Administrative Code; California Test Procedure and Criteria for Motor Vehicle Exhaust Emission Control (Revised June 7, 1967) published by the California Air Resources Board (Motor Vehicle Pollution Control Board).

A copy of the above described material is available for inspection at the office of the Presiding Officer, Room 2428, HEW, South Building, Washington, D.C. 20201. Copies of the Federal regulations will be provided upon request to that office. Copies of the California standards and test procedures are available upon request to the California Air Resources Board, Suite 1066, 417 South Hill Street, Los Angeles, Calif. 90013.

Procedure. Since the public hearing is designed to give interested persons an opportunity to participate in this rule-making proceeding by the presentation of data, views, arguments, or other pertinent information concerning the Secretary's proposed action, there are no adversary parties as such. Statements by the participants will not be made under oath and the participants will not be subject to cross-examination.

Presentations by the participants should be addressed to the following considerations:

1. Whether the specific standards and related test procedures applicable to the control of emissions from 1966, 1968, and 1970 model year new motor vehicles or new motor vehicle engines adopted by the State of California and identified above are more stringent than the Federal standards and related test procedures applicable to the pertinent model year new motor vehicles or new motor vehicle engines;

2. Whether such standards and related test procedures adopted by the State of California are required to meet compelling and extraordinary conditions in the State of California; and

3. Whether such standards and related test procedures (and accompanying enforcement procedures) adopted by the State of California are consistent with section 202(a) of the Clean Air Act as amended.

In order to assure full opportunity for the presentation of data, views, and arguments by participants, the Presiding Officer will, upon request of the participants, allow a reasonable time after the close of the hearing for the submission of written data, views, arguments, or other pertinent information to be included as part of the record of the public hearing.

A verbatim record of the proceeding will be made and a copy of the transcript will be made available on request at the expense of the person so requesting.

The determination of the Secretary regarding the action to be taken under section 208(b) of the Clean Air Act with respect to the waiver of the application of the prohibitions of section 208(a) to the State of California is not required to be made solely on the record of the public hearing and other scientific engineering and related pertinent information not included in the transcript of the public hearing may also be considered.

Dated: December 18, 1967.

S. SMITH GRISWOLD,
Presiding Officer.

[F.R. Doc. 67-14795; Filed, Dec. 19, 1967; 8:48 a.m.]

AIR POLLUTION CONTROL: INTERSTATE AIR POLLUTION IN NEW YORK-NEW JERSEY METROPOLITAN AREA

Conference of Air Pollution Control Agencies; Notice of Date, Time and Place of Second Session

Whereas pursuant to § 105(c)(1)(A) of the Clean Air Act (42 U.S.C. 1857d(c)(1)(A)) the Secretary of Health, Education, and Welfare on November 22, 1966 (31 F.R. 14790) called a conference of air pollution control agencies in the New York-New Jersey Metropolitan area, and

Whereas pursuant to formal notice (31 F.R. 15201, December 1, 1966) the first session of said conference, concerned primarily with air pollution caused by sulfurous compounds and carbon monoxide was held January 3 through 13 and on January 19, 1967,

Now, therefore, pursuant to such notice of the Secretary of Health, Education, and Welfare, notice is hereby given of the second session of the conference which will be concerned primarily with air pollution caused by particulate matter. The second session will also hear reports of remedial action in accordance with recommendations issued on March 17, 1967, by the Secretary of Health, Education, and Welfare in the light of the discussions at the first session of this conference. Notice that said second session will be convened on Tuesday, January 30, 1968, beginning at 10 a.m., e.s.t., at the Alumni Hall, New York University School of Medicine, 550 First Avenue, New York, N.Y., is hereby given to the air pollution control agencies of the following:

State of New Jersey—New Jersey State Health Department.
State of New York—New York State Air Pollution Control Board.
The Interstate Sanitation Commission.

All municipalities, as defined in section 302(f) of the Clean Air Act (42 U.S.C. 1857h(f)), located in the following named counties:

New York—Nassau, Rockland, and Westchester;
New Jersey—Bergen, Essex, Hudson, Middlesex, Monmouth, Morris, Passaic, Somerset, and Union; and
The city of New York.

A technical report concerning particulate pollution in the New York-New Jersey Metropolitan Area entitled "New York-New Jersey Air Pollution Abatement Activity, Phase II Particulate Matter" and prepared for the Interstate Air Pollution Conference by the National Center for Air Pollution Control is available to interested persons from the Office of the Presiding Officer, Room 2428, South Building, Department of Health, Education, and Welfare, Washington, D.C. 20201. Interested persons desiring to present their views to the conference with respect to such report and other pertinent information should file not later than January 25, 1968, a notice of such intention and, if practicable, five copies of the proposed presentation (and other relevant material) with the office of the Presiding Officer, Room 2428, South Building, Department of Health, Education, and Welfare, Washington, D.C. 20201.

A transcript of the proceedings of this session will be maintained and will be made available on request of any person at the expense of such person.

Dated: December 18, 1967.

S. SMITH GRISWOLD,
Presiding Officer.

[F.R. Doc. 67-14799; Filed, Dec. 19, 1967; 8:48 a.m.]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 67-89]

FUNNEL MARK OF THE UNITED STATES STEEL CORP. (INTERCOASTAL AND GREAT LAKES FLEET)

Notice of Registration

The Commandant, U.S. Coast Guard, in accordance with the provisions of 19 CFR 3.81 (§ 3.81, Customs Regulations), issued under the authority of the Act of May 28, 1908, as amended (46 U.S.C. 49), has registered the funnel mark of the United States Steel Corp. (Intercoastal and Great Lakes Fleet) as described below:

(a) The funnel mark will appear on a black and silver funnel, the uppermost one-third being black and the remaining two-thirds silver. A silver colored United States Steel Corp. trademark will appear on the port and starboard sides of the funnel centered symmetrically in the black portion with the lateral axis of the trademark parallel to the collar of the funnel. The trademark consists of a silver ring, the outside diameter of which is 6', the inside diameter 5'-1½''. Centered in the ring are the letters "USS" in silver. The height of the letters is 2½'. The width of the "U" is 1.25', the width of the "S" 's is 1.3'.

Colored scale replica drawings of the funnel mark described above are on file with the Federal Register Division, National Archives and Record Service.

Dated: December 7, 1967.

W. J. SMITH,
Admiral, U.S. Coast Guard, Commandant.

[F.R. Doc. 67-14736; Filed, Dec. 19, 1967; 8:47 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-266]

WISCONSIN MICHIGAN POWER CO. AND WISCONSIN ELECTRIC POWER CO.

Notice of Issuance of Amendment to Provisional Construction Permit

Notice is hereby given that the Commission has issued, effective as of the date of issuance, Amendment No. 1, set forth below, to Provisional Construction Permit No. CPPR-32 which was issued to the Wisconsin Michigan Power Co. on July 19, 1967. Provisional Construction Permit No. CPPR-32 authorizes Wisconsin Michigan Power Co. to construct a pressurized water nuclear reactor designed to operate at 1,396 thermal megawatts (Point Beach Unit No. 1) at its site in the town of Two Creeks, Manitowoc County, Wis.

Amendment No. 1 reflects a change in the ownership of the facility. As a result of this change, the Wisconsin Electric Power Co. and the Wisconsin Michigan Power Co. each own a one-half, undivided interest in the facility.

Neither Amendment No. 1 nor this change in ownership affects Wisconsin Michigan Power Co's. responsibilities with respect to design and construction of the facility as set forth in Provisional Construction Permit No. CPPR-32.

Within fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER, the Wisconsin Michigan Power Co. or the Wisconsin Electric Power Co. may file a request for a hearing, and any person whose interest may be affected by the issuance of this amendment may file a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's rules of practice, 10 CFR Part 2. If a request for hearing or a petition for leave to intervene is filed within the time specified in this notice, the Commission will issue a notice of hearing or appropriate order.

For further details with respect to this amendment, see a copy of application, dated November 3, 1967, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C.

Dated at Bethesda, Md., this 13th day of December 1967.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[Construction Permit No. CPPR-33 Amdt. 1]

WISCONSIN MICHIGAN POWER CO., AND WISCONSIN ELECTRIC POWER CO.

AMENDMENT TO PROVISIONAL CONSTRUCTION PERMIT

The Atomic Energy Commission (the Commission) has found that:

A. The application for amendment of Construction Permit No. CPPR-33, dated November 2, 1967, complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations, 10 CFR Ch. 1.

B. Prior public notice of the proposed issuance of this amendment is unnecessary because this amendment does not involve significant hazard considerations different from those previously evaluated.

C. Issuance of this amendment will not be inimical to the common defense and security or to the health and safety of the public.

Construction Permit No. CPPR-33 is amended as follows:

1. The name, "Wisconsin Electric Power Co.," is included in the title immediately below "Wisconsin Michigan Power Co."

2. Paragraph 1. is deleted and the following is substituted:

"1. Pursuant to section 104(b) of the Atomic Energy Act of 1954, as amended (the Act) and Title 10, Chapter 1, Code of Federal Regulations, Part 50, 'Licensing of Production and Utilization Facilities', and pursuant to the order of the Atomic Safety and Licensing Board, the Atomic Energy Commission (the Commission) hereby issues a provisional construction permit to Wisconsin Michigan Power Co. and Wisconsin Electric Power Co. (the applicants) for a utilization facility designed to operate at 1,826 megawatts (thermal) (the facility), described in the application and amendments thereto filed in this matter and in evidence received at the public hearing upon that application. The facility, known as the Point Beach Unit No. 1, will be located at the applicants' site in the town of Two Creeks, Manitowoc County, Wis."

3. Paragraph 2.C. is deleted and the following is substituted:

"2.C. This construction permit authorizes Wisconsin Michigan Power Co. to own an undivided, one-half interest in the facility and to construct the facility described in the application and the hearing record in accordance with the principal architectural and engineering criteria set forth therein and authorizes Wisconsin Electric Power Co. to own an undivided, one-half interest in the facility."

4. Paragraph 2. is deleted and the following is substituted:

"2. This permit is provisional to the extent that a license authorizing operation of the facility will not be issued by the Commission to the applicants unless (a) the applicants submit to the Commission, by amendment to the application, the complete final safety analysis report, portions of which may be submitted and evaluated from time to time; (b) the Commission finds that the final design provides reasonable assurance that the health and safety of the public will not be endangered by the operation of the facility in accordance with procedures approved by it in connection with the issuance of said license; and (c) the applicants submit proof of financial protection and the execution of an indemnity agreement as required by section 170 of the Act."

This amendment is effective as of the date hereof.

Date of Issuance: December 13, 1967.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[F.R. Doc. 67-14694; Filed, Dec. 18, 1967; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 19321 etc.; Order E-26123]

SEDALIA, MARSHALL, BOONVILLE STAGE LINE, INC.

Order To Show Cause

DECEMBER 15, 1967.

Issued under delegated authority.

The establishment of service mail rates for SEDALIA, MARSHALL, BOONVILLE STAGE LINE, INC., Docket Nos. 19321, 19217, 19246, 19323, 19326; Order No. E-26126.

By notices of intent filed on November 29, and 30, 1967, pursuant to 14 CFR Part 298, the Postmaster General petitioned the Board to establish for Sedalia, Marshall, Boonville Stage Line, Inc., (Stage Line), an air taxi operator, final service mail rates of (1) 35 cents per trip mile for the transportation of mail by aircraft between Sidney, North Platte, and Grand Island, Nebr., in Piper Navajo type aircraft; (2) 35.15 cents per trip mile between Valentine and North Platte, Nebr. in Piper Twin Comanche type aircraft; (3) 36 cents per trip mile between O'Neill, Norfolk, and Grand Island, Nebr., in Piper Aztec type aircraft; (4) 49 cents per trip mile between McCook and North Platte, Nebr., in twin Comanche type aircraft; (5) 35 cents per trip mile between Chadron, Alliance, and North Platte, Nebr., in Piper Aztec type aircraft.

The Postmaster General states that the scheduled services of the certificated route carrier in these markets do not meet postal requirements. Stage Line proposes to use the all weather twin-engine type aircraft listed above in providing the mail service. No protest or objection has been filed against the services proposed in the notice of intent, and the time for filing such objections has now expired.

The Postmaster General also states that the proposed rates are acceptable to the Department and the carrier, and represent fair and reasonable rates of compensation for the services which the carrier will perform. The Postmaster General believes these services will meet postal needs in these markets.

Since no mail rates are presently in effect for this carrier in these markets, it is in the public interest to fix and determine the fair and reasonable rates of compensation to be paid to Stage Line by the Postmaster General for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notices of intent and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

1. That the fair and reasonable final service mail rates to be paid to Sedalia, Marshall, Boonville Stage Line, Inc., pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, as described in the notices of intent, shall be (1) 35 cents per trip mile between Sidney, North Platte, and Grand Island, Nebr.; (2) 35.15 cents per trip mile between Valentine and North Platte, Nebr.; (3) 36 cents per trip mile between O'Neill, Norfolk, and Grand Island, Nebr.; (4) 49 cents per trip mile between McCook and North Platte, Nebr.; and (5) 35 cents per trip mile between Chadron, Alliance, and North Platte, Nebr.

2. The final service mail rates here fixed and determined are to be paid in their entirety by the Postmaster General.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.14(f),

It is ordered, That:

1. All interested persons and particularly Sedalia, Marshall, Boonville Stage Line, Inc., the Postmaster General, and Frontier Airlines, Inc., are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rates specified above, as the fair and reasonable rates of compensation to be paid to Stage Line, for the transportation of mail by aircraft, the facilities used and useful therefore, and the services connected therewith as specified above;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and if there is any objection to the rates or to the other findings and conclusions proposed herein, notice thereof shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after the date of service of this order;

3. If notice of objection is not filed within ten days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rates specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rates shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Sedalia, Marshall, Boonville Stage Line, Inc., the Postmaster General, and Frontier Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-14726; Filed, Dec. 19, 1967; 8:46 a.m.]

[1] As this order to show cause does not constitute a final action and merely affords interested persons an opportunity to be heard on the matters herein proposed, it is not regarded as subject to the review provisions of Part 385 (14 CFR Part 385). The provisions of that part dealing with petitions for Board review will be applicable to any final action which may be taken by the staff in this matter under authority delegated in § 385.14(g).

[Docket Nos. 19321, 19323; Order No. E-26123]

TROJAN AIRWAYS, INC.

Order To Show Cause

DECEMBER 14, 1967.

Issued under delegated authority.

By notices of intent filed on November 30, 1967, pursuant to 14 CFR Part 298, the Postmaster General petitioned the Board to establish for Trojan Airways, Inc., an air taxi operator, a final service mail rate of 35 cents per trip mile for the transportation of mail by aircraft between (1) Lincoln and Grand Island, Nebr., and (2) between Omaha and Grand Island, Nebr.

The Postmaster General states that the scheduled services of the certificated route carrier in these markets do not meet postal requirements. Trojan proposes to use Beechcraft D-18-S type aircraft in providing the mail service. No protest or objection has been filed against the services proposed in the notices of intent, and the time for filing such objections has now expired.

The Postmaster General also states that the proposed rate is acceptable to the Department and the carrier, and represents a fair and reasonable rate of compensation for the services which the carrier will perform. The Postmaster General believes these services will meet postal needs in this market.

Since no mail rate is presently in effect for this carrier in these markets it is in the public interest to fix and determine the fair and reasonable rate of compensation to be paid to Trojan Airways, Inc., by the Postmaster General for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notices of intent and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

1. That the fair and reasonable final service mail rate to be paid to Trojan Airways, Inc., pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith between (1) Lincoln and Grand Island, Nebr., and (2) Omaha and Grand Island, Nebr., as described in the notices of intent, shall be 35 cents per trip mile.

2. The final service mail rate here fixed and determined is to be paid in its entirety by the Postmaster General.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR, Part 302, 14 CFR, Part 298, and 14 CFR 385.14(f),

It is ordered, That:

1. All interested persons and particularly Trojan Airways, Inc., the Postmaster General, and Frontier Airlines, Inc., are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above, as the fair and reasonable rate of compensation to be paid to Trojan Airways, Inc., for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and if there is any objection to the rate or to the other findings and conclusions proposed herein, notice thereof shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after the date of service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and if answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Trojan Airways, Inc., the Postmaster General, and Frontier Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-14729; Filed, Dec. 19, 1967; 8:46 a.m.]

[1] As this order to show cause does not constitute a final action and merely affords interested persons an opportunity to be heard on the matters herein proposed, it is not regarded as subject to the review provisions of Part 385 (14 CFR Part 385). The provisions of that part dealing with petitions for Board review will be applicable to any final action which may be taken by the staff in this matter under authority delegated in section 385.14(g).

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 17670-17672; FCC 67M-2051]

DURHAM-RALEIGH TELECASTERS, INC., ET AL.

Order Rescheduling Hearing Conference

In re applications of Durham-Raleigh Telecasters, Inc., Durham, N.C., Docket No. 17670, File No. BPCT-3882; Triangle Telecasters, Inc., Durham, N.C., Docket No. 17671, File No. BPCT-3883; WTVY, Inc., Durham, N.C., Docket No. 17672, File No. BPCT-3885; for construction permit for new television broadcast station (Channel 28).

It is ordered, That the hearing conference now scheduled for January 5, 1968, be and the same is hereby rescheduled for January 4, 1968, 2 p.m., in the Commission's offices, Washington, D.C.

Issued: December 8, 1967.

Released: December 14, 1967.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14726; Filed, Dec. 19, 1967; 8:45 a.m.]

[Docket No. 17431, 17432, FCC 67M-2072]

INDUSTRIAL COMMUNICATIONS SYSTEMS, INC.

Order Regarding Procedural Dates

In re applications of Industrial Communications Systems, Inc., for a construction permit to establish a new station in the Domestic Public Point-to-Point Microwave Radio Service at Los Angeles, Calif., Docket No. 17431, File No. 5444-C1-P-66; for a construction permit to establish a new station in the Domestic Public Point-to-Point Microwave Radio Service at Santiago Peak, Calif., Docket No. 17432, File No. 5445-C1-P-66.

It is ordered, That the unopposed motion for continuance filed by counsel for Industrial Communications Systems, Inc. is granted, and the procedural dates (FCC 67M-1849) are extended as follows:

Parties to furnish direct affirmative case exhibits on issues on which each has burden of proof to counsel for other parties and Hearing Examiner: From December 29, 1967, to January 29, 1968.

Receipt of notification of witnesses desired for cross-examination: From January 12, 1968, to February 12, 1968.

Hearing: From January 30, 1968, to March 5, 1968.

Issued: December 12, 1967.

Released: December 15, 1967.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14727; Filed, Dec. 19, 1967; 8:46 a.m.]

FEDERAL MARITIME COMMISSION

CONCORDIA LINE A/S AND FRED OLSEN AND CO.

Notice of Proposed Cancellation of Agreements

Notice is hereby given that a request for cancellation of the following agreement, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814) has been filed with the Commission.

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of intent to cancel agreement No. 8351 filed by:

Mr. Thomas K. Roche, Haight, Gardner, Poor & Havens, 80 Broad Street, New York, N.Y. 10004.

Agreement Number 8351, as amended, originally approved March 12, 1959, between Concordia Line and Fred Olsen & Co: covers the establishment and maintenance of a joint cargo liner service under the trade name "Concordia Line-Great Lakes Service" in the trades between ports of the Great Lakes of the United States and Canada, the St. Lawrence River and Seaway, Newfoundland and the Canadian Maritimes and ports of the Mediterranean and adjacent seas (including Gibraltar and Black Sea ports) and Atlantic ports of Portugal, Spain, and Morocco.

Dated: December 15, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-14731; Filed, Dec. 19, 1967; 8:47 a.m.]

FINNLINES AND MEYER LINE

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. C. E. Mahlstedt, Vice President, Boyd, Weir & Sewell, Inc., General Agents for Meyer Line, 17 Battery Place, New York, N.Y. 10004.

Agreement No. 9680, between Finnlines and Meyer Line, which operate regular services in the trades between ports in Europe and United States North Atlantic ports, provides for the interchange of cargo containers and/or related equipment in accordance with the terms and conditions set forth therein.

Dated: December 15, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-14732; Filed, Dec. 19, 1967; 8:47 a.m.]

PORT OF OAKLAND AND HOWARD TERMINAL

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement(s) at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by

Mr. J. Kerwin Rooney, Port Attorney, Port of Oakland, 66 Jack London Square, Oakland, Calif. 94607.

Agreement No. T-2110 between the Port of Oakland (Oakland) and Howard Terminal (Howard) is a nonexclusive preferential assignment agreement covering the 1 year lease of certain marine terminal property in the Port of Oakland, Calif. As compensation, Howard will pay Oakland 65 percent of all revenue from dockage, wharfage, wharf demurrage, and storage and freight transfer service charges, and retain 35 percent for itself. Howard may not use more than 25 percent of the premises for storage without Oakland's prior consent. Howard agrees to observe and enforce just and reasonable rates, regulations and practices conforming them as nearly as possible to those published in Oakland's tariff. Howard's rates, regulations and practices shall be subject to review and control by Oakland and no change therein shall be made without the prior written approval of Oakland.

Dated: December 15, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-14733; Filed, Dec. 19, 1967; 8:47 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 7-2802]

BUNKER-RAMO CORP.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

DECEMBER 14, 1967.

In the matter of application of the Philadelphia - Baltimore - Washington Stock Exchange for unlisted trading privileges in a certain security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

The Bunker-Ramo Corp., File No. 7-2802.

Upon receipt of a request, on or before December 28, 1967, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-14710; Filed, Dec. 19, 1967; 8:45 a.m.]

INTERAMERICAN INDUSTRIES, LTD.

Order Suspending Trading

DECEMBER 14, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the capital stock of Interamerican Industries, Ltd., Calgary, Alberta, Canada, being traded in the United States otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in the United States in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period December 15, 1967 through December 24, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-14711; Filed, Dec. 19, 1967; 8:45 a.m.]

[File No. 1-1277]

PENROSE INDUSTRIES CORP.

Order Suspending Trading

DECEMBER 14, 1967.

The common stock $2 par value, of Penrose Industries Corp., being listed and registered on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and the 5 percent Cumulative Convertible Preferred stock, $20 par value of Penrose Industries Corp., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the American Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period December 15, 1967 through December 24, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-14712; Filed, Dec. 19, 1967; 8:45 a.m.]

ROVER SHOE CO.

Order Suspending Trading

DECEMBER 13, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Rover Shoe Co., Bushnell, Fla., and stock purchase warrants of Rover Shoe Co. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange is summarily suspended, this order to be effective for the period December 13, 1967 through December 22, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-14722; Filed, Dec. 19, 1967; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

DECEMBER 15, 1967.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. 10132, filed November 21, 1967. Applicant: OZONE MOTOR LINE, INC., 4552 North Villere Street, New Orleans, La. Applicant's representative: John Schwab, 617 North Boulevard, Baton Rouge, La. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities*, in both directions, serving all intermediate points between La Place, La., and Ponchatoula, La.: From La Place, La., over U.S. Highway 51, to Ponchatoula, La. (for carrier operating convenience, closed doors, serving no intermediate points); thence over U.S. Highway 51 from Ponchatoula, La., to Hammond, La.; thence over U.S. Highway 190 to Baton Rouge. Both intrastate and interstate authority sought.

HEARING: Not yet assigned. Requests for procedural information, including the time for filing protests, concerning this application should be addressed to the Louisiana Public Service Commission, Baton Rouge, La. 70804, and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 67-14730; Filed, Dec. 19, 1967; 8:47 a.m.]

[Notice 511]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 14, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 217 (Sub-No. 12 TA), filed December 8, 1967. Applicant: POINT TRANSFER, INC., Post Office Box 1450, Station C, Canton, Ohio 44708. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, from the plantsite of Jones & Laughlin Steel Corp. at or near Hennepin, Putnam County, Ill., to points in Indiana, Iowa, Arkansas, Kentucky, Minnesota, Michigan, Missouri, Ohio, Oklahoma, Nebraska, Tennessee, and Wisconsin, for 150 days. Supporting shipper: Jones & Laughlin Steel Corp., 3 Gateway Center, Pittsburgh, Pa. 15230. Send protests to: G. J. Baccei, District Supervisor, Interstate Commerce Commission, 435 Federal Building, 215 Superior Avenue, Cleveland, Ohio 44114.

No. MC 13569 (Sub-No. 21 TA), filed December 8, 1967. Applicant: THE LAKE

SHORE MOTOR FREIGHT COMPANY, 1200 South State Street, Girard, Ohio 44420. Applicant's representative: A. David Millner, 744 Broad Street, Newark, N.J. 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plantsite of Jones & Laughlin Steel Corp., Putnam County, Ill., to points in Arkansas, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, Tennessee, and Wisconsin, Oklahoma, and Nebraska, for 150 days. Supporting shipper: Jones & Laughlin Steel Corp., 3 Gateway Center, Pittsburgh, Pa. 15230. Send protests to: G. J. Baccei, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 435 Federal Building, 215 Superior Avenue, Cleveland, Ohio 44114.

No. MC 30844 (Sub-No. 245 TA), filed December 8, 1967. Applicant: KROBLIN REFRIGERATED XPRESS, INC., Commercial Street, Post Office Box 5000, Waterloo, Iowa 50704. Applicant's representative: Larry L. Strickler (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles* distributed by meat packinghouses as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite and/or facilities of Geo. A. Hormel & Co., Austin, Minn., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, for 180 days. Supporting shipper: Geo. A. Hormel & Co., Post Office Box 800, Austin, Minn. 55912. Send protests to: Chas. C. Biggers, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Davenport, Iowa 52801.

No. MC 38383 (Sub-No. 22 TA), filed December 8, 1967. Applicant: THE GLENN CARTAGE COMPANY, 1115 South State Street, Girard, Ohio 44420. Applicant's representative: Henry M. Reinerth (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, from the plantsite of Jones & Laughlin Steel Corp. at or near Hennepin, Putnam County, Ill., to points in Indiana, Iowa, Arkansas, Kentucky, Minnesota, Michigan, Missouri, Ohio, Oklahoma, Nebraska, Tennessee, and Wisconsin, for 150 days. Supporting shipper: Jones & Laughlin Steel Corp., 3 Gateway Center, Pittsburgh, Pa. 15230. Send protests to: District Supervisor, G. J. Baccei, Interstate Commerce Commission, Bureau of Operations, 435 Federal Building, 215 Superior Avenue, Cleveland, Ohio 44114.

No. MC 116077 (Sub-No. 227 TA), filed December 8, 1967. Applicant: ROBERTSON TANK LINES, INC., 5700 Polk Street, Post Office Box 1505, Houston, Tex. 77001. Applicant's representative: J. C. Browder (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydrocarbon solvents*, in bulk, in tank vehicles, from Addis, La., to Pasadena, Tex., for 180 days. Supporting shipper: Ethyl Corp., T. J. Davis, General Traffic Manager, Box 341, Baton Rouge, La. 70821. Send protests to: District Supervisor, John C. Redus, Bureau of Operations, Interstate Commerce Commission, Post Office Box 61212, Houston, Tex. 77061.

No. MC 124841 (Sub-No. 5 TA) filed December 8, 1967. Applicant: DALE D. JACOBS, Route 4, Dell Avenue, Walla Walla, Wash. 99362. Applicant's representative: George R. LaBissoniere, 920 Logan Building, Seattle, Wash. 98101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beet pulp* in sacks and in bulk, from Wheeler, Moses Lake, Quincy, and Toppenish, Wash., to points in Umatilla County, Oreg., for 180 days. Supporting shipper: Archie Harris Feed Lot, Box 397, Milton-Freewater, Oreg. 97862. Send protests to: L. C. Taylor, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 401 U.S. Post Office, Spokane, Wash. 99201.

No. MC 125708 (Sub-No. 78 TA), filed December 8, 1967. Applicant: HUGH MAJOR, 150 Sinclair Avenue, South Roxana, Ill. 62087. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses*, from points in Benton and Grant Counties, Ind., and Wright County, Minn., to Brentwood, Mo., for 150 days. Supporting shipper: General Grocer Company, Box 7049, Main Post Office, St. Louis, Mo. 63177. Send protests to: Harold Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 476, 325 West Adams Street, Springfield, Ill. 62704.

No. MC 127946 (Sub-No. 3 TA), filed December 6, 1967. Applicant: MARTIN ALAN, INC., Rural Route No. 4, 46809, Post Office Box 780, Fort Wayne, Ind. 46801. Applicant's representative: Robert W. Loser, 409 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Drugs and sundries, including items dealt in by drug stores or hospitals*, from the plant and warehouse facilities of the South Bend Drug Co., Inc., South Bend, Ind., to points in that part of Indiana, on and north of U.S. Highway 40, points in the Lower Peninsula of Michigan, and that part of Ohio bounded on the east by Interstate Highway 75 from Toledo, Ohio, to its intersection with Interstate Highway 70, and bounded on the south by Interstate 70 to the Indiana-Ohio State line including points located on the highways set forth above. Restricted: The operations authorized here are limited to a transport service to be performed under a continuing contract or contracts with South Bend Drug Co., Inc., of South Bend, Ind., for 180 days. Supporting shipper: South Bend Drug Co., Inc., 1602 North Ironwood Drive, South Bend, Ind. Send protests to: District Supervisor, J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 306 Federal Building, Fort Wayne, Ind. 46802.

No. MC 128007 (Sub-No. 11 TA), filed December 7, 1967. Applicant: HOFER, INC., 4032 Parkview Drive, Post Office Box 583, Pittsburg, Kans. 66762. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Feeds*, from Pittsburg, Kans., to points in Texas, North Dakota, South Dakota, Alabama, and Louisiana, for 180 days. Supporting shipper: Harvest Brand, Inc., Post Office Box 46, Pittsburg, Kans. 66762. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 906 Schweiter Building, Wichita, Kans. 67202.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 67-14740; Filed, Dec. 19, 1967; 8:47 a.m.]

[Notice 813]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 15, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 22229 (Sub-No. 48 TA), filed December 7, 1967. Applicant: TERMINAL TRANSPORT COMPANY, INC., 248 Chester Avenue SE., 30301, Post Office Box 1918, Atlanta, Ga. 30316. Applicant's representative: Ralph B. Matthews, 248 Chester Avenue SE., Atlanta, Ga. 30316. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, serving the plantsite of Sweetheart Plastics, Inc., at or near Conyers, Ga., as an off-route point in connection with service presently authorized to and from Atlanta, Ga., for 180 days. Supporting shipper: Frank M. Cushman Associates as representative of Sweetheart Plastics, Inc., 36 South Main Street, Sharon, Mass. 02067. NOTE: Applicant intends to tack with authority MC 22229 and subs and MC 30073 and subs. Send protests to: William L. Scrogga, District Supervisor, Interstate Commerce Commission, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 28028 (Sub-No. 12 TA), filed December 7, 1967. Applicant: THE SANDERS TRUCK TRANSPORTATION CO., INC., Highway 301 North, Post Office Box 68, Allendale, S.C. 29810. Applicant's representative: William Addams, 1776 Peachtree Street NW., Atlanta, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Builtup wall panels, consisting of stone (cast or natural), wood, metal, or glass, clay, or other ceramic products, or synthetics* embedded in a resinous matrix, *brick and clay tile*, between points in Richmond County, Ga., Aiken County, S.C., on the one hand, and, on the other, points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia, for 180 days. Supporting shipper: Merry Brothers Brick & Tile Co., Post Office Box 1474, Augusta, Ga. 30903. Send protests to: Arthur B. Abercrombie, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 601A Federal Building, 901 Sumter Street, Columbia, S.C. 29201.

No. MC 110429 (Sub-No. 556 TA), filed December 7, 1967. Applicant: QUALITY CARRIERS, INC., 100 South Calumet Street, Post Office Box 339, Burlington, Wis. 53105. Applicant's representative: Fred H. Figge (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Duluth, Minn., to Bloomington, Cairo, Centralia, Champaign, Chicago, Danville, East St. Louis, Eldorado, Elgin, Galesburg, Joliet, Litchfield, Marion, Mattoon, Moline, Murphysboro, Peoria, Rock Island, Springfield, and Staunton, Ill.; Anderson, Bloomington, Evansville, Fort Wayne, Indianapolis, Madison, Marion, Muncie, Richmond, South Bend, Terre Haute, Vincennes, Yorktown, and Bluffton, Ind.; Ames, Burlington, Cedar Rapids, Charlton, Davenport, Des Moines, and Dubuque, Esterville, Fort Dodge, Iowa City, Mason City, Muscatine, Sioux City, and Waterloo, Iowa; Ashland, Bowling Green, Covington, Greenville, Glasgow, Lexington, Louisville, Owensboro, Paducah, and Springfield, Ky.; Battle Creek, Detroit, Flint, Grand Rapids, Jackson, Livonia, Muskegon, Saginaw, and Vassar, Mich.; Cape Girardeau, Jefferson City, Joplin, Kansas City, Mexico, Moberly, St. Louis, Scott City, Sikeston, Springfield, and Hannibal Mo.; Akron, Bellefontaine, Cincinnati, Cleveland, Columbus, Dayton, Lima, Springfield, Toledo, Xenia, and Youngstown, Ohio, for 180 days. Supporting shipper: Jeno's, Inc., 525 Lake Avenue South, Duluth, Minn. 55801 (Dick Archambault, General Traffic Manager). Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 119632 (Sub-No. 31 TA), filed December 7, 1967. Applicant: REED LINES, INC., 634 Ralston Avenue, Defiance, Ohio 43512. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass and plastic containers*, with or without closures and *empty fiberboard containers*, in straight or mixed shipments, from Brockway, Pa., to Chicago, Ill.; Cincinnati, Ohio; and Detroit, Mich.; for 180 days. Supporting shipper: Brockway Glass Co., Inc., Brockway, Pa. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5234 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 124841 (Sub-No. 6 TA), filed December 8, 1967. Applicant: DALE D. JACOBS, Route 4, Dell Avenue, Walla Walla, Wash. Applicant's representative: George L. LaBissoniere, 920 Logan Building, Seattle, Wash. 98101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods, plant supplies, and plant equipment*, between Milwaukie, Portland, Salem, Hillsboro, Woodburn, Ontario, Weston, Pendleton, and Milton-Freewater, Oreg., Walla Walla, Spokane, Quincy, Burlington, and Wheeler, Wash., and Heyburn, Nampa, Caldwell, Burley, Lewiston, and American Falls, Idaho. Limited to a transportation service to be performed under a continuing contract with Terminal Ice & Cold Storage Co., of Portland, Oreg. NOTE: Applicant states that he is already authorized under Docket No. MC 124841 Sub-2 to transport frozen foods, plant supplies, and plant equipment as herein applied for between Milwaukie, Portland, Salem, Hillsboro, Woodburn, Ontario, Weston, Pendleton, and Milton-Freewater, Oreg., Walla Walla and Spokane, Wash., and Heyburn, Nampa, Caldwell, Burley, Lewiston, and American Falls, Idaho; therefore applicant only seeks to add Quincy, Burlington, and Wheeler, Wash., to the authority already authorized at Terminal Ice & Cold Storage Co. locations in the State of Washington, in order to give a complete interplant service for this supporting shipper, for 180 days. Supporting shipper: Terminal Ice & Cold Storage Co., 514 Pittock Block, Portland, Oreg. 97205. Send protests to: L. C. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 401 U.S. Post Office, Spokane, Wash. 99201.

No. MC 126045 (Sub-No. 10 TA), filed December 8, 1967. Applicant: ALTER TRUCKING AND TERMINAL CORPORATION, 2333 Rockingham Road, Post Office Box 3123, Davenport, Iowa. Applicant's representative: John W. Lavender (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, from La Crosse, Wis., to points in Minnesota, for 180 days. Supporting shipper: International Salt Co., Clarks Summit, Pa. Send protests to: Chas. C. Biggers, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Davenport, Iowa 52801.

No. MC 127047 (Sub-No. 5 TA), filed December 8, 1967. Applicant: ED RACHITE & SON, INC., 5409 North Broadway, Wichita, Kans. 67219. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Thermal insulation products, material supplies and equipment used in the installation thereof*, between Shreveport, La., Kansas City and Wichita, Kans., Aurora, Ill., and points in Michigan, Indiana, Wyoming, Louisiana, Kansas, Missouri, Oklahoma, and Colorado, for 180 days. Supporting shipper: Insulation Industries, Inc., 307 South Hydraulic, Wichita, Kans. 67211. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 906 Schweiter Building, Wichita, Kans. 67202.

No. MC 127789 (Sub-No. 4 TA), filed December 7, 1967. Applicant: BENETTI TRUCKING CORPORATION, 226 Berry Street, Brooklyn, N.Y. 11211. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, N.Y. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Housewares and kitchen gadgets*, between Old Bethpage, N.Y., on the one hand, and, on the other, points in the New York, N.Y., commercial zone, including Port Newark and the port authority piers in Elizabeth, N.J., for 150 days. Supporting shipper: Wall Trading Corp., 156 Fifth Avenue, New York, N.Y. 10010. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 346 Broadway, New York, N.Y. 10013.

No. MC 127832 (Sub-No. 2 TA), filed December 7, 1967. Applicant: C & S TRANSFER, INC., Post Office Box 5249, Macon, Ga. 31208. Applicant's representative: William Addams, 1776 Peachtree Street, NW., Atlanta, Ga. 30309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and supplies and equipment* used in the operation of cafeterias and restaurants for the account of State Wholesale Foods, Inc., between Macon, Ga., and Anniston, Auburn, Dothan, Gadsden, Huntsville, Oneonta, and Sylacauga, Ala., for 150 days. Supporting shipper: State Wholesale Food, Inc., 507 Fifth Street, Macon, Ga. 31201. Send protests to: William L. Scrogga, District Supervisor, Interstate

Commerce Commission, Bureau of Operations, Room 300, 1252 West Peachtree Street, NW., Atlanta, Ga. 30309.

No. MC 123007 (Sub-No. 12 TA), filed December 7, 1967. Applicant: HOFER, INC., Post Office Box 583, 4032 Parkview Drive, Pittsburg, Kans. 66762. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed ingredients*, from Nebraska City and Omaha, Nebr., to points in Missouri on and north of Interstate Highway I-70 and west of U.S. Highway 63, for 180 days. Supporting shipper: Hooker Chemical Corp., Farm Chemicals Division, 79 Progress Parkway, Maryland Heights, Mo. 63042. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 906 Schweiter Building, Wichita, Kans. 67202.

No. MC 129550 (Sub-No. 1 TA), filed December 8, 1967. Applicant: HOWARD W. MIXON AND FRED MIXON, JR., a partnership, doing business as MIXON BROS., Box 131, Idabel, Okla. 74745. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products*, unfrozen, from Hope, Ark., to points in Washington, Oregon, California, Arizona, Nevada, Idaho, Montana, Wyoming, Colorado, New Mexico, Texas, Utah, and Oklahoma, for 150 days. Supporting shipper: Meyer's Bakery of Hope, Post Office Drawer M, Hope, Ark. 71801. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 350, American General Building, 210 Northwest Sixth, Oklahoma City, Okla. 73102.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-14741; Filed, Dec. 19, 1967; 8:47 a.m.]

[Notice 477]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

DECEMBER 15, 1967.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission, under the Commission's Deviation Rules Revised, 1957 (49 CFR 211.1(c)(8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1(d)(4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1(c)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 40719 (Deviation No. 2), PAYNE FREIGHT LINES, INC., 1515 Maine Street, Des Moines, Iowa 50314, filed December 7, 1967. Carrier's representative: Stephen Robinson, 2212 39th Street, Des Moines, Iowa 50310. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Des Moines, Iowa, over city streets to Iowa Highway 415, thence north over Iowa Highway 415 to junction Interstate Highway 80, thence west over Interstate Highway 80 to junction Interstate Highway 29, thence south over Interstate Highway 29 to Omaha, Nebr., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Des Moines, Iowa, over Iowa Highway 60 to junction Interstate Highway 35, thence south over Interstate Highway 35 to junction Iowa Highway 92, thence west over Iowa Highway 92 to junction U.S. Highway 169, thence south over U.S. Highway 169 to Mount Ayr, Iowa, and (2) from Tingley, Iowa, over Iowa Highway 259 to junction U.S. Highway 169, thence over U.S. Highway 169 to Afton, Iowa, thence over U.S. Highway 34 to junction U.S. Highway 275, thence over U.S. Highway 275 to Council Bluffs, Iowa, thence across the Missouri River to Omaha, Nebr., and return over the same routes.

No. MC 59680 (Deviation No. 54), STRICKLAND TRANSPORTATION CO., INC., Post Office Box 5689, Dallas, Tex. 75222, filed December 5, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicles, of *general commodities*, with certain exceptions, over a deviation route as follows: Between Springfield, Mass., and Cleveland, Ohio, over Interstate Highway 90, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Springfield, Mass., over U.S. Highway 5 to New Haven, Conn., thence over U.S. Highway 1 to Newark, N.J., thence over the New Jersey Turnpike to junction Pennsylvania Turnpike, thence over the Pennsylvania Turnpike to junction Ohio Turnpike, thence over the Ohio Turnpike to junction U.S. Highway 21, thence over U.S. Highway 21 to Cleveland, Ohio, and return over the same route.

No. MC 76177 (Deviation No. 3), BAGGETT TRANSPORTATION COMPANY, 2 South 32d Street, Birmingham, Ala. 35233, filed December 6, 1967. Carrier's representative: Harold G. Hernly, 711 14th Street NW., Washington, D.C. 20005. Carrier proposes to operate as a *common carrier*, by motor vehicles, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Athens, Ala., over Interstate Highway 65 to Birmingham, Ala., (2) from Birmingham, Ala., over Interstate Highway 65 to Montgomery, Ala., (3) from Attalla, Ala., over Interstate Highway 59 to Chattanooga, Tenn., (4) from Attalla, Ala., over Interstate Highway 59 to Birmingham, Ala., (5) from Atlanta, Ga., over Interstate Highway 75 to Cartersville, Ga., (6) from Atlanta, Ga., over Interstate Highway 85 to Montgomery, Ala., (7) from Birmingham, Ala., over Interstate Highway 20 to Atlanta, Ga., (8) from Birmingham, Ala., over Interstate Highway 65 to Mobile, Ala., and (9) from Mobile, Ala., over Interstate Highway 10 to New Orleans, La., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Athens, Ala., over U.S. Highway 31 to Birmingham, Ala., (2) from Birmingham, Ala., over U.S. Highway 31 to Montgomery, Ala., (3) from Attalla, Ala., over U.S. Highway 411 to Centre, Ala., thence over Alabama Highway 9 to Cedar Bluff, Ala., thence over Alabama Highway 68 to the Alabama-Georgia State line, thence over Georgia Highway 114 to Summerville, Ga., thence over U.S. Highway 27 to Chattanooga, Tenn., (4) from Attalla, Ala., over U.S. Highway 11 to Birmingham, Ala., (5) from Atlanta, Ga., over U.S. Highway 41 to Cartersville, Ga., (6) from Atlanta, Ga., over U.S. Highway 41 to junction U.S. Highway 411, thence over U.S. Highway 411 via Rome, Ga., and Gadsden, Ala., to junction U.S. Highway 11, thence over U.S. Highway 11 to Birmingham, Ala., (7) from Birmingham, Ala., over U.S. Highway 31 to Jemison, Ala., thence over Alabama Highway 191 to Maplesville, Ala., thence over Alabama Highway 22 to Selma, Ala., thence over Alabama Highway 41 to junction Alabama Highway 21, thence over Alabama Highway 21 to Atmore, Ala., thence over U.S. Highway 31 to Mobile, Ala., and (8) from Mobile, Ala., over U.S. Highway 90 to New Orleans, La., and return over the same routes.

No. MC 107605 (Deviation No. 3), ADVANCE-UNITED EXPRESSWAYS, INC., 2601 Broadway Road, Minneapolis, Minn. 55413, filed December 6, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes, as follows: (1) From St. Paul, Minn., over Interstate Highway 94 to junction Interstate Highways 90 and 94 east of Tomah, Wis., thence over Interstate Highways 90 and 94 to junction Interstate Highways 90 and 94 east of Madison, Wis., thence over Interstate Highway 90 to Chicago, Ill., (2) from La Crescent, Minn., over Interstate Highway 90 to junction Interstate Highways 90 and 94 east of Tomah, Wis., thence over the route described in (1) above to Chicago, Ill., (3) from St. Paul, Minn., over Interstate Highway 94 to junction Interstate Highways 90 and 94, east of Tomah, Wis., thence over Interstate Highways 90 and 94 to Madison, Wis., (4) from La Crescent, Minn., over Interstate Highway 90 to junction Interstate Highways 90 and 94 east of Tomah, Wis., thence over the route described in (3) above to Madison, Wis., (5) from Madison, Wis., over Interstate Highway 94 to Milwaukee, Wis., restricted to the transportation of shipments moving between the Minneapolis-St. Paul, Minn., commercial zone, on the one hand, and, on the other, Milwaukee, Wis., and (6) from Chicago, Ill., over Interstate Highway 94 to Milwaukee, Wis., and thence over Interstate Highway 94 to Madison, Wis., and thence over Interstate Highways 90 and 94 as described above to St. Paul, Minn., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows:

(1) From St. Paul, Minn., over U.S. Highway 21 to Chicago, Ill. (also from St. Paul, Minn., over U.S. Highway 61 to La Crosse, Wis., thence over U.S. Highway 16 to Tomah, Wis., thence over U.S. Highway 12 to Chicago, Ill.), (2) from St. Paul, Minn., over U.S. Highway 12 to Madison, Wis. (also from St. Paul over U.S. Highway 61 to La Crosse, Wis., thence over U.S. Highway 16 to Tomah, Wis., thence over U.S. Highway 12 to Madison), (3) from Madison, Wis., over Wisconsin Highway 30 to Milwaukee, Wis., restricted to the transportation of shipments moving between the Minneapolis-St. Paul, Minn., commercial zone, on the one hand, and, on the other, Milwaukee, Wis., (4) from Chicago, Ill., over U.S. Highway 41 to Pleasant Prairie, Wis., restricted to the transportation of shipments between Chicago, Ill., and Minneapolis, Minn., and (5) from Pleasant Prairie, Wis., over U.S. Highway 41 to Milwaukee, Wis., thence over Wisconsin Highway 145 to junction U.S. Highway 45, thence over U.S. Highway 45 to Fond du Lac, Wis., thence over U.S. Highway 41 to Oshkosh, Wis., thence over Wisconsin Highway 110 to junction U.S. Highway 10, thence over U.S. Highway 10 to Fairchild, Wis. thence over U.S. Highway 12 to Minneapolis, Minn., and return over the same route.

No. MC 111594 (Deviation No. 10), C. W. TRANSPORT, INC., High Street, Wisconsin Rapids, Wis. 54494, filed December 7, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction U.S. Highways 10 and 12 at Fairchild, Wis., over U.S. Highway 10 to junction Interstate Highway 94, thence over Interstate Highway 94 to junction U.S. Highway 12 near Eau Claire, Wis., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From junction U.S. Highways 12 and 10 at Fairchild, Wis., over U.S. Highway 12 to junction Interstate Highway 94, near Eau Claire, Wis., and return over the same route.

MOTOR CARRIER OF PASSENGERS

No. MC 61616 (Deviation No. 26), MIDWEST BUSLINES, INC., 433 West Washington Avenue, North Little Rock, Ark. 72114, filed December 4, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From junction U.S. Highway 64 and Interstate Highway 40, 3.7 miles west of Mulberry, Ark., over Interstate Highway 40 to junction U.S. Highway 71, thence over U.S. Highway 71 (an access road) to Alma, Ark., a distance of 7.8 miles, and (2) from Alma, Ark., over U.S. Highway 71 (an access road) to junction Interstate Highway 40, thence over Interstate Highway 40 to junction Interstate Highway 540, thence over Interstate Highway 540 (an access road) to Van Buren, Ark., a distance of 7 miles, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Fort Smith, Ark., over U.S. Highway 64 to junction U.S. Highway 65, thence over U.S. Highway 65 to junction U.S. Highway 70, thence over U.S. Highway 70 to Memphis, Tenn., and return over the same route.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-14742; Filed, Dec. 19, 1967; 8:47 a.m.]

[Notice 1139]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

DECEMBER 15, 1967.

The following publications are governed by Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER issue of April 20, 1966, which became effective May 20, 1966.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 113941 (Sub-No. 320), filed December 11, 1967. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 Bankhead Highway West, Post Office Box 2169, Birmingham, Ala. 35201. Applicant's representative: C. E. Wesley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foods, foodstuffs, and food preparations, and advertising, premiums, and display materials* when moving therewith, in vehicles equipped with mechanical refrigeration (except bananas and commodities in bulk in tank vehicles), from points in the New York, N.Y., commercial zone as defined by the Commission in 1 M.C.C. 665, points in New York within 5 miles of the New York, N.Y., commercial zone and points in Bergen, Essex, Hudson, Passaic, and Union Counties, N.J., to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, points in Pennsylvania on and west of U.S. Highway 15, West Virginia and Wisconsin. NOTE: Applicant states it can already serve some of these same states either direct or by tacking over points in Tennessee and that this application will help to reduce the amount of tacking required to these various States. However, tacking will be done if any be feasible.

HEARING: January 15, 1968, in the Federal Trade Commission, Hearing Room B, 14th floor, 26 Church Street, New York, N.Y., before Examiner Isadore Freidson.

No. MC 39249 (Sub-No. 4) (Republication), filed December 22, 1966, published FEDERAL REGISTER issue January 19, 1967, and republished this issue. Applicant: MARTIN MARANO, doing business as MARTY'S EXPRESS, 1236 Adams Avenue, Philadelphia, Pa. 19135. Applicant's representative: Stephen J. Kovrak, 5712 Torresdale Avenue, Philadelphia, Pa. 19135. By application filed December 22, 1966, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle over irregular routes of rugs, linoleum, all floor coverings and related articles and return of cones used in the transportation thereof (1) from Wilmington, Del., to Willow Grove and Philadelphia, Pa., and (2) from Pennsauken, N.J., to Willow Grove and Philadelphia, Pa. A supplemental order of the Commission, Operating Rights Board dated November 30, 1967, and served December 12, 1967, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce as a common carrier by motor vehicle, over irregular routes, of (1) rugs from Willow Grove, Pa., to Philadelphia, Pa., and (2) jute from Wilmington, Del., and Pennsauken, N.J., to Willow Grove, Pa.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings, in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30

days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 126145 (Sub-No. 10) (Republication), filed June 26, 1967, published FEDERAL REGISTER issue of July 13, 1967, and republished this issue. Applicant: PHILLIPS TRUCKING, a corporation, 20299 Valley Boulevard, Rialto, Calif. 92376. Applicant's representative: R. Y. Schureman, 1016 Wilshire Boulevard, Los Angeles, Calif. 90017. By application filed June 26, 1967, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes of *aggregates* (except cement and pozzolan) used in the manufacture of cement, concrete or concrete products, or for roofing or landscaping, between points in Inyo, Mono, Riverside, San Bernardino, San Diego, and Ventura Counties, Calif., on the one hand, and, on the other, points in Clark and Nye Counties, Nev., restricted against the transportation of aggregates in bags or sacks from points in Clark County, Nev., to points in California above described. An order of the Commission, Operating Rights Board, dated November 21, 1967, and served December 7, 1967, finds that operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of (1) aggregates (except cement and pozzolan) from points in Inyo, Mono, San Bernardino, Ventura, and Riverside Counties, Calif., to points in Nye and Clark Counties, Nev., and (2) *aggregates* (except cement and pozzolan), in bulk, from Las Vegas, Nev., to points in Riverside, San Bernardino, San Diego, Ventura, Mono, and Inyo Counties, Calif.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 127806 (Sub-No. 5) (Republication), filed July 20, 1967, published FEDERAL REGISTER issues August 3, 1967, and November 22, 1967, and republished this issue. Applicant: BEER TRANSPORT, INC., 130 Steamboat Road, Great Neck, N.Y. Applicant's representative: Edward F. Bowes, 1060 Broad Street, Newark, N.J. 07102. By application filed July 20, 1967, applicant seeks a permit authorizing operation, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of (1) Malt beverages (other than in bulk in tank vehicles) and advertising materials, between Brooklyn, N.Y., and Orange, N.J., plantsites of Rheingold Breweries, Inc., on the one hand, and, on the other, the plantsite of Jacob Ruppert, Inc., at New Bedford, Mass., (2) hops in bales, yeast in barrels, and brewing supplies, including brewing chemicals in fiber barrels or metal drums and ditamatious earth in bags, from Brooklyn, N.Y., and Orange, N.J., to New Bedford, Mass., under contract with Rheingold Breweries, Inc., in (1) and (2) above; and (3) malt beverages (other than in bulk in tank vehicles), and advertising materials from the plantsite of Jacob Ruppert Brewery, Inc., in New Bedford, Mass., to Weathersfield, Willimantic, and Fairfield, Conn., under contract with C. Carbone & Co., Inc. A supplemental order of the Commission, Operating Rights Board dated November 21, 1967, and served December 11, 1967, as amended, finds that operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of (1) *malt beverages*, in containers, and related advertising materials, between Brooklyn, N.Y., and Orange, N.J., plantsites of Rheingold Breweries, Inc., on the one hand, and, on the other, plantsite of Jacob Ruppert, Inc., at New Bedford, Mass.

(2) *Brewery materials, and supplies* (except in bulk), from Brooklyn, N.Y., and Orange, N.J., to New Bedford, Mass., under a continuing contract with Rheingold Breweries, Inc., in (1) and (2) above; (3) *malt beverages*, in containers, and *related advertising materials*, from the plantsite of Jacob Ruppert Brewery, Inc., in New Bedford, Mass., to Weathersfield, Willimantic, and Fairfield, Conn., under a continuing contract with Ramapo Valley Distributors, Inc., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced, as a contract carrier by motor vehicle, over irregular routes, of (1) Malt beverages (other than in bulk in tank vehicles) and advertising materials, between Brooklyn, N.Y., and Orange, N.J., plantsites of Rheingold Breweries, Inc., on the one hand, and, on the other, the plantsite of Jacob Ruppert, Inc., at New Bedford, Mass., (2) hops in bales, yeast in barrels, and brewing supplies, including brewing chemicals in fiber barrels or metal drums and ditamatious earth in bags, from Brooklyn, N.Y., and Orange, N.J., to New Bedford, Mass., under contract with Rheingold Breweries, Inc., in (1) and (2) above; and (3) malt beverages (other than in bulk in tank vehicles), and advertising materials from the plantsite of Jacob Ruppert Brewery, Inc., in New Bedford, Mass., to Weathersfield, Willimantic, and Fairfield, Conn., under contract with C. Carbone & Co., Inc. A supplemental order of the Commission, Operating Rights Board dated November 21, 1967, and served December 11, 1967, as amended, finds that operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of (1) *malt beverages*, in containers, and related advertising materials, between Brooklyn, N.Y., and Orange, N.J., plantsites of Rheingold Breweries, Inc., on the one hand, and, on the other, plantsite of Jacob Ruppert, Inc., at New Bedford, Mass.

(2) *Brewery materials, and supplies* (except in bulk), from Brooklyn, N.Y., and Orange, N.J., to New Bedford, Mass., under a continuing contract with Rheingold Breweries, Inc., in (1) and (2) above; (3) *malt beverages*, in containers, and *related advertising materials*, from the plantsite of Jacob Ruppert Brewery, Inc., in New Bedford, Mass., to Weathersfield, Willimantic, and Fairfield, Conn., under a continuing contract with Ramapo Valley Distributors, Inc., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 129811 (Republication), filed August 7, 1967, published FEDERAL REGISTER issue of August 25, 1967, and republished this issue. Applicant: IRVING L. GEER, doing business as I. L. GEER, 211 Terrace Street, Warren, Pa. 16365. Applicant's representative: Kenneth T. Johnson, Bank of Jamestown Building, Jamestown, N.Y. 14701. By application filed August 7, 1967, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle over irregular routes, of crude oil in tank trucks (straight) having a capacity of not over 4,500 gallons, from the townships of Busti and Kiantone in Chautauqua County, N.Y., to Mead Township, Warren County, Pa. An order of the Commission, Operating Rights Board dated November 30, 1967, and served December 7, 1967, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of *crude oil*, in tank vehicles, from points in the townships of Busti and Kiantone in Chautauqua County, N.Y., to points in Mead Township, Warren County, Pa.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

APPLICATION FOR CERTIFICATE OR PERMIT WHICH IS TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 1.240 TO THE EXTENT APPLICABLE

No. MC 7078 (Sub-No. 17), filed December 6, 1967. Applicant: NEMASKET TRANSPORTATION COMPANY, INC., 54 Grove Street, Middleboro, Mass. 02346. Applicant's representative: Kenneth B. Williams, 111 State Street, Boston, Mass. 02109. Authority sought to operate as a *common carrier*, by motor vehicle, transporting: (A) Over regular routes: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading), between Boston and Medway, Mass., (1) from Boston over U.S. Highway 1 to junction Massachusetts Highway 109, thence over Massachusetts Highway 109 to Medway; (2) from Boston over U.S. Highway 1 to junction Massachusetts Highway 1A, thence over Massachusetts Highway 1A to Walpole, Mass., thence over Massachusetts Highway 27 to Medfield, Mass., thence over Massachusetts Highway 109 to Medway; and (3) from Boston to Walpole, Mass., as specified above, thence over Massachusetts Highway 1A to Wrentham, thence over Massachusetts Highway 140 to Franklin, Mass., thence over unnumbered highway to Medway; and return over the same routes, serving the intermediate and off-route points of Dedham, Westwood, Norwood, Walpole, Norfolk, Wrentham, and Franklin, Mass. (B) Over irregular routes: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading), between points in Massachusetts. NOTE: This application is a matter directly related to Docket No. MC-F-9968, published FEDERAL REGISTER issue of December 13, 1967. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240.)

MOTOR CARRIERS OF PROPERTY

No. MC-F-9901 (Amendment) (ORIOLE MOTOR CARRIER CORP.—Purchase—MOTOR CARRIER CORP.), published in the October 11, 1967, issue of the FEDERAL REGISTER, on page 14137. By amendment, filed December 11, 1967, the name of vendee is changed to MILFORD EXPRESS, INC., in lieu of Oriole Motor Carrier Corp.

No. MC-F-9971. Authority sought for purchase by INTERNATIONAL TRANSPORT, INC., South Highway 52, Rochester, Minn. 55901, of the operating rights of JETWAY, INC., Box 230, Lansdale, Pa. 19446, and for acquisition by HOWELL INTERNATIONAL, INC., and, in turn by PAUL S. DOPP, both of 29 Broadway, New York, N.Y., of control of such rights through the purchase. Applicants' attorneys and representative: Axelrod, Goodman and Steiner, 39 South La Salle Street, Chicago, Ill. 60603, and John W. Frame, Post Office Box 626, 2207 Old Gettysburg Road, Camp Hill, Pa. 17011. Operating rights sought to be transferred: *Machinery*, as a *common carrier*, over irregular routes, between certain specified points in Pennsylvania, on the one hand, and, on the other, points in Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, Ohio, and the District of Columbia; and *building construction materials* which, because of size or weight, require the use of special equipment or special handling, between Wilkes-Barre, Pa., and points within 10 miles of Wilkes-Barre, on the one hand, and, on the other, points in New York, New Jersey, Connecticut, Rhode Island, and Massachusetts. Vendee is authorized to operate as a *common carrier* in all points in the United States. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-9972. Authority sought for purchase by BROWN MOTOR LINES, INC., Rural Delivery No. 2, Lowellville, Ohio, of the operating rights of CHARLES H. OAKES (HOMER J. MICKLETHWAITE, Executor), 402 Masonic Temple, Portsmouth, Ohio, and for acquisition by RICHARD H. DEARING, 40 Coblents Drive, Poland, Ohio, of control of such rights through the purchase. Applicants' attorney: Earl N. Merwin, 85 East Gay Street, Columbus, Ohio 43215. Operating rights sought to be transferred: *Natural stone*, rough quarried, sawed, chipped, dressed, polished, or otherwise treated, as a *common carrier*, over irregular routes, from McDermott, Ohio, to certain specified points in Pennsylvania and West Virginia; and *steel*, structural or fabricated, from Huntington, W. Va., to Cleveland, Ohio, from Pittsburgh, Pa., to Georgetown and Youngstown, Ohio. Vendee is authorized to operate as a *common carrier* in Ohio, New York, Pennsylvania, and West Virginia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-9973. Authority sought for purchase by BASS TRANSPORTATION CO., INC., Old Croton Road, Flemington, N.J. 08822, of the operating rights of OCO TRANSPORTATION CO., 3328 Vega Avenue, Cleveland, Ohio 44113, and for acquisition by LEO Y. SELESNICK, and IRA BASS, both also of Flemington, N.J., of control of such rights through the purchase. Applicants' representative: Bert Collins, 140 Cedar Street, New York, N.Y. 10006. Operating rights sought to be transferred: (A) *Pulpboard and byproducts thereof, fiberboard and byproducts thereof*, and *paperboard and byproducts thereof*, as a *contract carrier*, over irregular routes, from certain specified points in Ohio, to points in Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, Missouri, New Jersey, New York, Pennsylvania, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia, from Rittman, Ohio, to points in Connecticut, Massachusetts, and Rhode Island; *machinery, materials and supplies* (except waste paper, liquid commodities in bulk, and those commodities requiring the use of special equipment) used in the manufacture of pulpboard and byproducts thereof, fiberboard and byproducts thereof, and paperboard and byproducts thereof, from points in Connecticut, Massachusetts, and Rhode Island, to Rittman, Ohio, from points in Delaware, Illinois, Indiana (except South Bend), Kentucky, Maryland, Michigan (except Plymouth), Missouri, New Jersey, New York (except Lockport), Pennsylvania (except Pittsburgh), Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia, to certain specified points in Ohio; *paperboard and paperboard products*, from Lancaster, Pa., to points in New York, New Jersey, Delaware, Maryland, Virginia, Ohio, West Virginia, and the District of Columbia; *skids, pallets, and containers* on or in which such paperboard and paperboard products are shipped from points in the destination territory specified immediately above to Lancaster, Pa.;

Machinery, materials, and supplies used in the manufacture of paperboard and paperboard products (except liquid commodities in bulk, and except waste paper), from points in New York (except New York, N.Y.), New Jersey (except Hudson, Essex, and Bergen Counties), Delaware, and Ohio, to Lancaster, Pa.; *skids, pallets, and containers* on or in which such machinery, materials, and supplies are shipped, from Lancaster, Pa., to points in the origin territory specified immediately above. Restriction: The operations authorized above are limited to a transportation service to be performed under a continuing contract, or contracts, with Packaging Corp. of America, Rittman, Ohio; (B) *waste paper*, from points in Tennessee, Virginia, and Wisconsin, to Akron and Cleveland, Ohio, from points in Tennessee, Virginia, and Wisconsin, to Rittman, Ohio, from points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Missouri, New York, New Jersey, Pennsylvania, Rhode Island, West Virginia, and the District of Columbia, to certain specified points in Ohio; and *skids, pallets, and empty containers* on or in which waste paper is shipped, from Rittman, Ohio, to points in Tennessee, Virginia, and Wisconsin, from certain specified points in Ohio, to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Missouri, New York, New Jersey, Pennsylvania, Rhode Island, West Virginia, and the District of Columbia. Restriction: The operations authorized in section (B) hereof, are limited to a transportation service to be performed under a continuing contract, or contracts, with the following shippers: Oco Wastepaper Co., Cincinnati, Ohio, Akron Industrial Salvage Co., Akron, Ohio, Packaging Corp. of America, Rittman, Ohio. Vendee is authorized to operate as a *contract carrier* in New York, New Jersey, Maine, Connecticut, Rhode Island, Massachusetts, New Hampshire, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Nebraska, Oklahoma, Wisconsin, Wyoming, Illinois, Indiana, Michigan, Kentucky, Louisiana, Mississippi, Tennessee, Alabama, Georgia, Florida, North Carolina, South Carolina, California, Washington, Oregon, Utah, Nevada, Montana, New Mexico, Vermont, North Dakota, South Dakota, Texas, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-9974. Authority sought for purchase by C & E TRUCKING CORPORATION, Saugerties, N.Y., of the operating rights of PALMER TRANSFER, INC. (THOMAS J. FOLEY, JR., Trustee In Bankruptcy), 803–810 Connell Building, Scranton, Pa. 18503, and for acquisition by EARL STACKS, c/o C & E Trucking, Saugerties, N.Y., of control of such rights through the purchase. Applicants' attor-

ney and representative: Herbert Burstein, 160 Broadway, New York, N.Y. 10038, and Albert H. Aston, 900 Miners National Bank Building, Wilkes-Barre, Pa. 18701. Operating rights sought to be transferred: *Cream*, as a *common carrier*, over irregular routes, from certain specified points in New York, and Mansfield, Pa., to Harrisonburg and Richmond, Va., and Somerville, Mass.; *ice cream mixtures*, from certain specified points in New York, and Mansfield, Pa., to Philadelphia, Pa., Richmond and Harrisonburg, Va., Newark, N.J., New York, N.Y., and Somerville, Mass.; *milk* and *milk products*, between certain specified points in Pennsylvania, New Jersey, and New York; *flour*, in bulk, in hopper-type vehicles, from Buffalo, N.Y., to Scranton, Pa.; *dry sugar*, in bulk, in insulated hopper-type trailers, from Philadelphia, Pa., to points in New Jersey, Delaware, Maryland, and certain specified points in Virginia and West Virginia; and *ice cream mix*, in bulk, in tank vehicles, from Dushore, Pa., to Southbury, Conn. Vendee is authorized to operate as a *contract carrier* in New York, Vermont, Maryland, Pennsylvania, Virginia, New Jersey, Delaware, and New Hampshire. Application has been filed for temporary authority under section 210a(b).

No. MC-F-9975. Authority sought for purchase by ALL-AMERICAN TRANSPORT, INC., 1500 Industrial Avenue, Sioux Falls, S. Dak. 57101, of the operating rights of KEY TRUCKING CO., INC., Post Office Box 398, Cicero, Ill. 60650, and for acquisition by BUFFALO EXPRESS, INC., and, in turn by H. LAUREN LEWIS, both also of Sioux Falls, S. Dak., of control of such rights through the purchase. Applicants' attorneys: Axelrod, Goodman, and Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC-120542 Sub-1, covering the transportation of household goods and commodities in general, as a common carrier, in intrastate commerce, within the State of Illinois. Vendee is authorized to operate as a *common carrier* in Wisconsin, Iowa, Illinois, South Dakota, Minnesota, Nebraska, and North Dakota. Application has been filed for temporary authority under section 210a (b). NOTE: MC-29120 Sub-No. 97 is a matter directly related.

No. MC-F-9976. Authority for merger into FOWLER & WILLIAMS, INC., 1300 Meylert Avenue, Scranton, Pa., of the operating rights and property of PERKIOMEN TRANSFER, INC., Schoenerville Road and Coolidge Avenue, Allentown, Pa., and for acquisition by HILTON G. FOWLER (MRS. H. G. (E. M.) FOWLER AND MICHAEL J. FOWLER, Trustees), both also of Scranton, Pa., of control of such rights and property through the transaction. Applicants' attorneys: John J. Dempsey, Jr., Suite 1200 Miners National Bank Building, Wilkes-Barre, Pa. 18701, and Charles J. Williams, 47 Lincoln Park, Newark, N.J. 07102. Operating rights sought to be merged: *General commodities*, except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, new automobiles, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier*, over regular and irregular routes, between Pennsburg, Pa., and New York, N.Y. serving the intermediate points of Newark, N.J., and Easton, Pa., and those between Pennsburg and Easton, Pa.; and off-route points in Pennsylvania within 30 miles of Pennsburg, between Philadelphia, Pa., and Pennsburg, Pa., serving all intermediate points, over one alternate regular route, for operating convenience only. FOWLER & WILLIAMS, INC., is authorized to operate as a *common carrier* in Pennsylvania, New Jersey, New York, Connecticut, Maryland, Virginia, Michigan, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b). NOTE: FOWLER & WILLIAMS, INC., controls PERKIOMEN TRANSFER, INC., through ownership of capital stock pursuant to authority granted in Docket No. MC-F-7775, effective September 13, 1961, and consummated January 5, 1962.

No. MC-F-9977. Authority sought for control and merger by H. W. TAYNTON COMPANY, INC., 40 Main Street, Wellsboro, Pa. 16901, of the operating rights and property of ITHICA DELIVERY, INC., 407 Third Street, Ithica, N.Y. 14850, and for acquisition by ROBERT E. TAYNTON, SR., ELIZABETH MARBLE, PAUL TAYNTON, FLORENCE TAYNTON and the COMMONWEALTH BANK & TRUST CO., Trustees all also of Wellsboro, Pa., of control of such rights and property through the transaction. Applicants' attorneys and representative: Bowes & Millner, 744 Broad Street, Newark, N.J. 07102 and Robert De Kroyft, 24 Branford Place, Newark, N.J. 07102. Operating rights sought to be controlled and merged: *General commodities*, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and articles of excessive dimensions, as a *common carrier*, over a regular route, between Ithica, N.Y., and Syracuse, N.Y., serving all intermediate points, and the off-route point of Preble, N.Y.; and under a certificate of registration, in Docket No. MC-55617 Sub-3, covering the transportation of general commodities, as a common carrier in intrastate commerce, within the State of New York. H. W. TAYNTON COMPANY, INC. is authorized to operate as a *common carrier* in Pennsylvania, New York, New Jersey, Delaware, Ohio, Maryland, Rhode Island, Massachusetts, West Virginia, Connecticut, Indiana, and Kentucky. Application has been filed for temporary authority under section 210a(b). NOTE: MC-109221 Sub 26 is a matter directly related.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 67-14742; Filed, Dec. 19, 1967; 8:47 a.m.]

[Notice 64]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 15, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-70006. By order of November 30, 1967, the Transfer Board approved the transfer to Richmond Transfer, Inc., Richmond, Mo., of the operating rights of certificates in Nos. MC-3789, MC-3790 (Sub-No. 7), and MC-3790 (Sub-No. 9) issued June 22, 1954, June 17, 1958, and October 15, 1962, respectively, to Williams Transfer, Inc., Richmond, Mo., authorizing the transportation of general commodities, with exceptions, between Kansas City, Kans., and Richmond, Higginsville, and Lexington, Mo., serving intermediate and off-route points, from Kansas City, Kans., to Excelsior Springs, Mo., serving intermediate points, between Lexington, Mo., and points within 10 miles thereof, on the one hand, and, on the other, points in Wyandotte County, Kans., and between Lawson, Mo., and Kansas City, Mo., and Kansas City, Kans., serving no intermediate points; livestock from Excelsior Springs, Mo., to Kansas City, Kans., serving intermediate and off-route points; miles between Lexington, Mo., and points within 10 miles thereof, on the one hand, and, on the other, Pittsburg, Kans.; and household goods between Lawson, Mo., and points within 25 miles of Lawson, on the one hand, and, on the other, points in Kansas, Nebraska, Iowa, and Illinois, and between Lexington, Mo., and points within 10 miles of Lexington, on the one hand, and, on the other, points in Kansas. Carl V. Kretsinger, 450 Professional Building, Kansas City, Mo. 64106, attorney for applicants.

No. MC-FC-70011. By order of November 30, 1967, the Transfer Board approved the transfer to Margaret Emanuele doing business as Emanuele Motor Lines, Akron, Ohio, of the operating rights of Grace T. Klein, doing business as Jones Trucking, Suffield, Ohio, of corrected permit in No. MC-35399, issued January 14, 1963, authorizing the transportation over irregular routes, of such commodities as are manufactured, processed or dealt in by rubber manufacturers and steel product manufacturers, and equipment, materials, and supplies used in the conduct of such businesses, from Akron, Ohio, to points in Rhode Island, Massachusetts, Connecticut, in a described portion of New York, and in a described portion of New Jersey; tire fabric, from Fall River and New Bedford, Mass., to Akron, Ohio, scrap tires and tubes, from Boston, Cambridge, New Bedford, Pittsfield, Fall River, and Springfield, Mass., Hartford, Conn., Newark, N.J., Albany and New York, N.Y., and points on Long Island, N.Y., to Akron, Ohio, and chemicals, from Naugatuck, Conn., to Akron, Ohio, as restricted therein. Robert R. MAY, 500 First National Tower, Akron, Ohio 44308, attorney for applicants.

No. MC-FC-70019. By order of November 30, 1967, the Transfer Board approved the transfer to R. J. (Red) Andrews, doing business as R. J. (Red) Andrews Truck Line, Corsicana, Tex., of permits in No. MC-125941 and MC-125941 (Sub-No. 1) issued June 21, 1965, and September 30, 1965, respectively, to J & S Truck Line, Inc., Corsicana, Tex., authorizing the transportation of dry fertilizer, fertilizer materials, and feed grade urea, as excepted, from Kerens, Gainesville, Pittsburg, and Vernon, Tex., to points in Arkansas, Colorado, Kansas, Louisiana, Missouri, Nebraska, New Mexico, and Oklahoma; and from Littlefield, Tex., to points in Arkansas, Colorado, Kansas, Louisiana, Missouri, Nebraska, New Mexico, and Oklahoma. James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224, attorney for applicants.

No. MC-FC-70021. By order of November 30, 1967, the Transfer Board approved the transfer to Bees Van & Storage, Inc., 733B East Oak Street, Post Office Box 321, Santa Maria, Calif., of the certificate in No. MC-76492, issued March 15, 1967 to E. Bernece Hubbard, doing business as Bee's Van & Storage, same address, authorizing the transportation of household goods, between points within 25 miles of Santa Maria, Calif., including Santa Maria.

No. MC-FC-70040. By order of December 11, 1967, the Transfer Board approved the transfer to George Russo and Rocco R. Russo, doing business as Russo Trucking Co., Jersey City, N.J., of the operating rights in certificate No. MC-8214, issued October 22, 1940, to J. Siegel Trucking Corp., New York, N.Y., authorizing the transportation of poultry, butter, eggs, cheese, groceries, and meat and meat products, between a specified area (30 miles of the City Hall, New York, N.Y.) in New York, New Jersey, and Connecticut. *Dual operations are involved:* Robert B. Pepper, 297 Academy Street, Jersey City, N.J. 07306, representative for applicants.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 67-14744; Filed, Dec. 19, 1967; 8:48 a.m.]

APPLICATION FORM OP-OR-9; SUPPLEMENTAL INSTRUCTIONS—SHIPPER CERTIFICATION

DECEMBER 15, 1967.

By its report in *Schaeffer and Schaeffer Ext.—New York City*, 106 M.C.C. 100 (decided Nov. 17, 1967), the entire Commission has directed that the following portions of its report be published in the FEDERAL REGISTER and distributed with its application Form OP-OR-9 (49 CFR 1003.1), Application for Motor Carrier Certificate or Permit, revised April 6, 1966:

Application form OP-OR-9 requires an applicant to indicate whether its application will be supported by shippers, or others, who will present evidence in support of the application, as to their need for the service proposed. * * * The requirement contained in the application form is clear. It requires, for applications which are to be supported by 10 or fewer public witnesses, the filing of supporting certifications by each such supporting shipper known to the applicant at the time the application is filed. Should more than 10 supporting witnesses be contemplated by the applicant, additional certifications of support must be presented in such number as to be reasonably representative of the total number of witnesses contemplated and the scope of the requested authority. This representative number must be sufficient to apprise both this Commission and interested parties of the identity and character of support upon which applicant will rely. * * * Henceforth, in addition to the filing of the certifications accompanying its application, an applicant will be required to file with this Commission an additional certification of each witness (if less than 10) not known to the applicant at the time of filing of the application but who becomes known prior to the submission of evidence. Such certification shall be filed with the Commission as soon as practicable following discovery of the witness, shall contain a statement by the witness as to the date on which he first made his support known to the applicant, and copies of such certification shall be served by applicant upon all parties of record.

In those instances in which more than 10 shippers support the application, it behooves the applicant, at the time of filing, (1) to submit with the application sufficient certifications of support in excess of 10 to be reasonably representative of the total number of witnesses to be presented and the scope of authority applied for, (2) to indicate the total number of shippers whose testimony will be presented, and (3) to identify by name and location those shippers on whose behalf certifications are not filed. If the number of supporting shippers should be increased subsequent to the filing of the application, information regarding identity and location of each of the subsequently acquired supporting shippers should be transmitted promptly to the Commission and all parties to the proceeding.

Noncompliance with the aforementioned requirements, absent a showing of good cause for failing in their observance, will result in the disallowance of testimony and evidence proffered by public witnesses upon whose behalf certifications or identifications (by name and location) have not been filed. * * *

Strict adherence to these requirements shall be expected with respect to all applications pending at the time of such publication and to all applications filed subsequent thereto.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 67-14736; Filed, Dec. 19, 1967; 8:48 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—DECEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during December.

3 CFR

Page

PROCLAMATIONS:
- 2781A (see Proc. 3822) — 19002
- 3548 (see Proc. 3822) — 19002
- 3821 — 17571
- 3822 — 19002

EXECUTIVE ORDERS:
- Dec. 5, 1913 (revoked in part by PLO 4327) — 16531
- Mar. 21, 1914 (revoked in part by PLO 4327) — 16531
- June 24, 1914 (revoked in part by PLO 4327) — 16531
- 11075 (see Proc. 3822) — 19002
- 11246:
  - Amended by EO 11284 — 17423
  - Amended by EO 11295 — 16991
- 11283 — 17421
- 11284 — 17423
- 11295 — 16991

5 CFR

- 210 — 16474
- 213 — 16477, 17615, 17849
- 315 — 16474
- 351 — 16474
- 352 — 16474
- 353 — 16475
- 430 — 16475
- 511 — 16475
- 531 — 16475
- 713 — 16476
- 731 — 16476
- 752 — 16476
- 754 — 16476
- 771 — 16477
- 772 — 16477
- 831 — 16477
- 891 — 16477
- 2200 — 17573
- 2300 — 17651

7 CFR

- 301 — 18015, 18017
- 401 — 16478, 17425, 17513
- 718 — 17513
- 722 — 17467, 17887, 17923
- 724 — 16478
- 725 — 16479
- 729 — 17887
- 794 — 19155
- 811 — 18083
- 815 — 16525
- 905 — 16525, 17615, 17616, 17925
- 907 — 16526, 17515, 17888
- 909 — 17849
- 910 — 16526, 17617, 17651, 18017, 18018, 18085
- 944 — 17425
- 982 — 16527
- 987 — 19156
- 989 — 17467, 18086
- 1062 — 16479
- 1073 — 16480
- 1094 — 16527
- 1103 — 16527
- 1106 — 16480
- 1126 — 16480
- 1421 — 16528
- 1427 — 16528, 19156
- 1464 — 17849
- 1474 — 17888
- 1488 — 18018

PROPOSED RULES:
- 51 — 17893
- 58 — 17893
- 812 — 17669
- 817 — 17669
- 911 — 17431
- 915 — 17431
- 948 — 17671
- 950 — 17433
- 989 — 17625
- 998 — 17434
- 1001 — 17626
- 1098 — 17626
- 1098 — 17626
- 1046 — 17626

8 CFR

- 238 — 17651
- 280 — 17651

PROPOSED RULES:
- 242 — 17624
- 243 — 17624
- 244 — 17624
- 299 — 17624

9 CFR

- 71 — 19157
- 96 — 19157
- 78 — 18086
- 79 — 19157
- 96 — 19157
- 98 — 19157
- 97 — 17618
- 151 — 19158

12 CFR

- 1 — 17574, 17926
- 12 — 17468
- 206 — 17469
- 224 — 17425
- 265 — 19159
- 385 — 17470
- 545 — 17926
- 561 — 17515
- 605 — 17652

PROPOSED RULES:
- 563 — 17544

14 CFR

- 21 — 17850
- 39 — 16481, 17426, 17515, 17516, 17652, 17927
- 61 — 16481
- 71 — 16482, 16483, 17426, 17427, 17516–17518, 17574–17576, 17653, 17851, 18020
- 73 — 17427, 17653, 18087
- 75 — 17518
- 91 — 16483, 17654
- 97 — 16484, 17577, 17928, 19170
- 121 — 16481, 17889
- 141 — 17851
- 151 — 17471
- 214 — 18020
- 217 — 18020
- 221 — 18022
- 241 — 18023
- 301 — 16491
- 303 — 16491
- 311 — 16491
- 320 — 16491
- 421 — 16491
- 430 — 16491
- 431 — 16491
- 435 — 16491

PROPOSED RULES:
- 1 — 18496
- 21 — 17485
- 25 — 17487
- 39 — 17439, 17672, 17673, 17895
- 71 — 16496, 17488, 17543, 17596–17598, 17672–17675, 17861, 17982, 18060–18062
- 73 — 17488
- 75 — 18062
- 91 — 16495, 19180
- 214 — 16535
- 241 — 17983
- 295 — 16535
- 298 — 17598

15 CFR

- 373 — 17471

16 CFR

- 13 — 17427, 17618, 17853–17855, 18025
- 15 — 17982, 17856, 18087

PROPOSED RULES:
- 301 — 17544
- 415 — 17601

17 CFR

- 230 — 17933
- 239 — 17933
- 240 — 17583
- 270 — 17583
- 274 — 17563

PROPOSED RULES:
- 240 — 17983, 18063
- 270 — 17861

19 CFR

- 5 — 17619
- 12 — 17423
- 16 — 19159
- 19 — 17619
- 23 — 16528
- 24 — 17619

20 CFR

- 404 — 18026, 19159
- 405 — 18026, 18027
- 422 — 18030

PROPOSED RULES:
- 405 — 18050, 18054

21 CFR

- 19 — 18096
- 29 — 17654
- 120 — 16529, 17472, 18096
- 121 — 16529, 16530, 17472, 17587, 17654, 17655, 17856, 17857, 18096.
- 130 — 16531
- 146 — 16531

21 CFR—Continued

Page

- 146a — 16491, 17657
- 148q — 18096
- 166 — 17473
- 191 — 19176

PROPOSED RULES:
- 1 — 18113
- 15 — 18114
- 31 — 16533
- 46 — 17482, 17671, 18114
- 128 — 17980
- 130 — 17671
- 138 — 16533, 17626

22 CFR

- 10 — 17454

23 CFR

- 255 — 17938, 18032, 18033

PROPOSED RULES:
- 255 — 16534

24 CFR

- 234 — 17587

25 CFR

PROPOSED RULES:
- 221 — 17543

26 CFR

- 1 — 17479, 17518, 17657, 17890, 17938, 18039
- 31 — 18039
- 45 — 18039
- 48 — 18039
- 49 — 18039
- 147 — 17856
- 701 — 17890

PROPOSED RULES:
- 151 — 17861

28 CFR

- 0 — 16531

29 CFR

- 1610 — 16491

30 CFR

PROPOSED RULES:
- 18 — 18098
- 34 — 18098

31 CFR

- 1 — 17519
- 82 — 17859
- 214 — 18044

32 CFR

Page

- 53 — 17661
- 54 — 17619
- 57 — 18087
- 504 — 18089
- 537 — 17519
- 701 — 17588

33 CFR

- 109 — 17726, 17890
- 110 — 17726, 17890
- 114 — 17726, 17890
- 115 — 17726, 17890
- 116 — 17726, 17890
- 117 — 17726, 17890, 17939
- 209 — 17522

36 CFR

- 7 — 17661

39 CFR

- 123 — 17479
- 224 — 18045
- 232 — 18045
- 742 — 17479, 17860

41 CFR

- 1–1 — 16491, 18045
- 1–2 — 18049
- 1–16 — 18049
- 9–1 — 17542
- Ch. 18 — 17002
- 101–26 — 17939

42 CFR

- 53 — 17662

43 CFR

- 2210 — 17890

PUBLIC LAND ORDERS:
- 334 (revoked in part by PLO 4333) — 17480
- 1796 (revoked in part by PLO 4331) — 17479
- 2764 (see PLO 4331) — 17479
- 4327 — 16531
- 4328 — 17429
- 4329 — 16532
- 4330 — 17479
- 4331 — 17479
- 4332 — 17479
- 4333 — 17480
- 4334 — 17429
- 4335 — 17429
- 4336 — 17620
- 4337 — 17662
- 4338 — 17891

45 CFR

- 30 — 17891
- 1105 — 17663

46 CFR

Page

- 39 — 17621
- 55 — 19180
- 61 — 19180
- 72 — 19180
- 76 — 19180
- 77 — 19181
- 78 — 19181
- 98 — 17621
- 111 — 19181
- 112 — 19182
- 113 — 19182
- 221 — 17595
- 255 — 17595
- 308 — 17891
- 510 — 17480
- 526 — 17667

PROPOSED RULES:
- Ch. II — 17980
- 510 — 19192
- 514 — 16496
- 536 — 19192

47 CFR

- 73 — 19183–19187
- 97 — 17429

PROPOSED RULES:
- 2 — 16495, 18115
- 73 — 19191
- 87 — 16495, 18115
- 91 — 17440

48 CFR

- 501 — 17940

49 CFR

- 290 — 17941
- 291 — 17941
- 292 — 17941
- 293 — 17941
- 294 — 17941
- 295 — 17892, 17941
- 296 — 17941
- 297 — 17941
- 890 — 17480
- Ch. X — 20003
- 1200 — 17480

PROPOSED RULES:
- 177 — 18114
- 239 — 18062
- 294 — 18114

50 CFR

- 28 — 17622
- 32 — 17542
- 33 — 16532, 17430, 17481, 17623, 17667, 17668, 18049.
- 254 — 16492

FEDERAL REGISTER

VOLUME 32 • NUMBER 245

Wednesday, December 20, 1967 • Washington, D.C.

PART II

Section 1

(Section 2 begins on page 20193)

Interstate Commerce Commission

REPUBLICATION AND REDESIGNATIONS OF REGULATIONS

THE UNIVERSITY OF MICHIGAN
DEC 26 1967
READING ROOM

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

REPUBLICATION AND REDESIGNATIONS OF REGULATIONS

Effective April 1, 1967 (32 F.R. 5606, Apr. 5, 1967), the following parts of Title 49 of the Code of Federal Regulations were transferred from the Interstate Commerce Commission to the Department of Transportation:

Part(s)	Part(s)
109	225
160–161	231–236
170–190	239
191	390–396

The remaining regulations of the Interstate Commerce Commission are transferred from Chapter I of 49 CFR to Chapter X of that title and are redesignated and republished as set forth below.

[SEAL] H. NEIL GARSON,
Secretary.

Former part (or section) number	Redesignated part (or section) number
100	1000
101	1100
102	1101
102a	(deleted)
103	1331
104	1030
105	1031
105a	1001
106	1002
107	1003
107a	1021
108	1010
109a	1004
110	1201
114	1203
118	1208
120	1204
124	1205
125	1300
131	1035
141	1120
142	1121
143	1122
148	1110
151	1111
152	1112
153	1113
154	1114
155	1115
156	1116
157	1117
158	1118
159	1033
195	1034
197	1270
201	1032
205	1220
210—Subpart A	1221
210—Subpart B	1222
210—Subpart C	1223
210—Subpart D	1224
210—Subpart E	1225
210—Subpart F	1241
220	§ 1252.1
§ 220.71	1342
221	1343
223	1348
223	1344
224	1340
226	1245
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242	1221
242a	1301
243	1302
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265a	1058
266	1045
267	1130
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269	1048
270	§ 1041.20
§ 270.35	§ 1041.21
§ 270.37	§ 1041.22
§ 270.41	§ 1049.1
§ 270.45	§ 1049.2
§ 270.48	1050
271	1051
272	1053
273	1042
274	1044
274a	1135
275	1056
276	1090
277	1023
277a	1028
277b	1054
278	1132
279	1134
280	1055
280a	1206
281	§ 1240.4
§ 281.02–1	1207
282	§ 1240.5
§ 282.1	1052
288	1306
296	1307
297	1322
298	1046
300	1271
301	1236
303	1249
305	§ 1252.3
§ 305.14	1248
306	1057
307	1047
310	1043
311	1059
320	1131
340	1250
401	§ 1252.2
§ 401.40	1008
402	1070
403	1140
405	1141
406	1323
410	1308
412	1071
415	1072
416	1010
420	1208
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424	1237
425	1270
430	1060
500	1062
504	1064
505	1150
510	1151
515	1309
520	1234
525	1061
531	1210
540	1251
545	§ 1240.6
§ 545.3	1251
546	§ 1252.4
§ 546.2	1063
547	1238
550	1090
600	

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

Parts 1000–1019—General Provisions

Part
1000 The Commission.
1001 Inspection of records.
1002 Fees.
1003 List of forms.
1004 Administrative interpretations.
1010 Competitive bids.

Parts 1020–1029—Enforcement

1020 Examination of records and accounts by agents of Commission.
1021 Administrative collection of enforcement claims.
1023 Cooperative agreements with States.
1028 Standards for registration of certificates and permits with States.

Parts 1030–1039—Carriers Subject to Part I, Interstate Commerce Act.

1030 Filing of contracts by common carriers.
1031 Divisions of joint rates applicable to railway fuel.
1032 Contracts for protective service.
1033 Car service.
1034 Routing of traffic.
1035 Bills of lading.

Parts 1040–1069—Motor Carriers; Brokers; General

1040 Classification of brokers and motor carriers.
1041 Interpretation; certificates and permits.
1042 Deviations from regular routes and gateways.
1043 Surety bonds and policies of insurance.
1044 Designation of process agents by motor carriers and brokers.
1045 Brokers of property.
1046 Brokers of passenger transportation.
1047 Exemptions.
1048 Commercial zones.
1049 Terminal areas.
1050 Motor carrier operation in the State of Hawaii.
1051 Information required on receipts and bills.
1052 Handling of c.o.d. shipments.
1053 Contracts for transportation of property.
1054 Special or chartered parties by common carriers.
1055 Discrimination in operations of Interstate Motor Common Carriers of Passengers.
1056 Transportation of household goods in interstate or foreign commerce.
1057 Lease and interchange of vehicles.
1058 Identification of vehicles.
1059 Embargoes.

Parts 1070–1079—Water Carriers; General

1070 Harbors.
1071 Exemption of contract carrier operations.
1072 Small craft; removal from statutory exemption.

Parts 1080–1089—Freight Forwarders; General

1080 Contracts, forwarders; motor common carriers.
1081 Bills of lading.
1082 Exemptions.
1083 Filing of contracts for joint loading and terminal services and facilities.
1084 Surety bonds and policies of insurance.

Parts 1090–1099—Intermodal Transportation

1090 Practices of for-hire carriers of property. Participating in trailer-on-flatcar service.

SUBCHAPTER B—PRACTICE AND PROCEDURE

Parts 1100–1109—Rules of Practice

Part
1100 General rules of practice.
1101 Temporary operating authorities and approvals.

Parts 1110–1119—Railcarriers Consolidation, Finance, and Reorganization

1110 General requirements.
1111 Railroad consolidation procedure.
1112 Interlocking officers.
1113 Guaranty of loans to carriers by railroad.
1114 Alteration or modification of securities.
1115 Issuances of securities, assumption of obligations and filing of certificates.
1116 Recordation of documents.
1117 Reorganization of railroads.
1118 Corporate reorganization of carriers and corporations.

Parts 1120–1129—Special Procedures; Railcarriers Certificate of Public Convenience and Necessity.

1120 Construction, extension, acquisition, or operation of railroad lines.
1121 Abandonment of railroad lines.
1122 Discontinuance or change of operation or service.

Parts 1130–1139—Special Procedures; Motor Carriers and Brokers Certificates, Permits, Licenses

1130 Applications for motor carrier certificates and permits.
1131 Temporary authority applications under section 210a(a) of the Interstate Commerce Act.
1132 Transfers of operating rights.
1133 Transfers of Passenger Brokers' Licenses.
1134 Control or consolidation of motor carriers and their properties.
1135 Corporate reorganizations of motor carriers.

Parts 1140–1149—Special Procedures; Water Carriers

1140 Extensions of operations.
1141 Transfers of certificates and permits to operate.

Parts 1150–1159—Special Procedures; Freight Forwarders

1150 Applications for permits.
1151 Transfers of operating rights (permits).

SUBCHAPTER C—ACCOUNTS, RECORDS, AND REPORTS

Parts 1200–1219—Uniform Systems of Accounts

1200 General accounting regulations.
1201 Railroad companies.
1202 Electric railways.
1203 Express companies.
1204 Pipeline companies.
1205 Refrigerator car lines.
1206 Common and contract motor carriers of passengers.
1207 Class I and Class II common and contract motor carriers of property.
1208 Maritime carriers.
1209 Inland and coastal waterway carriers.
1210 Freight forwarders.

Parts 1220–1239—Destruction of Records

1220 Railroad companies.
1221 Electric railways.
1222 Sleeping car companies.
1223 Express companies.
1224 Pipeline companies.
1225 Persons furnishing cars to railroads.
1226 Motor carriers and brokers.
1227 Water carriers.
1228 Freight forwarders.

Parts 1240–1259—Reports

1240 Classes of carriers.
1241 Annual, special, or periodic reports—Carriers subject to Part I, Interstate Commerce Act.
1242 Separation of operating expenses between freight and passenger service—railroads.
1243 Quarterly operating reports—railroads.
1244 Waybill analysis of transportation of property.
1245 Classification of railroad employees; reports of service and compensation.
1246 Number of railroad employees.
1247 Classification of express company employees for reports of employees.
1248 Freight commodity statistics.
1249 Reports of motor carriers.
1250 Reports of water carriers.
1251 Reports of freight forwarders.
1252 Piggyback traffic statistics.
1253 Rate-making organization; records and reports.

Parts 1260–1269—Valuation

1260 Reporting data for initial pipeline valuations.
1261 Regulations governing the reporting of property changes—pipeline carriers.
1262 Uniform system of records and reports of property changes; common carriers subject to Part I—Interstate Commerce Act.
1263 Map specifications.

Parts 1270–1279—Passes and Free Transportation

1270 Rail and water passes.
1271 Motor carrier passes.

SUBCHAPTER D—TARIFFS AND SCHEDULES

Parts 1300–1319—Passenger and Freight Tariffs and Schedules

1300 Freight schedules—railroads.
1301 Long-and-short haul and aggregate-of-intermediate rates—railroads.
1302 Export and import shipments—railroads.
1303 Passenger service schedules—rail and water carriers.
1304 Express companies schedules and classifications.
1305 Posting tariffs at stations.
1306 Passenger and express tariffs and schedules of motor carriers.
1307 Freight rate tariffs and schedules, and classifications of motor carriers.
1308 Freight tariffs and schedules of water carriers.
1309 Tariffs and classifications of freight forwarders.

Parts 1320–1329—Credit Regulations

1320 Extension of credit to shippers by railcarriers.
1321 Extension of credit to shippers by express companies.
1322 Extension of credit to shippers by motor carriers.
1323 Settlement of rates and charges of common carriers by water.
1324 Settlement of freight charges by freight forwarders.

Part 1330–1339—General

1330 Filing quotations for Government shipments at reduced rates.
1331 Section 5a applications.

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PARTS 1000–1019—GENERAL PROVISIONS

PART 1000—THE COMMISSION

Subpart A—General

Sec.
1000.1 Description of official seal.
1000.5 Credentials required by special agents, accounts, and examiners.
1000.10 Availability of statements of policy, interpretations, and other matters not required to be published in the Federal Register.

Subpart B—Canons of Conduct

1000.735–11 General standard of conduct.
1000.735–12 Prohibited financial interests.
1000.735–13 Disqualifying interests.
1000.735–14 Gifts, entertainment, and favors.
1000.735–15 Disclosure and misuse of information.
1000.735–16 Outside employment.
1000.735–17 Future employment.
1000.735–18 Ex parte communication.
1000.735–19 Use of Federal property.
1000.735–20 Use of intoxicants.
1000.735–21 Indebtedness.
1000.735–22 Immoral or notoriously disgraceful conduct.
1000.735–23 Intermediaries.
1000.735–24 Gambling, betting, and lotteries.
1000.735–25 Miscellaneous statutory provisions.
1000.735–26 Statements of employment and financial interests.
1000.735–27 Review of statements of employment and financial interests.
1000.735–28 Interpretation and advisory service.
1000.735–29 Specific provisions governing special Government employees.
1000.735–30 Disciplinary and other remedial action.

Appendix I.
Appendix IV.

Subpart A—General

§ 1000.1 Description of official seal.

(a) *Description.* A constellation of 13 stars above an American bald eagle with wings displayed and inverted holding in his dexter talon an olive branch and in his sinister a bundle of seven arrows, in his beak a scroll inscribed "E Pluribus Unum," bearing a shield paleways of 13 pieces argent and gules, a chief azure; all within an encircling inscription "Interstate Commerce Commission, 1887," and a decorative outer border.

(b) *Colors.* When illustrated in color, the background is National Flag blue, the eagle and olive branch proper, and the arrows, stars, scroll and encircling inscription white. The motto is of the same blue as the background, and the blue of the shield is a medium shade. The outer border of the seal and the edge of the shield are gold color.

(Sec. 12, 24 Stat. 383 as amended, sec. 17, 49 Stat. 270, as amended; 49 U.S.C. 12, 17)

§ 1000.5 Credentials required by special agents, accountants, and examiners.

(a) *Carrier records and property subject to inspection and examination.* (1) Persons appointed as special agents, accountants, and examiners of the Commission are authorized to enter upon, to inspect and examine any and all lands, buildings, and equipment of carriers and other persons subject to the Interstate Commerce Act and related Acts, and to inspect and copy any and all accounts, books, records, memoranda, correspondence, and other documents of carriers, and other persons subject to the Act.

(2) Inspection or copying authority with respect to persons who furnish cars or protective service against heat or cold to or on behalf of a carrier or an express company, shall be limited to accounts, books, records, memoranda, correspondence, and other documents which pertain or relate to cars or protective service.

(3) Carriers and other persons subject to the Act shall submit their accounts, books, records, memoranda, correspondence, and other documents for inspection and copying, and such carriers and other persons shall submit their lands, buildings, and equipment for examination and inspection, to any special agent, accountant, or examiner of the Commission upon demand and the display of a Commission credential identifying him as a special agent, accountant, or examiner.

(b) *Definition of "other persons subject to the Act."* The term "other persons subject to the Act" as used in this section includes:

(1) brokers subject to part II of the Interstate Commerce Act, freight forwarders subject to part IV of the Act, lessors of carrier operating rights, receivors, trustees, administrators, executors, and other persons having custody, possession, or control of carrier operations or the business of other persons subject to the Act;

(2) persons who furnish railroad cars or protective service against heat or cold to or on behalf of railroads or express companies (but only with respect to records pertaining to the cars or protective services to furnished);

(3) associations of carriers or brokers subject to the Act which perform any service or engage in any activities in connection with any traffic, transportation, or facilities subject to the Act;

(4) and, to the extent specified in orders of the Commission issued under section 5 of the Act, persons controlling two or more carriers.

(c) *Definition of special agents, accountants, and examiners.* The duties of the following described employees or positions, and such other employees of the Commission as the Chairman shall specify in writing, include those of special agent, accountant, or examiner and they are hereby authorized to inspect and copy records and to inspect and examine lands, buildings and equipment in the same manner and to the same extent as special agents, accountants, and examiners:

Commissioners.
Managing Director.
Assistant Managing Director.
Directors and Assistant Directors, Chiefs and Assistant Chiefs of Sections of the Bureaus of: Accounts; Enforcement; and, Operations.
Attorneys.
Auditors.
Field Assistants.
General Engineers.
Investigators (Officer-in-Charge).
Investigators.
Regional Managers.
Regional Directors (Operations).
Assistant Regional Directors (Operations).
Associate Regional Directors (Operations).
Regional Supervisors (Car Service).
Supervisory Railroad Service Agents.
Railroad Service Agents.
Transportation Specialists (District Supervisors).
Transportation Specialists (Officer-in-Charge).
Supervisory Transportation Specialists.
Transportation Cost Analysts.
Transportation Rate Agents.

(d) Facsimile of the Commission's credential:

United States of America
INTERSTATE COMMERCE COMMISSION
WASHINGTON

This is to certify, _____
whose signature appears hereon, has been appointed _____
of the Interstate Commerce Commission with authority to enter upon, to inspect and examine lands, buildings and equipment and to inspect and copy records and papers of carriers and other persons subject to the Interstate Commerce Act as provided in the said Act and related Acts and in regulations of the Commission.

(Signature of employee)

In witness whereof, I have hereunto set my hand and affixed the seal of said Commission at its office in Washington, District of Columbia, this ____ day of _____, A.D. 19____.

No. _____
Secretary of the Interstate Commerce Commission.
ICC Form 1010a

(Sec. 6, 36 Stat. 915, as amended, secs. 12, 20, 24 Stat. 383, as amended, 386, as amended, sec. 26, 41 Stat. 498, as amended, sec. 220, 49 Stat. 563, as amended, sec. 313, 54 Stat. 944, as amended, sec. 412, 56 Stat. 294, as amended; 45 U.S.C. 20, 45 U.S.C. 12, 20, 26, 320, 913, 1012)

§ 1000.10 Availability of statements of policy, interpretations, and other matters not required to be published in the Federal Register.

(a) The Interstate Commerce Commission, in performing its duties under the Interstate Commerce Act, frequently formulates and adopts statements of general policy, or interpretations of general applicability, and other matters not required to be published in the FEDERAL REGISTER in rendering decisions in proceedings involving the operating rights, financial structures, or rates and practices of brokers, electric railways, express companies, freight forwarders, motor carriers, pipelines, private car companies, rail carriers, and water carriers. Because such statements of policy and interpretations of general applicability are scattered throughout more than 320,000 pages in over 400 volumes of Commission reports and because such policies and interpretations must be revised or repealed from time to time as required by changing technology and economic conditions, it is not feasible, and is wholly impractical, to state them separately and publish them in the FEDERAL REGISTER. Further, to be fully understood, such statements of general policy or interpretations of general applicability must be read in context in the Commission's reports where they are explained, revised, or repealed in relation to the factual situations to which they are applicable. Notice is hereby given that those portions of the printed reports of decisions of the Interstate Commerce Commission which contain statements of general policy or interpretations of general applicability are digested, arranged topically, and indexed both in the multivolume set "Interstate Commerce Acts Annotated" (supplemented monthly by the "Advance Bulletin of Interstate Commerce Acts Annotated") and in the index-digests in the backs of bound volumes of Interstate Commerce Commission reports. The multivolume set, "Interstate Commerce Acts Annotated" and the three series of Interstate Commerce Commission reports (i.e., I.C.C., M.C.C. and Val. Rep.) are published and sold by the Government Printing Office, and are sent free to Depository Libraries (44 U.S.C. 82), which include all State libraries, two libraries in each congressional district, the libraries of land grant colleges, and other libraries. Copies are also available for public examination in the Interstate Commerce Commission Library in Washington, D.C. The indexes in these publications are maintained in compliance with the provision in 5 United States Code 552(a)(2). The "Advance

Bulletin of Interstate Commerce Acts Annotated" and recent reports, which have not yet been included in published indexes, are available upon request from the Office of the Secretary, Interstate Commerce Commission.

(b) Because of the large volume of reports, it is the policy of the Commission to print for publication in bound volumes only reports of those cases decided by the entire Commission or by a division thereof and more significant reports of employee boards. With few exceptions, reports and orders of employee boards are duplicated ("no print reports and orders") and distributed to the parties and made available to the press. From time to time "no print reports and orders" are cited as precedents in other cases. Therefore, notice is hereby given that duplicated "no print reports and orders", are indexed by docket number and title, and filed by subject matter and are available for public inspection in the Section of Reference Services of the Commission in Washington, D.C. These indexes and files are maintained in compliance with the provision in 5 United States Code 552(a)(2). Persons outside Washington, D.C., can obtain information about, or copies of, such duplicated reports by writing to the Secretary of the Commission.

(Sec. 12, 24 Stat. 383, as amended, 47 U.S.C. 12; 61 Stat. 54, 5 U.S.C. 552)

Subpart B—Canons of Conduct

AUTHORITY: The provisions of this Subpart B issued under E.O. 11222; 1964–65 Comp. 3 CFR, 5 CFR 735.104.

§ 1000.735–11 General standard of conduct.

Members and employees of the Commission shall perform their duties so as to insure that the Interstate Commerce Act and related statutes are administered fairly and expeditiously and with a view to carrying out the National Transportation Policy. They shall be courteous and prompt in serving the public.

§ 1000.735–12 Prohibited financial interests.

Members and employees shall not be employed by or hold any official relation to, or own any securities of, or be in any manner pecuniarily interested in carriers to the extent prohibited by the Interstate Commerce Act.

§ 1000.735–13 Disqualifying interests.

Members and employees shall not participate in any matter in which they have a substantial pecuniary interest, or other interest which might affect or appear to affect their actions in this matter.

§ 1000.735–14 Gifts, entertainment, and favors.

(a) Members and employees of the Commission shall not solicit or accept, directly or indirectly, any thing of value as a loan, gift, gratuity, entertainment, or favor, which might reasonably be interpreted by others as being of such a nature that it could affect their impartiality, from any person, association, or group, if they have reason to believe that the person, association, or group (1) has, or is seeking to obtain, contractual or other business or financial relationships with the Commission; or (2) conducts operations or activities that are subject to regulation by the Commission; or (3) has interests which may be substantially affected by the member's or employee's performance or nonperformance of his official duty; or (4) is in any way attempting to affect the member's or employee's official actions. They should not accept from any person, association, or group unusual hospitality which is unwarranted by the personal relations of the parties. Members and employees, to the extent permitted by law and approved by the Commission, may receive bona fide reimbursement for actual expenses for travel and such other necessary subsistence for which no Government payment or reimbursement is made when attending industry meetings and conventions, but they shall not accept any payment for any discussion or appearance at such industry meetings or conventions or any reimbursement for excessive personal living expenses, gifts, entertainment, or other personal benefits.

(b) Members and employees shall avoid any action, whether or not specifically prohibited herein, which might result in, or create the appearance of: (1) Using public office for private gain; (2) giving preferential treatment to any person; (3) impeding Commission efficiency or economy; (4) losing complete independence or impartiality; (5) making a Commission decision outside official channels; or (6) affecting adversely the confidence of the public in the integrity of the Commission.

(c) Members and employees shall not solicit contributions from any other member or employee, or make a donation, for a gift to a member or employee in a superior official position. Members or employees in a superior official position shall not accept a gift presented as a contribution from members or employees receiving less salary than himself.

(d) Members and employees shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in 5 U.S.C. 7341.

§ 1000.735–15 Disclosure and misuse of information.

Members and employees of the Commission shall not use for personal gain or disclose to unauthorized persons confidential information not available to the general public. They shall not disclose or release official information prior to the time authorized for its release.

§ 1000.735–16 Outside employment.

(a) Members and employees shall not engage in any outside employment or other outside activity, including teaching, lecturing, writing, consultation, discussion or appearance, with or without compensation, in circumstances which might (1) reasonably result in a conflict of interest or an apparent conflict of interest between his private interests and his official Government duties and responsibilities; or (2) interfere with the efficient performance of his official duties; or (3) bring discredit upon, or cause unfavorable criticism of, the Commission.

(b) Advance authorization for employees to engage in outside employment, in any event, shall be obtained from the Director of Personnel, via supervisory channels. See ICC Manual—Administration, pp. 22–761 and 24–311.

§ 1000.735–17 Future employment.

If a member or employee of the Commission entertains a proposal for future employment by any person subject to regulation by the Commission or by associations or representatives of such persons, such member or employee should refrain from participating in the decision or disposition of any matter in which such person, association or representative is known to have a direct or substantial interest, both during such negotiation and, if such employment is accepted, until he severs his connection with the Commission.

§ 1000.735–18 Ex parte communications.

Members and employees of the Commission must conform to the standards adopted by the Commission on July 1, 1963, reprinted in Appendix C of the General Rules of Practice of the Commission.

§ 1000.735–19 Use of Federal property.

Members and employees of the Commission shall not directly or indirectly use, or allow the use of, Federal property of any kind, including property leased to the Government, for other than officially approved activities. They also have a positive duty and responsibility to protect and conserve all Federal property, including equipment, supplies and other property, which is entrusted or issued to them.

§ 1000.735–20 Use of intoxicants.

Members and employees of the Commission shall not consume intoxicants so as to impede the discharge of their official duties.

§ 1000.735–21 Indebtedness.

Members and employees shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court, and "in a proper and timely manner" means in a manner which the agency determines does not, under the circumstances, reflect adversely on the Government as his employer. In the event of dispute between an employee and an alleged creditor, this section does not require an agency to determine the validity or amount of the disputed debt.

§ 1000.735–22 Immoral or notoriously disgraceful conduct.

Members and employees of the Commission shall not engage in criminal, infamous, dishonest, improper or disgraceful conduct which violates common decency or morality or subjects the Commission to adverse criticism or disrepute.

§ 1000.735–23 Intermediaries.

Members and employees of the Commission shall not recommend or suggest the use of any nongovernmental intermediary (individual, firm, corporation, or other entity) offering any service as consultant, agency representative, attorney, expeditor, or specialist for the purpose of assisting in any negotiations, transactions, or other business with or before this Commission: *Provided, however,* That making available general reference lists of such nongovernmental intermediaries, the use of which is authorized by the Secretary of the Commission, shall not be deemed to be in violation of this section.

§ 1000.735–24 Gambling, betting, and lotteries.

Members and employees shall not participate, while on Federally-owned or leased property or while on duty for the Commission, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip, ticket, chance, voice, share or any other similar device.

§ 1000.735–25 Miscellaneous statutory provisions.

Each member and employee shall acquaint himself with the statutory provisions in Appendix IV, attached hereto and made a part hereof, which relate to his ethical and other conduct as a member and employee of the Commission and the Government.

§ 1000.735–26 Statements of employment and financial interests.

(a) All employees in the positions specified in Appendix I, attached hereto and made a part hereof, shall submit to the Director of Personnel within 90 days from the effective date of the regulations in this subpart, or if appointed after said effective date, within thirty days after his entrance on duty, a confidential statement of employment and financial interests on ICC Form No. 1164, attached hereto as Appendix II and made a part hereof.[1]

(b) Any changes in, or additions to, the information contained in an employee's statement of employment and financial interests shall be reported in a supplementary statement at the end of the quarter in which the change occurs. Quarters end March 31, June 30, September 30, and December 31. Where no changes or additions occur in a quarter, no negative report is required; but a supplementary statement, negative or otherwise, shall be filed by each employee as of June 30 of each year.

(c) The financial statements required herein are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of financial statements by employees does not permit him or any other person to participate in matters in which participation is prohibited by law, order, or regulation.

(d) The interest, if any, of a spouse, minor child, or any blood relation who is a member of, and resident in an employee's immediate household shall be reported as his interest. If that information is to be supplied by others, it should be so indicated in Part IV.

(e) In the event any of the required information, including holdings placed in trust, is not known to the employee but is known to another person, the employee should request that other person to submit the information on his behalf and should report such request in Part IV.

(f) Employees are not required to submit any information relating to their connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or any similar organization not conducted as a business enterprise and which is not engaged in the ownership or conduct of a business enterprise. Educational and other institutions doing research and development or related work involving grants of money from contracts with the Government are deemed "business enterprises" for purposes of this report and should be included.

§ 1000.735–27 Review of statements of employment and financial interests.

(a) Financial statements shall be held confidential and the information contained therein shall not be disclosed except as provided herein and as the Chairman or the Civil Service Commission may determine for good cause shown.

(b) The Director of Personnel shall review the annual statements and supplementary statements of employment and financial interests for the purpose of ascertaining the existence of conflicts of interests on the part of employees and shall notify the employee concerned, who shall promptly submit an explanation of the conflicts or appearance of conflicts of interest to the Director of Personnel.

(c) The Director of Personnel shall seek the advice of the General Counsel when there is a conflict or appearance of conflict of interest. The General Counsel shall render his opinion to the Director of Personnel who shall inform the employee of necessary steps to be taken to remedy the situation. If the matter is not resolved by appropriate action of the employee or otherwise, the Director of Personnel shall report the conflict or appearance of conflict through the Managing Director and the General Counsel (who is the counsellor for the agency) to the Chairman.

(d) Upon consideration of the employee's explanation and the report of the General Counsel, the Chairman shall decide and direct, if necessary, the Director of Personnel to take immediate and appropriate disciplinary or other remedial action to end the conflict or apparent conflict of interest in accordance with the appropriate procedures specified in ICC Manual—Administration, beginning on p. 22–761.

§ 1000.735–28 Interpretation and advisory service.

(a) The Director of Personnel shall furnish a copy of the Canons of Conduct to each member and employee immediately upon issuance and to each new member and new employee upon his entrance on duty and shall thereafter, annually or as circumstances may warrant, bring to the attention of each member and employee the Canons of Conduct and all revisions thereof.

(b) Legal advice shall be provided to members and employees with respect to interpretations of these Canons of Conduct, questions of conflicts of interest, or any other matters covered therein by designation of a Counselor and Deputy Counselors by the Chairman.

§ 1000.735–29 Specific provisions governing special Government employees.

(a) A special Government employee, as defined in 18 U.S.C. 202, shall not use (1) his Government employment for a purpose that is, or gives the appearance of being, motivated by a desire for private gain for himself or another person particularly one with whom he has family, business, or financial ties; (2) any inside information obtained as a result of his Government employment for private gain for himself or another person either by direct action on his part or by counsel, recommendation, or suggestion to another person, particularly one with whom he has family, business or financial ties; or (3) his Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to himself or another person, particularly one with whom he has family, business, or financial ties.

(b) Special Government employees shall adhere to all Canons of Conduct specified in this subpart except §§ 1000.735–16(b) and 1000.735–26. In lieu thereof, each special Government employee shall submit a statement of his employment and financial interests on ICC Form No. 1163 (attached hereto as Appendix III and made a part hereof[1]), to the Director of Personnel at the time of his employment and shall keep his statement current throughout his employment by submitting supplementary statements whenever any change in, or addition to, the information contained in his statement occurs.

§ 1000.735–30 Disciplinary and other remedial action.

Any violation of these Canons of Conduct by an employee shall be cause for appropriate disciplinary or other remedial action as provided in ICC Manual—Administration, beginning on p. 22–761, which may be in addition to any penalty prescribed by law.

[1] Form filed as part of the original document.

[1] Filed as part of the original document.

ATTACHMENT I

LIST OF EMPLOYEES REQUIRED TO SUBMIT ICC FORM NO. 1106

(Confidential Statement of Employment and Financial Interests)

Commissioners' Offices:
1. All staff members except the Administrative Assistants, secretarial, and clerical employees.
Office of the Managing Director:
1. Managing Director.[1]
2. Assistant Managing Director.[1]
3. Director of Personnel.
4. Regional Managers.
5. Chief and Assistant Chief, Section of Administrative Services.
6. Chief and Assistant Chief, Procurement Branch, Section of Administrative Services.
7. Chief, Space Management Branch, Section of Administrative Services.
Office of the Secretary:
1. Secretary.[1]
2. Assistant Secretary.
Office of Proceedings:
1. Director.[1]
2. Deputy Directors.[1]
3. Hearing Examiners including Chief and Assistant Chief.[1]
4. Chairman and Members, Review Boards Nos. 1 through 5.
5. Chairman and Members of the Transfer Board.
6. Chairman and Members of the Temporary Authorities Board.
7. Chairman and Members, Finance Board,[2] Nos. 1, 2, and 3.[4]
8. Chairman and Members, Operating Rights Board.[4]
9. All Attorneys in grade GS-15 and not otherwise specified herein.
Office of the General Counsel:
1. General Counsel.[1]
2. Deputy General Counsel.[1]
3. Chiefs of Sections.[1]
Bureau of Accounts:
1. Director.[1]
2. Assistant Director.[1]
3. Chiefs of Sections.
4. Chairman and Members, Accounting and Valuation Board.[4]
Bureau of Economics:
1. Director.[1]
2. Assistant Director.[1]
3. Chiefs of Sections.
Bureau of Enforcement:
1. Director.[1]
2. Assistant Director.[1]
3. Chiefs of Sections.
4. Regional Attorneys.
Bureau of Operations:
1. Director.[1]
2. Assistant Director.[1]
3. Chiefs of Sections.
4. Chairman and Members of the following Boards: Insurance; Railroad Service Board MC Leasing.[4]
5. Regional Directors, Operations.
Bureau of Traffic:
1. Director.[1]
2. Assistant Director.[1]
3. Chiefs of Sections.
4. Chief, Informal Cases Branch, Section of Rates and Informal Cases.
5. Chairman and Members, Board of Suspension.

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[1] Incumbents of these positions occupy grade GS-16 or above.

[2] Chairman and members occupy other positions generally below GS-16 and serve on an ad hoc basis. Boards generally constitute 3 members each.

[4] Chairman and usually one member occupy positions at grade GS-16 or above and serve on an ad hoc basis.

6. Chairman and Members, Fourth Section Board.
7. Chairman and Members, Special Permission Board.[5]
8. Chairman and Members, Released Rates Board.[5]

ATTACHMENT IV

MISCELLANEOUS STATUTORY PROVISIONS

Each employee has a positive duty to acquaint himself with each statute that relates to his ethical and other conduct as an employee of the Interstate Commerce Commission and of the Government. Therefore, each member and employee shall acquaint himself with the following statutory and nonstatutory provisions which relates to his ethical and other conduct:

1. House Concurrent Resolution 175, 85th Congress, 2d session, 72 Stat. B12, the Code of Ethics for Government Service.

2. The prohibition against bribery of public officials (18 U.S.C. 201) which imposes a maximum penalty of $20,000 fine or three times the money or thing received, whichever is greater; 15 years' imprisonment; or both; and removal;

3. The prohibition against receiving compensation for claims, contracts, etc. (18 U.S.C. 203), which imposes a maximum penalty of $10,000 fine; 2 years' imprisonment; or both; and removal;

4. The prohibition against prosecuting claims against and other matters affecting the Government (18 U.S.C. 205), which imposes a maximum penalty of $10,000 fine, 2 years' imprisonment; or both;

5. The prohibition against prosecuting claims involving matters connected with former duties—disqualification of partners (18 U.S.C. 207), which imposes a maximum penalty of $10,000 fine; 2 years' imprisonment; or both;

6. The prohibition against an interested person acting as a Government agent (18 U.S.C. 208), which imposes a maximum penalty of $10,000 fine; 2 years' imprisonment; or both;

7. The prohibition against salaries or contributions from other than Government sources (18 U.S.C. 209), which imposes a maximum penalty of $5,000 fine; 1 year imprisonment; or both;

8. The prohibition against acceptance of solicitation to obtain public office (18 U.S.C. 211), which imposes a maximum penalty of $1,000 fine; 1 year imprisonment; or both;

9. The prohibition against lobbying with appropriated funds (18 U.S.C. 1913), which imposes a maximum penalty of $500 fine; 1 year imprisonment; or both; and removal;

10. The prohibition against disloyalty and striking (5 U.S.C. 118p, 5 U.S.C. 118r) which imposes a maximum penalty of $1,000 fine; 1 year and a day's imprisonment; or both; and removal;

11. The prohibition against employment of member of Communist organization (50 U.S.C. 784), which imposes a maximum penalty of $10,000 fine; 5 years' imprisonment; or both; and removal;

12. The prohibition against disclosing of classified information (18 U.S.C. 798), which imposes a maximum penalty of $10,000 fine; 10 years' imprisonment; or both;

13. The prohibition against disclosing of confidential information (18 U.S.C. 1905), which imposes a maximum penalty of $1,000 fine; 1 year imprisonment; or both; and removal;

14. The prohibition against habitual use of intoxicants to excess (5 U.S.C. 640), which imposes a maximum penalty of removal;

15. The prohibition against the misuse of Government vehicles (5 U.S.C. 78c), which imposes a maximum penalty of removal;

16. The prohibition against the misuse of franking privilege (18 U.S.C. 1719), which imposes a maximum penalty of $300 fine;

17. The prohibition against the deceit in examination or personnel action (5 U.S.C. 637), which imposes a maximum penalty of $1,000 fine; 1 year imprisonment; or both;

18. The prohibition against fraud and false statement (18 U.S.C. 1001), which imposes a maximum penalty of $10,000 fine; 5 years' imprisonment; or both;

19. The prohibition against mutilating or destroying public records (18 U.S.C. 2071), which imposes a maximum penalty of $2,000 fine; 3 years' imprisonment; or both; and removal;

20. The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508), which imposes a maximum penalty of $5,000 fine; 10 years' imprisonment; or both;

21. The prohibition against embezzlement and theft of Government money, property, or records (18 U.S.C. 641), which imposes a maximum penalty of $10,000 fine; 10 years' imprisonment; or both;

22. The prohibition against failure to account for public money (18 U.S.C. 643), which imposes a maximum penalty of fine equal to amount embezzled; imprisonment not more than 10 years; or both;

23. The prohibition against wrongfully converting property of another (18 U.S.C. 654), which imposes a fine equal to amount embezzled; imprisonment not more than 10 years; or both;

24. The prohibition against unauthorized use of documents relating to duties (18 U.S.C. 285), which imposes a maximum penalty of $5,000 fine; 5 years' imprisonment; or both;

25. The prohibition against political activity (5 U.S.C. 1181), which imposes a maximum penalty of removal;

26. The prohibition against solicitation of political contributions (18 U.S.C. 602), which imposes a maximum penalty of $5,000 fine; 3 years' imprisonment; or both;

27. The prohibition against solicitation of political contributions in Federal buildings (18 U.S.C. 603), which imposes a maximum penalty of $5,000 fine; 3 years' imprisonment; or both;

28. The prohibition against making political contributions (18 U.S.C. 607), which imposes a maximum penalty of $5,000 fine; 3 years' imprisonment; or both;

29. The prohibition limiting political contributions and purchases (18 U.S.C. 608) which imposes a maximum penalty of $5,000 fine; 3 years' imprisonment; or both;

30. The prohibition against making a donation as a gift to an employee in a superior official position (5 U.S.C. 113);

31. The prohibition against holding stocks or having other pecuniary interest in any mode of transportation (49 U.S.C. 12 and 305(1)); and,

32. The prohibition against participating in any hearing or proceedings in which there is pecuniary interest (49 U.S.C. 17(3)).

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[5] Chairman and Members of Review Boards 1, 2, 4, and 5, and Released Rates Board occupy positions at grade GS-16 or above.

PART 1001—INSPECTION OF RECORDS

Sec.
1001.1 Records available at the Commission's Washington office.
1001.2 Records available at the Commission's regional and detached offices.
1001.3 Certified copies of records, etc.
1001.4 Requests to inspect other records not considered public under 5 U.S.C. 552.

Appendix.

AUTHORITY: The provisions of this Part 1001a issued under sec. 12, 24 Stat. 383, as amended, 81 Stat. 54; 49 U.S.C. 12; 5 U.S.C. 552.

§ 1001.1 Records available at the Commission's Washington office.

The following specific files and records in the custody of the Secretary are available to the public (secs. 16, 204, 216, and 417 of the Interstate Commerce Act, 49 U.S.C. 16, 304, 916, and 1017), and may be inspected at the Commission's office in Washington upon reasonable request during the Commission's business hours between 8:30 a.m. and 5:00 p.m., Monday through Friday.

(a) Copies of tariffs, rate schedules, section 22 quotations or tenders, classifications, powers of attorney, concurrences, and contracts filed with the Commission pursuant to sections 6, 22, 217, 218, 306, 405, and 409 of the Act (49 U.S.C. 6, 22, 317, 318, 906, 1005, and 1009).

(b) Annual and other periodic reports filed with the Commission pursuant to sections 20, 220, 313, and 412 of the Act (49 U.S.C. 20, 320, 913, and 1912).

(c) Annual reports, maps, profiles, and other data filed with the Commission pursuant to section 19a.

(d) All docket files, including pleadings, depositions, exhibits, transcripts of testimony, recommended and proposed reports, exceptions, briefs, and reports and orders of the Commission in any proceeding and carrier operating authorities granted in such proceedings.

(e) File of instruments or documents recorded pursuant to section 20c and index thereto.

(f) ICC Manual-Administration.

§ 1001.2 Records available at the Commission's regional and detached offices.

Copies of certain rate schedules, tariffs, reports and operating authorities filed by and applicable to motor and water carriers and freight forwarders are available for inspection at field offices the locations of which are set forth in the appendix to this part. Such records are available upon reasonable request during its regular business hours, Monday through Friday. Records not available at the field offices may be obtained and inspected in accordance with the provisions of § 1001.1.

§ 1001.3 Certified copies of records, etc.

Copies of and extracts from public records will be certified by the Secretary, under the seal of the Commission. Persons requesting the Commission to prepare such copies should clearly state the material to be copied, and whether it shall be certified. Charges will be made for certification and for the preparation of copies as provided in Part 1002 of this chapter.

§ 1001.4 Requests to inspect other records not considered public under 5 U.S.C. 552.

Requests to inspect records other than those now deemed to be of a public nature shall be addressed to the Secretary. If the Secretary rules that such records cannot be made available because they are exempt under the provisions of 5 U.S.C. 552(a)(3) (sec. 1, 81 Stat. 54), appeal from such ruling may be addressed to the Chairman whose decision shall be administratively final.

AVAILABILITY OF COMMISSION RECORDS FOR PUBLIC INSPECTION
INTERSTATE COMMERCE COMMISSION FIELD OFFICES

ICC regions	Location of offices	Bureaus and offices represented [1]	In charge [1]
One	Boston, Mass. 02203; Regional Headquarters: 2211-B John F. Kennedy Federal Building, Government Center.	A, E, O, OMD	RM
	Albany, N.Y. 12207, 518 New Federal Building, Maiden Lane and Broadway.	A, O	OIC
	Binghamton, N.Y. 13902, 215 Post Office Building	O	OIC
	Buffalo, N.Y. 14203, 615 Federal Office Building, 121 Ellicott Street.	O	OIC
	Hartford, Conn. 06101, 324 Post Office Building, 135 High Street.	O	OIC
	Lebanon, N.H. 03766, 24 Hanover Street	O	OIC
	Montpelier, Vermont (address to be announced)	O	OIC
	Newark, N.J. 07102, 306 Industrial Office Building, 1060 Broad Street.	A, O	OIC
	New York, N.Y. 10015, Room 1111, 346 Broadway	A, E, O	OIC
	Portland, Maine 04112, 305 Post Office and Courthouse, 76 Pearl Street.	O	OIC
	Providence, R.I. 02903, 187 Westminister Street	O	OIC
	Springfield, Mass. 01103, 328 Federal Building, 436 Dwight Street.	O	OIC
	Syracuse, N.Y. 13202, O'Donnell Building, 301 Erie Boulevard, West.	O	OIC
	Trenton, N.J. 08608, 410 Post Office Building, 402 East State Street.	O	OIC
Two	Philadelphia, Pa. 19106; Regional Headquarters: 900 Customhouse, Second and Chestnut Streets.	A, E, O, OMD	RM
	Baltimore, Md. 21202, 1125 Federal Building, Charles Center, 31 Hopkins Plaza.	A, O	OIC
	Charleston, W. Va. 25301, 3202 Federal Office Building, 500 Quarrier Street.	O	OIC
	Cincinnati, Ohio 45202, 1010 Federal Building, 550 Main Street.	O	OIC
	Cleveland, Ohio 44114, 435 Federal Building, 215 Superior Avenue NE.	A, O	OIC
	Columbus, Ohio 43215, 206 New Post Office Building, 85 Marconi Boulevard.	E, O	OIC
	Harrisburg, Pa. 17101, 218 Central Industrial Building, 100 North Cameron Street.	O	OIC
	Pittsburgh, Pa. 15222, 2108 Federal Building, 1000 Liberty Avenue.	A, O	OIC
	Richmond, Va. 23240, 10-302 Federal Building, 400 North Eighth Street.	A, O	OIC
	Roanoke, Va. 24011, 215 Campbell Avenue SW	O	OIC
	Salisbury, Md. 21801, 306-B Post Office Building, East Main Street.	O	OIC
	Scranton, Pa. 18503, 309 Post Office Building, North Washington Avenue and Linden Street.	O	OIC
	Toledo, Ohio 43604, 5234 Federal Office Building, 234 Summit Street.	O	OIC
	Washington, D.C. 20423, ICC Building, 12th and Constitution Avenue NW.	A, O	OIC
	Wheeling, W. Va. 26003, 531 Hawley Building, 1025 Main Street.	O	OIC
Three	Atlanta, Ga. 30309; Regional Headquarters: 1362 West Peachtree Street NW.	A, E, O, OMD	RM
	Birmingham, Ala. 35203, 2121 Building, 2121 8th Avenue North.	O	OIC
	Charlotte, N.C. 28202, Room 206, 327 North Tryon Street.	A, O	OIC
	Columbia, S.C. 29201, 901A Federal Office Building, 901 Sumter Street.	O	OIC
	Jackson, Miss. 39201, 323-A U.S. Post Office and Courthouse.	O	OIC
	Jacksonville, Fla. 32202, 220 Federal Office Building, 400 West Bay Street.	A, O	OIC
	Lexington, Ky. 40507, 307 Exchange Building, 147 North Upper Street.	O	OIC
	Louisville, Ky. 40202, 426 Post Office Building, 601 West Broadway.	O	OIC
	Memphis, Tenn. 38103, 980 Federal Office Building, 167 North Main Street.	O	OIC
	Miami, Fla. 33130, 51 Southwest First Avenue, Room 1627.	O	OIC
	Nashville, Tenn. 37203, 705 U.S. Courthouse, 801 Broadway.	A, O	OIC
	Raleigh, N.C. 27609, 461 Oberlin Road, Cameron Village Station.	O	OIC
Four	Chicago, Ill. 60604; Regional Headquarters: 1086 U.S. Courthouse and Federal Office Building, 219 South Dearborn Street.	A, E, O, OMD	RM
	Detroit, Mich. 48226, Room 1110, David Broderick Tower Building, 10 Witherill Street.	A, O	OIC
	Fargo, N. Dak. 58101, 218 South Plaza Building, 1021 South University Drive.	O	OIC
	Fort Wayne, Ind. 46802, 328 Federal Building	O	OIC
	Indianapolis, Ind. 46204, Eighth Floor, Century Building, 36 South Pennsylvania Street.	A, O	OIC
	Lansing, Mich. 48933, 221 Federal Building, 315 West Allegan Street.	O	OIC
	Madison, Wis. 53703, 314 North Hamilton Street, Room 108.	O	OIC
	Milwaukee, Wis. 53202, 611 Cawker Building, 135 West Wells Street.	O	OIC
	Minneapolis, Minn. 55401, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street.	A, E, O	OIC
	Pierre, S. Dak. 57501, 340 Federal Building, South Pierre and Block Streets.	O	OIC
	Springfield, Ill. 62704, 476 Land of Lincoln Building, 325 West Adams Street.	O	OIC

See footnote at end of table.

AVAILABILITY OF COMMISSION RECORDS FOR PUBLIC INSPECTION
INTERSTATE COMMERCE COMMISSION FIELD OFFICES—Con.

ICC regions	Location of offices	Bureau and offices represented [1]	In charge [1]
Five	Fort Worth, Tex. 76102; Regional Headquarters: 9A27 Frits Garland Lanham Federal Building, 819 Taylor Street.	A, E, O, OMD	RM
	Amarillo, Tex. 79101, Miller Building, 918 Tyler Street.	O	OIC
	Dallas, Tex. 75202, 512 Thomas Building, 1314 Wood Street.	A, O	OIC
	Davenport, Iowa 52801, 323 Federal Building, Fourth and Perry Streets.	O	OIC
	Des Moines, Iowa 50309, 227 Federal Office Building, Fifth Street and Court Avenue.	O	OIC
	El Paso, Tex. 79901, 107-A Post Office Building, 219 Mills Street.	O	OIC
	Houston, Tex. 77002, 9640 Federal Building and U.S. Courthouse, 515 Rusk Avenue.	A, O	OIC
	Kansas City, Mo. 64106, 1100 Federal Office Building, 911 Walnut Street.	A, E, O	OIC
	Lincoln, Nebr. 68508, 315 U.S. Courthouse and Post Office, 129 North 10th Street.	O	OIC
	Little Rock, Ark. 72201, 2519 Federal Office Building, Capitol and State Streets.	O	OIC
	New Orleans, La. 70113, Room T-4009, Federal Building and Post Office, 701 Loyola Avenue.	O	OIC
	Oklahoma City, Okla. 73102, 350 American General Building, 210 Northwest Sixth Street.	O	OIC
	Omaha, Nebr. 68102, 706 Federal Office Building, 106 South 15th Street.	O	OIC
	St. Louis, Mo. 63103, 3248 Federal Building, 1520 Market Street.	A, O	OIC
	San Antonio, Tex. 78206, 200 Manion Building, 301 Broadway.	O	OIC
	Sioux City, Iowa 51101, 304 Post Office Building	O	OIC
	Topeka, Kans. 66603, 234 Federal Building	O	OIC
	Wichita, Kans. 67202, 606 Schweiter Building, 106 North Main Street.	O	OIC
Six	San Francisco, Calif. 94102; Regional Headquarters: 12001 Federal Office Building, 450 Golden Gate Avenue.	A, E, O, OP, OMD	RM
	Albuquerque, N. Mex. 87101, 109 Federal Building, 421 Gold Avenue SW.	O	OIC
	Anchorage, Alaska 99501, 51-32 Federal Building	O	OIC
	Billings, Mont. 59101, 251 Post Office Building	O	OIC
	Boise, Idaho 83702, 208 Eastman Building, 105 North Eighth Street.	O	OIC
	Carson City, Nev. 89701, 212 Telegraph Building, 11 West Telegraph Street.	O	OIC
	Casper, Wyo. 82601, D and S Building, 255 North Center Street.	O	OIC
	Denver, Colo. 80202, 2022 Federal Building, 1961 Stout Street.	A, O	OIC
	Los Angeles, Calif. 90102, 7705 Federal Building, 300 North Los Angeles Street.	A, O	OIC
	Phoenix, Ariz. 85025, 3427 Federal Building, 230 North First Avenue.	O	OIC
	Portland, Oreg. 97204, 450 Multnomah Building, 120 Southwest Fourth Street.	A, E, O	OIC
	Salt Lake City, Utah, 84111, 2234 Federal Building, 125 South State Street.	O	OIC
	Seattle, Wash. 98101, 6130 Arcade Building, 1319 Second Avenue.	A, O	OIC
	Spokane, Wash. 99201, 401 U.S. Post Office Building, West 814 Riverside Avenue.	O	OIC

A—Accounts.
E—Enforcement.
O—Operations.
OMD—Office of the Managing Director.
OP—Office of Proceedings.
RM—Regional Manager.
OIC—Officer-in-Charge.

TERRITORIAL COVERAGE OF THE FIELD OFFICES BY REGION

Region	Headquarters	States
1	Boston, Mass.	Massachusetts, Maine, Vermont, New Hampshire, Rhode Island, New York, New Jersey, Connecticut.
2	Philadelphia, Pa.	Pennsylvania, Maryland, Delaware, District of Columbia, Virginia, Ohio, West Virginia.
3	Atlanta, Ga.	Georgia, Florida, Alabama, North and South Carolina, Tennessee, Kentucky, Mississippi.
4	Chicago, Ill.	Illinois, Indiana, Michigan, Minnesota, Wisconsin, North and South Dakota.
5	Fort Worth, Tex.	Missouri, Iowa, Nebraska, Kansas, Texas, Oklahoma, Arkansas, Louisiana.
6	San Francisco, Calif.	Colorado, Wyoming, New Mexico, Utah, Montana, Oregon, Washington, Idaho, Alaska, Hawaii, California, Arizona, Nevada.

(d) Photostat copies of tariffs, reports and other documents, at the rate of $1.25 per exposure. Copy of one or more pages may be made with one exposure, depending on size of page.

(e) Xerox copy of tariffs, reports and other documents, 25 cents per letter-size or legal-size sheet.

(f) Minimum charge of $1 will be made for copying service.

(g) Payment for services described in paragraphs (a) through (f) of this section may be made in cash or by postal money order or check payable to the order of the Secretary, Interstate Commerce Commission, Washington, D.C., and forwarded to his office.

(h) Transcript of testimony and of oral argument, or extracts therefrom, may be purchased by the public from the Commission's official reporter. For the fiscal year beginning July 1, 1965, the official reporter is the CSA Reporting Corporation, 300 7th Street SW., Washington, D.C., and transcripts will be furnished to the public at the following maximum rates per page of approximately 200 words:

75 cents per page for regular copy and $1.50 per page for daily copy for hearings or arguments held at Washington, D.C., and 85 cents per page for regular copy and $1.95 per page for daily copy for hearings or agruments held at points in the United States other than Washington, D.C., and other than in the States of Alaska and Hawaii.

Application for copies and payment therefor should be made direct to the official reporter.

(Sec. 501, 65 Stat. 290; 5 U.S.C. 140)

NOTE: The following statement of policy relating to the matter of the official reporting service for the Interstate Commerce Commission, dated June 11, 1964, appears at 29 F.R. 8418, July 3, 1964.

During the past five years, the Commission has experienced serious difficulty obtaining responsive bids for its reporting services contract. Only one responsive bid was received each year during this period. For fiscal year 1965, beginning July 1, 1964, the Commission received no responsive bids to its invitation for bids on the contract for reporting services.

The lack of bidders for the contract results from the steadily decreasing sales of copies of the official transcript by the Official Reporter. It was brought to the Commission's attention that the decrease in sales is directly connected with the recopying of the transcript by the Practitioners in Commission proceedings from sources other than the Official Reporter. On a number of occasions the members of the Commission's bar through their committee representatives have been informed by the Commission that the continuance of the practice of recopying transcripts by sources other than the Official Reporter would jeopardize efforts to obtain bidders for contracts for reporting services. However, despite assurances that the unofficial recopying practice would be discouraged, there has been little affect upon the sales of official copies. The sale of official copies has continued to decrease with the result that, as stated, no responsive bids were received to the Commission's recent invitation for bids for the reporting contract for fiscal year 1965.

Since the present contract for reporting services expires June 30, 1966, the Commission was confronted with the serious situation of having no reporter service available to record the hundreds of hearings scheduled for July 1966 as well as those which will be held during the remainder of the year. In order to prevent a cessation of Commission proceedings, steps were immediately taken to negotiate a contract with the present Official Reporter. These negotiations were successfully concluded only after the contractor was assured that the Commission would take affirmative measures to discourage the practice of recopying transcripts of hearings by unofficial sources. In addition, the Commission agreed to permit the contractor to cancel the field portion of the contract upon 30 day's notice in the event that these measures proved unsuccessful.

The Commission having been informed of this matter announces the following statement of policy:

The Commission has determined that it is in the public interest to limit to the fullest extent possible the cost of purchases of the official transcripts by the general public. In addition, the Commission is aware that the Official Reporter's ability to perform the duties set forth in the contract will be seriously impaired if his sales of copies of these official transcripts decrease, and that this would adversely affect the Commission's ability to perform its statutory duties to the detriment of the public interest. Practitioners before the Commission have a duty to uphold the policies of the Commission with respect to its procedures; therefore, it is the Commission's firm policy to discourage the reproduction of copies of transcript from any source other than the Official Reporter. A statement of the Commission's policy shall be made by the Hearing Officer or by a Joint Board in each Commission proceeding.

PART 1002—FEES

Sec.
1002.1 Fees for copying, certification, and services in connection therewith.
1002.2 Filing fees.

§ 1002.1 Fees for copying, certification, and services in connection therewith.

Certifications and copies of such tariffs, reports and other public records and documents on file with the Interstate Commerce Commission, as may be practicable to furnish, will be made on the following basis:

(a) Certificate of the Secretary, $1.

(b) Services involved in examination of tariffs or schedules for preparation of photostat copies or certified copies of tariffs or schedules or extracts therefrom at the rate of $6 per hour.

(c) Services involved in checking records to be certified to determine authenticity, the clerical work, etc., incidental thereto, at the rate of $3 per hour.

§ 1002.2 Filing fees.

(a) *Manner of payment.* All filing fees will be payable at the time and place the application, petition, or notice is tendered for filing. Fees will be payable to the Interstate Commerce Commission by check drawn upon funds deposited in a bank in the United States or money order payable in U.S. currency.

(b) *Fees not refundable.* Fees will be assessed for every filing in the types of proceedings listed in the schedule of fees contained in paragraph (d) of this section. After the application, petition, or notice has been accepted for filing by the Commission, the filing fee will not be refunded regardless of whether the application, petition, or notice is granted or approved, denied, dismissed, or withdrawn. If an application, petition, or notice is rejected by the Commission as incomplete or for some other reason, the fee will be returned.

(c) *Related or consolidated proceedings.* (1) Separate fees need not be paid on related applications filed by the same applicant which would be the subject of one proceeding, such as a single petition for modification of more than one certificate or permit held by the same person; a related plan of track relocation, joint use, purchase of trackage rights, and issuance of securities; a section 5 motor common carrier acquisition application combined with a related section 207 application for a certificate of public convenience and necessity; or the like. In such instances, the only fee to be assessed will be that applicable to the embraced proceeding which carries the highest filing fee as listed in paragraph (d) of this section.

(2) Separate fees will be assessed for the filing of temporary authority applications as provided in paragraph (d) (7) of this section, regardless of whether such applications are related to an application for corresponding permanent authority.

(3) The Commission may reject concurrently filed applications, petitions, or notices asserted to be related and refund the filing fee if, in its judgment, they embrace two or more severable matters which should be the subject of separate proceedings.

(d) *Schedule of filing fees.*[1]

REGULATIONS GOVERNING FEES FOR SERVICE

	Type of proceeding	Fee
	PART I—APPLICATION FOR OPERATING AUTHORITY OR EXEMPTIONS	
(1)	An application for a certificate authorizing the construction, extension, acquisition, or operation of lines of railroad. Section 1 (18) (20)	$200
(2)	A motor carrier exemption application. Section 204a(4a)	200
(3)	An application for motor common carrier authority, including an application for a certificate of registration. Sections 206 and 208(a) (6)	300
(4)	An application for motor contract carrier authority. Section 209	300
(5)	A petition to renew authority to transport explosives under section 206 or 209	5
(6)	A petition to modify permits of motor carriers by the addition of a shipper or shippers for whom service may be performed. Section 209	50
(7)	An application for motor carrier temporary authority; provided, that no fee will be assessed for an application for emergency temporary authority as defined in 49 CFR § 1131.1(b)(1). Section 210a(a)	40
(8)	An application for a broker's license. Section 211	300
(9)	A water carrier exemption application. Section 302 or 303	200
(10)	An application for water common carrier authority. Section 309	300
(11)	An application for water contract carrier authority. Section 309	300
(12)	An application for water carrier temporary authority. Section 410	40
(13)	An application for freight forwarder authority. Section 410	300
(14)	A petition to remove or alter an operating restriction contained in a certificate or permit and petitions seeking modification, clarification or interpretation of a certificate or permit only to the extent or making a correction or a change in the name presently appearing therein of (a) a shipper or owner of a plantsite, or (b) a geographical point or highway.	200 10
(15)	An application for authority to deviate from authorized regular route. 49 CFR Part 1042	300
	PART II—APPLICATIONS TO DISCONTINUE TRANSPORTATION SERVICE	
(16)	An application for authority to abandon all or a portion of a line of railroad or the operation thereof. Section 1(18)	200
(17)	Notice or petition to discontinue train or ferry service. Section 13a	200
	PART III—AFFILIATIONS TO ENSUE UPON A PARTICULAR FINANCIAL TRANSACTION OR JOINT ARRANGEMENT	
(18)	An application for use of terminal facilities. Section 1(9)	125
(19)	An application for the pooling or division of traffic. Section 5(1)	100
(20)	An application of two or more carriers to consolidate or merge their properties or franchises, or any part thereof, into one corporation for the ownership, management and operation of the properties thereinafter in separate ownership. Section 5(2)	300
(21)	An application of a nonearrier to acquire control of two or more carriers through ownership of stock or otherwise. Section 5(2)	300
(22)	An application to acquire trackage rights over, joint ownership in, or joint use of, any railroad lines owned and operated by any other carrier and terminal incidental thereto. Section 5(2)	300
(23)	An application of a carrier or carriers to purchase, lease or contract to operate the properties of another, or to acquire control of another by purchase of stock or otherwise. Section 5(2)	300 300
(24)	An application for a determination of fact of competition. Section 5(15)	300
(25)	An application for approval of, or to amend, a rate association agreement. Section 5a	10
(26)	An application for authority to hold a position as officer or director. Section 5(4)(17)	
(27)	An application to issue securities; an application to assume obligation or liability in respect to securities of another; an application or petition for modification of an outstanding authorization; or an application for exemption from competitive bidding requirements of Ex Parte No. 158, 49 CFR § 1115.35. Sections 20a, 20b, or 20d	300 40
(28)	An application for temporary authority to operate a motor or water carrier. Section 210a(b) or 311(b)	
(29)	An application for transfer or lease of a certificate or permit, including a certificate of registration, and a broker license or change of control of companies holding broker's licenses. Sections 212(b), 312 or 410(g)	50 50
(29a)	A petition to transfer a water carrier exemption authorized under sections 302 and 303 to the successor	10
(30)	An application for approval of a motor vehicle rental contract. 49 CFR § 1057.8(b)	
	PART IV—OTHER PROCEEDINGS	
(31)	An application for relief from the long-and-short haul and aggregate-of-intermediates provisions, including applications for relief with respect to additional commodities, origins or destinations, but not including petitions for modification of conditions, effective or not yet effective of outstanding orders, or amendments to applications not yet disposed of. Section 4	100
(32)	An application for authority to establish released value rates or ratings, except that no fee will be assessed for applications seeking such authority in connection with reduced rates established to relieve distress caused by drought and other calamitous visitation under section 22(1) of the act. Sections 20(11), 216, 412	125
(33)	An application for special permission for short notice or the waiver of tariff-publishing requirements, including applications to extend or eliminate the scheduled expiration date of an outstanding special permission or to broaden the application thereof to additional territory or tariffs, except amendments to pending applications not yet disposed of, and applications to postpone the effectiveness of suspended schedules, when carrier or agent is requested to do so, in order to afford the Commission more time for disposition of the proceeding or to postpone the scheduled effective date of protested schedules or those for which a fourth-section application has been filed, in order to afford the boards more time within which to present the protests or applications	15

PART 1003—LIST OF FORMS

Sec.
1003.1 Motor Carrier and Broker Forms.
1003.2 Water Carrier Application Forms.
1003.3 Freight Forwarder Forms.
1003.4 Forms for Issuance of Securities and Assumption of Obligations.

[1] Statutory references are to the Interstate Commerce Act. The proceedings for which fees are assessed are arranged in four major categories and, within these categories, in order of the pertinent statutory provision.

AUTHORITY: The forms listed in this Part 1003 are issued under sec. 12, 24 Stat. 383, as amended; sec. 204, 49 Stat. 546, as amended; sec. 304, 54 Stat. 933; and sec. 403, 56 Stat. 285; 49 U.S.C. 12, 304, 804, and 1003.

NOTE: The forms listed in this part are prescribed for various applications under the Interstate Commerce Act and the Commission's regulations contained in Subchapters A and B of this chapter.

Other printed forms are prescribed in the Commission's Regulations governing accounts, records, and reports contained in Subchapter C of this chapter.

All prescribed forms listed in this part and Subchapter C include instructions for their completion.

Copies of all prescribed forms are available upon request from the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

§ 1003.1 Motor Carrier and Broker Forms.

(a) Application Forms.

BOC-3 Designation of Agent for Service of Process.

Section 221(c) of the Interstate Commerce Act. This form is required to be filed by all motor carriers and brokers prior to issuance of operating authority.

(Secs. 204(a), and 221(c), 49 Stat. 546, 568, as amended; 49 U.S.C. 304, 321)

Cross Reference: Part 1044 of this chapter.

B.M.C. 4.

Applications under section 211 of the Interstate Commerce Act for licenses to operate as brokers of motor-carrier transportation of property.

B.M.C. 5.

Applications under section 211 of the Interstate Commerce Act for licenses to operate as brokers of motor-carrier transportation of passengers.

B.M.C. 15.

Notice of filing of application for operating authority or exemption, and of designation of agent for service of notices or orders.

B.M.C. 15-A (Revised).

Notice of filing of applications for authority under sections 5 and 210a (b), Interstate Commerce Act.

Cross Reference: Part 1134 of this chapter.

B.M.C. 44 (Revised).

Application for authority under section 5, Interstate Commerce Act, to consolidate, merge, purchase, or lease operating rights and properties, or any part thereof, of a motor carrier.

Cross Reference: Part 1134 of this chapter.

B.M.C. 45 (Revised).

Application for authority under section 5, Interstate Commerce Act, to acquire control of a motor carrier or motor carriers through ownership of stock, or otherwise.

Cross Reference: Part 1134 of this chapter.

B.M.C. 46 (Revised).

Application for approval under section 210a(b), Interstate Commerce Act, of the temporary operation of motor-carrier properties sought to be acquired under separately filed application under section 5.

Cross Reference: Part 1134 of this chapter.

B.M.C. 72.

Applications for certificates of exemption under section 204(a)(4a) of the Interstate Commerce Act covering motor-carrier operations in interstate or foreign commerce lawfully conducted solely within a single State.

OP-OR-9.

Application for motor carrier certificate or permit, revised April 6, 1966. (49 Stat. 561 as amended, 49 U.S.C. 306; 49 Stat. 559 as amended, 49 U.S.C. 309)

Cross Reference: Part 1130 of this chapter.

B.M.C. 79.

"Application for Approval of Contract Carrier Rental Contract under Authority of Section 1057.8(b) of Ex Parte No. MC-43".

Cross Reference: Part 1057 of this chapter.

BOR 95.

Application under section 210a (a) of the Interstate Commerce Act for temporary authority to operate as a common or contract carrier by motor vehicle.

Cross Reference: Part 1131 of this chapter.

BOR 96.

Application under section 212(c) of the Interstate Commerce Act for a motor carrier certificate to operate as a common carrier by motor vehicle in lieu of a permit to operate as a contract carrier by motor vehicle.

Cross Reference: Part 1130 of this chapter.

BOR 100.

Application for Motor Carrier Certificate of Registration, Form BOR 100,[1] to be used only by common carriers by motor vehicle who or which propose to engage in transportation in interstate and foreign commerce under the provisions of section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962.

Cross Reference: Part 1047 of this chapter.

BOC 101.

Report of Underestimates, to be used by motor carriers of household goods to report to the Commission all instances in which actual charges exceed written estimates by 10 percent or more.

Cross Reference: Part 1056 of this chapter.

BF 200.

Applications filed in proceedings under sections 212(b) and 211 of the Interstate Commerce Act (1) for transfer or lease of motor common and contract carrier operating rights and (2) for transfer of brokers' licenses or approval of a change in control of a company holding a broker's license.

Cross References: Parts 1132 and 1133 of this chapter.

BF 201.

Application for Transfer or Lease of Motor Carrier Certificates of Registration and Certain Other Single-State Operating Rights, for use in proceedings other than under section 5 of the Interstate Commerce Act.

(Sec. 206, 49 Stat. 551, secs. 1, 2, 70 Stat. 911; 49 U.S.C. 306)

Cross Reference: Part 1132 of this chapter.

(b) Insurance and Surety Bond Forms.

Cross Reference: Part 1043 of this chapter.

B.M.C. 32.

Endorsement for motor common-carrier policies of insurance for cargo liability under section 215 of the Interstate Commerce Act.

B.M.C. 34 (Rev. 1957).

Motor carrier cargo liability certificate of insurance.

B.M.C. 35 (Rev. 1957).

Notice of cancellation motor carrier policies of insurance.

B.M.C. 36 (Rev. 1957).

Notice of cancellation motor carrier and broker's surety bonds.

B.M.C. 40 (Rev. 1958).

Application for authority to self-insure under section 215 of the Interstate Commerce Act.

B.M.C. 82 (Rev. 1957).

Motor carrier bodily injury liability and property damage liability surety bond.

B.M.C. 83 (Rev. 1957).

Motor common carrier cargo liability surety bond.

B.M.C. 84.

Broker's surety bond under section 211(c) of the Interstate Commerce Act.

B.M.C. 90.

Endorsement for Motor Carrier Policies of Insurance for Automobile Bodily Injury and Property Damage Liability under section 215, Interstate Commerce Act.

B.M.C. 91 (Rev. 1957).

Motor carrier automobile bodily injury liability and property damage liability certificate of insurance.

B.M.C. 94.

Designation of Agent for Service of Process.

§ 1003.2 Water Carrier Application Forms.

B.W.C. 1.

Application for exemption of transportation by contract carrier by water.

B.W.C. 3.

Applications for certificates as common carriers by water and for permits as contract carriers by water covering proposed new operations, and applications for revised certificates and permits subject to Part III of the Interstate Commerce Act.

B.W.C. 4.

Application for exemption of persons or classes of persons from the provisions of Part III of the Interstate Commerce Act, under section 302(e) thereof, and applications for certificates of exemption of water carriers from the provisions of Part III of the Interstate Commerce Act under section 303(h) thereof.

B.W.C. 6.

Designation of agent for service of notices, orders, and process, pursuant to Part III of the Act.

B.W.C. 7.

Application for certificates covering extension of services made pursuant to the proviso of section 309(d) by common carriers by water subject to Part III of the Interstate Commerce Act.

Cross References: Part 1140 of this chapter.

§ 1003.3 Freight Forwarder Forms.

(a) Application forms.

Cross References: Part 1150 of this chapter.

FF 1. Application for a freight forwarder permit under sec. 410 of the Act.

FF 2. Notice of application for freight forwarder permit.

FF 3. Designation of agent for service of notices, orders, and process, pursuant to Part IV, section 416(a).

(b) Insurance and surety bond forms.

Cross References: Part 1084 of this chapter.

FF 32. Endorsement for freight forwarder policy of insurance for cargo liability under section 403(c) of the Interstate Commerce Act.

FF 34 (Rev. 1957). Freight Forwarder Cargo Liability Certificate of Insurance.

FF 35 (Rev. 1957). Notice of Cancellation of Freight Forwarder Policy of Insurance.

FF 36 (Rev. 1957). Notice of Cancellation of Freight Forwarder Surety Bond.

FF 43 (Rev. 1957). Freight Forwarder Cargo Liability Surety Bond.

FF 50. Endorsement for Freight Forwarder Policies of Insurance for Automobile Bodily Injury Liability and Property Damage Liability under section 403 (d), Interstate Commerce Act.

FF 51 (Rev. 1957). Freight Forwarder Automobile Bodily Injury Liability and Property Damage Liability Certificate of Insurance.

FF 52 (Rev. 1957). Freight Forwarder Bodily Injury Liability and Property Damage Liability Surety Bond.

§ 1003.4 Forms for Issuances of Securities and Assumption of Obligations.

Cross Reference: Part 1115 of this chapter.

(a) Application forms:

BF-6, Application under sections 20a or 214, Interstate Commerce Act, for authority to issue securities, or to assume obligation or liability in respect of securities of another.

BF-7, Special application for authority to sell securities without competitive bidding.

(b) Report forms:

BF-21, Certificate of notification under section 20a(5), Interstate Commerce Act: Disposal of pledged or Treasury securities.

BF-22, Certificate of notification under section 20a(9), Interstate Commerce Act: Issuance of short-term notes.

BF-23, Special report under section 20a (10), Interstate Commerce Act: Issuance of securities or assumption of obligations.

PART 1004—ADMINISTRATIVE INTERPRETATIONS

§ 1004.1 Authorization for adjustment of claims for damages resulting from misrouting.

While the Interstate Commerce Commission has no authority to award damages against motor carriers subject to part II of the Interstate Commerce Act, it is of the opinion that motor carriers should adjust claims caused by misrouting; and carriers subject to part I of the act, with respect to which the Commission does have jurisdiction to award damages, should continue to adjust claims caused by misrouting.

(a) *Applicability.* This interpretation applies only to cases in which carriers, without concurrence of the shipper, bill or actually forward or divert a shipment over a route that is more expensive than that directed by the shipper, or one more expensive than a route available (over carriers of the same type or mode as the initial carrier) in the absence of routing instructions by the shipper. This interpretation must not be used as a means or device by which to evade or defeat tariff rates or to meet the rate of a competing carrier or route, nor to relieve a shipper from responsibility for his own routing instructions.

(b) *Refund.* If a carrier misroutes a shipment and thus causes extra expenses to the shipper over and above the legal charges applicable over the route that should have been used, and responsibility for its error is admitted by the carrier, such carrier should adjust the charge on such shipment by refunding to the shipper the difference in the legal charges over the route over which the shipment moved and what would have been the legal charges on the same shipment at the same time over the lower rated available route which should have been used. Such refund must be paid in full by the carrier which caused the misrouting, and must not be shared in by or divided with any other carrier.

(c) *Bearing of charges.* The prerequisites to any refund under this interpretation are admission by the carrier of responsibility for its error in misrouting the shipment, and its willingness to bear the extra expense so caused, without recourse upon any other carrier for any part thereof. Therefore, if the misrouting is discovered before the shipment has been delivered to consignee or before charges demanded for the shipment have been paid, the carrier acknowledging responsibility for the error should authorize the delivering carrier to deliver shipment upon payment of the charges that would have applied but for the misrouting and to bill it for the extra charge resulting from the misrouting; and if the misrouting is discovered after the shipment has been delivered upon payment of the charges applicable over the lower rated route that should have been used, the carrier that acknowledges responsibility for the error should pay to the carrier that delivered the shipment the extra charge resulting from the misrouting, without further handling with the shipper.

(d) *Declaratory determination of lawfulness.* Where a carrier claims justification for forwarding a shipment over the higher rated route, the Commission, at its discretion, and upon appropriate petition, may make a declaratory determination of the lawfulness thereof. With respect to motor transportation such declaratory determinations will serve only as aids to the courts or as opinions by the Commission as to the lawfulness of any adjustment or refund.

(e) *Time limitations.* Damages caused by misrouting are not overcharges. Therefore, adjustments of claims for misrouting against carriers subject to the provisions of part I of the act are governed by section 16(3) (b) and (d) of the act.

(35 Stat. 558, 52 Stat. 1237, 80 Stat. 383; 49 U.S.C. 12, 304, 5 U.S.C. 553)

PART 1010—COMPETITIVE BIDS

Sec.
1010.1 Specifications, form of proposal and contract; publication of request for bids; variation from the generally applicable procedure.
1010.2 Opening of bids; bonds; form and contents of bids.
1010.3 Considerations for acceptance of bids; rejection; readvertising for new bids.
1010.4 Statement of the transaction.
1010.5 Examination.
1010.7 Carriers subject to the Interstate Commerce Act.

AUTHORITY: The provisions of this Part 1010 issued under sec. 10, 38 Stat. 734; 15 U.S.C. 20, unless otherwise noted.

§ 1010.1 Specifications, form of proposal and contract; publication of request for bids; variation from the generally applicable procedure.

(a) When any carrier, subject to the Interstate Commerce Act, is required by section 10 of the Clayton Antitrust Act (38 Stat. 734; 15 U.S.C. 20) to call for bids for securities, supplies, or other articles of commerce, or for the construction or maintenance of any kind or part of its carrier property such carrier shall prepare specifications, form of proposals and contract, setting forth clearly and so far as applicable in each case in detail a description or descriptions of the matters and things for which bids are requested, the terms, times and conditions of delivery and payment, the place or places where delivery or performance is to be made, the character, amount, and terms of securities offered or sought, and a full description of the supplies or other articles required or offered for sale, hypothecation, or purchase, and shall make and attach to such specifications such maps, drawings, and illustrations and state such other substantial facts or conditions as are or may be necessary to a full understanding of the premises and procedure by bidders. Such specifications, drawings and illustrations in each

case shall be kept open at the principal office or offices of the carrier for full examination, free of charge, by persons desiring to examine the same with a view to bidding, and, upon request, such carrier shall furnish to any person or persons desiring the same true and accurate copies of such specifications, maps, drawings and illustrations: *Provided*, That the carrier may make a charge for such copies so furnished, the charge not to exceed the reasonable cost of making and forwarding the copies requested.

(b) The carrier shall publish in each case a request for bids in at least two daily newspapers of general circulation, at least two publications in each week for 2 weeks, the first publication to be at least 2 weeks immediately preceding the day when the bids are to be submitted; one such newspaper shall be published or shall be of general circulation in the city or town where the principal operating office of the carrier is located and the other newspaper shall be published in one other of the following cities nearest to the operating or financial office of the carrier or the place where the contract is to be performed, namely: New York, N.Y., Boston, Mass., Chicago, Ill., St. Louis, Mo., Atlanta, Ga., San Francisco, Calif., and Portland, Oreg.; and a printed copy of the published notice in each case shall be posted in plain view, for 2 weeks immediately preceding the day on which bids are to be received, on a bulletin board, designated for that purpose, in a public and conspicuous place in the building where the principal operating office of the carrier is located. Such published notices shall describe in general but intelligible terms the proposed contract, giving its serial number, and the special matter or things for which bids are requested, and the date on or before which the bids must be submitted, and the person by whom and the office at which the bids submitted will be received and opened as provided in this part. The carrier may in said notice reserve the right to reject, any and all bids and may, at its option, require each bidder to tender a bond in a reasonable sum to be therein named, with sufficient surety or sureties conditioned upon the faithful and prompt performance of the terms of the contract.

(c) Upon application, a carrier owned or operated by any state or by an agency of one or more states, or a wholly-owned subsidiary corporation thereof, may be authorized by the Commission to employ a competitive bidding procedure or procedures varying from the generally applicable procedure provided by this regulation upon the following showing: (1) That the applicant carrier is owned or operated by a state or by an agency of one or more states, or is a wholly-owned subsidiary corporation thereof; (2) a detailed statement of the procedure for which authorization is requested and the variations thereof from the generally applicable procedure provided by this regulation and the purpose or reason for such variation; and (3) that the generally applicable procedure provided by this regulation imposes on the carrier an unreasonable burden or interferes with obtaining by the carrier of the most favorable bid.

(Secs. 201–227, 49 Stat. 543–567, as amended; 49 U.S.C. 301–327; sec. 12, 24 Stat. 383, as amended; sec. 20, 24 Stat. 386, as amended; 49 U.S.C. 12, 20)

§ 1010.2 Opening of bids; bonds; form and contents of bids.

(a) Every bid to receive consideration shall be submitted at the place specified in the notice on or before noon of the day on which the bids are to be opened and the bids shall be opened after noon and before 6 o'clock, on the day and at the place and by the person or persons designated in the notice. Each bidder may attend in person or by duly authorized representative at the opening of the bids, and shall be afforded an opportunity to do so and to examine each bid. The bids shall forthwith be tabulated in conformity with the form of proposal prepared and a copy of such tabulation shall be promptly furnished to any bidder or his authorized representative upon application therefor.

(b) When required by the notice, each bid shall be accompanied by tender of a bond in the amount specified in the notice with sufficient surety or sureties conditioned upon the faithful and prompt performance of the proposed contract. A bond shall be required only in cases where the notice for bids expressly calls for a bond.

(c) Each bid shall be enclosed with accompanying papers in a plain envelope securely sealed bearing no indication of the name of the bidder or the amount of the bid, and shall be marked "Bid under proposed contract No. ——," and shall be addressed to the officer of the carrier designated in the notice to receive the same.

(d) Each bid shall state the name and address of the bidder and, if the bidder be a corporation, the names and addresses of the officers, directors and general manager thereof and of the purchasing or selling officer or agent in that transaction and, if the bidder is a firm, partnership or association, the bid shall give the names and addresses of each member thereof, and of the manager, purchasing or selling officer or agent in that transaction.

§ 1010.3 Considerations for acceptance of bids; rejection; readvertising for new bids.

After receiving and opening bids as aforesaid, the carrier receiving the same shall within 48 hours in cases where the sale or purchase of securities is the undertaking, and within 21 days where bids are for supplies, equipment, other articles of commerce and for construction or maintenance work, accept the most favorable bid considering (a) the lowest price or prices for the supplies, equipment, and other articles of commerce, and for the construction or maintenance work, described in the advertisement, and the highest price or prices offered for any securities or property so described, for sale by the carrier, and (b) the ability and reliability of the bidder, financial and otherwise, to deliver the property or to perform the work or transaction, or to pay for the securities, described in the advertisement, giving due consideration to any bond or security tendered by the bidder.

If the right be reserved in the notice all bids may be rejected and the carrier may readvertise for bids. The carrier shall notify the successful bidder of the acceptance of his or its bid, and the bidder shall within 10 days execute the required contract, and, if required by the notice, execute a good and sufficient bond for the faithful and prompt performance of the contract. In case the successful bidder shall neglect or fail within said time to execute the contract or bond as aforesaid the carrier may within 5 days award the contract to the next most favorable bidder, ascertained as herein provided for determining the most favorable bidder. If neither the most favorable bidder nor the next most favorable bidder shall execute a contract and qualify as aforesaid, the carrier shall readvertise for new bids.

§ 1010.4 Statement of the transaction.

Each carrier after having made and executed a contract as and in the manner above specified shall within 30 days after the execution of such contract file with the Interstate Commerce Commission a statement of the transaction giving, (a) a copy of the published notice; (b) the names of all bidders, and, if the bidder be a corporation, the names and addresses of the officers, directors and general managers thereof and of the purchasing or selling officer or agent in that transaction, or if the bidder be a partnership or firm, the names and addresses of the members of the firm, the general manager and purchasing or selling agent thereof, and the total amount of each bid; (c) the name of the bidder to whom the contract was awarded together with a copy of the contract; and (d) if any other than the lowest or the highest bid, as the case may be, is accepted as being most favorable to the carrier, the reasons for such acceptance. The statement shall be made in typewriting, in pamphlet form on pages not less than 8 by 10½ inches in size nor greater than 9½ by 13 inches, in size, bound on the longer edge of the page, the paper to be of durable quality fit for permanent record.

§ 1010.5 Examination.

In the case of each bid so taken as aforesaid, the carrier shall preserve and keep open for examination by the Interstate Commerce Commission or any duly authorized examiner thereof, (a) a copy of the resolution or order of the Board of Directors, Executive Committee, or officers of the said common carrier specifying the purposes and terms of the contract for which the bids were invited; (b) a copy of the specifications, maps, drawings, and illustrations upon which bids were made; (c) copies of the notices published, sworn to by or on behalf of the publisher of each paper, respectively, giving the dates and times of publication; (d) the original bids received, designating the bid accepted and giving a statement of the reasons for accepting the same; (e) a copy of the contract entered into between the carrier and the accepted bidder, together with a copy of the bonds if any; (f) references by number of volume and page to the records of proceedings of the stockholders, directors, or executive committee of the carrier. The files in each transaction shall be securely fastened together and given the contract number and each document therein shall be numbered consecutively and at the conclusion there shall be a sworn statement by the president, a vice president, or the general manager of the carrier, stating that the files in No. —— contain true and complete records and statements of all the negotiations had in connection with the contract therein set forth. Carriers subject to the requirements of section 10 of the Clayton Antitrust Act, 15 U.S.C. 20 may destroy such contracts or other records required thereby 10 years after the expiration thereof, without permission of the Commission: *Provided*, There is no litigation pending involving these records: *And further provided*, That the carrier has informed the Commission of its intended action at least 2 weeks prior to the date the records are to be destroyed.

(Secs. 201–227, 49 Stat. 543–567, as amended; sec. 12, 24 Stat. 383, as amended; sec. 20, 24 Stat. 386, as amended; 49 U.S.C. 301–327, 12, 20)

§ 1010.7 Carriers subject to the Interstate Commerce Act.

(a) The regulations prescribed in this part are hereby made applicable, on and after January 29, 1938, to all common carriers subject to part II of the Interstate Commerce Act.

(Secs. 201–227, 49 Stat. 543–567, as amended; 49 U.S.C. 301–327.)

(b) The regulations prescribed in this part shall apply, on and after the first of May 1942, to all common carriers subject to Part III of the Interstate Commerce Act.

(Secs. 12, 20, 24 Stat. 383, as amended, 386, as amended; 49 U.S.C. 12, 20)

PARTS 1020–1029—ENFORCEMENT

PART 1020—EXAMINATION OF RECORDS AND ACCOUNTS BY AGENTS OF COMMISSION

§ 1020.1 Examination of records and accounts.

Each and every motor carrier and broker subject to Part II of the Interstate Commerce Act, and receivers, trustees, and representatives having control, direct or indirect, over or affiliated with any such motor carrier or broker, upon the demand of a special agent or an examiner of the Commission, and upon the presentation of proper credentials, shall forthwith permit such special agent or examiner to inspect and examine all such lands, buildings, or equipment of motor carriers and brokers used in connection with interstate or foreign operations, and all accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing and kept or required to be kept by motor carriers and brokers subject to the act, and permit such special agent or examiner to make notes and copies of such papers as he deems wise.

(49 Stat. 546, as amended, 563, as amended; 49 U.S.C. 304, 320)

PART 1021—ADMINISTRATIVE COLLECTION OF ENFORCEMENT CLAIMS

Sec.
1021.1 Standards.
1021.2 Enforcement claims and debtors.
1021.3 Enforcement collection designee.
1021.4 Notice of claim and demand.
1021.5 Agreement and release.
1021.6 Method of claim payment.

AUTHORITY: The provisions of this Part 1021 issued under sec. 3, 60 Stat. 309; 31 U.S.C. 952.

§ 1021.1 Standards.

The regulations issued jointly by the Comptroller General of the United States and the Attorney General of the United States under section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 951 et seq.) and published in 4 CFR Parts 101 through 105 are hereby adopted by the Interstate Commerce Commission for the administrative collection of enforcement claims.

§ 1021.2 Enforcement claims and debtors.

(a) Enforcement claims are all separate civil penalty or forfeiture claims not exceeding $20,000 which may arise under the provisions of the Interstate Commerce Act or legislation supplementary thereto.

(b) Debtor is any person or corporation subject to civil penalties or forfeitures for violation of the provisions of the Interstate Commerce Act or legislation supplementary thereto.

§ 1021.3 Enforcement collection designee.

The Director, Bureau of Enforcement, Interstate Commerce Commission, is the Commission's designee to take all necessary action administratively to settle by collection, compromise, suspension or termination, enforcement claims within the contemplation of the Federal Claims Collection Act of 1966.

§ 1021.4 Notice of claim and demand.

Initiation of administrative collection of enforcement claims will be commenced by the enforcement collection designee mailing a letter of notice of claim and demand to the debtor. Such letter will state the statutory basis for the claim, a brief resume of the factual basis for the claim, the amount of the claim, and indicate the availability of the designee or his personal agent for discussion of the claim should the debtor so desire.

§ 1021.5 Agreement and release.

Upon the debtor's agreement to settle a claim, an Agreement and Release Form will be provided to the debtor in duplicate. This form, after reciting the statutory basis for the claim, will contain a statement to be signed in duplicate by the debtor evidencing his agreement to settlement of the claim for the amount stated in the agreement. Both copies of the signed agreement shall be returned to the collection designee. Upon final collection of the claim, one copy of the agreement and release shall be returned to the debtor with the release thereon signed by the enforcement collection designee.

§ 1021.6 Method of claim payment.

(a) Debtors: Debtors shall be required to settle claims by:

(1) Payment by bank cashier check or other instrument acceptable to designee.

(2) Installment payments by check after the execution of a promissory note containing an agreement for judgment.

(b) All checks or other instruments will be made out to "Interstate Commerce Commission," and after receipt will be forwarded to U.S. Treasury.

PART 1022—COOPERATIVE AGREEMENTS WITH STATES

Sec.
1022.1 Eligibility.
1022.2 Extent of acceptance.
1022.3 Cancellation.
1022.4 Exchange of information.
1022.5 Requests for assistance.
1022.6 Joint examination, investigation, or inspections.
1022.7 Joint administrative activities related to enforcement of economic laws and regulations.
1022.8 Supplemental agreements.

AUTHORITY: The provisions of this Part 1022 issued under sec. 1, 49 Stat. 543, as amended, 550, as amended; 49 U.S.C. 304, 305.

§ 1022.1 Eligibility.

Any State may agree with the Interstate Commerce Commission to enforce the economic laws and regulations of said State and the United States concerning highway transportation by filing with the Secretary of said Commission at Washington, D.C. 20423, a written acceptance of the terms herein.

§ 1022.2 Extent of acceptance.

The written acceptance may be in letter form, signed by competent authority of said State and shall specify the terms herein pertaining to the obligation of a State in which said State will participate. To the extent that a State agrees to participate in the terms herein, officials of the Interstate Commerce Commission will reciprocate.

§ 1022.3 Cancellation.

Cancellation or withdrawal, in whole or in part, from any agreement made under this chapter may be effected by written notice from either party indicating the effective date of said cancellation or withdrawal.

§ 1022.4 Exchange of information.

(a) *Interstate Commerce Commission furnishing information to State.* Information that comes to the attention of an employee of the Interstate Commerce Commission in the course of his official duties of examination, inspection, or investigation of the property, equipment, and records of a motor carrier or other, pursuant to section 220(d) of the Interstate Commerce Act, and that is believed

to be a violation of any law or regulation of the State pertaining to unauthorized, unsafe, or otherwise illegal motor carrier operations, shall be communicated to the appropriate State authority by an official of the Interstate Commerce Commission.

(b) *State furnishing information to Interstate Commerce Commission.* Information that comes to the attention of a duly authorized agent of the State in the course of his official duties of examination, inspection, or investigation of the property, equipment, and records of a motor carrier or others, and that is believed to be a violation of any provision of the economic laws of the United States concerning highway transportation or the regulations of the Interstate Commerce Commission prescribed thereunder, shall be communicated to the Regional Director or the Associate Regional Director of the Interstate Commerce Commission's Bureau of Operations for that State.

§ 1022.5 Requests for assistance.

(a) *State request for Interstate Commerce Commission assistance.* Upon written request of the appropriate State authority, the Bureau of Operations Regional Director or Associate Regional Director of the Interstate Commerce Commission for that State shall, as time, personnel, and funds permit, obtain evidence for use by said State in the enforcement of its laws and regulations concerning unauthorized or otherwise illegal motor carrier operations. Evidence obtained in this manner shall be transmitted to the appropriate State authority together with the name and address of an agent or employee, if any, having knowledge of the facts, who shall be made available when necessary to testify as a witness in an enforcement proceeding or other action.

(b) *Interstate Commerce Commission request for State assistance.* Upon written request from a Regional Director or Associate Regional Director of the Interstate Commerce Commission's Bureau of Operations, the appropriate State authority shall, as time, personnel, and funds permit, obtain evidence in the State for use by the Interstate Commerce Commission in its enforcement of the economic laws and regulations of the United States concerning highway transportation. Evidence obtained in this manner shall be transmitted to the Regional Director or Associate Regional Director of the Interstate Commerce Commission's Bureau of Operations, together with the name and address of an agent or employee, if any, having knowledge of the facts, who shall be made available when necessary to testify as a witness in an enforcement proceeding or other action.

§ 1022.6 Joint examination, investigation, or inspections.

Upon agreement by the Regional Director or Associate Regional Director of the Interstate Commerce Commission's Bureau of Operations and the appropriate State authority, there will be conducted a joint examination, inspection, or investigation of the property, equipment, or records of motor carriers or others, for the enforcement of the economic laws and regulations of the United States and the State concerning highway transportation. The said Regional Director or Associate Regional Director of the Interstate Commerce Commission and the appropriate State authority shall decide as to the location and time, the objectives sought, and the identity of the person who will supervise the joint effort and make the necessary decisions. Any agent or employee of either agency who has personal knowledge of pertinent facts shall be made available when necessary to testify as a witness in an enforcement proceeding or other action.

§ 1022.7 Joint administrative activities related to enforcement of economic laws and regulations.

To facilitate the interchange of information and evidence, and the conduct of joint investigation and administrative action, the Regional Director or Associate Regional Director of the Interstate Commerce Commission's Bureau of Operations and the appropriate State authority shall, when warranted, schedule joint conferences of staff members of both agencies. Information shall be exchanged as to the nature and extent of the authority and capabilities of the respective agencies to enforce the economic laws of the State or of the United States concerning highway transportation. The Interstate Commerce Commission and the State (or appropriate State authority) shall use their best efforts to inform each other of changes in their rules and regulations.

§ 1022.8 Supplemental agreements.

The terms hereinabove specified may be supplemented from time to time by specific agreement between the Interstate Commerce Commission and the appropriate State authority in order to further implement the provisions of section 205(f).

PART 1023—STANDARDS FOR REGISTRATION OF CERTIFICATES AND PERMITS WITH STATES

Subpart A—Definitions

Sec.
1023.1 Definition.
1023.2 Operations within borders of State.

Subpart B—Registration of ICC Operating Authority

1023.11 When registration required.
1023.12 Form and execution of application.
1023.13 Filing of application.
1023.14 Prior registration.

Subpart C—Designation of Process Agent

1023.21 When designation required.
1023.22 Filing of designation.
1023.23 Qualifications of agent.

Subpart D—Registration and Identification of Vehicles and Driveway Operations

1023.31 When registration and identification required.
1023.32 Registration and identification.
1023.33 Form and execution of application for identification stamps or number.
1023.34 Form and execution of application for cab card.
1023.35 Form of identification stamp or number.
1023.36 Form of cab card.
1023.37 Use of cab cards in connection with vehicles not used in driveway operations.
1023.38 Use of cab cards in driveway operations.
1023.39 Inspection of the cab card.
1023.40 Destruction of cab cards.
1023.41 Alteration of cab card; replacement.
1023.42 Identification.

Subpart E—Evidence of Liability Security

1023.51 When liability insurance certificate or surety bond required.
1023.52 Form and execution of liability insurance certificate.
1023.53 Form and execution of liability insurance endorsement.
1023.54 Form and execution of liability surety bond.
1023.55 Qualifications of insurer or surety.

Subpart F—Evidence of Cargo Security

1023.61 When cargo insurance certificate or surety bond required.
1023.62 Form and execution of cargo insurance certificate.
1023.63 Form and execution of cargo insurance endorsement.
1023.64 Form and execution of cargo surety bond.
1023.65 Qualifications of insurer or surety.

Subpart G—Notice of Security Cancellation

1023.71 Notice of insurance cancellation.
1023.73 Notice of bond cancellation.

Subpart H—Evidence of Self-Insurance

1023.81 Evidence of self-insurance.

Subpart I—Interim Operations

1023.91 Interim operations.

Subpart J—Miscellaneous

1023.101 Reproduction of forms.
1023.102 Completion of forms.
1023.103 Violations declared unlawful; criminal penalties, civil remedies.
1023.104 State taxes and fees.

Appendix of forms.

AUTHORITY: The provisions of this Part 1023 issued under sec. 1, 40 Stat. 548, as amended, 546, as amended; 49 U.S.C. 302, 304.

NOTE: The provisions of Part 1023 shall become effective 5 years from the 14th day of December 1966.

Subpart A—Definitions

§ 1023.1 Definitions.

The following letters and words, when used in these Standards, shall have the following meanings, unless otherwise clearly apparent from the context:

(a) The words "driveway operation" shall mean an operation in which any vehicle or vehicles, operated singly or in lawful combinations, new or used, not owned by the transporting motor carrier, constitute the commodity being transported;

(b) The letters "ICC" shall mean the Interstate Commerce Commission;

(c) The word "law" shall include constitutional and statutory provisions and rules and regulations adopted by a Commission;

(d) The words "motor carrier" shall mean a motor carrier of passengers or property holding operating authority issued by the Interstate Commerce Commission;

(e) The letters "NARUC" shall mean the National Association of Railroad and Utilities Commissioners;

(f) The word "State" shall mean any of the several States or the District of Columbia, as the case may be;

(g) The words "State commission" or "commission" shall mean the commission, board or official which, under the laws of any State, possesses the jurisdiction to issue or deny certificates of public convenience and necessity or permits to motor carriers, or otherwise to regulate the business of transportation by motor vehicles in intrastate commerce over the highways of such State; and

(h) The word "vehicle" shall mean a self-propelled or motor-driven vehicle operated by a motor carrier under authority issued by the Interstate Commerce Commission.

§ 1023.2 Operations within borders of State.

Whenever these Standards refer to operations "within the borders" of a State, such operations shall be deemed to include interstate operations to, from, within or traversing such State.

Subpart B—Registration of ICC Operating Authority

§ 1023.11 When registration required.

Whenever a State requires a motor carrier to file and maintain a current record of its authority issued by the Interstate Commerce Commission permitting operation within the borders of such State, such motor carrier shall not exercise such authority within the borders of such State unless and until there shall have been filed with and approved by the commission of such State an application for the registration of such authority as prescribed by the provisions of this subpart, and there shall have been a compliance with all other requirements of this subpart: *Provided, however,* That a motor carrier shall only be required to file with such State commission that portion of its authority permitting operation within the borders of such State; *And provided further,* That a motor carrier shall not be required to file with such State commission an emergency or temporary operating authority having a duration of 30 consecutive days or less if such carrier has: (a) Registered its other authority and identified its vehicles or driveway operation under the provisions of these standards; and (b) furnished to the State commission a telegram or other written communication describing such emergency or temporary operating authority and stating that operation thereunder shall be in full accord with the requirements of these standards.

§ 1023.12 Form and execution of application.

The application for the registration of such operating authority shall be in the form set forth in Form A appended to this part and made a part of this section. The application shall be printed on a rectangular card or sheet of paper 11 inches in height and 8½ inches in width. The application shall be duly completed and executed by an official of the motor carrier.

§ 1023.13 Filing of application.

The application for the registration of such operating authority shall be filed in duplicate with the commission of such State. The original, to which the copy of the ICC operating authority shall be attached, shall be retained by the State commission. The other copy of the application or an acknowledgment shall be transmitted to the motor carrier when the application is approved by the State commission. The application shall be accompanied by the fee, if any, prescribed by the law of such State.

§ 1023.14 Prior registration.

A motor carrier need not register under the provisions of this subpart any authority issued by the ICC permitting operation within the borders of a State, when the same was properly registered with the commission of such State at the time these standards became effective.

Subpart C—Designation of Process Agent

§ 1023.21 When designation required.

Whenever a State requires a motor carrier to file a designation of a local agent for service of process, such motor carrier shall not engage in interstate or foreign commerce within the borders of such State unless and until there shall have been filed with and accepted by the commission of such State a currently effective designation of such a local agent.

§ 1023.22 Filing of designation.

The motor carrier shall file such designation of a local agent for service of process with the commission of such State by showing the name and address of such agent on the uniform application for registration of interstate operating authority, as set forth in Form A appended to this part, or by furnishing such commission with a true copy of the designation of such agent filed with the Interstate Commerce Commission.

§ 1023.23 Qualifications of agent.

The provisions of this subpart shall not be construed in any way to affect the qualifications of a local agent for service of process as prescribed by State law.

Subpart D—Registration and Identification of Vehicles and Driveway Operations

§ 1023.31 When registration and identification required.

Whenever a State requires a motor carrier to register and identify any vehicle (other than one used in driveway operations) as operating under the authority issued by the Interstate Commerce Commission permitting operation within the borders of such State, or whenever a State requires a motor carrier, engaged in driveway operations, to register and identify such operations as being conducted under its authority issued by the Interstate Commerce Commission permitting the conduct of same within the borders of such State, such motor carriers shall not operate such vehicle or engage in such driveway operations under such authority within the borders of such State unless and until the vehicle or driveway operations shall have been registered with the commission of such State in accordance with the provisions of this subpart, and there shall have been a compliance with all other requirements of this subpart.

§ 1023.32 Registration and identification.

(a) On or before the 31st day of January of each calendar year, but not earlier than the preceding 1st day of November, such motor carrier shall apply to the Commission of such State for the issuance of an identification stamp or stamps, or for the assignment of an identification number (as elected by the laws of such State), for the registration and identification of the vehicle or vehicles which it intends to operate, or driveway operations which it intends to conduct, within the borders of such State during the ensuing year. If a State elects to require the use of identification stamps under the provisions of this subpart, the motor carrier may apply for such number of stamps as is sufficient to cover its vehicles or driveway operations which it anticipates will be placed in operation or conducted during the period for which the stamps are effective. The motor carrier may thereafter file one or more supplemental applications for additional stamps if the need therefor arises or is anticipated.

(b) If the State commission determines that the motor carrier has complied with all applicable provisions of these standards, the commission shall issue to the motor carrier the number of identification stamps requested, or shall assign it an identification number, as the case may be.

(c) An identification stamp or number issued or assigned under the provisions of this subpart shall be used for the purpose of registering and identifying a vehicle or driveway operations as being operated or conducted by a motor carrier under authority issued by the Interstate Commerce Commission, and shall not be used for the purpose of distinguishing between the vehicles operated by the same motor carrier. A motor carrier receiving an identification stamp or identification number under the provisions of this subpart shall not knowingly permit the use of same by any other person or organization.

(d) The State commission may require the motor carrier to accompany such application with a list identifying each

vehicle (other than one to be used in driveaway operations) which it intends to operate within the borders of such State during the ensuing year. The State commission may further require the motor carrier to keep such list current by filing with it an identification of each vehicle acquired for operation within the borders of such State and each vehicle whose operation is discontinued therein after the filing of such list. The filing of an identification of such newly acquired or discontinued vehicle shall be made with the State commission on or before the 15th day after the motor carrier initiates or discontinues operation of the vehicle within the borders of such State.

(e) On or before the 31st day of January of each calendar year, but not earlier than the preceding 1st day of November, such motor carrier shall apply to the National Association of Railroad and Utilities Commissioners, or to the Commission of any State in which it is permitted to operate pursuant to authority issued by the Interstate Commerce Commission, for the issuance of a sufficient supply of uniform identification cab cards for use in connection with the registration and identification of the vehicle or vehicles which it intends to operate, or driveaway operations which it intends to conduct, within the borders of such State during the ensuing year.

(f) The NARUC of the State commission, as the case may be, shall issue to the motor carrier the number of cab cards requested. A motor carrier receiving a cab card under the provisions of this chapter shall not knowingly permit the use of same by any other person or organization. Prior to operating a vehicle, or conducting a driveaway operation, within the borders of such State during the ensuing year, the motor carrier shall place one of such identification stamps or such identification number on the back of a cab card in the square bearing the name of such State in such a manner that the same cannot be removed without defacing it. The motor carrier shall thereupon duly complete and execute the form of certificate printed on the front of the cab card so as to identify itself and such vehicle or driveaway operation.

(g) The registration and identification of a vehicle or driveaway operations under the provisions of this subpart and the identification stamp or number evidencing same and the cab card prepared therefor shall become void on the 1st day of February in the succeeding calendar year, unless such registration is terminated prior thereto.

§ 1023.33 Form and execution of application for identification stamps or number.

The application for the issuance of such identification stamps or number shall be in the form set forth in Form B appended to this part and made a part of this section. The application shall be printed on a rectangular card or sheet of paper 11 inches in height and 8½ inches in width. The application shall be duly completed and executed by an official of the motor carrier, and shall be accompanied by the fee, if any, prescribed by the law of such State.

§ 1023.34 Form and execution of application for cab card.

The application for the issuance of such cab cards shall be in the form set forth in Form C appended to this part and made a part of this section. The application shall be printed on the reverse side of the uniform application for registration and identification of vehicles or driveaway operations operated or conducted under authority issued by the ICC as set forth in Form B appended to this part. The application shall be duly completed and executed by an official of the motor carrier, and shall be accompanied by the fee, if any, prescribed by the law of such State.

§ 1023.35 Form of identification stamp or number.

Any identification stamp issued under the provisions of this subpart by a State commission shall bear its name or symbol and such other distinctive markings or information, if any, as the Commission deems appropriate. The stamp shall be in the shape of a square and shall not exceed 1 inch in diameter. Any identification number issued by a State commission under the provisions of this subpart shall not exceed the dimensions of a square 1 inch in diameter.

§ 1023.36 Form of cab card.

The cab card referred to above shall be in the form set forth in Form D appended to this part and made a part of this section. The cab card shall be printed on a rectangular card 11 inches in height and 8½ inches in width.

§ 1023.37 Use of cab cards in connection with vehicles not used in driveaway operations.

In the case of a vehicle not used in a driveaway operation, the cab card shall be maintained in the cab of such vehicle for which prepared whenever the vehicle is operated under the authority of the carrier identified in the cab card. Such cab card shall not be used for any vehicle except the vehicle for which it was originally prepared. A motor carrier shall not prepare two or more cab cards which are effective for the same vehicle at the same time.

§ 1023.38 Use of cab cards in driveaway operations.

In the case of a driveaway operation, the cab card shall be maintained in the cab of the vehicle furnishing the motive power for the driveaway operation whenever such an operation is conducted under the authority of the carrier identified in the cab card.

§ 1023.39 Inspection of the cab card.

A cab card shall, upon demand, be presented by the driver to any authorized Government personnel for inspection.

§ 1023.40 Destruction of cab cards.

(a) Each motor carrier shall destroy a cab card immediately upon its expiration.

(b) If a motor carrier permanently discontinues the use of a vehicle for which a cab card has been prepared, it shall nullify the cab card at the time of such discontinuance.

§ 1023.41 Alteration of cab card; replacement.

(a) Any erasure, improper alteration, or unauthorized use of a cab card shall render it void.

(b) If a cab card is lost, destroyed, mutilated, or becomes illegible, a new cab card may be prepared and new identification stamps or numbers may be issued therefor upon application by the motor carrier and upon payment of the same fee prescribed for the original issuance thereof, if any.

§ 1023.42 Identification.

No State shall require a motor carrier to display external identification upon a vehicle other than such identification as is required by regulations of the Interstate Commerce Commission. Nothing in these standards shall be construed to affect State requirements as to the external identification of vehicles to indicate the payment of a State tax or fee imposed for revenue purposes or for any other purpose not within the purview of subsection (b) of section 202 of the Interstate Commerce Act 49 U.S.C., section 302(b)(2).

Subpart E—Evidence of Liability Security

§ 1023.51 When liability insurance certificate or surety bond required.

Whenever a State requires a motor carrier to file and maintain evidence of currently effective bodily injury and property damage liability security, such motor carrier shall not engage in interstate or foreign commerce within the borders of such State unless and until there shall have been filed with and accepted by the commission of such State a currently effective certificate of insurance or surety bond as prescribed by the provisions of this subpart, and there shall have been a compliance with all other requirements of this subpart.

§ 1023.52 Form and execution of liability insurance certificate.

The certificate of insurance referred to in the preceding section shall state that the insurer has issued to such motor carrier a policy of insurance which by endorsement provides automobile bodily injury and property damage liability insurance covering the obligations imposed upon such motor carrier by the provisions of the law of such State. The certificate shall be in the form set forth in Form E appended to this part and made a part of this section. The certificate shall be printed on a rectangular card 5 inches in height and 8 inches in width. The certificate shall be duly completed and executed by such insurer.

§ 1023.53 Form and execution of liability insurance endorsement.

The endorsement referred to in the preceding section shall be attached to such insurance policy and shall form a part of it. The endorsement shall be in the form set forth in Form F appended to this part and made a part of this section. The endorsement shall be printed on a rectangular card or sheet of paper 5 inches in height and 8 inches in width. The endorsement shall be duly completed and executed by the insurer.

§ 1023.54 Form and execution of liability surety bond.

The surety bond referred to in § 1135.51 shall be in the form set forth in Form G appended to this part and made a part of this section. The bond shall be printed on a rectangular card 5 inches in height and 8 inches in width. The bond shall be duly completed and executed by the surety and principal.

§ 1023.55 Qualifications of insurer or surety.

The provisions of this subpart shall not be construed in anyway to affect the qualifications of an insurer or surety as prescribed by State law.

Subpart F—Evidence of Cargo Security

§ 1023.61 When cargo insurance certificate or surety bond required.

Whenever a State requires a motor carrier to file and maintain evidence of currently effective cargo security, such motor carrier shall not engage in interstate or foreign commerce within the borders of such State unless and until there shall have been filed with and accepted by the commission of such State a currently effective certificate of insurance or surety bond as prescribed by the provisions of this subpart, and there shall have been a compliance with all other requirements of this subpart.

§ 1023.62 Form and execution of cargo insurance certificate.

The certificate of insurance referred to in the preceding section shall state that the insurer has issued to such motor carrier a policy of insurance which by endorsement provides cargo insurance covering the obligations imposed upon such motor carrier by the provisions of the law of such State. The certificate shall be in the form set forth in Form H appended to this part and made a part of this section. The certificate shall be printed on a rectangular card 5 inches in height and 8 inches in width. The certificate shall be duly completed and executed by such insurer.

§ 1023.63 Form and execution of cargo insurance endorsement.

The endorsement referred to in the preceding section shall be attached to such insurance policy and shall form a part of it. The endorsement shall be in the form set forth in Form I appended to this part and made a part of this section. The endorsement shall be printed on a rectangular card or sheet of paper 5 inches in height and 8 inches in width. The endorsement shall be duly completed and executed by the insurer.

§ 1023.64 Form and execution of cargo surety bond.

The surety bond referred to in § 1023.61 shall be in the form set forth in Form J appended to this part and made a part of this section. The bond shall be printed on a rectangular card 5 inches in height and 8 inches in width. The bond shall be duly completed and executed by the surety and principal.

§ 1023.65 Qualifications of insurer or surety.

The provisions of this subpart shall not be construed in any way to affect the qualifications of an insurer or surety as prescribed by State law.

Subpart G—Notice of Security Cancellation

§ 1023.71 Notice of insurance cancellation.

An insurer under the provisions of Subparts E and F of these standards shall give to the State commission notice of the cancellation of motor carrier bodily injury and property damage liability insurance or motor carrier cargo insurance, as the case may be, by filing with the commission the form of notice set forth in Form K appended to this part and made a part of this section. The notice shall be printed on a rectangular card 5 inches in height and 8 inches in width. The notice shall be duly completed and executed by the insurer.

§ 1023.72 Notice of bond cancellation.

A surety or motor carrier under the provisions of Subparts E and F of these standards shall give to the State commission notice of the cancellation of motor carrier bodily injury and property damage liability surety bond or motor carrier cargo surety bond, as the case may be, by filing with the commission the form of notice set forth in Form L appended to this part and made a part of this section. The notice shall be printed on a rectangular card 5 inches in height and 8 inches in width. The notice shall be duly completed and executed by the surety or motor carrier.

Subpart H—Evidence of Self-Insurance

§ 1023.81 Evidence of self-insurance.

Whenever a State requires a motor carrier to file and maintain evidence of currently effective qualifications as a self-insurer under the rules and regulations of the Interstate Commerce Commission, such motor carrier shall not engage in interstate or foreign commerce within the borders of such State unless and until there shall have been filed with and accepted by the commission of such State a true and readily legible copy of the currently effective ICC order authorizing such motor carrier to self-insure under the provisions of the Interstate Commerce Act.

Subpart I—Interim Operations

§ 1023.91 Interim operations.

Whenever a State commission fails to act upon a filing made under Subparts B, C, D, E, and F of these standards within 30 days after receipt of same, the motor carrier for whose benefit such filing was made may begin operation within the borders of such State in such manner as would have been otherwise authorized if the filing had been acted upon favorable by the State commission within such period of 30 days. The motor carrier may continue such operation under the provisions of this section until such time as the State commission acts upon such filing.

Subpart J—Miscellaneous

§ 1023.101 Reproduction of forms.

(a) In order to achieve complete uniformity in the reproduction of the uniform application for registration of operating authority issued by ICC, the uniform application for registration and identification of vehicles or driveaway operations operated or conducted under authority issued by ICC, the uniform application for identification cab card, and the uniform identification cab card, as set forth in Forms A to D appended to this part, respectively, the NARUC, shall reproduce such forms for use under the provisions of these standards, and any such forms reproduced by such an unauthorized person or organization are hereby declared to be void.

(b) The NARUC, upon request, shall supply such forms to the State commissions and motor carriers. The NARUC shall fix and charge a reasonable fee in connection with the reproduction and supply of such forms. Each State commission supplying such forms shall charge the fees fixed therefor by the NARUC.

§ 1023.102 Completion of forms.

A typewriter or indelible ink shall be used in entering information in the blank spaces appearing on the forms prepared under the provision of these standards.

§ 1023.103 Violations declared unlawful; criminal penalties, civil remedies.

Any violation of the provisions of these standards is hereby declared to be unlawful. Nothing in these standards shall be construed to prevent a State from imposing criminal penalties upon any person or organization violating any provision of these standards or from providing or applying civil remedies or sanctions in connection with such violations.

§ 1023.104 State taxes and fees.

Nothing in these standards shall be construed to affect the collection or method of collection of taxes or fees by a State from motor carriers for the operation of vehicles within the borders of such State.

Appendix of Forms

FORM A

UNIFORM APPLICATION FOR REGISTRATION OF OPERATING AUTHORITY ISSUED BY ICC

To: _____ Date _____
(Name of State commission)
Applicant _____
Street _____
City _____ State _____
ICC Operating Authority No. MC _____

Type of route: ☐ Certificate ☐ Permit ☐ TA _____ ☐ Regular ☐ Irregular
Type of carrier: ☐ Property ☐ Passenger ☐ Common ☐ Contract
Give principal office address, if different than above: Street _____ City _____ State _____
If individual, give name and address: _____
If corporation, give State in which incorporated: _____
Name of president _____ Name of secretary _____
If partnership, give names and addresses of partners: _____
Process agent for State (This part may be omitted if the applicant has previously filed with the State commission, or attaches hereto, a current copy of its designation filed with ICC):
Name _____ Street _____
City _____ State _____

I, the undersigned, under penalty for false statement, do hereby certify that the above information is true and correct and that I am authorized to execute and file this document on behalf of the above applicant. (Federal penalties, maximum of $10,000 or imprisonment for 5 years, or both, 18 U.S.C. 1001; State penalties as prescribed by law.)

_____
(Signature)

_____
(Title)

Instructions: File this application in duplicate with ICC operating authority attached to original. When application is approved, the copy will be returned to the applicant.

This form determined by the National Association of Railroad and Utilities Commissioners and promulgated by the Interstate Commerce Commission pursuant to the provisions of section 202(b)(2) of the Interstate Commerce Act (49 U.S.C., sec. 302(b)(2)).

FORM B

UNIFORM APPLICATION FOR REGISTRATION AND IDENTIFICATION OF VEHICLES OR DRIVEAWAY OPERATIONS OPERATED OR CONDUCTED UNDER AUTHORITY ISSUED BY ICC

To: _____ Date _____
(Name of State commission)
Applicant _____
Street _____
City _____ State _____
ICC Operating Authority Number MC _____

The above described applicant hereby applies for the issuance of _____
(Number)
identification stamp(s), or for the assignment of an identification number (as elected by the laws of such State), for the registration and identification of the vehicle or vehicles which the applicant intends to operate, or driveaway operations which it intends to conduct, within the borders of such State during the period for which such identification stamp(s) or number is effected. The operation of such vehicle or vehicles, or the conduct of such driveaway operations, shall be pursuant to authority issued to the applicant by the Interstate Commerce Commission.

The applicant shall not knowingly permit any other person or organization to use the identification stamp(s) or number issued or assigned pursuant to this application.

I, the undersigned, under penalty for false statement, do hereby certify that the above information is true and correct and that I am authorized to execute and file this document on behalf of the above applicant. (Federal penalties, maximum of $10,000 or imprisonment for 5 years, or both, 18 U.S.C. 1001; State penalties as prescribed by law.)

_____
(Signature)

_____
(Title)

This form determined by the National Association of Railroad and Utilities Commissioners and promulgated by the Interstate Commerce Commission pursuant to the provisions of section 202(b)(2) of the Interstate Commerce Act (49 U.S.C., sec. 302(b)(2)).

FORM C

UNIFORM APPLICATION FOR IDENTIFICATION CAB CARD

To: _____ Date _____
(Name of State commission or NARUC)
Applicant _____
Street _____
City _____ State _____
ICC Operating Authority Number MC _____

The above described applicant hereby applies for the issuance of _____
(Number)
uniform identification cab card(s) for use in connection with the registration and identification of the vehicle or vehicles which the applicant intends to operate, or driveaway operations which it intends to conduct, within the borders of such State during the period for which such cab card(s) is effective. The operation of such vehicle or vehicles, or the conduct of such driveaway operations, shall be pursuant to authority issued to the applicant by the Interstate Commerce Commission.

The applicant shall not knowingly permit any other person or organization to use the cab card(s) issued pursuant to this application.

I, the undersigned, under penalty for false statement, do hereby certify that the above information is true and correct and that I am authorized to execute and file this document on behalf of the above applicant. (Federal penalties, maximum of $10,000 or imprisonment for 5 years, or both, 18 U.S.C. 1001; State penalties as prescribed by law.)

_____
(Signature)

_____
(Title)

Important Note: A motor carrier should not obtain a cab card from each State Commission from which it obtains an identification stamp or number. Only one cab card is required for each vehicle or driveway movement irrespective of the number of identification stamps or numbers which may be required for its operation. Consequently, a motor carrier should obtain its supply of cab cards from the National Association of Railroad and Utilities Commissioners, Post Office Box 684, Washington, D.C. 20044, or from the Commission or any State in which it is permitted to operate pursuant to authority issued by the ICC.

This form determined by the National Association of Railroad and Utilities Commissioners and promulgated by the Interstate Commerce Commission pursuant to the provisions of section 202(b)(2) of the Interstate Commerce Act (49 U.S.C. sec. 302(b)(2)).

FORM D

UNIFORM IDENTIFICATION CAB CARD OPERATION MOTOR CARRIER

ICC Operating Authority Number MC _____
Name of carrier _____
Street _____
City _____ State _____

Vehicle

Type _____ Make* _____
(Tractor-truck-bus-driveaway)
Year* _____ Serial No.* _____
State of vehicle registration** _____
Name of owner of vehicle* _____

The above described vehicle or driveaway operation is being operated or conducted under authority granted by the Interstate Commerce Commission to the above described motor carrier. Where required by State law, such vehicle or driveaway operation has been registered with each State whose current identification stamp or number is placed on the reverse side of this card and there has been filed with each such State (to the extent required by such State) the information authorized by section 202(b)(2) of the Interstate Commerce Act (49 U.S.C. sec. 302(b)(2)) and the rules and regulations promulgated thereunder.

The above described vehicle or driveaway operation has been identified in conformity with the rules and regulations of the Interstate Commerce Commission.

I, the undersigned, under penalty for false statement, do hereby certify that the above information is true and correct and that I am authorized to execute this document on behalf of the above carrier. (Federal penalties, maximum of $10,000 or imprisonment for 5 years, or both, 18 U.S.C. 1001; State penalties as prescribed by law.)

Signature _____
Title _____
Date executed _____

This card expires at 12:01 a.m., February 1, 19__ or _____, ____ 19__, whichever is earlier.

This form determined by the National Association of Railroad and Utilities Commissioners and promulgated by the Interstate Commerce Commission pursuant to the provisions of section 202(b)(2) of the Interstate Commerce Act (49 U.S.C. sec. 302(b)(2)).

*Not applicable to driveaway operations.
**If the State of vehicle registration changes during the period this cab card is effective, the motor carrier shall immediately indicate the change above by marking out the name of the State listed and inserting the name of the new State of vehicle registration in lieu thereof. This change shall be initialed by an official of the motor carrier.

(REVERSE SIDE OF CAB CARD)

Alabama	Alaska	Arkansas	Arizona	California	Colorado				
Connecticut	Delaware	District of Columbia	Florida	Georgia	Hawaii				
Idaho	Illinois	Indiana	Iowa	Kansas	Kentucky				
Louisiana	Maine	Maryland	Massachusetts	Michigan	Minnesota				
Mississippi	Missouri	Montana	Nebraska	Nevada	New Hampshire				
New Jersey	New Mexico	New York	North Carolina	North Dakota	Ohio				
Oklahoma	Oregon	Pennsylvania	Rhode Island	South Carolina	South Dakota				
Tennessee	Texas	Utah	Vermont	Virginia	Washington				
West Virginia	Wisconsin	Wyoming							

FORM E

UNIFORM MOTOR CARRIER BODILY INJURY AND PROPERTY DAMAGE LIABILITY CERTIFICATE OF INSURANCE

(Executed in triplicate)

Filed with _____ (herein-after called commission)
This is to certify, that the _____ (Name of company) of _____ (Home office address of company) (hereinafter called Company) has issued to _____ (Name of motor carrier) of _____ (Address of motor carrier) a policy or policies of insurance effective from _____ 12:01 a.m. and effective from _____ 12:01 a.m. standard time at the address of the insured stated in said policy or policies and continuing until canceled as provided herein, which, by attachment of the uniform motor carrier bodily injury and property damage liability insurance endorsement, has or have been amended to provide automobile bodily injury and property damage liability insurance covering the obligations imposed upon such motor carrier by the provisions of the commission has jurisdiction or regulations promulgated in accordance therewith.

Whenever requested, the company agrees to furnish the commission a duplicate original of said policy or policies and all endorsements thereon.

This certificate and the endorsement described herein may not be canceled without cancellation of the policy to which it is attached. Such cancellation may be effected by the company or the insured giving thirty (30) days' notice in writing to the State commission, such thirty (30) days' notice to commence to run from the date of _____, 19__.

Countersigned by _____
(Authorized company representative)

This form determined by the National Association of Railroad and Utilities Commissioners and promulgated by the Interstate Commerce Commission pursuant to the provisions of section 202(b)(2) of the Interstate Commerce Act (49 U.S.C., sec. 302(b)(2)).

(REVERSE SIDE OF UNIFORM MOTOR CARRIER BODILY INJURY AND PROPERTY DAMAGE LIABILITY INSURANCE ENDORSEMENT)

✓—Indicates State Commissions with whom uniform motor carrier bodily injury and property damage liability certificate of insurance has been filed									
Alabama	Illinois	Montana	Rhode Island						
Alaska	Indiana	Nebraska	South Carolina						
Arizona	Iowa	Nevada	South Dakota						
Arkansas	Kansas	New Hampshire	Tennessee						
California	Kentucky	New Jersey	Texas						
Colorado	Louisiana	New Mexico	Utah						
Connecticut	Maine	New York	Vermont						
Delaware	Maryland	North Carolina	Virginia						
District of Columbia	Massachusetts	North Dakota	Washington						
Florida	Michigan	Ohio	West Virginia						
Georgia	Minnesota	Oklahoma	Wisconsin						
Hawaii	Mississippi	Oregon	Wyoming						
Idaho	Missouri	Pennsylvania							

FORM G

UNIFORM MOTOR CARRIER BODILY INJURY AND PROPERTY DAMAGE LIABILITY BOND

(Executed in triplicate)

Know all men by these presents, that we, _____ (Name of motor carrier principal) of _____ (City) _____ (State) called principal), and _____ (Name of surety) _____ a corporation created and existing under the laws of the State of _____ with principal office at _____ (City) _____ (State) as Surety (hereinafter called surety), are held and firmly bound unto the State of _____ in the sum of _____ dollars, lawful money of the United States, for the payment of which sum well and truly to be made, the principal and surety hereby bind themselves, their successors and assigns, firmly by these presents.

The condition of this obligation is, such that:

Whereas, the principal is or intends to become a motor carrier subject to the laws of such State and the rules and regulations of _____ (Name of commission) _____ (hereinafter called commission), relating to insurance or other security for the protection of the public, and has elected to file with the commission a surety bond conditioned as hereinafter set forth; and

Whereas, this bond is written to assure compliance by the principal as a motor carrier of passengers or property with the laws of such State and the rules and regulations of the commission relating to insurance or other security for the protection of the public, and shall inure to the benefit of any person or persons who shall recover a final

judgment or judgments against the principal for any of the damages herein described.

Now, therefore, if every final judgment recovered against the principal for bodily injury to or the death of any person or loss of or damage to the property of others, sustained while this bond is in effect, and resulting from the negligent operation, maintenance, or use of motor vehicles in transportation (but excluding injury to or death of the principal's employees while engaged in the course of their employment, and loss of or damage to property of the principal and property transported by the principal designated as cargo), shall be paid, then this obligation shall be void, otherwise to remain in full force and effect.

Within the limits hereinafter provided, the liability of the surety extends to such losses, damages, injuries, or deaths regardless of whether such motor vehicles are specifically described herein and whether occurring on the route or in the territory authorized to be served by the principal or elsewhere.

This bond is effective from _____ _____ (12:01 a.m., standard time, at the address of the principal as stated herein) and shall continue in force until terminated as hereinafter provided. The principal or the surety may at any time terminate this bond by written notice to the commission, such termination to become effective not less than thirty (30) days after actual receipt of said notice by the commission. The surety shall not be liable hereunder for the payment of any judgment or judgments against the principal for bodily injury to or the death of any person or persons or loss of or damage to property resulting from accidents which occur after the termination of this bond as herein provided, but such termination shall not affect the liability of the surety hereunder for the payment of any such judgment or judgments resulting from accidents which occur during the time the bond is in effect.

The liability of the surety on each motor vehicle shall be the limits prescribed in the laws of such State and the rules and regulations of the commission governing the filing of surety bonds, which were in effect at the time this bond was executed, and will be a continuing one notwithstanding any recovery hereunder.

In witness whereof, the said principal and surety have executed this instrument on the _____ day of _____, 19__.

_____
(Principal)

By _____

[AFFIX CORPORATE SEAL]

_____
(Surety)

_____ _____
(City) (State)

By _____

Countersigned at _____ this _____ day of _____ 19__.

Bond No. _____

(Registered resident agent)

This form determined by the National Association of Railroad and Utilities Commissioners and promulgated by the Interstate Commerce Commission pursuant to the provisions of section 202(b)(2) of the Interstate Commerce Act (49 U.S.C., sec. 302(b)(2)).

FORM H

UNIFORM MOTOR CARRIER CARGO CERTIFICATE OF INSURANCE

(Executed in triplicate)

Filed with _____ (hereinafter called commission)

This is to certify, that the _____
(Name of company)
(hereinafter called company) of _____
_____ has issued
(Home office address of company)
to _____ of
(Name of motor carrier)
_____ a policy
(Address of motor carrier)
or policies of insurance effective from _____ 12:01 a.m. standard time at the address of the insured stated in said policy or policies and continuing until canceled as provided herein, which, by attachment of the uniform motor carrier cargo insurance endorsement, has or have been amended to provide cargo insurance covering the obligations imposed upon such motor carrier by the provisions of the motor carrier law of the State in which the commission has jurisdiction or regulations promulgated in accordance therewith.

Whenever requested, the company agrees to furnish the commission a duplicate original of said policy or policies and all endorsements thereon.

This certificate and the endorsement described herein may not be canceled without cancellation of the policy to which it is attached. Such cancellation may be effected by the company or the insured giving thirty (30) days' notice in writing to the State commission, such thirty (30) days' notice to commence to run from the date notice is actually received in the office of the commission.

Countersigned at _____
(Street address)
_____
(City) (State) (ZIP Code)
this _____ day of _____ 19__

_____
(Authorized company representative)
Insurance company file No. _____
(Policy No.)

This form determined by the National Association of Railroad and Utilities Commissioners and promulgated by the Interstate Commerce Commission pursuant to the provisions of section 202(b)(2) of the Interstate Commerce Act (49 U.S.C., sec. 302(b)(2)).

FORM I

UNIFORM MOTOR CARRIER CARGO INSURANCE ENDORSEMENT

It is agreed that:

1. The certification of the policy as proof of responsibility under the provisions of any State motor carrier law or regulations promulgated by any State commission having jurisdiction with respect thereto, amends the policy to provide insurance for motor carrier cargo liability in accordance with the provisions of such law or regulations to the extent of the coverage and limits of liability required thereby; provided only that the insured agrees to reimburse the company for any payment made by the company which it would not have been obligated to make under the terms of this policy except by reason of the obligation assumed in making such certification.

2. The uniform motor carrier cargo certificate of insurance has been filed with the State commissions indicated on the reverse side hereof.

3. This endorsement may not be canceled without cancellation of the policy to which it is attached. Such cancellation may be effected by the company or the insured giving thirty (30) days' notice in writing to the State commission with which such certificate has been filed, such thirty (30) days' notice to commence to run from the date notice is actually received in the office of such commission.

Attached to and forming part of policy No. _____ issued by _____, herein called company, of _____, to _____ of _____.

Dated at _____ this _____ day of _____ 19__.

Countersigned by _____

_____
(Authorized company representative)

This form determined by the National Association of Railroad and Utilities Commissioners and promulgated by the Interstate Commerce Commission pursuant to the provisions of section 202(b)(2) of the Interstate Commerce Act (49 U.S.C., sec. 302(b)(2)).

(REVERSE SIDE OF UNIFORM MOTOR CARRIER CARGO INSURANCE ENDORSEMENT)

√—Indicates State Commissions with whom uniform motor carrier cargo certificate of insurance has been filed

Alabama		Illinois		Montana		Rhode Island	
Alaska		Indiana		Nebraska		South Carolina	
Arizona		Iowa		Nevada		South Dakota	
Arkansas		Kansas		New Hampshire		Tennessee	
California		Kentucky		New Jersey		Texas	
Colorado		Louisiana		New Mexico		Utah	
Connecticut		Maine		New York		Vermont	
Delaware		Maryland		North Carolina		Virginia	
District of Columbia		Massachusetts		North Dakota		Washington	
Florida		Michigan		Ohio		West Virginia	
Georgia		Minnesota		Oklahoma		Wisconsin	
Hawaii		Mississippi		Oregon		Wyoming	
Idaho		Missouri		Pennsylvania			

FORM J

UNIFORM MOTOR CARRIER CARGO SURETY BOND

(Executed in triplicate)

Know all men by these presents, that we, _____
(Name of motor carrier principal)
of _____, _____, as
(City) (State)
principal (hereinafter called principal), and _____
(Name of surety)
a corporation created and existing under the laws of the State of _____, with principal office at _____, _____
(City) (State)
as surety (hereinafter called surety), are held and firmly bound unto the State of _____ in the sum or sums hereinafter provided for which payment, well and truly to be made, the principal and surety hereby bind themselves, their successors and assigns, firmly by these presents.

The condition of this obligation is such that:

Whereas, the principal is or intends to become a motor carrier subject to the laws of such State and the rules and regulations of the _____ (hereinafter called commission), relating to insurance or other security for the protection of shippers and consignees, and has elected to file with the Commission a bond conditioned as hereinafter set forth, and

Whereas, this bond is written to assure compliance by the principal as a motor carrier with the laws of such State and the rules and regulations of the commission relating to insurance or other security for the protection of shippers and consignees, and shall inure to the benefit of any and all shippers or consignees to whom the principal may be held liable for any of the damages herein described.

Now, therefore, if the principal shall make compensation to shippers and consignees for all losses of or damages to property belonging to them which shall, while this bond is in effect, come into the possession of the principal in connection with its transportation service, regardless of whether such losses or damages occur while said property is in a motor vehicle, terminal, warehouse or other place, for which losses or damages the principal may be held legally liable, then this obligation shall be void, otherwise it shall remain in full force and effect.

The liability of the surety for the limits hereinafter provided shall be a continuing one notwithstanding any recovery hereunder, and extends to such losses or damages regardless of whether the motor vehicles, terminals, warehouses, and other facilities used in connection with the transportation service of the principal are specifically described herein or not, and whether occurring on the route or in the territory authorized to be served by the principal or elsewhere.

The liability of the surety for any such loss or damage shall be the limits prescribed in the laws of such State and the rules and regulations of the commission governing the filing of surety bonds, which were in effect at the time this bond was executed, and will be a continuing one notwithstanding any recovery hereunder.

This bond is effective from _____ _____ (12:01 a.m., standard time, at the address of the principal as stated herein) and shall continue in force until terminated as hereinafter provided. The principal or the surety may at any time terminate this bond by written notice to the commission, such termination to become effective not less than thirty (30) days after actual receipt of said notice by the commission.

The surety shall not be liable hereunder for the payment of any of the losses or damages hereinbefore described which arise on property coming into the possession of the principal in connection with its transportation service after the termination of this bond as herein provided, but such termination shall not affect the liability of the surety hereunder for the payment of any such losses or damages arising on property coming into the possession of the principal in connection with its transportation service prior to the date such termination becomes effective.

In witness whereof, the said principal and surety have executed this instrument on the _____ day of _____, 19__.

_____
(Principal)

By _____

_____
(Surety)

[AFFIX CORPORATE SEAL]

_____ _____
(City) (State)

By _____

Countersigned at _____ this _____ day of _____ 19__.

Bond No. _____

(Registered resident agent)

This form determined by the National Association of Railroad and Utilities Commissioners and promulgated by the Interstate Commerce Commission pursuant to the provisions of section 202(b)(2) of the Interstate Commerce Act (49 U.S.C., sec. 302(b)(2)).

FORM K

UNIFORM NOTICE OF CANCELLATION OF MOTOR CARRIER INSURANCE POLICIES

(Executed in triplicate)

Check type canceled: BI and PD ☐ Cargo ☐
Filed with _____ (hereinafter
(Name of commission)
called commission)

This is to advise that under the terms of a policy or policies issued to _____
_____
(Name of motor carrier)
of _____
(Address of motor carrier)
by _____
(Name of company)
of _____
(Address)

said policy or policies, including any and all endorsements forming a part thereof or certificates issued in connection therewith, is (are) hereby canceled effective as of the _____ day of _____, 19__, 12:01 a.m., standard time at the address of the Insured as stated in said policy or policies provided such date is not less than thirty (30) days after the actual receipt of this notice by the commission.

_____
(Signature of insurer)

Insurance Company File No. _____
(Policy No.)

This form determined by the National Association of Railroad and Utilities Commissioners and promulgated by the Interstate Commerce Commission pursuant to the provisions of section 202(b)(2) of the Interstate Commerce Act (49 U.S.C., sec. 302(b)(2)).

FORM L

UNIFORM NOTICE OF CANCELLATION OF MOTOR CARRIER SURETY BONDS

(Executed in triplicate)

Check type canceled: BI and PD ☐ Cargo ☐
Filed with _____ (hereinafter
(Name of commission)
called commission)

This is to advise that, under the terms of surety bond(s) executed in behalf of
_____
(Name of principal)
of _____
(Address)
by _____
(Name of surety)
of _____
(Address)

said bond(s), including any and all riders or certificates attached thereto or issued in connection therewith, is (are) hereby canceled effective as of the _____ day of _____, 19__, 12:01 a.m., standard time at the address of the Principal as stated in said bond(s) provided such date is not less than thirty (30) days after the actual receipt of this notice by the commission.

_____
(Signature of principal or surety)

Insurance company File No. _____
(Policy No.)

This form determined by the National Association of Railroad and Utilities Commissioners and promulgated by the Interstate Commerce Commission pursuant to the provisions of section 202(b)(2) of the Interstate Commerce Act (49 U.S.C., sec. 302(b)(2)).

PARTS 1030–1039—CARRIERS SUBJECT TO PART I, INTERSTATE COMMERCE ACT

PART 1030—FILING OF CONTRACTS BY COMMON CARRIERS

§ 1030.1 Filing of contracts, agreements, or arrangements with other common carriers.

(a) Common carriers subject to Part I of the Interstate Commerce Act are hereby relieved from the provisions of section 6 (5) of said act requiring the filing with the Commission of copies of all contracts, agreements, and arrangements with other common carriers, except that common carriers subject to Part I of said act shall file with the Commission copies of all such contracts, agreements, and arrangements as shall have been or may hereafter be required to be filed by order, rule or regulation of the Commission, including any requirement contained in any annual or other report form.

(b) The Commission reserves the right to modify this regulation upon appropriate notice, at any time in the future, by enlarging or reducing the specifications contained herein, and this regulation is subject to the further condition that the carrier promptly furnish upon request of the Commission, or any bureau thereof, a copy of any contract, agreement, or arrangement as may be requested by such bureau or Commission.

(Sec. 12, 24 Stat. 383, as amended, sec. 5, 68 Stat. 486; 49 U.S.C. 12, 6)

PART 1031—DIVISIONS OF JOINT RATES APPLICABLE TO RAILWAY FUEL

§ 1031.1 Filing of Statements of divisions of joint rates applicable to railway fuel coal and railway fuel other than coal.

Carriers subject to Part I of the Interstate Commerce Act shall furnish upon request therefor by the Interstate Commerce Commission or any Bureau thereof, copies of division sheets or statements of divisions, including amendments thereto or changes therein, which in any wise affect or determine the division of

joint rates applicable upon shipments of railway fuel coal and railway fuel other than coal, to which said carriers are a party.

(Sec. 12, 24 Stat. 383, as amended; 49 U.S.C. 12)

PART 1032—CONTRACTS FOR PROTECTIVE SERVICE

Sec.
1032.1 Filing of contracts.
1032.2 Content of contracts.

§ 1032.1 Filing of contracts.

(a) Any protective service against heat or cold to property transported or to be transported in interstate or foreign commerce, furnished to or on behalf of any common carrier by railroad or express company subject to Part I of the Interstate Commerce Act, shall be covered by a written contract.

(b) All such railroads and express companies shall file with the Commission, on or before December 1, 1940, five copies (one of which shall be verified) of all currently operative contracts, agreements, or arrangements covering such protective service, and shall inform the Commission in writing, on or before August 1, 1941, which of such contracts or other writings are intended to remain in effect on and after October 1, 1941. Such railroads and express companies shall also file with the Commission, not later than August 1, 1941, five copies (one of which shall be verified) of any and all amendments to the contracts, agreements, or arrangements so filed.

(c) All such railroads and express companies shall file with the Commission five copies (one of which shall be verified) of all new contracts, agreements, or arrangements covering such protective service, and of any and all amendments to contracts, agreements, or arrangements filed pursuant to paragraph (b) of this section.

(Secs. 1, 12, 24 Stat. 379, 383; 49 U.S.C. 1, 12)

§ 1032.2 Content of contracts.

(a) All rail carriers and express companies receiving protective services under any contracts, agreements, or arrangements requiring approval under section 1(14) (b) of the Interstate Commerce Act shall submit for approval, on or before 120 days after the effective date of this section, new or superseding contracts covering protective services performed under contracts now on file with the Commission as well as those performed under the provisions of Division Sheet 7, "Basis of Divisions Applying in Connection with Charges for Protective Services As Published in Perishable Protective Tariff 16 or Successive Issues Thereof", and supplements thereto. The contracts required herein to be filed shall supersede all prior contracts, including Division Sheet 7, and such contracts and those filed thereafter shall conform in substance to the provisions set forth in paragraphs (b), (c), (d), (e), (f), and (g) of this section.

(b) The charge for each protective service shall yield to the person performing such service no less than the cost of performing the service, the cost to be determined as set forth in paragraph (d) (1) and (2) of this section.

(c) The charge for a protective service may include, in addition to cost, a reasonable profit not in excess of 6 percent of the book cost of the property and equipment employed in furnishing the service, less accrued depreciation, plus an allowance for working capital.

(d) (1) The cost shall be based upon the best information available, which shall include expected future increases or decreases in labor, materials, and other expenses, and may be based upon prior operations to the extent that conditions, expenses, and practices are expected to remain the same.

(2) The cost may be that incurred by the person rendering a specific protective service for a specific railroad or express company, or it may be the average cost of rendering a specific service for all railroads and express companies by such person.

(e) In the event the person rendering the protective services shall not recover costs for any item or service rendered, such person shall bill the railroads and express companies receiving those services, on a proportionate basis, for the amount of the loss. In the event the profit for any item or service received by such person exceeds a reasonable amount, the person rendering the service shall refund the excessive amount, on a proportionate basis, to the railroads and express companies involved. These adjustments are to be made as soon as practicable after the end of each calendar year. In determining the need for adjustments, each item or service for which a unit price has been charged shall be independently considered.

(f) No contract shall provide for a charge to a nonproprietary railroad or express company different from that to a proprietary railroad for the same service under substantially similar conditions.

(g) Contracts may be between one or more persons rendering protective services, on the one hand, and, on the other, one or more railroads and express companies, provided the contracts are consistent with the provisions of paragraphs (b), (c), (d), (e), and (f) of this section.

(54 Stat. 901; 49 U.S.C. 1)

PART 1033—CAR SERVICE

NOTE: Service orders issued under this part are published in the FEDERAL REGISTER.

PART 1034—ROUTING OF TRAFFIC

NOTE: Service orders issued under this part are published in the FEDERAL REGISTER.

PART 1035—BILLS OF LADING

Sec.
1035.1 Requirement for certain forms of bills of lading.
1035.2 Appendix D; form of domestic (straight) bill of lading prescribed. [Amended]
1035.3 Appendix F; form of contract to be used for shipments of livestock and wild animals in lieu of uniform bill of lading prescribed.
1035.4 Uniform standard bill of lading and uniform order bill of lading.

AUTHORITY: The provisions of this Part 1035 issued under secs. 1, 12, 24 Stat. 379, as amended; 49 U.S.C. 1, 12.

CROSS REFERENCES: For interstate transportation of livestock, see 9 CFR Parts 71–77, inclusive. For lading and unlading of vessels, see 19 CFR Part 4. For Maritime Administration regulations concerning the filing of port bill of lading forms, see 46 CFR Part 223.

§ 1035.1 Requirement for certain forms of bills of lading.

All common carriers, except express companies, engaged in the transportation of property by rail or by water subject to the Interstate Commerce Act served with notice of this proceeding and parties thereto, are hereby notified and required to cease and desist on or before August 8, 1919, from using their present bills of lading to the extent that the provisions and regulations contained therein are inconsistent with or different from the provisions and regulations contained in the forms of bills of lading designated as Appendixes B and D.

All common carriers subject to the act heretofore served with notice of this proceeding are hereby notified and required to adopt and put in use on or before August 8, 1919, upon notice to the Commission and to the general public by not less than 30 days' filing and posting in the manner prescribed in section 6 of the Interstate Commerce Act (49 U. S. C. 6), and thereafter to use and employ, uniformly when they issue bills of lading covering shipments, other than livestock, moving in interstate commerce, as required by and defined in section 20 of the act (49 U. S. C. 20), and such forms of bills of lading referred to as Appendixes B and D.

NOTE: Derived from 28 I. C. C. 671, 64 I. C. C. 247, 267; 66 I. C. C. 68; 66 I. C. C. 607; 80 I. C. C. 966; 156 I. C. C. 182; 167 I. C. C. 214; 172 I. C. C. 362; 226 I. C. C. 68; 245 I. C. C. 527.

§ 1035.2 Appendix D; form of domestic (straight) bill of lading prescribed.

(See 49 CFR, 1938 ed., 31.2.)

NOTE: Section 2(b) of the bill-of-lading contract terms and conditions is corrected to indicate a nine-month period within which to file claims with carriers on domestic as well as export traffic as a condition precedent to the recovery for loss, damage, injury, or delay to property while in the possession of carriers in accordance with the Act of April 22, 1940, 54 Stat. 251.

Section 9(d) of the bill-of-lading contract terms and conditions is corrected to indicate that the York-Antwerp Rules of 1924 governing the general average liability for loss of or damage to export traffic as approved in 196 I.C.C. 126 (1929) are substituted for the York-Antwerp Rules of 1890.

NOTE: Derived from 28 I.C.C. 671 (Appendix B); 64 I.C.C. 247, Appendix D; 66 I.C.C. 68, 167 I.C.C. 214; 172 I.C.C. 362; 245 I.C.C. 527, 6 F.R. 2912.

§ 1035.3 Appendix F; form of contract to be used for shipments of livestock and wild animals in lieu of uniform bill of lading prescribed.

(See 49 CFR, 1938 ed., 31.3)

NOTE: Derived from 64 I. C. C. 247; 66 I. C. C. 68; 245 I. C. C. 527, 6 F. R. 2912.

§ 1035.4 Uniform standard bill of lading and uniform order bill of lading.

Publication of the uniform standard bill of lading and uniform order bill of lading in the form presented on June 18, 1943, by the Association of American Railroads is authorized, subject to the conditions (a) that the wording on the face and back of the forms will conform to that now printed in the Consolidated Classification, the only changes being in the arrangement and spacing of the printed matter on the face of the forms, and (b) that the rail carriers shall allow shippers to use up their present supply of bills of lading before requiring such bills to conform to the rearrangement herein authorized.

PARTS 1040–1069—MOTOR CARRIERS—BROKERS—GENERAL

PART 1040—CLASSIFICATION OF BROKERS AND MOTOR CARRIERS

Sec.
1040.1 Types of property-carrier service.
1040.2 Types or groups of commodities.
1040.3 Carriers subject to more than one classification.
1040.4 Exceptions to and changes in classification.
1040.5 Emergencies.

AUTHORITY: The provisions of this Part 1040 issued under 49 Stat. 546, as amended; 49 U.S.C. 304.

§ 1040.1 Types of property-carrier service.

(a) *Regular-route scheduled service (Class A).* A regular-route scheduled-service carrier is any person who or which undertakes to transport property or any class or classes of property in interstate or foreign commerce by motor vehicle for compensation between fixed termini and over a regular route or routes, upon established or fixed schedules.

(b) *Regular-route nonscheduled service (Class B).* A regular-route nonscheduled-service carrier is any person who or which undertakes to transport property or any class or classes of property in interstate or foreign commerce by motor vehicle for compensation between fixed termini and over a regular route or routes at intermittent intervals and not upon an established or fixed schedule.

(c) *Irregular-route radial service (Class C).* An irregular-route radial-service carrier is any person who or which undertakes to transport property or any class or classes of property in interstate or foreign commerce by motor vehicle for compensation over irregular routes from a fixed base point or points to points or places located within such radial area as shall have been fixed and authorized by the Interstate Commerce Commission in a certificate of public convenience and necessity or permit, or from any point located within such radial area to such carrier's fixed base point or points.

(d) *Irregular-route nonradial service (Class D).* An irregular-route nonradial-service carrier is any person who or which undertakes to transport property or any class or classes of property in interstate or foreign commerce by motor vehicle for compensation over irregular routes between points or communities located within such general radial territory as shall have been defined geographically and authorized in a certificate of public convenience and necessity or permit, and any other points or communities located within the same general territory without respect to a hub community or a fixed base point of operation.

(e) *Local-cartage service (Class E).* A local-cartage carrier is any person who or which undertakes to transport property or any class or classes of property by motor vehicle for compensation when such transportation is performed in interstate or foreign commerce wholly within a municipality or between contiguous municipalities or within a zone adjacent to and commercially a part of any such municipality or municipalities.

§ 1040.2 Types or groups of commodities.

(a) *Carriers of general freight (commodity group 1).* This group comprises both common and contract carriers transporting commodities generally, except such commodities as require special equipment or service.

(b) *Carriers of household goods as a commodity (commodity group 2).* Household-goods carriers include carriers, both common and contract, engaged in the transportation of property commonly used in a household when a part of such household equipment or supply; furniture, fixtures, equipment, and the property usual in an office, museum, institution, hospital, or other similar establishment when a part of the stock, equipment, or supply of such office, museum, institution, hospital, or other similar establishment; furniture, fixtures, and equipment of a store; works of art, furniture, musical instruments, display exhibits, and articles requiring the specialized handling and special equipment usually employed in moving household goods.

NOTE: This type of carrier renders a specialized service requiring skilled workmen. Such special service includes removing furniture from the higher stories of large office buildings when freight elevator service is not available, the proper placing of furniture in the home or office upon delivery at destination, the laying of rugs, hanging of pictures, and other services in connection with the removal of furniture or fixtures from one location to another. A household-goods carrier is usually a class C–2 operator, but such a carrier may be a class D–2 operator. When the operation is that of a D–2 operator, it embraces the transportation of household goods to, from, and between unlimited points of origin and unlimited points of destination within the territory served by such carrier, over irregular routes, in either direction, outbound, or back haul, or in cross movements.

(c) *Carriers of heavy machinery (commodity group 3).* This group includes carriers, both common and contract, engaged in the hauling of heavy machinery and equipment, including road machinery, structural steel, oilfield rigs, and oilfield equipment.

NOTE: These commodities are grouped together because of the equipment required and the nature of the service performed. The territorial scope of the service is usually similar to that of the household goods carrier described in paragraph (b). Certain auxiliary or accessorial services are also performed in the transportation of these commodities, such as the dismantling and resetting of machinery, often requiring the use of rigging, skidding, and similar devices. A carrier of this class may find that all of his facilities are employed for a considerable period of time in a locality which is only a part of the territory in which he is authorized to serve. This type of carrier is usually a class D–2 operator. The movement involves and embraces the transportation of heavy machinery and similar equipment to, from, and between unlimited points of origin and unlimited points of destination within the territory served by such carrier, over irregular routes, in either direction, outbound, or back haul, or in cross movements.

(d) *Carriers of liquid petroleum products (commodity group 4).* Carriers of liquid petroleum products include those carriers who transport such petroleum products as gasoline and other liquid motor fuel, road oil, crude oil, fuel oil, kerosene, and like products in tank vehicles or drums. Such vehicles include solo trucks, semitrailers, and full trailers. Carriers of butane, propane, and other derivatives of petroleum are included in this group when such products are transported in tank vehicles. The group also includes carriers of edible oils, coal-tar products, and chemicals, if transported in tank vehicles, but does not include the transportation of milk, fruit juices, or other perishable liquid products which require temperature control.

NOTE: Carriers who fall within this group may be either common or contract carriers. In either case the service usually involves special tank transport equipment.

(e) *Carriers of refrigerated liquid products (commodity group 5).* This group comprises carriers, both common and contract, which specializes in the transportation of refrigerated or temperature-controlled perishable liquid products, such as fruit juices and various beverages in tank vehicles, including solo trucks, semitrailers, or full trailers. Those liquid products such as milk which are classified in other commodity groups are not included in this class.

NOTE: The production area of fruit juices and beverages and the transportation of these products by tank trucks is largely restricted to the territories where they are manufactured. While the shipments originate in a restricted area, the transportation is usually over long distances and requires operation both day and night. The matter of public health is particularly involved in this type of carriage, in view of the nature of the commodity.

(f) *Carriers of refrigerated solid products (commodity group 6).* This group includes that class of carriers, both common and contract, which engages in the transportation of commodities of a perishable nature, including fresh fish, meats and meat products, fruits and vegetables, dairy products, etc., requiring the use of special refrigeration or temperature control. It does not in-

clude refrigerated or temperature-controlled liquid products otherwise classified in this section.

NOTE: Specially designed and constructed refrigerated equipment is usually necessary for this operation. Dry ice is often used. Extra care in handling shipments must be exercised on account of the danger of spoiling. This operation is the same as that of the ordinary general commodity carrier except as to refrigeration requirements.

(g) *Carriers engaged in dump trucking (commodity group 7).* This group includes both common and contract carriers engaged in the operation of dump trucks and similar vehicles used in the transportation of sand, gravel, dirt, debris, coal, and other similar commodities.

NOTE: The operations of this group are usually carried on during the daytime and are local in character. When coal is the commodity transported, the operation is over both main highways and rural roads. The activities of carriers in this group are somewhat seasonal, especially in connection with building or construction projects. The value of the commodity hauled is usually low.

(h) *Carriers of agricultural commodities (commodity group 8).* This group includes carriers engaged exclusively in the transportation of unmanufactured or unprocessed agricultural commodities. It includes carriers of milk, regardless of the type of vehicle used, but does not include carriers engaged in the transportation of fruit juices or other processed agricultural commodities.

NOTE: While both common and contract carriers are included in this group, it is composed principally of irregular-route radial-service common carriers. Most commercial agricultural commodities are also handled as general commodities, especially when hauled in small lots, such as fruits, vegetables, produce, poultry, milk or cream in cans, grains in sacks, etc. In some instances, special vehicle equipment is required for the movement of such commodities as livestock, small grains in bulk, grass feeds, hay, tobacco (not processed), etc. During certain seasons of the year, this type of carrier transports feeder cattle from the primary market to the farm or feeding territory.

(i) *Carriers of motor vehicles (commodity group 9).* This group consists of carriers engaged in the transportation of new and used motor vehicles, including automobiles, trucks, trailers, chassis, bodies, and automotive display vehicles, wholly or partially assembled, in interstate or foreign commerce. In this group are included:

(1) Carriers engaged in the transportation of motor vehicles by truckaway method, involving the use of special equipment such as trucks, tractors, trailers, semitrailers, 4-wheel trailers, tow cars, wrecking-service cars, and various combinations thereof in or upon which such motor vehicles are loaded.

(2) Carriers engaged in the transportation of motor vehicles by driveaway method, involving the utilization of the motive power, in whole or in part, of the vehicles being transported, either in single driveaway or in combinations of two or more vehicles by use of tow-bar mechanism, saddle or bolster mount mechanism, full-mount mechanism, or any combinations thereof.

(3) Carriers engaged in transportation of motor vehicles, within the boundaries of a city or single commercial zone, by either truckaway or driveaway method, where such transportation is a part of and is incidental to an interstate shipment or a movement in interstate or foreign commerce.

NOTE: The transportation of new automobiles, trucks, and trailers is usually a class D-9 movement. The transportation of used automobiles, trucks, and trailers and new or used chassis, bodies, and automotive-display vehicles is usually a class D-9 movement. In either case, the operation may be that of a common or contract carrier. When classified as a class D-9 movement, the scope of the operation is territorial in character and includes the transportation of motor vehicles to, from, and between unlimited points of origin and unlimited points of destination within the territory served by such carrier, over irregular routes, in either direction, outbound, or back haul, or in cross movements.

(j) *Carriers engaged in armored-truck service (commodity group 10).* This group includes motor carriers, either common or contract, which by reason of the commodity transported, i.e., gold, silver, currency, valuable securities, jewels, and other property of very high value, use specially constructed armored trucks and provide police protection to safeguard the commodity while it is being transported and delivered. It also includes carriers which operate ordinary equipment in the carriage of high-value commodities when guards are necessary to accompany the shipment.

NOTE: This is a highly specialized type of service and is usually confined to larger cities and industrial areas. It is used by financial institutions for the transfer of funds, including bullion, currency, valuable securities, and jewels from dock to vault, pay rolls to industries, bank to bank, etc. It is frequently performed under a specific contract, although there are some carriers engaged in the service that hold themselves out as common carriers. Where the service is entirely local, the operation may be regarded as local cartage within a municipality. Where routes or territory beyond a municipal area are served, the operation becomes that of an irregular-route radial carrier.

(k) *Carriers of building materials (commodity group 11).* This group includes both common and contract carriers engaged in the transportation of building materials for compensation, not including sand, gravel, crushed stone, or other building materials ordinarily transported in dump trucks. It includes haulers of lumber, cut stone, slate, tile, brick, cement, plaster in sacks, or other similar materials usually transported on flat-bed vehicles.

NOTE: Usually no special equipment is required, except in the case of the lumber hauler, who uses vehicles equipped with a special unloading device, or that of the concrete hauler which mixes en route. Most of the other building materials can be and are hauled in small lots as general commodities. The movement of these commodities is usually in connection with a construction project, in truckloads, and for comparatively short distances. The transportation of lumber between manufacturing plants and from mill to retail yard is an important service rendered by carriers classed in this group.

(l) *Carriers of films and associated commodities (commodity group 12).* This group, composed of both common and contract carriers, includes those carriers which are engaged in the transportation of motion-picture and sound-reproducing films, recording, reproducing, and amplifying devices, supplies and accessories for the operation of motion-picture theaters or places of exhibition, including the transportation of tickets, advertising matter, displays, and exhibits such as are found in lobbies of motion-picture theaters, and furnishings and supplies necessary in the maintenance and operation of such theaters. This type of operation requires unusual delivery schedules and special personal services.

NOTE: This group of carriers has, in some instances, undertaken the delivery of newspapers, magazines, publications, yeast, coffee, confectionary, and other dated products. If such commodities were actually transported by a carrier in this group in interstate commerce on and since the "grandfather" date, such carrier is entitled to continue to transport such items under the law. The transportation of such commodities, however, as a rule is only incidental to and carried on in conjunction with the transportation of films and accessories. In cases of future authorizations involving a showing of public convenience and necessity, these items should not be regarded as being associated with the carriage of films and under no circumstances should the inclusion of these items in the "grandfather" certificates or permits be construed as authorization to the film carrier to engage in transportation of general freight on the grounds that such general freight is labeled "dated."

(m) *Carriers of forest products (commodity group 13).* This group includes both common and contract carriers engaged principally in the transportation of forest products, i.e., logs, poles, piling, fence posts, shingle bolts, pulpwood, and fuel from the forest to processing points or to market.

NOTE: In those areas where the timber is large, special truck equipment is required for the transportation of logs. Such equipment includes bunks, reaches, 3-wheel and 4-wheel trailers, special braking arrangements, and other incidental special equipment. Similar equipment is also frequently used in the transportation of poles and piling. Ordinary vehicles are used to transport the other items referred to herein. This group does not include carriers who are engaged in the transportation of rough or finished lumber or processed products derived from raw forest products, nor does it include such operations as are grouped under "carriers of building materials."

(n) *Carriers of mine ores, not including coal (commodity group 14).* This group comprises both common and contract carriers engaged principally in the transportation of mining products in the rough, such as iron, copper, or other ores, from the mine to the smelter or from the mine to bunkers located on the routes of connecting carriers. It also includes the transportation of products of smelters to refineries or foundries. It does not include coal or coal products or refined or manufactured products of ores, which are classified herein under other groupings.

(o) *Carriers engaged in retail-store delivery service (commodity group 15).* This group includes carriers who render a specialized delivery service for retail-store establishments. This service is usually confined to municipal areas, and where that is the case, it may be regarded as a city cartage operation. In some instances, however, the service extends beyond municipal areas, and in that case the operation may be classified in accordance with the service rendered.

(p) *Carriers of explosives or dangerous articles (commodity group 16).* Carriers of certain explosive or dangerous articles, except liquid petroleum products as described in paragraph (d), and films as described in paragraph (l), are those carriers which engage in transporting dangerous, less dangerous, or relatively safe explosives, including non-explosive material such as fuses, cartridge cases, dummy cartridges, etc., inflammable oxidizing materials, corrosive liquids, compressed gases, poisonous articles, and other acceptable dangerous articles other than inflammable liquids in tank vehicles.

NOTE: The transportation of the commodities classed in this group involves unusual hazards and requires special precautions in the matter of safety. The carriage is usually render under special agreement but is also rendered by common carriers when the volume of the movement is not sufficient to warrant a contract operation.

(q) *Carriers of specific commodities not subgrouped (miscellaneous-commodity group 17.* Throughout the country there are individual truck operators who engage in the transportation of some specific commodity or commodities which do not fall within any of the commodity subgroups included in this classification.

NOTE: Usually such transportation is carried on in conjunction with a local industry or local situation and is not of sufficient importance nationally to warrant subgrouping. In order to provide, however, for the general classification of such operations, miscellaneous-commodity group 17 has been included. The specific commodity or commodities transported by carriers who may be classified in this group are shown in the carrier's certificate of public convenience and necessity or permit. Commodity group 17 carriers will be the subject of further study and if need therefor is shown, additional commodity groups will be established from time to time from this miscellaneous group to meet the administrative requirements of the Bureau of Operations.

§ 1040.3 Carriers subject to more than one classification.

These classifications and groupings are prescribed for general purposes. The operations of an individual carrier may fall within more than one grouping, in which event they become subject to the rules and regulations of each group in which they fall.

§ 1040.4 Exceptions to and changes in classification.

Any group of carriers, or any carrier member of a group, may, upon proper notice, petition the Commission to alter, amend, or otherwise modify any part of this classification or any grouping prescribed herein. Unless exceptions are specifically granted, the general rules and regulations of the Commission shall govern.

§ 1040.5 Emergencies.

In case of emergencies or unforeseen conditions over which the motor carrier affected has no control, which require immediate and extraordinary treatment, the Commission may, without notice, modify, amend, suspend, or vacate any or all classifications or groupings prescribed in this part and substitute in lieu thereof such classification groupings or regulations as may be necessary during the period of such emergency.

PART 1041—INTERPRETATION—CERTIFICATES AND PERMITS

Subpart A—Motor-Carrier Operation Involving Traversal States

Sec.
1041.1 Interpretation of outstanding certificates and permits.
1041.2 Policy to be observed in the future.
1041.3 Requirements to be met.

Subpart B—Interpretation of Operating Rights

1041.10 Return of containers and other shipping devices.
1041.11 Service to, from, and between points in Alaska.
1041.12 Service to or from points within one airline mile of the highway or highways composing the regular route or routes of a motor common carrier of passengers.
1041.20 Operating authority to serve particular municipality, construction.
1041.21 Operating authority to serve particular municipality, construction.
1041.22 Operating authority to serve unincorporated community, construction.

AUTHORITY: The provisions of this Part 1041 issued under sec. 204, 49 Stat. 543, as amended; 49 U.S.C. 304, unless otherwise noted.

Subpart A—Motor-Carrier Operation Involving Traversal States

§ 1041.1 Interpretation of outstanding certificates and permits.

All certificates and permits heretofore issued to motor carriers authorizing operations over irregular routes which necessitate that the carriers, in performing their authorized services, pass through states other than those in which they are authorized to receive or discharge passengers or freight, are interpreted as follows:

(a) *Where no "traversal states" are named.* Carriers may operate through any state which affords a reasonably direct or logical route between the points authorized to be served.

(b) *Where "traversal states" are named.* Whether all or only a portion of such states are named, the carriers may operate not only through the "traversal states" named but also through any other state or states which afford a reasonably direct or logical route between the points authorized to be served, unless the language clearly and unmistakably shows that "traversal states" were named as a specific restriction or prohibition against operating in any state other than those specified.

§ 1041.2 Policy to be observed in the future.

On and after the effective date of this part "traversal states" will not be named in a certificate or permit except when the record discloses that such should be done as a definite restriction and on a showing of public convenience and necessity, in the case of a common carrier, or consistency with the public interest and the national transportation policy, in the case of a contract carrier; otherwise, operations may be performed as indicated in § 1041.1(a).

§ 1041.3 Requirements to be met.

Before instituting any operations, pursuant to this part, through a state or states not named in its certificate or permit, the carrier shall (a) give notice in writing, accompanied by a copy of its operating authority, to the state regulatory body or bodies of such state or states, (b) designate a process agent for each such state, as required by section 221(c) of the Interstate Commerce Act, and (c) comply with the provisions of Rule VIII of the Commission's insurance regulations regarding the filing of insurance by a company licensed to do business in each such state (§ 1043.8 of this chapter).

Subpart B—Interpretation of Operating Rights

§ 1041.10 Return of containers and other shipping devices.

All certificates and permits issued to motor carriers are interpreted as authorizing the return transportation of empty boxes, crates, cases, barrels, drums, baskets, hampers, cans, bottles, hangers, sacks, cones, spools, skids, pallets, blocks, bracing, and other containers and shipping devices of a nature similar to those described, and of dunnage, from the destination to the origin of a commodity or commodities transported by a motor carrier under a certificate or permit provided the containers or other shipping devices were used in the outbound transportation of the commodity or commodities by the motor carrier.

(Secs. 207, 208, 209, 49 Stat. 551, 552, as amended; 49 U.S.C. 307, 308, 309)

§ 1041.11 Service to, from, and between points in Alaska.

Certificates and permits issued to motor carriers, licenses issued to brokers, and permits issued to freight forwarders, prior to January 3, 1959, authorizing service from a point or area "to points in the United States" are interpreted as authorizing service from the originating point to points in the District of Columbia and the 48 States constituting the United States prior to the admission of Alaska; those authorizing service from "points in the United States" to particular destination points or areas are interpreted as authorizing service from points in the District of Columbia and the 48 States constituting the United States prior to the admission of Alaska to the

specified destination points or areas; those authorizing service "between points in the United States" are interpreted as authorizing service between points in the District of Columbia and the 48 States constituting the United States prior to the admission of Alaska; and those authorizing service at points described in text which depends for its meaning upon the definition of "States" or "United States" are interpreted as authorizing service at only those points which were within the meaning of the text at the time of issuance thereof.

(Secs. 207, 208, 209, 211, 408, 410, 49 Stat. 551, 552, as amended, 554, as amended, 646, as amended, 56 Stat. 283, 291, as amended; 49 U.S.C. 307, 308, 309, 311, 1008, 1010)

§ 1041.12 Service to or from points within one airline mile of the highway or highways composing the regular route or routes of a motor common carrier of passengers.

(a) *Definition and construction.* For the purpose of this section:

(1) The terms "municipality" and "unincorporated area" shall be defined as set forth in § 1048.100 (a) and (b) of this chapter;

(2) An "airline" mile shall be construed to mean a statute mile.

(b) *Regular-route motor carrier of passengers.* A common carrier by motor vehicle holding a certificate, issued by the Interstate Commerce Commission pursuant to the provisions of Part II of the Interstate Commerce Act, authorizing the transportation of passengers between two or more points over a defined route or segment thereof, and authorizing service at all intermediate points thereon, may serve (1) all municipalities situated wholly within one airline mile of the highway or highways composing the carrier's authorized service routes, portions, or segments thereof, (2) all unincorporated areas within one airline mile of the highway or highways composing the carrier's authorized service routes, portions, or segments thereof, and (3) all military establishments, airports, schools, or other similar public or private establishments, not situated in a municipality, which may be entered within one airline mile of the highway or highways composing the carrier's authorized service routes, portions or segments thereof: *Provided, however,* That operation within any part of such establishment more than one airline mile from such designated (authorized) highway is not over a public road.

(c) *Exceptions.* The rule promulgated in paragraph (b) of this section shall not be applicable to the operations of any motor common carrier of passengers (1) within New York, N.Y., (2) within Rockland, Westchester, Orange, or Nassau Counties, N.Y., (3) within Fairfield County, Conn., (4) within Passaic, Bergen, Essex, Hudson, Union, Morris, Somerset, Middlesex, or Monmouth Counties, N.J., and (5) within the commercial zone of Washington, D.C., as defined by the Commission.

(Secs. 207, 208, 49 Stat. 551, 552; 49 U.S.C. 307, 308)

§ 1041.20 Operating authority to serve particular municipality, construction.

A certificate or permit issued by the Commission to any motor carrier of property pursuant to the provisions of Part II of the Interstate Commerce Act or to any freight forwarder under Part IV of the act, authorizing service at a particular municipality, shall be construed as authorizing service at all points or places which are within the commercial zone of that municipality as defined by the Commission and not beyond the territorial limits, if any, fixed in such certificate or permit on the authority granted except that this finding shall not apply in the case of a certificate or permit authorizing service by a motor carrier of property or freight forwarder at any municipality at which the commercial zone exemption provided by section 203(b)(8) of the act has been removed in whole or in part by this Commission.

(49 Stat. 543, as amended, 544, as amended, 546, as amended; 49 U.S.C. 302, 303, 304)

§ 1041.21 Operating authority to serve particular municipality, construction.

A certificate or permit issued by the Commission to any motor carrier of property pursuant to the provisions of Part II of the Interstate Commerce Act or to any freight forwarder under Part IV of the act, authorizing service at a particular municipality, at which the commercial zone exemption, provided by section 203(b)(8) of the act, has heretofore been removed, or is hereafter removed if such removal takes place prior to issuance of said certificate or permit, shall be construed as authorizing service at all places within such municipality and also at all points (not beyond the territorial limits, if any, fixed in such certificate or permit on the authority granted) within the zone within which, and to the same extent to which, local operations may still be conducted under the exemption provided by section 203(b)(8) of the act: *Provided, however,* That this finding shall not apply to certificates or permits authorizing a motor carrier of property to serve any municipality in Los Angeles County, Calif., New York, N.Y., or any municipality in Westchester or Nassau Counties, N.Y., or any municipality in New Jersey any part of which is within 5 miles of New York City.

(49 Stat. 543, as amended, 544, as amended, 546, as amended; 49 U.S.C. 302, 303, 304)

§ 1041.22 Operating authority to serve particular unincorporated community, construction.

A certificate of permit issued to a motor carrier of property pursuant to the provisions of Part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.) or to any freight forwarder under Part IV of the act (49 U.S.C. 1001 et seq.) authorizing service at a particular unincorporated community having a post office of the same name shall be construed as authorizing service at all points which are within the United States and not beyond the territorial limits, if any, fixed in such certificate or permit on the authority granted, as follows: (a) All points within 2½ miles of the post office in such unincorporated community if it has a population of less than 2,500, within 4 miles if it has a population of 2,500 but less than 25,000, and within 5½ miles if it has a population of 25,000 or more, (b) all points in any municipality any part of which is within the limits described in (a) of this section and (c) all points in any municipality wholly surrounded, or so surrounded except for a water boundary by any municipality included under the terms of paragraph (b) of this section.

(49 Stat. 543, as amended, 544, as amended, 546, as amended; 49 U.S.C. 302, 303, 304)

NOTE: In the application of §§ 1041.20 to 1041.22, inclusive, distances and population data shall be determined in the same manner as provided in § 1048.102 of this chapter. See also definitions in § 1048.100 of this chapter.

PART 1042—DEVIATIONS FROM REGULAR ROUTES AND GATEWAYS

Sec.

1042.1 Deviations by motor carriers subject to the Interstate Commerce Act from authorized regular routes, or required gateways, and in other instances.

1042.2 Prior filings.

AUTHORITY: The provisions of this Part 1042 issued under 49 Stat. 546, as amended, 552, as amended; 49 U.S.C. 304, 309, 309.

§ 1042.1 Deviations by motor carriers subject to the Interstate Commerce Act from authorized regular routes, or required gateways, and in other instances.

(a) *Applicability of rules.* Subject to all other rules and regulations of the Commission applicable to specific situations or operations, and the hazardous materials regulations of the Department of Transportation none of which other rules or regulations is superseded by this part, the rules and regulations in this part are hereby found to be just and reasonable and adopted and made applicable so far as pertinent to the operations within the United States under authority of certificates and permits issued by this Commission, of all motor carriers, except motor carriers of passengers when operating in New York City, N.Y., Rockland, Westchester, and Nassau Counties, N.Y., Fairfield County, Conn., and Passaic, Bergen, Essex, Hudson, Union, Somerset, Middlesex and Monmouth Counties, N.J.

(b) *Definitions.* As used in this part, the following words and terms shall be construed to have meanings as follows:

(1) *Designated highway.* A highway identified for record purposes by a number, letter, or name such as a turnpike, thruway, expressway, freeway, or as an "unnumbered county or state road", or in some other like manner.

(2) *Redesignated highway.* A highway to which there has been assigned a new designation, either number, letter, name, or other identifying reference, in lieu of a designation previously assigned thereto.

(3) *Relocated highway.* A highway which has been constructed in a new location in lieu of an existing highway or a segment or segments thereof, and which is intended to replace such existing highway or a segment or segments thereof for public use.

(4) *Regular service route.* A designated highway or series of highways over which a regular-route motor carrier is specifically authorized to operate with provision in the carrier's certificate or permit for service at terminal, intermediate, or off-route points as specified therein, as distinguished from an alternate route as defined in subparagraph (5) of this paragraph. Such regular service route may be described as a single route in a carrier's authority or as two or more routes which are combined by joinder at a common service point or points.

(5) *Alternate route.* A designated highway or series of highways lying wholly within the United States over which a regular-route motor carrier may operate in the interest of economy or convenience or to avoid congested areas, dangerous grades, sharp curves, or other hazards on an authorized regular service route, deviating from a point on such authorized regular service route and returning at some other point on the same regular service route.

(6) *By-pass route.* A route designated by proper authority for the general purpose of avoiding traffic congestion in a heavily populated area or areas.

(7) *Detour route.* The highway or highways designated by proper authority for public use while the highway or highways normally used between specified points is, or are, temporarily closed or restricted, as by reduced weight limits, or for repairs or construction, or for any other reason.

(8) *Deviation route.* Any of the facilities used by a motor carrier used under authority of this part.

(9) *Point of deviation.* The point where a motor carrier using, or proposing to use, an alternate route, as defined in subparagraph (5) of this paragraph or any other deviation route, under authority of this part, departs from, or proposes to depart from, its specifically authorized service territory or regular service route.

(10) *Point of return.* The point where a carrier using, or proposing to use, an alternate route, as defined in subparagraph (5) of this paragraph or any other deviation route, under authority of this part returns to, or proposes to return to, its specifically authorized service territory or regular service route.

(11) *Deadheading empty vehicles.* The movement of empty vehicles incidental to either prior or subsequent transportation in interstate or foreign commerce subject to the Interstate Commerce Act.

(12) *Service point.* A point authorized to be served by a carrier as distinguished from one through which such carrier may operate but without performing any service.

(c) *Authority for deviations by motor carriers from operating authorities in described circumstances.* Subject to the special rules, requirements, and conditions governing particular situations hereinafter stated, and subject also, when reference is made thereto, to the general conditions and requirements set forth in paragraph (d) of this section, motor carriers holding operating authority from this Commission except certain motor carriers of passengers as provided in paragraph (a) of this section, are hereby authorized, in the circumstances hereinafter described, to deviate from their specifically authorized regular service routes, to avoid operations through specific points or gateways, and otherwise to depart from their specific authority, in the circumstances and to the extent hereinafter stated without obtaining other prior specific authority therefor:

(1) *Redesignated highways.* Where a carrier is authorized to operate over a specified highway and thereafter that highway or a segment thereof without relocation is redesignated, the carrier in order to facilitate appropriate corrections in its certificate or permit and changes in the records of the Commission, shall so advise the Commission, by letter, giving sufficient information regarding the old and the new designation, the points between which the highway designation has been changed, and the place or places where such highway is referred to in the carrier's authority. The new designation of the highway will be shown in the carrier's certificate or permit when the Commission has occasion to reissue it.

(2) *Relocated highway and abandonment of old highway.* Where a carrier is authorized to operate over a specified highway and thereafter that highway or a segment or segments thereof are relocated, and where the old highway or any segment thereof is no longer maintained for use by the general public, the carrier may operate over such relocated highway or relocated segment or segments under its authority without notice to the Commission of such change, and in so doing may serve as intermediate or off-route points, on, or from, the new highway those points previously authorized to be served as intermediate or off-route points on or from the old highway, provided there is no other change in the service previously rendered in connection with operations over the old highway.

(3) *Relocated highway and maintenance of old highway under new designation.* (i) Where a carrier is authorized to operate over, and to serve points on, a specified highway and thereafter that highway or a segment or segments thereof are relocated but the old highway is maintained for use by the general public under a new designation, the carrier shall not without first obtaining specific authority from the Commission, transfer its operations to the relocated highway or relocated segments thereof but must continue to operate over the old highway and advise the Commission of the change in the designation thereof furnishing the same information as required in connection with subparagraph (1) of this paragraph. The new designation of the highway will be shown in the carrier's certificate or permit when the Commission has occasion to reissue it.

(ii) Where a carrier is authorized to operate over a specified highway but is not authorized to serve any point on such highway and thereafter such highway or a segment or segments thereof are relocated, but the old highway is maintained for use by the public under a new designation, the carrier may, if it so desires, use as its operating route only the new or relocated highway, provided it promptly advises the Commission of such change giving descriptions of the old and the new highways between the points involved and the other information required by subparagraph (1) of this paragraph.

(4) *Highways and streets within commercial zones.* When, pursuant to §§ 1041.20 to 1041.22 and Part 1049 of this chapter, a motor carrier of property has the right to serve all points in the commercial zone of a municipality, or all points in a defined territory adjacent to an unincorporated community, by virtue of its holding of authority to serve the municipality or the unincorporated community, the carrier in serving places within such municipality or its commercial zone or within the unincorporated community or authorized territory adjacent thereto may use any highway or street located therein, without notice to the Commission.

(5) *Bypass routes.* Where a bypass route has been designated to be used for the purpose of avoiding a congested area or areas, a carrier having an authorized regular route, either service route or alternate route, through such area or areas, which desires to use such bypass route as an alternate route may do so regardless of the ratio of the distance over such bypass route to the distance over the carrier's regular service route between the point of deviation and the point of return (compare subparagraph (8)(ii) of this paragraph) but subject to the general conditions and requirements set forth in paragraph (d) of this section.

(6) *Bridges, tunnels, and ferries.* Where a new bridge or tunnel has been constructed to replace an old bridge or a ferry, to avoid circuity, or to eliminate a hazardous curve or grade, a regular-route carrier having authority to use the old facility and desiring to use in lieu thereof such new bridge or tunnel and the approaches thereto, may do so, subject to the Safety Regulations of the Department of Transportation and subject also to the general conditions and requirements set forth in paragraph (d) of this section.

(7) *Detour routes.* When a federal, state, county, or other government official, in the exercise of his powers, temporarily prohibits the use by a regular-route carrier of an authorized service route or a segment or segments thereof, or when operations by a regular-route

carrier over an authorized service route or a segment or segments thereof are temporarily obstructed or rendered unsafe by any cause over which a carrier has no control, or when a highway or a segment thereof which comprises all or any portion of a carrier's authorized regular service route is by appropriate authority made subject to weight or other restrictions which temporarily prevent the operation of the equipment regularly and normally used by the carrier over that route, and when, because of any one or more of the foregoing, a detour route has been officially designated by proper authority for public use in lieu of the closed, obstructed, unsafe, or restricted highway, the carrier may use such officially designated detour route in lieu of the temporarily closed, obstructed, unsafe, or restricted highway, provided (i) that no service is rendered at any point the carrier is not specifically authorized to serve, (ii) that, so far as suitable detour routes are available, the carrier continues to furnish reasonably and adequate service at all points it is authorized to serve, and (iii) that, if use of the detour route will continue for more than 30 days and if the distance over the detour route is less than 90 percent of the distance over the authorized service route, a statement shall be obtained from the governmental authority exercising control over the highways involved and filed by the carrier with the Commission together with a notice in writing of its intent to use such detour route under authority of this subparagraph, which notice shall show (a) the nature of the condition which prevents operation over the authorized route, (b) the period of time it is anticipated that the service route will not be usable and (c) proper identification of the official detour route. Where a detour route is used under the provisions of this subparagraph, the carrier shall discontinue operations over such route and resume operations over its authorized service route immediately upon removal of the condition which necessitated use of the detour route.

(8) *Alternate routes for operating convenience only.* Where a regular route motor carrier is authorized to operate over a regular service route and there is wholly within the United States another highway which extends in the same general direction as such regular service route and affords a reasonably direct and practicable route between any two points on such regular service route, it may, subject to the general conditions and requirements set forth in paragraph (d) of this section, use such other highway as an alternate route for operating convenience only with no service at any intermediate point thereon, and with no service at the termini except as otherwise authorized, in the manner and to the extent, as follows:

(i) Superhighways as alternate routes: Where a regular route motor carrier is authorized to operate over a regular service route and there is extending in the same general direction as such service route, and wholly within the United States, a so-called superhighway, turnpike, thruway, freeway, or expressway, which is substantially the same in purpose, design, and construction as such highways as the Pennsylvania Turnpike, the New Jersey Turnpike, the Turner (Oklahoma) Turnpike, the West Virginia Turnpike, and the New York Thruway, such superhighway, turnpike, thruway, freeway, or expressway and such additional highways as it may be necessary to use in traveling by the shortest practicable route between the carrier's authorized regular service route and the superhighway, turnpike, thruway, freeway, or expressway may be used as an alternate route between two points on the carrier's regular service route regardless of the ratio of the distance over such alternate route between the point of deviation and the point of return to the distance over the carrier's regular service route between the same points, and regardless of whether or not such alternate route crosses or intersects or passes over or under, any other specifically authorized service or alternate route of the carrier at any place intermediate to the points of deviation and return: *Provided*, That use of the alternate route will not materially change the competitive situation between such carrier and any other.

(ii) Highways other than superhighways: Where a regular route motor carrier is authorized to operate over a regular service route and there is extending in the same general direction as such service route and wholly within the United States another highway which is not a so-called superhighway, turnpike, thruway, freeway, or expressway, the carrier may use such other highway as an alternate route for operating convenience only provided (a) that the distance over such alternate route between the points of deviation and return is not less than 90 percent of the distance over the authorized regular service route between the same points and (b) that such alternate route does not duplicate, or involve operations over, any part of any authorized service route described in the carrier's certificate or permit and does not cross or otherwise intersect any authorized service route of the carrier or pass through any authorized off-route point or any part of the commercial zone of any authorized point either off-route or other, except at the points of deviation and return.

(iii) For the purpose of this subparagraph:

(a) The crossing of another route by overpass or underpass shall be deemed to be a crossing or an intersection except in those instances where a transfer of a vehicle from one highway to the other at the point of such underpass or overpass is physically impossible because of the absence of any connecting access roads.

(b) The prohibition against the inclusion in any alternate route used under this subparagraph of any part of any authorized service route of the carrier shall not be deemed to prohibit the inclusion in an alternate route used under this subparagraph of a segment of a specifically authorized alternate route provided the distance over the alternate route used under this subparagraph is computed from point of deviation from a service route to the point of return to the same service route including the embraced segment of the specifically authorized alternate route.

(c) The prohibition against the crossing by any alternate route used under this subparagraph of any authorized service route shall not be deemed to prohibit the crossing of a specifically authorized alternate route.

(9) *Deadheading empty vehicles.* A motor carrier may deadhead empty vehicles over any highway use of which is necessary or desirable to accomplish a reasonably direct and practicable movement thereof between any two points incidental to either prior or subsequent transportation in interstate or foreign commerce subject to the Interstate Commerce Act.

(10) *Deviation from regular service routes in the transportation of U.S. Mail.* Subject to the general conditions and requirements set forth in paragraph (d) of this section, common and contract carriers of property holding authority to operate over regular routes may, without obtaining prior authority therefor, deviate from their authorized service routes for the purpose of delivering or picking up U.S. Mail, under contract with the Post Office Department, at points within 10 airline miles of such authorized service routes and in the course of such deviation, may transport authorized commodities in the same vehicle with mail, provided that no commodity other than mail may be picked up, delivered, or interchanged with another carrier, at any point not specifically authorized.

(11) *Deviations by motor carriers of explosives and other dangerous articles.* Subject to the general conditions and requirements set forth in paragraph (d) of this section:

(i) A regular-route motor carrier of explosives or other dangerous articles in order to avoid streetcar tracks, tunnels, viaducts, dangerous crossings, or places where persons are assembled, may use any practicable route lying wholly within the United States provided that the distance over the route used between the point of deviation and the point of return is not less than 90 percent of the distance over the service route between the same points, or if it is less than 90 percent provided the deviation route used is at all points within 10 miles of the authorized place which is bypassed.

(ii) Common carriers of explosives and other dangerous articles operating over either regular and irregular routes, or both, may in the interest of safety interchange shipments or equipment or combine routes or operating rights at any place within ten miles of any point where interchange or joinder is permissible under the existing authorities of the carrier or carriers involved.

(12) *Service at military installations.* (i) If there exists an entrance or gate to a military installation which is within the limits of the authority held by a motor carrier and the carrier with the consent and approval of the officer in charge is openly, lawfully, and regularly

(as distinguished from surreptitiously, sporadically, or infrequently) using such entrance or gate in the rendition to or from the installation of (a) a general transportation service or (b) a specialized or limited service, and if such entrance or gate is by appropriate authority closed, or restricted against particular traffic, or if for some other reason beyond its control, the carrier is unable to continue to use that entrance or gate for the same purpose as in the immediate past, it may, subject to the general conditions and requirements set forth in paragraph (d) of this section, use other entrances or gates in continuing to serve the installation in the same manner and in the rendition of the same type of service as was theretofore performed through the closed or restricted entrance or gate: *Provided*, That in so doing the carrier does not travel more than 30 highway miles over public highways outside the scope of its authority.

(ii) This subparagraph shall not be construed by any carrier as authority for the rendition, through an entrance or gate which is located outside the limits of its authority, of any service which was in fact discontinued prior to the closing or restriction of the authorized gate or entrance, or any service essentially different from that rendered through the gate or entrance located within the limits of its authority immediately prior to the closing or restriction thereof.

(d) *General conditions and requirements.* Where reference is made thereto in paragraph (c) of this section governing particular situations the following general conditions and requirements shall be applicable and shall be complied with as a condition to the grant of authority herein for the particular deviation:

(1) Any proposed deviation under this part except one over an alternate route under paragraph (c) (8) of this section, may be instituted by a carrier without prior notice to the Commission.

(2) If a deviation proposed under this part, other than one under paragraph (c) (8) of this section, is to continue for not more than 30 days no notice to the Commission concerning it is required.

(3) If any deviation, other than one over an alternate route under paragraph (c) (8) of this section, is to continue for more than 30 days the carrier shall, not later than one day after the deviation operations are begun, give notice thereof to the Commission and others in the manner provided in subparagraph (5) of this paragraph giving the information therein required.

(4) When an alternate-route deviation under paragraph (c) (8) of this section is proposed the carrier shall give prior notice thereof to the Commission and to others in the manner provided in subparagraph (5) of this paragraph. A summary of such notice will be prepared by the Commission and published in the FEDERAL REGISTER and operation over such deviation route shall not under any circumstances be commenced until the elapse of 30 days after the date of such publication and if a protest against any such proposed deviation is filed within such 30-day period the proposed deviation shall not be commenced until the Commission has considered and overruled the protest and found that the proposed deviation meets the requirements of, and is permissible, under this part.

(5) If notice of a deviation proposed under this part is required by either subparagraph (3) or (4) of this paragraph, it shall in the case of an irregular-route operation specify the point or points involved, describe the nature of the deviation, and give such other information as may be necessary to establish that the deviation is in fact authorized by this part, and in the case of a regular-route operation it shall contain:

(i) A complete description by highway designations of the carrier's authorized service route between the point of deviation and the point of return, including authorized off-route points;

(ii) A complete description by highway designations of its proposed deviation route between the point of deviation and the point of return;

(iii) A complete description by highway designations of all segments of other specifically authorized service and alternate routes, including authorized off-route points, of the carrier adjacent either to the authorized service route from which deviation is to be made or to the proposed deviation route; and

(iv) Where the deviation is subject to a comparative distance limitation, the distance (actual mileage) over any proposed deviation route and also over the authorized regular service route between the points of deviation and return shall be stated. Such distances shall be computed not from municipal or commercial zone limits but from actual junction points of the carrier's specifically authorized service route and the proposed deviation route, whether such junction points be within or without city limits, and shall include that portion of any specifically authorized alternate route which is embraced in any proposed alternate deviation route.

(6) The notice described in subparagrap (5) of this paragraph shall be accompanied by a map on which there shall be shown so much as may be practicable of the information required by that subparagraph and in the case of an alternate-route deviation under paragraph (c) (8) (i) or (ii) of this section, such map must clearly show in different colors the routes involved and authorized off-route points, including in each instance the official highway designations of the authorized regular service route from which deviation is proposed and other service routes of the carrier, if any, in the area, also the highway designations of the proposed deviation route and other specifically authorized alternate routes, if any, in the area, and the distances (actual mileage) between the points of deviation and return (the actual junctions) over the regular service route from which deviation is proposed and over the deviation route.

(7) The notice of an alternate-route deviation required by subparagraph (4) of this paragraph shall also contain a statement to the effect that the carrier filing it will continue to furnish reasonable and adequate service from and to all authorized points on its regular service route; that it will not serve any intermediate point or points on such deviation route; and that deviation from its authorized regular service route as proposed will not enable it to render a materially different service than that rendered over its regular service route or enable it to engage in transportation between any points between which operation is not practicable over its regular service route because of the circuity or otherwise.

(8) The notice of any deviation required by subparagraph (3) or (4) of this paragraph shall also contain a statement indicating that a copy thereof, accompanied by a copy of the map required by subparagraph (5) of this paragraph, has been served by mail or in person on the following, listed by names and addresses in each instance:

(i) All carriers which, after diligent inquiry, have been found to be competitive with the carrier's proposed operation over the deviation route.

(ii) The State board or official which has jurisdiction over motor carrier regulation in each State in or through which the proposed operations over the deviation route will be conducted.

(iii) The Regional Director or Directors of the Interstate Commerce Commission for the region in which the carrier is domiciled and for each district in or through which the proposed operations over the deviation route will be conducted.

(9) Failure to give notice or defective notice: Where a notice of a deviation or proposed deviation is required by subparagraph (3) or (4) of this paragraph and such notice is not timely filed and served on competing carriers and others as required by subparagraph (8) of this paragraph, any deviation operation begun prior to the actual filing and service of notice is unauthorized and where a notice, though filed, is defective for want of required information or insufficient service on competing carriers, or for any other reason, it shall be subject to rejection and if rejected any deviation operation covered thereby which has been begun shall immediately be discontinued and shall not be resumed until a sufficient notice has been filed, and served on interested parties as required by subparagraph (8) of this paragraph, and the carrier has been notified by the Commission that the operation may be resumed.

(10) The right to operate over a deviation route which is subject to the general conditions and requirements set forth in this paragraph shall continue only so long as the carrier is performing, when required by this part, reasonable and adequate service over specifically authorized routes, and only so long as the conditions set forth in this part are observed.

(e) *Protests and replies thereto.* Any person who considers that he is or will be adversely affected by a deviation

described or proposed in any notice filed under paragraph (d) of this section, may file at any time a protest against such deviation. Such protest may be in the form of letter but shall contain a recital of facts and information showing protestant's interest and supporting his opinion that the facts and circumstances upon which the right to deviate depends are nonexistent, or have been incorrectly described, or that the carrier filing the deviation notice has not met the applicable conditions and requirements, and shall show that a copy thereof has been furnished to the carrier filing the notice. If such a protest is filed, the carrier which has filed the deviation notice may reply thereto within 20 days, after which the Commission will give due consideration to all facts of record or otherwise available to it in the particular case, including the notice and protest, and will make a determination in accordance therewith.

(f) *Commission may forbid deviation.* The Commission may forbid the commencement of operations over any deviation route under this part, or require discontinuance of any such operations already commenced, whenever in its opinion such deviation results in inadequate service over specifically authorized routes, or is unreasonable, undesirable, or otherwise repugnant to the public interest, or is not in harmony with the general purpose and intent of the rules and regulations established by this part.

§ 1042.2 Prior filings.

Motor carriers lawfully utilizing any deviation route or facility or facilities referred to herein pursuant to a prior notice heretofore filed in accordance with the provisions of any prior order heretofore entered under this part shall not be required to file any further notice with the Commission concerning the use of such route, facility, or facilities.

PART 1043—SURETY BONDS AND POLICIES OF INSURANCE

Sec.

1043.1 Surety bond, certificate of insurance, or other securities.
1043.2 Insurance, minimum amounts.
1043.3 Combination vehicles.
1043.4 Brokers.
1043.5 Qualifications.
1043.6 Bonds and certificates of insurance.
1043.7 Forms and procedure.
1043.8 Insurance and surety companies; authorized.
1043.9 Refusal to accept, or revocation by Commission of surety bond, etc.
1043.10 Fiduciaries.
1043.11 Operations in foreign commerce.

AUTHORITY: The provisions of this Part 1043 issued under 49 Stat. 548, as amended, 554, as amended, 557; 49 U.S.C. 304, 311, 315.

CROSS REFERENCES: Prescribed forms relating to this part are listed in Part 1008 of this chapter.

§ 1043.1 Surety bond, certificate of insurance, or other securities.

(a) *Property damage; public liability.* Except as provided in paragraph (c) of this section, no common or contract carrier subject to Part II of the Interstate Commerce Act shall engage in interstate or foreign commerce, and no certificate or permit shall be issued to such a carrier or remain in force unless and until there shall have been filed with and accepted by the Commission a surety bond, certificate of insurance, proof of qualifications as a self-insurer, or other securities or agreements, in the amounts prescribed in § 1043.2, conditioned to pay any final judgment recovered against such motor carrier for bodily injuries to or the death of any person resulting from the negligent operation, maintenance or use of motor vehicles in transportation subject to Part II, Interstate Commerce Act, or for loss of or damage to property of others.

(b) *Common carriers, cargo insurance; exempt commodities.* Except as provided in paragraph (c) of this section, no common carrier by motor vehicle subject to Part II of the Interstate Commerce Act shall engage in interstate or foreign commerce, nor shall any certificate be issued to such a carrier or remain in force unless and until there shall have been filed with and accepted by the Commission a surety bond, certificate of insurance, proof of qualifications as a self-insurer, or other securities or agreements in the amounts prescribed in § 1043.2, conditioned upon such carrier making compensation to shippers or consignees for all property belonging to shippers or consignees and coming into the possession of such carrier in connection with its transportation service: *Provided,* That the requirements of this paragraph shall not apply in connection with the transportation of the following commodities:

Ashes, wood or coal.
Bituminous concrete (also known as blacktop or macadam), including mixtures of asphalt paving.
Cement, dry, in containers or in bulk.
Cement building blocks.
Cinders, coal.
Coal.
Coke.
Commercial fertilizer.
Corn cobs.
Cottonseed hulls.
Fish scrap.
Forest products, viz: Logs, billets, or bolts, native wood, Canadian wood or Mexican pine; pulpwood, fuelwood, wood kindlings and wood sawdust or shavings (shingle tow) other than jewelers' or parafined.
Garbage.
Gravel, other than bird gravel.
Ice.
Iron ore.
Lime and limestone.
Lumber.
Manure.
Meat scraps.
Ores in bulk, including ore concentrates.
Peat moss.
Poles and piling, other than totem poles.
Salt, in bulk or in bags.
Sand, other than asbestos, bird, iron, monazite, processed, or tobacco sand.
Scrap iron.
Scrap steel.
Shells, clam, mussel, or oyster.
Slag, other than slag with commercial value for the further extraction of metals.
Slate, crushed or scrap.
Soil, earth, or marl, other than infusorial, diatomaceous, tripoli, or inoculated soil or earth.
Stone, unglazed and unmanufactured, including ground agricultural limestone.
Sugar beet pulp.
Sugar beets.
Water, other than mineral or prepared water.
Wrecked or disabled motor vehicles.
Other materials or commodities, of low value, upon specific application to and approval by the Commission.

(c) *Carriers partially exempt; leased rights.* The requirements of paragraphs (a) and (b) of this section shall not apply to motor carrier operations partially exempt from regulation by sections 202(c) and 203(b) (49 U.S.C. 302 (c) and 303(b)); or to motor carriers which have, with the approval of the Commission, leased their entire operating rights to others, but only so long as the lessee of such rights, with the approval of the Commission, continues such operations. Lessors may not resume operations unless and until full compliance is effected.

(d) *Continuing compliance required.* Such security as is accepted by the Commission in accordance with the requirements of sections 211(c) and 215 of Part II, Interstate Commerce Act, shall remain in effect at all times.

§ 1043.2 Insurance, minimum amounts.

The minimum amounts referred to in § 1043.1 are hereby prescribed as follows:

(a) *Motor carriers; bodily injury liability, property damage liability.*

(1) Kind of equipment	(2) Limit for bodily injuries to or death of one person	(3) Limit for bodily injuries to or death of all persons injured or killed in any one accident (subject to a maximum of $30,000 for bodily injuries to or death of one person)	(4) Limit for loss or damage in any one accident to property of others (exluding cargo)
Passenger equipment (seating capacity):			
7 passengers or less	$25,000	$100,000	$10,000
8 to 12 passengers, inclusive	25,000	100,000	10,000
13 to 20 passengers, inclusive	25,000	300,000	10,000
21 to 30 passengers, inclusive	25,000	300,000	10,000
31 passengers or more	25,000	300,000	10,000
Freight equipment:			
All motor vehicles used in the transportation of property	25,000	100,000	10,000

(b) *Motor common carrier; cargo liability.* Security required to compensate shippers or consignees for loss of or damage to property belonging to shippers or consignees and coming into the possession of motor common carriers in connection with their transportation service, (1) for loss of or damage to property carried on any one motor vehicle—$1,000; (2) for loss of or damage to or aggregate of losses or damages of or to property occurring at any one time and place—$2,000.

§ 1043.3 Combination vehicles.

The following combinations will be regarded as one motor vehicle for purposes of this part, (a) a tractor and trailer or semitrailer when the tractor is engaged solely in drawing the trailer or semitrailer, and (b) a truck and trailer when both together bear a single load.

§ 1043.4 Brokers.

No person, firm or corporation shall engage in the business of a broker as defined in Part II, Interstate Commerce Act, and no brokerage license shall be issued to any such person, firm or corporation nor remain in force unless and until such person, firm or corporation shall have furnished a bond or other security approved by the Commission, in an amount of not less than $5,000, and in such form as will insure the financial responsibility of such broker and the supplying of authorized transportation in accordance with the contracts, agreements, or arrangements therefor.

§ 1043.5 Qualifications.

(a) *As a self-insurer.* The Commission will give consideration to and will approve the application of a motor carrier to qualify as a self-insurer if such carrier furnishes a true and accurate statement of its financial condition and other evidence which will establish to the satisfaction of the Commission the ability of such motor carrier to satisfy its obligations for bodily injury liability, property damage liability, or cargo liability without affecting the stability or permanency of the business of such motor carrier.

(b) *Other securities or agreements.* The Commission will also consider applications for approval of other securities or agreements and will approve any such applications if satisfied that the security or agreement offered will afford the security for the protection of the public contemplated by sections 211(c) and 215 of Part II, Interstate Commerce Act.

§ 1043.6 Bonds and certificates of insurance.

Each certificate of insurance or surety bond filed with the Commission must be for the full limits of liability required under these sections: *Provided,* That only corporations or companies approved by the Commission may qualify to act as surety.

§ 1043.7 Forms and procedure.

(a) *Forms of endorsements, cancellation notices, etc.* Endorsements for policies of insurance, and surety bonds, certificates of insurance, applications to qualify as a self-insurer, or for approval of other securities or agreements, and notices of cancellation must be in the form prescribed and approved by the Commission. Surety bonds and certificates of insurance shall specify that coverage thereunder will remain in effect continuously until terminated as herein provided, except that in special or unusual circumstances special permission may be obtained for filing certificates of insurance or surety bonds covering periods of less than twelve months duration.

(b) *Filing of certificates of insurance and cancellation notices, etc.* Certificates of insurance, surety bonds, and notices of cancellation must be filed with the Commission in triplicate.

(c) *Name of insured.* Certificates of insurance and surety bonds shall be issued in the full and correct name of the individual, partnership, corporation or other person to whom the certificate, permit, or license is, or is to be, issued. In the case of a partnership all partners shall be named.

(d) *Cancellation notice.* Except as provided in paragraph (e) of this section, surety bonds, certificates of insurance and other securities or agreements shall not be cancelled or withdrawn until after thirty (30) days' notice in writing by the insurance company, surety or sureties, motor carrier, broker or other party thereto, as the case may be, has first been given to the Commission at its office in Washington, D.C., which period of thirty (30) days shall commence to run from the date such notice is actually received at the office of the Commission.

(e) *Termination by replacement.* Certificates of insurance or surety bonds which have been accepted by the Commission under the rules in this part may be replaced by other certificates of insurance, surety bonds or other security, and the liability of the retiring insurer or surety under such certificates of insurance or surety bonds shall be considered as having terminated as of the effective date of the replacement certificate of insurance, surety bond or other security: *Provided,* The said replacement certificate, bond or other security meets all of the following conditions:

(1) It must be acceptable to the Commission under the rules and regulations in this part;

(2) It must be accompanied by a letter of authorization, in duplicate, signed by the motor carrier involved or an authorized employee of such motor carrier, authorizing such replacement and verifying the effective date thereof; and

(3) Its effective date must coincide with the effective date specified in the letter of authorization and the said date may not be more than thirty days prior to the date of receipt by the Commission of the letter of authorization and replacement certificate.

§ 1043.8 Insurance and surety companies; authorized.

(a) *State authority and designation of agent.* No certificate of insurance or surety bond will be accepted by the Commission under these sections unless written or issued by an insurance or surety company legally authorized to issue policies of the type indicated by such certificate or surety bond, as the case may be, in each State in which the motor carrier is authorized to operate under Part II of the Interstate Commerce Act and such company fully complies with paragraph (b) of this section: *Provided, however,* That in lieu of the licensing requirement with respect to any State except that in which the motor carrier has its principal place of business or domicile, the company will file with the Commission an agreement stating that with respect to any State requested it will furnish the Commission a designation in writing of the name and address of a person upon whom process issued by or under the authority of any court having jurisdiction of the subject matter may be served in any proceeding at law or equity brought in such State against such company. Such agreement shall be effective so long as the company is authorized to file security with the Commission, and thereafter with respect to any claims arising during the effectiveness of any previously filed certificates or surety bonds.

(b) *Financial resources.* Each insurance and surety company must possess and maintain surplus funds (policyholders' surplus) of not less than $1 million, which minimum will be determined on the basis of the values of assets and liabilities as shown in its financial statements filed with and approved by the insurance department or other insurance regulatory authority of the State of domicile (home State) of such company, except in instances where, in the judgment of the Commission, additional evidence with respect to such values is considered necessary: *Provided, however,* That this paragraph shall be effective December 31, 1970, as respects insurance and surety companies which are, on December 31, 1967, authorized to file certificates of insurance and surety bonds with the Commission.

§ 1043.9 Refusal to accept, or revocation by Commission of surety bond, etc.

The Commission may, at time refuse to accept or may revoke its acceptance of any surety bond, certificate of insurance, qualifications as a self-insurer, or other securities or agreements if, in its judgment such security does not comply with these sections or for any reason fails to provide satisfactory or adequate protection for the public. Revocation of acceptance of any certificate of insurance, surety bond or other security shall not relieve the motor carrier from compliance with § 1043.1(d).

§ 1043.10 Fiduciaries.

(a) *Insured and principal defined.* The terms "insured" and "principal" as used in certificates of insurance, surety bonds and notices of cancellation filed by or in behalf of motor carriers under these sections shall be construed to include not only the motor carrier named in the certificate, surety bond or

notice of cancellation, but also the fiduciary of such motor carrier as defined in § 1132.2 of this chapter—Transfers of Operating Rights. The coverage of fiduciaries herein provided for shall attach at the moment of succession of such fiduciaries.

(b) *Insurance coverage in behalf of fiduciaries to apply concurrently.* The coverage furnished under the provisions of this section on behalf of fiduciaries shall not apply subsequent to the effective date of other insurance, or other security, filed with and approved by the Commission in behalf of such fiduciaries. After the coverage provided in this section shall have been in effect thirty (30) days, it may be cancelled or withdrawn within the succeeding period of thirty (30) days by the insurer, the insured, the surety, or the principal upon ten (10) days' notice in writing to the Commission at its office in Washington, D.C., which period of ten (10) days shall commence to run from the date such notice is actually received by the Commission. After such coverage has been in effect for a total of sixty (60) days, it may be cancelled or withdrawn only in accordance with § 1043.7.

§ 1043.11 Operations in foreign commerce.

No motor carrier may operate in the United States in the course of transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country unless and until there shall have been filed with and accepted by the Commission a certificate of insurance, surety bond, proof of qualifications as a self-insurer, or other securities or agreements in the amount prescribed in § 1043.2(a), conditioned to pay any final judgment recovered against such motor carrier for bodily injuries to or the death of any person resulting from the negligent operation, maintenance, or use of motor vehicles in transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country, insofar as such transportation takes place in the United States, or for loss of or damage to property of others. The security for the protection of the public required by this section shall be maintained in effect at all times and shall be subject to the provisions of §§ 1043.5, 1043.6, 1043.7, 1043.8, 1043.9 and 1043.10; *Provided*, That the requirements of § 1043.8(a) shall be satisfied if the insurance or surety company, in addition to having been approved by this Commission, is legally authorized to issue policies or surety bonds in at least one of the States in the United States, or one of the Provinces in Canada, and has filed with this Commission the name and address of a person upon whom legal process may be served in each State in or through which the motor carrier operates. Such designation may from time to time be changed by like designation similarly filed, but shall be maintained during the effectiveness of any certificate of insurance or surety bond issued by the company, and thereafter with respect to any claims arising during the effectiveness of such certificate or bond; and *Provided further*, That the term "motor carrier" as used in this section shall not include private carriers or carriers operating under the partial exemption from regulation in sections 202(c) or 203(b) of the Interstate Commerce Act (49 U.S.C. 302(c) and 303(b)).

PART 1044—DESIGNATION OF PROCESS AGENTS BY MOTOR CARRIERS AND BROKERS

Sec.
1044.1 Applicability.
1044.2 Form of designation.
1044.3 Eligible persons.
1044.4 Required States.
1044.5 Blanket designations.
1044.6 Cancellation or change.

AUTHORITY: The provisions of this Part 1044 issued under secs. 204, 221, 49 Stat. 546, 563, as amended; 49 U.S.C. 304, 321.

§ 1044.1 Applicability.

Every motor carrier and broker in complying with the requirements of section 221(c) of the Interstate Commerce Act (49 U.S.C. 321(c)), relating to the filing of designations of persons upon whom court process may be served, shall observe the regulations prescribed in this part.

§ 1044.2 Form of designation.

Designations shall be made by use of the form prescribed by the Commission for that purpose. Only one completed current form may be on file. It must include all States for which agent designations are required. One copy must be retained by the carrier or broker in its files at its principal place of business.

§ 1044.3 Eligible persons.

All persons (as defined in section 203(a)(1) of the Interstate Commerce Act) designated must have residence in, or maintain an office in, the state for which they are designated. If an official of a State is designated, evidence of his willingness to accept service of process on behalf of the motor carrier or broker must be furnished.

§ 1044.4 Required States.

(a) *Motor Carriers.* Every motor carrier shall make a designation for each State in which it is authorized to operate by a certificate or permit or by a grant of temporary authority, including States traversed in the course of such operations. Every motor common carrier operating within a single State under the provisions of the second proviso of section 206(a)(1) of the Act (49 U.S.C. 306(a)(1)) shall file a designation for that State. Every motor carrier (including private carriers) performing operations in the United States in the course of transportation between points in a foreign country or foreign countries shall file a designation for each State through which it operates in performing such transportation. Every common carrier of passengers entitled to transport chartered parties by reason of section 206(c) of the Act (49 U.S.C. 306(c)) and the regulations thereunder in Part 1056 of this chapter shall also make a designation for each State to which it holds out in its published tariffs to transport chartered parties, including States traversed in the course of such operations.

(b) *Brokers.* Every broker shall make a designation for each State in which is located a point or points at which it is specifically authorized to engage in broker operations. Where a broker's license does not specify such a point or points, designations shall be made for each State in which the broker engages in operations.

§ 1044.5 Blanket designations.

(a) Where an association or corporation has filed with the Commission a list of process agents for each State, motor carriers may make the required designations by reference to such a list, using the place of individual designations the following statement:

Those persons named in the list of process agents on file with the Interstate Commerce Commission by _____
_____
(Name of association or corporation)
and any subsequently filed revisions thereof, for the States in which this carrier is or may be authorized to operate, including States traversed in the course of such operations, except those States for which individual designations are named.

(b) For regular-route common carriers of passengers, this is deemed to include states to which it holds out in its published tariffs to transport chartered parties, and those traversed in the course of such operations.

§ 1044.6 Cancellation or change.

(a) Designations may be canceled or changed only by a new designation filed in accordance with this part by the motor carrier or broker which made the designation being canceled or changed, except that where a motor carrier or broker ceases to be subject to § 1044.4 in whole or in part for a period of one year, such motor carrier or broker thereafter may cancel, without making other designations, such designations as are no longer required by § 1044.4.

(b) Upon filing a new designation, the prescribed form must be used and completed to show all states for which designations are necessary.

PART 1045—BROKERS OF PROPERTY

Sec.
1045.1 Applicability.
1045.2 Definitions.
1045.3 Records to be kept by brokers.
1045.4 Carrier's operating authority.
1045.5 Charges for brokerage service.
1045.6 Charges for nonbrokerage services.
1045.7 Misrepresentation.
1045.8 Billing.
1045.9 Rebating.
1045.10 Duties and obligations of brokers.
1045.11 Transfer of brokers' licenses.
1045.12 Corporations and associations holding brokers' licenses.
1045.13 Accounting.

AUTHORITY: The provisions of this Part 1045, issued under 49 Stat. 544, as amended, 546, as amended, 554, as amended; 49 U.S.C. 303, 304, 311.

§ 1045.1 Applicability.

This part applies, to the extent provided therein, to all brokers of transportation by motor vehicle as defined in § 1045.2.

§ 1045.2 Definitions.

As used in this part the following terms shall have the meanings indicated:

(a) "Broker" means any person as defined in section 203 (a) (1) of the Interstate Commerce Act (except those excluded by § 1045.1), who, as principal or agent, for compensation, sells or offers for sale transportation subject to Part II of the Interstate Commerce Act, other than transportation of passengers and their baggage, or makes any contract, agreement, or arrangement to provide, procure, furnish, or arrange for such transportation or shall hold himself out by advertisement, solicitation, or otherwise as one who sells, provides, procures, contracts, or arranges for such transportation: *Provided, however*, That the term "broker" shall not include any person who holds himself out as a carrier by motor vehicle or any bona fide employee or agent of such person, insofar as concerns shipments which such person is authorized to transport in whole or in part and which such person has accepted pursuant to a holding out to transport and has legally bound himself by contract to transport in whole or in part.

(b) "Motor carrier" means a common or contract carrier by motor vehicle of property as defined in section 203(a)(14) and (15), respectively, of the Interstate Commerce Act.

(c) "Transportation" means transportation of property by motor vehicle performed for compensation by a motor carrier operating under the provisions of the second proviso of section 206(a) of the Interstate Commerce Act or by a motor carrier which is required by sections 306 or 309 of the act to hold a certificate or permit authorizing such transportation.

(d) "Brokerage" or "brokerage service" means the selling or offering for sale of transportation; or the making of any contract, agreement, or arrangement to provide, procure, furnish, or arrange for transportation; or the holding out by advertisement, solicitation, or otherwise, to sell, provide, procure, contract, or arrange for transportation, for compensation, by a broker as defined in paragraph (a) of this section.

(e) "Non-brokerage service" means any service which is not a "brokerage service," as defined in this section and which is furnished by a broker to, for, or on behalf of, a motor carrier or consignor or consignee of shipments moving by motor vehicle.

(f) "A bona fide agent", as distinguished from a broker, is a person who is part of the normal organization of a motor carrier and performs his duties under the direction of the carrier pursuant to a preexisting agreement with the carrier providing for a continuing relationship between them and precluding the exercise of discretion on the part of the agent in allocating traffic as between the principal and others.

§ 1045.3 Records to be kept by brokers.

Each broker shall keep and retain for a period of three years an exact record of each transaction in which he participates, which record shall show for each transaction:

(a) Name and address of the consignor.

(b) Name, address, and the lead or principal docket number of the originating motor carrier.

(c) Bill of lading or freight bill number.

(d) Description of commodity or commodities, weight, rate, and tariff reference.

(e) Date of shipment.

(f) Origin and destination of shipment.

(g) Amount of compensation received by the broker for brokerage service furnished and from whom it was received.

(h) Description of any non-brokerage service performed in connection with each particular shipment or otherwise, amount of compensation received for such service, and from whom such compensation was received.

(i) If freight charges are collected by the broker, the record shall show, for each shipment, the amount collected and the date of payment to the carrier.

§ 1045.4 Carrier's operating authority.

In the execution of any contract, agreement, or arrangement to sell, provide, procure, furnish, or arrange for any transportation by motor vehicle no broker shall employ, or allocate, or surrender any shipment to any carrier by motor vehicle who, or which, cannot lawfully transport it either to destination or to a normal point of interchange with a connecting carrier.

§ 1045.5 Charges for brokerage service.

(a) Each broker shall maintain and keep open for public inspection at each place of business which he maintains, a schedule stating his maximum charge for each brokerage service which he holds out to perform, and

(b) No broker shall charge or collect any more for any brokerage service than his maximum charge therefor as contained in his schedules maintained pursuant to paragraph (a) of this section.

§ 1045.6 Charges for non-brokerage services.

(a) Each broker shall maintain and keep open for public inspection at each place of business which he maintains, schedules (1) stating his minimum charge for each non-brokerage service which he holds himself out to perform for shippers, consignors, or consignees and (2) stating his maximum charge for each non-brokerage service which he holds himself out to perform for carriers.

(b) No broker shall furnish any non-brokerage service other than those for which the minimum or maximum charge is contained in his schedule nor shall any broker charge or collect from any shipper, consignor, or consignee any less or from any carrier any more, for any non-brokerage service performed than his minimum or maximum charge for such service as contained in his maintained schedules.

§ 1045.7 Misrepresentation.

(a) No broker shall perform any brokerage service or hold himself out to perform such service, by advertisement or otherwise, in any name other than that in which his license is issued.

(b) No broker shall directly or by implication represent himself to be a carrier in respect of any service which he does not hold authority as a carrier to perform.

(c) No broker shall advertise in any manner any offer of service as a broker without showing in such advertisement his status as a broker in type which is clear and bold and equally as large as any other in the same advertisement.

§ 1045.8 Billing.

(a) No broker shall, in any name except that of a carrier, issue any bill of lading, freight bill, or other document which is appropriate only for use by a carrier transporting or agreeing to transport a shipment.

(b) No broker shall issue any order for service or any other document appropriate for use by brokers which does not clearly show thereon the name and address of the broker and that it is executed as a broker of transportation in type which is clear and bold and equally as large as the name of the issuing broker.

§ 1045.9 Rebating.

(a) No broker shall charge or receive compensation from a motor carrier for brokerage service performed in connection with any shipment which he owns or in which he has a material interest, or the routing of which he controls by reason of any affiliation with, or non-brokerage relationship to, the shipper, consignor, or consignee as traffic consultant or otherwise, or which he controls by reason of his performance for the shipper, consignor, or consignee of non-brokerage services, as defined in the rules in this part.

(b) No broker shall pay, give, or offer to pay or give, directly or indirectly, anything of value, except ordinarily used in expensive, advertising specialties, to any shipper, consignor, consignee or to any officer or employee of a shipper, consignor, or consignee.

§ 1045.10 Duties and obligations of brokers.

(a) A broker shall fairly protect the interest of any shipper employing his services, by providing, or advising the shipper of, the transportation services which, because of rates, schedules, type of motor carrier, or otherwise, will best meet the needs of the shipper and no broker shall misrepresent or make false promises to any shipper with respect to the service rendered or to be rendered by any motor carrier.

(b) No broker shall knowingly misrepresent to a motor carrier the commodity

to be transported or otherwise give to a motor carrier incorrect information which may affect the applicable charges for any particular transportation service.

(c) No broker shall charge or accept compensation from both a shipper and a motor carrier in connection with the same shipment, whether for brokerage or non-brokerage service, without first advising both parties of the amount and basis for the charge or payment by the other.

(d) A broker shall exercise due diligence to carry out any undertaking to arrange for desired transportation, to carry out the terms of its arrangements with any shipper or motor carrier, and to pay promptly any monies received by him for such shipper or motor carrier.

(e) Any freight charges collected by a broker shall be paid in full to the carrier or carriers employed by him, without deduction for any amount due to him from such carrier or carriers.

§ 1045.11 Transfer of brokers' licenses.

A license issued a broker may be transferred, if approved by the Commission, upon application and proof that the transferee is fit, willing, and able to perform the duties, and that the transfer will not be contrary to the public interest.

§ 1045.12 Corporations and associations holding brokers' licenses.

A change in the control of a corporation or association holding a broker's license may be accomplished only with the approval of the Commission upon application and proof that the change in control will not be contrary to the public interest.

§ 1045.13 Accounting.

Each broker who engages in any other business, whether as a carrier, warehouseman, or otherwise, shall keep and maintain his accounts in such manner that the revenues and expenses pertaining to his brokerage operations will be segregated from those of his other operations. Expenses that are common to his brokerage and other operations shall be allocated to each on an equitable basis, and the broker shall be prepared to show at any time and to report to the Commission when required the allocation of such common expenses and the basis of the allocation.

PART 1046—BROKERS OF PASSENGER TRANSPORTATION

§ 1046.300 Information required to be recorded.

Every passenger broker subject to section 211 of the Interstate Commerce Act shall maintain and keep an exact record of all transactions in which it or he has participated as such broker, which records shall show: (a) The points of origin and destination for each ticket sold, (b) the name and address of the motor carrier for which it is sold, (c) the amount received from the passenger, including any amounts, stated separately, for the transportation of baggage, or any other service accessorial to the transportation of the passenger, (d) the payments made to each carrier by motor vehicle served by the broker and (e) the amounts of the commissions earned by the broker from the sale of transportation for each carrier.

(49 Stat. 548, as amended, 554, as amended; 49 U.S.C. 304, 311)

PART 1047—EXEMPTIONS

Sec.

1047.1 Casual, occasional, or reciprocal transportation of passengers for compensation when such transportation is sold or arranged by anyone for compensation.
1047.10 Interstate operations by motor common carriers within a single State.
1047.25 Agricultural commodities, livestock and fish; Bureau of Motor Carriers Administrative Ruling No. 107.
1047.40 Motor transportation of property incidental to transportation by aircraft.
1047.45 Motor transportation of passengers incidental to transportation by aircraft.

AUTHORITY: The provisions of this Part 1047 issued under 49 Stat. 544, as amended, 546, as amended; 49 U.S.C. 303, 304, unless otherwise noted.

§ 1047.1 Casual, occasional, or reciprocal transportation of passengers for compensation when such transportation is sold or arranged by anyone for compensation.

The partial exemption from regulation under the provisions of Part II of the Interstate Commerce Act of the casual, occasional, and reciprocal transportation of passengers by motor vehicle in interstate or foreign commerce for compensation as provided in section 203(b)(9) of the act be, and it is hereby, removed to the extent necessary to make applicable all provisions of Part II of the act to such transportation when sold or offered for sale, or provided or procured or furnished or arranged for, by any person who sells, offers for sale, provides, furnishes, contracts, or arranges for such transportation for compensation or as a regular occupation or business.

§ 1047.10 Interstate operations by motor common carriers within a single State.

Every common carrier by motor vehicle who proposes to engage in any operations in interstate or foreign commerce under the provisions of section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962, shall, prior to commencing such operations, (1) obtain from the Interstate Commerce Commission an appropriate Certificate of Registration covering the proposed operations, and (2) comply with the provisions of sections 215, 217, and 221(c) of the said Act and the Commission's requirements and rules and regulations thereunder pertaining to the filing of proper evidence of security for the protection of the public, to the filing and posting of appropriate tariff or tariffs, and to the designation of agents for service of process. Any such common carrier by motor vehicle who proposes to engage in any operations in interstate or foreign commerce under section 206(a)(6) of said Act, other than one seeking to obtain a Certificate of Registration by transfer, shall, in order to obtain a Certificate of Registration covering such operations, file with the Interstate Commerce Commission, Washington, D.C. 20423, an Application for Motor Carrier Certificate of Registration, which application shall be in the form, contain the information, and be served in the manner called for in Form BOR 100 (§ 1003.1 of this chapter).

(49 Stat. 551, as amended; 49 U.S.C. 306)

§ 1047.25 Agricultural commodities, livestock and fish; Bureau of Motor Carriers Administrative Ruling No. 107.

Administrative Ruling No. 107 of the Commission's former Bureau of Motor Carriers, dated March 19, 1958, is as set forth below. The "Commodity List" therein is for use in determining the status of commodities under the exemption provisions of section 203(b)(6) of the Interstate Commerce Act (49 U.S.C. 303(b)(6)) in accordance with the following amendment of that section by the Transportation Act of 1958:

Clause (6) of subsection (b) of section 203 of the Interstate Commerce Act, as amended, is amended by striking out the semicolon at the end thereof and inserting in lieu thereof a colon and the following: "*Provided*, That the words 'property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural) commodities (not including manufactured products thereof)' as used herein shall include property shown as 'Exempt' in the 'Commodity List' incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, but shall not include property shown therein as 'Not exempt': *Provided further, however*, That notwithstanding the preceding proviso the words 'property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural) commodities (not including manufactured products thereof)' shall not be deemed to include frozen fruits, frozen berries, frozen vegetables, cocoa beans, coffee beans, tea, bananas, or hemp, and wool imported from any foreign country, wool tops and noils, or wool waste (carded, spun, woven, or knitted), and shall be deemed to include cooked or uncooked (including breaded) fish or shell fish when frozen or fresh (but not including fish and shell fish which have been treated for preserving, such as canned, smoked, pickled, spiced, corned or kippered products);".

[Ruling No. 107]

MARCH 19, 1958.

The following is an administrative ruling of the Bureau of Motor Carriers, for the purpose of making readily available holdings of the Commission and the courts, and Bureau opinions, relating to the status of various commodities under the partial exemption in Section 203(b)(6) of the Interstate Commerce Act. The "Bureau opinions" in this ruling are tentative and provisional and are made either in the absence of authoritative Commission or Court decisions or in applying the holdings and reasoning of court decisions which have reversed or altered past general and specific findings of the Commission.

GENERAL

This ruling relates to Section 203(b)(6) as it presently reads:

Nothing in this part, except the provisions of section 204 relative to qualifications and maximum hours of service of employees and safety of operation or standards of equipment shall be construed to include * * * (6) motor vehicles used in carrying property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural) commodities (not including manufactured products thereof), if such motor vehicles are not used in carrying any other property, or passengers, for compensation; * * *

Pending before the Congress are bills which if enacted into law would limit or revise the application of the exemption and render obsolete many of the interpretations herein.

For each entry in the Commodity List there is shown either the number assigned to one of the Commission or court decisions in the Case List, or the words "Bureau opinion" the latter denoting an informal expression of the Bureau. In a few instances reference is made to a numbered Note appended to the ruling. Certain of these explain the reason for Bureau opinions which differ from past Commission decisions. Others mention pending Commission proceedings which may affect the status of commodities making reference thereto.

Though commodities are shown as either "Exempt" or "Not exempt," it must be kept in mind that an "Exempt" commodity loses its exemption whenever it is transported in a vehicle which at the same time is transporting for compensation commodities not within the exemption.

The absence of a commodity from the list below should not be taken to mean that it is either within or not within the exemption. Only those commodities are listed as to which inquiries have been received in the past by the Bureau or which have been the subject of Commission or court proceedings.

W. Y. BLANNING,
Director.

COMMODITY LIST

Alfalfa, *see* Feeds.
Animal fats—Not exempt—Bureau opinion.
Animals, *see* Livestock.

Bagged commodities—Placing exempt commodities—Case 1 in bags does not affect their exempt status.
Bark, *see* Forest Products.
Barley, *see* Grains.
Bees—Exempt—Case 1.
Beeswax, crude, in cakes and slabs—Exempt—Bureau opinion.
Beet pulp, *see* Feeds.
Beets, sugar—Exempt—Case 1.
Berries, *see* Fruits.
Bran, *see* Feeds.
Broom corn, threshed and baled—Exempt—Bureau opinion.
Bulbs, *see* Horticultural Commodities.
Butter—Not exempt—Case 20.
Buttermilk—Exempt—Case 20.

Canned fruits and vegetables—Not exempt—Case 20.
Carnauba wax as imported in slabs or chunks—Not exempt—Bureau opinion.
Castor beans—Exempt—Case 1.
Cattle, live, *see* Livestock.
Cattle, slaughtered—Not exempt—Case 20.
Charcoal—Not exempt—Bureau opinion.
Cheese—Not exempt—Case 1.
Cheese, cottage—Not exempt—Case 20.
Cheese, cream—Not exempt—Case 20.
Christmas trees, plain, sprayed, or coated—Exempt—Bureau opinion.
Citrus fruits, *see* Fruits.
Coal—Not exempt—Bureau opinion.
Cocoa beans—Exempt—Case 1 (b), Note 1.
Coffee beans, green—Exempt—Case 1 (b), Note 1.
Coffee, roasted—Not exempt—Bureau opinion.
Coffee, instant—Not exempt—Bureau opinion.
Containers, crates, and boxes which have been used in the movement of exempt commodities and are being returned for reuse—Exempt—Case 8.
Containers, new for use in shipping exempt commodities—Not exempt—Case 8.
Copra meal—Not exempt—Case 6.
Corn, *see* Grain.
Corn cobs—Exempt—Case 1.
Corn cobs, ground—Exempt—Bureau opinion, Note 4.
Corn fodder—Exempt—Case 1.
Cottage cheese, *see* Cheese.
Cotton, carded but not spun, woven, or knitted—Exempt—Bureau opinion, Note 5.
Cotton, ginned or unginned—Exempt—Case 1.
Cotton linters—Exempt—Case 20.
Cotton waste, consisting of scraps of cotton fibre not spun, woven or knitted—Exempt—Bureau opinion, Note 5.
Cotton yarn—Not exempt—Bureau opinion.
Cottonseed, whole—Exempt—Case 1.
Cottonseed cake—Not exempt—Bureau opinion.
Cottonseed, dehulled—Exempt—Bureau opinion.
Cottonseed hulls—Exempt—Case 20.
Cottonseed meal—Not exempt—Case 20.
Crates, *see* Containers.
Cream, *see* Milk.
Cream cheese, *see* Cheese.

Dehydrated, *see* commodity name: Fruits, Vegetables, Eggs, etc.
Diatomaceous earth—Not exempt—Bureau opinion.
Dinners, frozen—Not exempt—Bureau opinion.
Dinners, seafood, frozen—Not exempt—Case 7, Note 6.
Dried, *see* commodity name: Fruits, Vegetables, Eggs, etc.

Eggs:
Albumen, fresh, liquid—Exempt—Case 5.
Dried—Exempt—Case 20.
Frozen—Exempt—Case 20.
In shell—Exempt—Case 1.
Liquid, whole or separated—Exempt—Case 5.
Oiled—Exempt—Case 1.
Powder, dried—Exempt—Case 20.
Shelled—Exempt—Case 5.
Yolks, dried—Exempt—Case 20.
Yolks, fresh, liquid—Exempt—Case 5.

Fats, animal—Not exempt—Bureau opinion.
Feathers—Exempt—Case 20.
Feeds:
Alfalfa meal—Not exempt—Bureau opinion.
Alfalfa pellets—Not exempt—Bureau opinion.
Beet pulp—Not exempt—Case 6.
Bran shorts—Not exempt—Case 6.
Copra meal—Not exempt—Case 6.
Corn Gluten—Not exempt—Bureau opinion.
Cottonseed products, *see* Cottonseed.
Distilled corn grain residues, with or without solubles added—Not exempt—Case 6.
Fish meal—Not exempt—Case 6.
Hominy feed—Not exempt—Bureau opinion.
Middlings—Not exempt—Case 6.
Oat hulls, ground—Exempt—Bureau opinion, Note 4.
Pelletized ground refuse screenings—Not exempt—Case 6.
Rice bran—Exempt—Bureau opinion—Compare Case 12.
Screenings, feed—Exempt—Case 6.
Wheat bran—Not exempt—Bureau opinion.
Wheat shorts—Not exempt—Bureau opinion.
Fertilizer, commercial—Not exempt—Bureau opinion.
Fish (including shell fish):
General. Frozen, quick frozen, and unfrozen fish and shell fish in the various forms in which it is shipped, such as live fish, fish in the round, beheaded, and gutted fish, filletted fish, beheaded shrimp, and oysters, clams, crabs, and lobsters, with or without shells, including crab meat and lobster meat—Exempt—Case 11.
Breaded, uncooked, frozen or unfrozen—Exempt—Administrative Ruling No. 96, November 28, 1955.
Cakes, codfish—Not exempt—Case 7, Note 6.
Clam juice or broth—Not exempt—Bureau opinion.
Cooked or partially cooked fish or shrimp, frozen or unfrozen—Not exempt—Administrative Ruling No. 96, November 28, 1955.
Croquettes, salmon, frozen—Not exempt—Case 7, Note 6.
Deviled crabs, clams or lobsters frozen—Not exempt—Case 7, Note 6.
Dinners, frozen—Not exempt—Case 7, Note 6.
Fried fish fillets, oysters, or scallops, frozen—Not exempt—Case 7, Note 6.
Frogs, live or dressed—Exempt—Bureau opinion.
Frozen, *see* General above, and individual listings.
Hermetically sealed in containers as a treatment for preserving—Not exempt—Case 11.
Hermetically sealed in containers for cleanliness only, preservation attained by refrigeration—Exempt—Bureau opinion.
Meal—Not exempt—Case 6.
Offal (inedible portions of fish not further processed)—Exempt—Bureau opinion.
Oil from fishes—Not exempt—Bureau opinion.
Preserved, or treated for preserving, such as smoked, salted, pickled, spiced, corned or kippered—Not exempt—Case 11.
Shells, oyster, moving to market for use in button making—Not exempt—Case 16.
Stew, consisting of raw oysters or clams, milk, and seasoning, frozen but uncooked—Exempt—Bureau opinion.
Sticks, frozen—Not exempt—Case 7, Note 6.
Turtles, sea or fresh water—Exempt—Bureau opinion.
Whale meat, fresh—Exempt—Bureau opinion.
Flagstone—Not exempt—Bureau opinion.
Flax fiber—Exempt—Case 1.
Flaxseed, whole—Exempt—Case 1.
Flaxseed, meal—Not exempt—Bureau opinion.
Flour—Not exempt—Bureau opinion.
Flowers and flower plants, *see* Horticultural commodities.
Fodder, corn and sorghum—Exempt—Case 1.
Forage, *see* Hay.
Forest products.
Bark—Exempt—Case 1.
Bark, boiled to clean and soften—Exempt—Bureau opinion.
Blankets of pine and spruce boughs—Exempt—Bureau opinion.
Greenery—Exempt—Case 1.
Holly sprigs, and cuttings—Exempt—Bureau opinion.
Leaves—Exempt—Case 1.
Leaves, sisal, husks and moisture removed—Exempt—Bureau opinion.
Mistletoe—Exempt—Bureau opinion.

Myrobalans, as imported in natural state—Exempt—Bureau opinion.
Palmyra stalk fibers (fronds from palm leaves)—Exempt—Bureau opinion.
Peat moss, dried, shredded, baled—Exempt—Case 22.
Resin, crude—Exempt—Case 1.
Resin products, such as turpentine—Not exempt—Administrative Ruling No. 62, August 3, 1937.
Roots, natural or dried—Exempt—Bureau opinion.
Sap, maple—Exempt—Case 1.
Spanish moss—Exempt—Case 1.
Sphagnum moss—Exempt—Bureau opinion.
Spices, *see* separate listing: Spices.
Trees, *see* separate listing: Trees.
Valonia, as imported in natural state—Exempt—Bureau opinion.
Wreaths of holly or other natural material with small amount of foundation or decorative material—Exempt—Bureau opinion.

Frogs, *see* Fish.

Frozen, *see* commodity name: Fruits, Vegetables, Fish, Poultry, etc.

Fruits and Berries:
Bagged—Exempt—Case 1.
Canned—Not exempt—Case 20.
Citrus fruit sections, fresh, cold-packed, semi-frozen, or frozen—Exempt—Bureau opinion, Note 2.
Color added—Exempt—Case 1.
Dates, pitted, dried—Exempt—Bureau opinion.
Dehydrated—Exempt—Bureau opinion, Note 3.
Dried, naturally or artificially—Exempt—Cases 1 and 20.
Figs, dried, halved or quartered—Exempt—Bureau opinion.
Frozen, fresh—Exempt—Case 20.
Fumigated—Exempt—Case 1.
Graded—Exempt—Case 1.
Hulls of oranges after juice extractions—Not exempt—Bureau opinion.
In brine, to retain freshness—Exempt—Bureau opinion.
Juice, orange or other citrus—Not exempt—Case 17.
Juice, fruit, plain, or concentrated—Not exempt—Bureau opinion.
Kernels—Exempt—Bureau opinion.
Oiled apples—Exempt—Case 1.
Peaches, peeled, pitted, and put in cold storage in unsealed containers—Exempt—Case 20.
Quick frozen, fresh—Exempt—Case 21.
Pies, frozen—Not exempt—Case 14.
Preserved, such as jam—Not exempt—Bureau opinion.
Purees, strawberry and other, frozen—Not exempt—Case 7, Note 6.
Raisins, seeded or unseeded—Exempt—Bureau opinion.
Sliced, fresh or frozen—Exempt—Bureau opinion, Note 2.
Strawberries, in syrup and unsealed containers in cold storage—Exempt—Case 20.

Grains:
Artificially dried—Exempt—Case 1.
Barley, rolled—Exempt—Case 20.
Barley, whole—Exempt—Case 1.
Corn, cracked—Exempt—Bureau opinion.
Corn, shelled—Exempt—Case 1.
Corn, whole—Exempt—Case 1.
Feeds, *see* separate heading: Feeds.
Hulls, *see* Feeds.
Milo maize—Exempt—Bureau opinion.
Oats, whole—Exempt—Case 1.
Oil extracted from grain—Not exempt—Bureau opinion.
Popcorn, popped—Not exempt—Bureau opinion.
Popcorn, unpopped, shelled, in sealed or unsealed containers—Exempt—Bureau opinion.
Rice bran—Exempt—Bureau opinion, Compare Case 12.
Rice, brewers—Exempt—Bureau opinion.
Rice, cleans—Exempt—Cases 12 and 20.
Rice polish—Exempt—Case 20.
Rice, pearled—Not exempt—Bureau opinion.
Rice, whole—Exempt—Case 1.
Rye, whole—Exempt—Case 1.
Sorghum grains, whole—Exempt—Case 1.
Wheat germ—Not exempt—Bureau opinion.
Wheat, whole—Exempt—Case 1.

Grass sod—Exempt—Bureau opinion.
Gravel—Not exempt—Bureau opinion.
Greenery, *see* Forest products.
Grinding, *see* Note 4.

Hair, alpaca, camel, or goat, clipped from animal—Exempt—Bureau opinion.
Hair, hog or other animal, product of slaughter of animal—Not exempt—Bureau opinion.
Hay and forage, dried naturally or artificially—Exempt—Case 1.
Hay, chopped—Exempt—Case 20.
Hay, dehydrated—Exempt—Case 1.
Hay, salt (from salt marshes)—Exempt—Bureau opinion.
Hay, sweetened with 3 percent molasses by weight—Not exempt—Bureau opinion.
Hemp fiber—Exempt—Case 1.
Herbs, *see* Spices.
Hides, green and salted—Not exempt—Cases 1 and 23.
Honey, in the comb or strained—Exempt—Case 1.
Honey, heat treated to retard granulation—Exempt—Bureau opinion.
Hops—Exempt—Case 1.
Horticultural commodities:
Bulbs—Exempt—Bureau opinion.
Flowers, growing or cut—Exempt—Bureau opinion.
Leaves, natural or dried—Exempt—Bureau opinion.
Nursery stock—Exempt—Bureau opinion.
Plants, vegetable and flower—Exempt—Bureau opinion.
Roots, rhubarb, asparagus, mint, etc.—Exempt—Bureau opinion.
Trees, growing, balled in earth—Exempt—Bureau opinion.
Wreaths, holly or other natural material, with small amount of foundation or decorative material—Exempt—Bureau opinion.
Humus of a nature similar to peat moss—Exempt—Bureau opinion.

Ice for cooling subsequent shipments of exempt commodities—Exempt—Administrative Ruling No. 60, August 3, 1937.
Imported commodities—Have same status as domestic—Cases 1(b) and 22.
Insecticides—Not exempt—Bureau opinion.
Juices, *see* Fruits.
Jute fiber, in bales—Exempt—Bureau opinion.
Kelp, dried, ground—Exempt—Bureau opinion, Note 4.
Latex, *see* Rubber.
Leaves, *see* Forest products, Horticultural commodities, and Spices.
Livestock:
Exhibit animals, such as those of 4–H club members, which though showed for a few days, are chiefly valuable for slaughter—Exempt—Bureau opinion.
Medical use animals, such as ordinary healthy swine for serum manufacture—Exempt—Bureau opinion.
Monkeys—Not exempt—Bureau opinion.
Ordinary, i.e., all cattle, swine, sheep, goats, horses, and mules, except such as are chiefly valuable for breeding, racing, show purposes, and other special uses—Exempt—Case 1.
Race horses—Not exempt—Case 1.
Registered or purebred cattle for ordinary farm or ranch uses, not chiefly valuable for breeding, race, show, or other special purposes—Exempt—Bureau opinion.
Show horses—Not exempt—Case 1.
Zoo animals—not exempt—Bureau opinion.
Limestone, agricultural—Not exempt—Bureau opinion.
Linseed meal, *see* Meal.
Lumber, rough sawed or planed—Not exempt—Cases 1 and 9.

Manure, in natural state—Exempt—Case 1.
Manure, dried or dehydrated, bagged—Exempt—Bureau opinion.
Maple sap—Exempt—Case 1.
Maple syrup—Not exempt—Bureau opinion.
Meal, alfalfa—Not exempt—Bureau opinion.
Meal, copra—Not exempt—Case 6.
Meal, cottonseed—Not exempt—Case 20.
Meal, fish—Not exempt—Case 6.
Meal, flaxseed—Not exempt—Bureau opinion.
Meal, linseed—Not exempt—Bureau opinion.
Meal, peanut—Not exempt—Bureau opinion.
Meal, soybean—Not exempt—Bureau opinion.
Meat and meat products, fresh, frozen or canned—Not exempt—Cases 1 and 20.
Milk and Cream:
Buttermilk—Exempt—Case 20.
Chocolate—Not exempt—Case 1.
Condensed—Not exempt—Case 20.
Frozen—Exempt—Case 20.
Homogenized—Exempt—Case 1.
Pasteurized—Exempt—Cases 1 and 20.
Powdered—Exempt—Case 20.
Raw—Exempt—Case 1.
Skim—Exempt—Case 1 and 20.
Skim, with two-thirds of water removed, in bulk of unsealed containers—Exempt—Bureau opinion.
Standardized—Exempt—Case 1.
Sterilized in hermetically sealed cans—Not exempt—Bureau opinion.
Vitamin "A"—Exempt—Cases 1 and 20.
Mills, *see* Grains.
Mohair, raw, cleaned, or scoured—Exempt—Case 1(a).
Molasses—Not exempt—Bureau opinion.
Moss, *see* Forest products.
Mushrooms, fresh—Exempt—Case 4.

Nursery stock, *see* Horticultural commodities.
Nuts (including peanuts):
Peanut meal—Not exempt—Bureau opinion.
Peanut shells, ground—Exempt—Case 20, Note 4.
Polished—Exempt—Bureau opinion.
Raw, shelled or unshelled—Exempt—Cases 1, 2, and 18.
Roasted or boiled—Not exempt—Bureau opinion.
Shelled, raw—Exempt—Cases 2 and 18.
Shells—Exempt—Bureau opinion.
Shells, ground peanut—Exempt—Case 20, Note 4.
Unshelled, raw—Exempt—Case 1.

Oats, *see* Grains.
Oil, mint—Not exempt—Case 1.
Oil, extracted from vegetables, grain, seed, fish, or other commodity—Not exempt—Bureau opinion.

Packaged commodities—Packaging exempt commodities does not affect their exempt status—Case 1.
Peanuts, *see* Nuts.
Peat moss, *see* Forest products.
Pelletized feeds, *see* Feeds.
Pelts—Not exempt—Case 1.
Pies, frozen—Not exempt—Case 14.
Pigeons, racing—Not exempt—Case 13.
Plants vegetable or flower, *see* Horticultural commodities.
Poles, *see* Trees.

Popcorn, *see* Grains.
Poultry, dressed, fresh or frozen—Exempt—Case 19.
Poultry, feathers—Exempt—Case 20.
Poultry, frozen—Exempt—Case 19.
Poultry, live—Exempt—Case 1.
Poultry, picked—Exempt—Case 20.
Poultry, stuffed and frozen—Exempt—Bureau opinion.
Pulp, beet—Not exempt—Case 6.
Pulp, sugarcane — Not Exempt — Bureau opinion.
Purees, *see* Fruits.

Rabbits, dressed—Exempt—Bureau opinion.
Raisins, *see* Fruits.
Ramie Fiber—Exempt—Case 1.
Resin, *see* Forest products.
Rice, *see* Grains.
Rock—Not Exempt—Bureau opinion.
Roots, *see* Forest products, Horticultural commodities.
Rubber, crude, in bales—Not exempt—Bureau opinion.
Rubber, latex, natural, liquid, from which water has been extracted and to which ammonia has been added—Not exempt—Case 15.
Rye, *see* Grains.

Sand—Not exempt—Bureau opinion.
Sap, *see* Forest products.
Sawdust, from lumber mills—Not exempt—Bureau opinion.
Seeds:
Cotton, *see* Cottonseed.
Dewaxed—Exempt—Case 20.
Flax, *see* Flaxseed.
Inoculated—Exempt—Case 1.
Meal made from seeds, *see* Meal.
Natural—Exempt—Case 1.
Oil extracted from seeds—Not exempt—Case 1.
Packets or boxes of seeds, in display racks—Exempt—Bureau opinion.
Scarified—Exempt—Case 20.
Screened or sized—Exempt—Case 2.
Spice, *see* Spices.
Sprayed for disease control—Exempt—Case 2.
Seaweed, dried, ground—Exempt—Bureau opinion, Note 4.
Shells, nut, *see* Nuts.
Shells, oyster, *see* Fish.
Shingle bolts, *see* Trees.
Skins, animal—Not exempt—Cases 1 and 23.
Sliced, *see* commodity name: Fruits, Vegetables, etc.
Soil, potting—Not exempt—Bureau opinion.
Soil, top—Not exempt—Bureau opinion.
Sorghum fodder—Exempt—Case 1.
Sorghum grains—Exempt—Case 1.
Soup, frozen—Not exempt—Bureau opinion.
Spices and herbs, unground, whether seeds, berries, leaves, bark, or roots—Exempt—Bureau opinion.
Spices and herbs, ground but not further processed—Exempt—Bureau opinion, Note 4.
Stover—Exempt—Case 1.
Straw—Exempt—Case 1.
Sugar—Not exempt—Case 1.
Sugarbeets—Exempt—Case 1.
Sugarcane—Exempt—Case 1.
Sugarcane pulp — Not exempt — Bureau opinion.
Sugar, raw—Not exempt—Bureau opinion.
Syrup, cane—Not exempt—Case 1.
Syrup, maple—Not exempt—Bureau opinion.

Tea—Exempt—Case 1(b), Note 1.
Telephone poles, *see* Trees.
Textile waste, *see* Cotton waste.
Tobacco:
Chopped leaf—Exempt—Bureau opinion.
Cigars and cigarettes—Not exempt—Bureau opinion.
Homogenized — Not exempt — Bureau opinion.
Leaf—Exempt—Case 1.
Redried leaf—Exempt—Case 1(a).
Smoking—Not exempt—Bureau opinion.
Stemmed leaf—Exempt—Bureau opinion.
Stems—Exempt—Bureau opinion.
Top Soil—Not exempt—Bureau opinion.
Trees:
Bolts for making shingles—Exempt—Bureau opinion.
Brush, mesquite, twigs and debris burned off—Exempt—Bureau opinion.
Christmas, plain, sprayed, or coated—Exempt—Bureau opinion.
Cut to length, peeled, or split—Exempt—Case 1.
Growing, *see* Horticultural commodities.
Sawed into lumber—Not exempt—Case 1.
Shingle bolts—Exempt—Bureau opinion.
Telephone poles, not creosoted—Exempt—Bureau opinion.
Turtles, *see* Fish.

Vegetables:
Bagged—Exempt—Case 1.
Beans, dried artificially and packed in small container—Exempt—Case 20.
Candied sweet potatoes, frozen—Not exempt—Case 7, Note 6.
Canned—Not exempt—Case 20.
Cooked—Not exempt—Bureau opinion.
Cucumbers, salt cured—Exempt—Case 1(b), Note 1.
Cured—Exempt—Case 1.
Cut up, fresh, in cellophane bags—Exempt—Case 20.
Dried, naturally or artificially—Exempt—Cases 1 and 20.
Dehydrated—Exempt—Bureau opinion, Note 3.
French fried potatoes—Not exempt—Case 10.
Frozen, fresh—Exempt—Case 21.
Garlic powder—Exempt—Bureau opinion, Notes 3 and 4.
Graded—Exempt—Case 1.
Oil extracted from vegetables—Not exempt—Bureau opinion.
Onion powder—Exempt—Bureau opinion, Notes 3 and 4.
Onion chips and flakes, dried—Exempt—Bureau opinion, Note 3.
Peas, split—Exempt—Bureau opinion.
Peeled, uncooked—Exempt—Bureau opinion.
Powder, onion and garlic—Exempt—Bureau opinion, Notes 3 and 4.
Quick frozen, fresh—Exempt—Case 21.
Shelled—Exempt—Bureau opinion.
Soup, frozen—Not exempt—Bureau opinion.
Soybean meal—Not exempt—Bureau opinion.
Washed, fresh, in cellophane bags—Exempt—Case 20.

Whale meat, *see* Fish.
Wheat, *see* Grains.
Wheat products, *see* Feeds, Flour.
Wood chips for making woodpulp—Not exempt—Bureau opinion.
Wool, raw, cleaned, or scoured—Exempt—Case 1 (a).
Wool grease, as obtained from cleaning or scouring process—Exempt—Bureau opinion.
Wool tops and noils—Exempt—Bureau opinion, Note 5.
Wool waste, carded but not spun, woven or knitted—Exempt—Bureau opinion, Note 5.
Wool Yarn—Not exempt—Bureau opinion.
Wreaths, *see* Forest products.

Case Lists.

COMMISSION

1. Determination of Exempted Agricultural Commodities, 25 M.C.C. 511.
1 (a). Determination of Exempted Agricultural Commodities, 62 M.C.C. 37.
1 (b). Determination of Exempted Agricultural Commodities, MC-C-966, First Supplemental Report, decided February 11, 1958.
2. Blythe Common Carrier Application, 66 M.C.C. 560.
3. Bonney Motor Express, Inc., Extension, 60 M.C.C. 480.
4. Dougherty Common Carrier Application, 31 M.C.C. 793.
5. Erickson, Transport Corp., Extension—Madison, South Dakota, decided December 31, 1957, MC–112908 Sub 21.
6. Herrett Trucking Co., Inc., Extension—Feeds, 69 M.C.C. 487.
7. Hughes Extension—Frozen Foods, 71 M.C.C. 457.
8. Karst Extension—Containers, 62 M.C.C. 579.
9. Lewis Common Carrier Application, 60 M.C.C. 603.
10. Midwest Coast Transport, Inc., Extension—Montana, MC–111812 Sub 27, decided December 31, 1957.
11. Monarch Egg Corp., Contract Carrier Application, 53 M.C.C. 876.
12. Penn-Dixie Lines, Inc., Extension—Rice 72 M.C.C. 797.
13. Prang Extension—Homing Pigeons, 53 M.C.C. 223.
14. Refrigerated Transport Co., Inc., Extension, Frozen Foods, 72 M.C.C. 489.
15. Shipley Transfer, Inc., Extension—Liquid Latex, 52 M.C.C. 806 (Not printed).
16. Sprofera Common Carrier Application, 66 M.C.C. 123.
17. Watkins Motor Lines, Inc., Interpretation, 64 M.C.C. 457.

COURT

18. Consolidated Truck Service, Inc. vs. U.S. and I.C.C., 144 F. Supp. 814.
19. East Texas Motor Freight Lines, Inc. vs. Frozen Food Express, 351 U.S. 49.
20. Frozen Food Express vs. U.S. and I.C.C., 148 F. Supp. 399, affirmed without opinion 355 U.S. 6.
21. Home Transfer & Storage Co. vs. U.S. and I.C.C., 141 F. Supp. 599, affirmed without opinion, 353 U.S. 924.
22. Premier Peat Moss Corp. vs. U.S., 147 F. Supp. 169.
23. Southwestern Trading Co. vs. U.S., 208 F. 2d 708.

NOTES

NOTE 1: The report in Determination of Exempted Agricultural Commodities, MC–C–966, First Supplemental Report, decided February 11, 1958, was served on February 14, 1958. Whether any petitions for reconsideration will be filed is not known at this time.

NOTE 2: In Penn-Dixie, 66 M.C.C. 20, Division 1 of the Commission held fresh citrus fruit sections not to be within the exemption. However, this decision was rendered prior to the affirmance by the U.S. Supreme Court of the court decisions in I.C.C. vs. Home Transfer & Storage Co., 141 F. Supp. 599, 353 U.S. 924 and in Frozen Food Express vs. U.S., 148 F. Supp. 399, 355 U.S. 6. In the former case peeled and sliced frozen peaches were held to be within the exemption, and in the latter case cut up vegetables and peeled and pitted peaches were held to be within the exemption.

NOTE 3: In the Determination case, 62 M.C.C. 511, the Commission held that dehydrated vegetables do not come within the exemption. However, that position would seem no longer valid in view of the recent holding in Frozen Food Express vs. U.S., 148 F. Supp. 399, that dried egg powder, dried egg yolks and powdered milk are within the exemption, which holding was affirmed by the U.S. Supreme Court in 355 U.S. 6.

NOTE 4: It is rather clear from the Determination case, 53 M.C.C. 511, that the Commission considered grinding to be manufacturing, though it did not specifically so hold. The Bureau until recently considered all ground commodities to be not exempt. In Barrett, 60 M.C.C. 457 (January 29, 1957), the Commission, Division 1, held ground oat hulls not within the exemption. This, however, was prior to the expiration of the date for appeal in Frozen Food Express vs. U.S. and I.C.C., 148 F. Supp. 390, in which the court held, among other things, that ground peanut shells, dried egg powder, and powdered milk are within the exemption. No appeal was taken as to ground peanut shells, and on appeal the U.S. Supreme Court affirmed the decision as to the two powdered commodities. The Court opinion does not described the grinding and powdering processes there involved, but in an early Commission case, Harris and Callis, 4 M.C.C. 159 it was said that ground peanut shells are produced by pulverization in a hammer mill.

In view of the Court holdings, which now are final, the Bureau no longer considers that grinding alone removes a commodity from the exemption. However, manufacturing which follows or precedes grinding may have this effect. Thus the bolting, which produces flour would make that commodity non-exempt. Also meals produced by grinding commodities from which the oil has been extracted are considered not within the exemption. Thus in the Frozen Food case, mentioned above, the court held cottonseed meal not to be within the exemption.

NOTE 5: In view of the "substantial identity" test of the U.S. Supreme Court in East Texas Motor Freight Lines, Inc. vs. Frozen Food Express, 351 U.S. 49, the Bureau takes the view that the exemption includes cotton or wool which has been combed or carded but not spun, woven or knitted. Thus wool tops and noils are now considered within the exemption. Also considered within the exemption is waste which consists of scraps or discards of cotton or wool fibers resulting from the handling and processings in mills, but not waste made up of scraps of thread, yarn, or cloth.

NOTE 6: This holding was made in Hughes, 71 M.C.C. 427, which proceeding later was reopened for further hearing. Pending final determination of the proceeding the holding cannot be considered an authoritative decision of the Commission. However, these same commodities were held not exempt in Bureau opinions rendered previous to the decision. Compare Administrative Ruling No. 98.

§ 1047.40 Motor transportation of property incidental to transportation by aircraft.

(a) *Property moving in collection, delivery, or transfer service.* Transportation or property by motor vehicle is transportation incidental to transportation by aircraft within the meaning of section 203(b)(7a) of the Interstate Commerce Act provided (1) that it is confined to the transportation of shipments in bona fide collection, delivery, or transfer service performed within the terminal area of the direct air carrier or air freight forwarder (indirect air carrier) providing the line-haul transportation, which terminal area, if the line-haul air transportation is provided by a carrier subject to economic regulation under the Federal Aviation Act, has been described in a tariff filed with and accepted by the Civil Aeornautics Board, and (2) that it is confined to the transportation of shipments which have been received from or will be delivered to a direct air carrier or air freight forwarder as part of a continuous movement which, if provided by an air carrier subject to economic regulation under the Federal Aviation Act, shall be provided for in tariffs filed with and accepted by the Civil Aeronautics Board, and shall be performed on a through air bill of lading covering, in addition to the line-haul movement by air, the collection, delivery, or transfer service performed by the motor carrier.

(b) *Substitution of motor-for-air transportation due to emergency conditions.* Transportation of property by motor vehicle is transportation incidental to transportation by aircraft if it constitutes substituted motor-for-air service, performed at the expense of the direct air carrier or air freight forwarder, on a through air bill of lading, in emergency situations arising from the inability of the direct air carrier to perform air transportation due to adverse weather conditions, equipment failure, or other causes beyond the control of the direct air carrier.

(c) *Individual determination of exempt zones.* Upon its own motion or upon petition filed by any interested person, the Interstate Commerce Commission may, in an appropriate proceeding, determine whether the area within which the transportation of property by motor vehicle, in bona fide collection, delivery, or transfer service, must be performed, in order to come within the provisions of paragraph (a) of this section, should be individually determined with respect to any particular airport or city authorized to be served by a direct air carrier or air freight forwarder holding authority from the Civil Aeronautics Board, and whether there should be established therefor appropriate boundaries, differing in extent from the terminal areas of such direct air carriers or freight forwarders as defined in tariffs filed with and accepted by the Civil Aeronautics Board.

(52 Stat. 985, 80 Stat. 383; 49 U.S.C. 1003, 5 U.S.C. 553)

§ 1047.45 Motor transportation of passengers incidental to transportation by aircraft.

(a) *Passengers having an immediately prior or subsequent movement by air.* The transportation of passengers by motor vehicle is transportation incidental to transportation by aircraft provided (1) that it is confined to the transportation of passengers who have had or will have an immediately prior or immediately subsequent movement by air and (2) that the zone within which motor transportation is incidental to transportation by aircraft, except as it may be individually determined as provided in section (c) herein, shall not exceed in size the area encompassed by a 25-mile radius of the boundary of the airport at which the passengers arrive or depart and by the boundaries of the commercial zones (as defined by the Commission) of any municipalities any part of whose commercial zones falls within the 25-mile radius of the pertinent airport.

(b) *Substituted motor-for-air transportation due to emergency conditions.* Transportation of passengers by motor vehicle is transportation incidental to transportation by aircraft if it constitutes substituted motor-for-air service, performed at the expense of the air carrier in emergency situations arising from the inability of the air carrier to perform air transportation due to adverse weather conditions, equipment failure, or other causes beyond the control of the air carrier.

(c) *Individual determination of exempt zones.* Upon its own motion or upon petition filed by any interested person, the Interstate Commerce Commission may in an appropriate proceeding, determine whether the area within which the transportation by motor vehicle of passengers having an immediately prior or subsequent movement by air must be performed, in order to come within the provisions of paragraph (a) of this section, should be individually determined with respect to any particular airport or city served by an airport, and whether there should be established therefor appropriate boundaries differing in extent from this defined in paragraph (a)(2) of this section.

(d) *Exempt zones and operations.*—(1) *Dulles and Friendship International Airports.* The transportation by motor vehicle, in interstate or foreign commerce, of passengers, having an immediately prior or subsequent movement by air, between Dulles International Airport near Chantilly, Va., and Friendship International Airport, Baltimore, Md., is partially exempt from regulation under section 203(b)(7a) of the Interstate Commerce Act.

PART 1048—COMMERCIAL ZONES

Sec.

1048.1 New York, N.Y.
1048.2 Chicago, Ill.
1048.3 St. Louis, Mo.-East St. Louis, Ill.
1048.4 Washington, D.C.
1048.5 Los Angeles, Calif., and contiguous and adjacent municipalities.
1048.6 Philadelphia, Pa.
1048.7 Cincinnati, Ohio
1048.8 Kansas City, Mo.-Kansas City, Kans.
1048.9 Boston, Mass.
1048.10 Davenport, Iowa; Rock Island and Moline, Ill.
1048.11 Commercial zones of municipalities in New Jersey within 5 miles of New York, N.Y.
1048.12 Commercial zones of municipalities in Westchester and Nassau Counties, N.Y.
1048.13 Tucson, Ariz.
1048.14 Albuquerque, N. Mex.
1048.15 Ravenswood, W. Va.
1048.16 Lake Charles, La.
1048.20 Syracuse, N.Y.
1048.21 Baltimore, Md.
1048.22 Cleveland, Ohio.
1048.23 Detroit, Mich.
1048.24 Seattle, Wash.
1048.25 Albany, N.Y.
1048.26 Minneapolis-St. Paul, Minn.
1048.27 New Orleans, La.
1048.28 Pittsburgh, Pa.
1048.29 Portland, Oreg.
1048.30 Vancouver, Wash.
1048.31 Charleston, S.C.
1048.32 Charleston, W. Va.
1048.33 Memphis, Tenn.
1048.34 Houston, Tex.
1048.35 Pueblo, Colo.
1048.36 Warren, Ohio
1048.100 Definitions
1048.101 Commercial zones determined generally, with exceptions.
1048.102 Controlling distances and population data.

AUTHORITY: The provisions of this Part 1048 issued under 49 Stat. 543, as amended, 544 as amended, 545, as amended; 49 U.S.C. 302, 303, 304.

§ 1048.1 New York, N.Y.

(a) The application of § 1048.101 *Commercial zones determined generally,* with exceptions, is hereby extended to New York, N.Y.

(b) The exemption provided by section 203(b)(8) the Interstate Commerce Act, of transportation by motor vehicle in interstate or foreign commerce, performed wholly within the zone the limits of which are defined in paragraph (a) of this section, is hereby removed as to all such transportation except (1) transportation which is performed wholly within the following territory: The area within the corporate limits of the cities of New York, Yonkers, Mount Vernon, North Pelham, Pelham, Pelham Manor, Great Neck Estates, Floral Park, and Valley Stream, N.Y., and Englewood, N.J.; the area within the borough limits of Alpine, Tenafly, Englewood Cliffs, Leonia, Fort Lee, Edgewater, Cliffside Park, Fairview, Palisades Park, and Ridgefield, Boroughs, Bergen County, N.J.; and that part of Hudson County, N.J., east of Newark Bay and the Hackensack River; (2) transportation which is performed in respect of a shipment which has had a prior, or will have a subsequent, movement by water carrier, and which is performed wholly between points named in subparagraph (1) of this paragraph on the one hand, and, on the other, those points in Newark and Elizabeth, N.J., identified as follows: All points in that area within the corporate limits of the cities of Newark and Elizabeth, N.J., west of Newark Bay and bounded on the south by the Main Line of The Central Railroad Company of New Jersey, on the west by the Newark & Elizabeth Branch of The Central Railroad Company of New Jersey, and on the north by the property of The Pennsylvania Railroad Company; and (3) transportation which is performed in respect of a shipment which has had a prior, or will have a subsequent, movement by rail carrier, and which is performed wholly between points named in subparagraph (1) of this paragraph on the one hand, and, on the other, points in Kearny, N.J., within an area bounded on the north by the main line of the Jersey City Branch of The Pennsylvania Railroad Company, on the south and east by Fish House Road and Pennsylvania Avenue, and on the west by the property line of The Pennsylvania Railroad TrueTrain Terminal.

§ 1048.2 Chicago, Ill.

The zone adjacent to and commercially a part of Chicago, Ill., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303 (b)(8)), includes and is comprised of all points as follows:

The area within the corporate limits of Chicago, Evanston, Oak Park, Cicero, Berwyn, River Forest, Willow Springs, Bridgeview, Hickory Hills, Worth, Homewood, and Lansing, Ill.; the area within the township limits of Niles, Maine, Leyden, Norwood Park, Proviso, Lyons, Riverside, Stickney, Worth, Calumet, Bremen, and Thornton Townships, Cook County, Ill.; the area comprised of that part of Lemont Township, Cook County, and that part of Downers Grove Township, DuPage County, Ill., bounded by a line beginning at the intersection of Archer Avenue and the southern corporate limits of Willow Springs, Ill., and extending in a southwesterly direction along Archer Avenue to its junction with Chicago Joliet Road (Sag Lemont Highway), thence in a westerly direction over Chicago Joliet Road to its junction with Walker Road, thence directly north along an imaginary line to the southern shore line of the Chicago Sanitary and Ship Canal, thence in a northeasterly direction along said shore line to the corporate limits of Willow Springs, including points on the indicated portions of the highways specified; and the area within the corporate limits of Hammond, Whiting, East Chicago, and Gary, Ind.

§ 1048.3 St. Louis, Mo.-East St. Louis, Ill.

(a) The zone adjacent to and commercially a part of St. Louis, Mo.-East St. Louis, Ill., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage to or from a point beyond the zone is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)), includes and is comprised of all points as follows: (1) All points within the corporate limits of St. Louis, Mo; (2) all points in St. Louis County, Mo., within a line drawn 6.5 mile south, west, and north of the following line, but not including any point north of the Meramec River and west of Kirkwood, Mo., west of the right-of-way of proposed Circumferential Expressway (Interstate Highway 244), north of a line formed by Dorsett Road and the right-of-way of the Chicago, Rock Island and Pacific Railroad, south of Lackland Avenue, or points beyond the established corporate boundaries of Kirkwood, Huntleigh, and St. Ferdinand, Mo. (except that area bounded on the east by the western boundary of Kirkwood, on the south by Marshall Road, on the west by Trescourt Avenue, and on the north by Big Bend Road): Beginning at the Jefferson Barracks Bridge across the Mississippi River and extending westerly along Missouri Highway 77 to its junction with U.S. Highway 61 Bypass, thence along U.S. Highway 61 Bypass to its junction with U.S. Highway 66, thence westerly along U.S. Highway 66, to its junction with Bowles Avenue, thence northerly along Bowles Avenue actual or projected to the Meramec River, thence easterly along the south bank of the Meramec River to a point directly south of the western boundary of Kirkwood, thence across the Meramec River to and along the western boundary of Kirkwood to Marshall Road, thence westerly along Marshall Road to its junction with Trescourt Avenue, thence northerly along Trescourt Avenue to its junction with Big Bend Road, thence easterly along Big Bend Road to the western boundary of Kirkwood, thence along the western and northern boundaries of Kirkwood to the western boundary of Huntleigh, Mo., thence along the western and northern boundaries of Huntleigh to junction U.S. Highway 66, thence in a northerly direction along U.S. Highway 66 (Lindbergh Boulevard) to its junction with Lackland Avenue, thence in a westerly direction along Lackland Avenue to its junction with the right-of-way of proposed Circumferential Expressway (Interstate Highway 244), thence in a northerly direction along said right-of-way to its junction with the right-of-way of the Chicago, Rock Island and Pacific Railroad, thence in an easterly direction along said right-of-way to its junction with Dorsett Road, thence in an easterly direction along Dorsett Road to its junction with U.S. Highway 66, thence in a northerly direction along U.S. Highway 66 to its junction with Natural Bridge Road, thence in an easterly direction along U.S. Highway 66 to the western boundary of St. Ferdinand (Florissant), Mo., thence along the western, northern, and eastern boundaries of St. Ferdinand to junction U.S. Highway 66 and thence along U.S. Highway 66 (Taylor Road) to the corporate limits of St. Louis (near Chain of Rocks Bridge); and (3) all points within the corporate limits of East St. Louis, Belleville, Granite City, Madison, Venice, Brooklyn, National City, Fairmont City, Washington Park, and Monsanto, Ill., and that part of the Village of Cahokia, Ill., bounded by Illinois Highway 3 on the east, First Avenue and Red House (Cargill) Road on the south and southwest, the east line of the right-of-way of the Alton and Southern Railroad on the west, and the corporate limits of Monsanto, Ill., on the northwest and north.

(b) The exemption provided by section 203(b)(8) of the Interstate Commerce Act in respect of transportation by motor vehicle, in interstate or foreign commerce, between Belleville, Ill., on the one hand, and, on the other, any other

point in the commercial zone, the limits of which are defined in paragraph (a) of this section, is hereby removed, and the said transportation is hereby subjected to all the applicable provisions of the Interstate Commerce Act.

§ 1048.4 Washington, D.C.

The zone adjacent to and commercially a part of Washington, D.C., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond such zone, is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) includes and is comprised of all points in an area bounded by a line as follows:

Beginning at the intersection of MacArthur Boulevard and Falls Road (Maryland Highway 189) and extending northeasterly along Falls Road to its junction with Scott Drive, thence west on Scott Drive to its junction with Viers Drive, thence west on Viers Drive to its junction with Glen Mill Road, thence northeast on Glen Mill Road to its junction with Maryland Highway 28, thence west on Maryland Highway 28 to its junction with Shady Grove Road, thence northeast on Shady Grove Road approximately 2.3 miles to its junction with Maryland Highway 355, thence southeasterly along Maryland Highway 355 approximately 1.0 mile to its junction with Redland Road, thence northeasterly along Redland Road approximately 0.7 mile to Crabbs Branch, thence southeasterly along the course of Crabbs Branch to Rock Creek, thence southerly along the course of Rock Creek to Viers Mill Road (Maryland Highway 586), thence southeasterly along Viers Mill Road approximately 0.8 mile to its junction with Aspen Hill Road, thence northeasterly along Aspen Hill Road to its junction with Brookeville Road (Maryland Highway 97), thence southeasterly along Brookeville Road to its junction with Maryland Highway 198, thence northeasterly along Maryland Highway 198 to Colesville, Md., thence southeasterly along Beltsville Road to its junction with Powder Mill Road (Maryland Highway 212), thence easterly over Powder Mill Road to its junction with Montgomery Road, thence northeasterly along Montgomery Road, approximately 0.2 mile, to its junction with an unnumbered highway extending northeasterly to the north of Ammendale Normal Institute, thence along such unnumbered highway for a distance of about 2.2 miles to its junction somewhat north of Virginia Manor, Md., with an unnumbered highway extending easterly through Muirkirk, Md., thence along such unnumbered highway through Muirkirk to its junction, approximately 1.8 miles east of the Baltimore and Ohio Railroad, with an unnumbered highway, thence southwesterly along such unnumbered highway for a distance of about 0.5 mile to its junction with an unnumbered highway, thence southeasterly along such unnumbered highway through Springfield and Hillmeade, Md., to its junction with Defense Highway (U.S. Highway 50), thence southwesterly along Defense Highway approximately 0.8 mile to its junction with Enterprise Road (Maryland Highway 556), thence southerly over Enterprise Road to its junction with Central Avenue (Maryland Highway 214), thence westerly over Central Avenue about 0.8 mile to its crossing of Western Branch, thence southerly down the course of Western Branch to Maryland Highway 202, thence westerly approximately 0.2 mile along Maryland Highway 202 to its junction with White House Road, thence southwesterly along White House Road to its junction with Maryland Highway 223, thence southeasterly along Maryland Highway 223 to its junction with Maryland Highway 4, thence westerly along Maryland Highway 4 to the boundary of Andrews Air Force Base, thence south and west along said boundary to Brandywine Road (Maryland Highway 5), thence northwesterly along Maryland Highway 5 to its junction with Maryland Highway 337, thence southwesterly along Maryland Highway 337 to its junction with Maryland Highway 224, thence southerly along Maryland Highway 224 to a point opposite the mouth of Broad Creek, thence due west across the Potomac River to the west bank thereof, thence southerly along the west bank of the Potomac River to Gunston Cove, thence up the course of Gunston Cove to Pohick Creek, thence up the course of Pohick Creek to Telegraph Road (Virginia Highway 611), thence northeasterly along Telegraph Road to its junction with Back Lick Road (Virginia Highway 617), thence northerly along Back Lick Road through Newington, Springfield, and Springfield Station, Va., to Annandale, Va., thence northerly along Virginia Highway 649 to its junction with Virginia Highway 709, thence northerly along Virginia Highway 709 to its junction with Virginia Highway 650, thence northerly along Virginia Highway 650 to its junction with Virginia Highway 7, thence northwesterly over Virginia Highway 7 to its junction with the Dulles Airport Access Highway, thence east over the Dulles Airport Access Highway to its junction with Interstate Highway 495, thence northeasterly over Interstate Highway 495 to its junction with Ash Grove Road (Virginia Highway 694), thence northwesterly along Ash Grove Road to Jones Corners, Va., thence northeasterly along Swinks Mill Road (Virginia Highway 685) to Swinks Mill, Va., thence along the course of Scott Run to the Potomac River, thence due north across the river to MacArthur Boulevard, thence northwesterly along MacArthur Boulevard to its junction with Maryland Highway 189, the point of beginning.

§ 1048.5 Los Angeles, Calif., and contiguous and adjacent municipalities.

(a) The exemption provided by section 203 (b) (8) of Part II of the Interstate Commerce Act to the extent it affects transportation by motor vehicle, in interstate or foreign commerce, performed wholly within Los Angeles, Calif., or wholly within any municipality contiguous or adjacent to Los Angeles, Calif., or wholly within the zone adjacent to and commercially a part of Los Angeles, as defined in (b) of this paragraph, or wholly within the zone adjacent to and commercially a part of the San Pedro, Wilmington, and Terminal Island Districts of Los Angeles and Long Beach, as defined in (c) of this paragraph, or wholly within the zone of any independent municipality contiguous or adjacent to Los Angeles, as determined under § 1048.101, or otherwise, between any point in Los Angeles County, Calif., north of the line described below, on the one hand, and, on the other, any point in Los Angeles County, Calif., south thereof is hereby removed and the said transportation is hereby subjected to all the applicable provisions of the Interstate Commerce Act:

Beginning at the Pacific Ocean, and extending easterly along the northern and eastern corporate limits of Manhattan Beach to the northern corporate limits of Redondo Beach, thence along the northern and eastern corporate limits of Redondo Beach to the intersection of Inglewood Avenue and Redondo Beach Boulevard, thence along Redondo Beach Boulevard to the corporate limits of Torrance, thence along the northwestern and eastern corporate limits of Torrance to 182nd Street, thence along 182nd Street, Walnut, and Main Streets to Olive Street, thence along Olive Street to the western corporate limits of Compton, thence along the western and southern corporate limits of Compton and the northern and eastern corporate limits of Long Beach to Artesia Street, thence east on Artesia Street to the Los Angeles-Orange County line.

(b) For the purpose of administration and enforcement of Part II of the Interstate Commerce Act, the zone adjacent to and commercially a part of Los Angeles and contiguous municipalities (except the San Pedro, Wilmington, and Terminal Island districts of Los Angeles and Long Beach, Calif.), in which transportation by motor vehicle in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, will be partially exempt from regulation under section 203 (b) (8) of the act, is hereby defined to include the area of a line extending in a generally northwesterly and northerly direction from the intersection of Inglewood Avenue and Redondo Beach Boulevard along the eastern and northern corporate limits of Redondo Beach, Calif., to the eastern corporate limits of Manhattan Beach, Calif., thence along the eastern and northern corporate limits of Manhattan Beach to the Pacific Ocean, thence along the shore line of the Pacific Ocean to the western corporate limits of Los Angeles at a point east of Topanga Canyon, and thence along the western corporate limits of Los Angeles to a point near Santa Susana Pass; south of a line extending in a generally easterly direction from a point near Santa Susana Pass along the northern corporate limits of Los Angeles to the eastern corporate limits of Burbank, Calif., thence along the eastern corporate limits of Burbank to the northern corporate limits of Glendale, Calif., and thence along the northern corporate limits of Glendale and Pasadena, Calif., to the northeastern corner of Pasadena; west of a line extending in a generally southerly and southwesterly direction from the northeastern corner of Pasadena along the eastern and a portion of the southern corporate limits of Pasadena to the eastern corporate limits of San Marino, Calif., thence along the eastern corporate limits of San Marino and the eastern and a portion of the southern corporate limits of Alhambra, Calif., to the western corporate limits of Monterey, Calif., thence along the western corporate limits of Monterey and the western corporate limits of Montebello, Calif., to the Rio Hondo, and thence along the Rio Hondo and the Los Angeles River to the northern corporate limits of Long Beach; and north of a line extending in a generally westerly direction from the Los Angeles River along the northern corporate limits of Long Beach and the southern and a portion of the western corporate limits of Compton to Olive Street, thence along Olive, Main, Walnut, and One Hundred and Eighty-second Streets to the eastern corporate limits of Torrance, thence along a portion of the eastern and the northwestern corporate limits of Torrance to Redondo Beach Boulevard, and thence along Redondo Beach Boulevard to Inglewood Avenue.

(c) For the purpose of administration and enforcement of Part II of the Interstate Commerce Act, the zone adjacent to and commercially a part of the San Pedro, Wilmington, and Terminal Island districts of Los Angeles and Long Beach, in which transportation by motor vehicle in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, will be partially exempt from regulation under section 203 (b) (8) of the act, is hereby defined to include the area east of a line extending in a generally northerly and northwesterly direction from the Pacific Ocean along the western corporate limits of Los Angeles to Two Hundred and Fifty-eighth Street, thence along Two Hundred and Fifty-eighth Street to the eastern corporate limits of Torrance, and thence along a portion of the eastern, and along the southern and western, corporate limits of Torrance to the northwestern corner of Torrance; south of a line extending in a generally easterly direction from the northwestern corner of Torrance along the northwestern and a portion of the eastern corporate limits of Torrance to One Hundred and Eighty-second Street, thence along One Hundred and Eighty-second, Walnut, Main, and Olive Streets to the western corporate limits of Compton, and thence along a portion of the western and along the southern corporate limits of Compton and the northern corporate limits of Long Beach to the northeastern corner of Long Beach; west of the eastern corporate limits of Long Beach; and north of the southern corporate limits of Long Beach and Los Angeles.

§ 1048.6 Philadelphia, Pa.

The zone adjacent to and commercially a part of Philadelphia, Pa., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond such zone, is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) includes and is comprised of all points as follows:

(a) The area within Pennsylvania included within the corporate limits of Philadelphia and Bensalem and Lower Southampton Townships in Bucks County; Conshohocken and West Conshohocken, Pa., and Lower Moreland, Abington, Cheltenham, Springfield, Whitemarsh, and Lower Merion Townships in Montgomery County; an area in Upper Dublin Township, Montgomery County, bounded by a line beginning at the intersection of Pennsylvania Avenue and Fort Washington Avenue and extending northeast along Fort Washington Avenue to its junction with Susquehanna Road, thence southeast along Susquehanna Road to its junction with the right of way of the Pennsylvania Railroad Company, thence southwest along the right of way of the Pennsylvania Railroad Company to Pennsylvania Avenue, thence northwest along Pennsylvania Avenue to its junction with Fort Washington Avenue, the point of beginning; Haverford Township in Delaware County; and an area in Delaware County south and east of a line extending southward from the intersection of the western and northern boundaries of Upper Darby Township along Darby Creek to Bishop Avenue, thence south along Bishop Avenue to Baltimore Pike, thence west along Baltimore Pike to Pennsylvania Highway 320, thence south along Pennsylvania Highway 320 to the corporate limits of Chester, thence along the northern corporate limit of Chester in a westerly direction to the eastern boundary of Upper Chichester Township, thence south to the southern boundary of said township along the eastern boundary thereof, and thence west along the southern boundary of said township to the Delaware State line, and thence south along the Delaware State line to the Delaware River, and

(b) The area in New Jersey included in the corporate limits of Camden, Gloucester City, Woodlynne, Merchantville, and Palmyra Boroughs, and the area included in Pennsauken Township in Camden County.

§ 1048.7 Cincinnati, Ohio.

The zone adjacent to, and commercially a part of, Cincinnati, Ohio, within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act is hereby defined to include the following:

Addyston, Ohio.	Mariemont, Ohio.
Chevriet, Ohio.	North Bend, Ohio.
Cincinnati, Ohio.	Norwood, Ohio.
Cleves, Ohio.	St. Bernard, Ohio.
Elmwood Place, Ohio.	Covington, Ky.
Fairfax, Ohio.	Newport, Ky.

That part of Ohio bounded by a line commencing at the intersection of the Colerain-Springfield Township line and corporate limits of Cincinnati, Ohio, and extending along said township line in a northerly direction to its intersection with the Butler-Hamilton County line, thence in an easterly direction along said county line to its intersection with Ohio Highway 4, thence in a northerly direction along Ohio Highway 4 to its intersection with Muhlhauser Road, thence in an easterly direction along said road to the terminus thereof west of the tracks of the Pennsylvania Railroad, thence continuing in an easterly direction in a straight line to Allen Road, thence along the latter to the junction thereof with Cincinnati-Dayton Road, thence in a southerly direction along Cincinnati-Dayton Road to the Butler-Hamilton County line, thence along the said county line and the Warren-Hamilton County line in an easterly direction to the Symmes-Sycamore Township line, thence in a southerly direction along the Symmes-Sycamore Township line to its intersection with the Columbia Township line, thence in a westerly direction along the Sycamore-Columbia Township line to Madeira Township, thence in a clockwise direction around the boundary of Madeira Township to the Sycamore-Columbia Township line, thence in a westerly direction along said township line to Silverton Township, thence in a southerly direction along the Silverton-Columbia Township line to the Cincinnati corporate limits, thence in a southerly direction along said corporate limits to its junction with Red Bank Road, thence in a southerly direction over Red Bank Road to the Cincinnati corporate limits.

That part of Kenton County, Ky., lying on and north of a line commencing at the intersection of the Kenton-Boone County line and Dixie Highway (U.S. Highways 25 and 42), and extending over said highway to the corporate limits of Covington, Ky., including communities on the described line.

That part of Campbell County, Ky., lying on and north of a line commencing at the intersection of Newport, Ky., and extending along Licking Pike (Kentucky Highway 9) to junction with Johns Hill Road, thence along Johns Hill Road to junction with Alexandria Pike (U.S. Highway 27), thence northward along Alexandria Pike to junction with River Road (Kentucky Highway 445), thence over the latter to the Ohio River, including communities on the described line.

That part of Boone County, Ky., bounded by a line beginning at the Boone-Kenton County line west of Erlanger, Ky., and extending in a northwesterly direction along Donaldson Highway to the Greater Cincinnati Airport, thence clockwise around the outer perimeter of said airport to the northern tip thereof, thence in a northeasterly direction along Kentucky Highway 1334 to junction with Kentucky Highway 20, and thence along the latter to the Boone-Kenton County line.

That part of Boone and Kenton Counties, Ky., bounded by a line commencing at the intersection of the Boone-Kenton County line with the southern corporate limits of Elsmere, Ky., and extending in a southerly direction along said county line approximately 0.9 mile to the northern boundary of the Northern Kentucky Industrial Foundation, thence in a westerly direction along said boundary to its intersection with the southern corporate limits of Florence, Ky., thence in a westerly direction along said corporate limits to their intersection with U.S. Highway 42, thence in a southwesterly direction along said highway to its intersection with Interstate Highway 75, thence in a southerly direction along Interstate Highway 75 to a point 2 miles south of the Florence, Ky., corporate limits, thence in a straight line in a northeasterly direction to Richardson Road, thence in an easterly direction over Richardson Road to junction with Kentucky State Route 1303 (Turkeyfoot Road), thence in a northerly direction over Kentucky State Route 1303 to the southern boundary of Edgewood, Kenton County, Ky.

§ 1048.8 Kansas City, Mo.—Kansas City, Kans.

The zone adjacent to and commercially a part of Kansas City, Mo.—Kansas City, Kans., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone is partially exempt from regulation under section

203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)), includes and is comprised of all points in the area bounded by a line as follows:

Beginning on the north side of the Missouri River at the western boundary line of Parkville, Mo., thence along the western and northern boundaries of Parkville to the Kansas City, Mo., corporate limits, thence along the western, northern, and eastern corporate limits of Kansas City, Mo., to its junction with U.S. Bypass 71 (near Liberty, (Mo.), thence along U.S. Bypass 71 to Liberty, thence along the northern and eastern boundaries of Liberty to its junction with U.S. Bypass 71 south of Liberty, thence south along U.S. Bypass 71 to its junction with the Independence, Mo., corporate limits, thence along the eastern Independence, Mo., corporate limits to its junction with the Lees Summit corporate limits, thence along the eastern Lees Summit corporate limits to the Jackson-Cass County line, thence west along Jackson-Cass County line to the eastern corporate limits of Belton, Mo., thence along the eastern, southern, and western corporate limits of Belton to the western boundary of Richards-Gebaur Air Force base, thence along the western boundary of said air force base to Missouri Highway 150, thence west along Missouri Highway 150 to the Kansas-Missouri State line, thence north along the Kansas-Missouri State line to 110th Street, thence west along 110th Street to its junction with U.S. Highway 69, thence north along U.S. Highway 69 to its junction with 103d Street, thence west along 103d Street to its junction with Quivera Road (the corporate boundary of Lenexa, Kans.), thence along the eastern, southern, western, and northern boundaries of Lenexa to Pflumm Road, thence north along Pflumm Road to its junction with Kansas Highway 10, thence west on Kansas Highway 10 to its junction with Kansas Highway 7, thence north on Kansas Highway 7 to Bonner Springs, Kans., thence along the southern and eastern boundaries of Bonner Springs to its junction with Kansas Highway 32, thence east on Kansas Highway 32 to the corporate boundary of Kansas City, Kans., thence north, west, and east along the corporate boundaries of Kansas City, Kans., to junction of Cornech Road and Pomeroy Drive, thence northwesterly along Pomeroy Drive to its junction with 79th Street, thence along 79th Street to its junction with Wolcott Drive at Pomeroy, Kans., thence due west 1.3 miles to its junction with an unnamed road, thence north along such unnamed road to the entrance to the Powell Port facility, thence due north to the southern bank of the Missouri River, thence east along the southern bank of the Missouri River to a point directly across from the western boundary of Parkville, Mo., thence across the Missouri River to point of beginning.

§ 1048.9 Boston, Mass.

For the purpose of administration and enforcement of Part II of the Interstate Commerce Act, the zone adjacent to and commercially a part of Boston, Mass., and contiguous municipalities in which transportation by motor vehicle in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, will be partially exempt under section 203(b)(8) of the act from regulation, is hereby defined to include the following:

Boston, Mass.; Winthrop, Mass.; Chelsea, Mass.; Revere, Mass.; Everett, Mass.; Malden, Mass.; Medford, Mass.; Somerville, Mass.; Cambridge, Mass.; Watertown, Mass.; Brookline, Mass.; Newton, Mass.; Needham, Mass.; Dedham, Mass.; Milton, Mass.; Quincy, Mass.

§ 1048.10 Davenport, Iowa; Rock Island and Moline, Ill.

For the purpose of administration and enforcement of Part II of the Interstate Commerce Act, the zones adjacent to and commercially a part of Davenport, Iowa, Rock Island and Moline, Ill., in which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond such municipalities or zones, will be partially exempt from regulation under section 203(b)(8) of the act (49 U.S.C. 303(b)(8)) are hereby determined to be coextensive and to include and to be comprised of the following:

(a) All points within the corporate limits of the city of Davenport and the city of Bettendorf, and in Davenport Township, Iowa.

(b) All points north of Davenport Township within that portion of Sheridan Township, Iowa, bounded by a line as follows: Beginning at the points where U.S. Highway 61 crosses the Davenport-Sheridan Township line and extending northward along U.S. Highway 61 to the right-of-way of the Chicago, Milwaukee, St. Paul & Pacific Railroad Co., thence northwesterly along said right-of-way to its junction with the first east-west unnumbered highway, thence westerly approximately 0.25 mile to its junction with a north-south unnumbered highway, thence southerly along such unnumbered highway to the northeast corner of Mount Joy Airport, thence along the northern and western boundaries of said airport to the southwestern corner thereof, and thence south in a straight line to the northern boundary of Davenport Township.

(c)(1) That part of Iowa lying west of the municipal limits of Davenport south of Iowa Highway 22, north of the Mississippi River and east of the present western boundary of the Dewey Portland Cement Co., at Linwood, including points on such boundaries, and (2) that part of Iowa east of the municipal limits of Bettendorf, south of U.S. Highway 67, west of a private road running between U.S. Highway 67 and Riverside Power Plant of the Iowa-Illinois Gas & Electric Co., and north of the Mississippi River, including points on such boundaries.

(d) The municipalities of Carbon Cliff, Silvis, East Moline, Moline, Rock Island, and Milan, Ill., and that part of Illinois lying south or east of such municipalities, within a line as follows: Beginning at a point where Illinois Highway 84 crosses the southern municipal limits of Carbon Cliff and extending southerly along such highway to its junction with Colona Road, thence westerly along Colona Road to Bowlesburg Road, thence southerly on Bowlesburg Road to the southern boundary of Hampton Township, thence along the southern boundaries of Hampton and South Moline Townships to U.S. Highway 150, thence southerly along U.S. Highway 150 to the southern boundary of the Moline Airport, thence along the southern and western boundaries of the Moline Airport to Illinois Highway 92, and thence along Illinois Highway 92 to the corporate limits of Milan.

(e) All points in Illinois within one-half mile on each side of Rock Island County State Aid Route No. 9 extending southerwesterly from the corporate limits of Milan for a distance of 1 mile, including points on such highway.

§ 1048.11 Commercial zones of municipalities in New Jersey within 5 miles of New York, N.Y.

(a) The application of § 1048.101 is hereby extended to each municipality in New Jersey, any part of which is within 5 miles of the corporate limits of New York, N.Y.

(b) The exemption provided by section 203(b)(8) of the Interstate Commerce Act, of transportation by motor vehicle, in interstate or foreign commerce, performed wholly within any commercial zone, the limits of which are defined in paragraph (a) of this section, is hereby removed as to all such transportation except (1) transportation which is performed wholly between any two points in New Jersey, or (2) transportation which is performed wholly between points in New Jersey named in § 1048.1(b)(1), on the one hand, and, on the other, points in New York named in § 1048.1(b)(1).

§ 1048.12 Commercial zones of municipalities in Westchester and Nassau Counties, N.Y.

(a) The application of § 1048.101 is hereby extended to each municipality in Westchester or Nassau Counties, N.Y.

(b) The exemption provided by section 203(b)(8) of the Interstate Commerce Act, of transportation by motor vehicle, in interstate or foreign commerce, performed wholly within any commercial zone, the limits of which are defined in paragraph (a) of this section, is hereby removed as to all such transportation except (1) transportation which is performed wholly between points in New York neither of which is New York City, N.Y., or (2) transportation which is performed wholly between points in Westchester or Nassau County named in § 1048.1(b)(1), on the one hand, and, on the other, New York City, N.Y., or points in New Jersey named in § 1048.1(b)(1).

§ 1048.13 Tucson, Ariz.

That zone adjacent to and commercially a part of Tucson, Ariz., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, is partially exempt, under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) from regulation, includes and is comprised of, all points as follows:

(a) The municipality of Tucson, Ariz., itself.

(b) All points within a line drawn 5 miles beyond the corporate limits of Tucson, Ariz.

(c) All points in that area south of the line described in paragraph (b) of this section, bounded by a line as follows: Beginning at the point where the line described in paragraph (b) of this section, intersects Wilmot Road, thence south along Wilmot Road to junction Nogales Old Vail Connection, thence west along Nogales Old Vail Connection, actual or extended, to the Santa Cruz River, thence north along the east bank of the Santa Cruz River to its joinder with the line described in paragraph (b) of this section.

(d) All of any municipality any part of which is within the limits of the combined areas defined in paragraphs (b) and (c) of this section.

(e) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the city of Tucson or by any municipality included under the terms of paragraph (d) of this section.

§ 1048.14 Albuquerque, N. Mex.

That zone adjacent to and commercially a part of Albuquerque, N. Mex., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, is partially exempt, under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) from regulation, includes and is comprised of, all points as follows:

(a) The municipality of Albuquerque, N. Mex., itself.

(b) All points within a line drawn 5 miles beyond the corporate limits of Albuquerque, N. Mex.

(c) All of any municipality any part of which is within the limits of the boundary defined in paragraph (b) of this section.

(d) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the city of Albuquerque, N. Mex., or by any municipality included under the terms of paragraph (c) of this section.

§ 1048.18 Ravenswood, W. Va.

That zone adjacent to and commercially a part of Ravenswood, W. Va., within which transportation by motor vehicle, in interstate or foreign commerce, not under common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, is partially exempt, under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)), from regulation, includes, and is comprised of, all points as follows:

(a) The municipality of Ravenswood, W. Va., itself.

(b) All points within a line drawn 3 miles beyond the corporate limits of Ravenswood, W. Va., and

(c) All points in West Virginia in that area south and southwest of those described in paragraph (b) of this section, bounded by a line as follows: Beginning at the point where the Ohio River meets the line described in paragraph (b) of this section southwest of Ravenswood, thence southerly along the east bank of the Ohio River to the point where the mouth of the Lick Run River empties into the Ohio River; thence in a northeasterly direction along the northern bank of the Lick Run River to the point where it crosses West Virginia Highway 2 south of Ripley Landing, W. Va.; thence in a northerly direction along West Virginia Highway 2 to its intersection with the line described in paragraph (b) of this section west of Pleasant View, W. Va.

§ 1048.19 Lake Charles, La.

That zone adjacent to and commercially a part of Lake Charles, La., within which transportation by motor vehicle, in interstate or foreign commerce, not under common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, is partially exempt, under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)), from regulation, includes, and is comprised of, all points as follows:

(a) The municipality of Lake Charles, La., itself;

(b) All points within a line drawn 4 miles beyond the corporate limits of Lake Charles, La.;

(c) All points in that area south and west of the line described in paragraph (b) of this section, bounded by a line, as follows: beginning at the point where the line described in paragraph (b) of this section intersects Louisiana Highway 385; thence south along Louisiana Highway 385 to its intersection with the Calcasieu-Cameron Parish line; thence west along the Calcasieu-Cameron Parish line to its intersection with Louisiana Highway 27; thence northerly along Louisiana Highway 27 to a point thereon 2 miles south of U.S. Highway 90; thence east along a line parallel to U.S. Highway 90 to Louisiana Highway 108; thence north along Louisiana Highway 108 to junction U.S. Highway 90; thence east along U.S. Highway 90 to the intersection thereof with the line described in paragraph (b) of this section;

(d) All of any municipality any part of which is within the limits of the combined areas in paragraphs (b) and (c) of this section; and

(e) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the City of Lake Charles or by any municipality included under the terms of paragraph (d) of this section.

§ 1048.20 Syracuse, N.Y.

The zone adjacent to and commercially a part of Syracuse, N.Y., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond such zone, is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) includes and is comprised of all points as follows:

(a) The municipality of Syracuse, N.Y., itself;

(b) All other municipalities and unincorporated areas within 5 miles of the corporate limits of Syracuse, N.Y., and all of any other municipality any part of which lies within 5 miles of such corporate limits.

(c) Those points in the Town of Geddes, Onondaga County, N.Y., which are not within 5 miles of the corporate limits of Syracuse, N.Y.; and

(d) Those points in the Town of Van Buren, Onondaga County, N.Y., not within 5 miles of the corporate limits of Syracuse, N.Y., and within an area bounded by a line beginning at a point where Stiles Road intersects the Geddes-Van Buren Town Line, thence southwest along the north side of Stiles Road to the intersection of Winchell Road, thence north along the east side of Winchell Road to the point where Winchell Road intersects the Geddes-Van Buren Town Line, thence southeast along such Town Line to its intersection with Stiles Road, the point of beginning.

§ 1048.21 Baltimore, Md.

The zone adjacent to and commercially a part of Baltimore, Md., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, is partially exempt, under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)), from regulation, includes, and is compromised of, all points as follows:

(a) The municipality of Baltimore itself.

(b) All points within a line drawn 5 miles beyond the boundaries of Baltimore.

(c) All points in that area east of a line described in paragraph (b) of this section, bounded by a line as follows: Beginning at the point where the line described in paragraph (b) of this section crosses Dark Head Creek and extending in a southeasterly direction along the center of Dark Head Creek, and beyond to a point off Wilson Point, thence in a northeasterly direction to and along the center of Frog Mortar Creek to Stevens Road, thence northerly along Stevens Road to Eastern Avenue, thence easterly along Eastern Avenue to Bengies Road thence northwesterly along Bengies Road to the right-of-way of the Pennsylvania Railroad Co., thence westerly along such right-of-way to the junction thereof with the line described in paragraph (b) of this section.

(d) All points in that area south of the line described in paragraph (b) of this section bounded on the west by the right-of-way of the line of the Pennsylvania Railroad Co. extending between Stony Run and Severn, Md., and on the south by that part of Maryland Highway 176 extending easterly from the said railroad to its junction with the line described in paragraph (b) of this section.

(e) All points in that area north of the line described in paragraph (b) of this section bounded by a line as follows: Beginning at the junction of the line described in paragraph (b) of this section and the Baltimore-Harrisburg Expressway (Interstate Highway 83), thence northerly along Interstate Highway 83 to its junction with Shawan Road, thence easterly along Shawan Road to its junction with York Road (Maryland Highway 45) and continuing to a point 1,500 feet east of Maryland Highway 45, thence southerly along a line 1,500 feet east of and parallel to Maryland Highway 45 to its junction with the line described in paragraph (b) of this section.

(f) All of any municipality any part of which is within the limits of the combined areas defined in paragraphs (b), (c), (d), and (e) of this section.

(g) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the city of Baltimore or by any municipality included under the terms of paragraph (f) of this section.

NOTE: The effective date for the revision of § 1048.21 was stayed, pending further consideration, 30 F.R. 14468, Nov. 19, 1965. Section 1048.21 was reinstated and became effective March 2, 1966 at 31 F.R. 329, Jan. 21, 1966.

§ 1048.22 Cleveland, Ohio.

The zone adjacent to and commercially a part of Cleveland, Ohio, within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond such zone, is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) includes and is comprised of all points as follows:

(a) All points in Cuyahoga County, Ohio, and

(b) All points in Wickliffe city, Willoughby Hills village, Waite Hill village, Willoughby city, Willowick city, Eastlake city, Lakeline village, and Timberlake village, Lake County, Ohio.

§ 1048.23 Detroit, Mich.

For the purpose of administration and enforcement of Part II of the Interstate Commerce Act, the zone adjacent to and commercially a part of Detroit, Mich., in which transportation by motor vehicle in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, will be partially exempt under section 203(b)(8) of the act (49 U.S.C. 303(b)(8)) from regulation, is hereby determined to include, and to be comprised of, all that area within a line as follows:

Beginning at a point on Lake St. Clair opposite the intersection of Fifteen Mile Road and Michigan Highway 29 and extending south and southwest along the shore of Lake St. Clair, to the Detroit River, thence along such River (east of Belle Isle) and Trenton Channel to a point opposite Sibley Road, thence west to and along Sibley Road to Waltz Road, thence north along Waltz Road to Wick Road, thence west along Wick Road to Gogwell Road, thence north along Gogwell Road to Van Born Road, thence east along Van Born Road to Newburgh Road, thence north along Newburgh Road to its junction with Halsted Road, thence north along Halsted Road to West Maple Road, thence east along West Maple Road to Telegraph Road, thence north along Telegraph Road to Sixteen Mile Road, thence east along Sixteen Mile Road to Utica Road, thence southeasterly along Utica Road to Fifteen Mile Road (also called East Maple Road), thence along Fifteen Mile Road and across Michigan Highway 29 to Lake St. Clair, the point of beginning.

§ 1048.24 Seattle, Wash.

For the purpose of administration and enforcement of Part II of the Interstate Commerce Act, the zone adjacent to and commercially a part of Seattle, Wash., in which transportation by motor vehicle in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, will be partially exempt under section 203(b)(8) of the act (49 U.S.C. 303(b)(8)) from regulation, is hereby determined to include, and to be comprised of, all that area within a line as follows:

(a) The municipality of Seattle itself.

(b) All points within a line drawn 5 miles beyond the municipal limits of Seattle except points and places on Bainbridge Island, Vashon Island, and Blake Island.

(c) All points more than 5 miles beyond the municipal limits of Seattle within a line as follows: Beginning at that point south of Seattle where the eastern shore of Puget Sound intersects the line described in (a) above, thence southerly along the eastern shore of Puget Sound to S.W. 192nd St., thence easterly along S.W. 192nd St., to the point where it again intersects the line described in (b) above.

(d) All points more than 5 miles beyond the municipal limits of Seattle within a line as follows: Beginning at that point north of Seattle where the eastern shore of Puget Sound intersects the line described in (b) above, thence northerly along the eastern shore of Puget Sound to the boundary between King and Snohomish Counties, Wash., thence easterly along said boundary to the point where it would be intersected by 56th Ave., N.E. (projected) thence south along 56th Ave., N.E., (projected) to the line described in (b) above.

(e) All of any municipality any part of which is within the limits of the combined areas defined in (b), (c) and (d) above.

(f) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the city of Seattle or by any municipality included under the terms of (b), (c), (d) and (e) above.

§ 1048.25 Albany, N.Y.

For the purpose of administration and enforcement of Part II of the Interstate Commerce Act, the zone adjacent to and commercially a part of Albany, N.Y., in which transportation by motor vehicle in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, will be partially exempt under section 203(b)(8) of the act (49 U.S.C. 303(b)(8)) from regulations, is hereby determined to include, and to be comprised of, the following:

(a) The municipality of Albany itself.

(b) All points within a line drawn 5 miles beyond the municipal limits of Albany.

(c) All points in that area more than 5 miles beyond the municipal limits of Albany bounded by a line as follows: Beginning at that point on Swatling Road (in the Town of Colonie) where it crosses the line described in (b) above and extending northerly along such road to the municipal limits of Cohoes thence along the western and northern boundary of Cohoes to the Mohawk River thence along such river to the northern boundary of the Town of Waterford thence along the northern and eastern boundaries of the Town of Waterford to the northern boundary of the City of Troy (all of which city is included under the next following provision),

(d) All of any municipality any part of which is within the limits of the combined areas defined in (b) and (c) above, and

(e) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the municipality of Albany or by any other municipality included under the terms of (d) above.

§ 1048.26 Minneapolis-St. Paul, Minn.

For the purpose of administration and enforcement of Part II of the Interstate Commerce Act, the zones adjacent to and commercially a part of Minneapolis and St. Paul, Minn., in which transportation by motor vehicle in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, will be partially exempt under section 203(b)(8) of the act (49 U.S.C. 303(b)(8)) from regulations, are hereby determined to be coextensive and to include, to be comprised of, all that area within a line as follows:

All points within a line as follows: Beginning at the southern boundary of Fort Snelling Reservation and the Minnesota River and extending west and north along the southern and western boundaries of Fort Snelling Reservation to the southeast corner of the village of Richfield, thence west along the southern boundary of the village of Richfield and the southern boundary of the village of Edina to the southwest corner of the village of Edina, thence north along the western boundary of the village of Edina to the southern boundary of the village of Hopkins, thence along the southern, western, and northern boundaries of the village of Hopkins to the western boundary of the village of St. Louis Park, thence north along the western boundaries of the villages of St. Louis Park, Golden Valley and New Hope, to the northwestern corner of the village of New Hope, thence east along the northern boundary of the villages of New Hope and Crystal to the western boundary of the village of Brooklyn Center, thence north along the western boundary of the village of Brooklyn Center to its northern boundary, thence east along such northern boundary to the Hennepin County-Anoka County line, thence north along such County line to the northwestern corner of Fridley Township in Anoka County, thence east along the northern boundary of Fridley Township to the northwest corner of Mounds View Township in Ramsey County, thence east and south along the northern and eastern boundaries of Mounds View Township to the northwestern corner of New Canada Township, thence east and south along the northern and eastern boundaries of New Canada Township to the northeastern corner of the village of North St. Paul, thence south along the eastern boundary of the village of North St. Paul to the southeast corner of such village, thence south along the eastern boundary of New Canada Township to the northeastern corner of the village of Newport, thence south and west along the eastern and southern boundaries of the village of Newport to U.S. Highway 61, thence southeasterly along U.S. Highway 61 to the eastern boundary of the village of St. Paul Park, thence along the eastern, southern and western boundaries of the village of St. Paul Park to a point on the Mississippi River opposite the southeast corner of the village of Inver Grove, thence westerly across the river and along the southern and western boundaries of the village of Inver Grove to the northwest corner of such village thence due north to the southern boundary of Mendota Township in Dakota County, thence west along the southern boundary of Mendota Township to the Minnesota River, thence west across the river and southwesterly along the river to the point of beginning.

§ 1048.27 New Orleans, La.

The zone adjacent to and commercially a part of New Orleans, La., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond such zone, is partially exempt under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) from regulation, includes and is comprised of all points in the area bounded by a line as follows:

Commencing at a point on the shore of Lake Pontchartrain where it is crossed by the Jefferson Parish-Orleans Parish line; thence easterly along the shore of Lake Pontchartrain to the Rigolets; thence through the Rigolets in an easterly direction to Lake Borgne; thence southwesterly along the shore of Lake Borgne to the Bayou Bienvenue; thence in a general westerly direction along the Bayou Bienvenue (which also constitutes the Orleans Parish-St. Bernard Parish line) to Paris Road; thence in a southerly direction along Paris Road to the Back Protection Levee; thence in a southeasterly direction along the Back Protection Levee (across Lake Borgne Canal) to a point 1 mile north of Louisiana Highway 46; thence in an easterly direction 1 mile north of Louisiana Highway 46 to longitude 89°50' W.; thence south along longitude line 89°50' W. (crossing Louisiana Highway 46 approximately ¾ of a mile east of Toca) to Forty Arpent Canal; thence westerly, northwesterly, and southerly along Forty Arpent Canal to Scarsdale Canal; thence northwesterly along Scarsdale Canal and beyond it in the same direction to the middle of the Mississippi River; thence southerly along the middle of the Mississippi River to the Augusta Canal; thence in a westerly direction along the Augusta Canal to the Gulf Intracoastal Waterway; thence in a northeasterly direction along the middle of the Gulf Intracoastal Waterway to the Crossing of Louisiana Highway 31; thence along Louisiana Highway 31 in a northwesterly direction to a point approximately 2 miles south of Gretna where a high-tension transmission line crosses Louisiana Highway 31; thence in a westerly direction following such transmission line to the intersection thereof with U.S. Highway 90; thence westerly along U.S. Highway 90 to the Jefferson Parish-St. Charles Parish line; thence north along such parish line to the middle of the Mississippi River; thence westerly along the middle of the Mississippi River to a point 1 mile west of the Jefferson Parish-St. Charles Parish line; thence north to the shore of Lake Pontchartrain; thence along the shore of Lake Pontchartrain in an easterly direction to the Jefferson Parish-Orleans Parish line, the point of beginning.

§ 1048.28 Pittsburgh, Pa.

For the purpose of administration and enforcement of Part II of the Interstate Commerce Act, the zone adjacent to and commercially a part of Pittsburgh, Pa., in which transportation by motor vehicle in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, will be partially exempt under section 203(b)(8) of the act (49 U.S.C. 303(b)(8)) from regulation, is hereby determined to include, and to be comprised of, the following:

(a) All points in Allegheny County, Pa., except Forward, Elizabeth, South Versailles, Marshall (including the Borough of Bradford Woods), Pine, Richland, West Deer and Fawn Townships and that part of Fraser Township north of a line made by extending easterly in a straight line the southern boundary of West Deer Township.

(b) Borough of Trafford situated in both Allegheny and Westmoreland Counties;

(c) Borough of Ambridge and Harmony Township located in Beaver County; and

(d) The City of New Kensington and Borough of Arnold in Westmoreland County.

§ 1048.29 Portland, Oreg.

For the purpose of administration and enforcement of Part II of the Interstate Commerce Act, the zone adjacent to and commercially a part of Portland, Oreg., in which transportation by motor vehicle in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, will be partially exempt under section 203(b)(8) of the act (49 U.S.C. 303(b)(8)) from regulation, is hereby determined to include, and to be comprised of, the following:

(a) The municipality itself.

(b) All points in Oregon within a line drawn 5 miles beyond the corporate limits of Portland.

(c) All of any municipality any part of which is within the line described in (b) above.

(d) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the city of Portland or by any municipality included under the terms of (c) above.

§ 1048.30 Vancouver, Wash.

For the purpose of administration and enforcement of Part II of the Interstate Commerce Act, the zone adjacent to and commercially a part of Vancouver, Wash., in which transportation by motor vehicle in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, will be partially exempt under section 203(b)(8) of the act (49 U.S.C. 303(b)(8)), from regulation, is hereby determined to include, and to be comprised of, the following:

(a) The municipality itself.

(b) All points in Washington within a line drawn 4 miles beyond the corporate limits of Vancouver.

(c) All of any municipality any part of which is within the line described in (b) above.

(d) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the City of Vancouver or by any municipality included under the terms of (c) above.

§ 1048.31 Charleston, S.C.

The zone adjacent to and commercially a part of Charleston, S.C., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone is partially exempt, under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)), from regulation, includes and is comprised of, all points and places as follows:

(a) The municipality of Charleston itself.

(b) All points within a line drawn 4 miles beyond the boundaries of Charleston.

(c) All points in that area north of the line described in paragraph (b) of this section, bounded by a line as follows: Beginning at the point where the line described in paragraph (b) of this section crosses Cooper River and extending in a northerly direction along the center of Cooper River to Goose Creek; thence north and west along the center of Goose Creek to the dam of the reservoir of the Charleston waterworks; thence northwesterly along the west bank of the Charleston waterworks reservoir for approximately one mile to an unnamed creek; thence westerly along the center of this unnamed creek for approximately one mile to U.S. Highway 52; thence northerly along U.S. Highway 52 to junction South Carolina Highway 8-10-75; thence westerly along South Carolina Highway 8-10-75 for approximately one and one half miles to a point one quarter mile west of the track of the Southern Railway Company; thence southeasterly along a line one quarter of a mile west of, and parallel to, the track of the Southern Railway Company to the junction thereof with the line described in paragraph (b) of this section.

(d) All of any municipality any part of which is within the limits of the combined areas defined in paragraphs (b) and (c) of this section.

(e) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the city of Charleston or by any municipality included under the terms of paragraph (d) of this section.

§ 1048.32 Charleston, W. Va.

That zone adjacent to and commercially a part of Charleston, W. Va., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond

the zone, is partially exempt, under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)), from regulation, includes, and is comprised of, all points and places as follows:

(a) The municipality of Charleston, W. Va., itself.

(b) All points within a line drawn 4 miles beyond the corporate limits of Charleston, W. Va.

(c) All points in that area northwest of those described in (b) above, bounded by a line as follows: Beginning at a point on the line described in (b) above, one-half mile south of U.S. Highway 60 west of Charleston, thence westerly along a line one-half mile south of and parallel to U.S. Highway 60 to a point one-half mile south of the junction of U.S. Highway 60 with West Virginia Highway 17 near 2¾ Mile Creek, thence westerly along a line one-half mile south of and parallel to West Virginia Highway 17 to the Coal River, thence north along the center of the Coal River to West Virginia Highway 17, thence northerly along West Virginia Highway 17 to Scary Creek, near Scary, W. Va., thence east along Scary Creek to the center of the Kanawha River, thence northerly along the center of the Kanawha River to a point opposite the mouth of Blake Creek (between Nitro and Poca, W. Va.), thence easterly along a straight line drawn through the junction of U.S. Highway 35 and West Virginia Highway 25 to a point one-half mile beyond said junction, thence southerly along a line one-half mile northeast of and parallel to West Virginia Highway 25 to the junction of the line described in (b) above.

(d) All points in that area southeast of those described in (b) above, bounded by a line as follows: Beginning at a point on the line described in (b) above one-half mile south of the Kanawha River, thence easterly along a line one-half mile south of, and parallel to, the Kanawha River to junction with a straight line intersecting the highway bridge at Chelyan, W. Va., thence northerly along said straight line across the Kanawha River to a point one-half mile north of the Kanawha River, thence westerly along a line one-half mile north of and parallel to the Kanawha River to the junction of the line described in (b) above.

(e) All of any municipality any part of which is within the limits of the combined areas defined in (b), (c), and (d) above.

§ 1048.33 Memphis, Tenn.

That zone adjacent to and commercially a part of Memphis, Tenn., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, is partially exempt, under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) from regulation, includes, and is comprised of, all points as follows:

(a) The municipality of Memphis, Tenn., itself.

(b) All points within a line drawn 5 miles beyond the corporate limits of Memphis, Tenn.

(c) All points in that part of Shelby County, Tenn., north of the line described in paragraph (b) of this section, bounded by a line as follows: Beginning at the intersection of the line described in paragraph (b) of this section and U.S. Highway 51 north of Memphis, thence northeasterly along U.S. Highway 51 for approximately 3 miles to its intersection with Lucy Road, thence easterly along Lucy Road for approximately 1.4 miles to its intersection with Chase Road, thence northerly along Chase Road for approximately 0.6 mile to its intersection with Lucy Road thence easterly along Lucy Road for approximately 0.8 mile to its intersection with Main Road, thence southeasterly along Main Road approximately 0.3 mile to its intersection with Amherst Road, thence southerly and easterly along Amherst Road for approximately 0.9 mile to its intersection with Raleigh-Millington Road, thence southerly along Raleigh-Millington Road for approximately 2 miles to its intersection with the line described in paragraph (b) of this section north of Memphis;

(d) All of any municipality any part of which is within the limits of the combined areas described in paragraphs (b) and (c) of this section.

§ 1048.34 Houston, Tex.

The zone adjacent to, and commercially a part of Houston, Tex., and contiguous municipalities in which transportation by motor vehicle, in interstate or foreign commerce, not under common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, will be partially exempt under section 203(b)(8) of the act from regulation, is hereby defined to include the area which would result by application of the general formula promulgated in § 1048.101, and in addition thereto, the municipalities of Baytown, La Porte and Lomax, Tex.

§ 1048.35 Pueblo, Colo.

The zone adjacent to and commercially a part of Pueblo, Colo., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond such zone is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)), includes and is comprised of all points as follows:

(a) The municipality of Pueblo, Colo., itself;

(b) All points within a line drawn 4 miles beyond the corporate limits of Pueblo, Colo.;

(c) All of the area known as the Pueblo Memorial Airport, consisting of about 3,500 acres, not within 4 miles of the corporate limits of Pueblo, Colo., and within an area located on the East of Pueblo, the nearest point being about 3.86 miles from the city limits of Pueblo, and bounded on the south by the tracks of the Santa Fe Railroad and the Missouri Pacific Railroad, and a public highway known as Baxter Road and designated as U.S. Highway 50 Bypass and Colorado Highway 96, with such property extending north, west, and east of the described southern base line.

§ 1048.36 Warren, Ohio.

The zone adjacent to and commercially a part of Warren, Ohio, within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, is partially exempt, under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) from regulation includes, and is comprised of, all points as follows:

(a) The municipality of Warren, Ohio, itself.

(b) All points within a line drawn 4 miles beyond the corporate limits of Warren, Ohio.

(c) All points in that area, south of the line in paragraph (b) of this section, bounded by a line as follows: Beginning at the point where the line described in paragraph (b) of this section intersects Ellsworth-Baily Road, thence south along Ellsworth-Baily Road to the Ohio Turnpike, thence southeast along the Ohio Turnpike to New Hallock-Young Road, thence northeast along New Hallock-Young Road to Hallock-Young Road, thence east along Hallock-Young Road to junction Ohio Highway 45 (Salem-Warren Road), thence north along Ohio Highway 45 (Salem-Warren Road) to its intersection with the line described in paragraph (b) of this section.

§ 1048.100 Definitions.

For the purposes of this part, the following terms are defined:

(a) "Municipality" means any city, town, village, or borough which has been created by special legislative act or which has been, otherwise, individually incorporated or chartered pursuant to general State laws, or which is recognized as such, under the Constitution or by the laws of the State in which located, and which has a local government. It does not include a town of the township or New England type.

(b) "Contiguous municipalities" means municipalities, as defined in paragraph (a) of this section, which have at some point a common municipal or corporate boundary.

(c) "Unincorporated area" means any area not within the corporate or municipal boundaries of any municipality as defined in paragraph (a) of this section.

§ 1048.101 Commercial zones determined generally, with exceptions.

The commercial zone of each municipality in the United States, with the exceptions indicated in the note at the end of this section, within which the transportation of passengers or property, in interstate or foreign commerce, when not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point without such zone, is exempt from all provisions of Part II, Interstate Commerce Act, except the provisions of section 204 relative to the qualifications and maximum hours of service of employees and safety of operation or standards of equipment shall be deemed to consist of:

(a) The municipality itself, hereinafter called the base municipality;

(b) All municipalities within the United States which are contiguous to the base municipality;

(c) All other municipalities within the United States and all unincorporated area within the United States which are adjacent to the base municipality as follows:

(1) When the base municipality has a population less than 2,500 all unincorporated areas within two miles of its corporate limits and all of any other municipality any part of which is within two miles of the corporate limits of the base municipality,

(2) When the base municipality has a population of 2,500 but less than 25,000, all unincorporated areas within 3 miles of its corporate limits and all of any other municipality any part of which is within 3 miles of the corporate limits of the base municipality,

(3) When the base municipality has a population of 25,000 but less than 100,000, all unincorporated areas within 4 miles of its corporate limits and all of any other municipality any part of which is within 4 miles of the corporate limits of the base municipality, and

(4) When the base municipality has a population of 100,000 or more, all unincorporated areas within 5 miles of its corporate limits and all of any other municipality any part of which is within 5 miles of the corporate limits of the base municipality, and

(d) All municipalities wholly surrounded, or so surrounded except for a water boundary, by the base municipality, by any United States municipality contiguous thereto, or by any United States municipality adjacent thereto which is included in the commercial zone of such base municipality under the provisions of paragraph (c) of this section.

NOTE: Exempt: Municipalities the commercial zones of which have been or are hereafter individually or specially determined.

§ 1048.102 Controlling distances and population data.

In the application of § 1048.101:

(a) Air-line distances or mileages about corporate limits of municipalities shall be used.

(b) The population of any municipality shall be deemed to be that shown for that municipality in the last decennial census.

PART 1049—TERMINAL AREAS

Sec.
1049.1 Terminal areas of motor carriers and freight forwarders at municipalities served.
1049.2 Terminal areas of motor carriers and freight forwarders at unincorporated communities served.

AUTHORITY: The provisions of this part 1049 issued under 49 Stat. 546, as amended, 544, as amended, 546, as amended; 49 U.S.C. 302, 305, 304.

NOTE: In the application of this part, distances and population data shall be determined in the same manner as provided in § 1048.102 of this chapter. See also definitions in § 1048.100 of this chapter.

§ 1049.1 Terminal areas of motor carriers and freight forwarders at municipalities served.

The terminal area within the meaning of section 202(c) of the Interstate Commerce Act (49 U.S.C. 302(c)) of any motor carrier of property subject to Part II or of any freight forwarder subject to Part IV thereof, at any municipality authorized to be served by such motor carrier of property or freight forwarder, within which transportation by motor vehicle in the performance of transfer, collection, or delivery services may be performed by, or for, such motor carrier of property or freight forwarder without compliance with the provisions, other than those in section 204 (49 U.S.C. 304) relating to qualifications and maximum hours of service of employees and safety of operations and equipment, of Part II of the act, consists of (a) all points or places in the United States which are located within the limits of the operating authority of the motor carrier of property or freight forwarder involved, and within 2½ miles of the post office at such authorized unincorporated point if it has a population less than 2,500, within 4 miles if it has a population of 2,500 but less than 25,000, or within 5½ miles if it has a population of 25,000 or more; (b) all of any municipality any part of which is included under (a) of this section; and (c) any municipality wholly surrounded by any municipality included under paragraph (b) of this section, or so wholly surrounded except for a water boundary.

§ 1049.2 Terminal areas of motor carriers and freight forwarders at unincorporated communities served.

The terminal area within the meaning of section 202(c) of the Interstate Commerce Act (49 U.S.C. 302(c)) of any motor carrier of property subject to Part II (49 U.S.C. 301 et seq.) or any freight forwarder subject to Part IV thereof (49 U.S.C. 1001 et seq.), at any unincorporated community having a post office of the same name which is authorized to be served by such motor carrier of property or freight forwarder, within which transportation by motor vehicle in the performance of transfer, collection, or delivery services may be performed by, or for, such motor carrier of property or freight forwarder without compliance with the provisions, other than those in section 204 (49 U.S.C. 304) relating to qualifications and maximum hours of service of employees and safety of operations and equipment, of Part II of the act consists of and includes all points or places which are (a) within the commercial zone, as defined by this Commission, of that municipality, and (b) not beyond the limits of the operating authority of such motor carrier of property or freight forwarder.

PART 1050—MOTOR CARRIER OPERATION IN THE STATE OF HAWAII

Sec.
1050.1 Definitions.
1050.5 Motor carriers operating solely in Hawaii exempt.

AUTHORITY: The provisions of this Part 1050, issued under sec. 204, 54 Stat. 921; 49 U.S.C. 304.

§ 1050.1 Definitions.

For the purposes of this part, the following terms and phrases are defined:

(a) "Motor carriers" means carriers by motor vehicle operating in the State of Hawaii.

(b) "Lawfully engaged in operation solely within the State of Hawaii" means engaged within the boundaries of that State in conformity with applicable State laws.

(c) "Qualified" as used to modify "motor carriers" means those motor carriers lawfully operating in Hawaii and which are not affiliated with a carrier operating in another State or States.

§ 1050.5 Motor carriers operating solely in Hawaii exempt.

It is hereby certified that transportation in interstate or foreign commerce performed by all qualified motor carriers lawfully engaged in operation solely within the State of Hawaii is in fact of such nature, character or quantity as not substantially to affect or impair uniform regulation by the Commission of transportation by motor carriers engaged in interstate or foreign commerce in effectuating the national transportation policy: *Provided, however,* That if the State of Hawaii makes a determination of the intrastate operating rights of the respective motor carriers, the exemption granted herein shall not be construed as exempting operations in interstate or foreign commerce any more extensive than those corresponding to the respective intrastate authorities granted by the State.

PART 1051—INFORMATION REQUIRED ON RECEIPTS AND BILLS

Sec.
1051.1 Information to be shown.
1051.5 Expense bills for transportation of chartered parties.

§ 1051.1 Information to be shown.

(a) Every common carrier by motor vehicle subject to the jurisdiction of this Commission shall, on and after the first day of January, 1937, cause to be shown on the face of each and every receipt or bill of lading issued for the transportation of property by such carrier in interstate or foreign commerce, information which shall include the names of the consignor and consignee; the points of origin and destination; the number of packages, description of the articles, and weight, volume or measurement (if the lawfully applicable rates or charges are published to apply per unit of weight volume or measurement) of the property received; and a record of this information shall be kept by the carrier by the preservation of a copy of such receipt or bill of lading.

(b) Every common carrier by motor vehicle subject to the jurisdiction of this Commission shall, on and after the first day of January, 1937, when collecting transportation charges, issue a freight or expense bill covering each shipment, and the original of such freight or expense bill shall be receipted on payment of the transportation charges and furnished to the shipper or the receiver,

whichever may pay the charges; and shall cause to be shown on the face thereof the names of the consignor and consignee (except that as to reconsigned shipments the freight or expense bill shall not show the name of the original consignor); the date of shipment; the points of origin and destination (except that as to reconsigned shipments the freight or expense bill shall not show the original shipping point unless the final consignee pays transportation charges from such original shipping point); the number of packages, description of the articles, and weight, volume or measurement of the property transported (if the lawfully applicable rates or charges are published to apply per unit of weight, volume or measurement); the exact rate or rates assessed; the total charges to be collected including a statement of the nature and amount of any charges for special service and the points at which such special service was rendered; the route of movement indicating each carrier participating in the transportation service, and the transfer point or points through which the shipment moved; and a record of this information shall be kept by the preservation of a copy of such freight or expense bill.

(Secs. 12, 20, 24 Stat. 383, as amended, 386, as amended, 49 Stat. 546, as amended, 563, as amended; 49 U.S.C. 12, 20, 304, 319, 320)

§ 1051.5 Expense bills for transportation of chartered parties.

(a) *Form and issuance of bill.* Every common carrier of passengers by motor vehicle shall, when collecting charges for transportation of any chartered party in interstate or foreign commerce, issue an expense bill and cause to be shown on the face thereof the following:

(1) Serial number, which shall consist of one of a series of consecutive numbers assigned in advance and imprinted on the form of expense bill.

(2) Name of carrier.

(3) Name of person paying the charges together with name of the organization, if any, for which transportation is performed.

(4) Date or dates upon which transportation is performed.

(5) Origin, destination and general routing of trip.

(6) Number of vehicles used, and identification and seating capacity of each.

(7) Number of persons transported.

(8) Mileage upon which charges are based, including any deadhead mileage, which shall be separately stated.

(9) Applicable rates per mile, hour, day, or other unit.

(10) Charges for transportation.

(11) Itemized charges for special services, if any, performed by the carrier.

(12) Itemized charges for other expenses, such as toll charges, parking fees, layover time, etc.

(13) Total charges assessed and collected.

(b) *Records to be retained.* A record shall be kept by the carrier of all expense bills by retaining for the period prescribed in the regulations governing the destruction of records, Part 1226 of this title, a copy of each such bill which is issued, and if any form of numbered expense bill is spoiled, voided, or unused for any reason a copy thereof, or a written record of its disposition, shall be retained for a like period.

(c) *Definitions.* As used in this section: (1) The term "chartered party" shall mean a group of persons who, pursuant to a common purpose and under a single contract, and at a fixed charge for the vehicle, have acquired the exclusive use of a passenger-carrying motor vehicle to travel together as a group; and (2) the term "common carrier of passengers by motor vehicle" shall include both those specifically authorized to perform charter operations and those authorized to transport chartered parties under section 208(c) of the Interstate Commerce Act (49 U.S.C. 308(c)) as an incident to the right to transport passengers over a regular route or routes.

(Secs. 204, 216, 220, 49 Stat. 546, 558, 563, as amended; 49 U.S.C. 304, 316, 320)

PART 1052—HANDLING OF C.O.D. SHIPMENTS

Sec.
1052.1 Applicability.
1052.2 Tariff requirements.
1052.3 Remittance.
1052.4 Records.

AUTHORITY: The provisions of this Part 1052 issued under 49 Stat. 546, as amended, 554, as amended, 557, as amended, 558, as amended, 563, as amended; 49 U.S.C. 304, 311, 315, 316, 319, 320.

§ 1052.1 Applicability.

The rules and regulations in this part apply to the transportation by motor vehicle of c.o.d. shipments by all common carriers of property subject to Part II of the Interstate Commerce Act, except such transportation which is auxiliary to or supplemental of transportation by railroad and performed on railroad bills of lading, and except such transportation which is performed for freight forwarders and on freight forwarder bills of lading.

§ 1052.2 Tariff requirements.

No common carrier of property subject to the provisions of Part II of the Interstate Commerce Act, except as otherwise provided in § 1052.1, shall render any c.o.d. service unless such carrier has published, posted and filed tariffs which contain the rates, charges and rules governing such service, which rules shall conform to the regulations in this part.

§ 1052.3 Remittance.

Every common carrier of property subject to Part II of the Interstate Commerce Act, except as otherwise provided in § 1052.1, shall remit each c.o.d. collection directly to the consignor or other person designated by the consignor as payee promptly and within ten (10) days after delivery of the c.o.d. shipment to the consignee. If the c.o.d. shipment moved in interline service, the delivering carrier shall, at the time of remittance of the c.o.d. collection to the consignor or payee, notify the originating carrier of such remittance.

§ 1052.4 Records.

Every common carrier of property subject to the provisions of Part II of the Interstate Commerce Act, except as otherwise provided in § 1052.1, handling c.o.d. shipments as a delivering carrier shall maintain a record of all c.o.d. shipments received for delivery in such manner and form as will plainly and readily show the following information with respect to each shipment: (a) Number and date of freight bill; (b) name and address of shipper or other person designated as payee; (c) name and address of consignee; (d) date shipment delivered; (e) amount of c.o.d.; (f) date collected by delivering carrier; (g) date remitted to payee; and (h) check number or other identification of remittance to payee.

PART 1053—CONTRACTS FOR TRANSPORTATION OF PROPERTY

Sec.
1053.1 Filing of contracts for transportation of property.
1053.2 Contracts or agreements to be in writing.
1053.3 Contract carriers of bullion, etc., relieved of requirements.
1053.6 True copies to be filed with schedules.

AUTHORITY: The provisions of this Part 1053 issued under 49 Stat. 546, as amended, 563, as amended; 49 U.S.C. 304, 320.

§ 1053.1 Filing of contracts for transportation of property.

All contract carriers of property by motor vehicle, as defined in section 203 (a) (15) of Part II of the Interstate Commerce Act, shall on or before July 15, 1937, file with the Commission at its office in Washington, D.C., a true copy of each and every contract for transportation of property existing and in force on said date, and within 20 days after the date any subsequent contract for transportation of property is entered into a true copy thereof, all of which shall contain the charges of such contract carriers for the transportation of property in interstate or foreign commerce, and any rule, regulation, or practice affecting such charges and the value of the services thereunder.

§ 1053.2 Contracts or agreements to be in writing.

No contract carrier by motor vehicle, as defined in section 203(a)(15) of the said act, shall transport property for hire in interstate or foreign commerce except under special and individual contracts or agreements which shall be in writing, shall provide for transportation for a particular shipper or shippers, shall be bilateral and impose specific obligations upon both carrier and shipper or shippers, shall cover a series of shipments during a stated period of time in contrast to contracts of carriage governing individual shipments, and copies of which contracts or agreements shall be preserved by the carriers parties thereto so long as such contracts or agreements are in force and for at least one year thereafter.

§ 1053.3 Contract carriers of bullion, etc., relieved of requirements.

Contract carriers of bullion, currency, jewels, and other precious and other very valuable articles are relieved of the requirements of executing and preserving contracts, and of filing true copies thereof, in the form and manner prescribed in §§ 1053.1 and 1053.2.

§ 1053.6 True copies to be filed with schedules.

On and after February 1, 1945, all contract carriers of property by motor vehicle, as defined in section 203 (a) (15) of the Interstate Commerce Act, except those exempted by § 1053.3 of this part from the provisions of § 1053.1, at the time of filing with this Commission schedules, as required by section 218 (a) of the Interstate Commerce Act, containing their minimum rates and charges for services not previously described in and provided for by their schedules on file with this Commission shall, except as otherwise authorized by the Commission in a special case for good cause shown, at the same time file with the Commission true copies of the actual contracts or proposed contracts between such carriers and shippers covering such services.

PART 1054—SPECIAL OR CHARTERED PARTIES BY COMMON CARRIERS

Sec.
1054.1 Applicability of this part.
1054.2 Definitions.
1054.3 Origin territory.
1054.4 Destination territory.
1054.5 General provisions.
1054.6 Limitations of service.

AUTHORITY: The provisions of this Part 1054 issued under 49 Stat. 546, as amended, 552, as amended; 49 U.S.C. 304, 308.

§ 1054.1 Applicability of this part.

(a) The regulations in this part shall apply to all common carriers of passengers authorized by section 208(c) of the Interstate Commerce Act, to transport special or chartered parties as an incident to the right to engage in the transportation of passengers by motor vehicle in interstate or foreign commerce over a regular route or routes and between fixed termini, whether such regular-route operation is authorized by a certificate of public convenience and necessity issued by the Commission, under the first proviso of section 206(a) or under section 207(a) of the Interstate Commerce Act.

(b) The regulations in this part shall not be applicable to common carriers of passengers authorized by a certificate of public convenience and necessity to perform special or charter operations or both, within a specified territory or from, to, or between specific points under the provisions of the first proviso of section 206(a) of the act, or under the proviso of section 207(a) thereof, which specific operations shall be limited strictly to the authority described in the certificate of each carrier so engaged.

§ 1054.2 Definitions.

(a) The term "special or chartered party," as used in the regulations in this part, means a group of persons who, pursuant to a common purpose and under a single contract, and at a fixed charge for the vehicle in accordance with the carrier's tariff, lawfully on file with the Commission, have acquired the exclusive use of a passenger-carrying motor vehicle to travel together as a group to a specified destination or for a particular itinerary, either agreed upon in advance or modified by the chartered group after having left the place of origin.

(b) The term "regular route or routes," as used in the regulations in this part, means the specific highway or highways over which a motor common carrier of passengers is authorized to operate between fixed termini.

§ 1054.3 Origin territory.

Any common carrier of passengers by motor vehicle subject to the regulations in this part may transport special or chartered parties (a) which originate at any point or points on the regular route or routes, or at any off-route point or points, authorized to be served by such carrier, or (b) which originate at any point or points within the territory served by its regular route or routes.

§ 1054.4 Destination territory.

Common carriers of passengers by motor vehicle subject to the regulations in this part may transport special or chartered parties in interstate or foreign commerce to any place or point in the United States. Special or chartered parties may not be transported from the destination territory described in this rule to the origin territory described in § 1054.3 except on return movement of the same special or charter party as provided therein.

§ 1054.5 General provisions.

Every common carrier of passengers by motor vehicle, subject to these regulations, shall be governed by the following general provisions:

(a) *Deadhead mileage.* Carriers shall publish in tariffs, lawfully on file with this Commission, reasonable rates or charges applicable in connection with the transportation of special or chartered parties within the meaning of section 208(c) for deadhead mileage which shall be the mileage, over the shortest practical highway route, traversed by the bus without passengers from the nearest point at which equipment is held out to be available to the place where the chartered party originates, and from the place of discharge of such party to (i) the nearest point where equipment is held out to be available, or (ii) the equipment-availability point nearest the origin point of the chartered party: *Provided, however,* That in no case shall the total charges, including all deadhead mileage charges, for the one-way transportation of chartered parties from any origin point to any destination point exceed the total charges, including all deadhead mileage charges, applicable for the round-trip transportation of like chartered parties over the same route from the same origin point to the same destination point and return to such origin point. Such tariffs shall name the points at which the carrier holds out to have equipment available for special or chartered party service, and no equipment shall be held out as available at any point not an authorized-on-route or off-route point. The tariffs also shall clearly specify the movements, if any, governed by (i) above, and, separately, those, if any, governed by (ii).

(b) Special or chartered parties may be transported on an all-expense basis, provided that the tariffs of carriers offering such service, lawfully on file with the Commission, publish transportation rates or charges separately from the charges for meals, hotel accommodations, or other incidental expenses.

(c) Common carriers of passengers subject to the rules in this part shall comply with section 215 of the act and the rules and regulations thereunder governing the filing and approval of surety bonds and policies of insurance (Part 1043 of this chapter), and shall designate and file with the board of each State in which they transport special or chartered parties and with the Commission, the name and address of a person upon whom notices, orders, and process may be served as provided in section 221 (a) and (c) of the act.

§ 1054.6 Limitations of service.

(a) No common carrier of passengers by motor vehicle subject to the rules in this part shall transport special or chartered parties, as defined in this part, between the same points or over the same route so frequently as to constitute a regular scheduled or non-scheduled service.

(b) No common carrier of passengers by motor vehicle subject to the rules in this part shall transport passengers to whom individual tickets have been sold or with whom separate and individual transportation arrangements have been made (1) from or to any point or points except those upon its regular route or routes or authorized to be served as off-route points, or (2) over any route or routes other than those so authorized to be served by such carrier. The transportation of any passengers under any such arrangements by any such carrier to or from any point or points not on the regular route or routes of such carrier or to or from any point not authorized to be served as an off-route point, or over any route or routes other than those authorized to be served by such carrier, except as a member of a special or chartered party as herein defined, is not authorized and is hereby forbidden. The provisions of this paragraph shall not be construed as restricting in any way special or charter operations referred to in § 1054.1 (b).

(c) No common carrier of passengers by motor vehicle subject to the rules in this part authorized to perform seasonal operations over regular routes may transport special or chartered parties except during the period in which

such regular-route operations may be performed.

PART 1055—DISCRIMINATION IN OPERATIONS OF INTERSTATE MOTOR COMMON CARRIERS OF PASSENGERS

Sec.
1055.1 Discrimination prohibited.
1055.2 Sign to be posted in vehicles.
1055.3 Notice to be printed on tickets.
1055.4 Discrimination in terminal facilities.
1055.5 Notice to be posted at terminal facilities.
1055.6 Carriers not relieved of existing obligations.
1055.7 Reports of interference with regulations.
1055.10 Definitions.

AUTHORITY: The provisions of this Part 1055 issued under 52 Stat 1237; 49 U.S.C. 304.

§ 1055.1 Discrimination prohibited.

No motor common carrier of passengers subject to section 216 of the Interstate Commerce Act shall operate a motor vehicle in interstate or foreign commerce on which the seating of passengers is based upon race, color, creed, or national origin.

§ 1055.2 Sign to be posted in vehicles.

Every motor common carrier of passengers subject to section 216 of the Interstate Commerce Act shall conspicuously display and maintain, in all vehicles operated by it in interstate or foreign commerce, a plainly legible sign or placard containing the statement: "Seating aboard this vehicle is without regard to race, color, creed, or national origin, by order of the Interstate Commerce Commission." This § 1055.2 shall cease to be effective on January 1, 1963, unless such time be further extended by the Interstate Commerce Commission.

§ 1055.3 Notice to be printed on tickets.

Every motor common carrier of passengers subject to section 216 of the Interstate Commerce Act shall cause to be printed on every ticket sold by it for transportation on any vehicle operated in interstate or foreign commerce a plainly legible notice as follows: "Seating aboard vehicles operated in interstate or foreign commerce is without regard to race, color, creed, or national origin." This § 1055.3 shall be applicable to all tickets sold on or after January 1, 1963.

NOTE: The following interpretation of the provisions of § 1055.3 appears at 27 F.R. 230, Jan. 9, 1962:

The words, "Seating aboard vehicles operated in interstate or foreign commerce is without regard to race, color, creed, or national origin", should appear on the face of every ticket coming within the purview of the section. If the ticket is in parts or consists of additional elements, such as coupons, identification stubs, or checks, it shall be sufficient for the purposes of section 1055.3 that the notice appear only once on the ticket and be placed on the face of that portion of the ticket which is held by the passenger.

§ 1055.4 Discrimination in terminal facilities.

No motor common carrier of passengers subject to section 216 of the Interstate Commerce Act shall in the operation of vehicles in interstate or foreign commerce provide, maintain arrangements for, utilize, make available, adhere to any understanding for the availability of, or follow any practice which includes the availability of, any terminal facilities which are so operated, arranged, or maintained as to involve any separation of any portion thereof, or in the use thereof on the basis of race, color, creed, or national origin.

§ 1055.5 Notice to be posted at terminal facilities.

No motor common carrier of passengers subject to section 216 of the Interstate Commerce Act shall in the operation of vehicles in interstate or foreign commerce utilize any terminal facility in which there is not conspicuously displayed and maintained so as to be readily visible to the public a plainly legible sign or placard containing the full text of the regulations in this part. Such sign or placard shall be captioned: "Public Notice: Regulations Applicable to Vehicles and Terminal Facilities of Inter-State Motor Common Carriers of Passengers, by order of the Interstate Commerce Commission."

§ 1055.6 Carriers not relieved of existing obligations.

Nothing in this part shall be construed to relieve any interstate motor common carrier of passengers subject to section 216 of the Interstate Commerce Act of any of its obligations under the Interstate Commerce Act or its certificate(s) of public convenience and necessity.

§ 1055.7 Reports of interference with regulations.

Every motor common carrier of passengers subject to section 216 of the Interstate Commerce Act operating vehicles in interstate or foreign commerce shall report to the Secretary of the Interstate Commerce Commission, within fifteen (15) days of its occurrence, any interference by any person, municipality, county, parish, State, or body politic with its observance of the requirements of the regulations in this part. Such report shall include a statement of the action that such carrier may have taken to eliminate any such interference.

§ 1055.10 Definitions.

For the purpose of the regulations in this part the following terms and phrases are defined:

(a) *Terminal facilities.* As used in the regulations in this part the term "terminal facilities" means all facilities, including waiting room, rest room, eating, drinking, and ticket sales facilities which a motor common carrier makes available to passengers of a motor vehicle operated in interstate or foreign commerce as a regular part of their transportation.

(b) *Separation.* As used in § 1055.4 the term "separation" includes, among other things, the display of any sign indicating that any portion of the terminal facilities are separated, allocated, restricted, provided, available, used, or otherwise distinguished on the basis of race, color, creed, or national origin.

PART 1056—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE OR FOREIGN COMMERCE

Sec.
1056.1 Definitions.
1056.2 Establishment of rates stated in amounts per hundred pounds and not upon any other basis; cancellation of rates otherwise established.
1056.3 Determination of weights.
1056.4 Accessorial or terminal services; tariffs providing therefor; packaging and uncrating charges.
1056.5 Discounts prohibited; rates based on prepayment charges prohibited.
1056.6 Prohibition against carrier action as agent for another carrier.
1056.7 Selling of insurance to shippers prohibited.
1056.8 Receipt or bill of lading; information thereon.
1056.9 Liability of carriers.
1056.10 Estimates of charges.
1056.11 Absorption of advancement of dock charges.
1056.12 Information for prospective shippers.
1056.13 Minimum weight shipments.
1056.14 Claims for loss or damage.

AUTHORITY: The provisions of this Part 1056 issued under 49 Stat. 546, as amended, 558, as amended, 560, as amended; 49 U.S.C. 304, 316, 317, unless otherwise noted.

§ 1056.1 Definitions.

As used in this part:

(a) *Household goods.* The term "household goods" means (1) personal effects and property used or to be used in a dwelling when a part of the equipment or supply of such dwelling; (2) furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals, or other establishments, when a part of the stock, equipment, or supply of such stores, offices, museums, institutions, hospitals, or other establishments; and (3) articles, including objects of art, displays, and exhibits, which because of their unusual nature or value require the specialized handling and equipment usually employed in moving household goods.

(b) *Interpretation of the definition in paragraph (a) of this section.* Paragraph (a) (1) of this section shall not be construed to include property moving from a factory or store, except such property as the householder has purchased with intent to use in his dwelling and which is transported at the request of, and the transportation charges paid to the carrier by, the householder. Paragraph (a) (2) of this section shall not be construed to include the stock-in-trade of any establishment, whether consignor or consignee, other than used furniture and used fixtures, except when transported as an incident to the removal of the establishment, or a portion thereof, from one location to another. Paragraph (a) (3) of this section shall not be construed to include any article, whether crated or uncrated, which does not, because of its unusual nature or value, require the specialized handling and equipment usually employed in moving household goods.

(c) *Other terms.* Where any other terms used in the regulations in this part are defined in section 203(a) of Part II of the Interstate Commerce Act, such definition shall be controlling. Where terms are use in the regulations in this part which are neither defined herein nor in said section 203(a), they shall have the ordinary, practical meaning of such terms.

§ 1056.2 Establishment of rates stated in amounts per hundred pounds and not upon any other basis; cancellation of rates otherwise established.

All common carriers by motor vehicle engaged in the transportation of household goods in interstate or foreign commerce shall establish, in the manner and form required by section 217 of the Interstate Commerce Act, and by the regulations of the Commission issued pursuant thereto, rates for the transportation of household goods in interstate or foreign commerce stated in amounts per hundred pounds, and shall not establish rates upon any other basis. All rates applicable to the transportation of household goods established upon any other basis than in amounts per hundred pounds shall be cancelled and superseded by rates published in accordance with this section.

§ 1056.3 Determination of weights.

(a) *Loaded weight, tare weight, and constructive weight.* (1) Each common carrier by motor vehicle shall determine the tare weight of each vehicle used in the transportation of household goods by having it weighed prior to the transportation of each shipment, without the crew thereon, by a certified weighmaster or on a certified scale, and when so weighed the gasoline tank on such vehicle shall be full and the vehicle shall contain all pads, chains, dollies, hand trucks, and other equipment needed in the transportation of such shipment. After the vehicle has been loaded, it shall be weighed, without the crew thereon, at point of origin of the shipment, and the net weight of the shipment shall be obtained by deducting the tare weight from the loaded weight. Where no adequate scale is available at point of origin, the loaded weight shall be obtained at the nearest certified scale either in the direction of the movement of the shipment, or in the direction of the next pickup or delivery in the case of part loads.

(2) If no adequate scale is available at origin, at any point en route, or at destination, a constructive weight, based upon 7 pounds per cubic foot of properly loaded van space, may be used. Such a constructive weight also may be used for a part load where the circumstances are such that its scale weight could not be obtained at origin, en route, or a destination without first unloading it or other part loads being carried in the same vehicle.

(b) *Part loads.* In the transportation of part loads, this section shall apply in all respects, except that the gross weight of a vehicle containing one or more part loads may be used as the tare weight of such vehicle as to part loads subsequently loaded thereon. A part load for any one shipper not exceeding 1,000 pounds may be weighed on a certified scale prior to being loaded on the vehicle.

(c) *Driver's weight certificate.* Whenever weights are required to be obtained pursuant to these rules, the carrier shall cause to be executed a weight certificate for each shipment, in the form specified below, at the time the last necessary weight is obtained, and the original or a copy of such certificate shall be carried in the vehicle transporting the shipment and shall be displayed upon request of the party paying the carrier's charges. The original or a true copy of such certificate shall be maintained by the carrier as part of its record of shipment.

DRIVER'S WEIGHT CERTIFICATE

Date_____

Name of carrier_____
Vehicle identification_____
Name of shipper_____
Origin of shipment_____
Destination of shipment_____
Gross weight of loaded vehicle without the crew thereon _____ pounds.
Tare weight of vehicle without the crew thereon, including full fuel tank and all necessary pads, chains, dollies, hand trucks, and other equipment _____ pounds.
Net weight of the shipment _____ pounds.
The above gross and tare weights were obtained at scales—

Gross:
_____
(Name of scale owner)
_____
(Location)

Tare:
_____
(Name of scale owner)
_____
(Location)

as shown by attached weight ticket(s) prepared by the weighmaster.

(Attach only gross weight ticket if tare weight is obtained from a weight ticket on shipments listed below.)

List of shipments, if any, on vehicle at time above weights were obtained:

Shipper	*Net weight*
_____	_____
_____	_____
_____	_____

I certify the above entries are true and correct.

_____
(Driver's signature)

(Secs. 219, 220, 223, 49 Stat. 563, as amended, 565, as amended; 49 U.S.C. 319, 320, 323)

§ 1056.4 Accessorial or terminal services; tariffs providing therefor; packaging and uncrating charges.

Such common carriers shall establish in the manner prescribed in section 217 of Part II of the Interstate Commerce Act, and the rules and regulations issued pursuant thereto, the charges to be made for each accessorial or terminal service rendered in connection with the transportation of household goods by motor vehicle. The tariffs establishing such charges shall separately state each service to be rendered and the charge therefor, provided that such tariffs may state an hourly labor charge applicable to miscellaneous labor service performed at the request of a shipper in connection with the transportation, when a rate is not separately stated in the tariff for the service so requested. The charges so established for packing and unpacking shall be in amounts per container and those for other services shall be separately stated on a unit or hourly basis, whichever is appropriate. No charge so established shall be lower than the cost of performing the service. This section shall apply only where the line-haul transportation is performed by a motor carrier. The rate for transportation of such goods shall not include the charge for any accessorial service and no such services other than those for which separate charges have been so established shall be rendered by any such carrier.

§ 1056.5 Discounts prohibited; rates based on prepayment charges prohibited.

No discounts of any character whatsoever shall be authorized by tariff provisions or otherwise allowed by any such common carrier, and no rates or charges shall be established based upon prepayment of charges.

§ 1056.6 Prohibition against carrier action as agent for another carrier.

No such common carrier shall act as agent for any other such common carrier in the solicitation of shipments of household goods, in interstate or foreign commerce, between points which such agent is authorized to serve and for which it shall have established different rates than those of its principal.

§ 1056.7 Selling of insurance to shippers prohibited.

No such common carrier or any employee, agent, or representative thereof, shall sell, or offer to sell, or procure for any shipper, any kind of insurance, under any type of policy, covering loss or damage to a shipment or shipments of household goods to be transported in interstate or foreign commerce by such carrier, but this section shall not preclude such a carrier from procuring in its own name insurance covering its liability for such loss or damage.

(Secs. 219, 220, 223, 49 Stat. 563, as amended, 565, as amended; 49 U.S.C. 319, 320, 323)

§ 1056.8 Receipt or bill of lading; information thereon.

(a) *Issuance of a receipt or bill of lading.* No such common carrier shall issue a receipt or bill of lading for household goods to be transported in interstate or foreign commerce prior to receiving such household goods for such transportation; but common carriers must issue such receipt or bill of lading when such household goods are received.

(b) *Information required on receipt or bill of lading.* Whenever a receipt or bill of lading is issued in compliance with paragraph (a) of this section, the carrier shall cause to be included therein the following information:

(1) The name of the motor carrier (not the agent's name) which will transport the shipment; if shipment is to be interlined, the names of the connecting carriers provided they are known when the shipment is received.

(2) The name, address, and telephone number of the office of the carrier that should be contacted in relation to the shipment, should there be a need for such contact.

(3) The name, address, and telephone number of a person to whom notification provided for in paragraph (c) of this section shall be given, except when this cannot be obtained from the shipper.

(4) The preferred delivery date or the period of time within which delivery of the shipment may be expected to be made at destination.

(c) *Notification of delay in delivery.* Whenever a carrier is unable to make delivery of a shipment of household goods on the date or during the period specified in the receipt or bill of lading, the carrier shall notify the shipper, or person designated by the shipper, by telegram or telephone, at the carrier's expense, of the date on which delivery of the shipment will be made; such notification to be given not less than 24 hours prior to the date or during the period shown on the receipt or bill of lading except when the circumstances causing the delay occur at a later time, in which case the notice shall be given as soon as possible but in no event more than 24 hours after the occurrence: *Provided*, That the requirement of this paragraph shall not apply where the carrier is unable to obtain from the shipper an address or telephone number for such notification.

(Secs. 219, 220, 223, 49 Stat. 563, as amended, 565, as amended; 49 U.S.C. 319, 320, 323)

§ 1056.9 Liability of carriers.

(a) *Liability restricted.* Common carriers by motor vehicle of household goods shall not assume any liability in excess of that for which they are legally liable under their lawful bills of lading and published tariffs.

(b) *Filing tariffs and evidence of insurance prerequisite to advertising that "all loads are insured".* Such carriers or any employee, agent, or representative thereof, shall not advertise or represent to the public that "all loads are insured" or other similar wording, unless such carrier has filed tariffs with this Commission assuming complete liability, and has filed evidence of insurance with this Commission providing protection covering all shipments to their full value without limitation and insuring against every peril to which any shipment may be exposed.

(Secs. 219, 220, 223, 49 Stat. 563, as amended, 565, as amended; 49 U.S.C. 319, 320, 323)

§ 1056.10 Estimates of charges.

(a) *Estimates by the carrier.* Whenever an estimate of the charges for a proposed service shall be given by a carrier to a prospective shipper of household goods, the estimate shall be made only after a visual inspection of the goods by the estimator. Such estimate shall be in the form as prescribed, and across the top of each form there shall be imprinted, in red letters not less than one-half inch high, the words "Estimated Cost of Services." The form shall be fully executed as appropriate in each case in accordance with the instructions therein. The original or a true legible copy of each estimate form prepared in accordance with this paragraph shall be delivered to the shipper; and a copy thereof shall be maintained by the carrier as part of its record of shipment. The shipper shall not be permitted or required to sign the "Estimated Cost of Services" form.

(b) *Estimate form for shipper's use.* Carriers may furnish to shippers or prospective shippers an estimate form which may contain statements of the weights of average pieces of furniture and other household articles of various types, for use by the shipper in making his own estimate of the total weight of his goods. Any instructions necessary to enable the shipper to use the estimate form shall be printed in the form. If cubic-foot measurements are used in arriving at the weight, the form shall state that a weight factor of 7 pounds per cubic foot shall be used.

(c) *Specific request of shipper for notification.* Whenever the shipper specifically requests notification of the actual weight and charges on a shipment, the carrier shall comply with such request immediately upon determining the actual weight and charges, by telephone or telegraph if so requested. Such notification shall be at the carrier's expense in instances in which notification would be required under paragraph (d) of this section and in all other instances unless the carrier provides in its tariff that the actual cost of such notification shall be collected from the shipper. Such notification shall be made no later than 24 hours prior to the time the shipment is offered for delivery except where the shipment is in transit less than 24 hours.

(d) *Notification to shipper where charges exceed estimate.* Whenever actual charges on any shipment exceed by more than 10 percent or $25, whichever is greater, any estimate of charges given by the carrier to the shipper, immediately upon determining the actual charges, the carrier shall notify the shipper of the amount thereof by telegram or telephone at the carrier's expense. Such notice shall be made no later than 24 hours prior to the time the shipment is offered for delivery, except where the shipment is in transit less than 24 hours: *Provided*, That this paragraph shall not apply (1) where credit is to be extended by the carrier, and (2) where the shipper has not supplied, upon request by the carrier, an address or telephone number at which the communication would be received.

(e) *Report of underestimates.* Every motor common carrier of household goods shall file each month with the Interstate Commerce Commission, Washington, D.C. 20423, a report of all instances during the preceding month where the actual charges for services rendered exceeded the estimates of such charges by 10 percent or more, with an explanation of reasons for the variances.

(f) *Reweighing.* The carrier, upon request of shipper, owner, or consignee, made prior to delivery of a shipment, and when practicable to do so will reweigh the shipment. The lower of the two net scale weights shall be used for determining the applicable charges. If the reweigh develops a net scale weight in excess of the initial net scale weight or if the difference between the initial net scale weight and the reweigh net scale weight is less than 100 pounds on a shipment weighing 5,000 pounds or less or 2 percent or less of the lower net scale weight on shipments in excess of 5,000 pounds, a reasonable reweigh charge may be established.

(g) *Order for services shall not show charges or estimates.* There shall not be shown on any form in the nature of a "Moving Order" or "Order for Service" which may be used by carriers of household goods any charges or estimates of charges nor any reference to any estimate of charges given to the shipper.

(Secs. 219, 220, 223, 49 Stat. 563, as amended, 565, as amended; 49 U.S.C. 319, 320, 323)

§ 1056.11 Absorption or advancement of dock charges.

Motor common carriers of household goods shall not absorb any dock or other charge made by any warehouseman, nor shall any such carrier advance any such charge for the account of any shipper, owner, or other person, except upon the authorization of such person. Whenever such charges are advanced on behalf of the shipper, the carrier shall obtain a receipt therefor from the warehouseman and deliver it to the shipper or the person designated by the shipper at the time the advanced charges are paid.

§ 1056.12 Information for prospective shippers.

(a) *Summary of information.* During the course of the first interview with every prospective shipper, every carrier of household goods shall cause to be given to the prospective shipper a summary of information in the form specified below. Such summary shall be printed on one sheet in not less than eight-point bold or full-faced type, and shall contain only the heading "Important notice to shippers of household goods" and the information shown below under that heading. The carrier's name, address, and telephone number may be shown on the sheet if that is desired. If no personal interview is had with a shipper, the carrier shall cause such summary to be mailed to the shipper on or prior to the day on which the order for service is placed. The carrier shall make an appropriate notation on the receipt or bill of lading that such summary has been furnished.

IMPORTANT NOTICE TO SHIPPERS OF HOUSEHOLD GOODS

The Interstate Commerce Commission requires that this notice and accompanying general information be furnished to all prospective shippers of household goods in interstate or foreign commerce.

Estimates. Carriers cannot determine exactly what your move will cost you until all packing has been completed and the goods are loaded on a vehicle and weighed. They make estimates to try to approximate the cost for you. To get a reasonably accurate estimate you must show the estimator everything you intend to ship. An estimate is not a bid nor a contract, and choosing the carrier submitting the lowest estimate will not assure you the lowest cost move. Regardless of any estimate, the actual weight of your goods and the actual amount of packing and other services performed by the carrier will determine the final amount you must pay for your moving. All estimates are now required to be in writing. Do not accept any verbal approximation of the charges.

Carrier responsibility for loss and damage. At its lowest rates, the carrier's responsibility for loss or damage caused by it is limited to 60 cents per pound per article for the actual weight of each lost or damaged article. Many articles are worth more than this, and some are worth a great deal more. If you wish to be paid full value for lost or damaged items, you must declare a lump sum value and pay an extra charge depending upon the value you declare. The charge is 50 cents for each $100 of value declared. The carrier will then be fully liable up to the amount you declare, for loss or damage to any articles unless due to an excepted cause as provided in its tariff.

If you declare a lump sum value but your declaration is for a total value less than $1.25 for each pound of weight in the shipment, your declaration will be automatically increased to the latter amount in order to protect both you and the carrier from an excessive underestimate.

Notification of changes and delay. The carrier is required to notify you by telegram or telephone of any delays in delivery. Also of the amount of the charges if you request it or if they exceed the estimate by more than 10 percent or $25 whichever is greater. Be sure to give the carrier an address or telephone number where such messages can be sent.

Packing. Many articles must be packed in barrels, cartons, or crates so that they can be handled safely. Wardrobes are usually supplied for garments. There is a charge per container for these services. You may do your own packing. However, the carrier is not responsible for damage resulting from faulty packing you perform. The carrier will unpack containers it has packed, if you wish, but not those you have packed. Be sure mechanisms of refrigerators, washers, etc., are serviced to prevent damage during movement.

Payment and delivery. The carrier will require payment in cash, money order, or certified check before unloading your goods unless credit arrangements were made beforehand. Be prepared in case the actual charges demanded at this time are greater than what was estimated.

Lost or damage articles. Be sure to check your goods as they are delivered. Note any lost articles or damage on the receipt which you will sign upon completion of the delivery. If other loss or damage is discovered later, notify the carrier immediately. A claim can be filed later.

Additional information. More detailed information is provided in a general information statement which the carrier must provide when you place an order for service.

(b) *Statement of general information.* Whenever the carrier receives an order for service, written or orally, it shall furnish the shipper immediately a printed statement, in not less than eight-point type, containing the information set forth below. Such statement in every instance shall be placed in the hands of the shipper prior to the time the goods are loaded. The carrier shall make an appropriate notation on the receipt or bill of lading that such statement has been furnished.

GENERAL INFORMATION FOR SHIPPERS OF HOUSEHOLD GOODS

This statement is of importance to you as a shipper of household goods and is being furnished by the carrier pursuant to a requirement of the Interstate Commerce Commission. It relates to the transportation of household goods, in interstate or foreign commerce by motor carriers frequently called "Movers" but here called carriers. Some carriers perform the transportation themselves. Others act as agents for the carriers which do the actual hauling. In some instances, the transportation is arranged by brokers. You should be sure to obtain the complete and correct name, home address, and telephone number of the carrier which is to transport your shipment, and keep that carrier informed as to how and where you may be reached at all times until the shipment is delivered. Before completing arrangements for the shipment of your household goods, all of the information herein should be considered carefully by you.

Estimates. Regardless of any prior estimate received, for the carriage of your shipment, you will be obligated to pay transportation charges and other charges computed in accordance with tariffs filed by the carrier with the Interstate Commerce Commission. The total charges which you must pay may be more, or less, than the estimate received from the carrier, and as explained under "Payment of charges—freight bill," the charges generally must be in cash or by money order or certified check at the time of delivery. Having additional funds on hand when the van arrives at destination can spare you considerable difficulty.

Tariffs. These are publications, in book form, containing the rates, charges, and rules of the carriers. The tariffs of all carriers are not the same, but all of them are open to public inspection and may be examined at the carrier's office. All tariffs contain rules and regulations, and those in the tariff of the carrier serving you must be applied in determining the charges on your shipment. Among the rules and regulations normally appearing in published tariffs will be found special provisions applicable to "Shipments picked up or delivered at more than one place"; "Packing and marking"; "Diversion of shipments en route"; and "Additional services", the charges for which are called accessorial charges, and which include services such as packing, unpacking, the furnishing of boxes or other containers, and carrying pianos up or down steps. The tariff of the carrier serving you will also probably have rules relating to the subjects which follow.

Preparing articles for shipment. Some articles such as stoves, refrigerators, and washing machines may require disconnection and usually require special servicing to protect their mechanisms during movement. It is your responsibility to have this done. Some carriers upon your request will arrange to have this servicing done at your expense. You should arrange to take down all blinds, draperies, window cornices, mirrors, and other items attached to the walls, and to take up carpets which are tacked down. The charge for such service is not included in the transportation charge and will be performed by the carrier only at an extra per-hour charge. Under no circumstances should you pack jewelry, money, or valuable papers with your other belongings, or pack any matches, inflammables, or other dangerous articles.

Transportation rates and released values. Rates are stated in amounts per hundred pounds, depending upon the distance involved. The carrier's charges also vary according to the released or declared value of the shipment. The carrier's tariff provides that as its lowest rates the carrier's responsibility for loss or damage caused by it is limited to 60 cents per pound per article for the actual weight of each lost or damaged article. Many articles are worth more than this, and some are worth a great deal more. If you wish to be paid full value for lost or damaged items, you must declare a lump sum value and pay an extra charge depending upon the value you declare. The charge is 50 cents for each $100 of value declared. The carrier will then be fully liable up to the amount you declare, for loss or damage to any articles unless due to an excepted cause as provided in its tariff.

If you declare a lump sum value but your declaration is for a total value less than $1.25 for each pound of weight in the shipment, your declaration will be automatically increased to the latter amount in order to protect both you and the carrier from an excessive underestimate.

Weights. The transportation charges will be determined on the basis of the weight of your shipment. Ordinarily, the carrier will weigh its empty or partially loaded vehicle prior to the loading of your goods. After loading, it will again weigh the vehicle and determine the weight of your shipment. If your shipment weighs less than 1,000 pounds, the carrier may weigh it prior to loading.

If you so request, the carrier will notify you by telegraph or telephone of the weight of your shipment and the charges as soon as the weight has been determined. This may or may not be at your expense. However, where it develops that the actual charges exceed by more than 10 percent or $25, whichever is greater, an estimate of charges given to you by the carrier, the carrier is required to notify you immediately of the amount of the actual charges, by telegraph or telephone at the carrier's expense.

If you question the weight reported by the carrier, you may request that the shipment be reweighed prior to delivery. Reweighing will be accompanied only where it is practicable to do so. An extra charge may be made for reweighing, but only if the difference between the two net weights obtained does not exceed 100 pounds (if your shipment weighs 5,000 pounds or less) or does not exceed 2 percent of the lower net weight (if your shipment weighs more than 5,000 pounds). The lower of the two net weights must be used in determining the charges.

Exclusive use of the vehicle. If you do not desire to have the goods belonging to someone else transported with your shipment, you may direct the carrier to grant you the exclusive use of the vehicle. In such event, however, the charges will probably be much greater.

Expedited service. Carriers are not ordinarily required to make delivery on a certain date or within a definite period of time, but only within a reasonable time. However, their tariffs generally contain a rule to the effect that, upon request of the shipper, goods, weighing more than a designated weight—usually 5,000 pounds—will be delivered on or before the date specified by the shipper. Such expedited service on shipments weighing less than that amount

usually may be obtained only by paying charges based on 5,000 pounds.

Preferred delivery date—delay. Unless expedited service is to be rendered, as mentioned just above, the carrier is not obligated to deliver your goods on any particular day, but only to deliver within a reasonable time. However, when the goods are loaded, the carrier must specify on the bill of lading the delivery date (or period) which you prefer. If the carrier finds that it cannot deliver by that date it is required to notify you by telegraph or telephone at least 24 hours in advance if that is possible, or as soon thereafter as possible.

Small shipments. If your shipment weighs less than the minimum weight prescribed in the carrier's tariff, it will be subject to the minimum charge provided therein. If your shipment weighs substantially less than the minimum weight prescribed by the carrier, you should give consideration to the possibility that it may be shipped more reasonably by other means of transportation, even considering the expense of crating.

Storage in transit. If you desire your household goods to be stored in transit, and delivered at a later date, you may usually obtain such service upon specific request. The length of time a shipment may be stored in transit is limited by the carrier's tariff, and additional charges are normally made for such service. At the end of the designated storage-in-transit period, and in the absence of final delivery instructions, the shipment will be placed in permanent storage, and the carrier's liability in respect thereof will cease. Any further service must be made the subject of a separate contract with the warehouseman. If you do not specifically request storage-in-transit from the carrier, but arrange with someone other than the carrier to pick up your goods for storage, you will be required to pay such other person for such service. Some warehouses make separate charges for checking goods out of storage, and collect dock charges from carriers for the space occupied by their vehicles while being loaded. Such charges are passed on to the shipper.

Bill of lading. Before your shipment leaves point of origin, you should obtain from the carrier a bill of lading or receipt, signed by you and the carrier. Be sure that this shows the carrier's name and address and the telephone number at which you can reach the carrier; an address and telephone number furnished by you to which the carrier can send messages regarding your shipment; the location to which your goods are moving; the date of loading and the preferred date of delivery; and the declared or released valuation of the goods.

Payment of charges—freight bill. Unless you have made arrangements beforehand for credit, the carrier will require payment in cash or by money order or certified check, before unloading. Be prepared with sufficient funds to pay the actual charges, which may be greater than what was estimated.

When paying charges, you should obtain a receipt for the amount paid setting forth the gross and tare weights of the vehicle; the net weight of your shipment; the mileage; the applicable rate per 100 pounds; and the charges for transportation, additional protection, and any accessorial services performed. Such receipt is called a freight bill or expense bill.

Loss or damage. In the event of loss or damage to the shipment be sure you describe such loss or damage by making notations on the carrier's inventory of articles or delivery receipt. If the driver should refuse to permit you to make such notations, you should immediately report the circumstances and the condition of the articles in writing to the home office of the carrier. The notations made at the time of delivery does not constitute filing a claim in writing. The notation is made to support a claim to be filed later. If loss or damage did occur, you should then immediately address a letter to the home office of the carrier and describe the loss and damage. List the articles separately and show the weight of each damaged article, if you declared a released value of 60 cents per pound per article. Obtain and present to the carrier itemized estimates of cost of necessary repairs or replacement. Give the date of your move, the origin and destination of the shipment, and the carrier's order number.

All claims for loss or damage must be filed with the carrier, in writing. The carrier is required to acknowledge claims within 30 days and to either pay, decline, or make a firm compromise settlement offer within 120 days of receipt. If some reason beyond the carrier's control delays action on your claim for a longer time, the carrier is required to notify you then as to its status and each 30 days thereafter until final action is taken.

The Interstate Commerce Commission has no authority to compel carriers to settle claims for loss or damage and will not undertake to determine whether the basis for, or the amount of, such claims is proper, nor will it attempt to determine the carrier liable for such loss or damage. If the carrier will not voluntarily pay such claims, the shipper may contact the Interstate Commerce Commission for the name of the insurance company providing the required cargo insurance. The insurance company may be willing to settle a claim even if the carrier is not. The shipper may also commence a suit in a court of law. The names of the carrier's agents for service of process in each State may be obtained by writing the Interstate Commerce Commission, Washington, D.C. 20423.

[Secs. 219, 220, 223, 49 Stat. 568, as amended, 568 as amended; 49 U.S.C. 319, 320, 323]

§ 1056.13 Minimum weight shipments.

No common carrier shall accept a shipment of household goods for transportation which appears to be subject to the minimum weight provisions of the carrier's tariff without first having advised the shipper of such minimum weight provisions.

§ 1056.14 Claims for loss or damage.

(a) *Acknowledgment of claims.* Every common carrier of household goods which receives a written claim for loss of or damage to property transported by it shall acknowledge receipt of such claim in writing to the claimant within 30 calendar days after its receipt by the carrier or the carrier's agent. The carrier shall at the time such claim is received, cause the date of receipt to be recorded on the claim.

(b) *Handling by carrier.* Every such carrier which receives a written claim for loss or damage to household goods transported by it shall pay, decline, or make a firm compromise settlement offer in writing to the claimant within 120 days after receipt of the claim by the carrier or its agent: *Provided*, That, if for reasons beyond the control of the carrier the claim cannot be processed and disposed of within 120 days after the receipt thereof, the carrier shall at that time and the expiration of each succeeding 30-day period while the claim remains pending, advise the claimant in writing of the status of the claim and the reasons for the delay in making final disposition thereof, and send a copy of such letter to the Regional Director, Interstate Commerce Commission, Bureau of Operations, of the area in which the carrier has its principal place of business.

(c) *Register of loss and damage claims.* Every common carrier of household goods shall maintain a freight claim register, showing for each cargo loss and damage claim received, the claim number, date, and amount; the waybill or expense bill number and date; name of claimant; kind of commodity; date claim was paid; total amount paid; or date claim was disallowed and reasons; amount of salvage recovered, if any; amounts reimbursed by insurance companies, connecting carriers, or others, and the amount absorbed by the carriers. Each claim received shall be entered in the register and should be supported by the complete file of claim papers. However, if the claim papers are retained by insurance companies, connecting carriers, or others, the carrier's records should contain an acknowledgment from the party retaining the claim file that the papers are in its possession.

(Secs. 219, 220, 223, 49 Stat. 568, as amended, 568, as amended; 49 U.S.C. 319, 320, 323)

PART 1057—LEASE AND INTERCHANGE OF VEHICLES

Sec.
1057.1 Applicability.
1057.2 Definitions.
1057.3 Exemptions.
1057.4 Augmenting equipment.
1057.5 Interchange of equipment.
1057.6 Rental of equipment to private carriers and shippers.

AUTHORITY: The provisions of this Part 1057 issued under sec. 204, 49 Stat. 546, as amended; 49 U.S.C. 304.

§ 1057.1 Applicability.

The rules and regulations in this part apply to the augmenting of equipment by common and contract carriers of property by motor vehicle in interstate or foreign commerce subject to Part II of the Interstate Commerce Act, 49 U.S.C. 201 et seq.; to the interchange of equipment between such common carriers of property by motor vehicle, and to the lease of equipment by common and contract carriers of property by motor vehicle, with or without drivers, to private motor carriers and shippers.

§ 1057.2 Definitions.

(a) *Authorized carrier.* A person or persons authorized to engage in the transportation of property as a common or contract carrier under the provisions of section 206, 207, or 209 of the Interstate Commerce Act, 49 U.S.C. 306, 307, or 309.

(b) *Equipment.* A motor vehicle, straight truck, tractor, semitrailer, full trailer, combination tractor-and-trailer, combination straight truck and full trailer, and any other type of equipment used by authorized carriers in the transportation of property for hire.

(c) *Interchange of equipment.* The physical exchange of equipment between motor common carriers or the receipt by one such carrier of equipment from another such carrier, in furtherance of a through movement of traffic, at a point or points which such carriers are authorized to serve.

(d) *Regular employee.* A person not merely an agent but regularly in exclusive full-time employment.

(e) *Agent.* A person duly authorized to act for and on behalf of an authorized carrier.

(f) *Owner.* A person (1) to whom title to equipment has been issued, or (2) who as lessee, has the right to exclusive use of equipment for a period longer than 30 days, or (3) who has lawful possession of equipment and has the same registered and licensed in any State or States or the District of Columbia in his or its name.

(g) *Private carrier.* A person as defined in § 203(a)(17) of the Interstate Commerce Act.

(h) *Shipper.* A person who consigns or receives property which is transported in interstate or foreign commerce.

§ 1057.3 Exemptions.

The provisions of § 1057.4, except paragraphs (c) and (d), relative to inspection and identification of equipment, shall not apply:

(a) *Equipment used in the direction of a point which lessor is authorized to serve.* To equipment owned or held under a lease of 30 days or more by an authorized carrier and regularly used by it in the service authorized, and leased by it to another authorized carrier for transportation in the direction of a point which lessor is authorized to serve: *Provided*, That the two carriers have first agreed in writing that control and responsibility for the operation of the equipment shall be that of the lessee from the time the equipment passes the inspection required to be made by lessee or its representative under § 1057.4(c) until such time as the lessor or its representative shall give to the lessee or its representative a receipt specifically identifying the equipment and stating the date and the time of day possession thereof is retaken or until such time as the required inspection is completed by another authorized carrier taking possession of the equipment in an interchange of equipment where such use is contemplated, such writing to be signed by the parties or their duly authorized regular employees or agents, and a copy thereof carried in the equipment while the equipment is in the possession of the lessee.

(b) *Rail or express vehicles.* To equipment utilized wholly or in part in the transportation of railway express traffic, or in substituted motor-for-rail transportation of railroad freight moving between points that are railroad stations on railroad billing.

(c) *Commercial zone operations.* To equipment utilized in transportation performed solely and exclusively within any municipality, contiguous municipalities, or commercial zone, as defined by the Commission.

(d) *Vehicles without drivers from rental companies.* To the lease of equipment without drivers by an authorized carrier from an individual, copartnership, or corporation, whose principal business is the leasing of equipment without drivers for compensation.

(e) *Non-powered equipment.* To equipment other than a power unit, provided that such equipment is not drawn by a power unit leased from the lessor of such equipment.

§ 1057.4 Augmenting equipment.

Other than equipment exchanged between motor common carriers in interchange service as defined in § 1057.5, authorized carriers may perform authorized transportation in or with equipment which they do not own only under the following conditions:

(a) *Contract requirements.* The contract, lease, or other arrangement for the use of such equipment:

(1) *Parties.* Shall be made between the authorized carrier and the owner of the equipment.

(2) *Written contract required.* Shall be in writing and signed by the parties thereto, or their regular employees or agents duly authorized to act for them in the execution of contracts, leases, or other arrangements.

(3) *Minimum duration of 30 days unless operated by lessor.* Shall specify the period for which it applies, which shall be not less than 30 days when the equipment is to be operated for the authorized carrier by the owner or employee of the owner; excepting:

(i) *Equipment used in agricultural or perishable operations.* That such 30-day minimum period shall not apply to equipment, with driver, of a farmer, agricultural cooperative or private carrier of certain perishable property or which is exempt under section 203(b)(6) of the act, to the extent that such equipment falls within the terms of the exceptions of section 204(f) (1) or (2) of the act (49 U.S.C. 304(f)), and is utilized in accordance therewith; *Provided*, That prior to the execution of the lease, the authorized carrier receives and retains a statement signed by the owner of the equipment, or someone duly authorized to sign for the owner, authorizing the driver to lease the equipment for the movement or movements contemplated by the lease, certifying that the equipment so leased meets the qualifications enumerated in section 204(f) (1) or (2) of the act, and specifying the origin, destination, and the time of the beginning and ending of the last movement which brought the equipment within the purview of section 204(f).

(ii) *Automobile and tank truck carriers.* That equipment owned by an automobile carrier or tank truck carrier or held by such authorized carriers under lawful leases and used in the transportation of motor vehicles or commodities in bulk, respectively, may be leased or subleased to other such authorized carriers.

(iii) *Ice and snow control purposes.* That such 30-day minimum period shall not apply to dump equipment leased or subleased for use in transporting salt and calcium chloride, in bulk, for ice and snow control purposes, during the period from November 1 to April 30, both inclusive, of each year.

(4) *Exclusive possession and responsibilities.* Shall provide for the exclusive possession, control, and use of the equipment, and for the complete assumption of responsibility in respect thereto, by the lessee for the duration of said contract, lease or other arrangement, except:

(i) *Lessee may be considered as owner.* Provision may be made therein for considering the lessee as the owner for the purpose of subleasing under these rules to other authorized carriers during such duration.

(ii) *Household goods, carrier; intermittent operations under long-term lease.* When entered into by authorized carriers of household goods, for the transportation of household goods, as defined by the Commission, such provisions need only apply during the period the equipment is operated by or for the authorized carrier, lessee.

(5) *Compensation to be specified.* Shall specify the compensation to be paid by the lessee for the rental of the leased equipment.

(6) *Duration to be specific.* Shall specify the time and date or the circumstances on which the contract, lease, or other arrangement begins, and the time or the circumstances on which it ends. The duration of the contract, lease or other arrangement shall coincide with the time for the giving of receipts for the equipment as required by paragraph (b) of this section; and

(7) *Copies of lease and their distribution; copy to be carried on vehicle.* Shall be executed in triplicate; the original shall be retained by the authorized carrier in whose service the equipment is to be operated, one copy shall be retained by the owner of the equipment, one copy shall be carried on the equipment specified therein during the entire period of the contract, lease, or other arrangement, unless a certificate as provided in paragraph (d) (2) of this section is carried in lieu thereof.

(b) *Receipts for equipment to be specific.* When possession of the equipment is taken by the authorized carrier or its regular employee or agent duly authorized to act for it, said carrier, employee or agent shall give to the owner of the equipment, or the owner's employee or agent a receipt specifically identifying the equipment and stating the date and the time of day possession thereof is taken; and when the possession by the authorized carrier ends; it or its employee or agent shall obtain from the owner of the equipment, or its regular employee or agent duly authorized to act for it, a receipt specifically identifying the equipment and stating therein the date and the time of day possession thereof is taken.

(c) *Safety inspection of equipment by the authorized carrier.* It shall be the duty of the authorized carrier, before taking possession of equipment, to inspect the same or to have the same inspected by a person who is competent and qualified to make such inspection and has been duly authorized by such

carrier to make such inspection as a representative of the carrier, in order to insure that the said equipment complies with the Motor Carrier Safety Regulations of the Federal Highway Administration of the Department of Transportation. The person making the inspection shall certify the results thereof on a report in the form hereinafter set forth, which report shall be retained and preserved by the authorized carrier, and if his inspection discloses that the equipment does not comply with the requirements of the said safety regulations, possession thereof shall not be taken. In all instances in which the inspection required by this section is made, the authorized carrier, if an individual, or a member of the co-partnership if the authorized carrier is a co-partnership, or one of the officials thereof if the authorized carrier is a corporation, shall certify on the inspection report that the person who made the inspection, whether an employee or person other than an employee, is competent and qualified to make such inspection and has been duly authorized by such carrier to make such inspection as a representative of such authorized carrier. When equipment other than a power unit is leased, a form of report applicable to such equipment may be used.

REPORT OF VEHICLE INSPECTION

Description of vehicle:
Make ---------- Year ----------
Model ---------- Serial No. ----------
Type: Tractor ---------- Trailer ----------
Semitrailer ----------
License plate: No. ---------- State ----------
Owner's name ----------
Name of authorized carrier ----------

Indicate in the proper column the result of the inspection of each item listed:

Item	Not defective	Defective	Description of defect
Body			
Brakes			
Cooling system			
Drive line			
Emergency equipment			
Engine			
Exhaust			
Fuel system			
Glass			
Horn			
Leaks			
Lights (state which)			
Reflectors			
Speedometer			
Springs			
Steering			
Tires			
Wheels			
Windshield wiper			

Any other items requiring attention ----------

I hereby certify that on the ---------- day of ---------- I carefully inspected the equipment described above and that this is a true and correct report of the result of such inspection.

(Signature of person making inspection)

I hereby certify that on the date stated above the person who made the inspection covered by this report was competent and qualified to make such inspection and was duly authorized to make such inspection as a representative of

----
(Name of authorized carrier)

(Signature of authorized carrier or co-partner or officer of authorized carrier)

Date: ----------

(d) *Identification of equipment as that of the authorized carrier.* The authorized carrier acquiring the use of equipment under this section shall properly and correctly identify such carrier, during the period of the lease, contract, or other arrangement in accordance with the Commission's requirements in Part 1058 of this chapter (Identification of Motor-Carrier Vehicles). If a removable device is used to identify the authorized carrier as the operating carrier, such device shall be on durable material such as wood, plastic, or metal, and bear a serial number in the authorized carrier's own series so as to keep proper record of each of the identification devices in use.

(1) *Identification to be removed when lease terminated.* The authorized carrier operating equipment under this part shall remove any legend, showing it as the operating carrier, displayed on such equipment, and shall remove any removable device showing it as the operating carrier, before relinquishing possession of the equipment.

(2) *Certified statement may be carried on vehicle in lieu of lease.* Unless a copy of the lease, contract or other arrangement is carried on the equipment, as provided in paragraph (a)(7) of this section, the authorized carrier or its regular employee or agent shall prepare a statement certifying that the equipment is being operated by it, which shall specify the name of the owner, the date of the lease, contract or other arrangement, the period thereof, any restrictions therein relative to the commodities to be transported, and the location of the premises where the original of the lease, contract or other arrangement is kept by the authorized carrier, which certificate shall be carried with the equipment at all times during the entire period of the lease, contract, or other arrangement.

(e) *Driver of equipment to be in compliance with safety regulations.* Before any person other than a regular employee of the authorized carrier is assigned to drive equipment operated under this part, it shall be the duty of the authorized carrier to make certain that such driver is familiar with, and that his employment as a driver will not result in, violation of any provision of the Motor Carrier Safety Regulations of the Federal Highway Administration of the Department of Transportation.

(f) *Record of equipment to be maintained; shipping documents to identify the authorized carrier.* The authorized carrier utilizing equipment operated under this part for periods of less than 30 days shall prepare and keep a manifest or other documents covering each trip for which the equipment is used in its service, containing the name and address of the owner of such equipment; point of origin, the time and date of departure, the point of final destination, and the authorized carrier's serial number of any identification device affixed to the equipment. During the time that equipment subject to this part is operated there shall be carried with the equipment, bills of lading, waybills, freight bills, manifests, or other papers identifying the lading, and containing the foregoing information, which shall clearly indicate that the transportation of the property carried is under the responsibility of the authorized carrier, which papers shall be preserved by the authorized carrier. This section shall also apply with respect to vehicles leased for periods of 30 days or more unless the required information is kept at a terminal or office as a part of the records of the authorized carrier.

§ 1057.5 Interchange of equipment.

Authorized common carriers may by contract, lease, or other arrangement, interchange any equipment defined in § 1057.2 with one or more other such common carriers, or one of such carriers may receive from another such carrier, any of such equipment, in connection with any through movement of traffic, under the following conditions:

(a) *Interchange agreement to be specific.* The contract, lease, or other arrangement providing for interchange shall specifically describe the equipment to be interchanged; the specific points of interchange; the use to be made of the equipment, and the consideration for such use; and shall be signed by the parties to the contract, lease, or other arrangement, or their regular employees or agents duly authorized to act for them, in the execution of such contracts, leases, or other arrangements.

(b) *Operating authority of carriers participating in interchange.* The certificates of public convenience and necessity held by the carriers participating in the interchange arrangement must authorize the transportation of the commodities proposed to be transported in the through movement and service from and to the point where the physical interchange occurs.

(c) *Through bills of lading required.* The traffic transported in interchange service must move on through bills of lading issued by the originating carrier, and the rates charged and revenues collected must be accounted for in the same manner as if there had been no interchange of equipment. Charges for the use of the equipment shall be kept separate and distinct from divisions of the joint rates or the proportions thereof accruing to the carriers by the application of local or proportional rates.

(d) *Safety inspection of equipment.* It shall be the duty of the carrier acquiring the use of equipment in interchange to inspect such equipment, or to have it inspected in the manner provided in § 1057.4(c) and equipment which does not meet the requirements of the safety regulations shall not be operated in the respective services of the interchange carriers until the defects have been corrected.

(e) *Identification of equipment as that of the operating carrier.* Authorized carriers operating power units in interchange service shall identify such equipment in accordance with the Commission's requirements in Part 1058 of this chapter (Identification of Motor Carrier Vehicles). Any removable device used to identify the operating carrier shall be on durable materials such as wood, plastic, or metal, and shall bear a serial number in the operating carrier's own series and such carrier shall keep a proper record of each identification device in use. The authorized carrier operating equipment under this part shall remove any legend, showing it as the operating carrier, displayed on such equipment, and shall remove any removable device showing it as the operating carrier, before relinquishing possession of the equipment. Authorized carriers operating equipment in interchange service under this section shall carry with each vehicle so operated, except trailers and semitrailers, a copy of the contract, or other arrangement, while the equipment is being operated in the interchange service, unless a statement certifying that the equipment is being operated by it and identifying the equipment by company or State registration number, showing the specific point of interchange, the date and time of the assumption of responsibility for the equipment, and the use to be made of the equipment, is carried in the vehicle while it is operated in interchange service. Such statement shall be signed by the parties to the contract or other arrangement or their employees or agent.

(f) *Through movement involving more than two carriers, lessee considered as owner.* For the purpose of this section, a lessee of equipment on a through movement involving more than two carriers, shall be considered the owner of the equipment for the purpose of leasing the equipment for movement to destination or for return to the originating carrier.

§ 1057.6 Rental of equipment to private carriers and shippers.

(a) *Rental of equipment with drivers.* Unless such service is specified in their operating authorities, authorized carriers shall not rent equipment with drivers to private carriers or shippers, except where the vehicle so rented is to be used for transportation which may be performed for compensation within the exemption provisions of section 203(b)(7) or (8) of the Interstate Commerce Act.

(b) *Rental of equipment without drivers.* Authorized common carriers shall not rent equipment without drivers to private carriers or shippers and authorized contract carriers shall not so rent such equipment without first having obtained approval of the rental contract from this Commission, except that the prohibitions contained in this section shall not apply to authorized carriers transporting property wholly for and on the billing of railroads or where the vehicle so rented is to be used for transportation which may be performed for compensation within the exemption provisions of section 203(b)(7) or (8) of the Interstate Commerce Act.

PART 1058—IDENTIFICATION OF VEHICLES

Sec.
1058.1 Vehicles subject to regulation.
1058.2 Method of identification.
1058.3 Size, shape and color.
1058.4 Vehicles in driveaway service.
1058.5 Passenger vehicles.
1058.6 Use of identification plates prohibited.

AUTHORITY: The provisions of this Part 1058 issued under 49 Stat. 546, as amended, 566, as amended; 49 U.S.C. 304, 324.

§ 1058.1 Vehicles subject to regulation.

Every for-hire motor carrier operating under authority granted pursuant to the Interstate Commerce Act (49 U.S.C., 1 et seq.), shall observe the rules and regulations prescribed in this part respecting each motor vehicle operating under such authority.

§ 1058.2 Method of identification.

There shall be displayed on both sides of each vehicle operated under its own power, either alone or in combination, except as otherwise provided in this part respecting vehicles in driveaway service and those used under a continuing interchange or lease arrangement between common carriers of passengers by motor vehicle, the name, or trade name, of the motor carrier under whose authority the vehicle or vehicles is or are being operated, and the certificate, permit, or docket number assigned to such operating authority by the Interstate Commerce Commission. Such certificate, permit, or docket number, or numbers, shall be in the following form: "I.C.C. ----------", but shall not include any sub numbers which may have been assigned. If the name of any person other than the operating carrier appears on the vehicle operated under its own power, either alone or in combination, the name of the operating carrier shall be followed by the information required above, and be preceded by the words "operated by". Nothing in the regulations in this part shall prohibit display of such additional identification as is not inconsistent herewith.

§ 1058.3 Size, shape and color.

The display of name and number prescribed in this part shall be in letters and figures in sharp color contrast to the background and be of such size, shape and color as to be readily legible, during daylight hours, from a distance of 50 feet while the vehicle is not in motion, and such display shall be kept and maintained in such manner as to remain so legible. If desired, display may be accomplished through use of a removable device so prepared as otherwise to meet the identification and legibility requirements of the regulations in this part.

§ 1058.4 Vehicles in driveaway service.

If a removable device is used on vehicles in driveaway service, it either may be affixed on both sides, or, at the rear of the single driven vehicle. In the cases of a combination driveaway operation the removable device may be affixed on both sides of any one of the units comprising the combination, or at the rear of the rear-most unit of the combination.

§ 1058.5 Passenger vehicles.

Section 1058.1 to 1058.4 shall not apply to motor vehicles used in the transportation of passengers by common carriers when such vehicles are used in providing through transportation of passengers, in regular services, over the authorized routes of two or more of such carriers under a continuing interchange or lease of equipment arrangement between such carriers, if the vehicle owner's name and certificate number is displayed thereon in the manner provided in § 1058.2, and if there shall have been filed with the office of the Regional Director or Directors having jurisdiction over such carriers and posted in each terminal and ticket agency on the involved routes a published schedule of the carriers showing clearly the points or places between which each carrier assumes and bears complete control and responsibility for the operation of the interchanged or leased vehicle.

§ 1058.6 Use of identification plates prohibited.

On and after the effective date hereof, identification plates theretofore issued by the Interstate Commerce Commission shall not be displayed on any motor vehicle operating under authority of the Commission, or otherwise.

PART 1059—EMBARGOES

Sec.
1059.1 Carriers to give public notice of embargoes.
1059.2 Notice of delay in performing service.
1059.3 Carrier's duty to transport unaffected.

AUTHORITY: The provisions of this Part 1059 issued under 49 Stat. 546, as amended; 49 U.S.C. 304.

§ 1059.1 Carriers to give public notice of embargoes.

(a) Whenever any motor common carrier of property subject to the Interstate Commerce Act finds that because of a lack of facilities or personnel, or because it is required to give preference and precedence to other traffic legally entitled to such priority, or because of other compelling circumstances not within the control of the carrier, it is or will be unable to perform all authorized transportation services requested of it, and that it will be necessary for it temporarily to suspend the offering of service in the transportation of any commodity, commodities, or class of traffic, to or from any territory, point, shipper, consignee, or connecting carrier, or over any route, it shall immediately give public notice of such fact by a written notice of an embargo, specifying the extent thereof, the date the embargo is to become effective, its duration, if

known, and the reasons why the placing of the embargo is necessary.

(b) Immediately upon the issuance of a notice of an embargo as required by paragraph (a) of this section, one copy of such notice shall be mailed to the Bureau of Operations, Interstate Commerce Commission, Washington, D.C. 20423, two copies shall be mailed or delivered to the Regional Director of the Interstate Commerce Commission in the Region where the principal headquarters of the carrier is located, one copy shall be posted for public inspection in each office of the carrier where the embargo is to be made effective, one copy shall be served upon each connecting carrier with whom the issuing carrier interchanges traffic in cases where traffic so interchanged is affected, and, so far as is reasonably practicable in each case, the embargo shall be brought to the attention of interested shippers and consignees.

(c) Except in instances when the notice of an embargo specifies the date of its expiration, a notice of the termination or modification of an embargo shall be issued, posted, and filed by the carrier, and notice of such termination shall be given to interested shippers, consignees, and connecting lines, in the same manner as prescribed for notice of the establishment of an embargo in paragraph (b) of this section.

§ 1059.2 Notice of delay in performing service.

In all instances, other than those specified in § 1059.1, when a motor common carrier of property subject to the Interstate Commerce Act, is unable to perform authorized transportation promptly upon request, it shall notify the person requesting the service of the anticipated delay and the reason therefor, and shall promptly notify the Bureau of Operations, Interstate Commerce Commission, Washington, D.C., and the Regional Director of the Bureau of Operations, Interstate Commerce Commission, in the Region where the carrier has its principal headquarters, of any inability to perform requested transportation within a reasonable time, and the reason therefor. Upon the termination of the conditions which render the carrier unable to perform desired transportation within a reasonable time, the carrier shall notify the Bureau of Operations and the Regional Director, mentioned above of the changed conditions.

§ 1059.3 Carrier's duty to transport unaffected.

The provisions of §§ 1059.1 and 1059.2 shall not be construed to relieve any carrier of the duty to furnish transportation service, nor to relieve any carrier of the duty to observe all requirements of law and the regulations prescribed by the Commission.

PARTS 1070–1079: WATER CARRIERS—GENERAL

PART 1070—HARBORS

§ 1070.1 Harbor limits.

(a) *New York.* For the purpose of administration and enforcement of the Interstate Commerce Act, Part III, the Harbor of New York, N.Y., and harbors contiguous thereto, within which transportation in interstate commerce by water, when such transportation is not a part of a continuous through movement under common control, management, or arrangement to or from a place outside the limits, will be exempt from regulation pursuant to section 303(g) of said Act, be, and they are hereby defined to include the following:

The waters within the area over which the Port of New York Authority now has jurisdiction as shown in the following map:

(b) *Philadelphia.* For the purpose of administration and enforcement of the Interstate Commerce Act, Part III, the Harbor of Philadelphia, Pa., and harbors contiguous thereto, within which transportation in interstate commerce by water, when such transportation is not a part of a continuous through movement under common control, management, or arrangement to or from a place outside the limits, will be exempt from regulation pursuant to section 303(g) of said Act be, and they are hereby, defined to include the following:

The waters within the area enclosed by a heavy black line in the following map:

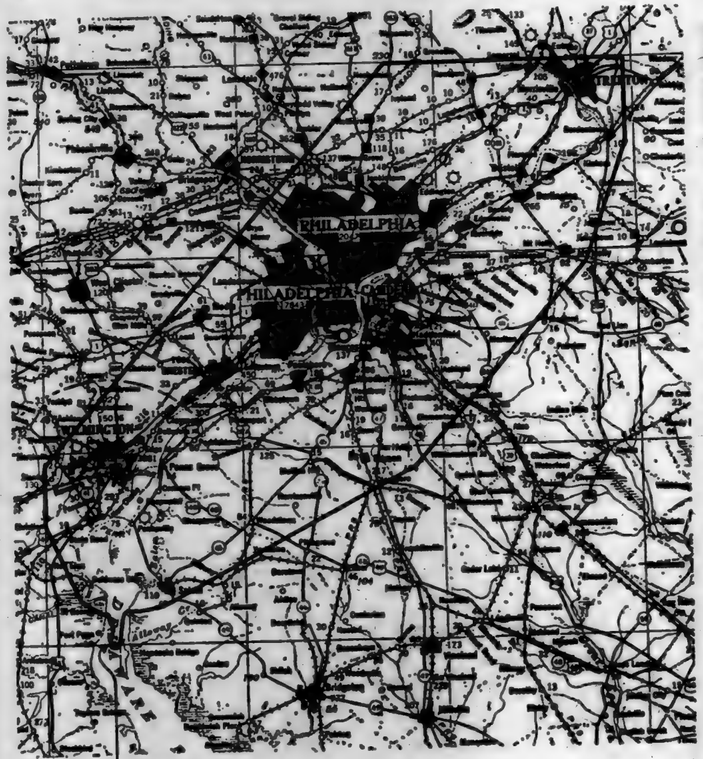

(54 Stat. 932, 933; 49 U.S.C. 903, 904)

PART 1071—EXEMPTION OF CONTRACT CARRIER OPERATIONS

Sec.
1071.1 Oilfield equipment, Gulf States marshlands.
1071.2 Towage of floating objects.

AUTHORITY: The provisions of this Part 1071 issued under 54 Stat. 929, 931, as amended; 49 U.S.C. 902, 903, 904.

§ 1071.1 Oilfield equipment, Gulf States marshlands.

Contract carriers by water, insofar as they engage in leasing or chartering vessels for the purpose of transporting machinery, materials, supplies, and equipment incidental to, or used in, the construction, development, operation and maintenance of facilities for the discovery, development and production of natural gas and petroleum, to and from points in the marshland oilfields of Alabama, Florida, Mississippi, Louisiana and Texas be, and they are hereby, exempted from the requirements of Part III of the Interstate Commerce Act until the further order of the Commission.

§ 1071.2 Towage of floating objects.

Transportation by contract carriers of empty vessels to and from shipyards, floating objects such as derricks, dredges, tanks, caissons, pontoons, and other floating objects, other than logs and piling in rafts, of varying shapes, sizes, and drafts which are not designed or used for the carrying of passengers and property, is hereby exempted from the requirements of Part III of the Interstate Commerce Act until the further order of the Commission.

PART 1072—SMALL CRAFT; REMOVAL FROM STATUTORY EXEMPTION

Sec.
1072.1 Definitions; small and large craft.
1072.2 Application of Part III to certain transportation by small craft.

AUTHORITY: The provisions of this Part 1072 issued under 54 Stat. 931, as amended, 933; 49 U.S.C. 903, 904.

§ 1072.1 Definitions; small and large craft.

The term "small craft", as used in this part, means a vessel or vessels of not more than 100 tons carrying capacity or not more than 100 indicated horsepower, and the term "large craft", as used in this part, means a vessel or vessels of greater carrying capacity and power.

§ 1072.2 Application of Part III to certain transportation by small craft.

The application of the provisions of Part III of the Interstate Commerce Act to transportation as described hereinafter by small craft is hereby declared necessary to carry out the national transportation policy declared in the act and the provisions of said part, except section 303(g) insofar as that section applies to transportation by small craft, shall apply to (a) transportation of property by small craft by common carriers by water which are engaged also in the transportation of property partly by railroad or motor vehicle and partly by water under common control, management, or arrangement; (b) transportation of property by small craft by common or contract carriers by water which are engaged also in the transportation of property by large craft between common points or within a common territory; and (c) transportation of property by small craft by common or contract carriers by water which are engaged also in the transportation of passengers subject to the provisions of Part III of the act by vessels equipped to carry more than 16 passengers.

PARTS 1080–1089—FREIGHT FORWARDERS—GENERAL

PART 1080—CONTRACTS, FORWARDERS—MOTOR COMMON CARRIERS

Sec.
1080.1 Filing.
1080.2 Specifications.
1080.3 Amendments.
1080.4 Time of filing and notice of termination.
1080.5 Contracts continued.
1080.6 Public inspection.

AUTHORITY: The provisions of this Part 1080 issued under sec. 408, 56 Stat. 285, sec. 409, as amended, 64 Stat. 1114, as amended; 49 U.S.C. 1003, 1009.

§ 1080.1 Filing.

All contracts, and amendments thereto, between freight forwarders and

motor common carriers, entered into pursuant to section 409 of the Interstate Commerce Act, as amended December 20, 1950, and amendments to contracts continued, shall be in writing, and the freight forwarder party thereto shall file with the Interstate Commerce Commission two true and legible copies thereof on paper of good quality, size 8½" x 11".

§ 1080.3 Specifications.

All such contracts shall show:

(a) In the upper right-hand corner a number in the consecutive series of the forwarder filing the same;

(b) The full and correct name and address of each party to the contract, and the ICC number, omitting subnumbers, identifying the operating authority of each;

(c) A description of the transportation service to be performed by the motor carrier, and all other services in connection therewith; the points between which, or the geographical area to or from which, the service is to be performed; the compensation to be paid therefor, specified in lawful money of the United States per unit of weight or other defined units; and, where transportation is for a total distance of 450 highway-miles or more, whether it is line-haul transportation in truckload lots between concentration points and break-bulk points.

(d) The effective date of the contract; and

(e) All other terms and conditions agreed upon between the parties to the contract.

§ 1080.3 Amendments.

Amendments to contracts shall show the effective date thereof, the same series number as the original contract, be consecutively numbered, and specifically indicate any provisions superseded.

§ 1080.4 Time of filing and notice of termination.

Contracts and amendments thereto shall be filed with the Commission within 10 days after the effective date thereof. Within 10 days after termination of a contract, a notice shall be filed with the Commission showing the effective date of such termination. A new contract superseding an old contract shall specifically cancel the old contract. In the event of a change of name or the transfer of the operating authority of either party to a contract, if the contract services, terms and conditions are to be continued, a new contract showing the correct names of the new parties or a joint writing adopting the old contract shall be filed with the Commission within 30 days.

§ 1080.5 Contracts continued.

Evidence of agreements or amendments thereto, filed with the Commission prior to September 20, 1951, in accordance with the regulations hertofore proposed in Docket No. 29492, Freight Forwarders, Motor Common Carriers, Agreements, 272 I.C.C. 413 (13 F.R. 5861), will be accepted as substantial compliance with the rules and regulations of this part, but any changes in such agreements with any carrier subsequent to September 20, 1951, shall be indicated by the filing, in conformity with the rules and regulations of this part, of complete new contracts covering service by that carrier, or of amendments completely covering the particular traffic involved, which amendments shall clearly indicate the portions of the schedules and evidence of concurrence superseded thereby; except that all such filings made prior to September 20, 1951, shall be superseded by new contracts complying with the rules and regulations of this part and filed with the Commission not later than June 30, 1953.

§ 1080.6 Public inspection.

All contracts and amendments thereto filed with the Commission under the rules and regulations of this part shall be open to public inspection.

PART 1081—BILLS OF LADING

Sec.
1081.1 Through bills of lading to be issued.
1081.2 Conflicting regulations and practices to be discontinued.

AUTHORITY: The provisions of this Part 1081 issued under secs. 403, 404, 413, 56 Stat. 285, 286, 295; 49 U.S.C. 1003, 1004, 1013.

§ 1081.1 Through bills of lading to be issued.

All freight forwarders subject to part IV of the Interstate Commerce Act participating in the transportation of property in interstate commerce are required, on or before April 1, 1945, and thereafter, to maintain and apply on all shipments moving under forwarder rates in interstate commerce, rules, regulations, and practices providing for the issuance to the shipper, at the initial point of origin, of a through bill of lading, covering the transportation from initial point of origin to ultimate destination, either by the freight forwarder on its form, or by a motor common carrier on its form with a notation thereon showing the name of the freight forwarder in whose service the shipment is moving. Where a motor common carrier receives property at initial point of origin and issues a receipt therefor on its form, with a notation thereon showing the name of the freight forwarder in whose service the shipment is moving, the freight forwarder, upon receiving the shipment at the "on line" or consolidating station, shall issue a through bill of lading on its form as of the date the shipment is received at initial point of origin.

§ 1081.2 Conflicting regulations and practices to be discontinued.

All freight forwarders subject to part IV of the Interstate Commerce Act according as they participate in the transportation of property and interstate commerce are hereby notified and required to cease and desist on or before April 1, 1945, and thereafter to abstain from publishing or applying rules, regulations, and practices affecting the issuance of bills of lading or shipping receipts which are in conflict with the provisions of § 1081.1.

PART 1082—EXEMPTIONS

§ 1082.1 Use by air freight forwarders of regulated motor common carrier service.

An air freight forwarder (indirect air carrier) subject to economic regulation under the Federal Aviation Act may receive from or turn over to motor common carriers subject to economic regulation under part II of the Interstate Commerce Act shipments the transportation of which is not within the scope of the incidental-to-aircraft exemption of section 203(b)(7a) of the Interstate Commerce Act without being considered as conducting operations as a freight forwarder subject to part IV of the Interstate Commerce Act provided:

(a) That the air freight forwarder shall not hold out to assume responsibility for, nor make any claim in its advertising, solicitation of freight, or tariff publications that it will assume responsibility for, any shipment prior to its receipt from or after it is turned over to an authorized motor common carrier for movement beyond the air freight forwarder's terminal area as defined in tariffs filed with and accepted by the Civil Aeronautics Board.

(b) That all shipment documents issued by the air freight forwarder shall state clearly that its responsibility for the shipment does not extend beyond its actual air movement and the territorial extent of its terminal area as provided for in tariffs published with the Civil Aeronautics Board.

(c) That the air freight forwarder shall receive no compensation from any shipper or motor carrier for services rendered in connection with the receipt of shipments from or the delivery of shipments to a motor carrier for movement beyond the air freight forwarder's terminal area.

PART 1083—FILING OF CONTRACTS FOR JOINT LOADING AND TERMINAL SERVICES AND FACILITIES

§ 1083.1 Filing of contracts between freight forwarders for joint loading.

All contracts or agreements between freight forwarders for joint loading and for all terminal services and facilities shall be in writing; and each freight forwarder which is a party to such a contract or agreement on the date this section becomes effective or which shall thereafter enter into such a contract or agreement, immediately shall file with the Commission a verified copy of each such contract in the form in which the same was or may be executed.

(56 Stat. 285, 294; 49 U.S.C. 1003, 1012)

PART 1084—SURETY BONDS AND POLICIES OF INSURANCE

Sec.
1084.1 Definitions.
1084.2 General requirements.
1084.3 Limits of liability.
1084.4 Surety bonds.
1084.5 Policies of insurance.
1084.6 Insurance and surety companies.
1084.7 Qualifications as a self-insurer and other securities or agreements.
1084.8 Forms and procedure.
1084.9 Acceptance and revocation by Commission.
1084.10 Fiduciaries.

AUTHORITY: The provisions of this part 1084 issued under 56 Stat. 285; 49 U.S.C. 1003.

§ 1084.1 Definitions.

(a) *Freight forwarder.* The term "freight forwarder" means any person which (otherwise than as a carrier subject to Part I, II, or III, of the Interstate Commerce Act) holds itself out to the general public to transport or provide transportation of property, or any class or classes of property, for compensation, in interstate commerce, and which, in the ordinary and usual course of its undertaking, (1) assembles and consolidates or provides for assembling and consolidating shipments of such property, and performs or provides for the performance of break-bulk and distributing operations with respect to such consolidated shipments, and (2) assumes responsibility for the transportation of such property from point of receipt to point of destination, and (3) utilizes, for the whole or any part of the transportation of such shipments, the services of a carrier or carriers subject to Part I, II, or III of the act.

(b) *Motor vehicle.* The term "motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of property, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails: *Provided, however,* That the following combinations will be regarded as one motor vehicle, (1) a tractor and trailer or semitrailer when the tractor is engaged in drawing the trailer or semitrailer, and (2) a truck and trailer when both together bear a single load.

(c) *Any one conveyance.* The term "any one conveyance" means any one railroad car, motor vehicle, truck, trailer, semitrailer, or any other vehicle (except a watercraft) used in the transportation of property with respect to which a freight forwarder performs service subject to part IV of the Interstate Commerce Act.

(d) *Any one watercraft.* The term "any one watercraft" means any one vessel or other artificial contrivance of whatever description used or capable of being used, or intended to be used in the transportation by water of property with respect to which a freight forwarder performs services subject to part IV of the Interstate Commerce Act.

(e) *Fiduciary.* The term "fiduciary" shall have the meaning ascribed to it in § 1084.6 (a) of this chapter.

(f) *Other terms.* Where any other terms used in the regulations in this part are defined in section 402(a) of part IV of the Interstate Commerce Act, such definitions to the extent applicable shall be controlling. Where terms are used in the regulations in this part which are neither defined herein nor in said section 402(a), they shall have the ordinary practical meaning of such terms giving due consideration to the purpose of the regulations in this part in relation to the Interstate Commerce Act.

§ 1084.2 General requirements.

(a) *Cargo.* No freight forwarder shall engage or continue in service subject to part IV of the Interstate Commerce Act unless and until there shall have been filed with and accepted by the Commission a surety bond, certificate or insurance, qualifications as a self-insurer or other securities or agreements, in the amounts hereinafter prescribed, for loss of or damage to property with respect to which said freight forwarder performs service subject to part IV of the act.

(b) *Public liability and property damage.* No freight forwarder shall engage or continue in the performance of transfer, collection and delivery service subject to part IV of the Interstate Commerce Act unless and until there shall have been filed with and accepted by the Commission a surety bond, certificate of insurance, qualifications as a self-insurer, or other securities or agreements, in the amounts hereinafter prescribed, conditioned to pay any final judgment recovered against such freight forwarder on account of bodily injuries to or death of any person, or loss of or damage to property, except property referred to in paragraph (a) of this section, resulting from the negligent operation, maintenance, or use of motor vehicles operated by or under its direction and control in the performance of transfer, collection or delivery service.

§ 1084.3 Limits of liability.

The minimum amounts referred to in § 1084.2 are hereby prescribed as follows:

(a) *Cargo.* Limits for loss of or damage to property with respect to which a freight forwarder performs service subject to part IV of the act:

(1) For loss of or damage to property while carried on or resting in any one conveyance, other than a watercraft—$1,000.

(2) For loss of or damage to or aggregate of losses of or damages to property occuring at any one time and place, or while carried on or resting in any one watercraft—$2,000.

(b) *Public liability and property damage.* Limits for bodily injury to or death of any person, or loss of or damage to property, except property referred to in paragraph (a) of this section:

(1) For bodily injuries to or death of one person—$25,000.

(2) For bodily injuries to or death of all persons injured or killed in any one accident subject to a maximum of $25,000 for bodily injuries to or death of one person—$100,000.

(3) For loss of or damage in any one accident to property, excluding cargo, of others—$10,000.

§ 1084.4 Surety bonds.

(a) *Surety companies.* Each surety bond filed with the Commission shall be for the full limits of liability provided in § 1084.3. Only corporations or companies approved by the Commission may qualify to act as surety.

(b) *Other corporations.* A corporation, other than a surety company described in paragraph (a) of this section, seeking to act as surety on any bond must establish to the satisfaction of the Commission its corporate authority and financial ability to assume and discharge the obligations involved, and that it has by written power of attorney appointed some person residing in each State wherein such suretyship is to be undertaken, who shall be a citizen of that State, as its agent upon whom may be served lawful process against the said corporation with respect to any obligation arising out of its undertaking. Duplicate originals of such powers of attorney, duly certified and authenticated, must be filed with the Commission. It shall be the duty of such corporation to maintain agents in each State wherein its surety obligations exist for such time as the surety bond or bonds is or are in effect, and to notify the Commission with respect to any changes in its agency appointments.

§ 1084.5 Policies of insurance.

Each policy of insurance in connection with which a certificate of insurance is filed with the Commission shall be for limits of liability not less than the minimum amounts provided in § 1084.3 and each policy shall be amended by attachment of the appropriate endorsement prescribed, pursuant hereto to insure compliance with this part. Policies of insurance, as amended by such endorsements, covering bodily injury liability, property damage liability, and cargo liability must meet the requirements of § 1084.6 and be written by insurance companies which qualify thereunder.

§ 1084.6 Insurance and surety companies.

(a) *State authority and designation of agent.* No certificate of insurance or surety bond will be accepted by the Commission under these rules and regulations unless written or issued by an insurance or surety company legally authorized to issue policies of the type indicated by such certificate, or surety bonds, as the case may be, in each State in which the freight forwarder is authorized to perform service under Part IV of the Interstate Commerce Act, and such company fully complies with paragraph (b) of this section: *Provided, however,* That in lieu of the licensing requirement with respect to any State except that in which the freight forwarder has its principal place of business or domicile, the insurance or surety company will file with the Commission an agreement stating that with respect to any State requested it will furnish the Commission a designation in writing of the name and address of a person upon whom process issued by or under the authority of any court having jurisdiction of the subject matter may be served in any proceeding at law or equity brought in such State against such company. Such agreement shall be effective

so long as the company is authorized to file security with the Commission, and thereafter with respect to any claims arising during the effectiveness of any previously filed certificates or surety bonds.

(b) *Financial resources.* Each insurance and surety company must possess and maintain surplus funds (policyholders' surplus) of not less than $1 million, which minimum will be determined on the basis of the values of assets and liabilities as shown in its financial statements filed with and approved by the insurance department or other insurance regulatory authority of the State of domicile (home State) of such company, except in instances where, in the judgment of the Commission, additional evidence with respect to such values is considered necessary: *Provided, however,* That this paragraph shall be effective December 31, 1970, as respects insurance and surety companies which are, on December 31, 1967, authorized to file certificates of insurance and surety bonds with the Commission.

§ 1084.7 Qualifications as a self-insurer and other securities or agreements.

(a) *Self-insurer.* The Commission will give consideration to and will approve the application of a freight forwarder to qualify as a self-insurer if such freight forwarder furnishes a true and accurate statement of its financial condition and other evidence which will establish to the satisfaction of the Commission the ability of such freight forwarder to satisfy its obligations for bodily-injury liability, property-damage liability and cargo liability without affecting the stability or permanency of the business of such freight forwarder.

(b) *Other securities and agreements.* The Commission will also consider applications for approval of other securities or agreements and will approve any such applications if satisfied that the security or agreement offered will afford the security for the protection of the public contemplated by section 403 (c) and (d) of part IV of the Interstate Commerce Act.

§ 1084.8 Forms and procedure.

(a) *Forms.* Endorsements for policies of insurance, surety bonds, certificates of insurance, applications to qualify as a self-insurer or for approval of other securities or agreements and notices of cancellation must be in accordance with any forms prescribed and approved by the Commission. Surety bonds and certificates of insurance shall specify that coverage thereunder will remain in effect continuously until terminated as herein provided, except that in special or unusual circumstances special permission may be obtained for filing certificates of insurance or surety bonds covering periods of less than twelve months duration.

Cross Reference: For list of forms prescribed, see § 1003.5 of this chapter.

(b) *Procedure.* Certificates of insurance, surety bonds and notices of cancellation must be filed with the Commission in triplicate.

(c) *Names.* Certificates of insurance and surety bonds shall be issued in the full and correct name, including the trade name, if any, of the individual, partnership, corporation, or other person to whom or which the permit under part IV of the Interstate Commerce Act is issued or is to be issued. In the case of a partnership all partners shall be named.

(d) *Cancellation.* Except as provided in paragraph (f) of this section, certificates of insurance, surety bonds and other securities and agreements shall not be cancelled or withdrawn until after 30 days' notice in writing has first been given by the insurance company or companies, surety or sureties, freight forwarder or other party thereto, as the case may be, to the Commission at its office in Washington, D.C., which period of 30 days shall commence to run from the date such notice is actually received at the office of the Commission.

(e) [Reserved]

(f) *Termination by replacement.* Certificates of insurance or surety bonds which have been accepted by the Commission under the rules in this part may be replaced by other certificates of insurance, surety bonds or other security, and the liability of the retiring insurer or surety under such certificates of insurance or surety bonds shall be considered as having terminated as of the effective date of the replacement certificate of insurance, surety bond or other security: *Provided,* The said replacement certificate, bond or other security meets all of the following conditions:

(1) It must be acceptable to the Commission under the rules and regulations in this part;

(2) It must be accompanied by a letter of authorization, in duplicate, signed by the freight forwarder involved or an authorized employee of such freight forwarder, authorizing such replacement and verifying the effective date thereof; and

(3) Its effective date must coincide with the effective date specified in the letter of authorization and the said date may not be more than thirty days prior to the date of receipt by the Commission of the letter of authorization and replacement certificate, bond or other security.

§ 1084.9 Acceptance and revocation by Commission.

The Commission may at any time refuse to accept or may revoke its acceptance of any surety bond, certificate of insurance, qualifications as a self-insurer or other securities or agreements if, in its judgment, such security does not comply with these rules or, for any reason, fails to provide satisfactory or adequate protection for the public.

§ 1084.10 Fiduciaries.

(a) *Interpretations.* The terms "insured" and "principal" as used in certificates of insurance, surety bonds, and notices of cancellation, filed by or on behalf of freight forwarders under these rules shall be construed to include not only the freight forwarder named in such certificate, bond or notice, but also the fiduciary of such freight forwarder. The coverage of fiduciaries herein provided for shall attach at the moment of succession of such fiduciaries.

(b) *Span of security coverage.* The coverage furnished under the provisions of this rule on behalf of a fiduciary shall not apply subsequent to the effective date of other insurance, or other security, filed with and accepted by the Commission in behalf of such fiduciary. After the coverage provided in this rule shall have been in effect 30 days, it may be canceled or withdrawn within the succeeding period of 30 days by the insurer, the insured, the surety, or the principal upon 10 days' notice in writing to the Commission at its office in Washington, D.C., which period of 10 days shall commence to run from the date such notice is actually received by the Commission. After such coverage has been in effect for a total of 60 days, it may be canceled or withdrawn only in accordance with § 1084.8(d).

PARTS 1090–1099—INTERMODAL TRANSPORTATION

PART 1090—PRACTICES OF FOR-HIRE CARRIERS OF PROPERTY PARTICIPATING IN TRAILER-ON-FLATCAR SERVICE

Sec.

1090.1 Definition of TOFC service.
1090.2 Availability to all of TOFC service.
1090.3 Use of open-tariff TOFC service by motor and water carriers in the performance of economically regulated transportation.
1090.4 Joint intermodal TOFC service.
1090.5 Circuity limitations.
1090.6 Responsibility for placing and securing trailers.
1090.7 Tariff publication regulations.
1090.8 Billing and notification rules.

Authority: The provisions of this Part 1090 issued under 24 Stat. 383, as amended, 52 Stat. 1237, 54 Stat. 933, 56 Stat. 285, 60 Stat. 237; 49 U.S.C. 12, 304, 904, 1003, 5 U.S.C. 553.

Note: By order of the Commission, the effective date of this Part, as amended at 29 F.R. 11274, Aug. 5, 1964, was postponed until further order of the Commission, 29 F.R. 12508, Sept. 2, 1964.

By further order of the Commission Part 1090 is effective Aug. 18, 1967, except for § 1090.7 which is effective Nov. 16, 1967, and § 1090.8 which is effective Feb. 18, 1968, 32 F.R. 12639, Sept. 1, 1967.

§ 1090.1 Definition of TOFC service.

Trailer-on-flatcar (TOFC) service means the transportation on a rail car, in interstate or foreign commerce, of (a) any freight-laden highway truck, trailer, or semitrailer (or the container portion of any highway truck, trailer, or semitrailer having a demountable chassis) or (b) any empty highway truck, trailer, or semitrailer (or the container portion of any highway truck, trailer, or semitrailer having a demountable chassis) when such empty equipment is being transported incidental to its prior or subsequent use in TOFC service as defined in paragraph (a) of this section.

§ 1090.2 Availability to all of TOFC service.

TOFC service, if offered by a rail carrier through its open tariff publications, shall be made available to any person at a charge no greater and no less than that received from any other person or persons for doing for him or them a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions.

§ 1090.3 Use of open-tariff TOFC service by motor and water carriers in the performance of economically regulated transportation.

(a) Except as otherwise may be prohibited by these rules, motor common and contract carriers, water common and contract carriers, and freight forwarders may utilize TOFC service in the performance of all or any portion of their authorized service through the use of open-tariff TOFC rates published by a rail carrier.

(b) Motor and water common carriers shall utilize open-tariff TOFC service only if their tariff publications give notice that such service may be utilized at their option, but that the right is reserved to the user of their services to direct that in any particular instance TOFC service not be utilized.

(c) Motor and water contract carriers shall utilize open-traffic TOFC service only if their transportation contracts and schedules make appropriate provision therefor.

(d) Tariffs of motor and water common carriers and contracts and schedules of motor and water contract carriers providing for the use of open-tariff TOFC service shall set forth the points between which TOFC service may be performed and the names of the rail carriers whose TOFC service may be utilized.

(e) Motor and water common and contract carriers utilizing open-tariff TOFC service in the performance of authorized transportation shall tender traffic to and receive traffic from rail carriers only at points which the motor and water carriers are authorized to serve.

§ 1090.4 Joint intermodal TOFC service.

(a) Except as otherwise may be prohibited by these rules, any rail carrier or carriers subject to part I of the act may enter into through-route and joint-rate arrangements with any motor common carrier subject to part II of the act or any water common carrier subject to part III of the act, wherein TOFC service is to be provided either in lieu of, or in addition to, the authorized all-highway or all-water service of such motor or water common carrier.

(b) Motor or water common carriers may participate in joint intermodal TOFC service in lieu of their authorized all-highway or all-water service only if their tariff publications give notice that such service may be provided at their option, but that the right is reserved to the user of their services to direct that in any particular instance such TOFC service not be provided.

(c) Tariffs embracing joint intermodal TOFC rates or charges, including Substituted Service Directories, if used, shall set forth the service covered by the published rates or charges; the points of interchange between modes of transportation; and the names of the carriers participating therein.

(d) Carriers participating in joint intermodal TOFC service shall interchange traffic only at a common point of service.

(e) Where joint intermodal TOFC service is to be performed in lieu of a motor or water carrier's authorized all-highway or all-water route, tariffs embracing rates or charges covering such service may provide for the performance of TOFC service for the entire line-haul movement.

(f) Tariffs setting forth through rates or charges for joint intermodal TOFC transportation may be published only with respect to commodities the transportation of which is subject to economic regulation throughout the entire movement provided for in such tariffs.

§ 1090.5 Circuity limitations.

(a) Motor and water common carriers shall not participate in joint intermodal TOFC service which is to be provided in lieu of their authorized line-haul transportation, and motor and water common and contract carriers shall not utilize open tariff TOFC service, where the distance from origin to destination over the route including the TOFC movement is less than 85 percent of the distance between such points over the motor or water carrier's authorized service route: *Provided, however,* That the Interstate Commerce Commission may grant relief from the provisions of this paragraph upon consideration of an appropriate petition.

(b) For the purpose of paragraph (a) of this section the distance from origin to destination over the motor or water carrier's authorized route shall be computed (1) if a motor carrier operating over regular routes, over its authorized regular service route, (2) if a motor carrier operating over irregular or a combination of regular and irregular routes, through any gateway point which it is required to observe, and (3) if a water carrier, over the most direct available all-water route.

§ 1090.6 Responsibility for placing and securing trailers.

(a) Railroads participating in TOFC service shall assume responsibility for the safe securing of highway trucks, trailers, or semitrailers (or the demountable container portions thereof) on the rail cars when moving over their lines; and, unless otherwise provided for by tariff, or in the case of connecting common carriers by agreement, railroads shall also assume responsibility for the safe placing of highway trucks, trailers, or semitrailers (or the demountable container portion thereof) on rail cars and for removing them from rail cars.

(b) Railroads participating in TOFC service have the right to refuse to accept for transportation in such service any highway trucks, trailers, or semitrailers (or the demountable container portions thereof) which do not conform to the motor carrier safety regulations prescribed by the Commission.

§ 1090.7 Tariff publication regulations.

(a) Each railroad performing or holding out to perform TOFC service shall publish, post, and file tariffs (itself or through an agent) which shall contain in clear and explicit terms all of the rates and charges for and the rules governing the leasing of equipment to any person using its TOFC service (whether by the railroad itself or by any person affiliated with or controlled by the railroad or any agents of the railroad), and other special services or practices, including charges for pickup or delivery service when such charges are in addition to line-haul transportation charges. Such tariffs shall also contain, in clear and explicit terms, all amounts to be paid to any shipper for the lease of any empty truck, trailer, or semitrailer (or the container portion of any truck, trailer, or semitrailer having a demountable chassis) when such empty equipment is being transported incidentally to its prior or subsequent use in TOFC service.

(b) No allowance shall be payable by a rail carrier to any shipper, freight forwarder, or consignee which renders any service or furnishes any instrumentality in connection with TOFC service unless (1) such service or instrumentality is one that the rail carrier is obligated to perform or provide under the applicable rate and (2) the amount of the allowance is published in tariffs on file with the Interstate Commerce Commission.

(c) The area within which pickup and delivery service will be performed by a rail carrier offering to provide TOFC service shall be described specifically and the description published in clear and explicit terms in the tariff. It is not permissible to refer to decisions of the Commission for the description nor to state that the area within which pickup and delivery service will be performed is that defined by the Commission in a formal proceeding.

(d) All rail tariffs containing rates for TOFC transportation of property shall specify the extent to which such rates do or do not include the loading and unloading of property from or to the highway vehicle by the carrier. When charges in addition to the line-haul TOFC transportation charges or in addition to pickup or delivery charges, if any, are made for the loading or unloading of property, they shall be published in appropriate tariffs and filed with the Interstate Commerce Commission.

(e) Highway vehicles or rail cars provided by shippers or freight forwarders in connection with all-rail TOFC service, while on railroad premises, shall be subject to the storage or demurrage rules, regulations, and charges published in tariffs on file with the Interstate Commerce Commission.

§ 1090.8 Billing and notification rules.

(a) No shipment shall be transported in or in connection with TOFC service until the originating carrier has issued a receipt or bill of lading therefor.

(b) Carriers by tariff publication shall require that where a manifest or a statement of the weight or nature of a TOFC shipment is needed to determine the TOFC freight charges, such manifest or a certification by the shipper as to the weight or the nature of the shipment shall be delivered to the originating carrier within 24 hours after the shipment reaches its destination: *Provided, however*, That where the weight of a loaded highway truck, trailer, or semitrailer (or the demountable container portion thereof) or the weight of the contents thereof is needed to determine rail TOFC charges, the rail carrier shall not relinquish possession of the shipment until it has received certification from the shipper as to such weights or has itself ascertained them.

(c) Unless a rail carrier by appropriate tariff publication specifically provides otherwise, in clear and unequivocal terms, two or more highway trucks, trailers, or semitrailers (or the demountable container portions thereof), shall be tendered within one calendar day in order to qualify for any rate for the movement of multiple highway vehicles (or for the demountable container portions thereof).

(d) Carriers by tariff publication shall require that arrangements for the movement of highway trucks, trailers, or semitrailers (or the demountable container portions thereof) containing explosives or other dangerous articles shall be made by a shipper or carrier with a railroad in sufficient time to permit the latter properly to placard and position the rail cars used for the movement and that shipments containing explosives or other dangerous articles shall not be transported in TOFC service unless the shipper, at the time of tender to the originating carrier, certifies that the shipment complies with the Hazardous Materials Regulations of the Department of Transportation.

(e) All-freight (all-commodity) rates that are restricted to apply only when not more than a designated proportion of a shipment consists of a single article shall be made subject to tariff provisions which (1) shall describe in clear and explicit terms the conditions under which such rates apply, (2) shall contain or refer to a commodity classification, such as the current Uniform Freight Classification or a designated tariff, from which it can be determined what constitutes a "single article" for purposes of the all-freight rate, (3) shall require certification by the shipper of the percentage which the weight of a given article bears to the weight of the entire shipment, and (4) shall specify the means by which the applicable rate will be determined should a shipment fail to qualify for the all-freight rate because it contains more than the designated proportion of one article.

SUBCHAPTER B—PRACTICE AND PROCEDURE

PARTS 1100–1109—RULES OF PRACTICE

PART 1100—GENERAL RULES OF PRACTICE

GENERAL INFORMATION

Sec.
1100.1 Scope of rules.
1100.2 Liberal construction.
1100.3 Information; special instructions.
1100.4 Communications and pleadings generally.
1100.5 Definitions.
1100.6 Use of gender and number.

PRACTITIONERS

1100.7 Register of practitioners.
1100.8 Practitioners' qualifications and classes.
1100.9 Applications for admission to practice.
1100.10 Additional certificates by practitioner's sponsors; hearing; abandonment of application.
1100.11 Application fee.
1100.12 Practitioner's oath.
1100.13 Denial of admission, censure, suspension, or disbarment of practitioners.

SPECIAL RULES RESPECTING BOARDS

1100.14 Special rules respecting boards.

PLEADING SPECIFICATIONS GENERALLY

1100.15 Typographical specifications generally.
1100.16 Copies.
1100.17 Attestation and verification.
1100.18 Affirmation in lieu of oath.
1100.19 Pleadings part of record.
1100.20 Amendments.
1100.21 Time.
1100.22 Service; pleadings and papers to show.
1100.23 Replies.

COMMENCEMENT OF PROCEEDINGS

1100.24 Informal complaints not seeking damages.
1100.25 Informal complaints seeking damages.
1100.26 Formal complaints; copies.
1100.27 Formal complaints; joinder.
1100.28 Formal complaints; allegations generally.
1100.29 Formal complaints; when damages sought.
1100.30 Formal complaints; discrimination, preference, and prejudice.
1100.31 Formal complaints; other specifications.
1100.32 Formal complaints; prayers for relief.
1100.33 Amended and supplemental formal complaints.
1100.34 Service of formal and cross complaints.
1100.35 Answers and cross complaints to formal complaints.
1100.36 Motions to dismiss or to make more definite and certain.
1100.37 Satisfaction of complaint.
1100.38 Applications.
1100.39 Applications; notice.
1100.40 Protests against applications.
1100.41 Valuation proceedings; protests.
1100.42 Petitions for suspension of tariffs or schedules.
1100.43 Service of investigation order; default where failure to comply.

PETITIONS SEEKING INSTITUTION OF RULEMAKING PROCEEDINGS

1100.44 Petitions seeking institutions of rulemaking proceedings.

MODIFIED PROCEDURE

1100.45 Modified procedure; how initiated.
1100.46 Modified procedure; effect of order.
1100.47 Modified procedure; intervention.
1100.48 Modified procedure; joint pleadings.
1100.49 Modified procedure; content of pleadings.
1100.50 Modified procedure; verification.
1100.51 Modified procedure; when pleadings filed and served.
1100.52 Modified procedure; copies of pleadings.
1100.53 Modified procedure; hearings.
1100.54 Modified procedure; subsequent procedure.

NOTICE OF HEARING; SUBPENAS; DEPOSITIONS

1100.55 Notice of hearing.
1100.56 Subpenas.
1100.57 Depositions; preliminary.
1100.58 Depositions; petitions.
1100.59 Depositions; order; interrogatories.
1100.60 Depositions; recordation of testimony.
1100.61 Depositions; objections.
1100.62 Depositions; deponent's signature.
1100.63 Depositions; officer's attestation.
1100.64 Depositions; return to Commission.
1100.65 Depositions; notice of filing.
1100.66 Depositions; copies.
1100.67 Depositions; inclusion in record.

HEARINGS

1100.68 Prehearing conferences.
1100.69 Stipulations.
1100.70 Authority of officers.
1100.71 Appearances; standard of conduct; absence from hearing.
1100.72 Intervention; petitions.
1100.73 Participation without intervention.
1100.74 Witness examination; order of procedure.
1100.75 Evidence; admissibility generally.
1100.76 Evidence; cumulative restriction.
1100.77 Evidence; prepared statements.
1100.78 Evidence; official records.
1100.79 Evidence; entries in regular course of business.
1100.80 Evidence; documents containing matter not material.
1100.81 Evidence; documents in Commission's files.
1100.82 Evidence; records in other Commission proceedings.
1100.83 Evidence; abstracts of documents.
1100.84 Evidence; exhibits.
1100.85 Record in referred matter unaffected by a second reference.
1100.86 Evidence; filing of subsequent to hearing; copies.
1100.87 Evidence; objections to.
1100.88 Oral argument before officer.
1100.89 Continuance for further hearing.
1100.90 Transcript of record.

BRIEFS; REPORTS; ORAL ARGUMENT

1100.91 Briefs; content and arrangement.
1100.92 Briefs; when officer's report is served.
1100.93 Briefs; when officer's report is not served.
1100.94 Briefs of interveners.
1100.95 Officer's report; when and how served.
1100.96 Exceptions to officer's report.
1100.97 Effect of exceptions or absence thereof.
1100.98 Oral argument before Commission.

ORDER COMPLIANCE; DAMAGE STATEMENTS

1100.99 Compliance with Commission's orders.
1100.100 Statements of claimed damages based on Commission findings.

REHEARING; REARGUMENT; OR RECONSIDERATION

Sec.
1100.101 Petitions for rehearing, reargument or reconsideration.
1100.102 Petitions not otherwise covered.

SPECIAL RULES OF PRACTICE

1100.200 Special rules of practice governing procedure in certain suspension and fourth-section matters.
1100.225 Special rules of practice governing the procedure of the Temporary Authorities Board, the Transfer Board, Finance Boards Nos. 1, 2, and 3, the Safety and Service Boards, the Motor Carrier Boards, the Special Permission Board, the Released Rates Board, and Operating Rights Boards Nos. 1 and 2.
1100.240 Special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(2), 210a(b), of the Interstate Commerce Act and certain other procedural matters with respect thereto.
1100.245 Special rules governing procedures for the issuance to single-State common carriers by motor vehicle of Certificates of Registration under section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962, authorizing motor common carrier operations in interstate and foreign commerce, and certain other procedural matters with respect thereto.
1100.246 Special rules pertaining to proceedings for the discontinuance or change of train or ferry service.
1100.247 Special rules governing notice of filing of applications by motor carriers of property or passengers and brokers under sections 206 (except section 206(a)(6) relating to Certificates of Registration), 209 and 211, by water carriers under sections 302(e), 303, and 309, and by freight forwarders under section 410 of the Interstate Commerce Act, and certain other procedural matters with respect thereto.

Appendix A—Code of ethics for practitioners before the Interstate Commerce Commission.
Appendix B—Approved forms.
Appendix C—Ex Parte Communications.

AUTHORITY: The provisions of this Part 1100 issued under secs. 12, 17, 24 Stat. 383, as amended, 385, as amended, 49 Stat. 546, as amended, 548, as amended, 551, as amended, sec. 304, 54 Stat. 933, sec. 408, 56 Stat. 285; 49 U.S.C. 12, 12a, 17, 304, 305, 306, 307, 309, 311, 902, 903, 904, 909, 916, 1003, 1010, 1017.

GENERAL INFORMATION

§ 1100.1 Scope of rules. (Rule 1)

The rules in this part govern procedure before the Interstate Commerce Commission in proceedings under the Interstate Commerce Act and related acts, unless otherwise directed by the Commission in any proceeding.

§ 1100.2 Liberal construction. (Rule 2)

The rules in this part shall be liberally construed to secure just, speedy, and inexpensive determination of the issues presented.

§ 1100.3 Information; special instructions. (Rule 3)

Information as to procedure under the rules in this part, and instructions supplementing these rules in special instances, will be furnished upon application to the Secretary of the Commission, Washington, D.C.

§ 1100.4 Communications and pleadings generally. (Rule 4)

(a) *How addressed.* All communications, including correspondence concerning matters referred to boards, should be addressed to the Commission unless otherwise specifically directed. All communications should clearly designate the docket number, if any, and short title. The person communicating shall state his address, the party he represents, and how response should be sent to him if not by first class mail.

(b) *Timely filing required.* Pleadings, requests, or other papers or documents required or permitted to be filed under this part must be received for filing at the Commission's offices at Washington, D. C., within the time limits, if any, for such filing. The date of receipt at the Commission and not the date of deposit in the mails is determinative.

(c) *Disposition of; when defective.* In any proceeding when upon inspection the Commission is of the opinion that a pleading, document, or paper tendered for filing does not comply with this part or, if it be an application, does not sufficiently set forth required material or is otherwise insufficient, the Commission may decline to accept the pleading, document, or paper for filing and may return it unfiled, or the Commission may accept it for filing and advise the person tendering it of the deficiency and require that the deficiency be corrected.

(d) *Objectionable matter.* The Commission may order any redundant, immaterial, impertinent, or scandalous matter stricken from any pleading, document, or paper filed with it.

(e) *Ex parte communications prohibited; penalties provided.* Ex parte communications as defined in Appendix C to this part are prohibited and any person violating the prohibitions set out in such Appendix is subject to the penalties as therein provided.

§ 1100.5 Definitions. (Rule 5)

As used in this part:

(a) The terms "act" and "part" mean the Interstate Commerce Act and the several parts thereof, respectively. The term "act" also means, unless the context otherwise indicates, any other statute which the Commission administers in whole or in part.

NOTE: References to parts designated by Roman numerals refer to the Interstate Commerce Act. References to "this part," "the rules in this part or to parts designated by Arabic numerals," refer to this Code.

(b) The term "proceeding" shall include: (1) An informal or formal "complaint" alleging violation of any provision of the act or of any regulation or requirement made pursuant to a power granted by such act, including petitions on the special docket; (2) an "application" for (i) the granting of any right, privilege, authority, or relief under or from any provision of the act or of any regulation or requirement made pursuant to a power granted by such act, including petitions on the special docket; (2) an "application" for (i) the granting of any right, privilege, authority, or relief under or from any provision of the act or of any regulation or requirement made pursuant to a power granted by such act, or (ii) the consideration of any submission required by law to be made to the Commission; and (3) an "investigation" instituted or requested to be instituted by the Commission, including, among other, matters on the valuation and investigation-and-suspension dockets.

(c) The term "complainant" means a person filing a complaint; "defendant" means a carrier or other person against whom complaint is filed; "applicant" means a person filing an application; "respondent" means a person designated in an investigation; "protestant" means a person opposed to a tentative valuation, to the granting of an application, or to any tariff or schedule becoming effective; "intervener" means a person permitted to intervene as provided in Rule 72 and "petitioner" means any other person seeking relief otherwise than by complaint or application.

(d) The term "pleading" means a complaint, answer, reply, application, protest, motion (other than motion orally made at hearing or argument), petition, document supplementing oral hearing as described in § 1.86 and all documents filed under modified procedure.

(e) The term "practitioner" means a person authorized by the Commission to appear before it in a representative capacity.

(f) The term "officer," except as a different meaning is indicated in Rules 17 (b), 57 to 66, inclusive, 71(a) and 78 (civil and corporate functionaries), includes: (1) a Commissioner, a board of employees (called an "employee board" in this part), an examiner, or special board composed of State representatives (called a "joint board" in this part), to which a proceeding (called "referred matter" in this part) is by order assigned or referred for hearing, consideration, or recommendation of an appropriate order thereon pursuant to provisions of law; [1] and (2) a Commissioner, an examiner, or other Commission employee before whom, without entry of an order of reference, a proceeding is assigned for hearing. The term "board" means either an employee board or a joint board as the context requires.

(g) The term "proposed report" means an officer's written statement of the issues, the facts, and the findings the officer proposes that the Commission should make, with the reasons therefor, but with no recommended order. Such term also means, and shall include, a "recommended decision" and a "tentative decision" as these last two terms are used in the Administrative Procedure Act.

(h) The term "report and recommended order" means an officer's written statement in a referred matter of the issues, the facts, the findings, reasons for

[1] Such as sections 17 and 205 of the Interstate Commerce Act.

such findings, and a recommended order. Such term also means, and shall include, an "initial decision" as the latter term is used in the Administrative Procedure Act.

(i) The term "officer's report" or "board's report" means a proposed report or report and recommended order.

(j) The term "modified procedure" means the procedure specified in Rules 45 to 54, inclusive, which rules provide for the filing and serving of pleadings in proceedings with a view to limiting the matters upon which subsequent oral evidence, if any, will be introduced.

(k) The term "transcript" shall include either a written or electronically recorded statement of all proceedings at an oral hearing.

§ 1100.6 Use of gender and number. (Rule 6)

Words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular; and words importing the masculine gender may be applied to females.

PRACTITIONERS

§ 1100.7 Register of practitioners. (Rule 7)

A register is maintained by the Commission in which are entered the names of all persons entitled to practice before the Commission. Corporations and firms will not be admitted or recognized.

§ 1100.8 Practitioners' qualifications and classes. (Rule 8)

The following classes of persons whom the Commission finds, upon consideration of their applications, to be of good moral character and to possess the requisite qualifications to represent others may be admitted to practice before the Commission:

(a) *Attorneys at law.* Attorneys at law who are admitted to practice before the highest court of any State or Territory or the District of Columbia.

(b) *Persons not attorneys.* Any person not an attorney at law who is a citizen or resident of the United States and who shall satisfy the Commission that he is possessed of the necessary legal and technical qualifications to enable him to render valuable service before the Commission, and that he is otherwise competent to advise and assist in the presentation of matters before the Commission.

§ 1100.9 Applications for admission to practice. (Rule 9)

An application under oath for admission to practice shall be addressed to the Commission, Washington, D.C., and must state the name, residence address, and business address of the applicant, and the time and place of his admission to the bar, or the nature of his qualifications. Such application shall also state whether the applicant has ever been suspended or disbarred as an attorney, or whether his right to practice has ever been revoked by any court, commission, or administrative agency, in any jurisdiction. Such application shall be accompanied by a certificate of the clerk of the court in which applicant is admitted to practice to the effect that he has been so admitted and is in good standing; or by a certificate signed by three or more practitioners as sponsors for the applicant, which certificate shall recite that applicant possesses all the requisite qualifications under this section, and the sponsors shall incorporate in their certificate a recommendation and motion that applicant be admitted to practice under this section.

§ 1100.10 Additional certificates by practitioner's sponsors; hearing; abandonment of application. (Rule 10)

The Commission in its discretion may call upon the practitioners making such certificate for a full statement of the nature and extent of their knowledge of the qualifications of the applicant. If upon consideration of the papers filed by the applicant and the statements submitted by his sponsors, or otherwise, the Commission is not satisfied as to the sufficiency of the applicant's qualifications under these rules, it will so notify him by registered mail, whereupon he may request a hearing for the purpose of showing his qualifications. If he presents such requests, the Commission will accord him a hearing. If he presents to the Commission no request for such hearing within 20 days after receiving the notification above referred to, his application shall be deemed to be withdrawn.

§ 1100.11 Application fee. (Rule 11)

An application filed after this section becomes effective must be accompanied by a fee of $10. Payment must be made either in cash or by New York draft, certified check, express or postal money order payable to the order of the Treasurer of the United States. The fee will be returned if applicant is not admitted to practice.

§ 1100.12 Practitioner's oath. (Rule 12)

No person shall be admitted to practice before the Commission until he shall have subscribed to an oath or affirmation that he will demean himself, as a practitioner before this Commission, uprightly, and accordingly to law; and that he will support the Constitution of the United States and laws of the United States and will conform to the rules and regulations of the Commission.

§ 1100.13 Denial of admission, censure, suspension, or disbarment of practitioners. (Rule 13)

The Commission may, in its discretion, deny admission, censure, suspend, or disbar any person who, it finds, does not possess the requisite qualifications to represent others, or is lacking in character, integrity, or proper professional conduct. Any person who has been admitted to practice may be suspended or disbarred only after he is afforded an opportunity to be heard. All persons, whether or not admitted to practice under Rule 9, must, in their representations before the Commission, conform to the code of ethics published by the Association of Interstate Commerce Commission Practitioners as of April 1, 1955, which code is reprinted in Appendix A to this part.

SPECIAL RULES RESPECTING BOARDS

§ 1100.14 Special rules respecting boards. (Rule 14)

(a) *Organization.* After a joint board has been created it shall select one of its members to act as chairman for all purposes concerning matters which may be referred to it. In the event the member so selected is absent from any meeting of the joint board the members attending shall select one of such members, except as provided in paragraph (b) of this section, temporarily to act as chairman.

(b) *Waiver by absence of a joint-board member.* The failure of a duly appointed member of a joint board to participate in any hearing after notice thereof on a matter referred to such joint board shall be considered to constitute, as to the matter referred, a waiver of action on the part of the State from which such member was appointed.

(c) *Procedural rulings in case of disagreement.* If the members of a board or a majority thereof in actual attendance at a hearing shall be unable to agree upon the disposition of a procedural question arising therein, the chairman (or acting chairman) of the board shall decide the question and rule or order accordingly.

(d) *Form of board's report; service.* For the sake of uniformity the board's report shall conform as nearly as may be practicable to the form of report issued by the Commission in similar cases. The board's report will be served by the Commission.

(e) *Termination of joint board jurisdiction; subsequent procedure.* The jurisdiction of a joint board over a referred matter shall be terminated in the event of: (1) service of a report as provided in paragraph (d) of this section; (2) submission of the board's conclusions without written report; (3) waiver of action in writing by appropriate authority of each State from which a member is entitled to be appointed; (4) failure of all members of the board to appear at the hearing; (5) failure of a majority of the board to agree; or (6) entry of order vacating the order of reference to the joint board. Except where a report is served as provided in paragraph (d) of this section, in which event the subsequent procedure will be as provided in Rule 96 and subsequent sections, a referred matter, after termination of joint-board jurisdiction, will be decided by the Commission or be made the subject of another officer's report on the record theretofore made or after such hearing or further hearing as may be required.

PLEADING SPECIFICATIONS GENERALLY

§ 1100.15 Typographical specifications generally. (Rule 15)

Except as otherwise provided respecting applications (Rule 38(a)), exhibits (Rule 34(a)), and informal complaints (Rule 24(a)), all pleadings, documents, and papers to be filed under these rules shall be on opaque, unglazed, durable paper not exceeding 8½ by 11 inches. To permit binding in covers of uniform size, margins of at least 1½ and 1 inch, respectively, shall be allowed on the left and right margins. Binding shall be on the left margin. Reproduction may be by printing, printing by offset press, multigraphing, or mimeographing, or by any other process, provided the copies are clear and permanently legible. White-line blueprints which cannot be reproduced by photography are not acceptable. If directly typewritten, or if in facsimile reproduction of typewriting, the impression must be on one side of the paper and must be double-spaced, except that long quotations shall be single-spaced and indented. Nothing less in size than Elite type shall be used. If printed, adequate leading and nothing less than 10-point type shall be used, except that 8-point type may be employed in footnotes and in tabular matter where printing limitations so require. A pleading or brief in excess of 50 pages (except a pleading under modified or shortened procedure), including cover pages, indexes, and appendixes, must be printed. Printing by offset press will be accepted: *Provided*, That the type used is not reduced in size smaller than that required for typewritten documents and that where the pleading or brief exceeds 50 pages, the impression is on both sides of the paper. Failure to observe these specifications will result in rejection.

§ 1100.16 Copies. (Rule 16)

(a) *Generally.* The original and 15 copies of every pleading, document, or paper permitted or required to be filed under this part shall be furnished for the use of the Commission except as a different number is required under paragraph (b) of this section, or as otherwise provided respecting: answers (Rule 35(c)); applications (Rule 38(b)) and Rule 40(c)); complaints, formal (Rule 20 and Rule 37) and informal (Rule 24(a) and Rule 25(d)); depositions (Rule 64); exhibits (Rules 34(c) and 36); modified procedure (Rule 52); petitions in intervention (Rule 72(d)); prepared statements (Rule 77); protests in investigation-and-suspension proceedings (Rule 42(c)); replies (Rule 23(b)); and matters respecting oral argument (Rule 98); subpenas (Rule 56 (a)); time modification (Rule 21(b)); transcript correction (Rule 90(b)), and petitions for rehearing, reargument, or reconsideration (Rule 101(a)).

(b) *In bankruptcy proceedings.* Except as otherwise provided in an application form or instruction (Rule 38) and respecting exhibits (Rule 34(c)), the original and 19 copies of every pleading, document, or paper filed in a proceeding arising under the Uniform Bankruptcy Act shall be furnished for the use of the Commission.

§ 1100.17 Attestation and verification. (Rule 17)

(a) *Practitioner's signature.* If a party is represented by a practitioner each pleading, document, or paper of such party shall be signed in ink by one such practitioner whose address shall be stated. The signature of a practitioner constitutes a certificate by him that he has read the pleading, document, or paper; that he is authorized to file it; that to the best of his knowledge, information, and belief there is good ground for it; that it is not interposed for delay; and that with respect to a complaint he files it with the distinct knowledge and specific consent of complainant. A pleading document, or paper thus signed need not be verified or accompanied by affidavit except as otherwise provided respecting applications (Rule 38), modified procedure (Rule 50), and statements of claimed damages (Rule 100).

(b) *When no practitioner's signature.* A pleading, document, or paper not signed by a practitioner must be signed in ink, the address of the signer shall be stated, and the facts alleged in a pleading must be verified under oath by the person in whose behalf it is filed. Signature and verification in such manner must be by at least one complainant if the pleading is a complaint. A pleading document, or paper filed on behalf of a corporation or other organization authorized to make complaint under the act, which is not signed by a practitioner must be signed in ink, and the facts alleged in a pleading must be verified by an executive officer of such corporation or organization.

§ 1100.18 Affirmation in lieu of oath. (Rule 18)

Whenever under this part an oath is required, an affirmation in judicial form will be accepted in lieu thereof.

§ 1100.19 Pleadings part of record. (Rule 19).

Recitals of material and relevant facts in a pleading filed prior to oral hearing in any proceeding, unless specifically denied in a counterpleading filed under these rules, shall constitute evidence and be a part of the record without special admission or incorporation therein, but if request is seasonably made, a competent witness must be made available for cross-examination on the evidence so included in the record. Pleadings may contain specific references to or quotation from the tariffs or schedules containing the several rates, fares, charges, schedules, classifications, regulations or practices alleged to be material. A filing under Rule 42 *Petitions for suspension of tariffs or schedules*, shall not be considered a pleading for purposes of this rule.

§ 1100.20 Amendments. (Rule 20)

Leave to file amendments to any pleading will be allowed or denied as a matter of discretion.

§ 1100.21 Time. (Rule 21)

(a) *Computation.* In computing any period of time prescribed or allowed by this part, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is Saturday, Sunday or a legal holiday in the District of Columbia, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a holiday. A half holiday shall not be considered as a holiday.

(b) *Modification.* Except as to the maximum time periods provided by law or specified in this part respecting informal complaints seeking damages (Rule 25), any time period prescribed or permitted in this part may, upon request and for good and sufficient cause, be modified by the Commission in its discretion. Requests for extension or modifications of time must be served upon all parties of record at the same time and by the same method of communication as service is made on the Commission. A request for postponement of date for filing briefs or other documents must be filed not less than 10 days before the date in question, except in extraordinary circumstances, and where such requests are filed less than 10 days before the due date the petitioning party shall state the reasons for his failure to make such request within the prescribed time. The original only of the request and certificate of service need be filed with the Commission. If granted, the party making the request shall promptly so notify all parties to the proceeding and so certify to the Commission.

§ 1100.22 Service; pleadings and papers to show. (Rule 22)

(a) *Generally.* Except as otherwise provided in paragraph (b) of this section, or as otherwise provided respecting applications (Rule 38(b)), formal complaints (Rule 34), and informal complaints (Rule 24(b)), every pleading, document, or paper must, when filed, or tendered to the Commission for filing, include a certificate showing simultaneous service thereof upon all parties to the proceeding. Such service shall be made by delivery in person, or by first-class or air mail, or by express, properly addressed with charges prepaid, one copy to each party. Service shall be effected upon the parties to the proceeding by the same means of communication and class of service that is employed in making delivery to the Commission: *Provided, however*, That when delivery is made to the Commission in person, and it is not feasible to serve the other parties in person, service shall be made upon parties 1000 or more miles distant from the party effecting service by air mail and upon parties less than 1000 miles distant by first-class or air mail. When any party is represented by a practitioner, service upon such practitioner will be deemed service upon the party.

(b) *Exceptions as to letter.* Copies of letters to the Commission relating to oral argument (Rule 98) and subpenas (Rule 56(a)) need not be served upon other parties to the proceeding.

§ 1100.23 Replies. (Rule 23)

(a) *Time for filing.* Except that a reply to a reply is not permitted, and except as otherwise provided in para-

graph (b) of this section and respecting answers (Rule 36(c)), modified procedure (Rule 51), and briefs (Rules 93 and 94), an adverse party may file and serve a reply to any pleading permitted under the rules in this part within 20 days after filing at the Commission.

(b) *Replies to petitions under Rule 101 and exceptions.* A reply to a petition filed under Rule 101 seeking a change in a decision, order, or requirement may be filed and served within 20 days after the final date for filing such petitions, and a reply to exceptions filed under Rule 96 may be filed and served within 20 days after the final date for filing such exceptions.

(c) *Copies.* The original of the reply should be accompanied by the same number of copies as required respecting the pleading to which the reply is responsive.

COMMENCEMENT OF PROCEEDINGS

§ 1100.24 Informal complaints not seeking damages. (Rule 24)

(a) *Form and content.* Informal complaint may be by letter or other writing, and will be serially numbered and filed as of the date of its receipt. No form of informal complaint is suggested, but in substance the letter or other writing (original and one copy shall be filed) must contain the essential elements of a formal complaint as specified in Rules 20 and 30. It may embrace supporting papers.

(b) *Correspondence handling.* If the informal complaint appears to be susceptible of informal adjustment, a copy or a statement of the substance thereof will be transmitted by the Commission to each person complained of in an endeavor to have it satisfied by correspondence and thus obviate the filing of a formal complaint.

(c) *Discontinuance without prejudice.* A proceeding thus instituted on the informal docket is without prejudice to complainant's right to file and prosecute a formal complaint, in which event the proceeding on the informal docket will be discontinued.

§ 1100.25 Informal complaints seeking damages. (Rule 25)

(a) *Actual filing required.* Notification to the Commission that an informal complaint may or will be filed later seeking damages is not a filing within the meaning of the statute except as provided in paragraph (e) of this section.

(b) *Content.* An informal complaint seeking damages, when permitted under the act, must be filed within the statutory period, and should contain such data as will serve to identify with reasonable definiteness the shipments or transportation services in respect of which damages are sought. Such complaint should state: (1) that complainant makes claim for damages, (2) the name of each individual claimant seeking damages, (3) the names of defendants against which claim is made, (4) the commodities, the rate applied, the date when the charges were paid, by whom paid, and by whom borne, (5) the period of time within which or the specific dates upon which the shipments were made, and the dates when they were delivered or tendered for delivery, (6) the points of origin and destination, either specifically or, where they are numerous, by definite indication of a defined territorial or rate group of the points of origin and destination and, if known, the routes of movement, and (7) the nature and amount of the injury sustained by each claimant.

(c) *Statement of prior claim.* If a complaint filed under paragraph (b) or (e) of this section contains a claim on any shipment which has been the subject of a previous informal or formal complaint to the Commission, reference to such complaint must be given.

(d) *Copies.* The original of an informal complaint seeking damages must be accompanied by copies in sufficient number to enable the Commission to transmit one to each defendant named.

(e) *Special-docket proceedings.* Where the act provides for an award of damages for violation thereof and a carrier is willing to pay them, or to waive collection of undercharges, petition for appropriate authority should be filed by the carrier on the special docket in the form prescribed by the Commission. If the petition is granted an appropriate order will be entered. Such petition, when not filed in connection with an informal complaint pending before the Commission, must be filed within the statutory period and will be deemed the equivalent of an informal complaint and an answer thereto admitting the matters stated in the petition. If a carrier is unable to file such petition within the statutory period and the claim is not already protected from the operation of the statute by informal complaint, a statement setting forth the facts may be filed by the carrier within the statutory period. Such statement will be deemed the equivalent of an informal complaint filed on behalf of the shipper or consignee and sufficient to stay the operation of the statute.

(f) *Six months' rule.* If an informal complaint seeking damages cannot be disposed of informally, or is denied, or is withdrawn by complainant from further consideration, the parties affected will be so notified in writing by the Commission. The matter in such complaint will not be reconsidered unless, within six months after the date such notice is mailed, either a formal complaint as to such matter is filed, or it is informally resubmitted on an additional fact basis.

Such filing or resubmission will be deemed to relate back to the date of the original filing, but reference to that date and the Commission's file number must be made in such resubmission or in the formal complaint filed. If the matter is not so resubmitted, or included in a formal complaint, as provided in this section, complainant will be deemed to have abandoned the complaint and no complaint seeking damages based on the same cause of action will thereafter be placed on file or considered unless itself filed within the statutory period.

§ 1100.26 Formal complaints; copies. (Rule 26)

(a) *Generally.* The original of each formal complaint, amended or supplemental formal complaint, or cross complaint, must be accompanied by copies in sufficient number to enable the Commission to serve one upon each defendant, including each receiver or trustee, and retain six copies in addition to the original.

(b) *Provision for State authorities.* If complaint is made under part II, or respecting State-made rates (Rule 30(b)), sufficient copies in addition to those required under paragraph (a) of this section shall be furnished to permit the Commission to supply one to the appropriate authority in each of the States included in the scope of the complaint.

§ 1100.27 Formal complaints; joinder. (Rule 27)

(a) *Causes of action.* Two or more grounds of complaint concerning the same principle, subject, or state of facts may be included in one complaint, but should separately be stated and numbered.

(b) *Complainants.* Two or more complainants may join in one complaint if their respective causes of action are against the same defendant or defendants and concern substantially the same alleged violation of the act and a like state of facts.

(c) *Defendants.* If complaint is made with respect to through transportation by continuous carriage or shipment, all persons subject to the act participating therein, and against which an order is sought, should be made defendants. If complaint is made of a classification or any provision thereof, ordinarily it will suffice to make defendants the persons operating one or more through routes between representative points of origin and destination.

(d) *Correct designation of parties.* The unabbreviated names of all parties complainant and defendant must be stated correctly.

§ 1100.28 Formal complaints; allegations generally. (Rule 28)

A formal complaint should be so drawn as fully and completely to advise the parties defendant and the Commission in what respects the provisions of the act have been or are violated or will be violated, and should set forth briefly and in plain language the facts claimed to constitute such violation. If two or more sections or subsections of the act or requirements established pursuant thereto are alleged to be violated, the facts claimed to constitute violation of one section, subsection, or requirement should be stated separately from those claimed to constitute a violation of another section, subsection, or requirement whenever that can be done by reference or otherwise without undue repetition.

§ 1100.29 Formal complaints; when damages sought. (Rule 29)

A formal complaint that includes a request for an award of damages should

contain the information specified for an informal complaint seeking damages (Rule 25, paragraphs (b) and (c)).

§ 1100.30 Formal complaints; discrimination, preference, and prejudice. (Rule 30)

(a) *Generally.* A complaint that alleges the act is violated because of an undue or unreasonable preference or advantage, undue or unreasonable prejudice or disadvantage, or unjust discrimination should specify clearly the particular elements stated in the act[1] as constituting such violation, and the facts which complainant relies upon to establish it.

(b) *State-made rates.* A complaint that brings in issue any rate, fare, charge, classification, regulation, or practice, made or imposed by authority of any State, upon the ground that it violates provisions of the act which prohibit undue or unreasonable advantage preference, or prejudice as between persons or localities in intrastate commerce and persons or localities in interstate or foreign commerce, or any undue, unreasonable or unjust discrimination against interstate or foreign commerce, should bring in issue the justness and reasonableness of the rate, fare, charge, classification, regulation, or practice applicable to the interstate or foreign commerce involved in such complaint. Such complaint should also bring in issue the question as to what should be the rate, fare, or charge, or the maximum or minimum, or maximum and minimum, thereafter to be charged, and the classification, regulation, or practice that should be established so as to remove any such advantage, preference, prejudice, or such unjust discrimination.

§ 1100.31 Formal complaints; other specifications. (Rule 31)

(a) *Tariff or schedule references.* The several rates, fares, charges, schedules, classifications, regulations, or practices on which complaint is made should be set out by specific reference to the tariffs or schedules in which they appear, whenever that is practicable.

(b) *States in which transportation occurs.* A formal complaint under part II should specifically name the States in and through which the transportation which gives rise to the complaint is performed.

(c) *Hearing place.* A formal complaint should be accompanied by a statement of the place at which hearing is desired.

§ 1100.32 Formal complaints; prayers for relief. (Rule 32)

(a) *Generally.* A formal complaint in which relief for the future is sought should contain a detailed statement of the relief desired. Relief in the alternative or of several different types may be demanded, but the issues raised in the formal complaint should not be broader than those to which complainant's evidence is to be directed at the hearing.

(b) *Specific prayer for damages.* Except under unusual circumstances, and for good cause shown, damages will not be awarded upon a complaint unless specifically prayed for, or upon a new complaint by or for the same complainant which is based upon any finding in the original proceeding.

§ 1100.33 Amended and supplemental formal complaints. (Rule 33)

An amended or supplemental complaint may be tendered for filing by a complainant against a defendant or defendants named in the original complaint, stating a cause of action alleged to have accrued within the statutory period immediately preceding the date of such tender, in favor of complainant and against the defendant or defendants.

§ 1100.34 Service of formal and cross complaints. (Rule 34)

The Commission will serve formal complaints. It will also serve supplemental, amended, and cross complaints and specific amendments to all complaints when it has granted leave to file such pleadings. Such service will be made personally upon a carrier or freight forwarder or upon an agent thereof designated for purposes of service, or by mail addressed to the carrier or freight forwarder or to the agent thereof at the address filed. If no agent has been designated, service may be made by posting in the office of the Secretary of the Commission, and if the defendant be a carrier subject to Part II of the Act, by also posting in the office of the secretary or clerk of the motor-carrier regulatory board of the State wherein the motor carrier maintains headquarters. If the complaint involves only the lawfulness of rates, fares, charges, classifications, or practices, service in the manner indicated in the third sentence of this section may be made upon an attorney in fact of a carrier or freight forwarder who has filed a tariff or schedule in behalf of such carrier or freight forwarder, but such service will not be made upon a carrier subject to Part I unless such carrier has failed to designate an agent for service in the city of Washington.

§ 1100.35 Answers and cross complaints to formal complaints. (Rule 35)

(a) *Generally.* An answer may simultaneously be responsive to a formal complaint and to any amendment or supplement thereof. It must be drawn so as fully and completely to advise the parties and the Commission of the nature of the defense, including, if a departure from the requirements of section 4(1) of the Act is involved, the number of the particular application or order, if any, which protects such departure; and must admit or deny specifically and in detail each material allegation of the pleading answered. An answer may embrace a detailed statement of any counter-proposal which a defendant may desire to submit. Unless the issue is such that separate answers are required, answer for all defendants may be filed on their behalf by one defendant in one document, in which event the answer must show clearly the names of all defendants joining therein, and their concurrence.

(b) *Cross complaints.* A cross complaint alleging that other persons, parties to the proceeding, have violated the act or requirements established pursuant thereto, or seeking relief against them under the act, may be tendered for filing by a defendant with its answer.

(c) *Time for filing; copies.* Unless otherwise directed by the Commission, an answer to a complaint should be filed within 20 days after the day on which the complaint to which answer is filed was served. The original and six copies of an answer shall be filed with the Commission.

(d) *When issue joined.* If any defendant answers or fails to file and serve answer within the period specified in paragraph (c), issue thereby is joined as to such defendant.

§ 1100.36 Motions to dismiss or to make more definite and certain. (Rule 36)

(a) *As to complaint.* Defendant may file with his answer, or with his statement under modified procedure, a motion that the allegations in the complaint be made more definite and certain, such motion to point out the defects complained of and details desired. Defendant may also file with his answer a motion to dismiss a complaint because of lack of legal sufficiency appearing on face of such complaint.

(b) *As to answer.* No replication to the answer shall be filed, but any party may file, within 10 days after the filing of an answer, or, in the case of modified procedure, complainant may file with his statement in reply, a motion that the answer, or defendant's statement, as the case may be, be made more definite and certain, such motion to point out the defects complained of and the details desired.

§ 1100.37 Satisfaction of complaint. (Rule 37)

If a defendant satisfies a formal complaint, either before or after answering, a statement to that effect signed by the opposing parties must be filed (original only need be filed), setting forth when and how the complaint has been satisfied. This action should be taken as expeditiously as possible.

§ 1100.38 Applications. (Rule 38)

(a) *Forms and instructions.* An application filed with the Commission shall be prepared in accord with and contain the information called for in the form of application, if any, prescribed by the Commission, or any instructions which may have been issued by the Commission with respect to the filing of an application.

(b) *Copies; service.* Copies of an application shall be furnished in such number, and be filed and served in the man-

[1] Special rate, rebate, drawback, or other device; and particular person, company, firm, corporation, association, port, port district, gateway, transit point, locality, region, district, territory, or description of traffic.

ner and upon the persons specified in the form or instruction.

§ 1100.39 Applications; notice. (Rule 39)

Appropriate notice of the filing of an application will be given by the applicant or by the Commission to the States, to State authorities, or to other persons as may be required by the form or instruction or by the act.

§ 1100.40 Protests against applications. (Rule 40)

(a) *Content.* A protest against the granting of any application shall set forth specifically the grounds upon which it is made and contain a concise statement of the interest of protestant in the proceeding.

(b) *When filed.* Any protest shall be filed with the Commission promptly after the application is filed. If the proceeding be one respecting which the Commission has issued a notice advising the public of the filing of the application, the protest shall be filed within the time specified in such notice. Failure to file a protest shall not prejudice subsequent participation in the proceeding.

(c) *Copies; service.* A protest filed under this section shall be served upon applicant and, unless otherwise specified in the public notice, the original and six copies of the protest shall be filed with the Commission.

(d) *When rule disregarded.* An application may be set for hearing without awaiting the filing of a protest or of a reply thereto, and also may be disposed of without regard to the prior paragraphs of this section unless the act provides that the particular application may be granted only upon hearing.

§ 1100.41 Valuation proceedings; protests. (Rule 41)

A protest of a tentative valuation shall contain a concise statement of the essential elements of protest with particular reference to the matters in the tentative valuation concerning which protest is made and shall include a statement of the changes therein desired by protestant. When practicable each object of protest should be set up as a separate item in a separately numbered paragraph. Each item of protest against land values or areas must state the valuation section and zone on the Commission's maps in which the land is located. When protestant claims that property owned or used has been omitted, a full description of such property and its location must be included in the protest.

§ 1100.42 Petitions for suspension of tariffs or schedules. (Rule 42)

(a) *Content.* The protested tariff or schedule sought to be suspended should be identified by making reference to the name of the publishing carrier, freight forwarder, or agent, to the Interstate Commerce Commission number, and to the specific items or particular provisions protested. Reference should also be made to the tariff or schedule, and the specific provisions thereof, proposed to be superseded. The protest should state the grounds in support thereof, indicate in what respect the protested tariff or schedule is considered to be unlawful, and state what protestant offers by way of substitution. Such protests will be considered as addressed to the discretion of the Commission and no protest shall include a prayer that it also be considered a formal complaint. Should a protestant desire to proceed further against a tariff or schedule which is not suspended, or which has been suspended and the suspension vacated, a separate later formal complaint or petition should be filed.

(b) *When filed.* Protests against, and requests for suspension of, tariffs or schedules filed under the act will not be considered unless made in writing and filed with the Commission at Washington, D.C. Such protests and requests for suspension shall reach the Commission at least 12 days before the effective dates of the tariffs, schedules, or parts thereof to which they refer, unless the protested publications were filed on less than 30-days notice under the authority of this Commission, in which event the protests should be filed not less than 5 days before such effective dates. In an emergency, telegraphic protests will be acceptable if received within the time limits herein specified, provided they also fully comply with paragraph (a) of this section and copies thereof are immediately telegraphed by protestants to the respondent carriers or their publishing agents. Six copies of such telegrams should immediately be mailed by the protestants to the Commission at Washington.

(c) *Copies; service.* Seven copies of each protest or reply filed under this section must be filed with the Commission and one copy of the protest simultaneously be served upon the publishing carrier, freight forwarder, or agent, and upon other persons known by protestant to be interested.

(d) *Reply to protest.* A reply to a protest filed under this section should be filed and served promptly.

§ 1100.43 Service of investigation order; default where failure to comply. (Rule 43)

An order instituting an investigation will be served by the Commission upon respondents. If within a time period stated in that order a respondent fails to comply with any requirement specified therein respondent shall be deemed in default and to have waived any further hearing. Thereafter the investigation may be decided without further proceedings.

PETITIONS SEEKING INSTITUTION OF RULEMAKING PROCEEDINGS

§ 1100.44 Petitions seeking institutions of rulemaking proceedings. (Rule 44)

Any person may file a petition requesting the Commission to institute a proceeding for the purpose of issuing statements, rules, or regulations of general applicability and significance designed to implement or interpret law, or to formulate general policy for future effect. No reply to such a petition may be filed. Whether a proceeding shall be instituted as requested is within the discretion of the Commission and the ruling on the petition will be final.

MODIFIED PROCEDURE

§ 1100.45 Modified procedure; how initiated. (Rule 45)

(a) *Commission's initiative or by request.* Modified procedure (see Rule 5(j)) will be ordered in a proceeding upon the Commission's initiative or upon its approval of a request filed by any party that the modified procedure shall be observed.

(b) *Order directing modified procedure.* An order directing modified procedure will list the names and addresses of the persons who at that time are parties to the proceeding, and direct that they comply with the modified-procedure rules. As used in Rules 49, 51, and 53 the term "complainant" shall comprehend the term "respondent" or "applicant," and the term "defendant" shall include the term "protestant," according as procedure under Rules 45 to 54, inclusive, may be ordered in a particular proceeding.

§ 1100.46 Modified procedure; effect of order. (Rule 46)

(a) *Relief from answer rule.* Issuance of an order directing modified procedure shall relieve defendant from the obligation of answering as provided in Rule 35.

(b) *Default where failure to comply.* If within any time period provided in the modified-procedure rules a party fails to file a pleading required by those rules, or otherwise fails to comply therewith, such party shall be deemed to be in default and to have waived any further hearing. Thereafter the proceeding may be disposed of without further notice to the defaulting party, and without other formal proceedings as to such party.

§ 1100.47 Modified procedure; intervention. (Rule 47)

Persons permitted to intervene under modified procedure shall file and serve pleadings in conformity with the provisions relating to the parties in whose behalf they intervene.

§ 1100.48 Modified procedure; joint pleadings. (Rule 48)

Parties having common interests shall arrange for joint preparation of pleadings filed under modified procedure.

§ 1100.49 Modified procedure; content of pleadings. (Rule 49)

(a) *Generally.* A statement filed under the modified procedure after that procedure has been directed shall state separately the facts and arguments and include the exhibits upon which the party relies. If no answer has been filed pursuant to the waiver provision of Rule 46, defendant's statement must admit or deny specifically and in detail each material allegation of the complaint. In addition defendant's statement and complainant's statement in reply shall specify those statements of fact and arguments of the opposite party to which exception is taken, and include a statement of the facts and arguments in support of such exception. Complainant's statement of reply shall be confined to rebuttal of the defendant's statement.

(b) *Exhibit identification.* In addition to being in compliance with Rule 8 (a) and (b), an exhibit which is part of any pleading filed under modified procedure shall serially be numbered and bear the notation, properly filled out, in the upper right-hand corner: "Complainant (Defendant) ----------; Exhibit No. ----------, Witness ----------."

(c) *Damages.* If an award of damages is sought the paid freight bills or properly certified copies thereof should accompany the original of complainant's statement when there are not more than 10 shipments, but otherwise the documents should be retained.

§ 1100.50 Modified procedure; verification. (Rule 50)

The facts asserted in any pleading filed under modified procedure must be sworn to by persons having knowledge thereof, which latter fact must affirmatively appear in the affidavit. Except under unusual circumstances, such persons should be those who would appear as witnesses orally to substantiate the facts asserted should hearing become necessary. The original of any pleading filed under modified procedure must show the signature, capacity, and impression seal, if any, of the person administering the oath, and the date thereof.

§ 1100.51 Modified procedure; when pleadings filed and served. (Rule 51)

Within 20 days from the date of an order requiring modified procedure, complainant shall serve upon the other parties a statement of all the evidence upon which it relies. Within 20 days thereafter defendant shall serve its statement. Within 10 days thereafter complainant shall serve its statement in reply. No further reply may be made by any party except by permission of the Commission.

§ 1100.52 Modified procedure; copies of pleadings. (Rule 52)

The original and six copies of any statement made pursuant to Rule 51 shall be filed with the Commission. Subsequent pleadings are subject to Rule 54.

§ 1100.53 Modified procedure; hearings. (Rule 53)

(a) *Request for cross examination or other hearing.* If cross examination of any witness is desired the name of the witness and the subject matter of the desired cross examination shall, together with any other request for oral hearing, including the basis therefor, be stated at the end of defendant's statement or complainant's statement in reply as the case may be. Unless material facts are in dispute, oral hearing will not be held for the sole purpose of cross examination.

(b) *Hearing issues limited.* The order setting the proceeding for oral hearing, if hearing is deemed necessary, will specify the matters upon which the parties are not in agreement and respecting which oral evidence is to be introduced.

§ 1100.54 Modified procedure; subsequent procedure. (Rule 54)

Procedure subsequent to that provided in the modified-procedure rules shall be the same as that in proceedings not handled under modified procedure.

NOTICE OF HEARING; SUBPENAS; DEPOSITIONS

§ 1100.55 Notice of hearing. (Rule 55)

(a) *Assignment; service and posting of notice; electronically recorded transcript.* In those proceedings in which a hearing is to be held, the Commission will, by order or otherwise, assign a time and place for hearing. Such action will include notice when the transcript is to be made by electronic recording. Notice of such hearing will be posted in the Office of the Secretary of the Commission and will be served upon the parties and such other persons as may be entitled to receive notice under the Act.

(b) *Requests for changes in assignment.* Requests for postponements of date of hearing will be granted only for good and sufficient cause. After notice of the use of electronic recording, any request for stenographic transcript by the Commission's official reporter in lieu thereof must be made in writing to the Secretary of the Commission not less than 20 days prior to the date of the hearing. Such request will contain a statement that the requestor will provide the Commission with the original and one copy of such stenographic transcript at his own expense in accordance with the schedule of charges in the official reporting contract. In the event a request is made for a written transcript of an electronic recorded proceeding at a later date, the requestor will furnish at no expense to the Commission, an original and one copy of such written transcript for the Commission's use, in accordance with the schedule of charges in the official reporting contract.

(c) *Service of notice of assignment change.* The Commission may confine the service of notice of a change of time or place assigned for hearing (other than by publication or posting), or of any adjourned, further, or supplemental hearing to those only who have indicated to the Commission a desire to be notified, at their own expense if telegraphic advice becomes necessary, of any such change.

§ 1100.56 Subpenas. (Rule 56)

(a) *Requests; particularity.* Unless directed by the Commission upon its own motion, a subpena to compel a witness to produce documentary evidence will be issued only upon petition showing general relevance and reasonable scope of the evidence sought, which petition must also specify with particularity the books, papers, or documents desired, and the facts expected to be proved thereby: *Provided, however,* That for good cause shown, in lieu of a petition, the request for such a subpena may be made orally upon the record to the officer presiding at the hearing. A request for issuance of a subpena other than to compel the production of documentary evidence may be made either by letter (original only need be filed with the Commission) or orally upon the record to the officer presiding at the hearing. A showing of general relevance and reasonable scope of the evidence sought may be required and the subpena will be issued or denied accordingly.

(b) *Issuance.* A subpena may be issued by the Commission or by the officer presiding at the hearing, but only under the signature of the Secretary or of a member of the Commission.

(c) *Service.* The original subpena shall be exhibited to the person served, shall be read to him if he is unable to read, and a copy thereof shall be delivered to him by the officer or person making service.

(d) *Return.* If service of subpena is made by a United States marshal or his deputy, such service shall be evidenced by his return thereon. If made by any other person, such person shall make affidavit thereof, stating the date, time, and manner of service; and return such affidavit on, or with, the original subpena in accordance with the form thereon. In case of failure to make service the reasons for the failure shall be stated on the original subpena. The written acceptance of service of a subpena by the person named therein shall be sufficient without other evidence of return. The original subpena, bearing or accompanied by the required return, affidavit, statement, or acceptance of service, shall be returned forthwith to the Secretary of the Commission, or, if so directed on the subpena, to the officer presiding at the hearing at which the person subpenaed is required to appear.

(e) *Witness fees.* A witness who is summoned and responds thereto is entitled to the same fee as is paid for like service in the courts of the United States. Such fee is to be paid by the party at whose instance the testimony is taken at the time the subpena is served, except that when the subpena is issued on behalf of the United States or an officer or agency thereof, fees and mileage need not be tendered at the time of service.

§ 1100.57 Depositions; preliminary. (Rule 57)

(a) *When permissible.* The Commission will either upon its own initiative, or for good cause shown by a party to a proceeding, issue an order to take a deposition.

(b) *Officer before whom taken.* Within the United States or within a territory or insular possession subject to the dominion of the United States, depositions shall be taken before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held. Within a foreign country a deposition may be taken before an officer or person designated by the

Commission, or agreed upon by the parties by stipulation in writing to be filed with the Commission.

(c) *When taken.* Unless under special circumstances and for good cause shown, no deposition shall be taken within 10 days prior to the assigned date of the hearing in such proceeding, and when the deposition is taken in a foreign country it shall not be taken within 30 days prior to such date of hearing.

(d) *Fees.* A witness whose deposition is taken pursuant to these rules and the officer taking same, unless he be employed by the Commission, shall be entitled to the same fee paid for like service in the courts of the United States, which fee shall be paid by the party at whose instance the deposition is taken.

§ 1100.58 Depositions; petitions. (Rule 58)

A petition requesting an order to take a deposition shall be filed with due regard to the time periods specified in Rule 57(c) and shall set forth the name and address of the witness, the place where, the time when, the name and office of the officer before whom, and the cause or reason why such deposition should be taken.

§ 1100.59 Depositions; order; interrogatories. (Rule 59)

(a) *Order.* If the petition requesting an order to take a deposition is granted which action may be taken without awaiting the possible filing of a reply, the Commission will serve upon the parties an order which will name the witness whose deposition is to be taken, and specify the time when, the place where, and the officer before whom the witness is to testify, but such time and place, and the officer before whom the deposition is to be taken, so specified in the Commission's order, may or may not be the same as set out in the petition.

(b) *Interrogatories.* In lieu of participating in the oral examination, parties served with the order for the taking of a deposition may promptly transmit written interrogatories to the officer, who shall propound them to the witness and record the answers verbatim, but it is not necessary that such interrogatories be served upon the party at whose instance the deposition is taken.

§ 1100.60 Depositions; recordation of testimony. (Rule 60)

The officer before whom the deposition is to be taken shall observe the provisions respecting appearances (Rule 71(a)), and typographical specifications (Rule 15), put the witness on oath, and shall personally, or by some one acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed unless the parties agree otherwise to record the evidence.

§ 1100.61 Depositions; objections. (Rule 61)

All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections.

§ 1100.62 Depositions; deponent's signature. (Rule 62)

When the testimony is fully transcribed or otherwise recorded the deposition of each witness shall be submitted to him for examination and shall be read to or by him. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing, or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall state at the foot thereof the fact of the waiver or of the illness or absence of the witness, or the fact of the refusal to sign, together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed, unless, on a motion to suppress, the Commission finds that the reasons given for the refusal to sign are sufficient to require rejection of the deposition in whole or in part.

§ 1100.63 Depositions; officer's attestation. (Rule 63)

The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness, and that the officer is not of counsel or attorney for any of the parties, and that he is not interested in the event of the proceedings.

§ 1100.64 Depositions; return to Commission. (Rule 64)

The officer shall securely seal the deposition in an envelope endorsed with the title of the proceeding, and shall promptly send the original and one copy thereof, together with the original and one copy of all exhibits, by registered mail to the Secretary of the Commission. The deposition must reach the Commission not later than 5 days before the date of the hearing at which it is to be offered as evidence.

§ 1100.65 Depositions; notice of filing. (Rule 65)

The party taking the deposition shall give prompt notice of its filing to all other parties.

§ 1100.66 Depositions; copies. (Rule 66)

Upon payment of reasonable charges therefor, the officer before whom the deposition is taken shall furnish a copy of it to any interested party or to the deponent.

§ 1100.67 Depositions; inclusion in record. (Rule 67)

At the oral hearing, if one is held, the deposition shall be offered in evidence by the party at whose instance it was taken. If not offered by such party, it may be offered in whole or in part by the adverse party. If only part of a deposition is offered in evidence by a party, an adverse party may require him to introduce all of it, which is relevant to the part introduced, and any party may introduce any other parts. Such deposition shall be admissible in evidence subject to such objections as to competency of the witness, or to the competency, relevancy, or materiality of the testimony as were noted at the time of taking of said deposition, or are made at the time it is offered in evidence.

HEARINGS

§ 1100.68 Prehearing conferences. (Rule 68)

(a) *Purposes.* Upon written notice by the Commission in any proceeding, or upon written or oral instruction of an officer, parties or their attorneys may be directed to appear before an officer at a specified time and place for a conference, prior to or during the course of a hearing, or in lieu of personally appearing to submit suggestions in writing, for the purpose of formulating issues and considering:

(1) The simplification of issues;

(2) The necessity or desirability of amending the pleadings either for the purpose of clarification, amplification, or limitation;

(3) The possibility of making admissions of certain averments of fact or stipulations concerning the use by either or both parties of matters of public record, such as annual reports and the like, to the end of avoiding the unnecessary introduction of proof;

(4) The procedure at the hearing;

(5) The limitation of the number of witnesses;

(6) The propriety of prior mutual exchange between or among the parties of prepared testimony and exhibits; and

(7) Such other matters, including disposition of requests for discovery, as may aid in the simplification of the evidence and disposition of the proceeding.

(b) *Facts disclosed privileged.* Facts disclosed in the course of the prehearing conference are privileged and, except by agreement, shall not be used against participating parties either before the Commission or elsewhere unless fully substantiated by other evidence.

(c) *Recordation and order.* Action taken at the conference, including a recitation of the amendments allowed to the pleadings, the agreements made by the parties as to any of the matters considered and defining the issues, shall be recorded in an appropriate order, unless the parties enter upon a written stipulation as to such matters, or agree to a statement thereof made on the record by the officer.

(d) *Objection to the order; subsequent proceedings.* If an order is entered a reasonable time shall be allowed to the parties to present objections on the ground that it does not fully or correctly embody the agreements reached at such conference. Thereafter the terms of the said order or modification thereof, the written stipulation, or statement of the officer, as the case may be, shall determine the subsequent course of the proceedings, unless modified to prevent manifest injustice.

§ 1100.69 Stipulations. (Rule 69)

Apart from the procedure contemplated by the prehearing provisions (Rule 68), and upon permission granted, the parties may in the discretion of the officer, by stipulation in writing filed with the Commission at any stage of the proceeding, or orally made at the hearing, agree upon any pertinent facts in the proceeding. It is desired that the facts be thus agreed upon so far as and whenever practicable.

§ 1100.70 Authority of officers. (Rule 70)

(a) An officer may grant leave to amend or to file any pleadings, or to intervene, upon request tendered at the hearing, but in no event shall an officer grant such leave if thereby the issues would be so narrowed as to make a referred matter one which should properly be referred to a different officer. An officer shall have no power to decide any motion to dismiss the proceeding or other motion which involves final determination of the merits of the proceeding. The officer shall regulate the procedure in the hearing before him and take all measures necessary or proper for the efficient performance of the duties assigned him, including the disposition of requests for discovery.

(b) Live, delayed, or recorded television or radio broadcasting of Commission hearings, or the taking of pictures in hearing rooms, will not be permitted without special permission of the Chairman of the Commission.

§ 1100.71 Appearances; standard of conduct; absence from hearing. (Rule 71)

(a) *Who may appear.* Any individual may appear for himself and any member of a partnership which is a party to any proceeding may appear for such partnership upon adequate identification. A bona fide officer or a full-time employee of a corporation, association, or of an individual may appear for such corporation, association, or individual by permission of the officer presiding at the hearing. A party also may be represented by a practitioner.

(b) *Appearances.* An appearance may be either general, that is, without reservation, or it may be special, that is, confined to a particular issue or question. When a practitioner enters an appearance at a hearing he will be expected to represent his client faithfully until the completion of the proceeding in which he has been retained, or until the completion of the part of the proceeding for which he has specially appeared. A practitioner who has entered his appearance at the hearing shall not be permitted to withdraw from the hearing, or wilfully to absent himself therefrom, except for good cause and, whenever practicable, only with the permission of the presiding officer. If a person desires to appear specially, he must expressly so state when he enters his appearance and at that time he shall also state the questions or issues to which he is confining his appearance; otherwise, his appearance will be considered as general.

(c) *Standard of conduct.* Contemptuous conduct by any person appearing at a hearing shall be ground for his exclusion by the presiding officer from the hearing.

(d) *Absence from hearing.* If a party or his representative shall, after entering an appearance, attempt to withdraw from the hearing in a manner other than that specified in paragraph (b) of this section, the Commission on its own motion, or on motion of any party to the proceeding, may take such action as, in the interest of justice and the protection of the lawful rights of all parties to the proceeding, the circumstances of the case may warrant, including the striking out of all or any part of any pleading of the offending party, and including the possible dismissal of the action or proceeding, or any part thereof, the entry of an order of default against that party, or the disciplining of the practitioner concerned.

§ 1100.72 Intervention; petitions. (Rule 72)

(a) *Content generally.* A petition for leave to intervene must set forth the grounds of the proposed intervention, the position and interest of the petitioner in the proceeding, and whether petitioner's position is in support of or opposition to the relief sought. If the proceeding be by formal complaint and affirmative relief is sought by petitioner, the petition should conform to the requirements for a formal complaint.

(b) *When filed.* A petition for leave to intervene in any proceeding should be filed prior to or at the time the proceeding is called for hearing, but not after except for good cause shown.

(c) *Broadening issues; filing.* If the petitioner seeks a broadening of the issues and shows that they would not thereby be unduly broadened, and in respect thereof seeks affirmative relief, the petition should be filed in season to permit service upon and answer by the parties in advance of the hearing.

(d) *Copies; service; replies.* When tendered at the hearing, sufficient copies of a petition for leave to intervene must be provided for distribution as motion papers to the parties represented at the hearing. If leave be granted at the hearing, one additional copy must be furnished for the use of the Commission. When a petition for leave to intervene is not tendered at the hearing, the original and three copies of the petition shall be submitted to the Commission together with a certificate that service in accordance with Rule 22 has been made by petitioner. Any reply in opposition to a petition for leave to intervene not tendered at the hearing must be filed within 20 days after service. In the discretion of the Commission leave to intervene may be granted or denied before the expiration of the time allowed for replies.

(e) *Disposition.* Leave will not be granted except on averments reasonably pertinent to the issues already presented and which do not unduly broaden them. If leave is granted the petitioner thereby becomes an intervenor and a party to the proceeding.

§ 1100.73 Participation without intervention. (Rule 73)

In an investigation proceeding, in a proceeding under paragraphs (18) to (20) inclusive of section 1, or sections 5 and 13a of Part I, in application proceedings under parts II, III, and IV, and in a proceeding of any one of the characters herein enumerated when heard on a consolidated record with a complaint proceeding, but in no other proceeding, an appearance may be entered at the hearing without filing a petition in intervention or other pleading, if no affirmative relief is sought, if there is full disclosure of the identity of the person or persons in whose behalf the appearance is to be entered, if the interest of such person in the proceeding and the position intended to be taken are stated fairly, and if the contentions will be reasonably pertinent to the issues already presented and any right to broaden them unduly is disclaimed. A person in whose behalf an appearance is entered in this manner becomes a party to the proceeding.

§ 1100.74 Witness examination; order of procedure. (Rule 74)

Witnesses will be orally examined under oath before the officer unless their testimony is taken by deposition or the facts are presented to the Commission in the manner provided under modified or shortened procedure. In formal complaint, application, and investigation proceedings complainant, applicant, and respondent, respectively, shall open and close at the hearing, except at further hearings granted on petition the petitioner requesting further hearing shall open and close; and except, further, that parties other than the respondent shall open and close in investigations in which the burden of proof is not upon the respondent. Intervenors shall follow the party in whose behalf the intervention is made. The foregoing order of presentation may be varied by the officer, who also shall designate the order of presentation in any other type of proceeding, of any other party to any proceeding, or of parties to several proceedings being heard upon a consolidated record.

§ 1100.75 Evidence; admissibility generally. (Rule 75)

Any evidence which would be admissible under the general statutes of the United States, or under the rules of evidence governing proceedings in matters not involving trial by jury in the courts of the United States, shall be admissible in hearings before the Commission. The rules of evidence shall be applied in any proceeding to the end that needful and proper evidence shall be conveniently, inexpensively, and speedily produced, while preserving the substantial rights of the parties.

§ 1100.76 Evidence; cumulative restriction. (Rule 76)

It shall be the duty of the officer before whom any proceeding is being heard to limit the number of witnesses whose testimony may be merely cumulative. And in order to enforce this section, the officer may require a clear statement on the record of the nature of the testimony to be given by any witness proffered.

§ 1100.77 Evidence; prepared statements. (Rule 77)

With the approval of the officer, a witness may read into the record, as his testimony, statements of fact or expressions of his opinion prepared by him, or written answers to interrogatories of counsel, or a prepared statement of a witness who is present at the hearing may be received as an exhibit, provided that the statement shall not include argument; that before any such statement is read, or admitted in evidence the witness shall deliver to the officer, the reporter, and to opposing counsel as may be directed by the officer, a copy of such statement or of such interrogatories and his written answers thereto; and that the admissibility of the evidence contained in such statement shall be subject to the same rules as if such testimony were produced in the usual manner, including the right of cross-examination of the witness. Such approval ordinarily will be denied when in the opinion of the officer the memory or demeanor of the witness may be of importance.

§ 1100.78 Evidence; official records. (Rule 78)

An official record or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied with a certificate that such officer has the custody. If the office in which the record is kept is within the United States or within a territory or insular possession subject to the dominion of the United States, the certificate may be made by a judge of a court of record of the district or political subdivision in which the record is kept, authenticated by the seal of the court, or may be made by any public officer having a seal of office and having official duties in the district or political subdivision in which the record is kept, authenticated by the seal of his office. If the office in which the record is kept is in a foreign state or country, the certificate may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent or by any officer in the foreign service of the United States stationed in the foreign state or country in which the record is kept, and authenticated by the seal of his office. A written statement signed by an officer having the custody of an official record or by his deputy that after diligent search no record or entry of a specified tenor is found to exist in the records of his office, accompanied by a certificate as above provided, is admissible as evidence that the records of his office contain no such record or entry. This section does not prevent the proof of official records or of entry or lack of entry therein or official notice thereof by a method authorized by any applicable statute or by the rules of evidence.

§ 1100.79 Evidence; entries in regular course of business. (Rule 79)

Any writing or record, whether in the form of an entry in a book or otherwise, made as a memorandum or record of any act, transaction, occurrence, or event, will be admissible as evidence thereof if it shall appear that it was made in the regular course of business, and that it was the regular course of business to make such memorandum or report at the time such record was made, or within a reasonable time thereafter.

§ 1100.80 Evidence; documents containing matter not material. (Rule 80)

When material and relevant matter offered in evidence is in a document containing other matter not material or relevant, the offering party shall produce the document at the hearing, shall plainly designate the matter so offered, and shall accord to the officer and to participating counsel an opportunity to inspect it. Unless it is desired to read such matter into the record, and the officer so directs, true copies in proper form of the material and relevant matter taken from the document may be received as an exhibit, but other parties shall be afforded an opportunity to introduce in evidence, in like manner, other portions of such document if found to be material and relevant. The document itself will not be received.

§ 1100.81 Evidence; documents in Commission's files. (Rule 81)

(a) *In general.* If any matter contained in a report or other document, not a tariff or schedule, open to public inspection in the files of the Commission is offered in evidence such report or other document need not be produced, but in other respects the provisions of § 1.80 will apply.

(b) *Tariffs and schedules; official notice in investigation proceedings.* If any matter contained in a tariff or schedule on file with the Commission is offered in evidence, such tariff or schedule need not be produced or marked for identification, but the matter so offered shall be specified with particularity in such manner as to be readily identified and may be received in evidence subject to check by reference to the original tariff or schedule. Official notice will be taken without offer or production of that portion of any tariff or schedule which is the subject matter of an order of investigation and suspension.

§ 1100.82 Evidence; records in other Commission proceedings. (Rule 82)

If any portion of the record before the Commission in any proceeding other than the one on hearing is offered in evidence a true copy of such portion shall be presented for the record in the form of an exhibit unless:

(a) The party offering the same agrees to supply such copy later at his own expense, if and when required by the Commission; and

(b) The portion is specified with particularity in such manner as to be readily identified; and

(c) The parties represented at the hearing stipulate upon the record that such portion may be incorporated by reference, and that any other portion offered by any other party may be incorporated by like reference subject to paragraphs (a) and (b) of this section; and

(d) The officer directs such incorporation. Any such portion so offered, whether in the form of an exhibit or by reference, shall be subject to objection.

§ 1100.83 Evidence; abstracts of documents. (Rule 83)

When documents, such as freight bills or bills of lading, are numerous, the officer may refuse to receive in evidence other than a limited number of such documents said to be typical. Instead he may instruct, if the proffer be for the purpose of proving damage, that introduction be deferred until there is opportunity to comply with Rule 100. If the proffer be for other purpose the officer may require the party in orderly fashion to abstract the relevant data from the documents, affording other parties reasonable opportunity to examine both the documents and the abstract, and thereupon offer such abstract in evidence in exhibit form.

§ 1100.84 Evidence; exhibits. (Rule 84)

(a) *Generally.* Exhibits of a documentary character may have a maximum width of 22 inches by 12½ inches in height. Whenever practicable the sheets of each exhibit and the lines of each sheet should be numbered. If the exhibit consists of five or more sheets the first sheet or title-page should be confined to a brief statement of what the exhibit purports to show, with reference by sheet and line to illustrative or typical examples contained therein. The exhibit should bear an identifying number, letter, or short title which will readily distinguish it from other exhibits offered by the same party. It is desirable that, whenever practicable, rate comparisons and other evidence should be condensed into tables. Whenever practicable, especially in proceedings in which it is likely that many documents will be offered, all the documents produced by a single witness should be assembled and bound together, suitably arranged and indexed, so that they may be identified and offered as one exhibit. Exhibits should not be argumentative and should be limited to statements of fact, and be relevant and material to the issue, which can better be shown in that form than by oral testimony.

(b) *Reference to tariff authority, routes, and distances.* All exhibits showing rates, fares, charges, or other tariff or schedule provisions must, by appropriate Interstate Commerce Commission number reference, indicate the tariff or schedule authority therefor, and if distances are shown must also show the authority therefor and, by lines, highways, or waterways, and junction points, the routes over which the distances are computed; except that the routes over which the distances are computed need not be shown when such distances are specifically published in a tariff or schedule lawfully on file with the Commission, or definitely ascertainable from a tariff or schedule on file with the Commission showing rates prescribed by the Commission and based on short-line distances, or short-highway distances, provided the exhibit makes specific reference to such tariff or schedules as provided by this section.

(c) *Copies.* Unless the officer shall otherwise direct, the original and one copy of each exhibit of a documentary character shall be furnished for the use of the Commission—original to be delivered to the reporter, and the copy to the officer. If the hearing be before a board, a copy of the exhibit shall be furnished to each member of the board, unless the board otherwise directs. Unless the officer for cause directs otherwise, a reasonable number of copies shall be furnished to counsel in attendance at the hearing. Unless the officer shall otherwise direct, in proceedings under the Uniform Bankruptcy Act, the original and three copies of every exhibit of a documentary character shall be furnished for use of the Commission—original to be delivered to the reporter, and the three copies to the officer.

(d) *Interchange prior to hearing.* Whenever practicable, the parties should interchange copies of exhibits or other pertinent material or matter before or at the commencement of the hearing; and the Commission or presiding officer may so direct.

(e) *When excluded how treated.* In case an exhibit has been identified, objected to, and excluded, the officer will develop whether the party offering the exhibit withdraws the offer, and if so, permit the return of the exhibit to him. If the excluded exhibit is not withdrawn it should be given an exhibit number for identification and be incorporated in the record. Exhibit numbers once used for identification will not be duplicated thereafter.

§ 1100.85 Record in referred matter unaffected by a second reference. (Rule 85)

If for any reason an order referring a matter to a particular officer is vacated and the matter referred to a different officer, any testimony already taken in such proceeding shall be part of the record along with any testimony which thereafter may be taken.

§ 1100.86 Evidence; filing of subsequent to hearing; copies. (Rule 86)

Except as provided below or as expressly may be permitted in a particular instance, the Commission will not receive in evidence or consider as part of the record any documents, letters, or other writings submitted for consideration in connection with any proceeding after close of the hearing, and may return any such documents to the sender. Before the close of a hearing the officer may, at the request of a party or upon his own motion, or upon agreement of the parties, require that a party furnish additional documentary evidence supplementary to the existing record, within a stated period of time. Documentary evidence thus to be furnished will not be assigned an exhibit number at the hearing, but the document will be given an exhibit number at the time of filing and the parties accordingly advised. Unless otherwise directed by the officer, the original and one copy of such submission shall be filed with the Commission.

§ 1100.87 Evidence; objections to. (Rule 87)

Formal exception to a ruling of an officer at a hearing is unnecessary. It is sufficient that a party, at the time the ruling is made or sought, make known to the officer on the record the action which he desires the officer to take or his objection to the action of the officer and his grounds therefor. An objection not pressed in brief will be considered as waived. Where no brief is filed an objection will be considered as waived if not pressed in exceptions or reply to exceptions, if filed, or in a separate petition dealing only with that objection.

§ 1100.88 Oral argument before officer. (Rule 88)

If oral argument before the officer is desired, he should be so notified at or before the hearing and may arrange to hear the argument at the close of the testimony within such limits of times as he may determine, having regard to other assignments for hearing before him. Such argument will be recorded and made a part of the transcript of testimony, and will be available to the Commission for consideration in deciding the case. The making of such argument shall not preclude oral argument before the Commission and request therefor may be made as provided in Rule 98.

§ 1100.89 Continuance for further hearing. (Rule 89)

A continuance may be granted by the presiding officer if it is impossible to conclude a hearing within the time available, or for any reason a continuance is necessary or advisable, but a joint board shall not set a date and place for a continued hearing without first consulting the Commission. If consultation with the Commission is impracticable, the hearing shall be adjourned by the joint board to such time and place as the Commission subsequently shall determine.

§ 1100.90 Transcript of record. (Rule 90)

(a) *Filing.* After the close of the hearing the complete transcript of testimony taken and the exhibits shall be filed with the Commission.

(b) *Corrections.* A suggested correction in a transcript ordinarily will be considered only if offered not later than 20 days after the date each transcript is filed with the Commission. A copy of the letter (original only need be filed with the Commission) requesting the suggested corrections shall be served upon all parties of record and with 2 copies to the official reporter.

(c) *No free copies.* No free copies of transcript will be furnished to any party to any proceeding.

BRIEFS; REPORTS; ORAL ARGUMENT

§ 1109.91 Briefs; content and arrangement. (Rule 91)

(a) *Due date.* The due date of each brief must appear on its front cover or title page.

(b) *Table of contents; citations.* A brief of more than 20 pages shall contain on its front flyleaves a table of contents and points made with page references, the table of contents to be supplemented by a list of citations, alphabetically arranged, with references to the pages where they appear.

(c) *Sketch or chart.* In proceedings wherein misrouting or undue prejudice or preference are alleged, the complainant should include as part of the brief a small sketch or chart adequately reflecting the situation.

(d) *Evidence abstract.* A brief filed after a hearing should contain an abstract of the evidence relied upon by the party filing it, preferably assembled by subjects, with reference to the pages of the record, if written, or exhibit where the evidence appears. The abstract should follow the statement of the case and precede the argument. In the event the party elects not to include a separate abstract in his brief, he should give specific reference to the portions of the record, whether transcript or otherwise relied upon in support of the respective statements of fact made throughout the brief.

(e) *Requested findings.* Each brief should include such requests for specific findings, separately stated and numbered, as the party desires the Commission to make.

(f) *Exhibit reproduction.* Exhibits should not be reproduced in the brief, but may, if desired, be shown, within reasonable limits, in an appendix to the brief. Analyses of such exhibits should be included in the abstract of evidence under the subjects to which they pertain.

§ 1100.92 Briefs; when officer's report is served. (Rule 92)

In a proceeding which has been the subject of oral hearing, and in which an officer's report is to be prepared and served, which fact will be stated by the officer on the record, only one brief shall be filed by each party. The officer shall fix for all parties the same time within which to file briefs, which time shall not exceed 45 days from the close of the hearing unless otherwise ordered by the Commission. Reply briefs are not permitted unless ordered by the Commission.

§ 1100.93 Briefs; when officer's report is not served. (Rule 93)

In a proceeding which has been the subject of oral hearing, and in which no officer's report is to be prepared and served, which fact will be stated by the

officer on the record, only one brief shall be filed by each party. The officer shall fix for all parties the same time within which to file briefs, which time shall not exceed 45 days from the close of the hearing unless otherwise ordered by the Commission. Reply briefs are not permitted unless ordered by the Commission.

§ 1100.94 *Briefs of interveners.* (Rule 94)

Briefs of interveners shall be filed and served within the time fixed for the brief or the party in whose behalf the intervention is made.

§ 1100.95 *Officer's report; when and how served.* (Rule 95)

After expiration of the time set for filing briefs, if the proceeding be one in which a hearing has been held, the officer's report will be prepared and served by mailing a copy to each party. An officer's report prepared in a proceeding in which a hearing has not been held will be served by mailing a copy to each party of record and to any other persons not parties to the proceeding who are believed to have an interest in the proceeding.

§ 1100.96 *Exceptions to officer's report.* (Rule 96)

(a) *Generally.* Exceptions to the officer's report with respect to statements of fact or matters of law must be specific and must be stated and numbered separately. If exception is taken to conclusions in the report, the points relied upon to support the exception must be stated and numbered separately. When exception is taken to a statement of fact contained in the report, reference also must be made to the page or part of the record relied upon to support the exception and a corrected statement must be incorporated.

(b) *When filed.* Within 30 days after service of the officer's report, any party may file and serve exceptions thereto and reasons in support thereof. Replies may be served and filed as provided in Rule 23. In any case the Commission may, in its discretion, upon notice to the parties reduce or extend the time for filing exceptions or replies.

(c) *Exceptions and request for hearing by person not party.* If the proceeding is one in which no oral hearing has been held, any person not a party to the proceeding, but having an interest therein, may file and serve upon applicant, or complainant, as the case may be, exceptions to the officer's report and reasons in support thereof. A request for hearing may be included therein but the exceptions need not include a request for hearing if none is deemed necessary.

§ 1100.97 *Effect of exceptions or absence thereof.* (Rule 97)

(a) *Upon report and recommended order.* The filing of exceptions to a recommended order operates to stay the effectiveness of the order and thereafter decision by the Commission will be made in due course. If no exception is filed to the recommended order and the Commission does not stay it, the recommended order becomes the order of the Commission upon expiration of the period for filing exceptions provided in Rule 96(b), or of any postponement of such period, or postponement of the effective date of such order, and a notice stating that the recommended order has, giving the date, become the order of the Commission will be mailed to the parties by the Commission.

(b) *Upon proposed report.* A proposed report will not become the decision of the Commission through failure to file objections, but in the absence of exceptions or of ascertained error the officer's statement of the issues and of the facts ordinarily will be taken by the Commission as the basis of its decision.

§ 1100.98 *Oral argument before Commission.* (Rule 98)

(a) *Request; how made.* If no officer's report is to be served, request for oral argument before the Commission must be made at hearing or by letter (original only need be filed with the Commission) within 10 days after the hearing. If an officer's report is to be served, the request for oral argument must be included as part of the exceptions brief or reply thereto.

(b) *Request for time allotment.* If the petition is granted a notice will be served by the Commission upon the parties setting the date for the oral argument. At least 10 days before that date any party desiring to participate in the oral argument must make request by letter (original only need be filed with the Commission) for an allotment of time. Only those making request in this manner will be permitted to participate.

ORDER COMPLIANCE; DAMAGE STATEMENTS

§ 1100.99 *Compliance with Commission's orders.* (Rule 99)

When in consequence of proceedings under the act, the Commission has by its order directed a defendant or a respondent to do or desist from doing a particular thing, such defendant or respondent must notify the Commission on or before the date upon which such order becomes effective whether or not compliance has been made therewith. If a change in rates or schedules is required the notification must be given in addition to the filing of proper tariffs or schedules, and must specify the Interstate Commerce Commission numbers of the tariffs or schedules so filed.

§ 1100.100 *Statements of claimed damages based on Commission findings.* (Rule 100)

When the Commission finds that damages are due, but that the amount cannot be ascertained upon the record before it, the complainant should immediately prepare a statement showing details of the shipments on which damages are claimed, in accordance with the form No. 5. (See Appendix B.) The statement should not include any shipment not covered by the Commission's findings, or any shipment on which complaint was not filed with the Commission within the statutory period. The filing of a statement will not stop the running of the statute of limitations as to shipments not covered by complaint or supplemental complaint. If the shipments moved over more than one route a separate statement should be prepared for each route, and separately numbered, except that shipments as to which the collecting carrier is in each instance the same may be listed in a single statement if grouped according to routes. The statement, together with the paid freight bills on the shipments, or true copies thereof, should then be forwarded to the carrier which collected the charges for verification and certification as to its accuracy. If the statement is not forwarded immediately to the collecting carrier for certification, a letter request from defendants that forwarding be expedited will be considered to the end that steps be taken to have the statement forwarded immediately. All discrepancies, duplications, or other errors in the statements should be adjusted by the parties and correct agreed statements submitted to the Commission. The certificate must be signed in ink by a general accounting officer of the carrier and should cover all of the information shown in the statement. If the carrier which collected the charges is not a defendant in the case its certificate must be concurred in by like signature on behalf of a carrier defendant. Statements so prepared and certified shall be filed with the Commission whereupon it will consider entry of an order awarding damages.

REHEARING; REARGUMENT; OR RECONSIDERATION

§ 1100.101 *Petitions for rehearing, reargument, or reconsideration.* (Rule 101)

(a) *In general.* (1) A petition seeking any change in a decision, order, or requirement of the Commission should specify whether the prayer is for reconsideration, reargument, rehearing, further hearing, modification of effective date, vacation, suspension, or otherwise.

(2) *Administrative finality of division and employee board decisions.* All decisions, orders, or requirements of a division of the Commission in any proceeding shall be considered administratively final, except those involving issues of general transportation importance, those wherein the division reverses, changes, or modifies a prior decision by a hearing officer, and those wherein the initial decision is made by a division: *Provided, however,* That this subparagraph shall not preclude the reasonable filing of a petition for relief under paragraphs (b) and (c) of this section, to be considered and disposed of by the division or appellate division which made the decision, order, or requirement as to which relief is sought. Decisions of an employee board, whether original or on review, are not administratively final. Such employee board decisions shall be subject to review by an appropriate appellate division of the Commission upon the filing of a timely petition in accordance with these rules of practice.

(3) *Limitations on petitions for review of division decisions.* Pursuant to authority granted in section 17(6) of the Interstate Commerce Act, the right to apply to the entire Commission for rehearing, reargument, or reconsideration of a decision, order, or requirement of a division of the Commission in any proceeding shall be limited and restricted to those proceedings in which the entire Commission, on its own motion, determines and announces that an issue of general transportation importance is involved. In proceedings in which no such announcement has been made, but in which a division reverses, changes, or modifies a prior decision by a hearing officer or where the initial decision is made by a division, a petition to the same division for rehearing, reargument, or reconsideration of its decision will be permitted and will be considered and disposed of by such division in an appellate capacity and with administrative finality.

(4) *Petitions seeking a finding that an issue of general transportation importance is involved; 3-page limitation; time for filing; no reply permitted.* In any proceeding which has involved the taking of evidence at oral hearing or by modified procedure in which the Commission has not noted the presence of an issue of general transportation importance, any party may, within 15 days after the service of a final decision, order, or requirement of a division or appellate division, as to which the filing of a petition for rehearing, reargument, or reconsideration is not permitted, file a petition requesting the Commission to find on its own motion that the proceeding is one involving an issue of general transportation importance. Any petition seeking such a finding shall not be considered an application for rehearing, reargument, or reconsideration within the meaning of section 17 of the act and shall not exceed 3 pages. No reply thereto may be filed and the ruling thereon will be final. Petitions seeking the relief specifically covered herein will not be entertained at any other stage of the proceeding.

(5) *Copies of petitions and replies.* In cases in which it has been determined and announced that an issue of general transportation importance is involved, there shall be furnished for the use of the Commission the original and 14 copies of each petition filed under this section and of replies to such petitions. A like number of copies shall be furnished of petitions seeking a finding that the proceeding involves an issue of general transportation importance. In all other cases, the original and 7 copies of such petitions and replies shall be furnished for the use of the Commission.

(b) *Rehearing or further hearing.* When in a petition filed under this section opportunity is sought to introduce evidence, the evidence to be adduced must be stated briefly, such evidence must not appear to be cumulative, and explanation must be given why such evidence was not previously adduced.

(c) *Modification of effective date.* A petition under this section seeking only modification of the effective date of a decision, order, or requirement, or in the period of notice, or other period or date prescribed therein, must be filed seasonably, except that, in case of unforeseen emergency satisfactorily shown by petitioner, such relief may be sought informally by telegram or otherwise, provided like notice is simultaneously communicated to all parties of record.

(d) *Reconsideration.* If relief under this section other than under paragraphs (b) and (c) is sought, the matters claimed to have been erroneously decided and the alleged errors or relief sought must be specified with the particularity respecting exceptions as outlined in Rule 96(a), as should also any substitute finding or other substitute requirement desired by petitioner.

(e) *Time for filing.* Except for good cause shown, and upon leave granted, petitions under this section must be filed within 30 days after the date of service of a decision or order, except as otherwise provided in the special rules of practice.

(f) *Successive petitions on same grounds, not entertained.* A successive petition under this section submitted by the same party or parties, and upon substantially the same grounds as a former petition, which has been considered and denied by the entire Commission will not be entertained.

(g) *Petitions for reconsideration of appellate division decisions on review of board decisions.* When an appellate division has denied a petition seeking a reversal, change, or modification of a determination whether original or on review by a board of employees, any further petition for reconsideration by the same party or parties upon substantially the same grounds will not be entertained. If in the consideration of such a petition, however, by the appellate division, the previous determination of the board of employees has been reversed, changed, or modified, a further petition may be filed by any party to the proceeding adversely affected by the decision of the appellate division, within the time specified in paragraph (e) of this section, and the petition will be considered and disposed of by the same appellate division which passed upon the initial petition.

§ 1101.102 *Petitions not otherwise covered.* (Rule 102)

When the subject matter of any desired relief is not specifically covered by the rules in this part, a petition seeking such relief, which relief shall be construed as including appropriate discovery procedures, and stating the reasons therefor may be served and filed.

SPECIAL RULES OF PRACTICE

§ 1100.200 *Special rules of practice governing procedure in certain suspension and fourth-section matters.* (Rule 200)

(a) The proceedings of the Board of Suspension and the Fourth Section Board shall be informal. No transcription of such proceedings will be made. Subpoenas will not be issued and, except when applications or petitions are required to be attested, oaths will not be administered.

(b) Petitions for reconsideration of orders of the following may be filed by any interested person within 20 days after the date of the service of the order:

(1) Board of Suspension,

(2) Fourth Section Board,

(3) Appellate Division 2 reversing, changing, or modifying a previous determination of an employee board, and

(4) Division 2 suspending schedules or granting or denying fourth-section relief prior to hearing in proceedings not subject to a prior determination by an employee board.

Except as to said subparagraph (4) of this paragraph, respecting which an original and 14 copies are required, the original and six copies of every pleading, document or paper filed under this section shall be furnished for the use of the Commission. Any interested person may file and serve a reply to any petition for reconsideration permitted under this paragraph within 20 days after the filing of such petition with the Commission but if the facts stated in any such petition disclose a need for accelerated action, such action may be taken before expiration of the time allowed for reply. In all other respects, such petitions and replies thereto will be governed by the Commission's general rules of practice.

(c) When the Board of Suspension has declined to suspend a proposed tariff or schedule, or any part thereof, a petition in writing by any protestant or protestants may be filed with the Commission for reconsideration by the designated appellate division provided it reaches the Commission at least two work-days prior to the effective date of the tariff or schedule in question. For the purposes of this section, a work-day shall be considered any day except Saturday, Sunday, or a legal holiday in the District of Columbia. (A legal holiday of less than one day shall be considered a work-day within the meaning of this section.) Petitions submitted under this section shall be filed with the Secretary of the Commission by 4:00 p. m., United States Standard Time (or by 4:00 p. m., Local Daylight Saving Time if that time is observed in the District of Columbia). Telegraphic notice or the equivalent thereof must be given by the petitioners to the respondent or respondents. As no replies to the petitions for reconsideration are contemplated under this rule, petitioners will be expected, except in unusual circumstances, to rely wholly on the information previously filed with the Board of Suspension. Written or telegraphic communication in intelligible form requesting reconsideration will be sufficient. Such request shall contain the following prefatory statement: "This matter requires expedited handling under the Commission's Special Rules of Practice." A petition not timely filed shall be rejected by the Secretary.

§ 1100.225 Special rules of practice governing the procedure of the Temporary Authorities Board, the Transfer Board, Finance Boards[1] Nos. 1, 2, and 3, the Safety and Service Boards, the Motor Carrier Boards, the Special Permission Board, the Released Rates Board, and Operating Rights Boards[1] Nos. 1 and 2. (Rule 225)

(a) The proceedings of the Temporary Authorities Board, the Transfer Board, Finance Boards Nos. 1, 2, and 3, the Safety and Service Boards, the Motor Carrier Boards, the Special Permission Board, the Released Rates Board, and Operating Rights Boards Nos. 1 and 2 shall be informal. No transcription of such proceedings will be made. Subpenas will not be issued and, except when applications or petitions are required to be attested, oaths will not be administered.

(b) A petition for reconsideration of an order of (1) the Temporary Authorities Board, the Transfer Board, a Safety and Service Board, a Motor Carrier Board, the Special Permission Board, the Released Rates Board, or Operating Rights Board No. 2 may be filed by any interested person, and (2) Operating Rights Board No. 1 and the Finance Boards may only be filed by a party to the proceeding. Such petition and reply thereto will be governed by the Commission's general rules of practice, except as otherwise provided in paragraphs (a), (d), and (e) of this section.

(c) The original and six copies of every pleading, document, or paper permitted or required to be filed under this section, shall be furnished for the use of the Commission.

(d) A petition seeking reconsideration of an order of the Temporary Authorities Board entered under section 210a(a) or of a Finance Board entered under sections 210a(b) or 311(b) of the Interstate Commerce Act must be filed within 20 days after the date of service of the order. Within 20 days after the filing of such petition with the Commission any interested person may file and serve a reply thereto.

(e) A petition seeking reconsideration of an affirmative order of the Transfer Board entered pursuant to the rules and regulations governing transfers of property brokers' licenses, Part 1045 of this chapter, passenger brokers' licenses, Part 1134 of this chapter, motor carrier operating rights, Part 1131 of this chapter, water carrier operating rights, Part 1151 of this chapter, and freight forwarder permits, Part 1161 of this chapter, must be filed within 20 days following publication of a synopsis of such order in the FEDERAL REGISTER. In such a petition the matters claimed to have been erroneously decided and the alleged errors must be specified with particularity. If the petition contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted in affidavit form. Within 20 days after the final date for filing of such petitions with the Commission, any interested person may file and serve a reply thereto.

§ 1100.240 Special rules governing notice of filing of application by motor carriers of property or passengers under sections 5(2) and 210a(b) of the Interstate Commerce Act and certain other procedural matters with respect thereto. (Rule 240)

(a) *Scope of special rules.* These special rules govern the filing and handling of (1) applications under section 5(2) or the Interstate Commerce Act respecting control, lease, and unification of operating rights and properties of motor carriers of property or passengers, and (2) applications for approval under section 210a(b) of the act of the temporary operation of motor carrier properties sought to be acquired in an application under section 5(2) of the act. Except as otherwise herein provided, the General Rules of Practice shall apply.

(b) *Notice to interested persons.* (1) Notice of the filing of applications under section 5(2) will be given by the publication of a summary of the authority sought in the FEDERAL REGISTER. Such summaries will be prepared by the Commission, and it shall be the responsibility of applicants promptly to advise the Commission if the summary does not properly describe the authority sought.

(2) If applicants propose that any portion of the operating rights involved in the transaction be canceled or restricted, such proposal will be included in the summary.

(3) The summary will state whether an application has or has not been filed for temporary authority under section 210a(b) of the act.

(4) No notice by applicants to interested persons is required, except that applicants are not relieved from the obligation to file copies of applications with Governors, State Boards, and Regional Directors of the Commission's Bureau of Operations as may be required by the prescribed form of application, and except as hereinafter provided in paragraph (d)(3) of this section.

(5) Except for good cause shown, amendments to applications which broaden the scope of the proposed transaction will not be allowed if tendered after notice of the filing of an application has been published in the FEDERAL REGISTER. Restrictive amendments may be submitted at any time, but if tendered after such publication, they may be allowed only in the discretion of the Commission, or by the hearing officer if the matter is assigned for hearing or prehearing conference.

(c) *Protests and requests for hearing under section 5(2).* (1) Protests to the granting of an application under section 5(2) of the act shall be filed with the Commission within 30 days after the date notice of the filing of the application is published in the FEDERAL REGISTER. A protest filed under these rules shall be served upon applicants' representatives named in the notice of filing published in the FEDERAL REGISTER. Unless otherwise specified in the notice, the original and one copy of the protest shall be filed with the Commission. Protests not in reasonable compliance with the requirements of this section may be rejected in the discretion of the Commission.

(2) Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding.

(3) A protest against an application shall set forth specifically the grounds upon which it is made and the protestant's interest in the proceeding, shall request an oral hearing if one is desired, and shall specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally.

(4) Any request for an oral hearing shall be supported by a specific explanation as to why the evidence to be presented cannot reasonably be submitted in the form of affidavits, and shall set forth the approximate number of witnesses who would be presented by the protestant, an estimate of the hearing time required for such presentation, and whether a hearing at Washington, D.C., would be objectionable, and, if so, what place would be more suitable; and protestant shall certify in its protest that, if an oral hearing is held, it will appear and present evidence.

(5) Where a person has a limited interest in an application, which possibly could be eliminated by a restrictive amendment of the proposed transaction, such person may also include in a protest filed in conformity with this paragraph an offer to withdraw the protest in the event of acceptance by applicants of such amendment.

(6) Except as provided in subparagraph (5) of this paragraph, or for good cause shown, the failure of any person filing a protest to an application to appear at a hearing scheduled thereon shall be construed as a waiver of his right to participate further in the proceeding; such person shall no longer be considered as a party to the proceeding, and such person and any representative responsible for his participation in the proceeding may be subject to censure for failure to appear.

(7) Any interested person, not a protestant, desiring to receive notice of the time and place of any hearing, conference, or other proceedings shall notify the Commission by telegram or letter within 30 days from the date of the publication of the notice of the filing of the application in the FEDERAL REGISTER.

(d) *Procedure to be followed under section 210a(b).* (1) Subject to subparagraph (4) of this paragraph, protests to the granting of an application for temporary authority under section 210a(b) may be filed by persons who oppose, or intend seasonably to oppose, the application under section 5(2).

(2) The protest to temporary approval may be by telegram, letter, or other writing, of which only an original need be filed, or may be included in a protest filed under paragraph (c) of this section. It should state the interest of the protestant and the grounds for the position taken in opposition to temporary approval, and should show service upon applicants' representatives.

(3) If an application for temporary authority is filed in a contested proceeding after the period for filing protests under paragraph (c) of this section has expired, applicants are required to furnish copies of such application to protestants. Notice will not thereafter be given by publication in the FEDERAL REGISTER.

(4) Applications for temporary authority under section 210a(b) will be disposed of without hearings or other proceedings, and without necessarily awaiting expiration of the period allowed for protests.

(5) Unless circumstances requiring immediate action are shown, applications for temporary authority under section 210a(b) will not be disposed of before 10 days after the date the notice of filing of the application under section 5(2) is published in the FEDERAL REGISTER, or 10 days after the date an amended notice is published, if the application for temporary authority is filed within 30 days after the date of initial publication; or, if the application for temporary authority is filed after expiration of the 30 days from the date of initial publication of notice of the section 5 application, and protests have been filed, copies of the temporary authority application shall be served on protestants, and action will not be taken in less than 20 days from the date of such service, unless circumstances require immediate action.

(e) *Hearing or other procedures under section 5(2).* (1) The Commission will determine whether an assignment for oral hearing should be made, after notice to interested persons of the filing of the application has been published in the FEDERAL REGISTER and the period for filing protests has expired. At or prior to such time, applicants who do not intend to prosecute their application should promptly request dismissal thereof.

(2) Applicants who believe their application is not susceptible of handling without oral hearing may request oral hearing when the application is filed, or later, if additional evidence which cannot reasonably be submitted in the form of affidavits is required.

(3) If applicants request an oral hearing and show that such hearing is necessary, or if the proceeding is contested, applicants shall advise the approximate number of witnesses who will be presented, furnish an estimate of the hearing time required for such presentation, and state whether a hearing at Washington, D.C., would be objectionable, and, if so, what place would be more suitable.

(f) *Notice of hearing, conference or other proceedings.* (1) Notice of the time and place of any hearing, conference, or other proceedings will be given to applicants' representatives, applicants, protestants, and other interested parties by mailing to them the order or notice assigning the application for hearing, conference, or other procedure.

(2) A request by any party for a change in the time or place of an assigned hearing must set forth good and sufficient cause for the action requested, must be in writing and filed with the Commission not less than 10 days before the assigned hearing date, except in emergency circumstances, and must be served on all known parties of record at the same time and by the same method of communication as service is made on the Commission. Where such requests are filed less than 10 days before the date of hearing, the petitioning party shall state the reasons for his failure to make such request within the prescribed time.

(3) The applicants' representatives, protestants, and those who request notice of changes in time or place of hearing, conference, or other proceedings will be informed of such changes if notice is given by mail. If telegraphic notice becomes necessary, notice of such changes will be given by telegram only to those who request telegraphic notice at their expense.

(4) Upon receipt of an order or notice of a hearing assignment, applicants who no longer intend to proceed to hearing shall immediately and jointly request dismissal of their application, with appropriate notification to all protestants, failing in which applicants or their representatives, or both, may be subject to censure.

(g) *Intervention.* Rule 73 relating to participation without intervention is inapplicable to applications subject to this section, except with respect to persons seeking to intervene in support. No person who fails to file a protest as provided in these rules will be permitted to intervene in opposition except upon a showing of substantial reasons in a petition submitted in accordance with Rule 72.

§ 1100.245 Special rules governing procedures for the issuance to single-State common carriers by motor vehicle of Certificates of Registration under section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962, authorizing motor common carrier operations in interstate and foreign commerce, and certain other procedural matters with respect thereto. (Rule 245)

(a) *Scope of special rules.* These special rules govern (1) the matter of giving notice to interested persons, by publication in the FEDERAL REGISTER, of the filing of applications for State certificates of public convenience and necessity authorizing motor common carrier operations in the transportation of property or passengers in intrastate commerce, in connection with which the applicant also desires to engage in transportation in interstate and foreign commerce under the provisions of section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962, and certain related matters.

(2) The filing with the Interstate Commerce Commission of applications for Certificates of Registration based upon intrastate certificates of public convenience and necessity issued by a State Commission which contain a concurrent finding that the public convenience and necessity require operations in interstate and foreign commerce in accordance with the provisions of section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962.

(3) The filing with, and the handling by, the Interstate Commerce Commission of petitions for reconsideration of the decisions of State Commissions, made pursuant to the provisions of section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962, finding that the public convenience and necessity require motor common carrier operations in the transportation of property or passengers, in interstate and foreign commerce, which do not exceed the scope of the concurrently authorized motor common carrier operations in intrastate commerce contained in certificates of public convenience and necessity issued by such State Commissions. Except as otherwise herein provided, the general rules of practice shall apply.

(b) *Notice to interested persons of the filing of State Applications.* In accordance with such rules and regulations as may be prescribed by the State Commissions, any person seeking an intrastate certificate of public convenience and necessity, who or which also desires to engage in transportation in interstate and foreign commerce pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962, shall so notify the State Commission with which the intrastate application is filed at the time of filing the intrastate application. Notice to interested persons of the filing of such an application, and of the applicant's desire also to engage in transportation in interstate and foreign commerce, shall be given by the publication in the FEDERAL REGISTER of a summary of the authority sought as prepared by the State Commission and transmitted to the Interstate Commerce Commission at Washington, D.C. (See approved Form No. 7 in Appendix B.) In order to afford interested persons a reasonable opportunity to be heard, such summaries must be forwarded to the Interstate Commerce Commission sufficiently in advance of any hearings that may be scheduled on the application so noticed. Except as otherwise may be required by the State Commission, no other notice by applicant to interested persons is necessary.

(c) *Conduct of, and participation in, State Commission application proceedings.* Subject to the requirement of section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962, that interested persons be afforded a reasonable opportunity to be heard, the rules and regulations of the State Commission with which the intrastate application is filed shall govern the conduct of, and participation in, any State hearings or other State Commission proceedings that may be held with respect to such application, notice of the filing of which has been published in the FEDERAL REGISTER pursuant to paragraph (b) of this section. Protests and requests for

[1] The general rules of practice apply to the procedure of all employee boards except to the extent specifically provided for in Rules 200 and 225.

information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission. The record made in the State Commission proceeding shall be made available to the parties to such proceeding upon payment of such costs as may be fixed or prescribed by the State Commission.

(d) *Applications to the Interstate Commerce Commission for Certificates of Registration.* (1) Within 30 days after service by the State Commission of a certificate of public convenience and necessity authorizing motor common carrier operations in intrastate commerce and containing the recitations required by section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962, the holder of such State certificate shall file with the Interstate Commerce Commission at Washington, D.C., an Application for Motor Carrier Certificate of Registration, Form BOR-100, § 1003.1 of this chapter. Such application shall be prepared in accordance with and contain all information called for in the form of application and the instructions thereto. Copies of such application shall be furnished in such number, and be filed and served in the manner and upon the persons specified in the form of application.

(2) Upon receipt, an application for a Certificate of Registration will be assigned a docket number; and thereafter notice of the date of filing of the application and the docket number assigned thereto will be transmitted by the Interstate Commerce Commission to the applicant and those persons upon whom copies of the application were served by the applicant as specified in the form of application; and thenceforth all further proceedings therein before the Interstate Commerce Commission will be under such docket designation.

(3) Any party in interest, who or which opposed in the State Commission proceeding the authorization of operations in interstate or foreign commerce, shall be deemed to be a party in the corresponding application proceeding instituted in accordance with subparagraph (1) of this paragraph. No other person will be permitted to participate in such proceeding except upon a showing of substantial reasons in a petition submitted in accordance with Rule 72 of the Commission's general rules of practice.

(4) Except for good cause shown, and upon leave granted, failure to file an application for a Certificate of Registration within the 30-day time period specified in subparagraph (1) of this paragraph shall be construed as a waiver of any right thereafter to file for and obtain such a certificate.

(e) *Petitions for reconsideration of State Commission decisions made the subject of applications for Certificates of Registration.*—(1) *Parties.* Any party in interest, who or which opposed in the State Commission proceeding the authorization of operations in interstate or foreign commerce, may file with the Interstate Commerce Commission at Washington, D.C., a petition seeking reconsideration of the State Commission decision which is the basis for an application for a Certificate of Registration.

(2) *Filing requirements.* Except for good cause shown, and upon leave granted, petitions under this rule shall be filed within 30 days after the date of the filing of an application with the Interstate Commerce Commission pursuant to paragraph (d)(1) of this section for a Certificate of Registration authorizing motor common carrier operations in interstate and foreign commerce under the provisions of section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962, and such petition shall be filed under the docket number assigned to the related application proceeding.

(3) *Contents.* Any such petition shall specify with particularity the facts, matters, and arguments relied upon; and unless a copy of such record already has been submitted by another petitioner, such petition shall be accompanied by a certified copy of the complete record made before the State Commission, including a transcript of any testimony taken and any exhibits filed before such State Commission, such copy to be provided by, and at the expense of, the petitioner. The petition shall conform in all respects to requirement of Rules 15 and 17 of this Commission's general rules of practice. The original and 6 copies of the petition, and one certified copy of the record made before the State Commission, shall be furnished for the use of the Interstate Commerce Commission.

(4) *Replies to petitions.* A reply to a petition filed under these rules may be filed and served within 20 days after the final date for filing such petitions. The original and 6 copies of the reply shall be furnished for the use of the Interstate Commerce Commission.

(5) *Service of petitions and replies.* Copies of each petition and reply filed under these rules shall be served on the State Commission involved and on all other parties to the State Commission proceeding in accordance with the requirements of Rule 22 of the Commission's general rules of practice.

(6) *Effect of petitions.* The filing under these rules of a petition for reconsideration shall not preclude or affect the institution of the motor carrier operations in intrastate commerce authorized by the State certificate; and failure reasonably to file a petition for reconsideration under these rules will be construed as a waiver of opposition and further participation in the related application proceeding for a Certificate of Registration.

(f) *Disposition of Applications for Certificates of Registration and related petitions for reconsideration.* Applications for Certificates of Registration and related petitions for reconsideration filed under these rules will be handled together and processed in a single proceeding and will be disposed of by the division of the Interstate Commerce Commission to which these matters may be assigned, acting as an Appellate Division. Except as the Interstate Commerce Commission may, in its discretion, otherwise direct, a decision or order issued by the Appellate Division disposing of such an application and petition will be administratively final and petitions by any of the parties for reconsideration of such Division's actions will not be entertained.

(g) *Disposition of Unopposed Applications for Certificates of Registration.* Where the State Commission proceeding which resulted in the issuance of the State Certificate sought to be made the basis of a Certificate of Registration was unopposed, or where petitions for reconsideration of the finding of the State Commission that the public convenience and necessity require operations in interstate and foreign commerce are not seasonably filed, the application for a Certificate of Registration will be disposed of in the most expeditious manner and, so far as practicable and legally permissible, without formal hearings or other proceedings.

§ 1100.246 Special rules pertaining to proceedings for the discontinuance or change of train or ferry service. (Rule 246)

(a) *Scope of special rules.* These special rules govern procedure before the Commission in proceedings commenced by carriers subject to part I of the Interstate Commerce Act, under and pursuant to the provisions of section 13a of said Act, upon a notice under paragraph (1) of said section or by a petition under paragraph (2) thereof, with respect to a proposed discontinuance or change, in whole or in part, of the operation or service of any train or ferry.

(b) *General rules otherwise applicable.* Except as provided otherwise in these special rules, proceedings upon notices and petitions filed under section 13a shall be governed by the Commission's general rules of practice.

(c) *Notices and petitions by carriers.* A notice filed under paragraph (1), and a petition under paragraph (2), of said section 13a shall be prepared in accordance with and contain the information called for by rules and regulations then in force with respect to such a notice or petition. See Part 1122 of this chapter.

(d) *Notice to interested parties.* Notice of the institution of any investigation or of the time and place of any hearing, conference, or other proceeding will be given by the Commission to the carrier or carriers involved, the Governor and appropriate regulatory agency of each State in which the train or ferry affected is operated, protestants, and other interested parties of record, by mailing to them the order or notice instituting the investigation or assigning the hearing, conference, or other proceeding. Similar notice will be given to the same parties of changes in the time or place of hearing, conference, or other proceeding when time permits notice by mail; but, if telegraphic notice becomes necessary, notice of such changes will be given by telegram only to those who have requested telegraphic notice at their expense.

(e) *Participation at hearings without intervention.* In an investigation proceeding under section 13a(1), or in proceedings upon a petition filed under section 13a(2), an appearance may be entered at the hearing without filing a petition in intervention or other pleading, if there is full disclosure of the identity of the person or persons in whose behalf the appearance is to be entered, if the interest of such person in the proceeding and the position intended to be taken are stated fairly, and if the contentions will be reasonably pertinent to the issues already presented. A person in whose behalf an appearance is entered in this manner becomes a party to the proceeding.

(f) *Complaints and protests.* When a notice is filed with the Commission pursuant to the provisions of section 13a(1), proposing to discontinue or change, in whole or in part, the operation or service of any train or ferry operating from a point in one State to a point in any other State or in the District of Columbia, or from a point in the District of Columbia to a point in any State, any interested person opposed to such proposal may make his opposition known by filing with the Commission a complaint or protest. The complaint or protest may be by telegram, letter, or other writing, of which only an original need be filed. Service of copies thereof upon the carrier proposing the discontinuance or change is not required. A complaint or protest should identify the proceeding by reference to the name of the carrier and to the particular train or ferry involved, and should state the interest of the complainant or protestant and the grounds for the position taken in opposition to the proposal. In order to be considered by the Commission, a complaint or protest must be filed with the Commission in Washington, D.C., not later than 15 days before the date when the carrier proposes to make effective the subject discontinuance or change. Replies to a protest or complaint are not contemplated, and failure to reply will not be construed as an admission of any allegations contained therein.

(g) *Petitions for reconsideration of orders instituting an investigation.* Petitions for reconsideration of an order instituting an investigation in relation to a proposed change or discontinuance may be filed by the carrier or carriers affected within 15 days after the date of service of the order. An original and 6 copies shall be furnished for the use of the Commission, and copies thereof shall be served upon the persons to whom copies of the notice of the carrier were required to be mailed by the rules and regulations prescribed by the Commission. See § 1122.5 of this chapter. Any interested person may file and serve a reply to any petition for reconsideration permitted under this paragraph within 15 days after the filing of such petition with the Commission.

(h) *Reconsideration of decision not to institute an investigation.* A decision not to institute an investigation concerning a proposed discontinuance or change of service may be made the subject of a petition for reconsideration by any interested person, provided the petition reaches the Commission at least two workdays prior to the effective date of the proposed discontinuance or change of service. If an order is desired requiring continuance of the service pending hearing and decision upon investigation, the petition should reach the Commission at least two workdays before the Commission's authority to enter such an order will expire.[1] For the purposes of this section, a workday shall be considered any day except Saturday, Sunday, or a legal holiday in the District of Columbia. (A legal holiday of less than one day shall be considered a workday within the meaning of this section.) Petitions submitted under this paragraph shall be filed with the Secretary of the Commission by 4:00 p.m., United States Standard Time (or by 4:00 p.m., Local Daylight Saving Time if that time is observed in the District of Columbia.) Written or telegraphic communication in intelligible form requesting reconsideration will be sufficient. The request for reconsideration shall contain the following prefatory statement: "This matter requires expedited handling under the Commission's special rules of practice". If in writing, an original and six copies of the petition shall be furnished for the use of the Commission. Telegraphic notice or its equivalent must be given by the petitioner to the carrier or carriers affected, and certification that such notice has been given must accompany the request for reconsideration. Action may be taken upon the petition without awaiting a reply, but if a reply is received prior to a decision upon the petition it will be given consideration. A petition not timely filed will be rejected by the Secretary.

(i) *Protests.* As the applicable statute requires a full hearing in the State involved before the Commission may grant a petition under the provisions of section 13a(2), for authority to discontinue or change the operation or service of any train or ferry operated wholly within the boundaries of a single State, it is not necessary that persons opposed to such a petition file a protest in order to obtain a hearing on the proposal, but interested persons may file protests by complying with Rule 40 or they may register their opposition by letter addressed to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, for the purpose of receiving notice of the time and place of hearing when assigned.

[1] Under the provisions of section 13a(1) of the Act, an order of the Commission requiring continuance of the operation or service, pending hearing and decision in an investigation, must be served upon the carrier or carriers affected thereby at least 10 days before a discontinuance or change would otherwise become effective.

See paragraph (a) of this section in regard to participation at hearings.

§ 1100.247 Special rules governing notice of filing of applications by motor carriers of property or passengers and brokers under sections 206 (except section 206(a)(6) relating to Certificates of Registration), 209 and 211, by water carriers under sections 302(e), 303, and 309, and by freight forwarders under section 410 of the Interstate Commerce Act, and certain other procedural matters with respect thereto. (Rule 247)

(a) *Scope and applicability of special rules.*—(1) *Scope.* These special rules govern the filing and handling pursuant to the provisions of the Interstate Commerce Act of (i) applications for certificates, permits, and licenses respecting the transportation of property or passengers under sections 206 (except section 206(a)(6) relating to Certificates of Registration), 209, and 211, (ii) applications for certificates, permits, and exemptions respecting the water transportation of property or passengers under sections 302(e), 303, and 309, and (iii) applications for permits to operate as freight forwarders and for certificates of abandonment under section 410. Except as otherwise herein provided, the general rules of practice shall apply.

(2) *Applicability.* These special rules shall apply to all applications enumerated in subparagraph (1) of this paragraph and filed with the Commission on and after May 20, 1968, and to such of those applications filed prior to that time as the Commission may designate by appropriate publication in the FEDERAL REGISTER.

(b) *Applications.*—(1) *Form and content.* An application filed with the Commission under these special rules shall be prepared in accord with and contain the information called for in the form of application prescribed by the Commission or in instructions which may have been issued by the Commission with respect to the filing of such an application.

(2) *Copies and service.* Copies of an application filed under these special rules shall be furnished in such number and shall be filed and served in the manner and upon the persons specified in the form or instructions.

(3) *Requests for handling applications without oral hearing.* An applicant who believes its application is susceptible of handling without oral hearing may request such handling when the application is filed. If such a request is made at that time, the applicant shall submit with its application original verified statements of the facts to which its witnesses would testify at an oral hearing if one were held, together with one copy thereof which need not be verified. Applicant shall furnish copies of its verified statements to interested persons upon request from such interested persons.

(c) *Notice to interested persons.* (1) Notice of the filing of applications to competitors and other interested persons will be given by the publication of a summary of the authority sought in the FEDERAL REGISTER. Such summaries

will be prepared by the Commission, and it shall be the responsibility of applicant promptly to advise the Commission if the summary does not properly describe the authority sought. No other notice by applicants to interested persons is required, except that applicants are not relieved from the obligation to file copies of applications with Governors, State Boards, and Regional Directors of the Commission's Bureau of Operations as may be required by the prescribed form of the application.

(2) *Amendments.* Except for good cause shown, amendments to applications which broaden the scope of the proposed operations will not be allowed if tendered after notice of the filing of an application has been published in the FEDERAL REGISTER. Restrictive amendments acceptable to the Commission may be submitted at any time, but if tendered after such publication, they may be allowed only in the discretion of the Commission or by the hearing officer if the matter is assigned for hearing or prehearing conference.

(d) *Protests and request for hearing.* (1) Protests to the granting of an application shall be filed with the Commission within 30 days after the date notice of the filing of the application is published in the FEDERAL REGISTER. A protest filed under these rules shall certify that it has been served upon applicant's representative (or applicant, if no practitioner representing him is named in the notice of filing published in the FEDERAL REGISTER). Unless otherwise specified in the published notice, the original and one copy of the protest shall be filed with the Commission. Protests not in reasonable compliance with the requirements of these rules may be rejected in the discretion of the Commission.

(2) Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding.

(3) A protest against any application shall set forth specifically the grounds upon which it is made and contain a detailed statement of the protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method (whether by joinder, interline, or other means) by which protestant would use such authority to provide all or part of the service proposed), shall request an oral hearing if one is desired, and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests phrased in general terms and not complying with these specifications may be rejected.

(4) Any request for an oral hearing shall be supported by a specific explanation as to why the evidence to be presented cannot reasonably be submitted in the form of affidavits, and shall set forth the number of witnesses which would be presented by the protestant and an estimate of the hearing time required for such presentation. Protests embracing a request for oral hearing shall contain the following certification without further qualification:

The undersigned hereby certifies that, if an oral hearing is held, protestant(s) will appear and present evidence of protestant(s)' own operations and particular interest(s) in the outcome of this application unless this application is amended so as to eliminate the interest(s) of protestant(s) as set forth in this protest.

(5) Where a person has a limited interest in an application, which possibly could be eliminated by a restrictive amendment to the application, which amendment must be acceptable to the Commission, it may also include in a protest filed in conformity with this paragraph an offer to withdraw the protest in the event of acceptance by applicant and the Commission of such amendment.

(6) Except where a restrictive amendment has been made as provided in subparagraph (5) of this paragraph, or for good cause shown, the failure of any person filing a protest to an application to appear at a hearing scheduled thereon shall be construed as a waiver of its right to participate further in the proceeding; such person shall no longer be considered as a party to the proceeding, and it and any representative responsible for its participation in the proceeding may be subject to censure for failure to appear. In addition, the mere appearance of protestant without the presentation of evidence of protestant's own operations and particular interest in the application may, in the absence of good cause shown, subject protestant and its representative to similar censure.

(7) An interested person, not a protestant, desiring to receive notice of the time and place of any hearing, conference, or other proceedings shall notify the Commission by telegram or letter (original and one copy) within 30 days from the date of the publication of the notice of the filing of the application in the FEDERAL REGISTER.

(e) *Hearing or other procedures to be followed.*—(1) *Determination.* The Commission will determine whether an assignment for oral hearing should be made, after notice to interested persons of the filing of the application has been published in the FEDERAL REGISTER and the period for filing protests has expired. At or prior to such time, any applicant who does not intend to prosecute its application should promptly request dismissal thereof.

(2) *Uncontested proceedings.* Proceedings in which no protests are filed within 30 days after publication of notice in the FEDERAL REGISTER, and which are not assigned for oral hearing, will be determined on the basis of verified statements submitted by applicant. Where not submitted previously along with the application as provided in paragraph (b) (1) of this section, such statements, by order, will be required to be filed by the applicant with the Commission within the time prescribed in said order, failing which the application may be summarily dismissed for want of prosecution.

(3) *Contested proceedings.* In those contested proceedings which the Commission determines that assignment of an application for oral hearing is unnecessary, thereafter the procedure shall be in accordance with Rules 45(b), 46(b), and 47–54, inclusive, of the general rules of practice, except that only the original and one copy of any statement made pursuant to Rule 51 need be filed with the Commission. All other contested proceedings which are subject to these rules will be assigned for oral hearing, unless other procedures are ordered.

(f) *Withdrawal or dismissal of contested applications.* If protests to its application have been filed, applicant shall, within 30 days after the period for filing protests has expired, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application. Failure so to notify the Commission will be construed to mean that applicant has no further interest in the application, and the application will thereupon be dismissed by the Commission. Withdrawal of the application after the 30-day period or failure by applicant to appear at a hearing scheduled thereon will, except for good cause shown, subject applicant and its representative to censure.

(g) *Notice of hearing, conference or other proceedings.*—(1) *Initial assignment.* Notice of the time and place of any hearing, conference, or other proceedings will be given to applicant's representative, applicant, protestants, and other interested parties by mailing to them the order or notice assigning the application for hearing, conference, or other procedure.

(2) *Assignment of an application for hearing concurrently with notice of its filing.* For the convenience of the Commission in handling applications related to one or more applications which already have been noticed in the FEDERAL REGISTER, when, in the Commission's discretion, the public interest would be served, an application may be concurrently noticed and assigned for hearing provided appropriate publication in the FEDERAL REGISTER can be made at least 1 week prior to the assigned date of hearing. Where such action is taken, and regardless of any prior publication of the application, any interested person may, without filing a protest prior to the assigned hearing, appear at the hearing in opposition to the application so assigned and become a party and be entitled to participate in that proceeding.

(3) *Requests for change.* A request by any party for a change in the time or place of an assigned hearing must set forth good and sufficient cause for the action requested, must be in writing and filed with the Commission not less than 10 days before the assigned hearing date, except in emergency circumstances, and must be served on all known parties of record at the same time and by the same method of communication as service is made on the Commission. Where such requests are filed less than 10 days before the date of hearing, the petitioning party shall state the reasons for his failure to make such request within the prescribed 10 days.

(4) *Notice of changes.* The applicant's representative (or applicant if it has no representative), protestants, and those who request notice of changes in time or place of hearing, conference, or other proceeding will be informed of such changes if notice is given by mail. If telegraphic notice becomes necessary, notice of such changes will be given by telegram only to those who request telegraphic notice at their expense.

(h) *Intervention.* Rule 73 relating to participation without intervention is inapplicable to applications subject to this section, except with respect to those persons seeking to intervene in support. No person who fails to file a protest as provided in these rules will be permitted to intervene in opposition in a proceeding except upon a showing of substantial reasons in a petition submitted in accordance with Rule 72.

(i) *Drafting of recommended order and report by prevailing party.* Applications in which oral hearings are held and in which the hearing officer can announce his decision, either (1) on the record after the close of the taking of testimony or (2) by appropriate notification to the parties after the filing of briefs, may be made the subject of a report and recommended order, prepared by the party or parties in whose favor the hearing officer decides, within a period specified by the hearing officer. The hearing officer will make such changes as he considers appropriate in the draft prepared for him.

NOTE: The following General Policy Statement Concerning Motor Carrier Licensing Procedures (Ex Parte No. 55) was published May 3, 1966, at 31 F.R. 6600:

The number of applications filed for authority to conduct operations, in interstate or foreign commerce, as common and contract carriers by motor vehicle, long has been on the increase. The rate of this increase has accelerated markedly in recent years and shows no signs of abating. Motor carrier applications alone, which now make up about 85 percent of the Commission's formal case docket, increased from 5,655 new filings in 1964 to 7,658 new filings in 1965. In the first quarter of 1966, 2,454 motor carrier applications already have been opened. The pending docket of this category of cases alone on April 1, 1966, totaled 6,534.

Motor carrier application proceedings involve issues of substantial interest not only to the regulated transportation industry, but to every shipper and receiver of goods, regardless of the size of his operation; to manufacturers, wholesalers, distributors, and retailers; and to all members of the general public, both as buyers and consumers, and as travelers over the lines of the Nation's common carriers of passengers. To delay a determination that a newly proposed motor transportation is required by the public convenience and necessity or would be consistent with the public interest and the national transportation policy can result in an irretrievable loss of sales and can unjustifiably deprive the public of needed products and transportation services. For the regulated surface transportation industry to continue to thrive, to grow, and to keep pace with the expanding national economy, the mechanics of regulation must be such that administrative decisions are not only fair and impartial, but are rendered with reasonable dispatch and efficiency. The regulatory process in which competing claims are considered and adjudicated must be geared to the type of proceeding involved, and must not entail an expenditure of time and money, either for the parties or the Government, which is disproportionate to the scope, importance, and economic significance of the particular proceeding.

Operating under its present procedures, the Commission no longer is able to deal with motor carrier application proceedings with the promptness and efficiency to which the parties are entitled, and which the nature of the proceedings themselves and the public interest require. The due and timely execution of the Commission's functions, therefore, imperatively and unavoidably, requires that these procedures be modified to eliminate those steps and procedural requirements which result in undue and unnecessary delay and in unjustified expense.

To achieve the foregoing ends and to insure that application proceedings are adjudicated with the maximum possible speed and efficiency consistent with the requirements of due process of law, this Commission has adopted, among other things, a number of general policies and internal procedures governing the handling and processing of motor carrier operating authority applications. A new form for applying for operating rights has been approved and released, and revised special rules of practice have been issued.

In processing the motor carrier caseload, the scheduling of unnecessary oral hearings will be avoided to the extent possible. Where the issues presented are well defined or where the matters involved are not of sufficient moment to justify the expense of an oral hearing, parties will be required to submit their evidence in the form of verified statements under the modified procedure, and the issuance of an initial report by a hearing officer will be dispensed with. Oral hearings for the sole purpose of cross-examination will be scheduled only where material facts are in dispute.

All applications for motor carrier operating rights will be noticed in the FEDERAL REGISTER as at present. After the 30-day period for filing protests has expired, the Commission will determine whether an application should be placed on the hearing docket or the modified procedure docket.

All unopposed applications will be assigned directly to the Commission's Operating Rights Board, as is done at present. Where the necessary supporting information has not been filed with the application, an order will be entered calling for the filing of the necessary supporting verified statements, after which the case will be disposed of by that Board.

All opposed applications will be placed either on the hearing docket or the modified procedure docket. To the hearing docket will be assigned the more complex cases, and those which, for one reason or another, might be handled more expeditiously and effectively with an oral hearing. Applications placed on the hearing docket will be processed through oral hearing and the issuance of a report and recommended order.

To the modified procedure docket will be assigned those applications in which an oral hearing is not deemed necessary for their proper disposition. Assignments to the modified procedure docket will be followed by the entry of an order requiring the submission of the supporting and opposing evidence under the present general rules of practice. Such order will provide that "except for good cause shown" all preliminary motions or other requests for relief filed prior to a decision will not be handled separately but will be acted upon by those making the decision in the case.

Following the filing of all verified statements under the modified procedure in opposed application proceedings, the cases will be submitted to one of the five existing Review Boards, in rotation, to the extent practicable, for the issuance of final reports. The Boards' decision will be subject to petitions to Appellate Division 1.

A request for cross-examination by any party will be disposed of by the Review Board. If the Board concludes that the request has merit, it will have the authority to refer the case for hearing for the purpose of cross-examination. Requests which are found to be without merit will be denied in the Board's report, with the reasons for the action taken. The Review Board also will have authority to refer for full oral hearing any case in which it believes such treatment is warranted.

APPENDIX A—CODE OF ETHICS FOR PRACTITIONERS BEFORE THE INTERSTATE COMMERCE COMMISSION

TABLE OF CONTENTS

Preamble.
Canons of Ethics.
1. Standards of ethical conduct in courts of United States to be observed.
2. The duty of the practitioner to and his attitude towards the Commission.
3. Punctuality and expedition.
4. Attempts to exert political influence on the Commission.
5. Attempts to exert personal influence on the Commission.
6. The selection of Commissioners.
7. The practitioner's duty in its last analysis.
8. Private communications with the Commission.
9. Adverse influences and conflicting interests.
10. Joint association of practitioners and conflicts of opinion.
11. Withdrawal from employment.
12. Advising upon the merits of a client's cause.
13. Negotiations with opposing party.
14. Fixing the amount of the fee.
15. Compensation, commission and rebates.
16. Contingent fees.
17. Division of fees.
18. Suing clients for fees.
19. Acquiring interest in litigation.
20. Expenses.
21. Witnesses.
22. Dealing with trust property.
23. How far a practitioner may go in supporting a client's cause.
24. Restraining clients from improprieties.
25. Ill-feeling and personalities between advocates.
26. Treatment of witnesses and litigants.
27. (None.)
28. Discussion of pending litigation in public press.
29. Candor and fairness.
30. Right of practitioner to control the incidents of the trial.
31. Taking technical advantage of opposing practitioner; agreements with him.
32. Advertising, direct or indirect.
33. Professional card.
34. Stirring up litigation, directly or through agents.
35. Justifiable and unjustifiable litigation.
36. Responsibility for litigation.
37. Discovery of imposition and deception.
38. Upholding the honor of the calling.
39. Intermediaries.
40. Retirement from public employment.
41. Confidences of a client.
42. Partnerships-names.
43. Titles.

PREAMBLE

No rules of conduct can be framed which will particularize all the duties of the practitioner in the varying phases of litigation or in his relations to clients, adversaries, other practitioners, the Commission and the pub-

lic. The following canons of ethics are adopted as a general guide for those admitted to practice before the Interstate Commerce Commission.

It will be remembered that the practitioners before the Commission include (a) lawyers, who have been regularly admitted to practice law, and (b) others having traffic or other technical experience qualifying them to aid the Commission in administration of the Interstate Commerce Act and related acts of Congress. The former are bound by a broad code of ethics and unwritten rules of professional conduct which apply to every activity of a lawyer; for the latter, no code of ethics has been written heretofore. The following canons do not release the lawyer from any of the duties or principles of professional conduct by which lawyers are bound. They apply alike to all practitioners before the Commission and the setting forth therein of particular duties or principles of conduct should not be construed as a denial of the existence of others equally imperative although not specifically mentioned. The word "Commission" as used herein includes Divisions of the Commission, and the representatives of the Commission, whether members, examiners, or other employees connected with the matter in hand.

CANONS OF ETHICS

1. *Standards of ethical conduct in courts of United States to be observed.* These canons are in furtherance of the purpose of the Commission's rules of practice which enjoin upon all persons appearing in proceedings before it to conform, as nearly as may be, to the standards of ethical conduct required of practitioners before the courts of the United States; and such standards are taken as the basis for these specifications, modified in so far as the nature of the practice before the Commission requires.

2. *The duty of the practitioner to and his attitude towards the Commission.* It is the duty of the practitioner to maintain towards the Commission a respectful attitude, not for the sake of the temporary incumbent of the office, but for the maintenance of the importance of the functions he administers. In many respects the Commission functions as a Court, and practitioners should regard themselves as officers of that Court and strive to uphold its honor and dignity. The Commission, not being wholly free to defend itself is peculiarly entitled to receive the support of the practitioner against unjust criticism and clamor. Whenever there is proper ground for serious complaint of a member or employee of the Commission it is the right and duty of the practitioner to submit his grievances to the proper authorities. In such cases, but not otherwise, such charges should be encouraged and the person making them should be protected.

3. *Punctuality and expedition.* It is the duty of the practitioner not only to his client, but also to the Commission and to the public, to be punctual in attendance, and to be concise and direct in the trial and disposition of causes.

4. *Attempts to exert political influence on the Commission.* It is unethical for a practitioner to attempt to sway the judgment of the Commission by propaganda, or by enlisting the influence or intercession of members of the Congress or other public officers, or by threats of political or personal reprisal.

5. *Attempts to exert personal influence on the Commission.* Marked attention and unusual hospitality on the part of a practitioner to a Commissioner, examiner, or other representative of the Commission, uncalled for and unwarranted by the personal relations of the parties, subject both to misconstruction of motive and should be avoided. A self-respecting independence in the discharge of duty, without denial or diminution of the courtesy and respect due the official station is the only proper foundation for cordial personal and official relations between Commission and practitioners.

6. *The selection of Commissioners.* The nomination of Commissioners is a duty of the President, and confirmation, of the Senate. It is the duty of the practitioners in so far as they attempt to advise the appointing or confirming officers, to endeavor to prevent any consideration from outweighing fitness in the selection.

7. *The practitioner's duty in its last analysis.* No client, corporate or individual, however powerful, no cause, civil or political however important, is entitled to receive, and no practitioner should render, any service or advice involving disloyalty to the law or disrespect of its official ministers, or corruption of any person or persons exercising a public office or employment or private trust, or deception or betrayal of the public. In rendering any such improper service or advice the practitioner invites and merits stern and just condemnation. Correspondingly, he advances the honor of his calling and the best interests of his client when he renders service or gives advice tending to impress upon the client and his undertaking exact compliance with the strictest principles of moral law. He must also observe and advise his client to observe the statute law, although until a statute shall have been construed and interpreted by competent adjudication, he is free and is entitled to advise as to its validity and as to what he conscientiously believes to be its just meaning and extent. But above all he will find his highest honor in a deserved reputation for fidelity to private trust and to public duty, as an honest man and as a patriotic and loyal citizen.

8. *Private communications with the Commission.* In the disposition of contested proceedings brought under the Interstate Commerce Act the Commission exercises quasi-legislative powers, but it is nevertheless acting in a quasi-judicial capacity. It is required to administer the Act and to consider at all times the public interest beyond the mere interest of the particular litigants before it. To the extent that it acts in a quasi-judicial capacity, it is grossly improper for litigants, directly or through any counsel or representative, to communicate privately with a commissioner, examiner or other representative of the Commission about a pending cause, or to argue privately the merits thereof in the absence of their adversaries or without notice to them. Practitioners at all times should scrupulously refrain in their communications to and discussions with the Commission and its staff from going beyond ex parte representations that are clearly proper in view of the administrative work of the Commission.

9. *Adverse influences and conflicting interests.* It is the duty of a practitioner at the time of retainer to disclose to the client all the circumstances of his relations to the parties, and any interest in or connection with the controversy, which might influence the client in the selection of the person to represent or assist him.

It is unethical to represent conflicting interests, except by express consent of all concerned given after a full disclosure of the facts. Within the meaning of this canon a practitioner represents conflicting interests when, in behalf of one client, it is his duty to contend for that which duty to another client requires him to oppose.

The obligation to represent the client with undivided fidelity and not to divulge his secrets or confidences forbids also the subsequent acceptance of retainers or employment from others in matters adversely affecting any interest of the client with respect to which confidence has been reposed.

10. *Joint association of practitioners and conflicts of opinion.* A client's proffer of the assistance of additional practitioner should not be regarded as evidence of want of confidence, but the matter should be left to the determination of the client. A practitioner should decline association as colleague if it is objectionable to the practitioner first retained, but if the client should relieve the practitioner first retained, another may come into the case.

When practitioners jointly associated in a cause cannot agree as to any matter vital to the interest of the client, the conflict of opinion should be frankly stated to him for his final determination. His decision should be accepted by them unless the nature of the difference makes it impracticable for the practitioner whose judgment has been overruled to cooperate effectively. In this event it is his duty to ask the client to relieve him.

Efforts, direct or indirect, in any way to encroach upon the business of another practitioner are unworthy of those who should be brethren, but, nevertheless, it is the right of any practitioner, without fear or favor, to give proper advice to those seeking relief against an unfaithful or neglectful practitioner, generally after communication with the practitioner of whom the complaint is made.

11. *Withdrawal from employment.* The right of a practitioner to withdraw from employment, once assumed, arises only from good cause. Even the desire or consent of the client is not always sufficient. The practitioner representing him should not throw up the unfinished task to the detriment of his client except for reasons of honor or self-respect. If the client insists upon an unjust or immoral course in the conduct of his case, or if he persists over the practitioner's remonstrance in presenting frivolous defenses, or if he deliberately disregards an agreement or obligation as to fees or expenses, the practitioner may be warranted in withdrawing on due notice to the client, allowing him time to employ another. So also when a practitioner discovers that his client has no case and the client is determined to continue it; or even if he finds himself incapable of conducting the case effectively. Sundry other instances may arise in which withdrawal is to be justified. Upon withdrawing from a case after a retainer has been paid, he should refund such part of the retainer as has not been clearly earned.

12. *Advising upon the merits of a client's cause.* A practitioner should endeavor to obtain full knowledge of his client's cause before advising thereon, and he is bound to give a candid opinion of the merits and probable result of pending or contemplated litigation. He should beware of bold and confident assurances to clients, especially where employment may depend upon such assurance. Whenever the controversy will admit of fair adjustment, the client should be advised to avoid or to end the litigation.

13. *Negotiations with opposing party.* A practitioner should not in any way communicate upon the subject of controversy with a party represented by another practitioner except upon express agreement with the practitioner representing such party; much less should he undertake to negotiate or compromise the matter with him, but should deal only with the practitioner who represents the other party. It is incumbent upon the practitioner most particularly to avoid everything that may tend to mislead a party not represented by a practitioner, and he should not undertake to advise him as to the law.

14. *Fixing the amount of the fee.* In fixing fees, practitioners should avoid charges which overestimate their advice and services, as well as those which undervalue them. A client's ability to pay cannot justify a charge

in excess of the value of the service, although his poverty may require a less charge, or even none at all.

15. *Compensation, commission and rebates.* A practitioner should accept no compensation, commissions, rebates, or other advantages from parties to the proceeding other than his client without the knowledge and consent of his client after full disclosure.

16. *Contingent fees.* Contingent fees should be such only as are sanctioned by law. In no case, except a charity case, should they be entirely contingent upon success.

17. *Division of fees.* No division of fees for services is proper, except with a member of the bar or with another practitioner, based upon a division of service or responsibility. It is unethical for a practitioner to retain laymen to solicit his employment in pending or prospective cases, and reward them by a division of fees, and such a practice cannot be too severely condemned.

18. *Suing clients for fees.* Controversies with clients concerning compensation are to be avoided in so far as compatible with self-respect and with the right to receive reasonable recompense for services; and lawsuits against clients should be resorted to only to prevent injustice, imposition or fraud.

19. *Acquiring interest in litigation.* The practitioner shall not purchase or otherwise acquire any pecuniary interest in the subject matter of the litigation which he is conducting.

20. *Expenses.* A practitioner may not properly agree with a client that the practitioner shall pay or bear the expenses of litigation. He may in good faith advance expenses as a matter of convenience but subject to reimbursement by the client.

21. *Witnesses.* A practitioner shall not undertake that the compensation of a witness shall be contingent upon the success of the cause in which he is called. If the ascertainment of truth requires that a practitioner should seek information from one connected with or reputed to be biased in favor of an adverse party, he is not thereby deterred from seeking to ascertain the truth from such person in the interest of his client.

22. *Dealing with trust property.* Money of the client or other trust property coming into the possession of the practitioner should be reported promptly, and, except with the client's knowledge and consent, should not be commingled with the practitioner's private property or be used by him.

23. *How far a practitioner may go in supporting a client's cause.* Nothing will operate more certainly to create or foster popular prejudice against practitioners as a class, and deprive them of that full measure of public esteem and confidence which belongs to the proper discharge of their duties than does the false claim, often set up by the unscrupulous in defense of questionable transactions, that it is the duty of the practitioner to do whatever may enable him to succeed in winning his client's cause.

The practitioner owes "entire devotion to the interest of the client, warm zeal in the maintenance and defense of his rights, and the exertion of his utmost learning and ability," to the end that nothing be taken or be withheld from him, save by the rules of law, legally applied. No fear of the disfavor of the Commission or public unpopularity should restrain him from full discharge of his duty. The client is entitled to the benefit of any and every remedy and defense that is authorized by the law of the land, and he may expect his counsel to assert every such remedy or defense. But it is to be steadfastly borne in mind that this great trust is to be performed within and not without the bounds of the law. Admission to the privilege of appearing before the Commission as representing another does not permit, much less does it demand of him for any client, violation of law or any manner of fraud or chicane. He must obey his own conscience and not that of his client.

24. *Restraining clients from improprieties.* A practitioner should use his best efforts to restrain and to prevent his clients from doing those things which he himself ought not to do, particularly with reference to their conduct towards the Commission, other practitioners, witnesses and suitors. If a client persists in such wrong-doing the practitioner should terminate their relations.

25. *Ill-feeling and personalities between advocates.* Clients, not their representatives, are the litigants. Whatever may be the ill-feeling existing between clients, it should not be allowed to influence practitioners in their conduct and demeanor toward each other or toward suitors in the case. All personalities between practitioners should be scrupulously avoided. In the trial of a cause it is indecent to allude to the personal history or the personal peculiarities and idiosyncrasies of practitioners on the other side. Personal colloquies between practitioners which cause delay and promote unseemly wrangling should also be carefully avoided. Their statements should be addressed to the Commission.

26. *Treatment of witnesses and litigants.* A practitioner should always treat adverse witnesses and suitors with fairness and due consideration, and he should never minister to the malevolence or prejudice of a client in the trial or conduct of a cause. The client cannot be made the keeper of the practitioner's conscience in such matters. He has no right to demand that the practitioner representing him shall abuse the opposing party or indulge in offensive personalities. Improper speech is not excusable on the ground that it is what the client would say if speaking in his own behalf.

27. (None.)

28. *Discussion of pending litigation in public press.* Attempts to influence the action and attitude of the members and examiners of the Commission through propaganda, or through colored or distorted articles, in the public press, are more apt to react against than in favor of the parties resorting to such measures. On the other hand, it is not against the public interest or unfair to the Commission that the facts of pending litigation shall be made known to the public through the press in a fair and unbiased manner and in dispassionate terms. Practitioners should themselves avoid, and should counsel their clients against, giving to the public press any press notices or statements of a nature intended to inflame the public mind, to stir up possible hostility toward the Commission, or to influence the Commission's course and judgment as to pending or anticipated litigation. When the circumstances of a particular case appear to justify a statement to the public through the press, it is unethical to make it anonymously.

29. *Candor and fairness.* The conduct of practitioners before the Commission and with other practitioners should be characterized by candor and fairness. The non-technical character and liberality of the Commission's practice call for scrupulous observance of the principles of fair dealing and just consideration for the rights of others.

It is not candid or fair for a practitioner knowingly to misstate or misquote the contents of a paper, the testimony of a witness, the language or the argument of an opposing practitioner, or the language or effect of a decision or a text book; or, with knowledge of its invalidity to cite as authority a decision which has been overruled or otherwise impaired as a precedent or a statute which has been repealed; or in argument to assert as a fact that which has not been proved, or to mislead his opponent by concealing or withholding positions in his opening argument upon which his side then intends to rely.

It is dishonorable to deal other than candidly with the facts in taking the statements of witnesses, in drawing affidavits and other documents, and in the presentation of causes.

A practitioner should not offer evidence, which he knows the Commission should reject, in order to get the same before the Commission by argument for its admissibility, or arguments upon any point not properly calling for determination. He should not introduce into an argument remarks or statements intended to influence the by-standers.

These and all kindred practices are unethical and unworthy of a practitioner.

30. *Right of practitioner to control the incidents of the trial.* As to incidental matters pending the trial, not affecting the merits of the cause or working substantial prejudice to the rights of the client, such as forcing the opposing practitioner to trial when he is under affliction or bereavement, forcing the trial on a particular day to the injury of the opposing practitioner when no harm will result from trial at a different time, agreeing to extensions of time and the like, the practitioner and not the client, must be allowed to judge. In such matters no client has a right to demand that his practitioner shall be illiberal or do anything therein repugnant to the practitioner's sense of honor and propriety.

31. *Taking technical advantage of opposing practitioner; agreements with him.* A practitioner should not ignore known customs or practice of the Commission, even when the law permits, without giving timely notice to the opposing practitioner. In so far as possible, important agreements affecting the rights of clients should be reduced to writing; but it is dishonorable to avoid performance of an agreement fairly made because it is not reduced to writing.

32. *Advertising, direct or indirect.* The most worthy and effective advertisement possible is the establishment of a well-merited reputation for capacity and fidelity to trust. This cannot be forced, but must be the outcome of character and conduct. The publication or circulation of ordinary simple business cards, being a matter of personal taste or local custom, and sometimes of convenience, is not improper. But solicitation of employment by circulars or advertisements, or by personal communications or interviews, not warranted by personal relations, is unethical. It is equally unethical to procure business by indirection through touters of any kind. Indirect advertisement for employment by furnishing or inspiring newspaper comments concerning causes in which the practitioner has been or is engaged, or concerning the manner of their conduct, the magnitude of the interests involved, the importance of the practitioner's positions, and all other like self-laudation, lower the tone of the calling and are intolerable.

33. *Professional card.* The simple professional card mentioned in Canon 32 may with propriety contain only a statement of the practitioner's name (and those of his associates), occupation, address, telephone number, and special branch or branches of practice. Such cards may be inserted in reputable lists and may give authorized references, or name clients with their permission.

34. *Stirring up litigation, directly or through agents.* It is unethical for a practitioner to volunteer advice that a proceeding be brought before the Commission, except in rare cases where ties of blood, relationship or trust make it his duty to do so. Stirring up strife and litigation is not only unethical but it is indictable at common law. It is disreputable for a practitioner to hunt up

defects or other causes of action and disclose them in order to be employed to bring complaint, or to breed litigation by seeking out those having claims for damages or any other grounds of action in order to secure them as clients, or to employ agents or runners for like purposes, or to pay or reward, directly or indirectly, those who bring or influence the bringing of such cases to his office to seek his services. No complaint should be brought before the Commission by a practitioner except with the distinct knowledge and specific consent of the client in the particular case. A duty to the public and to the Association devolves upon every member having knowledge of such practices upon the part of any practitioner, immediately to inform thereof to the end that the offender may be disciplined or disbarred.

35. *Justifiable and unjustifiable litigation.* The practitioner must decline to conduct a cause or to make a defense when convinced that it is intended merely to harass or to injure the opposing party, or to work oppression or wrong. But otherwise it is his right, and having accepted retainer, it becomes his duty, to insist upon the judgment of the Commission as to the merits of his client's claim. His appearance should be deemed equivalent to an assertion upon his honor that in his opinion his client's case is one proper for determination.

36. *Responsibility for litigation.* No practitioner is obliged to act either as adviser or advocate for every person who may seek to become his client. He has the right to decline employment. Every practitioner upon his own responsibility must decide what employment he will accept, what causes he will bring before the Commission for complainants, or contest for defendants or respondents. The responsibility for advising as to questionable transactions, for bringing questionable proceedings, for urging questionable defenses is his alone. He cannot escape it by urging as excuses that he is only following his client's instructions, or that he is under a stated retainer or in the regular employment of his client.

37. *Discovery of imposition and deception.* When a practitioner discovers that some fraud or deception has been practiced, which has unjustly imposed upon the Commission or a party, he should endeavor to rectify it; first by advising his client to forego any advantage thus unjustly gained and, if his client refuses, by promptly informing the injured person or his counsel (practitioner), so that appropriate steps may be taken.

38. *Upholding the honor of the calling.* Practitioners should expose without fear or favor before the proper tribunals corrupt or dishonest conduct and should accept without hesitation employment against a practitioner who has wronged his client. The practitioner upon the trial of a cause in which perjury has been committed owes it to the Commission and to the public to bring the matter to the knowledge of the prosecuting authorities. The practitioner should aid in guarding the bar of the Commission against admission thereto of candidates unfit or unqualified because deficient in either moral character or education. A practitioner should propose no person for admission to practice before the Commission unless from personal knowledge or upon reasonable inquiry he sincerely believes and is able to vouch that such person possesses the qualifications prescribed in the Commission's rules of practice. He should strive at all times to uphold the honor and maintain the dignity of his calling and to improve not only the law but the administration of justice.

39. *Intermediaries.* The services of a practitioner should not be controlled or exploited by any lay agency, personal or corporate, which intervenes between client and practitioner. His responsibility and qualifications are individual. He should avoid all relations which direct the performance of his duties in the interest of such intermediaries. His relation to the client should be personal, and the responsibility should be direct to the client.

He may accept employment from any organization such as an association, club or trade organization, authorized by law to be a party to proceedings before the Commission, to render services in such proceedings in any matter in which the organization, as an entity, is interested. This employment should only include the rendering of such services to the members of the organization in respect to their individual affairs as are consistent with the free and untrammeled performance of his duties to the Commission.

Nothing in this canon shall be construed as conflicting with canon 17.

40. *Retirement from public employment.* A practitioner, having once held public office or having been in the public employ, should not after his retirement, accept employment as an advocate or adviser in the same proceeding or as to the same, or substantially the same, facts as were involved in any specific question which he investigated or passed upon in a judicial or quasi-judicial capacity while in such office or employ, whether the same or different parties are concerned.

41. *Confidences of a client.* The duty to preserve his client's confidences in the course of his employment outlasts the practitioner's employment, and extends as well to his employees. None of them should accept employment which involves the disclosure or use of these confidences, either for the private advantage of the practitioner or his employees or to the disadvantage of the client, without knowledge and consent of the client even though there are other available sources of such information. A practitioner should not continue employment when he discovers that this obligation prevents the performance of his full duty to his former or to his new client.

If a practitioner is falsely accused by his client, he is not precluded from disclosing the truth in respect to the false accusation. The announced intention of a client to commit a crime is not included within the confidences which a practitioner is bound to respect. He may properly make such disclosures as to prevent the act or protect those against whom it is threatened.

42. *Partnerships-names.* Partnerships among practitioners for the practice of their calling are very common and are not to be condemned. The rules of the Commission provide that corporations or firms will not be recognized. Practitioners before the Commission should therefore appear individually and not as members of partnerships. In the formation of partnerships care should be taken not to violate any law locally applicable; care should also be taken to avoid any misleading name or representation which would create a false impression as to the position or privileges of a member not locally admitted, or who is not duly authorized to practice, and as such amenable to discipline. No person should be held out as a practitioner or member who is not so admitted. No practitioner who is not admitted to practice in the courts should be held out in a way which will give the impression that he is so admitted. No false or assumed or trade name should be used to disguise the practitioner or his partnership. The continued use of the name of a deceased or former partner is or may be permissible by local custom, but care should be taken that no imposition or deception is practiced through this use. If a member of the firm becomes a Commissioner, or an Examiner or other employee of the Commission his name should not be retained in the firm name, as such retention may give color to the impression that an improper relation or influence is continued or possessed by the firm.

This canon does not inhibit the association of a practitioner with a mercantile, manufacturing, or other commercial institution, in the capacity of its representative or adviser.

43. *Titles.* No member of the Association not admitted to the bar shall use the title "Attorney" or "Counsel" but should use the title "Traffic Manager," "Practitioner before the Interstate Commerce Commission," "Registered Practitioner," or other appropriate title or designation.

APPENDIX B—APPROVED FORMS

TABLE OF CONTENTS

1. Complaint; verification.
2. Answer.
3. Certificate of service.
4. Petition for leave to intervene.
5. Form of reparation statement under Rule 100.
6. Verification for statements of fact filed under modified procedure.
7. Approved Form No. 7 under Rule 245.

[These forms may be used in cases to which they are applicable, with such alterations as the circumstances may render necessary. Before using such forms the pertinent rules, particularly those referred to in the footnotes, should carefully be studied.]

No. 1. COMPLAINT[1]

Before the Interstate Commerce Commission

COMPLAINT

_____

v.

_____

[Insert without abbreviation the names of complainant and defendant (including each of the receivers, operating trustees, or other legal representatives of defendant), and whether a corporation, firm, or partnership, specifying the individual names of the parties composing the partnership; and the postoffice address of any motor-carrier defendant.]

The Complaint of the above-named complainant respectfully shows:

I. That [complainant should here state nature and place of business, also whether a corporation, firm, or partnership, and if a firm or partnership, the individual names of the parties composing the same.]

II. That the defendant above named is [here state whether: (a) carrier by railroad, express, motor vehicle (common or contract), water (common or contract), a freight forwarder, or otherwise; (b) the transportation is of property or passengers, or both; and (c) the transportation involves a freight forwarder or more than one type of carrier, specifying particulars] between points in the State of_____ and points in the State of_____ [a complaint under part II should specifically name the States in and through which the transportation which gives rise to the complaint is performed] and as such defendant is subject to the provisions of the Interstate Commerce Act.

III. That [state in this and subsequent paragraphs to be numbered IV, V, etc., the matter or matters intended to be complained of, naming every rate, fare, charge, classification, regulation, or practice the lawfulness of which is challenged, and also, if practicable, the points between which the rates, etc., complained of are applied. Where it is impracticable to designate each point, describe clearly the rate territory or rate group involved. Whenever practicable tariff or schedule reference should be given:]

[Where unlawful discrimination, preference, or prejudice is alleged the particular

[1] See Rules 26 to 33, inclusive.

elements specified in the act as constituting such violation (see sections 2, 3, 4, 12, 216, 217, 218, 305, and 406) and the facts upon which complainant relies to establish the violation should be stated clearly. Where any provision of the act other than those just mentioned, or any requirement established pursuant to the act, is alleged to be violated, the pertinent statutory provision, or established requirement, together with the facts which are alleged to constitute the violation, should be stated. If two or more subsections of the act or requirements established pursuant thereto are alleged to be violated, the facts claimed to constitute violation of one subsection, or requirement, should be stated separately from those claimed to constitute a violation of another subsection, or requirement, whenever that can be done by reference or otherwise without undue repetition.]

X. That by reason of the facts stated in the foregoing paragraphs complainant has been subjected to the payment of rates [fares or charges, etc.] for transportation which were when enacted and still are (1) unjust and unreasonable in violation of section _____ of the Interstate Commerce Act, and (2) unjustly discriminatory in violation of section _____, and (3) unduly preferential or prejudicial in violation of section _____ and (4) in violation of the long-and-short haul [or aggregate of intermediate rates] provision of section 4 thereof. [Use one or more of the allegations numbered (1), (2), (3), (4), or other appropriate allegation according to the nature of the complaint.] That [if recovery of damages is sought] complainant has been injured thereby to his damage in the sum of $_____

Wherefore complainant prays that defendant be required to answer the charges herein; that after due hearing and investigation an order be made commanding said defendant [and each of them] to cease and desist from the aforesaid violations of said act, and establish and put in force and apply in future to the transportation of_____ between the origin and destination points named in paragraph_____ hereof, in lieu of the rates [fares, or charges, etc.], named in said paragraph, such other rates [fares, or charges, etc.], as the Commission may deem reasonable and just [and also, if recovery of damages is sought, pay to complainant by way of reparation for the unlawful charges hereinbefore alleged the sum of $_____ or such other sum as, in view of the evidence to be adduced herein, the Commission shall determine that complainant is entitled to an award of damages under the provisions of said act for violation thereof], and that such other and further order or orders be made as the Commission may consider proper in the premises.

Dated at_____, 19____

_____
(Complainant's signature [2])

_____
(Office and post-office address)

_____
(Signature of practitioner)

_____
(Post-office address)

VERIFICATION [3]

STATE OF_____ }
*County of*_____ } ss:

_____, being duly sworn, deposes and says: that he is the complainant (or, one of the complainants; or, is the (insert title of the affiant if complainant is a corporation) of the _____ company, complainant) in the above-entitled proceeding; that he has read the foregoing complaint, and knows the contents thereof; that the same are true as stated, except as to matters and things if any, stated on information and belief, and that as to those matters and things, he believes them to be true.

_____

Subscribed in my presence, and sworn to before me, by the affiant above named, this _____ day of _____, 19_____

[USE AN L. S. IMPRESSION SEAL]

_____
[Title of Officer]

Commission expires _____

No. 2. ANSWER [4]

Before the Interstate Commerce Commission

ANSWER

Docket No. _____

_____

v.

_____

The above-named defendant, for answer to the complaint in this proceeding, respectively states:

I. [Here set forth appropriate and responsive admissions, denials, and averments, specifically answering the complaint paragraph by paragraph.]

Wherefore defendant prays that _____

Dated _____, 19____

_____
[Name of defendant]

By [5] _____

_____
[Title of officer]

_____
[Office and post-office address]

_____
[Signature of practitioner]

_____
[Post-office address]

No. 3. CERTIFICATE OF SERVICE [6]

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding, by (here state the precise manner of making service, which must be consistent with the provisions of Rule 22).

Dated at _____, this ____ day of _____, 19____

(Signature) _____

[4] See Rules 35 to 37, inclusive.
[5] See Rule 17.
[6] See Rule 22.

No. 4. PETITION FOR LEAVE TO INTERVENE [7]

Before the Interstate Commerce Commission

PETITION

_____ } Docket No. _____
v.
_____
[or state other title]

Comes now your petitioner, _____, and respectfully represents that he has an interest in the matters in controversy in the above-entitled proceeding and desires to intervene in and become a party to said proceeding, and for grounds of the proposed intervention says:

I. That [petitioner should here state nature and place of business, and whether a corporation, firm, or partnership, etc., as in form No. 1].

II. [Petitioner should here set out specifically his position and interest in the proceeding.]

III. [If affirmative relief is sought see paragraphs III and X and prayer in form No. 1]

Wherefore said _____ prays leave to intervene and be treated as a party hereto with the right to have notice of and appear at the taking of testimony, produce and cross examine witnesses, and be heard in person or by counsel upon brief and at the oral argument, if oral argument is granted.

[If affirmative relief is sought insert appropriate prayer here.]

Dated at _____, 19____

[See forms Nos. 1 and 3 as to subscription, verification, and certificate of service.]

[7] See Rule 72.

No. 5. FORM OF REPARATION STATEMENT UNDER RULE 100

Claim of _____ under decision of the Interstate Commerce Commission in Docket No. _____

Date of shipment	Date of delivery or tender of delivery	Date charges were paid	Car [1] initials	Car [2] number	Origin	Destination	Route	Commodity	Weight	As charged		Should be		Reparation on basis of the Commission's decision	Charges paid by [3]
										Rate	Amount	Rate	Amount		

Claimant hereby certifies that this statement includes claims only on shipments covered by the findings in the docket above described and contains no claim for reparation previously filed with the Commission by or on behalf of claimant or, so far as claimant knows, by or on behalf of any other person, in any other proceedings, except as follows: (Here indicate any exceptions, and explanation thereof).

_____
Claimant

By _____
Practitioner

_____
Address

_____
Date

Total amount of reparation $_____

The undersigned hereby certifies that this statement has been checked against the records of this company and found correct.

Date _____ Concurred [4] for: _____ Company

_____ Company, Defendant Collecting Carrier, Defendant. [5]

By _____, Auditor. By _____, Auditor.

[1] Substitute "Vessel" if water carrier involved. [2] Substitute "Voyage No." if water carrier involved.
[3] Here insert name of person paying charges in the first instance, and state whether as consignor, consignee, or in what other capacity.
[4] If not a defendant, strike out word "defendant."
[5] For concurring certificate in case collecting carrier is not a defendant.

[2] See footnote to Verification.
[3] Signature and verification by complainant unnecessary if complaint is signed by a practitioner. See Rule 17.

No. 6. Verification for Statements of Fact Filed Under Modified Procedure[1]

State of ——
County of ——, ss:

—— being duly sworn, deposes and says that he has read the foregoing statement, knows the contents thereof, and that the same are true as stated.

(Signed) ——

Subscribed and sworn to before me this —— day of ——

Notary Public of ——

My Commission expires ——

Notice of Filing of Application for Publication in Federal Register Under Section 206(a)(6) of the Interstate Commerce Act, as Amended

(See instructions)

Part I

(To be completed by applicant)

Notice is hereby given that the below-named applicant has filed with

——
(Name of State commission)

an application for a certificate to conduct motor common carrier operations in intrastate commerce; that, in connection with such operations, applicant also is seeking authority to engage in transportation in interstate and foreign commerce within limits which do not exceed the scope of the intrastate operations which may be authorized to be conducted; and that the intrastate and interstate operations proposed to be conducted are as set forth below.

1. ——
(Name and business address of applicant)

——
(Street) (City) (State)

2. ——
(Name and address of applicant's representative, if any)

——
(Street) (City) (State)

3. Describe below in full the operations proposed to be conducted in intrastate commerce, together with the extent to which applicant is seeking authority in connection with such intrastate operations to engage in transportation in interstate and foreign commerce. (If additional space is necessary, use reverse side.)

——
(Signature)

——
(Title)

Date —— 19—

Part II

(To be completed by State commission)

Date of filing application ——
Docket number assigned ——
Date and time and place application has been assigned for hearing, if known ——

——

——
(Signature)

——
(Title)

——
(Name of State commission)

Date this notice forwarded to Interstate Commerce Commission, Washington, D.C. 20423, —— 19—

Instructions

This form is for use in giving notice to interested persons regarding the filing of intrastate motor carrier applications in connection with which the applicant also desires authority to engage in interstate and foreign commerce pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962, by Public Law 87-808. It should be filed in *duplicate* (along with the intrastate application) with the State commission, which will forward it to the Interstate Commerce Commission, Washington, D.C. 20423.

The description in Part I, item 3 should include the commodities (or passengers) sought to be transported, the points to be served, and the routes over which, or territories within which, such transportation is to be performed. Care should be taken to insure that the description, which will be published in the Federal Register, fully informs interested persons of the type and scope of the proposed intrastate operations, and the extent to which applicant desires authority to engage in transportation in interstate and foreign commerce in connection with such intrastate operations.

[1] See Rule 50.

Appendix C—Ex Parte Communications

1. *Ex parte communications.* (a) No person who is a party to, or counsel or agent of a party, or who intercedes in, any on-the-record proceeding, shall submit any ex parte communication concerning the merits of the proceeding to any member of the Commission, hearing officer, member of a joint board, or to any employee of the Commission participating in the decision in such proceeding.

(b) No member of the Commission, hearing officer, member of a joint board, or employee of the Commission participating in the decision in such proceeding shall invite or knowingly entertain any prohibited ex parte communication, or make any such communication to any party to, or counsel or agent of a party, or any other person who he has reason to know may transmit such communication to a party or party's agent.

2. The prohibitions of paragraph 1 apply from the time an on-the-record proceeding is noticed for oral hearing or the taking of evidence by modified procedure or from such earlier time as the Commission may fix by rule or order in the particular case.

3. For the purposes hereof:

(a) "On-the-record proceeding" means a proceeding required by the Constitution, by statute, by Commission rule, or by order in the particular case, to be decided solely upon the record made in a Commission hearing.

(b) "Person who intercedes in any proceeding" means any individual outside the Commission (whether in public or private life), partnership, corporation, or association, other than a party or an agent of a party, who volunteers a communication which he may be expected to know may advance or adversely affect the interest of a particular party to the proceeding, whether or not he acts with the knowledge or consent of any party or any party's agent.

(c) "Ex parte communication concerning the merits" includes both oral and written communications, but the following classes of ex parte communications shall not be prohibited:

(1) Any oral or written communication which all the parties to the proceeding agree, or which the Commission, the hearing officer, or joint board formally rules, may be made on an ex parte basis.

(2) Any oral or written communication of facts or contentions which have general significance for an industry subject to regulation if the communicator cannot reasonably be expected to know that the facts or contentions are material to a substantive issue in a pending on-the-record proceeding in which he is interested.

(3) Any communication by means of any news medium which in the ordinary course of business of the publisher is intended to inform the general public, members of the organization involved, or subscribers to such publications with respect to pending on-the-record proceedings.

(d) "Any employee of the Commission participating in the decision" includes personal assistants to members of the Commission, members of an employee review board appointed pursuant to Public Law 87-347 (1961) to whom the proceeding may be referred for decision, employees of the Commission Bureau (e.g., Operating Rights, Finance, Rates and Practices) whose responsibilities correspond to the nature of the proceeding, and the staff of the General Counsel's Office.

4. Any member of the Commission, hearing officer, employee of the Commission, or member of a joint board, participating in the decision who personally receives a written or oral communication which he believes is prohibited at the time received, shall transmit the written communication or a written summary of the substance of an oral communication promptly to the Chairman of the Commission together with a written statement of the circumstances under which the communication was made, if not apparent from the communication itself. If the Chairman concludes that the communication is prohibited, or that the dictates of fairness require that it be made public, he shall instruct the Secretary to place the written communication or summary of the oral communication in the correspondence part of the public docket of the proceeding or take such other or further action as may be appropriate under all of the circumstances.

5. The Commission may censure, or suspend or revoke the privilege to practice before the agency, of any person who knowingly and willfully makes or solicits the making of a prohibited ex parte communication.

6. To the extent permitted by law, the relief or benefit sought by a party to a proceeding may be denied if the party, or an agent of the party, knowingly and willfully makes or solicits the making of a prohibited communication.

7. The Commission may censure, suspend, or dismiss, or institute proceedings for the suspension or dismissal of, any Commission employee who knowingly and willfully violates the foregoing prohibitions or requirements.

PART 1101—TEMPORARY OPERATING AUTHORITIES AND APPROVALS

Sec.
1101.1 Extension of temporary operating authority or approval.
1101.2 Definitions and interpretations.
1101.3 Additional grant for new need.
1101.4 Termination of temporary authority or approval.

Authority: The provisions of this Part 1101 issued under sec. 17, 24 Stat. 546, as amended 49 Stat. 546, as amended, sec. 10, 52 Stat. 1238, as amended, secs. 304, 311, 54 Stat. 933; 49 U.S.C. 17, 304, 310a, 904, 911.

§ 1101.1 Extension of temporary operating authority or approval.

The Commission will determine upon written request by any interested party, or it may determine upon its own initiative, whether under section 558 of the Administrative Procedure Act (5 U.S.C. 558):

(a) Any temporary operating authority granted under 210a(a) or 311 (a) of the Interstate Commerce Act (49 U.S.C. 310a(a), 911(a)) is continued in force, beyond the expiration date specified in such temporary operating authority, until the determination of an application filed by the holder of such temporary operating authority for a certificate of public convenience and necessity or a permit to engage in operations authorized by such temporary operating authority.

(b) Any temporary approval granted under section 210a(b) or 311(b) of the Interstate Commerce Act (49 U.S.C. 310a(b), 911(b)), is continued in force, beyond the expiration date specified in such temporary approval, until the determination of the related application for approval of a consolidation or merger of the properties of two or more motor or water carriers or of a purchase, lease, or contract to operate the properties of one or more such carriers.

In order to afford sufficient time for consideration and action thereon, a written request for such a determination should be filed not later than 30 days prior to expiration of the temporary operating authority or approval.

§ 1101.2 Definitions and interpretations.

In making the determination provided in § 1101.1, the Commission will be guided by the following interpretations of the provisions of the 3d sentence of section 558 of the Administrative Procedure Act (5 U.S.C. 558), and of the provisions of section 210a(a) of the Interstate Commerce Act (49 U.S.C. 310a(a)):

(a) *Timely application.* An application for a certificate of public convenience and necessity or a permit filed in accordance with the applicable laws, regulations, and instructions, not later than 60 days after issuance of temporary authority for a period of 180 days or not later than 60 days after issuance of the first of a series of consecutive temporary authorities aggregating 180 days.

(b) *Sufficient application.* An application for a certificate of public convenience and necessity or a permit, which is in the form, contains the information, and is accompanied by the documents and exhibits required by the applicable laws, regulations, and instructions.

(c) *Aggregate of 180 days.* As used in section 210a (a) of the act and Commission notices and orders relating thereto, the term "for not more than an aggregate of one hundred and eighty days" means the total number of days of temporary authority which may be granted to a motor carrier under the provisions of that section of the act to meet a continuing need for a particular service.

(d) *Series of grants.* As relates to extensions of temporary authorities under section 558 of the Administrative Procedure Act (5 U.S.C. 558), only those grants of temporary authority for less than 180 days which have been approved to meet a specific continuing need and which follow one after the other without interruption for a total of 180 days will be considered as a "series of consecutive temporary authorities aggregating 180 days".

(e) *Need considered not to be of a continuing nature.* Any need which is the basis of an operation authorized by a temporary authority or approval to be consummated for a period of less than an aggregate of 180 days is presumed not to be of a "continuing nature" unless the Commission otherwise expressly determines.

(f) *Final determination of application.* For the purpose of this section—(1) An application for a certificate or permit shall be considered to be "finally determined" (i) with respect to operations for which the certificate or permit is denied, upon the expiration of the period allowed by the rules and regulations of the Commission or by the order (whichever is greater) within which petitions for rehearing, reargument, or reconsideration may be filed, or upon the denial of such petitions if filed, and (ii) with respect to operations for which the certificate or permit is granted, when the certificate or permit becomes effective.

(2) An application for approval of a consolidation or merger of the properties of two or more motor or water carriers, or of a purchase of the properties of one or more such carries shall be considered to be "finally determined" (i) in the case of denial of such an application, upon the expiration of the period allowed by the rules and regulations of the Commission or by the order (whichever is greater) within which petitions for rehearing, reargument, or reconsideration may be filed, or upon the denial of such petitions if filed, and (ii) in the case of approval of such an application, when the certificate or permit to be transferred in connection with such application has been reissued in the name of the transferee and has become effective.

(3) An application for approval of a lease or contract to operate the properties of one or more motor or water carriers shall be considered to be "finally determined," (i) in the case of denial of such an application, upon the expiration of the period allowed by the rules and regulations of the Commission or by the order (whichever is greater) within which petitions for rehearing, reargument, or reconsideration may be filed, or upon the denial of such petitions if filed, and (ii) in the case of approval of such an application, when the order approving such application becomes effective.

§ 1101.3 Additional grant for new need.

If the need for a particular service ceases and the temporary authority covering such need expires or is revoked and a new or separate need arises subsequent to such expiration or revocation, additional temporary authority for the 180-day aggregate, or for a shorter period, may be granted to the same carrier for the service notwithstanding the prior grant or grants. However, an application filed after the expiration or revocation of temporary authority for an aggregate of 180 days will be denied unless the facts clearly show that the application is in reality based on a new need and not on a continuation of the need on which the prior grant of authority was based.

§ 1101.4 Termination of temporary authority or approval.

Nothing in this part shall be construed as preventing the Commission from terminating at any time, in accordance with law, any temporary authority or approval, or any extension thereof under section 558 of the Administrative Procedure Act (5 U.S.C. 558).

PARTS 1110–1119—RAILCARRIERS CONSOLIDATION, FINANCE, AND REORGANIZATION

PART 1110—GENERAL REQUIREMENTS

Sec.
1110.1 Scope and applicability of rules and regulations.
1110.2 Definitions of terms used in the rules and regulations.
1110.3 Use of prescribed forms.
1110.4 Information required; unknown or not available.
1110.5 Typographical specifications.
1110.6 Execution.
1110.7 Filing; number of copies; service.
1110.8 Additional information.
1110.9 Incorporation by reference.
1110.10 Waiver of rules.
1110.20 List of forms.

Authority: The provisions of this Part 1110 issued under secs. 12, 17, 24 Stat. 383, as amended, 385, as amended; secs. 204, 205, 49 Stat. 546, as amended, 548, as amended; secs. 304, 316, 54 Stat. 903, 946; secs. 428, 417, 56 Stat. 285, 287, as amended; 49 U.S.C. 12, 17, 304, 305, 904, 916, 1008, 1017.

§ 1110.1 Scope and applicability of rules and regulations.

(a) The rules and regulations of this part govern the filing and handling of applications and reports, as prescribed in Parts 1111 to 1119 of this chapter, inclusive, except that any provision in such part covering the same subject matter as any such rule shall be controlling unless otherwise specifically provided herein.

(b) The rules and regulations of this part shall apply to applications and reports under the enumerated parts at such time as the Commission may designate as to each part.

§ 1110.2 Definitions of terms used in the rules and regulations.

(a) The term "applicant" means a person filing an application.

(b) The term "respondent" means a person filing a report required by the Interstate Commerce Act or the rules and regulations.

(c) Unless otherwise specifically provided, the terms used in the rules and regulations have the meanings defined in the Act.

§ 1110.3 Use of prescribed form.

The prescribed form is to be used as a guide in the preparation of the application or report. Each application required to be served as provided in § 1110.7 shall include a caption clearly and concisely describing the applicant or applicants and the authority sought. Other parts of the application and reports shall contain full and complete responses. Each part shall contain all of the item

numbers and headings, but the text of any item may be omitted if all of the information required by such item is clearly set forth thereunder or in exhibits attached or referred to under the respective item number and heading. Where an item is not applicable, the application or report shall so state.

§ 1110.4 Information required; unknown or not available.

All information required must be given unless neither known nor available to the applicant or respondent. In such case, however, specific statement to such effect shall be made in the application or report in lieu of the omitted material, setting forth the reasons why the information is neither known nor available.

§ 1110.5 Typographical specifications.

The application or report shall be submitted in typewritten or similar form specified in Rule 15 of the General Rules of Practice (§ 1100.15 of this chapter), on paper approximately 8½ inches wide and not more than 13 inches long, with a lefthand margin of 1½ inches and, if typewritten, the impression must be on only one side of the paper. Exhibits may be in any convenient size but shall be folded to conform to the size of the application or report.

§ 1110.6 Execution.

The original application or report shall bear the date of execution and be signed with ink by or on behalf of each applicant or respondent. Execution shall be by the applicant or respondent if an individual, by all partners if a partnership, unless satisfactory evidence is furnished of the authority of a partner to bind the partnership, and, if a corporation, an association or other similar form of organization, by its president or other executive officer having knowledge of the matters therein set forth. Each person signing the application or report shall also sign a certificate showing, among other things, that such person has knowledge of the matters therein set forth and is duly authorized to verify and file the application or report. A false statement in an application or report is punishable under section 35 of the Criminal Code, 18 U.S.C. 1001. Additional signatures and certificates shall be furnished as directed by the Commission.

§ 1110.7 Filing; number of copies; service.

(a) The original and six copies of each application shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C., 20423.

(b) Copies of each application shall be served in the manner and upon the persons specified in the prescribed form or instructions. Proof of service of copies of the application shall be made in connection with and as part of the original application filed with the Commission.

(c) Each report shall be filed in duplicate with the Secretary of the Commission. No service of copies is required.

(d) Each copy shall conform in all respects to the original and, except as otherwise specifically provided, shall be complete in itself, but the signature in the copies may be stamped or typed.

§ 1110.8 Additional information.

The applicant or respondent shall submit such additional information to support its application or report as the Commission may require.

§ 1110.9 Incorporation by reference.

(a) If any required document shall have been previously filed in connection with another proceeding, it will be sufficient to refer to the docket number under which previously filed, provided that any change or changes which have occurred in any such document subsequent to the previous filing thereof shall be shown in an exhibit identified to correspond with the specific required exhibit.

(b) Except as in any form of application or report otherwise specifically provided, income statements, balance sheets or supporting detail for items therein may not be incorporated by reference to annual or quarterly reports filed with the Commission or to other proceedings.

§ 1110.10 Waiver of rules.

If unusual difficulties arise in, or undue burden would result from, the furnishing of the information required in or in connection with any application or report, the Commission may, upon appropriate showing, modify such requirement.

§ 1110.20 List of forms.

CROSS REFERENCE: See section 1003.4 of this chapter.

PART 1111—RAILROAD CONSOLIDATION PROCEDURE

Sec.
1111.1 Contents of application.
1111.2 Required exhibits.
1111.3 Form and style.
1111.4 Procedure.

AUTHORITY: The provisions of this Part 1111 issued under secs. 12, 5, 24 Stat. 380, as amended; 49 U.S.C. 12, 5.

§ 1111.1 Contents of application.

Applications under section 5(2) of the Interstate Commerce Act involving carriers other than motor carriers shall show in the title thereof the nature of the proposed transaction and shall set forth, in the sequence indicated, the following information:

(a) Identification of applicant, or of each applicant, if there are two or more applicants, showing:

(1) Full and correct name of applicant and the business address of applicant (street and number, city, county and State).

(2) Whether applicant is an individual, firm, copartnership, corporation company, association, joint stock company, trustee, receiver, assignee, or other personal representative, and trade name or style, if any, under which applicant is doing business.

(3) Whether applicant is a carrier by railroad or an express company subject to Part I of the act, or a water carrier subject to Part III of the act, or a person which is not a carrier subject to the act.

(4) State or States in which any part of the property of the carrier or carriers involved is situated, and, in case of a water carrier, in which any port served by such carrier is located.

(5) The name, title, and business address of the officer or officers to whom correspondence with respect to the application should be addressed.

(6) If applicant or other party to the transaction has been authorized by the Interstate Commerce Commission to engage in interstate or foreign commerce, the date of the certificate, permit, or temporary authority, and the number of the Commission's docket assigned to the application upon which such certificate, permit, or temporary authority was issued or granted; or if application to engage in interstate or foreign commerce has been made but not granted, date of the application and the docket number.

(b) Information respecting applicant, or each applicant, if there are two or more applicants, as follows:

(1) If applicant is a corporation:

(i) Date of incorporation and Government, State, or Territory of incorporation.[1]

(ii) Name, and business address of directors.

(iii) Name, title and business address of officers.

(iv) Name and business address of 10 principal stockholders as of last record date and their respective holdings.

(2) If applicant is a copartnership:

(i) Date on which copartnership was formed; and State and county in which it was formed.[2]

(ii) Name and business address of all present partners, including limited or silent partners and their respective interests.

(3) If applicant is an association or other form of organization, except a corporation:

(i) Date of organization and place of organization.[2]

(ii) Full description of the nature and objectives of the organization.

(iii) Name, title and business address of officers and directors, or trustees.

(iv) Name and business address of 10 principal stockholders or other owners, of whatever kind, of applicant.

(4) If applicant is a trustee, receiver, assignee, or a personal representative of the real party in interest:

(i) The name and address of the court, if any under the direction of which applicant is acting.

(ii) Nature of the proceedings, if any, in which applicant was appointed.

(iii) With respect to the real party in interest: The information required under paragraphs (b) (1), (2), and (3) of this section, whichever is applicable.[3]

(5) If applicant is not a carrier:

(i) The information required under subparagraphs (1), (2), (3), or (4), of this paragraph, whichever is applicable.

[1] If the applicant is incorporated or organized under the laws of, or authorized to operate in, more than one State, Territory, or Federal District, give all pertinent facts as to such incorporation, organization, or authorization.

(ii) Applicant's charter powers.

(6) The length of time applicant has been continuously engaged in the type of business in which it is now engaged; and, if applicant is not a carrier, particulars of its present and prospective activities which have or may have a relation to transportation subject to the Interstate Commerce Act or facilities under therein.

(7) Whether or not applicant is controlled by any other corporation or corporations, and, if such control is held, state the name of the controlling corporation or corporations, the form of control, whether sole or joint, direct or indirect, and its extent.

(8) The measure of control or ownership if any, now exercised by applicant over any carrier corporation subject to the Interstate Commerce Act, or over the properties of such corporation.

(9) If applicant, or the real party in interest, is part of a system or group of corporations or other persons, the relationship of the applicant, or of the real party in interest, to the members of such system or group, including the form and extent of such relationship, direct or indirect.

(10) Whether there are any intercorporate relationships, not disclosed in responses to prior instructions, through holding companies, ownership of securities, or otherwise, direct or indirect, between applicant and any carrier or person affiliated with any carrier, or between any person affiliated with applicant and any carrier or person affiliated with any carrier, at the time of making the application; if so, the nature and extent of such relationship; and, if applicant owns securities of a carrier corporation or corporations subject to the act, the name of the corporation, a description of the securities, and the par value of each class of securities held.

(11) Whether any of the applicants or any of their affiliates have officers or directors in common with any other applicant or its affiliates; and, if so, a reference to the Commission's order, or orders if any, authorizing the holding of such positions in common, with the names of such officers or directors and the position held in each corporation.

(12) The amount of applicant's outstanding capital stock, by classes, and in connection therewith the par value of each share, its voting rights, if any, the total number of stockholders of record, and the voting power of all security holders.

(c) Information respecting the nature of the transaction proposed and the terms and conditions thereof as follows:

(1) The nature of the transaction, whether a consolidation or merger, or a purchase, lease, contract to operate properties, or any part thereof, of a carrier subject to Part I or Part III of the act, or for acquisition of control of such carrier, or to acquire trackage rights over or joint ownership in, or joint use of, any railroad line or lines.

(2) Briefly, the terms and conditions of the contract or agreement pursuant to which the proposed transaction is to be effected, including the manner in which it is proposed to consummate the transaction and the consideration, in money or otherwise, to be paid by applicant or applicants.

(3) Whether there is any financial or other relationship, direct or indirect, not disclosed in responses to prior instructions, existing at the present time between applicant or applicants and the other party or parties to the transaction proposed; and, if so, a full explanation of such relationship.

(4) The route, termini, and mileage of the lines to be consolidated, merged, purchased, leased, operated, or controlled, giving the principal points of interchange, with ports served in cases involving carriers subject to Part III of the act, and with main line mileage and branch line mileage shown separately in case of railroad properties.

(5) Whether the property involved in the proposed transaction includes all the property of the applicants proposing a consolidation or merger, or of the carrier whose property it is proposed to purchase, lease, or operate, or control of which is proposed; and, if not, definitely what property is included in the proposed transaction.

(6) Value of each of the properties involved in the proposed transaction as found by the Commission, or if such value has not been found by the Commission, as appraised for the purposes of the proposed transaction; and, separately, the net cost of additions and betterments made after the date of valuation or appraisal.

(7) The policy and practice followed by each party to the transaction with respect to reserves for depreciation and similar reserves, including rates by classes of property.

(8) The market value of any securities acquired or proposed to be acquired in consummating the proposed transaction; or, if there be no ascertainable market value, the estimated value, giving the basis of the estimate.

(9) If any of the property covered by the application is encumbered and applicant has agreed to assume obligation or liability in respect thereof:

(i) A description of the property encumbered.

(ii) Amount of encumbrance and full description thereof, including maturity, interest rate, and other terms and conditions.

(iii) Amount of encumbrance assumed or to be assumed by applicant.

(10) If a consolidation or merger is proposed:

(i) The name of the company resulting from the consolidation or merger, and the State or Territory under the laws of which the consolidated company was formed.

(ii) The capitalization proposed for the company resulting from the consolidation or merger; and, separately, the amount and character of capital stock and other securities to be issued.

(d) Facts and circumstances relied upon to show that the proposed transaction is within the scope of section 5 (2)(a) of the Interstate Commerce Act, will be consistent with the public interest, and will otherwise be within the requirements of section 5, particularly:

(1) In case of any proposed transaction:

(i) To establish that the transaction covered by the application will be consistent with the public interest.

(ii) To explain and properly support the financial considerations involved in the proposed transaction, including an explanation of economies, if any, to be effected in operation, and increase, if any, in traffic, revenues, earnings available for fixed charges, and net earnings, expected to result from the consummation of the proposed transaction.

(iii) To show the effect of the proposed transaction upon adequate transportation service to the public.

(iv) To establish that the increase, if any, of total fixed charges resulting from the proposed transaction would not be contrary to the public interest.

(v) To show the interest of the carrier employees affected.

(vi) To establish that any guaranty or assumption of payment of dividends or fixed charges contemplated in the transaction is not inconsistent with the public interest.

(2) Also, if the proposed transaction involves a railroad:

(i) To show the effect upon the public interest of the inclusion, or the failure to include, other railroads in the territory involved in the proposed transaction.

(ii) To indicate what terms and conditions should be imposed by the Commissions to meet the requirements of section 5(2)(f) of the Interstate Commerce Act.

(3) Also, in case of a transaction involving a carrier by water subject to Part III of the act, where any applicant is a carrier as defined in section 1 (3) of Part I of the act, or is a person controlling, controlled by, or under common control with such a carrier, to establish that the transaction is not within the inhibition of section 5(14) of Part I of the act; or, if so, that the transaction will not prevent the common carrier by water or vessel involved from being operated in the interest of the public and with advantage to the convenience and commerce of the public and that it will not exclude, prevent, or reduce competition on the route by water under consideration.

§ 1111.2 Required exhibits.[4]

(a) There shall be filed with the original application and as a part thereof, but not with copies, the following exhibits:

[4] Where two or more exhibits bear the same letter or number, distinguish them by giving the second and each additional exhibit a distinguishing number or letter as, Exhibit A, Exhibit A–1, Exhibit A–2, etc., Exhibit 1, Exhibit 1–a, Exhibit 1–b, etc.

[5] If documents here requested have been previously filed in connection with an application under section 1(18), 5, or 20a of part I of the act, it will be sufficient to make reference to the Finance Docket number under which filed, provided that any change or changes occurring in such documents since the filing thereof shall be shown in an exhibit identified to correspond with the specific exhibit requested.

(1) As Exhibit A, one or more of the following documents as may be appropriate:

(i) One copy each of the charter or articles of incorporation, and the bylaws and amendments thereof, of each applicant corporation or carrier corporation involved in the proposed transaction duly certified by the appropriate public officer.

(ii) A properly authenticated copy of the articles of copartnership, if any, of each copartnership which is a party to the transaction.

(iii) A properly authenticated copy of articles of association, trust agreement, or other documents evidencing organization of each association or other form of organization, except a corporation, which is a party to the transaction.

(iv) A properly authenticated copy of the order of the court or instrument appointing each trustee, receiver, assignee, or personal representative which is a party to the transaction.

(2) As Exhibit B, a properly authenticated copy of the annual report, if any, to stockholders or shareholders for each of the two calendar or fiscal years preceding the filing of the application.

(b) There shall be filed with the original application, and with each copy, as a part thereof, the following exhibits:

(1) As Exhibit 1, a copy of all resolutions of directors of each applicant and of each carrier which is a party to the transaction, authenticated by a proper executive officer, authorizing the proposed transaction and, where applicable, the making of the application to the Commission for its approval and authorization; and, if the charter or bylaws of the applicant or carrier require approval of the stockholders, a copy of the resolution of stockholders authorizing the proposed transaction and the making of the application; all such resolutions to be accompanied by sufficient transcripts of the minutes of meetings of the stockholders or directors of the applicant or carrier to show the number of shares entitled to vote, the number of shares voted for and against the resolutions, and the number of share-votes required to adopt the resolution.

(2) As Exhibit 2, a copy of all resolutions of stockholders or directors of the applicant, or duly authorized committee thereof, authenticated by a proper executive officer of the applicant, designating by name and for that purpose the executive officer by whom the application is signed and verified, and filed on behalf of the applicant.

(3) As Exhibit 3, if an organization other than a corporation is an applicant, documentary evidence showing authorization and designation of the individual or individuals signing, verifying, and filing on behalf of the applicant.

(4) As Exhibit 4, if a trustee, receiver, assignee, or personal representative of the real party in interest is an applicant, a certified copy of the order, if any, of the court having jurisdiction, authorizing the contemplated action.

(5) As Exhibit 5, opinion of counsel of applicant or of the applicants and carriers that the transaction described in the application meets the requirements of the law and will be legally authorized and valid, if approved by the Commission with specific reference to any specially pertinent provisions of applicant's, or applicant's and carrier's charter or articles of incorporation.

(6) As Exhibit 6, a general or key map indicating clearly, in separate colors, or otherwise, on a suitable scale, preferably not smaller than 20 miles to the inch, the line or lines, route or routes, of each applicant and of each carrier, if any, other than the applicant or applicants, involved in the proposed transaction, and distinguishing such parts of the line or lines of each carrier as are included in the proposed transaction in their true relation to each other, showing, where lines of railroad are involved, short-line connections, and, in general, other rail lines in the territory, and the principal geographic points of the region traversed. Whenever possible, this map should not be over 30 inches in its largest dimension. There shall also be furnished three extra copies of the map, unbound, for the use of the Commission.

(7) As Exhibit 7, copy of any contract or other written instrument entered into, or proposed to be entered into pertaining to the transaction covered by the application.

(8) As Exhibit 8, a general balance sheet statement of each applicant or carrier as of the latest practicable date prior to the filing of the application; also, in case of a proposed purchase, consolidation, or merger, a balance sheet statement, actual or constructed, giving effect to the proposed transaction or showing the estimated effect of the consummation of the transaction proposed.

(9) As Exhibit 9, a duly authenticated copy of income statement and profit and loss statement of each applicant and carrier involved in the proposed transaction for each of the preceding 5 calendar years, and for the months of the current year for which the figures are available; also, in case of a proposed consolidation or merger, a constructed profit and loss statement for the current calendar year to date, giving effect to the proposed transaction for such period and showing all adjustments or eliminations, or adjustments and eliminations, which would have resulted from the proposed transaction during such period.

(10) As Exhibit 10 a statement to illustrate the relationship described in paragraph (b) (9) of this section, showing a graphic or tabular form the members of the system or group and indicating by notation or otherwise the various degrees of relationship.[4]

(11) As Exhibit 11, a statement showing for each water carrier involved in the transaction the property covered by the

[4] If documents have requested have been previously filed in connection with an application under section 1(18), 5, or 20a of part I of the act, it will be sufficient to make reference to the Finance Docket number under which filed, provided that any change or changes occurring in such documents since the filing thereof shall be shown in an exhibit identified to correspond with the specific exhibit requested.

(12) As Exhibit 12, where a water carrier is a party to the proposed transaction, if there has been an appraisal of any or all of the properties of the water carrier involved in, and in connection with, the proposed transaction, a copy of such appraisal.

(13) As Exhibit 13, where the proposed transaction involves water carriers, a certificate showing that notice of the filing of the application has been served upon all known water-line competitors in the same trade route or routes over which the carriers involved are authorized to operate, and the names and addresses of such competitors.

§ 1111.3 Form and style.

The application and exhibits shall conform with Rule 15 of the General Rules of Practice (§ 1100.15 of this chapter).

§ 1111.4 Procedure.

(a) The original application shall be signed in ink by the applicant, if an individual; by all partners, if a copartnership, and if a corporation, association or other similar form of organization, by its president, vice president, auditor, comptroller, or other executive officer having knowledge of the matters therein contained and duly designated for that purpose by the applicant, and shall be made under oath. The application shall show that the affiant is duly authorized by the applicant to verify and file the same.

(b) There shall be filed with the Secretary of the Commission, Washington, D.C., the original application, and 20 copies thereof for the use of the Commission. Each copy shall conform in all respects to the original and shall be complete in itself except that the signature in the copies may be stamped or typed and notarial seal omitted. In like manner where certified copies of documents are filed with the original application, conformed copies thereof, showing certification in stamped or typewritten form, will be sufficient to accompany the additional copies of the application.[5]

(c) The applicant shall submit such additional information to support its application as the Commission may require.

(d) The Commission, upon receipt of an application and accompanying exhibits in proper form, will cause notice to be given to the Governor of each State in which any part of the properties of the carriers involved in the proposed transaction is situated and, in case of a water carrier, in which any port served by such carrier is located (also, in cases involving railroad properties, to the Public Service Commission of each such State), together with an inquiry as to whether such Governor or other appropriate State authority desires to make representation in the matter.

[5] The applicant should be prepared to furnish copies of the application to State authorities and intervenors upon request.

(e) The Commission, if it shall consider it necessary in order to determine whether the findings required for the entry of an order approving and authorizing the transaction may properly be made, and in all cases where a carrier by railroad is involved, will order a hearing upon the application, giving notice thereof to the applicant or applicants, to the carrier or carriers whose properties are involved in the proposed transaction, to the State authorities of each State in which any part of the property of the carriers involved in the proposed transaction is situated and, in case of a water carrier, in which any port served by such carrier is located, and to the public.

PART 1112—INTERLOCKING OFFICERS

Sec.
1112.1 Meaning of term "carrier."
1112.2 Application of regulations.
1112.3 Order of authorization.
1112.4 Application for order.
1112.5 Contents of application.
1112.6 Subscription and verification of application.
1112.7 Number of copies; form and style.
1112.8 General authority.

AUTHORITY: The provisions of this Part 1112 issued under sec. 12, 24 Stat. 383, as amended; sec. 439, 41 Stat. 494, as amended; 49 U.S.C. 12, 20a.

§ 1112.1 Meaning of term "carrier."

The term "carrier" is used in this part as it is defined in section 20a(1) of the Interstate Commerce Act.

§ 1112.2 Application of regulations.

The regulations in this part apply to any person authorized by or undertaking for each of two or more carriers to perform the duties, or any of the duties, ordinarily performed by a director, president, vice president, secretary, treasurer, general counsel, general solicitor, general attorney, comptroller, general auditor, general manager, freight traffic manager, passenger traffic manager, chief engineer, general superintendent, general land and tax agent, or chief purchasing agent of a carrier.

§ 1112.3 Order of authorization.

An order of authorization will be granted only upon application therefor as hereinafter provided in this part.

§ 1112.4 Application for order.

An application for such an order may be made by any person in his own behalf.

§ 1112.5 Contents of application.

Each application shall state the following:

(a) The full name, occupation, business address, place of residence, and postoffice address of the applicant.

(b) A specification of every carrier of which the applicant holds stock, bonds, or notes, individually, as trustee, or otherwise; and the amount of and accurately describe the securities, owned or held by him, of each carrier for which he seeks authority to act. Whenever it is contemplated that the applicant will represent on the board of directors of any carrier securities other than those owned by him, the application shall describe such securities, state the character of representation, the name of the beneficial owner or owners, and the general nature of the business conducted by such owner or owners.

(c) Each and every position with any carrier:

Which is held by the applicant at the time of the application; and which he seeks authority to hold, together with the date and manner of his election or appointment thereto and, if he has entered upon the performance of his duties in any such position, the nature of the duties so performed and the date when he first entered upon their performance. (An order authorizing a person to hold the position of director of a carrier will be construed as sufficient to authorize him to serve also as chairman of its board of directors or as a member or chairman of any committee or committees of such board; and, therefore, when authority is sought to hold the position of director, the applicant need not request authority to serve in any of such other capacities.)

(d) As to each carrier covered by the requested authorization, whether it is an operating carrier, a lessor company, or any other corporation organized for the purpose of engaging in transportation by railroad subject to the act. If any such carrier neither operates nor owns any railroad, transportation by which is subject to the act, there shall be filed with the application, as a part thereof, a copy of such carrier's charter or certificate or articles of incorporation, with amendments to date. When such copy has once been filed with the Commission, reference thereto, with amendments, if any, will suffice.

(e) Thereafter a full statement of pertinent facts relative to any carrier which does not make annual reports to the Commission, authorization for a position with which is sought.

(f) Full information as to the relationship, operating, financial, competitive, or otherwise, existing between the carriers covered by the requested authorization.

(g) Specify every corporation—industrial, financial, or miscellaneous—of which the applicant is an officer or director, and the general character of the business conducted by such corporation.

(h) The reasons, fully, why the granting of the authority sought will not affect adversely either public or private interests.

(i) Whether or not any other application for authority has been made in behalf of the applicant and, if so, shall show the date and finance docket number thereof, by who made, and the action thereon, if any.

(j) When application has been made in behalf of any person, a subsequent application by him need not repeat any statement contained in the previous application but may incorporate the same by appropriate reference.

§ 1112.6 Subscription and verification of application.

The original application shall be signed by the individual applicant, and shall be verified under oath in substantially the following form:

State of ..... }
County of ..... } ss.

..... makes ..... oath and says that ..... he ..... no position as officer or director of any carrier or other corporation except as indicated in the foregoing application, and that all of the statements contained therein are true and correct to the best of ..... knowledge and belief.

.....
(Signature of applicant)

Subscribed and sworn to before me, a ..... in and for the State and county above named, this ..... day of ....., 19....

[SEAL]

My commission expires .....

§ 1112.7 Number of copies; form and style.

The original application and six copies thereof shall be filed with the Commission. Each copy shall bear the dates and signatures that appear on the original and shall be complete in itself, but the signatures in the copies may be stamped or typed and the notarial seal may be omitted. The application shall be submitted in typewritten or printed form, on paper not more than 8½ inches wide and not more than 12 inches long, with a left-hand margin of 1½ inches, and if typewritten, the impression must be on only one side of the paper, and must be double spaced.

§ 1112.8 General authority.

Any person, who has been or shall hereafter be authorized to hold positions with a carrier or with a company or companies subsidiary thereto or affiliated therewith, may include in any application made by him pursuant to the foregoing regulations in this part a request for an order authorizing him to hold generally, in addition to the positions so specifically authorized, a directorship or any office or offices with the first-mentioned carrier and all companies subsidiary thereto or affiliated therewith, or the properties of which are operated or used by the carrier, either separately or jointly, with other carriers. Like general authority may be applied for by the first-mentioned carrier in behalf of any person or persons to whom such specific authority has heretofore been granted: *Provided*, That such general authority may not be applied for by such carrier when the person for whom authority is desired holds a position or positions with any carrier or carriers not subsidiary to or not affiliated with the first-mentioned carrier, or the properties of which are not operated or used by the first-mentioned carrier, either separately or jointly with other carriers. Every carrier application shall be verified by an executive officer having knowledge of the facts.

PART 1113—GUARANTY OF LOANS TO CARRIERS BY RAILROAD

Sec.
1.1 Form and content of application.
1.2 Required exhibits.
1.3 Fees.
1.4 Execution and filing of application.
1.5 General instructions.

AUTHORITY: The provisions of this Part 1113 issued under sec. 12, 24 Stat. 383, as amended,

secs. 201-212, 24 Stat. 380-383; 49 U.S.C. 12, 1221-1240.

§ 1113.1 Form and content of application.

The application and supporting exhibits shall conform to Rule 15 of the General Rules of Practice (§ 1100.15 of this chapter) and shall show in the order indicated and by section numbers and letters corresponding to those used in this part the following:

(a) As to the carrier applicant and the transaction:

(1) Full and correct name and principal business address.

(2) Date of incorporation, or organization if not a corporation, and government, state, or territory under the laws of which it was incorporated or organized. If carrier applicant is a trustee, receiver, assignee, or other fiduciary, the name and address of the court, if any, under the direction of which the carrier applicant is acting, and the nature of the proceeding, if any, in which applicant was appointed. If carrier applicant is a partnership, an association, or other form of organization other than a corporation, a full description of the organization should be furnished.

(3) Name, title, and address of the person to whom correspondence regarding the application should be addressed.

(4) Brief description of the loan and its purpose or purposes, including statements of (i) the total amount of the loan; (ii) the purpose or purposes for which the loan proceeds will be used, (iii) the maturity date or dates, (iv) description of the security, if any, for the loan, including applicants' opinion of the value of any collateral and the basis for such opinion, (v) the date or dates on which carrier applicant desires the funds to be made available, (vi) the rate of interest, (vii) estimated total expenses in connection with the loan, including detail as to expenses estimated for legal, accounting, and engineering services, printing and engraving, trustees, fees, state and federal taxes, and commissions and discounts; and (viii) the portion of the loan concerning which guaranty by the Commission is sought.

(5) Concerning the necessity for the guaranty sought:

(i) Statement on behalf of the applicant carrier that it has endeavored to obtain a loan or loans for the purpose or purposes proposed without a guaranty by the Commission in connection therewith, but has not been able to obtain a loan therefor upon reasonable terms.

(ii) Information as to the applicant carrier's efforts to obtain the needed financing without a guaranty thereof by the Commission, and as to the results of such efforts. (See § 1113.2(b)(8) as to exhibits on this subject.)

(6) Statement, in summary form, showing the carrier applicant's financial obligations to, or claims against, the United States, if any, as of date of application, or latest available date, listed as to (i) balance on any direct loans, (ii) balance on any loans under which the United States is guarantor, (iii) status of any claims under litigation, and (iv) any other debts or credits existing between the carrier applicant and the United States, showing the department or agency involved in each loans, claims and other debts.

(b) As to the lender or lenders:

(1) Full and correct name and principal business address.

(2) Names and addresses of principal executive officers and directors, or partners.

(3) Reference to applicable provisions of law and the charter or other governing instruments conferring authority to the lender to make the loan and to accept the mortgage or other obligation evidencing the loan.

(4) Brief statement of the circumstances and negotiations leading to the agreement by the lender to make the proposed loan, including the name and address of any person or persons, other than directors, officers, partners, or employees of the carrier applicant, representing or purporting to represent the carrier applicant in connection with such negotiations.

(5) Brief statement of the nature and extent of any affiliation or business relationship between the lender and any of its directors, partners, or principal executive officers, on the one hand, and, on the other, the carrier applicant and any of its directors, partners, or principal executive officers, or any person or persons whose name is required to be furnished under subparagraph (4) of this paragraph.

(6) Full and complete statement of all sums paid or to be paid and of any other consideration given or to be given by lender in connection with the proposed loan, including with respect thereto: (i) Name and address of each person to whom the payment is made or to be made, (ii) the amount of the cash payment, or the nature and value of other consideration, (iii) the exact nature of the services rendered or to be rendered, (iv) any condition upon the obligation of the lender to make such payment, and (v) the nature of any affiliation, association, or prior business relationship between any person named in answer to subdivision (i) of this subparagraph and the lender or any of its directors, partners, or officers.

§ 1113.2 Required exhibits.

There shall be filed with and made a part of each application, and with each copy thereof, the exhibits required in this section, except that exhibits filed with and made a part of any related application filed with the Commission under section 20a of the act for authority to issue securities in connection with the proposed loan may be incorporated in and made part of the loan application by reference.

(a) The following exhibits are required concerning the carrier applicant:

(1) As Exhibit 1, with the original application but not with copies thereof, copy of charter or articles of incorporation, with amendments to date, duly certified by the appropriate public officer; and copy of by-laws, with amendments to date. If carrier applicant is not a corporation, copy of articles of agreement, or association, or trust agreement, evidencing organization, or if carrier applicant is a trustee, receiver, assignee, or other fiduciary, copy of duly certified order of the court, or instrument of appointment.

(2) As Exhibit 2, the following: (i) Copies of all resolutions of directors authorizing the proposed loan; (ii) if the charter or by-laws require approval by stockholders, copies of resolutions of stockholders authorizing such loan, all such resolutions of stockholders to be accompanied by sufficient transcripts of the minutes of their meetings to show the number of shares voted for and against the resolutions, and the number of share-votes required to adopt the resolution; (iii) copies of resolutions of stockholders or directors, or duly authorized committee thereof, authenticated by a proper officer of carrier applicant, designating by name and for that purpose the executive officer by whom the application is signed, verified, and filed on behalf of the carrier applicant; (iv) if carrier applicant is an association or other organization except a corporation, documentary evidence showing authorization of the proposed loan and designation of the individual signing, verifying, and filing the application on behalf of the carrier applicant; and (v) if carrier applicant is a trustee, receiver, assignee, or other fiduciary, a certified copy of the order, if any, of the court having jurisdiction, authorizing the proposed loan, and the filing of the application.

(3) As Exhibit 3, preliminary opinion of counsel that he is familiar with the corporate or other organizational powers of the carrier applicant, that the carrier applicant is authorized to make the application, and that when proper corporate or other organizational action has been taken and the obligations executed, and security delivered as contemplated by the application, such obligations will constitute the valid and subsisting obligations of the carrier applicant. Such opinion should also cover the validity and lien of each item of any collateral offered.

(4) As Exhibit 4, a map of carrier applicant's existing railroad, and a map and profile of the line or lines to be constructed, if any.

(5) As Exhibit 5, statement showing miles of line owned; miles operated; number of units of locomotives, freight cars, and passenger cars owned and leased; principal commodities carried; and identification of the 10 most important industries served.

(6) As Exhibit 6, statement as to whether any railroad affiliated with the carrier applicant has applied for or received a loan guaranty under this part. If such an affiliate has applied for or received such a guaranty, full particulars should be given.

(7) As Exhibit 7, statement showing total dividends declared and total dividends paid for each of the last 10 calendar years and for each month of the current year to latest available date.

(8) As Exhibit 8, a copy of general balance sheet as of latest available date, but as of a date not earlier than the end of the second month preceding date of filing of the application, in form and detail as required in schedules 200A and 200L of the Commission's annual report Forms A or C, together with the following supporting schedules:

(i) Particulars of loans and notes receivable in form and detail as required in schedule 303 of annual report Form A for the Class I railroads; and for the Class II similar detail for every item in excess of $25,000,

(ii) Particulars of investments in other companies in form and detail as required in schedules 205 and 206 of annual report Form A, or schedules 1001 and 1002 of Form C, as appropriate,

(iii) Particulars of balance in account 743, Other Deferred Charges, in form and detail as required in annual report Form A, schedule 217, or schedule 1703 of Form C, as appropriate,

(iv) Particulars of loans and notes payable in form and detail required in schedule 223 of annual report Form A, or schedule 1701 of Form C, as appropriate, as well as information as to bank loans, including the name of the bank, date and amount of the original loan, current balance, maturities, rate of interest, and security, if any, therefor,

(v) Particulars of long-term debt in form and detail required in schedules 218 and 219 of annual report Form A, or schedules 670, 695, 901, 902 and 1702 of Form C, as appropriate, together with a list of mortgages, pledges, and other liens, including a brief statement concerning each, indicating the property or securities encumbered, the mortgage limit per mile, if any, particulars as to priority, as well as to whether "open", "closed", or "open end",

(vi) Particulars of balance in account 784, Other Deferred Credits, in form and detail as required in schedule 226 of annual report Form A, or schedule 1704 of Form C, as appropriate,

(vii) Particulars as to contingent assets and liabilities in form and detail as required in schedule 233 of annual report Form A for the Class I railroads, and similar information for the Class II in the same form and detail,

(viii) Particulars as to guaranties and suretyships in form and detail as required in schedule 130 of annual report Form A for the Class I railroads, and similar information for the Class II in the same form and detail,

(ix) Particulars as to capital stock in form and detail as required in schedules 228, 229 and 230 of annual report Form A or schedule 690 in Form C, as appropriate.

NOTE: The information required as Exhibit 8 shall give effect to any modification of the Commission's Uniform System of Accounts for Railroad Companies in effect on the date of filing the loan application.

(9) As Exhibit 9, statement showing comparative balance sheets as of December 31 for each of the last 10 years preceding the year in which the application is filed in form and detail as required in annual report Forms A and C, schedules 200A and 200L, and if carrier applicant's reports to its stockholders include a consolidated balance sheet for two or more railroads which differs from the returns in the balance sheet schedules of its annual reports to the Commission, reference should be made here to the sections of the stockholders' reports which include said consolidated balance sheets.

(10) As Exhibit 10, to be filed only with the original copy of the application, a copy of carrier applicant's report to its stockholders for each of the 3 years preceding the year in which the application is filed.

(11) As Exhibit 11, comparative income statement for each month of the year in which the loan application is filed, including cumulative data to latest month shown, which shall not be earlier than the second month preceding date of filing the application, compared with the same month of each of the two preceding years, in account form similar to that required in column (a) of schedule 300 of annual report Form A, or columns (a) and (c) of schedule 1801 of Form C, as appropriate, and modified to include any revision of the Commission's Uniform System of Accounts for Railroad Companies (Part 1201 of this chapter) in effect on the date of filing the loan application.

(12) As Exhibit 12, comparative income statement showing data for each of the last 10 years in account form and detail similar to that required in subparagraph (11) of this paragraph.

(13) As Exhibit 13, pro forma income statement showing estimated income account for each of the remaining months in the current year and for each month of the year subsequent thereto, in account form and detail similar to that required in subparagraphs (11) and (12) of this paragraph, together with a statement setting forth the basis for such estimates.

(14) As Exhibit 14, comparative statement of total expenditures for maintenance of (i) way and structures and (ii) equipment for each of the past 10 years and for each month of the current year, together with estimated expenditures for the remaining months of the current year and the year subsequent thereto, and including a statement showing the basis for such estimates.

(15) As Exhibit 15, a statement showing for the current calendar year and each 5 years thereafter estimated total operating revenues, total operating expenses, operating ratio, income available for fixed charges, and net income after fixed charges and contingent interest.

(16) As Exhibit 16, a statement showing actual cash balance at the beginning of each month and the actual cash receipts and disbursements during each month of the current year to the date of the latest balance sheet furnished as Exhibit 8, together with a monthly forecast (both before and after giving effect to use of proceeds from the proposed loan) for the balance of the current year and the year subsequent thereto.

(17) As Exhibit 17, a statement showing for each month to latest available month of the current year, compared with the same month of each of the 2 preceding years (i) number of tons of revenue freight carried, (ii) number of revenue ton-miles, (iii) freight revenue (account 101), (iv) number of passengers carried, (v) number of passenger miles, and (vi) passenger revenue (account 102), as well as similar information, on an estimated basis, for each of the remaining months in the current year and the year subsequent thereto.

(18) As Exhibit 18, statement showing comparatively for each year in the 8-year period preceding the year in which the application is filed, and on an estimated basis for the current and succeeding 4 years, the following: (i) Total charges to operating expenses for depreciation of way and structures, and equipment, (ii) deductions for accelerated tax amortization under section 168 of the Internal Revenue Code in excess of such depreciation charged to operating expenses, (iii) net income reported in annual reports to the Commission, and (iv) pro forma net income which would have resulted without the benefit of such deductions for accelerated tax amortization.

(19) As Exhibit 19, a general statement setting forth the facts as to estimated prospective earnings and other funds upon which applicant relies to repay the loan.

(b) The following exhibits are required as to the transaction:

(1) As Exhibit 20, specimens, or forms where specimens are not available, of all securities to be pledged or otherwise issued in connection with the proposed loan; and in case of an issue of bonds copy of the mortgage or indenture by which secured or proposed to be secured.

(2) As Exhibit 21, if the application is with respect to the acquisition of property other than equipment, a statement showing: (i) The name and business address of the owner or vender of the property to be acquired, (ii) a general description as to the character and size of the property and its location, accompanied by a general map and profile or by a general plan, as may be appropriate, (iii) the agreed or estimated purchase price, and the full terms of the contract, if any has been made, for such acquisition, (iv) such other information or data as may aid in a determination of the reasonableness of the agreed or estimated purchase price, and (v) the account or accounts of the Commission's effective classification of accounts in which the cost of such property would be properly classified.

(3) As Exhibit 22, if the application is with respect to equipment acquired after January 1, 1957, or to be acquired, a statement showing: (i) For locomotives, full particulars as to kind, unit cost, size, power, number of units coupled, and name of builder, (ii) for freight cars, full particulars as to service type (box, gondola, flat, etc.), capacity, unit cost, and name of builder, (iii) for passenger cars, full particulars as to service type (coach, baggage, postal, etc.), capacity, unit cost, and name of builder, (iv) for floating equipment, full particulars as to service type (tug, float, ferry, lighter, etc.), displace-

ment tonnage, length, cargo capacity, unit cost, and name of builder, and (v) whether the equipment was purchased through competitive bidding, and, if the unit prices, free on board builders plant, shown are not the lowest bids received, the reason for accepting a higher bid.

(4) As Exhibit 23, if the application is with respect to the construction, completion, extension or improvement of facilities, or additions and betterments thereto, made after January 1, 1957, or not yet made, a statement showing (i) location and description of project, (ii) quantities and prices (actual or estimated) attested by a competent engineer, and (iii) distribution of total cost by primary accounts of the Commission's classification of investment in road and equipment property, together with one copy of each A. F. E. (authority for expenditure) or of each completion report, as may be appropriate.

(5) As Exhibit 24, if the application is with respect to maintenance of property, a statement showing (i) description of project or projects, (ii) date or dates initial work is proposed to be commenced, (iii) additional employees (not now employed by carrier applicant) to be hired or recalled, (iv) why the maintenance is required at this time, (v) breakdown of total cost as between material and labor, and (vi) distribution of total cost by primary accounts of the Commission's classification for operating expenses.

(6) As Exhibit 25, if the application is with respect to refinancing of existing obligations, a statement containing a full description of the transaction, including the terms and conditions of the disposition of such existing obligations.

(7) As Exhibit 26, copies of the loan agreement entered into, or to be entered into, between the carrier and lender, and of any agreements or instruments executed or to be executed in connection with the proposed loan.

(8) As Exhibit 27, copies of correspondence from all, and not less than 3, lending institutions or security underwriters to which application for the financing has been made, evidencing that they have declined the financing unless guaranteed by the Commission or specifying the terms upon which they will undertake the financing without such guaranty.

(c) The following exhibits are required as to the lender:

(1) As Exhibit 28, to be filed only with the original copy of the application, copies of the charter or other organizational papers and of by-laws or other governing instruments, including all amendments.

(2) As Exhibit 29, balance sheet statement as of the latest available date, but within 3 months of the date of filing the application.

(3) As Exhibit 30, income statement for the 3 calendar or fiscal years immediately preceding the year in which the application is filed and similar statement for the latest available period in the current year but within 3 months of the date of filing the application.

§ 1113.3 Fee.

On or before the date of closing of any loan guaranteed by the Commission pursuant to an application filed under this part, the applicant carrier shall pay, or cause to be paid, to the Commission as a guaranty fee such amount as the Commission hereafter may determine and prescribe as necessary to cover the administrative costs of carrying out the provisions of part V of the Interstate Commerce Act, as amended. Checks or money orders in payment of such fees shall be made payable to the order of the Treasurer of the United States.

NOTE: By order of the Commission, 34 F.R. 2818, May 13, 1969, the guaranty fee referred to in § 1113.3 was determined to be in an amount equal to the three-eighths of one percent of the total principal amount of the loan guaranteed.

§ 1113.4 Execution and filing of applications.

The following procedure shall govern the execution and filing of the application: —

(a) The original application shall bear the date of execution and be signed with ink by or on behalf of the carrier applicant and the lender. Execution shall be by the applicant if an individual, by all partners if a partnership, unless satisfactory evidence is furnished of the authority of a partner to bind the partnership, and, if a corporation, an association or other similar form of organization, by its president or other executive officer having knowledge of the matters therein set forth. Persons signing the application on behalf of the carrier and lender, respectively, shall also sign a certificate in form as follows:

---------- certifies that
(Name of official)
he is the ----------
(Title of official)
of the ----------;
(Name of carrier or lender)
that he is authorized on the part of said applicant to sign and file with the Interstate Commerce Commission this application and exhibits attached thereto; that he has carefully examined all of the statements contained in such application and the exhibits attached thereto and made a part thereof relating to the aforesaid ----------;
(Name of carrier or lender)
that he has knowledge of the matters set forth therein and that all such statements made and matters set forth therein are true and correct to the best of his knowledge, information, and belief.

(Date)

(b) There shall be made a part of the original application the following certificate by the Chief Accounting Officer of the carrier applicant:

---------- certifies that he
(Name of officer)
is ---------- of
(Title of officer)
----------; that he
(Name of carrier applicant)
has supervision over the books of account and other financial records of the carrier applicant and has control over the manner in which they are kept; that such accounts are maintained in good faith in accordance with the effective accounting and other orders of the Interstate Commerce Commission; that he has examined the financial statements and supporting schedules included in this application and to the best of his knowledge and belief said statements accurately reflect the accounts as stated in the books of account; and that, other than the matters set forth in the exceptions attached to such statements, said financial statements and supporting schedules represent a true and complete statement of the financial position of the carrier applicant and that there are no undisclosed assets, liabilities, commitments to purchase property or securities, other commitments, litigation in the courts, contingent rental agreements, or other contingent transactions which might materially affect the financial position of the carrier applicant.

(Date)

(c) The original application and supporting papers, and 6 copies thereof for the use of the Commission, shall be filed with the Secretary of the Interstate Commerce Commission, Washington, D.C. Each copy shall bear the dates and signatures that appear in the original and shall be complete in itself, but the signatures in the copies may be stamped or typed. If unusual difficulties arise in the furnishing of any of the exhibits required in § 1113.2, the carrier applicant or the lender, upon appropriate showing and with the consent of the Commission, may file a lesser number.

(d) In event the application is for a loan not exceeding $500,000, and the furnishing of exhibits in the detail required by § 1113.2 is shown by the applicant or applicants to be unduly burdensome in relation to the nature and amount of the loan, the Commission may modify the requirements of said section.

§ 1113.5 General instructions.

(a) If the application is approved by the Commission, the following documents will be required for deposit with the Commission before the transaction is closed:

(1) Resolutions of the board of directors or executive committee of the carrier applicant, and where necessary, of meetings of the stockholders, authorizing the execution and delivery of such obligations, instruments, and security as are incident to the loan and guaranty thereof, in conformity with such terms as may be prescribed by the Commission, and authorizing the designated officers to receive and receipt for the proceeds of the loan.

(2) Final opinion by counsel for the carrier applicant to the effect that he is familiar with the corporate powers of the carrier applicant; that the carrier applicant is authorized to execute and deliver the notes or other obligations evidencing the same, and to pledge and hypothecate any securities pledged as collateral; that the notes or other obligations so executed and so delivered constitute the valid and binding obligations of the carrier applicant, secured by the said collateral, and that the lender will obtain a lien on any security involved of the rank and priority represented by the applicant carrier. Such opinion shall also cover the priority and lien of each item of the collateral offered.

(3) In respect of loans to receivers or trustees, the receiver or trustee will be required to deposit with the Commission certified copies of the court orders and decrees authorizing him to execute and deliver the obligations and to give the security under and according to the terms of the loan and guaranty as prescribed by the Commission.

(b) The guaranty by the Commission of a loan pursuant to an application filed as provided in this part should not be construed as relieving a carrier from complying with applicable provisions of section 20a of the Interstate Commerce Act (49 U. S. C. 20a) in relation to the issuance of securities or the assumption of obligation with respect to securities of others. Any related application filed under said section should be complete in itself. To avoid duplication in filing required information, exhibits included in an application filed with the Commission for authority under said section 20a incident to the proposed loan may be incorporated in and made a part of the related loan application by reference. (See also § 1113.2.)

NOTE: The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

PART 1114—ALTERATION OR MODIFICATION OF SECURITIES AND THE PROVISIONS OF INSTRUMENTS, AND FILING OF CERTIFICATES AND REPORTS

Sec.
1114.1 Form and contents of application.
1114.2 Required exhibits.
1114.3 Procedure.
1114.4 Certificates of notification and periodical reports.

AUTHORITY: The provisions of this Part 1114 issued under sec. 12, 24 Stat. 383, as amended; 62 Stat. 162; 49 U.S.C. 12, 20b.

§ 1114.1 Form and contents of application.

The application and supporting exhibits, shall conform to Rule 15 of the General Rules of Practice (§ 1100.15 of this chapter) and shall show, in the order indicated, with the following paragraph designations, the following information:

(a) Full and correct name and business address of the applicant (street and number, city and zone, county and State).

(b) Date of incorporation, the Government, State or Territory under the laws of which the applicant was organized and received its present charter, and if the applicant is incorporated under the laws of, or authorized to operate in, more than one State, Territory, or Federal district, all pertinent facts as to each such incorporation or authorization.

(c) Whether applicant is a carrier by railroad, a corporation organized for the purpose of engaging in transportation as such a carrier, or a carrier in equity receivership or in process of reorganization under section 77 of the Bankruptcy Act, as amended.

(d) The name of each State in which the applicant carrier operates, has been authorized by certificate to operate, or proposes to operate.

(e) A precise description of the alterations or modifications proposed and a statement of the reasons for making such alterations or modifications, and the purposes and uses that will be served if such alterations or modifications are made. The statement should be condensed, as most of the details will be supplied in the exhibits required in § 1114.2, but should give a detailed description of the securities to be modified, altered or issued. (1) If the application covers the modification, alteration or issuance of stock, or the modification or alteration of any provision of any corporate charter, the detailed description should include (i) the kind and class of stock, (ii) the number of shares authorized, the number outstanding (for general purposes and not merely for the purposes of paragraph (3) of section 20b, 49 U.S.C. 20b), and the number to be affected or issued, (iii) the par value of each share, or stated value if having no par value, (iv) amount, (v) voting rights, (vi) preferences, (vii) conversion privileges, (viii) call provisions, (ix) preemptive rights, (x) liquidation rights. (2) If the application covers the modification, alteration or issuance of securities other than stock, or the modification or alteration of any provision of any mortgage, indenture, deed of trust or other instrument, except the corporate charter, pursuant to which any class of securities shall have been issued, or by which any class of obligations is secured, the detailed description should include (i) full title of the securities, (ii) title and date of the indenture, if any, under which the securities were, or are to be issued, or to be modified, and the name or names of the trustee or trustees under the indenture, (iii) principal amount of securities authorized, previously issued, and proposed to be modified or altered and to be affected or issued under the indenture, (iv) denominations of the securities to be issued, (v) date of the securities, (vi) interest rate or rates, (vii) interest payment dates, (viii) date or dates of maturities, with amounts maturing on each date, if maturing serially, and (ix) reference to provisions of the indenture, if any, under which the securities were or will be issued, permitting the proposed modification, alteration or issuance of securities thereunder, and relating to sinking funds, redemption features and conversion rights.

(f) In any case where the issuance of securities is involved, the facts and circumstances on which the applicant relies to establish that (to the extent not inconsistent with paragraph (1) of section 20b, 49 U.S.C. 20b) the proposed issue (1) is for some lawful object within its corporate purposes, and compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance by the carrier of service to the public as a common carrier, and which will not impair its ability to perform that service, and (2) is reasonably necessary and appropriate for such purpose.

(g) At what price or prices, rate or rates, and upon what terms and conditions it is proposed to sell or otherwise dispose of the securities to be issued, including an estimate of the expenses to be incurred in connection with such sale or other disposition. The estimate of expenses to be incurred in connection with the sale or other disposition of securities should be itemized to show the commissions to be paid, discounts to be allowed, and the total of these, and in addition, legal expenses, accounting expenses, engineering expenses, expenses for certification, expenses for authentication, other expenses, and the total expense; also the grand total of commissions, discounts, and expenses. Where the amounts of the items grouped under "other expenses" are relatively substantial, they should also be itemised under that general item.

(h) The facts and circumstances on which applicant relies to establish that the proposed alteration or modification of securities or instrument (1) is within the scope of paragraph (1) of section 20b of the Interstate Commerce Act (49 U.S.C. 20b), (2) will be in the public interest, (3) will be in the best interest of the carrier, of each class of its stockholders, and of the holders of each class of its obligations affected by such modification or alteration, and (4) will not be adverse to the interests of any creditor not affected (within the meaning of paragraph (3) of section 20b) by such modification or alteration.

(i) How and by or through whom it is proposed to effect the proposed alteration or modification, and to whom, or by and through whom, it is proposed to issue any securities to be issued, with details of all contracts, underwriting, and other arrangements made or proposed to be made in connection with the alteration or modification, and issue, if any. Also, a detailed estimate of the expenses to be incurred in connection with such modification or alteration.

(j) Reference to action by the stockholders or directors of applicant, if a corporation, and by the court having jurisdiction over the applicant, if a carrier in equity receivership or in process of reorganization under section 77 of the Bankruptcy Act, as amended, authorizing the proposed alteration, modification or issue and the making and filing of the application, giving dates and places of meetings of stockholders or directors, the date of the court's order, and the names, titles, and post office addresses of the applicant's president, secretary, principal attorney, or other officer or person authorized to sign, verify and file the application on behalf of the applicant.

(k) The name, title, and post office address of counsel, officer, or other person to whom correspondence in regard to the application is to be addressed.

(l) The outstanding principal amount, or the number of shares and par value per share, of each class of security af-

fected by the proposed alteration or modification, and the percentage, if any, of the total of such principal amount and total number of shares for each such class as to which assurances of assent have been obtained from the holders, with a statement of the method of determining such percentage.

(m) Extent and manner of notice, by mail, advertisement or otherwise proposed to be given of the hearing by the applicant, including the time or times, and place or places of advertisement, the reasons for selection of the place or places of advertisement, the class of security or classes of securities the holders of which will be notified, and the names of committees; conferees and other interested parties and the manner of their notification. The Commission will give notices of the application to, and file a copy of it with, the governor of each State in which the applicant operates.

(n) Each class of securities affected, 75 percent of the aggregate principal amount, or number of shares outstanding of which is held by fewer than 25 holders.

(o) Amount, if any, of the securities affected which are pledged under a mortgage, indenture, deed of trust, or other instrument pursuant to which evidences of indebtedness of the applicant or of any company controlling or controlled by the applicant are outstanding, and the amount and description of such evidences of indebtedness; the name or names of any trustee or trustees under any such indenture or deed of trust; and the amount, if any, of the securities affected which are pledged to secure other evidences of indebtedness of the applicant or of any company controlling or controlled by the applicant not so issued under mortgage, indenture, deed of trust, or other instrument, and the amount and description of such other evidences of indebtedness so secured.

(p) Any facts or circumstances relied on by the applicant to show that the proposed modification or alteration does not materially affect the interests of the holder or holders of the evidence or evidences of indebtedness secured by the pledged securities referred to in paragraph (o) of this section.

(q) Amount, if any, of securities, affected by the proposed modification or alteration and of evidences of indebtedness secured by the pledge thereof as referred to in paragraph (o) of this section, which are held by any holder whose assent to the proposed alteration or modification is within the control of the applicant or any person controlling the applicant.

(r) The name or names of any carrier or carriers, or any other person or persons, which or who has assumed liability as guarantor, endorser, surety or otherwise in respect of the securities proposed to be affected, and whether such carrier or other person has consented in writing to the proposed alteration or modification.

(s) A statement of the procedures and methods which the applicant proposes to use in procuring and verifying the assents of the security holders affected by the proposed alteration or modification, and the character of the evidence which the applicant proposes to certify to the Commission in proof of such assents.

(t) Description and terms and conditions of any certificates of deposit that will be issued in connection with the proposed modification or alteration, by the applicant or committees representative of security holders.

§ 1114.2 Required exhibits.

There shall be filed with and made a part of each original application, and, except as otherwise provided, with each copy, or there shall be presented at the hearing, the following exhibits (see last paragraph under this subheading):

(a) As Exhibit 1, a copy of the charter or articles of incorporation, with amendments to date, of the applicant corporation, duly certified by the appropriate public officer, and a copy of the applicant's bylaws, with amendments to date, authenticated by a proper executive officer of the applicant.

(b) As Exhibit 2, a copy of the proposed plan of alteration or modification of securities.

(c) As Exhibit 3, one or more of the following as may be appropriate:

If applicant is a corporation (1) copies of all resolutions of directors authorizing the proposed modification or alteration, and where an issuance of securities is involved the proposed issuance of securities, for which authority is requested, authenticated by a proper executive officer of the applicant; (2) if the charter or bylaws require approval by stockholders, copies of resolutions of stockholders authorizing such alteration or modification and any issuances of securities, all such resolutions of stockholders to be accompanied by a sufficient transcript of the minutes of their meetings to show the number of shares voted for and against the resolutions, and the number of shares required to adopt the resolution; and (3) copies of resolutions of stockholders or directors, or duly authorized committee thereof, authenticated by a proper executive officer of the applicant, designating by name and for that purpose the executive officer by whom the application is signed, verified and filed on behalf of the applicant.

If the applicant is a carrier in equity receivership or in process of reorganization under section 77 of the Bankruptcy Act, as amended, a copy of the order of the court having jurisdiction authorizing the filing of the application.

(d) As Exhibit 4, opinion of counsel that the alteration or modification and the issuance of securities, if any, with respect to which application is made meet the requirements of law as set forth in § 1114.1 (f) and (h), and will be legally authorized and valid if approved by the Commission, with specific reference to any specially pertinent provisions of charter of articles of incorporation or association.

(e) As Exhibit 5, a map of the applicant's existing railroad.

(f) As Exhibit 6, specimens or forms where specimens are not available of all securities and forms of all instruments with respect to which application is made.

(g) As Exhibit 7, in case of the issue or assumption of bonds or evidences of indebtedness, a copy of the mortgage or indenture by which secured or proposed to be secured.

(h) As Exhibit 8, if application is made with respect to the discharge or refunding of existing obligations (including notes maturing not more than two years after the dates thereof, issued under paragraph (9) of section 20a of the Interstate Commerce Act, 494 U.S.C. 20a or otherwise), a statement containing a full description, together with terms and conditions (including discounts and commissions, counsel fees, and all other expenses) of sale or other disposition of such existing obligations.

(i) As Exhibit 9, if application is made with respect to purposes other than those covered by the above classifications under this heading, "Required exhibits", a statement containing complete details of such other purposes.

(j) As Exhibit 10, details of all creditor obligations of the carrier, not affected by the proposals, to the same extent as required in § 1114.1(e) with respect to affected obligations: *Provided*, That in place of such filing the applicant may refer to documents heretofore filed in proceedings before the Commission, to the extent that the required information is covered by such documents, giving the docket number.

(k) As Exhibit 11, a certified copy of the applicant's general balance sheet as of the latest practicable date and as of December 31 next preceding that date.

(l) As Exhibit 12, a verified copy of the applicant's income and profit and loss statement for the last calendar year and a copy of such statement for the current calendar year to the latest available date, and a statement of the applicant's annual income account for a period sufficient to permit the determination by the Commission of the applicant's probable prospective earnings.

Exhibits shall be numbered as above indicated if filed with the application. If presented at the hearing they will be assigned numbers when presented. The application shall contain a list of exhibits filed therewith, and a list of the required exhibits remaining to be filed at the hearing. Exhibits shall conform in size to Rule 84 of the General Rules of Practice (§ 1100.84 of this chapter) but shall be folded to conform to the size of the application. If the documents here requested have been previously filed in connection with an application under the Interstate Commerce Act, it will be sufficient to make reference to the docket number under which filed, provided that any change or changes occurring in such documents since the filing thereof shall be shown in an exhibit identified to correspond with the exhibit requested. Income statements, balance sheets, or profit and loss accounts, may not be incorporated by reference to the annual reports filed with the Commission.

§ 1114.3 Procedure.

The following procedure shall govern the execution, filing and disposition of the application:

(a) The procedure prescribed in § 1115.6(a) of this chapter governing applications under section 20a of the Interstate Commerce Act (49 U.S.C. 20a).

(b) The original application and supporting papers, six copies thereof for the use of the Commission, and one copy for the governor of each State in which the applicant operates, shall be filed with the Secretary of the Interstate Commerce Commission, Washington 25, D.C. Each copy shall bear the dates and signatures that appear in the original and shall be complete in itself, but the signatures in the copies may be stamped or typed, and the notarial seal may be omitted.

(c) Upon receipt of the application the Commission will cause notice thereof to be given to, and a copy of the application to be filed with, the governor of each State in which the applicant operates, with inquiry as to whether such governor or other appropriate authority of the State desires to be heard in the matter.

(d) Petitions for leave to intervene may be filed by persons interested in the application prior to or at the time the application is called for hearing, but not thereafter except for good cause shown, the practice in regard to such petitions and answers thereto to be governed by the Commission's general rules of practice.

(e) In connection with its findings required by paragraph (2) of section 20b (49 U.S.C. 20b) the Commission will give directions (1) as to the manner in which the carrier shall submit the proposed alteration or modification (with such terms, conditions, and amendments, if any) to the holders of each class of its securities affected thereby, for acceptance or rejection, and (2) as to the manner of proof to be made by the carrier of the percentage of assents to the proposed alteration or modification by the holders of each class of securities affected thereby.

(f) All letters, circulars, advertisements, and other communications, and all financial and statistical statements, or summaries thereof, to be used in soliciting the assents or the opposition of holders of securities affected, shall, before being used, be submitted to the Commission for its approval as to correctness and sufficiency of the material facts stated therein; but this requirement shall not be construed to apply to normal and ordinary correspondence or other communication between the carrier and a creditor, stockholder, or other interested party.

§ 1114.4 Certificates of notification and periodical reports.

Sections 1115.4, 1115.5 and 1115.6 of this chapter governing applications under section 20a of The Interstate Commerce Act (49 U.S.C. 20a) shall be followed as a guide.

PART 1115—ISSUANCE OF SECURITIES, ASSUMPTION OF OBLIGATIONS, AND FILING OF CERTIFICATES AND REPORTS

Sec.
1115.1 Application form.
1115.2 Definitions.
1115.3 Procedure; applications, certificates, and reports.
1115.4 Disposal of pledged or treasury securities.
1115.5 Issuance of short-term notes.
1115.6 Reports of securities issued or obligations assumed.

COMPETITIVE BIDDING EXEMPTION

1115.25 Applications for authority to sell securities without competitive bidding.

AUTHORITY: The provisions of this Part 1115 issued under sec. 12, 24 Stat. 383, as amended; sec. 20a, 41 Stat. 494, as amended; secs. 304, 306, 214, 49 Stat. 546, as amended, 548, as amended, 557, as amended; 49 U.S.C. 12, 20a, 304, 306, and 214.

CROSS REFERENCE: Prescribed forms referred to in this part listed in § 1008.4 of this chapter.

§ 1115.1 Application form.

All carriers and other persons subject to sections 20a and 214 of the act making application for authority (a) to nominally issue securities, (b) to sell, pledge, repledge, or otherwise dispose of securities nominally issued or assumed or nominally outstanding, (c) to actually issue securities, or (d) to assume any obligation or liability as lessor, lessee, guarantor, endorser, surety, or otherwise in respect of the securities of any other person, natural or artificial, actually outstanding, shall make such application substantially in the form of application designated Form BF–8.

§ 1115.2 Definitions.

(a) The term "carrier" includes a common carrier by railroad (except a street, suburban, or interurban electric railway which is not operated as a part of a general steam railroad system of transportation) which is subject to part I of the Act, a common or contract carrier by motor vehicle subject to part II, a corporation organized for the purpose of engaging in transportation as any such carrier, and a sleeping-car company which is subject to part I.

(b) The term "holding company" means a person which is not a carrier, but which is authorized by an order entered under section 5(2) of the Act to control a carrier or carriers and, as provided in section 5(3), is to be considered a carrier subject to the provisions of sections 20a or 214.

(c) The term "securities" is used herein as it is defined in section 20a(1) of the Act.

(d) The terms "nominally issued", "nominally outstanding", "actually issued", and "actually outstanding" are used herein as they are defined by the Commission for purposes of the uniform system of accounts and annual reports of railroads and motor carriers.

§ 1115.3 Procedure; applications, certificates, and reports.

(a) The application shall be filed sufficiently in advance of the date of the proposed issue or assumption to give the Commission reasonable time, not less than 30 days, for the notices and investigation required by law.

(b) The governor of each state upon whom a copy of the application is served, or other appropriate regulatory authority to which the matter is referred, is requested to notify the Commission within 15 days if it is desired to make any representations or to be heard in the matter.

(c) Protests or petitions for leave to intervene may be filed by persons interested in the applications within 15 days after the filing thereof or prior to or at the time the application is called for hearing, if a hearing is ordered, but not afterward, except for good cause shown, the practice in regard to such petitions and answers thereto to be governed as nearly as may be by the Commission's General Rules of Practice.

(d) Public hearing will not be ordered unless good cause therefor is shown or unless the Commission deems a hearing desirable.

(e) The rules and regulations prescribed in Part 1110 of this chapter shall govern the execution, filing, and disposition of the application, the filing of certificates of notification, and the making of special reports.

§ 1115.4 Disposal of pledged or treasury securities.

(a) Certificates of notification required by paragraph (5) of section 20a of the Act to be filed with the Commission within 10 days after the sale, pledge, repledge, or other disposition of securities theretofore pledged or held unencumbered in the treasury of the carrier, shall be filed substantially in the form designated as Form BF–21.

(b) As used in paragraph (5) of section 20a, securities described as "pledged or held unencumbered in the treasury of the carrier" are securities theretofore nominally issued, or reacquired and held in the treasury of the carrier, except securities held by trustees in sinking or other funds.

§ 1115.5 Issuance of short-term notes.

(a) Certificates of notification required by paragraph (9) of section 20a of the Act to be filed with the Commission within 10 days after the making of short-term notes within the limits within which such notes may be issued without authorization, shall be filed substantially in the form designated as Form BF–22.

(b) The term "short-term notes" means notes maturing not more than two years after the date thereof.

(c) The limits within which short-term notes may be issued without authorization are those specified in paragraph (9) of section 20a and in the proviso of section 214.

(d) Carriers or corporations within the exemptions provided in section 204 are not required to file certificates of notification.

§ 1115.6 Reports of securities issued or obligations assumed.

(a) Within 30 days after the initial date of issue of any security or assumption of any obligation or liability authorized, a report showing the issue or assumption shall be filed with the Commission in Form BF-23, as revised. An interim report shall be made concurrently with any subsequent application for additional authority filed under sections 20a or 214, showing the action theretofore taken, and any balance previously authorized but not disposed of, in the same form; otherwise no interim report is required. A final report shall be made upon the completion of the issue or assumption, and may be made in lieu of the initial report within the 30-day period following the initial action.

(b) On or before March 31 of the year following the year to which it relates, the respondent shall report in and as a part of its Annual Report Form to the Commission, concerning the securities issued and obligations assumed during such year.

COMPETITIVE BIDDING EXEMPTION

§ 1115.25 Applications for authority to sell securities without competitive bidding.

(a) Special application for exemption from the competitive bidding requirement shall be made in the form designated as Form BF-7 only when for any reason it is not practicable to include the request for exemption in an application filed in Form BF-6, pursuant to the instructions (§ 1115.1–1115.3) respecting applications filed under section 20a.

(b) The requirement that, with certain specified exceptions, all classes of railroad securities other than equipment, issued under authority granted pursuant to the provisions of section 20a of the Act be offered for sale at competitive bidding, or its equivalent, set forth in the Commission's report in Ex Parte 158, In Re Competitive Bidding in the Sale of Securities, 257 I.C.C. 129, decided May 8, 1944, and modified by findings in Atlantic Coast Line R. Co. Competitive Bidding Exemption, 282 I.C.C. 513, decided June 18, 1952, and further modified by supplemental report in Ex Parte 158, Ibid., 307 I.C.C. 1, decided August 14, 1958, with respect to securities issued or proposed to be issued incident to a loan guaranteed under the provisions of part V of the Act, is published in an appendix to this section.

(c) The rules and regulations prescribed in Part 1110 of this chapter shall govern the execution, filing, and disposition of the application.

APPENDIX TO § 1115.25

Pertinent conclusions and the requirement of the Commission in its report of May 8, 1944, in Ex Parte 158, "In the Matter of Competitive Bidding in the Sale of Securities [now under section 20a of the Interstate Commerce Act]", are as follows:

We find that for the proper administration, execution, and enforcement of section 20a of the Interstate Commerce Act we should require as a condition to our approval of the sale of railroad securities issued under the provisions of that section that such securities be offered for sale at competitive bidding or as near we have heretofore considered tantamount thereto, viz., upon invitation of bids for the purchase thereof. Proposals received in response to such invitation should be opened only at such time and place as is specified in the invitation, and the duly authorized representative of any person making any such proposal should be permitted to be present at the opening of such proposals, and to examine each proposal submitted. If the right be reserved in the advertisement or invitation for bids, the railroad proposing the issue may properly reject all bids and call for new bids or seek such relief as the facts and circumstances may warrant.

We further find that such requirement should apply to all classes of railroad securities other than equipment, as to which no change in the present practice is contemplated, except the following:

(1) Common and preferred stocks;

(2) Securities sold or otherwise issued pro rata to existing holders of securities of the issuing company pursuant to any preemptive right or privilege or in exchange for or extension of outstanding securities, or in connection with any liquidation, reorganization, or financial adjustment;

(3) Any note or other security maturing in not more than 3 years;

(4) Securities sold or otherwise issued when the total issue does not exceed $1,000,000, principal amount;

(5) Securities of any railroad company issued in exchange for the securities or properties of any other railroad company acquired pursuant to authority granted under the provisions of section 5(2) of the act, and any securities of such other company to be acquired by any other person pursuant to such authority;

(6) Securities sold or otherwise issued to a railroad company by any of its subsidiary companies pursuant to authority granted under section 20a of the act whose such securities are not to be sold by the parent company, but are to be held subject to our further order; and

(7) Any securities as to which we shall find, upon due showing by a railroad company, either upon application under the provisions of section 20a or upon special application preliminary to the filing of such application under section 20a, that sale at competitive bidding should not be required.

Applications under section 20a to sell securities without competitive bidding on the ground that such securities come within one of the foregoing specific exemptions should include a statement of facts relied upon to show that the exemption applies. Special applications for exemption from the competitive bidding requirement may be made pursuant to such special instructions as may hereafter be issued.

We further find that for the present no formal rule or regulations requiring the sale of railroad securities at competitive bidding should be promulgated. Railroads applying after June 30, 1944, for authority to issue securities under the provisions of section 20a will be expected to observe these findings.

The foregoing requirement was modified by the Commission's report of June 18, 1952, in Finance Docket No. 17746, Atlantic Coast Line R. Co. Competitive Bidding Exemption, 282 I.C.C. 513, as follows:

It will hereafter be our policy to deny any application for exemption from our competitive bidding requirement when competitive bidding is prima facie required and the applicant has, before obtaining the required exemption from us, entered into any discussions or any negotiations with respect to the terms of sale with any prospective purchaser of its securities. Our competitive bidding requirement is modified to this extent.[1]

The foregoing requirements were further modified by the Commission's supplemental report of August 14, 1958, in Ex Parte 158, (1) to except securities sold or otherwise issued in connection with a loan guaranteed under the provisions of part V of the Interstate Commerce Act from the general requirement set forth in the prior report thereof of May 8, 1944, that railroad securities be offered for sale at competitive bidding or upon invitation of bids for the purchase thereof, and (2) to make the policy expressed in Finance Docket No. 17746, Atlantic Coast Line R. Co. Competitive Bidding Exemption, supra, inapplicable to applications for exemption from the Commission's competitive bidding requirements by an applicant which in good faith, and under the belief that a guaranty may or will be required by the Commission in order for it to obtain the needed financing upon reasonable terms, has entered upon discussions or negotiations with respect to the terms of sale with a prospective purchaser of its securities.

PART 1116—RECORDATION OF DOCUMENTS

Sec.
1116.1 Definitions.
1116.2 Submission of documents for recording.
1116.3 Eligibility of documents.
1116.4 Form and contents of letter of transmittal.
1116.5 Administrative procedure.

AUTHORITY: The provisions of this Part 1116 issued under 66 Stat. 724; 49 U.S.C. 20c.

§ 1116.1 Definitions.

As used in this part, "document" means:

(a) A mortgage, lease, equipment trust agreement, conditional sale agreement, or other instrument evidencing the mortgage, lease, conditional sale or bailment of, railroad cars, locomotives, or other rolling stock used or intended for use in connection with interstate commerce; and

(b) Any assignment of rights or interest under any such instrument, or any supplement or amendment to any such instrument or assignment (including any release, discharge or satisfaction thereof, in whole or in part).

§ 1116.2 Submission of documents for recording.

Documents to be recorded shall be submitted in person or by registered mail addressed to the Secretary of the Interstate Commerce Commission, Washington, D.C. 20423.

[1] This is not to be construed as prohibiting preliminary discussion of an exploratory nature with prospective purchasers dealing with the availability of money, the general condition of the market for railroad securities and similar matters, or the making of such inquiries or investigation as may be required to determine the probability that two or more bids will be received if a proposed issue is offered at competitive bidding.

§ 1116.3 Eligibility of documents.

A document shall be eligible for recordation only if:

(a) The document is in writing (handwriting, typewriting, or print), executed by the parties thereto, and acknowledged or verified as provided in paragraph (c) of this section.

(b) The original document and, for retention in the files of the Commission, two counterparts thereof, or, if counterparts have not been executed and acknowledged by the parties, two certified true copies thereof, are submitted. A certified true copy of an original document is one which is a complete copy of the original in all respects, including the dates, signatures, and acknowledgments and to which is attached a certificate of a notary public, stating that such officer has compared the copy with the original document and that it is a true and correct copy in all respects. In case of a corporate mortgage or deed of trust of the nature referred to in paragraph (d) of § 1116.4, two certified true copies may be submitted in addition to an original executed counterpart, whether or not other counterparts have been executed and acknowledged by the parties; and in such case the certification of such copies may be made by the trustee under such mortgage or deed of trust or an officer of such trustee.

(c) Documents submitted for recordation shall be acknowledged or verified:

(1) In a form authorized by the law of the state, territory, district, or possession where executed for the acknowledgment or verification of deeds of land, or

(2) In a form substantially as follows:

INDIVIDUAL FORM OF ACKNOWLEDGMENT

STATE OF _____
County of _____, *ss:*
On this _____ day of _____, 19____, before me personally appeared (name of signer), to me known to be the person described in and who executed the foregoing instrument and he acknowledged that he executed the same as his free act and deed.

[SEAL] _____
Title of officer

My commission expires _____

Corporate Form of Acknowledgment

STATE OF _____
County of _____, *ss:*
On this _____ day of _____, 19____, before me personally appeared (name of signer), to me personally known, who being by me duly sworn, says that he is the (title of office) of (name of corporation), that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[SEAL] _____
Title of officer

My commission expires _____

(d) The document is accompanied by the required recordation fee, which fee, (1) for each document of the type named in § 1116.1(a), shall be $50, and (2) for each document of the type named in § 1116.1(b) shall be $10, except that assignments which are executed prior to the filing of the original instrument and which are submitted concurrently for recordation as one document, shall be counted as one document. A lease and agreement (Philadelphia Plan) shall be counted as one document.

§ 1116.4 Form and contents of letter of transmittal.

(a) The letter of transmittal requesting the recording of documents as described in § 1116.1 (a) and (b) shall be typewritten or printed on paper approximately 8½ x 11 inches with 1½ inch margin on the left side.

(b) The letter shall set forth the names and addresses of the parties to the transaction as follows:

Conditional sale—vendor, purchaser, guarantor.
Mortgage—mortgagor, mortgagee, guarantor.
Equipment trust — vendor, trustee-lessor, lessee, guarantor of lease.
Lease—lessee, lessor, guarantor.
Bailment—bailor, bailee, guarantor.
Other transactions—principal debtors, trustee, guarantor and other parties to the transaction.

(c) A general description of the equipment covered by the document, whether locomotives, car or other rolling stock, the type of such equipment, with A. A. R. mechanical designation, if any, the number of each type, and identifying marks such as the name or initials of the lessee, mortgagee, or vendee, the road or serial number, or if more than one number of each type, the first and last inclusive numbers.

(d) If the document is a mortgage or deed of trust upon a railway line or lines which also includes in its coverage any interest of the mortgagor in rolling stock owned by it at the date of the mortgage or any interest in rolling stock thereafter to be acquired, substantially the following statement may be included in the letter of transmittal in lieu of the information specified in paragraph (c) of this section:

Included in the property covered by the aforesaid mortgage or deed of trust are (here identify generally the equipment such as "railroad cars, locomotives and other rolling stock") used or intended for use in connection with interstate commerce, or interests therein, owned by (name of mortgagor) at the date of said mortgage or thereafter acquired by it or its successors as owners of the lines of railway covered by said mortgage.

and shall be a sufficient description of the equipment covered by the document.

(e) In connection with the documents listed in § 1116.1(b) the application shall refer to the prior recording of the document by the recordation number, and the date and hour of such recordation.

(f) The letter of transmittal shall be signed by an executive officer of one of the parties having knowledge of the matters set forth therein and shall show the name and address of the person to whom the original document should be returned.

§ 1116.5 Administrative procedure.

(a) At the time of filing of a document with the Commission pursuant to the provisions of section 20c of the act, there will be stamped upon the original document and also upon the copies of same a consecutive recordation number and the date and hour of recordation with a notation to the effect that it has been filed pursuant to the provisions of section 20c of the act. The original will then be returned and the counterparts or copies retained in the Commission's files.

(b) The Commission will establish, maintain and keep open to public inspection under appropriate rules, an index showing the recordation number, together with other pertinent information of each document recorded under the provisions of section 20c of the act. When the document is one named in § 1116.1(b) a notation to that effect will be made also on the index showing the original recordation.

(c) There will also be established and maintained and kept open to public inspection under appropriate rules, an index showing for each party the recordation number of all documents to which it is a party which have been filed under section 20c of the act.

(d) The Commission cannot undertake to answer inquiries concerning the title to any unit or units of rolling stock, or any document recorded under the provisions of section 20c. Individuals interested in such information, however, may make a personal search of the records or may avail themselves of the service of an agent or attorney.

(e) When there has been filed, pursuant to this part, a mortgage or deed of trust of the nature referred to in paragraph (d) of § 1116.4, it shall not be necessary to again file said mortgage or deed of trust when additional rolling stock is acquired in order to perfect the lien of the same upon such additional rolling stock.

PART 1117—REORGANIZATION OF RAILROADS

SPECIAL RULES OF PROCEDURE

Sec.
1117.1 "Person" and "railroad corporation."
1117.2 "The debtor."
1117.3 "The security."
1117.4 "Affiliated interests."
1117.5 "Connection."
1117.6 Authority to solicit.
1117.7 Granting of order of authorization.
1117.8 Applicant desiring to act for more than one issue of securities.
1117.9 Contents of application.
1117.10 Application by other than an individual.
1117.11 Filing of exhibits.
1117.12 Procedure governing application.

RATIFICATION OF APPOINTMENT AS TRUSTEE

1117.51 Filing of petition.
1117.52 Petition under oath.
1117.53 Number of copies.
1117.54 Form; notice accompanying petition.
1117.55 Consideration of petition.

AUTHORITY: The provisions of this Part 1117 issued under sec. 12, 24 Stat. 383, as amended, sec 1, 47 Stat. 1474, as amended; 49 U.S.C. 12, 11 U.S.C. 205.

SPECIAL RULES OF PROCEDURE

SOURCE: The provisions of this Part 1117 contained in regulations governing applications for authority to solicit, use, employ, or act under or pursuant to, proxies, authorizations, or deposit agreements, in or in connection with reorganization or receivership proceedings, ICC, Oct. 29, 1935, unless otherwise noted.

§ 1117.1 "Person" and "railroad corporation."

The terms "person" and "railroad corporation" are used in §§ 1117.1–1117.12 as they are defined in section 77 (m) of the Bankruptcy Act.

§ 1117.2 "The debtor."

The term "the debtor" as used in §§ 1117.1–1117.12 means any railroad corporation by or against which proceedings have been instituted and are pending under section 77 of the Bankruptcy Act, or against which receivership proceedings have been instituted and are pending in any State or Federal Court, being the proceedings in connection with which the applicant proposes to act.

§ 1117.3 "The security."

The term "the security" as used in §§ 1117.1–1117.12 means any security for which the applicant proposes to act or the deposit of which he expects to solicit and to which the application relates.

§ 1117.4 "Affiliated interests."

The term "affiliated interests" as used in §§ 1117.1–1117.12 means any person (a) by which the person designated is employed; (b) of which he is an officer, director, trustee, stockholder, or partner; (c) in which he has a direct or indirect pecuniary interest; (d) which he controls, whether by stock ownership, lease, agency, or otherwise; or (e) by which he is controlled in any manner whatsoever.

§ 1117.5 "Connection."

The term "connection" as used in §§ 1117.1–1117.12 means the prior or present relationships as employee, director, stockholder, trustee, partner, creditor, debtor, or attorney at law.

§ 1117.6 Authority to solicit.

Any person seeking authority (a) to solicit, or permit the use of his name to solicit, from any creditor or shareholder of a railroad corporation by or against which proceedings under section 77 of the Bankruptcy Act, or against which receivership proceedings have been instituted and are pending, any proxy, or authorization to represent or act for such creditor or stockholder in such proceedings or in any matters relating to such proceedings, or (b) to solicit the deposit, by any such creditor or shareholder of his claim against or interest in such railroad corporation, or any instrument evidencing the same, under any agreement authorizing such representation or action for such depositor, or to act under such agreement, or (c) to use, employ, or act under or pursuant to any such proxy, authorization, or deposit agreement, which has been solicited or obtained prior to the institution of such proceedings, shall make application for authority, and such application shall, unless otherwise authorized by the Commission, be filed sufficiently in advance of the date of such proposed solicitation, use, employment, or action, to give the Commission reasonable time, not less than 30 days, for the consideration and hearing required by law.

§ 1117.7 Granting of order of authorization.

An order of authorization will be granted only upon application therefor as provided in §§ 1117.1–1117.12.

§ 1117.8 Applicant desiring to act for more than one issue of securities.

Where the applicant desires authority to act for more than one issue of securities, the information required in §§ 1117.1–1117.12 other than that required in § 1117.9 (a), (b), (c), shall be supplied for each issue.

§ 1117.9 Contents of application.

Each applicant shall show, in the following order:

(a) Full name and address of the applicant.

(b) (1) If the application is by an individual who proposes to act as a member of a protective committee, partnership, association, or other unincorporated organization, the name and address of such committee, partnership association, or organization, with date when he became a member.

(2) If the application is by a protective committee, partnership, association, or other unincorporated organization, the names and addresses of the individual members thereof and of the secretary and counsel, if any, with date of organization, and dates when each individual became a member, or secretary, or counsel, designating which members, if any, are officers of the organization.

(3) If the application is by a corporation or a joint-stock company, the names and addresses of the officers and directors of the applicant and the names and addresses of the 20 stockholders of the applicant who, at the date of the application, if known, or if not known, who at the date of the latest closing of the stock book or compilation of list of stockholders of the applicant (if within 1 year prior to the date of the application) had the highest voting powers in the applicant together with names and addresses of counsel, if any, the date of incorporation, and the dates on which each officer and director was elected or appointed.

(c) Principal occupations, for the last 10 years prior to the date of the application, of the applicant, if an individual, of each member, the secretary, and counsel, if the applicant is a committee, partnership, association, or other unincorporated organization, and of each officer director, and principal stockholder (not more than 20) if applicant is a corporation or joint-stock company.

(d) Nature of the authority sought, i.e., whether to solicit, use, employ, or act under or pursuant to proxies or authorizations to represent any member or shareholder of the debtor or to solicit the deposit by such member or stockholder of his claim against or interest in such debtor under a deposit agreement, or to act for depositors under such agreement.

(e) Whether the applicant made such solicitation, or used, employed, or acted under or pursuant to, such proxies, authorizations, or deposit agreements prior to the date of the application.

(f) (1) The name of the security.

(2) Date of default, if any, in the security.

(3) Principal amount or number of shares of the security presently outstanding.

(g) (1) Name of the railroad corporation originally issuing the security.

(2) Names of the person currently obligated to meet the principal and interest of the security.

(3) Names of all parties involved in any controversy with respect to the obligation to meet the principal and interest of the security.

(h) (1) Name and title of the proceedings in or in connection with which the committee proposes to act.

(2) The court having jurisdiction in such proceedings.

(3) The nature of such proceedings.

(i) The name or names of the debtor or debtors.

(j) (1) The manner in which the applicant proposes to make such solicitation, or to use, employ, or act under or pursuant to, such proxies, authorizations, or deposit agreements.

(2) The name and address of the persons, if known, to be employed or compensated directly or indirectly by the applicant, to solicit proxies or authorizations to represent holders of the security or to solicit the deposit of the security.

(3) The rates of compensation to be paid to the persons to be so employed.

(4) The maximum amount estimated to be required to pay each person so employed as advances for or in reimbursement of expenses.

(5) The rate of compensation to be charged by the applicant for his services.

(6) The maximum amount estimated to be required in reimbursement of the applicants expenses.

(k) Arrangements contemplated by the applicant to obtain funds for financing his operations before his expenses are approved by the court and the Commission.

(l) Names and addresses of other persons including committees or other organizations in process of formation, known to the applicant, who represent, propose to represent, or have sought to represent, the security.

(m) Names and addresses of the original underwriters of the security.

(n) Any present and prior connection of the applicant and each of the affiliated interests of the applicant with:

(1) The original issuer of the security and each of its affiliated interests.

(2) The debtor and each of its affiliated interests.

(3) The person who originally sold or underwrote or participated in the selling or underwriting of the security.

(4) The trustee of the debtor and of the original issuer.

(5) The trustee of the instrument, if any, under and pursuant to which the security was issued.

(6) The depositary under the proposed agreement, if any, under which the security is to be deposited.

(7) Any other person acting for any securities of the original issuer or of the debtor.

(o) The number of shares of each class of stock, and the principal amount of each class of bonds, notes, certificates, or other obligations, direct or indirect, of the debtor and of each of its affiliated interests, owned by the applicant, any of his affiliated interests, and any member of his immediate family on or about the date of the application.

(p) Whether the applicant, any of his affiliated interests, or any of his immediate family, have, within 6 months prior to the date of the application, purchased or sold any securities or other obligations of the debtor or of any of its affiliated interests.

(q) The names of any depositaries with which the applicant has arranged or proposes to arrange for the deposit of the securities, and the terms and provisions of all contracts and agreements entered into by the applicant and by any of its affiliated interests, with such depositaries.

(r) The terms and provisions of all contracts and agreements entered into by the applicant and by each of his affiliated interests with any other person, including its own members and officers, if the applicant is a committee, or its own officers, directors, or principal stockholders, if it is a corporation, representing or seeking to represent any creditor or stockholder of the debtor, whether such representation is to be as an individual, a committee, an association, an unincorporated organization, a corporation, or a joint-stock company, or as a member, officer, director, or principal stockholder, of the applicant or of any other person.

§ 1117.10 Application by other than an individual.

If the application is by any person other than an individual, the applicant shall, in addition to furnishing the information as to itself required by § 1117.9 (n)–(r) attach to said application a statement or statements under oath by each of its members, it secretary, and counsel, or by each of its officers, directors, and principal stockholders (not more than 20), as may be appropriate, setting forth for each individual so connected with the applicant such information as to his connections, securities, ownership, purchase and sale of securities, and terms and provisions of contracts, as is required of the applicant by said paragraphs: *Provided, however*, That such individuals need not include in such statement or statements information that would duplicate information furnished by the applicant where such information is not peculiarly within the knowledge of such individuals.

§ 1117.11 Filing of exhibits.

There shall be filed with the original application and with each copy thereof, as a part thereof, or in such other manner as the Commission, through appropriate agency, may authorize, the following exhibits:

(a) A copy of the proxy, authorization, or deposit agreement under which the applicant proposes to act.

(b) A copy of the applicant's charter or articles of incorporation, with amendments to date, attested by proper public authority, if the applicant is a corporation or joint-stock company, and of any contract or agreement by which the applicant was formed, if the applicant is a committee, partnership, association, or other unincorporated organization, except that when such copy has been once filed with an application, reference thereto, with subsequent amendments, if any, will suffice.

(c) A copy of any bylaws, adopted or proposed to be adopted, with amendments, if any, to date, to govern the affairs of the applicant, except that were such copy has been once filed with an application, reference thereto with subsequent amendments, if any, will suffice.

§ 1117.12 Procedure governing application.

The following procedure shall govern the execution, filing and disposition of the application:

(a) The original application shall be signed by the applicant or on his behalf by a duly authorized agent having knowledge of the matters set forth, and shall be verified in the manner provided by § 1.17 of this chapter.

(b) The original application and six copies thereof shall be filed as provided in Rule 4(b) of the General Rules of practice (§ 1100.4(b) of this chapter). Each copy shall be complete in itself with copies of all attachments, and shall bear the dates and signatures that appear in the original but the signatures in the copies may be stamped or typed and notarial seal may be omitted.

RATIFICATION OF APPOINTMENT AS TRUSTEE

§ 1117.51 Filing of petition.

The appointee seeking such ratification shall file with the Commission a petition reciting the proceedings in court pertaining to the appointment, asking that the appointment be ratified, and giving the following information with respect to the appointee:

(a) Date and place of birth.

(b) Education.

(c) All past principal occupations and period covered by each.

(d) All present occupations and intentions with respect to continuation thereof during service as trustee.

(e) Whether or not the appointee, within 1 year of the date of his appointment, has been an officer, director, or employee of the debtor corporation, any subsidiary corporation, or any holding company connected therewith.

(f) All present business relations, connections, or affiliations, of any character, either direct or indirect, with any individuals, partnerships, associations, corporations, or other organization, and all such relations, connections, or affiliations of such individuals, corporations, or organizations, with the debtor or any of its affiliated interests.

(g) The names and addresses of all persons, partnerships, associations, corporations or other organizations in which the appointee or any member of his immediate family has a financial interest, direct or indirect, beneficial, contingent, or otherwise, together with a description of the nature of such interest, showing whether it is evidenced by stock certificates, notes, bonds or other securities.

(h) The names and addresses of all persons, partnerships, associations, corporations or other organizations to which the appointee is under financial obligation, direct or indirect, fixed, contingent or otherwise, in excess of $4,000 to any one person or concern, together with a description of the nature of such financial obligation, showing whether it is evidenced by book entries, notes, or otherwise.

§ 1117.52 Petition under oath.

The original petition shall be made under oath, and shall be signed by the petitioner.

§ 1117.53 Number of copies.

The original petition and six copies thereof for the use of the Commission shall be filed with the Secretary of the Commission, Washington, D.C. Each copy shall bear the dates and signatures that appear in the original and shall be complete in itself, but the signatures in the copies may be stamped or typed, and the notarial seal may be omitted. Additional copies shall be furnished as directed by the Commission.

§ 1117.54 Form; notice accompanying petition.

Petitions and statements filed by or on behalf of appointees seeking ratification of appointments as trustee shall conform to Rules 15 and 16 of the General Rules of Practice (§§ 1100.15 and 1100.16 of this chapter), and must be accompanied by notice showing service upon all parties who appeared in court in opposition to the appointment.

§ 1117.55 Consideration of petition.

Upon receipt of such petition in due form, and upon receipt from the clerk of the court of a copy of the order of the court appointing the person by or on whose behalf said petition is filed trustee of the debtor's property together with a copy of any petition or petitions and other pleadings presented to the court, and of a transcript, if any, of the proceedings in court, pertaining to such appointment, the Commission will proceed to consider the petition, or will order a hearing, if a hearing shall be deemed necessary, and after such hearing will proceed to consider the petition.

PART 1118—CORPORATE REORGANIZATION OF CARRIERS AND CORPORATIONS

Sec.
1118.1 Submission of copies of reorganization plan.
1118.2 Statements and information to be submitted with reorganization plan.
1118.3 Hearing in court; filing of notice with Commission.

AUTHORITY: The provisions of this Part 1118 issued under sec. 12, 24 Stat. 383, as amended, sec. 1, 43 Stat. 691; 49 U.S.C. 12, 11 U.S.C. 577.

§ 1118.1 Submission of copies of reorganization plan.

A duly authenticated copy and five additional copies of each such plan for the reorganization of a debtor corporation, subject to the jurisdiction of this Commission under Chapter 1, Title 49, of the United States Code, shall be submitted to this Commission by the proponent of such plan not later than 10 days after its tender to the court in which the reorganization proceeding is pending.

§ 1118.2 Statements and information to be submitted with reorganization plan.

In the event the debtor be a common carrier by railroad engaged in the transportation of persons or property in interstate commerce, or a lessor of such railroad, or a corporation considered as a carrier under the provisions of section 5, Chapter 1, Title 49, of the United States Code, which is, or may be, subject to the jurisdiction of this Commission under Chapter 1 of said Title 49, and which is not, or may not be, a railroad corporation as that term is used in section 77 of the Bankruptcy Act, as amended, there shall be submitted to this Commission, together with the plan of reorganization:

(a) An original verified statement, and five copies thereof, showing:

(1) Date of filing of petition for reorganization.

(2) Date of approval of petition for reorganization.

(3) Whether the debtor's properties are operated under lease or under other arrangement, as part of a general railroad system of transportation, or a general steam railroad system of transportation, and, if so, the name of such system, and the character of operating arrangement.

(4) Whether the debtor is controlled by stock ownership or otherwise, as part of such system and the name of the person exercising such control.

(5) Whether the plan involves any new construction, extension, acquisition, or abandonment of lines, or the acquisition or abandonment of any trackage rights.

(6) If a transfer or lease of, or operating contract covering the debtor's property, or a transfer of control of the debtor through stock ownership, or a consolidation or merger of the debtor with any other carrier or carriers is contemplated under the plan of reorganization, the name and address, if known, of such transferee, or of the consolidating, merging, or controlling company, including affiliates of such transferee, etc., with other carriers subject to the Interstate Commerce Act.

(b) Six copies, one verified, of:

(1) Articles of incorporation of the debtor.

(2) Articles of incorporation proposed for the reorganized debtor or any amendments to the existing articles of incorporation to be made as a result of the reorganization.

(3) Balance sheet of the debtor as of the latest date for which it is available preceding the date of filing the petition.

(4) Income account of the debtor for the calendar year immediately preceding bankruptcy and for succeeding years up to the end of the last full month prior to filing the information, the income account to show total operating revenues and the amount of operating revenues from the transportation of freight in standard steam railroad freight equipment.

(5) If under the plan of reorganization there is contemplated an issue of securities or assumption of obligation or liability as lessor, lessee, corporate endorser, surety, or otherwise in respect of the securities of any other person by the debtor or prospective transferee, a statement showing securities of the debtor or prospective transferee outstanding, securities to be issued, and obligations and liabilities to be assumed, segregated by classes and amounts (par value or, if such have no par value, the fair market value thereof as of date of issue).

§ 1118.3 Hearing in court; filing of notice with Commission.

Notice of the time and place of any hearing in court on any proposed plan of reorganization of a debtor corporation, subject to the jurisdiction of this Commission, in such proceedings shall be filed by the proponent of the plan with the Secretary, Interstate Commerce Commission, Washington, D.C.

PARTS 1120–1129—SPECIAL PROCEDURES—RAIL CARRIERS CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

PART 1120—CONSTRUCTION, EXTENSION, ACQUISITION, OR OPERATION OF RAILROAD LINES

Sec.
1120.1 Information to be contained in applications.
1120.2 Execution, filing, and disposal of application.
1120.3 Form and style.
1120.4 Notice of application.
1120.5 Return to questionnaire; general instructions.
1120.6 Questionnaire.
1120.7 Exhibits required.
1120.8 Verification required.

AUTHORITY: The provisions of this Part 1120 issued under sec. 12, 24 Stat. 383, as amended; 41 Stat. 476, as amended; 49 U.S.C. 1, 12.

§ 1120.1 Information to be contained in applications.

Applications for certificates of convenience and necessity authorizing the construction, extension, acquisition, or operation of lines of railroad shall set forth the following information:

(a) Exact corporate name of the applicant.

(b) Whether the applicant is (1) a carrier by railroad subject to the Interstate Commerce Act, (2) a corporation organized to construct and operate a railroad but not an operating corporation, or (3) an unincorporated organization, or an individual.

(c) Date of incorporation, and Government, State, or Territory under the laws of which the applicant was organized. If incorporated under the laws of, or authorized to operate in, several States, give the facts in regard thereto.

(d) Whether it is proposed (1) to construct a new line of railroad or an extension of an existing line of railroad, or (2) to acquire and operate, or to operate, a line of railroad not at the time owned or being operated by a common carrier.

NOTE: If the line to be acquired or operated is one for the abandonment of which permission has been granted, section 1 (18)–(20) of the act applies; the application should state the facts.

(e) Each State, and each county thereof, in which the line would be or is located.

(f) The route and termini of the line it is proposed to construct, acquire, or operate. Give the name of each incorporated city or village through which the line would or does pass.

(g) The total number of miles of track proposed to be constructed, acquired, or operated, showing main lines and branch lines separately.

(h) The reasons, briefly stated, why the present or future public convenience and necessity require or will require the proposed construction, acquisition, or operation. (Detailed reasons should be reserved for the return to the questionnaire set forth in § 1120.6.)

(i) Applicant's general plan for financing the proposed construction, or acquisition, and applicant's relation, if any, traffic or financial, to any other corporation or corporations.

(j) Reference to action by stockholders or directors of the applicant authorizing the making and filing of the application, giving date and place of meeting.

(k) Name, title, and post-office address of counsel or officer to whom correspondence in regard to application is to be addressed.

(l) The application and each copy thereof shall be accompanied by map drawn to scale, showing fully the geographic situation of the lines it is proposed to construct, acquire, or operate, and their relation to existing railroads. Towns, villages, large rivers or lakes, national parks, and reservations should be shown, at least near the route. The limits of the area which the applicant claims would be served should be shown when possible. The map and each copy thereof shall be on a sheet 8 x 10½ inches, or a multiple of that size not larger than 16 x 21 inches, and folded to dimension. The proposed line should be shown in clear relief on the prints by color or otherwise. In addition, 3 extra copies of the map should be submitted, unbound, for the use of the Commission.

§ 1120.2 Execution, filing, and disposal of application.

The following procedure shall govern the execution, filing, and subsequent disposal of the application:

(a) The original application shall be signed by an executive officer of the applicant, shall be verified under oath, and shall show, among other things, that the affiant has knowledge of the matters and things therein stated and is duly authorized by the applicant to verify and file the application.

(b) The original application and nine copies for the use of the Commission shall be filed with the Secretary of the Commission, Washington, D.C. Each copy shall bear the dates and signatures that appear in the original and shall be complete in itself; the signatures in the copies may be stamped or typed, and the notarial seal may be omitted. Additional copies shall be furnished as directed by the Commission.

(c) Upon receipt of the application the Commission will transmit to the applicant a notice of the filing of the application, which notice shall be published by the applicant at least once during each of three consecutive weeks in some newspaper of general circulation in each county in which any part of the line proposed to be constructed, acquired, or operated is located. Upon receipt of notice from the Commission that the application has been received and assigned a stated docket number, the applicant shall serve, by first class mail, a conformed copy of the application on the governor and public service commission of each State in which any part of the proposed construction, acquisition, or operation would be located, accompanied by a notice that if they desire to be heard in the matter they should advise the Commission within 20 days of their interest in the proceeding. A certificate of such service shall be filed with this Commission.

(d) The return to the questionnaire, as set forth in this part (§ 1120.5 et seq.), shall be filed with the Commission as soon as practicable, but not later than six weeks after receipt of notice of the filing of the application. Action will not be taken on the application, and a hearing thereon, if considered necessary by the Commission, will not be ordered until after the return to the questionnaire shall have been received. The applicant shall serve a copy of the return to the questionnaire on each governor and public service commission to whom a copy of the application was sent. A certificate of such service shall be filed promptly with the Commission.

§ 1120.3 Form and style.

The application and the return to the questionnaire shall be prepared in typewritten or printed form on paper approximately 8½ x 11 inches, with 1½ inch margin at the left side for binding.

§ 1120.4 Notice of application.

The return to the questionnaire shall contain a statement of publication of notice of the application in the following form:

The ---------- Company, having made application to the Interstate Commerce Commission, under section 1 (18) of the Interstate Commerce Act, for (here state in detail the nature of application), which application is filed in the office of the Commission in Finance Docket No. ----------, hereby affirms that notice of the application has been published in the form prescribed by the Commission, at least once during each of three consecutive weeks, in the following newspapers: (here list the newspapers); that said newspapers are of general circulation in each of the following counties of the States named: (name States and counties), which are all of the States and counties in which the proposed new line of railroad would be located, or in which the line to be acquired or operated is situated; and that the newspaper clippings hereto attached contain true copies of the notice as published in said newspapers.

§ 1120.5 Return to questionnaire; general instructions.

(a) Responses to all questions and requirements of the questionnaire shall be full and complete. Responses of a general nature will not be acceptable. For estimates and opinions the supporting data shall be given. Information not specifically requested but which may be helpful to the Commission in reaching correct conclusions should be supplied in detail.

(b) In the return to the questionnaire the questions must appear before the answers thereto and must be numbered and lettered as in the questionnaire in § 1120.6. Each copy of the return shall bear the dates and signatures that appear in the original and shall be complete in itself; the signatures in the copy may be stamped or typed and the notarial seal may be omitted. Statement of the same facts in answer to two or more questions should generally be avoided, suitable reference being made where necessary.

(c) In connection with applications for authority to acquire and to operate lines of railroad, questions clearly relating only to construction may be answered by the words "not applicable."

(d) The original return and nine copies for the use of the Commission, and two additional copies for each State in which is located any part of the lines to be constructed, acquired, or operated, shall be filed with the Secretary of the Interstate Commerce Commission, Washington, D.C. 20423.

§ 1120.6 Questionnaire.

The applicant shall also submit the following information required by the Commission:

1. The essential facts to show that the applicant is a carrier by railroad, engaged in the transportation of passengers or property, subject to the Interstate Commerce Act, or is a corporation organized to construct and operate a railroad. If not incorporated, so state, giving complete description of party or parties filing the application.

2. Whether the proposed new line of railroad would be both constructed and operated by the applicant.

3. Whether any corporation, individual, or trustee holds control over the applicant at the date of filing this return. If so:

(a) The form of control, whether sole or joint, and whether in trust.

(b) The name and business address of the controlling corporation, individual, or trustee.

(c) The manner in which control was established.

(d) The extent of control.

(e) Whether control is direct or indirect; if indirect, the name and business address of the intermediary through which it was established and is exercised.

(f) The name and business address of the beneficiaries for whom the trust, if any, is maintained.

(g) The purposes of the trust.

4. Whether the applicant is connected by stock ownership, or otherwise, with any industry to be served by the line proposed to be constructed, acquired, or operated. If so, state the facts.

5. The chief uses and purposes of the proposed line or operation.

6. The classes of service to be performed, as passenger, freight, express, and switching.

7. The kind of motive power to be used. If electric power, state source and estimated cost.

8. Whether the line proposed to be constructed, acquired, or operated would receive material revenue from the territory traversed, or serve any material public convenience and necessity of the local territory.

9. The name, area, and population of each county in which the new line is to be constructed, or in which the line to be acquired or operated is located, and the name and population of each city, town, and village at which a station would be or is established together with its distance from a designated initial point, with the source of information as to population.

10. The names of places mentioned in question 9 that are now served by common-carrier railroads (excluding street railways), and the name of each such carrier serving the several places.

11. The names of the places mentioned in question 9 that have no common carrier railroad service, the distance in miles of each such place from the nearest station of a common-carrier railroad, and the character of the connecting highway.

12. The name and population of each city, town, and village (together with state and county in which located), within the area to be served but not on the proposed route.

13. The approximate distance in miles by highway from the nearest station on the line to be constructed or acquired to each of the places mentioned in question 12, and the names of all common-carrier railroads that now serve each of the places.

14. The names of common-carrier railroads with which the line would connect, and the proposed points of track connection.

15. The number of common-carrier truck and bus lines operating in the area to be traversed by the line, and the character of service performed by each.

16. The general character of the country which the line would serve. Indicate whether it is level, rolling, mountainous, cultivated, pasture, prairie, desert, rocky, or timbered, etc.

17. The approximate area of the territory to be served by the line, an estimate of the population therein, and the area.

(1) In timber,

(2) in pasture, and

(3) under cultivation. (See General Instructions, § 1120.5.)

18. The kinds of industry carried on in the area to be served, such, for example, as farming, dairying, grazing, coal mining, manufacturing, lumbering, etc., and the relative importance of each.

19. The main facts as to the age, growth, and extent of such industries, their probable future growth and permanence, and the reasons therefor.

20. What carriers now serve these industries, and to what extent.

21. Whether the chief support of the line to be constructed or acquired would come from the general community or from some particular industry or industries, located or to be located. In the latter case, give facts concerning such particular industry or industries and applicant's contractual or financial relation thereto.

22. Whether the proposed line of railroad would be built, acquired, or operated primarily for a direct profit from railway operation, or for the advantage of any other industry or business. If for the latter, state what industry or business would be so benefited, what such advantages would be, and the applicant's contractual or financial relation to said industry.

23. If the line is to be or is an extension of an existing railroad, or a branch, connecting track, or cutoff, the extent to which it is expected to be directly profitable in itself, and the extent to which it is expected to be justified by its effect on the business of the existing lines.

24. If the line is to be a connecting link between existing railroads, the kind and volume of traffic, expressed in tons or carloads, that probably would be interchanged, and the economies that would be effected by such interchange.

25. Of the interchange traffic mentioned in answer to question 24, what part, expressed in tons or carloads, cannot be hauled or moved by existing railroads or truck lines.

26. The facts concerning any agreement, tentative or otherwise, with existing carriers, covering operation, interchange of traffic, division of rates, or trackage rights, in connection with the line.

27. Whether any aid, gift, grant of right-of-way, or other donation has been promised in connection with the proposed new line of railroad; if so, state specifically the nature, amount, and value of such promised donations.

28. The manner in which it is proposed to finance construction and equipment, or acquisition, the kind and amount of securities to be issued, and the approximate terms of their sale; to what extent funds for financing are now available, and which, if any, of such securities would be underwritten by industries to be served by the proposed line.

29. An estimate, in detail, of the character and volume of traffic expected and the gross revenue to be derived therefrom, covering each of the first five years of operation, together with an estimate of the annual gross revenues expected after the first five years. The detailed estimate required for the first five years should show the amount of each class of traffic, the mean length of haul, the rate per unit, and the revenue to be derived, also chief points or territories of origin and destination.

30. The estimated gross revenue, operating expenses, net revenue, and net railway operating income, corresponding with the estimates of traffic under question 29. By "net railway operating income" is meant the excess of the credits over the debits to income, as reflected by the operating revenue, operating expense, railway tax accrual, uncollectible railway revenue, equipment rent, and joint facilities rent accounts.

31. The part of the estimated traffic which will constitute net additional business developed or created by the construction of the proposed new line of railroad, and the part that will be diverted from existing railroads.

32. The dates on which it is expected to begin and to complete the construction of the proposed new line of railroad.

33. The engineering work in full detail which has been done with respect to the proposed new line at the time of filing the return.

34. The following details concerning the line to be constructed:

(a) The gage and number of main line tracks.

(b) Weight of rail for main line tracks.

(c) Rate of maximum grade in each direction, and whether and how compensated for curvature.

(d) Rate of limiting grade that will fix train loading in each direction, and whether and how compensated for curvature.

(e) If helper grades are to be used, the location, length, rate, and direction of ascent for each.

(f) The maximum rate of curve.

(g) The average amount of curvature per mile, in degrees.

(h) The approximate length and height of wooden trestles or other temporary construction.

(Details under this paragraph not fixed by survey are to be estimated from reconnaissances so far as possible.)

Question 34 should also be answered for lines to be acquired, so far as the information may be available.

35. An estimate of total increase in charges to road and equipment account during the first five years after completion of the new line. If this displaces rental charges on equipment, so show.

36. Any additional facts or reasons to show that the public convenience and necessity require the granting of this application.

§ 1120.7 Exhibits required.

In the case of applications for authority to construct, there shall be filed with the return to the questionnaire the following exhibits: (Copies of return need not contain any exhibits except E and F.)

A. A copy of the engineering report of reconnaissance for the proposed line, if records of location surveys are not submitted.

B. A copy of the specifications as to construction, if any exist.

C. A map of the location projected or actually staked for the proposed line, if such location has been made. This map should show the alignment in detail, with the usual topographic features added. Small maps may be folded accordion fashion to conform to the size of the return. If more than 12 feet long, the maps should be submitted in a continuous roll.

D. A copy of the best available profile of the proposed line. If more than 12 feet long, submit in a continuous roll, otherwise fold to the size of the return.

E. (1) A detailed estimate of the cost of building the proposed line, with all the necessary appurtenances (except equipment), classified by Interstate Commerce Commission primary accounts; also a concise detail of estimated quantities and prices covering what is set down under accounts 2 to 13, inclusive. Details may be required for other principal accounts. A complete estimate showing quantities and prices in reasonable detail may be submitted in any form.

(2) Detailed estimates of the kind and cost (or rental cost) of the equipment required to handle the estimated traffic separately for the first and the fifth years of complete operation. State whether the equipment is to be bought or rented, show second-hand equipment as such; give number of units, class of service and general type, with the weight and tractive power of locomotives and capacity of freight cars.

F. If the applicant is a going concern, copies of the income account for the five preceding calendar years and for the months of the current year for which the figures are available; also copies of the latest profit and loss account and general balance sheet.

G. Opinion of counsel that the proposed construction or acquisition is within the charter powers of the applicant.

In the case of applications for authority to acquire or operate, there shall be filed with the original of return to the questionnaire Exhibits F and G described in this section.

§ 1120.8 Verification required.

The return to the questionnaire should be verified by the applicant in the following form:

State of_____}
County of_____} ss.

_____ makes oath and says
(Name of affiant)

that he is the_____
(Title of affiant)

of the_____
(Corporate name of applicant)

applicant herein; that he has been authorized by proper corporate action on the part of said applicant to verify and file with the Interstate Commerce Commission the foregoing return to questionnaire of said Commission in respect of the application in Finance Docket No. _____; that he has carefully examined all of the statements referred to in said return and the exhibits attached thereto and made a part thereof; that he has knowledge of the matters set forth in such return and that all such statements made and the matters set forth therein are true and correct to the best of his knowledge, information, and belief.

_____

Subscribed and sworn to before me_____ in and for the State and County above named, this _____ day of _____, 19 .

_____

_____

My commission expires_____

PART 1121—ABANDONMENT OF RAILROAD LINES

APPLICATION

Sec.
1121.1 Information to be contained in application.
1121.2 Preparation of application and return to questionnaire.
1121.3 Execution of application.
1121.4 Filing of application.
1121.5 Notice of application.

RETURN TO QUESTIONNAIRE

1121.6 Filing and verification.
1121.7 Service.
1121.8 General instructions.
1121.9 Questionnaire.

AUTHORITY: The provisions of this Part 1121 issued under sec. 12, 24 Stat. 383, as amended; 41 Stat. 476, as amended; 49 U.S.C. 12, 1.

APPLICATION

§ 1121.1 Information to be contained in application.

Applications for certificates of public convenience and necessity permitting the abandonment of railroad lines or the operation thereof shall set forth the following information:

(a) Exact corporate name of the applicant.

(b) Whether the applicant is a carrier by railroad subject to the Interstate Commerce Act.

(c) Route and termini of the line proposed to be abandoned with its total length in miles naming each county in which any portion is situated.

(d) Whether abandonment of the line itself, or merely of its operation, is sought.

(e) Reasons, briefly stated, why the abandonment should be permitted. (Detailed reasons are to be reserved for the return to the questionnaire set forth in § 1121.9.)

(f) Name, title, and postoffice address of counsel or officer to whom correspondence in regard to the application should be addressed.

(g) Government, State, or Territory under the laws of which the applicant was organized. If incorporated under the laws of, or authorized to operate in, more than one State, give the facts in regard thereto.

(h) Reference to action by stockholders or directors of the applicant authorizing the making and filing of the application, giving date and place of meeting.

(i) If the application is made by receivers or trustees in bankruptcy, a certified copy of the court order authorizing the application should be attached, and reference should be made thereto.

(j) The application and each copy thereof shall be accompanied by a situation map on a sheet not larger than 16 x 21 inches, preferably 8 x 10½ inches or some multiple thereof. This map must be drawn to scale and the scale shown thereon. It must cover a sufficient territory, showing the railroads, water routes, and important points therein, and in clear relief, the line it is proposed to abandon, and its principal stations. In addition 3 extra copies of the map should be submitted, unbound, for the use of the Commission.

§ 1121.2 Preparation of application and return to questionnaire.

The application and the return to the questionnaire shall be prepared in typewritten or printed form on paper approximately 8½ x 11 inches, with 1½ inch margin at the left side for binding. Carbon copies, hectographed copies, white line blue prints, or copies prepared by similar processes will not be accepted.

§ 1121.3 Execution of application.

The original application shall be signed by an executive officer of the applicant having knowledge of the matters and things therein set forth, shall be verified under oath, and shall show, among other things, that the affiant is duly authorized by the corporation or court to verify and file the application.

§ 1121.4 Filing of application.

The original application and 10 copies for the use of the Commission shall be filed with the Secretary of the Commission, Washington, D.C. Each copy shall bear the dates and signatures that appear in the original and shall be complete in itself; the signatures in the copies may be stamped or typed, and the notarial seal may be omitted.

§ 1121.5 Notice of application.

Upon receipt of the application, the Commission will:

(a) Transmit to the applicant a notice of the filing of the application, which notice shall be published by the applicant at least once during each of three (3) consecutive weeks in some newspaper of general circulation in each county in which any part of the line of railroad sought to be abandoned is situated. Copy of notice shall also be posted in a conspicuous place at each station on the line sought to be abandoned. If there is no station on the line sought to be abandoned, the notice shall be posted at the nearest agency station on the applicant's line. Proof of publication and posting of the notice shall be filed promptly by the applicant.

(b) Upon receipt of notice from the Commission that the application has been received and assigned a stated docket number, the applicant shall serve, by first class mail, a conformed copy of the application on the governor and public service commission of each State in which any part of the line of railroad sought to be abandoned is situated, accompanied by a notice that if they desire to be heard in the matter they should advise the Commission within 20 days of their interest in the proceeding. A certificate of such service shall be filed promptly with this Commission.

RETURN TO QUESTIONNAIRE

§ 1121.6 Filing and verification.

The questionnaire to be answered by the applicant is set forth in § 1121.9. The return to such questionnaire shall be prepared as provided in § 1121.2, and shall be duly verified under oath by an officer or agent of the applicant thereunto properly authorized. The return to the questionnaire may accompany the application, but in any event shall be filed not later than six weeks after receipt of the notice referred to in § 1121.5(b) for publication. The original return, duly verified, accompanied by ten copies for the use of the Commission shall be filed with the Secretary of the Commission, Washington, D.C.

§ 1121.7 Service.

The applicant shall serve a copy of the return to the questionnaire on each governor and public service commission to whom a copy of the application was sent. A certificate of such service shall be filed promptly with the Commission.

§ 1121.8 General instructions.

Responses to all questions and requirements of the questionnaire shall be full and complete in every particular. Responses of a general nature will not be acceptable. For estimates and opinions the supporting facts and data shall be given. Information not specifically requested but which may be helpful to the Commission in reaching correct conclusions should be supplied in detail.

In the return to the questionnaire the questions must appear before the answers thereto and must be numbered and lettered as indicated in the questionnaire in § 1121.9. Each copy of the return shall bear the dates and signatures that appear in the original and shall be complete in itself; the signatures in the copy may be stamped or typed and the notarial seal may be omitted.

§ 1121.9 Questionnaire.

The questionnaire to which the applicant shall file a return is as follows:

1. Complete statement of the purpose of the application.

2. When, by whom, and for what purpose the line was constructed, and its proprietary history.

3. A copy of the applicant's general balance sheet of the latest date available, and a copy of the applicant's income account for each of the last five calendar years, and for that portion of the current year for which the information is available.

4. The present state of maintenance of the line.

5. The estimated salvage value of the line, with a general statement of the basis of the estimate.

6. The names of all railroads with which the line connects for interchange of traffic and the points of such interchange.

7. A brief description of the present train service on the line, and of important changes made in the past five years.

8. The names of all stations on the line, stated in order with milepost numbers, with the approximate population of each, and the authority for the information, showing for each place the names of all other railroads by which it is served, or its distance by highway from the nearest other railroad. Distinguish nonagency stations.

9. The approximate population of the territory served by the line, explaining how the limits of the territory are defined.

10. A detailed statement of the location and nature of the highways available for movement of the traffic now handled by the line, and of the common-carrier truck and bus service on such highways, if any.

11. The nature of the industries in the tributary territory (such as farming, mining, lumbering, manufacturing, etc.), how long established, and the extent to which each is dependent upon the line for transportation. State location and other facts concerning the most important plants served.

12. The passenger traffic handled on the line in each of the last two calendar years,[1] and for that part of the current year for which the information is available, giving separately the number of local and connecting-line passengers (if the latter designation is applicable) and the revenue from each class.

13. The freight tonnage handled by the line for each of the last two calendar years,[1] and for that part of the current year for which the information is available, showing the number of cars and the tonnage of carload freight, classified by principal commodities, and the tonnage of less-than-carload freight. Show in separate statements (a) local freight originated at and destined to points on the line, (b) freight moved between points on the line and points beyond it, and (c) freight neither originated at nor destined to points on the line (overhead or bridge traffic).

[1] The requirement that data be furnished for the last two calendar years is subject to the reservation that applicant will furnish such data for five years if specially requested by the Commission.

14. (1) If the line to be abandoned is less than the entire mileage operated by the applicant, a statement showing the effect of the proposed abandonment on the net railway operating income of the applicant. The statement should include for each of the last two calendar years[1] and for that part of the current year for which the information is available:

(a) The applicant's railway operating revenue from traffic handled locally between points on the line proposed to be abandoned;

(b) The applicant's railway operating revenue from traffic originating on or destined to points on the line proposed to be abandoned and also handled on other parts of the applicant's lines of railroad;

(c) An estimate in detail of the total operating revenue that should be assigned to the line proposed to be abandoned and a statement of the reasons for such assignment;

(d) The expense of operating the line proposed to be abandoned, stated by appropriate primary accounts, actual so far as possible and otherwise approximated, with a full statement of the method used;

(e) Railway tax accruals with method of apportionment;

(f) Other items entering into the applicant's income account and assignable to the line proposed to be abandoned, with methods of assignment; and

(g) The costs of moving the traffic on the line proposed to be abandoned beyond the limits of said line on other parts of the applicant's lines, with method of determination.

Revenues from freight, passenger, and other service should be shown separately.

(2) If the applicant's line is operated as part of a system under common control and management, a statement for the same period as required in paragraph (1) showing the effect of the proposed abandonment on the net railway operating income of the system and the unit members thereof. This statement should show the revenues accruing to the system and its unit members from traffic moving to and from the line proposed to be abandoned and the costs of handling such traffic. The method of determining such costs also should be shown.

15. If the volume of freight or passenger traffic of the line has decreased during recent years, any reasons therefor.

16. If the line is operated as a joint facility, and abandonment of the applicant's operation only is proposed, state fully the facts as to operation by others and the extent to which it will supply the place of the operation it is proposed to abandon.

17. State what effort has been made to dispose of the line so as to insure its continued operation, and what, if any, transportation service will remain or may be substituted for that proposed to be discontinued.

18. A summary statement of the reasons for the application.

VERIFICATION

State of _____ }
County of _____ } ss.

_____ makes oath and says
(Name of affiant)
that he is the _____ of the
(Title of affiant)
_____ applicant herein;
(Corporate name of applicant)

that he has been authorized by proper corporate action on the part of said applicant, or by the proper court, to verify and file with the Interstate Commerce Commission the foregoing return to questionnaire of said Commission in respect of the application in Finance Docket No. _____; that he has carefully examined all of the statements referred to in said return and the exhibits attached thereto and made a part thereof; that he has knowledge of the matters set forth in such return and that all such statements made and matters set forth therein are true and correct to the best of his knowledge, information and belief.

_____

Subscribed and sworn to before me _____ in and for the State and County above named, this ____ day of _____, 19____.

_____

My commission expires _____

[1] See footnote on p. 20109.

PART 1122—DISCONTINUANCE OR CHANGE OF OPERATION OR SERVICE

Sec.
1122.1 Scope of rules in this part.
1122.2 Definitions.
1122.3 Form and style of notice.
1122.4 Contents of notice.
1122.5 Information required with notice.
1122.6 Petition.
1122.7 Execution.
1122.8 Filing; copies.

AUTHORITY: The provisions of this Part 1122 issued under sec. 12, 24 Stat. 383, as amended, sec. 13a, 72 Stat. 571; 49 U.S.C. 12, 13a.

§ 1122.1 Scope of rules in this part.

The rules in this part govern the procedure to be followed by carriers subject to part I of the Interstate Commerce Act which, under and pursuant to the provisions of section 13a of said act, file with the Commission a notice under paragraph (1) of said section or a petition under paragraph (2) thereof with respect to a proposed discontinuance or change, in whole or in part, of the operation or service of any train or ferry.

§ 1122.2 Definitions.

As used in this part:

(a) The term "act" means the Interstate Commerce Act, as amended.

(b) The term "notice" means a notice as provided for in paragraph (1) of section 13a.

(c) The term "petition" means a petition filed with the Commission under the provisions of paragraph (2) of section 13a for authority to effect a discontinuance or change.

§ 1122.3 Form and style of notice.

The notice shall be reproduced by printing, multigraphing, or mimeographing (or by any other process provided the copies are clearly legible) on paper not less than 8½ by 11 inches, with the words, "Notice of proposed change (or discontinuance, if appropriate) of service" printed in large bold-face type near the top. If printed, nothing less than 12-point type shall be used in the remainder of the notice.

§ 1122.4 Contents of notice.

A separate notice shall be given for each discontinuance or change of service. A single notice may include more than one train or ferry except that unrelated trains or ferries shall not be made the subject of a single notice. Each notice shall set forth the following information:

(a) Exact corporate name and general office address of the carrier.

(b) The number and name or other description of the train or ferry with respect to which a discontinuance or change of operation or service is proposed, the name of each station, depot, or facility affected thereby, and the termini between which the train or ferry operates.

(c) The date on which the discontinuance or change of operation or service is proposed to become effective.

(d) Advice to the public that persons desiring to object to the proposed discontinuance or change should notify the Interstate Commerce Commission, at Washington, D.C., of such objection and the reasons therefor at least 15 days before the effective date of the proposed discontinuance or change.

§ 1122.5 Information required with notice.

With each notice of a proposed discontinuance or change of operation or service, there shall be filed with the Commission a "Statement in Relation to Proposed Discontinuance or Change of Train or Ferry Service" which, in the body thereof or in exhibits attached thereto and referred to therein, shall contain the following:

(a) Exact corporate name and general office address of the carrier proposing the discontinuance or change.

(b) Name, title, and post office address of counsel or officer to whom correspondence in regard to the notice should be addressed.

(c) Complete description of the present service of the train or ferry involved and of the discontinuance or change of operation or service proposed.

(d) Complete statement of the reasons for the proposed discontinuance or change of operation or service.

(e) The names of all railroads interchanging passengers or freight with the subject train or ferry, and the points of such interchange.

(f) Description of other common carrier service, including service of the subject carrier, of the same kind (passenger or freight) rendered by the trains or ferries involved, between and at the points described in the notice and other common carrier service available in the immediate territory.

(g) A statement of the traffic transported on trains or ferries involved for each of the last 2 calendar years and for the part of the current year for which such information is available. If information for such periods is not submitted, explanation must be given as to why such information was not submitted. When a notice involves more than one train or ferry, the traffic of each should be segregated to the extent practicable. If the proposed discontinuance or change involves less than all of the stations served by a train or ferry, to the extent such information is available segregation should be made of the traffic transported to and from each station which will be affected.

(h) Financial results of operating the trains or ferries involved during the period or periods embraced in the statement submitted pursuant to paragraph (g) of this section, segregated in the same manner and to the same extent as required by that paragraph.

(i) A copy of the carrier's general balance sheet statement as of the latest date available; and of its income statements for each of the last two calendar years and for that portion of the current year for which such information is available.

(j) A certificate that a copy of the notice and of the "Statement in Relation to Proposed Discontinuance or Change of Train or Ferry Service" has been mailed to the Governor and railroad regulatory body of each State in which the subject train or ferry is operated and that such notice has been posted in a conspicuous place in each station, depot, or other facility involved, including each ferry and each passenger car on trains affected, which certificate shall include information of the date or dates on which the notice and statement were mailed and the date or dates on which the notice was posted as aforesaid and that a copy of the notice and statement were served upon the Assistant Postmaster General, Bureau of Transportation and International Services, Washington, D.C. 20260 and the Railway Labor Executives' Association, Washington, D.C. 20001.

(k) Map showing the geographic situation of the line over which the train operates, or, if a ferry, the route traversed. The map should show the line or route clearly, by color or otherwise, and the stations thereon, on a sheet not smaller than 8½ x 11 inches. Three copies of the map should be submitted unbound for use of the Commission, in addition to those attached to the statement.

§ 1122.6 Petition.

Petitions for authority to effect a discontinuance or change of the operation or service of a train or ferry shall contain in the body thereof or in exhibits attached thereto and referred to therein, the information required by paragraph (b) of § 1122.4 of this part, that required by § 1122.5 excepting paragraph (j) thereof, and in addition the following:

(a) The date on which the petition or application for discontinuance or change in the operation or service of the train or ferry was filed with the appropriate State authority.

(b) Identification of the State authority with which such petition or application was filed.

(c) Description of the action, if any, taken by such State authority on the petition or application filed with it.

(d) To be filed only with the original of the petition to the Commission, copy of the record made before the State authority, including copies of the application or petition to it, transcript of any oral hearing, and decision and order, if any.

§ 1122.7 Execution.

The original copy of the statement required by § 1122.5 and of a petition as described in § 1122.6 shall be signed in ink by an executive officer of the carrier having knowledge of the matters and things therein set forth. Persons signing the statement or petition shall also sign a certificate in form as follows:

_____ hereby certifies that he is the
(Name)
_____ of the _____
(Title)
_____ petitioner
(Corporate name of petitioner)

herein; that he has been authorized by proper corporate action on the part of said petitioner, or by the proper court, to execute and file with the Interstate Commerce Commission the foregoing statement (or petition); that he has carefully examined all of the statements referred to in said statement (or petition) and the exhibits attached thereto and made a part thereof; that he has knowledge of the matters set forth therein; and that all such statements made and matters set forth therein are true and correct to the best of his knowledge, information, and belief.

_____
(Signature)

Dated this _____ day of _____, 19____.

NOTE: A false statement is punishable by law.

§ 1122.8 Filing; copies.

As applicable, 8 copies of the notice and an original and 7 copies of the accompanying statement, or an original and 7 copies of the petition shall be filed with the Secretary of the Commission, Washington, D.C. Each copy of the statement or petition shall bear the dates and signatures that appear in the original and shall be complete in itself; but the signatures in the copies may be stamped or typed.

NOTE: The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942. Budget Bureau No. 60-R343.1.

PARTS 1130–1139—SPECIAL PROCEDURES—MOTOR CARRIERS AND BROKERS CERTIFICATES, PERMITS, LICENSES

PART 1130—APPLICATIONS FOR CERTIFICATES AND PERMITS

Sec.
1130.1 Applications.
1130.2 Application for certificate in lieu of permit.
1130.5 Application for temporary authority.

AUTHORITY: The provisions of this Part 1130 issued under 49 Stat. 546, as amended, 551, as amended, 552, as amended, 554, as amended, 555, as amended, 563, as amended, 52 Stat. 1238, as amended; 49 U.S.C. 304, 306, 307, 309, 310, 310a, 312, 320.

CROSS REFERENCE: See also Rule 247 of the Special Rules of Practice (§ 1100.247 of this chapter).

§ 1130.1 Applications.

(a) *Form.* Applications for motor carrier certificates and permits to continue, institute, change, or extend motor carrier operations, or to engage in dual operations, in interstate or foreign commerce under the Interstate Commerce Act, shall be in the form and contain the information called for in the form of application designated as Form OP–OR–0 (§ 1003.1 of this chapter).

(b) *Filing and service.* The verified original of each such application shall be filed with this Commission, one true copy thereof shall be furnished the Regional Director or Supervisor of the Bureau of Operations located in the region wherein applicant is domiciled and one true copy shall be delivered, in person or by registered or receipted mail, to the Board, Commission, or official (or Governor if there is no Board, Commission or official) having authority to regulate the business of transportation by motor vehicles, of each State in or through which applicant operates or proposes to operate. Applicant is not required to give notice to competitors since notice of such filing will be by publication in the FEDERAL REGISTER.

§ 1130.2 Application for certificate in lieu of permit.

Applications under section 212(c) of the Interstate Commerce Act for authority to operate as a common carrier by motor vehicle of the same commodities, between the same points, or within the same territory as authorized in a permit outstanding as of August 22, 1957, shall be in the form and contain the information called for in the form of application designated BOR–95 (§ 1003.1 of this chapter).

§ 1130.5 Application for temporary authority.

Applications under section 210a(a) of the Interstate Commerce Act for temporary authority to operate as a motor carrier shall be in the form and contain the information called for in the form of application designated BOR–95 (§ 1003.1 of this chapter).

PART 1131—TEMPORARY AUTHORITY APPLICATIONS UNDER SECTION 210(a) OF THE INTERSTATE COMMERCE ACT

Sec.
1131.1 Controlling legislation and definitions.
1131.2 Filing of applications.
1131.3 Processing of applications.
1131.4 Determination of applications.
1131.5 Rates, charges, and special permission applications.
1131.6 Petitions for reconsideration.

AUTHORITY: The provisions of this Part 1131 issued under 49 Stat. 560, 561; 52 Stat. 1237, 1238, 80 Stat. 378; 49 U.S.C. 317, 318, 304; 310a, 5 U.S.C. 553, 556.

NOTE: Rules governing extension of temporary operating authority or approvals are contained in Part 1101 of this chapter.

§ 1131.1 Controlling legislation and definitions.

(a) *Controlling legislation.* Section 210a(a) of the Interstate Commerce Act, as amended, 49 U.S.C. 310a(a), which the rules and regulations in this part are designed to implement, provides as follows:

To enable the provision of service for which there is an immediate and urgent need to a point or points or within a territory having no carrier service capable of meeting such need, the Commission may, in its discretion and without hearings or other proceedings, grant

temporary authority for such service by a common carrier or a contract carrier by motor vehicle, as the case may be. Such temporary authority, unless suspended or revoked for good cause, shall be valid for such time as the Commission shall specify but for not more than an aggregate of one hundred and eighty days, and shall create no presumption that corresponding permanent authority will be granted thereafter.

Extensions of temporary authority beyond 180 days are governed by the special rules, contained in Part 1101 of this chapter, promulgated pursuant to section 558 of the Administrative Procedure Act, 5 U.S.C. 558.

(b) *Definitions.* As used in this part, the following words and terms are construed as follows:

(1) *"Temporary authority".* Limited-term motor carrier operating authority issued for periods up to 180 days (TA) pursuant to section 210a(a) of the Interstate Commerce Act to authorize transportation service for which there is an immediate and urgent need and which cannot be met by existing carrier service. This term includes "emergency temporary authority" issued for periods of 30 days or less (ETA) to meet an immediate and urgent need for service due to emergencies, in which time or circumstances do not reasonably permit the filing and processing of an application for temporary authority (TA).

(2) *"Common carrier by motor vehicle".* Same as defined in section 203(a)(14) of the Interstate Commerce Act (49 U.S.C. 303(a)(14)).

(3) *"Contract carrier by motor vehicle."* Same as defined in section 203(a)(15) of the Interstate Commerce Act (49 U.S.C. 303(a)(15)).

(4) *"Aggregate of 180 days".* The total number of days of temporary authority which may be granted to a motor carrier under the provisions of section 210a(a) of the Interstate Commerce Act to meet a continuing need for a particular service.

(5) *"Person".* Same as defined in section 203(a)(1) of the Interstate Commerce Act (49 U.S.C. 303(a)(1)).

§ 1131.2 Filing of applications.

(a) *General.* All temporary authority applications are filed at and initially processed by the Commission's field offices. The field staff of the Commission's Bureau of Operations conducts preliminary investigations into applications for temporary authority and transmits the applications, with recommendations as to their disposition, to the Commission's Temporary Authorities Board in Washington, D.C. The Bureau's field offices maintain records of authorized carriers and their operating authorities, and its staff members are available for consultation and to give assistance in the obtaining of motor carrier service, and guidance in the preparation of temporary authority applications and related supporting material, and in making rate, insurance, and other required filings. The field offices will furnish copies of necessary forms upon request.

(b) *How and where filed.* A separate application for each temporary authority sought must be filed on Form BOR-95 (§ 1003.1 of this chapter). The signed original and six copies of each application and all supporting documents must be filed with the Bureau of Operation's field office which has jurisdiction over the point at which applicant is domiciled, or such other field office as the Commission may designate in special circumstances.

(c) *Supporting statements.* Each application for temporary authority must be accompanied by a supporting statement(s) designed to establish an immediate and urgent need for service which cannot be met by existing carriers, except that when the Department of Defense is the shipper such support may be furnished directly to the Temporary Authorities Board by the Washington office of that Department. Each such shipper's statement, except those submitted by the Department of Defense must contain a certification of its accuracy and must be signed by the person (or an authorized representative thereof) having such immediate and urgent need for motor carrier service. Any such supporting statement must contain at least the following information:

(1) Description of the specific commodity or commodities to be transported (where the transportation of property is involved).

(2) Points or areas to, from, or between which such commodities or passengers are to be transported. (If service is needed to or from a territory or area rather than a specific point or points, clearly describe such territory or area and furnish evidence of a broad need to justify the territorial grant of authority requested.)

(3) Volume of traffic involved, frequency of movement, and how transported now and in the past.

(4) How soon the service must be provided and the reasons for such time limit.

(5) How long the need for such service likely will continue, and whether the persons supporting the temporary application will support a permanent service application.

(6) Recital of the consequences if service is not made available.

(7) The circumstances which created an immediate and urgent need for the requested service.

(8) Whether efforts have been made to obtain the service from existing motor, rail, or water carriers, and the dates and results of such efforts.

(9) Names and addresses of existing carriers who have either failed or refused to provide the service, and the reasons given for any such failure or refusal.

(10) Name and address of motor carrier who will provide service and is filing application for temporary authority.

(11) If the person supporting the application has supported any prior application for permanent or temporary authority covering all or any part of the desired service, give the carrier's name, address, and motor carrier docket number, if known, and state whether such application was granted or denied and the date of such action, if known.

(d) *Special procedures for filing applications for emergency temporary authority.* (1) Emergency temporary authority should be applied for only where emergency conditions exist which do not permit sufficient time to afford the notice specified in § 1131.3(a). Applications for emergency temporary authority must be filed on Form BOR-95 (§ 1003.1 of this chapter).

(2) Where the emergency is found to continue beyond the period of the initial grant, the emergency temporary authority may be extended only upon written request until disposition is made of the longer term temporary authority application.

(3) In the cases where the urgency of the situation warrants, the supporting statements of those having the immediate and urgent need for carrier service may be furnished by telegram. However, such telegram must contain substantially the federal information which is more fully described in paragraph (c) of this section. The telegram must be sent to the Bureau of Operations' field staff member who is handling the application.

(4) In processing emergency temporary authority applications, it often becomes necessary to use telephone and telegraph service to verify rate levels and the absence of existing carriers' service, and to submit the Bureau of Operations' field report to the Temporary Authorities Board in Washington, D.C. As Government funds are not available to pay such communication expenses, the applicant must have or make arrangements with the telephone and telegraph companies so that such costs can be charged to its account.

(e) *Insurance and service of process.* (1) Where the applicant is an authorized carrier, a statement must accompany the application indicating whether evidence of effective insurance is on file with the Commission and whether agents for service of process have been designated for each State in which operations are conducted or proposed. If applicant is not an authorized carrier, it should furnish a statement containing the name of its insurance company, its policy number, the effective and expiration dates of such policy, the limits contained therein, and a copy of the Commission's Form BOC 3 (§1003.1 of this chapter) designating an agent for service of process in each State where operations are proposed to be conducted. If such carrier does not have appropriate insurance it may submit a statement, which includes the name of its insurance company and of its intent to effect compliance before commencing operations if the authority is granted.

(2) On emergency temporary authorities where time does not permit the submission of the required written statement by applicant, a telegraphic statement may be accepted.

§ 1131.3 Processing of applications.

(a) *Notice to interested persons.*—(1) *Service.* Notice of the filing of temporary authority applications tendered shall be given by the publication of a summary of the authority sought in the FEDERAL REGISTER, except that no such summary will be published in the case of emergency temporary authority applications. Such summaries will be prepared by the appropriate Bureau of Operations supervisor and forwarded to the Office of Proceedings, Washington, D.C.

(2) *Filing of protests.* Any interested persons who can and will provide all or any part of the proposed service may file a protest against the application. Such protest must be specific as to the service which such protestant can and will offer and must consist of a signed original and six (6) copies which must be filed with the district supervisor named in the FEDERAL REGISTER publication within 15 calendar days after the date notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant or its authorized representative, if any, by U.S. mail or in person.

(b) *Publication of rates and charges.* A carrier may not lawfully perform transportation under a grant of temporary authority unless and until compliance has been made with the rate and other requirements of section 217 of the Interstate Commerce Act in the case of common carriers and of section 218 of the act in the case of contract carriers, as provided in § 1131.5.

(c) *Revocation for noncompliance, and reinstatement and extension of time for making compliance.* (1) Temporary authority is approved subject to compliance within 30 days, or within such additional time as the Commission may approve, with the applicable provisions of the statute and the requirements, rules, and regulations prescribed by the Commission thereunder governing the filing of rate and contract publications, the filing of acceptable evidence of security for the protection of the public and designation of agents for service of process.

(2) If compliance is not made within the 30-day period, or within the time allowed in any extension thereof applicant will be notified that the temporary authority order is of no further force and effect. Where this occurs, applicant may make written request for reinstatement of the granting order if it so desires, provided (i) that such request is made within 20 days from the date of the notice, (ii) that good cause can be shown as to why compliance was not made within the time allowed, and (iii) that the request for reinstatement contains positive assurance that applicant is now able to and will comply immediately with all applicable requirements, if the order is reinstated.

§ 1131.4 Determination of applications.

(a) *General.* (1) Initial determination of temporary authority applications will be made by the Commission's Temporary Authorities Board or by Division 1 of the Commission, acting initially. For purposes of administration, distinctions in the applicable grounds of approval and rate filings will be maintained as between temporary authority of not more than 30 days (ETA), and temporary authority of up to 180 days (TA). No successive grants of temporary authority shall exceed a total of 180 days, and, if a grant of an emergency authority results in a total aggregate temporary authority grants of more than 180 consecutive days, such total, to the extent that it exceeds 180 days, will be reduced accordingly.

(2) While a grant of temporary authority is neither a permit nor a certificate under the Interstate Commerce Act it nevertheless enables the applicant to provide service either as a common or a contract carrier, as the case may be. Consequently, an applicant for temporary authority to operate as a motor contract carrier must show that the operation proposed is that of a contract carrier by motor vehicle as defined in section 203(a)(15) of the Interstate Commerce Act; that is, that the applicant serves one or a limited number of shippers, and that the service proposed involves either the assignment of vehicles to the supporting shipper's exclusive use or the provision of a transportation service designed to meet the distinct needs of that shipper. No "dual operation" finding is necessary, however, where a grant of temporary authority to operate as a contract carrier is made to an existing common carrier and vice versa.

(3) Since a grant of temporary authority is not a permit or certificate, none of the related rights, under the Interstate Commerce Act, such as the incidental charter rights of passenger carriers and the implied authority to perform terminal services at points within the commercial zone but beyond the corporate limits of named municipalities, is applicable. Temporary authority may not be tacked or joined with permanent authority held by the carrier for the purpose of performing through transportation, nor can through, joint-line service be performed thereunder. Where there is a need for such services which are not implicit in grants of temporary operating authority this fact should be stated specifically so that an appropriate authority description may be issued.

(4) For administrative convenience, temporary authority to transport property will be considered to authorize the return transportation of shipper-owned trailers and of empty crates, barrels, bottles, hangers, pallets, bracing, dunnage, and other similar containers and shipping devices used in the outbound transportation covered by the temporary authority.

(b) *Standards for determination.* The following standards shall be used by the Temporary Authorities Board, and by Division 1 of the Commission acting initially or in an appellate capacity, in the absence of special or unusual circumstances, in the determination under section 210a(a) of the Interstate Commerce Act (49 U.S.C. 310a(a)) of applications for temporary authority.

(1) *General.* (i) Grants of temporary authority shall only be made upon the establishment of an immediate and urgent need for the transportation of passengers, or of particular commodities or classes of commodities, from specified origin points or areas to specified destination points or areas, having no carrier service capable of meeting such needs. Requests for temporary authority involving service to or from entire States, counties, or other defined areas will warrant approval only when supported by evidence that there is a compelling need for service to or from a representative number of points in each such State, county, or area, that there is a reasonable certainty that such service will be utilized, and that there is no carrier service available capable of meeting such need. Otherwise, such grants will be limited in accordance with the evidence to point-to-point authorizations covering the immediate and urgent need for service.

(ii) Any need which is the basis of an operation authorized by a temporary authority to be conducted for a period of less than an aggregate of 180 days is presumed not to be of a "continuing nature" unless the Commission otherwise expressly determines. If the need for a particular service ceases and a temporary authority covering such need expires or is revoked, and a new or separate need arises subsequent to such expiration or revocation, additional temporary authority for the 180-day aggregate, or for a shorter period, may be granted to the same carrier for the service, notwithstanding the prior grant or grants. However, an application filed after an aggregate of 180 days temporary authority has expired or been revoked will be denied unless the facts clearly show that the application is in reality based on a new need and not a continuation of the need on which the prior grant of authority was based.

(2) *Immediate and urgent need.* An immediate and urgent need justifying a grant of temporary authority will be determined to exist only where it is established that there is or soon will be an immediate transportation need which reasonably cannot be met by existing carrier service. Such a showing may involve a new or relocated plant, different method of distribution, new or unusual commodities, an origin or destination not presently served by carriers, a discontinuance of existing service, failure of existing carriers to provide service, or comparable situations which require new motor carrier service before an application for permanent authority can be filed and processed.

(3) *Emergency temporary authority.* An immediate and urgent need justifying a grant of emergency temporary authority will be determined to exist only where it is established that existing carrier service is not capable of providing transportation service to meet immediate and actual emergencies, such as, for example, to prevent a plant shutdown, to move particular shipments in the interest of the national defense, to meet needs resulting from fires, floods, storms, or other disasters which affect the public health,

safety, and welfare, disruption in existing carrier services by work stoppages, unexpected cessation of existing transportation service, lack of equipment capable of transporting the involved commodity, failure or lack of storage facilities and imminent spoilage of perishable commodities, or comparable situations which make it impracticable to afford the notice specified in § 1131.3(a).

(4) *Single-line service.* Generally, the desire of a shipper for single-line service in lieu of existing interchange or connecting-carrier service will not warrant a grant of temporary authority. A grant of temporary authority to effectuate single-line service will be authorized only when it is clearly established that the carriers providing multiple-line service are not capable of, or have failed in, meeting the reasonable immediate and urgent needs of shippers or receivers between the points or territories and in respect of the commodity or commodities involved.

(5) *Complete service.* Requests for temporary authority on the basis of "providing a complete service to a shipper," even though existing carriers are participating in the traffic and in many instances can provide a substantial part of the service, require special justification. Generally, in such instances, the applicant must establish with reasonable certainty that the existing carriers cannot adequately serve the shipper in their authorized territories, or that the supporting shipper has revised its distribution methods to such an extent that there actually is an immediate and urgent need for the complete service proposed.

(6) *Failure to provide equipment.* Temporary authority may be granted where existing authorized carriers are unable or refuse to furnish equipment necessary to move passengers or the traffic of shippers in order to meet an immediate and urgent transportation need.

(7) *Alternate routes.* Except in unusual circumstances, temporary authority to operate over an alternate route will not be granted, even though the service route may be be circuitous, since the carrier-applicant may now operate between the points involved.

(8) *General bases for disapproval.* Applications for temporary authority may be denied for the following reasons:

(i) Failure to meet statutory standards.

(ii) Unfitness of the applicant.

§ 1131.5 Rates, charges, and special permission applications.

(a) Rates requirements generally.

(1) *Motor common carriers.* A motor common carrier may not lawfully perform transportation until effective rates and provisions are published, posted, and filed with the Commission as required by section 217 of the Interstate Commerce Act and the Commission's rules and regulations issued thereunder. Rates to be established upon less than thirty days' notice must not be less than existing motor common carrier commodity rates on the same commodities in like quantities from and to the same points, or in absence thereof not less than the motor common carrier commodity rates in the same commodities in like quantities from and to nearby points for similar distances. In the absence of existing motor common carrier commodity rates, the rates to be established on less than thirty days' notice shall not be less than the applicable motor common carrier class rates from and to the same points except as otherwise authorized in paragraph (b) of this section. Detailed instructions on rate filings may be obtained from any Bureau of Operations' field office.

(2) *Motor contract carriers.* A motor contract carrier may not lawfully provide transportation until executed transportation contracts, when required, and schedules of rates and charges are on file with the Commission as required by section 218 of the Interstate Commerce Act and the Commission's rules and regulations issued thereunder. The filing of contracts covering transportation of passengers, currency, bullion, and certain other valuable articles is not required. Except as otherwise authorized in paragraph (b) of this section, the rates proposed to be established upon less than thirty days' notice shall not be lower than permitted under subparagraph (1) of this paragraph if applicant were a common carrier, except that if any of the points of origin, destination, or territory to be served is at the time served by a contract carrier transporting the same commodities, the rates and charges may be made on the same or higher basis as those of such contract carrier, or those maintained by applicant between other points in the same area.

(3) *Notice of rate publication required.* In most cases there is outstanding special permission authority to publish rates on less than statutory notice covering transportation service by and for the Railway Express Agency and the substitution of motor for rail service. Most tariff publishing agents also have outstanding special permission authority to publish on short-notice scope of operating rights to be granted pursuant to a temporary authority application and to add new participating carriers to their tariffs. The temporary authority application must state who will make the tariff publication, and whether it is to be made on thirty days' notice or upon less than thirty days' notice.

(4) *Special permission applications.* (i) If publication is to be made on short notice by the carrier filing the temporary authority application and it is not covered by the outstanding special permission authority referred to in paragraph (b)(1) of this section, such temporary authority application must be accompanied by a special permission application (four copies with original signed and notarized), setting forth the proposed rates clearly and completely. An accompanying exhibit may be used if identified by letter, such as Exhibit "A", and so referred to in the application. If the proposed provisions consist of rates, all points of origin and destination must be shown or definitely indicated. If permission is sought to establish a rule, the exact wording of the proposed rule must be shown. If relief from tariff circular rules is sought, the exact form of publication must be shown.

(ii) The special permission application must contain the names of motor carriers known to maintain competitive rates; charges, or rules between the same points or points related thereto, together with adequate identification of tariffs containing such rates, charges, or rules. It must also state whether such carriers have been advised of the proposed rates, charges, or rules and whether they have been advised that it is proposed to establish such provisions on less than thirty days' notice. The rates, charges, or rules proposed to be established should conform to the competitive rate level standards of subparagraph (1) of this paragraph for motor common carriers or subparagraph (2) of this paragraph for motor contract carriers. In the absence of effective commodity rates via competing carriers on the commodity or commodities to be transported, the Special Permission Board, upon a proper showing, may authorize the establishment of rates on a different level.

(b) *Emergency temporary authority.* (1) *Property carrier.* Each application for emergency temporary authority for 30 days or less, except those involving the Railway Express Agency or substitution of motor for rail service, shall be accompanied by a statement of the rates, charges, and rules to be filed under Special Permission M–60160 and M–60161, §§ 1307.100, 1307.101 of this chapter, for use in the event the authority sought is granted. Such statement shall contain the names of competing motor carriers transporting the same commodities and the rates of such carriers between the same points or from or to nearby points for similar distances and the application will not be acted upon until such statement shall have been furnished by the applicant to the district supervisor.

(2) *Existing rates.* If the statement of the proposed rates submitted with the emergency temporary authority application contains rates or charges lower than existing rates described under paragraphs (a) (1) or (2) of this section by the named or other carriers, approval will not be recommended or authority granted. All emergency temporary authority will be expressly conditioned on establishing rates or charges no lower than those set forth in the application, and a "W" tariff naming rates lower than those set forth in the application will be rejected. Emergency temporary authority will be revoked for failure to seasonably file a proper "W" tariff.

(3) *Suspended or special permission rates.* (i) In every case the carrier shall state in its emergency authority application whether there is under suspension at the time any rates published for its account, or whether an application for special permission authority to file its rates on less than 30 days' notice has been granted or denied, covering the same traffic from and to the same points in connection with another temporary or permanent authority application. If the applicant has rates or other tariff matter under suspension, or has received or been denied special permission to file on less than 30 days' notice any rates not yet effective, covering the same traffic, the district supervisor will not recommend approval of the request nor will a grant be made of the emergency temporary authority.

(ii) If applicant carrier has rates under suspension covering the same traffic, it should file a special permission application as set forth in paragraph (a)(4) of this section, stating a copy was served upon protestant(s) and requesting short notice authority to cancel the suspended matter and to file rates according to paragraphs (a) (1) or (2) of this section or, in the alternative, state that the suspended rates will be defended and request short notice authority to file rates conforming with paragraphs (a) (1) or (2) of this section to apply during the suspension period, such rates to expire at the end of the suspension period.

(4) *Passenger carriers.* (i) Each application for emergency temporary authority must be accompanied by an application for special permission to publish fares and charges in connection therewith if they are proposed to be made effective on less than 30 days' statutory notice. Such application shall be accompanied by a statement of the fares, charges, and rules to be filed if the authority is granted. Authority to file fares and charges on less-than-statutory notice will be granted only when the proposed fares and charges are on a level which does not undercut or disrupt the existing level of the fares and charges between the points involved maintained by competing motor carriers generally in the same territory.

(ii) The special permission application must contain the names of motor carriers known to maintain competitive fares, charges, or rules between the same or related points, together with accurate identification of the tariffs by I.C.C. numbers, containing such fares, charges, and rules. It must also state whether such competing carriers have been advised of the fares and charges proposed to be established upon less-than-statutory notice.

§ 1131.6 Petitions.

(a) *Petitions for reconsideration.* Pursuant to and in accordance with the Commission's General and Special Rules of Practice, petitions for reconsideration of orders of (1) the Temporary Authorities Board, and (2) Division 1 initially granting or denying temporary authority in proceedings not subject to prior determination by the Temporary Authorities Board, may be filed by any interested person.

(b) *Replies.* Replies may be filed by any interested person to such petitions; but if the facts stated in any such petition disclose a need for accelerated action, such action, in the discretion of the Commission, may be taken before expiration of the time allowed for reply. Replies received after accelerated action on petition will be treated as petitions for reconsideration of the accelerated action and given corresponding accelerated action.

(c) *Petitions for reconsideration.* The filing of a petition for reconsideration of an order of Division 1 or the Temporary Authorities Board does not have the effect of automatically staying such order, and the grantee carrier may conduct the operations authorized by such order upon compliance with its tariff, insurance, and other requirements for the duration of the temporary authority, or until otherwise ordered.

PART 1132—TRANSFERS OF OPERATING RIGHTS

Sec.
1132.1 Definitions.
1132.2 Applications.
1132.3 General bases for approval.
1132.4 Notice of approval; petition for reconsideration and oral hearing.
1132.5 General bases for disapproval.
1132.6 Operations by fiduciaries.
1132.7 Orders of court.

SUPPLEMENTAL RULES AND REGULATIONS GOVERNING TRANSFER OF CERTIFICATES OF REGISTRATION AND CERTAIN OTHER SINGLE-STATE OPERATING RIGHTS

1132.10 Scope of supplemental rules.
1132.11 Definitions.
1132.12 Applications.
1132.13 General bases for approval.
1132.14 Notice of approval; petitions for reconsideration and oral hearing.

AUTHORITY: The provisions of this Part 1132, issued under secs. 204, 206, 209, 211 and 212, 49 Stat. 546, 551, 552, 554, 555, as amended; 49 U.S.C. 304, 306, 309, 311, 312.

§ 1132.1 Definitions.

As used in this part the following words and terms are construed to mean:

(a) *Transfer.* All transactions not subject to sections 5[1] and 210a(b) of the Interstate Commerce Act, whether by purchase, lease, or otherwise, whereby an operating right as a motor carrier arising out of the Interstate Commerce Act is acquired by one person from another. No attempted transfer of any operating right shall be effective prior to approval thereof by the Interstate Commerce Commission as provided in this part. The mere execution of a chattel mortgage, deed of trust, or other similar document, does not constitute a transfer within the meaning of this part, and does not require the approval of the Commission, unless it embraces the conduct of the operation by a person other than the holder of the operating right. A foreclosure of a mortgage or deed of trust or other lien upon such operating right, an execution for the purpose of transferring such operating right in satisfaction of any judgment or claim against the holder thereof, or settlement of an estate involving an operating right, shall not be effective as a transfer without compliance with this part. See §§ 1132.6 and 1132.7.

(b) *Operating right.* The right to operate as a motor carrier in interstate or foreign commerce over a route or routes or within a specified territory, as authorized by a certificate of public convenience and necessity or a permit issued by this Commission under the provisions of the Interstate Commerce Act, or as authorized by those provisions of said act under which a motor carrier may continue operations pending consideration of its application to the Commission for a certificate or permit. As used in §§ 1132.10 through 1132.14, this term includes rights to operate under a certificate of registration issued by this Commission and rights under section 206(a)(7) of the said act to continue operations within a single State pending the filing and determination of an application for a certificate or registration.[2] This term does not include temporary authority granted under section 210a(a) of the said Act.

(c) *Duplicating rights.* Operating rights which authorize the transportation of passengers, or of the same commodities, from and to, or between the same points.

(d) *Control.* The same meaning as that contained in section 1(3)(b) of the Interstate Commerce Act (49 U.S.C. 1(3)(b)).

(e) *Holder.* The record holder of the operating rights, including a lessor.

(f) *Person.* Same as defined in section 203(a)(1) of the Interstate Commerce Act (49 U.S.C. 303(a)(1)).

§ 1132.2 Applications.

(a) *Form.* Applications for approval of the transfer of operating rights shall be made in writing to the Commission and shall be in such form and contain such information as the Commission shall prescribe.

(b) *Filing.* An original application properly executed, and four copies thereof, shall be filed with the Commission at Washington, D.C., one copy thereof shall be delivered, in person or by mail, to the Regional Director in each region of the Bureau of Operations in which headquarters of the parties signing such application are located, and one copy thereof shall be delivered, in person or by mail, to the board, commission or official (or to the Governor where there is no board, commission or official) having authority to regulate the business of

[1] The first paragraph of sec. 5(10) provides as follows:

"Nothing in this section shall be construed to require the approval or authorization of the Commission in the case of a transaction within the scope of paragraph (2) where the only parties to the transaction are motor carriers subject to part II (but not including a motor carrier controlled by or affiliated with a carrier as defined in section 1(3)), and where the aggregate gross operating revenues of such carriers have not exceeded $1,000,000 for a period of twelve consecutive months ending not more than six months preceding the date of the agreement of the parties covering the transaction."

[2] A transferee of a State certificate, engaged in operations outside such State, or controlled by, controlling, or under common control with a carrier engaged in such operations, who wishes to continue an operation conducted by the transferor wholly within such State under an operating right as defined in § 1131.1(i) is required to obtain a certificate of public convenience and necessity, application for which may be made on Form OP–GM–8.

transportation by motor vehicle of each State in which are located the headquarters of applicants. Proof of delivery of copies of the application to the appropriate Regional Directors and State authorities shall be made a part of the original application filed with the Commission.

(c) *Transfers for limited periods.* Applicants who seek approval of a transfer of operating rights for a limited term, such as a lease, shall attach to their application a written agreement covering the specific period for which the transfer is sought, the rental stated in dollars, the time and method of payment, and a provision that all the operating rights involved shall revert to the transferor at the expiration of said term, or upon a discontinuance of operations thereunder by the transferee at any time prior to the expiration of said term. In case of reversion, the transferor shall give immediate notice thereof in writing, to the Commission.

§ 1132.3 General bases for approval.

Except as may be otherwise provided in this part, the proposed transfer described in any such application shall be approved if it is shown that the proposed transaction is not subject to the provisions of section 5 of the Interstate Commerce Act; and that the proposed transferee is fit, willing, and able properly to perform the service authorized by the operating rights sought to be transferred, and to conform to the provisions of the Interstate Commerce Act and the requirements, rules, and regulations of the Commission thereunder. Otherwise, the application shall be denied.

§ 1132.4 Notice of approval; petitions for reconsideration and oral hearing.

Prior to their effective dates, synopses of affirmative orders entered pursuant to the rules in this part currently will be published in the FEDERAL REGISTER. The notice accompanying such publication will refer to section 17(8) of the Interstate Commerce Act and include a requirement that if a petition is timely filed by an interested person seeking reconsideration or oral hearing, such petition must specify with particularity the alleged errors and shall cite in all cases, the particular section or sections of this part (Rules and Regulations Governing Transfers of Rights to Operate as a Motor Carrier in Interstate or Foreign Commerce), and the arguments based thereon, which petitioner believes warrant a conclusion different from that set forth in the affirmative order. In the absence of citation of the particular section relied upon, the petition may be rejected. If the petition contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted in affidavit form. In this connection, see also Rule 225 of the General Rules of Practice (§ 1100.225 of this chapter).

§ 1132.5 General bases for disapproval.

(a) *Division of rights.* An application for transfer of part of an operating right as to routes or commodities will be denied if it is found that the partition (1) would create duplicating rights as defined in § 1132.1(c): *Provided,* That transfer of regular-route authority to operate between the same points, but over different highways, as is authorized by other operating rights of the transferor not embraced within the application, may be approved upon a satisfactory showing that the transaction will not result in the performance of substantially competitive or duplicative services, (2) would divide the rights at a point other than along clearly defined geographical or political lines, or permit the minute and multiple division of operating rights so that numerous carriers might ultimately operate under rights initially granted as a unit, or would permit the division of radial, irregular-route operating rights, in such a way that the respective parts would be held by two or more carriers under common control; (3) permit the separation of a commodity or commodities from a class of substantially related commodities or from general-commodity authority; or (4) would separate an alternate route or routes, an intermediate point or points, or an off-route point or points, from the route or routes to which it or they are appurtenant. In construing subparagraphs (2) and (3) of this paragraph, the nature of divisions proposed in other applications for transfers of operating authority filed on behalf of the holder, and the action taken thereon, will be considered in passing upon the current application.

(b) *Cessation of operations.* The mere cessation of operations by the holder of an operating right shall not be deemed to require denial of the proposed transfer of such right. If, however, a cessation of operations has occurred, which fact shall be stated in the application, and operations have not been conducted under the considered rights for a substantial period of time, the proposed transfer will be denied unless the holder shows that such discontinuance was caused by circumstances over which he had no control. The Commission may require, in an appropriate case, proof of the nature and extent of operations conducted under the operating right for a period of 6 months preceding the date of the request for such evidence.

(c) *Purpose of transfer.* A proposed transfer of operating rights will not be approved if the Commission finds that the transferee does not intend to, or would not, engage in bona fide motor carrier operations under such operating rights, or if the Commission finds that the transferor acquired such operating rights for the purpose of profiting therefrom and has not engaged in bona fide motor carrier operations under such operating rights.

(d) *Duplicating rights of affiliate.* The Commission will not approve a transfer of operating rights to a person who controls, or who is controlled by, or who is under common control with, another person who is the holder of operating rights which duplicate, in whole or in part, except to an immaterial extent, those proposed to be transferred.

(e) *Lease of duplicate operating rights.* The Commission will not approve a transfer of operating rights for a limited period, whether by lease, or otherwise, to a person who is the holder of operating rights which duplicate, in whole or in part, except to an immaterial extent, those proposed to be transferred.

(f) *Leases.* Unless unusual circumstances are found by the Commission, an application for the transfer of operating rights for a limited period of time will not be approved for longer than one year, during which time the parties will be expected to consider and determine whether they want to enter into a transaction of sale and purchase of the rights. Nothing herein shall be construed as approving a sale and purchase of operating rights in advance of application therefor.

CONDITIONS: The rules set forth in paragraphs (d) and (e) of this section may be suspended, in the discretion of the Commission, with respect to transfers which are proposed because of conditions resulting from a national emergency.

(g) *Dual operations.* The Commission will not approve a transfer of operating rights which would result in the transferee holding both a certificate and a permit, or in the holding by separate persons of a certificate and a permit, under common control, unless it finds, on the basis of evidence submitted with the application, or otherwise, that such holding would be consistent with the public interest and the national transportation policy within the meaning of section 210 of the Interstate Commerce Act.

§ 1132.6 Operations by fiduciaries.

(a) Unless otherwise ordered by the Commission, administrators and executors of the estates of deceased holders of operating rights, guardians of incapacitated holders of operating rights, persons having custody of the business of dissolved partnerships the members of which held operating rights as partners and trustees, receivers, conservators, assignees, or other persons authorized by law to collect and preserve property of financially disabled, bankrupt, or deceased holders of operating rights may continue the operations authorized by such operating rights without approval by the Commission of a transfer thereof, but shall, within 30 days after assuming control of such operations, give notice thereof by furnishing to the Secretary of the Commission, a certified copy of the court order appointing the fiduciary and a statement describing such operations and identifying the operating rights under authority of which they are conducted, stating the full name and address of the person or persons who are continuing the operations, and stating the date on which, and the circumstances under which, such person or persons assumed control of such operations. If there is no court order evidencing appointment of a fiduciary, the best evidence available showing the authority of the fiduciary must be submitted.

(b) *Compliance by fiduciary.* Operations referred to in paragraph (a) of this section may be continued in the name or names of the record holder of the operating rights; followed also by the name or names of the person or persons conducting the operations and a designation of his or their capacity.[1] Compliance with this rule with respect to all tariffs, schedules, reports, or other documents filed in accordance with the Interstate Commerce Act or the rules and regulations prescribed thereunder, shall be sufficient compliance with any requirement, rule, or regulation that such tariffs, schedules, reports, or documents be filed in the name of the holder of the operating rights.

§ 1132.7 Orders of court.

If any proposed transfer presented to the Commission for approval shall also require the authority or approval of any court, applicants shall file with the Commission, at the time of filing their application, a certified copy of the order of the court authorizing the transfer of the operating rights involved, or, if the court has not acted as of that time, a copy of the order of the court shall be submitted prior to consummation of the transfer.

SUPPLEMENTAL RULES AND REGULATIONS GOVERNING TRANSFERS OF CERTIFICATES OF REGISTRATION AND CERTAIN OTHER SINGLE-STATE OPERATING RIGHTS

§ 1132.10 Scope of supplemental rules.

Sections 1132.10 to 1132.14 govern transfers, except as provided in section 5 of the Interstate Commerce Act, of certificates of registration and claimed "grandfather" rights as a common carrier by motor vehicle in interstate or foreign commerce solely within a single State under section 206(a) (6) and (7) of the Interstate Commerce Act, as amended October 15, 1962, by Public Law 87-805 (76 Stat. 911).

§ 1132.11 Definitions.

Unless otherwise specifically provided in this part, the terms used in §§ 1132.10 to 1132.14 have the meanings defined in § 1132.1 of this part.

(a) "Transfers:" Where the transferor of a State certificate of public convenience and necessity conducts an operation in interstate or foreign commerce under a certificate of registration or other single-State operating right recognized only under section 206(a)(7) of the Act, and the transferee could continue such operation lawfully only if issued a certificate of public convenience and necessity under section 207 of the Act, no transfer within the meaning of this part is involved. See § 1132.1, footnote 2.

(b) "Operating right:" Includes the right to operate as a common carrier by motor vehicle in interstate or foreign commerce over a route or routes or within a specified territory solely within a single State, as evidenced by a certificate of registration issued by this Commission under the provisions of section 206(a) (6) or (7) of the Act, or as authorized by section 206(a)(7)(B) of the Act under which a motor carrier may continue such operation pending the filing and determination of its application to the Commission for a certificate of registration.

(c) "Certificate of registration:" Includes the right to issuance of a certificate of registration under section 206(a) (6) or (7)(A) of the Act, if an appropriate application therefor is filed; and the right under section 206(a)(7)(B) to operate pending the filing and determination of an application for a certificate of registration.

(d) "Registrant:" Means a holder of a certificate of registration.

(e) "State board" and "State:" Same as defined in section 203(a) (2) and (8) of the Act.

(f) "State certificate:" Means a certificate of public convenience and necessity issued by a State board authorizing motor vehicle common carrier operations in intrastate commerce.

§ 1132.12 Applications.

(a) *Form.* Applications for approval of the transfer of certificates of registration shall be made in writing to the Commission and shall be in such form and contain such information as the Commission shall prescribe.

(b) *Filing.* An original application properly executed, and four copies thereof, shall be filed with the Commission at Washington, D.C., one copy thereof shall be delivered, in person or by mail, to the Regional Director of the Commission's Bureau of Operations for the Region in which the applicants have their headquarters, and one copy thereof shall be delivered, in person or by mail, to the State board of the State in which the operations described in the application are performed. Proof of delivery of copies of the application to the appropriate Regional Director and State board shall be made a part of the original application filed with the Commission.

(c) *Transfers of State certificates.* Applicants who seek transfer of a certificate of registration shall attach to their application and each copy thereof a copy of the order of the State board approving the transfer or lease to the transferee of the corresponding State certificate. The copy attached to the original application must be properly certified by a duly authorized official of the State board as being a true copy of the State order. If the State order does not specify the terms and expiration date of leased rights, copies of the lease agreement between the parties must also be submitted. In case of reversion of the State certificate, the transferor shall give immediate notice thereof in writing to the Commission.

§ 1132.13 General bases for approval.

Except as may be otherwise provided in §§ 1132.0 to 1132.4, the proposed transfer described in any such application shall be approved if it is shown that the proposed transaction is not subject to the provisions of section 5 of the Interstate Commerce Act; that the proposed transferor has qualified as a registrant; that the proposed transferee will be a carrier engaged in operations solely within a single State, not controlled by, controlling, or under common control with a carrier engaged in operations outside such State; that the certificate of registration has not been invalidated by the transfer of the State certificate without the interstate or foreign rights; and that the proposed transfer will not invalidate the certificate or registration by a transfer of such certificate of registration apart from the corresponding State certificate. Otherwise, the application will be denied; and, upon a petition timely filed as provided in § 1132.14 of and upon good cause shown, an application may be denied for any of the reasons set forth as bases for disapproval in § 1132.5 of this part. A notice by the transferor of intent to engage in interstate and foreign commerce, on file with the Commission on October 15, 1962, under the second proviso of section 206(a)(1) of the Act, as in effect immediately before that date; and, on and after February 12, 1963, an application by transferor claiming "grandfather" rights under section 206(a)(7) of the Act for a certificate of registration which has not been denied; or a certificate of registration issued by the Commission to the transferor after that date, shall be prima facie evidence that transferor has qualified as a registrant.

§ 1132.14 Notice of approval; petitions for reconsideration and oral hearing.

Prior to their effective dates, synopses of affirmative orders entered pursuant to these supplemental rules currently will be published in the FEDERAL REGISTER. The notice accompanying such publication will refer to section 17(8) of the Interstate Commerce Act and include a requirement that if a petition is timely filed by an interested person seeking reconsideration or oral hearing, such petition must specify with particularity the alleged errors and shall cite in all cases the particular section or sections of this part, and the arguments based thereon, which petitioner believes warrant a conclusion different from that set forth in the affirmative order. In the absence of citation of the particular section relied upon, the petition may be rejected. If the petition contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted in affidavit form. In this connection, see also Rule 225 of the General Rules of Practice of the Commission (§ 1100.225 of this chapter).

[1] For example:
John Jones, Richard Smith, administrator; John Jones, Richard Smith, executor; John Jones and Richard Smith, d/b/a Jones & Smith, R. Roe, trustee; John Jones, Richard Smith, guardian; John Jones, Richard Smith, trustee; John Jones, Richard Smith, receiver; John Jones, Richard Smith, conservator, and John Jones, Richard Smith, assignee.

PART 1133—TRANSFERS OF PASSENGER BROKERS' LICENSES

Sec.
1133.1 Transfer of brokers' licenses.
1133.2 Corporations and associations holding brokers' licenses.

AUTHORITY: The provisions of this Part 1133 issued under secs. 204, 211, 212, 49 Stat. 546, as amended, 554, as amended, 555, as amended; 49 U.S.C. 304, 311, 312.

CROSS REFERENCES: See also Rule 247 of the Special Rules of Practice (§ 1100.247 of this chapter).

§ 1133.1 Transfer of brokers' licenses.

A license issued a passenger broker under section 211 of the Interstate Commerce Act may be transferred, if approved by the Commission, upon application and proof that the transferee is fit, willing, and able to perform the duties, and that the transfer will not be contrary to the public interest.

§ 1133.2 Corporations and associations holding brokers' licenses.

A change in the control of a corporation may be accomplished only with the approval of the Commission upon application and proof that the change in control will not be contrary to the public interest.

PART 1134—CONTROL OR CONSOLIDATION OF MOTOR CARRIERS OR THEIR PROPERTIES

Sec.
1134.1 Application for authority to merge properties or franchises.
1134.3 Computation of gross operating revenues of carriers involved in unifications.
1134.4 Deduction of revenues from sources other than regulated transportation.
1134.6 Application for approval of temporary operation.
1134.50 Application for authority to acquire control.

AUTHORITY: The provisions of this Part 1134 issued under secs. 1, 5, 12, 24 Stat. 379, as amended, 380, as amended, 546, as 383, as amended, 49 Stat. 544, as amended, amended, 555, as amended; 49 U.S.C. 1, 5, 12, 308, 304, 312, unless otherwise noted.

§ 1134.1 Application for authority to merge properties or franchises.

(a) Applications for authority under section 5, Interstate Commerce Act, to consolidate, merge, purchase, or lease operating rights and properties, or any part thereof of a motor carrier, shall be in the form and contain the information called for in the form of application, designated Form B.M.C. 44 (Revised) (§ 1003.1 of this chapter).

(b) The original of each such application and five copies thereof shall be filed with this Commission, one copy thereof shall be furnished to each of the Regional Directors of the Bureau of Operations in which are located the headquarters of the carriers involved in the application, and one copy shall be delivered, in person or by registered or receipted mail, to the Board, Commission, or Official (or to the Governor where there is no Board, Commission, or Official) having authority to regulate the business of transportation by motor vehicle in each State in which said carriers operate. Applicants are not required to give notice to competitors since notice of such filing will be by publication in the FEDERAL REGISTER, as provided in Rule 240 of the Special Rules of Practice (§ 1100.240 of this chapter).

(c) Proof of service of copies of the application as provided in paragraph (b) of this section shall be made in connection with and as part of the original application filed with this Commission.

§ 1134.3 Computation of gross operating revenues of carriers involved in unifications.

The aggregate gross operating revenues of the carriers involved in unifications under the provisions of section 5 of the Interstate Commerce Act, as amended, shall be deemed to have exceeded $300,000 for the period of 12 consecutive months ending not more than 6 months preceding the date of the agreement of the parties covering the transaction, unless otherwise shown, under each of the following circumstances:

(a) At the end of the preceding calendar year the carriers involved in the transaction filed reports with the Commission, as required by section 220 of the act, showing annual gross operating revenues from motor carrier operations totaling more than $300,000, and none of the carriers has sold or otherwise disposed of any portion of its operating rights subsequent to the end of the preceding calendar year;

(b) A carrier involved in the transaction filed a quarterly report or reports for subsequent quarters, and a reasonable estimate of its annual gross operating revenues and the reported annual gross operating revenues of the other carriers involved in the transaction for the preceding calendar year aggregates more than $300,000; or

(c) A reasonable estimate of the annual gross operating revenues of any carrier which sold or otherwise disposed of any portion of its operating rights or which began new operations or extended existing operations subsequent to the end of the preceding calendar year and the reported annual gross operating revenues of the other carriers involved in the transaction for the preceding calendar year aggregates more than $300,000.

NOTE: The foregoing § 1134.3 shall apply only with respect to agreements entered into on or after September 26, 1965. In the case of agreements entered into before May 1, 1966, and before May 1 of each succeeding year, the preceding calendar year shall mean the year ended December 31, 1964, and each succeeding calendar year.

(Secs. 206, 209, 211, 49 Stat. 551, 552, 554; 49 U.S.C. 306, 309, 311)

§ 1134.4 Deduction of revenues from sources other than regulated transportation.

(a) In determining whether a proposed transaction is not subject to the provisions of section 5, Interstate Commerce Act, revenues shown to be derived from sources other than transportation subject to part II of said Act shall be deducted from the revenues computed under § 1134.3.

(b) Applicants shall show the amounts which they claim should be deducted, the sources from which the revenues were derived, and the circumstances under which transportation performed is claimed not to have been subject to such part, in transfer proceedings under Part 1132 of this chapter or in support of a motion for dismissal of proceedings under this part.

(c) Applicants shall not be required to show that the revenues computed under § 1134.3 were derived from transportation subject to part II.

(Secs. 206, 209, 211, 49 Stat. 551, 552, 554; 49 U.S.C. 306, 309, 311)

§ 1134.6 Application for approval of temporary operation.

(a) Applications for approval under section 210a(b), Interstate Commerce Act, of the temporary operation of motor-carrier properties sought to be acquired under separately filed application under section 5, shall be in the form and contain the information called for in the form of application, designated B.M.C. 46 (Revised) (§ 1003.1 of this chapter).

(b) The original of each such application and five copies thereof, shall be filed with this Commission, one copy thereof shall be furnished to each of the Regional Directors of the Bureau of Operations in which the headquarters of applicants are located, and one copy shall be delivered, in person or by registered or receipted mail, to the Board, Commission, or Official (or to the Governor where there is no Board, Commission, or Official) having authority to regulate the business of transportation by motor vehicle in each State in which the applicants operate. Applicants are not required to give notice to competitors since notice of such filing will be by publication in the FEDERAL REGISTER, as provided in Rule 240 of the Special Rules of Practice (§ 1140.240 of this chapter).

(c) Proof of service of copies of the application as provided in paragraph (b) of this section shall be made in connection with and as part of the original application filed with this Commission.

§ 1134.50 Application for authority to acquire control.

(a) Applications for authority under section 5, Interstate Commerce Act, to acquire control of a motor carrier or motor carriers through ownership of stock, or otherwise, shall be in the form and contain the information called for in the form of application, designated Form B.M.C.-45 (Revised) (§ 1003.1 of this chapter).

(b) The original of each such application and five copies thereof shall be filed with this Commission, one copy thereof shall be furnished to each of the Regional Directors of the Bureau of Operations in which are located the headquarters of the carriers involved in

the application, and one copy shall be delivered in person or by registered or receipted mail, to the Board, Commission, or Official (or to the Governor where there is no Board, Commission, or Official) having authority to regulate the business of transportation by motor vehicle in each State in which said carriers operate. Applicant is not required to give notice to competitors since notice of such filing will be by publication in the FEDERAL REGISTER, as provided in Rule 240 of the Special Rules of Practice (§ 1100.240 of this chapter).

(c) Proof of service of copies of the application as provided in paragraph (b) of this section shall be made in connection with and as part of the original application filed with this Commission.

PART 1135—CORPORATE REORGANIZATIONS OF MOTOR CARRIERS

§ 1135.1 Information required to be filed with the Secretary of the Commission.

Concurrently with the filing of any plan of corporate reorganization, amendment thereto, or modification thereof, of a motor carrier in proceedings under the Bankruptcy Act, as amended, in a District Court of the United States required to be submitted to the Interstate Commerce Commission under the provisions of said Bankruptcy Act, as amended, three shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423:

(a) Seven copies of such plan of reorganization, of which one copy shall be certified.

(b) Verified original and 6 copies of statement containing the following information unless such information is contained in the plan of reorganization:

(1) Number assigned to debtor's certificate or permit under Part II of the Interstate Commerce Act or to application therefor.

(2) Date of filing of petition for reorganization.

(3) Date of approval of petition for reorganization.

(4) If petition approved prior to June 22, 1938, whether court has deemed application of provisions of Chapter X, Bankruptcy Act, as amended, practicable. If order entered, one certified copy and 6 conformed copies thereof should be furnished.

(5) If a transfer or lease of debtor's rights to operate as a motor carrier in interstate or foreign commerce, or transfer of control of debtor through stock ownership is contemplated under plan of reorganization—if known, name and address of prospective transferee, status of such transferee, including affiliation with other carriers subject to Interstate Commerce Act, and separately for debtor, prospective transferee and affiliates of latter, if any, number of motor vehicles owned, leased, controlled or operated.

(c) Verified original and 6 copies of:

(1) Balance sheet statement of debtor as of latest available date.

(2) Income statement of debtor covering each of the last 2 calendar years, and the current calendar year to the end of the latest month during which operations have been conducted.

(3) If under the plan of reorganization there is contemplated issuance of securities or assumption of obligation or liability as lessor, lessee, guarantor, endorser, surety, or otherwise, in respect of the securities of any other person by debtor or prospective transferee—

(i) Statement showing securities of such person outstanding, securities to be issued, and obligations or liabilities to be assumed, segregated by classes and amounts (par value of securities, or if such have no par value, the fair market value thereof as of date of issue), and

(ii) If not furnished under subparagraph (1) of this paragraph, balance sheet statement as of latest available date of such person proposing to issue securities, or assume obligation or liability.

(d) Notice of time and place of any hearing on the proposed plan of reorganization.

(49 Stat. 546, as amended, 551, as amended, 552, as amended, 555, as amended, 557, as amended; 49 U.S.C. 304, 306, 309, 312, 314)

PARTS 1140–1149—SPECIAL PROCEDURES—WATER CARRIERS

INTRODUCTORY NOTE: Rules governing extension of temporary operating authority or approvals for water carriers are contained in Part 1101 of this chapter.

PART 1140—EXTENSIONS OF OPERATIONS

Sec.
1140.1 Applications for certificates.
1140.2 Proof of convenience and necessity.

CROSS REFERENCE: See also Special Rule 247 of the Special Rules of Practice (§1100.247 of this Chapter).

§ 1140.1 Applications for certificates.

(a) A common carrier subject to Part III of the Interstate Commerce Act must obtain a certificate from the Commission covering any extension of services, pursuant to the proviso of section 309(d) of said act, over uncompleted portions of waterway projects now or hereafter authorized by Congress, over the completed portions of which it already operates.

(b) Applications for such certificates shall be in the form provided for in § 1003.2 of this chapter and must be filed with the Commission not later than the date of the filing of tariffs establishing rates and charges for transportation of passengers or property over that portion of the waterway embraced in such application and in no event later than the date on which the extended operations are instituted.

(c) Applications for certificates covering such extended services shall be served on interested parties in the manner provided in Form B. W. C. 7 (see § 1003.2 of this chapter).

(54 Stat. 933, 941; 49 U.S.C. 904, 909)

§ 1140.2 Proof of convenience and necessity.

(a) No common carrier subject to Part III of the Interstate Commerce Act shall institute such extended services after the expiration of 120 days, from the date on which the uncompleted portions of such projects are open for navigation without first obtaining a certificate from the Commission based upon proof of public convenience and necessity.

(b) If extended services are instituted within 120 days after the uncompleted portions of such projects are open for navigation and an application is filed as provided in § 1140.1, a certificate covering such extended services will be issued without proof of public convenience and necessity (proof of public convenience and necessity will be required in connection with applications filed for the institution of such extended services after the expiration of such 120-day period).

(54 Stat. 933, 941; 49 U.S.C. 904, 909)

PART 1141—TRANSFERS OF CERTIFICATES AND PERMITS TO OPERATE

Sec.
1141.1 Transfers approved only upon application.
1141.2 Transfers effected in section 5(2) proceedings.
1141.3 Transfers not effected in section 5(2) proceedings.
1141.4 Required exhibits.
1141.5 Form and style of application.
1141.6 Procedure.
1141.7 Transfers by fiduciaries.
1141.8 Leases and contracts to operate.
1141.9 Abandoned or suspended operations.
1141.10 Attempted transfers.

AUTHORITY: The provisions of this Part 1141 issued under secs. 5, 12, 24 Stat. 380, as amended, 383, as amended; 49 U.S.C. 5, 12, unless otherwise noted.

§ 1141.1 Transfers approved only upon application.

An order approving a transfer will be entered only upon the joint application of the person to whom the certificate or permit was issued, or such person's duly qualified legal representative, and of the person to whom it is proposed to transfer the certificate or permit.

§ 1141.2 Transfers effected in section 5(2) proceedings.

If the person to whom it is proposed to transfer a certificate or permit is a carrier as defined in section 5(13) of the Interstate Commerce Act and the proposed transfer is to be made in connection with any transaction requiring approval and authorization of the Commission under section 5(2) of the act, the parties to the transaction may join in the application for such approval and authorization and request approval of the proposed transfer in connection with such other transaction. Under such circumstances the application shall be made pursuant to the special instructions governing applications under section 5(2) of the act and, in addition to the information required by such special instructions, the transferee shall furnish the information required by paragraphs (n) and (o) of § 1141.3.

§ 1141.3 Transfers not effected in section 5(2) proceedings.

If the person to whom it is proposed to transfer a certificate or permit is not

a carrier as defined in section 5(13) of the act, or the proposed transfer is not to be made in connection with any transaction requiring approval and authorization of the Commission under section 5(2) of the act, the application to transfer a certificate or permit shall show, in the order indicated, the following:

(a) Full and correct names of the transferor.

(b) Business address of the transferor (street, number, city, county, State).

(c) Title, date, and docket number of certificate or permit to be transferred

(d) Full and correct name of transferee.

(e) Business address of transferee (street number, city, county, State).

(f) Whether transferee is a corporation, partnership, association or individual, and (1) if transferee is a corporation, the Government, State, or Territory under the laws of which transferee is organized, and, if incorporated under the laws of, or authorized to operate in, more than one State, the facts in regard thereto; (2) if a corporation or association, the names and addresses of the directors and officers; (3) if a partnership, the names and addresses of the partners; and (4) if an association, partnership or individual, firm or trade name under which operations are conducted.

(g) Whether the transferee is a carrier as defined in section 5(13) of the Interstate Commerce Act, or controls, is controlled by, or is under common control or otherwise affiliated with such a carrier. (See appendix for definition of "affiliated" as used in section 5 of the act.)

(h) All routes, both regular and irregular, over which transferor is authorized by its certificate or permit to operate; whether transferor was operating over all these routes on the date of the application; and, if not, the route or routes over which operations had ceased and the date on which operations ceased, with a full explanation of the circumstances causing cessation of operations.

(i) Vessels and other transportation facilities, showing for each vessel the name, and if documented, the official number, owned, leased or controlled and/or operated by the transferor and by the transferee on the date of the application, showing for each the number and description of vessels and the nature of other facilities.

(j) Whether the proposed transfer of the certificate or permit is part of a transaction involving the transfer of vessels or other facilities from the transferor to the transferee; and if so, (1) the nature of the transaction, whether a sale, lease or operating contract, and (2) a description of the vessels and facilities to be transferred.

(k) If transferee does not propose to acquire vessels or other transportation facilities from the transferor, and does not own or lease such vessels or facilities, a statement showing (1) the vessels or facilities the transferee proposes to acquire for continuing operation under the certificate or permit, (2) the method of such acquisition, whether by purchase, lease or operating contract, and (3) the name, address and carrier status of the owner of such vessels and facilities.

(l) The purchase price, rental, or other consideration to be paid for vessels and other facilities which the transferee proposes to acquire.

(m) The transferee's general plan of financing its requirements for vessels and other transportation facilities.

(n) Experience of the transferee, and of its principal officers and operating personnel in transporting persons or property by water for hire.

(o) Any additional information to show that the proposed transferee is fit, willing, and able properly to perform the service authorized by the certificate or permit sought to be transferred and to conform to the provisions of Part III of the Interstate Commerce Act and the requirements, rules and regulations of the Commission thereunder.

(p) Reference to action by stockholders or directors of applicant, if a corporation, by directors or members of applicant, if an association, and by the court having jurisdiction over applicant, if a trustee, receiver, or other fiduciary, authorizing the proposed transaction and the making and filing of the application, giving dates and places of meetings of stockholders, directors and associate members, and the date of the court's order.

(q) The name, title, and postoffice address of counsel or officer to whom correspondence in regard to the application is to be addressed.

§ 1141.4 Required exhibits.

The following exhibits shall be attached to and made a part of the application:

(a) As Exhibit 1, copy of each resolution or order to which reference is made in response to the requirements of paragraph (p) of § 1141.3.

(b) As Exhibit 2, copy of all contracts or other written instruments entered into, or proposed to be entered into, pertaining to the proposed transfer and to the acquisition of vessels and other transportation facilities to be used in the proposed operations of the transferee.

(c) As Exhibit 3, general balance sheet statement of the transferee as of the close of the last preceding calendar year, and as of the latest available date of the current calendar year, or if transferee is an individual or a newly organized corporation, association or partnership, a statement of resources and liabilities with which the transferee proposes to begin operation pursuant to the certificate or permit.

(d) As Exhibit 4, income statement of the transferee for the last preceding calendar year and, separately, for the current calendar year to the last available date, or if the transferee is an individual or a newly organized corporation, association or partnership, an estimate of revenues, expenses, and income for the first three years of the proposed operation, and a statement showing the basis of such estimate.

(e) As Exhibit 5, a general or key map indicating clearly in colors, or otherwise, on a suitable scale, the line or lines, route or routes, and ports or points, involved in the proposed transfer. Three extra copies of the map should be submitted, unbound, for the use of the Commission.

§ 1141.5 Form and style of application.

The application and exhibits shall conform with Rule 15 of the General Rules of Practice (§ 1100.15 of this Chapter).

§ 1141.6 Procedure.

(a) The original application shall be signed in ink by the transferor and the transferee, if individuals, by all partners, if either transferor or transferee is a partnership, and, if either is a corporation, an association or other similar form of organization, by its president, vice president, auditor, comptroller or other executive officer having knowledge of the matters therein contained and duly designated for that purpose by such applicant, and shall be made under oath. The application shall show that any affiant acting for the transferor or transferee is duly authorized by such applicant to verify and file the same.

(b) There shall be filed with the Secretary of the Commission, Washington, D.C. 20423, the original application and four copies thereof for the use of the Commission and one copy shall be delivered in person, or by mail, to the Governor of each State in which any port of point served by the transferor is located. Proof of such delivery shall be made as a part of the original application filed with the Commission. Each copy shall conform in all respects to the original and shall be complete in itself, except that the signature in the copies may be stamped or typed and the notarial seal omitted.

(c) In those proceedings in which no oral hearing is held, if the application is approved, prior to the effective date, a synopsis of the order of approval will be published in the FEDERAL REGISTER. The notice accompanying such publication will refer to section 17(8) of the Interstate Commerce Act and include a requirement that if a petition is timely filed by an interested person seeking reconsideration or oral hearing, such petition must specify with particularity the alleged errors and shall cite in all cases, the particular section or sections of the rules and regulations in this part, and the arguments based thereon, which petitioner believes warrant a conclusion different from that set forth in the affirmative order. In the absence of citation of the particular section relied upon, the petition may be rejected. If the petition contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted in affidavit form. In this connection see also Rule 225 of the Special Rules of Practice (§ 1100.225 of this chapter).

(d) The Commission, if it shall consider it necessary in order to determine whether the findings required for the entry of an order approving and authorizing a transfer may properly be made, will order a hearing upon the application, giving notice thereof to the applicants and such others as are interested in the proposed transfer.

(e) Within 10 days after the execution of any instrument or instruments whereby property together with operating rights under any certificate or permit is transferred with the approval and authorization of the Commission under the provisions of section 5(2) of the act, and within 10 days after the transfer or assignment of a certificate or permit not effected in section 5(2) proceedings, the transferee shall file with the Commission, in duplicate, in the form in which they were executed, verified copies of such instrument, or instruments, or, in the absence of any such instrument, of the endorsement or other written evidence of the transfer or assignment. Upon receipt of such copies an appropriate certificate, or certificates, permit, or permits, superseding the certificate or permit transferred will be issued.

(Secs. 17, 304, 312, 24 Stat. 385, as amended, 54 Stat. 933, 944, 49 U.S.C. 17, 904, 912)

§ 1141.7 Transfers by fiduciaries.

(a) The temporary continuance of water-carrier operations without prior compliance with the provisions of the foregoing rules and regulations will be recognized as justified by the public interest in cases in which administrators and executors of deceased persons formerly operating as carriers, guardians of incapacitated persons formerly operating as carriers, a surviving partner or surviving partners collectively of dissolved partnerships, or trustees, receivers, conservators, assignees or other such persons who are authorized by law to collect and preserve property of financially disabled carriers, desire to continue the operations of the carriers whom they succeed in interest.

(b) Immediately upon any such succession, and in any event not more than 10 days thereafter, the successor shall give notice of the succession to the Secretary of the Interstate Commerce Commission, Washington, D.C., stating the names of the water carrier and of the successor, the date of the succession, the circumstances causing the succession, whether there has been any discontinuance of operations and, if so, for what period, and, if the representative capacity of the successor involves appointment by a judicial proceeding, enclosing a certified copy of such appointment.

(c) Such successors may continue to operate under the certificate or permit of the water carrier which they succeeded so long as they act in a temporary and representative capacity or until the Commission shall otherwise order. All transfers by successors to other persons shall be subject to the foregoing sections of these rules and regulations.

(d) Such successors shall operate in the name of the prior holder of the certificate or permit followed by the name of the successor and a designation of his capacity. The use of such name on all papers filed in accordance with the requirements of Part III of the Interstate Commerce Act, or the rules and regulations prescribed thereunder, shall be sufficient compliance with any requirement, rule, or regulation that such papers be filed in the name of the holder of a certificate or permit.

§ 1141.8 Leases and contracts to operate.

In addition to the showing required in § 1141.2 and § 1141.4, applicants who seek approval of a transfer of a certificate or permit for a limited period, whether by lease, operating contract or otherwise, shall agree in writing that such certificate or permit shall revert to the transferor at the expiration of the period for which the transfer is sought, or upon discontinuance of operation thereunder by the transferee at any time prior to the expiration of such period. In such case of reversion, the transferor shall give notice of that fact to the Commission, as provided in § 1141.7(b).

§ 1141.9 Abandoned or suspended operations.

The transfer of any certificate or permit under which operations are not being conducted at the time of the proposed transfer will be approved only upon a showing that the suspension of operations was caused by circumstances over which the holder of the certificate or permit had no control, and that the water-carrier operations authorized under the certificate or permit sought to be transferred will be consistent with the public interest.

§ 1141.10 Attempted transfers.

No attempted transfer of any certificate or permit, whether by means of an attempted pledge of such certificate or permit, or by any action purporting to foreclose a pledge or lease against such certificate or permit, or by any attempt to levy execution against such certificate or permit in satisfaction of any judgment or claim against the holder thereof, shall become effective except upon full compliance with the rules and regulations in this part and until after the Interstate Commerce Commission has approved such transfer upon application as herein provided.

PARTS 1150–1159—SPECIAL PROCEDURES—FREIGHT FORWARDERS

PART 1150—APPLICATIONS FOR PERMITS

Sec.
1150.1 Form of application.
1150.2 Filing of application.
1150.3 Service of application.
1150.4 Notice of the filing of an application.

AUTHORITY: The provisions of this Part 1150 issued under 56 Stat. 285, 291; 49 U.S.C. 1008, 1010.

CROSS REFERENCE: See also Rule 247 of the Special Rules of Practice (§ 1100.247 of this chapter).

NOTE: Forms referred to in this part are listed in § 1008.2 of this chapter.

§ 1150.1 Form of application.

Applications under section 410 of the Interstate Commerce Act for a permit authorizing operation as a freight forwarder, in interstate or foreign commerce, subject to part IV of the act shall be in the form (FF1) and shall contain the information, called for, in accordance with the instructions thereto.

§ 1150.2 Filing of application.

The verified original application and four additional true copies thereof shall be filed with the Interstate Commerce Commission.

§ 1150.3 Service of application.

A true copy of the application shall be served, in person or by mail, upon the Governor of each State in which applicant proposes to engage in forwarder service.

§ 1150.4 Notice of the filing of an application.

Notice of the filing of the application for a freight forwarder permit shall be in the form (FF 2) and shall be delivered in person or sent by mail to each freight forwarder, known to applicant, with whose services the operations described in such notice would be competitive.

PART 1151—TRANSFERS OF OPERATING RIGHTS (PERMITS)

Sec.
1151.1 Definitions and general provisions.
1151.2 Applications to transfer.
1151.3 Required exhibits.
1151.4 Form and style of application.
1151.5 Procedure.
1151.6 Transfers by fiduciaries.
1151.7 Leases and contracts to operate.

Appendix—Excerpt from the Commission's general rules of practice.

AUTHORITY: The provisions of this Part 1151 issued under 56 Stat. 285, 291; 49 U.S.C. 1008, 1010, unless otherwise noted.

§ 1151.1 Definitions and general provisions.

(a) *Definitions*—(1) *Transfer.* The term "transfer", as used herein, shall include all transactions, whether by purchase, lease, contract to operate, or otherwise, whereby an operating right as a freight forwarder arising out of the Interstate Commerce Act is acquired by one person from another.

(2) *Operating rights.* The term "operating right" or "operating rights", as used herein, shall include the right to engage in service as a freight forwarder in interstate commerce within a specified territory or from and to specified territories, as authorized by a permit issued by this Commission under the provisions of the Interstate Commerce Act, or as authorized by those provisions of said act under which a freight for-

warder may continue to operate pending consideration of its application to the Commission for a permit.

(b) *General provisions*—(1) *Division of operating rights.* An operating right may be divided as to territories and part thereof transferred, provided such territories are clearly severable and the division thereof does not permit the creation of duplicate operating rights. No division of operating rights will be approved unless it appears to the satisfaction of the Commission that the part of the operating rights sought to be transferred is, because of a difference in the nature or type of the service rendered, clearly distinguishable and severable from the remaining operating rights.

(2) *Attempted transfers.* No attempted transfer of an operating right shall be effective except upon full compliance with the rules and regulations in this part and until after the Commission has approved such transfer as herein provided. A transfer of operating rights by means of a pledge of such rights or by the foreclosure of a pledge upon or lien against such rights, or by a levy of execution in satisfaction of any judgment or claim against the holder thereof, shall not be effective without compliance with the rules and regulations in this part and the prior approval of the Commission.

§ 1151.2 Applications to transfer.

Applications for approval of the transfer of operating rights shall show, in the order indicated, the following:

(a) Full and correct name of the transferor.

(b) Business address of the transferor (street, number, city, county, State).

(c) Title, date, and docket number of operating right to be transferred.

(d) Full and correct name of the transferee.

(e) Business address of transferee (street, number, city, county, State).

(f) Whether transferee is a corporation, partnership, association, or individual, and (1) if transferee is a corporation, the Government, State, or Territory under the laws of which transferee is organized, and if incorporated under the laws of, or authorized to operate in, more than one State, the facts in regard thereto; (2) if a corporation or association, the names and addresses of the directors and officers; (3) if a partnership, the names and addresses of the partners; and (4) if an association, partnership, or individual, the firm or trade name under which operations are conducted.

(g) Whether the transferee is a freight forwarder, or is a person controlling, controlled by, or under common control or otherwise affiliated with a freight forwarder, or is a carrier subject to Part I, II, or III of the Interstate Commerce Act, or is a director, officer, employee, or agent of such carrier, or controls, is controlled by, or is under common control or otherwise affiliated with such a carrier; or is a person whose principal business is that of buying or selling or buying and selling articles or commodities and whose business operations are of such a character that services of a freight forwarder or forwarders are commonly used in connection with the transportation of such articles or commodities, or is a person controlling, controlled by, or under common control with such person; and, if so, a full explanation.

(h) All territories within which or between which transferor is authorized to operate; whether transferor was operating within or between all these territories on the date of the application; and, if not, the territories within or between which operations had ceased and the date on which operations ceased, with a full explanation of the circumstances causing cessation of operations.

(i) Experience of the transferee and of its principal officers and operating personnel in performing freight forwarder services; whether the proposed transfer would affect the interests of the employees of the transferor, and, if so, the manner in which their interests would be affected.

(j) Any additional information to show that the proposed transferee is ready, able, and willing properly to perform the service authorized by the operating right sought to be transferred and to conform to the provisions of Part IV of the Interstate Commerce Act and the requirements, rules, and regulations of the Commission thereunder.

(k) Reference to action by stockholders or directors of applicant, if a corporation, by directors or members of applicant, if an association, or by the court having jurisdiction over applicant, if a trustee, receiver, or other fiduciary, authorizing the proposed transaction and the making and filing of the application, giving dates and places of meetings of stockholders, directors, or associate members and the date of the court's order.

(l) Whether the proposed transfer of operating rights is part of a transaction involving the transfer of freight forwarder facilities from the transferor to the transferee; and, if so, (1) the nature of the transaction, whether a sale, lease, or operating contract, and (2) a description of the physical facilities to be transferred.

(m) The name, title, and post office address of counsel or officer to whom correspondence in regard to the application is to be addressed.

§ 1151.3 Required exhibits.

The following exhibits shall be attached to and made a part of the application:

(a) As exhibit 1, copy of each resolution or order to which reference is made in response to the requirements of paragraph (k) of § 1151.2.

(b) As exhibit 2, copy of contracts or other written instruments entered into, or proposed to be entered into, pertaining to the proposed transfer.

(c) As exhibit 3, general balance sheet statement of the transferee as of the close of the last preceding calendar year, and as of the latest available date of the current calendar year, or if transferee is an individual or a newly organized corporation, association or partnership, a statement of resources and liabilities with which the transferee proposes to begin operation pursuant to the operating right.

(d) As exhibit 4, income statement of the transferee for the last preceding year and, separately, for the current calendar year to the last available date, or if the transferee is an individual or a newly organized corporation, association, or partnership, an estimate of revenues, expenses, and income for the first three years of the proposed operation and a statement showing the basis of such estimate.

§ 1151.4 Form and style of application.

The application and exhibits shall conform with Rule 15 of the Commission's general rules of practice (§ 1100.15 of this chapter).

§ 1151.5 Procedure.

(a) The original application shall be signed in ink by the transferor and the transferee, if individuals; by all partners, if either transferee or transferor is a partnership; and, if either is a corporation, an association, or other similar form of organization, by its president, vice-president, auditor, comptroller, or other executive officer having knowledge of the matters therein contained and duly designated for that purpose by such applicant; and shall be made under oath. The application shall show that any affiant acting for the transferor or transferee is duly authorized by such applicant to verify and file the same.

(b) There shall be filed with the Secretary of the Commission, Washington, D.C., the original application and four copies thereof for the use of the Commission and one copy shall be delivered, in person or by mail, to the Governor of each State in which any point served by the transferor is located. Proof of such delivery shall be made as a part of the original application filed with the Commission. Each copy shall conform in all respects to the original and shall be complete in itself, except that the signature in the copies may be stamped or typed and the notarial seal omitted.

(c) The Commission, if it shall consider it necessary in order to determine whether the findings required for the entry of an order approving and authorizing a transfer may properly be made, will order a hearing upon the application, giving notice thereof to the applicants and to such others as are interested in the proposed transfer.

(d) Except as provided in § 1151.1 (b), the proposed transfer described in any such application shall be approved if it appears that such transfer, if approved, will be consistent with the public interest and the national transportation policy declared in the Interstate Commerce Act, will not result in unlawful ownership or control of a freight forwarder and will not adversely affect the employees of the transferor; and that the proposed transferee is ready, able, and willing properly to perform the service authorized by the operating rights sought to be transferred, and to conform to the provisions of the Interstate Commerce Act and the requirements, rules, and regulations of the Commission thereunder. Otherwise the application shall be denied.

(e) In those proceedings in which no oral hearing is held, if the application is approved, prior to the effective date, a synopsis of the order of approval will be published in the FEDERAL REGISTER. The notice accompanying such publication will refer to section 17(8) of the Interstate Commerce Act and include a requirement that if a petition is timely filed by an interested person seeking reconsideration or oral hearing, such petition must specify with particularity the alleged errors and shall cite in all cases, the particular section or sections of the rules and regulations of this part, and the arguments based thereon, which petitioner believes warrant a conclusion different from that set forth in the affirmative order. In the absence of citation of the particular section relied upon, the petition may be rejected. If the petition contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted in affidavit form. In this connection see also Rule 225 of the special rules of practice (§ 1100.225 of this chapter).

(f) Within ten days after the transfer of an operating right the transferee shall file with the Commission in duplicate, in the form in which they are executed, verified copies of such instrument or instruments, or, in the absence of any such instrument, of the endorsement or other written evidence of the transfer. Upon receipt of such copies an appropriate permit superseding the permit transferred will be issued in transactions including the transfer of a permit issued by this Commission.

(Secs. 12, 17, 24 Stat. 383, as amended, 385, as amended; 49 U.S.C. 12, 17)

§ 1151.6 Transfers by fiduciaries.

(a) The temporary continuance of freight forwarder operations without prior compliance with the provisions of the foregoing rules and regulations will be recognized as justified by the public interest in cases in which administrators or executors of deceased persons formerly engaged in service as freight forwarders, guardians of incapacitated persons formerly engaged in service as freight forwarders, a surviving partner or surviving partners collectively of dissolved partnerships, or trustees, receivers, conservators, assignees, or other such persons who are authorized by law to collect and preserve property of financially disabled freight forwarders, desire to continue the operations of the freight forwarders whom they succeed in interest.

(b) Immediately upon any such succession, and in any event not more than ten days thereafter, the successor shall give notice of the succession to the Secretary of the Commission, Washington, D.C., stating the names of the freight forwarder and of the successor, the date of the succession, and the circumstances causing the succession, whether there has been any discontinuance of operations and, if so, for what period, and, if the representative capacity of the successors involves appointment by a judicial proceeding, enclosing a certified copy of such appointment.

(c) Such successors may continue to operate under the authority of the freight forwarder which they succeed so long as they act in a temporary and representative capacity or until the Commission shall otherwise order. All transfers by successors to other persons shall be subject to other sections of the rules and regulations in this part.

(d) Such successors shall operate in the name of the prior holder of the permit or operating right, followed by the name of the successor and a designation of his capacity. The use of such name on all papers filed in accordance with the requirements of Part IV of the Interstate Commerce Act, or the rules and regulations prescribed thereunder, shall be sufficient compliance with any requirement, rule, or regulation that such papers be filed in the name of the holder of the operating rights.

§ 1151.7 Leases and contracts to operate.

In addition to the showing required in §§ 1151.2 and 1151.3, applicants who seek approval of a transfer of an operating right for a limited period, whether by lease, operating contract, or otherwise, shall agree in writing that such operating right shall revert to the transferor at the expiration of the period for which the transfer is sought, or upon discontinuance of operation thereunder by the transferee at any time prior to the expiration of such period. In such case of reversion the transferor shall give notice of that fact to the Commission as provided in § 1151.6(b).

SUBCHAPTER C—ACCOUNTS, REPORTS AND RECORDS

PARTS 1200–1219—UNIFORM SYSTEMS OF ACCOUNTS

PART 1200—GENERAL ACCOUNTING REGULATIONS UNDER THE INTERSTATE COMMERCE ACT

§ 1200.1 Financial statements released by carriers.

Carriers desiring to do so may prepare and publish financial statements in reports to stockholders and others, except in reports to this Commission, based on generally accepted accounting principles for which there is authoritative support, provided that any variance from this Commission's prescribed accounting rules contained in such statements is clearly disclosed in footnotes to the statements.

(Sec. 20, 24 Stat. 386; 49 U.S.C. 20, sec. 220(a), 49 Stat. 563; 49 U.S.C. 320, sec. 313(a), 54 Stat. 944; 49 U.S.C. 912, sec. 412(a), 56 Stat. 294; 49 U.S.C. 1012)

PART 1201—RAILROAD COMPANIES

AUTHORITY: The provisions of this Part 1201 issued under sec. 20, 24, Stat. 386, as amended, 49 U.S.C. 20.

LIST OF INSTRUCTIONS AND ACCOUNTS

(i) Regulations prescribed.
(ii) Definitions.

GENERAL INSTRUCTIONS

1-1 Classification of carriers.
1-2 Classification of accounts.
1-3 Records.
1-4 Accounting period.
1-5 Accrual method of accounting.
1-6 Unaudited items.
1-7 Delayed items.
1-8 Operating reserves.
1-9 Employees health and welfare benefits.
1-20 Items in texts of accounts.
1-21 Submission of questions.

INSTRUCTIONS FOR PROPERTY ACCOUNTS

2-1 Items to be charged.
2-2 Minimum rule applicable to additions to property.
2-3 Land.
2-4 Structures.
2-5 Equipment.
2-6 Components of construction cost.
2-7 Additions to and retirements of property—General.
2-8 Additions to and retirements of units of property.
2-9 Additions to and retirements of other than units of property.
2-10 Expenses in connection with additions and betterments.
2-11 Units of property rebuilt or converted.
2-12 Changes in line of road.
2-13 Relocation of yard tracks.
2-14 Merger, consolidation, and purchase of a railway operating entity or system.
2-15 Reorganization of railway.
2-16 Construction projects in which governmental agencies, individuals, or others, and the carrier participate.
2-17 Leased property improvements and retirements.
2-19 Distribution of cost of property to primary accounts.
2-25 List of units of property.

INSTRUCTIONS FOR MAINTENANCE EXPENSES

3-1 Items to be charged.
3-2 Equalization of maintenance expenses.

INSTRUCTIONS FOR CLEARING ACCOUNTS

4-1 Items to be charged.
4-2 Material and stationery store expenses.
4-3 Shop expenses.
4-4 Gravel and sand pits and quarries.
4-5 Power plant operations.

INSTRUCTIONS FOR DEPRECIATION ACCOUNTS

5-1 Method.
5-2 Rates of depreciation.
5-3 Depreciation records to be kept.
5-4 Leased property—depreciation.
5-5 Jointly used property—depreciation.

INSTRUCTIONS FOR INCOME AND BALANCE SHEET ACCOUNTS

6-1 Current assets.
6-2 Recorded value of securities owned.
6-3 Discount, expense and premium on debt.
6-4 Discount, premium, and assessment on capital stock.
6-5 Joint liabilities.
6-6 Contingent assets and liabilities.

PROPERTY ACCOUNTS

Road

0 Road.
1 Engineering.
2 Land for transportation purposes.
2½ Other right-of-way expenditures.
3 Grading.
5 Tunnels and subways.
6 Bridges, trestles, and culverts.
7 Elevated structures.
8 Ties.
9 Rails.
10 Other track material.
11 Ballast.
12 Track laying and surfacing.
13 Fences, snowsheds, and signs.
16 Station and office buildings.
17 Roadway buildings.
18 Water stations.
19 Fuel stations.
20 Shops and enginehouses.
21 Grain elevators.
22 Storage warehouses.
23 Wharves and docks.
24 Coal and ore wharves.
26 Communication systems.
27 Signals and interlockers.
29 Power plants.
31 Power-transmission systems.
35 Miscellaneous structures.
37 Roadway machines.
38 Roadway small tools.
39 Public improvements; construction.
43 Other expenditures; road.
44 Shop machinery.
45 Power-plant machinery.

Equipment

50 Equipment.
51 Steam locomotives.
52 Other locomotives.
53 Freight-train cars.
54 Passenger-train cars.
56 Floating equipment.
57 Work equipment.
58 Miscellaneous equipment.

General Expenditures

70 General expenditures.
71 Organization expenses.
76 Interest during construction.
77 Other expenditures; general.

Other Property Accounts

80 Other elements of investment.
90 Construction work in progress.

RAILWAY OPERATING REVENUE ACCOUNTS

Transportation Revenue Accounts

100 Transportation; rail line.
101 Freight.
103 Passenger.
106 Baggage.
104 Sleeping car.
105 Parlor and chair car.
106 Mail.
107 Express.
108 Other Passenger-train.
109 Milk.
110 Switching.
113 Water transfers.

Incidental Revenue Accounts

130 Incidental.
131 Dining and buffet.
132 Hotel and restaurant.
133 Station, train, and boat privileges.
135 Storage; freight.
137 Demurrage.
138 Communication.
139 Grain elevator.
141 Power.
142 Rents of buildings and other property.
143 Miscellaneous.

Joint Facility Revenue Accounts

150 Joint facility.
151 Joint facility—Cr.
152 Joint facility—Dr.

RAILWAY OPERATING EXPENSE ACCOUNTS

Maintenance of Roadway and Structures

200 Maintenance of way and structures.
201 Superintendence.
202 Roadway maintenance.
206 Tunnels and subways.
208 Bridges, trestles, and culverts.
210 Elevated structures.
213 Ties.
214 Rails.
216 Other track material.
218 Ballast.
220 Track laying and surfacing.
221 Fences, snowsheds, and signs.
227 Station and office buildings.
229 Roadway buildings.
231 Water stations.
233 Fuel stations.
235 Shops and enginehouses.
237 Grain elevators.
239 Storage warehouses.
241 Wharves and docks.
243 Coal and ore wharves.
247 Communication systems.
249 Signals and interlockers.
253 Power plants.
257 Power-transmission systems.
265 Miscellaneous structures.
266 Road property; depreciation.
267 Retirements; road.
269 Roadway machines.
270 Dismantling retired road property.
271 Small tools and supplies.
272 Removing snow, ice, and sand.
273 Public improvements; maintenance.
274 Injuries to persons.
275 Insurance.
276 Stationery and printing.
277 Employees health and welfare benefits.
278 Maintaining joint tracks, yards, and other facilities—Dr.
279 Maintaining joint tracks, yards, and other facilities—Cr.
280 Equalization; way and structures.
281 Right-of-way expenses.
282 Other expenses.

Maintenance of Equipment

300 Maintenance of equipment.
301 Superintendence.
302 Shop machinery.
304 Power-plant machinery.
305 Shop and power-plant machinery; depreciation.
306 Dismantling retired shop and power-plant machinery.
308 Steam locomotives; repairs.
311 Other locomotives; repairs.
314 Freight-train cars; repairs.
317 Passenger-train cars; repairs.
323 Floating equipment; repairs.
326 Work equipment; repairs.
328 Miscellaneous equipment; repairs.
329 Dismantling retired equipment.
330 Retirements; equipment.
331 Equipment; depreciation.
332 Injuries to persons
333 Insurance.
334 Stationery and printing.
335 Employees health and welfare benefits.
336 Joint maintenance of equipment expenses—Dr.
337 Joint maintenance of equipment expenses—Cr.
338 Equalization; equipment.
339 Other expenses.

Traffic Expense Accounts

350 Traffic.
351 Superintendence.
352 Outside agencies.
353 Advertising.
354 Traffic associations.
355 Fast freight lines.
356 Industrial and immigration bureaus.
357 Insurance.
358 Stationery and printing.
359 Employees health and welfare benefits.
360 Other expenses.

Transportation Expense Accounts

370 Transportation; rail line.
371 Superintendence.
372 Dispatching trains.
373 Station employees.
374 Weighing, inspection, and demurrage bureaus.
375 Coal and ore wharves.
376 Station supplies and expenses.
377 Yardmasters and yard clerks.
378 Yard conductors and brakemen.
379 Yard switch and signal tenders.
380 Yard enginemen.
382 Yard switching fuel.
383 Yard switching power produced.
384 Yard switching power purchased.
385 Water for yard locomotives.
386 Lubricants for yard locomotives.
387 Other supplies for yard locomotives.
388 Enginehouse expenses; yard.
389 Yard supplies and expenses.
390 Operating joint yards and terminals—Dr.
391 Operating joint yards and terminals—Cr.
392 Train enginemen.
394 Train fuel.
395 Train power produced.
396 Train power purchased.
397 Water for train locomotives.
398 Lubricants for train locomotives.
399 Other supplies for train locomotives.
400 Enginehouse expenses; train.
401 Trainmen.
402 Train supplies and expenses.
403 Operating sleeping cars.
404 Signal and interlocker operation.
405 Crossing protection.
406 Drawbridge operation.
407 Communication system operation.
408 Operating floating equipment.
409 Employees health and welfare benefits.
410 Stationery and printing.
411 Other expenses.
412 Operating joint tracks and facilities—Dr.
413 Operating joint tracks and facilities—Cr.
414 Insurance.
415 Clearing wrecks.
416 Damage to property.
417 Damage to livestock on right of way.
418 Loss and damage; freight.
419 Loss and damage; baggage.
420 Injuries to persons.

Miscellaneous Operations Expenses

440 Miscellaneous operations.
441 Dining and buffet service.
442 Hotels and restaurants.
443 Grain elevators.
445 Producing power sold.
446 Other miscellaneous operations.
447 Operating joint miscellaneous facilities—Dr.
448 Operating joint miscellaneous facilities—Cr.
449 Employees health and welfare benefits.

General Operating Expenses

450 General.
451 Salaries and expenses of general officers.
452 Salaries and expenses of clerks and attendants.
453 General office supplies and expenses.
454 Law expenses.
455 Insurance.

456 Employees health and welfare benefits.
457 Pensions.
458 Stationery and printing.
460 Other expenses.
461 General joint facilities—Dr.
462 General joint facilities—Cr.

Condensed Classification of Operating Expenses

480 Accounts for small carriers, Class II.

INCOME ACCOUNTS

Ordinary Items

501 Railway operating revenues.
502 Revenues from miscellaneous operations.
503 Hire of freight cars; credit balance.
504 Rent from locomotives.
505 Rent from passenger-train cars.
506 Rent from floating equipment.
507 Rent from work equipment.
508 Joint facility rent income.
509 Income from lease of road and equipment.
510 Miscellaneous rent income.
511 Income from nonoperating property.
512 Separately operated properties; profit.
513 Dividend income.
514 Interest income.
516 Income from sinking and other reserve funds.
517 Release of premiums on funded debt.
518 Contributions from other companies.
519 Miscellaneous income.
531 Railway operating expenses.
532 Railway tax accruals.
534 Expenses of miscellaneous operations.
535 Taxes on miscellaneous operating property.
536 Hire of freight cars; debit balance.
537 Rent for locomotives.
538 Rent for passenger-train cars.
539 Rent for floating equipment.
540 Rent for work equipment.
541 Joint facility rents.
542 Rent for leased roads and equipment.
543 Miscellaneous rents.
544 Miscellaneous tax accruals.
545 Separately operated properties; loss.
546 Interest on funded debt.
547 Interest on unfunded debt.
548 Amortization of discount on funded debt.
549 Maintenance of investment organization.
550 Income transferred to other companies.
551 Miscellaneous income charges.

Extraordinary and Prior Period Items

570 Extraordinary items (net).
580 Prior period items (net).
590 Federal income taxes on extraordinary and prior period items.
599 Form of income statement.

RETAINED INCOME ACCOUNTS

Credit

601 Credit balance (at beginning of calendar year).
602 Credit balance transferred from income.
606 Other credits to retained income.

Debit

611 Debit balance (at beginning of calendar year).
612 Debit balance transferred from income.
616 Other debits to retained income.
620 Appropriations for sinking and other reserve funds.
621 Appropriations for other purposes.
622 Appropriations released.
623 Dividends.

GENERAL BALANCE SHEET ACCOUNTS

Debit

701 Cash.
702 Temporary cash investments.
703 Special deposits.
704 Loans and notes receivable.
705 Traffic and car-service balances—Dr.
706 Net balance receivable from agents and conductors.
707 Miscellaneous accounts receivable.
708 Interest and dividends receivable.
709 Accrued accounts receivable.
710 Working fund advances.
711 Prepayments.
712 Material and supplies.
713 Other current assets.
715 Sinking funds.
716 Capital and other reserve funds.
717 Insurance and other funds.
721 Investments in affiliated companies.
722 Other investments.
723 Reserve for adjustment of investment in securities—Cr.
731 Road and equipment property.
732 Improvements on leased property.
735 Accrued depreciation; road and equipment.
736 Amortization of defense projects; road and equipment.
737 Miscellaneous physical property.
738 Accrued depreciation; miscellaneous physical property.
741 Other assets.
742 Unamortized discount on long-term debt.
743 Other deferred charges.

Credit

751 Loans and notes payable.
752 Traffic and car-service balances—Cr.
753 Audited accounts and wages payable.
754 Miscellaneous accounts payable.
755 Interest matured unpaid.
756 Dividends matured unpaid.
757 Unmatured interest accrued.
758 Unmatured dividends declared.
759 Accrued accounts payable.
760 Federal income taxes accrued.
761 Other taxes accrued.
763 Other current liabilities.
764 Equipment obligations and other debt due within one year.
765 Funded debt unmatured.
766 Equipment obligations.
767 Receivers' and trustees' securities.
768 Debt in default.
769 Amounts payable to affiliated companies.
771 Pension and welfare reserves.
772 Insurance reserves.
774 Casualty and other reserves.
781 Interest in default.
782 Other liabilities.
783 Unamortized premium on long-term debt.
784 Other deferred credits.
785 Accrued depreciation; leased property.
791 Capital stock issued.
792 Stock liability for conversion.
793 Discount on capital stock.
794 Premiums and assessments on capital stock.
795 Paid-in surplus.
796 Other capital surplus.
797 Retained income; appropriated.
798 Retained income; unappropriated.
799 Form of general balance sheet statement.

CLASSIFICATION OF MILEAGE ACCOUNTS

Train Miles

800 Rules and definitions.

Train-mile Accounts

TRANSPORTATION SERVICE

801 Freight-train miles.
802 Passenger-train miles.

WORK SERVICE

803 Work-train miles.

Locomotive Miles

810 Rules and definitions.

Locomotive-mile Accounts

TRANSPORTATION SERVICE; LINE

811 Freight locomotive-miles.
813 Passenger locomotive-miles.

TRANSPORTATION SERVICE; SWITCHING

815 Train switching locomotive-miles.
816 Yard switching locomotive-miles.

WORK SERVICE

817 Work service locomotive-miles.

Car Miles

820 Rules and definitions.

Car-mile Accounts

TRANSPORTATION SERVICE

821 Freight-train car-miles.
822 Passenger-train car-miles.

WORK SERVICE

825 Work service car-miles.

REGULATIONS PRESCRIBED

(i) *Regulations prescribed.* Carriers by railroad subject to provisions of the Interstate Commerce Act and not independently operated as electric lines, and each lessor of such a carrier, shall comply with regulations in this part as presented hereinafter.

(ii) *Definitions.*

1. "Accounts" means the accounts prescribed in this system of accounts.

2. "Actually issued" as applied to funded debt securities or capital stock issued or assumed by the company, means those which have been sold to bona fide purchasers or holders for a valuable consideration (including those issued in exchange for other securities or other property) and such purchasers or holders secured them free from control by the carriers. Also securities issued as dividends on stock.

3. "Actually outstanding" as applied to funded debt securities or capital stock issued or assumed by the carrier means those which have been actually issued and are neither retired and canceled nor reacquired and held by or for the accounting company.

4. "Affiliated companies" means companies or persons that directly, or indirectly through one or more intermediaries, control, or are controlled by, or are under common control with, the accounting carrier.

5. "Amortization" means the gradual extinguishment of an amount in an account by distributing such amount over a fixed period, over the life of the asset or liability to which it applies, or over the period during which it is anticipated the benefit will be realized.

6. "Carrier" as used herein and when not otherwise indicated in the context means any carrier to which this system of accounts is applicable.

7. "Commission" means the Interstate Commerce Commission.

8. "Control" (including the terms "controlling," "controlled by," and "under common control with") means the possession directly or indirectly, of the power to direct or cause the direction of the management and policies of a company, whether such power is exercised through one or more intermediary companies, or alone, or in conjunction with, or pursuant to an agreement, and whether such power is established through a majority of minority ownership or voting of securities, common directors, officers or stockholders, voting trusts, holding trusts, associated companies, contract or any other direct or indirect means.

9. "Cost of removal" means cost of demolishing, dismantling, tearing down or otherwise removing property.

10. "Debt expense" means all expenses in connection with the issuance and sale of evidences of debt, such as fees for drafting mortgages and trust deeds; fees for issuing or recording evidences of debt; cost of engraving and printing bonds and certificates of indebtedness; fees paid trustees; specific costs of obtaining governmental authority; fees for legal services; fees and commissions paid underwriters, brokers, and salesmen for marketing such evidences of debt; fees and expenses of listing on exchanges; and other like costs.

11. "Discount" as applied to funded debt securities or capital stock issued or assumed by the carrier, means the excess of the par or face value of the securities plus interest or dividends accrued at the date of the sale over the cash value of the consideration received from their sale.

12. "Ledger value" of property means the value at which the property is carried in the property investment account in the general ledger of the carrier. In case the value of any item of property is not shown separately in the ledger the ledger value of that item shall be its proportionate share of the value of the entire group in which the particular property is included.

13. "Minor items of property" means the associated parts or items of which units of property are composed.

14. "Nominally issued" as applied to funded debt securities or capital stock issued or assumed by the carrier, means those which have been signed, certified by trustees, or otherwise executed, and placed with the proper officer for sale and delivery, or pledged, or otherwise placed in some special fund of the accounting company.

15. "Nominally outstanding" as applied to funded debt securities or capital stock issued or assumed by the carrier, means those which, after being actually issued, have been reacquired by or for the accounting company under such circumstances which require them to be considered as held alive and not retired and canceled.

16. "Premiums" as applied to funded debt securities or capital stock issued or assumed by the carrier, means the excess of the cash value of the consideration received from their sale over the sum of their par or face value and interest or dividends accrued at the date of sale.

17. "Property retired" means units of property which have been removed, sold, abandoned, destroyed, or which for any cause have been permanently withdrawn from service; also minor items of property not replaced.

18. "Salvage value" means the amount received for property retired or from the salvage therefrom if sold; or, if retained, the amount at which the material recoverable is chargeable to material and supplies account or other appropriate account. When such material is retained and again used by the carrier, the salvage value shall be determined by deducting a fair allowance from current prices of the material as new.

19. "Service life" means the period between the date when property is placed in service and the date of its retirement.

20. "Service value" means the ledger value less the salvage value recovered therefrom.

GENERAL INSTRUCTIONS

1–1 *Classification of carriers.* (a) For the purposes of applying this system of accounts, carriers are divided into two general classes, designated respectively Class I and Class II.

Class I. Carriers having annual railway operating revenues of $5,000,000 or more.

Class II. Carriers having annual railway operating revenues of less than $5,000,000.

(b) Both Class I and Class II carriers shall keep the accounts prescribed herein, except that a condensed grouping of primary operating expense accounts is provided for the use of Class II carriers. Class II carriers desiring to do so may maintain the primary accounts prescribed for Class I carriers but must be prepared to combine the accounts for the purpose of making entries in reports filed with the Commission.

(c) In applying the classification grouping to any switching or terminal company which is operated as a joint facility of owning or tenant railways the sum of the annual railway operating revenues, the joint facility rent income, and the totals of the joint facility credit accounts in operating expenses, shall be used in determining its class.

(d) This classification of carriers shall be based on the average annual railway operating revenues for the last three consecutive years; and, if at the close of any calendar year the average of the annual railway operating revenues for the latest 3-year period is greater or less than the amount applicable to the class in which the carrier has been, its class for the second succeeding year shall change accordingly and the carrier shall remain in such class for a period of not less than three consecutive years: *Provided*, That: (1) Carriers which have operated for a period less than three calendar years shall be classified upon the basis of the average of their annual railway operating revenues for the latest period of such operation; (2) newly organized carriers shall be assigned to classes, as above defined, on the basis of their railway operating revenue known or estimated for a year; and (3) carriers shall within 60 days after the close of a calendar year notify the Commission when a change in classification has taken place.

1–2 *Classification of accounts.* (a) Accounts are prescribed to cover cost of property used in transportation operations and operations incidental thereto and for revenues, expenses, taxes, rents, and other items of income for such operations. Separate accounts are prescribed for investment in property not used in transportation operations and for other investments and income therefrom; for extraordinary and prior period items, including applicable income taxes; and for assets, liabilities and capital includible in the balance sheet statement. Retained income accounts form the connecting link between the income account and the equity section of the balance sheet. They are provided to record the transfer of net income or loss for the year; certain capital transactions; and, when authorized by the Commission, other items.

(b) The cost of property, and the revenues, expenses, taxes and rents, for miscellaneous operations involving the use of such facilities as hotels, restaurants, grain elevators, storage warehouses, power plants, cold storage plants, etc., shall not be included in the accounts prescribed for transportation operations unless the operation of the facilities is conducted by the railway companies in connection with furnishing transportation services. Likewise, the cost of property, the revenues, expenses, taxes, and rents arising from the operation of stockyards shall not be included in accounts prescribed for transportation operations unless operation of the facilities is conducted in connection with transportation of livestock. It is not intended that cost of property and income arising from incidental public stockyards service rendered by stockyards primarily devoted to transportation services shall be excluded from transportation operation accounts.

(c) Joint facility accounts are provided for the joint users of tracks, bridges, yards, wharves, stations, and other facilities in which to record items in settlement for use of such facilities. When the compensation for the use of facilities is a fixed amount or is based upon a charge per passenger, ton, car or other unit, the amount shall be fairly apportioned by the operating company among the joint facility operating expense and income accounts. The creditor shall show the distribution of these charges upon its bills, and such distribution shall be adhered to by the debtor. Train service in connection with the line haul of traffic, including that operated under a joint arrangement for the benefit of two or more carriers, is not considered a joint facility operation.

(d) All items of profit and loss recognized during the year are includible in ordinary income except nonrecurring items which in the aggregate for the same class are both material in relation to operating revenues and ordinary income for the year and are clearly not identified with or do not result from usual business operations of the year. Important items of the kind which occur from time to time and which, when material in amount, are to be excluded from ordinary income are those resulting from unusual sales of property and investment securities other than temporary cash investments, from company bonds reacquired, from change in application of accounting principles, and from prior period items (other than ordinary adjustments of a recurring nature). Material items are those which, unless excluded from ordinary income, would distort the accounts and impair the significance of ordinary income for the year. Items so excludible from ordinary income are to be entered directly in the income accounts provided for extraordinary and prior period items upon approval of the Commission.

Adjustments, constituting items of a character typical of customary business activities or representing corrections or refinements resulting from the natural use of estimates inherent in the accounting process, shall not be considered extraordinary or prior period items regardless of size.

In determining materiality, items of a similar nature should be considered in the aggregate; dissimilar items should be considered individually. As a general standard, an item to qualify for inclusion as an extraordinary or prior period item shall exceed 1 percent of total operating revenues and 10 percent of ordinary income for the year.

1–3 *Records.* (a) Each carrier shall keep its books of account, and all other books, records and memoranda which support the entries in such books of account so as to be able to furnish readily full information as to any item included in any account. Each entry shall be supported by such detailed information as will permit ready identification, analysis, and verification of all facts relevant thereto.

(b) The books and records referred to herein include not only accounting records in a limited technical sense, but all other records, such as minute books, stock books, reports, correspondence, memoranda, etc., which may be useful in developing the history of or facts regarding any transaction.

(c) No carrier shall destroy any such books or records unless the destruction thereof is permitted by the Regulations to Govern the Destruction of Records of Railroad Companies, Part 1220 of this chapter.

(d) In addition to prescribed accounts, clearing accounts, temporary accounts, and subdivisions of any accounts, may be kept, provided the integrity of the prescribed accounts is not impaired.

1–4 *Accounting period.* Each carrier shall keep its books on a monthly basis so that known transactions, as nearly as may be ascertained, shall be entered in the accounts not later than 60 days after the last day of the period for which the accounts are stated, except that the time within which the final entries for the year ending December 31 shall be made may be extended to such date in the following March as shall not interfere with the preparation and filing of annual report.

1–5 *Accrual method of accounting.* The accounting for operating revenues, operating expenses, income and other items each month and year shall be, as nearly as practicable, upon the basis of accruals consistently applied. Any change in practice of accounting for accruals or any unusual accruals involving material amounts shall be reported promptly to the Commission.

1–6 *Unaudited items.* When it is known that a transaction has occurred which affects operating revenues, operating expenses, income and other accounts but the amount involved and its effect upon the accounts cannot be determined with absolute accuracy, the amount thereof shall be estimated and included in the appropriate income and balance sheet accounts. Such estimate shall be adjusted in the following month or as soon thereafter as the actual amount can be determined. If the estimate is not adjusted in the following month, the amount shall be revised whenever and at the time a substantial change is indicated and the amounts in the balance sheet accounts with respect to such items shall be kept separately in the records until settled and adjusted. The carrier is not required to anticipate items which do not appreciably affect the accounts.

1–7 *Delayed items.* Ordinary delayed items and adjustments arising during the current year which are applicable to prior years shall be included in the same account which would have been charged or credited if the item had been taken up or the adjustment made in the year to which it pertained. When the amount of a delayed item or adjustment is relatively so large that its inclusion in net income for a single month would seriously distort the accounts for the month (but not for the year), such amount may be distributed in equal monthly charges or credits, as the case may be, to the remaining months of the calendar year. See instruction 1–2(d) for instructions covering delayed items of a nonrecurring nature.

1–8 *Operating reserves.* Accretions to reserve accounts made by charges to operating expenses, operating revenues, or income shall not exceed a reasonable provision for expenses or other costs incurred during the accounting period. Balances for each year in each reserve account shall be kept separately until the items have been settled and adjusted and amounts shall not be diverted from the purpose for which provided unless permission of the Commission is first obtained.

1–9 *Employees health and welfare benefits.* (a) A primary account is prescribed in each of the general accounts in operating expenses in which to record premiums on group insurance policies for the benefit of officers and employees and other costs of employees health and welfare benefits whether under contract arrangements with labor organizations or otherwise. The total amount payable to trustees under pension plans and directly to retired employees for pensions is includible in account 457, Pensions.

(b) The insurance premiums and other expenses that are directly or naturally assignable to primary accounts prescribed under each general account shall be distributed to such accounts. Premiums on policies and expenses incurred for the benefit of officers or employees who work in more than one department or perform more than one class of service shall be apportioned to the appropriate primary accounts in the same ratio as their pay is distributed to primary accounts, or may be distributed on some other equitable basis. Small amounts applicable to time spent on incidental or occasional duties may be included in the primary account appropriate according to the regular duty or predominant work assignment of the employees.

1–20 *Items in texts of accounts.* The items appearing in the texts of the accounts or elsewhere herein are for the purpose of more clearly indicating the application of the prescribed accounting. The items are intended to be representative, but not exhaustive. The appearance of an item in the text of a primary account warrants the inclusion of the item in the account mentioned only when the whole text also indicates inclusion inasmuch as the same item frequently appears in more than one primary account. The proper entry in each instance must be determined by the whole text of each primary account.

1–21 *Submission of questions.* To maintain uniformity of accounting, carriers shall submit questions of doubtful interpretation to the Commission for consideration and decision.

INSTRUCTIONS FOR PROPERTY ACCOUNTS

2–1 *Items to be charged.* (a) To the road and equipment property accounts shall be charged the cost of purchasing land, the cost of purchasing and constructing buildings, facilities and equipment, and the cost of additions and betterments to property. "Cost" means the amount of money actually paid for property or services. When the consideration given for the property is other than cash in a purchase and sale transaction, as distinguished from a transaction involving the issuance of capital stock in reorganization or a merger and pooling of interest, the value of the consideration shall be determined on a cash equivalent basis. The carrier shall be prepared to furnish the Commission the particulars of its determination of the

cash value of the consideration if other than money.

(b) Suitable records shall be maintained showing expenditures during the year for original road and equipment and road extensions; for merger and purchase of existing lines and reorganizations; for additions and betterments; and credits for property retired.

2-2 *Minimum rule applicable to additions to property.* An exception to the rule in instruction 2-1 is that when the cost of acquisition of units of road property and of additions and betterments to existing units of road property (other than land or tracks) is less than $500.00, such cost shall be charged to operating expenses. The carrier shall not parcel expenditures under a general plan for the purpose of bringing the accounting for such expenditures within this minimum rule. An amount of less than $500.00 may be adopted for purposes of this rule provided the carrier first notifies the Commission of the amount it proposes to adopt and thereafter makes no change in the amount unless authorized to do so by the Commission. An amount so adopted shall be adhered to in reporting property changes for valuation purposes.

2-3 *Land.* Accounts are provided for the cost of land used in transportation operations and also for land used in other than transportation operations. When land is retired from transportation operations but is retained by the carrier the original cost (estimated, if not known) shall be transferred to the account prescribed for property used in other than transportation operations. It is not contemplated that irregular parcels of land acquired in connection with acquisition of right of way which have no value as commercial property shall be thus transferred, either for the purpose of making right of way boundaries run more or less regular or for the purpose of eliminating from transportation property account the cost of unoccupied lands between tracks in yards and terminals. When any land, the cost of which is included in the accounts, is sold or otherwise retired, the ledger value shall be credited to the appropriate property investment account. The profit or loss from sale or loss from retirement of land shall be included in the accounts prescribed for such amounts.

2-4 *Structures.* Accounts are provided for the cost of several classes of buildings and facilities, including fixtures permanently attached to and made a part thereof. When a building or other structure is used or held primarily for transportation operations and is an integral part of the carrier's transportation plant, but a part thereof is used or held for commercial purposes such as for rental to others or for use in other than transportation operations by the carrier, the entire cost of the building or other structure is includible in the accounts for transportation property. When a building or other structure is used or held primarily for commercial purposes or for use in other than transportation operations by the carrier, the entire cost of the building or structure is includible in account 737, "Miscellaneous physical property". Reclassification of property from its primary classification as transportation or other than transportation property, as the case may be, to the other classification is not required where changes in use are of a temporary nature or for a short period of time. The accounting for costs of maintenance, taxes, other operating costs, and for revenues and rentals shall be consistent with the classification of the building or other structure.

2-5 *Equipment.* Accounts are provided for several classes of equipment, such as locomotives, passenger-train cars, freight-train cars, work equipment, floating equipment, and the necessary appurtenances, furniture, and fixtures first to equip for service, including the cost of inspection, setting up, and trying out, and transportation over foreign lines; also the cost of additions and betterments, such as improved appliances, parts, or appurtenances. In case retired equipment is held without being torn down, the estimated value of the salvage therefrom shall be included in account 741, "Other assets", until the salvage is recovered, except that the estimated scrap value of retired equipment held for sale in the ordinary course of business, and on which sale and realization of the proceeds within one year is assured, is includible under current assets.

2-6 *Components of construction cost.* The cost of constructing property includible in the property accounts shall include the direct and other costs as described hereunder.

(a) *Cost of labor.* This includes the amount paid for labor expended by the carrier's own employees, including the cost of labor expended for preliminary work, such as sinking test holes or making soundings for tunnels, grading, buildings, and other structures; and cost of labor expended in laying and taking up tracks for temporary use in construction, except the cost of labor expended on tracks provided for the protection of traffic during the progress of addition and betterment work. Office expenses and traveling and other personal expenses of employees, when borne by the carrier, shall be considered a part of the cost of the labor, as shall also the cost of fidelity bonds and employers' liability insurance premiums. When officers or employees are especially assigned to construction work their pay and their traveling and incidental expenses while thus engaged shall be included in the cost of the work. No charge shall be made against road and equipment accounts for the pay of officers and employees who merely render services incidentally in connection with extensions, additions, or betterments, although traveling and incidental expenses incurred by such officers and employees solely on account of such work shall be included in the account to which the cost of the work is chargeable.

(b) *Cost of materials and supplies.* This includes the purchase price of materials and supplies, including small tools, at the point of free delivery plus the cost of inspection and loading assumed by the carrier; also a suitable proportion of store expenses. In calculating the cost of materials used, proper allowance shall be made for the value of unused portions and of cuttings, turnings, borings, etc; for the value of the material recovered from temporary tracks, scaffolding, cofferdams, and other temporary structures used in construction; and for the value of small tools recovered and used for other purposes.

(c) *Cost of work-train service.* This includes amounts paid to others for rent and maintenance of equipment used; cost of labor of enginemen, trainmen, and enginehousemen, including wages of engine crews and train crews held in readiness for such service; and cost of fuel and other supplies consumed in connection with the operation of work trains. It shall also include the cost of maintaining the carrier's own equipment used in construction service. Amounts representing constructive rent or return upon the investment in owned equipment shall not be included as a part of the cost of work-train service.

(d) *Cost of special machine service.* This includes the cost of labor expended and of materials and supplies consumed in maintaining and operating power shovels, scrapers, rail unloaders, ballast unloaders, pile drivers, dredges, ditchers, weed burners, and other labor-saving machines; also rents paid for use of such machines.

(e) *Cost of transportation.* This includes the amounts paid to other companies or individuals for the transportation of men, materials and supplies, special machine outfits, appliances, and tools in connection with construction. Freight charges paid foreign lines for the transportation of construction material to the carrier's line shall be included, so far as practicable, as a part of the cost of the material.

(f) *Cost of contract work.* This includes amounts paid for work performed under contract by other companies, firms, or individuals, and costs incident to the award of the contract.

(g) *Cost of protection from casualties.* This includes expenditures for protection against fire, such as payments for discovery or extinguishment of fires, cost of detecting and prosecuting incendiaries, witness fees in relation thereto, amounts paid to municipal corporations and others for fire protection, and other analogous items of expenditure incurred directly in connection with construction work.

(h) *Cost of injuries and damages.* This includes expenditures on account of injuries to persons or damage to property when incurred directly as a result of construction projects, and shall be included in the cost of the work in connection with which the injury or damage occurs. It also includes that portion of premiums paid for insuring property applicable to the period prior to the completion or coming into service of the property insured. Insurance recovered on account of compensation paid for injuries to persons incident to construction shall be credited to the accounts to which such compensation is charged, and insurance recovered on account of damages to property incident to construction shall be credited to the accounts chargeable with the expenditures necessary for restoring the damaged property. The cost of injuries and damages incident to the removal of old structures, or parts thereof, shall be charged to operating expenses, except that such costs in connection with the removal of old structures which are incumbrances on newly acquired lands shall be included in account 2, "Land for transportation purposes," or 3, "Grading", as may be appropriate.

(i) *Cost of privileges.* This includes compensation for temporary privileges, such as the use of public property or streets, in connection with the construction of the property of the carrier.

(j) *Material excavated.* The cost of disposing of material excavated in connection with construction shall be considered as a part of the cost of the work, except that when such material is used for filling, the cost of removal and dumping shall be equitably apportioned between the work in connection with which the removal occurs and the work in connection with which the material is used.

2-7 *Additions to and retirements of property—General.* (a) In accounting for additions to and retirements and replacements of road and equipment property (excluding land) used in transportation operations, such property changes shall be considered as consisting of (1) units of property and (2) other than units of property (minor items). A list of units of property to be used for this purpose is prescribed in instruction 2-12.

(b) The cost of removal of retired property, both depreciable and other than depreciable, when borne by the carrier, shall be charged, as may be appropriate, to account 270, "Dismantling retired road property", account 306, "Dismantling retired shop and power plant machinery"; or account 328, "Dismantling retired equipment."

(c) An equitable proportion of a balance in primary accounts 1, "Engineering," 76, "Interest during construction," 77, "Other expenditures; General," and 80, "Other elements of investment," applicable to retired property, shall be cleared from these accounts concurrently with the retirement accounting.

2-8 *Additions to and retirements of units of property.* (a) When a unit of road or equipment property is added to the plant, the cost thereof shall be included in the appropriate primary account. When a unit of property is retired, with or without replacement, the cost thereof shall be written out of the property account at time of retirement.

(b) When a unit of road or equipment property (or a minor item not replaced) classified as depreciable and included in the accounts prescribed for depreciable property is retired the service value shall be charged to account 738, "Accrued depreciation—Road and equipment."

(c) When property (other than a minor item constituting repairs) classified as other than depreciable property is retired, the cost thereof shall be cleared from the property account and the service value shall be charged to account 267 "Retirements—Road", except that the service value, when material in amount, in connection with the retirement of a branch line, segment of track, or other important facility constituting a permanent reduction in plant may be recorded in account 570 "Extraordinary items", when authorized by the Commission. See instruction 1-2(d).

(d) When property included in the depreciable accounts but excluded from the depreciation base is retired, the service value (including engineering expenditures assignable to the retired property but not included in the depreciation base) shall be charged to operating expense.

2-9 *Additions and retirements of other than units of property.* (a) When an item of road or equipment property, other than a complete unit, is added to the plant and the addition is not a replacement, the cost thereof shall be accounted for in the same manner as an addition of a complete unit of property, subject to the $500 minimum rule applicable to road property. When an item of property other than a complete unit (minor item) is replaced, independent of the complete unit of which it is a part, the cost of replacement shall be treated as maintenance and charged to operating expenses; except that, when the replacement effects a substantial betterment through the application of superior parts, the primary aim of which is to make the property affected more useful, more efficient, of greater durability, or of greater capacity, the excess cost of new parts over the current cost of new parts of the kind replaced shall be charged to the appropriate primary property account. The cost of removing the old appliances and applying the improved parts shall be charged to operating expenses. (See instruction 2-8(b) covering retirement of a minor item not replaced.)

(b) The term "current cost of new parts of the kind replaced" shall not be construed as requiring an estimate based on the current price of parts or material identical with the parts or material replaced when such parts or material are no longer obtainable at reasonable price or would not be used if replacement without betterment were undertaken. In such cases the current cost shall be based on the fair and reasonable cost of parts or material comparable to those being replaced.

(c) When second-hand equipment acquired is in such physical condition that it is necessary to make extensive repairs to bring it up to the standard required by the carrier, the cost of such repairs shall be included in the account appropriate for the cost of the equipment.

2-10 *Expenses in connection with additions and betterments.* The cost of removing old material from equipment and from buildings, bridges, wharves, tracks, and other fixed improvements, shall be charged to the appropriate operating expense accounts. Such charges shall include the cost of removing old foundations and filling old excavations, and restoring condition of grounds after additions and betterment work; and maintaining or protecting traffic during the progress of additions and betterment work, including the cost of constructing, maintaining, and removing temporary tracks required for maintaining traffic during the progress of the work.

2-11 *Units of property rebuilt or converted.* (a) A unit of road property or equipment shall be treated as rebuilt or as converted in the circumstances described in the following paragraphs (b) and (c) of this instruction and such unit shall be accounted for as an addition and the old unit accounted for as retired from service.

(b) When the cost of renewals of a unit of road property or equipment, exclusive of the expense of dismantling and of repairs of old parts reused, exceeds fifty percent of the cost of a new unit of the same kind and class at that time. This rule does not apply to renewal of a unit of roadway property when the replacement cost new does not exceed $35,000.

(c) When a unit of road property or equipment is transferred from one class of service to another, with or without physical conversion, and becomes includible in a prescribed primary investment account other than that in which the unit previously has been carried.

(d) The charge to the appropriate road and equipment account for rebuilt or converted units shall be the sum of (1) the cost (estimated if necessary) less a fair allowance for depreciation or the salvage value, whichever is lower, of the parts reused and (2) the cost of labor expended in rebuilding or in the conversion process and the cost of additional material applied. In no case shall the total amount charged to the property accounts for such units exceed the estimated cost of units of the same kind and class with a fair allowance for depreciation.

2-12 *Changes in line of road.* When changes are made in a line of road for the purpose of reducing curves or grades, or to eliminate bridges, tunnels, or other physical features, the part of the line so changed shall be considered property retired and its ledger value credited to the property accounts. The new line of road, including land, grading, ballast, track elements, and other transportation facilities serving the road shall be considered an addition and the cost thereof to the carrier charged to the property accounts. The cost of such track changes which do not involve change in the existing roadbed shall be charged to operating expenses, even though the tracks may be dismantled in the process, but the resulting track extensions or reductions shall be accounted for as additions or retirements, as appropriate, and the betterment cost of improved parts applied shall be charged to property account.

2-13 *Relocation of yard tracks.* The cost of shifting or rearranging tracks within a yard shall be charged to operating expenses, even though the tracks may be dismantled in the process, but resulting increases or decreases in grading, ballast, or track length shall be ac-

counted for as additions or retirements, as appropriate, and the betterment cost of improved parts applied shall be charged to the property accounts. Where tracks in whole or in part within a yard are determined to be no longer permanently used the ledger value of such tracks shall be eliminated from the property account. In case yard tracks and facilities are constructed in another location to take the place of tracks retired, such tracks and facilities shall be accounted for as additions and the cost thereof shall be included in the property account.

2–14 *Merger, consolidation, and purchase of a railway operating entity or system.* (a) When a railway or portion thereof constituting an operating unit or system is acquired by merger or consolidation in a pooling of interests or by purchase the cost of acquisition represented by cash, capital stock or other securities issued or assumed, liabilities assumed, and other consideration, shall be recorded in the accounts in the manner stated hereunder. Separate instructions are provided for a merger of subsidiaries.

(b) Pooling of interests:

(1) When the acquisition results from a merger or consolidation constituting a pooling of interests, in which all or substantially all of the equity interests in predecessor companies continue, as such, in a surviving company or a new company created for the purpose, the road and equipment, the other assets, and the liabilities of the predecessor companies, together with the balances in the amortization and depreciation reserves and the retained income accounts shall be recorded in the appropriate balance sheet accounts at the amounts shown in the accounts of predecessor companies, adjusted as may be necessary to conform with the accounting rules of the Commission. Such adjustments shall be included in retained income or the other accounts that would have been appropriate had the adjustments been made in the books of account of the predecessor company. In connection with such adjustments suitable provision may be made out of retained income, to the extent available, to provide reserves for any deficiency in past accrued depreciation on property classified as depreciable.

(2) When the total par or the stated value of no par capital stock issued or outstanding pursuant to the pooling of interests is *more* than the aggregate amount of the capital stock of the separate companies before such pooling of interests, the excess shall be charged to capital surplus, if unrestricted capital surplus is available for such purpose; otherwise, the excess shall be charged to retained income.

(3) When the total par or stated value of no par capital stock issued or outstanding pursuant to the pooling of interests is *less* than the aggregate amount of the capital stock of the separate companies before such pooling of interests, the difference for reduction in capital stock shall be credited to account 795, "Paid-in surplus."

(4) Where the equities of the stockholders of one of the constituent corporations (except subsidiaries controlled through ownership of the majority of shares of voting stock) are clearly dominant and such stockholders obtain approximately 90 percent or more of the voting interests in the combined enterprise, the transaction, as a practical matter may, when specifically authorized by the Commission, be treated as a purchase (rather than a pooling of interests) and so accounted for in accordance with paragraph (c) of this instruction.

(c) Purchase:

(1) When the acquisition results from a purchase (except from subsidiaries controlled through ownership of the majority share of voting stock) including mergers or consolidations other than pooling of interests, the amount includible in account 731, "Road and equipment property", shall be the cost at the date of acquisition to the purchaser of the transportation property acquired. Other assets acquired or liabilities assumed shall be recorded in the appropriate balance sheet accounts in conformity with the accounting rules of the Commission, and shall include provision for liabilities awaiting settlement and for such reserves as may be necessary.

(2) When the costs of individual units or classes of transportation property are not specified in the agreement the total purchase price shall be apportioned equitably among the appropriate primary accounts using, as far as practicable for purpose of such apportionment, the percentage relationship between such purchase price and original cost of property shown in valuation records prepared in accordance with the orders of the Commission. In the distribution of the purchase price to primary accounts, on the basis of such apportionment the cost figures used for land shall be the cost reported in basic valuation reports under valuation order No. 7. Land reported without cost in order No. 7, except land donated, shall be computed at its estimated original cost; and to such sum shall be added the original cost at time of dedication to transportation purposes of land subsequently acquired and now so used.

(d) Merger of subsidiaries:

The acquisition and merger of property of subsidiaries controlled through ownership of the majority shares of voting stock is to be accounted for as a pooling of interests or as a purchase depending on the circumstances in each case. Where control was initially acquired through issuance of capital stock to stockholders of the subsidiary the rule applicable to pooling of interests ordinarily is applicable. Where control was initially acquired through *purchase* of stock the rule applicable to purchase of property may be appropriate even though the shares were purchased gradually from time to time over a period of years, in which event recognition of surplus since date of acquisition assignable to such shares may be proper. Journal entry pertaining to acquisition of property of subsidiaries shall be submitted to the Commission for consideration based on the principles herein and procedures for which there is authoritative support, and the accounting for the merger shall become final only after approval by the Commission.

NOTE: See Account 80.

2–15 *Reorganization of railway.* (a) When a railway reorganization or receivership has been consummated the assets acquired, liabilities assumed, and the capital stock or other securities issued, or assumed and other consideration, shall be recorded in the accounts in the manner stated hereunder. An adjustment of capitalization resulting in modification and reformation of classes of securities pursuant to voluntary action of the holders of securities but not resulting in a formal reorganization following a bankruptcy or other receivership proceedings (sometimes called a quasi-reorganization) is not covered by this instruction 2–15. Reduction of capital stock and other contributions to capital by stockholders shall be recorded in accordance with the instructions in the text of account 795, "Paid-in surplus."

(b) The amounts includible in primary road and equipment property accounts, except land, shall be recorded at original cost (estimated in part) as shown in the Commission's valuation records. Land shall be recorded at cost reported in basic valuation reports under valuation order No. 7. Land reported without cost in order No. 7, except land donated, shall be computed at its estimated original cost; and to such sum shall be added the original cost at time of dedication to transportation purposes of land subsequently acquired and now so used. The cost of land so computed and the remaining assets and the liabilities of the predecessor companies, adjusted as may be necessary to conform with the accounting rules of the Commission, together with the balances in the amortization and depreciation reserves, shall be recorded in the appropriate balance sheet accounts.

(c) When the amount recorded for assets acquired is *more* than the par or stated value of no par capital stock issued and other consideration paid, including liabilities assumed, the difference shall be applied to such extent as may be necessary and is available to provide reserves, first, for any deficiency in past accrued depreciation on property classified as depreciable; and, second, for any estimated loss from retirement of a branch line, segment of track or other important facility indicated by supporting records to be imminent. The remaining amount of the difference, if any, shall be credited to account 80, "Other elements of investment". The amount so credited to account 80 shall be cleared thereafter as property is retired and otherwise as may be authorized in accordance with the provisions in the text of that account.

(d) When the amount recorded for assets acquired is *less* than the par or stated value of no par capital stock issued and other consideration paid, including liabilities assumed, the difference shall be charged to account 80, "Other elements of investment," and shall thereafter be cleared in accordance with the provisions in the text of that account.

(e) Amounts carried temporarily in former account 733, "Acquisition adjustment", attributable to a past reorganization shall be included in account 80, "Other elements of investment," or otherwise disposed of in conformity with the principles set forth in paragraphs (a) to (d) of this instruction 2–15. Any amount attributable to past reorganizations which cannot be disposed of pursuant to these provisions shall be submitted to the Commission for consideration and decision.

2–16 *Construction projects in which governmental agencies, individuals, or others, and the carrier participate.* (a) The amount includible in the property account for construction projects in which the carrier and governmental agencies, individuals, or others participate shall be (1) the payment made by the carrier for its share of the cost of construction plus (2) the recorded cost (estimated if unknown) of property relinquished as a direct result of the arrangement and retired from service less the value of salvage recovered therefrom by the carrier and less depreciation accrued on depreciable property, which is part of the carrier's cost of the project. The amount so includible in the property account shall be distributed equitably among the primary accounts applicable to railway property constructed. This amount shall first be applied to railway facilities includible in accounts *other than* 2½, "Other right-of-way expenditures", or 39, "Public improvements—Construction", then any remaining balance shall be included in account 2½ or 39, as appropriate. In no case shall the amount included in the primary accounts for the railway facilities acquired exceed the actual cost of constructing such facilities. The property account shall not include any cost or value for facilities or land contributed or paid for by governmental agencies, individuals or others. Property acquired as a specific contribution to capital by stockholders does not come under this rule. (See text of account 795, "Paid-in surplus.")

(b) Construction projects as used in this section means widening of highways, construction of spillways, drainage canals, farm and other private passes, pipelines, drains or other facilities across the right-of-way; construction of overhead highway bridges, and railroad bridges over public highways and across streams, which provide a railroad use in the operation of trains and a public use in the uninterrupted passage of highway and river traffic; installation of warning signals to protect highway traffic; and industrial side tracks. Also, reconstruction and relocation of tracks and appurtenant facilities such as occur in connection with carrying out flood control, reclamation, and other public improvement projects where it becomes necessary to abandon part of the line of railroad and relocate the tracks.

NOTE: See Instruction 2–19.

2–17 *Leased property improvements and retirements.* The cost to lessee of structures, facilities, additions and betterments on leased property and for retirement of property the cost of which is included in account 732, "Improvements on leased property", shall be accounted for in conformity with the principles in the instructions for property *owned*. When property taken over in the lease is retired and replaced and lessee is not obligated to reimburse the lessor for the retired property other than through the replacement, the lessee shall credit the ledger value of the retired property to account 732, "Improvements on leased property", as an offset to the cost of the replacement borne by lessee and charged to that account. When lessee is obligated to reimburse the lessor currently or at the termination of the lease for property retired other than through replacement, the lessee shall include the amount of the obligation in the appropriate liability account. The lessee shall furnish the lessor such information as is required to enable the lessor to perform necessary accounting. The accounting by the lessee and the lessor shall be consistent with contractual arrangements.

2–19 *Distribution of cost of property to primary accounts.* (Added by order of April 17, 1963.) (a) The amounts carried in accounts for road and equipment property shall be distributed to the appropriate primary road and equipment accounts based on the cost of property in the valuation records for each carrier and summarized in the Bureau of Accounts of the Commission; except that, amounts to be included in account 2, "Land for transportation purposes," account 9, "Rails," account 10, "Other track material," and account 11, "Ballast," shall be determined and entered in those primary accounts in accordance with the rules in paragraphs (b) and (c) of this instruction, unless otherwise directed or authorized by the Commission. Reorganized carriers that previously have entered valuation cost figures in the primary accounts at time of reorganization in amounts approved by the Commission, including amounts for accounts 2, 9, 10 and 11, are exempt from this instruction 2–19 in respect to the period prior to reorganization.

(b) Account 2. The amount to be entered in account 2, "Land for transportation purposes," for land now used in transportation service shall be the cost reported in Valuation Order No. 7 dated November 21, 1914 and included in the Commission's basic valuation reports. The cost of land reported without cost (except land donated) shall be estimated by the carrier, when practicable, subject to verification by the Commission; when not practicable, an estimate for the land so reported may be omitted from the account. To the amount entered in account 2, as indicated above, shall be added the cost of land acquired since basic valuation date and now used in transportation service.

(c) Accounts 9, 10 and 11. The amounts to be entered in primary account 9, "Rails," account 10, "Other track material," and account 11, "Ballast," shall be the aggregate of (1) the amounts for each of those accounts in the Commission's basic valuation; plus (2) the amounts recorded in each of those accounts during the period since date of basic valuation for additions and betterments in accordance with the accounting rules prescribed for each account during that period of time; and minus (3) the credit amounts recorded in (or otherwise applicable to) each of those accounts during the same period of time for retirements of branch lines and other segments of property sold, abandoned, or otherwise permanently retired from service and not covered by the betterment rule.

(d) When the aggregate amount distributed to the primary accounts in accordance with paragraphs (a), (b) and (c) of these instructions is less than the total of the amounts now carried in the accounts for road and equipment property the excess shall be charged to account 80, "Other elements of investment." The amount so included in account 80 shall be cleared subsequently in accordance with provisions in the text of that account.

(e) When the aggregate amount distributed to primary accounts is more than the total of the amounts in the accounts for road and equipment, the difference shall be credited to such extent as may be necessary to provide reserves: first, for any deficiency in past accrued depreciation on property classified as depreciable; and second, for any estimated losses from retirement of a branch line, segment of track, or other important facilities indicated by supporting records to be imminent. The remaining difference, if any, shall be credited to account 80, "Other elements of investment," and cleared subsequently in accordance with provisions in that account.

(f) Journal entries distributing the amounts to primary accounts pursuant to the foregoing instructions in this section shall be submitted to the Commission for consideration as soon as practicable and not later than December 31, 1963. The distribution to the accounts shall become final only after approval thereof by the Commission. Questions pertaining to the application of these instructions shall be submitted to the Commission for decision. Any amount which cannot be disposed of pursuant to the provisions of these instructions shall be disposed of as directed or authorized by the Commission after consultation with the carrier involved and full consideration of the merits in each case.

2–25 *Lists of units of property.* (a) This list of units is established for the purpose of designating the units of property to be used in accounting for additions to and retirements and replacements of property. Detailed information is included in instructions 2–7 and 2–8. Items listed under road property accounts are subject to the minimum rule

applicable to additions to property. See instruction 2-2 pertaining to the minimum rule.

(b) This list of units will be revised from time to time as may be necessary to meet conditions. A carrier desiring to include in any account an appropriate unit not now specified therein may, upon approval of the Commission, make such authorized addition to this list of units.

(c) Rules applicable to units of property rebuilt or converted and to changes in line of road or tracks which involve accounting for units of property retired are set forth in instructions 2-11, 2-12, and 2-13.

Account 3, Grading

A retaining wall, riprap (hand placed), a protecting dyke, a protecting crib, a wing dam, a revetment, mattress, pipe or other structures to provide drainage. Each entire installation.

Account 5, Tunnels and Subways

The entire masonry, entire timber, and entire metal lining of a tunnel or subway, including portals and wing walls.
Drainage. Each entire installation.
Lighting. Each entire installation.
Ventilation. Each entire installation.

Account 6, Bridges, Trestles and Culverts

A steel superstructure.
A concrete or stone substructure.
A concrete trestle, a complete bridge or approach.
A timber trestle, a complete bridge or approach.
Complete machinery for operating a movable span.
A protecting dyke, a protecting crib (a fender), a wing dam, a complete culvert. Each entire installation.

Account 7, Elevated Structures

Any applicable units listed under account 6, "Bridges, trestles, and culverts".

Account 13, Fences, Snowsheds, and Signs

A complete snowshed.
One continuous mile of right-of-way fence.
One continuous mile of permanent sand or snow fence.

Account 16, Station and Office Buildings

A complete building, including attached platform.
A complete platform structurally detached from a building.
Each retaining wall installation.
Each timber trestle installation.
Each coal pocket installation.
Each outside steam, water, air, etc., pipe line installation.
Each storm or sanitary sewer installation.
A complete fence.
Paving. Each complete installation.
A station stockyard. Each complete installation.
A track scale.
A track scale pit.
An outside crane or conveying system for handling freight.
A motor truck.
A motor tractor.
Any applicable units listed under other accounts.

Account 17, Roadway Buildings

Any applicable units listed under account 16, "Station and office buildings", and 44, "Shop machinery".

Account 18, Water Stations

A complete water supply piping system.
A dam or reservoir.
A pump house.
Pumping machinery. Each complete installation.
A water tank. Each complete installation.
A complete track trough at one location.
A water crane. Complete with pit.
A water treating plant.

Account 19, Fuel Stations

A trestle-type coaling station.
Mechanical coaling station. Each complete installation.
A complete fuel supply system, including appurtenances.
A pump house.
A fuel oil storage tank (large).

Account 20, Shops and Engine Houses

A complete building, including attached platform.
A complete platform structurally detached from a building.
A turntable.
A turntable pit.
A transfer table with machinery.
A transfer table pit.
A cinder pit. Each complete installation.
A sand storage and handling and drying apparatus.
Outdoor bins. Each complete installation.
A smoke stack not mounted on boiler.
A lorry track system (outside).
A boiler washing plant. Each complete installation.
An overhead crane, outside.
Each outside pipe installation, steam, air, water, etc.
Each sewer installation, storm or sanitary.
Paving. Each complete installation.
Each shop fence or wall installation.
Any applicable unit under account 16, "Station and office buildings".

Account 21, Grain Elevators

A complete building, including attached platform.
A complete platform structurally detached from a building.
A conveyor system complete.
An elevator system complete.
A blowing system complete.
For additional items see accounts 16, "Station and office buildings", and 44, "Shop machinery".

Account 22, Storage Warehouses

A complete building, including attached platform.
A complete platform structurally detached from a building.
For additional items, see accounts 16, "Station and office buildings", and 44, "Shop machinery".

Account 23, Wharves and Docks

A timber float bridge.
A steel float bridge.
A wharf (including pile clusters).
A timber incline.
A bulkhead.
Jetties or breakwater.
Ferry racks (including pile clusters).
Float racks.
Each complete machinery installation.
For additional items, see accounts 2, "Grading", 6, "Bridges, trestles, and culverts", and 44, "Shop machinery".

Account 24, Coal and Ore Wharves

Car dumper complete.
Timber bridges.
Steel bridges.
Each complete machinery installation.
A loading or unloading machine complete.
Each coal or ore pocket installation.
For additional items, see accounts 6, "Bridges, trestles, and culverts", 16, "Station and office buildings", 20, "Shops and engine houses", 23, "Wharves and docks", and 44, "Shop machinery".

Account 26, Communication Systems

A complete mile section or complete installation if less than a mile of pole line including cross arms, wires and appurtenances.
Each mile or complete installation of cable with associated parts.
Each mile or complete installation of conduit with associated parts.
A complete tower.
A complete installation at each location constituting a separate means of communication, such as radio, radar, carrier telephone, teletype, or other communication systems.
For additional items see account 16, "Station and office buildings".

Account 27, Signals and Interlockers

A signal system installation complete, or section thereof, with associated parts, including masts, batteries, relays, ladder, etc.
A complete mile section or complete installation if less than a mile, or pole line including cross arms, wires and appurtenances.
Each mile or complete installation if less than one mile of cable with associated parts.
Each mile or complete installation if less than one mile of conduit with associated parts.
Switch movement with associated parts.
A complete building.
An interlocking plant complete (exclusive of machine).
An interlocking machine.
Signal bridge complete.
Each highway crossing protection installation complete.
Each car retarder installation complete.
A traffic control or C.T.C. system installation complete.

Account 29, Power Plants

Any applicable units listed under accounts 16, "Station and office buildings", and 20, "Shops and enginehouses".

Account 31, Power Transmission Systems

A continuous mile, or a separate installation if less than a mile, of catenary complete including catenary hangers, trolley wire and appurtenances.
A continuous mile, or a separate installation if less than a mile, of transmission line, including poles, wires, transformers, switches, and other appurtenances.
Each outside steam, air, etc., pipe line installation.
A manhole.
Substation or switching station complete.
Each mile, or installation if less than a mile, of third rail.
A catenary bridge or support.
A high-tension transmission tower.
Any applicable units listed under accounts 26, "Communication systems", and 27, "Signals and interlockers".

Account 35, Miscellaneous Structures

Any applicable units listed under other accounts.

Account 37, Roadway Machines

Each roadway machine complete including accessories.

Account 39, Public Improvements—Construction

Any applicable units listed under other accounts.

Account 44, Shop Machinery

A machine (including foundation and motor, if any), such as lathes, shapers, slotters, boring machines.
Equipment, such as ash handling.
A furnace.
A boiler installation complete.
A motor vehicle used in shops only.
Testing equipment.
Overhead crane, complete.

Account 45, Power Plant Machinery

A power plant machine, including foundation, such as a turbine, rectifier, dynamo, generator.
Any applicable unit listed under account 44, "Shop machinery".

Account 51, Steam Locomotives

A complete locomotive.
A locomotive, exclusive of tender.
A tender.
A locomotive booster.

Account 52, Other Locomotives

Diesel electric, lead or booster, i.e., "A" or "B" units.
Diesel electric. Extra or spare motors.
Electric locomotive.
Gasoline locomotive.
Gas turbine locomotive.

Account 53, Freight-Train Cars

A complete car.
Motor equipment of a motor driven car.
A propulsion motor including generator.
A freight container, complete.

Account 54, Passenger-Train Cars

A complete car, including interior furnishings.
Motor equipment of a motor driven car.
A propulsion motor, including generator.

Account 56, Floating Equipment

A complete vessel or boat, exclusive of machinery.
Machinery: a boiler, a motor, an engine.

Account 57, Work Equipment

(a) Rail equipment:
(1) A complete car or machine.
(2) A boiler.
(3) An engine.
(4) A motor.
(5) Machinery equipment (with or without tractive machinery) such as concrete mixer, snow plow, derrick, steam shovel, or pile driver.
(6) A complete motor equipment.
(b) Floating equipment—Work:
(1) A complete vessel or boat.
(2) A boiler.
(3) An engine.
(4) A motor.
Any applicable units listed under other accounts.

Account 58, Miscellaneous Equipment

A complete vehicle.

INSTRUCTIONS FOR MAINTENANCE EXPENSES

3-1 *Items to be charged.* (a) The accounts provided for maintenance of road property and of equipment are designed to show the cost of repairs and also the loss through depreciation of the property used in transportation operations, including expenses resulting from ordinary wear and tear of service, exposure to the elements, inadequacy, obsolescence, or other depreciation, or from accident, fire, flood, or other casualty.

(b) These accounts shall include the cost of labor, materials and supplies, work-train service, floating equipment work service, special machine service, contract work, privileges, protection from casualties, and other analogous items of expense in connection with the maintenance of the plant used in railway service. The cost of materials and supplies, which shall include small tools, shall include the cost at the point of free delivery plus freight charges of foreign lines, and the costs of inspection and loading assumed by the carrier; also a proportion of store expenses. Such cost shall not include expenses of transportation over the carrier's line. Royalties for patent rights on mechanical appliances used in repairs of equipment shall be included in the cost of the repairs. The cost of boarding, traveling, and other incidental expenses of employees shall be included in the accounts to which the pay of the employees is chargeable, except where otherwise specified in the text of the accounts. In calculating the cost of materials used proper allowance shall be made for the value of unused portions and of cuttings, turnings, borings, etc., and for the value of the material recovered from property repaired and from temporary tracks, scaffolding, cofferdams, and other temporary structures used in repair work.

(c) The cost of repairs shall include the cost of inspecting to determine the repairs necessary, and of adjusting or repairing parts, both of road property and of equipment, such as the repairing of locomotives, cars, frogs, switches, rails, etc.; the cost of inspecting and testing after repairs have been made such as the testing of locomotives after repairs to determine whether the repairs have been properly made, and the running of repaired locomotives light in order to break them in for regular service; incidental costs of repairs, such as the construction or removal of false work in connection with maintenance, cost of demolishing retired road property and disposing of the wreckage therefrom when the property is dismantled by or for the carrier; cost of maintaining or protecting traffic during the progress of construction work, including the cost of constructing, maintaining and removing temporary tracks required for maintaining traffic during the progress of the work; cost of mowing and beautifying grounds around buildings; repairing fences, sidewalks, driveways, and streets within or adjacent to such grounds; cost of removing snow from roofs of buildings (when not removed by those employed in the buildings); cost of periodical restoration of seasonal features, such as gardens, shrubbery, and lawns; cost of operating hothouses in connection with the work of beautifying grounds; and cost of clearing and removing casual incumbrances, such as ice, snow, and fallen timber.

(d) Distinct maintenance accounts have been provided for expenses of a general character, such as superintendence, stationery and printing, and injuries to persons, which, on account of established practice, it is deemed advisable to segregate.

3-2 *Equalization of maintenance expenses.* (a) The cost of maintaining way and structures and equipment shall be included in the appropriate primary accounts in the month in which the expense is incurred. In case the carrier adopts a budget or estimate for all or a part of the calendar year of expenses includible in one or more primary maintenance accounts or for the general accounts 200, "Maintenance of way and structures", and 300, "Maintenance of equipment", an equitable monthly proportion of the difference between the budgeted or estimated expenses and the actual expenses chargeable each month may be debited or credited as appropriate to account 280, "Equalization—Way and structures", or account 338, "Equalization—Equipment", with contra entries in account 773, "Equalization reserves". If certain primary accounts only are budgeted the carrier's records shall show for amounts included in the equalization accounts the amount of the equalization assignable to each such primary account.

(b) Amounts included in account 773, "Equalization reserves", in accordance with the foregoing paragraph, shall be cleared therefrom at the close of each calendar year through the equalization accounts originally charged or credited.

INSTRUCTIONS FOR CLEARING ACCOUNTS

4-1 *Items to be charged.* In recognition of the fact that certain expenditures incident to the construction and the operation of property are not chargeable directly to any particular property investment or expense account, clearing accounts have been provided for the purpose of securing an equitable distribution of such items to the proper primary accounts, as hereinafter set forth.

4-2 *Material and stationery store expenses.* (a) To clearing accounts called "Material store expenses" and "Stationery store expenses" shall be charged expenses in connection with purchasing, handling and storing material and stationery in and distributing it from the company's storehouses, including the pay of officers and employees in the purchasing and store departments and their traveling, office, and other expenses; also expenses, including wages, fuel, and supplies, of operating switching locomotives when exclusively assigned to the service of switching at material storehouses. (Expenses of incidental switching at material yards by locomotives in regular switching service shall be charged to the appropriate transportation accounts.) The pay and expenses of men employed in purchasing or inspecting a single class of material, such as ties, shall be added as store expenses to the cost of that particular material.

(b) The total amount of storehouse expenses charged to these accounts shall be so distributed among the accounts to which material and stationery has been charged that the amounts thus distributed will be, for each account, in proportion to the value of the items issued chargeable thereto, except that the amount representing the purchasing department expenses shall be apportioned on the value of the items issued which were purchased by that department. To avoid monthly fluctuations in the ratio of store expenses to the value of material and stationery purchased or issued, car-

riers may make a monthly apportionment on the basis of fair percentage rates, provided the store expense accounts are adjusted and closed out at the end of each year.

4-3 *Shop expenses.* (a) A clearing account entitled "Shop expenses" shall be kept to which shall be charged items of expense at shops, enginehouses, repair tracks, and other places at which mechanical work is done, not assignable directly to specific accounts. Such expenses shall be apportioned among the various accounts affected. The basis of distribution shall be the relative proportion which the total amount of charges to "Shop expenses" bears to the total of the directly distributed labor. To avoid monthly fluctuations in the ratio of shop expenses to the total of distributed labor, carriers are permitted to make the monthly apportionment on the basis of a percentage of the distributed labor, provided the shop expense account is adjusted and closed out at the end of the year.

(b) The expenses assignable to this account shall include the pay of foremen (who exercise supervision over all departments), their clerks, and other employees engaged in general work in and about shops, cost of heat, light and power; cost of small tools and supplies and water and power purchased; also cost of removal of snow and ice from transfer tables and shop yards, and other incidental shop expenses. To this account shall be charged expenses, including wages, fuel and supplies, of operating switching locomotives when exclusively assigned to switching service at shops (the expenses of incidental switching at shops by locomotives in transportation switching service shall be charged to appropriate transportation accounts).

4-4 *Gravel and sand pits and quarries.* (a) When a gravel or sand pit or quarry is opened for operations likely to extend over a long period, an account shall be set up designated, "Operations of gravel pit at _____," or "Operations of quarry at _____," as the case may be. To this account shall be charged cost of the land in excess of its estimated value after the gravel, sand, or stone has been removed (credit to the property account in which the cost of the land is included); payments for right to enter upon and remove ballast from land not owned by the carrier; cost of sinking test holes; and costs preparatory to opening the pit or quarry. To this account shall be charged also the cost, in excess of the estimated salvage value, of rails and fastenings, ties, other material and labor used in constructing tracks to and in the gravel pit or quarry (the estimated salvage being carried in an appropriate suspense account); cost of labor and train service employed in producing, quarrying, and loading ballast, including the cost of operation, repairs, and depreciation of power shovels and other machines and machinery; pay and expenses of watchmen; cost of explosives and hand tools, and miscellaneous expenses; and cost of installing, operating and maintaining signals and interlockers at gravel pits.

(b) Credit to the clearing account shall be made each month to cover the cost of ballast material produced during the month. The cost of production shall include the expenses directly assignable to the monthly output plus a proportion of the expenses not directly assignable, such as cost of land, tracks, machinery, and interlockers. This latter amount shall be computed upon the basis of the ratio which the monthly output bears to the total estimated yardage to be taken from the pit. When any portion of the product of such pits or quarries is sold, the cost thereof shall be credited to this clearing account and the profit thereon, if any, shall be credited to revenue account 143, Miscellaneous.

4-5 *Power plant operations.* (a) The accounting for the expenses of maintaining and operating an electric, steam, or other power plant (both building and machinery) shall be determined by the purpose for which the power produced is used. When a power plant is intended and used for producing power solely for the carrier's own operations and the cost of operating the plant is chargeable to clearing account "Shop expenses," or to any one specific account for operating expenses, the expenses of maintenance shall be charged to the appropriate maintenance accounts, and the cost of operation to the account appropriate according to the use of the power.

(b) When the power from such a plant is properly chargeable to more than one account, the expenses of maintaining and operating the plant shall be included in clearing account designated "Power plant operations." The expense of maintenance shall be cleared from that account to the appropriate maintenance accounts. The expenses of operation shall be apportioned to the appropriate accounts upon the basis of quantity of power used for the various purposes.

(c) When a part of the power produced by a power plant is sold and the remainder is used in the carrier's own operations, the cost of maintaining and operating the plant shall be charged to a clearing account. The expense of maintenance shall be cleared from that account to the appropriate maintenance accounts. The proportion of the expenses of operation assignable to the power sold, on the basis of ratio of quantity of power sold to total quantity of power produced, shall be credited to this clearing account and charged to account 445, "Producing power sold". The remainder of the cost of operation shall be distributed to the appropriate expense accounts for the carrier's own operations.

(d) When power plants are intended and used solely for furnishing power to others, the investment therein shall be included in balance sheet account 737, "Miscellaneous physical property", and the revenues and operating expenses shall be included in the accounts provided for operations of such property.

(e) The accounting for the maintenance of transmission systems and distribution systems shall be in accordance with instructions pertaining to power plant operations.

INSTRUCTIONS FOR DEPRECIATION ACCOUNTS

5-1 *Method.* (a) There shall be charged monthly to operating expenses or other appropriate accounts and credited to account 735, "Accrued depreciation—Road and equipment", during the service life of depreciable road and equipment property, includible in accounts classed as depreciable, amounts which will approximate the loss in service value not restored by current repairs or covered by insurance. The charges for accruing depreciation currently shall be computed in conformity with the group plan by applying to the cost of property such percentage rates as will distribute the service value by the straight-line method in equal annual charges to operating expenses or other accounts during the estimated life of the property. For road property, the cost shall be original cost or estimated original cost, as used in the valuation records, adjusted to current date. If a carrier submits proof that the actual cost of depreciable property is substantially different from cost figures in the valuation records, the carrier may, with the approval of the Commission, use such cost figures as the depreciation base.

(b) The term group plan means the plan under which depreciation charges are accrued upon the basis of the cost of depreciable property includible in accounts classed as depreciable using the service lives of the individual depreciable units in the accounts and properly weighting to determine the composite annual rate of depreciation.

(c) For the purpose of the group plan of depreciation accounting the following primary accounts are classed as depreciable accounts:

Road accounts:
1. Engineering (as appropriately assigned, but not distributed, to the other depreciable accounts in arriving at the amounts used as the depreciation base).
2½. Other right-of-way expenditures.
3. Grading (depreciable property recorded in this account).
5. Tunnels and subways.
6. Bridges, trestles and culverts.
7. Elevated structures.
13. Fences, snowsheds, and signs.
16. Station and office buildings.
17. Roadway buildings.
18. Water stations.
19. Fuel stations.
20. Shops and enginehouses.
21. Grain elevators.
22. Storage warehouses.
23. Wharves and docks.
24. Coal and ore wharves.
26. Communication systems.
27. Signals and interlockers.
29. Power plants.
31. Power-transmission systems.
35. Miscellaneous structures.
37. Roadway machines.
39. Public improvements—construction.
44. Shop machinery.
45. Power-plant machinery.

NOTE: With respect to accounts 2½, 3, 5, and 39, carriers may confine the accruals to the depreciable property recorded therein by applying the percentage rates to the aggregate cost of such property (omitting nondepreciable property), in computing depreciation charges, or they may request composite percentage rates to be applied to the total amount recorded in each of the accounts in computing depreciation charges.

Equipment accounts:
51. Steam locomotives.
52. Other locomotives.
53. Freight-train cars.
54. Passenger-train cars.
56. Floating equipment.
57. Work equipment.
58. Miscellaneous equipment.

(d) When abandonment of a branch line or other important segment of the track structure or other part of the plant for which depreciation charges are not includible in the accounts is foreseeable within a reasonable period of time due to exhaustion of traffic, obsolescence or other causes, application may be made to the Commission for authority to create a suitable reserve in anticipation of probable loss.

5-2 *Rates of depreciation.* (a) A separate composite annual percentage rate for each account covering depreciable property shall be used in computing depreciation charges. Such composite rates shall be those which are from time to time prescribed or otherwise authorized by the Commission. Where property is acquired for which no rates have been prescribed or otherwise authorized and also in the event annual percentage rates prescribed for any class or type of property become no longer currently applicable because of material changes in property, premature obsolescence, exhaustion of traffic or other causes not given effect in the existing rates, carriers shall so inform the Commission promptly and, at that time, shall submit revised annual percentage rates and supporting details developed in accordance with the method indicated in instruction 5-1.

(b) In computing monthly charges the annual percentage rates shall be applied to the depreciation base as of the first of each month and the result divided by twelve.

5-3 *Depreciation records to be kept.* (a) The carrier shall maintain for each class of property in convenient and accessible form engineering and other data bearing on prospective service lives; and shall be prepared at any time upon direction of this Commission to compute and submit for approval, new percentage rates to take the place of those based on service lives or value of salvage deemed to be inaccurate.

(b) The carrier also shall keep such records of depreciable property and property retirements as will reflect the service life of each class of property which has been retired, or will permit the determination of service life indications by past experience of useful life tenure of comparable property, turnover, or other appropriate methods; also such records as will reflect the percentage of value of the salvage for property retired from each class of depreciable property.

(c) For purposes of analysis the carrier shall maintain subsidiary records in which the reserve is broken down into component parts corresponding to each primary account showing in these records in complete detail by each primary account the current credits and debits to the reserve. Such detailed information shall be reported annually to this Commission. For balance sheet purposes, the depreciation reserve shall be treated as a single composite reserve for property.

5-4 *Leased property—depreciation.* (a) The carrier shall include in operating expenses charges for depreciation on road property and equipment used but not owned, the rent for which is includible in rent for leased roads and equipment, and shall maintain the same records of service lives, salvage values, etc., as provided for owned road property and equipment. The excess of the total compensation paid over the amount chargeable for depreciation shall be included in the rent account. If settlement between the carrier and the lessor is not currently made, the amount of the depreciation accrued during the period of the lease shall be credited by the carrier to account 785, "Accrued depreciation—Leased property". The necessary adjustments of the difference between the balance thus accrued in that account and the actual amount of settlement shall be made appropriately through accounts 519 "Miscellaneous income", or 551 "Miscellaneous income charges", at the time settlement for depreciation on the property is made with the lessor.

(b) The carrier shall not include in the depreciation account in operating expenses any charges for depreciation of equipment used but not owned when the rents therefor are included in the rent for equipment and joint facility rent accounts.

5-5 *Jointly used property—depreciation.* The owning carrier shall include in the depreciation accounts in operating expenses the charges for depreciation on units of depreciable property jointly used with one or more other carriers. The owning carrier shall credit and each using carrier shall charge the appropriate joint facility accounts in operating expenses with the amounts billed by the owning carrier against each using carrier for its proportion of the service loss on property retired from service whether billed currently as depreciation or when retirements occur as the loss in service value. The using carriers shall be required to account for depreciation or retirement of units of road property jointly used but not owned only to the extent of their contract liability. The same principle shall apply to terminal companies and their nonowner tenants in accounting for depreciation accruals or retirement charges recorded in the accounts of the terminal companies.

INSTRUCTIONS FOR INCOME AND BALANCE SHEET ACCOUNTS

6-1 *Current assets.* In the group of accounts designated as current assets shall be included cash, those assets which are readily convertible into cash or are held for current use in operations, current claims against others and amounts accruing to the carrier which are subject to settlement in the ordinary course of business within one year. There shall not be included in this group of accounts any amount the collection of which is not reasonably assured within one year because of the known financial condition of the debtor or otherwise. Such items shall be included in account 741, "Other assets", at an amount not in excess of a reasonable estimate of realisable value. Items of current character but of doubtful value previously credited to operating revenue, operating expense or other income accounts shall be written down or written off by charging those accounts, as appropriate. Adjustment of these items of doubtful value shall be made by direct reduction of the asset account in which such doubtful items are carried or by a separate reserve for the uncollectible amount, which reserve shall be applied as a reduction of the current asset account in the balance sheet statement. Provision likewise shall be made for any significant loss due to obsolescence in material and supplies. If it is desired to retain a record of assets written off they shall be recorded at a nominal value in account 741, "Other assets."

6-2 *Recorded value of securities owned.* The investment in securities other than those issued or assumed by the accounting company shall be recorded in these accounts at the money value, at the time of acquisition, of the consideration given therefor by the accounting company, but excluding amounts paid for accrued interest and accrued dividends. The accounting company shall write down the ledger value of any securities to the extent of impairment in their value or write off entirely if there is no reasonable prospect of realizing any value therefrom, but fluctuations in market value are not to be recorded. Adjustments in the ledger values of securities shall not be delayed beyond the year in which a loss is claimed for income tax purposes. The amount of the adjustment for loss in value written off may be recorded in the accounts by creating a reserve for such loss through concurrent credits to account 723, "Reserve for adjustment of investment in securities". Losses in value of securities written off shall be charged to account 551 "Miscellaneous income charges" or to account 570 "Extraordinary items;" as appropriate. Under no circumstances shall securities be stated in these accounts at an amount in excess of their cost to the accounting company.

6-3 *Discount, expense, and premium on debt.* (a) Ledger accounts shall be provided to cover the discounts, expense, and premiums at the sale or resale of each subclass of funded debt and of receivers' and trustees' securities issued for the benefit of or assumed by the company. (For explanation of "subclass" see account 765, "Funded debt unmatured".) The net debit balances remaining in these ledger accounts shall be included in account 742, "Unamortized discount on long-term debt", and the total of the net credit balances in account 783, "Unamortized premium on long-term debt".

(b) Each fiscal period there shall be charged to income account 548, "Amortization of discount on funded debt", a proportion on a consistent basis of each of the debit balances in these accounts, and correspondingly there shall be credited to income account 517, "Release of premiums on funded debt", a similar proportion of each of the credit balances in these accounts. When the total discount and expense applicable to any particular issue of securities does not exceed $25,000, carriers may charge the entire amount to account 548, "Amortization of discount on funded debt", at time of issue.

(c) When any funded debt which has been actually issued to bona fide holders for value is reacquired by the accounting company, that proportion of the balance remaining in accounts containing discount, expense and premium on funded debt for the subclass of the security reacquired applicable to the portion reacquired shall be credited or charged thereto, as may be appropriate, and concurrently charged or credited to account 519 "Miscellaneous income", account 551, "Miscellaneous income charges"; or to account 570 "Extraordinary items", as may be appropriate, in accordance with the text of these accounts. Such proportion shall be based upon the ratio of the par value of the security reacquired to the par value of all the securities of the subclass actually outstanding immediately before such reacquirement.

6-4 *Discount, premium, and assessment on capital stock.* (a) Separate ledger accounts shall be provided for each subclass of capital stock issued or assumed by the accounting company to cover discount suffered and premium realized at the time of sale of capital stock. General levies or assessments against stockholders shall be credited to the appropriate ledger accounts for the subclass of capital stock against which the levy or assessment is made.

(b) The total of net debit balances in these ledger accounts shall be included in account 793, "Discount on capital stock", and the total of net credit balances in account 794, "Premiums and assessments on capital stock".

(c) Discount on each subclass of capital stock may be offset or reduced by charges to account 794, "Premiums and assessments on capital stock", to the extent that net gains from premiums or assessments have been included therein or to account 796, "Paid-in surplus", to the extent that net gains from resequisition and resale or retirement of capital stock applicable to such subclass have been included therein. Any remaining discount may be amortized by charge to account 616, "Other debits to retained income", or may be retained and carried in account 793, "Discount on capital stock", until the stock to which the discount applies is retired.

(d) In case the accounting company is permitted and elects with the approval of the Commission, to distribute all or any part of the net balance of paid-in surplus to its stockholders, the amount thus distributed shall be charged to account 795, "Paid-in surplus".

(e) When an issue of capital stock, or any part thereof, is reacquired either by purchase or through donations by shareholders and is not canceled, but is held as treasury stock or in sinking or other funds, such stock shall be included in a subdivision of account 791, "Capital stock issued", if treasury stock, and in accounts 715, "Sinking funds", 716, "Capital and other reserve funds", or 717, "Insurance and other funds", as may be appropriate, if the stock is held alive in a fund of the character described in the respective accounts. The reacquired stock shall be included in such accounts at par value or if stock without par value at the proportionate amount at which the particular class of stock is carried in account 791.

(f) The difference between the amount at which such reacquired stock was recorded in account 791, "Capital stock issued", and the amount paid by the accounting company for such stock, including any premium or discount applicable to such subclass carried in account 794, "Premiums and assessments on capital stock", or in account 793, "Discount on capital stock", and the commissions and expense in connection with its reacquisition shall be included in account 796, "Paid-in surplus"; *Provided, however,* That the excess of a debit over the amount of accumulated net gains applicable to such subclass included in paid-in surplus shall be charged to account 616, "Other debits to retained income."

(g) When reacquired capital stock is resold the difference between the net sale price and the amount at which carried as treasury stock shall be included in account 795, "Paid-in surplus"; *Provided, however,* That the excess of a debit over the amount of accumulated net gains applicable to each subclass of capital stock resold included in paid-in surplus shall be charged to account 616, "Other debits to retained income".

6-5 *Joint liabilities.* The accounting company shall state as a liability in its balance sheet the difference between the total par value of securities jointly or severally issued by it and others and the portion of such liability which, under the joint arrangement, it is expected will be liquidated by the other party or parties to the joint arrangement. The amount of the jointly or severally issued securities it is expected will be liquidated by the other party or parties shall be shown as a contingent liability in accordance with instruction 6-6 pertaining to contingent assets and liabilities.

6-6 *Contingent assets and liabilities.* Contingent assets and liabilities shall not be included in the body of the balance-sheet statement, but items of material amount shall be shown in a supplementary statement to the balance-sheet. Contingent assets are those without value to the accounting company until the fulfillment of conditions regarded as uncertain. Contingent liabilities include items which may, under certain conditions, become obligations of the company, but are neither direct nor assumed obligations on the date of the balance sheet. Examples of contingent liabilities are items which may become obligations as a result of pending or threatened litigation, assessments or possible assessments of additional taxes, guarantees of indebtedness of others, and agreements or obligations to repurchase securities or property. Where the outcome is reasonably foreseeable, such as probable tax assessment which the carrier may not reasonably expect to contest successfully, such liabilities are to be reflected in the accounts and are not to be treated as contingent liabilities.

PROPERTY, ACCOUNTS

Road

0 Road.

The several primary accounts included in this general account are designed to show the cost of land and road property owned by the carrier and devoted to transportation service.

I Engineering.

This account shall include the pay and expenses of engineers, assistants, and clerks engaged in the survey and construction of new lines and extensions, or in making additions to and betterments of the carrier's road, including wharves and docks.

LIST OF OFFICERS AND EMPLOYEES

Chief engineer.
Assistant engineers.
Bridge and signal engineer.
Architects and draftsmen.
Chief clerk and other clerks.
Transitmen and levelmen.
Rodmen and chainmen.
Cooks and porters on business cars.

ITEMS OF EXPENSE AND SUPPLIES

Atlases and maps.
Barometers.
Books for office use.
Business car service.
Cameras; compressed.
Camp equipage.
Chains for surveyors.
Drawing boards.
Drawing instruments.
Field glasses.
Furniture repairs and renewals.
Heating and lighting.
Magnets and magnifiers.
Official train service.
Paper, blue-print.
Periodicals and newspapers.
Photographic supplies.
Printing and stationery.
Provisions for business cars.
Rent and repairs of offices.
Rods for surveyors.
Sextants and slide rules.
Telegraph and telephone service.
Traveling expenses.
Triangles and tripods.

NOTE A: When employees designated above are engaged in the maintenance of the road, their pay and expenses while thus employed shall be charged to operating expenses.

NOTE B: Expenditures for tentative or preliminary surveys shall be carried in a suspense account until it is determined whether or not to continue the work. If the project is continued, expenditures for all surveys in connection therewith shall then be transferred to this account, and, if abandoned, to appropriate income accounts.

NOTE C: The cost of designing, making plans and specifications, and supervising the construction of equipment shall be included in the cost of the equipment.

NOTE D: The cost of stationery and printing supplies used for accounting purposes in connection with engineering work shall be included in account 74, "Stationery and printing," when not directly assignable to specific road or equipment accounts.

NOTE E: Fees and expenses of architects specially employed for designing or supervising the construction of buildings shall be included in the accounts appropriate for the cost of the buildings constructed.

2 Land for Transportation Purposes.

This account shall include the cost of land of necessary width acquired for roadway; the cost of land for station, office, shop, and other grounds; for ingress to or egress from such grounds; for borrow pits, waste banks, snow fences, and fences, and other railway appurtenances; and for storage of material adjoining the right of way; the cost of land for wharves and docks and the cost of riparian or water rights necessary therefor; the cost of removing from the right of way and locating elsewhere the property of others, and the cost of the necessary land for relocation of the property, when such costs are assumed by the accounting carrier.

The carrier's records shall be kept in such manner as to show separately the cost of land purchased. Proceeds from the sale of timber or of improvements purchased with right of way, less any cost of removal, shall be credited to this account.

ITEMS OF EXPENSE

Abstracts.
Appraisals.
Arbitrators in condemnation cases.
Commissions paid to others.
Condemnation expenses, including court costs and special counsel fees.
Damages to property of others.
Deferred payments for right-of-way.
Ditches for waterways when part of consideration.
Judgments and decreed costs to clear or defend titles.
Notarial fees.
Plats.
Premiums on condemnation bonds.
Recording deeds.
Payments for relinquishment of cattle passes and other rights.
Removal and relocation of buildings and other structures not purchased.
Rent of land when part of consideration for purchase.
Right-of-way agents' compensation (engaged solely in acquiring right of way).
Taxes accrued and assumed at time of purchase.

NOTE: The cost of land acquired in excess of that necessary for transportation operations shall be included in balance-sheet account 737, "Miscellaneous physical property." When the purchase of land acquired for transportation operations involves the purchase of land not used for such purposes the charges to this account shall be based upon the estimated cost of only that portion which is used for such purposes, and the cost of the remaining land shall be included in account 737, "Miscellaneous physical property." Only the actual cost borne by the carrier for right-of-way and other lands acquired through vacation of streets and highways shall be included in this account. No donations should be considered as involved in the acquisition of such property.

2½ Other Right-of-way Expenditures.

This account shall include the cost (in excess of cost of railway facilities installed, if any) actually borne by the carrier of improvement projects (other than public improvement projects), such as the construction of canals, farm and other private passes, pipe lines, drains, and other facilities across the carrier's right-of-way.

3 Grading.

(a) This account shall include the cost of clearing and grading the roadway, and of constructing protection for the roadway, tracks, embankments and cuts.

(b) When a part of a bridge or trestle, or the entire structure, is converted by filling into an earth embankment, and the bridge is used in lieu of a temporary trestle for the purpose of filling, the estimated cost of such temporary trestle shall be included in the cost of the filling, and charged to this account. (See Note A, under account 6, "Bridges, trestles, and culverts.")

(c) When a tunnel is converted into an open cut, the cost of clearing, grubbing, and excavating shall be included in this account.

DETAILS OF ROADBED AND ITEMS OF EXPENSE

Advertising for contractors' bids.
Berm ditches.
Blasting.
Breakwaters.
Bulkheading.
Clearing land.
Cribbing.
Dikes (including those of earthern construction which are intended to function indefinitely).
Ditches (not required by right-of-way agreement).
Dressing slopes.
Excavation for conversion of tunnels into open cuts.
Filling bridges, trestles, and culverts.
Grading outfits.
Grubbing land.
Material taken from borrow pits.
New channels for streams.
Operation of steam shovels.
Payments for privilege of wasting material on the property of others.
Payments for waste banks off the right-of-way.
Retaining walls.
Revetments.
Riprap.
Spoil banks.
Temporary trestling for fills.
Tools for grading.
Wing dams.

5 Tunnels and Subways.

This account shall include the cost of tunnels and subways for the passage of trains, including apparatus for ventilating and lighting and safety devices therein, other than signals.

NOTE A: The cost of tracks, including guard rails, in tunnels shall not be charged to this account.

NOTE B: Station subways not highway crossings are includible in account 16, "Station and office buildings."

NOTE C: If a tunnel be converted into an open cut the accounting shall be in accordance with the instructions prescribed for converted property.

6 Bridges, Trestles, and Culverts.

This account shall include the cost of the substructure and superstructure of bridges, trestles, and culverts which carry the tracks of the carrier over water-courses, ravines, public and private highways, and other railways.

DETAILS OF BRIDGE STRUCTURES

Abutments.
Bridge signs.
Cofferdams.
Concrete and masonry ends for culverts.
Cribs.
Decking, including gravel for fire protection.
Dike protection.
Drainage systems.
Draw protection.
Drawbridge engines and machinery.
False work.
Guard timbers.
Ice breakers.
Painting (except repainting).
Pier protection.
Piers and foundations.
Pipe culverts.
Retaining walls.
Riprap around abutments.
Riprap at culvert ends.
Supports.
Water channels.
Waterproofing.
Wing dams.
Wing walls.

NOTE A: When a part of the entire structure of a bridge or trestle is converted, by filling, into an earth embankment, the ledger value of the structure, or of the portion thereof filled, shall be credited to this account. In case the bridge or trestle is used in lieu of a temporary trestle for the purpose of filling, the estimated cost of such temporary trestle shall be charged to account 3, "Grading." The ledger value of the structure or portion thereof, filled, less the value of the salvage and the estimated cost of trestle charged to account 3, shall be charged to account 735, "Accrued depreciation—Road and equipment."

NOTE B: The cost of bridges to carry the carrier's tracks over undergrade crossings, including the necessary piers and abutments to sustain them shall be included in this account.

7 Elevated Structures.

This account shall include the cost of elevated structures and foundations of elevated railway sytems. This account is applicable to structures other than earthwork, which are for the purpose of elevating tracks above the grade of streets, and which are not properly classable as bridges or trestles.

NOTE: The cost of stations and other structures built on elevated structures shall be accounted for according to the class of the structure thus superimposed and not in this account.

8 Ties.

(a) This account shall include the cost of cross, switch, bridge and other track ties used in the construction of tracks for the movement or storage of locomotives and cars (including tracks in shops, fuel stations, supply yards, etc.), and the cost of additional ties subsequently laid in such tracks; also the excess of cost of metal ties used in repairs of track over the cost to replace in kind wooden ties removed.

(b) The cost of handling ties in general supply and storage yards shall be included as store expenses apportioned to this account when the ties are used for construction purposes.

NOTE A: The cost of labor for unloading, distributing and placing the ties in tracks and the cost of train service in connection with the distribution of ties laid shall be charged to account 12, "Track laying and surfacing."

NOTE B: The cost of ties used in the construction of car floats shall be included in the cost of such floating equipment, and the cost of ties used in the construction of temporary

tracks, such as gravel-pit and quarry tracks, shall be included in the appropriate clearing accounts.

9 Rails.

(a) This account shall include the cost of rails used in the construction of tracks for the movement or storage of locomotives and cars (including tracks in shops, fuel stations, supply yards, etc.), and the cost of the excess in weight of heavier rails laid in replacement of lighter rails.

(b) The cost of handling rails in general supply and storage yards shall be included as store expenses apportioned to this account when the rails are used for construction purposes.

(c) To this account shall be credited the cost (estimated if actual is not known) of the excess weight of heavier rails replaced with lighter rails.

NOTE A: The cost of labor for unloading, distributing and placing the rails in tracks, and of train service in connection with the distribution of the rails shall be charged to account 12, "Track laying and surfacing."

NOTE B: The cost of rails used in the construction of car floats shall be included in the cost of such floating equipment, and the cost of rails used in the construction of temporary tracks, such as gravel-pit and quarry tracks, shall be included in the appropriate clearing accounts.

10 Other Track Material.

(a) This account shall include the cost of material used in the construction of tracks for the movement or storage of locomotives and cars (including tracks in shops, fuel stations, supply yards, etc.), except ballast and material chargeable to foregoing accounts; also the excess cost of heavier or improved "other track material" used in repairs of tracks over the cost of replacing in kind such material removed.

(b) The cost of handling "other track material" in general supply and storage yards shall be included as store expenses apportioned to this account when such material is used in the construction of new tracks.

ITEMS OF OTHER TRACK MATERIAL

Angle bars.	Rail chairs.
Anticreepers.	Rail clips.
Bumping posts.	Rail joints.
Compromise joints.	Rail rests.
Connecting rods.	Rail shims.
Crossings, including foundations or bases.	Splice bars.
	Step chairs.
Derails.	Switch chairs.
Frog blocking.	Switch crossings.
Frogs.	Switch lamps.
Guard-rail blocking.	Switch locks and keys.
Guard-rail clamps.	Switch points.
Guard-rail fasteners.	Switch stands.
Guard rails, switch and other.	Switch targets.
	Switches.
Main rods.	Tie plates.
Nut locks.	Tie plugs.
Nuts.	Tie rods.
Offset bars.	Track bolts.
Rail braces.	Track insulators.
Rail splices.	Track spikes.

NOTE A: The cost of labor and train service for distributing, unloading, and applying "other track material" shall be charged to account 12, "Track laying and surfacing".

NOTE B: No entry is required in this account with respect to improved "other track material" unless installed under a definite plan of changing standards, such as increasing the weight of rail.

NOTE C: The cost of "other track material" used in the construction of car floats shall be included in the cost of such floating equipment, and the cost of such track material used in the construction of temporary tracks, such as gravel-pit and quarry tracks, shall be included in the appropriate clearing accounts.

11 Ballast.

(a) This account shall include the cost of gravel, stone, slag, cinders, sand, and like material used in ballasting tracks (including tracks in shops, fuel stations, supply yards, etc.) not previously ballasted, including cost of work-train service and of unloading; cost of ballast applied in excess of ballast required to restore to its maximum height and width the ballast previously put on the roadbed; and the excess cost of improved ballast used in renewals over the cost to replace in kind to the original height and width the ballast removed. Charges to this account shall not exceed the cost of ballast applied to a depth of 24 inches beneath the tie, unless otherwise authorized by the Commission.

(b) The instructions prescribed for gravel and sand pits and quarries applies to the accounting for pits from which ballast material is obtained either for construction work or for maintenance, or for both.

NOTE A: The cost of ballast used in the construction of temporary tracks, such as gravel-pit and quarry tracks, shall be included in the appropriate clearing accounts.

NOTE B: Earth placed to form a crown in the middle of the track is not to be considered as ballast.

NOTE C: The cost of ballast material placed on the decking of bridges solely for fire-protected purposes shall be included in account 8, "Bridges, trestles and culverts."

NOTE D: No charge shall be made to the accounts of this classification representing the value of cinders accumulated by the carrier.

12 Track Laying and Surfacing.

This account shall include the cost of distributing (including train service), laying, and adjusting ties, rails, and other track material used in the construction of tracks for the movement or storage of locomotives or cars, including repair tracks, but not tracks on car floats or temporary tracks the cost of which is chargeable to clearing accounts. It shall also include the cost of the labor expended in placing ballast in tracks not previously ballasted.

NOTE A: The cost of distributing and adjusting ties, rails, ballast, and other track material for repairs shall be charged to operating expenses, both when such materials are replaced in kind and when replaced with improved and heavier material.

NOTE B: The cost of work-train service in delivering ballast and of unloading such material is provided for in account 11 "Ballast."

13 Fences, Snowsheds and Signs.

This account shall include:

(a) *Fences.* The cost of right-of-way fences and snow and sand fences, farm gates, cattle guards, wing fences, aprons, and hedges, on property not previously fenced, excluding those around stockyards, fuel stations, station and shop grounds, and building sites.

(b) *Snowsheds.* The cost of snowsheds, including initial cost of planting trees for protecting tracks from snow.

(c) *Signs.* The initial cost of signs other than those for identification of bridges, signals, stations, and other structures.

SIGN ITEMS

Boundary signs.	Section-limit signs.
Bridge-caution signs.	Slow or stop signs.
Crossing signs.	Tunnel—caution signs.
Curve and elevation markers.	Water-station signs.
Division-limit signs.	Water-trough signs.
Mileposts.	Whistle signs.
Monuments.	Yard-limit signs.
Safety-first signs at crossings.	

NOTE A: The cost of fences (other than right-of-way boundary fences) around stock yards, fuel and water stations, and other building sites, shall be charged to the accounts appropriate for the cost of the structures.

NOTE B: The cost of signs for identifying bridges, signals, stations, and other structures shall be included in the account appropriate for the cost of the structures.

NOTE C: The cost of crossing signals, including crossing gates, shall be included in account 27, "Signals and interlockers."

NOTE D: This account shall also include the cost of replacing units of such property or substantial parts of fences or snowsheds the original cost of which were charged to this account.

16 Station and Office Buildings.

This account shall include the cost of station and office structures, their fixtures, appurtenances, and furniture necessary first to equip the buildings for use.

STATION AND OFFICE STRUCTURES AND DETAILS

Breakwaters for protection of buildings.
Buildings and rooms for trainmen.
Buildings on piers.
Coal transferring machinery (not on coal and ore wharves).
Coal trestles (not at fuel stations).
Drainage and sewerage systems.
Elevators and machinery.
Fences.
Freight cranes and derricks.
Freight handling machinery.
Gas-supply systems.
General office buildings
Grain elevators and warehouses.
Heating plants.
Hoisting engines, for handling freight.
Lighting plants.
Ore-transferring machinery.
Pavement within ground limits.
Platforms, passenger, including planking between tracks.
Power distribution systems, interior.
Sidewalks.
Station footbridges (not highway crossings).
Station intertrack fences.
Telegraph offices.
Track scales.
Water-supply systems.
Yard offices.

NOTE A: Office buildings used exclusively in connection with maintenance of way shall be included in account 17, "Roadway buildings." Those used exclusively in connection with maintenance of equipment shall be included in account 20, "Shops and enginehouses."

NOTE B: The cost of grading and preparing grounds, both before and after the construction of stations and office buildings, and the cost of constructing sidewalks, driveways, and fences thereon, shall be included in the cost of the buildings, as shall also the fees and expenses of architects specially employed for designing or supervising the construction of the buildings, but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts. The cost of permanent water rights shall also be included in the cost of the buildings.

17 Roadway Buildings.

This account shall include the cost of roadway shops and other roadway buildings, including drainage, water, gas, and sewer pipes and connections; and all machinery, fixtures, and furniture to equip the building ready for use.

LIST OF ROADWAY BUILDINGS

Blacksmith shops.
Breakwaters for protection of buildings.
Carpenter shops.
Fire-engine houses.
Frog shops for repair of track material.
Hand-car houses.
Lighting plants.
Lumber sheds.
Planing mills.
Rail shops for repair of track material.
Repair shops.
Scrap bins.
Section dwelling houses.
Tool houses.

NOTE: The cost of grading and preparing grounds both before and after the construction of roadway buildings, and the cost of constructing sidewalks, driveways, and fences thereon shall be included in the cost of the buildings, as shall also the fees and expenses of architects, specially employed for designing or supervising the construction of the buildings, but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts. The cost of permanent water rights shall also be included in the cost of the buildings.

18 Water Stations.

This account shall include the cost of structures, facilities, and appliances necessary to equip for service, stations for supplying water. The cost of analyses of water preliminary to the establishment of water stations shall be included in this account.

WATER STATION STRUCTURES AND DETAILS

Boilers.	Reservoirs and wells.
Breakwaters for protection of buildings.	Settling basins.
	Stationary engines.
Buildings on piers.	Steam pipes.
Cisterns and dams.	Tanks and foundations.
Fences.	Water pipe lines.
Pump houses.	Water-treating plants.
Purifying plants.	

NOTE A: The cost of water stations used solely for supplying water to shops, power plants, stations, hotels, tenement houses, or section houses shall be charged to the appropriate accounts relating to the property so supplied.

NOTE B: The cost of a temporary water station established only for use during the construction period shall be included in the primary accounts to which is charged the cost of the work in connection with which the water station is used.

NOTE C: The cost of grading and preparing grounds both before and after the construction of water station buildings, and the cost of constructing sidewalks, driveways, and fences thereon shall be included in the cost of the buildings, as shall also the fees and expenses of architects specially employed for designing or supervising the construction of the buildings, but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts. The cost of permanent water rights shall also be included in the cost of the buildings.

19 Fuel Stations.

This account shall include the cost of structures, facilities other than tracks, and appliances necessary to equip for service, stations for supplying fuel to locomotives and floating equipment.

FUEL STATION STRUCTURES AND DETAILS

Breakwaters for protection of buildings.	Fences.
	Fuel houses or stations.
Buildings on piers.	Fuel-oil plants, pumps and tanks.
Coal buckets and hoists.	
	Fuel platforms and wharves.
Coal pockets and chutes.	Stationary engines.
	Tipple cars.
Dumping machinery.	Weighing apparatus.
Elevating machinery.	

NOTE A: The cost of fuel stations, coal houses, etc., used solely for supplying fuel to shops, power plants, stations, hotels, tenement houses, or section houses shall be charged to the appropriate accounts relating to the property so supplied.

NOTE B: The cost of a temporary fuel station established only for use during the construction period shall be included in the primary accounts to which is charged the cost of the work in connection with which the fuel station is used.

NOTE C: The cost of grading and preparing grounds both before and after the construction of fuel station buildings, and the cost of constructing sidewalks, driveways, and fences thereon, shall be included in the cost of the buildings, as shall also the fees and expenses of architects specially employed for designing or supervising the construction of the buildings, but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts. The cost of permanent water rights shall also be included in the cost of the buildings.

20 Shops and Enginehouses.

This account shall include the cost of buildings to be used as shops, enginehouses, and storehouses for material for maintenance of equipment; foundations, except those special to particular machines and other apparatus; furniture and fixtures other than equipment chargeable to account 44, "Shop machinery"; drainage, sewerage, and water-supply systems; and plants for heat and light.

SHOP AND ENGINEHOUSE STRUCTURES AND DETAILS

Air-compressor houses.	Enginehouses.
	Fire-engine houses.
Bins for material.	Footbridges (not public highways).
Blacksmith shops.	
Breakwaters for protection of buildings.	Foundries and machine shops.
	Gas-compressor houses.
Buildings on piers.	Heating and lighting plants.
Car sheds and shops.	
Carpenter shops.	Laboratories.
Cinder pits and pockets.	Lumber sheds.
	Material and supply truck tracks.
Electric-power distribution systems within buildings.	Motor-crane tracks.
	Offices, shop.
	Paint shops.
	Pipe lines, air, and heat.
	Pipe lines, gas, interior.
	Planing mills and repair shops.
	Platforms, shop and yard.
	Scale houses and scales.
	Scrap bins.
	Sidewalks.
	Steam-distribution systems, interior.
	Storehouses.
	Tanks, gas, and oil.
	Test rooms.
	Turntables.
	Upholstering shops.
	Warehouses.

NOTE A: The cost of distinct power plant buildings for shop purposes shall be included in account 39, "Power plants." The cost of distribution systems leading from such power plants to shops and enginehouses shall be included in account 31, "Power-transmission systems."

NOTE B: The cost of grading and preparing grounds both before and after the construction of shop and enginehouse buildings, and the cost of constructing sidewalks, driveways, and fences thereon, shall be included in the cost of the buildings, as shall also the fees and expenses of architects specially employed for designing or supervising the construction of the buildings, but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts. The cost of permanent water rights shall also be included in the cost of the buildings.

NOTE C: The cost of shop buildings devoted solely to the maintenance of way and structures shall be included in account 17, "Roadway buildings."

21 Grain Elevators.

This account shall include the cost of structures, including the cost of conveyors, machinery, and the fixtures which the railway companies operate for the transfer, treatment, and storage of grain. The buildings referred to in this account are not small storage elevators at stations where grain is received for shipment, etc., but large elevators in which grain is stored for various owners.

NOTE A: Small storage elevators at way stations are classed as station buildings.

NOTE B: The cost of grading and preparing grounds both before and after the construction of grain-elevator buildings, and the cost of constructing sidewalks, driveways, and fences thereon, shall be included in the cost of the buildings as shall also the fees and expenses of architects specially employed for designing or supervising the construction of the buildings, but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts. The cost of permanent water rights shall also be included in the cost of the buildings.

NOTE C: The cost of grain elevators leased to noncarriers shall be included in account 737, "Miscellaneous physical property."

22 Storage Warehouses.

This account shall include the cost of storage warehouses, including machinery and fixtures therein. The buildings herein referred to are not the ordinary freight warehouses or stations where freight is received for shipment, etc., but warehouses in which merchandise is stored and which the railway companies operate as storage warehouses.

NOTE A: The cost of grading and preparing grounds both before and after the construction of storage warehouse buildings, and the cost of constructing sidewalks, driveways, and fences thereon, shall be included in the

cost of the buildings, as shall also the fees and expenses of architects specially employed for designing or supervising the construction of the buildings, but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts. The cost of permanent water rights shall also be included in the cost of the buildings.

NOTE B: The cost of warehouses leased to noncarriers shall be charged to account 737, "Miscellaneous physical property."

23 Wharves and Docks.

This account shall include the cost of wharves, docks, dry docks, slips, float bridges, and other landings for vessels, including the cost of necessary dredging, and the cost of float-bridge machinery; also the cost of piling, pile protection, cribs, coffer-dams, walls, and other necessary devices and apparatus for the operation or protection of wharves and docks.

DETAILS OF WHARVES AND DOCKS

Bridge pontoons.	Ferry bridges.
Bulkheads.	Ferry slips.
Caissons and crib-work.	Jetties and inclines.
Dry docks.	Transfer-bridge machinery.
Ferry-bridge machinery.	Transfer bridges.

NOTE A: The cost of coal and ore wharves and docks shall be included in account 24, "Coal and ore wharves."

NOTE B: The cost of the land on which wharves are built and cost of riparian or water rights for wharves and docks shall be charged to account 3, "Land for transportation purposes."

NOTE C: The cost of buildings located on wharves shall be included in the accounts appropriate for the class of buildings.

NOTE D: The cost of grading and preparing grounds both before and after the construction of wharves (other than coal and ore wharves) and the cost of constructing sidewalks, driveways, and fences thereon, shall be included in the cost of the wharves, but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts. The cost of permanent water rights shall also be included in the cost of the wharves.

24 Coal and Ore Wharves.

This account shall include the cost of wharves and docks for the transfer, treatment, blending, or storage of coal or ore, including the cost of necessary dredging and of conveyors, machinery, and fixtures.

NOTE A: The structures referred to in the account do not include small transfer or storage trestles or wharves at stations where coal is stored or delivered, such trestles being classed as station buildings.

NOTE B: The cost of grading and preparing grounds both before and after the construction of coal and ore wharves, and the cost of constructing sidewalks, driveways, and fences thereon, shall be included in the cost of the wharves, as shall also the fees and expenses of architects specially employed for designing or supervising the construction of the wharves, but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts. The cost of permanent water rights shall also be included in the cost of the wharves.

26 Communication Systems.

This account shall include the cost of telegraph, telephone, radio, radar, inductive train communication, and other communication systems, including terminal equipment.

DETAILS OF TELEGRAPH AND TELEPHONE TERMINAL EQUIPMENT

Batteries.	Fuses and mechanical protectors.
Cables and wires, interior.	Rectifiers.
Carrier terminating equipment.	Rheostats.
Conduits, interior.	Sending and receiving instruments.
Connecting wires.	Switchboards.
Current-controlling instruments.	Telegraph repeaters.
Electric generators and motors.	Telephone repeaters.
Electric meters.	Teletypewriters.
Engines, stationary.	Testing outfits.
	Transformers.

DETAILS OF TELEGRAPH AND TELEPHONE OUTSIDE PLANT

Aerial attachments.	Guy stubs.
Braces.	Guy wires.
Brackets.	Insulators.
Cable boxes and appurtenances.	Load coils.
Cables and wires, aerial.	Poles.
Conduits and appurtenances.	Submarine cables and connections.
Cross arms.	Telephone pole boxes.
Gas and associated facilities for cables.	Towers.
	Underground cables and connections.

DETAILS OF RADIO, RADAR, AND INDUCTIVE TRAIN COMMUNICATION EQUIPMENT

Aerials or antenna, and attachments.
Buildings or towers used exclusively for wireless.
Control units.
Power generating, converting, or supply equipment.
Radar consoles and associated equipment.
Roadside or office equipment for all wireless systems operated on special channels between train and train, train and tower or office, or between ship and shore.
Specialized testing and repair equipment.
Transmitters and receivers, including mobile units.

NOTE A: Radio, radar or trainphone equipment (except portable apparatus) which is permanently attached to locomotives, cars, work equipment, or other rolling stock or floating equipment shall be included in the same accounts as the equipment on which installed. Wireless sets for instruction, advertising, or entertainment shall be included in the same accounts as the building in which located.

NOTE B: Communication systems of limited extent, not connected with other systems, used for special purposes and usually installed within a single building, group of buildings, or within the limits of a station or shop layout or yard, shall be included in the same account as the building in which located or in the account appropriate for the service with which associated.

ITEMS

Bumers, bells, dictaphones or other inter-office communication systems in an office or group of buildings.
Loud speakers, bells, or whistles in shop and other yards.
Loud speakers, public address devices, press button control lights, teleutograph or other systems in stations or on platforms.
Whistles, klaxons, or horns operated from signal towers.

NOTE C: Test sets shall be classified as tools and included in the account appropriate for their use.

27 Signals and Interlockers.

This account shall include the cost of interlocking and other signal apparatus for governing the movements of locomotives, cars, and trains, and for the protection of traffic at crossings, including towers and other buildings, furniture, fixtures, and machinery in connection therewith; roadway installations for train control and remote control including the cost of the initial tests of such installation; also the cost of buildings and machinery of power plants used primarily for the production of power for the operation of signals and interlockers.

ITEMS

Automatic-train control devices other than on equipment.
Call-bell systems along track to call in flagmen.
Call boxes, electric.
Car-retarder systems.
Centralized traffic control.
Crossing flasher-light signals.
Crossing gates, highway and railway.
Crossing signal bells.
Crossing warning signals.
Interlocker buildings and machinery.
Power apparatus primarily for the operation of signals and interlockers.
Power-distribution lines primarily for the operation of signals and interlockers.
Signal buildings.
Signal machinery, poles and foundations.
Train-order signals.

NOTE A: When signal or interlocking apparatus is located in a station building, only the cost of the signal or interlocking apparatus shall be charged to this account. The entire cost of the building shall be included in account 16, "Station and office buildings."

NOTE B: The cost of track material, such as switches, special rail braces, special rods, special track fastenings, split rails, derails, derail stands, and frogs, used in connection with interlockers, shall be included in account 10, "Other track material."

NOTE C: When derails are arranged so as to be thrown from switch stands, the cost of labor expended in the installation of the connections between the switch stand and derail and the devices for throwing the derail shall be included in account 12, "Track laying and surfacing." The cost of the material shall be included in account 10, "Other track material."

NOTE D: The cost of grading and preparing grounds both before and after the construction of signal and interlocker buildings, and the cost of constructing sidewalks, driveways, and fences thereon, shall be included in the cost of the buildings, as shall also the fees and expenses of architects specially employed for designing or supervising the construction of the buildings, but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts. The cost of permanent water rights shall also be included in the cost of the buildings.

29 Power Plants.

This account shall include the cost of power-plant and substation buildings (housing machinery provided for in account 45, "Power-plant machinery"); all foundations other than those special to particular machines and apparatus; and also dams, canals, pipe lines, and accessories devoted to the utilization of water for power. Gas and sewer pipes and their connections, fixtures (including wiring) for lighting and heating, and furniture and miscellaneous fixtures shall be considered as a part of the power-plant buildings.

POWER-PLANT STRUCTURE ITEMS

Buildings.	Hose and appliances for protecting buildings against fire.
Coal bunkers, pockets and trestles.	Pavement within ground limits.
Fences (other than right - of - way boundary fences).	Permanent rights in water supply.
Fixtures for lighting (including wiring) and heating power-plant buildings.	Platforms.
Foundations (except special foundations for machines and other apparatus).	Smoke stacks and chimneys and their foundations when distinct from and not resting on boilers.
Fuel-oil tanks.	Water, sewer, gas, and drainage pipes and connections.
Furniture.	Wells (but not pumps).

DAM, CANAL, AND PIPE-LINE ITEMS

Aqueducts.	Reservoirs.
Bridges.	Roadways.
Fences (other than right - of - way boundary fences).	Sluices.
Footbridges.	Valves.
	Water rights.

NOTE A: The cost of power-plant machinery, including stacks resting on boilers, and special foundations for machines, shall be included in account 45, "Power-plant machinery."

NOTE B: The cost of the buildings and of the power machinery and other apparatus of plants used primarily for operating signals and interlockers shall be included in account 27, "Signals and interlockers."

NOTE C: Investment in buildings and machinery of detached plants for furnishing power both for operating purposes and for sale shall be included in this account and in account 45, "Power-plant machinery," respectively. When plants are intended and used primarily for generating power for sale to other than common carriers, the investment shall be included in account 737, "Miscellaneous physical property."

31 Power-transmission Systems.

This account shall include the cost of systems for conveying electricity, steam, and compressed air from producing plants to place or building where used; also the cost of conduits and of poles, cross arms, insulator pins, brackets, and other pole fixtures, and of other structures for power-transmission and distribution systems, including those for electric railway operation, and lighting systems for general lighting purposes.

POWER-TRANSMISSION SYSTEM ITEMS

Air pipe-lines in car yards.
Compressed air pipe-lines.
Compressed air storage tanks (not at power houses or shops).
Cut-outs (not at power houses and substations).
Overhead trolley wires.
Rail-insulating devices.
Steam-heating pipe-lines in car yards.
Switchboards (not at power houses and substations).
Third-rail insulation and protection.
Transformers (not at power houses and substations).
Underground power tubes.

POLE-LINE AND CONDUIT ITEMS

Braces and other supports for holding poles in position.
Brackets, cross arms, and other pole fixtures.
Conduits for wires and cables.
Cutting and trimming trees.
Guy stubs and wires.
Manholes.
Poles and towers.
Sewer traps.
Stenciling or painting letters or numbers on poles.

NOTE A: The cost of wire and pipe-distribution systems located within shop buildings and in stations and office buildings shall be included in the cost of the buildings, except that lateral service lines to equipment-shop machines shall be included in account 44, "Shop machinery." The cost of distribution systems used primarily for operating signals and interlockers shall be included in account 27, "Signals and interlockers."

NOTE B: The cost of conduits and of poles and fixtures for telegraph and telephone, or signal lines shall be included in account 26, "Communication systems," or account 27, "Signals and interlockers," as appropriate. The cost of poles and conduits used for telegraph and telephone or signal lines and for power-distribution lines shall be included in the account appropriate according to their predominant use.

35 Miscellaneous Structures.

This account shall include the cost of all permanent structures not provided for elsewhere, including all fixtures and furniture to equip them for use.

37 Roadway Machines.

This account shall include the cost of the initial outfit of roadway machines provided for the maintenance of roadway and structures at the time the road is opened for commercial traffic, and the cost of additional roadway machines acquired subsequently.

LIST OF ROADWAY MACHINES

Boilers, portable.	Engines, portable.
Cars, hand.	Grading outfits.
Cars, lever.	Hydraulic outfits.
Cars, motor inspection.	Jacks, hydraulic.
Cars, push.	Log loaders.
Cars, (small), crane, for supply yards and general use.	Pile drivers.
Concrete mixers.	Plows, unloading.
Ditching machines.	Rail unloaders.
Dredging machines.	Rock crushers.
	Steam rollers.
	Timber trucks.
	Velocipedes.

NOTE A: When an important addition and betterment project or the construction of a new line necessitates the purchase of roadway machines to be used exclusively thereon, the cost shall be included in the accounts to which the cost of the work is charged. The amount realized from any subsequent sale, or the appraised value of the machines retained after the completion of the special work for which they were purchased, shall be credited to the accounts charged with the cost thereof. The appraised value of such machines retained shall be debited to this account and thereafter considered as the cost of such property.

NOTE B: The cost of machines for the equipment of roadway shops shall be included in account 17, "Roadway buildings," as provided for therein.

NOTE C: The cost of roadway machines, such as pile drivers, log loaders, hoist engines, and concrete mixers, when permanently mounted for movement on the carrier's tracks, shall be included in account 57, "Work equipment."

38 Roadway Small Tools.

This account shall include the cost of the initial outfit of roadway and track small tools provided for the maintenance of way and structures at the time the road is opened for commercial traffic; also the initial outfit of such tools provided for the maintenance of extensions of such road.

NOTE: The cost of roadway and track small tools of which no specific record is kept shall be charged when acquired to an appropriate materials and supplies account, from which they shall be charged as issued to the appropriate road and equipment, operating expense, or other accounts. When such tools are used both for construction and maintenance work the cost shall be equitably apportioned among the accounts provided for the two classes of work.

39 Public Improvements; Construction.

This account shall include amounts assessed on carrier property by governmental authority (by mutual agreement or otherwise) to cover the cost of constructing public improvements, when such assessments are made against property within defined areas of taxing districts. The account also shall include carrier's portion of the cost of public improvements constructed under governmental requirements. See Instruction 16. The entire amount of each assessment and other liabilities for public improvements shall be included in this account as soon as the amounts are determined.

ITEMS

Cost of land outside carrier's right-of-way to provide for the relocation of streets or highways or providing slopes therefor.
Cost of removal and relocation of buildings and other structures in connection with the construction of streets and highways.
Curbing streets and highways.
Damage to property of others when incidental to highway construction.
Drainage systems.
Engineering—When such costs apply to items chargeable to this account.
Flood protection.
Grading streets and highways.
Guttering streets and highways.
Irrigation systems.
Levees.
Overhead highway bridges, including approaches.
Paving streets and highways, including such pavings at crossings.
Planking, highway crossings.
Sewer systems.
Sidewalks.
Street-lighting systems.
Water works.

NOTE A: The cost of railway facilities installed in connection with joint public improvement projects if not in excess of total costs borne by the carrier shall be included in accounts other than account 39, "Public improvements—Construction," appropriate for the class of property installed. Any costs borne by the carrier in excess of the cost of railway facilities shall be charged to this account.

NOTE B: The cost to the carrier of maintaining public improvements shall be included in Operating Expenses.

NOTE C: Any portion of the cost of public improvements which is included in the general tax levy for a regular taxing district shall be included in the account appropriate for taxes.

NOTE D: The amount of the deferred payments of assessments for public improvements if payments are to be made within one year, shall be included in account 762, "Other current liabilities." If the payments are spread over a longer period they shall be credited to account 762, "Other liabilities." The interest paid on such assessments shall be included in account 547, "Interest on unfunded debt."

NOTE E: Interest and penalties imposed, on basis of monthly or annual percentage rates, for failure to pay assessments within the allotted time shall be charged to account 547, "Interest on unfunded debt."

NOTE F: Assessments on noncarrier property for the cost of constructing public improvements shall be charged to account 737, "Miscellaneous physical property."

43 Other Expenditures; Road.

This account shall include items which can not properly be included in any of the foregoing accounts as a part of the cost of any specific work, amounts paid for rent and repairs of equipment and for injuries to persons incident to and in connection with original road, road extensions, or additions and betterments; and analogous items. When assignable, such expenditures shall be included in the cost of the property in connection with which the expenditure occurs.

NOTE: Rents paid for and repairs made to equipment used in commercial operations during the period before the regular operation of revenue trains shall be charged to account 40, "Revenue and operating expenses during construction."

44 Shop Machinery.

This account shall include the cost of machinery and other apparatus in shops and engine houses, including the cost of special foundations and installation and cost of small hand tools necessary first to equip a shop.

LIST OF SHOP MACHINERY

Ash conveyors.	Metal chimneys.
Air compressors.	Milling machines.
Belting.	Motors.
Blowers.	Pipe cutting and threading machines.
Boilers for furnishing power.	Planers.
Boring machines.	Pneumatic hammers.
Cars, motor.	Power equipment.
Cars, push.	Punches.
Cranes.	Riveters.
Drilling machines.	Saws.
Drop tables.	Shafting.
Forges.	Shapers.
Framing machines.	Slotters.
Furnaces.	Stationary engines.
Grinding and polishing machines.	Steam hammers.
Hoists.	Vises.
Hydraulic jacks.	Welding machines.
Lathes.	Woodworking machines.
Lifting magnets.	

NOTE A: The cost of powerplant machinery and other apparatus for shop purposes, when located in distinct buildings, shall be included in account 45, "Power-plant machinery."

NOTE B: The cost of foundations other than those special to particular machines and other apparatus shall be included in the cost of the building and not in this account.

45 Power-plant Machinery.

This account shall include the cost of machinery and other apparatus in power plants and substations for generating and transforming power used for the operation of trains and cars or to furnish power, heat, and light for stations, shops, and general purposes, and also the cost of foundations special to particular machines or other apparatus including the cost of installation.

ITEMS

Air compressors.	Metal stacks on boilers.
Ash-conveying machinery.	Refrigerating - machinery and apparatus.
Battery-charging apparatus.	Rotary converters.
Boiler-room appliances and tools.	Sewer connections for machinery.
Boilers and fittings.	Special foundations for machines.
Circuit breakers.	Steam - distribution systems within the plant.
Coal-conveying machinery.	Switchboards.
Condensers.	Tanks.
Cranes.	Tractors, trailers, and trucks, permanently assigned to power plants.
Draft machinery.	Transformers.
Dynamos.	Turbines.
Engine-room appliances and tools.	Water meters.
Feed water heaters.	Well pumps.
Furnaces.	
Ice-manufacturing machinery and apparatus.	
Lubricating devices.	
Mechanical stokers.	

NOTE A: The cost of power machinery and other apparatus installed in a shop as part of the shop equipment shall be included in account 44, "Shop machinery."

NOTE B: The cost of power machinery and other apparatus installed in station and office buildings shall be included in account 26, "Station and office buildings."

NOTE C: The cost of the buildings and the power machinery and other apparatus of plants used primarily for operating signals and interlockers shall be included in account 27, "Signals and interlockers."

NOTE D: The cost of foundations other than those special to particular machines and other apparatus shall be included in the cost of the building and not in this account.

NOTE E: The cost of machinery and buildings of detached plants for producing power both for operating purposes and for sale shall be included in this account and in account 29, "Power plants," respectively. When plants are intended and used primarily for generating power for sale to non carriers the investment shall be included in account 737, "Miscellaneous physical property."

Equipment

50 Equipment.

The several primary accounts included in this general account are designed to show the cost of the several classes of equipment owned by the carrier, or held under equipment trust agreements or other contractual obligations for purchase of the property.

51 Steam Locomotives.

This account shall include the cost of steam locomotives and tenders, purchased or built by the carrier, and of appurtenances, furniture, and fixtures necessary to equip them for service, including the cost of inspection, setting up, and trying out after receipt from builders, and transportation charges to the carrier's line.

LIST OF APPURTENANCES TO LOCOMOTIVES

Air-brake equipment and hose.	Metallic packing.
Arm rests.	Pneumatic sanding equipment.
Awnings.	Seat boxes.
Brake fixtures.	Signal lamps.
Cab cushions.	Speed recorders.
Cab lamps.	Steam-gauge lamps.
Clocks.	Steam-heat equipment and hose.
Coal boards.	Storm doors.
Fire-extinguishing apparatus.	Tool boxes.
Gongs.	Train-signal equipment and hose.
Head lamps.	

52 Other Locomotives.

This account shall include the cost of locomotives other than steam, purchased or built by the carrier, and of appurtenances, furniture, and fixtures necessary to equip them for service, including inspection, setting up, and trying out after receipt from builders, and transportation charges to the carrier's line.

NOTE: Cars with motor equipment are not to be classed as locomotives.

53 Freight-train Cars.

This account shall include the cost of freight-train cars of all classes, including motor-driven cars, purchased or built by the carrier, including all appurtenances, furniture, and fixtures necessary to equip them for service, and the cost of inspection and transportation charges to the carrier's line.

LIST OF FREIGHT-TRAIN CARS

Ballast (commercial).	Gun truck.
Beer.	Hay.
Box.	Lime.
Cabin.	Logging.
Caboose.	Oil tank.
Charcoal.	Ore.
Coal.	Platform.
Coke.	Poling.
Dump (commercial).	Poultry.
Flat.	Produce.
Fruit.	Refrigerator.
Furniture.	Stock.
Gondola.	Tank and water (when used as commercial cars).
Gondola (hopper).	
Gondola (long).	

LIST OF APPURTENANCES TO FREIGHT-TRAIN CARS

Air-brake equipment, including hose.	Lamps and fixtures.
Cooking equipment and utensils.	Seats.
Heating equipment.	Speed recorders.
Ice boxes.	Train-signal equipment, including hose.
	Water tanks.

54 Passenger-train Cars.

This account shall include the cost of passenger-train cars of all classes, including motor-driven cars, purchased or built by the carrier, including all appurtenances, furniture, and fixtures necessary to equip them for service, and cost of inspection and transportation charges to the carrier's line.

LIST OF PASSENGER-TRAIN CARS

Baggage.	Observation.
Baggage-express.	Parlor.
Baggage-mail.	Parlor-baggage.
Baggage-mail-express.	Passenger.
Buffet.	Passenger-baggage.
Café, chair and club.	Passenger-baggage-mail.
Dining.	Postal.
Express.	Refrigerator-express.
Library.	Sleeping.
Mail.	Smoking.
Milk.	Tourist.

LIST OF APPURTENANCES TO PASSENGER-TRAIN CARS

Air-brake equipment, including hose.	Lighting equipment.
Bedding.	Mail catchers.
Chairs.	Parcel racks.
Coat hooks.	Ranges and boilers.
Curtains and fixtures.	Seats.
Cushions.	Speed recorders.
Electric bells.	Steam-heat hose.
Floor coverings.	Table china.
Heating equipment.	Table glassware.
Ice boxes.	Table linen.
Ice tanks.	Table silver.
Kitchen equipment and utensils.	Toilet equipment.
	Train-signal equipment, including hose.
	Water tanks.

56 Floating Equipment.

This account shall include the cost of marine or floating equipment of all kinds except work equipment, purchased or built by the carrier, including all appurtenances, furniture, and fixtures necessary to equip it for service, and cost of inspection and transportation charges to the carrier's line.

LIST OF FLOATING EQUIPMENT

Barges.	Power lighters.
Canal boats.	Scows.
Car and other floats.	Steamboats.
Ferryboats.	Steamships.
Lighters.	Transfer boats.
Power launches.	Tugboats.

LIST OF APPURTENANCES TO FLOATING EQUIPMENT

Anchors.	Linen.
Barometers.	Logs.
Beds and bedding.	Machinery and foundations.
Binnacle lamps.	Masts.
Blocks and tackle.	Pianos and other musical instruments.
Boilers and foundations.	Pumps.
Cables.	Railings.
Capstan bars.	Rigging.
Charts.	Sails.
China, crockery, and glassware.	Scales.
Chronometers.	Seats, chairs, and cushions.
Compasses.	Spyglasses and telescopes.
Desks and furniture.	Steam distribution systems.
Engines and foundations.	Steering equipment.
Fire buckets and extinguishers.	Ticket cases.
Floor coverings.	Tool boxes and tools.
Gangplanks.	Tracks on car floats.
Heating equipment.	Ventilating equipment.
Hoisting equipment.	
Kitchen equipment.	
Life preservers.	
Lighting equipment.	

57 Work Equipment.

This account shall include the cost of work equipment, including motor-driven equipment, purchased or built by the carrier; cost of appurtenances, furniture, and fixtures necessary to equip it for service, and cost of inspection and transportation charges to the carrier's line.

LIST OF RAIL WORK EQUIPMENT

Air-brake instruction cars.	Painters' cars.
Ballast cars.	Pay cars.
Ballast unloader cars.	Pile drivers (mounted).
Boarding cars.	Rail saws (mounted).
Bridge cars.	Salt cars.
Business cars.	Sanding cars.
Camp cars.	Scale test cars.
Cinder cars.	Scraper cars.
Concrete mixers (mounted).	Snow dozers.
Derrick cars.	Snow drags.
Dirt spreaders (mounted).	Snow plows (moved by but not attached to locomotives).
Ditching cars.	Sprinkling cars.
Dump cars.	Steam shovels.
Dynamometer cars.	Steam wrecking derricks.
Gas tank cars.	Supply cars.
Grading cars.	Sweeper cars.
Gravel cars.	Tool cars.
Indicator cars.	Tool and block cars.
Locomotive tanks used permanently as water cars.	Water cars.
Locomotives.	Weed burners (mounted).
Officers' cars.	Wrecking cars.
Outfit cars.	

LIST OF FLOATING WORK EQUIPMENT

Derricks.	Pile drivers.
Dredges.	

58 Miscellaneous Equipment.

This account shall include the cost of automobiles, and other highway vehicles.

General Expenditures

70 General Expenditures.

The primary accounts of this general account are designed to include expenditures made in connection with the acquisition and construction of original road and equipment, and with extension, additions, and betterments to road and equipment property, when such expenditures cannot properly be included in any of the foregoing accounts as a part of the cost of any specific work. When assignable, such expenditures shall be included in the cost of the property in connection with which the expenditures occur.

71 Organization Expenses.

This account shall include all fees paid to governments for the privilege of incorporation, and office and other expenditures incident to organizing the corporation and putting it in readiness to do business; cost of preparing and distributing prospectuses; special counsel fees; cost of preparing and issuing certificates of stock; cost of procuring the necessary certificates from State authorities; and other like costs necessary and proper in organizing the enterprise.

NOTE: Cost of soliciting for loans or for the sale of bonds or other evidences of indebtedness shall be charged to balance-sheet account 742, "Unamortized discount on long-term debt."

76 Interest During Construction.

(a) When any bonds, notes, or other evidences of indebtedness are sold, or any interest-bearing debt is incurred for acquisition and construction of original road and equipment, extensions, additions, and betterments, the interest accruing on the part of the debt representing the cost of property chargeable to road and equipment accounts (less interest, if any, allowed by depositaries on unexpended balances) after such funds become available for use and before the receipt or the completion or coming into service of the property so acquired shall be charged to this account.

(b) When such securities are sold at a premium the proportion of such premium assignable to the time between the date of the actual issuance of the securities and the time when the property acquired or the improvement made becomes available for service shall be credited to this account.

(c) This account shall also include such proportion of the discount and expense on funded debt issued for the acquisition of original road, original equipment, road extensions, additions, and betterments, as is equitably assignable to the period between the date of the actual issuance of securities and the time when the property acquired or the improvement made becomes available for the service for which it is intended. The proportion of discount and expense thus chargeable shall be determined by the ratio between the period prior to the completion or coming into service of the facilities or improvements acquired and the period of the entire life of the securities issued.

NOTE A: Interest on bonds, notes, or other evidences of indebtedness accruing before the proceeds from the sale of the securities become available for use shall not be included in this account, nor shall there be included any interest accruing after the property with respect to which the proceeds are expended is received or becomes available for use in connection with commercial service.

NOTE B: If any securities which have been issued or assumed by the carrier are sold or exchanged by or for the carrier for a consideration the actual money value of which at the time of such sale or exchange is less than the value of the securities at par and the accrued interest thereon, if any, the difference between the money value of the consideration received and the par value of the securities plus the accrued interest shall be deemed a discount. In no case (except as provided in the third paragraph of this account) shall discounts be included as part of the cost of anything charged to any account prescribed in this classification.

NOTE C: Whenever interest, premium, or discount assignable to the construction period is incurred in connection with an expenditure covered by some specific roads and equipment account or accounts, such interest, premium, or discount shall be charged directly to the specific accounts to which it is related.

NOTE D: This account shall not include interest during the construction period on the carrier's own funds expended in connection with the acquisition or construction of original road and equipment, extensions, additions, and betterments.

77 Other expenditures; general.

(a) This account shall include expenditures of a general nature which are attributable to original construction or important expansion of road but which cannot be assigned directly as part of the

cost of specific units or segments of property, and are not provided for in other primary accounts of this classification, such as pay and expenses of executive and general officers and their assistants engaged exclusively in connection with such construction, law expenses (other than organization expenses), stationery and printing, and taxes before property is used in transportation operations.

(b) An equitable portion of the amounts in this account applicable to retired property shall be cleared concurrently with the retirement accounting in accordance with Instruction 2-7(c); or the entire amount in this account may be charged off immediately when authorized by the Commission.

NOTE: Expenditures of the character described in account 71, "Organization expenses," which were incurred directly in organizing the corporation and can be identified as such in the corporate records of the company, are includible in that account.

Other Property Accounts

80 Other Elements of Investment.

(a) This account shall include amounts resulting from adjustment of the primary property accounts to conform with cost of property in the valuation records pursuant to instruction 2-19 of these rules; also similar adjustments attributable to reorganizations pursuant to instruction 2-15. The amount in this account shall be cleared on a consistent basis as property is retired from service or otherwise in accordance with the rules in paragraphs (b), (c), and (d) of this account. Any material amount in this account assignable to property previously retired from service shall be cleared immediately.

(b) When property is retired from service, an equitable portion of the balance in this account assignable to such property shall be cleared when the retirement entry is made. The amount so cleared, when a debit, shall be charged to account 551 "Miscellaneous income charges", or, when a credit, shall be recorded in account 519 "Miscellaneous income"; or such amount shall be included in account 570 "Extraordinary items", provided such amount, when combined with the related retirement loss, is sufficiently large to constitute an extraordinary item, pursuant to instruction 1-2 (d). The exception to this general rule with respect to a credit balance assignable to property retired is that when property classified as depreciable is retired from service and the balance in the depreciation reserve for such property is materially deficient, because of sudden retirement or other unusual cause, the portion of a credit balance cleared for the retirement, equal to the deficiency in the reserve, shall be applied to reduce the amount of loss otherwise chargeable to the depreciation reserve.

(c) A carrier may apply to the Commission for authority to clear the entire balance from this account immediately or amortize the balance over a short period of time by appropriate inclusion in account 616 "Other Debits to Retained Income", or account 606 "Other Credits to Retained Income". Any amount so authorized or directed by the Commission to be cleared and written off to retained income shall be in lieu of amounts includible in accounts indicated in paragraph (b).

(d) Other plans for clearance, disposition, or classification of a balance in this account in conformity with sound accounting principles may be submitted to the Commission with suitable details for consideration. This includes application for disposition of a balance in this account attributable to reduction of capitalization in a reorganization. An accounting procedure so applied for shall become effective only after Commission approval. Each carrier shall maintain a record of items initially included in and cleared later from this account and the basis used in computing such items.

NOTE: The amounts attributable to past mergers, consolidations and purchases of property included in this account 80 shall be merged with the adjustment made pursuant to paragraph (a) of this text.

90 Construction Work in Progress.

This account shall include expenditures incurred by the carrier in the process of constructing road and equipment with its own forces or under contract during the period prior to time property is placed in transportation operations, including cost of materials and supplies located at point of use and of necessary land acquired for such projects. When a project is completed or when a segment of a large project is completed and placed in service, the cost of the completed project or the completed segment thereof shall be transferred to the appropriate road and equipment primary accounts. Separate subaccounts may be maintained for road and for equipment or for other classes of expenditures. Expenditures for relatively unimportant projects may be included directly in primary accounts.

RAILWAY OPERATING REVENUE ACCOUNTS

Transportation Revenue Accounts

100 Transportation; Rail Line.

The primary accounts included in this general account are designed to show amounts of money which the carrier becomes entitled to receive or which accrue to its benefit from service rendered in transporting property or persons by rail line.

101 Freight.

(a) This account shall include revenue from the transportation of freight and from transit, stop, and reconsigning privileges, upon the basis of lawful tariff rates.

(b) This account shall include collections in excess of tariff charges, except where such amounts are segregated and held subject to refund. Charges found to be uncollectible on shipments for which service has been rendered shall be charged to this account.

(c) Proceeds derived from the sale of unclaimed and refused freight which has been transported in accordance with the contract of shipment shall be credited to this account in cases where such items can be readily identified. Uncollected tariff charges on such shipments shall be charged to this account.

ITEMS TO BE CREDITED

(a) Revenue upon the basis of local freight tariff rates, regardless of class of train in which the freight is transported.
(b) The carrier's proportion of revenue upon the basis of through freight tariff rates, regardless of class of train on which the freight is transported.
(c) Revenue from transportation of mail matter, and empty mail pouches, at freight tariff rates.
(d) Revenue from transportation of freight on special trains at rates based on weights of shipments.
(e) Revenue on basis of classifications and freight tariffs from transportation of caretakers of freight shipments.
(f) Revenue from reconsigning privileges.
(g) Revenue from stop privileges.
(h) Revenue from transit privileges.
(i) Revenue upon the basis of arbitraries out of freight rates for water transfers (farriage, lighterage, and floatage).

ITEMS TO BE CHARGED

(a) Amounts paid as bridge and ferry arbitraries on freight.
(b) Amounts paid for completing a haul.
(c) Amounts paid for elevation of freight.
(d) Amounts paid for switching services, in connection with the transportation of freight, on the basis of switching tariffs, and allowances out of through rates, including amounts paid for switching empty cars in connection with a freight revenue movement.
(e) Amounts paid for transferring freight between stations.
(f) Arbitraries and allowances to others for lighterage and wharfage.
(g) The carrier's proportion of overcharges resulting from the use of erroneous rates, weights, classifications or computations.
(h) The carrier's proportion of refunds on account of errors in routing and billing.
(i) The carrier's proportion of uncollected revenue on freight lost or destroyed in transit.
(j) The carrier's proportion of uncollected tariff charges on damaged shipments for which charges neither shipper nor consignee is liable.
(k) Amounts paid on basis of tariff rates for loading and unloading livestock.

NOTE A: Amounts paid for switching empty cars otherwise than in connection with loaded movements shall be charged to operating expense account 411, "Other expenses," except that amounts paid for switching equipment for repairs shall be included in the appropriate equipment repair accounts.

NOTE B: Other carriers' proportion of revenue and of uncollectible undercharges paid by the carrier on account of its errors in routing and billing shall be charged to operating expense account 411, "Other expenses."

NOTE C: Other carriers' proportion of revenue paid by the carrier on freight lost, destroyed, or damaged in transit, for which neither consignees nor consignors are liable shall be charged to operating expense account 418, "Loss and damage—Freight."

NOTE D: When a lessee company transports freight over the tracks of another carrier on the basis of a proportion of revenues under a joint arrangement, it shall include the entire compensation in its revenues and statistics, charging the appropriate joint facility expense and rental accounts with the amounts paid the lessor company, and the lessor company shall credit the corresponding accounts.

NOTE E: The accrued revenue derived from the transportation of cream, unwet milk, etc., on a basis of lawful tariffs at rates per package, regardless of weights, shall be included in account 109, "Milk."

NOTE F: Revenue from the transportation of caretakers of freight shipments, when not included as a part of the freight charges on the waybill covering the freight shipments, shall be credited to account 103, "Passenger."

NOTE G: This account shall be maintained so as to show separately payments and allowances (a) to railway express agencies, (b) to motor truck companies and others, and (c) to shippers and consignees, for terminal collection and delivery service when performed in connection with line haul transportation of freight on the basis of freight tariff rates; also (d) payments for switching service when performed in connection with line haul transportation of freight on the basis of switching tariffs and allowances out of freight rates, including the switching of empty cars in connection with a revenue movement, and (e) payments on basis of tariff rates for loading and unloading livestock.

102 Passenger.

This account shall include the revenue from transportation of passengers at passenger tariff fares; from the transportation of passengers at special fares as provided by law, and from incidental charges in connection therewith.

ITEMS TO BE CREDITED

(a) Revenue from local passenger fares.
(b) The carriers' proportion of revenue from interline passenger fares.
(c) Revenue from extra fares.
(d) Revenue from additional fares or charges for exclusive use of a passenger car, drawing room, compartment, bedroom, etc.
(e) Revenue from mileage and scrip coupons honored for all services covered by this account.
(f) Revenue from transportation of passengers in special cars or on special trains when charge is based on passenger fare per capita, regardless of the number of passengers actually transported.
(g) Revenue from a guaranteed minimum amount not based on per capita fare, for transportation of passengers on special or chartered trains.
(h) Cash fare penalty collections.
(i) Unclaimed collections and deposits for transportation of passengers.
(j) Passenger fare overcharges.
(k) Revenue from transportation of corpses, based on passenger fares.
(l) Revenue from water transfers (farriage), bridge tolls, and transfers between railway stations or between railway stations and docks, received as arbitraries in division of passenger fares.

ITEMS TO BE CHARGED

(a) Amounts paid as bridge tolls, and also for ferry, depot to depot and depot to dock passenger transfer service.
(b) Amounts paid for switching in completing a passenger transportation movement.
(c) Amounts paid for switching empty passenger-train cars in connection with transportation of passengers. (See Note C.)
(d) Redemptions of unused and partially unused local tickets and redemptions of carrier's proportions of unused and partially unused interline tickets.
(e) Refund of extra fares, cash fare penalty collections, and overcharges in excess of tariff fares.
(f) Uncollectible undercharges.

NOTE A: Gross receipts from the sale of mileage tickets, and scrip books shall be credited to a suspense account. The suspense account shall be charged and this account credited with the value of coupons as honored, in connection with any of the services provided for in "Items To Be Credited."

NOTE B: When a lessee company transports passengers over the tracks of another company under a joint arrangement upon the basis of a proportion of the passenger revenue, it shall include the entire compensation in its passenger revenue and statistics, charging the appropriate joint facility expense and rental accounts with the amounts paid the lessor company and the lessor company shall credit the corresponding joint facility accounts.

NOTE C: Amounts paid for switching empty passenger-train cars otherwise than in connection with loaded movements, shall be charged to account 411, "Other expenses," except that when switched for repairs, the amounts paid shall be included in account 317, "Passenger-train cars—Repairs."

NOTE D: Revenue from the transportation of automobiles, with or without trailers, in freight service, in connection with the transportation of passengers, also revenue from loading and unloading automobiles at point of origin, destination, or enroute, shall be credited to account 101, "Freight."

103 Baggage.

This account shall include the revenue from the transportation of baggage, packages, baby carriages, bicycles, household pets, dogs, etc., on passenger trains at other than freight or express tariff rates.

LIST OF ITEMS

(a) Revenue from transportation of baggage in excess of free allowances.
(b) Revenue from transportation of packages, baby carriages, bicycles, household pets, dogs, etc., at baggage tariff rates.
(c) Revenue from transportation of baggage or other articles based upon excess value.
(d) Revenue from transportation of baggage when passenger does not make corresponding trip.
(e) Revenue from excess weight of corpses based on baggage tariff charges and from special charges for transferring corpses between depots.
(f) Revenue from scrip coupons honored for any of the above-mentioned service. (See Note B.)
(g) Overcharges on baggage transactions.
(h) Revenue from transportation of emergency shipments and articles based on double gross weight, etc.
(i) Amounts received specifically to cover movement of special or chartered baggage cars including transportation of attendants regardless of whether the charge is based upon passenger tariff fares, a stated minimum, or any other basis. This includes box cars when used for baggage service.
(j) Revenue from issuing duplicate baggage checks.

NOTE A: Revenue derived from transportation of shipments of silk, fish, etc., in passenger trains at freight rates, shall be included in account 101, "Freight."

NOTE B: Amounts of refunds, uncollectible undercharges, etc., involved in these credits, shall be charged to this account.

NOTE C: Gross receipts from the sale of baggage scrip books shall be credited to a suspense account. The suspense account shall be charged and this account credited with the value of the coupons as honored for any of the services covered by this account.

104 Sleeping Car.

This account shall include the revenue from berth and seat accommodations furnished in sleeping cars on the basis of berth or seat rates for the space occupied.

105 Parlor and Chair Car.

This account shall include the revenue from seat accommodations furnished in parlor, observation, chair, and other special passenger cars when operated in passenger-train service or in special-train service at seat rates for space occupied.

106 Mail.

This account shall include the revenue from the transportation of mail at established rates for specified routes; from the use of railway post-office cars when in carrier's service transporting mails; from the use of special mail facilities; and from bonuses for special mail transportation. To this account shall be charged fines and penalties imposed by the Government when not collected from agents or employees.

NOTE: The revenue from the transportation of mail matter and empty mail pouches on freight trains at freight tariff rates shall be included in account 101, "Freight."

107 Express.

This account shall include the revenue from transportation of express matters and from use of facilities on trains and at stations incident to such transportation. When a railway company transacts an express business through its regular railway organization, the revenue therefrom shall be credited to this account.

NOTE: When contracts for express privileges provide specific amounts for the rent of facilities at stations, such amounts shall be included in revenue account 142, "Rents of buildings and other property."

108 Other Passenger-train.

This account shall include the revenue derived from the operation of passenger trains not provided for elsewhere.

LIST OF ITEMS

(a) The carrier's proportion of contract revenue derived from the operation over its line of sleeping, parlor, chair, observation, and other special passenger-train cars, owned and operated by companies other than The Pullman Company.
(b) Value of portions of mileage tickets or coupons, scrip books or coupons, including baggage, circus and show scrip, unpresented and unredeemed.
(c) Revenue from transportation of newspapers at local tariff rates or at proportions of interline tariff rates.

(d) Revenues receivable from States, cities, and other governmental agencies as direct grants or aid for providing passenger commuter or other passenger-train service. The amounts recorded in this account shall not include aid in the form of abatement or forgiveness of taxes, assumption by local governments of station maintenance costs, and other similar special indirect benefits, contributed by governmental agencies.

109 Milk.

This account shall include the revenue from the transportation of cream, sweet milk, skim milk, sour milk, buttermilk, condensed milk, butterfat, and smearcase or pot cheese, upon the basis of lawful tariffs at rates per package, regardless of weights.

NOTE: The revenue from the transportation of milk upon the basis of lawful tariffs at rates per specified weights shall be included in revenue account 101, "Freight."

110 Switching.

(a) This account shall include the revenue from switching service upon the basis of lawful tariff rates. To this account shall be credited the carrier's revenue upon the basis of tariff rates, or the carrier's allowance out of through rates, from the switching of cars of all kinds, loaded or empty, either locally at a station or within a switching district, between connecting lines, between local industries, or between connecting lines and local industries; revenue upon the basis of distinct tariff rates for "trap-car" and "ferry-car" service and for spotting cars; also the revenue from interwork switching at industrial plants, and the revenue from "penalty switching" incident to the improper delivery of cars by other carriers.

(b) To this account shall be charged amounts paid others for switching when such switching service is provided for in the switching rate charged by the carrier.

NOTE: "Penalty switching" charges paid by the carrier shall be included in expense account 411, "Other expenses."

113 Water Transfers.

(a) This account shall include the revenue, from the transfer by water (ferriage, lighterage, and floatage) of passenger, freight, vehicles and livestock, upon the basis of lawful local tariff rates.

(b) This account also shall include revenue from water transfers of other traffic, such as the revenue from towing beyond lighterage limits and all other towing for which an extra charge is made; insurance of freight afloat when billed out at other than cost; storage of freight afloat; grain overage in boats; pumping performed for outside parties; and from other similar sources.

(c) To this account shall be charged amounts payable to other companies or individuals for extra lighterage, extra towing, and for all other service when such payments represent revenue collected and credited to this account and not a direct expense.

NOTE: No revenue shall be included in this account for water transfers of passengers or shipments upon the basis of arbitraries out of rates for transportation involving rail line haul.

Incidental Revenue Accounts

130 Incidental.

The primary accounts included in this general account are designed to show the amounts which the carrier becomes entitled to receive from services rendered incidentally with rail-line and water-line transportation, for the use of facilities of which the expenses for operation and maintenance are not separable from railway expenses, and from incidental sources not provided for elsewhere.

131 Dining and Buffet.

This account shall include the revenue from dining and buffet service on trains and transfer boats.

ITEMS TO BE CREDITED

(a) Revenue from lunches furnished.
(b) Revenue from meals furnished.
(c) Revenue from liquors furnished.
(d) Revenue from tobacco furnished.
(e) Revenue from cigars and cigarettes furnished.

132 Hotel and Restaurant.

This account shall include the revenue from hotels, restaurants, and station lunch counters.

ITEMS TO BE CREDITED

(a) Revenue from the rent of rooms.
(b) Revenue from the use of baths.
(c) Revenue from the use of billiard tables.
(d) Revenue from the use of bowling alleys.
(e) Revenue from lunches furnished.
(f) Revenue from meals furnished.
(g) Revenue from liquors furnished.
(h) Revenue from tobacco furnished.
(i) Revenue from cigars furnished.
(j) Revenue from cigarettes furnished.
(k) Revenue from newspapers furnished.
(l) Revenue from periodicals furnished.
(m) Revenue from tonsorial service.
(n) Revenue from laundry work.

NOTE: This account shall not include the revenues from hotels and restaurants which are entirely distinct from the carrier's transportation plant and the cost of which is included in balance-sheet account 737, "Miscellaneous physical property."

133 Station, Train, and Boat Privileges.

This account shall include revenue from weighing, vending, and other automatic machines located at stations; from advertising at stations and on trains and on transfer boats; from the privilege of operating news stands at stations and selling papers, periodicals, fruit, etc., on trains and on transfer boats; from telephone companies for the privilege of installing and operating commercial telephones at stations; from the operation of eating houses and dining and buffet service on trains and transfer boats when such operation is conducted by individuals or companies other than railway companies and when the expenses incurred by the carrier in connection therewith are not separable from its regular operating expenses; and from similar sources.

135 Storage; Freight.

This account shall include the revenue from the storage of freight.

137 Demurrage.

This account shall include the revenue from the detention of cars incident to loading, unloading, reconsigning, and stops in transit upon the basis of lawful tariffs for demurrage.

138 Communication.

This account shall include the revenue from commercial operation of telegraph, telephone, radio, and all other forms of communication systems. It shall also include amounts received from commercial operators of such systems, whether as a proportion of earnings or otherwise, for the privilege of transacting business in offices along the carrier's lines, but only when the carrier furnishes some service of employees whose pay is included in its operating expenses.

139 Grain Elevator.

This account shall include the revenue from the operation of grain elevators.

ITEMS TO BE CREDITED

(a) Revenue from the elevation of grain.
(b) Revenue from the storage of grain.
(c) Revenue from bagging grain.
(d) Revenue from screening grain.
(e) Revenue from blowing grain.
(f) Revenue from cooling grain.
(g) Revenue from clipping grain.
(h) Revenue from cleaning grain.
(i) Revenue from mixing grain.
(j) Revenue from transferring grain in elevators.
(k) Revenue from loading grain into and unloading grain from boats not covered by elevation charges.
(l) Revenue from trimming grain in boats when performed by elevator employees.
(m) Revenue from the sale of screenings and sweepings.
(n) Revenue from inspecting grain in elevators.

141 Power.

This account shall include the revenue from the sale of electric current and other power.

142 Rents of Buildings and Other Property.

This account shall include the revenue from the exclusive use of buildings and other property or portions thereof, such as depot and station grounds and buildings, general and other offices, wharves, ferry landings, elevators, stockyards, fuel yards, enginehouses, repair shops, and section and other houses, when the property is operated and maintained in connection with the property used in the carrier's transportation operations and the expenses of maintaining and operating the rented portion cannot be separated from the expenses of that portion used by the carrier.

NOTE: When the expenses of maintaining and those of operating property rented to others are separable, the rents received shall be credited and the expenses of maintenance and operation shall be charged to appropriate income accounts.

143 Miscellaneous.

This account shall include the revenue from railway operations not provided for elsewhere.

ITEMS

(a) Amounts received for privilege of cutting hay along the right of way.
(b) Commissions received for collecting premiums on insurance policies from employees and installment payments for books, watches, etc., sold by dealers to employees.
(c) Profit from jobbing and installing electric power lines for others.
(d) Revenue from boat demurrage.
(e) Revenue from freight and passenger privileges over a carrier's wharves and docks.
(f) Revenue from garnishee fees.
(g) Revenue from operation of coal and ore wharves, cold-storage plants, coal-storage plants, cotton-compress plants, and wood-preserving plants.
(h) Revenue from privilege of mooring and anchoring boats at wharves and docks.
(i) Revenue from the sale of cinders produced by carrier.
(j) Revenue from use of carrier's bridges by pedestrians, streetcar lines, vehicles, etc.
(k) Revenue from temporary use of carrier's tracks for detouring trains, etc.
(l) Revenue from use of tracks incident to delays in loading or removing freight.
(m) Revenue from water furnished boats from water stations operated by the carrier.
(n) Revenue from weighing cars.
(o) The carrier's proportion of gross revenue from operation of clergy bureaus.
(p) The carrier's proportion of gross revenue from operation of ticket validation agencies.
(q) Collections made by station ushers (Red Caps) for the handling of passenger baggage.
(r) Revenue from loading and unloading livestock in transit by railroad, and from feeding, watering, bedding, sheaving, dipping, inspecting, and otherwise caring for such stock.
(s) Revenue from operation of parcel rooms, and from storage of baggage.

NOTE: When a bridge of one carrier is jointly used by itself and another carrier and such use is paid for on the basis of flat rent or charge per train-mile or toll per passenger, per ton, or per car, the compensation therefor shall be credited to the appropriate joint facility, operating expense, and income accounts.

JOINT FACILITY REVENUE ACCOUNTS

150 Joint Facility.

The primary accounts included in this general account are designed to show the carrier's proportion of revenues collected by others in connection with operation of joint facilities and the amount payable by the carrier to other companies from operation of joint facilities.

151 Joint Facility—Cr.

This account shall include the carrier's proportion of revenue collected by others in connection with the operation of joint tracks, yards, terminals, and other facilities, including revenue from hotels, restaurants, grain elevators, sale of power, and other miscellaneous operations.

NOTE A: The purpose of this account is to show the amounts of revenue from the operation of joint tracks, yards, terminals and other facilities operated by other companies, which under existing contracts or agreements are credited by the operating company to the tenant companies which participate therein. The bill rendered by any creditor company against a debtor company for the latter's proportion of the expense of maintenance and operation of joint facilities, which includes also a credit covering a proportion of the revenue to be paid over, shall show the distribution of the credit for such proportion of the revenue separately from the distribution of the expense of operation.

NOTE B: No credits shall be made to this account representing amounts creditable by the operating company to primary accounts 101 to 109, 113 and 131.

152 Joint Facility—Dr.

This account shall include that proportion of revenue from the operation of joint tracks, yards, terminals, and other facilities, which is creditable to other companies, including revenue from hotels, restaurants, grain elevators, sale of power, and other miscellaneous operations.

NOTE A: The purpose of this account is to show the amount of revenue from operation of a terminal company or other carrier which, under the terms of existing contracts or agreements covering the joint use of tracks, yards, and other facilities, is credited to other carriers that participate in the benefits from such joint use. The bill rendered by a creditor company against a debtor company for the latter's proportion of expense of maintaining and operating joint facilities, which includes a credit covering the debtor company's proportion of the revenues from operation of such joint facilities, shall indicate separately the proper distribution of both the revenues and the expenses included in the bill, and such distribution shall be adhered to by the debtor.

NOTE B: No debits shall be made to this account representing amounts creditable by the operating company to primary accounts 101 to 109, 113 and 131.

RAILWAY OPERATING EXPENSE ACCOUNTS

Maintenance of Roadway and Structures

200 Maintenance of Way and Structures.

The primary accounts included in this general account are designed to show the expenses of maintaining road property devoted to railway operations, with the exception of shop machinery, power plant machinery, and power plant apparatus, the expenses of maintaining which are includible in general account 300, "Maintenance of equipment." The accounts for maintenance of way and structures shall be kept in such manner as to show separately, by primary accounts, the expenses directly assignable to sleeping car operations, dining and buffet service, hotels and restaurants, grain elevators, stockyards, producing power sold, and other miscellaneous operations.

201 Superintendence.

This account shall include:

(a) *Pay of officers.* The pay of officers directly in charge of or engaged in the maintenance of roadway and structures.

LIST OF OFFICERS

Vice president.
Assistant vice president.
General manager; Assistant.
General superintendent; Assistant.
Chief engineer.
Engineer.
Division engineer.
Bridge engineer.
Chief signal engineer.
Assistant engineers.
Architect.
Roadmaster; Assistant.
Master carpenter; Assistant.
Master mason.
Superintendent of roadway structures.
Superintendent of scales.
Inspector of maintenance.
Building inspector.
Inspector of roadway stores.
Supervisor; Assistant.
Fire Chief.
Fire inspector.
Sanitary inspector.

(b) *Pay of clerks and attendants.* The pay of clerks and other employees in the offices and on the business cars of officers whose pay is chargeable to this account.

LIST OF EMPLOYEES

Chief clerk and other clerks and stenographers.
Draftsmen, transitmen, levelmen, rodmen and chainmen.
Janitors, messengers, cooks, and porters.

(c) *Office and other expenses.* Office expenses and other expenses of officers and employees whose pay is chargeable to this account; also amounts paid detective agencies; and others for investigations in connection with maintenance of way and structures.

GENERAL EXPENSES AND SUPPLIES

Atlases, maps, and books for office use.
Business car service.
Fees and dues in associations.
Furniture repairs and renewals.
Heating, lighting and power.
Official train service.
Periodicals and newspapers.
Provisions for business cars.
Rent and repairs of offices.
Telegraph and telephone service.
Traveling expenses.
Water and ice.

SUPPLIES FOR TECHNICAL ASSISTANTS

Barometers.
Cameras, and compasses.
Camp equipage.
Chains for surveyors.
Drafting boards and instruments.
Field glasses, magnets, and magnifiers.
Marking chalk.
Papers, blue-print.
Planimeters.
Plummets.
Protractors.
Ranging poles.
Reading glasses.
Rods for surveyors.
Sextants.
Slide rules.
Telescopes, and thermometers.
Transits, traverse tables, triangles, and tripods.
Other supplies.

NOTE A: When employees designated above are specifically assigned to construction work, their pay and expenses while thus employed shall be charged to the work upon which engaged.

NOTE B: When officers designated above have supervision over more than one department, their salaries, the pay of their clerks and attendants and their office and other expenses shall be apportioned equitably among the departments over which they have jurisdiction.

NOTE C: No part of the pay and expenses of the officers and employees designated above shall be charged to other primary accounts under account 200, "Maintenance of way and structures."

NOTE D: The cost of stationery for maintenance of way and structures offices is chargeable to account 276, "Stationery and printing."

202 Roadway Maintenance.

This account shall include:

(a) *Care of roadbed.* The cost of repairing roadbed.

ITEMS OF EXPENSE

Blasting rocks.
Building temporary tracks around slides and washouts.
Repairing and cleaning tile ditches, open ditches, and drains.
Crowning track ties with retaining earth.
Filling borrow and cattle pits.
Keeping tracks clear and repairing sub-grade in case of washouts.
Landscape gardening along roadway.
Oiling roadbed.
Post driving and pressure grouting to promote stability of roadbed.
Removing temporary tracks around slides and washouts.
Removing dangerous rocks.
Removing slides.
Repairing roadbed damaged by washouts.
Restoring roadbed, cuts, fills, and embankments to standard width.
Sloping cuts.
Sodding roadway.

NOTE A: The cost of drains or sewers laid under tracks shall be included in account 208, "Bridges, trestles, and culverts." The cost of landscape gardening within the limits of the grounds around buildings shall be included in the appropriate repair accounts for buildings.

(b) *General cleaning.* The cost of cutting, removing, and disposing of brush, grass, and weeds from the right of way; plowing and digging fireguards; dressing ballast and cutting sod lines; removing miscellaneous scrap, drift, cinders, dirt, and other material from right of way and from road and terminal tracks (including tracks at stations, engine yards, and car yards); and cleaning streets used as roadways.

NOTE B: Loading ashes at engine-yard tracks shall be charged to the engine-house expense accounts.

(c) *Watching roadway.* The cost of extinguishing fires on right of way and adjacent thereto, and of walking, watching, and patrolling tracks and right of way.

NOTE C: The cost of watching and patrolling bridges, buildings, and miscellaneous property is provided for in accounts specifically relating to such property.

(d) *Bank protection.* The cost of repairs to riprap, piling, dikes, piers, breakwaters, revetments and retaining walls, which were placed or constructed for bank protection.

(e) *Train service.* The cost of work-train service in connection with work pertaining to roadway maintenance.

(f) *Track changes.* The cost of roadway work in connection with taking up and relocating tracks.

(g) *Other expenses.* The cost of roadway work not provided for elsewhere, such as official roadway inspection train service and premiums in connection with roadway maintenance.

NOTE D: Tools and supplies used by repairmen and watchmen in roadway maintenance service shall be charged to account 271, "Small tools and supplies."

206 Tunnels and Subways.

This account shall include the cost of repairing, ventilating, lighting, and watching tunnels and subways for the passage of trains, and the cost of special tools and supplies furnished in connection with the work.

NOTE: The cost of repairs to signals and to roadway and tracks in tunnels shall be charged to the appropriate maintenance of way accounts and not to this account.

208 Bridges, Trestles, and Culverts.

This account shall include the cost of repairing (including fuel and supplies used) and watching bridges, trestles, and culverts, including altering and bracing during process of filling, dredging and cleaning water channels for protection, and cleaning culverts. The bridges, trestles, and culverts referred to in this account include only structures which carry the carrier's own tracks.

REPAIRS OF BRIDGE STRUCTURES

Abutments.	Ice breakers.
Bridge signs.	Painting.
Cofferdams.	Pier protection.
Concrete and masonry ends for culverts.	Piers and foundations.
Cribs.	Pipe culverts.
Decking, including gravel for fire protection.	Retaining walls.
Dike protection.	Riprap around abutments.
Drainage systems.	Riprap at culvert ends.
Draw protection.	Supports.
Drawbridge engines and machinery.	Water channels.
Piles work.	Waterproofing.
Guard timbers.	Wing dams.
	Wing walls.

NOTE: When a part of the entire structure of a bridge or trestle is converted, by filling into an earth embankment, the ledger value of the structure, or of the portion thereof filled, shall be credited to road and equipment account 6, "Bridges, trestles, and culverts." In case the bridge is used in lieu of a temporary trestle for the purpose of filling, the estimated cost of such a temporary trestle shall be charged to road and equipment account 3, "Grading." The ledger value of the structure, or portion thereof, filled, less the value of the salvage and the estimated cost of trestle charged to road and equipment account 3, "Grading," shall be charged to account 738, "Accrued depreciation—Road and equipment."

210 Elevated Structures.

This account shall include the cost of repairing elevated structures and foundations of elevated railway systems.

212 Ties.

This account shall include the cost of cross, switch, bridge, and other track ties used in repairs of tracks.

NOTE A: The cost of labor for unloading, distributing, and putting ties in tracks, the cost of work-train service in connection with the distribution of the ties laid, and the cost of picking up and concentrating or disposing of the ties released shall be charged to account 220, "Track laying and surfacing."

NOTE B: The excess cost of metal ties applied in place of wooden ties over the cost at current prices of replacing in kind the wooden ties removed shall be charged to road and equipment account 8, "Ties."

NOTE C: The cost of ties used for repairs of tracks in quarries and ballast pits shall be included in the appropriate clearing accounts, and of ties used for repairs of tracks on car floats in account 328, "Floating equipment—Repairs."

214 Rails.

This account shall include the cost, less salvage, of rails used in the repairs of tracks; also the cost (estimated if actual is not known) of the excess in weight of heavy rails removed and lighter rails applied in repairs of tracks.

NOTE A: The cost of labor for unloading, distributing and putting rails in tracks, the cost of work-train service in connection with the distribution of the rails laid, and the cost of picking up and concentrating the rails released shall be charged to account 220, "Track laying and surfacing."

NOTE B: The cost of the excess weight of heavier rails applied in repairs of tracks in replacement of lighter rails shall be included in account 9, "Rails."

NOTE C: The cost of rails used for repairs of tracks in quarries and ballast pits shall be included in the appropriate clearing accounts and of rails used for repairs of tracks on car floats to account 328, "Floating equipment—Repairs."

216 Other Track Material.

This account shall include the cost (less salvage) of all track material used in the repairs of tracks, other than ballast, ties, and rails.

ITEMS OF EXPENSE

Angle bars.	Rail splices.
Anticreepers.	Splice bars.
Connecting rods.	Step chairs.
Derails.	Switch chairs.
Frog and guard-rail blocking.	Switch crossings.
Frogs.	Switch lamps.
Guard-rail clamps.	Switch locks and keys.
Guard-rail fasteners.	Switch points.
Guard rails.	Switch stands.
Main rods.	Switch-stand bolts.
Nut locks.	Switch targets.
Nuts.	Switches.
Offset bars.	Tie plates.
Rail braces.	Tie plugs.
Rail chairs.	Tie-rods.
Rail clips.	Track bolts.
Rail joints.	Track insulators.
Rail rests.	Track spikes.
Rail shims.	

NOTE A: The cost of labor and train service for distributing, unloading, and applying "other track material" used, and the cost of picking up and concentrating the material released shall be charged to account 220, "Track laying and surfacing."

NOTE B: The excess cost of improved or heavier track material applied for repairs of tracks, under a definite plan of changing standards, over the cost, at current prices, of material of the same weight and quality as that released, shall be charged to road and equipment account 10, "Other track material."

NOTE C: The cost of "other track material" used for repairs of tracks in quarries and ballast pits shall be included in the appropriate clearing accounts, and of such track materials used for repairs of tracks on car floats in account 328, "Floating equipment—Repairs."

218 Ballast.

This account shall include the cost of gravel, stone, slag, cinders, sand, and like ballast material used in the repairs of tracks, including the cost of work-train service and of unloading the material. When the ballast taken from a pit is not sufficient to justify the opening of a clearing account, the cost of gravel and quarry rights and cost of sinking test holes shall be included in this account.

NOTE A: The cost of loading cinders at ash pits shall be charged to account 388, "Enginehouse expenses—Yard," or to account 400, "Enginehouse expense—Train." No charge to cover the value of cinders accumulated by the carrier shall be included in this account.

NOTE B: The cost of labor putting ballast in tracks shall be included in account 220, "Track laying and surfacing."

NOTE C: The excess cost of ballasting tracks over the cost of replacing in kind to its maximum height and width the ballast previously put in the roadbed shall be charged to road and equipment account 11, "Ballast."

NOTE D: Earth placed to form a crown in the middle of the track is not to be considered as ballast.

NOTE E: The cost of ballast used for repairs of temporary tracks, such as gravel pit or quarry tracks, shall be included in the appropriate clearing accounts.

220 Track Laying and Surfacing.

This account shall include:

(a) *Applying ballast.* The cost of labor expended in preparing the roadbed, and applying ballast for repairs of tracks.

(b) *Applying ties.* The cost of labor expended in unloading, distributing and applying ties for repairs of tracks; in gathering up and disposing of the ties released; and in respacing ties.

(c) *Applying rails.* The cost of labor expended in unloading, distributing, cutting, slotting, drilling, adzing for, and laying rails for repairs of tracks; in gathering up and loading rails released; and in adjusting for expansion and contraction of rails.

(d) *Applying other track material.* The cost of labor expended in unloading, distributing, and applying other track material for repairs of tracks; and the cost of gathering up and loading the material released.

(e) *Track maintenance.* The cost of labor expended in alining, surfacing, gauging, and shimming tracks; in tightening track bolts and track spikes; in restoring rails, ties, and ballast in case of washouts, derailments, and wrecks; and in taking up tracks.

(f) *Train service.* The cost of work-train service (except work trains distributing ballast material) in connection with work pertaining to track laying and surfacing.

(g) *Track changes.* The cost of track work (exclusive of the cost of track material) in taking up and relocating tracks.

(h) *Other expenses.* The cost of track laying and surfacing work not provided for elsewhere, and expenses, such as repairing and replacing rail rests, official track inspection train service, and premiums in connection with track repairs.

NOTE: Tools and supplies used by track repairmen and watchmen shall be charged to account 271, "Small tools and supplies."

221 Fences, Snowsheds, and Signs.

This account shall include:

(a) *Fences.* The cost of repairing right-of-way fences and snow and sand fences, farm gates, cattle guards, wing fences, aprons, and hedges, excluding those around stockyards, fuel stations, station and shop grounds, and building sites.

(b) *Snowsheds.* The cost of repairing snowsheds, including cost of replacing trees for protecting tracks from snow.

(c) *Signs.* The cost of repairing signs other than those for identification of bridges, signals, stations, and other structures. (For items of signs see account 13, "Fences, snowsheds, and signs.")

NOTE A. The cost of repairing fences (other than right-of-way boundary fences) around stockyards, fuel and water stations, and other building sites, shall be charged to the accounts appropriate for the cost of repairs of the structures.

NOTE B: The cost of repairing signs for identifying bridges, signals, stations, and other structures shall be included in the account appropriate for the cost of repairs of the structures.

NOTE C: The cost of repairing crossing signals, including crossing gates, shall be included in account 249, "Signals and interlockers."

227 Station and Office Buildings.

(a) This account shall include the cost of repairing station and office buildings, fixtures, and appurtenances (including those for heating and lighting), used by the carrier in its operations; also the cost of maintaining grounds appurtenant to such buildings.

(b) A list of stations and office structures and appurtenances appears in property account 16, "Station and office buildings."

NOTE: Incidental cleaning, including the cost of cleaning snow from roofs, when done by station or office employees, shall not be included in this account.

229 Roadway Buildings.

(a) This account shall include the cost of repairing roadway shops and other roadway buildings, including drainage, water, gas, and sewer pipes and their connections, machinery and other apparatus, fixtures, and furniture in the buildings; also the cost of maintaining the grounds appurtenant to such buildings.

(b) A list of roadway structures appears in property account 17, "Roadway buildings."

NOTE A: The cost of repairing signal and interlocker buildings and their appurtenances shall be included in account 249, "Signals and interlockers."

NOTE B: Incidental cleaning, including the cost of cleaning snow from roofs, when done by employees regularly working in the buildings, shall not be included in this account.

231 Water Stations.

(a) This account shall include the cost of repairing water stations, fixtures, and appurtenances used by the carrier in its operations, and the cost of maintaining the grounds appurtenant to such stations.

(b) A list of water stations and appurtenances appears in property account 18, "Water stations."

NOTE: Incidental cleaning, including the cost of cleaning snow from roofs, when done by water station employees, shall not be included in this account.

233 Fuel Stations.

(a) This account shall include the cost of repairing fuel stations, fixtures, and appurtenances used by the carrier in its operations, and the cost of maintaining the grounds appurtenant to such stations.

(b) A list of fuel station structures and details appears in property account 19, "Fuel stations."

NOTE: Incidental cleaning, including the cost of cleaning snow from roofs, when done by fuel station employees, shall not be included in this account.

235 Shops and Enginehouses.

(a) This account shall include the cost of repairing shop and enginehouse buildings, fixtures, and appurtenances used by the carrier in repairing and preparing equipment, and the cost of maintaining the grounds appurtenant to such buildings.

(b) A list of shop and enginehouse structures and details appears in property account 20, "Shops and Enginehouses."

NOTE A: The cost of repairing machinery and other apparatus, including special foundations in shops for maintenance of equipment shall be included in account 302, "Shop machinery."

NOTE B: Incidental cleaning, including the cost of cleaning snow from roofs, when done by shop employees, shall not be included in this account.

237 Grain Elevators.

(a) This account shall include the cost of repairing structures for the transfer, treatment, and storage of grain, including conveyors, machinery and fixtures; also the cost of maintaining the grounds appurtenant to such buildings.

(b) The buildings referred to in this account are large elevators in which a regular grain business is handled or grain is stored for various owners.

NOTE A: Small storage elevators at way stations, where the freight is received for shipment, etc., are classed as station buildings.

NOTE B: Incidental cleaning, including the cost of cleaning snow from roofs, when done by grain elevator employees shall not be included in this account.

239 Storage Warehouses.

This account shall include the cost of repairing storage warehouses, including machinery and fixtures therein; also the cost of maintaining the grounds appurtenant to such warehouses. The buildings referred to in this section are not the ordinary freight warehouses or stations where freight is received for shipment, etc., but are warehouses in which merchandise is stored and which the carrier operates as storage warehouses.

NOTE: Incidental cleaning, including the cost of cleaning snow from roofs, when done

by storage warehouse employees, shall not be included in this account.

241 Wharves and Docks.

(a) This account shall include the cost of repairing wharves located at marine, lake, or river docks; dredging waterways to approaches and around such structures, including removal of dredged-out material; and cutting ice in and around docks and wharves to prevent damage; also cost of repairs of cribwork, racks, or caissons for preserving the depth of water in docks; and cost of repairs of guards, piling, and other protection against damage by drift or ice.

(b) A list of details of wharves and docks appears in property account 23, "Wharves and docks."

NOTE A: The cost of repairing buildings, tracks, and machinery (not bridge machinery) on wharves and piers shall be charged to the appropriate expense accounts.

NOTE B: The cost of repairing coal and ore wharves shall be charged to account 249, "Coal and ore wharves."

NOTE C: Incidental cleaning, when done by regular wharf employees, shall not be included in this account.

243 Coal and Ore Wharves.

This account shall include the cost of repairing wharves and docks, including the cost of repairing conveyors, machinery, and fixtures for the transfer, treatment, blending, or storage of coal or ore.

NOTE A: The structures referred to in this account do not include small transfer or storage trestles at stations where coal is stored or delivered, such trestles being classed as station buildings.

NOTE B: Incidental cleaning, including the cost of cleaning snow from roofs, when done by coal and ore wharf employees, shall not be included in this account.

247 Communication Systems.

(a) This account shall include the cost of repairing telegraph, telephone, radio, radar, inductive train communication, and other communication systems, including terminal equipment.

(b) Details of telegraph and telephone terminal equipment; telegraph and telephone outside plant; radio, radar, and inductive train communication equipment, and other items appear in property account 26, "Communications systems."

NOTE A: Repairs of radio; radar, or trainphone equipment (except portable apparatus) which is permanently attached to locomotives, cars, work equipment, or other rolling stock or floating equipment shall be included in the same account as repairs of the equipment on which installed. Repairs of wireless sets for instructions, advertising, or entertainment shall be included in the same account as repairs of the buildings in which located.

NOTE B: Repairs of communications systems of limited extent, not connected with other systems, used for special purposes and usually installed within a single building, group of buildings, or within the limits of a station or shop layout or yards, shall be included in the same account as repairs of the building in which located or in the account appropriate for the service with which associated.

NOTE C: The pay, rent, other office expenses, and traveling expenses of officers, their clerks and attendants, who supervise, or are engaged both in maintenance and operation, shall be apportioned equally between this account and account 407, "Communication system operation."

249 Signals and Interlockers.

This account shall include the cost of repairing signals and interlockers governing the movements of locomotives and trains, and for the protection of traffic at crossings, including towers and other buildings, furniture, fixtures, and machinery in connection therewith; also the cost of repairing buildings and machinery of power plants used primarily for the production of power for the operation of signals and interlockers. For list of items see account 27, "Signals and interlockers."

NOTE A: The pay and expenses of employees engaged both in maintaining and operating signals and interlockers shall be apportioned equitably between this account and account 404, "Signal and interlocker operation."

NOTE B: When signal or interlocking apparatus is located in station buildings, only the cost of repairing the signal or interlocking apparatus shall be charged to this account. The cost of repairing the building shall be included in account 227, "Station and office buildings."

NOTE C: The cost of repairs of track material such as special rail braces, special rods, switches, special track fastenings, split rails, derails, derail stands, and frogs, used in connection with interlockers shall be included in account 216, "Other track material."

NOTE D: When derails are arranged so as to be thrown from switch stands, the cost of labor expended for repairs of the connections between the switch stands and the derail and devices for throwing the derail, shall be included in account 220, "Track laying and surfacing."

NOTE E: The salaries, office expenses, and traveling expenses of supervisors or inspectors when engaged in maintaining both telegraph and telephone lines and signals and interlockers shall be equitably apportioned between this account and account 247, "Communication systems."

253 Power Plants.

This account shall include the cost of repairing power-plant and substation buildings, including all foundations other than those special to particular machines and apparatus; and also dams, canals, pipe lines, and accessories devoted to the utilization of water for power. Gas and sewer pipes and their connections, fixtures (including wiring) for lighting and heating, and miscellaneous fixtures, shall be considered as a part of the power-plant buildings. The power-plant buildings here referred to are those in which power is produced for the operation of trains and cars and for general purposes. For list of items see road and equipment account 29, "Power plants."

NOTE A: The cost of repairing power-plant machinery, including small stacks resting on boilers, and special foundations for machines, shall be included in account 304, "Power-plant machinery."

NOTE B: The cost of repairing the buildings and the power machinery and other apparatus of plants used primarily for operating signals and interlockers shall be included in account 249, "Signals and interlockers."

257 Power-transmission Systems.

This account shall include the cost of repairing systems for conveying electricity, steam, and compressed air from producing plants to place or building where used; including the cost of conduits and poles, cross arms, insulator pins, brackets and other pole fixtures, used in repairs, and of repairing other structures for power-transmission and distribution systems, including those for electric railway operation, and lighting systems for general lighting purposes. For a list of items see account 31, "Power-transmission systems."

NOTE A: The cost of repairing the portions of distribution systems located within shop buildings and station and office buildings shall be included in the accounts provided for the cost of maintaining the buildings. The cost of repairing distribution systems in plants used primarily for operating signals and interlockers shall be included in account 249, "Signals and interlockers."

NOTE B: The cost of repairing conduits and poles and fixtures for telegraph and telephone lines shall be included in account 247, "Communication systems." If poles and conduits are used both for telegraph and telephone lines, and for power-distribution lines, the cost of repairs thereof shall be included in the account appropriate according to their predominant use.

265 Miscellaneous Structures.

This account shall include the cost of repairing permanent structures, not provided for elsewhere, including the cost of repairing all furniture and fixtures to equip them for use. It shall also include the cost of maintenance of the grounds appurtenant to such structures.

NOTE A: When separable the cost of maintaining structures which are rented to other companies or individuals shall be charged to income account in which is included the rent received for use of the structures.

NOTE B: Incidental cleaning, including the cost of cleaning snow from roofs, when done by employees regularly working in miscellaneous buildings, shall not be included in this account.

266 Road Property; Depreciation.

This account shall include the amount of depreciation charges applicable to the accounting period for all classes of depreciable road property with the exception of shop machinery and power-plant machinery.

NOTE: Depreciation charges applicable to shop machinery and power-plant machinery shall be included in account 305, "Shop and power-plant machinery—Depreciation."

267 Retirements; Road.

(a) This account shall include charges for the service value (ledger value less value of salvage) of nondepreciable road property retired, excluding rail, ties, and other track material, and ballast used in repairs, as defined in this classification. When rails, ties, and other track material are removed and replaced in the process of repairing tracks such work shall be classified as maintenance and the items of material so replaced are not to be recorded as nondepreciable road property retired.

(b) When road property previously subject to amortization accounting (pursuant to rules in effect during the period 1941–1951 consistent with section 124, "Amortization deductions," of the Internal Revenue Code) is retired the difference between (1) the service value (ledger value less salvage value and insurance recovered) thereof, and (2) the balance in account 736, "Amortization of defense projects—Road and equipment," after appropriate adjustment for any depreciation accrued thereon, shall be included in this account, except for a difference, material in amount, as covered by paragraph (c) of this account.

(c) When the difference referred to in paragraph (b) of this account or the aggregate of all such differences for retirements is of an amount sufficiently large to constitute an extraordinary item, pursuant to instruction 1–2(d), the amount shall be credited to account 570 "Extraordinary items."

(d) This account shall also be charged with such amounts as are concurrently credited to accounts 72 to 80, inclusive, in accounting for the retirement of road property.

NOTE: The cost of dismantling or demolishing the property if borne by the carrier, shall be charged to account 270, "Dismantling retired road property," or account 306, "Dismantling retired shop and power-plant machinery," as may be appropriate.

269 Roadway Machines.

(a) This account shall include the cost of repairing roadway machines which are used for the repairs of roadway and structures.

(b) A list of roadway machines appears in property account 37, "Roadway machines".

NOTE A: The cost of repairing machines in the maintenance of equipment shops shall be included in account 302, "Shop machinery," as provided for therein.

NOTE B: The cost of repairing roadway machines, such as pile drivers, log loaders, hoisting engines, and concrete mixers, when permanently mounted for movement on carrier's tracks, shall be included in account 336, "Work equipment—Repairs."

270 Dismantling Retired Road Property.

This account shall include the cost of dismantling retired road property and recovering the salvage therefrom with the exception of material recovered in connection with repairs of tracks and of dismantling retired shop and power-plant machinery. The cost of removing, gathering up, and disposing of track material in connection with repairs of tracks is includible in account 220, "Track laying and surfacing," and the cost of dismantling retired shop and power-plant machinery and recovering the salvage therefrom is includible in account 306, "Dismantling retired shop and power-plant machinery."

271 Small Tools and Supplies.

This account shall include:

(a) *Roadway and track tools.* The cost of roadway tools (except special tools provided for elsewhere), including the cost of repairing such tools.

LIST OF ROADWAY AND TRACK TOOLS

Adzes.
Anvils.
Augers.
Axes.
Ballast forks.
Bars, claw.
Bars, crow.
Bars, lining.
Bars, pinch.
Bars, raising.
Bars, tamping.
Braces and bits.
Brooms.
Brush hooks.
Cable stretchers.
Cables.
Cans, oil.
Cans, water.
Cant hooks.
Chains.
Chisels, track.
Chisels, wood.
Curbing hooks.
Dippers.
Drawing knives.
Drill bits.
Drills (portable).
Flags, signal.
Furnaces (portable).
Grindstones.
Hammers, napping.
Hammers, paving.
Hammers, spiking.
Handles for tools.
Hatchets.
Hose.
Jack levers.
Jacks, ratchet.
Jacks, screw.
Jacks, track.
Kegs, water.
Ladders.
Lanterns and fixtures.
Lawn mowers.
Levels.
Lines for ditching.
Nippers.
Oilstones.
Padlocks.
Pails, water.
Paint brushes.
Picks, clay.
Picks, tamping.
Pike poles.
Post-hole diggers.
Post-hole tampers.
Punches.
Rail benders.
Rail tongs.
Rakes.
Rope.
Saws, Crosscut.
Saws, hand.
Scrap boxes.
Scythes.
Shovels.
Sickles.
Sledges.
Spades.
Spike mauls.
Spike pullers.
Spot boards.
Squares.
Straightening machines.
Tape lines.
Thermometers for laying rail.
Tongs.
Tool boxes.
Torches.
Track gauges.
Track levels.
Vises.
Weed spuds.
Wheelbarrows.
Whetstones.
Wood mallets.
Wrenches, monkey.
Wrenches, track.

(b) *Roadway and track supplies.* The cost of supplies consumed in connection with the operation of roadway machines while used in repairs of roadway and tracks; and cost of supplies used by trackwalkers, track watchmen, and roadway and track repair men.

ITEMS OF ROADWAY SUPPLIES

Alcohol for hydraulic jacks.
Fuel for heating tool and other section houses.
Fuel for portable forges used in roadway and track work.
Gasoline for motor cars.
Oatmeal and ice for drinking water used by roadway and track repair men.
Oil and waste for hand cars, lever cars, motor inspection cars, and push cars.
Oil and wicks for lanterns used by trackwalkers, track watchmen, and roadway and track repair men.
Oil and wicks for lighting tool and other section houses.
Torpedoes used by trackwalkers, track watchmen, and roadway and track repair men.
Water for section houses.

272 Removing Snow, Ice, and Sand.

(a) This account shall include the cost of keeping track and roadway clear of snow, ice, and sand. The amount shall include cost of preventing accumulation, such as the cost of distributing, setting up, inspecting, taking down, and regathering portable snow and sand fences; and cost of tools furnished for the purpose; also cost of storing fences.

(b) The account also shall include cost of removing accumulations of snow, ice, and sand, cost of snow-plow and flanger service, and of work-train service; cost of applying and removing flangers from locomotives and cars, and of slatting pilots; cost of salt to keep switches clear; and cost of meals and lodging for men employed in removal service.

273 Public Improvements; Maintenance.

(a) This account shall include the portion borne by the carrier of the expense of maintenance of public improvements, whether done by public authority or by the carrier's employees under governmental requirement.

(b) By public improvements are meant improvements for public benefit such as curbing, grading, guttering, and paving of streets, overhead highway bridges, including approaches; drainage, sewer, irrigation, and water systems; flood protection, parks, sidewalks, etc. For list of items see account 39, "Public improvements—Construction."

NOTE A: The expense of repairing paving within the grounds of buildings or other structures shall be charged to the accounts provided for repairs of the structures.

NOTE B: Assessments for maintaining public improvements included in the general tax levy for a regular taxing district shall be charged to the appropriate tax account in income.

NOTE C: Interest and penalties, based on monthly or annual percentage rates, for failure to pay assessments within the allotted time shall be included in account 547, "Interest on unfunded debt."

274 Injuries to Persons.

(a) This account shall include expenses on account of injuries to persons which occur directly in connection with the maintenance of way and structures, including injuries occurring in connection with the operation of work trains in such service, and injuries caused by defective highways within the right of way.

(b) The account shall also include expenses on account of injuries to employees incurred while demolishing structures, the maintenance of which would be chargeable to maintenance of way and structures; services of employees and others called in consulation in connection with claim adjustments; and pay and expenses of employees while engaged as witnesses at inquests and lawsuits.

(c) This account shall also include amounts estimated to be sufficient to meet the probable liability of the carrier for unaudited expenses applicable thereto, except that it is not required to anticipate items which would not appreciably affect the account.

ITEMS OF EXPENSE

Artificial limbs.
Carriage fees.
Claim adjusters' and clerks' services.
Claim adjusters' office expenses.
Compensation for injuries or death.
Final judgments, including plaintiffs' court costs.
Funeral expenses.
Hospital attendance.

Medical and surgical services.
Medical and surgical supplies.
Notarial fees.
Nursing.
Railway transportation.
Undertakers' services.
Undertakers' supplies.
Witnesses' fees and expenses at inquests and lawsuits.

NOTE A: Expenses incident to personal injury suits, not otherwise provided for, shall be included in account 454, "Law expenses."

NOTE B: The pay, office rent, office expenses, and other expenses of claim adjusters, claim clerks and others in charge of or engaged in connection with claim cases, when not assignable to a distinct class of claims, shall be apportioned equally among the several classes of claims over which they have jurisdiction or in connection with which they are engaged.

275 Insurance.

This account shall include premiums, except reinsurance premiums, for insuring the carrier against loss through injuries to persons or damage to or destruction or loss of property, whether caused by fire, accident, or other cause, when such loss to the carrier would be chargeable to maintenance of way and structures; also premiums on fidelity bonds of employees whose pay is chargeable to maintenance of way and structures.

NOTE: The premiums paid by the carrier to its insurance fund shall be credited to an insurance reserve account, to which account shall be charged the amounts of all claims for injuries to persons and damages to the property covered by its insurance. To such account shall also be charged all reinsurance premiums paid to insurance companies, and to it shall be credited all amounts recovered from insurance companies in reimbursement for losses under such reinsurance.

276 Stationery and Printing.

This account shall include the cost of stationery and printing used in connection with maintenance of way and structures. The account shall include the cost of adding machines, typewriters, and other office appliances which replace comparable items worn out, consumed or for other cause are no longer in use.

NOTE: The cost of dictionaries, periodicals, technical books, etc., shall be included in the appropriate superintendence accounts.

277 Employees Health and Welfare Benefits.

This account shall include premiums on group and other insurance policies covering annuities and other benefits for employees or their beneficiaries, contributions, directly to employees health and welfare funds, and salaries and other expenses incurred directly in conducting relief, benefit, and medical departments for the benefit of officers and employees engaged in maintenance of roadway and structures.

NOTE: The total amount payable to trustees under pension plans and directly to retired employees for pensions is includible in account 497, "Pensions."

278 Maintaining Joint Tracks, Yards, and Other Facilities—Dr.

This account shall include the carrier's proportion of the costs incurred by others in maintaining joint tracks, yards, terminals, and other facilities.

NOTE: The purpose of this account is to show the amounts accruing against the carrier for its proportion of the cost of maintaining tracks, yards, and other roadway and structure facilities maintained by others and in the joint use of which the carrier participates.

279 Maintaining Joint Tracks, Yards, and Other Facilities—Cr.

This account shall include amounts chargeable to others as their proportions of the cost incurred by the carrier in maintaining joint tracks, yards, terminals, and other facilities.

NOTE: The purpose of this account is to show the amounts accruing in favor of the carrier and against others for their proportions of the cost of maintaining tracks, yards, and other roadway and structure facilities maintained by the carrier and in the joint use of which others participate.

280 Equalization; Way and Structures.

This account shall include adjustments of the differences between the actual and the budgeted or authorized maintenance of way and structures expenses. The amounts included in this account shall concurrently be debited or credited to account 773, "Equalization reserves."

281 Right-of-way Expenses.

This account shall include the cost to the carrier of maintaining structures owned by or exclusively used by others, such costs having been assumed by the carrier in order to acquire or to secure a less restricted use of its right of way. The structures here referred to are those such as bridges above the carrier's tracks, tunnels, and roadways under the carrier's tracks.

NOTE: The cost of maintaining public improvements is includible in account 272, "Public improvements—Maintenance."

282 Other Expenses.

This account shall include all expenses in connection with maintenance of way and structures not provided for elsewhere.

ITEMS OF EXPENSE

Pay and expenses of maintenance of way employees attending conferences with officers in connection with wage disputes.
Fees paid arbitrators in wage disputes with maintenance of way employees.
Payments to maintenance of way employees for time absent on account of sickness, when not compensation for personal injuries.
Gratuities paid to persons for discovering defective rails, etc.

Maintenance of Equipment

300 Maintenance of Equipment.

The primary accounts included in this general account are designed to show the expenses of maintaining the carrier's equipment and the carrier's expense for the repairs of other equipment used in its operations, also the cost of maintaining road property classified as shop and power plant machinery. The repair accounts shall include foreign roads' freight charges for transporting the carrier's equipment to shops for repairs and for transporting such equipment to the carrier's line after repairs have been made. No charge shall be made to these accounts for transporting equipment in the carrier's transportation service trains to shops for repairs or from shops after repairs have been made. The accounts for maintenance of equipment shall be kept in such manner as to show separately, by primary accounts, the expenses directly assignable to sleeping car operations, dining and buffet service, producing power sold, and other miscellaneous operations.

301 Superintendence.

This account shall include:

(a) *Pay of officers.* The pay of officers directly in charge of or engaged in the maintenance of equipment.

LIST OF OFFICERS

Vice president.
Assistant vice president.
General superintendent of motive power; Assistant.
Mechanical superintendent.
Superintendent of motive power; Assistant.
Mechanical engineer; Assistant.
Chief chemist.
General equipment inspector.
Engineer of tests.
Supervisor of car department.
Electrical engineer; Assistant.
Chemist and assistant chemist.
Master car builder.
Master mechanic.
General foreman.
Chief car inspector.
Inspector of passenger-train cars.
General car inspector.
Traveling boiler inspector.

(b) *Pay of clerks and attendants.* The pay of clerks and other employees in the offices and on business cars of officers whose pay is chargeable to this account.

LIST OF EMPLOYEES

Chief motive power clerks, other clerks and stenographers.
Draftsmen.
Messengers, cooks and porters.

(c) *Office and other expenses.* Office expenses and other expenses of officers and employees whose pay is chargeable to this account, and amounts paid to detective agencies and others for investigations in connection with repairs of equipment.

ITEMS OF EXPENSES AND SUPPLIES

Atlases, maps, and books for office use.
Barometers.
Business car service.
Drafting instruments and supplies.
Engineering supplies.
Fees and dues to technical associations.
Furniture repairs and renewals.
Heating, lighting, and power.
Official train service.
Periodicals and newspapers.
Provisions for business cars.
Rent and repairs of offices.
Telegraph and telephone service.
Traveling expenses.
Water and ice.

NOTE A: When employees designated above are specifically assigned to construction work, their pay and expenses while thus employed, shall be charged to the work upon which engaged.

NOTE B: When officers designated above have supervision over more than one department, their salaries, the pay of their clerks and attendants and their office and other expenses shall be apportioned equitably among the departments over which they have jurisdiction.

NOTE C: The cost of stationery purchased for maintenance of equipment offices is chargeable to account 804, "Stationery and printing."

NOTE D: The pay of general foremen in small shops, who exercise direct supervision over all departments, unassisted by departmental foremen, shall be apportioned through clearing account "Shop expenses."

302 Shop Machinery.

(a) This account shall include the cost of repairing machinery and other apparatus, including special foundations, in shops and enginehouses.

(b) A list of shop machinery appears in property account 44, "Shop machinery."

NOTE A: The cost of repairing power plant machinery for shop power when located in distinct buildings shall be included in account 304, "Power plant machinery."

NOTE B: The cost of repairing boilers used exclusively for heating shall be included in the appropriate repair accounts for buildings.

NOTE C: The cost of small tools which are soon worn out, when used by mechanics on miscellaneous work, shall be included in clearing account "Shop expenses," and when used on repairs of equipment shall be included in the appropriate accounts for repairs of equipment.

NOTE D: The cost of repairing machinery and tools in shops used exclusively for maintenance of way and structures shall be included in account 220, "Roadway buildings."

304 Power-plant Machinery.

This account shall include the cost of repairing machinery and other apparatus including special foundations in power plants and substations for generating and transforming power used for the operation of trains and cars or to furnish power, heat, and light for general purposes. For list of items see account 45, "Power-plant machinery."

NOTE A: The cost of repairing power-machinery and apparatus in shop power plants shall be included in account 302, "Shop machinery."

NOTE B: The cost of repairing power-machinery and apparatus in stations and offices used primarily for station and office purposes shall be included in account 227, "Station and office buildings."

NOTE C: The cost of repairing power-machinery and apparatus in plants used primarily for operating signals and interlockers shall be included in account 249, "Signals and interlockers."

NOTE D: The cost of repairing foundations, other than those special to particular machines and other apparatus, shall be included in cost of repairing the building and not in this account.

NOTE E: The cost of repairing machinery in distinct plants for furnishing power both for carrier purposes and for sale shall be included in this account. When plants are used solely for generating power for sale the cost of repairs shall be included in account 534, "Expenses of miscellaneous operations."

305 Shop and Power-plant Machinery; Depreciation.

This account shall include the amount of depreciation charges applicable to the accounting period for all classes of property the cost of which is includible in accounts 44, "Shop machinery" and 45, "Power-plant machinery."

306 Dismantling Retired Shop and Power-plant Machinery.

This account shall include the cost of dismantling retired shop and power-plant machinery and recovering the salvage therefrom.

308 Steam Locomotives; Repairs.

(a) This account shall include the cost of repairing transportation service steam locomotives and tenders, including all appurtenances, and the cost of small hand tools used in repair work. This account shall also include the cost of work-train service for the transportation of locomotives without steam to shops for repairs, including the pay and expenses of caretakers, and the pay and expenses of caretakers of locomotives without steam which are hauled in transportation service trains to shops for repairs; also notarial fees in connection with reports on conditions of locomotives.

(b) A list of appurtenances to locomotives appears in property account 51, "Steam locomotives".

NOTE A: The cost of inspecting smokestacks and ash pans of locomotives in service shall be included in the appropriate enginehouse expense accounts.

NOTE B: The cost of repairing steam locomotives and tenders of foreign lines, waybilled as freight, and damaged in transit shall be charged to account 418, "Loss and damage—Freight"; and the cost of repairing steam locomotives and tenders of foreign lines having trackage rights over the carrier's line, damaged by collision, wreck, or other cause, for which the carrier is liable, shall be charged to account 416, "Damage to property."

NOTE C: The cost of running locomotives under steam to shops for repairs in connection with transportation service shall be included in the cost of the service in connection with which the movement occurs.

NOTE D: The cost of repairing steam locomotives used solely in work service in connection with operations shall be included in account 326, "Work equipment—Repairs." The cost of repairing locomotives on account of construction work shall be included in the cost of the work.

311 Other Locomotives; Repairs.

This account shall include the cost of repairs of transportation service locomotives other than steam locomotives, analogous to those set forth for steam locomotives in account 308, "Steam locomotives—Repairs."

314 Freight-train Cars; Repairs.

(a) This account shall include the cost of repairing freight-train cars and appurtenances, and the cost of repairing motor equipment affixed to freight-train cars engaged in transportation service; also cost of small hand tools used in repairs. This account shall also include the net loss sustained on account of the destruction of foreign freight cars in the carrier's transportation service and amounts paid to others for repairs of freight cars for which the carrier is liable.

(b) A list of freight-train cars and appurtenances to such cars appears in property account 53, "Freight-train cars."

NOTE A: The cost of candles, wicks, lamp chimneys, globes, and shades for oil or other lamps in freight-train cars shall be charged to account 402, "Train supplies and expenses."

NOTE B: The cost of repairing freight-train cars of foreign lines waybilled as freight and damaged in transit shall be charged to account 418, "Loss and damage—Freight"; and the cost of repairing freight-train cars of foreign lines having trackage rights over the carrier's line, when damaged by collision, wreck, or other cause, for which the carrier is liable, shall be charged to account 416, "Damage to property."

317 Passenger-train Cars; Repairs.

(a) This account shall include the cost of repairing passenger-train cars and appurtenances and the cost of repairing motor equipment affixed to passenger-train cars used in transportation service; small hand tools used in repairs; the net loss sustained on account of the destruction of foreign passenger-train cars in the carrier's transportation service, and amounts paid others for repairs of passenger-train cars for which the carrier is liable.

(b) A list of passenger-train cars and appurtenances to such cars appears in property account 54, "Passenger-train cars."

NOTE A: The cost of candles, wicks, and lamp chimneys and of globes and shades for electric and other lights in passenger-train cars shall be charged to account 402, "Train supplies and expenses."

NOTE B: The cost of repairing passenger-train cars of foreign lines, which are waybilled as freight and have been damaged in transit, shall be charged to account 418, "Loss and damage—Freight," and the cost of repairing passenger-train cars of foreign lines having trackage rights over the carrier's line, when damaged by collision, wreck, or otherwise, for which the carrier is liable, shall be charged to account 416, "Damage to property."

323 Floating Equipment; Repairs.

(a) This account shall include the cost of repairing floating equipment (other than work equipment), including appurtenances, and cost of small hand tools used in repairs. The pay and expenses of captains and engineers and of boat employees, while engaged on maintenance of floating equipment, shall be included in this account.

(b) A list of floating equipment and appurtenances to such equipment appears in property account 56, "Floating equipment."

326 Work Equipment; Repairs.

(a) This account shall include the cost of repairing rail and floating work equipment, including appurtenances, and cost of small hand tools used in repairs.

(b) The cost of fitting up commercial cars for work service in connection with maintenance and operation; the cost of refitting them for commercial service; the cost of repairs to locomotives while in service for repairs of road and equipment; and the cost of repairs to foreign

cars damaged while in such service shall be included in this account; also amounts paid in settlement for such cars destroyed in such service.

(c) A list of work equipment and appurtenances to such equipment appears in property account 57, "Work equipment."

NOTE: The cost of repairs to work equipment on account of construction work shall be included in the cost of the construction work on which it is used.

328 Miscellaneous Equipment; Repairs.

This account shall include the cost of repairing miscellaneous equipment, such as automobiles and other highway vehicles.

329 Dismantling Retired Equipment.

This account shall include the cost of tearing down retired equipment and recovering the salvage therefrom.

330 Retirements; Equipment.

(a) When equipment previously subject to amortization accounting (pursuant to rules in effect during the period 1941–1951 consistent with section 124, "Amortization deductions," of the Internal Revenue Code) is retired the difference between (1) the service value (ledger value less value of salvage and insurance recovered) thereof, and (2) the balance in account 736, "Amortization of defense projects—Road and equipment," after appropriate adjustment for any depreciation accrued thereon, shall be included in this account, except for a difference, material in amount, as covered by paragraph (b) of this account.

(b) When the difference referred to in paragraph (a) of this account or the aggregate of all such differences for retirements is of an amount sufficiently large to constitute an extraordinary item, pursuant to instruction 1–3(d), the amount shall be credited to account 570 "Extraordinary items."

(c) This account shall also be charged with such amounts as are concurrently credited to accounts 72 to 80, inclusive, in accounting for the retirement of equipment.

331 Equipment; Depreciation.

This account shall include the amount of depreciation charges applicable to the accounting period for all classes of equipment the ledger value of which is includible in accounts 51 to 54 and 56 to 58, all inclusive.

332 Injuries to Persons.

This account shall include expenses on account of injuries to persons which occur directly in connection with repairs of equipment. Services of employees and others called in consultation in relation to claim adjustments, pay and expenses of employees while engaged as witnesses at inquests and lawsuits shall be included in this account. This account shall also include amounts estimated to be sufficient to meet the probable liability of the carrier for unaudited expenses applicable thereto, except that it is not required to anticipate items which would not appreciably affect the account.

ITEMS OF EXPENSE

Artificial limbs.
Carriage fees.
Claim adjusters' and clerks' services.
Claim adjusters' office expenses.
Compensation for injuries or death.
Final judgments, including plaintiffs' court costs.
Funeral expenses.
Hospital attendance.
Medical and surgical services.
Medical and surgical supplies.
Notarial fees.
Nursing.
Railway transportation.
Undertakers' services.
Undertakers' supplies.
Witnesses' fees and expenses at inquests and lawsuits.

NOTE A: Expenses incident to personal injury suits, not otherwise provided for, shall be included in account 454, "Law expenses."

NOTE B: The pay, office rent, and office and other expenses of claim adjusters, claim clerks, and others in charge of or engaged in connection with claim cases, when not assignable to a distinct class of claims, shall be apportioned equally among the several classes of claims over which they have jurisdiction or in connection with which they are engaged.

333 Insurance.

This account shall include premiums, except reinsurance premiums, for insuring the carrier against loss, through injuries to persons or damage to or destruction or loss of property, whether caused by fire, accident, or other cause, when such loss to the carrier would be chargeable to maintenance of equipment; also premiums on fidelity bonds of employees whose pay is chargeable to maintenance of equipment.

NOTE: The premiums paid by the carrier to its insurance fund shall be credited to an insurance reserve account, to which account shall be charged the amount of all claims for injuries to persons and damages to the property covered by its insurance. To such account shall also be charged all reinsurance premiums paid to insurance companies, and to it shall be credited all amounts recovered from insurance companies for damage to the property reinsured by them.

334 Stationery and Printing.

This account shall include the cost of stationery and printing used in connection with maintenance of equipment. The account shall include the cost of adding machines, typewriters and other office appliances which replace comparable items worn out, consumed or for other cause are no longer in use.

NOTE: The cost of dictionaries, periodicals, technical books, etc., shall be included in the appropriate superintendence accounts.

335 Employees Health and Welfare Benefits.

This account shall include premiums on group and other insurance policies covering annuities and other benefits for employees or their beneficiaries, contributions directly to employees health and welfare funds, and salaries and other expenses incurred directly in conducting relief, benefit, and medical departments for the benefit of officers and employees engaged in maintenance of equipment.

NOTE: The total amount payable to trustees under pension plans and directly to retired employees for pensions is includible in account 457, "Pensions."

336 Joint Maintenance of Equipment Expenses—Dr.

This account shall include the carrier's proportion of expenses incurred by others in maintaining equipment used in the operation of joint facilities, including the carrier's proportion of the expenses of repairing such equipment damaged by accidents when such expenses are participated in by more than one carrier. It shall also include the carrier's proportion of expenses incurred by others in maintaining joint shop machinery and power-plant machinery.

NOTE: The purpose of this account is to show the amount accruing against the carrier for its proportion of the expense of maintaining equipment, shop machinery, and power-plant machinery, which is maintained by others and in the joint use of which the carrier participates.

337 Joint Maintenance of Equipment Expenses—Cr.

This account shall include the amount chargeable to others as their proportion of expenses incurred by the carrier in maintaining equipment used in the operation of joint facilities, and for expenses of repairing equipment damaged by accidents, when such expenses are participated in by more than one carrier. It shall also include amounts chargeable to others as their proportions of the expenses incurred by the carrier in maintaining joint shop machinery and power-plant machinery.

NOTE: The purpose of this account is to show the amounts accruing in favor of the carrier due from others for their proportions of the expense of maintaining equipment, shop machinery, and power-plant machinery, which is maintained by the carrier and in the joint use of which others participate.

338 Equalization; Equipment.

This account shall include adjustments of the differences between the actual and the budgeted or authorized maintenance of equipment expenses. The amounts included in this account shall concurrently be debited or credited to account 773, "Equalization reserves."

339 Other Expenses.

This account shall include expenses in connection with the maintenance of equipment not properly chargeable to other accounts for maintenance of equipment or to clearing accounts such as "Material store expenses" and "Shop expenses."

ITEMS OF EXPENSE

Pay and expenses of mechanical department employees attending conferences with officers in connection with mechanical department wage disputes.
Fees paid arbitrators in connection with mechanical department wage disputes.
Payments to mechanical department employees for time absent on account of sickness when not in compensation for personal injuries.

Traffic Expense Accounts

350 Traffic.

The primary accounts included in this general account are designed to show the expenses incurred for advertising, soliciting, and securing traffic for the carrier's lines and for preparing and distributing tariffs governing such traffic.

351 Superintendence.

This account shall include:

(a) *Pay of officers.* The pay of officers directly in charge of or engaged in supervising the procurement of traffic, and the preparation and distribution of tariffs, division sheets, and classifications.

LIST OF OFFICERS

Vice president.
Assistant to vice president.
Traffic director; Assistant.
General freight agent; Assistant.
Chief of tariff bureau.
Traveling tariff inspector.
Live stock agent.
General passenger agent; Assistant.
Division passenger agent.
Division freight agent.
General baggage agent.
General express agent.
General express manager.
Coal traffic agent.

(b) *Pay of clerks and attendants.* The pay of clerks and other employees in the offices and on business cars of officers whose pay is chargeable to this account. This includes chief clerk, other clerks, and stenographers; messengers, cooks, porters and other attendants.

(c) *Office and other expenses.* Office expenses and other expenses of officers and employees whose pay is chargeable to this account.

ITEMS OF EXPENSE

Atlases, maps, and books for office use.
Barometers.
Business car service.
Express charges.
Fees and dues in commercial and other clubs.
Furniture repairs and renewals.
Heating, lighting, and power.
Official train service.
Periodicals and newspapers.
Provisions for business cars.
Rent and repairs of offices.
Telegraph and telephone service.
Traveling expenses.
Water and ice.

NOTE A: When officers designated above have supervision over more than one department, their salaries, the pay of their clerks and attendants, and their office and other expenses shall be apportioned equitably among the departments over which they have jurisdiction.

NOTE B: The pay and expenses of officers engaged exclusively in soliciting traffic are chargeable to account 352, "Outside agencies."

NOTE C: The cost of stationery for traffic offices is chargeable to account 358, "Stationery and printing," except stationery chargeable to accounts 354, 355, and 356.

352 Outside Agencies.

(a) This account shall include the pay, and the office, traveling, and other expenses of general, commercial, city, and district agents and others soliciting traffic, the employees of their offices, and traveling agents and solicitors located on or off the line of the carrier's road.

(b) City ticket and freight offices, separate from regular station ticket and freight offices, shall be treated as outside agencies; the pay and expenses of the employees therein and the expenses of such offices shall be charged to this account.

(c) Commissions for services pertaining to either freight or passenger business, except commissions paid in lieu of salaries to carrier's agents located upon the carrier's own line (which shall be charged to account 372, "Station employees"), shall be included in this account.

ITEMS OF EXPENSE

Books for office use.
Express charges.
Furniture repairs and renewals.
Heating, lighting, and power.
Membership fees and dues in agency associations.
Membership fees and dues in commercial clubs.
Office supplies.
Periodicals and newspapers.
Rent and repairs of offices.
Telegraph and telephone service.
Traveling expenses.
Water and ice.

353 Advertising.

This account shall include the cost of advertising for the purpose of securing traffic; pay of advertising agents, their clerks and attendants; rent of offices, and the office, traveling, and other expenses of such employees.

ITEMS OF EXPENSE

Advertisements in newspapers.
Advertisements in periodicals.
Bulletin boards and cards.
Customs charges on advertising matter.
Distributing timetables.
Display and other advertising cards.
Distributing folders.
Distributing general notices to shippers.
Express charges.
Frames, handbills, and posters.
Maps used for advertising.
Pamphlets, photographs and views.
Publishing timetables.
Postage.
Publishing folders and advertising matter.
Publishing notices to shippers.

NOTE: Advertising expenses of industrial and immigration bureaus shall be included in account 356, "Industrial and immigration bureaus."

354 Traffic Associations.

This account shall include the cost to the carrier of participation in traffic associations, including its proportion of the pay of officers and employees of such associations and of their office, stationery and printing, traveling, and other expenses.

LIST OF TRAFFIC ASSOCIATIONS

Boards of trade.
Classification bureaus.
Clergy bureaus.
Commercial associations.
Freight associations.
Mileage ticket bureaus.
Passenger associations.
Tariff bureaus.
Ticket validating agencies.

355 Fast Freight Lines.

This account shall include the cost to the carrier of participation in fast freight or dispatch organizations, including its proportion of the pay of officers, soliciting agents, and employees of such organizations, and their office, stationery and printing, traveling, and other expenses.

356 Industrial and Immigration Bureaus.

This account shall include the cost to the carrier of industrial and immigration bureaus, including the pay of industrial and immigration agents, and exhibit agents, their clerks and attendants and their office, stationery and printing, traveling, and other expenses.

357 Insurance.

This account shall include premiums, except reinsurance premiums, for insuring the carrier against loss through injuries to persons or damage to or destruction or loss of property, whether caused by fire, accident, or other cause, when such loss to the carrier would be chargeable to Traffic, also premiums on fidelity bonds of employees whose pay is chargeable to Traffic.

NOTE: The premiums paid by the carrier to its insurance fund shall be credited to an insurance reserve account, to which account the amount of all claims for injuries to persons and damages to the property covered by its insurance shall be charged. To such account shall also be charged all reinsurance premiums paid to insurance companies, and to it shall be credited all amounts recovered from insurance companies for damage to the property reinsured by them.

358 Stationery and Printing.

This account shall include the cost of stationery and printing used in connection with securing traffic, including the cost of tariffs governing such traffic, division sheets, freight classifications, and rate sheets. This account also shall include the cost of calculating machines, typewriters and other office appliances which replace comparable items worn out, consumed or for other cause are no longer in use.

NOTE A: The cost of dictionaries, periodicals, technical books, etc., shall be included in the appropriate superintendence accounts.

NOTE B: The cost of stationery and printing used by traffic associations, fast freight lines, and industrial and immigration bureaus shall be included in the accounts provided for the expenses of such organizations.

359 Employees Health and Welfare Benefits.

This account shall include premiums on group and other insurance policies covering annuities and other benefits for employees or their beneficiaries, contributions directly to employees health and welfare funds, and salaries and other expenses incurred directly in conducting relief, benefit, and medical departments for the benefit of officers and employees engaged in procurement of traffic and other work in the traffic department.

NOTE: The total amount payable to trustees under pension plans and directly to retired employees for pensions is includible in account 457, Pensions.

360 Other Expenses.

This account shall include all expenses in connection with traffic not properly chargeable to other traffic accounts.

Transportation Expense Accounts

370 Transportation; Rail Line.

The primary accounts included in this general account are designed to show expenses incurred for transporting persons and the property of others, including the expenses of station, train, yard, and terminal service; also the expense of transporting company material in transportation service trains.

371 Superintendence.

This account shall include:

(a) *Pay of officers.* The pay of officers directly in charge of or engaged in conducting transportation.

LIST OF OFFICERS

Vice president.
Assistant to the vice president.
General manager; Assistant.
General superintendent of transportation.
Superintendent of transportation; Assistant.
Division superintendent; Assistant.
Superintendent of car service.
Chief special agent.
Members of examining boards.
Superintendent of mail service.
Traveling train and station inspectors.
Air-brake instructor.
Superintendent of agencies.
Superintendent of transfer stations.
Trainmaster; Assistant.
Road foreman of locomotives.
Traveling locomotive engineer; Fireman.

(b) *Pay of clerks and attendants.* The pay of clerks and others employed in the offices and on business cars of officers whose pay is chargeable to this account.

LIST OF EMPLOYEES

Division clerk, other clerks and stenographers.
Special agents and detectives.
Messengers, cooks, and porters.

(c) *Office and other expenses.* Office expenses and other expenses of officers and employees whose pay is chargeable to this account; also the pay and expenses of employees attending investigations concerning the cause of or responsibility for accidents and amounts paid detective agencies and others for work in connection with such investigations.

ITEMS OF EXPENSE

Atlases and maps.
Barometers.
Books for office use.
Business car service.
Express charges.
Fees and dues in associations.
Furniture repairs and renewals.
Heating, lighting, and power.
Official train service.
Periodicals and newspapers.
Provisions for business cars.
Rent of air-brake instruction cars.
Rent and repairs of offices.
Telegraph and telephone service.
Traveling expenses.
Water and ice.

NOTE A: When officers designated above have supervision over more than one department, their salaries, the pay of their clerks and attendants, and their office and other expenses shall be apportioned equitably among the departments over which they have jurisdiction.

NOTE B: The cost of stationery purchased for transportation offices is chargeable to account 410, "Stationery and printing."

372 Dispatching Trains.

This account shall include the pay of chief and other train dispatchers, their clerks, copying operators, and attendants, and pay of operators on the line whose duties are confined to directing train movements; also the office, traveling, and other expenses of such employees.

NOTE: Pay of operators who also perform station work shall be charged to account 373, "Station employees."

373 Station Employees.

This account shall include:

(a) *Agents, clerks, and attendants.* The pay of agents, assistant agents, clerks, and attendants in charge of, or engaged in, the operation of stations, stockyards, wharves, and piers located on the carrier's line; also payments to such station or ticket agents in lieu of salaries. This account shall also include special payments to customs inspectors on account of opening and resealing cars under unusual conditions, and payments to produce-exchange inspectors for inspecting, measuring, and weighing grain.

LIST OF GENERAL EMPLOYEES

Accountants.
Baggage agents and baggagemen at stations.
Car and other clerks.
Cashiers.
Customs inspectors.
Depot masters; Assistant.
Detectives and policemen.
Express agents.
Information bureau employees.
Janitors, porters, maids, and matrons.
Package and parcel room employees.
Station agents; Assistants.
Station foremen.
Station masters; Assistants.
Stockyard superintendents and foremen.
Telegraph and telephone operators.
Ticket agents.

(b) *Labor at Stations.* Station and other labor expended in handling freight, mail, baggage, and express at stations, wharves, and piers; in loading, unloading, feeding, watering, bedding, shearing, dipping, inspecting, and otherwise caring for stock; in disinfecting stations, stockyards, and stock pens; in transferring, picking up, straightening, and reloading freight in the ordinary course of transportation; in miscellaneous station work, including (when done by station employees) cleaning station grounds, station platforms, walks, stockyards, and stock pens, and removing snow and ice therefrom; and in tending switch lamps not in yards and terminals. This account shall also include payments to elevator companies (when not made as division of rate) for transferring grain en route, and payments to other companies and individuals for loading and unloading commercial freight under contract or otherwise.

LIST OF EMPLOYEES

Car sealers and checkmen.
Freight callers and handlers.
Freight house foremen.
Freight loaders and unloaders.
Longshoremen and stevedores.
Mail carriers and weighers.
Stationary engineers and firemen.
Stockyard laborers.
Teamsters and weighmasters.
Truckmen.
Watchmen.
Warehousemen.

NOTE A: The cost of transferring freight, mail, baggage, and express on account of wrecks shall be included in account 418, "Clearing wrecks."

NOTE B: This account shall not include the pay of telegraph and telephone operators provided for under accounts 372, "Dispatching trains," and 407, "Communication system operation," or pay of employees provided for under account 378, "Coal and ore wharves."

374 Weighing, Inspection, and Demurrage Bureaus.

This account shall include the cost to the carrier of its participation in joint weighing inspection, demurrage, and car distribution bureaus and associations.

375 Coal and Ore Wharves.

This account shall include cost of operating docks, and wharves, piers, and other marine, lake, or river landings, and the machinery located thereon, used in connection with the transportation of coal and ore.

(a) *Labor and expenses.* The pay and the office, traveling, and other expenses of employees engaged in operating coal and ore wharves.

(b) *Tools and supplies.* The cost of all tools and supplies used in the operation of coal and ore wharves.

ITEMS OF TOOLS AND SUPPLIES

Cylinder and lubricating oil.
Fuel for stationary boilers.
Illuminating oil.
Lanterns and parts.
Picks, shovels, and slice bars.
Waste; wicks.

NOTE: The cost of switching service in connection with coal and ore wharves shall not be included in this account.

376 Station Supplies and Expenses.

This account shall include:

(a) *Heating.* The cost of fuel (including cost of unloading), water, steam, and miscellaneous supplies used for heating stations, waiting rooms, freight and passenger offices, stockyards and other station buildings.

(b) *Lighting.* The cost of fuel, water, gas, oil, electricity, lamp globes, lamp chimneys, wicks, lamp carbons, incandescent lamps, and miscellaneous supplies used in lighting stations, waiting rooms, freight and passenger offices, stockyards, other station buildings, street approaches thereto, and passenger footbridges and subways at stations.

(c) *Other expenses.* The cost of miscellaneous station supplies and station expenses, including those for stockyards.

ITEMS OF EXPENSE

Cleaning privy vaults.
Furniture repairs and renewals.
Garage expenses.
Licenses for ticket agents.
Mail transfer by others than employees.
Membership fees and dues in agents' associations.
Power for station machinery.
Rent of automatic weighing and recording devices.
Rent of scales.
Rent of station buildings (not jointly used).
Reports to agents of commercial standing.
Sprinkling station grounds.
Station employees' expenses.
Supplies used in feeding, watering, bedding, shearing, dipping, inspecting, and otherwise caring for livestock.
Tools and station supplies such as baggage checks, car seals, cooperage material and packing material, and mail bags; also, station trucks, rolling chairs for invalids, medical supplies, electric fans; uniforms, punches for baggagemen and gatemen, brooms, brushes, shovels and other supplies and tools for general station use.
Telephone and telegraph service.
Warehouse charges for storage of freight.

377 Yardmasters and Yard Clerks.

This account shall include the pay of general yardmaster, yardmaster, assistant yardmaster, general yard foreman, and yard clerks and attendants in yards where regular switching service is maintained and in terminal switching and transfer service, including employees engaged in calling yardmen and trainmen; also pay of policemen, watchmen, and detectives in yard service. (See account 389, "Yard supplies and expenses.")

378 Yard Conductors and Brakemen.

This account shall include the pay of yard conductors or foremen and yard brakemen or switchmen handling cars in passenger and freight yards where regular switching service is maintained and in terminal switching and transfer service, including pay while deadheading in connection with such service. (See account 389, "Yard supplies and expenses.")

NOTE: When conductors and brakemen are engaged in both train and yard service their pay shall be apportioned between the train and yard accounts on the basis of service rendered. This does not apply to train switching service performed by train crews, the entire pay of whom shall be charged to account 401, "Trainmen."

379 Yard Switch and Signal Tenders.

This account shall include the pay of employees in yards where regular switching service is maintained, who are engaged in the operation of yard switches and signals, including interlockers used solely or principally for the government of all movements of locomotives and trains between main and yard tracks, movements of locomotives between yard tracks and enginehouses, and yard-switching movements. (See account 389, "Yard supplies and expenses.")

LIST OF EMPLOYEES

Battery men.
Interlocker oilers.
Lampcleaners and lighters.
Switch oilers and tenders.
Levermen, signal men, and tower men.

380 Yard Enginemen.

This account shall include the pay of yard enginemen while engaged in yards where regular switching service is maintained and terminal switching and transfer service, including pay of such employees while deadheading in connection with yard service. For purposes of this account enginemen shall be understood to include the operators and their assistants regardless of the type of self-propelled motive power being operated.

NOTE: The pay of enginemen on locomotives engaged in more than one class of service shall be apportioned on the basis of service rendered. Pay of enginemen on train locomotives while engaged in train switching service shall be included in account 392, "Train enginemen." The pay of enginemen on locomotives engaged in work service shall be included in the cost of the work to which the service pertains.

382 Yard Switching Fuel.

This account shall include the cost, delivered on locomotives or motor cars, of coal, coke, oil, wood; and other fuels consumed in switching service in yards where regular switching service is maintained, and in terminal switching and transfer service, including a suitable proportion of the pay of fuel agents, fuel inspectors, fuel weighers, and clerks engaged in accounting for fuel at fuel stations; pay of foremen and other fuel station employees; also a suitable proportion of the cost of tools, such as wheelbarrows, shovels, scoops, and picks, used for handling fuel at such stations and the cost of operating machinery at fuel stations.

NOTE A: The cost of repairs and renewals of coal chutes, buggies, pockets, air hoists, mechanical hoists, and mechanical conveyors at fuel stations shall be charged to account 233, "Fuel stations."

NOTE B: The cost of supplies consumed by locomotives and motor cars engaged in more than one class of service shall be apportioned upon the basis of service rendered. The cost of supplies consumed by train locomotives and motor cars in train switching service shall be included in accounts provided for train service. The cost of supplies consumed by locomotives and motor cars in work service shall be included in the cost of the work to which the service pertains.

383 Yard Switching Power Produced.

This account shall include the cost of the production and distribution of electric power used in operating locomotives and cars in switching service in yards where regular switching service is maintained, and in terminal switching and transfer service.

(a) *Employees.* The pay of employees engaged in operating electric-power stations and substations, such as engineers, firemen, electricians, dynamo men, oilers, cleaners, and coal passers.

(b) *Fuel.* The cost of coal, oil, gas, and other fuel, including the cost of labor unloading or stocking fuel.

(c) *Water.* The cost of water used to produce steam or to operate water plants, including pumping, rent of ponds, streams, and pipe lines; also water tests, boiler compounds, and other like supplies and expenses.

(d) *Other supplies and expenses.* The cost of lubricants, such as oil and grease used in lubricating engines, shafting, dynamos, and pumps; cost of waste, carbon brushes, fuses, lamps, and other supplies; also the cost of heating and lighting power plants, and other expenses not elsewhere specified in connection with operation of electric-power plants.

NOTE: The cost of supplies consumed by locomotives engaged in more than one class of service shall be apportioned upon the basis of service rendered. The entire cost of supplies consumed by train locomotives in train switching service shall be included in the accounts provided for train service. The supplies consumed by locomotives in work service shall be included in the cost of the work to which the service pertains.

384 Yard Switching Power Purchased.

This account shall include the cost of electric power purchased for the propulsion of engines and cars in switching service in yards where regular switching service is maintained, and in terminal switching and transfer service.

NOTE: The cost of supplies consumed by locomotives engaged in more than one class of service shall be apportioned upon the basis of service rendered. The entire cost of supplies consumed by train locomotives in train switching service shall be included in the accounts provided for train service. The supplies consumed by locomotives in work service shall be included in the cost of the work to which the service pertains.

385 Water for Yard Locomotives.

(a) This account shall include the cost of water supplied to locomotives in switching service in yards where regular switching service is maintained, and in terminal switching and transfer service, including rent of ponds, lakes, other sources of water supply, and right of way for pipe lines; cost of water purchased, expenses of work trains while engaged in hauling water for locomotive supply, and cost of testing water; also cost of labor expended and cost of materials and supplies used in the operation of water stations and purifying plants.

(b) The cost of operating boilers, engines, and pumps at water stations; heating and lighting water stations, breaking ice in water tanks, thawing out tank spouts and water cars, keeping fires in tanks and water cars to prevent freezing, shoveling snow into locomotive tanks; also temporary connections between water cars and locomotive tenders, compounds injected into locomotive boilers to decrease scale formation, and other expenses directly incident to the supplying of water to such locomotives, shall be included in this account.

(c) An equitable proportion of the pay and the office, traveling, and other expenses of superintendent of water service engaged in connection with water supply for locomotives shall be included in this account.

NOTE: The cost of supplies consumed by locomotives engaged in more than one class of service shall be apportioned upon the basis of service rendered. The entire cost of supplies consumed by train locomotives in train switching service shall be included in the accounts provided for train service. The supplies consumed by locomotives in work service shall be included in the cost of the work to which the service pertains.

386 Lubricants for Yard Locomotives.

This account shall include the cost of valve, engine, car and other lubricating oils, grease, compounds, and waste used for lubrication of locomotives in switching service in yards where regular switching service is maintained and in terminal switching and transfer service.

NOTE: The cost of supplies consumed by locomotives engaged in more than one class of service shall be apportioned upon the basis of service rendered. The entire cost of supplies consumed by train locomotives in train switching service shall be included in the accounts provided for train service. The supplies consumed by locomotives in work service shall be included in the cost of the work to which the service pertains.

387 Other Supplies for Yard Locomotives.

This account shall include the cost of supplies, other than fuel, water, and lubricants, used on locomotives in switching service in yards where regular switching service is maintained and in terminal switching and transfer service, including the cost of repairs and renewals of furniture, tools, and other movable articles required for use on locomotives in yard service. The account shall include the cost of sand and of material and supplies used in preparing and drying the sand for use, such as the cost of fuel, wheelbarrows, shovels, and sand screens.

NOTE A: Where the quantity of sand used on locomotives engaged in yard service is relatively small as compared with the quantity used by locomotives engaged in train service, the entire cost of such material shall be included in account 399, "Other supplies for train locomotives." Where the quantity used in yard service is relatively large, the entire cost shall be included in this account.

NOTE B: The cost of other supplies consumed by locomotives engaged in more than one class of service shall be apportioned upon the basis of service rendered. The entire cost of supplies consumed by train locomotives in train switching service shall be included in the accounts provided for train service. The supplies consumed by locomotives in work service shall be included in the cost of the work to which the service pertains.

388 Enginehouse Expenses; Yard.

This account shall include the expense of caring for and preparing locomotives for switching service in yards where regular switching service is maintained and in terminal switching and transfer service, including a proportion of such expenses as are common to train, yard switching, and work service.

(a) *Enginehouse men.* The pay of enginehouse employees engaged in wiping, cleaning, watching, and dispatching locomotives; keeping and preparing fires, dumping ashes, washing boilers, cleaning fire boxes, packing driving boxes and truck boxes; cleaning smokestacks, air brake equipment, and front ends of locomotives; checking locomotive tool equipment, cleaning ash and cinder pits; operating turntables, drying sand, inspecting smokestacks and ash pans; calling enginemen, and moving locomotives around engine yards when operated by hostlers; also a proportion of the pay of enginehouse foremen and their clerks.

(b) *Miscellaneous expenses.* The cost of tools, supplies, and sundry expenses on account of caring for and preparing locomotives at enginehouse.

ITEMS OF MISCELLANEOUS EXPENSES

Compounds for cleaning and polishing.
Enginehouse cupboards.
Gas, oil, and electricity for lighting.
Heating enginehouses, including offices.
Lanterns used by enginehouse men.
Lighting enginehouses, including offices.
Lubricating oil for enginehouses, ash pit, transfer table, and turntable machinery.
Packing tools.
Paint for front ends of locomotives.
Power for operation of turntables and transfer tables.
Rent of roundhouse stalls.
Signal lights on transfer tables and turntables.
Waste.
Water for cinder pits.
Water for washing boilers.

NOTE A: Enginehouse expenses of locomotives in work service shall be included in the cost of the work to which the service pertains.

NOTE B: The pay of mechanics and laborers engaged in locomotive repair work in enginehouses shall be charged to the appropriate accounts for locomotive repairs.

389 Yard Supplies and Expenses.

This account shall include the cost of supplies (except locomotive supplies) used in yard service, yard signal and interlocker supplies, and miscellaneous yard expenses for yards where regular switching service is maintained; also office and other expenses of employees whose pay is chargeable to accounts 377, 378, and 379.

ITEMS OF EXPENSE

Electricity purchased for lighting yards and yard buildings.
Furniture repairs and renewals.
Gas purchased for lighting yards and yard buildings.
Power purchased for operating switches and signals.
Power purchased for operating switches and signals.
Rent of telephones.
Rent of yard buildings (not jointly used).
Yard supplies such as lubricants for machinery and switches, fuel for heating and power, and waste.

390 Operating Joint Yards and Terminals—Dr.

This account shall include the carrier's proportion of the costs incurred by others in their operation of joint yards and terminals, including signals, interlockers, and other facilities at such joint yards and terminals.

NOTE A: The purpose of this account is to show the amounts accruing against the carrier for its proportion of the cost of operating yards and terminals operated by others, and in the joint use of which the carrier participates.

NOTE B: No portion of expenses chargeable by the operating carrier to accounts 382 to 388, inclusive, shall be included in this account.

391 Operating Joint Yards and Terminals—Cr.

This account shall include amounts chargeable to others as their proportions of the costs incurred by the carrier in the operation of joint yards and terminals, including signals, interlockers, and other facilities at such joint yards and terminals.

NOTE A: The purpose of this account is to show the amounts accruing in favor of the carrier and against others for their proportions of the cost of operating yards and terminals operated by the carrier and in the joint use of which others participate.

NOTE B: No portions of expenses chargeable by the operating carrier to accounts 382 to 388, inclusive, shall be included in this account.

392 Train Enginemen.

This account shall include the pay of enginemen while engaged in transportation train service or while deadheading in connection therewith and pay of such enginemen engaged in piloting trains over home lines; also the pay of employees while regularly engaged in shoveling coal forward on locomotive tenders. For purposes of this account enginemen shall be understood to include the operators and their assistants, regardless of the type of self-propelled motive power being operated.

NOTE: The pay of enginemen on locomotives engaged in more than one class of service shall be apportioned on the basis of service rendered. Pay of enginemen on train locomotives while engaged in train switching service shall be included in this account. The pay of enginemen on locomotives engaged in work service shall be included in the cost of the work to which the service pertains.

394 Train Fuel.

This account shall include the cost, delivered on locomotives or motor cars, of coal, coke, oil, wood, and other fuel for propulsion of trains in transportation train service, including a suitable proportion of the pay of fuel agents, fuel inspectors, fuel weighers, and clerks engaged in accounting for fuel at fuel stations; pay of foremen and other fuel station employees; also a suitable proportion of the cost of tools, such as wheelbarrows, shovels, scoops, and picks, used for handling fuel at such stations, and the cost of operating machinery at fuel stations.

NOTE A: The cost of repairs and renewals of coal chutes, buggies, pockets, air hoists, mechanical hoists, and mechanical conveyors at fuel stations shall be charged to account 393, "Fuel stations."

NOTE B: The entire cost of supplies consumed by train locomotives and motor cars in train-switching service shall be included in the accounts provided for train service. The cost of supplies consumed by locomotives and motor cars in work service shall be included in the cost of the work to which the service pertains.

395 Train Power Produced.

This account shall include the cost of producing and distributing electric power for the propulsion of electric locomotives and cars in transportation train service.

(a) *Employees.* The pay of employees engaged in operating electric-power stations and substations, such as engineers, firemen, electricians, dynamo men, oilers, cleaners, and coal passers.

(b) *Fuel.* The cost of the coal, oil, gas, and other fuel, including the cost of labor unloading or stocking fuel.

(c) *Water.* The cost of water used to produce steam or to operate water plants, including pumping, rent of ponds, streams, and pipe lines; also water tests, boiler compounds, and other like supplies and expenses.

(d) *Other supplies and expenses.* The cost of lubricants, such as oil and grease, used in lubricating engines, shafting, dynamos, and pumps; cost of waste, carbon brushes, fuses, lamps, and other supplies; also cost of heating and lighting power plants, and other expenses not elsewhere specified in connection with operation of electric-power plants.

NOTE: The entire cost of supplies consumed by train locomotives in train switching service shall be included in the accounts provided for train service. The supplies consumed by locomotives in work service shall be included in the cost of the work to which the service pertains.

396 Train Power Purchased.

This account shall include the cost of electric power purchased for the propulsion of locomotives and cars in transportation train service.

NOTE: The entire cost of supplies consumed by train locomotives in train switching service shall be included in the accounts provided for train service. The supplies consumed by locomotives in work service shall be included in the cost of the work to which the service pertains.

397 Water for Train Locomotives.

(a) This account shall include the cost of water supplied to locomotives in transportation train service, including rent of ponds, lakes, other sources of water supply, and right of way for pipe lines; cost of water purchased, expenses of supply trains while engaged in hauling water for locomotive supply, and cost of testing water; also cost of labor expended and cost of material and supplies used in the operation of water stations and purifying plants.

(b) The cost of operating boilers, engines, and pumps at water stations, heating and lighting water stations, breaking ice in water tanks, thawing out tank spouts and water cars, keeping fires in tanks and water cars to prevent freezing, shoveling snow into locomotive tanks; also temporary connections between water cars and locomotive tenders, compounds injected into locomotive boilers to decrease scale formation, and other expenses directly incident to the supplying of water to such locomotives, shall be included in this account.

(c) An equitable proportion of the pay and the office, traveling, and other expenses of superintendent of water service, engaged in connection with water supply for locomotives, shall be included in this account.

NOTE: The entire cost of supplies consumed by train locomotives in train switching service shall be included in the accounts provided for train service. The supplies consumed by locomotives in work service shall be included in the cost of the work to which the service pertains.

398 Lubricants for Train Locomotives.

This account shall include the cost of valve, engine, car, and other lubricating oils, grease, compounds, and waste used for lubrication of locomotives in transportation train service.

NOTE: The entire cost of supplies consumed by train locomotives in train switching service shall be included in the accounts provided for train service. The supplies consumed by locomotives in work service shall be included in the cost of the work to which the service pertains.

399 Other Supplies for Train Locomotives.

This account shall include the cost of supplies other than fuel, water, and lubricants, including the cost of repairs and renewals of furniture, tools, and other movable articles required for use on locomotives in transportation train service. The account shall include the cost of sand and of material and supplies used in preparing and drying the sand for use, such as the cost of fuel, wheelbarrows, shovels, and sand screens.

NOTE A: Where the quantity of sand used on locomotives engaged in train service is relatively small as compared with the quantity used by locomotives engaged in yard service, the entire cost of such material shall be included in account 387, "Other supplies for yard locomotives." Where the quantity used in train service is relatively large, the entire cost shall be included in this account.

NOTE B: The entire cost of supplies consumed by train locomotives in train switching service shall be included in the accounts provided for train service. The supplies consumed by locomotives in work service shall be included in the cost of the work to which the service pertains.

400 Enginehouse Expenses; Train.

This account shall include the expense of caring for and preparing locomotives for transportation train service, including a proportion of such expenses as are common to train, yard switching, and work service.

(a) *Enginehouse men.* The pay of enginehouse employees engaged in wiping, cleaning, watching, and dispatching locomotives; preparing and keeping fires, dumping ashes, washing boilers, cleaning fire boxes, packing driving boxes and truck boxes; cleaning smokestacks, air brake equipment, and front ends of locomotives; checking locomotive tool equipment, cleaning ash and cinder pits; operating turntables, drying sand, inspecting smokestacks and ash pans; and moving locomotives around engine yards when operated by hostlers; also a proportion of the pay of enginehouse foremen and their clerks.

(b) *Miscellaneous expenses.* The cost of tools and supplies and sundry expenses on account of caring for and preparing locomotives at enginehouses.

ITEMS OF MISCELLANEOUS EXPENSES

Compounds for cleaning and polishing.
Gas, oil, and electricity for lighting.
Heating enginehouses, including offices.
Lanterns used by enginehouse men.
Lighting enginehouses, including offices.
Lubricating oil.
Packing tools.
Paint for front ends of locomotives.
Power for operation of turntables and transfer tables.
Rent of roundhouse stalls.
Signal lights on transfer tables and turntables.
Waste.
Water for cinder pits.
Water for washing boilers.

NOTE A: Enginehouse expenses of locomotives in work service shall be included in the cost of the work to which the service pertains.

NOTE B: The pay of mechanics and laborers engaged in locomotive repair work in enginehouses shall be charged to the appropriate accounts for locomotive repairs.

401 Trainmen.

This account shall include the pay of conductors; of train auditors, ticket collectors, and others engaged in lifting or examining authorities for transportation; and of baggagemen, brakemen, flagmen, train porters, train guards, train stenographers, maids, and other train employees while engaged in transportation train service or while deadheading in connection therewith; also the pay of trainmen while engaged in piloting trains over home lines.

NOTE: The pay of trainmen while engaged in work-train service shall be included in the cost of the work to which the service pertains.

402 Train Supplies and Expenses.

This account shall include miscellaneous expenses of transportation service trains and the cost of all supplies other than locomotive supplies.

(a) *Cleaning cars.* The cost of cleaning and disinfecting passenger and freight cars in transportation train service, including cost of removing from freight-train cars such refuse material as sawdust, hay, and straw; also items of expense, such as brooms and brushes, cleaning and polishing compounds, disinfecting machines, fuel for heating water, and labor of employees.

(b) *Heating cars.* The cost of heating cars in transportation train service, including cost of operating steam heating plants for car heating at stations and yards. Credits shall be made to this account for charges for heater service collected from other companies and individuals. The account shall also include items of expense such as connections between steam heating lines and cars, fuel, labor of employees, removal of ashes from car stoves, and stoves temporarily in freight cars.

(c) *Lighting cars.* The cost of lighting cars in transportation train service, including the cost of operating plants for supplying gas or electricity for lighting purposes; also items of expense such as battery renewals, electricity and gas, lamp bulbs, and labor of employees.

NOTE: Repairs of gas lighting and electric lighting plants shall be included in the proper maintenance accounts. Repairs and renewals of electric lighting equipment of cars, except supplies as above provided, shall be included in the appropriate car-repair account.

(d) *Lubricating cars.* The cost of lubricating cars in transportation train service, including cost of inspecting, repacking, and oiling car journal boxes and air brake equipment; also items of expense such as labor of employees and oil, grease, other lubricants, and supplies.

(e) *Icing and watering cars.* The cost of icing and watering cars in transportation train service, including icing cars for refrigeration purposes. Credits shall be made to this account for refrigeration charges collected from other companies

and individuals. The account shall include items of expense such as hose and fixtures, ice, ice tools, labor of employees, salt and water.

(f) *Detouring trains.* The compensation for temporary use of tracks of other carriers, including the cost of pilot service, on account of wrecks, washouts, landslides, snow blockades, and other defects of the tracks, bridges, or tunnels on the carrier's line.

(g) *Train supplies.* The cost of supplies furnished for use on cars in transportation train service, such as brooms and brushes, chairs for cabooses (not permanently attached), conductors punches, drinking cups and glasses, fuses, lanterns, medical boxes, oil for lanterns, shovels, signal boxes, torpedoes, towels, train tool boxes, uniforms, and waste.

(h) *Other expenses.* The cost of miscellaneous supplies required to equip trains for transportation service and miscellaneous expenses incident to operation of such trains.

ITEMS OF EXPENSE AND SUPPLIES

Apparatus for testing the sight and hearing of enginemen and trainmen.
Employees' reading and lunch room expense, including pay of attendants and supplies furnished.
Laundry work.
Physicians' fees for examination of train employees.
Wages paid to superintendents and secretaries of reading rooms.

OTHER ITEMS OF EXPENSE

Bedding for stock cars.
Boarding and slatting box and stock cars for carrying coal, coke, and other freight.
Boards for flooring fruit cars.
Chains for securing loads.
Cleaning, trimming, and filling trainmen's lanterns and rear signal lamps.
Coupling and uncoupling cars at terminals.
Disinfecting cars.
Dunnage used in loading cars or fitting cars for freight shipments.
Feed for livestock in snowbound or otherwise delayed trains.
Flowers and plants for cars.
Laundry for revenue service cars other than for dining and buffet service and sleeping car service.
Occasional turning of engines on Y of other carriers.
Oil and other supplies for locomotives hauled as freight.
Periodicals for use of passengers on trains.
Planking cars for billet shipments and other material.
Provisions, supplies, or board for passengers in delayed trains.
Removing advertisements from cars.
Rent of fare registers in cars.
Safety chains for use between twin and triple cars.
Supplies for parlor and chair cars.
Supplies furnished cars for the purpose of protection against accidents and fires.
Temporary grain doors.
Temporary lining of cars for freight shipments and stoves and heaters to prevent freezing.
Temporary openings in cars for freight shipments.
Temporary racking of cars for handling sugarcane, corn, bark, or cordwood.
Transferring passengers, express matter, baggage, mail, and freight on account of defective tracks, bridges, or tunnels.

NOTE: The expenses of operating sleeping, dining, and buffet car features of train service shall be included in account 403, "Operating sleeping cars," or in account 441, "Dining and buffet service," as may be appropriate.

403 Operating Sleeping Cars.

(a) This account shall include the cost of operating sleeping car service on trains.

(1) *Superintendence.* The pay of officers directly in charge of operating sleeping car service; the pay of their clerks and office attendants; also the office, traveling, and other expenses of such officers and employees.

(2) *Station employees.* The pay and expenses of local agents, ticket agents, cashiers, clerks, and attendants; also the office and other expenses of such employees.

(3) *Station expenses.* The expenses of fuel, water, steam, and supplies used in heating station offices; gas, oil, electric current, and other supplies for lighting; repairs and renewals of station furniture, and all other station expenses connected with sleeping car service when separable from the station expenses chargeable to account 376, "Station supplies and expenses."

(4) *Conductors.* The pay of conductors employed on sleeping cars.

(5) *Porters and maids.* The pay of porters and maids employed on sleeping cars.

(6) *Car supplies.* The cost of miscellaneous supplies used on sleeping cars, such as combs, brushes, brooms, and toilet paper; also uniforms, caps, and service stripes for employees.

(7) *Laundry.* Expenses for laundry work, such as laundering sheets, pillowcases, towels, blankets, etc.

(8) *Other expenses.* The cost of flowers and plants, heating cars, cleaning the interior of cars, and of supplies used in interior cleaning, rent and cost of supplies for rooms furnished for sleeping car service employees, and such other expenses in connection with the operation of sleeping cars as are not provided for elsewhere.

(b) This account shall be charged with the deficits assumed by the carrier under a uniform service contract with The Pullman Company, and shall be credited with the carrier's proportion of profits realized under that contract. It is intended that such charges and credits to this account shall include the entire settlement made by the lessee, except allowances for interest rental and depreciation, and that the results of incidental operation of cars other than sleeping cars will not be excluded from the settlements to be recorded herein.

NOTE: When officers have immediate supervision over sleeping car service and other operations their pay, office, and other expenses, as also the pay, office, and other expenses of their assistants, clerks, and office attendants, shall be equitably apportioned to the accounts appropriate to the operations over which they have supervision.

404 Signal and Interlocker Operation.

This account shall include the cost of operating signals and interlockers other than those solely or principally used for governing all movements of locomotives and trains between main and yard tracks, movements of locomotives between yard tracks and enginehouses, and yard switching movements.

(a) *Labor.* The wages of employees engaged in operating signals and interlockers or power producing plants in connection therewith, such as switch tenders, signalmen other than telegraph operators, lever men, switch and signal oilers, battery men, lamp men, lamp cleaners, and lamplighters; flagmen at crossings of other railroads, engineers and others operating plants furnishing compressed air for signals and interlockers; engineers, electricians, and others operating plants furnishing electric power for signals and interlockers.

(b) *Supplies.* The cost of supplies used in operating signals and interlockers or in signal offices, such as gasoline, vitriol, battery zincs, battery coppers, lubricating oils, fuel for heating, fuel for power purposes, produced and purchased power used in operating switches and signals, furniture repairs and renewals, water, and light.

NOTE: The cost of operating signals and interlockers solely or principally used for governing the movement of yard locomotives and trains shall be included in the appropriate yard expense accounts.

405 Crossing Protection.

This account shall include the pay of street and highway crossing gatekeepers and flagmen, the cost of supplies used by them, the cost of lights at street and highway crossings not a part of the lighting outfit at stations or in yards, and the cost of compressed air for operating gates.

406 Drawbridge Operation.

This account shall include the cost of operating drawbridges.

(a) *Labor.* The wages of employees engaged in operating drawbridges, such as bridge engineers, tenders, and watchmen.

(b) *Supplies.* The cost of produced and purchased power and of supplies, such as fuel, oil, lantern, water, waste, boats, stoves, chairs, brooms, and pails used in drawbridge operation.

407 Communication System Operation.

This account shall include the cost of operating communication systems not provided for elsewhere.

TELEGRAPH

Superintendence. The pay of superintendents, censors, their clerks, and attendants.

Operators and messengers. The pay of operators, block inspectors, and messengers in telegraph and relay offices other than those employed in dispatching trains and those located in general offices or at stations.

Other expenses. Office, traveling, and incidental expenses, including office rent, of employees whose pay is chargeable to this account; rent of telegraph conduits, lines, and poles; cost of battery renewals and supplies, bicycles for messengers, and electric current for telegraph purposes; also excess payments to telegraph companies when in connection with telegraph service and not provided for elsewhere.

NOTE A: The pay, rent, other office expenses, and traveling expenses of officers, their clerks and attendants, who supervise or are engaged both in maintenance and operation, shall be apportioned equally between this account and account 407, "Communication systems."

TELEPHONE

Superintendence. The pay of superintendents, their clerks, and attendants.

Operators and messengers. The pay of operators and messengers in telephone offices other than those employed in dispatching trains and those located in general offices or at stations.

Other expenses. Office, traveling, and incidental expenses, including office rent, of employees whose pay is chargeable to this account; rent of telephone conduits, lines, and poles; cost of battery renewals and supplies, bicycles for messengers, and electric current for telephone purposes; also excess payments to telephone companies when in connection with telephone service and not provided for elsewhere.

NOTE B: The pay, rent, other office expenses, and traveling expenses of officers, their clerks and attendants, who supervise or are engaged both in maintenance and operation, shall be apportioned equally between this account and account 407, "Communication systems."

RADIO, RADAR, AND INDUCTIVE TRAIN COMMUNICATION

Superintendence. The pay of superintendents or others who supervise operation, and their clerks or attendants.

Operators. The pay of operators other than those employed in dispatching trains and those located in general offices or at stations.

Other expenses. Office, traveling, and incidental expenses, including office rent, of employees whose pay is chargeable to this account; rent of space or facilities occupied by radio, radar, or inductive train equipment; cost of battery and tube renewals; cost of electric current purchased and all other costs incurred for operation and not provided for elsewhere.

NOTE C: The pay, rent, other office expenses, and traveling expenses of officers, their clerks and attendants, who supervise, or are engaged both in maintenance and operation shall be apportioned equally between this account and account 247, "Communication systems."

408 Operating Floating Equipment.

This account shall include the cost of operating floating equipment in water transfer (ferriage, lighterage, and floatage).

(a) *Superintendence.* The pay of vice presidents and other officers directly in charge of or engaged in the operation of boats; the pay of their assistants, clerks, and attendants; also the office, traveling, and other expenses of such officers and their employees.

(b) *Wages of crews.* The pay of captains, pilots, chief officers, mates, sailors, wireless telegraph operators, and other employees of the deck department; engineers, assistant engineers, electricians, oilers, firemen, coal passers, and all other employees of the engineer's department; and pursers, porters, and all other employees in the steward's department, except when engaged in dining and buffet service.

(c) *Fuel.* The cost, on board boats (including the cost of trimming) of coal, oil, wood, and other fuel used for generating power, heat, or light.

(d) *Lubrication.* The cost of oil, grease, tallow, graphite, and other material furnished for lubricating purposes.

(e) *Other supplies and departmental expenses.* The cost of supplies furnished to deck department; the incidental expenses of deck department employees; supplies other than fuel and lubricants, furnished the engineer's department; water furnished to boats; incidental expenses of engineer's department employees; supplies (other than dining and buffet supplies) furnished to the steward's department; laundry for boats; and incidental expenses of steward's department employees.

(f) *Other expenses.* Expenses incident to the operation of floating equipment not otherwise provided for in this account.

ITEMS OF EXPENSE

Customhouse fees.
License fees.
Pumping out boats laid up.
Raising sunken boats.
Transferring passengers in case of accidents.
Wharfage.

(g) *Elevation and longshore labor.* The cost of shore labor in connection with loading and unloading lighterage freight at wharves and piers, such as labor of bridgemen at transfer bridges and of watchmen, longshoremen, stevedores, and other wharfmen.

(h) *Elevation and shore expenses.* Shore expenses in connection with loading and unloading lighterage freight, such as the cost of steam and electricity for power, heating, and lighting; power and supplies used for transfer or float bridges; supplies used in connection with operating wharves and piers and not chargeable to account 376, "Station supplies and expenses."

NOTE A: When the compensation for the use of floating equipment used in water transfer service includes rent, maintenance, and operation, the portion covering rent shall be charged to income account 520, "Rent for floating equipment," the portion covering maintenance shall be charged to the appropriate account for maintenance of equipment, and the portion covering operation shall be included in this account.

NOTE B: This account shall not include the pay of station employees or labor engaged in handling freight at stations, wharves, and piers provided for under account 373, "Station employees," or the pay of employees or labor provided for under account 375, "Coal and ore wharves."

409 Employees Health and Welfare Benefits.

This account shall include premiums on group and other insurance policies covering annuities and other benefits for employees or their beneficiaries, contributions directly to employees health and welfare funds, and salaries and other expenses incurred directly in conducting relief, benefit, and medical departments for the benefit of officers and employees engaged in conducting transportation operations.

NOTE: The total amount payable to trustees under pension plans and directly to retired employees for pensions is includible in account 457, Pensions.

410 Stationery and Printing.

This account shall include the cost of stationery and printing used in connection with rail line transportation, including operation of floating equipment. The account shall include cost of printed baggage and storage checks, bills of lading, waybills, postage, and other stationery supplies and printing. This account also shall include the cost of adding machines, typewriters, and other appliances which replace comparable items worn out, consumed or for other cause are no longer in use.

NOTE: The cost of dictionaries, periodicals, technical books, etc., shall be included in appropriate superintendence accounts, and city directories and books of reference used by station agents shall be charged to account 376, "Station supplies and expenses."

411 Other Expenses.

This account shall include all expenses in connection with rail line transportation not properly chargeable to other transportation accounts.

ITEMS OF EXPENSE

Amounts paid for switching empty cars otherwise than in connection with loaded movements or with the repairs to the equipment.
Amounts paid on account of bills of lading issued on fraudulent receipts.
Amounts paid to suspended transportation department employees covering periods of suspension.
Compensation for property loss incident to failure to stop at station to pick up passengers.
Demurrage accruing on a foreign line by reason of error of carrier's agent.
Extra drayage due to agent's error in routing interline shipment.
Fees paid arbitrators in wage disputes of transportation department employees.
Loss of station funds by burglary, when not covered by insurance.
Loss of train collections in holdup.
Overcharges paid foreign lines on account of error of the carrier's agent in routing and billing.
Pay and expenses of transportation department employees attending conferences with officers in connection with wage disputes.
Payments for switching on account of cars not passing inspection at junction points.
Penalties imposed under reciprocal demurrage laws for failure to furnish cars.
"Penalty switching" payments on account of improper delivery of cars to other carriers.

412 Operating Joint Tracks and Facilities—Dr.

This account shall include the carrier's proportion of the transportation expenses incurred by others in the operation of joint tracks, interlockers, and other facilities which are not provided for in account 390, "Operating joint yards and terminals—Dr."

NOTE A: The purpose of this account is to show the amount accruing against the carrier for its proportion of the cost of operating tracks and facilities (other than at joint yards and terminals) operated by others and in the joint use of which the carrier participates.

NOTE B: No portion of expenses chargeable by the operating carrier to accounts 302 to 408, inclusive, shall be included in this account.

413 Operating Joint Tracks and Facilities—Cr.

This account shall include amounts chargeable to others as their proportions of transportation expenses incurred by the carrier in the operation of joint tracks, interlockers, and other facilities which are not provided for in account 391, "Operating joint yards and terminals—Cr."

NOTE A: The purpose of this account is to show the amounts accruing in favor of the carrier and against others for their proportions of the cost of operating tracks and facilities (other than at joint yards and terminals) operated by the carrier and in the joint use of which others participate.

NOTE B: No portion of expenses chargeable by the operating carrier to accounts 392 to 403, inclusive, shall be included in this account.

414 Insurance.

This account shall include premiums, except reinsurance premiums, for insuring the carrier against loss through injuries to persons or damage to or destruction or loss of property, whether caused by fire, accident, or other cause, when such loss to the carrier would be chargeable to rail line transportation; also premiums on fidelity bonds of employees whose pay is chargeable to rail line transportation.

NOTE: The premiums paid by the carrier to its insurance fund shall be credited to an insurance reserve account, to which account shall be charged the amount of all claims for injuries to persons and damages to the property covered by its insurance. To such account shall also be charged all reinsurance premiums paid to insurance companies, and to it shall be credited all amounts recovered from insurance companies for damage to property reinsured by them.

415 Clearing Wrecks.

This account shall include the cost of clearing wrecks other than wrecks of work trains.

(a) *Labor.* The wages of employees while engaged in connection with wrecking service, loading, and transferring contents of wrecked cars, building temporary tracks around wrecks, and removing such tracks.

(b) *Train service.* The cost of train service in connection with replacing wrecked equipment upon the tracks and transporting such equipment to shops for repairs, including amounts paid to other companies for service of locomotives, derricks, and other equipment and for wages of crews in wrecking service.

(c) *Other supplies and expenses.* Payments for reloading or transferring freight, express, baggage, and mail; transferring passengers and cost of provisions or board for men clearing up or watching at wrecks.

NOTE A: Expenses of clearing wrecks of work trains shall be included in the cost of the work in connection with which the wrecked train was engaged.

NOTE B: The cost of restoring roadbed and tracks to original condition after wrecks and the cost of repairing equipment damaged or destroyed by wrecks shall be charged to the appropriate accounts for maintenance of way and structures and maintenance of equipment.

NOTE C: That proportion of payments to other companies for use of locomotives, derricks, and other equipment in wrecking service which represents rent shall be included in the income accounts.

416 Damage to Property.

(a) This account shall include payments and expenses on account of damages to the property of others, whether by fire, collision, flood, or other cause, with the exception of payments and expenses on account of damage to property intrusted to the carrier for transportation, and for damage to stock on right of way. It shall include also fines or compensation paid for interference with the business of others, as by detention of vessels at drawbridges, or by blocking streets.

(b) This account shall include also the pay, office rent, and office, traveling, and other expenses of employees and others engaged as claim adjusters or as witnesses in lawsuits in connection with damage to property cases, or engaged in detection of thieves; notarial fees paid in connection with such cases; and payments for or repairs of damage to equipment of other carriers, or to property contained therein, such carriers having trackage rights upon or grade crossings over the carrier's tracks.

(c) This account shall also include amounts estimated to be sufficient to meet the probable liability of the carrier for unaudited expenses applicable thereto, except that it is not required to anticipate items which would not appreciably affect the account.

NOTE A: Damage to livestock on right of way, and damage to freight and baggage intrusted for transportation, are provided for under accounts 417, "Damage to livestock on right of way"; 418, "Loss and damage—Freight"; and 419, "Loss and damage—Baggage."

NOTE B: Expenses incident to suits growing out of damage to property claims, not otherwise provided for, shall be included in account 454, "Law expenses."

NOTE C: The pay, office rent, and the traveling, office, and other expenses of claim adjusters, claim clerks, and others engaged in claim matters when not accurately assignable to a distinct class of claims, shall be apportioned equally among the several classes of claims over which they have jurisdiction or in connection with which they are engaged. This provision does not apply to the pay and expenses of general officers or general office employees whose pay is includible in general account 450, "General."

417 Damage to Livestock on Right of Way.

(a) This account shall include payments on account of cattle and other livestock killed or injured while crossing or trespassing on the right of way, including cost of removing and burying the same.

(b) There shall be included in this account also the pay and the traveling, office, and other expenses of employees and others engaged as livestock claim adjusters or engaged as witnesses in law suits in connection with damage to livestock on right of way; also notarial fees in connection with claims for damage to livestock on right of way.

(c) This account shall also include amounts estimated to be sufficient to meet the probable liability of the carrier for unaudited expenses applicable thereto, except that it is not required to anticipate items which would not appreciably affect the account.

NOTE A: Expenses incident to suits growing out of livestock claims, not otherwise provided for, shall be included in account 454, "Law expenses."

NOTE B: The pay, office rent, and traveling, office, and other expenses of claim adjusters, claim clerks, and others engaged in claim matters when not accurately assignable to a distinct class of claims, shall be apportioned equally among the several classes of claims over which they have jurisdiction or in connection with which they are engaged. This provision does not apply to the pay and expenses of general officers or general office employees whose pay is includible in general account 450, "General."

418 Loss and Damage; Freight.

(a) This account shall include payments and expenses on account of loss, destruction, damage, or delays to revenue freight shipments, including locomotives and cars transported as freight, express matter, milk shipments, and livestock, and expenses incurred on account of such payments; also expenses on account of loss, destruction, or damage to shipments of company material.

(b) This account shall also include the cost of repacking and boxing damaged freight shipments; notarial fees in connection with freight claims; freight charges paid other carriers on lost, destroyed, or damaged shipments; pay, traveling, office, and other expenses of employees or others engaged as freight-claim adjusters, as witnesses in lawsuits in connection with freight-claim cases, in selling damaged and unclaimed shipments or in detecting thieves; rent of warehouses used for storage of damaged and astray freight shipments, payments for storage of such shipments in public warehouses, and interest and penalties assessed for nonpayment of freight claims.

(c) Amounts received from the sale of astray and damaged freight shall be credited to this account.

(d) This account shall also include amounts estimated to be sufficient to meet the probable liability of the carrier for unaudited expenses applicable thereto, except that it is not required to anticipate items which would not appreciably affect the account.

NOTE A: Expenses incident to suits growing out of loss and damage (freight) claims not otherwise provided for, shall be included in account 454, "Law expenses."

NOTE B: The pay, office rent, and traveling, office, and other expenses of claim adjusters, claim clerks, and others engaged in claim matters when not accurately assignable to a distinct class of claims, shall be apportioned equally among the several classes of claims over which they have jurisdiction or in connection with which they are engaged. This provision does not apply to the pay and expenses of general officers or general office employees whose pay is includible in general account 450, "General."

419 Loss and Damage; Baggage.

(a) This account shall include payments for loss, destruction, damage, or delays to baggage and other personal property carried as baggage, and damage to personal apparel; also expenses on account of such loss or damage.

(b) This account shall also include the cost of repacking and boxing damaged baggage; notarial fees in connection with baggage claims; baggage claim payments made to other carriers on lost, destroyed, damaged, or delayed shipments; pay, traveling, office, and other expenses of employees or others engaged as baggage claim adjusters, as witnesses in lawsuits in connection with baggage claim cases, in selling damaged and unclaimed baggage, or in detecting thieves; rent of warehouses used exclusively for storage of damaged and unclaimed baggage, payments for storage of such shipments in public warehouses, and interest and penalties assessed for nonpayment of claims.

(c) Amounts received from the sale of astray and damaged baggage shall be credited to this account.

(d) This account shall also include amounts estimated to be sufficient to meet the probable liability of the carrier for unaudited expenses applicable thereto, except that it is not required to anticipate items which would not appreciably affect the account.

NOTE A: Expenses incident to suits growing out of loss and damage (baggage) claims, not otherwise provided for, shall be included in account 454, "Law expenses."

NOTE B: The pay, office rent, and traveling, office, and other expenses of claim adjusters, claim clerks, and others engaged in claim matters when not accurately assignable to a distinct class of claims, shall be apportioned equally among the several classes of claims over which they have jurisdiction or in connection with which they are engaged. This provision does not apply to the pay and expenses of general officers or general office employees whose pay is includible in general account 450, "General."

NOTE C: When a payment on account of injuries to passengers includes allowance for damage to personal apparel the damage allowance shall be included in this account when separable; otherwise in the appropriate personal injury account.

420 Injuries to Persons.

(a) This account shall include expenses on account of injuries to persons which occur directly in connection with transportation service, including damages for ejectment of passengers.

(b) Services of employees and others called in consultation in relation to claim adjustments; and pay and expenses of employees while engaged as witnesses at inquests and lawsuits, shall be included in this account.

(c) This account shall also include amounts estimated to be sufficient to meet the probable liability of the carrier for unaudited expenses applicable thereto, except that it is not required to anticipate items which would not appreciably affect the account.

ITEMS OF EXPENSE

Artificial limbs.
Carriage fees.
Claim adjusters' and clerks' services.
Claim adjusters' office expenses.
Compensation for injuries or death.
Final judgments, including plaintiffs' court costs.
Funeral expenses.
Hospital attendance.
Medical and surgical services.
Medical and surgical supplies.
Notarial fees.
Nursing.
Railway transportation.
Undertakers' services.
Undertakers' supplies.
Witnesses' fees and expenses at inquests and lawsuits.

NOTE A: Expenses incident to personal injury suits, not otherwise provided for, shall be included in account 454, "Law expenses."

NOTE B: The pay, office rent, and traveling, office, and other expenses of claim adjusters, claim clerks, and others engaged in claim matters when not accurately assignable to a distinct class of claims, shall be apportioned equally among the several classes of claims over which they have jurisdiction or in connection with which they are engaged. This provision does not apply to the pay and expenses of general officers or general office employees whose pay is includible in general account 450, "General."

NOTE C: When a payment on account of injuries to persons includes allowances for damages to personal apparel, the damage allowance shall be included in account 419, "Loss and damage—Baggage," when separable; otherwise the entire payment shall be included in this account.

Miscellaneous Operations Expenses

440 Miscellaneous Operations.

The primary accounts included in this general account are designed to show the expenses incurred in miscellaneous operations.

441 Dining and Buffet Service.

This account shall include the cost of operating dining and buffet service on trains and transfer boats. It shall include:

(a) *Superintendence.* The pay of officers directly in charge of operating dining and buffet service; the pay of their assistants, clerks, and office attendants; also the office, traveling, and other expenses of such officers and their employees.

(b) *Commissarial employees.* The pay of storekeepers, assistant storekeepers, clerks, porters, and other employees in commissarial supply depots and storehouses.

(c) *Stewards.* The pay of stewards or conductors employed on dining and buffet cars and transfer boats.

(d) *Cooks and waiters.* The pay of cooks, waiters, and assistants on dining and buffet cars and transfer boats.

(e) *Fuel and supplies.* The cost of fuel for cooking purposes; of provisions, such as meats, groceries, vegetables, fish, table waters, ice, etc.; bar supplies, such as wines, liquors, beers, ales, etc.; cost of licenses; and cost of cigars, cigarettes, and tobacco.

(f) *Laundry.* Expenses for laundry work, such as laundering tablecloths, napkins, aprons, etc.

(g) *Stationery and printing.* The cost of stationery and printing used in connection with dining and buffet service.

(h) *Other expenses.* The cost of flowers and plants; cleaning the interior of cars; rent and cost of supplies for rooms furnished for dining and buffet service employees; and such other expenses in connection with the operation of dining and buffet service as are not provided for elsewhere.

NOTE: When officers have immediate supervision over dining and buffet service and other operations their pay, office, and other expenses, as also the pay, office, and other expenses of their assistants, clerks, and office attendants, shall be equitably apportioned to the accounts appropriate to the operations over which they have supervision.

442 Hotels and Restaurants.

This account shall include the cost of operating hotels, restaurants, and lunch counters when the cost of the operated property is includible in the road and equipment accounts. It shall include:

(a) *Superintendence.* The pay of officers directly in charge of operating hotels, restaurants, and lunch counters; pay of their clerks and office attendants; also the office, traveling, and other expenses of such officers.

(b) *Employees.* The pay of stewards, hotelkeepers, storekeepers, checkers, linen clerks, butchers, chefs, cooks, kitchen help, maids, porters, elevator men, call boys, hat and cloak attendants, waiters, waitresses, laundresses, engineers, firemen, and other employees engaged in operating hotels, restaurants, and lunch counters.

(c) *Fuel and supplies.* The cost of fuel for cooking and heating purposes; provisions, such as meats, groceries, vegetables, fish, table waters, ice, etc.; bar supplies, such as wines, liquors, beers, ales, etc.; the cost of liquor licenses; the cost of tobacco, cigars, cigarettes, etc.; and miscellaneous supplies for operating the service.

(d) *Stationery and printing.* The cost of stationery and printing used in connection with the operation of hotels and restaurants.

(e) *Other expenses.* The cost of lighting, and other items of expense not otherwise provided for in this account.

NOTE: When officers have immediate supervision over hotels, restaurants, and lunch counters and other operations their pay, office, and other expenses, as also the pay, office, and other expenses of their assistants, clerks, and office attendants, shall be equitably apportioned to the accounts appropriate to the operations over which they have supervision.

443 Grain Elevators.

This account shall include the cost of operating grain elevators other than small elevators which are classed as station facilities. It shall include:

(a) *Superintendence.* The pay of officers directly in charge of grain-elevator service; the pay of their assistants, clerks, and office attendants; also the office, traveling, and other expenses of such officers and their employees.

(b) *Employees.* The pay of engineers, firemen, foremen, machine men, oil-

ers, millwrights, carpenters, trimmers, weighers, spout men, sweepers, laborers, watchmen, and all other employees engaged in operating grain elevators.

(c) *Fuel and supplies.* The cost of fuel for power, heating, and lighting plants; power for heating, lighting, and operating machinery; and water, ice, oil, waste, and other supplies for operating such property.

(d) *Stationery and printing.* The cost of stationery and printing used in connection with the operation of grain elevators.

(e) *Other expenses.* The cost of grain used to make up shortage in elevators; rent for and repairs of rented offices; and other operating expenses not otherwise provided for in this account.

NOTE: When officers have immediate supervision over grain elevators and other operations their pay, office, and other expenses; also the pay, office, and other expenses of their assistants, clerks, and office attendants, shall be equitably apportioned to the accounts appropriate to the operations over which they have supervision.

445 Producing Power Sold.

This account shall include the cost of operating power plants, substations, transmission systems and distribution systems, for the production of power sold. The proportion of the cost assignable to the production of the power sold only shall be included in this account. This account shall include:

(a) *Superintendence.* The pay of officers directly in charge of power plants, substations, transmission systems and distribution systems; pay of their clerks and office attendants; also the office, traveling, and other expenses of such officers and employees.

(b) *Employees.* The pay of foremen, subforemen, engineers, firemen, electricians, system operators or load dispatchers, dynamo tenders, foremen regulators, regulators and assistants, switchboard men, brush men, oilers, wipers, wiremen, and others engaged in the operation of power plants and substation apparatus and devices.

(c) *Fuel.* The cost of fuel used in the production of power and for heating power plants.

(d) *Other supplies.* The cost of water, lubricants, and other power plant and substation supplies.

(e) *Stationery and printing.* The cost of stationery and printing used in connection with producing power sold.

(f) *Other expenses.* The items of expense not otherwise provided for in this account.

NOTE: When officers have immediate supervision over producing power sold and other operations, their pay, office, and other expenses, as also the pay, office, and other expenses of their assistants, clerks and office attendants, shall be equitably apportioned to the accounts appropriate to the operations over which they have supervision.

446 Other Miscellaneous Operations.

This account shall include the operations of facilities such as cold-storage plants; coal-storage plants; cotton-compress plants; wood-preserving plants; ice-supply plants, etc., when the cost of the facilities is includible in the road and equipment accounts and they are operated by the railway companies.

NOTE: When officers have immediate supervision over other miscellaneous service and other operations, their pay, office, and other expenses, as also the pay, office, and other expenses of their assistants, clerks, and office attendants, shall be equitably apportioned to the accounts appropriate to the operations over which they have supervision.

447 Operating Joint Miscellaneous Facilities—Dr.

This account shall include the carrier's proportion of such costs as are incurred by others in their operation of joint facilities which are chargeable by them to accounts 442, "Hotels and restaurants," 443, "Grain elevators," 445, "Producing power sold," or 446, "Other miscellaneous operations."

448 Operating Joint Miscellaneous Facilities—Cr.

This account shall include amounts chargeable to others as their proportions of such costs as are incurred by the carrier in its operation of joint facilities which are chargeable by it to accounts 442, "Hotels and restaurants," 443, "Grain elevators," 445, "Producing power sold," or 446, "Other miscellaneous operations."

449 Employees Health and Welfare Benefits.

This account shall include premiums on group and other insurance policies covering annuities and other benefits for employees or their beneficiaries, contributions directly to employees health and welfare funds, and salaries and other expenses incurred directly in conducting relief, benefit, and medical departments for the benefit of officers and employees engaged in miscellaneous operations.

NOTE: The total amount payable to trustees under pension plans and directly to retired employees for pensions is includible in account 457, "Pensions."

General Operating Expenses

450 General.

The primary accounts included in this general account are designed to show the expenses incurred of a general character not chargeable to the preceding general accounts, such as those for general administration and accounting, and those of the financial, law, real estate, tax, valuation, and claim departments.

NOTE: Directly assignable administration expenses incident to investments in leased or nonoperating physical property, and in stocks, bonds, and other securities, are chargeable to income account 540, "Maintenance of investment organization."

451 Salaries and Expenses of General Officers.

This account shall include:

(a) *Salaries.* The pay of all general officers and assistant general officers not otherwise provided for, including salaries and fees of receivers and commissions paid to general officers in lieu of salaries.

LIST OF OFFICERS

Chairman of the board.
President.
Assistant to president.
Vice president.
Assistant to vice president.
Secretary; Assistant.
Transfer agent.
Treasurer; Assistant.
Local treasurer.
Comptroller; Assistant.
General auditor; Assistant.
General accountant.
Auditor of revenues.
Auditor of passenger accounts; Assistant.
Auditor of freight accounts; Assistant.
Auditor of station accounts.
Auditor of disbursements; Assistant.
Auditor of miscellaneous accounts; Assistant.
Auditor of coal and coke accounts.
Freight claim agent; Assistant.
Real-estate agent; Assistant.
Tax commissioner.

(b) *Expenses.* The traveling and other expenses of officers whose pay is included in this account, including supplies for business cars used by them, cost of running official trains for them, and cost of membership fees and dues in railway and other associations.

NOTE A: When officers' duties are restricted to a single department, their salaries and expenses shall be charged to that department in the accounts for superintendence or for law expenses, as may be appropriate. When officers have immediate supervision over more than one department, their salaries and expenses shall be apportioned equitably among the departments over which they have jurisdiction.

NOTE B: The pay and expenses of the purchasing agent, assistant purchasing agent, assistant to purchasing agent, general storekeeper, division storekeeper, their clerks and attendants, shall be charged through clearing accounts "Material store expenses" and "Stationery store expenses," or material account "Fuel," as may be appropriate.

452 Salaries and Expenses of Clerks and Attendants.

This account shall include the pay and expenses of clerks and attendants of the officers whose salaries are includible in account 451, "Salaries and expenses of general officers." The account shall include the traveling and other expenses of employees, the cost of supplies for business cars and cost of running official trains for them.

453 General Office Supplies and Expenses.

This account shall include the office expenses of officers designated in account 451, "Salaries and expenses of general officers."

ITEMS OF EXPENSE

Alterations of partitions and fixtures in general offices.
Atlases, maps, and books.
Cable tolls.
Cleaning.
Express charges.
Furniture repairs and renewals.
Heating and lighting.
Local messenger service.
Periodicals and newspapers.
Rent and repairs of general offices.
Rent of tabulating machines.
Reports of commercial standings.
Service of automobiles.
Telegraph and telephone service.
Watchmen service.

NOTE: The proportion of general office expenses occasioned by the law department shall be included in account 454, "Law expenses."

454 Law Expenses.

This account shall include the pay and the office and other expenses, when not provided for elsewhere, of officers and employees of the law department, the cost of suits, and the payments of special law fees.

LIST OF OFFICERS AND EMPLOYEES

General counsel.
General solicitor.
Assistant counsel.
Solicitor.
Commerce counsel.
Commerce agent.
Special counsel.
Attorney.
Counsel.
Law agent.
Clerks and office attendants.

ITEMS OF EXPENSE

Arbitrators' services in settlement of disputed questions.
Cost of taking depositions and testimony.
Cost of suits.
Court bonds and court expenses.
Drawing and recording agreements as to trackage rights, etc.
Express charges.
Fees and retainers of attorneys (not regular employees).
Law books, forms, and reports.
Membership fees and dues in associations to protect carriers against litigation in respect to patents.
Membership fees and dues in law associations.
Notarial fees not provided for elsewhere.
Office expenses.
Printing of briefs, testimony, and reports.
Proportion of general office expenses.
Rent of offices.
Special fees.
Telegraph and telephone service.
Traveling expenses.
Witness fees not provided for elsewhere.

455 Insurance.

This account shall include premiums, except reinsurance premiums, for insuring the carrier against loss, through injuries to persons or damage to or destruction or loss of property, whether caused by fire, accident, or other cause, when such loss to the carrier would be chargeable to general account 450, "General"; also premiums on fidelity bonds of officers and employees whose pay is chargeable to general account 450, "General."

NOTE: The premiums paid by the carrier to its insurance fund shall be credited to an insurance account, to which account shall be charged the amount of all claims for injuries to persons and damages to the property covered by its insurance. To such account shall also be charged all reinsurance premiums paid to insurance companies, and to it shall be credited all amounts recovered from insurance companies for damage to the property reinsured by them.

456 Employees Health and Welfare Benefits.

This account shall include premiums on group and other insurance policies covering annuities and other benefits for employees or their beneficiaries, contributions directly to employees health and welfare funds, and salaries and other expenses incurred directly in conducting relief, benefit, and medical departments for the benefit of officers and employees engaged in accounting, law, and other general administration.

NOTE: The total amount payable to trustees under pension plans and directly to retired employees for pensions is includible in account 457, "Pensions."

457 Pensions.

(a) This account shall include amounts payable for the current year to trustees under pension plans for pension costs computed on basis of employees services in the year and for pension costs computed on basis of credits for past services. This includes retired employees and former employees covered in such plans, as well as employees now in service. The account shall also include the amount for which the carrier is liable to cover cost of pensions vested in employees who have qualified for pensions in advance of payment to trustees. This account shall include amounts payable for each year directly to retired employees or to their beneficiaries when no trust fund exists. Also, in the case of an unfunded pension plan, when an employee retires and is granted a pension the total present worth of the pension actuarially computed may be charged to this account, provided this method of accounting for such expense is consistently followed.

(b) If the amount payable to the trustees for pensions for the current year is not paid before the accounts are closed, the item (estimated if necessary) shall be charged to this account and concurrently credited to account 759, "Accrued accounts payable"; or account 753, "Audited accounts and wages payable", in case the amount is covered by audited voucher.

(c) The amounts to be charged to this account each year for costs of pensions, including credits based upon prior services, shall be in agreement, as nearly as practicable, with deductions includible in the Federal income tax return for the year under pension plan adopted by the carrier for making payments to the trustees. When payments attributable to prior services made to trustees at the time the pension plan is adopted or subsequently are materially in excess of deductions includible in the tax return for the year, such excess shall be included in account 743, "Other deferred charges", and cleared thereafter to account 457 in the years in which deductions are includible in tax returns. (See Note B).

(d) Carriers shall maintain a complete record of payments to trustees for pensions and shall be prepared to furnish to the Commission full information of the plan under which it has created a pension fund and a copy of the declaration of trust and resolution under which the pension plan is established.

NOTE A: Premiums on group and other insurance policies and also other costs of employees health and welfare benefits (but not including pensions) are includible in the separate primary accounts under the general accounts for maintenance, traffic, transportation, miscellaneous operations, and general expenses, as may be appropriate, according to distribution of the pay of the employees covered by the contracts. (See instruction 1-9.)

NOTE B: Reserves heretofore authorized and recorded in the accounts as of the effective date of this system of accounts for pension costs, not funded, may be retained unless otherwise directed by the Commission. Also, payments heretofore made to trustees and charged off against income or retained income are not to be reversed, unless otherwise directed or authorized by the Commission.

NOTE C: In the case of an existing pension plan, if the carrier should desire to conform its accounting to the *full accrual basis* of accounting, application to do so may be made to the Commission for consideration and such accounting shall not be performed unless approved by the Commission. *Full accrual basis* as used herein means recording in the accounts now and hereafter costs of employees pensions accrued, including credits for past services, upon the basis of actuarial computations, even though the sum has not been funded by payment to the trustees. Applications for such accounting shall show the method of computation, together with the carrier's proposal for recording in the accounts the related income tax credits to be realized in subsequent years.

458 Stationery and Printing.

This account shall include the cost of postage and of stationery and printing used in general offices and not chargeable to other accounts, including the cost of printing annual reports, contracts, leases, stock certificates, and passes. This account also shall include the cost of adding and calculating machines, typewriters and other office appliances which replace comparable items worn out, consumed or for other cause are no longer in use.

NOTE A: The cost of printing briefs, legal forms, testimony, reports, etc., for the law department is chargeable to account 454, "Law expenses."

NOTE B: The cost of printing bonds, etc., in connection with the carrier's funded debt shall be included in balance-sheet account 742, "Unamortized discount on long-term debt."

460 Other Expenses.

This account shall include incidental general expenses which are not properly chargeable to any of the foregoing accounts.

ITEMS OF EXPENSE

Cost of draping buildings.
Cost of publishing annual reports in newspapers, and other corporate and financial notices of general character.
Cost of publishing notices of stockholders' meetings and of election of directors.
Exchange (other than foreign exchange) on checks cashed or deposited and on drafts bought.
Fees and expenses paid to directors and trustees.
Loss through payment of wages to a wrong person.
Penalties assessed for nonpayment of claims for overcharges.

461 General Joint Facilities—Dr.

This account shall include the carrier's proportions of general expenses incurred by others incident to maintaining and operating tracks, yards, terminals, and other facilities used jointly.

NOTE: The purpose of this account is to show the amount accruing against the carrier for its proportion of the expense of general administration of tracks, yards, termi-

CONDENSED CLASSIFICATION OF OPERATING EXPENSES—Continued

Accounts for Small Carriers—Class II	Accounts for Large Carriers—Class I
Maintenance of Equipment	300. Maintenance of Equipment.
2221. Superintendence	301. Superintendence.
2222. Repairs to shop and power-plant machinery.	302. Shop machinery.
	304. Power-plant machinery.
2223. Shop and power-plant machinery—Depreciation.	305. Shop and power-plant machinery—Depreciation.
2224. Dismantling retired shop and power-plant machinery.	306. Dismantling retired shop and power-plant machinery.
2225. Locomotive repairs	308. Steam locomotives—Repairs.
	311. Other locomotives—Repairs.
2226. Car repairs	314. Freight-train cars—Repairs.
	317. Passenger-train cars—Repairs.
2227. Other equipment repairs	322. Floating equipment—Repairs.
	326. Work equipment—Repairs.
2228. Dismantling retired equipment	329. Miscellaneous equipment—Repairs.
2229. Retirements—Equipment	330. Dismantling retired equipment.
2231. Equalization—Equipment	330. Retirements—Equipment.
2234. Equipment—Depreciation	332. Equalization—Equipment.
	331. Equipment—Depreciation.
	333. Injuries to persons.
2235. Other equipment expenses	334. Insurance.
	335. Stationery and printing.
2236. Joint maintenance of equipment expenses—Dr.	336. Employees health and welfare benefits.
	339. Other expenses.
2237. Joint maintenance of equipment expenses—Cr.	337. Joint maintenance of equipment expenses—Cr.
Traffic	
	350. Traffic.
	351. Superintendence.
	352. Outside agencies.
	353. Advertising.
	354. Traffic associations.
2240. Traffic expenses	355. Fast freight lines.
	356. Industrial and immigration bureaus.
	357. Insurance.
	358. Stationery and printing.
	359. Employees health and welfare benefits.
	360. Other expenses.
Transportation—Rail Line	370. Transportation—Rail Line.
	371. Superintendence.
2241. Superintendence and dispatching	372. Dispatching trains.
	373. Station employees.
	374. Weighing, inspection and demurrage bureaus.
2242. Station service	375. Coal and ore wharves.
	376. Station supplies and expenses.
	377. Yardmasters and yard clerks.
2243. Yard employes	378. Yard conductors and brakemen.
	379. Yard switch and signal tenders.
2244. Yard switching fuel	380. Yard enginemen.
	382. Yard switching fuel.
	383. Yard switching power produced.
	384. Yard switching power purchased.
	385. Water for yard locomotives.
	386. Lubricants for yard locomotives.
2245. Miscellaneous yard expenses	387. Other supplies for yard locomotives.
	388. Enginehouse expenses—Yard.
	389. Yard supplies and expenses.

nals and other facilities administered by others, and in the joint use of which the carrier participates.

463 General Joint Facilities—Cr.

This account shall include amounts chargeable to others as their proportions of general expenses incurred by the carrier incident to maintaining and operating tracks, yards, terminals, and other facilities used jointly.

NOTE: The purpose of this account is to show the amounts accruing in favor of the carrier and against others for their proportions of the expense of general administration of tracks, yards, terminals, and other facilities administered by the carrier, and in the joint use of which others participate.

Condensed Classification of Operating Expenses

480 Accounts for Small Carriers, Class II.

See Instruction 1, Classification of Carriers. The condensed groupings of accounts for Class II small carriers are as follows:

CONDENSED CLASSIFICATION OF OPERATING EXPENSES

Accounts for Small Carriers—Class II	Accounts for Large Carriers—Class I
Maintenance of Way and Structures	200. Maintenance of Way and Structures.
2201. Superintendence	201. Superintendence
2202. Roadway maintenance	202. Roadway maintenance.
	203. Bridges, trestles and culverts.
	210. Elevated structures.
	213. Ties.
	214. Rails.
	216. Other track material.
	218. Ballast.
	220. Track laying and surfacing.
	221. Fences, snowsheds and signs.
	247. Communication systems.
	249. Signals and interlockers.
	272. Removing snow, ice, and sand.
	227. Station and office buildings.
	230. Roadway buildings.
	231. Water stations.
	233. Fuel stations.
	235. Shops and enginehouses.
	237. Grain elevators.
	239. Storage warehouses.
	241. Wharves and docks.
	243. Coal and ore wharves.
	245. Power plants.
	247. Power-transmission systems.
	249. Miscellaneous structures.
2203½. Retirements—Road	267. Retirements—Road.
2204. Dismantling retired road property	270. Dismantling retired road property.
2206. Equalization—Way and structures	260. Equalization—Way and structures.
2208. Road property—Depreciation	266. Road property—Depreciation.
	269. Roadway machines.
	271. Small tools and supplies.
	275. Public improvements—Maintenance.
	274. Injuries to persons.
	276. Insurance.
	278. Stationery and printing.
	277. Employees health and welfare benefits.
	281. Right-of-way expenses.
	282. Other expenses.
2209. Other maintenance of way expenses	276. Maintaining joint tracks, yards, and other facilities—Dr.
2210. Maintaining joint tracks, yards, and other facilities—Dr.	
2211. Maintaining joint tracks, yards, and other facilities—Cr.	279. Maintaining joint tracks, yards, and other facilities—Cr.

CONDENSED CLASSIFICATION OF OPERATING EXPENSES—Continued

Accounts for Small Carriers—Class II	Accounts for Large Carriers—Class I
2246. Operating joint yards and terminals—Dr.	390. Operating joint yards and terminals—Dr.
2247. Operating joint yards and terminals—Cr.	391. Operating joint yards and terminals—Cr.
2248. Train employees	392. Train enginemen.
	401. Trainmen.
2249. Train fuel	394. Train fuel.
2251. Other train expenses	395. Train power produced.
	396. Train power purchased.
	397. Water for train locomotives.
	398. Lubricants for train locomotives.
	399. Other supplies for train locomotives.
	400. Enginehouse expenses—Train.
	402. Train supplies and expenses.
	403. Operating sleeping cars.
2253. Injuries to persons	420. Injuries to persons.
2255. Loss and damage	418. Loss and damage—Freight.
	419. Loss and damage—Baggage.
2254. Other casualty expenses	414. Insurance.
	415. Clearing wrecks.
	416. Damage to property.
	417. Damage to livestock on right of way.
2255. Other rail transportation expenses	404. Signal and interlocker operations.
	405. Crossing protection.
	406. Drawbridge operation.
	407. Communication system operation.
	408. Operating floating equipment.
	409. Employees health and welfare benefits.
	410. Stationery and printing.
	411. Other expenses.
2256. Operating joint tracks and facilities—Dr.	412. Operating joint tracks and facilities—Dr.
2257. Operating joint tracks and facilities—Cr.	413. Operating joint tracks and facilities—Cr.
Miscellaneous Operations	440. Miscellaneous Operations.
2258. Miscellaneous operations	441. Dining and buffet service.
	442. Hotels and restaurants.
	443. Grain elevators.
	445. Producing power sold.
	446. Other miscellaneous operations.
	449. Employees health and welfare benefits.
2259. Operating joint miscellaneous facilities—Dr.	447. Operating joint miscellaneous facilities—Dr.
2260. Operating joint miscellaneous facilities—Cr.	448. Operating joint miscellaneous facilities—Cr.
General	450. General.
2261. Administration	451. Salaries and expenses of general officers.
	452. Salaries and expenses of clerks and attendants.
	453. General office supplies and expenses.
	454. Law expenses.
2262. Insurance	455. Insurance.
2264. Other general expenses	456. Employees health and welfare benefits.
	457. Pensions.
	458. Stationery and printing.
	460. Other expenses.
2265. General joint facilities—Dr.	461. General joint facilities—Dr.
2266. General joint facilities—Cr.	462. General joint facilities—Cr.

INCOME ACCOUNTS

Ordinary Items

501 Railway Operating Revenues.

This account shall include the total revenues derived from operations as shown in the primary revenue accounts provided elsewhere in these regulations.

502 Revenues from Miscellaneous Operations.

This account shall include the total revenues derived from the operation of miscellaneous operating physical property, such as that the cost of which is includible in balance-sheet account 737, "Miscellaneous physical property."

NOTE: The income from miscellaneous nonoperating physical property shall be included in account 511, "Income from nonoperating property."

503 Hire of Freight Cars; Credit Balance.

This account shall include, except as provided in the texts of accounts 509, "Income from lease of road and equipment," and 542, "Rent for leased roads and equipment," the net credit balance of (a) amounts receivable accrued for the use of the accounting company's freight cars leased or interchanged, and (b) amounts payable accrued for the use of the freight cars of others, leased or interchanged.

NOTE A: If the net balance is a debit, it shall be included in account 536, "Hire of freight cars—Debit balance."

NOTE B: Rent for freight cars included in the lease of road to another company shall be included in account 509, "Income from lease of road and equipment."

NOTE C: Rents paid for freight cars used in construction work-train service are chargeable to the cost of the work.

504 Rent from Locomotives.

This account shall include, except as provided in the text of account 509, "Income from lease of road and equipment," amounts receivable accrued as rent for the use of the accounting company's locomotives leased or interchanged.

NOTE: Rent for locomotives included in lease of road to another company shall be included in account 509, "Income from lease of road and equipment."

505 Rent from Passenger-Train Cars.

This account shall include, except as provided in the text of account 509, "Income from lease of road and equipment," amounts receivable accrued as rent for the use of the accounting company's passenger-train cars leased or interchanged.

NOTE: Rent for passenger-train cars included in lease of road to another company shall be included in account 509, "Income from lease of road and equipment."

506 Rent from Floating Equipment.

This account shall include, except as provided in the text of account 509, "Income from lease of road and equipment," amounts receivable accrued as rent for the use of the accounting company's floating equipment leased or chartered.

NOTE: Rent from floating equipment included in lease of road to another company shall be included in account 509, "Income from lease of road and equipment."

507 Rent from Work Equipment.

This account shall include, except as provided in the text of account 509, "Income from lease of road and equipment," amounts receivable accrued as rent for the use of the accounting company's work equipment leased or interchanged.

NOTE: Rent for work equipment included in lease of road to another company shall be included in account 509, "Income from lease of road and equipment."

508 Joint Facility Rent Income.

(a) This account shall include amounts receivable accrued for rent of equipment, tracks, yards, terminals, and other facilities owned or controlled by the accounting company and used jointly with other companies or individuals.

(b) Amounts receivable from other companies in reimbursement for taxes on property jointly used shall be credited to this account.

NOTE: The portion of the cost of maintenance, operation, or administration of joint facilities recoverable from others shall be credited to the various joint facility accounts provided for operating expenses. When the compensation for the use of joint facilities is a fixed amount or is based upon a charge per passenger, ton, car, or other unit, it shall be fairly apportioned by the

creditor between this account and the appropriate joint facility operating expense accounts.

509 Income from Lease of Road and Equipment.

(a) This account shall include the entire amount receivable accrued for the exclusive use of road, tracks, or bridges (including equipment or other railway property covered by the contract), the rented property being owned or controlled by the accounting company, whether payable to the accounting company in cash or disbursed by the lessee on behalf of the accounting company as interest on funded debt, guaranteed dividends on stock, or otherwise.

(b) When the lessor company maintains the road and equipment leased, the cost of maintaining the property rented shall be charged to this account, except that when the rent thus receivable for the use of property other than equipment is relatively small and the expense of maintenance is not separable, the entire amount received may be credited to revenue account 142, "Rents of buildings and other property."

(c) If, under the terms of a lease, the deficit, or any portion of it, resulting from the lessee company's operations of the property leased is payable by the lessor company, the amount thus payable shall be charged to this account by the lessor.

NOTE A: When taxes on leased property are assumed by the lessor, the accruals of such taxes shall be included in the lessor's account 532, "Railway tax accruals."

NOTE B: If property the rent of which is chargeable to account 543, "Rent for leased roads and equipment," is sublet by the accounting company, the rent receivable therefor shall be credited to this account.

NOTE C: When specific charges against the lessee are made by the lessor for repairs of equipment which is actually maintained by it the amount of such charges shall be appropriately credited by the lessor to its equipment repair accounts and charged by the lessee to the corresponding accounts.

510 Miscellaneous Rent Income.

(a) This account shall include such rents of property owned and controlled by the accounting carrier as are not provided for in the foregoing accounts.

(b) This account shall be charged with the cost of maintenance of the property rented, also specific incidental expenses in connection with such property, such as the cost of negotiating contracts, advertising for tenants, fees paid conveyancers, collectors' commissions, and analogous items.

NOTE A: If property the rent of which is chargeable to account 543, "Miscellaneous rents," is sublet by the accounting company, the rent receivable therefor shall be credited to this account.

NOTE B: Taxes on property the rent of which is creditable to this account shall be charged to account 532, "Railway tax accruals."

NOTE C: The rent from property carried in balance-sheet account 737, "Miscellaneous physical property," shall not be included in this account, but in account 511, "Income from nonoperating property."

NOTE D: Rent and other income from real estate acquired for new lines or for additions and betterments shall be credited to the appropriate road and equipment accounts until the completion or coming into service of the property.

511 Income from Nonoperating Property.

This account shall include the net credit balance of the nonoperating revenues or income from, and the expenses including depreciation (but excluding taxes) of physical property the cost of which is carried in balance-sheet account 737, "Miscellaneous physical property."

NOTE A: Net debit balances in this account shall be so indicated.

NOTE B: The revenues from the operation of miscellaneous operating physical property shall be included in income account 509, "Revenues from miscellaneous operations," and the expenses of operation shall be included in account 534, "Expenses of miscellaneous operations."

512 Separately Operated Properties; Profit.

(a) This account shall include amounts receivable under the terms of agreements or contracts whereby the surplus resulting from the operation by others of properties of other companies having a separate corporate existence is to be paid, in whole or in part, to the accounting company.

(b) In determining the amount receivable by the accounting company, consideration shall be given not only to the operating revenues and operating expenses but also to other items of income or deduction which affect that amount.

NOTE A: The amount payable by the operating company shall be charged by it to account 550, "Income transferred to other companies."

NOTE B: Dividends or other returns upon securities issued by separately operated companies, and held or controlled by the accounting company, shall be included in accounts 513, "Dividend income," 514, "Interest income," or 516, "Income from sinking and other reserve funds," as may be appropriate.

513 Dividend Income.

(a) This account shall include dividends declared on railway and other stocks, the income from which is the property of the accounting company, whether such stocks are owned by the accounting company and held in its treasury or deposited in trust, or are controlled through lease or otherwise.

(b) Dividends declared shall not be credited prior to actual collection unless their payment is reasonably assured by past experience, guaranty, anticipated provision, or otherwise. (See Note C to account 708, "Interest and dividends receivable.")

(c) Accruals of guaranteed dividends may be included in this account if their payment is reasonably assured.

NOTE A: This account shall not include credits for dividends on stocks issued or assumed by the accounting company and owned by it, whether pledged as collateral or held in its treasury, in special deposits, or in sinking or other reserve funds.

NOTE B: Dividends on stocks of other companies held in sinking or other reserve funds shall be credited to account 516, "Income from sinking and other reserve funds."

514 Interest Income.

(a) This account shall include the interest on securities and debenture stock of other companies, the income from which is the property of the accounting company, whether such securities are owned by the accounting company and held in its treasury or deposited in trust, or are controlled through lease or otherwise.

(b) The account shall also include interest on notes and other evidences of indebtedness and interest on bank balances, open accounts, and other analogous items, including discount on short-term notes. Interest accrued shall not be credited prior to actual collection unless its payment is reasonably assured by past experience, guaranty, anticipated provision, or otherwise. (See Note C to account 708, "Interest and dividends receivable.")

(c) At the option of the accounting company there may be included each year in this account the portion, applicable to the fiscal period, of the amount requisite to extinguish, during the interval between the date of acquisition and the date of maturity, the discount or premium on securities of other companies owned (other than short-term notes). Amounts thus credited or charged shall be concurrently charged or credited to the account in which the cost of the securities is carried. The discount on short-term notes shall be distributed through equal monthly credits, over the terms of the notes.

NOTE A: This account shall not include interest on securities issued or assumed by the accounting company and owned by it, whether pledged as collateral or held in its treasury, in special deposits, or in sinking or other reserve funds.

NOTE B: Interest on securities other than those of the accounting company, and on other assets held in sinking or other reserve funds shall be included in account 516, "Income from sinking and other reserve funds."

NOTE C: Discount on bills for material purchased shall be credited to the accounts to which is charged the cost of the material with respect to which the discount is allowed.

516 Income from Sinking and Other Reserve Funds.

(a) This account shall include the income accrued on cash, securities, and other assets (not including securities issued or assumed by the accounting company) held in sinking and other reserve funds. (See Note C to account 708, "Interest and dividends receivable.")

(b) At the option of the accounting company there may be included each year in this account the portion, applicable to the fiscal period, of the amount requisite to extinguish, during the interval between the date of acquisition and the date of maturity, the discount or premium on funded securities held in sinking or other reserve funds. Amounts thus credited or charged shall be concurrently charged or credited to the account in which the cost of the securities is carried.

517 Release of Premiums on Funded Debt.

This account shall include, during each fiscal period, such proportion of the premiums on outstanding funded debt as may be applicable to the period. (See instruction 6–3.)

518 Contributions from Other Companies.

(a) This account shall include amounts received or receivable from other companies or individuals, representing the whole or a part of the net deficit of the accounting company when, under the terms of agreements or contract, no obligation for subsequent reimbursement is incurred.

(b) In determining the amount receivable by the accounting company, consideration shall be given not only to the operating revenues and operating expenses, but also to other items of income or deduction which affect that amount.

NOTE: The amount payable shall be charged by the contributing company to account 545, "Separately operated properties—Loss."

519 Miscellaneous Income.

(a) This account shall include all items, not provided for elsewhere, properly creditable to income accounts during the current year. Among the items which shall be included in this account are:

Cancellation of balance sheet accounts representing unclaimed wages and vouchered accounts written off because of carrier's inability to locate the creditor.

Profit from sale of securities carried as temporary cash investments.

Profit from sale of land used for transportation purposes, of noncarrier property, and of securities acquired for investment purposes.

Profit from company bonds reacquired.

(b) When the profit from sale of land, noncarrier property, or investment securities other than temporary cash investments, or from the reacquisition of the company's own bonds is of an amount sufficiently large to constitute an extraordinary item, pursuant to instruction 1–2(d), such profit shall be credited to account 570 "Extraordinary items".

531 Railway Operating Expenses.

This account shall include the total expenses caused by operations, as shown, in the primary expense accounts provided in these regulations.

532 Railway Tax Accruals.

(a) This account shall include accruals for taxes of all kinds relating to railway property (including floating equipment, if any), operations, and privileges, whether based upon the valuation of the property, amount of stocks and bonds or other evidences of debt issued or outstanding; gross or net earnings, dividends declared, number of passengers carried, quantity of freight transported, length of line operated or owned, rolling stock operated or owned, or other basis; also taxes for issuing and recording mortgages and trust deeds and for issuing bonds or other evidences of long-term debt.

(b) The taxes on leased property shall be included in this account by the carrier obligated to assume such expenses under the terms of the lease.

(c) Accruals for Federal income taxes applicable to ordinary income shall be included in this account. See texts of account 590 "Federal income taxes on extraordinary and prior period items", account 606 "Other credits to retained income", and account 616 "Other debits to retained income", for recording other income tax consequences.

Details pertaining to the tax consequences of other unusual and significant items, and also cases where tax consequences are disproportionate to related amounts included in income accounts, shall be submitted to the Commission for consideration and decision as to proper accounting.

(d) Federal income taxes which are refundable or reduced as the result of carry-back or carry-forward of operating loss shall be credited to this account, if a carry-back, in the year in which the loss occurs or, if a carry-forward, in the year in which such loss is applied to reduce taxes. However, when the amount constitutes an extraordinary item, pursuant to instruction 1–2(d), it shall be included in account 580 "Prior period items".

NOTE A: Taxes on leased property paid by one party to the lease and chargeable to the other party to the lease shall be charged directly to the party bearing the expense and not included in the income account of the party first making payment.

NOTE B: Taxes on other than railway property, operations, and privileges shall be charged to account 535, "Taxes on miscellaneous operations property", or 544, "Miscellaneous tax accruals," as may be appropriate.

NOTE C: Special assessments for street and other improvements, and special benefit taxes, such as water taxes and the like, shall be included in operating expense accounts or investment accounts, as may be appropriate.

NOTE D: Amounts received in reimbursement of taxes on property jointly used shall be credited to account 508, "Joint facility rent income." Amounts paid in reimbursement of such taxes shall be charged to account 541, "Joint facility rents."

NOTE E: Taxes accruing on new lines under construction or on property acquired for the extension of existing lines or for addition or betterment purposes before the facilities are opened for commercial operation or the property acquired becomes available for service shall be charged to road and equipment accounts.

534 Expenses of Miscellaneous Operations.

This account shall include the total expenses caused by the operation of miscellaneous physical property the cost of which is includible in balance-sheet account 737, "Miscellaneous physical property."

NOTE: The expenses of miscellaneous nonoperating physical property shall be included in account 511, "Income from nonoperating property."

535 Taxes on Miscellaneous Operating Property.

This account shall include accruals of taxes paid or payable upon miscellaneous operating property, such as that the cost of which is includible in account 737, "Miscellaneous physical property."

NOTE: Taxes upon miscellaneous nonoperating physical property shall be included in account 544, "Miscellaneous tax accruals."

536 Hire of Freight Cars; Debit Balance.

This account shall include, except as provided for in the classification for investment in road and equipment and in the texts of accounts 509, "Income from lease of road and equipment," and 542, "Rent for leased roads and equipment," the net debit balance of (a) amounts receivable accrued for the use of the accounting company's freight cars leased or interchanged, and (b) amounts payable accrued for the use of the freight cars of others, leased or interchanged.

NOTE A: If the net balance is a credit, it shall be included in account 503, "Hire of freight cars—Credit balance."

NOTE B: Rent for freight cars included in the lease of road to the accounting company shall be included in account 542, "Rent for leased roads and equipment."

NOTE C: Interest accrued on equipment obligations shall be charged to account 546, "Interest on funded debt."

NOTE D: Rents paid for freight cars used in construction work-train service are chargeable to the cost of the work.

537 Rent for Locomotives.

This account shall include amounts payable accrued for the use of the locomotives of others, leased or interchanged, except as provided for in the classification for investment in road and equipment and in the text of account 542, "Rent for leased roads and equipment."

NOTE A: The rent for locomotives included in the lease of road to the accounting company shall be included in account 542, "Rent for leased roads and equipment."

NOTE B: Interest accrued on equipment obligations shall be charged to account 546, "Interest on funded debt."

NOTE C: Rent paid for locomotives used in construction work-train service is chargeable to the cost of the work.

538 Rent for Passenger-train Cars.

This account shall include amounts payable accrued for the use of the passenger-train cars of others, leased or interchanged, except as provided for in the classification for investment in road and equipment and in the text of account 542, "Rent for leased roads and equipment."

NOTE A: The rent for passenger-train cars included in the lease of road to the accounting company shall be included in account 542, "Rent for leased roads and equipment."

NOTE B: Interest accrued on equipment obligations shall be charged to account 546, "Interest on funded debt."

539 Rent for Floating Equipment.

This account shall include amounts payable accrued for the use of the floating equipment of others, leased or chartered, except as provided for in the classification for investment in road and

equipment and in the text of account 542, "Rent for leased roads and equipment."

NOTE A: The rent of floating equipment included in the lease of road to the accounting company shall be included in account 542, "Rent for leased roads and equipment."

NOTE B: Interest accrued on equipment obligations shall be charged to account 546, "Interest on funded debt."

540 Rent for Work Equipment.

This account shall include amounts payable accrued for the use of the work equipment of others, leased or interchanged, except as provided for in the classification for investment in road and equipment and in the text of account 542, "Rent for leased roads and equipment."

NOTE A: The rent for work equipment included in the lease of road to the accounting company shall be included in account 542, "Rent for leased roads and equipment."

NOTE B: Interest accrued on equipment obligations shall be charged to account 546, "Interest on funded debt."

NOTE C: Rent paid for work equipment when used in construction work-train service is chargeable to the cost of the work.

541 Joint Facility Rents.

(a) This account shall include amounts payable accrued as rent for equipment, tracks, yards, terminals, and other facilities owned or controlled by other carriers, companies, or individuals, and in the joint use of which the accounting company participates.

(b) Amounts paid or payable by the accounting company in reimbursement for taxes on property jointly used shall be charged to this account.

NOTE: The cost of maintenance, operation, or administration of joint facilities, chargeable to the accounting company, shall be charged to the various joint facility accounts provided for operating expenses. When the compensation for the use of joint facilities is a fixed amount or is based upon a charge per passenger, ton, car, or other unit, it shall be fairly apportioned between this account and the appropriate joint facility operating expense accounts. This apportionment shall be made by the operating company, and shall be followed by the accounting company.

542 Rent for Leased Roads and Equipment.

This account shall include amounts payable accrued as rent for roads, tracks, or bridges (including equipment or other railway property covered by the contract) the property being owned by other companies and held under lease or other agreement by the terms of which exclusive use and control for operating purposes are secured. The entire amount of rent payable by the lessee in accordance with the agreement shall be included in this account, whether paid to the lessor in cash or disbursed by the lessee, on behalf of the lessor, as interest on funded debt, guaranteed dividends on stock, or otherwise.

NOTE A: When taxes on leased property are assumed by the lessee the accruals of such taxes shall be included in the lessee's account 532, "Railway tax accruals."

NOTE B: If, under the terms of a lease, the deficit or any portion of it resulting from the lessee's operation of the property leased is payable by the lessor company, the amount shall be charged to account 509, "Income from lease of road and equipment," by the lessor and credited to this account by the lessee.

NOTE C: If property, the rent of which is chargeable to this account, is sublet by the accounting company to others, the rent from the sublease shall be credited to account 509, "Income from lease of road and equipment."

NOTE D: Payments for the exclusive use of road and equipment maintained by the lessor and used in the accounting company's operations (when considerable in amount and when not provided for in the classifications of operating expenses) shall be divided into two portions: One, representing the cost of maintenance shall be charged to the appropriate maintenance accounts and the other, representing rent (amount applicable to the investment in the property), shall be charged to this account.

NOTE E: When specific charges against the lessee are made by the lessor for repairs of equipment which is actually maintained by it, the amount of such charges shall be appropriately credited by the lessor to its equipment repair accounts and charged by the lessee to the corresponding accounts.

543 Miscellaneous Rents.

This account shall include rents payable accrued on property held by the accounting company under lease or other agreement and not properly chargeable to any of the foregoing accounts.

NOTE A: This account shall not include rents provided for in the operating expense accounts.

NOTE B: If property, the rent of which is chargeable to this account, is sublet to others the rent from the sublease shall be credited to the appropriate rent income account depending on the classification of the property as transportation or nontransportation in the same manner as property owned by the carrier.

NOTE C: Payments for the exclusive use of miscellaneous property maintained by the lessor and used by the accounting company shall be divided into two portions: One, representing the cost of maintenance, shall be charged to the appropriate operating accounts, and the other, representing rent (amount applicable to the investment in the property), shall be charged to this account. The bill rendered by the creditor shall show the distribution of the payments as between maintenance and rent, and such distribution shall be adhered to by the debtor.

544 Miscellaneous Tax Accruals.

This account shall include all accruals for taxes not provided for elsewhere, such as taxes on securities owned, taxes on income from securities owned, and taxes on miscellaneous nonoperating physical property the cost of which is includible in balance-sheet account 737, "Miscellaneous physical property."

NOTE: Taxes upon miscellaneous *operating* property shall be charged to account 535, "Taxes on miscellaneous operating property."

545 Separately Operated Properties; Loss.

(a) This account shall include amounts payable under the terms of agreements or contracts whereby the deficit resulting from the operation by others of properties of other companies having a separate corporate existence is to be paid, in whole or in part, by the accounting company.

(b) In determining the amount payable by the accounting company, consideration shall be given not only to the operating revenues and operating expenses, but also to other items of income or deductions which affect that amount.

NOTE A: The amount receivable by the operating company shall be credited by it to account 518, "Contributions from other companies."

NOTE B: Dividends or other returns upon securities issued by separately operated companies and held or controlled by the accounting company shall not be included in this account to offset a deficit payable, but in accounts 512, "Dividend income"; or 514, "Interest income," as may be appropriate.

546 Interest on Funded Debt.

This account shall include the current accruals of interest on all classes of long-term debt, the principal of which is includible in accounts 765, "Funded debt unmatured"; 766, "Equipment obligations"; 767, "Receivers' and trustees' securities"; 768, "Debt in default"; and 769 "Amounts payable to affiliated companies." This account shall be kept in such form that the interest on receivers' and trustees' securities, and on other classes of funded debt may be shown separately in the annual report to the Commission.

NOTE A: This account shall not include charges for interest on funded debt obligations issued or assumed by the accounting company and owned by it, whether pledged as collateral or held in its treasury, in special deposits, or in sinking or other reserve funds.

NOTE B: When funded debt is incurred for new lines or extensions, or for addition and betterment purposes, the accruals of interest on such funded debt (less interest received on unexpended balances), to the date of completion or coming into service of the property so acquired shall be included in the road and equipment accounts.

NOTE C: This account shall be maintained so as to show separately: (a) fixed interest which will be paid, or for which provision for payment will be made, when the interest matures; (b) interest in default; and (c) contingent interest determined to be payable.

547 Interest on Unfunded Debt.

This account shall include interest accrued on unfunded debt, such as short-term notes payable on demand or having dates of maturity one year or less from dates of issue, and open accounts including discount and expense on demand and short-term loans, interest on receipts outstanding for installments paid on capital stock, interest on deferred payments for public improvements, and other analogous items. The discount on short-term notes, if of a considerable amount shall be distributed through equal monthly charges, over the term of the notes.

NOTE: When short-term notes or other evidence of unfunded indebtedness are issued for new lines or extensions or for addition and betterment purposes, the accrual of interest to the date of completion or coming into service of the property shall be included in the road and equipment accounts.

548 Amortization of Discount on Funded Debt.

(a) This account shall be charged during each fiscal period with the proportion of the discount and expense on funded debt obligations applicable to that period. This proportion shall be determined according to a rule the uniform application of which through the interval between the date of sale and the date of maturity will extinguish the discount and expense on funded debt.

(b) The charge to this account for any period must not be either greater or less than the proportion of the balance remaining unamortized applicable to that period so long as any portion of the discount and expense remains unextinguished, except that if the total discount and expense applicable to any particular issue of securities does not exceed $25,000, the entire amount may be charged to this account at time of issue.

549 Maintenance of Investment Organization.

This account shall include the directly assignable administration expenses of the accounting company which are incident to its investments in leased or nonoperating physical property, and in stocks, bonds, or other securities.

ITEMS OF EXPENSE

Advertising annual reports (lessor companies only).
Calls for bonds in accordance with sinking fund provisions of mortgages.
Directors' fees.
Printing and mailing dividend checks.
Publishing and mailing annual reports and other corporate statements to shareholders.
Publishing notices of declaration of dividends.
Law expenses.
Office expenses.
Salaries of officers, clerks, and attendants.
Stationery and printing.

NOTE: Administration expenses incident to railway operation are includible in the primary accounts provided for in operating expense general account 450, "General."

550 Income Transferred to Other Companies.

(a) This account shall include the whole or any portion of the income of the accounting company payable to another company under the terms of agreements or contracts without obligation for reimbursement.

(b) In determining the amount payable by the accounting company, consideration shall be given not only to operating revenues and operating expenses, but also to other items of income or deduction which affect that amount.

NOTE A: The amount receivable by the other company shall be credited by it to account 512, "Separately operated properties—Profit."

NOTE B: Dividends or other payments upon securities issued or assumed by the accounting company shall not be included in this account.

551 Miscellaneous Income Charges.

(a) This account shall include items, not provided for elsewhere, properly chargeable to income account during the current year. Among the items which shall be included in this account are:

Interest on tax deficiencies, on overcharge claims, and on court awards.

Income tax upon the interest on the accounting company's funded debt when these taxes are assumed by the company.

Payments of old accounts previously written off.

Penalties and fines for violation of the Interstate Commerce Act or other Federal and State laws when not specifically provided for elsewhere.

Loss on sale of securities carried as temporary cash investments.

Loss on sale of land used for transportation purposes, and of noncarrier property.

Loss on sale of securities acquired for investment purposes, and charges to write down the ledger value of such securities because of impairment in their value.

Loss from company bonds reacquired.

(b) When the loss on the sale of land, noncarrier property, or investment securities other than temporary cash investments, or on the reacquisition of the company's own bonds is of an amount sufficiently large to constitute an extraordinary item, pursuant to instruction 1-2(d), such loss shall be included in account 570 "Extraordinary items".

Extraordinary and Prior Period Items

570 Extraordinary items (net).

(a) This account shall include extraordinary items accounted for during the current accounting year in accordance with the text of instruction 1-2(d), upon approval by the Commission. Among the items which shall be included in this account are:

Net gain or loss on sale of land used for transportation purposes, and of noncarrier property.

Net gain or loss on sale of securities acquired for investment purposes, and charges to write down the ledger value of such securities because of impairment of value.

Net gain or loss on reacquisition of company bonds.

Loss on sale or retirement of transportation property, for which depreciation reserve has not been provided.

Changes in application of accounting principles.

(b) This account shall be maintained in a manner sufficient to identify the nature and gross amount of each debit and credit.

(c) Federal income tax consequences of charges and credits to this account shall be recorded in account 590 "Federal income taxes on extraordinary and prior period items".

580 Prior period items (net).

(a) This account shall include unusual delayed items accounted for during the current accounting year in accordance with the text of instruction 1-3(d), upon approval of the Commission. Among the items which shall be included in this account are:

Unusual adjustments, refunds or assessments of Federal income taxes of prior years.

Unusual adjustments of reserves of prior years determined to be excessive or deficient.

Similar items representing transactions of prior years which are not identifiable with or do not result from business operations of the current year.

(b) This account shall be maintained in a manner sufficient to identify the nature and gross amount of each debit and credit.

(c) Federal income tax consequences of charges and credits to this account shall be recorded in account 590 "Federal income taxes on extraordinary and prior period items".

590 Federal income taxes on extraordinary and prior period items.

This account shall include the estimated Federal income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which, for accounting purposes, are classified as unusual and extraordinary, and are recorded in accounts 570 "Extraordinary items" and 580 "Prior period items".

599 Form of Income Statement.

The classified form of income statement is designed to show the financial changes resulting from transportation operations and other business of the accounting company during any specified period.

ORDINARY ITEMS

Railway Operating Income

501. Railway operating revenues[1] ——
591. Railway operating expenses[1] ——
Net revenue from railway operations[2] ——
532. Railway tax accruals[1] ——
Railway operating income[2] ——

Rent Income

503. Hire of freight cars—Credit balance ——
504. Rent from locomotives ——
505. Rent from passenger-train cars ——
506. Rent from floating equipment ——
507. Rent from work equipment ——
508. Joint facility rent income ——
Total rent income ——

Rents Payable

536. Hire of freight cars—Debit balance ——
537. Rent for locomotives ——
538. Rent for passenger-train cars ——
539. Rent for floating equipment ——
540. Rent for work equipment ——
541. Joint facility rents ——
Total rents payable ——
Net rents[2] ——
Net railway operating income[2] ——

Other Income

508. Revenues from miscellaneous operations ——
509. Income from lease of road and equipment ——
510. Miscellaneous rent income ——
511. Income from nonoperating property ——
512 Separately operated properties—Profit ——
513. Dividend income ——
514. Interest income ——
516. Income from sinking and other reserve funds ——
517. Release of premiums on funded debt ——
518. Contributions from other companies ——
519. Miscellaneous income ——
Total other income ——
Total income[2] ——

[1] Includes operations of water lines, if any.
[2] If a loss the amount shall be so indicated.

Miscellaneous Deductions From Income

534. Expenses of miscellaneous operations	———	
535. Taxes on miscellaneous operating property	———	
542. Miscellaneous rents	———	
544. Miscellaneous tax accruals	———	
545. Separately operated properties—Loss	———	
549. Maintenance of investment organization	———	
550. Income transferred to other companies	———	
551. Miscellaneous income charges	———	
Total miscellaneous deductions	———	
Income available for fixed charges	———	

Fixed Charges

542. Rent for leased roads and equipment	———	
546. Interest on funded debt:		
(a) Fixed interest not in default	———	
(b) Interest in default	———	
547. Interest on unfunded debt	———	
548. Amortization of discount on funded debt	———	
Total fixed charges	———	
Income after fixed charges	———	———

Other Deductions

546. Interest on funded debt:		
(c) Contingent interest	———	———
Ordinary income	———	———

Extraordinary and Prior Period Items

570. Extraordinary items (net)	———	———
580. Prior period items (net)	———	———
590. Federal income taxes on extraordinary and prior period items	———	———
Total extraordinary and prior period items	———	———
Net income transferred to Retained Income — Unappropriated	———	———

RETAINED INCOME ACCOUNTS

Credit

601 Credit Balance (at Beginning of Calendar Year).

This account shall include the net credit balance in the retained income account at the beginning of the calendar year.

602 Credit Balance Transferred from Income.

This account shall show the net credit balance brought forward from the income account for the calendar year.

606 Other credits to retained income.

This account shall include other credit adjustments, net of assigned Federal income taxes, not provided for elsewhere in this system but only after such inclusion has been authorized by the Commission.

Debit

611 Debit Balance (at Beginning of Calendar Year).

This account shall include the net debit balance in the retained income account at the beginning of the calendar year.

612 Debit Balance Transferred from Income.

This account shall show the net debit balance brought forward from the income account for the calendar year.

616 Other Debits to Retained Income.

(a) This account shall include losses from resale of reacquired capital stock, and charges which reduce or writeoff discount on capital stock issued by the company, but only to the extent that such charges exceed credit balances in capital surplus for shares reacquired. See instruction 6-4.

(b) This account shall also include other debit adjustments, net of assigned Federal income taxes, not provided for elsewhere in this system but only after such inclusion has been authorized by the Commission.

620 Appropriations for Sinking and Other Reserve Funds.

This account shall be charged and account 797, "Retained income—Appropriated," shall be credited with amounts appropriated pursuant to provisions of reorganization plans, mortgages, deeds of trust, or other contracts requiring payments into sinking funds, capital funds, and other funds.

621 Appropriations for Other Purposes.

This account shall be charged and account 797, "Retained income—Appropriated," shall be credited with the amount of appropriations for general contingencies, indefinite possible future losses and other corporate purposes not provided for elsewhere. The appropriations shall be released when their respective purposes have been served.

622 Appropriations Released.

This account is provided to return to unappropriated retained income the amount of appropriations no longer required as segregations of retained income. The account shall be subdivided to show the nature of the appropriations being released and the circumstances of the release shall be fully described.

623 Dividends.

This account shall be charged with the amount of dividends declared on actually outstanding capital stock issued or assumed by the company. If the dividend is not payable in cash, the securities or other property to be distributed shall be described with sufficient particularity to identify the distribution. The account shall be subdivided to show separately the dividends declared on the various subclasses of capital stock.

NOTE: This account shall not include charges for dividends on capital stock issued or assumed by the company and owned by it, whether pledged as collateral or held in its treasury, in special deposits, or in sinking or other reserve funds.

GENERAL BALANCE SHEET ACCOUNTS

Debit

701 Cash.

(a) This account shall include money, checks, sight drafts, and sight bills of exchange in the hands of the accounting company's financial officers and agents, or in transit from its agents and conductors for which such agents and conductors have received credit. It shall include, also, deposits with banks and trust companies available for use on demand, and savings accounts subject to the usual clause reserving the right to defer payment for a specified number of days.

(b) The amount of checks and drafts, which have been transmitted to payees and which remain unpaid at the close of the accounting period, shall be credited to this account. When the amount of such checks and drafts cannot be determined with absolute accuracy, an estimate of the amount shall be used.

702 Temporary Cash Investments.

This account shall include the cost of securities and other collectible obligations acquired for the purpose of temporarily investing cash, such as United States Treasury certificates, marketable securities, time drafts receivable, demand loans, time loans, time deposits with banks and trust companies, and other similar investments of a temporary character.

703 Special Deposits.

This account shall include funds specifically deposited for the payment of dividends, interest, and other current liabilities; also other deposits subject to current withdrawal for specific purposes only.

NOTE: Deposits available for general company purposes shall be included in account 701, "Cash."

704 Loans and Notes Receivable.

This account shall include the book value of all collectible obligations in the form of demand or time loans and notes receivable, or other similar evidences (except interest coupons) of money receivable within a time not exceeding one year from date of issue.

NOTE A: Obligations held as investments which mature more than one year after date of issue shall be included in accounts 721, "Investments in affiliated companies"; or 722, "Other investments," as may be appropriate.

NOTE B: Loans and notes receivable acquired for the purpose of temporarily investing cash shall be included in account 702, "Temporary cash investments."

705 Traffic and Car-Service Balances—Dr.

This account shall include the net of the balances receivable from or payable to other companies in the accounts representing interline freight, passenger, and baggage revenues, and charges for equipment interchanged on a per diem or a mileage basis, when such balances result in a net debit.

NOTE A: When the net of the balances is a credit, it shall be included in account 752, "Traffic and car-service balances—Cr."

NOTE B: The amount to be entered in this account in the carrier's annual report to the Commission shall be stated in accordance with the text of this account. For convenience in accounting the carrier may maintain currently separate subaccounts under the following captions:

705 and 752(a) Interline freight, balance.
705 and 752(b) Interline passenger, balance.
705 and 752(c) Interline baggage, balance.
705 and 752(d) Equipment interchange, balance.

706 Net Balance Receivable from Agents and Conductors.

This account shall include the net balance due in current accounts from agents, from train, sleeping car, and dining car conductors, and from train collectors, train auditors, porters and other employees and representatives charged with the collection or custody of current revenues.

NOTE: Amounts advanced to general and special agents as working funds shall not be included in this account, but in account 710, "Working fund advances."

707 Miscellaneous Accounts Receivable.

This account shall include amounts due in audited accounts considered good, such as those due from the United States or other Governments for the transportation of mails and Government property, and from express companies for express facilities furnished under contract; amounts due from other carriers on account of freight claims paid; miscellaneous bills against other railway companies, corporations, firms, and individuals; and other similar items.

NOTE: The amount to be entered in this account is not the net balance between this account and account 754, "Miscellaneous accounts payable."

708 Interest and Dividends Receivable.

This account shall include the amount of interest accrued to the date of the balance sheet on bonds owned and on loans made, the amount of dividends declared on stocks owned, and dividends accrued on such stocks when contracts require that the dividends be paid at stated times.

NOTE A: No amount representing interest or dividends receivable shall be included in this account unless its payment is reasonably assured by past experience, anticipated provision, or otherwise.

NOTE B: No dividends or other returns on securities issued or assumed by the accounting company shall be included in this account.

NOTE C: If settlement of amounts included in this account is not made when due either in cash or with other tangible assets of equal money value, such amounts shall be cleared from this account and charged to the income account originally credited. If notes are taken in settlement of amounts included in this account, the amounts thereof shall be charged to account 704, "Loans and notes receivable," or account 741, "Other assets," as may be appropriate, but such amounts shall not be credited to income (or if previously credited to income shall be cleared therefrom as provided in the first sentence of this note), unless inclusion therein is justified by the current asset position of the obligor. If such notes are of doubtful value, the amount at which they are charged to account 741, "Other assets," shall be credited to account 784, "Other deferred credits," and income shall not be credited until payment is received, and then only with the amount collected. If long-term notes are taken in settlement of current assets, the credit to income shall be cancelled and account 741, "Other assets," shall be charged with their true values, and a like sum shall be credited to account 784, "Other deferred credits."

709 Accrued Accounts Receivable.

This account shall include estimates of all unaudited current items receivable by the carrier to the date of the balance sheet, including those which are creditable to revenue, expense, or income accounts in accordance with the instruction relating to unaudited items. Among the items which shall be included in this account are:

Rents receivable which are not includible in account 707, "Miscellaneous accounts receivable."

Amounts receivable from others for unreported interline traffic.

Amounts receivable from others for use of facilities, including equipment, for which bills have not been rendered.

Amounts receivable from others for services for which bills have not been rendered.

710 Working Fund Advances.

This account shall include amounts advanced to general and special agents, and to other officers and employees, as working funds from which certain expenditures are to be made and accounted for. It also includes advances to fast freight lines and to demurrage and other bureaus.

NOTE: Advances to jointly owned or used terminal companies and other companies for permanent working funds or capital purposes shall be included in accounts 721, "Investments in affiliated companies," or 722, "Other investments," as may be appropriate.

711 Prepayments.

This account shall include the balances in the accounts representing short-term prepaid rents chargeable to the appropriate rent accounts as the term is consumed for which the rents are paid; also short-term interest and insurance premiums paid in advance of their accrual, which are to be apportioned and charged, as they accrue, to the appropriate accounts.

NOTE: Expenditures by a carrier for improvements to office buildings and other facilities rented for more than one year, title to which will pass to the lessor at the end of the rental period, shall be charged to account 748, "Other deferred charges," and amortized over the rental period as additional rent.

712 Material and Supplies.

(a) This account shall include the balances representing the cost, less depreciation, if any, of all unapplied material, such as road and shop material, articles in process of manufacture by the accounting company, fuel, stationery, and dining car and other supplies. In determining the cost of material and supplies suitable allowance shall be made for any discounts allowed in the purchase thereof.

(b) Material and supplies shall be credited to this account and charged to the appropriate operating expense or other account on the basis of actual costs, average cost, or other recognized pricing system, provided that such system is consistently applied and is based on the cost of such material and supplies.

(c) An inventory of material and supplies shall be taken during each calendar year and the necessary adjustments to bring this account into harmony with the actual inventory balances shall be made in the accounts of the year in which the inventories are taken. In effecting this adjustment determined differences in accounting for important classes of material shall be equitably assigned among the accounts to which the classes of material are ordinarily chargeable. Other differences shall be equitably apportioned among the primary accounts to which material has been charged since the last inventory.

NOTE: Balances representing the cost of unapplied construction material and supplies located at the point of use, which have been purchased for projected new roads and extensions, or for new railroad equipment, are provided for in road and equipment account 47, "Unapplied construction material and supplies," or account 59, "Unapplied material and supplies—Equipment."

713 Other Current Assets.

This account shall include items of current assets not covered by accounts 701 to 712, inclusive. The account shall include only items currently collectible and shall not include amounts the current collection of which is not reasonably assured and may be deferred. (See instruction 6-1.)

715 Sinking Funds.

(a) This account shall include the amount of cash, the ledger value of live securities of other companies, and other assets which are held by trustees of sinking and other funds for the purpose of redeeming outstanding obligations, including such assets so held in the hands of the accounting company's treasurer when the assets are segregated in a distinct fund.

(b) The account shall include amounts deposited with trustees on account of mortgaged property sold, the proceeds of which are to be held for the redemption of securities; and also the par value (or with respect to no par stock, the amounts recorded in account 791, "Capital stock issued," relating thereto) of live securities issued or assumed by the accounting company and held in such funds.

(c) A separate account shall be kept for each fund. The title of each such account shall designate the obligation in support of which the fund is created.

NOTE: In stating the balance sheet in the annual reports to the Commission the total amount of the funds and the par value (or with respect to no par stock the amounts

recorded in account 701, "Capital stock issued," relating thereto) of securities issued or assumed by the accounting company and held in the funds shall be shown in the short columns, and the net amount of the funds (total amount less securities issued or assumed) shall be shown in the long column.

716 Capital and Other Reserve Funds.

(a) This account shall include cash and the ledger value of other assets held by trustees or by the accounting company's treasurer when segregated in distinct funds that have been (1) realized from the sale of equipment obligations or other long-term obligations and not yet applied toward the specific purposes for which the obligations were incurred, and (2) set aside in accordance with governmental, mortgage, of contractual requirements in connection with reorganizations or otherwise. This account shall also include funds deposited with trustees to be held until mortgaged property sold is replaced.

(b) An appropriate record shall be maintained for securities issued or assumed by the accounting company and held in the funds, identifying those that are nominally issued or nominally outstanding.

NOTE A: Funds specifically set aside for sinking fund purposes shall be included in account 715, "Sinking funds." If one purpose of a capital fund is to provide contributions to a sinking fund under specified conditions, the entire amount of the fund shall be included in this account until the contributions to the sinking fund are made, at which time the amounts thereof shall be transferred to account 715.

NOTE B: The ledger value of assets of the character indicated in paragraph (a) (2) of this section, shall be transferred to the appropriate current asset account when the assets are definitely assigned in advance of expenditure to the payment of interest or other current liabilities payable within one year.

NOTE C: Bank deposits subject to current withdrawals for specific purposes only, shall be included in account 706, "Special deposits." Deposits available for general company purposes shall be included in account 701, "Cash."

717 Insurance and Other Funds.

This account shall include the amount of cash and the ledger value of securities of other companies and other assets which are in the hands of trustees or managers of insurance, employees' pension, savings, relief, hospital, and other funds which have been raised and specifically set aside or invested for specific purposes not provided for elsewhere; also the par value (or with respect to no par stock, the amounts recorded in account 701, "Capital stock issued," relating thereto) of securities issued or assumed by the accounting company and held in such funds. A separate account shall be kept for each fund.

NOTE A: Sinking funds and capital and other reserve funds are provided for in accounts 715 and 716, respectively.

NOTE B: In stating the balance sheet in the annual Reports to the Commission the total amount of the funds and the par value (or with respect to no par stock, the amounts recorded in account 701, "Capital stock issued," relating thereto) of securities issued or assumed by the accounting company and held in the funds shall be shown in the short columns, and the net amount of the funds (total amount less securities issued or assumed) shall be shown in the long column.

NOTE C: This account shall not include funds held by the accounting company solely as trustee and in which it has no beneficial interest.

NOTE D: Bank deposits subject to current withdrawal for specific purposes only, shall be included in account 706, "Special deposits." Deposits available for general company purposes shall be included in account 701, "Cash."

721 Investments in Affiliated Companies.

(a) This account shall include the ledger value of the accounting company's investment in securities issued or assumed by affiliated companies other than securities held in special deposits or special funds, and also investment advances made to affiliated companies.

(b) This account shall be maintained in such manner as to show each of the following classes of investment in each affiliated company:

(a) Stocks.
(b) Bonds.
(c) Other secured obligations.
(d) Unsecured notes.
(e) Investment advances.

(c) A complete record of securities pledged shall be maintained so that the ledger value of securities pledged and unpledged may be shown separately in the annual report to the Commission.

NOTE A: Accounts with affiliated companies which are subject to *current settlement*, if their collection is reasonably assured, shall be classed as current assets, and if settlement is deferred beyond one year such items shall be transferred to account 741 "Other assets."

NOTE B: The term affiliated companies (also see Definition 4) includes:

1. Controlled companies, including companies solely controlled by the accounting company, and also companies jointly controlled by the accounting company and others under a joint arrangement.

2. Controlling companies, including both companies solely controlling the accounting company, and companies which jointly control the accounting company under a joint arrangement.

3. Companies controlled by controlled companies.

4. Companies controlled by controlling companies.

By "control" (also see Definition 8) is meant the ability to determine the action of a corporation. For the purposes of this account, the following are to be considered forms of control:

(a) Right through title to securities issued or assumed to exercise the major part of the voting power in the controlled corporation.

(b) Right through agreement of some character or through some source other than title to securities, to name the majority of the board of directors, managers, or trustees of the controlled corporation.

(c) Right to foreclose a first lien upon all or a major part in value of the tangible property of the controlled corporation.

(d) Right to secure control in consequence of advances made for construction of the operating property of the controlled corporation.

(e) Right to control only in a specific respect the action of the controlled corporation.

A leasehold interest in the property of a corporation is not to be classed as a form of control over the lessor corporation.

"Sole control" is that which rests in one corporation.

"Joint control" is that which rests in two or more corporations and which is held under a joint arrangement.

NOTE C: The value of securities borrowed by the accounting company and pledged shall not be included in this account.

NOTE D: The value of securities pledged for purposes other than that of security for funded debt or short-term loans shall be included in accounts 715, "Sinking funds," 716, "Capital and other reserve funds," or 717, "Insurance and other funds," as may be appropriate.

722 Other Investments.

(a) This account should include the ledger value of the accounting company's investment in securities issued or assumed by nonaffiliated companies other than securities held in special deposits or special funds; also investment advances made to nonaffiliated companies and to individuals.

(b) This account shall be maintained in such manner as to show each of the following classes of investment in each nonaffiliated company:

(a) Stocks.
(b) Bonds.
(c) Other secured obligations.
(d) Unsecured notes.
(e) Investment advances.

(c) A complete record of securities pledged shall be maintained so that the ledger value of securities pledged and unpledged may be shown separately in the annual report to the Commission.

NOTE A: Accounts with nonaffiliated companies which are subject to *current settlement*, if their collection is reasonably assured, shall be classed as current assets, and if settlement is deferred beyond one year such items shall be transferred to account 741, "Other assets."

NOTE B: The term "nonaffiliated companies" includes all companies other than those defined as affiliated in Note B of account 721, "Investments in affiliated companies."

NOTE C: The value of securities borrowed by the accounting company and pledged shall not be included in this account.

NOTE D: The value of securities pledged for purposes other than that of security for funded debt or short-term loans shall be included in accounts 715, "Sinking funds," 716, "Capital and other reserve funds," or 717, "Insurance and other funds," as may be appropriate.

723 Reserve for Adjustment of Investment in Securities—Cr.

(a) This account shall include the total of the balances in such reserves as are maintained by the accounting company for the purpose of providing for reductions in the value of securities owned and recorded in accounts 721 "Investments in affiliated companies", or 722 "Other investments". Corresponding charges shall be made to account 551 "Miscellaneous income charges", or account 570 "Extraordinary items", as appropriate.

(b) If reserves are maintained in provision for anticipated losses in specific securities, when the related assets are written down or written off, or are sold or otherwise disposed of at a loss, the reduction in the book value or the losses sustained shall be charged to this account to the extent of the credit balance in the account applicable to the particular securities involved, and the remainder, if any, shall be charged to account 551 "Miscellaneous income charges", or to account 570 "Extraordinary items", as appropriate. In case a general reserve for losses in unspecified security values is maintained, all such losses resulting from write-downs, write-offs, etc., shall be charged to this account to the extent of the total credit balance in the account, and the remainder, if any, shall be charged to account 551 "Miscellaneous income charges", or to account 570 "Extraordinary items", as appropriate.

731 Road and Equipment Property.

This account shall include the accounting company's investment in road and equipment (including that held under contract for purchase), used or held for use as transportation property in existence at the date of the balance sheet. When property is retired from service this account shall be credited with the ledger value of the property retired.

NOTE A: This account shall not include any items representing titles to securities.

NOTE B: When any equipment is acquired under an agreement which provides that the cost shall be paid in installments, the cost (its money value at time of purchase) shall be charged to the appropriate road and equipment accounts at the time the equipment is delivered to the carrier, and included in this account in the same manner as the cost of equipment purchased outright. When the par value of notes or other securities issued in payment, or in part payment, for such equipment is more (or less) than the actual cash value of the equipment, at the time of the purchase, or of the proportion to which the securities are applicable, the difference between the par value of the securities and the actual cash value of the equipment, or of the proportion paid for by the securities, shall be charged (or credited) to the proper discount and premium accounts.

NOTE C: Held for use, as referred to above, implies the ability of the carrier to substantiate by plans or policy its characterization of the probable future use which is to be made of the property within a reasonable period of time.

732 Improvements on Leased Property.

(a) This account shall include the cost of improvements made by the lessee to property which is held under lease from others or through control of the company owning the property, where such improvements are used by the lessee in transportation service, and the lessee is not to be reimbursed by the lessor for such improvements. (See instruction 2-17.)

(b) The carrier's records shall be kept in such manner as to show the debits and credits to this account in accordance with the provisions for road and equipment.

NOTE A: This account shall not include any items representing titles to securities.

NOTE B: When the lessor company includes in account 731, "Road and equipment property," the cost of improvements made by the lessee to property leased by it from the lessor and settlement is not made at the time for the cost thereof, the lessee, pending settlement with the lessor, shall include the cost thereof in account 721, "Investments in affiliated companies," or 722, "Other investments," as may be appropriate.

735 Accrued Depreciation; Road and Equipment.

(a) This account shall be credited with amounts concurrently charged to operating expenses or other authorized accounts to cover the loss in service value of depreciable road and equipment property. It shall also include adjustments which the Commission may authorize the accounting company to make with respect to past accruals of depreciation.

(b) The service value of each unit of property retired (and also of each minor item, less than a unit, retired and not replaced) for which depreciation reserve has been established shall be charged to this account.

(c) Comprehensive instructions pertaining to depreciation accounts, rates of depreciation, and records to be maintained, are contained in instruction 5.

736 Amortization of Defense Projects; Road and Equipment.

This account shall include the amounts of accumulated past provisions for amortization of road and equipment defense projects, the cost of which is included in account 731, "Road and equipment property," or account 732, "Improvements on leased property." This account shall be charged with the credit balance herein applicable to specific property at the time the property is retired. The accounting company shall maintain subaccounts separately for amortization of (1) road property and (2) equipment.

737 Miscellaneous Physical Property.

This account shall include the accounting company's investment in physical property other than property assignable to accounts 731 and 732, including hotels, restaurants, powerplants, etc., which are not operated by the accounting company or another carrier in connection with its transportation service.

ITEMS OF INVESTMENT

Coal and other mines.
Commercial power plants.
Hotels and restaurants.
Lands and buildings not used in transportation operations.
Lands and other property acquired and held in anticipation of future use.
Mineral and timber lands.
Rails and other track material leased to others.
Saw mills and other manufacturing plants not operated in connection with transportation service.

738 Accrued Depreciation; Miscellaneous Physical Property.

This account shall be credited with amounts charged to income or other authorized accounts to cover the depreciation of property the cost of which is included in account 737, "Miscellaneous physical property." When any miscellaneous physical property is destroyed, sold, or otherwise retired from service, the amount included in this account with respect to the property retired shall be charged hereto.

741 Other Assets.

This account shall include the estimated value of salvage recoverable from property retired when the recovery of the salvage is deferred for any reason. (See instruction 2-5.) This account also shall include other assets of doubtful value, collection of which within one year is not assured; also other deferred assets and miscellaneous assets not otherwise provided for in general balance sheet accounts. (See instruction 6-1.)

742 Unamortized Discount on Long-term Debt.

This account shall include the total of the net debit balances in the discount, expense, and premium accounts for the several subclasses of funded debt. (See instruction 6-3.)

743 Other Deferred Charges.

This account shall include the amount of debit balances in suspense accounts that cannot be cleared and disposed of until additional information is received, such as freight claims paid when found to be correct, but in advance of investigation with other carriers; debit balances in clearing accounts, such as "Shop expenses," "Store expenses," "Operations of gravel pits," and "Operation of quarries;" unextinguished discount on short-term notes; unadjusted debit items not otherwise provided for and similar items the proper disposition of which is uncertain.

Credit

751 Loans and Notes Payable.

(a) This account shall include the balances representing obligations outstanding in the form of loans and notes payable or other similar evidences (except interest coupons) of indebtedness payable on demand or within a time not exceeding one year from date of issue.

(b) This account shall be kept in such form so as to show separately the amounts of notes payable within one year from date of issue that are secured by collateral.

NOTE: This account shall not include obligations which mature more than one year after date of issue, or demand or short-term notes issued to affiliated companies and includible in account 769, "Amounts payable to affiliated companies."

752 Traffic and Car-service Balances—Cr.

This account shall include the net of the balances receivable from or payable to other companies in the accounts representing interline freight, passenger, and baggage revenues, and charges for equipment interchanged on a per diem or a mileage basis, when such balances result in a net credit.

NOTE A: When the net of the balances is a debit it shall be included in account 708, "Traffic and car-service balances—Dr."

NOTE B: The amount to be entered in this account in the carrier's annual report to the Commission shall be stated in accordance with the text of this account. For convenience in accounting the carrier may maintain currently separate subaccounts under the following captions:

706 and 752(a) Interline freight, balance.
706 and 752(b) Interline passenger, balance.
706 and 752(c) Interline baggage, balance.
706 and 752(d) Equipment interchanged, balance.

753 Audited Accounts and Wages Payable.

This account shall include the amount of audited vouchers or accounts and audited payrolls unpaid on the date of the balance sheet. It shall include balances representing unclaimed wages and outstanding pay and time or discharge checks issued in payment of wages and all other unpaid vouchered items.

NOTE: The amount of checks and drafts, which have been transmitted to payees and which remain unpaid at the close of the accounting period, shall be credited to account 701, "Cash".

754 Miscellaneous Accounts Payable.

This account shall include outstanding drafts drawn by station agents, outstanding drafts drawn on the company in settlement of freight claims, conductors' refund and extra-fare checks not presented for redemption, deposits of affiliated companies subject to current settlement, taxes collected from employees and others for the account of taxing agencies, and other items of the nature of demand liabilities not covered by accounts 751, 752, 753, 755 and 756.

NOTE A: The amount to be reported under this account is not the net balance between this account and account 707, "Miscellaneous accounts receivable."

NOTE B: The amount of checks and drafts, which have been transmitted to payees and which remain unpaid at the close of the accounting period, shall be credited to account 701, "Cash". When the amount of such checks and drafts cannot be determined with absolute accuracy an estimate of the amount shall be used.

755 Interest Matured Unpaid.

This account shall include the amount of matured and unpaid interest on funded debt, and other obligations of the accounting company for which provision has been made for current settlement. Interest which matures on the first day following that for which the balance sheet is made shall be included in this account.

NOTE: Interest matured unpaid on nonnegotiable debt to affiliated companies, if not subject to current settlement, shall be included in account 769, "Amounts payable to affiliated companies."

756 Dividends Matured Unpaid.

This account shall include the amount of dividends payable on capital stock but unpaid, uncalled for, or unclaimed at the date of the balance sheet. Dividends which become payable on the first day following that for which the balance sheet is made shall be included in this account.

757 Unmatured Interest Accrued.

This account shall include the amount of interest subject to current settlement accrued to the date as of which the balance sheet is made, but not payable until after the first day following that date, on funded securities or obligations, debt in default, receivers' and trustees' securities, amounts payable to affiliated companies, notes payable and other indebtedness issued or assumed by the accounting company.

NOTE A: Interest accrued which is not paid when it matures shall be included in account 781, "Interest in default", unless provision has been made for current settlement. Where interest is in default, subsequent accruals shall be credited direct to account 781, "Interest in default."

NOTE B: Interest accrued on amounts recorded in account 769, "Amounts payable to affiliated companies," and not subject to current settlement, shall be included in that account.

758 Unmatured Dividends Declared.

This account shall include dividends declared on capital stock, but not payable until after the first day following the date of the balance sheet.

759 Accrued Accounts Payable.

This account shall include estimates of unaudited items payable by the carrier to the date of the balance sheet, including those which are chargeable to revenue, expense, or income accounts in accordance with the instruction relating to unaudited items. Among the items which should be included in this account are:

Rents payable under leases due subsequent to the date of the balance sheet which are not includible in account 754, "Miscellaneous accounts payable."

Amounts payable to others for unreported interline traffic.

Amounts payable to others for use of facilities, including equipment, for which bills have not been rendered.

Amounts payable to others for services for which bills have not been rendered.

Estimated amounts payable within one year covering liability for claims for injuries to persons, loss and damage, and similar items.

Amounts payable (estimated if necessary) within one year pursuant to agreements with labor organizations or otherwise for employees vacations now earned.

760 Federal Income Taxes Accrued.

This account shall be credited with the estimated liability for Federal income taxes which has been concurrently charged to the appropriate income or other authorized accounts.

761 Other Taxes Accrued.

(a) This account shall be credited with the accruals of all taxes, other than Federal income taxes, which have been concurrently charged to the appropriate income or other accounts for taxes. Such accruals may be based upon estimates, provided such estimates shall be adjusted so as to reflect in this account at all times the carrier's estimate of its unpaid liability for each of the several classes of taxes which have not been finally settled.

(b) This account shall be charged with vouchers for the current payment of taxes, including taxes paid in advance and also taxes for which accruals have not been made previously, but are to be credited to this account.

(c) The records supporting the entries in this account shall be kept to show separately by classes of taxes the amount of the tax accruals for the current year and adjustments of accruals for prior years.

763 Other Current Liabilities.

There shall be included in this account the principal amount of unpresented bonds drawn for redemption through the operation of sinking and redemption fund agreements, also the principal amount of unpresented funded debt obligations, and receivers' and trustees' securities which have matured (for which provision has been made for current settlement), and other current liabilities not covered by accounts 751 to 761, inclusive.

764 Equipment Obligations and Other Debt Due Within One Year.

This account shall include the total amount of bonds, equipment obligations, and other long-term debt obligations, including obligations maturing serially or payable in installments, which are due and payable within one year, and for which arrangements for refunding have not been made or for which no sinking funds have been provided. This account shall be subdivided according to the different classes of debt so maturing.

765 Funded Debt Unmatured.

(a) This account shall include the total par value of unmatured debt (other than equipment obligations), maturing more than one year from the close of the accounting period, whether the securities were issued by the accounting company or the payment was assumed by the accounting company after being issued as the debt of other companies. (See account 764, "Equipment obligations and other debt due within one year".)

(b) The amounts included in this account shall be divided so as to show the par value of (1) certificates or other evidences of funded debt (pledged and unpledged) held in the company's treasury, by its agents or trustees, or otherwise subject to its control, including both those reacquired after actual issue and those nominally but never actually issued; and (2) certificates or other evidences of funded debt issued and actually outstanding, being those not held by the company, its agents or trustees, or subject to its control.

(c) The amounts included herein shall be further divided so as to show the amount of each class of funded debt, as follows:

(1) *Mortgage bonds.* Bonds secured by lien on physical property and not includible in the other subdivisions of this account.

(2) *Collateral trust bonds.* Bonds and notes secured by a lien on securities or other negotiable paper; and stock trust certificates that are similar in character to collateral trust bonds.

(3) *Income bonds.* Bonds which are a lien on a carrier's revenue alone, or bonds which, while being a lien on its property and franchises, can claim payment of interest only in case interest is earned.

(4) *Miscellaneous obligations.* All funded obligations not provided for by the other subdivisions of this account, also notes, unsecured certificates of indebtedness, debenture bonds, plain bonds, real estate mortgages executed or assumed and other similar obligations maturing more than one year from date of issue, but excluding liabilities for assessments for public improvements and those evidenced by conditional or deferred equipment purchase contracts for which provision is made in account 782, "Other liabilities," and account 766, "Equipment obligations," respectively.

(5) *Receipts outstanding for funded debt.* Receipts for payments on account of funded debt. When certificates are issued for such payments, the par value shall be included in the account covering the class of funded debt for which the certificates are issued.

(d) Each of the above classes shall also be divided into subclasses according to differences in mortgage or other lien or security therefor, rate of interest, interest dates, or date of maturity. Parts of any issue agreeing in other characteristics but maturing serially may be treated as of the same subclass.

(e) Records shall be maintained in such manner as to show (1) securities the issuance or assumption of which has been authorized by the Commission under provisions of the Interstate Commerce Act, and similar securities issued or assumed prior to the effective date of such provisions of the Act, and (2) other obligations of a kind which may legally be issued or assumed without such authorization.

NOTE A: Securities (other than equipment obligations) maturing one year or less from date of issue shall be included in account 769, "Amounts payable to affiliated companies," or 751, "Loans and notes payable," except that where an issue of securities maturing serially over a period of years contains short-term obligations such obligations may be included as funded debt. Matured funded debt shall be included in account 763, "Other current liabilities," if provision has been made for current settlement. If no provision has been made for current settlement, matured funded debt shall be included in account 768, "Debt in default," except that when the collection of matured funded debt of affiliated companies is not enforced by controlling companies, the principal amount (to the extent held by a controlling company) shall be included in account 769, "Amounts payable to affiliated companies."

NOTE B: See definitions 2, actually issued; 3, actually outstanding; 14, nominally issued; and 15, nominally outstanding.

NOTE C: Nonnegotiable notes having a maturity of more than one year after date of issue, held by affiliated companies, shall be included in account 769, "Amounts payable to affiliated companies."

NOTE D: Securities nominally issued or reacquired and held in the company's treasury, except securities held by trustees in sinking or other funds, shall be included in a subdivision of this account. In the general balance-sheet statement the total unmatured funded debt included in the account shall be shown in the first short column. The amount nominally but not actually issued and the amount nominally outstanding shall be shown in the second short column, and in the long column shall be shown the amount actually outstanding.

766 Equipment Obligations.

(a) This account shall include the par value of equipment securities and the principal amount of contractual obligations for the purchase of equipment, excluding principal or obligations maturing serially or payable in installments within one year from the close of the accounting period. (See account 764, "Equipment obligations and other debt due within one year.") The amounts included herein shall be divided as follows:

(b) Principal amount of equipment securities including those maturing serially, issued or assumed by the accounting company or by receivers and trustees, which have been authorized by the Commission under provisions of the Interstate Commerce Act and similar securities issued or assumed prior to the effective date of such provisions of the Act.

(c) Principal sums of obligations for equipment purchased under conditional or deferred payment contracts, which may be legally entered into or assumed by the accounting company or by receivers and trustees, without authorization by the Commission.

767 Receivers' and Trustees' Securities.

When receivers or trustees acting under the orders of a court are in possession of the property of the company, and under the order of such court issue or assume evidences of indebtedness (other than equipment securities or obligations) the par value of such evidences shall be credited to this account.

NOTE: The par value of equipment securities or the principal amount of obligations incurred for the purchase of equipment under conditional or deferred payment contracts shall be included in account 766, "Equipment obligations."

768 Debt in Default.

This account shall include amounts transferred from other accounts representing matured funded securities or obligations, receivers' and trustees' securities, equipment obligations and short-term notes, when maturity dates of such obligations have not been extended.

NOTE A: The principal amount of matured funded debt of affiliated companies the collection of which is not enforced by the controlling company shall (to the extent of the principal amount held by the controlling company) be included in account 769, "Amounts payable to affiliated companies."

NOTE B: The principal amount of unpresented funded debt obligations which have matured, and for which provision has been made for payment shall be included in account 763, "Other current liabilities."

769 Amounts Payable to Affiliated Companies.

This account shall include the par value of *nonnegotiable* notes issued to affiliated companies; also matured funded debt of affiliated companies held by controlling companies where there is no agreement for an extension as to time of payment and collection of the principal is not enforced; credit balances in open accounts with such companies other than credit balances in current accounts classable as current liabilities, and interest accrued on notes, matured funded debt of affiliated companies and open accounts included in this account, when such interest is not subject to current settlements. The amounts included herein shall be divided as follows:

(a) Notes, including herein not only nonnegotiable notes that run longer than a term of one year, but also such notes payable on demand or within one year from the date of issue when it is mutually agreed that the notes shall not be enforced as current assets by the holder.

(b) Par value of matured funded debt of affiliated companies held by controlling companies where there is no agreement for an extension of time and collection is not enforced.

(c) Open accounts not subject to current settlement.

(d) Interest accrued on amounts included in this account when not subject to current settlements.

NOTE A: Accounts with affiliated companies which are subject to current settlements, such as traffic and car-service balances, charges for material and supplies currently furnished, charges for repairs to equipment, etc., shall be classed as current assets or current liabilities, as may be appropriate.

NOTE B: No item shall be included in this account which is not known to be the property of an affiliated company.

NOTE C: The term "affiliated companies" includes:

1. Controlled companies, including companies solely controlled by the accounting company, and also companies jointly controlled by the accounting company and others under a joint arrangement. (See Definition 4.)

2. Controlling companies, including both companies solely controlling the accounting company, and companies which jointly control the accounting company under a joint arrangement.

3. Companies controlled by controlled companies.

4. Companies controlled by controlling companies.

By "control" (See Definition 8) is meant the ability to determine the action of a corporation. For the purposes of this account, the following are to be considered forms of control:

(a) Right through title to securities issued or assumed to exercise the major part of the voting power in the controlled corporation.

(b) Right through agreement of some character or through some source other than title to securities, to name the majority of the board of directors, managers, or trustees of the controlled corporation.

(c) Right to foreclose a first lien upon all or a major part in value of the tangible property of the controlled corporation.

(d) Right to secure control in consequence of advances made for construction of the operating property of the controlled corporation.

(e) Right to control only in a specific respect the action of the controlled corporation.

A leasehold interest in the property of a corporation is not to be classed as a form of control over the lessor corporation.

"Sole control" is that which rests in one corporation.

"Joint control" is that which rests in two or more corporations and which is held under a joint arrangement.

771 Pension and Welfare Reserves.

(a) This account shall include the credit balances representing the liability of the carrier for amounts provided by charges to operating expenses, including amounts contributed by employees, irrespective of whether carried in special funds or in general funds of the carrier, for pensions, accident and death benefits, savings, relief, hospital, or other provident purposes.

(b) Separate subaccounts shall be kept for each kind of reserve created, and the appropriate reserve shall be charged when payments are made to retired employees, or disbursements are made for the purposes for which the reserves were created.

772 Insurance Reserves.

This account shall include the accumulated balance of amounts for self-carried insurance risks representing premiums which were charged to operating expenses for fire, fidelity, boiler, casualty, burglar and other insurance. Losses on items protected by such insurance shall be charged to this account.

773 Equalization Reserves.

This account shall include ledger balances representing reserves created by charges to operating expenses for maintenance of road and equipment under a program designed to equalize such expenses by months within a calendar year. The debit or credit balances in this account shall be closed at the end of each calendar year to the accounts through which they were created.

774 Casualty and Other Reserves.

(a) This account shall include reserves created by charges to operating expenses to provide for estimated liability for injuries to persons and loss and damage claims; estimated liability for revenue overcharges, such as those covered by reparation claims; and reserves not otherwise provided for in balance sheet accounts.

(b) Estimates of amounts payble within one year covering liability for claims for injuries to persons, loss and damage, and similar items, shall be transferred from this account to account 759, "Accrued accounts payable."

NOTE: With respect to injuries to persons and loss and damage claims, if the settlements when audited are charged to this account the balances for each year shall be kept separately until all items have been adjusted and cleared, but, if the settlements when audited are charged to the appropriate expense accounts the balance in this account shall be adjusted through the appropriate expense accounts so as to reflect the probable liability at the close of each year.

781 Interest in Default.

This account shall include the amount of matured and unpaid interest (for which no provision has been made for current settlement) on all indebtedness issued or assumed by the accounting company except interest which is added to the principal of the debt on which incurred. Where interest is in default, subsequent accruals shall be credited direct to this account.

782 Other Liabilities.

This account shall include assessments for public improvements; retained amounts due governmental agencies for construction work; percentages due contractors to be paid upon completion of contracts; deposits for construction of side tracks to be refunded on basis of an agreed portion of the earnings from the traffic handled over the tracks and similar liabilities not payable within one year. This account shall also include other deferred liabilities and liabilities not otherwise provided for in general balance sheet accounts. Assessments for public improvements and amounts due governmental agencies and others for payments to be made within one year, shall be included in account 763, "Other current liabilities," or other appropriate current liability account.

783 Unamortized Premium on Long-term Debt.

This account shall include the total of the net credit balances in the discount, expense, and premium accounts for the several subclasses of funded debt.

784 Other Deferred Credits.

This account shall include the amount of credit balances in suspense accounts that cannot be disposed of until services are performed or additional information is received, such as amounts received from sale of mileage tickets, to be disposed of as mileage is honored; amounts received from sales of excess baggage script, to be disposed of as coupons are honored; interchangeable mileage credential ticket redemption funds, amounts collected from the sale of damaged, unclaimed, and over freight held pending final disposition; credit balances in clearing accounts, such as "Shop expenses," "Store expenses," "Operating gravel pits," and "Operating quarries"; unadjusted credit items not otherwise provided for; and similar items, the proper disposition of which is uncertain.

NOTE: Estimated liability for claims and other accounts payable currently are includible in account 759, "Accrued accounts payable."

785 Accrued Depreciation; Leased Property.

(a) This account shall be credited with amounts concurrently charged to operating expenses or other accounts to cover the estimated accrued depreciation on leased road and equipment when settlements between the accounting company and the lessor are not made currently. It shall also be credited with depreciation accrued on property the cost of which is included in account 732, "Improvements on leased property."

(b) When leased property for which accruals have been included in this account is retired from service, the entire service value of property the cost of which has been charged to account 732 by the lessee shall be charged to this account. This account shall also be charged with the service value of property, the ledger value of which is carried in account 731, "Road and equipment property," by the lessor for which the lessee is liable to the lessor. See instruction 2-17.

791 Capital Stock Issued.

(a) This account shall include the total par value of par value stock, and the total amount paid in or the amount approved by the Commission for stock without par value, for all shares of capital stock or other form of proprietary interest in the accounting company which have been issued to bona fide purchasers and have not been reacquired and canceled, also shares of stock nominally issued, and reacquired shares which have not been canceled.

(b) This account also shall include amounts transferred from retained income for no par stock when approved by the Commission.

(c) The amount of the consideration received from the sale of par value stock in excess of the amount credited to this account shall be credited to account 794, "Premiums and assessments on capital stock".

(d) When capital stock is retired or canceled, this account shall be charged with the amount at which such stock is carried in this account. In the case of no par stock the amount to be charged hereto shall be the proportion, applicable to the reacquired shares immediately prior to reacquisition, of the total book liability included herein of actually outstanding shares of the particular class and series of stock of which the reacquired shares are a part.

(e) The amounts included in this account shall be recorded so as to show: (1) Par value of shares of par value stock and amount paid in or approved by the Commission of shares of no par stock (pledged or unpledged) held in the company's treasury, by its agents or trustees, or otherwise subject to its control, including shares nominally but never actually issued and (2) Par value of shares of par value stock and amount paid in or approved by the Commission of shares of no par stock issued and actually outstanding, being the shares not held by the company, its agents, or trustees, or subject to its control.

(f) The amounts included herein shall be further divided so as to show the amount of each class of stock issued, separated as between par value and no par value stock, as follows:

(1) *Common stock.* Stocks which have no preference over other issues of stock in distribution of dividends or of assets.

(2) *Preferred stock.* Stocks having preference over other issues of stock in distribution of dividends or of assets.

(3) *Debenture stock.* Stocks issued under a contract to pay a specified return at specified intervals.

(4) *Receipts outstanding for installments paid.* Receipts for payments on account of subscriptions to capital stock.

(g) When the subscriber has paid his subscription in full and is entitled to receive certificates representing the shares for which he has subscribed, the par value of stocks having par value or the agreed purchase price or the price authorized by the Commission of stock without par value shall be included in the division appropriate for the class for which the certificates are issued.

(h) Each of the above classes shall also be divided into subclasses according to differences in dividend or interest rights, voting rights, or conditions under which the securities may be retired.

NOTE A: When a general levy or assessment is made against the holders of capital stock, requiring the payment of any sum in addition to the consideration agreed upon at the time of sale, the amount collected upon such levy or assessment shall be credited to account 794, "Premiums and assessments on capital stock."

NOTE B: When capital stock having par value is exchanged for capital stock without par value any sums resting in account 794, "Premiums and assessments on capital stock," with respect thereto shall be cleared to account 791, "Capital stock issued," and any amounts resting in the discount account with respect thereto shall be cleared to account 795, "Paid-in surplus"; *Provided, however,* That any excess over the amount of accumulated net gains applicable to the subclass exchanged included in paid-in surplus shall be charged to account 616, "Other debits to retained income."

NOTE C: An appropriate record shall be maintained with respect to shares of capital stock showing the number of shares nominally issued, nominally outstanding, actually issued and actually outstanding.

NOTE D: See definitions 2, actually issued; 3, actually outstanding; 14, nominally issued; and 15, nominally outstanding.

NOTE E: Shares of stock nominally issued or reacquired and held in the company's treasury, except shares held by trustees in sinking or other funds, shall be included in a subdivision of this account. In the balance-sheet statement the balance in the subaccount shall be stated in the short column only.

792 Stock Liability for Conversion.

This account shall include the company's liability under agreements to exchange its capital stock for the outstanding securities of companies whose physical property has been acquired under such agreements, but whose securities have not yet been surrendered for exchange.

793 Discount on Capital Stock.

This account shall include discount suffered in the issuance and sale of capital stock. Record supporting the entries to this account shall be kept to show the discount suffered, if any, on each subclass of capital stock.

794 Premiums and Assessments on Capital Stock.

(a) This account shall include the excess of the actual cash value (at the time of the sale of the stock) of the consideration received over the amounts recorded in account 791, "Capital stock issued," for par value stock plus accrued dividends, if any, also subsequent assessments against stockholders representing payments required in excess of par or other amounts recorded in account 791, "Capital stock issued," in accordance with the text of that account.

(b) When capital stock is retired and canceled, the amount in this account with respect to the shares of such stock retired and canceled shall be charged hereto.

795 Paid-in Surplus.

(a) This account shall include such items as amount of consent dividends on the accounting company's capital stock; surplus arising from donations by stockholders of capital stock of the company or other contribution to capital; amounts representing reduction of the par or recorded value of the accounting company's capital stock including reductions arising in merger of a railroad and pooling of interest; (see instruction 2-14 (d)) and amounts of forfeited subscriptions to the accounting company's capital stock. This account shall also include gains from the acquisition, retirement, or resale of reacquired shares of the accounting company's capital stock; and forgiveness by stockholders as a contribution to capital of long-term debt owed to them.

(b) This account shall be charged with amounts included herein when capitalized by stock dividends or otherwise with the approval of the Commission, and losses from retirement or resale of reacquired shares up to an amount not in excess of credits included herein applicable to the reacquired shares; and may be charged with the amortization of discount on capital stock to the extent of credits herein.

796 Other Capital Surplus.

This account shall include all capital surplus not provided for in account 795, "Paid-in surplus."

797 Retained Income; Appropriated.

This account shall include the accumulated amount of retained income which has been appropriated and set aside pursuant to provisions of mortgages, deeds of trust, reorganization plans, or other agreements requiring payments into capital funds, sinking funds, or other funds; and also appropriations for general contingencies, possible future losses and other corporate purposes. The account is to be subdivided by classes of appropriations showing the purpose for which each is made.

798 Retained Income; Unappropriated.

(a) This account shall include the net balance (debit or credit) of the amounts included in accounts 601 to 623, inclusive. It shall not include transfers either to or from accounts 795, "Paid-in surplus," or 796, "Other capital surplus," unless so authorized upon application to the Commission.

(b) Any balance representing retained income not segregated at the date of the balance sheet shall be included in a subdivision of this account.

(c) The balance of accounts 601 to 623, inclusive, shall be closed into this account at the end of each calendar year.

799 Form of General Balance Sheet Statement.

The classified form of general balance sheet statement is designed to show the financial condition of the accounting company at any specified date.

ASSETS

Current assets:
- 701. Cash.
- 702. Temporary cash investments.
- 703. Special deposits.
- 704. Loans and notes receivable.
- 705. Traffic and car-service balances—Dr.
- 706. Net balance receivable from agents and conductors.
- 707. Miscellaneous accounts receivable.
- 708. Interest and dividends receivable.
- 709. Accrued accounts receivable.
- 710. Working fund advances.
- 711. Prepayments.
- 712. Material and supplies.
- 713. Other current assets.
- Total current assets.

Special funds:
- 715. Sinking funds.
- 716. Capital and other reserve funds.
- 717. Insurance and other funds.
- Total special funds.

Investments:
- 721. Investments in affiliated companies.
- 722. Other investments.
- 723. Reserve for adjustment of investment in securities—Cr.
- Total investments.

Properties:
- 731. Road and equipment property.
- 732. Improvements on leased property.
- Total transportation property.
- 735. Accrued depreciation—Road and equipment.
- 736. Amortization of defense projects—Road and equipment.
- Total transportation property less recorded depreciation and amortization.
- 737. Miscellaneous physical property.
- 738. Accrued depreciation—Miscellaneous physical property.
- Miscellaneous physical property less recorded depreciation.
- Total properties less recorded depreciation and amortization.

Other assets and deferred charges:
- 741. Other assets.
- 742. Unamortized discount on long-term debt.
- 743. Other deferred charges.
- Total other assets and deferred charges.
- Total assets.

LIABILITIES AND STOCKHOLDERS' EQUITY

Current liabilities:
- 751. Loans and notes payable.
- 752. Traffic and car-service balances—Cr.
- 753. Audited accounts and wages payable.
- 754. Miscellaneous accounts payable.
- 755. Interest matured unpaid.
- 756. Dividends matured unpaid.
- 757. Unmatured interest accrued.
- 758. Unmatured dividends declared.
- 759. Accrued accounts payable.
- 760. Federal income taxes accrued.
- 761. Other taxes accrued.
- 763. Other current liabilities.
- Total current liabilities (exclusive of long-term debt due within one year).

Long-term debt due within one year:
784. Equipment obligations and other debt.
Long-term debt: [1]
786. Funded debt unmatured.
786. Equipment obligations.
787. Receivers' and trustees' securities.
788. Debt in default.
789. Amounts payable to affiliated companies.
Total long-term debt.
Reserves:
771. Pension and welfare reserves.
772. Insurance reserves.
773. Equalization reserves.
774. Casualty and other reserves.
Total reserves.
Other liabilities and deferred credits:
781. Interest in default.
782. Other liabilities.
783. Unamortized premium on long-term debt.
784. Other deferred credits.
785. Accrued depreciation—Leased property.
Total other liabilities and deferred credits.
Shareholders' equity:
Capital stock (par or stated value):
791. Capital stock issued.[1]
792. Stock liability for conversion.
793. Discount on capital stock.
Total capital stock.
Capital surplus:
794. Premiums and assessments on capital stock.
795. Paid-in surplus.
796. Other capital surplus.
Total capital surplus.
Retained income:
797. Retained income—Appropriated.
798. Retained income—Unappropriated.
Total retained income.
Total shareholders' equity.
Total liabilities and shareholders' equity.

CLASSIFICATION OF MILEAGE ACCOUNTS

Train Miles

800 Rules and Definitions.

(a) A train is a unit of equipment, or a combination of units of equipment (exclusive of light locomotives), in condition for movement over tracks by self-contained motor equipment. A locomotive is a self-propelled unit of equipment designed solely for moving other equipment. A light locomotive is a locomotive in condition for movement by its own motor equipment, uncoupled to cars, work equipment, or dead locomotives. A motor car is a self-propelled unit of equipment designed to carry freight or passenger traffic, and is not to be considered a locomotive.

(b) A train-mile is the movement of a train a distance of one mile.

(c) In computing train-miles, fractions representing less than one-half mile shall be disregarded and other fractions considered as one mile.

(d) Transportation service train-miles shall be based on the actual distance run between terminals, and stations, and shall be computed from the official time-tables or distance tables.

(e) Work service train-miles shall be based on the actual distance run between terminals. When work trains are run between terminals and not ordered to work at some specified point or within specified working limits, the actual miles run shall be allowed to them, the same as to any other class of trains. When ordered to run to a certain point to work at that point or within specified working limits, the actual miles made while under running orders shall be allowed, and in addition an arbitrary mileage of six miles per hour for the time working at the point or within the working limits named. In computing such arbitrary mileage, fractions representing less than one-half hour shall be disregarded and other fractions considered as one hour. Constructive miles on the basis of six miles per hour shall be allowed trains run for the purpose of removing snow when the actual miles of such trains are less than the constructive miles. No record is required of work-train miles on new roads, road extensions, or portions of such roads or extensions, before the commencement of the regular operation of revenue service trains.

(f) Each train and each section of a train run by a separate train crew shall be considered a separate train, whether hauled by one or more locomotives either the whole distance or a part of the distance between the train terminals. There shall be nothing added to this distance to cover running of locomotives from enginehouses to terminals, doubling hills, running for water, switching, or other work at way stations, or for the service of helper or pusher locomotives or of extra locomotives on double-head or triple-head trains.

(g) When the carrier's trains, hauled by its locomotives and handled by its crews, are detoured over foreign roads, the miles shall be computed on the basis of the miles actually run, and classified by it in its train-miles in accordance with the service performed.

(h) Separate accounts of train-miles shall be kept for trains hauled by locomotives and for trains moved by motor cars.

Train-Mile Accounts

TRANSPORTATION SERVICE [1]

801 Freight-train Miles.

(a) This account shall include miles run by all trains between terminals or stations for the transportation of revenue and company freight; also miles run by trains consisting of empty freight cars, and by trains consisting of a locomotive and caboose running light in connection with such service.

(b) Trains which contain passenger-train cars shall be classed as freight trains whenever the number of freight-train cars is in excess of the number of passenger-train cars in them.

(c) Freight-train miles shall be subdivided as follows:

(1) Ordinary freight-train miles: Miles run by trains consisting of a locomotive, with or without caboose, with other equipment.

(2) Light freight-train miles: Miles run by trains consisting of a locomotive and caboose, running light in connection with freight-train service.

802 Passenger-train Miles.

(a) This account shall include miles run by revenue service trains to transport passengers, baggage, mail, milk, express, or any combination of these; also miles run by trains consisting of deadhead passenger equipment.

(b) Trains which contain freight-train cars shall be classed as passenger trains whenever the number of passenger-train cars is in excess of the number of freight-train cars in them.

NOTE: This account does not apply to trains run for the transportation of mail or milk upon the basis of authorized tariffs at rates based upon weight. The miles of such trains shall be classed as freight-train miles.

WORK SERVICE

805 Work-train Miles.

This account shall include miles run by trains engaged in company service, such as official, inspection, and pay trains; inspection trains for railway commissioners for which no revenue is received; trains running special with fire apparatus to save the carrier's property from destruction; trains run for transporting the carrier's employees to and from work when no transportation charge is made; wrecking trains; trains run for the purpose of ditching, filling embankments, and widening cuts; trains run for the purpose of removing snow; trains distributing ties, rails, other track material, ballast, bridge material, and other material and supplies for maintenance or for additions and betterments; trains run for picking up and concentrating such material; and trains run for distributing material and supplies for use in connection with operation.

NOTE A: The accounting for expenses of work-train service shall be in accordance with paragraph (c) of instruction 2-8, Components of construction cost, and instruction 3-1, Items to be charged, and other requirements of the accounting regulations for operating expenses.

NOTE B: No record is required of the miles of construction trains on new roads or road extensions, or on portions of such roads or extensions, before the commencement of the regular operation of revenue service trains.

Locomotive Miles

810 Rules and Definitions.

(a) A locomotive is a self-propelled unit of equipment designed solely for moving other equipment. A locomotive-mile is a movement of a locomotive a distance of one mile, under its own power.

(b) In computing locomotive-miles fractions representing less than one-half mile shall be disregarded, and other fractions considered as one mile.

(c) All locomotive-miles made in hauling transportation service trains shall be based upon the actual distance run between terminals or stations, and shall be computed from the official time-tables or distance tables as prescribed for train-miles.

(d) Light-locomotive miles shall be based on the actual distance locomotives run, except that no light-locomotive miles shall be allowed for terminal service where the distance in one direction is less than one-half mile.

(e) Miles of locomotives in helper service shall be computed on the basis of actual distance run in such service.

(f) Train switching locomotive-miles shall be computed at the rate of six per hour for the time actually engaged in such service. In computing such arbitrary mileage fractions representing less than one-half hour shall be disregarded and other fractions considered as one hour.

(g) Yard switching locomotive-miles shall be computed at the rate of six miles per hour for the time actually engaged in such service. In computing yard switching locomotive-miles, fractions representing less than one-half hour shall be disregarded, and other fractions considered as one hour.

(h) Work-train locomotive-miles shall be computed according to the rules prescribed for work-train miles. Miles of work locomotives employed in switching at shops for shop purposes, spotting cars in gravel pits, working with pile drivers, etc., shall be computed upon the basis of six miles per hour for the actual time in the service. In computing the time engaged fractions representing less than one-half hour shall be disregarded and other fractions considered one hour.

(i) The miles of new or generally repaired locomotives running light in breaking-in service shall not be included in the locomotive-mile accounts.

(j) No record is required of the miles of locomotives in construction service on new roads or road extensions, or on portions of such roads or extensions, before the commencement of the regular operation of revenue service trains.

(k) A separate record shall be kept for miles of steam locomotives and for miles of other locomotives.

(l) Miles of motor cars shall not be classed as locomotive-miles.

Locomotive-Mile Accounts

TRANSPORTATION SERVICE; LINE [1]

811 Freight Locomotive-miles.

(a) This account shall include miles run by locomotives in freight-train service, the train-miles of which are includible in account 801, "Freight-train miles."

(b) Principal freight locomotive-miles: Miles run by locomotives principal to the train, between terminals or stations, with freight trains; also miles run by locomotives between terminals or stations, with cabooses, going to or returning from such service; and miles run in hauling the second cut of freight trains doubled over grades.

(c) Helper freight locomotive-miles: Miles run by locomotives as helpers over the division or that portion covered by the run, or on important grades, including double-headers, triple-headers, and pushers, regardless of whether on the head end, in the middle, or on the rear of the train.

(d) Light freight locomotive-miles: Miles run by locomotives light between terminals or stations in connection with freight-train service on account of unbalanced traffic; miles run light for hauling second cuts of trains doubled; miles run light between freight trains and next fuel station or water tank for fuel or water; miles run light to pick up or assist freight trains between terminals; miles run light by grade helpers in returning from assisting freight trains as pushers or double-headers; and miles run light by locomotives coming from or going to enginehouses or turntables from freight-train service.

NOTE: No miles shall be allowed for light movements at terminals if the distance between enginehouses or turntables and freight-train terminals is less than one-half mile.

812 Passenger Locomotive-miles.

(a) This account shall include miles run by locomotives in passenger-train service, the train-miles of which are includible in account 802, "Passenger-train miles."

(b) Principal passenger locomotive-miles: Miles run by locomotives principal to the train between terminals or stations, with passenger trains.

(c) Helper passenger locomotive-miles: Miles run by locomotives as helpers over the division, or that portion covered by the run, or on important grades.

(d) Light passenger locomotive-miles: Miles run by locomotives light between terminals or stations on account of unbalanced traffic, in connection with passenger-train service; miles run light between passenger trains and next fueling station or water tank for fuel or water; miles run light to pick up or assist a passenger train between terminals; miles run light by grade helpers in returning from assisting passenger trains as pushers or doubleheaders; and miles run light by locomotives coming from or going to enginehouses or turntables from passenger-train service.

NOTE: No miles shall be allowed for light movements at terminals if the distance between enginehouses or turntables and passenger-train terminals is less than one-half mile.

TRANSPORTATION SERVICE; SWITCHING

815 Train Switching Locomotive-miles.

This account shall include miles allowed train locomotives for performing switching service at terminals and way stations. Include such items as switching at industry tracks, team tracks, freight house tracks, and interchange tracks; picking up or leaving cars en route; switching out bad order cars, weighing cars, making up or breaking up train at points where no yard service is maintained. No time should be included representing delays that may occur after yard switching has been completed such as waiting for a train order, held up account of meeting with a train in opposite direction, waiting for wayhills or other time lost due to conditions other than actual train switching.

816 Yard Switching Locomotive-miles.

This account shall include miles allowed yard locomotives while switching in yards where regular switching service is maintained; also miles of switching locomotives running light between terminals and yards where regular switching service is maintained in connection with switching service in such yards. This account shall be subdivided as follows:

(a) Yard switching locomotive-miles; freight: Miles allowed yard locomotives in yards where regular switching service is maintained and in terminal switching and transfer service while engaged in switching cars in connection with the transportation of revenue freight; also miles allowed locomotives in such service while engaged incidentally in switching cars in connection with the transportation of company freight.

(b) Yard switching locomotive-miles; passenger: Miles allowed yard locomotives while switching cars in connection with passenger-train service.

NOTE: Where yard switching is performed for both freight and passenger service by the same locomotive, or by locomotives assigned to one yard, a fair approximation of the mileage may be assigned to each service daily or monthly.

WORK SERVICE

817 Work Service Locomotive-miles.

This account shall include the actual miles run by locomotives in work-train service as defined in account 805, "Work-train miles;" also miles of locomotives engaged solely in shop or material yard switching service.

NOTE A: Miles run by locomotives while engaged incidentally (in connection with regular yard switching service) in switching company material in company shop or material yards, or in switching equipment for repairs between yards and shops, shall be included in account 816, "Yard switching locomotive-miles."

NOTE B: Miles run by locomotives engaged in shop and material yard switching service, if operated by shop employees, shall not be included in this account.

Car Miles

820 Rules and Definitions.

(a) A car-mile is a movement of a unit of car equipment a distance of one mile.

(b) In computing car-miles, fractions representing less than one-half mile

[1] To be divided as to "Total issued" and "Held by or for company."

[1] These accounts shall include the miles of all revenue service trains, including trains which incidentally carry employees or company freight. They shall also include the miles of trains which are operated between terminals or stations to transport company freight, when the service is similar to that connected with the transportation of commercial freight and statistics of ton-miles are kept.

The trains here referred to are those the locomotive and train expenses of operating which are includible in the locomotive and train expense accounts in the primary accounts under account 370, Transportation; rail line.

[1] This account shall include the miles run by locomotives moving transportation service trains, and also miles run light in connection with such service.

shall be disregarded, and other fractions considered as one mile.

(c) Separate accounts of car-miles shall be kept for the cars in trains hauled by locomotives and for the cars in trains moved by motor cars. The record of car-miles in trains moved by motor cars shall show separately the miles for motor cars and for cars not thus equipped.

Car-Mile Accounts

Transportation Service

321 Freight-train Car-miles.

(a) This account shall include the miles run by freight-train cars (including caboose cars) in transportation service. Such car-miles shall be subdivided as follows:

Loaded (run by loaded freight cars).
Empty (run by empty freight cars).
Caboose (run by caboose cars).

(b) This account shall be so kept as to show miles run in freight trains and in passenger trains separately.

(c) Miles run by flat cars loaded with empty railroad-owned or controlled highway trailers shall be classed as "empty" car-miles. Miles run by flat cars loaded with empty highway trailers, other than railroad-owned or controlled and moving on revenue billing, shall be classed as "loaded" car-miles.

322 Passenger-train Car-miles.

(a) This account shall include the actual miles run by passenger-train cars in transportation service. It shall include miles of loaded cars and also of empty cars deadheaded in connection with the service, and shall be subdivided as follows:

(1) *Coaches.* Miles run by coaches and chair cars in which passengers are carried at regular tariff fares without extra charge for space occupied.

(2) *Combination coach cars.* Miles run by combination passenger and baggage, passenger and mail, and passenger and express cars in which passengers are carried at regular tariff fares without extra charge for space occupied.

(3) *Sleeping and parlor cars.* Miles run by sleeping, parlor, and other cars for which an extra fare is charged for space occupied.

(4) *Dining, club, lounge, and observation cars.* Miles run by dining, cafe, and other cars devoted exclusively to the serving of meals and other refreshments and by club, lounge, and observation cars without charge in excess of sleeping or parlor car fares.

(5) *Business cars.* Miles run by all railway business cars operated for the transportation of the carrier's officers and employees.

(6) *Other passenger-train cars.* Miles run by baggage, express, mail, milk, and postal cars, and by cars in which such services are combined. (This class includes no cars intended for the transportation of revenue passengers.)

(b) This account shall be so kept as to show miles run in freight trains and in passenger trains separately.

Work Service

323 Work Service Car-miles.

This account shall include miles run by cars in work trains, except by equipment which is designed exclusively for work service, such as snow plows, flangers, derricks, pile drivers, wrecking cranes, tool cars, and camp outfits. (For description of work train see account 305, "Work-train miles.")

PART 1202—ELECTRIC RAILWAYS

Operating Expenses

00-1	Classification of carriers.
00-2	Definitions.
01	General instructions.
01-1	Accounts for operating expenses.
01-2	Auxiliary operations.
01-3	Exclusion of auxiliary operations expenses.
01-4	General account for power.
01-5	Unaudited items affecting operating accounts.
01-6	Extraordinary and prior permit items.
01-7	Subprimary accounts for steam railway operations, water line operations, and motor carrier operations.
01-8	Salvage and value of material removed.
01-9	Insurance recovered.
01-10	Property retired.
01-11	Adjustment for converted property.
01-12	Interpretation of item lists.
01-13	Cost of work.
01-14	Depreciation.
01-15	Equalization of maintenance expenses.

Operating Expense Accounts

0	General accounts.
0-1	Way and structures.
1	Superintendence.
2	Ballast.
3	Ties.
4	Rails.
5	Rail fastenings and joints.
6	Special work.
7	Underground construction.
8	Track and roadway labor.
9	Small tools and roadway expenses.
10	Paving.
11	Cleaning and sanding track.
12	Removal of snow and ice.
13	Tunnels and subways.
14	Elevated structures and foundations.
15	Bridges, trestles, and culverts.
16	Crossings, fences, and signs.
17	Signals and interlockers.
18	Communication systems.
19	Miscellaneous way expenses.
22	Distribution system.
23	Miscellaneous electric line expenses.
24	Buildings, fixtures, and grounds.
24-1	Maintenance steam railway road property.
24-2	Maintenance water line terminal property.
24-3	Maintenance motor carrier property.
25	Depreciation of way and structures.
26	Other operations—Dr.
27	Other operations—Cr.
28	Equalization; way and structures.
28-2	Retirements; way and structures.
28-3	Dismantling retired way and structures.
0-3	Equipment.
29	Superintendence.
30	Passenger and combination cars.
31	Freight, express, and mail cars.
32	Service equipment.
33	Electric equipment of cars.
34	Locomotives.
35	Floating equipment.
35-1	Maintenance steam railway equipment.
35-2	Maintenance water line equipment.
35-3	Maintenance motor carrier equipment.
36	Shop equipment.
37	Shop expenses.
38	Maintenance of automotive and miscellaneous equipment.
39	Miscellaneous equipment expenses.
40	Depreciation of equipment.
42	Other operations—Dr.
43	Other operations—Cr.
44	Equalization; equipment.
44-8	Dismantling retired equipment.
0-2	Power.
45	Superintendence.
46	Power plant buildings, fixtures, and grounds.
47	Power plant equipment.
49	Transmission system.
50	Depreciation of power plants.
51	Equalization; power.
51-8	Dismantling retired power plants.
52	Power plant employees.
53	Fuel, water, and lubricants for power.
56	Miscellaneous supplies for power.
59	Power purchased.
60	Power exchanged; balance.
61	Power transferred; credit.
62	Other operations—Cr.
0-4	Conducting transportation.
63	Superintendence.
64	Passenger conductors, motormen, and trainmen.
65	Freight and express conductors, motormen, and trainmen.
66	Miscellaneous car-service employees.
67	Miscellaneous car-service expenses.
68	Station employees.
69	Station expenses.
70	Carhouse employees.
71	Carhouse expenses.
72	Operation of signal and interlocking apparatus.
73	Operation of communication systems.
74	Operation of floating equipment.
75	Operation of locomotives.
75-1	Steam railway operations.
75-2	Waterline operations.
75-3	Motor carrier operations.
76	Collection and delivery.
77	Loss and damage.
78	Other transportation expenses.
0-5	Traffic.
79	Superintendence.
80	Advertising.
81	Parks, resorts, and attractions.
82	Miscellaneous traffic expenses.
0-6	General.
83	Salaries and expenses of general officers.
84	Salaries and expenses of general office clerks.
85	General office supplies and expenses.
86	Law expenses.
87	Relief department expenses.
88	Pensions and gratuities.
89	Miscellaneous general expenses.
90	Valuation expenses.
91	Amortization of franchises.
92	Injuries and damages.
93	Insurance.
94	Stationery and printing.
95	Store expenses.
96	Service garage expenses and supplies.
97	Rent of tracks and facilities.
98	Rent of equipment.
99	Other operations—Dr.
100	Other operations—Cr.
0-7	Accounts for small carriers, Class II.
0-8	Accounts for small carriers, Class III.

Operating Revenues

02	General instructions.
02-1	Accounts for operating revenues.
02-2	Auxiliary operations.
02-3	Extraordinary and prior period items.
02-4	Subprimary accounts for steam railway operations, water line operations, and motor carrier operations.

Revenue Accounts

Transportation

101	Passenger revenue.
102	Baggage revenue.
103	Parlor, sleeping, dining, and special car revenue.
104	Mail revenue.
105	Express revenue.
106	Milk revenue.
107	Freight revenue.
108	Switching revenue.
109	Miscellaneous transportation revenue.

Other railway operations

110	Station and car privileges.
111	Parcel room receipts.
112	Storage.
113	Demurrage.
114	Communication service.
115	Rent of tracks and facilities.
116	Rent of equipment.
117	Rent of buildings and other property.
118	Power.
119	Miscellaneous.

Steam railway, water line, or motor carrier operations

120	Steam railway revenue.
121	Water line revenue.
122	Motor carrier revenue.

Income

03	General instructions.
03-1	Income accounts defined.
03-2	Extraordinary and prior period items.
03-3	Auxiliary operations.
03-4	Income from sinking and reserve funds.
03-5	Unaudited items.
03-6	Form of income statement.

Income Accounts

Ordinary items

Credit

201	Railway operating revenues.
202	Auxiliary operations; revenues.
203	Income from lease of road.
204	Miscellaneous rent income.
205	Net income from miscellaneous physical property.
206	Dividend income.
207	Income from funded securities.
208	Income from unfunded securities and accounts.
209	Income from sinking fund and other reserves.
210	Release of premiums on funded debt.
211	Contributions from others.
212	Miscellaneous income.

Debit

213	Railway operating expenses.
214	Auxiliary operations; expenses.
215	Taxes assignable to transportation operations.
216	Rent for leased roads.
217	Miscellaneous rents.
218	Miscellaneous taxes.
219	Net loss on miscellaneous physical property.
220	Interest on funded debt.
221	Interest on unfunded debt.
222	Amortization of discount on funded debt.
223	Income transferred to other companies.
224	Maintenance of organization; lessor companies.
225	Miscellaneous debits.

Extraordinary and prior period items

270	Extraordinary items (net).
280	Prior period items (net).
290	Income taxes on extraordinary and prior period items.

Profit and Loss

04	General instructions.
04-1	Profit and loss accounts.

Profit and Loss Accounts

Credit

301	Credit balance at beginning of fiscal period.
302	Credit balance transferred from income account.
306	Other credits to earned surplus.

Debit

307	Debit balance at beginning of fiscal period.
308	Debit balance transferred from income account.
309	Appropriations of surplus to sinking fund and other reserves.
310	Dividend appropriations of surplus.
311	Appropriations of surplus for investment in physical property.
314	Miscellaneous appropriations of surplus.
317	Other debits to earned surplus.

General Balance Sheet

05	General instructions.
05-1	Balance sheet accounts.
05-2	Discount and premium on capital stock.
05-3	Discount, expense, and premium on funded debt.
05-4	Contingent assets and liabilities.
05-5	Reorganizations.
05-6	Surplus.
05-7	Form of general balance sheet statements.

General Balance Sheet Accounts

Debit

401	Road and equipment.
401-1	Acquisition adjustment.
401-2	Donations and grants.
401-3	Reserve for depreciation; road and equipment.
401-4	Reserve for retirements; nondepreciable property.
402	Sinking funds.
403	Deposits in lieu of mortgaged property sold.
404	Miscellaneous physical property.
404-1	Reserve for depreciation; miscellaneous physical property.
405	Investments in affiliated companies.
406	Other investments.
406-1	Reserve for adjustment of investment in securities.
407	Cash.
408	Special deposits.
409	Loans and notes receivable.
410	Miscellaneous accounts receivable.
410-1	Accrued accounts receivable.
411	Material and supplies.
412	Interest, dividends, and rents receivable.
413	Other current assets.
414	Insurance and other funds.
415	Other deferred assets.
416	Rents and insurance premiums paid in advance.
418	Discount on funded debt.
420	Other unadjusted debits.
421	Securities issued or assumed; unpledged.
422	Securities issued or assumed; pledged.

Credit

423	Capital stock.
423-1	Discount on capital stock.
424	Stock liability for conversion.
425	Premium on capital stock.
427	Funded debt unmatured.
428	Receivers' and trustees' securities.
429	Nonnegotiable debt to affiliated companies.
430	Loans and notes payable.
431	Audited accounts and wages payable.
432	Miscellaneous accounts payable.
432-1	Accrued accounts payable.
433	Matured interest, dividends, and rents unpaid.
434	Matured funded debt unpaid.
435	Accrued interest, dividends, and rents payable.
435-1	Taxes accrued.
436	Other current liabilities.
437	Liability for provident funds.
438	Other deferred liabilities.
440	Premium on funded debt.
441	Insurance reserves.
441-1	Operating reserves.
442	Reserve for equalization of maintenance.
444	Reserve for amortization of franchises.
446	Other unadjusted credits.
448	Unearned surplus.
448-1	Paid-in surplus.
448-2	Other unearned surplus.
449	Earned surplus; appropriated.
450	Earned surplus; unappropriated.
451	Unsegregated surplus.

Road and Equipment

06	General instructions.
06-1	Application of road and equipment accounts.
06-2	Basis of charges.
06-4	Property retired.
06-6	Adjustments for converted property.
06-7	Land sold or released.
06-8	Equipment retired.
06-9	Equipment costs paid in installments.
06-10	Salvage from equipment, tools, etc.
06-11	Incidental services of employees.
06-12	Operating property purchased.
06-13	Reclassification.

Road and Equipment Accounts

500	General accounts.
500-1	Way and structures.
500-2	Equipment.
500-3	Power.
500-4	General.
501	Engineering.
502	Right of way.
503	Other land used in electric railway operations.
504	Grading.
505	Ballast.
506	Ties.
507	Rails, rail fastenings, and joints.
508	Special work.
509	Underground construction.
510	Track and roadway labor.
511	Paving.
512	Roadway machinery.
513	Tunnels and subways.
514	Elevated structures and foundations.
515	Bridges, trestles, and culverts.
516	Crossings, fences, and signs.
517	Signals and interlockers.
518	Communication systems.
521	Distribution system.
522	General office buildings.
523	Shops, carhouses, and garages.
524	Stations, miscellaneous buildings, and structures.
525	Wharves and docks.
526	Park and resort property.
528	Reconstruction of road property acquired.
529-1	Steam railway road property.
529-2	Water line terminal property.
529-3	Motor carrier property.
530	Passenger cars.
531	Freight, express, and mail cars.
532	Service equipment.
533	Electric equipment of cars.
534	Locomotives.
535	Floating equipment.
536	Shop equipment.

337	Furniture.
338	Automotive and miscellaneous equipment.
338-1	Steam railway equipment.
338-2	Water line equipment.
338-3	Motor carrier equipment.
339	Power plants.
343	Power plant equipment.
344	Transmission system.
345	Franchises.
346	Organization expenditures.
351	Construction work in progress.

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00–1 Classification of carriers.

For the purpose of this system of accounts, electric railways are divided into three classes as follows:

Class I. Companies having average annual operating revenues exceeding $1,000,000.

Class II. Companies having average annual operating revenues exceeding $250,000 but not in excess of $1,000,000.

Class III. Companies having average annual operating revenues not exceeding $250,000.

Class I companies shall keep all of the accounts of this system of accounts which are applicable to their affairs.

Class II and III companies shall keep all of the accounts of this system of accounts which are applicable to their affairs, except that their accounts for operating expenses may be kept under the accounts of the respective condensed groupings provided for herein.

NOTE: Electric railways subject to the regulations in this part shall adopt the class of operating accounts indicated by the average of their annual operating revenues for the three calendar years immediately preceding the effective date of this order; if subsequently, at the close of any calendar year, the average of such annual revenues for the three latest calendar years is more or less than the amount applicable to the class in which the company has been accounting, the appropriate class of operating accounts based on such average shall be adopted. New companies shall estimate the amount of their annual operating revenues and adopt the class of operating accounts appropriate for the amount of such estimated revenues.

00–2 Definitions.

When used in this system of accounts:

"Accounts," means the accounts prescribed in this system of accounts.

"Actually issued," as applied to securities, means those which have been sold to bona fide purchasers for a valuable consideration (including those issued in exchange for other securities or property) so that the purchasers secured them free from control by the issuing carrier; also securities issued as dividends on stock, and those which have been issued in accordance with contractual requirements direct to trustees of sinking and other funds.

"Actually outstanding," as applied to securities issued or assumed by the carrier, means those which have been actually issued and are neither retired nor held by or for the carrier.

"Additions," means structures, facilities, or equipment added to those in service and not taking the place of anything previously existing.

"Amortization," means the gradual extinguishment of an amount in an account by prorating such amount over either a fixed period, dependent on the life of the asset or liability to which it applies, or over the period during which it is anticipated the benefit will be realized.

"Affiliated companies," means companies or persons that directly, or indirectly through one or more intermediaries, control, or are controlled by, or are under common control with, the accounting carrier. "Control," (including the terms "controlling," "controlled by," and "under common control,") as used herein, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, firm, or corporation, whether through the ownership of voting securities, by contract, or otherwise. If in any instance the existence of control is or may be open to reasonable doubt, the carrier shall report to the Commission all the material facts pertinent to the possible existence of control.

"Betterments," means physical changes in roadway, structures, facilities, and equipment for the purpose of replacing property retired with property of a different type or design or constructed of a different grade of material effecting a substantial improvement and rendering the property more suitable or of greater capacity than that retired.

NOTE: The road and equipment accounts shall be charged only with the excess cost of the improved property over the book cost (estimated if not of record) of the property removed. The remainder of the cost shall be charged to the appropriate maintenance account in operating expenses.

"Book cost," means the amount at which assets are recorded on the books of the carrier without deduction of related reserves.

"Carrier," when not otherwise indicated in the context, means the accounting carrier.

"Commission," means the Interstate Commerce Commission.

"Contingent assets," means a possible source of value to the carrier dependent upon the fulfillment of conditions regarded as uncertain.

"Contingent liabilities," means items which may, under certain conditions, become obligations of the carrier but which are neither direct nor assumed liabilities at the date of the balance sheet.

"Cost," means the amount of money actually paid for property or services, or the cash value at the time of the transaction of any consideration other than money.

"Cost of removal," means the cost of demolishing or otherwise disposing of property and recovering the salvage.

"Current assets," means cash as well as those assets that are readily convertible into cash or held for current use in operations, and all amounts accruing to the carrier where collection is reasonably assured and which are subject to settlement within one year from date of balance sheet.

"Current liabilities," means those obligations the amount of which is determined or closely estimated and are matured or become due within one year from date of issuance or assumption or upon demand, except those classified as long-term obligations.

"Debt expense," means all expense in connection with the issuance and sale of evidences of long-term debt, such as fees for drafting mortgages and trust deeds; fees for issuing or recording evidences of debt; cost of engraving and printing bonds, certificates of indebtedness, and other evidences of debt; fees paid trustees; fees for legal services; fees and commissions paid underwriters, brokers, and salesmen for marketing evidences of debt; fees and expenses of listing on exchanges; and other like costs.

"Delayed items," means items relating to transactions which occurred before the current calendar year. It includes adjustments of errors in the income, operating revenues, and operating expense accounts of prior years.

"Depreciation," means the loss in service value not restored by current maintenance, and incurred in connection with the consumption or prospective retirement of physical property in the course of service from causes against which the carrier is not protected by insurance which are known to be in current operation, and whose effect can be forecast with a reasonable approach to accuracy.

"Discount," as applied to securities issued or assumed by the carrier, means the excess of the par value of the securities, plus interest or dividends accrued to date of sale over the cash value of the consideration received from the sale.

"Group plan," as applied to depreciation accounting, means the plan under which depreciation charges continue to be accrued on the basis of book cost of all property recorded in each depreciable account, using the estimated average service lives thereof properly weighted, and upon the retirement of any depreciable property its total service value in excess of any insurance recoverable is charged to the depreciation reserve, regardless of the amount accrued with respect to each unit retired.

"Investment advances," means advances, represented by notes or book accounts, which it is mutually agreed or intended shall be settled by the issuance of capital stock or funded debt, or which are indefinitely deferred with no expectation of settlement.

"Minor items," means the associated parts of physical property which are not designated units of property.

"Nominally issued," as applied to securities issued or assumed by the carrier, means those which have been signed, certified, or otherwise executed and placed with the proper officer for sale or pledge or otherwise placed in some special fund of the carrier but which have not been sold.

"Nominally outstanding," as applied to securities issued or assumed by the carrier, means those which after being actually issued have been reacquired by or for the carrier under such circumstances as require them to be considered as held alive and not retired.

"Nonaffiliated companies," means all companies other than those defined as affiliated.

"Noncarrier property," means property neither used in nor held for transportation service.

"Original cost," means the actual money cost (or the fair money value of any consideration other than money) of transportation property when first acquired and used in the public service.

"Premiums," as applied to outstanding securities issued or assumed by the carrier, means the excess of the current money value of the consideration received at their sale over the sum of their par value and interest or dividends accrued to the date of sale.

"Property retired," means physical property which has been permanently withdrawn from service.

"Replacement," means the installation of physical property in substitution of property of like purpose retired.

"Salvage value," means the amount received for property retired or disposed of or if retained, the amount at which the material recovered will be charged if reused. If the property is sold before it has reached the end of its useful life, the amount received from its sale, less any expenses incurred in connection therewith, shall be the value of the salvage.

"Service life," means the period between the date when operating property is placed in service and the date of its retirement.

"Service value," means the difference between the book cost and the salvage value of operating property.

"Straight-line method," as applied to depreciation accounting, means the plan under which the annual depreciation charge is computed by applying such percentage rates to the book cost of depreciable property as will distribute the estimated service value in equal annual charges as nearly as may be to operating expenses and other accounts over the service lives.

"Time of installation," means the date at which property is completed and placed in transportation service.

"Time of retirement," means the date at which property is permanently withdrawn from service.

OPERATING EXPENSES

01 General instructions.

01–1 Accounts for operating expenses.

The accounts prescribed for operating expenses are designed to show the expenses of furnishing transportation services (including services incidental thereto), including the expenses of maintenance, depreciation, and operations of the property used in rendering the services. The accounting shall be, as nearly as practicable, upon the basis of accruals.

01–2 Auxiliary operations.

Electric railways operating facilites or rendering services other than those incident to transportation (the cost of the property used in such operations being included in the road and equipment accounts) shall treat such operations or services as auxiliary operations. Carriers shall keep separate revenue and expense accounts for each auxiliary operation conducted, and shall include the aggregate of the revenues and the aggregate of the expenses of auxiliary operations in the respective income accounts provided therefor.

If, for example, the carrier conducts a general power, light, heat, or other business not incident to transportation (the cost of the property used therein being included in the accounts for investment in road and equipment) the revenues and expenses of each such operation shall be reported in income accounts 202, "Auxiliary operations—Revenues," and 214, "Auxiliary operations—Expenses," respectively.

Revenues and expenses in connection with the maintenance and operation of properties provided for in general balance sheet account 404, "Miscellaneous physical property," shall be included in income account 205, "Net income from miscellaneous physical property," or 219, "Net loss on miscellaneous physical property," as may be appropriate.

01–3 Exclusion of auxiliary operations expenses.

Expenses in connection with maintenance and operation of plant and equipment used in auxiliary operations such as the electric power light, heat, or other departments, or the proportion of expenses chargeable thereto, shall be excluded from the railway expenses by the use of accounts designated "Other operations—Cr." Similarly, if expenses of the railway department, other than those for maintenance and operation of power plant buildings and equipment, are kept in the accounts of the power, light, or other department, the railway department's proportion of such expenses shall be charged to the various accounts provided for "Other operations—Dr." If, however, a carrier furnishes power, light, or heat only incidentally, such incidental revenues and expenses shall be included in the railway operating revenues and expenses.

01–4 General account for power.

For the purpose of bringing together, under one general account, the cost of maintaining and operating power plant buildings and equipment, the general account "Power," has been provided. All expenses for maintaining and operating power plant buildings and equipment necessary to the production of power and all expenses incident to the purchase of power shall be included in the appropriate primary accounts under this general account, irrespective of the manner in which the power is used. Carriers rendering other utility services, such as furnishing power for lighting, heating, or other commercial purpose, shall equitably apportion the cost of power, as shown by this general account, between the railway and other utility departments. The charges to the other departments shall be cleared through account 62, "Other operations—Cr." This segregation of the maintenance and operation expenses incident to the production of power permits a more accurate comparison of the expenses for maintenance of ways and structures, maintenance of equipment, and transportation expenses, between carriers which produce their own power and carriers which use purchased power; and it also affords a better comparison of the statistics of carriers which furnish only a transportation service and those which furnish other utility service, such as power, light, and heat.

01–5 Unaudited items affecting operating accounts.

When for any cause the amount of any item affecting operating revenues or operating expenses cannot be accurately determined in time for inclusion in the accounts of the month in which the transaction occurs, the amount of the item shall be estimated and in such form included in the appropriate operating revenue or operating expense account and credited or charged, as the case may be, to the appropriate balance sheet account. The necessary adjustment between the initial estimate and the actual amount of the item shall be included in the appropriate operating revenue or operating expense account when the item is audited. The amounts of such estimates shall be supported by records showing the details of the items which have thus been accrued and the clearance of the items when audited. The estimates shall be kept separately for each year. If between the date of inclusion and the date of audit a substantial difference from the initial estimate is determined, appropriate adjustment shall be made in the current accounts to cover such difference. The carrier is not required to anticipate items which would not appreciably affect the accounts.

01–6 Extraordinary and prior period items.

(a) All items of profit and loss recognized during the year are includible in ordinary income except nonrecurring items which in the aggregate for the same class are both material in relation to operating revenues and ordinary income, and are clearly not identified with or do not result from the usual business operations for the year. Important items of the kind which occur from time to time and which, when material in amount, are to be excluded from ordinary income are those resulting from unusual sales of property and investment securities other than temporary cash investments, from company bonds, reacquired, from change in the application of accounting principles, and from prior period items (other than ordinary adjustments of a recurring nature). Material items are those which, unless excluded from ordinary income, would distort the accounts and impair the significance of ordinary income for the year. Items so excludible from ordinary income are to be entered directly in the income accounts provided for extraordinary and prior period items upon approval of the Commission.

(b) Adjustments, constituting items of a character typical of customary business activities or representing corrections or refinements resulting from the nat-

ural use of estimates inherent in the accounting process, shall not be considered extraordinary or prior period items regardless of amount.

(c) In determining materiality, items of a similar nature should be considered in the aggregate; dissimilar items should be considered individually. As a general standard, an item to qualify for inclusion as an extraordinary or prior period item shall exceed one percent of total operating revenues and ten percent of ordinary income for the year.

(d) Ordinary delayed items and adjustments arising during the current year which are applicable to or related to transactions of prior years shall be included in the same accounts which would have been charged or credited if the item had been taken up or adjusted in the period to which it pertained. Ordinary delayed items excludes items of the character described in paragraph (a).

01–7 Subprimary accounts for steam railway operations, water line operations, and motor carrier operations.

If a carrier operates a steam division, or has both electric and steam operations, and desires to keep the expenses of such operations separate, it may set up as subprimary accounts the appropriate primary accounts of the uniform system of accounts for steam railroads. (See accounts 24–1, 35–1, and 75–1.) If the carrier operates a water line or ferries and desires to keep the expenses of such operations separate, it may set up as subprimary accounts the appropriate primary accounts of the uniform system of accounts for carriers by water. (See accounts 24–2, 35–2, and 75–2.) If a carrier operates partly by motor vehicles and desires to keep the expenses of such operations separate, it may set up as subprimary accounts the appropriate primary accounts of the uniform systems or accounts for motor carriers of property and motor carriers of passengers. (See accounts 24–3, 35–3, and 75–3.)

01–8 Salvage and value of material removed.

As used in this system of accounts, the terms "salvage" and "value of material removed" include the value to the carrier (not to exceed cost, estimated if not known), recovered or removed in the process of repairing, renewing, replacing or abandoning roadway, structures, and equipment. If the material recovered or removed is again used or expected to be used by the carrier, the salvage value shall be based upon fair prices for the particular kinds and grades of material. If the material is sold, the net amount received from the sale represents the salvage.

01–9 Insurance recovered.

Amounts of insurance recovered on account of losses sustained shall be credited to the accounts to which the losses are charged.

01–10 Property retired.

The service value of property retired shall be accounted for in accordance with the provisions of instruction 06–4 *Property retired.*

When the amount chargeable to operating expenses in connection with the retirement of nondepreciable property is so material that its inclusion would distort the ordinary income for the year, the service value shall be recorded in account 270, 'Extraordinary items', when authorized by the Commission. See instruction 01–6. On the other hand, if authorized by the Commission the carrier may create a reserve in anticipation of the retirement of nondepreciable property by charges to operating expenses.

01–11 Adjustment for converted property.

When road and equipment property, with or without physical conversion, is transferred from one primary account to another, the accounting shall be in accordance with the provisions of instruction 06–6 *Adjustments for converted property.*

01–12 Interpretation of item lists.

Lists of items appearing in the texts of the accounts are given for the purpose of clearly indicating the application of the accounting rules. The lists are to be considered as merely representative and not as excluding items which have been omitted. On the other hand, the appearance of an item in a list warrants the inclusion of such item in the account concerned only when the text of the account indicates inclusion, as the same item frequently appears in more than one list.

01–13 Cost of work.

The cost of work chargeable to the maintenance accounts includes other carriers' freight charges, inspection, contract work, assessments for maintenance, and cost of privileges in connection with the work specified in the text of the several accounts.

01–14 Depreciation.

After the effective date of this order there shall be charged monthly to operating expenses or other appropriate accounts and credited to account 401–3, "Reserve for depreciation—Road and equipment," during the service life of depreciable property, amounts which will approximate the loss in service value not restored by current maintenance or covered by insurance. The charges for currently accruing depreciation shall be computed in conformity with the group plan by applying to the book cost of the property such percentage rates as will distribute the service value of the property by the straight-line method in equal annual charges to operating expenses or other accounts during its estimated life.

The carrier shall compute and file with the Commission annual percentage rates estimated to be applicable to provide for the service value at the date of retirement of depreciable property that is owned or used by it as reflected in each depreciable road and equipment account. These percentage rates shall be based on the estimated service lives and service values of the property developed by a study of the carrier's history and experience and such engineering studies and other information as may be available with respect to future conditions. Such percentage rates shall, for each primary account comprised of more than one class of property, produce a charge for depreciation computed on the book cost of the depreciable property included in such account equal to the sum of the amounts that would otherwise be chargeable as depreciation for each of the various classes of property included in the account. The carrier may request, or the Commission may direct, that special accounting be applied in situations causing undue inflation or deflation of depreciation reserves, such as premature or unusual retirements or sales of depreciable property, or related insurance recoveries. A carrier's request for special accounting shall contain full particulars concerning the situation, including the basis for its proposal. Alternative accounting techniques shall be applied to the extent approved or directed by the Commission.

The carrier shall keep such records of depreciable property and property retirements as will reflect the service life of property which has been retired, or will permit the determination of service life indications by mortality, turnover, or other appropriate methods; also such records as will reflect the percentage of value of the salvage recovered from property retired. The carrier shall review the percentage rates from time to time and compute revised percentage rates in cases where existing rates are found inapplicable.

In computing monthly charges the annual percentage rates shall be applied to the book cost of property in each depreciable account as of the first of each month and the result divided by twelve.

For the purpose of the group plan of depreciation accounting for property, the following primary road and equipment accounts are classed as depreciable accounts:

501	Engineering. (Depreciable property in connection with which expenditures were incurred.)
504	Grading. (Depreciable property recorded in this account.)
511	Paving. (Depreciable property recorded in this account.)
512	Roadway machinery.
513	Tunnels and subways. (Depreciable property recorded in this account.)
514	Elevated structures and foundations.
515	Bridges, trestles, and culverts.
516	Crossings, fences, and signs.
517	Signals and interlockers.
518	Communication systems.
521	Distribution system.
522	General office buildings.
523	Shops, carhouses, and garages.
524	Stations, miscellaneous buildings, and structures.
525	Wharves and docks.
526	Park and resort property.
529–1	Steam railway road property.
529–2	Water line terminal property.
529–3	Motor carrier property.
530	Passenger cars.
531	Freight, express, and mail cars.
532	Service equipment.
533	Electric equipment of cars.
534	Locomotives.
535	Floating equipment.
536	Shop equipment.
537	Furniture.
538	Automotive and miscellaneous equipment.
538–1	Steam railway equipment.
538–2	Water line equipment.
538–3	Motor carrier equipment.
539	Power plants.
542	Power plant equipment.
544	Transmission system.

01–15 Equalization of maintenance expenses.

The cost of maintaining way and structures and equipment shall be included in the appropriate primary accounts in the month in which the expense is incurred.

If the carrier adopts a budget or estimate for all or part of the calendar year of expenses includible in one or more primary maintenance accounts or corresponding general accounts, an equitable monthly proportion of the difference between the budgeted or estimated expenses and the actual expenses chargeable each month may be debited or credited as appropriate to account 28, "Equalization—Way and structures," account 44, "Equalization—Equipment," or account 51, "Equalization—Power," with contra entries in account 442, "Reserve for equalization of maintenance."

If certain primary accounts only are budgeted, the carrier's records shall show for amounts included in the equalization accounts the amount of the equalization assignable to each such primary account.

Amounts included in account 442, "Reserve for equalization of maintenance," in accordance with the foregoing paragraph, shall be cleared thereform at the close of each calendar year through the equalization accounts originally charged or credited.

Operating Expense Accounts

0 General accounts.

The general operating expense accounts represent grouping of related primary accounts.

0–1 Way and structures.

The general account for way and structures expenses embraces the following primary accounts:

1 Superintendence.

This account shall include salaries and office and other expenses of officers and their assistants when directly in charge of maintenance of way and structures, including chief engineer, engineer of maintenance of way, superintendent of electric line, superintendent of buildings, architect, division engineer, roadmasters, and office and field forces; cost of repairing drafting and engineering instruments; cost of supplies used by employees whose salaries are charged to this account; and office rent, cost of repairing rented offices, cost of repairing furniture and miscellaneous office expenses, when separate offices not in general office buildings are maintained for officers whose salaries are charged to this account.

Items of Expenses and Supplies

Books for office use.
Fees and dues of associations.
Furniture—repairs and renewals.
Heating.
Lighting.
Official train service.
Periodicals and newspapers.
Power.
Repairs of rented offices.
Telegraph service.
Telephone service.
Travel expenses.
Water and ice.

Technical Supplies

Barometers.
Books and maps.
Boxes for instruments.
Cameras.
Camp equipment.
Chains for surveyors.
Compasses.
Curves.
Drafting boards.
Drafting instruments.
Field glasses.
Field notebooks.
Hatchets.
Levels.
Magnets.
Magnifiers.
Marking chalk.
Oil stoves.
Paper, blueprint.
Parallel rules.
Photographic supplies.
Plane tables.
Planimeters.
Plummets.
Protractors.
Ranging poles.
Reading glasses.
Rods for surveyors.
Section liners.
Sextants.
Slide rules.
Stakes.
Straightedges.
Tally registers.
Tape lines.
Tee-squares.
Telescopes.
Thermometers.
Thumb tacks.
Tracing linens.
Transits.
Traverse tables.
Triangles.
Tripods.
Verniers.

Account No.		Revenue	Expense	Net
	Shipping operations.			
600–799	Terminated voyage results			
800	Inactive vessels expense			
840–850	Collections from and contributions to pools			
	Gross profit (or loss) from vessel operations before subsidy			
925	Operating-differential subsidy			
	Gross profit (or loss) from vessel operations after subsidy			
845–855	Terminal operations			
860–865	Cargo handling operations			
655–875	Tug and lighter operations			
880–885	Other shipping operations			
670	Agency fees, commissions and brokerage earned			
900	Interdepartmental credits for services and facilities			
	Gross profit (or loss) from shipping operations before overhead, amortization, and depreciation			
	Overhead:			
900	Administrative and general expense			
905	Management and operating commissions			
910	Advertising			
955	Taxes—miscellaneous			
	Gross profit (or loss) from shipping operations before amortization and depreciation			
	Depreciation—Shipping property and equipment			
972	Amortization—Leaseholds			
981	Depreciation—Floating equipment—Vessels			
984	Depreciation—Other floating equipment			
987	Depreciation—Terminal property and equipment			
989	Depreciation—Other shipping property and equipment			
	Total water-line operating revenue and expense			
	Gross profit (or loss) from shipping operations			

2 Ballast.

This account shall include expenses incident to the purchase and production of ballast used for maintenance; purchase price of gravel, stone, slag, cinders, sand, and other material used for ballast, including freight charges, if any; payments for gravel and quarry rights and privileges; cost of tracks and electric line in gravel pits; expenses of sinking test holes, stripping, blasting, and loading; and other expenses in connection with production of ballast.

Note A: In case of ballast produced, a clearing account may be opened in order to determine the unit of cost which is to be used in arriving at the monthly charge to Operating Expenses on account of ballast used.

Note B: The cost of labor delivering, unloading, and putting ballast into track shall be charged to account 8, "Track and roadway labor."

3 Ties.

This account shall include the cost of cross, switch, bridge, and other ties used in repairing all tracks.

Note A: The cost of labor for unloading, distributing, and putting ties in track, and the cost of picking up and concentrating or disposing of the ties removed, shall be charged to account 8, "Track and roadway labor."

Note B: The excess of metal or concrete ties applied in place of wooden ties over the cost of replacing wooden ties shall be charged to road and equipment account 506, "Ties."

4 Rails.

This account shall include the cost of rails used in repairing main and repair tracks, sidings and spurs, and tracks in tunnels, station yards, shop and other yards; on piers, wharves, track scales, inclines, bridges, trestles, and culverts; in carhouses, shops, and storehouses; and on transfer tables and turntables. Rails in plain curves shall be charged to this

Note A: When employees designated above are engaged in work not chargeable to Way and Structures, their salaries and expenses shall be charged to the specific work on which engaged.

Note B: When employees designated above have supervision over other departments also, their salaries and expenses shall be apportioned equitably among the departments over which they have jurisdiction.

Note C: It is not intended that any portion of the expenses of general offices shall be charged to this account. The office expenses of employees designated above who have offices in general office buildings shall be included in the appropriate primary accounts under 9–6 *General.*

account and not to account 6, "Special work."

To this account shall be credited the value of material removed.

NOTE A: The cost of labor for unloading, distributing, and laying rails in track, and the cost of picking up and concentrating the rails removed, shall be charged to account 8, "Tracks and roadway labor."

NOTE B: The excess cost of heavier or improved rails applied for renewals over the original cost of rails removed shall be charged to road and equipment account 507, "Rails, rail fastenings, and joints."

NOTE C: Guard rails used in connection with the renewal of special work shall be charged to account 6, "Special work."

5 Rail fastenings and joints.

This account shall include the cost of rail fastenings and joints, such as fishplates, braces, tie plates, tie-rods, nuts, bolts, spikes, and welded joints, used for repairs of all tracks.

To this account shall be credited the value of material removed.

NOTE A: The cost of labor unloading, distributing, and applying rail fastenings and joints and the cost of picking up and concentrating rail fastenings and joints removed shall be charged to account 8, "Track and roadway labor."

NOTE B: The entire cost (exclusive of carrier's own labor) of welded joints installed under contract shall be charged to this account.

NOTE C: The excess cost of heavier or improved rail fastenings and joints used for renewals over the original cost of fastenings and joints removed shall be charged to road and equipment account 507, "Rails, rail fastenings, and joints."

6 Special work.

This account shall include the cost of material used in repairing special work, including steam and street railroad crossings, cross-overs, curves, frogs, run-offs, switches, contacts and wiring for automatic switches, switch stands and locks, switch mates, and turnouts.

To this account shall be credited the value of material removed.

NOTE: The cost of labor in connection with this work shall be charged to account 8, "Track and roadway labor."

7 Underground construction.

This account is to be used only by railways operated by underground electric contact system or by cable. It shall include the cost of material used in repairing yokes, concrete work, manhole frames and covers, slot rails, drain pipes, pulleys and sheaves, and other fixtures and appurtenances peculiar to underground electric or cable construction.

To this account shall be credited the value of material removed.

NOTE A: The cost of labor in connection with this work shall be charged to account 8, "Track and roadway labor."

NOTE B: The cost of repairing and renewing track rails, track-rail fastenings and joints, electric contact rails and insulators, and cables of cable railways shall not be charged to this account.

8 Track and roadway labor.

This account shall include the cost of labor used in unloading, distributing, and placing ballast; re-laying ties; repairing and re-laying rails, rail fastenings and joints, special work, and underground construction; also labor used in grading, aligning, surfacing, and gauging tracks; repairing sewer and drain tiles and drainage catch-basins; cleaning and repairing tile and open ditches; protecting banks by retaining walls, riprap, piling, piers, dikes, or other means; patrolling, inspecting, and watching track; clearing track of weeds; removing sand, debris, and flood water from tracks; trimming trees along tracks; and other miscellaneous track and roadway labor, including wages of blacksmiths and helpers in track shops.

9 Small tools and roadway expenses.

This account shall include the cost of roadway tools when chargeable to operating expenses; material used in repairing tools, velocipedes, hand and push cars, implements, flags, lanterns, etc., used when repairing track and roadway; materials used in weeding tracks and right-of-way; materials used in removing flood water from tracks; coal and supplies for track shops; materials used in repair of right-of-way ditches; material for repairing catch basins for drainage purposes; and material used in repairing retaining walls, riprap, piling, piers, dikes, or other means for protecting banks; also any other material, supplies, and incidental expenses that are not properly chargeable to any of the other accounts covering maintenance of track and roadway.

To this account shall be credited the value of material removed.

LIST OF ROADWAY AND TRACK TOOLS

Adzes.	Lawn mowers.
Anvils.	Levels.
Augers.	Lines.
Axes.	Nippers.
Ballast forks.	Oil stones.
Bars, claw.	Padlocks.
Bars, crow.	Pails.
Bars, lining.	Paint brushes.
Bars, pinch.	Picks.
Bars, raising.	Pike poles.
Bars, tamping.	Post-hole diggers.
Braces and bits.	Post-hole tampers.
Brooms.	Punches.
Brush hooks.	Rail benders.
Cable stretchers.	Rail tongs.
Cans.	Rakes.
Cant hooks.	Rope.
Chains.	Saws, crosscut.
Chisels.	Saws, hand.
Curbing hooks.	Scrap boxes.
Dippers.	Scythes.
Drawing knives.	Shovels.
Drill bits.	Sickles.
Drills (portable).	Sledges.
Flags.	Spades.
Furnaces.	Spike mauls.
Grindstones.	Spike pullers.
Guard rail lubricators.	Spot boards.
Hammer, mapping.	Squares.
Hammer, paving.	Tape lines.
Hammer, spiking.	Thermometers.
Handles for tools.	Tongs.
Hatches.	Tool boxes.
Hoes.	Torches.
Jack levers.	Track gauges.
Jacks.	Track levels.
Kegs, water.	Wheelbarrows.
Ladders.	Wrenches.
Lanterns and fixtures.	

10 Paving.

This account shall include the cost of labor and material used in repairing granite, wood, brick, macadam, asphaltum, and other paving; also cost of hauling and distributing material and of removing old material.

Repairs of street paving required by municipalities in connection with roadway and track, and assessments for maintenance of paving; also payments for permission to open pavement, and cost of tearing up and replacing paving in connection with repairs shall be charged to this account.

To this account shall be credited the value of material removed.

11 Cleaning and sanding track.

This account shall include the cost of labor and material used in watering, sprinkling, and oiling roadway; in cleaning, greasing, and sanding tracks; and in cleaning conduits of underground electric or cable systems; also cost of sand and of hauling, drying, and distributing same; cost of track brooms and other cleaning and sanding tools and apparatus; and cost of other supplies and expenses incident to the work.

NOTE A: Repairs of sprinkler and sand cars used in connection with this work shall be charged to account 22, "Service equipment." Repairs of harness and wagons used in connection with this work shall be charged to account 98, "Maintenance of automotive and miscellaneous equipment."

NOTE B: Cost of sprinkling rendered necessary by repairs or construction of track or paving shall be charged to the proper maintenance or construction account.

12 Removal of snow and ice.

This account shall include the cost of labor and material used in removal of snow and ice from tracks, whether done by the company or otherwise, including cost of tools, cost of salt and delivering same in carhouses or bins, wages of men engaged in salting track and in operating snow plows, sweepers, scrapers, etc., and other supplies and expenses incident to this work.

This account shall also include the wages of trainmen operating cars solely for the purpose of keeping line open, the cost of removing water caused by melting snow, cost of placing and removing portable snow fences, and rent of ground on which to place snow fences.

NOTE: Repairs of salt cars, snow plows, sweepers, scrapers, and miscellaneous snow equipment used in connection with this work shall be charged to account 22, "Service equipment." Repairs of harness and wagons used in connection with this work shall be charged to account 98, "Maintenance of automotive and miscellaneous equipment."

13 Tunnels and subways.

This account shall include the cost of labor and material used in repairing tunnels and subways; cost of cleaning, painting, and whitewashing; and cost of maintenance of lighting, ventilating, and drainage systems.

To this account shall be credited the value of material removed.

NOTE: This account shall not include repairs of roadway, tracks, or electric feeder and contact lines through tunnels.

14 Elevated structures and foundations.

This account is intended to be used only by companies operating an elevated railway system, and shall include the cost of labor and material used in repairing elevated structures and their foundations.

To this account shall be credited the value of material removed.

15 Bridges, trestles, and culverts.

This account shall include the cost of labor and material used in repairing bridges, trestles, and culverts (both substructure and superstructure), their piers, abutments, masonry, and drain pipes, and the retaining walls, riprapping, and dikes necessary to protect or strengthen them against ice, water, or drift; cost of altering and bracing bridges and trestles during progress of filling; cost of removing old bridges in connection with construction of new bridges; and cost of constructing and removing temporary or false work used in repairing bridges and culverts; also cost of guards on bridges, framing ties for bridges; bridge signs or number boards; cleaning of channel under bridges and cleaning of culverts; pay of bridge foremen, and cost of supplies used by them; pay of bridge inspectors and expenses incident to bridge inspection.

The cost of replacing bridges, trestles, and culverts destroyed by fire or washout shall be charged to this account; also repairs made necessary by washouts.

To this account shall be credited the value of material removed.

Any structure carrying the carrier's tracks over other tracks, or over a stream, highway, or canal should be considered a bridge or a culvert.

DETAILS OF BRIDGE STRUCTURES

Abutments.	Ice breakers.
Bridge signs.	Painting.
Cofferdams.	Pier protection.
Concrete ends for culverts.	Piers.
Cribs.	Pipe culverts.
Decking.	Retaining walls.
Dike protection.	Riprap.
Drainage systems.	Supports.
Draw protection.	Water channels.
Drawbridge machinery.	Waterproofing.
False work.	Wing dams.
Guard timbers.	Wing walls.

NOTE: The cost of maintaining structures carrying other tracks, canals, highways, etc., over the accounting carrier's tracks shall be charged to account 16, "Crossings, fences, and signs."

16 Crossings, fences, and signs.

This account shall include the cost of labor and material used in repairing street, road, and farm crossings at grade; overhead bridges and viaducts; roadways of undergrade foot, wagon, or cattle crossings; drainage and excavations for undergrade crossings; crossing gates and warning signals; and payments and assessments for street repairs or repairs of sewers at crossings.

This account shall also include cost of material used and labor expended in repairing right-of-way fences, snow and sand fences, cattle guards, wing fences, aprons, and hedges; and mile, section, warning, and other roadway signs.

To this account shall be credited the value of material removed.

NOTE: Street repairs or repairs of sewers within the limits of shop grounds or immediately adjacent to station buildings shall be charged to account 24, "Buildings, fixtures, and grounds."

17 Signals and interlockers.

This account shall include the cost of labor and material used in repairing buildings and apparatus of interlocking systems, semaphore, block, and other signal systems, including air compressors, levers, boilers, dynamos, engines, and other appliances used in connection therewith; also the cost of labor and material used in repairing targets and lamps, and switch lights at sidings.

To this account shall be credited the value of material removed.

NOTE A: This account shall not include the cost of track material proper required in connection with interlockers, such as switches, special track fastenings, split, rails, and frogs, the cost of which shall be charged to proper maintenance of way accounts.

NOTE B: Rent of appliances for signal and interlocking systems shall be charged to account 72, "Operation of signal and interlocking apparatus."

NOTE C: No charge shall be made to this account for setting and repairing poles and fixtures used primarily for telegraph, telephone, or transmission systems when such poles and fixtures incidentally support signal wires.

18 Communication systems.

This account shall include the cost of labor and material used in repairing telephone and telegraph systems owned by the company, or for which it is responsible, including conduits, poles, cross arms, insulators, wires, cables, cable boxes, booths, instruments, battery jars, switchboards, and other appurtenances of such telephone and telegraph systems.

To this account shall be credited the value of material removed:

LIST OF TERMINAL EQUIPMENT

Batteries.
Cables and wires, interior.
Connecting wires.
Current-controlling instruments.
Electric generators and motors.
Electric meters.
Engines, stationary.
Fuses and mechanical protectors.
Laboratory equipment.
Rectifiers.
Rheostats.
Sending and receiving instruments.
Switchboards.
Testing outfits.
Transformers.

LIST OF OUTSIDE PLANT

Antennas and supporting structures.
Aerial attachments.
Braces.
Brackets.
Cable boxes and fixtures.
Cables and wire aerial.
Conduits and fixtures.
Cross arms.
Guy stubs.
Guy wires.
Insulators.
Mobile auxiliaries.
Poles.
Submarine cables and connections.
Telephone pole boxes.
Towers.
Underground cables and connnections.

NOTE A: Rent of communication systems shall be charged to the accounts applicable according to the use made of the system rented.

NOTE B: No charge shall be made to this account for setting and repairing poles and fixtures used primarily for signals and interlockers or transmission systems when such poles incidentally support telegraph or telephone wires.

19 Miscellaneous way expenses.

This account shall include all expenses in connection with maintenance of way not properly chargeable to other accounts.

22 Distribution system.

This account shall include the cost of labor and material used in repairing the distribution system, as follows:

(a) Overhead feeders for transmitting low-tension power from power stations and substations, including insulators and connections.

(b) Underground feeders for transmitting low-tension power from power stations and substations, including insulators and connections.

(c) Track bonding, including track bonds, cost of punching and drilling rails for track bonds, and testing for defective bonding.

(d) Overhead trolley, including cost of trolley, guard, span, strain, supplementary, and other wires, and all catenary construction used in connection with the overhead trolley system.

(e) Trackless trolley overhead systems.

(f) Third rail, including cost of third rail, braces and supports for same, insulating devices, material used for covering and protecting same, and all fixtures and appliances connected with third-rail construction.

(g) Underground contact rails, including cost of contact rails and appliances in underground contact systems, and appurtenant braces, supports, and insulating devices.

(h) Poles and fixtures for supporting overhead electric construction.

(i) Conduits for underground wire and cables, including manholes, sewer connections, etc.

To this account shall be credited the value of material removed.

When a company does an incidental power, light, or heat business, the cost of repairing transformers, meters, and wiring used in connection with the delivery of power sold shall be included in this account.

NOTE: When the electric current generated or received is changed by means of rotary converters, motor generator sets, or static transformers (substation apparatus), that portion of the line or outside conductor system carrying current of other than the operating kind or voltage shall be classed as transmission system. When the electric current is generated or received and used substantially unchanged in voltage and kind, the line or outside conductor system, including feeders, trolley wire, booster circuits, and supplementary return, if any, shall be

classed wholly as distribution system. Tie lines between generating stations and substations shall follow the same rule as other lines.

23 Miscellaneous electric line expenses.

This account shall include all expenses in connection with maintenance of electric line not properly chargeable to other accounts.

NOTE: This account shall not include miscellaneous expenses in connection with the transmission system. Such expenses shall be charged to account 49, "Transmission system."

24 Buildings, fixtures, and grounds.

This account shall include the cost of labor and material used in repairing car houses, shops, general offices, stations, waiting rooms, platforms, docks, wharves, and all other buildings and structures (except power plant and substation buildings and towers or buildings used exclusively for signal and interlocking apparatus) used in the operation of the road.

This account shall also include the cost of repairing fixtures; maintaining walks, driveways (including those at unloading tracks), and grounds; cost of flowers and shrubs; and labor planting and caring for same; and the cost of mowing lawns about buildings and structures above named.

The term buildings, fixtures, and grounds, in addition to embracing the buildings proper, includes permanent fixtures; permanent foundations for machinery and apparatus; pipes for gas, water, sewerage, and drainage; apparatus for heating, lighting, and ventilating; freight and passenger elevators, with fixtures and appurtenances; platforms; hose and appliances for protecting buildings against fire; fences, walls, sidewalks, and pavements (except paving in tracks) within the limit of grounds or immediately adjacent to buildings or yards.

To this account shall be credited the value of material removed.

SHOPS AND GARAGES

Ash plants.	Pipe lines.
Bins.	Planing mills.
Blacksmith shops.	Platforms.
Car sheds.	Repair shops.
Carpenter shops.	Sand houses.
Cinder pits.	Sidewalks.
Drop pits.	Storehouses.
Foundries.	Tanks.
Gas houses.	Test rooms.
Houses, oil.	Tin shops.
Laboratories.	Tool houses.
Lighting plants.	Transfer tables.
Lumber sheds.	Turntables.
Machine shops.	Upholstery shops.
Motor cranes.	Wash rooms.
Paint shops.	Watch houses.

STATION AND OFFICE BUILDINGS

Buildings.	Fences.
Call bells.	Fire houses.
Coal bins.	Freight cranes and derricks.
Coal trestles.	Freight houses.
Commissary buildings.	Garages.
Drainage and sewer systems.	Gas supply systems.
Dwellings.	General office buildings.
Electric wiring.	Greenhouses.
Elevators.	Heating plants.
Escalators.	Hose houses.
Ice houses.	Station signs.
Lighting plants.	Stairways.
Machinery.	Station buildings.
Passageways.	Stock pens.
Pavement in grounds.	Stockhouses.
Platforms.	Track scales.
Power systems.	Transfer houses.
Reading rooms.	Turnstiles.
Scale houses.	Waiting rooms.
Sidewalks.	Warehouses.
Stables.	Water supply systems.
Station bridges.	

WHARVES AND DOCKS

Bridge pontoons.	Ferry racks.
Bulkheads.	Ferry slips.
Caissons.	Jetties and inclines.
Crib work.	Transfer-bridge machinery.
Dry docks.	Transfer bridges.
Ferry bridge machinery.	

OTHER STRUCTURES

Boarding houses.	Pen stocks.
Boilers.	Purifying plants.
Buckets.	Rail shops.
Cisterns.	Reservoirs.
Dams.	Scales, built in.
Frog shops.	Sheds.
Fuel plants, pumps, tanks.	Tanks.
Hand-car houses.	Tubs.
Inclines.	Wells.
	Windmills.

NOTE A: Expenses incident to the maintenance of power plant and substation buildings and grounds shall be charged to account 46, "Power plant buildings, fixtures, and grounds." Expenses incident to the maintenance of towers or buildings used exclusively for signal or interlocking apparatus shall be charged to account 17, "Signals and interlockers."

NOTE B: The cost of repairs of track and electric line in buildings, yards, and grounds shall be charged to the foregoing accounts (1 to 38, inclusive) appropriate for such repairs.

NOTE C: This account is intended to include the cost of repairs of owned buildings or buildings held under long-term leases. The cost of repairs of buildings rented from month to month shall be charged to the account to which the rent is charged.

24-1 Maintenance steam railway road property.

This account may include the expenses of maintaining road property devoted to steam railway operations. If the carrier elects to make the segregation, its records shall be kept in such manner as to reflect by subprimary accounts the primary accounts prescribed for such expenses by the Commission in its system of accounts for steam roads.

24-2 Maintenance water line terminal property.

This account may include the expenses of maintaining terminal property devoted to water line operations. If the carrier elects to make the segregation, its records shall be kept in such manner as to reflect by subprimary accounts the primary accounts prescribed for such expenses by the Commission in its system of accounts for carriers by water.

24-3 Maintenance motor carrier property.

This account may include the expenses of maintaining all property except equipment devoted to motor carrier operations. If the carrier elects to make the segregation its records shall be kept in such manner as to reflect, by subprimary accounts, the primary accounts prescribed for such expenses by the Commission in its systems of accounts for motor carriers of property and for motor carriers of passengers.

25 Depreciation of way and structures.

This account shall include the amount of depreciation charges applicable to the accounting period for all classes of depreciable property included under road and equipment General Account 500-1.

26 Other operations—Dr.

This account shall include debits representing the proportion of operating expenses chargeable to maintenance of way and structures of the railway department, but the distributed charges for which have been made to the primary accounts of another coordinate department, such as electric power, light, or heat, within the same company.

27 Other operations—Cr.

This account shall include credits representing the proportion of operating expenses included under 0-1 *Way and structures* chargeable to the accounts of another coordinate department, such as an electric power, light, or heat department within the same company, the distributed charges for which have been made to the primary accounts of the railway department.

28 "Equalization; way and structures.

This account shall include adjustments of the differences between the actual and the budgeted or authorized maintenance expenses for "way and structures" as provided in instruction 01-15 *Equalization of maintenance expenses*. The amounts included in this account shall concurrently be debited or credited to account 442, "Reserve for equalization of maintenance."

28-2 Retirements; way and structures.

(a) This account shall include the service value of nondepreciable way and structure retired and not replaced, the ledger value of which is credited to account 401, "Road and equipment". It shall also include the service value of nondepreciable property which the carrier has been authorized by the Commission to charge to operating expenses in anticipation of its ultimate retirement from service.

(b) When the amounts referred to in paragraph (a) of this account are sufficiently large to constitute an extraordinary item, pursuant to instruction 01-6, they shall be credited to account 270, "Extraordinary items".

28-3 Dismantling retired way and structures.

This account shall include the cost of dismantling way and structures retired from service and recovering the salvage therefrom, with the exception of the cost of removing track material in connection with the repairs of tracks, which is chargeable to account 8. "Track and roadway labor," and account 9, "Small tools and roadway expenses."

6-2 Equipment.

The general account for equipment expense embraces the following primary accounts:

29 Superintendence.

This account shall include the salaries and office and other expenses of officers and their assistants when directly in charge of equipment other than power plant and substation equipment, including superintendent of rolling stock, master car builder, master mechanic, and their office forces; cost of supplies used by employees whose salaries are charged to this account: office rent, cost of repairing rented offices, cost of repairing furniture, and miscellaneous office expenses, when separate offices not in general office buildings are maintained for officers whose salaries are charged to this account.

ITEMS OF EXPENSE AND SUPPLIES

Atlases and maps.	Lighting.
Barometers.	Official train service.
Books for office use.	Periodicals and newspapers.
Drafting instruments.	Power.
Drafting supplies.	Rent of offices.
Engineering supplies.	Repairs of rented offices.
Fees and dues in associations.	Telegraph service.
Furniture repairs and renewals.	Telephone service.
Heating.	Traveling expenses.
	Water and ice.

NOTE A: When employees designated above are engaged in work not chargeable to Equipment, their salaries and expenses shall be charged to the specific work on which engaged.

NOTE B: When employees designated above have supervision over other departments also, their salaries and expenses shall be apportioned equitably among the departments over which they have jurisdiction.

NOTE C: It is not intended that any portion of the expenses of general offices shall be charged to this account. The office expenses of employees designed above who have offices in general office buildings shall be included in the appropriate primary accounts under 0-6 *General*.

30 Passenger and combination cars.

This account shall include the cost of labor and material used in repairing passenger and combination cars, including parlor, chair, sleeping, and dining cars.

To this account shall be charged the cost of repairing the following fixtures and appliances: Fare registers and fare boxes, electric bells and wiring, electric car heaters and wiring, electric lighting and wiring, air-brake equipment and wiring, motors for air governors and pumps, trolley catchers, snow plows attached to cars, couplers, headlight parts, adjustable signs attached to cars; also the cost of shifting trucks from one car to another.

The term car includes body and trucks and all fixtures and appliances inside of or attached to the car body or trucks, except the electric motive equipment of the car. The term combination car includes all cars that are used in part for carrying passengers.

To this account shall be credited the value of material removed.

LIST OF CARS

Buffet.	Parlor.
Cafe.	Passenger and combination.
Center entrance	Rapid transit or elevated.
President's conference.	Smoking.
Chair.	Surface, semiconvertible.
Club.	Trackless motor.
Combination	Trailer.
Dining.	
Observation.	

LIST OF APPURTENANCES

Air-brake equipment.	Ice tanks.
Air compressors.	Kitchen equipment.
Air conditioning equipment.	Lighting equipment.
Bedding.	Parcel racks.
Car trucks.	Ranges and boilers.
Chairs.	Seats.
Coat hooks.	Speed recorders.
Curtains and fixtures.	Steam heat hose.
Cushions.	Table china.
Electric bells.	Table glassware.
Fare boxes and registers.	Table linen.
Fire extinguishers.	Table silver.
Floor covering.	Toilet equipment.
Heating equipment.	Train-signal equipment.
Ice boxes.	Water tanks.
	Windshield wipers.
	Wheels and axles.

NOTE: Portable signs, incandescent lamps, and other supplies for cars shall be charged to account 67, "Miscellaneous car-service expenses."

31 Freight, express, and mail cars.

This account shall include the cost of labor and material used in repairing freight, express, and mail cars from the operation of which revenue is derived.

To this account shall be charged the cost of repairing the following fixtures and appliances: Electric bells and wiring, electric car heaters and wiring, electric lighting and wiring, air-brake equipment and wiring, motors for air governors and pumps, trolley catchers, snow plows attached to cars, couplers, headlight parts, adjustable signs attached to cars; also the cost of shifting trucks from one car to another.

The term car includes body and trucks and all fixtures and appliances inside of or attached to the car body or trucks, except the electric motive equipment of the car.

To this account shall be credited the value of material removed.

LIST OF CARS

Baggage.	Mail.
Ballast.	Milk.
Beer.	Ore.
Box.	Platform.
Cabin.	Postal.
Caboose.	Poultry.
Coal.	Produce.
Dump.	Rack.
Express.	Refrigerator.
Flat.	Stock.
Gondola.	Tank.
Hopper.	Water.
Logging.	

LIST OF APPURTENANCES

Air-brake equipment.	Speed recorders.
Cushions.	Steam heat hose.
Heating equipment.	Toilet equipment.
Lighting fixtures.	Train-signal equipment.
Mail catchers.	Water tanks.

NOTE: Portable signs, incandescent lamps, and other supplies for cars shall be charged to account 67, "Miscellaneous car-service expenses."

32 Service equipment.

This account shall include the cost of labor and material used in repairing service cars, including sprinkler cars, sand cars, salt cars, supply cars, maintenance of way and line cars, snow plows, sweepers, scrapers, and other service equipment.

To this account shall be charged the cost of repairing fixtures and appliances on service cars, such as cranes, pile drivers, welding and bonding apparatus, electric bells and wiring, electric car heaters and wiring, electric lighting and wiring, air-brake equipment and wiring, motors for air governors and pumps, trolley catchers, snow plows attached to cars, couplers, headlight parts; also the cost of shifting trucks from one car to another.

The term car includes body and trucks and all fixtures and appliances attached to the car body or trucks, except the electric motive equipment of the car.

To this account shall be credited the value of material removed.

LIST OF SERVICE CARS

Ballast cars.	Painters' cars.
Boarding cars.	Pay cars.
Bridge cars.	Pile driver cars.
Business rail cars.	Rail cars.
Camp cars.	Sanding cars.
Cinder cars.	Scale test cars.
Compressor cars.	Scraper cars.
Derrick cars.	Snow dozers and drags.
Dirt spreaders.	Snow plows.
Ditching cars.	Steam shovels.
Dump cars.	Supply cars.
Grading cars.	Tank cars.
Gravel cars.	Tool cars.
Indicator cars.	Tower cars.
Instruction cars.	Unloaders.
Locomotives.	Water cars.
Miscellaneous flat cars.	Weed burners.
Office cars.	Wrecking cars.
Outfit cars.	

LIST OF APPURTENANCES

Air-brake equipment.	Heating equipment.
Bedding.	Jacks.
Blocks and tackle.	Kitchen equipment.
Boilers.	Lighting equipment.
Bunks, seats and chairs.	Machinery.
Chains.	Ranges.
China, crockery and glassware.	Tool boxes.
Engines.	Tools.
	Signal equipment.
	Wrecking equipment.

NOTE: Portable signs, incandescent lamps, and other supplies for service cars shall be charged to account 67, "Miscellaneous car-service expenses."

33 Electric equipment of cars.

This account shall include the cost of labor and material used in repairing the electric motive equipment and electric motive wiring of all passenger, combination, freight, express, mail, and service cars.

The cost of shifting the electric equipment from one car to another shall be charged to this account.

To this account shall be credited the value of material removed.

Note A: Incandescent lamps and other supplies for cars shall be charged to account 97, "Miscellaneous car-service expenses."

Note B: This account shall not include the cost of repairing the following fixtures and appliances on passenger, combination, freight, express, mail, or service cars, or locomotives: Electric bells and wiring, electric heaters and wiring, electric lighting and wiring, air-brake equipment and wiring, motors for air governors and pumps, trolley catchers, snow plows attached to cars, couplers, headlight parts, adjustable signs attached to cars, etc. Such expenses shall be charged to accounts 30, 31, 32, or 34, as may be appropriate.

Note C: Electric motive equipment includes trolley poles, wheels, sliding bows, third-rail shoes, etc.

34 Locomotives.

This account shall include the cost of labor and material used in repairing locomotives.

To this account shall be charged the cost of repairing electric motive equipment of locomotives and the following fixtures and appliances: Electric bells and wiring; electric heaters and wiring; electric lighting and wiring; air-brake equipment and wiring; motors for air governors and pumps; trolley parts, retrievers, and catchers; snow plows attached to locomotives; couplers; headlight parts; adjustable signs attached to locomotives; also the cost of shifting trucks or electric motive equipment from one locomotive to another.

The term locomotive includes body and trucks and all fixtures and appliances inside of or attached to the body or trucks, including the electric motive equipment of locomotives.

Carriers operating steam locomotives shall include the cost of repairing same in this account, except as provided in instruction 01–7 *Subprimary accounts for steam railway operations, water line operations, and motor carrier operations.*

To this account shall be credited the value of material removed.

Note: Portable signs, incandescent lamps, and other supplies for locomotives shall be charged to account 97, "Miscellaneous car-service expenses."

35 Floating equipment.

This account shall include the cost of labor and material used in repairing ferryboats, transfer boats, tugboats, barges, lighters, car floats, and other floating equipment, including repairs of machinery, furniture, fixtures, and other appurtenances thereto. (See instruction 01–7 *Subprimary accounts for steam railway operations, water line operations, and motor carrier operations.*

Note: The cost of operating floating equipment shall be charged to account 74, "Operation of floating equipment."

35–1 Maintenance steam railway equipment.

This account may include the expenses of maintaining equipment devoted to steam railway operations. The carrier's records shall be kept in such manner as to reflect by subaccounts the primary accounts prescribed by the Commission in its system of accounts for steam roads, if it elects to make the segregation.

35–2 Maintenance water line equipment.

This account may include the expenses of maintaining equipment devoted to water line operations. The carrier's records shall be kept in such manner as to reflect by subaccounts the primary accounts prescribed by the Commission in its system of accounts for carriers by water, if it elects to make the segregation.

35–3 Maintenance motor carrier equipment.

This account may include the expenses of maintaining equipment devoted to motor carrier operations. The carrier's records shall be kept in such manner as to reflect by subaccounts the primary accounts prescribed for such expenses by the Commission in its systems of accounts for motor carriers of property and for motor carriers of passengers, if it elects to make the segregation.

36 Shop equipment.

This account shall include the cost of labor and material used in repairing machinery and tools (except hand tools) in shops and carhouses, such as engines and boilers, shafting and belting, cranes, hoists, jackets, and other equipment used in connection therewith; furnaces, forges, planers, lathes, shapers, drill presses, wheel grinders, and wheel presses; machinery for compressing and storing compressed air, and fixtures for using same; and tools used in connection with power-driven machinery.

To this account shall be credited the value of material removed.

LIST OF SHOP EQUIPMENT

Air compressors.	Motors.
Ash conveyors.	Pipe cutting machines.
Belting.	Planers.
Blowers.	Pneumatic hammers.
Boilers.	Power machinery.
Boring machines.	Punches.
Cars, push.	Riveters.
Cranes.	Saws.
Drill presses.	Shafting.
Drop tables.	Shapers.
Forges.	Slotters.
Framing machines.	Stationary engines.
Furnaces.	Steam hammers.
Grinding machines.	Transfer tables.
Hoists.	Vises.
Hydraulic jacks.	Welding machines.
Lathes.	Woodworking machines.
Lifting magnets.	
Metal chimneys.	
Milling machines.	

Note: The cost of repairing hand tools shall be charged to account 97, "Shop expenses."

37 Shop expenses.

This account shall include expenses for heating and lighting shops; miscellaneous expenses of such shops, including fuel, water, and ice; cost of oil, grease, waste, and other material used in lubricating shop machinery and tools; cost of supplies and small tools used by mechanics, and wages of employees making and repairing same; wages of stationary engineers and firemen; and pay of watchmen, sweepers, cleaners, and other unskilled laborers employed in general work in and about shops and shop yards.

Note: The cost of labor and material used in a track shop shall be charged to account 8, "Track and roadway labor," and 9, "Small tools and roadway expenses," as may be appropriate.

38 Maintenance of automotive and miscellaneous equipment.

This account shall include the cost of repairing emergency, repair, and other service vehicles, automobiles, motorcycles, trucks, tractors, and other motor equipment, except as otherwise provided in account 35–3.

39 Miscellaneous equipment expenses.

This account shall include all expenses in connection with maintenance of equipment which are not properly chargeable to other equipment accounts.

40 Depreciation of equipment.

This account shall include the amount of depreciation charges applicable to the accounting period for all classes of depreciable equipment included under road and equipment General Account 500–2.

42 Other operations—Dr.

This account shall include debits representing the proportion of operating expenses chargeable to maintenance of equipment of the railway department, but the distributed charges for which have been made to the primary accounts of another coordinate department, such as an electric power, light, or heat department within the same company.

43 Other operations—Cr.

This account shall include credits representing the proportion of operating expenses included under 0–2 *Equipment* chargeable to the accounts of another coordinate department, such as an electric power, light, or heat department, within the same company, the distributed charges for which have been made to the primary accounts of the railway department.

44 Equalization; equipment.

This account shall include adjustments of the differences between the actual and the budgeted or authorized maintenance expenses for "equipment" as provided in instruction 01–15 *Equalization of maintenance expenses.* The amounts included in this account shall concurrently be debited or credited to account 442, "Reserve for equalization of maintenance."

44–3 Dismantling retired equipment.

This account shall include the cost of tearing down equipment retired from service and recovering the salvage therefrom.

(*Continued on Page 20193, Section 2*)

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PART II

Section 2

(Section 3 begins on page 20383)

THE UNIVERSITY OF MICHIGAN
DEC 26 1967
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Interstate Commerce Commission

REPUBLICATION AND REDESIGNATIONS OF REGULATIONS

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

0–3 Power.

The general account for expense of producing and distributing power embraces the following primary accounts:

45 Superintendence.

This account shall include the salaries and the office and other expenses of officers and their assistants, when directly in charge of, or engaged in, the maintenance and operation of power plants and substations; cost of supplies used by employees whose salaries are chargeable to this account; office rent and cost of repairing rented offices; cost of repairing furniture and miscellaneous office expenses when separate offices, not in general office buildings, are maintained for officers whose salaries are charged to this account.

ITEMS OF EXPENSE AND SUPPLIES

Atlases and maps.	Official train service.
Books for office use.	Periodicals and newspapers.
Fees and dues of associations.	Power.
Furniture repairs and renewals.	Telegraph service.
Heating.	Telephone service.
Lighting.	Traveling expenses.
	Water and ice.

NOTE A: When employees designated above are engaged in work not chargeable to primary accounts under 0–3 *Power*, their salaries and expenses shall be charged to the specific work on which engaged.

NOTE B: When employees designated above have supervision over other departments also, their salaries and expenses shall be apportioned equitably among the departments over which they have supervision.

46 Power plant buildings, fixtures, and grounds.

This account shall include the cost of labor and material used in repairing power plant and substation buildings and fixtures; or used in the generation, transmission, or distribution of power; cost of maintaining walks, driveways, and grounds connected with such buildings; and all incidential expenses connected with the maintenance of power plant and substation buildings. The cost of labor and material used in repairing wells, dams, reservoirs, canals, and pipe lines used in connection with hydraulic or other generating plants shall also be included in this account.

To this account shall be credited the value of material removed.

The term power plant buildings, fixtures, and grounds embraces not only the buildings proper, but also permanent fixtures; foundations, except those special to particular machines and apparatus; pipes for gas, water, sewage, and drainage; apparatus for heating, lighting, and ventilating; freight and passenger elevators, with fixtures and appurtenances; platforms; coal pockets and trestles; hose and appliances for protecting buildings against fire; fences, walls, sidewalks, and pavements within the limits of grounds immediately adjacent to buildings or yards, except paving in tracks.

NOTE A: If the carrier so desires, the expenses of hydraulic generating plants may be kept separate from those of steam generating plants by the use of subprimary accounts.

NOTE B: If desired, the expenses of maintaining substation buildings, fixtures, and grounds may be kept separate by the use of a subprimary account.

47 Power plant equipment.

This account shall include the cost of labor and material used in repairing steam, water-power, gas-engine, or electric-plant equipment, including turbines, other engines, and engine parts; substation apparatus, storage batteries, transformers, rotary converters, switchboards, appliances, and wiring; special foundations and settings, appliances, and fixtures; belts, belt tighteners, and fixtures; lubricators and oiling devices; shafting, clutches, cranes, hoists, and other engine-room appliances; boilers, boiler fittings, and appliances; furnaces, economizers, mechanical draft machinery, pumps, feed-water heaters, purifiers, tanks, condensers, coal and ash conveying machinery, mechanical stokers, and other boiler-room appliances; piping and steam fittings, including valves, separators, water and sewer connections, and water meters; generators, and generator parts, switchboards, cables, feeder terminals, and wiring in connection with same; boosters, rheostates, circuit breakers, voltmeters, ammeters, and other electric equipment; packing and carbon rings; and repair parts of machine tools in power plants.

Repairs of cable used in operating cable or incline railways shall be charged to this account.

The cost of maintaining power plant equipment of a lighting plant operated in connection with an electric railway shall be included in this account.

To this account shall be credited the value of material removed.

49 Transmission system.

This account shall include the cost of labor and material used in repairing the transmission system, including cables, wires, insulators, and insulating material; also cost of changing route of line or removing line when no replacement is made, and cost of repairing poles, pole fixtures, and underground conduits used primarily for carrying transmission lines.

To this account shall be credited the value of material removed.

NOTE: When the electric current generated or received is changed by means of rotary converters, motor generator sets, or static transformers (substation apparatus), that portion of the line or outside conductor system carrying current of other than the operating kind of voltage shall be classed as transmission system. When the electric current is generated or received and used substantially unchanged in voltage and kind, the line or outside conductor system, including feeders, trolley wire, booster circuits, and supplementary return, if any, shall be classed wholly as distribution system. The lines between generating stations and substations shall follow the same rules as other lines.

50 Depreciation of power plants.

This account shall include the amount of depreciation charges applicable to the accounting period for all classes of depreciable power plant property included under 500–3 *Power*.

51 Equalization; power.

This account shall include adjustments of the differences between the actual and the budgeted or authorized maintenance expenses for "power" as provided in instruction 01–15 *Equalization of maintenance expenses*. The amounts included in this account shall concurrently be debited or credited to account 442, "Reserve for equalization of maintenance."

51–3 Dismantling retired power plants.

This account shall include the cost of dismantling power plant facilities retired from service and recovering the salvage therefrom.

52 Power plant employees.

This account shall include the cost of labor in power plants and substations, except labor employed in making repairs.

53 Fuel, water, and lubricants for power.

This account shall include the cost of coal, oil, gas, and other fuel used for the propulsion of vehicles or in producing steam at power plants, including cost of transportation; the cost of water to produce steam or to operate water-power plants, including cost of pumping, water rents, rent of ponds and pipelines, boiler compound, and like expenses; and the cost of lubricants, such as oil and grease for power plants and substations.

56 Miscellaneous supplies for power.

This account shall include the cost of waste, carbon brushes, fuses, lamps, hand tools, and other similar supplies for power plants and substations.

59 Power purchased.

This account shall include the cost of power purchased from other companies.

NOTE: In this connection see account 60, "Power exchanged—Balance."

60 Power exchanged; balance.

If a company actually exchanges power with another company, it shall charge to this account the value of the power received from the other company and shall credit to this account the value of the power it delivers to the other company; the amount shown herein being the net debit or credit balance.

61 Power transferred; credit.

This account may be credited, and the appropriate operating expense accounts charged, with that proportion of the total of the accounts under 0–3 *Power* which the power used for lighting, heating, or for other purposes in offices, carhouses, shops, storerooms, stables, stations, towers, tunnels, signal systems, operating bridges, etc., bears to the total power generated.

The use of this account is optional with the carrier; if used, the working papers showing details of the basis for computing credits hereto and charges to operating expense accounts shall be retained.

62 Other operations—Cr.

This account shall include credits representing the proportion of operating expenses, included under 0–3 *Power*,

chargeable to the accounts of another coordinate department, such as an electric power, light, or heat department within the same company, for power furnished.

NOTE: The proportion of expenses, included in the primary accounts under 0–6 *General*, chargeable to other coordinate departments shall be included in account 100, "Other operations—Cr."

0–4 Conducting transportation.

The general account for expense of conducting transportation embraces the following primary accounts:

63 Superintendence.

This account shall include the salaries and the office and other expenses of officers and assistants when directly in charge of transportation, including superintendent of transportation, division superintendents, their assistants and aids; trainmasters, train dispatchers, car starters, inspectors, instructors, and others employed in superintending transportation; wages of clerks furnishing tickets and supplies to motormen and conductors, and receiving and arranging conductors' remittances for transmittal to general offices; and cost of supplies used by employees whose salaries are charged to this account.

To this account shall also be charged office rent, cost of repairing rented offices, cost of repairing furniture, and miscellaneous office expenses when separated offices not in general office buildings are maintained for officers whose salaries are charged to this account; rent of offices used for receiving conductors' collections, rent of instruction rooms; cost of uniforms and badges furnished inspectors and car starters whose wages are charged to this account; and cost of checking traffic for schedule purposes.

ITEMS OF EXPENSE AND SUPPLIES

Atlases and maps.	Express charges.
Barometers.	Fees and dues in associations.
Books for office use.	Furniture repairs and renewals.
Business rail car service.	Rent of offices.
Heating.	Repairs of rented offices.
Lighting.	Telegraph service.
Official train service.	Telephone service.
Periodicals and newspapers.	Traveling expenses.
Power.	
Provisions for business rail cars.	

NOTE A: Cost of secret-service inspection shall be charged to account 67, "Miscellaneous car-service expenses."

NOTE B: No portion of the expenses of general offices shall be charged to this account.

NOTE C: When employees designated above are engaged in work not chargeable to Conducting Transportation, their salaries and expenses shall be charged to the specific work on which engaged.

NOTE D: When employees designated above have supervision over other departments also, their salaries and expenses shall be apportioned equitably among the departments over which they have jurisdiction.

64 Passenger conductors, motormen, and trainmen.

This account shall include the wages of conductors, motormen, and other trainmen engaged in passenger service, including wages paid for time during which they are required to be on duty and to hold themselves in readiness for active service.

65 Freight and express conductors, motormen, and trainmen.

This account shall include the wages of conductors, motormen, and other trainmen engaged in freight, express, and mail service, including wages paid for time during which they are required to be on duty and to hold themselves in readiness for active service.

66 Miscellaneous car-service employees.

This account shall include the wages of transfer agents, switch tenders, switchmen, flagmen, watchmen, trail-car couplers, bridge tenders, and other car-service employees when not provided for elsewhere.

67 Miscellaneous car-service expenses.

This account shall include miscellaneous expenses for cars, locomotives and electric equipment of cars and locomotives, such as lubricants and waste, incandescent lamps, oil, and other supplies for lighting globes, and carbons for headlights, supplies for cleaning, fuel for heating, switch rods or hooks for throwing switches, tools, and other materials and supplies, except such as are used for repairs.

This account shall include also the cost of secret-service inspection; conductors' hooks and punches; rent of fare registers; car-service employees' badges and uniforms; refilling of fire extinguishers in cars; portable signs on cars for guidance of passengers; meals furnished trainmen; temporary grain doors; and other car-service supplies and expenses.

NOTE: Portable signs on cars for the purpose of attracting traffic shall be charged to account 80, "Advertising."

68 Station employees.

This account shall include the wages of stationmasters; freight, express, ticket, baggage, and other station agents; announcers, station gatemen, chopper men, and platform men; janitors, porters, watchmen, and other station employees; warehousemen, freight house foremen, weighmasters, truckmen, checkmen, billing clerks, cashiers, and other express and freight house employees.

The cost of unloading freight at stations or sidings, when borne by the carrier, shall be charged to this account.

NOTE: When a station employee is engaged in various duties and his wages can be readily apportioned among the accounts affected, such apportionment should be made.

69 Station expenses.

This account shall include the cost of heating and lighting stations, waiting rooms freight houses and other station buildings; rent of station buildings; cost of repairing rented waiting rooms, and of repairing furniture and fare boxes at stations; local telephone service; cost of tools and implements for handling freight and baggage; station employees' uniforms and badges; water and ice; and all other station expenses.

ITEMS OF EXPENSE

Express charges.
Furniture repairs and renewals.
Heat, light, and power.
License for ticket agents.
Mail transfer.
Membership fees and dues.
Rent of equipment.
Rent of buildings.
Reports of commercial standings.
Servicing buildings and grounds.
Station employees' expenses.
Telegraph and telephone service.
Warehouse charges.
Washing towels.

70 Carhouse employees.

This account shall include the wages of carhouse foremen; car, motor, and brake inspectors; watchmen, car placers, car shifters, car cleaners, lamp and headlight tenders, car oilers, car-stove firement, trolley oilers, and other carhouse employees not engaged in making repairs.

NOTE: The cost of labor used in shifting trucks and electric equipment shall be charged to accounts 30, 31, 32, 33, or 34, as may be appropriate.

71 Carhouse expenses.

This account shall include the cost of fuel, light, water, ice, and other carhouse supplies and expenses.

ITEMS OF MISCELLANEOUS EXPENSE

Compounds for cleaning.	Packing tools.
Cupboards.	Paint.
Heating.	Power.
Lighting.	Rent.
Lanterns.	Shovels.
Lubricating oil.	Signals.
Lye.	Waste.
	Water.

72 Operation of signal and interlocking apparatus.

This account shall include the wages of employees engaged in operating signal and interlocking apparatus covering the movement of cars, such as tower men, signalmen, lever men, and lamp men; cost of supplies used in operating signal and interlocking apparatus; cost of fuel, water, light, and supplies for signal offices; rent of appliances for signal and interlocker systems; cost of cleaning, filling, and lighting switch lamps, and supplies for same.

NOTE: When an employee is engaged in various duties and his wages can be readily apportioned among the accounts affected, such apportionment should be made.

73 Operation of communication systems.

This account shall include the wages of telephone and telegraph operators, cost of chemicals and other supplies for telephone and telegraph service, payments for use of telephone and telegraph lines, and other telephone and telegraph expenses in connection with transportation. The rent of telephone or telegraph lines used primarily for the operation of cars shall be included in this account.

NOTE: Repairs of telephone and telegraph lines shall not be charged to this account, but to account 18, "Communication systems." The cost of local telephone and telegraph service furnished officials, agents, and other employees shall be included in the accounts appropriate for their office expenses.

74 Operation of floating equipment.

This account shall include the cost of operating floating equipment, including salaries and wages of employees engaged in the superintendence and operation of ferryboats, transfer boats, tugboats, barges, lighters, car floats, and other floating equipment; the cost of fuel and supplies for such equipment; and all other expenses incident to their operation. (See instruction 01–7 *Subprimary accounts for steam railway operations, water line operations, and motor carrier operations.*)

NOTE: The cost of maintaining floating equipment shall be charged to account 35, "Floating equipment."

75 Operation of locomotives.

This account shall include the cost of operating locomotives which do not derive power from trolley line or contact rail, such as those driven by steam, diesel-electric, diesel-mechanical, gasoline, or storage battery power. The operating costs shall include the wages of engineers and firemen or oilers, as well as the cost of fuel, water, lubricants, and other supplies and expenses incident to such operations. Repairs to the locomotives are not to be considered operating costs, as they are chargeable maintenance account 34, "Locomotives." (See instruction 01–7 *Subprimary accounts for steam railway operations, water line operations, and motor carrier operations.*)

75–1 Steam railway operations.

This account may include the expenses incurred in connection with the transportation of persons and property in steam railway service and services incidental thereto. If the carrier elects to make the segregation, its records shall be kept in such manner as to reflect by subprimary accounts the primary accounts prescribed for such operations by the Commission in its system of accounts for steam roads.

75–2 Water line operations.

This account may include the expenses incurred in connection with the transportation of persons and property in water line service and services incidental thereto. If the carrier elects to make the segregation, its records shall be kept in such manner as to reflect by subprimary accounts the primary accounts prescribed for such operations by the Commission in its system of accounts for carriers by water.

75–3 Motor carrier operations.

This account may include the expenses incurred in connection with the transportation of persons and property in motor carrier service and services incidental thereto. If the carrier elects to make the segregation, its records shall be kept in such manner as to reflect by subprimary accounts the primary accounts prescribed for such operations by the Commission in its systems of accounts for motor carriers of passengers and for motor carriers of property.

76 Collection and delivery.

This account shall include the wages of driver and helpers engaged in the collection and delivery of freight and express; amounts payable to others for such service; and all other expenses incident to such service that can be separated from the expenses of regular operations.

77 Loss and damage.

The account shall include expenses incurred for loss, damage, delays, and destruction of freight, express matter, and baggage intrusted to a carrier for transportation, and expenses directly incident thereto, including freight and express charges paid other carriers on lost, destroyed, damaged, or delayed freight, express matter and baggage.

78 Other transportation expenses.

This account shall include all expenses in connection with conducting transportation not properly chargeable to other accounts, such as expenses in connection with weighing, inspection, and demurrage bureaus, wages of crews on emergency vehicles, cost of getting derailed cars on track, and cost of removing wreckage.

0–5 Traffic.

The general account for traffic expense embraces the following primary accounts:

79 Superintendence.

This account shall include the salaries and the office and traveling expenses of officers and their assistants when directly in charge of traffic, including traffic managers; general freight, express, passenger, and ticket agents; commercial, city, district, and excursion agents; and their clerks and assistants; also the cost of supplies used by employees whose salaries are charged to this account, office rent and cost of repairing rented offices and furniture, and miscellaneous office expenses, when separate offices not in general office buildings are maintained for officers whose salaries are charged to this account.

ITEMS OF EXPENSE AND SUPPLIES

Atlases and maps.
Bicycles.
Books for office use.
Express charges.
Fees and dues in associations and clubs.
Furniture repairs and renewals.
Heating.
Lighting.
Official train service.
Periodicals and newspapers.
Power.
Rent of offices.
Repairs of rented offices.
Telegraph service.
Telephone service.
Traveling expenses.
Water and ice.

NOTE A: It is not intended that any portion of expenses of general offices shall be charged to this account. The office expenses of employees designated above who have offices in general office buildings shall be included in the appropriate primary accounts under 0–6 *General*.

NOTE B: When employees designated above are engaged in work not chargeable to Traffic, their salaries and expenses shall be charged to the specific work on which engaged.

NOTE C: When employees designated above have supervision over other departments also, their salaries and expenses shall be apportioned equitably among the departments over which they have jurisdiction.

80 Advertising.

This account shall include the salaries and expenses of advertising agents; cost of printing, publishing, and distributing timetables, folders, notices to shippers, and other advertising matter; advertising in newspapers and periodicals for the purpose of securing traffic; signs on cars advertising special events; portable signs for attracting traffic; bulletin boards, cards, cases, display cards, and photographs; postage and express charges on advertising matter; cost of bill posting; donations made for traffic purposes and for entertaining conventions; and similar expenses.

ITEMS OF EXPENSE AND SUPPLIES

Advertising in periodicals and newspapers.
Bulletin boards and cards.
Distributing folders, notices, and timetables.
Dodgers.
Frames.
Handbills, maps, pamphlets.
Photographs and views.
Postage.
Posters, advertising matter, folders.
Timetables and racks.

81 Parks, resorts, and attractions.

This account shall include the cost of maintaining and operating amusement parks, resorts, and other like attractions when such expense is incurred primarily for the purpose of inducing travel upon the line of the carrier.

To this account shall be credited all income from admittance fees, sale of privileges, etc.

NOTE: When any such park, resort, or other attraction, the cost of which is included in the account for investment in road and equipment, is maintained and operated for any other purpose than that of inducing travel upon the line of the carrier it shall be considered as an auxiliary operation and its revenues and expenses included in income accounts 202, "Auxiliary operations—Revenues," and 214, "Auxiliary operations—Expenses," respectively.

82 Miscellaneous traffic expenses.

This account shall include expenses of traffic associations, including membership fees, and traffic expenses not properly chargeable to other accounts.

0–6 General.

The general account for general expenses embraces the following primary accounts:

83 Salaries and expenses of general officers.

This account shall include the salaries and the traveling and other expenses of the chairman of the board, president, vice president, treasurer, secretary, comptroller, auditor, general manager, assistant general manager, chief engineer, general superintendent, purchasing agent, and all other officers whose jurisdiction extends over the entire system or all departments; also receiver's fees, and payments to engineering corporations for supervising and managing operations of the company.

84 Salaries and expenses of general office clerks.

This account shall include the salaries and the traveling and other expenses of traveling auditors, bookkeepers, cashiers, paymasters, stenographers, clerks employed in counting cash, tickets, and transfers, and all other clerks employed in the general office.

The salaries of clerks engaged exclusively in handling the accounts of the maintenance of way, mechanical, store, and other departments, when employed in the general accounting office, shall be charged to this account.

85 General office supplies and expenses.

This account shall include the cost of office supplies, repairs of office furniture and of mechanical calculators, typewriters, duplicating machines, and other office appliances; wages of janitors, porters, and messengers; rent and cost of repairing rented offices; and miscellaneous expenses of general offices.

ITEMS OF EXPENSE AND SUPPLIES

Adding machines.	Heating.
Addressographs.	Lighting.
Alterations of partitions and fixtures.	Messenger service.
Atlases and maps.	Periodicals and newspapers.
Arm rests.	Phonographs and records.
Books for office use.	Rent of offices.
Cable tolls.	Rent of equipment.
Calculating machines.	Repairs of rented offices.
Cleaning.	Reports of commercial standing.
Coin counting machines.	Shears.
Dictaphones.	Telegraph service.
Dictagraphs.	Telephone service.
Duplicators.	Typewriters and ribbons.
Eyelet punches and eyelets.	Watchman service.
Express charges.	
Furniture repairs and renewals.	

NOTE A: Office expenses of departmental officers shall be charged to the accounts to which their salaries are charged.

NOTE B: If general offices are in buildings owned by the carrier or held under long-term lease, the cost of repairs shall be included in account 24, "Buildings, fixtures, and grounds."

86 Law expenses.

This account shall include all law expenses except those incurred in the defense and settlement of damage claims. It includes salaries and expenses of counsel, solicitors, and attorneys, their clerks and attendants, and expenses of their offices; fees and retainers for services of attorneys not regular employees; cost of law books; cost of printing briefs, legal forms, testimony, reports, etc.; court costs and payments of special, notarial, and witness fees not provided for elsewhere; expenses connected with taking depositions; law expenses of receivers; and all law and court expenses not provided for elsewhere.

ITEMS OF EXPENSE AND SUPPLIES

Arbitrators of disputes.	Court bonds.
Cost of depositions.	Court expenses.
Cost of testimony.	Drawing agreements.
Cost of lawsuits.	Express charges.
	Fees and retainers.
Law books.	Portion of general office expenses.
Legal reports.	Rent of offices.
Membership in associations.	Special fees.
Notarial fees.	Telegraph service.
Office expenses.	Telephone service.
Printing briefs, etc.	Traveling expenses.

NOTE: The compensation of the general solicitor, counsel, or other attorneys engaged partly in the defense and settlement of damage suits and partly in other legal work, shall be apportioned between this account and account 92, "Injuries and damages."

87 Relief department expenses.

This account shall include salaries and expenses incurred in connection with conducting a relief department; also contributions made to such department.

88 Pensions and gratuities.

This account shall include pensions and gratuities paid to retired or incapacitated employees, or heirs of employees, and expenses in connection therewith; also cost of life and benefit insurance on employees.

NOTE: If the carrier has definitely undertaken by contract to pay pension to employees when regularly retired for superannuation or disability and has established a fund to be held in trust for such purposes, it shall charge to this account monthly amounts determined by application of actuarial factors to monthly payrolls, which, with interest accruals on trust funds, will provide for the payment of such pensions, or for the purchase of annuities corresponding thereto. If the carrier has definitely undertaken by contract to pay pensions to employees for life when regularly retired for superannuation or disability but has not established a fund to be held in trust for such purposes, it may charge to this account during the year of retirement an amount determined by application of actuarial factors equal to the total anticipated cost of such pension. The amounts so charged shall be currently credited to a reserve (account 437, "Liability for provident funds"). The amount accrued each year shall correspond to the aggregate of the amounts paid into the trust fund and expended by the carrier for pensions or annuities during the year. The carrier shall maintain a complete record.

Before adopting such a plan, the carrier shall inform the Commission of the details and copy of the declaration of trust under which the fund is established.

In addition, this account may be charged with amortization of past services paid to insurance companies or to a trust (not to exceed 10% a year).

No charge to this account shall be made in anticipation of discretionary pension payments in the future.

89 Miscellaneous general expenses.

This account shall include miscellaneous expenses connected with the general management not provided for otherwise, such as cost of "safety first" or "prevention of accidents" campaigns, fees and expenses paid to directors and trustees, dues and fees for railway associations, cost of free entertainments for employees, fees for filing annual state reports; and also gratuities, subscriptions, and donations, not provided for in account 80, "Advertising," 87, "Relief department expenses," and 88, "Pensions and gratuities."

90 Valuation expenses.

This account shall include expenses incident to the ascertainment (in accordance with the Interstate Commerce Act or with other Federal or State requirements) of the value of property owned or used by the accounting carrier, such expenses including the pay and the office, traveling, and other expenses of officers specially employed or assigned to such work, and of their assistants, clerks, and attendants, and the cost of stationery and printing, and of engineering supplies consumed.

NOTE: No charge shall be made to this account for the salaries of officers or of their clerks and attendants for incidental services in connection with valuation work, but special office, clerical, traveling, and incidental expenses incurred by these officers on account of such work shall be included as a part of the cost of the work.

91 Amortization of franchises.

This account shall include each month a monthly proportion of the amount paid for limited franchises.

The amount charged to this account shall be based upon a plan determined by the accounting company, the purpose and effect of such plan being to accumulate by charges equitably distributed throughout the life of any franchise, a reserve that will, at the expiration of its life, equal the amount paid therefor.

NOTE A: Amounts charged to this account shall be concurrently credited to balance sheet account 444, "Reserve for amortization of franchises."

NOTE B: See road and equipment account 545, "Franchises."

92 Injuries and damages.

This account shall include expenditures on account of persons killed or injured and property damaged; compensation paid employees injured while in performance of their duties; salaries and expenses of claim agents, investigators, adjusters, and others engaged in the investigation of accidents and adjustment of claims; salaries, fees, and expenses of surgeons and doctors; medical and surgical supplies, nursing and hospital attendance; fees and expenses of coroners and undertakers; and fees of witnesses and others.

To this account shall be charged also law expenses incurred in connection with the defense or settlement of damage claims, including the compensation of general solicitor or counsel; salaries, fees, and expenses of attorneys, fees of court stenographers; cost of law books, cost of appeal bonds; cost of printing briefs, and court and other records; court costs, expenses connected with taking depositions, and other like expenses connected with the settlement of claims for injuries and damages.

The cost of repairing another company's tracks and equipment as the result of collisions, derailments, etc., shall be included in this account.

If desired, the carrier may charge to this account monthly and credit to a reserve account, a proportion of the total amount estimated to be necessary to expend during the year for injury and damage claims and the actual disbursements shall be charged against said reserve account.

The charges to this account shall be adjusted at the close of the year to actual expenses unless a balance remains representing liability for unsettled claims.

NOTE A: The compensation of the general solicitor or counsel and other attorneys engaged partly in the defense or settlement of damage suits and partly in other legal work shall be apportioned between this account and account 86, "Law expenses."

NOTE B: This account shall not include the expenses incurred in connection with the settlement of claims for loss, damage, or delay of goods intrusted for transportation. (See account 77, "Loss and damage.")

NOTE C: The cost of repairs to a company's own tracks and equipment, necessitated by collisions, derailments, etc., shall be charged to the appropriate maintenance accounts.

NOTE D: For their own information carriers may distribute items included in this account, but such distribution shall not affect the reports to the Interstate Commerce Commission. Reports to the Commission shall show the total of the items chargeable to this account, as required by the text.

93 Insurance.

This account shall include premiums paid for fire, fidelity, boiler, casualty, burglary, workmen's compensation, and other insurance; also amounts set aside as an insurance reserve by a company carrying its own insurance in whole or in part.

NOTE A: Insurance on supplies and materials in transit shall not be charged to this account, but shall be considered as part of the cost of such supplies and materials.

NOTE B: For their own information carriers may distribute items included in this account, but such distribution shall not affect the reports to the Interstate Commerce Commission. Reports to the Commission shall show the total of the items chargeable to this account as required by the text.

94 Stationery and printing.

This account shall include expenditures for stationery and printing, postage, and stationery supplies, except as provided for elsewhere. The cost of printing tickets, transfers, cash fare receipts, baggage checks, hat checks, milk checks, and waybills shall be charged to this account.

STATIONERY AND PRINTING ITEMS

Baggage checks and forms.	Forms.
Bills of lading.	Glass pens.
Binders.	Hectographs.
Blank books.	Indexes.
Blotters.	Ink.
Bristol board.	Ink stands.
Calendars.	Invoice books.
Carbon paper.	Legal paper.
Cardboard.	Letter paper.
Cards.	Manifold paper.
Circulars.	Manifold pens.
Classifications.	Mileage books.
Computing tables.	Mimeographs.
Copy books.	Mucilage and brushes.
Copypresses.	Neostyles.
Crayons.	Note paper.
Cyclostyles.	Notices.
Cross section books and papers.	Numbering stamps.
Dating stamps and ribbons.	Oil paper.
Delivery tickets.	Paper.
Delivery sheets.	Paper baskets.
Drawing paper.	Paper clips.
Electric pens.	Paper cutters.
Envelopes.	Paper fasteners.
Erasers.	Paper weights.
File boxes.	Papyrographs.
	Parchment paper.
	Passes.
Paychecks.	Shorthand books.
Pencil sharpeners.	Sponge cups.
Pencils.	Sponges.
Penholders.	Stamps.
Pen racks.	Stylographs.
Pens.	Tablets.
Pins.	Tape.
Postage.	Telegraph blanks.
Punches.	Tickets.
Rate sheets.	Time tables.
Rubber bands.	Tissue paper.
Rubber stamps.	Tracing cloth.
Rulers.	Twine.
Ruling pens.	Wage tables.
Scrap books.	Wastebaskets.
Sealing wax.	Water colors.
Seals.	Wrapping paper.
Shipping orders.	Wringers.
Shipping tags.	

NOTE A: The cost of printing briefs and other legal papers shall be charged to account 86, "Law expenses," or 92, "Injuries and damages." The cost of printing signs, posters, and other advertising matter shall be charged to account 80, "Advertising."

NOTE B: The cost of repairing mechanical calculators, typewriters, duplicating machines, and other office appliances, if for use of general offices, shall be charged to account 85, "General office supplies and expenses," and if for the use of departmental offices, to the accounts to which the expenses of such offices are chargeable.

NOTE C: For their own information carriers may distribute items included in this account, but such distribution shall not affect the reports to the Interstate Commerce Commission. Reports to the Commission shall show the total of the items chargeable to this account as required by the text.

95 Store expenses.

This account shall include the salaries and expenses in connection with storerooms, including cost of sending material and supplies from general storerooms to branch storerooms, and cost of handling scrap material in store.

NOTE: For their own information carriers may distribute items included in this account, but such distribution shall not affect the reports to the Interstate Commerce Commission. Reports to the Commission shall show the total of the items chargeable to this account as required by the text.

96 Service garage expenses and supplies.

This account shall include the salaries and wages of drivers, chauffeurs, garagemen, and other employees in service garages; also the cost of fuel, gasoline, and all other material and supplies used in operation of service garages.

NOTE: This account shall not include wages of employees provided for in account 78, "Collection and delivery."

97 Rent of tracks and facilities.

This account shall include amounts paid for rent or use of tracks, electric lines, terminals, and bridges, whether a fixed charge per month or per year, a proportion of interest on valuation, a proportion of expenses incurred in maintaining and operating such properties, an amount based on car mileage, a charge per car or passenger, or any other arrangement, when such property is used jointly by the accounting and other carriers.

NOTE: Rent of leased line no longer operated by the lessor company is not considered an operating expense, and therefore shall not be charged to this account, but treated as a deduction from income under account 216, "Rent for leased roads."

98 Rent of equipment.

This account shall include payments to other companies for rent or use of their cars, electric equipment of cars, and other rail equipment, on whatever basis such rent may be determined.

This account shall include the gross amount paid for rent of equipment and not the net balance between the amounts paid and received for rent of equipment.

99 Other operations—Dr.

This account shall include debits representing the proportion of operating expenses chargeable to general expenses of the railway department, but the distributed charges for which have been made to the primary accounts of another coordinate department, such as an electric power, light, or heat department within the same company.

100 Other operations—Cr.

This account shall include credits representing the proportion of operating expenses included under the general account General chargeable to the accounts of another coordinate department, such as an electric power, light, or heat department within the same company, the distributed charges for which have been made to the primary accounts of the railway department.

0-7 Accounts for small carriers, Class II.

See provisions of 00-1 *Classification of carriers*. The condensed groupings of operating expense accounts for Class II small carriers are as follows: The account numbers shown for each title being the corresponding account or accounts prescribed for Class I carriers:

WAY AND STRUCTURES

1	Superintendence.
2 to 12	Maintenance of roadway and track.
13 to 19	Other maintenance of way.
22	Distribution system.
23	Miscellaneous electric line expenses.
24	Buildings, fixtures, and grounds.
24-1 to 24-3	Maintenance steam railway, water line, and motor carrier property.
25	Depreciation of way and structures.
26	Other operations—Dr.
27	Other operations—Cr.
28	Equalization—Way and structures.
28-2	Retirements—Way and structures.
28-3	Dismantling retired way and structures.

EQUIPMENT

30	Superintendence.
30 to 33	Maintenance of cars.
33	Electric equipment of cars.
34	Locomotives.
35	Floating equipment.
35-1 to 35-3	Maintenance steam railway, water line, and motor carrier equipment.
36 to 39	Miscellaneous equipment expenses.
40	Depreciation of equipment.
42	Other operations—Dr.

43	Other operations—Cr.
44	Equalization—Equipment.
44-3	Dismantling retired equipment.
	POWER
45	Superintendence.
46 to 48	Power plants.
49	Transmission system.
50	Depreciation of power plants.
51	Equalization—Power.
51-3	Dismantling retired power plants.
52 to 54	Wages, expenses, and supplies.
59 to 61	Power purchased, exchanged, and transferred.
62	Other operations—Cr.
	CONDUCTING TRANSPORTATION
65	Superintendence.
66 to 68	Conductors, motormen, and trainmen.
69 to 67	Miscellaneous car-service employees and expenses.
68 to 69	Station employees and expenses.
70 to 71	Carhouse employees and expenses.
72 to 73	Signal, interlocker, and communication operations.
74	Operation of floating equipment.
75	Operation of steam locomotives.
75-1 to 75-3	Steam railway, water line, and motor carrier operations.
76	Collection and delivery.
77	Loss and damage.
78	Other transportation expenses.
	TRAFFIC
79 to 82	Traffic expenses.
	GENERAL
86 to 86	Salaries, expenses, and supplies of general officers and clerks.
86	Law expenses.
87 to 89	Relief, pensions, and miscellaneous general expenses.
90	Valuation expenses.
91	Amortization of franchises.
92 to 96	Injuries, damages, and insurance.
94	Stationery and printing.
95	Store expenses.
96	Service garage expenses and supplies.
97 to 98	Rents.
99	Other expenses—Dr.
100	Other expenses—Cr.

0–3 Accounts for small carriers, Class III.

See provisions of 00–1 *Classification of carriers.* The condensed groupings of operating expense accounts for Class III small carriers are as follows; the account numbers shown for each title being the corresponding account or accounts prescribed for Class I carriers.

	WAY AND STRUCTURES
1	Superintendence
2 to 19	Maintenance of way.
22 to 23	Maintenance of electric lines.
24	Buildings, fixtures, and grounds.
24-3 to 24-8	Maintenance steam railway, water line, and motor carrier property.
26	Depreciation of way and structures.
26 to 27	Other operations.
28	Equalization—Way and structures.
28-2	Retirements—Way and structures.
28-3	Dismantling retired way and structures.
	EQUIPMENT
29	Superintendence.
30 to 39	Maintenance of cars and electrical equipment.
34	Locomotives.
35	Floating equipment.
35-1 to 35-8	Maintenance of steam railway, water line, and motor carrier equipment.
36 to 39	Miscellaneous equipment expenses.
40	Depreciation of equipment.
42 to 43	Other operations.
44	Equalization—Equipment.
44-3	Dismantling retired equipment.
	POWER
45	Superintendence.
46 to 49	Power plants.
50	Depreciation of power plants.
51	Equalization—Power.
51-3	Dismantling retired power plants.
52 to 54	Wages, expenses, and supplies.
59 to 61	Power purchased; exchanged, and transferred.
62	Other operations—Cr.
	CONDUCTING TRANSPORTATION
65	Superintendence.
66 to 68	Conductors, motormen, and trainmen.
68 to 78	Miscellaneous transportation expenses.
	TRAFFIC
79 to 82	Traffic expenses.
	GENERAL
86 to 89	General.
90	Valuation expenses.
91	Amortization of franchises.
92 to 96	Miscellaneous expenses.
97 to 98	Rents.
99 to 100	Other expenses.

OPERATING REVENUES

0–3 General instructions.

02–1 Accounts for operating revenues.

The accounts provided for operating revenues are designed to show amounts of money which the carrier becomes entitled to receive from transportation and from services incident thereto. Credits to the revenue accounts shall, as nearly as practicable, be upon the basis of accruals of revenue.

Uncollectible tariff charges on unclaimed or refused shipments, transported in accordance with contract of shipment, shall be charged to the appropriate revenue account after deducting the proceeds, if any, derived from the sale of such freight. The appropriate revenue account also shall be charged with revenues for which the service has been rendered that are determined, after exhausting reasonable efforts, to be uncollectible.

Except as otherwise provided, the appropriate revenue account shall include collections in excess of tariff charges, such collections being subject to refund.

02–2 Auxiliary operations.

If a carrier conducts a general power, light, heat, or other business not incident to transportation, the entire revenue of each of such operations shall be stated separately in subaccounts under income account 202, "Auxiliary operations—Revenues." (See instruction 01–2 *Auxiliary operations*, and instruction 01–3 *Exclusion of auxiliary operations expenses.*)

02–3 Extraordinary and prior period items.

See instruction 01–6 *Extraordinary and prior period items.*

02–4 Subprimary accounts for steam railway operations, water line operations, and motor carrier operations.

If the carrier operates a steam railroad division or conducts both electric and steam railroad operations and desires to keep the revenues from such operations separately, it may set up as subprimary accounts the appropriate primary accounts of the system of accounts for steam railroads. If the carrier conducts water line or ferry operations and desires to keep the revenues from such operations separately, it may set up as subprimary accounts the appropriate primary accounts of the system of accounts for carriers by water. If the carrier operates motor vehicles and desires to keep the revenues from such operations separately, it may set up as subprimary accounts the appropriate primary accounts of the system of accounts for motor carriers of property and the system of accounts for motor carriers of passengers.

REVENUE ACCOUNTS

TRANSPORTATION

101 Passenger revenue.

This account shall include amounts earned for the transportation of passengers. To it shall be credited the carrier's proportion of receipts from the sale of tickets and transfers and from the collection of cash fares.

To this account shall be charged amounts paid for fares refunded and for tickets and transfers redeemed; also amounts paid for transferring passengers and baggage between stations, except in cases where the transfer of both passengers and baggage is provided for in the division of the through rate.

NOTE A: Cash fare penalty collections made by conductors and the proportion of amounts derived from sales of mileage tickets and mileage credentials, and subject to refund, shall not be credited to this account.

NOTE B: Receipts from mileage books when sold shall be credited to an open account, which account shall be charged and this account credited as the mileage is honored for transportation. A similar practice may be followed in connection with the sale of strip, coupon, and other tickets.

102 Baggage revenue.

This account shall include amounts earned for the transportation of baggage in excess of free authorized allowances; and for transportation of packages, articles, dogs, etc., as baggage.

To this account shall be charged all baggage refunds.

103 Parlor, sleeping, dining, and special car revenue.

This account shall include amounts earned for seat accommodations furnished in parlor, observation, chair, and other special passenger cars, including revenue from cars chartered for special passenger service, from berth and seat accommodations furnished in sleeping cars, and from meals, beverages, cigars, tobacco, and other articles sold on dining, sleeping, and special cars.

To this account shall be charged the cost of provisions, beverages, cigars, tobacco, and other articles sold on dining, sleeping, and special cars. To this account shall be charged also amounts previously credited thereto representing refunds of fares for accommodations, refunds of overcharges resulting from the use of erroneous rates, and other authorized refunds.

104 Mail revenue.

This account shall include amounts earned for the transportation of mails and for the use of railway mail cars, for use of special facilities, and from bonuses for special mail transportation.

To this account shall be charged fines and penalties imposed by the Government, when not collected from agents or employees.

105 Express revenue.

This account shall include amounts earned for transportation of express matter and for use of facilities on cars and at stations incident to such transportation, but not including the separate rents of offices at stations.

When a railway company transacts an express business through its regular railway organization, the earnings therefrom shall be credited to this account. The revenue from express traffic handled under contract with an express company, regardless of the arrangement or basis upon which the compensation is fixed, shall be credited to this account.

The term express is intended to cover matter handled at a higher rate than for freight on account of quicker service or collection and delivery.

NOTE: Rent receivable for rooms at stations used by others in connection with express service shall be credited to account 117, "Rent of buildings and other property."

106 Milk revenue.

This account shall include amounts earned for the transportation of milk and cream.

To this account shall be charged refunds and overcharges on milk and cream so carried.

107 Freight revenue.

This account shall include amounts earned for the transportation of freight, other than milk and cream.

To this account shall be charged overcharges paid, resulting from the use of erroneous rates, weights, or classification; amounts paid under tariff authority for switching, drayage, and cartage; authorized allowances; uncollected earnings on freight destroyed in transit, and on short and lost freight.

NOTE: Other carriers' proportions of revenue paid by the carrier on freight lost or destroyed in transit shall be charged to operating expense account 77, "Loss and damage."

108 Switching revenue.

This account shall include amounts earned for switching service. To this account shall be charged all overcharges on such switching service.

109 Miscellaneous transportation revenue.

This account shall include all amounts earned from transportation and not provided for elsewhere.

OTHER RAILWAY OPERATIONS

110 Station and car privileges.

This account shall include revenues from weighing, vending, and other automatic machines located at stations; from advertising at stations and on cars; from news companies or others for the privilege of operating newsstands at stations and selling papers, periodicals, fruit, etc., on cars; from telephone companies for the privilege of installing and operating commercial telephones at stations; and from similar sources.

111 Parcel room receipts.

This account shall include revenues from the operation of parcel rooms.

112 Storage.

This account shall include revenues from storage of freight and baggage.

To this account shall be charged authorized refunds of amounts received for such storage.

113 Demurrage.

This account shall include revenue from penalties for delay in loading or unloading cars.

To this account shall be charged authorized refunds of amounts received as such penalties.

114 Communication service.

This account shall include revenues from commercial telephone and telegraph business transacted by it, when the expense of transacting such business cannot be separated from the expense of conducting the railway service; also amounts received from telephone and telegraph companies, whether as proportion of earnings or otherwise, for the privilege of transacting a commercial telephone or telegraph business in offices along the carrier's lines, when the carrier furnishes some service of employees whose wages are included in its operating expenses.

NOTE: When a telephone or telegraph company rents the telephone or telegraph line of the carrier and pays all expenses incident to its maintenance and operation, the rent received by the carrier shall be credited to account 204, "Miscellaneous rent income."

115 Rent of tracks and facilities.

This account shall include amounts received as rent for use of tracks, electric lines, terminals, bridges, and other facilities whether a fixed charge per month or per year, a proportion of interest on valuation, a proportion of expenses incurred in maintaining and operating such properties, an amount based on car mileage, a charge per car or passenger, or any other arrangement, when such property is used jointly by the accounting and other carriers.

NOTE: Income from leased lines not operated by the lessor shall be included in account 208, "Income from lease of road."

116 Rent of equipment.

This account shall include amounts received as rent for use of cars, electric equipment of cars, and other equipment on whatever basis such rent may be determined.

This account shall include the gross amount received for rent of equipment and not the net balance between the amounts received and paid for rent of equipment.

117 Rent of buildings and other property.

This account shall include rents of buildings, land, and other property, such as depot and station grounds and buildings, general and other offices, rooms rented at stations, docks, wharves, ferry landings, section and other houses, etc., when such property is used in connection with operations. Receipts from other companies for privilege of attaching wires to the carrier's poles shall also be credited to this account.

NOTE: Income from rent of real estate, purchased or conducted as an outside investment, shall be included in account 205, "Net income from miscellaneous physical property," or account 219, "Net loss on miscellaneous physical property."

118 Power.

This account shall include all amounts earned for power sold if a carrier does not conduct a general power, light, or heat business.

NOTE: If a carrier conducts a general power, light, or heat business, such business shall be considered an auxiliary operation, and the revenues earned therefrom shall be credited to a separate account. The expenses of conducting such auxiliary operations shall be excluded from the operating expenses of the railway by means of the several accounts entitled "Other operations—Cr." The revenues and expenses of these operations shall be included in income accounts 208, "Auxiliary operations—Revenues," and 214, "Auxiliary operations—Expenses." (See instruction 01–2 *Auxiliary operations.*)

119 Miscellaneous.

This account shall include all revenues derived from operations other than transportation and not includible in the foregoing revenue accounts.

STEAM RAILWAY, WATER LINE, OR MOTOR CARRIER OPERATIONS

120 Steam railway revenue.

This account may include the operating revenues that accrue to the carrier from transportation services and services incidental thereto in connection with steam railroad operations. The carrier

shall maintain as subprimary accounts the primary revenue accounts prescribed by the Commission in its system of accounts for steam railroads, if it elects to make the segregation.

121 Water line revenue.

This account may include the operating revenues that accrue to the carrier from transportation services and services incidental thereto in connection with water line or ferry operations. The carrier shall maintain as subprimary accounts the primary revenue accounts prescribed by the Commission in its system of accounts for carriers by water, if it elects to make the segregation.

122 Motor carrier revenue.

This account may include the operating revenues that accrue to the carrier from transportation services and services incidental thereto in connection with motor carrier operations. The carrier shall maintain as subprimary accounts the primary revenue accounts prescribed by the Commission in its system of accounts for motor carriers of property and for motor carriers of passengers, if it elects to make the segregation.

INCOME

03 General instructions.

03–1 Income accounts defined.

Income accounts are accounts designed to show the total amount of money that a company receives or becomes entitled to receive from its transportation and other operations during a stated period, the returns upon investments accrued during the period, the disbursements and the obligations incurred that affect the amounts so received or accrued, the disposition or allocation of the income accrued and the net balance of income (or loss) carried to the Profit and Loss Account.

Where the title and definition of an income account clearly indicate that it is a summary of other accounts, it is not required that a special ledger account shall be kept under such a title to include the balances from the accounts usually carried in the ledger, but in such case the titles of the subaccounts in the ledger shall give a reference by number or title, or both, to the account prescribed herein of which they are subdivisions.

03–2 Extraordinary and prior period items.

See instruction 01–6 *Extraordinary and prior period items.*

03–3 Auxiliary operations.

See instruction 01–2 *Auxiliary operations.*

03–4 Income from sinking and reserve funds.

Accrued interest on uninvested sinking fund cash on deposit in banks or trust companies and accrued interest and other income from stocks, bonds, or other assets held in sinking and reserve funds shall be credited to account 209, "Income from sinking fund and other reserves," and if mortgage or other provisions respecting the funds require that such interest and other income shall be retained in the funds in the hands of trustees, the amounts of interest and other income shall be charged to the funds.

03–5 Unaudited items.

When the amount of any item affecting income cannot be accurately determined in time for inclusion in the accounts of the month in which the transaction occurs, the amount of the item shall be estimated and included in the appropriate income account with contra entry to the appropriate balance sheet account. When the item is audited, the necessary adjustment shall be made through the accounts in which the initial estimate was recorded. If, during the interval between the date of the initial estimate and the date of audit of the item, a substantial difference from the initial estimate is determined, appropriate adjustment shall be made in the current accounts to cover such difference. The carrier is not required to anticipate items which would not appreciably affect the accounts.

03–6 Form of income statement.

The income statement is designed to show the results from transportation operations and other business of the accounting company during any specified period.

ORDINARY ITEMS

OPERATING INCOME

201 Railway operating revenues.
213 Railway operating expenses.
Net revenue (or deficit)—Railway operations.
203 Auxiliary operations—Revenues.
214 Auxiliary operations—Expenses.
Net revenue (or deficit)—Auxiliary operations.
Net operating revenue (or deficit).
215 Taxes assignable to transportation operations.
Operating income (or loss).

NONOPERATING INCOME

203 Income from lease of road.
204 Miscellaneous rent income.
205 Net income from miscellaneous physical property.
206 Dividend income.
207 Income from funded securities.
208 Income from unfunded securities and accounts.
209 Income from sinking fund and other reserves.
210 Release of premiums on funded debt.
211 Contribution from others.
212 Miscellaneous income.
Total nonoperating income.
Gross income (or loss).

DEDUCTIONS FROM GROSS INCOME

216 Rent for leased roads.
217 Miscellaneous rents.
218 Miscellaneous taxes.
219 Net loss on miscellaneous physical property.
220 Interest on funded debt.
221 Interest on unfunded debt.
222 Amortization of discount on funded debt.
223 Income transferred to other companies.
224 Maintenance of organization—Lessor companies.
225 Miscellaneous debits.
Total deductions from gross income.
Ordinary income.

EXTRAORDINARY AND PRIOR PERIOD ITEMS

270 Extraordinary items (net).
280 Prior period items (net).
290 Income taxes on extraordinary and prior period items.
Total extraordinary and prior period items.
Net income (or loss).

INCOME ACCOUNTS

ORDINARY ITEMS

Credit

201 Railway operating revenues.

This account shall include the total revenues derived from transportation operations and operations incident thereto as shown in the accounts provided for operating revenues.

202 Auxiliary operations; revenues.

This account shall include the total revenues derived from auxiliary operations.

If a carrier conducts a general power, light, heat, or other business, not incident to transportation operations, the entire revenues from each of such operations shall be stated separately in subaccounts under this account. (See instruction 01–2 *Auxiliary operations.*)

203 Income from lease of road.

This account shall include the amount receivable by the carrier for the exclusive use of road, tracks, or bridges (including equipment and other railway property, if covered by the contract) owned or controlled, but not operated, by the accounting company, and held by another company under lease or other agreement, whether such amounts are payable directly to the accounting company or are disbursed by the lessee on behalf of the accounting company as interest on funded debt, guaranteed dividends on stock, or otherwise.

When the lessor company maintains the road and equipment leased, the cost of maintaining the property rented shall be charged to this account.

If, under the terms of a lease, the deficit, or any portion of it, resulting from the lessee company's operations of the property leased is payable by the lessor company, the amount thus payable shall be charged to this account by the lessor.

NOTE A: When taxes on leased property are assumed by the lessor, the accruals of such taxes shall be included in the lessor's account 215, "Taxes assignable to transportation operations."

NOTE B: If property the rent of which is chargeable to account 216, "Rent for leased roads," is sublet by the accounting company, the rent receivable therefor shall be credited to this account.

NOTE C: When specific charges are made against the lessee by the lessor for maintenance of the leased property which is maintained by the latter, the amount of such charges shall be credited by the lessor and charged by the lessee to the appropriate maintenance accounts.

204 Miscellaneous rent income.

This account shall include such rents of property owned and controlled by the accounting carrier as are not provided for elsewhere.

To this account shall be charged the cost of maintenance of the property rented, and incidental expenses in connection with such property, such as the cost of negotiating contracts, advertising for tenants, fees paid conveyancers, collectors' commissions, and analogous items.

If property, the rent of which is charged to account 217, "Miscellaneous rents," is sublet by the accounting company, the rent receivable therefor shall be credited to this account.

NOTE A: If the expenses of the property leased cannot be separated from the expenses of property used in the company's operations, the rents shall be credited to revenue account 117, "Rent of buildings and other property."

NOTE B: Taxes assumed by the accounting company on property the rent of which is credited to this account, shall be charged to account 218, "Taxes assignable to transportation operations."

NOTE C: The rent of property carried in balance sheet account 404, "Miscellaneous physical property," shall be included in account 205, "Net income from miscellaneous physical property," or 219, "Net loss on miscellaneous physical property," as may be appropriate.

NOTE D: Rent and other income from real estate acquired for road and equipment shall be credited to account 551, "Construction work in progress," until the completion or coming into service of the property.

205 Net income from miscellaneous physical property.

This account shall be credited with the revenues or income from physical property carried in balance sheet account 404, "Miscellaneous physical property," and shall be charged with the cost of maintaining and operating the property, with taxes assessed directly upon such property and with incidental and other expenses in connection therewith, such as cost of negotiating contracts, advertising for tenants, insurance, water rates or rents, conveyancers' fees, and collectors' commissions.

NOTE: If the net balance is a debit, it shall be shown under account 219, "Net loss on miscellaneous physical property."

206 Dividend income.

This account shall include dividends declared on railway and other stocks the income from which is payable to the accounting company, whether such stocks are owned by the accounting company and held in its treasury or deposited in trust, or are controlled through lease or otherwise. Accruals of guaranteed dividends may be included in this account if their payment is reasonably assured.

NOTE A: This account shall not include credits for dividends on stocks issued or assumed by the accounting company and owned by it, whether held in its treasury, in special deposits, in sinking or other reserve funds, or pledged as collateral.

NOTE B: Dividends on stocks of other companies held in sinking or other reserve funds shall be credited to account 209, "Income from sinking fund and other reserves."

207 Income from funded securities.

This account shall include interest on funded securities of railway and other companies, the income from which is payable to the accounting company, whether such securities are owned by the accounting company and held in its treasury, deposited in trust, or controlled through lease or otherwise. Interest accrued shall not be credited unless its payment is reasonably assured. In other cases the credit to this account shall be based upon the interest actually collected.

At the option of the accounting company there may be included in this account the portion, applicable to the fiscal period, of the amount requisite to extinguish during the interval between the date of acquisition and the date of maturity the discount or premium on funded securities of other companies.

NOTE A: Amounts credited or charged for the purpose of extinguishing discount or premium shall be concurrently charged or credited to the account in which the cost of the securities is carried.

NOTE B: The term "funded securities," as here used, means all unmatured bonds, notes, and other evidences of indebtedness (except open accounts for advances) none of which, by the terms of the creation of the debt, matures until more than one year after the date of such creation, provided that in case of an obligation maturing serially, such as car-trust notes, the entire amount shall be included in funded securities if any portion of the obligation matures later than one year after date of issue.

NOTE C: This account shall not include interest on funded securities issued or assumed by the accounting company and owned by it, whether held in its treasury, in special deposits, in sinking or other reserve funds, or pledged as collateral.

NOTE D: Interest on funded securities of other companies held in sinking or other reserve funds shall be included in account 209, "Income from sinking fund and other reserves."

NOTE E: Interest accruing after maturity on any securities not in sinking or other reserve funds shall be included in account 208, "Income from unfunded securities and accounts."

208 Income from unfunded securities and accounts.

This account shall include interest on unfunded securities, notes, and other evidences of indebtedness payable on demand or having dates of maturity one year or less from the date of issue; interest on matured funded debt of other companies; interest on bank balances and on open accounts, and other analogous items.

NOTE A: Interest on assets held in sinking and other reserve funds shall be included in account 209, "Income from sinking fund and other reserves."

NOTE B: Discounts on bills for material and supplies purchased shall be credited to the accounts to which the original invoices were charged.

209 Income from sinking fund and other reserves.

This account shall include the income accrued on cash, securities (not issued or assumed by the accounting company), and other assets held in sinking and other reserve funds.

At the option of the accounting company there may be included each year in this account the portion, applicable to the fiscal period, of the amount requisite to extinguish, during the interval between the date of acquisition and the date of maturity, the discount or premium on funded securities of other companies held in sinking or other reserve funds.

NOTE A: Amounts credited or charged for the purpose of extinguishing discount or premium shall be concurrently charged or credited to the account in which the cost of the securities is carried.

NOTE B: Credits representing income from reserve funds, when retained in the funds, shall be concurrently charged to account 236, "Income applied to sinking and other reserve funds," and credited to account 449, "Earned surplus—Appropriated."

210 Release of premiums on funded debt.

This account shall include, during each fiscal period, such proportion of the premiums on outstanding funded debt obligations as may be applicable to the period. This proportion shall be determined according to the rule provided in instruction 05–3 *Discount, expense, and premium on funded debt.*

NOTE: The amounts credited to this account shall be concurrently charged to the accounts in which the respective premiums are carried.

211 Contributions from others.

This account shall include amounts received or receivable from other companies or individuals, representing the whole or a part of the net deficit of the accounting company, when, under the terms of agreements or contracts, no obligation is incurred for subsequent reimbursement.

NOTE A: The amount payable shall be charged by the contributing company to account 223, "Income transferred to other companies."

NOTE B: This account shall not include advances covered by balance sheet account 430, "Nonnegotiable debt to affiliated companies."

212 Miscellaneous income.

This account shall include all items, not provided for elsewhere, properly creditable to Income Account. Among the items which shall be included in this account are:

Profits from sale or transfer of land.

Profits from sale of investment securities.

Profits for sale or retirement of property assignable to account 404, "Miscellaneous physical property".

Unreleased premiums on funded debt securities reacquired before maturity.

Cancellation of balance sheet accounts representing unclaimed wages and vouchered accounts written off because of inability to locate creditors.

Credit from adjustments to bring funded debt securities issued or assumed to par when reacquired at less than par.

Collection of old accounts previously written off to profit and loss.

When the profits or adjustments resulting from any of the first four items are of an amount sufficiently large to constitute extraordinary items, pursuant to instruction 01–6, such profit or proceeds shall be credited to account 270, "Extraordinary Items."

Debit

213 Railway operating expenses.

This account shall include the total expenses of transportation operations as shown in the accounts provided for operating expenses of electric railways.

214 Auxiliary operations; expenses.

This account shall include the total expenses incurred in auxiliary operations. If a carrier conducts a general power, light, heat, or other business not incident to transportation, the entire expenses of each of such operations shall be stated separately, in subaccounts under this account. (See instruction 01–2 *Auxiliary operations.*)

215 Taxes assignable to transportation operations.

(a) This account shall include Federal, State, county, municipal, school, and other district taxes relating to transportation property, operations (including auxiliary operations), and privileges whether the assessment is based on the valuation of property, on the amount of stocks and bonds issued or outstanding with respect to such property, on the gross or net income or earnings (including Federal income tax), on dividends declared, on the number of passengers or the amount of freight carried, on the length of line operated or owned, on the rolling stock, or otherwise.

(b) The taxes on leased property shall be included in this account by the carrier obligated to assume such expenses under the terms of the lease.

(c) Monthly accruals of income taxes applicable to ordinary income shall be included in this account. See texts of account 290, "Income taxes on extraordinary and prior period items", account 306, "Other credits to earned surplus", and account 317, "Other debits to earned surplus", for recording other income tax consequences.

(d) Details pertaining to the income tax consequences of other unusual and significant items, and also cases where tax consequences are disproportionate to related amounts included in income accounts, shall be submitted to the Commission for consideration and decision as to proper accounting.

(e) Income taxes which are refundable or reduced as the result of carry-back or carry-forward of operating loss shall be credited to this account, if a carry-back, in the year in which the loss occurs, or if a carry-forward, in the year in which such loss is applied to reduce taxes. However, when the amount constitutes an extraordinary item, pursuant to instruction 01–6, it shall be included in account 280, "Prior period items".

NOTE A: Taxes assessed directly on property covered by balance sheet account 404, "Miscellaneous physical property," shall be included in account 206, "Net income from miscellaneous physical property," or in account 219, "Net loss on miscellaneous physical property," as may be appropriate. If such property is so intimately connected with railway or auxiliary operations that the taxes can not be segregated, the entire amount shall be included in this account.

NOTE B: Special assessments for street and other improvements and special benefit taxes, such as water-main taxes, drainage taxes, and the like, shall be included in operating expense or road and equipment accounts, as may be appropriate.

NOTE C: Taxes accrued on new lines under construction or on property acquired for the extension of existing lines shall be charged to road and equipment account 501, "Construction work in progress," until the lines are opened for commercial operation or the property acquired becomes available for service.

NOTE D: Income taxes levied upon bondholders and assumed by the company under terms of the mortgage shall be charged to account 225, "Miscellaneous debits."

216 Rent for leased roads.

This account shall include amounts payable as rent for road, tracks, or bridges (including equipment and other railway property covered by the contract) of other companies, held under lease or other agreement by the terms of which exclusive use and control for operating purposes are secured. The amount of rent payable by the lessee in accordance with the agreement shall be included in this account, whether paid to the lessor in cash or disbursed by the lessee on behalf of the lessor, as interest on funded debt, guaranteed dividends on stock, or otherwise.

NOTE A: When taxes on leased property are assumed by the lessee the accruals of such taxes shall be included in the lessee's account 215, "Taxes assignable to transportation operations."

NOTE B: If, under the terms of a lease, the deficit or any portion of it resulting from the lessee's operation of the property leased is payable by the lessor company, the amount shall be charged to account 208, "Income from lease of road," by the lessor and credited to this account by the lessee.

NOTE C: If property, the rent of which is charged to this account, is sublet by the accounting company to others, the rent from the sublease shall be credited to account 208, "Income from lease of road."

NOTE D: Payments for the exclusive use of leased property maintained by the lessor and used by the lessee shall be divided between maintenance and rent, and the maintenance proportion charged to the appropriate maintenance accounts and the rent proportion to this account. When specific charges are made against the lessee by the lessor for maintenance of leased property which is maintained by the latter, maintenance shall be credited by the lessor and charged by the lessee to the appropriate maintenance accounts.

217 Miscellaneous rents.

This account shall include rents accrued on property held by the accounting company under lease or other agreement, when such rents are not properly chargeable to account 216, "Rent for leased roads," or to operating expenses.

NOTE A: This account shall not include rents provided for in the classification of operating expense. Rent of property used in auxiliary operations shall be charged to account 214, "Auxiliary operations—Expenses."

NOTE B: If property the rent of which is chargeable to this account is sublet by the accounting company to others, the rent from the sublease shall be credited to account 206, "Miscellaneous rent income."

218 Miscellaneous taxes.

This account shall include all accruals for taxes other than those provided for in accounts 205, 215, and 219, such as taxes on securities owned, taxes on income from securities owned, and analogous tax items.

219 Net loss on miscellaneous physical property.

This account shall be charged with the expense of maintaining and operating physical property the cost of which is included in balance sheet account 404, "Miscellaneous physical property," with taxes assessed directly upon such property, and with incidental and other expenses in connection therewith, such as cost of negotiating contracts, advertising for tenants, insurance, water rates or rents, conveyancers' fees, and collectors' commissions.

To this account shall be credited the revenues or income from such property.

NOTE: If the net balance is a credit, it shall be shown under account 206, "Net income from miscellaneous physical property."

220 Interest on funded debt.

This account shall include the current accruals of interest on all classes of funded debt, as defined in balance sheet account 427, "Funded debt unmatured," issued or assumed by the accounting company; interest on nonnegotiable debt to affiliated companies; and interest on receiver's certificates issued for a term of more than one year.

NOTE A: This account shall not include charges for interest on funded debt obligations issued or assumed by the accounting company and owned by it, whether held in its treasury, in special deposits, in sinking or other reserve funds, or pledged as collateral.

NOTE B: When funded debt is incurred for new lines and extensions, or for addition and betterment purposes, the accruals of interest on such funded debt to the date of completion or coming into service of the property so acquired shall be included in road and equipment account 501, "Construction work in progress."

221 Interest on unfunded debt.

This account shall include interest accrued on unfunded debt, such as short-term notes payable on demand or having dates of maturity one year or less from dates of issue; interest on receiver's certificates issued for a term of one year or less; interest on matured funded securities and open accounts; and other analogous items, including discount on short-term notes payable.

NOTE: When short-term notes or other evidences of unfunded indebtedness are issued for new lines or extensions or for addition and betterment purposes, the accrual of interest to the date of completion or coming into service of the property shall be included in road and equipment account 501, "Construction work in progress."

222 Amortization of discount on funded debt.

This account shall be charged during each fiscal period with the proportion of the unextinguished discount and expense on funded debt obligations applicable to that period. This proportion shall be determined according to a rule, the uniform application of which throughout the interval between the date of sale and the date of maturity will extinguish the discount and expense on funded debt.

The charge to this account for any period shall not be either greater or less than the proportion applicable to that period, so long as any portion of the discount and expense remains unextinguished. (See instruction 05–3 *Discount, expense, and premium on funded debt.*

223 Income transferred to other companies.

This account shall include the whole or any portion of the income of the accounting company payable to another company under the terms of agreements or contracts and without obligation for reimbursement.

NOTE A: The amount receivable by the other company shall be credited by it to account 211, "Contributions from others."

NOTE B: Dividends or other payments upon securities issued or assumed by the accounting company shall not be included in this account.

224 Maintenance of organization; lessor companies.

This account shall be used by lessor companies only, and shall include the cost of maintaining the organization of lessor companies, such as salaries of officers, clerks, and attendants, office expenses, law expenses, cost of stationery and printing, and cost of supplies.

225 Miscellaneous debits.

This account shall include all items not provided for elsewhere and properly chargeable to Income Account, such as income taxes levied upon bondholders and assumed by the company under terms of mortgages, and commissions or expenses for paying interest coupons. Among other items which shall be included in this account are:

Losses from sale or transfer of land.

Losses from sale or investment securities.

Losses from sale or retirement of property assignable to account 404, "Miscellaneous physical property".

Unextinguished discount on funded debt securities reacquired before maturity.

Debits from adjustments to bring funded debt securities issued or assumed to par when reacquired at less than par.

Payment of old accounts previously written off to profit and loss.

When the profits or adjustments resulting from any of the first four tabulated items are of an amount sufficiently large to constitute extraordinary items, pursuant to instruction 01–6, such profits or proceeds shall be credited to account 270, "Extraordinary items".

EXTRAORDINARY AND PRIOR PERIOD ITEMS

270 Extraordinary items (net).

(a) This account shall include extraordinary items accounted for during the current accounting year in accordance with instruction 01–6, upon approval of the Commission. Among the items which shall be included in this account are:

Net gain or loss on sale of land used for transportation purposes and of noncarrier property.

Net gain or loss on sale of securities acquired for investment purposes, and charges to write down the ledger value of such securities because of impairment of value.

Net gain or loss on reacquisition of company bonds.

Loss on retirement of transportation property because of abandonment or other cause for which depreciation reserve has not been provided.

Changes in application of accounting principles.

(b) Income tax consequences of charges and credits to this account shall be included in account 290, "Income taxes on extraordinary and prior period items".

(c) This account shall be maintained in a manner sufficient to identify the nature and gross amount of each debit and credit.

280 Prior period items (net).

(a) This account shall include unusual delayed items accounted for during the current accounting year in accordance with the text of instruction 01–6, upon approval of the Commission. Among the items which shall be included in this account are:

Unusual adjustments, refunds or assessments of income taxes of prior years.

Unusual adjustments of reserves of prior years determined to be excessive or deficient.

Similar items representing transactions of prior years which are not identifiable with or do not result from business operations of the current year.

(b) Income tax consequences of charges and credits to this account shall be included in account 290, "Income taxes on extraordinary and prior period items".

(c) This account shall be maintained in a manner sufficient to identify the nature and gross amount of each debit and credit.

290 Income taxes on extraordinary and prior period items.

This account shall include the estimated income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which, for accounting purposes, are classified as unusual and extraordinary and are includible in account 270, "Extraordinary items", or 280 "Prior period items", as appropriate.

PROFIT AND LOSS

04 General instructions.

04–1 Profit and loss accounts.

Profit and loss accounts are those designed to show the changes in the corporate surplus or deficit as effected during each fiscal period by the operations and business transactions during that period, by appropriations of surplus made at the option of the carrier, or by miscellaneous losses or gains not provided for elsewhere; and to show also the unappropriated surplus of the carrier at the date of the balance sheet. This group of account forms the connecting link between the income accounts and general balance sheet account 450, "Earned surplus—Unappropriated."

Where the title and definition of a profit and loss account clearly indicate that it is a summary of other accounts, it is not required that a special ledger account shall be kept under such a title to include the balances from the accounts usually carried in the ledger, but in such case the titles of the subaccounts in the ledger shall give a reference by number or title, or both, to the account prescribed herein of which they are subdivisions.

PROFIT AND LOSS ACCOUNTS

CREDIT

301 Credit balance at beginning of fiscal period.

This account shall include the net credit balance in the Profit and Loss Account at the beginning of the fiscal period.

302 Credit balance transferred from income account.

This account shall include the net credit balance brought forward from the Income Account for the fiscal period.

306 Other credits to earned surplus.

(a) This account shall include other credit adjustments, net of assigned income taxes, not provided for elsewhere in this system but only after such inclusion has been authorized by the Commission.

(b) The records supporting entries in this account shall be so maintained that an analysis thereof may be readily made available.

DEBIT

307 Debit balance at beginning of fiscal period.

This account shall include the debit balance in the Profit and Loss Account at the beginning of the fiscal period.

308 Debit balance transferred from income account.

This account shall include the net debit balance brought forward from the Income Account for the fiscal period.

309 Appropriations of surplus to sinking fund and other reserves.

This account shall include amounts of appropriations of surplus for sinking fund and other reserves, and allotments of surplus or payments of definite amounts from surplus into sinking fund and other reserves under terms of mortgages, deeds of trust, or other contracts that provide for such allotments or payments, and accretions to such funds representing interest or other returns on the assets therein.

NOTE: The amounts charged to this account shall be credited concurrently to account 440 "Earned surplus—Appropriated."

310 Dividend appropriations of surplus.

This account shall include amounts declared payable as dividends on actually outstanding capital stock issued or assumed by the accounting company.

This account shall be subdivided so as to show separately the dividends on the various classes of capital stock.

If a dividend is not payable in cash the consideration shall be described in the entry with sufficient particularity to identify it.

NOTE: This account shall not include charges for dividends on capital stock issued or assumed by the accounting company and owned by it, whether held in the treasury, in special deposits, in sinking or other reserve funds, or pledged as collateral. (See account 309, "Appropriations of surplus to sinking fund and other reserves.")

311 Appropriations of surplus for investment in physical property.

This account shall include amounts appropriated from surplus, for the construction or acquisition of new lines and extensions or for additions to and betterments of property the cost of which is includible in the road and equipment accounts, including amounts appropriated for retirement of equipment-trust obligations; and amounts applied for the construction or acquisition of property the cost of which is includible in balance sheet account 404, "Miscellaneous physical property."

These amounts shall be subdivided so as to show (a) amounts expended during preceding fiscal periods, (b) amounts expended during the current fiscal period, and (c) amounts held in reserve.

NOTE: The amounts charged to this account shall be credited concurrently to account 449, "Earned surplus—Appropriated."

314 Miscellaneous appropriations of surplus.

This account shall include amounts appropriated from earned surplus to provide a reserve for the discharge of the principal of any indebtedness incurred in the acquisition or improvement of property carried in road and equipment accounts; also for amounts appropriated from surplus not provided for elsewhere.

NOTE: The amounts charged to this account shall be credited concurrently to account 449, "Earned surplus—Appropriated."

317 Other debits to earned surplus.

(a) This account shall include (1) losses on resale of reacquired capital stock, (2) charges which reduce or write off discount on capital stock issued by the company, and (3) in pooling of equity interests situations, the excess of the value of the surviving company's capital stock over the aggregate total of the capital stock of the separate companies before such merger or consolidation, but only to the extent that capital surplus is not available for such purposes. (See instruction 05–2.)

(b) This account shall include other debit adjustments, net of assigned income taxes, not provided for elsewhere in this system, but only after such inclusion has been authorized by the Commission.

(c) The records supporting entries in this account shall be so maintained that an analysis thereof may be readily made available.

GENERAL BALANCE SHEET

05 General instructions.

05–1 Balance sheet accounts.

The term balance sheet accounts is used to designate those titles under which the ledger accounts are combined and summarized to show the assets, liabilities, and corporate surplus or deficit of the business.

Where the title and definition of a balance sheet account clearly indicate that it is a summary of other accounts, it is not required that a special ledger account shall be kept under such a title to include the balances from the accounts usually carried in the ledger, but in such case the titles of the subaccounts in the ledger shall give a reference by number or title, or both, to the account prescribed herein of which they are subdivisions.

05–2 Discount and premium on capital stock.

Ledger accounts shall be provided to cover the discounts and premiums on each class of capital stock issued or assumed by the company. The total of the net debit balances remaining in these several accounts shall be included in account 423–1, "Discount on capital stock," and the total of the net credit balances in account 425, "Premium on capital stock."

Entries in these accounts representing discounts shall be carried therein until offset (a) by premiums realized on subsequent sales of the same class of stock, (b) by assessments levied on the stockholders, (c) by charges to account 448, "Unearned surplus", to the extent of the credit balance carried therein, (d) by charges to account 317, "Other debits to earned surplus"; or discount may be retained in account 423–1, "Discount on capital stock", until the stock to which the discount applies is reacquired or retired. Except as provided herein, premiums on capital stock shall be carried in account 425, "Premium on capital stock," until the stock to which the premium applies is reacquired or retired. Assessments against stockholders shall be credited to the premium account of the class of stock so assessed, except that assessments with respect to no-par stock shall be credited to account 423, "Capital stock."

In no case shall discount on capital stock be charged to or included in any account as a part of the cost of acquiring any property, tangible or intangible, or as a part of the cost of operation.

When an issue of capital stock, or any part thereof, is reacquired, either by purchase or through donations by stockholders, it shall be charged at its par value, or if stock without par value, at the proportionate amount at which the particular class of stock is included in account 423, "Capital stock," to that account, if canceled, and to the appropriate asset if not canceled. The difference between the amount at which such reacquired stock was recorded and the amount paid for such stock, including premium or discount applicable thereto, shall be included in account 448, "Unearned surplus." *Provided, however,* That the excess of a debit over the balance carried in unearned surplus shall be charged to account 317, 'Other debits to earned surplus'.

When reacquired capital stock is resold, the difference between the amount at which such stock is recorded in the accounts and the net sale price realized, when resold, shall be included in account 448, "Unearned surplus," subject to the proviso in the preceding paragraph.

05–3 Discount expense, and premium on funded debt.

Ledger accounts shall be provided to cover the discounts, expense, and premiums at the sale of each class of funded debt (including receiver's certificates) issued or assumed by the company. The total of the net debit balances remaining in these several accounts shall be included in account 418, "Discount on funded debt," and the total of the net credit balances in account 440, "Premium on funded debt."

Each month there shall be charged to income account 222, "Amortization of discount on funded debt," a proportion (based upon the ratio of such fiscal period to the remaining life of the respective securities) of each of the debit balances in these accounts, and correspondingly there shall be credited to income account 210, "Release of premiums on funded debt," a similar proportion of each of the credit balances in these accounts.

Except as provided under road and equipment accounts, no part of the balance in an account for discount, expense, and premium on funded debt shall be included in the accounts as part of the cost of acquiring or improving property or part of the cost of operation.

Except as provided in this section, the balance in each of the discount, expense, and premium accounts shall be carried therein until the reacquirements of the securities to which they relate, at which time the proportion (based on the ratio of the amount of funded debt reacquired to the actual outstanding before reacquirement) of discount, expense, and premium for the class of funded debt reacquired shall be cleared to account 212, "Miscellaneous income", account 225, "Miscellaneous debits", or to account 270, "Extraordinary items", as appropriate, in accordance with the text of these accounts.

05–4 Contingent assets and liabilities.

Contingent assets and liabilities shall not be included in the body of the balance sheet statement, but shall be shown in detail in a supplementary statement accompanying the balance sheet statement.

05–5 Reorganizations.

Where a carrier involved in receivership or bankruptcy is reorganized so as to preserve in whole or in part the interest of its owners and creditors, whether through the owning corporation or a successor corporation, or is a company resulting from reorganization of a carrier in any other manner, and such company emerges from such reorganization as the owner of investments, it shall at the time of recording such investments on its books include in account 401–1, "Acquisition adjustment," the net difference between the total of accounts 401 to 422, inclusive (after distributing to the primary road and equipment accounts the original cost of the transportation property involved), and the total of accounts 423 to 446, inclusive, after all other accounts are properly adjusted under the reorganization plan. The journal entries recording such investments shall be presented to the Commission for consideration and approval before being entered on the books. The carrier shall apply to the Commission for permission to use account 401–1, so far as it is adequate, for the adjustment of differences between amounts originally set up with respect to such investment items and the value of such items as finally determined; and earned surplus shall be affected only by losses and gains clearly attributed to operations subsequent to date of reorganization. Any balance in account 401–1 shall be subject to any adjustment the Commission may direct.

05–6 Surplus.

Records shall be maintained in such manner as to show two major divisions thereof:

1. Unearned surplus.
2. Earned surplus.

Unearned and earned surplus shall be segregated and clearly differentiated, and no transfer shall be made from the former to the latter, either directly by credits to earned surplus representing gains on transactions in the carrier's own capital stock, or indirectly by charges against unearned surplus to cover losses, write-downs, charge-offs, or dividend distributions unless approved by the Commission.

After January 6, 1947, carriers shall maintain the surplus accounts provided for herein. If, prior to that date, such a separation has not been made, the surplus shall be segregated at that time so far as practicable, and any surplus not so segregated shall be recorded in account 451, "Unsegregated surplus," until the balance therein can be entirely cleared.

05–7 Form of general balance sheet statements.

ASSET SIDE

Investments

401	Road and equipment.
401–1	Acquisition adjustment.
401–2	Donations and grants.
	Investments in transportation property.
401–3	Reserve for depreciation—Road and equipment.
401–4	Reserve for retirements—Nondepreciable property.
	Investment in transportation property less recorded depreciation and anticipated retirements.
402	Sinking funds:
	Total book assets in short column.
	Carrier's own issue in short column.
	Other assets in long column.
403	Deposits in lieu of mortgaged property sold:
	Total book assets in short column.
	Carrier's own issue in short column.
	Other assets in long column.
404	Miscellaneous physical property.
404–1	Reserve for depreciation—Miscellaneous physical property.
	Miscellaneous physical property less recorded depreciation.
405	Investments in affiliated companies:
	(a) Stocks.
	(b) Bonds.
	(c) Notes.
	(d) Advances.
406	Other investments:
	(a) Stocks.
	(b) Bonds.
	(c) Notes.
	(d) Advances.
	(e) Miscellaneous.
406–1	Reserve for adjustment of investment in securities.
	Total.

Current Assets

407	Cash.
408	Special deposits:
	Total book assets in short column.
	Carrier's own issue in short column.
	Other assets in long column.
409	Loans and notes receivable.
410	Miscellaneous accounts receivable.
411	Material and supplies.
412	Interest, dividends, and rents receivable.
413	Other current assets.
	Total.

Deferred Assets

414	Insurance and other funds:
	Total book assets in short column.
	Carrier's own issue in short column.
	Other assets in long column.
415	Other deferred assets.
	Total.

Unadjusted Debits

416	Rents and insurance premiums paid in advance.
418	Discount on founded debt.
420	Other unadjusted debits.
421	Securities issued or assumed—Unpledged—In short column.
422	Securities issued or assumed—Pledged—In short column.
	Total.

LIABILITY SIDE

Stock

423	Capital stock:
	Book liability in short column.
	Held by carrier in short column.
	Actually outstanding in long column.
423–1	Discount on capital stock.
424	Stock liability for conversion.
425	Premium on capital stock.
	Total.

Long-Term Debt

427	Funded debt unmatured:
	Book liability in short column.
	Held by carrier in short column.
	Actually outstanding in long column.
428	Receivers' and trustees' securities.
429	Nonnegotiable debt to affiliated companies—
	(a) Notes.
	(b) Open accounts.
	Total.

Current Liabilities

430	Loans and notes payable.
431	Audited accounts and wages payable.
432	Miscellaneous accounts payable.
433	Matured interest, dividends, and rents unpaid.
434	Matured funded debt unpaid.
435	Accrued interest, dividends, and rents payable.
435–1	Taxes accrued.
436	Other current liabilities.
	Total.

Deferred Liabilities

437	Liability for provident funds.
438	Other deferred liabilities.

Unadjusted Credits

440	Premium on funded debt.
441	Insurance reserves.
441–1	Operating reserves.
442	Reserve for equalization of maintenance.
444	Reserve for amortization of franchise.
446	Other unadjusted credits.
	Total.

Surplus

448	Unearned surplus.
	(a) Paid-in surplus.
	(b) Other unearned surplus.
449	Earned surplus—Appropriated.
450	Earned surplus—Unappropriated.
451	Unsegregated surplus.
	Surplus balance.
	Total.

GENERAL BALANCE SHEET ACCOUNTS

DEBIT

401 Road and equipment.

This account shall include the original cost of property acquired subsequent to the effective date of this order and the book cost of all other property of the carrier devoted to transportation operations or operations incidental thereto, including auxiliary operations, in use or held for use in transportation operations and in existence at the date of the balance sheet. The carrier's records shall be kept so as to show the charges and credits to this account classified in accordance with the primary accounts for road and equipment.

NOTE A: This account shall not include any items representing title to securities.

NOTE B: The carrier's investment in noncarrier property shall be included in account 404, "Miscellaneous physical property."

NOTE C: Held for use, referred to above, implies the ability of the carrier to substantiate by plans or policy its characterization of the probable future use which is to be made of the property within a reasonable period of time.

401–1 Acquisition adjustment.

This account shall include the difference between (a) the cost to the accounting company of road and equipment property acquired by purchase after the effective date of this order and (b) the amount distributed to the primary road

and equipment accounts. (See instruction 06–12 *Operating property purchased.*)

This account shall also include the difference between the assets acquired and the par or recorded value of the accounting company's capital stock, plus, its debts and other liabilities with respect to property acquired in reorganizations under the circumstances set forth in instruction 06–6 *Reorganizations.*

Any balance remaining in this account after making the entries provided for in the above paragraphs shall be subject to any adjustment the Interstate Commerce Commission may direct.

401–2 Donations and grants.

This account shall be credited with grants obtained from governmental agencies, and with donations from individuals and others in connection with the construction or acquisition of property, the cost of which is chargeable to account 401, "Road and equipment." When donated property is retired from service, the amount at which it was recorded in this account shall be transferred to account 448–2, "Other unearned surplus."

401–3 Reserve for depreciation; road and equipment.

This account shall be credited with amounts concurrently charged to operating expenses to cover the loss in service value of depreciable road and equipment property.

At the time of retirement of depreciable road and equipment property, this account shall be charged with the entire service value of the property retired.

For balance sheet purposes, this account shall be treated as a single composite reserve applicable to all depreciable property. However, for the purpose of analysis, the carrier shall maintain detailed records in which this reserve is broken down into components corresponding to the primary accounts for depreciable road and equipment property and all entries shall show debits and credits by primary accounts.

A carrier may request, or the Commission may direct, that special accounting be applied in situations causing undue inflation or deflation of depreciation reserves, such as premature or unusual retirements or sales of depreciable property, or related insurance recoveries. A carrier's request for special accounting shall contain full particulars concerning the situation, including the basis for its proposal. Alternative accounting techniques shall be applied to the extent approved or directed by the Commission.

401–4 Reserve for retirements; nondepreciable property.

This account shall be credited with amounts concurrently charged to operating expenses with the approval of the Commission to cover the anticipated retirement of nondepreciable property. When nondepreciable property is retired from service the service value shall be charged to this account.

402 Sinking funds.

This account shall include the amount of cash, the ledger value of live securities of other companies and other assets which are held by trustees of sinking and other funds for the purpose of redeeming outstanding obligations; also amounts deposited with such trustees on account of mortgaged property sold, the proceeds of which are to be held for the redemption of securities, and the par value of live securities issued or assumed by the accounting company and held in such funds. A separate account shall be kept for each fund.

NOTE: In stating the balance sheet in the annual reports to the Commission the total amount of the funds and the par value of securities issued or assumed by the accounting company and held in the funds shall be shown in the short columns, and the net amount of the funds (total amount less securities issued or assumed) shall be shown in the long column.

403 Deposits in lieu of mortgaged property sold.

This account shall include amounts realized from the sale of mortgaged property which are held by trustees until such property is replaced.

NOTE: In stating the balance sheet in the annual reports to the Commission the total amount of the funds and the par value of securities issued or assumed by the accounting company and held in the funds shall be shown in the short columns, and the net amount of the funds (total amount less securities issued or assumed) shall be shown in the long column.

404 Miscellaneous physical property.

This account shall include the accounting company's investments in physical property other than investments properly classable in account 401, "Road and equipment." It shall include such items as investments in manufacturing, gas, and water plants, mineral and timber lands, buildings not used in transportation or auxiliary operations but held for rent, rails and other materials leased to others, and other property not a part of the accounting company's plant for the maintenance and operation of its transportation and auxiliary operations property.

NOTE: The income derived from or the loss sustained in connection with the maintenance and operation of miscellaneous physical property shall be included in income account 306, "Net income from miscellaneous physical property," or 219, "Net loss on miscellaneous physical property," as may be appropriate.

404–1 Reserve for depreciation; miscellaneous physical property.

This account shall be credited with amounts charged to income or other accounts to cover the depreciation of depreciable property recorded in account 404, "Miscellaneous physical property."

When such property is destroyed, sold, or otherwise retired, the net value (ledger value less value of salvage and insurance recovered) shall be charged to this account.

405 Investments in affiliated companies.

This account shall include the ledger value of the accounting company's investment advances to affiliated companies, also of its investment in securities issued or assumed by such companies, such securities not being held in special deposits or in special funds.

This account shall be subdivided as follows:

(a) Stocks.
(b) Bonds.
(c) Notes, including herein not only notes that run longer than one year, but also notes payable on demand or within one year from the date of issue when it is intended by the accounting company that the notes shall not be enforced as current assets; also all notes held as investments.
(d) Advances.

The accounting company's records shall be kept in such manner that the ledger value of securities pledged as collateral security for any of the accounting company's funded debt or short-term loans and the ledger value of securities unpledged shall be shown separately in the annual report to the Commission.

NOTE A: Accounts with affiliated companies which are subject to current settlement, such as traffic and car-service balances, charges for materials and supplies currently furnished, charges for repairs to equipment, etc., shall be classed as current assets or current liabilities, as may be appropriate.

NOTE B: The term affiliated companies includes:

1. Controlled companies, including companies solely controlled by the accounting company, and also companies jointly controlled by the accounting company and others under a joint arrangement.
2. Controlling companies, including both companies solely controlling the accounting company, and companies which jointly control the accounting company under a joint arrangement.
3. Companies controlled by controlled companies.
4. Companies controlled by controlling companies.

By control is meant the ability to determine the action of a corporation.

Sole control is that which rests in one corporation.

Joint control is that which rests in two or more corporations and which is held under a joint arrangement.

NOTE C: The value of securities borrowed by the accounting company and pledged shall not be included in this account.

NOTE D: The value of securities pledged for purposes other than that of security for funded debt or short-term loans shall be included in account 402, "Sinking funds," 408, "Special deposits," or 414, "Insurance and other funds," as may be appropriate.

406 Other investments.

This account shall include the ledger value of the accounting company's investment advances to nonaffiliated companies and to individuals, and of its investment in securities issued or assumed by such companies, such securities not being held in special deposits or in special funds; also miscellaneous investments not provided for elsewhere.

This account shall be subdivided as follows:

(a) Stocks.

(b) Bonds.
(c) Notes, including herein not only notes that run longer than one year, but also notes payable on demand or within one year from date of issue when it is intended by the accounting company that the notes shall not be enforced as current assets, and all notes held as investments.
(d) Advances.
(e) Miscellaneous.

The accounting company's records shall be kept in such manner that the ledger value of securities pledged as collateral security for any of the accounting company's funded debt or short-term loans and the ledger value of securities unpledged shall be shown separately in the annual report to the Commission.

NOTE A: Accounts with nonaffiliated companies which are subject to current settlements, such as traffic and car-service balances, charges for materials and supplies currently furnished, charges for repairs to equipment, etc., shall be classed as current assets or current liabilities, as may be appropriate.

NOTE B: The term nonaffiliated companies includes all companies other than those defined as affiliated in Note B of account 405.

NOTE C: The value of securities borrowed by the accounting company and pledged shall not be included in this account.

NOTE D: The value of securities pledged for purposes other than that of security for funded debt or short-term loans shall be included in account 402, "Sinking funds," 408, "Special deposits," or 414, "Insurance and other funds," as may be appropriate.

406–1 Reserve for adjustment of investment in securities.

This account shall include the net credit balance set aside as a reserve for the purpose of providing for reductions in the value of investments recorded in accounts 405, "Investments in affiliated companies," and 406, "Other investments."

When such investments are written down, written off, sold, or otherwise disposed of at a loss, the losses sustained shall be charged to this account to the extent of the total credit balance in the account and the remainder, if any, shall be charged to account 225, "Miscellaneous debits", or account 270, "Extraordinary items", as appropriate.

407 Cash.

This account shall include current funds in the hands of financial officers and financial agents, cash in transit for which agents and conductors receive current credit, and deposits in banks or with trust companies available for use on demand.

NOTE: This account shall not include funds deposited for the purpose of paying declared dividends or bond interest coupons; all such amounts shall be shown in account 408, "Special deposits."

408 Special deposits.

This account shall include amounts realized from the sale of securities and held by trustees for disbursement when the purposes for which the securities are sold are accomplished; deposits to pay declared dividends or matured interest coupons; special deposits (other than in sinking funds) for the payment of debts; money and securities deposited to insure the performance of contracts; and other deposits of a special nature not provided for elsewhere.

NOTE: In stating this account on the balance sheet in the annual reports to the Commission, the total amount of the funds and the par value of securities issued or assumed by the accounting company and held in the funds shall be shown in the short columns, and the net amount of the funds (total amount less securities issued or assumed) shall be shown in the long column.

409 Loans and notes receivable.

This account shall include the book value of all collectible obligations in the form of loans and notes receivable or other similar evidences of money receivable on demand or within one year from date of issue.

NOTE: This account does not include time loans which mature more than one year after the date of issue or demand or short-term notes considered as investments, which shall be included in accounts 405, "Investments in affiliated companies," or 406, "Other investments."

410 Miscellaneous accounts receivable.

This account shall include the net of the balances receivable from or payable to other companies in the accounts representing interline freight, passenger, and baggage revenues, and charges for equipment interchanged on a per diem or a mileage basis, when such balances result in a net debit. When the net of such balances is a credit, it shall be included in account 433, "Miscellaneous accounts payable." This account shall also include audited accounts considered good, such as those due from the United States or other governments for the transportation of mails and government property; miscellaneous bills against other railway companies; bills against corporations, firms, and individuals; net balances due from agents, conductors, and other employees and representatives responsible for the collection or custody of current revenue; and similar items.

NOTE A: The amount to be entered in this account in the carrier's annual report to the Commission shall be stated in accordance with the text of this account. For convenience in accounting the carrier may, with respect to accounts representing interline freight, passenger, and baggage revenues, and equipment interchanged, maintain currently separate subaccounts under the following captions:

410 and 433 (a) Interline freight, balance.
410 and 433 (b) Interline passenger, balance.
410 and 433 (c) Interline baggage, balance.
410 and 433 (d) Equipment interchanged, balance.

NOTE B: Amounts advanced to general and special agents as working funds shall be included in account 415, "Other deferred assets." Investment advances to affiliated companies shall be included in account 405, "Investments in affiliated companies."

410–1 Accrued accounts receivable.

This account shall include estimates of unaudited current items receivable which are credited to operating revenue, operating expense, or income accounts in accordance with Instruction 01–5 *Unaudited items affecting operating accounts*, and Instruction 03–5 *Unaudited items;* also estimates of other unaudited items receivable of a current nature.

411 Material and supplies.

This account shall include the balances representing the cost, less depreciation, if any, of all material and supplies not charged out in the accounting company's accounts, such as road and shop material, articles in process of manufacture, fuel, stationery, and other supplies. Freight and express charges paid others on material and supplies shall be included in the value of same but expenses of transportation over carrier's line shall not be included.

The scrap value (estimated if not known) of articles retired from service shall be included in this account.

NOTE A: Discounts on bills for materials and supplies purchased shall be credited to the accounts to which the original invoices were charged.

NOTE B: An inventory of material and supplies shall be taken during each calendar year and the necessary adjustments to bring this account into harmony with the actual inventory balances shall be made in the accounts of the year in which the inventories are taken. In effecting this adjustment determined differences in accounting for important classes of material shall be equitably assigned among the accounts to which the classes of material are ordinarily chargeable. Other differences shall be equitably apportioned among the primary accounts to which material has been charged since the last inventory.

412 Interest, dividends, and rents receivable.

This account shall include the amount of interest accrued to the date of the balance sheet on funded and unfunded securities owned, loans, open accounts, mortgages, and deposits; dividends declared on stock owned and dividends accrued on stocks when contracts require that the dividends be paid at stated times; and rents accrued under leases.

NOTE A: No amount representing interest or dividends receivable shall be included in this account unless its payment is reasonably assured by past experience, anticipated provision, or otherwise.

NOTE B: No dividends or other returns on securities issued or assumed by the accounting company shall be included in this account.

413 Other current assets.

This account shall include items of current assets not covered by accounts 407 to 412, inclusive. It shall include asset items that have not reached the stage of audited accounts and become classable in account 410, "Miscellaneous accounts receivable," and yet have advanced beyond the stage of accounts properly classable in account 415, "Other deferred assets," such as amounts advanced to agents and others as working funds from which certain expenditures are to be made and accounted for, and similar items.

414 Insurance and other funds.

This account shall include the amount of cash and the cost or ledger value of

securities of other companies and other assets in depreciation, insurance, employees' pension, savings, relief, hospital and other funds which have been raised and specifically set aside or invested for specific purposes not provided for elsewhere; also the par value of securities issued or assumed by the accounting company and held in such funds. A separate account shall be provided for each fund.

NOTE A: Special deposits and sinking funds for the retirement of obligations are provided for in accounts 408 and 402, respectively.

NOTE B: In stating this account on the balance sheet in the annual reports to the Commission, the total amount of the funds and the par value of the securities issued or assumed by the accounting company and held in the funds shall be shown in the short columns, and the net amount of the funds (total amount less securities issued and assumed) shall be shown in the long column.

415 Other deferred assets.

This account shall include items of deferred assets not properly includible in account 414, "Insurance and other funds."

416 Rents and insurance premiums paid in advance.

This account shall include the balances in the accounts representing rents and insurance premiums paid in advance, which are to be apportioned and charged, as they accrue, to the appropriate accounts.

418 Discount on funded debt.

This account shall include the total of the debit balances in the discount, expense, and premium accounts for the several subclasses of funded debt. (See Instruction 05-3 *Discount, expense, and premium on funded debt.*)

When an issue of funded debt, or any part thereof, is canceled and at the date of cancellation there is a balance of unamortized discount and expense relating thereto, the amount of such balance, together with any premium paid in retiring the debt, shall be charged to account 225, "Miscellaneous debits", or account 270, "Extraordinary items", as appropriate.

420 Other unadjusted debits.

This account shall include the amount of debit balances in suspense accounts that cannot be entirely cleared and disposed of until additional information is received, such as freight claims paid when found to be correct, but in advance of investigation with other carriers; debit balances in clearing accounts; unextinguished discount on short-term notes; unadjusted debit items not provided for in accounts 418 and 419; and other similar items.

421 Securities issued or assumed; unpledged.

This account shall include the par value, or for no-par stock the amount recorded in account 423, "Capital stock," of securities issued or assumed by the accounting company that are held unpledged in the treasury or by its agents or trustees, except those held by trustees of sinking or other similar funds. This account shall be divided into (a) stocks and (b) bonds and other evidences of indebtedness, each of which divisions shall be further subdivided between (c) amounts nominally but not actually issued and (d) amounts nominally outstanding.

NOTE A: The term securities, as used in this account, includes all authorized certificates of stock and evidences of indebtedness which have been signed, sealed, and, when required, certified by the trustees under the mortgage or contract, and are not short-term securities. By short-term securities are meant those which are payable on demand or which mature not more than one year from date of issue. (See also Notes B to accounts 423 and 427.)

NOTE B: This account shall not include securities that are merely guaranteed.

NOTE D: In the general balance sheet statement the balance in this account shall be stated in the short column only.

NOTE E: When securities issued to bona fide holders for value or after issue by another company have been assumed by the accounting company, are reacquired and not canceled, they shall be included in this account at their par value, or if no-par stock, at the amount at which recorded in account 423, "Capital stock." If such securities are subsequently pledged, they shall be included in account 422, "Securities issued or assumed—Pledged."

422 Securities issued or assumed; pledged.

This account shall include the par value, or for no-par stock the amount recorded in account 423, "Capital stock," of securities issued or assumed by the accounting company that have been pledged as collateral security for long-term debt or short-term loans. This account shall be divided into (a) stocks and (b) bonds and other evidences of indebtedness, each of which divisions shall be further subdivided between (1) amounts nominally but not actually issued and (2) amounts nominally outstanding.

NOTE A: The term securities as used in this account includes all authorized certificates of stock and evidences of indebtedness which have been signed, sealed, and, when required, certified by the trustees under the mortgage or contract, and are not short-term securities. By short-term securities are meant those which are payable on demand or which mature not more than one year from date of issue. (See also Notes B to accounts 423 and 427.)

NOTE B: This account shall not include securities that are merely guaranteed.

NOTE C: This account shall not include securities which have been borrowed by the accounting company and pledged, nor any securities held in sinking and other reserve funds.

NOTE D: In the general balance sheet statement the balance in this account shall be stated in the short column only.

NOTE E: The par value, or for no-par stock the amount at which recorded in account 423, "Capital stock," of securities issued or assumed and pledged for purposes other than as security for debt, shall be included as appropriate in accounts 402, "Sinking funds," 408, "Special deposits," or 414, "Insurance and other funds."

CREDIT

423 Capital stock.

This account shall include the total par value of par value stock, and the amount paid in or the amount approved by the Commission for stock without par value, for all shares of capital stock, or other form of proprietary interest in the accounting company which have been issued to bona fide purchasers and have not been reacquired; also shares of stock nominally issued or nominally outstanding. Appropriations of surplus which have been authorized shall be transferred to this account when the stock is issued. The amount received from the sale of par value stock, in excess of the amount credited to this account, shall be credited to account 425, "Premium on capital stock."

When capital stock is canceled, this account shall be charged with the amount at which such stock is recorded herein. In the case of no-par stock, the amount charged hereto shall be the proportion, applicable to the reacquired shares immediately prior to reacquisition, of the total book liability included herein of actually outstanding shares of the class and series of stock of which the reacquired shares are a part.

The amounts included herein shall be further divided so as to show the amount of each class of stock issued, as follows:

(a) *Common Stock.* Stocks which have no preference in the distribution of dividends.

(b) *Preferred Stock.* Stocks having preference in the distribution of dividends.

(c) *Debenture Stock.* Stocks issued under a contract to pay a specified return at specified intervals.

(d) *Receipts for Installment Payments on Account of Subscription to Capital Stock.* When the subscriber has paid his subscription in full and is entitled to receive certificates representing the shares for which he has subscribed, the par value of shares of par value stock or the agreed purchase price, or price authorized by the Commission of stock without par value, shall be included in the division appropriate for the class for which certificates are issued.

(e) Each of the above classes shall also be divided into subclasses according to differences in dividends or interest rights, voting rights, or conditions under which the securities may be retired.

NOTE A: When a general levy or assessment is made against the holders of capital stock, requiring the payment of any sum for the use of the company in addition to the consideration agreed upon at the time of sale, the amount collected upon such levy or assessment shall be credited to the discount and premium account for the class of stock on which the assessment is made.

NOTE B: For the purposes of the balance sheet statement, capital stock is considered nominally issued when certificates are signed and sealed and placed with the proper officer for sale and delivery or pledged or otherwise placed in some special fund of the accounting company. It is considered to be actually issued when it has been sold to a bona fide purchaser for a valuable consideration, and such purchaser holds it free from all control by the accounting company. All capital stock actually issued and not reacquired by or for the accounting company is considered to be actually outstanding. If reacquired by or for the accounting company under such circumstances as require it to be considered as held alive and not canceled or retired, it is considered to be nominally outstanding.

NOTE C: In the general balance sheet statement the total capital stock shall be shown in the first short column. The amount nominally but not actually issued and the amount nominally outstanding shall be shown in the second short column, and in the long column shall be shown the amount actually outstanding.

NOTE D: When par value capital stock is exchanged for capital stocked without par value, any sums resting in discount, expense, and premium accounts with respect thereto shall be charged to account 448-1, "Paid-in surplus": *Provided*, That any debit in excess of the credit balance carried in that account shall be included in account 317, "Other debits to earned surplus".

423-1 Discount on capital stock.

This account shall include the total of the net debit balances in the discount and premium accounts for the several classes of capital stock. (See § 14.05-2 *Discount and premium on capital stock.*)

424 Stock liability for conversion.

This account shall include the accounting company's liability under agreements to exchange its capital stock for the outstanding securities of companies whose physical property has been acquired under such agreements, but whose securities have not yet been surrendered for exchange.

425 Premium on capital stock.

This account shall include the excess of the actual cash value (at the time of sale of the stock) of the consideration received over the amount recorded in account 423, "Capital stock," for par value stock plus accrued dividends, if any; also subsequent assessments against stockholders for payments required in excess of the par value or other amount recorded in account 423, "Capital stock." When capital stock is reacquired, the amount in this account with respect to the reacquired shares shall be charged hereto.

427 Funded debt unmatured.

This account shall include the total par value of unmatured funded debt maturing more than one year from date of issue, issued by the accounting company and not retired or canceled; and the total par value of unmatured funded debt of other companies, the payment of which has been assumed by the accounting company.

The amounts included in this account shall be divided so as to show (a) the par value of certificates or other evidences of funded debt issued and actually outstanding, being those not held by the company, its agents or trustees, or subject to its control; and (b) the par value of certificates or other evidences of funded debt, pledged and unpledged, held in the company's treasury, held by its agents or trustees, or otherwise subject to its control, including both those reacquired after actual issue and those nominally but never actually issued.

The amounts included herein shall be further divided so as to show the amount of each class of funded debt, as follows:

(1) *Mortgage bonds.* Bonds secured by a lien on physical property and not includible in the other subdivisions of this account.

(2) *Collateral trust bonds.* Bonds and notes having a date of maturity of more than one year after date of issue, secured by a lien on securities or other commercial paper; also stock trust certificates that are similar in character to collateral trust bonds.

(3) *Income bonds.* Bonds which are a lien on a carrier's revenue alone, or bonds which, while being a lien on its property and franchises, can claim payment of interest only in case interest is earned.

(4) *Equipment obligations.* Equipment bonds, equipment notes, or car-trust notes secured by lien on specific equipment.

(5) *Miscellaneous obligations.* All funded obligations not provided for by the other subdivisions of this account, including notes, unsecured certificates of indebtedness, debenture bonds, plain bonds, real estate mortgages executed or assumed, and other similar obligations maturing more than one year after date of issue.

(6) *Receipts outstanding for funded debt.* Receipts for payment on account of funded debt securities. When the securities are issued for amounts so paid, the par value shall be included in the account covering the class of funded debt for which the securities are issued.

No two issues of funded debt shall be considered as of the same class unless agreeing in (i) mortgage or other lien or security therefor, (ii) rate of interest, (iii) interest dates, and (iv) date of maturity, except that parts of any funded debt issue agreeing in other characteristics, but maturing serially, may be treated as of the same class.

NOTE A: Securities maturing one year or less from date of issue shall be included in account 430, "Loans and notes payable." Matured funded debt shall be included in account 434, "Matured funded debt unpaid."

NOTE B: For the purposes of the balance sheet statement, funded debt securities are considered to be nominally issued when certified by trustees and placed with the proper officer for sale and delivery or pledged or otherwise placed in some special fund of the accounting company. They are considered to be actually issued when they have been sold to a bona fide purchaser for a valuable consideration, and such purchaser holds them free from all control by the accounting company. All the funded debt securities actually issued and not reacquired and held by or for the accounting company are considered to be actually outstanding. If reacquired by or for the accounting company under such circumstances as require them to be considered as held alive and not canceled or retired, they are considered to be nominally outstanding.

NOTE C: In the general balance sheet statement the total funded debt unmatured shall be shown in the first short column. The amount nominally but not actually issued and the amount nominally outstanding shall be shown in the second short column, and in the long column shall be shown the amount actually outstanding.

428 Receivers' and trustees' securities.

When receivers or trustees acting under the orders of a court are in possession of the property of the company, and under the order of such court, issue or assume evidences of indebtedness, the par value of such evidences shall be included in this account.

429 Nonnegotiable debt to affiliated companies.

This account shall include the par value of nonnegotiable notes issued to affiliated companies, credit balances in open accounts with such companies other than credit balances in current accounts classable as current liabilities, and interest accrued on notes and open accounts included in this account, when such interest is not subject to current settlements.

This account shall be subdivided as follows:

(a) Notes, including herein not only nonnegotiable notes that run longer than a term of one year, but also such notes payable on demand or within one year from the date of issue when it is mutually agreed that the notes shall not be enforced as current assets by the holder.

(b) Open accounts not subject to current settlement.

(c) Interest accrued on amounts included in this account, when not subject to current settlements.

NOTE A: Accounts with affiliated companies which are subject to current settlements, such as traffic and car-service balances, charges for materials and supplies currently furnished, charges for repairs to equipment, etc., shall be classed as current assets or current liabilities, as may be appropriate.

NOTE B: No item shall be included in this account which is not known to be the property of an affiliated company.

NOTE C: The term affiliated companies includes:

1. Controlled companies, including companies solely controlled by the accounting company, and also companies jointly controlled by the accounting company and others under a joint arrangement.

2. Controlling companies, including both companies solely controlling the accounting company, and companies which jointly control the accounting company under a joint arrangement.

3. Companies controlled by controlled companies.

4. Companies controlled by controlling companies.

By control is meant the ability to determine the action of a corporation.

Sole control is that which rests in one corporation.

Joint control is that which rests in two or more corporations and which is held under a joint arrangement.

430 Loans and notes payable.

This account shall include the balances representing obligations outstanding in the form of loans and notes payable or other similar evidences of indebtedness payable on demand or within a time not exceeding one year from the date of issue.

NOTE: Secured notes and time loans payable more than one year from date of issue shall be included in account 427, "Funded debt unmatured."

431 Audited accounts and wages payable.

This account shall include the amount of audited vouchers or accounts and audited pay rolls unpaid on the date of the balance sheet; also balances representing unclaimed wages and outstanding pay and time or discharge checks issued in payment of wages and all other unpaid vouchered items.

432 Miscellaneous accounts payable.

This account shall include the net of the balances receivable from or payable to other companies in the accounts representing interline freight, passenger, and baggage revenues, and charges for equipment interchanged on a per diem or a mileage basis, when such balances result in a net credit. When the net of such balances is a debit it shall be included in account 410, "Miscellaneous accounts receivable." This account shall also include unpaid and outstanding drafts drawn by station agents, taxes collected from employees and others for the account of taxing agents, and other items of the nature of demand liabilities not covered by accounts 430, 431, 433, and 434.

NOTE: The amount to be entered in this account in the carrier's annual report to the Commission shall be stated in accordance with the text of this account. For convenience in accounting the carrier may, with respect to accounts representing interline freight, passenger, and baggage revenues, and equipment interchanged, maintain currently separate subaccounts under the following captions:

410 and 432 (a) Interline freight, balance.

410 and 432 (b) Interline passenger, balance.

410 and 432 (c) Interline baggage, balance.

410 and 432 (d) Equipment interchanged, balance.

432–1 Accrued accounts payable.

This account shall include estimates of unaudited current items payable (other than the liability for casualties) which are charged to operating revenue, operating expense, or income accounts in accordance with Instruction 01–5 *Unaudited items affecting operating accounts*, and Instruction 03–5 *Unaudited items;* also estimates of other unaudited items payable of a current nature.

NOTE: Estimated liability for injuries to persons and loss and damage claims shall be credited to account 441–1 *Operating reserves.*

433 Matured interest, dividends, and rents unpaid.

This account shall include the amount of matured and unpaid interest on loans and funded debt of the accounting company, on debt of other companies assumed by the accounting company, and on receiver's certificates; the amount of dividends payable on capital stock, but unpaid, uncalled for or unclaimed at the date of the balance sheet; unpaid dividends on the stock and unpaid interest on the funded debt of other companies when such are payable by the accounting company as all or a portion of the rent due under terms of leases or otherwise; and all other rents due and payable for property held under leases.

Items above indicated which mature on the first day following that for which the balance sheet is made shall be included in this account.

434 Matured funded debt unpaid.

This account shall include the amount of funded debt matured and unpaid without specific agreement for extension as to time of payment, including unpresented bonds drawn for redemption through the operation of sinking and redemption fund agreements.

435 Accrued interest, dividends and rents payable.

This account shall include the amount of interest on loans, funded debt, and receiver's certificates issued or assumed, dividends declared on capital stock, and rents under leases, accrued to the date for which the balance sheet is made but not payable until after the first day following that date. There shall be included also as rents accrued the amount of accrued dividends on the stock and accrued interest on the funded debt of other companies when such dividends and interest are payable by the accounting company as all or a portion of the rent under leases from those companies.

435–1 Taxes accrued.

This account shall be credited with the accruals of all taxes which have been concurrently charged to appropriate income or other accounts for taxes. Such accruals may be based on estimates, provided such estimates shall be adjusted so as to reflect in this account at all times the carrier's estimate of its unpaid liability for each of the several classes of taxes which have not been finally settled.

Vouchers for current payment of taxes, including taxes for which accruals have not been made previously, shall be charged to this account. Taxes paid in advance shall also be charged to this account. The records supporting the entries in this account shall be kept to show separately by classes of taxes the amount of the tax accruals for the current year and adjustments of accruals for prior years.

436 Other current liabilities.

This account shall include items of current liabilities not covered by accounts 430 to 435–1.

437 Liability for provident funds.

This account shall include the ledger balances representing the liability of the accounting carrier for the amount of assets (whether contributed by the carrier, by the employees, or by others) in the possession of the carrier or of trustees or managers acting for it in the administration of employees' pension, savings, relief, hospital, and other association funds.

438 Other deferred liabilities.

This account shall include items of deferred liabilities not covered by account 437, such as retained percentages due contractors, to be paid on completion of contracts; amounts deposited with the accounting company to cover the cost of employees' outfits; deposits may by customers and others under contract when such deposits are returnable; and other similar items.

440 Premium on funded debt.

This account shall include the total of the net credit balances in the discount, expense, and premium accounts for the several subclasses of funded debt. (See Instruction 05–3 *Discount, expense, and premium on funded debt.*)

When an issue of funded debt or any part thereof is cancelled and at the date of cancellation there is a balance of unamortized premium relating thereto, the amount of such balance shall be credited to account 212, "Miscellaneous income", or account 270, "Extraordinary items", as appropriate.

441 Insurance reserves.

This account shall include the net credit balance in the accounts to which are credited insurance premiums concurrently charged to operating expenses to cover self-carried risks on fire, fidelity, boiler, casualty, burglar, and other insurance and to which are charged losses sustained on items protected by such insurance.

441–1 Operating reserves.

This account shall include the balance representing reserves created by charges to operating expenses to provide for the liability for unsettled personal injury, loss and damage, and other claims; and for similar purposes. When the liability is admitted this account shall be charged and the appropriate account credited.

442 Reserve for equalization of maintenance.

This account shall include ledger balances representing reserves created by charges to operating expenses for the equalization of maintenance expenses in accordance with Instruction 01–15 *Equalization of maintenance expenses.* The debit or credit balances in this account shall be closed at the end of each calendar year to the accounts through which they were created.

444 Reserve for amortization of franchises.

To this account shall be credited amounts charged to Operating Expenses or Income in order to provide for the amortization or extinguishment of limited franchises.

NOTE: See Note B of account 545, "Franchises."

446 Other unadjusted credits.

This account shall include the amount of credit balances in suspense accounts that can not be entirely cleared and disposed of until additional information is received, such as amounts realized from the sale of damaged, unclaimed, and over freight and held pending claim; switching charges of other carriers collected and held awaiting bills from such carriers; amounts received from the sale of mileage tickets, to be disposed of as mileage is honored by the accounting or other carriers; amounts received from sales of excess baggage scrip, to be disposed of as coupons are honored; interchangeable mileage credential ticket redemption funds; credit balances in clearing accounts; estimated accrued depreciation on leased equipment; and other similar items.

448 Unearned surplus.

This account shall include all surplus arising from sources other than those provided under earned surplus. Subaccounts shall be maintained as follows:

448–1 Paid-in surplus.

This subaccount shall include items such as amounts of consent dividends; surplus from donations by stockholders; reduction of par or recorded value of capital stock; forfeitures of subscriptions; gains from the acquisition, retirement, or resale of shares of capital stock; and long-term debt forgiven by stockholders.

It shall be charged with amounts included herein when capitalized by stock dividend or with the approval of the Commission; losses from retirement or resale of shares to an amount not in excess of credit herein applicable thereto; and may be charged with the amortization of discount on capital stock to the extent of credits herein.

448–2 Other unearned surplus.

This subaccount shall include unearned surplus arising from sources other than those enumerated under subaccount 448–1.

449 Earned surplus; appropriated.

This account shall include the total of the net balances of appropriate income and earned surplus for the acquisition of capital assets; the retirement of debt; sinking and redemption funds; and all other appropriations specifically set aside in the hands of trustees; also appropriations held in general funds for which no specific investment or segregation of funds has been made. It shall also include accretions to the assets held in such funds.

A subdivision of this account shall be maintained by classes of appropriations, the titles of which shall indicate the purpose for which the appropriations were made.

450 Earned surplus; unappropriated.

This account shall include the net balance (debit or credit) of amounts included in accounts 301 to 317, inclusive. It shall not include transfers either to or from account 448, "Unearned surplus," except when authorized by the Commission.

451 Unsegregated surplus.

This account shall include the amount at the date this order becomes effective that was carried in former account 451, "Profit and loss—Balance," that has not at the date of the balance sheet been segregated and transferred as appropriate to account 448, "Unearned surplus," or account 450, "Earned surplus—Unappropriated."

ROAD AND EQUIPMENT

06 General instructions.

06–1 Application of road and equipment accounts.

The road and equipment account Nos. 500 to 551, inclusive, contain the rules in accordance with which shall be classified the investment of electric railway companies in property used by them in transportation operations, in operations incident thereto, or in auxiliary operations.

These accounts shall include all expenditures for original road and equipment and for additions and betterments thereto, regardless of the way in which the funds for the construction or acquisition have been provided. Such expenditures shall not be charged to Operating Expenses, Income, Profit and Loss, or to special funds in such manner as to exclude from the property accounts any expenditure for road and equipment or for additions and betterments thereto.

These accounts shall also include the necessary credits to represent the original cost of property or equipment abandoned, destroyed, sold, or otherwise retired from service. Wherever the term original cost is referred to and such cost cannot be ascertained, an estimate of the original cost shall be used.

When the property change involves the acquisition or betterment of road and equipment property (other than land or tracks), the cost of which is less than $500.00, or the retirement of such property, the ledger value of which is less than $500.00, the cost of the property acquired shall be charged and the value of salvage from the property retired credited to operating expenses and no adjustment shall be made of the road and equipment accounts.

The carrier shall not parcel expenditures for acquisitions when made under a general plan for the purpose of bringing the accounting within this rule; neither shall it combine unrelated items for the purpose of excluding the accounting from this rule.

The carrier is permitted to adopt as a limit a less amount, provided it files with the Commission the amount it proposes to use and makes no subsequent change in the amount, except by authority of the Commission.

06–3 Basis of charges.

The charges to the road and equipment accounts of expenditures for the acquisition of property and for improvements shall be based upon the actual cost of the property and the improvements, except as otherwise provided in accounts 401–1 and 401–2. When the consideration given for the purchase of property or for the improvement of property is anything other than money, the money value of the consideration at the time of the transaction shall be charged to these accounts and the actual consideration shall be described in the record with sufficient particularity to identify it.

The charges for material and supplies shall be recorded at their net cost, including charges paid foreign lines. Such costs shall not include the expenses of transportation over the carrier's line. The cost of tools purchased for exclusive use in connection with construction work shall be included in the accounts to which the cost of the work is charged.

06–4 Property retired.

When property other than land or equipment is retired from service, the appropriate road and equipment accounts shall be credited with the amount (estimated if not of record) at which such property stands charged therein at the time of retirement. The amount of this credit shall be charged concurrently as follows:

(a) *For depreciable property.* The service value (ledger value less value of salvage) shall be charged and insurance recovered, if any, credited to account 401–3, "Reserve for depreciation—Road and equipment." The charge for salvage shall be in accordance with the disposition of the material recovered. The cost of dismantling the retired property, if borne by the carrier, shall be charged to the appropriate account provided for dismantling property.

NOTE: When nondepreciable property, included in a depreciable account, is retired, the service value shall be accounted for as provided for nondepreciable property retired.

(b) *For nondepreciable property.* If the property retired is replaced, the service value (ledger value less value of salvage) shall be charge to the accounts in operating expenses appropriate for repairs to such property. If the property retired is not replaced, the service value shall be charged to account 28–3, "Retirements—Way and structures," and the salvage recovered and the cost of dismantling the property shall be accounted for in the manner provided for depreciable property.

06–6 Adjustments for converted property.

When a building, structure, or other unit of property is converted so as to require the transfer of its book cost from one account to another, it shall be accounted for as retired.

The accounting for such retirement shall be on a basis consistent with the accounting which would be proper if the carrier made no further use of the property. The salvage value to be used in determining the service value shall be its ledger value less an allowance to reflect consumed, expired, or lost usefulness, but in no case less than the estimated value of the scrap and reusable parts which could be recovered if the unit was dismantled.

The charge to be made for the property after conversion shall be the estimated value of the salvage used in accounting for the retirement, less any salvage recovered and not retained or used in the unit as converted, plus all expenditures for labor and material necessary to construct the rebuilt unit for future use, but not to exceed the cost (at current prices

of labor and material) of a new unit of equal capacity and life expectancy, less a suitable allowance for second-hand parts retained therein.

06–7 Land sold or released.

If any land the cost of which has been included in these accounts is sold, the appropriate account shall be credited with the amount at which such property stands charged therein at the time of the disposal, and the difference between the amount thus credited and the amount received from the sale or disposal of the property shall be included in account 212, "Miscellaneous income", account 225, "Miscellaneous debits", or account 270, "Extraordinary items", pursuant to instruction 01–6, as appropriate.

When the use of land in transportation service or in operations incident thereto is discontinued and the land is retained in possession by the carrier, the appropriate account shall be credited with the amount at which such land stands charged therein and concurrently this amount shall be charged to balance sheet account 404, "Miscellaneous physical property."

06–8 Equipment retired.

The instructions for accounting for equipment retired are contained under the general account Equipment.

06–9 Equipment costs paid in installments.

When any equipment is acquired under a so-called trust agreement or any agreement which provides that the cost shall be paid in installments, the cost (its cash value at time of purchase) shall be charged to the appropriate accounts at the time of its acquisition in the same manner as the cost of equipment purchased outright. The discount or premium, if any, on securities issued in payment or in part payment for such equipment shall be debited or credited to the proper discount or premium accounts in accordance with Instruction 06–3 *Discount, expenses, and premium on funded debt.*

06–10 Salvage from equipment, tools, etc.

When the cost of any work equipment, machinery, tools, or material and supplies obtained for use in construction work has been charged to road and equipment accounts and the entire value thereof has not been consumed in the work, the residual value of such work equipment, machinery, tools, or material and supplies shall be credited upon the completion of the work to the accounts to which originally charged, and concurrently charged to the material and supply account or other appropriate account. When such equipment, machinery, etc., is held awaiting disposition without being dismantled or torn down, the estimated residual value thereof shall be included in account 415, "Other deferred assets," until the unit is reused, dismantled, or sold.

06–11 Incidental services of employees.

No charge shall be made against road and equipment accounts for the salaries of officers and employees who perform incidental services in connection with construction or addition and betterment work, although traveling and incidental expenses incurred by officers and employees on account of such work may be included in the account to which the cost of the work is chargeable. When officers or employees give all or a substantial proportion of their time to construction or to addition or betterment work, the whole or an equitable proportion of their salaries and their traveling and incidental expenses in connection with such work shall be included in the cost of the work.

06–12 Operating property purchased.

When property to be used in transportation service is purchased, such property shall be charged to account 401, "Road and equipment," at the price paid therefor, except that where the price paid exceeds $25,000.00 but is less than the original cost, the carrier may record the original cost as set up in the accounts of the vendor, and charge such amount to account 401 and credit the excess of original cost over the price paid to account 401–3, "Reserve for depreciation—Road and equipment," if depreciable property, or to account 401–4, "Reserve for retirements—Nondepreciable property."

If the price paid exceeds $25,000.00 but is less than the original cost, and the carrier elects to classify the property on the basis of the price paid, it shall, after completing the necessary studies, distribute the price paid to the primary road and equipment accounts on an equitable basis supported by such studies.

If the price paid exceeds $25,000.00 and also exceeds the original cost, the charges to account 401 and the primary road and equipment accounts shall in no case exceed the original cost to the vendor. In such cases the difference between the sum of the amounts included in the primary road and equipment accounts and the price paid the vendor shall be included in account 401–1, "Acquisition adjustment."

If the price paid the vendor does not exceed $25,000.00, the property acquired shall be charged to account 401 and the appropriate primary road and equipment accounts at the price paid for the property.

NOTE: Journal entries recording the purchase of road and equipment property at a cost in excess of $25,000.00 shall be presented to the Commission for approval.

06–13 Reclassification.

The balances carried in the primary accounts that are canceled by this order shall be transferred and distributed to the appropriate primary account as herein provided.

ROAD AND EQUIPMENT ACCOUNTS

500 General accounts.

The general road and equipment accounts represent groupings of related primary accounts.

500–1 Way and structures.

The general account for investment in way and structures embrace the following primary accounts:

501 Engineering.

This account shall include expenditures for services and expenses of engineers, draftsmen, and superintendents employed on preliminary and construction work, or in making additions or betterments to the accounting carrier's road; also expenses incident to engineering and superintendence not assignable to other accounts.

ITEMS OF EXPENSE AND SUPPLIES

Atlases and maps.	Planimeters.
Axes.	Plummets.
Barometers.	Protractors.
Books for office use.	Ranging poles.
Boxes.	Reading glasses.
Cameras.	Repairs, rented offices.
Camp equipage.	Rods.
Chains for surveyors.	Scales.
Compasses.	Section liners.
Curves.	Sextants.
Drawing boards.	Slide rules.
Drawing instruments	Stakes.
Field glasses.	Straight edges.
Field notebooks.	Tally registers.
Furniture repairs and renewals.	Tape lines.
Hatchets.	Tee squares.
Heating and lighting.	Telegraph service.
Levels.	Telephone service.
Magnets.	Telescopes.
Magnifiers.	Thermometers.
Marking chalk.	Thumb tacks.
Official train service	Tracing linen.
Oil stoves.	Transits.
Paper, blueprint.	Traveling expenses.
Parallel rulers.	Traverse tables.
Photographic supplies.	Triangles.
Plane tables.	Tripods.
	Verniers.
	Water and ice.

NOTE A: When employees designated above are engaged in work not chargeable to construction, their pay and expenses shall be charged to the specific work on which engaged. When any of the expenses above designated can be charged directly to the account for which incurred, they shall be so charged.

NOTE B: Expenditures for tentative or preliminary surveys and tests shall be carried in a suspense account until it is determined whether or not to continue the work. If the project is continued, expenditures for all surveys in connection therewith shall then be transferred to this account, and, if abandoned, to appropriate income accounts.

502 Right of way.

This account shall include the cost of land acquired for roadway; expenses of appraisals, or juries, commissioners, or arbitrators in condemnation cases; cost of removal of buildings (if upon right of way, and not included in property purchased); commissions paid outside parties for purchase of properties for these purposes; cost of plats, abstracts, notarial fees, recording deeds, etc.; payment for abutting damages and legal services in suits connected therewith; assessments levied by public authorities or amounts payable for the construction or the improvement of roads, streets, sidewalks, curbs, gutters, sewers, ditches, etc., (except paving). To this account shall also be charged the cost of moving other companies' poles for proper clearance.

To this account shall be credited proceeds from the sale of timber or other property purchased with right of way.

The estimated value of property not required in connection with the operation of the road after completion thereof, but acquired and charged to this account in connection with land needed for right of way, shall, upon completion of the road, be credited to this account and charged to account 503, "Other land used in electric railway operations," or to account 404, "Miscellaneous physical property," as may be appropriate. If such property is sold upon or prior to the completion of the road, the proceeds of sale thereof shall be credited to this account.

503 Other land used in electric railway operations.

This account shall include the cost of land acquired for use directly in connection with the operation of the road but not acquired for roadway, including all expenses incurred in connection with such acquisition.

504 Grading.

This account shall include the cost of clearing and grading roadway, whether by excavations or embankments; ditching roadway and making ditches for waterways; also cost of retaining walls and other masonry or riprap for the protection of embankments, cuts, and slopes.

This account shall include such items as the cost of steam shovels and tools used in grading, less credit for inventory or selling value upon completion of grading.

When a bridge or trestle or portion thereof is filled, the cost of filling and the estimated cost of a temporary trestle, provided it would otherwise have been required for the purpose, shall be charged to this account.

ITEMS OF ROADBED AND EXPENSE

Advertising for bids.	Grubbing.
Berm ditches.	Material from borrow pits.
Blasting.	Operating steam shovels.
Breakwaters.	Privilege wasting surplus material.
Bulkheading.	Payments for waste banks.
Clearing land.	Retaining walls.
Cribbing.	Revetments.
Ditches (not under right of way agreements).	Riprap.
Dressing slopes.	Spoil banks.
Excavations converting tunnels into cuts.	Temporary trestles for fills.
Filling bridges, trestles, and culverts.	Tools for grading.
Grading outfits.	Wing dams.

505 Ballast.

This account shall include the cost of ballast, whether of broken stone, slag, gravel, concrete, or other material; cost of transportation and handling (except final distribution); also the cost of ballast applied in excess of that required to restore the ballast to its original height and width; and the excess cost of improved ballast used in renewals over the original cost of the ballast removed.

NOTE A: If ballast produced is chargeable partly to construction and partly to maintenance, a clearing account may be opened in order to determine the unit of cost which is to be used in arriving at the amounts chargeable to construction and maintenance.

NOTE B: The cost of labor expended in spreading and putting ballast under track not previously ballasted shall be charged to account 510, "Track and roadway labor."

506 Ties.

This account shall include the cost of cross, switch, bridge, and other track ties used in the construction of tracks, and the cost of additional ties subsequently laid in such tracks; cost of transportation and handling (except final distribution); the pay and expenses of employees engaged in obtaining purchasing, treating, framing, and inspecting ties for construction purposes; also the excess cost of improved ties over the original cost of ties removed and replaced.

NOTE: The cost of labor for unloading, distributing, and placing ties in tracks shall be charged to account 510, "Track and roadway labor."

507 Rails, rail fastenings, and joints.

This account shall include the cost of rails (including guard rails), rail fastenings, and joints used in construction of tracks; the cost of transportation, inspection, and handling (except final distribution); and the excess cost of heavier or improved type or quality of rails, rail fastenings, and joints over the original cost of rails, rail fastenings, and joints removed and replaced.

NOTE A: Guard rails used in connection with special work shall be charged to account 508, "Special work."

NOTE B: The cost of labor for unloading, distributing, and placing rails, rail fastenings, and joints, in track shall be charged to account 510, "Track and roadway labor."

508 Special work.

This account shall include the cost of special work, including steam and street railroad crossings, cross-overs, curves, frogs, runoffs, switches, switch mates, and turnouts; guard rails used in connection with special work; also the excess cost of heavier or improved type of special work over the original cost of such work removed and replaced. To this account shall also be charged the cost of transportation, inspection, and handling (except final distribution).

The terms cross-overs, curves, and turn-outs cover only those portions of track which are made to order.

NOTE A: This account is not intended to cover the cost of ties, rails, rail fastenings, and joints. These items shall be charged to accounts provided for each expenditure. Plain curves shall be treated as rails.

NOTE B: The cost of labor for unloading, distributing, and placing special work in track shall be charged to account 510, "Track and roadway labor."

509 Underground construction.

This account is to be used only by railways operated by underground electric contact system, or by those operated by cable traction.

This account shall include the cost of underground construction, including cost of excavating for underground construction, and cost of yokes, concrete work, manhole frames and covers, slot rails, drain pipes, pulleys, sheaves, and other fixtures and appurtenances peculiar to underground electric or cable construction. To this account shall be charged also the cost of transportation, inspection, and handling (except final distribution).

NOTE A: The cost of track rails, track rail fastenings and joints, electric contact rails and insulators, and cables of cable railways, shall not be charged to this account.

NOTE B: The cost of labor unloading, distributing, and placing the materials described above shall be charged to account 510, "Track and roadway labor."

510 Track and roadway labor.

This account shall include the cost of labor expended in distributing, laying, and adjusting ties, rails, ballast, frogs, switches, special work, and other track material and appurtenances used in the construction of tracks. The cost of laying and surfacing tracks through tunnels and on bridges and trestles shall be included in this account.

NOTE A: The cost of distributing and adjusting ties, rails, ballast, frogs, switches, and other track material for replacements shall be charged to Operating Expenses.

NOTE B: The cost of transporting ballast and unloading at delivery point shall be charged to account 505, "Ballast."

511 Paving.

This account shall include the cost of labor and material (including macadam) for paving about tracks and special work, and for crosswalks incident to track construction. This account shall also include assessments levied by public authorities or amounts payable under franchise requirements for new or improved paving. The cost of replacing paving taken up on account of construction shall also be charged to this account.

512 Roadway machinery.

This account shall include both the cost of the initial outfit of roadway machinery and tools provided for the maintenance of roadway and structures at the time the road is opened for commercial traffic and the cost of additional roadway machinery and tools acquired subsequently.

LIST OF ROADWAY MACHINERY AND TOOLS

Adzes.	Chisels.
Anvils.	Concrete mixers.
Augers.	Dippers.
Axes.	Ditching machines.
Ballast forks.	Dredging machines.
Bars, claw.	Drills.
Bars, crow.	Flags.
Bars, lining.	Furnaces.
Bars, pinch.	Grading outfits.
Bars, raising.	Grind stones.
Bars, tamping.	Hammers.
Bollers.	Hatchets.
Braces and bits.	Hoes.
Brooms.	Jacks.
Brush hooks.	Kegs.
Cable stretchers.	Ladders.
Cans.	Lanterns.
Cant hooks.	Levels.
Cars, hand and push.	Lubricators, guard rail.
Cars, motor.	Oil stones.
Cars, crane.	

Padlocks.	Spades.
Pails.	Spike mauls.
Paint brushes.	Spike pullers.
Picks.	Steam rollers.
Pile drivers.	Squares.
Post-hole diggers.	Tape lines.
Plows.	Thermometers.
Punches.	Tongs.
Rail benders.	Tool boxes.
Rail tongs.	Track gauges.
Rail unloaders.	Track levels.
Rakes.	Velocipedes.
Rope.	Vises.
Rock crushers.	Wheelbarrows.
Saws.	Whetstones.
Shovels.	Woodmallets.
Sledges.	Wrenches.

NOTE A: When an important addition and betterment projects or the construction of a new line necessitates the purchase of roadway machinery and tools to be used exclusively thereon, the cost shall be included in the accounts to which the cost of the work is charged. The amount realized from any subsequent sale, or the appraised value of the machinery and tools retained after the completion of the work for which they were purchased, is to be credited to the accounts charged with the cost thereof. The appraised value of such machinery and tools shall be debited to this account and thereafter considered as the cost of such property.

NOTE B: The cost of hand and other small portable roadway machinery and tools, of which no specific record is kept, shall be charged, when they are acquired, to an appropriate material and supplies account from which they shall be charged, as issued, to the appropriate road and equipment, operating expense, or other accounts.

NOTE C: The cost of machinery and tools for the equipment of shops shall be included in account 596, "Shop equipment," as provided therein.

513 Tunnels and subways.

This account shall include the cost of labor and material used in the construction of tunnels and subways, the cost of apparatus for ventilating and lighting, and the cost of safety devices (except guard rails and signals) in tunnels and subways.

NOTE: The cost of undergrade crossings shall be charged to account 516, "Crossings, fences, and signs."

514 Elevated structures and foundations.

This account is intended to be used only by companies operating an elevated railway system. It shall include the cost of labor and material used in the construction of elevated structures and foundations.

NOTE A: Ties and rails used on elevated structures shall be charged to accounts 506, "Ties," and 507, "Rails, rail fastenings, and joints."

NOTE B: The cost of station and other structures built on elevated lines shall not be included in this account, but in the accounts appropriate for such structures.

515 Bridges, trestles, and culverts.

This account shall include the cost of labor and material used in the construction of bridges and trestles erected to carry tracks over streams, ravines, marshes, streets, or other railways, and culverts, both substructure and superstructure. It shall include cost of abutments, piers, supports, draw and pier protection; wing dams and cribs for regulating the current of a stream; ice breakers for breaking up jams; machinery to operate drawbridges; guards, masonry ends, and wing walls for culverts; pipe culverts for drainage systems; cost of inspection and transportation of material; cost of tests; and cost of labor and material used in painting structures.

DETAILS OF BRIDGE STRUCTURES

Abutments.	Guard timbers.
Bridge signs.	Ice breakers.
Cofferdams.	Painting, first.
Concrete culverts.	Pier protection.
Cribs.	Piers and foundations.
Decking, including gravel for fire protection.	Pipe culverts.
Dike protection.	Retaining walls.
Drainage system.	Riprap.
Draw protection.	Supports.
Drawbridge engines and machinery.	Water channels.
False work.	Waterproofing.
	Wing dams.
	Wing walls.

NOTE A: The cost of structures necessary for carrying the carrier's tracks over other tracks, or over a stream, highway, or canal, shall be included in this account. The cost of structures necessary for carrying other tracks, canals, highways, etc., over the carrier's tracks shall be charged to account 516, "Crossings, fences, and signs."

NOTE B: Ties and rails used on bridges, trestles, and culverts shall be charged to accounts 506, "Ties," and 507, "Rails, rail fastenings, and joints."

NOTE C: When a part or the entire structure of a bridge or trestle is converted, by filling, into an earth embankment, the ledger value of the structure, or of the portion thereof filled, shall be credited to this account. In case the bridge or trestle is used in lieu of a temporary trestle for the purpose of filling, the estimated cost of such temporary trestle shall be charged to account 604, "Grading."

516 Crossings, fences, and signs.

This account shall include the cost of labor and material used in constructing streets, road, and farm crossings at grade; overhead bridges and viaducts for use of others; roadways of undergrade footways, wagon roads, or cattle crossings; crossing gates, cabins, and towers containing apparatus for operating gates; warning signals; planking at crossings, and drainage for undergrade crossings; payments and assessments for street repairs during construction period or for sewers at crossings; right of way fences, snow and sand fences, cattle guards, wing fences, aprons, and hedges; and mile, section, warning, and other roadway signs.

NOTE: The cost of structures carrying other tracks, canals, highways, etc., over a carrier's tracks shall be included in this account. A structure carrying the carrier's tracks over other tracks, or over a stream, highway, or canal, shall be considered a bridge, trestle, or culvert and its cost shall be included in account 515, "Bridges, trestles, and culverts."

517 Signals and interlockers.

This account shall include the cost of labor and material used in constructing signals and interlocking apparatus, including towers and other buildings incident thereto.

ITEMS

Air compressors.	Levers.
Air pipe lines.	Power apparatus.
Automatic train control devices (not on equipment).	Power distribution lines.
Batteries.	Rail bonds.
Boilers.	Relays.
Call-bell systems.	Semaphores.
Car - retarder systems.	Signal bridges.
Centralized traffic controls.	Signal buildings.
Conduits.	Signal cables.
Crossing signals.	Signal lamps and fittings.
Dynamos.	Signal machinery.
Engines, stationary.	Signal poles and fittings.
Impedance bonds.	Special appliances.
Interlocker buildings.	Station signals.
Interlocker mechanism.	Train-order signals.
	Wiring.

518 Communication systems.

This account shall include the cost of labor and material used in constructing telephone and telegraph lines, including cost of conduits, poles, cables, wires, booths, and instruments; cost of all tools used for construction; and cost of transportation of men and material for this work.

LIST OF TERMINAL EQUIPMENT

Batteries.	Engines, stationary.
Cables and wire, interior.	Fuses and mechanical protectors.
Conduits, interior.	Rectifiers.
Connecting wires.	Rheostats.
Current-controlling instruments.	Sending and receiving instruments.
Electric generators and motors.	Switchboards.
Electric meters.	Testing outfits.
	Transformers.

LIST OF OUTSIDE PLANT

Antenna and supporting structures.	Guy wires.
Aerial attachments.	Insulators.
Braces.	Laboratory equipment.
Brackets.	Mobile auxiliaries.
Cable boxes and fittings.	Poles.
Cables and wire, aerial.	Submarine cables and connections.
Conduits and fittings.	Telephone pole boxes.
Crossarms.	Towers.
Guy stubs.	Underground cables and fittings.

NOTE: The cost of poles and conduits primarily used for other purposes shall be included in the account appropriate, according to their predominant use.

521 Distribution system.

This account shall include the cost of labor and material used in constructing the distribution system, including overhead and underground feeders for transmitting low-tension power from power stations and substations, with insulators and connections; track bonding, including track bonds and cost of punching and drilling rails for same; overhead trolley lines, including cost of trolley, guard, span, strain, supplementary, and other wires, and all catenary construction used in connection with the overhead trolley system; cost of third rail, braces and supports for same, insulating devices, materials used for covering and protecting same, and all fixtures and appliances connected with third-rail conductors; cost of underground contact rails, and appliances used in underground contact system, including braces, supports, and insulating devices; also the cost of conduits and poles, crossarms, insulator pins, brackets, other pole fixtures, and of other structures for distribution systems.

DISTRIBUTION SYSTEM ITEMS

Cables.	Switchboards.
Cut-outs.	Third rail.
Feed wires.	Third-rail protection.
Insulators and connections.	Third-rail supports.
Overhead trolley wires.	Trackless trolleys.
Rail-bond plugs.	Transformers.
Rail bonds.	Underground power tubes.
Span wires.	

POLE-LINE AND CONDUIT ITEMS

Braces.	Insulator pins.
Brackets.	Manholes.
Conduits.	Poles.
Crossarms.	Sewer traps.
Cutting and trimming trees.	Stenciling letters or numbers.
Guy stubs and wires.	Towers.

NOTE: When the electric current generated or received is changed by means of rotary converters, motor generator sets, or static transformers, that portion of the line or outside conductor system carrying current of other than the operating kind or voltage shall be classed as transmission system. When the electric current is generated or received and used substantially unchanged in voltage and kind, the line or outside conductor system, including feeders, trolley wire, booster circuits, and supplementary return, if any, shall be classed wholly as distribution system. Tie lines between generating stations and substations shall follow the same rule as other lines.

522 General office buildings.

This account shall include the cost of buildings devoted to general office purposes and their permanent fixtures; architects' fees; and expense of grading, improving, and fencing grounds.

DETAILS

Breakwaters.	Pavements.
Coal bins.	Power systems, interior.
Drainage and sewerage.	Sidewalks.
Electric wiring.	Stairways.
Elevators and machinery.	Subways.
Fences.	Telephone, interior.
Heating plants.	Telegraph, interior.
Hedges.	Telpher systems.
Lighting plants.	Water supply.

523 Shops, carhouses, and garages.

This account shall include the cost of labor and material used in erecting buildings to be used as shops, car sheds, carhouses, oil houses, sand houses, and storehouses, including foundations, except those special to particular machines and apparatus, pits, transfer tables, turntables, and built-in scales; heating and lighting apparatus; water, gas, and sewer pipes and connections; architects' fees; preparing grounds before and clearing grounds after construction; painting; and transportation and incidental expenditures.

DETAILS

Ash pits and plants.	Pipe lines.
Bins.	Planing mills.
Blacksmith shops.	Scales (built-in).
Car sheds and shops.	Sidewalks.
Carpenter shops.	Storehouses.
Drop pits.	Tanks.
Foundries.	Tin shops.
Heating plants.	Tool houses.
Laboratories.	Transfer tables.
Lighting.	Turntables.
Lumber sheds.	Upholstering shops.
Machine shops.	Warehouses.
Oil houses.	Wash rooms.
Paint shops.	Watch houses.

NOTE: The cost of foundations special to particular machines or apparatus shall be included in the accounts to which the cost of such machines or apparatus is chargeable.

524 Stations, miscellaneous buildings, and structures.

This account shall include the cost of labor and material used on stations, waiting rooms, and other buildings not provided for elsewhere in the road and equipment accounts, including excavation, foundation, and drainage; water, gas, and sewer pipes and connections; grading, improving, and fencing grounds; heating and lighting apparatus and fixtures, and all other material and fixtures used to complete the buildings; and cost of track scales and cattle chutes.

STATION DETAILS

Baggage rooms.	Pavements.
Breakwaters.	Platforms.
Buildings.	Power systems, interior.
Bins.	Reading rooms.
Coal machinery.	Scales and houses.
Drainage and sewerage.	Sidewalks.
Dwellings.	Station intertrack fences.
Eating houses.	Stairways.
Electric wiring.	Subways.
Elevators and machinery.	Station powerhouses.
Express buildings.	Station, freight.
Fences.	Stations, passenger.
Freight cranes and derricks.	Stock bins.
Freight houses.	Storehouses.
Grain elevators.	Telegraph offices.
Greenhouses.	Telpher systems.
Heating plants.	Track scales.
Hedges.	Transfer houses.
Ice houses.	Waiting rooms.
Lighting plants.	Warehouses.
Mail cranes.	Water supply systems.
Milk stands.	Yard buildings.

525 Wharves and docks.

This account shall include the cost of wharves, docks, drydocks, slips, float bridges, and other landings for vessels, including necessary dredging and the cost of float-bridge or ferry-bridge machinery and other appurtenances on docks and wharves; also piling, pile protection, cribs, cofferdams, walls, and other necessary devices and apparatus for the operation or protection of wharves and docks.

DETAILS

Bridge pontoons.	Ferry racks.
Bulkheads.	Ferry slips.
Caissons.	Jetties.
Cribwork.	Jetty inclines.
Drydocks.	Transfer-bridge machinery.
Ferry-bridge machinery.	Transfer bridges.
Ferry bridges.	

NOTE A: The cost of restoring the condition of wharves and of the land upon which they are situated after betterment work shall be charged to Operating Expenses.

NOTE B: The cost of land on which additional wharves are built and cost of riparian or water rights for wharves and docks shall be charged to account 595, "Other land used in electric railway operations."

526 Park and resort property.

This account shall include the cost of amusement parks or resorts.

NOTE: The cost of land used for such purposes shall be charged to account 595, "Other land used in electric railway operations."

528 Reconstruction of road property acquired.

When road property acquired is in such physical condition that it is necessary to substantially rebuild the property in order to bring it up to the standard required for operation, expenditures for such reconstruction, less retirements in connection therewith, shall be temporarily included in this account.

When the reconstruction is completed, the carrier shall present a statement of the net cost to the Commission for approval, and request authority to clear the amount by charges to the appropriate primary road accounts.

NOTE A: A comprehensive statement of the estimated amount necessary to reconstruct a road in accordance with the above provision shall be made to the Commission as soon as the estimate is made.

NOTE B: When the work of reconstruction of road purchased is completed the cost thereof shall be credited to this account and charged to other primary accounts appropriate for the expenditures made.

529–1 Steam railway road property.

This account may include the cost of steam railway operating property, other than equipment, owned and used by the carrier in conducting its steam railway operations. If the carrier elects to make the segregation, its records shall be kept in such manner as to reflect by subprimary accounts the primary accounts prescribed for such property by the Commission in its system of accounts for steam roads.

529–2 Water line terminal property.

This account may include the cost of water line property, other than equipment, owned and used by the carrier in conducting its water line operations. If the carrier elects to make the segregation, its records shall be kept in such manner as to reflect by subprimary accounts the primary accounts prescribed for such property by the Commission in its system of accounts for carriers by water.

529–3 Motor carrier property.

This account may include the cost of motor carrier operating property, other than equipment, owned and used by the carrier in conducting its motor carrier operations. If the carrier elects to make the segregation, its records shall be kept in such manner as to reflect by subprimary accounts the primary accounts prescribed for such property by the Commission in its systems of accounts for

motor carriers of property and for motor carriers of passengers.

500–2 Equipment.

To the appropriate accounts under this general account shall be charged the cost of all equipment not includible under general account Power, such as locomotives; passenger, baggage, express, freight, mail, work, and nonrevenue cars; floating and other equipment; the necessary appurtenances and fixtures first to equip for service; the cost of inspection, setting up, and trying out; the cost of transportation over foreign lines; and cost of additional devices, appliances, and apparatus applied to equipment, such as electric headlights, power brakes, vestibules, heating and lighting apparatus, and the like; also the excess cost of improved appliances and parts over the original cost of such appliances and parts removed. The cost of removing the old appliances and applying the new appliances shall be charged to Operating Expenses.

The ledger value of equipment retired shall be credited to the appropriate primary account at the time it is retired from service. The amount of this credit shall be charged concurrently as follows:

The service value (ledger value less value of salvage) less any insurance recovered shall be charged to account 401–3, "Reserve for depreciation—Road and equipment." The charge for the salvage shall be in accordance with the disposition of the material recovered. The cost of dismantling the retired equipment, if borne by the carrier, shall be charged to the appropriate account for dismantling equipment.

When equipment is converted, the accounting shall be as provided in instruction 08–6 *Adjustments for converted property.*

When secondhand equipment is acquired in such physical condition that it is necessary to make extensive repairs to bring it up to the standard maintained by the carrier, the cost of such repairs shall be included in the accounts appropriate for recording the cost of the equipment. A statement of the amount necessary to recondition the equipment shall be presented to the Commission as soon as the figures are available.

When equipment is rebuilt so as to modernize it and create an expectation of life fairly comparable with new units of similar type and capacity, the equipment shall be accounted for as retired from service and its cost after rebuilding shall be charged to the appropriate primary accounts. The cost of the rebuilt equipment shall be the sum of:

(a) Cost of new material applied.

(b) Current market price new of secondhand parts applied or remaining therein, less allowance for secondhand condition.

(c) Cost of labor constructing the rebuilt units: *Provided,* Such cost shall not exceed the cost (at current market prices of labor and material) of a new unit of equal capacity and life expectancy, less a suitable allowance for secondhand parts included therein.

530 Passenger cars.

This account shall include the cost of passenger, baggage, sleeping, dining, parlor, chair, and combination passenger-service cars from the operation of which revenue is derived.

The term car includes body and trucks, and all fixtures and appliances inside of or attached to the car body or trucks, except the electric motive equipment of the car. The term combination car includes all cars that are used in part for carrying passengers.

NOTE: For list of cars and appurtenances, see account 30, "Passenger and combination cars."

531 Freight, express, and mail cars.

This account shall include the cost of freight, express, and mail cars from the operation of which revenue is derived.

The term car includes body and trucks and all fixtures and appliances inside of or attached to the car body or trucks, except the electric motive equipment of the car.

NOTE: For list of cars and appurtenances, see account 31, "Freight, express, and mail cars."

532 Service equipment.

This account shall include the cost of water cars, sprinkler cars, sand cars, salt cars, supply cars, and maintenance of way and line cars; snow plows, sweepers, scrapers, and miscellaneous snow-handling equipment; and pile drivers, rail grinders, cranes, welding and bonding apparatus, and similar equipment, where permanently mounted on cars.

NOTE: For list of cars and appurtenances, see account 32, "Service equipment."

533 Electric equipment of cars.

This account shall include the cost of electric motive equipment and wiring of cars, whether revenue or work cars, including cost of labor, material, tools, freight, hauling of material, and other expense incident to this work.

By electric equipment of cars is meant the electric motive equipment and the wiring for such equipment.

534 Locomotives.

This account shall include the cost of locomotives, including appurtenances, fixtures, and electric equipment necessary to fit them for service, and cost of labor, material, tools, freight, hauling of material, and other expense incident thereto.

To this account shall be charged the cost of steam or other locomotives and tenders, including all appurtenances and fixtures necessary to equip them for service.

535 Floating equipment.

This account shall include the cost of marine or floating equipment of all kinds, including appurtenances, furniture, and fixtures necessary to equip them for service and cost of inspection and transportation.

536 Shop equipment.

This account shall include the cost of machinery and other apparatus in shops and carhouses, including specially provided foundations and settings. It includes the cost of stationary engines, boilers, motors, shafting, belting, cranes, forges, scales, conduits, fixtures, other machinery, and tools to first equip a shop.

NOTE: For list of shop equipment, see account 30, "Shop equipment."

537 Furniture.

This account shall include the cost of movable furniture and fittings for general offices, shops, power plant and substation buildings, stations, waiting rooms, etc., such as desks, tables, chairs, carpets, cases, movable partitions, railings, and shelves; typewriters, addressing machines, adding machines, and other office devices; stoves, portable gas and electric fixtures, and other office fittings (except fixtures considered a part of the building).

538 Automotive and miscellaneous equipment.

This account shall include the cost of automobiles, trucks, tractors, and other highway vehicles.

538–1 Steam railway equipment.

This account may include the cost of steam railway equipment owned and used by the carrier in conducting its operations. The carrier's records shall be kept in such manner as to reflect by subprimary accounts the primary accounts prescribed for such equipment by the Commission in its system of accounts for steam roads, if it elects to make the segregation.

538–2 Water line equipment.

This account may include the cost of marine or floating equipment owned and used by the carrier in conducting its water line operations. The carrier's records shall be kept in such manner as to reflect by subprimary accounts the primary accounts prescribed for such equipment by the Commission in its system of accounts for carriers by water, if it elects to make the segregation.

538–3 Motor carrier equipment.

This account may include the cost of motor carrier equipment owned and used by the carrier in conducting its motor carrier operations. The carrier's records shall be kept in such manner as to reflect by subprimary accounts the primary accounts prescribed for such equipment by the Commission in its systems of accounts for motor carriers of property and for motor carriers of passengers if it elects to make the segregation.

500–3 Power.

The general account for investment in power plants, power plant equipment, and transmission systems embrace the following primary accounts:

539 Power plants.

This account shall include the cost of power plant and substation buildings (housing equipment provided for in account 542, "Power plant equipment"); all foundations, other than those special to particular machines and apparatus; also dams, canals, pipe lines, and accessories devoted to the utilization of water for power. Gas and sewer pipes and connections, fixtures (including wiring) for lighting and heating and miscellaneous fixtures, shall be considered part of the power plant buildings.

When a lighting business is conducted in connection with electric railway operations, and the use of the power plant for the lighting business greatly predominates, the entire cost of the power plant shall be included in account 404, "Miscellaneous physical property."

POWER PLANT STRUCTURES

Buildings.	Pavements.
Coal pockets and trestles.	Platforms.
Coal bunkers.	Protection against fire.
Fences.	Smoke stacks, chimneys, etc.
Foundations (not special to machines).	Tanks.
Heating and lighting plant buildings.	Water, sewer, gas, and drainage pipes
	Wells.

DAMS, CANALS, AND PIPE LINES

Aqueducts.	Penstocks.
Bridges.	Reservoirs.
Fences.	Roadways.
Forebays.	Sluices.
Gates.	Valves.
Grids.	Water rights.
Inlet valves.	

542 Power plant equipment.

This account shall include the cost of labor and material used in equipping power plants and substations for generating power; including cost of engines, boilers, pumps, condensers, and equipment for generating steam power; dynamos, generators, wiring and appliances, and other equipment for generating electric current; special foundations and settings; traveling cranes and switchboards with their fixtures and appliances. The cost of cables and of machinery for the propulsion of cables used in the operation of cable or incline railways shall be charged to this account. When a lighting business is conducted in connection with the electric railway operations, and the use of the power plant for the lighting business greatly predominates, the entire cost of the equipment for generation of power for lighting shall be included in account 404, "Miscellaneous physical property."

ITEMS

Air compressors.	Hoists.
Ammeters.	Insulators.
Ash-conveying machinery.	Machinery.
Batteries.	Mechanical stokers.
Battery-charging apparatus.	Metal stacks.
Belting.	Piping.
Boilers and fittings.	Purifiers.
Boosters.	Rheostats.
Cables, interior.	Rotary converters.
Circuit breakers.	Sewer appliances.
Clutches.	Shafting.
Coal machinery.	Special foundations.
Condensers.	Stationary engines.
Conductors.	Steam systems.
Cranes.	Switchboards.
Cut-outs.	Switches.
Draft machinery.	Tanks.
Dynamos.	Transformers.
Engine-room tools.	Turbines.
Feed water heaters.	Voltmeters.
Furnaces.	Water meters.
Generators.	Water wheels.
	Well pumps.
	Wiring.

NOTE: The cost of foundations other than those special to particular machines and other apparatus shall be included in the cost of the building, and not in this account.

544 Transmission system.

This account shall include the cost of labor and material used in constructing transmission system, including cost of poles, fixtures, and conduits used primarily for carrying transmission lines; cables, wires, insulators, and insulating material; cost of cutting and trimming trees for transmission line; and cost of constructing roads or footways for patrolling such lines.

NOTE: When the electric current generated or received is changed by means of rotary converters, motor generator sets, or static transformers, that portion of the line or outside conductor system carrying current of other than the operating kind or voltage shall be classed as transmission system. When the electric current is generated or received and used substantially unchanged in voltage and kind, the line or outside conductor system, including feeders, trolley wire, booster circuits, and supplementary return, if any, shall be classed wholly as distribution system. Tie lines between generating stations and substations shall follow the same rule as other lines.

500–4 General.

The primary accounts in this general account are provided to include payments to a State or political subdivision thereof for franchise rights; expenditures incident to organizing the corporation; and expenditures in connection with construction work in progress until completed and placed in service.

All other expenditures of a general or miscellaneous character previously assignable to primary accounts 548 to 550, hereafter shall be distributed equitably, and recorded under separate subheadings in the appropriate primary road and equipment accounts to which the expenditures relate. Such items are:

(a) Specific and distinct expenses not provided for elsewhere, relating to law services in connection with acquisition or construction of road and equipment property.

(b) Interest accruing on indebtedness incurred for acquisition and construction of road and equipment property (less interest, if any, allowed by depositaries on unexpended balances), from time the funds become available for use until the receipt or completion of the property, less premiums, and plus discount and expense on any indebtedness assignable to such period.

The proportion of premium or discount and expense shall be determined by the ratio between the period prior to the completion or coming into service of the facilities or improvements and the entire period from the date of issue to maturity of the evidences of debt.

Interest during the construction period shall be confined to interest paid for the use of borrowed funds and shall not include interest on the carrier's own funds expended in connection with the acquisition or construction of road and equipment property.

(c) Expenditures on account of persons killed or injured and damages to property in connection with the construction of road and equipment property.

(d) All taxes levied and paid on property belonging to the carrier during construction and before the facilities are used for commercial operations.

(e) Miscellaneous expenditures of a special or incidental nature in connection with the acquisition or construction of road and equipment.

545 Franchises.

This account shall include actual amounts paid to a State or to a political subdivision thereof in consideration of franchises running in perpetuity or for a specified term of more than one year and necessary to the conduct of the carrier's operations. Similar payments for perpetual or limited franchises covering additional territory shall also be charged to this account.

NOTE A: Payments made periodically in the nature of taxes, percentages of revenues, etc., shall be included in income account 215, "Taxes assignable to transportation operations."

NOTE B: Balance sheet account 444, "Reserve for amortization of franchises," has been provided, to which may be credited monthly and charged to operating expense account 91, "Amortization of franchises," a monthly proportion of annual amounts which, written off proportionately over the life of limited franchises, will create a reserve sufficient, at time of expiration of franchises, to offset the amount charged to this account for such franchises. Upon expiration of a franchise, account 444, "Reserve for amortization of franchises," shall be debited and this account shall be credited with the amount paid therefor.

546 Organization expenditures.

This account shall include all fees paid to governments for the privilege of incorporation, and office and other expenditures incident to organizing the corporation and putting it in readiness to do business; cost of preparing and distributing prospectuses; cost of soliciting subscription for stock; cash fees paid promoters, and the actual cash value (at time of organization) of securities paid to promoters for their services in organizing the enterprise; special counsel fees; cost of preparing and issuing certificates of stock; cost of procuring the necessary certificates from state authorities; and other similar costs.

551 Construction work in progress.

This account shall include the cost of constructing railway property during the period from the date the work is started until the facilities are completed and become available for service. When any property, the cost of which has been included in this account, is completed and placed in service, the cost thereof shall be credited to this account and charged to the primary account appropriate according to the character of the property.

The cost of land for which there is a definite plan for use in railway service shall be included in this account until the facilities constructed thereon are completed and placed in service.

PART 1203—EXPRESS COMPANIES

INTRODUCTION

00–1 General.

GENERAL INSTRUCTIONS

01–0 Records.
01–1 Definitions.
01–2 Depreciation accounting.
01–3 Retirements and replacements.

SPECIAL INSTRUCTIONS, OPERATING EXPENSE ACCOUNTS

0–1 Operating expenses defined.
0–2 Cost of repairs.
0–6 Rents paid.
0–7 Joint operating expenses.
0–8 Shop expenses.
0–9 Supply expenses.
0–10 Interpretation of item lists.

OPERATING EXPENSE ACCOUNTS

MAINTENANCE

1 Superintendence; maintenance.
2 Buildings and appurtenances; repairs.
5 Cars; repairs.
10 Automobiles; repairs.
15 Wagons and sleighs; repairs.
16 Harness equipment; repairs.
18 Office furniture and equipment; repairs.
20 Office safes; repairs.
22 Trucks; repairs.
24 Stable and garage equipment; repairs.
26 Line equipment; repairs.
28 Shop equipment; repairs.
29 Miscellaneous equipment; repairs.
30 Retirements.
31 Depreciation.
32 Other expenses.

TRAFFIC

33 Superintendence; traffic.
34 Advertising.
35 Stationery and printing.
36 Other expenses.

TRANSPORTATION

37 Superintendence; transportation.
38 Office employees.
39 Commissions.
40 Office supplies and expenses.
41 Rent of local offices.
42 Vehicle employees.
43 Stable and garage employees.
44 Stable and garage supplies and expenses.
45 Drayage.
46 Train employees.
47 Train supplies and expenses.
48 Stationery and printing.
49 Loss and damage.
50 Damage to property.
51 Injuries to persons.
52 Other expenses.

GENERAL

53 Salaries and expenses of general officers.
54 Salaries and expenses of clerks and attendants.
55 General office supplies and expenses.
56 Law expenses.
57 Insurance.
58 Fidelity bond premiums.
59 Pensions.
60 Stationery and printing.
61 Valuation expenses.
62 Other expenses.

SPECIAL INSTRUCTIONS, OPERATING REVENUE ACCOUNTS

1–1 Accounts for operating revenues.
1–2 Deductions from revenue.
1–3 Uncollectible charges.
1–4 Overcharges.
1–5 Interpretation of item lists.

OPERATING REVENUE ACCOUNTS

TRANSPORTATION

101 Express; domestic.
102 Express; foreign.
103 Miscellaneous.

CONTRACT PAYMENTS

104 Express privileges; Dr.

OPERATIONS OTHER THAN TRANSPORTATION

105 Customs brokerage fees.
106 Order and commission.
107 Rents of buildings and other property.
108 Money orders.
109 C.O.D. checks.
110 Limited and unlimited cheques.
111 Travelers cheques.
112 Telegraph and cable transfers.
113 Letters of credit.
114 Foreign postal remittances.
115 Profit on exchange and other financial revenue.
116 Miscellaneous.

SPECIAL INSTRUCTIONS, REAL PROPERTY AND EQUIPMENT ACCOUNTS

2–1 Application of this classification.
2–2 Basis of charges.
2–4 Land retired.
2–5 Interpretation of item lists.

REAL PROPERTY AND EQUIPMENT ACCOUNTS

LAND

201 Land.

BUILDINGS

202 Buildings and appurtenances on land owned.
203 Buildings and appurtenances on land not owned.
204 Improvement to buildings not owned.

EQUIPMENT

205 Cars.
206 Horses.
207 Automobiles.
208 Wagons and sleighs.
209 Harness equipment.
210 Office furniture and equipment.
211 Office safes.
212 Trucks.
213 Stable equipment.
214 Garage equipment.
215 Line equipment.
216 Shop equipment.
217 Miscellaneous equipment.
218 Minor equipment.

INCOME ACCOUNTS

3–1 Special instructions.
300 Form of income statement.

CREDIT

301 Charges for transportation.
302 Revenue from operations other than transportation.
303 Rent from real property and equipment used jointly.
304 Miscellaneous rent income.
305 Net income from miscellaneous physical property.
306 Separately operated properties; profit.
307 Dividend income.
308 Income from funded securities.
309 Income from unfunded securities and accounts.
310 Income from sinking and other reserve funds.
311 Release of premiums on funded debt.
312 Contributions from other companies.
313 Miscellaneous income.

DEBITS

314 Express privileges; Dr.
315 Operating expenses.
316 Uncollectible revenue from transportation.
317 Express taxes.
318 Rent for real property and equipment used jointly.
319 Miscellaneous rents.
320 Miscellaneous taxes.
321 Net loss on miscellaneous physical property.
322 Separately operated properties; loss.
323 Interest on funded debt.
324 Interest on unfunded debt.
325 Amortization of discount on funded debt.
326 Income transferred to other companies.
327 Miscellaneous income debits.
328 Income applied to sinking and other reserve funds.
329 Dividend appropriations of income.
330 Income appropriations for investment in physical property.
331 Stock discount extinguished through income.
332 Miscellaneous appropriations of income.

PROFIT AND LOSS ACCOUNTS

4–1 Special instructions.

CREDITS

401 Credit balance (at beginning of fiscal period).
402 Credit balance transferred from income.
403 Profit on real property and equipment sold.
404 Delayed income credits.
405 Unrefundable overcharges.
406 Miscellaneous profit and loss credits.

DEBITS

407 Debit balance (at beginning of fiscal period).
408 Debit balance transferred from income.
409 Surplus applied to sinking and other reserve funds.
410 Dividend appropriations of surplus.
411 Surplus set aside for investment in physical property.
412 Stock discount extinguished through surplus.
413 Debit discount extinguished through surplus.
414 Miscellaneous appropriations of surplus.
415 Loss on land sold.
416 Delayed income debits.
417 Miscellaneous profit and loss debits.

SPECIAL INSTRUCTIONS; GENERAL BALANCE SHEET ACCOUNTS

5–1 Balance sheet accounts.
5–2 Designation of capital issues.
5–3 Discount and premium on capital stock.
5–4 Discount, expense, and premium on funded debt.
5–5 Reacquired securities.
5–6 Book value of securities owned.
5–7 Contingent assets and liabilities.
5–8 Balance sheet accounts defined.

GENERAL BALANCE SHEET ACCOUNTS

500 Form of general balance sheet statement.

DEBITS

501 Real property and equipment.
502 Sinking funds.
503 Miscellaneous physical property.
504 Investments in affiliated companies.
505 Other investments.
506 Cash.
507 Special deposits.
508 Loans and notes receivable.
509 Traffic balances receivable.
510 Net balances receivable from agents and messengers.
511 Miscellaneous accounts receivable.
512 Material and supplies.
513 Interest, dividends, and rents receivable.
514 Working fund advances.
515 Other current assets.
516 Insurance and other reserve funds.
517 Provident funds.
518 Fidelity and indemnity funds.
519 Advance payments on contracts.
520 Other deferred assets.
521 Rents and insurance premiums paid in advance.
522 Taxes paid in advance.
523 Discount on capital stock.
524 Discount on funded debt.
525 Other unadjusted debits.
526 Securities issued or assumed; unpledged.
527 Securities issued or assumed; pledged.

CREDITS

528 Capital stock.
529 Premium on capital stock.
530 Funded debt unmatured.
531 Loans and notes payable.
532 Traffic balances payable.
533 Audited accounts and wages unpaid.
534 Miscellaneous accounts payable.
535 Matured interest, dividends, and rents unpaid.
536 Matured funded debt unpaid.
537 Miscellaneous advances payable.
538 Unpaid money orders, checks, and drafts.
539 Express privilege liabilities.
540 Estimated tax liability.
541 Unmatured interest, dividends, and rents payable.
542 Other current liabilities.
543 Liability on account of provident funds.
544 Liability on account of fidelity and indemnity funds.
545 Other deferred liabilities.
546 Premium on funded debt.
547 Operating and insurance reserves.
548 Accrued depreciation; buildings and equipment.
550 Accrued depreciation; miscellaneous physical property.
551 Other unadjusted credits.
552 Additions to property through income and surplus.
553 Reserves from income and surplus.
554 Profit and loss balance.

AUTHORITY: The provisions of this Part 1203 issued under secs. 12, 20, 24 Stat. 383, as amended; 49 U.S.C. 12, 20.

INTRODUCTION

00–1 General.

(a) The uniform system of accounts for express companies with the text pertaining thereto, embodied in printed form to be hereafter known as Issue of 1914, a copy of which is now before this Commission, is hereby approved.

(b) The said uniform system of accounts for express companies with the text pertaining thereto is hereby prescribed for the use of express companies subject to the provisions of the Act to Regulate Commerce, as amended, in the keeping and recording of their accounts; each and every such carrier and each and every receiver or operating trustee of any such carrier be required to keep all accounts in conformity therewith; and a copy of the said Issue of 1914 be sent to each and every such carrier and to each and every receiver or operating trustee of any such carrier.

(c) Any such carrier or any receiver or operating trustee of any such carrier may subdivide any primary account established in the said Issue of 1914, or may make assignment of the amount charged to any such primary account to operating divisions, to its individual lines, or to States; *Provided, however,* That such subprimary accounts set up or such assignments made by any such carrier or by any receiver or operating trustee of any such carrier shall not impair the integrity of the accounts hereby prescribed.

(d) In order that the basis of comparison with previous years be not destroyed, any such carrier or any receiver or operating trustee of any such carrier may, during the 12 months from the time that the said Issue of 1914 becomes effective, keep and maintain, in addition to the accounts prescribed in this part, such portion or portions of its present accounts as may be deemed desirable by any such carrier, or by any receiver or operating trustee thereof, for the purpose of such comparison; or, during the same period, may maintain such groupings of the primary accounts prescribed in this part as may be desired for that purpose.

(e) Any such carrier or any receiver or operating trustee of any such carrier, in addition to the accounts prescribed in this part, may, unless otherwise ordered, keep any temporary or experimental accounts the purpose of which is to develop the efficiency of operation; *Provided, however,* That such temporary or experimental accounts shall not impair the integrity of any primary account prescribed in this part.

GENERAL INSTRUCTIONS

01–0 Records.

The carrier's records shall be kept with sufficient particularity to show fully the facts pertaining to all entries made in the accounts provided in this part. Where the full information is not recorded in the general books, the entries therein shall be supported by other records in which the full details shall be shown. Such general book entires shall contain sufficient reference to the detail records to permit ready identification, and the detail records shall be filed in such manner as to be readily accessible for examination by representatives of the Interstate Commerce Commission. Regulations governing destruction of records of express companies are contained in Part 1223 of this chapter.

01–1 Definitions.

When used in this system of accounts the term:

(a) "Cost of removal" means the cost of demolishing, tearing down, dismantling, removing or otherwise disposing of carrier property, recovering the salvage, and filling excavations of structures removed.

(b) "Component rates" as applied to depreciation accounting means the rates applied to the various subclasses of property within a primary account in arriving at the depreciation charge upon which the composite rate is based.

(c) "Composite rate" means the percentage rate applicable to the primary account as a whole.

(d) "Depreciable accounts" are those in which is recorded the cost of those classes of property for which depreciation accounting is required. (See Instruction 01–2(d).)

(e) "Depreciation" means the loss in service value (note definition (o)) not restored by current maintenance and incurred in connection with the consumption or prospective retirement of physical property in the course of service from causes against which the carrier is not protected by insurance, which are known to be in current operation, and the effect of which can be forecast with a reasonable approach to accuracy.

(f) "Group method" as applied to depreciation accounting means the method under which depreciation charges are accrued upon the basis of the ledger value of all property included in each depreciable account, using the average service life thereof properly weighted, and upon the retirement of any depreciable property its full service value is charged to the depreciation reserve regardless of the amount accrued with respect to the particular unit retired.

(g) "Ledger value" means the amount at which assets are properly recorded in the accounts of the carrier.

(h) "Minor item" as applied to carrier property means any part or element thereof which is not designated as a unit of property in note following Account No. 218.

(i) "Nondepreciable accounts" are those real-property-and-equipment accounts in which are recorded the ledger values of those classes of carrier property for which no charges to operating expenses for depreciation are permitted.

(j) "Property retired" as applied to carrier property means property which has been permanently withdrawn from transportation service.

NOTE: The dismantling or tearing down of a structure or a unit of equipment in order to replace parts thereof with improved parts the purpose of which is to modernize the unit and to create an expectation of life fairly comparable with a new and modern unit shall be accounted a retirement but the dismantling or stripping of such property only to the extent necessary to recondition or to replace in kind defective parts shall be accounted as repairs.

(k) "Retirement" as applied to physical property means the permanent withdrawal of the property from the service in which it has been used.

(l) "Replacement" means the installation of physical property in substitution for other property which has been retired.

(m) "Salvage from retired property" means the amount received for property retired and disposed of, or the amount at which the material recovered should be charged if re-used.

(n) "Service life" means the period of time between the installation or placing in service of a unit of property and its retirement for accounting purposes. In case buildings or other improvements on land not owned pass to lessor at the expiration of the lease, the service life of such improvements shall be computed as not extending beyond the term of the lease.

(o) "Service value" as applied to carrier property is the ledger value thereof less the value of the salvage therefrom.

(p) "Straight-line method" as applied to depreciation accounting means the method under which the service value of all depreciable property is charged to operating expenses or other appropriate accounts and concurrently credited to the depreciation reserve through equal annual charges as nearly as may be during its service life.

(q) "Time of installation" means the date at which carrier property is placed in transportation service.

(r) "Time of retirement" as applied to carrier property means the date at which the property is permanently withdrawn from transportation service.

01–2 Depreciation accounting.

(a) *Computing and filing of depreciation rates.* (1) The carrier shall file with this Commission composite annual percentage rates estimated to be applicable to the ledger value of each class of depreciable carrier property owned and used by it. These percentage rates shall be based on the estimated service values and service lives developed by a study of the carrier's history and experience and such engineering and other information as may be available with respect to prospective future conditions. They shall be computed in conformity with the group method of accounting for depreciation and shall be such that the loss in service value of the property may be distributed under the straight-line method during its service life. Such percentage rates shall, for each primary account comprised of more than one class of property, produce a charge to operating expenses for that account equal to the sum of the amounts that would otherwise be chargeable for each of the various classes of property included in the account. The annual percentage rates so filed shall be accompanied by a sworn statement showing the bases therefor and the methods employed in their computation. A carrier which becomes subject to the provisions of this system of accounts after January 1, 1938, shall file such percentage rates within 6 months after the provisions of this system of accounts become applicable to it.

(2) In the event any annual percentage rate prescribed by this Commission, in the judgment of the carrier, becomes no longer currently applicable, it shall in like manner file annual percentage rates which in its judgment should be established. Where property is acquired for which no rates have been prescribed the carrier shall immediately compile and submit to this Commission appropriate estimates developed in accordance with the provisions of this section.

(3) The carrier shall keep such records of property and property retirements as will reflect the service life of property which has been retired, or will permit the determination of service-life indications by mortality, turnover, or other appropriate methods; also such records as will reflect the percentage of value of the salvage for property retired from each class of depreciable carrier property. The carrier shall be prepared at any time, upon direction of this Commission to compute and submit for its approval revised percentage rates in cases where existing rates are deemed inapplicable.

(b) *Depreciation charges.* All depreciation charges to operating expenses or other appropriate accounts, and concurrent credits to the accrued depreciation account shall be made monthly. In computing such monthly charges and credits the annual percentage rates shall be applied to the ledger value of depreciable property in the respective primary accounts as of the first of each month and the result divided by 12.

(c) *Depreciation rates.* A separate composite annual percentage rate (see note) for each account covering depreciable carrier property shall be used in computing depreciation charges. Such composite rates shall be those which are from time to time prescribed by this Commission, except that where no rates for any class of property previously have been prescribed for the carrier's use by this Commission, the carrier's estimates of composite annual percentage rates computed in accordance with paragraph (a) of this section shall be used prior to the date rates prescribed by this Commission become effective.

NOTE: Where the composite rate as prescribed by this Commission has been developed by the application of component rates to the various subclasses of property within a primary account and a segregation of the property to which they are applicable is maintained or is available, such component rates, when specifically authorized, may be used in computing the current depreciation charges as long as the property to which they apply is in service and the estimated service lives, etc., upon which they are based remain the same, without a supplemental order.

(d) *Classes of depreciable carrier property.* The classes of depreciable carrier property and the accounts covering such property are as follows:

Account No.	Name of account
201	Building and appurtenances on land owned.
202	Building and appurtenances on land not owned.
204	Improvements to buildings not owned.
206	Cars.
206	Horses.
207	Automobiles.
208	Wagons and sleighs.
209	Harness equipment.
210	Office furniture and equipment.
211	Office safes.
212	Trucks.
213	Stable equipment.
214	Garage equipment.
215	Line equipment.
216	Shop equipment.
217	Miscellaneous equipment.

(e) *Service value charge.* Upon the retirement of a unit of depreciable property the service value shall be charged in its entirety to account No. 548, "Accrued depreciation—Buildings and equipment."

(f) *Special accounting.* If as a result of unforeseen retirements or of insufficient credits to the depreciation reserve in the past it develops that the balance in it has become inadequate, a carrier may, upon application to this Commission and with its approval, credit the reserve and charge account No. 417, "Miscellaneous profit and loss debits," with an appropriate amount. The application to this Commission for such special accounting shall give full particulars concerning the situation.

(g) *Insurance recovered.* If insured structures or units of equipment which are damaged are repaired, the insurance recovered shall be credited to the account in which the cost of the repairs is included; if they are destroyed, the insurance recovered shall be credited to the accrued depreciation account.

01–3 Retirements and replacements.

(a) To accounts 201 to 217, inclusive, shall be credited at the time of retirement the ledger value of carrier property retired as follows:

(1) Land retired including the proportional cost of public improvements pertaining to the land. (See Instruction No. 2–4.)

(2) Units of depreciable carrier property retired. (See note following Account No. 213.)

(3) Minor items of depreciable carrier property retired and not replaced.

NOTE: If the ledger value of the minor item retired is small, is not under a general plan and in the judgment of the carrier does not affect the condition and value of the property for valuation or depreciation purposes, has been or will be accounted for by the inclusion in the unit of property of which it is a part when such unit is retired, no separate credit to the property account is required when such minor item is retired.

(4) Minor items of depreciable carrier property retired and replaced with items of a different type or design or constructed of a different grade of material rendering the part applied more or less durable or of greater or less capacity than the item retired.

NOTE: If the cost of the items applied in replacement is small, the replacement is not under a general plan, and in the judgment of the carrier the retirement and replacement does not affect the condition and value of the property for valuation or depreciation purposes the cost of the replacement shall be charged to operating expenses, as shall also be charged the cost of replacing in kind all minor items of carrier property retired, and no adjustment shall be made in the property investment account.

GENERAL NOTE: If the ledger value of units and minor items of property retired cannot be definitely determined from the carrier's records, the ledger value of such units and minor items shall be estimated. Average prices may be used in estimating the ledger value when it is impracticable, because of the relatively large number and small size of items, to otherwise determine the ledger value of such items.

(b) The amounts thus credited to accounts 202 to 217, inclusive, shall concurrently be charged as follows:

(1) Property held for other than express service. If the retired property is held by the carrier for other than express service, its estimated value shall be included in account No. 503, "Miscellaneous physical property," and the difference between that amount and the ledger value shall be charged to account No. 548, "Accrued depreciation—Buildings and equipment."

(2) *Value of salvage.* The value of the salvage from the retired property shall be charged to account No. 512, "Material and supplies," or other accounts appropriate according to the disposition made thereof. If retired property is held temporarily without being torn down, the estimated value of the salvage therefrom (see also account No. 512, "Material and supplies") shall be included in account No. 520, "Other deferred assets," until the salvage is recovered.

(3) *Service value of depreciable property*—(i) *Units of property.* The service value shall be charged to account No. 548, "Accrued depreciation—Buildings and equipment."

(ii) *Minor items.* There shall be charged to account No. 548, "Accrued depreciation—Buildings and equipment," the service value of any minor item which is accounted for as retired in accordance with paragraphs (a) (3), (4) of this section.

(c) *Cost of removal.* The cost of removal (see Instruction 01–1(a)) shall be accounted for as provided in the text of operating-expense account 30, "Retirements."

(d) *Property installed.* The cost of carrier property installed in lieu of carrier property accounted for as retired, under the foregoing paragraphs of this section, shall be charged to the appropriate real property-and-equipment account.

SPECIAL INSTRUCTIONS, OPERATING EXPENSE ACCOUNTS

0–1 Operating expenses defined.

The operating expenses of an express company, as provided for in this classification, are the expenses incurred in performing transportation and other service for the public, including the cost of maintaining the property used in such service.

0–2 Cost of repairs.

As used in the text of the various operating expense accounts, cost of repairs when made by other than the carrier shall include the actual cost with transportation paid other carriers added, and when made by the carrier shall include the wages, salaries, and fees paid employees directly engaged in the work of repairs, the cost of materials and supplies consumed, and the cost of transportation paid other carriers.

0–6 Rents paid.

Certain rents are provided for in Operating Expenses, and the records shall be so kept that if required the total amount of rents may be ascertained. Subaccounts to the operating expense accounts will not be required for this purpose. No entries for rent shall be made in Operating Expenses for the carrier's use of its own property.

0–7 Joint operating expenses.

When any operating expense is incurred by the accounting carrier for the joint benefit of itself and others under an agreement for apportioning such expenses, the carrier charging to others a portion of joint expenses shall credit the amounts to the primary expense accounts to which the expenses were charged when incurred. The debtor shall charge the amounts so billed to its primary expense accounts. Bills rendered by the operating carrier for joint expenses shall show the expenses in detail.

When bills for joint expenses are distributed by joint agents, only the proportion applicable to the accounting carrier shall be included in its accounts.

The amounts so handled through the expense accounts shall not include any allowance for profit or return upon the value of the property of the carrier; such allowance, if any, shall be credited by the payee to account No. 303, "Rent from real property and equipment used jointly," and charged by the payor to account No. 318, "Rent for real property and equipment used jointly."

0–8 Shop expenses.

A clearing account entitled "Shop expenses" shall be kept, to which shall be charged items of expense at shops for repairing wagons, automobiles, trucks, and other equipment when such items of expense are not directly assignable to specific accounts. Such expenses shall be apportioned among the various accounts affected. The basis of distribution shall be the relative proportion which the total amount of charges to shop expenses bears to the total of the directly distributed labor. To avoid monthly fluctuations in the ratio of shop expenses to the total of distributed labor, carriers will be permitted to make a monthly apportionment on the basis of a percentage of the distributed labor, provided the shop expense account be adjusted and closed out at the end of each year. Expenses assignable to this account are as follows:

(a) *General shop employees.* The pay of general foremen and other supervising or directing employees and their clerks; pay of sweepers, cleaners, roustabouts, and other unskilled laborers employed in general work in and about shop grounds; pay of watchmen, gatekeepers, and policemen at shops and other places where mechanical work is done; and pay of employees while making, repairing, or having charge of small shop tools.

(b) *Power.* The cost of fuel used in steam and other power plants in producing power for shops and for other places at which mechanical work is done; cost of oil, grease, waste, and other materials used in the operation of such power plants; pay of stationary engineers, firemen, electricians, coal handlers, and other employees engaged in the production of power; cost of carbon brushes, fuses, lamps, picks, scuttles, shovels, and other small tools and supplies; and cost of water and power purchased.

(c) *Heating.* The cost of fuel and other supplies used for heating shops and other places at which mechanical work is done, shop offices, watchmen's and gatekeepers' boxes; and pay of firemen, coal handlers, and other employees engaged in operating heating plants.

(d) *Lighting.* The cost of electric current, gas, oil, torches, lamp burners, lamp chimneys, lamps not permanently attached to buildings, incandescent lamps and carbons, and other materials used in lighting shops and shop offices and other places where mechanical work is done; and cost of material used and labor expended in operating electric-light plants and repairing electric-light and other lamps at shops.

(e) *Shop supplies.* The fuel for forge and other shop work; supplies and small tools used by mechanics on miscellaneous work and not durable; test-room and laboratory supplies used in connection with shop work; lubricating materials for shop machinery and tools; water used at shops, shop offices, and other places at which general mechanical work is done; and other supplies used generally in shop work.

0–9 Supply expenses.

To a clearing account entitled "Supply expenses" shall be charged all expenses, except insurance and taxes, incurred directly in connection with the purchase, storage, handling, and distribution of materials, supplies and stationery. It includes (a) the pay and expenses of purchasing agents, managers of stores, clerks, and laborers; (b) rents paid for store buildings, yards, etc.; (c) cost of lighting and heating; (d) undistributed transportation charges; (e) discounts recovered through prompt payment of bills for materials and supplies, when such discounts cannot be assigned to the particular bills; (f) overages or shortages in the material and supplies account disclosed by inventories which cannot be assigned to specific accounts; and (g) the estimated depreciation on the materials and supplies due to breakage, leakage, shortage, and wear and tear.

This account shall be cleared by adding to the cost of materials and supplies passing through stores a suitable loading charge which will equitably distribute the total cost of conducting the stores and by adding to the cost of such supplies as are bought by the purchasing department a pro rata share of the total expense for the purchasing department.

0–10 Interpretation of item lists.

Lists of "Items," "Details," etc., have been given as a part of this classification for the purpose of clearly indicating the application of the accounting rules in specific cases. The lists in every case shall be considered as merely representative, and not as excluding from any account analogous items which happen to be omitted from the list appended. On the other hand, the appearance of an item in a list warrants the inclusion of the item in the account concerned only when the text of the account also indicates inclusion inasmuch as the same item frequently appears in more than one list.

OPERATING EXPENSE ACCOUNTS

MAINTENANCE

NOTE: The primary accounts in this general account are designed to show the amount of expense, including depreciation accrued, incurred for maintaining the buildings, structures, and equipment used by the accounting carrier.

1 Superintendence; maintenance.

This account shall include:

(a) *Pay of officers.* The pay of officers directly in charge of or engaged in the maintenance of buildings, structures, and equipment.

(b) *Pay of clerks and attendants.* The pay of clerks and other employees in the offices of officers whose pay is chargeable to this account.

(c) *Rent of offices.* Rent of offices occupied by officers whose pay is chargeable to this account, including taxes on the rented property assumed by the carrier.

(d) *Office and other expenses.* Office and other expenses of officers and employees whose pay is chargeable to this account.

ITEMS OF EXPENSE AND SUPPLIES

Atlases.
Blueprints.
Books, maps, and guides.
Boxes for materials and instruments.
Cameras and supplies.
Fees and dues in associations.
Heating.
Lighting.
Office and other supplies.
Periodicals and newspapers.
Photographic supplies.
Postage.
Telegraph service.
Telephone service.
Traveling expenses.
Water and ice.

NOTE A: When the above-mentioned officers and employees and employees are engaged in work not chargeable to Maintenance their pay and expenses shall be charged to the specific work on which engaged.

NOTE B: When officers have supervision over more than one department, their salaries, the pay of their clerks and attendants, and their office and other expenses shall be apportioned equitably among the departments over which they have supervision.

NOTE C: The cost of stationery for offices of superintendents of maintenance is chargeable to account No. 60, "Stationery and printing."

2 Buildings and appurtenances; repairs.

This amount shall include the cost of inspecting and repairing, buildings, their fixtures and appurtenances when considered parts of the buildings (including those for heating and lighting), owned by a carrier and used in its operations; and cost of repairing, laying out, grading, draining, mowing, and beautifying the grounds appurtenant to such buildings, including sidewalks, fences, driveways, and streets within or adjacent to such grounds; also the cost of repairing improvements to and permanent fixtures in buildings owned by others, when such improvements and fixtures are chargeable to the carrier's property account. (See Instruction 0–2.)

LIST OF BUILDINGS AND STRUCTURES

Bins for material.
Coal bins.
Depot buildings.
Dwellings.
Fences.
Foundations.
Fuel houses.
Garages.
General office buildings.
Grading.
Hay houses.
Hose houses.
Icehouses.
Local office buildings.
Milk stands.
Outhouses.
Paving.
Platforms, transfer.
Power houses.
Reading rooms.
Rooms for Y.M.C.A. Shops.
Sidewalks.
Stables.
Storehouses.
Tool houses.
Walls.
Warehouses.
Washrooms.
Wharves.

DETAILS OF FIXTURES AND APPURTENANCES

Armatures and fields.
Ash baskets.
Belt carriers.
Belting.
Bill booths.
Boilers.
Bunks.
Call bells.
Counters.
Drainage and sewer systems.
Dynamos and parts.
Electric wiring.
Elevators and machinery.
Fire extinguishers (not portable).
Heating plants.
Hedges.
Lighting plants.
On-hand rooms.
Partitions, permanent.
Pumps.
Radiators.
Railings.
Shelving, permanent.
Signs, permanent.
Standpipes.
Steampipes.
Switchboards and parts.
Vaults and vault doors.
Washbowls.
Water coolers, stationary.
Water-and gas pipes and connections.

NOTE: The cost of maintaining buildings which are rented to other companies or individuals shall be charged to the income account in which is included the rent received for use of the buildings.

5 Cars; repairs.

This account shall include the cost (less salvage) of repairing, painting, varnishing, finishing, and lettering express cars of all classes, and cost of repairing and renewing appurtenances thereof. (See Instruction 0–2.)

LIST OF CARS

Express cars.
Fruit cars.
Horse cars.
Refrigerator cars.
Ventilator cars.

LIST OF APPURTENANCES TO CARS

Air-brake equipment and hose.
Brake gear.
Coal boxes.
Coat hooks.
Desks.
Gas gauges.
Gas tanks.
Heating equipment and steam-heat hose.
Horse stalling, if part of a car.
Ice boxes.
Ice tanks.
Lamps and fixtures.
Lighting equipment.
Pigeonholes.
Racks.
Radiators.
Speed recorders.
Train-signal equipment, including hose.
Water tanks.

10 Automobiles; repairs.

This account shall include the cost (less salvage) of repairing, painting, varnishing, and lettering automobiles of all classes, and cost of repairing and renewing tires and other appurtenances thereof. (See Instruction 0–2.)

18 Wagons and sleighs; repairs.

This account shall include the cost (less salvage) of repairing, painting, varnishing, and lettering wagons and sleighs, and cost of repairing and renewing appurtenances thereof. (See Instruction 0–2.)

16 Harness equipment; repairs.

This account shall include the cost (less salvage) of repairing harness and accessories used in collection and delivery service. (See Instruction 0–2.)

DETAILS OF ACCESSORIES

Breast collars and traces.
Covers.
Fly nets.
Hitch straps and weights.
Holdback straps.
Horse blankets.
Horse collars.
Lap robes.
Sleigh bells.
Storm aprons.

18 Office furniture and equipment; repairs.

This account shall include the cost (less salvage) of repairing, painting, and varnishing office furniture, and cost of repairing and renewing office appurtenances and fittings not considered a part of the building. (See Instruction 0–2.)

LIST OF OFFICES

General.
Local.
Garage.
Stable.
Depot.
General managers'.
Division.
Department.
Shop.
Transfer.

DETAILS OF OFFICE FURNITURE AND EQUIPMENT

Adding machines.
Addressing machines.
Addressographs.
Awnings.
Bedsteads.
Bill booths, portable.
Bookcases.
Cabinets.
Calculating machines.
Carpets.
Cases.
Chairs.
Clocks.
Comptometers.
Copy-press baths.
Copying presses and wringers.
Counter desks.
Counters.
Cupboards.
Desks, including roll-top, high, low, and typewriter desks.
Dictating machines.
Electric fans.
Envelope sealers.
Filing and card indexes.
Filing cases.
Fire extinguishers, portable.
Gangplanks.
Guns.
Hat racks, wardrobe.
Horse skids.
Hose and hose wagons.
Ladders.
Lamps, desk, portable.
Matting.
Mimeographs.
Motors.
Numbering machines.
On-hand shelving, movable.
Partitions, movable.
Percentage machines.
Pigeonholes.
Pinch bars.
Punching machines.
Railings.
Revolvers.
Rugs.
Scales.
Seal presses, lead or wax.
Settees.
Shelves.
Signs (not a part of the building).
Stands, typewriter.
Stools.
Stoves.
Tables.
Tarpaulins.
Trays, coin.
Typewriters.
Wardrobes.
Water coolers.

20 Office safes; repairs.

This account shall include the cost of repairing, painting, varnishing, and lettering safes used in general, local, depot, general managers', division, department, stable, garage, transfer, and shop offices, but not safes used as transportation equipment. (See Instruction 0–2.)

22 Trucks; repairs.

This account shall include the cost (less salvage) of repairing, painting, varnishing, and lettering trucks and wheeled conveyances for moving express matter in offices, on platforms, and elsewhere, except trucks provided for in account No. 24. (See Instruction 0–2.)

LIST OF TRUCKS AND WHEELED CONVEYANCES

Carts.
Trucks, coin.
Trucks, electric motor.
Trucks, platform.
Trucks, hamper.
Trucks, warehouse.

24 Stable and garage equipment; repairs.

This account shall include the cost (less salvage) of repairing, painting, and varnishing stable and garage equipment; also stable and garage fittings not considered a part of the building. (See Instruction 0–2.)

DETAILS OF STABLE AND GARAGE EQUIPMENT

Appliances, pneumatic.
Blankets, stable.
Carts, stable.
Charging panels.
Feed-chopping machines.
Feed-cleaning machines.
Grain bins.
Halters.
Harness press.
Heaters, stove and water.
Horse-clipping machines.
Hose and hose wagons.
Jacks, wagon.
Jacks, automobile.
Odometers.
Partitions, movable.
Railings.
Scales.
Signs (not a part of the building).
Tanks, gasoline.
Tools, chauffeurs'.
Trucks for stable or garage use.
Wagon-washing machines.
Wardrobes.
Wheelbarrows.

26 Line equipment; repairs.

This account shall include the cost (less salvage) of repairing, painting, varnishing, and lettering line equipment and furniture and fittings of messengers' quarters. (See Instruction 0–2.)

DETAILS OF LINE EQUIPMENT

Crates, package.
Guns and revolvers for protection of goods in transit.
Horse stallings (when not part of a car).
Kit boxes.
Money chests.
Safes (car), stationary and portable.
Safes, messenger.
Treasure boxes.
Trunks, package.

DETAILS OF FURNITURE AND FITTINGS FOR MESSENGERS' QUARTERS

Bedsteads.
Carpets.
Chairs.
Clocks.
Rugs.
Stoves.
Tables.
Wardrobes.

28 Shop equipment; repairs.

This account shall include the cost (less salvage) of repairing and painting equipment of blacksmith, harness, wagon, automobile, trunk, carpenter, and printing shops and equipment for like use located elsewhere. (See Instruction 0–2.)

DETAILS OF SHOP EQUIPMENT

Anvils.
Bellows.
Belting.
Blacksmithing tools.
Blowers.
Boiler for furnishing power.
Drilling machines.
Drop tables.
Forges.
Harness-making machinery.
Harness-repair machinery.
Heating apparatus.
Lathes.
Lighting apparatus.
Motors.
Planers.
Printing presses.
Shafting.
Switchboards.
Tools.
Vises.

29 Miscellaneous equipment; repairs.

This account shall include the cost (less salvage) of repairing, painting, varnishing, and lettering bicycles, motorcycles, and all other miscellaneous equipment. (See Instruction 0–2.)

30 Retirements.

This account shall include the cost of demolishing, tearing down, dismantling, removing, or otherwise disposing of carrier property, recovering salvage, and filling in the excavations of structures removed.

31 Depreciation.

(a) This account shall include charges covering the current loss through depreciation of buildings and equipment. (See Instruction 01–2(b).)

(b) The carrier's records shall be kept in such manner that charges for depreciation may be shown separately for each depreciable building and equipment account.

32 Other expenses.

This account shall include all expenses in connection with the maintenance of equipment which are not properly chargeable to other accounts for such maintenance.

TRAFFIC

NOTE: The primary accounts in this general account are designed to show the expenses incurred for directing the procurement of traffic, for advertising, and for preparing and distributing tariffs governing such traffic.

33 Superintendence; traffic.

This account shall include:

(a) *Pay of officers.* The pay of officers directly in charge of or primarily engaged in supervising the procurement of traffic and the preparation and distribution of tariffs, classifications, and rates.

LIST OF OFFICERS

Vice president in charge of traffic.
General traffic managers.
Superintendents of traffic.
Superintendents of money orders in charge of money order agents, foreign exchange, and correspondents.
Assistant general traffic managers.
Superintendent of tariffs.
Traffic managers.

(b) *Rent of offices.* Rent of offices occupied by officers whose pay is chargeable to this account, including taxes on the rented property assumed by the carrier.

(c) *Pay of clerks and attendants.* The pay of clerks and other employees in the offices of officers whose pay is chargeable to this account.

LIST OF EMPLOYEES

Attendants.
Chief clerks.
Clerks.
Stenographers.

(d) *Office and other expenses.* Office and other expenses of officers and employees whose pay is chargeable to this account, and a proportion of the expenses of associations performing like services.

ITEMS OF EXPENSE AND SUPPLIES

Atlases and maps.
Books for office use.
Fees and dues in traffic and other associations.
Heating.
Lighting.
Periodicals.
Telegraph service.
Telephone service.
Traveling expenses.
Water and ice.

34 Advertising.

This account shall include:

(a) *Pay of advertising staff.* The pay of advertising managers and others engaged exclusively in advertising the carriers' business; also pay of clerks and attendants in their offices.

(b) *Payments for advertising.* The cost of advertising for the purpose of securing traffic.

ITEMS OF ADVERTISING EXPENSE

Advertising in newspapers.
Advertising in periodicals.
Bill posting.
Bulletin boards.
Cardcases.
Display and other advertising cards.
Distributing general notices to shippers.
Dodgers.
Donations to carnivals.
Folders.
Frames for advertising matter.
Freight and express charges.
Handbills.
Maps used for advertising.
Pamphlets.
Photographs and views.
Postage.
Posters.
Printing.
Publishing advertising matter.
Racks.
Small advertising signs for buildings.

(c) *Rent of offices.* Rent of offices occupied by officers whose pay is chargeable to this account, including taxes on the rented property assumed by the carrier.

(d) *Office and other expenses.* Office and other expenses of officers and employees whose pay is chargeable to this account.

ITEMS OF EXPENSE

Atlases and maps.
Books for office use.
Fees and dues in traffic and other associations.
Heating.
Lighting.
Periodicals.
Telegraph service.
Telephone service.
Traveling expenses.
Water and ice.

35 Stationery and printing.

This account shall include the cost of stationery and printing used in connection with securing traffic.

STATIONERY AND PRINTING ITEMS

Binder boards.
Binders.
Blankbooks.
Blotter holders.
Blotters.
Blotting paper.
Blue-print paper.
Brass fasteners.
Bristol board.
Calendars.
Carbon paper.
Cardboard.
Cards, blank and printed.
Chalk.
Circulars.
Classifications.
Clip boards.
Clips, paper.
Copy (impression) books.
Copying brushes.
Copying cloth.
Crayons.
Dating stamps and ribbons.
Division sheets.
Emery cloth.
Envelopes.
Erasers.
Eyelet punches.
Eyelets.
File boxes, letter.
Forms, blank and printed:
Index cards.
Indexes.
Ink.
Inkwells.
Invoice books.
Ledgers.
Legal cap paper.
Letter paper.
Letter trays.
Manifold paper.
Mucilage.
Mucilage brushes.
Note paper.

Notices.
Oil board.
Oil paper.
Pads.
Paper.
Paper baskets.
Paper cutters.
Paper fasteners.
Paper files.
Paper weights.
Parchment paper.
Paste.
Pencils.
Penholder racks.
Penholders.
Pens.
Perforators.
Pins.
Postage.
Rubber bands.
Rubber stamps.
Rulers.
Scrapbooks.
Sealers.
Sealing wax.
Seals.
Shears.
Shipping tags.
Shorthand note-books.
Sponge cups.
Sponges, desk.
Stamp racks.
Stamps, impression.
Stencil brushes.
Tablets, blank and printed.
Tape.
Tariffs.
Telegraph blanks.
Tracing paper.
Tissue (impression) paper.
Wax tapers.
Wrapping paper.

NOTE: The cost of dictionaries, periodicals, technical books, etc., shall be charged to appropriate superintendence accounts.

36 Other expenses.

This account shall include all expenses in connection with traffic which are not properly chargeable to other traffic expense accounts.

TRANSPORTATION

NOTE: The primary accounts in this general account are designed to show the expenses incurred for collecting, transporting, safeguarding, and delivering freight and valuables; also the expense of performing services connected with other operations of the carrier.

37 Superintendence; transportation.

This account shall include:

(a) *Pay of officers.* The pay of officers directly in charge of or engaged in conducting transportation.

LIST OF OFFICERS

Vice president in charge of operations.
General managers.
Assistant general managers.
General superintendents.
Assistant general superintendents.
Division superintendents.
Efficiency superintendents.
Assistant division superintendents.
Chief special agents.
Special agents.
Chief route agents.
Route agents.
Traveling agents.

(b) *Pay of clerks and attendants.* The pay of clerks and other employees in the offices of officers whose pay is chargeable to this account.

LIST OF EMPLOYEES

Attendants.
Chief clerks.
Clerks.
Messengers.
Stenographers.
Telephone and telegraph operators.

(c) *Rent of offices.* Rent of offices occupied by officers whose pay is chargeable to this account, including taxes on the rented property assumed by the carrier.

(d) *Office and other expenses.* Office and other expenses of officers and employees whose pay is chargeable to this account.

ITEMS OF EXPENSE

Atlases and maps.
Books for office use.
Fees and dues to associations.
Heating.
Lighting.
Periodicals and newspapers.
Telegraph service.
Telephone service.
Traveling expenses.
Water and ice.

38 Office employees.

This account shall include the pay of agents, clerks, and attendants engaged in the operations of local offices, except those paid on a commission basis.

The details of this account shall be so kept that the pay of each class of employment named below can be determined.

(a) *Pay of agents and clerks.* Pay of agents, assistant agents, depot agents, cashiers, clerks, watchmen, and other employees engaged in office work at agencies, except those paid on a commission basis.

(b) *Pay of solicitors.* Pay of agency employees engaged in soliciting business.

(c) *Pay of platform and house men.* Pay of freight handlers, callers, scale men, loaders and unloaders, and other employees whose duties involve the handling of express matter at agencies, depots, sheds, and platforms.

LIST OF EMPLOYEES

Agents.
Assistant cashiers.
Attendants.
Bill makers.
Cashiers.
Chief clerks.
City solicitors.
Clerks.
Collectors.
Commercial agents.
Customs clerks.
Depot agents.
Depot foremen.
Elevator operators.
Freight callers.
General agents.
House men.
Janitors.
Local accountants.
Platform men.
Relief agents.
Scale men.
Stenographers.
Telephone operators.
Tellers.
Traveling solicitors.
Watchmen.

39 Commissions.

This account shall include amounts paid to agents, branch agents, and others employed on a commission basis. The details of this account shall be so kept that commissions paid on each class of business named below can be determined:

(a) Express business.

(b) Financial business.

CLASSES OF BUSINESS, COMMISSIONS ON WHICH ARE INCLUDED IN THIS ACCOUNT

C.O.D. checks.
Letters of credit.
Limited and unlimited cheques.
Money orders.
Foreign postal remittances.
Telegraph and cable transfers.
Transportation of freight, money, and valuables.
Travelers cheques.

NOTE: Wagon service separately paid on commission basis shall be charged to account No. 45, "Drayage."

40 Office supplies and expenses.

This account shall include:

(a) *Heating.* The cost of fuel, water, steam, and supplies used in heating local offices, depot offices, warehouses, and similar buildings.

(b) *Lighting.* The cost of fuel, water, gas, oil, electricity, lamp globes, lamp chimneys, wicks, lamp carbons, incandescent lamps, and miscellaneous supplies used in lighting local offices, depot offices, warehouses, and street approaches thereto.

(c) *Other expenses.* The cost of miscellaneous office supplies and expenses.

ITEMS OF EXPENSE

Bridge tolls.
Car tickets.
Cleaning cesspools and vaults.
Cleaning offices and office windows.
Employees' expenses.
Express charges.
Fees for membership in business associations.
Ferry tickets.
Freight charges.
Ice for reicing perishables awaiting delivery.
Material for packing.
Payments to warehouse companies for storage.
Postage on C.O.D. checks.
Power for freight and passenger elevators.
Rent of automatic weighing and recording devices.
Reports of commercial standing.
Sprinkling about offices.
Telegraph service.
Telephone service.
Towel service.
Uniforms and badges for office employees.
Water and ice.

ITEMS OF SUPPLIES

Acid.
Alcohol.
Atlases and maps.
Axes.
Bags, lock.
Bags, coin.
Baskets.
Bedding and bed linen.
Blocking.
Brooms.
Brushes.
Buckets.
Burners, gas.
Bunsers.
Call cards.
Candles.
Cartridges.
Cash boxes.
Chains.
Chair cushions.
Chamois.
Chimneys, gas.
Cleaners, window.
Clocks.
Coat trees.
Cold chisels.
Counter brushes.
Cups.
Cuspidors.
Dextrine.
Dippers.
Directories.
Dustpans.
Electric lamps, incandescent.
Electric-light supplies.
Feather dusters.
Fire buckets.
Flags.
Gas.
Hampers.
Hatchets.
Haversacks.
Hooks.
Ice.
Ice buckets.
Ice tongs.
Keys.
Lamp burners.
Lamp chimneys.
Lamp fittings.
Lamp globes.
Lamp mantles.
Lampblack.
Lamps (not permanently attached to buildings).
Lanterns and fittings.
Letter boxes.
Linoleum.
Locks.
Mail bags.
Marking brushes.
Marking pots.
Matches.
Mats, rubber.
Mirrors.
Mops.
Nails.
Oil.
Oil cans.
Oilcloth.
Padlocks.
Pails.
Punches.
Reflectors.
Sawdust.
Scrubbing brushes.
Sealing leads.
Sealing wax.
Shovels.
Signs, small (not advertising signs).
Soap.
Spades.
Sponges.
Sprinkling cans.
Stove blacking.
Stove zinos.
Sweepers, carpet.
Tacks.
Thermometers.
Tongs.
Towels.
Traps.
Twine.
Wallets, leather.
Washbasins.
Waste baskets.
Water barrels.
Water bowls.
Water cans.
Wax seals.
Whiskbrooms.
Wicks.
Wrenches.

41 Rent of local offices.

This account shall include rents paid for buildings used for local and depot offices, sheds, and platforms, including taxes on the rented property assumed by the carrier.

NOTE A: Rent (amount applicable to the investment in the property) for joint offices owned by another carrier shall be charged to account No. 518, "Rent for real property and equipment used jointly." (See Instruction (-7.)

NOTE B: Amounts received as subrents of offices rented shall be credited to account No. 107, "Rents of buildings and other property."

42 Vehicle employees.

This account shall include the pay of chauffeurs, drivers, helpers, guards, conductors, and others employed on automobiles and other vehicles used for collecting, transferring, and delivering express.

43 Stable and garage employees.

This account shall include the pay of superintendents, foremen, hostlers, wagon washers, mechanicians, electricians, automobile washers, watchmen, and others employed at stables and garages.

44 Stable and garage supplies and expenses.

This account shall include:

(a) *Rent.* Rents for buildings used for stable and garage purposes, including taxes on the rented property assumed by the carrier.

(b) *Heating.* The cost of fuel, water, steam, and supplies used for heating stables and garages.

(c) *Lighting.* The cost of fuel, water, gas, oil, electricity, lamp globes, lamp chimneys, wicks, lamp carbons, incandescent lamps, and miscellaneous supplies used in lighting stables, garages, and approaches thereto.

(d) *Feed and bedding.* The cost of hay, oats, straw, corn, bran, shavings, and other feed and bedding for horses and other draft animals used in the conduct of the carrier's business; also freight charges, demurrage, labor in handling, and storage thereon.

(e) *Horse board.* Payments to boarding and livery stables and others for board of horses and other draft animals used by the carrier.

(f) *Other expenses.* The cost of miscellaneous supplies and expenses.

ITEMS OF STABLE AND GARAGE SUPPLIES

Aprons, rubber.
Axes.
Axle grease.
Binders, hay.
Blankets, stable.
Blackoline.
Boots.
Branding irons.
Brooms.
Brushes.
Buckets.
Cans, ash.
Carbolite.
Chamois.
Currycombs.
Curtains.
Cushions.
Forks.
Gasoline.
Gloves, rubber.
Halters.
Knives, clipper.
Lamps.
Lanterns.
Medicines.
Motor grease.
Oat cleaners.
Oil cans.
Pails.
Pneumatic appliances.
Prestolite.
Small tools.
Soap.
Surgical instruments.
Water.

ITEMS OF STABLE AND GARAGE EXPENSES

Bridge tolls.
Charging automobile batteries.
Chauffeurs' licenses.
Cleaning cesspools and vaults.
Ferry tickets.
Freight charges.
Hauling manure.
Hire of automobiles, except as provided in account No. 45.
Hire of horses, except as provided in account No. 45.
Hire of wagons, except as provided in account No. 45.
Horse clipping.
Horseshoeing.
Housing automobiles.
Licenses for storing gasoline.
Power for elevator service.
Sprinkling about stable buildings.
Telegraph service.
Telephone service.
Towel service.
Uniforms and badges for vehicle employees.
Veterinary services.
Wagon licenses.
Washing wagons.

NOTE A: Amounts received from sale of manure, for boarding horses, and for housing automobiles not owned by the carrier shall be credited to revenue account No. 116, "Miscellaneous."

NOTE B: License fees for the operation of automobiles shall be charged to account No. 317, "Express taxes."

45 Drayage.

This account shall include amounts paid for drayage, hauling, and other similar services involving the services of drivers or chauffeurs not directly employed by the carrier and the use of horses and vehicles not owned by the carrier, including vehicle service separately paid for on commission basis.

46 Train employees.

This account shall include the pay of messengers, helpers, guards, and others similarly employed on boat, stage, or train. To this account shall be credited amounts received from railway and other companies for services of express messengers who act as baggagemen.

47 Train supplies and expenses.

This account shall include:

(a) *Rent.* Rents for quarters for messengers, helpers, and guards employed on trains, including taxes on the rented property assumed by the carrier.

(b) *Other expenses.* The cost of miscellaneous supplies and expenses.

ITEMS OF SUPPLIES AND EXPENSES

Attendance, linen, laundry, and incidental expenses of messengers' sleeping rooms.
Badges.
Caps.
Car stalling, temporary.
Cleaning cars.
Employees' expenses.
Feed and water for live animals in transit.
Feed boxes.
Hatchets.
Holsters and straps.
Ice for reicing goods in transit.
Lock bag keys.
Lock bags.
Mess hooks.
Messenger hand bags.
Nails.
Pistol permits.
Portfolios.
Railway fares.
Rent of car stalls.
Sanding cars.
Sawdust for cars.
Shavings for cars.
Telegrams.
Tools.
Transfers on account of wrecks and washouts.
Transfer sacks.
Uniforms.

48 Stationery and printing.

This account shall include:

(a) *Supervisory offices.* The cost of stationery and printing used in offices of officers whose pay is chargeable to superintendence accounts.

(b) *Agencies.* The cost of stationery and printing used at local agencies and depots.

(c) *Line.* The cost of stationery and printing used by messengers and other employees on trains.

STATIONERY AND PRINTING ITEMS

Binder boards.
Binders.
Blankbooks.
Blotter holders.
Blotters.
Blotting paper.
Blue-print paper.
Brass fasteners.
Bristol board.
Calanders.
Carbon paper.
Cardboard.
Cards, blank and printed.
Chalk.
Circulars.
Clip boards.
Clips, paper.
Copy (impression) books.
Copying brushes.
Copying cloth.
Crayons.
Dating stamps and ribbons.
Division sheets.
Emery cloth.
Envelopes.
Erasers.
Eyelet punches.
Eyelets.
File boxes, letter.
Forms, blank and printed.
Index cards.
Indexes.
Ink.
Ink wells.
Invoice books.
Ledgers.
Legal cap paper.
Letter paper.
Letter trays.
Manifold paper.
Mucilage.
Mucilage brushes.
Note paper.
Notices.
Oil board.
Oil paper.
Pads.
Paper.
Paper baskets.
Paper cutters.
Paper fasteners.
Paper files.
Paper weights.
Parchment paper.
Paste.
Pencils.
Penholder racks.
Penholders.
Pens.
Perforators.
Pins.
Postage.
Rubber bands.
Rubber stamps.
Rulers.
Scrap books.
Sealers.
Sealing wax.
Seals.
Shears.
Shipping tags.
Shorthand note-books.
Sponge cups.
Sponges, desk.
Stamp racks.
Stamps, impression.
Stencil brushes.
Tablets, blank and printed.
Tape.
Telegraph blanks.
Tissue (impression) paper.
Tracing paper.
Wax papers.
Wrapping paper.

NOTE: The cost of dictionaries, periodicals, technical books, etc., shall be charged to appropriate superintendence accounts.

49 Loss and damage.

This account shall include:

(a) *Pay of employees.* Pay of claim agents, clerks, and other employees (other than agency employees) exclusively engaged in recording, investigating, and adjusting claims for loss or damage; and pay of special officers, special agents, detectives, and others operatives employed by the carrier for the detection and apprehension of theives, robbers, burglars, defaulters, absconders, and other criminals.

(b) *Freight and valuables.* Payments made and expenses incurred on account of delay, damage, loss, or destruction of express freight, including valuables carried under merchandise rates, and livestock; expenses on account of damage, loss, or destruction of company material in transit; cost of packing and boxing damaged goods; payments of express charges to other carriers on lost, damaged, or delayed shipments; pay and expenses of witnesses in lawsuits in connection with loss and damage claims; expenses incurred in selling "over without mark," refused, damaged, and unclaimed shipments; other expenses directly incident to loss and damage to freight and valuables, such as pay and expenses of employees and others while engaged as witnesses in suits concerning

loss and damage of freight and valuables; and uncollected tariff charges on unclaimed and refused shipments of freight and valuables transported in accordance with shipping contract.

(c) *Money.* Payments made and expenses incurred on account of delay, damage, loss, or destruction of money, bullion, securities, or similar shipments under the money classification; losses of company's funds or securities in transit and expenses in connection therewith; payment of express charges to other carriers on lost, damaged, or delayed shipments; pay and expenses of witnesses in lawsuits in connection with loss and damage claims; other expenses directly incident to loss and damage of money, bullion, securities, or similar shipments, such as pay and expenses of employees and others while engaged as witnesses in suits concerning loss and damage of money, bullion, securities, or similar shipments; and uncollected tariff charges on unclaimed and refused shipments of money transported in accordance with contract of shipment.

To this account shall be credited insurance recovered on damaged or destroyed shipments, proceeds from the sale of all freight and valuables "over without mark," refused, damaged, or unclaimed, and amounts of cash in unclaimed packages.

NOTE: Expenses incident to suits growing out of loss and damage claims, not otherwise provided for, shall be included in account No. 56, "Law expenses."

50 Damage to property.

This account shall include payments and expenses on account of damage or destruction of buildings, fences, vehicles, equipment, or other property not belonging to the carrier and not in course of transportation by it; also pay and expenses of employees and others while engaged as witnesses in suits.

NOTE: Expenses incident to suits growing out of claims for damage to property, and not otherwise provided for, shall be included in account No. 56, "Law expenses."

51 Injuries to persons.

This account shall include payments and expenses on account of injuries to persons. To this account shall be charged services of employees and others called in consultation in relation to the adjustment of personal injury claims; pay and expenses of employees while engaged as witnesses at inquests and in lawsuits in connection with such claims; and salary allowances to employees while absent from duty on account of injuries received while on duty.

To this account shall be credited casualty or employers' liability insurance collected.

ITEMS OF EXPENSE

Artificial limbs.
Carriage fees.
Compensation for injuries.
Donations made to hospitals.
Final judgments, including plaintiffs' court costs.
Funeral expenses.
Hospital attendance.
Medical and surgical services.
Medical and surgical supplies.
Notarial fees.
Nursing.
Railway transportation.
Undertakers' services.
Undertakers' supplies.
Witnesses' services at inquest and lawsuits.

NOTE: Expenses incident to suits growing out of personal injury claims, and not otherwise provided for, shall be included in account No. 56, "Law expenses."

52 Other expenses.

This account shall include all expenses in conducting transportation and other business which are not properly chargeable to other transportation accounts.

ITEMS OF EXPENSE

Loss of office funds by burglary when not covered by insurance.
Losses (less fidelity insurance) on money orders and other financial paper through forgery.
Losses (less fidelity insurance) through embezzlement not provided for otherwise.

GENERAL

NOTE: The primary accounts in this general account are designed to show expenses of a general character, not immediately chargeable to Maintenance, Traffic, or Transportation; also expenses for the general supervision of the carrier's business and finances, the auditing of its accounts, and the conduct of its law and tax departments.

53 Salaries and expenses of general officers.

This account shall include:

(a) *Salaries.* The pay of all general officers not provided for otherwise.

(b) *Expenses.* The traveling and other expenses of officers whose pay is included in this account, and cost of their membership fees and dues in railway, express, and other associations.

LIST OF OFFICERS

Chairman of the board.
President.
Assistant to president.
Vice president.
Assistant to vice president.
Secretary.
Assistant secretary.
Treasurer.
Assistant treasurer.
Comptroller.
Local treasurer.
Real estate agent.
Assistant real estate agent.
Tax commissioner.
Assistant comptroller.
General auditor.
Auditor.
Assistant auditor.
Efficiency expert.
General accountant.
Registrar of stock.
Registrar of bonds.
Transfer agent.
Superintendents of money orders in charge of auditing.

NOTE A: When officers' duties are restricted to one department their salaries and expenses shall be charged to that department under the accounts for superintendence or for law expenses, as may be appropriate. When officers have immediate supervision over more than one operating department, their salaries and expenses shall be apportioned equitably among the departments under their jurisdiction.

NOTE B: The pay and expenses of purchasing agents, assistant purchasing agents, supply agents, assistant supply agents, their clerks and attendants, shall be charged to clearing account "Supply expenses," and distributed in accordance with rules provided for that account. (See Instruction 0–9.)

54 Salaries and expenses of clerks and attendants.

This account shall include the pay and expenses of assistants, clerks, and attendants of the officers whose salaries are included in account No. 53, "Salaries and expenses of general officers."

(a) *Pay of clerks.* The pay of persons employed in accounting and other general service not provided for elsewhere.

LIST OF CLERKS

Cashiers (not at agencies).
Chief accountants.
Chief clerks.
Clerks.
Special accountants.
Stenographers.
Traveling accountants.
Traveling auditors.

(b) *Pay of attendants.* The pay of persons employed in attendance at general offices.

LIST OF ATTENDANTS

Attendants.
Bank messengers.
Cleaners.
Custodians of buildings.
Elevator operators.
Engineers, stationary.
Firemen, stationary.
Janitors.
Telegraph operators.
Telephone operator.
Watchmen.

(c) *Expenses.* The traveling and other expenses of employees designated above.

55 General office supplies and expenses.

This account shall include the office expenses of officers designated in account No. 53, "Salaries and expenses of general officers."

(a) *Rent of offices.* Rent of buildings and offices occupied as general offices of the carrier, including taxes on the rented property assumed by the carrier.

(b) *Expenses.* The office expenses of officers designated in account No. 53, "Salaries and expenses of general officers."

ITEMS OF EXPENSE

Atlases and maps.
Books for office use.
Cable tolls.
Cleaning offices.
Express and freight charges.
Heating.
Lighting.
Local messenger service.
Periodicals and newspapers.
Reports of commercial standing.
Telegraph service.
Telephone service.

56 Law expenses.

This account shall include the pay and the office and other expenses, when not provided for elsewhere, of officers and employees of the law department, the cost of suits, and the payments of special law fees.

(a) *Pay of officers and employees.* The pay of officers and employees of the law department not provided for elsewhere.

LIST OF OFFICERS AND EMPLOYEES

Vice presidents and assistants, when directly in charge of law department.
Commerce counsel.
Counsel.
Solicitors.
Attorneys.
Clerks.
Office attendants.

(b) *Rent of offices.* Rent of offices occupied by officers and employees of the law departments, including taxes on the rented property assumed by the carrier.

(c) *Expenses.* The traveling and other expenses of officers and employees designated above.

ITEMS OF EXPENSE

Arbitrators' services.
Cost of taking depositions.
Cost of testimony.
Cost of suits.
Court expenses.
Express charges.
Fees and retainers.
Filing papers.
Law books.
Legal forms.
Legal reports.
Membership fees and dues in law associations.
Notarial fees not provided for elsewhere.
Office expenses.
Printing of briefs.
Special fees.
Telegraph service.
Telephone service.
Traveling expenses.
Witness fees not provided for elsewhere.

NOTE: See notes under accounts No. 49, "Loss and damage," and No. 51, "Injuries to persons."

57 Insurance.

This account shall include all premiums, except reinsurance premiums, for insuring the accounting carrier against lost through fire, accident, or similar causes; also all amounts charged for self-insurance against such hazards.

CLASSES OF INSURANCE

Accident.
Boiler.
Burglary.
Fire.
Marine.
Wreck.

NOTE: Amounts charged by a carrier for self-insurance shall be credited in its books to an insurance reserve account to which the amounts of all claims for loss covered by insurance shall be charged. To such account shall be charged all reinsurance premiums paid insurance companies, and to it shall be credited all amounts recovered from insurance companies under reinsurance policies.

58 Fidelity bond premiums.

This account shall include all premiums paid by a carrier to its fidelity fund and all premiums on fidelity bonds paid by a carrier to bonding and surety companies for guaranteeing the carrier against loss by embezzlement, theft, or culpable negligence on the part of its employees.

NOTE A: The premiums paid by a carrier to its bonding fund shall be credited on its books to account "Fidelity reserve," to which reserve shall be charged the amounts of all losses covered by fidelity bonds, and all reinsurance or rebonding premiums paid bonding companies. To it shall be credited all amounts of reimbursements by surety companies for losses.

NOTE B: Appropriations made by a carrier to a fidelity reserve through Income Account shall be credited directly to its fidelity reserve account.

59 Pensions.

This account shall include pensions or gratuities paid out of the carrier's funds to retired employees or their heirs, and the expenses in connection therewith.

60 Stationery and printing.

This account shall include the cost of stationery and printing used in general offices and not chargeable to other accounts.

STATIONERY AND PRINTING ITEMS

Annual reports.
Binders.
Blank books.
Blotter holders.
Blotters.
Blotting paper.
Blue-print paper.
Bristol board.
Carbon paper.
Cardboard.
Cards, blank and printed.
Calendars.
Chalk.
Circulars.
Clip boards.
Clips, paper.
Computing tables.
Contracts.
Copy (impression) books.
Copying brushes.
Copying cloth.
Crayons.
Dating stamps and ribbons.
Drawing paper.
Emery cloth.
Envelopes.
Erasers.
Eyelet punches.
Eyelets.
Forms, blank and printed.
Franks.
Index cards.
Indexes.
Ink.
Inkwells.
Invoice books.
Ledgers.
Legal cap paper.
Letter paper.
Manifold paper.
Mucilage.
Mucilage brushes.
Note paper.
Notices.
Oil board.
Oil paper.
Orders.
Paper.
Paper baskets.
Paper cutters.
Paper fasteners.
Paper files.
Paperweights.
Parchment paper.
Pencils.
Penholder racks.
Penholders.
Pens.
Perforators.
Pins.
Postage.
Rubber bands.
Rubber stamps.
Rulers.
Scrapbooks.
Sealing wax.
Seals.
Shears.
Shipping tags.
Shorthand note-books.
Sponge cups.
Sponges, desk.
Stamps, impression.
Stencil brushes.
Stock certificates.
Tablets, blank and printed.
Tape.
Telegraph blanks.
Tissue (impression) paper.
Tracing cloth.
Tracing paper.
Wage tables.
Water colors.
Wax tapers.
Wrapping paper.

NOTE: The cost of printing briefs, legal forms, testimony, legal reports, etc., for the law department shall be included in account No. 56, "Law expenses."

61 Valuation expenses.

This account shall include expenses incident to the ascertainment (in accordance with the Act to Regulate Commerce, as amended March 1, 1913, or with other Federal or State requirements) of the value of property owned or used by the carrier, such expenses including pay, and office, traveling, and other expenses of officers specially employed or assigned to such work, and of their assistants, clerks, and attendants, and the cost of stationery and printing.

NOTE: No charge shall be made to this account for the salaries of officers or of their clerks and attendants for incidental services in connection with valuation work, but special office, clerical, traveling, and incidental expenses incurred by these officers on account of such work may be included as a part of the cost of the work.

62 Other expenses.

This account shall include incidental general expenses not chargeable to any of the foregoing accounts.

ITEMS OF EXPENSE

Annual reports in newspapers.
Corporate and financial notices of general character.
Donations on account of catastrophes, epidemics, etc.
Exchange on company remittances.
Fees and expenses paid to directors.
Filing copies of reports.
Notices of dividends declared.
Notices of election of directors.
Notices of stockholders' meetings.

SPECIAL INSTRUCTIONS, OPERATING REVENUE ACCOUNTS

1–1 Accounts for operating revenues.

The accounts provided for in this classification are designed to show amounts of money which a carrier becomes entitled to receive, or which accrue to its benefits for the transportation of freight, money, or valuables by express, for the transfer of credits and for services in general as agent.

1–2 Deductions from revenue.

Amounts paid as shipping or forwarding agent to other transportation agencies and amounts paid to other carriers under agreements granting the right to carry on operations over their lines (express privileges) are to be considered as deductions from revenue and shall be included in accounts No. 102, "Express—Foreign," and No. 104, "Express privileges—Dr."

1–3 Uncollectible charges.

No charge shall be made against the accounts of this classification for amounts representing tariff charges which for any cause are uncollected, the service for which the charge is made having been properly performed and individuals or companies being liable for the charges.

Uncollectible accounts against individuals and companies, representing tariff charges for transportation service rendered, when such individuals and companies are liable for the charges, shall be included in income account No. 316, "Uncollectible revenue from transportation." This includes such items as uncollectible undercharges discovered after the service has been rendered, and charges where credit is extended and the consignor or consignee becomes insolvent.

Uncollected tariff charges on unclaimed and refused shipments of freight, money, and valuables shall be charged to operating expense account No. 49, "Loss and damage." Such charges to that account will be offset to the extent of proceeds from the sale of unclaimed and refused shipments which are creditable to that account.

The carrier's tariff charges on lost, destroyed, or damaged shipments, for which neither shippers nor consignees are liable, shall be charged to the revenue accounts previously credited.

1–4 Overcharges.

Overcharges found to be unrefundable within a reasonable time after discovery shall be cleared to profit and loss account No. 405, "Unrefundable overcharges."

1–5 Interpretation of item lists.

Lists of items to be credited and of items to be charged have been given as a part of the text of this classification for the purpose of clearly indicating the application of the accounting rules. They shall not be considered as comprising all the items creditable or chargeable to the several accounts, but merely as representative of them.

The items contained in the lists of items to be charged to the respective revenue accounts are chargeable only when such items have been, for convenience in accounting or through oversight, included in the credits to the accounts, or they are items of revenue payable to others for service rendered under the tariff rates upon which the credits to the several accounts have been based.

OPERATING REVENUE ACCOUNTS

TRANSPORTATION

NOTE: The primary accounts under this general account are designed to show amounts of money which a carrier becomes entitled to receive or which accrue to its benefit for service rendered in the transportation of freight, money, or valuables by express.

101 Express; domestic.

This account shall include revenue from the transportation of freight, money, or valuables within the United States and adjacent foreign countries, upon the basis of authorized tariff rates.

ITEMS TO BE CREDITED

The carrier's proportion of revenue upon the basis of through tariff rates.
Revenue from wagon hauls. When not under tariff rates, revenue from such service shall be credited to account No. 108, "Miscellaneous."
Amounts received from other express companies for handling express matter under tonnage agreements.

ITEMS TO BE CHARGED

Amounts paid to other express companies for handling express matter under tonnage agreements.
Amounts paid to other carriers for switching the lighterage charges.
The carrier's proportion of uncollected revenue on freight lost or destroyed in transit.
The carrier's proportion of uncollected revenue on damaged shipments for which charges neither shipper nor consignee is liable.
Overcharges resulting from the use of erroneous rates, weights, classifications, or calculations.
Amounts paid to other carriers for hauling express matter on freight trains in emergency cases.

NOTE: Other carrier's proportions of revenue paid by the carrier on freight lost or destroyed in transit shall be charged to operating expense account No. 49, "Loss and damage."

102 Express; foreign.

This account shall include amounts received or receivable for services rendered and transportation charges advanced or assumed a shipping or forwarding agent, when the express company attends to the preliminaries of the shipping of goods to, from, or within foreign countries not adjacent to the United States, and arranges for the subsequent delivery, but is not in charge while the actual transportation service is being performed by mail, steamer, railway, or other transportation agency.

To this account shall be charged amounts paid or payable by the express company for transportation service performed by railways, steamers, or other carriers in foreign countries or to or from the same.

ITEMS TO BE CHARGED

Ocean freight.
Parcel-post charges.
Railway freight.
Registered mail charges.
Transfers between wharves and steamers.

103 Miscellaneous.

This account shall include all revenue from hauling mail between depots and post offices, from cartage in connection with foreign shipments, and from the transportation of property not provided for in accounts Nos. 101 and 102.

CONTRACT PAYMENTS

104 Express privileges; Dr.

To this account shall be charged all amounts paid or accrued to companies, firms, or individuals for the privilege of conducting an express business over transportation lines.

OPERATIONS OTHER THAN TRANSPORTATION

NOTE: The primary accounts under this general account are designed to show amounts of money which a carrier becomes entitled to receive or which accrue to its benefit for services of a general character as agent (except as provided for in account No. 102, "Express—Foreign,"), and for the transfer of credits.

105 Customs brokerage fees.

This account shall include manifest fees and revenue from brokerage service in connection with clearance of goods, and baggage through customhouses.

NOTE: Transportation charges upon the goods cleared shall be credited to account No. 101, "Express—Domestic" or No. 102, "Express—Foreign," as may be appropriate.

106 Order and commission.

This account shall include revenue, other than transportation revenue, from the selling of goods on behalf of patrons and from the performance of commissions such as making purchases, filing papers, paying taxes, and redeeming goods in pawn.

107 Rents of buildings and other property.

This account shall include revenue from rents of buildings, land, and other property owned, when such property is used in connection with operations and the expense of maintaining and operating the portion rented out can not be separated from the expense of the portion used by the carrier; also subrents received for property the rent for which is included in Operating Expenses. This applies to such buildings and land as depot offices and grounds, general and other offices, and rooms rented at stations, warehouses, wharves, and ferry landings.

NOTE: If the expenses of the property leased can be separated from the expenses of the portion used by the carrier, the rents shall be credited to account No. 504, "Miscellaneous rent income."

108 Money orders.

This account shall include revenue from the sale of money orders.

NOTE: Revenues from the issuance of money orders representing the proceeds of collections made for shipper shall be credited to account No. 109, "C.O.D. checks."

109 C.O.D. checks.

This account shall include revenue from the issuance of checks or money orders representing the proceeds of collections for shippers, made on goods, bills (including bills of lading), notes, and documents.

110 Limited and unlimited cheques.

This account shall include the revenue from the issuance of limited and unlimited cheques.

111 Travelers cheques.

This account shall include revenue from the sale of travelers cheques.

112 Telegraph and cable transfers.

This account shall include revenue from the transfer of money by telegraph and cable.

113 Letters of credit.

This account shall include revenue from the issuance of letters of credit.

114 Foreign postal remittances.

This account shall include revenue from the delivery of money to consignees in foreign countries, delivery being effected by foreign agents.

115 Profit on exchange and other financial revenue.

This account shall include revenue from the purchase and sale of foreign money or commercial paper, and from other sources of financial revenue not provided for elsewhere.

116 Miscellaneous.

This account shall include revenue from operation not provided for elsewhere.

LIST OF ITEMS

Amounts received from shippers or consignees for marine insurance.
Fees as foreign representative of domestic carriers.
Revenue from boxing and shipping automobiles by freight.
Revenue from sale of railway and steamship tickets.
Revenue from the storage of baggage.
Revenue from the storage of freight.

SPECIAL INSTRUCTIONS, REAL PROPERTY AND EQUIPMENT ACCOUNTS

2–1 Application of this classification.

The accounts prescribed in this classification are designed to exhibit the investment of the carrier in property used in the operation of the express business and in operation incident thereto. These accounts shall include:

(a) The total cost of fully equipping new lines for operation.

(b) The total cost of new units of property added to the existing plant.

(c) The total cost of units of property placed in use to replace units retired.

(d) The cost of improvements representing physical changes in existing units of property, such as additions to buildings and other structures, and additional devices applied to facilities. (The cost of rearranging or altering the existing property in the process of making improvements shall be charged to operating expenses. (See Instruction 01–3 (c).)

These accounts shall also include the necessary credits to represent the ledger value (estimated if not known), of units of equipment or of other property abandoned, sold, or otherwise retired, whether replaced by property of like purpose or not. (See Instruction 01–3(a) (3), (4).)

2–2 Basis of charges.

The charges to the accounts of this classification shall be based upon the cost of the property and the improvements. The term cost as used in the accounts means the actual cost in money of labor and materials used, the actual cost in money of property acquired, or, if the consideration is other than money, the actual money value of such other consideration at the time of the purchase. It also includes transportation charges paid to other companies.

2–4 Land retired.

When any land, the cost of which is included in account No. 201, "Land," is retired, the ledger value shall be credited to this account. If the land is retained by the carrier, its estimated value shall be charged to balance-sheet account No. 503, "Miscellaneous physical property," and the necessary adjustment of the difference, if any, between the record value and the estimated value at the time of its retirement from transportation service shall be made through Profit and Loss. If sold, the difference between the ledger value credited to the account "Land" and the amount received for the land shall be adjusted in Profit and Loss.

2–8 Interpretations of item lists.

Lists of "Items," "Details," etc., have been given as a part of this classification for the purpose of clearly indicating the application of the accounting rules in specific cases. The lists in every case shall be considered as merely representative, and not as excluding from any account analogous items which happen to be omitted from the list appended. On the other hand, the appearance of an item in a list warrants the inclusion of the item in the account concerned only when the text of the account also indicates inclusion, inasmuch as the same item frequently appears in more than one list.

REAL PROPERTY AND EQUIPMENT ACCOUNTS[2]

LAND

NOTE: This general account is designed to show the cost of land owned by the carrier and used in its express operations and operations incident thereto.

[2] For list of accounting units, see note following Account No. 218.

201 Land.

This account shall include the cost of land acquired for use directly in connection with the operations of the carrier, and the expenses incident to the purchase thereof.

ITEMS OF EXPENSE

Abstracts.
Appraisals.
Commissions paid to others.
Cost of examination and registration fees.
Damages to abutting property.
Judgments and decreed costs to clear or defend titles.
Notarial fees.
Plats.
Recording deeds.
Removal and relocation of buildings and other structures not purchased.
Salaries and expenses of employees, when especially engaged in the selection or purchase of land.
Taxes accrued and assumed at time of purchase.

BUILDINGS

NOTE: The primary accounts in this general account are designed to show the cost of buildings and structures, including fixtures, owned by the accounting carrier and used in its express operations and operations incident thereto, and the cost of improvements to and permanent fixtures in similarly used buildings not owned, when the title of the carrier to such improvements and fixtures may reasonably be expected to be good over a term of years.

202 Buildings and appurtenances on land owned.

This account shall include the cost of buildings and structures owned by the carrier, used in its operations, and situated on land owned, and cost of their fixtures (including those for heating and lighting) and appurtenances when considered a part of the building; also cost of establishing grounds, including the footways and driveways to such buildings and structures, architects' fees, and commissions paid to real estate brokers.

LIST OF BUILDINGS AND STRUCTURES

Bins for material.
Depot buildings.
Dwellings.
Fences.
Foundations.
Fuel houses.
Garages.
General office buildings.
Grading.
Hay houses.
Hose houses.
Icehouses.
Local office buildings.
Milk stands.
Outhouses.
Paving.
Platforms, freight.
Platforms, transfer.
Powerhouses.
Reading rooms.
Rooms for Y.M.C.A.
Shops.
Sidewalks.
Stables.
Storehouses.
Toolhouses.
Transfer houses.
Walls.
Warehouses.
Washrooms.
Wharves.

DETAILS OF FIXTURES AND APPURTENANCES

Armatures and fields.
Ash baskets.
Belt carriers.
Belting.
Bill booths.
Boilers.
Bunks.
Call bells.
Counters.
Drainage and sewer systems.
Dynamos and parts.
Electric wiring.
Elevators and machinery.
Fire extinguishers (not portable).
Heating plants.
Hedges.
Lighting plants.
On-hand rooms.
Partitions, permanent.
Pumps.
Radiators.
Railings.
Shelving, permanent.
Signs, permanent.
Standpipes.
Steampipes.
Switch boards and parts.
Vaults and vault doors.
Washbowls.
Water and gas pipes and connections.
Water coolers, stationary.

203 Buildings and appurtenances on land not owned.

This account shall include the cost of buildings and structures owned by the carrier, used in its operations, and situated on land not owned, and cost of their fixtures (including those for heating and lighting) and appurtenances when considered a part of the building; also cost of establishing grounds, including the footways and driveways to such buildings and structures, architects' fees, and commissions paid to real estate brokers.

LIST OF BUILDINGS AND STRUCTURES

Bins for material.
Depot buildings.
Dwellings.
Fences.
Foundations.
Fuel houses.
Garages.
General office buildings.
Grading.
Hay houses.
Hose houses.
Icehouses.
Local office buildings
Milk stands.
Outhouses.
Paving.
Platforms, freight.
Platforms, transfer.
Powerhouses.
Reading rooms.
Rooms for Y.M.C.A.
Shops.
Sidewalks.
Stables.
Storehouses.
Toolhouses.
Transfer houses.
Walls.
Warehouses.
Washrooms.
Wharves.

DETAILS OF FIXTURES AND APPURTENANCES

Armatures and fields.
Ash baskets.
Belt carriers.
Belting.
Bill booths.
Boilers.
Bunks.
Call bells.
Counters.
Drainage and sewer systems.
Dynamos and parts.
Electric wiring.
Elevators and machinery.
Fire extinguishers (not portable).
Heating plants.
Hedges.
Lighting plants.
On-hand rooms.
Partitions, permanent.
Pumps.
Radiators.
Railings.
Shelving, permanent.
Signs, permanent.
Standpipes.
Steampipes.
Switchboards and parts.
Vaults and vault doors.
Washbowls.
Water and gas pipes and connections.
Water coolers, stationary.

204 Improvements to buildings not owned.

This account shall include the cost of improvements to and permanent fixtures in buildings not owned, but used by the carrier in its operations, when the improvements or fixtures will become the property of the owners of such buildings upon the expiration of the lease or contract, the term of which extends through more than 1 year. At the expiration of the lease or contract proper credits shall be made to this account for all property affected by such lease or contract and concurrent charges made to balance-sheet account No. 548, "Accrued depreciation—Buildings and equipment."

DETAILS OF IMPROVEMENTS AND FIXTURES

Armatures and fields.	Icehouses.
Belt carriers.	Lighting plants.
Belting.	On-hand rooms.
Bill booths.	Partitions, permanent.
Bins for material.	Paving.
Boilers.	Platforms.
Bunks.	Pumps.
Call bells.	Radiators.
Coal bins.	Railings.
Counters.	Shelving, permanent.
Drainage and sewer systems.	Sidewalks.
Dynamos and parts.	Signs, permanent.
Electric wiring.	Standpipes.
Elevators and machinery.	Switchboards and parts.
Fences.	Vault and vault doors.
Fire extinguishers (not portable).	Washbowls.
Foundations.	Water and gas pipes, and connections.
Grading.	Water coolers, stationary.
Heating plants.	
Hedges.	

EQUIPMENT

NOTE: The several primary accounts in this general account are designed to show the cost of the several classes of equipment owned by the accounting carrier.

To the appropriate primary accounts under this general account shall be charged the cost of all equipment, such as cars, horses, automobiles, wagons, and sleighs, harness equipment, office furniture and equipment, office safes, trucks, stable equipment, garage equipment, line equipment, and shop equipment, and the necessary appurtenances and fittings, including the cost of inspection, setting up and trying out, transportation charges paid other carriers, and customs duties; also the cost of additions, such as vestibules, heating apparatus, and lighting apparatus for cars, and tops and brakes to automobiles, wagons, sleighs, and other vehicles.

205 Cars.

This account shall include the cost of express cars of all classes, including all appurtenances and fixtures necessary to equip them for service, and cost of inspection.

LIST OF CARS

Express cars.	Refrigerator cars.
Fruit cars.	Ventilator cars.
Horse cars.	

LIST OF APPURTENANCES TO CARS

Air-brake equipment and hose.	Ice boxes.
Brake gear.	Ice tanks.
Coal boxes.	Lamps and fixtures.
Coat hooks.	Lighting equipment.
Desks.	Pigeonholes.
Gas gauges.	Racks.
Gas tanks.	Speed recorders.
Gun racks.	Stoves.
Heating equipment and steam-heat hose.	Train-signal equipment, including hose.
Horse stalling, if part of a car.	Water tanks.

206 Horses.

This account shall include the cost of all horses and other draft animals owned by the carrier and used in the conduct of its business.

NOTE: The cost of feeding and caring for horses between dates of purchase and dates of placing in service shall be charged to account No. 44, "Stable and garage supplies and expenses."

207 Automobiles.

This account shall include the cost of automobiles, including all appurtenances necessary to equip them for service. The details of this account shall be so kept that the cost of each class of automobiles named below can be determined:

(a) Automobiles, gasoline.
(b) Automobiles, electric.

208 Wagons and sleighs.

This account shall include the cost of vehicles, including all appurtenances necessary to equip them for service. The details of this account shall be so kept that the cost of each class of vehicles named below can be determined:

(a) Wagons, double.
(b) Wagons, single.
(c) Sleighs.
(d) Buggies.

209 Harness equipment.

This account shall include the cost of harness and other accessories used in collection and delivery service. The details of this account shall be so kept that the cost of each class of equipment named below can be determined:

(a) Harness; double.
(b) Harness; single.
(c) Miscellaneous.

DETAILS OF MISCELLANEOUS

Breast collars and traces.
Covers.
Fly nets.
Hitch straps and weights.
Holdback straps.
Horse blankets.
Horse collars.
Lap robes.
Sleigh bells.
Storm aprons.

210 Office furniture and equipment.

This account shall include the cost of all furniture and office equipment not considered a part of the building.

LIST OF OFFICES

General.	Department.
Local.	Garage.
Depot.	Stable.
General managers'.	Ship.
Division.	Transfer.

DETAILS OF OFFICE FURNITURE AND EQUIPMENT

Adding machines.	Envelope sealers.
Addressing machines	Fire extinguishers, portable.
Awnings.	Fans, electric.
Bedsteads.	Filing and card indexes.
Bill booths, portable.	Filing cases.
Bookcases.	Gangplanks.
Cabinets.	Guns.
Calculating machines.	Hat racks, wardrobe.
Carpets.	Horse skids.
Cases.	Hose and hose wagons.
Chairs.	Ladders.
Clocks.	Lamps, desk, portable.
Comptometers.	Matting.
Copy press baths.	Mimeographs.
Copy presses.	Motors.
Cots.	Numbering machines.
Counter desks.	On-hand shelving, movable.
Counters.	Partitions, movable.
Cupboards.	Percentage machines.
Desks, including roll-top, high, low and typewriter desks.	Pigeonholes.
Dictating machines.	Pinch bars.
	Punching machines.
	Railings.
	Revolvers.
	Rugs.
	Scales.
	Seal presses, lead or wax.
	Settees.
	Shelves.
	Signs (not a part of the building).
	Stands, typewriter.
	Stools.
	Stoves.
	Tables.
	Tarpaulins.
	Typewriters.
	Trays, coin.
	Wardrobes.
	Water coolers, portable.
	Wringers.

211 Office safes.

This account shall include the cost of safes used in general, local, depot, general managers', division, department, stable, garage, transfer, and shop offices.

212 Trucks.

This account shall include the cost of trucks and other wheeled conveyances for moving express matter in buildings and on platforms, and not provided for in accounts Nos. 213 and 214.

LISTS OF TRUCKS AND WHEELED CONVEYANCES

Carts.	Trucks, platform.
Trucks, coin.	Trucks, hamper.
Trucks, electric motor.	Trucks, warehouse.

213 Stable equipment.

This account shall include the cost of stable equipment and fittings not considered a part of the building.

DETAILS OF STABLE EQUIPMENT

Blankets, stable.	Hose and hose wagons.
Carts, stable.	Jacks, wagon.
Feed-chopping machines.	Partitions, movable.
Feed-cleaning machines.	Railings.
Grain bins.	Scales.
Halters.	Signs (not a part of the building).
Harness press.	Trucks for stable use.
Heaters, stove and water.	Wagon-washing machines.
Horse-clipping machines.	Wardrobes.
	Wheelbarrows.

214 Garage equipment.

This account shall include the cost of garage equipment and fittings not considered a part of the building.

DETAILS OF GARAGE EQUIPMENT

Appliances, pneumatic.	Signs (not a part of the building).
Charging panels.	Stoves.
Hose and hose wagons.	Tanks, gasoline.
Jacks, automobile.	Tools, chauffeurs'.
Odometers.	Trucks, for garage use.
Partitions, movable.	Wardrobes.

215 Line equipment.

This account shall include the cost of train, boat, and stage equipment not considered part of the conveyance, and the cost of furniture and fittings for messenger quarters. The details of this account shall be so kept that the cost of each class of line equipment named below can be determined:

(a) Line equipment.
(b) Furniture and fittings for messenger quarters.

DETAILS OF LINE EQUIPMENT

Crates, package.	Money chests.
Guns and revolvers for protection of goods in transit.	Safes (car), stationary and portable.
Horse stalling (when not part of a car).	Safes, messenger.
Kit boxes.	Treasure boxes.
	Trunks, packing.

DETAILS OF FURNITURE AND FITTINGS FOR MESSENGER QUARTERS

Bedsteads.	Rugs.
Carpets.	Stoves.
Chairs.	Tables.
Clocks.	Wardrobes.

216 Shop equipment.

This account shall include the cost of equipment for blacksmith, harness, wagon, automobile, carpenter, trunk, and printing shops and equipment for like use located elsewhere.

DETAILS OF SHOP EQUIPMENT

Anvils.	Heating apparatus.
Bellows.	Lathes.
Belting.	Lighting apparatus.
Blacksmithing tools.	Motors.
Blowers.	Planers.
Boilers for furnishing power.	Printing presses.
Drilling machines.	Shafting.
Drop tables.	Switchboards.
Forges.	Tools.
Harness making and repair machinery.	Vises.

217 Miscellaneous equipment.

This account shall include the cost of motorcycles and bicycles, and all other equipment for carrier's use not provided for elsewhere.

218 Minor equipment.

This account shall include the cost of office furniture and equipment, safes, trucks, garage equipment, line equipment, shop equipment, and miscellaneous equipment of classes generally having an average original cost of $50 or less per unit. As of December 31, 1935, there shall be included in this account the ledger value of such items of equipment then owned by the carrier. Such equipment purchased thereafter shall be charged to Operating Expenses.

NOTE: The depreciation reserve applicable to property, the cost of which is includible in this account as of December 31, 1935, shall be segregated in the accrued depreciation account and held as a permanent reserve.

If, at any time, a change in operation involves a substantial increase in the number of units of minor equipment this account shall be debited for the additional units at the average cost thereof. If, at any time, a change in operation involves a substantial decrease in the number of units of minor equipment this account shall be credited with the amount of the reduction and the charge shall be appropriately distributed between the appropriate operating expense accounts and the segregated accrued depreciation account.

NOTE: The following list of units of real property and equipment is established for the purpose of designating items of physical property included in each depreciable account the ledger value of which shall be credited to the respective accounts at time of retirement (see Instruction 01-9) for instructions applicable to minor items, and the text of account No. 218, "Minor equipment," for those applicable to equipment of classes having an average original cost of $50 or less per unit):

202, 203. Buildings and appurtenances:
A complete building or structure.
A complete roof.
A complete heating, lighting, ventilating, water-supply, air-conditioning, plumbing, drainage, or elevator system.
A motor, generator, steam engine, pump, ventilating fan, air washer, elevator drum, machine tool, or similar items of equipment.

204. Improvements to buildings not owned:
A complete heating, lighting, ventilating, water-supply, air-conditioning, plumbing, drainage, or elevator system.
A motor, generator, steam engine, pump, ventilating fan, air washer, elevator drum, machine tool, or similar items of equipment.

205. Cars:
A complete car.
A car body with or without underframe.
A complete underframe.

206. Horses:
A horse or mule.

207. Automobiles:
A complete automobile or truck.
A tractor.
A trailer.
A semi-trailer.
An electric power storage battery.

208. Wagons and sleighs:
A wagon.
A sleigh.
A cart.

209. Harness equipment:
A complete set of harness.

210. Office furniture and equipment:
A desk, typewriter, billing machine, davenport, computing machine, bookcase, filing cabinet, rug, carpet, or other similar items of equipment.

211. Office safes:
A safe.

212. Trucks:
A truck.
A storage battery.

213. Stable equipment:
A machine, or other similar item of stable equipment.

214. Garage equipment:
A machine tool, testing equipment, generator, engine, motor, truck, storage battery, tank, or other similar items of garage equipment.

215. Line equipment:
A gun, safe, or other similar items of line equipment.

216. Shop equipment:
A machine tool, boiler, motor generator, truck, or other similar items of equipment.

217. Miscellaneous equipment:
A bicycle.
A motorcycle.

INCOME ACCOUNTS

2-1 Special instructions.

Income accounts are those designed to show, for each fiscal period, the total amount of money that a carrier becomes entitled to receive for services rendered, the returns accrued upon investments, the accrued costs paid or payable for the services rendered, the amounts accrued for the use of moneys and for the use of the properties of others, and the appropriations made from income during that period. The net balance of income (or loss) shall be carried to Profit and Loss.

When the title and definition of an income account clearly indicate that it is a summary of other accounts, it is not required that a special ledger account shall be kept under such a title to include the balances from the accounts usually carried in the ledger, but in such case the titles of the subaccounts in the ledger shall give a reference by number or title, or both, to the account prescribed herein of which they are subdivisions.

300 Form of income statement.

EXPLANATORY NOTE: The classified form of income statement is designed to show the financial changes resulting from transportation operations and other business of the accounting company during any specified period.

I. Operating income:
301. Charges for transportation.
314. Express privileges—Dr.
Revenue from transportation.
302. Revenue from operations other than transportation.
Total operating revenues.
315. Operating expenses.
Net operating revenue (or deficit).
316. Uncollectible revenue from transportation.
317. Express taxes.
Operating income (or loss).

II. Other income:
303. Rent from real property and equipment used jointly.
304. Miscellaneous rent income.
305. Net income from miscellaneous physical property.
306. Separately operated properties—Profit.
307. Dividend income.
308. Income from funded securities.
309. Income from unfunded securities and accounts.
310. Income from sinking and other reserve funds.
311. Release of premiums on funded debt.
312. Contributions from other companies.
313. Miscellaneous income.
Total other income.
Gross income (or loss).

III. Deductions from gross income:
318. Rent for real property and equipment used jointly.
319. Miscellaneous rents.
320. Miscellaneous taxes.
321. Net loss on miscellaneous physical property.
322. Separately operated properties—Loss.
323. Interest on funded debt.
324. Interest on unfunded debt.
325. Amortization of discount on funded debt.
326. Income transferred to other companies.
327. Miscellaneous income debits.
Total deductions from gross income.
Net income (or loss).

IV. Disposition of net income:
328. Income applied to sinking and other reserve funds.
329. Dividend appropriations of income.
330. Income appropriations for investment in physical property.
331. Stock discount extinguished through income.
332. Miscellaneous appropriations of income.
Total appropriations.
Income balance transferred to credit (or debit) of Profits and Loss Account.

CREDITS

301 Charges for transportation.

This account shall include charges for transportation service, as shown in general account Transportation provided in the classification of operating revenues.

302 Revenue from operations other than transportation.

This account shall include revenue from services shown in general account Operations Other than Transportation provided in the classification of operating revenues.

303 Rent from real property and equipment used jointly.

This account shall include amounts receivable accrued representing the rent (amount applicable to the investment in the property) of real property and equipment owned by the accounting company and used jointly with other companies.

Amounts receivable from other companies in reimbursement of taxes on property jointly used shall be accredited to this account.

304 Miscellaneous rent income.

This account shall include the amounts accrued as rent of real property and equipment the cost of which appears in balance-sheet account No. 501, "Real property and equipment," and the rents of which are not provided for elsewhere. To it shall be charged the cost of maintenance of the property rented, also incidental expenses in connection with such property, such as the cost of negotiating contracts, advertising for tenants, fees paid conveyancers, collectors' commissions, and analogous items.

To this account shall be credited rent receivable for property the rent payable for which is chargeable to account No. 319, "Miscellaneous rents," when such property is sublet by the accounting company.

NOTE A: If the expenses of the property leased cannot be separated from the expenses of property used in the company's operations, the rents shall be credited to revenue account No. 107, "Rents of buildings and other property."

NOTE B: Taxes on property, the rent of which is credited to this account, shall be charged to account No. 317, "Express taxes."

NOTE C: The rent of property carried in balance-sheet account No. 503, "Miscellaneous physical property," shall not be included in this account, but in account No. 305, "Net income from miscellaneous physical property," or No. 321, "Net loss on miscellaneous physical property."

305 Net income from miscellaneous physical property.

This account shall include the net credit balance of the revenues or income from, and the expenses (including depreciation but excluding taxes) of, physical property the cost of which is carried in balance-sheet account No. 503, "Miscellaneous physical property."

NOTE: If the net balance is a debit it shall be shown under account No. 321, "Net loss on miscellaneous physical property."

306 Separately operated properties; profit.

This account shall include amounts receivable under the terms of agreements or contracts whereby the surplus resulting from the operation by others of properties of other companies having a separate corporate existence is to be paid, in whole or in part, to the accounting company.

In determining the amount receivable by the accounting company, consideration shall be given not only to the operating revenues and operating expenses, but also to other items of income or deduction which affect that amount.

NOTE A: The amount payable by the operating company shall be charged by it to account No. 226, "Income transferred to other companies."

NOTE B: Dividends or other returns upon securities issued by separately operated companies, and held or controlled by the accounting company, shall be included in account No. 307, "Dividend income"; No. 308, "Income from funded securities"; No. 309, "Income from unfunded securities and accounts," or No. 310, "Income from sinking and other reserve funds," as may be appropriate.

307 Dividend income.

This account shall include dividends declared on railway and other stocks, the income from which is the property of the accounting company, whether such stocks are owned by the accounting company and held in its treasury or deposited in trust or are controlled through lease or otherwise. Accruals of guaranteed dividends may be included in this account if their payment is reasonably assured.

NOTE A: This account shall not include credits for dividends on stocks issued or assumed by the accounting company and owned by it, whether pledged as collateral or held in its treasury, in special deposits, or in sinking or other reserve funds.

NOTE B: Dividends on stocks of other companies held in sinking or other reserve funds shall be credited to account No. 310, "Income from sinking and other reserve funds."

308 Income from funded securities.

This account shall include interest on funded securities of railway and other companies, the income from which is the property of the accounting company, whether such securities are owned by the accounting company and held in its treasury, deposited in trust, or controlled through lease or otherwise. Interest accrued shall not be credited unless its payment is reasonably assured by past experience, guaranty, anticipated provision, or otherwise. In other cases the credit to this account shall be based upon the interest actually collected.

At the option of the accounting company there may be included in this account the portion, applicable to the fiscal period, of the amount requisite to extinguish during the interval between the date of acquisition and the date of maturity the discount or premium on funded securities of other companies owned.

NOTE A: Amounts credited or charged for the purpose of extinguishing discount or premium shall be concurrently charged or credited to the account in which the cost of the securities is carried.

NOTE B: The term funded securities, here used, means all unmatured bonds, notes, and other evidences of indebtedness (except open accounts for advances), none of which, by the terms of the creation of the debt, matures until more than one year after the date of such creation.

NOTE C: This account shall not include interest on funded securities issued or assumed by the accounting company and owned by it, whether pledged as collateral or held in its treasury, in special deposits, or in sinking or other reserve funds.

NOTE D: Interest on funded securities of other companies held in sinking or other reserve funds shall be included in account No. 310, "Income from sinking and other reserve funds."

NOTE E: Interest accruing after maturity on any securities not in sinking or other reserve funds shall be included in account No. 309, "Income from unfunded securities and accounts."

309 Income from unfunded securities and accounts.

This account shall include interest on unfunded securities (notes and other evidences of indebtedness of others payable on demand or having dates of maturity 1 year or less from the date of issue) interest on matured funded securities of other companies, interest on bank balances and on open accounts, and other analogous items, including discount on short-term notes.

NOTE A: Interest on assets held in sinking and other reserve funds shall be included in account No. 310, "Income from sinking and other reserve funds."

NOTE B: Discounts on bills for material and supplies purchased shall be credited to the accounts which were charged originally with the cost of the material and supplies on which the discount is allowed.

310 Income from sinking and other reserve funds.

This account shall include the income accrued on cash, securities (not issued or assumed by the accounting company), and other assets held in sinking and other reserve funds.

At the option of the accounting company there may be included each year in this account the portion, applicable to the fiscal period, of the amount requisite to extinguish, during the interval between the date of acquisition and the date of maturity, the discount or premium on funded securities of other companies held in sinking and other reserve funds.

NOTE A: Amounts credited or charged for the purpose of extinguishing discount or premium shall be concurrently charged or credited to the account in which the cost of securities is carried.

NOTE B: Charges to reserve fund accounts representing income on reserve funds retained therein shall be concurrently charged to account No. 226, "Income applied to sinking and other reserve funds," and credited to balance-sheet account No. 553, "Reserves from income and surplus."

311 Release of premiums on funded debt.

This account shall include, during each fiscal period, such proportion of the premiums on outstanding funded debt obligations as may be applicable to that period. The proportion shall be determined in accordance with Instruction 5-4.

NOTE: The amounts credited to this account shall be concurrently charged to the accounts in which the respective premiums are carried.

312 Contributions from other companies.

This account shall include amounts received or receivable from other companies or individuals, representing the whole or a part of the net deficit of the accounting company, when, under the terms of agreements or contracts, no obligation is incurred for subsequent reimbursement.

In determining the amount receivable by the accounting company consideration shall be given not only to the operating revenues and operating expenses but also to other items of income or deduction which affect that amount.

NOTE A: The amount payable shall be charged by the contributing company to account No. 222, "Separately operated properties—Loss."

NOTE B: This account shall not include advances covered by balance-sheet accounts Nos. 531 and 537.

313 Miscellaneous income.

This account shall include all items, including amounts received from hire of cars owned by the carrier, properly creditable to Income Account during the fiscal period, and not provided for elsewhere.

DEBITS

314 Express privileges; Dr.

This account shall include all amounts paid or accrued to companies, firms, or individuals for the privilege of conducting an express business over domestic transportation lines as shown in account No. 104 in the classification of operating revenues.

315 Operating expenses.

This account shall include the total expenses of express operations as shown in the accounts provided in the classification of operating expenses.

316 Uncollectible revenue from transportation.

This account shall include the amount of uncollected revenue charges against individuals and companies, representing tariff charges for transportation service rendered, including the accounting carrier's revenue charges and also revenue charges advanced to other carriers, when, during the period for which the Income Account is made, such amounts have been determined to be uncollectible.

NOTE A: This account shall not be construed to relieve the carrier from its responsibility to collect the lawfully established rates.

NOTE B: This account shall not include amounts for transportation service not performed in accordance with transportation contract, and, on that account, not lawfully collectible from individuals or companies, such as express charges on lost or destroyed shipments.

NOTE C: Uncollectible charges on unclaimed and refused freight, money, or valuables shall be charged to account No. 49, "Loss and damage."

317 Express taxes.

This account shall include accruals for taxes relating to express property used in operations, or to express operations and privileges, whether based on the valuation of the property, on the amount of stocks or bonds issued or outstanding, on the gross or net earnings, on length of line over which operations are conducted or on other bases.

NOTE A: Taxes on property not used in operation and taxes on operations and privileges other than express shall be charged to account No. 230, "Miscellaneous taxes."

NOTE B: Special assessments for street and other improvements, and special benefit taxes, such as water taxes and the like, shall be included in operating expense accounts or investment accounts, as may be appropriate.

NOTE C: Amounts received in reimbursement of taxes on property jointly used shall be credited to account No. 303, "Rent from real property and equipment used jointly." Amounts paid in reimbursement of such taxes shall be charged to account No. 318, "Rent for real property and equipment used jointly."

318 Rent for real property and equipment used jointly.

This account shall include amounts payable accrued representing the rent (amount applicable to the investment in the property) of real property and equipment owned by other companies, and in the joint use of which the accounting company participates.

Amounts payable by the accounting company in reimbursement of taxes on property jointly used shall be charged to this account.

319 Miscellaneous rents.

This account shall include rents accrued on property owned by others but used by the carrier, such as horse, refrigerator, or other cars in which shipments are forwarded by express, when such rents are not properly chargeable to other accounts.

NOTE A: This account shall not include rents provided for in the classification of operating expenses.

NOTE B: If property, the rent of which is chargeable to this account, is sublet by the accounting company to others, the rent from the sublease shall be credited to account No. 304.

320 Miscellaneous taxes.

This account shall include accruals for taxes not provided for elsewhere, such as taxes on securities owned, taxes on income from securities owned, and taxes on physical property the cost of which is includible in account No. 503, "Miscellaneous physical property."

NOTE: When the proper separation of any particular tax is not ascertainable the entire amount shall be included in account No. 317, "Express taxes."

321 Net loss on miscellaneous physical property.

This account shall include the net debit balance of the revenues or income from and the expenses (including depreciation but excluding taxes) of physical property the cost of which is carried in balance-sheet account No. 503, "Miscellaneous physical property."

NOTE: If the net balance is a credit, it shall be shown under account No. 305, "Net income from miscellaneous physical property."

322 Separately operated properties; loss.

This account shall include amounts payable under the terms of agreements or contracts whereby the deficit resulting from the operation by others of properties of other companies having a separate corporate existence is to be paid, in whole or in part, by the accounting company.

In determining the amount payable by the accounting company consideration shall be given not only to the operating revenues and operating expenses but also to other items of income or deduction which affect that amount.

NOTE A: The amount receivable by the operating company shall be credited by it to account No. 312, "Contributions from other companies."

NOTE B: Dividends or other returns upon securities issued by separately operated companies and held or controlled by the accounting company shall not be included in this account to offset a deficit payable, but in account No. 307, "Dividend income"; No. 308, "Income from funded securities"; No. 309, "Income from unfunded securities and accounts"; or No. 310, "Income from sinking and other reserve funds," as may be appropriate.

323 Interest on funded debt.

This account shall include the current accruals of interest on all classes of unmatured funded debt (as defined in balance-sheet account No. 530, "Funded debt unmatured,") issued or assumed by the accounting company, and also the interest on receiver's certificates issued for a term of more than 1 year.

NOTE: This account shall not include charges for interest on funded debt obligations issued or assumed by the accounting company and owned by it, whether pledged as collateral or held in the treasury, in special deposits, or in sinking or other reserve funds. (See account No. 226, "Income applied to sinking and other reserve funds.")

324 Interest on unfunded debt.

This account shall include interest accrued on unfunded debt, such as short-term notes payable on demand or having dates of maturity 1 year or less from date of issue, interest on matured funded securities and open accounts, discounts on short-term notes, and analogous items.

325 Amortization of discount on funded debt.

This account shall be charged during each fiscal period with the proportion of the discount and expense on funded debt obligations applicable to that period. This proportion shall be determined according to a rule the uniform application of which through the interval between the date of sale and the date of maturity will extinguish the discount

and expense on funded debt. The charge to this account for any period shall not be either greater or less than the proportion applicable to that period, so long as any portion of the discount and expense remains unextinguished. (See Instruction 5-4.)

NOTE A: The accounting company may, at its option, charge to account No. 413, "Debt discount extinguished through surplus," all or any portion of the discount and expense on funded debt remaining at any time unextinguished.

NOTE B: The amounts charged to this account shall be concurrently credited to the discount and premium accounts in which the respective discounts are carried.

326 Income transferred to other companies.

This account shall include the whole or any portion of the income of the accounting company payable to another company under the terms of agreements or contracts and without obligation for reimbursement.

In determining the amount payable by the accounting company, consideration shall be given not only to operating revenues and operating expenses, but also to other items of income or deduction which affect that amount.

NOTE A: The amount receivable by the other company shall be credited by it to account No. 306, "Separately operated properties—Profit."

NOTE B: Dividends or other payments upon securities issued or assumed by the accounting company shall not be included in this account.

327 Miscellaneous income debits.

This account shall include the amount of uncollected revenue charges against individuals and companies for foreign and nontransportation services when, during the period for which the income account is made, such amounts have been determined to be uncollectible, and shall include all items properly chargeable to Income Account for the current fiscal period and not provided for elsewhere.

328 Income applied to sinking and other reserve funds.

This account shall include amounts applied to sinking and other reserve funds from income, whether such amounts are definite appropriations from income, are allotments or payments of definite amounts from income under the terms of mortgages, deeds of trust, or other contracts that provide for such allotments or payments, or are accretions representing interest or other returns accrued on the contents of such funds and required to be retained therein.

NOTE A: The amounts charged to this account shall be concurrently credited to balance-sheet account No. 552, "Reserves from income and surplus."

NOTE B: Appropriations for direct payments made from surplus shall be charged to account No. 409, "Surplus applied to sinking and other reserve funds."

329 Dividend appropriation of income.

This account shall include amounts definitely declared payable, from the income of the current fiscal period, as dividends on actually outstanding stock issued or assumed by the accounting company. If a dividend is not payable in cash, the consideration shall be described in the entry with sufficient particularity to identify it.

This account shall be subdivided so as to show separately the dividends on the various classes of capital stock. (See definition of the several classes of capital stock in balance-sheet account No. 528, "Capital stock.")

NOTE A: This account shall not include charges for dividends on capital stock issued or assumed by the accounting company and owned by it, whether pledged as collateral, or held in its treasury, in special deposits, or in sinking or other reserve funds. (See account No. 328, "Income applied to sinking and other reserve funds.")

NOTE B: This account shall be used when the appropriations are definitely made chargeable to Income. Similar appropriations made from surplus shall be charged to account No. 410, "Dividend appropriations of surplus."

330 Income appropriations for investment in physical property.

This account shall include amounts definitely appropriated from income to be applied for the acquisition of real property and equipment, for additions to or betterment of property carried in the real property and equipment accounts, or for the acquisition of property the cost of which is includible in account No. 503, "Miscellaneous physical property."

Records of the accounting carrier shall be so kept that the appropriations charged to this account for any fiscal period may be distinguished as relating to real property or equipment used in operation, or to property shown under account No. 503, "Miscellaneous physical property" and as relating to (a) amounts expended during preceding fiscal periods, (b) amounts expended during the current fiscal period, and (c) amounts held in reserve.

NOTE A: Similar appropriations made from surplus shall be charged to profit and loss account No. 411, "Surplus set aside for investment in physical property."

NOTE B: The amounts charged to this account shall be concurrently credited to balance-sheet account No. 552, "Additions to property through income and surplus," or to account No. 553, "Reserves from income and surplus," as may be appropriate."

331 Stock discount extinguished through income.

This account shall include amounts definitely appropriated from income to reduce or extinguish the amount of discount on capital stock issued by the accounting company. (See balance-sheet account No. 523, "Discount on capital stock.")

NOTE: Similar appropriations made from surplus shall be charged to account No. 412, "Stock discount extinguished through surplus."

332 Miscellaneous appropriations of income.

Except as provided in account No. 328, "Income applied to sinking and other reserve funds," this account shall include amounts definitely appropriated from income for the discharge of the principal (less any discount suffered at time of sale) of any indebtedness incurred in the acquisition or improvement of property carried in the real property and equipment accounts, amounts similarly appropriated to provide a reserve for doubtful accounts, and amounts appropriated for other purposes not provided for elsewhere.

NOTE: Similar appropriations made from surplus shall be charged to account No. 414, "Miscellaneous appropriations of surplus."

PROFIT AND LOSS ACCOUNTS

4-1 Special instructions.

Profit and loss accounts are those designed to show the changes in the corporate surplus or deficit during each fiscal period, resulting from the operations and business transactions during that period, as well as changes effected by appropriations of surplus made at the option of the company, by accounting adjustments not properly attributable to the period, or by miscellaneous losses or gains not provided for elsewhere, and to show also the unappropriated surplus of the company at the date of the balance sheet.

When the title and definition of a profit and loss account clearly indicate that it is a summary of other accounts it is not required that a special ledger account shall be kept under such a title to include the balances from the accounts usually carried in the ledger, but in such case the titles of the subaccounts in the ledger shall give a reference by number or title, or both, to the account prescribed herein of which they are subdivisions.

CREDITS

401 Credit balance (at beginning of fiscal period).

This account shall include the net credit balance in the Profit and Loss Account at the beginning of the fiscal period.

402 Credit balance transferred from income.

This account shall show the net credit balance brought forward from the Income Account for the fiscal period.

403 Profit on real property and equipment sold.

This account shall include the proceeds from the sale of real property and equipment in excess of the amount at which such property was carried in the property account.

404 Delayed income credits.

This account shall include relatively large credits relating to operating revenues, operating expenses, and other income items of previous fiscal periods. All entries in this account shall be made in such detail as will indicate the operating revenue, operating expense, or other income accounts to which they relate.

This account shall be used only after permission of the Commission shall have been obtained.

NOTE: Except as provided above delayed items relating to operating revenues and operating expenses, and other income items, shall be included in the appropriate revenue, expense, or income accounts for the fiscal period in which the audit of the items occurs.

405 Unrefundable overcharges.

This account shall include the amount of the revenue overcharges found to be unrefundable during the current fiscal period.

406 Miscellaneous profit and loss credits.

This account shall include amounts, not provided for elsewhere, transferred from other accounts to Profit and Loss, and amounts representing increases of resources not properly assignable to the income accounts. Among the items which shall be included in this account are—

Adjustments or cancellations of balance-sheet accounts,

Profit derived from the sale of investment securities,

Profit derived from the sale of property carried in balance-sheet account No. 503, "Miscellaneous physical property."

Credits resulting from adjustments required to bring to par securities issued or assumed by the accounting company and reacquired at a cost less than the par value.

Premiums received on capital stock at time of issue, when such stock is reacquired.

Unreleased premiums on funded debt reacquired before maturity.

DEBITS

407 Debit balance (at beginning of fiscal period).

This account shall include the debit balance in the Profit and Loss Account at the beginning of the fiscal period.

408 Debit balance transferred from income.

This account shall include the net debit balance brought forward from the Income Account for the fiscal period.

409 Surplus applied to sinking and other reserve funds.

This account shall include amounts definitely appropriated from surplus and applied to sinking and other reserve funds; and allotments or payments of definite amounts from surplus into sinking and other reserve funds under the terms of mortgages, deeds of trust, or other contracts that provide for such allotments or payments.

NOTE A: The amounts charged to the account shall be concurrently credited to balance-sheet account No. 552, "Reserves from income and surplus."

NOTE B: Similar appropriations made from income shall be charged to account No. 328, "Income applied to sinking and other reserve funds."

410 Dividend appropriations of surplus.

This account shall include amounts declared payable from surplus as dividends on actually outstanding capital stock issued or assumed by the accounting company. If a dividend is not payable in cash, the equivalent shall be described in the entry with sufficient particularity to identify it.

This account shall be subdivided so as to show separately the dividends on the various subclasses of capital stock. (See definition of the several subclasses in balance-sheet account No. 528, "Capital stock.")

NOTE A: This account shall not include charges for dividends on capital stock issued or assumed by the accounting company and owned by it, whether pledged as collateral or held in its treasury, in special deposits, or in sinking or other reserve funds. (See account No. 409, "Surplus applied to sinking and other reserve funds.")

NOTE B: Similar appropriations made from income shall be charged to account No. 329, "Dividend appropriations of income."

411 Surplus set aside for investment in physical property.

This account shall include amounts definitely appropriated from surplus to be applied for the acquisition of real property and equipment, for additions to or betterments of property carried in the real property and equipment accounts, or for the acquisition of property the cost of which is includible in account No. 503, "Miscellaneous physical property."

Records of the accounting carrier shall be so kept that the appropriations charged to this account for any fiscal period may be distinguished as relating to real property or equipment used in operation, or to property shown in account No. 503, "Miscellaneous physical property," and as relating to (a) amounts expended during preceding fiscal periods, (b) amounts expended during the current fiscal period, and (c) amounts held in reserve.

NOTE A: Similar appropriations made from income shall be charged to income account No. 330, "Income appropriations for investment in physical property."

NOTE B: The amounts charged to this account shall be concurrently credited to balance-sheet account No. 552, "Additions to property through income and surplus," or to account No. 553, "Reserves from income and surplus."

412 Stock discount extinguished through surplus.

This account shall include amounts definitely appropriated from surplus to reduce or extinguish the amount of discount on capital stock or shares issued by the accounting company. (See balance-sheet account No. 523, "Discount on capital stock.")

NOTE: Similar appropriations made from income shall be charged to account No. 331, "Stock discount extinguished through income."

413 Debt discount extinguished through surplus.

This account shall include appropriations of surplus made, at the option of the accounting company, to reduce or extinguish the discount and expense on funded debt. (See account No. 325, "Amortization of discount on funded debt," and account No. 524, "Discount on funded debt.")

414 Miscellaneous appropriations of surplus.

Except as provided in account No. 409, "Surplus applied to sinking and other reserve funds," this account shall include amounts definitely appropriated from surplus for the discharge of the principal (less any discount suffered at time of sale) of any indebtedness incurred in the acquisition or improvement of property carried in the real property and equipment accounts, amounts similarly appropriated to provide a reserve for doubtful accounts, and amounts appropriated for other purposes not provided for elsewhere.

NOTE: Similar appropriations made from income shall be charged to account No. 332, "Miscellaneous appropriations of income."

415 Loss on land sold.

This account shall include charges to Profit and Loss on account of land, carried in the real property accounts, which has been abandoned, sold, or otherwise disposed of.

416 Delayed income debits.

This account shall include relatively large debits relating to operating revenues, operating expenses, and other income items of previous fiscal periods. All entries in this account shall be made in such detail as will indicate the operating revenue, operating expense, or other income accounts to which they relate.

This account shall be used only after permission of the Interstate Commerce Commission shall have been obtained.

NOTE: Except as provided above, delayed items relating to operating revenues and operating expenses, and other income items, shall be included in the appropriate revenue, expense, or income accounts for the fiscal period in which the audit of the items occurs.

417 Miscellaneous profit and loss debits.

This account shall include amounts not provided for elsewhere, chargeable to Profit and Loss from other accounts, amounts written off in consequence of adjustments, and payments not properly chargeable to the income accounts. Among the items which shall be charged to this account are:

Adjustments or cancellations of balance-sheet accounts.

Losses or deficits not properly chargeable to Income, such as uncollectible bills not covering revenue charges and for which no reserve has been provided.

Losses resulting from the sale of investment securities,

Losses resulting from the sale, destruction, or abandonment of property carried in balance-sheet account No. 503, "Miscellaneous physical property,"

Debits resulting from adjustments required to bring to par securities issued or assumed by the accounting company and reacquired at a cost exceeding the par value,

Discounts on stock remaining unextinguished at the time of its reacquirement,

Unextinguished discounts on funded debts reacquired before maturity.

SPECIAL INSTRUCTIONS, GENERAL BALANCE SHEET ACCOUNTS

5–1 Balance sheet accounts.

When the title and definition of a balance-sheet account clearly indicate that it is a summary of other accounts, it is not required that a special ledger account shall be kept under such a title to include the balances from the accounts usually carried in the ledger, but in such case the titles of the subaccounts in the ledger shall give a reference by number or title, or both, to the account prescribed herein of which they are subdivisions.

5–2 Designation of capital issues.

The term capital stock, when used in this classification, shall be construed as including shares of interest in joint stock associations and like organizations.

5–3 Discount and premium on capital stock.

Ledger accounts shall be provided to cover the discounts and premiums at the sale or resale of each class of capital stock issued or assumed by the company.

By the term discount is meant the excess of the par value of stocks actually issued or assumed over the actual money value of the consideration received for such stocks.

By the term premium is meant the excess of the actual money value of the consideration received for stock actually issued or assumed over the par value of such stock.

Entries in these accounts representing discounts shall be carried therein until offset, (a) by premiums realized on subsequent sales of the same class of stock, (b) by assessments levied on the stockholders, (c) by appropriations of income or surplus for that purpose, or (d) by charges to Profit and Loss upon reacquirement of the stock.

Entries in these accounts representing premiums realized shall be carried therein until offset by discounts suffered on sales of the same class of stock, or by credits to Profit and Loss upon reacquirement of the stock. In case the accounting company is permitted and elects to distribute to its shareholders all or any part of the net premium on its capital stock the amount thus distributed shall be charged to these accounts.

For the purpose of this classification the premium realized at the sale of capital stock shall not be considered a profit and loss item except upon the requirement of the stock sold.

The total of the net debit balances remaining in these several accounts shall be included in account No.523, "Discount on capital stock," and the total of the net credit balances in account No. 529, "Premium on capital stock."

5–4 Discount, expense, and premium on funded debt.

Ledger accounts shall be provided to cover the discounts, expense, and premiums at the sale or resale of each class of funded debt and of receiver's certificates issued or assumed by the company.

By the term discount is meant the excess of the par value of funded debt securities issued or assumed, and the accrued interest thereon, over the actual cash value of the consideration received for such securities.

By the term premium is meant the excess of the actual cash value of the consideration received for funded debt securities issued or assumed over the par value of such securities and the accrued interest thereon.

By the term expense is meant all expense in connection with the issue and sale of evidence of debt, such as fees for drafting mortgages and trust deeds; fees and taxes for issuing or recording mortgages and trust deeds; cost of engraving and printing bonds, certificates of indebtedness, and other commercial paper having a life of more than 1 year; fees paid trustees, when provided for in mortgages and trust deeds; fees and commissions paid underwriters and brokers for marketing such evidences of debt; and other like expenses.

The total of the net debit balances remaining in these several accounts shall be included in account No. 534, "Discount on funded debt," and the total of the net credit balances in account No. 548, "Premium on funded debt."

Each month there shall be charged to income account No. 326, "Amortization of discount on funded debt," a proportion (based upon the ratio of such fiscal period to the remaining life of the respective securities) of each debit balance in these accounts, and there shall also be credited to income account No. 311, "Release of premiums on funded debt," a similarly based proportion of each credit balance in these accounts. Through charges to Profit and Loss carriers may at any time extinguish all or any part of debit balances remaining in any of these accounts.

5–5 Reacquired securities.

Capital stock or funded debt liability accounts in the balance sheet are intended to include only the par value of capital stock or funded debt securities that have been actually issued to bona fide holders for value, or after such issue by another company have been assumed by the accounting company. If after such issue or assumption they have been reacquired by the carrier under circumstances which require they shall not be treated as paid or retired they shall be charged at par value to the appropriate asset account, but their amounts, though appearing on the balance-sheet statement, shall be omitted from the total of the assets and deducted from the liabilities.

In the case of securities held in sinking or other funds they shall be shown separately as a deduction from both the asset and liability accounts, in order that the asset accounts for securities owned shall include only securities of other companies and that the liability accounts for securities issued or assumed shall include only those actually outstanding.

In case, however, the premium or discount realized at the prior sale of the securities reacquired has been included in an asset account other than the premiums and discounts account, such asset account shall be concurrently adjusted through Profit and Loss to the extent of the premium or discount previously included therein with respect to the securities reacquired.

If any such securities are reacquired for more or less than their par value, the difference between the par value and the cost of reacquirement shall be debited or credited to Profit and Loss Account, together with any amounts carried in the discount and premium accounts with respect to such securities.

5–6 Book value of securities owned.

The accounting company is allowed the option of carrying its investment in securities, other than those issued or assumed by it, either at cost or at a reasonable valuation other than cost.

5–7 Contingent assets and liabilities.

Contingent assets and liabilities shall not be included in the body of the balance-sheet statement, but should be shown in detail in a supplementary statement accompanying the balance-sheet statement. Contingent assets are those without value to the accounting company until the fulfillment of conditions regarded as uncertain. Contingent liabilities include items which may, under certain conditions, become obligations of the company, but are neither direct nor assumed obligations on the date of the balance sheet.

5–8 Balance sheet accounts defined.

The term balance-sheet accounts is used to designate those titles under which the ledger accounts are combined and summarized to show the assets, liabilities, and corporate surplus or deficit of the business.

GENERAL BALANCE SHEET ACCOUNTS

500 Form of general balance sheet statement.

ASSET SIDE

Investment:
- 501. Real property and equipment.
- 502. Sinking funds—
  - Total book assets at date (in short column).
  - Carrier's own issues at date (in short column).
  - Other assets at date (in long column).
- 503. Miscellaneous physical property.
- 504. Investments in affiliated companies—
  - (a) Stocks.
  - (b) Bonds.
  - (c) Notes.
  - (d) Advances.
- 505. Other investments—
  - (a) Stocks.
  - (b) Bonds.
  - (c) Notes.
  - (d) Advances.

Total net investment.

Current assets:
- 506. Cash.
- 507. Special deposits.
- 508. Loans and notes receivable.
- 509. Traffic balances receivable.
- 510. Net balances receivable from agents and messengers.
- 511. Miscellaneous accounts receivable.
- 512. Material and supplies.
- 513. Interest, dividends, and rents receivable.
- 514. Working fund advances.
- 515. Other current assets.

Total current assets.

Deferred assets:
- 516. Insurance and other reserve funds—
  - Total book assets at date (in short column).
  - Carrier's own issues at date (in short column).
  - Other assets at date (in long column).
- 517. Provident funds—
  - Total book assets at date (in short column).
  - Carrier's own issues at date (in short column).
  - Other assets at date (in long column).
- 518. Fidelity and indemnity funds—
  - Total book assets at date (in short column).
  - Carrier's own issues at date (in short column).
  - Other assets at date (in long column).
- 519. Advance payments on contracts.
- 520. Other deferred assets.

Total deferred assets.

Unadjusted debits:
- 521. Rents and insurance premiums paid in advance.
- 522. Taxes paid in advance.
- 523. Discount on capital stock.
- 524. Discount on funded debt.
- 525. Other unadjusted debits.
- 526. Securities issued or assumed—Unpledged (in short column only).
- 527. Securities issued or assumed—Pledged (in short column only).

Total unadjusted debits.

LIABILITY SIDE

Stock:
- 528. Capital stock—
  - Book liability at date (in short column).
  - Held by or for carrier at date (in short column).
  - Actually outstanding at date (in long column).
- 529. Premium on capital stock.

Total stock liabilities.

Long-term debt:
- 530. Funded debt unmatured—
  - Book liability at date (in short column).
  - Held by or for carrier at date (in short column).
  - Actually outstanding at date (in long column).

Current liabilities:
- 531. Loans and notes payable.
- 532. Traffic balances payable.
- 533. Audited accounts and wages unpaid.
- 534. Miscellaneous accounts payable.
- 535. Matured interest, dividends, and rents unpaid.
- 536. Matured funded debt unpaid.
- 537. Miscellaneous advances payable.
- 538. Unpaid money orders, checks, and drafts.
- 539. Express privilege liabilities.
- 540. Estimated tax liability.
- 541. Unmatured interest, dividends, and rents payable.
- 542. Other current liabilities.

Total current liabilities.

Deferred liabilities:
- 543. Liability on account of provident funds.
- 544. Liability on account of fidelity and indemnity funds.
- 545. Other deferred liabilities.

Total deferred liabilities.

Unadjusted credits:
- 546. Premium on funded debt.
- 547. Operating and insurance reserves.
- 548. Accrued depreciation—Buildings.
- 549. Accrued depreciation—Equipment.
- 550. Accrued depreciation—Miscellaneous physical property.
- 551. Other unadjusted credits.

Total unadjusted credits.

Corporate surplus:
- 552. Additions to property through income and surplus.
- 553. Reserves from income and surplus.

Total appropriated surplus.
- 554. Profit and loss balance.

Total corporate surplus.

DEBITS

501 Real property and equipment.

This account shall include the balances carried showing the cost or ledger value of the investment in real property and equipment devoted to the operations of the accounting company.

502 Sinking funds.

This account shall include the amount of cash, the ledger value of securities of other companies, other assets in the hands of trustees of sinking and other funds for the purpose of redeeming outstanding obligations; also amounts deposited with such trustees on account of mortgaged property sold, when the proceeds of sale are to be held for the redemption of securities, and the par value of securities issued or assumed by the accounting company held in such funds. A separate account shall be provided for each fund.

The amounts included in this account shall be divided so as to show (a) the par value of the securities issued or assumed by the accounting company and (b) the amount in cash and the ledger value of securities of other companies.

NOTE: In stating the balance sheet in the annual reports to the Commission the total amount of the funds and the par value of securities issued or assumed by the accounting company and held in the funds shall be shown in the short columns, and the net amount of the funds (total amount less securities issued or assumed) shall be shown in the long column.

503 Miscellaneous physical property.

This account shall include the accounting company's investments in physical property other than investments properly classifiable in account No. 501.

ITEMS OF INVESTMENT

Buildings held for rent.
Coal and other mines.
Lands and buildings not used in transportation operations.
Lands and other property acquired and held in anticipation of future use.
Manufacturing plants.
Mineral and timber lands.

504 Investments in affiliated companies.

This account shall include the ledger value of the accounting company's investment advances to affiliated companies, also of its investment in securities issued or assumed by such companies, such securities not being held in special funds.

This account shall be subdivided as follows:
- (a) Stocks.
- (b) Bonds.
- (c) Notes, including herein not only notes that run longer than 1 year but also notes payable on demand or within 1 year from the date of issue when it is mutually understood and intended that the notes shall not be enforced as current assets, also all notes held as investments.
- (d) Advances.

The accounting company's records shall be kept in such manner that the ledger value of securities pledged as collateral security for any of the accounting company's funded debt or short-term loans or deposited for purposes enumerated in account No. 507, "Special deposits," and the ledger value of securities unpledged may be shown separately in the annual report to the Commission.

NOTE A: Accounts with affiliated companies which are subject to current settlements, such as charges for materials and supplies currently furnished, charges for repairs to equipment, etc., shall be classed as current assets or current liabilities, as may be appropriate.

NOTE B: The term affiliated companies includes:

(1) Controlled companies, including companies solely controlled by the accounting company, and also companies jointly controlled by the accounting company and others under a joint arrangement.

(2) Controlling companies, including both companies solely controlling the accounting company and companies which jointly control the accounting company under a joint arrangement.

(3) Companies controlled by controlled companies.

(4) Companies controlled by controlling companies.

By control is meant the ability to determine the action of a corporation.

Sole control is that which rests in one corporation.

Joint control is that which rests in two or more corporations and which is held under a joint arrangement.

NOTE C: The value of securities borrowed by the accounting company and pledged shall not be included in this account.

NOTE D: The value of securities held in special funds shall be included in account No. 502, "Sinking funds," No. 516, "Insurance and other reserve funds," No. 517, "Provident funds," or No. 518, "Fidelity and indemnity funds," as may be appropriate.

505 Other investments.

This account shall include the ledger value of the accounting company's investment advances to nonaffiliated companies; also its investment in securities issued or assumed by such companies, such securities not being held in special funds.

This account shall be subdivided as follows:
- (a) Stocks.
- (b) Bonds.
- (c) Notes, including herein not only notes that run longer than 1 year, but also notes payable on demand or within 1 year from date of issue when it is mutually understood and intended that the notes shall not be enforced as current assets; also all notes held as investments.
- (d) Advances. The accounting company's records shall be kept in such manner that the ledger value of securities pledged as collateral security for any of the accounting company's funded debt or short-term loans or deposited for purposes enumerated in account No. 507, "Special deposits," and the ledger value of securities unpledged may be shown

separately in the annual report to the Commission.

NOTE A: Accounts with nonaffiliated companies which are subject to current settlements, such as charges for materials and supplies currently furnished, charges for repairs to equipment, etc., shall be classed as current assets or current liabilities, as may be appropriate.

NOTE B: The term nonaffiliated companies includes all companies other than those defined as affiliated in Note B of account No. 504.

NOTE C: The value of securities borrowed by the accounting company and pledged shall not be included in this account.

NOTE D: The value of securities held in special funds shall be included in account No. 502, "Sinking funds," No. 516, "Insurance and other reserve funds," No. 517, "Provident funds," or No. 518, "Fidelity and indemnity funds," as may be appropriate.

506 Cash.

This account shall include current funds in the hands of financial officers and financial agents, cash in transit for which agents and messengers receive current credit, and deposits in banks or with trust companies available for use on demand.

507 Special deposits.

This account shall include amounts realized from the sale of securities and held by trustees for disbursement when the purposes for which the securities are sold are accomplished; amounts realized from the sale of property and held by trustees until the property is replaced; special deposits (other than in sinking funds) for the payment of debts, dividends, and interest; money deposited to insure the performance of contracts to be performed within one year from the date of the balance sheet; and other deposits of a special nature not provided for elsewhere.

NOTE: Securities pledged for any of the purposes enumerated in this account shall be included in account No. 504, "Investments in affiliated companies," or in account No. 527, "Securities issued or assumed—Pledged."

508 Loans and notes receivable.

This account shall include the ledger value of collectible obligations in the form of loans and notes receivable or other similar evidences (except interest coupons) of money receivable on demand or within a time not exceeding 1 year from date of issue.

NOTE: Time loans which mature more than 1 year after the date of issue and demand or short-term notes held as investments shall be included in account No. 504, "Investments in affiliated companies," and in account No. 505, "Other investments."

509 Traffic balances receivable.

This account shall include the net amounts due from other express companies against each of which there is a net debit balance in the total of the accounts representing interchange of through business; also balances resulting from tonnage agreement and interchange of traffic of all kinds.

NOTE: The amount to be entered in this account is not the balance between this account and account No. 542, "Traffic balances payable."

510 Net balances receivable from agents and messengers.

This account shall include the net balances due in current accounts from agents and messengers, including cash advanced to or retained by agents as banks or funds for current use.

NOTE: Amounts advanced to agents as working funds shall be included in account No. 514, "Working fund advances."

511 Miscellaneous accounts receivable.

This account shall include amounts due in audited accounts considered good, such as those due from the United States or other Governments for transportation of Government property, miscellaneous bills against other express companies, and bills against corporations, firms, and individuals.

NOTE A: No amount representing interest or dividends receivable shall be included in this account unless its payment is reasonably assured by past experience, anticipated provision, or otherwise.

NOTE B: The amount to be reported under this account is not the net balance between this account and account No. 534, "Miscellaneous accounts payable."

512 Material and supplies.

This account shall include the balances representing the cost, less depreciation if any, of all unapplied material, such as shop material; articles in process of manufacture by the company; and stationery, provender, and other supplies.

513 Interest, dividends, and rents receivable.

This account shall include the amount of rents under leases, and of interest on bonds owned and on loans made, accrued to the date of the balance sheet; also the amount of dividends declared on stocks owned, and of dividends accrued on such stocks when contracts require that the dividends be paid at stated times.

NOTE: No dividends or other returns on securities issued or assumed by the accounting company shall be included in this account.

514 Working fund advances.

This account shall include all amounts advanced to agents and others (not provided for in accounts Nos. 507 and 510) as working funds from which certain expenditures are to be made and accounted for.

515 Other current assets.

This account shall include items of current assets not covered by accounts Nos. 506 to 514, inclusive. It is intended to include asset items that have not reached the stage of audited accounts properly classifiable in account No. 511 and yet have advanced beyond the stage of accounts properly classifiable in account No. 525.

516 Insurance and other reserve funds.

This account shall include the amount of cash, the ledger value of securities of other companies, other assets in the hands of trustees or managers of insurance funds, depreciation funds, and other funds that have been raised and specifically set aside or invested by the company for specific purposes, not provided for elsewhere, and the par value of securities issued or assumed by the accounting company, held in such funds. A separate account shall be provided for each fund.

The amounts included in this account shall be divided so as to show (a) the par value of securities issued or assumed by the accounting company, and (b) the amount in cash, the ledger value of securities of other companies, and other assets.

NOTE: In stating the balance sheet in the annual reports to the Commission the total amount of the funds and the par value of securities issued or assumed by the accounting company and held in the funds shall be shown in the short columns, and the net amount of the funds (total amount less securities issued or assumed) shall be shown in the long column.

517 Provident funds.

This account shall include the amount of cash, the ledger value of securities of other companies, other assets, whether contributed by the accounting company, by employees, or by others, in the hands of the accounting carrier's treasurer, its trustees, or of managers acting for it in the administration of employees' pension, savings, relief, hospital, and other association funds, except fidelity or indemnity funds, and the par value of securities issued or assumed by the accounting company, held in such funds. (See account No. 543, "Liability on account of provident funds.")

The amounts included in this account shall be divided so as to show (a) the par value of the securities issued or assumed by the accounting company, and (b) the amount in cash and the record value of securities of other companies.

NOTE: In stating the balance sheet in the annual reports to the Commission the total amount of the funds and the par value of securities issued or assumed by the accounting company and held in the funds shall be shown in the short columns, and the net amount of the funds (total amount less securities issued or assumed) shall be shown in the long column.

518 Fidelity and indemnity funds.

This account shall include the amount of cash, the ledger value of securities of other companies, other assets, whether contributed by the company, or by employees, in the hands of the accounting carrier's treasurer, its trustees, or of managers acting for it in the administration of fidelity or indemnity funds, and the par value of securities issued or assumed by the accounting company, held in such funds. (See account No. 544, "Liability on account of fidelity and indemnity funds.")

The amounts included in this account shall be divided so as to show (a) the par value of the securities issued or assumed by the accounting company, and (b) the amount in cash and the ledger value of securities of other companies.

NOTE: In stating the balance sheet in the annual reports to the Commission the total amount of the funds and the par value of securities issued or assumed by the accounting company and held in the funds shall be shown in the short columns, and the net amount of the funds (total amount less securities issued or assumed) shall be shown in the long column.

519 Advance payments on contracts.

This account shall include advance payments made to railway, steamship, and other transportation lines, as part of the consideration in securing contracts for express privileges. Such payments shall be amortized during the life of the respective contracts by making equal monthly charges to operating revenue account No. 104, "Express privileges—Dr."

520 Other deferred assets.

This account shall include items of deferred assets not covered by accounts Nos. 516, 517, 518, and 519.

521 Rents and insurance premiums paid in advance.

This account shall include the balances in the accounts representing prepaid rents chargeable to the appropriate rent accounts as they accrue. It shall also include insurance premiums paid in advance of their accrual, which premiums are to be apportioned and charged, as they accrue, to appropriate expense accounts.

522 Taxes paid in advance.

This account shall include the excess of taxes paid over the accrued amount properly chargeable against income or other accounts to the date of the balance sheet.

523 Discount on capital stock.

This account shall include the total of the net debit balances in the discount and premium accounts for the several subclasses of capital stock. (See instruction 5–3.)

524 Discount on funded debt.

This account shall include the total of the net debit balances in the discount, expense, and premium accounts for the several subclasses of funded debt. (See instruction 5–4.)

525 Other unadjusted debits.

This account shall include suspense account debit balances that cannot be entirely cleared and disposed of until additional information is received, such as claims paid when found to be correct, but in advance of investigation with other carriers; debit balances in clearing accounts for shop expense and store expense; and amounts to be spread over a stated term and not provided for in accounts Nos. 519, 523, and 524, or elsewhere.

526 Securities issued or assumed; unpledged.

This account shall include the par value of that portion of securities owned and held in the treasury by the accounting company which consist of securities issued by the accounting company and securities issued by other companies the obligation for payment of which has been assumed by the accounting company. This account shall be subdivided into (a) Stocks and (b) Bonds and other evidences of funded debt, each of which divisions shall be further so divided that in the company's annual report to the Commission may be shown (1) amount nominally but not actually issued and (2) amount nominally outstanding.

NOTE A: The term securities as used in this account includes all authorized certificates of stock and evidences of indebtedness which have been signed, sealed, and, when required, certified by the trustees under the mortgage or contract, and are not short-term securities. By short-term securities are meant those which are payable on demand or which mature not more than 1 year from date of issue. (See also Notes B to accounts No. 528 and No. 530.)

NOTE B: This account shall not include securities that are merely guaranteed.

NOTE C: This account shall not include any securities held in sinking and other reserve funds.

NOTE D: In the general balance-sheet statement the balance in this account shall be stated in the short column only.

NOTE E: When any securities have been actually issued to bona fide holders for value or, after issue by another company, have been assumed by the accounting company, and after such issue or assumption are required under circumstances which require that they shall not be treated as canceled or retired, they shall be included in this account at par value; the difference between the par value and the amount paid in reacquiring such securities shall be debited (or credited, as the case may be) to Profit and Loss. If such securities are subsequently pledged, they shall be included in account No. 527, "Securities issued or assumed—Pledged."

527 Securities issued or assumed; pledged.

This account shall include the par value of that portion of securities owned by the accounting company and pledged by it as collateral security for any of its funded debt or short-term loans, or deposited for purposes enumerated in account No. 507, "Special deposits," which consists of securities issued by the accounting company and securities issued by other companies the obligation for payment of which has been assumed by the accounting company. This account shall be subdivided into (a) Stocks and (b) Bonds and other evidences of funded debt, each of which divisions shall be further so divided that in the company's annual report to the Commission may be shown (1) amount nominally but not actually issued and (2) amount nominally outstanding.

NOTE A: The term securities as used in this account includes all authorized certificates of stock and evidences of indebtedness which have been signed, sealed, and, when required, certified by the trustees under the mortgage or contract, and are not short-term securities. By short-term securities are meant those which are payable on demand or which mature not more than 1 year from date of issue. (See also Notes B to accounts No. 528 and No. 530.)

NOTE B: This account shall not include securities that are merely guaranteed.

NOTE C: This account shall not include securities which have been borrowed by the accounting company and pledged, nor any securities held in sinking and other reserve funds.

NOTE D: In the general balance-sheet statement the balance in this account shall be stated in the short column only.

NOTE E: The par value of securities issued or assumed and held in special funds shall be shown in account No. 502, "Sinking funds"; No. 516, "Insurance and other reserve funds"; account No. 517, "Provident funds," or account No. 518, "Fidelity and indemnity funds," as may be appropriate.

NOTE F: When any securities have been actually issued to bona fide holders for value, or after issue by another company have been assumed by the accounting company, and after such issue or assumption are reacquired under circumstances which require that they shall not be treated as canceled or retired, they shall be included in this account at par value; the difference between the par value and the amount paid in reacquiring such securities shall be debited (or credited, as the case may be) to Profit and Loss. If such securities are subsequently pledged, they shall be included in this account.

CREDITS

528 Capital stock.

This account shall include the total par value of certificates or receipts issued to represent permanent interests in the express company, or interests which, if terminable, are so only at the option of the company.

The amounts included in this account shall be divided so as to show the par value of certificates issued and actually outstanding, being those not held by the company, by its agents or trustees, or subject to its control; and the par value of certificates, pledged and unpledged, held in the company's treasury, held by its agents or trustees, or otherwise subject to its control, including both those reacquired after actual issue and those nominally but never actually issued.

The amounts included herein shall be further divided so as to show the amount of each class of stock issued, as follows:

(a) *Common stock.* Stocks which have no preference in the distribution of dividends.

(b) *Preferred stock.* Stocks having preference in the distribution of dividends.

(c) *Receipts outstanding for installments paid.* Receipts for payments on account of subscriptions to capital stock. When certificates are issued for amounts so paid, the par value shall be included in the account covering the class of stock for which the certificates are issued.

NOTE A: When a general levy or assessment is made against the holders of capital stock, requiring the payment of any sum for the use of the company in addition to the consideration agreed upon at the time of sale, the amount collected upon such levy or assessment shall be credited to the discount and premium account for the subclass of stock on which the assessment is made.

NOTE B: For the purposes of the balance-sheet statement, capital stock is considered to be nominally issued when certificates are signed and sealed and placed with the proper officer for sale and delivery, or pledged, or otherwise placed in some special fund of the accounting company. It is considered to be actually issued when it has been sold to a bona fide purchaser for a valuable consideration, and such purchaser holds it free from all control by the accounting company.

All capital stock actually issued and not reacquired and held by or for the accounting company is considered to be actually outstanding. If reacquired by or for the accounting company under such circumstances as require it to be considered as held alive and not canceled or retired, it is considered to be nominally issued and nominally outstanding.

NOTE C: In general balance-sheet statement the total capital stock shall be shown in the first short column. The amount nominally but not actually issued and the amount nominally outstanding shall be shown in the second short column, and in the long column shall be shown the amount actually outstanding.

529 Premiums on capital stock.

This account shall include the total of the credit balances in the discount and premium accounts for the several subclasses of capital stock. (See instruction 5–3.)

530 Funded debt unmatured.

This account shall include the total par value of unmatured debt maturing more than 1 year from date of issue, issued by the accounting company and not retired or canceled, and the total par value of similar unmatured debt of other companies, the payment of which has been assumed by the accounting company.

The amounts included in this account shall be divided so as to show the par value of certificates or other evidences of funded debt, pledged and unpledged, held in the company's treasury, by its agents or trustees, or otherwise subject to its control, including both those reacquired after actual issue and those nominally but never actually issued; and certificates or other evidences of funded debt issued and actually outstanding, being those not held by the company, its agents or trustees, or subject to its control.

The amounts included herein shall be further divided so as to show the amount of each class of funded debt as follows:

(a) *Collateral trust bonds.* Bonds and notes having dates of maturity of more than 1 year after date of issue, secured by liens on securities or other commercial paper; and also stock trust certificates that are similar in character to collateral trust bonds.

(b) *Miscellaneous obligations.* All funded obligations not provided for by the other subdivisions of this account, also notes, unsecured certificates of indebtedness, debenture bonds, plain bonds, real estate mortgages executed or assumed, and other similar obligations maturing more than 1 year after date of issue.

(c) *Receipts outstanding for funded debt.* Receipts for payments on account of funded debt. When certificates are issued for amounts so paid, the par value shall be included in the account covering the class of funded debt for which the certificates are issued.

Each of the above classes shall also be divided into subclasses according to differences in mortgage or other lien or security therefor, rate of interest, interest date, or date of maturity. Parts of any issue agreeing in other characteristics but maturing serially may be treated as of the same subclass.

NOTE A: Securities maturing 1 year or less from date of issue shall be included in account No. 531, "Loans and notes payable." Matured funded debt shall be included in account No. 536, "Matured funded debt unpaid."

NOTE B: For the purposes of the balance-sheet statement, funded debt securities are considered to be nominally issued when certified by trustees and placed with the proper officer for sale and delivery, or pledged, or otherwise placed in some special fund for the accounting company. They are considered to be actually issued when they have been sold to a bona fide purchaser for a valuable consideration, and such purchaser hold them free from all control by the accounting company. All funded debt securities actually issued and not reacquired and held by or for the accounting company are considered to be actually outstanding. If reacquired by or for the accounting company under such circumstances as require them to be considered as held alive and not canceled or retired, they are considered to be nominally issued and nominally outstanding.

NOTE C: In the general balance-sheet statement the total unmatured funded debt shall be shown in the first short column. The amount normally but not actually issued and the amount nominally outstanding shall be shown in the second short column, and in the long column shall be shown the amount actually outstanding.

531 Loans and notes payable.

This account shall include the balances representing obligations outstanding in the form of loans and notes payable or other similar evidences of indebtedness (except interest coupons) payable on demand or within a time not exceeding 1 year from date of issue.

532 Traffic balances payable.

This account shall include the net amounts payable to other express companies in favor of each of which there is a net credit balance in the total of the accounts representing interchange of through business and balances payable resulting from tonnage agreements and interchange of traffic of all kinds.

NOTE: The amount to be entered in this account is not the balance between this account and account No. 509, "Traffic balances receivable."

533 Audited accounts and wages unpaid.

This account shall include the amount of audited vouchers or accounts unpaid, and of audited pay rolls unpaid on the date of the balance sheet. It shall include balances representing unclaimed wages, outstanding pay checks, and all other unpaid vouchered items, except traffic balances payable.

534 Miscellaneous accounts payable.

This account shall include outstanding drafts drawn by agents, outstanding drafts drawn on the company in settlement of claims, deposits of controlled companies, and other items of demand liabilities not covered by accounts Nos. 531, 532, 533, 535, and 536.

NOTE: The amount to be reported under this account is not the net balance between this account and account No. 511, "Miscellaneous accounts receivable."

535 Matured interest, dividends, and rents unpaid.

This account shall include the amounts of matured and unpaid interest on debt of the accounting company, and on debt of other companies when payment has been assumed by the accounting company; the amount of dividends payable on capital stock, but unpaid, uncalled-for, or unclaimed at the date of the balance sheet; unpaid dividends on the stock and unpaid interest on the funded debt of other companies when such are payable by the accounting company as part or all of the rent due under terms of leases or otherwise; and all other rents due and payable under leases.

This account shall include items as above indicated which mature on the first day following that for which the balance sheet is made.

536 Matured funded debt unpaid.

This account shall include the amount of funded debt matured and unpaid without any specific agreement for extension as to time of payment, including unpresented bonds drawn for redemption through the operation of sinking and redemption fund agreements.

537 Miscellaneous advances payable.

This account shall include advances from others not properly classifiable under account No. 531, "Loans and notes payable."

538 Unpaid money orders, checks, and drafts.

This account shall include the amounts of outstanding money orders, travelers cheques, C.O.D. checks, letters of credit, and all similar forms of sight or demand checks and drafts drawn by agents on the company.

539 Express privilege liabilities.

This account shall include all amounts due to companies, firms, or individuals, for the privilege of conducting an express business over transportation lines.

540 Estimated tax liability.

This account shall include the amount of taxes accrued and charged against income accounts No. 317, "Express taxes," and No. 320, "Miscellaneous taxes," in excess of the amounts paid.

541 Unmatured interest, dividends, and rents payable.

This account shall include the amount of interest on loans, interest or funded debt issued or assumed, and rents under leases, accrued to the date for which the balance sheet is made but not payable until after the first day following that date; also dividends declared on capital stock not payable until after the first day following the date for which the balance sheet is made.

As rents accrued there shall also be included the amount of accrued dividends on the stock and the amount of accrued interest on the funded debt of other companies when such dividends and interest are payable by the accounting company as a part or as all of the rent under leases from those companies.

542 Other current liabilities.

This account shall include items of current liabilities not covered by accounts No. 531 to No. 541, inclusive. It shall include liability items that have not reached the stage of audited liabilities and become actually payable, yet are obligations of the company and advanced beyond the stage of accounts properly classifiable under account No. 545, "Other deferred liabilities."

543 Liability on account of provident funds.

This account shall include the ledger balances representing the liability of the accounting carrier for the amount of the assets, whether contributed by the company, by the employees, or by others, in the hands of its treasurer or of trustees or managers acting for the company in the administration of employees' pension, savings, relief, hospital, and other association funds.

NOTE A: This account shall not include items representing funds in which the accounting company has no beneficial interest and which it holds purely as trustee.

NOTE B: In stating the balance sheet in the annual reports to the Commission, the liability for provident funds which are carried in the current cash of the company shall be included under current liabilities, in account No. 534, "Miscellaneous accounts payable."

544 Liability on account of fidelity and indemnity funds.

This account shall include the ledger balances representing the liability of the accounting carrier for the amount of the assets, whether contributed by the company, by the employees, or by others, in the hands of its treasurer or of trustees or managers acting for the company in the administration of fidelity or indemnity funds.

545 Other deferred liabilities.

This account shall include items of deferred liabilities not covered by accounts No. 543 and No. 544, such as retained percentages due contractors to be paid on completion of contracts, retained percentages on contracts for construction of buildings and similar items.

546 Premium on funded debt.

This account shall include the total of the net credit balances in the discount, expense, and premium accounts for the several subclasses of funded debt. (See instruction 5–4.)

547 Operating and insurance reserves.

This account shall include the ledger balances representing reserves created by charges to Operating Revenues or to Operating Expenses for overcharge, personal injury, and other claims and for insurance and similar purposes, such charges being made currently for the purpose of equalizing charges to operating accounts for the current accounting year.

NOTE: The credit balances in reserve accounts representing appropriations of income or surplus for sinking funds, etc., shall not be included in this account. (See account No. 553.) Accrued depreciation credit balances shall be included in account No. 548 or 550, as may be appropriate.

548 Accrued depreciation; buildings and equipment.

(a) To this account shall be credited amounts charged to account 31, "Depreciation," to cover the loss in service value (note instruction 01–1(o)) of depreciable carrier property. It shall be credited also with any amounts which the carrier may be authorized to charge to account 417, "Miscellaneous profit and loss debits," in respect to past accrued depreciation not provided for. (See instruction 01–2(f).)

(b) At the time of retirement (note instruction 01–1(r)) of depreciable carrier property this account shall be charged with the service value (note instruction 01–1(o)) of the property retired, and to it shall be credited the insurance recovered, if any.

(c) For corporate ledger and balance-sheet purposes, this account shall be regarded and treated as a single composite reserve. However, for purposes of analysis, the carrier shall maintain subsidiary records in which the depreciation reserve is broken down into component parts corresponding to the primary building and equipment accounts which include depreciable carrier property (see also instruction 01–2(d)). These subsidiary records shall show the current credits and debits in the reserve in complete detail by such primary real-property-and-equipment accounts.

550 Accrued depreciation; miscellaneous physical property.

To this account shall be credited amounts charged to the expenses of operating property the cost of which is included in account No. 503, "Miscellaneous physical property," to cover the depreciation thereon.

To this account shall be charged at the time of retirement amounts equal to amounts previously credited thereto with respect to any property destroyed, sold, or otherwise permanently retired from service.

551 Other unadjusted credits.

This account shall include the amount of suspense account credit balances that cannot be entirely cleared and disposed of until additional information is received, credit balances in clearing accounts for shop expenses and store expenses, and similar items.

552 Additions to property through income and surplus.

This account shall include such amounts of income and surplus as have been definitely appropriated or set aside and expended since June 30, 1908, in the acquisition of property the cost of which is included in property investment accounts other than those for securities.

Investments in real property, equipment, and miscellaneous physical property shall be shown separately in the accounting company's records.

NOTE: Temporary appropriations for the acquisition of property the cost of which is intended later to be met through an issue of securities shall not be included in this account.

553 Reserves from income and surplus.

This account shall include the net balances in accounts to which are credited definite appropriations of income or surplus held in reserve. This account shall be subdivided under the following heads:

(a) *Sinking fund reserves.* Appropriations of income or surplus specifically set aside in the hands of trustees for sinking and redemption funds, including income accretions to such funds retained therein.

(b) *Miscellaneous fund reserves.* Appropriations of income or surplus, not provided for elsewhere, specifically set aside in the hands of trustees, including income accretions to such funds retained therein.

(c) *Appropriations not specifically invested.* Appropriations of income or surplus for definite purposes not provided for elsewhere, and for which no specific investment or segregation of assets has been made.

554 Profit and loss balance.

This account shall include the balance at the close of the fiscal period as shown in the accounts provided in the classification of profit and loss accounts.

NOTE: The requirement that all similar transactions were to be recorded under accounts having identical captions gave rise to numerous queries, as to the proper application of the mandatory regulations in this part. Decisions upon these accounting questions are published in bulletin form under order of the Commission, and have the force of the original classifications affected. See Accounting Bulletin No. 13 for express companies.

PART 1204—PIPE LINE COMPANIES

LIST OF INSTRUCTIONS AND ACCOUNTS

(1) Definitions.

GENERAL INSTRUCTIONS

1–1 Classification of accounts.
1–2 Records.
1–3 Accounting period.
1–4 Accounting method.
1–5 Delayed items.
1–6 Extraordinary and prior period items.
1–7 Items in texts of accounts.
1–8 Depreciation accounting—Carrier property.
1–9 Depreciation accounting—Noncarrier property.
1–10 Amortization of intangibles.
1–11 Interpretation of rules.

INSTRUCTIONS FOR BALANCE SHEET ACCOUNTS

2–1 Current assets.
2–2 Investments and special funds.
2–3 Tangible property.
2–4 Other assets and deferred charges.
2–5 Current liabilities.
2–6 Noncurrent liabilities.
2–7 Contingent assets and liabilities.

INSTRUCTIONS FOR CARRIER PROPERTY ACCOUNTS

3–1 Property acquired.
3–2 Minimum rule.
3–3 Cost of property constructed.
3–4 Additions.
3–5 Improvements.

3-6 Replacements.
3-7 Retirements.
3-8 Salvage.
3-9 Relocation of line.
3-10 Property contributed.
3-11 Acquisition by merger, consolidation or purchase.
3-12 Reorganizations.
3-13 Disposition of former Account 198, acquisition adjustment.
3-14 Accounting units of property.

INSTRUCTIONS FOR OPERATING REVENUES AND OPERATING EXPENSES

4-1 Detail of accounts.
4-2 Operating revenues.
4-3 Operating expenses.
4-4 Expense classification.
4-5 Expense distribution.

BALANCE SHEET ACCOUNTS

10 Cash.
11 Temporary investments.
12 Notes receivable.
13 Receivables from affiliated companies.
14 Accounts receivable.
15 Interest and dividends receivable.
16 Oil inventory.
17 Material and supplies.
18 Prepayments.
19 Other current assets.
20 Investments in affiliated companies.
21 Other investments.
22 Sinking and other funds.
23 Reductions in security values—Credit.
30 Carrier property.
31 Accrued depreciation—Carrier property.
32 Accrued amortization—Carrier property.
33 Operating oil supply.
34 Noncarrier property.
35 Accrued depreciation—Noncarrier property.
40 Organization costs and other intangibles.
41 Accrued amortization of intangibles.
43 Unamortized discount and interest on long-term debt.
43 Miscellaneous other assets.
44 Other deferred charges.
50 Notes payable.
51 Payables to affiliated companies.
52 Accounts payable.
53 Salaries and wages payable.
54 Interest payable.
55 Dividends payable.
56 Taxes payable.
57 Long-term debt payable within one year.
58 Other current liabilities.
60 Long-term debt payable after one year.
61 Unamortized premium on long-term debt.
68 Other noncurrent liabilities.
70 Capital stock.
71 Premiums on capital stock.
72 Capital stock subscriptions.
73 Additional paid-in capital.
74 Appropriated retained income.
75 Unappropriated retained income.

CARRIER PROPERTY ACCOUNTS

101, 151, 171 Land.
102, 152 Right of way.
103, 153 Line pipe.
104, 154 Line pipe fittings.
105, 155 Pipeline construction.
106, 156, 176 Buildings.
107, 157 Boilers.
108, 158 Pumping equipment.
109, 159, 179 Machine tools and machinery.
110, 160 Other station equipment.
111, 161 Oil tanks.
112, 162 Delivery facilities.
113, 163, 183 Communication systems.
114, 164, 184 Office furniture and equipment.
115, 165, 185 Vehicles and other work equipment.
116, 166, 186 Other property.
117 Construction work in progress.

OPERATING REVENUES

200 Gathering revenues.
210 Trunk revenues.
220 Delivery revenues.
230 Allowance oil revenue.
240 Storage and demurrage revenue.
250 Rental revenue.
260 Incidental revenue.

OPERATING EXPENSES

Operations

300 Salaries and wages.
310 Supplies and expenses.
320 Outside services.
330 Operating fuel and power.
340 Oil losses and shortages.

Maintenance

400 Salaries and wages.
410 Supplies and expenses.
420 Outside services.
430 Maintenance materials.

General

500 Salaries and wages.
510 Supplies and expenses.
520 Outside services.
530 Rentals.
540 Depreciation and amortization.
550 Pensions and benefits.
560 Insurance.
570 Casualty and other losses.
580 Pipeline taxes.

INCOME ACCOUNTS

Ordinary Items

Carrier

600 Operating revenues.
620 Income (net) from noncarrier property.
630 Interest and dividend income.
640 Miscellaneous income.

Debit

610 Operating expenses.
650 Interest expense.
660 Miscellaneous income charges.
670 Federal income taxes on ordinary income.

Extraordinary and Prior Period Items

680 Extraordinary items (net).
690 Prior period items (net).
695 Federal income taxes on extraordinary and prior period items.

Retained Income Accounts

700 Net balance transferred from income.
710 Other credits to retained income.
720 Other debits to retained income.
740 Appropriations of retained income.
750 Dividend appropriations of retained income.
Form of balance sheet statement.
Form of income statement.
Form of unappropriated retained income statement.

AUTHORITY: The provisions of this Part 20 issued under sec. 12, 20, 24 Stat. 383, as amended, 49 U.S.C. 12, 20.

LIST OF INSTRUCTIONS AND ACCOUNTS

(i) *Definitions.* Definitions of terms used in this system of accounts:

1. "Accounts" means the accounts prescribed in this system of accounts.

2. "Actually issued," as applied to securities issued or assumed by the carrier, means those which have been sold to bona fide purchasers or holders for a valuable consideration, those issued in exchange for other securities or other property, and those issued as dividends on stock; and the purchasers or holders secured them free from control by the carrier.

3. "Actually outstanding," as applied to securities issued or assumed by the carrier, means those which have been actually issued and are neither retired nor held by or for the carrier.

4. "Additions" means facilities, equipment, and structures added to existing property exclusive of replacements.

5. "Affiliated companies" means companies or persons that directly, or indirectly through one or more intermediaries, control, or are controlled by, or are under common control with, the accounting carrier.

6. "Amortization" means the gradual extinguishment of an amount in an account by distributing such amount over a fixed period, over the life of the asset or liability to which it applies, or over the period during which it is anticipated the benefit will be realized.

7. "Book cost" means the amount at which assets are recorded in the accounts without deduction of related provisions for accrued depreciation, amortization, or for other purposes.

8. "Carrier" means a common carrier by pipeline subject to the Interstate Commerce Act.

9. "Commission" means the Interstate Commerce Commission.

10. "Control" (including the terms "controlling," "controlled by," and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a company, whether such power is exercised through one or more intermediary companies, or alone, or in conjunction with, or pursuant to an agreement, and whether such power is established through a majority or minority ownership or voting of securities, common directors, officers or stockholders, voting trusts, holding trusts, associated companies, contract or any other direct or indirect means. When there is doubt about an existence of control in any particular situation, the carrier shall report all pertinent facts to the Commission for determination.

11. "Cost" means amount of money actually paid for property or services or the current cash value of the consideration given when it is other than money.

12. "Cost of removal" means cost of demolishing, dismantling, tearing down, or otherwise removing property including costs of handling and transportation.

13. "Date of retirement" means the date that property is withdrawn from service.

14. "Debt expense" means all expense in connection with the issuance and sale of evidences of debt, such as fees for drafting mortgages and trusts; fees and taxes for issuing or recording evidences of debt; cost of engraving and printing bonds, certificates of indebtedness, and other evidences of debt; fees paid to trustees; specific costs of obtaining governmental authority; fees for legal services; fees and commissions paid underwriters, brokers, and salesmen for marketing evidences of debt; fees and expenses of listing on exchanges; and other like costs.

15. "Depreciation" means the loss in service value not restored by current maintenance and incurred in connection with the consumption or prospective retirement of property in the course of service from causes against which the carrier is not protected by insurance, and the effect of which can be forecast with a reasonable approach to accuracy.

16. "Discount," as applied to securities issued or assumed by the carrier, means the excess of the par or face value of the securities plus interest or dividends accrued at the date of the sale over the cash value of the consideration received from their sale.

17. "Group plan" means the plan under which depreciation charges are computed on the book cost of all property included in each depreciable account by application of a composite rate of depreciation based on the weighted average service lives of such property.

18. "Improvements" means alterations or changes in structural design of property which result in increased service life or efficiency.

19. "Minor items of property" means the associated parts or items of which units of property are composed.

20. "Net salvage value" means salvage value of property retired less the cost of removal.

21. "Nominally issued," as applied to securities issued or assumed by the carrier, means those which have been signed, certified, or otherwise executed, and placed with the proper officer for sale and delivery, or pledged, or otherwise placed in some special fund of the accounting company.

22. "Nominally outstanding," as applied to securities issued or assumed by the carrier, means those which, after being actually issued, have been reacquired by or for the accounting company under such circumstances which require them to be considered as held alive and not retired and canceled.

23. "Premium," as applied to securities issued or assumed by the carrier, means the excess of the cash value of the consideration received from their sale over the sum of their par (stated value of no-par stocks) or face value and interest or dividends accrued at the date of sale.

24. "Property retired" means units of property which have been removed, sold, abandoned, destroyed, or which for any cause have been withdrawn from service; also, minor items of property not replaced.

25. "Replacement" means the substitution of a part or of a complete unit of property with a new part or unit.

26. "Salvage value" means the amount received or estimated to be received for property retired less any expenses incurred in connection with the sale or preparing the property for sale; or, if retained, the value at which the recovered material is chargeable to the material and supplies account or other appropriate account.

27. "Service life" means the period between the date that property is placed in service and the date of its retirement.

28. "Service value" means the book cost less the actual or estimated net salvage value of property.

29. "Straight-line method," as applied to depreciation and amortization accounting, means the plan under which the service value of property is charged to expense and credited to the related accrued depreciation or amortization account through equal monthly charges during the service life of the property.

GENERAL INSTRUCTIONS

1-1 *Classification of accounts.* Accounts are prescribed to record the cost of property used in transportation and related operations and for revenues, expenses, taxes, rents, and other items of income for such operations. Separate accounts are prescribed for cost of property not used in transportation operations and for income and expenses pertaining thereto; for other investments and related income; for extraordinary and prior period items, including applicable income taxes; and for assets and liabilities.

In addition, stockholders' equity accounts, designed to segregate directly contributed capital from appropriated and unappropriated retained income, are provided. Retained income accounts form the connecting link between the income account and the equity section of the balance sheet. They are provided to record the transfer of net income or loss for the year; certain capital transactions; and, when authorized by the Commission, other items.

1-2 *Records.* (a) Carriers shall keep their accounts and records in accordance with the prescribed accounts. In addition, clearing accounts, temporary accounts, and subdivisions of any account may be kept provided the integrity of the prescribed accounts is not impaired. Each carrier shall keep its books of account, and all other books, records and memoranda which support the entries in such books of account, so as to be able to furnish readily full information as to any item included in any account. Each entry shall be supported by such detailed information as will permit ready identification, analysis, and verification of all facts relevant thereto.

(b) The books and records referred to herein include not only accounting records in a limited technical sense, but all records, such as minute books, stock books, reports, correspondence, memorandums, etc., which may be useful in developing the history of or facts regarding any transaction.

(c) Carriers shall not destroy any books or records unless the destruction thereof is permitted by The Regulations to Govern the Destruction of Records of Pipeline Companies, Part 1224 of this chapter.

1-3 *Accounting period.* (a) Each carrier shall keep its books on a monthly basis so that all transactions, as nearly as may be ascertained, shall be entered in the accounts not later than 60 days after the last day of the period for which the accounts are stated, except that the time within which the final entries for the year ending December 31 shall be made may be extended to such date in the following March as shall not interfere with the preparation and filing of the annual report.

(b) Changes shall not be made in the accounts for periods covered by reports that have been filed with the Commission authorized by the Commission.

1-4 *Accounting method.* (a) This system of accounts shall be kept by the accrual method of accounting. The basis used for accruing income and expense items each month shall be consistently applied and any change in such basis or any unusual accruals involving material amounts shall be promptly reported to the Commission.

(b) When the amount of any transaction cannot be accurately determined in time for inclusion in the applicable month's accounts, an estimated amount shall be entered in the proper accounts. Appropriate adjustments shall be made as soon as the actual amounts become known or at the time a substantial change is indicated. Carriers are not required to anticipate minor items which do not appreciably affect the accounts.

1-5 *Delayed items.* Ordinary delayed items and adjustments arising during the current year which are applicable to prior years shall be included in the same account which would have been charged or credited if the item had been taken up or the adjustments made in the year to which it pertained. When the amount of a delayed item or adjustment is relatively so large that its inclusion in net income for a single month would seriously distort the accounts for the month (but not for the year), such amount may be distributed in equal monthly charges or credits, as the case may be, to the remaining months of the calendar year. See instruction 1-6 for instructions covering extraordinary and prior period items of a nonrecurring nature.

1-6 *Extraordinary and prior period items.* (a) All items of profit and loss recognized during the year are includible in ordinary income except nonrecurring items which in the aggregate for the same class are both material in relation to operating revenues and ordinary income for the year and are not clearly identified with or do not result from usual business operations of the year. Important items of the kind which occur from time to time and which, when material in amount, are to be excluded from ordinary income are those resulting from unusual sales of property and investment securities other than temporary cash investments, from company bonds reacquired, from change in application of accounting principles, and from prior period items (other than ordinary adjustments of a recurring nature). Material items are those which, unless excluded from ordinary income, would

distort the accounts and impair the significance of ordinary income for the year. Items so excludible from ordinary income are to be entered directly in the income accounts provided for extraordinary and prior period items upon approval of the Commission.

(b) Adjustments, constituting items of a character typical of customary business activities or representing corrections or refinements resulting from the natural use of estimates inherent in the accounting process, shall not be considered extraordinary or prior period items regardless of size.

(c) In determining materiality, items of a similar nature should be considered in the aggregate; dissimilar items should be considered individually. As a general standard, an item to qualify for inclusion as an extraordinary or prior period item should exceed one percent of total operating revenues and ten percent of ordinary income for the year.

1-7 *Items in texts of accounts.* Items appearing in instructions and in the texts of various accounts are merely representative and are not intended to cover all of the items includible therein.

1-8 *Depreciation accounting—Carrier property.*

(a) *Method.* Monthly depreciation charges shall be made by the straight-line method to operating expenses in conformity with the group plan of accounting applicable to all carrier property except property included in accounts 101, 151, 171, Land, and 187, Construction Work in Progress.

(b) *Rates.* (1) Separate composite annual percentage rates will be prescribed for each depreciable account except that the Commission may authorize the use of component rates upon specific request from a carrier. Carriers becoming subject to this system of accounts and carriers acquiring property for which no rates have been previously prescribed shall file, within six months, composite annual percentage rates applicable to the book cost of each class of depreciable carrier property as will distribute the service value, by the straight-line method, in equal annual charges to operating expenses during the service life of the property. These rates shall be used by the carrier until the rates prescribed by the Commission become effective. Such rates shall, for each primary account comprised of more than one class of property, produce a depreciation charge equal to the sum of the amounts that would otherwise be chargeable for each of the various classes of property included in the account. Carriers shall base these percentage rates on estimated service values and service lives developed from engineering and other studies. The rates filed shall be accompanied by a statement showing the bases and the methods employed in the rate determination.

(2) Carriers shall be prepared at any time upon the direction of the Commission to compute and submit revised percentage rate studies. When a carrier believes that any rate prescribed by the Commission is no longer applicable, it shall submit the rate which it believes should be established supported by full particulars for consideration by the Commission.

(3) A carrier shall keep records of property and property retirements that will reflect the service life of property which has been retired, or will permit the determination of service life indications by mortality, turnover, or other appropriate methods; and also such records as will reflect the percentage of net salvage value for property retired from each class of depreciable carrier property.

(c) *Charges.* In computing monthly charges, the annual percentage rates shall be applied to the depreciation base as of the first of each month and the result divided by twelve.

(d) *Retirements.* Except as provided in paragraph (e) of this section, upon the retirement of depreciable property the service value shall be charged in its entirety to account 31, Accrued Depreciation—Carrier Property. Any amounts of insurance recovered from casualty losses involving depreciable property retired shall be credited thereto.

(e) *Special accounting authority.* (1) When circumstances indicate that newly acquired property should be subject to amortisation, or that the prescribed depreciation rates based on the service lives of certain property are no longer applicable, because the source of traffic will be exhausted before the end of the physical service life, the carrier shall submit to the Commission for approval amortization or depreciation rates based on the estimated remaining service life of the property accompanied by full information justifying the request.

(2) A carrier may request, or the Commission may direct, that special accounting be applied in situations causing undue inflation or deflation of depreciation reserves, such as premature or unusual retirements or sales of depreciable property, or related insurance recoveries. A carrier's request for special accounting shall contain full particulars concerning the situation, including the basis for its proposal. Alternative accounting techniques shall be applied to the extent approved or directed by the Commission.

1-9 *Depreciation accounting—Noncarrier property.* Monthly depreciation charges for all depreciable property recorded in account 34, Noncarrier Property, shall be made to account 620, Income from Noncarrier Property, with concurrent credits to account 35, Accrued Depreciation—Noncarrier Property. The depreciation charges shall be such as to distribute the service values equitably over the service life of the property.

1-10 *Amortization of intangibles.* Monthly charges shall be made to account 540, Depreciation and Amortization, to amortize the cost of fixed life intangibles such as permits, patents and franchises which are directly related to pipeline operations. Monthly charges shall be made to account 660, Miscellaneous Income Charges, to amortize the cost of intangibles such as goodwill which are not directly associated with pipeline operations. The amortization charges shall be such as to distribute the cost by the straight-line method in equal annual charges over the life or expected period of benefit.

1-11 *Interpretation of rules.* To maintain uniformity of accounting, carriers shall submit questions of doubtful interpretation to the Commission for consideration and decision.

INSTRUCTIONS FOR BALANCE SHEET ACCOUNTS

2-1 *Current assets.* In the group of accounts designated as current assets shall be included cash and other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed within a one-year period. There shall not be included any amount the collection of which is not reasonably assured by the known financial condition of the debtor or otherwise. Items of current character but of doubtful value shall be written down or written off to account 510, Supplies and Expenses, or to account 660, Miscellaneous Income Charges, as appropriate.

2-2 *Investments and special funds.* (a) This group of accounts shall include the cost of long-term investments in securities other than those of the accounting carrier, investment advances, sinking and other funds, cash value of life insurance policies, and other items of similar nature.

(b) Investment in securities shall be recorded at cost at time of acquisition excluding amounts paid for accrued interest and dividends. When securities with a fixed maturity date are purchased at a discount or premium, such discount or premium shall be amortised over the remaining life of the securities by periodical debits or credits to the account in which the cost of the securities is recorded with corresponding credits or debits to interest income. If the amount of the discount or premium is minor, the investment may be maintained at actual cost without adjustment, and the amount of discount or premium recorded in the interest income account at the time the securities mature.

(c) The accounting carrier shall write down the value of any securities to the extent of impairment in their value or write off entirely if there is no reasonable prospect of realizing any value therefrom, but fluctuations in market value are not to be recorded. Adjustments in the values of securities shall not be delayed beyond the year in which a loss is claimed for income tax purposes. Account 23, Reductions in Security Values, is provided for adjustments in values of securities.

2-3 *Tangible property.* The cost of property owned that is devoted to transportation service shall be recorded in account 30, Carrier Property, and in account 33, Operating Oil Supply. This includes carrier's investment in jointly-owned transportation property in which it has an undivided ownership interest. The cost of other property not directly

associated with pipeline operations shall be included in account 34, Noncarrier Property. Property used in both carrier and noncarrier services shall be classified in account 30 or account 34 according to its dominant use.

2-4 *Other assets and deferred charges.* Account 40, Organization Costs and Other Intangibles, is prescribed for organization costs and other intangible assets, such as patents and franchises. These intangible assets shall be recorded at cost. Accounts are also prescribed for assets not otherwise provided for and for charges applicable to future periods.

2-5 *Current liabilities.* In this group of accounts shall be included obligations which are payable on demand or mature or become due within one year from the date of the balance sheet.

2-6 *Noncurrent liabilities.* Includible under this category of account are those obligations which are not due to be liquidated within one year from the date of the balance sheet. Estimates of future fire losses or other contingencies shall not be accounted for as current expenses or recorded as liabilities. Such contingencies may be provided for by appropriations of retained income, the losses to be recognized in income when sustained.

2-7 *Contingent assets and liabilities.* Contingent assets and liabilities shall not be shown in the balance sheet but shall be explained in detail in a footnote or in a supplementary statement. Contingent assets are those which may be a possible source of value to the carrier dependent upon the fulfillment of conditions regarded as uncertain. Contingent liabilities are those which may under certain conditions become obligations of the carrier but which are neither direct nor assumed liabilities at the date of the balance sheet.

INSTRUCTIONS FOR CARRIER PROPERTY ACCOUNTS

3-1 *Property acquired.* (a) The carrier property accounts shall be charged with the cost of property purchased or constructed and with the cost of additions and improvements.

(b) The cost of purchased property is the net price paid on a cash basis, or if other than money is given, the current value of that consideration. Cost includes the purchase price; sales, use and excise taxes, and ad valorem taxes during periods of construction; transportation charges; insurance in transit; installation charges; and expenditures for testing and final preparation for use.

(c) Property acquired from an affiliated company through purchase or transfer shall be recorded together with the related accrued depreciation and liabilities assumed, if any, in the appropriate property accounts at the same amount that it was recorded on the books of the affiliate. When the purchase price exceeds the net book value of the property acquired, the difference shall be charged to retained income. When the purchase price is less than the net book value, the difference shall be credited to account 73, Additional Paid-in Capital. This does not apply to small miscellaneous purchases or transfers.

(d) The purchase of a proportionate share of a pipeline system or facility owned in undivided interests shall be recorded at the amount that the percentage of interest acquired bears to the whole. Any excess or deficiency of purchase price over the amount so recorded shall be debited to account 44, Other Deferred Charges, or credited to account 63, Other Noncurrent Liabilities, as appropriate, and amortized in equal periodic amounts over the remaining service life of the system or facility through income.

3-2 *Minimum rule.* (a) To avoid undue refinement in accounting, carriers shall charge to operating expenses acquisitions of property (other than land) including additions and improvements costing less than $500. Expenditures made under a general plan shall not be parceled to meet the minimum nor shall unrelated items be combined to avoid the minimum.

(b) An amount of less than $500 may be adopted for purposes of this rule provided the carrier first notifies the Commission of the amount it proposes to adopt and thereafter makes no change in the amount unless authorized to do so by the Commission.

3-3 *Cost of property constructed.* The cost of constructing property chargeable to the carrier property accounts shall include direct and other costs as described hereunder:

(1) Cost of labor includes the amount paid for labor performed by the carrier's own employees and officers. This includes payroll taxes, vacation pay, pensions, holiday pay and traveling and other incidental expenses of employees. No charge shall be made to these accounts for pay and expenses of officers and employees who merely render services incidentally in connection with extensions, additions or replacements.

(2) Cost of material and supplies includes the purchase price (less purchase and trade discounts) of material and supplies, including small tools, at the point of free delivery; costs of inspection and loading borne by the carrier; transportation charges; sales, use and excise taxes; and when applicable a proportionate share of stores expenses. In calculating the cost of material and supplies used, proper allowance shall be made for the value of unused portions and other salvage, for the value of the material recovered from temporary scaffolding, cofferdams and other temporary structures used in construction; and for the value of small tools recovered and used for other purposes.

(3) (i) Cost of special machine service includes the cost of labor expended and of materials and supplies consumed in maintaining and operating vehicles, equipment, and other machines used in construction work; and rents paid for the use of such machines.

(ii) When machines are purchased primarily for a construction project, their cost shall be charged to account 187, Construction Work in Progress. Upon completion of the construction project, account 187 shall be credited with amounts received for machines sold or the book cost (less a fair allowance for depreciation during the construction period) of machines retained for use in carrier service. The net book cost shall be included in the appropriate carrier property accounts.

(iii) The cost of repairs to vehicles and other work equipment and of machine tools and machinery which are used both in construction and maintenance work shall be apportioned equitably to the work in connection with which the equipment is used.

(4) Cost of transportation includes the amounts paid to other companies or individuals for the transportation of employees, material and supplies, special machine outfits, appliances, and tools in connection with construction and also the cost of hauling performed by the carrier's own forces and facilities. The cost of the transportation of construction material to the point where material is received by the carrier shall be included, so far as practicable, as a part of the cost of such material.

(5) Cost of contract work includes amounts paid for construction work performed under contract by other companies, firms, or individuals, and cost incident to the award of the contract.

(6) Cost of protection includes expenditures for protection in connection with construction. This includes the cost of protection against fires, cost of detecting and prosecuting incendiaries, amounts paid to municipal corporations and others for fire protection, cost of protecting property of others from damages, and analogous items.

(7) Cost of injuries and damages includes expenditures for injuries to persons or damage to property when incident to construction projects, and shall be included in the cost of the related construction work. It also includes that portion of premiums paid for insuring property prior to the completion or coming into service of the property insured. Insurance recovered for compensation paid for injuries to persons incident to construction shall be credited to the accounts to which such compensation is charged. Any insurance recovered for damages to property incident to construction shall be credited to the accounts chargeable with the expenditures necessary for restoring the damaged property. The cost of injuries and damages in connection with the removal of old structures which are encumbrances on newly acquired lands shall be included in the cost of land, or rights of way.

(8) Cost of privileges and permits includes compensation for temporary privileges, such as the use of private or public property or of streets, in connection with construction work.

(9) Taxes include taxes on property during construction and before the facilities are completed and ready for service. This includes taxes on land held under a definite plan for its use in pipeline service for the period prior to the completion of pipeline facilities thereon and other taxes separately assessed on property during construction, or assessed

under conditions which permit separate identification or allocation of the amount chargeable to construction.

(10) Rent includes payments for use of facilities, such as motor vehicles, special tools or machines, and quarters used for construction work.

(11) (i) Interest during construction includes interest expense on bonds, notes and other interest bearing debt incurred in the construction of carrier property (less interest, if any, earned on funds temporarily invested) after such funds become available for use and before the receipt or the completion or coming into service of the property. The interest shall be included in the accounts charged with the cost of the property to which related.

(ii) There shall be deducted from such interest charges a proportion of premium on securities sold. There shall be added a proportion of discount and expense on funded debt issued for the acquisition or construction of carrier property. The amount of premium and discount and expense thus related shall be determined by the ratio which the period between the date the proceeds from the securities issued become available and the receipt, completion, or coming into service of the property bears to the entire life of the securities issued.

(12) Cost of disposing of excavated material shall be included in the cost of construction except that when such material is used for filling, the cost of loading, hauling, and dumping shall be equitably apportioned between the work for which removal is made and the work for which the material is used.

3–4 *Additions.* Cost of additions to existing property shall be included in the appropriate primary property accounts except as provided in the minimum rule.

3–5 *Improvements.* Costs of improvements, subject to the minimum rule, shall be accounted for as follows:

(a) The cost of items replaced shall be retired and the cost of the improvement shall be charged to the appropriate property account except that the related labor expense shall be charged to the maintenance expense account.

(b) If the improvement does not involve a replacement, the cost of the improvement shall be charged to the appropriate property account.

3–6 *Replacements.* Replacements are substitutions of a part or of a complete unit of property with a new part or unit. Costs of replacements shall be accounted for as follows:

(a) In replacing a complete unit of property, the old unit shall be retired and the cost of the replacement recorded in the appropriate primary property account, subject to the minimum rule.

(b) In replacing a minor item without improvement, the cost of such replacement shall be charged to the maintenance expense account.

3–7 *Retirements.* The retirement of carrier property shall be accounted for as follows:

(a) *Land.* The book cost of land retired shall be removed from the property accounts. Gain or loss on the sale of land shall be recorded in account 640, Miscellaneous Income, or account 660, Miscellaneous Income Charges. However, if such gain or loss qualifies as an extraordinary item pursuant to instruction 1–6, it shall be included in account 680, Extraordinary Items.

(b) *Property.* (1) The book cost of units of property retired and of minor items of property retired and not replaced shall be written out of the property account as of date of retirement, and the service value shall be charged to account 31, Accrued Depreciation—Carrier Property.

(2) In case of casualty loss, insurance proceeds recovered shall be credited to account 31, Accrued Depreciation—Carrier Property, in an amount not to exceed the book cost of the property involved. Any excess amount shall be credited to account 640, Miscellaneous Income.

(3) Carrier property no longer used nor held for carrier operations but used or intended for use in noncarrier operations shall be transferred, along with the amount of past accrued depreciation, estimated if necessary, to noncarrier property.

3–8 *Salvage.* (a) When retired property is salvaged for material or parts which are to be reused by the carrier, the salvage shall be priced at current second-hand value, not to exceed original cost, and charged to account 17, Material and Supplies, or other appropriate account.

(b) When retired property is held without being dismantled, the estimated value of the salvage less the estimated cost of salvaging shall be included in account 19, Other Current Assets, if to be recovered within a year, otherwise, in account 43, Miscellaneous Other Assets.

3–9 *Relocation of line.* (a) If a line is relocated in the same gathering field serving the same lease or purpose, all of the relocating expenses whether or not a unit of property is involved shall be charged to maintenance expense, provided that the same size pipe is used in such relocation. Resulting increases or decreases in the length of the line shall be accounted for as additions or retirements of property.

(b) In accounting for relocation of trunk lines involving units of property, the replaced property shall be retired and the cost of the new property included in the appropriate primary property accounts. When public improvement projects are involved, the cost of the new property shall be (1) the book cost less depreciation or amortization of the replaced property, less the net salvage value recovered, plus (2) costs incurred by the carrier, less any amounts contributed by governmental agencies or others.

3–10 *Property contributed.* (a) The value of contributions or property received from others including governmental agencies shall not be recorded in the property accounts; however, memorandum entries should be made in the records of the carrier describing the property received, the value thereof, and all other pertinent information related thereto.

(b) Property contributed by an affiliate shall be recorded in the property accounts together with the related accrued depreciation at the same amounts that were recorded on the books of the affiliate provided, however, that the amount of contribution made by noncarrier affiliates shall not exceed the fair value of the property received.

3–11 *Acquisition by merger, consolidation or purchase.* Accounting for property acquired by business combination of two or more corporations shall depend on whether there has been (1) a merger or consolidation in a "pooling of interests" or (2) a "purchase." A "pooling of interests" may exist when holders of all or substantially all of the ownership interests, usually common stock, in the constituent corporations or entities become the owners of a surviving corporation or a new corporation which owns the assets and businesses of the constituent corporations or entities directly or through one or more subsidiaries. However, when the stockholders of one of the constituent corporations obtain 90 percent or more of the voting interest in the combined enterprise; or when there is a plan or firm intention and understanding to retire a substantial part of the capital stock issued to the owners of one or more of the constituent corporations or substantial changes in ownership which occurred shortly before or planned to occur shortly after the combination, the combination may be considered a "purchase."

(a) *Accounting under a "pooling of interests."* (1) In accounting for a "pooling of interests," no new basis of accountability arises. The assets and liabilities of the constituent companies or entities and the related accrued depreciation and amortization accounts along with the retained income or deficit accounts shall be carried forward, adjusted, if necessary, to conform with the accounting rules of the Commission.

(2) When the total par value or stated value of no-par capital stock of the succeeding corporation is greater than that of the constituent corporations, the excess shall be charged first to the amount in account 73, Additional Paid-in Capital, that is not otherwise restricted, and the Balance to account 75, Unappropriated Retained Income.

(3) When the par value or stated value of no-par capital stock of the succeeding corporation is less than that of the constituent corporations, the difference shall be credited to account 73, Additional Paid-in Capital.

(b) *Accounting under a "purchase."* In accounting for a "purchase," the assets shall be recorded on the books of the acquiring carrier at cost as of the date of acquisition or, if other than money is given, at the fair value of such consideration. Liabilities assumed shall be recorded in the appropriate accounts according to the accounting rules of the Commission.

(c) *Approval of accounting.* (1) Tentative journal entries recording the acquisition of pipeline properties shall be submitted to the Commission for consideration and approval. The entries shall give a complete description of the property purchased and the basis upon which the amounts of the entries have been determined.

(2) When the costs of individual or groups of transportation property are not specified in the agreement or in supporting documents the total purchase price shall be equitably apportioned among the appropriate primary property accounts based on the percentage relationship between the purchase price and the original cost of property shown in the valuation records of the Commission or the fair market value of the properties supported by independent appraisal or such other information as the Commission may consider appropriate. In no event shall amounts recorded for physical properties and other assets acquired exceed the total purchase price.

(3) Where the purchase price is in excess of amounts recorded for the net assets acquired, such excess shall be included in account 40, Organization Costs and Other Intangibles.

3–12 *Reorganizations.* When a carrier is involved in receivership or bankruptcy so as to effect a reorganization, all accounting relating to the plan of reorganization shall be submitted to this Commission for consideration and approval.

3–13 *Disposition of former Account 193, Acquisition Adjustment.* Amounts included in former account 193, Acquisition Adjustment, attributable to mergers, consolidations, reorganizations, and purchases of property shall be cleared from that account as the Commission may authorize or direct upon submission of proposal for distribution of the amounts therein.

3–14 *Accounting units of property.* (a) This list of units is established for the purpose of designating the items of property, the cost of which shall be written out of the property accounts when the property is retired and replaced.

(b) When property is retired and not replaced the cost thereof shall be written out of the accounts whether or not designated a unit of property.

(c) A carrier desiring to include in any account an appropriate unit not now specified therein may, upon approval of the Commission, make such authorized addition to this list of units.

102, 152, Right of Way

A section of right of way.

103, 153, Line Pipe

1,500 feet of pipe 6 inches in diameter or larger contained in a continuous section.
3,000 feet of pipe of less than 6 inches in diameter contained in a continuous section.

104, 154, Line Pipe Fittings

Fittings for pipe lines 6 inches or more in diameter contained in a continuous section of 1,500 feet of line pipe.
Fittings for pipe lines less than 6 inches in diameter contained in a continuous section of 3,000 feet of line pipe.

105, 155, Pipeline Construction

The construction cost pertaining to a unit of line pipe.

106, 156, 176, Buildings

A complete building.
An entire roof with or without supporting members.
A complete fire escape.
A complete heating system.
An elevator complete with operating mechanism.

107, 157, Boilers

A complete boiler.

108, 158, Pumping Equipment

A complete engine with or without foundation.
A complete pump with or without foundation.
A power-transmission system.

109, 159, 179, Machine Tools and Machinery

A machine tool.
A foundation special to a machine.
A motor, generator, steam engine, pump, ventilating fan, or other similar equipment.
A coal-handling system.
An ash-handling system.
A furnace.
A boiler.

110, 160, Other Station Equipment

Each complete item of property, the book cost of which was charged to the carrier property account.

111, 161, Oil Tanks

A complete oil tank with or without grade and fire walls.
A fire wall.
A tank grade.

112, 162, Delivery Facilities

A motor, generator, engine, pump, or similar equipment.
A delivery-pipe system.
A complete wharf.
A section of wharf.
A pile cluster or dolphin.
A complete loading or unloading rack.
A complete railroad siding.

113, 163, 185, Communication Systems

Telegraph and Telephone Terminal Equipment

A complete switchboard.

Telegraph and Telephone Outside Plant

A continuous section of 1 mile of aerial wire.
A section of 1,000 feet of aerial cable.
A section of 500 feet of submarine cable.
A section of 500 feet of conduit.
A continuous section of 25 poles.
A case of equipment, such as loading coil or autotransformer.

Radio and Wireless Equipment

A transmitting set.
A receiving set.
An antenna, complete, or without supports.

114, 164, 184, Office Furniture and Equipment

Each complete item of furniture or equipment the book cost of which was charged to the carrier property account, such as: A desk, chair, table, davenport, typewriter, computing machine; a section of bookcase, filing cabinet; rug, carpet, or other floor covering for one room.

115, 165, 185, Vehicles and Other Work Equipment

Each complete item of equipment the original cost of which was charged to the carrier property account, such as: A passenger automobile or truck with or without body; a tractor; a pole derrick, power winch, earth-boring machine, or trailer.

116, 166, 186, Other Property

Each complete item of property the book cost of which was charged to the carrier property account.

INSTRUCTIONS FOR OPERATING REVENUES AND OPERATING EXPENSES

4–1 *Detail of accounts.* The carrier shall keep the prescribed accounts with sufficient particularity to permit the reporting of operating revenues and expenses for crude oil lines and for product lines separately, and to permit the allocation of operating expenses by service functions (see 4–3 Operating Expenses).

4–2 *Operating revenues.* The operating revenue accounts are designed to show the amount of money which the carrier becomes entitled to receive or which accrues to its benefit for transportation and services incidental thereto.

4–3 *Operating expenses.* The operating expense accounts are designed to show the costs of pipeline operations by service functions. The expenses of pipeline operations are to be allocated to the following functions:

(a) *Gathering.* This includes the gathering and collection of oil, oil products and other commodities from oil field, refinery, or other source (other than carrier's own terminal and delivery facilities), and transmission to point of connection to meters, working or storage tanks, or intake side of the manifold at the trunk line receiving site or station, or at a terminal.

(b) *Trunk.* This includes the trunk line transportation of crude oil, oil products and other commodities from origin or receiving station to point of connection with other carriers, consignee facilities at destination, or to the discharge side of the manifold or connection to working or storage tanks at the destination station.

(c) *Delivery.* This includes the receiving, storage, and delivering at terminal and delivery facilities of crude oil, oil products and other commodities from or to railroads, motor carriers, water carriers, and others prior or subsequent to movement by pipeline.

4–4 *Expense classification.* The primary expense accounts are to be reported under the following classifications:

(a) *Operations expense.* This group of accounts includes all costs directly associated with the operation of facilities devoted to pipeline operations including scheduling, dispatching, movement, and delivery of crude oil, oil products and other commodities.

(b) *Maintenance expense.* This group of accounts includes all costs directly associated with repairs and maintenance of property devoted to pipeline operations.

(c) *General expense.* This group of accounts includes general and administrative expense and all other expenses not directly allocable to operations and maintenance expenses.

4–5 *Expense distribution.* The several classes of expenses shall be directly allocated to applicable service functions

to the fullest possible extent. Expenses common to two or more functions and system expenses shall be equitably apportioned to the service functions. The basis for apportionment and the underlying records in support thereof shall be readily available for inspection by the Commission's examiners.

BALANCE SHEET ACCOUNTS

10 Cash.

This account shall include money, checks, sight drafts and sight bills of exchange, money in banks or in other depositories subject to withdrawal on demand, and other similar items. The amount of checks and sight drafts transmitted to payees which are unpaid at the close of the accounting period shall be credited to this account.

11 Temporary investments.

This account shall include the cost of securities and other collectible obligations acquired for the purpose of temporarily investing cash, such as United States Treasury certificates, marketable securities, time drafts receivable, demand loans, time loans, time deposits with banks and trust companies, and other similar investments of a temporary character.

12 Notes receivable.

This account shall include the book cost, not includible elsewhere, of all collectible obligations in the form of notes receivable, contracts receivable, and similar evidences (except interest coupons) of money receivable on demand or within a time not exceeding one year from date of the balance sheet. Notes receivable from affiliates shall be included in account 13, Receivables from Affiliated Companies.

13 Receivables from affiliated companies.

This account shall include amounts receivable due and accrued from affiliated companies subject to settlement within one year from date of the balance sheet. This includes receivables for items such as revenue for services rendered, material furnished, rent, interest and dividends, advances and notes.

14 Accounts receivable.

This account shall include amounts receivable due and accrued from other than affiliates which are subject to settlement within one year from date of the balance sheet. This includes items such as revenue for services rendered, material furnished, rent, accounts of officers and employees, miscellaneous accounts with others.

15 Interest and dividends receivable.

(a) This account shall include the amount of interest due and accrued as of the date of the balance sheet on all interest-bearing obligations held by the carrier. This account shall also include the amount of dividends declared on stocks owned.

(b) Interest and individends receivable from affiliated companies or on the carrier's own securities shall not be included in this account.

16 Oil inventory.

(a) This account shall include the cost of oil purchased and the value of oil acquired through tariff allowances and operating gains. Amounts paid preceding carriers for transportation, customs duties, or similar charges shall be charged to account 230, Allowance Oil Revenue. Additions to inventory from tariff allowances shall be credited to revenue at current value. Additions resulting from operating gains shall be credited against operating oil losses and shortages.

(b) The cost or value of oil owned by the carrier and used to maintain lines and working tanks in condition for transportation operations shall be included in account 33, Operating Oil Supply.

17 Material and supplies.

(a) This account shall include the cost, including sales, use and excise taxes and transportation costs to point of delivery, less purchase and trade discounts, of all unapplied material and supplies, such as line pipe, line pipe fittings, fuel, tools, and other pipeline supplies. The value of items being manufactured by the carrier and the fair value of salvaged material shall also be included herein.

(b) Carriers shall take annual inventories of material and supplies and shall make the adjustments necessary to reconcile the books to the inventory figures. To the extent practicable, adjustments shall be made directly to the same accounts to which such material and supplies were charged during the period. Differences that cannot be directly allocated shall be equitably apportioned among the accounts to which material was charged since the last inventory.

18 Prepayments.

This account shall include the amount of expenses paid in advance of accrual such as insurance, rent, and taxes, the benefits of which are to be realized in subsequent periods. Monthly transfers shall be made to the appropriate expense or other accounts for the expired portion of the prepayments applicable to that month.

19 Other current assets.

This account shall include such items as estimated tax refunds receivable, legally enforceable, balances dues on subscriptions to capital stock, temporary guaranty and other deposits, and all other current assets due within one year which are not includible in the other current asset accounts.

20 Investments in affiliated companies.

This account shall include the cost of investments in securities (other than securities held in special funds) and investment advances made to affiliated companies. Separate records shall be maintained to show the securities pledged and the following classes of investments in each affiliated company:

(a) Stocks.
(b) Bonds.
(c) Other secured obligations.
(d) Unsecured notes.
(e) Investment advances.

21 Other investments.

This account shall include the cost of investments in securities of (other than securities held in special funds) and advances made to other than affiliated companies. Separate records shall be maintained to show the securities pledged and the following classes of investments in each nonaffiliated company:

(a) Stocks.
(b) Bonds.
(c) Other secured obligations.
(d) Unsecured notes.
(e) Investment advances.

22 Sinking and other funds.

(a) This account shall include cash and cost of investment in securities and other assets, trusteed or otherwise restricted, that have been segregated in distinct funds for purposes of redeeming outstanding obligations; purchasing or replacing assets; paying pensions, relief, hospitalization, and other similar items. This account shall also include the cash value of life insurance policies on the lives of employees and officers to the extent that the carrier is the beneficiary of such policies. Separate subsidiary records shall be maintained for each distinct fund.

(b) Securities issued or assumed by the accounting company shall be recorded at par or stated value.

23 Reductions in security values—Credit.

This account shall include provisions for losses in value of securities held as investments in affiliated or other companies, and including securities in funds. Concurrent charges shall be made to account 660, Miscellaneous Income Charges, or account 680, Extraordinary Items, as appropriate.

30 Carrier property.

This account shall include the cost of tangible property used in carrier service, or held for such use within a reasonable time under a definite plan for pipeline operations. Separate primary accounts are prescribed for each class of carrier property.

31 Accrued depreciation—Carrier property.

This account shall be credited with amounts charged to operating expenses or other accounts representing the loss in service value of depreciable carrier property. The service value of depreciable property retired shall be charged to this account. It shall also include other entries as may be authorized by the Commission. Detail of this account shall be maintained by primary property accounts.

32 Accrued amortization—Carrier property.

This account shall be credited with amounts charged to operating expenses or other accounts representing the loss in service value of carrier property subject to amortization accounting as authorized by the Commission. Upon the retirement of property subject to amortization this account shall be charged with the amount included herein applicable to the specific property at the time the property is retired. Subsidiary records shall be maintained for each group of property items under a separate amortization authorization.

33 Operating oil supply.

This account shall include the cost of oil purchased and the value of oil added through tariff allowances and operating gains which is used to maintain lines and tanks in working condition. Additions to operating supply from tariff allowances shall be credited to revenue at current value. Additions resulting from operating gains shall be credited against operating oil losses and shortages.

34 Noncarrier property.

This account shall include the cost of tangible property not used in carrier pipeline operations.

35 Accrued depreciation—Noncarrier property.

This account shall be credited with amounts charged to income, representing the loss in service value of depreciable noncarrier property.

40 Organization costs and other intangibles.

This account shall include the cost of intangible assets such as organizing the carrier, patents, permits, franchises, and goodwill. Organization costs include the legal expenses, taxes, fees, stationery and printing, original capital stock expense and costs of economic feasibility studies made prior to initial operation of the carrier. Separate subsidiary records shall be maintained for each class of intangible asset.

41 Accrued amortization of intangibles.

This account shall be credited with the amounts charged to operating expenses or income representing the expired cost of intangible property. When the period of benefit of intangible property is fully expired, or assets are retired to which the intangible relates, this account shall be charged with the amount herein applicable to the specific property.

42 Unamortized discount and interest on long-term debt.

This account shall include the amount of discount on long-term debt, and the amount of interest expressly provided for and included in the face amount of obligations issued or assumed and not amortized as of the date of the balance sheet. The amount of discount or interest applicable to each issue of debt obligation shall be amortized over the life of the respective debt by charge to interest expense.

43 Miscellaneous other assets.

This account shall include such items as accounts receivable, utility deposits, guaranty deposits and other similar assets which are not expected to be realized or returned to the carrier within one year from date of the balance sheet. The estimated net salvage value of retired carrier property held without being dismantled shall be included in this account.

44 Other deferred charges.

This account shall include items that cannot be disposed of until further information is received and items of a deferred nature, not provided for elsewhere, to be amortized to expense or other accounts in future periods. This includes such items as engineering surveys and studies and debt expense.

50 Notes payable.

This account shall include outstanding obligations in the form of notes, and other similar evidences of indebtedness payable on demand or within one year from the date of issue except those payable to affiliated companies.

51 Payables to affiliated companies.

This account shall include amounts payable due and accrued to affiliated companies (except interest and dividends) subject to settlement within one year from date of the balance sheet. This includes payables for items such as services and material received, rent, advances and notes.

52 Accounts payable.

This account shall include amounts payable due and accrued (except those to affiliated companies) subject to settlement within one year from the date of the balance sheet. This includes payables for items such as joint revenue, material and supplies, services received, rents, claims, taxes collected from employees and others for account of taxing entities, and other similar items.

53 Salaries and wages payable.

This account shall include salaries and wages payable due and accrued including vacation pay and unclaimed salaries and wages as of the balance sheet date. Unclaimed salaries and wages outstanding for more than one year may be written off to income unless the amount unclaimed escheats to the state.

54 Interest payable.

This account shall include interest accrued or payable on all obligations.

55 Dividends payable.

This account shall include the amount of dividends (other than stock dividends) declared but unpaid as of the date of the balance sheet.

56 Taxes payable.

This account shall include all Federal, state, and local taxes (except taxes withheld from employees) accrued and payable, estimated if necessary, as of the balance sheet date. Prepaid taxes shall be shown as current assets in account 18, Prepayments. Subsidiary records shall be maintained to allow analyses of this account by matured and unmatured taxes and by type of tax and taxing entity.

57 Long-term debt payable within one year.

This account shall include the amount of long-term debt which will mature and become payable within one year from date of balance sheet for which arrangements for refunding have not been made.

58 Other current liabilities.

This account shall include all other current liabilities not provided for elsewhere that are payable within one year from date of balance sheet.

60 Long-term debt payable after one year.

This account shall include the total par value of the carrier's outstanding obligations maturing more than one year from the date of the balance sheet. This account shall be divided to show the face value of (1) debt issued and actually outstanding, and (2) debt "nominally issued" and "nominally outstanding." These accounts shall be further divided by the following classes of debt: mortgage bond, collateral trusts, income bonds, miscellaneous obligations and nonnegotiable debt to affiliated companies.

61 Unamortized premium on long-term debt.

This account shall include the premium received and not yet amortized on the issuance of long-term debt. The amount of premium received on each issue of bonds, mortgages, notes, and other long-term debt shall be amortized over the life of the debt by credit to interest expense.

63 Other noncurrent liabilities.

This account shall include such items as deferred revenue from rents or leases that will not be realizable as income within one year, and the liability for amounts contributed by employees or others for pensions, savings, and similar items. This account shall also include the amount accrued for pensions in which the employees have a vested right and which are administered by the carrier.

70 Capital stock.

(a) This account shall include the par value of par value stock, stated value of no-par stock, and the amount received for no-par stock without stated value, which have been issued to bona fide purchasers and have not been reacquired and canceled, also shares of stock nominally issued, and reacquired shares which have not been canceled. When other than cash is received for no-par value stock, the fair market value of the consideration shall be entered in this account.

(b) This account shall be divided so as to show separately each class of stock issued, subdivided between (1) issued and actually outstanding, and (2) nominally issued and nominally outstanding.

(c) Shares of capital stock that were actually issued and reacquired by the

carrier by market purchase, call, contribution, or in some other manner and retained without formal cancellation shall be included in this account at par or stated value or at a proportionate value for no-par stock. The difference between the amount paid for reacquired stock and the amount recorded in this account including any premiums applicable to its original issue shall be included in account 73, Additional Paid-in Capital; provided that the excess of a debit amount over the balance in account 73 with respect to the particular class of stock shall be charged to account 720, Other Debits to Retained Income.

(d) When reacquired stock is resold, the difference between the net sales price and the amount included herein shall be included in account 73, Additional Paid-in Capital; provided that the excess of a debit amount over the balance in account 73 with respect to the particular class of stock shall be charged to account 720, Other Debits to Retained Income.

(e) When reacquired capital stock is retired, this account shall be cleared of amounts included in subdivisions herein.

71 Premiums on capital stock.

This account shall include the excess of the actual cash value of the consideration received at the time of the original sale over the par or stated value of the stock issued.

72 Capital stock subscriptions.

This account shall include the full amount of the par value, stated value, or price agreed upon for no-par stock which has been subscribed under a legally binding purchase agreement. The difference between the par value or stated value, plus any premiums or the amount agreed upon for no-par stock, and the down payment or installments received, shall be recorded as a current asset in account 19, Other Current Assets. Appropriate subaccounts shall be kept to record separately the transactions for each class and series of stock involved.

73 Additional paid-in capital.

This account shall include gains from purchase and resale of reacquired stock. Credits attributable to reductions in the par or stated value of capital stock may be included in this account only when approved by the Commission. Separate subaccounts shall be maintained for each class and series of stock. Also include herein contributions to capital made by stockholders and others.

74 Appropriated retained income.

This account shall include retained income which has been appropriated and set aside under contractual or legal requirements and for other specific purposes, such as the retirement of bonded indebtedness, contingencies, redemption of preferred capital stock; fire losses; plant replacement and additions; miscellaneous employee benefits; and similar items. Appropriations shall be released when their respective purposes have been served. Separate subaccounts shall be maintained for each specific purpose for which retained income is appropriated.

75 Unappropriated retained income.

(a) This account shall include retained income which has not been appropriated or set aside for specific purposes. There shall be no transfers to or from account 73, Additional Paid-in Capital, to this account unless so authorized by the Commission.

(b) The balance of accounts 700 to 750, inclusive, shall be closed to this account at the end of each calendar year.

CARRIER PROPERTY ACCOUNTS

The following table lists the prescribed primary property accounts and indicates those accounts which contain similar items of property for which a single text is provided. The accounts are to be kept separately for crude oil lines and for product lines.

Account Number			Account Title
Gathering Lines	Trunk Lines	General	
101	151	171	Land.
102	152	.....	Right of Way.
103	153	.....	Line Pipe.
104	154	.....	Line Pipe Fittings.
105	155	.....	Pipeline Construction.
106	156	176	Buildings.
107	157	.....	Boilers.
108	158	.....	Pumping Equipment.
109	159	179	Machine Tools and Machinery.
110	160	.....	Other Station Equipment.
111	161	.....	Oil Tanks.
112	162	.....	Delivery Facilities.
113	163	183	Communication Systems.
114	164	184	Office Furniture and Equipment.
115	165	185	Vehicles and Other Work Equipment.
116	166	186	Other Property.
		187	Construction Work in Progress.

101, 151, 171 Land.

(a) This account shall include the cost of land held in fee and used in pipeline operations. Land not used in carrier service shall be recorded in account 34, Noncarrier Property. Irregular parcels of land without commercial value acquired with rights of way shall not be transferred to account 34 solely to make right-of-way boundaries regular.

(b) The cost of land and buildings acquired together shall be equitably separated and recorded. When land is acquired with buildings, structures, or other encumbrances that must be removed before the land is usable, demolition cost, less salvage, shall be added to the book cost of the land. Net proceeds from the sale of timber, minerals and improvements which were part of the land cost when purchased by the carrier, shall be credited to this account up to the amount of the purchase price allocated as their cost. Any excess shall be credited to account 640, Miscellaneous Income, or, when qualifying as extraordinary pursuant to instruction 1–6, shall be included in account 680, Extraordinary Items.

(c) Costs of filling, clearing, grading or leveling land, when such work is not directly associated with construction or a definite plan for construction, shall be charged to this account.

(d) All direct or incidental costs associated with the acquisition of the land and any taxes and public assessments assumed at the time of purchase, shall be included in this account.

(e) Special assessments for public improvements and also costs borne by the carrier for public improvements constructed by it shall be included in this account.

102, 152 Right of way.

This account shall include the cost of obtaining rights of way used in pipeline operations. Periodic rents paid for the use of a right of way shall be charged to operating rents. Costs of filling, clearing, grading or leveling of a right of way when such work is not directly associated with construction or a definite plan for construction, shall be charged to this account.

103, 153 Line pipe.

This account shall include the cost of all line pipe actually laid in pipe lines devoted to transportation service.

104, 154 Line pipe fittings.

This account shall include the cost of the line pipe fittings, including manifolds, used in pipe lines devoted to transportation service.

105, 155 Pipeline construction.

(a) This account shall include all the costs of constructing pipe lines except the cost of line pipe and fittings provided for in accounts 103, 153, Line Pipe, and 104, 154, Line Pipe Fittings.

(b) Includible shall be the cost of labor and materials such as casing and vent pipe, pipe coatings of all kinds, river weights, support structures, sand bags, valve boxes, cathodic protection devices, mile posts, right-of-way markers, excavating and backfilling, pipeline pits, and the cost of damages paid for the destruction of crops, timber, and other property during construction. The cost of reopening the trenches for repairs, or installation of casing, coating or cathodic protection, and the necessary backfilling shall be charged to maintenance expense.

106, 156, 176 Buildings.

This account shall include the cost of all buildings including the foundations, fixtures, and appurtenances thereto. This includes such items as architects' fees, sidewalks, driveways, fences, permanent water rights, grading and preparing grounds before and after construction, utility lines and other service piping. Cost of restoring grounds after repair work shall be charged to maintenance expense.

107, 157 Boilers.

This account shall include the cost of boilers, including accessories and attachments such as injectors, water gages, steam gages and fittings, and the cost of special boiler foundations and installations.

108, 158 Pumping equipment.

This account shall include the cost of engines, motors, pumps, and all other pumping equipment, and the cost of special foundations and installation.

109, 159, 179 Machine tools and machinery.

This account shall include the cost of machine tools and machinery, including the cost of their special foundations and installation.

110, 160 Other station equipment.

This account shall include the cost of all station equipment not provided for elsewhere, such as electric light, gas, and refrigeration equipment, manifolds, and miscellaneous equipment and fittings. It shall also include the carrier's investment in tracks if located at and used in connection with a station.

111, 161 Oil tanks.

This account shall include the cost of oil tanks, including grades, roofs, fire banks, steam coils, swing pipes, inlet valves, and outlet valves.

112, 162 Delivery facilities.

This account shall include the cost of facilities for receiving or delivering oil and oil products from or to water carriers, railroads, motor carriers, and others, such as delivery racks, wharves (including buildings thereon), docks, and slips, including piling, pile protection, cribs, cofferdams, walls, and other necessary devices and apparatus for the operation or protection of such property. It shall also include the cost of engines, pumps, and boilers at loading racks and on wharves, the construction of oil-pipe lines between oil tanks and delivery facilities, and the carrier's investment in tracks if located at and used in connection with delivery facilities.

113, 163, 183 Communication systems.

This account shall include the cost of telegraph, wireless, telephone, and radio equipment.

114, 164, 184 Office furniture and equipment.

This account shall include the cost of all office furniture, equipment and fixtures, including such items as safes, desks, chairs, typewriters, accounting machines, cabinets, file cabinets, floor coverings, portable air conditioners, drinking fountains, and other similar items that are not an integral part of a building.

115, 165, 185 Vehicles and other work equipment.

This account shall include the cost of motor and other vehicles, motor and other portable work equipment, garage equipment, and portable tools and machines such as drills, hoists, jacks, power mowers, stocks and dies, laying tongs, vises, air compressors, welding machines, valve reseating machines, pipe-cleaning machines, and concrete mixers, not specifically provided for in other accounts.

116, 166, 186 Other property.

This account shall include the cost of property used in pipeline operations not provided for elsewhere.

187 Construction work in progress.

This account shall include the cost of carrier property under construction and the cost of land acquired for such construction as of the date of the balance sheet. It includes interest and taxes during construction, material and supplies delivered to the construction site, and other expenditures that will eventually be part of the cost of the completed property. When construction work is completed, the cost included in this account shall be transferred to the appropriate primary property accounts. Subsidiary records shall be maintained for each construction project. When part of a project under construction is completed and put into service, the costs applicable to that portion shall be transferred to the appropriate property account.

OPERATING REVENUES

200 Gathering revenues.

This account shall include revenues on the basis of tariff charges for the gathering or collection of crude oil, oil products and other commodities.

210 Trunk revenues.

This account shall include revenues on the basis of tariff charges for trunk line transportation of crude oil, oil products or other commodities.

220 Delivery revenues.

This account shall include revenues on the basis of tariff charges for receiving, delivering, unloading and loading fees at carrier terminal and delivery facilities.

230 Allowance oil revenue.

(a) This account shall include the current value of oil acquired through tariff allowances taken into inventory or retained in the line for operating oil supply, and the selling price of such oil sold not previously recorded in inventory or operating oil supply.

(b) Profits and losses on sales of allowance oil from inventory or operating supply shall be included in this account.

240 Storage and demurrage revenue.

This account shall include revenues on the basis of tariff charges for the storage of oil; also demurrage charges incident to failure of consignees to receive shipments promptly.

250 Rental revenue.

This account shall include the revenues from renting or subrenting property, the cost of which is included in the accounts for investment in carrier property.

260 Incidental revenue.

This account shall include revenues incidental to carrier operations and not includible in other revenue accounts.

OPERATING EXPENSES

Operations

300 Salaries and wages.

This account shall include the salaries and wages (including pay for holidays, vacations, sick leave, and similar payroll disbursements) of supervisory and other personnel directly engaged in transportation operations.

310 Supplies and expenses.

This account shall include the cost of supplies consumed and expended in operations, including the expenses of aircraft and vehicle operation; travel and other expenses of operating employees; and other related expenses of operations.

320 Outside services.

This account shall include the cost of operating services provided by other than company forces under contract, agreement or other arrangement. The cost of services performed by affiliated companies shall be segregated within the account.

330 Operating fuel and power.

This account shall include the cost of fuel and power consumed and expended in operations. The cost of normal utilities services shall be included herein when such costs are directly allocable to operations.

340 Oil losses and shortages.

(a) This account shall include the cost of settlements with shippers for oil lost or undelivered due to operating causes during the course of transportation.

(b) The value of oil gains from operations shall be credited to this account at current value at time of determination of gain and charged to oil inventory or operating supply.

Maintenance

400 Salaries and wages.

This account shall include the salaries and wages (including pay for holidays, vacations, sick leave, and similar payroll disbursements) of supervisory and other personnel directly engaged in the maintenance and repair of transportation property.

410 Supplies and expenses.

This account shall include the cost of supplies consumed and expended in support of the maintenance activity, including the expenses of operating aircraft, vehicles, and work equipment; travel and other expenses of maintenance employees; and other related maintenance expense.

420 Outside services.

This account shall include the cost of maintenance services provided by other than company forces under contract, agreement or other arrangement. The cost of services performed by affiliated companies shall be segregated within the account.

430 Maintenance materials.

This account shall include the cost of materials applied in the repair and maintenance of transportation property. The salvage value of materials recovered in maintenance work shall be credited to this account.

General

500 Salaries and wages.

This account shall include the salaries and wages (including pay for holidays, vacations, sick leave, and similar payroll disbursements) of executives and general officers, general office personnel, and of other employees whose wages cannot be directly allocated to operations or maintenance.

510 Supplies and expenses.

This account shall include the cost of supplies consumed and expended for administration and general services, including the expenses of aircraft and vehicles used for general purposes; travel and other expenses of general employees and officers; utilities services; and all other incidental general expenses.

520 Outside services.

This account shall include the cost of management and general and administrative services provided by other than company forces under contract, agreement or other arrangement. The cost of services performed by affiliated companies shall be segregated within the account.

530 Rentals.

This account shall include the cost of renting property used in carrier transportation service, such as a complete pipeline or segment thereof, office space, land and buildings, and other equipment and facilities.

540 Depreciation and amortization.

This account shall include charges for the depreciation and amortization of transportation property. Charges for the amortization of fixed term intangibles relating to common carrier operations shall also be included herein.

550 Pensions and benefits.

This account shall include the cost to the carrier of annuities and pensions for active or retired employees, their beneficiaries or designees. Contributions to health or welfare funds or payment for similar benefits to or on behalf of employees shall be included herein. Premiums, to the extent borne by the carrier, for group life, health, accident and other beneficial insurance for employees shall also be included in this account.

560 Insurance.

This account shall include the cost of commercial insurance to protect the carrier against losses and damages in its pipeline operations such as injuries to or deaths of employees and other persons, damages to or destruction of carrier property or the property of others, and other business risks and hazards pertaining to transportation operations.

NOTE: Insurance or other reimbursement for loss or damage shall be credited to the same account charged with the loss or expense.

570 Casualty and other losses.

(a) This account shall include the amount of expense sustained by the carrier on account of loss or damage to oil or other commodity entrusted to it for transportation or storage resulting from fire, flood, or other casualty.

(b) Expenses on account of damage and destruction to property of others from all causes; and the expense of repairing damages to transportation property caused by casualty shall also be included herein.

(c) This account shall also include expenses incurred on account of injury to or death of employees or other persons including related medical, hospital and funeral expenses.

NOTE: The cost of oil lost or undelivered through operating causes shall be charged to account 240, Oil Losses and Shortages.

580 Pipeline taxes.

(a) This account shall include accruals for taxes of all kinds, excepting Federal income taxes, relating to carrier property, operations, privileges and licenses.

(b) The detail of this account shall show separately the amounts levied by the Federal government and by each state.

INCOME ACCOUNTS

Ordinary Items

CREDIT

600 Operating revenues.

This account shall include the total revenues included in the operating revenue accounts for the calendar year.

620 Income (net) from noncarrier property.

(a) This account shall include all noncarrier revenues and expenses from property carried in account 34, Noncarrier Property.

(b) All expenses related to noncarrier property, such as operation and maintenance expenses, depreciation, taxes (except Federal income taxes) and similar expenses, are includible herein.

630 Interest and dividend income.

(a) This account shall include interest accruing to the carrier on securities of others, loans, notes and advances, deposits, and all other interest bearing assets. Also include the amount of amortized premium or discount related to such assets.

(b) This account shall also include the amount of dividends declared on stocks of others owned by the carrier.

(c) Income shall not be included in this account unless receipt thereof is reasonably assured.

640 Miscellaneous income.

(a) This account shall include income not provided for elsewhere creditable to income accounts for the current year, such as unclaimed wages written off, profit on sales of land and noncarrier property, profit on sales of investment securities and profit from company bonds reacquired.

(b) When the profit from sale of land, noncarrier property, or investment securities other than temporary cash investments, or from the reacquisition of the company's own bonds is of an amount sufficiently large to constitute an extraordinary item pursuant to instruction 1–6, such profit shall be credited to account 680, Extraordinary Items.

DEBIT

610 Operating expenses.

This account shall include the total expenses included in the operating expense accounts for the calendar year.

650 Interest expense.

This account shall include interest expense on all classes of debt except interest pertaining to construction of property. This account shall also include the amortization of long-term debt premium and discount. Charges for interest on carrier debt obligations previously issued and now held by or for the carrier shall not be recorded in this account.

660 Miscellaneous income charges.

(a) This account shall include income charges not provided for elsewhere chargeable to income accounts for the current year, such as amortization of debt expense, losses on sale or disposition of land and noncarrier property, losses on sales or reductions in value of investment securities, bad debts, losses on company bonds reacquired, taxes (other than Federal income taxes) on investment securities, trust management expenses, amortization of intangibles which are not restricted to a fixed term, and the difference between the premium and the added cash surrender value of life insurance on officers and employees when the carrier is beneficiary.

(b) When the loss on the sale of land, noncarrier property, or investment securities other than temporary cash investments, or on the reacquisition of the company's own bonds is of an amount sufficiently large to constitute an extraordinary item pursuant to instruction 1–6, such loss shall be included in account 680, Extraordinary Items.

670 Federal income taxes on ordinary income.

(a) Accruals for Federal income taxes applicable to ordinary income shall be included in this account. See the texts of account 695, Federal Income Taxes on Extraordinary and Prior Period Items, account 710, Other Credits to Retained Income, and account 720, Other Debits to Retained Income, for recording other income tax consequences.

(b) Details pertaining to the tax consequences of other unusual and significant items, and also cases where tax consequences are disproportionate to related amounts included in income accounts, shall be submitted to the Commission for consideration and decision as to proper accounting.

(c) Federal income taxes which are refundable or reduced as the result of carry-back or carry-forward of operating loss shall be credited to this account, if a carry-back, in the year in which the loss occurs or, if a carry-forward, in the year in which such loss is applied to reduce taxes. However, when the amount constitutes an extraordinary item pursuant to instruction 1–6, it shall be included in account 690, Prior Period Items.

Extraordinary and Prior Period Items

680 Extraordinary items (net).

(a) This account shall include extraordinary items accounted for during the current accounting year in accordance with the provisions of instruction 1–6, upon approval of the Commission. Among the items which shall be included in this account are:

(1) Net gain or loss on sale of (a) land used for transportation purposes, (b) timber, minerals, and improvements related thereto, and (c) noncarrier property.

(2) Net gain or loss on sale of securities acquired for investment purposes, and charges to write down the ledger value of such securities because of impairment of value.

(3) Net gain or loss on reacquisition of company bonds.

(4) Changes in application of accounting principles.

(b) This account shall be maintained in a manner sufficient to identify the nature and gross amount of each debit and credit.

(c) Federal income tax consequences of charges and credits to this account shall be recorded in account 695, Federal Income Taxes on Extraordinary and Prior Period Items.

690 Prior period items (net).

(a) This account shall include unusual delayed items accounted for during the current accounting year in accordance with the provisions of instruction 1-6, upon approval of the Commission. Among the items which shall be included in this account are:

(1) Unusual adjustments, refunds, or assessments of Federal income taxes of prior years.

(2) Unusual adjustments of reserves of prior years determined to be excessive or deficient.

(3) Similar items representing transactions of prior years which are not identifiable with or do not result from business operations of the current year.

(b) This account shall be maintained in a manner sufficient to identify the nature and gross amount of each debit and credit.

(c) Federal income tax consequences of charges and credits to this account shall be recorded in account 695, Federal Income Taxes on Extraordinary and Prior Period Items.

695 Federal income taxes in extraordinary and prior period items.

This account shall include the estimated Federal income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which, for accounting purposes, are classified as unusual and extraordinary, and are recorded in accounts 680, Extraordinary Items, and 690, Prior Period Items, as appropriate.

Retained Income Accounts

700 Net balance transferred from income.

This account shall include net income (or deficit) for the calendar year.

710 Other credits to retained income.

This account shall include other credit adjustments, net of assigned Federal income taxes, not provided for elsewhere in this system but only after such inclusion has been authorized by the Commission.

720 Other debits to retained income.

This account shall include losses from resale of reacquired capital stock, and charges which reduce or write off discount on capital stock issued by the company, but only to the extent that such charges exceed credit balances in account 73, Additional Paid-In Capital, for shares reacquired. This account shall also include other debit adjustments, net of assigned Federal income taxes, not provided for elsewhere in this system of accounts, but only after such inclusion has been authorized by the Commission.

740 Appropriations of retained income.

This account shall include appropriations made from retained income during the calendar year. Appropriations charged to this account shall be credited to account 74, Appropriated Retained Income.

750 Dividend appropriations of retained income.

This account shall include the amount of dividends declared during the calendar year on all classes of outstanding capital stock. Stock reacquired and owned by the carrier shall not be subject to dividends. Subsidiary records shall be kept to show separately the dividends declared on each type and class of capital stock. When dividends are paid in other than money, complete detail of each transaction shall be maintained.

FORM OF BALANCE SHEET STATEMENT

ASSETS

CURRENT ASSETS

10 Cash.
11 Temporary Investments.
12 Notes Receivable.
13 Receivables from Affiliated Companies.
14 Accounts Receivable.
15 Interest and Dividends Receivable.
16 Oil Inventory.
17 Material and Supplies.
18 Prepayments.
19 Other Current Assets.
Total current assets

INVESTMENTS AND SPECIAL FUNDS

20 Investments in Affiliated Companies.
21 Other Investments.
23 Sinking and Other Funds.
25 Reductions in Security Values—Credit.
Total investments and special funds.

TANGIBLE PROPERTY

30 Carrier Property.
31 Accrued Depreciation—Carrier Property.
32 Accrued Amortization—Carrier Property.
33 Operating Oil Supply.
34 Noncarrier Property.
35 Accrued Depreciation—Noncarrier Property.
Total tangible property.

OTHER ASSETS AND DEFERRED CHARGES

40 Organization Costs and Other Intangibles.
41 Accrued Amortization of Intangibles.
42 Unamortized Discount and Interest on Long-Term Debt.
43 Miscellaneous Other Assets.
44 Other Deferred Charges.
Total other assets and deferred charges.
Total Assets.

Liabilities and Stockholders' Equity

LIABILITIES

CURRENT LIABILITIES

50 Notes Payable
51 Payables to Affiliated Companies
52 Accounts Payable
53 Salaries and Wages Payable
54 Interest Payable
55 Dividends Payable
56 Taxes Payable
57 Long-Term Debt Payable Within One Year
58 Other Current Liabilities
Total current liabilities

NONCURRENT LIABILITIES

60 Long-Term Debt Payable After One Year
61 Unamortized Premium on Long-Term Debt
68 Other Noncurrent Liabilities
Total noncurrent liabilities
Total Liabilities

STOCKHOLDERS' EQUITY

70 Capital Stock
71 Premiums on Capital Stock
72 Capital Stock Subscriptions
73 Additional Paid-In Capital
74 Appropriated Retained Income
75 Unappropriated Retained Income
Total Stockholders' Equity
Total Liabilities and Stockholders' Equity

FORM OF INCOME STATEMENT

INCOME STATEMENT

ORDINARY ITEMS

Carrier Operating Income

600 Operating Revenues
610 Operating Expenses
Net carrier operating income

Other Income and Deductions

620 Income (Net) from Noncarrier Property
630 Interest and Dividend Income
640 Miscellaneous Income
650 Interest Expense
660 Miscellaneous Income Charges
Total other income and deductions.
Ordinary income before Federal income taxes.
670 Federal income taxes on ordinary income.
Ordinary income.

EXTRAORDINARY AND PRIOR PERIOD ITEMS

690 Extraordinary items (net).
690 Prior period items (net).
695 Federal income taxes on extraordinary and prior period items.
Total extraordinary and prior period items.
Net income (or loss).

FORM OF UNAPPROPRIATED RETAINED INCOME STATEMENT

Unappropriated Retained Income Statement

75 Unappropriated retained income (beginning of year).
700 Net balance transferred from income.
710 Other credits to retained income.
720 Other debits to retained income.
740 Appropriations of retained income.
750 Dividend appropriations of retained income.
75 Unappropriated retained income (end of year).

PART 1205—REFRIGERATOR CAR LINES

General Instructions

1 Persons or companies for whom this system of accounts is prescribed.
2 Definitions.
3 Classification of accounts.
4 Records.
5 Accounting period.
6 Accrual method of accounting.
7 Unaudited items.
8 Delayed items.
9 Operating reserves.
10 Item lists.
11 Submission of questions.

Property Accounts Instructions

12 Items to be charged.
13 Minimum rule applicable to additions to property.
14 Land.
15 Structures.
16 Equipment.
17 Components of construction cost.
18 Additions to and retirements of units of property.
19 Additions and retirements of other than units of property.
20 Units of property rebuilt or converted.

Maintenance and Operation Expense Instructions

21 Items to be charged to maintenance expense.
22 Equalization of car maintenance.
23 Supervision expenses.
24 Rent expense.
25 General expenses.

Clearing Accounts Instructions

26 Items to be charged.
27 Boarding house operations.
28 Ice plant operations.
29 Power plant operations.
30 Production cost of ice.
31 Material and stationery store expenses.
32 Shop expenses.

Depreciation Accounts Instructions

33 Method.
34 Rates of depreciation.
35 Depreciation records to be kept.

Income and Balance Sheet Accounts Instructions

36 Current assets.
37 Book value of securities owned.
38 Discount, expense, and premium on debt.
39 Discount, premium, and assessment on capital stock.
40 Joint liabilities.
41 Contingent assets and liabilities.

Property Accounts Texts

51 Land.
52 Public improvements.
53 Rolling stock.
54 Miscellaneous equipment.
55 Trucks.
56 Car shop buildings and machinery.
57 Work equipment.
58 Ice manufacturing plants.
59 Natural ice plants.
60 Ice storage plants.
61 Precooling plants.
62 Icing platforms.
63 Transmission systems.
64 Testing apparatus.
65 Miscellaneous structures.
66 Mechanical protective service units.
67 Mechanical protective service facilities.
70 Organization expenses.

Operating Revenue Accounts Texts

100 Operating revenue accounts.

Car Service

101 Car mileage.
102 Car rental.
104 Cleaning cars.
108 Other car service revenue.

Icing Protective Service

110 Ice and salt.
111 Supervision.
112 Refrigerating device damage.
113 Top or body ice damage.
114 Precooling.
118 Other icing service revenue.

Mechanical Protective Service

116 Mechanical protective service units.
117 Inspecting, service, and supervision.
118 Fuel.
119 Other mechanical protective service revenue.

Heater Service

120 Car heaters.
121 Heater fuel.
122 Servicing heaters.
123 Supervision.
124 Preheating cars.
128 Other heater service revenue.

Other Services

130 Ventilation service.
132 Other ice and salt.
138 Miscellaneous.

Operating Expense Accounts Texts

200 Operating expense accounts.

Car Service

201 Supervision.
202 Rents; car service facilities.
205 Car distribution.
208 Cleaning and conditioning cars.
210 Car repairs.
211 Other repairs.
221 Injuries to persons.
222 Insurance.
223 Stationery and printing.
229 Other expenses.
230 Equalization; car repairs.
236 Depreciation; rolling stock.
237 Depreciation; other car service facilities.
238 Retirements; car service facilities.

Icing Protective Service

251 Ice purchased.
252 Ice produced.
253 Rents; icing facilities.
254 Icing operations.
255 Repairs; icing facilities.
256 Injuries to persons.
257 Insurance.
258 Other expenses.
265 Depreciation; icing facilities.
270 Retirements; icing facilities.
278 Salt.

Other Icing Service

281 Supervision.
282 Rents; icing service facilities.
283 Repairs; icing service facilities.
284 Precooling service.
285 Injuries to persons.
286 Insurance.
287 Stationery and printing.
290 Other expenses.
295 Depreciation; icing service facilities.
296 Retirements; icing service facilities.

Mechanical Protective Service

301 Supervision.
302 Rents.
308 Fuel.
305 Inspecting and servicing.
306 Supplies and repairs.
307 Injuries to persons.
308 Insurance.
309 Stationery and printing.
315 Other expenses.
320 Depreciation; mechanical service facilities.
321 Retirements; mechanical service facilities.

Heater Service

351 Supervision.
352 Rents; heater service facilities.
357 Heater fuel.
358 Inspecting and servicing of heaters.
360 Repairs; heater service facilities.
361 Preheating service.
371 Injuries to persons.
372 Insurance.
373 Stationery and printing.
379 Other expenses.
386 Depreciation; heater service facilities.
388 Retirements; heater service facilities.

Miscellaneous

401 Ventilation service.
406 Curtain service.
408 Papering cars.
410 Loss and damage claims.
414 Diversions and reconsignments.
415 Other expenses.

General

450 Salaries and expenses of general officers and clerks.
451 General office supplies and expenses.
452 Rents.
454 Law expenses.
458 Pensions and relief.
460 Insurance.
461 Stationery and printing.
462 Repairs; general.
465 Depreciation; general.
468 Retirements; general.
469 Other expenses.

Income Accounts Texts

ORDINARY ITEMS

CREDITS

501 Car line operating revenues.
502 Revenues from miscellaneous operations.
510 Miscellaneous rent income.
511 Income from nonoperating property.
513 Dividend income.
514 Interest income.
516 Income from sinking and other reserve funds.
517 Release of premiums on funded debt.
519 Miscellaneous income.

DEBITS

531 Car line operating expenses.
532 Car line tax accruals.
533 Rent payable for cars.
534 Expenses of miscellaneous operations.
535 Taxes on miscellaneous operating property.
543 Miscellaneous rents.
544 Miscellaneous tax accruals.
546 Interest on funded debt.
547 Interest on unfunded debt.
548 Amortization of discount on funded debt.
551 Miscellaneous income charges.

EXTRAORDINARY AND PRIOR PERIOD ITEMS

570 Extraordinary items (net).
580 Prior period items (net).
590 Federal income taxes on extraordinary and prior period items.
599 Form of income statement.

Retained Income Accounts Texts

CREDITS

601 Credit balance (at beginning of calendar year).
602 Credit balance transferred from income.
606 Other credits to retained income.

DEBITS

611 Debit balance (at beginning of calendar year).
612 Debit balance transferred from income.
616 Other debits to retained income.
620 Appropriations for sinking and other reserve funds.
621 Appropriations for other purposes.
622 Appropriations released.
623 Dividends.

General Balance Sheet Accounts Texts

DEBITS

701 Cash.
702 Temporary cash investments.
703 Special deposits.
704 Loans and notes receivable.
705 Mileage accounts receivable.
707 Miscellaneous accounts receivable.
708 Interest and dividends receivable.
709 Accrued accounts receivable.
710 Working fund advances.
711 Prepayments.
712 Material and supplies.
713 Other current assets.
715 Sinking funds.
716 Capital and other reserve funds.
717 Insurance and other funds.
721 Investments in affiliated companies.
722 Other investments.
723 Reserve for adjustment of investment in securities—Cr.
731 Cars or protective service property.
733 Acquisition adjustment.
735 Accrued depreciation—Cars or protective service property.
736 Amortization of defense projects—Cars or protective service property.
737 Miscellaneous physical property.
738 Accrued depreciation—Miscellaneous physical property.
741 Other assets.
742 Unamortized discount on long-term debt.
743 Other deferred charges.

CREDITS

751 Loans and notes payable.
753 Audited accounts and wages payable.
754 Miscellaneous accounts payable.
755 Interest matured unpaid.
756 Dividends matured unpaid.
757 Unmatured interest accrued.
758 Unmatured dividends declared.
759 Accrued accounts payable.
760 Federal income taxes accrued.
761 Other taxes accrued.
763 Other current liabilities.
764 Equipment obligations and other debt due within one year.
765 Funded debt unmatured.
766 Equipment obligations.
767 Receiver's and trustee's securities.
768 Debt in default.
769 Amounts payable to affiliated companies.
771 Pension and welfare reserves.
772 Insurance reserves.
773 Equalization reserves.
774 Casualty and other reserves.
781 Interest in default.
782 Other liabilities.
785 Unamortized premium on long-term debt.
784 Other deferred credits.
791 Capital stock issued.
792 Stock liability for conversion.
793 Discount on capital stock.
794 Premiums and assessments on capital stock.
795 Paid-in surplus.
796 Other capital surplus.
797 Retained income—Appropriated.
798 Retained income—Unappropriated.
799 Form of general balance sheet statement.

AUTHORITY: The provisions of this Part 1205 issued under sec. 12, 24 Stat. 383, as amended, sec. 20(6), 54 Stat. 917; 49 U.S.C. 12, 20(6).

General Instructions

1 Persons or companies for whom this system of accounts is prescribed.

This system of accounts is prescribed for refrigerator car lines which are railroad owned or controlled and are operated in interstate commerce subject to provisions of section 20(6) of the Interstate Commerce Act furnishing cars or protective services against heat or cold. This system of accounts is not designed to meet the requirements of persons or companies, except those "railroad owned or controlled", which furnish cars but not protective service, to or on behalf of any carrier by railroad or express company subject to Part I of the Act.

2 Definitions.

(a) "Accounts" means the accounts prescribed in this system of accounts.

(b) "Actually issued" as applied to securities issued or assumed, means those which have been sold to a bona fide purchaser for a valuable consideration and those issued as dividends on stock.

(c) "Actually outstanding" as applied to securities issued or assumed by the accounting company means those which have been actually issued and are neither retired nor held by or for the accounting company.

(d) "Affiliated companies" means companies or persons that directly, or indirectly through one or more intermediaries, control, or are controlled by, or are under common control with, the accounting company.

(e) "Amortization" means the gradual extinguishment of an amount in an account by distributing such amount over a fixed period, over the life of the asset or liability to which it applies, or over the period during which it is anticipated the benefit will be realized.

(f) "Book cost" means the amount at which assets are recorded in the accounts of the company without deduction of any related reserves or other items. If the book cost of units and minor items of property retired cannot be determined definitely from the company's records, the book cost of such items shall be estimated.

(g) "Book liability" means the amount at which liabilities (including securities issued or assumed by the company) are recorded in the accounts of the company.

(h) "Cars or protective service" means the furnishing of cars or protective service against heat or cold to or on behalf of any carrier by railroad or express company and services incident thereto. "Cars or protective service property" means property devoted to such service.

(i) "Company," when not otherwise indicated in the context, means the persons to which this system of accounts is applicable.

(j) "Commission" means the Interstate Commerce Commission.

(k) "Control" (including the terms "controlling," "controlled by," and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a company, whether such power is exercised through one or more intermediary companies, or alone, or in conjunction with, or pursuant to an agreement, and whether such power is established through a majority of minority ownership or voting of securities, common directors, officers or stockholders, voting trusts, holding trusts, associated companies, contract or any other direct or indirect means.

(l) "Cost of removal" means cost of demolishing, dismantling, tearing down or otherwise removing property.

(m) "Debt expense" means all expenses in connection with the issuance and initial sale of evidences of debt, such as fees for drafting mortgages and trust deeds; fees and taxes for issuing or recording evidences of debt; cost of engraving and printing bonds and certificates of indebtedness; fees paid trustees; specific costs of obtaining governmental authority; fees for legal services; fees and commissions paid underwriters, brokers, and salesmen for marketing such evidences of debt; fees and expenses of listing on exchanges; and other like costs.

(n) "Discount" as applied to the securities issued or assumed by the accounting company means the excess of the par (stated value of no-par stocks) or face value of the securities plus interest or dividends accrued at the date of the sale over the cash value of the consideration received from their sale.

(o) "Ledger value of property" means the value at which the property is carried in the property investment account in the general ledger of the company. In case the value of any item of property is not shown separately in the ledger the ledger value of that item shall be its proportionate share of the value of the entire group in which the particular property is included.

(p) "Minor items of property" means the associated parts or items of which units of property are composed.

(q) "Nominally issued" as applied to securities issued or assumed by the company, means those which have been signed, certified, or otherwise executed, and placed with the proper officer for

sale and delivery, or pledged, or otherwise placed in some special fund of the accounting company.

(r) "Nominally outstanding" as applied to securities issued or assumed by the accounting company, means those which, after being actually issued, have been reacquired by or for the accounting company under such circumstances which require them to be considered as held alive and not retired.

(s) "Persons" means those who furnish cars or protective service against heat or cold to or on behalf of any carrier by railroad or express company, and includes an individual, firm, copartnership, corporation, company, association or joint-stock association; also a trustee, receiver, assignee, or personal representative thereof.

(t) "Premium" as applied to securities issued or assumed by the company, means the excess of the cash value of the consideration received from their sale over the sum of their par (stated value of no-par stocks) or face value and interest or dividends accrued at the date of sale.

(u) "Property retired" means property which has been removed, sold, abandoned, destroyed, or which for any cause has been withdrawn from service.

(v) "Protective service contracts" means those entered into with any common carrier by railroad or express company under the provisions of paragraph 14(b) of section 1 of the Interstate Commerce Act for furnishing protective services against heat or cold to property transported in interstate or foreign commerce.

(w) "Service life" means the period between the date when property is placed in service and the date of its retirement.

(x) "Service value" means the ledger value less the value of the salvage, including insurance, recovered therefrom.

(y) "Value of salvage" means the amount received for property retired and disposed of, or the amount at which material recovered will be charged if reused.

3 Classification of accounts.

Accounts are prescribed to cover cost of property used in furnishing cars or protective service and for revenues, expenses, taxes and income from such service. Separate accounts are prescribed for investment in property not used in such services and for other investments and income therefrom; for extraordinary and prior period items, including applicable income taxes; and for assets, liabilities and capital includible in the balance sheet statement. Retained income accounts form the connecting link between the income account and the equity section of the balance sheet. They are provided to record the transfer of net income or loss for the year; certain capital transactions; and, when authorized by the Commission, other items.

All items of profit and loss recognized during the year are includible in ordinary income except nonrecurring items which in the aggregate for the same class are both material in relation to operating revenues and ordinary income for the year and are clearly not identified with or do not result from usual business operations of the year. Important items of the kind which occur from time to time and which, when material in amount, are to be excluded from ordinary income are those resulting from unusual sales of property and investment securities other than temporary cash investments, from company bonds reacquired, from change in application of accounting principles, and from prior period items (other than ordinary adjustments of a recurring nature). Material items are those which, unless excluded from ordinary income, would distort the accounts and impair the significance of ordinary income for the year. Items so excludible from ordinary income are to be entered directly in the income accounts provided for extraordinary and prior period items upon approval of the Commission.

Adjustments constituting items of a character typical of customary business activities or representing corrections or refinements resulting from the natural use of estimates inherent in the accounting process, shall not be considered extraordinary or prior period items regardless of size.

In determining materiality, items of a similar nature should be considered in the aggregate; dissimilar items should be considered individually. As a general standard, an item to qualify for inclusion as an extraordinary or prior period item shall exceed 1 percent of total operating revenues and ten percent of ordinary income for the year.

All charges to the accounts prescribed for operating revenues, operating expenses and other accounts for furnishing cars or protective service shall be just, reasonable and necessary to the honest and efficient operation and management of the company's business. Payments or allowances in excess of such just and reasonable charges shall be included in account 551, "Miscellaneous income charges."

4 Records.

(a) Each company shall keep its books of account, and all other books, records, and memoranda which support the entries in such books of account so as to be able to furnish readily full information as to any item included in any account. Each entry shall be supported by such detailed information as will permit ready identification, analysis, and verification of all facts relevant thereto.

The books and records referred to herein include not only accounting records in a limited technical sense, but all other records, such as minute books, stock books, reports, correspondence, memoranda, etc., which may be useful in developing the history of or facts regarding any transaction.

(b) In addition to prescribed accounts, clearing accounts, temporary or experimental accounts, and subdivisions of any accounts, may be kept, provided the integrity of the prescribed accounts is not impaired. The titles of all subdivisions or subaccounts shall refer by number or title to the accounts prescribed herein of which they are subdivisions.

(c) The "Regulations to Govern the Destruction of Records of Railroad Companies" prescribed by this Commission, part 1220 of this chapter, are applicable to persons and companies subject to this system of accounts.

5 Accounting period.

Each company shall keep its books on a monthly basis so that for each month all transactions applicable thereto, or nearly as may be ascertained, shall be entered in the books of the company. The final entries for any month shall be made not later than 60 days after the last day of the month for which the accounts are stated, except that the period within which the final entries for the month of December shall be made may be extended to such date in the following March as shall not interfere with the preparation and filing of annual report.

6 Accrual method of accounting.

The accounting for operating revenues, operating expenses and income each month and year shall be, as nearly as practicable, upon the basis of accruals in conformity with generally accepted accounting principles consistently applied. Any change in practice of accounting for accruals or any unusual accruals involving material amounts shall be reported promptly to the Commission.

7 Unaudited items.

When it is known that a transaction has occurred which affects operating revenues, operating expenses or other income account but the amount involved and its effect upon the accounts cannot be determined with absolute accuracy, the amount thereof shall be estimated and included in the appropriate income and balance sheet accounts. Such estimate shall be adjusted in the following month or as soon thereafter as the actual amount can be determined. If the estimate is not adjusted in the following month, the amount shall be revised whenever and at the time a substantial change is indicated and the amounts in the balance sheet accounts with respect to such items shall be kept separately in the records until settled and adjusted. The company is not required to anticipate items which do not appreciably affect the accounts.

8 Delayed items.

Ordinary delayed items and adjustments arising during the current year which are applicable to prior years shall be included in the same account which would have been charged or credited if the item had been taken up or the adjustment made in the year to which it pertained. When the amount of a delayed item or adjustment is relatively so large that its inclusion in net income for a single month would seriously distort the accounts for the month (but not for the year), such amount may be distributed in equal monthly charges or credits, as the case may be, to the remaining months of the calendar year. See instruction 3 for provisions covering delayed items of a nonrecurring nature.

9 Operating reserves.

Accretions to reserve accounts made by charges to operating expenses, operating revenues, or income shall not exceed a reasonable provision for expenses or other costs incurred during the accounting period. Balances for each year in each reserve account shall be kept separately until the items have been settled and adjusted and amounts shall not be diverted from the purpose for which provided unless permission of the Commission is first obtained.

10 Item lists.

Lists of "items" appearing in the texts of the accounts or elsewhere herein are for the purpose of more clearly indicating the application of the prescribed accounting. The lists are intended to be representative, but not exhaustive. The appearance of an item in a list warrants the inclusion of the item in the account mentioned only when the text of the account also indicates inclusion inasmuch as the same item frequently appears in more than one list. The proper entry in each instance must be determined by the texts of the accounts.

11 Submission of questions.

To maintain uniformity of accounting questions of doubtful interpretation shall be submitted to the Commission for consideration and decision.

Property Accounts Instructions

12 Items to be charged.

To the property accounts shall be charged the cost of purchasing land, the cost of purchasing and constructing buildings, facilities and equipment, and the cost of additions and improvements of property owned and used by the company in furnishing cars or protective service or leased to others for such services. "Cost" means the amount of money actually paid for property or services. When the consideration given for the property is other than cash in a purchase and sale transaction, as distinguished from a transaction involving the issuance of capital stock in reorganization or a merger and pooling of interest, the value of the consideration shall be determined on a cash basis. The company shall be prepared to furnish the Commission the particulars of its determination of the actual cash value of the consideration if other than money.

Suitable records shall be maintained showing expenditures for property constructed or purchased; for mergers, purchases and reorganizations; for additions and betterments; and credits for property retired.

13 Minimum rule applicable to additions to property.

An exception to the foregoing rule is that when the cost of acquisition of units of property and of additions and betterments to existing units of property (other than land) is less than $500.00, such cost shall be charged to operating expenses. The company shall not parcel expenditures under a general plan for the purpose of bringing the accounting for such expenditures within this minimum rule. An amount of less than $500.00 may be adopted for purposes of this rule provided the company first notifies the Commission of the amount it proposes to adopt and thereafter makes no change in the amount unless authorized to do so by the Commission.

14 Land.

Accounts are provided for the cost of land used in furnishing cars or protective service and also for land used for other purposes. When land is no longer used in furnishing cars or protective service but is retained by the company, the estimated value of such land, not to exceed original cost, shall be transferred to the account prescribed for property used in other than furnishing cars or protective service. When any land, the cost of which is included in the accounts, is sold or otherwise retired, the ledger value shall be credited to the appropriate property investment account. The profit or loss from sale or retirement of land shall be included in the accounts prescribed for such amounts.

15 Structures.

Accounts are provided for the cost of several classes of buildings and facilities, including fixtures permanently attached to and made a part thereof. When a building or other structure is used primarily for furnishing cars or protective service and is an integral part of the company's plant, but a part thereof is held or used for commercial purposes such as for rental to others or for use in other than furnishing cars or protective service by the company, the entire cost of the building or other structure is includible in the accounts for cars or protective service property. When a building or other structure is used or held primarily for commercial purposes or for use in other than car line operations by the carrier, the entire cost of the building or structure is includible in account 737, "Miscellaneous physical property." The accounting for costs of maintenance, taxes, other operating costs, and for revenues and rentals shall be consistent with the classification of the building or other structure.

16 Equipment.

Accounts are provided for several classes of equipment, such as rolling stock, work equipment, miscellaneous equipment and the necessary appurtenances, furniture, and fixtures first to equip for service, including the cost of inspection, setting up, and trying out, and transportation over foreign lines; also the cost of additions and betterments, such as improved appliances, parts, or appurtenances. In case retired equipment is held without being torn down, the estimated value of the salvage therefrom shall be included in account 741, "Other assets," until the salvage is recovered.

17 Components of construction cost.

The cost of constructing property includible in the property accounts shall include the direct and other costs as listed and defined hereunder.

(a) Cost of labor: This includes the amount paid for labor performed by the company's own employees. The salaries and expenses of engineers and other officers specifically assigned to construction work shall be included in the accounts appropriate for the cost of the property in connection with which their services are rendered. No charge shall be made to these accounts for the pay of operating officers and members of their staffs who merely render service incidentally in connection with construction work.

NOTE: The office, traveling, and other personal expenses of officers and employees shall be included in the accounts to which their pay is chargeable, except that traveling and incidental expenses incurred by operating officers and members of their staffs while rendering service incidentally in connection with construction work shall be included in the cost of the work upon which they are incidentally engaged.

(b) Cost of material, supplies, and small tools: This includes the purchase price at the point of free delivery, plus costs of royalties, inspection, loading, transportation, and an equitable proportion of store expenses.

In determining the cost of material used, proper allowance shall be made for the value of unused portions, small tools recovered and used for other purposes, and all other salvage.

NOTE: The cost of individual items of small value ($25.00 or less) or of short life, including small tools, shall not be charged to the cost of construction unless the correctness of the accounting therefor is verified by current inventories, but shall be charged to operating expenses.

(c) Cost of special machine service: This includes the cost of material and supplies used in operating the company's machines and work equipment; it also includes expenditures for the rental, maintenance, and operation of machines and equipment of others.

NOTE: No charge shall be made to these accounts to cover a return upon the company's investment in special machines or work equipment used in construction service.

(d) When an important construction project necessitates the purchase of machines to be used exclusively thereon, the cost shall be included in the accounts to which the cost of the work is charged, which accounts shall be credited with the amount realized from any subsequent sale, or the appraised value of the machines if retained after the completion of the special work for which they were purchased. The appraised value of machines retained shall be debited to the appropriate primary equipment accounts.

(e) Cost of contract work: This includes amounts paid for work performed under contract by other companies, firms, or individuals, and costs incident

to the award of the contracts, and the inspection of such work.

(f) Cost of protection from casualties: This includes expenditures for protection against fire, payments for discovery or extinguishment of fires, cost of detecting incendiaries, witness fees in relation thereto, amounts paid to municipal corporations and others for fire protection, including the cost of protecting the property of others from damage when in connection with construction work, and other analogous items.

(g) Cost of injuries and damages: This includes expenditures on account of injuries to persons or damage to property, less insurance recovered, when incident to construction. Such costs shall be included in the cost of the work in connection with which the injury or damage occurs. They shall include also that portion of premiums paid for insuring against casualties applicable to the period prior to the completion of the property insured. The cost of injuries and damages in connection with the removal of old structures which are encumbrances on newly acquired lands shall be included in account 51, "Land."

(h) Taxes: Taxes on physical property belonging to the company assessed during construction and before the facilities are completed and placed in service shall be included in the accounts appropriate for the cost of the property so taxed.

(i) Interest during construction: This includes the net cost of borrowed funds used for construction purposes. Such interest shall be charged to the accounts appropriate for the cost of the property in connection with which the funds are expended. The period for which interest may be charged shall be limited to the period of construction. The interest includible in these accounts is:

(1) Interest on bonds, notes and other evidences of indebtedness sold, and on any interest-bearing debt incurred for the acquisition or construction of property. It includes the interest accruing on that part of the debt representing the cost of property acquired (less interest, if any, allowed to companies on unexpended balances) after such funds become available for use and before the receipt or the completion of the property so acquired. Interest on bonds, notes, or other evidences of indebtedness accruing before the proceeds from the sale of the securities become available for use shall not be included in these accounts nor shall there be included in these accounts any interest accruing after the property with respect to which the proceeds are expended is received or becomes available for service.

(2) There shall be deducted from or added to such interest charges a proportion of premium, or discount and expense on securities sold. The amount of premium deducted or discount and expense added shall be determined by the ratio which the period between the date the proceeds from the securities issued become available and the receipt, completion, or coming into service of the property bears to the entire life of the securities issued. In no case except as provided in this paragraph shall discount and expense be included in the property accounts.

(j) Overhead construction costs: (a) This includes such overhead construction costs as engineering, supervision, legal expenses, insurance, injuries, damages, taxes (except payroll taxes) and interest shall be distributed equitably to the work benefited, so that the entire cost of construction, both direct and indirect, may be included in the appropriate primary accounts. These instructions should not be interpreted as permitting the addition to cost of property of arbitrary percentages or amounts to cover assumed overhead costs, but as requiring the assignment to the cost of each particular project of the actual and necessary overhead costs.

(k) Disposing of material: The cost of disposing of material excavated, including privilege of wasting in connection with construction, shall be considered as a part of the cost of the work, except that when such material is used for filling, the cost of loading, hauling, and dumping shall be equitably apportioned between the work in connection with which the removal occurs and the work in connection with which the material is used.

18 Additions to and retirements of units of property.

When a unit of property is added to the plant, the cost thereof shall be included in the appropriate primary account. When a unit of property is retired, with or without replacement, the cost thereof shall be credited to the property account at time of retirement. The amount credited to the primary property accounts for property retired from service shall be charged concurrently as follows:

(a) Where the group plan of depreciation is used, the service value of units and minor items of depreciable property accounted for as retired, shall be charged to account 735, "Accrued depreciation—Cars or protective service property."

Where the unit plan of depreciation is used, an amount equal to the credit balance in account 735, "Accrued depreciation—Cars or prptective service property," with respect to the property retired shall be charged to that account and the remainder (less salvage and insurance recovered, if any) shall be charged to the appropriate retirement accounts in operating expenses.

(b) The value of salvage from retired property shall be charged to the account appropriate according to the disposition made thereof. If retired property is held temporarily without being torn down, the estimated value of the salvage recoverable therefrom shall be included in account 743, "Other deferred charges", until the property is dismantled or otherwise disposed of. If retired property is held for other than furnishing cars or protective service, its appraised value shall be included in account 737, "Miscellaneous physical property."

(c) The cost of demolishing retired property shall be charged to the appropriate retirement account in operating expenses.

19 Additions and retirements of other than units of property.

When an item of property, other than a complete unit, is added to the plant and the addition is not a replacement, the cost thereof shall be accounted for in the same manner as an addition of a complete unit of property, subject to the $500 minimum rule. When an item of property other than a complete unit is replaced, independent of the complete unit of which it is a part, the cost of replacement shall be treated as maintenance and charged to operating expenses; except that, when the replacement effects a substantial betterment, the primary aim of which is to make the property affected more useful, more efficient, of greater durability, or of greater capacity, the excess cost of the replacement over the estimated cost of replacing without betterment shall be charged to the appropriate primary property account.

NOTE: The term "estimated cost of replacing" shall not be construed as requiring an estimate based on the current price of material identical with the material replaced when such material is no longer obtainable at reasonable price or would not be used if replacement without betterment were undertaken. In such cases the estimated cost shall be based on the fair and reasonable cost of material comparable to the material being replaced.

20 Units of property rebuilt or converted.

A unit of property shall be treated as rebuilt and such unit shall be accounted for as an addition and the old unit accounted for as retired from service when: (a) The cost of renewals of a unit of property, exclusive of the expense of dismantling, exceeds fifty percent of the replacement cost of a unit of the kind and class as rebuilt at the time of rebuilding; or (b) a car undergoes general reconditioning and a new body is constructed in substitution for the old body under a plan consistently followed in order to prolong the useful life of the unit.

The charge to the appropriate property account for rebuilt or converted units shall be the sum of (a) the cost (estimated if necessary), less recorded depreciation, or salvage value, whichever is lower, of the parts reused and (b) the cost of labor expended in rebuilding or in the conversion process and the cost of additional material applied. In no case shall the total amount charged to the property accounts for such units exceed the estimated cost of units of the same kind and class with fair allowance for depreciation.

Maintenance and Operation Expense Instructions

21 Items to be charged to maintenance expense.

The accounts provided for maintenance of property and equipment are designed to show the cost of repairs and also the loss through depreciation of the property used in furnishing cars or protective service, including expenses resulting from ordinary wear and tear of service, exposure to the elements, inadequacy, obsolescence, or other depreciation, or from accident, fire, flood, or other casualty.

These accounts shall include the cost of labor, materials and supplies, special machine service, contract work, privileges, protection from casualties, and other analogous items of expense in connection with the maintenance of property used in furnishing cars or protective service. The cost of materials and supplies, which shall include small tools, shall include the cost at the point of free delivery plus freight charges of foreign lines, and the costs of inspection and loading assumed by the company; also a proportion of store expenses. Royalties for patent rights on mechanical appliances used in repairs of equipment shall be included in the cost of the repairs. The cost of boarding, traveling, and other incidental expenses of employees shall be included in the accounts to which the pay of the employees is chargeable, except where otherwise specified in the text of the accounts.

Distinct maintenance accounts have been provided for expenses of a general character, such as superintendence, stationery and printing, and injuries to persons, which, on account of established practice, it is deemed advisable to segregate.

The cost of repairs shall include the cost of inspectihg to determine the repairs necessary, and of adjusting or repairing parts; the cost of inspecting and testing after repairs have been made to determine whether the repairs have been properly made; incidental costs of repairs; cost of mowing and beautifying grounds around buildings; repairing fences, sidewalks, driveways, and streets within or adjacent to such grounds; cost of removing snow from roofs of buildings (when not removed by those employed in the buildings); cost of periodical restoration of seasonal features, such as gardens, shrubbery, and lawns; cost of operating hothouses in connection with the work of beautifying grounds; and cost of clearing and removing casual incumbrances, such as ice, snow, and fallen timber.

22 Equalization of car maintenance.

The cost of car repairs shall be included in account 210, "Car repairs", in the month in which the expense is incurred. In case the company adopts a budget or estimate for all or a part of the calendar year of car repair expense includible in account 210, an equitable monthly proportion of the difference between the budgeted or estimated expenses and the actual expenses chargeable each month may be debited or credited as appropriate to account 230, "Equalization-Car repairs," with contra entries to account 773, "Equalization reserves." Amounts included in account 773, "Equalization reserves," in accordance with the foregoing paragraph, shall be cleared therefrom at the close of each calendar year through the accounts originally charged or credited.

23 Supervision expenses.

(a) The supervision expenses includible in operating expenses shall consist of the pay and expenses, including transportation, lodgings, meals, and other incidental expenses, of the officers, clerks, attendants and other employees and consultants engaged in supervising and directing the maintenance and operation of the various services or functions; also the office expenses, including supplies, services, books, periodicals, repairs of office furniture and equipment, etc.

(b) When the officers and other employees are engaged in supervising more than one service and it is found impracticable to segregate all of the pay and expenses by services currently to the appropriate supervision accounts, such expenses as are common to two or more services may be included in a clearing account, and allocated to the respective supervision accounts annually, or more frequently, if required. A similar method of allocation may be used with respect to any other common expenses relating to two or more services, where it is impracticable to segregate such expenses currently.

24 Rent expense.

Expense accounts are provided under each service in which to include the amounts payable for the use of property leased from others. These accounts shall be charged each month with the amounts payable as rent of the property and facilities used in performing the various services. If the amount of rent is in payment for property used in more than one service, such amount shall be apportioned to the appropriate rent or clearing accounts on an actual, or if necessary, on an estimated basis.

25 General expenses.

The company shall be prepared to report to the Commission annually or more frequently, if required, the allocation of general expenses (accounts 450 to 469, inclusive) to the respective services.

Clearing Account Instructions

26 Items to be charged.

In recognition of the fact that certain expenditures incident to the construction and the operation of property are not chargeable directly to any particular property investment or expense account, clearing accounts have been provided for the purpose of securing an equitable distribution of such items to the proper primary accounts, as hereinafter set forth.

27 Boarding house operations.

This clearing account shall include the cost of commissary supplies and the expenses incurred in purchasing, storing and disbursing such supplies; also, the cost of supervision, labor, and other expenses incurred in the maintenance and operation of boarding houses. The account shall be cleared each month to the appropriate operating expense or other accounts and shall be apportioned among the various accounts affected upon the basis of the relative proportion which the balance in the account bears to the directly distributed labor. Expenses assignable to this account include pay and expenses of officers and employees engaged in purchasing, servicing, maintenance and operation; cost of fuel, light and water; and other commissary supplies, including food. To this account shall be credited the value of free meals served and amounts collected direct or deducted from wages of employees for meals and other items.

28 Ice plant operations.

This clearing account shall include the cost of supervision, labor, material and other costs, except production cost of ice, incurred in the maintenance and operation of ice manufacturing plants, natural ice plants and ice storage plants (including icing platforms and precooling facilities operated in conjunction with such ice plants). The account shall be cleared each month to the appropriate operating expense accounts. (See accounts 284, "Precooling service," and 252, "Ice produced.") Expenses assignable to this account include pay and expenses of officers and employees directly in charge of maintenance and operation at ice plants; cost of material and labor used for maintenance of buildings, machinery, ice ponds, wells and reservoirs; cost of repairing ice tools and appliances; expenses incident to injuries to persons at ice plants; rental paid for property used in ice plant operations; cost of fuel, oil, electricity; water purchased except when used in manufacturing or producing steam; also supplies for and maintenance of automotive equipment; cost of labor and power, icing cars; loading ice; and other maintenance and operation expenses at ice plants not otherwise provided for. This account shall also include depreciation charges on facilities; the cost of dismantling and recovering salvage from buildings and other facilities retired; and the undepreciated service value of the property at time of retirement. To this account shall be credited maintenance and operation expenses applicable to precooling service, etc., the directly distributed charges for which are made to the clearing account "Ice plant operations."

29 Power plant operations.

This clearing account shall include the supervision, labor, material and other expenses incurred in the maintenance and operation of power plants operated to produce electric or other power. The account shall be cleared each month in accord with disposition of the power produced.

30 Production cost of ice.

This clearing account shall include the direct costs entering into the production and storage of ice at ice manufacturing plants, natural ice plants and ice storage plants. The account shall be cleared each month to the appropriate operating expense or other accounts. (See accounts 284, "Precooling service," and 252, "Ice produced.") Expenses assignable to this account include wages, power

room, tank room, ice storeroom employees, (except when engaged in maintenance work); the cost of electric energy and fuel; the cost of ammonia, water and other supplies used in the production of ice; cost of fuel, power, and labor engaged in flooding ponds, bucking snow, cutting and running ice, and conveying ice to storerooms and to cars. This account shall also include contractual payments for purchase or storage of ice; transportation charges on stored ice; and other expenses applicable to production of ice not otherwise provided for. To this account shall be credited the production cost applicable to precooling service and to the protection of perishable commodities in storerooms rented to others, the directly distributed charges for which are made to clearing account, "Production cost of ice."

31 Material and stationery store expenses.

To clearing accounts called "Material store expenses" and "Stationery store expenses" shall be charged expenses in connection with purchasing, handling and storing material and stationery in and distributing it from material stores including the pay of officers and employees in the purchasing and store departments and their traveling, office, and other expenses; also expenses, including wages of operators, fuel, repairs and supplies, of motor trucks, tractors and trailers, "truck-lifts," locomotive and other power cranes, etc., used in handling material. The pay and expenses of men employed in purchasing or inspecting a single class of material, such as lumber, shall be added as store expenses to the cost of that particular material.

The total amount of expenses charged to these accounts shall be so distributed among the accounts to which material and stationery has been charged that the amounts thus distributed will be, for each account, in proportion to the value of the items issued chargeable thereto, except that the amount representing the purchasing department expenses shall be apportioned on the value of the items issued which were purchased by that department. To avoid monthly fluctuations in the ratio of store expenses to the value of material and stationery purchased or issued, the company may make a monthly apportionment on the basis of fair percentage rates, provided the store expense accounts are adjusted and closed out at the end of each year.

32 Shop expenses.

A clearing account entitled "Shop expenses" shall be kept to which shall be charged items of expense at car repair shops, and other places at which mechanical work is done, not assignable directly to specific accounts. Such expenses shall be apportioned among the various amounts affected. The basis of distribution shall be the relative proportion which the total amount of charges to "Shop expenses" bears to the total of the directly distributed labor. To avoid monthly fluctuations in the ratio of shop expenses to the total of distributed labor, the monthly apportionment may be made on the basis of a percentage of the distributed labor, provided the shop expense account is adjusted and closed out at the end of each year.

The expenses assignable to this account shall include the pay of foremen (who exercise supervision over all departments), their clerks, and other employees engaged in general work in and about shops; costs of heat, light and power; cost of small tools and supplies and water and power purchased; also cost of removal of snow and ice from transfer tables and shop yards, and other incidental shop expenses. To this account shall be charged expenses, including wages, fuel and supplies, of operating motor trucks, tractors and trailers.

Depreciation Accounts Instructions

33 Method.

(a) There shall be charged monthly to the appropriate operating expense accounts or other appropriate accounts and credited to account 735, "Accrued depreciation—Cars or protective service property," during the service life of depreciable property amounts which will approximate the loss in service value not restored by current repairs or covered by insurance, except that such charges covering property used seasonally, such as ice and heater facilities, shall be spread over the period when such facilities are used. The charges for currently accruing depreciation shall be computed in conformity with the group plan for rolling stock and the unit plan for all other depreciable property, by applying to the book cost, such percentage rates as will distribute the service value by the straightline method in equal monthly charges to operating expenses or other accounts during the estimated life of the property.

(b) In computing monthly charges the annual percentage rates shall be applied to the book cost of depreciable property as of the first of each month and the result divided by twelve, except for property used seasonally.

(c) The term "group plan" means the method under which the depreciation charges are accrued upon the basis of the book cost of depreciable property included in each primary account using the service life thereof properly weighted.

(d) For the purpose of depreciation accounting the following primary accounts are classed as depreciable accounts:

52. Public improvements.
53. Rolling stock.
54. Miscellaneous equipment.
55. Tracks.
56. Car shop buildings and machinery.
57. Work equipment.
58. Ice manufacturing plants.
59. Natural ice plants.
60. Ice storage houses and equipment.
61. Precooling plants.
62. Icing platforms.
63. Transmission systems.
64. Testing apparatus.
65. Miscellaneous structures.
66. Mechanical protective service units.
67. Mechanical protective service facilities.

34 Rates of depreciation.

The company shall compute annual percentage rates estimated to be applicable to the book cost of the property in each depreciable primary account. These percentage rates shall be based on the estimated service values and service lives of the depreciable property developed by a study of the company's history and experience and such engineering and other information as may be available with respect to future conditions. Such percentage rates shall, for each primary account comprised of more than one class of property, produce a charge for depreciation based on book cost or estimated book cost of the depreciable property included in such account equal to the sum of the amounts that would otherwise be chargeable as depreciation for each of the various classes of property included in such account.

35 Depreciation records to be kept.

The company shall maintain for each class of property in convenient and accessible form data bearing on prospective service lives, and shall keep such records of depreciable property and property retirements as will reflect the service life of property which has been retired, or will permit the determination of service life indications by mortality, turnover, or other appropriate methods; also such records as will reflect the percentage of value of the salvage for property retired from each class of depreciable property. For purposes of analysis the company shall maintain subsidiary records in which the reserve is broken down into component parts corresponding to each primary property account.

Income and Balance Sheet Accounts

36 Current assets.

In the group of accounts designated as current assets shall be included cash, those assets which are readily convertible into cash or are held for current use in operations, current claims against others and amounts accruing to the company which are subject to current settlement. There shall not be included in this group of accounts any item the collection of which is not reasonably assured by the known financial condition of the debtor. Items of current character but of doubtful value previously credited to operating revenue, operating expense or income accounts shall be written down or written off by charging those accounts. If there has been any impairment in value, such items shall be included in account 741, "Other assets," at an amount not in excess of a reasonable estimate of future value. If it is desired to retain a record of assets written off they shall be recorded at a nominal value in account 741, "Other assets."

37 Book value of securities owned.

The investment in securities other than those issued or assumed by the accounting company shall be recorded in these accounts at the money value, at the time of acquisition, of the consideration given therefor by the accounting company, but excluding amounts paid for accrued interest and accrued dividends. The accounting company shall write down the ledger value of any securities to the extent of impairment in their value or write off entirely if there is no reasonable prospect of realising any value therefrom. Fluctuations in market value shall not be recorded. Adjustments in the ledger values of securities shall not be delayed beyond the year in which a loss is claimed for income tax purposes. Reserves may be created to provide for depreciation in the value of securities by credits to account 723, "Reserve for adjustment of investment in securities—Cr."

The amount of the adjustment for the loss in value written off shall be charged to account 551, "Miscellaneous income charges", or to account 570, "Extraordinary items", as appropriate.

Under no circumstances shall securities be stated in these accounts at an amount in excess of their cost to the accounting company.

38 Discount, expense, and premium on debt.

Ledger accounts shall be provided to cover the discounts, expense, and premiums at the sale or resale of each subclass of funded debt and of receivers' and trustees' securities issued for the benefit of or assumed by the company. (For explanation of "subclass" see account 765, "Funded debt unmatured.") The net debit balances remaining in these ledger accounts shall be included in account 742, "Unamortized discount on long-term debt," and the total of the net credit balances in account 783, "Unamortized premium on long-term debt."

Each fiscal period there shall be charged to income account 548, "Amortization of discount on funded debt," a proportion (based upon the ratio of such fiscal period to the remaining life of the respective securities reckoned from the beginning of the period to the date of maturity of the debt to which the charges relate) of each of the debit balances in these accounts, and correspondingly there shall be credited to income account 517, "Release of premiums on funded debt," a similar proportion of each of the credit balances in these accounts. When the total discount and expense applicable to any particular issue of securities does not exceed $25,000, accounting company may charge the entire amount to account 548, "Amortization of discount on funded debt," at the time of issue.

When any funded debt which has been actually issued to bona fide holders for value is reacquired by the accounting company, that proportion of the balance remaining in the accounts containing discount, expense and premium on funded debt for the subclass of the security reacquired applicable to the portion reacquired shall be credited or charged thereto, as may be appropriate, and concurrently charged or credited to account 519, "Miscellaneous income", account 551, "Miscellaneous income charges", or to account 570, "Extraordinary items", as may be appropriate, in accordance with the text of these accounts. Such proportion shall be based upon the ratio of the par value of the security reacquired to the par value of all the securities of the subclass actually outstanding immediately before such reacquirement.

39 Discount, premium, and assessment on capital stock.

Separate ledger accounts shall be provided for each subclass of capital stock issued or assumed by the accounting company to cover discount suffered and premium realised at the sale or resale of capital stock. General levies or assessments against stockholders shall be credited to the appropriate ledger accounts for the subclass of capital stock against which the levy or assessment is made.

The total of net debit balances in these ledger accounts shall be included in account 793, "Discount on capital stock," and the total of net credit balances in account 794, "Premiums and assessments on capital stock."

Discount on each subclass of capital stock may be offset or reduced by charges to account 794, "Premiums and assessments on capital stock," to the extent that net gains from premiums or assessments have been included therein or to account 795, "Paid-in surplus," to the extent that net gains from reacquisition and resale or retirement of capital stock applicable to such subclass have been included therein. Any remaining discount may be amortized by charge to account 616, "Other debits to retained income," or may be retained and carried in account 793, "Discount on capital stock," until the stock to which the discount applies is retired.

In case the accounting company is permitted and elects with the approval of the Commission, to distribute all or any part of the net balance of paid-in surplus to its stockholders, the amount thus distributed shall be charged to account 795, "Paid-in surplus."

When an issue of capital stock, or any part thereof, is reacquired either by purchase or through donations by shareholders, and is not canceled, or held as treasury stock, it shall be charged at its par value or if stock without par value at the proportionate amount at which the particular class of stock is included in account 791, "Capital stock issued," to account 715, "Sinking funds"; 716, "Capital and other reserve funds"; 717, "Insurance and other funds"; as may be appropriate.

The difference between the amount at which such reacquired stock was recorded in account 791, "Capital stock issued," and the amount paid by the accounting company for such stock, including any premium or discount applicable to such subclass carried in account 794, "Premiums and assessment on capital stock," or in account 793, "Discount on capital stock," and the commissions and expenses in connection with its reacquisition shall be included in account 795, "Paid-in surplus"; *Provided, however*, That the excess of a debit over the amount of accumulated net gains applicable to such subclass included in paid-in surplus shall be charged to account 616, "Other debits to retained income."

When reacquired capital stock is resold at a price in excess of the amount included in capital stock account such excess shall be included in account 795, "Paid-in surplus"; *Provided, however*, That the excess of a debit over the amount of accumulated net gains applicable to each subclass of capital stock resold included in paid-in surplus shall be charged to account 616, "Other debits to retained income."

40 Joint liabilities.

The accounting company shall state as a liability in its balance sheet the difference between the total par value of securities jointly or severally issued by it and others and the portion of such liability which, under the joint arrangement, it is expected will be liquidated by the other party or parties to the joint arrangement. The amount of the jointly or severally issued securities it is expected will be liquidated by the other party or parties shall be shown as a contingent liability in accordance with Instruction 41, Contingent assets and liabilities.

41 Contingent assets and liabilities.

Contingent assets and liabilities shall not be included in the body of the balance-sheet statement, but shall be shown in detail in a supplementary statement to the balance-sheet. Contingent assets are those without value to the accounting company until the fulfillment of conditions regarded as uncertain. Contingent liabilities include items which may, under certain conditions, become obligations of the company, but are neither direct nor assumed obligations on the date of the balance sheet. Examples of contingent liabilities are items which may become obligations as a result of pending or threatened litigation, assessments or possible assessments of additional taxes, guarantees of indebtedness of others, and agreements or obligations to repurchase securities or property. Where the outcome is reasonably foreseeable, such as probable tax assessment which the carrier may not reasonably expect to contest successfully, such liabilities are to be reflected in the accounts and are not to be treated as contingent liabilities.

Property Accounts Texts

51 Land.

(a) This account shall include the cost of land used or held for use in furnishing cars or protective service, including:

(1) Cost of rights to occupy permanently land not purchased outright.

(2) Cost of grounds for buildings and other fixed improvements and of the land for ingress to or egress from such grounds.

(3) Cost of "ground rents."

(4) Cost of riparian or littoral rights.

(5) Cost of removing and locating elsewhere the property of others (including cost of land for relocation of property when such cost is assumed by the company).

(b) Proceeds from the sale of timber or of improvements purchased with the land, or of minerals known to be in the land when purchased and considered in the purchase price thereof, less any cost of removal, shall be credited to this account.

DETAILS

(1) Abstracts and guarantees of title.
(2) Appraisals.
(3) Commissions paid.
(4) Compensation and expenses of land agents when specifically assigned to and solely engaged in acquiring land—not arbitrary apportionments for incidental services.
(5) Condemnation expenses, including court costs, and special counsel fees; also fees of commissioners appointed by the court to assess damages in condemnation proceedings.
(6) Costs, including agreed settlements, judgments, witness fees, and decreed court costs in proceedings to clear or defend titles against defects antedating the company's acquisition of property.
(7) Cost of filling submerged or low land to establish a general level and grading land to render it usable for construction of fixed improvements.
(8) Cost of making changes in or relocating property of others, when borne by the company in order to secure permanent rights to locations the cost of which is includible in this account; also the cost of securing sites for such relocations.
(9) Ditches for waterways when part of consideration.
(10) Easements, granting right of permanent occupancy.
(11) Land for control of watersheds to obtain water.
(12) Lump-sum payments for right to use in perpetuity or for a period of years public property. Amounts paid for the right to use such property for a period of years shall be amortized through account 532, "Car line tax accruals," during the period of use.
(13) Notarial fees.
(14) Payments to vendors to secure release from restrictive provisions of original deeds.
(15) Plats.
(16) Premiums on commendation bonds.
(17) Recording deeds and easements.
(18) Removal and relocation of buildings and other structures not purchased.
(19) Surveys in connection with the purchase of the land.
(20) Taxes and assessments for public improvements accrued and assumed at time of purchase.

NOTE A: When the acquisition of land involves also the purchase of land not to be used in furnishing cars or protective service, the charges to this account shall be based upon the cost of the land purchased, less the estimated fair market value of that portion which will not be so used.

NOTE B: The cost of land acquired for purposes other than furnishing cars or protective service shall be included in account 737, "Miscellaneous physical property." The cost of land acquired for which there is a definite plan for use in furnishing cars or protective service shall be included in this account.

NOTE C: The net proceeds from the sale of minerals or timber, in excess of the amount contracted for in the purchase price shall be credited to account 519, "Miscellaneous income", or to account 570, "Extraordinary items", as appropriate.

NOTE D: Periodical payments for the use of land held under "ground rents" shall be accounted for as rent.

NOTE E: When land together with buildings thereon, is acquired, each shall be separately appraised and the cost shall be apportioned between the land and the buildings on the basis of such appraisals. If the plan of acquisition contemplates the removal of the buildings, the total cost of the land and buildings shall be accounted for as the cost of land and the salvage value of the buildings less any cost of removal when disposed of shall be deducted from the cost of the land so determined.

NOTE F: Held for use referred to in paragraph (a) of this section implies the ability of the company to substantiate by plans or policy its characterization of the probable future use which is to be made of the land within a reasonable period of time.

52 Public improvements.

This account shall include amounts assessed on cars or protective service property by governmental authority to cover the cost of constructing public improvements, when such assessments are made against property within defined areas of taxing districts. It shall include also the cost borne by the company of public improvements constructed by it under governmental requirements.

DETAILS

Curbing streets and highways.
Drainage systems.
Flood protection.
Grade eliminations.
Grading streets and highways.
Guttering streets and highways.
Irrigation systems.
Levees.
Paving streets and highways.
Sewer systems.
Sidewalks.
Street-lighting systems.
Viaducts carrying streets and highways over terminal property.
Waterworks.

(a) The cost to the company of assessments on cars or protective service property for maintaining or renewing public improvements shall be included in operating expenses.

(b) Any portion of the cost of public improvements which is included in the general tax levy for a regular taxing district shall be included in the account appropriate for taxes.

(c) When an assessment for the construction of public improvements is to be paid in installments over a period of more than one year, the full amount thereof shall be charged to this account when the assessment is levied and the amount of the deferred payments shall be credited to account 765, "Funded debt unmatured." The installments of the assessments shall be charged to that account as they become due and payable. Interest on the assessments shall be included in account 546, "Interest on funded debt."

(d) Penalties imposed for failure to pay assessments within the allotted time shall be charged to account 547, "Interest on unfunded debt."

(e) Assessments on miscellaneous physical property for the cost of constructing public improvements shall be charged to account 737, "Miscellaneous physical property."

53 Rolling stock.

This account shall include the cost of refrigerator and other railroad cars owned or held under agreement for purchase, which are used or held for use in furnishing cars or protective service including all appurtenances, furniture and fixtures necessary to equip them for service and the cost of inspection and transportation to point where placed in service.

54 Miscellaneous equipment.

This account shall include the cost of automobiles, trucks, tractors, trailers, and other highway vehicles, including the cost of car curtains and car heaters which are used or held for use in furnishing cars or protective service, and the cost of transporting them to the point where placed in such service.

55 Tracks.

This account shall include the cost of clearing and grading roadway, whether by excavations or embankments, including ditching and protection of embankments, cuts and slopes and the cost of labor engaged in and material used in laying, ballasting and surfacing of tracks used for the movement and storage of locomotives and cars, including cleaning, storage, loading, unloading and repair tracks.

56 Car shop buildings and machinery.

(a) This account shall include the cost of buildings to be used as shops and storehouses; foundations; apparatus; furniture and fixtures; sewerage and water supply systems and plants for heat and light.

DETAILS

Air brake test shops.
Blacksmith shops.
Carpenter shops.
Car repair sheds.
Engine houses.
Fire hose houses.
Foot bridges.
Garages.
Hose houses.
Lumber sheds.
Machine shops.
Material docks, bins and shelving.
Material reclaiming sheds.
Material and supply storehouses.
Mill buildings.
Office, shop.
Oil houses.
Paint shops.
Pump houses.
Scrap docks and bins.
Tin shops.
Tool houses.
Transformer houses.
Wash rooms.
Watchmen's houses.
Welding shops.
Wells.

(b) This account shall also include the cost of machinery and other apparatus in car shops, including the cost of special foundations and installation, and cost of hand tools necessary to equip shops.

DETAILS

Air brake test apparatus.
Air compressors.
Belting.
Blowers.
Boilers.
Boring machines.
Cars, push.
Conveyors.
Cranes.
Dripping tanks and apparatus.
Drilling machines and presses.
Electric meters, motors, starters, etc.
Fire pumps.
Forges.
Furnaces.
Galvanizing tanks and apparatus.
Gas engines.
Grinding and polishing machines.
Hammers, riveting, air or electric.
Hoists.
Incinerators.
Lathes.
Lifting magnets.
Locomotives.
Material elevators.
Milling machines.
Oil tanks.
Paint tanks.
Pipe threading and cutting machines.
Planers.
Portable power tools.
Pumps.
Scales, platform and track.
Saws.
Shafting.
Shapers.
Slotters.
Welding outfits.
Wheel presses.
Wood working machines.

NOTE: The cost of grading and preparing grounds both before and after the construction of shop buildings, and the cost of constructing sidewalks, driveways, and fences thereon, shall be included in the cost of the buildings.

57 Work equipment.

This account shall include the cost of machines and equipment provided for the construction and maintenance of tracks, buildings and other structures.

DETAILS

Boilers, portable.
Concrete mixers.
Dirt plows.
Dirt scrapers.
Donkey engines.
Dump carts.
Electric motors.
Engines, portable.
Hoists.
Portable forges.
Shafting.
Shaft boxes and pulleys.
Sheave wheels.
Steam shovels.
Tractors.
Tower equipment.

58 Ice manufacturing plants.

(a) This account shall include the cost of ice manufacturing plant buildings and structures; foundations; apparatus; furniture and fixtures, drainage, sewerage, and water supply systems; and plants for heat and light.

DETAILS

Bicycle sheds.
Blacksmith shops.
Carpenter shops.
Coal storage and bins.
Engine houses.
Fire houses.
Garages.
Hose houses.
Ice freezing tank buildings.
Ice power plant buildings.
Machine shops.
Material bins and shelving.
Material storehouses.
Office buildings.
Oil houses.
Pump houses.
Salt storehouses.
Time clock houses.
Toilet buildings.
Tool houses.
Transformer houses.
Watchmen's houses.
Welding shops.
Wells.

(b) This account shall also include the cost of machinery and apparatus in ice manufacturing plants, including cost of special foundations and installation, and cost of hand tools necessary to equip ice manufacturing plants.

DETAILS

Accumulators.
Air compressors.
Agitators.
Ammonia compressors.
Ammonia coils.
Automatic drops.
Belting.
Boilers.
Boiler feed pumps and heaters.
Boiler stacks.
Brine tanks.
Circulating pumps.
Clutches.
Coils.
Conveyors.
Cranes.
Electric generators.
Electric controllers.
Electric meters.
Electric motors.
Electric starter boxes.
Elevator baskets.
Expansion coils and fittings.
Fire pumps.
Fire coolers.
Fuel oil tanks.
Gas engines.
Gears.
Heaters.
Ice cans.
Ice can covers, dumps and fillers.
Ice chain.
Ice chain flights and sprockets.
Mechanical coal handling equipment.
Oil burners.
Oil feed pump.
Oil tanks.
Pipe.
Pipe covering fittings and hangers.
Pipe trenches and conduits.
Pumps.
Raw water agitating system.
Shafting.
Sheave wheels.
Steam condensers.
Suction lines.
Sumps.
Take-ups.
Vertical elevators.
Winter machine conveyors.

NOTE: The cost of grading and preparing grounds both before and after the construction of ice manufacturing plant buildings, and cost of constructing sidewalks, driveways, and fences thereon, shall be included in the cost of the buildings.

59 Natural ice plants.

(a) This account shall include the cost of natural ice plant buildings and structures; foundations; furniture, fixtures; drainage, sewerage and water supply systems; and heating and lighting systems.

DETAILS

Barns and stables.
Blacksmith shops.
Boarding houses.
Bunk houses.
Carpenter shops.
Coal storehouses and bins.
Engine houses.
Fire houses.
Foot bridges.
Garages.
Lunch houses.
Machine shops.
Material bins and shelves.
Material storehouses.
Office buildings.
Oil houses.
Power plant buildings.
Pump houses.
Salt storehouses.
Scrap docks and bins.
Toilet buildings.
Tool houses.
Wash rooms.
Watchmen's houses.

(b) This account shall also include the cost of grading and constructing natural ice ponds including intakes and outlets, spillways, canals, aqueducts, pipe lines, flumes, etc.

DETAILS

Concrete work.
Embankments.
Excavating and filling.
Flumes.
Grading.
Intake gates and valves.
Outlet gates and valves.
Pipe.
Piling.
Retaining walls.
Spillways.
Trestles.
Water rights.

(c) This account shall also include the cost of machinery, apparatus, implements and tools used in connection with the harvesting of ice and the operation of natural ice plants.

DETAILS

Chutes.
Clutches.
Electric motors.
Gas engines.
Gears.
Ice chains.
Ice conveyors.
Ice plows.
Ice saws.
Pinions.
Shafting.
Shaft collars and bones.
Shaft pulleys.
Sheave wheels.
Snow scrapers.
Take-ups.

NOTE A: The cost of grading and preparing grounds both before and after the construction of natural ice plant buildings, and the cost of constructing sidewalks, driveways,

and fences thereon, shall be included in the cost of the buildings.

NOTE B: The cost of facilities used solely for supplying water to car shops, ice manufacturing plants, ice storage houses and office buildings, shall be included in the appropriate accounts relating to the property so supplied.

60 Ice storage plants.

This account shall include cost of ice storage plants; buildings; structures; foundations; machinery, equipment and apparatus used in the operation of ice storage houses, including furniture, fixtures, tools and equipment; also drainage, sewerage and water supply system and heating and lighting systems.

NOTE: The cost of grading and preparing grounds before and after the construction of ice storage houses, and the cost of constructing sidewalks, driveways and fences thereon shall be included in the cost of the houses.

61 Precooling plants.

(a) This account shall include the cost of precooling buildings and sheds; foundations; furniture and fixtures; drainage, sewerage and water supply systems; and heating and lighting systems.

(b) This account shall also include the cost of precooling equipment, implements and tools at precooling plants, including cost of installation.

DETAILS

Belting.
Blowers.
Butterfly valves.
Electric controllers.
Electric motors.
Electric starter boxes.
Fans.
Gears.
Pipe.
Pipe fittings.
Precooler ducts.
Precooler duct doors.
Shafting.
Shaft collars and boxes.
Shaft pulleys.
Take-ups.

NOTE: The cost of grading and preparing grounds before and after the construction of precooling plant buildings, and the cost of constructing sidewalks, driveways and fences thereon shall be included in the cost of the buildings.

62 Icing platforms.

(a) This account shall include the cost of icing platforms; ice loading and unloading platforms; foundations; including furniture and fixtures; drainage; sewerage and water supply systems, and heating and lighting systems.

(b) This account shall also include the cost of machinery, apparatus, tools and implements at icing platforms, including cost of installation.

DETAILS

Clutches.
Electric motors.
Gas engines.
Gears.
Ice chains.
Ice chains flights.
Ice chain sprockets.
Incline conveyors.
Pinions.
Retarding conveyors.
Shafting.
Shaft pulleys.
Shaft collars and boxes.
Sheave wheels.
Take-ups.

NOTE: The cost of grading and preparing grounds before and after the construction of platforms, and the cost of constructing sidewalks, driveways and fences thereon shall be included in the cost of the platforms.

63 Transmission systems.

This account shall include the cost of transmission systems for transmitting electric current, steam and compressed air to car shops, ice plants, icing platforms, ice houses, or other similar facilities, including the cost of transformers, main switch boards, conduits, poles, cross arms, pole fixtures and other structures.

DETAILS

Air pipe-lines.
Cables.
Compressed air storage tanks.
Conduits.
Cross arms.
Cut-outs.
Electric wire.
Insulation.
Poles.
Steam pipe-lines.
Switches.
Switch boards.
Span wires.
Towers.
Transformers.

NOTE: The cost of transmissions or distribution systems located within buildings and grounds of car shops, ice plants, icing platforms, ice houses, and other similar facilities, shall be included in the cost of the structures.

64 Testing apparatus.

This account shall include the cost of special testing and other instruments and apparatus used to test machinery, secure temperatures, and analogous purposes.

DETAILS

Anamometers.
Brine and ammonia testing sets.
Current transformers.
Electric measuring instruments.
Electric resistance thermometers, coils.
Electric thermometer.
Hydrometers.
Galvanometers.
Steam indicators.
Pianometers.
Portable wattmeters.
Recording thermometers.
Voltmeters.

65 Miscellaneous structures.

This account shall include the cost of permanent structures not provided for elsewhere, including foundations, equipment, furniture, fixtures and tools; drainage, sewerage and water supply systems; and heating and lighting systems.

DETAILS

Carheater storage houses.
Charcoal storage houses.
Dwellings.
Fruit warehouses.
Heater service buildings.
General office buildings.

NOTE: The cost of grading and preparing grounds before and after the construction of miscellaneous buildings and cost of constructing sidewalks, driveways and fences thereon, shall be included in the cost of the buildings.

66 Mechanical protective service units.

This account shall include the cost of mechanical protective service units, and of appurtenances and fixtures necessary to equip them for service, including inspection, setting up and trying out after receipt from builders, and transportation charges.

67 Mechanical protective service facilities.

This account shall include the cost of special facilities used in the maintenance and operation of mechanical protective service units and services, including building and structures, complete with foundations, furniture and fixtures; water supply, drainage, and sewer systems; and heating and lighting systems.

This account shall also include the cost of machinery and appurtenances in special facilities used in the maintenance and operation of mechanical protective service units and service, including cost of special foundations and installations, and cost of hand tools necessary to equip such facilities.

70 Organization expenses.

This account shall include all fees paid to Government, State or Municipal authorities and like bodies for the privilege of incorporation, and office and other expenditures incident to organizing the corporation and putting it in readiness to do business; cost of preparing and distributing prospectuses; soliciting subscriptions to stock; special counsel fees; cost of preparing and issuing certificates of stock; cost of procuring the necessary certificates from State authorities and other like costs.

Operating Revenue Accounts Texts

100 Operating revenue accounts.

The primary accounts included in this general account are designed to show the amount of money which the company becomes entitled to receive from the furnishing of cars or protective service against heat or cold including service incidental thereto. Adjustments of overcharges or undercharges shall be accomplished through these accounts.

Car Service

101 Car mileage.

This account shall include amounts receivable for the use of cars owned, leased, or otherwise under the control of the accounting company, while in service on railroad companies' lines based on the number of miles traveled. The records shall be so kept that the revenue from each class of cars for which different mileage rates are fixed may be determined.

102 Car rental.

This account shall include amounts of rental receivable for use of cars on the basis of fixed charge per trip, per day, per month, or basis other than miles traveled.

104 Cleaning cars.

This account shall include amounts receivable for cleaning cars for loading.

108 Other car service revenue.

This account shall include car service revenues not otherwise provided for, including compensation for special equipment of cars.

Icing Protective Service

110 Ice and salt.

This account shall include revenue from ice and salt delivered in bunkers or bodies of refrigerator cars for protection of perishable freight.

111 Supervision.

This account shall include revenue from inspecting and supervising the icing, salting, and other protective services furnished car-carriers, in connection with perishable freight transported under icing service, at unit prices specified in protective service contracts.

112 Refrigerating device damage.

This account shall include allowances at unit prices specified in protective service contracts, or under other arrangements, to cover repairs to refrigerating devices and cleaning of tanks and drains and around hatchways of refrigerator cars.

113 Top or body ice damage.

This account shall include allowances at unit prices specified in protective service contracts, or under other arrangements, to cover damage to refrigerator cars caused by top or body or package ice loaded in the bodies of the cars for the protection of perishable freight, including cleaning occasioned solely by that service.

114 Precooling.

This account shall include revenue from precooling refrigerator cars at unit prices specified in protective service contracts.

115 Other icing service revenue.

This account shall include icing service revenues not otherwise provided for.

Mechanical Protective Service

116 Mechanical protective service units.

This account shall include revenue from the use of mechanical protective service units installed in cars owned, leased, or otherwise under the control of the accounting company while in service on railroad companies' lines.

117 Inspecting, servicing, and supervision.

This account shall include revenue from inspecting and servicing mechanical protective service units while in service on railroad companies' lines for protection of perishable freight, and revenue from supervising such service.

118 Fuel.

This account shall include revenue from fuel furnished mechanical protective service units while in service on railroad companies' lines for the protection of perishable freight.

119 Other mechanical protective service revenue.

This account shall include revenues from mechanical protective service operations not otherwise provided for.

Heater Service

120 Car heaters.

This account shall include revenue from the use of car heaters owned, leased, or otherwise under the control of the accounting company, while in service on railroad companies' lines for the protection of perishable freight, at unit prices specified in protective service contracts.

121 Heater fuel.

This account shall include revenue from heater fuel furnished incident to heater service performed for the protection of perishable freight at unit prices specified in protective service contracts.

122 Servicing heaters.

This account shall include revenue from the servicing of car heaters, while in service on railroad companies' lines for the protection of perishable freight, at unit prices specified in protective service contracts.

123 Supervision.

This account shall include revenue from inspecting and supervising all protective services furnished carriers, in connection with perishable freight under protective service against cold, at unit prices specified in protective service contracts.

124 Preheating cars.

This account shall include revenue from the use of special equipment such as stoves, salamanders, oil heaters, etc., in preheating cars for carriers in connection with perishable freight under protective service against cold, at unit prices specified in protective service contracts.

128 Other heater service revenue.

This account shall include heater service revenues not otherwise provided for.

Other Services

130 Ventilation service.

This account shall include revenue from inspecting and supervising the protective services furnished carriers, in connection with perishable freight under ventilation service, at unit prices specified in protective service contracts.

132 Other ice and salt.

This account shall include the revenues from furnishing ice and salt other than that delivered in bunkers or bodies of cars in connection with protective services to perishable freight.

133 Miscellaneous.

This account shall include amounts of miscellaneous revenue from sources not otherwise provided for.

Operating Expense Accounts Texts

200 Operating expense accounts.

The primary accounts included in this general account are designed to show expenses of furnishing cars or protective service against heat or cold, and services incidental thereto, including the expenses of maintenance (repairs, depreciation and amortization) of the property used in such service.

Car Service

201 Supervision.

This account shall include the cost of supervising and directing the maintenance and operation of car service.

203 Rents; car service facilities.

This account shall include all rents except as otherwise provided of property of others used, occupied, or operated in connection with furnishing car service.

205 Car distribution.

This account shall include the pay, travel, office and other expenses of officers, clerks and attendants, general, district and local agents and other employees in charge of or engaged in the distribution of cars to loading points, including keeping car records, reporting movements of cars; also cost of telephone and telegraph services in connection therewith.

208 Cleaning and conditioning cars.

This account shall include the cost to the company, including amounts payable to others, for cleaning and conditioning cars; also maintenance and rental of tracks used for such purpose.

210 Car repairs.

This account shall include the cost of repairing cars and their appurtenances, including cost of small hand tools, amounts paid others for repairs to cars for which the company is liable and cost of transporting cars to shops and repair tracks for repairs.

NOTE: The cost of repairs to refrigerating devices in cars and repairs of damage to cars caused by top or body ice shall be charged to account 208, "Repairs-icing service facilities," or account 806, "Supplies and repairs," as appropriate.

211 Other repairs.

This account shall include cost of repairing shops, buildings and other car service facilities, including drainage, water, gas, and sewer pipes and connections; machinery and other apparatus; also cost of maintaining grounds appurtenant to such facilities.

221 Injuries to persons.

This account shall include payments on account of injuries to persons when caused directly in connection with car service and not recoverable through insurance including expenses of physicians and surgeons, nurses, hospital service, medical and surgical supplies, artificial limbs, undertaking and funeral expenses, transportation expenses of in-

jured persons and attendants; also expenses of employees and others while engaged as adjusters and witnesses in connection with such claims.

222 Insurance.

This account shall include the cost of premiums, except reinsurance premiums, for insuring the company against loss through injuries to persons, damage to, destruction or loss of property when such loss or damage would be chargeable to car service; also premiums or fidelity bonds of employees whose pay is charged to car service.

223 Stationery and printing.

This account shall include the cost of all stationery and printing, rentals of and repairs to office appliances and office machines used in connection with furnishing car service.

229 Other expenses.

This account shall include all expenses in connection with car service operations not otherwise provided for.

230 Equalization; car repairs.

This account shall include adjustments of the differences between the actual and the estimated cost of car repairs as provided in Instruction 22. The amounts included in this account shall be concurrently debited or credited to account 772, "Equalization reserves."

236 Depreciation; rolling stock.

This account shall include the amount of depreciation charges applicable to the accounting period relating to rolling stock.

237 Depreciation; other car service facilities.

This account shall include the amount of depreciation charges applicable to the accounting period relating to all car service property, except rolling stock.

238 Retirements; car service facilities.

This account shall include the cost of dismantling retired car service property and recovering the salvage therefrom. It shall also include the undepreciated service value of car service property at the time of its retirement, which was accounted for under the unit plan of depreciation accounting.

Icing Protective Service

251 Ice purchased.

This account shall include the cost (including transportation charges and cost of storage, if stored at company expense) of ice purchased from individuals and companies and placed in the bunkers or bodies of cars for refrigeration purposes; also transportation charges, if any, transporting ice to icing platforms.

252 Ice produced.

This account shall include the cost (including transportation charges, if any, and cost of storage, if stored at company expense) of ice manufactured or harvested at ice plants operated by the company, which is placed in the bunkers or bodies of cars for refrigeration purposes; also transporting ice to icing platforms.

NOTE: The cost per ton of producing ice shall be determined and distributed to this account through a clearing account.

253 Rents; icing facilities.

This account shall include all rents of property of others used, occupied, or operated in connection with the operation of icing facilities.

254 Icing operations.

This account shall include the pay and expenses of employees engaged in placing ice and salt in bunkers or bodies of cars for refrigeration of shipments, whether at icing platforms or sheds, or elsewhere. It shall also include telephone service, heat, light, water, power for ice handling machinery, and other supplies and incidental expenses in connection with operating icing platforms and sheds; also cost of labor and other platform expenses incurred at points where ice is purchased from others and the expense of unloading shipments of ice from cars to platform and delivery to bunkers or bodies of cars.

255 Repairs; icing facilities.

This account shall include the cost of repairing icing platforms, machinery and sheds including equipment; fixtures, and appurtenances thereto; and electric wiring, conveyors, and motors, used in connection with icing shipments; also the cost of cleaning facilities and lubricating equipment; and maintaining grounds appurtenant to the facilities.

256 Injuries to persons.

This account shall include payments on account of injuries to persons when caused directly in connection with icing operations and not recoverable through insurance, including expenses of physicians and surgeons, nurses, hospital service, medical and surgical supplies, artificial limbs, undertaking and funeral expenses, transportation expenses of injured persons and attendants; also expenses of employees and others while engaged as adjusters and witnesses in connection with such claims.

257 Insurance.

This account shall include the cost of premiums, except reinsurance premiums, for insuring the company against loss through injuries to persons, damage to, destruction of or loss of property when such loss or damage would be chargeable to icing operations; also premiums on fidelity bonds of employees whose pay is chargeable to icing operations.

258 Other expenses.

This account shall include all expenses in connection with the icing of shipments, not otherwise provided for.

265 Depreciation; icing facilities.

This account shall include the amount of depreciation charges applicable to the accounting period relating to all icing facilities.

270 Retirements; icing facilities.

This account shall include the cost of dismantling retired icing facilities and recovering the salvage therefrom. It shall also include the undepreciated service value of icing facilities at the time of their retirement.

275 Salt.

This account shall include the cost of salt supplied to cars in connection with icing shipments, including the cost of placing salt in the bunkers of the cars.

NOTE: When salt is placed in refrigerator cars incidental to regular icing operations, the costs in connection therewith, when not readily separable, may be included in account 254, "Icing operations."

Other Icing Service

281 Supervision.

This account shall include the cost of supervising and directing the maintenance and operation of icing service.

282 Rents; icing service facilities.

This account shall include all rents except as otherwise provided of property of others used, occupied, or operated in connection with furnishing icing service.

283 Repairs; icing service facilities.

This account shall include the cost of repairing buildings, machinery, fixtures, and other apparatus used in connection with furnishing icing service; also cost of cleaning facilities and lubrication equipment; and maintaining grounds appurtenant to the facilities. It shall also include the cost repairs to ice bunkers in cars and repairs of damage to cars caused by top or body ice.

284 Precooling service.

This account shall include the cost of precooling refrigerator cars for loading with shipments at precooling plants or elsewhere.

285 Injuries to persons.

This account shall include payments on account of injuries to persons when caused directly in connection with icing service operations and not recoverable through insurance, including expenses of physicians and surgeons, nurses, hospital service, medical and surgical supplies, artificial limbs, undertaking and funeral expenses, transportation expenses of injured persons and attendants; also expenses of employees and others while engaged as adjusters and witnesses in connection with such claims.

286 Insurance.

This account shall include the cost of premiums, except re-insurance premiums, for insuring the company against loss through injuries to persons, damage to or destruction or loss of property when such loss or damage would be chargeable to icing service operations; also premiums on fidelity bonds of employees whose pay is charged to such service.

287 Stationery and printing.

This account shall include the cost of all stationery and printing, rentals of and repairs to office appliances and machines used in connection with furnishing icing service.

290 Other expenses.

This account shall include all expenses in connection with icing service operations not otherwise provided for.

295 Depreciation; icing service facilities.

This account shall include the amount of depreciation charges applicable to the accounting period relating to icing service property.

296 Retirements; icing service facilities.

This account shall include the cost of dismantling retired refrigeration service property and recovering the salvage therefrom. It shall also include the undepreciated service value of icing service property at the time of its retirement.

Mechanical Protective Service

301 Supervision.

This account shall include the cost of supervising and directing the maintenance and operation of mechanical protective service.

302 Rents.

This account shall include all rents of property of others used, occupied, or operated in connection with furnishing mechanical protective service.

303 Fuel.

This account shall include the cost of fuel (including transportation charges and cost of storage, if stored at company expense) delivered to mechanical protective service units, including the labor cost (when separable) of delivering such fuel to the units.

NOTE: When fuel is used in mechanical protective service units during inspections and repairs, the labor costs in connection therewith, when not readily separable, may be included in account 305, "Inspecting and servicing," or account 306, "Supplies and repairs," as appropriate.

305 Inspecting and servicing.

This account shall include the pay of employees engaged in inspecting and servicing mechanical protective service units, both preparatory to loading cars and while under load, to place and keep the units in proper operating condition for protection of the lading, including setting thermostats, refueling, and (when not separable) furnishing supplies.

NOTE: The costs of inspecting and servicing mechanical protective service units in the process of repairing or otherwise maintaining the units are chargeable to account 306, "Supplies and repairs."

306 Supplies and repairs.

This account shall include the cost of supplies, other than fuel, used in mechanical protective service units, including freon, anti-freeze, lubricating oil, and supplies for standby service, and shall include the cost of maintaining and repairing such units. For this purpose the cost of repairs shall include the cost of inspecting and servicing incidental thereto, and the maintenance of buildings and other structures (including grounds appurtaining thereto), machinery, fixtures, and other facilities used in furnishing mechanical protective services.

This account shall also be charged with amounts paid to others for expenses as detailed above which were incurred for units for which the company is liable, and credited with amounts billed against others for similar expenses as to units not owned or controlled by the company.

NOTE: The cost of dry ice (solidified carbon dioxide) used as a refrigerant, when a mechanical unit fails to provide the necessary protection, shall be charged to account 315, "Other expenses," to which account shall also be credited amounts collected from others for similar emergency protection.

307 Injuries to persons.

This account shall include payments on account of injuries to persons when caused directly in connection with mechanical protective service maintenance and operations and not recoverable through insurance, including expenses of physicians and surgeons, nurses, hospital service, medical and surgical supplies, artificial limbs, undertaking and funeral expenses, and transportation expenses of injured persons and their attendants; also expenses of employees and others while engaged as adjusters and witnesses in connection with claims for such injuries.

308 Insurance.

This account shall include the cost of premiums, except reinsurance premiums, for insuring the company against loss through injuries to persons, damage to or destruction or loss of property when such injuries, damage, or loss would be chargeable to mechanical protective service maintenance and operations; also premiums on fidelity bonds of employees whose pay is charged to such service.

309 Stationery and printing.

This account shall include the cost of all stationery and printing, and rentals of and repairs to office appliances and machines, used in connection with mechanical protective service maintenance and operations.

315 Other expenses.

This account shall include all expenses in connection with mechanical protective service maintenance and operations not otherwise provided for.

320 Depreciation; mechanical service facilities.

This account shall include the amount of depreciation charges applicable to the accounting period relating to mechanical protective service property. (See provisions of Instruction 33.)

321 Retirements; mechanical service facilities.

This account shall include the cost of dismantling retired mechanical protective service units and facilities, and recovering the salvage therefrom. It shall also include the undepreciated service value of mechanical protective service units and facilities at the time of their retirement.

Heater Service

351 Supervision.

This account shall include the cost of supervising and directing the maintenance and operation of heater service.

353 Rents; heater service facilities.

This account shall include all rents except as otherwise provided of property of others used, occupied or operated in connection with furnishing heater service.

357 Heater fuel.

This account shall include the cost, including freight, express and handling charges of charcoal, charketts, coal, coke, briquets, oil, solidified alcohol or other fuel, but excluding fuel for special equipment for preheating cars, to be used in heating cars moving or to move under protective service against cold; also the cost of unloading and placing such fuel in buildings or other regular storage facilities.

This account shall be credited with the value of heater fuel reclaimed in the servicing of car heaters.

NOTE: The cost of fuel used in special equipment for preheating cars shall be charged to account 361, "Preheating service."

358 Inspecting and servicing of heaters.

This account shall include the pay, travel and other expenses of employees, other than those included in accounts 351, "Supervision," and 360, "Repairs—heater service facilities," engaged in servicing cars containing shipments moving under any form of heater service, the installation, lighting, fueling, adjusting, extinguishing, and cleaning of heaters in cars and removing heaters from cars either during the progress of or after the completion of the movement, when placed therein for protection of the lading of the cars against cold. It shall also include the cost of opening, closing or otherwise manipulating car ventilators, plugging drains, stacking and wiring ice grates, applying heater warning and other cards to cars; also the cost of lanterns, flashlights, ladders, ropes and other tools, supplies and expenses used in or incident to performing such services.

360 Repairs; heater service facilities.

(a) This account shall include the cost of repairing car heaters; also the cost of handling and transporting heaters between storage houses and distributing or other points where normally held for service or repairs.

(b) This account shall also include the cost of cleaning, protecting, and repairing heater facilities, such as buildings and other structures for the handling, storing, and repairing of car heaters and the storing of heater fuel, tools, and other supplies, including fixtures, machinery, and other appurtenances of the building; also the cost of maintaining grounds appurtenant to such buildings.

361 Preheating service.

This account shall include all expenses incident to the preheating of cars prior to installation of car heaters in cars, to be moved under any form of heater service, with special equipment such as salamanders, stoves, or oil heaters. Such expenses include the cost of all fuel and supplies used in this equipment and the cost of installing, fueling, firing, checking, extinguishing, and removing the equipment from cars; also the cost of handling, repairing, storing and moving the equipment when not in use, and the traveling and other expenses of employees engaged in preheating cars.

371 Injuries to persons.

This account shall include payments on account of injuries to persons when caused directly in connection with heater service and not recoverable through insurance, including expenses of physicians and surgeons, nurses, hospital service, medical and surgical supplies, artificial limbs, undertaking and funeral expenses, transportation expenses of injured persons and attendants; also expenses of employees and others while engaged as adjusters and witnesses in connection with such claims.

372 Insurance.

This account shall include the cost of premiums, except reinsurance premiums for insuring the company against loss through injuries to persons, damage to or destruction or loss of property when such loss or damage would be chargeable to heater service; also premiums on fidelity bonds of employees whose pay is chargeable to heater service.

373 Stationery and printing.

This account shall include the cost of all stationery and printing, rentals of and repairs to office appliances and office machines used in connection with furnishing heater service.

379 Other expenses.

This account shall include all expenses in connection with heater service operations not provided for elsewhere.

386 Depreciation; heater service facilities.

This account shall include the amount of depreciation charges applicable to the accounting period relating to heater service property.

388 Retirements; heater service facilities.

This account shall include the cost of dismantling retired heater service property and recovering the salvage therefrom. It shall also include the undepreciated service value of heater service property at the time of its retirement.

Miscellaneous

401 Ventilation service.

This account shall include all expenses incurred in connection with furnishing ventilation service.

405 Curtain service.

This account shall include all expenses incurred in connection with furnishing curtains placed in cars for the purpose of separating shipments moving under more than one class of protective service.

408 Papering cars.

This account shall include all expenses incurred in papering cars to be used for shipments transported under protective service.

410 Loss and damage claims.

This account shall include payments for loss, damage, delay or destruction of perishable freight moving under protective service when not recoverable through insurance; also the pay, travel, office, and other expenses of employees and others engaged in supervising, investigating, adjusting, and settling loss and damage claims, including notarial fees in connection with claims, expenses of employees, and others serving as witnesses in law suits, and all other expenses directly incident to the handling of loss and damage claims.

414 Diversions and reconsignments.

This account shall include the pay, and travel and other expenses of employees engaged in handling and maintaining records of diversions and reconsignments of shipments moving under protective service, including furnishing passing information, and all other expenses incident to diversion or reconsignment of such shipments.

415 Other expenses.

This account shall include any expenses of an incidental nature incurred in connection with furnishing protective service not otherwise provided for.

General

450 Salaries and expenses of general officers and clerks.

This account shall include:

(a) *Salaries of officers.* The pay of general officers and assistants authorized to act for such officers, including salaries and fees of receivers and trustees and commissions paid to general officers in lieu of salaries.

(b) *Salaries of clerks and attendants.* The pay of clerks and attendants in the offices of the general officers whose pay is chargeable to this account.

(c) *Expenses.* Traveling and other expenses of employees whose pay is chargeable to this account.

NOTE: The pay and expenses of purchasing agents, storekeepers and their clerks and attendants shall be included in clearing accounts for material store expenses and stationery store expenses.

451 General office supplies and expenses.

This account shall include the office expenses of general officers, and of their clerks and attendants.

452 Rents.

This account shall include all rents, except rent of office machines, payable for the property of others used, occupied, or operated in connection with the general administrative functions of the company.

454 Law expenses.

(a) This account shall include the pay of officers directly in charge of the law department, and of solicitors and attorneys, their clerks and attendants, and fees and retainers for services of attorneys not regular employees of the company.

(b) Traveling expenses of officers specified above and of their clerks; cost of law books, printing briefs, legal forms, testimony, reports, and similar items of expense and supplies.

(c) The cost of suits and payments of special fees, notarial and witness fees not provided for under accounts for "Loss and Damage," and "Injuries to Persons," and fees paid arbitrators for settlement of disputed questions, and all law and court costs not provided for elsewhere.

459 Pensions and relief.

This account shall include pensions or gratuities paid out of the company's funds to retired employees or the heirs of former employees and the expenses incurred solely in connection therewith.

It shall also include premiums on policies under which employees are insured and they or their heirs are the beneficiaries; and expenses incurred and amounts contributed towards funds or otherwise for the relief of employees.

NOTE: If under a contractual pension plan which definitely establishes the payment of pensions to employees regularly retired for superannuation or disability, the company elects to set aside in an irrevocable trust fund each month, amounts determined through the application of equitale factors, which together with interest accruals thereon, will as nearly as may be, meet its liabilities for the payment of pensions or for the purchase of annuities, it shall concurrently charge this account and credit account 771, "Pension and welfare reserves," with amounts equal to those paid into the trust fund.

460 Insurance.

This account shall include the cost of premiums, except reinsurance premiums, for insuring the company against loss or damage, when such loss or damage would be chargeable to general expenses; also premiums on fidelity bonds of employees whose pay is chargeable to general expenses.

461 Stationery and printing.

This account shall include the cost of stationery, stationery supplies, printing, tabulatory cards, books and blank forms used in connection with general administrative functions of the company including contracts, leases, and all stationery and printing of the law department except cost of law books and cost of printing briefs, legal forms, testimony, and reports of that department. It shall also include the rent and repair cost of labor-saving office machines used in connection with the general administrative functions of the company.

462 Repairs; general.

This account shall include the cost of repairs to general office buildings and other property used in connection with the general administrative functions of the company.

465 Depreciation; general.

This account shall include the amount of depreciation charges applicable to the accounting period relating to general administrative facilities.

466 Retirements; general.

This account shall include the cost of demolishing retired general administrative property and recovering the salvage therefrom. It shall also include the undepreciated service value of such property at the time of its retirement.

469 Other expenses.

This account shall include all expenses in connection with the general administrative functions of the company not provided for elsewhere.

LIST OF EXPENSES

Annual audits or investigations.
Annual reports.
Association membership.
Bank charges for services.
Contributions for charitable, social or community welfare purposes.
Corporate and fiscal notices of general character.
Donations to fire departments.
Donations to YMCA and similar institutions.
Electing directors.
Exchange, domestic, on checks cashed or deposited.
Exchange on domestic drafts.
Fees and expenses paid directors.
Loss by burglary of funds, defalcations or fire when not recoverable from insurance.
Loss from acceptance of counterfeit money.
Notice of dividends declared.
Premiums, less cash surrender value of insurance, on lives of officers when company is the beneficiary.
Stockholders' meetings.

Income Accounts Texts

ORDINARY ITEMS

CREDITS

501 Car line operating revenues.

This account shall include the total revenues derived from operations as shown in the primary revenue accounts provided in this part.

502 Revenues from miscellaneous operations.

This account shall include the total revenues derived from the operation of miscellaneous operating physical property, such as that the cost of which is includible in balance-sheet account 737, "Miscellaneous physical property."

NOTE: The income from miscellaneous nonoperating physical property shall be included in account 511, "Income from nonoperating property."

510 Miscellaneous rent income.

This account shall include such rents of property owned and controlled by the accounting company as are not provided for in the foregoing accounts.

To this account shall be charged the cost of maintenance of the property rented, also specific incidental expenses in connection with such property, such as the cost of negotiating contracts, advertising for tenants, fees paid conveyancers, collectors' commissions, and analogous items.

NOTE A: If property the rent of which is chargeable to account 542, "Miscellaneous rents," is sublet by the accounting company, the rent receivable therefor shall be credited to this account.

NOTE B: Taxes on property the rent of which is creditable to this account shall be charged to account 532, "Car line tax accruals."

NOTE C: The rent from property carried in balance-sheet account 737, "Miscellaneous physical property," shall not be included in this account, but in account 511, "Income from nonoperating property."

NOTE D: Rent and other income from real estate acquired for additions and betterments shall be credited to the appropriate property and equipment accounts until the completion or coming into service of the property.

511 Income from nonoperating property.

This account shall include the net credit balance of the nonoperating revenues or income from, and the expenses (including depreciation, but excluding taxes) of, physical property the cost of which is carried in balance-sheet account 737, "Miscellaneous physical property."

NOTE: The revenues from the operation of miscellaneous operating physical property shall be included in income account 502, "Revenues from miscellaneous operations," and the expenses of operation shall be included in account 534, "Expenses of miscellaneous operations."

513 Dividend income.

This account shall include dividends declared on stocks of other companies, the income from which is the property of the accounting company, whether such stocks are owned by the accounting company and held in its treasury or deposited in trust, or are controlled through lease or otherwise.

Dividends declared shall not be credited prior to actual collection unless their payment is reasonably assured by past experience, guaranty, anticipated provision, or otherwise. (See Note C to account 708, "Interest and dividends receivable.")

Accruals of guaranteed dividends may be included in this account if their payment is reasonably assured.

NOTE A: This account shall not include credits for dividends on stocks issued or assumed by the accounting company and owned by it, whether pledged as collateral or held in its treasury, in special deposits, or in sinking or other reserve funds.

NOTE B: Dividends on stocks of other companies held in sinking or other reserve funds shall be credited to account 516, "Income from sinking and other reserve funds."

514 Interest income.

This account shall include the interest on securities and debenture stock of other companies, the income from which is the property of the accounting company, whether such securities are owned by the accounting company and held in its treasury or deposited in trust, or are controlled through lease or otherwise. It shall include also, interest on notes and other evidences of indebtedness and interest on bank balances, open accounts, and other analogous items, including discount on short-term notes. Interest accrued shall not be credited prior to actual collection unless its payment is reasonably assured by past experience, guaranty, anticipated provision, or otherwise. (See Note C to account 708, "Interest and dividends receivable.")

At the option of the accounting company there may be included each year in this account the portion applicable to the fiscal period, of the amount requisite to extinguish, during the interval between the date of acquisition and the date of maturity, the discount or premium on securities of other companies owned (other than short-term notes). Amounts thus credited or charged shall be concurrently charged or credited to the account in which the cost of the securities is carried. The discount on short-term notes shall be distributed through equal monthly credits, over the terms of the notes.

NOTE A: This account shall not include interest on securities issued or assumed by the accounting company and owned by it, whether pledged as collateral or held in its treasury, in special deposits, or in sinking or other reserve funds.

NOTE B: Interest on securities, other than those of the accounting company, and on other assets held in sinking or other reserve funds shall be included in account 516, "Income from sinking and other reserve funds."

NOTE C: Discount on bills for material purchased shall be credited to the accounts to which is charged the cost of the material with respect to which the discount is allowed.

516 Income from sinking and other reserve funds.

This account shall include the income accrued on cash, securities, and other assets (not including securities issued or assumed by the accounting company) held in sinking and other reserve funds. (See Note C to account 708, "Interest and dividends receivable.")

At the option of the accounting company there may be included each year in this account the portion, applicable to the fiscal period, of the amount requisite to extinguish, during the interval between the date of acquisition and the date of maturity, the discount or premium on funded securities held in sinking or other reserve funds. Amounts thus credited or charged shall be concurrently charged or credited to the account in which the cost of the securities is carried.

NOTE: Credits to fund reserve accounts representing income on reserve funds shall be concurrently charged to account 630, "Appropriations for sinking and other reserve funds."

517 Release of premiums on funded debt.

This account shall include, during each fiscal period, such proportion of the premiums on outstanding funded debt as may be applicable to the period.

This proportion shall be determined in accordance with Instruction 3B.

519 Miscellaneous income.

This account shall include all items not provided for elsewhere properly creditable to income accounts during the current year. Among the items which shall be included in this account are:

Cancellation of balance-sheet accounts representing unclaimed wages and vouchered accounts written off because of the company's inability to locate the creditor.

Profit from sale of securities acquired for temporary cash investments.

Profits from sale of investment securities.

Profit from sale of land and from sale of other property. (See note.)

Profit from company bonds reacquired. (See note.)

NOTE: When the profit from sale of investment securities (exclusive of temporary cash investments), from sale of land and other property, and from company bonds reacquired is of an amount sufficiently large to constitute an extraordinary item, such profit shall be credited to account 570, "Extraordinary items". (See instructions 3 and 18.)

DEBITS

531 Car line operating expenses.

This account shall include the total expenses caused by operations, as shown in the primary expense accounts provided in these regulations.

532 Car line tax accruals.

This account shall include accruals for taxes of all kinds relating to car line property, operations, and privileges, whether based upon the valuation of the property, amount of stocks and bonds or other evidences of debt issued or outstanding; gross or net earnings, dividends declared, rolling stock operated or owned, or other basis.

The taxes on leased property shall be included in this account by the accounting company obligated to assume such expenses under the terms of the lease.

Accruals for Federal income taxes applicable to ordinary income shall be included in this account. See texts of account 590, "Federal income taxes on extraordinary and prior period items", account 606, "Other credits to retained income", and account 616, "Other debits to retained income", for recording other income tax consequences. Details pertaining to the tax consequences of other unusual and significant items, and also cases where tax consequences are disproportionate to related amounts included in income accounts, shall be submitted to the Commission for consideration and decision as to proper accounting. Federal income taxes which are refundable or reduced as the result of carry-back or carry-forward of operating loss shall be credited to this account, if a carry-back, in the year in which the loss occurs or, if a carry-forward, in the year in which such loss is applied to reduce taxes. However, when the amount constitutes an extraordinary item pursuant to instruction 3, it shall be included in account 580, "Prior period items".

NOTE A: Taxes on leased property paid by one party to the lease and chargeable to the other party to the lease shall be charged directly to the party bearing the expense and not included in the income account of the party first making payment.

NOTE B: Taxes on other than car line property, operations, and privileges shall be charged to account 544, "Miscellaneous tax accruals," when the amount is separable from the taxes chargeable to this account.

NOTE C: Special assessments for street and other improvements, and special benefit taxes, such as water taxes and the like, shall be included in operating expense accounts or investment accounts, as may be appropriate.

NOTE D: Taxes accruing on property acquired for addition or betterment purposes before the facilities become available for service shall be charged to property and equipment accounts.

533 Rent payable for cars.

This account shall include amounts payable for use of cars, rented or leased from others, while in car line operations of the company.

534 Expenses of miscellaneous operations.

This account shall include the total expenses caused by the operation of miscellaneous physical property the cost of which is includible in balance-sheet account 737, "Miscellaneous physical property."

NOTE: The expenses of miscellaneous nonoperating physical property shall be included in account 511, "Income from nonoperating property."

535 Taxes on miscellaneous operating property.

This account shall include accruals of taxes paid or payable upon miscellaneous operating property, such as that the cost of which is includible in account 737, "Miscellaneous physical property."

NOTE: Taxes upon miscellaneous nonoperating physical property shall be included in account 544, "Miscellaneous tax accruals."

543 Miscellaneous rents.

This account shall include rents payable accrued on property held by the accounting company under lease or other agreement and not properly chargeable to any of the foregoing accounts.

NOTE A: This account shall not include rents provided for in the operating expense accounts.

NOTE B: If property, the rent of which is chargeable to this account, is sublet to others the rent from the sublease shall be credited to the appropriate rent income account, depending on the classification of the property as car line or non-car line, in the same manner as rent from property owned by the company.

NOTE C: Payments for the exclusive use of miscellaneous property maintained by the lessor and used by the accounting company shall be divided into two portions: One, representing the cost of maintenance, shall be charged to the appropriate operating accounts, and the other, representing rent (amount applicable to the investment in the property), shall be charged to this account. The bill rendered by the creditor shall show the distribution of the payments as between maintenance and rent, and such distribution shall be adhered to by the debtor.

544 Miscellaneous tax accruals.

This account shall include all accruals for taxes not provided for elsewhere, such as taxes on securities owned, taxes on income from securities owned, and taxes on miscellaneous nonoperating physical property the cost of which is includible in balance-sheet account No. 737, "Miscellaneous physical property."

NOTE A: When the proper separation of any particular tax is not ascertainable the entire amount shall be included in account 532, "Car line tax accruals."

NOTE B: Taxes upon miscellaneous operating property shall be charged to account 535, "Taxes on miscellaneous operating property."

546 Interest on funded debt.

This account shall include the current accruals of interest on all classes of long-term debt, the principal of which is includible in account 765, "Funded debt unmatured"; 766, "Equipment obligations"; 767, "Receivers' and trustees' securities"; 768, "Debt in default"; and 769, "Amounts payable to affiliated companies," also interest accruals on debenture stock. This account is to be kept in such form that the interest on debenture stock, on receivers' and trustees' securities, and on other classes of funded debt shall be shown separately.

NOTE A: This account shall not include charges for interest on funded debt obligations issued or assumed by the accounting company and owned by it, whether pledged as collateral or held in its treasury, in special deposits, or in sinking or other reserve funds.

NOTE B: When funded debt is incurred for addition and betterment purposes, the accruals of interest on such funded debt (less interest received on unexpended balances), to the date of completion or coming into service of the property so acquired shall be included in the property and equipment accounts.

NOTE C: This account shall be maintained so as to show separately: (a) Fixed interest which will be paid, or for which provision for payment will be made, when the interest matures; (b) interest in default; and (c) contingent interest accrued.

547 Interest on unfunded debt.

This account shall include interest accrued on unfunded debt, such as short-term notes payable on demand or having dates of maturity one year or less from dates of issue, and open accounts including discount and expense on demand and short-term loans, interest on receipts outstanding for installments paid on capital stock, interest on deferred payments for public improvements, and other analogous items. The discount on short-term notes, if of a considerable amount, shall be distributed through equal monthly charges over the term of the notes.

NOTE: When short-term notes or other evidences of unfunded indebtedness are issued for addition and betterment purposes the accrual of interest to the date of completion or coming into service of the property shall be included in the property and equipment accounts.

548 Amortization of discount on funded debt.

This account shall be charged during each fiscal period with the proportion of the discount and expense on funded debt obligations applicable to that period. This proportion shall be determined according to a rule the uniform application of which through the interval between the date of sale and the date of maturity will extinguish the discount and expense on funded debt. The charge to this account for any period must not be either greater or less than the proportion of the balance remaining unamortized applicable to that period so long as any portion of the discount and expense remains unextinguished, except that if the total discount and expense applicable to any particular issue of securities does not exceed $25,000, the entire amount may be charged to this account at time of issue.

551 Miscellaneous income charges.

This account shall include items not provided for elsewhere properly chargeable to income accounts during the current year. Among the items which shall be included in this account are:

Interest on tax deficiencies, and on court awards.

Income tax upon the interest on the accounting company's funded debt when these taxes are assumed by the company.

Payments of old accounts previously written off.

Penalties and fines for violation of the Interstate Commerce Act or other Federal and State laws when not specifically provided for elsewhere.

Loss on sale of securities acquired as temporary cash investments.

Loss on sale of investment securities, and on sale of land and other property, and also charges to write down the ledger value of investment securities because of impairment in their value. (See note.)

Loss from company bonds reacquired.

NOTE: When the loss on sale of investment securities (exclusive of temporary cash investments) from sale of land and other property, from write-down in ledger value of investment securities and from company bonds reacquired is of an amount sufficiently large to constitute an extraordinary item, such loss shall be included in account 570, "Extraordinary items". (See instructions 3 and 18.)

EXTRAORDINARY AND PRIOR PERIOD ITEMS

570 Extraordinary items (net).

(a) This account shall include extraordinary items accounted for during the the current accounting year in accordance with instruction 3, upon approval of the Commission. Among the items which shall be included in this account are:

Net gain or loss on sale of land used for transportation purposes, and of noncarrier property. (See instruction 18.)

Net gain or loss on sale of securities acquired for long-term investment purposes, and charges to write down the ledger value of such securities because of impairment of value.

Net gain or loss on reacquisition of company bonds.

Loss on sale or retirement of transportation property for which depreciation reserve has not been provided.

Change in application of accounting principles.

(b) Federal income tax consequences of charges and credits to this account shall be included in account 590, "Federal income taxes on extraordinary and prior period items".

(c) This account shall be maintained in a manner sufficient to identify the nature and gross amount of each debt and credit.

580 Prior period items (net).

(a) This account shall include unusual delayed items accounted for during the current accounting year in accordance with the text for instruction 3, upon approval of the Commission. Among the items which shall be included in this account are:

(1) Unusual adjustment, refunds or assessments of income taxes of prior years.

(2) Unusual adjustments of reserves of prior years determined to be excessive or deficient.

(3) Similar items representing transactions of prior years which are not identifiable with or do not result from business operations of the current year.

(b) Federal income tax consequences of charges and credits to this account shall be included in account 590, "Federal income taxes on extraordinary and prior period items".

(c) This account shall be maintained in a manner sufficient to identify the nature and gross amount of each debt and credit.

590 Federal income taxes on extraordinary and prior period items.

This account shall include the estimated Federal income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which, for accounting purposes, are classified as unusual and extraordinary and are recorded in accounts 570, "Extraordinary items", and 580, "Prior period items", as appropriate.

599 Form of income statement.

The classified form of income statement is designed to show the financial changes resulting from furnishing cars or protective service and other business of the accounting company during any specified period.

ORDINARY ITEMS

I. CAR LINE OPERATING INCOME

501	Car line operating revenues	$
531	Car line operating expenses	
532	Car line tax accruals	
533	Rent payable for cars	
	Car line operating income (or loss)	

II. OTHER INCOME

502	Revenues from miscellaneous operations	
510	Miscellaneous rent income	
511	Income from nonoperating property	
512	Dividend income	
514	Interest income	
516	Income from sinking and other reserve funds	
517	Release of premiums on funded debt	
519	Miscellaneous income	
	Total other income	
	Total income (or loss)	

III. MISCELLANEOUS DEDUCTIONS FROM INCOME

534	Expenses of miscellaneous operations	
535	Taxes on miscellaneous operating property	
543	Miscellaneous rents	
544	Miscellaneous tax accruals	
551	Miscellaneous income charges	
	Total miscellaneous deductions	
	Income available for fixed charges (or loss)	

IV. FIXED CHARGES AND OTHER DEDUCTIONS

546	Interest on funded debt:	
	(a) Fixed interest not in default	
	(b) Interest in default	
	(c) Contingent interest	
547	Interest on unfunded debt	
548	Amortization of discount on funded debt	
	Total fixed charges and other deductions	
	Ordinary income (or loss)	

EXTRAORDINARY AND PRIOR PERIOD ITEMS

570 Extraordinary (net)----------
580 Prior period items (net)----------
590 Federal income taxes on extraordinary and prior period items----------

Total extraordinary and prior period items----------

Net income (or loss)---------- $

Retained Income Accounts Texts

CREDITS

601 Credit balance (at beginning of calendar year).

This account shall include the net credit balance in the retained income account at the beginning of the calendar year.

602 Credit balance transferred from income.

This account shall show the net credit balance brought forward from the income account for the calendar year.

606 Other credits to retained income.

This account shall include other credit adjustments, net of assigned Federal income taxes, not provided for elsewhere in this system but only after such inclusion has been authorized by the Commission.

DEBITS

611 Debit balance (at beginning of calendar year).

This account shall include the net debit balance in the retained income account at the beginning of the calendar year.

612 Debit balance transferred from income.

This account shall show the net debit balance brought forward from the income account for the calendar year.

616 Other debits to retained income.

(a) This account shall include losses from resale of reacquired capital stock and charges which reduce or write off discount on capital stock issued by the company, but only to the extent that such charges exceed credit balances in capital surplus for shares reacquired. (See instruction 39.)

(b) This account shall also include other debit adjustments, net of assigned Federal income taxes, not provided for elsewhere in this system but only after such inclusion has been authorized by the Commission.

620 Appropriations for sinking and other reserve funds.

This account shall be charged and account 797, "Retained income—Appropriated," shall be credited with amounts appropriated pursuant to provisions of reorganization plans, mortgages, deeds of trust, or other contracts requiring payments into sinking funds, capital funds, and other funds.

621 Appropriations for other purposes.

This account shall be charged and account 797, "Retained income—Appropriated," shall be credited with the amount of appropriations for corporate purposes not provided for elsewhere. The appropriations shall be released when their respective purposes have been served.

622 Appropriations released.

This account is provided to return to unappropriated retained income the amount of appropriations no longer required as segregations of retained income. The account shall be subdivided to show the nature of the appropriations being released and the circumstances of the release shall be fully described.

623 Dividends.

This account shall be charged with the amount of dividends declared on actually outstanding capital stock issued or assumed by the company, other than debenture stock. If the dividend is not payable in cash, the securities or other property to be distributed shall be described with sufficient particularity to identify the distribution. The account shall be subdivided to show separately the dividends declared on the various subclasses of capital stock.

NOTE A: Interest on debenture stock shall be charged to account 546, "Interest on funded debt."

NOTE B: This account shall not include charges for dividends on capital stock issued or assumed by the company and owned by it, whether pledged as collateral or held in its treasury, in special deposits, or in sinking or other reserve funds.

General Balance Sheet Accounts

DEBITS

701 Cash.

This account shall include money, checks, sight drafts, and sight bills of exchange in the hands of the accounting company's financial officers and agents. It shall include, also, deposits with banks and trust companies available for use on demand, and savings accounts subject to the usual clause reserving the right to defer payment for a specified number of days.

NOTE: The amount of checks and drafts, which have been transmitted to payees and which remain unpaid at the close of the accounting period, shall be credited to this account. When the amount of such checks and drafts cannot be determined with absolute accuracy an estimate of the amount shall be used.

702 Temporary cash investments.

This account shall include the cost of securities and other collectible obligations acquired for the purpose of temporarily investing cash, such as United States Treasury certificates, marketable securities, time drafts receivable, demand loans, time loans, time deposits with banks and trust companies, and other similar investments of a temporary character.

703 Special deposits.

This account shall include funds specifically deposited for the payment of dividends, interest, and other current liabilities; also other deposits subject to current withdrawal for specific purposes only.

NOTE: Deposits available for general company purposes shall be included in account 701, "Cash."

704 Loans and notes receivable.

This account shall include the book value of all collectible obligations in the form of demand or time loans and notes receivable, or other similar evidences (except interest coupons) of money receivable within a time not exceeding one year from date of issue.

NOTE A: Obligations held as investments which mature more than one year after date of issue shall be included in accounts 721, "Investments in affiliated companies"; or 722, "Other investments," as may be appropriate.

NOTE B: Loans and notes receivable acquired for the purpose of temporarily investing cash shall be included in account 702, "Temporary cash investments."

705 Mileage accounts receivable.

This account shall include amounts receivable (other than amounts covered by bills collectible) for mileage, per diem, or rental earned from the use of cars owned, leased, or otherwise under the control of the company, while in service on railroad companies' lines.

707 Miscellaneous accounts receivable.

This account shall include amounts due in audited accounts considered good, such as miscellaneous bills against other companies, corporations, firms, and individuals; and other similar items.

NOTE: The amount to be entered in this account is not the net balance between this account and account 754, "Miscellaneous accounts payable."

708 Interest and dividends receivable.

This account shall include the amount of interest accrued to the date of the balance sheet on bonds owned and on loans made, the amount of dividends declared on stocks owned, and dividends accrued on such stocks when contracts require that the dividends be paid at stated times.

NOTE A: No amount representing interest or dividends receivable shall be included in this account unless its payment is reasonably assured by past experience, anticipated provision, or otherwise.

NOTE B: No dividends or other returns on securities issued or assumed by the accounting company shall be included in this account.

NOTE C: If settlement of amounts included in this account is not made when due either in cash or with other tangible assets of equal money value, such amounts shall be cleared from this account and charged to the income account originally credited. If notes are taken in settlement of amounts included in this account, the amounts thereof shall be charged to account 704, "Loans and notes receivable," or account 741, "Other assets," as may be appropriate, but such amounts shall not be credited to income (or if previously credited to income shall be cleared

therefrom as provided in the first sentence of this note), unless inclusion therein is justified by the current asset position of the obligor. If such notes are of doubtful value, the amount at which they are charged to account 741, "Other assets," shall be credited to account 784, "Other deferred credits," and income shall not be credited until payment is received, and then only with the amount collected. If long-term notes are taken in settlement of current assets, the credit to income shall be canceled and account 741, "Other assets," shall be charged with their true values, and a like sum shall be credited to account 784, "Other deferred credits."

709 Accrued accounts receivable.

This account shall include estimates of all unaudited current items receivable by the company to the date of the balance sheet, including those which are creditable to revenue, expense, or income accounts in accordance with the instruction relating to unaudited items.

Examples of items to be included:

Rents receivable which are not includible in account 707, "Miscellaneous accounts receivable." See Note C to account 708, "Interest and dividends receivable."

Amounts receivable from others for unreported car mileage.

Amounts receivable from others for use of facilities, including equipment, for which bills have not been rendered.

Amounts receivable from others for services for which bills have not been rendered.

710 Working fund advances.

This account shall include amounts advanced to officers, agents, and other employees, as working funds from which certain expenditures are to be made and accounted for.

711 Prepayments.

This account shall include the balances in the accounts representing prepaid rents chargeable to the appropriate rent accounts as the term is consumed for which the rents are paid; also interest and insurance premiums paid in advance of their accrual, which are to be apportioned and charged, as they accrue, to the appropriate accounts.

NOTE: Expenditures by the company for improvements to office buildings and other facilities rented for more than one year, title to which will pass to the lessor at the end of the rental period, shall be charged to account 748, "Other deferred charges," and amortized over the rental period as additional rent.

712 Material and supplies.

This account shall include the balances representing the cost, less depreciation, if any, of all unapplied material, such as shop material, articles in process of manufacture by the accounting company, fuel, stationery, and other supplies. In determining the cost of material and supplies suitable allowance shall be made for any discounts allowed in the purchase thereof.

NOTE: An inventory of material and supplies shall be taken during each calendar year and the necessary adjustments to bring this account into harmony with the actual inventory balances shall be made in the accounts of the year in which the inventories are taken. In effecting this adjustment determined differences in accounting for important classes of material shall be equitably assigned among the accounts to which the classes of material are ordinarily chargeable. Other differences shall be equitably apportioned among the primary accounts to which material has been charged since the last inventory.

713 Other current assets.

(a) This account shall include items of current assets not covered by accounts 701 to 712, inclusive.

(b) It shall include asset items not includible in any of the foregoing asset accounts that have been advanced beyond the stage of deferred assets.

715 Sinking funds.

This account shall include the amount of cash, the ledger value of live securities of other companies, and other assets which are held by trustees of sinking and other funds for the purpose of redeeming outstanding obligations, including such assets so held in the hands of the accounting company's treasurer when the assets are segregated in a distinct fund; also amounts deposited with such trustees on account of mortgaged property sold, the proceeds of which are to be held for the redemption of securities, and the par value or with respect to no par stock, the amounts recorded in account 791, "Capital stock issued," relating thereto, of live securities issued or assumed by the accounting company and held in such funds. A separate account shall be kept for each fund. The title of each such account shall designate the obligation in support of which the fund is created.

NOTE: In stating the balance sheet in the annual reports to the Commission the total amount of the funds and the par value or with respect to no par stock, the amounts recorded in account 791, "Capital stock issued," relating thereto, of securities issued or assumed by the accounting company and held in the funds shall be shown in the short columns, and the net amount of the funds (total amount less securities issued or assumed) shall be shown in the long column.

716 Capital and other reserve funds.

(a) This account shall include cash and the ledger value of other assets held by trustees or by the accounting company's treasurer when segregated in distinct funds that have been (1) realized from the sale of equipment obligations or other long-term obligations and not yet applied toward the specific purposes for which the obligations were incurred, and (2) set aside in accordance with governmental, mortgage, or contractual requirements in connection with reorganizations or otherwise. This account shall also include funds deposited with trustees to be held until mortgaged property sold is replaced.

(b) An appropriate record shall be maintained for securities issued or assumed by the accounting company and held in the funds, identifying those that are nominally issued or nominally outstanding.

NOTE A: Funds specifically set aside for sinking fund purposes shall be included in account 715, "Sinking funds." If one purpose of a capital fund is to provide contributions to a sinking fund under specified conditions, the entire amount of the fund shall be included in this account until the contributions to the sinking fund are made, at which time the amounts thereof shall be transferred to account 715.

NOTE B: The ledger value of assets of the character indicated in paragraph (a)(2) of this section, shall be transferred to the appropriate current asset account when the assets are definitely assigned in advance of expenditure to the payment of interest or other current liabilities payable within one year.

NOTE C: Bank deposits subject to current withdrawal for specific purposes only, shall be included in account 703, "Special deposits." Deposits available for general company purposes shall be included in account 701, "Cash."

717 Insurance and other funds.

This account shall include the amount of cash and the ledger value of securities of other companies and other assets which are in the hands of trustees or managers of insurance, employees' pension, savings, relief, hospital, and other funds which have been raised and specifically set aside or invested for specific purposes not provided for elsewhere; also the par value or with respect to no par stock, the amounts recorded in account 791, "Capital stock issued," relating thereto, of securities issued or assumed by the accounting company and held in such funds. A separate account shall be kept for each fund.

NOTE A: Sinking funds and capital and other reserve funds are provided for in accounts 715 and 716, respectively.

NOTE B: In stating the balance sheet in the annual reports to the Commission the total amount of the funds and the par value or with respect to no par stock, the amounts recorded in account 791, "Capital stock issued," relating thereto, of securities issued or assumed by the accounting company and held in the funds shall be shown in the short columns, and the net amount of funds (total amount less securities issued or assumed) shall be shown in the long column.

NOTE C: This account shall not include funds held by the accounting company solely as trustee and in which it has no beneficial interest.

NOTE D: Bank deposits subject to current withdrawal for specific purposes only, shall be included in account 703, "Special deposits." Deposits available for general company purposes shall be included in account 701, "Cash."

721 Investments in affiliated companies.

This account shall include the ledger value of the accounting company's investment in securities issued or assumed by affiliated companies other than securities held in special deposits or special funds, and also investment advances made to affiliated companies.

This account shall be maintained in such manner as to show each of the following classes of investment in each affiliated company:

(a) Stocks.
(b) Bonds.
(c) Other secured obligations.
(d) Unsecured notes.
(e) Investment advances.

A complete record of securities pledged shall be maintained so that the ledger value of securities pledged and unpledged may be shown separately in the annual report to the Commission.

NOTE A: Accounts with affiliated companies which are subject to current settlement, if their collection is reasonably assured, shall be classed as current assets, but if settlement is deferred beyond one year such items shall be transferred to account 741, "Other assets."

NOTE B: The term "affiliated companies" include:

1. Controlled companies, including companies solely controlled by the accounting company, and also companies jointly controlled by the accounting company and others under a joint arrangement.
2. Controlling companies, including both companies solely controlling the accounting company, and companies which jointly control the accounting company under a joint arrangement.
3. Companies controlled by controlled companies.
4. Companies controlled by controlling companies.

By "control" is meant the ability to determine the action of a corporation. For the purposes of this account, the following are to be considered forms of control:

(a) Right through title to securities issued or assumed to exercise the major part of the voting power in the controlled corporation.

(b) Right through agreement of some character or through some source other than title to securities, to name the majority of the board of directors, managers, or trustees of the controlled corporation.

(c) Right to foreclose a first lien upon all or a major part in value of the tangible property of the controlled corporation.

(d) Right to secure control in consequence of advances made for construction of the operating property of the controlled corporation.

(e) Right to control only in a specific respect the action of the controlled corporation.

A leasehold interest in the property of a corporation is not to be classed as a form of control over the lessor corporation.

"Sole control" is that which rests in one corporation.

"Joint control" is that which rests in two or more corporations and which is held under a joint arrangement.

NOTE C: The value of securities "borrowed" by the accounting company and pledged shall not be included in this account.

NOTE D: The value of securities pledged for purposes other than that of security for funded debt or short-term loans shall be included in accounts 715, "Sinking funds," 716, "Capital and other reserve funds," or 717, "Insurance and other funds," as may be appropriate.

722 Other investments.

This account shall include the ledger value of the accounting company's investment in securities issued or assumed by nonaffiliated companies other than securities held in special deposits or special funds; also investment advances made to nonaffiliated companies and to individuals.

This account shall be maintained in such manner as to show each of the following classes of investment in each nonaffiliated company:

(a) Stocks.
(b) Bonds.
(c) Other secured obligations.
(d) Unsecured notes.
(e) Investment advances.

A complete record of securities pledged shall be maintained so that the ledger value of securities pledged and unpledged may be shown separately in the annual report to the Commission.

NOTE A: Accounts with nonaffiliated companies which are subject to current settlement, if their collection is reasonably assured, shall be classed as current assets, but if settlement is deferred beyond one year such items shall be transferred to account 741, "Other assets."

NOTE B: The term "nonaffiliated companies" includes all companies other than those defined as "affiliated" in Note B of account 721, "Investment in affiliated companies."

NOTE C: The value of securities borrowed by the accounting company and pledged shall not be included in this account.

NOTE D: The value of securities pledged for purposes other than that of security for funded debt or short-term loans shall be included in accounts 715, "Sinking funds," 716, "Capital and other reserve funds," or 717, "Insurance and other funds," as may be appropriate.

723 Reserve for adjustment of investment in securities—Cr.

(a) This account shall include the total of the balances in such reserves as are maintained by the accounting company for the purpose of providing for reductions in the value of securities owned and recorded in accounts 721, "Investments in affiliated companies", or 722, "Other investments". Corresponding charges shall be made to account 551, "Miscellaneous income charges", or account 570, "Extraordinary items", as appropriate.

(b) If reserves are maintained in provision for anticipated losses in specific securities, when the related assets are written down or written off, or are sold or otherwise disposed of at a loss, the reduction in the book value or the losses sustained shall be charged to this account to the extent of the credit balance in the account applicable to the particular securities involved, and the remainder, if any, shall be charged to account 551, "Miscellaneous income charges", or to account 570, "Extraordinary items", as appropriate. In case a general reserve for losses in unspecified security values is maintained, all such losses resulting from write-downs, write-offs, etc., shall be charged to this account to the extent of the total credit balance in the account, and the remainder, if any, shall be charged to account 551, "Miscellaneous income charges", or to account 570, "Extraordinary items", as appropriate.

731 Cars or protective service property.

This account, except in connection with the acquisition of property as provided for in account 733, "Acquisition adjustment," shall include the accounting company's investment in property (including that held under contract for purchase), used or held for use in connection with furnishing cars or protective service against heat or cold to or on behalf of any carrier by railroad or express company in existence at the date of the balance sheet.

When property is retired from service this account shall be credited with the ledger value of the property retired.

NOTE A: This amount shall not include any items representing titles to securities.

NOTE B: When any equipment is acquired under an agreement which provides that the cost shall be paid in installments, the cost (its money value at time of purchase) shall be charged to the appropriate property and equipment accounts at the time the equipment is delivered to the company and included in this account in the same manner as the cost of equipment purchased outright. When the par value of notes or other securities issued in payment, or in part payment, for such equipment is more (or less) than the actual cash value of the equipment at the time of the purchase, or of the proportion to which the securities are applicable, the difference between the par value of the securities and the actual cash value of the equipment, or of the proportion paid for by the securities, shall be charged (or credited) to the proper discount and premium accounts.

NOTE C: Held for use, as referred to above, implies the ability of the company to substantiate by plans or policy its characterization of the probable future use which is to be made of the property within a reasonable period of time.

733 Acquisition adjustment.

This account shall be charged with the cost of the property of another company acquired as an operating entity or system by purchase, merger, consolidation, reorganization, receivership sale or transfer, or otherwise. If the consideration or a part thereof given for the property acquired consists of securities issued by the accounting company, the cash value thereof for the purpose of determining the cost to be charged to this account shall be the sum of the par value of securities having par values and the stated or assigned values of no par securities. Where the consideration given for the property acquired is other than cash or securities issued by the accounting company, such consideration shall be valued on a current cash basis.

The accounting for assets acquired and liabilities assumed shall then be as follows:

(a) Assets acquired, except property includible in accounts 731, "Cars or protective service property," or 737, "Miscellaneous physical property," and liabilities assumed shall be recorded in their appropriate accounts in the manner provided for in classification of general balance sheet accounts.

(b) The cost to the predecessor company (estimated if not known) shall be included in accounts 731, "Cars or protective service property," and 737, "Miscellaneous physical property," as may be appropriate.

(c) Balances in accounts 736, "Amortization of defense projects—Cars or protective service property," 735, "Accrued depreciation—Cars or protective service property," and 738 "Accrued depreciation—Miscellaneous physical property," carried on the books of the predecessor company or companies at date of acquisition shall be recorded in those accounts on the books of the accounting company.

(d) This account shall concurrently be debited or credited, as appropriate, to offset asset and liability items recorded in accordance with paragraphs (a) to (c) of this section.

(e) To the extent that a credit balance is available in this account, if so authorized upon application to the Commission, retirement of nondepreciable property in existence at the date of acquisition which is not replaced may be charged hereto if the loss is not assignable to operations subsequent to date of acquisition. Other charges to this account may be made on specific approval by the Commission.

735 Accrued depreciation—Cars or protective service property.

(a) This account shall be credited with amounts concurrently charged to operating expenses or other accounts to cover the loss in service value of cars and depreciable protective service property.

(b) The service value of each unit of property retired and also of each minor item (less than a unit) retired and not replaced for which depreciation reserve has been established shall be charged to this account where the group plan of accounting for depreciation is used, and with the amount included in this account with respect to the property retired where the unit plan is used.

(c) For balance sheet purposes, this account shall be treated as a single composite reserve for property. However, for purposes of analysis, the accounting company shall maintain subsidiary records in which this reserve is broken down into components corresponding to the primary accounts for depreciable property. These subsidiary records shall show the current debits and credits to this reserve by primary accounts.

736 Amortization of defense projects—Cars or protective service property.

This account shall include the amounts of accumulated past provisions for amortization of cars or protective service property, the cost of which is included in account 731, "Cars or protective service property." This account shall be charged with the credit balance herein applicable to specific property at the time the property is retired.

737 Miscellaneous physical property.

This account shall include the accounting company's investment in physical property other than property assignable to account 731, "Cars or protective service property."

738 Accrued depreciation—Miscellaneous physical property.

This account shall be credited with amounts charged to income or other accounts to cover the depreciation of property the cost of which is included in account 737, "Miscellaneous physical property."

When any miscellaneous physical property is destroyed, sold, or otherwise retired from service, the amount included in this account with respect to the property retired shall be charged hereto.

741 Other assets.

This account shall include the estimated value of salvage recoverable from property retired when the recovery of the salvage is deferred for any reason; items of a current character but of doubtful value; other deferred assets; and assets not otherwise provided for in general balance sheet accounts.

742 Unamortized discount on long-term debt.

This account shall include the total of the net debit balances in the discount, expense, and premium accounts for the several subclasses of funded debt.

743 Other deferred charges.

This account shall include the amount of debit balances in suspense accounts that cannot be cleared and disposed of until additional information is received; debit balances in clearing accounts, such as "Ice plant operations," "Production cost of ice;" unextinguished discount on short-term notes; unadjusted debit items not otherwise provided for and similar items the proper disposition of which is uncertain.

CREDIT

751 Loans and notes payable.

This account shall include the balances representing obligations outstanding in the form of loans and notes payable or other similar evidences (except interest coupons) of indebtedness payable on demand or within a time not exceeding one year from date of issue.

This account shall be kept in such form so as to show separately the amounts of notes payable within one year from date of issue that are secured by collateral.

NOTE: This account shall not include obligations which mature more than one year after date of issue, or demand or short-term notes issued to affiliated companies and includible in account 769 "Amounts payable to affiliated companies."

753 Audited accounts and wages payable.

This account shall include the amount of audited vouchers or accounts and audited payrolls unpaid on the date of the balance sheet. It shall include balances representing unclaimed wages and outstanding pay and time or discharge checks issued in payment of wages and all other unpaid vouchered items.

NOTE: The amount of checks and drafts, which have been transmitted to payees and which remain unpaid at the close of the accounting period, shall be credited to account 701, "Cash."

754 Miscellaneous accounts payable.

This account shall include outstanding drafts drawn on the company by officers, agents and other employees, taxes collected from employees and others for the account of taxing agencies, and other items of the nature of demand liabilities not covered by accounts 751, 753, 755 and 756.

NOTE A: The amount to be reported under this account is not the net balance between this account and account 707, "Miscellaneous accounts receivable."

NOTE B: The amount of checks and drafts, which have been transmitted to payees and which remain unpaid at the close of accounting period, shall be credited to account 701, "Cash." When the amount of such checks and drafts cannot be determined with absolute accuracy an estimate of the amount shall be used.

755 Interest matured unpaid.

This account shall include the amount of matured and unpaid interest on funded debt, and other obligations of the accounting company for which provision has been made for current settlement.

Interest which matures on the first day following that for which the balance sheet is made shall be included in this account.

NOTE: Interest matured unpaid on nonnegotiable debt to affiliated companies, if not subject to current settlement, shall be included in account 769, "Amounts payable to affiliated companies."

756 Dividends matured unpaid.

This account shall include the amount of dividends payable on capital stock but unpaid, uncalled for, or unclaimed at the date of the balance sheet.

Dividends which become payable on the first day following that for which the balance sheet is made shall be included in this account.

757 Unmatured interest accrued.

This account shall include the amount of interest subject to current settlement accrued to the date the balance sheet is made, but not payable until after the first day following that date, on funded securities or obligations, debt in default, receivers' and trustees' securities, amounts payable to affiliated companies, notes payable and other indebtedness issued or assumed by the accounting company.

NOTE A: Interest accrued which is not paid when it matures shall be included in account 781, "Interest in default," unless provision has been made for current settlement. Where interest is in default, subsequent accruals shall be credited direct to account 781, "Interest in default."

NOTE B: Interest accrued on amounts recorded in account 769, "Amounts payable to affiliated companies," and not subject to current settlement, shall be included in that account.

758 Unmatured dividends declared.

This account shall include dividends declared on capital stock, but not payable until after the first day following the date of the balance sheet.

759 Accrued accounts payable.

This account shall include estimates of all unaudited items payable by the company to the date of the balance sheet, including those which are chargeable to revenue, expense, or income accounts in accordance with the instruction relating to unaudited items.

Examples of items to be included:

Rents payable under leases due subsequent to the date of the balance sheet which are not includible in account 754, "Miscellaneous accounts payable."

Amounts payable to others for use of facilities, including equipment, for which bills have not been rendered.

Amounts payable to others for services for which bills have not been rendered.

Estimated amounts payable within one year covering liability for claims for injuries to persons, loss and damage, and similar items.

760 Federal income taxes accrued.

This account shall be credited with the estimated liability for Federal income taxes which has been concurrently charged to the appropriate income or other accounts.

761 Other taxes accrued.

This account shall be credited with the accruals of all taxes, other than Federal income taxes, which have been concurrently charged to the appropriate income or other accounts for taxes. Such accruals may be based upon estimates, provided such estimates shall be adjusted so as to reflect in this account at all times the car line's estimate of its unpaid liability for each of the several classes of taxes which have not been finally settled.

Vouchers for the current payment of taxes, including taxes for which accruals have not been made previously, shall be charged to this account. Taxes paid in advance shall also be charged to this account.

The records supporting the entries in this account shall be kept to show separately by classes of taxes the amount of the tax accruals for the current year and adjustments of accruals for prior years.

763 Other current liabilities.

There shall be included in this account the principal amount of unpresented bonds drawn for redemption through the operation of sinking and redemption fund agreements, also the principal amount of unpresented funded debt obligations, and receivers' and trustees' securities which have matured (for which provision has been made for current settlement), and other current liabilities not covered by accounts 751 to 761, inclusive.

764 Equipment obligations and other debt due within one year.

This account shall include the total amount of bonds, equipment obligations and other long-term debt obligations, including obligations maturing serially or payable in installments, which are due and payable within one year, and amounts required to be expended within one year under sinking fund provisions. This account shall be subdivided according to the different classes of debt so maturing.

765 Funded debt unmatured.

This account shall include the total par value of unmatured debt (other than equipment obligations), maturing more than one year from the close of the accounting period, whether the securities were issued by the accounting company or the payment was assumed by the accounting company after being issued as the debt of other companies. (See account 764, "Equipment obligations and other debt due within one year.")

The amounts included in this account shall be divided so as to show the par value of (1) certificates or other evidences of funded debt (pledged and unpledged) held in the company's treasury, by its agents or trustees, or otherwise subject to its control, including both those reacquired after actual issue and those nominally but never actually issued; and (2) certificates or other evidences of funded debt issued and actually outstanding, being those not held by the company, its agents or trustees, or subject to its control.

The amounts included herein shall be further divided so as to show the amount of each class of funded debt, as follows:

(a) *Mortgage bonds.* Bonds secured by lien on physical property and not includible in the other subdivisions of this account.

(b) *Collateral trust bonds.* Bonds and notes secured by a lien on securities or other negotiable paper; and stock trust certificates that are similar in character to collateral trust bonds.

(c) *Income bonds.* Bonds which are a lien on a car line's revenue alone, or bonds which, while being a lien on its property, can claim payment of interest only in case interest is earned.

(d) *Miscellaneous obligations.* All funded obligations not provided for by the other subdivisions of this account, also notes, unsecured certificates of indebtedness, debenture bonds, plain bonds, real estate mortgages executed or assumed and other similar obligations maturing more than one year from date of issue, but excluding liabilities for assessments for public improvements and those evidenced by conditional or deferred equipment purchase contracts for which provision is made in account 782, "Other liabilities," and account 766, "Equipment obligations," respectively.

(e) *Receipts outstanding for funded debt.* Receipts for payments on account of funded debt. When certificates are issued for amounts so paid, the par value shall be included in the account covering the class of funded debt for which the certificates are issued.

Each of the above classes shall also be divided into subclasses according to differences in mortgage or other lien of security therefor, rate of interest, interest dates, or date of maturity. Parts of any issue agreeing in other characteristics but maturing serially may be treated as of the same subclass.

NOTE A: Securities (other than equipment obligations) maturing one year or less from date of issue shall be included in accounts 760, "Amounts payable to affiliated companies," or 751, "Loans and notes payable," except that where an issue of securities maturing serially over a period of years contains short-term obligations such obligations may be included as funded debt. Matured funded debt shall be included in account 761, "Other current liabilities," if provision has been made for current settlement. If no provision has been made for current settlement, matured funded debt shall be included in account 768, "Debt in default," except that when the collection of matured funded debt of affiliated companies is not enforced by controlling companies, the principal amount (to the extent held by a controlling company) shall be included in account 769, "Amounts payable to affiliated companies."

NOTE B: Nonnegotiable notes having a maturity of more than one year after date of issue, held by affiliated companies, shall be included in account 769, "Amounts payable to affiliated companies."

NOTE C: Securities nominally issued or reacquired and held in the company's treasury, except securities held by trustees in sinking or other funds, shall be included in a subdivision of this account. In the general balance-sheet statement the total unmatured funded debt included in the account shall be shown in the first short column. The amount nominally but not actually issued and the amount nominally outstanding shall be shown in the second short column, and in the long column shall be shown the amount actually outstanding.

766 Equipment obligations.

This account shall include the par value of equipment securities and the principal amount of contractual obligations for the purchase of equipment, excluding principal of obligations maturing serially or payable in installments within one year from the close of the accounting period. (See account 764, "Equipment obligations and other debt due within one year.")

The amounts included herein shall be divided as follows:

(a) Principal amount of equipment securities including those maturing serially, issued or assumed by the accounting company or by receivers and trustees.

(b) Principal sums of obligations for equipment purchased under conditional or deferred payment contracts.

767 Receivers' and trustees' securities.

When receivers or trustees acting under the orders of a court are in possession of the property of the company, and under the order of such court issue or assume evidences of indebtedness (other than equipment securities or obligations) the par value of such evidences shall be credited to this account.

NOTE: The par value of equipment securities or the principal amount of obligations incurred for the purchase of equipment under conditional or deferred payment contracts shall be included in account 766, "Equipment obligations."

768 Debt in default.

This account shall include amounts transferred from other accounts representing matured funded securities or obligations, receivers' and trustees' securities, equipment obligations and short-term notes, when maturity dates of such obligations have not been extended.

NOTE A: The principal amount of matured funded debt of affiliated companies, the collection of which is not enforced by the controlling company shall (to the extent of the principal amount held by the controlling company) be included in account 769, "Amount payable to affiliated companies."

NOTE B: The principal amount of unpresented funded debt obligations which have matured, and for which provision has been made for payment shall be included in account 763, "Other current liabilities."

769 Amounts payable to affiliated companies.

This account shall include the par value of nonnegotiable notes issued to affiliated companies, matured funded debt of affiliated companies held by controlling companies where there is no agreement of an extension as to time of payment and collection of the principal is not enforced, credit balances in open accounts with such companies other than credit balances in current accounts classable as current liabilities, and interest accrued on notes, matured funded debt of affiliated companies and open accounts included in this account, when such interest is not subject to current settlements.

This account shall be divided:

(a) Notes, including herein not only nonnegotiable notes that run longer than a term of one year, but also such notes payable on demand or within one year from the date of issue when it is mutually agreed that the notes shall not be enforced as current assets by the holder.

(b) Par value of matured funded debt of affiliated companies held by controlling companies where there is no agreement for an extension of time and collection is not enforced.

(c) Open accounts not subject to current settlement.

(d) Interest accrued on amounts included in this account when not subject to current settlements.

NOTE A: Accounts with affiliated companies which are subject to current settlements, such as charges for material and supplies currently furnished, charges for repairs to equipment, etc., shall be classed as current assets or current liabilities, as may be appropriate.

NOTE B: No item shall be included in this account which is not known to be the property of an affiliated company.

NOTE C: The term "affiliated companies" includes:

1. Controlled companies, including companies solely controlled by the accounting company, and also companies jointly controlled by the accounting company and others under a joint arrangement.

2. Controlling companies, including both companies solely controlling the accounting company, and companies which jointly control the accounting company under a joint arrangement.

3. Companies controlled by controlled companies.

4. Companies controlled by controlling companies.

By "control" is meant the ability to determine the action of a corporation. For the purposes of this account, the following are to be considered forms of control:

(a) Right through title to securities issued or assumed to exercise the major part of the voting power in the controlled corporation.

(b) Right through agreement of some character or through some source other than title to securities, to name the majority of the board of directors, managers, or trustees of the controlled corporation.

(c) Right to foreclose a first lien upon all or a major part in value of the tangible property of the controlled corporation.

(d) Right to secure control in consequence of advances made for construction of the operating property of the controlled corporation.

(e) Right to control only in a specific respect the action of the controlled corporation.

A leasehold interest in the property of a corporation is not to be classed as a form of control over the lessor corporation.

"Sole control" is that which rests in one corporation.

"Joint control" is that which rests in two or more corporations and which is held under a joint arrangement.

771 Pension and welfare reserves.

This account shall include the credit balances representing the liability of the company for amounts provided by charges to operating expenses, including amounts contributed by employees, irrespective of whether carried in special funds or in the general funds of the car line, for pensions, accident and death benefits, savings, relief, hospital, or other provident purposes.

Separate subaccounts shall be kept for each kind of reserve created, and the appropriate reserve shall be charged when payments are made to retired employees, or disbursements are made for the purposes for which the reserves were created.

772 Insurance reserves.

This account shall include the net credit balance in the accounts to which are credited insurance premiums concurrently charged to operating expenses to cover self-carried risks on fire, fidelity, boiler, casualty, burglar, and other insurance, and to which are charged losses sustained on items protected by such insurance.

773 Equalization reserves.

This account shall include ledger balances representing reserves created by charges to operating expenses for maintenance of equipment under a program designed to equalize such expenses by months within a calendar year. The debit or credit balances in this account shall be closed at the end of each calendar year to the accounts through which they were created.

774 Casualty and other reserves.

This account shall include reserves created by charges to operating expenses to provide for estimated liability for injuries to persons and loss and damage claims, and reserves not otherwise provided for in balance sheet accounts.

In order that the probable liability for casualties may be shown currently, there shall be included in the appropriate casualty accounts estimates of such liabilities with concurrent credits to this account. Credits for this purpose shall not be made in excess of a reasonable provision against such losses. When the liability is admitted, either voluntarily or because of the decision of a court or other lawful authority such as workmen's compensation board, the admitted liability shall be charged to the reserve and credited to the appropriate liability account, with appropriate adjustments of the reserve.

NOTE: Estimates of amounts payable within one year covering liability for claims for injuries to persons, loss and damage, and similar items, shall be transferred from this account to account 759, "Accrued accounts payable."

781 Interest in default.

This account shall include the amount of matured and unpaid interest (for which no provision has been made for current settlement) on all indebtedness issued or assumed by the accounting company except interest which is added to the principal of the debt on which incurred. Where interest is in default, subsequent accruals shall be credited direct to this account.

782 Other liabilities.

This account shall include assessments for public improvements payable over a period longer than one year; retained percentages due contractors to be paid upon completion of contracts; other deferred liabilities; and liabilities not otherwise provided for in general balance sheet accounts.

NOTE: The amount of assessments for public improvements, if payments are to be made within one year, shall be included in account 763, "Other current liabilities."

783 Unamortized premium on long-term debt.

This account shall include the total of the net credit balances in the discount, expense, and premium accounts for the several subclasses of funded debt.

784 Other deferred credits.

This account shall include the amount of credit balances in suspense accounts that cannot be entirely cleared and disposed of until additional information is received, such as credit balances in clearing accounts, "Ice plant operations," "Production cost of ice," unadjusted credit items not otherwise provided for; and similar items, the proper disposition of which is uncertain.

791 Capital stock issued.

This account shall include the total par value of par value stock, and the total amount paid in for stock without par value, for all shares of capital stock or other form of proprietary interest in the accounting company which have been issued to bona fide purchasers and have not been reacquired and canceled, also shares of stock nominally issued, and reacquired shares which have not been canceled.

Appropriations of retained income which have been transferred to no par stock account shall also be included. The amount of the consideration received from the sale of par value stock in excess of the amount credited to this account shall be credited to account 794, "Premiums and assessments on capital stock."

When capital stock is retired or canceled, this account shall be charged with the amount at which such stock is carried in this account. In the case of no par stock the amount to be charged hereto shall be the proportion, applicable to the reacquired shares immedi-

ately prior to reacquisition of the total book liability included herein of actually outstanding shares of the particular class and series of stock of which the reacquired shares are a part.

The amounts included in this account shall be recorded so as to show:

(a) Par value of shares of par value stock and amount paid in for shares of no par stock (pledged or unpledged) held in the company's treasury, by its agents or trustees, or otherwise subject to its control, including shares nominally but never actually issued and

(b) Par value of shares of par value stock and amount paid in for shares of no par stock issued and actually outstanding, being the shares not held by the company, its agents or trustees, or subject to its control.

The amounts included herein shall be further divided so as to show the amount of each class of stock issued, separated as between par value and no par value stock, as follows:

(1) *Common stock.* Stocks which have no preference over other issues of stock in distribution of dividends or of assets.

(2) *Preferred stock.* Stocks having preference over other issues of stock in distribution of dividends or of assets.

(3) *Debenture stock.* Stocks issued under a contract to pay a specified return at specified intervals.

(4) *Receipts outstanding for installments paid.* Receipts for payments on account of subscriptions to capital stock.

When the subscriber has paid his subscription in full and is entitled to receive certificates representing the shares for which he has subscribed, the par value of stocks having par value or the agreed purchase price of stock without par value shall be included in the division appropriate for the class for which the certificates are issued.

Each of the above classes shall also be divided into subclasses according to differences in dividend or interest rights, voting rights, or conditions under which the securities may be retired.

NOTE A: When a general levy or assessment is made against the holders of capital stock, requiring the payment of any sum in addition to the consideration agreed upon at the time of sale, the amount collected upon such levy or assessment shall be credited to account 794, "Premiums and assessments on capital stock."

NOTE B: When capital stock having par value is exchanged for capital stock without par value any sums resting in account 794, "Premiums and assessments on capital stock," with respect thereto shall be cleared to account 791, "Capital stock issued," and any amounts resting in the discount account with respect thereto shall be cleared to account 795, "Paid-in surplus"; *Provided, however,* That any excess over the amount of accumulated net gains applicable to the subclass exchanged included in paid-in surplus shall be charged to account 616, "Other debits to retained income."

NOTE C: An appropriate record shall be maintained with respect to shares of capital stock showing the number of shares nominally issued, nominally outstanding, actually issued and actually outstanding.

NOTE D: For the purpose of the balance-sheet statement capital stock is considered to be nominally issued when certificates are signed and sealed and placed with the proper officer for sale and delivery, or pledged, or otherwise placed in some special fund of the accounting company. It is considered to be actually issued when it has been sold to a bona fide purchaser for a valuable consideration, and such purchaser holds it free from all control by the accounting company. All capital stock actually issued and not reacquired and held by or for the accounting company is considered to be actually outstanding. If reacquired by or for the accounting company under such circumstances as required it to be considered as held alive and not canceled or retired, it is considered to be nominally outstanding.

NOTE E: Share of stock nominally issued or reacquired and held in the company's treasury, except shares held by trustees in sinking or other funds, shall be included in a subdivision of this account. In the balance-sheet statement the balance in the subaccount shall be stated in the short column only.

792 Stock liability for conversion.

This account shall include the company's liability under agreements to exchange its capital stock for the outstanding securities of companies whose physical property has been acquired under such agreements, but whose securities have not yet been surrendered for exchange.

793 Discount on capital stock.

This account shall include discount suffered in the issuance and sale of capital stock. Record supporting the entries to this account shall be kept to show the discount suffered, if any, on each subclass of capital stock.

794 Premiums and assessments on capital stock.

This account shall include the excess of the actual cash value (at the time of the sale of the stock) of the consideration received over the amounts recorded in account 791, "Capital stock issued," for par value stock plus accrued dividends, if any, also subsequent assessments against stockholders representing payments required in excess of par or other amounts recorded in account 791, "Capital stock issued," in accordance with the text of that account.

When capital stock is retired and canceled, the amount in this account with respect to the shares of such stock retired and canceled shall be charged hereto.

795 Paid-in surplus.

This account shall include such items as amount of consent dividends on the accounting company's capital stock; surplus arising from donations by the accounting company's stockholders; amounts representing reduction of the par or recorded value of the accounting company's capital stock; amounts of forfeited subscriptions to the accounting company's capital stock; gains from the acquisition, retirement, or resale of reacquired shares of the accounting company's capital stock; and long-term debt of the accounting company forgiven by stockholders.

It shall be charged with amounts included herein when capitalized by stock dividends or otherwise, and losses from retirement or resale of reacquired shares up to an amount not in excess of credits included herein applicable to the reacquired shares; and may be charged with the amortization of discount on capital stock to the extent of credits herein.

796 Other capital surplus.

This account shall include all capital surplus not provided for in account 795, "Paid-in surplus."

797 Retained income—Appropriated.

This account shall include the accumulated amount of retained income which has been appropriated and set aside pursuant to provisions of mortgages, deeds of trust, reorganization plans, or other agreements requiring payments into capital funds, sinking funds, or other funds; and also appropriations for other specific purposes. The account is to be subdivided by classes of appropriations showing the purpose for which each is made.

798 Retained income—Unappropriated.

This account shall include the net balance (debit or credit) of the amounts included in accounts 601 to 623, inclusive.

Any balance representing retained income not segregated at the date of the balance sheet shall be included in a subdivision of this account.

The balance of accounts 601 to 623, inclusive, shall be closed into this account at the end of each calendar year.

799 Form of general balance sheet statement.

The classified form of general balance sheet statement is designed to show the financial condition of the accounting company at any specified date.

ASSETS

CURRENT ASSETS

701	Cash
702	Temporary cash investments
703	Special deposits
704	Loans and notes receivable
705	Mileage accounts receivable
707	Miscellaneous accounts receivable
708	Interest and dividends receivable
709	Accrued accounts receivable
710	Working fund advances
711	Prepayments

LIABILITIES AND STOCKHOLDERS' EQUITY—Continued

LONG-TERM DEBT DUE WITHIN ONE YEAR

		Total issued	Held by or for respondent
764	Equipment obligations and other debt		
	LONG-TERM DEBT DUE AFTER ONE YEAR		
765	Funded debt unmatured		
766	Equipment obligations		
767	Receivers' and trustees' securities		
768	Debt in default		
769	Amounts payable to affiliated companies		
	Total long-term debt due after one year		
	RESERVES		
771	Pension and welfare reserves		
772	Insurance reserves		
773	Equalization reserves		
774	Casualty and other reserves		
	Total reserves		
	OTHER LIABILITIES AND DEFERRED CREDITS		
781	Interest in default		
782	Other liabilities		
783	Unamortized premium on long-term debt		
784	Other deferred credits		
	Total other liabilities and deferred credits		
	SHAREHOLDERS' EQUITY	Total issued	Held by or for company
	Capital stock (par or stated value):		
791	Capital stock issued		
792	Stock liability for conversion		
793	Discount on capital stock		
	Total capital stock		
	Capital surplus:		
794	Premiums and assessments on capital stock		
795	Paid-in surplus		
796	Other capital surplus		
	Total capital surplus		
	Retained income:		
797	Retained income—Appropriated		
798	Retained income—Unappropriated		
	Total retained income		
	Total shareholders' equity		
	Total Liabilities and Shareholders' Equity		

ASSETS—Continued

CURRENT ASSETS—Continued

712	Material and supplies		
713	Other current assets		
	Total current assets		
	SPECIAL FUNDS		
715	Sinking funds		
716	Capital and other reserve funds		
717	Insurance and other funds		
	Total special funds		
	INVESTMENTS		
721	Investments in affiliated companies		
722	Other investments		
723	Reserve for adjustment of investment in securities—Cr.		
	Total investments		
	PROPERTIES		
731	Cars or protective service property		
733	Acquisition adjustment		
	Total cars or protective service property		
735	Accrued depreciation—Cars or protective service property		
736	Amortization of defense projects—Cars or protective service property		
	Total cars or protective service property less recorded depreciation and amortization		
737	Miscellaneous physical property		
738	Accrued depreciation—Miscellaneous physical property		
	Miscellaneous physical property less recorded depreciation		
	Total properties less recorded depreciation and amortization		
	OTHER ASSETS AND DEFERRED CHARGES		
741	Other assets		
743	Unamortized discount on long-term debt		
745	Other deferred charges		
	Total other assets and deferred charges		
	Total Assets		
	LIABILITIES AND STOCKHOLDERS' EQUITY		
	CURRENT LIABILITIES		
751	Loans and notes payable		
753	Audited accounts and wages payable		
754	Miscellaneous accounts payable		
755	Interest matured unpaid		
756	Dividends matured unpaid		
757	Unmatured interest accrued		
758	Unmatured dividends declared		
759	Accrued accounts payable		
760	Federal income taxes accrued		
761	Other taxes accrued		
765	Other current liabilities		
	Total current liabilities (exclusive of long-term debt due within 1 year)		

PART 1206—COMMON AND CONTRACT MOTOR CARRIERS OF PASSENGERS

INTRODUCTION

0–1 General.

DEFINITIONS

1–1 Accounts.
1–2 Actually issued.
1–3 Actually outstanding.
1–4 Addition.
1–5 Amortization.
1–6 Associated companies and control.
1–7 Betterment.
1–8 Book cost.
1–9 Carrier or motor carrier.
1–10 Carrier operating property.
1–11 Company.
1–12 Commission or the Commission.
1–13 Contingent assets.
1–14 Contingent liabilities.
1–15 Cost.
1–16 Cost of removal.
1–17 Current assets.
1–18 Current liabilities.
1–19 Date of retirement.
1–20 Debt expense.
1–21 Delayed items.
1–22 Depreciation.
1–23 Discount.
1–24 Distinct operating unit.
1–25 Joint facility.
1–26 Long-term obligations.
1–27 Mileage method.
1–28 Minor items.
1–29 Net book cost.
1–30 Net salvage value.
1–31 Nominally issued.
1–32 Premium.
1–33 Property retired.
1–34 Replacing or replacement.
1–35 Salvage value.
1–36 Service life.
1–37 Service value.
1–38 Straight-line method.
1–39 Unit of property.
1–40 Used.

INSTRUCTIONS

2–1 Classification of carriers.
2–2 Records.
2–3 Accounting period.
2–4 Submission of questions.
2–5 Item lists; interpretation.
2–6 Opening entries.
2–7 Delayed items.
2–8 Unaudited items.
2–9 Spreading of unusual income; revenue and expense items.
2–10 Current assets.
2–11 Discount or premium on securities of other companies.
2–12 Discount; expense and premium on capital stock.
2–13 Discount; expense and premium on long-term obligations.
2–14 Company securities owned.
2–15 Book cost of securities owned.
2–16 Clearing accounts; purpose.
2–17 Deduction of reserves.
2–18 Contingent assets and liabilities.
2–19 Operating property to be recorded at cost.
2–20 Instruction 20, acquisition of a distinct operating unit.
2–21 Operating property retired.
2–22 Leased property; expenditures.
2–23 Transfer of property.
2–24 Common property.
2–25 Depreciation accounting.
2–26 Cost of repairs.
2–27 Insurance.
2–28 Distribution of pay and expenses of employees.
2–29 Joint expenses.
2–30 Rent and lease of carrier property.
2–31 Amortization of intangibles.

BALANCE SHEET ACCOUNTS

ASSET SIDE

Current Assets

1000 Cash.
1020 Working funds.
1040 Special deposits.
1041 Interest, special deposits.
1042 Dividend, special deposits.
1043 Miscellaneous, special deposits.
1060 Temporary cash investments.
1080 Notes receivable.
1100 Receivables from associated companies.
1120 Accounts receivable.
1140 Subscribers to capital stock.
1160 Interest and dividends receivable.
1180 Material and supplies.
1190 Other current assets.

Tangible Property

1200 Carrier operating property.
1201 Land and land rights.
1211 Structures.
1221 Revenue equipment.
1231 Service cars and equipment.
1241 Shop and garage equipment.
1251 Furniture and office equipment.
1261 Miscellaneous equipment.
1271 Improvements to leasehold property.
1281 Undistributed property.
1291 Unfinished construction.
1300 Carrier operating property leased to others.
1400 Non-carrier operating property.
1450 Non-operating property.

Intangible Property

1500 Organization, franchises and permits.
1501 Organization.
1511 Franchises.
1541 Patents.
1550 Other intangible property.

Investment Securities and Advances

1600 Investments and advances—Associated companies.
1650 Other investments and advances.

Special Funds

1701 Sinking funds.
1751 Depreciation funds.
1781 Miscellaneous special funds.

Deferred Debits

1800 Prepayments.
1880 Unamortized debt discount and expense.
1890 Other deferred debits.

Miscellaneous Debit Items

1900 Discount on capital stock.
1910 Commission and expense on capital stock.
1920 Reacquired securities.
1990 Nominally issued securities.

LIABILITY SIDE

Current Liabilities

2000 Notes payable.
2020 Matured equipment and long-term obligations.
2030 Payables to associated companies.
2050 Accounts payable.
2070 Wages payable.
2080 Unredeemed tickets.
2090 C. o. d.'s unremitted.
2100 Dividends declared.
2120 Taxes accrued.
2130 Interest accrued.
2160 Matured interest.
2180 Other current liabilities.

Long-Term Debt Due Within One Year

2190 Equipment obligations and other debt due within one year.

Advances Payable

2200 Advances payable—Associated companies.
2250 Other advances payable.

Equipment and Other Long-Term Obligations

2300 Equipment obligations.
2330 Bonds.
2360 Other long-term obligations.

Deferred Credits

2400 Unamortized premium on debt.
2450 Other deferred credits.

Reserves

2500 Reserve for depreciation—Carrier operating property.
2600 Reserve for amortization. Carrier operating property.
2610 Reserve for depreciation and amortization—Other property.
2650 Reserve for uncollectible accounts.
2660 Insurance reserves.
2680 Injuries, loss and damage reserves.
2690 Other reserves.

Capital Stock

2700 Preferred capital stock.
2710 Common capital stock.
2720 Premiums and assessments on capital stock.
2730 Capital stock subscribed.

Non-Corporate Capital

2800 Sole proprietorship capital.
2810 Partnership capital.

Unappropriated Surplus

2900 Unearned surplus.
2930 Earned surplus.
2932 Credit balance transferred from income account.
2933 Other credits to surplus.
2942 Debit balance transferred from income account.
2943 Dividend appropriations.
2944 Appropriations to reserves.
2945 Other appropriations.
2946 Other debits to surplus.
2999 Form of balance sheet statement.

INCOME ACCOUNTS

ORDINARY ITEMS

Operating Revenues

3000 Operating revenues.
3200 Passenger revenue.
3210 Special bus revenue.
3220 Baggage revenue.
3300 Mail revenue.
3400 Express revenue.
3500 Newspaper revenue.
3600 Miscellaneous station revenue.
3900 Other operating revenue.

Operation and Maintenance Expenses

4000 Operation and maintenance expenses.
4100 Equipment maintenance and garage expenses.
4110 Supervision of shop and garage.
4121 Repairs to shop and garage equipment.
4122 Operation and maintenance of service equipment.
4128 Repairs to shop and garage buildings and grounds.
4131 Light, heat, power and water for shops and garages.
4132 Other shops and garage expenses.
4140 Repairs to revenue equipment.
4150 Servicing of revenue equipment.
4160 Tires and tubes—Revenue equipment.
4191 Joint garage expenses—Debit.
4196 Joint garage expense—Credit.
4200 Transportation expense.
4210 Supervision of transportation.
4220 Drivers' wages and bonuses.
4230 Fuel for revenue equipment.
4240 Oil for revenue equipment.

4350 Purchased transportation.
4361 Road expense.
4362 Bridge, tunnel and ferry tolls.
4363 Wages of miscellaneous transportation employees.
4364 Other transportation expenses.
4300 Station expense.
4311 Salaries and commissions.
4314 Supplies and expenses.
4319 Repairs to station buildings and equipment.
4331 Commissions paid.
4332 Other expenses allowed.
4340 Interline commissions paid.
4350 Interline commissions earned—Credit.
4360 Collection and delivery.
4370 Purchased collection and delivery.
4391 Joint station facilities—Debit.
4396 Joint station facilities—Credit.
4400 Traffic, solicitation and advertising expense.
4410 Salaries and expenses.
4430 Tariffs and schedules.
4440 Tickets and baggage checks.
4450 Other traffic expenses.
4470 Advertising.
4500 Insurance and safety expense.
4510 Salaries and expenses—Insurance and safety.
4520 Public liability and property damage insurance.
4530 Injuries and damages.
4541 Workmen's compensation—Insurance.
4546 Workmen's compensation—Self insurer.
4550 Baggage and express insurance.
4560 Baggage and express loss and damage.
4570 Fire and theft insurance.
4580 Other insurance.
4600 Administrative and general expense.
4611 Salaries of general officers.
4612 Expenses of general officers.
4613 Salaries of general office employees.
4616 Expenses of general office employees.
4620 Law expenses.
4630 General office supplies and expenses.
4640 Communication service.
4651 Outside auditing expenses.
4652 Employees' welfare expenses.
4655 Purchasing and store expenses.
4656 Other general expenses.
4660 Management and supervision fees and expenses.
4671 Franchise requirements—Debit.
4672 Franchise requirements—Credit.
4673 Other regulatory commission expenses.
4680 Uncollectible revenues.
4691 Joint operating expense—Debit.
4696 Joint operating expense—Credit.

Depreciation Expense

5000 Depreciation expense.

Amortization Expense

5100 Amortization of carrier operating property.

Taxes and licenses

5200 Operating taxes and licenses.
5210 Gasoline, other fuel and oil taxes.
5220 Vehicle license and registration fees.
5230 Real estate and personal property taxes.
5240 Social security taxes.
5250 Other taxes.

Operating Rents

5300 Operating rents—Net.
5310 Equipment rents—Debit.
5320 Other operating rents—Debit.
5340 Joint facility rents—Debit.
5350 Equipment rents—Credit.
5360 Rent from owned land and structures.
5370 Sublease rental income.
5390 Joint facility rents—Credit.

Lease of Carrier Property

5400 Rent for lease of carrier property—Debit.
5500 Income from lease of carrier property—Credit.

Other Income

6000 Net income from non-carrier operations.
6100 Net income from non-operating property.
6200 Interest income.
6300 Dividend income.
6400 Income from sinking and other funds.
6500 Other non-operating income.

Income Deductions

7000 Interest on long-term obligations.
7100 Other interest deductions.
7200 Taxes assumed on interest.
7300 Amortization of debt discount and expense.
7400 Amortization of premium on debt—Credit.
7500 Other deductions.

Income Taxes

8000 Income taxes on ordinary income.

EXTRAORDINARY AND PRIOR PERIOD ITEMS

9010 Extraordinary items (net).
9030 Prior period items (net).
9050 Income taxes on extraordinary and prior period items.
9999 Form of income statement.

AUTHORITY: The provisions of this Part 1206 issued under 49 Stat. 546, as amended, 563, as amended, 564, as amended; 49 U.S.C. 304, 320, 322.

INTRODUCTION

0–1 General.

Each Class I common and contract motor carrier of passengers, as such carriers are classified in the Uniform System of Accounts for Class I Common and Contract Motor Carriers of Passengers, as modified and amended in this part and each receiver, trustee, executor, administrator, or assignee of and such carrier, is hereby required to comply with said amended system of accounts; and said amended system of accounts is prescribed for use in the keeping and recording of their accounts by such Class I common and contract motor carriers of passengers; and each such carrier and each and every receiver, trustee, executor, administrator, or assignee of such motor carrier is required to keep all accounts in conformity therewith.

DEFINITIONS

1–1 Accounts.

Accounts as used in this part means the accounts prescribed in this system of accounts.

1–2 Actually issued.

Actually issued, as applied to securities, means those which have been sold to bona fide purchasers for a valuable consideration (including those issued in exchange for other securities or other property) so that the purchasers secured them free from control by the issuing carrier, also securities issued as dividends on stock, and those which have been issued in accordance with contractual requirements direct to trustees of sinking and other funds.

1–3 Actually outstanding.

Actually outstanding, as applied to securities issued or assumed by the carrier, means those which have been actually issued and are neither retired nor held by or for the carrier; *Provided, however.* That securities held by trustees shall be considered as actually outstanding.

1–4 Addition.

Addition means structures, facilities, or equipment added to those in service and not taking the place of anything previously existing.

1–5 Amortization.

Amortization means the gradual extinguishment of an amount in an account by prorating such amount over either a fixed period dependent on the life of the asset or liability to which it applies, or over the period during which it is anticipated the benefit will be realized.

1–6 Associated companies and control.

(a) Associated companies or affiliated companies means companies or persons that directly or indirectly, through one or more intermediaries, control or are controlled by, or are under common control with the accounting carrier.

(b) Control (including the terms "controlling," "controlled by," and "under common control") as used in this part, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, firm or corporation, whether through the ownership of voting securities, by contract or otherwise. If in any instance the existence of control is or may be open to reasonable doubt, the carrier shall report to the Commission all of the material facts pertinent to the possible existence of control.

1–7 Betterment.

Betterment means the enlargement or improvement of existing structures, facilities, and equipment.

1–8 Book cost.

Book cost means the amount at which property is recorded on the books of the carrier without deduction of related reserves.

1–9 Carrier or motor carrier.

Carrier or motor carrier includes both a common carrier by motor vehicle and a contract carrier by motor vehicle, subject to Part II of the Interstate Commerce Act.

1–10 Carrier operating property.

Carrier operating property means the property which is used (see definition 40) by the carrier in the conduct of its motor carrier operations or leased to others for such operations, and which has an expectation of life in service of more than 1 year from date of installation. This includes land, structures, equipment, and facilities necessary for

such operations and services incidental thereto.

1–11 Company.

Company means any individual, firm, copartnership, corporation, association, or joint-stock association; and includes any trustee, receiver, assignee, or personal representative thereof.

1–12 Commission or the Commission.

Commission or the Commission means the Interstate Commerce Commission.

1–13 Contingent assets.

Contingent assets means a possible source of value to the carrier dependent upon the fulfillment of conditions regarded as uncertain.

1–14 Contingent liabilities.

Contingent liabilities means items which may under certain conditions become obligations of the carrier but which are neither direct nor assumed liabilities at the date of the balance sheet.

1–15 Cost.

Cost means the amount of money actually paid for property or services, or the cash value at the time of the transaction of any consideration other than money.

1–16 Cost of removal.

Cost of removal means the cost of demolishing, dismantling, tearing down, or otherwise removing operating property, including the cost of transportation and handling incident thereto.

1–17 Current assets.

Current assets means cash as well as those assets that are readily convertible into cash or are held for current use in operations or construction; current claims against others, payment of which is reasonably assured; and other amounts accruing to the carrier which are subject to settlement within one year from the date of the balance sheet.

1–18 Current liabilities.

Current liabilities means those obligations the amount of which is definitely determined or closely estimated which are either matured at the date of the balance sheet or become due within 1 year from date of issuance or assumption or upon demand.

1–19 Date of retirement.

Date of retirement, as applied to operating property, means the date at which such property is permanently withdrawn from service.

1–20 Debt expense.

Debt expense means all expense in connection with the issuance and sale of evidences of long-term debt, such as fees for drafting mortgages and trust deeds; fees and taxes for issuing or recording evidences of debt; cost of engraving and printing bonds, certificates of indebtedness, and other evidences of debt; fees paid trustees; specific costs of obtaining governmental authority; fees for legal services; fees and commissions paid underwriters, brokers, and salesman for marketing evidences of debt; fees and expenses of listing on exchanges; and other like costs.

1–21 Delayed items.

Delayed items means items relating to transactions which occurred before the current calendar year. It includes adjustments of errors in the income, operating revenue, and operating expense accounts of prior years.

1–22 Depreciation.

Depreciation, as applied to depreciable operating property, means the loss in service value (see definition 37) not restored by current maintenance, incurred in connection with the consumption or prospective retirement of property in the course of service from causes against which the carrier is not protected by insurance, which are known to be in current operation. Among the causes to be given consideration are wear and tear, decay, action of the elements, obsolescence, changes in the art, inadequacy, changes in demand, and requirements of public authority.

NOTE A: Unit plan means the plan under which depreciation charges are computed and the records maintained so that the total amount of depreciation accrued applicable to each unit can be determined.

NOTE B: Group plan means the plan under which depreciation charges are accrued upon the basis of the sum total of the book cost balances at the close of each month (or 4-week period) of all property included in each account or subdivision thereof, at rates determined from the average service life of the property included therein, and upon the retirement of any such property its full service value is charged to the depreciation reserve whether or not the particular item has attained the average service life.

1–23 Discount.

Discount, as applied to securities issued or assumed by the carrier, means the excess of the par or face value of the securities, plus interest or dividends accrued at the date of the sale over the cash value of the consideration received from the sale.

1–24 Distinct operating unit.

Distinct operating unit means all or any portion of a route or routes covered by a certificate of convenience and necessity or a permit and operated as a separate entity, including the physical property used in the operation thereof.

1–25 Joint facility.

Joint facility means any property occupied or used jointly by the carrier and one or more other carriers under a definite arrangement whereby the costs are shared between the parties to the joint agreement. Portions of a structure or other property used exclusively by each of two or more carriers are not joint facilities.

1–26 Long-term obligations.

Long-term obligations means obligations having a life of more than 1 year from date of creation or assumption, and all unmatured bonds and receivers' or trustees' certificates.

1–27 Mileage method.

Mileage method, as applied to depreciation of vehicles, means the plan under which the service value is charged to depreciation expenses and credited to depreciation reserves at a fixed rate per mile run.

1–28 Minor items.

Minor items, as applied to carrier operating property (see definition 10), means the associated parts or elements of which units of property (see definition 39) are composed. (See instruction 21(c).)

1–29 Net book cost.

Net book cost, when applied to property, means the book cost (see definition 8) less related depreciation and amortization reserves.

1–30 Net salvage value.

Net salvage value means the salvage value (see definition 35) of property retired after deducting the cost of removal.

1–31 Nominally issued.

Nominally issued, as applied to securities issued or assumed by the carrier, means those which have been signed, certified, or otherwise executed and placed with the proper officer for sale and delivery, or pledged, or otherwise placed in some special fund of the carrier, but which have not been sold or issued direct to trustees of sinking funds in accordance with contractual requirements.

1–32 Premium.

Premium, as applied to securities issued or assumed by the carrier, means the excess of the cash value of the consideration received from their sale over the sum of their par (stated value of no-par stocks) or face value of the securities plus interest or dividends accrued at the date of sale.

1–33 Property retired.

Property retired, as applied to operating property, means property which has been removed, sold, abandoned, destroyed, or which for any cause has been permanently withdrawn from service.

1–34 Replacing or replacement.

Replacing or replacement, when not otherwise indicated in the context, means the acquisition, construction, or installation of property in place of property of like purpose retired, together with the removal of the property retired.

1–35 Salvage value.

Salvage value means the amount received for property retired, less any expenses incurred in connection with the sale or in preparing the property for sale; or, if retained, the amount at which the material recovered is chargeable to account 1180, Material and Supplies, or other appropriate account.

1–36 Service life.

Service life means the period between the date when carrier operating property (see definition 10) is placed in service and the date of its retirement. (See definition 33.)

1–37 Service value.

Service value means the difference between the book cost (see definition 8) and the net salvage value (see definition 30) of carrier operating property.

1–38 Straight-line method.

Straight-line method, as applied to depreciation accounting, means the plan under which the service value (see definition 37) of property is charged to depreciation expenses or other appropriate accounts and credited to the depreciation reserves through equal periodic charges as nearly as may be during its service life.

1–39 Unit of property.

Unit of property, for the purpose of this system of accounts, means any item of property which on sale, abandonment, disposal or replacement is written out of the property accounts as provided for in instruction 21.

1–40 Used.

Used, as applied to operating property, means actually and necessarily in current service or ready for and reasonably required to be currently held for future service.

INSTRUCTIONS

2–1 Classification of carriers.

(a) For purposes of the accounting regulations common and contract carriers of passengers subject to the Interstate Commerce Act are grouped into the following three classes:

Class I. Carriers having average gross operating revenues (including interstate and intrastate) of $300,000 or over annually, from passenger motor carrier operations.

Class II. Carriers having average gross operating revenues (including interstate and intrastate) of $50,000 or over, but under $300,000 annually, from passenger motor carrier operations.

Class III. Carriers having average gross operating revenues (including interstate and intrastate) of less than $50,000 annually, from passenger motor carrier operations.

(b) Class I carriers shall keep all the accounts prescribed in this part, where applicable. Separate systems of accounts will be prescribed for Class II and Class III carriers.

(c) The class to which any carrier belongs shall be determined by the average of its annual gross operating revenues derived from motor carrier operations for the 3 calendar years immediately preceding the effective date of this system of accounts. If, at the end of any calendar year following the effective date of this system of accounts, the average of its annual gross operating revenues from motor carrier operations for the 3 preceding years is greater than the maximum or less than the minimum for the class in which the carrier has been grouped, it shall automatically be grouped in the higher or lower class in which it falls because of such increased or decreased average annual gross operating revenues. Any carrier which begins new operations or extends its existing operations subsequent to the effective date of this system of accounts may be classified in accordance with a reasonable estimate of its prospective annual gross operating revenues.

(d) Any carrier may, at its option, place itself in any group higher than the one in which it falls on the basis of its average annual gross operating revenues. Notice of such action shall be promptly filed with the Commission.

2–2 Records.

(a) All the accounts defined in this system of accounts must be kept by the double entry method. Each carrier shall keep its general accounting books and all other books, records and memoranda which support in any way the entries to such accounting books and analyses of general ledger account balances so that it can furnish at any time full information as to any account. Moreover, it shall support each entry to each account with such detailed information as will provide a ready analysis and verification of the facts recorded therein. All expenditures must be definitely supported by vouchers, payrolls, receipted bills, canceled checks, receipts for petty cash payments, or other evidences of the expenditures incurred.

(b) The books referred to in this part include not only books of account in a limited technical sense but all other records such as minute books, stock books, reports, correspondence, memoranda, etc., which will be useful in developing the history of or facts regarding any transaction.

(c) Carriers shall not destroy any books, records, memoranda, etc., which support entries to its accounts unless the destruction thereof is specifically provided for in Part 1226 of this chapter.

(d) Subdivisions of any account in this system of accounts may be kept, provided that such subdivisions do not impair the integrity of the accounts prescribed. The Commission reserves the right to order any carrier to subdivide any account in this system of accounts. The title of each such subdivision shall clearly indicate the account of which it is a part. When an account is subdivided in the general ledger, an account need not be maintained for the total of the subdivisions. When such subdivisions are carried in subsidiary ledgers, however, the general ledger shall contain the controlling accounts therefor so that a complete general ledger trial balance may be obtained.

2–3 Accounting period.

Each carrier shall keep its books on a calendar year basis and for each month (or 4-week period) all transactions applicable thereto, as nearly as can be ascertained (see instruction 8) shall be written up, posted to the general ledger and balanced. The final entries for any month (or 4-week period) shall be made in the general ledger not later than 60 days after the last day of the accounting period for which the accounts are stated, unless otherwise authorized by the Commission, except that the period within which the final entries for the last period in the calendar year shall be made may be extended to such date in the following March as shall not interfere with the preparation and filing of annual reports as required by paragraph (a) of section 220 of Part II of the Interstate Commerce Act.

2–4 Submission of questions.

To maintain uniformity of accounting, carriers shall submit all questions of doubtful interpretation to the Commission for consideration and decision.

2–5 Item lists; interpretation.

Lists of items appearing in the texts of the several accounts are given for the purpose of indicating the application of the prescribed accounting in specific cases. The lists are not to be considered as comprising all items includible in the several accounts, but merely as representative of them. On the other hand, the appearance of an item in a list warrants the inclusion of such item in the account concerned only when the text of the account also indicates inclusion, inasmuch as the same item frequently appears in more than one list. The proper entry in each instance must be determined by the texts of the accounts.

2–6 Opening entries.

As of the effective date of this system of accounts the accounts prescribed herein shall be opened by appropriately transferring thereto the balances carried in the accounts previously maintained by the carrier. The carrier is authorized to make such subdivisions, reclassifications, consolidations of or additions to such balances as are necessary to meet the requirements of this system of accounts.

2–7 Extraordinary and prior period items.

(a) All items of profit and loss recognized during the year are includable in ordinary income except nonrecurring items which in the aggregate for the same class are both material in relation to operating revenues and ordinary income for the year and are clearly not identified with or do not result from the usual business operations of the year. Important items of the kind which occur from time to time and which, when material in amount, are to be excluded from ordinary income are those resulting from unusual sales of property and investment securities other than temporary cash investments; from wars, earthquakes and similar calamities and catastrophes, which are not a recurrent hazard of the business and which are not usually covered by insurance; from change in application of accounting principles; and from prior period items (other than ordinary adjustments of a recurring nature). Material items are those which unless excluded from ordinary income, would distort the accounts and impair the significance of ordinary income for the year. Items so excludable from ordinary income are to be entered in the income accounts provided for extraordinary and prior

period items upon approval or direction of the Commission.

(b) In determining materiality, items of a similar nature should be considered in the aggregate; dissimilar items should be considered individually. As a general standard, an item to qualify for inclusion as an extraordinary or prior period item shall exceed 1 percent of total operating revenues and 10 percent of ordinary income for the year.

(c) Adjustments constituting items of a character typical of customary business activities or corrections or refinements resulting from the natural use of estimates inherent in the accounting process, including those arising from disposal of a unit of property sold or retired in the regular course of business operations, shall not be considered extraordinary or prior period items regardless of amount.

2–8 Unaudited items.

(a) When the amount of any item affecting these accounts can not be accurately determined in time for inclusion in the accounts of the calendar year in which the transaction occurs, the amount of the item shall be estimated and included in the proper accounts. When the item is audited the necessary adjustments shall be made through the accounts in which the estimate was recorded. If, during the interval between the date of inclusion of the item in the accounts and the date on which it is audited, a substantial difference from the initial estimate is determined, appropriate adjustments shall be made in the current accounts to cover such difference. The carrier is not required to anticipate small items which would not appreciably affect these accounts.

(b) If, owing to exceptional conditions, a carrier finds a modification of the instructions in paragraph (a) of this section necessary, it shall furnish a statement of its proposed plans to the Commission for approval before adoption.

2–9 Spreading of unusual income; revenue and expense items.

When the amount of any unusual item includible in an income, operating revenue, or operating expense account for a single period is relatively so large that its inclusion in the accounts for that period would seriously distort those accounts it may be included in account 1890, Other Deferred Debits, or account 2450, Other Deferred Credits, as appropriate, and distributed in equal amounts to the accounts for the current and remaining periods of the year. No such item shall be spread beyond the accounts of the current year without authority of the Commission.

2–10 Current assets.

(a) In the group of accounts designated as Current Assets (accounts 1000 to 1190, inclusive) there shall not be included any item the amount or collectibility of which is not reasonably assured or for which provision has not been made in a reserve. Items of current character but of doubtful value may be carried in these accounts at a nominal value or included in account 1890, Other Deferred Debits, at book cost or nominal value, or written off, as may be appropriate.

(b) Adjustments to accomplish the writing down of items of doubtful value not covered by reserves shall be made through account 4680, Uncollectible Revenues, account 7500, Other Deductions, or other appropriate ordinary income account.

2–11 Discount or premium on securities of other companies.

(See Instruction 15.)

2–12 Discount; expense and premium on capital stock.

(a) This system of accounts provides accounts for discounts, commissions and expenses on capital stock and another account for premium on capital stock. These accounts shall be subdivided for each class and series of capital stock issued by the carrier. Commission and expenses applicable to capital stock issues shall be included in the commission and expense account and shall not be deducted from premium on capital stock.

(b) In stating the balance sheet, discount on capital stock shall not be netted against premiums.

(c) General levies or assessments against stockholders shall be credited to the premium account for the particular class and series of capital stock so assessed, except that assessments with respect to nonpar stock without stated value shall be credited to the capital stock account.

(d) Discounts and expenses on capital stock may be amortized by charges to account 2900, Unearned Surplus. However, in no event shall net debits exceed the accumulated net credits in unearned surplus. Any excess of debits may be retained in account 1900, Discount on Capital Stock, or account 1910, Commission and Expense on Capital Stock, as appropriate, until the stock is reacquired or retired, or the excess debits may be charged to account 2946, Other Debits to Surplus.

(e) Discount and expenses on capital stock reacquired or retired shall be accounted for in accordance with instruction 14.

2–13 Discount; expense and premium on long-term obligations.

(a) A separate subdivision shall be maintained in account 1880, Unamortized Debt Discount and Expense, for the excess of discount and debt expense over any premium related to each class of long-term debt issued or assumed by the carrier. (See definitions 20, 23, 32.)

(b) Corresponding subdivisions shall be maintained in account 2400, Unamortized Premium on Debt, for the excess of the premium over any discount and debt expense related to each class of long-term debt issued or assumed by the carrier.

(c) Each period there shall be credited to each subdivision of account 1880, Unamortized Debt Discount and Expense, the amount applicable to such period under a plan of amortization, the application of which will equitably distribute the balance therein over the life of the security. Amounts thus credited shall be concurrently charged to account 7300, Amortization of Debt Discount and Expense.

(d) Correspondingly, each period there shall be charged to each subdivision of account 2400, Unamortized Premium on Debt, the portion of such credit balance which is applicable to that period. Amounts thus charged shall be concurrently credited to account 7400, Amortization of Premium on Debt—Credit.

(e) Except as provided in paragraphs (c) and (d) of this section, the balances in each of these accounts or subdivisions thereof shall be carried until the reacquisition of the securities to which it relates. At that time (unless otherwise ordered by the Commission in the case of an exchange of securities) the portion of the balances in these accounts, or subdivision for the particular class of long-term debt reacquired, shall be transferred to account 6500, Other Nonoperating Income, or account 7500, Other Deductions, as appropriate. Such portion shall be based on the relation of the amount of the particular issue of long-term debt reacquired to the total outstanding before the reacquisition. This provision shall also apply to securities held alive in sinking or other funds under instruction 14.

(f) Except for such discount or expense as may be applicable to the construction period, no discount or expense on long-term debt shall be included in any account as a part of the cost of acquiring any property or as a part of the cost of operation.

2–14 Company securities owned.

(a) *Capital stock.* (1) Capital stock actually issued or assumed by the carrier which has been reacquired, shall be retired or carried in account 1920, Reacquired Securities, at the par or stated value, or the pro-rata proportion of the total of no-par stock without stated value at which it is carried in account 2700, Preferred Capital Stock, or account 2710, Common Capital Stock, unless it is required by provision of a mortgage or decision of a trustee not subject to the control of the accounting carrier that it be retained alive in sinking or other funds. The difference between the amount paid for the reacquired stock and the amount includible in account 1920, plus the premium and less the discount and expense entered in respect to the reacquired stock and not written off, shall be debited or credited as appropriate to account 2900, Unearned Surplus. In no event, however, shall net debits exceed the accumulated credits in Unearned Surplus. Any excess of debits resulting from reacquisition of capital stock over such accumulated credits in Unearned Surplus shall be charged to account 2946, Other Debits to Surplus.

(2) When reacquired capital stock is resold by the carrier, the amount included in account 1920, Reacquired Securities, shall be credited thereto and the accounting for premiums realized, discounts, commissions or expenses incurred, shall be the same as provided for in connection with original sales of capital stock.

(b) *Equipment and long-term obligations.* (1) Equipment and other long-term obligations reacquired by the carrier shall be entered in account 1920, Reacquired Securities, at face value. The difference between the face value and the amounts actually paid for the reacquired obligations shall be included in account 6500. Other Nonoperating Income, or account 7500, Other Deductions, as appropriate. (See instruction 7). Likewise, any unamortized debt discount, expense or premium, applicable to the reacquired obligations, shall be adjusted through account 6500 or account 7500, as appropriate.

(2) When reacquired equipment and other long-term obligations are resold by the carrier, the amount included in account 1920, Reacquired Securities, shall be credited thereto and any difference between the total amount realized from the sale (less related commissions and expenses) and the credit to account 1920 shall be included in account 6500 or account 7500, as appropriate, unless otherwise ordered by the Commission.

2–15 Book cost of securities owned.

(a) Securities of others acquired by the carrier shall be recorded in these accounts at cost at the time of acquisition. Cost does not include any amount paid for accrued interest or dividends.

(b) The carrier may write down the book cost of any security in recognition of a decline in the value thereof. Securities shall be written off or written down to a nominal value if there be no reasonable prospect of substantial value. Fluctuations in market value shall not be recorded, but a permanent impairment in the value of the securities shall be recognized in the accounts. A reserve may be provided against declines in the value of securities by charges to account 7500, Other Deductions, or account 9010, Extraordinary Items, as appropriate. (See instruction 7.)

(c) When securities with a fixed maturity date are purchased at a discount (that is when the total cost including brokerage fees, taxes, commissions, etc., is less than par), such discount may be amortized over the remaining life of the securities through periodic debits to the account in which the securities are carried (preferably coincident with entries recording interest accruals) and credits to the same account in which the interest revenue is credited. No debits shall be made in respect to discount upon securities held as investments or in special funds if there is reason to believe that such securities will be disposed of by redemption or otherwise at less than par or will not be paid at the date of maturity.

(d) When securities with a fixed maturity date are purchased at a premium (that is when the total cost including brokerage fees, taxes, commissions, etc., is in excess of par), such preminums may be amortized over the remaining life of the securities through periodic credits to the account in which the securities are carried (preferably coincident with entries recording interest accruals) and debits to the same account in which the interest revenue is recorded.

(e) Profits and losses resulting from the sale of securities of others shall be included in accounts 6500, Other Nonoperating Income, or 7500, Other Deductions, as appropriate; or, when qualifying as extraordinary pursuant to instruction 7, shall be included in account 9010, Extraordinary Items.

2–16 Clearing accounts; purpose.

(a) Clearing accounts, designed to facilitate the distribution of certain expenditures which may affect both construction and operations or which may affect transportation and other operations, may be kept when necessary in making the proper distribution of items to the appropriate accounts.

(b) Balances in clearing accounts shall be fully cleared not later that the end of the calendar year unless items held therein unquestionably relate to future periods. Items carried over shall be included in account 1890, Other Deferred Debits, or account 2450, Other Deferred Credits.

2–17 Deduction of reserves.

In stating the balance sheet, reserves shall be shown separately and shall be deducted from the specific assets to which they apply. Reserves not applicable to specific assets shall be shown on the liability side.

2–18 Contingent assets and liabilities.

The balance sheet of a carrier shall clearly state by adequate notes contingent assets or liabilities not reflected in the balance sheet accounts, including any arrears in cumulative dividends, stating the amount per share of each class of stock and in total and the facts and amounts with respect to any default in principal, interest, or sinking fund provisions if not shown in the balance sheet accounts.

2–19 Operating property to be recorded at cost.

(a) Amounts chargeable to the accounts 1200 and 1300, designated as carrier operating property accounts, shall be the actual cost to the carrier of the items properly includible therein, also including the excess cost of improvements over the estimated cost at current prices of property removed and replaced, and shall be exclusive of any cost for intangible items includible in any of the subdivisions of account 1500, Organization, Franchises and Permits, or account 1550, Other Intangible Property. (See, however, instruction 20.)

(b) The book cost of the construction or acquisition of property chargeable to the carrier operating property accounts 1200 and 1300 shall include the cost of direct labor, indirect labor, materials, transportation, contract work, rent of construction facilities, taxes and simple interest during construction; also such portion of engineering, supervision, law expenditures, injuries and damages, compensation and other insurance, as is applicable to the construction period; and other analogous elements applicable to the construction and acquisition of property.

(c) Any unit of property, including additions to or betterments of existing property, having a cost not in excess of $200.00, or having a life of 1 year or less, may be charged to the appropriate operation and maintenance expense, or clearing account and not to the property account, except that if small tools, portable equipment and similar items are consumed directly in construction work, the cost may be included as part of the cost of the constructed unit. This is not to be construed as authorizing the parceling of expenditures to bring them within this limit, or the inconsistent application of any rule or practice adopted by the carrier hereunder to the same item or class of property. If a carrier adopts a rule hereunder, changes in the rule shall be reported to the Commission.

(d) When operating property is purchased under any plan involving deferred payments, no charges shall be made to operating property accounts for interest, insurance, or other expenditures occasioned by such form of payment.

(e) When the consideration given for property is anything other than cash, the cash value of such consideration shall be used, except that where physical property is received in exchange for physical property, such property shall be recorded at the net book cost of the property given in exchange. In the journal entry recording such a transaction the actual consideration shall be described with sufficient particularity to identify it. The carrier shall be prepared to furnish to the Commission the particulars of its determination of the cash value of the consideration if other than cash.

2–20 Acquisition of a distinct operating unit.

(a) When a motor carrier system or portion thereof constituting a distinct operating unit (see definition 24) is acquired by purchase or merger or consolidation in a pooling of equity interests of stockholders the accounting therefor shall be as follows:

(1) *Purchase.* (i) when purchase is made from a non-affiliated company the assets acquired, other than carrier operating property, non-carrier operating property and other non-operating property includible in accounts 1200, 1300, 1400 and 1450, and the liabilities assumed shall be recorded in the appropriate accounts at the amounts carried on the books of the transferor at date of consummation of the transaction. Such amounts shall be adjusted, as may be necessary, to conform with the rules in this system of accounts. The carrier operating property, non-carrier operating property and other non-operating property acquired shall be recorded in the appropriate subaccounts under accounts 1200, 1300, 1400 and 1450 based upon the fair market value or the cost specified in the purchase agreement if the latter does not exceed the fair mar-

ket value of such property acquired. When the properties are recorded at cost specified in the purchase agreement or fair market value such amounts must be supported by report of a disinterested qualified appraiser and such additional evidence as the Commission may require. When an appraisal has not been obtained the original cost of carrier operating property, non-carrier operating property and other non-operating property together with the related depreciation reserves as shown in the books of seller shall be recorded in the accounts in lieu of market value.

(ii) When purchase is made from an affiliated company the assets acquired including carrier operating property, noncarrier operating property and non-operating property, together with the related depreciation reserves and the liabilities assumed shall be recorded in the appropriate accounts at the amounts carried on the books of the affiliated transferor, adjusted, as may be necessary to conform with the rules in this system of accounts.

(iii) The amount of the consideration paid in excess of the net assets acquired shall be included in account 1550, Other Intangible Property.

Where the consideration paid is less than the net assets acquired recorded in accordance with the foregoing provisions the difference shall be credited to account 2720, Premiums and Assessments on Capital Stock, where the consideration is paid in capital stock, and to account 2900, Unearned Surplus, where the consideration is paid in other than capital stock.

(2) *Merger or consolidation in a pooling of equity interests of stockholders.* (i) When a distinct operating unit is acquired by merger or consolidation in a pooling of equity interests of stockholders, in which all or substantially all of such equity interests in the predecessor company continue, as such, in a surviving company (which may be the transferee or a new company, created for the purpose) the assets, liabilities and the earned surplus or deficit, if any, of the predecessor company shall be recorded in the accounts of the transferee at amounts carried on the books of the predecessor company at date of consummation of the transaction. Such amounts shall be adjusted, if necessary, to conform with the rules in this system of accounts. Where one of the constituent corporations is clearly dominant and its stockholders obtain 90 percent or more of the voting interest in the combined enterprise there is a presumption that the transaction is a purchase rather than a pooling of interests and the transaction shall be so accounted for unless otherwise directed or authorized by the Commission.

(ii) When the total par value or stated value of no par capital stock of the surviving company is more than the aggregate total of the capital stock of the separate companies before merger or consolidation the excess shall be charged to account 2900, Unearned Surplus, or to account 2930, Earned Surplus, if unrestricted unearned surplus is not available for such purpose.

When the total par value or stated value of no par capital stock of the surviving company is less than the aggregate total of the capital stock of the separate companies before merger or consolidation, the difference shall be credited to account 2900, Unearned Surplus.

(3) *Records.* Detailed records, including copy of appraisal reports, shall be maintained showing the basis used for computing amounts included in accounts 1200, 1300, 1400, 1450, 1550, 2900, 2930, and other accounts. Full supporting details showing the purchase price, the principals from whom the property was acquired, and agents who represented such principals shall be stated in the journal entries recording the acquisition of the property.

2–21 Operating property retired.

When carrier operating property (see definition 10) ceases to be used (see definition 40) it shall be retired. If not dismantled or otherwise disposed of, it shall be transferred to account 1400, Non-Carrier Operating Property, or account 1450, Non-Operating Property, as appropriate. (See instruction 23.)

(a) *Property under "unit plan" of depreciation.* When a unit of property on which depreciation charges were accrued under the unit plan (see § definition 22) is retired from service, the book cost of such property shall be credited to the appropriate property account and concurrently charged, together with the cost of removal, to the depreciation reserve account. Any salvage or insurance recovered, including amounts provided for in any insurance or other reserve with respect to the retired property when such reserve covers the cause of retirement, shall be credited to the depreciation reserve. Any difference remaining in the depreciation reserve after the above entries shall be charged or credited as appropriate to account 5091, Depreciation Adjustment.

(b) *Property under "group plan" of depreciation.* When a unit of property, on which depreciation charges were accrued under the group plan (see definition 22), is retired from service, the book cost thereof shall be credited to the appropriate property account and concurrently charged, together with the cost of removal, to the depreciation reserve account. Any salvage or insurance recovered, including amounts provided for in any insurance or other reserve with respect to the retired property, when such reserve covers the cause of retirement, shall be credited to the depreciation reserve account.

(c) *Minor items.* When the property retired constitutes a minor item (see definition 26), the book cost of which has been or will be accounted for by its inclusion in the unit of property of which it is a part when such unit of property is retired, no adjustment of the operating property account or depreciation reserve is required therefor. When a minor item is retired and replaced, with property of like purpose, the entire cost of replacement shall be charged to the account appropriate for the cost of repairs of the property retired, except that if the replacement effects a betterment (see definition 7), there shall be charged to the property account, the excess cost of the replacement over the estimated cost at current prices of the items retired (see instruction 19 (c)): *Provided*, That property bettered shall not be carried in excess of the current cost new of equivalent property.

(d) *Land.* When land is sold, the book cost shall be credited to the land account and any difference between the book cost and the sales price, less commissions and expenses on the sale, shall be adjusted through account 6500, Other Non-operating Income, or account 7500, Other Deductions, as appropriate. However, when the amount constitutes an extraordinary item pursuant to instruction 7, it shall be included in account 9010, Extraordinary Items.

(e) *Determination of book cost.* The book cost of operating property retired shall be the amount at which such property is included in the operating property accounts including all items set forth in instruction 19. Such costs shall be determined from the carrier's records when this can be done, as in the case of land, structures, revenue automotive equipment, service equipment, furniture, and other items of operating property for which individual cost records are available. When the actual book cost cannot be determined from the records, it shall be estimated. When it is impracticable to determine the book cost of each item due to the relatively large number and/or small cost of such items, the average book costs of all the items, with due allowance for differences in size or character, shall be used as the book cost of the items retired. The latter method may be applied in retirement of such items as spare parts ,tools, etc.

(f) *Intangibles.* The accounting for the retirement of items included in account 1511, Franchises, account 1541, Patents, and intangible elements with limited terms included in account 1201, Land and Land Rights, shall be as provided in the texts of account 2600, Reserve for Amortization—Carrier Operating Property, and account 5100, Amortization of Carrier Operating Property.

(g) *Sale of property.* When operating property used in transportation operations is sold together with the transportation business associated therewith, the book cost of the property shall be credited to the appropriate operating property accounts and the amounts carried with respect thereto in the depreciation and amortization reserve accounts, estimated if necessary, shall be charged to such reserves. The difference, if any, between (1) the net amount of such debit and credit items, and (2) the consideration received for the property, shall be included in account 6500, Other Non-operating Income, or account 7500, Other Deductions, as appropriate. (See instruction 7.)

2–22 Leased property; expenditures.

(a) Except as provided in paragraph (b) of this section, the cost of initial improvements, including rearrangements, additions and betterments, to property leased from others made in the course of preparing the property for motor carrier operations and the cost of any subsequent additions to and betterments of such leased property, not including replacements, shall be charged to the operating property account 1271, Improvements to Leasehold Property. Depreciation on such expenditures shall be provided for in the manner set forth in instruction 25.

(b) When the cost of alterations to leased transportation property otherwise chargeable to account 1271, Improvements to Leasehold Property, is not in excess of $200.00 or the period of the lease is less than 1 year, the cost may be charged to the accounts chargeable with the cost of repairs to such property. If a carrier adopts a rule hereunder, changes in the rule shall be reported to the Commission.

2–23 Transfer of property.

Property transferred between accounts 1200, Carrier Operating Property, 1300, Carrier Operating Property Leased to Others, and accounts 1400, Non-Carrier Operating Property, 1450, Non-Operating Property, shall be charged or credited, as appropriate, to the carrier operating property accounts 1200 and 1300 at its book cost with the debits or credits to the appropriate accounts for the accrued depreciation and amortization to date of transfer.

2–24 Common property.

(a) If the carrier is engaged in forms of enterprise other than motor carrier operations and any of its carrier operating property is used in common for two or more purposes to such an extent and in such manner that it is otherwise impracticable to segregate it in the accounts, an allocation of the book cost thereof shall be made and the portion so ascertained to be assignable to motor carrier operations shall be recorded in the carrier operating property accounts 1200 and 1300. The remainder shall be recorded in accounts 1400 or 1450 as appropriate. It is not contemplated that minor or temporary changes in conditions shall necessitate frequent reallocations of common property.

(b) The carrier shall be prepared to show at any time and to report to the Commission when required, and by carrier operating property accounts 1200 and 1300 the following:

(1) The book cost of common property.

(2) The allocation of such cost to carrier operations and other purposes for which the jointly operated property is used, and

(3) The basis of the allocation.

(c) The expenses of operation, maintenance, depreciation and amortization of common property shall be recorded in the accounts prescribed in this part and the allocation of such expenses to the carrier operations shall be supported in the same manner as the allocation of the cost of such property.

2–25 Depreciation accounting.

(a) There shall be charged each month (or 4-week period) to account 5000, Depreciation Expense, and credited to account 2500, Reserve for Depreciation—Carrier Operating Property, during the service life of depreciable property, included in account 1200, Carrier Operating Property, amounts which will approximate the loss in service value not restored by current maintenance or covered by insurance, the effect of which can be forecast with a reasonable approach to accuracy. The straight-line method of computing depreciation (see definition 38) shall be used and the current depreciation charge shall be obtained by applying the applicable portion of the annual percentage rate to the book cost balances, except that the mileage method (see definition 27) may be used on automotive equipment, in which event the rate per mile shall be applied to the number of miles traveled each period. In no event, however, shall the charges based on such mileage method be less during any calendar year than would result from the application of rates based on the straight-line method.

Carriers engaged in seasonal operations may apportion the estimated annual depreciation charge over the months in which operations are actually conducted.

(b) Depreciation charges on property included in accounts

1211, Structures
1221, Revenue Equipment
1231, Service Cars and Equipment

shall be computed on the unit plan (see definition 22) under the straight-line method. Depreciation charges on any unit of property which is depreciated under the unit plan shall cease when the estimated service value shall have been credited to the depreciation reserve.

(c) Depreciation charges on property included in accounts

1241, Shop and Garage Equipment
1251, Furniture and Office Equipment
1261, Miscellaneous Equipment

shall be computed under either the unit plan or the group plan. (See definition 22.) If the group plan is used the current depreciation charge shall be determined by applying the applicable portion of the annual percentage rate to the sum total of the book cost balances of the property included in each account, or subdivisions thereof, at the rates determined from weighted averages of service lives of the property included therein.

(d) Depreciation charges on property included in account 1271—Improvements to Leasehold Property, shall be made upon the same basis as for similar depreciable property includible in other property accounts. However, where it is reasonably certain that the lease will not be renewed and the property will revert to the lessor it should be depreciated over the remaining period of the lease or its estimated service life, whichever is less.

(e) Depreciation charges upon operating property constituting a distinct operating unit (see definition 24), leased from others under terms whereby the carrier has exclusive possession, shall be made on the same basis as for owned depreciable property. (See instruction 30.) Records shall be maintained similar to those for owned property showing the cost, service life and salvage value for each unit of depreciable operating property leased from others.

(f) Depreciation charges on operating property constituting a distinct operating unit (see definition 24) leased to others for transportation operations, when the lessee has exclusive possession, shall be charged to account 5500, Income from Lease of Carrier Property, Credit, with concurrent credits to account 2500, Reserve for Depreciation—Carrier Operating Property.

(g) Depreciation expense on non-carrier operating property and non-operating property shall be charged to the appropriate Other Income account and credited to account 2610, Reserve for Depreciation and Amortization, Other Property.

2–26 Cost of repairs.

(a) The cost of repairs chargeable to the various operation and maintenance expense accounts includes labor employed, materials used, and expenses incurred in all current maintenance (not including depreciation and amortization), such as:

(1) Inspecting, testing, and reporting on the condition of operating property specifically to determine the need for repairs, minor replacements, rearrangements, and changes.

(2) Testing for, locating, and clearing trouble.

(3) Routine work to prevent trouble, such as general overhauling, removing carbon, grinding valves, adjusting and relining brakes, adjusting shock absorbers, cleaning and adjusting engines, etc.

(4) Replacing minor items of operating property. (See also instruction 21 (c).)

(5) Rearranging and changing the location of property not retired.

(6) Restoring the condition of property damaged by wear and tear, storms, breakage, floods, fire, accident, or other casualties. (See also paragraph (b) of this section.)

(7) Training employees, for repair work.

(8) Inspecting and testing after repairs have been made.

(b) Materials recovered in connection with repairs to property shall be credited to the same account to which the repair cost was charged.

(c) If employees engaged in transportation, station or terminal service are also required to make repairs, an equitable proportion of their pay and expenses shall be charged to the account appropriate for the cost of such repairs. (See instruction 28.)

(d) If the book cost of any property is carried in account 1281, Undistributed Property, the repairs to such property shall be charged to the accounts pro-

vided for repairs to property of the same nature and use, the book cost of which is carried in other operating property accounts. Repairs to property leased from others shall be treated in like manner.

2–27 Insurance.

(a) Provision has been made under Operation and Maintenance Expenses for recording amounts of premiums paid outside insurance companies in accounts as follows:

4520, Public Liability and Property Damage Insurance.
4541, Workmen's Compensation, Insurance.
4550, Baggage and Express Insurance.
4570, Fire and Theft Insurance.
4580, Other Insurance.

Premiums paid in advance shall be charged to account 1800, Prepayments, and equitably distributed to the appropriate accounts over the period for which the premiums have been paid, except minor premiums which may be charged direct and premiums chargeable to construction.

(b) Carriers authorized by the Commission to self-insure for automobile bodily injury liability, property damage liability or other liability shall record periodic charges to the appropriate expense accounts in amounts sufficient to cover estimated losses based on the carrier's experience.

(c) The following accounts have been provided under Operation and Maintenance Expenses for the purpose of creating reserves for losses not covered by outside insurance and for losses incurred in excess of outside insurance coverage:

4530, Injuries and Damages.
4546, Workmen's Compensation, Self Insurer.
4560, Baggage and Express Loss and Damage.
4570, Fire and Theft Insurance.
4580, Other Insurance.

Reserves created for self-insurance of injuries and damages, workmen's compensation and baggage and express loss and damage shall be included in account 2680, Injuries, Loss and Damage Reserves. Reserves created for self-insurance of all other risks shall be included in account 2660, Insurance Reserves.

Periodic charges to expense accounts for the purpose of creating reserves for self-insurance liability shall be determined currently by the carrier from its best source of information and the rates used may be based on percentage of revenue, mileage of busses, amount of payrolls or other equitable basis.

2–28 Distribution of pay and expenses of employees.

The charges to investments, operation and maintenance expenses, and other accounts for services and expenses of employees engaged in activities chargeable to various accounts, shall be based upon the actual time engaged in the respective classes of work, or in case that method is impracticable, upon the basis of a study of the time actually engaged during a representative period. The pay and expenses of an employee of one department who occasionally performs incidental services involving but small expense for another department may be included in the expense of the department in which the employee is regularly employed.

2–29 Joint expenses.

Where the carrier owns the joint facility, any amounts received as reimbursement of operation and maintenance costs shall be credited to the appropriate joint facilities—credit account under maintenance and garage expenses; station and terminal expenses; or administrative and general expenses. Any amounts received for depreciation, taxes and return on the joint facility, shall be credited to account 5890, Joint Facility Rents—Credit. Similarly, any amounts paid by the carrier under joint facility arrangements for operating and maintenance costs shall be charged to the appropriate joint facilities—debit account in the operation and maintenance expense group of accounts and any amounts paid for depreciation, taxes and return on the joint facility, shall be charged to account 5340, Joint Facility Rents—Debit.

2–30 Rent and lease of carrier property.

(a) Provision is made in the several subdivisions of account 5300, Operating Rents—Net, for rents receivable and payable for use of property other than that constituting a distinct operating unit or system. (See definition 24.)

(b) Taxes payable by the lessee upon property rented or leased shall be included in account 5200, Operating Taxes and Licenses, by the lessee.

(c) Other expenses payable by the lessee shall be included in the appropriate accounts on the books of the lessee.

(d) Amounts payable for use of operating property constituting a distinct operating unit (see definition 24) leased from others under terms whereby the carrier has exclusive possession shall be apportioned between rent and depreciation. The portion covering rent shall be included in account 5400, Rent for Lease of Carrier Property—Debit, and the portion covering depreciation shall be included in account 5000, Depreciation Expense. (See instruction 25.)

(e) The lessor shall credit the amount receivable for use of the property leased to account 5500, Income from Lease of Carrier Property—Credit. The lessor shall charge the estimated depreciation accrual to account 5500 and credit account 2500, Reserve for Depreciation—Carrier Operating Property.

(f) If settlement for either rent or depreciation is not made currently the amounts thereof shall be accrued by both lessor and lessee in harmony with the instructions in paragraphs (c) and (d) of this section. The amounts accrued receivable, and payable, should be included in appropriate accounts classified under accounts 1890, Other Deferred Debits, and 2450, Other Deferred Credits, by the lessor and lessee, respectively.

2–31 Amortization of intangibles.

(a) When it becomes reasonably evident that the term of existence of an intangible, the cost of which is included in account 1550, Other Intangible Property, has become limited or its value impaired, its cost shall be amortized or entirely written off by charges to account 7500, Other Deductions, depending on the remaining estimated period of usefulness; or the entire cost, when qualifying as extraordinary pursuant to instruction 7, may be written off by debiting account 9010, Extraordinary Items, with concurrent credit to account 2600, Reserve for Amortization—Carrier Operating Property.

(b) The amount retained in account 1550, Other Intangible Property, less the amortization reserve, pursuant to the provisions of the Commission's order dated January 5, 1961, applicable to intangibles initially required to be amortized or written-off under provisions of orders heretofore entered in proceedings under sections 5 and 212(b) of the Interstate Commerce Act, shall not exceed the fair value of the intangibles as of the time of acquisition. Fair value of intangibles, as herein used, acquired in purchase of a distinct operating unit means the amount by which total consideration paid exceeds fair market value of tangible property and other net assets (except intangibles); in conformity with the principles in instruction 20.

BALANCE SHEET ACCOUNTS[1]

ASSET SIDE

Current Assets

1000 Cash.

This account shall include the amount of current funds available for use on demand in the hands of financial officers and deposits in banks or trust companies; also cash in transit for which agents or drivers have received credit.

NOTE A: This account shall be credited with the amount of checks or drafts transmitted to payees.

NOTE B: Funds subject to withdrawal restrictions: Funds subject to such restrictions and deposits in closed banks shall not be included in this account. Such funds definitely known to be available within 1 year shall be included in account 1190, Other Current Assets. Deposits in closed banks which are not available within 1 year shall be included in account 1890, Other Deferred Debits.

1020 Working funds.

This account shall include amounts advanced to officers, agents, employees, and others as petty cash or working funds from which certain expenditures are to be made and accounted for.

1040 Special deposits.

This account shall include the balance of the amounts included in accounts 1041, 1042, and 1043, for short-term deposits.

1041 Interest, special deposits.

This account shall include moneys and bank credits specially deposited in the hands of fiscal agents or others for the payment of interest on behalf of the carrier. When interest is paid from such deposits, it shall be credited to this account and charged to the appropriate accrued or matured interest account. Payments to trustees or other agents of the holders of bonds or other securities of the interest accrued thereon which operate under the terms of the securities or of mortgages supporting such securities as a release of the paying company from further liability for such interest, shall be charged to the appropriate interest accrual account.

[1] For form of balance sheet statement, see account 2999.

1042 Dividend, special deposits.

This account shall include moneys and bank credits in the hands of fiscal agents or others for the payment of dividends on behalf of the carrier. When dividends are paid from such deposits they shall be credited to this account and charged to the appropriate dividend account.

1043 Miscellaneous, special deposits.

This account shall include moneys and bank credits in the hands of fiscal agents or others for special purposes other than the payment of interest or dividends. This includes cash or securities deposited with Federal, State, or municipal authorities, public utilities, or others, as a guaranty for the fulfillment of obligations. Entries to this account shall specify the purpose for which the deposit is made. When such purposes are satisfied and the deposit is released, this account shall be credited with the amount deposited.

NOTE: This account shall not include any assets available for general company purposes.

1060 Temporary cash investments.

(a) This account shall include the book cost (see instruction 15) of investments such as time drafts receivable and time loans, bankers' acceptances, United States Treasury certificates, marketable securities, and other similar investments acquired for the purpose of temporarily investing cash. Any securities included in this account must be of such a nature as to be readily convertible into cash at substantially the book value.

(b) This account shall be sub-divided to reflect separately:

(1) Temporary Cash Investments—Associated Companies.

(2) Temporary Cash Investments—Other.

NOTE A: Amounts carried in this account as pledged shall be shown separately from amounts unpledged.

NOTE B: There shall not be included in this account amounts properly includible in accounts 1600, Investments and Advances—Associated Companies, or 1650, Other Investments and Advances.

1080 Notes receivable.

(a) This account shall include the book cost, not includible elsewhere, of all collectible obligations in the form of notes receivable, contracts receivable, and similar evidences (except interest coupons) of money receivable on demand or within a time not exceeding 1 year from date of issue.

NOTE A: Notes receivable from associated companies shall be included in account 1100, Receivables from Associated Companies.

NOTE B: The amount of notes receivable discounted, sold or transferred, unless transferred without recourse, shall be credited to account 2090, Notes Payable.

(b) This account shall be sub-divided to reflect separately:

(1) Notes Receivable—Officers, Stockholders and employees.

(2) Notes Receivable—Other.

1100 Receivables from associated companies.

(a) This account shall include the total of amounts receivable from associated companies (see definition 6(a)) which are subject to current settlement (see definition 17), such as balances in open accounts for services rendered, material furnished, traffic or interline accounts, claims, rent for use of property and similar items; interest and dividends due from associated companies; and loans, notes and drafts for which associated companies are liable.

(b) This account shall be sub-divided to reflect separately:

(1) Loans and Notes Receivable—Associated Companies.

(2) Interest and Dividends Receivable—Associated Companies.

(3) Accounts Receivable—Associated Companies.

NOTE A: On the balance sheet, accounts receivable from associated companies shall be set off against accounts payable to the same companies.

NOTE B: No amount representing dividends receivable shall be included in this account unless they have been declared or guaranteed.

NOTE C: Items which are not subject to current settlement shall be included in account 160, Investment and Advances—Associated Companies.

1120 Accounts receivable.

(a) This account shall include amounts due from others (except associated companies) for material and supplies furnished and services rendered including transportation and storage charges, use of property, other matured rents, amounts owing by public authorities, amounts of collectible judgments, current accounts with officers and employees, and other accounts and claims upon which responsibility is acknowledged by solvent concerns or individuals.

(b) This account shall also include the balances due from other carriers (except associated companies), against each of which there is a net debit balance representing traffic or interline accounts; also the net balance in current accounts due from agents, drivers, and other employees and representatives charged with the collection or custody of current revenues.

(c) This account shall be sub-divided to reflect separately:

(1) Accounts Receivable—Officers, stockholders and employees.

(2) Traffic or interline account balances.

(3) Accounts receivable—Others.

NOTE A: Amounts advanced to officers, employees, or others as working funds, shall be included in account 1020, Working Funds.

NOTE B: Accounts with other carriers representing traffic and interline accounts which contain net credit balances shall be included in account 2050, Accounts Payable.

1140 Subscribers to capital stock.

(a) This account shall include the balance due from subscribers upon legally enforceable subscriptions to capital stock.

(b) The amount of each subscription shall be charged to this account at the time the subscription is accepted. Concurrently there shall be credited to account 2730, Capital Stock Subscribed, the par or stated value of the stock subscribed or the agreed purchase price in the case of non-par stock without a stated value. Appropriate entries shall likewise be recorded with respect to any discount or premium on par value stocks or non-par value stocks with a stated value.

NOTE: The records supporting the entries to this account shall be kept so that the corporation can furnish the name and address of each subscriber, the amount and kind of capital stock subscribed, the date of subscription, the date that each payment is due and the date that each is paid, the nature of each payment (whether cash or other consideration), and any other information that is necessary to make the history of the subscription complete.

1160 Interest and dividends receivable.

This account shall include the amount of current interest accrued to the date of the balance sheet on bonds, mortgages, notes, and other commercial paper owned; on loans made; open accounts; bank deposits, etc.; and the amount of dividends receivable on stocks owned. (See instruction 10.)

NOTE A: Interest and dividends receivable from associated companies shall be included in account 1100, Receivables from Associated Companies.

NOTE B: Interest which is not subject to current settlement shall be included in the account in which is carried the principal on which the interest is accrued.

NOTE C: No amount representing dividends receivable shall be included in this account unless they have been declared or guaranteed.

NOTE D: No interest or dividends on securities or obligations issued or assumed by the carrier shall be included in this account.

1180 Material and supplies.

(a) This account shall include the cost (less cash or other discounts when they can be determined) of all unapplied materials and supplies, including tools, repair parts, fuel, tires and tubes, etc. The cost shall include all specifically assignable transportation charges incurred in obtaining the delivery of such materials and supplies upon the premises of the carrier including loading and unloading and at the option of the carrier, it may include a suitable proportion of purchasing and store expenses in which case corresponding credits shall be made to the appropriate account. The cost shall also include sales and excise taxes on material purchases. Sales and excise taxes on gasoline, other motor fuels, motor oil, and tires and tubes, shall be charged to account 5200—Operating Taxes and Licenses. Other sales and excise taxes may be included in this account as part of the

cost of materials purchased, or charged to account 5200 if the tax can be readily separated from the cost of the material.

(b) When any materials or supplies, the cost of which has been charged to this account, are issued for use, the amount at which they stand charged herein shall be credited to this account and charged to the appropriate construction, operation and maintenance expense, or other account. Such amount may be based upon the average cost of all items of a given type included in this account at the beginning of the period.

(c) Materials recovered in connection with construction, maintenance, or the retirement of property shall be charged to this account as follows:

(1) Re-usable materials shall be included in this account at amounts not to exceed cost, estimated if not known.

(2) Scrap and non-usable materials shall be carried at the estimated salvage value. So far as practicable, the difference between the amounts realized from sale or disposal and the amounts at which the materials are carried in this account shall be adjusted in the depreciation reserves, repair accounts, or other accounts which were credited when the materials were charged to this account.

NOTE A: Interest charged on material bills, the payment of which is delayed, shall be charged to account 7100, Other Interest Deductions.

NOTE B: Inventories of materials and supplies shall be taken at intervals of one year or less, and the necessary adjustment shall be made to bring this account into harmony with the actual physical inventory. In effecting this adjustment, differences which may practicably be assigned to important classes of materials shall be equitably distributed among the accounts to which such classes of materials are ordinarily chargeable. Other differences shall be equitably apportioned among the operation and maintenance accounts to which materials have been charged since the last inventory. Such differences that cannot be allocated to the operation and maintenance accounts shall be included in account 4955, Purchasing and Store Expenses.

NOTE C: Sales taxes on gasoline, other motor fuels and motor oil and personal property taxes assessed on material and supplies, shall be included in account 5200, Operating Taxes and Licenses.

1190 Other current assets.

This account shall include the amount of all assets of a current nature not includible in any of the foregoing current asset accounts. (See definition 17.)

Tangible Property

1200 Carrier operating property.

(a) This account shall include the total of the amounts representing the cost (see instruction 19) of carrier operating property, included in accounts 1201 to 1291, inclusive, owned and used by the carrier in its motor carrier operations, and which has an expected life in service of more than 1 year, including such property owned by the carrier but held by nominees.

(b) When property normally having a service life of more than 1 year is installed for temporary use in motor carrier operations, it shall be accounted for in the same manner as property installed for permanent use.

(c) Records shall be kept so as to reflect separately the cost and date of acquisition of property jointly owned and property operated under a joint agreement; also the cost and date of acquisition of each structure, unit of equipment, or other major item of property (or at the option of the carrier of each body, chassis or other major part). When a major part of a unit of property, such as a body or chassis of equipment or portion of a structure has been replaced by either a new or rebuilt one, details shall appear in the supporting records showing also the cost of the property removed, the cost of the replacement, and the date of removal or replacement. If property such as a structure or unit of equipment is constructed new, or rebuilt by the carrier to increase its capacity or otherwise add to its usefulness for motor carrier service, or if parts are purchased and assembled by the carrier, the cost records for construction and assembly shall be maintained in a sufficiently complete manner to show the cost of labor, materials and other expenses incurred in such work.

(d) When a structure, unit of equipment, or other property is so rebuilt or remodeled as to create an expectation of service life fairly comparable with new property, the old property shall be retired (instruction 21). Charges to this account for the rebuilt or remodeled property shall be based upon the appraised value of the reused parts, or the net book cost at time of retirement of the retired unit, whichever is lower, plus the cost of rebuilding or remodeling. *Provided, however,* That in no event shall the total amount charged exceed the cost of similar new property.

(e) The cost of removing old appliances and replacing them with new appliances shall be charged to the proper account under operation and maintenance expenses.

(f) The cost of additions to and betterments of property leased from others shall be recorded in account 1271, Improvements to Leasehold Property. (See instruction 22.)

1201 Land and land rights.

(a) This account shall include the cost (see instruction 19) including the amount of mortgages of other liens, assumed, of land or interest in land, having a life of more than 1 year, for use directly in connection with the motor carrier operations of the carrier for such purposes as general office buildings, shops, garages, stations, terminals, waiting rooms, shelters, loading platforms, warehouses, and the like. This includes the first cost of acquiring leaseholds of land, easements, and rights-of-way, but no rents payable periodically in consideration of rights so obtained.

(b) The cost of buildings and other improvements (other than public improvements) shall not be included in the land accounts. If at the time of acquisition of an interest in land such interest extends to buildings or other improvements (other than public improvements), which are then devoted to carrier operations, the land and improvements shall be separately appraised and the cost allocated to land and buildings or improvements on the basis of the appraisals. If the improvements are removed or wrecked without being used in carrier operations, the cost of removing or wrecking shall be charged and the salvage credited to the account in which the cost of the land is recorded.

(c) Carriers shall keep their records so as to show separately the cost of each parcel of land or interest therein and the purpose or purposes for which used in motor carrier operations.

ITEMS

Clearing land of brush, trees, and debris (First cost of).
Condemnation proceedings, including court costs and special counsel fees.
Consents and abutting damages, payment for.
Conveyancers' and notaries' fees.
Easements and rights-of-way, cost of, and expenses of acquisition.
Fees and commissions to brokers and agents.
Grading.
Land, cost of.
Leases having a life of more than 1 year, costs of expenses incidental to acquiring.
Leases, voiding, to secure possession of land.
Relocating property of others.
Rights-of-way, including costs of locating.
Sidewalks on public streets abutting carrier's property.
Special assessments on the basis of benefits for new roads, new bridges, new pavements, new sewers, and other public improvements (but not any taxes levied to provide for maintenance of such improvements).
Surveys.
Taxes assumed, accrued prior to date of transfer of title.
Title, examining, registering, clearing, insuring and defending against claims relating to period prior to purchase.

NOTE A: When land is acquired in excess of that required for motor carrier operations, or for which there is not a definite plan for its use in such service within 1 year, the cost of such land shall be charged to account 1400, Non-Carrier Operating Property, or to account 1450, Non-Operating Property, as appropriate. If land originally charged to either of these accounts is later used for motor carrier operations, it shall be charged to Carrier Operating Property in service at its cost when acquired. (See instruction 23.)

NOTE B: Assessments for public improvements upon which payments are deferred shall be charged to this account in full and the unpaid balance carried in the appropriate liability account. Interest on unpaid balances shall be charged to the appropriate income deduction account.

1211 Structures.

(a) This account shall include the cost in place (see instruction 19) of structures used in motor carrier operations. This includes buildings or constructions to house, support, or safeguard property or persons, with all appurtenant fixtures permanently attached thereto, and improvements to land, and other structures or constructions.

(b) Carriers shall keep their records so as to show separately the cost of each structure included in this account and the purpose or purposes for which used in motor carrier operations.

ITEMS

Architect's plans.
Ash pits.
Awnings.
Boilers, furnaces, piping, wiring, fixtures and machinery for heating, lighting, signaling, ventilating and plumbing.
Bridges and culverts.
Chimneys.
Commissions and fees to brokers, agents, architects, and others.
Conduits (not to be removed).
Damages to abutting property during construction.
Door checks and door stops.
Drainage and sewerage systems.
Elevators, cranes, hoists, etc., and the machinery for operating them.
Excavation, including shoring, bracing, bridging, refill and disposal of excess excavated material.
Fences and hedges.
Fire protection systems.
Floor covering (permanently attached).
Foundations and piers for machinery constructed as a permanent part of a building or other unit listed herein.
Grading and preparing grounds for buildings, including landscaping of grounds after construction.
Leases, voiding, to secure possession of structures.
Oil pits and drainage systems.
Outside lighting systems.
Partitions, including movable.
Painting, first.
Permits and privileges, building.
Platforms, railings and gratings, when constructed as part of structure. Power boards for service to a building.
Refrigerating systems.
Retaining walls.
Scales, connected to and forming part of the structure.
Screens.
Sidewalks, pavements and driveways on building grounds.
Sprinkling systems.
Storage facilities constituting part of building.
Storage tanks.
Storm doors and windows.
Structures, cost of.
Subways, areaways, and tunnels, directly connected to and forming part of the structure.
Vaults, constructed as part of the building.
Water supply system for building or general company purposes.
Window shades and ventilators.

NOTE A: The cost of specially provided foundations not expected to outlast the machinery or apparatus for which they are provided, and the cost of angle irons, castings, etc., installed at the base of an item of equipment shall be charged to the same account as the cost of the machinery or equipment.

NOTE B: When part of a structure is removed in order to build an extension thereto, the accounting therefor shall be in accordance with instruction 21.

1221 Revenue equipment.

(a) This account shall include the cost (see instruction 19) of all units of revenue passenger equipment, and the cost of the first set of accessory equipment necessary to fit them for service, excluding tires and tubes (see account 4160, Tires and Tubes—Revenue Equipment). The term "revenue passenger equipment" includes body and chassis and all fixtures and appliances inside of or attached to the body or chassis.

(b) If revenue passenger equipment is purchased in a condition ready for service, the cost shall include the invoice or contract price (excluding tires and tubes), less discount, if any, plus freight, excise taxes, insurance in transit, unloading costs and other expenses incurred in obtaining delivery of these vehicles upon the premises of the carrier such as drive-away charges, and the cost of any additions or attachments made after delivery.

(c) This account may also include the cost of spare engines and other major units carried on hand for the purpose of temporarily replacing such units taken into the shop for overhauling, repairing, or any other reason.

ITEMS

Automobiles.
Busses.
Combination busses.
Horses and mules.
Stages.

1231 Service cars and equipment.

This account shall include the cost (see instruction 19) of automotive vehicles used in connection with keeping revenue vehicles in operation, including cars and trucks used as trouble wagons for servicing revenue vehicles on the road. This account shall also include the cost of the first set of appliances or accessory equipment, including tires and tubes, necessary to fit such vehicles for service, such as cranes, hoists and other appliances, devices and tools forming the equipment of service cars.

ITEMS

Emergency repair vehicles and appliances.
Refueling cars.
Sand and salt cars.
Snow-fighting vehicles and equipment.
Spare units for service vehicles, on hand in shop (optional).
Tow cars and appliances.
Vehicles used by officials, starters and inspectors.

1241 Shop and garage equipment.

(a) This account shall include the cost installed (see instruction 19) of machinery and equipment used in shops and garages when such machinery and equipment is not an integral part of the housing structure, together with specially provided foundations and settings not expected to outlast the machinery mounted thereon. Records shall be kept so as to show separately the cost of each major item of equipment.

(b) If the carrier has shops or garages at more than one location, the records shall be maintained to reflect the carrier's investment at each location.

ITEMS

Air compressors and hose, gauges and tanks.
Anvils.
Arbor presses.
Battery charging outfits.
Belts, shafts and countershafts.
Boring or reaming machines.
Car washing equipment.
Cranes and hoists (portable).
Creepers.
Drill presses.
Electric equipment.
Engines and boilers.
Forges.
Gasoline and oil pumps and portable tanks.
Greasing racks and pumps.
Grinders.
Jacks.
Lathes.
Lockers.
Machine tools.
Motor driven hand tools.
Motor starters.
Oil reclaiming machines.
Paint sprayers.
Pneumatic tools.
Storage bins and shelving (movable).
Store room equipment (except office equipment).
Stoves.
Testing apparatus.
Tire changing equipment.
Tool racks.
Vises.
Vulcanizing equipment.
Weighing devices.
Welding apparatus.
Wheel pullers.
Work benches.

NOTE A: The cost of small portable tools and implements of slight value or short life shall be charged to the appropriate expense account.

NOTE B: The cost of cranes, hoists, and other appliances, devices, and tools forming the equipment of service cars and trucks shall be charged to account 1231, Service Cars and Equipment.

1251 Furniture and office equipment.

(a) This account shall include the cost (see instruction 19), installed of furniture and appliances used in general offices, garage offices, stations, terminals, warehouses, and waiting rooms, when such equipment is not an integral part of the housing structure.

(b) If the carrier has equipment included in this account at more than one location, the records shall be maintained to reflect the carrier's investment at each location.

(c) If the carrier operates or owns auxiliary station facilities such as restaurants and news stands, the cost of equipment therein shall be charged to this account and carried under a special subdivision entitled "Furniture and Office Equipment—Special Facilities."

ITEMS

Book cases.
Cash registers.
Chairs, stools and benches.
Clocks.
Counters.
Desks.
Equipment in rest, dining, recreation and medical rooms.
Fans, electric.
Filing cabinets.
Fire extinguisher equipment.
Floor coverings.
Heaters and lamps (movable).
Kitchen equipment.
Lighting fixtures (movable).
Lockers.
Loud speaker systems.
Newsstand equipment.
Office equipment (mechanical).
Parcel room equipment.
Partitions and railings.
Restaurant equipment.
Safes (movable).
Show cases and shelves.
Tables and counters.
Teletypewriters.
Ticket cases.
Ticket machines.
Time clocks.
Time-table racks.
Typewriters.
Vacuum cleaners.
Water coolers.

NOTE: Small articles of slight value or of short life shall be charged to the appropriate expense accounts.

1261 Miscellaneous equipment.

This account shall include the cost (see instruction 19) of other motor carrier equipment such as miscellaneous wheeled equipment used at warehouses, stations, terminals, and loading platforms in connection with handling traffic.

ITEMS

Blocks and falls.	Platform trucks.
Canvas covers (tarpaulins).	Rollers.
Carts.	Scales.
Chain hoists.	Signal equipment.
Dollies (platform).	Signs (electric and portable).
Electric motor trucks.	Skidboards.
Hamper trucks.	Warehouse trucks.
	Weighing devices.

1271 Improvements to leasehold property.

(a) This account shall include, except as provided in paragraph (b) of this section, the cost of initial improvements (including rearrangements, additions, and betterments) to property used for motor carrier operations and held under lease or through control of the carrier owning the property, and in existence at the date of the balance sheet; and the cost of any subsequent additions to and betterments of such leased or controlled property but not including replacements of other than the carrier's own improvements. Depreciation on such expenditures shall be provided for in the manner set forth in instruction 25.

(b) When the cost of alterations to leased property used in motor carrier operations otherwise chargeable to this account is not in excess of $200.00 or the period of the lease is less than 1 year, the cost may be charged to the accounts chargeable with the cost of repairs to such property. (See provisions of instruction 22.)

1281 Undistributed property.

(a) When a carrier purchases or sells any property constituting a distinct operating unit (see definition 24) or otherwise finds it necessary because of incomplete financial records to make a general readjustment of operating property records, temporary charges or credits to this account may be made with approval of the Commission, and the distribution of the amounts involved shall be made promptly to the appropriate accounts after authorization by the Commission.

(b) Balances in accounts previously carried representing property owned as of the effective date of this system of accounts may be carried temporarily in this account. Journal entries distributing such balance to the appropriate properly accounts prescribed in this part shall be made and filed with the Commission not later than 1 year after the effective date of this system of accounts.

1291 Unfinished construction.

This account shall include the cost of construction projects not ready for service at the date of the balance sheet. It shall include all elements of cost as set forth in instruction 19.

NOTE: This account is intended to include only charges for new construction not involving any replacement. If, however, at the beginning of a job involving the replacement or retirement of any operating property, the accounting carrier makes full credits therefor to the appropriate property accounts, the cost of installing new property in substitution or replacement may be carried in this account pending completion of the work. (See also account 1890, Other Deferred Debits.)

1300 Carrier operating property leased to others.

(a) This account shall include the cost (see instruction 19) of carrier operating property owned by the carrier but leased to others as distinct operating units (see definition 24) or systems for use in motor carrier operations, where the lessee has exclusive possession.

(b) This account shall be subdivided so as to reflect separately the investment in each class of property as provided for under account 1200, Carrier Operating Property.

1400 Non-carrier operating property.

This account shall include the book cost of land, structures and equipment owned by the carrier and used in other than motor carrier operations and not providede for in account 1200, Carrier Operating Property, and account 1300, Carrier Operating Property Leased to Others.

1450 Non-operating property.

This account shall include the book cost of land, structures and equipment owned by the carrier, but not used in any of its operating activities.

Intangible Property

1500 Organization, franchises and permits.

This account shall include the balance of the amounts included in accounts 1501 to 1541, inclusive.

1501 Organization.

This account shall include fees paid to State or other governmental authority for the privilege of incorporation, and expenditures incident to organizing the corporation, partnership, or other enterprises, and putting it into readiness to do business.

ITEMS

Fees and expenses for incorporation.
Fees and expenses for mergers or consolidations.
Office expenses incident to organizing the company.
Stock and minute books and corporate seal.

NOTE A: This account shall not include any discounts upon securities issued or assumed; nor shall it include any costs incident to negotiating loans, selling bonds or other evidences of debt, or expenses in connection with the authorization, issuance or sale of stock. (See instructions 12, 13, and accounts 1900, Discounts on Capital Stock, and 1910, Commission and Expense on Capital Stock.)

NOTE B: Exclude from this account, and include in account 4620, Law Expenses, the cost of preparing and filing papers in connection with the extension of the term of incorporation unless the first organization costs have been written off.

NOTE C: When charges are made to this account for expenses incurred in mergers, consolidations, acquisitions or reorganizations, amounts previously included herein on the books of the retiring companies shall not be carried over. If such items represent part of the assets acquired they shall be included in account 1550, Other Intangible Property. (See instruction 20.)

1511 Franchises.

(a) This account shall include amounts actually paid to a State or political subdivision thereof or to other governmental authority in consideration of franchises, permits, consents, or certificates running in perpetuity or for a specified term of more than 1 year together with the necessary reasonable expenses incident to procuring such franchises, consents, or certificates of convenience and necessity.

(b) When a franchise, permit, consent or certificate is acquired by assignment, the charge to this account shall not exceed the actual cost to the original holder thereof. Payments in excess of the cost to the original holder, together with any expenses incurred by the acquiring carrier shall be charged to account 1550, Other Intangible Property. (See instruction 20.)

(c) When any franchises, permits, consents or certificates have expired, and are not immediately renewed, are sold or otherwise disposed of, credits to this account shall be made representing the amounts at which such items (including expenses of acquisition) are carried herein. Concurrent charges shall be made to account 2600, Reserve for Amortization—Carrier Operating Property, or to account 5100, Amortization of Carrier Operating Property, as appropriate. * * * Expenses incurred in connection with renewals shall be charged to the appropriate operation and maintenance expense account.

(d) This account shall be sub-divided to reflect separately amounts pertaining to:

(1) Perpetual franchises.
(2) Fixed-term franchises.

NOTE: Regularly recurring payments made to any political subdivision for the right to operate within its boundaries shall be charged to account 5200, Operating Taxes and Licenses.

1541 Patents.

(a) This account shall include the cost (see instruction 19) of patent rights, licenses, and privileges necessary or valuable to the economical conduct of motor carrier operations, and which have a life of more than 1 year from the date they become effective.

(b) When any right or license included herein expires or is canceled and is not immediately renewed, is sold, or otherwise disposed of, credit to this account shall be made representing the amount at which such right or license is included herein. Concurrent charge shall be made to account 2600, Reserve for Amortization—Carrier Operating Property, or to account 5100, Amortization of Carrier Operating Property, as appropriate. Expenses incurred in connection with renewals shall be charged to the appropriate operation and maintenance expense account.

1550 Other intangible property.

(a) This account shall include any intangibles not provided for elsewhere, including any undistributed portion of the purchase cost of a transportation system or portion thereof, constituting a distinct operating unit (see definition 24) not includible in specific accounts provided for assets acquired or liabilities assumed. (See instruction 20.)

(b) The carrier may amortize or write off the balance carried in this account by credits hereto and concurrent charges to account 7500, Other Deductions, or the entire amount carried herein for any item may be written off to account 9010, Extraordinary Items, pursuant to instruction 31.

Investment Securities and Advances

1600 Investments and advances—Associated companies.

(a) This account shall include the book cost (see instruction 15) of the carrier's investments in securities issued or assumed by associated companies; notes of associated companies maturing later than 1 year from date of issue; and the amount of advances to associated companies not subject to current settlement including accrued interest on such advances when not subject to current settlement. Exclude from this account securities held in special funds or as temporary cash investments. (See definitions 6, 8, account 1060, Temporary Cash Investments, and instruction 15.)

(b) This account shall be subdivided to reflect separately:

(1) Common stocks.
(2) Preferred stocks.
(3) Bonds.
(4) Notes.
(5) Other investments.
(6) Advances.

NOTE A: Balances in open accounts with associated companies which are subject to current settlement shall be included in account 1100, Receivables from Associated Companies.

NOTE B: Securities pledged shall be shown separately from securities unpledged.

NOTE C: Securities borrowed by the carrier and pledged shall not be included in this account. A memorandum record shall be kept.

1650 Other investments and advances.

(a) This account shall include the book cost (see instruction 15) of the carrier's investments in securities issued or assumed by other than associated companies; notes of other companies and persons, maturing later than 1 year from date of issue; the cash surrender values of insurance policies carried on the lives of officers and employees when the carrier is beneficiary of such policies; advances to other companies and individuals not subject to current settlement, including any accrued interest on such advances when not subject to current settlement.

(b) This account shall be subdivided to reflect separately:

(1) Common stocks.
(2) Preferred stocks.
(3) Bonds.
(4) Notes.
(5) Other investments.
(6) Advances.

NOTE A: Balances in open accounts with other companies and individuals which are subject to current settlement shall be included in account 1130, Accounts Receivable.

NOTE B: Securities pledged shall be shown separately from securities unpledged.

NOTE C: Securities borrowed by the carrier and pledged shall not be included in this account. A memorandum record shall be kept.

Special Funds

1701 Sinking funds.

(a) This account shall include the amount of cash or other items when held by trustees or other fiscal agents in charge of sinking funds, or by the carrier itself when they are segregated in a distinct fund, for the purpose of redeeming outstanding obligations. (See instruction 15.)

ITEMS

Cash.
Securities of other companies or other assets, at cost except as otherwise provided herein.
Live securities, issued or assumed by the carrier, at face value. (For conditions under which such securities may be kept alive, see instruction 14.)
Amounts deposited with trustees or other fiscal agents on account of mortgaged property sold when held for the redemption of securities.
Securities of the carrier issued to trustees without intervening sale, at face value.

(b) A separate subdivision shall be kept for each fund, the title of which shall designate the obligation in support of which the fund was created.

1751 Depreciation funds.

This account shall include the amount of cash and the cost (see instruction 15) of securities of other companies and other assets which have been specifically set aside for the purpose of providing a fund for the replacement of units of depreciable property.

1781 Miscellaneous special funds.

This account shall include the amount of cash and the cost (see instruction 15) of securities of other companies and other assets in insurance, employees' pension, savings, relief, hospital, and other funds which have been raised and specifically set aside or invested for purposes not provided for elsewhere; and the face value of securities issued or assumed by the carrier which may be held alive in such funds under instruction 14. Also include in this account deposits in lieu of mortgaged property sold and other trust deposits, pending their refund when equivalent property is acquired or pending their transfer under mortgage provisions to account 1701 Sinking Funds. A separate subdivision shall be provided for each fund.

Deferred Debits

1800 Prepayments.

This account shall include the balances representing payment of items in advance of their accrual, the benefit of which is to be realized subsequent to the time of such payment. Entries shall be made each period transferring from this account to the appropriate account the portion of each prepayment which is applicable to that period. The account shall be kept so that there can be determined readily the amounts applicable to the following:

(a) Taxes and licenses.
(b) Insurance.
(c) Interest.
(d) Rents.
(e) Tires and tubes (see account 4160, Tires and Tubes—Revenue Equipment).
(f) Miscellaneous.

NOTE: Prepayments of minor items applicable to the current year may be charged directly to the appropriate operation and maintenance expense or other accounts.

1880 Unamortized debt discount and expense.

This account shall include the total of the net debit balances representing the excess of the discount and expense over the premium in connection with the issuance of each class of the carrier's outstanding long-term or equipment obligations. Separate subdivisions shall be maintained in respect of each issue of such obligations. (See instruction 13.)

1890 Other deferred debits.

(a) This account shall include all debit balances in suspense accounts that cannot be entirely cleared and disposed of until further information is received; also items of a deferred nature (except items chargeable to account 1800, Prepayments, or account 1880, Unamortized Debt Discount and Expense) which are subsequently to be amortized to the appropriate operation and maintenance expense or other accounts. This includes amounts on deposit with banks which have failed, pending determination of loss; amounts paid for options pending final disposition which are not recoverable; expenditures for plans and investigations made for determining the feasibility of projects under contemplation, pending further disposition; and expenditures for valuations, inventories, and appraisals made in connection with the contemplated purchase or sale of property. (See instruction 19.) If projects in connection with which such preliminary costs were incurred are abandoned, the expense shall be charged to account 7500, Other Deductions, or account 9010, Extraordinary Items, as appropriate.

(b) This account shall also include other debit items which are subject to amortization by order of the Commission.

(c) This account shall also include the balances in clearing accounts maintained to carry temporarily the cost of operating and maintaining such facilities as office buildings, storehouses, etc.;

and such overhead costs as it is desirable to apportion to the construction, operating, and other accounts involved. (See instruction 16.)

Miscellaneous Debit Items

1900 Discount on capital stock.

This account shall include the discounts suffered in the sale of capital stock. (See instructions 12, 14.)

1910 Commission and expense on capital stock.

This account shall include all expenses incurred in connection with the issuance and sale of capital stock. (See instructions 12, 14.)

ITEMS

Fees and expenses in obtaining permission from regulatory bodies for the issuance of stock and in filing papers of notification thereunder.
Fees paid to promoters.
Listing stock on exchanges.
Preparation and distribution of prospectuses.
Preparation and issuance of certificates of stock.
Soliciting subscriptions for stock, including fees, commissions, advertising and printing.
Taxes paid on stock issues.

1920 Reacquired securities.

This account shall include in subdivisions for each class, the face, par, or stated value of capital stock, bonds, and other forms of securities which have been actually issued or assumed by the carrier, and reacquired and are neither retired nor properly includible in sinking or other funds.

NOTE A: The accounting for the reacquisition of securities and resales thereof shall be in accordance with instruction 14.

NOTE B: This account shall be maintained so as to reflect separately securities pledged and unpledged.

NOTE C: In reports to the Commission the balance in this account shall be deducted from the securities accounts on the liability side, thereby extending into the money column the amounts to reflect the actually outstanding securities.

1990 Nominally issued securities.

(a) This account shall include in subdivisions for each class, the face value of capital stock, bonds, and other forms of securities which have been nominally but not actually issued by the carrier. (See definitions 2, 30.)

(b) When stock without par value is nominally issued, a memorandum entry shall be made to this account showing the number of shares thus issued.

NOTE A: This account shall be maintained so as to reflect separately securities pledged and unpledged.

NOTE B: In reports to the Commission, the balance in this account shall be deducted from the securities accounts on the liability side, thereby extending into the money column the amounts to reflect the actually outstanding securities.

LIABILITY SIDE

Current Liabilities

2000 Notes payable.

(a) This account shall include the face value of outstanding obligations in the form of notes, drafts, acceptances, and other similar evidences of indebtedness which by their terms do not run for a period in excess of 1 year, including the face value of notes receivable discounted or sold without releasing the carrier from liability as endorser thereon.

(b) Subdivisions shall be maintained to show separately obligations maturing upon demand from obligations bearing a specified date of maturity.

NOTE A: Notes payable to associated companies shall be included in account 2030, Payable to Associated Companies.

NOTE B: Unmatured equipment obligations shall be included in account 2190, Equipment Obligations and Other Debt Due Within One Year, or account 2300, Equipment Obligations, as appropriate.

2020 Matured equipment and long-term obligations.

This account shall include the amount (including obligations for premiums) of equipment obligations, long-term obligations and receivers' certificates matured and unpaid without any specific agreement for extension of maturity, including unpresented bonds called for redemption.

2030 Payables to associated companies.

(a) This account shall include the total of amounts payable to associated companies (see definition 6) which are subject to current settlement (see definition 17), such as credit balances in open accounts for services rendered, material furnished, traffic or interline accounts, claims, rent for use of property and similar items; interest and dividends due to associated companies; and loans, notes and drafts which are payable to associated companies.

(b) This account shall be subdivided to reflect separately:

(1) Loans and notes payable—Associated companies.

(2) Interest and dividends payable—Associated companies.

(3) Accounts payable—Associated companies.

NOTE A: On the balance sheet accounts payable to associated companies shall be set off against accounts receivable from the same companies.

NOTE B: No amount representing dividends payable shall be included in this account unless they have been declared or guaranteed.

NOTE C: Items which are not subject to current settlement shall be included in account 2200 Advances Payable—Associated Companies.

2050 Accounts payable.

(a) This account shall include amounts payable to others (except associated companies) for materials and supplies and services received, including use of property, other matured rents, amounts due to public authorities, amounts of payable judgments, current accounts with officers and employees, personal injury and property damage claims, the carrier's liability for transportation taxes and sales taxes collected from customers, deductions from employees' wages for social security and income taxes, and other similar items.

(b) This account shall also include the balances due to other carriers (except associated companies) in favor of each of which there is a net credit balance representing traffic or interline accounts.

(c) This account shall be sub-divided to reflect separately:

(1) Accounts payable—Officers, stockholders, and employees.

(2) Traffic or interline account balances.

(3) Accounts payable—Others.

NOTE: Accounts with other carriers representing traffic or interline accounts which contain net debit balances shall be included in account 1130, Accounts Receivable.

2070 Wages payable.

This account shall include the amount of wages payable or accrued pay rolls at the date of the balance sheet. Unclaimed wages should be transferred to account 2190, Other Current Liabilities.

2080 Unredeemed tickets.

Carriers using the "ticket lift basis" in recording revenues shall credit this account with the amounts received from the sale of mileage books, scrip books, tokens, strip or coupon tickets, commutation or other forms of tickets which are valid for transportation. This account shall be charged and the appropriate revenue account credited as tickets, tokens, or coupons are honored for transportation. This account shall also be charged with unused portions of tickets, tokens, or coupons with concurrent credits to cash or other appropriate account for the amount redeemed and to the appropriate revenue account for the portion not so redeemed or redeemable.

NOTE: Carriers using the "ticket sales basis" in recording revenues shall credit account 3200, Passenger Revenue with their proportion received from the sale of tickets, etc.

2090 C.o.d.'s unremitted.

This account shall be credited with amount of c.o.d.'s collected from consignees for shippers on express delivered. This account shall be charged when remittances of amounts of c.o.d.'s are made to shippers.

NOTE: Fees for handling c.o.d.'s shall be credited to the express revenue account.

2100 Dividends declared.

This account shall include the amount of dividends declared but not paid on any issue of capital stock of the carrier. Dividends shall be credited to this account as of the day upon which they become a liability of the carrier.

NOTE: Dividends declared and payable to associated companies shall be included in account 2030, Payable to Associated Companies.

2120 Taxes accrued.

(a) This account shall be credited each period with the amount of taxes accrued during the period, with concurrent debits to the appropriate accounts for tax charges. As credits to this account will necessarily be based upon estimates, they shall be adjusted from time to time during the year so that the tax charge accounts may show as nearly as possible, the taxes applicable to the year.

Payments of taxes for which accruals have been made shall be debited to this account. Amounts representing prepayment of taxes applicable to the period subsequent to the date of the balance sheet shall be included in account 1800, Prepayments.

(b) The records supporting the entries to this account shall be kept so that the carrier can furnish information as to the amount and basis for each tax accrual, the kinds of taxes paid, the amount of each and the accounts charged with the tax accruals.

NOTE A: The liability for income taxes of sole proprietors or members of a partnership shall not be included in this account.

NOTE B: The liability for social security and income taxes deducted from employees' wages for payment to taxing bodies shall be included in account 2050, Accounts Payable.

NOTE C: The liability for Federal or State Taxes on transportation charges collectible by motor carriers shall be included in account 2050, Accounts Payable.

2150 Interest accrued.

(a) This account shall include the amount of interest accrued to the date of the balance sheet, but not payable until after that date, on all indebtedness of the carrier except interest which is added to the principal.

(b) When interest matures without being paid, it shall be charged to this account and credited to account 2030, Payables to Associated Companies, or account 2160, Matured Interest, as appropriate. Payments to trustees or other agents of the holders of bonds or other securities, of the interest accrued thereon, which operate under the terms of the securities (or of mortgages supporting such securities) as a release of the carrier from further liability for such interest, shall be accounted for in the same manner as payments of interest made directly to bondholders.

NOTE: Interest accrued upon any judgment against the carrier shall be credited to the account to which such judgment stands credited.

2160 Matured interest.

This account shall include the amount of matured and unpaid interest on obligations of the accounting carrier whether the cause of the failure to pay the interest is on the part of the creditor or for other reasons, except where such interest is added to the principal of the obligation.

NOTE: Interest payable to associated companies shall be included in account 2030, Payables to Associated Companies.

2180 Other current liabilities.

This account shall include all current and accrued liabilities not includible in any of the foregoing accounts. This includes unmatured rents accrued, unclaimed wages, and estimated amounts payable within one year covering liability for claims for injuries to persons, loss and damage, and similar items.

Long-term Debt Due Within One Year

2190 Equipment obligations and other debt due within one year.

This account shall include the total amount of bonds, equipment obligations, and other long-term debt obligations, including obligations maturing serially or payable in installments, which are due and payable within one year, and for which arrangements for refunding have not been made or for which no sinking funds have been provided. This account shall be subdivided according to the different classes of debt so maturing.

Advances Payable

2200 Advances payable—Associated companies.

(a) This account shall include the amount of advances from associated companies, whether evidenced by notes or open accounts which are not subject to current settlement, including interest accrued thereon, when such interest is not subject to current settlement.

(b) This account shall be subdivided so as to show for each creditor:

(1) Notes payable.

(2) Open accounts not subject to current settlement.

(3) Interest accrued on amounts included in this account when not subject to current settlement:

NOTE: Amounts of temporary advances which are subject to current settlement such as charges for materials and supplies currently furnished, charges for repairs to equipment, etc., shall be included in account 2030, Payables to Associated Companies.

2250 Other advances payable.

(a) This account shall include the amount of advances from individuals and companies other than associated companies, whether evidenced by notes or open accounts, which are not subject to current settlement, including interest accrued thereon when such interest is not subject to current settlement.

(b) This account shall be subdivided so as to show for each creditor:

(1) Notes payable.

(2) Open accounts not subject to current settlement.

(3) Interest accrued on amounts included in this account when not subject to current settlement.

(c) The liability for advances payable to individuals and companies, other than affiliated companies, maturing within one year of the close of the accounting period is includible in account 2190—Equipment Obligations and Other Debt Due Within One Year.

NOTE: Amounts of temporary advances which are subject to current settlement such as charges for materials and supplies currently furnished, charges for repairs to equipment, etc., shall be included in account 2050, Accounts Payable.

Equipment and other Long-term Obligations

2300 Equipment obligations.

(a) This account shall include the face value of unmatured equipment obligations issued by the carrier and maturing more than one year from the close of the accounting period or, if payable in installments, the face amount of such installments not due within one year from such closing. (See account 2190—Equipment Obligations and Other Debt Due Within One Year.) This includes equipment bonds, equipment notes, chattel mortgages, and other obligations for which equipment is pledged as security or is held under a conditional sales agreement; also the face value of equipment obligations issued by others, the payment of which has been assumed by the carrier; and of equipment obligations so issued or assumed, the maturity of which has been extended by specific agreement.

(b) This account shall be kept so as to show the face value of equipment obligation (1) nominally issued, and (2) actually outstanding. (See definitions 3, 31.)

(c) A separate subdivision shall be maintained for each class of equipment obligation and no issues shall be considered to be of the same class unless identical as to liability and nature of property covered.

NOTE A: Equipment obligations matured and unpaid without specific agreement for extension as to time of payment, including unpresented equipment obligations called for redemption shall be included in account 2020, Matured Equipment and Long-Term Obligations.

2330 Bonds.

(a) This account shall include the face value of bonds, other than equipment obligations, issued by the carrier and maturing more than one year from the close of the accounting period; also the face value of such bonds issued by others, the payment of which has been assumed by the carrier. (See account 2190—Equipment Obligations and Other Debt Due Within One Year.)

(b) This account shall be kept so as to show the face value of bonds (1) nominally issued, and (2) actually outstanding. (See definitions 3, 31.)

(c) A separate subdivision shall be maintained for each class and series of bonds, and no issue shall be considered to be of the same class unless identical as to liability and nature of property covered.

NOTE A: Bonds matured and unpaid without specific agreement for extension as to time of payment, including unrepresented bonds called for redemption, shall be included in account 2020, Matured Equipment and Long-Term Obligations.

2360 Other long-term obligations.

(a) This account shall include all long-term obligations not otherwise provided for which mature more than one year from the close of the accounting period. (See account 2190—Equipment Obligations and Other Debt Due Within One Year.) This covers such items, executed or assumed, as real estate mortgages; assessments for public improvements; receipts outstanding for long-term obligations; and other obligations

maturing more than 1 year from date of issue.

(b) This account shall also include the face value of certificates of indebtedness issued upon the property by receivers in possession of the property acting under the orders of a court.

NOTE A: Separate subdivisions shall be maintained for each class of obligation included herein, and records shall be maintained to show separately for each issue all details as to date of issue, date of maturity, interest dates and rates, security for obligations, etc.

NOTE B: Matured obligations which are unpaid shall be included in account 2020, Matured Equipment and Long-Term Obligations.

Deferred Credits

2400 Unamortized premium on debt.

This account shall include the total of all credit balances representing the excess of the premium over the discount and expense in connection with the issuance of each class of the carrier's outstanding long-term or equipment obligations. Separate subdivisions shall be maintained in respect of each issue of obligations. (See instruction 13.)

2450 Other deferred credits.

This account shall include the credit balances in suspense accounts that can not be entirely cleared and disposed of until additional information is received, and other items of a deferred nature. (See instruction 16.)

Reserves

2500 Reserve for depreciation—Carrier operating property.

(a) This account shall be credited with the following:

(1) Amounts charged to account 5000, Depreciation Expense, account 5500, Income from Lease of Carrier Property—Credit, or other accounts for currently accruing depreciation (see definition 22) of carrier operating property as provided in instruction 25.

(2) The amount of depreciation accrued to date of transfer applicable to carrier operating property acquired as distinct operating units as provided in instruction 20.

(3) The amount of depreciation accrued to date of transfer, applicable to property transferred from accounts 1400, Non-Carrier Operating Property, or 1450, Non-Operating Property, to accounts 1200, Carrier Operating Property, or 1300, Carrier Operating Property Leased to Others. (See instruction 23.)

(b) Charges to this account in connection with carrier operating property retired shall be made in accordance with instruction 21. This account shall also be charged with the amount of depreciation accrued to date of transfer applicable to property transferred from accounts 1200, Carrier Operating Property, or 1300, Carrier Operating Property Leased to Others, to accounts 1400 or 1450.

(c) This account shall be subdivided to reflect the balance applicable to each class of property as follows:

2511 Structures.
2521 Revenue Equipment.
2531 Service Cars and Equipment.
2541 Shop and Garage Equipment.
2551 Furniture and Office Equipment.
2561 Miscellaneous Equipment.
2571 Improvements to Leasehold Property.
2581 Undistributed Property.
2591 Carrier Operating Property Leased to Others.

2600 Reserve for amortization—Carrier operating property.

(a) This account shall be credited with amounts charged to account 5100, Amortization of Carrier Operating Property, or other appropriate account, for amortization of the cost of acquiring leaseholds, franchises, consents, privileges, patents, and other intangible property having a fixed term life. This account shall also be credited with amounts charged to account 7500, Other Deductions, or account 9010, Extraordinary Items, as appropriate, for the amortization or writeoff of cost of acquiring perpetual leaseholds and of intangible property which does not have a fixed term life.

(b) When any leasehold, franchise, permit, consent, privilege or patent expires, is sold or relinquished, or is otherwise retired from service, this account shall be charged with the amount previously credited hereto in respect of such property. The difference between the proceeds realized and the net book cost (see definition 29 and instruction 21) of the property retired shall be included in account 5100, Amortization of Carrier Operating Property.

(c) Records shall be maintained so as to show separatively the balances applicable to each item of intangible property which is being amortized.

(d) This account shall be credited with such amounts as are necessary to reflect, as of the effective date of this system of accounts, the expired portion of the life of franchises, permits, consents, patent rights, leaseholds, easements, rights-of-way, other interest in land, or other intangible property which has a fixed term life, the cost of which is included in operating property accounts 1200 and 1300 and intangible property accounts 1500 and 1550. To the extent that provision has not previously been made the amounts credited to this reserve shall be concurrently debited to account 2946, Other debits to Surplus.

2610 Reserve for depreciation and amortization—Other property.

This account shall include amounts provided for depreciation and amortization of properties carried in accounts 1400, Non-Carrier Operating Property, and 1450, Non-Operating Property.

2650 Reserve for uncollectible accounts.

This account shall be credited each period with amounts reserved for receivables which may become uncollectible.

NOTE A: Charges applicable to receivables for carrier operating revenues shall be included in account 4680, Uncollectible Revenues.

NOTE B: Charges applicable to other than carrier operating revenues shall be included in account 7500, Other Deductions.

NOTE C: Charges for items not applicable to motor carrier operations shall be included in accounts 6000, Net Income from Non-Carrier Operations, or 6100, Net Income from Non-Operating Property, as appropriate.

2660 Insurance reserves.

(a) This account shall be credited with amounts charged to account 4570, Fire and Theft Insurance, account 4580, Other Insurance, or other appropriate accounts to provide a reserve for losses through collision, accident, fire, flood, or other hazards to the carrier's own property or to property leased from others, which are not covered by outside insurance. (See instruction 27.) A schedule of risks covered by this reserve shall be maintained, giving a description of the property involved, the character of the risks covered and the rate used.

(b) The cost to the carrier of repairing damaged property owned or leased from others and of replacing damaged or destroyed property leased from others, shall first be charged to the account appropriate for the cost of repairs or replacement. When the risk is specifically provided for in the schedule applicable to this account, the cost of repairs or restoration of the property damaged shall be charged to this account and credited to the account previously charged. Such charges shall not exceed the amount of the risk provided for in the schedule. When carrier operating property is destroyed or so badly damaged as to require retirement, the amount provided therefor in the schedule of risks applicable to this account shall be charged hereto and credited to account 2500, Reserve for Depreciation—Carrier Operating Property.

2680 Injuries, loss and damage reserves.

(a) This account shall be credited with amounts charged to accounts 4530, Injuries and damages, 4546, Workmen's Compensation—Self Insurer, 4560, Baggage and Express Loss and Damage, or other appropriate accounts to provide a reserve against claims for deaths of or injuries to employees and others; for damages to property not owned or held under lease by the carrier; and for loss, destruction, damage, or delays to property intrusted to the carrier for transportation or storage, which are not covered by outside insurance. (See instruction 27.) A schedule of risks covered by this reserve shall be maintained in sufficient detail to indicate the character of the risks covered and the rates used.

(b) This account shall be charged with claims payable for injuries and damages when the risk is specifically provided for in the schedule applicable to this account.

(c) When liability for any injury or damage is admitted by the carrier either voluntarily or because of the decision of a court or other lawful authority such as a workmen's compensation board, industrial commission, etc., the amount shall be charged to this account. The amount of such a liability shall be credited to account 2030, Payable to Associated Companies, account 2050, Accounts Payable, or account 2450, Other Deferred Credits, as appropriate, until paid or liquidated.

(d) This account shall be subdivided to reflect:

(1) Reserve for personal injuries and property damage.

(2) Reserve for baggage and express loss and damage.

NOTE: The accounting for repairs and replacements of property owned, or leased from others, shall be as provided in paragraph (b) of account 2660, Insurance Reserves.

(e) At the close of the accounting period the estimated amounts payable within one year covering liability for claims for injuries to persons, loss and damage, and similar items shall be transferred for purposes of the balance sheet statement to account 2180—Other Current Liabilities.

2690 Other reserves.

(a) This account shall include amounts reserved by the carrier for purposes which are not provided for in any of the preceding reserves. There shall be reported hereunder such accounts as sinking fund reserves, contingency reserves and other reserves created by charges to income or surplus.

(b) This account shall be maintained in such manner as to show the amount of each separate reserve and the nature and the amounts of the debits and credits thereto.

Capital Stock

2700 Preferred capital stock.

2710 Common capital stock.

(a) These accounts shall include the par value of stocks with par value; the stated value of non-par stocks having a stated value; and the cash value of the consideration received, including assessments, for non-par stocks without stated value, which have been nominally or actually issued.

(b) Separate accounts shall be provided for each class of stock, and the title of each account shall clearly identify the class of stock covered. Issues of stock shall not be considered as of the same class unless identical in all provisions, nor shall there be carried any undivided item in respect of more than one class of stock.

(c) When stock is issued for cash, that fact shall be stated; if for any consideration other than cash, the person to whom it is issued shall be designated and the consideration for which it is issued shall be described with sufficient particularity to identify it. If such issuance is to the treasurer or other agent of the corporation for purpose of sale, that fact and the name of such agent shall be shown; and such agent shall show like details concerning the consideration realized therefor in his account of the disposition thereof, which when accepted by the corporation, shall be preserved as a corporate record.

(d) When capital stock is retired and canceled, these accounts shall be charged with the amount at which such stock is carried in these accounts.

NOTE A: For each class of stock the records shall show the number of shares nominally issued, actually outstanding, and nominally outstanding. (See definitions 8, 21.) When non-par stock (without stated value) is nominally issued a memorandum entry shall be made showing only the number of shares so issued.

NOTE B: When non-par stock is issued in exchange for par stock, or non-par stock with stated value, amounts included in account 2720, Premiums and Assessments on Capital Stock, for the retired stock, shall be treated as part of the consideration received for non-par stock.

NOTE C: No entries recording changes in the par value of stocks with par value; the stated value of non-par stocks having a stated value; or the recorded value of non-par stocks without stated value shall be made in any account for capital stock without approval of the Commission.

2720 Premiums and assessments on capital stock.

(a) This account shall include the excess of the actual cash value (at the time of sale of the stock) of the consideration received over the par or stated value of the stock issued, plus accrued dividends, if any; and subsequent assessments against stockholders representing payments required in excess of par or stated value.

(b) A separate subdivision shall be maintained for premiums on each class and series of stock.

(c) When capital stock is retired and canceled, the amount in this account with respect to the shares retired and canceled shall be debited hereto in accordance with instruction 14.

2730 Capital stock subscribed.

This account shall include the amount of legally enforceable subscriptions to capital stock of the carrier. It shall be credited with the par or stated value, or with the subscription price in the case of stock without par or stated value, exclusive of accrued dividends, if any. Concurrently a debit shall be made to account 1140, Subscribers to Capital Stock, for the agreed purchase price and any discount or premium debited or credited to the appropriate discount or premium account. When properly executed stock certificates have been issued representing the stocks subscribed, this account shall be debited and the appropriate capital stock account credited with the par or stated value (or the consideration received in the case of non-par stock without a stated value) of the stock.

Non-Corporate Capital

2800 Sole proprietorship capital.

This account shall include the investment in an unincorporated carrier by the proprietor thereof and shall be charged with all withdrawals from the business by its proprietor. At the end of each calendar year the net income for the year as developed in the income account shall be transferred to this account. There shall also be entered in this account such items as in corporate organizations are handled through earned surplus accounts 2930 to 2946. (See optional accounting procedure provided in note B, hereunder.)

NOTE A: Amounts payable to the proprietor as fair and reasonable compensation for services performed, shall be charged to the appropriate operation and maintenance expense or other accounts.

NOTE B: This account may be restricted to the amount considered by the proprietor to be the permanent investment in the business, subject to change only by additional investment by the proprietor of the withdrawals of portions thereof not representing net income. When this option is taken the surplus accounts shall be maintained and entries thereto shall be made in accordance with the texts thereof.

2810 Partnership capital.

This account shall be credited, where the business is conducted by an unincorporated firm, co-partnership or under any style other than that of an incorporated company or sole proprietorship, with the respective amounts paid into the business by the partners therein, and shall be charged with all withdrawals from the business by each partner. At the end of each calendar year the net income for the year as developed in the income account shall be transferred to this account. There shall also be entered in this account such items as in corporate organizations are handled through earned surplus accounts 2930 to 2946. (See optional accounting procedure provided in note C hereunder.)

NOTE A: Amounts payable to the partners as fair and reasonable compensation for services performed, shall be charged to the appropriate operation and maintenance expense or other accounts.

NOTE B: Separate accounts shall be kept to show the net equity of each member of the co-partnership and the transactions affecting the interest of each such partner. The total of the balances in such accounts shall be shown as one amount in the balance sheet.

NOTE C: This account may be restricted to the amount considered by the members of the co-partnership to be their permanent investment in the business, subject to change only by additional investments by the co-partners or the withdrawals of portions thereof not representing net income. When this option is taken the surplus accounts shall be maintained and entries thereto shall be made in accordance with the texts thereof.

Unappropriated Surplus

2900 Unearned surplus.

(a) This account shall include all surplus not classified in this part as earned surplus. It shall include such items as surplus arising from the donations by stockholders of the carrier's capital stock; surplus recorded at reorganization or in connection with recapitalization; net credits resulting from reacquisition or resales of carrier's capital stock (see instruction 14); amortization of discount and expense on capital stock (see instruction 12); and from a reduction of the par or stated value of the carrier's capital stock where allowed by statute.

(b) No entry shall be made in this account to create unearned surplus arising out of the revaluation of carrier operating property except upon written order of the Commission.

(c) This account shall be subdivided into accounts to show each source of unearned surplus.

2930 Earned surplus.

(a) This account shall include the balance of the amounts included in ac-

counts 2932 to 2946, inclusive, either debit or credit, of unappropriated surplus arising from earnings. It shall not include surplus property includible under accounts 2800, Sole Proprietorship Capital, 2810, Partnership Capital, or 2900, Unearned Surplus.

(b) The balance of all earned surplus accounts (2932 to 2946, inclusive) shall be closed to this account at the end of each calendar year.

2932 Credit balance transferred from income account.

This account shall include the net credit balance brought forward from the income account for the current calendar year.

2933 Other credits to surplus.

(a) This account shall include other credit adjustments, net of assigned income taxes, not provided for elsewhere in this system but only after such inclusion has been authorized by the Commission.

(b) The records supporting entries in this account shall be so maintained that an analysis thereof may be readily made available.

2942 Debit balance transferred from income account.

This account shall include the net debit balance brought forward from the income account for the current calendar year.

2943 Dividend appropriations.

(a) This account shall include amounts declared as dividends on capital stock actually outstanding.

(b) This account shall be subdivided to show separately the dividends on each class of stock. If a dividend is not payable in cash, the consideration shall be described in the entry with sufficient particularity to identify it.

NOTE: Dividend charges shall be restricted to actually outstanding stock and this account shall not include charges for dividends on capital stock issued by the carrier and owned by it.

2944 Appropriations to reserves.

This account shall include appropriations from surplus for sinking fund and other reserves and allotments of surplus, or transfers of definite amounts from surplus into sinking fund and other reserves under the terms of mortgages, deeds of trust, or under contracts, and such other appropriations of surplus to be set aside in special reserve accounts as the accounting carrier may make.

2945 Other appropriations.

This account shall include appropriations of surplus not includible elsewhere.

2946 Other debits to surplus.

(a) This account shall include (1) charges which reduce or write off discount on capital stock issued by the company, and (2) in pooling of equity interests situations, the excess of the value of the surviving company's capital stock over the aggregate total of the capital stock of the separate companies before

such merger or consolidation, but only to the extent that unearned surplus is not available for such purposes. (See instructions 21(d) and 20(a)(2)(ii).)

(b) This account shall include other debit adjustments, net of assigned income taxes, not provided for elsewhere in this system but only after such inclusion has been authorized by the Commission.

(c) The records supporting entries in this account shall be so maintained that an analysis thereof may be readily made available.

2999 Form for balance sheet statement.

(See instructions 17, 18.)

ASSET SIDE

Current assets:			
1000	Cash		$----
1020	Working Funds		----
1040	Special Deposits		----
1060	Temporary Cash Investments		----
	(a) Pledged	$----	
	(b) Unpledged	$----	
1080	Notes Receivable	$----	
1100	Receivables from Associated Companies	----	
1120	Accounts Receivable	----	
	Less: Reserve for Uncollectible Accounts	----	----
1140	Subscribers to Capital Stock		----
1160	Interest and Dividends receivable		----
1180	Materials and Supplies		----
1190	Other Current Assets		----
	Total Current Assets		----
Tangible Property:			
1200	Carrier Operating Property	----	
	Less: Reserve for Depreciation and Amortization	----	----
1300	Carrier Operating Property Leased to Others	----	
	Less: Reserve for Depreciation and Amortization	----	----
1400	Non-Carrier Operating Property	----	----
	Less: Reserve for Depreciation and Amortization	----	----
1450	Non-Operating Property	----	
	Less: Reserve for Depreciation and Amortization	----	----
	Total Tangible Property		----
Intangible Property:			
1500	Organization, Franchises and Permits	$----	
	Less: Reserve for Amortization	----	$----
1550	Other Intangible Property	----	
	Less: Reserve for Amortization	----	
	Total Intangible Property		----

ASSET SIDE—continued

Investment Securities and Advances:			
1600	Investments and Advances; Associated Companies		$----
	(a) Pledged	$----	
	(b) Unpledged	----	----
1650	Other Investments and Advances		----
	(a) Pledged	----	
	(b) Unpledged	----	
	Total Investment Securities and Advances		----
Special Funds:			
1701	Sinking Funds		----
1751	Depreciation Funds		----
1781	Miscellaneous Special Funds		----
	Total Special Funds		----
Deferred debits:			
1800	Prepayments		$----
1880	Unamortized Debt Discount and Expense		----
1890	Other Deferred Debits		----
	Total Deferred Debits		----
Miscellaneous Debit Items:			
1900	Discount on Capital Stock		----
1910	Commission and Expense on Capital Stock		----
	Total Miscellaneous Debits		----
	Total Assets		----
Contingent Assets (not included above)			$----

LIABILITY SIDE

Current Liabilities:			
2000	Notes Payable		$----
2020	Matured Equipment and Long-Term Obligations		----
2030	Payables to Associated Companies		----
2050	Accounts Payable		----
2070	Wages Payable		----
2080	Unredeemed Tickets		----
2090	C.O.D.'s Unremitted		----
2100	Dividends Declared		----
2120	Taxes Accrued		----
2150	Interest Accrued		----
2160	Matured Interest		----
2180	Other Current Liabilities		----
	Total Current Liabilities (exclusive of long-term debt due within one year)		----
Long-term debt due within one year.			
2190	Equipment obligations and other debt		----
Advances Payable:			
2200	Advances Payable; Associated Companies		----
2250	Other Advances Payable		----
	Total Advances Payable		----
Equipment and Other Long-Term Obligations:			
2300	Equipment Obligations		$----
	Less: Reacquired and Nominally Issued	----	----
2330	Bonds		----
	Less: Reacquired and Nominally Issued	----	----

LIABILITY SIDE—continued

Equipment and Other Long-Term Obligations—Continued			
2360	Other Long-Term Obligations		$----
	Less: Reacquired and Nominally Issued	----	$----
	Total Equipment and Other Long-Term Obligations		----
Deferred Credits:			
2400	Unamortized Premium on Debt		$----
2450	Other Deferred Credits		----
	Total Deferred Credits		----
Reserves:			
2660	Insurance Reserves		----
2680	Injuries, Loss and Damage Reserves		----
2690	Other Reserves		----
	Total Reserves		----
Capital Stock:			
2700	Preferred Capital Stock		$----
	Less: Reacquired and Nominally Issued	----	----
2710	Common Capital Stock		----
	Less: Reacquired and Nominally Issued	----	----
2720	Premiums and Assessments on Capital Stock		----
2730	Capital Stock Subscribed		----
	Total Capital Stock		----
Non-Corporate Capital:			
2800	Sole Proprietorship Capital		----
2810	Partnership Capital		----
	Total Non-Corporate Capital		----
Unappropriated Surplus:			
2900	Unearned Surplus		----
2930	Earned Surplus (Deficit in red)		----
	Total Unappropriated Surplus		----
	Total Liabilities		----
Contingent Liabilities (not included above)			$----

INCOME ACCOUNTS

(ORDINARY ITEMS)

Operating Revenues

3000 Operating revenues.

This account shall include the total operating revenues as provided in the primary operating revenue accounts, derived by the carrier from its motor carrier operations during the period covered by the income account.

3200 Passenger revenue.

(a) This account shall include all revenue accrued from the transportation of passengers over regularly operated routes. This includes:

(1) Revenue upon the basis of local tariff fares.

(2) The carrier's proportion of revenue from joint tariff fares.

(b) This account shall be charged with:

(1) Redemptions of unused or partially used local passenger tickets.

(2) The carrier's proportion of redemption of unused and partially used through or interline passenger tickets.

(3) The carrier's proportion of overcharges resulting from the application, in error, of fares in excess of tariffs.

(4) The carrier's proportion of refunds of tickets issued in lieu of passes under regulations of the Commission and section 217(b) of Part II of the Interstate Commerce Act.

NOTE A: The foregoing is based upon the practice of accounting on a "ticket sales basis" and not on a "ticket lift basis." Carriers using the "ticket lift basis" shall credit this account with the revenue earned from the transportation of passengers as determined by the "ticket lift" concurrently charging account 2080, Unredeemed Tickets.

NOTE B: By "regularly operated routes" is meant routes or portions thereof over which uniform service is maintained at intervals of 1 week or less.

NOTE C: Revenue from transportation of passengers on special busses at fares based on special rates shall be credited to account 3210, Special Bus Revenue.

NOTE D: Payments to other carriers for transportation of passengers, their baggage and personal effects to complete any portion of the reporting carrier's haul, shall be charged to account 4250, Purchased Transportation, or account 4270, Purchased Collection and Delivery, as appropriate.

NOTE E: Divisions of tariff rates due other carriers shall be included in the appropriate accounts payable account.

NOTE F: Revenue derived from sleeping accommodations furnished passengers shall be included in account 3900, Other Operating Revenue.

3210 Special bus revenue.

(a) This account shall include the amounts earned by the carrier from busses chartered for special passenger and other special contract service.

(b) This account shall be charged with the amounts of all special bus refunds.

3220 Baggage revenue.

(a) This account shall include the revenues earned from the transportation of baggage in excess of free authorized allowances and for the transportation of packages, articles, dogs, etc., as baggage.

(b) This account shall be charged with the amounts of all baggage refunds.

3300 Mail revenue.

(a) This account shall include revenue earned from the transportation of United States and other mails, and from bonuses for special mail transportation.

(b) This account shall be charged with fines and penalties imposed by the Government in connection with the transportation of mail which are not collectible from agents or employees.

3400 Express revenue.

(a) This account shall include the amounts earned by the carrier from the transportation of express matter (including milk and cream) at specified tariff rates and the fees for handling express c.o.d.'s.

(b) This account shall be charged with:

(1) The carrier's proportion of overcharges resulting from use of erroneous rates, weights, classifications or computations.

(2) Uncollected earnings on express destroyed in transit and on short and lost express.

3500 Newspaper revenue.

(a) This account shall include the revenue earned from the transportation of newspapers at specified tariff rates.

(b) This account shall be charged with the amounts of all refunds on newspaper revenue billing resulting from overcharges, etc.

3600 Miscellaneous station revenue.

This account shall include the revenue earned by the carrier from:

(a) Weighing, vending and other automatic machines located at stations.

(b) Advertising cards at stations.

(c) Companies or others for the privilege of operating newsstands, lunch counters, soda fountains, etc., at stations, and selling papers, periodicals, pillows or pillow service, tobacco, etc., on busses.

(d) Telephone companies for the privilege of installing and operating commercial telephones and coinbox telephones at stations.

(e) Taxicab companies for the privilege of operating taxicab stands at stations.

(f) Operation of parcel rooms.

(g) Parcel room privileges in stations and terminals of the carrier and leased to others.

(h) Storage of baggage.

(i) Operation of restaurants, cafes, lunch rooms, lunch counters, cafeterias and soda fountains.

(j) Operation of all other miscellaneous station concessions, not provided for elsewhere.

3900 Other operating revenue.

This account shall include revenues not provided for in accounts 3200 to 3600, inclusive, derived from the operation of property, the investment in which is included in account 1200, Carrier Operating Property, including amounts received from sleeping accommodations on busses, snowplow work and revenue from display of advertising in and on revenue automotive equipment, and the excess of guaranteed route revenue over tariff revenues.

Operation and Maintenance Expenses

4000 Operation and maintenance expenses.

This account shall include the total of operation and maintenance expenses, as provided in the primary accounts, incurred by the carrier in its motor carrier operations during the period covered by the income account.

4100 Equipment maintenance and garage expenses.

This account shall include the total of amounts included in accounts 4110 to 4196, inclusive.

4110 Supervision of shop and garage.

This account shall include the pay and expenses (including cost of operating

automobiles) of officials and employees engaged in supervising and directing the repairs to revenue automotive equipment and shop and garage property used in providing motor-carrier service, including superintendents, foremen (except working foremen), inspectors, shop and garage clerks, and time keepers. (See instruction 28.)

4121 Repairs to shop and garage equipment.

This account shall include the cost of repairs (see instructions 26, 28) to tools, equipment and permanently located machinery used in shops and garages. (For list of equipment, see account 1241, Shop and Garage Equipment.)

NOTE A: The cost of repairs to portable tools shall be included in account 4132, Other Shop and Garage Expenses.

NOTE B: Amounts recovered from insurance companies or others and losses provided for in account 2660, Insurance Reserves, for damages to shop and garage equipment shall be credited to this account in such manner as to be readily identifiable.

4122 Operation and maintenance of service equipment.

This account shall include the cost of labor, fuel, tires and supplies for the operation and the cost of repairs to service equipment, such as trouble cars and wagons, wreckers, repair trucks, snowplows, sweepers, scrapers, refueling cars, automobiles, motorcycles, or other equipment included under account 1231, Service Cars and Equipment. (See instructions 26, 28.)

NOTE A: The pay of employees and expenses incurred in operating snowplows, sand, and salt-cars, and other service equipment used in cleaning and safeguarding roads, shall be charged to account 4261, Road Expense.

NOTE B: Amounts recovered from insurance companies or others and losses provided for in account 2660, Insurance Reserves, for damage to service equipment shall be credited to this account in such manner as to be readily identifiable.

NOTE C: When any service equipment is used in a particular operation other than maintenance, such as automobiles or motorcycles used in connection with advertising, the cost of operation of such service equipment shall be charged to the account provided for expenses of that character.

4128 Repairs to shop and garage buildings and grounds.

This account shall include the cost of repairs to shop and garage structures used in motor carrier operations such as shops, garages, and service stations, together with fixtures, grounds and approaches. (See instructions 26, 28.)

ITEMS

Changing location of partitions. (See also note A hereunder.)
Maintaining public improvements, including assessments covering such work.
Maintaining yards and grounds, including fences, shrubbery, driveways, sidewalks, platforms, and sewers.
Minor improvements to leased buildings and grounds. (See also instruction 22.)
Repainting buildings, including redecorating interiors of buildings.
Repairing building machinery, fixtures, appurtenances, and appliances, such as elevators, plumbing, and equipment for heating, lighting, and ventilating.
Repairing rented buildings and grounds.
Replacing and repairing awnings, screens, window shades and ventilators, storm doors, storm windows, movable partitions, and similar movable minor items of buildings. (See also note A hereunder.)
Replacing minor items of buildings including labor and material used and the cost of removal and recovery of the items retired less salvage recovered.
(See also instruction 21, and note A hereunder.)
Restoring condition of buildings or grounds damaged or otherwise altered in the course of repairs, replacements, additions, or betterments. (See also account 2660, Insurance Reserves.)

NOTE A: The cost of any substantial increase or decrease in partitions shall be charged or credited, as appropriate, to account 1211—Structures. When partitions of a movable type are replaced by partitions of a permanent type or vice versa, the costs involved shall be accounted for through the operating property and the depreciation reserve accounts.

NOTE B: The cost of initial improvements (including repairs and rearrangements in the preparation for service of purchased buildings or grounds) shall be charged to account 1201, Land and Land Rights, or account 1211, Structures, as appropriate. The accounting for expenditures on property leased from others shall be as provided in instruction 22.)

NOTE C: Amounts recovered from insurance companies or others and losses provided for in account 2660—Insurance Reserves, for damages to buildings and grounds shall be credited to this account in such manner as to be readily identifiable.

4131 Light, heat, power, and water for shops and garages.

This account shall include the cost of light, heat, power and water used at each shop and garage; the cost of fuel used for heating, lighting or power; also include pay and expenses of employees engaged in producing light, heat, and power. (See instruction 28.)

ITEMS

Fuel for heating, lighting, or power used in shops and garages.
Heat purchased for shops and garages.
Light for shops and garages.
Power for battery charging or for other uses than repairs.
Wages and expenses of employees engaged in producing light, heat, and power for shops and garages.
Water.

4132 Other shop and garage expenses.

This account shall include the cost of miscellaneous shop and garage expenses, including the replacement cost (see instruction 21) of small tools, such as reamers, taps, files, hammers and all small tools of like nature; labor and material used in the repair of small tools; pay of employees engaged in receiving, issuing and distributing parts and supplies; pay of gas and oil attendants; transportation, loading and unloading charges on parts and supplies, handled in shops and garages, when not specifically assignable to such parts and supplies; and other miscellaneous labor and expenses not provided for elsewhere. (See instruction 16.)

ITEMS

Ice and other refrigerants.
Lubricants for shop and garage machinery.
Portable hand tools of short life.
Small tools used in repairs or for general shop and garage purposes.
Snow and dust removal—shop and garage yards.
Supplies used in cleaning and for general shop and garage purposes, such as lamps, grease, oil, waste, brushes, brooms, etc.
Other expenses in shops and garages.

4140 Repairs to revenue equipment.

This account shall include cost of repairs to revenue automotive equipment used in transportation service. (For list of equipment see account 1221, Revenue Equipment.) This account shall be maintained so as to reflect separately the cost of repairs to revenue automotive equipment involved in accidents. (See instructions 26, 28.)

NOTE A: An accident for the purpose of this account is damage caused through the collision of a vehicle with either a stationary or moving object, or through tire failure or fire.

NOTE B: The accounting for expenditures on motor vehicles leased from others shall be as provided in instruction 22.

NOTE C: Amounts recovered from insurance companies or others and loses provided for in account 2660, Insurance Reserves, for repairs to motor vehicles shall be credited to this account in such manner as to be readily identifiable.

NOTE D: The cost of repairs to equipment used in collection and delivery service if determinable shall be included in account 4360, Collection and Delivery.

4150 Servicing of revenue equipment.

This account shall include the pay of employees (see instruction 28) engaged in preparing revenue automotive equipment for service and of garage and shop employees other than those engaged in making repairs; the cost of supplies used and miscellaneous expenses incurred in washing, cleaning, greasing, and otherwise keeping equipment ready for service; and amounts paid to public garages for storage or servicing (including towing) of revenue automotive equipment.

ITEMS

Garage employees:
  Cleaners.
  Oilers and greasers.
  Washers.
Garage expenses:
  Battery charging (labor and distilled water).
Cleaning supplies, such as soap, sponges, brooms, brushes, cloths, rubber clothing, etc.
Graphite.
Grease.
Public garage storage charges.
Public garage servicing charges, including washing, greasing, cleaning, etc., but not repairs.
Washing vehicles.

4160 Tires and tubes—Revenue equipment.

(a) This account shall include the cost of labor and material used in repairing and renewing (setting up or mounting) tires on revenue automotive equipment, including shoes, inner tubes, valves, flaps, and caps. (See instruction 28.)

(b) The entire cost of tires and tubes for revenue automotive equipment purchased outright may be charged to this account at the time applied to vehicles or charged to account 1800, Prepayments, and a prorated portion charged to this account each period based on mileage or other equitable basis. If the latter method is used, adjustments of over or under charges at time of replacement shall be made through this account.

(c) Credit to this account any revenues derived from the sale of used tires and tubes and any adjustments on defective tires and tubes, the cost of which has previously been debited hereto.

(d) When the carrier contracts to use tires at a flat sum per period or on a basis of miles run or upon some similar basis, the charges for such tire service, including the cost of abused tires, shall be included each period in this account.

NOTE A: The cost of tires and tubes used by service cars shall be charged to account 4122, Operation and Maintenance of Service Equipment.

NOTE B: The cost of tires and tubes for collection and delivery equipment if determinable shall be included in account 4360, Collection and Delivery.

4191 Joint garage expenses—Debit.

This account shall include the carrier's proportion of costs incurred by others in maintaining and operating joint shop and garage equipment and facilities, including overhead costs, except items chargeable to account 5340, Joint Facility Rents—Debit. (See definition 25, and instruction 29.)

4196 Joint garage expense—Credit.

This account shall include the amounts chargeable to others as their proportion of the costs incurred by the carrier in maintaining and operating joint shop and garage equipment and facilities, including overhead costs, except items creditable to account 5390, Joint Facility Rents—Credit. (See definition 25, and instruction 29.)

4200 Transportation expense.

This account shall include the total of amounts included in accounts 4210 to 4264.

4210 Supervision of transportation.

This account shall include the pay and expenses (including cost of operating automobiles) of officials and employees engaged in supervising and directing transportation service, including superintendents, dispatchers, starters, inspectors, and employees engaged in furnishing tickets and supplies to drivers of passenger vehicles, or to receiving remittances, etc.; cost of light, heat, water, and refrigeration for the transportation department; and the cost of schedule or service checks. (See instruction 28.)

4220 Drivers' wages and bonuses.

This account shall include the wages and bonuses of drivers of passenger vehicles engaged in passenger transportation service, including wages paid for time during which they are required to be on duty in readiness for active service. The wages of drivers on special trips for hire should also be charged to this account.

NOTE: Charge to account 4360, Collection and Delivery, the wages of employees engaged in collecting express from consignors and delivering express to consignees, and local pick-up and delivery service provided for inter-city passengers, when such wages can be separated from those applicable to regular operation between terminals. (See instruction 28.)

4230 Fuel for revenue equipment.

This account shall include the cost of gasoline, other fuel and enriching materials used by passenger equipment. Include in this account the cost of storing and handling fuel and amounts payable to others for the cost of transportation.

NOTE A: Taxes on fuel shall be charged to account 5200, Operating Taxes and Licenses.

NOTE B: Fuel used by service cars shall be charged to account 4122, Operation and Maintenance of Service Equipment.

NOTE C: The cost of fuel used by equipment in collection and delivery service if determinable shall be included in account 4360, Collection and Delivery.

4240 Oil for revenue equipment.

This account shall include the cost of lubricating oils used in lubricating passenger equipment. Include in this account the cost of storing and handling lubricating oil and amounts payable to others for the cost of transportation.

NOTE A: Taxes on lubricating oil shall be charged to account 5200, Operating Taxes and Licenses.

NOTE B: The cost of lubricating oil used by service cars shall be charged to account 4122, Operation and Maintenance of Service Equipment.

NOTE C: The cost of lubricating oil used by equipment in collection and delivery service if determinable shall be included in account 4360, Collection and Delivery.

4250 Purchased transportation.

This account shall include amounts payable to others for performing any portion of the carrier's inter-city tariff haul under contractual arrangements whereby the agreements for the compensation is based on other than actual division of tariff rates, and under arrangements whereby the expenses of the operation are borne by the hired carrier.

4261 Road expense.

This account shall include the cost to the carrier of labor and material used in sanding roadways, spreading ashes or the removal of snow and ice, and otherwise. This includes the cost of tools and materials used in this work, including the cost of delivering such materials; wages of men operating mowplows, sweepers, tractors, scrapers, etc.; amounts paid to others for removing snow and ice; and other supplies and expenses, such as meals for crews engaged in removing snow and ice. (See instruction 28.)

NOTE: The cost of repairs to equipment used in snow removal shall be included in account 4122, Operation and Maintenance of Service Equipment.

4262 Bridge, tunnel and ferry tolls.

This account shall include tolls at rates per passenger, per ton, per vehicle, or other basis for the use of bridges, tunnels and ferries by revenue passenger equipment in transportation service.

4263 Wages of miscellaneous transportation employees.

This account shall include the wages of co-operators (conductors), hostesses (conductorettes), lecturers and guides on busses, porters and stewards on busses, secret service inspectors, and other employees performing similar service.

4264 Other transportation expenses.

This account shall include carrier transportation expenses not provided for in other accounts in the transportation group.

ITEMS

Alcohol and other non-freeze preparations.
All expenses incidental to the comfort of passengers in connection with break-downs on the road.
Badges for employees.
Conductors' books, punches, etc.
Fines for traffic violations.
Fire extinguisher supplies (for passenger equipment).
Hat checks.
Head rest covers including laundry.
Ice and other refrigerants (for passenger equipment).
Lamps, bulbs and carbon (for passenger equipment).
Lodging for drivers and miscellaneous transportation employees.
Meals for drivers and miscellaneous transportation employees.
Notices.
Secret service inspections by other than employees.
Signs (paper and carboard).
Tire chains.
Uniforms, including their care.

4300 Station expense.

This account shall include the total of amounts included in accounts 4311 to 4396, inclusive.

4311 Salaries and commissions.

This account shall include the wages and salaries of station employees; amounts paid to station or ticket agents in commissions or bonuses in lieu of salary; and the wages of express and mail handlers and clerks in passenger stations. (See instruction 28.)

ITEM

Announcers.
Baggage agents.
Baggagemen.
Clerks.
Commissions or bonuses to employees in lieu of wages.
Express agents.
Express handlers.
Janitors.
Mail handlers.
Platform men.
Porters.
Station agents.
Station gatemen.
Station masters.
Telephone and information operators.
Ticket agents.

NOTE: Commissions paid to other than the accounting carrier's employees for the sale of tickets, handling of express, baggage, newspapers, etc., shall be included in account 4331, Commissions Paid.

4314 Supplies and expenses.

This account shall include the expenses incurred (exclusive of salaries and wages of station employees) in the operation of passenger terminals, waiting rooms, shelter sheds, and other similar

property used by the transportation department in connection with passenger traffic, such as: the cost of light, heat, water, and ice; cost of uniforms and badges for station employees; cost of hand tools and implements used in handling express and mail; cost of operation and maintenance or upkeep of permanent signs designating a station, depot or passenger terminal; and the cost of supplies used and amounts of other expenses incurred in operating passenger stations.

ITEMS

Ash removal.
Badges for employees.
Cleaning supplies.
Heating or cooling, including supplies.
Laundry service, including supplies.
Lighting.
Mail, baggage, and express handling costs, including baggage room expenses (exclusive of labor).
Power costs for station machinery.
Snow and dust removal on station grounds.
Sprinkling station grounds.
Tools and supplies for station use.

4319 Repairs to station buildings and equipment.

This account shall include the cost of repairs to company stations, passenger terminals, waiting rooms, platforms, and other structures, together with fixtures, grounds and approaches, used in passenger transportation service; also include the cost of repairs to station furniture and equipment (but not equipment used in general offices) and carts, electric motor trucks, platform trucks, scales, and loading platforms, in connection with revenue baggage, mail and express.

4331 Commissions paid.

This account shall include the amounts paid to others (except to the carrier's employees and to interline carriers) on a commission or guaranteed basis for the sale of tickets, handling of express, baggage, newspapers, etc.

4332 Other expenses allowed.

This account shall include the amounts allowed to the operators of commission stations and passenger terminal for expenses such as advertising, rent, light, heat, power and water, telephone, telegraph and messenger service, etc.

4340 Interline commissions paid.

This account shall include all commissions paid to interline carriers.

4350 Interline commissions earned—Credit.

This account shall include all commissions earned on interline tickets sold.

4360 Collection and delivery.

(a) This account shall include the wages of drivers and helpers and other expenses of equipment used in collecting express from consignors and delivering express to consignees and local pick-up and delivery service provided for intercity passengers when such local service is included in the inter-city tariff rate. (See Instruction 28.)

(b) This account is intended to be used only when the expenses incurred in such local service can be separated from those incurred in regular operation between terminals.

(c) This account shall be subdivided to reflect separately:

(1) Wages of drivers and helpers.
(2) Gasoline and oil expense (not including taxes).
(3) Tires and tubes.
(4) Repairs and servicing of equipment.
(5) Other assignable operations and maintenance expenses.

4370 Purchased collection and delivery.

This account shall include amounts payable for collection, delivery and transfer service performed by others under contractual arrangements, whereby the agreement for the amount payable is based on other than actual division of tariff rates.

4391 Joint station facilities—Debit.

This account shall include the carrier's proportion of costs incurred by others in maintaining and operating joint station equipment and facilities, including overhead costs, except items chargeable to account 5340, Joint Facility Rents—Debit. (See definition 25, and instruction 29.)

4396 Joint station facilities—Credit.

This account shall include the amounts chargeable to others as their proportion of the costs incurred by the carrier in maintaining and operating joint station equipment and facilities, including overhead costs, except items creditable to account 5390, Joint Facility Rents—Credit. (See definition 25, and instruction 29.)

4400 Traffic, solicitation and advertising expense.

This account shall include the total of amounts included in accounts 4410 to 4470, inclusive.

4410 Salaries and expenses.

(a) This account shall include all salaries and expenses in connection with the promotion and solicitation of traffic. This includes the salaries of officers and their assistants who are directly in charge of traffic promotion and solicitation, including salaries of the traffic manager, general express and passenger agents; general commercial, city, general district and excursion agents, and their clerks and assistants.

(b) This account shall also include the cost of supplies used and the amounts of expenses incurred and cost of operating automobiles by officers and their assistants who are directly in charge of traffic promotion and solicitation.

NOTE: When officers and employees whose pay is chargeable to this account are engaged in work not chargeable to traffic promotion, or have jurisdiction over this and other departments, their salaries and expenses shall be allocated to the accounts appropriate. (See instruction 28.)

4430 Tariffs and schedules.

This account shall include the salaries and expenses of officers and employees engaged in the preparation of tariffs, schedules and time tables, the cost of printing and other expenses incurred in the preparation of tariffs, schedules and time tables, including postage and transportation charges. (See instruction 28.)

4440 Tickets and baggage checks.

This account shall include the salaries and expenses of employees engaged in receiving and distributing tickets, baggage checks, etc., together with the cost of manufacturing tokens and of printing tickets, baggage checks, milk checks, cash fare receipts, prepaid orders, identification checks, passes and other items of a similar nature, including transportation charges in connection therewith. (See instruction 28.)

4450 Other traffic expenses.

This account shall include the carrier's proportion of expenses of traffic associations, including membership fees, and all other traffic expenses not provided for elsewhere.

4470 Advertising.

(a) This account shall include the salaries and expenses in connection with advertising for the purpose of securing traffic, such as may be incurred in the preparation, printing and distribution of strictly advertising matter (not time tables).

(b) This account shall also include the salaries and expenses of employees preparing advertising copy; the commissions paid outside advertising agents; cost of printing, publishing, and other advertising matter; the cost of advertising space in newspapers and periodicals; expenses incurred in connection with radio broadcasting for the purpose of securing traffic; electric, neon and display signs (permanent or portable), for attracting traffic, bulletin boards, cards, cases, display cards and photographs; postage and express charges on advertising matter; cost of bill posting and similar expenses. (See instruction 28.)

NOTE: Cost of operation and maintenance of permanent signs designating a station or terminal shall be included in account 4314, Supplies and Expenses.

4500 Insurance and safety expense.

This account shall include the total of amounts included in accounts 4510 and 4580, inclusive.

4510 Salaries and expenses—Insurance and safety.

(a) This account shall include the following items:

(1) Salaries and wages, traveling and office expenses of officers, clerks and other employees of the insurance department, and special costs incurred in procuring insurance, such as brokerage fees (not included in premiums), notarial fees, and insurance inspection service.

(2) Salaries and expenses of safety department, cost of safety-first and other campaigns among employees or the public for the purpose of preventing accidents and damages.

(3) Salaries and expenses of officers and employees engaged regularly in claim department work; payments for the service of employees and others called in consultation in relation to claim adjustments; pay and expenses of employees while engaged as witnesses at inquests and law suits.

(4) Salaries and expenses of officers and employees of the law department when specifically assigned to and engaged in injury and damage cases, and expenses of such officers and employees incurred on such cases when incidentally so engaged.

(5) Payment to attorneys, investigators, adjusters, etc., who are not regular employees of the carrier for services and expenses in connection with injury and damage cases.

(6) Cost of operating automobiles used by employees whose pay is charged to this account.

(b) Reimbursements from insurance companies or others for expenses charged to this account on account of injuries and damages shall be credited to this account.

NOTE: No part of the salaries of officers and employees of the law department shall be included in this account for merely incidental service in connection with injury and damage claims.

4520 Public liability and property damage insurance.

This account shall include premiums payable to outside insurance companies for protection against liability to the public for injuries to persons and damages to the property of others, resulting from the operation of owned and leased vehicles in motor carrier service. (See instruction 27.)

NOTE A: Premiums for insurance on property intrusted to the carrier for transportation or storage shall be included in account 4550, Baggage and Express Insurance.

NOTE B: Amounts payable in settlement of claims for bodily injury or property damage which are not recoverable from insurance companies and for which the carrier has not provided self-insurance shall be charged to account 4530, Injuries and Damages.

4530 Injuries and damages.

This account shall be charged each period with amounts sufficient to meet the probable liability, not covered by outside insurance, for deaths of or injuries to persons (other than employees—see account 4546, Workmen's Compensation—Self Insurer) and damages to the property of others (except property intrusted to the carrier for transportation or storage—see account 4560, Baggage and Express Loss and Damage) resulting from operation of owned and leased vehicles in motor carrier service. (See instruction 27.) This account shall also be charged with amounts payable in settlement of claims for injuries to persons and damage to property of others which are not recoverable from insurance companies or for which self-insurance has not been provided.

NOTE: Payments to or on behalf of employees other than those covered by workmen's compensation insurance, including accident and death benefits; salaries; hospital expenses; medical supplies; also salaries, fees, and expenses of surgeons, doctors, nurses, etc., when provided for through a plan for employees' benefits, shall be charged to account 4652, Employees' Welfare Expenses.

4541 Workmen's compensation—Insurance.

This account shall include premiums payable to outside insurance companies for protection against liability for injuries to or deaths of employees payable under the provisions of workmen's compensation acts. (See instruction 27.)

NOTE: Amounts payable in settlement of claims under the provisions of Workmen's Compensation Acts which are not recoverable from insurance companies shall be charged to account 4546, Workmen's Compensation—Self Insurer.

4546 Workmen's compensation—Self insurer.

This account shall be charged each period with amounts sufficient to meet the probable liability not covered by outside insurance, on account of claims for injuries to and deaths of employees arising under the workmen's compensation acts. (See instruction 27.) This account shall also be charged with amounts payable in settlement of claims which are not recoverable from insurance companies or for which self insurance has not been provided.

NOTE: Payments to or on behalf of employees other than those covered by workmen's compensation insurance, including accident and death benefits; salaries; hospital expenses; medical supplies; also salaries, fees, and expenses of surgeons, doctors, nurses, etc., when provided for through a plan for employees' benefits, shall be charged to account 4652, Employees' Welfare Expenses.

4550 Baggage and express insurance.

This account shall include premiums payable to outside insurance companies to indemnify the carrier against costs and expenses incurred through loss of and damage to express matter and baggage intrusted to the carrier for transportation or storage. (See instruction 27.)

NOTE: Amounts payable in settlement of claims for loss of or damage to property intrusted to the carrier for transportation or storage which are not recoverable from insurance companies and for which the carrier has not provided self-insurance shall be included in account 4560, Baggage and Express Loss and Damage.

4560 Baggage and express loss and damage.

This account shall be charged each period with amounts sufficient to meet the probable liability, not covered by outside insurance, on account of loss, destruction, damage, or delay to express matter, baggage, parcels, etc., intrusted to the carrier for transportation or storage. (See instruction 27.) This account shall also be charged with amounts payable in settlement of claims which are not recoverable from insurance companies or for which self insurance has not been provided.

NOTE: Any provision or amounts payable for injuries or damages to employees and others, or amounts payable on account of damages to the property of others not intrusted to the carrier for transportation or storage shall be included in account 4530, Injuries and Damages.

4570 Fire and theft insurance.

(a) This account shall include premiums payable to outside insurance companies for fire and theft insurance on owned and lease vehicles and for fire insurance on structures, machinery, and equipment used in motor carrier operations. (See instruction 27.)

(b) In case a carrier shall carry its own fire and theft insurance risks, it shall charge to this account each period an amount sufficient to meet the probable loss, and shall credit the amount so charged to account 2660, Insurance Reserves.

(c) This account shall be charged with losses arising under the classes of risks enumerated in paragraph (a) which are not recoverable from insurance companies and for which the carrier has not provided self-insurance.

NOTE: Recoveries from insurance companies or others for damages to the carrier's owned or leased property shall be accounted for as provided in paragraph (b) of account 2660, Insurance Reserves.

4580 Other insurance.

(a) This account shall include premiums paid to outside insurance companies for boiler; burglar; fidelity; holdup; lightning; plate glass; owners, landlords and tenants liability; and other forms of insurance coverage not elsewhere provided for. (See instruction 27.)

(b) In case a carrier shall carry its own insurance risks for the classes of coverage enumerated in paragraph (a) of this section, it shall charge to this account each period an amount sufficient to meet the probable loss and shall credit the amount so charged to account 2660, Insurance Reserves.

(c) This account shall be charged with losses arising under the classes of risks enumerated in paragraph (a), of this section, which are not recoverable from insurance companies and for which the carrier has not provided self-insurance.

NOTE: The cost of life insurance on the lives of officers and other employees of the carrier whereunder the carrier is the beneficiary shall be charged to account 7500, Other Deductions. Cash surrender values of such policies shall be carried in account 1650, Other Investments and Advances.

4600 Administrative and general expense.

This account shall include the total amounts included in accounts 4611 to 4696, inclusive.

4611 Salaries of general officers.

This account shall include the salaries, bonuses and other forms of consideration for services of general officers whose jurisdiction extends over the entire transportation system of the carrier; and fees payable to receivers. As here used, the term "General Officers" would ordinarily include the following: Chairman of the Board, President, Vice President, Treasurer, Secretary, Comptroller, General Auditor, General Manager.

NOTE A: Do not include in this account amounts payable to organizations for services

chargeable to account 4660, Management and Supervision Fees and Expenses.

NOTE B: If officers and assistants supervise particular departments of carrier operations, or other operations, or are engaged in specific work other than supervision of the entire transportation system, their pay and expenses shall be apportioned to the appropriate accounts for carrier operations or other operations. (See instruction 28.)

4612 Expenses of general officers.

This account shall include expenses incurred, including cost of operating automobiles, for the benefit of motor carrier operations by administrative officers (as defined in account 4611) such as traveling, and other incidental expenses.

ITEMS

Hotel.
Meals.
Membership fees and dues in trade, technical and professional associations.
Traveling expenses.

NOTE: Expenses in connection with operating the general offices of the carrier shall be included in account 4680, General Office Supplies and Expenses.

4613 Salaries of general office employees.

This account shall include the salaries (see instruction 28), bonuses and other forms of consideration for services of employees who are engaged in the general administrative offices of the carrier and whose services are not chargeable to any other department or to other operations, including the following: accountants, bookkeepers, cashiers, clerks, engineers, janitors, messengers, paymasters, statisticians, stenographers, traveling auditors.

4616 Expenses of general office employees.

This account shall include the expenses incurred, including cost of operating automobiles, for the benefit of motor carrier operations by employees whose salaries are included in account 4613, Salaries of General Office Employees.

ITEMS

Hotel.
Meals, including payment therefor on account of overtime work.
Membership fees and dues in trade, technical and professional associations.
Traveling expenses.

4620 Law expenses.

This account shall include, except as provided for elsewhere, the pay and expenses of officers, assistants, office forces, and other employees of the law department; fees and retainers, supplies, and expenses of attorneys not regularly employed; court costs; and supplies and expenes of the law office.

ITEMS

Salaries:
  Attorneys and assistants.
  Clerks.
  Counsel.
  Law clerks.
  Special counsel.
  Other employees of law department.
Expenses:
  Building service.
  Cost of law suits.
  Cost of operating automobiles.
  Cost of preparing and printing agreements, briefs, reports, etc.
  Court costs.
  Court fees.
  Law books, periodicals and subscriptions to special services.
  Law expenses of receivers.
  Legal forms, and law offices supplies postage and stationery.
  Meals, including payment therefor on account of overtime work.
  Payments to attorneys who are not regular employees.
  Premiums on court and other bonds.
  Printing.
  Tax reports, claims, etc., when handled by legal staff.
  Transcripts of testimony, copies of exhibits, etc.
  Traveling expenses of attorneys, witnesses, etc.
  Witness fees.

NOTE A: The pay of law department officers and employees engaged in formal cases before regulatory commissions, or in cases in which such a commission is a party, or when specifically assigned to injury and damage cases, shall be charged to account 4670, Other Regulatory Commission Expenses, account 4510, Salaries and Expenses—Insurance and Safety, or other appropriate account. (See instruction 28.)

NOTE B: Law expenses incident to the purchase and construction of carried operating property or the acquisition of certificates from Federal or State commissions or securing from local authorities franchises or consents with a life of more than one year shall be charged to the appropriate subdivision of account 1500, Organization, Franchises and Permits. Law expenses incident to the issuance of long-term debt or capital stock shall be charged to account 1880, Unamortized Debt Discount and Expense, account 2400, Unamortized Premium on Debt, or account 1910, Commission and Expense on Capital Stock, as appropriate.

4630 General office supplies and expenses.

This account shall include the cost of office supplies and the office expense in connection with the general administrative functions of the carrier's motor carrier operations.

ITEMS

Books.
Cleaning office.
Drinking water and refrigeration.
Heat and light.
Janitor service.
Letterheads and envelopes.
Paper.
Pens, pencils, ink, fasteners and office supplies.
Postage.
Printing forms for office use.
Repairs to general office buildings, furniture, fixtures, and equipment.
Stationery and office supplies.
Subscriptions to newspapers, periodicals and clipping bureaus.
Towels.
Typewriter supplies.
Waste baskets.

4640 Communication service.

This account shall include the cost of all communication service payable to outside companies, such as telephone, teletypewriter, telegraph, radio, etc.

NOTE: Taxes on telegrams and telephone calls shall be charged to account 5200, Operating Taxes and Licenses.

4651 Outside auditing expenses.

This account shall include amounts paid as fees for auditing and accounting services rendered by individuals or firms other than carrier's employees.

NOTE: The fees of independent auditors and accountants in preparing financial and other statements incident to the issuance of long-term debt or capital stock shall be charged to account 1880, Unamortized Debt Discount and Expense, account 2400, Unamortized Premium on Debt, or account 1910, Commission and Expense on Capital Stock, as appropriate.

4652 Employees' welfare expenses.

(a) This account shall include pensions or other benefits paid to active and retired employees, their representatives or beneficiaries, and salaries and expenses incurred in conducting relief, benefit and general medical departments. It shall include payments to or on behalf of employees on account of injuries or accidental death when such payments come within the scope of a carrier's general provision for employees' benefits.

(b) If the carrier has definitely undertaken by contract to pay pensions to employees when regularly retired for superannuation or disability and has established a fund to be held in trust for such pension purposes, the carrier shall charge to this account periodic amounts determined through the application of equitable actuarial factors to the current payrolls, which, together with interest accruals on trust funds, will, as nearly as may be practicable, provide for the payment of such pensions, or for the purchase of annuities corresponding thereto. The amounts so charged shall be concurrently credited to a separate subdivision of account 2690, Other Reserves. The total of actual payments and accruals for future payments charged to this account for pensions, shall not exceed the amounts determined as hereinbefore prescribed. The carrier shall maintain a complete record of the actuarial computations through which the accrual each period of its pension liabilities is established.

(c) Upon the adoption of the accrual plan of accounting, pension payments to employees retired before the adoption of such plan shall be charged to an existing pension reserve, this account 4652 or account 9010, Extraordinary Items, as appropriate. If a carrier pays into its pension trust fund the amount of its existing pension reserve, any such amounts in excess of provision for pensions granted prior to the adoption of the accrual plan may be applied in whole or in part to the adjustment of future accrual charges.

(d) Before adopting the accrual plan of accounting for pensions, the carrier shall inform the Commission of the details of its pension plan, giving full statement of the facts which in its judgment establish a contractual obligation for pension payments, together with the actuarial formula under which it proposes to create its pension trust fund, and also a copy of the declaration of trust under which the fund is to be established.

(e) No charges shall be made to this account in anticipation of discretionary pension payments in the future.

ITEMS

Accident, sickness, death, and other disability benefits to employees, their representatives or beneficiaries.
Employees of relief, benefit, and general medical departments, pay and expenses of.
Expenses in connection with employees' disability cases, such as hospital, nursing, and medical attendance.
Fees and retainers for medical and similar services incurred by relief, benefit, and general medical departments.
Medical service.
Office supplies.
Postage, printing and stationery.
Premiums paid for group insurance for the benefit of employees or their beneficiaries.
Traveling expenses.

NOTE: The cost of life or other insurance whereunder the carrier is the beneficiary shall be charged to account 7500, Other Deductions. Cash surrender values of such policies shall be carried in account 1660, Other Investments and Advances.

4655 Purchasing and store expenses.

(a) This account shall include salaries and expenses of purchasing agents, and their assistants, whose jurisdiction extends over all purchases such as parts, gasoline and other fuel, stationery supplies, etc.

(b) This account shall include credits for cash and other discounts when it is not practicable to apply such discounts directly to the cost of materials to which they relate.

(c) This account shall include such differences from inventory adjustments which have not been otherwise apportioned in accordance with note B under account 1180, Material and Supplies.

NOTE A: Suitable proportions of items included in this account may be allocated to the cost of materials and supplies. (See instruction 19.)

NOTE B: See also instruction 16 with reference to clearing accounts which may be maintained.

4656 Other general expenses.

(a) This account shall include all general expenses connected with motor carrier operations not provided for elsewhere including fees and expenses payable to directors and trustees; expenses in connection with publishing and mailing reports and notices to stockholders, etc.; cash overages and shortages and fees for filing annual reports and other documents not specifically related to certificates or applications for issuance of securities.

(b) This account shall also include contributions for charitable, social or community welfare purposes which have a direct or intimate relation to the protection of the property of the carrier or the development of its business or the welfare of its employees. (See account 7500, Other Deductions.)

NOTE: Direct contributions to employees' welfare associations shall be included in account 4652, Employees' Welfare Expenses.

4660 Management and supervision fees and expenses.

(a) This account shall include fees and expenses payable to any corporation, firm or individual, other than officers and employees of the carrier, for continuously rendered supervision and management.

(b) This account shall be subdivided to reflect:

(1) Management and supervision fees and expenses of associated companies.

(2) Management and supervision fees and expenses of other companies.

(c) Records supporting this account shall be kept so as to show (1) the basis of the fees, i.e., the gross or net earnings of the carrier, if such is the basis, (2) the percentage applied in determining the fee, (3) the amount of the fee, and (4) the amount of the expenses.

4671 Franchise requirements—Debit.

(a) This account shall include the total cost to the carrier in connection with payments to governmental authorities in compliance with franchises, ordinances or similar requirements, except taxes and license fees, provided, however, that the carrier may charge this account with the amounts based on regular tariff rates of intrastate transportation furnished without charge under provisions of franchises.

(b) When no direct outlay is involved concurrent credit for such charges shall be to account 4672, Franchise Requirements—Credit.

4672 Franchise requirements—Credit.

This account shall include concurrent credits for charges which are made to account 4671, Franchise Requirements—Debit, to the extent that such charges do not represent direct outlays.

4673 Other regulatory commission expenses.

(a) This account shall include expenses incurred by the carrier in connection with formal cases before Federal or State regulatory bodies or cases in which such a body is a party; also include payments made to a regulatory commission for fees or amounts assessed against the accounting carrier for pay and expenses of the regulatory commission, its officers, agents and employees, other than those incurred in securing certificates of convenience and necessity and authority for the issuance of securities.

(b) Amounts includible in this account which by approval or direction of the Commission are to be spread over future periods shall be charged to account 1890, Other Deferred Debits, and amortized by charges to this account.

ITEMS

Fees, retainers, and expenses of counsel, solicitors, attorneys, clerks, attendants, witnesses, and others whose services are secured for the defense or prosecution of petitions or complaints presented to regulatory bodies.
The pay of officers and employees specifically assigned to or engaged in the valuation of property owned or used by the carrier, in connection with such cases, and the cost of similar work performed by others.
Amounts assessed by Federal and State regulatory commissions for pay and expenses of their officers, agents, and employees; office and traveling expenses; stationery, printing and engineering supplies; and other expenses and supplies including expenses of officers and employees upon matters covered by this account even though no portion of their pay is assignable hereto.

NOTE A: Expenses incurred for the improvement of service, for additional inspection, or rendering reports which are made necessary by the rules and regulations, or orders, of regulatory bodies, shall be charged to the appropriate operation and maintenance expense accounts.

NOTE B: Expenses incident to securing certificates of convenience and necessity shall be charged to the appropriate subdivision of account 1500, Organization, Franchises and Permits. Expenditures incident to securing authorization for issuance of long-term debt or capital stock shall be charged to account 1880, Unamortized Debt Discount and Expense, account 2400, Unamortized Premium on Debt, or account 1910, Commission and Expense on Capital Stock, as appropriate.

CROSS REFERENCE: For regulations relating to certificates of public convenience and necessity, see Parts 1120 and 1121 of this chapter.

4680 Uncollectible revenues.

(a) This account shall include charges for receivables for carrier operating revenues which, after a reasonably diligent effort to collect, have proved impracticable of collection. If accounts which have been so written off are afterwards collected, the amount received shall be credited to this account; *Provided, however*, That such recoveries are from accounts charged off against this account.

(b) Charges to this account may be made on the basis of the estimated average loss due to uncollectible accounts in which case the concurrent credit shall be to account 2650, Reserve for Uncollectible Accounts. To the reserve thus established shall be charged such amounts as are determined to be uncollectible; amounts written off and subsequently collected shall be credited to the reserve. When charges to such accounts are thus made by estimate, the estimate shall be adjusted at the end of each calendar year to conform to the experience of the accounting carrier as determined by analysis of its accounts receivable.

NOTE: Losses on receivables for other than operating revenues, and losses on notes or claims, shall be included in account 7500, Other Deductions.

4691 Joint operating expense—Debit.

This account shall include amounts payable to others representing the cost of operation and maintenance of joint facilities used for general purposes, such as a general office, or where amounts payable cannot be segregated between the functional groups of expense accounts provided in this part. (See Instruction 29.)

4696 Joint operating expense—Credit.

This account shall include amounts received by the accounting carrier as reimbursement for operating and maintaining costs incurred by it in connection with a

joint facility used for general purposes such as general office, or when the amounts received cannot be segregated between the functional groups of expense accounts provided in this part. (See instruction 29.)

Depreciation Expense

5000 Depreciation expense.

(a) This account shall include the amount of depreciation charges applicable to the accounting period for all classes of depreciable carrier operating property, including improvements to leased property, if any, as provided in instruction 25. The amounts charged to this account shall be concurrently credited to account 2500, Reserve for Depreciation—Carrier Operating Property.

(b) The following subdivisions of this account shall be maintained to reflect the amount of depreciation charges on each class of property and the necessary depreciation adjustment on carrier operating property at the time it is retired from service as provided in instruction 21 (see definition 33):

5011 Depreciation of Structures.
5021 Depreciation of Revenue Equipment.
5031 Depreciation of Service Cars and Equipment.
5041 Depreciation of Shop and Garage Equipment.
5051 Depreciation of Furniture and Office Equipment.
5061 Depreciation of Miscellaneous Equipment.
5071 Depreciation of Improvements to Leasehold Property.
5081 Depreciation of Undistributed Property.
5091 Depreciation of Adjustment.

Amortization Expense

5100 Amortization of carrier operating property.

This account shall include the amount of the amortization charges applicable to the accounting period for amounts carried in account 1501, Organization, account 1511, Franchises, and account 1541, Patents, for fixed-term franchises, licenses, and patent rights; and for fixed-term interest in land and land rights carried in account 1201—Land and Land Rights. Such charges shall be computed so as to distribute the book cost of each item evenly throughout its service life to the carrier. (See also account 2600, Reserve for Amortization—Carrier Operating Property.)

Taxes and Licenses

5200 Operating taxes and licenses.

(a) This account shall include the amount of Federal, State, county, municipal and other taxing district taxes, which relate to motor carrier operations and property used therein (except taxes provided for in account 8000, Income Taxes on Ordinary Income).

(b) This account shall be charged each month (or 4-week period) with the amount of taxes applicable thereto, with concurrent credits to account 2120, Taxes accrued, or account 1800, Prepayments, as appropriate. When it is not possible to determine the actual taxes, they shall be estimated and the applicable portion

of the total tax included in this account each month (or 4-week period). Taxes included in this account on an estimated basis shall be adjusted when the actual levies become known. Taxes on gasoline, other motor fuel and lubricating oil, shall be included in this account of the basis of actual consumption.

(c) The records shall be kept so as to show separately for each of the following subdivisions the amount of each class of tax included in this account and the basis on which it is levied, segregated between the amounts levied by the Federal government, and by State, Municipal, and other taxing authorities.

5210 Gasoline, other fuel and oil taxes.

Include in this account all taxes levied by Federal, State, or other governmental bodies on motor fuel and motor oil consumed during the current accounting period.

5220 Vehicle license and registration fees.

Include in this account the cost of all fees assessed for the privilege of operating vehicles over the highways, such as registration fees, license plate fees, mileage taxes, seat taxes, seat-mile taxes, gross weight taxes, ton-mile taxes, port of entry fees, permits for overload and oversize, Federal use tax, certificates of title fees, vehicle qualification fees and similar items.

5230 Real estate and personal property taxes.

Include in this account the amount of taxes based on the value of real estate and personal property.

5240 Social security taxes.

Include in this account the amount of social security, unemployment, and old-age benefit taxes payable to the Federal and State governments.

5250 Other taxes.

Include in this account all other operating taxes not specifically provided for in accounts 5210 to 5240, inclusive.

ITEMS

Capital stock taxes.
City licenses and permits.
Corporation taxes assessed for privilege of doing business as a corporation.
Gross receipts taxes not otherwise provided for.
Occupancy taxes.
Sales taxes paid by carrier as vendor.
Stock transfer taxes.
Telephone, telegraph, and other communication taxes.
Tires and tubes, taxes on puchase or rental of, and
All other taxes, licenses or fees not otherwise provided for.

NOTE A: Taxes on property leased from others for use in motor carrier operations, when the lessee is obligated under the terms of the lease to pay such taxes in addition to stipulated rent, shall be included in this account.

NOTE B: All other sales or excise taxes not provided for in this account shall be included in the account charged with the cost of the material or services.

NOTE C: Amounts received by the carrier in reimbursement of taxes on property operated as a joint facility (see definition 25) shall be credited to account 5890, Joint Facility Rents; Credit. Payments to other carriers for a portion of taxes on joint facilities shall be charged to account 5340, Joint Facility Rents; Debit.

NOTE D: The following taxes and fees shall not be charged to this account:

1. Fees for filing annual reports and other documents not specifically related to certificates or applications for issuance of securities shall be charged to account 4656, Other General Expenses.

2. Special assessments for street or other improvements and fees or charges, sometimes called taxes, such as water taxes, street sprinkling and sidewalk repairs, which are payments for some specific services rendered by municipal or other taxing bodies, shall be charged to the appropriate property investment or maintenance accounts. (See NOTE B, account 1201, Land and Land Rights.)

3. Taxes on property, the investment in which is included in account 1400, Non-carrier operating property, and account 1450, Non-operating property, shall be charged to account 6000, Net Income from Non-carrier Operations, or account 6100, Net Income from Non-operating Property, as appropriate.

4. Taxes on property leased to others shall be charged to the account to which the rent revenue is credited.

5. Taxes assumed by the carrier on bond and note interest shall be charged to account 7200, Taxes Assumed on Interest.

6. Taxes paid on original issues of capital stock shall be included in account 1910, Commission and Expense on Capital Stock.

7. The cost of State identification plates, for which a small charge is made to cover cost of manufacture, shall be included in account 4264, Other Transportation Expenses, or account 4980, Collection and Delivery, as appropriate.

Operating Rents

5300 Operating rents—Net.

This account shall include the net total of amounts included in accounts 5310 to 5390, inclusive. (See instruction 30.

5310 Equipment rents—Debit.

This account shall include the amounts payable for use of automotive equipment on whatever basis such rent may be determined. All expenses incurred in connection with the operation of leased equipment which the lessee is obligated to assume in addition to the amount stipulated as rent, shall be included in the operation and maintenance or other accounts as appropriate.

NOTE: Amounts payable for rental of equipment included in the lease of a distinct operating unit shall be charged to account 5400, Rent for Lease of Carrier Property—Debit.

5320 Other operating rents—Debit.

This account shall include all rental payments for the use of property employed in motor carrier operations not provided for elsewhere, such as:

(a) Rent for shop and garage space.
(b) Rents paid for use of property by the transportation department.
(c) Rents paid for use of terminals and stations.
(d) Rents paid for use of property by the traffic and solicitation department.
(e) Rents paid for use of the general office.

NOTE: Rental payments for property not used in transportation operations shall be charged to the appropriate other income account.

5340 Joint facility rents—Debit.

This account shall include amounts payable to other carriers as their proportion of rent, including taxes and depreciation, for the use of property under a joint facility arrangement. (See definition 25, and instruction 29.)

5350 Equipment rents—Credit.

This account shall include amounts receivable for use of automotive equipment on whatever basis such rent may be determined.

NOTE: Amounts receivable for rental of equipment included in the lease of a distinct operating unit shall be credited to account 5500, Income from Lease of Carrier Property—Credit.

5360 Rent from owned land and structures.

This account shall include the rent from land and structures, the cost of which is included in accounts 1200, Carrier Operating Property, and 1300, Carrier Operating Property Leased to Others, except joint facilities.

NOTE: Rent from subleases of property rented from others shall be included in account 5370, Sublease Rental Income.

5370 Sublease rental income.

This account shall include rents receivable from subleases of carrier operating property rented from others.

5390 Joint facility rents—Credit.

This account shall include amounts receivable from other carriers as their proportion of rent, including taxes and depreciation, for the use of property under a joint facility arrangement. (See definition 25, and instruction 29.)

Lease of Carrier Property

5400 Rent for lease of carrier property—Debit.

This account shall include amounts payable, for rent of property constituting a distinct operating unit (see definition 24 and instruction 30) or system leased from others for use in motor carrier operations when the carrier has exclusive possession.

NOTE: Taxes payable upon leased property, assumed by the lessee, shall be included in account 5200, Operating Taxes and Licenses.

5500 Income from lease of carrier property—Credit.

(a) This account shall include amounts receivable for rent of property constituting a distinct operating unit (see definition 24, and instruction 30) or system leased by the carrier to others for motor carrier operations where the lessee has exclusive possession.

(b) This account shall include as a deduction from rent revenue, expenses such as repairs, depreciation, insurance, and taxes assumed by the lessor; uncollectible rents, etc., in connection with the property leased.

(c) This account shall be divided to show separately for each lease the following:

(1) Rent revenue.
(2) Expenses.
(3) Depreciation and amortization.
(4) Taxes.
(5) Uncollectible rents.

Other Income

6000 Net income from non-carrier operations.

(a) This account shall include the revenues from and expenses incurred in the operation of property, the investment in which is carried in account 1400, Non-Carrier Operating Property.

(b) This account shall be subdivided to reflect:

(1) The total revenues derived from non-carrier operating property operations.

(2) The total expenses incurred in non-carrier operating property operations.

NOTE A: The expenses referred to include every element of cost incurred in such operations including depreciation, rents, taxes and insurance.

NOTE B: Each carrier may adopt its own classification of revenue and expenses for this account. The classification shall be such, however, as to permit ready analysis of the revenue and expense.

6100 Net income from non-operating property.

(a) This account shall include all rent revenues from land, buildings, and other property not devoted to transportation operations, the book cost of which is included in account 1450, Non-Operating Property.

(b) This account shall include as a deduction from rent revenue, expenses such as repairs, depreciation, amortization, taxes, uncollectible rents, insurance, etc., in connection with the property leased.

(c) This account shall be subdivided to show separately for each lease the following:

(1) Rent revenue.
(2) Expenses.
(3) Depreciation and amortization.
(4) Taxes.
(5) Uncollectible rents.

6200 Interest income.

(a) This account shall include interest accruing to the accounting carrier upon securities of other companies and Federal, State, or municipal governments, on loans, notes and advances; special deposits and all other interest bearing assets, including simple interest charged to property during its construction. Interest accrued shall not be credited to this account unless its payment is reasonably assured; in other cases, credits to this account shall be based upon the interest actually collected.

(b) This account shall be kept so as to show separately the interest income from each investment and from each associated company.

NOTE A: No interest upon reacquired securities issued or assumed by the accounting carrier shall be credited to this account.

NOTE B: Interest accrued on securities of other companies held in sinking or other special funds shall be credited to account 6400, Income from Sinking and Other Funds.

6300 Dividend income.

(a) This account shall include revenue derived by the accounting carrier from the dividends on stocks of other companies held by it. Accruals of guaranteed dividends may be included in this account if the payment is reasonably assured.

(b) This account shall be kept so as to show separately the dividend income from each investment and from each associated company.

NOTE: No dividends on reacquired securities issued by the carrier shall be credited to this account.

6400 Income from sinking and other funds.

This account shall include all revenues (whether interest or dividends) accrued on cash, securities (not issued or assumed by the accounting carrier) or other assets held in sinking fund and other special funds.

NOTE: This account covers all income from investments of special funds, whether required to be retained in the fund or not. If such income is required to be retained in the fund and the fund required to be represented by a reserve, the amount of such accretions to the fund shall be concurrently credited to the appropriate reserve account and charged to account 2944, Appropriations to Reserves.

6500 Other non-operating income.

This account shall include all income accrued to the accounting carrier in accordance with the terms of any contract by which the carrier is entitled to participate in the profits from the operations of others and all other non-operating income not provided for in any of the foregoing accounts.

NOTE: "Profits from the operations of others" does not include any dividends on stock. Revenues from dividends shall be credited to account 6300, Dividend Income, or to account 6400, Income from Sinking and Other Funds, as appropriate.

Income Deductions

7000 Interest on long-term obligations.

(a) This account shall include all interest accrued on unmatured outstanding long-term obligations issued or assumed by the accounting carrier; also interest accrued on debentures and on receivers' certificates which mature more than 1 year after date of issue. This account does not include interest on securities held by the accounting carrier in its treasury, in sinking or other special funds, or pledged as collateral.

(b) This account shall be kept so as to show the interest expense (accrual) on each of the following classes or subdivisions of long-term obligations:

(1) Equipment obligations.
(2) Advances.
(3) Bonds.
(4) Other long-term obligations.

7100 Other interest deductions.

This account shall include interest on all short-term obligations of the account-

ing carrier, such as notes or loans for terms of less than 1 year, unpaid taxes, or other accounts payable, etc., and also interest on matured long-term obligations.

7200 Taxes assumed on interest.

This account shall include amounts paid to holders of the bonds or other indebtedness of the carrier in reimbursement of income and other taxes levied against income from such obligation or levied as a tax for ownership of the obligation, where the mortgage, indenture, or other instrument provides for payment of such taxes by the carrier.

7300 Amortization of debt discount and expense.

This account shall include for any period that proportion of the unamortized discount and expense on outstanding long-term debt which is applicable to the period. This proportion shall be determined according to a rule, the uniform application of which during the interval between the issue and maturity of any debt will completely amortize the discount at which such debt was issued and the debt expense connected therewith. Amounts charged to this account shall be concurrently credited to account 1880, Unamortized Debt Discount and Expense. (See also instruction 13.)

7400 Amortization of premium on debt—Credit.

This account shall include the proportion of the premium at which outstanding long-term debt was issued which is applicable to each period. This proportion shall be determined according to a rule the uniform application of which during the interval between the issuance and the maturity of any debt will completely amortize the premium at which such debt was issued. Amounts credited to this account shall be concurrently charged to account 2400, Unamortized Premium on Debt. (See instruction 13.)

7500 Other deductions.

This account shall include all deductions from gross income not provided for in any of the foregoing accounts such as:

(a) Unsecured accruals on obligations arising under contracts whereby the accounting carrier has guaranteed the annual or more frequent periodic payment of money or performance of other obligation on the part of another corporation or person, and because of the default of such other corporation or person, the liability of the accounting carrier has become actual.

(b) Losses resulting from the operations of others, whenever, in accordance with the terms of any contract, the accounting carrier is bound to contribute toward reimbursement of such losses.

(c) Losses on receivables, notes or claims, which are not includible in account 4680, Uncollectible Revenue.

(d) Amortization charges of the book value of property included in account 1550, Other Intangible Property, and other items carried among its assets.

(e) Contributions for charitable, social or community welfare purposes which do not have a direct or intimate relation to the protection of the property, development of the business or welfare of employees. (See account 4656, Other General Expenses.)

(f) Penalties and fines for violations of law not provided for in account 4264, Other Transportation Expenses.

(g) Premiums for life insurance carried on the lives of officers and employees when the carrier is the beneficiary.

Income Taxes

8000 Income taxes on ordinary income.

(a) (1) Monthly accruals for Federal, State or other income taxes applicable to ordinary income shall be included in this account. See texts of account 9050, Income Taxes on Extraordinary and Prior Period Items, accounting 2933, Other Credits to Surplus, and account 2946, Other Debits to Surplus, for recording other income tax consequences.

(2) Details pertaining to the tax consequences of other unusual and significant items and also cases where the tax consequences are disproportionate to the related amounts included in income accounts, shall be submitted to the Commission for consideration and decision as to proper accounting.

(3) Income taxes which are refundable or reduced as the result of carry-back or carry-forward of operating loss shall be credited to this account, if a carry-back in the year in which the loss occurs or, if a carry-forward, in the year in which such loss is applied to reduce taxes. However, when the amount constitutes an extraordinary item pursuant to instruction 7, it shall be included in account 9030, Prior Period Items.

(b) This account shall be subdivided as follows: 8010 *Federal Income Taxes*, 8020 *State Income Taxes*, and 8030 *Other Income Taxes*.

NOTE: Personal income taxes of sole proprietors and members of a partnership shall not be charged to this account; if paid from funds of the business, the amounts thereof shall be charged to account 3600, Sole Proprietorship Capital, or account 3610, Partnership Capital, as appropriate.

EXTRAORDINARY AND PRIOR PERIOD ITEMS

9010 Extraordinary items (net).

(a) This account shall include extraordinary items accounted for during the current accounting year in accordance with instruction 7, upon approval of the Commission. Among the items which shall be included in this account are:

Net gain or loss on sale of land used for transportation purposes.

Net gain or loss on sale of securities acquired for long term investment purposes.

Loss on retirement of transportation property because of abandonment or other cause for which depreciation reserve has not been provided.

Change in application of accounting principles.

(b) Income tax consequences of charges and credits to this account shall be included in account 9050, Income Taxes on Extraordinary and Prior Period Items.

(c) This account shall be maintained in a manner sufficient to identify the nature and gross amount of each debit and credit.

9030 Prior period items (net).

(a) This account shall include unusual delayed items accounted for during the current accounting year in accordance with the text of instruction 7, upon approval of the Commission. Among the items which shall be included in this account are:

Unusual adjustments, refunds or assessments of income taxes of prior years.

Similar items representing transactions of prior years which are not identifiable with or do not result from business operations of the current year.

(b) Income tax consequences of charges and credits to this account shall be included in account 9050, Income Taxes on Extraordinary and Prior Period Items.

(c) This account shall be maintained in a manner sufficient to identify the nature and gross amount of each debit and credit.

9050 Income taxes on extraordinary and prior period items.

This account shall include the estimated income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which, for accounting purposes, are classified as unusual and extraordinary and are includible in account 9010, Extraordinary Items, or account 9030, Prior Period Items, as appropriate.

9999 Form of income statement.

ORDINARY ITEMS

I. CARRIER OPERATING INCOME

Revenues:		
3000.	Operating Revenues	$
Expenses:		
4000.	Operation and Maintenance Expenses	
5000.	Depreciation Expense	
5100.	Amortization of Carrier Operating Property	
5200.	Operating Taxes and Licenses	
5300.	Operating Rents—Net	
	Total Expenses	
	Net Operating Revenue	
5400.	Rent for Lease of Carrier Property—Debit	
5500.	Income from Lease of Carrier Property—Credit	
	Net Carrier Operating Income	

II. OTHER INCOME

6000.	Net Income from Noncarrier Operations	
6100.	Net Income from Nonoperating Property	
6200.	Interest Income	
6300.	Dividend Income	
6400.	Income from Sinking and Other Funds	
6500.	Other Nonoperating Income	
	Total Other Income	
	Gross Income	

ORDINARY ITEMS—Continued

III. INCOME DEDUCTIONS

7000.	Interest on Long-Term Obligations	$
7100.	Other Interest Deductions	
7200.	Taxes Assumed on Interest	
7300.	Amortization of Debt Discount and Expense	
7400.	Amortization of Premium on Debt—Credit	
7500.	Other Deductions	
	Total Income Deductions	
	Ordinary Income Before Income Taxes	
8000.	Income Taxes on Ordinary Income	
	Ordinary Income	

EXTRAORDINARY AND PRIOR PERIOD ITEMS

9010.	Extraordinary Items (Net)	
9030.	Prior Period Items (Net)	
9050.	Income Taxes on Extraordinary and Prior Period Items	
	Total Extraordinary and Prior Period Items	
	Net Income (or Loss) Transferred to Earned Surplus	

PART 1207—CLASS I AND CLASS II COMMON AND CONTRACT MOTOR CARRIERS OF PROPERTY

DEFINITIONS

INSTRUCTIONS

1 Classification of carriers.
2 Records.
3 Accounting period.
4 Charges to be just and reasonable.
5 Interpretations of prescribed accounting.
6 Item lists.
7 Opening entries.
8 Extraordinary and prior period items.
9 Unaudited items.
10 Clearing accounts.
11 Distribution of pay and expenses of employees.
12 Maintenance; cost.
13 Current assets.
14 Current liabilities; writing off.
15 Contingent assets and liabilities.
16 Capital stock.
17 Equipment and long-term obligations.
18 Book cost of securities owned.
19 Carrier operating property.
20 Acquisition of a distinct operating unit.
21 Retirement of property.
22 Insurance.
23 Depreciation and amortization.
24 Taxes and licenses.
25 Joint facilities.
26 Deduction of reserves.
27 Allocation of expenses between line haul and pickup and delivery.
28 Employees' welfare expenses.
29 Amortization of intangibles.

BALANCE SHEET ACCOUNTS

Asset Side

CURRENT ASSETS

1000 Cash.
1020 Working funds.
1040 Special deposits.
1041 Interest special deposits.
1042 Dividend special deposits.
1043 Miscellaneous special deposits.
1060 Temporary cash investments.
1080 Notes receivable.
1100 Receivables from affiliated companies.
1120 Accounts receivable; agents, customers, and interline.
1130 Accounts receivable; other.
1140 Subscribers to capital stock.
1160 Interest and dividends receivable.
1170 Prepayments.
1180 Material and supplies.
1190 Other current assets.

TANGIBLE PROPERTY

1200 Carrier operating property.
1201 Land and land rights.
1210 Structures.
1220 Revenue equipment.
1230 Service cars and equipment.
1240 Shop and garage equipment.
1250 Furniture and office equipment.
1260 Miscellaneous equipment.
1270 Improvements to leasehold property.
1280 Undistributed property.
1290 Unfinished construction.
1300 Carrier operating property leased to others.
1400 Non-carrier property.

INTANGIBLE PROPERTY

1500 Organization, franchises, and permits.
1501 Organization.
1511 Franchises.
1541 Patents.
1550 Other intangible property.

INVESTMENT SECURITIES AND ADVANCES

1600 Investments and advances; affiliated companies.
1650 Other investments and advances.

SPECIAL FUNDS

1701 Sinking funds.
1751 Depreciation funds.
1781 Miscellaneous special funds.

DEFERRED DEBITS

1880 Unamortized debt discount and expense.
1890 Other deferred debits.

MISCELLANEOUS DEBIT ITEMS

1900 Discount on capital stock.
1910 Commission and expense on capital stock.
1920 Reacquired securities.
1990 Nominally issued securities.

Liability Side

CURRENT LIABILITIES

2000 Notes payable.
2020 Matured long-term obligations.
2030 Payables to affiliated companies.
2050 Accounts payable.
2070 Wages payable.
2090 C.o.d.'s unremitted.
2100 Dividends declared.
2120 Taxes accrued.
2150 Interest accrued.
2160 Matured interest.
2180 Other current liabilities.

LONG-TERM DEBT DUE WITHIN ONE YEAR

2190 Equipment obligations and other debt due within one year.

ADVANCES PAYABLE

2200 Advances payable; affiliated companies.
2250 Other advances payable.

EQUIPMENT AND OTHER LONG-TERM OBLIGATIONS

2300 Equipment obligations.
2330 Bonds.
2360 Other long-term obligations.

DEFERRED CREDITS

2400 Unamortized premium on debt.
2450 Other deferred credits.

RESERVES

2500 Reserve for depreciation; carrier operating property.
2600 Reserve for amortization; carrier operating property.
2610 Reserve for depreciation and amortization; other property.
2630 Reserve for adjustments; investments and advances.
2650 Reserve for uncollectible accounts.
2660 Insurance reserves.
2680 Injuries, loss and damage reserves.
2690 Other reserves.

CAPITAL STOCK

2700 Preferred capital stock.
2710 Common capital stock.
2730 Capital stock subscribed.

PROPRIETORS' CAPITAL

2800 Sole proprietorship capital.
2810 Partnership capital.

CAPITAL SURPLUS

2900 Premiums and assessments on capital stock.
2910 Other capital surplus.

EARNED SURPLUS

2920 Earned surplus-appropriated.
2930 Earned surplus-unappropriated.
2932 Credit balance transferred from income.
2938 Other credits to earned surplus.
2942 Debit balance transferred from income.
2944 Dividend appropriations.
2946 Other appropriations of earned surplus.
2948 Other debits to earned surplus.
2990 Form of balance sheet statement.

INCOME ACCOUNTS

Ordinary Items

OPERATING REVENUES

3000 Operating revenues.
3100 Freight revenue; intercity; common carrier.
3110 Freight revenues; intercity; contract carriers.
3120 Freight revenue; local cartage.
3180 Intercity transportation for other Class I and Class II motor carriers.
3900 Other operating revenues.

OPERATION AND MAINTENANCE EXPENSES

4000 Operation and maintenance expenses.
4100 Equipment maintenance.
4110 Supervision.
4120 Office and other expenses.
4130 Repairs and servicing; revenue equipment.
4145 Employees' welfare expenses.
4160 Tires and tubes; revenue equipment.
4180 Other maintenance expenses.
4185 Operating rents.
4191 Joint garage expense; debit.
4196 Joint garage expense; credit.
4200 Transportation.
4210 Supervision.
4220 Office and other expenses.
4230 Drivers and helpers.
4245 Employees' welfare expenses.
4250 Fuel for revenue equipment.
4260 Oil for revenue equipment.
4270 Purchased transportation.
4271 Equipment rents; intercity; with drivers.
4272 Equipment rents; intercity; without drivers.
4273 Other purchased transportation; intercity.
4275 Equipment rents; pickup and delivery; with drivers.
4276 Equipment rents; pickup and delivery; without drivers.
4277 Other purchased pickup and delivery.

4279 Equipment rents; credit.
4280 Other transportation expenses.
4285 Operating rents.
4300 Terminal.
4310 Supervision.
4311 Supervisory salaries.
4312 Salaries and fees; billing and collecting.
4313 Other office employees.
4320 Office and other expenses.
4340 Salaries and wages; platform employees.
4345 Employees' welfare expenses.
4350 Other terminal employees.
4360 Commission agents.
4380 Other terminal expenses.
4385 Operating rents.
4391 Joint terminal facilities; debit.
4396 Joint terminal facilities; credit.
4400 Traffic.
4410 Supervision.
4420 Office and other expenses.
4430 Tariffs and schedules.
4445 Employees' welfare expenses.
4450 Advertising.
4480 Other traffic expenses.
4485 Operating rents.
4500 Insurance and safety.
4510 Supervision.
4520 Office and other expenses.
4530 Public liability and property damage.
4540 Workmen's compensation.
4545 Employees' welfare expenses.
4550 Cargo loss and damage.
4560 Fire, theft and collision.
4570 Other insurance expense.
4580 Other insurance and safety department expenses.
4585 Operating rents.
4600 Administrative and general.
4610 Supervision.
4611 Salaries; general officers.
4612 Salaries; revenue accounting.
4613 Salaries; other general office employees.
4620 Office and other expenses.
4621 Expenses of general officers.
4622 Expenses of general office employees.
4623 Other general office expenses.
4630 Law expenses.
4635 Outside auditing expenses.
4640 Communication service.
4645 Employees' welfare expenses.
4650 Management and supervision fees.
4660 Uncollectible revenues.
4670 Regulatory expenses.
4675 Purchasing and store expenses.
4680 Other general expenses.
4685 Operating rents.
4691 Joint operating expense; debit.
4696 Joint operating expense; credit.

DEPRECIATION EXPENSE

5000 Depreciation expense.
5010 Depreciation of structures.
5020 Depreciation of revenue equipment.
5030 Depreciation of service cars and equipment.
5040 Depreciation of shop and garage equipment.
5050 Depreciation of furniture and office equipment.
5060 Depreciation of miscellaneous equipment.
5070 Depreciation of improvements to leasehold property.
5080 Depreciation of undistributed property.
5100 Depreciation adjustment.

AMORTIZATION EXPENSE

5150 Amortization of carrier operating property.

TAXES AND LICENSES

5200 Operating taxes and licenses.
5210 Gasoline, other fuel and oil taxes.
5220 Vehicle license and registration fees.
5230 Real estate and personal property taxes.
5240 Social security taxes.
5250 Other taxes.

LEASE OF DISTINCT OPERATING UNIT

5400 Lease of distinct operating unit; debit.
5500 Lease of distinct operating unit; credit.

OTHER INCOME

6100 Income from non-carrier operations; net.
6300 Interest income.
6400 Dividend income.
6500 Other non-operating income.

MISCELLANEOUS DEDUCTIONS FROM INCOME

7100 Interest.
7300 Amortization of debt discount and expense.
7400 Amortization of premium on debt; credit.
7500 Other deductions.

INCOME TAXES

8300 Income taxes on ordinary income.

Extraordinary and Prior Period Items

8910 Extraordinary items (net).
8930 Prior period items (net).
8950 Income taxes on extraordinary and prior period items.
8990 Form of income statement.

CONDENSED CLASSIFICATION OF ACCOUNTS FOR CLASS II CARRIERS

9001 Instructions.
9002 Pickup and delivery.
9003 Optional accounts.
9004 Accounts prescribed.

AUTHORITY: The provisions of this Part 1207 issued under secs. 204, 220, 49 Stat. 546, as amended, 563, as amended; 49 U.S.C. 304, 320.

DEFINITIONS

When used in this system of accounts:

1. "Accounts" means the accounts prescribed in this system of accounts.

2. "Actually issued," as applied to securities, means those which have been sold to bona fide purchasers for a valuable consideration (including those issued in exchange for other securities or other property) so that the purchasers secured them free from control by the issuing carrier, also securities issued as dividends on stock, and those which have been issued in accordance with contractual requirements direct to trustees of sinking and other funds.

3. "Actually outstanding," as applied to securities issued or assumed by the carrier, means those which have been actually issued and are neither retired nor held by or for the carrier: *Provided, however,* That securities held by trustees of sinking and other funds shall be considered as actually outstanding.

4. "Addition" means structures, facilities or equipment added to those in service, or the extension or enlargement of existing property, and not taking the place of anything previously existing.

5. "Amortization" means the gradual extinguishment of an amount in an account by prorating such amount over either a fixed period dependent on the requirements of regulatory bodies, the life of the asset or liability to which it applies, or over the period during which it is anticipated the benefit will be realized.

6. (1) "Affiliated companies" means persons (see definition 29) that directly, or indirectly through one or more intermediaries, control or are controlled by, or are under common control with the accounting carrier.

(2) "Control" (including the terms "controlling," "controlled by," and "under common control") as used herein, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person (see definition 29), whether through the ownership of voting securities, by contract or otherwise. If in any instance the existence of control is or may be open to reasonable doubt, the carrier shall report to the Commission all of the material facts pertinent to the possible existence of control.

7. "Book cost" means the amount at which property is recorded on the books of the carrier without deduction of related reserves.

8. "Carrier" or "motor carrier" includes both a common carrier by motor vehicle and a contract carrier by motor vehicle, subject to the Interstate Commerce Act.

9. "Carrier operating property" means the property which is used (see definition 38) by the carrier in the conduct of its motor carrier operations or leased to others for such operations, and which has an expectation of life in service of more than one year from date of installation. This includes land, structures, equipment, and facilities necessary for such operations and services incidental thereto.

10. "Company" means any individual, firm, copartnership, corporation, association, or joint-stock association; and includes any trustee, receiver, assignee, or personal representative thereof. (See definition 29.)

11. "Commission" or "the Commission" means the Interstate Commerce Commission.

12. "Contingent assets" means a possible source of value to the carrier dependent upon the fulfillment of conditions regarded as uncertain.

13. "Contingent liabilities" means items which may under certain conditions become obligations of the carrier but which are neither direct nor assumed liabilities at the date of the balance sheet.

14. "Cost of removal" means the cost of demolishing, dismantling, tearing down, or otherwise removing operating property, including the cost of transportation and handling incident thereto.

15. "Current asset" means cash as well as those assets that are readily convertible into cash or are held for current use in operations or construction; current claims against others, payment of which is reasonably assured; and other amounts accruing to the carrier which are subject to settlement within one year from the date of issue or upon demand.

16. "Current liabilities" means those obligations the amount of which is definitely determined or closely estimated which are either matured or become due within one year from date of issue or assumption, or upon demand.

17. "Date of retirement," as applied to operating property, means the date at which such property is permanently withdrawn from service.

18. "Debt expense" means all expense in connection with the issuance and sale of evidences of long-term debt, such as fees for drafting mortgages and trust deeds; fees and taxes for issuing or recording evidences of debt; cost of engraving and printing bonds, certificates of indebtedness, and other evidences of debt; fees paid trustees; specific costs of obtaining governmental authority; fees for legal services; fees and commissions paid underwriters, brokers, and salesmen for marketing evidences of debt; fees and expenses of listing on exchanges; and other like costs.

19. "Delayed items" means items relating to transactions which occurred before the current calendar year. It includes adjustments of errors in the income, operating revenue, and operating expense accounts of prior years. (See instruction 8.)

20. "Depreciation", as applied to depreciable property, means the loss in service value (see definition 35) not restored by current maintenance, incurred in connection with the consumption or prospective retirement of property in the course of service from causes against which the carrier is not protected by insurance, which are known to be in current operation. Among the causes to be given consideration are wear and tear, decay, action of the elements, obsolescence, changes in the art, inadequacy, changes in demand, and requirements of public authority.

21. "Discount", as applied to securities issued or assumed by the carrier, means the excess of the par or face value of the securities, plus interest or dividends accrued at the date of the sale over the cash value of the consideration received from the sale.

22. "Distinct operating unit" means all or any portion of a route or routes covered by a certificate of convenience and necessity or a permit, including motor vehicles and other physical property owned and used in the operation thereof.

23. "Joint facility" means any owned or leased carrier operating property occupied or operated jointly by the carrier and one or more other carriers by motor, rail, water, air, etc., under an arrangement whereby the costs are borne by the parties to the joint agreement. Portions of a structure or other property used exclusively by each of two or more carriers are not joint facilities.

24. "Long-term obligations" means obligations having a life of more than one year from date of creation or assumption, all unmatured bonds and receivers' or trustees' certificates, and demand obligations which by mutual agreement will not be paid within one year from date of issue.

25. "Mileage method," as applied to depreciation of vehicles, means the plan under which the service value is charged to depreciation expenses and credited to depreciation reserves at a fixed rate per mile run.

26. "Minor items," as applied to carrier operating property (see definition 9), means the associated parts or elements of which units of property (see definition 37) are composed.

27. "Net book cost," when applied to property, means the book cost (see definition 7) less related depreciation and amortization reserves.

28. "Nominally issued," as applied to securities issued or assumed by the carrier, means those which have been signed, certified, or otherwise executed and placed with the proper officer for sale and delivery, or pledged, or otherwise placed in some special fund of the carrier, but which have not been sold or issued directly to trustees of sinking funds in accordance with contractual requirements.

29. "Person" when not otherwise indicated in the context, means an individual, a corporation, a partnership, an association, a joint-stock company, a business trust, or any other organization, or any receiver or trustee. (See definitions 6 and 10.)

30. "Premium," as applied to securities issued or assumed by the carrier, means the excess of the cash value of the consideration received from their sale over the sum of their par (stated value of no-par stocks) or face values plus interest or dividends accrued at the date of sale. (See note under Account 2900.)

31. "Property retired," as applied to operating property, means property which has been removed, sold, abandoned, destroyed, or which for any cause has been permanently withdrawn from service.

32. "Replacing" or "replacement," when not otherwise indicated in the context, means the acquisition, construction, or instillation of property in place of property of like purpose retired, together with the removal of the property retired.

33. "Salvage value" means the amount received for property retired, less any expenses incurred in connection with the sale or in preparing the property for sale; or, if retained, the amount at which the material recovered is chargeable to Account 1180, Material and Supplies, or other appropriate account.

34. "Service life" means the period between the date when carrier operating property (see definition 9) is placed in service and the date of its retirement. (See definition 31.)

35. "Service value" means the difference between the book cost (see definition 7) and the salvage value (see definition 33) of carrier operating property.

36. "Straight-line method," as applied to depreciation accounting, means the plan under which the service value (see definition 35) of property is charged to depreciation expenses or other appropriate accounts and credited to the depreciation reserves through equal periodic charges as nearly as may be during its service life.

37. "Unit of property," for the purpose of this system of accounts, means any item of carrier property which when retired, with or without replacements by sale, abandonment, disposal or replacement, is accounted for by crediting the book cost (see definition 7) thereof to the operating property account in which it is included, as provided in instruction 21.

38. "Used," as applied to operating property, means actually and necessarily in current service or ready for and reasonably required to be currently held for future service.

INSTRUCTIONS

1 Classification of carriers.

(a) For purposes of the accounting regulations common and contract carriers of property subject to the Interstate Commerce Act are grouped into the following three classes:

Class I: Carriers having average annual gross operating revenues (including interstate and intrastate) of $1,000,000 or more from property motor carrier operations.

Class II: Carriers having average annual gross operating revenues (including interstate and intrastate) of $200,000, but less than $1,000,000, from property motor carrier operations.

Class III: Carriers having average annual gross operating revenues (including interstate and intrastate) of less than $200,000 from property motor carrier operations.

(b) The class to which any carrier belongs shall be determined by the average of its annual gross operating revenues derived from motor carrier operations as a property carrier for the three calendar years immediately preceding the effective date of this system of accounts. If, at the end of any subsequent calendar year, the average of a carrier's annual gross operating revenues from motor carrier operations for the last three preceding years is greater than the maximum or less than the minimum for the class in which the carrier has been previously grouped, it shall automatically be grouped in the higher or lower class in which it falls because of such increased or decreased average annual gross operating revenues, and it shall notify the Commission of the change in its status. Any carrier which begins new operations or extends its existing operations subsequent to the effective date of this system of accounts will be classified in accordance with a reasonable estimate of its prospective annual gross operating revenues.

(c) Any carrier may, at its option, place itself in a group higher than the one in which it falls on the basis of its average annual gross operating revenues. Notice of such action shall be promptly filed with the Commission.

2 Records.

(a) All of the accounts prescribed in this system of accounts shall be kept when applicable and entries recorded by the double entry method. Each account in the general or subsidiary ledgers shall reflect the prescribed account number. Account titles shall clearly indicate the type of items included therein if the exact titles prescribed herein are not used.

(b) Each carrier shall keep its general accounting books, and all other books, records and memoranda which support in any way the entries to such accounting books, and analyses of gen-

eral ledger account balances, readily accessible so that it can furnish at any time full information as to any account. Moreover, the month, day, year and posting reference shall be shown for each entry in the general ledger and subsidiary records and the entries shall be supported with such detailed information as will provide a ready analysis and verification of the facts recorded therein. All expenditures including the expense accounts of officers and employees shall be definitely supported by vouchers, pay rolls, receipted bills, canceled checks, receipts for petty cash payments, or other evidences of the expenditures incurred.

(c) The books referred to herein include not only books of account in a limited technical sense but all other records such as minute books, stock books, reports, correspondence, memoranda, etc., which will be useful in developing the history of or facts regarding any transaction.

(d) Carriers shall not destroy any books, records, memoranda, etc., which support entries to their accounts unless the destruction thereof is specifically provided for in the Regulations to Govern the Preservation of Records of Class I Motor Carriers, Part 1226 of this Chapter.

(e) Subdivisions of any account in this system of accounts may be kept, provided that such subdivisions do not impair the integrity of the accounts prescribed. The Commission reserves the right to order any carrier to subdivide any account in this system of accounts. The title of each such subdivision shall clearly indicate the account of which it is a part. When an account is subdivided in the general ledger, an account need not be maintained for the total of the subdivisions. When such subdivisions are carried in subsidiary ledgers however, the general ledger shall contain the controlling accounts therefor so that a complete general ledger trial balance may be obtained.

3 Accounting period.

(a) Each carrier shall keep its books on a calendar year basis and for each month (or 4-week period—see note) all transactions applicable thereto, as nearly as can be ascertained (see instruction 9), including full accruals, shall be entered in the books of original entry (cash book, purchase journal, etc.), and posted to the general ledger. A trial balance of the general ledger accounts shall be prepared at the close of each month. At the end of the calendar year, the revenue, expense and other income accounts shall be closed into earned surplus or the noncorporate capital accounts; and balance sheet account balances shall be brought forward to the general ledger for the succeeding year.

(b) The final entries for any month shall be made in the general ledger not later than 60 days after the last day of the month for which the accounts are stated, unless otherwise authorized by the Commission, except that the period within which the final entries for the last month of the calendar year shall be made may be extended to such date in March of the following year as shall not interfere with the preparation and filing of annual reports.

(c) No changes shall be made in the accounts for periods covered by quarterly and annual reports that have been filed with the Commission unless the changes have first been authorized by the Commission.

NOTE: To avoid repetition, wherever the word "month" appears in these instructions, it is intended to include "or 4-week period."

4 Charges to be just and reasonable.

All charges to the accounts prescribed in this system of accounts for carrier property, operating revenues, operation and maintenance expenses, and for other carrier expenses, shall be just, reasonable and necessary to the honest and efficient operation and management of the motor carrier business. Payments or allowances in excess of such just and reasonable charges shall be included in account 7500—Other Deductions.

5 Interpretations of prescribed accounting.

(a) The cross-references included in, and notes following, the texts of various instructions and accounts are for the purpose of indicating the applicable provisions of other sections. Such references are not to be construed as comprising a complete list of the instructions relating to a particular subject, since the definitions, the general instructions and the text of each account must be given consideration in determining the prescribed accounting.

(b) All questions of doubtful interpretation of the prescribed accounting shall be submitted by responsible accounting officials of the carrier to the Commission for consideration and decision.

6 Item lists.

Lists of items appearing in the texts of the several accounts are given for the purpose of indicating the application of the prescribed accounting in specific cases. The lists are not to be considered as comprising all items includible in the accounts, but merely as representative of them. On the other hand, the appearance of an item in a list warrants the inclusion of such item in the account concerned only when the text of the account also indicates inclusion, inasmuch as the same item frequently appears in more than one list. The proper entry in each instance must be determined by the texts of the accounts.

7 Opening entries.

As of the date that this system of accounts is adopted by the carrier, the accounts prescribed herein shall be opened by appropriately transferring thereto the balances carried in the accounts previously maintained. The carrier is authorized to make such subdivisions, reclassifications, consolidations of or additions to such balances as are necessary to meet the requirements of this system of accounts. (See, however, account 1280.)

8 Extraordinary and prior period items.

(a) (1) All items of profit and loss recognized during the year are includible in ordinary income except nonrecurring items which in the aggregate for the same class are both material in relation to operating revenues and ordinary income for the year and are clearly not identified with or do not result from the usual business operations of the year. Important items of the kind which occur from time to time and which, when material in amount, are to be excluded from ordinary income are those resulting from unusual sales of property and investment securities other than temporary cash investments; from wars, earthquakes and similar calamities and catastrophes, which are not a recurrent hazard of the business and which are not usually covered by insurance; from change in application of accounting principles; and from prior period items (other than ordinary adjustments of a recurring nature). Material items are those which, unless excluded from ordinary income, would distort the accounts and impair the significance of ordinary income for the year. Items so excludible from ordinary income are to be entered directly in the income accounts provided for extraordinary and prior period items upon approval or direction of the Commission.

(2) Adjustments constituting items of customary business activities or corrections or refinements resulting from the natural use of estimates inherent in the accounting process, including those arising from disposal of a unit of property sold or retired in the regular course of business operations, shall not be considered extraordinary or prior period items regardless of size.

(b) In determining materiality, items of a similar nature shall be considered in the aggregate; dissimilar items should be considered individually. As a general standard, an item to qualify for inclusion as an extraordinary or prior period item, shall exceed 1 percent of total operating revenues and 10 percent of ordinary income for the year.

(c) Ordinary delayed items and adjustments arising during the current year which are applicable to or related to transactions of prior years shall be included in the same accounts which would have been charged or credited if the item had been taken up or adjusted in the period to which it pertained. Ordinary delayed items excludes items of the character described in paragraph (a) of this instruction 8.

9 Unaudited items.

When the amount of any item affecting these accounts cannot be accurately determined in time for inclusion in the accounts of the month in which the transaction occurs, the amount of the item shall be estimated and included in the proper accounts. When the item is audited the necessary adjustments shall be made through the accounts in which the estimate was recorded. The carrier is not required to anticipate small items which would not appreciably affect these accounts.

10 Clearing accounts.

(a) Clearing accounts, designed to facilitate the distribution of certain expenditures which may affect both construction and operations or which may affect transportation and other operations, may be kept when necessary in making the proper distribution of items to the appropriate accounts, as subdivisions of account 1890—Other Deferred Debits, or account 2450—Other Deferred Credits. Balances in clearing accounts shall be fully cleared not later than the end of the calendar year unless items held therein unquestionably relate to future periods.

(b) Spreading of unusual income, revenue and expense items: When the amount of any unusual item includible in an income, operating revenue, or operating expense account for the current month is relatively so large that its inclusion in the accounts for that period would seriously distort those accounts, it may be included in account 1890—Other Deferred Debits, or account 2450—Other Deferred Credits, as appropriate, and distributed in equal amounts to the accounts for the current and remaining months of the year. No such items shall be spread beyond the accounts of the current year without approval of the Commission.

11 Distribution of pay and expenses of employees.

(a) The pay and expenses of officers or employees engaged in activities of a varying nature, such as an officer who may be assigned to supervise transportation and terminal operations, shall be included in the appropriate accounts upon the basis of the actual time devoted to the respective classes of work, except that the pay and expenses of an officer or employee who performs substantially the same variety of duties from day to day may be distributed upon the basis of a study of the time actually devoted by him to those duties during a representative period.

(b) The pay and expenses of officers or employees regularly assigned to specific duties who perform incidental services of a different nature involving small expense shall be included in the expense accounts appropriate for the duties to which such officers or employees are regularly assigned.

(c) When it is necessary to apportion the pay and expenses of officers and employees among accounts or subaccounts, the carrier shall be prepared to describe the basis of such apportionments.

12 Maintenance; cost.

(a) The cost of repairs (but not including betterments—see instruction 19(b)) chargeable to the various Operation and Maintenance Expense accounts includes labor employed, materials used, and expenses incurred in all current maintenance, such as:

(1) Inspecting, testing, and reporting on the condition of operating property specifically to determine the need for repairs, minor replacements, rearrangements, and changes.

(2) Testing for, locating, and clearing trouble.

(3) Routine work to prevent trouble such as general overhauling, removing carbon, grinding valves, adjusting and relining brakes, adjusting shock absorbers, cleaning and adjusting engines, etc.

(4) Replacing minor items of operating property. (See also instruction 21(a).)

(5) Rearranging and changing the location of property not retired.

(6) Restoring the condition of property damaged by wear and tear, storms, breakage, floods, fire, accident, or other casualties. (See also paragraph (b) of this instruction 12 and instruction 22(f).)

(7) Training employees for repair work.

(8) Inspecting and testing after repairs have been made.

(b) The value of materials recovered and placed in the material and supplies account in connection with repairs to property shall be credited to the same account to which the repair cost was charged, with concurrent debit to account 1180—Material and Supplies.

(c) If employees engaged in transportation or terminal service are also required to make repairs, an equitable proportion of their pay and expenses shall be charged to the account appropriate for the cost of such repairs. (See, however, instruction 11.)

(d) If the book cost of any property is carried in account 1280—Undistributed Property, the repairs to such property shall be charged to the accounts provided for repairs to property of the same nature and use, the book cost of which is carried in other operating property accounts. Repairs to property leased from others shall be treated in like manner.

13 Current assets.

(a) In the group of accounts designated as Current Assets (accounts 1000 to 1190, inclusive) there shall not be included any item the amount or collectibility of which is not reasonably assured or for which provision has not been made in a reserve. Items of current character but of doubtful value may be carried in these accounts at a nominal value or included in account 1890—Other Deferred Debits, at book cost or nominal value, or written off, as may be appropriate.

(b) Adjustments to accomplish the writing down of items of doubtful value not covered by reserves shall be made through account 4560—Uncollectible Revenues, account 7500—Other Deductions, or other appropriate ordinary income account.

14 Current liabilities; writing off.

Amounts that have been included in the primary accounts for unclaimed wages and other current liabilities or have been represented by outstanding checks or similar instruments for a period of one year or more because of inability to identify or locate the payee or creditor may (in the absence of statutory provision to the contrary) be written off, or, in the case of outstanding and unpresented checks, reinstated in account 1000—Cash, and credited to the operating expense or other income account originally charged. The journal entry shall contain the pertinent facts concerning all the items that have been written off.

15 Contingent assets and liabilities.

The balance sheet of a carrier shall clearly state by adequate notes contingent assets or liabilities not reflected in the balance sheet accounts, including any arrears in cumulative dividends, stating the amount per share of each class of stock and in total, and the facts and amounts with respect to any default in principal, interest or sinking fund provisions if not shown in the balance sheet accounts.

16 Capital stock.

(a) All transactions relating to the capital stock of the accounting carrier shall be recorded by class of stock. Stocks are of the same class only when they are issued under identical terms as to all of the following: par value, stated value, preferences in the distribution of dividends and assets, voting rights, and conditions under which the stock may be retired. If the capital stock of the carrier is of more than one class, its records shall be so maintained as to record the amount applicable to each class in separate subdivisions of the following accounts:

1140—Subscribers to Capital Stock.
1900—Discount on Capital Stock.
1910—Commission and expense on Capital Stock.
1920—Reacquired Securities.
1990—Nominally Issued Securities.
2700—Preferred Capital Stock.
2710—Common Capital Stock.
2730—Capital Stock Subscribed.
2900—Premiums and Assessments on Capital Stock.
2910—Other Capital Surplus.

(b) Commission and expenses applicable to capital stock issues shall not be deducted from premium on capital stock.

(c) (1) General levies or assessments against stockholders shall be credited to the premium account for the particular class and series of capital stock so assessed, except that assessments with respect to nonpar stock without stated value shall be credited to the capital stock account.

(2) Discounts and expenses on original issues of capital stock may be amortized by charges to account 2910—Other Capital Surplus; however, in no event shall net debits exceed the accumulated net credits in capital surplus with respect to the particular class of stock. Any excess of debits may be retained in account 1900—Discount on Capital Stock, or account 1910—Commission and Expense on Capital Stock, as appropriate, until the stock is reacquired or retired, or the excess debits may be charged to account 2940—Other Debits to Earned Surplus.

(d) When an issue of capital stock, or any part thereof, is reacquired, either by

purchase or through donations by stockholders, other than stocks reacquired by provision of a mortgage or decision of a trustee not subject to the control of the carrier that it be retained alive in sinking or other funds, it shall be charged at its par or stated value, or if it is nonpar stock without a stated value, in an amount equal to the proportionate part applicable to such shares of stock of the total amount at which all stock without par or stated value of the same class is carried in the capital stock account; if canceled to account 2700—Preferred Capital Stock, or account 2710—Common Capital Stock; if not canceled, to account 1920—Reacquired Securities. The difference between the amount at which such reacquired stock is recorded in the foregoing accounts and the amount paid for the stock, including commissions and other expenses incurred in its purchase and also any premiums or discount applicable to its original sale, shall be included in account 2910—Other Capital Surplus, *Provided, however*, That the excess of a debit over the balance carried in capital surplus with respect to the particular class of stock shall be charged to account 2948—Other Debits to Earned Surplus.

(c) When shares of its reacquired capital stock of any class are resold by the carrier, account 1920—Reacquired Securities, shall be credited with the amount at which the shares were debited to that account upon reacquisition. Unless otherwise required by instrument of authority, any difference between the total amount realized from the sale of the stock (less commissions and expenses incident thereto), and the amount credited to account 1920, shall be debited or credited as appropriate to account 2910—Other Capital Surplus. (See, however, paragraph (d) of this instruction 16.)

17 Equipment and long-term obligations.

(a) When evidences of debt, other than unsecured advances payable, that, according to their terms, do not mature within one year from date of issuance, and equipment obligations regardless of maturity, are issued or assumed by the carrier or by a receiver or an operating trustee of the carrier, the face amount of such evidence of debt shall be recorded in the appropriate account included under the group captioned "Equipment and Other Long-Term Obligations", except as otherwise provided in the text of account 2190—Equipment Obligations and Other Debt Due Within One Year.

(b) A separate subdivision shall be maintained in account 1680—Unamortized Debt Discount and Expense, for the excess of discount and debt expense over any premium related to each class of long-term debt issued or assumed by the carrier. (See definitions 18, 21 and 30.)

(c) Corresponding subdivisions shall be maintained in account 2400—Unamortized Premium on Debt, for the excess of the premium over any discount and debt expense related to each class of long-term debt issued or assumed by the carrier.

(d) (1) Each month there shall be credited to each subdivision of account 1680—Unamortized Debt Discount and Expense, the amount applicable to such period under a plan of amortization, the application of which will equitably distribute the balance therein over the life of the security. Amounts thus credited shall be concurrently charged to account 7300—Amortization of Debt Discount and Expense.

(2) Correspondingly, each month there shall be charged to each subdivision of account 2400—Unamortized Premium on Debt, the portion of such credit balance which is applicable to that period. Amounts thus charged shall be concurrently credited to account 7400—Amortization of Premium on Debt—Credit.

(e) Except as provided in paragraph (d) of this instruction 17, any balance in account 1680 or account 2400, or subdivisions thereof, shall be carried until the reacquisition of the securities to which it relates. At that time (unless otherwise required by instrument of authority) a portion of the balances in these accounts, or subdivision for the particular class of long-term debt reacquired, shall be transferred to account 6500—Other Non-Operating Income, or account 7500—Other Deductions, as may be appropriate. Such portion shall be based on the relation of the amount of the particular issue of long-term debt reacquired to the total outstanding before the reacquisition. This provision shall also apply to securities held alive in sinking or other funds.

(f) Except for such discount or expense as may be applicable to the construction period, no discount or expense on long-term debt shall be included in any account as a part of the cost of acquiring property or as a part of the cost of operation.

(g) Equipment and other long-term obligations reacquired by the carrier shall be entered in account 1920—Reacquired Securities, at face value. The difference between the face value and the amounts actually paid for the reacquired obligations shall be debited or credited as appropriate to account 6560—Other Non-Operating Income, or account 7500—Other Deductions. Likewise, any unamortized debt discount, expense or premium, applicable to the reacquired obligations, shall be adjusted through account 6500 or account 7500, as appropriate.

(h) When reacquired equipment and other long-term obligations are resold by the carrier, the amount included in account 1920—Reacquired Securities, shall be credited thereto, and any difference between the total amount realized from the sale (less commissions and expenses incident thereto) and the credit to account 1920, shall be included in account 6500 or account 7500, as appropriate, unless otherwise required by instrument of authority.

18 Book cost of securities owned.

(a) Securities of others acquired by the carrier shall be recorded in these accounts at cost, including brokerage and registration fees, stock transfer taxes, and similar expenses, at the time of acquisition. Cost does not include any amount paid for accrued interest or dividends, except that amounts of interest included in the purchase price of bonds, which are not payable until maturity or until the bonds are disposed of, shall be included in these accounts as part of the cost (see Note B under account 1160).

(b) The carrier may write down the book cost of any security in recognition of a decline in the value thereof. Securities shall be written off or written down to a nominal value if there is no reasonable prospect of substantial value. Fluctuations in market value shall not be recorded, but a permanent impairment in the value of the securities shall be recognized in the accounts. A reserve may be provided in account 2630—Reserve for Adjustments—Investments and Advances, against declines in the value of securities reflected in accounts 1600—Investments and Advances—Affiliated Companies, and 1650—Other Investments and Advances, by charges to account 7500—Other Deductions. (See instruction 8.)

(c) When securities with a fixed maturity date are purchased at a discount (that is when the total cost including brokerage fees, taxes, commissions, etc, is less than par), such discount may be amortized over the remaining life of the securities through periodic debits to the account in which the securities are carried (preferably coincident with entries recording interest accruals) and credits to the same account in which the interest income is credited. No debits shall be made in respect to discount upon securities held as investments or in special funds if there is reason to believe that such securities will be disposed of by redemption or otherwise at less than par or will not be paid at date of maturity.

(d) When securities with a fixed maturity date are purchased at a premium (that is when the total cost including brokerage fees, taxes, commissions, etc, is in excess of par), such premiums may be amortized over the remaining life of the securities through periodic credits to the account in which the securities are carried (preferably coincident with entries recording interest accruals) and debits to the same account in which the interest revenue is recorded.

19 Carrier operating property.

(a) (1) Amounts chargeable to the accounts numbered 1200 and 1300, designated as carrier operating property accounts, shall be the actual cost to the carrier of the items properly includible therein, except when acquired as part of a distinct operating unit (see instruction 20) including property jointly owned and property operated by the carrier under joint agreements, and shall be exclusive of any cost for intangible items includible in the subdivisions of account 1500—Organization, Franchises and Permits, or account 1550—Other Intangible Property. Also include the cost of such property owned by the carrier but held by agents.

(2) "Cost" shall include direct and indirect labor, materials, including small tools and similar items consumed in construction, transportation charges, contract work, rent of construction facilities and taxes; also such portions of engineering, supervision, purchasing department expenses, law expenditures, premiums for workmen's compensation, injuries and damages and other insurance applicable to the construction period; and other analogous elements entering into the construction or acquisition of property. If property, such as a structure or unit of equipment, including additions thereto, is constructed new or rebuilt by the carrier to increase its capacity or otherwise add to its usefulness for motor carrier service, or if parts are purchased and assembled by the carrier into a unit of equipment, the cost records for construction and assembly shall be maintained in a sufficiently complete manner to show the cost of labor, materials and other expenses incurred in such work.

(b) Betterments of operating property (the primary aim of which is to make the property affected more useful, more efficient, of greater durability, or of greater capacity) shall be included in the property accounts to the extent of the excess cost of such betterments (not including cost of installation and removal of items replaced) over the estimated cost at current prices of new property similar to the items replaced. However, if a unit of property is to be rebuilt or remodeled to an extent that its expectation of service life will be fairly comparable with that of new property, the old property shall be retired as provided in instruction 21, and the appropriate property investment account shall be charged with the cost of the rebuilt or remodeled unit, based on the appraised value of the re-used parts, plus the cost of labor and material used in rebuilding or remodeling. The cost of removing old appliances constituting minor items (see definition 26), and replacing them with new appliances which do not represent betterments shall be charged to the appropriate account for operation and maintenance expenses.

(c) (1) Units of property (see definition 37), and additions to and betterments of existing property having a life in excess of one year and costing more than $200 shall be charged to the appropriate property investment accounts. Units having a life of one year or less or costing not more than $200 may be charged to operating expenses. The carrier shall not parcel expenditures for acquisitions, when made under a general plan, for the purpose of charging them to expense; either shall it combine unrelated items for the purpose of including their cost in the property investment accounts.

(2) A carrier will be permitted to adopt a limit of less than $200 for charges to the property investment account, providing it files a statement with the Commission showing the amount it proposes to use and makes no subsequent change in the amount except by authority of the Commission.

(d) When operating property is purchased under any plan involving deferred payments, no charges shall be made to the operating property account for interest, insurance, or other expenditures occasioned by such form of payment.

(e) When the consideration given for property is anything other than cash, the cash value of such consideration shall be used, except that where physical property is given in exchange for physical property and no other form of consideration is involved, such property shall be recorded at the net book cost of the property given in exchange. In the journal entry recording such a transaction the actual consideration shall be described with sufficient particularity to identify it. The carrier shall be prepared to furnish to the Commission the particulars of its determination of the cash value of the consideration if other than cash.

(f) (1) When property is transferred from account 1200—Carrier Operating Property, or account 1300—Carrier Operating Property Leased to Others, to account 1400—Non-Carrier Property, the book cost of the property shall be charged to account 1400 and the related depreciation reserve on the property shall be transferred from account 2500—Reserve for Depreciation-Carrier Operating Property, to account 2610—Reserve for Depreciation and Amortization—Other Property.

(2) When property is transferred from account 1400—Non-Carrier Property, to account 1200—Carrier Operating Property, or account 1300—Carrier Operating Property Leased to Others, the book cost of the property shall be charged to accounts 1200 or 1300 and the related depreciation on the property shall be transferred from account 2610—Reserve for Depreciation and Amortization—Other Property, to account 2500—Reserve for Depreciation—Carrier Operating Property.

(g) Records shall be kept so as to reflect separately the cost and date of acquisition of property jointly owned and property operated under a joint agreement.

(h) Except as provided in paragraph (c) of this instruction 19, the cost of initial improvements, including the erection of structures on, and of rearrangements, additions and betterments to property leased from others for periods in excess of one year made in the course of preparing the property for motor carrier operations and the cost of any subsequent additions to and betterments of such leased property, not including replacements, shall be charged to account 1270—Improvements to Leasehold Property. Depreciation on such expenditures shall be provided for in the manner set forth in instruction 23(c).

(i) (1) The investment in property used jointly in carrier and noncarrier operations shall be allocated between such operations according to the extent that it is used by each, or it shall be included in the investment account of the operation by which it is principally used and the other operation shall be charged a reasonable rental for its use of the common property.

(2) The carrier shall be prepared to show at any time and to report to the Commission when required, and by accounts, the following:

(i) The book cost of the common property.

(ii) The extent (percentage) to which such property is used in carrier operations and in other operations.

(iii) The basis for allocating the book cost, or method of determining the amount of the rental charge.

(3) If the investment is allocated between the operations, the expenses of operation, maintenance, taxes, depreciation and amortization of the common property shall be allocated and recorded in the appropriate accounts prescribed herein and the allocation of such expenses to carrier operations shall be supported in the same manner as the allocation of the cost of such property.

20 Acquisition of a distinct operating unit.

(a) When a motor carrier system or portion thereof constituting a distinct operating unit (see definition 22) is acquired by purchase or merger or consolidation in a pooling of equity interests of stockholders the accounting shall be as follows:

(1) *Purchase.* (i) When physical property and other assets are purchased from another motor carrier company the amounts includible in accounts 1200, 1300, 1400, and 1550 for (*a*) carrier operating property, (*b*) non-carrier property, and (*c*) intangible property which includes certificates and permits issued by regulatory agencies to engage in transportation operations, shall be based on the cost to the buyer of each of such assets. Other assets acquired and the liabilities assumed shall be recorded in the appropriate prescribed accounts in the amounts shown in the books of the seller, adjusted as may be necessary to conform with this system of accounts. When separate costs for the physical property and the intangible property are not indicated in the purchase and sale agreement, or otherwise disclosed in the application or record in the proceeding, a reasonable amount carefully ascertained based on the best information obtainable representing a fair portion of the total purchase price shall be assigned to each such class of property. When a purchase is preceded by a preliminary acquisition of control through purchase of capital stock (other than in a pooling of equity interests as described in subsection 2 of this section) the carrying value of the capital stock, now to be canceled, plus the retained surplus or minus the deficit since date of acquisition of control applicable to such stock shall be treated as the total purchase price, or consideration paid.

(ii) In ascertaining the portion of the total purchase price assignable to the intangible property, pursuant to subdivision (i) of this subparagraph, due con-

sideration shall be given to past earnings and informed judgment concerning future earnings attributable to the property acquired and to other pertinent factors appropriate in ascertaining the value of intangible property in accordance with sound accounting principles for which there is authoritative support. The portion of the total purchase price assignable to the physical property shall be substantiated by an appraisal made by a disinterested qualified appraiser and such other documentary evidence as the Commission may require. The amount shown on the books of the seller for the physical property together with the accrued depreciation may be used in lieu of such an appraisal providing that the books of the seller have been kept in accordance with the rules of this Commission and the amount is fairly representative of the purchase price of such property.

(iii) The aggregate amount recorded in the accounts for the intangible property and the other assets acquired, pursuant to subdivisions (i) and (ii) of this subparagraph, shall in no case exceed the total purchase price thereof. Carriers shall maintain records and be prepared to support with evidence suitable to the Commission the apportionment of the total purchase price so recorded in the accounts for the intangible property and other assets purchased.

(2) *Merger or consolidation in a pooling of equity interests of stockholders.* (i) When a distinct operating unit is acquired by merger or consolidation in a pooling of equity interests of stockholders, in which all or substantially all of such equity interests in the predecessor company continue, as such, in a surviving company (which may be the transferee or a new company, created for the purpose) the assets, liabilities and the earned surplus or deficit, if any, of the predecessor company shall be recorded in the accounts of the transferee at amounts carried on the books of the predecessor company at date of consummation of the transaction. Such amounts shall be adjusted, if necessary, to conform with the rules in this system of accounts. Where one of the constituent corporations is clearly dominant and its stockholders obtain 90 percent or more of the voting interest in the combined enterprise there is a presumption that the transaction is a purchase rather than a pooling of interests and the transaction shall be so accounted for unless otherwise directed or authorized by the Commission.

(ii) When the total par value or stated value of no part capital stock of the surviving company is more than the aggregate total of the capital stock of the separate companies before merger or consolidation the excess shall be charged to account 2910—Other Capital Surplus or to account 2930—Earned Surplus—unappropriated, if unrestricted capital surplus is not available for such purpose.

When the total par value or stated value of no par capital stock of the surviving company is less than the aggregate total of the capital stock of the separate companies before merger or consolidation, the difference shall be credited to account 2910—Other Capital Surplus.

(3) *Records.* Detailed records, including copy of appraisal reports, shall be maintained showing the basis used for computing amounts included in accounts 1200, 1300, 1400, 1550, 2910, 2930, and other accounts. Full supporting details showing the purchase price, the principals from whom the property was acquired, and agents who represented such principals shall be stated in the journal entries recording the acquisition of the property.

21 Retirement of property.

(a) *Carrier operating property.* When carrier operating property ceases to be used in motor carrier operations, it shall be retired and accounted for as follows:

(1) *Property depreciated under "Unit Plan."* (i) When a unit of property (see definition 37) on which depreciation charges have been accrued under the unit plan (see instruction 23), is retired from service, the book cost of the property shall be credited to the appropriate property account and concurrently charged to a clearing account classified under account 1890—Other Deferred Debits. The clearing account shall be credited with the value of salvage recovered in case the property is dismantled; the amount received from the sale or trade-in of the retired property; or with the amount of insurance recovered, including amounts provided for in any insurance or other reserve with respect to the retired property when such reserve covers the cause of the retirement; and with the amount of depreciation accrued to date of retirement with a concurrent charge to account 2500—Reserve for Depreciation—Carrier Operating Property.

If the property retired is to be rebuilt in conformity with the provisions of instruction 19, the accounting shall be performed as outlined above, except that the appraised value of the parts to be utilized in the rebuilt unit shall be charged to account 1290—Unfinished Construction, with contra credit to the clearing account.

Any balance remaining in the clearing account after the foregoing entries have been made, except as set out in paragraph (b) of this section, shall be transferred to account 5100—Depreciation Adjustment.

(ii) If property included in account 1270—Improvements to Leasehold Property, reverts to the lessor prior to the expiration of its service life, the balance in the clearing account upon retirement shall be transferred to account 7500—Other Deductions.

(2) *Property depreciated under "Group Plan."* When a unit of property (see definition 37) on which depreciation charges were accrued under the group plan (see instruction 23), is retired from service, the book cost thereof shall be credited to the appropriate property account and concurrently charged, together with the cost of removal, to the depreciation reserve account. Any salvage or insurance recovered, including amounts provided for in any insurance or other reserves with respect to the retired property, when such reserve covers the cause of retirement, or the proceeds, if the property is traded in or sold, shall be credited to the depreciation reserve account. No further entries are required, as under this plan over or under accruals of depreciation are not cleared from the depreciation reserve.

(3) *Minor items.* When the property retired constitutes a minor item (see definition 26), the book cost of which has been or will be accounted for by its inclusion in the unit of property of which it is a part when such unit of property is retired, no adjustment of the operating property account or depreciation reserve is required therefor. When a minor item is retired and replaced, with property of like purpose, the entire cost of replacement shall be charged to the account appropriate for the cost of repairs of the property retired, except that if the replacement effects a betterment (see instruction 19(b)), there shall be charged to the property account, the excess cost of the replacement over the estimated cost at current prices of new property similar to the items retired. The cost of labor used in effecting the replacement shall be included in operating expenses.

(4) *Land.* When land is sold, the book cost shall be credited to the land account and any difference between the book cost and the sales price, less commissions and expenses on the sale, shall be adjusted through account 6500—Other Nonoperating Income, account 7500—Other Deductions, or when qualifying as extraordinary pursuant to instruction 8, account 8910—Extraordinary Items, as appropriate. (See instruction 19(e).)

(5) *Distinct operating unit.* When carrier operating property used in transportation operations and the operating rights associated therewith are sold as a distinct operating unit (see definition 22) the book cost of the property shall be credited to the appropriate operating property and intangible property accounts and the amounts carried with respect thereto in the depreciation and amortization reserve accounts, estimated if necessary, shall be charged to such reserves (see, however, account 1280(a)). The difference, if any, between (i) the net amount of such debit and credit items, and (ii) the consideration received for the distinct operating unit, shall be included in account 6500—Other Non-Operating Income, or account 7500—Other Deductions, as appropriate.

(6) *Determination of book cost.* The book cost of operating property retired shall be the amount at which such property is included in the operating property accounts including all items set forth in instruction 19. Such costs shall be determined from the carrier's records when this can be done, as in the case of land, structures, revenue automotive equipment, service equipment, furniture, and other items of operating property for which individual cost records are available. When the actual book cost cannot

be determined from the records, it shall be estimated. When it is impracticable to determine the book cost of each item due to the relatively large number and/or small cost of such items, the average book costs of all the items, with due allowance for differences in size or character, shall be used as the book cost of the items retired. The latter method may be applied in retirement of such items as tools, furniture, etc.

(b) *Intangible property.* (1) When any long-term leasehold of land or easement, franchise, permit, consent, privilege or patent having a fixed term expires, it shall be retired. The intangible property or other property account shall be credited with the amount charged thereto and account 2600—Reserve for Amortization—Carrier Operating Property, shall be charged with the amount of amortization accruals previously credited thereto in respect to such property. Any difference between the book cost of the item and the amortization accruals shall be charged to account 5150—Amortization of Carrier Operating Property.

(2) When any perpetual leasehold of land or easement, or item of intangible property that is not restricted to a fixed term is relinquished or sold, it shall be retired. Any difference between its book cost and the amortization charges accrued, if relinquished, or between its net book cost (see definition 27) and the proceeds realized, if sold, shall be included in account 6500—Other Non-Operating Income, or account 7500—Other Deductions, as appropriate. (See instruction 8.)

22 Insurance.

(a) Provision has been made in accounts 4530—Public Liability and Property Damage, 4540—Workmen's Compensation, and 4550—Cargo Loss and Damage, for recording amounts of premiums paid commercial insurance companies, and charges for the purpose of maintaining self-insurance reserves. Amounts payable by the carrier in settlement of claims under the classes of risks set out in the above accounts, not recoverable from insurance companies or others, shall be charged to the appropriate reserves provided for such risks.

(b) Accounts 4560—Fire, Theft, and Collision, and 4570—Other Insurance Expense, have been provided for recording amounts of premiums payable to commercial insurance companies, and charges for maintaining reserves against losses under the risks enumerated therein. Inasmuch as such risks represent losses that may be sustained by the carrier rather than claims against it by others, coverage by commercial insurance or self-insurance reserves is not a mandatory requirement, and if no provision is made for such coverage, losses from fire or collision shall be charged to the appropriate maintenance expense accounts if the property is repaired (see paragraph (f) of this instruction) or if it is retired from service retirement accounting shall be performed as provided in instruction 21.

(c) Reserves created for self-insurance of injuries and damages, workmen's compensation and cargo loss and damage shall be included in account 2680—Injuries, Loss and Damage Reserves. Reserves created for self-insurance of all other risks shall be included in account 2660—Insurance Reserves. Monthly charges to expense accounts for the purpose of creating reserves for self-insurance liability shall be determined currently by the carrier from its best source of information and the rates used may be based on percentage of revenue, mileage of vehicles, amounts of payrolls or other equitable bases. A schedule of the risks covered by each reserve shall be maintained, giving a description of the property involved, the character of the risks covered and the rates used.

(d) Amounts payable by the carrier in settlement of cargo loss and damage claims and other claims, including those paid by the carrier for which it will be reimbursed wholly or in part by insurance companies, connecting carriers or others, shall, as provided in paragraph (a) of this instruction 22, be charged to account 2680—Injuries, Loss and Damage Reserves. Parts of such claims that are payable by insurance companies or others, less any adjustment for salvage recovered, shall when their liability is determined be credited to the reserve.

(e) A freight claim register shall be maintained, showing for each cargo loss and damage claim received, the claim number, date and amount; the waybill or expense bill number and date; name of claimant; kind of commodity; date claim was paid; total amount paid, or date claim was disallowed and reasons; amount of salvage recovered, if any; amounts reimbursed by insurance companies, connecting carriers or others, and the amount absorbed by the carrier. Each claim received shall be entered in the register and should be supported by the complete file of claim papers. However, if the claim papers are retained by insurance companies, connecting carriers or others, the carrier's records should contain an acknowledgement from the party retaining the claim file that the papers are in its possession.

(f) The cost of repairs to owned or leased carrier operating property involved in accidents or damaged by fire or other causes, and of replacing damaged or destroyed property leased from others, shall be charged to the appropriate maintenance expense accounts provided for repairs of such property. When the amounts receivable from insurance companies or others in full or partial reimbursement of such costs, if any, are determined, they shall be credited to the account previously charged, together with the value of salvaged materials recovered.

(g) Insurance premiums paid in advance of their accrual, to commercial insurance companies shall be charged to account 1170—Prepayments, and distributed to the appropriate insurance expense accounts in monthly installments over the period for which the premiums have been paid, except that minor premiums may be charged direct to the insurance expense accounts. If it is anticipated that a dividend or refund will be received on prepaid premiums at the end of the year or other period covered by the insurance, an amount equal to the estimated dividend or refund shall be retained in account 1170 and the balance of the premium shall be charged to expense in monthly installments as set out above. When the dividend or refund is received, it shall be credited to account 1170. Any discrepancy between the estimated dividend or refund and the amount actually received shall be adjusted to the appropriate insurance expense accounts. If insurance premiums are paid on a monthly basis and it is anticipated that a dividend or refund will be received at the end of the year, a part of each monthly payment equal to one-twelfth of the estimated dividend shall be charged to account 1170 and the balance of the payment shall be charged to the insurance expense account. When the actual dividend is received accounting shall be performed as set out above.

NOTE: The amounts of premiums for life insurance on the lives of officers and other employees under which the carrier is the named beneficiary, less portions of such premiums which represent increases in the cash surrender value of the policies, shall be charged to account 7500—Other Deductions. Cash surrender values of such policies shall be included in account 1650—Other Investments and Advances. Premium expense and cash surrender value of insurance on the life of a sole proprietor shall not be included in these accounts.

23 Depreciation and amortization.

(a) In order that provision may be made for accruals of depreciation (see definition 20) on carrier operating property, the carrier shall establish and maintain adequate depreciation reserves. The straight-line method (see definition 36) of computing depreciation under the unit plan or group plan as set out below, shall be employed, except that the mileage method may be used for automotive equipment in which event the rate per mile shall be applied to the number of miles traveled each month.

(1) "Unit Plan" means the plan under which depreciation charges are computed and the records maintained so that the total amount of depreciation accrued applicable to each unit of property can be determined.

(2) "Group Plan" means the plan under which depreciation charges are accrued on the basis of the sum total of the book cost balances at the close of each month of all property included in each depreciable property account or subdivision thereof, at rates determined from the average of the service lives of all property included therein, and upon the retirement of any such property its full book cost, is charged to the depreciation reserve regardless of whether or not the particular item has attained the average service life. (See instruction 21 (a)(2).)

(b) There shall be charged each month to the subdivisions of account 5000—Depreciation Expense, and concurrently credited to the appropriate subdivisions of account 2500—Reserve for Depreciation—Carrier Operating

Property, during the service life of depreciable property included in account 1200—Carrier Operating Property, amounts that will approximate the loss in service value (see definition 35) not restored by current maintenance, except that carriers engaged in seasonal operations may apportion the estimated annual depreciation charge over the months in which operations are actually conducted.

(1) Depreciation charges on property included in accounts

1210—Structures.
1220—Revenue Equipment.
1230—Service Cars and Equipment.

shall be computed on the unit plan, and depreciation shall cease when amounts equal to the estimated service value have been credited to the depreciation reserve.

(2) Depreciation charges on property included in accounts

1240—Shop and Garage Equipment.
1250—Furniture and Office Equipment.
1260—Miscellaneous Equipment.

shall be computed under either the unit plan or the group plan. If the group plan is used, composite annual percentage rates shall be determined applicable to the book cost of each class of operating property to be depreciated. These percentage rates shall be based on the estimated service values and service lives of the property, developed by a study of the carrier's experience and other available information. Such percentage rates shall for each primary account comprised of more than one class of property, produce a charge to depreciation expense for that account equal to the sum of the amounts that would otherwise be chargeable for each of the various classes of property included in the account. In computing monthly charges for depreciation, one-twelfth of the composite annual percentage rate applicable to each primary account shall be applied to the account balances as of the first of the current month.

(c) Depreciation charges on property included in account 1270—Improvements to Leasehold Property, shall be made upon the same basis as for similar depreciable property, includible in other property accounts. (See instruction 21.)

(d) Amounts representing the first cost of acquiring long-term leaseholds of land and easements for use in motor carrier operations, included in account 1201—Land and Land Rights; and amounts representing intangible items with fixed terms included in account 1511—Franchises, and account 1541—Patents, may be amortized by means of charges to account 5151—Amortization of Carrier Operating Property, and concurrent credits to account 2600—Reserve for Amortization—Carrier Operating Property. Amortization or entire write-off of costs of acquiring perpetual leaseholds and for intangible items carried in accounts 1501, 1511, and 1541 that are not restricted to fixed terms, and items in account 1550—Other Intangible Property, except those relating to the acquisition of the distinct operating unit for which specific provisions is made in instruction 29, may also be debited to account 7500—Other Deductions, with concurrent credit to account 2600; or the entire amounts of such items, when qualifying as extraordinary pursuant to instruction 8, may be written off by debiting account 8910—Extraordinary Items, with concurrent credit to account 2600.

(e) Depreciation and amortization charges on non-operating property shall be charged to account 6100—Income from Non-Carrier Operations, net; with concurrent credits to account 2610—Reserve for Depreciation and Amortization—Other Property.

NOTE: For instructions with regard to adjustment of depreciation upon retirement of carrier operating property, see instruction 21.

24 Taxes and licenses.

Taxes and licenses relating to motor carriers operations and property, payable to Federal, State, county, municipal and other taxing authorities, with the exception of certain taxes specifically referred to in the texts of the accounts shall be included as appropriate in the subdivisions provided under account 5200—Operating Taxes and Licenses. These accounts shall be charged each month with the amount of taxes applicable thereto, with concurrent credits to account 2120—Taxes Accrued, or account 1170—Prepayments, as appropriate. When it is not possible to determine the actual amount of taxes, they shall be estimated and adjusted when the actual taxes become known.

25 Joint facilities.

(a) Where a joint facility (see definition 23) operated by others, is used by the reporting carrier under a joint facility arrangement, any amounts paid by the carrier as its share of operation and maintenance costs including rent if the property is leased, or including depreciation, taxes and a return on the investment in the joint facility if the property is owned by the operating carrier, shall be charged to the appropriate joint facility-debit account under equipment maintenance, terminal or administrative and general expenses.

(b) Where the reporting carrier operates a joint facility, any amounts received from other carriers using the facility as reimbursement of operation and maintenance costs, including rent if the property is leased, or including depreciation, taxes and a return on the investment in the joint facility if the property is owned by the reporting carrier, shall be credited to the appropriate joint facility-credit account under equipment maintenance, terminal, or administrative and general expenses.

(c) The carrier operating the joint facility shall include a statement of the distribution of the income and expenses of the facility on bills rendered joint users.

26 Deduction of reserves.

In stating the balance sheet, reserves shall be shown separately and shall be deducted from the specific assets to which they apply. Reserves not applicable to specific assets shall be shown on the liability side. See form of balance sheet following balance sheet accounts.

27 Allocation of expenses between line haul and pickup and delivery.

(a) Class I common carriers which derive an average of 75 percent or more of their revenues from the intercity transportation of general commodities, shall separate expenses between line haul and pickup and delivery as provided in this instruction. Class I motor carriers, other than those specified herein, are not required to comply with provisions of this instruction.

(b) Carriers required to comply with the provisions of this instruction shall separate the amounts includible in the following accounts between those applicable to line haul and those applicable to pickup and delivery:

4130—Repairs and Servicing—Revenue Equipment.
4160—Tires and Tubes—Revenue Equipment.
4230—Drivers and Helpers.
4250—Fuel for Revenue Equipment.
4260—Oil for Revenue Equipment.
4270—Purchased Transportation.
5020—Depreciation of Revenue Equipment.
5210—Gasoline, Other Fuel, and Oil Taxes.
5200—Vehicle License and Registration Fees.

(c) The separation between line haul and pickup and delivery expenses in the accounts listed above shall be made in the following manner:

(1) *Classification of expenses other than wages of drivers and helpers.* (i) All expenses for vehicles classified (see paragraph (b) of this instruction 27) as "line haul" shall be entered in the line haul subdivisions of the accounts, and all the expenses for vehicles classified as "pickup and delivery" shall be entered in the pickup and delivery subdivisions of the accounts.

In no case shall the expenses of a vehicle be split between the two subdivisions of an account.

(ii) For the purpose of separating the expenses each revenue vehicle (truck, tractor or trailer) shall be classified as "line haul" or "pickup and delivery", according to the service in which it is predominantly employed.

Include in the "line haul" classification all revenue vehicles predominantly engaged in the transportation of property in terminal-to-terminal, peddle, and other intercity service. Peddle trips are trips operated out of a local area, consisting of a city or town and contiguous suburban districts, for the purpose of delivering freight to consignees and gathering freight from consignors at points outside such area. The incidental or occasional use in pickup and delivery or local cartage service of vehicles regularly employed in line-haul service would not affect their classification as "line haul".

Include in the "pickup and delivery" classification all revenue vehicles predominantly employed in pickup and delivery service and local cartage service within a local area as defined above. The incidental or occasional use in line-haul service of vehicles regularly employed in pickup and delivery or local cartage service would not affect their classification as "pickup and delivery".

Where a vehicle or fleet of vehicles is used with complete interchangeability in the carriers' regular line-haul and pickup and delivery services, and a separation based on predominant use is not feasible, such vehicle or fleet of vehicles should be classified as "line haul".

Where vehicles assigned to over-night intercity runs are also used more or less regularly during the day in the carrier's general pickup and delivery service, such vehicles should be classified as "line haul".

(2) *Classification of wages of drivers and helpers.* (i) The separation of drivers' and helpers' wages between the "line haul" and "pickup and delivery" subdivisions of account 4230, Drivers and Helpers, shall be made according to the type of service performed by the employee. Thus, if a driver makes a line haul trip, whether terminal-to-terminal, peddle, or other, his wages for the trip shall be charged to the "line haul" subdivision of the account, irrespective of whether the vehicle used for the trip has been classified as "line haul" or "pickup and delivery." Similarly, if a driver is engaged in the carrier's general pickup and delivery service, his wages while so employed shall be charged to the "pickup and delivery" subdivision of the account, irrespective of whether the vehicle used in making the pickups and deliveries has been classified as "pickup and delivery" or "line haul."

(ii) Where a driver making a line-haul trip picks up or delivers all or part of his load at point of origin or destination or points en route, the entire wages of the driver shall be charged to the "line haul" subdivision of account 4230, except that where the driver's compensation for the pickup and delivery work performed is computed separately for payroll purposes it shall be charged to the "pickup and delivery" subdivision.

(iii) Where a driver spends part of the day in making a line-haul trip after which he is assigned to the carrier's general pickup and delivery service, his wages for the line-haul trip shall be charged to the "line haul" subdivision of the account and his wages for the pickup and delivery work performed shall be charged to the "pickup and delivery" subdivision.

(iv) Also, where a driver is employed in either line-haul or pickup and delivery service and, in addition, is regularly assigned for a part of his time to platform work at the carrier's terminal, including the loading or unloading of his own or other vehicles, his wages for the time so employed shall be charged to account 4340, Salaries and Wages, Platform Employee (see instruction 11).

(d) Any carrier which finds it impracticable to segregate expenses as required by this instruction should furnish the Commission with full particulars of the conditions which prevent the proper segregation. Upon receipt of such information carriers will be advised of the procedure to be followed.

28 Employees' welfare expenses.

(a) A primary account is prescribed in each of the major groupings of operation and maintenance expense accounts to record expenditures made for employees' welfare. Such expenditures shall include the following classes of items:

(1) Contributions to health and welfare funds, whether under contract arrangements with labor organizations or otherwise.

(2) Premiums on group insurance policies for benefit of employees or their beneficiaries.

(3) Payments to trustees under profit sharing and pension plans for the benefit of employees in active service.

(4) Payments for pensions directly to retired employees or to their beneficiaries when no trust fund exists.

(5) Salaries and expenses incurred in conducting relief, benefit, and general medical departments, including payments to or on behalf of employees other than claims covered by Workmen's Compensation Acts.

(b) Expenses that are directly or naturally assignable to primary accounts under each major grouping shall be distributed to such accounts. Where contributions are applicable to officers or employees who engage in work in more than one department, such expenses shall be apportioned to the appropriate primary accounts in the same ratio as their pay is distributed to primary accounts, or the expenses may be distributed on other equitable basis. Small amounts applicable to time spent on incidental or occasional duties may be included in the primary account appropriate according to the regular duty or the predominate work assignment of the employee.

(c) No charges to the primary employee welfare expense accounts shall be made in anticipation of discretionary payments in the future. The cost of life or other insurance on officers and employees whereunder the carrier is the beneficiary shall be charged to account 7500—Other Deductions. Cash surrender values of such policies shall be carried in account 1650—Other Investments and Advances.

29 Amortization of intangibles.

(a) When it becomes reasonably evident that the term of existence of an intangible, the cost of which is included in account 1550—Other Intangible Property, has become limited or its value impaired, its cost shall be amortized or entirely written off by charges to account 7500—Other Deductions, depending on the remaining estimated period of usefulness; or the entire cost, when qualifying as extraordinary pursuant to instruction 8, may be written off by debiting account 8910—Extraordinary Items, with concurrent credit to account 2600—Reserve for Amortization—Carrier Operating Property.

(b) The amount retained in account 1550—Other Intangible Property, less the amortization reserve, pursuant to the provisions of the Commission's order dated January 5, 1961, applicable to intangibles initially required to be amortized or written-off under provisions of orders heretofore entered in proceedings under sections 5 and 212(b) of the Interstate Commerce Act, shall not exceed the fair value of the intangibles as of the time of acquisition. Fair value of intangibles, as herein used, acquired in purchase of a distinct operating unit means the amount by which total consideration paid exceeds fair market value of tangible property and other net assets (except intangibles), in conformity with the principles in instruction 20.

BALANCE SHEET ACCOUNTS

Asset Side

CURRENT ASSETS

1000 Cash.

This account shall include current funds in the hands of financial officers and agents, cash in transit for which agents have been credited and deposits in banks or trust companies available on demand for general company purposes.

NOTE A: This account shall not be credited with the amount of checks or drafts until they have been transmitted to payees.

NOTE B: Bank overdrafts shall be shown on the balance sheet as a credit balance in this account.

NOTE C: Funds (other than savings accounts) subject to withdrawal restrictions and deposits in closed banks shall not be included in this account. Such funds definitely known to be available within one year shall be included in account 1190—Other Current Assets. Deposits in closed banks, which it is reasonably certain will not be available within one year, shall be included in account 1890—Other Deferred Debits.

1020 Working funds.

This account shall include amounts advanced to officers, agents, employees, and others as petty cash or working funds of a continuing nature from which certain expenditures are to be made and accounted for.

NOTE: Advances to drivers and others for lodgings, meals and other expenses which are to be accounted for at the end of a trip, etc., if not advanced from a petty cash fund, shall be charged to a subdivision of account 1890—Other Deferred Debits, pending distribution to appropriate expense and other accounts:

1040 Special deposits.

This account shall include the balance of the amounts included in accounts 1041, 1042, and 1043, for short-term deposits.

1041 Interest special deposits.

This account shall include cash and bank credits placed in the hands of fiscal agents or others for the payment of interest on behalf of the carrier. When interest is paid from such deposits, it shall be credited to this account and charged to the appropriate accrued or matured interest account. Payments to trustees or other agents of the holders of bonds or other securities of the interest accrued thereon which operate under the terms of the securities or of mortgages supporting such securities as a release of

the paying company from further liability for such interest, shall be charged to the appropriate interest accrual account.

1042 Dividend special deposits.

This account shall include cash and bank credits placed in the hands of fiscal agents or others for the payment of dividends on behalf of the carrier. When dividends are paid from such deposits, they shall be credited to this account and charged to the appropriate dividend account.

1043 Miscellaneous special deposits.

This account shall include bank deposits subject to withdrawal for specific purposes only, and cash and bank credits placed in the hands of fiscal agents or others for special purposes other than the payment of interest or dividends, such as deposits with Federal, State, or municipal authorities, public utilities, or others, as a guaranty for the fulfillment of current obligations. Entries to this account shall specify the purpose for which the deposit is made.

NOTE A: This account shall not include any assets available for general company purposes.

NOTE B: Deposits made on the purchase of operating rights, revenue equipment and other equipment, etc., shall be included in account 1890—Other Deferred Debits.

1060 Temporary cash investments.

(a) This account shall include the book cost (see instruction 18) of investments such as time drafts and time loans receivable, bankers' acceptances, United States Treasury certificates, marketable securities, and similar investments acquired for the purpose of temporarily investing cash. Any securities included in this account must be of such a nature as to be readily convertible into cash at substantially their book value.

(b) This account shall be subdivided to reflect separately:

(1) Temporary cash investments; affiliated companies.

(2) Temporary cash investments; other.

NOTE A: Amounts carried in this account as pledged shall be shown separately from amounts unpledged.

NOTE B: There shall not be included in this account amounts properly includible in accounts 1600—Investments and Advances—Affiliated Companies, or 1650—Other Investments and Advances.

1080 Notes receivable.

(a) This account shall include the book cost, not includible elsewhere, of all collectible obligations in the form of notes receivable, contracts receivable, and similar evidences (except interest coupons) of money receivable on demand or within a time not exceeding one year from date of issue.

(b) This account shall be subdivided to reflect separately:

(1) Notes receivable—officers, stockholders and employees.

(2) Notes receivable—other.

NOTE A: Notes receivable from affiliated companies shall be included in account 1100—Receivables from Affiliated Companies, or account 1600—Investments and Advances—Affiliated Companies, as appropriate.

NOTE B: The amount of notes receivable discounted, sold or transferred, unless transferred without recourse, shall be credited to account 2000—Notes Payable.

1100 Receivables from affiliated companies.

(a) This account shall include the total of amounts receivable from affiliated companies (see definition 6) which are subject to current settlement (see definition 15) such as balances in open accounts for services rendered, material furnished, interline accounts, claims, rent for use of property and similar items; interest and dividends due from affiliated companies; loans and drafts for which affiliated companies are liable, and notes receivable on demand or within a time not exceeding one year from date of issue.

(b) This account shall be subdivided as follows:

1101—Loans and Notes Receivable.
1105—Interest and Dividends Receivable.
1109—Accounts Receivable.

NOTE A: On the balance sheet, accounts receivable from affiliated companies shall be set off against accounts payable to the same companies.

NOTE B: No amount representing dividends receivable shall be included in this account unless the dividends have been declared or guaranteed.

NOTE C: Items which are not subject to current settlement shall be included in account 1600—Investments and Advances—Affiliated Companies.

1120 Accounts receivable; agents, customers, and interline.

This account shall include amounts currently due from customers for transportation and storage charges and for advances to other carriers and warehouses for the account of customers; balances due from other carriers (except affiliated companies) against each of which there is a net debit balance representing interline freight accounts; amounts due from customers and from other carriers as rent for revenue equipment with or without drivers; also the net balances in current accounts due from agents, including drivers, other employees and representatives, charged with the collection or custody of current transportation revenues.

NOTE A: At the end of each calendar year, for the purposes of the annual report to this Commission, the carrier shall prepare an analysis of the balance in this account, segregating the items included therein to show balances due from customers, from other carriers, and from agents.

NOTE B: The amounts of accounts receivable discounted, that have been sold or transferred, unless transferred without recourse, shall be credited to account 2050—Accounts Payable.

1130 Accounts receivable; other.

This account shall include amounts due from others (except items provided for in accounts 1100 and 1120) that are subject to current settlement (see definition 15) for material and supplies furnished and services rendered, except transportation and storage charges, including use of property, other matured rents, amounts owing by public authorities, amounts of collectible judgments, current accounts with officers and employees, and other accounts and claims upon which responsibility is acknowledged by solvent concerns or individuals.

NOTE A: Amounts advanced to officers, employees or other as petty cash or working funds shall be included in account 1020—Working Funds; amounts advanced to drivers and other employees for lodgings, meals and similar expenses shall be included in account 1890—Other Deferred Debits, pending distribution to appropriate expense and other accounts.

NOTE B: At the end of each calendar year, for the purposes of the annual report to this Commission, the carrier shall prepare an analysis of the balance in this account, segregating the items included therein to show balances due from officers, employees and stockholders and balances due from others.

NOTE C: The amounts of accounts receivable discounted, that have been sold or transferred, unless transferred without recourse shall be credited to account 2050—Accounts Payable.

1140 Subscribers to capital stock.

(a) This account shall include the balances due from subscribers upon legally enforceable subscriptions to capital stock.

(b) The amount of each subscription shall be charged to this account at the time the subscription is accepted. Concurrently there shall be credited to account 2730—Capital Stock Subscribed, the par or stated value of the stock subscribed or the agreed purchase price in the case of non-par stock without a stated value. Appropriate entries shall likewise be recorded with respect to any discount or premium on par value stocks or non-par value stocks with a stated value.

NOTE: The records supporting the entries to this account shall be kept so that the corporation can furnish the name and address of each subscriber, the amount and kind of capital stock subscribed, the date of subscription, the date that each payment is due and the date that each is paid, the nature of each payment (whether cash or other consideration), and any other information that is necessary to make the history of the subscription complete.

1160 Interest and dividends receivable.

This account shall include the amount of current interest accrued on bonds, mortgages, notes, and other commercial paper owned; on loans made; open accounts; bank deposits, etc.; and the amount of dividends receivable on stocks owned. (See instruction 13.)

NOTE A: Interest and dividends receivable from affiliated companies shall be included in account 1100—Receivables from Affiliated Companies.

NOTE B: Interest which is not subject to current settlement shall be included in the account in which is carried the principal on which the interest is accrued.

NOTE C: No amount representing dividends receivable shall be included in this account unless they have been declared or guaranteed.

NOTE D: No interest or dividends on securities or obligations issued or assumed by the carrier shall be included in this account.

1170 Prepayments.

(a) This account shall include the amount of expenses paid or incurred in advance of their accrual, the benefits of which are to be realized in subsequent periods. Entries shall be made each month, transferring to the appropriate expense or other account the portion of each prepayment which is applicable to that month.

(b) This account shall be subdivided as follows:

1171—Prepaid Taxes and Licenses.
1172—Prepaid Insurance.
1173—Prepaid Interest.
1174—Prepaid Rents.
1175—Prepaid Stationery and Printed Matter.
1176—Prepaid Tires and Tubes.
1179—Miscellaneous Prepayments.

NOTE A: The cost of tires and tubes for revenue equipment, including taxes, may, at the time of original application to vehicles, be charged either to this account or direct to account 4160—Tires and Tubes—Revenue Equipment, or other appropriate expense account. The value of tires and tubes furnished by the vendor with newly acquired revenue equipment may also be charged to this account. A prorated portion of the cost of tires and tubes charge to this account, based on mileage or other equitable method of apportionment, shall be transferred each month to the appropriate expense account.

NOTE B: The undistributed service value, included in this account, of tires and tubes that are sold or traded in with vehicles, or which are destroyed or otherwise disposed of, shall be credited to this account.

NOTE C: Prepayments of minor items may be charged directly to the appropriate expense or other account.

1180 Material and supplies.

(a) This account shall include the cost, including deposits on oil drums and other containers (less cash or other discounts when they can be determined), of all unapplied materials and supplies used in carrier and noncarrier operations, with the exception of stationery and printed matter (see account 1170), including tools, repair parts, fuel, tires and tubes, etc. The cost shall include all specifically assignable transportation charges incurred in obtaining the delivery of such materials and supplies upon the premises of the carrier including loading and unloading, and at the option of the carrier, it may include a suitable proportion of purchasing and store expenses in which case corresponding credits shall be made to account 4675—Purchasing and Store Expenses. The cost shall also include sales and excise taxes on material purchases, except that sales and excise taxes on gasoline, other motor fuel, and motor oil, which are includible in account 5200—Operating Taxes and Licenses, shall be charged to that account when such material is purchased.

(b) When any materials or supplies, the cost of which has been charged to this account, are issued for use, the amount at which they stand charged herein shall be credited to this account and charged to the appropriate construction, operation and maintenance expense, or other account. Such amount may be based upon the average cost of all items of a given type included in this account at the beginning of the period.

(c) Materials recovered in connection with construction, maintenance, or the retirement of property shall be charged to this account as follows:

(1) Reusable materials shall be included in this account at amounts not to exceed cost, estimated if not known.

(2) Scrap and nonusable materials shall be carried at the estimated salvage value. So far as practicable, the difference between the amounts realized from sale or disposal and the amounts at which the materials are carried in this account shall be adjusted in the depreciation reserves, repair accounts, or other accounts which were credited when the materials were charged to this account.

NOTE A: Interest charged on bills for material and supplies, the payment of which is delayed, shall be charged to account 7100—Interest.

NOTE B: Inventories of materials and supplies shall be taken at intervals of one year or less, and the necessary adjustment shall be made to bring this account into harmony with the actual physical inventory. In effecting this adjustment, differences which may practicably be assigned to important classes of materials shall be equitably distributed among the accounts to which such classes of materials are ordinarily chargeable. Other differences shall be equitably apportioned among the operation and maintenance expense accounts to which materials have been charged since the last inventory. Such differences that cannot be allocated to the operation and maintenance expense accounts shall be included in account 4675—Purchasing and Store Expenses.

NOTE C: The value of tires and tubes, including taxes furnished by the vendor with newly acquired revenue equipment may be included in account 1170 or charged direct to expense.

NOTE D: Credits for cash and other discounts that cannot be applied directly to the cost of materials to which they apply shall be included in account 4675—Purchasing and Store Expenses.

1190 Other current assets.

This account shall include the amount of all current assets (see definition 15) not includible in any of the foregoing current asset accounts, including the cost of property purchased for resale, and the estimated value of property acquired in connection with the settlement of cargo loss and damage claims, pending disposition.

TANGIBLE PROPERTY

1200 Carrier operating property.

(a) This account shall include the total of the amounts representing the cost (see instruction 19) of carrier operating property included in accounts 1201 to 1290, inclusive, owned and used by the carrier in its motor carrier operations, including such property owned by the carrier but held by agents.

(b) Records shall be established to show the description, date of acquisition and cost of each parcel of land, each structure, unit of equipment or other unit of property (see definition 37) included in the subdivisions of this account. The records for property depreciated under the unit plan shall also reflect for each unit the estimated service life, depreciation rate and estimated salvage value so that the balance in account 2500—Reserve for Depreciation—Carrier Operating Property, with respect to each unit can be determined at any time.

1201 Land and land rights.

(a) This account shall include the cost of land used directly in connection with the motor carrier operations of the carrier, including the first cost of acquiring long-term and perpetual leaseholds of land and easements, but not rents payable periodically in consideration of rights so obtained.

(b) The cost of buildings and other improvements (other than public improvements) shall not be included in this account. If at the time of acquisition of an interest in land such interest extends to buildings or other improvements (other than public improvements), which are subsequently devoted to carrier operations, the land and improvements shall be separately appraised and the cost allocated to this account and to account 1210—Structures, on the basis of the appraisals. If the improvements are removed or wrecked prior to use of the property in carrier operations, the cost of the improvements to the carrier, together with the cost of removing or wrecking, less salvage recovered, shall be included as part of the cost of the land.

(c) Carriers shall keep their records so as to show separately the cost of each parcel of land or interest therein and the purpose or purposes for which used in motor carrier operations.

ITEMS

Clearing land of brush, trees, and debris (first cost of).
Condemnation proceedings, including court costs and special counsel fees.
Consents and abutting damages, payment for.
Conveyancers' and notaries' fees.
Easements, cost of, and expenses of acquisition.
Fees and commissions to brokers and agents.
Grading.
Land, cost of.
Long-term and perpetual leases, cost of, and expenses incidental to, acquiring (but not amounts paid as rent).
Leases, voiding, to secure possession of land.
Relocating property of others.
Sidewalks on public streets abutting carrier's property.
Special assessments on the basis of benefits for new roads, new bridges, new pavements, new sewers, and other public improvements (but not any taxes levied to provide for maintenance of such improvements).
Surveys.
Taxes assumed accrued prior to date of transfer of title.
Title, examining, registering, clearing, insuring and defending against claims relating to period prior to purchase.

NOTE A: When land is acquired in excess of that required for motor carrier operations, or for which there is no definite plan for its use in such service within one year, the cost of such land shall be charged to account 1400—Non-Carrier Property. If land originally charged to that account is later used for motor carrier operations, it shall be transferred to account 1201 at its cost when acquired. (See instruction 20.)

NOTE B: Assessments for public improvements upon which payments are deferred shall be charged to this account in full and

the unpaid balance carried in account 2360—Other Long Term Obligations. Interest on unpaid balances shall be charged to account 7100—Interest.

NOTE C: Amortization of fixed term interest in land and land rights shall be charged to account 5181—Amortization of Carrier Operating Property, with concurrent credits to account 2600—Reserve for Amortization—Carrier Operating Property.

1210 Structures.

(a) This account shall include the cost in place (see instruction 19) of structures used in motor carrier operations for such purposes as general offices, shops, garages, terminals, loading platforms, and the like situated on owned land. This includes buildings or constructions to house, support, or safeguard property or persons, with all appurtenant fixtures permanently attached thereto, and improvements to owned land, and other structures or constructions situated on land the investment in which is included in account 1201—Land and Land Rights.

(b) Carriers shall keep their records so as to show separately the cost of each structure included in this account and the purpose or purposes for which used in motor carrier operations.

ITEMS

Architect's plans.
Ash pits.
Awnings.
Boilers, furnaces, piping, wiring, fixtures and machinery for heating, lighting, signaling, ventilating and plumbing.
Bridges and culverts.
Chimneys.
Commissions and fees to brokers, agents, architects, and others.
Conduits (not to be removed).
Damages to abutting property during construction.
Door checks and door stops.
Drainage and sewerage systems.
Elevators, cranes, hoists, etc., and the machinery for operating them.
Excavation, including shoring, bracing, bridging, refill and disposal of excess excavated material.
Fences and hedges.
Fire protection systems.
Floor covering (permanently attached).
Foundations and piers for machinery constructed as a permanent part of a building or other unit listed herein.
Grading and preparing grounds for buildings, including landscaping of grounds after construction.
Leases, voiding, to secure possession of structures.
Oils pits and drainage systems.
Outside lighting systems.
Painting, first.
Permits and privileges, building.
Platforms, railings, gratings and partitions, when constructed as part of structure.
Power boards for service to a building.
Refrigerating systems.
Retaining walls.
Scales, connected to and forming part of the structure.
Screens.
Sidewalk, pavements and driveways on building grounds.
Sprinkling systems.
Storage facilities constituting part of building.
Storage tanks, underground or attached to structures.
Storm doors and windows.
Structures, cost of.
Subways, areaways, and tunnels, directly connected to and forming part of the structure.
Vaults, constructed as part of the building.
Water supply system for building or general company purposes.
Window shades and ventilators.
Wiring for office equipment if made a part of a structure.

NOTE A: The cost of specially provided foundations not expected to outlast the machinery or apparatus for which they are provided, and the cost of angle irons, castings, etc., installed at the base of an item of equipment shall be charged to the same account as the cost of the machinery or equipment.

NOTE B: When part of a structure is removed in order to build an extension thereto, the accounting therefor shall be in accordance with instruction 19(b).

NOTE C: The cost of structures under construction shall be carried in account 1290—Unfinished Construction, until ready for service.

1220 Revenue equipment.

(a) This account shall include the cost (see instruction 19) of all units of revenue freight equipment, the cost of repairs, overhauling, painting, lettering, and the first set of accessory equipment necessary to fit them for service, excluding tires and tubes (see Note A under account 1170—Prepayments). The term "revenue freight equipment" includes body and chassis and all fixtures and appliances inside of or attached to the body or chassis.

(b) If revenue freight equipment is purchased in a condition ready for service, the charge to this account shall include the invoice or contract price (excluding tires and tubes) less fleet and other discounts, if any, plus freight, excise and sales taxes, insurance in transit, unloading costs and other expenses incurred in obtaining delivery of the vehicles upon the premises of the carrier, such as driveaway charges, and the cost of painting and lettering and of any additions or attachments made after delivery, but not interest, insurance or other expense incurred under any plan of purchase involving deferred payments, or the gain or loss on retirement of equipment given in trade.

(c) This account may also include the cost of spare engines and other major units carried on hand for the purpose of temporarily replacing similar units taken into the shop for overhauling, repairing, or any other reason.

ITEMS

Automobiles (used to transport freight).
Containers and lift vans.
Fifth wheels.
Horses and mules.
Radio communication equipment on revenue vehicles.
Refrigeration units.
Road dollies.
Rigging equipment.
Sanders.
Semi-trailer.
Tractors.
Trailers.
Trucks (freight or hoist).
Truck-tractors.
Wagons.

1230 Service cars and equipment.

This account shall include the cost (see instruction 19) of aeroplanes and automobiles used in conducting motor carrier operations, and of automotive vehicles used in keeping revenue vehicles in operation, such as wreckers and trouble wagons for servicing revenue vehicles on the road. This account shall also include the cost of the first set of appliances or accessory equipment, including tires and tubes, necessary to fit such vehicles for service, such as cranes, hoists and other appliances, devices and tools forming the equipment of service cars.

ITEMS

Aeroplanes.
Automobiles.
Emergency repair vehicles and appliances.
Radio communication equipment on service vehicles.
Refueling cars.
Sand and salt cars.
Snow-fighting vehicles and equipment.
Snow plows for use on revenue or service equipment.
Spare units for service vehicles, on hand in shop (optional).
Tow cars, wreckers, and appliances.

1240 Shop and garage equipment.

(a) This account shall include the installed cost (see instruction 19) machinery and equipment, other than office furniture and equipment, used in shops and garages when such machinery and equipment is not an integral part of the housing structure, together with specially provided foundations and settings not expected to outlast the machinery mounted thereon. Records shall be kept so as to show separately the cost of each major item of equipment.

(b) If the carrier has shops or garages at more than one location, the records shall be maintained to reflect the carrier's investment at each location.

ITEMS

Air compressors and hose, gauges and tanks.
Anvils.
Arbor presses.
Battery charging outfits.
Belts, shafts and countershafts.
Boring or reaming machines.
Car washing equipment.
Cranes and hoists (portable).
Creepers.
Drill presses.
Electric equipment.
Engines and boilers.
Forges.
Gasoline and oil pumps and portable tanks.
Greasing racks and pumps.
Grinders.
Jacks.
Lathes.
Lockers.
Machine tools.
Motor driven hand tools.
Motor starters.
Oil reclaiming machines.
Paint sprayers.
Pneumatic tools.
Storage bins and shelving (movable).
Store room equipment (except office furniture and equipment).
Stoves.
Testing apparatus.
Tire changing equipment.
Tool racks.
Vises.
Vulcanizing equipment.
Weighing devices (portable).
Welding apparatus.
Wheel pullers.
Wiring for shop equipment (movable).
Work benches.

NOTE A: The cost of small portable tools and implements of slight value or short life, other than those included in the initial equipment of a shop or garage, shall be charged to account 4180—Other Maintenance Expenses.

NOTE B: The cost of cranes, hoists and other appliances, devices and tools forming the equipment of wreckers, service cars, etc., shall be charged to account 1230—Service Cars and Equipment.

1250 Furniture and office equipment.

(a) This account shall include the installed cost (see instruction 19) of furniture and appliances used in general offices, garage, terminal and other offices when such equipment is not an integral part of the housing structure.

(b) The records shall be maintained to reflect the carrier's investment in furniture and office equipment at each location.

(c) If the carrier operates or owns auxiliary terminal facilities such as restaurants for employees, the cost of owned equipment therein shall be charged to this account and carried under a special subdivision entitled "Furniture and Office Equipment—Special Facilities"

ITEMS

Book cases.
Cash registers.
Chairs, stools and benches.
Clocks.
Communication systems (inter-office and central office two-way radio equipment).
Counters.
Desks.
Equipment in rest, dining, recreation and medical rooms.
Fans, electric.
Filing cabinets.
Fire extinguisher equipment.
Floor coverings (movable).
Heaters and lamps (movable).
Kitchen equipment.
Lighting fixtures (movable).
Lockers.
Loud speaker system.
Office equipment (mechanical).
Partitions and railings (movable).
Restaurant equipment.
Safes (movable).
Show cases and shelves.
Tables and counters.
Teletypewriters.
Time clocks.
Typewriters.
Vacuum cleaners.
Water coolers.
Wiring for office equipment (movable).

NOTE: Small articles of slight value or of short life (see instruction 19(c) shall be charged to the appropriate expense accounts.

1260 Miscellaneous equipment.

This account shall include the cost (see instruction 19) of motor carrier equipment such as miscellaneous wheeled equipment used at terminals and loading platforms in connection with handling traffic, and also drive-away equipment and aeroplanes and pleasure boats used to entertain customers.

ITEMS

Blocks and falls.
Boats (pleasure).
Canvas covers (tarpaulins).
Carts.
Chain hoists.
Cranes (not installed on revenue vehicles).
Dollies (platform).
Fork trucks.
Hamper trucks.
Hand trucks.
Lift trucks.
Mechanical loading devices.
Pallets.
Platform trucks and tractors.
Rollers.
Ropes and cables.
Scales.
Signal equipment.
Signs (electric and portable).
Skidboards.
Tow bars, governors and brake controls (drive-away operations).
Weighing devices.

1270 Improvements to leasehold property.

(a) This account shall include, except as provided in paragraph (b) of this account, the cost to the carrier of initial improvements (including rearrangements, additions, and betterments) to property used in its motor carrier operations and held under lease or through control of the carrier owning the property, and the cost of any subsequent additions to and betterments of such leased or controlled property but not including replacements. Depreciation on such improvements shall be accounted for in the same manner as for other owned depreciable property. (See instruction 23(c).)

(b) When the cost of alterations to leased property used in motor carrier operations otherwise chargeable to this account is not in excess of $200.00 or the period of the lease is less thaan one year, the cost may be charged to the accounts chargeable with the cost of repairs to such property. (See instruction 19(c).)

NOTE: If the lease agreement provides that structures or other improvements placed on leased property by the lessee shall remain the property of said lessee and may be removed at the expiration of the lease, the investment in such improvements and depreciation accruals thereon shall be transferred to other appropriate accounts at that time.

1280 Undistributed property.

(a) When a carrier purchases or sells any property constituting a distinct operating unit (see definition 22) or otherwise finds it necessary because of incomplete financial records to make a general readjustment of operating property records, temporary charges or credits to this account may be made with approval of the Commission, and the distribution of the amounts involved shall be made promptly to the appropriate accounts after authorization by the Commission.

(b) Balances in accounts previously carried representing property owned as of the date this system of accounts is adopted may be carried temporarily in this account. Journal entries distributing such balances to the appropriate property accounts prescribed herein shall be made and filed with the Commission not later than one year after adoption of this system of accounts.

1290 Unfinished construction.

(a) This account shall include the cost of carrier operating property under construction but not ready for service. It shall include all elements of cost as set forth in instruction 19.

(b) When the construction of property has been completed, the amount representing its cost, accumulated in this account, shall be transferred to the appropriate other subdivision of account 1200.

NOTE: This account is primarily intended to include only charges for new construction not involving any replacement. If, however, at the beginning of a job involving the replacement or retirement of any operating property, the accounting carrier makes full credits therefor to the appropriate property accounts, the cost of rebuilding property or of installing new property in substitution or replacement, may be carried in this account pending completion of the work. (See also instruction 19(5) and account 1890—Other Deferred Debits.)

1300 Carrier operating property leased to others.

(a) This account shall include the cost (see instruction 19) of carrier operating property owned by the carrier but leased to others as part of a distinct operating unit (see definition 22) or system for use in motor carrier operations, where the lessee has exclusive possession.

(b) This account shall be subdivided so as to reflect separately the investment in each class of property as provided for under account 1200—Carrier Operating Property.

NOTE: Carrier operating property included in the temporary lease of a distinct operating unit pending sale shall not be transferred to account 1300.

1400 Non-carrier property.

This account shall include the book cost of land, structures and equipment owned by the carrier but used in operations other than motor carrier operations, and not provided for in account 1200—Carrier Operating Property, and account 1300—Carrier Operating Property Leased to Others.

INTANGIBLE PROPERTY

1500 Organization, franchises, and permits.

This account shall include the balance of the amounts included in accounts 1501 to 1541, inclusive.

1501 Organization.

This account shall include fees paid to State or other governmental authority for the privilege of incorporation, and expenditures incident to organizing the corporation, partnership, or other enterprise, and putting it into readiness to do business.

ITEMS

Fees and expenses for incorporation or forming a partnership.
Fees and expenses for mergers or consolidations.

Office expenses incident to organizing the company.
Stock and minute books and corporate seal.

NOTE A: This account shall not include any discounts upon securities issued or assumed; nor shall it include any costs incident to negotiating loans, selling bonds or other evidences of debt, or expenses in connection with the authorization, issuance or sale of stock. (See instruction 16 and 17 and accounts 1900—Discount on Capital Stock, and 1910—Commission and Expense on Capital Stock.)

NOTE B: Exclude from this account, and include in account 4600—Law Expenses, the cost of preparing and filing papers in connection with the extension of the term of incorporation unless the first organization costs have been written off.

NOTE C: When charges are made to this account for organization expenses incurred in mergers, consolidations, acquisitions or reorganizations, amounts previously included herein on the books of the retiring companies shall not be carried over. If such items represent part of the assets acquired, they shall be included in account 1550—Other Intangible Property. (See instruction 19(f).)

1511 Franchises.

(a) This account shall include amounts actually paid to a State or political subdivision thereof or to other governmental authority in consideration of franchises, permits, consents, or certificates running in perpetuity or for a specified term of more than one year.

(b) This account shall also be charged with expenditures incident to applications for franchises, permits, consents, or certificates if such applications are acted upon favorably by the regulatory body, including fees for legal and auditing services, expenses of witnesses, cost of newspaper and other advertisements, etc., and pay and expenses of employees engaged in preparing exhibits and other data for hearings. (See Note B.)

(c) When a franchise, permit, consent or certificate is acquired by assignment, the charge to this account shall not exceed its actual cost to the original holder thereof as set out in paragraphs (a) and (b) of this account. Payments by the acquiring carrier in excess of the cost to the original holder, together with any expenses incurred by it in effecting the transfer, shall be charged to account 1550—Other Intangible Property. (See however instruction 19(f).)

(d) Accounting for the amortization or write-off of balances carried in this account and for retirement of franchises, permits, consents or certificates that have expired and are not immediately renewed, are sold, or otherwise disposed of, shall be performed as provided in instruction 21(b).

(e) This account shall be subdivided to reflect separately amounts pertaining to:

(1) Perpetual franchises.
(2) Fixed-term franchises.

NOTE A: Regularly recurring payments made to any political subdivision for the right to conduct motor carrier operations within its boundaries shall be charged to account 5300—Operating Taxes and Licenses.

NOTE B: If an application for a franchise, permit, consent or certificate is denied, expenditures incident to the application shall be charged to account 7500—Other Deductions.

1541 Patents.

(a) This account shall include the cost (see instruction 19) of patent rights, licenses, and privileges necessary or valuable to the economical conduct of motor carrier or noncarrier operations, and which have a life of more than one year from the date they become effective.

(b) When any right or license included herein expires or is canceled and is not immediately renewed, is sold, or otherwise disposed of, retirement accounting shall be performed as provided in instruction 21(b).

1550 Other intangible property.

(a) This account shall include any intangibles not provided for elsewhere, including the undistributed portions of the purchase cost of a transportation system or portion thereof, constituting a distinct operating unit (see definition 22) not includible in specific accounts provided for assets acquired or liabilities assumed. (See instruction 19(f).)

(b) Accounting for the amortization or write-off of balances carried in this account and for the retirement of franchises, permits, consents or certificates that are sold, relinquished or otherwise disposed of, shall be performed as provided in instructions 21, 23, and 29.

INVESTMENT SECURITIES AND ADVANCES

1600 Investments and advances; affiliated companies.

(a) This account shall include the book cost (see definition 7) of the carrier's investments in securities issued or assumed by affiliated companies; notes of affiliated companies maturing later than one year from date of issue; and the amount of advances to and receivables from affiliated companies not subject to current settlement, including accrued interest on such advances when not subject to current settlement. Exclude from this account securities held in special funds or as temporary cash investments. (See definition 6), account 1060—Temporary Cash Investments, and instruction 18.)

(b) This account shall be subdivided to reflect separately for motor carriers and for others:

(1) Common stocks.
(2) Preferred stocks.
(3) Bonds.
(4) Notes.
(5) Other investments.
(6) Advances.

NOTE A: Balances in open accounts with affiliated companies which are subject to current settlement shall be included in account 1100—Receivables from Affiliated Companies.

NOTE B: Securities pledged shall be shown separately from securities unpledged.

NOTE C: Securities borrowed by the carrier and pledged shall not be included in this account. A memorandum record shall be kept.

1650 Other investments and advances.

(a) This account shall include the book cost (see definition 7) of the carrier's investments in securities issued or assumed by other than affiliated companies; notes of other companies and persons, maturing later than one year from date of issue; the cash surrender values of insurance policies carried on the lives of officers and employees when the carrier is beneficiary of such policies (see account 7500—Other Deductions); advances to other companies and individuals and open accounts receivable not subject to current settlement, including any accrued interest when not subject to current settlement. (See account 1060—Temporary Cash Investments, and instruction 18.)

(b) This account shall be subdivided to reflect separately for motor carriers and for others:

(1) Common stocks.
(2) Preferred stocks.
(3) Bonds.
(4) Notes.
(5) Other investments.
(6) Advances.

NOTE A: Balances in open accounts with other companies and individuals which are subject to current settlement shall be included in accounts receivable.

NOTE B: Profits and losses resulting from the sale of securities of others shall be included in accounts 6500—Other Nonoperating Income, or 7500—Other Deductions, as appropriate; or, when qualifying as extraordinary pursuant to instruction 8, shall be included in account 8910—Extraordinary Items.

NOTE C: Securities pledged shall be shown separately from securities unpledged.

NOTE D: Securities borrowed by the carrier and pledged shall not be included in this account. A memorandum record shall be kept.

SPECIAL FUNDS

1701 Sinking funds.

(a) This account shall include the amount of cash or other assets held by trustees or fiscal agents in charge of sinking funds, or by the carrier itself when they are segregated in a distinct fund, for the purpose of redeeming outstanding obligations. (See instruction 18.)

(b) A separate subdivision shall be kept for each fund, the title of which shall designate the obligation in support of which the fund was created.

ITEMS

Cash.
Securities of other companies or other assets, at cost except as otherwise provided herein.
Live securities issued or assumed by the carrier, at face value. (For conditions under which such securities may be kept alive, see instruction 16(d).)
Amounts deposited with trustees or other fiscal agents on account of mortgaged property sold, when held for the redemption of securities.
Securities of the carrier issued to trustees without intervening sale, at face value.

NOTE: Interest and dividends on securities held in this account shall be credited to account 6500—Interest, Income, and 6400—Dividend Income, as appropriate.

1751 Depreciation funds.

This account shall include the amount of cash and the cost (see instruction 18) of securities of other companies and other assets which have been specifically set aside to provide a fund for the replacement of units of depreciable property.

1781 Miscellaneous special funds.

This account shall include the amount of cash and the cost (see instruction 18) of securities of other companies and other assets in insurance, employees' pension, savings, relief, hospital and other funds which have been raised and specifically set aside or invested for purposes not provided for elsewhere, including deposits with state commissions to guarantee continuing payments to the beneficiaries of workmen's compensation claims, and the face value of securities issued or assumed by the carrier which may be held alive in such funds as provided in instructions 16 and 17. Also include in this account deposits in lieu of mortgaged property sold and other trust deposits, pending their refund when equivalent property is acquired or pending their transfer under mortgage provisions to account 1701—Sinking Funds. A separate subdivision shall be provided for each fund.

DEFERRED DEBITS

1880 Unamortized debt discount and expense.

This account shall include the total of the net debit balances representing the excess of the discount and expense over the premium in connection with the issuance of each class of the carrier's outstanding long-term or equipment obligations. Separate subdivisions shall be maintained in respect of each issue of such obligations. (See instruction 17.)

1890 Other deferred debits.

(a) This account shall include all debit balances in suspense accounts that can not be entirely cleared and disposed of until further information is received; also items of a deferred nature (except items chargeable to account 1170—Prepayments, or account 1880—Unamortized Debt Discount and Expense) which are subsequently to be amortized to the appropriate operation and maintenance expense or other accounts. This includes amounts on deposit with banks which have failed, pending determination of loss; deposits made on equipment purchases; amounts paid for options pending final disposition; expenditures for plans and investigations made for determining the feasibility of projects under contemplation, pending further disposition, deposits, in escrow or otherwise, with regulatory commissions and others, and expenditures for valuations, inventories, and appraisals made in connection with applications for or the contemplated purchase or sale of operating rights and other property. (See instruction 19.) If deposits are not recoverable, or projects in connection with which preliminary costs were incurred are abandoned, the amounts expended shall be charged to account 7500—Other Deductions, or account 8910—Extraordinary Items, as appropriate.

(b) This account shall also include other debit items which are subject to amortization by order of the Commission.

(c) This account shall also include the balances in clearing accounts maintained to facilitate the retirement of property (see instruction 21(a)); carry temporarily the cost of operating and maintaining such facilities as office buildings, storehouses, etc., and such overhead costs as it is desirable to apportion to the construction, operating, and other accounts involved. (See instruction 10.)

(d) Items of a current nature but of doubtful value may be carried in this account at book cost or nominal value. (See instruction 13.)

MISCELLANEOUS DEBIT ITEMS

1900 Discount on capital stock.

This account shall include the excess of the par or stated value of the stock issued (at the time of original sale of par value stock and nonpar stock with a stated value), plus accrued dividends, if any, over the actual cash value of the consideration received. (See instruction 16.)

NOTE: No discount shall be recorded in this account in connection with the exchange of capital stock for items that are includible in account 1550—Other Intangible Property.

1910 Commission and expense on capital stock.

This account shall include all expenses incurred in connection with the issuance and sale of capital stock. (See instruction 16.)

ITEMS

Fees and expenses incurred in obtaining permission from regulatory bodies for the issuance of stock and in filing papers of notification thereunder.
Fees paid to promoters.
Listing stock on exchanges.
Preparation and distribution of prospectuses.
Preparation and issuance of certificates of stock.
Soliciting subscriptions for stock, including fees, commissions, advertising and printing.
Taxes paid on stock issues.

1920 Reacquired securities.

This account shall include in subdivisions for each class, the par, stated or proportionate value of capital stock, and the face value of bonds, and other forms of securities which have been actually issued or assumed by the carrier, and reacquired and are neither retired nor properly includible in sinking or other funds.

NOTE A: The accounting for the reacquisition of securities and resales thereof shall be in accordance with instructions 16 and 17.

NOTE B: This account shall be maintained so as to reflect separately securities pledged and unpledged.

NOTE C: In reports to the Commission the balance in this account shall be deducted from the securities accounts on the liability side, thereby extending into the money column the amounts to reflect the actually outstanding securities.

1990 Nominally issued securities.

(a) This account shall include in subdivisions for each class, the face, par or stated value of capital stock, bonds, and other forms of securities which have been nominally but not actually issued by the carrier. (See definitions 2 and 28.)

(b) When nonpar stock without stated value is nominally issued, a memorandum entry shall be made to this account showing the number of shares thus issued.

NOTE A: This account shall be maintained so as to reflect separately securities pledged and unpledged.

NOTE B: In reports to the Commission, the balance in this account shall be deducted from the securities accounts on the liability side, thereby extending into the money column the amounts to reflect the actually outstanding securities.

Liability Side

CURRENT LIABILITIES

2000 Notes payable.

(a) This account shall include the face value of outstanding obligations in the form of notes, drafts, acceptances, and similar evidences of indebtedness which by their terms do not run for a period in excess of one year from date of issue, including the face value of notes receivable discounted or sold without releasing the carrier from liability as endorser thereon.

(b) Subdivisions shall be maintained to show separately obligations maturing upon demand and obligations bearing a specified date of maturity.

NOTE A: Notes payable to affiliated companies which are subject to current settlement shall be included in account 2030—Payables to Affiliated Companies. (See also account 2200—Advances Payable—Affiliated Companies.)

NOTE B: Unmatured equipment obligations shall be included in account 2190, Equipment Obligations and Other Debt Due Within One Year, or account 2300, Equipment Obligations, as appropriate.

2020 Matured long-term obligations.

This account shall include the amount (including obligations for premiums) of equipment obligations, long-term obligations and receivers' certificates matured and unpaid without any specific agreement for extension of maturity, including unpresented bonds called for redemption.

2030 Payables to affiliated companies.

(a) This account shall include the total of amounts payable to affiliated companies (see definition 6) which are subject to current settlement, such as credit balances in open accounts for services rendered, material furnished, interline account balances, claims, rent for use of property and similar items; interest and dividends payable to affiliated companies; and loans, notes and drafts which are payable to affiliated companies.

(b) This account shall be subdivided as follows:

2031—Loans and Notes Payable.
2035—Interest and Dividends Payable.
2039—Accounts Payable.

NOTE A: On the balance sheet accounts payable to affiliated companies shall be set off against accounts receivable from the same companies.

NOTE B: No amount representing dividends payable shall be included in this account unless they have been declared or guaranteed.

NOTE C: Items which are not subject to current settlement shall be included in account 2280—Advances Payable—Affiliated Companies.

2050 Accounts payable.

(a) This account shall include amounts payable to others (except affiliated companies) that are subject to current settlement, for materials and supplies and services received, including rents payable for the use of revenue vehicles and other property; other matured rents, amounts due to public authorities, amounts of payable judgments, current accounts with officers and employees, the carrier's liability for transportation taxes and sales taxes collected from customers, for deductions from employees' wages for social security and income taxes, and other similar items.

(b) This account shall also include the balances due other carriers (except affiliated companies) in favor of each of which there is a net credit balance representing interline accounts.

(c) This account shall be subdivided as follows:

2051—Accounts Payable—Officers, Stockholders and Employees.
2055—Interline Account Balances.
2059—Accounts Payable—Other.

NOTE: Accounts with other carriers representing interline accounts which contain net debit balances shall be included in account 1120—Accounts Receivable—Agents, Customers and Interline.

2070 Wages payable.

This account shall include the amount of wages payable or accrued payrolls. Unclaimed wages shal be transferred to account 2180—Other Current Liabilities. (See instruction 14.)

2090 C.o.d.'s unremitted.

(a) This account shall be credited with amounts of c.o.d.'s collected from consignees for shippers on freight delivered.

(b) This account shall be charged when remittances of amounts of c.o.d.'s are made to shippers.

NOTE A: Checks made payable to the shipper received in payment of c.o.d. charges shall not be credited to this Account. A memorandum record shall be kept.

NOTE B: Fees for handling c.o.d.'s shall be credited to the same account to which the transportation revenue is credited.

NOTE C: If desired, this account may be credited with amounts concurrently charged to accounts receivable, representing c.o.d.'s collectible by the carrier. Amounts of c.o.d.'s on interline shipments, collectible by other carriers shall not be entered in this account.

2100 Dividends declared.

(a) This account shall include the amount of dividends declared but not paid on any issue of capital stock of the carrier. Dividends shall be credited to this account as of the day upon which they became a liability of the carrier.

(b) A separate subdivision shall be maintained for dividends on each class and series of stock.

NOTE: Dividends declared and payable to affiliated companies shall be included in account 2030—Payables to Affiliated Companies.

2120 Taxes accrued.

(a) This account shall be credited each month with the amount of taxes accrued during the month, with concurrent debits to the appropriate accounts for tax charges. Credits to this account that are based upon estimates shall be adjusted from time to time during the year so that the tax expense accounts may show as nearly as possible, the taxes applicable to each period. Payments of taxes for which accruals have been made shall be debited to this account. Amounts representing prepayment of taxes applicable to subsequent periods shall be included in account 1170—Prepayments.

(b) The records supporting entries to this account shall be kept so that the carrier can furnish information as to the basis for each tax accrual, the kinds of taxes paid, the amount of each and the accounts charged with the tax accruals.

NOTE A: The liability for income taxes of sole proprietors or members of a partnership shall not be included in this account.

NOTE B: The carrier's liability for social security and income taxes deducted from employees' wages for payment to taxing bodies shall be included in account 2060—Accounts Payable—Other.

NOTE C: The carrier's liability for Federal or State taxes on transportation charges collectible by motor carriers shall be included in account 2060—Accounts Payable—Other.

2150 Interest accrued.

(a) This account shall be credited each month with the amount of interest accrued during the month but not paid monthly, with concurrent debits to the appropriate accounts for interest charges, on all indebtedness of the carrier except interest which is added to the principal. Payments of interest for which accruals have been made in this account shall be debited hereto.

(b) When interest matures without being paid, it shall be charged to this account and credited to account 2030—Payables to Affiliated Companies, or account 2160—Matured Interest, as appropriate. Payments to trustees or other agents of the holders of bonds or other securities, of the interest accrued thereon, which operate under the terms of the securities, or of mortgages supporting such securities) as a release of the carrier from further liability for such interest, shall be accounted for in the same manner as payments of interest made directly to bondholders.

NOTE: Interest accrued upon any judgment against the carrier shall be credited to the account to which such judgment stands credited.

2160 Matured interest.

This account shall include the amount of matured and unpaid interest on obligations of the accounting carrier whether the cause of the failure to pay the interest is on the part of the creditor or for other reasons, except where such interest is added to the principal of the obligation.

NOTE: Interest payable to affiliated companies shall be included in account 2030—Payables to Affiliated Companies.

2180 Other current liabilities.

This account shall include all current and accrued liabilities not includible in any of the foregoing accounts. This includes unmatured rents accrued, estimated insurance premiums accrued, unclaimed wages, and estimated amounts payable within one year covering liability for claims for injuries to persons, loss and damage, and similar items. (See instruction 14.)

LONG-TERM DEBT DUE WITHIN ONE YEAR

2190 Equipment obligations and other debt due within one year.

This account shall include the total amount of bonds, equipment obligations, and other long-term obligations, including obligations maturing serially or payable in installments, which are due and payable within one year, and for which arrangements for refunding have not been made or for which no sinking funds have been provided. This account shall be subdivided according to the different classes of debt so maturing.

ADVANCES PAYABLE

2200 Advances payable; affiliated companies.

(a) This account shall include the amount of unsecured obligations payable to affiliated companies, whether evidenced by notes or open accounts, which are not subject to current settlement, including interest accrued thereon, when such interest is not subject to current settlement. This account shall also include obligations that are payable on demand but which, by mutual agreement or understanding, will not be presented for payment within one year from date of issue.

(b) This account shall be subdivided so as to show for each creditor:

(1) Notes payable.

(2) Open accounts not subject to current settlement.

(3) Interest accrued on amounts included in this account when not subject to current settlement.

NOTE: Amounts of advances from affiliated companies, including open accounts, that are subject to current settlement such as charges for materials and supplies currently furnished, charges for repairs to equipment, etc., shall be included in account 2030—Payables to Affiliated Companies.

2250 Other advances payable.

(a) This account shall include the amount of unsecured advances and other unsecured obligations payable to individuals and companies, other than affiliated companies, whether evidenced by notes or open accounts, which are not subject to current settlement, including interest accrued thereon when such interest is not subject to current settlement. This account shall also include obligations that are payable on demand but which, by mutual agreement, will not be presented for payment within one year from date of issue.

(b) This account shall be subdivided so as to show for each creditor:

(1) Notes payable.

(2) Open accounts not subject to current settlement.

(3) Interest accrued on amounts included in this account when not subject to current settlement.

(c) The liability for advances payable to individuals and companies, other than affiliated companies, maturing within one year of the close of the accounting period is includible in account 2190—Equipment Obligations and Other Debt Due Within One Year.

NOTE: Amounts of advances subject to current settlement, such as charges for materials and supplies currently furnished, charges for repairs to equipment, etc., shall be included in account 2050—Accounts Payable.

EQUIPMENT AND OTHER LONG-TERM OBLIGATIONS

2300 Equipment obligations.

(a) This account shall include the face value of all unmatured long term obligations issued by the carrier and not retired or canceled, for which units of revenue equipment and other automotive equipment have been pledged as security or are held under conditional sales contracts, such as equipment bonds, equipment notes and chattel mortgages; also the face value of equipment obligations issued by others, the payment of which has been assumed by the carrier; and of equipment obligations so issued or assumed, the maturity of which has been extended by specific agreement. The liability for equipment obligations maturing within one year of the close of the accounting period is includible in account 2190—Equipment Obligations and Other Debt Due Within One Year. (See Note A.)

(b) This account shall be kept so as to show the face value of equipment obligations (1) nominally issued, and (2) actually outstanding. (See definitions 3 and 28.)

(c) A separate subdivision shall be maintained for each class of equipment obligation and no issues shall be considered to be of the same class unless identical as to liability and nature of property covered.

NOTE A: Equipment obligations matured and unpaid without specific agreement for extension as to time of payment, including unpresented equipment obligations called for redemption, shall be included in account 2020—Matured Long-Term Obligations.

2330 Bonds.

(a) This account shall include the face value of bonds, other than equipment obligations, issued by the carrier and maturing more than one year from the close of the accounting period; also the face value of such bonds issued by others, the payment of which has been assumed by the carrier. (See account 2190—Equipment Obligations and Other Debt Due Within One Year.)

(b) This account shall be kept so as to show the face value of bonds (1) nominally issued, and (2) actually outstanding. (See definitions 3 and 28.)

(c) A separate subdivision shall be maintained for each class and series of bonds, and no issues shall be considered to be of the same class unless identical as to liability and nature of property covered.

NOTE A: Bonds matured and unpaid without specific agreement for extension as to time of payment, including unpresented bonds called for redemption, shall be included in account 2020—Matured Long-Term Obligations.

2360 Other long-term obligations.

(a) This account shall include all long-term obligations not otherwise provided for which mature more than one year from the close of the accounting period. (See account 2190—Equipment Obligations and Other Debt Due Within One Year.) This covers such items, executed or assumed, as real estate mortgages; assessments for public improvements; serial notes payable over a period of more than one year; and other obligations maturing more than one year from date of issue.

(b) This account shall also include the face value of certificates of indebtedness issued upon the property of the carrier by receivers acting under the orders of a court.

NOTE A: Separate subdivisions shall be maintained for each class of obligation included herein, and records shall be maintained to show separately for each issue all details as to date of issue, date of maturity interest dates and rates, security for obligations, etc.

NOTE B: Matured obligations which are unpaid shall be included in account 2020—Matured Long-Term Obligations.

DEFERRED CREDITS

2400 Unamortized premium on debt.

This account shall include the total of all credit balances representing the excess of the premium over the discount and expense in connection with the issuance of each class of the carrier's outstanding long-term or equipment obligations. Separate subdivisions shall be maintained in respect of each issue of obligations. (See instruction 17(d).)

2450 Other deferred credits.

This account shall include credit balances in suspense accounts that cannot be entirely cleared and disposed of until additional information is received, and other items of a deferred nature (see instruction 10), such as estimated liability for overcharge claims, deposits by owner-operators to cover their liability for loss and damage claims, anticipated liability for retroactive wages pending the result of negotiations, and deposits by tenants representing rent for final month of leases.

RESERVES

2500 Reserve for depreciation; carrier operating property.

(a) This account shall be credited with the following:

(1) Amounts charged each month to account 5000—Depreciation Expense, or other accounts for currently accruing depreciation (see definition 20) of carrier operating property as provided in instruction 23.

(2) The amount of depreciation accrued by vendor or predecessor companies to date of transfer applicable to carrier operating property acquired as part of a distinct operating unit or transportation system, as provided in instruction 19(f).

(3) The amount of depreciation accrued to date of transfer, applicable to property transferred from account 1400—Non-Carrier Property, to account 1200—Carrier Operating Property, or account 1300—Carrier Operating Property Leased to Others.

(b) Charges to this account in connection with carrier operating property retired shall be made in accordance with instruction 21. This account shall also be charged with the amount of depreciation accrued to date of transfer applicable to property transferred from accounts 1200—Carrier Operating Property, or 1300—Carrier Operating Property Leased to Others, to account 1400.

(c) This account shall be subdivided as follows:

2510—Reserve for Depreciation—Structures.
2520—Reserve for Depreciation—Revenue Equipment.
2530—Reserve for Depreciation—Service Cars and Equipment.
2540—Reserve for Depreciation—Shop and Garage Equipment.
2550—Reserve for Depreciation—Furniture and Office Equipment.
2560—Reserve for Depreciation—Miscellaneous Equipment.
2570—Reserve for Depreciation—Improvements to Leasehold Property.
2580—Reserve for Depreciation—Undistributed Property.
2590—Reserve for Depreciation—Carrier Operating Property Leased to Others.

2600 Reserve for amortization; carrier operating property.

(a) This account shall be credited with amounts charged to account 5151—Amortization of Carrier Operating Property, or other appropriate account, for amortization of the cost of acquiring leaseholds, franchises, consents, privileges, patents, and other intangible property having a fixed term life.

This account shall also be credited with amounts charged to account 7500—Other Deductions, or account 3910—Extraordinary Items, as appropriate, for the amortization or write-off of cost of acquiring perpetual leaseholds and of intangible property which does not have a fixed life term. (See instruction 23(d).)

(b) When any leasehold, franchise, permit, consent, privilege or patent expires, is sold or relinquished, or is otherwise retired from service, this account shall be charged with the amount previously credited hereto in respect of such property, and retirement accounting shall be performed as provided in instruction 21(b).

(c) This account shall be credited with such amounts as are necessary to reflect, as of the date this system of accounts is adopted, the expired portion of the life of franchises, permits, consents, patent rights, leaseholds, easements, other interest in land, or other

intangible property which has a fixed term life, the cost of which is included in operating property accounts 1200 and 1300 and intangible property accounts 1500 and 1550.

(d) This account shall be maintained in such manner as to show the amount of each separate reserve set out below and the nature of and amounts of debits and credits thereto.

(1) Reserves for amortization; leaseholds.

(2) Reserves for amortization; franchises, permits and patents having a fixed term life.

(3) Reserves for amortization; other intangible property.

2610 Reserve for depreciation and amortization; other property.

This account shall include amounts provided for depreciation and amortization of properties carried in account 1400—Non-Carrier Property.

2630 Reserve for adjustments; investments and advances.

(a) This account shall be credited with amounts charged to account 7500—Other Deductions, or account 8910—Extraordinary Items, as appropriate, to provide a reserve for adjustments in the value of investment securities included in account 1600—Investment and Advances; Affiliated Companies, and account 1650—Other Investments and Advances. (See instruction 18(b).)

(b) This account shall be subdivided to reflect:

(1) Reserves for securities of affiliated companies.

(2) Reserves for securities of others.

NOTE: In stating the balance sheet these reserves shall be deducted from the specific assets to which they apply.

2650 Reserve for uncollectible accounts.

This account shall be credited each month with amounts reserved for receivables which may become uncollectible, and shall be maintained in such manner as to show the amount of each separate reserve set out below and the amounts of debits and credits thereto:

(a) Reserve for receivables representing carrier operating revenue. Credits to this subdivision shall be concurrently charged to account 4660—Uncollectible Revenues.

(b) Reserve for receivables applicable to revenue from non-carrier operations and property Credits to this reserve shall be concurrently charged to account 6100—Income from Non-Carrier Operations—Net.

(c) Reserve for uncollectible receivables other than revenues. Credits to this reserve shall be concurrently charged to account 7500—Other Deductions.

2660 Insurance reserves.

(a) This account shall be credited with amounts charged to account 4560—Fire, Theft and Collision, account 4570—Other Insurance Expense, or other appropriate accounts to provide reserves for losses through collision, accident, fire, theft, flood, or other hazards to the carrier's own property or to property leased from others, that are not covered by commercial insurance. (See instruction 22(b), (c) and (f).)

(b) If carrier operating property is destroyed or so badly damaged as to require retirement, and provision has been made in this account for such risks, it shall be charged with the amount of the loss not covered by commercial insurance and additional retirement accounting shall be performed as set out in instruction 21(a).

(c) This account shall be maintained in such manner as to show the amount of each separate reserve and the nature of and amounts of debits and credits thereto.

2680 Injuries, loss and damage reserves.

(a) This account shall be credited with amounts charged to accounts 4530—Public Liability and Property Damage, 4540—Workmen's Compensation, 4550—Cargo Loss and Damage, or other appropriate accounts to provide reserves against claims for deaths of or injuries to employees and others; for damages to property not owned or held under lease by the carrier; and for loss, destruction, damage, or delays to property intrusted to the carrier for transportation or storage, that are not covered by commercial insurance. (See instruction 22(c).)

(b) This account shall be charged with payments of claims for injuries to persons and damage to property of others which are not recoverable from insurance companies or others. (See, however, instruction 22(a) and (d).)

(c) This account shall be maintained in such manner as to show the amount of each separate reserve set out below and the nature of and amounts of debits and credits thereto.

(1) Reserve for personal injuries and property damage claims.

(2) Reserve for workmen's compensation claims.

(3) Reserve for cargo loss and damage claims.

(d) At the close of the accounting period the estimated amounts payable within one year covering liability for claims for injuries to persons, loss and damage, and similar items shall be transferred to account 2180—Other Current Liabilities.

2690 Other reserves.

(a) This account shall include amounts reserved by the carrier for purposes which are not provided for in any of the preceding reserves.

(b) This account shall be maintained in such manner as to show the amount of each separate reserve and the nature of and amounts of debits and credits thereto.

CAPITAL STOCK

2700 Preferred capital stock.

2710 Common capital stock.

(a) These accounts shall include the par value of stocks with par value; the stated value of nonpar stocks having a stated value; and the cash value of the consideration received, including assessments, or the amount approved by the Commission, for nonpar stocks without stated value, which have been issued to bona fide purchasers and have not been reacquired and canceled; also shares of stock nominally issued (see definition 28), and reacquired shares which have not been canceled. The cash consideration received from the sale of par value stock and of nonpar stock having a stated value in excess of the amount credited to this account, shall be credited to account 2900—Premiums and Assessments on Capital Stock. (See instruction 16.)

(b) Separate accounts shall be provided for each class of stock, and the title of each account shall clearly identify the class of stock covered. Issues of stock shall not be considered as of the same class unless identical in all provisions, nor shall there be carried any undivided item in respect of more than one class of stock.

(c) When stock is issued for cash, that fact shall be stated; if for any consideration other than cash, the person to whom it is issued shall be designated and the consideration for which it is issued shall be described with sufficient particularity to identify it. If such issuance is to the treasurer or other agent of the corporation for purpose of sale, that fact and the name of such agent shall be shown; and the agent shall show like details concerning the consideration realized therefor in his account of the disposition thereof, which when accepted by the corporation, shall be preserved as a corporate record.

(d) When capital stock is reacquired and canceled (see instruction 16), these accounts shall be charged with the amount at which such stock is carried herein. In the case of nonpar stock without stated value, the amount charged hereto shall be the proportion, applicable to the reacquired shares immediately prior to reacquisition, of the total book liability included herein of actually outstanding shares of the class and series of stock of which the reacquired shares are a part.

NOTE A: For each class of stock the records shall show the number of shares nominally issued and actually outstanding. (See definitions 3 and 28.) When nonpar stock without stated value is nominally issued a memorandum entry shall be made showing only the number of shares so issued.

NOTE B: When nonpar stock without stated value is issued in exchange for par stock, or nonpar stock with stated value, amounts included in account 2900—Premiums and Assessments on Capital Stock, for the retired stock, shall be transferred to the capital stock account as part of the consideration received for the nonpar stock.

NOTE C: No entries recording changes in the amounts reflected in the carriers books for capital stock which has been nominally or actually issued shall be made without first submitting the plan of accounting to the Commission for approval. Such plan shall be accompanied by a statement giving complete information with respect to the basis upon which the amounts to be recorded were determined. Entries recording the following changes require approval of the Commission.

(1) Changes in the par or stated value of stock with par or stated value.

(2) Changes in the value of nonpar stock without stated value through the transfer of earned or unearned surplus to the capital stock accounts, and debits to the unearned surplus account resulting from the issuance of stock dividends.

(3) Reduction of the amounts recorded in the capital stock accounts to create surplus or reduce the book value of assets.

2730 Capital stock subscribed.

This account shall include the amount of legally enforceable subscriptions to capital stock of the carrier. It shall be credited with the par or stated value, or with the subscription price in the case of stock without par or stated value, exclusive of accrued dividends, if any. Concurrently a debit shall be made to account 1140—Subscribers to Capital Stock, for the agreed purchase price and any discount or premium debited or credited to the appropriate discount or premium account. When properly executed stock certificates have been issued representing the stocks subscribed, this account shall be debited and the appropriate capital stock account credited with the par or stated value of the stock (or the consideration received in the case of nonpar stock without a stated value).

PROPRIETORS' CAPITAL

2800 Sole proprietorship capital.

This account shall include the investment of a sole proprietor in an unincorporated carrier and shall be charged with all withdrawals from the business by the proprietor other than amounts representing salary. (See Note A.) At the end of each calendar year the net income or loss for the year as reflected by the income statement shall be transferred to this account. There shall also be entered in this account such items as in corporate organizations are handled through the subdivisions of account 2930—Earned Surplus—Unappropriated. (See optional accounting procedure provided in Note B hereunder.)

NOTE A: Amounts designated as salary of the proprietor, representing fair and reasonable compensation for services performed, shall be charged to 4611—Salaries—General Officers, or other appropriate account.

NOTE B: This account may be restricted to the amount considered by the proprietor to be his permanent investment in the business, subject to change only by additional investment on his part or the withdrawal of portions thereof. When this option is taken withdrawals of profits shall be charged to account 2948—Other Debits to Earned Surplus, and the earned surplus accounts shall otherwise be employed as provided in the texts of those accounts.

NOTE C: Income taxes of the proprietor if paid from funds of the carrier shall be charged to this account. (See Note under account 8800—Income Taxes.)

2810 Partnership capital.

This account shall be credited, where the business is conducted by an unincorporated firm, co-partnership or under any style other than that of an incorporated company or sole proprietorship, with the respective amounts paid into the business by the partners therein, and shall be charged with all withdrawals from the business by each partner other than amounts representing salary. (See Note A.) At the end of each calendar year the net income or loss for the year as reflected by the income statement shall be transferred to this account. There shall also be entered in this account such items as in corporate organizations are handled through the subdivisions of account 2930—Earned Surplus—Unappropriated. (See optional accounting procedure provided in Note B hereunder.)

NOTE A: Amounts designated as salaries of the partners representing fair and reasonable compensation for services performed, shall be charged to account 4611—Salaries—General Officers, or other appropriate accounts.

NOTE B: Separate accounts shall be kept to show the net equity of each member of the co-partnership and the transactions affecting the interest of each such partner. The total of the balances in such accounts shall be shown as one amount in the balance sheet.

NOTE C: This account may be restricted to the amounts considered by the members of the co-partnership to be their permanent investments in the business, subject to change only by additional investments by the co-partners or the withdrawal of portions thereof. When this option is taken withdrawals of profits shall be charged to account 2948—Other Debits to Earned Surplus, and the earned surplus accounts shall be otherwise employed as provided in the texts of those accounts.

NOTE D: Personal income taxes of the partners, if paid from partnership funds, shall be charged to this account. (See Note under account 8800—Income Taxes.)

CAPITAL SURPLUS

2900 Premiums and assessments on capital stock.

(a) This account shall include the excess of the actual cash value of the consideration received (at the time of original sale of par value stock and non-par stock with a stated value) over the par or stated value of the stock issued, plus accrued dividends, if any; and subsequent assessments against stockholders representing payments required in excess of par or stated value. (See instruction 16(c).)

(b) In case the carrier is permitted by statute and elects, with the approval of the Commission, to distribute all or any part of the net balance of premiums and assessments on capital stock to its stockholders in the form of dividends, the amount thus distributed shall be charged to this account. In no event shall dividends be paid out of premiums and assessments on capital stock without prior approval of the Commission.

(c) Separate subdivisions shall be maintained for premiums and for assessments on each class and series of stock.

(d) When capital stock is reacquired the amount in this account with respect to the shares reacquired shall be debited hereto in accordance with instruction 16(d).

NOTE: No premium shall be recorded in this account in connection with the exchange of capital stock for items that are includible in account 1550—Other Intangible Property.

2910 Other capital surplus.

(a) This account shall include all surplus not classified as earned surplus. It shall include such items as surplus arising from donations by stockholders of cash and other assets or of the carrier's capital stock; surplus arising from the forgiveness of debt of the carrier by its stockholders; surplus recorded upon the reorganization or recapitalization of the carrier; net credits resulting from acquisition or resale of the carrier's capital stock (see instruction 16); and amounts that become the property of the carrier as a result of the forfeiture by others of deposits on subscriptions to capital stock and installment plan payments on purchases of stock.

The following credit items may be included in this account only when approved by the Commission: (1) Surplus resulting from the reduction of the par value, stated value or recorded value of the carrier's capital stock, and (2) Surplus resulting from the revaluation of tangible property or intangible property.

(b) (1) This account shall be charged with net debits resulting from the acquisition or resale of the carrier's capital stock (see instruction 16 (d) and (e)), and it may be charged with amortization of discount and expense on capital stock; *Provided, however,* That the excess of a debit over the balance carried in this account with respect to the particular class of stock shall be charged to account 2948—Other Debits to Earned Surplus.

(2) The following items may be charged to this account only when approved by the Commission: (i) amounts credited to the capital stock account resulting from the issuance of stock dividends, or to increase the value of nonpar stock without stated value, and (ii) amounts transferred to earned surplus either directly by credits to earned surplus representing gains on transactions in the carrier's own capital stock, or indirectly by charges against capital surplus representing losses, write-downs, charge-offs, or the distribution of dividends.

(c) This account shall be subdivided to show each source of capital surplus.

NOTE: When a capital stock dividend is issued an amount transferred from earned surplus to permanent capital for the excess of fair value of the additional shares over their par value, is includible in this account 2910—Other Capital Surplus.

2920 Earned surplus—appropriated.

This account shall include the accumulated amount of earned surplus which has been appropriated and set aside pursuant to provisions of mortgages, deeds of trust, or other agreements. This account shall also include appropriations for general contingencies for possible future losses (not in the category of liabilities actually incurred) and other corporate purposes in accordance with sound accounting and financial procedures. The account is to be subdivided by classes of appropriations showing the purpose for which each appropriation is made.

2930 Earned surplus—unappropriated.

(a) This account shall include the balance of the amounts included in accounts 2932 to 2948, inclusive, either

debit or credit, of unappropriated surplus arising from earnings. It shall not include surplus properly includible in accounts 2800—Sole Proprietorship Capital, 2810—Partnership Capital, or 2910—Other Capital Surplus.

(b) The balances of all earned surplus accounts (2932 to 2948, inclusive) shall be closed to this account at the end of each calendar year.

2932 Credit balance transferred from income.

If the income statement for the current calendar year reflects a net credit balance, it shall be brought forward to this account.

2938 Other credits to earned surplus.

(a) This account shall include other credit adjustments, net of assigned income taxes, not provided for elsewhere in this system but only after such inclusion has been authorized by the Commission.

(b) The records supporting entries in this account shall be so maintained that an analysis thereof may be readily made available.

2942 Debit balance transferred from income.

If the income statement for the current calendar year reflects a net debit balance, it shall be brought forward to this account.

2944 Dividend appropriations.

(a) This account shall include amounts of dividends declared out of earned surplus on capital stock actually outstanding.

(b) This account shall be subdivided to show separately the dividends on each class of capital stock. If a dividend is not payable in cash, the consideration shall be described in the entry with sufficient particularity that it may be identified.

NOTE: Dividend charges shall be restricted to actually outstanding stock and this account shall not include charges for dividends on capital stock issued by the carrier and owned by it, unless the stock is held by trustees in sinking or other funds. (See definition 3 and Instruction 16(d).)

2946 Other appropriations of earned surplus.

This account shall include appropriations from earned surplus for sinking funds and other reserves, and allotments of surplus or transfers of definite amounts from earned surplus to reserves under the terms of mortgages, deeds of trust, or contracts, and other appropriations of earned surplus set aside in special reserve accounts.

2948 Other debits to earned surplus.

(a) This account shall include (1) losses on resale of reacquired capital stock, (2) charges which reduce or write off discount on capital stock issued by the company, and (3) in pooling of equity interests situations, the excess of the value of the surviving company's capital stock over the aggregate total of the capital stock of the separate companies before such merger or consolidation, but only to the extent that capital surplus is not available for such purposes. (See instructions 16(d) and 20(a)(2).)

(b) This account shall include other debit adjustments, net of assigned income taxes, not provided for elsewhere in this system but only after such inclusion has been authorized by the Commission.

(c) The records supporting entries in this account shall be so maintained that an analysis thereof may be readily made available.

2990 Form of balance sheet statement.

(The order in which the accounts are presented in this form of balance sheet is not to be considered as necessarily indicative of the order in which they will be scheduled at all times in reports to the Commission.)

ASSET SIDE

CURRENT ASSETS

1000—Cash			$.....
1020—Working funds			.....
1040—Special deposits			.....
1060—Temporary cash investments			.....
	(a) Pledged	$.....	xxxxxxx
	(b) Unpledged	.....	xxxxxxx
1080—Notes receivable		$.....	
1100—Receivables from affiliated companies		.....	
1120—Accounts receivable—Agents, customers, and interline		.....	
1130—Accounts receivable—Other		.....	.....
	Less: Reserve for uncollectible accounts	.....	....
1140—Subscribers to capital stock			.....
1160—Interest and dividends receivable			.....
1170—Prepayments			.....
1180—Material and supplies			.....
1190—Other current assets			.....
Total current assets			$.....

TANGIBLE PROPERTY

1200—Carrier operating property		$.....	
	Less: Reserve for depreciation and amortization	.....	$.....
1220—Carrier operating property leased to others		.....	
	Less: Reserve for depreciation and amortization	.....	....
1240—Noncarrier property		.....	
	Less: Reserve for depreciation and amortization	.....	....
Total tangible property			$.....

INTANGIBLE PROPERTY

1400—Organization, franchises, and permits		$.....	
	Less: Reserve for amortization	.....	$.....
1420—Other intangible property		.....	
	Less: Reserve for amortization	.....	.....
Total intangible property			$.....

INVESTMENT SECURITIES AND ADVANCES

1600—Investments and advances—Affiliated companies:			
	(a) Pledged	$.....	
	(b) Unpledged	.....	$.....
	Less: Reserve for adjustments	.....	$.....
1620—Other investments and advances:			
	(a) Pledged	$.....	
	(b) Unpledged	.....	
	Less Reserve for adjustments	.....	.....
Total investment securities and advances			$.....

SPECIAL FUNDS

1701—Sinking funds	$.....
1751—Depreciation funds	.....
1781—Miscellaneous special funds	.....
Total special funds	$.....

ASSET SIDE—Continued

DEFERRED DEBITS

1820—Unamortised debt discount and expense	$.....
1860—Other deferred debits	.....
Total deferred debits	$.....

MISCELLANEOUS DEBIT ITEMS

1900—Discount on capital stock			$.....
1910—Commission and expense on capital stock			.....
1920—Reacquired securities:			xxxxxxx
	(a) Pledged	$.....	xxxxxxx
	(b) Unpledged	.....	xxxxxxx
1940—Nominally issued securities:			xxxxxxx
	(a) Pledged	.....	xxxxxxx
	(b) Unpledged	.....	xxxxxxx
Total miscellaneous debits			.....
Total assets			$.....
Contingent assets (not included above)		$.....	

LIABILITY SIDE

CURRENT LIABILITIES

2000—Notes payable	$.....
2020—Matured long-term obligations	.....
2030—Payables to affiliated companies	.....
2050—Accounts payable	.....
2070—Wages payable	.....
2090—C.O.D.'s unremitted	.....
2100—Dividends declared	.....
2120—Taxes accrued	.....
2150—Interest accrued	.....
2160—Matured interest	.....
2180—Other current liabilities	.....
Total current liabilities (exclusive of long-term debt due within one year)	$.....

LONG-TERM DEBT DUE WITHIN ONE YEAR

2190—Equipment obligations and other debt due within one year	$.....

ADVANCES PAYABLE

2200—Advances payable—Affiliated companies	$.....
2250—Other advances payable	.....
Total advances payable	$.....

EQUIPMENT AND OTHER LONG-TERM OBLIGATIONS

2300—Equipment obligations		$.....	
	Less: Reacquired and nominally issued	.....	$.....
2330—Bonds		.....	
	Less: Reacquired and nominally issued	.....	....
2360—Other long-term obligations		.....	
	Less: Reacquired and nominally issued	.....	....
Total equipment and other long-term obligations		.....	$.....

DEFERRED CREDITS

2400—Unamortised premium on debt		$.....	$.....
2450—Other deferred credits		.....	.....
Total deferred credits		.....	$.....

RESERVES

2650—Insurance reserves	$.....
2680—Injuries, loss, and damage reserves	.....
2690—Other reserves	.....
Total reserves	$.....

SHAREHOLDERS' (OR PROPRIETORS') EQUITY

CAPITAL STOCK

2700—Preferred capital stock		$.....	
	Less: reacquired and nominally issued	.....	$.....
2710—Common capital stock		.....	
	Less: reacquired and nominally issued	.....	.....
2730—Capital stock subscribed		.....	.....
Total capital stock			$.....

PROPRIETORS' CAPITAL

2800—Sole proprietorship capital	$.....
2810—Partnership capital	.....
Total proprietors' capital	$.....

LIABILITY SIDE—Continued

CAPITAL SURPLUS

2900—Premiums and assessments on capital stock	$.....
2910—Other capital surplus	.....
Total capital surplus	$.....

EARNED SURPLUS

2920—Earned surplus—appropriated	$.....
2930—Earned surplus—unappropriated	.....
Total earned surplus	.....
Total shareholders' (or proprietors') equity (2700–2930)	.....
Total liabilities and shareholders' (or proprietors') equity	$.....
Contingent liabilities (not included above)	$.....

INCOME ACCOUNTS

Ordinary Items

OPERATING REVENUES

3000 Operating revenues.

This account shall include the total operating revenues, as provided in the primary operating revenue accounts, derived by the carrier from its motor carrier operations.

OPERATING REVENUE ACCOUNTS

3100—Freight Revenue—Intercity—Common Carrier.
3110—Freight Revenue—Intercity—Contract Carrier.
3120—Freight Revenue—Local Cartage.
3130—Intercity Transportation for Other Class I and Class II Motor Carriers.
3900—Other Operating Revenue.

3100 Freight revenue; intercity; common carrier.

(a) This account shall include all revenue earned by the carrier from the transportation of property in intercity service, including pick-up and delivery incident thereto, while operating as a common carrier as defined in section 203(a)(14) of the Interstate Commerce Act. This includes:

(1) Revenue upon the basis of single line freight rates, including arbitraries and zone rates.

(2) The carrier's proportion of revenue earned on interline shipments.

(3) Revenue from the transportation of baggage, express, mail and newspapers in freight equipment.

(4) Revenue from substitute intercity service performed for a carrier by railroad, air or water.

(5) Revenue from furnishing line haul vehicles with drivers to another motor carrier, except to a Class II carrier or another Class I carrier (see Note F), for performing any part of its intercity service.

(6) Revenue from the intercity transportation of property in intrastate commerce if the service is similar to that of a common carrier as defined in section 203(a)(14) of the Interstate Commerce Act.

(7) Revenue from reconsigning, stop and other transit privileges.

(8) Fees for handling c.o.d.'s and other collections of money from consignees in connection with freight shipments.

(9) Revenue from rigging and other accessorial services incident to the transportation of property by the carrier.

(b) This account shall be charged with:

(1) The carrier's proportion of overcharges resulting from the use of erroneous intercity rates, weights, classifications or computations.

(2) Uncollected earnings on intercity freight destroyed in transit and on short and lost freight.

(3) The carrier's proportion of uncollected intercity tariff charges on damaged shipments for which charges neither shipper nor consignee is liable.

NOTE A: When a common carrier employs vehicles and services of others on a commission or other basis for hauling loads over its routes in intercity service and the expenses incurred in their operation are borne by the owners of the vehicles, the carrier shall record the freight revenue from such hauls in this account in the same manner as if it owned the vehicles. Amounts paid to the owners of the vehicles as compensation for the hauls shall be charged to account 4270—Purchased Transportation.

NOTE B: Amounts payable to others for pick-up and delivery and local transfer of the carrier's intercity freight under arrangements whereby the agreement for the amount payable is based on other than actual division of tariff rates shall be charged to account 4270—Purchased Transportation.

NOTE C: Divisions of interline tariff charges due other carriers shall be included in account 2030—Payables to Affiliated Companies, or account 2050—Accounts Payable.

NOTE D: Revenue from the intercity transportation of property in intrastate commerce, if the service is similar to that of a contract carrier as defined in section 203(a)(15) of the Interstate Commerce Act, shall be included in account 3110—Freight Revenue—Intercity—Contract Carrier.

NOTE E: Revenue from local transfer service and from pick-up and delivery service performed for another carrier shall be included in account 3120—Freight Revenue—Local Cartage.

NOTE F: Revenue from furnishing line haul vehicles with drivers to a Class II motor carrier or to another Class I motor carrier under a purchased transportation arrangement for performing any part of its intercity service, shall be included in account 3130—Intercity Transportation for Other Class I and Class II Motor Carriers.

NOTE G: Intercity service for the purpose of accounting and compiling statistical data means transportation performed beyond the limits defined for Local Service (see Note C to account 3120 for definition of Local Service).

NOTE H: Rigging and other accessorial services as used in paragraph (a)(9) of this account means loading, unloading and placing of shipments of unusual size or weight necessary to effect transportation of the shipment. Revenues and expenses incident to installation, erection or dismantling of machines, structures, etc., shall be included in account 6100—Income from Non-Carrier Operations—Net.

3110 Freight revenue; intercity; contract carrier.

(a) This account shall include all revenue earned by the carrier from the transportation of property in intercity service while operating as a contract carrier as defined in section 203(a)(15) of the Interstate Commerce Act. This includes:

(1) Revenue on the basis of contracts or agreements for the transportation of property in intercity service.

(2) Revenue from furnishing line haul vehicles with drivers to another motor carrier, except to a Class II carrier or another Class I carrier (see Note D), for performing any part of its intercity service.

(3) Revenue from the intercity transportation of property in intrastate commerce if the service is similar to that of a contract carrier as defined in section 203(a)(15) of the Interstate Commerce Act.

(b) This account shall be charged with:

(1) Refunds of overcharges resulting from the use of erroneous intercity rates, weights, classifications or computations.

(2) Uncollected earnings on intercity freight destroyed in transit and on short and lost freight.

NOTE A: When a contract carrier employs vehicles and services of others on a commission or other basis for hauling loads over its routes in intercity service and the expenses incurred in their operation are borne by the owners of the vehicles, the carrier shall record the freight revenue from such hauls in this account in the same manner as if it owned the vehicles. Amounts paid to the owners of the vehicles as compensation for the hauls shall be charged to account 4270—Purchased Transportation.

NOTE B: Revenue from the intercity transportation of property in intrastate commerce, if the service is similar to that of a common carrier as defined in section 203(a)(14) of the Interstate Commerce Act, shall be included in account 3100—Freight Revenue—Intercity—Common Carrier.

NOTE C: Revenue from pickup and delivery and local transfer service performed for another carrier shall be included in account 3120—Freight Revenue—Local Cartage.

NOTE D: Revenue from furnishing line haul vehicles with drivers to a Class II motor carrier or to another Class I motor carrier under a purchased transportation arrangement for performing any part of its intercity service, shall be included in account 3130—Intercity Transportation for Other Class I and Class II Motor Carriers.

NOTE E: Intercity service for the purpose of accounting and compiling statistical data means transportation performed beyond the limits defined for Local Service (see Note C to account 3120 for definition of Local Service).

3120 Freight revenue; local cartage.

(a) This account shall include revenue earned by common or contract carriers from the transportation of property in local cartage service, such as:

(1) Revenue from pick-up and delivery and local transfer services performed for carriers by motor vehicle, railroad, air, water and express, and for freight forwarders.

(2) Revenue from other local transfer service.

(3) Fees for handling c.o.d.'s.

(b) This account shall be debited with overcharges resulting from the use of erroneous local rates, weights, classifications or computations and uncollected earnings on freight damaged or destroyed in transit, or short and lost freight.

NOTE A: Revenue earned by the carrier from pickup and delivery service incident to its transportation of property in intercity service shall be included in accounts 3100 and 3110, as appropriate.

NOTE B: When a carrier employs vehicles and services of others on a commission or other basis for hauling loads in its local cartage service, and the expenses incurred in their operation are borne by the owners of the vehicles, the carrier shall record the freight revenue from such hauls in this account in the same manner as if it owned the vehicles. Amounts paid to the owners of the vehicles as compensation for the hauls shall be charged to account 4270—Purchased Transportation.

NOTE C: Local service, for the purpose of accounting and of compiling statistical data, means transportation performed within a city or town including the suburban area contiguous thereto.

3130 Intercity transportation for other Class I and Class II motor carriers.

This account shall include amounts receivable from other Class I and Class II motor carriers under a purchased transportation arrangement, for performing any portion of their intercity haul such as:

(1) Revenue from furnishing a line haul vehicle with services of driver to another Class I or to a Class II motor carrier under lease or similar arrangement.

(2) Revenue from transporting freight for another Class I or for a Class II motor carrier when such transportation is purchased by the other carrier to complete any portion of its intercity haul.

(3) Revenue from the transportation in intercity service of loaded or empty trailers for another Class I motor carrier or for a Class II motor carrier.

NOTE A: Revenue received from motor carriers, other than Class I or Class II motor carriers, for similar services shall be included in account 3100—Freight Revenue—Intercity—Common Carrier, or account 3110—Freight Revenue—Intercity—Contract Carrier, as appropriate.

NOTE B: Revenue received from the lease of revenue vehicles to other carriers without the service of drivers shall be included in account 4270—Equipment Rents—Credit.

3900 Other operating revenues.

This account shall include revenues not provided for in accounts 3100 to 3130, inclusive, derived from the operation of property the investment in which is included in account 1200—Carrier Operating Property, such as:

(a) Advertising matter displayed in or on structures and vehicles.

(b) Commissions for brokerage service.

(c) Commissions for making payroll deductions.

(d) Commissions for collecting freight charges for other carriers.

(e) Garnishment fees.

(f) Lockers, weighing and vending machines and similar devices.

(g) Privilege of operating lunch counters, news stands and soda fountains.

(h) Privilege of installing and operating commercial and coin box telephones.

(i) Operation of lunch rooms, restaurants, etc.

(j) Profit on sales of material and supplies, and on shop work and services to others.

(k) Parking and storage of vehicles.

(l) Snow plow work.

(m) Storage of freight in excess of free time provided in tariffs.

(n) Other miscellaneous revenues incident to motor carrier operations.

OPERATION AND MAINTENANCE EXPENSES

4000 Operation and maintenance expenses.

This account shall include the total of operation and maintenance expenses, as provided in the primary accounts, incurred by the carrier in its motor carrier operations during the period covered by the income account.

4100 Equipment maintenance.

4110 Supervision.

(a) This account shall include the salaries and bonuses of officers and other employees, such as superintendents and foremen (other than working foremen), engaged in supervising and directing the repairing and servicing of revenue equipment, service equipment and shop and garage property used in motor carrier operations.

(b) This account shall also include the pay and bonuses of inspectors, shop and garage clerks, timekeepers and other administrative employees of the equipment maintenance department.

4120 Office and other expenses.

This account shall include the cost of services and supplies and other expenses incurred in the administration of the equipment maintenance department.

ITEMS

Automobiles, maintenance and operation of.
Books.
Entertainment.
Hotels and meals.
Janitor service.
Postage.
Rents paid for use of typewriters and other office machines.
Stationery and printing.
Subscriptions to newspapers, clipping bureaus, periodicals, trade journals, etc.
Traveling expenses.

4130 Repairs and servicing; revenue equipment.

(a) This account shall include the wages of employees and the cost of parts, material, and supplies, used in repairing and servicing revenue equipment, and amounts paid to public shops and garages for repairing and servicing revenue equipment. (See instruction 12.)

(b) This account shall also be charged with the cost of replacing original equipment included in the book cost of revenue vehicles such as fire extinguisher supplies, jacks, lamps, pads, poles, ropes, stakes, tarpaulins, tire chains, etc.

ITEMS

Alcohol and other non-freeze preparations.
Battery men.
Carpenters.
Cleaning supplies and solvents.
Electricians and radio maintenance men.
Grease and lubricants (other than motor oil).
Greases.
Helpers.
Machinists.
Mechanics.
Metal workers.
Outside repairs and service.
Repair parts, materials and supplies.
Washers and cleaners.
Working foremen.

(c) The cost of repairs to revenue equipment involved in accidents shall be charged to a separate subdivision of this account and accounted for as provided in instruction 22(f).

(d) This account shall be subdivided as follows (see instruction 27):

4131—Line Haul Equipment.
4135—Pickup and Delivery Equipment.

NOTE: The cost of operating and maintaining automobiles used by officers and employees, including gasoline, oil, tires and tubes, and repairs, shall be charged to the accounts provided for other personal expenses of such employees.

4145 Employees' welfare expenses.

This account shall be charged with the costs incurred for the benefit of equipment maintenance employees in accordance with provisions of instruction 28.

4160 Tires and tubes; revenue equipment.

(a) This account shall include the cost, including taxes, of tires and tubes applied to revenue equipment, including tires and tubes on new equipment.

(b) The cost of tires and tubes applied to revenue equipment may be charged directly to this account or included in account 1176—Prepaid Tires and Tubes, and charged off to this account in appropriate monthly installments.

(c) This account shall also be charged with the cost of labor and materials used in repairing and renewing, setting up and mounting tires and tubes on revenue equipment, including the cost of shoes, valves flaps, sections, recaps, etc.

(d) When a carrier contracts to use tires at a monthly rental based on miles run or some similar method of computing the charge, the cost of such tire service, including abused tires, shall be included in this account.

(e) This account shall be subdivided as follows (see instruction 27):

4161—Line Haul Equipment.
4165—Pickup and Delivery Equipment.

NOTE A: The cost of unapplied tires and tubes held in stock, shall be charged to account 1180—Material and Supplies.

NOTE B: The cost of tires and tubes used by service cars and automobiles shall be accounted for as provided in the text of account 4180—Other Maintenance Expenses.

4180 Other maintenance expenses.

This account shall be charged with wages and other expenses, incurred in connection with maintenance of the carrier's revenue equipment, that are not provided for elsewhere, such as:

(a) The pay of operators of service cars and wreckers, shop sweepers and janitors, watchmen and unskilled laborers; also the pay of employees while repairing shop and garage structures, tools, machines, service equipment and furniture and office equipment of the maintenance department.

(b) The cost of heat, light, power and water used in shops and garages.

(c) The cost of materials, supplies and small tools consumed in the operation and maintenance of shops and garages and not directly assignable to other accounts.

(d) The cost of gasoline and oil, tires and tubes, including taxes; vehicle licenses; repairs to service cars, wreckers, etc., used in connection with the operation of shops and garages.

(e) Other expenses such as payments for towing, wrecker and similar services; vehicle inspection fees; cost of removing snow and ice from shop and garage structures and grounds; the cost of ice, drinking water, towels, soap, etc.; and employees' travel and personal expenses not directly chargeable to other accounts in the maintenance group of accounts.

NOTE A: The cost of operating and maintaining automobiles used by officers and employees, including vehicle licenses, gasoline, oil, tires and tubes, and repairs, shall be charged to the accounts provided for other personal expenses of such employees.

NOTE B: The cost of initial improvements (including repairs and rearrangements) in the preparation of purchased buildings or grounds for use by the maintenance department, shall be charged to account 1201—Land and Land Rights, or account 1210—Structures, as appropriate. The accounting for similar expenditures on property leased from others shall be as provided in instruction 19(h).

NOTE C: Amounts recovered from insurance companies or others and amounts provided in account 2660—Insurance Reserves, for damages to buildings, grounds, furniture, machinery, etc., used in the maintenance of revenue equipment shall be accounted for as provided in instruction 22(f).

4185 Operating rents.

(a) This account shall include rental payments for real estate and other property used in motor carrier operations by the Equipment Maintenance Department, not provided for elsewhere.

(b) This account shall be credited with amounts receivable as rents for the use of real estate and other property of the Equipment Maintenance Department, not provided for elsewhere.

(c) This account shall also include amounts receivable as rental from the sublease of property rented from others if amounts payable as rent for the property by the reporting carrier are charged hereto.

NOTE A: Amounts payable or receivable for rental of real estate and other property included in the lease of a distinct operating unit (see definition 22) shall be included in account 5400—Lease of Distinct Operating Unit—Debit, or account 5500—Lease of Distinct Operating Unit—Credit, as appropriate.

NOTE B: Rentals for property and equipment used in noncarrier operations shall be included in account 6100—Income from Non-Carrier Operations—Net.

4191 Joint garage expense; debit.

This account shall include the carrier's proportion of costs incurred by others in maintaining and operating joint shop and garage equipment and facilities. (See definition 23 and instruction 25(a).)

4196 Joint garage expense; credit.

This account shall include the amounts chargeable to others as their proportion of the costs incurred by the reporting carrier in maintaining and operating joint shop and garage equipment and facilities. (See definition 23 and instruction 25(b).)

4200 Transportation.

4210 Supervision.

This account shall include the salaries and bonuses of officers and other employees engaged in supervising and directing transportation.

(b) This account shall also include the pay and bonuses of inspectors, dispatchers, clerks and other administrative employees of the transportation department including operators of two-way radio communication service.

4220 Office and other expenses.

(a) This account shall include the cost of services and supplies, and other expenses incurred in connection with the administrative functions of the transportation department.

ITEMS

Automobiles, maintenance and operation of.
Books.
Drinking water and refrigeration.
Entertainment.
Heat, light, power and water.
Hotels and meals.
Janitor and cleaning supplies.
Membership fees and dues in trade and other associations.
Rents paid for the use of typewriters and other office machines.
Repairs to transportation office furniture, fixtures and equipment.
Stationery and printing.
Subscriptions to newspapers, trade journals, etc.
Traveling expenses.
Towel service.

4230 Drivers and helpers.

(a) This account shall include the wages, bonuses and vacation pay of drivers of revenue equipment, and helpers, engaged in freight transportation service, including wages for time during which they are required to be on duty in readiness for active service.

(b) This account shall be subdivided as follows (see instruction 27):

4231—Line Haul Equipment.
4235—Pickup and Delivery Equipment.

4245 Employees' welfare expenses.

This account shall be charged with the costs incurred for the benefit of transportation employees in accordance with provisions of instruction 28.

4250 Fuel for revenue equipment.

(a) This account shall include the cost of gasoline, other motor fuel, and enriching materials used by revenue equipment. Include in this account transportation charges payable to others on motor fuel.

(b) This account shall be subdivided as follows (see instruction 27):

4251—Line Haul Equipment.
4255—Pickup and Delivery Equipment.

NOTE A: Taxes on motor fuel shall be charged to account 5300—Operating Taxes and Licenses, at time of purchase.

NOTE B: Motor fuel used in automobiles and service cars shall be accounted for as provided in account 4180—Other Maintenance Expenses.

4260 Oil for revenue equipment.

(a) This account shall include the cost of motor oils used by revenue equipment. Include in this account transportation charges payable to others on motor oil.

(b) This account shall be subdivided as follows (see instruction 27):

4261—Line Haul Equipment.
4265—Pickup and Delivery Equipment.

NOTE A: Taxes on motor oil shall be charged to account 5200—Operating Taxes and Licenses, at time of purchase.

NOTE B: Motor oil used in automobiles and service cars shall be accounted for as provided in account 4180—Other Maintenance Expenses.

4270 Purchased transportation.

This account shall be subdivided as follows:

4271 Equipment rents; intercity; with drivers.

This account shall include amounts payable to others for furnishing revenue vehicles with the services of drivers for the exclusive use and under the control of the reporting carrier in intercity service where the payment includes the wages of drivers.

NOTE: If the arrangement under which vehicles with drivers are furnished to the carrier provides that wages of the drivers shall be paid separately by the reporting carrier and included on its payroll, the wages shall be included in account 4230—Drivers and Helpers, and the balance of the amount payable for the service shall be included in account 4272—Equipment Rents—Intercity—Without Drivers.

4272 Equipment rents; intercity; without drivers.

This account shall include amounts payable to others for furnishing revenue vehicles to the reporting carrier for its exclusive use, and under its control, in intercity service, where the payment does not include drivers' wages.

NOTE A: If, under the arrangement for use of a vehicle, the services of a driver are also included and his wages are to be paid separately by the reporting carrier and included on its payroll, the amounts of wages so paid shall be included in account 4230—Drivers and Helpers.

NOTE B: Amounts payable for rental of revenue equipment included in the lease of a distinct operating unit (see definition 22) shall be charged to account 5400—Lease of Distinct Operating Unit—Debit.

4273 Other purchased transportation; intercity.

(a) This account shall include payments for the intercity transportation of individual shipments and part-loads, billed by the reporting carrier, in the vehicles of another motor carrier when the hauling carrier retains control of the vehicle and driver.

(b) This account shall also include payments to railroads, water carriers and other motor carriers for the intercity transporation of the reporting carrier's loaded and empty revenue vehicles.

(c) Amounts included in this account shall be segregated as follows:

(1) Payments to motor carriers.

(2) Payments to railroads and water carriers.

4275 Equipment rents; pickup and delivery; with drivers.

This account shall include amounts payable to others for furnishing revenue vehicles with the services of drivers for the exclusive use and under the control of the reporting carrier in pickup and delivery service and other local operations, where the payment includes the wages of the drivers.

NOTE: If the arrangement under which vehicles with drivers are furnished to the carrier provides that wages of the drivers shall be paid separately by the carrier and included on its payroll, the wages shall be included in account 4280—Drivers and Helpers, and the balance of the amount payable for the service in account 4276—Equipment Rental—Pickup and Delivery—Without Drivers.

4276 Equipment rents; pickup and delivery; without drivers.

This account shall include amounts payable to others for furnishing revenue vehicles to the reporting carrier for its exclusive use and under its control, in pickup and delivery and other local operations, when the payment does not include drivers' wages.

NOTE A: If the arrangement for use of a vehicle covers the services of a driver whose wages are to be paid separately by the reporting carrier and included on its payroll, the amounts of wages so paid shall be included in account 4280—Drivers and Helpers.

NOTE B: Amounts payable for rental of revenue equipment included in the lease of a distinct operating unit (see definition 22) shall be charged to account 5400—Lease of Distinct Operating Unit—Debit.

4277 Other purchased pickup and delivery.

(a) This account shall include payments to others for picking up and delivering the reporting carrier's intercity freight and performing its local cartage service, when the vehicles so employed are not used exclusively in the carrier's service and are not under its control.

(b) This account shall also include allowances to shippers and consignees for picking up and delivering intercity shipments.

(c) Amounts included in this account shall be segregated as follows:

(1) Payments to motor carriers and others.

(2) Allowances to shippers.

NOTE: This account shall not be charged with payments to another motor carrier for pickup or delivery service where the compensation for such service is based on a division of the through tariff rate.

4279 Equipment rents; credit.

(a) This account shall be credited with rents receivable by the reporting carrier for owned or leased revenue vehicles which are furnished to others without the services of drivers.

(b) This account shall also be credited with rents receivable for owned or leased revenue vehicles furnished to other motor carriers under an arrangement whereby both the vehicle and driver are furnished by the reporting carrier but the wages of the driver are paid separately by the hiring carrier and included on its payroll.

(c) This account shall be subdivided to reflect separately:

(1) Rents receivable for intercity revenue vehicles.

(2) Rents receivable for pickup and delivery revenue vehicles.

NOTE A: Payments receivable from other motor carriers which cover both the rent of an intercity vehicle and wages of the driver shall be credited to account 3130 if the service is furnished to a Class I or Class II motor carrier, and to account 3100 or 3110 if furnished to motor carriers other than Class I or Class II.

NOTE B: Payments receivable from other motor carriers which cover both the rent of a pickup and delivery vehicle and wages of the driver shall be credited to account 3120.

NOTE C: Amounts receivable for rental of revenue vehicles included in the lease to others of a distinct operating unit (see definition 22), shall be credited to account 5500—Lease of Distinct Operating Unit—Credit.

4280 Other transportation expenses.

This account shall include transportation department expenses that are not provided for elsewhere.

ITEMS

Badges for employees.
Expenses other than wages of deadheading drivers.
Extra labor hired for loading and unloading the carrier's vehicles except at its terminals.
Fines for traffic violations.
Ice and other refrigerants.
Lodging for drivers and miscellaneous transportation employees.
Meals for drivers and miscellaneous transportation employees.
Payments to customers' employees for services after hours.
Pilots cars and drivers, cost of providing.
Plates, vehicle identification (State and others, not renewable periodically).
Repairs to transportation structures, fixtures and equipment.
Tolls—bridge, tunnel, highway and ferry.
Uniforms for drivers.
Wages, materials and tools used in, and amounts paid others for, clearing and sanding roads.
Weighing freight, other than at carrier's terminals.

4285 Operating rents.

(a) This account shall include rental payments for real estate and other property, except revenue equipment, used in motor carrier operations by the Transportation Department not provided for elsewhere.

(b) This account shall be credited with amounts receivable as rents for the use of real estate and other property except revenue equipment, of the Transportation Department not provided for elsewhere.

(c) This account shall also include amounts receivable as rental from the sublease of property rented from others if amounts payable as rent for the property by the reporting carrier are charged hereto.

NOTE A: Amounts payable or receivable for rental of real estate and other property included in the lease of a distinct operating unit (see definition 22) shall be included in account 5400—Lease of Distinct Operating Unit—Debit, or account 5500—Lease of Distinct Operating Unit—Credit, as appropriate.

NOTE B: Rentals for property and equipment used in noncarrier operations shall be included in account 6100—Income from Non-Carrier Operations—Net.

NOTE C: Rentals for the use of revenue equipment shall be included in account 4270—Purchased Transportation.

4300 Terminal.

4310 Supervision.

This account shall include the total of amounts included in accounts 4311 to 4313 inclusive.

4311 Supervisory salaries.

This account shall include the salaries and bonuses of officials and other employees engaged in general supervision of terminal operations.

4312 Salaries and fees; billing and collecting.

This account shall include the pay of cashiers and other employees engaged in rating, billing and manifesting freight shipments and payments to outside organizations for manifesting, rating or collecting freight bills.

4313 Other office employees.

This account shall include the pay of stenographers, typists, telephone operators, information clerks and all other terminal office employees not provided for in accounts 4311 and 4312.

4320 Office and other expenses.

This account shall include the cost of office supplies and other supplies and expenses consumed in connection with the administrative functions of the terminal department.

ITEMS

Automobiles, maintenance and operation of, including taxes on gasoline, oil, tires and tubes.
Books.
Entertainment.
Hotels and meals.
Membership fees and dues in trade and other associations.
Postage.
Rents paid for the use of typewriters and other office machines.
Repairs to terminal office furniture, fixtures and equipment.
Stationary and printing.
Subscriptions to newspapers, trade journals, etc.
Traveling expenses.
Towel service.

4340 Salaries and wages; platform employees.

This account shall include the salaries and wages of platform superintendents, foremen, checkers, loaders, platform truckers, and other employees, including casual labor, engaged in loading, unloading and platform handling of freight at the carrier's terminals. (See instruction 11.)

4345 Employees' welfare expenses.

This account shall be charged with the costs incurred for the benefit of terminal employees in accordance with provisions of instruction 28.

4350 Other terminal employees.

This account shall include the pay of yardmen, watchmen, cleaners, janitors and other miscellaneous terminal employees.

4360 Commission agents.

This account shall include amounts paid to others on a commission or other basis for the solicitation, terminal handling and pickup and delivery of freight at points where the carrier does not operate terminals or participate with other carriers in joint terminal facilities. Include also amounts allowed commission agents for expenses such as advertising, rent, light, heat, power and water, telephone and telegraph service, and items of a similar nature.

NOTE A: Payments for the pickup and delivery of freight by commission agents shall be included in account 4370—Purchased Transportation, if they can be segregated from amounts paid agents for terminal handling, solicitation, and other expenses.

NOTE B: Commissions paid to freight solicitors, other than commission agents as set out in this account, are includible in account 4410—Supervision.

4380 Other terminal expenses.

This account shall include the cost of platform supplies and other expenses incurred in connection with the operation of terminals.

ITEMS

Ash removal.
Cleaning supplies.
Drinking water and refrigerants.
Heating or cooling including supplies.
Janitor service.
Laundry service, including supplies.
Lighting and electric power.
Repairs to terminal structures, platform furniture, fixtures and equipment.
Snow and dust removal.
Sprinkling terminal grounds.
Tools and supplies for terminal use.
Weighing freight at terminals.

4385 Operating rents.

(a) This account shall include rental payments for real estate and other property, used in motor carrier operations by the Terminal Department, not provided for elsewhere.

(b) This account shall be credited with amounts receivable as rents for the use of real estate and other property of the Terminal Department, not provided for elsewhere.

(c) This account shall also include amounts receivable as rental from the sublease of property rented from others if amounts payable as rent for the property by the reporting carrier are charged hereto.

NOTE A: Amounts payable or receivable for rental of real estate and other property included in the lease of a distinct operating unit (see definition 22) shall be included in account 5400—Lease of Distinct Operating Unit—Debit, or account 5500—Lease of Distinct Operating Unit—Credit, as appropriate.

NOTE B: Rentals for property and equipment used in noncarrier operations shall be included in account 6100—Income from Non-Carrier Operations—Net.

4391 Joint terminal facilities; debit.

This account shall include the carrier's proportion of costs incurred by others in maintaining and operating joint terminal equipment and facilities. (See definition 23 and instruction 25(a).)

4396 Joint terminal facilities; credit.

This account shall include the amounts chargeable to others as their proportions of the costs incurred by the reporting carrier in maintaining and operating joint terminal equipment and facilities. (See definition 23 and instruction 25 (b).)

4400 Traffic.

4410 Supervision.

(a) This account shall include the salaries and bonuses of officers, traffic managers and other employees who are directly in charge of the promotion and solicitation of traffic.

(b) This account shall also include the salaries and commissions of employees engaged in the solicitation of traffic, such as salesmen, solicitors and estimators, and commissions and fees paid to outside organizations for the solicitation of traffic with the exception of payments to commission agents (see account 4360); salaries of employees engaged in preparing tariffs, schedules and statistical data, and preparing and distributing advertising matter for the purpose of obtaining traffic; and salaries of other traffic department employees such as stenographers, typists, clerks, etc.

4420 Office and other expenses.

This account shall include all supervisory expenses not provided for elsewhere, including the cost of maintaining and operating automobiles; the carrier's proportion of expenses of traffic associations and membership fees in trade, technical and professional associations; officers and employees' hotel and traveling expenses; postage; and stationery and printing.

4430 Tariffs and schedules.

This account shall include the cost of printing and other expenses, except salaries, incurred in the preparation of tariffs and schedules, including postage and transportation charges. This account shall also include amounts payable to outside agencies for publishing the carrier's tariffs and schedules.

4445 Employees' welfare expenses.

This account shall be charged with the costs incurred for the benefit of traffic employees in accordance with provisions of instruction 28.

4450 Advertising.

This account shall include expenses, other than salaries, in connection with advertising for the purpose of securing traffic, such as the preparation, printing and distribution of advertising matter and copy, commissions and fees paid outside advertising agents, the cost of advertising space in newspapers and periodicals, expenses incurred in connection with advertising by radio, the cost of operating and maintaining neon and other display signs (permanent or portable) for attracting traffic, bulletin boards, display cards and cases, and photographs; also postage and express charges on advertising matter, cost of bill posting, etc.

4480 Other traffic expenses.

This account shall be charged with traffic department expenses that are not provided for elsewhere.

4485 Operating rents.

(a) This account shall include rental payments for real estate and other property used in motor carrier operations by the Traffic Department, not provided for elsewhere.

(b) This account shall be credited with amounts receivable as rents for the use of real estate and other property of the Traffic Department, not provided for elsewhere.

(c) This account shall also include amounts receivable as rental from the sublease of property rented from others if amounts payable as rent for the property by the reporting carrier are charged hereto.

NOTE A: Amounts payable or receivable for rental of real estate and other property included in the lease of a distinct operating unit (see definition 22) shall be included in account 5400—Lease of Distinct Operating Unit—Debit, or account 5500—Lease of Distinct Operating Unit—Credit, as appropriate.

NOTE B: Rentals for property and equipment used in noncarrier operations shall be included in account 6100—Income from Non-Carrier Operations—Net.

4500 Insurance and safety.

4510 Supervision.

This account shall include the salaries or wages, and bonuses, of insurance and safety department employees, and payments to others, as follows:

(a) The salaries of officers and other employees who are engaged in general supervision of the insurance and safety department.

(b) The salaries of employees engaged in handling insurance, safety, and claims.

(c) The salaries of officers and employees of the law department when specifically assigned to and engaged in injury, loss and damage cases, and payments to attorneys, investigators, adjustors, etc., who are not regular employees of the carrier, for services in connection with such cases.

4520 Office and other expenses.

(a) This account shall include all supervisory expenses not provided for elsewhere, including the cost of maintaining and operating automobiles; special costs incurred in procuring insurance, such as brokerage fees (not included in premiums), notarial fees, and insurance inspection service; costs of safety-first and other campaigns among employees or the public for the purpose of preventing accidents, losses and damage; officers' and employees' hotel and other traveling expenses including those of employees of the law department when specifically assigned to and engaged in injury, loss and damage cases; the cost of memberships in trade, technical and professional associations; postage; stationery and printing; rents paid for the use of typewriters

and other office machines; and subscriptions to newspapers, trade journals, etc.

(b) Reimbursements from insurance companies or others for expenses charged to this account in connection with injury, loss and damage cases shall be credited to this account.

4530 Public liability and property damage.

(a) This account shall include the net cost (i.e., the amounts of premiums less the amounts of dividends or refunds), of commercial insurance to protect the carrier against liability for deaths of or injuries to persons (other than the carrier's employees), and damages to the property of others (except property intrusted to the carrier for transportation or storage), resulting from the operation of owned and leased vehicles in motor carrier service. (See instruction 22(d).)

(b) This account shall also be charged each month and account 2680—Injuries, Loss and Damage Reserves, shall be credited with amounts sufficient to meet the probable liability under the classes of risks set out in paragraph (a) of this account 4530, not covered by commercial insurance.

4540 Workmen's compensation.

(a) This account shall include the net cost (i.e., the amounts of premiums less the amounts of dividends or refunds) of insurance required to provide for workmen's compensation or similar employee protection in connection with motor carrier operations, whether such insurance is provided by means of premiums payable to governmental agencies or commercial insurance companies. (See instruction 22(d).)

(b) This account shall also be charged each month and account 2680—Injuries, Loss and Damage Reserves, shall be credited, with amounts sufficient to meet the probable liability not covered by outside insurance, on account of claims for injuries to and deaths of employees arising under workmen's compensation and employer's liability acts.

NOTE: Payments to or on behalf of employees, other than claims covered by this account, including accident and death benefits, salaries, fees and expenses of surgeons, doctors, nurses, hospital expenses and medical supplies, etc., shall be accounted for as provided in instruction 20.

4545 Employees' welfare expenses.

This account shall be charged with the costs incurred for the benefit of insurance and safety department employees in accordance with provisions of instruction 28.

4550 Cargo loss and damage.

(a) This account shall include the net cost (i.e., the amounts of premiums less the amounts of dividends or refunds), of commercial insurance to protect the carrier against liability for claims resulting from loss and damage to, or delay of, property intrusted to it for transportation or storage. (See instruction 22(d).)

(b) This account shall also be charged each month and account 2680—Injuries, Loss and Damage Reserves, shall be credited, with amounts sufficient to meet the probable liability for claims under the classes of risks set out in paragraph (a) of this account 4550, that are not covered by commercial insurance.

(c) A freight claim register shall be maintained by all carriers in the form set out in instruction 22(e).

4560 Fire, theft and collision.

(a) This account shall include the net cost (i.e., the amounts of premiums less the amounts of dividends or refunds) of commercial insurance to protect the carrier against loss from fire, theft or collision damage to owned or leased vehicles and for fire insurance on structures, machinery, equipment, etc., used in motor carrier operations. (See instruction 22(f).)

(b) In case a carrier shall carry its own insurance risks, either wholly or in part, for the classes of coverage set out in paragraph (a) above, this account shall be charged each month and account 2660—Insurance Reserves, shall be credited, with an amount sufficient to meet the probable loss not covered by commercial insurance.

(c) If commercial or self-insurance coverage is not maintained by the carrier, losses arising under the classes of risks set out in paragraph (a) of this account 4560 shall be accounted for as provided in instruction 22 (b) and (f).

4570 Other insurance expense.

(a) This account shall include the net cost (i.e., the amounts of premiums less the amounts of dividends or refunds), of commercial insurance to protect the carrier against loss from boiler; burglar; fidelity; holdup; lightning; plate glass; owners, landlords, and tenants liability; and other risks not elsewhere provided for. (See instruction 22.) This account shall also be charged with premiums on performance and similar bonds.

(b) In case a carrier shall carry its own insurance risks, either wholly or in part, for the classes of coverage set out in paragraph (a) above, this account shall be charged each month and account 2660—Insurance Reserves, shall be credited, with an amount sufficient to meet the probable loss not covered by commercial insurance.

(c) If commercial or self-insurance coverage is not maintained by the carrier, losses arising under the classes of risks set out in paragraph (a) of this account 4570 shall be accounted for as provided in instruction 22 (b) and (f).

4580 Other insurance and safety department expenses.

This account shall be charged with insurance and safety department expenses other than risks or claims that are not provided for elsewhere.

4585 Operating rents.

(a) This account shall include rental payments for real estate and other property used in motor carrier operations by the Insurance and Safety Department, not provided for elsewhere.

(b) This account shall be credited with amounts receivable as rents for the use of real estate and other property of the Insurance and Safety Department, not provided for elsewhere.

(c) This account shall also include amounts receivable as rental from the sublease of property rented from others if amounts payable as rent for the property by the reporting carrier are charged hereto.

NOTE A: Amounts payable or receivable for rental of real estate and other property included in the lease of a distinct operating unit (see definition 22) shall be included in account 5400—Lease of Distinct Operating Unit—Debit, or account 5500—Lease of Distinct Operating Unit—Credit, as appropriate.

NOTE B: Rentals for property and equipment used in noncarrier operations shall be included in account 6100—Income From Non-Carrier Operations—Net.

4600 Administrative and general.

4610 Supervision.

This account shall include the total of amounts included in accounts 4611 to 4613, inclusive.

4611 Salaries; general officers.

(a) This account shall include the salaries, bonuses, and other forms of consideration for services of general officers whose jurisdiction extends over the carrier's entire transportation system, and also fees payable to receivers or trustees appointed by the courts. As here used, the term "general officers" would ordinarily include the following:

Chairman of the Board.	General Counsel.
President.	General Secretary.
Vice Presidents.	General Auditor.
Treasurer.	General Manager.
Comptroller.	

The salaries of the officers enumerated above shall be included in this account regardless of the fact that they may also perform duties in connection with the maintenance, transportation, terminal or other functional operations of the carrier, except that the pay of officers in charge of other functions who perform no general administrative duties, shall be charged to the appropriate accounts provided for the pay of supervisory employees in those groups of accounts.

(b) This account shall also include the amounts designated as salaries of sole proprietors, and partners in charge of the administration of non-incorporated motors carriers.

4612 Salaries; revenue accounting.

This account shall include the pay of employees engaged in handling revenue accounting such as, machine operators, sorters, file clerks, cashiers, revision clerks and employees handling interline accounting and credits.

4613 Salaries; other general office employees.

This account shall include the pay of all other general office employees not includible in account 4612, such as office managers, chief accountants, bookkeepers, attorneys, purchasing agents, stenographers, typists, switchboard operators, clerks, janitors, watchmen and other employees attached to the general office.

4620 Office and other expenses.

This account shall include the total of amounts included in accounts 4621 to 4623, inclusive.

4621 Expenses of general officers.

This account shall include expenses incurred for the benefit of motor carrier operations by officers whose salaries are includible in account 4611 such as:

Cost of operation and maintenance of automobiles.
Traveling expenses.
Membership fees and dues in trade and professional organizations.

4622 Expenses of general office employees.

This account shall include traveling and incidental expenses incurred by general office employees whose salaries are includible in accounts 4612 or 4613, such as:

Cost of operations and maintenance of automobiles.
Traveling expenses.
Membership fees and dues in trade and professional organizations.

4623 Other general office expenses.

This account shall include the cost of supplies and expenses incurred in connection with the carrier's general administrative functions.

ITEMS

Books.
Drinking water and refrigeration.
Heat, light, power and water.
Janitor and cleaning supplies.
Postage.
Printed forms for general office use.
Rent for office machines.
Repairs to general office furniture and equipment.
Stationery and office supplies.
Subscriptions to newspapers, clipping bureaus, periodicals, etc.
Towel service.

4630 Law expenses.

This account shall include the cost of operating the carrier's law department, other than salaries of employees, including amounts payable to others for legal services and related expenses not provided for in other operating expense accounts (see account 4510).

ITEMS

Cost of lawsuits.
Cost of preparing and printing agreements, briefs, reports, etc.
Court costs.
Court fees.
Law books, periodicals and subscriptions to special services.
Law expenses of receivers.
Legal forms, law office supplies, postage and stationary.
Meals because of overtime work.
Payments to outside attorneys.
Premiums on court and other bonds.
Printing.
Tax reports, claims, etc., when handled by legal staff.
Transcripts of testimony, copies of exhibits, etc.
Traveling expenses of outside attorneys, witnesses, etc.
Witness fees.

NOTE A: The pay of the legal staff of the carrier shall be included in account 4611—Salaries—General Officers, 4613—Salaries—Other General Office Employees, or other appropriate accounts.

NOTE B: The pay of law department officers and employees engaged in formal cases before regulatory commissions, in cases to which such a commission is a party, or when specifically assigned to injury and damage cases, shall be charged to account 4670—Regulatory Expenses, account 4510—Supervision, or other appropriate accounts. (See instruction 11.)

NOTE C: Law expenses incident to the purchase of operating rights, the acquisition of such rights from Federal or State Commissions or securing from local authorities of franchises or consents with a life of more than 1 year shall be charged to the appropriate subdivision of account 1500—Organization, Franchises, and Permits, or account 1550—Other Intangible Property. Law expenses incident to the issuance of long-term debt or capital stock shall be charged to account 1880—Unamortized Debt Discount and Expense, account 2400—Unamortized Premium on Debt, or account 1910—Commission and Expense on Capital Stock, as appropriate.

4635 Outside auditing expenses.

This account shall include the cost of auditing and accounting services rendered by individuals or firms other than the carrier's own employees.

NOTE: The fees and expenses paid independent auditors and accountants for preparing financial and other statements incident to the issuance of long-term debt and capital stock, or to the acquisition of operating rights, shall be charged, as appropriate, to account 1880—Unamortized Debt Discount and Expense, account 2400—Unamortized Premium on Debt, account 1910—Commission and Expense on Capital Stock, account 1511—Franchises, or account 1550—Other Intangible Property. (See Note B under account 1511.)

4640 Communication service.

This account shall include the cost, including excise taxes, of all communication service payable to outside companies, such as telephone, teletypewriter, telegraph, radio, etc.

4645 Employees' welfare expenses.

This account shall be charged with the costs incurred for the benefit of general office employees in accordance with provisions of instruction 28.

4650 Management and supervision fees.

(a) This account shall include the amounts of fees and expenses incurred for services received from others under a service contract or other arrangement providing for the furnishing of general management, supervision, purchasing, financial or other general services.

(b) The records supporting the entries in this account shall be so maintained as to show the respective amounts paid to each provider of the service with respect to each class of service so furnished and the basis upon which the fees are assessed. If the costs incurred in the first instance by the person furnishing the service are apportioned to several recipients thereof, the records of the carrier shall indicate the aggregate cost to the furnishing person and the method of apportionment to the carrier.

(c) This account shall be subdivided to reflect:

(1) Fees and expenses of affiliated companies.
(2) Fees and expenses of other persons (see definition 29).

4660 Uncollectible revenues.

(a) This account shall be charged, and account 1120—Accounts Receivable—Agents, Customers and Interline, shall be credited, with receivables for carrier operating revenues, including interline proportions of revenue due from other carriers, which, after a reasonably diligent effort to collect, have proved impracticable of collection. If accounts which have been so written off are afterwards collected, the amount received shall be credited to this account: *Provided, however,* That such recoveries are from accounts charged off against this account.

(b) Charges to this account may be made monthly on the basis of the estimated average loss of revenue due to uncollectible accounts, in which case the concurrent credit shall be to account 2650—Reserve for Uncollectible Accounts. To the reserve thus established shall be charged such amounts as are determined to be uncollectible, and amounts written off and subsequently collected shall be credited to the reserve. When charges to this account are made by estimate, the estimate shall be adjusted at the end of each calendar year to conform to the experience of the accounting carrier as determined by analysis of its accounts receivable.

NOTE: Losses on receivables for other than carrier operating revenues, and losses on notes or claims receivable, shall be accounted for as provided in item (c) of account 7500—Other Deductions.

4670 Regulatory expenses.

(a) This account shall include expenses incurred by the carrier in connection with formal cases before Federal or State regulatory bodies or cases to which such a body is a party; also include payments made to a regulatory commission for fees or amounts assessed against the carrier for pay and expenses of the regulatory commission, its officers, agents and employees, other than those incurred in securing certificates of convenience and necessity and authority for the issuance of securities. (See Note B.)

(b) Amounts includible in this account which by approval or direction of the Commission are to be spread over future periods shall be charged to account 1890—Other Deferred Debits, and amortized by charges to this account.

ITEMS

Fees retainers, and expenses of counsel, solicitors, attorneys, clerks, attendants, witnesses, and others whose services are secured for the defense or prosecution of petitions or complaints presented to regulatory bodies.
The pay of officers and employees specifically assigned to or engaged in the valuation of property owned or used by the carrier, in connection with such cases, and the cost of similar work performed by others.

Amounts assessed by Federal and state regulatory commissions for pay and expenses of their officers, agents, and employees; office and traveling expenses; stationery, printing and engineering supplies; and other expenses and supplies including expenses of officers and employees upon matters covered by this account even though no portion of their pay is assignable hereto.

NOTE A: Expenses incurred for the improvement of service, for additional inspection, or rendering reports which are made necessary by the rules and regulations, or orders, of regulatory bodies, shall be charged to the appropriate operation and maintenance expense accounts.

NOTE B: Expenses incident to securing certificates of convenience and necessity from regulatory bodies shall be charged to the appropriate subdivisions of account 1500—Organization, Franchises and Permits. Expenditures incident to securing authorization for issuance of long-term debt or capital stock shall be charged to account 1880—Unamortized Debt Discount and Expense, account 2400—Unamortized Premium on Debt, or account 1910—Commission and Expense on Capital Stock, as appropriate.

4675 Purchasing and store expenses.

(a) This account shall include the cost of operating the carrier's purchasing department including amounts payable to persons, other than officers and employees of the carrier, for technical advice and services incident to the purchase of parts, gasoline, stationery supplies, etc. (See, however, account 4650—Management and Supervision Fees.)

(b) This account shall include credits for cash and other discounts when it is not practicable to apply such discounts directly to the cost of the materials to which they relate.

(c) This account shall include differences arising from inventory adjustments which have not been otherwise apportioned in accordance with Note B under account 1180—Material and Supplies.

NOTE: Suitable proportions of items included in this account may be allocated to the cost of materials and supplies. (See account 1180.)

4680 Other general expenses.

(a) This account shall include all general expenses connected with motor carrier operations not provided for elsewhere, including fees and expenses payable to the carrier's directors or trustees; expenses in connection with publishing and mailing reports and notices to stockholders, etc.; cash overages and shortages, other than defalcation of the carrier's funds; and fees and expenses of filing annual reports and other documents not specifically related to the obtaining of certificates or applications for issuance of securities; and repairs to general office structures and fixtures.

(b) This account shall also include contributions for charitable, social, or community welfare purposes, except contributions to employees' welfare associations (see instruction 28), and contributions provided for in account 7500—Other Deductions.

4685 Operating rents.

(a) This account shall include rental payments for real estate and other property, used in motor carrier operations by the Administrative and General Department, not provided for elsewhere.

(b) This account shall be credited with amounts receivable as rents for the use of real estate and other property of the Administrative and Geneari Department, not provided for elsewhere.

(c) This account shall also include amounts receivable as rental from the sublease of property rented from others if amounts payable as rent for the property by the reporting carrier are charged hereto.

NOTE A: Amounts payable or receivable for rental of real estate and other property included in the lease of a distinct operating unit (see definition 22) shall be included in account 5400—Lease of Distinct Operating Unit—Debit, or account 5500—Lease of Distinct Operating Unit—Credit, as appropriate.

NOTE B. Rentals for property and equipment used in noncarrier operations shall be included in account 6100—Income from Non-Carrier Operations—Net.

4691 Joint operating expense; debit.

This account shall include the carrier's proportion of costs incurred by others in maintaining and operating joint facilities for general purposes, such as a general office, or when amounts payable cannot be segregated between the functional groups of expense accounts provided in this system of accounts. (See definition 23 and instruction 25(a).)

4696 Joint operating expense; credit.

This account shall include the amounts chargeable to others as their proportions of the costs incurred by the reporting carrier in maintaining and operating joint facilities used for general purposes, such as a general office, or when the amounts receivable cannot be segregated between the functional groups of expense accounts provided in this system of accounts. (See definition 23 and instruction 25(a).)

DEPRECIATION EXPENSE

5000 Depreciation expense.

(a) This account shall include the amount of depreciation charges accruing each month for all classes of depreciable property owned by the carrier and used by it in motor carrier operations or leased to others as part of a distinct operating unit (see definition 22), including depreciation of the carrier's improvements to property leased from others. (See instruction 23.)

(b) The following subdivisions of this account shall be maintained.

5010 Depreciation of structures.

This account shall include depreciation of structures situated on owned land, including all appurtenant fixtures permanently attached thereto, and of improvements to owned land and other structures or constructions, the investment in which is included in account 1210—Structures.

5020 Depreciation of revenue equipment.

(a) This account shall include depreciation of revenue equipment. (See list of items in account 1220—Revenue Equipment.)

(b) This account shall be subdivided as follows (see instruction 27):

5021—Line Haul Equipment.
5025—Pickup and Delivery Equipment.

5030 Depreciation of service cars and equipment.

This account shall include depreciation of automobiles, wreckers, sand and salt cars, tow cars and other service equipment, the investment in which is included in account 1230—Service Cars and Equipment.

5040 Depreciation of shop and garage equipment.

This account shall include depreciation of machinery and equipment, the investment in which is included in account 1240—Shop and Garage Equipment.

5050 Depreciation of furniture and office equipment.

This account shall include depreciation of furniture, office appliances and equipment, the investment in which is included in account 1250—Furniture and Office Equipment.

5060 Depreciation of miscellaneous equipment.

This account shall include depreciation of equipment employed by the carrier in motor carrier operations and not provided for elsewhere, the investment in which is included in account 1260—Miscellaneous Equipment.

5070 Depreciation of improvements to leasehold property.

This account shall include depreciation of improvements to leasehold property installed by the carrier, the investment in which is included in account 1270—Improvements to Leasehold Property.

5080 Depreciation of undistributed property.

This account shall include depreciation of property temporarily included in account 1280—Undistributed Property.

5100 Depreciation adjustment.

This account shall include amounts representing adjustments for over or under accruals of depreciation when carrier operating property, depreciated under the unit plan, is retired from service. (See instruction 21(a).)

AMORTIZATION EXPENSE

5150 Amortization of carrier operating property.

This account shall be charged, and account 2600—Reserve for Amortization—Carrier Operating Property, shall be credited each month, with amortization charges applicable to amounts representing the cost of acquiring long-term leaseholds of land and easements used in carrier operations carried in account 1201—Land and Land Rights, and to amounts of fixed-term motor carrier franchises, permits, consents, licenses and patent rights carried in account 1500—Organization, Franchises and Permits. This account shall also be charged with the unamortized book cost of such items at the time of retirement. (See instruction 21(b)(1).)

NOTE: Amortization charges on the book cost of intangible items that are not restricted to a fixed term, included in account 1500—Organization, Franchises and Permits and account 1550—Other Intangible Property, shall be charged to account 7600—Other Deductions. (See instruction 23(d).)

TAXES AND LICENSES

5200 Operating taxes and licenses.

(a) This account shall include the amount of Federal, State, county, municipal, and other taxing district taxes, which relate to motor carrier operations and property used therein (except taxes provided for in account 8800—Income Taxes on Ordinary Income).

(b) This account shall be charged each month with the amount of taxes applicable thereto, with concurrent credits to account 2120—Taxes Accrued, or account 1170—Prepayments, as appropriate. When it is not possible to determine the actual taxes, they shall be estimated and the applicable portion of the total tax included in this account each month. Taxes included in this account on an estimated basis shall be adjusted when the actual levies become known. Taxes on gasoline, other motor fuel and motor oil, shall be included in this account at the time of purchase.

(c) The records shall be kept so as to show separately for each of the following subdivisions the amount of each class of tax included in this account and the basis on which it is levied, segregated between the amounts levied by the Federal Government, and by State, municipal, and other taxing authorities.

5210 Gasoline, other fuel and oil taxes.

This account shall include all taxes on motor fuel and motor oil consumed by vehicles in motor carrier operations during the current accounting period, and shall be segregated as follows (see instruction 27):

5211—Line Haul Equipment.
5215—Pickup and Delivery Equipment.

NOTE: Taxes on gasoline and oil used in service equipment and automobiles shall be included in the accounts charged with other expenses of such vehicles.

5220 Vehicle license and registration fees.

This account shall include the cost of all taxes, licenses and fees assessed for the privilege of operating revenue vehicles over the highways, such as registration fees, license plate fees, mileage taxes, gross receipts taxes, gross weight taxes, ton-mile taxes, port of entry fees, permits for overload and oversize (when absorbed by the carrier), certificates of title fees, vehicle qualification fees and similar items, and shall be segregated as follows (see instruction 27):

5221—Line Haul Equipment.
5225—Pickup and Delivery Equipment.

NOTE: Licenses and registration fees for service equipment and automobiles shall be included in the accounts charged with other expenses of such vehicles.

5230 Real estate and personal property taxes.

This account shall include the amount of taxes based on the value of real estate and personal property.

5240 Social security taxes.

This account shall include the carrier's proportion of social security, unemployment, and old-age benefit taxes payable to the Federal and State governments.

5250 Other taxes.

This account shall include all other operating taxes, licenses, and fees not specifically provided for in accounts 5210 to 5240, inclusive.

ITEMS

Capital Stock taxes.
City licenses and permits.
Corporation taxes (for privilege of doing business as a corporation).
Gross receipts taxes not provided for elsewhere.
Occupancy taxes.
Permits to haul liquor, etc. (except overload or oversize).
Sales taxes paid by carrier as vendor.
Stock transfer taxes.
All other taxes, licenses or fees not otherwise provided for.

NOTE A: Taxes on property leased from others for use in motor carrier operations, when the lessee is obligated under the terms of the lease to pay such taxes in addition to stipulated rent, shall be included in these accounts.

NOTE B: All sales and excise taxes not provided for in these accounts shall be included in the account charged with the cost of the material, equipment or services to which the taxes apply.

NOTE C: The following other taxes and fees shall not be charged to this account:

1. Fees for filing annual reports and other documents not specifically related to certificates or applications for issuance of securities shall be charged to account 4680—Other General Expenses.

2. Special assessments for street or other improvements, and fees or charges, sometimes called taxes, such as water taxes, and charges for street sprinkling and sidewalk repairs, which are payments for some specific services rendered by municipal or other taxing bodies, shall be charged to the appropriate property investment accounts or operation and maintenance expense accounts. (See Note B under account 1201—Land and Land Rights.)

3. Taxes on property, the investment in which is included in account 1400—Non-Carrier Property, and other taxes incident to non-carrier operations, shall be charged to account 6100—Income from Non-Carrier Operations—Net.

4. Taxes on property leased to others as part of a distinct operating unit shall be charged to the account to which the rent revenue is credited. (See account 5500—Lease of District Operating Unit—Credit.)

5. Taxes paid on original issues of capital stock shall be included in account 1910—Commission and Expense on Capital Stock.

6. The cost of state and other identification plates, for which a small charge is made to cover cost of manufacture, shall be included in account 4280—Other Transportation Expenses.

LEASE OF DISTINCT OPERATING UNIT

5400 Lease of distinct operating unit; debit.

This account shall include amounts payable for rent of property constituting a distinct operating unit (see definition 22) or system leased from others for use in motor carrier operations when the carrier has exclusive possession.

5500 Lease of distinct operating unit; credit.

(a) This account shall include amounts receivable for rent of property constituting a distinct operating unit (see definition 22) leased by the carriers to others for use in motor carrier operations, when the lessee has exclusive possession.

(b) This account shall be charged with all expenses assumed by the lessor in connection with the property leased, and shall be subdivided to show separately for each such lease, the following:

(1) Rent revenue.
(2) Expenses.
(3) Taxes.
(4) Uncollectible rents.

NOTE: Accruals of depreciation on carrier operating property leased to others as part of a distinct operating unit shall be credited to account 2590—Reserve for Depreciation—Carrier Operating Property Leased to Others.

OTHER ORDINARY INCOME

6100 Income from non-carrier operations; net.

(a) This account shall include the revenues from and expenses incurred by the carrier in business activities that are not connected with its motor carrier operations, the investment in which is carried in account 1400—Non-Carrier Property.

(b) This account shall be subdivided to reflect separately:

(1) Revenue derived from noncarrier operations.

(2) Expenses incurred in noncarrier operations.

NOTE A: The expenses referred to in the text of this account include all elements of cost incurred in noncarrier operations, including depreciation and amortization of noncarrier property, rents, taxes (other than income taxes), insurance, etc.

NOTE B: Uncollectible income from noncarrier operations shall be included in this account. (See also account 7500—Other Deductions.)

NOTE C: Each carrier may adopt its own classification of revenues and expenses for this account. The classification shall be such, however, as to permit ready analysis.

6300 Interest income.

(a) This account shall include interest accruing to the accounting carrier upon securities of other companies and Federal, State, or municipal governments, on loans, notes, and advances; special deposits and all other interest bearing assets. Interest accrued shall not be credited to this account unless its payment is reasonably assured; in other cases, credits to this account shall be based upon the interest actually collected.

(b) This account shall be kept so as to show separately the interest income from each investment and from each affiliated company.

6400 Dividend income.

(a) This account shall include income derived by the accounting carrier from

the dividends on stock of other companies held by it. Accruals of guaranteed dividends may be included in this account if the payment is reasonably assured.

(b) This account shall be kept so as to show separately the dividend income from each investment and from each affiliated company.

6500 Other non-operating income.

This account shall include all income accrued to the accounting carrier in accordance with the terms of any contract by which the carrier is entitled to participate in the profits from the operations of others, and all other non-operating income not provided for in any of the foregoing accounts.

NOTE: "Profits from the operations of others" does not include any dividends on stock. Income from dividends shall be credited to account 6400—Dividend Income.

DEDUCTIONS FROM ORDINARY INCOME

7100 Interest.

(a) This account shall include all interest accrued on interest bearing obligations issued or assumed by the accounting carrier; also interest accrued on debentures and on receivers' certificates. This account shall not include interest on securities held by the accounting carrier in its treasury, in sinking or other special funds, or pledged as collateral

(b) This account shall be kept so as to show the interest expense (accrual) on each of the following:

(1) Advances.
(2) Bonds.
(3) Equipment obligations.
(4) Other long-term obligations.
(5) Current obligations.
(6) Matured long-term obligations.

7300 Amortization of debt discount and expense.

This account shall be charged each month with the applicable proportion of the unamortised discount and expense on outstanding long-term debt. This proportion shall be determined according to a rule, the uniform application of which during the interval between the issuance and maturity of any debt will completely amortise the discount at which such debt was issued and the debt expense connected therewith. Amounts charged to this account shall be concurrently credited to account 1830—Unamortised Debt Discount and Expense. (See instruction 17.)

7400 Amortization of premium on debt; credit.

This account shall be credited each month with the applicable proportion of the premium at which outstanding long-term debt was issued. This proportion shall be determined according to a rule the uniform application of which during the interval between the issuance and the maturity of any debt will completely amortize the premium at which such debt was issued. Amounts credited to this account shall be concurrently charged to account 2400—Unamortized Premium on Debt. (See instruction 17)

7500 Other deductions.

This account shall include all deductions from gross income not provided for in any of the foregoing accounts, such as:

(a) Unsecured accruals on obligations arising under contracts whereby the accounting carrier has guaranteed the annual or more frequent periodic payment of money or performance of other obligation on the part of another corporation or person and because of the default of such other corporation or person, the liability of the accounting carrier has become actual.

(b) Losses resulting from the operations of others, whenever, in accordance with the terms of any contract, the accounting carrier is bound to contribute toward reimbursement of such losses.

(c) Losses on receivables, notes or claims, that are not includible in account 4660—Uncollectible Revenues, or account 6100—Income from Non-Carrier Operations—Net.

(d) Amortization charges on the book cost of property included in account 1500—Organization, Franchises and Permits, and 1550—Other Intangible Property, which is not restricted to a fixed term, and other items among the carrier's assets. (See instruction 23(d))

(e) Contributions for charitable, social, or community-welfare purposes that do not have a direct or intimate relationship to the protection of the property, development of the business or welfare of the carrier's employees. (See instruction 28, and account 4680—Other General Expenses)

(f) Penalties and fines for violations of law except for violations of traffic regulations which are provided for in account 4280—Other Transportation Expenses.

(g) The excess of premiums for life insurance carried on the lives of officers and employees over the increase in the cash surrender value of the policies, when the carrier is the beneficiary. (See note under instruction 22)

(h) Other deductions from gross income.

INCOME TAXES

8300 Income taxes on ordinary income.

(a) Monthly accruals for Federal, State, or other income taxes applicable to ordinary income shall be included in this account. See texts of account 8950—Income Taxes on Extraordinary and Prior Period Items, account 2938—Other Credits to Earned Surplus, and account 2948—Other Debits to Earned Surplus, for recording other income tax consequences.

Details pertaining to the tax consequences of other unusual and significant items and also cases where the tax consequences are disproportionate to the related amounts included in income accounts, shall be submitted to the Commission for consideration and decision as to proper accounting.

Income taxes which are refundable or reduced as the result of carry-back or carry-forward of operating loss shall be credited to this account, if a carry-back, in the year in which the loss occurs or, if a carry-forward, in the year in which such loss is applied to reduce taxes. However, when the amount constitutes an extraordinary item pursuant to instruction 8(a), it shall be included in account 8930—Prior Period Items.

(b) This account shall be subdivided as follows:

8310—Federal Income Taxes.
8320—State Income Taxes.
8330—Other Income Taxes.

NOTE: Personal income taxes of sole proprietors and members of partnerships shall not be charged to this account; if paid from funds of the business, the amounts thereof shall be charged to account 2800—sole proprietorship capital, or account 2810—partnership capital, as appropriate.

Extraordinary and Prior Period Items

8910 Extraordinary items (net).

(a) This account shall include extraordinary items accounted for during the current accounting year in accordance with instruction 8(a), upon approval of the Commission. Among the items which shall be included in this account are:

Net gain or loss on sale of land used for transportation purposes.
Net gain or loss on sale of securities acquired for long term investment purposes.
Net gain or loss on reacquisition of company bonds.
Loss on retirement of transportation property because of abandonment or other cause for which depreciation reserve has not been provided.
Changes in application of accounting principles.

(b) Income tax consequences of charges and credits to this account shall be included in account 8950—Income Taxes on Extraordinary and Prior Period Items.

(c) This account shall be maintained in a manner sufficient to identify the nature and gross amount of each debit and credit.

8930 Prior period items (net).

(a) This account shall include unusual delayed items accounted for during the current accounting year in accordance with the text of instruction 8(a), upon approval of the Commission. Among the items which shall be included in this account are:

Unusual adjustments, refunds, or assessments of income taxes of prior years.
Similar items representing transactions of prior years which are not identifiable with or do not result from business operations of the current year.

(b) Income tax consequences of charges and credits to this account shall be included in account 8950—Income Taxes on Extraordinary and Prior Period Items.

(c) This account shall be maintained in a manner sufficient to identify the nature and gross amount of each debit and credit.

8950 Income taxes on extraordinary and prior period items.

This account shall include the estimated income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which, for accounting purposes, are classified as unusual and extraordinary and are includible in account 8910—Extraordinary Items, or 8930—Prior Period Items, as appropriate.

8990 Form of income statement.

(The order in which the accounts are presented in this Form of Income Statement is not to be considered as necessarily indicative of the order in which they will be scheduled at all times in reports to the Commission.)

ORDINARY ITEMS

I. CARRIER OPERATING INCOME

Revenue:		
3000—Operating Revenues	$	
Expenses:		
4000—Operation and Maintenance Expenses		
5000—Depreciation Expense		
5100—Depreciation Adjustment		
5150—Amortization of Carrier operating Property		
5200—Operating Taxes and Licenses		
Total Expenses		
Net Operating Revenue		
5400—Lease of Distinct Operating Unit—Debit		
5500—Lease of Distinct Operating Unit—Credit		
Net Carrier Operating Income		

II. OTHER INCOME

6100—Income from Non-Carrier Operations—Net		
6300—Interest Income		
6400—Dividend Income		
6500—Other Non-Operating Income		
Total Other Income		
Total Income		

III. MISCELLANEOUS DEDUCTIONS FROM INCOME

7100—Interest		
7300—Amortization of Debt Discount and Expense		
7400—Amortization of Premium on Debt—Credit		
7500—Other Deductions		
Total Miscellaneous Deductions		

IV. ORDINARY INCOME BEFORE INCOME TAXES

8300—Income Taxes on Ordinary Income		
Ordinary Income		

EXTRAORDINARY AND PRIOR PERIOD ITEMS

8910—Extraordinary Items (Net)		
8930—Prior Period Items (Net)		
8950—Income Taxes on Extraordinary and Prior Period Items		
Total Extraordinary and Prior Period Items		
Net Income (or Loss)		

CONDENSED CLASSIFICATION OF ACCOUNTS FOR CLASS II CARRIERS

9001 Instructions.

Entries recorded in the accounts prescribed for Class II motor carriers shall conform to the texts of corresponding Class I accounts.

9002 Pickup and delivery.

Class II common carriers which derive an average of 75 percent or more of their revenues from the intercity transportation of general commodities and which have average annual gross revenues of $500,000 or more, based on the three calendar years ending December 31, 1956, and on the latest three calendar years thereafter, shall separate expenses between line haul and pickup and delivery as provided in Instruction 27 Allocation of Expense Between Line Haul and Pickup and Delivery.

9003 Optional accounts.

Any Class II carrier subject to the provisions of this chart of accounts may, at its option, conform its accounting to the regulations prescribed for Class I carriers: *Provided, however,* That the exercise of such option shall not interfere with assembling or grouping such accounts, as hereinafter prescribed, for annual report purposes.

9004 Accounts prescribed.

Accounts maintained by Class II carriers shall be designated as follows and shall include the substance of the several Class I accounts to which they respectively correspond.

BALANCE SHEET—ASSET SIDE

ACCOUNTS PRESCRIBED FOR CLASS II CARRIERS		CLASS I ACCOUNTS	
Current assets		*Current assets*	
100	Cash and working funds	1000	Cash.
		1020	Working funds.
104	Special deposits	1040	Special deposits.
		1041	Interest special deposits.
		1042	Dividend special deposits.
		1043	Miscellaneous special deposits.
108	Notes receivable	1080	Notes receivable.
110	Receivables from affiliated companies	1100	Receivables from affiliated companies.
		1101	Loans and notes receivable.
		1105	Interest and dividends receivable.
		1109	Accounts receivable.
112	Accounts receivable—Other	1120	Accounts receivable—agents, customers, and interline.
		1130	Accounts receivable—other.
117	Prepayments	1170	Prepayments.
		1171	Prepaid taxes and licenses.
		1172	Prepaid insurance.
		1173	Prepaid interest.
		1174	Prepaid rents.
		1175	Prepaid stationery and printed matter.
		1176	Prepaid tires and tubes.
		1179	Miscellaneous prepayments.
118	Materials and supplies	1180	Material and supplies.
119	Other current assets	1060	Temporary cash investments.
		1140	Subscribers to capital stock.
		1160	Interest and dividends receivable.
		1190	Other current assets.
Property and investments		*Tangible property*	
120	Carrier property	1200	Carrier operating property.
		1300	Carrier operating property leased to others.
121	Land and structures	1201	Land and land rights.
		1210	Structures.
122	Revenue equipment	1220	Revenue equipment.
123	Service cars and equipment	1230	Service cars and equipment.
124	Other carrier property	1240	Shop and garage equipment.
		1250	Furniture and office equipment.
		1260	Miscellaneous equipment.
		1270	Improvements to leasehold property.
		1280	Undistributed property.
		1290	Unfinished construction.
140	Noncarrier property	1400	Noncarrier property.
		Intangible property	
150	Organization, franchises and permits	1500	Organization, franchises and permits.
		1501	Organization.
		1511	Franchises.
		1541	Patents.
155	Other intangible property	1550	Other intangible property.
		Investment securities and advances	
160	Investments and advances—affiliated companies.	1600	Investments and advances—affiliated companies.
165	Other investments, advances and special funds.	1650	Other investments and advances.
		Special funds	
		1701	Sinking funds.
		1751	Depreciation funds.
		1781	Miscellaneous special funds.

BALANCE SHEET—ASSET SIDE

ACCOUNTS PRESCRIBED FOR CLASS II CARRIERS		CLASS I ACCOUNTS	
	Deferred and miscellaneous debits		*Deferred debits*
185	Deferred and miscellaneous debits	1880	Unamortized debt discount and expense.
		1890	Other deferred debits.
			Miscellaneous debit items
		1900	Discount on capital stock.
		1910	Commission and expense on capital stock.
186	Reacquired and nominally issued securities.	1920	Reacquired securities.
		1990	Nominally issued securities.

BALANCE SHEET—LIABILITY SIDE

ACCOUNTS PRESCRIBED FOR CLASS II CARRIERS		CLASS I ACCOUNTS	
	Current liabilities		*Current liabilities*
200	Notes payable and matured obligations.	2000	Notes payable.
		2020	Matured long-term obligations.
202	Payables to affiliated companies	2030	Payables to affiliated companies.
		2031	Loans and notes payable.
		2035	Interest and dividends payable.
		2039	Accounts payable.
205	Accounts payable	2050	Accounts payable.
		2051	Accounts payable—officers, stockholders and employees.
		2055	Interline account balances.
		2059	Accounts payable—other.
207	Salaries and wages payable	2070	Wages payable.
209	C.o.d.'s unremitted	2090	C.o.d.'s unremitted.
212	Taxes accrued	2120	Taxes accrued.
218	Other current and accrued liabilities	2100	Dividends declared.
		2150	Interest accrued.
		2160	Matured interest.
		2180	Other current liabilities.
	Long-term debt due within one year		*Long-term debt due within one year*
219	Equipment obligations and other debt.	2190	Equipment obligations and other debt.
	Equipment and other long-term obligations		*Advances payable*
220	Advances payable—affiliated companies.	2200	Advances payable—affiliated companies.
230	Equipment and other long-term obligations.	2250	Other advances payable.
			Equipment and other long-term obligations
		2300	Equipment obligations.
		2330	Bonds.
		2360	Other long-term obligations.
	Deferred credits and reserves		*Deferred credits*
240	Deferred credits	2400	Unamortized premium on debt.
		2450	Other deferred credits.
			Reserves
250	Reserve for depreciation—carrier property.	2500	Reserve for depreciation—carrier operating property.
		2590	Reserve for depreciation—carrier operating property leased to others.
251	Reserve for depreciation—structures.	2510	Reserve for depreciation—structures.
252	Reserve for depreciation—revenue equipment.	2520	Reserve for depreciation—revenue equipment.

BALANCE SHEET—LIABILITY SIDE

ACCOUNTS PRESCRIBED FOR CLASS II CARRIERS		CLASS I ACCOUNTS	
	Deferred credits and reserves		*Reserves*
253	Reserve for depreciation—service cars and equipment.	2530	Reserve for depreciation—service cars and equipment.
254	Reserve for depreciation—other carrier property.	2540	Reserve for depreciation—shop and garage equipment.
		2550	Reserve for depreciation—furniture office and equipment.
		2560	Reserve for depreciation—miscellaneous equipment.
		2570	Reserve for depreciation—improvements to leasehold property.
		2580	Reserve for depreciation—undistributed property.
260	Reserve for amortization—carrier property.	2600	Reserve for amortization—carrier operating property.
261	Reserve for depreciation and amortization—noncarrier property.	2610	Reserve for depreciation and amortization—other property.
269	Other reserves	2630	Reserve for adjustments—investments and advances.
		2650	Reserve for uncollectible accounts.
		2660	Insurance reserves.
		2680	Injuries, loss, and damage reserves.
		2690	Other reserves.
	Capital and surplus		*Capital stock*
270	Capital stock	2700	Preferred capital stock.
		2710	Common capital stock.
		2730	Capital stock subscribed.
			Proprietors' capital
280	Sole proprietorship capital	2800	Sole proprietorship capital.
281	Partnership capital	2810	Partnership capital.
			Capital surplus
290	Premiums and assessments on capital stock.	2900	Premiums and assessments on capital stock.
291	Other capital surplus	2910	Other capital surplus.
292	Earned surplus—appropriated	2920	Earned surplus—appropriated.
293	Earned surplus—unappropriated	2930	Earned surplus—unappropriated.

INCOME ACCOUNTS

ACCOUNTS PRESCRIBED FOR CLASS II CARRIERS		CLASS I ACCOUNTS	
	I *Carrier Operating Income*		I *Carrier Operating Income*
	Revenues		*Revenues*
300	Operating revenues	3000	Operating revenues.
310	Freight revenue—intercity common carrier.	3100	Freight revenue—intercity common carrier.
311	Freight revenue—intercity contract carrier.	3110	Freight revenue—intercity contract carrier.
312	Freight revenue—local cartage	3120	Freight revenue—local cartage.
313	Intercity transportation for other Class II and Class I motor carriers.	3130	Intercity transportation for other Class I and Class II motor carriers.
390	Other operating revenue	3900	Other operating revenue.

INCOME ACCOUNTS

ACCOUNTS PRESCRIBED FOR CLASS II CARRIERS		CLASS I ACCOUNTS	
	I *Carrier Operating Income*		I *Carrier Operating Income*
	Expenses		*Expenses*
400	Operation and maintenance expenses	4000	Operation and maintenance expenses.
410	Equipment maintenance	4100	Equipment maintenance.
411	Supervision, office and other expenses.	4110	Supervision.
		4120	Office and other expenses.
413.0	Repairs and service—revenue equipment.	4130	Repairs and servicing—revenue equipment.
413.1	Line haul	4131	Line haul.
413.5	Pickup and delivery	4135	Pickup and delivery.
416.0	Tires and tubes—revenue equipment	4160	Tires and tubes—revenue equipment.
416.1	Line haul	4161	Line haul.
416.5	Pickup and delivery	4165	Pickup and delivery.
418	Other maintenance expenses	4145	Employees' welfare expenses.
		4180	Other maintenance expenses.
		4185	Operating rents.
419	Joint garage expense—net	4191	Joint garage expense—debit.
		4196	Joint garage expense—credit.
420	Transportation	4300	Transportation.
421	Supervision, office and other expenses.	4210	Supervision.
		4220	Office and other expenses.
423.0	Drivers and helpers	4230	Drivers and helpers.
423.1	Line haul	4231	Line haul.
423.5	Pickup and delivery	4235	Pickup and delivery.
425.0	Fuel and oil—revenue equipment	4250	Fuel for revenue equipment.
425.1	Line haul	4251	Line haul.
425.5	Pickup and delivery	4255	Pickup and delivery.
		4260	Oil for revenue equipment.
		4261	Line haul.
		4265	Pickup and delivery.
427.0	Purchased transportation	4270	Purchased transportation.
427.1	Equipment rents—intercity—with drivers.	4271	Equipment rents—intercity—with drivers.
427.2	Equipment rents—intercity—without drivers.	4272	Equipment rents—intercity—without drivers.
427.3	Other purchased transportation—intercity.	4273	Other purchased transportation—intercity.
427.5	Equipment rents—pickup and delivery—with drivers.	4275	Equipment rents—pickup and delivery—with drivers.
427.6	Equipment rents—pickup and delivery—without drivers.	4276	Equipment rents—pickup and delivery—without drivers.
427.7	Other purchased pickup and delivery.	4277	Other purchased pickup and delivery.
427.9	Equipment rents—credit	4279	Equipment rents—credit.
428	Other transportation expenses	4245	Employees' welfare expenses.
		4280	Other transportation expenses.
		4285	Operating rents.
430	Terminal	4300	Terminal.
431.0	Supervision	4310	Supervision.
431.1	Supervisory salaries	4311	Supervisory salaries.
431.2	Salaries and fees—billing and collecting.	4312	Salaries and fees—billing and collecting.
431.3	Other office employees	4313	Other office employees.

INCOME ACCOUNTS

ACCOUNTS PRESCRIBED FOR CLASS II CARRIERS		CLASS I ACCOUNTS	
	I *Carrier Operating Income*		I *Carrier Operating Income*
	Expenses		*Expenses*
432	Office and other expenses	4320	Office and other expenses.
434	Salaries and wages—platform employees.	4340	Salaries and wages—platform employees.
435	Other terminal employees	4350	Other terminal employees.
436	Commission agents	4360	Commission agents.
438	Other terminal expenses	4345	Employees' welfare expenses.
		4380	Other terminal expenses.
		4385	Operating rents.
439	Joint terminal facilities—net	4391	Joint terminal facilities—debit.
		4396	Joint terminal facilities—credit.
440	Traffic	4400	Traffic.
441	Supervision, office and other expenses.	4410	Supervision.
		4420	Office and other expenses.
443	Tariffs and schedules	4430	Tariffs and schedules.
448	Other traffic expenses	4445	Employees' welfare expenses.
		4460	Advertising.
		4480	Other traffic expenses.
		4485	Operating rents.
450	Insurance and safety	4500	Insurance and safety.
451	Supervision, office and other expenses.	4510	Supervision.
		4520	Office and other expenses.
453	Public liability and property damage.	4530	Public liability and property damage.
454	Workmen's compensation	4540	Workmen's compensation.
455	Cargo, loss and damage	4550	Cargo, loss and damage.
456	Fire, theft and collision	4560	Fire, theft and collision.
457	Other insurance expense	4570	Other insurance expense.
458	Other insurance and safety department expenses.	4545	Employees' welfare expenses.
		4580	Other insurance and safety department expense.
		4585	Operating rents.
460	Administrative and general	4600	Administrative and general.
461.0	Supervision	4610	Supervision.
461.1	Salaries—general officers	4611	Salaries—general officers.
461.2	Salaries—revenue accounting	4612	Salaries—revenue accounting.
461.3	Salaries—other general office employees.	4613	Salaries—other general office employees.
462	Other general office expenses	4620	Office and other expenses.
		4621	Expenses—general officers.
		4622	Expenses—general office employees.
		4623	Other general office expenses.
463	Law and outside auditing expenses	4630	Law expenses.
		4635	Outside auditing expenses.
464	Communication service	4640	Communication service.
466	Uncollectible revenues	4660	Uncollectible revenues.
467	Regulatory expenses	4670	Regulatory expenses.
468	Other general expenses	4645	Employees' welfare expenses.
		4650	Management and supervision fees.
		4675	Purchasing and store expenses.
		4680	Other general expenses.
		4685	Operating rents.
469	Joint operating expense—net	4691	Joint operating expense—debit.
		4696	Joint operating expense—credit.

INCOME ACCOUNTS

ACCOUNTS PRESCRIBED FOR CLASS II CARRIERS

I Carrier Operating Income Expenses

500	Depreciation expense.
501	Depreciation of structures.
502.0	Depreciation of revenue equipment.
502.2	Line haul.
502.5	Pickup and delivery.
503	Depreciation of service cars and equipment.
504	Depreciation of shop and garage equipment.
505	Depreciation of furniture and office equipment.
506	Depreciation of miscellaneous equipment.
507	Depreciation of other carrier property.
510	Depreciation adjustment.
515	Amortization of carrier property.
520	Operating taxes and licenses.
521.0	Gasoline, other fuel and oil taxes.
521.1	Line haul.
521.5	Pickup and delivery.
522.0	Vehicle license and registration fees.
522.1	Line haul.
522.5	Pickup and delivery.
523	Real estate and personal property taxes.
524	Social security taxes.
525	Other taxes.
540	Lease of distinct operating unit—debit.
550	Lease of distinct operating unit—credit.

II Other Income

610	Income from noncarrier operations—net.
650	Interest, dividends, and other nonoperating income.

III Miscellaneous Deductions from Income

710	Interest
750	Other income deductions.
880	Income taxes on ordinary income.

IV Extraordinary and Prior Period Items

890	Extraordinary and prior period items (net).

PART 1208—MARITIME CARRIERS

CROSS REFERENCE: For uniform system of accounts for operating-differential subsidy contractors, issued by Federal Maritime Board, Maritime Administration, Department of Commerce, see Title 46, Part 208.

01	Abstract from law: Interstate Commerce Act.

GENERAL INSTRUCTIONS

1	Definitions.
2	Records.
3	Unaudited items.
4	Submission of questions.
5	Terminated voyages.
6	Balance-sheet accounts.

CLASS I ACCOUNTS

I Carrier Operating Income Expenses

5000	Depreciation expense.
5010	Depreciation of structures.
5020	Depreciation of revenue equipment.
5021	Line haul.
5025	Pickup and delivery.
5030	Depreciation of service cars and equipment.
5040	Depreciation of shop and garage equipment.
5050	Depreciation of furniture and office equipment.
5060	Depreciation of miscellaneous equipment.
5070	Depreciation of improvements to leasehold property.
5080	Depreciation of undistributed property.
5100	Depreciation adjustment.
5150	Amortization of carrier operating property.
5200	Operating taxes and licenses.
5210	Gasoline, other fuel and oil taxes.
5211	Line haul.
5215	Pickup and delivery.
5220	Vehicle license and registration fees.
5221	Line haul.
5225	Pickup and delivery.
5230	Real estate and personal property taxes.
5240	Social security taxes.
5250	Other taxes.
5400	Lease of distinct operating unit—debit.
5500	Lease of distinct operating unit—credit.

II Other Income

6100	Income from noncarrier operations—net.
6300	Interest income.
6400	Dividend income.
6500	Other nonoperating income.

III Miscellaneous Deductions from Income

7100	Interest.
7300	Amortization of debt discount and expense.
7400	Amortization of premiums on debt—credit.
7500	Other deductions.
8800	Income taxes on ordinary income.
8810	Federal income taxes.
8820	State income taxes.
8830	Other income taxes.

IV Extraordinary and Prior Period Items

8910	Extraordinary items (net).
8930	Prior period items (net).
8950	Income taxes on extraordinary and prior period items.

7	Conversion of securities.
8	Contingent assets and liabilities.
9	Revenue accounts.
10	Expense accounts.
11	Extraordinary and prior period items.

BALANCE SHEET ACCOUNTS

ASSETS

100	Cash.
101	Cash on deposit; domestic.
106	Cash on deposit; foreign.
111	Imprest and petty cash funds.
114	Cash on hand and in transit.
115	Special cash deposits.
120	Marketable securities.
130	Notes receivable.
140	Notes and accounts receivable; related companies.
150	Accounts receivable.
151	Traffic accounts receivable.
155	Claims receivable.
160	Maritime Administration; accounts receivable.
165	Accounts receivable; miscellaneous.
169	Accrued accounts receivable.
170	Inventories.
171	Vessels stores, supplies, and equipment ashore.
175	Other shipping inventories.
180	Non-shipping inventories for sale.
185	Non-shipping inventories for consumption.
189	Miscellaneous inventories.
190	Other current assets.
191	Prepaid current insurance.
192	Other prepaid current expenses.
199	All other current assets.
200	Unterminated voyage expense.
300	Special funds and deposits.
301	Capital reserve fund.
302	Special reserve fund.
303	Construction reserve fund.
304	Insurance funds.
306	Debt retirement funds.
307	Escrow funds.
308	Construction funds.
309	Other special funds.
310	Restricted funds.
312	Special and guaranty deposits.
315	Investments.
316	Securities of related companies.
320	Non-current receivables; related companies.
325	Cash value of life insurance.
328	Other investments.
329	Reserve for revaluation of investments.
330	Property and equipment.
331	Floating equipment; vessels.
332	Reserve for depreciation; vessels.
337	Other floating equipment.
338	Reserve for depreciation; other floating equipment.
343	Terminal property and equipment.
344	Reserve for depreciation; terminal property and equipment.
349	Other shipping property and equipment.
350	Reserve for depreciation; other shipping property and equipment.
353	Non-shipping property and equipment.
354	Reserve for depreciation; non-shipping property and equipment.
359	Construction work in progress.
360	Other assets.
361	Claims pending.
362	Spare parts.
364	Notes and accounts receivable from officers and employees.
365	Interest accruals for deposit in statutory reserve fund.
367	Deferred operating-differential subsidy receivable.
368	Other non-current notes and accounts receivable.
369	Reserve for doubtful notes and accounts receivable.
370	Maritime Administration allowance for obsolete vessels.
374	Miscellaneous other assets.
375	Deferred charges and prepaid expenses.
376	Unexpired long-term insurance.
380	Advances to employees for expenses.
384	Debt discount and expense.
385	Leaseholds.
386	Organization and pre-operating expenses.
389	Deferred prepayments and other deferred charges.
390	Goodwill and other intangible assets.
391	Goodwill.
399	Other intangible assets.

LIABILITIES

400	Notes payable.
401	Bank loans.
410	Insurance notes.
414	Other short-term notes.
415	Notes and accounts payable; related companies.
420	Accounts payable.
421	Trade accounts payable.
422	Traffic accounts payable.
426	Officers and employees accounts payable.
430	Maritime Administration; accounts payable.
438	Dividends payable.
439	Miscellaneous accounts payable.
440	Accrued taxes payable.
459	Other accrued accounts payable.
470	Other current liabilities.
489	Miscellaneous reserves for unrecorded liabilities.
495	Advance ticket sales and deposits.
500	Unterminated voyage revenue.
525	Long-term debt.
526	Mortgage notes; Maritime Administration.
527	U.S. Government insured Merchant Marine mortgage bonds and mortgage notes.
530	Other mortgage bonds and debentures.
534	Other long-term debt.
540	Other liabilities.
541	Non-current payables; related companies.
549	Non-current notes and accounts payable; officers and employees.
550	Recapturable profits; Maritime Administration.
554	Miscellaneous other liabilities.
555	Deferred credits.
556	Premium on funded debt.
564	Miscellaneous deferred credits.
565	Operating reserves.
566	Reserve for repairs.
570	Reserve for insurance.
571	Reserve for pensions and welfare.
579	Miscellaneous operating reserves.
580	Net worth.
581	Capital stock.
585	Capital stock subscribed.
587	Discount on capital stock.
590	Capital surplus.
596	Earned surplus; appropriated.
599	Earned surplus; unappropriated.

INCOME ACCOUNTS

ORDINARY ITEMS

Water Line Operating Revenue

600	Operating revenue; terminated voyages.
601	Freight; foreign.
605	Freight; coastwise and intercoastal.
606	Passenger; foreign.
612	Passenger; coastwise and intercoastal.
615	U.S. mail; foreign.
616	U.S. mail; coastwise and intercoastal.
617	Foreign mail.
619	Ad valorem.
620	Charter revenue.
624	Other voyage revenue.

Subsidies

625	Operating-differential subsidy.

Other Shipping Revenue

640	Collections from pools.
645	Revenue from terminal operations.
650	Revenue from cargo handling operations.
655	Revenue from tug and lighter operations.
660	Revenue from other shipping operations.
670	Agency fees, commissions, and brokerage earned.

Other Credit Accounts

675	Interest income.
685	Dividend income.
690	Miscellaneous other income.
691	Release of premium on long-term debt.
695	Income from non-shipping operations.

Water Line Operating Expense

700	Operating expense; terminated voyages.
701	Wages.
708	Payroll taxes.
709	Contributions; welfare plans.
710	Subsistence; purchased domestic.
714	Subsistence; purchased foreign.
715	Stores, supplies, and equipment purchased domestic.
724	Stores, supplies and equipment; purchased foreign.
725	Other maintenance expense.
735	Fuel.
740	Repairs performed; domestic.
749	Repairs performed; foreign.
755	Insurance; hull and machinery.
757	Insurance; P. & I.
759	Insurance; other.
760	Charter hire.
764	Other vessel expense.
765	Agency fees and commissions.
770	Wharfage and dockage.
779	Other port expenses.
780	Stevedoring.
789	Other cargo expenses.
790	Freight brokerage.
793	Passenger brokerage.
795	Canal tolls.
799	Other voyage expense.
800	Inactive vessels expense.
850	Contributions to pools.
855	Expense of terminal operations.
865	Expense of cargo handling operations.
875	Expense of tug and lighter operations.
885	Expense of other shipping operations.
890	Interdepartmental credits for services and facilities.
900	Administrative and general expense.
901	Salaries of officers.
902	Wages of employees.
905	Legal and accounting fees and expenses.
910	Rent, heat, light, and power.
915	Communication expenses.
920	Office supplies, stationery, and printing.
925	Membership dues and subscriptions.
929	Entertaining and solicitation.
930	Traveling expenses.
931	Insurance and bond premiums.
932	Pensions and relief.
933	Postage.
934	Maintenance of office buildings and equipment.
944	Miscellaneous.
945	Management and operating commissions.
950	Advertising.
955	Taxes; miscellaneous.
972	Amortization; leaseholds.
980	Depreciation; shipping property and equipment.
981	Depreciation; floating equipment; vessels.
984	Depreciation; other floating equipment.
987	Depreciation; terminal property and equipment.
988	Depreciation; other shipping property and equipmnt.

Other Debit Accounts

960	Interest expense.
970	Amortization of deferred charges.
971	Amortization; debt discount and expense.
973	Amortization; organization and pre-operating expense.
974	Miscellaneous amortization expense.
975	Doubtful notes and accounts receivable.
979	Miscellaneous deductions from income.
985	Expense of non-shipping operations.
986	Depreciation; non-shipping property and equipment.
989	Federal income taxes on ordinary income.

EXTRAORDINARY AND PRIOR PERIOD ITEMS

990	Extraordinary items (net).
994	Prior period items (net).
998	Federal income taxes on extraordinary and prior period items.

APPENDIX

CLEARANCE ACCOUNTS

1000	List of clearance accounts.
1001	Masters and pursers.
1005	Allotments on wages of crews.
1010	Agents and branch houses.
1012	Sub-agency operations.
1015	Related companies; accounts current.
1025	Collections and deposits for passenger transportation.
1030	Collections on unrecorded freight manifests.
1035	Advance and prepaid beyond charges, and miscellaneous manifested items.
1040	Bar accounts.
1045	Slop chest account.
1050	Foreign exchange account.
1055	Pool participation.
1060	Stores, supplies and equipment aboard vessels.
1095	Profit and loss account.

FINANCIAL STATEMENTS

2000	Balance sheet statement.
2001	Income statement.
2002	Water-line operating revenue and expense statement.

AUTHORITY: The provisions of this Part 1208 issued under sec. 12, 24 Stat. 383, as amended, 54 Stat. 933, sec. 20, 24 Stat. 386, as amended, 54 Stat. 944, as amended; 49 U.S.C. 12, 904, 20, 913.

01 Abstract from law: Interstate Commerce Act.

Parts I and III of the Interstate Commerce Act, of which section 313(c) of part III reads as follows:

The Commission may, in its discretion, for the purpose of enabling it the better to carry out the purposes of this part, prescribe a uniform system of accounts, applicable to any class of water carrier, and a period of time, within which such class shall have such uniform system of accounts and the manner in which such accounts shall be kept.

NOTE: For comparable provisions, under part I, see section 20(3).

GENERAL INSTRUCTIONS

1 Definitions.

When used in this system of accounts:

(a) "Additions" means structures, facilities, or equipment added to those in service and not replacing property or equipment previously in service.

(b) "Related companies" means companies or persons that directly, or indirectly through one or more intermediaries, control, or are controlled by, or are under common control with, the accounting carrier.

NOTE: Where reference is made to control (in referring to a relationship between any person or persons and another person or persons), such reference shall be construed to include actual as well as legal control, whether maintained or exercised through or by reason of the method of or circumstances surrounding organization or operation, through or by common directors, officers, or stockholders, a voting trust or trusts, a holding or investment company or companies or through or by any other direct or indirect

means; and to include the power to exercise control.

(c) "Current assets" means cash, as well as those assets that are readily convertible into cash or are held for current operation, and other amounts accruing to the carrier and subject to settlement within one year from date of the balance sheet.

(d) "Current liabilities" means those obligations the amounts of which are definitely determined or can be closely estimated and which are either matured at the date of the balance sheet or become due upon demand or within one year from the date of the balance sheet.

(e) "Debt expense" means all expense in connection with the issuance and sale of evidences of long-term debt, such as fees for drafting mortgages and trust deeds; fees and taxes for issuing or recording evidences of debt; cost of engraving and printing bonds, certificates of indebtedness, and other evidences of debt; fees paid trustees; specific cost of obtaining governmental authority; fees for legal services; fees and commissions paid underwriters, brokers, and salesmen for marketing evidences of debt; fees and expenses of listing on exchanges; and other like costs.

(f) "Discount," as applied to securities issued or assumed by the carrier, means the excess of the par or face value of the securities, plus interest or dividends accrued to the date of the sale, over the cash value of the consideration received from the sale.

(g) "Nonshipping property" means property neither used in nor held for transportation service.

(h) "Premiums," as applied to securities issued or assumed by the carrier, means the excess of the cash value of the consideration received at their sale over the sum of their par or face value plus interest or dividends accrued to the date of sale.

(i) "Shipping property" means property which is used or held for use by the carrier in the conduct of its shipping operations.

2 Records.

(a) The carrier's records shall be kept with sufficient particularity to show fully the facts pertaining to all entries in its accounts.

(b) Where the general book entries do not contain complete information they shall be supported by other detailed records, cross-referenced for ready identification.

(c) All records shall be filed in such manner as to be readily accessible for examination.

(d) All accounts kept shall conform in number and title to those prescribed herein.

(e) Accounts included in this system may be subdivided if such subaccounts do not impair the integrity of the accounts or records prescribed herein.

(f) The accounts for each month shall be recorded currently so that all transactions applicable to each month, as nearly as may be ascertained, shall be entered in the books of the carrier.

3 Unaudited items.

(a) When it is known that a transaction has occurred which affects operating revenues, operating expenses, or income, but the amount involved and its effect upon the accounts cannot be determined with absolute accuracy, the amount thereof shall be estimated and included in the appropriate operating or income and balance-sheet accounts. Any such estimate shall be adjusted as soon as the actual amount is determined.

(b) Accruals shall not be recorded for purely speculative items, but shall be limited to reasonable estimates on reliable information of transactions that will be consummated.

4 Submission of questions.

To promote and maintain uniformity of accounting, carriers shall submit all questions of doubtful interpretation of the accounting regulations for consideration and decision to the agency having jurisdiction over the carrier's accounts.

5 Terminated voyages.

(a) The carrier shall keep its records in such manner that it can report with respect to operating revenue, operating expense, and other accounts affected, the revenues accruing and the expenses incurred for each terminated voyage of its vessels operated in line service.

(b) The revenues and expenses for uncompleted voyages or periods, included in unterminated voyage accounts, shall be recorded in such detail that the operating revenue, operating expense, or other accounts affected may be transferred from the unterminated voyage accounts to the appropriate revenue, expense, and other accounts involved.

6 Balance-sheet accounts.

The balance-sheet accounts are intended to disclose the financial condition of the carrier as of a given date by showing the assets, liabilities, capital stock, and surplus (or deficit) of the carrier.

7 Conversion of securities.

Journal entries which record the reacquirement of capital stock or funded debt securities by issuing in exchange the carrier's capital stock or funded debt shall be submitted to the Interstate Commerce Commission for approval before being recorded upon the books by carriers reporting to that Commission.

8 Contingent assets and liabilities.

Contingent assets and liabilities shall not be included in the accounts, but such records shall be kept as will enable the carrier to report all items of significant amount.

9 Revenue accounts.

(a) The revenue accounts are designed to show the amounts of revenue which the carrier becomes entitled to receive from furnishing of transportation service, including service incidental thereto.

(b) The accounting for operating revenues shall be coincident with the transactions which create them. For the purpose of meeting this requirement, the carrier shall account for unaudited revenues upon an accrual basis.

10 Expense accounts.

(a) The expense accounts are designed to show expenses of the carrier in furnishing transportation service, and services incidental thereto including the expenses of maintenance (repairs and depreciation) of the property used in such service.

(b) The accounting for expenses shall be coincident with the transactions which create them. For the purpose of meeting this requirement, the carrier shall account for unaudited expenses upon an accrual basis.

11 Extraordinary and prior period items.

(a) All items of profit and loss recognized during the year are includable in ordinary income except nonrecurring items which in the aggregate for the same class are both material in relation to operating revenues and ordinary income for the year and are clearly not identified with or do not result from the usual business operations of the year. Important items of the kind which occur from time to time and which, when material in amount, are to be excluded from ordinary income are those resulting from unusual sales of property and investment securities other than temporary cash investments; from wars and similar calamities and catastrophes, which are not a recurrent hazard of the business and which are not usually covered by insurance; from change in application of accounting principles; and from prior period items (other than ordinary adjustments of a recurring nature). Material items are those which, unless excluded from ordinary income, would distort the accounts and impair the significance of ordinary income for the year. Items so excludible from ordinary income are to be entered directly in the income accounts provided for extraordinary and prior period items upon approval or direction of the Commission.

Adjustments constituting items of customary business activities or corrections or refinements resulting from the natural use of estimates inherent in the accounting process, including those arising from disposal of a unit of property sold or retired in the regular course of business operations, shall not be considered extraordinary or prior period items regardless of size.

(b) In determining materiality, items of a similar nature shall be considered in the aggregate; dissimilar items should be considered individually. As a general standard, an item to qualify for inclusion as an extraordinary or prior period item, shall exceed one percent of total water line operating revenues and ten percent of ordinary income for the year.

(c) Ordinary delayed items and adjustments arising during the current year which are applicable to or related to transactions of prior years shall be included in the same accounts which would have been charged or credited if the item had been taken up or adjusted in the period to which it pertained. Ordinary delayed items excludes items of the character described in paragraph (a).

BALANCE SHEET ACCOUNTS

ASSETS

100 Cash.

(a) This account shall include the amount of current funds available for use on demand in the hands of financial officers or deposited in banks or trust companies including cash in transit for which agents or others have received credit. Cash appropriated for replacement, debt retirements, funded reserves, etc., and cash on deposit to guarantee performance of agreements shall be carried in appropriate accounts numbered 115 and 301 to 312, inclusive. If the withdrawal of any portion of the cash included in this account is restricted for any purpose whatsoever, the balance sheet must carry an appropriate notation to that effect.

(b) This account shall be subdivided as set forth in accounts 101, 106, 111 and 114.

101 Cash on deposit; domestic.

This account shall include all cash on deposit in banks in the United States and available for general purposes.

106 Cash on deposit; foreign.

This account shall include all cash on deposit in foreign banks and available for general purposes.

111 Imprest and petty cash funds.

This account shall include cash funds maintained at fixed amounts to be used in making change or in the nature of revolving funds for minor disbursements requiring immediate payment, the funds being regularly reimbursed from the general cash. Subsidiary accounts shall be maintained by agents or employees.

114 Cash on hand and in transit.

This account shall include cash in the hands of financial officers; cash transfers between banks; and cash in transit from agents, branch houses, and employees.

115 Special cash deposits.

(a) This account shall include the amounts of cash on special deposit (other than in special funds or deposits as elsewhere provided) for the payment of dividends, interest, and other debts of a current nature, when such payments are due one year or less from date of deposit; also amounts of cash deposited to insure the performance of contracts to be performed within one year from date of deposit; and other cash deposits of a special nature not provided for elsewhere.

(b) This account shall also include cash realized from the sale of the carrier's securities and deposited with trustees to be held until disbursed for the purpose for which the securities were sold: *Provided*, That cash held for such purposes, including cash held for redemption of securities, shall be included in the appropriate special funds unless the liability for the disbursement is included under current liabilities.

(c) Cash on deposit in special bank accounts where the funds are available for current requirements shall be included in account 100, Cash.

120 Marketable securities.

This account shall be subdivided as follows:

121. United States Government securities.
122. State, county, and municipal securities.
125. Other marketable domestic securities.
126. Foreign marketable securities.

These accounts shall include the cost of government securities and temporary investments in other readily marketable securities which are available for general purposes of the business. Securities issued or assumed by the carrier or by a related company shall not be included in these accounts.

129. *Discounts and premiums.* This account may be charged with accumulation of any discount and may be credited with amortization of any premium on marketable securities, at the time of accrual or collection of interest thereon, with contra entry to account 670, "Interest income—Marketable securities," if it is the practice of the carrier to adjust that account to a yield basis. When the securities are disposed of, any balance applicable thereto in this account shall be transferred to the account in which the cost of such securities is recorded.

130 Notes receivable.

This account shall include the amount of all collectible obligations in the form of short-term notes receivable, or other similar evidences (except interest coupons) of money receivable on demand or within one year from date of issue, except notes receivable from related companies subject to current settlement which shall be included in account 140, "Notes and accounts receivable—Related companies." This account shall be subdivided as follows:

131. Miscellaneous notes receivable.
135. Subscriptions to capital stock.

140 Notes and accounts receivable; related companies.

(a) This account shall include the amounts receivable from related companies which are subject to current settlement, such as balances in open accounts for services rendered, materials furnished, traffic and interline accounts, rents for use of property, and similar items; also interest, dividends, loans, notes, and drafts for which related companies are liable.

(b) Items which are not subject to current settlement shall be included in account 320, "Non-current receivables—Related companies."

(c) Subsidiary accounts shall be maintained by companies and shall show all essential detail.

150 Accounts receivable.

This account shall be subdivided as set forth in accounts, 151, 155, 160, 165, 169.

151 Traffic accounts receivable.

(a) This account shall include accounts receivable from shippers, consignees, connecting carriers, and others (excluding related companies) arising incident to the carriage of passengers, excess baggage, freight, and mail.

(b) Subsidiary accounts shall be maintained by individual debtors or by vessels and voyages subdivided as between (1) prepaid freight outward and collect freight inward, (2) collect freight outward and prepaid inward (when agents are required to remit in full), (3) connecting carriers, (4) other government departments, and (5) passengers and brokers. Receivables from any agent with whom arrangements are made to disburse vessels from revenue collections shall not be included in this account, but shall be included in account 1010, "Agents and branch houses."

155 Claims receivable.

(a) This account shall include claims transferred from account 361, "Claims pending," including insurance claims which have been compiled and presented to underwriters for payment, and other adjusted claims collectible within one year.

(b) Subsidiary accounts shall be maintained in the names of the insurance underwriters or adjusters, connecting carriers and others.

160 Maritime Administration; accounts receivable.

This account shall include operating-differential subsidy accruals and such other current receivables as may arise from transactions between the carrier and the Administration.

165 Accounts receivable; miscellaneous.

(a) This account shall include all accounts receivable from other than related companies for which no other account is specifically provided, and all amounts receivable from officers and employees which are collectible in the ordinary course of business within one year.

(b) Subsidiary accounts shall be maintained alphabetically by names of debtors.

169 Accrued accounts receivable.

(a) This account shall include monthly or other periodical accruals of unmatured receivables, including interest, rentals, dividends, charter hire, except the accrual of interest on securities on deposit in account 301, "Capital reserve fund," and account 302, "Special reserve fund," and all other unaudited current items receivable accrued to the date of the balance sheet.

(b) No amounts representing interest, dividends, or rents receivable shall be included in this account unless collection thereof is reasonably assured by past experience, anticipated provisions, or otherwise.

(c) No dividends or other returns on securities issued or assumed by the company shall be included in this account.

(d) Interest, dividends, and rents receivable from related companies shall be included in account 140, "Notes and accounts receivable—Related companies."

(e) This account shall be subdivided as follows: Interest, rentals, dividends, charter hire, etc.

170 Inventories.

(a) This account shall include the cost, less trade discounts, of all unissued and unapplied materials, articles in process of manufacture by the carrier, fuel, tools, stationery, and other stores and supplies, but excluding fuel, stores, and supplies on board vessels, and spare parts includible in account 162, "Spare parts."

(b) For balance sheet purposes only, this account shall include the balances on unterminated voyages in clearing account 1040, "Bar accounts," and clearing account 1045, "Slop chest account."

(c) The costs chargeable to this account are the actual costs of the material and supplies at point of free delivery, plus custom duties, sales and other taxes, insurance, inspection, special tests, loading and unloading, and transportation charges paid for transporting the material from the free point of delivery to the carrier's line. No charge shall be made to this account for the cost of transporting material and supplies when performed by the carrier.

(d) An annual inventory of material and supplies shall be taken, except in instances where inventories are waived by the Interstate Commerce Commission or the Maritime Administration, and the necessary adjustments made to bring this account into harmony with actual inventory balance. In effecting such adjustments, determined differences for important classes of material shall be equitably assigned among the accounts to which such classes are ordinarily chargeable. Other differences shall be equitably apportioned among the primary accounts.

(e) This account shall be subdivided as set fourth in accounts 171, 175, 180, 185 and 189.

171 Vessels, stores, supplies, and equipment ashore.

(a) This account shall include the cost of all stores, supplies, and equipment held for delivery to vessels at some future date, including quantity purchases warehoused and delivered to vessels as required.

(b) Subsidiary accounts shall be so maintained as to show location of inventories.

175 Other shipping inventories.

(a) This account shall include the cost of all stores, supplies, and equipment held for use in the conduct of the shipping business and its auxiliaries, such as terminal, cargo handling, tug and lighters, and other incidental shipping operations, for which no other account is specifically provided.

(b) Subsidiary accounts shall be so maintained as to show location of inventories.

180 Non-shipping inventories for sale.

In instances of companies engaged in non-shipping enterprises, inventories of merchandise for sale shall be included in this account. The account shall be maintained so as to show separately the major classes of inventory such as raw materials, work in process, and finished goods.

185 Non-shipping inventories for consumption.

This account shall include the cost of all stores, supplies, and equipment, held for use in the conduct of non-shipping enterprises, other than merchandise for sale.

189 Miscellaneous inventories.

This account shall include the cost of all stores, supplies, and equipment acquired for use in the conduct of the business, which cannot be allocated as between shipping and non-shipping enterprises.

190 Other current assets.

This account is provided for balance sheet purposes and shall be subdivided as set forth in accounts 191, 192, and 199.

191 Prepaid current insurance.

This account shall include the unexpired amount of insurance premiums prepaid, or recorded as a liability in advance of payment, but only to the extent that such premiums apply to the period within one year of the date of the balance sheet and are properly chargeable within that period to account 200, "Unterminated voyage expense," or to other accounts appropriate for insurance expense. This account shall be subdivided to show separately prepayments on the several classes of insurance.

192 Other prepaid current expenses.

This account shall include the amount of prepaid current expenses such as interest, taxes, rentals, advertising, charter hire, and similar expense not otherwise specifically provided for, but only to the extent that such prepayments apply to the period within one year from the date of the balance sheet and are properly chargeable within that period to account 200, "Unterminated voyage expense," or to other accounts appropriate for such expenses. Minor items may be charged directly to the appropriate expense accounts.

199 All other current assets.

This account shall include the amount of assets of a current nature not includible in any of the foregoing current asset accounts. Subsidiary accounts shall be maintained so as to show separately each class of such other current assets.

200 Unterminated voyage expense.

(a) This account shall be charged with all vessels expenses while voyages are in progress. After each voyage has terminated, and substantially all expenses have been recorded, the balance in the account shall be transferred to account 700, "Operating expense—Terminated voyages."

(b) In instances where inventories of vessels stores, supplies, and/or equipment are taken and priced at the end of each voyage, the value of such inventories shall be credited in this account to the terminating voyage and charged to the succeeding voyage.

(c) Subsidiary accounts are to be maintained by vessels and consecutively by voyages, and according to the classification of expenses shown in the chart of accounts.

300 Special funds and deposits.

This account shall be subdivided as set forth in accounts 301–304, 306, 309 and 312.

301 Capital reserve fund.

This account shall be subdivided as follows:

301–1 *Cash and securities, nontrust.* This account shall be charged with cash and the approved value of securities deposited in this fund, and shall be credited with withdrawals therefrom in accordance with the provisions of section 607(b) of the Merchant Marine Act, 1936, as amended, and under such rules and regulations as the Maritime Administration may issue from time to time. Subsidiary accounts are to be subdivided as to depositories or trustees, as the case may be, and further subdivided to show the amount of (1) cash and (2) marketable securities.

301–2 *Discounts and premiums, nontrust.* This account may be charged with accumulation of any discount and may be credited with amortization of any premium on securities, at the time of accrual or collection of interest thereon, with contra entry in account 680, "Interest income—Special funds and deposits," if it is the practice of the carrier to adjust that account to a yield basis. When such securities are disposed of, any balance applicable thereto in this account shall be transferred to account 301–1.

301–3 *Common stock trust.* This account shall be charged with the amount of the non-trust portion of the Capital Reserve Fund transferred to the Capital Reserve Fund-Common Stock Trust, the acquisition cost of common stock in which the trust is invested, the income, capital gains, and other principal, and shall be credited with withdrawals therefrom and capital losses in accordance with the provisions of section 607(d) of the Merchant Marine Act, 1936, as amended, and under such rules and regulations as the Maritime Administrator may issue. Subsidiary accounts of the Capital Reserve Fund-Common Stock Trust are to be maintained to record cash, common stocks, and other principal.

302 Special reserve fund.

This account shall be subdivided as follows:

302–1 *Cash and securities, nontrust.* This account shall be charged with cash and the approved value of securities deposited in this fund, and shall be credited with withdrawals therefrom in accordance with the provisions of section 607(c) of the Merchant Marine Act, 1936, as amended, and under such rules and regulations as the Maritime Administration may issue from time to time. Subsidiary accounts are to be maintained as described in account 301–1.

302–2 *Discounts and premiums, nontrust.* This account may be charged with accumulation of any discount and may be credited with amortization of any premium on securities, at the time of accrual or collection of interest thereon, with contra entry in account 680, "Interest income—Special funds and deposits," if it is the practice of the carrier to adjust that account to a yield basis. When such securities are disposed of, the balance applicable thereto in this account shall be transferred to account 302–1.

302–3 *Common stock trust.* This account shall be charged with the amount of the non-trust portion of the Special Reserve Fund transferred to the Special Reserve Fund-Common Stock Trust, the acquisition cost of common stock in which the trust is invested, the income, capital gains, and other principal, and shall be credited with withdrawals therefrom and capital losses in accordance with the provisions of section 607(d) of the Merchant Marine Act, 1936, as amended, and under such rules and regulations as the Maritime Administrator may issue. Subsidiary accounts of the Special Reserve Fund-Common Stock Trust are to be maintained to record cash, common stocks, and other principal.

303 Construction reserve fund.

(a) This account shall be charged with cash and the cost of approved securities deposited in such fund, and shall be credited with withdrawals therefrom in accordance with the provisions of section 511 of the Merchant Marine Act, 1936, as amended, and section 112(b) of the Internal Revenue Code, and other Internal Revenue Acts. It shall also include accretions on investments in such fund when retainable therein.

(b) Subsidiary accounts are to be maintained as described in account 301.

304 Insurance funds.

(a) This account shall include cash, marketable securities, and other quick assets placed on deposit or in the hands of trustees to guarantee the satisfaction of obligations for losses in instances where the carrier is a self-insurer in whole or in part.

(b) Subsidiary accounts shall be maintained by depositories or trustees, as the case may be, and further subdivided as to (1) cash, and (2) marketable securities.

306 Debt retirement funds.

(a) This account shall include cash, marketable securities, and other quick assets placed on deposit or in the hands of trustees as a sinking fund to meet obligations maturing in the future, or to carry out such operations as the retirement of preferred stock or the purchase of serial bonds.

(b) Subsidiary accounts shall be maintained by depositories or trustees, further subdivided to show cash or marketable securities and purposes of the fund.

307 Escrow funds.

This account shall be charged with the amounts required to be deposited in the Escrow fund and credited with disbursements therefrom, in connection with the insurance of loans and mortgages financed by sale of bonds to the general public, pursuant to the provisions of section 1111 of the Merchant Marine Act, 1936, as amended, and/or the provisions of contracts or agreements as may be entered into. These funds shall be reported separately and maintained in accordance with such rules and regulations as the Maritime Administrator may issue.

308 Construction funds.

This account shall be charged with the amounts required to be deposited therein, representing the difference between the principal of insured bonds and the principal amount required to be deposited in the Escrow fund or such other amounts required by contracts or agreements entered into, and shall be credited with authorized disbursements therefrom. These funds shall be reported separately and maintained in accordance with such rules and regulations as the Maritime Administrator may issue.

309 Other special funds.

(a) This account shall include cash, marketable securities, and other quick assets appropriated for replacement of unsubsidized vessels (except in instances where account 303, "Construction reserve fund," is applicable), to fund reserves for pensions, and any other special fund for which no specific account is provided.

(b) Subsidiary accounts shall be maintained for each class of fund by depositories or trustees, and further subdivided to show (1) cash, and (2) marketable securities.

310 Restricted funds.

This account shall be established at the time of the first deposit required therein, and shall be charged with deposits pursuant to the provisions of contracts or agreements. This account shall be credited with authorized withdrawals therefrom. These funds shall be reported separately and maintained in accordance with such rules and regulations as the Maritime Administrator may issue.

312 Special and guaranty deposits.

(a) This account shall include cash and the cost of securities deposited to guarantee the performance of conference and similar agreements; also deposits in lieu of mortgaged property sold, and other trust deposits, to be held until equivalent property is acquired or pending other disposition. This account shall also include deposits on containers such as oil drums, ammonia cylinders, etc.

(b) Subsidiary accounts shall be maintained by depositories.

315 Investments.

This account shall be subdivided as set forth in accounts 316, 320, 325, 328, and 329.

316 Securities of related companies.

This account shall include the investment in securities issued or assumed by related companies.

320 Non-current receivables; related companies.

(a) This account shall include all loans, advances, and other receivables from related companies for other than services rendered, supplies furnished, and other transactions customarily subject to current settlement.

(b) Subsidiary accounts shall be maintained by companies and shall show all essential detail.

325 Cash value of life insurance.

This account shall include the cash surrender value of life insurance policies, under which the carrier is the beneficiary, less the amount of any loans which have been obtained on such policies and not repaid.

328 Other investments.

This account shall include the investment in unpledged securities of other than related companies, including investment advances to companies and individuals, and miscellaneous investments not provided for elsewhere.

329 Reserve for revaluation of investments.

(a) This account shall be credited at the close of each accounting period with amounts necessary to reflect the decline in value of securities and other assets held as investments, where there appears to be a permanent impairment in their value, by contra charge to account 979, "Miscellaneous deductions from income," or account 990, "Extraordinary items," as appropriate.

(b) When securities are disposed of, the reserve balance in this account applicable to such securities shall be charged hereto.

330 Property and equipment.

(a) This account shall include the cost of acquisition or construction, including additions and betterments, of property and equipment owned by the carrier.

(b) This account shall be subdivided as set forth in accounts 331, 332, 337, 338, 343, 344, 349, 350, 353, 354 and 359.

331 Floating equipment; vessels.

(a) This account shall include the cost of construction or acquisition, including additions and betterments, of vessels (steamships and motorships) and of appurtenances, furniture, and fixtures necessary to equip them for service including inspection, trial runs, and tests.

(b) As regards vessels with respect to which an operating-differential subsidy is paid, capitalizable costs must be determined in accordance with applicable orders, rules, and regulations prescribed or adopted by the Maritime Administration.

(c) Subsidiary accounts shall be maintained in such manner as to show by vessels the original cost to the carrier and cost of additions and betterments.

332 Reserve for depreciation; vessels.

(a) This account shall be credited with all depreciation on vessels charged to account 981, "Depreciation—Floating equipment—Vessels."

(b) Credits to this account applicable to subsidized vessels shall be computed on a twenty-year life expectancy, except in instances where some other basis is specifically authorized by the Maritime Administration, with such allowances for residual values as approved by that Administration, and in accordance with applicable orders, rules, and regulations prescribed or adopted by the Maritime Administration.

(c) Subsidiary accounts shall be maintained by vessels.

337 Other floating equipment.

(a) This account shall include the cost of construction or acquisition including additions and betterments, of other floating equipment, such as tugs, barges, scows, launches, lighters, floating cranes, etc., and of appurtenances, furniture and fixtures necessary to equip for service including inspection, trial runs, and tests.

(b) Subsidiary accounts shall be maintained in such manner as to show the foregoing information by the various kinds of other floating equipment.

338 Reserve for depreciation; other floating equipment.

(a) This account shall be credited with all depreciation charged to account 984, "Depreciation—Other floating equipment".

(b) Subsidiary accounts should be maintained in the same manner as the corresponding accounts supporting account 337.

343 Terminal property and equipment.

(a) This account shall include the cost of construction or acquisition, including additions and betterments, of terminal, land, buildings (including improvements to property under long-term lease), shore cranes, trucks, furniture and fixtures, and other terminal gear and equipment.

(b) Subsidiary accounts shall be subdivided as between the various kinds of property and equipment, and shall be maintained in such manner as to show location, original cost, cost of additions and betterments.

344 Reserve for depreciation; terminal property and equipment.

(a) This account shall be credited with all depreciation on terminal property and equipment which is charged to account 987, "Depreciation—Terminal property and equipment".

(b) Subsidiary accounts shall be maintained in the same manner as the corresponding accounts supporting account 343.

349 Other shipping property and equipment.

(a) This account shall include the cost of additions and betterments of land and buildings, furniture and fixtures, stevedoring and other cargo handling gear, repair yards, highway vehicles, and any other property and equipment used exclusively in shipping and auxiliary operations which are not applicable to accounts 331, 337, and 343.

(b) Subsidiary accounts shall be subdivided as between the various kinds of property and equipment and maintained in such manner as to show location, original cost, cost of additions and betterments.

350 Reserve for depreciation; other shipping property and equipment.

(a) This account shall be credited with all depreciation on other shipping property and equipment (as described in account 349) which is charged to account 983, "Depreciation—Other shipping property and equipment."

(b) Subsidiary accounts shall be maintained in the same manner as the corresponding accounts supporting account 349.

353 Non-shipping property and equipment.

(a) In instances where companies are engaged in non-shipping enterprises all property and equipment which can be allocated properly to such non-shipping enterprises shall be included in this account.

(b) Subsidiary accounts shall be subdivided as between the various kinds of non-shipping property and equipment, and maintained in such manner as to show location, original cost, and cost of additions.

354 Reserve for depreciation; non-shipping property and equipment.

(a) This account shall be credited with all depreciation on non-shipping property and equipment which is charged to account 986, "Depreciation—non-shipping property and equipment".

(b) Subsidiary accounts shall be maintained in the same manner as the corresponding accounts supporting account 353, "Non-shipping property and equipment."

359 Construction work in progress.

(a) This account shall be charged with all payments incident to the costs on vessels or other transportation property in process of construction which can be capitalized in accordance with sound accounting procedure.

(b) Subsidiary accounts shall be subdivided as between the various kinds of construction, and maintained in such manner as to show type of construction and location. When the construction is completed, the cost thereof shall be credited to this account and charged to the appropriate property accounts.

360 Other assets.

This account shall be subdivided as set forth in accounts 361, 362, 364, 365, 367–369 and 374.

361 Claims pending.

(a) This account shall include any claims in litigation, and insurance claims in process of compilation or adjustment. After adjudication of claims in litigation, or adjustment of insurance claims, this account shall be credited and a charge made to account 155, "Claims receivable." Deductible average insurance losses (if policies provide deductibles) should at the same time be transferred to account 570, "Reserves for insurance."

(b) Subsidiary accounts shall be subdivided as between hull underwriters, P.&I. underwriters, general average claims connecting carriers, and such further classes as may be necessary. Each group of subsidiary accounts shall be maintained by vessels and voyages supported by sufficient detail to permit ready identification and analysis of each claim.

362 Spare parts.

This account shall include the acquisition cost (or other applicable acquisition base) of shore side reserve spare parts and spare equipment acquired as standby equipment, such as propellers, propeller blades, tail shafts, crank shafts, pumps, ruddera, hoisting engines, generators, rotors, anchors, etc., held for future installation on vessels of the carrier, the individual minimum gross book value of which is not less than $1,000. (The use of this account is mandatory for carriers having vessels under operating-differential subsidy agreements with the Maritime Administration.)

364 Notes and accounts receivable from officers and employees.

This account shall include all amounts due from officers, directors, and employees other than (a) unpaid subscriptions to capital stock, and (b) amounts collectible in the ordinary course of business within one year. Records supporting entries to this account and subsidiary accounts shall be so maintained as to show separately such major classes as officers' personal accounts, employees' salary advances, and amounts due for such items as group insurance, and retirement annuity deposits.

365 Interest accruals for deposit in statutory reserve funds.

This account shall include the periodic (not less frequent than annual) accruals of interest on cash and securities on deposit in account 301, "Capital reserve fund," and account 302, "Special reserve fund," with corresponding credit to account 680, "Interest income—Special funds and deposits."

367 Deferred operating-differential subsidy receivable.

This account shall include that part (if any) of accrued operating-differential subsidy receivable, the payment of which is withheld by the Maritime Administration, pursuant to 62 Stat. 1198, or any subsequent legislation having the same or substantially similar force and effect.

368 Other non-current notes and accounts receivable.

(a) This account shall include all non-current receivables from other than officers, employees, or related companies which, by agreement, are to run for more than one year from date established.

(b) Subsidiary accounts shall be maintained by individual debtors.

369 Reserve for doubtful notes and accounts receivable.

This account shall be credited at the close of each accounting period with the amount charged to account 975, "Doubtful notes and accounts receivable," to provide for estimated uncollectible notes and accounts. (For balance sheet purposes, the balance in this account shall be segregated between current and non-current items.)

370 Maritime Administration allowance for obsolete vessels.

This account shall include the gross amounts allowed by the Administration for obsolete vessels traded in, except where the obsolete vessel is retained under a Use Agreement, in which case this account is debited with the net trade-in allowance. Credit this account and debit account 359, "Construction work in progress," with the amount of progress payments on new construction made by the Administration for the account of the purchaser (operator).

374 Miscellaneous other assets.

This account shall include the estimated value of salvage recoverable from property retired when the recovery of the salvage is deferred for any reason; funds on deposit with closed banks; and all other deferred items not covered by other deferred asset accounts.

375 Deferred charges and prepaid expenses.

This account shall be subdivided as set forth in accounts 376, 380, 384, 386 and 389.

376 Unexpired long-term insurance.

This account shall include the amount of unexpired insurance premiums prepaid or recorded as a liability in advance of payment, but only to the extent that such premiums apply to a period more than one year following the date of the balance sheet. The proportions of the same premium payments properly chargeable to expenses prior to such period are provided for in account 191, "Prepaid current insurance." This account shall be subdivided to show separately prepayments on the several classes of insurance.

380 Advances to employees for expenses.

(a) This account shall include all amounts advanced to officers and employees for travel, entertainment, and similar expenses, from which such expenses are to be paid and accounted for. This account shall not include imprest and petty cash funds in fixed amounts held by employees and branch offices for the purpose of making minor expenditures, requiring immediate payments, for which such funds are regularly reimbursed.

(b) Subsidiary accounts shall be maintained by employees, agents, or branch offices.

384 Debt discount and expense.

(a) This account shall include all discount and expense for all classes of funded debt. The debt discount and expense shall be amortized periodically over the respective lives of the securities by charge to account 971, "Amortization—Debt discount and expense."

(b) When an issue of funded debt, or any part thereof, is refunded and at the date of refunding there is a balance of unamortized discount and expense relating to such issue, such balance, together with any premium paid in retiring such issue, shall be charged to account 979, "Miscellaneous deductions from income," or to account 990, "Extraordinary items," as may be appropriate, in accordance with the text of these accounts.

385 Leaseholds.

(a) This account shall include the unamortized balance of the cost of acquiring long-term leases including rental applicable to future periods paid in advance, and the cost of alterations thereto and fixtures installed in leased property. This account should not include buildings erected on land under long-term lease or improvements thereto which shall be carried in appropriate property accounts.

(b) Amounts included in this account shall be amortized through such periodic charges to account 972, "Amortization—Leaseholds," as may be necessary for equitable cost distribution.

386 Organization and pre-operating expenses.

This account shall include the unamortized balance of expenses incurred in the formation and development of the business. The balance of this account shall be amortized by annual charges to account 973, "Amortization—Organization and pre-operating expense."

389 Deferred prepayments and other deferred charges.

This account shall include the amount of prepaid expenses such as interest, taxes, rentals, advertising, charter hire, and similar expenses not otherwise specifically provided for in accounts 380, 384, 385, and 386, but only to the extent that such prepayments apply to a period more than one year following the date of the balance sheet. The proportions of the prepayments and other deferred charges in this account, properly chargeable to expenses prior to such period, are provided for in account 192, "Other prepaid current expenses." Minor items and nominal payments covering such expenses may be charged directly to the appropriate expense accounts even though they relate to periods in excess of one year.

390 Goodwill and other intangible assets.

This account shall be subdivided as set forth in accounts 391 and 399.

391 Goodwill.

This account shall include only goodwill actually purchased in taking over assets, trade name, etc., calculated to enhance future profits of the business.

399 Other intangible assets.

This account shall include the purchase price of such intangible assets as patents, copyrights, operating rights, etc.

LIABILITIES

400 Notes payable.

(a) This account shall include the face value of notes, drafts, and other evidences of indebtedness issued or assumed by the carrier (except interest coupons) which are payable on demand or within one year from date of issue.

(b) This account shall be subdivided as set forth in accounts 401, 410 and 414.

401 Bank loans.

Subsidiary accounts shall be subdivided to show separately (a) amount secured, and (b) amount unsecured.

410 Insurance notes.

This account shall include the face amount of notes issued by the company to cover deferred payments of insurance premiums.

414 Other short-term notes.

This account shall include notes payable within one year from date of issue, for which no other account is specifically provided, but excluding notes issued to related companies. This account shall be maintained to show (a) notes secured, and (b) notes unsecured.

415 Notes and accounts payable; related companies.

(a) This account shall include amounts payable to related companies which are subject to current settlement, such as credit balances in open accounts for services rendered, materials furnished, traffic and interline accounts, claims, rents, and for interest, dividends, loans, notes, and drafts.

(b) No amount representing dividends payable shall be included in this account unless they have been declared.

(c) Items which are not subject to current settlement shall be included in account 541, "Non-current payables—Related companies."

(d) Subsidiary accounts shall be maintained by companies and shall show all essential detail.

420 Accounts payable.

This account shall be subdivided as set forth in accounts 421, 422, 428, 430, 438–440 and 459.

421 Trade accounts payable.

This account shall include all liabilities currently due to trade creditors for services rendered and supplies furnished in the general conduct of the business.

422 Traffic accounts payable.

This account shall include exchange orders and other amounts due connecting carriers, freight and passenger brokerage, amounts due for hotel reservations and sightseeing tours, custodian funds payable such as head taxes, freight and passenger manifest stamp taxes, consular fees; advance, prepaid beyond, and transshipping charges, and claims payable, but excluding amounts due related companies.

428 Officers and employees accounts payable.

This account shall include amounts due to officers, directors, individual stockholders, and employees, which are payable within one year from the date the liability is incurred.

430 Maritime Administration; accounts payable.

This account shall include all current accounts payable to the Maritime Administration, including accrued interest, that arise from transactions with that agency.

438 Dividends payable.

This account shall include the amount of dividends declared on actually outstanding capital stock, unpaid at the date of the balance sheet, except dividends payable to related companies which shall be reflected in account 415, "Notes and accounts payable—Related companies."

439 Miscellaneous accounts payable.

This account shall include all current accounts payable to other than related companies, including unclaimed wages, taxes withheld or collected from others for the account of taxing agencies, and other items for which no other account is specifically provided.

440 Accrued taxes payable.

(a) This account shall include the accruals of all taxes payable. Subsidiary accounts shall be maintained as between:

(1) Federal income tax.
(2) Federal old age benefit tax.
(3) Unemployment insurance tax.
(4) Foreign.
(5) Other.

(b) Taxes withheld or collected from others for the account of taxing agencies shall be included in account 439, "Miscellaneous accounts payable."

459 Other accrued accounts payable.

(a) This account shall include monthly or other periodical accruals of unmatured payables other than taxes.

(b) Subsidiary accounts shall be maintained as between (1) interest, (2) rentals, (3) voyage payrolls, and such other classes as frequently occur.

479 Other current liabilities.

(a) This account shall include all current liabilities for which no classification is elsewhere provided.

(b) Subsidiary accounts shall be maintained to show separately each class of current liability.

489 Miscellaneous reserves for unrecorded liabilities.

This account shall include reserves provided to cover known current obligations or commitments, either actual or estimated. When the obligation or commitment falls due and the amount thereof is definitely known, this account shall be debited and the proper payable account credited. This account should not be confused with other reserve accounts created for specific purposes.

495 Advance ticket sales and deposits.

This account shall include the credit balance remaining in account 1025, "Collections and deposits for passenger transportation," after the balances in that account have been analyzed and those relating to completed transactions have been transferred to the appropriate other accounts designated in the chart.

500 Unterminated voyage revenue.

(a) This account shall be credited with the gross freight, passenger, mail, excess baggage, salvage, and other voyage revenue as soon as the manifests are ready for journalization. The account shall be charged with the total of the revenue of each terminated voyage, when account 600, "Operating revenue—Terminated voyages," is credited.

(b) The subsidiary accounts are to be maintained alphabetically by vessels and consecutively by voyages, according to the classification of revenue as shown on the chart of accounts.

(c) Postings shall be subdivided as between revenue earned on outward, inward, and intermediate legs of voyages.

(d) For purposes of postings in subsidiary accounts, coastwise and intercoastal service shall be deemed to be all commerce conducted by vessels between ports of the forty-eight States of the United States and foreign commerce shall be deemed to be all commerce conducted by vessels over the seas other than commerce between the ports of the forty-eight States of the United States: *Provided*, That, with respect to operators receiving an operating-differential subsidy, the subdivision in the subsidiary accounts shall be expanded so as to show, separately, revenue earned on coastwise and/or intercoastal legs of voyages described in section 605 (a) of Title VI of the Merchant Marine Act, 1936, as amended, as well as commerce between ports of the forty-eight States of the United States as hereinbefore required.

525 Long-term debt.

This account shall be subdivided as set forth in accounts 526, 527, 530 and 534.

526 Mortgage notes; Maritime Administration.

(a) This account shall include all mortgage notes payable to the Maritime Administration.

(b) Subsidiary accounts shall be maintained by vessel and subdivided as between Merchant Ship Sales Act of 1946 and Merchant Marine Act, 1936.

527 U.S. Government insured Merchant Marine Mortgage bonds and mortgage notes.

This account shall include all U.S. Government insured Merchant Marine mortgage bonds and mortgage notes issued pursuant to the provisions of contracts or agreements, and shall be maintained by vessel.

530 Other mortgage bonds and debentures.

This account shall include the face amount of bonds and debentures not provided for in other accounts and shall be maintained to show full particulars in respect to each issue outstanding. Reacquired bonds and debentures shall be charged to this account at face amount.

534 Other long-term debt.

This account shall include all long-term obligations, excluding amounts due related companies, for which no other account has been specifically provided, and shall be subdivided to show separately long-term obligations secured by capital assets and unsecured long-term debt.

540 Other liabilities.

This account shall be subdivided as set forth in accounts 541, 549, 550 and 554.

541 Non-current payables; related companies.

(a) This account shall include all loans, advances, and other payables to related companies not subject to current settlement.

(b) Subsidiary accounts shall be maintained by companies and shall show all essential detail.

549 Non-current notes and accounts payable; officers and employees.

This account shall include all short-term notes and accounts payable to officers, directors, individual stockholders, and employees, which by arrangement become due later than one year from date established.

550 Recapturable profits; Maritime Administration.

(a) If excess profits accrue to the Maritime Administration under the "recapture" provisions of sections 606 and 607 of the Merchant Marine Act, 1936, as amended, this account shall, at the end of the first accounting period in which such profits accrue, be credited with the amount thereof. At the close of each succeeding accounting period within the recapture period involved, this account shall be adjusted so as to reflect the net amount of such excess profits accrued to the Administration as at that date.

(b) The account shall be charged with amounts transferred to account 430, "Maritime Administration—Accounts Payable."

554 Miscellaneous other liabilities.

This account shall include all liabilities which cannot be allocated properly to any other account classification.

555 Deferred credits.

This account shall be subdivided as set forth in accounts 556 and 564.

556 Premium on funded debt.

(a) This account shall include premiums for all classes of funded debt which are to be amortised periodically over the respective lives of the securities by credit to account 691, "Release of premium on long-term debt."

(b) When an issue of funded debt or any part thereof is refunded and at the date of refunding there is a balance of unamortized premium relating thereto, the amount of such balance shall be credited to account 690, "Miscellaneous other income," or to account 990, "Extraordinary items," as may be appropriate, in accordance with the text of these accounts.

564 Miscellaneous deferred credits.

This account shall include all deferred income and unadjusted credits for which no other account is specifically provided, such as unexpended proceeds from insurance recoveries.

565 Operating reserves.

This account shall be subdivided as set forth in accounts 566, 570, 571 and 579.

566 Reserve for repairs.

(a) When reserves are provided for equalization of repair expenses incurred at domestic ports, this account shall be credited and account 200, "Unterminated voyage expense," charged. Actual repair expenses incurred at the domestic ports will be charged to this account. Repair expenses incurred at foreign ports will be charged direct to account 200. Any balance in this account applicable to terminated voyages at the end of the accounting year shall be distributed equally to such voyages in account 700, "Operating expense—Terminated voyages," after all repair expenses actually incurred and all commitments against voyages terminated during the period have been recorded.

(b) Subsidiary accounts shall be arranged alphabetically by vessel and consecutively by voyages.

570 Reserve for insurance.

(a) Agreed amounts for Marine and P. & I. Insurance deductibles (if provided in the policies) should be charged to each voyage in account 200, "Unterminated voyage expense," and the corresponding credits posted to this account. When the amount within the deductibles average chargeable against each voyage is determined, it should be transferred from account 361, "Claims pending," as a charge to this account.

(b) This account may also be used for equalization of other insurance risks assumed by the carrier, as for example, self-carried workmen's compensation, and public liability insurance. At the end of each accounting year, any balance in this account applicable to voyages terminated during the preceding accounting year, in those instances where the records indicate that all claims have been settled, should be transferred to the appropriate insurance expense account, consistent with instruction 11(c).

(c) Subsidiary accounts shall be maintained by the various classes of insurance for which provisions are made and shall be arranged alphabetically by vessel and consecutively by voyage.

571 Reserve for pensions and welfare.

This account shall include the liability of the carrier for the amount of assets (whether contributed by the carrier, by the employees, or by others) in the hands of the treasurer or of a trustee or manager as the administrator of employees' pension, savings, relief, hospital, or other association funds.

579 Miscellaneous operating reserves.

(a) This account shall include all provisions for the equilibration of operating expenses for which no other reserve account is specifically provided.

(b) Subsidiary accounts shall be maintained by the various classes of reserve arranged alphabetically by vessels and consecutively by voyages, or by other accounting units.

580 Net worth.

This account shall be subdivided as set forth in accounts 581 and 585.

581 Capital stock.

(a) This account shall include the par value, or for stock without par value the money value of the consideration received, in respect of capital stock or other form of proprietary interest in the carrier which has been issued to purchasers and has not been reacquired and canceled. It shall also include stock issued representing appropriations of surplus for stock dividends. When capital stock is retired, this account shall be charged with the book value at which such stock is recorded herein. Capital stock reacquired and held for resale or investment shall be charged to this account at a value equivalent to its book liability. The book value of nonpar stock reacquired shall be determined by a prorate of the amount recorded for shares of the particular subclass of stock of which the shares reacquired are a part actually outstanding immediately prior to acquisition.

(b) The credits hereto shall be divided as follows:

(1) *Preferred stock.* (Stock having a preference or priority in respect to dividend participation.)

(2) *Common stock.* (Stock entitled to a dividend, if any, after preferred stock.)

(c) A separate record shall be kept for each subclass showing the number of shares authorized by the articles of incorporation and amendments, the number of shares issued, the number of shares reacquired, the number of shares canceled, the number of shares outstanding, and their book value.

585 Capital stock subscribed.

This account shall include the amount of subscriptions to capital stock of the carrier. It shall be credited with the par value, or with the subscription price of stock without par value, exclusive of dividends, if any. Concurrently, account 135, "Subscriptions to capital stock," shall be debited with the agreed price and any discount or premium shall be included in the appropriate account. When properly executed stock certificates are issued, this account shall be debited and account 581, "Capital stock," credited.

587 Discount on capital stock.

(a) This account shall include the discount suffered and commissions paid in connection with the sale of capital stock. Records supporting the entries to this account shall be maintained to show the discount and commissions on each class and series of capital stock.

(b) When capital stock is reacquired the amount in this account with respect to the shares reacquired shall be credited hereto.

590 Capital surplus.

(a) This account shall include the amount of capital donated or paid in as surplus (including premiums and assessments on capital stock) and also gains from reacquired or donated shares of capital stock, from forfeiture of subscriptions and from reduction of the par or recorded value of capital stock.

(b) This account shall be charged with amounts included herein, capitalized by stock dividends or otherwise; losses from retirement or resale of reacquired shares not exceeding the credit herein applicable thereto; and may be charged with discount, commissions, and expense on capital stock to the extent of credits herein applicable thereto.

598 Earned surplus; appropriated.

(a) Surplus appropriated for replacement of capital assets, debt retirement, contingencies, and other funded reserves shall be credited to this account with a corresponding charge to account 599, "Earned surplus—Unappropriated."

(b) Subsidiary accounts shall be maintained by classes of appropriations.

599 Earned surplus; unappropriated.

(a) All profits and losses shown in account 1095, "Profit and loss account", at the end of the accounting year shall be recorded in this account.

(b) Any part of earned surplus appropriated for any purpose shall be charged to this account, including excess profits accruing to the Maritime Administration under the "recapture" clauses in sections 606 and 607 of the Merchant Marine Act, 1936, which shall be credited to account 550, "Recapturable profits—Maritime Administration."

(c) This account shall include losses on resale of reacquired capital stock and charges which reduce or write off discount on capital stock issued by the company but only to the extent that such charges exceed credit balances in capital surplus for shares reacquired.

(d) This account shall include other adjustments, net of assigned Federal income taxes, not provided for elsewhere in this system but only after such inclusion has been authorized by the Commission.

Income Accounts

Ordinary Items

Water Line Operating Revenue

600 Operating revenue; terminated voyages.

(a) This account shall include all revenue on terminated voyages transferred from account 500, "Unterminated voyage revenue." Revenue items recorded on terminated voyages, after the transfer has been made, shall be posted in detail direct to this account. Revenue items

arising in connection with voyages terminated in prior years shall be accounted for as ordinary delayed items pursuant to instruction 11(c).

(b) Subsidiary accounts shall be maintained alphabetically by vessels and consecutively by voyages, according to the classification of revenues, as shown in the chart of accounts. Postings shall be subdivided as between revenues earned on outward, inward, and intermediate legs of voyages.

(c) For purposes of postings in subsidiary accounts, coastwise and intercoastal service shall be deemed to be all commerce conducted by vessels between ports of the fifty States of the United States and foreign commerce shall be deemed to be all commerce conducted by vessels over the seas other than commerce between the ports of the fifty States of the United States: *Provided*, That, with respect to operators receiving an operating-differential subsidy, the the subdivision in the subsidiary accounts shall be expanded, so as to show, separately, revenue earned on coastwise and/or intercoastal legs of voyages described in section 605(a) of Title VI of the Merchant Marine Act, 1936, as amended, as well as commerce between ports of the fifty States of the United States as hereinbefore required.

(d) The same subsidiary ledger forms may be used for both account 500 and account 600, and the sheets may be physically transferred or the totals, by classifications, transferred to new sheets, as the carrier elects.

(e) This account shall be subdivided as set forth in accounts 601, 605, 608, 612, 615–617, 619, 620, and 624.

601 Freight; foreign.

(a) This account shall include all revenue accruing from the transportation of freight based upon tariff rates or in the absence of tariff provisions on basis of contracts. It shall include revenue earned from the carriage of:

(1) General cargo.
(2) Refrigerated cargo.
(3) Bulk cargo.
(4) Dead freight.
(5) Express.
(6) Heavy lift charges.
(7) Primage.
(8) Revenue from cargo charters (contracts).

(b) It will also include the surcharge on freight revenue.

(c) It shall be charged with refunds due to errors in classification or computation of rates and charges; refunds due to errors in routing or shipping freight; refunds and uncollectible charges on lost, damaged, or destroyed freight shipments; and with refunds of overcharges assumed by the carrier under the voucher minimum.

605 Freight; coastwise and intercoastal.

(a) This account shall include all revenue accruing from the transportation of freight based upon tariff rates or in the absence of tariff provisions on basis of contracts. It shall include revenue earned from the carriage of:

(1) General cargo.
(2) Refrigerated cargo.
(3) Bulk cargo.
(4) Dead freight.
(5) Express.
(6) Heavy lift charges.
(7) Revenue from cargo charters (contracts).

(b) It will also include the surcharge on freight revenue.

(c) It shall be charged with refunds due to errors in classification or computation of rates and charges; refunds due to errors in routing or shipping freight; refunds and uncollectible charges on lost, damaged, or destroyed freight shipments; and with refunds of overcharges assumed by the carrier under the voucher minimum.

608 Passenger; foreign.

This account shall include all revenue accruing from the transportation of passengers based upon tariff rates. It shall include the revenue from transportation of passengers, the rental of staterooms, berths, or living accommodations, and the furnishing of meals.

612 Passenger; coastwise and intercoastal.

(a) This account shall include all revenue accruing from the transportation of passengers based upon tariff rates. It shall include the revenue from transportation of passengers, the rental of staterooms, berths, or living accommodations, and the furnishing of meals.

(b) The credits to this account shall be subdivided as follows among (1) revenue from passenger fares, (2) revenue from staterooms, (3) revenue from meals, and (4) revenue that cannot be separated among subparagraphs (1), (2), and (3) of this paragraph.

615 U.S. mail; foreign.

This account shall include revenue from the transportation of United States mail between foreign ports and between domestic and foreign ports. It shall be charged with mail penalties imposed upon the carrier.

616 U.S. mail; coastwise and intercoastal.

This account shall include revenue from the transportation of United States mail between the ports of the 50 States of the United States. It shall be charged with mail penalties imposed upon the carrier.

617 Foreign mail.

This account shall include revenue from the transportation of mail of countries other than the United States. It shall be charged with mail penalties imposed upon the carrier.

619 Ad valorem.

This account shall include all revenue from the transportation of cargo, the charges for the transportation of which are based on a percentage of the invoiced value thereof, such as bullion, currency, precious metals, etc.

620 Charter revenue.

This account shall include revenue from contracts for the charter of vessels to others when the amount receivable for charter is not directly related to and dependent upon the commodities and volume transported, such as bareboat and time form charters. The compensation is usually based upon daily or monthly hire of the vessel.

624 Other voyage revenue.

This account shall include all revenue accruing from other services by and activities aboard vessels, not otherwise provided for, such as:

Advances, prepaid beyond and manifest transaction, net credit.
Assisting vessels in distress—salvage.
Barber shop and other services to passengers aboard vessels.
Concessions aboard vessels granted to others.
Demurrage and dispatch.
Excess baggage.
Parcel rooms aboard vessels.
Radio service aboard vessels.
Refrigeration aboard vessels.
Rent from steamer chairs and other equipment to passengers.
Sale of periodicals and newsstand supplies to passengers.
Sale of buffet and bar supplies to passengers, net credit.
Sale of slop chest supplies to crew, net credit.
Transportation of animal pets.
Weighing and vending machines aboard vessels.

Subsidies

625 Operating-differential subsidy.

(a) This account shall be credited with sums accruing to the carrier under the subsidy provisions of the operating-differential subsidy agreement.

(b) Subsidiary accounts, to which postings shall be made by vessel and voyage, shall be maintained according to classifications shown in chart of accounts.

626. Wages of officers and crew.
628. Subsistence of officers and crew.
629. Subsistence of passengers.
630. Maintenance.
632. Repairs not compensated by insurance.
634. Shore gang repairs—upkeep.
636. Hull insurance premiums.
637. Hull insurance deductible repairs.
638. P. & I. insurance.

Other Shipping Revenue

640 Collections from pools.

This account shall be credited with collections for each accounting period in accordance with pooling agreements by transfers from account 1055, "Pool Participation."

645 Revenue from terminal operations.

(a) This account shall include all revenue derived from the rental, lease, or use by others of the carrier's terminal facilities, including dockage, side wharfage, top wharfage, storage, use of doorways, lights, furnishing water, protective service, refrigeration, precooling, and similar service.

(b) Any agreed amounts for the use of such facilities by vessels owned or operated by the carrier which are charged to account 200, "Unterminated voyage expense," shall be credited to account 890, "Interdepartmental credits for services and facilities."

(c) Subsidiary accounts shall be maintained to show separately for each terminal the different kinds of revenue earned.

650 Revenue from cargo handling operations.

(a) This account shall include all revenue derived from the performance by the carrier for others of stevedoring and other cargo handling services, such as checking, tallying, receiving, delivering, coopering, loading, and discharging cargo; also use of gear, equipment, etc.

(b) Any agreed amounts for the use of such facilities by vessels owned or operated by the carrier which are charged to account 200, "Unterminated voyage expense," shall be credited to account 890, "Interdepartmental credits for services and facilities."

(c) Subsidiary accounts shall be maintained to show separately for each port the different kinds of services earning revenues.

655 Revenue from tug and lighter operations.

(a) This account shall include all revenue derived from services performed for others by the carrier's tugs, lighters, barges, scows, launches, floating cranes, and other equipment, including rental and charter hire for use of such equipment.

(b) Any agreed amounts for the use of such facilities by vessels owned or operated by the carrier which are charged to account 200, "Unterminated voyage expense," shall be credited to account 890, "Interdepartmental credits for services and facilities."

(c) Subsidiary accounts shall be maintained to show separately for each port the different kinds of services earning revenues.

660 Revenue from other shipping operations.

(a) This account shall be credited with gross revenue derived from the performance of repairs, and any other services or operations for others which are incidental to the shipping business and for which no other account is specifically provided.

(b) Any agreed amounts for the use of such facilities by vessels owned or operated by the carrier which are charged to account 200, "Unterminated voyage expense," shall be credited to account 890, "Interdepartmental credits for services and facilities."

(c) Subsidiary accounts shall be maintained to show separately for each port the different kinds of services earning revenues.

670 Agency fees, commissions, and brokerage earned.

(a) This account shall include revenues received from others covering gross agency fees, commissions and brokerage, less amounts paid to subagents therefrom.

(b) Any agreed amounts for services performed for vessels owned or operated by the carrier which are charged to account 200, "Unterminated voyage expense," shall be credited to account 890, "Interdepartmental credits for services and facilities."

(c) Subsidiary accounts shall be maintained by offices, and postings shall show sources of earnings and classification thereof, such as agency fees, management and operating commissions, freight brokerage, passenger brokerage, and names of sub-agents in instances where such payments are charged to this account.

Other Credit Accounts

675 Interest income.

(a) This account shall be credited with all interest accrued. If it is the practice of the carrier to adjust such interest to a yield basis, this account shall be charged with amortization of any premium and shall be credited with accumulation of any discount on securities at the time of accrual or collection of interest thereon.

(b) Interest shall not be credited before actual collection unless its payment is reasonably assured by past experience, guaranty, anticipated provisions, or otherwise.

(c) This account shall not include interest on securities issued or assumed and owned by the carrier.

(d) This account shall be subdivided as follows:

676. Cash on deposit.
677. Notes and accounts receivable—Related companies.
678. Notes and accounts receivable—Others.
679. Marketable securities.
680. Special funds and deposits.
681. Investments in related companies.
682. Other investments.
684. Miscellaneous.

685 Dividend income.

(a) This account shall be credited with all dividends received. Dividends may be credited prior to actual collection if their payment is reasonably assured by past experience, guaranty, anticipated provisions, or otherwise. This account shall not include dividends on the carrier's own capital stock.

(b) This account shall be subdivided as follows:

686. Marketable securities.
687. Special funds and deposits.
688. Investments in related companies.
689. Miscellaneous.

690 Miscellaneous other income.

This account shall include all income not provided for elsewhere, such as:

Cash discounts.
Profits from conversion of foreign currencies. Transferred from account 050, "Foreign exchange account."
Fees collected in connection with exchange of coupon bonds for registered bonds.
Profit from sale of securities.
Profit from sale of shipping and nonshipping property.
Profit from company bonds reacquired.

When the profit from sale of property and equipment, or securities, or from reacquisition of the company's own bonds is of an amount sufficiently large to constitute an extraordinary item, pursuant to instruction 11, such profit shall be credited to account 990, "Extraordinary items".

691 Release of premium on long-term debt.

This account shall include for each fiscal period such proportion of the premium on funded debt as is transferred from account 556, "Premium on funded debt."

695 Income from non-shipping operations.

(a) This account shall include the gross income derived from ventures other than shipping and shipping auxiliary operations.

(b) Separate accounts shall be maintained for each enterprise and location.

Water Line Operating Expense

700 Operating expense; terminated voyages.

(a) This account shall be charged with all expenses of terminated voyages transferred from account 200, "Unterminated voyage expense." Expense items recorded on terminated voyages after the transfer has been made shall be posted in detail direct to this account. Expense items arising in connection with voyages terminated in prior years shall be accounted for as ordinary delayed items pursuant to instruction 11(c).

(b) Subsidiary accounts shall be maintained alphabetically by vessels and consecutively by voyages, according to the classification of expense as shown in the chart of accounts.

(c) The same subsidiary ledger forms may be used for both account 200 and account 700, and the sheets may be physically transferred or the totals, by classifications, transferred to new sheets, as the carrier elects.

(d) This account shall be subdivided according to the classifications of expense in accounts 701–799, inclusive.

701 Wages.

This account shall include the pay of masters, officers, pursers, radio operators, and other members of crews of vessels, including regular wages, emergency allowances, overtime, vacation pay, and bonuses.

708 Payroll taxes.

This account shall include taxes computed on the basis of a payroll such as old age benefits, unemployment compensation and similar social security taxes.

709 Contributions; welfare plans.

This account shall include contributions to welfare and pension plans of seamen made in accordance with union agreements.

710 Subsistence; purchased domestic.

This account shall include the cost (including sales taxes and delivery

and inspection charges thereon) of all edibles (but not bar and slop chest supplies and water) purchased in the United States and its territories and possessions except the Virgin Islands, American Samoa, Wake Island, Midway Island, Kingman Reef, and the Island of Guam (excluding purchases out of bond) for consumption by passengers, officers, and crews of vessels. This account shall also include board and room allowances to officers and crews in lieu of subsistence and lodging aboard vessels.

714 Subsistence; purchased foreign.

This account shall include the cost (including sales taxes and delivery and inspection charges thereon) of all edibles (except bar and slop chest supplies and water) purchased in foreign countries or in the Virgin Islands, American Samoa, Wake Island, Midway Island, Kingman Reef, and the Island of Guam, or purchased in the United States out of bond, for consumption by passengers, officers, and crews of vessels.

715 Stores, supplies, and equipment; purchased domestic.

This account shall include the cost (and related sales taxes) of all consumable stores and supplies and expendable equipment (other than edibles, bar and slop chest supplies, fuel and water) purchased in the United States and its territories and possessions, except the Virgin Islands, American Samoa, Wake Island, Midway Island, Kingman Reef, and the Island of Guam (excluding purchases out of bond), for use aboard vessels. The term "expendable equipment" includes all tools, utensils, instruments, small machinery, strainers, burner parts, valve parts, and paraphernalia of a portable or removable nature, as distinguished from "permanent equipment" fastened to the vessel or installed as an integral part thereof, and spares required by the classification societies. The cost of such permanent equipment and spares shall be included in account 740, "Repairs performed—Domestic," or 749, "Repairs performed—Foreign," as the case may be.

724 Stores, supplies and equipment; purchased foreign.

This account shall include the cost (including related sales taxes) of all consumable stores and supplies and expendable equipment (other than edibles, bar and slop chest supplies, fuel and water) purchased in foreign countries or in the Virgin Islands, American Samoa, Wake Island, Midway Island, Kingman Reef, and the Island of Guam, or purchased in the United States out of bond, for use aboard vessels.

725 Other maintenance expense.

(a) This account shall include such expenses as laundry and pressing services; wages of shoregang labor for cleaning, painting, scraping, or other vessel-upkeep services usually performed by the crew; inspection service charges; and the cost of maintaining expendable equipment, such as adjustment compasses, rating chronometers, retinning utensils, mending linens, upholstering chairs, repairing typewriters, etc.

This account shall include the cost of any agreed amounts charged for the use of the carrier's own facilities or for services rendered by the carrier to its owned or operated vessels, such amounts being credited to account 890, "Interdepartmental credits for services and facilities."

735 Fuel.

This account shall include the cost of bunker coal and fuel oil and of services and facilities incident to delivery, inspection, and trimming thereof.

740 Repairs performed; domestic.

(a) This account shall include the cost incident to repairs (not recoverable from insurance) directly attributable to replacement by duplication of, or restoration to satisfactory condition of damaged or worn parts of vessels, their machinery, and equipment which are integral parts of vessels, including the purchase of permanent equipment and spares required by the classification societies, in the United States and its territories and possessions, except the Virgin Islands, American Samoa, Wake Island, Midway Island, Kingman Reef, and the Island of Guam. The cost of repairing or servicing expendable equipment shall be included in account 725, "Other maintenance expense." In instances where reserves are maintained by the carrier to equalize repair expenses, this account shall also include the reserve provision and the unexpended or debit balance of the repair reserve applicable to the period covered by this report in excess of the amount reserved for uncompleted repairs, if it is the practice of the carrier to close such balances at the end of each accounting period.

(b) This account shall also include any agreed amounts charged for the use of the carrier's own facilities or for services rendered by the carrier to its owned or operated vessels, such amounts being credited to account 890, "Interdepartmental credits for services and facilities."

749 Repairs performed; foreign.

This account shall include the premiudent to repairs (not recoverable from insurance) directly attributable to replacement by duplication of, or restoration to satisfactory condition of, damaged or worn parts of vessels, their machinery and equipment which are integral parts of vessels, including the purchase of permanent equipment and spares required by the classification societies, in foreign countries or in the Virgin Islands, American Samoa, Wake Island, Midway Island, Kingman Reef, and the Island of Guam.

755 Insurance; hull and machinery.

This account shall include the premiums on full navigating, total loss (including disbursements and/or earnings), war-risk and port-risk insurance coverage; provisions for deductible average losses, in instances where reserves are maintained by the carrier to equalize such losses; and the unexpended or debit balance of the repair reserve applicable to the period covered by this report in excess of the amount reserved for pending claims, if it is the practice of the carrier to close such balances at the end of each accounting period.

757 Insurance; P.&I.

This account shall include the premiums on protection and indemnity insurance coverage; provisions for deductible average losses, in instances where reserves are maintained by the carrier to equalize such losses; and the unexpended or debit balance of reserves for deductible average losses applicable to the period, in excess of the amount reserved for pending claims, if it is the practice of the carrier to close such balances at the end of each accounting period.

759 Insurance; other.

This account shall include the premiums on all classes of marine-risk coverage carried by the carrier which are not properly allocable to account 755, "Insurance—Hull and machinery," and account 757, "Insurance—P.&I.," as defined in account 757.

760 Charter hire.

This account shall include the cost of hiring vessels from others under bareboat, time, trip, or other forms of charter.

764 Other vessel expense.

This account shall include all miscellaneous expenses directly incident to the management and maintenance of vessels which are not properly chargeable to other account classification, such as:

Ashes, removal of.
Bill of health.
Crew transportation and cost of securing.
Dispatch.
Emblems and stack marks.
Fresh water.
Garbage service.
Inventory expense.
Launch hire.
Lights furnished from shore when ship is dead.
Masters, expenses of.
Medical, examination of ship personnel.
Pursers, expenses of.
Payroll insurance.
Rental of radio equipment.
Rental of submarine signal apparatus.
Seaworthy certificate.
Steam for winches, furnishing.
Taxi hire.

765 Agency fees and commissions.

(a) This account shall include agency fees, attendance fees, and commissions for services performed by agents at outports. This should not be confused with commissions paid to any other persons or concern acting as managing or operating agent of the carrier in instances where the latter does not maintain an operating organization, which expenses should be included in account 945, "Management and operating commissions."

(b) This account shall also include any agreed amounts charged for the use of the carrier's own facilities or for services rendered by the carrier to its owned or operated vessels, such amounts being credited to account 890, "Interdepartmental credits for services and facilities."

770 Wharfage and dockage.

(a) This account shall include the cost of terminal facilities furnished vessels of the carrier such as dockage or sidewharfage, top-wharfage, storage, use of doorways, lights, etc.

(b) This account shall also include any agreed amounts charged for the use of the carrier's own facilities or for services rendered by the carrier to its owned or operated vessels, such amounts being credited to account 890, "Interdepartmental credits for services and facilities."

779 Other port expenses.

This account shall include port service charges, dues, and taxes, such as:

Anchor dues.
Bridge openings.
Brokerage, customs.
Buoy hire.
Canal tolls other than Panama, Suez, Saint Lawrence Seaway Canals (see account 795).
Cargo dues.
Certificates, loading, discharge.
Chamber of commerce dues.
Clearance dues and fees.
Consular charges.
Contributions to hospital.
Custom house dues and overtime.
Entry dues and fees.
Fumigation.
Handling lines.
Harbor dues.
Health and immigration office fees.
Launch hire.
Lighthouse dues.
Mooring and unmooring.
Packet privileges.
Permits, loading, discharge.
Pilotage.
Port dues and taxes.
Quarantine charges.
Running lines.
Sanitary dues.
Shifting vessel.
Stamp dues.
Tonnage tax.
Towage.
Tug hire.
Watching vessel.

780 Stevedoring.

(a) This acount shall include the cost of removing and handling cargo from the piles on the pier or in pier sheds, or from cars, barges, lighters, scows, or booms alongside, and stowing the same in or on any part of the vessel, and the cost of discharging cargo from any part of the vessel onto the pier or into pier sheds, or into or on cars, barges, lighters, scows, or booms alongside the vessel and piling the same on the pier or in pier sheds, such as:

Straight time
Overtime.
Detentions.
Extra labor:
  Breaking down.
  Handling baggage and mail.
  Heading cotton.
  Heavy-lift charges.
  High piling.
  Long trucking.
  Rigging and unrigging.
  Shifting barges and lighters.
  Shifting cargo.
  Sorting.
  Tiering.
  Transhipping cargo into sheds and barges.
Hire of stevedoring gear and equipment, including cargo slings, hatch bridles, hatch tents, save-alls, etc.
Transportation, traveling time, and feeding of stevedores.
Trimming or leveling cargo.
Insurance, premium on workmen's compensation and public liability, based on labor charges included under this classification.

(b) This account shall also include any agreed amounts charged for the use of the carrier's own facilities or for services rendered by the carrier to its owned or operated vessels, such amounts being credited to account 890, "Interdepartmental credits for services and facilities."

789 Other cargo expenses.

(a) This account shall include all expenses directly incident to the handling and carriage of cargo which are not properly allocable to account 780, "Stevedoring," defined in account 780, such as:

Cleaning holds and tanks for reception of cargo.
Sweeping and cleaning wharves and docks.
Cartage of baggage and mail.
Checking and tallying.
Clerk hire, receiving and delivering.
Coopering (labor and materials).
Cotton inspection.
Demurrage on cars and lighters.
Dunnage, including cost of handling.
Grain inspection.
Hire of:
  Barges and lighters.
  Cranes and derricks.
  Electric lights for loading or discharging.
  Grain elevators.
  Tarpaulins.
Installation of special cargo fittings.
Landing charges and collections.
Measuring cargo.
Port marking.
Separation cloths for grain cargoes.
Spiral charges.
Survey of cargo and hatches.
Towage of barges and lighters.
Watching cargo.
Weighing cargo.
Insurance, premium on workmen's compensation and public liability, based on labor charges included under this classification.

(b) This account shall also include any agreed amounts charged for the use of the carrier's own facilities or for services rendered by the carrier to its owned or operated vessels, such amounts being credited to account 890, "Interdepartmental credits for services and facilities."

790 Freight brokerage.

This account shall include commissions to brokers for procuring cargo.

793 Passenger brokerage.

This account shall include commissions to brokers and booking agencies for procuring business.

795 Canal tolls.

This account shall include only the cost of tolls levied against vessels for traversing the Panama Canal, Suez Canal, and Saint Lawrence Seaway. Tolls assessed for passage through other canals shall be included in account 779, "Other port expenses."

[15 F.R. 7675, Nov. 11, 1950, as amended at 25 F.R. 13006, Dec. 29, 1960]

799 Other voyage expense.

(a) This account shall include all miscellaneous expenses incident to traffic operations and conduct of voyages which are not properly chargeable to other account classifications, such as:

Arrival notices.
Ballast expense (cost of ballast as well as expense of loading and discharging).
Bank commission.
Cargo plant.
Communication expenses, including telegrams, cables, radio dispatches, and telephone tolls.
Demurrage.
Extending protest.
Noting protest.
Postage and petties.
Reporting vessels.
Stowage plans.
Transshipment of cargo for vessel's convenience.

(b) This classification shall also include net losses resulting from advance and prepaid beyond transactions, miscellaneous other manifested items, bar and slop chest sales on such voyages.

800 Inactive vessels expense.

(a) The account shall include all expenses incurred during and directly incident to inactive periods of vessels which are owned and controlled by the carrier, such as wages of officers and crews, subsistence, stores, supplies and equipment, fuel, repairs, insurance, charter hire, wharfage and dockage, port charges, etc.

(b) Subsidiary accounts shall be maintained alphabetically by vessels, further divided as to lay-up periods, and according to classifications of expenses as follows:

801. Wages.
803. Payroll taxes.
804. Contributions—Welfare plans.
807. Subsistence.
809. Stores, supplies, and equipment.
810. Other maintenance expense.
815. Fuel.
817. Repairs.
823. Insurance—Hull and machinery.
825. Insurance—P. & I.
826. Charter hire.
829. Wharfage and dockage.
839. Port expenses.
849. Miscellaneous.

(c) For detailed description of items chargeable to each account see classification of items for corresponding expenses under account 700, "Operating expense—Terminated voyages."

850 Contributions to pools.

This account shall be charged with contributions for each accounting period in accordance with pooling agreements by transfers from account 1055, "Pool participation."

855 Expense of terminal operations.

(a) This account shall include the gross expense incurred in the maintenance and operation of terminal facilities by the carrier such as salaries, wages (and related payroll taxes), rent, heat, light, power, repairs, dredging, and insurance for its owned or operated vessels or for the vessels of others.

(b) In instances where such services are performed by the carrier for its owned or operated vessels at agreed

amounts, such agreed amounts shall be credited to account 890, "Interdepartmental credits for services and facilities," with a corresponding charge to account 200, "Unterminated voyage expense," or account 700, "Operating expense—Terminated voyages."

(c) Subsidiary accounts shall be maintained to show separately the principal classes of expense incurred in the operation of each terminal.

865 Expense of cargo handling operations.

(a) This account shall include the gross expense incurred in the performance by the carrier of stevedoring and other cargo handling services such as checking, tallying, delivering, coopering, watching, etc. (and related payroll taxes), for its owned or operated vessels or for the vessels of others.

(b) In instances where such services are performed by the carrier for its owned or operated vessels at agreed amounts, such agreed amounts shall be credited to account 890, "Interdepartmental credits for services and facilities," with a corresponding charge to account 200, "Unterminated voyage expense," or account 700, "Operating expense—Terminated voyages."

(c) Subsidiary accounts shall be maintained to show separately the principal classes of expenses incurred in the performance of stevedoring and other cargo handling operations at each port.

875 Expense of tug and lighter operations.

(a) This account shall include the gross expense incurred in the maintenance and operation by the carrier of tugs, lighters, barges, scows, launches, floating cranes, and similar floating equipment for its owned or operated vessels or for the vessels of others.

(b) In instances where such services are performed by the carrier for its owned or operated vessels at agreed amounts, such agreed amounts shall be credited to account 890, "Interdepartmental credits for services and facilities," with a corresponding charge to account 200, "Unterminated voyage expense," or account 700, "Operating expense—Terminated voyages."

(c) Subsidiary accounts shall be maintained to show separately the principal classes of expense incurred in the performance of repairs and other auxiliary operations at each port.

885 Expense of other shipping operations.

(a) This account shall include the gross expense incurred in the performance by the carrier of repairs and any other services or operations incidental to the shipping business for its owned or operated vessels or for the vessels of others, and for which no other account is specifically provided.

(b) In instances where such services are performed by the carrier for its owned or operated vessels at agreed amounts, such agreed amounts shall be credited to account 890, "Interdepartmental credits for services and facilities," with a corresponding charge to account 200, "Unterminated voyage expense," or account 700, "Operating expense—terminated voyages."

(c) Subsidiary accounts shall be maintained to show separately the principal classes of expense incurred in the performance of repairs and other auxiliary operations at each port.

890 Interdepartmental credits for services and facilities.

(a) This account shall be credited with agreed amounts concurrently charged to account 200, "Unterminated voyage expense," or account 700, "Operating expense—Terminated voyages," representing services performed and facilities furnished by the carrier for its owned or operated vessels, the expenses for which are included in the following accounts:

Account 865 Expense of terminal operations.
Account 865 Expense of cargo handling operations.
Account 875 Expense of tug and lighter operations.
Account 885 Expense of other shipping operations.
Account 900 Administrative and general expense. (Agency fees and commissions.)

(b) Subsidiary accounts, to which postings shall be made by vessel and voyage, shall be subdivided as follows:

891 Credits from terminal operations.
892 Credits from cargo handling operations.
893 Credits from tug and lighter operations.
894 Credits from other shipping operations.
895 Credits from branch house operations.

900 Administrative and general expense.

(a) This account shall include all administrative and general expenses incurred in the operation of the business for which no other specific account is provided, including the corresponding expenses of branch houses.

(b) Subsidiary accounts shall be maintained separately by offices.

(c) This account shall be subdivided according to the classification of expenses in accounts 901–944, inclusive.

901 Salaries of officers.

This account shall include the compensation of officers and directors, including fees of receivers and trustees, commissions in lieu of salaries and taxes computed on basis of payroll such as old age benefits, unemployment compensation, and similar social security taxes.

902 Wages of employees.

This account shall include the compensation of all employees other than officers and directors, including taxes computed on basis of payroll such as old age benefits, unemployment compensation and similar social security taxes.

905 Legal and accounting fees and expenses.

This account shall include fees, retainers, and other expenses for professional services of attorneys, auditors, accountants, and others, including cost of law books, legal forms, testimony, notarial and witness fees, law and court expenses, and audit reports of investigations and lawsuits.

910 Rent, heat, light, and power.

This account shall include the cost of light, heat, power, water, and air conditioning; also rents payable for use of buildings, general offices, and storage space.

915 Communication expenses.

This account shall include the cost of telephone, telegraph, cable, radio, teletype, and all other communication services.

920 Office supplies, stationery, and printing.

This account shall include the cost of office supplies and of stationery and printing used in general offices, including the cost of printing annual reports, contracts, leases, passes, and tariffs.

925 Membership dues and subscriptions.

This account shall include membership dues and fees in associations and subscriptions to periodicals and newspapers. This account shall also include all expenses incurred in administering pooling agreements. (Contributions of revenues to pooling agreements shall be charged to account 850, "Contributions to pools.")

929 Entertaining and solicitation.

This account shall include expenses of canvassing and solicitation in connection with the procurement of traffic and all entertaining expenses.

930 Traveling expenses.

This account shall include all traveling expenses of officers and their employees on official business of the company.

931 Insurance and bond premiums.

This account shall include premiums on insurance such as burglary, theft, robbery, etc., and premiums on fidelity bonds on officers and employees.

932 Pensions and relief.

(a) This account shall include pensions and gratuities paid to retired or incapacitated employees, or heirs of employees, and expenses in connection therewith; also cost of life and benefit insurance on employees.

(b) A carrier may account for pensions on an accrual basis when funded under an established retirement plan whereby it definitely agrees to pay pensions to its retired employees.

(c) No charges shall be made to this account in anticipation of discretionary pension payments in the future. (Contributions to welfare plans of seamen shall be charged to account 709, "Contributions—Welfare plans.")

933 Postage.

This account shall include the cost of postage for mailing official business, including parcel post and registered mail, not provided for elsewhere.

934 Maintenance of office buildings and equipment.

This account shall include the cost of repairing general office buildings and equipment, furniture, and machines. It shall also include the rental of tabulating machines and other office equipment.

944 Miscellaneous.

This account shall include all expenses of a general character for which no other account is provided, such as:

Clipping service.
Credit investigations.
Draping buildings.
Donations.
Office cleaning service.
Publishing notice of stockholders' meetings.
Registrar and transfer agent's fees.
Rent of safe deposit boxes.
S.E.C. fees.
Towel service.
Watchman service.

945 Management and operating commissions.

This account shall include commissions accruing and payable to other persons or concerns acting as managing or operating agents of the carrier, where the carrier does not maintain an operating organization. It does not include the customary agency fees, commissions, and brokerage paid general and sub-agents at out-ports, which latter shall be charged to account 200, "Unterminated voyage expense."

950 Advertising.

This account shall be charged with the cost of all freight, passenger, and other advertising.

955 Taxes; miscellaneous.

(a) This account shall include all taxes other than Federal income taxes, sales taxes, and taxes computed on basis of payrolls such as old age benefits, unemployment compensation, and similar social security taxes.

(b) Sales taxes and taxes assessed against carriers for electrical energy, telegraph, telephone, radio, cables, checks, rental and safe deposit boxes, motor vehicle licenses, etc., shall be included in the respective accounts to which the cost of the material or services is charged. Social security taxes are to be included in the respective accounts to which the payrolls are charged.

972 Amortization; leaseholds.

This account shall include the amortization of the cost of acquiring long-term leases, and the cost of alterations to, and fixtures installed in, leased property, with a corresponding credit to account 385, "Leaseholds."

980 Depreciation; shipping property and equipment.

(a) This account shall include all accruals applicable to the accounting period for depreciation of all shipping property and equipment operated in transportation service by the carrier which is subject to depreciation accounting.

(b) This account shall be subdivided as set forth in accounts 981, 984, 987, and 988.

981 Depreciation; floating equipment; vessels.

This account shall include the accrual of depreciation of vessels (steamships and motor ships) owned by the carrier with a corresponding credit to account 332, "Reserve for depreciation; Vessels."

984 Depreciation; other floating equipment.

This account shall include the accrual of depreciation of tugs, lighters, barges, scows, launches, floating cranes, and similar floating equipment, with a corresponding credit to account 338, "Reserve for depreciation; Other floating equipment."

987 Depreciation; terminal property and equipment.

This account shall include the accrual of depreciation of terminal buildings, shore cranes, trucks, furniture and fixtures, and other terminal gear and equipment with a corresponding credit to account 344, "Reserve for depreciation; Terminal property and equipment."

988 Depreciation; other shipping property and equipment.

This account shall include the accrual of depreciation of property and equipment incident to shipping and its auxiliary operations for which no other account has been specifically provided, including stevedoring and other cargo handling gear and equipment, repair yards and equipment and highway vehicles, with a corresponding credit to account 350, "Reserve for depreciation; Other shipping property and equipment."

Other Debit Accounts

960 Interest expense.

(a) This account shall include all interest expense accrued. It shall not include interest on obligations issued and assumed and owned by the carrier.

(b) This account shall be subdivided as follows:

961. Bank loans.
962. Insurance notes.
963. Notes and accounts payable—Related companies.
964. Notes and accounts payable—Others.
965. Mortgage notes—Maritime Administration.
966. Mortgage bonds.
967. Debentures.
968. Other long-term debt.
969. Miscellaneous.

970 Amortization of deferred charges.

This account shall be subdivided as set forth in accounts 971, 973, and 974.

974 Amortization; debt discount and expense.

This account shall include for each fiscal period such proportion of debt discount and expense on funded debt as is transferred from account 384, "Debt discount and expense."

973 Amortization; organization and pre-operating expense.

Amortization of expenses incurred in the formation or development of the business shall be charged to this account as transferred from account 386, "Organization and pre-operating expense."

974 Miscellaneous amortization expense.

Amortization of any deferred charges for which no other account is specifically provided shall be included in this account.

975 Doubtful notes and accounts receivable.

(a) This account shall be charged with provisions for reserves against all notes and accounts receivable considered doubtful of collection.

(b) Separate subsidiary accounts shall be maintained for doubtful accounts of related companies as distinguished from those of non-related companies.

979 Miscellaneous deductions from income.

This account shall include amounts properly chargeable to income, not provided for elsewhere, such as:

Calls for bids in accordance with provision of mortgages.
Cost of advertising bonds drawn for redemption.
Losses due to conversion of foreign currencies. (Transferred from account 050, "Foreign exchange account".)
Premiums on bonds to assure performance of contracts when chargeable to income.
Taxes on interest on funded debt payable at source under tax-free covenants.

When the loss from sale of property and equipment, or securities, or from write down of securities because of impairment in value, or reacquisition of the company's own bonds is of an amount sufficiently large to constitute an extraordinary item, pursuant to instruction 11, such loss shall be charged to account 990, "Extraordinary items."

Trusts, current expenses of maintaining and administering.
Trustees' commissions and fees for paying bond interest on coupons and expenses connected with such payments.
Loss on sale of shipping and nonshipping property and equipment.
Loss on sale of securities and charges to write down the ledger value of securities because of impairment in their value.
Loss on company bonds reacquired.

985 Expense of non-shipping operations.

(a) This account shall include the gross expense, other than amortization and depreciation, incurred in ventures other than shipping and shipping auxiliary operations.

(b) Separate accounts shall be maintained for each enterprise and location.

986 Depreciation; nonshipping property and equipment.

The annual or other periodical accrual of depreciation of property and equipment used in ventures other than shipping and shipping auxiliary operations shall be charged to this account with a

corresponding credit to account 354, "Reserve for depreciation—Nonshipping property and equipment."

989 Federal income taxes on ordinary income.

This account shall be charged with accrued provision for Federal income taxes applicable to ordinary income of the accounting year. See the text of account 599, "Earned surplus; unappropriated" and account 998, "Federal income taxes on extraordinary and prior period items," for recording other income tax consequences.

Details pertaining to the tax consequences of other unusual and significant items and also cases where the tax consequences are disproportionate to the related amounts included in the income accounts, shall be submitted to the Commission for consideration and decision as to proper accounting.

Income taxes which are refundable or reduced as the result of carry-back or carry-forward of operating loss shall be credited to this account, if a carry-back, in the year in which the loss occurs, or, if a carry-forward, in the year in which such loss is applied to reduce taxes. However, when the amount constitutes an extraordinary item pursuant to instruction 11, it shall be included in account 994, "Prior period items."

EXTRAORDINARY AND PRIOR PERIOD ITEMS

990 Extraordinary items (net).

(a) This account shall include extraordinary items accounted for during the current accounting year in accordance with the text of instruction 11, upon approval of the Commission. Among the items which shall be included in this account are:

Net gain or loss on sale of shipping and nonshipping property and equipment.
Net gain or loss on sale of securities and charges to write down the ledger value of such securities because of impairment of value.
Net gain or loss on reacquisition of company bonds.
Change in application of accounting principles.

(b) This account shall be maintained to show the nature and gross amount of each debit and credit, together with the applicable year, vessel name and voyage number.

(c) Federal income tax consequences of charges and credits to this account shall be recorded in account 998, "Federal income taxes on extraordinary and prior period items."

994 Prior period items (net).

(a) This account shall include unusual delayed items accounted for during the current accounting year in accordance with the text of instruction 11, upon approval of the Commission. Among the items which shall be included in this account are:

Unusual adjustments, refunds or assessments of Federal income taxes of prior years.

Similar items representing transactions of prior years which are not identifiable with or do not result from business operations of the current year.

(b) This account shall be maintained to show the nature and gross amount of each debit and credit, together with the applicable year, vessel name and voyage number.

(c) Federal income tax consequences of charges and credits to this account shall be recorded in account 998, "Federal income taxes on extraordinary and prior period items."

998 Federal income taxes on extraordinary and prior period items.

This account shall include the estimated Federal income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which, for accounting purposes, are classified as unusual and extraordinary, and are recorded in accounts 990, "Extraordinary items" and 994, "Prior period items."

APPENDIX

CLEARANCE ACCOUNTS

1000 List of clearance accounts.

(a) This group of accounts is designed to accommodate transactions which cannot be allocated directly to balance sheet or income and expense accounts until such transactions have been completely accounted for. In the preparation of periodical financial and operating statements, it is essential that these clearance accounts be analyzed and the balances reflected therein be distributed to appropriate account classifications on such statements.

(b) The balances in this group of accounts applicable to terminated voyages, or other accounting units of a closed fiscal year, must not be carried forward to the succeeding fiscal year.

1001 Masters and pursers.

(a) This account shall be charged with amounts advanced to or collected by masters and pursers. The account shall be credited with the net amount of vessels' payrolls, with cash advances to members of the crew, with allowable expenses incurred, with endorsed travelers checks, and unexpended cash balances returned.

(b) Subsidiary accounts shall be maintained alphabetically by masters and pursers, and a separate account maintained for each voyage or other accounting unit.

1005 Allotments on wages of crews.

This account shall be charged with payments made to allottees of crews and shall be credited with deductions made therfor on vessels payrolls.

1010 Agents and branch houses.

(a) This account shall serve as a clearance account for all current transactions with foreign and domestic agents, and branch houses of the carrier. The account shall be charged with cash advances to agents and branch houses, and with freight and other voyage revenue collectible by the agent or branch house in instances where arrangements are made with them to disburse vessels therefrom. Freight and other voyage revenues collectible by agents who are required to remit in full shall be recorded in account 151, "Traffic accounts receivable." This account shall be credited with remittances by the agents or branch houses, and with approved disbursements made for the account of the carrier.

(b) Subsidiary accounts shall be maintained alphabetically by names of agents or branch houses.

1012 Sub-agency operations.

(a) This account shall serve as a clearance account for all current transactions with other principals for whom the carrier acts as agent.

(b) The balances in this account shall be reflected in account 165, "Accounts receivable—Miscellaneous," and account 421, "Trade accounts payable," for balance-sheet purposes.

1015 Related companies; accounts current.

(a) This account shall be charged with receivables and credited with payables which are customarily subject to current settlement. Under no circumstances shall loans, advances, or other transactions, the settlement of which is deferred beyond one year, be recorded in this account.

(b) The balances in this account shall be reflected in account 140, "Notes and accounts receivable—Related companies," or account 415, "Notes and accounts payable—Related companies," for balance-sheet purposes.

(c) Subsidiary accounts shall be arranged alphabetically by companies, and a description of each transaction shall be reflected in the accounts.

1025 Collections and deposits for passenger transportation.

(a) Gross passenger ticket sales and deposits, including those for future reservations, hotel accommodations, shore excursions, passenger taxes, etc., shall be credited to this account.

(b) As transportation is furnished to passenger by vessels of the carrier, this account shall be charged and account 500, "Unterminated voyage revenue," credited. Deposits or collections for other purposes, including commissions earned or payable incident thereto, shall be cleared from this account as soon as practicable to appropriate accounts designated in the chart. The credit balances remaining in this account shall be reflected in account 495, "Advance ticket sales and deposits," for balance-sheet purposes.

(c) Subsidiary accounts shall be maintained in sections corresponding to the classifications shown on the daily ticket sales report, examples of which are: Prepaid orders, one-way tickets, round-trip tickets, exchanges orders, railroad fares, hotel reservations, sightseeing tours, head tax, U.S. Government stamp tax, foreign government passenger taxes,

commissions due agents and brokers, and commissions earned.

1030 Collections on unrecorded freight manifests.

(a) This account shall be credited with all collections of freight revenue from shippers or consignees prior to the recording of the revenue manifests. When the manifest is recorded, the balance in this account applicable thereto shall be cleared with a corresponding credit to account 600, "Unterminated voyage revenue."

(b) Subsidiary accounts shall be maintained alphabetically by vessels and consecutively by voyages or other accounting units.

1035 Advance and prepaid beyond charges, and miscellaneous manifested items.

(a) When vessels manifests are journalized, this account shall be credited with advance charges, prepaid beyond charges, and miscellaneous manifested items, such as: Consular fees, cargo insurance, handling, transshipment, and transfer charges. The account shall be charged with expenses incurred in the performance of the services for which these collections were made. As transactions applicable to terminated voyages are completely accounted for, net debit balances in this account shall be transfered to account 700, "Operating expense—Terminated voyages," and net credit balances to account 600, "Operating revenue—Terminated voyages."

(b) Subsidiary accounts should be subdivided as between advance charges, prepaid beyond charges, and miscellaneous manifested items. Each group of accounts should be maintained alphabetically by vessels and consecutively by voyages.

1040 Bar accounts.

(a) This account shall be charged with inventories of bar supplies aboard vessels at the beginnings of each voyage for sale to passengers, and with all purchases of such supplies during the voyage. The account shall be credited with the inventory of bar supplies on hand at the end of each voyage, and with gross sales during the voyage. As transactions applicable to terminated voyages are completely accounted for, net debit balances in this account shall be transferred to account 700, "Operating expense—Terminated voyages," and net credit balances to account 600, "Operating revenue—Terminated voyages." The balance remaining in this account after profits and losses, on sales applicable to voyages terminated during the accounting period, have been cleared to the vessel operating accounts, shall be reported on the balance sheet under the classification "Inventories".

(b) The subsidiary accounts shall be maintained alphabetically by vessels and consecutively by voyages.

1045 Slop chest account.

(a) This account shall be charged with inventories of slop chest supplies aboard vessels at the beginning of each voyage for sale to members of the crew, and with all purchases of such supplies during the voyage. The account shall be credited with the inventory of slop chest supplies on hand at the end of each voyage, and with all gross sales during the voyage. As transactions applicable to terminated voyages are completely accounted for, net debit balances in this account shall be transferred to account 700, "Operating expense—Terminated voyages," and net credit balances to account 600, "Operating revenue—Terminated voyages." The balance remaining in this account after profits and losses, on sales applicable to voyages terminated during the accounting period, have been cleared to the vessel operating accounts, shall be reported on the balance sheet under the classification "Inventories".

(b) The subsidiary accounts shall be maintained alphabetically by vessels and consecutively by voyages.

1050 Foreign exchange account.

All gains or losses in foreign exchange shall be recorded in this account. At the close of each accounting period the balance in the account shall be transferred to account 690, "Miscellaneous other income," or account 979, "Miscellaneous deductions from income," as the case may be.

1055 Pool participation.

(a) This account shall be charged with contributions to pools for the purpose of equalizing revenue in accordance with pooling agreements and shall be credited with gross collections received from pools for the same purpose.

(b) Charges against the carrier in administering the pooling agreements shall be recorded in account 925, "Membership dues and subscriptions." The balances in this account at the close of each accounting period, as prescribed in pooling agreements, shall be transferred to account 840, "Collections from pools" and account 850, "Contributions to pools."

(c) This account shall be maintained to show separately transactions under each pooling agreement and accounting period.

1060 Stores, supplies, and equipment aboard vessels.

(a) Where inventories of vessels stores, supplies and/or equipment are not taken and priced at the end of each voyage, the value of such inventories shall be charged to this account at the beginning of each contract period and at the beginning of each subsequent accounting period. The account should also be credited with the value of inventories of stores, supplies, and/or equipment at the end of each accounting period, after which any balance therein shall be charged or credited, as the case may be, to the last voyage of each vessel involved terminated during the accounting period.

(b) The accounts will not be used in instances where inventories of stores, supplies and/or equipment are taken and priced at the end of each voyage.

(c) The balance in the account at the end of each accounting period, applicable to the subsequent accounting period, will be reflected in balance sheet account 200, "Unterminated voyage expense."

1095 Profit and loss account.

At the end of the accounting year this account shall be credited or charged, as the case may be, with the balances in all ordinary, extraordinary and prior period revenue and expense accounts, except where otherwise specifically indicated. After all entries have been made; the account shall reflect the net income for the accounting year. The net balance in this account after adjustments have been made for the accounting year shall be transferred to account 599, "Earned surplus—Unappropriated."

FINANCIAL STATEMENTS

2000 Balance sheet statement.

Assets

Account No.	
	Current assets:
100	Cash.
115	Special cash deposits.
120	Marketable securities.
130	Notes receivable.
140	Notes and accounts receivable—Related companies.
150	Accounts receivable.
170	Inventories.
190	Other current assets.
	Total current assets.
369	Less: Reserve for doubtful accounts.
	Total current assets after reserve.
	Voyages in progress (when a not debit balance):
200	Unterminated voyage expense.
500	Less: Unterminated voyage revenue.
	Special funds and deposits:
301	Capital reserve fund.
302	Special reserve fund.
303	Construction reserve fund.
304	Insurance funds.
306–312	Other special funds and deposits.
	Total special funds and deposits.
	Investments:
316	Securities of related companies.
320	Non-current receivables—Related companies.
325	Cash value of life insurance.
328	Other investments.
	Total investments.
329	Less: Reserve for revaluation of investments.
	Total investments after reserve for revaluation.
	Property and equipment:
331	Floating equipment—Vessels.
332	Less: Reserve for depreciation.
337	Other floating equipment.
338	Less: Reserve for depreciation.
343	Terminal property and equipment.
344	Less: Reserve for depreciation.
349	Other shipping property and equipment.
350	Less: Reserve for depreciation.
353	Non-shipping property and equipment.
354	Less: Reserve for depreciation.
359	Construction work in progress.
	Total property and equipment after reserves.
	Other assets:
361	Claims pending.
362	Spare parts.
364	Notes and accounts receivable from officers and employees.
365	Interest accruals for deposit in capital reserve fund.
367	Deferred operating-differential subsidy receivable.

Assets—Continued

Account No.

368 Other non-current notes and accounts receivable.
369 Less: Reserve for doubtful accounts.
Total other assets after reserve.
374 Miscellaneous other assets.
Total other assets.
378 Deferred charges and prepaid expenses:
390 Goodwill and other intangible assets:
Total assets.

NOTE: Contingent assets (not included above).

Liabilities and Capital

Current liabilities:
400 Notes payable.
415 Notes and accounts payable—Related companies.
420 Accounts payable.
479 Other current liabilities.
489 Miscellaneous reserves for unrecorded liabilities.
495 Advance ticket sales and deposits.
Long-term debt (due within one year):
526 Mortgage notes—Maritime Administration.
530 Mortgage bonds and debentures.
534 Other long-term debt.
Total current liabilities.
Voyages in progress (when a net credit balance):
500 Unterminated voyage revenue.
300 Less: Unterminated voyage expense.
Long-term debt (due after one year):
526 Mortgage notes—Maritime Administration.
530 Mortgage bonds and debentures.
534 Other long-term debt.
Total long-term debt.
Other liabilities:
541 Non-current payables—Related companies.
549 Non-current notes and accounts payable—Officers and employees.
550 Recapturable profits—Maritime Administration.
554 Miscellaneous other liabilities.
Total other liabilities.
Deferred credits:
556 Premium on funded debt.
564 Miscellaneous deferred credits.
Total deferred credits.
Operating reserves:
566 Reserve for repairs.
570 Reserve for insurance.
571 Reserve for pensions and welfare.
579 Miscellaneous operating reserves.
Total operating reserves.
Total liabilities.
Net worth: Capital stock:
581 Issued and outstanding.
585 Subscribed.
587 Less: Discount on capital stock.
Total capital stock.
Surplus:
590 Capital surplus.
Earned surplus (or deficit):
598 Appropriated.
599 Unappropriated.
Total surplus.
Total net worth.
Total liabilities and capital.

NOTE: Contingent liabilities (not included above).

2001 Income statement.

Ordinary Items

Shipping operations:
600–670 Water-line operating revenue.
700–988 Water-line operating expense.
Gross profit (or loss) from shipping operations.
Other income:
675 Interest income.
695 Dividend income.
Ordinary Items—Continued
Account No.
900 Miscellaneous other income.
901 Release of premium on long-term debt.
Total other income.
Other deductions from income:
960 Interest expense.
970 Amortization of deferred charges.
976 Doubtful notes and accounts receivable.
979 Miscellaneous deductions from income.
Total other deductions from income.
Net profit (or loss) from shipping operations.
Nonshipping operations:
985 Income from nonshipping operations.
985 Expense of nonshipping operations.
Gross profit (or loss) from nonshipping operations.
Ordinary Items—Continued
Account No.
985 Overhead expense.
986 Depreciation—Nonshipping property and equipment.
Total expenses.
Net profit (or loss) from nonshipping operations.
Ordinary income (or loss) before Federal income taxes.
989 Federal income taxes on ordinary income.
Ordinary income.
Extraordinary and prior period items:
990 Extraordinary items (net).
994 Prior period items (net).
998 Federal income taxes on extraordinary and prior period items.
Total extraordinary and prior period items.
Net income (or loss).

2002 Water-line operating revenue and expense statement.

Account No.		Revenue	Expense	Net
	Shipping operations.			
600–700	Terminated voyage results			
800	Inactive vessels expense			
640–650	Collections from and contributions to pools			
	Gross profit (or loss) from vessel operations before subsidy			
625	Operating-differential subsidy			
	Gross profit (or loss) from vessel operations after subsidy			
645–655	Terminal operations			
650–665	Cargo handling operations			
655–675	Tug and lighter operations			
680–695	Other shipping operations			
670	Agency fees, commissions and brokerage earned			
900	Interdepartmental credits for services and facilities		(.....)	
	Gross profit (or loss) from shipping operations before overhead, amortization, and depreciation			
	Overhead:			
900	Administrative and general expense			
945	Management and operating commissions			
950	Advertising			
955	Taxes-miscellaneous			
	Gross profit (or loss) from shipping operations before amortization and depreciation			
	Depreciation—Shipping property and equipment:			
972	Amortization—Leaseholds			
961	Depreciation—Floating equipment—Vessels			
964	Depreciation—Other floating equipment			
967	Depreciation—Terminal property and equipment			
988	Depreciation—Other shipping property and equipment			
	Total water-line operating revenue and expense			
	Gross profit (or loss) from shipping operations			

PART 1209—INLAND AND COASTAL WATERWAYS CARRIERS

Introduction

(1) Regulations prescribed.
(11) Classification of carriers.

General Instructions

1 Records.
2 Definitions.
3 Unaudited items.
4 Extraordinary and prior period items.
5 Insurance.
7 Securities or other assets pledged.
8 Interpretation of item lists.
9 Submission of questions.
11 Depreciation accounting.
12 Amortization of investment in leased property.

Balance-Sheet Instructions

21 Purpose of balance-sheet accounts.
22 Current assets.
23 Book cost of securities owned.
24 Company securities owned.
25 Income from sinking and other reserve funds.
26 Discount, expense, and premium on capital stock.
27 Discount, premium, and expense on long-term debt.
28 Conversion of securities.
29 Contingent assets and liabilities.
30 Reorganizations.

Property Instructions

41 Purpose of the property accounts.
43 Basis of charges.
44 Cost of construction.
45 Water-line property acquired.
46 Overhead construction costs.
47 Retirements and replacements.
48 Leased property.
49 Donations.

Surplus Instructions

51 Purpose of capital surplus accounts.
52 Purpose of retained income accounts.
53 Segregation of surplus.

Income Instructions

61 Purpose of income accounts.
62 Statement of income accounts.

Operating Revenue Instructions

71 Purpose of operating revenue accounts.
72 Statement of operating revenue accounts.

Operating Expense Instructions

81 Purpose of operating expense accounts.
82 Statement of operating expense accounts.
84 Maintenance expenses.
85 Cost of repairs.

Balance Sheet Accounts

ASSET SIDE

CURRENT ASSETS

100 Cash.
101 Imprest funds.
102 Special cash deposits.
103 Marketable securities.
104 Traffic and car-service balances—Dr.
105 Notes receivable.
106 Affiliated companies; notes and accounts receivable.
107 Accounts receivable.
108 Claims receivable.
109 Reserve for doubtful accounts.
110 Subscribers to capital stock.
112 Accrued accounts receivable.
113 Working advances.
114 Prepayments.
115 Material and supplies.
116 Other current assets.

SPECIAL FUNDS

122 Insurance funds.
123 Sinking funds.
124 Other special funds.
125 Special deposits.

INVESTMENT SECURITIES

130 Investments in affiliated companies.
131 Other investments.
132 Reserve for revaluation of investments.
133 Cash value of life insurance.

PROPERTY AND EQUIPMENT

140 Transportation property.
141 Line equipment.
142 Harbor equipment.
143 Miscellaneous floating equipment.
144 Buildings and other structures.
145 Office and other terminal equipment.
146 Motor and other highway equipment.
147 Land.
148 Public improvements.
149 Construction work in progress.
150 Depreciation reserve; transportation property.
151 Acquisition adjustment.
158 Improvements on leased property.
159 Amortization reserve; leased property.
160 Noncarrier physical property.
161 Depreciation reserve; noncarrier physical property.

DEFERRED ASSETS

166 Claims pending.
170 Other deferred assets.

DEFERRED DEBITS

171 Incompleted voyage expenses.
174 Debt discount and expense.
175 Other deferred debits.

ORGANIZATION

180 Organization expenses.

COMPANY SECURITIES

190 Reacquired and nominally issued long-term debt.
191 Reacquired and nominally issued capital stock.

LIABILITY SIDE

CURRENT LIABILITIES

200 Notes payable.
201 Affiliated companies; notes and accounts payable.
202 Accounts payable.
203 Traffic and car-service balance—Cr.
204 Accrued interest.
205 Dividends payable.
206 Accrued taxes.
208 Accrued accounts payable.
209 Other current liabilities.

LONG-TERM DEBT DUE WITHIN ONE YEAR

210 Equipment obligations and other debt due within one year.

LONG-TERM DEBT DUE AFTER ONE YEAR

211 Funded debt unmatured.
212 Receivers' and trustees' securities.
213 Affiliated companies; advances payable.

RESERVES

220 Maintenance reserves.
221 Insurance reserves.
222 Pension and welfare reserves.
223 Amortization reserves; intangible assets.
229 Other reserves.

DEFERRED CREDITS

230 Incompleted voyage revenues.
231 Premium on long-term debt.
232 Other deferred credits.

CAPITAL AND SURPLUS

240 Capital stock.
241 Capital stock subscribed.
243 Discount and expense on capital stock.
245 Proprietorial capital.
250 Capital surplus.
250–1 Premiums and assessments on capital stock.
250–2 Paid-in surplus.
250–3 Other capital surplus.
260 Retained income—Appropriated.
280 Retained income—Unappropriated.

Balance Sheet Statement

299 Form of balance sheet statement.

Retained Income Accounts

281 Net income balance.

CREDIT ACCOUNTS

283 Miscellaneous credits.

DEBIT ACCOUNTS

285 Miscellaneous debits.
286 Miscellaneous reservations of retained income.
287 Dividend appropriations of retained income.

Income Accounts

ORDINARY ITEMS

300 Water-line operating revenues.

OPERATING REVENUES; LINE SERVICE

301 Freight revenue.
302 Passenger revenue.
303 Baggage.
304 Mail.
305 Express.
306 Miscellaneous voyage revenue.
312 Demurrage.
313 Revenue from towing for regulated carriers.

OTHER OPERATING REVENUE

320 Special services.
321 Ferry service.

REVENUE FROM TERMINAL OPERATIONS

331 Revenue from cargo-handling operations.
332 Revenue from tug and lighter operations.
333 Agency fees, commissions and brokerage.
334 Miscellaneous operating revenue.

RENT REVENUE

341 Revenue from charters.
342 Other rental revenue.

MOTOR CARRIER OPERATIONS

351 Motor-carrier revenue.
355 Interdepartmental credits.

Small Carriers

399 Condensed revenue accounts for small carriers.

OPERATING EXPENSES

400 Water-line operating expense.

MAINTENANCE EXPENSES

401 Supervision.
402 Repairs of floating equipment.
404 Repairs of buildings and other structures.
405 Repairs of office and terminal equipment.
406 Repairs of highway equipment.
407 Shop expenses.
408 Other maintenance expenses.

DEPRECIATION AND AMORTIZATION

411 Depreciation; transportation property.
413 Amortization of investment; leased property.

TRANSPORTATION EXPENSES

LINE SERVICE

421 Supervision.
422 Wages of crews.
423 Fuel.
424 Lubricants and water.
425 Food supplies.
426 Stores, supplies and equipment.
427 Buffet supplies.
428 Other vessel expenses.
429 Outside towing expenses.
430 Wharfage and dockage.
431 Port expenses.
432 Agency fees and commissions.
433 Lay-up expenses.

TERMINAL SERVICE

441 Supervision.
442 Agents.
443 Stevedoring.
444 Precooling and cold-storage operations.
445 Light, heat, power, and water.
446 Stationery and printing.
447 Tug operations.
448 Operation of highway vehicles.
449 Local transfers.
450 Other terminal operations.

TRAFFIC EXPENSES

456 Supervision.
457 Outside traffic agencies.
458 Advertising.
459 Other traffic expenses.

GENERAL EXPENSES

461 General officers and clerks.
462 General office supplies and expenses.
463 Law expenses.
464 Management commissions.
465 Pensions and relief.
466 Stationery and printing.
467 Other expenses.

CASUALTIES AND INSURANCE

471 Supervision.
472 Baggage insurance and losses.
473 Hull insurance and damage.
474 Cargo insurance, loss and damage.
475 Liability insurance and losses, marine operations.
476 Liability insurance and losses, nonmarine operations.
477 Other insurance.

OPERATING RENTS

481 Charter rents—Transportation property.
483 Other operating rents.

OPERATING TAXES

485 Pay-roll taxes.
486 Water-line tax accruals.

MOTOR CARRIER OPERATIONS

491 Motor-carrier expenses.
495 Interdepartmental debits.

SMALL CARRIERS

499 Condensed expense accounts for small carriers.

OTHER INCOME

500 Other income.

CREDIT ACCOUNTS

502 Income from nonoarrier operations.
503 Dividend income.
504 Interest income.
505 Income from sinking and other special funds.
506 Release of premium on long-term debt.
507 Miscellaneous income.
508 Profits from sale or disposition of property.

DEBIT ACCOUNTS

523 Expenses of noncarrier operations.
524 Uncollectible accounts.
525 Losses from sale or disposition of property.
526 Maintenance of investment organization.
527 Miscellaneous income charges.
528 Interest on funded debt.
529 Interest on unfunded debt.
530 Amortization of discount on long-term debt.
532 Income taxes on ordinary income.

EXTRAORDINARY AND PRIOR PERIOD ITEMS

570 Extraordinary items (net).
580 Prior period items (net).
590 Income taxes on extraordinary and prior period items.

INCOME STATEMENT

599 Form of income statement.

CLEARING ACCOUNT

601 Material and stores expense.

AUTHORITY: Part 1200 issued under sec. 313, 54 Stat. 944, as amended; 49 U.S.C. 913.

Introduction

(i) *Regulations prescribed.*

Carriers by water operating on inland and coastal waterways, and every lessor thereof subject to provisions of the Interstate Commerce Act, shall comply with regulations in this part which, as presented hereinafter, include all modifications thereof effective June 30, 1959, and prior thereto.

(ii) *Classification of carriers.*

(a) For the purpose of this system of accounts, carriers by water are divided into two classes as follows:

Class A. Companies having average annual operating revenues exceeding $500,000.
Class B. Companies having average annual operating revenues exceeding $100,000 but not more than $500,000.

Class A companies shall keep all of the accounts of this system of accounts which are applicable to their affairs.

Class B companies shall keep all of the accounts of this system of accounts which are applicable to their affairs, except that their accounts for operating revenues and operating expenses may be kept under the accounts of the condensed classification provided herein.

(b) When a uniform system of accounts is prescribed for companies having average annual operating revenues of $100,000 or less, carriers subject thereto will be given due notice.

NOTE: Carriers by water subject to these regulations shall adopt the class of operating accounts indicated by the average of their annual operating revenues for 3 years immediately preceding the effective date of this uniform system of accounts. If subsequently at the close of any calendar year the average of such annual revenues for the 3 latest years is more or less than the amount applicable to the class in which the carrier has been accounting, the appropriate class of operating accounts based on such average shall be adopted. New companies shall estimate the amount of their annual operating revenues and adopt the class of operating accounts appropriate for the amount of such estimated revenues.

General Instructions

1 Records.

(a) The carrier's records shall be kept with sufficient particularity to show fully the facts pertaining to all entries in the accounts.

(b) Where the general book entries do not contain complete information, they shall be supported by other detail records, cross-referenced for ready identification.

(c) All records shall be filed in such manner as to be readily accessible for examination by representatives of the Commission.

(d) Attention is directed to the following extract from section 313 of part III of the Interstate Commerce Act:

(g) The Commission may issue orders specifying such operating, accounting, or financial papers, records, books, blanks, tickets, stubs, correspondence, or documents of water carriers or lessors as may, after a reasonable time, be destroyed, and prescribing the length of time the same shall be preserved.

The Commission's order specifying the records which may be destroyed is contained in its "Regulations to Govern the Destruction of Records" Part 1227 of this chapter.

(e) All accounts kept shall conform in numbers and titles to those prescribed herein, except that:

(1) Carriers may subdivide the accounts provided such subdivision does not impair the integrity of the accounts prescribed.

(2) The titles of all subdivisions or subaccounts shall refer by number or title to the accounts of which they are subdivisions.

(3) When subaccounts are thus kept, it is not required that the main accounts of which they are subdivisions shall also be kept in the carrier's books.

(f) Clearing accounts may be kept when necessary or useful in making the proper distribution of items to the appropriate primary accounts.

(g) The accounts for each month shall be recorded currently so that all transactions applicable to each month, as nearly as may be ascertained, shall be entered in the books of the carrier. Each carrier shall close its books as of the end of the calendar year.

2 Definitions.

When used in this system of accounts the term:

(a) "Actually issued" as applied to certificates of capital stock or evidences of funded debt issued or assumed by the carrier means those which have been sold to bona fide purchasers for a valuable consideration (including those issued in exchange for other securities or other property) under the condition that the purchaser secured them free from all control by the issuing carrier; also securities issued as dividends on stock.

(b) "Actually outstanding" as applied to certificates of capital stock or evidences of funded debt issued or assumed by the carrier means those which have been "actually issued" and are neither retired nor held by or for the carrier.

(c) "Additions" are structures, facilities, or equipment added to transportation property in existence and not replacing property retired.

(d) "Affiliated companies" means companies or persons that directly or indirectly through one or more intermediaries, control, or are controlled by, or are under common control with, the accounting carrier.

NOTE: Where reference is made to control (in referring to a relationship between any person or persons and another person or persons), such reference shall be construed to include actual as well as legal control, whether maintained or exercised through or by reason of the method of or circumstances surrounding organization or operation, through or by common directors, officers, or stockholders, a voting trust or trusts, a holding or investment company or companies, or through or by any other direct or indirect means; and to include the power to exercise control.

(e) "Book cost" means the amount at which assets are recorded in the accounts of the carrier without deduction of any related reserves or other items. If the book cost of units and minor items of property retired cannot be definitely determined from the carrier's records, the book cost of such items shall be estimated.

(f) "Book liability" means the amount at which liabilities (including securities issued or assumed by the carrier) are recorded in the accounts of the carrier.

(g) "Carrier" when not otherwise indicated in the context, means the accounting carrier.

(h) "Cost of removal" means the cost of demolishing, or otherwise disposing of transportation property, and recovering the salvage.

(i) "Component rates" as applied to depreciation accounting means the rates applied to the various subclasses of property within a primary account in arriving at the depreciation charge.

(j) "Debt expense" as applied to funded debt means all expense in connection with the issue and sale of evidences of debt, such as fees for drafting mortgages and trust deeds; fees and taxes for issuing or recording evidences of debt; cost of engraving and printing bonds, certificates of indebtedness, and other commercial paper having a life of more than one year; fees paid trustees, specific costs of obtaining governmental authority; fees for legal services; fees and commissions paid underwriters, brokers, and salesmen for marketing such evidences of debt; fees and expenses of listing on exchanges, and other like costs.

(k) "Delayed items" means items relating to transactions which occurred before the current calendar year, but which were not recorded in the books of account in such prior years. It includes adjustments of errors in the operating revenue, operating expense, or income accounts of prior years. See instructions 3 and 4.

(l) "Depreciable accounts" are those in which is recorded the cost of property for which depreciation accounting is required.

(m) "Depreciation" means the loss in service value not restored by current maintenance, and incurred in connection with the consumption or prospective retirement of physical property in the course of service from causes against which the carrier is not protected by insurance, which are known to be in current operation, and whose effect can be forecast with a reasonable approach to accuracy.

(n) "Discount" as applied to securities issued or assumed by the carrier means the excess of the par or face valve of the securities, plus interest or dividends accrued at the date of the sale, over the current money value of the consideration received at their sale.

(o) "Fixed improvements" means buildings, wharves, docks, and other structures attached to the land, including fixtures, machinery, and other appurtenances.

(p) "Investment advances" means advances, represented by notes or by book accounts, which it is mutually agreed or intended between the creditor and the debtor shall be settled by the issuance of capital stock or funded debt or carried with no intention of making settlement.

(q) "Minor items" means any part of physical property which is not designated as a unit of property.

(r) "Nominally issued" as applied to certificates of capital stock or evidences of funded debt issued or assumed by the carrier means those which have been signed, certified, or otherwise executed and placed with the proper officer for sale, or pledged or otherwise placed in some special fund of the carrier, but which have not been sold.

(s) "Nominally outstanding" as applied to certificates of capital stock or evidences of funded debt issued or assumed by the carrier means those which after being actually issued have been reacquired by or for the carrier under such circumstances as required them to be considered as held alive and not retired.

(t) "Nonaffiliated companies" means all companies other than those defined as affiliated.

(u) "Noncarrier property" means property neither used in nor held for transportation service.

(v) "Nondepreciable accounts" are those in which are recorded the book cost of those classes of transportation property for which no charges to operating or other accounts for depreciation are permitted.

(w) "Premiums" as applied to securities issued or assumed by the carrier means the excess of the current money value of the consideration received at their sale over the sum of their par or face value plus interest or dividends accrued at the date of the sale.

(x) "Property retired" means physical property which has been permanently withdrawn from transportation service.

(y) "Retirement" as applied to physical property means the permanent withdrawal of the property from transportation service.

(z) "Replacement" means the installation of physical property in substitution for other property which has been retired.

(aa) "Service life" means the period of time between the installation of a unit of property and its retirement.

(bb) "Service value" is the book cost of property retired plus the cost to the carrier of demolishing the property and recovering the salvage less the value of the salvage.

(cc) "Straight-line method" as applied to depreciation accounting means the plan under which the annual depreciation charge is computed by applying such percentage rates to the book cost of items of depreciable property as will distribute their estimated service value in equal annual charges as nearly as may be to operating expenses and other accounts over their service lives.

(dd) "These accounts" means the accounts of the particular group to which the instruction relates.

(ee) "Time of installation" means the date at which property is completed and placed in transportation service.

(ff) "Time of retirement" means the date at which property is permanently withdrawn from the transportation service.

(gg) "Unit plan" means the plan under which depreciation charges are computed and the records maintained so that the total amount of depreciation accruals applicable to each unit can be determined.

(hh) "Value of salvage" means the amount received for transportation property retired and disposed of, or the amount at which material recovered will be charged if reused. In the event property is sold before it has reached the end of its useful life the amount received from the sale, less the expenditures incurred in connection therewith, shall be the value of the salvage.

3 Unaudited items.

When the amount of any item affecting revenues, expenses, or income cannot be accurately determined in time for inclusion in the accounts of the month in which the transaction occurs, the amount of the item shall be estimated and included in the proper accounts and debited or credited to the appropriate balance-sheet account. When the item is audited the necessary adjustment shall be made through the accounts in which the estimate was recorded. If, during the interval between the date of inclusion of the item in the accounts and the date on which it is audited, a substantial difference from the initial estimate is determined, appropriate adjustment shall be made in the current accounts to cover such difference. The carrier is not required to anticipate items which would not appreciably affect the accounts.

4 Extraordinary and prior period items.

(a) All items of profit and loss recognised during the year are includible in ordinary income except nonrecurring items which in the aggregate for the same class are both material in relation to operating revenues and ordinary income for the year and are clearly not identified with or do not result from the usual business operations of the year. Important items of the kind which occur from time to time and which, when material in amount, are to be excluded from ordinary income are those resulting from unusual sales of property and investment securities other than temporary cash investments; from wars and similar calamities and catastrophes, which are not a recurrent hazard of the business and which are not usually covered by insurance; from change of accounting principles; and from prior period items (other than ordinary adjustments of a recurring nature). Material items are those which, unless excluded from ordinary income, would distort the accounts and impair the significance of ordinary income for the year. Items so excludible from ordinary income are to be entered directly in the income accounts provided for extraordinary and prior period items upon approval of the Commission.

Adjustments constituting items of customary business activities or corrections or refinements resulting from the natural use of estimates inherent in the accounting process, including those arising from disposal of a unit of property sold or retired in the regular course of business operations, shall not be considered extraordinary or prior period items regardless of size.

(b) In determining materiality, items of a similar nature should be considered in the aggregate; dissimilar items should be considered individually. As a general standard, an item to qualify for inclusion as an extraordinary or prior period item, shall exceed 1 percent of total water-line operating revenues and ten percent of ordinary income for the year.

(c) Ordinary delayed items and adjustments arising during the current year which are applicable to or related to transactions of prior years shall be included in the same accounts which would have been charged or credited had the item been taken up or adjusted in the period to which it pertained. Ordinary delayed items exclude items of the character described in paragraph (a).

5 Insurance.

(a) The amount of all insurance premiums paid in advance, other than those covering property under construction, shall be included in account 114, "Prepayments," and equitably distributed to

the accounts of the period to which applicable except that minor premiums may be so distributed when audited. The cost of insurance shall be charged in accordance with the character of the loss or damage insured against.

(b) The following provisions apply if the carrier elects to insure its own risks and provides a reserve to equalize losses which may be sustained:

(1) The charges to the appropriate accounts and credits to the insurance-reserve account shall be upon the basis of rates which will fairly cover the risks insured. These rates shall be determined according to the carrier's experience and best estimates as to the hazard covered. The rates charged shall be reasonable and in no case shall they be in excess of commercial rates.

(2) Schedules of risks covered by the reserve shall be maintained giving a description of the property or the character of risks covered.

(3) If the carrier reinsures with insurance companies the risks initially covered by the insurance reserves, the premiums for such reinsurance shall be charged and amounts recovered from such commercial insurance shall be credited to the insurance reserve.

(c) The accounting in connection with claims covered by insurance shall be as follows:

(1) Units of property destroyed by casualties shall be accounted for as retired and the amount recoverable from insurance companies or chargeable to the insurance reserve shall operate to reduce the service value. No charge shall be made to the depreciation reserve for service value of property covered by insurance until the amount of insurance recovered has been exhausted: and correspondingly no profit from insurance shall be recognized unless an amount is recovered in excess of the net book value (book cost less recorded depreciation) of the property insured.

(2) The amount of claims covered by insurance shall be charged to account 166, "Claims pending." As the claims are completed and presented for collection, the amounts collectible shall be cleared from that account to account 108, "Claims receivable," and any uncleared balance in account 166, "Claims pending," with respect to such claim shall be cleared to the appropriate accounts to which chargeable.

7 Securities or other assets pledged.

The carrier shall maintain a record of securities or other assets owned, which have been pledged as collateral security for any of its funded debt, short-term loans, or other obligations. The record shall be kept in such manner as to show with respect to a particular obligation the identity of the securities or other assets pledged as collateral.

8 Interpretation of item lists.

List of "items" appearing in the texts of the accounts are given for the purpose of clearly indicating the application of the prescribed accounting rules. The lists do not comprise all items includible in the accounts, but merely are representative. On the other hand, the appearance of an item in a list warrants its inclusion in the account only when the text of the account also indicates inclusion, inasmuch as the same item frequently appears in more than one list.

9 Submission of questions.

To promote and maintain uniformity of accounting the carrier shall submit all questions of doubtful interpretation of the prescribed accounting rules to the Commission for consideration and decision.

11 Depreciation accounting.

The accounting for depreciation shall be in accordance with the following:

(a) *Computing and filing of depreciation rates.* (1) If percentage rates have not been prescribed, the carrier shall file with the Commission component annual percentage rates estimated to be applicable to the book cost of each class of depreciable transportation property owned by it. These percentage rates shall be based on the estimated service values and service lives developed by a study of the carrier's history and experience and such engineering and other information as may be available with respect to prospective future conditions. They shall be such that the service value of the property may be distributed under the straight-line method to operating expenses during its service life. The annual percentage rates, when filed, shall be accompanied by a statement showing the bases therefor and the methods employed in their computation.

(2) In the event annual percentage rates prescribed by the Commission are no longer considered currently applicable, the carrier shall file revised annual percentage rates which in its judgment should be established. Where property is acquired for which no rates have been prescribed, the carrier shall compile and submit to the Commission appropriate estimates.

(3) The carrier shall keep such records of depreciable property and property retirements as will reflect the service life of property which has been retired, or will permit the determination of service-life indications by mortality, turnover, or other appropriate methods; also such records as will reflect the percentage of value of the salvage for property retired from each class of depreciable property. The carrier shall at any time, upon direction of the Commission, compute and submit for approval revised percentage rates in cases where existing rates are deemed inapplicable.

(b) *Depreciation charges.* All depreciation charges to operating expenses, and concurrent credits to the depreciation reserve shall be made monthly. In computing such monthly charges and credits, the prescribed annual percentage rates shall be applied to the book cost recorded in the respective primary accounts as of the first of each month and the result divided by twelve.

(c) *Depreciation rates.* A separate component annual percentage rate for each class of depreciable property shall be used in computing depreciation charges. Such rates shall be those prescribed by the Commission, except that where no rates have been prescribed, the carrier's estimate shall be used until rates are prescribed.

(d) *Depreciable property accounts.* Depreciable property accounts are as follows:

141. Line equipment.
142. Harbor equipment.
143. Miscellaneous floating equipment.
144. Buildings and other structures.
145. Office and other terminal equipment.
146. Motor and other highway equipment.

(e) *Accrued depreciation.* At the time of retirement of depreciable property the amount of depreciation accrued and included in account 150, "Depreciation reserve—Transportation property," with respect to the particular unit or item retired shall be charged thereto. Any differences between the service value of the particular unit or item retired and the amount charged to account 150 shall be included in the appropriate income account.

(f) *Insurance recoverable.* When amounts are recoverable from insurance companies or chargeable to the insurance reserve in connection with retirement of depreciable property, the difference between the insurance recoverable and the net book value of the property (book cost less recorded depreciation) shall be included in the appropriate income account.

(g) *Inadequate or excessive balance.* A carrier may request, or the Commission may direct, that special accounting be applied in situations causing undue inflation or deflation of depreciation reserves. A carrier's request for special accounting shall contain full particulars concerning the situation, including the basis for its proposal. Alternative accounting techniques shall be applied to the extent approved or directed by the Commission.

(h) *List of accounting units of property.* (1) The following list of units of floating equipment and other transportation property is established for the purpose of designating items of physical property included in each depreciable account, the book cost of which, if not less than $500, shall be credited to the respective property accounts at time of retirement. The replacement of items of property costing less than $500 shall be charged to the appropriate maintenance account and no adjustment is required of the property account. Upon application to the Commission a minimum lower than $500 may be authorized.

(2) The book cost of all property retired and not replaced shall be credited to the transportation property accounts.

(3) Accounting units of property shall include major units acquired as standby equipment such as a complete propulsion engine, boiler, propulsion motor, generator, etc. The carrier may include the cost of these standby units as part of the book cost of the units of floating equipment to which they apply or such standby units may be carried in a subaccount as a separate accounting unit.

I. FLOATING EQUIPMENT—VESSELS

141. Line equipment:
A barge, canal boat, ferry boat, lighter, motor ship, motor launch, power boat, power ship, sailing vessel, steamboat, steamship, tug boat, or other complete unit of floating equipment.
A complete propulsion engine, boiler, propulsion motor or generator for propulsion power.

II. OTHER FLOATING EQUIPMENT

142. Harbor equipment:
A barge, car or other float, ferry boat, lighter, motor launch, transfer boat, tug boat, or other complete unit of floating equipment.
A complete propulsion engine, boiler propulsion motor or generator for propulsion power.
143. Miscellaneous floating equipment:
A float or other complete unit of floating equipment.
A complete propulsion engine, boiler, propulsion motor or generator for propulsion power.
A complete derrick, dredge, or pile driver.

III. TERMINAL PROPERTY AND EQUIPMENT

144. Buildings and other structures:
A complete building.
A complete platform not an integral part of a building. Complete paving at a terminal.
A complete fence.
A complete heating, lighting, ventilating, water-supply, air-conditioning, plumbing, or draining system.
A complete elevator system.
A motor, generator, steam engine, pump, ventilating fan, air washer, elevator drum, machine tool, or similar item of equipment.
A fuel station.
A refrigerator plant.
A section of track.
A complete toilet-room equipment.
A dust-collecting system.
A complete slip.
A complete wharf.
A ferry bridge.
A float bridge.
A complete unit of machinery equipment for transferring and handling coal or ore.
145. Office and other terminal equipment:
Any article of furniture, office appliance, engineering instrument or other complete unit of equipment costing $500 or more.
146. Motor and other highway equipment:
A complete vehicle.
A motor.
A trailer.
A semitrailer.

12 Amortization of investment in leased property.

Under the conditions that improvements made by the lessee to leased property revert to the lessor at the termination of the lease, the amount of such improvements shall be amortized over the life of the lease through charges to account 413, "Amortization of investment—Leased property."

Balance-Sheet Instructions

21 Purpose of balance-sheet accounts.

The balance-sheet accounts are intended to disclose the financial condition of the carrier as of a given date by showing the assets, liabilities, capital stock, and surplus or deficit of the carrier.

22 Current assets.

(a) In the group of accounts designated as current assets shall be included cash, those assets which are readily convertible into cash or held for current use in operations, current claims against others, and amounts accruing to the carrier which are subject to current settlement.

(b) There shall not be included in this group any item the collection of which is not reasonably assured by the known financial condition of the debtor. Items of current character but of doubtful value shall be written down or written off by charges to account 109, "Reserve for doubtful accounts." Items of a noncurrent character shall be included in account 170, "Other deferred assets," at an amount not in excess of a reasonable estimate of future value. If it is desired to retain a record of assets written off, they shall be recorded at a nominal value in account 170, "Other deferred assets."

23 Book cost of securities owned.

(a) Securities of others acquired by the carrier shall be recorded in these accounts at the money value, at time of acquisition, of the consideration given therefor by the carrier, but excluding amounts paid for accrued interest and dividends.

(b) The carrier shall write down such book cost in recognition of a decline in the value of the securities, but fluctuations in market values shall not be recorded. A permanent impairment in the values of the securities shall be recognized, and they shall be written down to a fair value, or written off if there is no reasonable prospect of future value.

The amount of such adjustment shall be charged to account 527, "Miscellaneous income charges", or account 570, "Extraordinary items", as appropriate.

(c) When securities with a fixed maturity date are purchased at a discount or premium (i.e., when the total cost, including brokerage, taxes, commissions, etc., is less or more than par), such discount or premium may be amortized over the remaining life of the securities, through periodic debits in the case of discount, and periodic credits in the case of premium, to the account in which the securities are carried (preferably coincident with entries recording interest accruals) and with corresponding credits and debits to the account in which the interest income is recorded.

(d) No debits, however, shall be recorded in respect of discount upon securities held as investments, or in special funds, if there is reason to believe that such securities will be disposed of by redemption or otherwise at less than par value or the par value will not be collected at date of maturity.

24 Company securities owned.

Securities actually issued or assumed by the carrier which have been reacquired shall be either retired or if not retired, carried in accounts 191, "Reacquired and nominally issued capital stock," or 190, "Reacquired and nominally issued long-term debt," unless it is required by provisions of a mortgage or by decision of a trustee, not subject to control by the carrier, that funded debt securities be retained alive in sinking or other special funds. Reacquired securities not retired shall be shown at par or face value.

25 Income from sinking and other reserve funds.

(a) When interest and other income arising from funds are required by the mortgage or other provisions to be held in the funds, the amounts shall be charged to the appropriate fund. If such fund was established by reservations of retained income, amounts so set aside shall be charged to account 286, "Miscellaneous reservations of retained income," and credited to account 280, "Retained income—Appropriated."

(b) Accretions representing interest, dividends, or other returns accrued on fund investments and retainable in such funds shall, at the time such accretions are charged to the fund, be credited to account 505, "Income from sinking and other special funds," and also charged to account 286, "Miscellaneous reservations of retained income," with concurrent credit to account 280, "Retained income—Appropriated."

26 Discount, expense, and premium on capital stock.

(a) Separate ledger accounts shall be kept in which to record discount suffered, expense incurred, and premium realized at the sale of each class and series of capital stock issued, or assumed by the carrier; also in which to record general levies or assessments against stockholders for each class and series of capital stock against which levies or assessments are made.

(b) The debit balances in the ledger accounts for discount and expense shall be included in account 243, "Discount and expense on capital stock," and the credit balances in the ledger accounts for premiums, levies, or assessments shall be included in account 250–1, "Premiums and assessments on capital stock."

(c) Discount and expense on capital stock may be amortized by charges to account 285, "Miscellaneous debits," or discount and expense may be retained and carried in account 243 until the stock to which the discount and expense apply is retired. Premiums and assessments on capital stock shall be carried in account 250–1 until the stock to which the premiums and assessments apply is retired.

(d) When an issue of capital stock or any part thereof is reacquired, it shall be retired or carried in account 191, "Reacquired and nominally issued capital stock," at par, or if nonpar stock, at the pro rata proportion at which it is carried in account 240, "Capital stock", unless it is required that it be retained alive in sinking or other funds. The difference between the amount at which such reacquired stock was recorded in account 240, "Capital stock," and the amount paid by the accounting company for such stock, combined with the recorded premium or discount and expense in respect to the reacquired stock at the date reacquired, shall be included in account 250–2, "Paid-in surplus." In no event, however, shall net debits exceed

the accumulated credits in account 250–2, "Paid-in surplus," applicable to the particular class of capital stock reacquired. Any excess of debits over the accumulated credits in account 250–2 shall be charged to account 285, "Miscellaneous debits."

(c) If reacquired capital stock is resold, the difference between the amount at which such stock is recorded in the accounts and the net sale price realized from its sale shall be included in account 250–2, "Paid-in surplus," except that debits to that account shall be limited to the accumulated credits therein applicable to that particular class of stock and any excess shall be charged to account 285, "Miscellaneous debits."

27 Discount, premium, and expense on long-term debt.

(a) Separate discount, premium, and debt expense ledger accounts shall be kept in which to include both discount suffered, premium realized, and expense incurred, in connection with the sale of each class and series of long-term debt (including receivers' and trustees' securities) issued or assumed by the carrier.

(b) Each month there shall be credited to each account in which there is a debit balance, such proportion (based upon the ratio of the period to the remaining life of the security) of the debit balance therein as is applicable to the period. The amounts thus credited shall be concurrently charged to account 530, "Amortization of discount on long-term debt." Correspondingly, each month there shall be charged to each account in which there is a credit balance a similar proportion of the credit balance therein applicable to the period. The amounts thus charged shall be concurrently credited to account 506, "Release of premium on long-term debt."

(c) Except as provided in instruction 44(i)(3), no part of the balance for discount, premium, and expense on long-term debt shall be included as part of the cost of acquiring property or part of the cost of operation.

(d) Except as otherwise provided in this instruction, the balance in each account shall be carried until the reacquirement of the securities to which it relates at which time the proportion (based on the relation of the amount reacquired to the total outstanding before reacquirement) of the balance in the account for the particular class of long-term debt reacquired shall be closed to account 507, "Miscellaneous income", account 527, "Miscellaneous income charges", or account 570, "Extraordinary items", as appropriate.

(e) In stating the balance sheet, if the net in the ledger accounts for all classes of long-term debt outstanding is a debit balance, the amount shall be included in account 174, "Debt discount and expense," and if a credit balance, the amount shall be included in account 231, "Premium on long-term debt."

28 Conversion of securities.

Journal entries which record the reacquirement of capital stock or funded-debt securities by issuing in exchange therefore the carrier's capital stock or funded debt securities, shall be submitted to the Commission for approval before they are spread upon the carrier's books. The text of such entries shall give complete information concerning the plan of exchange, the authority of the regulatory body with respect thereto, if any; and the basis upon which the amounts in the entries have been determined.

29 Contingent assets and liabilities.

(a) Contingent assets represent possible sources of value to the carrier contingent upon the fulfillment of conditions regarded as uncertain. Contingent liabilities include items which may, under certain conditions, become obligations of the carrier but are not obligations at the date of the balance sheet.

(b) Contingent assets and liabilities shall not be included in these accounts, but such records shall be kept as will enable the carrier to report all items of significant amount. If the contingent assets and liabilities become actual, they shall be included in the appropriate accounts herein, and prior to such time they shall be shown in a supplemental statement accompanying the carrier's balance sheet.

30 Reorganizations.

(a) Where a carrier involved in receivership or bankruptcy is so reorganized as to preserve in whole or in part the interests of its owners and creditors, whether through the owning corporation or a successor corporation, or is a company resulting from reorganization of a carrier in any other manner, and such carrier or company emerges from such reorganization as the owner of investments, it shall at the time of recording such investments on its books include in account 151, "Acquisition adjustment," the net difference between the total of accounts 100 to 191, inclusive, and the total of accounts 200 to 245, inclusive, as those accounts are properly adjusted under the reorganization plan.

(b) The carrier shall apply to the Commission for permission to use the adjustment account, so far as it is adequate, for the adjustment of all differences between amounts originally set up with respect to such investment items and the values of such items as finally determined; and retained income shall be affected only by losses and gains clearly attributable to operations subsequent to date of reorganization.

Property Instructions

41 Purpose of the property accounts.

The primary property accounts are designed to show an accounting analysis of the book cost of:

(a) Property owned and used by the carrier in its transportation service.

(b) Property owned by the carrier and leased to others for transportation service.

42 Basis of charges.

The costs includible in these accounts, except as provided in instructions 45 and 49, are actual money costs to the carrier. When the consideration for the acquisition of property is other than money, the current cash value of such consideration shall be recorded as the cost of the property acquired.

44 Cost of construction.

The cost of the construction of transportation property chargeable to these accounts shall include the following:

(a) "Cost of labor" includes the amount paid for labor performed by the carrier's employees. The salaries and expenses of engineers and other officers specifically assigned to construction work shall be included in the accounts appropriate for the cost of the property in connection with which their services are rendered. No charge shall be made to these accounts for the pay of operating officers and members of their staffs who merely render service incidentally in connection with construction work.

NOTE: The office, traveling, and other personal expenses of officers and employees shall be included in the accounts to which their pay is chargeable, except that traveling and incidental expenses incurred by operating officers and members of their staffs while rendering service incidentally in connection with construction shall be included in the cost of the work upon which they are incidentally engaged.

(b) "Cost of material, supplies, and small tools" includes the purchase price at the point of free delivery, plus costs of royalties, if any, inspection, loading, transportation, and an equitable proportion of store expenses.

In determining the cost of material used, proper allowance shall be made for the value of unused portions, small tools recovered and used for other purposes, and all other salvage.

NOTE: The cost of individual items of equipment of small value ($25.00 or less) or of short life, including small tools, shall not be charged to the cost of construction unless the correctness of the accounting is verified by current inventories, but shall be charged to operating expenses.

(c) "Special-machine service" includes the cost of material and supplies used in operating the carrier's machines and work equipment; it also includes expenditures for the rental, maintenance, and operation of machines and equipment of others.

NOTE: No charge shall be made to these accounts to cover a return upon the carrier's investment in special machines or work equipment used in construction service.

When special machines and work equipment are purchased for use in construction work, their cost shall be included in account 149, "Construction work in progress." If the machines or equipment are sold at the completion of the work, their sale price shall be credited to account 149. In case they are retained for use in transportation service their appraised value at the completion of the work shall be charged to the appropriate property account and concurrently credited to account 149.

(d) "Cost of transportation" includes the amounts paid to other companies or individuals for the transportation of men, material and supplies, special-machine outfits, appliances, and tools in connection with construction.

NOTE: Freight charges paid other carriers for the transportation of construction material shall be included, so far as practicable, as a part of the cost of the material.

(e) "Cost of contract work" includes amounts paid for work performed under contract by other companies, firms, or individuals, engineering and supervision applicable to such work, costs incident to the award of the contracts, and inspection of the work.

(f) "Cost of protection" includes expenditures for protection in connection with construction.

(1) From casualties, including the cost of protection against fire, payments for discovery or extinguishment of fires, cost of detecting incendiaries including witness fees, amounts paid to municipal corporations and others for fire protection, and analogous items.

(2) From damages to others, including the cost of protecting the property of others from damage in the processes of construction work, and analogous items.

(g) "Cost of injuries and damages" includes expenditures on account of injuries to persons or damage to property when incident to construction. Such costs shall be included in the cost of the work in connection with which the injury or damage occurs, except that unusual losses that result in the destruction of units that have to be entirely replaced prior to completion of the projects shall be charged to account 525, "Losses from sale or disposition of property", or account 570, "Extraordinary items", as appropriate; also the portion of premiums paid for insuring against casualties applicable to the period prior to the completion of the property insured. The cost of injuries and damages in connection with the removal of old structures which are incumbrances on newly acquired land shall be included in account 147, "Land."

(h) "Taxes" on physical property belonging to the carrier including payroll taxes assessed during construction and before the facilities are used for transportation service shall be included in the accounts appropriate for the cost of the property so taxed.

(i) "Interest during construction" includes the net cost of borrowed funds used for construction purposes. Such interest shall be charged to the accounts appropriate for the cost of the property in connection with which the funds are expended. The period for which interest may be charged shall be limited to the period of construction. The interest includible in these accounts is:

(1) Interest on bonds, notes, and other evidences of indebtedness sold, and on interest-bearing debt incurred for the acquisition or construction of property for use in transportation service. It includes the interest accruing on that part of the debt representing the cost of property acquired (less interest, if any, allowed to carriers on unexpended balances) after such funds became available for use and before the completion of the property acquired. Interest accruing before the proceeds from the sale of the securities became available for use shall not be included in these accounts.

(2) There shall be deducted from such interest charges a proportion of premium on securities sold. The amount of premium thus deductible shall be determined by the ratio which the period between the date the proceeds from the securities issued become available and the completion of the property bears to the entire life of the securities issued.

(3) There shall be added to such interest charges a proportion of discount and expense on funded debt securities sold. The amount of discount and expense thus chargeable shall be determined by the ratio which the period between the date the proceeds from the securities issued become available and the completion of the property bears to the entire life of the securities issued. In no case except as provided in this paragraph shall discounts be included in these accounts.

(4) On expenditures made for a construction project that has been suspended, no interest charges from the date of suspension shall be included in these accounts unless specifically authorized by the Commission.

(j) The cost of disposing of material excavated, including privilege of wasting in connection with construction, shall be considered as a part of the cost of the work, except that when such material is used for filling, the cost of loading, hauling, and dumping shall be equitably apportioned between the work in connection with which the removal occurs and the work in connection with which the material is used.

(k) The cost of launching and trial trips of floating equipment which is borne by the carrier shall be considered as part of the purchase price of floating equipment.

(l) When any equipment or other water-line property is acquired under an agreement which provides that the cost shall be paid in installments, the cost shall be charged to the appropriate property accounts at the time of its acquisition, in the same manner as the cost of property purchased outright. When notes or other securities are issued in payment, or in part payment, for such property and their value on a current cash basis is more or less than their face value, the difference between the face value of the securities and their cash value shall be charged or credited to the appropriate discount and expense or premium account.

45 Water-line property acquired.

(a) When transportation property constituting an operating unit or system is acquired by purchase, merger, consolidation or otherwise, the cost to the accounting carrier of the property acquired shall be included temporarily in account 151, "Acquisition adjustment." If the consideration is other than cash, the cash value thereof at the time control was acquired (estimated if not known) shall be the cost of the property acquired.

(b) When the assets acquired include not only transportation property but also securities and other assets, a reasonable estimate, as nearly as determinable of the value inherent in such securities and other assets, except intangible assets, shall be deducted from the total cash cost and the remainder shall be included in account 151, "Acquisition adjustment." The values assigned to the securities and other assets acquired shall be incuded in the accounts appropriate for such assets. The cost of intangible assets such as operating rights shall be retained in account 151, "Acquisition adjustment." (See account 223, "Amortization reserves—Intangible assets.") The par or recorded value of any securities issued and the cash value at date of contract of other liabilities assumed shall be included in determining the cost of the transportation property acquired with contra credit to the appropriate liability accounts. Any necessary adjustment between par value and cash value of securities issued shall be included in the appropriate premium or discount accounts.

(c) The accounting for the acquisition of transportation property shall be completed as follows:

The book cost of the physical property at the date of acquisition as shown by the records of the former owner shall be appropriately distributed and charged to the primary property accounts with contra credit to account 151, "Acquisition adjustment." Concurrently, account 150, "Depreciation reserve—Transportation property," shall be credited and account 151, "Aquisition adjustment," charged with the amount carried in the depreciation reserve of the former owner. Under no circumstances shall the amount charged to the primary accounts as the book cost of transportation property acquired exceed the original cost of the property when first devoted to transportation service.

(d) If the transportation property when acquired is in such physical condition that it is necessary substantially to rebuild the property in order to meet the standard required by the accounting carrier, the cost of such work shall be included in account 151, "Acquisition adjustment," and the distribution to primary accounts shall be deferred until the rehabilitation program has been completed so that the cost of the new property installed may be distributed to the appropriate primary account rather than the cost of the property retired.

(e) In connection with the acquisition of transportation property the accounting carrier shall procure all existing records relating to the property acquired or certified copies thereof and shall preserve such records until authorized by the Commission to destroy or otherwise dispose of them.

(f) Journal entries which record the acquisition of transportation property shall be submitted to the Commission for approval before they are spread upon the accounting carrier's books. The text of

such entries shall give a complete description of the property acquired.

(g) Any balance in account 151, "Acquisition adjustment," is subject to such disposition as the Commission may direct.

46 Overhead construction costs.

(a) Overhead construction costs, such as engineering, supervision, legal expenses, insurance, injuries, damages, taxes, and interest shall be distributed equitably to the work benefited, so that the entire cost of construction, both direct and indirect, may be included in the appropriate primary account.

(b) These instructions shall be interpreted as requiring the assignment of the actual overhead costs to the cost of each particular project.

47 Retirements and replacements.

(a) *Book cost.* At the time of retirement, the book cost (estimated if not known) of transportation property retired from service, shall be credited to the appropriate property accounts in which included.

(1) Land retired including the proportional cost of public improvements pertaining to the land.

(2) Units of depreciable property retired.

NOTE: The dismantling of a structure or unit of equipment in order to replace parts with improved parts, the purpose of which is to modernize the unit and create an expectation of life fairly comparable with a new unit shall be accounted a retirement. The dismantling of such property only to the extent necessary to recondition or replace defective parts shall be accounted as repairs.

(3) Minor items of depreciable property retired and not replaced.

NOTE: If the book cost of a minor item retired is small, is not under a general plan, and in the judgment of the carrier does not affect the condition and value of the property for valuation or depreciation purposes, and will be accounted for by inclusion in the unit of property, of which it is a part when such unit is retired, no separate credit to the property account is required when such minor item is retired.

(4) Minor items of depreciable property retired and replaced with items of a different type or design or constructed of a different grade of material effecting a substantial improvement and rendering the part applied more durable or of greater capacity than that retired.

NOTE: If the retirement and replacement of minor items is in kind or does not effect a substantial improvement, the cost of the replacement including cost of removal shall be charged to the maintenance account appropriate for repairs, and no adjustment shall be made of the property accounts.

(b) The amounts thus credited to the primary property accounts shall be charged as follows:

(1) Units and minor items of property. The accounting for units and minor items of property accounted for as retired shall be in accordance with instruction 11(h).

(2) The value of salvage from retired property shall be charged according to the disposition of the material recovered. If retired property is held temporarily without being torn down, the estimated value of the salvage recoverable shall be included in account 170, "Other deferred assets," until the property is dismantled or otherwise disposed of. If retired property is held by the carrier for other than water-line service, its appraised value shall be included in account 160, "Noncarrier physical property", provided the appraised value shall not exceed the net book value (book cost less recorded depreciation) of such retired property.

(3) The cost of removal shall be included in determining the service value of property retired.

(c) *Land retired.* The book cost of the land, including the proportional cost of public improvements pertaining to the land, retired from service shall be credited to accounts 147, "Land," and 148, "Public improvements," respectively. If the land is sold, the necessary adjustment between the book cost and the sale price shall be included in account 508, "Profits from sale or disposition of property", or account 525, "Losses from sale or disposition of property", or retained income, as appropriate. If the land is sold, the necessary adjustment between the book cost and the sale price shall be included in account 508, "Profits from sale or disposition of property", account 525, "Losses from sale or disposition of property", or account 570, "Extraordinary items", as appropriate. If the land is retained, the lesser of its appraised value or book cost shall be charged to account 160, "Noncarrier physical property", and the necessary adjustment included in account 525, or account 570, as appropriate.

(d) *Sale of property.* In case carrier or noncarrier depreciable property is sold or otherwise disposed of and the net proceeds realized, including insurance and salvage, are in excess of the net book value (book cost less recorded depreciation), such excess shall be credited to account 508, "Profits from sale or disposition of property", or account 570, "Extraordinary items", as appropriate.

48 Leased property.

(a) The cost of initial improvements (including rearrangements and additions) to property leased from others for transportation service made in the course of preparing the property for such service and the cost of any subsequent additions or improvements made to such leased property shall be charged to account 158, "Improvements on leased property."

(b) When improvements to leased property are of relatively minor cost or the lease is for a period not exceeding one year, the cost shall be charged to the appropriate repair account in operating expenses.

49 Donations.

(a) The carrier shall credit account 151, "Acquisition adjustment," at the time of acquisition, with the current money value of land and other grants contributed by governmental agencies or donations by individuals or companies toward the construction or acquisition of property used in transportation service, after obtaining the approval of the Commission.

(b) Any advances made by individuals and companies with provisions for partial or complete reimbursement shall not be considered as donations prior to the fulfillment of all conditions, and then only to the extent to which the liability for reimbursement is nullified. Prior to such determination the amounts received shall be credited to account 232, "Other deferred credits."

Surplus Instructions

51 Purpose of capital surplus account.

The capital surplus account is designed to show surplus arising from sources other than retained income.

52 Purpose of retained income account.

The retained income accounts are designed to show the changes in retained income during each calendar year as affected by the balance of the income account as reported for the period; by any disposition of retained income made solely at the option of the carrier; and, when authorized by the Commission, other items.

53 Segregation of surplus.

The carrier shall maintain account 250, "Capital surplus," account 260, "Retained income—Appropriated," and account 280, "Retained income—Unappropriated." If prior to January 1, 1942, a separation has not been maintained, the surplus shall be segregated, so far as practicable between capital surplus and retained income. The carrier shall carry any surplus that cannot be segregated in an account entitled "Surplus prior to January 1, 1942." The account so designated shall be carried until the balance therein has been entirely cleared.

Income Instructions

61 Purpose of income accounts.

The income accounts are designed to show as nearly as practicable for each calendar year the amount of money that a carrier becomes entitled to receive for transportation services rendered, the income accrued upon investments in securities and noncarrier property, the accrued costs payable for the transportation services rendered, the amounts accrued for taxes, for use of moneys, for use of properties of others, and for extraordinary and prior period items. See instruction 4.

62 Statement of income accounts.

The accounting for income shall be, as nearly as practicable, coincident with the transactions which create them. For the purpose of meeting this requirement, the carriers shall account for unaudited income upon an accrual basis.

Operating Revenue Instructions

71 Purpose of operating revenue accounts.

The operating revenue accounts are designed to show the amounts of revenue which the carrier becomes entitled to receive from the furnishing of transportation service, including service incidental thereto.

72 Statement of operating revenue accounts.

(a) The accounting for operating revenues, as nearly as practicable, shall be coincident with the transactions which create them. For the purpose of meeting this requirement, the carrier shall account for unaudited revenues upon an accrual basis.

(b) The revenue accounts shall not be used as clearing accounts for other carriers' proportions of revenue, except that overcharges or undercharges may be carried in these accounts until adjusted.

Operating Expense Instructions

81 Purpose of operating expense accounts.

The operating-expense accounts are designed to show expenses of the carrier in furnishing transportation service, and services incidental thereto including the expenses of maintenance (repairs, depreciation, and amortization) of the property used in such service.

82 Statement of operating expense accounts.

The accounting for operating expenses, as nearly as practicable, shall be coincident with the transactions which create them. For the purpose of meeting this requirement, the carrier shall account for unaudited expenses upon an accrual basis.

84 Maintenance expenses.

The accounts provided for maintenance are designed to show the cost of repairs, including the cost of replacing minor items of retired property in kind; the cost of supervision and inspecting and testing to determine the need of repairs, rearrangements, and inspecting and testing after repairs have been made. (See accounts 473, "Hull insurance and damage" and 477, "Other insurance," respecting repair costs borne by carriers under deductible provisions of insurance policies or otherwise not collectible from underwriters or others.)

85 Cost of repairs.

(a) The cost of repairing fixed improvements or equipment shall be included in the appropriate repair accounts of this classification.

(b) The several items of cost here referred to are defined as follows:

(1) "Cost of labor" includes the pay and expenses for work performed by the carrier's employees, including the pay and expenses of members of vessel's crews while actually engaged in making or supervising repairs on vessels in inactive service.

(2) "Cost of material and supplies," including small tools, is the purchase price at the point of free delivery, plus the cost of inspection and loading borne by the carrier, and a suitable proportion of store expense; it includes freight charges paid to other carriers, but shall not include freight charges over the carrier's lines. Cash discounts on material purchased which can be directly assigned shall be credited to the cost of the materials to which they apply. Other discounts shall be apportioned on the basis of the apportionment of store expenses. In calculating the cost of materials, proper allowance shall be made for the value of unused portions and other salvage.

(3) "Cost of equipment work service" includes wages paid crews, including wages of crews held in readiness for such service; and the cost of fuel and other supplies consumed in the operation of equipment, including pile drivers, dredges, and other machines used in work service.

(4) "Contract work" includes amounts paid for repair work performed under contract by other companies, firms, or individuals, and costs incident to the awarding of the contract.

(5) "Cost of protection from casualties" includes expenditures for protection against fire, flood, etc., such as payments for discovery or extinguishment of fires, cost of detecting and prosecuting incendiaries, including witness fees, amounts paid to municipal corporations and others for fire protection and protection against damages by floods, and analogous items. It does not include insurance premiums paid to assure reimbursement for prospective losses.

Balance Sheet Accounts

ASSET SIDE

CURRENT ASSETS

100 Cash.

This account shall include the amount of current funds available for use of demand or for general purposes in the hands of financial officers and agents or deposited in banks or trust companies including cash in transit for which agents or others have received credit.

NOTE: If the withdrawal of any portion of the cash recorded in this account is restricted for any purpose except the usual time limit for savings accounts, the balance sheet must carry an appropriate notation to that effect.

101 Imprest funds.

This account shall include cash funds maintained at fixed amounts as revolving funds to be used for minor disbursements requiring immediate payment, the funds being regularly reimbursed from the general cash.

102 Special cash deposits.

(a) This account shall include the amounts of cash on special deposit (other than in special funds or deposits as elsewhere provided) for the payment of dividends, interest, and other debts, of a current nature, when such payments are due one year or less from the date of deposit; also the amount of cash deposited to insure the performance of contracts to be performed within one year from the date of deposits; and other cash deposits of a special nature not provided for elsewhere.

(b) This account shall include also cash realized from the sale of the carrier's securities and deposited with trustees to be held until disbursed for the purpose for which the securities were sold, provided that cash so held until disbursed for such purpose, including cash held for redemption of securities, shall be included in account 124, "Other special funds," unless the liability for the disbursement is included under current liabilities.

NOTE A: Cash on deposit in special accounts, where the funds are available for the current requirements of the carrier, shall be included in account 100, "Cash."

NOTE B: Deposits for more than one year not offset by current liabilities shall be charged to account 125, "Special deposits."

103 Marketable securities.

This account shall include the book cost of readily marketable securities acquired for the purpose of temporarily investing cash, such as demand and time loans, including certificates of deposit, bankers' acceptances, United States Treasury bills, and other marketable securities readily converted into cash, but excluding securities of affiliated companies.

NOTE A: Securities issued or assumed by the carrier shall not be included in this account.

NOTE B: Investments in securities of other companies shall be included in the appropriate investment account unless they were purchased with the intention to sell them within one year, and they have not been held one year.

104 Traffic and car-service balances—Dr.

This account shall include the net of the balances receivable from or payable to other companies representing traffic and interline accounts, when such balance results in a net debit.

NOTE: When the net of the balances is a credit, it shall be included in account 208, "Traffic and car-service balances—Cr."

105 Notes receivable.

This account shall include the book cost not includible elsewhere of all collectible obligations in the form of notes receivable, or other similar evidences (except interest coupons) of money receivable on demand or within a time not exceeding one year from date of issue.

NOTE A: Notes receivable from affiliated companies subject to current settlement shall be included in account 106, "Affiliated companies—Notes and accounts receivable."

NOTE B: Notes discounted, sold, or transferred, unless transferred without recourse shall be separately accounted for.

NOTE C: Notes evidencing investment advances to other companies shall be included in the appropriate investment account.

106 Affiliated companies; notes and accounts receivable.

This account shall include the total of amounts receivable from affiliated companies which are subject to current settlement, such as balances in open accounts for services rendered, material furnished, traffic or interline accounts, claims, rent for use of property, and

similar items; interest and dividends due from affiliated companies; and loans, notes, and drafts for which affiliated companies are liable.

NOTE A: No amounts representing dividends receivable shall be included in this account unless they have been declared or guaranteed.

NOTE B: Investment advances shall be included in account 130, "Investments in affiliated companies."

107 Accounts receivable.

(a) This account shall include amounts due from others (except affiliated companies) for material and supplies furnished and services rendered, including transportation and other services, use of property, matured rents, amounts owing by public authorities, and amounts of collectible judgments.

(b) This account shall also include net balances in current accounts due from agents, masters, pursers, and other employees and representatives charged with the collection and custody of current revenues.

NOTE: Amounts of cash advanced to masters, pursuers, or others as working funds shall be included in account 113, "Working Advances."

108 Claims receivable.

This account shall include claims transferred from account 166, "Claims pending," including insurance claims which have been compiled and presented to underwriters for collection and other adjusted claims collectible within one year.

109 Reserve for doubtful accounts.

(a) This account shall be credited each month with amounts estimated as the loss due to uncollectible accounts. To this account shall be charged such amounts as are determined to be uncollectible. Amounts written off as uncollectible and later collected shall be credited to this account.

(b) The estimates shall be adjusted at the end of each year to conform to the experience of the carrier as determined by an analysis of its notes, accounts, and claims receivable.

110 Subscribers to capital stock.

This account shall include demand or short-term notes receivable or other amounts charged to subscribers to capital stock at the time subscriptions are accepted. Concurrently there shall be credited to account 241, "Capital stock subscribed," the par value of the stock subscribed, or the agreed purchase price in the case of stock without par value. Appropriate entries shall likewise be made with respect to any discount or premium. Payments made by subscribers shall be credited to this account.

112 Accrued accounts receivable.

This account shall include the amount of interest accrued to the date of the balance sheet on bonds, notes, deposits, open accounts, and other interest-bearing obligations, the amount of matured dividends, and dividends accrued on stocks when contracts require that the dividends be paid at stated times. It shall also include unmatured rents receivable and other unaudited current items receivable accrued to the date of the balance sheet. It is not required that minor items shall be accounted for upon an accrual basis.

NOTE A: No amounts representing interest, dividends, or rents receivable shall be included in this account unless collection thereof is reasonably assured by past experience, anticipated provision, or otherwise.

NOTE B: No dividends or other returns on securities issued or assumed by the carrier shall be included in this account.

NOTE C: Interest, dividends, and rents receivable from affiliated companies shall be included in account 106, "Affiliated companies—Notes and accounts receivable."

113 Working advances.

This account shall be charged with the amount of cash advanced to officers, employees, and masters, pursers, and other ship officers as working advances from which payroll, traveling, and other cash disbursements are to be made and accounted for. This account shall be credited, in the course of closing the voyage accounts and recording the transactions in the accounts, with all disbursements made with the approval of the master.

114 Prepayments.

This account shall include amounts representing prepayments of taxes, insurance, interest, rents, and miscellaneous. Deposits made to cover insurance premiums, such as premiums computed on payrolls, shall be considered premiums paid in advance.

This account shall be credited and the appropriate account charged in such manner as to distribute the amount of prepayment over the term to which applicable. Minor payments may be charged directly to final account.

115 Material and supplies.

(a) This account shall include the cost, less cash and other discounts, of all unissued and unapplied material and supplies, articles in process of manufacture by the carrier, fuel, tools, stationery, commissary and other supplies. This account shall include the cost of fuel on board vessels when such supplies are carried in the material and supplies accounts of the stores department. This account also shall include the cost of spare parts, except major standby units of the nature described in Instruction 11 (h) (3), which are to be included in appropriate property accounts.

(b) The costs chargeable to this account are the actual cash costs of the material and supplies at point of free delivery plus customs duties, excise and other taxes, insurance, inspection, special tests, loading and unloading and transportation charges paid for transporting the material from the free delivery point to the carrier's line.

(c) Amounts paid for containers, which are refundable if containers are returned, shall be charged to this account until refund is collected.

(d) Reusable material recovered in connection with maintenance work or the demolishing of fixed improvements or equipment shall be charged to this account at amounts not to exceed cost, estimated if not known. Scrap and nonusable materials shall be carried at estimated salvage value; when sold or disposed of, the difference between proceeds and recorded values shall be adjusted (as far as practicable) through the accounts which were credited when the material was recovered and taken into this account.

NOTE A: Interest paid on material bills, the payment of which is delayed, shall be charged to account 529, "Interest on unfunded debt."

NOTE B: An annual inventory of material and supplies shall be taken and the necessary adjustments shall be made to bring this account into harmony with the actual inventory balances. In effecting this adjustment determined differences in accounting for important classes of material shall be equitably assigned among the accounts to which such classes of material are ordinarily chargeable. Other differences shall be equitably apportioned among the primary accounts.

NOTE C: No charges shall be made to this account for the cost of transporting material and supplies over the carrier's line.

116 Other current assets.

This account shall include the amount of assets of a current nature not includible in any of the foregoing current asset accounts.

SPECIAL FUNDS

122 Insurance funds.

(a) This account shall include cash cost of securities of other companies or governmental bodies, par value of reacquired stocks, bonds, or other evidences of indebtedness, issued or assumed by the carrier, and cost of other assets placed on deposit or in the hands of trustees to guarantee the satisfaction of obligations for losses, in instances where the carrier is a self-insurer in whole or in part.

(b) It shall also include accretions representing interest, dividends, or other returns accrued on insurance fund investments when retainable in such fund.

(c) Subsidiary accounts shall be maintained by depositories or trustees.

NOTE: Reacquired stocks, bonds, and other evidences of indebtedness issued or assumed by the carrier and held alive and not retired shall be considered to be nominally outstanding.

123 Sinking funds.

(a) This account shall include cash, cost of securities of other companies, par value of reacquired stocks, bonds, or other evidences of indebtedness, issued or assumed by the carrier, and cost of other assets placed on deposit or in the hands of trustees as a sinking fund to meet obligations maturing in the future, or to carry out such operations as the retirement of preferred stock or the purchase of serial bonds.

(b) It shall also include accretions representing interest, dividends, or other returns accrued on sinking fund investments when retainable in such fund.

(c) Subsidiary accounts shall be maintained by depositories or trustees, and under titles which shall designate the obligation in respect of which the fund is created.

NOTE: Reacquired stocks, bonds, and other evidences of indebtedness issued or assumed by the carrier and held alive and not retired shall be considered to be nominally outstanding.

124 Other special funds.

(a) This account shall include cash, cost of securities of other companies, par value of reacquired stocks, bonds, or other evidences of indebtedness, issued or assumed by the carrier, and cost of other assets, which are in the hands of trustees or managers of employees' pension, savings, relief, hospital, and other funds or any special funds for which no specific account is provided.

(b) It shall also include accretions representing interest, dividends, or other returns accrued on investments held in such funds when retainable therein.

(c) Subsidiary accounts shall be maintained for each fund by depositories or trustees.

NOTE A: Reacquired stocks, bonds, and other evidences of indebtedness issued or assumed by the carrier and held alive and not retired shall be considered to be nominally outstanding.

NOTE B: Amounts deposited with a trustee under the terms of an irrevocable trust agreement for pensions or other employees' benefits shall be accounted for in accordance with the note to account 465, "Pensions and relief."

125 Special deposits.

This account shall include cash and cost of securities deposited to guarantee the performance of contracts and other agreements, or with utility corporations; also deposits in lieu of mortgaged property sold and other trust deposits, which are held until equivalent property is acquired or pending other disposition.

INVESTMENT SECURITIES

130 Investments in affiliated companies.

This account shall include the cost of the carrier's investment in securities issued or assumed by affiliated companies (other than securities held in special deposits or in special funds) including investment advances to affiliated companies.

NOTE A: Accounts with affiliated companies which are subject to current settlement shall be classed as current assets or current liabilities, as may be appropriate.

NOTE B: No amounts representing interest or dividends on securities or investment advances shall be included in this account.

NOTE C: The value of securities borrowed by the carrier shall not be included in this account.

131 Other investments.

This account shall include the cost of carrier's investment in securities issued or assumed by nonaffiliated companies (other than securities purchased as temporary investments or held in special deposits or in special funds), including investment advances to nonaffiliated companies or individuals, and miscellaneous investments not provided for elsewhere.

NOTE A: Accounts with nonaffiliated companies which are subject to current settlement shall be classed as current assets or liabilities, as may be appropriate.

NOTE B: The value of securities borrowed by the carrier shall not be included in this account.

132 Reserve for revaluation of investments.

This account shall be credited with such reserves as are maintained to reflect the decline or loss in book value of securities or like assets held for investment where there appears to be a permanent impairment in value as recorded in accounts 130, "Investments in affiliated companies," or 131, "Other investments." If reserves are maintained for specific securities, when such securities are disposed of, the amount included in this account with respect thereto shall be charged hereto. If a general reserve is maintained for all securities when securities are disposed of, the amount of the loss to the extent of the credit balance herein, shall be charged hereto.

133 Cash value of life insurance.

This account shall include the cash surrender value of life insurance policies, under which the carrier is the beneficiary, less the amount of any loans which have been obtained on such policies and not repaid.

PROPERTY AND EQUIPMENT

140 Transportation property.

This account shall include the cost to the carrier of construction or acquisition, including additions and improvements, of all physical property used by the carriers or others in transportation operations, as detailed in the primary property accounts number 141 to 149, both inclusive.

141 Line equipment.

This account shall include the cost of marine or floating equipment, purchased or built by the carrier, for use in transportation service between terminals, including all appurtenances, furniture, and fixtures necessary to equip it for service, and cost of inspection and transportation to port at which it enters service.

LINE EQUIPMENT

Barges for lihe service.
Canal boats.
Ferry boats.
Lighters for line service.
Motor ships.
Motor launches.
Power boats.
Power ships.
Sailing vessels.
Steamboats.
Steamships.
Tug boats for line service.

APPURTENANCES, FURNITURE, AND FIXTURES

Aerial attachments.
Anchors.
Ash discharging apparatus.
Awnings and fixtures.
Berths.
Boats, life.
Boilers.
Boiler foundations.
Boiler tubes.
Brick, fire.
Cables.
Covering, floor.
Crockery, china and glassware.
Deck fittings and plates.
Dynamos.
Electric equipment and fixtures.
Engines.
Engine foundations.
Fixtures, electric.
Floor covering.
Flooring.
Furniture.
Galley equipment.
Generators.
Glass, window.
Heating equipment.
Hoisting apparatus.
Hose.
Hull plates.
Kitchen equipment.
Launches.
Life preservers.
Life rafts.
Life boats.
Lighting equipment.
Linens.
Machines.
Machine foundations.
Masts.
Musical instruments.
Pantry equipment.
Plumbing.
Propellers.
Pumps.
Refrigerator equipment.
Rigging.
Rotors.
Rudders.
Shafting.
Smokestacks.
Steam distribution system.
Steering equipment.
Tail shaft.
Tanks.
Telephone apparatus.
Tracks on floats.
Winches.
Windlasses.
Wireless apparatus.

142 Harbor equipment.

This account shall include the cost of marine or floating equipment purchased or built by the carrier, for use in harbor-transportation service, including all appurtenances, furniture, and fixtures necessary to equip it for service, and cost of inspection and transportation to port at which it enters service.

HARBOR EQUIPMENT

Barges for harbor service.
Car and other floats for harbor service.
Ferry boats.
Lighters for harbor service.
Motor launches.
Transfer boats.
Tug boats.

143 Miscellaneous floating equipment.

This account shall include the cost of marine or floating equipment purchased or built by the carrier for use in miscellaneous transportation service, including the cost of all appurtenances, furniture, and fixtures to equip it for service, and cost of inspection and transportation to the port at which it enters service.

MISCELLANEOUS FLOATING EQUIPMENT

Derricks.
Dredges.
Floats.
Pile drivers.
Row boats.

144 Buildings and other structures.

This account shall include the cost of fixed improvements purchased or built by the carrier for use in transportation service, such as buildings, wharves, docks, and other structures, including fixtures, machinery, appurtenances, and the cost of securing title and possession.

BUILDINGS, STRUCTURES, ETC.

Alarm systems.
Baggage rooms.
Bins for material.
Blacksmith shops.
Breakwaters for protection of structures.
Boilers.
Boiler rooms.
Boiler shops.
Buildings.
Bulkheads.
Carpenter shops.
Cisterns.
Coaling trestles.
Counters.
Cofferdams.
Docks.
Drainage systems.
Dredging.
Driveways.
Eating rooms.
Electric-light plants.
Electric wiring.
Elevators and machinery.
Fences.
Fire-alarm systems.
Fire-equipment houses.
Fire-extinguisher systems.
Foundations.
Foundries.
Freight houses.
Fuel stations.
Fuel storage tanks.
Garages.
General office buildings.
Generators.
Grain elevators.
Grain warehouses.
Greenhouses.
Heating plants.
Hedges.
Hose houses.
Hydrants.
Ice houses.
Lighting plants.
Lumber sheds.
Machine shops.
Motors.
Office buildings.
Paint shops.
Pavement within grounds.
Piers.
Piling.
Plumbing.
Pipe lines, interior.
Power plants.
Pumping stations.
Railings.
Refrigeration equipment.
Roofs.
Sewer systems.
Shelving.
Shops.
Sidewalks.
Slips.
Sprinkler systems.
Stables.
Steam and hot water distribution systems.
Storehouses.
Tracks.
Vaults.
Waiting rooms.
Washrooms.
Water-supply systems.
Watchhouses.
Wharves.

NOTE: The cost of movable equipment shall be include in account 145, "Office and other terminal equipment."

145 Office and other terminal equipment.

This account shall include the cost of all movable equipment and furniture of buildings and other fixed improvements devoted to transportation service.

SHOP EQUIPMENT

Acetylene-cutting and welding machines.
Anvils.
Assorted dies and blocks.
Beltings.
Bench vises.
Bolt cutters.
Boring bars.
Boring brasses.
Burning torches.
Cast iron face plates.
Chain blocks.
Charging boards (equipment for charging electric trucks).
Compressed-air apparatus.
Crosscut circular saws.
Die-stock ratchets.
Drill presses.
Drills.
Electric drills.
Emery grinders.
Forges.
Furnaces.
Hydraulic jacks.
Iron horses.
Lathes.
Magnetos.
Motors.
Mould filling brasses.
Paint burners.
Paint-spraying machines.
Pipe cutters.
Portable boring bars.
Portable electric grinders.
Power machines.
Power saws.
Propeller fans.
Punch and shears.
Reamers.
Riveters' hammers.
Saws.
Scales.
Scaling hammers.
Sewing machines.
Shapers.
Sledges.
Stamping tools.
Stationary engines.
Steam hammers.
Steam-test pumps.
Stencil machines.
Stillson wrenches.
Swedges.
Taper shanks.
Tools.
Torches.
Tube expanders.
Twist drills.
Twist-drill and tool grinder.
Ventilating set.
Wrenches.

GARAGE EQUIPMENT

Adding machines.
Addressing machines.
Billing machines.
Bins.
Blackboards.
Blueprinting machines.
Bookkeeping machines.
Bookcases.
Brief cases.
Cabinets.
Cages.
Calculating machines.
Call bells.
Cameras.
Carpets.
Chairs.
Check protectors.
Clocks.
Comptometer machines.
Coolers.
Costumers.
Counters.
Cuspidors.
Desks.
Dictaphones.
Dishes.
Display racks.
Drafting and engineering instruments.
Duplicating machines.
Electric cooking utensils.
Electric fans.
Filing cabinets.
Fire extinguishers.
Floor covering.
Floor scrubbing machines.
Freight handling equipment.
Guns.
Jardinieres.
Lamps.
Lockers.
Mailing machines.
Mimeograph machines.
Mirrors.
Motion picture projectors.
Numbering machines.
Photostatic equipment.
Pictures.
Polishing machines.
Printing press and printing equipment.
Racks.
Refrigerators.
Revolvers.
Rugs.
Safes.
Scales, mail or postal.
Settees.
Shelving, fixed or movable.
Smokestands.
Stands.
Stools.
Stoves.
Tables.
Tableware.
Typewriters.
Vacuum cleaners.
Vending machines installed in station and office buildings.

WHARF EQUIPMENT

Canvas covers.
Canvas slings.
Cargo blocks.
Cargo chutes.
Cargo hooks.
Cargo rollers.
Chain slings.
Coal buckets.
Conveyors.
Cranes.
Crowbars.
Derricks, movable.
Drum hoisters.
Escalators.
Fire barrels.
Fire buckets.
Fire extinguishers.
Fire hose.
Freight-handling equipment.
Gangways.
Gas tanks.
Hand trucks.
Lift jacks.
Motor trucks, power driven.
Paper slings.
Platform scales.
Platform trays.
Pantoons.
Racks.
Ropes.
Rope slings.
Scales.
Skids.
Stages.
Stalls for transportation of animals.
Tackles.
Tarpaulins.
Tents.
Tools, miscellaneous.
Tractors.
Trailers.
Truck trays.
Wharf fenders.
Wire falls.
Wire rope slings.

GARAGE EQUIPMENT

Air compressors and tanks.
Anvils.
Arbor presses.
Battery-charging outfits.
Belts, shafts, and countershafts.
Boring and reaming machines.
Car washing machines.
Cranes and hoists (portable)
Creepers.
Drill presses.
Electric equipment.
Engines and boilers.
Forges.
Gasoline and oil pumps and portable tanks.
Greasing racks and pumps.
Grinders.
Jacks.
Lathes.
Lockers.
Machine tools.
Motor-driven hand tools.
Oil reclaiming machines.
Paint sprayers.
Pneumatic tools.
Storage bins and shelving (portable).
Storeroom equipment (except office equipment).
Stoves.
Testing equipment.
Tire-changing equipment.
Tool racks.
Vises.
Vulcanizing equipment.
Weighing devices.
Welding apparatus.
Wheel pullers.
Work benches.

NOTE: Fixtures and appurtenances which form an integral part of a building or other structure shall be included in the cost of the structure.

146 Motor and other highway equipment.

This account shall include the cost of motor and other highway vehicles, and the cost of transportation to the carrier's line.

HIGHWAY EQUIPMENT

Automobiles.
Buses.
Lift vans.
Tractors, trailers, and semitrailers.
Trucks.

NOTE: Records shall be maintained in such manner as to show separately the cost of highway vehicles used in—

1. Transportation service subject to part II, and
2. Transportation service subject to part I and part III of the Interstate Commerce Act.

147 Land.

(a) This account shall include the cost of land used or held for use in transportation service, including:

(1) Cost of rights to occupy land permanently not purchased outright for transportation purposes.

(2) Cost of grounds for buildings and other fixed improvements and of the land for ingress to or egress from such grounds.

(3) Cost of "ground rents."

(4) Cost of riparian or littoral rights.

(5) Cost of removing and locating elsewhere the property of others (including cost of land for relocation of property when such cost is assumed by the carrier).

(b) Proceeds from the sale of timber, mineral deposits or improvements purchased with land, less the cost of removal, shall be credited to this account up to the amount of the purchase price allocated as their cost. Any excess shall be credited to account 507, "Miscellaneous income", or, when qualifying as extraordinary pursuant to instruction 4, shall be included in account 570, "Extraordinary items".

DETAILS

1. Abstracts and guarantees of title.
2. Appraisals.
3. Commissions paid.
4. Compensation and expenses of land agents solely engaged in acquiring land.
5. Condemnation expenses, including court costs, and special counsel fees; also fees of parties appointed by the court to assess damages.
6. Costs, including agreed settlements, judgments, witness fees, and decreed court costs in proceedings to clear or defend titles against defects antedating the carrier's acquisition of property.
7. Cost of filling submerged or low land to establish a general level and grading land to render it usable for construction of fixed improvements.
8. Cost of making changes in or relocating property of others, when borne by carrier in order to secure permanent rights to locations, the cost of which is includible in this account; also the cost of securing sites for such relocations.
9. Ditches for waterways when part of consideration.
10. Easements, granting right of permanent occupancy of property for transportation service.
11. Lump-sum payments for right to use in perpetuity or for a period of years public property for transportation service. Such amounts paid for the right to use for a period of years only shall be amortized through account 486, "Water-line tax accruals," during the period of use.
12. Notarial fees.
13. Payments to vendors to secure release from restrictive provisions of original deeds.
14. Plats.
15. Premiums on condemnation bonds.
16. Recording deeds and easements.
17. Removal and relocation of buildings and other structures not purchased.
18. Surveys in connection with the purchase of the land.
19. Taxes and assessments for public improvements assumed at time of purchase.

NOTE A: When the acquisition of land for transportation service involves also the purchase of land not to be used for such purpose, the charges to this account shall be based upon the cost of the land purchased, less the estimated fair value of that portion which will not be so used.

NOTE B: The cost of land acquired for purposes other than transportation shall be included in account 160, "Noncarrier physical property." The cost of land acquired for which there is a definite plan for use in transportation service shall be included in account 149, "Construction work in progress," until the completion of the facilities constructed thereon.

NOTE C: Periodical payments for use of land for transportation purposes held under "ground rents" shall be charged to account 483, "Other operating rents."

NOTE D: When land with buildings thereon is acquired, each shall be separately appraised and the cost apportioned between the land and the buildings on the basis of such appraisals. If the removal of the buildings is contemplated, the cost of the land and buildings shall be accounted for as the cost of land and the salvage value of the buildings less the cost of removal if disposed of shall be deducted from the cost of the land.

NOTE E: Held for use referred to in paragraph (A) implies the ability of the carrier to substantiate by plans or policy its characterization of the probable future use which is to be made of the land within a reasonable period of time.

148 Public improvements.

This account shall include amounts assessed on carrier property by governmental authority to cover the cost of constructing public improvements, when such assessments are made against property within defined areas of taxing districts. It shall include also the cost borne by the carrier of public improvements constructed by it under governmental requirements.

DETAILS

1. Curbing streets and highways.
2. Drainage systems.
3. Flood protection.
4. Grade eliminations.
5. Grading streets and highways.
6. Guttering streets and highways.
7. Irrigation systems.
8. Levees.
9. Paving streets and highways.
10. Sewer systems.
11. Sidewalks.
12. Street-lighting systems.
13. Viaducts carrying streets and highways over terminal property.
14. Water works.

NOTE A: The cost to the carrier of assessments on carrier property for maintaining or renewing public improvements shall be included in operating expenses.

NOTE B: Any portion of the cost of public improvements which is included in the general tax levy for a regular taxing district shall be included in the account appropriate for taxes.

NOTE C: When an assessment for the construction of public improvements is to be paid in installments over a period of more than one year, the full amount thereof shall be charged to this account when the assessment is levied and the amount of the deferred payments shall be appropriately credited to account 211, "Funded debt unmatured." The installments of the assessments shall be charged to that account as they become due and payable. Interest on the assessments shall be included in account 528, "Interest on funded debt."

NOTE D: Penalties imposed for failure to pay assessments within the allotted time shall be charged to account 529, "Interest on unfunded debt."

NOTE E: Assessments on noncarrier property for the cost of constructing public improvements shall be charged to account 160, "Noncarrier physical property."

149 Construction work in progress.

(a) This account shall include the cost of transportation property in process of

construction and not completed at the date of the balance sheet. When any property, the cost of which has been included in this account, is completed, the cost thereof shall be credited to this account and charged to appropriate primary accounts of this classification provided for such property.

(b) The cost of land acquired for which there is a definite plan for use in transportation service shall be included in this account until the completion of the carrier facilities constructed thereon.

NOTE: It is not required that this account shall include the cost of construction work which is placed in service as the work progresses.

150 Depreciation reserve; transportation property.

(a) This account shall be credited with amounts charged to operating expenses to cover the estimated loss in service value of depreciable property. It shall also include other entries which may be authorized by the Commission; see instruction 11. This account shall be subdivided so as to show separately:

(1) Depreciation reserve—transportation property.

(2) Past provision for amortization of defense projects.

(b) At the time of retirement of depreciable property the amount of depreciation accrued and included herein with respect to the particular unit or item retired shall be charged hereto.

151 Acquisition adjustment.

(a) This account shall include the difference between (1) the cost to the accounting company of water-line property acquired as an operating unit or system by purchase, merger, consolidation, or otherwise than in reorganization, and (2) the amount distributed to the primary property accounts, less amounts which may be credited to the depreciation and amortization reserves with respect to such property in accordance with instruction 45.

(b) This account shall also include the difference between the assets acquired and the par or recorded value of the accounting company's capital stock, plus its debts and other liabilities in respect of water-line property acquired in reorganization under the circumstances set forth in instruction 30.

(c) This account shall also include the cost of operating rights and other intangible assets. (See account 223, "Amortization reserves—Intangible assets.")

(d) This account shall be credited with donations or contributions in cash or property from governmental agencies, individuals, and others for construction purposes concurrent charges being made to the appropriate property or other asset accounts. (See instruction 49.)

158 Improvements on leased property.

(a) This account shall include the cost to the carrier of additions and improvements made to physical property leased from others and used in transportation operations.

(b) The carrier's records shall be so kept as to show the charges and credits to this account classified in accordance with the accounts for property owned.

159 Amortization reserve; leased property.

This account shall be credited with amounts charged to operating expenses to create a reserve to cover, at date of reversion of the leased property to the lessor, the cost of improvements thereon.

160 Noncarrier physical property.

This account shall include the cost to the carrier of land, structures, and equipment not used in transportation operations, including hotels, restaurants, power plants, equipment, and other property that is entirely distinct from the transportation property of the carrier and not operated in connection with or incident to its transportation operations.

161 Depreciation reserve; noncarrier physical property.

(a) This account shall be credited with amounts charged to account 523, "Expenses of noncarrier operations," to cover the depreciation of property included in account 160, "Noncarrier physical property."

(b) When depreciable noncarrier physical property is destroyed, sold, or otherwise retired from service, the amount included herein with respect to the property retired shall be charged hereto. In case the net proceeds realized, including insurance and salvage, are in excess of the net book value (book cost less recorded depreciation), such excess shall be credited to account 508, "Profits from sale or disposition of property", or account 570, "Extraordinary items", as appropriate.

DEFERRED ASSETS

166 Claims pending.

This account shall include claims in litigation and insurance claims in process of compilation or adjustment. After adjustment of claims, this account shall be cleared and the amounts receivable included in account 108, "Claims receivable." Deductible average insurance losses (if policies provide deductibles) shall be transferred at the same time to account 221, "Insurance reserves," provided the carrier accrues a reserve for such deductibles, otherwise the charge shall be made to the appropriate expense accounts.

170 Other deferred assets.

This account shall include noncurrent notes and accounts receivable, the settlement of which has been deferred beyond one year, or which by agreement are to run for more than one year from date of issue.

It shall also include the estimated value of salvage recoverable from property retired, when recovery is deferred for any reason; items of current character but doubtful value; funds on deposit with closed banks; advances to traffic associations and bureaus as working funds; and other deferred items not provided for elsewhere.

DEFERRED DEBITS

171 Incompleted voyage expenses.

(a) This account shall include all voyage expenses of incompleted voyages or other periods accrued and held in suspense until the voyage or period is completed, and the appropriate expense accounts are charged directly with such expenses. After each voyage or period has terminated, the expenses pertaining thereto shall be transferred to the appropriate operating-expense accounts. All voyage expenses may be recorded in the appropriate operating-expense primary accounts, and at the end of each month the balance relating to incompleted voyages may be transferred to this account with a reversal of the entries in the following month.

(b) This account shall also include the cost of food; deck, engine and steward department stores; buffet supplies; and fuel and other supplies on board vessels at the beginning of the voyage or period, when inventories are taken at the end of the voyage or period and charged to the succeeding voyage or period and credited to the completed voyage or period.

(c) When inventories are not taken at the end of each voyage or period, the value of vessel stores and supplies issued during the voyage or period shall be charged to the expenses of the voyage or period, and no adjustment is required until an inventory is taken.

174 Debt discount and expense.

(a) This account shall include the net total if a debit balance of all discount, expense, and premium accounts for long-term debt.

(b) When an issue of debt securities, or any part thereof, is refunded and at the date of refunding there is a balance of unamortized discount and expense relating thereto, such amount, together with any premium paid in retiring the debt, shall be charged to account 527, "Miscellaneous income charges", or account 570, "Extraordinary items", as appropriate.

175 Other deferred debits.

(a) This account shall include the amount of debit balances in suspense accounts that cannot be entirely cleared and disposed of until additional information is received, such as:

Amounts paid for options pending final disposition;

Cost of preliminary surveys, investigations, or appraisals in connection with contemplated acquisition or sale of property or securities;

Balance in account 601, "Material and stores expenses";

Commissions on tickets not honored;

Similar items, the proper and final disposition of which is uncertain.

(b) When the proper disposition of any item included in this account is determined, the amount thereof shall be credited to this account and concurrently charged to the appropriate account.

ORGANIZATION

180 Organization expenses.

(a) This account shall include expenditures incident to incorporation or other form of organization of the company.

(b) Include in this account:

Fees paid for the privilege of incorporation.

Legal and office expenses incident to organizing the company.

Cost of stock and minute books and corporate seal.

Cost of preparing and filing amendments to the certificate of incorporation.

Special counsel and other fees and expenses in mergers, consolidations, and reorganizations.

(c) Charges to income under a program to amortize organization expenses shall be credited to account 223, "Amortization reserves—Intangible assets."

NOTE A: This account shall not include discount upon securities issued or assumed; costs incident to negotiating loans, selling bonds or other evidence of debt; or discount, commissions and expense incident to the authorization, issuance and sale of capital stock.

NOTE B: When charges are made to this account for expenses in mergers, consolidations, or reorganizations, amounts previously included in this account on the books of the various companies shall not be carried over.

COMPANY SECURITIES

190 Reacquired and nominally issued long-term debt.

(a) This account shall include the par value of long-term debt of the carrier nominally issued or reacquired and held uncanceled by it, except debt held in sinking or other special funds.

(b) The difference between the par value of long-term debt and the amount paid therefor, including commissions and expenses in connection with its reacquisition and the portion of unamortized premium, discount, and expense relating to the long-term debt reacquired shall be included in account 507, "Miscellaneous income", account 527, "Miscellaneous income charges", or account 570, "Extraordinary items", as appropriate.

(c) When reacquired long-term debt is resold, this account shall be cleared and the accounting for its sale shall be that provided for its original sale.

NOTE A: The provisions of this account shall apply to funded debt reacquired for sinking and other special funds.

NOTE B: Reacquired bonds and other evidences of indebtedness issued or assumed by the carrier and not retired shall be considered to be nominally outstanding.

191 Reacquired and nominally issued capital stock.

This account shall include the par value of capital stock of the carrier nominally issued or reacquired and uncanceled, except when held in sinking or other special funds. If no par stock, it shall be charged at the pro rata proportion at which it is credited to account 240, "Capital stock." Stock having no par value classable as nominally issued shall be recorded by the number of shares.

NOTE: The accounting for the reacquisition and resale of capital stock actually issued or assumed by the company shall be in accordance with instruction 26 (d) and (e).

LIABILITY SIDE

CURRENT LIABILITIES

200 Notes payable.

This account shall include the face value of notes, drafts, and other evidences of indebtedness issued or assumed by the carrier (except interest coupons) which are payable on demand or not more than one year from date of issue.

NOTE: Notes payable to affiliated companies subject to current settlement shall be included in account 201, "Affiliated companies—Notes and accounts payable."

201 Affiliated companies; notes and accounts payable.

This account shall include the total of amounts payable to affiliated companies which are subject to current settlement, such as credit balances in open accounts for services rendered, material furnished, traffic or interline accounts, claims, rent for use of property, and similar items; interest and dividends due to affiliated companies; and loans, notes, and drafts which are payable to affiliated companies.

NOTE A: No amount representing dividends payable shall be included in this account unless they have been declared.

NOTE B: Items which are not subject to current settlement shall be included in account 212, "Affiliated companies—Advances payable."

202 Accounts payable.

(a) This account shall include amounts payable to others (except affiliated companies) for materials and supplies, and services received, including matured rents, amounts due to public authorities, amounts of payable judgments, current accounts with officers and employees, personal injury and property damage claims, and other similar items.

(b) This account shall also include amount of wages accrued at the date of the balance sheet; balances representing unclaimed wages; deductions from payrolls (except amounts payable to affiliated companies); outstanding drafts drawn by agents and others; amounts due sightseeing, hotel, or amusement companies for their services; and other items of the nature of demand liabilities.

203 Traffic and car-service balance—Cr.

This account shall include the net of the balances receivable from or payable to other companies representing traffic or interline accounts, when such balance results in a net credit.

NOTE: When the net of the balance is a debit, it shall be included in account 104, "Traffic and car-service balances—Dr."

204 Accrued interest.

This account shall include the amount of unpaid interest accured to the date of the balance sheet actually outstanding on loans, funded debt and other interest-bearing obligations except interest accured on obligations payable to affiliated companies.

NOTE A: This account shall be so kept that the carrier can report separately the amount of matured interest unpaid.

NOTE B: Interest payable to affiliated companies shall be included in account 201, "Affiliated companies—Notes and accounts payable."

205 Dividends payable.

This account shall include the amount of dividends declared on actually outstanding capital stock and unpaid at the date of the balance sheet.

NOTE: Dividends payable to affiliated companies shall be included in account 201, "Affiliated companies—Notes and accounts payable."

206 Accrued taxes.

(a) This account shall be credited each period with the amount of taxes accrued during the period, with concurrent debits to the appropriate accounts for tax charges. As credits to this account will necessarily be based upon estimates, they shall be adjusted from time to time during the year so that as nearly as possible the tax charge account may show the taxes applicable to the year. Payments of taxes for which accruals have been made shall be debited to this account. Prepayments of taxes shall be included in account 114, "Prepayments."

(b) The records supporting the entries to this account shall be kept to show separately the accural of Federal income taxes, Federal old-age pension tax, unemployment compensation tax, and other taxes.

208 Accrued accounts payable.

This account shall include estimates of all unaudited items payable by the carrier to the date of the balance sheet which are chargeable to revenue, expense, or income and are in the nature of current liabilities. (See instruction 3.)

209 Other current liabilities.

This account shall include all liabilities of a current character not provided for in the foregoing accounts.

LONG-TERM DEBT DUE WITHIN ONE YEAR

210 Equipment obligations and other debt due within one year.

This account shall include the total amount of all funded obligations (except amounts due affiliated companies which shall be included in account 213, "Affiliated companies—Advances payable") which are past due or which will mature within one year from the close of the accounting period and for which arrangements have not been entered into for an extension of time as to payment. This includes the portion of long-term debt maturing serially or payable in installments within one year.

LONG-TERM DEBT DUE AFTER ONE YEAR

211 Funded debt unmatured.

(a) The account shall include the total face value of funded debt, including bonds, notes, certificates and other evidences of indebtedness issued or assumed by the carrier and maturing more than one year from date of issue, which have not been reacquired and canceled.

(b) The amounts included in this account shall be further divided so as to show the amount of each class of funded debt, as follows:

(1) *Equipment obligations.* Equipment bonds or equipment notes, secured only by lien on specific equipment.

(2) *Mortgage bonds.* Bonds secured by lien on physical property and not includible in the other subdivisions of this account.

(3) *Collateral trust bonds.* Bonds and notes secured by lien on securities or other negotiable paper, and stock trust certificates that are similar in character to collateral trust bonds.

(4) *Income bonds.* Bonds which are a lien on a carrier's income alone, or bonds which, while being a lien on its property and franchises can claim payment of interest only in case interest is earned.

(5) *Miscellaneous obligations maturing more than one year after date of issue.* All funded obligations not provided for by the other subdivisions of this account, unpaid installment of assessments for public improvements, also notes, unsecured certificates of indebtedness, real-estate mortgages executed or assumed, and other similar obligations.

(6) *Receipts outstanding for funded debt.* When certificates are issued for amounts paid on account of funded debt, the face value shall be included in the account covering the class of funded debt for which the certificates are issued.

(c) A record shall be maintained for each class and series of funded debt showing:

Amounts authorized.
Amounts issued.
Amounts reacquired and canceled.
Amounts outstanding.
Date of issue.
Date of maturity.
Interest dates.
Rate of interest.

NOTE A: Advances from affiliated companies (except such as may be properly includible in account 201, "Affiliated companies—Notes and accounts payable") shall be included in account 213, "Affiliated companies—Advances payable."

NOTE B: Reacquired bonds and other evidences of indebtedness issued or assumed by the carrier and not retired shall be considered to be nominally outstanding.

212 Receivers' and trustees' securities.

When receivers or trustees acting under the orders of a court are in possession of the property of the carrier and under the order of the court issue evidences of indebtedness, or assume the payment of such indebtedness, the par value of such obligations shall be credited to this account.

NOTE: Reacquired securities issued or assumed by receivers or trustees and not retired shall be considered to be nominally outstanding.

213 Affiliated companies; advances payable.

(a) This account shall include the amount of advances from affiliated companies, whether evidenced by notes or open accounts which are not subject to current settlement, including interest accrued thereon, when such interest is not subject to current settlement.

(b) This account shall be subdivided as follows:

Notes payable.
Open accounts not subject to current settlement.
Interest accrued on amounts included in this account not subject to current settlement.

NOTE: Amounts of advances which are subject to current settlement shall be included in account 201, "Affiliated companies—Notes and accounts payable."

RESERVES

220 Maintenance reserves.

(a) This account shall include balances representing reserves created for the purpose of equalizing the cost of repairs to vessels in line service or other floating equipment, also the cost of repairs to buildings and structures and dredging to deepen channels. When the repairs are made, their cost, to the extent of the provision herein, shall be charged to this account. The accruals credited to these reserves shall be based on the carrier's experience and class surveys of anticipated expenditures for major repairs.

(b) This account shall be kept to show the accruals for each vessel or other item of property for which provision is made.

221 Insurance reserves.

(a) Agreed amounts for marine hull and protection and indemnity insurance deductibles (if provided in the policies) or the carrier's proportion of self-carried insurance shall be charged for each voyage or period to the appropriate expense account and the corresponding credit included in this account. When the amount of deductible losses chargeable against each voyage or period is determined, it shall be cleared from account 166, "Claims pending," by a charge to this account.

(b) This account shall also be used for equalization of other insurance risks, such as self-carried workmen's compensation, public liability insurance, and loss and damage claims.

NOTE A: The records supporting the entries in this account shall be kept to show separately the transactions with respect to hull, cargo, and liability self-carried insurance or deductible costs, and each class of other insurance risks for which reserves have been created.

NOTE B: This account shall not include appropriations of retained income (surplus) which should be reflected in account 280, "Retained income—Appropriated."

222 Pension and welfare reserves.

This account shall include the book balances representing the liability of the carrier for the amount of the assets (whether contributed by the carrier, by the employees, or by others) in the hands of its treasurer, or of trustees or managers acting for it in the administration of employees' pension, savings, relief, hospital, and other association funds.

NOTE: Amounts deposited with a trustee under the terms of an irrevocable trust agreement for pensions or other employees' benefits shall be accounted for in accordance with the note to account 466, "Pensions and relief."

223 Amortization reserves; intangible assets.

(a) This account shall be credited with amounts charged to account 527, "Miscellaneous income charges," which will equitably distribute the cost of intangible assets over a definite period. When an intangible asset is sold or relinquished, or otherwise expires or is abandoned, the reserve shall be charged with the balance therein with respect to such asset and the remainder of the cost of the asset shall be charged to account 527.

(b) This account shall be maintained so that a separate reserve is stated for each item of intangible property.

229 Other reserves.

This account shall include the net credit balances representing reserves created by accruals to the appropriate accounts in operating expenses to meet the probable liabilities not covered by other reserves. When the liability is determined, this account shall be cleared and amount payable credited to the appropriate liability account.

NOTE A: The records supporting entries in this account shall be kept to show separately the transactions with respect to each separate reserve.

DEFERRED CREDITS

230 Incompleted voyage revenues.

This account shall include all voyage revenues of incompleted voyages or periods accrued and held in suspense until the voyage or period is completed, if the appropriate revenue accounts are not credited directly with such revenue. After each voyage or period has terminated, the revenues pertaining thereto shall be transferred to the appropriate operating-revenue accounts. The carrier may, if it so elects, credit the appropriate primary revenue account with the revenue as recorded, and at the end of each month transfer the revenue so recorded from such primary accounts to this account by voyage totals and reverse the entries in the succeeding month.

231 Premium on long-term debt.

(a) This account shall include the net total if a credit balance of all discount, expense, and premium accounts for long-term debt.

(b) When an issue of debt securities, or any part thereof, is refunded and at the date of refunding there is a balance of unamortized premium relating thereto, such amount shall be credited to account 507, "Miscellaneous income", or account 570, "Extraordinary items", as appropriate.

232 Other deferred credits.

(a) This account shall include the amount of all deferred credits not provided for elsewhere, such as:

Deposits by employees to assure the return of company property.

(b) This account shall include also the amount of credit balances in suspense accounts that cannot be entirely cleared and disposed of until additional information is received, such as:

Proceeds from passenger ticket sales representing tickets sold for future sailings or return portions of round-trip tickets.
Deposits on passenger, hotel, or shore excursion reservations, etc.
Proceeds from sales of damaged, unclaimed and over freight held awaiting claim.

(c) When the proper disposition of any item included in this account is determined, the amount thereof shall be debited to this account and concurrently credited to the appropriate account.

CAPITAL AND SURPLUS

240 Capital stock.

(a) This account shall include the total par value, or for stock without par value the money value of the consideration received, in respect to capital stock or other form of proprietary interest in the carrier which has been issued to bona fide purchasers and has not been reacquired and canceled, including the par value of capital stock nominally issued. It shall also include stock dividends representing appropriations of retained income. When capital stock is retired, this account shall be charged with the amount at which such stock is recorded herein.

(b) The credits hereto shall be divided as follows:

(1) Preferred stock (stocks having a preference or priority in respect to dividend participation).

(2) Common stock (stocks entitled to a dividend, if any, after preference stocks).

(c) A separate record shall be kept for each subclass showing the number of shares authorized by the articles of incorporation and amendments, the number of shares issued, the number of shares reacquired, the number of shares canceled, the number of shares outstanding, and their book value.

(d) The book value for nonpar stock reacquired shall be determined by a prorate of the amount recorded for shares of the particular subclass of stock of which the shares reacquired are a part actually outstanding immediately prior to the acquisition.

(e) In case capital stock is reacquired and held in the treasury or in sinking or other special funds, such stock shall be included in the appropriate accounts, in accordance with paragraphs (d) and (e) of instruction 26.

241 Capital stock subscribed.

This account shall include the amount of subscriptions to capital stock of the carrier. It shall be credited with the par value, or with the subscription price in case of stock without par value, exclusive of accrued dividends, if any. Concurrently, a debit shall be made to account 110, "Subscribers to capital stock," for the agreed price and any discount or premium shall be included in the appropriate account. When properly executed stock certificates have been issued, this account shall be debited and account 240, "Capital stock," credited.

243 Discount and expense on capital stock.

(a) This account shall include all discount suffered and commissions and expense incurred in connection with the issuance and sale of capital stock. Records supporting the entries to this account shall be so kept as to show the discount, commissions, and expense on each class and series of capital stock.

(b) When capital stock is reacquired, the amount in this account with respect to the shares reacquired shall be credited hereto.

245 Proprietorial capital.

This account shall include the permanent investment by one or more proprietors in the business of a water-line carrier when organized as an unincorporated firm, copartnership or otherwise than as an incorporated company subject to change only by additional investments or by withdrawals of amounts invested.

NOTE A: Amounts payable to the proprietors as fair and reasonable compensation for services performed shall be charged to the appropriate operating expense or other accounts.

NOTE B: Income and surplus accounts shall be maintained and entries thereto shall be made in accordance with the provisions thereof.

NOTE C: Separate subaccounts shall be kept to show the equity of each member of a copartnership, and the transactions affecting the interest of each partner.

250 Capital surplus.

(a) This account shall include surplus arising from sources other than those provided under retained income.

(b) Subaccounts shall be maintained as follows:

250–1 Premiums and assessments on capital stock.

(a) This account shall include the excess of actual cash value of the consideration received over the par value and accrued dividends, of par value stock issued, together with assessments against stockholders representing payments in excess of the par or recorded values as included in account 240, "Capital stock".

(b) When capital stock is reacquired the amount in this account with respect to the shares reacquired shall be charged hereto.

250–2 Paid-in surplus.

This subaccount shall include such items as gains from retirement or resale of reacquired or donated shares of capital stock; from forfeiture of subscriptions; from debt of the carrier forgiven by stockholders; and from reduction of the par or recorded value of capital stock when approved by the commission.

This subaccount shall be charged with amounts included herein capitalized by stock dividends or otherwise; losses from retirement or resale of reacquired shares up to an amount not in excess of credits herein applicable thereto; and may be charged with the amortization of discount and expense on capital stock to the extent of credits herein applicable thereto.

250–3 Other capital surplus.

This subaccount shall include capital surplus as defined herein arising from other sources.

260 Retained income—Appropriated.

(a) This account shall include the net balance of appropriations of retained income for replacement of capital assets, debt retirement, and other special or funded reserves. It shall also include income accretions to such funds when retained therein.

(b) A subdivision of this account shall be provided for each reserve, the title of which shall indicate the purpose of the reserve.

280 Retained income—Unappropriated.

(a) This account shall include the net balance, either debit or credit, of unappropriated retained income arising from earnings. It shall not include credits from reductions of the carrier's capital stock or transfers from capital surplus without the approval of the Commission.

(b) The balance of all retained income accounts (281 to 287, inclusive) shall be closed into this account at the end of each calendar year.

BALANCE SHEET STATEMENT

299 Form of balance sheet statement.

ASSET SIDE

I. CURRENT ASSETS

100—Cash		$
101—Imprest funds		
102—Special cash deposits		
103—Marketable securities		
104—Traffic and car-service balances—Dr.		
105—Notes receivable	$	
106—Affiliated companies—Notes and accounts receivable		
107—Accounts receivable		
108—Claims receivable		
109—Reserve for doubtful accounts		
110—Subscribers to capital stock		
112—Accrued accounts receivable		
113—Working advances		
114—Prepayments		
115—Material and supplies		
116—Other current assets		
Total current assets		

	Total issued	Held by or for respondent
LIABILITY SIDE—Continued		
X. LONG-TERM DEBT DUE WITHIN ONE YEAR		
210—Equipment obligations and other long-term debt due within one year		
XI. LONG-TERM DEBT DUE AFTER ONE YEAR		
211—Funded debt unmatured		
212—Receivers' and trustees' securities		
213—Affiliated companies—Advances payable		
218—Special deposits		
Total long-term debt		
XII. RESERVES		
220—Maintenance reserves		
221—Insurance reserves		
222—Pension and welfare reserves		
228—Amortization reserve—Intangible assets		
229—Other reserves		
Total reserves		
XIII. DEFERRED CREDITS		
230—Incompleted voyage revenue		
231—Premium on long-term debt		
232—Other deferred credits		
Total deferred credits		
XIV. CAPITAL AND SURPLUS		
CAPITAL STOCK	Total issued	Held by or for respondents
240—Capital stock		
241—Capital stock subscribed		
242—Discount and expense on capital stock		
Total capital stock		
245—Proprietorial capital		
CAPITAL SURPLUS		
250—Capital surplus:		
1. Premiums and assessments on capital stock		
2. Paid-in surplus		
3. Other capital surplus		
Total capital surplus		
RETAINED INCOME		
260—Retained income—Appropriated		
280—Retained income—Unappropriated		
Total retained income		
Total capital and surplus		
Total liabilities		
NOTE: Amount of cumulative dividends in arrears		
Amount of principal, interest, or sinking fund provisions of long-term debt in default		

	Total book assets at close of year	Respondent's own issues included
ASSET SIDE—Continued		
II. SPECIAL FUNDS		
123—Insurance funds		
125—Sinking funds		
124—Other special funds		
126—Special deposits		
Total special funds		
III. INVESTMENTS		
130—Investments in affiliated companies		
131—Other investments		
132—Reserve for revaluation of investments		
133—Cash value of life insurance		
Total investments		
IV. PROPERTY AND EQUIPMENT		
140—Transportation property		
150—Depreciation reserve—Transportation property		
151—Acquisition adjustment		
155—Improvements on leased property		
156—Amortization reserve—Leased property		
160—Noncarrier physical property		
161—Depreciation reserve—Noncarrier physical property		
Total property and equipment		
V. DEFERRED ASSETS		
166—Claims pending		
170—Other deferred assets		
Total deferred assets		
VI. SUSPENSE ITEMS		
171—Incompleted voyage expenses		
174—Debt discount and expense		
175—Other deferred debits		
Total deferred debits		
VII. ORGANIZATION		
180—Organization expense		
VIII. COMPANY SECURITIES		
190—Reacquired and nominally issued long term debt		
191—Reacquired and nominally issued capital stock		
Total assets		
LIABILITY SIDE		
IX. CURRENT LIABILITIES		
200—Notes payable		
201—Affiliated companies—Notes and accounts payable		
202—Accounts payable		
203—Traffic and car-service balances—Cr.		
204—Accrued interest		
205—Dividends payable		
206—Accrued taxes		
208—Accrued accounts payable		
209—Other current liabilities		
Total current liabilities		

Retained Income Accounts

281 Net income balance.

This account shall include the net balance of the income accounts for the calendar year.

CREDIT ACCOUNTS

283 Miscellaneous credits.

This account shall include other credit adjustments, net of assigned income taxes, not provided for elsewhere in this system, but only after such inclusion has been authorized by the Commission.

DEBIT ACCOUNTS

285 Miscellaneous debits.

(a) This account shall include losses from resale of reacquired capital stock, and charges which reduce or write off discount on capital stock issued by the company, but only to the extent that such charges exceed credit balances in paid-in surplus for shares reacquired.

(b) This account shall also include other debit adjustments, net of assigned income taxes, not provided for elsewhere in this system, but only after such inclusion has been authorized by the commission.

286 Miscellaneous reservations of retained income.

(a) This account shall include appropriations of retained income set aside in special reserve, including amounts appropriated to sinking fund and other special funds maintained by the carrier.

(b) Amounts charged to this account shall be credited to account 280, "Retained income—Appropriated." The use of this account is conditional upon the carrier's having an adequate credit balance in retained income.

287 Dividend appropriations of retained income.

(a) This account shall include amounts definitely declared payable from retained income as dividends on actually outstanding capital stock issued or assumed by the carrier, other than debenture stock. If a dividend is not payable in cash, the consideration shall be described in the entry with sufficient particularity to identify it.

(b) This account shall be subdivided so as to show separately the dividends on the various subclasses of capital stock.

NOTE: This account shall not include dividends on capital stock issued or assumed by the carrier and owned by it, whether pledged as collateral or held in its treasury, in special deposits, or other special funds.

Income Accounts

ORDINARY ITEMS

300 Water-line operating revenues.

This account shall include the total revenues derived from transportation service as detailed in primary operating revenue accounts number 301 to 355, both inclusive.

OPERATING REVENUE; LINE SERVICE

301 Freight revenue.

This account shall include the revenue accruing from the transportation of freight upon the basis of lawful tariff rates or special contracts.

Items to be credited:

1. Revenue upon the basis of local freight tariff rates.
2. The carrier's proportion of revenue upon the basis of just freight tariff rates.
3. Revenue from the transportation of mail matter and empty mail pouches at freight rates.
4. Arbitraries in the division of joint freight rates for such allowances as cargo insurance, and similar items.
5. Revenue from transportation of freight on basis of special contract excluding towing in line service for other regulated carriers.
6. Revenue from towing service performed for private carriers.
7. Revenue from charter rental of vessels to shippers when such rental is dependent upon the commodities and volume of freight transported.
8. Revenue from the transportation of automobiles at special rates when incident to the transportation of passengers.
9. The proportion accruing to the carrier of revenue from pools for the purpose of equalizing revenues.

Items to be charged:

1. Refunds of overcharges due to erroneous weights, measurements, rate classifications, or computations.
2. The carrier's proportions of refunds on account of errors in routing and billing.
3. The carrier's proportions of uncollected charges on lost, damaged, or destroyed shipments where neither shipper nor consignee is liable.
4. Foreign lines' proportions of overcharges assumed by the carrier under reciprocal rule establishing a voucher minimum.
5. Amounts payable for switching service and collection and delivery service when performed as part of the transportation of freight.

NOTE A: Other carriers' proportions of uncollectible undercharges paid by the carrier on account of its errors in routing and billing shall be charged to account 450, "Other terminal operations."

NOTE B: Other carriers' proportions of uncollected tariff charges paid by the carrier on freight lost, destroyed, or damaged in transit shall be charged to account 452, "Loss and damage—Freight," when not recoverable from insurance.

NOTE C: This account shall be maintained to show separately payments and allowances (a) to rail carriers, (b) to motor truck operators and others, and (c) allowances to shippers and consignees for collection and delivery service and switching service when performed at terminals as part of the transportation of freight on basis of tariff rates.

302 Passenger revenue.

This account shall include the revenue accruing from the transportation of passengers based upon lawful tariff fares.

The credits to this account shall appear under appropriate subheads as follows:

1. Revenue from transportation of passengers not including sleeping accommodations and meals.
2. Revenue from the rent of staterooms, berths in staterooms, and other sleeping and living accommodations.
3. Revenue from the sale of meals and food supplies.
4. Revenue from the transportation of passengers, including sleeping accommodations and meals (when not separable).

Items to be credited:

1. Revenue upon the basis of local fares.
2. The carrier's proportion of revenue from joint tariff fares.
3. Revenue from extra fares for limited service.
4. Revenue from mileage and scrip coupons honored.
5. Revenue from the transportation of corpses.

Items to be charged:

1. Redemptions of unused or partially used local passenger tickets.
2. The carrier's proportion of redemptions of unused or partially used joint tariff passenger tickets.
3. Refunds of overcharges resulting from collections in excess of lawful fares.

NOTE: No credits shall be included in this account for transportation, accommodations, and meals furnished employees.

303 Baggage.

This account shall include the revenue accruing from the transportation of baggage in excess of free authorized allowance; also the revenue from the transportation of packages, baby carriages, bicycles, animal pets, and other articles at other than freight or express tariff rates.

304 Mail.

This account shall include the revenue accruing from the transportation of mail at established rates for specific routes; from the use of special facilities; from bonuses for special mail transportation; and all other revenues accruing under the terms of general mail contracts with the Government.

Items to be charged: Fines and penalties imposed by the Government when not collected from agents or employees.

NOTE A: The revenue from the transportation of mail matter and empty mail pouches as freight shall be included in account 301, "Freight revenue."

NOTE B: When contracts with the Government provide specific amounts for the rent of mail facilities at stations, such amounts shall be included in account 342, "Other rent revenue."

305 Express.

This account shall include the revenue accruing from transportation of express matter and from the use of facilities on vessels and at stations incident to such transportation.

When a carrier transacts an express business through its regular organization, the revenue therefrom shall be credited to this account.

NOTE: When contracts for express privileges provide specific amounts for the rent of facilities at stations, such amounts shall be included in account 342, "Other rent revenue."

306 Miscellaneous voyage revenue.

This account shall include the revenue earned by a carrier from sources incidental to transportation service and not provided for elsewhere.

Items to be credited:

1. Receipts from the sale of tobacco, cigars, cigarettes, beverages, mineral waters, ice cream, and buffet and bar supplies.
2. Receipts from the sale of books, periodicals, and other newsstand supplies.
3. Revenue from the rent of steamer chairs, rugs, and cushions.
4. Revenue from parcel rooms on vessels.
5. Revenue from weighing and vending machines on vessels.
6. Revenues from pay toilets on vessels.
7. Commissions from baggage insurance sold.
8. Tolls on radio messages.
9. Revenue from concession given to others to sell buffet and other supplies on vessels.
10. Revenue from the furnishing of exclusive service of stewardesses, stewards, or other vessel employees to passengers.
11. Revenue from barber or valet services rendered to passengers.
12. Revenue from telephone calls made from ship.
13. Revenue from refrigeration aboard vessels.
14. Revenue from special services by vessels in assisting other craft when aground, helping through cutoffs, catching vessels adrift, and other similar services.

312 Demurrage.

This account shall include per diem earned by the carrier for use of equipment on account of delay in excess of free time in loading and discharging cargo or releasing equipment.

313 Revenue from towing for regulated carriers.

This account shall include the revenue derived from services performed for other regulated water carriers in towing loaded or empty barges, and other similar equipment by line vessels.

NOTE A: Charges assessed against the carrier for whom such services are performed shall be included in account 420, "Outside towing expenses."

NOTE B: Revenue derived from towing performed for private carriers shall be included in account 301, "Freight revenue."

OTHER OPERATING REVENUE

320 Special services.

This account shall include the revenue from short excursions or special trips at lump-sum charges for such services between designated points.

321 Ferry service.

(a) This account shall include the revenue from the transfer by ferry of freight, passengers, vehicles, and livestock upon the basis of tariff rates for services performed.

(b) The credits to this account shall be recorded under appropriate subheads as follows:

1. Freight.
2. Passengers.
3. Vehicles and livestock.
4. Other.

REVENUE FROM TERMINAL OPERATIONS

331 Revenue from cargo-handling operations.

This account shall include the revenue derived from the performance by the carrier of stevedoring and other cargo-handling services for others, such as checking, tallying, receiving, transferring, delivering, coopering, and use of gear and equipment, including wharfage, transfer, handling and car loading and unloading when allowed as arbitraries in division of rates.

332 Revenue from tug and lighter operations.

This account shall include the revenue derived from services performed by the carrier for others by its tugs, lighters, barges, scows, launches, floating cranes, and similar floating equipment, including rental of equipment, arbitraries allowed in division of lighterage rates and demurrage on lighter and other harbor equipment.

333 Agency fees, commissions, and brokerage.

This account shall include revenue derived from agency fees, commissions, and brokerage covering services rendered to others when acting as agents for their vessels.

334 Miscellaneous operating revenue.

This account shall include revenue derived from shore operations incidental to the shipping business for which no other accounts are provided.

Items to be charged:

1. Revenue from advertising space in timetables, folders, and magazines.
2. Revenue from amusement parks.
3. Forwarding fees.
4. Revenue from clergy bureaus.
5. Revenue from commissions for collecting from employees premiums on insurance policies and installment payments for books, watches, etc.
6. Revenue from commissions received on ticket sales.
7. Revenue from garnishment fees.
8. Revenue from penalties for loss of baggage and parcel-check.
9. Revenue from operation of parcel rooms and lavatories at terminals.
10. Revenue from public telephone messages.
11. Revenue from sale of electricity.
12. Revenue from the sale of tariffs.
13. Revenue from sight-seeing tickets sold.
14. Revenue from storage of freight.
15. Revenue from ticket-validation agencies.
16. Revenue from vending machines at terminals.
17. Revenue from waste paper and old records sold.
18. Revenue from water sold.
19. Revenue from protective service such as refrigeration and precooling.
20. Insurance collections in excess of expenses applicable to maintenance or operation.
21. Revenue from watchmen's services.
22. Revenue from holding charges.
23. Revenue from terminal operations not provided for elsewhere.

RENT REVENUE

341 Revenue from charters.

(a) This account shall include the revenue receivable by the carrier under contract for the charter of its vessels to other carriers (or to shippers when the amount receivable for charter is not dependent upon the commodities and volume of freight transported) such as bare boat and time charters.

(b) The carrier shall include the charter revenue receivable under the contract in this account and shall include in the appropriate operating-expense accounts, the operating expenses, if any incurred and borne by it in operating vessels so chartered.

NOTE: Charter revenue derived from rental of vessels to shippers where such revenue is dependent upon the commodities and volume of freight transported shall be included in account 301, "Freight revenue."

342 Other rental revenue.

This account shall include the amounts derived from rental or lease of terminal facilities by the carrier to others including dockage, side wharfage, top wharfage, use of doorways, lights, etc., including revenue from freight and passenger privileges over the carrier's wharves and docks.

MOTOR-CARRIER OPERATIONS

351 Motor-carrier revenue.

(a) This account shall include the operating revenues accruing to the carrier from the transportation of passengers, freight, express, and mail by motor vehicles operated in highway service in addition to or in lieu of services performed by vessels.

(b) The carrier shall maintain the primary revenue accounts prescribed by the Commission in the uniform systems of accounts for motor carriers of property and persons.

355 Interdepartmental credits.

If a carrier so elects, this account may include amounts which are credited to appropriate primary revenue accounts and concurrently charged to appropriate primary operating expense accounts representing interdepartmental items in connection with the operation of the carrier's terminal facilities while used by its own vessels in its own service. The carrier shall maintain subaccounts corresponding to the primary revenue accounts to which such credits shall be first allocated, and after closing the accounts, the amounts in these subaccounts shall be transferred to this account. In preparing and rendering reports to this Commission, the amounts in this account shall be omitted.

(*Continued on Page 20383, Section 3*)

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PART II
Section 3

Interstate Commerce Commission

REPUBLICATION AND REDESIGNATIONS OF REGULATIONS

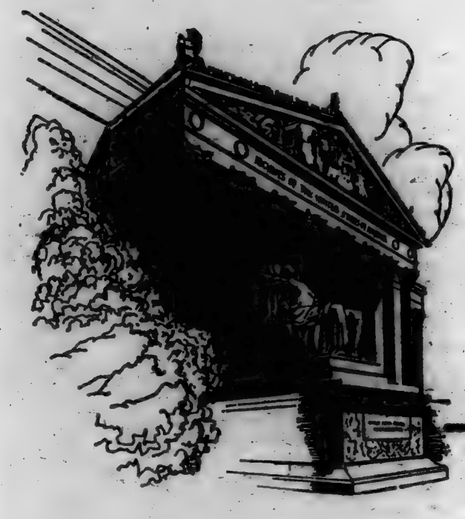

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Small Carriers

399 Condensed revenue accounts for small carriers.

Accounts To Be Kept by Class A Companies

I. Operating Revenue—Line Service

301. Freight revenue.
302. Passenger revenue.
303. Baggage.
304. Mail.
305. Express.
306. Miscellaneous voyage revenue.
312. Demurrage.
313. Revenue from towing for regulated carriers.

Accounts To Be Kept by Class C Companies

II. Other Operating Revenue

320. Special services.
321. Ferry service.

III. Revenue from Terminal Operations

331. Revenue from cargo-handling operations.
332. Revenue from tug and lighter operations.
333. Agency fees, commissions, and brokerage.
334. Miscellaneous operating revenue.

IV. Rent Revenue

341. Revenue from charters.
342. Other rent revenue.

V. Motor-Carrier Operations

351. Motor-carrier revenue.

Accounts To Be Kept by Class B Companies

I. Operating Revenue—Line Service

301. Freight revenue.
302. Passenger revenue.
303. Other line service revenues.
313. Revenue from towing for regulated carriers.

Accounts To Be Kept by Class A Companies

II. Other Operating Revenue

320. Special services.
321. Ferry service.

III. Revenue from Terminal Operations

331. Terminal revenues.

IV. Rent Revenue

341. Charter and other rents.

V. Motor-Carrier Operations

351. Motor-carrier revenue.

Operating Expenses

400 Water-line operating expenses.

This account shall include the total expenses incurred in conducting transportation services as detailed in primary operating expense accounts number 401 to 495, both inclusive.

Maintenance Expenses

401 Supervision.

This account shall include the pay of department heads and their assistants directly in charge of and engaged in maintenance, including clerks and attendants and the office and other expenses of the employees whose pay is chargeable to this account.

Items

Auto service.
Books.
Directories.
Express charges.
Heat.
Ice.
Light.
Maps and plans.
Membership in association.
Newspapers.
Periodicals.
Photographs.
Supplies for cleaning.
Supplies for office.
Stationery and printing.
Telegraph and telephone.
Traveling expenses.
Wireless service.

Note: When department heads have direct supervision over other operating departments, the pay and expenses of their office shall be apportioned equitably over the departments under their supervision.

402 Repairs of floating equipment.

This account shall include the cost of material and labor expended in making repairs to vessels and other floating equipment directly attributable to replacement or restoration to a satisfactory condition of damaged and worn parts of vessels and other floating equipment, their machinery and fixtures comprising integral parts of such units.

The following is a representative list of items:

(a) *Repairs to hull.*
Beam frames, floors, girders, stringers.
Bulkheads and watertight.
Cargo lights and accessories.
Cargo ports and hatches.
Caulking decks.
Cost of surveys.
Credit for salvage material.
Deck houses, doors, windows, canvas decks, companionways, skylights.
Decks and superstructure.
Degaussing-Depermining, wiping and flashing.
Derricks, cargo cranes.
Dry-docking and painting bottom.
Fire and general alarm systems.
Hold stanchions and ladders.
Loud speakers.
Other mechanical work on deck fitting and appliances.
Other miscellaneous hull work.
Railings, port lights, scuttles, coal holes, and ventilators.
Rudder and attachments (including quadrant).
Sea chests and sea valves.
Shell plating, deck plating, bulkheads, casings, built-in tanks, tank tops.
Sluice gates, bilge suction systems, sounding pipes, scuppers, fire-main.
Sprinklers.
Steering-gear loads, sheaves, controlling gear.

(b) *Repairs to machinery.*
Air conditioning equipment.
All pumps, independent and attached to engine.
Ash-hoisting apparatus, discharge pipe and hopper.
Auxiliary condenser.
Boiler ash pans, ash guards, and boiler repairs.
Boiler casting for furnace, connecting doors (labor).
Boiler furnaces and combustion chambers.
Boiler heads and shell.
Boiler smoke pipe, uptakes, furnace fronts.
Boiler tubes.
Boiler valves and mounting.
Blowers and airducts.
Capstans.
Cargo winches.
Dynamos and electrical fittings.
Electric generators and switchboards (including those for space occupied by machinery only).
Engine and boiler room floor plates and supporting structures.
Evaporators, distiller, filter tanks, donkey tank.
Hoisters.
Insulation on machinery, boilers, piping (not including sanitary lines, heating system, refrigerating or fresh water service).
Large ventilating fans.
Main condenser.
Main engine cylinders, pistons, valves, main engine parts, thrust bearings.
Piping fixtures, valves (not including sanitary, heating, refrigerator, or fresh water system).
Propeller, shafting and stern tube.
Refrigerating apparatus as far as loads to storage boxes.
Steering engine.
Windlass.

(c) *Repairs to fixtures.*
Brickwork on floors, tiling, asphalting cementing.
Drinking tanks, filters, fountains.
Emergency escape panel kickout.
Ice boxes, refrigerating pipes and insulation.
Labor and material on heating system, steam to galley and pantry.
Labor and material—sanitary, drains, fresh water, hand pumps, sinks.

(d) *Miscellaneous.*
All repairs to floating equipment not provided elsewhere. Towage of floating equipment to and from repair yards and docking and undocking.

Note: The cost of repairs resulting from casualties shall be charged to account 166, "Claims pending," when covered by insurance. See account 473, "Hull insurance and damage," with respect to amounts not recoverable from insurance companies.

404 Repairs of buildings and other structures.

This account shall include:

1. Cost of material used and labor expended in repairing fixed improvements of all classes, such as wharves, docks, and other landings or structures; pontoons, slips, sea walls, bulkheads, jetties, drydocks, and inclines thereto, including filling, strengthening, bracing, and painting.

2. Cost of repairing crib-work, racks, and bulkheads constructed for preserving the depth of water secured by dredging.

3. Cost of dredging to restore the depth of water.

4. Cost of repairs to guard and other piling, also cutting ice around docks and wharves to prevent damage, expenditures for protection against fire, and other expenses of a like nature.

5. Cost of repairs to general office and other buildings or structures, platforms, inclines to buildings.
6. Cost of repairing fixtures, machinery, and appurtenances.

Labor and material used in repairing the following:

Alarm system.
Arc lights.
Asbestos covering for boilers and pipes.
Asphalt.
Awnings.
Baggage rooms.
Bars and window.
Bins for material.
Blacksmith shops.
Boiler foundations.
Boiler rooms.
Boilers.
Boiler shops.
Boiler tubes.
Booths, telephone.
Bracing.
Breakwaters for protection of structures.
Buildings.
Bulkheads.
Canopies.
Carpenter shops.
Chutes.
Cisterns.
Coaling trestles.
Cofferdams.
Cord, window sash.
Counters.
Cross ties.
Docks.
Doors.
Door stops.
Drainage and sewage systems.
Drinking fountains.
Driveways.
Dynamos.
Eating rooms.
Electric light plants.
Electric wiring.
Elevators and machinery.
Express on repair material.
Faucets.
Fences.
Fenders, dock.
Fire buckets.
Fire houses.
Fire escapes.
Fire lines.
Fire sprinkler lines.
Floors.
Foundations.
Foundries.
Freight charges on repair material.
Freight cranes and derricks attached to buildings.
Freight house.
Fuel stations.
Garage buildings.
Gates.
General office buildings.
Grain elevators.
Grain warehouses.
Greenhouses.
Heating plants.
Hedges.
Hoisting engines for handling freight.
Hosehouses.
Hydrants.
Icehouses.
Lighting plants.
Lumber sheds.
Machine shops.
Office buildings.
Paint and painting.
Paint shops.
Partitions.
Pavement within grounds.
Piers.
Piling.
Pipe lines, interior.
Plumbing.
Power plants.
Pumping stations.
Radiators.
Railings.
Ramps.
Refrigeration plants.
Roofing.
Screens, window and door.
Shelving.
Shops.
Sidewalks.
Sprinkler systems.
Stables.
Stairs.
Steam and hot water distributing system.
Storehouses.
Skylights.
Toilets.
Tracks.
Vaults.
Ventilators.
Waiting rooms.
Wash bowls.
Wash rooms.
Watchhouses.
Water meters.
Water-supply systems.
Wharves.
Windows.
Window shades.

NOTE A: The cost of repairs of movable equipment of fixed structures shall be included in account 405, "Repairs of office and other terminal equipment."

NOTE B: The cost of repairs resulting from casualties shall be charged to account 166, "Claims pending," when covered by insurance. See account 477, "Other insurance" with respect to amounts not recoverable from insurance companies.

405 Repairs of office and terminal equipment.

This account shall include the cost of material and repair parts used and labor expended in repairing all movable equipment of building and other fixed terminal structures.

SHOP EQUIPMENT

Acetylene cutting and welding machines.
Anvils.
Assorted dies and blocks.
Belting.
Bench vises.
Blue printing machines.
Bolt cutter.
Boring bar.
Boring brasses.
Burning torches.
Cages.
Cast iron face plate.
Chain blocks.
Charging boards.
Chisels.
Compressed-air equipment.
Crosscut saw.
Die stock ratchet.
Drill press.
Drills.
Electric drills.
Emery grinder.
Forges.
Furnaces.
Hydraulic jacks.
Iron horse.
Lathe.
Magnetos.
Motors.
Mould filling brasses.
Paint burners.
Paint spraying machine.
Pipe cutter.
Photostatic machine.
Portable boring bars.
Portable electric grinder.
Power machine.
Power saw.
Propeller fan.
Punch and shears.
Reamers.
Riveters' hammers.
Saws.
Scales.
Scaling hammers.
Sewing machines.
Shapers.
Sledges.
Stamping tools.
Stationary engine.
Steam hammer.
Steam-test pump.
Stencil machine.
Stilson wrenches.
Swedges.
Taper shanks.
Tools.
Torches.
Tube expanders.
Twist drills.
Twist drill and tool grinder.
Ventilating set.
Vises.
Wire cutters.
Wrenches.

OFFICE EQUIPMENT

Adding machines.
Addressing machines.
Billing and bookkeeping machines.
Blackboards.
Blueprinting machines.
Book cases.
Brief cases.
Cabinets.
Calculating machines.
Cameras.
Carpets.
Chairs.
Check protectors.
Clocks.
Comptometer machines.
Costumers.
Counters.
Desks.
Dictaphones.
Display racks.
Drafting and engineering instruments.
Duplicating machines.
Filing cabinets.
Fire extinguishers.
Floor covering.
Floor scrubbing and polishing equipment.
Guns.
Lamps.
Linoleum.
Lockers.
Mailing machines.
Mimeograph machines.
Numbering machines.
Pictures.
Polishing machines.
Printing press and printing equipment.
Refrigerators.
Rugs and floor coverings.
Safes.
Scales.
Settees.
Shelving, portable.
Stools.
Stoves.
Tables.
Typewriters.
Vacuum cleaners.
Vending machines.

WHARF EQUIPMENT

Airplane platforms.
Batteries.
Bumpers.
Canvas covers.
Canvas slings.
Cargo blocks.
Cargo chutes.
Cargo hooks.
Cargo rollers.
Chains.
Chain slings.
Coal buckets.
Conveyors and belts, castors and rollers.
Cranes, movable.
Crow bars.
Derricks, movable.
Drum hoisters.
Electric truck warehouse.
Escalators and castors, chains, and gears.
Fire barrels.
Fire buckets.
Fire hose.
Freight-handling equipment.
Gangplanks.
Gangways.
Gas tanks.
Hand trucks.
Hardware.
Lawn mowers.
Lift jacks.
Motor trucks, warehouse.
Mechanical parts for wharf equipment.
Paper slings.
Platforms.
Platform scales.
Platform trays.
Platforms, truck.
Pontoons.
Racks.
Rope.
Rope slings.
Scales, dock.
Seats.
Skids.
Tarpaulins.
Tents, canvas.
Tools, miscellaneous.
Tractors, warehouse.
Trailers, warehouse.
Trucks and truck bodies, warehouse.
Ventilator and heaters.
Wharf fenders.
Wheels.
Wire falls.
Wire-rope slings.

GARAGE EQUIPMENT

Air compressors and tanks.
Anvils.
Arbor presses.
Battery-charging outfits.
Belts, shafts, and countershafts.
Boring and reaming machines.
Car washing machines.
Cranes and hoists (portable).
Creepers.
Drill presses.
Electric equipment.
Engines and boilers.
Forges.
Gasoline, oil pumps, and portable tanks.
Greasing racks and pumps.
Grinders.
Jacks.
Lathes.
Lockers.
Machine tools.
Motor-driven hand tools.
Oil reclaiming machines.
Paint sprayers.
Pneumatic tools.
Storage bins and shelves (portable).
Storeroom equipment, except office.
Stoves.
Testing equipment.
Tire-changing equipment.
Tool racks.
Vises.
Vulcanizing equipment.
Weighing devices.
Welding apparatus.
Wheel pullers.
Work benches.

406 Repairs of highway equipment.

This account shall include the cost of labor, material, and other expenses incurred in the maintenance of highway vehicle and service equipment used in motor operations subject to parts I and III of the Interstate Commerce Act.

HIGHWAY EQUIPMENT

Automobiles.
Buses.
Lift vans.
Tractors, trailers, and semitrailers.
Trucks.

NOTE: The cost of repairing motor highway equipment subject to part II of the Interstate Commerce Act is chargeable to account 491, "Motor-carrier expenses."

407 Shop expenses.

This account shall include the cost of labor, material, and other expenses incurred in the operation of machine shops at which mechanical work is done.

ITEMS OF EXPENSE

Cleaning shops and yards.
Fuel, lubricants, etc.
Heat, light, and power.
Ice used in shops.
Portable hand tools of short life.
Supplies used in shops.

NOTE: When work done is chargeable to others, the expenses of operating the shop shall be included in a suspense account and only the carrier's proportion shall be cleared to this account.

408 Other maintenance expenses.

This account shall include all expenses incident to the maintenance of property used in transportation service for which no other account is provided.

DEPRECIATION AND AMORTIZATION

411 Depreciation; transportation property.

This account shall include the amount of depreciation charges applicable to the accounting period for all depreciable transportation property currently operated in the service of the carrier.

413 Amortization of investment; leased property.

(a) This account shall include the amount of amortization charges applicable to the accounting period relating to the carrier's investment in improvements on leased property.

(b) The amortization charges shall be computed to distribute as nearly as practicable the book cost of such investments in equal annual charges over the period of their useful life in the service of the carrier.

TRANSPORTATION EXPENSES

LINE SERVICE

421 Supervision.

This account shall include the pay of department heads and their assistants in charge of or engaged in the operation of vessels in line service, including the pay of clerks and attendants and office and other expenses of employees whose pay is chargeable to this account.

ITEMS OF EXPENSE AND SUPPLIES

Auto service.
Books.
Directories.
Express charges.
Heat.
Ice.
Light.
Maps.
Membership in associations.
Newspapers.
Painting signs on office doors.
Periodicals.
Photographs.
Supplies for cleaning.
Supplies for office.
Stationery and printing.
Telegraph and telephone.
Traveling expenses.
Wireless service.

NOTE: When department heads have direct supervision over other operating departments, their pay and expenses, and the pay and expenses of their employees, shall be apportioned equitably among the departments over which they have supervision.

422 Wages of crews.

This account shall include the wages of crews of vessels engaged in line service.

(a) *Deck department.* The pay of captains and all other employees of the deck department.

LIST OF EMPLOYEES

Boatswains.
Captains.
Carpenters.
Chief officers.
Deck hands.
Mates.
Pilots.
Portmen.
Quartermasters.
Sailors.
Seamen.
Watchmen, deck, cargo, and saloon.
Wireless telegraph operators.

(b) *Engineers' department.* The pay of chief engineers and all other employees of the engineers' department.

LIST OF EMPLOYEES

Assistant engineers.
Chief engineers.
Coal passers.
Electricians.
Firemen.
Oilers.
Plumbers.
Watertenders.
Wipers.

(c) *Stewards' department.* The pay of pursers and all other employees of the stewards' department.

LIST OF EMPLOYEES

Bakers.
Barbers.
Bellboys.
Butchers.
Cashiers.
Chefs.
Cooks.
Cruise directors.
Dishwashers.
Doctors.
Entertainers.
Food checkers.
Hostesses.
Messboys.
Messmen.
Musicians.
Nurses.
Pantrymen.
Porters.
Printers.
Pursers.
Scullions.
Stewardesses.
Stewards.
Storekeepers.
Telephone operators.
Waiters.

NOTE: When vessels are laid up in inactive service, the pay of the crews while engaged in repair work shall be charged to the appropriate accounts for repairs. If not engaged in repair work, the pay of the crews shall be charged to account 433, "Lay-up expenses."

423 Fuel.

This account shall include the cost of coal (including trimming when purchased f.o.b. lighters), oil, wood, and other fuel used for generating power, heat, and light on vessels in line service. This account shall also include the cost of analyzing or testing the quality of ships' fuel.

NOTE: When vessels are laid up in inactive service, the cost of fuel consumed during such period shall be charged to account 433, "Lay-up expenses."

424 Lubricants and water.

This account shall include the cost of oil, grease, tallow, graphite, and other lubricants; also of water and cost of analyzing and treating water for boilers of vessels in line service.

NOTE: When vessels are laid up in inactive service, the cost of lubricants and water used during such period shall be charged to account 433, "Lay-up expenses."

425 Food supplies.

This account shall include the cost of food furnished to the stewards' department of vessels in line service and consumed by officers, crew, and passengers, including cost of delivery on board and inspection.

LIST OF SUPPLIES

Bread.
Butter.
Cakes.
Cereals.
Cheese.
Coffee.
Condiments.
Crackers.
Cream.
Dry provisions.
Eggs.
Extracts.
Fish, fresh, salted and canned, shell, and frozen.
Flour.
Fruits, fresh, preserve and dry.
Groceries.
Honey.
Ice cream.
Ices.
Jams.
Jellies.
Juices, fruit, berry, and vegetable.
Milk.
Molasses.
Meats, fresh, salted, and prepared.
Nuts.
Olives.
Pickles.
Poultry.
Preserves.
Relishes.
Rolls.
Salt.
Sauces.
Sugar.
Spices.
Tea.
Vegetables, fresh, and canned.
Yeast products.

NOTE A: Food, such as fruit, ice cream, ices, etc., sold as buffet supplies shall be charged to account 427, "Buffet supplies."

NOTE B: When vessels are laid up in inactive service, the food consumed during such period shall be charged to account 433, "Lay-up expenses."

426 Stores, supplies and equipment.

This account shall include the cost of stores, supplies and equipment used by the deck department, the engineer's department, and the stewards' department of vessels in line service.

DECK AND ENGINEER'S DEPARTMENT

Acids.
Alcohol.
Ammonia.
Antiseptics.
Asbestos.
Ash bags.
Asphalt.
Atomizers.
Axes.
Babbitt metal.
Badges.
Barometer charts.
Batteries.
Beeswax.
Bits.
Blocks.
Boiler compound.
Belts.
Boxes.
Brass.
Brass sheet.
Bricks.
Brooms and brushes.
Buckets.
Bulbs, electric light.
Burlap.
Buttons for uniforms.
Calipers.
Can, squirt.
Candles.
Cans, oil.
Canvas.
Caps.
Carbonic acid gas.
Carbons, searchlight.
Cement.
Chalk.
Charts.
Cheesecloth.
Chemicals.
Chisels.
Clamps.
Coal bags.
Coffin.
Cost of delivery on board of steam.
Couplings, hose and pipe.
Cups, oil and grease.
Curled hair.
Dies.
Disinfectants.
Drayage on stores.
Drills.
Drinking cups.
Dry cells.
Drugs and medicines.
Dusters.
Dustpans.
Elbows.
Electric plugs.
Emery.
Emery cloth.
Excelsior.
Extinguishers, fire.
Files.
Fins.
Filter sheets.
Fire clay.
Fire extinguishing supplies.
First-aid kits.
Flags.
Flashlights.
Freight or express charges on stores.
Funnels.
Fuses.
Gaskets.
Gasoline.
Gauze, wire.
Glass, ground.
Globes.
Glue.
Glycerine.
Grommets.
Halyards, signal.
Hammers.
Hand tools.
Hatchets.
Hinges.
Hooks.
Hooks, boat.
Hose, water, steam, and metallic.
Hydrometers.
Ice.
Kerosene.
Lampblack.
Lamp burners.
Lamp chimneys.
Lamp guards.
Lamp oil.
Lamp wicks.
Lantern globes.
Lead, red.
Lead, white.
Line.
Linseed oil.
Lumber for dunnage.
Mail bags.
Maps.
Marline.
Marline spikes.
Master's permit.
Matches.
Medical and surgical supplies.
Medicines.
Metal polish.
Mop wringer pails.
Mops.
Nails.
Nipples.
Nozzles, hose.
Nuts.
Oil.
Oxalic acid.
Packing.
Padlocks.
Pails.
Paint.
Paint remover.
Paper cups.
Paste, polishing.
Pennants.
Plugs, fusible.
Plugs, pipe.
Polish, metal and other.
Potash.
Powder, soap.
Pumice stone.
Putty.
Rags.
Rat traps.
Rivets.
Rockets.
Rope.
Sail needles.
Sand.
Sandpaper.
Sawdust.
Saws.
Screw drivers.
Screws.
Sheet rubber.
Shellac.
Shovels.
Signal oil.
Small tools.
Soap.
Soda ash.
Solder.
Soldering supplies.
Sponges.
Springs.
Staples.
Stoppers.
Tacks.
Tallow.

Tape.
Tar.
Telephone charges.
Thermometers.
Tin, sheets of.
Tobacco cloth.
Torches, blow.
Trowels.
Turpetine.
Twine.
Uniforms.
Valves.
Varnish.
Washers.
Waste.
Wicks.
Wire.
Wrenches.
Zinc, white.

STEWARDS' DEPARTMENT

Aprons, coats, caps, uniforms for employees.
Badges, waiters.
Bed sheets.
Bedding.
Blankets.
Books for library.
Bowls.
Chinaware.
Cooking utensils.
Counterpanes.
Covers, pillow and mattress.
Crew eating gear.
Crockery.
Dishes.
Drinking cups, paper.
Epaulets.
Floral or other decorations.
Fresh water for drinking.
Freight or express charges on stores.
Fuel for cooking.
Galley fuel.
Glassware.
Ice.
Kettles.
Kitchen utensils.
Linen.
Matches.
Mattresses.
Mattress covers.
Menu.
Musical instruments.
Music rolls.
Napkins.
Neckties.
Nut crackers.
Pans.
Paper cups, napkins, and towels.
Phonograph records.
Pillows and pillow cases.
Pots.
Radio tubes, batteries, and parts (for passenger entertainment).
Sheets.
Sheet music.
Silverware.
Slips, pillow.
Soap.
Stationery and post cards for passenger use.
Suits.
Tableware.
Tablecloths.
Toilet paper.
Toothpicks.
Towels and toweling.

NOTE: When vessels are laid up in inactive service, the cost of stores, supplies, and equipment consumed during such period shall be charged to account 433, "Lay-up expenses."

427 Buffet supplies.

This account shall include the cost of buffet supplies for vessels in line service.

LIST OF BUFFET SUPPLIES

Alcoholic beverages.
Candy.
Carbonic acid gas.
Cigarettes.
Cigars.
Fruit.
Ice cream.
Mineral water.
Periodicals.
Post cards.
Souvenirs.
Tobacco.

428 Other vessel expenses.

This account shall include expenses incurred incident to the operation of vessels in line service and not properly chargeable to other accounts.

ITEMS OF EXPENSE

Ashes, removal of.
Ballast expense.
Board and room allowance for crew on shore.
Canal tolls
Capacity plans.
Carrier's proportion of expenses incurred in operating pools for the purpose of equalizing revenues.
Chronometers, rating.
Compass, adjusting.
Crew, transportation and cost of securing.
Emblems.
Fresh water.
Garbage service.
Inventory expense.
Launch hire.
Lights furnished from shore.
Masters, expenses of.
Medical examinations of ship personnel.
Payroll expense.
Pianos, tuning.
Postage and petties.
Rental of motion picture reels.
Rental of radio equipment.
Rental of submarine signal apparatus.
Seaworthy certificate.
Stationery and printing.
Steam furnished.
Taxi hire.

NOTE: When vessels are laid up in inactive service, such expenses shall be charged to account 433, "Lay-up expenses."

429 Outside towing expenses.

This account shall include amounts paid to others for towing services performed for the carrier by line vessels of others not under charter.

430 Wharfage and dockage.

This account shall include expenditures for the privilege of using docks, wharves, piers, trestles, or floats belonging to others, for loading and discharging cargo, and for mooring vessels in line service.

This account may be subdivided in order to allocate wharfage and dockage expenses between those incurred for boats and those incurred for barges.

NOTE A: Tollage charge assessed on cargo on a per ton basis for the privilege of handling freight over docks is chargeable to account 443, "Stevedoring."

NOTE B: When vessels are laid up in inactive service, the expenditures for wharfage and dockage incurred by such vessels during such period shall be charged to account 433, "Lay-up expenses."

431 Port expenses.

This account shall include expenses and charges incident to port service of vessels in line service.

LIST OF CHARGES

Anchorage dues.
Bridges, opening.
Brokerage, customs.
Buoy hire.
Cargo dues.
Certificates, loading and discharging.
Chamber of Commerce dues.
Clearance dues and fees.
Consular fees and tonnage charges.
Customhouse dues.
Customs house, overtime.
Entry dues and fees.
Fumigation.
Handling lines.
Harbor dues.
Health office dues and fees.
Lighthouse dues.
Mooring and unmooring.
Packet privileges.
Permit for loading and discharging.
Pilotage.
Port dues and taxes.
Quarantine expenses.
Running lines.
Sanitary dues.
Shifting vessels.
Stamp for manifests.
Stamp tax and stamp paper.
Tonnage dues.
Towage.
Tug operation or hire.
Watching vessel.

NOTE: When vessels are laid up in inactive service, the expenses incident to port service shall be charged to account 433, "Lay-up expenses."

432 Agency fees and commissions.

This account shall include amounts payable as fees, commissions, and brokerage to outside agents as sub-agents appointed to look after the carrier's operations and who are compensated on the basis of an allowance or charge for agency or attendance fee.

NOTE: The agency fees paid agents engaged exclusively in canvassing and soliciting traffic shall be included in account 457, "Outside traffic agencies."

433 Lay-up expenses.

This account shall include the pay of crews while not engaged in repairs of vessels which are laid up in inactive service, including the cost of fuel, food, stores, supplies, and equipment; port expenses, wharfage, dockage, and other expenses.

NOTE A: When vessels are laid up in inactive service undergoing repairs, the pay of crews while actually engaged in making repairs shall be charged to the repair account.

NOTE B: Expenses of vessels in an inactive status, for a limited number of days or awaiting cargo, etc., shall be charged to appropriate line-service accounts.

TERMINAL SERVICE

441 Supervision.

This account shall include the pay of department heads and their assistants in charge of or engaged in the operation of terminals, and their clerks and attendants, including office and other ex-

penses of employees whose pay is chargeable to this account.

ITEMS OF EXPENSE AND SUPPLIES

Books.
Business-auto service.
Directories.
Express charges.
Fees and dues in associations having a direct or immediate relation to the operation of equipment in terminal service.
Heat.
Ice.
Light.
Maps.
Membership in associations.
Newspapers.
Periodicals.
Photographs.
Supplies for cleaning.
Telegraph and telephone.
Traveling expenses.
Wireless service.

NOTE: Where department heads have direct supervision over other operating departments, their pay and expenses and the pay of their employees shall be apportioned equitably among the departments over which they have supervision.

442 Agents.

This account shall include the pay of agents, clerks and attendants and other agency employees, and the office and other expenses of those engaged in operating stations, wharves, and docks.

OFFICE EMPLOYEES

Accountants.
Agents.
Assistant agents.
Baggagemen.
Bookkeepers.
Cashiers.
Charwomen.
Clerks.
Collectors.
Comptometer operators.
Messengers.
Porters.
Stenographers.
Telephone operators.
Tellers.
Ticket agents.
Typists.

WHARF EMPLOYEES

(When not chargeable to account 443, "Stevedoring.")

Cleaners.
Clerks.
Gatemen.
Roundsmen.
Timekeepers.
Warehouse foremen.
Watchmen.

ITEMS OF EXPENSE AND SUPPLIES

Advertising for help.
Books.
Brooms and brushes.
Business-auto service.
Changing combination of safes.
Cleaning offices.
Cleaning supplies.
Directories.
Express charges.
Heat.
Ice.
Light.
Licenses of ticket agents.
Maps.
Membership in associations.
Messenger service.
Newspapers and periodicals.
Office supplies.
Polish.
Telephone and telegraph.
Traveling expenses.
Uniforms for employees.
Weighing and inspection bureaus.

443 Stevedoring.

This account shall include the following:

(a) The pay of stevedores, foremen, and longshoremen, engaged in:

1. Loading, stowing, or unloading cargoes of vessels.
2. Breaking down piles on docks and loading trucks for trucking to vessels.
3. Breaking down cargoes in vessels and loading trucks for discharging cargoes.
4. Loading and discharging baggage, express, and mail.
5. Trucking from dock, lighters or cars to vessels or from vessels to dock, lighters, or cars.
6. Rigging and unrigging gear.
7. Operating escalators or conveyors.
8. Opening holds, placing skids and nets.
9. Closing holds, taking in skids, nets, etc.
10. Piling or trucking cargo discharged from vessels.
11. Winchmen, switchmen, and rousers.
12. Installation of cargo battens, cargo trimmers, cattle fittings, grain fittings, shifting boards and dunnage, and heading cotton.
13. Loading and discharging lighters direct to and from vessels.

(b) The pay of laborers and clerks engaged in:

1. Receiving, delivering, checking, tallying, measuring, and weighing cargo.
2. Stenciling and marking cargo.
3. Coopering cargo.
4. Sorting cargo.
5. Tiering cargo received for shipment and high piling of discharged cargo.
6. Loading and unloading and sealing freight cars when performed by carrier.
7. Cleaning holds and tanks for reception of cargo.
8. Shifting cargo on docks and watching cargo.
9. Tollage charges assessed on cargo on a per ton basis for the privilege of handling freight over docks.

(c) Hire of cranes, derricks, stevedore gear and equipment, including cargo slings, hatch bridles, save-alls, tarpaulins, hatch tents, and heavy lift charges.

(d) Transportation, traveling time, and feeding of stevedores and longshoremen; demurrage on lighters awaiting cargoes or transfers; landing charges and collections; and shifting barges and lighters at terminals.

(e) Inspection of fruit, vegetables, cotton, grain, etc.

(f) Barrel hoops, staves, heads, and metal strips; cooperage supplies and material, crayon and chalk for marking; lumber for coopering; material for packing and bagging freight; hardware, sawdust, burlap, and shaving; and seals for cars.

(g) Cost of gasoline and other fuel used in operating wharf equipment.

(h) This account shall also include amounts paid to others covering the cost of labor, material, and hire of equipment in the checking, receiving, loading, and unloading of vessels including Federal old-age pensions and unemployment compensation taxes. Such expenses paid to others shall be kept in a separate subaccount from amounts expended by the carrier for labor and supplies.

444 Precooling and cold-storage operations.

This account shall include all expenses in connection with the operation of plants for precooling and cold storage of freight shipments. It shall include the pay and expenses of engineers, mechanics, and other employees, and the cost of fuel, lubricants, electric power, salt, and other supplies consumed in the operation of the plants.

445 Light, heat, power, and water.

This account shall include the expenses of light, heat, power, and water used in operations, except as otherwise provided for, whether produced by the carrier or purchased from others.

446 Stationery and printing.

This account shall include the cost of all stationery, stationery supplies, printing, books, and blank forms used in connection with the operation of terminals, including capacity plans, cargo plans, stowage plans, waybills, tickets, baggage checks, bills of lading, etc.

For list of items see account 484, "Stationery and printing."

447 Tug operations.

This account shall include all expenses in connection with the operation of tugs employed in transfer service, including expenses in connection with the operation of lighters and other similar floating equipment employed in such service and engaged in handling, loading, transporting and discharging lightered cargo when not incurred in connection with line service operations.

NOTE: When tub operations are incurred in connection with line service operations, they shall be charged to account 431, "Port expenses."

448 Operation of highway vehicles.

This account shall include expenses incurred in the operation of highway vehicles in connection with the transportation of passengers, freight, express, or mail in connection with handling cargo or passengers in loading and unloading vessels.

ITEMS OF EXPENSE

Bridge and tunnel charges.
Ferriage.
Fuel.
Garage supplies and expenses.
Gasoline.
Labor cleaning and preparing equipment for service.
Loading or unloading vehicles.
Lubricants.
Medicine.
Pay of operators and helpers, including the time held for duty.
Water and other supplies.

NOTE: Operating expenses incurred by the carrier in transporting passengers, freight, express, and mail by highway vehicles operated in addition to or in lieu of performing line service by vessels shall be included in account 491, "Motor-carrier expenses."

449 Local transfers.

This account shall include amounts expended for transfer service in connection with the transportation of passengers, freight, express, or mail by others when such payments are not includible in account 301, "Freight revenue."

450 Other terminal operations.

This account shall include all expenses incident to operation of terminal for which no other account is provided.

TRAFFIC EXPENSES

456 Supervision.

This account shall include the pay of department heads and their employees in charge of or engaged in supervising the soliciting and advertising of traffic; also the office, traveling, and other expenses of employees whose pay is includible in this account.

ITEMS OF EXPENSE AND SUPPLIES

Books.
Business-auto service.
Cleaning supplies.
Directories.
Heat.
Ice.
Light.
Maps.
Newspapers.
Periodicals.
Stationery and printing.
Telegraph and telephone.
Traveling expenses.

NOTE A: The pay and expenses of commercial, city, district, and other agents, their clerks, and attendants engaged exclusively in canvassing and soliciting traffic shall be charged to account 457, "Outside traffic agencies."

NOTE B: When department heads have direct supervision over other operating departments, their pay and expenses, and the pay and expenses of their employees shall be apportioned equitably among the departments over which they have supervision.

457 Outside traffic agencies.

This account shall include the pay of commercial, city, district, and other agents engaged exclusively in canvassing and soliciting traffic; employees of their offices, traveling solicitors; and the cost of supplies, office, traveling, and other expenses of employees whose pay is included in this account.

Commissions paid to tourist agents and other companies for securing passengers, commissions and brokerage paid others for securing freight traffic, and fees paid outside agents engaged exclusively in canvassing and soliciting traffic shall also be included in this account.

458 Advertising.

This account shall include the pay and expenses of employees in connection with advertising for the purpose of increasing traffic, including expenses incurred in the preparation, printing, and distribution of advertising matter.

This account shall also include commissions paid outside advertising agents or firms.

NOTE: Amounts received from the sale of advertising space in timetable folders, shall be credited to account 594, "Miscellaneous operating revenue."

459 Other traffic expenses.

This account shall include expenses in connection with securing traffic not properly chargeable to other traffic accounts, including the cost of printing freight and passenger tariffs, classifications, and division sheets.

GENERAL EXPENSES

461 General officers and clerks.

This account shall include the pay of general officers not otherwise provided for and their assistants, clerks and attendants, including salaries and fees of receivers and traveling and other expenses of such employees.

LIST OF OFFICERS

Auditor.
Auditor of Disbursements.
Auditor of Revenue.
Chairman of the Board.
Comptroller.
Executive Committee.
General Accountant.
General Auditor.
General Manager.
Local Treasurer.
President.
Purchasing Agent.
Receiver.
Secretary.
Transfer Agent.
Treasurer.
Vice-president.

LIST OF EMPLOYEES

Accountants.
Bookkeepers.
Cashiers.
Charwomen.
Chief accountants.
Cleaners.
Clerks.
Comptometer operators.
Elevator operators.
Janitors.
Key-punch operators.
Machine operators.
Messengers.
Paymasters.
Porters.
Secretaries of officers.
Statisticians.
Stenographers.
Telephone operators.
Traveling accountants.
Traveling auditors.
Typists.
Watchmen.

462 General office supplies and expenses.

This account shall include the office expenses of general officers, their clerks, and attendants.

ITEMS OF EXPENSE AND SUPPLIES

Atlases.
Books.
Brushes.
Brooms.
Cable tolls.
Changing combination on safes.
Cleaning offices.
Cloth towels.
Directories.
Express charges.
Fee for transportation of cash.
Heat.
Laundering.
Light.
Local messenger service.
Maps.
Paper drinking cups and towels.
Periodicals and newspapers.
Radio service.
Rent of general offices.
Repairs of rented general offices.
Reports of commercial standings.
Safety deposit box rent.
Tabulating machine rent.
Telegraph service.
Telephone service.
Uniforms and caps for porters, janitors, and watchmen.
Water.
Watchmen service.

463 Law expenses.

This account shall include the pay of officers in charge of the law department; of solicitors and attorneys, their clerks and attendants; and fees and retainers for services of attorneys not regular employees of the carrier; also office and traveling expenses of such officers and of their clerks; costs of lawbooks, printing briefs, legal forms, testimony and reports. It shall also include cost of suits and payments of special fees, notarial and witness fees not provided for in other accounts; fees paid arbitrators for settlement of disputed questions, and law and court expenses not provided for elsewhere.

OFFICERS AND EMPLOYEES

Attorney.
Clerks.
Counsel.
General attorney.
General counsel.
General solicitor.
Law agent.
Law clerk.
Librarian.
Office and staff forces.
Patent attorney.
Solicitor.
Special counsel.
Tax attorney.

ITEMS OF EXPENSE AND SUPPLIES

Agreements, briefs, contracts, legal forms, and reports, cost of preparing and printing.
Arbitrator's services in settlement of disputed questions.
Collecting revenue and other accounts, law expense in connection with.
Cost of taking depositions.
Cost of testimony.
Cost of suits.
Court bonds.
Court expenses.
Drawing and recording agreements.
Fees and retainers of attorneys (not regular employees).
Law books.
Legal forms.
Legal reports.
Membership fees and dues in law associations.
Notarial fees not provided for elsewhere.
Office expenses.
Special fees.
Telegraph services.
Telephone services.
Witness fees not provided for elsewhere.

464 Management commissions.

This account shall include amounts payable as commissions and fees to other concerns acting for the carrier in supervising and managing its operations, in instances where the carrier does not maintain an operating organization.

NOTE: The customary agency fees, commissions, and brokerage paid general and subagents at outports shall not be included in this account.

465 Pensions and relief.

(a) *Pensions.* This account shall include pensions or gratuities paid out of the carrier's funds to retired employees

or the heirs of former employees and the expenses incurred solely in connection therewith.

(b) *Relief.* It shall include premiums on policies under which employees are insured, and they or their heirs are the beneficiaries, and also expenses incurred and amounts contributed toward funds or other provisions for the relief of employees.

NOTE: If, under a contractual pension plan which definitely established the payment, of specific pensions to employees regularly retired for superannuation or disability, the carrier elects to set aside in an irrevocable trust fund each month amounts, determined through the application of equitable actuarial factors to the current payrolls, which, together with interest accruals thereon, will, as nearly as may be, meet its liabilities for the payment of pensions or for the purchase of annuities for employees upon their retirement, it shall concurrently charge to this account and credit to account 222, "Pension and welfare," amounts equal to those set aside in the trust fund. The carrier shall maintain a complete record of the actuarial computations through which the accrual each month of its pension liabilities is established.

Before adopting the accrual plan of accounting for pensions, the carrier shall inform the Commission of complete details of its pension plan, giving full statement of the facts which in its judgment establish an irrevocable contractual obligation for pension payments, together with actuarial formula under which it proposes to create its pension fund.

No charge to this account shall be made in anticipation of discretionary pension payments in the future.

466 Stationery and printing.

This account shall include the cost of stationery, office supplies, passes, printing, tabulating cards, books, and blank forms, including contracts, leases, and stationery and printing of law department not provided for elsewhere, except cost of law books and the cost of printing briefs, legal forms, testimony and reports for the law department.

STATIONERY AND PRINTING ITEMS

Arm rests.
Baskets, letter.
Binders.
Blank books.
Blotters.
Blueprint paper.
Calendars.
Carbon paper.
Cardboard.
Card, blank and printed.
Circulars.
Clips, paper.
Computing tables.
Copy (impression) books.
Copying brushes.
Copying cloths.
Crayons.
Cross-section books.
Cross-section paper.
Dating stamps and ribbons.
Desk baskets.
Desk trays.
Drawing paper.
Electrotypes.
Envelopes.
Erasers.
Eyelet punches.
Eyelets.
Fasteners.
Filing cases.
Forms, blank and printed.
Glue.
Indexes.
Ink.
Inkstands.
Invoice books.
Lease blanks.
Ledgers.
Legal-cap paper.
Letter paper.
Letter presses.
Manifold paper.
Manifold pens.
Mending tissue.
Mucilage.
Mucilage brushes.
Notebooks.
Note paper.
Notice blanks.
Oil paper.
Order blanks.
Pads, blank and ruled paper.
Pad, ink.
Paper.
Paper baskets.
Paper clips.
Paper cutters.
Paper fasteners.
Paper files.
Paperweights.
Paper, writing.
Pass forms.
Paste.
Pay checks.
Pencil sharpeners.
Pencils.
Penholders.
Penracks.
Pens.
Perforators.
Pins.
Postage.
Profile books and paper.
Punches.
Ribbons.
Rubber bands.
Rubber stamps.
Rulers.
Ruling pens.
Scissors.
Scrapbooks.
Sealing wax.
Seals.
Shears.
Shipping tags.
Sponge cups.
Sponges.
Stamps, impression.
Tablets, blank and printed.
Tacks, thumb.
Tags.
Tape.
Telegraph blanks.
Tickets, time.
Tissue (impression) paper.
Tracing cloth.
Tracing paper.
Twine.
Typewriter ribbons.
Wage tables.
Wastebaskets.
Water colors.
Wrapping paper.
Wringers, copying press.

NOTE: The cost of dictionaries, periodicals, and technical books shall be charged to the appropriate supervision account. The cost of law books, etc., shall be charged to account 469, "Law expenses."

467 Other expenses.

This account shall include expenses of a general nature not properly chargeable to other general accounts.

ITEMS OF EXPENSE

Annual audits or investigations.
Annual reports, printing and publishing.
Association membership fees and dues.
Bank charges for services.
Contributions.
Corporate and fiscal notices of general character.
Cost of valuations and appraisals.
Donations to local fire departments.
Donations to YMCA and similar institutions.
Election of directors.
Exchange, domestic, on checks cashed or deposited and drafts bought.
Fees and expenses paid directors.
Fees paid for collection of insured loss.
Loss by fire or burglary of funds, or from defalcation of employees when not recoverable from insurance.
Loss from acceptance of counterfeit money.
Notice of dividends.
Pay to former employees separated from service.
Premiums paid less cash surrender value of insurance on lives of officers when carrier is the beneficiary.
Stockholders' meetings.

CASUALTIES AND INSURANCE

471 Supervision.

This account shall include the pay, traveling and other expenses of the departmental heads and their employees in charge of or engaged in the supervision, adjustment, investigation and settlement of claims for loss and damage to cargo and baggage, damage to property, and injuries to persons.

NOTE: Legal expenses of conducting suits or settling claims arising in connection with insurance coverage shall be charged to the appropriate insurance accounts.

472 Baggage insurance and losses.

(a) This account shall include insurance premiums paid to insure against amounts payable for loss, damage, delays, or destruction of baggage and other personal property as well as amounts payable when not recoverable through insurance or from other carriers; also pay and expenses of adjusters of baggage claims or while engaged as witnesses in lawsuits.

(b) This account shall be credited with the net amount received from the sale of unclaimed or damaged baggage.

473 Hull insurance and damage.

This account shall include the cost of insurance to protect the carrier against loss or damage sustained in the operation of floating equipment in line service or terminal service due to marine accidents, perils of the sea, fire and other losses covered by usual hull insurance policies.

This account also shall include the cost of repairs to floating equipment arising from such causes borne by the carrier under the deductible provisions of insurance policies or otherwise not collectible from underwriters or others. The account may be charged each month with an amount estimated to be sufficient to meet the probable liability for deductibles or the carrier's proportion of self-carried risks with concurrent credit to account 221, "Insurance reserves," and this latter account shall be charged when the liability is determined. Amounts recovered from underwriters or others less expenses in connection with such recovery shall be credited to this account or to account 221, "Insurance reserves," as appropriate.

474 Cargo insurance, loss and damage.

This account shall include the cost of insurance to protect the carrier against loss and damage to cargo.

This account also shall include amounts payable for loss, damage, delay, or destruction of freight shipments not recoverable through insurance or from other carriers. The account shall include uncollectible freight charges payable on lost, damaged, or refused shipments, and costs of repacking and boxing damaged freight. The account may be charged monthly with an amount estimated to be sufficient to meet the probable liability for freight claims with concurrent credit to account 221, "Insurance reserves," and this latter account shall be cleared when liability is determined. Amounts receivable from the sale of refused, unclaimed and damaged freight shall be credited to this account or to account 221, "Insurance reserves," as appropriate.

475 Liability insurance and losses, marine operations.

This account shall include the cost of insurance to protect the carrier against losses resulting from injury and illness of crew and passengers on its vessels, crew repatriation, damage to property of others caused by carrier's vessels, and other losses covered by protection and indemnity or other marine liability insurance policies, as well as penalties imposed by governmental authorities.

This account shall also include (1) amounts payable by the carrier for damage to or destruction of property owned by others, but excepting freight and baggage entrusted to the company for transportation, and (2) payments and expenses connected with injuries or death of persons and employees which occur in connection with marine operations in performing transportation service when such payments and expenses are borne by the carrier under the deductible provisions of insurance policies or not otherwise collectible from underwriters or others. The account may be charged each month with an amount estimated to be sufficient to meet probable liability for personal injuries and property damage claims arising from marine operations with concurrent credit to account 221, "Insurance reserves," and this latter account shall be cleared when liability is determined.

476 Liability insurance and losses, nonmarine operations.

This account shall include the cost of insurance to protect the carrier against liability for claims of employees who are employed on shore such as stevedores, shop employees, fleet employees, general and branch office employees ordinarily covered by workmen's compensation insurance, and cost of insurance to protect the carrier against claims arising from public liability in connection with shore operations.

This account also shall include (1) amounts payable by the carrier for damage, arising from shore operations, to or destruction of property owned by others, but excepting freight or baggage entrusted to the company for transportation, and (2) payments and expenses connected with injuries or death of persons and employees which occur in connection with shore operations where such payments and expenses are borne by the carrier under the deductible provisions of insurance policies or otherwise not collectible from underwriters or others. The account may be charged each month with an amount estimated to be sufficient to meet the probable liability for personal injury and property damage claims arising from shore operations with concurrent credit to account 221, "Insurance reserves," and this latter account shall be cleared when liability is determined.

This account shall include expenses of consultants, witnesses in connection with personal injury claims, payments to hospitals and payments to physicians, surgeons, and nurses attending injured shore employees or other persons injured in shore operations.

477 Other insurance.

This account shall include the cost of insurance to protect the carrier against loss or damage not provided elsewhere, such as fire, theft, collision, public liability and property damage insurance on motor vehicles; fire insurance on structures, machinery, and equipment; and burglar, fidelity, and holdup insurance, including any payments and expenses borne by the carrier under the deductible provisions of such insurance policies or otherwise not collectible from underwriters or others.

OPERATING RENTS

481 Charter rents—Transportation property.

(a) This account shall include the rent payable by the carrier under contract for the charter of vessels (when the amount payable as charter rent is not dependent upon the commodities and volume of freight transported), such as bare boat or time charters.

(b) The carrier shall include the rent payable under the contract in this account, and shall include in other appropriate operating expense accounts additional expenses incurred by it in operating vessels chartered from others.

483 Other operating rents.

This account shall include, when not provided for elsewhere, rents payable for the use of land, structures, terminal facilities, and equipment used for transportation purposes.

OPERATING TAXES

485 Pay-roll taxes.

This account shall include old-age benefit, unemployment compensation, social security, and other similar taxes that are computed on basis of the payrolls.

486 Water-line tax accruals.

(a) This account shall include provisions for Federal, capital stock, state, county, municipal and other taxing district taxes (excluding income and excess profit taxes) applicable to the period for which the income account is stated. Taxes accruing prior to their payment shall be credited to account 206, "Accrued taxes."

(b) This account shall be kept in such a manner as to show the amount of each class of taxes.

(c) This account shall include:

(1) Taxes on earnings or income when in lieu of taxes on transportation property.

(2) Taxes on franchises or privileges of conducting transportation operations.

NOTE A: Taxes on other than transportation operations or property shall be charged to account 528, "Expenses of noncarrier operations." When taxes are levied so that the amount applicable to each class of property is not definitely stated, the total amount of the levy shall be apportioned on an equitable basis.

NOTE B: Special assessments for street and other improvements, and special benefit taxes, such as water taxes and the like, shall be included in operating expenses.

NOTE C: Discount allowed for prompt payment of taxes shall be credited to the account to which the taxes are chargeable.

NOTE D: Interest and penalties on tax assessments shall be charged to account 820, "Interest on unfunded debt."

NOTE E: Taxes on interest on carrier's long-term debt paid at the source under tax-free covenants shall be charged to account 537, "Miscellaneous income charges."

NOTE F: Where sales or other taxes are assessed as part of the cost of tangible personal property, they shall be included in the cost of the property purchased.

NOTE G: Taxes assessed against carriers for electric energy, telegraph, telephone, radio, cable messages, checks, and safe-deposit boxes, social security taxes, and motor vehicle drivers' licenses shall be included in operating expenses.

NOTE H: Taxes collected which are payable to governmental agencies shall be included in account 209, "Accounts payable."

MOTOR CARRIER OPERATIONS

491 Motor-carrier expenses.

(a) This account shall include the operating expenses incurred by the carrier in transporting passengers, freight, express, and mail by motor vehicles operated in highway service, in addition to or in lieu of services performed by line vessels.

(b) The carrier shall maintain the primary operating-expense accounts prescribed by the Commission in the uniform systems of accounts for motor carriers of property and persons.

495 Interdepartmental debits.

If a carrier so elects, this account may include amounts which are debited to appropriate primary operating-expense accounts and concurrently credited to appropriate primary revenue accounts representing interdepartmental items in connection with the operation of the carrier's terminal facilities while used by its own vessels in its own service.

The carriers shall maintain subaccounts corresponding to the primary operating-expense accounts to which such debits shall be first allocated, and after closing the accounts the amounts in these subaccounts shall be transferred to this account. In preparing and rendering reports to this Commission, the amount in this account shall be omitted.

Small Carriers

499 Condensed expense accounts for small carriers.

Accounts To Be Kept by Class A Companies	*Accounts To Be Kept by Class B Companies*
I. Maintenance Expenses	**I. Maintenance Expenses**
401. Supervision. 402. Repairs of floating equipment. 404. Repairs of buildings and other structures. 405. Repairs of office and terminal equipment. 406. Repairs of highway equipment. 407. Shop expenses. 408. Other maintenance expenses.	401. Maintenance of vessels and other property.
II. Depreciation and Amortization	**II. Depreciation and Amortization**
411. Depreciation—Transportation property. 413. Amortization of investment—Leased property.	411. Depreciation and amortization.
III. Transportation Expenses	**III. Transportation Expenses**
A. Line Service	**A. Line Service**
421. Supervision. 422. Wages of crews. 423. Fuel. 424. Lubricants and water. 425. Food supplies. 426. Stores, supplies, and equipment. 427. Buffet supplies. 428. Other vessel expenses. 429. Outside towing expenses. 430. Wharfage and dockage. 431. Port expenses. 432. Agency fees and commissions. 433. Lay-up expenses.	421. Operation of vessels. 433. Lay-up expenses.
B. Terminal Service	**B. Terminal Service**
441. Supervision. 442. Agents. 443. Stevedoring. 444. Precooling and cold-storage operations. 445. Light, heat, power, and water. 446. Stationery and printing. 447. Tug operations. 448. Operation of highway vehicles. 449. Local transfers. 450. Other terminal operations.	441. Terminal expenses.
IV. Traffic Expenses	**IV. Traffic Expenses**
456. Supervision. 457. Outside traffic agencies. 458. Advertising. 459. Other traffic expenses.	456. Traffic expenses.
V. General Expenses	**V. General Expenses**
461. General officers and clerks. 462. General office supplies and expenses. 463. Law expenses. 464. Management commissions. 465. Pensions and relief. 466. Stationery and printing. 467. Other expenses.	461. General expenses.
VI. Casualties and Insurance	**VI. Casualties and Insurance**
471. Supervision. 472. Baggage insurance and losses. 473. Hull insurance and damage. 474. Cargo insurance, loss and damage. 475. Liability insurance and losses, marine operations. 476. Liability insurance and losses, nonmarine operations. 477. Other insurance.	471. Casualties and insurance.
VII. Operating Rents	**VII. Operating Rents**
481. Charter rents—Transportation of property. 483. Other operating rents.	481. Charter and other rents.
VIII. Operating Taxes	**VIII. Operating Taxes**
485. Payroll taxes. 486. Water-line tax accruals.	485. Payroll and other water-line tax accruals.
IX. Motor-Carrier Operations	**IX. Motor-Carrier Operations**
491. Motor-carrier expenses.	491. Motor-carrier expenses.

Note A: Interest on securities of other companies, held in sinking or other special funds shall be included in account 505, "Income from sinking and other special funds." Note B: Discount on bills for material purchased shall operate to reduce the cost of the material.

Note C: This account shall not include interest on securities issued or assumed by the carrier whether held in the treasury in sinking or other funds or pledged as collateral.

505 Income from sinking and other special funds.

(a) This account shall include the income accrued on cash, securities of other companies, and other assets (not including securities issued or assumed by the carrier) held in sinking and other special funds.

(b) There may be included in the accounts for each fiscal period the applicable amount requisite to extinguish during the interval between the date of acquisition and the date of maturity the discount or premium on funded securities of other companies held in sinking or other reserve funds. Amounts thus credited or charged shall be concurrently charged or credited to the accounts in which the book cost of the securities is included.

Note A: Credits to this account representing income from special funds (retainable in them) shall be concurrently charged to account 396, "Miscellaneous reservations of retained income—Appropriated."

Note B: No dividends or interest on securities issued or assumed by the carrier shall be credited to this account.

506 Release of premium on long-term debt.

This account shall include during each fiscal period such proportion of the premiums on outstanding long-term debt as is applicable to that period.

507 Miscellaneous income.

This account shall include items not provided for elsewhere properly creditable to income during the fiscal period.

Items

1. Profits from sale of securities, including temporary cash investments.
2. Proceeds from the sale of timber or improvements purchased with the land, or mineral deposits, in excess of the cost thereof including cost of recovery.
3. Credits resulting from adjustments required to be made to par long-term obligations issued or assumed by the carrier and reacquired at a cost less than par value.
4. Unamortized premium on long-term debt reacquired before maturity.
5. Profits derived from conversion of money of a foreign country into U.S. money.
6. Fees collected in connection with the exchange or coupon bonds for registered bonds.
7. Cancellation of liability accounts (including unclaimed wages) or erroneous collections (except unrefundable revenue overcharges) written off because of carrier's inability to locate the creditor or payee.
8. Recovery of fines previously charged to account 527, "Miscellaneous income charges".
9. Remittances received from anonymous sources.

When the profits, proceeds or adjustments resulting from any of the first four items are of amounts sufficiently large to constitute extraordinary items, pursuant to instruction 4, such profits, proceeds or adjustments shall be credited to account 570, "Extraordinary items".

508 Profits from sale or disposition of property.

This account shall include profits realized from the sale or other disposition of carrier or noncarrier property. The amount includible in this account is the net proceeds or salvage realized or recovered in excess of the net book value (book costs less recorded depreciation).

When the profit from the sale of carrier and noncarrier property is of an amount sufficiently large to constitute an extraordinary item, pursuant to instruction 4, such profit shall be credited to account 570, "Extraordinary Items".

Deaer Accounts

523 Expenses of noncarrier operations.

This account shall include the expenses (including depreciation, taxes, rents, and insurance) of maintaining and operating nonearrier physical property; also of noncarrier physical property leased from others. The rental for such property and directly assignable organization or administration expenses incident to investment in noncarrier physical property shall be included in this account.

524 Uncollectible accounts.

This account shall be charged each month with amounts estimated as the loss from uncollectible accounts. Concurrently, credits shall be made to account 109, "Reserve for doubtful accounts," which latter account shall be charged with amounts determined to be uncollectible and credited with amounts written off and subsequently collected. The estimates shall be adjusted at the end of the calendar year to conform to the experience of the carrier as determined by an analysis of its accounts. This account shall also be charged with amounts determined to be uncollectible when no reserves are provided for doubtful accounts.

525 Losses from sale or disposition of property.

This account shall include losses sustained from the sale or other disposition of carrier or noncarrier property. The amount includible in this account is the deficiency between the net proceeds, insurance, or salvage realized or recovered and the net book value (book cost less recorded depreciation).

When the loss from the sale of carrier and noncarrier property is of an amount sufficiently large to constitute an extraordinary item, pursuant to instruction 4, such loss shall be charged to account 570, "Extraordinary Items".

526 Maintenance of investment organization.

This account shall include the directly assignable organization and administration expenses of a lessor company which are incident to its investment in waterline property leased to others, and in stocks, bonds, or other securities.

Note: Organizational and administration expenses incident to operations are provided for in operating expenses.

527 Miscellaneous income charges.

This account shall include items not provided for elsewhere properly chargeable to income.

Items or Expenses

1. Losses resulting from revaluation or sale of securities of others held as investments.
2. Debits resulting from adjustments required to bring to par long-term debt obligations issued or assumed by the carrier and reacquired at a cost exceeding par value.
3. Unextinguished discounts and expenses on funded debt reacquired before maturity.
4. Loss on funds due to bank failures.
5. Book cost (in excess of reserve provisions) of improvements on leased property at time of reversion to lessor.
6. Payments of liabilities previously written off.
7. Penalties and fines for violations of the Interstate Commerce Act, and other Federal or state laws, when not specifically provided for elsewhere.
8. Calls for bids in accordance with provisions of mortgage.
9. Cost of advertising bonds drawn for redemption.
10. Losses due to conversion of money of a foreign country into U.S. money.
11. Premiums on bonds to insure performance of agreements when assignable to income accounts.
12. Taxes on interest on carrier's funded debt paid at the source under tax-free covenants.
13. Trustee, current expenses or maintaining and administering.
14. Trustee's commissions and fees for paying out bond interest and expense including registrars' fees connected with such payments.

When the losses or adjustments resulting from any of the first four items are of amounts sufficiently large to constitute extraordinary items, pursuant to instruction 4, such losses or adjustments shall be charged to account 570, "Extraordinary Items".

528 Interest on funded debt.

This account shall include current accruals of interest on all classes of debt the principal of which is includible in long-term debt.

Note A: This account shall not include charges for interest on funded-debt obligations issued or assumed by the carrier and owned by it.

Note B: Interest provided for in the face amount of securities issued in the acquisition of equipment or other property shall be charged at the time of issuance to account 114, "Prepayments," and cleared to this account as the interest accrues.

Note C: Interest on matured debt shall be included in account 536, "Interest on unfunded debt."

529 Interest on unfunded debt.

(a) This account shall include current accruals of interest payable, except that chargeable to account 536, "Interest on funded debt." Discount and interest on short-term notes shall be charged to this account.

(b) A list of representative items follows:

Items

1. Advances other than investment advances from affiliated companies.
2. Bond coupons, matured and unpaid.
3. Claims and judgments.

Other Income

500 Other income.

This account shall include the net of all items of income, other than revenues from water-line operations, and all items of income deductions, other than expenses incurred in water-line operations, as both such income and income deductions are detailed in primary income accounts number 502 to 532, both inclusive.

Credit Accounts

502 Income from noncarrier operations.

This account shall include the income derived from noncarrier physical property and also from noncarrier physical property leased from others.

503 Dividend income.

(a) This account shall include dividends declared on stocks of other companies whether such stocks are owned by the carrier and held in its treasury, or deposited in trust, or controlled through lease or otherwise.

(b) Dividends may be credited prior to actual collection if their payment is reasonably assured by past experience, guaranty, anticipated provisions, or otherwise.

Note A: Dividends on stocks of other companies held in sinking or other special funds shall be credited to account 505, "Income from sinking and other special funds."

Note B: This account shall not include credits for dividends on stocks issued or assumed by the carrier, whether held in the treasury, in sinking or other reserve funds, or pledged as collateral.

504 Interest income.

(a) This account shall include the interest on securities and debenture stock of other companies, whether such securities are owned by it and held in its treasury or deposited in trust, or controlled through lease or otherwise. It shall include also interest on bank balances, certificates of deposit, open accounts, and other analogous items. Interest shall not be credited before actual collection unless its payment is reasonably assured.

(b) There may be included in this account for each fiscal period the applicable amount requisite to extinguish, during the interval between the date of acquisition and the date of maturity, the discount or premium on funded securities owned, the income from which is includible in this account. Amounts thus credited or charged shall be concurrently included in the accounts in which the investment in the securities is carried. Any discount or premium remaining unextinguished upon the maturity and satisfaction of such securities shall be cleared to account 507, "Miscellaneous income", or to account 527, "Miscellaneous income charges", as appropriate.

4. Long-term debt matured.
5. Open accounts (other than those includible in account 212, "Affiliated companies—Advances payable").
6. Short-term notes payable on demand or having maturity dates one year or less from date of issue.
7. Tax assessments, past due.

530 Amortization of discount on long-term debt.

This account shall include during each fiscal period such proportion of the discount and expenses on outstanding long-term debt as is applicable to that period.

532 Income taxes on ordinary income.

(a) This account shall include accruals for Federal and state income taxes, when not in lieu of a property tax, applicable to ordinary income. See the texts of account 590, "Income taxes on extraordinary and prior period items", account 285, "Miscellaneous credits", and account 285, "Miscellaneous debits", for recording other income tax consequences.

Retains pertaining to the tax consequences of other unusual and significant items, and also cases where tax consequences are disproportionate to related amounts included in income accounts, shall be submitted to the Commission for consideration and decision as to proper accounting.

(b) Federal income taxes which are refundable or reduced as the result of a carry-back or carry-forward of operating loss shall be credited to this account, if a carry-back, in the year in which the loss occurs, or if a carry-forward, in the year in which such loss is applied to reduce taxes. However, when the amount constitutes an extraordinary item pursuant to instruction 4, it shall be included in account 590, "Prior period items".

Extraordinary and Prior Period Items

570 Extraordinary items (net).

(a) This account shall include extraordinary items accounted for during the current accounting year in accordance with the text of instruction 4, upon approval of the Commission. Among the items which shall be included in this account are:

Net gain or loss on sale of (a) property and equipment, or (b) timber, mineral deposits or improvements purchased with land.
Net gain or loss on sale of securities acquired for investment purposes, and charges to write down the ledger value of such securities because of impairment of value.
Changes in application of accounting principles.

(b) Income tax consequences of charges and credits to this account shall be recorded in account 590, "Income taxes on extraordinary and prior period items".

(c) This account shall be maintained in a manner sufficient to identify the nature and gross amount of each debit and credit.

590 Prior period items (net).

(a) This account shall include unusual delayed items accounted for during the current accounting year in accordance with the text of instruction 4, upon approval of the Commission. Among the items which shall be included in this account are:

Unusual adjustments, refunds, or assessments of Federal income taxes of prior years.
Similar items representing transactions of prior years which are not identifiable with or do not result from business operations of the current year.

(b) Income tax consequences of charges and credits to this account shall be recorded in account 590, "Income taxes on extraordinary and prior period items".

(c) This account shall be maintained in a manner sufficient to identify the nature and gross amount of each debit and credit.

590 Income taxes on extraordinary and prior period items.

This account shall include the estimated income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which, for accounting purposes, are classified as "unusual and extraordinary", and are recorded in accounts 570, "Extraordinary items", and 590, "Prior period items".

595 Form of income statement.

The classified form of income statement is designed to show the net income or loss from water-line transportation operations and from other sources during any specified period. As of the end of the calendar year, all accounts enumerated in the following statement shall be closed and the net balance transferred to retained income.

Ordinary Items

I. Water-line operating income:
- 501. Water-line operating revenues ..... $ ——
- 502. Water-line operating expenses ..... ——
- 503. Net revenue from water-line operations[1] ..... $ ——

II. Other income:
- 502. Income from noncarrier operations ..... ——
- 504. Dividend income ..... ——
- 504. Interest income ..... ——
- 505. Income from sinking and other special funds ..... ——
- 506. Release of premium on long-term debt ..... ——
- 507. Miscellaneous income ..... ——
- 508. Profits from sale or disposition of property ..... ——
- Total other income ..... ——
- Total income[1] ..... ——

III. Miscellaneous deductions from income:
- 526. Expenses of noncarrier operations ..... ——
- 536. Uncollectible accounts ..... ——
- 535. Losses from sale or disposition of property ..... ——
- 536. Maintenance of investment organization ..... ——
- 537. Miscellaneous income charges ..... ——
- Total income deductions ..... ——
- Ordinary income before fixed charges[1] ..... ——

IV. Fixed charges:
- 531. Interest on funded debt ..... ——
- 539. Interest on unfunded debt ..... ——
- 540. Amortization of discount on long-term debt ..... ——
- Total fixed charges ..... ——
- Ordinary income before provision for income taxes[1] ..... ——

V. Provision for income taxes:
- 532. Income taxes on ordinary income ..... ——
- Ordinary income[1] ..... ——

Extraordinary and Prior Period Items[2]

- 570. Extraordinary items (net) ..... ——
- 590. Prior period items (net) ..... ——
- 590. Income taxes on extraordinary and prior period items ..... ——
- Total extraordinary and prior period items ..... ——
- Net income[1] ..... $ ——

[1] If a loss, show the amount in red.

Clearing Account

601 Material and store expenses.

(a) This account shall include the cost of supervision, labor, material, and other expenses incurred in the operation of storehouses, including stationery stores. The charges shall include the cost of storing, handling, and distributing materials, supplies, and stationery.

(b) Cash discount shall be credited hereto when such discount cannot be applied to the cost of particular classes of material.

(c) This account shall be cleared by adding to the cost of material and supplies a suitable loading charge which will distribute the charges equitably over the classes issued.

Ease or Cannot

Adjustment of stock inventories when not assignable to specific classes of material.
Books and stationery supplies.
Building service.

Collecting and handling scrap material in stores.
Communication service.
Discount on purchases when not assignable to specific classes of material.
Freight, express and drayage, including vehicle and service equipment expenses when not assignable to specific classes of material.
Inspecting and testing material and supplies when not assignable to specific classes of material.
Losses due to breakage, leakage, evaporation, fire, or other causes. Credit amounts received from insurers, transportation companies, and others to reduce such losses.
Pay and expenses of storekeepers, clerks, laborers, and others engaged in storing, handling, and distributing materials and supplies.
Postage and printing.

Note: Pay and expenses of purchasing agent, clerks, and attendants in purchasing materials and supplies shall be included in accounts 461, "General officers and clerks," and 462, "General office supplies and expenses."

PART 1210—FREIGHT FORWARDERS

0-1 Introduction.
0-2 Applicability of the regulations.

General Instructions

0 General instructions.
1 Records.
2 Definitions.
3 Unaudited items.
4 Extraordinary and prior period period items.
5 Depreciation and amortization accounting.
6 Interpretation of item lists.
7 Submission of questions.

General Balance Sheet Instructions

21 Purpose of balance-sheet accounts.
22 Current assets.
23 Company securities owned.
24 Discount, premium, and expense on capital stock.
25 Discount, premium, and expense on long-term debt.
26 Reorganizations.
27 Contingent assets and liabilities.
28 Form of general balance-sheet statement.

General Balance Sheet Accounts

Debit

100 Cash.
101 Special cash deposits.
102 Temporary cash investments.
103 Working advances.
104 Notes receivable.
105 Accounts receivable.
106 Reserve for doubtful accounts.
107 Accrued accounts receivable.
108 Material and supplies.
109 Other current assets.
120 Sinking and other funds.
121 Special deposits.
130 Investments in affiliated companies.
131 Other investments.
140 Transportation property.
141 Furniture and office equipment.
142 Motor and other highway vehicles.
143 Land and public improvements.
144 Terminal and platform equipment.
145 Other property account charges.
149 Depreciation and amortization reserve; transportation property.
160 Nontransportation property.
161 Depreciation reserve; nontransportation property.
165 Organization.
166 Other intangible property.
170 Prepayments.
171 Debt discount and expense.
172 Other deferred debits.
190 Reacquired and nominally issued long-term debt.
191 Nominally issued capital stock.
200 Notes payable.
201 Accounts payable.
202 Accrued interest.
203 Dividends payable.
204 Accrued taxes.
205 Accrued accounts payable.
209 Other current liabilities.
210 Funded debt.
211 Receivers' and trustees' securities.
212 Amounts payable to affiliated companies.
213 Long-term debt in default.
220 Insurance reserves.
221 Provident reserves.
222 Other reserves.
230 Premium on long-term debt.
231 Other deferred credits.
240 Capital stock.
241 Premiums and assessments on capital stock.
242 Discount, commission, and expense on capital stock.
243 Proprietorial capital.
250 Unearned surplus.
250-1 Paid-in surplus.
250-2 Other unearned surplus.
260 Earned surplus; appropriated.
270 Earned surplus; unappropriated.
280 Reacquired capital stock.

Property Investment Instructions

41 Purpose of the property accounts.
42 Basis of charges.
43 Retirements.

Property Investment Accounts

Note: For Property Investment Accounts see accounts 141 to 144.

Surplus Instructions

51 Purpose of earned surplus accounts.
52 Purpose of unearned surplus account.
53 Segregation of surplus.

Earned Surplus Accounts

Credit

300 Income balance.
301 Miscellaneous credits.

Debit

310 Miscellaneous debits.
311 Miscellaneous reservations of earned surplus.
312 Dividend appropriations of earned surplus.

Income Instructions

61 Purpose of income accounts.
62 Statement of income accounts.
63 Form of income statement.

Income Accounts

Ordinary Items

Credit

400 Operating revenues.
401 Dividend and interest income.
402 Release of premium on long-term debt.
408 Miscellaneous income.

Debit

410 Operating expenses.
411 Transportation tax accruals.
412 Provision for uncollectible accounts.
413 Miscellaneous tax accruals.
414 Miscellaneous income charges.
420 Interest on long-term debt.
421 Other interest deductions.
422 Amortization of discount on long-term debt.
431 Income taxes on ordinary income.

Extraordinary and Prior Period Items

435 Extraordinary items (net).
440 Prior period items (net).
450 Income taxes on extraordinary and prior period items.

Operating Revenue Instructions

71 Purpose of operating-revenue accounts.
72 Statement of operating-revenue accounts.

Operating Revenue Accounts

Transportation Revenue

501 Forwarder revenue.

Transportation Purchased; Debit

510 Transportation purchased; debit.
511 Railroad transportation.
512 Motor transportation.
513 Water transportation.
514 Pick-up, delivery, and transfer service.
515 Other transportation purchased.

Incidental Revenue

521 Storage; freight.
522 Rent revenue.
523 Miscellaneous.

Operating Expense Instructions

81 Purpose of operating-expense accounts.
82 Statement of operating-expense accounts.
83 Injuries and damages.

Operating Expense Accounts

601 General office salaries.
602 Traffic department salaries.
603 Law department salaries.
604 Station salaries and wages.
605 Loading and unloading by others.
606 Operating rents.
607 Traveling and other personal expenses.
608 Communications.
609 Postage.
610 Stationery and office supplies.
611 Tariffs.
612 Loss and damage; freight.
613 Advertising.
614 Heat, light and water.
615 Maintenance.
616 Depreciation and amortization.
617 Insurance.
618 Payroll taxes.
619 Commissions and brokerage.
620 Vehicle operation.
621 Law expenses.
622 Depreciation adjustment.
630 Other expenses.

Authority: The provisions of this Part 1210 issued under 56 Stat. 285, 294; 49 U.S.C. 1003, 1012.

0-1 Introduction.

This "Uniform System of Accounts for Freight Forwarders, Issue of 1943," applies to all freight forwarders subject to the provisions of part IV of the Interstate Commerce Act having annual gross revenues of $100,000 or more. The term "gross revenues" refers to the amounts classable in accounts 501, 521, 522, and 523.

Under part IV of the Interstate Commerce Act the observance of the rules and regulations stated in this system of accounts becomes obligatory upon persons having direct charge of the accounts

of the freight forwarders concerned, and such persons will be held responsible for their proper application.

Subsection (d) of section 421 of part IV of the Interstate Commerce Act provides that:

(d) Any freight forwarder, or any officer, agent, employee, or representative thereof, who shall willfully fail or refuse to make a report to the Commission as required under this part, or to make specific and full, true, and correct answer to any question within thirty days from the time it is lawfully required by the Commission so to do, or to keep accounts, records, and memoranda in the form and manner prescribed by the Commission, or shall knowingly and willfully falsify, destroy, mutilate, or alter any such report, account, record, or memorandum, or shall knowingly and willfully file with the Commission any false report, account, record, or memorandum, or shall knowingly and willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of the freight forwarder, or shall knowingly and willfully keep any accounts, records, or memoranda contrary to the rules, regulations, or orders of the Commission with respect thereto, shall be guilty of a misdemeanor and upon conviction thereof shall be subject for each offense to a fine of not more than $5,000. As used in this subsection the word "keep" shall be construed to mean make, prepare, or compile, as well as retain.

0-2 Applicability of the regulations.

This "Uniform System of Accounts for Freight Forwarders, Issue of 1943," applies to all freight forwarders subject to the provisions of part IV of the Interstate Commerce Act having annual gross revenues of $100,000 or more. The term "gross revenues" refers to amounts classable in the following accounts:

501. Forwarder revenue.
521. Storage-Freight.
522. Rent revenue.
523. Miscellaneous.

No uniform system of accounts has been prescribed for companies having annual gross revenues under $100,000.

NOTE: New companies should estimate the amount of their annual gross revenues for the purpose of ascertaining whether adoption of this system of accounts is required.

GENERAL INSTRUCTIONS

0 General instructions.

The serially numbered instructions, which are introduced by this section, relate to matters of general accounting terms and procedure. Each major grouping of accounts prescribed hereinafter is preceded by a list of instructions pertaining specifically to those accounts.

1 Records.

(a) The company's records shall be kept with sufficient particularity to show fully the facts pertaining to all entries in the accounts provided herein.

(b) Where the general book entries do not contain complete information, they shall be supported by other detail records, cross-referenced for ready identification.

(c) All records shall be filed in such manner as to be readily accessible for examination by representatives of the Commission.

(d) Attention is directed to the following extract from section 412 of the Interstate Commerce Act:

(c) The Commission may have orders specifying such operating, accounting, or financial papers, records, books, correspondence, or documents of freight forwarders as may after a reasonable time be destroyed, and prescribing the length of time the same shall be preserved.

The Commission's order specifying records which may be destroyed is contained in its "Regulations to Govern the Destruction of Records of Freight Forwarders" Part 1226 of this chapter.

(e) All accounts kept shall conform in numbers and titles to those prescribed herein, except that:

(1) Any of the accounts may be subdivided provided the titles of all subdivisions or subaccounts shall refer by number or title to the accounts of which they are subdivisions.

(2) When subaccounts are thus kept, it is not required that the main accounts of which they are subdivisions shall also be kept in the company's books.

(3) During the 12 months from the time that the Uniform System of Accounts for Freight Forwarders, First Issue, becomes effective, persons that are subject to the provisions of part IV of the Interstate Commerce Act, in addition to the accounts prescribed herein, may keep and maintain such groupings of the primary accounts prescribed, or such portions of their present accounts as may be desirable to maintain a basis of comparison with previous years.

(f) Clearing accounts may be kept when necessary or useful in making the proper distribution of items to the appropriate primary accounts.

(g) As of the effective date of this system of accounts, the accounts prescribed herein shall be opened by transferring thereto the balances carried in the accounts previously maintained by the company. The company is authorized to make such subdivisions, reclassifications, or consolidations of such balances as may be necessary to meet the requirements of this system of accounts.

(h) The accounts for each month shall be stated on the basis of accruals so that all transactions applicable to each month, as nearly as may be ascertained, shall be entered in the books for that month. The books shall be closed as of the end of the calendar year.

2 Definitions.

When used in this system of accounts the terms:

(a) "Actually issued" as applied to certificates of capital stock or evidences of long-term debt issued or assumed by the company means those which have been sold to bona fide purchasers for a valuable consideration (including those issued in exchange for other securities or other purposes) under the condition that the purchaser secured them free from all control by the issuing company; also securities issued as dividends on stock.

(b) "Actually outstanding" as applied to certificates of capital stock or evidences of long-term debt issued or assumed by the company means those which have been "actually issued" and are neither retired nor held by or for the company.

(c) "Affiliated companies" means persons that directly, or indirectly through one or more intermediaries, control, are controlled by, or are under common control with, the accounting company.

NOTE: Where reference is made to control (in referring to a relationship between any person or persons and another person or persons), such reference shall be construed to include actual as well as legal control, whether maintained or exercised through or by reason of the method of or circumstances surrounding organization or operation, through or by common directors, officers, or stockholders, a voting trust or trusts, a holding or investment company or companies, or through or by any other direct or indirect means; and to include the power to exercise control.

(d) "Book cost" means the amount at which assets are recorded in the accounts of the company without deduction of any related reserves or other items.

(e) "Book liability" means the amount at which liabilities (including securities issued or assumed by the company) are recorded in the accounts of the company.

(f) "Company" when not otherwise indicated in the context, means the accounting person.

(g) "Debt expense" as applied to long-term debt means all expense in connection with the authorization, issue, and sale of evidences of debt, such as fees for drafting mortgages and trust deeds; fees for issuing or recording evidences of debt; cost of engraving and printing bonds, certificates of indebtedness, and other commercial paper having a life of more than one year; fees paid trustees; specific costs of obtaining governmental authority; fees for legal services; fees and commissions paid underwriters, brokers, and salesmen for marketing such evidences of debt; fees and expenses of listing on exchanges, and other like costs.

NOTE: Taxes for issuing or recording evidences of debt shall be charged to account 411, "Transportation tax accruals."

(h) "Delayed items" means items relating to transactions which occurred before the current calendar year but which were not recorded in the books of accounts in such prior years. It includes adjustments of errors in the operating revenue, operating expense, or other income accounts of prior years. See instructions 3 and 4.

(i) "Discount" as applied to certificates of capital stock or evidences of long-term debt issued or assumed by the company means the excess of the par or face value of the securities plus interest or dividends accrued at the date of the sale, over the current money value of the consideration received at their sale.

(j) "Freight forwarder" is defined in section 402(a)(5) of the Interstate Commerce Act as follows:

The term "freight forwarder" means any person which (otherwise than as a carrier subject to part I, II, or III of this Act), holds itself out to the general public to transport or provide transportation of property, or any class or classes of property, for compensation, in interstate commerce, and which, in the ordinary and usual course of its undertaking, (A) assembles and consolidates or provides for assembling and consolidating shipments of such property, and performs or provides for the performance of break-bulk and distributing operations with respect to such consolidated shipments, and (B) assumes responsibility for the transportation of such property from point of receipt to point of destination, and (C) utilizes, for the whole or any part of the transportation of such shipments, the services of a carrier or carriers subject to part I, II, or III of this Act.

(k) "Nominally issued" as applied to certificates of capital stock or evidences of long-term debt issued or assumed by the company means those which have been signed, certified, or otherwise executed and placed with the proper officer for sale, or pledged or otherwise placed in some special fund of the company, but which have not been sold.

(l) "Nominally outstanding" as applied to certificates of capital stock or evidences of long-term debt issued or assumed by the company means those which after being actually issued have been reacquired by or for the company under such circumstances as require them to be considered as held alive and not retired.

(m) "Person" includes an individual, firm, partnership, corporation, company, association, or joint-stock association, and includes a trustee, receiver, assignee, or personal representative thereof.

(n) "Premium" as applied to certificates of capital stock or evidences of long-term debt issued or assumed by the company means the excess of the current money value of the consideration received at their sale over the sum of their par or face value and interest or dividends accrued at the date of the sale.

3 Unmatched items.

When the amount of a known revenue, expense, or income item cannot be accurately determined in time for inclusion in the accounts of the calendar year in which the transaction occurs, the amount shall be estimated and included in the appropriate accounts. When the item is audited the necessary adjustments shall be made through the account in which the estimate was recorded. If, during the interval between the date of inclusion of the item in the accounts and the date on which it is audited, a substantial difference from the initial estimate is determined, appropriate adjustment shall be made in the current accounts to cover such difference. The company is not required to anticipate items which would not appreciably affect the accounts.

4 Extraordinary and prior period items.

(a) (1) All items of profit and loss recognized during the year are includible in ordinary income except nonrecurring items which in the aggregate for the same class are both material in relation to operating revenues and ordinary income for the year and are clearly not identified with or do not result from usual business operations of the year. Important items of the kind which occur from time to time and which, when material in amount, are to be excluded from ordinary income are those resulting from unusual sales of property and investment securities other than temporary cash investments, from wars and similar calamities and catastrophes, which are not a recurrent hazard of the business and which are not usually covered by insurance, from changes in application of accounting principles, and from prior period items (other than ordinary adjustments of a recurring nature). Material items are those which, unless excluded from ordinary income would distort the accounts and impair the significance of ordinary income for the year. Items so excludible from ordinary income are to be entered directly in the income accounts provided for extraordinary and prior period items upon approval of the Commission.

(2) Adjustments constituting items of a character typical of customary business activities or representing corrections or refinements resulting from the natural use of estimates inherent in the accounting process, shall not be considered extraordinary or prior period items regardless of size.

(b) In determining materiality, items of a similar nature should be considered in the aggregate; dissimilar items should be considered individually. As a general standard, an item to qualify for inclusion as an extraordinary or prior period item shall exceed 1 percent of total operating revenues and 10 percent of ordinary income for the year.

(c) Ordinary delayed items and adjustments arising during the current year which are applicable to or related to transactions of prior years shall be included in the same accounts which would have been charged or credited if the item had been taken up or adjusted in the period to which it pertained. Ordinary delayed items excludes items of the character described in paragraph (a) of this section.

5 Depreciation and amortization accounting.

(a) There shall be charged monthly to operating expenses or other appropriate accounts and credited to account 140, "Depreciation and amortization reserve—Transportation property," during the service life of depreciable property, amounts which will approximate the loss in service value not restored by current repairs or covered by insurance. The charges for currently accruing depreciation shall be computed in conformity with the unit method by applying to the original cost or estimated original cost such percentage rates as will distribute the service value by the straight-line method in equal annual charges to operating expenses or other accounts during the estimated life of the property.

NOTE A: The term "service value" means the book cost of the property plus the cost to the company of demolishing the property and recovering the salvage, less the value of the salvage recovered.

NOTE B: The term "unit method" means the method under which depreciation charges are computed and the records maintained so that the total amount of depreciation accrued applicable to each unit of property can be determined. Upon the retirement of any such unit the amount of depreciation accrued to date of retirement and carried in account 140, "Depreciation and amortization reserve—Transportation property," is chargeable to that account. The difference between the amount accrued and carried in account 140 with respect to each unit or item of property retired and the service value is includible in account 622, "Depreciation adjustment."

NOTE C: The term "straight-line method" means the plan under which the annual depreciation charge is computed by applying such percentage rates to the book cost of items of depreciable property as will distribute their estimated service value in equal annual charges as nearly as may be to operating expenses and other accounts over their service lives.

(b) Under the conditions that improvements made by the lessee to leased property revert to the lessor at the termination of the lease, the amount of the company's investment therein shall be amortized over the life of the lease through charges to account 616, "Depreciation and amortization," and credits to account 140, "Depreciation and amortization reserve—Transportation property."

(c) If and when it becomes apparent that charges for depreciation of any group of depreciable property have been excessive or deficient, the estimated service lives shall be reappraised and the depreciation rates revised accordingly to the end that the unprovided-for service value shall be distributed in equal monthly charges over the remaining life of the property. When the aggregate of depreciation accruals for any group of depreciable property equals the service value thereof, no further charges for depreciation of such property shall be included in the accounts.

6 Interpretation of item lists.

List of "items" appearing in the texts of the several accounts are given for the purpose of clearly indicating the application of the prescribed accounting rules in specific cases. The lists are not to be considered as comprising all the items includible in the several accounts, but merely as representative of them. On the other hand the appearance of an item in a list warrants the inclusion of such items in the account concerned only when the text of the account also indicates inclusion inasmuch as the same items frequently appears in more than one list. The proper entry in each instance must be determined by the texts of the account.

7 Submission of questions.

To promote and maintain uniformity of accounting the company shall submit

all questions of doubtful interpretation of the prescribed accounting rules to the Commission for consideration and decision.

GENERAL BALANCE SHEET INSTRUCTIONS

21 Purpose of balance-sheet accounts.

The balance-sheet accounts are intended to disclose the financial condition as of a given date by showing the assets, liabilities, capital stock, and surplus or deficit of the company.

22 Current assets.

(a) In the group of accounts designated as current assets shall be included cash, those assets which are readily convertible into cash or held for current use in operations or construction, current claims against others, and amounts accruing to the company which are subject to current settlement.

(b) There shall not be included in this group of accounts any item the collection of which is not reasonably assured by the known financial condition of the debtor. Items of current character but of doubtful value shall be written down or written off by charging account 106, "Reserve for doubtful accounts." If there has been any impairment in value, such items shall be included in account 172, "Other deferred debits," at an amount not in excess of a reasonable estimate of future value. If it is desired to retain a record of assets written off they shall be recorded at a nominal value in account 172, "Other deferred debits."

23 Company securities owned.

Securities actually issued or assumed by the company which have been reacquired and not retired, shall be carried in account 280, "Reacquired capital stock," or 190, "Reacquired and nominally issued long-term debt," unless it is required by provisions of a mortgage or by decision of a trustee not subject to control by the company, that such securities be retained alive in sinking or other special funds. Reacquired long-term debt not retired shall be shown at par or face value, and reacquired capital stock not retired shall be shown at the amount paid for such stock.

24 Discount, premium, and expense on capital stock.

(a) Separate ledger accounts shall be kept in which to record discount suffered, commission and expense incurred, and premium realized at the original sale of each subclass of capital stock issued or assumed by the company; also in which to record assessments against stockholders for each subclass of capital stock against which levies or assessments are made. For explanation of "subclass" see paragraph (c) of account 240, "Capital stock."

(b) The balances in the ledger accounts shall be classified as follows: The amounts representing discount, commissions, and expense shall be included in account 242, "Discount, commission, and expense on capital stock," and the amounts representing premiums, levies, and assessments shall be included in account 241, "Premiums and assessments on capital stock."

(c) Discount, commissions, and expenses on capital stock may be amortized through such regular charges to account 250–1, "Paid-in surplus," as will equitably distribute the amount over a definite period: *Provided, however,* That the excess of net debits over the accumulated net credit balance in paid-in surplus applicable to the particular class of stock shall be charged to earned surplus, or they may be retained in account 242, "Discount, commission, and expense on capital stock," until the retirement of the stock to which the discount, commission, and expense apply. Premiums, levies, and assessments on capital stock shall be carried in account 241, "Premiums and assessments on capital stock," until the retirement of the stock to which the premiums and assessments apply.

(d) When an issue of capital stock or any part thereof is reacquired, the amount paid therefor shall be charged to account 280, "Reacquired capital stock." If the reacquired stock is resold the difference between the amount at which it was reacquired and the net amount realized from the sale shall be included in account 250, "Unearned surplus," *Provided, however,* That the excess of a debit over the amount of accumulated net gains applicable thereto included in unearned surplus shall be charged to earned surplus.

(e) If reacquired stock is retired, the difference between the amount paid therefor upon reacquirement and the amount included in account 240, "Capital stock," shall be included in account 250, "Unearned surplus." The balances in accounts 241, "Premiums and assessments on capital stock," and 242, "Discount, commission, and expense on capital stock," with respect to the retired stock shall be cleared from those accounts and debited or credited to account 250, "Unearned surplus." The use of account 250 is subject to the limitation that any excess of a debit over the amount of accumulated net gains included in unearned surplus applicable to the stock retired, shall be charged to earned surplus.

25 Discount, premium, and expense on long-term debt.

(a) A separate ledger account shall be maintained for each subclass of long-term debt (including receivers' and trustees' securities) issued or assumed by the company, in which shall be recorded discount suffered, premium realized, and expense incurred in connection with the sale of such debt.

(b) Each month or other accounting period there shall be credited to each such account in which there is a debit balance, such proportion (based upon the ratio of the period to the remaining life of the security at the beginning of each such accounting period) of the debit balance therein as is applicable to the period. The amounts thus credited shall be charged to account 422, "Amortization of discount on long-term debt." Correspondingly each month or other accounting period there shall be charged to each account in which there is a credit balance such proportion of the credit balance therein as is applicable to the period. The amounts thus charged shall be concurrently credited to account 402, "Release of premium on long-term debt."

(c) Only that part of the balance in any account for discount, premium, and expense on long-term debt which is applicable to the period of construction, shall be included in any account as part of the cost of acquiring property or part of the cost of construction.

(d) Except as provided in paragraphs (a), (b), and (c) of this section, the balance in each of these accounts shall be carried until the reacquirement of the securities to which it relates at which time the proportion (based on the relation of the amount of long-term debt reacquired to the total outstanding before its reacquirement) of the balance in the premium, discount, and debt-expense account for the particular class of long-term debt reacquired shall be closed to account 403, "Miscellaneous income," 414, "Miscellaneous income charges," or account 435, "Extraordinary items," as appropriate.

(e) In stating the balance sheet, if the net of the balances in the discount, premium, and expense accounts for all classes of long-term debt outstanding is a debit balance, the amount shall be included in account 171, "Debt discount and expense," and if a credit balance, the amount shall be included in account 230, "Premium on long-term debt."

26 Reorganizations.

(a) Where a company involved in receivership or bankruptcy is so reorganized as to preserve in whole or in part the interests of its owners and creditors, whether through the owning corporation or a successor corporation, or is a company resulting from reorganization of a company in any other manner, and such company emerges from such reorganization as the owner of investments, it shall at the time of recording such investments on its books include in account 166, "Other intangible property," the net difference between the total of accounts 100 to 190, inclusive, and the total of accounts 200 to 243, inclusive, as those accounts are properly adjusted under the reorganization plan. The entries shall be submitted to the Commission for approval before they are spread on the books.

(b) The company shall apply to the Commission for permission to use account 166, "Other intangible property," so far as it is adequate, for the adjustment of all differences between amounts originally set up with respect to such investment items and the values of such items as finally determined; and earned surplus shall be affected only by losses and gains clearly attributable to operations subsequent to date of reorganization.

27 Contingent assets and liabilities.

(a) Contingent assets represent possible sources of value to the company contingent upon the fulfillment of conditions regarded as uncertain. Contingent liabilities include items which may under certain conditions become obligations of the company but are not obligations at the date of the balance sheet.

(b) Contingent assets and liabilities shall not be included in the accounts herein prescribed, but such records shall be kept as will enable the company to report all items of significant amount in a supplemental statement accompanying the company's balance sheet. If, when, and to the extent, contingent assets and liabilities become actual they shall be included in the appropriate accounts herein.

28 Form of general balance-sheet statement.

The classified balance sheet is designated to show the financial condition of the company as of the date for which it is drawn.

ASSET SIDE

CURRENT ASSETS

100	Cash.
101	Special cash deposits.
102	Temporary cash investments.
	Pledged.
	Unpledged.
103	Working advances.
104	Notes receivable.
105	Accounts receivable.
	Less:
106	Reserve for doubtful accounts.
107	Accrued accounts receivable.
108	Material and supplies.
109	Other current assets.
	Total current assets.

SPECIAL FUNDS AND DEPOSITS

120	Sinking and other funds.
	Less:
	Nominally outstanding.
121	Special deposits.
	Less:
	Nominally outstanding.
	Total special funds.

INVESTMENT SECURITIES AND ADVANCES

130	Investments in affiliated companies.
	Pledged.
	Unpledged.
131	Other investments.
	Pledged.
	Unpledged.

TANGIBLE PROPERTY

140	Transportation property.[1]
	Less:
149	Depreciation and amortization reserve—Transportation property.[1]
150	Nontransportation property.
	Less:
151	Depreciation reserve; nontransportation property.
	Total tangible property.

INTANGIBLE PROPERTY

165	Organization.
166	Other intangible property.
	Total intangible property.

DEFERRED DEBITS AND PREPAID EXPENSES

170	Prepayments.
171	Debt discount and expense.
172	Other deferred debits.
	Total deferred debits and prepaid expenses.

RECEIVERS' AND TRUSTEES' SECURITIES

190	Reacquired and nominally issued long-term debt.
	Reacquired:
	Pledged.
	Unpledged.
	Nominally issued:
	Pledged.
	Unpledged.
191	Nominally issued capital stock.
	Pledged.
	Unpledged.
	Total assets.
	Contingent assets (not included above).

LIABILITY SIDE

CURRENT LIABILITIES

200	Notes payable.
201	Accounts payable.
202	Accrued interest.
203	Dividends payable.
204	Accrued taxes.
205	Accrued accounts payable.
209	Other current liabilities.
	Total current liabilities.

LONG-TERM DEBT

210	Funded debt.
211	Receivers' and trustees' securities.
212	Amounts payable to affiliated companies.
218	Long-term debt in default.
	Less:
	Nominally outstanding.
	Nominally issued.
	Total long-term debt.

RESERVES

220	Insurance reserves.
221	Provident reserves.
229	Other reserves.
	Total reserves.

DEFERRED CREDITS

230	Premium on long-term debt.
231	Other deferred credits.
	Total deferred credits.

CAPITAL AND SURPLUS

240	Capital stock.
241	Premiums and assessments on capital stock.
	Less:
	Nominally issued capital stock.
242	Discount, commission, and expense on capital stock.
243	Proprietorial capital.
250	Unearned surplus.
	Paid-in surplus.
	Other unearned surplus.
260	Earned surplus—Appropriated.
270	Earned surplus—Unappropriated.
	——[1] balance.
	Surplus price to January 1, 1942:
	——[1] balance.
280	Reacquired capital stock:
	Pledged.
	Unpledged.
	Total capital and surplus.
	Total liabilities.
	Contingent liabilities (not included above).

GENERAL BALANCE SHEET ACCOUNTS

DEBIT

100 Cash.

This account shall include the amount of current funds available for use on demand in the hands of financial officers and agents or deposited in banks or trust companies including cash in transit for which agents or others have received credit.

NOTE: If the withdrawal of any portion of the cash recorded in this account is restricted for any purpose except the usual time limit for savings accounts, the balance sheet shall carry an appropriate notation to that effect.

101 Special cash deposits.

This account shall include cash on special deposit (other than in special funds and deposits) for the payment of interest, dividends, and other obligations: *Provided,* That the liability which is to be liquidated by the disbursement of the funds is classified as a current liability.

NOTE A: Cash on deposit in special accounts where the funds are available for the current requirements of the company shall be included in account 100, "Cash."

NOTE B: Special cash deposits not offset by current liabilities shall be included in account 121, "Special deposits."

102 Temporary cash investments.

(a) This account shall include the book cost of investments acquired for the purpose of temporarily investing cash, such as demand and time loans, certificates of deposit, bankers' acceptances, United States Treasury bills, marketable securities, and other similar investments readily convertible into cash, but excluding securities of affiliated companies.

(b) Investments in securities of other companies shall be included in this account only if such securities were purchased with the intention of selling them within one year from date acquired and they have been held less than one year.

NOTE: Securities issued or assumed by the company shall not be included in this account.

103 Working advances.

This account shall include amounts advanced to officers, agents, branch offices, etc., as working funds, pay rolls, or travel advances from which certain expenditures are to be made and accounted for.

104 Notes receivable.

This account shall include the book cost not includible elsewhere of all collectible obligations in the form of notes receivable, or other similar evidences (except interest coupons) of money receivable on demand or within a time not exceeding one year from date of issue. (See paragraph (5) of Instruction 22, *Current assets.*)

NOTE: Notes evidencing investment advances to others shall be included in the appropriate investment account.

105 Accounts receivable.

(a) This account shall include amounts due from others for material and supplies furnished and services rendered, use of property, insurance, and other claims; amounts owing by public authorities; and

[1] Debit or credit amount as appropriate.

amounts of collectible judgments. (See paragraph (b) of Instruction 22 *Current assets.*)

(b) This account shall include also the net balance in current accounts due from agents and other employees and representatives charged with the collection and custody of current revenues.

NOTE: Amounts advanced to officers, employees, or others as working funds, shall be included in account 108, "Working advances."

106 Reserve for doubtful accounts.

(a) This account shall be credited each month with amounts estimated as the average loss due to uncollectible accounts. To this account shall be charged such amounts as are determined to be uncollectible. Amounts written off as uncollectible and later collected shall be credited to this account.

(b) The estimates shall be adjusted at the end of each year to conform to the experience of the company as determined by an analysis of its notes and accounts receivable.

NOTE: Amounts credited to this account to provide a reserve for doubtful accounts shall be charged to account 412, "Provision for uncollectible accounts."

107 Accrued accounts receivable.

This account shall include the amount of interest accrued to the date of the balance sheet on bonds, notes, deposits, open accounts, and other interest-bearing obligations owned, the amount of matured dividends on stocks owned, and the amount of dividends accrued on such stocks when contracts require that the dividends be paid at stated times. It shall also include unmatured rents receivable accrued to the date of the balance sheet. It is not required that minor items shall be accounted for upon an accrual basis. It shall also include estimates of unaudited current items receivable which are credited to operating revenue, operating expense, or income accounts in accordance with Instruction 3 *Unaudited items*, and estimates of other unaudited items receivable of a current nature.

NOTE A: No amounts representing interest, dividends, or rents receivable, shall be included in this account unless collection thereof is reasonably assured by past experience, guaranty, anticipated provision, or otherwise. If settlement of amounts included in this account is not made when due, either with cash or with tangible assets of equal money value, such amounts shall be cleared from this account and charged to the income account originally credited.

NOTE B: No dividends or other returns on securities issued or assumed by the company shall be included in this account.

108 Material and supplies.

(a) This account shall include the cost, less cash and other discounts, of all unapplied material and supplies.

(b) The cost chargeable to this account are the actual cash costs of the material and supplies at point of free delivery plus excise and other taxes, insurance, inspection, special tests, loading and unloading, and transportation charges.

(c) Amounts paid for containers, which are refundable if containers are returned, shall be charged to this account until refund is collected.

NOTE A: Interest paid on material bills the payment of which is delayed shall be charged to account 431, "Other interest deductions."

NOTE B: An annual inventory of material and supplies shall be taken and the necessary adjustments shall be made to bring this account into harmony with the actual inventory balances. In effecting this adjustment determine differences in accounting for important classes of material shall be equitably assigned among the accounts to which such classes of material ordinarily are chargeable. Other differences shall be equitably apportioned among the primary accounts.

109 Other current assets.

This account shall include the amount of assets of a current nature not includible in any of the foregoing current asset accounts.

120 Sinking and other funds.

(a) This account shall include cash, book cost of securities of other companies or governmental bodies, par value of reacquired bonds or other evidences of indebtedness issued or assumed by the company, and cost of other assets placed on deposit or in the hands of trustees or managers of sinking, insurance, employees' pension, savings, relief, hospital, and other funds for which no specific account is provided. (See Instruction 23 *Company securities owned.*)

(b) It shall also include accretions representing interest, dividends, or other returns accrued on investments held in such funds when the accretions are retainable therein.

(c) Subsidiary accounts shall be maintained for each fund according to depositories or trustees and further divided to show:

Cash.
Securities.
Interest.

NOTE: Reacquired bonds and other evidences or indebtedness issued or assumed by the company and held alive and not retired shall be considered to be nominally outstanding.

121 Special deposits.

This account shall include cash and book cost of securities deposited to guarantee the performance of contracts and agreements; also deposits in lieu of mortgaged property sold and other trust deposits, which are held until equivalent property is acquired or pending other disposition. This account shall include, also, funds specifically deposited (other than as provided in account 120, "Sinking and other funds,") for the payment of dividends, interest, and other obligations, provided the liability which is to be liquidated by the disbursement of the funds is not classified as a current liability.

NOTE: Special cash deposits offset by current liabilities shall be included in account 101, "Special cash deposits."

130 Investments in affiliated companies.

(a) This account shall include the book cost of the investment in securities issued or assumed by affiliated companies, other than securities held in special deposits or in special funds; also investment advances to affiliated companies.

(b) This account shall be maintained to show separately the cost of each of the following kinds of investments in each company and whether pledged or unpledged:

Stocks by classes.
Bonds by classes.
Other secured obligations.
Unsecured notes.
Advances.

NOTE A: Accounts which are subject to current settlement shall be classed as current assets or current liabilities, as may be appropriate.

NOTE B: Amounts representing interest or dividends on securities or interest on investment advances shall be included in account 107, "Accrued accounts receivable," subject to the limitation provided in note A of that account.

NOTE C: The value of securities borrowed by the company shall not be included in this account. A memorandum record shall be kept.

131 Other investments.

(a) This account shall include the book cost of the investment in securities issued or assumed by nonaffiliated companies, other than securities purchased as temporary investments or held in special deposits or in special funds; also investment advances to nonaffiliated companies and to individuals; cash surrender value of life insurance policies of officials where company is beneficiary, less the amount of any loans which have been obtained on such policies; and miscellaneous investments not provided for elsewhere.

(b) This account shall be maintained to show separately the cost of each of the following kinds of investment in each company and whether pledged or unpledged:

Stocks by classes.
Bonds by classes.
Other secured obligations.
Unsecured notes.
Advances.

NOTE A: Accounts which are subject to current settlement shall be classed as current assets or current liabilities, as may be appropriate.

NOTE B: Amounts representing interest or dividends on securities or investment advances shall be included in account 107, "Accrued accounts receivable," subject to the limitation provided in note A of that account.

NOTE C: The value of securities borrowed by the company shall not be included in this account. A memorandum record shall be kept.

140 Transportation property.

(a) This account shall include the cost to the company of construction or acquisition of all property used or held for use in transportation operations; also the cost of improvements made to leased property.

(b) The company's records shall be kept so as to show the debits and credits to this account classified in accordance with property accounts 141 to 144, inclusive.

NOTE: "Held for use" implies the ability to substantiate by plans or policy the characterization of the probable future use which is to be made of the property within a reasonable period of time.

141 Furniture and office equipment.

(a) This account shall include the cost of furniture and appliances used in offices, stations, and warehouses, etc., and the cost of miscellaneous wheeled equipment used in connection with handling freight.

(b) It shall include also, the cost of partitions and other fixtures applied to structures rented from others except that if the lease is for a period of one year or less the cost shall be charged to the account appropriate for the rent.

ITEMS

Billing machines.	Floor coverings.
Book cases.	Heaters and lamps.
Calculating machines.	Lighting fixtures.
Cash registers.	Lockers.
Chairs, stools, and benches.	Office equipment (mechanical).
Clocks.	Partitions and railings.
Counters.	Safes.
Desks.	Seals.
Fans, electric.	Teletypewriters.
Filing cabinets.	Time clocks.
Fire extinguisher equipment.	Typewriters.
	Water coolers.

NOTE: The cost of individual items of small value ($100.00 or less) or of short life shall be charged to operating expenses. A limit of less than $100 for charges to the property account may be adopted providing a statement is filed with the Commission showing the lesser amount and no subsequent change is made in the amount so adopted except by authority of the Commission.

142 Motor and other highway vehicles.

This account shall include the cost of automobiles and other highway vehicles, and the cost of transporting them to the point where placed in service.

143 Land and public improvements.

This account shall include the cost of land used or held for use in transportation service and expenses incidental to the acquisition thereof; also the cost of public improvements whether assessed against the company by governmental authority or whether the improvements are constructed by the company under governmental requirements.

144 Terminal and platform equipment.

This account shall include the cost of electric and gasoline motor trucks, other wheeled equipment, and similar types of equipment used at terminals and loading platforms in connection with handling freight.

ITEMS

Blocks and falls.	Gasoline motor trucks.
Carts.	Hand trucks.
Chain hoists.	Platform trucks and tractors.
Dollies (platform).	Warehouse trucks.
Electric motor trucks.	Weighing devices.
Fork lift trucks.	

145 Other property account charges.

This account shall include property account charges not otherwise provided for, including the cost of buildings and other structures, the cost of property in process of construction but not completed ready for service; and the difference, if any, between the book cost of transportation property and the total amount of the balances carried forward and entered in the other primary accounts of this system of accounts.

146 Depreciation and amortization reserve; transportation property.

(a) This account shall be credited with amounts charged to operating expense and other accounts to cover the estimated loss in service value of depreciable property and the amortization of improvements on leased property. (See instruction 5 *Depreciation and amortization accounting.*) It shall also include other entries which may be authorized by the Commission.

(b) At the time of retirement of depreciable property the amount of depreciation accrued and included herein with respect to the particular unit or item shall be charged hereto. (See instruction 43 *Retirements.*)

(c) At the time of retirement of improvements on leased property or the reversion to the lessor, the amount of the balance in this account with respect to such property shall be cleared from this account, and the remainder of the loss, if any, shall be charged to account 414, "Miscellaneous income charges."

NOTE A. This account shall be subdivided to show the reserve separately for classes of property corresponding to the property investment accounts as follows:

Furniture and office equipment.
Motor and other highway vehicles.
Public improvements (depreciable property).
Terminal and platform equipment.
Other property account charges (depreciable property).

NOTE B. Records shall be maintained in such manner that companies can report separately (1) reserves for depreciation and (2) reserves for amortization.

160 Nontransportation property.

(a) This account shall include the cost to the company of land, structures, and equipment not used in connection with transportation operations.

(b) This account shall include also the lesser of the appraised value or book cost of land and improvements retired from transportation service and retained by the company.

161 Depreciation reserve; nontransportation property.

(a) This account shall be credited with amounts charged to account 414, "Miscellaneous income charges," to cover the loss in service value of depreciable property the cost of which is included in account 160, "Nontransportation property."

(b) When depreciable nontransportation property is destroyed, sold, or otherwise retired from service, the service value of the property retired shall be charged hereto. If the amounts recovered from insurance are in excess of the service value of the property destroyed, such excess shall be credited to account 403, "Miscellaneous income," or account 435, "Extraordinary items," as appropriate.

165 Organization.

(a) This account shall include expenditures incident to incorporation or other forms of organization of the company such as:

Fees paid for the privileges of incorporation.
Legal and office expenses incident to organizing the company.
Cost of stock and minute books and corporate seal.
Cost of preparing and filing amendments to the certificate of incorporation.
Special counsel and other fees and expenses in mergers, consolidations, and reorganizations.
Cost of public franchises granted for a term of more than one year.

(b) The balance in this account may be amortized by regular charges to account 414, "Miscellaneous income charges"; or the entire amounts of such items, when qualifying as extraordinary pursuant to instruction 4, may be written off to account 435, "Extraordinary items."

NOTE A: This account shall not include discount upon securities issued or assumed; costs incident to negotiating loans, selling bonds or other evidence of debt; or discount, commissions, and expense incident to the authorization, issuance, and sale of capital stock. (See instruction 24 *Discount, premium, and expense on capital stock*, and instruction 25 *Discount, premium, and expense on long-term debt.*)

NOTE B: When charges are made to this account for expenses in mergers, consolidations, or reorganizations, amounts previously included in this account on the books of the various companies shall not be carried over.

166 Other intangible property.

(a) This account shall include intangibles not provided for elsewhere, including any undistributed portion of the purchase cost of a transportation system, or a portion thereof constituting a distinct operating unit, not includible in other accounts provided for assets acquired or liabilities assumed. Entries involving debits or credits to this account shall not be recorded in the books until permission of the Commission has been obtained.

(b) The balance in this account may be amortized by regular charges to account 414, "Miscellaneous income charges"; or the entire amounts of such items, when qualifying as extraordinary pursuant to instruction 4, may be written off to account 435, "Extraordinary items."

170 Prepayments.

This account shall include amounts representing prepayments. The account shall be kept so as to disclose the balance with respect to each of the following:

Taxes.	Rents.
Insurance.	Miscellaneous.
Interest.	

This account shall be credited and the appropriate account charged in such manner as to distribute the amount of prepayment over the term to which applicable. Minor payments may be charged direct to final account.

171 Debit discount and expense.

(a) This account shall include the net total if a debit balance of all discount, expense, and premium accounts for all classes of long-term debit. (See instruction 25 *Discount, premium, and expense on long-term debt.*)

(b) When an issue of long-term debt, or any part thereof, is refunded and at the date of refunding there is a balance of unamortized discount and expense relating thereto, the amount of such balance, together with any premium paid in retiring the debt, shall be charged to account 414, "Miscellaneous income charges," or to account 435, "Extraordinary items," as may be appropriate in accordance with the text of these accounts.

172 Other deferred debits.

(a) This account shall include the amount of debit balances in suspense accounts that cannot be cleared entirely and disposed of until additional information is received, such as:

Amounts paid for options pending final disposition.
Cost of preliminary surveys, investigations, or appraisals in connection with contemplated acquisition or sale of property as securities.
Debit balances in clearing accounts.
Receivable items of a noncurrent nature awaiting further information so they can be billed.
Items of current character but doubtful value. (See instruction 22 *Current assets.*)
The lesser of the appraised value or net book value (book cost less recorded depreciation) of property retired and held without being torn down pending sale or other disposition and not used for any purpose. (See account 160, "Nontransportation property.")
Other similar items, the proper and final disposition of which is uncertain.

(b) When the proper disposition of any item included in this account is determined, the amount thereof shall be credited to this account and concurrently charged to the appropriate account.

190 Reacquired and nominally issued long-term debt.

(a) This account shall include the par value of long-term debt of the company reacquired by it and held uncanceled, except debt held in sinking or other special funds. (See instruction 23 *Company securities owned.*)

(b) The difference between the par value of bonds or other long-term debt included in this account and the amount paid by the company for such securities, including commissions and expenses paid in connection with the reacquisition, shall be credited or debited, at the time of reacquirements, to accounts 403, "Miscellaneous income," 414, "Miscellaneous income charges," or to account 435, "Extraordinary items," as may be appropriate in accordance with the texts of these accounts. Concurrently, the portion of unamortized premium, discount, and expense relating to the long-term debt reacquired shall be credited or debited as appropriate to the same accounts. (See instruction 25 Discount, premium, and expense on long-term debt.)

(c) When reacquired long-term debt is resold by the company, the par value of the securities shall be credited to this account and the difference between such amount and the net sale price realized shall be credited or debited to the same accounts mentioned in paragraph (b) of this section.

(d) Records supporting the entries to this account shall be maintained to show particulars concerning each class and series of funded debt reacquired.

(e) This account shall also include the par value of nominally issued long-term debt.

NOTE A: The adjustment to par of funded debt reacquired for sinking and other special funds shall be recorded in appropriate accounts at date of reacquisition as provided in paragraph (b) of this account.

NOTE B: Reacquired bonds and other evidences of indebtedness issued or assumed by the company and held alive and not retired shall be considered to be nominally outstanding.

191 Nominally issued capital stock.

This account shall include the par value, or with respect to no par stock, the amounts recorded in account 240, "Capital stock," relating thereto, of nominally issued capital stock.

NOTE: The amount paid for capital stock actually issued or assumed by the company and reacquired by it and held uncanceled shall be included in account 280, "Reacquired capital stock."

CREDIT

200 Notes payable.

This account shall include the face value of notes, drafts, and other evidences of indebtedness issued or assumed by the company (except interest coupons) which are payable on demand or not more than one year from date of issue.

201 Accounts payable.

(a) This account shall include amounts payable to others for material and supplies furnished and services rendered, rent for use of property, amounts due to public authorities (such as taxes collected from employees and others for the account of taxing agencies), amounts of payable judgments, current accounts with officers and employees, personal injury and property damage claims, shippers' c.o.d.'s, and other similar items.

(b) This account shall include also amount of wages payable or accrued pay rolls at the date of the balance sheet; balances representing unclaimed wages and deductions from pay rolls; and all other unpaid vouchered items; outstanding drafts drawn by agents and others; and other items of the nature of demand liabilities.

202 Accrued interest.

This account shall include the amount of unpaid interest accrued to the date of the balance sheet on actually outstanding loans, funded debt, and other interest-bearing obligations.

NOTE A: This account shall be kept so that the company can report separately the amount of any matured interest unpaid.

NOTE B: Interest payable to affiliated companies shall be included in account 212, "Amounts payable to affiliated companies," if not subject to current settlement.

203 Dividends payable.

This account shall include the amount of dividends declared on actually outstanding capital stock but unpaid at the date of the balance sheet.

204 Accrued taxes.

(a) This account shall be credited each period with the amount of taxes accrued during the period, with concurrent debits to the appropriate accounts for tax charges. As credits to this account necessarily will be based upon estimates they shall be adjusted from time to time during the year so that as nearly as possible the tax charge account may show the taxes applicable to the year. Payments of taxes for which accruals have been made shall be debited to this account. Prepayments of taxes shall be included in account 170, "Prepayments."

(b) The records supporting the entries to this account shall be kept to show separately the accrual of:

Federal income taxes.
Federal old age pension taxes.
Unemployment compensation taxes.
Property taxes.
Other taxes.

205 Accrued accounts payable.

This account shall include estimates of unaudited current items payable (other than liability for casualties) which are charged to operating revenue, operating expense, or income accounts in accordance with instruction 9 *Unaudited items;* also estimates of other unaudited items payable of a current nature.

NOTE: Estimated liability for damages, losses, and injuries shall be credited to account 222, "Other reserves."

209 Other current liabilities.

This account shall include all liabilities of a current character not provided for in the foregoing accounts.

210 Funded debt.

This account shall include the total face value of funded debt, including bonds, notes, certificates, and other evidences of indebtedness issued or assumed by the company and maturing more than one year from date of issue which have not been reacquired and canceled. (See instruction 23 *Company securities owned* and instruction 26 *Discount, premium, and expense on long-term debt.*)

NOTE A: Advances from affiliated companies including advances represented by notes shall be included in account 212, "Amounts payable to affiliated companies."

NOTE B: Bonds and other evidences of indebtedness issued or assumed by the company which have been reacquired and held alive and not retired shall be considered to be nominally outstanding.

NOTE C: Matured funded debt shall be included in account 205, "Other current liabilities," if provision has been made for current settlement. If no provision has been made for current settlement, matured funded debt shall be included in account 218, "Long-term debt in default."

211 Receivers' and trustees' securities.

When receivers or trustees acting under the order of a Court are in possession of the property of the company and under the order of a Court are in possession of indebtedness, or assume the payments of such indebtedness, the par value of such obligations shall be credited to this account.

NOTE: Securities issued or assumed by receivers or trustees which have been reacquired and held alive and not retired shall be considered to be nominally outstanding.

212 Amounts payable to affiliated companies.

This account shall include the par value of nonnegotiable notes issued to affiliated companies; matured funded debt held by affiliated companies when there is no agreement for extension as to time of payment and collection is not enforced; credit balances in open accounts with such companies other than credit balances in current accounts classable as current liabilities; and interest accrued on such amounts when not subject to current settlement.

NOTE: Accounts with affiliated companies that are subject to current settlement such as charges for material and supplies furnished and services rendered shall be classed as current assets or current liabilities as may be appropriate.

213 Long-term debt in default.

This account shall include the amount of funded debt and received and trustees' securities mature and unpaid when the maturity dates of such obligations have not been extended.

NOTE A: The principal amount of matured funded debt of the company held by an affiliated company, the collection of which is not enforced by the controlling company, shall be included in account 212, "Amounts payable to affiliated companies."

NOTE B: The principal amount of unpresented long-term debt obligations which have matured, and for which provision has been made for payment shall be included in account 205, "Other current liabilities."

220 Insurance reserves.

(a) This account shall include the net credit balance in the accounts to which are credited such insurance premiums as are concurrently charged to operating expenses to cover self-carried risks on fire, fidelity, casualty, burglary, and other insurance, and to which are charged losses sustained on items protected by such insurance.

(b) If the company reinsures with insurance companies the risks initially covered in this account, the reinsurable premiums shall be charged and the amounts recovered from insurance companies shall be credited to this account.

(c) This account shall be used also for equalization of other insurance risks such as self-carried workmen's compensation, and public liability insurance.

NOTE: Appropriations of earned surplus shall be included in account 260, "Earned surplus—Appropriated."

221 Provident reserves.

This account shall include the book balances representing the liability of the company for the amount of the assets (whether contributed by the company, by the employees, or by others) in the hands of its treasurer, or of trustees or managers acting for it in the administration of employees' pension, savings, relief, hospital, and other association funds.

222 Other reserves.

This account shall include reserves created by accruals to the casualty accounts in operating expenses to meet the probable liabilities incurred for damage, loss, and injuries not covered by insurance. It shall include also other reserves created for purposes not provided for elsewhere. When the liability is admitted this account shall be charged with amounts payable. (See instruction 83 *Injuries and damages.*)

230 Premium on long-term debt.

(a) This account shall include the net total if a credit balance of all discount, expense, and premium accounts for all subclasses of long-term debt. (See instruction 25 *Discount, premium, and expense on long-term debt.*)

(b) When an issue of long-term debt, or any part thereof is refunded and at the date of refunding there is a balance of unamortized premium related thereto, the amount of such balances shall be credited to account 403, "Miscellaneous income," or account 435, "Extraordinary items," as appropriate.

231 Other deferred credits.

(a) This account shall include the amount of all deferred credits not provided for elsewhere, such as:

Deposits by employees subject to refund to assure the return of company property.
Credit balances in clearing accounts.

(b) This account shall include also the amount of credit balances in suspense accounts that cannot be cleared and disposed of entirely until additional information is received.

(c) When the proper disposition of any item included in this account is determined, the amount thereof shall be debited to this account and concurrently credited to the appropriate account.

240 Capital stock.

(a) This account shall include the total par value, or for stock without par value the money value of the consideration received, in respect of capital stock or other form of proprietary interest in the company which has been issued to bonafide purchasers and has not been reacquired and canceled. It shall include also appropriations of surplus which have been transferred to capital stock account. When capital stock is retired and canceled this account shall be charged with the amount at which such stock is recorded herein.

(b) The amounts included herein shall be divided so as to show each class of stock issued as follows:

Preferred stock—Stocks having a preference or priority in respect to dividend participation.
Common stock—Stocks entitled to a dividend, if any, after preferred stocks.
Receipts outstanding for installments paid—Receipts for payments on account of subscriptions to capital stock.

(c) Each of the above classes shall be divided into subclasses according to differences in dividend or interest rights, voting rights, or conditions under which stock may be retired. A separate record shall be maintained for each subclass showing the number of shares authorized by the articles of incorporation and amendments thereto, the number of shares issued, the number of shares reacquired and canceled, the number of shares outstanding, and the book value thereof.

(d) The book value of nonpar stock reacquired shall be determined by a prorate of the proceeds realized from shares of the particular subclass of stock, of which the shares reacquired are a part actually outstanding immediately prior to the acquisition plus any transfers of surplus to the particular class of stock reacquired.

(e) If capital stock is reacquired by purchase and held in treasury or in sinking or other special funds the amount paid shall be included in the appropriate account and the information with respect to such reacquirement, including capital stock donated to the company, shall be recorded in subsidiary records.

241 Premiums and assessments on capital stock.

(a) This account shall include the excess of actual cash value of the consideration received over the par value and accrued dividends, of par value stock issued, together with assessments against stockholders representing payments in excess of the par or/recorded values as included in account 240, "Capital stock." (See instruction 24 *Discount, premium, and expense on capital stock.*)

(b) When capital stock is retired and canceled, the amount in this account with respect to the shares of such stock retired and canceled shall be charged hereto.

242 Discount, commission, and expense on capital stock.

This account shall include discount suffered and commissions and expense incurred in connection with the issuance and sale of capital stock. Records shall be kept showing the discount, commissions, and expense for each subclass of capital stock. (See instruction 24 *Discount, premium, and expense on capital stock.*)

243 Proprietorial capital.

This account shall include the permanent investment by the proprietor or proprietors in the business organized as an unincorporated firm, copartnership, or otherwise than as an incorporated company, subject to change only by additional investment by the proprietor or proprietors or the withdrawal from the business of amounts not representing income or surplus.

NOTE A: Amounts payable to the proprietors as fair and reasonable compensation for services performed shall be charged to the appropriate operating expense or other accounts.

Note B: Income and surplus accounts shall be maintained and entries thereto shall be made in accordance with the provisions thereof.

Note C: Separate accounts shall be kept to show the equity of each member of a co-partnership, and the transactions affecting the interest of each partner. The total of the balances in such accounts shall be shown as one amount in the balance sheet.

250 Unearned surplus.

(a) This account shall include all surplus arising from sources other than those classifiable under earned surplus accounts.

(b) Subaccounts shall be maintained as set forth in accounts 250–1 and 250–2.

250–1 Paid-in surplus.

This subaccount shall include such items as gains from retirement or resale of reacquired or donated shares of capital stock and from forfeiture of subscriptions; debt of the company forgiven by the stockholders; and reduction of the par or recorded value of the company's capital stock when approved by the Commission.

This subaccount shall be charged with amounts included herein capitalized by stock dividends or otherwise; losses from retirement or resale of reacquired shares up to an amount not in excess of credits herein applicable thereto; and may be charged with the amortization of discount and expense on capital stock to the the extent of credits herein applicable thereto.

250–2 Other unearned surplus.

This subaccount shall include unearned surplus arising from sources other than those enumerated under subaccount 250–1, "Paid-in surplus."

260 Earned surplus; appropriated.

(a) This account shall include the total of the net balances of appropriations of income and earned surplus for the acquisition of capital assets; the retirement of debt; sinking and redemption funds; and all other appropriations specifically set aside in the hands of trustees as well as appropriations held in general funds for which no specific investment or segregation of assets has been made. It shall include also accretions to the assets held in such special funds.

(b) A subdivision of this account shall be maintained by classes of appropriations, the titles of which shall indicate the purpose for which the appropriations were made.

270 Earned surplus; unappropriated.

This account shall include the net balance (debit or credit) of the amounts included in accounts 300 to 312, inclusive. It shall not include transfers either to or from account 250, "Unearned surplus," unless so authorized upon application to the Commission.

The balance of all earned surplus accounts shall be closed into this account at the end of each calendar year.

280 Reacquired capital stock.

(a) This account shall include the amount paid for capital stock actually issued or assumed by the company and reacquired by it and held uncanceled.

(b) The par or recorded value of capital stock reacquired through donations shall be recorded without value in subsidiary records until resold or retired.

(c) The accounting for the retirement or resale of reacquired capital stock is prescribed in paragraphs (d) and (e) of instruction 24 *Discount, premium, and expense on capital stock.*

(d) Records supporting the entries to this account shall be maintained to show particulars concerning each class and series of capital stock included herein.

Note: The par value of nominally issued capital stock shall be included in account 191, "Nominally issued capital stock."

PROPERTY INVESTMENT INSTRUCTIONS

41 Purpose of the property accounts.

The property accounts are designed to show an accounting analysis of the book cost of transportation property owned by the company, including improvements on leased property.

42 Basis of charges.

These accounts shall be charged with the cost to the company of property acquired for transportation service, including that replacing property retired; also additions to and improvements of existing property. When the consideration given in the acquisition of property is other than money, the current cash value of such consideration shall be deemed to be the cost of the property acquired. If transportation property constituting an operating unit or system is acquired by purchase, merger, consolidation, or otherwise, the facts relating to the transaction shall be submitted to the Commission for instructions as to the accounting to be performed.

Note: The cost of individual items of small value ($25.00 or less) or of short life, shall not be included in the property accounts unless the correctness of such charges can be verified by current inventories, but shall be charged to operating expenses.

43 Retirements.

At the time of retirement, the book cost (estimated if not known) of transportation property retired shall be credited to the appropriate property accounts in which included. Contra entries shall be as follows:

1. Depreciable property: The value of the salvage recovered shall be charged to account 208 "Material and supplies," or other appropriate asset account, according to the disposition of the material recovered. The service value shall be charged to account 140, "Depreciation and amortization reserve—Transportation property," to the extent of the amount carried in that account and the remainder shall be included in account 622, "Depreciation adjustment." (See instruction 4, *Depreciation and amortization accounting.*)

2. Land: If the land is sold, the amount of the necessary adjustment between the book cost and the amount realized shall be included in accounts 402, "Miscellaneous income," 414, "Miscellaneous income charges," or account 435, "Extraordinary items," as may be appropriate in accordance with the terms of these accounts. If the land is retained, the lesser of its appraised value or book cost shall be charged to account 160, "Nontransportation property," and the necessary adjustment shall be included in the appropriate income account.

3. Other nondepreciable property: The service value shall be charged to the operating expense account appropriate for repairs of the property.

PROPERTY INVESTMENT ACCOUNTS

Note: For Property Investment Accounts see accounts 141 to 144.

SURPLUS INSTRUCTIONS

51 Purpose of earned surplus accounts.

The earned surplus accounts are designed to show the changes in earned surplus during each calendar year as affected by the balance of the income account as reported for that period; by any disposition of earned surplus made by the company; when authorized by the Commission, other items; and also to show the unappropriated earned surplus of the company as of the date of the balance sheet.

52 Purpose of unearned surplus account.

The unearned surplus account is designed to show surplus arising from sources other than earned surplus.

53 Segregation of surplus.

After the date this system of accounts becomes effective the company shall maintain account 250, "Unearned surplus," account 260, "Earned surplus—Appropriated," and account 270, "Earned surplus—Unappropriated." If prior to that date such a separation has not been maintained, the surplus shall be segregated at that time so far as practicable, into unearned surplus and earned surplus. The company shall continue to carry any surplus that cannot be so segregated in an account entitled "Surplus prior to January 1, 1942." The account so designated shall be carried until the balance therein has been entirely cleared by charges thereto applicable to the period prior to the effective date of this system of accounts, unless authority to dispose of it otherwise is obtained from the Commission.

EARNED SURPLUS ACCOUNTS

CREDIT

300 Income balance.

This account shall be maintained in the general books of the company. The net balance of all income primary accounts shall be closed into this account at the end of each calendar year.

301 Miscellaneous credits.

This account shall include other credit adjustments, not of assigned income taxes, not provided for elsewhere in this system but only after such inclusion has been authorized by the Commission.

DEBIT

310 Miscellaneous debits.

(a) This account shall include charges which reduce or write off discount on capital stock issued by the company, but only to the extent that such charges exceed credit balances in paid-in surplus for shares reacquired.

(b) This account shall also include debit adjustments, not of assigned income taxes, not provided for elsewhere in this system but only after such inclusion has been authorized by the Commission.

311 Miscellaneous reservations of earned surplus.

(a) This account shall include appropriations or reservations of earned surplus, set aside in special reserve, including amounts appropriated to sinking fund and other special funds maintained by the company.

(b) Amounts charged to this account shall be credited to account 260, "Earned surplus—Appropriated."

Note: The use of this account is conditional upon the company's having an adequate credit balance in earned surplus.

312 Dividend appropriations of earned surplus.

(a) This account shall include amounts definitely declared payable from earned surplus as dividends on actually outstanding capital stock issued or assumed by the company. If a dividend is not payable in cash, the consideration shall be described in the entry with sufficient particularity to identify it.

(b) This account shall be subdivided so as to show separately the dividends on the various subclasses of capital stock.

Note A: This account shall not include dividends on capital stock issued or assumed by the company and owned by it, whether pledged as collateral or held in its treasury, in special deposits, or other special funds.

Note B: The use of this account is conditional upon the company's having an adequate credit balance in earned surplus. If a dividend is declared in excess of the credit balance in earned surplus, the company shall apply to the Commission for instructions regarding the applicable accounting and shall furnish full details of the transaction.

INCOME INSTRUCTIONS

61 Purpose of income accounts.

The income accounts are designed to show as nearly as practicable for each calendar year the amount of money that a company becomes entitled to receive for transportation services rendered; the income accrued upon investments in securities and nontransportation property; the accrued costs paid or payable for the transportation services rendered by it; the losses sustained by it; the amounts accrued for taxes, for use of moneys, for use of properties of others; and for extraordinary and prior period items. See instruction 4.

62 Statement of income accounts.

The accounting for income shall be, as nearly as practicable, consistent with the transactions or the occurrences which create them. For the purpose of meeting this requirement, the company shall account for unaudited income debits and credits upon an accrual basis. (See instruction 3 *Unaudited items.*)

63 Form of income statement.

The classified form of income statement is designed to show the net income or loss from transportation operations and from other sources during any specified period.

ORDINARY ITEMS

RAILWAY OPERATING INCOME

400 Operating revenues.
410 Operating expenses.
Net revenue from forwarder operations.[1]
421 Transportation tax accruals.
Net revenue, less taxes, from forwarder operations.[1]

OTHER INCOME

401 Dividend and interest income.
402 Release of premium on long-term debt.
403 Miscellaneous income.
Total other income.
Total income.[1]

MISCELLANEOUS DEDUCTIONS FROM INCOME

412 Provision for uncollectible accounts.
413 Miscellaneous tax accruals.
414 Miscellaneous income charges.
Total income deductions.
Ordinary income before fixed charges and income taxes.[1]

FIXED CHARGES

430 Interest on long-term debt.
431 Other interest deductions.
422 Amortization of discount on long-term debt.
Total fixed charges.
Ordinary income before provision for income taxes.[1]

PROVISION FOR INCOME TAXES

431 Income taxes on ordinary income.
Ordinary income.[1]

EXTRAORDINARY AND PRIOR PERIOD ITEMS[1]

435 Extraordinary items (net).
440 Prior period items (net).
450 Income taxes on extraordinary and prior period items.
Total extraordinary and prior period items.
Net income (transferred to earned surplus).[1]

INCOME ACCOUNTS

ORDINARY ITEMS

Credit

400 Operating revenues.

This account shall include the total revenues derived from transportation service and classable in the operating-revenue accounts.

401 Dividend and interest income.

(a) This account shall include dividends and interest on securities of other companies, the income from which is the property of the company, whether such securities are owned by the company and held in its treasury or deposited in trust, or are controlled through lease or otherwise.

(b) This account shall include also, interest on bank balances, certificates of deposit, open accounts, and other analogous items.

(c) Dividends and interest may be credited prior to actual collection only if their payment is reasonably assured by past experience, guaranty, anticipated provision, or otherwise (See note A to account 107, "Accrued accounts receivable.").

(d) There may be included in the accounts for each fiscal period in the applicable amount requisite to extinguish during the interval between the date of acquisition and the date of maturity the discount or premium on securities of other companies the income from which is includible in this account. Amounts thus credited or charged shall be charged or credited concurrently to the accounts in which the book cost of the securities is included.

Note A: This account shall not include credits for dividends or interest on securities issued or assumed by the company and owned by it, whether held in the treasury, in sinking or other reserve fund, or pledged as collateral.

Note B: Discount on bills for material purchased shall be credited to the accounts to which the cost of the material is charged.

Note C: Credits to this account representing income from reserve funds (retained therein) shall be charged concurrently to account 311, "Miscellaneous reservations of earned surplus," and credited to account 260, "Earned surplus—Appropriated."

402 Release of premium on long-term debt.

This account shall include during each fiscal period such proportion of the credit balances in the discount, premium, and expense accounts relating to outstanding long-term debt, as is applicable to that period. This proportion shall be determined in accordance with paragraph (b) of instruction 23 *Discount, premium, and expense on long-term debt.*

403 Miscellaneous income.

This account shall include all items not provided for elsewhere properly creditable to income during the fiscal period, such as the following:

Items

Profits from sale of securities, including temporary cash investments.
Profits from sale of land used for transportation purposes and nontransportation property.
Credits resulting from adjustments required to bring to par long-term debt obligations issued or assumed by the company and reacquired at a cost less than the par value.
Unamortized premium on long-term debt reacquired before maturity.
Profit derived from conversion of money of a foreign country into U.S. money.
Fees collected in connection with the exchange of coupon bonds for registered bonds.
Revenues, rents, and other income from nontransportation property.
Cancellation of liability accounts (including unclaimed wages) or erroneous collections (except unrefundable revenue overcharges) written off because of carrier's inability to locate creditor or payee.

When the profits or adjustments resulting from any of the first four items are of amounts sufficiently large to constitute extraordinary items pursuant to instruction 4, such profits or adjustments shall be credited to account 435, "Extraordinary items."

[1] If a loss or a debit, show the amount in parenthesis.

Debit

410 Operating expenses.

This account shall include the total expenses incurred in conducting transportation services and classable in the operating-expense accounts.

411 Transportation tax accruals.

(a) This account shall include provision for Federal capital stock, State, county, municipal and other taxing district taxes (excluding taxes assessed on income, except when assessed in lieu of property taxes), applicable to the period for which the income account is stated. Charges to this account for tax accruals prior to the payment of the taxes shall be credited to account 204, "Accrued taxes."

(b) This account shall be kept in such a manner as to show the amount of each class of taxes.

(c) In this account shall be included in each fiscal period:

Taxes on property used in transportation operations.

Taxes on earnings or income when in lieu of taxes on property used in transportation operations.

Taxes on franchises or privileges of conducting transportation operations.

NOTE A: Taxes on nontransportation property shall be charged to account 413, "Miscellaneous tax accruals." When taxes are levied in such a way that the amount applicable to each class of property is not stated definitely, the total amount of the levy shall be apportioned between the classes of property on an equitable basis.

NOTE B: Special assessments for street and other improvements, and special benefit taxes, such as water taxes and the like, shall be included in operating expenses, or property accounts, as may be appropriate.

NOTE C: Returns from U.S. Treasury Tax Saving Notes and from tax warrants sold by states or other governmental bodies; also discount allowed for the prompt payment of taxes; shall be credited to account 401, "Dividend and interest income."

NOTE D: Interest and penalties on tax assessments shall be charged to account 421, "Other interest deductions."

NOTE E: Taxes on interest on the company's long-term debt paid at the source under tax-free covenants shall be charged to account 414, "Miscellaneous income charges."

NOTE F: Where the purpose of the expenditure on which the tax is based is for the acquisition of physical property the tax shall be charged against the property account that may be appropriate.

NOTE G: Where sales or other taxes are assessed as part of the cost of tangible personal property they shall be included in the cost of the property purchased.

NOTE H: The cost of motor vehicle drivers' licenses shall be charged to the cost of operating such vehicles and not as taxes.

NOTE I: Taxes assessed against the company for electric energy, telegraph, telephone, radio, cable messages, checks, safe-deposit boxes, social security taxes, etc., shall be included in operating expenses.

NOTE J: Accruals for taxes assessed on the income of the company when not in lieu of property taxes shall be charged to account 481, "Income taxes on ordinary income."

NOTE K: Old age benefit, unemployment compensation, social security, and other taxes that are computed on the basis of the pay rolls, shall be charged to account 618, "Pay roll taxes."

412 Provision for uncollectible accounts.

This account shall be charged each month with amounts estimated to be sufficient to provide for loss from uncollectible accounts and other receivables. Concurrently, credits shall be made to account 106, "Reserve for doubtful accounts." This latter account shall be charged with amounts, which after a reasonably diligent effort to collect, are determined to be uncollectible. Amounts written off and subsequently collected shall be credited to account 106, "Reserve for doubtful accounts." The estimate shall be adjusted at the end of the calendar year to conform to the experience of the company as determined by an analysis of its accounts receivable.

This account shall also be charged with amounts determined to be uncollectible when no reserves are provided for doubtful accounts.

413 Miscellaneous tax accruals.

This account shall include taxes on nontransportation property and all other tax accruals not provided for elsewhere.

NOTE: Returns from U.S. Treasury Tax Savings Notes and from tax warrants sold by states or other governmental bodies; also discount allowed for the prompt payment of taxes, shall be credited to account 401, "Dividend and interest income."

414 Miscellaneous income charges.

This account shall include items not provided for elsewhere properly chargeable to income.

ITEMS

Loss on sale of securities, including temporary cash investments, and charges to write down the ledger value of such securities because of impairment in their value.
Loss on sale of land used for transportation purposes and nontransportation property.
Unextinguished discounts and expense on funded debt reacquired before maturity.
Debits resulting from adjustments required to bring to par long-term obligations issued or assumed by the company and reacquired at a cost exceeding the par value.
Amortization of balances reflected in accounts 165, "Organization" and 166, "Other intangible property."
Loss of funds due to bank failures.
Book cost (in excess of reserve provisions) of improvements on leased property reverting to lessor.
Contributions for charitable or social or community welfare purposes which do not have a direct or intimate relation to the protection of property of the company, to the development of its business, or the welfare of its employees.
Payments of liability accounts previously written off.
Penalties and fines for violations of the Interstate Commerce Act, and other Federal or State laws when not specifically provided for elsewhere.
Calls for bids in accordance with provisions of mortgages.
Cost of advertising bonds drawn for redemption.
Expenses of nontransportation property, including depreciation, rent, and insurance.
Losses due to conversion of money of a foreign country into U.S. money.
Premiums on bonds to assure performance of contractual obligations when payments under the contracts are chargeable to income accounts.
Premiums paid less the current increase in the cash surrender value of the insurance on lives of officers when the company is the beneficiary. The cash-surrender value portion of the premium shall be included in account 181, "Other investments."
Taxes on interest on company's debt paid at the source under tax-free covenants.
Trusts, current expenses of maintaining and administering.
Trustees' commissions and fees for paying out bond interest on coupons and expenses including registrars' fees connected with such payments.

When the losses or adjustments resulting from any of the first six items are of amounts sufficiently large to constitute extraordinary items, pursuant to instruction 4, such losses shall be charged to account 435, "Extraordinary items."

420 Interest on long-term debt.

This account shall include the current accruals of interest on all classes of debt, the principal of which is includible in account 210, "Funded debt," 211, "Receivers' and trustees' securities," 212, "Amounts payable to affiliated companies," or 213, "Long-term debt in default."

NOTE A: This account shall not include charges for interest on obligations issued or assumed by the company and owned by it.

NOTE B: Interest expressly provided for and included in the face amount of securities issued in the acquisition of physical property shall be charged when the securities are issued, to account 170, "Prepayments," and cleared to this account as the interest accrues.

421 Other interest deductions.

(a) This account shall include all accrued interest payable, except that chargeable to account 420, "Interest on long-term debt." Discount and expense on short-term notes maturing one year or less from date of issue, if considerable in amount, shall be distributed by equal monthly charges to this account throughout the term of the notes; if inconsiderable in amount, it may be charged to this account when incurred.

(b) A list follows of representative items of indebtedness, interest on which is chargeable to this account:

ITEMS

Advances other than investment advances from affiliated companies.
Bond coupons, matured and unpaid.
Claims and judgments.
Open accounts (other than those classable in account 212, "Amounts payable to affiliated companies.")
Short-term notes payable on demand or having maturity dates one year or less from date of issue.
Tax assessments, past due.

422 Amortization of discount on long-term debt.

This account shall include during each fiscal period such proportion of the debit balances in the discount, premium, and expense accounts relating to outstanding long-term debt, as is applicable to that period. This proportion shall be determined in accordance with instruction 25 *Discount, premium, and expense on long-term debt.*

431 Income taxes on ordinary income.

(a) (1) This account shall include accruals for taxes assessed by Federal, State, and other governmental bodies on the ordinary income of the company, when not in lieu of property taxes. See the texts of accounts 450, "Income taxes on extraordinary and prior period items," 501, "Miscellaneous credits," and 510, "Miscellaneous debits" for recording other income tax consequences.

(2) Details pertaining to the tax consequences of other unusual and significant items, and also cases where tax consequences are disproportionate to amounts included in income accounts, shall be submitted to the Commission for consideration and decision as to the proper accounting.

(b) Federal income taxes which are refundable or reduced as the result of carry-back or carry-forward of operating loss shall be credited to this account, if a carry-back, in the year in which the loss occurs or, if a carry-forward, in the year in which such loss is applied to reduce taxes: However, when the amount constitutes an extraordinary item pursuant to instruction 4, it shall be included in account 440, "Prior period items."

NOTE: The amount of taxes levied on gross or net revenues in lieu of property taxes shall be charged to account 411, "Transportation tax accruals."

EXTRAORDINARY AND PRIOR PERIOD ITEMS

435 Extraordinary items (net).

(a) This account shall include extraordinary items accounted for during the current accounting year in accordance with the text of instruction 4, upon approval of the Commission. Among the items which shall be included in this account are:

Net gain or loss on sale of land used for transportation purposes, and of nontransportation property.
Net gain or loss on the sale of securities acquired for investment purposes, and charges to write down the ledger value of such securities because of impairment of value.
Changes in application of accounting principles.

(b) Income tax consequences of charges and credits to this account shall be recorded in account 450, "Income taxes on extraordinary and prior period items."

(c) This account shall be maintained in such a manner sufficient to identify the nature and gross amount of each debit and credit.

440 Prior period items (net).

(a) This account shall include unusual delayed items accounted for during the current accounting year in accordance with the text of instruction 4, upon approval of the Commission. Among the items which shall be included in this account are:

Unusual adjustments, refunds or assessments of Federal income taxes of prior years.
Similar items representing transactions of prior years which are not identifiable with or do not result from business operations of the current year.

(b) Income tax consequences of charges and credits to this account shall be recorded in account 450, "Income taxes on extraordinary and prior period items."

(c) This account shall be maintained in a manner sufficient to identify the nature and gross amount of each debit and credit.

450 Income taxes on extraordinary and prior period items.

This account shall include the estimated income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which, for accounting purposes are classified as unusual and extraordinary, and are recorded in accounts 435, "Extraordinary items," and 440, "Prior period items."

OPERATING REVENUE INSTRUCTIONS

70 Purpose of operating-revenue accounts.

The operating-revenue accounts are designed to show the amounts of money which the company becomes entitled to receive from the furnishing of freight forwarder service, including services incidental thereto, and the amounts paid or payable to the various transportation agencies for transporting freight.

72 Statement of operating-revenue accounts.

(a) The accounting for operating revenues shall be as nearly as practicable, coincident with the transactions which create them. For the purpose of meeting this requirement, the company shall account for unaudited revenues upon an accrual basis. (See instruction 3 *Unaudited items.*)

(b) Adjustments of overcharges or undercharges shall be accomplished through these accounts.

OPERATING REVENUE ACCOUNTS

TRANSPORTATION REVENUE

501 Forwarder revenue.

(a) This account shall include the revenue accruing to the company from forwarder services upon the basis of tariff rates.

(b) To this account shall be charged:

Refunds of overcharges resulting from the use of erroneous weights, measurements, rates, classifications, or computations.

The company's proportion of refunds and payments on account of errors in routing and billing.

The proportion of uncollected charges on lost, damaged, or destroyed shipments borne by the company and the company's proportion of refunds of revenues of such shipments.

NOTE: Amounts accrued payable to carriers subject to part I, II, or III of the Interstate Commerce Act or to others for line-haul transportation of the freight, for pick-up and delivery service, and for terminal transfer service, shall be charged to the accounts provided for the purchase of transportation.

TRANSPORTATION PURCHASED, DIRECT

510 Transportation purchased, direct.

The primary revenue accounts provided under this general account represent reductions of gross forwarder revenues as recorded in general account 1, in recognition of the fact that freight forwarders do not transport the shipments for which tariff charges are assessed. The primary accounts segregate such reductions according to the type of common carrier which provides the transportation service.

If a car, truck, barge, or other vehicle is jointly loaded by more than one forwarder, the forwarder which pays for transporting such jointly loaded shipment, or for pickup, delivery, or transfer services in connection therewith, shall charge to the appropriate primary account in this group only that part of the total payment which relates to its share of the joint load. The forwarder or forwarders participating in the joint loading and in the transportation service purchased for it shall charge their respective part or parts of the payment therefor to the same primary account or accounts charged by the forwarder making the payment.

511 Railroad transportation.

This account shall include amounts paid or accrued to railroad companies for the transportation of forwarder freight.

512 Motor transportation.

This account shall include amounts paid or accrued to motor companies for the transportation of forwarder freight.

513 Water transportation.

This account shall include amounts paid or accrued to carriers by water for the transportation of forwarder freight.

514 Pick-up, delivery, and transfer service.

This account shall include amounts paid or accrued to others for the collection and delivery of forwarder freight, including allowances to shippers, when such services are performed within a terminal.

It shall also include amounts paid or accrued to others for transferring freight between stations in a terminal.

515 Other transportation purchased.

This account shall include amounts paid or accrued to others for transportation of forwarder freight in line haul service not provided for in the foregoing operating revenue accounts.

INCIDENTAL REVENUE

521 Storage; freight.

This account shall include revenue from the storage of freight.

527 Rent revenue.

This account shall include amounts accrued as rents receivable from the use by others of transportation property.

523 Miscellaneous.

This account shall include revenues not provided for elsewhere such as those accrued for services rendered in connection with the clearance of cargoes including payment of duty, consular fees, and customs entry; for handling, marking, and weighing freight; as fees for handling C.O.D.'s; and as commissions on insurance.

NOTE A: Where the company merely acts as broker or intermediary, the amounts paid to others for providing these services shall be charged to this account.

NOTE B: Amounts collected from other freight forwarders (co-loaders) in reimbursement for cost of loading or unloading freight shall not be credited to this account but shall be applied as a reduction in the cost of such service.

OPERATING EXPENSE INSTRUCTIONS

81 Purpose of operating-expense accounts.

The operating-expense accounts are designed to show expenses of the company in furnishing transportation service (other than amounts paid or payable to transportation agencies for transporting freight) and services incidental thereto including the expenses of maintenance (repairs, depreciation, and amortization) of the property used in such service.

82 Statement of operating-expense accounts.

The accounting for operating expenses shall be as nearly as practicable, coincident with the transactions or the occurrences which create them. For the purpose of meeting this requirement, the company shall account for unaudited items (see instruction 3 *Unaudited items*) such as charges for loss and damage, injuries to persons, and other expenses upon an accrual basis.

83 Injuries and damages.

In order that the probable liability for losses not recoverable through insurance, such as loss and damage to freight and injuries to persons, may be shown currently, the company may record in the appropriate casualty accounts estimates of such liabilities with concurrent credits to account 222, "Other reserves." Credits for this purpose shall not be made in excess of a reasonable provision against such losses. When the liability is admitted by the company, either voluntarily or because of the decision of a court or other lawful authority such as workmen's compensation board, the admitted liability shall be charged to the reserve and credited to the appropriate liability account.

OPERATING EXPENSE ACCOUNTS

601 General office salaries.

This account shall include:

(a) *Salaries of officers.* The pay of officers and their assistants who are engaged in the general administration or management of the company or its affairs in a territorial subdivision, including salaries and fees of receivers and trustees and commissions paid in lieu of salaries; also the pay of officers whose duties are of such general character that they cannot specifically be charged to account 602, "Traffic department salaries," or to account 603, "Law department salaries."

(b) *Salaries of clerks and attendants.* The pay of clerks and attendants in offices of officers whose pay is chargeable to this account.

602 Traffic department salaries.

This account shall include:

(a) *Salaries of officers, managers and solicitors.* The pay of officers and their assistants directly in charge of or engaged in supervising and directing the solicitation and procurement of traffic and the preparation and distribution of tariffs governing such traffic; the pay of station managers; the pay of general, commercial, city, district and other agents engaged exclusively in canvassing and soliciting traffic; and the pay of traveling agents and solicitors.

(b) *Salaries of clerks and attendants.* The pay of clerks and attendants in offices of officers whose pay is chargeable to this account.

603 Law department salaries.

This account shall include:

(a) The pay of officers directly in charge of the law department, and the pay of solicitors and attorneys who are full time employees of the company.

(b) Salaries of clerks and attendants. The pay of clerks and attendants in the offices of officers whose pay is chargeable to this account.

604 Station salaries and wages.

This account shall include:

(a) *Station clerks and attendants.* The pay of station or branch office clerks and attendants.

(b) *Superintendents and foremen.* The pay of superintendents, assistant superintendents, foremen and assistant foremen in charge of or engaged in the operation of stations.

(c) *Station and warehouse labor.* The pay of laborers engaged in the handling of freight, including truckers, stevedores, checkers, delivery clerks, receiving clerks, and all other freight handlers.

605 Loading and unloading by others.

This account shall include amounts paid or payable to others for loading and unloading freight.

606 Operating rents.

This account shall include rents paid or payable for the use of land, structures, and other property (including tabulating machines).

607 Traveling and other personal expenses.

This account shall include:

(a) Traveling expenses of officials and other employees including mileage or other allowances for maintenance and operation of automobiles owned by employees.

(b) Expense accounts paid to solicitors and others.

(c) Membership fees and dues in traffic clubs and other business associations, where such memberships are held in the name of the employee.

608 Communications.

This account shall include amounts paid or payable for all communication service such as telephone, teletypewriter, telegraph, radio, etc.

609 Postage.

This account shall include amounts paid for postage.

610 Stationery and office supplies.

This account shall include amounts paid or payable for stationery and miscellaneous office supplies, such as pencils, typewriter ribbons, clips, pins, erasers, rubber bands, etc., and including bills of lading, freight bills, and other printed matter, except items included in account 611, "Tariffs."

611 Tariffs.

This account shall include amounts paid or payable for printing tariffs and schedules, and for the purchase of tariffs issued by carriers other than forwarders.

612 Loss and damage; freight.

This account shall include:

(a) (1) Amounts paid for loss, damage, delay or destruction of freight shipments not recoverable from insurance or from others.

(2) Pay and expenses of others than employees engaged as adjusters and in detecting thefts.

(3) Pay and expenses of others than employees while engaged as witnesses in connection with loss and damage cases.

(4) Amounts paid others for repacking and boxing damaged merchandise.

(b) To this account shall be credited amounts received from the sale of refused, unclaimed, and damaged freight.

(c) This account may be charged monthly with an amount estimated to be sufficient to meet the probable liability incurred for freight claims; concurrent credit being made to account 222, "Other reserves." (See instruction 83 *Injuries and damages.*)

NOTE A: Expenses not otherwise provided for in connection with conduct of suits, shall be charged to account 613, "Law expenses," but the amount of the final judgments, including plaintiffs' court costs, shall be charged to this account.

NOTE: B: Interest for delay in payment of loss and damage claims, shall be included in account 421, "Other interest deductions."

613 Advertising.

This account shall include expenses, other than salaries, in connection with advertising for the purpose of securing traffic, such as the preparation, printing, and distribution of advertising matter, commissions and fees paid outside advertising agents, cost of advertising space in newspapers and periodicals, and display signs for attracting traffic.

614 Heat, light, and water.

This account shall include amounts paid or payable for heat, light, and water, not included in rents, also for fuel, and electric power.

615 Maintenance.

This account shall include the cost of maintaining property used in forwarder operations, such as furniture, fixtures, motor equipment, buildings, and heating, lighting and water equipment.

NOTE: The accounting for retirements and replacements is prescribed in instruction 42 *Basis of charges*, and Instruction 43 *Retirements*.

616 Depreciation and amortization.

This account shall include the amount of charges applicable to the accounting period for the depreciation of property, and for the amortization of improvements on leased property. (See instruction 5 *Depreciation and amortization accounting.*)

617 Insurance.

This account shall include premiums except re-insurance premiums for insuring the owner against loss through injury to persons or damage to or destruction or loss of property whether caused by fire, accident, or other causes; also premiums on fidelity bonds of employees.

NOTE: Amounts charged to this account to cover self-carried risks shall be credited to account 220, "Insurance reserves."

618 Pay roll taxes.

This account shall include old-age benefit, unemployment compensation, Social Security, Railroad Retirement and other taxes that are computed on the basis of the pay rolls.

619 Commissions and brokerage.

This account shall include:

(a) Amounts paid or payable as commission and brokerage to others for securing traffic and fees paid outside agents engaged exclusively in canvassing and soliciting traffic.

(b) Amounts paid or payable as commissions for managerial or similar services.

620 Vehicle operation.

This account shall include the cost of operating the company's own vehicles used in connection with forwarder services.

NOTE: The cost of maintaining such vehicles and depreciation thereof shall be included in accounts 615, "Maintenance," and 616, "Depreciation and amortization," respectively.

621 Law expenses.

This account shall include:

(a) The fees and retainers for services of attorneys not regular employees of the company.

(b) Cost of law books, printing briefs, legal forms, testimony, reports, etc.

(c) Cost of suits and payment of special fees, not otherwise provided for, fees paid arbitrators for settlement of disputed questions; and all law and court expenses not provided for elsewhere.

622 Depreciation adjustment.

This account shall include the difference between the amount of depreciation accrued and credited to account 149, "Depreciation and amortization reserve—Transportation property," with respect to any unit or item of depreciable property accounted for as retired from service, and the service value of such unit or item. (See instruction 5 *Depreciation and amortization accounting.*)

630 Other expenses.

This account shall include expenses not properly chargeable to other accounts.

ITEMS OF EXPENSE

Audits or investigations, cost of.

Annual reports, cost of printing or publishing.

Association membership fees and dues which benefit the forwarder operations of the company, other than those provided for in account 607, "Traveling and other personal expenses."

Bank charges for services rendered in handling accounts.

Contributions for charitable or social or community welfare purposes which have a direct relation to the protection of the property of the company, the development of its business, or the welfare of its employees.

Contributions toward funds or other provisions for the relief of employees.

Corporate and fiscal notices of general character.

Donations to local Fire Departments, Y.M.C.A. and similar institutions.

Election of Directors, cost of.

Exchange, domestic, on checks cashed or deposited or on drafts bought.

Fees and expenses paid directors.

Loss by fire or burglary of funds in custody of officers or employees or from defalcation of officers or employees when not recoverable from insurance.

Loss from acceptance of counterfeit money.

Notices of dividends declared.

Pensions or gratuities paid out of company's funds to retired employees or the heirs of former employees.

Premiums on policies under which employees are insured and they or their heirs are the beneficiaries.

Stockholders meetings, cost of.

Specific general costs for prevention of accidents.

Supplies used in the operation of station platforms and the preparation of cars for loading, such as wooden pallets, lumber for bracing, steel strapping, hammers, saws, and nails.

NOTE: Stationery and office supplies shall be included in account 610.

PARTS 1220–1239—DESTRUCTION OF RECORDS

SPECIAL NOTE: Section 20(7)(b) of the Interstate Commerce Act includes the following provision:

Any person who shall knowingly and willfully make, cause to be made, or participate in the making of, any false entry in any annual or other report required under this section to be filed, or in the accounts of any book of accounts or in any records or memoranda kept by a carrier, or required under this section to be kept by a lessor or other person, or who shall knowingly and willfully destroy, mutilate, alter, or by any other means or device falsify the record of any such accounts, records, or memoranda, * * * shall be deemed guilty of a misdemeanor and shall be subject, upon conviction in any court of the United States of competent jurisdiction to a fine of not more than five thousand dollars or imprisonment for not more than two years, or both such fine and imprisonment: *Provided*, That the Commission may in its discretion issue orders specifying such operating, accounting, or financial papers, records, books, blanks, tickets, stubs, correspondence, or documents of such carriers, lessors, or other persons as may, after a reasonable time, be destroyed, and prescribing the length of time the same shall be preserved.

PART 1220—RAILROAD COMPANIES

Sec.

1220.0 Regulations prescribed.
1220.1 Introduction.
1220.2 Authority to destroy records.
1220.3 Photographic copies.
1220.4 Supervision of destruction.
1220.5 Record of destroyed records.
1220.6 Carriers going out of business.
1220.7 Prescribed periods of retention.

AUTHORITY: The provisions of this Part 1220 issued under secs. 12, 20, 24 Stat. 383, as amended, 386, as amended; 49 U.S.C. 12, 20, unless otherwise noted.

1220.0 Regulations prescribed.

Effective October 1, 1957, all railroad companies not independently operated as electric lines, including lessors thereof, shall comply with the regulations in this subpart before destroying any operating, accounting, or financial papers, records, books, blanks, tickets, stubs, correspondence, or documents.

1220.1 Introduction.

The following regulations specify the records and documents which may be destroyed and prescribe the length of time the same shall be preserved, but mention of a record or document hereinafter impose no requirement that it shall be installed if its purpose is otherwise being adequately served. Compliance with the regulations in this subpart will not exempt a carrier from statutory requirements, other than provisions of the Interstate Commerce Act, for retention of records or documents for periods longer than those herein prescribed.

§ 1220.2 Authority to destroy records.

(a) *General authority.* Railroad companies which are not independently operated as electric lines may destroy records or documents named or described in these regulations after they have been preserved for the prescribed periods of time. Permanent records are those which may not be destroyed without special authority.

(b) *Special authority.* A carrier subject to the provisions of the regulations in this subpart proposing to destroy records or documents which are not named or described in the regulations in this subpart, or which if named or described have not been retained for the period required by the regulations, may request special authority to destroy them. Applications for such special authority shall describe in detail the records or documents to be destroyed and shall explain why their continued retention is unnecessary.

§ 1220.3 Photographic copies.

(a) Records and documents may be destroyed if they have been suitably

photographed, and the microfilm is retained in lieu of the original record or document for the period prescribed for such originals, subject however to the following limitations:

(1) The records listed in § 1220.7 with a permanent retention period may not be destroyed after being photographed for preservation unless special authority is first secured as provided in § 1220.2(b).

(2) Records and documents listed in the following items of § 1220.7 shall be retained in their original form throughout the entire period of retention prescribed for them respectively, unless special authority to destroy them is first secured as provided in § 1220.2(b):

Item	Description
1	Corporate elections.
6	Records of securities owned.
16	Tax records.
55 (a)	Registers of audited invoices and vouchers, and indexes thereto.
60 (a)	Registers of bills collectible and indexes thereto.
70 (c)	Records and memoranda pertaining to depreciation of road and equipment.
(d)	Contracts and other agreements relating to the construction, acquisition, or sale of road property.
324	Correspondence which pertains to records or documents required by this subsection to be retained in original form.

(3) The records and documents listed below, which are required under the regulations in this subpart to be retained two years or more, shall be retained in their original form at least two years, even after they have been photographed for preservation:

Item	Description
15	Original records summarizing the results of auxiliary or non-carrier operations for entry in the general books.
21	Miscellaneous records pertaining to agents' accounts.
30	Records of revenue.
31	Interline freight settlements.
33	Records of passenger receipts.
36	Records of revenue from operations other than transportation.
80	Labor records which pertain to transportation employees covered by the Hours of Service Act.
51 (a)	Original payrolls and summaries.
55 (b)	Paid drafts, paid checks, and receipts for cash paid out.
(c)	Paid and canceled vouchers, audit office copies of vouchers, and supporting papers.
110	Signal department records.
132	Records and reports of equipment in and out of service.
151	Diversion of freight.
178	Records of hours of service.
179	Car movements.
180	Car distribution.
210	Claim register.
211	Claim papers.
280 to 287	Agencies, yards, and accounting bureaus.
270 to 289	Joint associations, bureaus, and similar agencies.
300 (b) to 309 (c)	Locomotive inspection and repair reports.
324	Correspondence which pertains to records or documents required by this subsection to be retained two years in original form.

(b) To be acceptable in lieu of original records, photographic copies must meet the following minimum requirements:

(1) Photographic copies shall be no less readily accessible than the original record or document as normally filed or preserved would be, and suitable means or facilities shall be available to locate, identify, read, or reproduce such photographic copies.

(2) Any significant characteristic, feature, or other attribute of the original record or document, which photography in black and white will not preserve, shall be clearly indicated before the photograph is made.

(3) The reverse side of printed forms need not be copied if nothing has been added to the printed matter common to all such forms, but an identified specimen of such form shall be on the film for reference.

(4) Film used for photographing copies shall be of permanent record type meeting in all respects the minimum specifications of the National Bureau of Standards, and all processes recommended by the manufacturer shall be observed to protect it from deterioration or accidental destruction.

§ 1220.4 *Supervision of destruction.*

(a) Within six months after the effective date of the regulations in this subpart, or within six months after becoming subject to this provision, each carrier shall appoint an officer or other responsible employee to supervise the destruction of records and documents. Such appointment shall be by formal corporate act of the carrier's Board of Directors.

(b) Authority to supervise the destruction of carrier records maintained by an association, joint bureau, etc., may be delegated to the manager or other chief officer by the supervising officer of each member line.

(c) The Board of Directors at its option may by a similar formal act of appointment delegate to a bank, trust company, or similar institution having custody of railroad records in the normal course of business, the authority to destroy such records upon compliance with the requirements of the regulations in this subpart.

§ 1220.5 *Record of destroyed records.*

(a) The supervising officer or other designated employee shall maintain a record of all carrier records and documents which have been destroyed pursuant to the regulations in this subpart, except those the retention of which is optional with the carrier. However, the record shall include all records and documents destroyed under the supervising of persons other than the supervising officer pursuant to § 1220.4 (b) and (c), including those the retention of which is optional and which could be omitted if the supervising officer had directed the destruction.

(b) The record shall be available for inspection in the office of the supervising officer and shall be in such detail that the destroyed records or documents may be identified and the time, place, and method of destruction can be established. If the destruction is by accident or at the hand of an unauthorized person not subject to the carrier's control, then the record shall include a statement of the relevant circumstances.

§ 1220.6 *Carriers going out of business.*

The records and documents relating to operations of a Carrier subject to the regulations in this subpart may be destroyed without regard to the prescribed periods of retention after carrier status is abandoned for purposes of the Interstate Commerce Act: *Provided however,* (a) If the carrier is a corporation being dissolved by act of the authority which created it, the records may not be destroyed until dissolution is otherwise complete, and (b) if the carrier is not incorporated or is being kept alive for purposes other than carrier operations, records relating to former carrier operations may not be destroyed until all transactions relating to such operations are completed.

§ 1220.7 *Prescribed periods of retention.*

The following list describes the purpose for which a record is necessary and the prescribed periods shall be observed even if a record by some other name serves the described purpose. If identical copies of the same document serve more than one such described purpose, only one copy is required to be retained by the regulations in this subpart.

Item	Description of records	Period to be retained
	CORPORATE AND FINANCIAL	
1	Corporate elections:	
	(a) Proxies of holders of voting securities	3 years.
	(b) Lists of holders of voting securities presented at meetings	Do.
	(c) Qualification oaths of judges of election	Optional.
	(d) Qualification oaths of directors	Do.
	(e) Ballots cast and tabulations of vote	3 years.
	(f) Judges' reports of election results	Do.
2	Minute books of directors', executive committee's, stockholders', and other meetings	Permanent.
3 to 4	Code and cipher books, file copies of	Optional.
	Capital stock records:	
	(a) Capital stock ledger	10 years.
	(b) Capital stock certificates, records of or stubs of	Do.
	NOTE: If the information shown on the stubs described in this item 4 (b) is recorded in permanent records, the stubs are required to be retained only for a period of three years.	
	(c) Stock transfer register	Do.
	(d) Memoranda and bills of sale or of transfer of capital stock	2 years.
	(e) Capital stock subscription notices and requests for allotment	1 year.
	(f) Canceled capital stock certificates. (See item 7.)	
	Bond records:	
5	(a) Registered bond ledger	10 years.
	(b) Records or stubs of bonds	Do.
	NOTE: If the information shown on the stubs described in this item 5 (b) is recorded in permanent records, the stubs are required to be retained only for a period of three years.	
	Records of policies in force	2 years.
	Inspector's reports of condition of property	1 year.
	Reports of property in transit covered by insurance, such as cotton at compresses, cotton in transit, etc.	
6	Telegraphic reports of merchandise at terminals, in warehouse, compresses, etc.	10 years after disposition.
	Letter and telegraphic reports of fire damage	Optional, but see sec. 110.4.
	Reports of minor losses by fire not covered by insurance or less than minimum amount collectible	Permanent.
	Treasurer's records:	
7	Stock certificates, bonds, notes, interest coupons, receiver's certificates, and temporary certificates taken up and canceled	Permanent.
8	Reports to stockholders:	
	Annual reports or statements to stockholders, file copies of	Permanent.
	Supporting papers	10 years.
9	Ledgers:	
	(a) General and auxiliary ledgers and indexes thereto, except as provided for elsewhere in these regulations	Permanent.
	(b) Balance sheets of general ledgers	10 years.
	(c) Trial balance sheets of general and auxiliary ledgers	Permanent.
10	General journals	15 years.
11	Cash books:	
	(a) Original general cash books	6 years.
	(b) Auxiliary cash books	Permanent.
12	Journal entries:	15 years.
	(a) Original general journal entries and supporting papers	
	(b) Copies of general journal entries and supporting papers	Do.
13	Original records of auxiliary or noncarrier operations for entry in general books.	
	NOTE: Ledgers, journals, abstracts, reports, vouchers, tickets, etc., shall be retained for the same periods as are provided for similar documents elsewhere in these regulations.	
14	Deeds and other title papers and franchises	Permanent.
15	Contracts and agreements:	
	(a) Contracts and agreements, except those provided for in Items 15(b), 70, 84, and 324.	6 years after termination, expiration, or completion.
	(b) Contracts and required files for transactions which are subject to the provisions of the Clayton Antitrust Act (15 U.S.C. 20).	In original form for 10 years after expiration, provided that a list giving the information involving these records and, provided that the carrier informs the Commission of such action 3 years prior to date these records are to be destroyed.
16	Tax records:	
	(a) Copies of schedules and returns to taxing authorities for tax purposes	6 years.
	(b) Records of appeals, tax bills, and statements	6 years after settlement.
17	Copies of applications to said authorities from regulating bodies for the issuance of stocks, bonds and other securities. (See item 2000.)	Permanent, when approved; 90 days when disapproved.
18	Fidelity bonds:	
	Records and files of fidelity bonds of employees	2 years after expiration of coverage.
19	Insurance records:	
	(a) Schedules of fire and other insurance, also records of payment of premiums and of amounts collected	3 years.
	(b) Insurance policies	2 years after expiration of coverage. Optional.
20	Record of policies in force	Do.
	Inspector's reports of condition of property	Do.
	Reports of property in transit covered by insurance, such as cotton at compresses, cotton in transit, etc.	Do.
	Telegraphic reports of merchandise at terminals, in warehouse, compresses, etc.	Do.
	Letter and telegraphic reports of fire damage	Do.
	Reports of minor losses by fire not covered by insurance or less than minimum amount collectible	Do.
	Treasurer's records:	
22	Statements and summaries of balances on hand and with depositaries	3 years.
23	Statements from depositaries of funds received, disbursed, and transferred	Do.
24	Authorities for and statements of transfer of funds from one depositary to another	Do.
25	Records pertaining to verifications of treasurer's cash or securities	2 years.
26	Periodical statements of working cash balances	Optional.
27	Records of outstanding vouchers, checks, drafts, etc., issued and not presented	3 years.
28	Bank deposit books, and serial ledgers, of checks	Optional.
29	Slips or statements giving the postings of miscellaneous receipts and payments of any kind	5 years.
30	Lists of vouchers, drafts and checks showing mailing dates	3 years.
31	Copies of deposit slips	Do.
	Miscellaneous records pertaining to agents' accounts:	
	(a) General office records or ledgers of agents' accounts showing debits and credits from various sources	Do.
	(b) Records and files of indemnity bonds incident to transportation and other charges	2 years after discontinuance of such bonds.
	(c) General office records relating to extension of credit for transportation and other charges	3 years.
32	(d) Statements of corrections in agents' accounts	Do.
	Traveling accountants' and auditors' reports:	
	Reports of examination, cash and bank balances by postal accountants, traveling auditors, time inspectors, weight inspectors, etc., and supporting papers.	
	REVENUE	
30	Record of revenue:	4 years.
	Records summarizing the debits and credits arising from settlements with agents, conductors, and others, and from interline car, parlor and chair car, mail, express, and telegraph settlements with other carriers, as follows: Freight, passenger, mail, express, switching, water transfers, dining and buffet, parlor and chair car, sleeping car, station, storage, demurrage, telegraph, telephone, refrigerator, milk, refrigerating, heating, lighting, water transfers, dining and buffet, parlor and chair car, mail, express, and telegraph, switching, water transfers, dining and buffet, parlor and chair car, sleeping car, station, storage, demurrage, communication, grain elevator, power, rents of buildings and other property, and miscellaneous.	
31	Interline freight settlements:	Do.
	Abstracts, reconciliations, correction accounts, and summaries	1 year after disposition.
	(a) Statements of differences	Do.
	(b) Statements of differences	Until receipt of settlement.
32	Unattached waybills:	
	(a) Record of unattached waybills, waybills in suspense, etc.	6 Years.
	(b) Tracers and supporting papers concerning unsettled freight waybills	
33	Records of passenger receipts:	
	Distribution of revenue statements, or recapitulation of passenger revenue by stations; conductors' and others' accounts	Do.
34	Interline passenger settlements:	
	Interline ticket reports, summaries, statements of differences, statements of corrections, and accounts current pertaining to settlements of interline passenger revenue between carriers, passenger associations, and mileage and scrip bureaus	2 years.
35	Records of cash fare collections on trains	4 years.
36	Records of revenue from operations other than transportation:	3 years.
	(a) Records summarizing the debits and credits to the various accounts	1 year.
	(b) Reports of sales, and miscellaneous revenue	
	(c) Originals and copies of telegrams	
	EXPENDITURES	
50	Daily or periodic reports of labor, material and supplies:	2 years.
	Time books, time slips, overtime slips, daily-paid-time tickets, work orders, job tickets, check rolls, and other papers pertaining to services of employees and reports of material and supplies used.	

Item	Description of records	Period to be retained
	EXPENDITURES—continued	
51	Payroll records:	
	(a) Original payrolls and summaries	10 years.
	(b) Applications and authorities for changes in payrolls	Optional.
	(c) Applications for payroll changes not authorized	Do.
	(d) Records and memoranda pertaining to deductions from payrolls	Do.
	(e) Receipted pay checks, receipted time tickets, certificates issued for wages, discharge tickets, and other evidences of payments for services rendered by employees. (See items 20a, g.)	3 years.
	(f) Canceled pay checks drawn in favor of "bearer" in payment of wages for which receipt is shown on payrolls or other records retained by carrier	Optional.
	(g) Comparative or analytical statements of payrolls	Do.
52	Assignments, attachments, and garnishments:	
	(a) Record of assignment, attachment, and garnishment of employees' salaries	1 year.
	(b) Files containing assignments, attachments, garnishments, notices of suits, notices of release, and correspondence relating thereto	Do.
53	Distribution of labor expenditures: Records showing the detailed distribution of labor expenditures charged to all accounts, including memoranda and memorandum recapitulation sheets.	4 years.
54	Distribution of expenditures for material and supplies: Records and memoranda showing the detailed distribution of expenditures for materials and supplies chargeable to all accounts, including memorandum recapitulation sheets.	Do.
55	Vouchers:	
	(a) Register of audited invoices and vouchers and indexes thereto	10 years.
	(b) Paid drafts, paid checks, and receipts for cash paid out	6 years.
	(c) Paid and canceled vouchers, audit office copies of vouchers and supporting papers	Do.
	(d) Lists containing authorities for payments of specific vouchers	2 years.
	(e) Reports of drafts issued by claim agents, station agents, and others	1 year.
	(f) Record or index of vouchers to be made, with notations of dates of issue	Optional.
	(g) Defect and repair cards attached to bills supporting vouchers. (See item 125.)	Do.
	MISCELLANEOUS ACCOUNTS RECEIVABLE	
69	Bills collectible:	
	(a) Register of bills collectible and indexes thereto	15 years.
	(b) Audit office copies of bills issued for collection, and supporting papers which do not accompany the original bills	4 years.
	(c) Periodical statements of unsettled accounts, except trial balance sheets	Optional.
	(d) Record or index of bills to be issued, with notations of dates of issue	Do.
	ROAD AND EQUIPMENT PROPERTY RECORDS	
70	Road and equipment records:	
	(a) Records and memoranda of the cost or the inventory value of road property	Permanent.
	(b) Records and memoranda of the cost or the inventory value of equipment, including shop and power plant machinery	3 years after sale or retirement.
	(c) Records and memoranda pertaining to depreciation of road and equipment	20 years.
	(d) Contracts and other agreements relating to the construction, acquisition, or sale of road property, except as provided for in item 15(b).	10 years after termination, expiration or completion of contract or agreement, sale or retirement.
	(e) Contracts and other agreements relating to the construction, acquisition, or sale of equipment except as provided for in item 15(b).	3 years after termination, expiration or completion of contract or agreement.
	(f) Records, reports, statements, and memoranda showing the details of all debits and credits on account of the cost of road and equipment property, such as labor and material distribution sheets, copies of individuals' and companies' bills, time books, time tickets, work orders, job tickets, check rolls, material requisitions, and similar records if transcribed into records covered by items (a) to (e) above.	3 years, 10 years if not transcribed into records covered by items (a) to (e) above.
	(g) Estimates, authorities for expenditures and completion reports for new lines, extensions, additions and betterments made.	Permanent.
	(h) Estimates, detail records, and memoranda, when the expenditures were not authorized.	Optional.
	(i) Detail records and memoranda used in preparation of estimates, if summarized in records covered by item (g) above.	Do.
71	Engineering records:	
	(a) Maps, profiles, plans, specifications, estimates of work, records of engineering studies, and similar records pertaining to extension, addition, and betterment projects which have been put into execution.	Permanent.
	(b) Maps, profiles, plans, specifications, estimates of work, records of engineering studies and similar records pertaining to extension, addition, and betterment projects which have been abandoned.	3 years after abandonment.

Item	Description of records	Period to be retained
	PURCHASES AND STORES	
90	Material ledgers:	
	(a) Records of material and supplies on hand	4 years.
	(b) Telegraphic reports of supplies on hand other than fuel	Optional.
	(c) Balance sheets of material and supplies received, issued, and on hand at division storehouses, shops, and other places	2 years.
91	Inventories of materials and supplies:	
	(a) General inventories of materials and supplies on hand, with record of adjustments thereon	Do.
	(b) Stock cards, inventory cards, and other detail records pertaining to the taking of inventories, if abstracted into records covered by (a) above	1 year.
	(c) Minor inventories of materials and supplies on hand, if not used for adjustments	Do.
92	Purchases and sales:	
	(a) Copies of orders for the purchase of materials and supplies	2 years.
	(b) Invoices for materials and supplies purchased whether attached to vouchers or filed separately. (See item 55c.)	6 years.
	(c) Advices from individuals and companies acknowledging receipt of orders for materials and supplies and notices of shipment	Optional.
	(d) Bids and offers for the sale or purchase of material and supplies	1 year.
	(e) Contracts for the purchase or sale of materials and supplies except as provided for in item 15(b).	4 years.
	(f) Advices or requisitions from storekeepers and others for the purchase of materials and supplies	2 years.
	(g) Lists or records of invoices transmitted to or from storekeepers	Optional.
	(h) Receipts or railway tickets issued for material and supplies received in installments and subsequently surrendered with and in support of invoices or bills showing full information	Do.
	(i) Freight bills covering charges on materials and supplies	4 years.
	(j) Reports of scrap on hand	2 years.
	(k) Authorities for the sale of scrap and other material and supplies	Do.
	(l) Price records of purchases	6 years.
93	Materials and supplies received:	
	(a) Records or reports of materials and supplies received by carriers	6 years.
	(b) Records of inspecting and testing materials and supplies	1 year.
	(c) Records of materials and supplies released and returned to stock	2 years.
	(d) Orders on other carriers for, and records of receipt of, material for repairs of joint cars	Do.
94	Materials and supplies issued:	
	(a) Records and reports of materials and supplies issued	2 years.
	(b) Records and reports of materials and supplies transferred from one department or division to another	2 years.
	(c) Requisitions and receipts for materials and supplies issued	1 year.
	(d) Price records of materials and supplies issued, by copies	4 years.
95	Manufactured stock:	
	(a) Shop orders or requisitions for the manufacture of stock	2 years.
	(b) Records and reports of manufactured stock	Do.
96	Oil and waste reports and records	1 year.
97	Company fuel:	
	(a) Detailed record of fuel purchased	2 years.
	(b) Reports and record of fuel delivered to fueling stations	2 years.
	(c) Records and untranscribed reports of fuel received and issued at fueling stations, except records covered by item (b) below	Do.
	(d) Reports from fueling stations of fuel received, issued, on hand, and transferred to other stations, if transcribed to records covered by (a) above	1 year.
	(e) Daily reports of fuel on hand	Optional.
	(f) Reports and records showing the detailed distribution of expenditures for fuel chargeable to all accounts, including fueling station balance sheets	2 years.
	(g) Reports of labor handling company fuel	1 year.
	(h) Requisitions and receipts from enginemen and others for fuel supplied	Optional.
98	Dining and cafe car supplies:	
	(a) Conductors' and stewards' reports of supplies, drawn, consumed, and on hand	1 year.
	(b) Conductors' and stewards' requisitions and receipts for supplies	Do.
	(c) Commissary inventories	Do.
	WAY AND STRUCTURES	
100	Authorities for expenditures for repairs of roadway and structures	Optional.
101	Records of roadway and track work performed:	
	(a) Reports and records of rail and cross-ties laid, ballast applied, and work performed on roadway and track, by quantities, locations, or otherwise	2 years.
	(b) Records and reports of spur tracks laid and taken up	Do.
102	Reports and records of repairs and renewals of buildings, bridges, and other structures	Do.
103	Reports of buildings, bridges, and other structures painted	Do.
104	Records of signal servicing and operations	Do.
105	Inspection records:	
	(a) Reports of condition of roadway and structures	Do.
	(b) Reports of inspection of bridges	Do.
	(c) Reports of broken rails	Do.
	(d) Reports of inspection of scales	Do.
106	Reports of derailments	Do.

Item	Description of records	Period to be retained
	RECORDS REQUIRED BY SIGNAL INSPECTION ACT	
116	Signal department records:	
	(a) Tests of gap and vacuum type lightning arresters	1 year.
	(b) Tests of signal mechanisms	2 years.
	(c) Tests of switch circuit controllers	1 year.
	(d) Tests of shunt fouling circuits	Do.
	(e) Tests of electric locks	2 years.
	(f) Tests of relays	Do.
	(g) Tests of insulation resistance	2 years.
	(h) Tests of mechanical locking	4 years.
	(i) Tests of approach locking	1 year.
	(j) Tests of time locking	Do.
	(k) Tests of route locking	Do.
	(l) Tests of indication locking	2 years.
	(m) Tests of traffic locking	1 year.
	(n) Switch obstruction tests	Do.
	(o) Tests of valve locks and valve keepers	Do.
	(p) Tests of circuit protection	Do.
	(q) Tests of time releases and timing relays	Do.
	(r) Tests of restoring feature on power switches	Do.
	(s) Tests of movable bridge locking	Do.
	(t) Tests of roadway elements ATC, ATS, and ACS	Dc.
	(u) Tests of unknowns present and cut-in circuits	Do.
	(v) Periodic tests of ATC, ATS, and ACS	Do.
	(w) Tests of engine relays ATC, ATS, and ACS	4 years.
	(x) Daily or after trip tests ATC, ATS, and ACS	1 year.
	(y) Departure test ATC, ATS, and ACS	Do.
	SHOPS AND ENGINEHOUSES	
120	Records and reports of repairs to locomotives, cars, and other equipment	1 years.
121	Authorities for expenditures for repairs to locomotives, cars, and other equipment	Optional.
122	Records and reports of repairs needed on locomotives, cars, and other equipment	Do.
123	Record of locomotive boilers:	
	(a) Steam locomotives	6 years.
	(b) Record of boiler inspection of diesel locomotives, where required	4 years.
124	Records and reports of trucks, wheels, and axles removed and applied:	
	(a) to steam locomotives	6 years.
	(b) to diesel locomotives	Do.
125	Defect and repair cards:	
	(a) Defect and repair cards, stubs or records of	Optional.
	(b) Defect and repair cards attached to bills supporting vouchers. (See item 55g.)	Do.
	(c) Lists and statements transmitting defect and repair cards for preparation of bills	Do.
	(d) Improper-repair cards	Do.
	(e) Reports of cars forwarded or received under defect cards	Do.
126	Inspection records:	
	(a) Certificates of inspection of equipment purchased	2 years.
	(b) Records and reports of locomotives and cars inspected	1 year.
	(c) Fireboy inspection reports	Do.
	(d) Spark-arrester and ashpan inspection reports	Do.
	(e) Locomotive boiler inspection and repair reports. (See items 200k to 200s.)	Do.
127	Records and reports of locomotives and cars received, forwarded, and on hand at shops	2 years.
128	Reports of service and mileage of individual locomotives	Do.
129	Records and reports of cars light-weighed and stenciled	Optional after equipment is retired.
130	Records and reports of equipment numbers changed	2 years.
131	Patent records	Do.
132	Records and reports of equipment in and out of service	1 year.
133	Records and reports of locomotive failures	Do.
134	Records of engines ordered and dispatched	Optional.
135	Reports of passenger cars cleaned, iced, and similarly prepared for service	
	TRAFFIC	
180	Tariffs and other rate authorities:	
	(a) Tariffs, classifications, division sheets, and circulars relative to the transportation of persons or property, in the general files of the traffic or other department in which the complete official file is maintained.	2 years after expiration or cancellation.
	(b) Tariffs, classifications, division sheets, and circulars in other departments and at agencies, if copies of the same issues of such tariffs, etc., are preserved in the general files referred to in (a) above.	Optional after expiration or cancellation.
	(c) Applications for and file copies of special-rate orders authorizing the sale of passenger fare tickets at reduced rates.	2 years.
	(d) Requests and receipts from agents and others for tariffs, classifications, division sheets, and circulars.	Optional.
	(e) Written requests on carrier from persons and companies for quotations of rates and copies of carrier's quotations.	Do.

Item	Description of records	Period to be retained
	TRAFFIC—continued	
	(f) Copies of concurrences filed with the Interstate Commerce Commission and with other regulating bodies	2 years after cancellation.
	(g) Authorities for the transportation of property, free or at reduced rates, and supporting papers	2 years.
	(h) Correspondence and working papers in connection with the making of rates and compilation of tariffs, classifications, division sheets, and circulars affecting the transportation of persons or property.	2 years after expiration of tariff, etc.
181	Diversion of freight: Records for diversion or reconsignment of freight	2 years.
182	Market, weather and crop reports: Market quotations, weather and crop reports, and other surveys received from agents and others, when not affecting claims.	Optional.
183	Public time-tables: Public time-tables and descriptive literature and records and correspondence regarding compilation, publication, and distribution of time-tables, etc., for use of the public.	Do.
184	Ticket records:	
	(a) Copies of orders on printing houses for ticket stock	2 years.
	(b) Record of ticket stock received, issued, and destroyed	Do.
	(c) Requisitions and receipts for tickets and cash fare receipts furnished agents and conductors	Do.
	(d) Bulletins of tickets lost or stolen	Optional.
	(e) Records and files pertaining to the extension of time limits of tickets, granted	2 years.
	(f) Records and files pertaining to the extension of time limits of tickets, not granted	Optional.
185	Baggage check records:	
	(a) Copies of orders for the purchase of baggage checks	2 years.
	(b) Record of baggage, parcel, and storage checks received, issued and destroyed	Do.
	(c) Requisitions and receipts for baggage checks, excess baggage checks, and storage checks furnished agents, baggagemen, and transfer companies	Do.
	(d) Bulletins of baggage checks lost or stolen	Optional.
186	Tickets and checks:	
	(a) Used and canceled tickets, checks, etc., the reports of which, showing their sale or issue, have been audited, as follows:	Do.
	Bar checks.	
	Berth checks.	
	Bridge toll tickets.	
	Clergy certificates.	
	Commutation and trip tickets.	
	Exchange train tickets.	
	Excess fare tickets.	
	Ferry tickets.	
	Meal checks.	
	Milk tickets.	
	One-way and round-trip passenger fare tickets upon which the name of the user does not appear:	
	Parlor car tickets.	
	Permits to ride on freight trains.	
	Seat checks.	
	Sleeping car tickets.	
	Train checks.	
	Transfer checks or coupons.	
	Validation pasters when attached to any of the above tickets.	
	(b) Used and canceled tickets, passes, etc., the reports of which, showing their sale or issue, have been audited (except as provided for free tickets in item 178) as follows:	Do.
	One-way and round-trip passenger fare tickets upon which the name of the user is shown.	
	Trip and telegraphic passes collected.	
	Free passenger fare tickets collected.	
	Prepaid orders.	
	Exchange orders.	
	Validation pasters when attached to any of the above tickets.	
	Stop-over pasters.	
	(c) Used mileage books and scrip books on which the name of user is shown and passenger-fare credentials, the reports of which showing their sale or issue have been audited; coupons, auditors' stubs, contract portion signed by purchaser and other detachments from such books on which transportation has been performed; and identification slips required by the conditions of any of these tickets.	6 months.
	(d) Used mileage books and scrip books on which the name of the user is not shown, the reports of which showing their sale or issue have been audited, and the coupons, auditors' stubs, and other detachments from such books on which transportation has been performed.	Optional.

Item	Description of records	Period to be retained
	TRAFFIC—continued	
	(e) Used caretakers' tickets	2 years.
	(f) Used baggage checks, parcel room checks, storage checks, excess baggage checks (including C. O. D.), excess baggage book coupons, and baggage scrip, the reports of which have been audited.	Optional.
	(g) Unused or unissued tickets, if record is kept in accordance with item 154 (b)	Do.
	(h) Unused baggage checks, if record is kept in accordance with item 155 (b)	Do.
	(i) Redeemed tickets, redeemed mileage and scrip book covers, and redeemed credentials.	6 months.
	(j) Redeemed portions of conductor's cash fare and duplex tickets	Do.
	(k) Redeemed and canceled orders issued by conductors for refund of extra fares assessed on extra-fare trains.	Do.
	(l) Used book ticket stubs	Do.
167	Records and reports of tickets redeemed, including claimant's receipt for cash refund	2 years.
168	Records, circulars, and settlements, regarding conventions, excursions, and similar matters.	Do.
	TRANSPORTATION	
170	Dispatchers' records:	
	(a) Train sheets	3 years.
	(b) Train-order books or dispatchers' copies of train orders	Do.
	(c) Train orders—operators' copies	6 months.
	(d) Train orders—trainmen's copies	Optional.
	(e) Clearance cards or orders—operators' copies	6 months.
	(f) Clearance cards or orders—trainmen's copies	Optional.
	(g) Operators' block reports	6 months.
	(h) Daily reports of trains moved	3 years.
171	Employees' timetables:	
	(a) Official file of employees' timetables	Do.
	(b) Receipts for timetables	Duration of time table.
172	Records of crews:	
	(a) Train register or roster	1 year.
	(b) Records of crews called, including call boy records	Do.
173	Records of hours of service:	
	(a) Records of hours of service of train and station employees. (See item 300(j))	3 years.
	(b) Train-delay reports. (See item 300(j))	Do.
174	Locomotive mileage:	
	(a) Records of movement of locomotives	1 year.
	(b) Reports of locomotive mileage, from division offices	Do.
175	Conductors' train and car reports:	
	(a) Reports showing the dates and numbers of trains, the initials and numbers of cars, the movement of cars, and the mileage of cars and trains (i. e., wheel reports), if not transcribed into other records.	2 years
	(b) Reports showing dates and numbers of trains, the initials and numbers of cars, the movement of cars, and the mileage of cars and trains (i. e., wheel reports), if transcribed into other records for retention.	Do.
	(c) Reports of cars interchanged with connecting lines	Do.
	(d) Reports of cars on hand at nonagency stations	1 year.
	(e) Train books showing crews, car-seal records, cars moved, etc.	2 years.
176	Train accidents:	
	(a) Record of train accidents	Do.
	(b) Reports of train accidents by conductors, enginemen, or others	Do.
	(c) Reports of damage to equipment by accidents	Do.
177	Conductors' passenger, freight, and dining car reports:	
	(a) Reports of cash collections, if transcribed to records covered by item 35	1 year.
	(b) Reports of cash collections, if not transcribed to records covered by item 35	2 years.
	(c) Stubs of cash fare receipts or conductors' portions of duplex tickets	Optional.
	(d) Reports of passengers carried, or of tickets, mileage coupons, etc., collected or honored.	2 years.
	(e) Reports of passes honored or collected	1 year.
	(f) Pass identification slips	Optional.
	(g) Sleeping car identification checks and envelopes	Do.
	(h) Reports of passengers handled in sleeping and parlor cars	1 year.
	(i) Envelopes for enclosing tickets, passes, etc., collected	Optional.
	(j) Slips or memoranda for freight received at nonagency stations	2 years.
	(k) Conductors' monthly balance sheets and supporting papers	Do.
	(l) Conductors' daily or weekly balance sheets, when figures are combined on monthly balance sheet.	1 year.
178	Passes and free tickets:	
	(a) Copies of orders on printing houses for pass stock	Do.
	(b) Records of pass stock received, distributed, and destroyed	Do.
	(c) Requests for passes; copies or stubs of requests for passes; and receipts for passes.	2 years.
	(d) Records of passes issued	Do.
	(e) Records of passes received from other carriers	Do.
	(f) Stubs of trip passes	Do.

Item	Description of records	Period to be retained
	TRANSPORTATION—continued	
	(g) Records of annual or term passes honored	Optional.
	(h) Unexpired, surrendered, or partially used annual or term passes	Do.
	(i) Void, unused, or unissued passes	Do.
	(j) Records of free passenger fare tickets issued	2 years.
	(k) Reports of trip passes issued	Do.
	(l) Bulletins of lost and outlawed passes, file copies of	Optional.
	(m) Bulletins of lost and outlawed passes, other than file copies of	Do.
179	Car movements:	
	(a) Records of movement of cars, home and foreign	2 years.
	(b) Junction card reports from other carriers of cars interchanged, when data are transcribed to records provided for in (a) above.	Optional.
	(c) Records and reports of cars switched	2 years.
	(d) Minor records pertaining to the handling and movement of equipment if the movements are recorded in records covered by (a) above.	Optional.
180	Car distribution:	
	(a) Records of car allotment and distribution	2 years.
	(b) Records of cars ordered, furnished, and loaded	Do.
	(c) Telegraphic and other reports of cars on hand and required	1 year.
	(d) Reports of unfilled car orders	Do.
181	Per diem and mileage reports:	
	(a) Per diem and mileage reports made and received, including reclaims	2 years.
	(b) Per diem and mileage discrepancy and adjustment reports	Do.
182	Records and reports pertaining to embargoes, congested traffic, and similar matters	1 year.
183	Reports of or certificates of train-rule examination	2 years.
184	Records of ticket punches	1 year after use of punch is discontinued.
185	Import and export: Records and reports pertaining to import and export freight, bonded freight and baggage, steamships' engagements, etc.	2 years.
186	Marine equipment: Records and reports pertaining to the operation of marine and floating equipment:	
	(a) Blueprints and specifications covering construction of boats	Duration of vessel.
	(b) Major repair records	Do.
	(c) Boat damage records	5 years.
	(d) Personnel records	1 year after termination of service.
	(e) Tug masters', tug engineers', ferry pilots' logs	Permanent.
	(f) Tug dispatcher's tow order and float sheet	3 years.
	(g) Cooperative towing reports	2 years.
	(h) Floatmen's reports	3 years.
	(i) Barge, lighter and scow captain's daily reports	5 years.
	(j) Directional check sheets	3 years.
	(k) Demurrage records	2 years.
187	Railway mail service:	
	(a) Records and reports of mail service, mail failures, and detentions, fines, deductions, and irregularities.	Do.
	(b) Records and reports of mail pouches received and distributed	1 year.
188	Property protection service: Reports and records in connection with policing the company's property, detective service, investigations of robberies, and attempts to defraud the company when not the subject of claim against the carrier.	Optional.
189	Loss and damage prevention: Reports and records in connection with the prevention of loss and damage to freight shipments.	Do.
	CLAIMS	
210	Claim registers:	
	(a) Claim registers, card or book indexes, and other records in connection with the recording of overcharge, loss and damage, personal injury, fire, and other claims presented against carriers.	6 years.
	(b) Records showing the details of authorities issued to agents, carriers, and others for participation in freight claims.	3 years.
211	Claim papers:	
	(a) All papers substantiating personal injury claims, whether such papers are filed separately or attached to vouchers. (See Item 58c.)	6 years after settlement or rejection.
	(b) All papers substantiating overcharge, loss and damage, fire, and other claims, whether such papers are filed separately or attached to vouchers. (See item 58c.)	3 years after settlement or rejection.
	(c) Claim jackets, if all information thereon appears in records covered by (a) and (b) above.	Optional.
	(d) Claim bases constituting a duplicate record of claims if the substantiating papers are filed with another interested carrier.	2 years after settlement.
212	Records of personal injury: Reports and statements regarding personal injuries, when not necessary to support claims or vouchers.	3 years.

Item	Description of records	Period to be retained
	CLAIMS—continued	
213	Records of fire and other damages to property of others: Reports and statements of trainmen and other employees regarding injuries by fire or otherwise to property of others, when not necessary to support claims or vouchers.	2 years.
214	Records of stock killed or injured: Reports and statements by trainmen, trainmen, and other employees regarding stock killed or injured, when not necessary to support claims or vouchers.	Do.
215	Records of undelivered, over, short, damaged, and refused freight: Waybills, reports, and other records pertaining to undelivered, over, short, damaged, and refused freight when not necessary to support claims or vouchers.	1 year.
216	Sales records: Authorities for the disposal of undelivered, damaged, and refused freight.	3 years.
	AGENCIES, YARDS AND ACCOUNTING BUREAUS	
220	Bills of lading and shipping orders:	
	(a) Original bills of lading, shipping orders, consignees' shipping tickets, and copies of bills of lading	2 years.
	(b) Shippers' order-notify bills of lading taken up and canceled	Do.
	(c) Contracts covering rates of carriers in transportation and storage	Do.
	(d) Shipping orders for transportation of parcheses of freight	Do.
	(e) Memoranda for delivery at nonagency stations	Do.
	(f) Bills of lading and shipping tickets lifted on inbound shipments	Do.
221	Freight loading records:	
	(a) Records of loading, unloading and inspection of cars	2 years.
	(b) Records and reports of carload and less-than-carload shipments transferred	2 years.
	(c) Records of cars iced, supplemented, heated, or ventilated	Do.
	(d) Records of cars loaded, unloaded, loading, and watering livestock	Do.
	(e) Duplicates of above records. (See item 300a.)	
222	Weighing of freight: Records, reports, orders, and claims pertaining to the weighing of carload and less-than-carload shipments. (For duplicates see item 300a.)	4 years.
223	Freight waybills:	
	(a) Local waybills	2 years.
	(b) Freight waybills received from other carriers	Do.
	(c) Copies of interline waybills made to other carriers	Do.
	(d) Demurrage freight waybills	1 year.
	(e) Memoranda or slips on which are listed waybills sent to audit office, if such memoranda or slips are not used in auditing the accounts	Optional.
	(f) Duplicates of above records. (See item 300a.)	
224	Car waybills:	
	(a) Card waybills, when used as revenue billing	2 years.
	(b) Card waybills, when shipments are covered by other revenue waybills	1 year.
	(c) Card waybills for nonrevenue shipments	Do.
	(d) Mega route car waybills	Do.
225	Car cards, placards, and car certificates:	
	(a) Car cards, side cards, placards and copies of car certificates when used for routing purposes or to show contents or condition of cars and with rules for handling	Optional.
	(b) Inspection certificates for cars containing explosives, forwarding agents' original	2 years.
226	Reports, records, and instructions regarding the makeup of trains	1 year.
227	Records of freight stopped in transit: Records and reports showing the particulars in connection with shipments stopped, such as grain to be cleaned or milled, lumber to be dressed, poles or piles to be framed, livestock to be fed, cotton to be compressed, etc., and those showing particulars in regard to reshipment to final destination. (For duplicates see item 300a.)	3 years.
228	Freight bills and settlements:	
	(a) Copies of freight bills for freight and other charges	2 years.
	(b) Copies of agents' settlements with consignees and consignors	Do.
	(c) Agents' settlements between carriers	Do.
	(d) Lists of bills sent to audit office for collection and credit	Do.
	(e) Reports of uncollected freight charges	Do.
	(f) Duplicates of above records. (See item 300a.)	
229	Freight corrections: Records and reports of corrected waybills. (See item 300a.) Duplicates of above records.	Do.
240	Freight records:	
	(a) Records of and receipts for delivery of freight to consignees and connecting carriers	2 years.
	(b) Freight claimants' records	Do.
	(c) Orders from consignees for delivery of freight	Do.
	(d) Transfer records of freight received from and delivered to connecting carriers	Do.
	(e) Records that be diversion or reconsignment of freight	Do.

Item	Description of records	Period to be retained
	AGENCIES, YARDS AND ACCOUNTING BUREAUS—continued	
241	Notices of freight arrivals: Copies of Notices to consignees of the arrival of freight	2 years.
242	Reports of shipments to exempt pick-up, delivery, drayage, c. o. d. or substitute highway service:	
	(a) Reports and manifests of shipments accorded pick-up, delivery or drayage service.	Do.
	(b) Records and reports of c. o. d. shipments billed and received	Do.
	(c) Reports and manifests of shipments handled in substitute highway service	Do.
243	Freight reports:	
	(a) Reports and abstracts of commercial waybills made and received	Do.
	(b) Reports and abstracts of company freight waybills made and received	Do.
	(c) Routine reports at junction points of through waybills forwarded to and received from connecting carriers.	1 year.
	(d) Passing reports of waybills covering freight moving over divisions, bridges, etc.	Do.
	(e) Reports of shipments received or forwarded, not covered by waybills, such as coal, ore, etc.	2 years.
	(f) Duplicates of above records. (See item 300a.)	
244	Switching records:	
	(a) Reports and records pertaining to revenue switching	Do.
	(b) Switching orders, switching tickets, and switching waybills	Do.
	(c) Duplicates of above records. (See item 300a.)	
245	Demurrage and storage records:	
	(a) Records of cars arrived, placed, and released and of accruals of demurrage	Do.
	(b) Reports to auditing department and to demurrage and storage bureaus of accruals and collections of demurrage and storage charges	Do.
	(c) Reports of uncollected demurrage and storage charges	Do.
	(d) Duplicates of above records. (See item 300a.)	
246	Miscellaneous collections by agents: Records and reports of overcollection of freight and other charges (with record of refund or disposition); sale of unclaimed freight; sale of waste; icing, weighing, reconsignment, loading, and unloading charges; demurrage fees, etc. (For duplicates see item 300a.)	Do.
247	Car records and interchange reports:	
	(a) Records and reports of cars received, forwarded, and on hand and wanted, including interchange with connecting lines	2 years.
	(b) Telegraphic report of cars interchanged at junctions, when data are transcribed into other records.	1 year.
	(c) Telegraphic report of movement of freight, when data are transcribed into other records	Do.
	(d) Record of car seals applied, released, and on hand	Do.
	(e) Yard and track charts showing cars on various yard tracks and industrial tracks	Optional.
	(f) Daily reports of loaded cars passing yards	
	(g) Duplicates of above records. (See item 300a.)	
248	Ticket records:	
	(a) Records of tickets received, sold, and on hand	2 years.
	(b) Inventories of tickets at agencies	Do.
	(c) Records of adjustments and corrections on ticket reports	Do.
	(d) Stubs of tickets, etc.	6 months after audit.
	(e) Envelopes and receipts for stop-over tickets deposited with agents at stop-over points.	Optional.
	(f) Duplicates of above records. (See item 300a.)	
249	Ticket reports:	
	(a) Reports of sale of tickets, sale of mileage books, collection for baggage, etc. (For duplicates, see item 300a.)	2 years.
	(b) Report of credit claimed for tickets redeemed or issued in exchange	Do.
250	Sleeping, parlor, and chair car records: Sleeping, parlor, and chair car diagrams and correspondence in connection with reservations.	Optional.
251	Baggage records:	
	Baggage records	2 years.
	Baggage waybills and manifests	Do.
	Waybills for milk and cream and for return of empty containers	1 year.
	Records of express and c. o. d. baggage checks issued	2 years.
	Releases for baggage in bad order	Do.
	Receipts from agents, baggagemasters, and others for valuable letters and packages.	Optional.
	Receipts for lost and mismatched baggage checks	Do.
	Transfer company checks and manifests	Do.
	Duplicates of above records. (See item 300a.)	
252	Agency cash books	6 years.
253	Remittances:	
	(a) Agents' and conductors' remittance slips, bank deposit slips, and supporting papers, not provided for elsewhere.	2 years.
	(b) Agents' records of remittances	Do.
	(c) Statements of cash and other cash papers deposited with agents by conductors	Do.
	(d) Duplicates of above records. (See item 330a.)	

Item	Description of records	Period to be retained
	RETURNS TO REGULATORY AGENCIES	
	NOTE: The supporting papers referred to in item 320 are those requisite to support the reports named, and not elsewhere provided for in these regulations. If figures for such reports are assembled on memorandum sheets, such sheets constitute a part of the supporting papers and shall be retained accordingly.	
320	Financial and statistical reports:	
	(a) Annual report forms. Financial, operating, and statistical summaries, file copies of, and supporting papers.	Permanent.
	(b) Monthly reports of revenues and expenses, file copies of, and supporting papers.	1 year.
	(c) Monthly reports of selected income and balance sheet items, file copies of, and supporting papers.	Do.
	(d) Monthly reports of operating statistics, file copies of, and supporting papers.	Do.
	(e) Monthly reports of analysis of passenger traffic, file copies of, and supporting papers.	Do.
	(f) Monthly reports of employees, service and compensation, file copies of, and supporting papers.	Do.
	(g) Quarterly report of freight commodity statistics, file copies of, and supporting papers.	5 years.
	(h) Quarterly report on expenditures for additions and betterments, file copies of, and supporting papers.	1 year.
	(i) Monthly reports of hours of service, file copies of, and supporting papers.	3 years.
	(j) Monthly locomotive boiler inspection and repair reports, file copies of, and supporting papers.	2 years.
	(k) Annual locomotive boiler inspection and repair reports, file copies of, and supporting papers.	5 years.
	(l) Special report to Interstate Commerce Commission for repairs to locomotive boilers, and file copies of special repair reports covering such repairs.	2 years.
	(m) Quarterly boiler inspection and repair reports, other than steam locomotive, file copies of, and supporting papers.	6 years.
	(n) Specification cards for locomotive boilers, file copies of, and supporting blueprints and alteration reports.	1 year after boiler is retired.
	(o) Reports to municipal authorities regarding expenditures of proceeds from sale of authorized securities, file copies of, and supporting papers.	1 year.
	ACCOUNTANTS, AUDITORS, AND TIME-RETURN CLERKS	
310	Monthly or other periodical statements of general balance sheet, income, and retained income accounts, comparative or otherwise.	3 years.
311	Monthly or other periodical statements of revenues and expenses, comparative or otherwise, by months and for corresponding months of prior years.	Do.
312	Monthly or periodical statements of estimated or approximate revenues and expenses, when not used as basis for crediting or charging the accounts.	Optional.
313	Agents' daily or weekly reports of tonnage, revenue, or receipts, used only for preparing statements of estimated revenues or the movement of traffic.	Do.
314	Monthly or other periodical statements of tonnage handled, by tons, ton-miles, car-loads, and passenger cars.	2 years.
315	Monthly or other periodical statements of car-miles, train-miles, and movements of freight and passenger cars.	Do.
316	Monthly or other periodical statements of performances of locomotives.	Do.
317	Monthly or other periodical statements of employees by duties, days, compensation, or otherwise.	Do.
318	Monthly or other periodical statements of passenger traffic, by number of passengers, passenger-miles, divisions, or otherwise.	Do.
319	Weekly, monthly, or other periodical reports or records on which are assembled figures for records covered by items 310, 311, 314-318.	Do.
320	Miscellaneous statistical reports, statements, and summaries used for administrative purposes only. (Not otherwise provided for herein.)	Optional.
	MISCELLANEOUS	
330	Records of employees: (a) Applications for employment, reports and certificates of examinations, service records, efficiency cards, employees' rosters, and other similar records pertaining to employees. (b) Applications for employment and replies thereto not resulting in employment of applicant.	1 year after termination of service. Optional.
331	Instructions to agents and others: (a) Books and circulars of instructions to agents and others, in the general file of the department in which the complete official file is maintained.	3 years after cancellation or amendation.
	(b) Surplus copies of books and circulars of instructions and copies in other departments and at agencies, if copies of the same issues are preserved in the general file referred to in (a) above.	Optional.

Item	Description of records	Period to be retained
	MISCELLANEOUS—continued	
332	Land, industrial, and immigration department records: (a) Reports, records, and correspondence containing inquiries from and replies to prospective homeseekers and industries regarding localities and conditions. (b) Agents' periodical tributary reports. (c) Agents' periodical field or work reports. (d) Periodical reports from agents, industries, and others, furnishing data for annual reports for industrial, commercial, and agricultural directories, and similar publications.	2 years. 1 year. Do. Do.
333	Provident department records: Records of provident departments, such as employees' relief, hospital, insurance and savings departments, other than records pertaining to the receipt and disbursement of funds. NOTE: The records pertaining to the receipt and disbursement of funds must be retained for the same periods as are provided for similar records elsewhere in this order.	1 year after termination.
334	Correspondence: (a) Correspondence and records thereof relating to subjects listed in items 1 to 333 inclusive. (b) Operators' copies of telegrams, including relay copies, if the original or other copies of such messages are retained, as provided for in (a) above. (c) Stenographers' notebooks and phonograph and other mechanical device records, if transcripts thereof are retained, as provided for in (a) above. (d) Extra copies of letters, etc., used for tracing or following up correspondence, or for other purposes, if original or other copies are retained as provided for in (a) above.	For the period prescribed for the records to which the correspondence relates. Optional. Do. Do.
335	Data processing: Tabulating cards, tapes, and other media used in the compilation of accounts and statistics and other data, when the results are transcribed to other records covered by these regulations.	Do.
336	(a) Duplicate copies of records and documents covered by items 281-333; 337-350; 352-360; 351, 353, 356, when held by agents. (b) Duplicates of other accounts, records, and memoranda listed in these regulations when they are not provided for otherwise and when they contain no information other than that shown on the originals.	See § 1220.7. Optional.
337	The official record of records and documents destroyed (see § 1220.5)	Permanent.

PART 1221—ELECTRIC RAILWAYS

Sec.
1221.1 General authority to destroy records.
1221.2 Special permission to destroy records.
1221.3 Preservation by photography.
1221.4 Photographic copies.
1221.5 Photographic processes.
1221.6 Officer having supervision of destruction.
1221.7 Written authority of supervising officer.
1221.8 Certificates of destruction.
1221.9 Committee for the destruction of certain records.
1221.10 Joint bureaus and agencies.
1221.11 Nonoperating companies.
1221.12 Method of destruction.
1221.13 Accidental destruction of records.
1221.14 Duplicate accounts, records and memoranda.
1221.15 List of records and periods of retention.

AUTHORITY: The provisions of this part 1221 issued under secs. 12, 20, 24 Stat. 383, as amended, 386, as amended; 49 U.S.C. 12, 20, unless otherwise noted.

§ 1221.1 General authority to destroy records.

Electric railway companies subject to Part I of the Interstate Commerce Act may destroy accounts, records, or memoranda named or described in this part, if their permanent retention is not therein specifically required, after preservation for the respective periods of time hereinafter prescribed and upon compliance with requirements of this part. Authority contained in this part shall not, however, exempt an electric railway company from any statutory requirements other than the provisions of section 20 (7) (b) of the Interstate Commerce Act, as amended, relating to the destruction of carriers' accounts, records, and memoranda.

§ 1221.2 Special permission to destroy records.

The destruction of all accounts, records, and memoranda of electric railway companies, except as specifically provided in this part, is prohibited under penalties contained in section 20(7) (b) of the Interstate Commerce Act, as amended. However, an electric railway company proposing to destroy accounts, records, or memoranda not hereinafter named or described, or proposing to photograph and destroy accounts, records, or memoranda specifically restricted by or excluded from the provisions of § 1221.3, may apply to the Commission for special authority to accomplish either such purpose. Such applications shall state a full and detailed description of the accounts, records, or memoranda in question, clearly explaining their character, their use, and their purpose, and such special authority will not be granted except on a showing that the regulations impose an unreasonable burden.

§ 1221.3 Preservation by photography.

Accounts, records, and memoranda named or described in § 1221.15, which have been photographed for preservation by any standard process meeting the requirements of § 1221.5, may be destroyed after due certification of such disposition, subject to the exceptions and restrictions imposed by § 1221.4.

§ 1221.4 Photographic copies.

(a) Photographic copies shall be preserved until the close of the period prescribed in § 1221.14 for the retention of the account, record, or memorandum so photographed and the photographic copies shall not be destroyed without the same certification required for the originals thereof.

(b) This permission to destroy shall in no case apply to accounts, records, and memoranda which are required to be retained permanently by the following items under § 1221.15:

Item	Description
1	Minute books of directors', executive committees', stockholders', and other meetings.
3	Capital stock records.
4	Long-term debt records.
7	Ledgers.
9	General and auxiliary journals.
10	General and auxiliary cash books.
11	General journal entries or vouchers and supporting papers.
13	Deeds, charters, franchises, and other title papers.
14	Contracts and agreements.
16	Copies of applications to and authorities from regulating bodies for the issuance of stocks, bonds, and other securities.
46	Property records.
90	Reports to I. C. C. and other regulating bodies.
91	Annual reports to stockholders, file copies of.
96	Correspondence. (This exclusion shall apply only to correspondence which relates to excluded accounts and records.)

(c) All accounts, records, and memoranda included in the following items of § 1221.15, other than those required by paragraph (b) of this section to be retained permanently, or those which may be destroyed at the carrier's option, shall be retained in their original form not less than two years, or not less than the period prescribed in § 1221.15 where such prescribed period is shorter than two years:

Item	Description
2	Code and cipher books, file copies of.
5	Corporate elections.
8	Records of securities owned.
12	Records summarizing the results of operations other than electric railway operations.
15	Tax records.
21–22	Bills collectible records.
30–31	Revenue records pertaining to agents' and conductors' accounts.
32	Interline revenue settlements.
40	Vouchers.
41	Pay roll records.
42	Claim records.
44	Labor records, if they pertain to transportation employees as defined in the Hours of Service Act.
45	Material and supplies.
70	Records pertaining to agents' accounts.
72–73	Agency records.
75	Conductors' original records and reports.
78–79	Transportation records.
80	Operating department records.
92	Periodical statistical statements of operating results.
94	Data relating to the destruction of records.
95	Correspondence, if pertaining to accounts or records required to be retained two years in original form.

§ 1221.5 Photographic processes.

(a) Photographic processes used for preservation of accounts, records, or

memoranda must produce copies without significant loss of clarity, and the material to be photographed shall be sorted in an orderly manner and shall be adequately indexed. Photographic copies shall be no less readily accessible than the original account, record, or memorandum as normally filed or preserved would be, and suitable means or facilities shall be available to locate, identify, read, or reproduce such photographic copies. Upon request by the Commission's representatives, carriers shall furnish prints, enlarged to original size, of any accounts, records, or memoranda which have been photographed for preservation.

(b) Any significant characteristic, feature, or other attribute of the original record or document, which photography in black and white will not preserve, shall be clearly indicated before the photograph is made. The reverse side of printed forms need not be copied if nothing has been added to the printed matter common to all such forms, but an identified specimen of such form shall be on the film for reference.

(c) Film used for preservation of photographic copies shall be of permanent-record type meeting in all respects the minimum specifications of the National Bureau of Standards, and all processes recommended by the manufacturer of such film shall be observed to protect it from deterioration or accidental destruction.

§ 1221.6 Officer having supervision of destruction.

(a) An officer or, where necessary, two officers shall be appointed by the company's board of directors to have supervision over the destruction of all accounts, records, and memoranda. Such officer or officers may be given (1) general supervision over the destruction of all accounts, records, and memoranda the destruction of which is permitted by the regulations in this subpart or (2) authority over the destruction of such accounts, records, and memoranda as may be specified by the board of directors. Pending confirmation by the board of directors, a temporary appointment by an executive committee, or by a similarly authorized committee of the board of directors, shall have the same effect as if made by the board of directors. A copy of the resolution of appointment shall be filed with the Commission before accounts, records, or memoranda may be destroyed pursuant thereto.

(b) If an electric railway is in the hands of a trustee, receiver, executor, administrator, or assignee, the officer or officers to have supervision over the destruction of accounts, records, and memoranda shall be designated by the trustee, receiver, executor, administrator, or assignee. A copy of the order designating such officer or officers shall be filed with the Commission before accounts, records, or memoranda may be destroyed pursuant thereto.

(c) In designating an officer or officers to have general supervision over the destruction of accounts, records, and memoranda it is preferable to designate by title only, rather than by name and title, and thus obviate the necessity for a new resolution or order each time a successor in the office is appointed.

§ 1221.7 Written authority of supervising officer.

(a) When any accounts, records or memoranda are to be destroyed, the officer having supervision over the destruction of accounts, records, and memoranda (as designated in § 1221.6(a) or § 1221.6(b)) shall issue a written authority naming the person or persons by whom the accounts, records, or memoranda are to be destroyed (except as provided in § 1221.14(b)).

(b) The written authority (1) may be confined to certain accounts, records, and memoranda which have been retained for the periods of time specified in this subpart and which the carrier proposes to destroy, in which case the authority shall specify: (i) A list of the accounts, records, and memoranda to be destroyed, expressed either in form numbers or by descriptive titles; and, (ii) the period or periods covered by the accounts, records, and memoranda the destruction of which is authorized; or (2) May be of continuing effect, applying to any or all the accounts, records, or memoranda named herein as the periods of retention of such accounts, records, or memoranda attain the limits specified herein.

(c) Such written authority, or a certified copy thereof shall be filed in the office of the issuing officer as a permanent part of the company's records. Copies of the specific written authorities need not be filed with the Commission.

§ 1221.8 Certificate of destruction.

(a) The person or persons by whom accounts, records, or memoranda are to be destroyed under the written authority referred to in § 1221.7(b)(1) shall certify (except as otherwise provided in paragraph (d) of this section and § 1221.15) that the accounts, records, or memoranda listed in the said authority have been destroyed and that no accounts, records, or memoranda other than those so listed have been destroyed therewith.

(b) The person or persons by whom accounts, records, or memoranda are to be destroyed under continuing authority referred to in § 1221.7(b)(2) shall certify such destruction (except as otherwise provided in paragraph (d) of this section and § 1221.14), listing by form numbers and descriptive titles the accounts, records, and memoranda destroyed, naming the period or periods covered by such accounts, records, and memoranda, and stating that no accounts, records, or memoranda other than those so listed have been destroyed therewith. Either (1) a separate certificate shall be filed each time any accounts, records, and memoranda are destroyed, or (2) cumulative certificates shall be filed with supplementary entries every time additional accounts, records, and memoranda are destroyed.

(c) Certificates of destruction shall be forwarded promptly to the officer having supervision over the destruction of accounts, records, and memoranda who issued the written authority and shall be retained in his office as a permanent part of the company's records. Cumulative certificates shall be forwarded to such officer periodically, but at least once every six months. Copies of certificates of destruction need not be filed with the Commission.

(d) Certificates of destruction are not required for those accounts, records, and memoranda listed in § 1221.15, the destruction of which is optional with the company, but a written authority for specific records or of continuing effect shall be issued (except as otherwise provided in § 1221.14) by the officer having supervision over the destruction of such accounts, records, and memoranda.

§ 1221.9 Committee for the destruction of certain records.

At the option of the electric railway company a committee may be designated to destroy by conversion into pulp, or by cremation, canceled stock certificates, bonds, or other records covered by item 6 of § 1221.15, in lieu of delegating authority for such destruction to an officer as provided in § 1221.6. A copy of the resolution of the board of directors, or if not a corporate act a copy of the designating order, shall be filed promptly with the Commission. A certificate of destruction giving full descriptive reference to the documents destroyed shall be filed by this committee and shall be retained as a permanent part of the electric railway company's records. (See § 1221.8(c).) When documents representing debt secured by mortgage, the certificates of destruction shall also be authenticated by or for the trustees under the mortgage acting in conjunction with this committee or shall have the trustees' acceptance endorsed thereon.

§ 1221.10 Joint bureaus and agencies.

This subpart applies also to the destruction of accounts, records, and memoranda of traffic associations, fast freight lines, demurrage and car service bureaus, weighing and inspection bureaus, and other joint agencies maintained by or on behalf of electric railways. The manager, chairman, or other officer in charge of the association, bureau, etc., may be delegated by the designated officer of each of the carriers to have supervision of the destruction of accounts, records, and memoranda of the association, etc., and in that event he shall issue all authorities for such destruction, and certificates of destruction shall be filed with him. Otherwise, a written authority shall be obtained from the proper officer of the member carriers concerned each time any of the accounts, records, or memoranda are to be destroyed, and a certificate of destruction shall be filed with each such officer.

§ 1221.11 Nonoperating companies.

A company owning or controlling electric railway property which it does not operate but which it leases to others for operating purposes shall observe this subpart in case it desires to destroy any

of its corporate or financial accounts, records, or memoranda.

§ 1221.12 Method of destruction.

(a) The precise method of destruction of accounts, records, and memoranda is not prescribed. The Commission is not concerned whether the destruction is by fire, sale, conversion into pulp, or otherwise, providing the destruction is authorized, a certificate of destruction is filed, and all other requirements of this subpart, are observed.

(b) If the accounts, records, and memoranda are not actually destroyed by the electric railway company, this certificate of destruction shall so state. Section 15 of the Interstate Commerce Act provides that information concerning the business of a shipper or consignee, which may be used to the detriment of such shipper or consignee, shall not be divulged. Responsibility for possible infringement of this provision of the act, by disposing of its records without actually destroying them, would rest with the carrier.

§ 1221.13 Accidental destruction of records.

If any accounts, records, or memoranda are destroyed accidentally by fire, flood, or other casualty, a statement shall be prepared listing so far as possible the records destroyed and detailing the circumstances in connection with the fire or other casualty. This statement shall be authenticated by an officer or some responsible employee of the company and shall be filed with the officer having supervision over the destruction of accounts, records, and memoranda. A copy of the statement certifying such destruction shall be filed promptly with the Commission.

§ 1221.14 Duplicate accounts, records and memoranda.

(a) Provision is made in item 74 of § 1221.15 for the destruction of agency copies of certain accounts, records, and memoranda. Certificates of destruction are not required for these copies, but a written authority as provided in § 1221.7 (a) and § 1221.7(b) shall be issued and appropriately filed with the officer having jurisdiction over the destruction of records.

(b) Provision is made in item 98 of § 1221.15 for the optional destruction of duplicate copies of accounts, records, and memoranda when such copies are not specifically provided for elsewhere in this subpart and when they contain no information not shown on the originals. Neither written authority to destroy nor certificates of destruction are required for these copies. The originals (or one true copy) shall be retained for the respective periods named for such records in this subpart.

§ 1221.15 List of records and periods of retention.

The following list is indicative of accounts, records, and memoranda specifically referred to in § 1221.1. The description of the accounts, records, and memoranda enumerated below under the various general headings is merely for convenient reference and identification. This subpart is intended to apply to the items as named or described, regardless of where they are filed and regardless of departmental organization. Of the accounts, records, and memoranda which are to be retained permanently only the more important are stated in this list, the specific mention being made so that they may not be confused with any accounts, records, and memoranda for which permission to destroy is given herein.

Item	Description of accounts, etc.	Period to be retained
	GENERAL AND FINANCIAL	
1	Minute books of directors' executive committee's, stockholders', and other meetings.	Permanent.
2	Code and cipher books, file copies of	Do.
3	Capital stock records:	
	(a) Capital stock ledger	Do.
	(b) Capital stock certificates, records of or stubs of	Do.
	NOTE.—If the information shown on the stubs is recorded in permanent records, the stubs are required to be retained only for a period of three years.	
	(c) Stock transfer register	Do.
	(d) Memoranda and bills of sale or of transfer of capital stock.	Optional.
	(e) Canceled capital stock certificates. (See item 6.)	
4	Long-term debt records:	
	(a) Registers of bonds and certificates	Permanent.
	(b) Records or stubs of bonds and certificates	Do.
	NOTE.—If the information shown on the stubs is recorded in permanent records, the stubs are required to be retained only for a period of three years.	
	(c) Memoranda and bills of sale or of transfer of registered bonds and certificates.	Optional.
	(d) Records of interest coupons paid and unpaid	Do.
	(e) Funded debt subscription notices and requests for allotment.	Do.
	(f) Canceled or unissued bonds and certificates, and paid interest coupons. (See item 6.)	
5	Corporate elections:	
	(a) Proxies of holders of voting securities	6 years.
	(b) List of holders of voting securities presented at meetings.	Do.
	(c) Qualification oaths of judges of election	Optional.
	(d) Qualification oaths of directors	Do.
	(e) Ballots cast and tabulations of vote	6 years.
	(f) Judges' reports of election results	Do.
6	Retired stock certificates, bonds, notes, interest coupons, receiver's and trustee's certificates, and dumporary certificates; taken up and canceled. (See § 1221.9)	Optional.
7	Ledgers:	
	(a) General and auxiliary ledgers and indexes thereto	Permanent.
	(b) Balance sheets of general ledgers	Do.
	(c) Trial balance sheets of general and auxiliary ledgers	Do.
8	Record of securities owned, in treasury, or with custodians	Do.
9	General and auxiliary journals	Do.
10	General and auxiliary cash books, except cash books at agencies provided for in item 72.	Do.
	NOTE.—If any receipts or payments are entered in the aggregate in the general cash book and are detailed only on loose sheets, such loose sheets constitute an auxiliary cash book when no other permanent record of the items thereon is made.	
11	General journal entries or vouchers and supporting papers except as provided for elsewhere in these regulations.	Permanent.
12	Records summarizing the results of operations other than electric railway operations.	Do.
	NOTE.—Ledgers, journals, abstracts, reports, vouchers, etc., shall be retained for the same periods as are provided for similar documents elsewhere in these regulations.	
13	Deeds, charters, franchises, and other title papers	Until legally required to release.
14	Contracts and agreements:	
	(a) Card or book records of contracts, leases, and agreements made, and of expirations and of renewals.	Permanent.
	(b) Contracts, leases, and agreements. See also items 14(c) and 44(d).	Do.
	(c) Contracts and required files for transactions which are subject to the provisions of the Clayton Anti-trust Act (15 U.S.C. 20).	In original form for 10 years after expiration, provided there is no pending litigation involving these records and, provided that the carrier informs the Commission of its intended action 3 weeks prior to date the records are to be destroyed.
15	Tax records:	
	Copies of schedules and returns to taxing authorities for tax purposes; records of appeals, tax bills, and statements.	Do.
16	Copies of applications to and authorities from regulating bodies for the issuance of stocks, bonds, and other securities.	Do.
17	Fidelity bonds of employees; records and files	3 years after expiration of coverage.
18	Insurance records:	
	(a) Schedules of fire and other insurance; also records of payment of premiums and of amounts recovered.	4 years.
	(b) Records of policies in force	Optional.
	(c) Inspectors' reports of condition of property	Do.
	(d) All other insurance records	Do

Item	Description of accounts, etc.	Period to be retained
	GENERAL AND MISCELLANEOUS—Continued	
20	Treasurer's records:	
	(a) Records of outstanding checks	6 years.
	(b) Bank deposit books and records of checks	Do.
	(c) Other treasurer's records	2 years.
	(d) Verification of cash or securities	2 years.
20	Records of credit investigations, except as provided in item 70 (c)	6 year.
21	Register of bills collectible and indexes thereto	15 years.
22	Audit copies of bills collectible and supporting papers which do not accompany original bills	4 years.
	REVENUES	
30	Records summarizing debits and credits to transportation revenue accounts from settlements with agents and conductors	6 years.
31	Records summarizing debits and credits to accounts for operating revenues other than transportation from settlements with agents, conductors, and others	6 years.
32	Records summarizing interline settlements of revenue with other carriers	4 years.
33	Records of cash dues collections	2 years.
	DISBURSEMENTS	
40	Vouchers:	
	(a) Registers of audited vouchers and indexes thereto	15 years.
	(b) Paid checks, paid drafts, and receipts for cash paid out	10 years.
	(c) Paid and canceled vouchers, audit office copies of vouchers, and supporting papers, except as otherwise provided in items 40 (a) and 46 (f)	Do.
	(d) Reports of drafts issued by agents and others	1 year.
41	Payroll records:	
	(a) Payrolls and summaries	Permanent. See item 46f.
	(b) Applications and authorities for changes in payrolls	Optional.
	(c) Applications for payroll changes not authorized	Do.
	(d) Records and memoranda pertaining to deductions from payrolls	Do.
	(e) Receipted pay checks, receipted time tickets, certificates issued for wages, discharge tickets, and other evidences of payments for services rendered by employees, except as otherwise provided in item 46 (f)	6 years.
42	Claim records:	
	(a) Claim registers, card or book indexes, and other records in connection with overcharge, loss and damage, personal injury, and other claims	6 years.
	(b) Records showing the details of authorities issued to agents and others for participation in claims	Do.
	(c) All papers substantiating overcharge, loss and damage, personal injury, and other claims, whether filed separately or attached to vouchers	4 years after settlement or rejection.
	(d) Claim jackets and folders. If all information thereon appears in records covered by (c) above	Optional.
	(e) Claim bases constituting a duplicate record of claims, if substantiating papers are filed with another interested carrier	2 years.
43	Statistical and other records showing settlement or disposition of claims, not otherwise provided for in item 42	2 years.
44	Records showing details of labor expenditures charged to all accounts, including memoranda and memorandum recapitulation sheets, except as otherwise provided in item 46 (f)	4 years.
45	Material and supplies:	
	(a) Records of material and supplies on hand	6 years.
	(b) Records showing details of material expenditures charged to all accounts, except as otherwise provided in item 46f	4 years.
	(c) Material inventory and inventory adjustment records	2 years.
	(d) Bids, offers, copies of orders, and correspondence pertaining to the purchase of material and supplies, except as otherwise provided in items 14(c) and 46(f)	Do.
	(e) Requisitions and receipts for material and supplies issued, if full details are retained in other records. See item 46f.	1 year.
46	Property records:	
	(a) Records and memoranda of cost and of inventory value of real property and equipment	Permanent.
	(b) Records and memoranda of additions to and betterments of real property and equipment	Do.
	(c) Records and memoranda of depreciation, retirements, and replacements of real property and equipment	Do.
	(d) Records of contracts and other agreements relating to the construction, acquisition or sale of real property and equipment except as otherwise provided for in item 14(e)	Do.
	(e) Reports and records of equipment numbers changed	Permanent.
	(f) Records, reports, statements, and memoranda showing details of the cost of real property and equipment, such as payrolls, labor and material distribution sheets, copies of individuals' and companies' bills, time books, time tickets, work orders, job tickets, check rolls, material requisitions, and similar records, if full details are not transcribed into records covered by items (a) to (b) above	Do.
	(g) Records, reports, statements, and memoranda similar to those covered by item (f) if full details are transcribed into records which will be retained permanently	2 years.

Item	Description of accounts, etc.	Period to be retained
	MAINTENANCE OF WAY, STRUCTURES, AND EQUIPMENT	
50	Records and reports of repairs to and renewals of roadway and track	3 years.
51	Superintendents' reports of repairs and renewals of buildings, bridges, and other structures	Do.
52	Authorities for expenditures for repairs to and renewals of roadway and structures	Optional.
53	Inspectors' records and reports of condition of track, structures, and equipment	3 years.
54	Records and reports of repairs to equipment	3 years.
55	Authorities for expenditures for repairs to and renewals of equipment	Optional.
56	Equipment defect and repair cards	Do.
57	Records and reports of equipment in and out of service	3 years.
	TRAFFIC	
60	Tariffs and other rate authorities:	
	(a) Tariffs, classifications, division sheets, and circulars which constitute the complete official file of the company	3 years after expiration or cancelation.
	(b) Copies of tariffs, classifications, division sheets, and circulars which are not a part of the complete official file of the company referred to in (a) above	Optional after expiration or cancelation.
	(c) Correspondence and working papers relating to the determination of rates and the compilation of tariffs, classifications, division sheets, and circulars	3 years after cancelation of tariff, etc.
61	Copies of concurrences filed with the Interstate Commerce Commission or with other regulating bodies	3 years after cancelation.
62	Authorities for the transportation of property, free or at reduced rates, and supporting papers	3 years.
63	Public timetables	Optional.
	TRANSPORTATION	
70	Records pertaining to agents' accounts:	
	(a) General office records or ledgers of agents' accounts showing debits and credits from various sources	6 years.
	(b) Records and files of indemnity bonds incident to transportation and other charges	3 years.
	(c) General office records relating to extension of credit for transportation and other charges	6 years.
	(d) Statements of corrections in agents' accounts	3 years.
71	Reports of examinations, audits, and tenders by special accountants, traveling auditors, time inspectors, weight inspectors, etc., and supporting papers	Do.
72	Agency cash books and monthly balance sheets with supporting details of audit office settlements	Do.
73	Agents' original records and reports of station transactions, other than cash or audit office settlement	3 years.
74	Duplicate agency records and reports if full information is retained as provided in items 72 and 73	Optional. See § 1221.14 (a).
75	Conductors' original records and reports	3 years.
76	Duplicates constituting conductors' records of transactions reported	Optional.
77	Records of ticket punches	2 years after use of punch is discontinued.
78	Transportation of commodities:	
	(a) Freight and baggage waybills	3 years.
	(b) Switching and weighing orders and tickets	Do.
	(c) Bills of lading and releases	Do.
79	Transportation of passengers:	
	(a) Ticket records	Do.
	(b) Used or canceled tickets	Optional.
	(c) Records of passes and refund fare tickets	3 years.
80	Operating department records:	
	(a) Train movement and protection records	Do.
	(b) Car distribution and location records	Do.
	(c) Hours of service records and roster of train and station employees	Do.
	(d) Records relating to protection of property, including that of the carrier, shippers, or others	3 years.
	(e) Accident and damage reports and records	Do.
	(f) Instructions to agents, conductors, or others	3 years after expiration.
	MISCELLANEOUS	
90	Reports to Interstate Commerce Commission and other regulating bodies:	
	(a) Annual financial, operating and statistical reports, file copies of, and supporting papers	Permanent.
	(b) Monthly reports of accidents, inspection, hours of service, etc., file copies of, and supporting papers	3 years.
91	Annual reports to stockholders, file copies of	Permanent.
92	Periodical statistical statements of operating results, by tonnage, mileage, passenger-carried, commodities, costs, analysis of increases and decreases, or otherwise	3 years.
93	Duplicates of accounts, records, and memoranda listed in these regulations, when they are not provided for otherwise and when they contain no information other than that shown on the originals	Optional. See § 1221.14 (b).
94	Written authorities and certificates of destruction of accounts, records, and memoranda required by these regulations	Permanent.
95	Correspondence and records thereof relating to subjects listed in these regulations	For the period prescribed for the subject matter.
96	All records, reports, and statements used for administrative purposes only and not required to support items listed in these regulations	Optional.

PART 1222—SLEEPING CAR COMPANIES

Sec.
1222.1 General authority to destroy records.
1222.2 Special permission to destroy records.
1222.3 Preservation by photography.
1222.4 Photographic copies.
1222.5 Photographic processes.
1222.6 Officer having supervision of destruction.
1222.7 Written authority of officer having supervision of destruction.
1222.8 Certificates of destruction.
1222.9 Committee for destruction of certain records.
1222.10 Method of destruction.
1222.11 Accidental destruction of accounts, records, and memoranda.
1222.12 Duplicate accounts, records, and memoranda.
1222.13 List of accounts, records, and memoranda, and periods of retention.

AUTHORITY: The provisions of this part 1222 issued under sec. 12, 20, 24 Stat. 383, as amended, 898; as amended, 49 U.S.C. 12, 20.

NOTE: Section 20 (7) (b) of the Interstate Commerce Act reads as follows:

Any person who shall knowingly and willfully make, cause to be made, or participate in the making of, any false entry in any annual or other report required under this section to be filed, or in the accounts of any book of accounts or in any records or memoranda kept by a carrier, or required under this section to be kept by a lessor or other person, or who shall knowingly and willfully destroy, mutilate, alter, or by any other means or device falsify the record of any such accounts, records, or memoranda, or who shall knowingly and willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions, appertaining to the business of the carrier, lessor, or person, or shall knowingly and willfully keep any accounts, records, or memoranda contrary to the rules, regulations, or orders of the Commission with respect thereto, or shall knowingly or willfully file with the Commission any false report or other document, shall be deemed guilty of a misdemeanor and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not more than five thousand dollars or imprisonment for not more than two years, or both such fine and imprisonment: *Provided*, That the Commission may in its discretion issue orders specifying such operating, accounting, or financial papers, records, books, blanks, tickets, stubs, correspondence, or documents of such carriers, lessors, or other persons as may, after a reasonable time, be destroyed, and prescribing the length of time the same shall be preserved.

It is not intended that these regulations shall be interpreted as requiring that the records herein named shall be installed, when such records are not already kept by a carrier.

§ 1222.1 General authority to destroy records.

Sleeping car companies subject to Part I of the Interstate Commerce Act may destroy accounts, records, or memoranda named or described in this part, if their permanent retention is not specifically required by provisions of § 1222.13, after preservation for the respective periods of time prescribed and upon compliance with requirements of this part. Authority contained in this part shall not, however, exempt a carrier from any statutory requirements other than the provisions of section 20(7) (b) of the Interstate Commerce Act, as amended, relating to the destruction of carriers' accounts, records, and memoranda.

§ 1222.2 Special permission to destroy records.

The destruction of all accounts, records, and memoranda of sleeping car companies, except as specifically provided in this part, is prohibited under penalties contained in section 20(7) (b) of the Interstate Commerce Act, as amended. However, sleeping car companies, proposing to destroy accounts, records, or memoranda not hereinafter named or described, or proposing to photograph and destroy accounts, records, or memoranda specifically restricted by or excluded from the provisions of § 1222.3, may apply to the Commission for special authority to accomplish either such purpose. Such applications shall state a full and detailed description of the accounts, records, or memoranda in question, clearly explaining their character, their use, and their purpose, and such special authority will not be granted except on a showing that the regulations impose an unreasonable burden.

§ 1222.3 Preservation by photography.

Accounts, records and memoranda named or described in § 1222.13, which have been photographed for preservation by any standard process meeting the requirements of § 1222.5, may be destroyed after due certification of such disposition, subject to the exceptions and restrictions imposed by § 1222.4.

§ 1222.4 Photographic copies.

(a) Photographic copies shall be preserved until the close of the period prescribed in § 1222.13 for the retention of the account, record, or memorandum so photographed and the photographic copies shall not be destroyed without the same certification required for the originals thereof.

(b) This permission to destroy shall in no case apply to accounts, records, and memoranda which are required to be retained permanently by the following items under § 1222.13.

Item	Description
1	Minute books of directors', executive committee's, stockholders', and other meetings.
3	Capital stock records.
4	Bond records.
7	Annual reports or statements to stockholders, file copies.
9	Deeds and other title papers, and franchises.
10	Contracts and agreements.
11	Ledgers.
12	General journals.
13	General journal entries and supporting papers.
14	General and auxiliary cash books.
16	Copies of applications to and authorities from regulating bodies for the issuance of stocks, etc.
30	Reports to I. C. C. and other regulating bodies.
60	Road and equipment records.
61	Authorities for expenditures.
62	Engineering records.
120	Correspondence. (This exception shall apply only to correspondence which relates to excluded accounts and records.)

(c) All accounts, records, and memoranda included in the following items of § 1222.13, other than those which may be destroyed at the carrier's option, shall be retained in their original form not less than two years, or not less than the period prescribed in § 1222.13 where such prescribed period is shorter than two years:

Item	Description
2	Code and cipher books, file copies of.
5	Corporate elections.
6	Records of securities owned.
15	Tax records.
50	Records of auxiliary (outside) operations.
60	Road and fixed property records covered by (d) if not transcribed into permanent records.
70	Agents' reports of sale of tickets for berths and seats.
75	Records summarizing the revenue from charter of cars.
76	Records summarizing miscellaneous revenue.
76	Records of berth and seat revenue.
77	Diagrams.
90	Payrolls and time reports.
94	Distribution of labor expenditures.
95	Vouchers.
100	Bills collectible.
101	Repair shop records.
120	Purchases and sales.
121	Material and supplies received.
122	Material and supplies issued.
141	Ticket agents' records.
150	Car records.
160	Claim registers.
161	Claim papers.
162	Refund claim records.
163	Correspondence, if pertaining to accounts or records required to be retained two years in original form.

§ 1222.5 Photographic processes.

(a) Photographic processes used for preservation of accounts, records, or memoranda must produce copies without significant loss of clarity, and the material to be photographed shall be sorted in an orderly manner and shall be adequately indexed. Photographic copies shall be no less readily accessible than the original account, record, or memorandum as normally filed or preserved would be, and suitable means or facilities shall be available to locate, identify, read, or reproduce such photographic copies. Upon request by the Commission's representatives, carriers shall furnish prints, enlarged to original size, of any accounts, records, or memoranda which have been photographed for preservation.

(b) Any significant characteristic, feature, or other attribute of the original record or document, which photography in black and white will not preserve, shall be clearly indicated before the photograph is made. The reverse side of printed forms need not be copied if nothing has been added to the printed matter common to all such forms, but an identified specimen of such form shall be on the film for reference.

(c) Film used for preservation of photographic copies shall be of permanent-record type meeting in all respects the

minimum specifications of the National Bureau of Standards, and all processes recommended by the manufacturer of such film shall be observed to protect it from deterioration or accidental destruction.

§ 1222.6 Officer having supervision of destruction.

(a) An officer, or if necessary, two officers, shall be appointed by the board of directors of the carrier to have supervision of the destruction of accounts, records, and memoranda. Such officer or officers may be given (1) general supervision of the destruction of all accounts, records, and memoranda the destruction of which is permitted by this part, or (2) authority over the destruction of such of these accounts, records, and memoranda as may be specified by the board of directors. Pending action later to be confirmed by the board of directors, a temporary appointment by an executive committee or by a similarly authorized committee of the board of directors, shall have the same effect as if made by the board of directors. A copy of the resolution of appointment shall be filed promptly with the Commission before the destruction of accounts, records, and memoranda.

(b) If the property of a carrier is in the hands of a trustee, executor, administrator, or assignee, the officer or officers to have supervision of the destruction of accounts, records, and memoranda shall be designated by the trustee, executor, administrator, or assignee. A copy of the order designating such officer or officers shall be filed with the Commission before the destruction of accounts, records, and memoranda.

(c) In designating an officer or officers to have general supervision of the destruction of accounts, records, and memoranda it is preferable to designate by title only, rather than by name and title, and thus obviate the necessity of adopting a new resolution each time a successor in the office is appointed.

§ 1222.7 Written authority of officer having supervision of destruction.

(a) When any accounts, records, or memoranda are to be destroyed, an officer having supervision of the destruction of accounts, records, or memoranda (as designated in compliance with § 1222.6 (a) or (b)) shall issue a written authority naming the person or persons by whom the accounts, records, or memoranda are to be destroyed (except as provided in § 1222.12).

(b) The written authority (1) may be confined to certain accounts, records, and memoranda which have been retained for the periods of time specified in these regulations and which the carrier then desires to destroy, in which case it shall indicate: First, a list of the accounts, records, or memoranda to be destroyed, expressed either in form numbers or by descriptive titles; and, second, the period or periods covered by the accounts, records, or memoranda the destruction of which is authorized, or (2) may be of continuing effect, applying to any or all the accounts, records, and memoranda named herein as the periods of retention of such accounts, records, or memoranda attain the limits specified herein.

(c) Such written authority, or a certified copy thereof, shall be filed in the office of the issuing officer as a permanent part of the carrier's records. It is not required that copies of these specific written authorities be filed with the Commission.

§ 1222.8 Certificates of destruction.

(a) The person or persons upon whom devolves the duty of the direct supervision of the destruction of the accounts, records, or memoranda under the authority referred to in § 1222.7(b)(1) shall make certificate (except as provided for in paragraph (d) of this section and § 1222.12) setting forth that the accounts, records, or memoranda listed in the said authority have been destroyed and that no other accounts, records, or memoranda than those so listed have been destroyed therewith.

(b) If an authority as referred to in § 1222.7(b)(2) is given, a certificate of destruction shall be made listing by form numbers and descriptive titles the accounts, records, and memoranda destroyed, naming the period or periods covered by the accounts, records, or memoranda, and stating that no other accounts, records, or memoranda than those so listed have been destroyed therewith. Either (1) a separate certificate shall be made each time any accounts, records, or memoranda are destroyed, or (2) cumulative certificates shall be made with entries each time any accounts, records, or memoranda are destroyed.

(c) Certificates of destruction shall be forwarded promptly to the officer having supervision of the destruction of accounts, records, and memoranda who issued the written authority and shall be retained in his office as a permanent part of the carrier's records. In case cumulative certificates are made they shall be forwarded to such officer periodically, but at least once every six months. It is not required that copies of these specific certificates of destruction be filed with the Commission.

(d) Certificates of destruction need not be made for accounts, records, and memoranda, the destruction of which, in the list in § 1222.13, is made optional with the carrier, but a written authority, either for specific records or of continuing effect (except as provided for in § 1222.12), shall be issued by the officer having supervision of the destruction of such accounts, records, and memoranda.

§ 1222.9 Committee for destruction of certain records.

At the option of the carrier the board of directors of the carrier may from time to time name a committee to destroy by conversion into pulp or by cremation, canceled stock certificates, bonds, or other records covered by item 6 of § 1222.13 in lieu of delegating the authority for the destruction to an officer, as provided in § 1222.6(a). A copy of the resolution of the board of directors naming such committee shall be filed promptly with the Commission. A certificate of destruction giving full descriptive reference to the documents destroyed shall be made by the person or persons appointed by the officer having supervision of the destruction of records or by this committee, and it shall be permanently retained by the carrier. When documents represent debt secured by mortgage, the certificate of destruction shall also be authenticated by representatives of the trustees acting in conjunction with this committee or shall have the trustees' acceptance thereon.

§ 1222.10 Method of destruction.

(a) The precise method of the destruction of accounts, records, or memoranda is not prescribed. The Commission is not concerned with the method of destruction, whether by fire, sale, conversion into pulp, or otherwise, so long as the destruction is authorized and a certificate of destruction is filed as required by this part.

(b) If the accounts, records, and memoranda are not actually destroyed by the carrier, but are disposed of by sale or otherwise, the certificate of destruction shall so state. Attention is directed to section 15 of the Interstate Commerce Act, which provides that a carrier shall not divulge to any person information concerning the business of a shipper or consignee which may be used to the detriment of such shipper or consignee. Responsibility for possible infringement of this provision of the law by disposing of its records by other than actual destruction would rest with the carrier.

§ 1222.11 Accidental destruction of accounts, records, and memoranda.

If any accounts, records, or memoranda are destroyed accidentally by fire, flood, or other casualty, a statement shall be prepared listing so far as may be possible the records destroyed and detailing the circumstances in connection with the fire or other casualty. This statement shall be authenticated by an officer or some responsible employee of the carrier and shall be filed with the officer having supervision of the destruction of accounts, records, and memoranda. A copy of the statement certifying such destruction shall be filed promptly with the Commission.

§ 1222.12 Duplicate accounts, records, and memoranda.

Provision is made in item 191 of § 1222.13 for the optional destruction of duplicate copies of accounts, records, and memoranda when such copies are not specifically provided for elsewhere in this part and when they contain no information not shown on the originals. In destroying such copies carriers may dispense with the written authorities and the certificates of destruction. The originals (or one true copy) shall be retained for the respective periods named for such records in the regulations.

DIRECTORS OF INCOME OR EARNED CAR COMPANIES—Continued

Item	Description of accounts, etc.	Period to be retained
	GENERAL AND MISCELLANEOUS—continued	
22	General journals	Permanent.
23	Journal entries:	Do.
	Original general journal entries	10 years.
	Original general journal entries and supporting papers	Do.
24	Ledgers:	6 years.
	General	Do.
	Original general cash books	6 years.
25	Tax records:	6 years after settlement.
	Records of taxes paid, including authorities for tax payments	6 years after settlement.
	Copies of annual tax returns and reports to Federal and State authorities	Permanent when op-
	Records of appeals, petitions, and orders in tax cases, working papers, and correspondence	erated; optional when
	Original Federal reports	sold.
26	Copies of applications to and authorities from regulating bodies for the issuance of stocks, bonds, and other securities	2 years after expiration of
27	Weekly reports of delay hours of employees	authority.
28	Accounts and vouchers:	Do.
	(a) Accounts with newly companies covering lobby, lumpers, helper, and hamper fees	2 years.
	(b) Contracts with newly companies covering lobby, lumpers, helper, and hamper fees	2 years.
	Bank pass books and reconciliation of balances on hand and with depositaries	3 years.
	Statements and supporting papers showing capacities of tanks received, delivered, and transferred	3 years.
	(a) Daily or other periodical statements of the receipt and disbursement of funds	3 years.
	(b) Monthly summary	3 years.
	Record of checks, drafts, and money orders deposited each day	Optional.
	Inventory (or periodical) listings of outstanding vouchers, checks, drafts, money orders, and other items	6 years.
	Journals, or journal vouchers, of vouchers, checks, drafts, disbursements, and receipts	Optional.
	Original bills, invoices, and receipts	6 years.
	Records of freight and passenger claims:	Optional.
	(a) Claims, and papers and reports connected	Do.
	(b) Registers, or journals, of claims presented	Optional.
	Records of funds and securities and payments of deposits due to survivors or heirs of deceased employees	Do.
	Records and registration covering employees' purchases of U. S. War Savings bonds	1 year.
	Records of U. S. Government transportation orders accepted	Do.
	Reports of accidents, and investigations, and settlements:	1 year.
	(a) Reports of accidents, and settlements	Do.
	(b) Files containing assignments, abstractments, settlements, notices of suits, letters of attorneys, to whom reports of Adjuster to forward reminders by reporting agents when due, and other correspondence relating thereto	Optional.
	Notices of delivery of freight, and other matters	1 year.
	Receiving, delivery, and transportation and interline reports:	Optional.
	Receiving, delivery, daily reports of receiving clerks, and reports issued in lieu thereof	Do.
	Forms used by receiving, delivery, and transportation clerks, the copies of which are required to be retained for a period of three years	
	Records, and reports, showing the movement of freight cars, locomotives, and other units of equipment	
	Original reports of delivery clerks, and reports issued in lieu thereof	
	Original reports of receiving clerks, and reports issued in lieu thereof	
	Records of loss and damage claims	6 years.
	Records of overcharge claims	Do.
	Reports of agents:	Optional after expiration of
	(a) Abstracts of tariffs, and other instruments, also records of payment of premiums	6 years.
	(b) Monthly reports of conditions of property	Optional.
	Reports of accidents, and settlements	Do.
	Reports of agents, conductors, and other employees, and records of cash transactions	Do.
	Reports of agents, relative to loss and damage claims	Do.
	Reports of agents, statistical, or supplemental to revenue accounts	Do.
	Reports of inspectors of locomotives, cars, and other equipment	Optional after expiration of
	Reports of station supplies	6 years.
	Reports of telegraph and telephone operators	Optional.
	Reports to stockholders	Do.
	Requisitions for material	Do.
	Revenue accounts:	Permanent.
	(a) Abstracts of tariffs, and other instruments, also records of payment of premiums and amounts recovered	Optional.
	(b) Monthly reports of conditions of property	6 months.
	Records of claims for loss and damage, and overcharge, and settlements	
	Records of leases	
	Records of mileage of cars	
	Records of station supplies	
	Records of supplies issued to agents	
	Statements of freight and passenger business handled for other lines	
	Tariffs, and circulars, and supplements thereto	10 years.

The regulations are intended to apply to the items as named or described, regardless of where they are filed and regardless of departmental arrangement. Of the accounts, records, and memoranda which are to be retained permanently only the more important are stated in the list, the specific mention being made so that they may not be confused with any accounts, records, or memoranda for which permission to destroy is given herein.

DIRECTORS OF INCOME OR EARNED CAR COMPANIES

Item	Description of accounts, etc.	Period to be retained
	MINUTES AND RECORDS	
1	Minute books of directors, executive committee, stockholders, and other meetings	Permanent.
2	Oaths and bonds, file copies of	Optional.
3	Capital stock records:	10 years.
	Original stock records, including certificates, transfer sheets, or cards of stockholders, showing the information shown on the cards described in this item 3	Do.
	Original stock records, the cards are required to be retained only for a period of three years	3 years.
4	Charters, and certificates of incorporation, and amendments thereto	Permanent.
	Blank stock certificates, and records of spoiled stock certificates	10 years.
	Original stock subscription books, and records showing payments on account of capital stock	Do.
5	Contracts and agreements:	3 years.
	Contracts and agreements relating to the matters described in this item 5 which are not specifically provided for elsewhere in this schedule	1 year.
	Contracts and agreements relating to the matters described in this item 5 which are not specifically provided for elsewhere in this schedule, the terms of which are required to be retained for a period of three years	3 years.
	Records of proceedings of board of directors	Permanent.
6	Corporate charters:	
	Original charters, and certificates of incorporation	Permanent.
	Original papers relating to the granting of charters	Do.
	Certificates of stock and bonds	10 years.
	Certificates of stock and bonds, the copies of which are required to be retained for a period of three years	3 years.
	Coupons detached from bonds	2 years.
	Dividend checks, and lists or records of	3 years.
	Dividend checks, and lists or records of, the copies of which are required to be retained for a period of three years	3 years.
	Dividend registers	Optional.
	Records of capital stock	Permanent.
7	Annual reports of carrier, to Treasury, or with committees	10 years after disposition.
8	Board of directors, records of committees, issues, and agreements made, and of meetings	Permanent.
9	Capital and surplus, records of	Do.
10	Contracts and agreements, except those provided for in items 5(a) and 5(b)	Do.
	(a) Contracts, leases, and agreements with railroads under the provisions of ICC Uniform Antitrust Act (15 U.S.C. 30)	In original form for 10 years after expiration, provided there is no pending litigation involving those records and, provided that the carrier informs the Commission under section 5 within 90 days prior to date the records are to be destroyed.
11	Ledgers: General and auxiliary ledgers and indexes thereto, except as provided for elsewhere in this regulation	Permanent.
	(1) Balance sheets of general and auxiliary ledgers	10 years.
	(2) Balance sheets of general and auxiliary ledgers	Do.

DESTRUCTION OF RECORDS OF SLEEPING CAR COMPANIES—Continued

Item	Description of accounts, etc.	Period to be retained
	STATISTICS	
80	Reports to Interstate Commerce Commission and other regulating bodies:	
	(a) Statistical records and supporting papers relating to reports to the Interstate Commerce Commission.	Permanent.
	(b) Monthly reports of operating revenues and expenses, file copies of, and supporting papers.	1 year.
	(c) Monthly accident reports, file copies of, and supporting papers	3 years.
	(d) Reports to regulating bodies regarding expenditures of proceeds from sale of authorized securities, file copies of, and supporting papers.	6 years
81	Statistical records and supporting papers, not provided for elsewhere, which relate to the income account or general balance sheet statement, or which show revenue passenger miles and car movement by divisions, lines, or states.	Optional.
82	Records summarizing the results of auxiliary (outside) operations for entry in general books. NOTE: Ledgers, journals, abstracts, reports, vouchers, tickets, etc., must be retained for the same periods as are provided for similar documents elsewhere in this order.	2 years
83	Traveling accounts' and auditors' reports: Reports of examinations, audits, and transfers by special accounts and traveling auditors.	3 years.
	EQUIPMENT AND FIXED PROPERTY RECORDS	
90	Road and equipment records:	
	(a) Records and memoranda of the cost or the inventory value of equipment and fixed property.	Permanent.
	(b) Records and memoranda pertaining to depreciation, retirements, and replacements of equipment and fixed property.	Do.
	(c) Contracts and other agreements relating to the construction, acquisition, or sale of equipment and fixed property except as provided for in item 10(c).	Do.
	(d) Records, reports, statements, and memoranda showing the details of all debits and credits on account of the cost of equipment and fixed property, such as labor and material distribution sheets, copies of individuals' and companies' bills, time books, time tickets, work orders, job tickets, check rolls, material requisitions, and similar records.	10 years if full details are not transcribed into records covered by items (a) to (c) above. 2 years if transferred to permanent records.
91	Authorities for expenditures:	
	(a) Estimates, completion reports and authorities for expenditures and registers and records thereof for construction, extensions and additions and betterments made.	Permanent.
	(b) Estimates, completion reports, authorities, etc., for expenditures together with registers and records thereof covering maintenance expenses.	Optional.
	(c) Detail records and memoranda used in preparation of estimates, if summarized in records covered by item (a) above.	Do.
	(d) Estimates, detail records, and memoranda, when the expenditures were not authorized.	Do.
92	Engineering records:	
	(a) Maps, profiles, plans, specifications, estimates of work, records of engineering studies, and similar records pertaining to extension, addition, and betterment projects which have been put into execution.	Permanent.
	(b) Maps, profiles, plans, specifications, estimates of work, records of engineering studies and similar records pertaining to extension, addition, and betterment projects which have been abandoned.	3 years.
	REVENUE	
70	Agents' reports of sale of tickets for berths and seats. (3 years if revenue figures are transcribed to records covered by item 76.)	6 years.
71	Conductors', stewards', and porters' reports:	
	(a) Reports of sale of berths and seats. (See item 77a.)	
	(b) Reports of meal checks issued	2 years.
	(c) Discrepancy reports for correction of errors	Do.
	(d) Reports of checks issued for transfer from one car to another	1 year.
	(e) Reports of berth checks issued	Do.
72	Refund for space adjustments	2 years.
73	Records summarizing the revenue from charter of cars	6 years.
74	Records summarizing miscellaneous revenue	Do.
75	Line cards used to facilitate balancing revenue by lines	1 year.
76	Records of berth and seat revenue:	
	(a) Records summarizing the revenue from berths and seats	6 years.
	(b) Cashiers' daily abstracts of conductors' diagrams and collection	1 year.
	(c) Daily record of gross receipts by stations	6 years.
	(d) Monthly records of receipts by days	Do.
	(e) Monthly recapitulation of earnings and performance by lines	Do.
	(f) Ticket settlements between railroad and sleeping car companies	Do.

DESTRUCTION OF RECORDS OF SLEEPING CAR COMPANIES—Continued

Item	Description of accounts, etc.	Period to be retained
	REVENUE—continued	
77	Diagrams:	
	(a) Conductors' diagrams showing sale of seats and berths and summarizing by cars the earnings and the space occupied (3 years, if revenue figures are transcribed to records covered by item 76).	6 years.
	(b) Agents' reservation diagrams, showing space sold or engaged and correspondence relating to the reservation of berths and seats.	6 months.
	(c) Trips slips (partial copies of diagrams) if all information thereon appears on diagrams covered by item (b) above.	Optional.
	(d) Records of blank diagrams furnished to agents and others	1 year.
78	Ticket sellers' daily report of cash balances to ticket agents	Optional.
79	Agents' and conductors' balance sheets and supporting papers	3 years.
	EXPENDITURES	
60	Pay rolls and time reports:	
	(a) Original pay rolls	Permanent.
	(b) Impression or carbon copies of pay rolls if all information thereon appears on the originals referred to in paragraph (a) of this item.	Optional.
	(c) Receipted pay checks, receipted time tickets, certificates issued for wages, discharge tickets, and other evidences of payments for services rendered by employes.	3 years.
	(d) Canceled pay checks drawn in favor of "bearer" in payment of wages for which receipt is shown on payrolls or other records retained by carrier.	Optional.
	(e) Comparative or analytical statements of pay rolls	Do.
61	Labor records:	
	(a) Time books, time slips, overtime tickets, delayed-time tickets, work orders, job tickets, check rolls, and other papers pertaining to services of officers and employes.	6 years.
	(b) Reports covering commissions paid conductors on sales of certain space on trains.	1 year.
62	Orders to paymasters to deliver pay draft to car employes	Do.
63	Letters and acknowledgments thereof forwarding pay draft to employe unable to personally call for it; also letters used for the return to treasurer of undelivered pay drafts.	Do.
64	Records showing detail distribution of labor expenditures charged to all accounts	4 years.
65	Records and memoranda pertaining to deductions from pay rolls, or collection by cash from employes.	Optional.
66	Assignment of duty forms (in addition to time slips)—Conductors and Porters	Do.
67	Wage and service records:	
	(a) I. B. M. cards used in producing pay rolls	1 year.
	(b) I. B. M. summary cards used in writing paydrafts and making reconciliation with bank statements.	90 days after canceled paydrafts received.
	(c) I. B. M. summary cards used in producing B. A.-3 report and W-2's	1 year after use on W-2.
	(d) Office copy of quarterly report of earnings to Railroad Retirement Board—B. A.-3's.	10 years.
	(e) Office copy of list showing name, address, earnings and withholding tax as printed on W-2's.	6 years.
	(f) Social Security Registration Cards CER-1	3 years after termination of service.
	(g) Form W-4 withholding exemption certificate: 1—Current forms W-4	2 years after termination of service.
	2—Obsolete forms W-4	Optional.
	(h) Office copies—report of compensation adjustments—B. A. 4	10 years.
68	Letters of authority covering changes in pay rolls and for sundry other charges	Optional.
69	Vouchers:	
	(a) All vouchers or accounts payable, and supporting papers	6 years.
	(b) Paid and canceled vouchers	Do.
	(c) Voucher lists showing mailing dates	2 years.
	(d) Register of vouchers of accounts payable and indexes thereto	15 years.
	(e) Defect and repair cards attached to railroad audit bills supporting vouchers.	Optional.
100	Bills collectible:	
	(a) Register of bills collectible (or accounts receivable bills) and indexes thereto.	15 years.
	(b) Audit office copies of bills issued for collection, and supporting papers which do not accompany the original bills.	4 years.
	(c) Periodical statements of unsettled accounts, except trial balance sheets	Optional.
	(d) Record or index of bills to be issued, with notations of dates of issue	Do.
101	Repair shops records (not specifically provided for elsewhere in these regulations):	
	(a) Statements prepared by repair shops in connection with monthly closing and analysis of their accounts.	3 years.
	(b) Repair shop employes' time cards	Do.
	(c) Repair shop material requisitions	Do.
	(d) Repair shop manager's order ledger covering the manufacture of material, etc., and work done for other companies.	Do.
	(e) Repair shop records of assembled cost of repairs to car for each shopping	5 years.
	(f) Repair shops' accumulated record of cost of repairs to cars for all shoppings.	6 years.

DESTRUCTION OF RECORDS OF SLEEPING CAR COMPANIES—Continued

Item	Description of accounts, etc.	Period to be retained
	PURCHASES AND STORES	
120	Purchases and sales:	
	(a) Copies of orders for the purchase of materials and supplies	2 years.
	(b) Records and reports of invoices for materials and supplies purchased. (See item 69a.)	6 years.
	(c) Advises from individuals and companies acknowledging receipt of orders for materials and supplies and notices of shipment.	Optional.
	(d) Bids and offers for the sale or purchase of material and supplies	1 year.
	(e) Contracts for the purchase or sale of materials and supplies except as provided for in item 10(c).	4 years.
	(f) Advises or requisitions from storekeepers and others for the purchase of materials and supplies.	2 years.
	(g) Lists or records of invoices transmitted or from storekeepers	Optional.
	(h) Receipts or delivery tickets issued for material and supplies received in installments and subsequently surrendered with and in support of invoices or bills showing full information.	Do.
	(i) Freight bills covering charges on materials and supplies	4 years.
	(j) Reports of scrap on hand	2 years.
	(k) Authorities for the sale of scrap and other material and supplies	Do.
	(l) Price records of purchases, file copies	Permanent.
121	Inventories of materials and supplies:	
	(a) General inventories of materials and supplies on hand, with record of adjustments between accounts.	2 years.
	(b) Stock cards, inventory cards, and other detail records pertaining to the taking of inventories if abstracted into records covered by (a) above.	1 year.
	(c) Minor inventories of materials and supplies on hand, if not used for adjustments.	Do.
122	Materials and supplies received:	
	(a) Records or reports of materials and supplies received	2 years.
	(b) Records of inspecting and testing materials and supplies	1 year.
	(c) Records of materials and supplies released and returned to stock	2 years.
123	Materials and supplies issued:	
	(a) Records and reports of materials and supplies issued. (See item 69d.)	2 years.
	(b) Records and reports of materials and supplies transferred from one department or division to another.	2 years.
	(c) Requisitions and receipts for materials and supplies issued	1 year.
	(d) Price records of materials and supplies issued, file copies	10 years.
124	Requisitions for supplies and equipment for dining, buffet, broiler, and commissary cars.	1 year.
125	Dining and buffet car supplies:	
	(a) Attendant's reports of supplies drawn, consumed, and on hand	Do.
	(b) Attendant's requisitions and receipts for supplies	Do.
	(c) Attendant's inventories	Do.
	(d) Menus, price lists	Do.
	(e) Special trip reports	Do.
	(f) Commissary inventories	Do.
126	District commissary's advice to the commissary giving details of commissary features connected with fitting out a car chartered for special service (commissary feature only).	Optional.
127	Bills of lading and shipping orders	
	LINEN AND LAUNDRY	
130	Daily records of counts of linens sent laundries	1 year.
131	Receipts for linen sent to or returned by laundries	Optional.
132	Daily records of linen transactions between storerooms and laundries	1 year.
133	Distributions of monthly costs of washing linens	3 years.
134	Records of shortages of linen on cars	1 year.
	TICKETS, PASSES AND TARIFFS	
140	Tickets:	
	(a) Used and canceled tickets, the reports of the sale of which have been properly audited.	Optional.
	(b) Checks issued for transfer from one car to another	6 months.
	(c) Meal checks, the reports of which have been properly audited	6 months after audit.
	(d) Porters' berth checks	Optional.
	(e) Unissued or unused ticket and check stock, if a complete record is kept in record referred to in item 142.	Do.
141	Ticket agents' records:	
	(a) Records of tickets received, sold, and on hand	2 years.
	(b) Inventories of tickets at agencies	Do.
	(c) Records of adjustments and corrections on ticket reports	Do.
	(d) Stubs of tickets, etc.	6 months after audit.
	(e) Duplicates of above records. (See item 191.)	
	(f) Record of half rate orders issued	2 years.

DESTRUCTION OF RECORDS OF SLEEPING CAR COMPANIES—Continued

Item	Description of accounts, etc.	Period to be retained
	TICKETS, PASSES AND TARIFFS—continued	
142	Ticket stock records:	
	(a) Copies of orders on printing houses for ticket stock	2 years.
	(b) Record of ticket stock received, issued and destroyed	Do.
	(c) Record of cash fare receipts furnished car service employes	Do.
143	Passes and free tickets:	
	(a) Copies of orders on printing houses for pass stock	1 year.
	(b) Records of pass stock received, distributed, and destroyed	Do.
	(c) Requests for passes; copies or stubs of requests for passes; and receipts for passes.	2 years.
	(d) Records of passes issued	Do.
	(e) Records of passes received from other carriers	Do.
	(f) Stubs of trip passes	Do.
	(g) Pass identification slips	1 year.
	(h) Records of annual or term passes honored	Do.
	(i) Trip and telegraphic passes collected	Do.
	(j) Free passenger fare tickets collected	Do.
	(k) Unexpired, surrendered, or partially used annual or term passes	Do.
	(l) Void, unused, and unissued passes	Do.
	(m) Records of free passenger fare tickets issued	2 years.
	(n) Conductors' reports of passes collected or honored	1 year.
	(o) Reports of trip passes issued	2 years.
	(p) Bulletins of lost and outlawed passes, file copies of	Do.
	(q) Bulletins of lost and outlawed passes, other than file copies of	Optional.
144	Tariffs and other rate authorities:	
	(a) Tariffs, division sheets, and circulars relative to rates for berths, seats, and other service in the general files of the tariff or other department in which the complete official file is maintained or required to be maintained.	2 years after expiration or cancellation.
	(b) Tariffs, division sheets, and circulars in other departments and at agencies, if copies of the same issue of such tariffs, etc., are preserved in the general files referred to in (a).	Optional after expiration or cancellation.
	CARS, CAR REPAIRS, SUPPLIES, ETC.	
160	Records showing the location of cars, the movements of cars, car service days, and the mileage performed.	6 years.
161	Statements of cars switched by railroad companies from one railroad to another	2 years.
162	Statements of car-cleaning arrangements	3 years.
163	Monthly records of repairs to and inspection of the electrical equipment of car and its battery readings.	3 years.
164	Graphic charts for ampere-hour meters	1 year.
165	Reports of storage batteries and electric-lighting axle devices exchanged on a car. (See item 60.)	3 years.
166	Records of storage batteries repaired at shops	Do.
167	Memorandum reports of application of new and secondhand axle device generator belts.	1 year.
168	Daily and monthly records showing electrical work done on cars. (See item 60.)	3 years.
169	Advices by railroads or sleeping car company employees at outlying points of exchanges of wheels and axles. (See item 60.)	Do.
160	Slips turned in at terminal offices by conductors or porters in charge giving data relative to cars in charge, providing all information shown thereon has been entered by the conductor or porter in charge on diagrams, which are retained as provided in item 77a.	1 year.
161	Orders on storekeepers for car-cleaning material	Optional.
162	Car equipment:	
	(a) Record of check of equipment on cars	1 year.
	(b) Report of overages and shortages of equipment on cars	Do.
	(c) Report of issue of material to complete equipment on car	Do.
163	Storekeepers' advice to district officials of issue of material (other than linen) to make good the equipment of a car.	Optional.
164	Inspection reports:	
	(a) Reports of inspection of cars, showing defects, if any, and repairs required.	2 years.
	(b) Inspection reports not otherwise provided for	Optional.
	PERSONNEL, GROUP INSURANCE AND PENSIONS	
170	Employe records:	
	(a) Applications and forms relative to absence, furlough, transfer, resignation, etc.	6 years.
	(b) Rosters, service record cards, record books, operation forms and schedules	Permanent.
	(c) General correspondence regarding (a) and (b), also conduct and efficiency of employes.	See item 192.
	(d) Facilities and conveniences furnished employes, quarters, lockers, meals, etc.	1 year.

DESTRUCTION OF RECORDS OF ELECTRIC CAR COMPANIES—Continued

Item	Description of accounts, etc.	Period to be retained
170	PERSONNEL, GROUP INSURANCE AND PENSION	
	Employee records—continued	
	(a) Actions of employes, disciplins, minutes of hearings, grievances, appeals, and awards.	10 years.
	(f) Signout sheets and records	2 years.
171	Group insurance:	
	(a) Paid death claims	6 years.
	(b) Paid weekly indemnity claims	Do.
	(c) Application cards cut file	6 years from date insurance terminated.
	(d) Carbon copies of group insurance claim checks	6 years.
172	Retirement and Pension:	
	(a) Deceased retired employes files	6 years from date of death.
	(b) Railroad Retirement prior service files (deceased employes)	6 years.
	CLAIMS	
180	Claim registers, card or book indexes, and other records in connection with the recording offices and damage, personal injury, fire, and other claims presented.	Do.
181	Claim papers:	
	(a) All papers substantiating loss and damage, personal injury, fire, and other claims. (See item 98a.)	4 years after settlement or rejection.
	(b) Claim jackets, if all information thereon appears in records covered by (a) above.	Optional.
	(c) Claim bonds constituting subrogation record of claims if the substantiating papers are also on file.	2 years
182	Refund claim records:	
	(a) All records and claim papers regarding refunds and adjustments made (except unused tickets) or on applications declined.	6 years.
	(b) Claim papers relating to refunds on unused tickets	6 months.
	(c) Papers pertaining to cancel amounts deposited by employes in accounting for sale of space.	2 years.
183	Reports and statements regarding personal injuries, when not necessary in support claims or vouchers.	3 years.
	MISCELLANEOUS	
190	Reports of the condition of electrical workshops, and the facilities and services furnished to the workmen.	1 year.
191	Duplicate copies of accounts, records and memoranda filed in these regulations. Full information on such duplicates is contained on the originals or other copies retained, and if such duplicates are not specifically provided for in these regulations. (See § 1222.11(a).)	Optional.
192	Correspondence:	
	(a) Correspondence and records thereof relating to subjects listed in Items 1 to 191, inclusive.	For the period prescribed for the item to which it relates.
	(b) Stenographers' notebook and phonograph and other mechanical device records.	Optional.
	(c) Extra copies of letters, etc., used for tracing or following up correspondence, if original or other copies are retained as provided for in item (a) above.	Do.
	(d) Operators' copies of telegrams, including relay copies, if the original or other copies of such messages are retained, as provided for in (a) above.	Do.

INDEX TO RECORDS

Abstracts: auxiliary operations, 82 note; cashiers, 76b.
Accident: reports, 50c, 186, 181, 183.
Accountant: reports, 58.
Additions: engineering records, 62; property, 61a.
Adjustments: compensation, 98b; inventory, 121a; refund, 72; ticket, 141a.
Agents: balance sheets, 76; diagrams, 77b, d; tariffs, 144b; ticket sales, 70, 73.
Agreements: operating 82; property, 60c; records, 10.
Allotments: capital stock, 3c; funded debt, 4a.
Annual reports: I. C. C., 50; stockholders, 7.
Appeals: employes, 170c; tax, 15a.
Applications: insurance, 171c; securities, 18.
Assignment: duty, 96; wages, 95.
Attachment: wages, 95.
Audit: reports, 58.
Authorities: for expenditures, 61; pay-roll, 96; rate, 144; securities, 18.
Auxiliary: cash books, 14; ledgers, 11a; operations, 82.
Awards: employes, 170a.
Balance sheets: agents and conductors, 76; general ledger, 11b; statistics, 51.
Bank accounts, 18.
Beneficiaries: deceased employes, 98.
Berth: checks, 71a, 140d; diagrams, 77; revenue, 76; sales, 71a; tariffs, 144.
Betterments: engineering records, 62; property, 61a.
Bids: sale or purchase, 120d.
Bill of lading, 127.
Bill of sale: capital stock, 3c; bonds, 4c; notes, 4c.
Bills: collection, 180; freight, 130f; payable, 60d, 99a; railroad 99a.
Bonds, fidelity, 17; issues and transfers, 4, 16; retirement, 6.
Bulletins, pass, 142p, q.
Capital stock: allotments, 3c; bill of sale, 3d; certificates, 3b, f; issued, 16; ledger, 3a; records, 3; register, 3c; subscription, 3c; stubs, 3b.
Car: charters, 79,128f; cleaning, 153; employees, 92; equipment, 128, 168, 156, 157, 162, 165; inspection, 156; records, 150; repairs, 161a, f, 152, 156, 159; supplies, 124, 125, 128; switching, 151.
Cards: defect and repair, 98e; inventory, 121g; pay-roll, 97f; registration, 97f; stock 121g; summary, 97b, c; time, 101b.
Cash: collections, 98; reports, 58, 78.
Cash books: general and auxiliary, 14; tellers, 94.
Cashier: deposits, 82; receipts, 21; examinations, 58, 57; reports, 58, 82; 83.
Certificates: canceled, 3f, g; capital stock 3b; exemption, 96g; wage, 96a.
Charter: commissary features, 129; revenue, 78.
Checks: berth, 71a, 140d; deposits, 82; insurance, 175g; ledgers, 14b; lost, 19; meal, 71b, 140c; outstanding, 22g; pay, 90a, d; roll, 91a; stock, 128c; transfer, 71d, 140b; treasurer's record, 18f.
Cipher books, 2.
Circulars: mail, 144.
Claims: liens, 183c; checks, 171d; indemnity, 171b; jackets, 181b; papers, 181; refund, 182; registers, 180.
Code books, 2.
Collections: conductors, 76b.
Commissary: charter cars, 129; inventory, 125c; earnings, 78.
Commissions: conductors, 97b.
Compensation: adjustments, 97b (See Wages, Pay rolls, Service).
Conductors: assignments, 96; balance sheets, 79; commissions, 91b; diagrams, 80, 76b, 77; reports, 71, 143n.
Construction: property, 61a.
Contract: material, 120c; property, 60c; records, 10; settlement, 58; surety, 17b.
Conveniences furnished employees, 170d, 190.
Corporate elections, 5.
Correspondence: employees' distraint, 58; employees' records, 170c; general, 192.
Coupons: bond interest, 4d, f.
Deductions: pay-roll, 95.
Deeds, 9.
Depositary: banks, 18a, b.
Deposit slips, 18a.
Diagrams: conductors, 76b, 77; lists, 80.
Directors: minutes, 1; qualification oaths, 5d.
Discipline: employes, 170b.
Discrepancy: revenue, 71c.
Distribution: laundry, 152; labor, 94, 60d; material, 60d.
Division sheets: rate, 144.
Drafts: deposited, 22; ledgers, 18b; outstanding, 18g; pay, 98, 99; treasurer's records, 18f.
Duplicates: in general, 191; letters, 192c; telegrams, 192d.
Duty: assignments, 96.
Earnings: diagrams, 77; employes, 97c; line, 76c; quarterly report, 57d.
Elections: corporate, 5.
Employes: car, 92; deceased, 20; 172a; distraint, 58; fidelity bonds, 17; pay, 90, 91, 98, 99; records, 170; repair shop, 101b; retired, 172a; war bond requisitions, 22.
Endorsements: forged, 21.
Equipment: car, 128, 152, 168; costs, 60f; depreciation, 60c; property records, 60; replacements, 60b; retirements, 60b.
Estimates: maintenance, 61b; property changes, 61, 62.
Examinations: reports, 58.
Executive committee minutes, 1.
Extensions: engineering records, 62; property, 61a.
Fidelity bonds, 17.
Fire damage: claims, 180; reports, 56a, f, 181.
Fixed property: costs, 60d; depreciation, 60b; inventory, 60a; replacements, 60b; retirements, 60b.
Franchises, 9.
Free-fare: tickets, 142j.
Garnishments, 96.
General journals, 12; entries, 12.
General ledgers, 11a.
Grievances, 170a.
Histories, line, 56.
Income: statistics, 54.
Indemnity: claims, 171b.
Index: bill, 100a, d; claim, 180; ledger, 11a; voucher, 99d.
Inspection: car, 152, 164; insurance, 54d; material, 122b.
Insurance: group, 171; policies, 54b; records, 54.
Interest: bond coupons, 4d, f, 6.
I. C. C.: annual reports, 50; monthly reports, 50b, c.
Inventory: commissary, 125c; material, 121; property, 60a; ticket, 141b.
Invoices: material, 120b, g; paid, 99b.
Journals: auxiliary operations, 82 note; general, 12; voucher, 14b.
Journal entries, 12.
Judges of election: qualification oaths, 5c; reports, 5f.
Labor: distribution, 60d, 94; records, 91.
Leases, 10a; b; expired or renewed, 10a.
Ledgers: auxiliary, 11a; auxiliary operations, 82 note; bank account, 18d; capital stock, 3a; general, 12a; order, 201d; registered bonds, 4a; registered notes, 4a; trial balance, 11c; voucher, 13b.
Line: costs, 76; changes, 57; histories, 56; performance, 76a; revenues, 76; schedules, 56.
Lists: diagram, 80; invoice, 120g; outstanding pay items, 98g; price, 125c; voucher, 99c.
Loss and damage: claims, 180; reports, 181.
Maintenance: estimates, 61b.
Maps: engineering, 62.
Material: bids, 120d; contracts, 120c; distributions, 60d; freight bills, 130f; inventory, 121; invoices, 120b; issued, 128, 152a, 168; manufactured, 101d; orders, 120a, c; received, 122; requisitions, 60d, 101c, 120f; sales, 120k.
Meal: checks, 71b, 140c.
Menu: dining car, 152e.
Minutes: corporate meetings, 1; employees' hearings, 170e.
Miscellaneous revenue, 74.
Money received, 21.
Money orders: deposited, 22; treasurer's record, 18f.
Monthly reports: earnings, 76a; I. C. C., 50b, c; receipts, 76d.
Note: bills of sale, 4c; ledgers, 4a; retirement, 6; stubs, 4b.
Notes, stenographers', 192b.
Notices: shipment, 130e.
Operation: agreements, 82; auxiliary, 82; forms, 170b.
Orders: half-rate, 141f; material, 161; money, 18f; paymaster, 93; purchase, 120a, c; shipping, 127; transportation, 82; work, 60d, 91a.
Overtime tickets, 91a.
Passes: bulletins, 142p, q; collected, 143i; honored, 143h; stock, 142a, b.
Passenger statistics, 51.
Pay rolls, cards, 97c; changes, 96; deductions, 96; original, 90a; statistics, 90a.
Pensions: retirement, 172.
Personal injury: claims, 180; reports, 181, 183.
Plans: engineering, 62.
Policies: insurance, 54b.
Porters: assignments, 96; berth checks, 140d; diagrams, 80; reports, 71.
Premiums: insurance, 54a.
Price records: material issued, 128d; purchased, 120k.
Profiles: engineering, 62.
Property records, 60.
Proxies: corporate elections, 5a.
Purchases: material, 120.
Qualification oaths: directors, 5d; judges of election, 5c.
Quarterly reports: earnings, 97d.
Railroad: bills, 99e; settlements, 58, 78f; switching, 151.
Receipts: car supplies, 126b; cash fare, 142e; daily, 76d; laundry, 151; material, 120h, 122c; money, 21; pass, 142e; station, 76c; wages, 90c.
Recoveries: insurance, 54a.
Refunds: adjustments, 72; claims, 182; unused tickets, 182b.
Registers: A. F. E., 61a, b; bill, 100a; capital stock, 3c; claim, 180; voucher, 99d.
Registration cards, 97f.
Insurance: cashier, 26, 27; ticket agent, 26, 27.
Renewals: contract, 10a.
Repair shop records, 101.
Replacements: property, 60b.
Requisitions: employees' war bonds, 22c; material, 60d, 101c, 120f, 123c; supplies, 124, 125b.
Reservations: diagrams, 77b.
Retirements: pensions, 172; property, 60b; securities, 6.
Returns: tax, 15a.
Revenue: charter, 78; line, 76; miscellaneous, 74.
Risks: surety contracts, 17b.
Rosters: employees, 170b.
Sales: berth, 71a; bids, 120d; material, 128; seat, 71a; scrap, 130c; ticket, 27, 28, 70.
Schedules: employees, 170b; insurance, 54a; line, 56; tax, 15a.
Scrap: on hand, 130j; sales, 130k.
Seat: diagrams, 77; revenues, 76; sales, 71a; tariffs, 144.
Securities: applications, 18; authorities, 16; bonds, 4; capital stock, 3; owned, 8; proceeds, 60d; proxies, 5a; retired, 6; treasury, 8; voting, 5a, b.
Service: prior, 172b; records, 97, 170b.
Settlements: contract, 58.
Shortages: car equipment, 168b; linen, 154.
Sign-out sheets, 170f.
Slips: pass identification, 142g; time, 91a; trip, 77c.
Space: diagrams, 77a; refunds, 72, 182c; reserved, 77b; sales, 91b.
Specifications: engineering, 62.
Station receipts, 76c.
Statistics: pay-roll, 90e; records, 51.
Stenographers' notes, 192b.
Stewards: diagrams, 80; reports, 71.
Stock: checks, 140c; pass, 142a, b; ticket, 140a, 142.
Stockholders: annual report, 7; minutes, 1.
Stubs: bonds, 4b; capital stock certificates, 3b; passes, 142c, f; receipts, 21; registered notes, 4b; ticket, 141d.
Studies: engineering, 62.
Subscriptions: capital stock, 3c; funded debt, 4c.
Supplies: bids, 120d; car, 124, 126; contracts, 120c; freight bills, 130f; inventory, 121; invoices, 120b; issued, 128; orders, 120a, c; received, 122; requisitions, 120f, 124; sales, 120k.
Surety contracts, 17.
Survivors: deceased employees, 20.
Tax: papers, 15b; records, 15; reports, 15b; schedules, 15a; withholdings, 97e.
Testing material, 122b.
Ticket agents: records, 141; remittances, 26, 27; reports, 78.
Tickets: auxiliary operations, 82 note; delayed-time, 91a; delivery, 120h; discharge, 90c; free, 143; inventory, 141b; job, 60d, 91a; overtime, 91a; refunds, 182b; sales, 27, 28, 70, 73; settlements, 72f; stock, 140c, 142; stubs, 141d; time, 60d, 90c.
Time: books, 60d, 91a; cards, 101b; checks, 18g, h; reports, 90; slips, 91a; tickets, 60d, 90c.
Title papers, 9.
Transfer: checks, 71d, 140b; employees, 170a; material, 128b; reports, 58; supplies, 123b.
Transportation orders, 82.
Traveling auditor's reports, 58.
Treasury: securities, 8.
Trip: passes, 142c; reports, 125d; slips, 77c.
Undelivered: checks, 19; pay drafts, 98.
Unsettled bills, 100c.
Vouchers: auxiliary operations, 82 note; journals, 14b; ledgers, 13b; outstanding, 18g; payable, 99.
Wages: payments, 90d; records, 97.
Work orders, 60d, 91a.
Workshop reports, 190.

Appendix. The following forms are suggested for the use of carriers, but any other forms may be used provided they show the information required by the regulations:

(A) Form of resolution of Board of Directors designating an officer to have general supervision of the destruction of accounts, records, and memoranda. (See § 1222.6(a)(1) of the regulations.)

Excerpt from minutes of the meeting of the Board of Directors of _____ Company, held at its office in _____ on _____, 19__:

"Resolved, That _____ (Title of officer or name and title) be, and he is hereby, designated as the officer having general supervision of the destruction of accounts, records, and memoranda of this company, to have general supervision of the destruction of accounts, records, and memoranda in accordance with regulations to govern the destruction of records issued by the Interstate Commerce Commission."

I hereby certify that the above is a true and correct copy.

_____ (Name)

_____ (Title)

_____, 19__

(B) Form of resolution of Board of Directors designating an officer to have supervision of the destruction of certain accounts, records, and memoranda. (See § 1222.6(a)(2) of the regulations.)

Excerpt from minutes of the meeting of the Board of Directors of the _____ Company, held at its office in _____ on _____, 19__:

"Resolved, That _____ (Title of officer or name and title) be, and he is hereby, designated as the officer having supervision of the destruction of the accounts, records, and memoranda named below, the destruction of which is permitted by regulations to govern the destruction of records issued by the Interstate Commerce Commission."

Form No.	Description	Period	Item No. in I. C. C. Regulations

I hereby certify that the above is a true and correct copy.

_____ (Name)

_____ (Title)

_____, 19__

(C) Form of resolution of Board of Directors naming a cremation committee for the destruction of canceled bonds, interest coupons, etc. (See § 1222.9 of the regulations.)

Excerpt from minutes of the meeting of the Board of Directors of the _____ Company, held at its office in _____ on _____, 19__:

"Resolved, That pursuant to regulations to govern the destruction of records issued by the Interstate Commerce Commission, the Board designates _____ (Titles of such persons, or names and titles) to be a cremation committee to act in conjunction with the representatives of the trustees in the destruction of _____ (List of and description of documents to be destroyed)

I hereby certify that the above is a true and correct copy.

_____ (Name)

_____ (Title)

_____, 19__

(D) Form of written authority for the destruction of certain accounts, records, and memoranda. (See § 1222.7(b)(1) of the regulations.)

The _____ Company,
Office of _____
_____, 19__

In conformity with the authority conferred upon me by the Board of Directors, I hereby authorize and direct _____ (Name and title or occupation) to destroy the accounts, records, and mem-

commands of this company described below, in accordance with the provisions of § 1222.7(b)(1) of the regulations:

Form No.	Description	Period	Item No. in I. C. C. Regulations

(Name)

(Title)

(H) Form of written authority of continuing effect for the destruction of accounts, records, and memoranda. (See § 1222.7(b)(2) of the regulations.)

The _____ Company.
Office of _____
_____, 19____

In conformity with the authority conferred upon me by the Board of Directors, I hereby authorize and direct _____
(Name and title or occupation)
to destroy from time to time the accounts, records, and memoranda of this company in his custody, the destruction of which is permitted by regulations to govern the destruction of records issued by the Interstate Commerce Commission.

(Name)

(Title)

(F) Form of certificate of destruction. (See § 1222.8(b)(1) of the regulations.)

The _____ Company.
Office of _____
_____, 19____

I hereby certify that I have this day destroyed the accounts, records, and memoranda listed below, in accordance with the provisions of § 1222.10 of the regulations, pursuant to your authority, dated _____, 19____. I further certify that no accounts, records, or memoranda other than those named have been destroyed therewith.

Form No.	Description	Period	Item No. in I. C. C. Regulations

(Name)

(Title or occupation)

(G) Form of cumulative certificate of destruction. (See § 1222.8(a) and 1223.8(b)(2) of the regulations.)

The _____ Company.
Office of _____
_____, 19____

I hereby certify that I have destroyed the accounts, records, and memoranda listed below, in accordance with the provisions of § 1222.10 of the regulations, pursuant to your authority dated _____, 19____. I further certify that no accounts, records, or memoranda other than those named have been destroyed therewith.

Form No.	Description	Period	Item No. in I. C. C. Regulations	Date of Destruction

(Name)

(Title or occupation)

PART 1223—EXPRESS COMPANIES

Sec.
1223.1 General authority to destroy records.
1223.2 Special permission to destroy records.
1223.3 Preservation by photography.
1223.4 Photographic copies.
1223.5 Photographic processes.
1223.6 Officer having supervision of destruction.
1223.7 Written authority of supervising officer.
1223.8 Certificates of destruction.
1223.9 Committee for the destruction of certain records.
1223.10 Records of joint activities.
1223.11 Method of destruction.
1223.12 Accidental destruction of records.
1223.13 Duplicate accounts, records and memoranda.
1223.14 Lists of records and periods of retention.

AUTHORITY: The provisions of this Part 1223 issued under secs. 12, 20, 24 Stat. 383, as amended, 383, as amended; 49 U.S.C. 12, 20.

§ 1223.1 General authority to destroy records.

Express companies subject to Part I of the Interstate Commerce Act may destroy accounts, records, or memoranda named or described in this part, if their permanent retention is not therein specifically required, after preservation for the respective periods of time hereinafter prescribed and upon compliance with requirements of this part. Authority contained in this part shall not, however, exempt an express company from any statutory requirements other than the provisions of section 20 (7) (b) of the Interstate Commerce Act, as amended, relating to the destruction of carriers' accounts, records, and memoranda.

§ 1223.2 Special permission to destroy records.

The destruction of all accounts, records, and memoranda of express companies, except as specifically provided in this part, is prohibited under penalties contained in section 20(7)(b) of the Interstate Commerce Act, as amended. However, an express company proposing to destroy accounts, records, or memoranda not hereinafter named or described, or proposing to photograph and destroy accounts, records, or memoranda specifically restricted by or excluded from the provisions of § 1223.3, may apply to the Commission for special authority to accomplish either such purpose. Such applications shall state a full and detailed description of the accounts, records, or memoranda in question, clearly explaining their character, their use, and their purpose, and such special authority will not be granted except on a showing that the regulations impose an unreasonable burden.

§ 1223.3 Preservation by photography.

Accounts, records, and memoranda named or described in § 1223.14, which have been photographed for preservation by any standard process meeting the requirements of § 1223.5, may be destroyed after due certification of such disposition, subject to the exceptions and restrictions imposed by § 1223.4.

§ 1223.4 Photographic copies.

(a) Photographic copies shall be preserved until the close of the period prescribed in § 1223.4 for the retention of the account, record, or memorandum so photographed and the photographic copies shall not be destroyed without the same certification required for the originals thereof.

(b) This permission to destroy shall in no case apply to accounts, records, and memoranda which are required to be retained permanently by the following items under § 1223.14:

Item	Description
1	Minute books of directors', executive committees', stockholders', and other meetings.
2	Capital stock records.
4	Long-term debt records.
7	Ledgers.
9	General and auxiliary journals.
10	General and auxiliary cash books.
12	General journal entries and supporting papers.
13	Deeds, charters, franchises, and other title papers.
14	Contracts and agreements.
16	Copies of applications to and authorities from regulatory bodies for the issuance of stocks, bonds, and other securities.
61	Property records.
80	Special authorities for expenditures.
200	Reports to I. C. C. and other regulating bodies.
207	Annual reports or statements to stockholders, file copies of.
250	Correspondence. (This exclusion shall apply only to correspondence which relates to excluded accounts and records.)
254	Engineering records.

(c) All accounts, records, and memoranda included in the following items of § 1223.14, other than those required by paragraph (b) of this section to be retained permanently, or those which may be destroyed at the carrier's option, shall be retained in their original form not less than two years, or not less than the period prescribed in § 1223.14 where such prescribed period is shorter than two years:

Item	Description
2	Code and cipher books, file copies of.
5	Corporate elections.
8	Records of securities owned.
12	Records summarizing the results of auxiliary (outside) or holding company operations.
18	Tax records.
20	Miscellaneous records pertaining to agents' accounts.
40	Records of revenue from transportation.
42	Records, abstracts, and summaries of traffic, etc.
43	Express privileges records.
44	Records summarizing settlements with agents and others, etc.
60	Registers of fixed expenses.
62	Labor distribution sheets.
63	Pay roll records.
66	Material and supplies distribution details.
67	Vouchers.
68	Bills collectible.
70	Joint office statements of transactions.
90	Claim records.
110	Material ledgers.
111	Purchases and sales.
126	Car movements.
127	Car distribution.
140–178	Agency records.
190–194	Foreign operations records.
196	Correspondence, if pertaining to accounts or records required to be retained two years in original form.
208	Registers of exports and imports.
217	Valuable shipments for export or import.
218	Waybills covering export or import shipments.
222	Comparative statements of operating results.
250	Correspondence, if pertaining to accounts or records required to be retained two years in original form.
251	Data relating to the destruction of records.

§ 1223.5 Photographic processes.

(a) Photographic processes used for preservation of accounts, records, or memoranda must produce copies without significant loss of clarity, and the material to be photographed shall be sorted in an orderly manner and shall be adequately indexed. Photographic copies shall be no less readily accessible than the original account, record, or memorandum as normally filed or preserved would be, and suitable means or facilities shall be available to locate, identify, read, or reproduce such photographic copies. Upon request by the Commission's representatives, carriers shall furnish prints, enlarged to original size, of any accounts, records, or memoranda which have been photographed for preservation.

(b) Any significant characteristic, feature, or other attribute of the original record or document, which photography in black and white will not preserve, shall be clearly indicated before the photograph is made. The reverse side of printed forms need not be copied if nothing has been added to the printed matter common to all such forms, but an identified specimen of such form shall be on the film for reference.

(c) Film used for preservation of photographic copies shall be of permanent-record type meeting in all respects the minimum specifications of the National Bureau of Standards, and all processes recommended by the manufacturer of such film shall be observed to protect it from deterioration or accidental destruction.

§ 1223.6 Officer having supervision of destruction.

(a) An officer or, where necessary, two officers shall be appointed by the express company's board of directors to have supervision over the destruction of all accounts, records, and memoranda. Such officer or officers may be given (1) general supervision over the destruction of all accounts, records, and memoranda the destruction of which is permitted by this subpart, or (2) authority over the destruction of such accounts, records, and memoranda as may be specified by the board of directors. Pending confirmation by the board of directors, a temporary appointment by an executive committee, or by a similarly authorized committee of the board of directors, shall have the same effect as if made by the board of directors. A copy of the resolution of appointment shall be filed with the Commission before accounts, records, or memoranda may be destroyed pursuant thereto.

(b) If an express company's property is in the hands of a trustee, receiver, executor, administrator, or assignee, the officer or officers to have supervision over the destruction of accounts, records, and memoranda shall be designated by the trustee, receiver, executor, administrator, or assignee. A copy of the order designating such officer or officers shall be filed with the Commission before accounts, records, or memoranda may be destroyed pursuant thereto.

(c) In designating an officer or officers to have general supervision over the destruction of accounts, records, and memoranda it is preferable to designate by title only, rather than by name and title, and thus obviate the necessity for a new resolution or order each time a successor in the office is appointed.

§ 1223.7 Written authority of supervising officer.

(a) When any accounts, records, or memoranda are to be destroyed, the officer having supervision over the destruction of accounts, records, and memoranda (as designated in § 1223.6 (a) or (b)) shall issue a written authority naming the person or persons by whom the accounts, records, or memoranda are to be destroyed (except as provided in § 1223.13(b)).

(b) The written authority (1) may be confined to certain accounts, records, and memoranda which have been retained for the periods of time specified in this subpart and which the express company proposes to destroy, in which case the authority shall specify:

First. A list of the accounts, records, and memoranda to be destroyed, expressed either in form numbers or by descriptive titles; and,

Second. The period or periods covered by the accounts, records, and memoranda the destruction of which is authorized;

or

(2) May be of continuing effect, applying to any or all the accounts, records, or memoranda named in this subpart as the periods of retention of such accounts, records, or memoranda attain the limits specified in this subpart.

(c) Such written authority, or a certified copy thereof, shall be filed in the office of the issuing officer as a permanent part of the express company's records. Copies of the specific written authorities need not be filed with the Commission.

§ 1223.8 Certificates of destruction.

(a) The person or persons by whom accounts, records, or memoranda are to be destroyed under the written authority referred to in § 1223.7(b)(1) shall certify (except as otherwise provided in paragraph (d) of this section and § 1223.13) that the accounts, records, or memoranda listed in the said authority have been destroyed and that no accounts, records, or memoranda other than those so listed have been destroyed therewith.

(b) The person or persons by whom accounts, records, or memoranda are to be destroyed under continuing authority referred to in § 1223.7(b)(2) shall certify such destruction (except as otherwise provided in paragraph (d) of this section and § 1223.7), listing by form numbers and descriptive titles the accounts, records, and memoranda destroyed, naming the period or periods covered by such accounts, records, and memoranda, and stating that no accounts, records, or memoranda other than those so listed have been destroyed therewith. Either (1) a separate certificate shall be filed each time any accounts, records, and memoranda are destroyed, or (2) cumulative certificates shall be filed with supplementary entries every time additional accounts, records, and memoranda are destroyed.

(c) Certificates of destruction shall be forwarded promptly to the officer having supervision over the destruction of accounts, records, and memoranda who issued the written authority and shall be retained in his office as a permanent part of the express company's records. Cumulative certificates shall be forwarded to such officer periodically, but at least once every six months. Copies of certificates of destruction need not be filed with the Commission.

(d) Certificates of destruction are not required for those accounts, records, and memoranda listed in § 1223.14, the destruction of which is optional with the express company, but a written authority for specific records or of continuing effect shall be issued (except as otherwise provided in § 1223.15) by the officer having supervision over the destruction of such accounts, records, and memoranda.

§ 1223.9 Committee for the destruction of certain records.

At the option of the express company a committee may be designated to destroy by conversion into pulp, or by cremation, canceled stock certificates, bonds, or other records covered by item 6 of § 1223.14, in lieu of delegating authority for such destruction to an officer as provided in § 1223.6(a). A copy of the resolution of the board of directors, or if not a corporate act a copy of the designating order, shall be filed promptly with the Commission. A certificate of destruction giving full descriptive reference to the documents destroyed shall be filed by this committee and shall be retained as a permanent part of the express company's records. (See § 1223.8(c).) When documents represent debt secured by mortgage, the certificates of destruction shall also be authenticated by or for the trustees under the mortgage acting in conjunction with this committee or shall have the trustees' acceptance endorsed thereon.

§ 1223.10 Records of joint activities.

This subpart applies also to the destruction of accounts, records, and memoranda maintained for or on behalf of an express company in the conduct of a joint activity. The officer designated to supervise the destruction of express company records may delegate the person in charge of the joint activity to supervise the destruction of joint accounts, records, and memoranda, to issue all written authorities for such destruction, and to retain certificates of destruction. Otherwise, written authority shall be obtained from the officer supervising the destruction of express company records each time joint accounts, records, or memoranda are to be destroyed and certificates of destruction shall be filed with such officer.

§ 1223.11 Method of destruction.

(a) The precise method of destruction of accounts, records, and memoranda is not prescribed. The Commission is not concerned whether the destruction is by fire, sale, conversion into pulp, or otherwise, providing the destruction is authorized, a certificate of destruction is filed, and all other requirements of this subpart are observed.

(b) If the accounts, records, and memoranda are not actually destroyed by the express company, the certificate of destruction shall so state. Section 18 of the Interstate Commerce Act provides that information concerning the business of a shipper or consignee, which may be used to the detriment of such shipper or consignee, shall not be divulged. Responsibility for possible infringement of this provision of the act, by disposing of its records without actually destroying them, would rest with the express company.

§ 1223.12 Accidental destruction of records.

If any accounts, records, or memoranda are destroyed accidentally by fire, flood, or other casualty, a statement shall be prepared listing so far as possible the records destroyed and detailing the circumstances in connection with the fire or other casualty. This statement shall be authenticated by an officer or some responsible employee of the express company and shall be filed with the officer having supervision over the destruction of accounts, records, and memoranda. A copy of the statement certifying such destruction shall be filed promptly with the Commission.

§ 1223.13 Duplicate accounts, records and memoranda.

(a) Provision is made in item 171 of § 1223.14 for the destruction of agency copies of certain accounts, records, and memoranda after such copies have been retained for the periods assigned to the originals. Certificates of destruction are not required for these copies, but a written authority as provided in § 1223.7(a) and (b) shall be issued and appropriately filed with the officer having jurisdiction over the destruction of records.

(b) Provision is made in item 253 of § 1223.14 for the optional destruction of duplicate copies of accounts, records, and memoranda when such copies are not specifically provided for elsewhere in this subpart and when they contain no information not shown on the originals. Neither written authority to destroy nor certificates of destruction are required for these copies. The originals (or one true copy) shall be retained for the respective periods named for such records in this subpart.

§ 1223.14 List of records and periods of retention.

The following list is indicative of accounts, records, and memoranda specifically referred to in § 1223.1. The description of the accounts, records, and memoranda enumerated below under the various general headings is merely for convenient reference and identification. This subpart is intended to apply to the items as named or described, regardless of where they are filed and regardless of departmental organization. Of the accounts, records, and memoranda which are to be retained permanently only the more important are stated in this list, the specific mention being made so that they may not be confused with any accounts, records, and memoranda for which permission to destroy is given in this subpart.

Item	Description of accounts, etc.	Period to be retained
	GENERAL AND FINANCIAL	
1	Minute books of directors', executive committee's, stockholders', and other meetings.	Permanent.
2	Code and cipher books, file copies of	Do.
3	Capital stock records:	
	(a) Capital stock ledger	Do.
	(b) Capital stock certificates, records of or stubs of	Do.
	NOTE: If the information shown on the stubs is recorded in permanent records, the stubs are required to be retained only for a period of 3 years.	
	(c) Stock transfer register	Do.
	(d) Memoranda and bills of sale or of transfer of capital stock	2 years.
	(e) Canceled capital stock certificates. (See item 6.)	
4	Long-term debt records:	
	(a) Registers of bonds and certificates	Permanent
	(b) Records or stubs of bonds and certificates	Do.
	NOTE: If the information shown on the stubs is recorded in permanent records, the stubs are required to be retained only for a period of 3 years.	
	(c) Memoranda and bills of sale or of transfer of registered bonds and certificates	3 years.
	(d) Records of interest coupons paid and unpaid	3 years.
	(e) Funded debt subscription notices and requests for allotment	1 year.
	(f) Canceled or unissued bonds and certificates, and paid interest coupons. (See item 6.)	
5	Corporate elections:	
	(a) Proxies of holders of voting securities	2 years.
	(b) List of holders of voting securities presented at meetings	6 years.
	(c) Qualification oaths of judges of election	Optional
	(d) Qualification oaths of directors	Do.
	(e) Ballots cast and tabulations of vote	6 years.
	(f) Judges' reports of election results	Do.
6	Retired stock certificates, bonds, notes, interest coupons, receiver's and trustee's certificates, and temporary certificates taken up and canceled. (See §1223.2.)	Optional.
7	Ledgers:	
	(a) General and auxiliary ledgers and indexes thereto, except as provided for elsewhere in these regulations	Permanent.
	(b) Balance sheets of general ledgers	Do.
	(c) Trial balance sheets of general and auxiliary ledgers	Do.
8	Record of securities owned, in treasury, or with custodians	Do.
9	General and auxiliary journals	Do.
10	General and auxiliary cash books, except cash books at agencies provided for in item 160.	Do.
	NOTE: If any receipts or payments are entered in the aggregate in the general cash book and are detailed only on loose sheets, such loose sheets constitute an auxiliary cash book when no other permanent record of the items thereon is made.	
11	General journal entries and supporting papers except as provided for elsewhere in these regulations	Do.
12	Records summarizing the results of auxiliary (outside) or holding company operations for entry in general books.	Do.
	NOTE: Ledgers, journals, abstracts, reports, vouchers, etc., shall be retained for the same periods as are provided for similar documents elsewhere in these regulations.	
13	Deeds, charters, franchises, and other title papers	Until legally required to release.

Item	Description of accounts, etc.	Period to be retained
	GENERAL AND FINANCIAL—continued	
25	Treasurer's records of receipts and disbursements of funds. (See note under item 10.)	Do.
	(a) Periodical statements of the receipt and disbursement of funds	6 years.
	(b) Records or periodical statements of outstanding vouchers, checks, and drafts.	Do.
	(c) Voucher and check listings showing mailing dates and to whom sent	2 years.
	(d) Receipts showing delivery or payment of funds, if the information is posted in other records which are retained.	2 years.
	(e) Cash reconciliations, reports of superintendents and agents, and memoranda thereof.	Do.
26	Interdepartmental receipts for transfer of funds	Do.
	Records of foreign exchange or commercial paper purchased	Do.
	Detail sheets showing distribution of receipts and expenditures by accounts	6 years.
	REVENUES	
40	Records of revenues from transportation:	
	(a) Records summarizing debits and credits from interline settlements and from settlements with agents and others	4 years.
	(b) Records of interline settlements of revenues, including division statements, abstracts, statements of differences, correction accounts, and memoranda.	Do.
41	Waybill records:	
	Records of unsettled waybills and of waybills in suspense	2 years after disposition.
	Tracers and supporting papers concerning unsettled waybills	1 year.
	Records of waybills and reports returned to agents	2 years.
	Registers of statements and abstracts received from agents, calls for missing waybills, and statements of waybills sent to other accounting departments	Do.
42	Records, abstracts, and summaries of traffic carried on transportation basis and rate basis.	6 years.
43	Rights, privileges records:	
	(a) Detail sheets showing traffic, mileage, rates, routing, percentages, etc.	6 years.
	(b) Summary sheets showing traffic, mileage, revenues, and accruals	6 years.
	(c) Distribution sheets showing allocation and adjustment of express privileges revenues	6 years.
44	Records and memoranda of settlements with agents and others for services of a general character as agent, for transfer of credits, for rents of buildings and other property, and for miscellaneous revenues.	Do.
45	Detail records and reports of sales and payments of all forms of financial paper.	Period prescribed for paper to which indexes relate.
46	Indexes and registers of financial paper forms distributed to agencies and customers.	6 years.
47	Records of unpaid and unissued financial paper:	Do.
	(a) General office records of agents' accounts, including journals and ledgers.	Do.
	(b) Registers of financial paper issued and unpaid	Do.
48	Paid money order, traveler's checks, c. o. d. checks, and other forms of financial paper.	3 years after expiration.
	EXPENSES	
60	Registers of fund expenses	Do.
	Registers of receipts and vouchers	Do.
	Registers of agency commissions	Permanent.
61	Property records:	
	(a) Records and memoranda of cost and of inventory value of real property and equipment	Do.
	(b) Records and memoranda of additions to and betterments of real property and equipment	Do.
	(c) Records and memoranda of depreciation, retirements, and replacements of real property and equipment.	Do.
	(d) Records of contracts and other agreements relating to the construction, acquisition or sale of real property and equipment.	Do.
	(e) Records of equipment numbers and of leasing details of the cost of real property and equipment owned by individuals and companies.	Do.
	Bills, time books, time tickets, work orders, job tickets, check rolls, material requisitions, and similar records, if full details are not transcribed into records covered by items (a) to (d) above.	2 years.
	(f) Reports, reports, statements, and memoranda similar to those covered by item (d) if full details are transcribed into records which will be retained permanently.	4 years.
62	Distribution, including memoranda and memorandum recapitulation sheets, except as otherwise provided in item 61.	Do.
63	Overages and shortages records:	
	(a) Reports of overages and shortages	1 year after expiration.
	(b) Records and memoranda of claims and settlements	6 years after expiration.
	(c) Records of claims	Do.
	(d) Records of overages and shortages	3 years after expiration of coverage.
64	Auditors' records:	
	(a) Reports of examinations, audits, and transfers by special accountants, traveling auditors, time inspectors, route agents, weight inspectors, etc., and supporting papers.	4 years.
	(b) Reports of audits by public accountants	Optional.
65	Correspondence:	
	Debit and credit memo letters	2 years after expiration of coverage.
	Letters of inquiry	3 years.
	Letters of transmittal	Optional.
66	Bank transactions:	
	Periodical statements from depositaries	1 year.
	Debit and credit slips, canceled checks	6 years.
	Bank deposit books, ledgers, or other records of checks issued	Do.
	Duplicate deposit slips. (Optional, if transcribed into bank deposit books.)	3 years.
	(a) Checks, drafts, and memoranda relating to stop-payments orders, and to issuance of duplicate checks.	Do.
67	Treasurer's records of funds and deposits:	
	Reports and summaries of balances on hand and with depositaries	Do.
	Authorities for and records of transfer of funds between depositaries	Do.
	Periodical statements of working cash balances	Do.

Item	Description of accounts, etc.	Period to be retained
	TRAFFIC—continued	
100	Tariffs and other rate authorities—continued:	
	(a) Requests and receipts from agents and others for tariffs, classifications, division sheets, and circulars.	Optional.
	(b) Correspondence and working papers relating to the determination of rates and the compilation of tariffs, classifications, division sheets, and circulars.	2 years after cancellation of tariff, etc.
101	Copies of contracts filed with the Interstate Commerce Commission or with other regulating bodies.	2 years after cancellation.
102	Authorities for the transportation of property, free or at reduced rates, and supporting papers.	2 years.
103	Written requests from persons and companies for quotations for rates, and copies of such quotations.	Optional.
	FURNITURE AND FIXTURES	
110	Material ledgers:	
	(a) Records of material and supplies on hand	6 years.
	(b) Balance sheets of material and supplies received, issued, and on hand at branch supply departments.	2 years.
111	Purchases and sales:	
	(a) Price records of purchases, the copies	Permanent.
	(b) Invoices, memorandums, and records or reports of such invoices; vouchers or files separately; and records or reports of such invoices; copies otherwise provided for in item 61.	10 years.
	(c) Freight bills covering charges on material and supplies, except as otherwise provided in item 61.	4 years.
	(d) Copies of orders for the purchase of material and supplies	2 years.
	(e) Letters from individuals and companies acknowledging receipt of orders for purchases or sale of material and supplies; except as provided for in item 140).	Optional.
	(f) Contracts for purchases or sale of material and supplies, except as provided for in item 140).	4 years after expiration.
	(g) Bids and offers for the sale or purchase of material and supplies.	1 year.
	(h) Requests or requisitions from supply agents, storekeepers, and others for the purchase of material and supplies.	2 years.
	(i) Authorities and credit vouchers for the sale of material and supplies.	Do.
112	Inventories of material and supplies, with record of adjustments between accounts; except as otherwise provided in item 61:	
	(a) Stock cards, inventory cards, and other detail records pertaining to inventories, if abstracted into records covered by (b) above.	1 year.
	(b) Minor inventories of material and supplies on hand, if not used for adjustments.	Do.
113	Material and supplies received:	
	(a) Records and reports of material and supplies received	6 years.
	(b) Records of material and supplies returned and returned to stock	2 years.
	(c) Records of inspecting and testing material and supplies.	1 year.
114	Material and supplies issued:	
	Price records of material and supplies issued, the copies	Permanent.
	(a) Records and reports of material and supplies issued, except as otherwise provided in item 61:	6 years.
	(b) Requisitions and receipts for material and supplies issued	2 years.
	(c) Records and reports of material and supplies transferred from one department or division to another, except as otherwise provided in item 61:	1 year.
	(d) Requisitions for equipment	2 years.
115	Equipment received and forwarded:	
	(a) Records and reports of equipment received or on hand	3 years.
	(b) Records and reports of equipment forwarded or transferred from one department or division to another, except as otherwise provided in item 61:	Do.
	(c) Requisitions for equipment	Permanent, but 1 year if transcribed to perpetual record.
	TRANSPORTATION	
125	Reports and records of movement of express shipments	Optional.
126	Reports and records of movement of cars owned or controlled	2 years.
127	Car distribution:	
	(a) Records of car allotments and distribution	2 years.
	(b) Records of cars ordered, furnished, and loaded	1 year.
	(c) Reports of cars on hand	Do.
	(d) Reports of cars ordered	2 years.
128	Reports and records of operating revenue	Do.
129	Reports and records of operating expenses	Do.
130	Records, reports, and statements relating to the sale or other disposal of railroad, damaged, and refused shipments.	Optional.
	TRAFFIC	
100	Tariffs and other rate authorities:	
	(a) Tariffs, classifications, division sheets, and circulars which constitute the complete official file of the company	2 years after expiration or cancellation.
	(b) Copies of tariffs, classifications, division sheets, and circulars which are not a part of the complete official file of the company referred to in (a) above.	Optional after expiration or cancellation.

Item	Description of accounts, etc.	Period to be retained
	FOREIGN OPERATIONS	
120	Accounting records:	
	(a) Ledgers	6 years.
	(b) Daily balance sheets	Do.
	(c) Trip sheets and trip reports	Do.
	(d) All other reports and statements dealing with the deposit, shipment, or transfer of money, valuable papers, or articles, sealed bags, etc.	Do.
	(e) Copies of reports and statements concerning the messengers' own records	Optional.
122	Routing records:	
	(a) Reports and records of diversion routing	1 year.
	(b) Reports and records of routing orders	Do.
123	Detailed lists of accomplished government bills of lading	3 years.
	ACCOUNTS	
140	Cash books:	
	(a) Agency cash and daily balances books	6 years.
	(b) Balance sheets of agents, cashiers, disbursement clerks, money-order clerks, collection clerks, warehousemen, and others	3 years.
141	Agents' balances and collections: Abstracts of express shipments transferred to agents and others	6 years.
142	Bonds: Abstracts of express from branch postage agents	2 years.
	(a) Reports or records of goods received at branch offices	Do.
143	Delivery records:	
	(a) Delivery or in-to books	3 years.
	(b) Delivery receipts received	Do.
	(c) Delivery sheets or cards	Do.
144	Original bills of lading	1 year.
145	Copies of statements or abstracts of waybills received and forwarded	1 year.
146	Tally sheets of advanced and prepaid charges	3 years.
147	Records of express shipments transferred to or from other companies	3 years.
148	Copies of settlements with shippers, consignees, and other companies	Do.
	Waybills:	Optional.
	(a) All waybills received	3 years.
	(b) All other waybills	Do.
149	Correction notices	Do.
150	Tracer files showing delivories and other information in connection with shipments not covered by claims	3 years.
151	Passing reports of through waybills at junctions	Do.
152	C. o. d.'s and collect o. d.'s and collections received:	
	(a) Register of C. o. d.'s or collections	3 years.
	(b) Letters to agents on C. o. d.'s or collections	Do.
153	Money orders and c. o. d. checks:	
	(a) Records of money orders, travelers' checks, c. o. d. checks, and other forms of financial paper sold and paid	Do.
	(b) Stubs of money orders, c. o. d. checks, and other forms of financial paper sold	Do.
154	Reports and records of orders and commissions	Do.
155	Telegraph and cable transfers:	
	(a) Records of telegraph and cable transfers forwarded	Do.
	(b) Letters confirming telegraph and cable transfers forwarded	Do.
	(c) Registers of receipts and confirmations of telegraph and cable transfers (receipts for money paid)	Do.
	(d) Copies of reports of telegraph and cable transfers forwarded and paid	Do.
156	Records and reports of remittance debits covering collections at agencies	1 year.
157	Refunds of express letters or debit vouchers	1 year.
158	Remittance slips and bank deposit slips, if retained by agents and not used for purposes specified in item 24:	Do.
159	Notices to agents to refund overcharges or double collections	2 years after settlement.
160	Applications for relief of agency debit vouchers	2 years.
161	Records and reports of agents to principals	2 years.
162	Copies of letters to consignees and shippers of undelivered express	Do.
163	Orders for disposition of on-hand express	1 year.
164	Certificates of inspection at agencies	2 years.
165	Sealed bags, valuable packages, sales, and packing records:	
	(a) Records of waybills and lists of contents	2 years.
	(b) Records showing opening up and disposition of shipments in sacks	Do.
166	Receipts:	
	(a) Shippers' receipts for valuable shipments	2 years.
	(b) Duplicates of express receipts given to shippers	1 year.
	(c) Driver's receipt for delivery sheet	2 years after expiration.
167	Contracts and agreements by agents (see item 140)	Optional.
168	Call books and registers for drivers, messengers, and vehicle men	Do.
169	Vehicle inspection and service reports	Optional after period assigned to article.
170	Business schedules of messengers, reports, etc., comprising agency records	1 month.
171	Duplicate copies of statements, reports, etc., comprising agency records	
172	All agency records not specifically provided for in items 140 to 171	1 year.

Item	Description of accounts, etc.	Period to be retained
	FOREIGN OPERATIONS—continued	
215	Statistics:	
	(a) Copies of monthly reports covering increase and decrease of fixed expenses.	6 years.
	(b) Details of cost of foreign shipments by foreign offices	1 year.
	(c) Cards for recording costs on export or import shipments	Do.
	(d) Records and reports of movement and volume of export and import business.	3 years.
	(e) Other records and reports of comparative statistics relating to foreign operations.	1 year.
216	Tracer files relating to foreign shipments not the subject of claims	Do.
217	Valuable shipments for export or import:	
	(a) Records of and receipts for valuable shipments	6 years.
	(b) Records of shipments from connecting carriers	3 years.
	(c) Lists received from shippers for tracing purposes	1 year.
218	Waybills covering export or import shipments	3 years.
	GENERAL	
220	Reports to Interstate Commerce Commission and other regulating bodies:	
	(a) Annual financial, operating, and statistical reports, file copies of, and supporting papers.	Permanent.
	(b) Periodical reports of operating revenues, expenses, and income, file copies of, and supporting papers.	2 years.
	(c) Accident reports, file copies of, and supporting records and papers	3 years.
221	Annual reports or statements to stockholders, file copies of	Permanent.
222	Comparative statements of balance sheet, profit and loss, income, or operating accounts, including analyses of increases or decreases	3 years.
223	Statistical summaries and statements used for administrative purposes and not entered in the accounts	2 years.
224	Periodical statements of estimated revenues and expenses not used as a basis for accounting entries	Optional.
225	Comparative statements of performance based on mileage, commodity, tonnage, costs, etc.	2 years.
226	Tabulating cards and similar underlying data when results are transcribed into records covered by these regulations.	Optional.
	MISCELLANEOUS	
230	Correspondence:	
	(a) Letters, notes, memoranda, etc., and records thereof, relating to subjects listed in these regulations.	For the period prescribed for the records to which they relate.
	(b) Stenographers' notebooks and phonograph and other mechanical device records, if transcripts are retained as provided in (a) above.	Optional.
	(c) Telegrams, memoranda of telephone messages, and records thereof	For the period prescribed for the records to which they relate.
	(d) Extra copies of letters and memoranda used for tracing or other purpose, if the original or a copy is retained as provided in (a) above.	Optional.
231	Written authorities to destroy accounts, records, and memoranda, and certificates of such destruction, required by public authorities (see §§ 1228.7, 1228.8(a), 1228.8(c), and 1228.9).	Permanent.
232	Reports and records in connection with detective service, investigation of robberies, and attempts to defraud, when not the subject of claims.	Optional.
233	Duplicates of accounts, records, and memoranda listed in these regulations when they are not provided for elsewhere and when they contain no information other than that shown on the originals (see § 1228.13(b)).	Do.
234	Engineering records:	
	(a) Maps, profiles, plans, specifications, estimates, and similar engineering statements and records pertaining to extension, addition, and betterment projects.	Permanent.
	(b) Engineering statements and records similar to those covered by (a) above but which relate to projects that have been abandoned.	3 years.
235	Records of employees:	
	(a) Applications for employment, reports and certificates of examinations, service records, efficiency tests, employees' rosters, and other similar records pertaining to employees.	1 year.
	(b) Applications for employment and replies thereto not resulting in employment of applicants.	Optional.
236	Provident department records, such as employees' relief, hospital, insurance, and savings departments, other than records pertaining to receipt and disbursement of funds.	1 year.
	NOTE: Records pertaining to the receipt and disbursement of funds must be retained for the same periods as are provided for similar records in item 20.	
237	Instructions to agents and others:	
	(a) Books and circulars of instructions which constitute the complete official file of the company.	3 years after expiration or cancellation.
	(b) Surplus copies of books and circulars of instructions which are not a part of the complete official file referred to in (a) above.	Optional.
238	Franks:	
	(a) Copies of requisitions for frank stock	3 years.
	(b) Records of frank stock received and issued	Do.
	(c) Requests for franks	Do.
	(d) Records of franks issued	Do.
	(e) Records of franks received from other express companies	Do.
	(f) Records of annual or term franks honored	Do.
	(g) Records of pastor franks honored	Do.
	(h) Void, unused, and unissued franks	Optional.
239	Passes:	
	(a) Copies of requests for annual, term, and trip passes and for reduced fare permits.	3 years.
	(b) Records of passes received, including reduced fare permits	Do.
	(c) Stubs of notices to conductors of authority to use pass	Do.
240	Drafts and financial paper stock:	
	(a) Records of drafts and financial paper stock received, issued, and cancelled.	3 years.
	(b) Receipts for and receipts for drafts and financial paper stock furnished to officers, agents, and banks.	Do.
	(c) Notices of drafts and financial paper lost or stolen	Optional.
	(d) Records and files pertaining to the extension of time limits on drafts and financial paper.	Do.
	(e) Records of identification cards issued to payees of financial paper, and applications therefor.	3 years.

PART 1224—PIPELINE COMPANIES

Sec.
1224.1 Regulations prescribed.
1224.2 Introduction.
1224.3 Authority to destroy records.
1224.4 Photographic copies.
1224.5 Supervision of destruction.
1224.6 Record of records destroyed.
1224.7 Carriers going out of business.
1224.8 Prescribed periods of retention.

AUTHORITY: The provisions of this Part 1224 issued under 12, 20, 24 Stat. 383, as amended, 386, as amended; 49 U.S.C. 12, 20, unless otherwise indicated.

§ 1224.1 Regulations prescribed.

Effective January 1, 1968, each carrier by pipe line subject to the provisions of the Interstate Commerce Act, and each trustee, executor, administrator, or assignee of any such carrier, shall comply with the regulations in this subpart before destroying any operating, accounting, or financial papers, records, books, blanks, tickets, stubs, correspondence, or documents.

§ 1224.2 Introduction.

The following regulations specify the records and documents which may be destroyed and prescribe the length of time the same shall be preserved, but mention of a record or document hereinafter imposes no requirement that it shall be installed if its purpose is otherwise being adequately served. Compliance with the regulations in this subpart will not exempt a carrier from statutory requirements, other than provisions of the Interstate Commerce Act, for retention of records or documents for periods longer than those herein prescribed.

§ 1224.3 Authority to destroy records.

(a) *General authority.* Carriers by pipe lines subject to the regulations in this subpart may destroy records or documents named or described in the regulations in this subpart after they have been preserved for the prescribed periods of time. Permanent records are those which may not be destroyed without special authority.

(b) *Special authority.* A carrier subject to the provisions of the regulations in this subpart proposing to destroy records or documents which are not named or described in the regulations in this subpart or which, if named or described, are of a character that they are no longer needed for the prescribed periods of years because of retirement of property, or the information is sufficiently available in other records to be kept for required periods of years, or other good cause, may request special authority to destroy such records or documents. Applications for such special authority shall describe in detail the records or documents to be destroyed and shall explain why their continued retention is deemed to be unnecessary.

(c) *Authority to destroy certain records.* The carrier's Board of Directors or executive committee at its option may by a formal corporate act of appointment delegate to a bank, trust company, or similar institution having custody of pipe line records in the normal course of business, the authority to destroy such records upon compliance with the requirements of these regulations. When documents represent debt secured by a mortgage or denture trust agreement, the record of destruction shall also be authenticated by a representative of the trustee.

§ 1224.4 Photographic copies.

(a) Records and documents may be destroyed if they have been suitably photographed, and the microfilm is retained in lieu of the original record or document for the period prescribed for such originals, subject, however, to the following limitations:

(1) Records listed in the following items of § 1224.8 may not be destroyed even though photographed for preservation on microfilm, unless specifically authorized by the Commission:

Item	Description
A-1	Incorporation and reorganization records.
A-2	Minute books.
A-4	Authorization for security issues.
D-1a	General and auxiliary ledgers and indexes thereto.
D-2	General and auxiliary journals and voucher registers.
E-2a	Valuation inventory reports and records.
G-1	Land titles and documents.
G-2	Licenses, agreements, and permits (rights-of-way).
H-1a	Property depreciation records.
M-1	Basic engineering and related data.
O-5	Record of records destroyed.

(2) Records listed in the following items of § 1224.8, if suitably photographed for preservation on microfilm, may be destroyed after retention in their original form for the period shown:

Item	Description	Period to be retained
B-1a	Capital stock ledger	5 years.
B-1b	Capital stock certificates, records, or stubs.	Do.
B-1c	Stock transfer registers or journals.	Do.
B-2a	Registered bond ledgers and journals.	Do.
B-2b	Records or stubs of bonds	Do.
B-4a	Records of outside or affiliated companies securities owned.	5 years.
B-5a	General cash books	Do.
B-5b	Auxiliary cash books	2 years.
C-1	Annual reports (stockholders)	5 years.
D-1b	Ledgers of detail transactions in receivable, payable, and similar accounts.	Do.
D-4	Vouchers, cash and journal	2 years.
E-1	Tax reports and schedules	Do.
E-3a	Annual report (and related data) to Interstate Commerce Commission.	5 years.
F-1a	Payroll registers, abstracts, or summaries.	2 years.
F-1c	Records showing distribution of salaries to accounts.	Do.
H-1d	Files of detailed authorization for expenditures, work or job orders.	Do.
I-3a	Invoices and bills payable	Do.
J-20	Customers' ledgers	5 years.
J-21	Crude oil suspense ledgers	Do.

(3) All other records listed in § 1224.8 not included in the foregoing may be destroyed after being suitably photographed for preservation on microfilm.

(b) To be acceptable in lieu of original records, photographic copies must meet the following minimum requirements:

(1) Photographic copies shall be no less readily accessible than the original record or document as normally filed or preserved would be, and suitable means or facilities shall be available to locate, identify, read, or reproduce such photographic copies.

(2) Any significant characteristics, feature, or other attribute of the original record or document, which photography in black and white will not preserve, shall be clearly indicated before the photograph is made.

(3) The reverse side of printed forms need not be copied if nothing has been added to the printed matter common to all such forms, but an identified specimen of such form shall be on the film for reference.

(4) Film used for photographing copies shall be of permanent record type meeting in all respects the minimum specifications of the National Bureau of Standards, and all processes recommended by the manufacturer shall be observed to protect it from deterioration or accidental destruction.

§ 1224.5 Supervision of destruction.

(a) Within six months after the effective date of the regulations in this subpart, or within six months after becoming subject to this provision, each carrier shall appoint an officer or other responsible employee to supervise the destruction of records and documents. Such appointment shall be by formal corporate act of the board of directors or its executive committee. An existing appointment made under prior regulations shall be recognized as being in compliance with the regulations in this subpart.

(b) If the property of a carrier is in the hands of a trustee, executor, administrator, or assignee, the officer or other responsible employee to have supervision of the destruction of records and documents shall be designated by such trustee, executor, administrator, or assignee.

(c) It is not required that a copy of the resolution or order of appointment be filed with the Commission.

§ 1224.6 Record of records destroyed.

(a) The supervising officer or other designated employee shall maintain or shall cause to be maintained a record of all carrier records and documents which have been destroyed pursuant to the regulations in this subpart except those the retention of which is optional with the carrier. The record shall include all records and documents destroyed, including those destroyed pursuant to § 1224.3(c).

(b) The record shall be available for inspection in the office of the supervising officer and shall be in such detail that the destroyed records or documents may be identified and the time, place, and method of destruction can be established. If the destruction is by accident or at the hand of an unauthorized person not subject to the carrier's control, then the record shall include a statement of the relevant circumstances.

§ 1224.7 Carriers going out of business.

The records and documents relating to operations of a carrier subject to the regulations in this subpart may be destroyed without regard to the prescribed periods of retention after carrier status is abandoned for purposes of the Interstate Commerce Act: *Provided however*, (a) if the carrier is a corporation being dissolved by act of the authority which created it, the records may not be destroyed until dissolution is otherwise complete, and (b) if the carrier is not incorporated or is being kept alive for purposes other than carrier operations, records relating to former carrier operations may not be destroyed until all transactions relating to such operations are completed.

§ 1224.8 Prescribed periods of retention.

The following list describes the purpose for which a record is necessary and the prescribed periods shall be observed even if a record by some other name serves the described purpose. If identical copies of the same document serve more than one such described purpose, only one copy is required to be retained by the regulations in this subpart.

DISTRIBUTION OF RECORDS

A. ADMINISTRATIVE AND CORPORATE

Item	Record titles and descriptions	Period to be retained
1	Incorporation and reorganization records:	
	(a) Franchises, certificates, or permits from regulatory bodies authorizing construction, extensions, and operations; deeds and other titles.	Permanently, so long as property affected is owned; but 20 years after property is sold, abandoned, or otherwise disposed of.
	(b) Other records, documents, and files pertaining to the incorporation and reorganization of pipe line companies.	20 years.
2	Registered agents: Documents and files pertaining to the appointment of registered agents in States in which the carrier is authorized to do business.	3 years after termination or cancellation of appointment.
	Minute Books: Minute books of directors', executive committees', stockholders', and other corporate meetings.	Permanently.
	Authorizations for security issues: Copies of applications to and authorizations from regulating bodies for the issuance of stocks, bonds and other securities. (See item E-3d.)	20 years when approved; optional when denied.

DESTRUCTION OF RECORDS—Continued

A. ADMINISTRATIVE AND CORPORATE—continued

Item	Record titles and descriptions	Period to be retained
3	Minute Books: Minute books of directors', etc.—Continued	
	Voting securities:	
	(a) Proxies of holders of voting securities	2 years.
	(b) Lists of holders of voting securities presented at stockholders' meetings	Do.
	Contracts and agreements:	
	(a) Card or book records of contracts, leases, and agreements made, and of expirations, and of renewals	Same period as for related contract, lease, or agreement.
	(b) Power, fuel, wage, and other utility contracts and agreements	1 year after expiration of contract or agreement.
	(c) Contracts and agreements for use of communication systems	Do.
	(d) Rental agreements and leases of property and equipment, other than communication systems, land, and rights-of-way (see items A-4a, C-1, and C-2), by or from carrier	1 year after expiration of lease or agreement.
	(e) Contracts and agreements relating to maintenance of machines, equipment, and other facilities	1 year after expiration of contract or agreement.
	(f) Contracts, leases, and agreements not provided for in items A-3b through A-3e, B-1, B-2, F-3b, C-1a, C-1b, C-1c, C-2a, C-2b, H-1f, and I-2a	Statute of limitations after fulfillment or expiration of contract, lease, or agreement.
	(g) Contracts and required files for transactions which are subject to the provisions of the Clayton Antitrust Act (15 USC 20).	In original form for 10 years after expiration, provided there is no pending litigation involving these records and provided that the carrier informs the Commission of its intended action 3 weeks prior to date the records are to be destroyed.
7	Fidelity bonds: Records and files of fidelity bonds of employees	1 year after expiration of coverage.
8	Communications code and cipher books: Code and cipher books for conversion of transmitting information and data but not necessary for understanding of carrier's official records. (See item D-13(a).)	Optional.

B. TREASURY

1	Capital stock records:	
	(a) Capital stock ledger	10 years.
	(b) Capital stock certificates, records of or stubs of	Do.
	Note: If the information shown on the stubs is recorded in 10-year records, the stubs are required to be retained only for a period of 3 years.	
	(c) Stock transfer registers or journals	Do.
	(d) Bills of sale, correspondence, or memoranda concerning transfer of capital stock	3 years.
	(e) Capital stock subscription notices and requests for allotment	1 year.
	(f) Canceled capital stock certificates. (See item 2.)	Optional.
	(g) Stockholder's signature cards	Until order rescinded.
	(h) Orders from stockholders to pay dividends to others	2 years.
	(i) Receipts for capital stock certificates	6 years when used in support of payment; otherwise optional.
	(j) Dividend lists of stockholders	3 years after expiration of contract.
	(k) Contracts and correspondence relating to treasury stock	3 years after expiration of agreement.
	(l) Escrow agreements for capital stock held in escrow	
	Bond records:	
	(a) Registered bond ledgers and journals	10 years.
	(b) Records or stubs of bonds	Do.
	Note: If the information shown on the stubs is recorded in permanent records, the stubs are required to be retained for a period of 3 years.	
	(c) Bills of sale, correspondence, or memoranda concerning transfer of registered bonds	3 years.
	(d) Records of interest coupons paid and unpaid	Do.
	(e) Funded debt subscription notices and requests for allotments	1 year.
	(f) Canceled bonds, paid interest coupons, and unissued bonds. (See item 2.)	
2	Retired securities: Stock certificates, bonds, notes, interest coupons, receiver's certificates, and temporary certificates taken up and canceled	Optional, but see §§ 1224.3(C) and 1224.6.
4	Records of securities owned:	
	(a) Records of outside or affiliated companies' securities owned, whether in treasury or with custodians	10 years after disposition of securities.
	(b) Records of Government and commercial bills and notes owned, whether in treasury or with custodians	3 years after disposition.

DESTRUCTION OF RECORDS—Continued

B. TREASURY—continued

Item	Record titles and descriptions	Period to be retained
5	Cash books:	
	(a) General cash books	10 years.
	(b) Auxiliary cash books	6 years.
	Note: If only receipts or payments are entered in the aggregate in the general cash book and are detailed only on loose sheets, such loose sheets constitute an auxiliary cash book.	
	Statements of funds and deposits:	
	(a) Statements and summaries of cash balances on hand and with depositaries	3 years.
	(b) Authorities for and statements of transfer of funds from one depositary to another	Do.
	(c) Periodical statements of working cash balances	Do.
7	Records of accounts with depositaries:	
	(a) Bank statements from depositaries of funds received, disbursed, and transferred showing interest, if any, allowed on average balances	Do.
	(b) Bank deposit books	Do.
	(c) Check registers, stubs, duplicates, or other records of checks or drafts issued	Do.
	(d) Duplicate deposit slips	3 yrs.
	(e) Debit and credit slips received from depositaries	3 yrs.
	(f) Canceled checks and drafts (other than payroll checks. (See items F-1c and F-1f.)	Do.
	(g) Correspondence and memoranda relating to undercharges, discovery of duplicates, forgeries, stoppage of payment, missing signatures, and erroneous posting or preparation of checks or drafts	Do.
	(h) Copies of check signature authorizations filed with depositaries	3 years after cancellation of authorization.
	(i) Statement of reconciliation of accounts with depositaries, showing outstanding checks and drafts issued but not paid	3 years.
	(j) Statements of funds impounded in closed banks or other depositaries	3 years after liquidation of depositary.
	(k) Correspondence, duplicates, and memoranda relating to funds impounded in closed banks or other depositaries	Do.
8	Records of cash receipts and disbursements:	
	(a) Daily statements or memoranda detailing cash receipts and disbursements which are not detailed in (but not material to) the general or auxiliary cash books	3 years.
	(b) Daily statements or memoranda detailing cash receipts and disbursements which are detailed in general or auxiliary cash books	Optional.
	(c) Periodical statistical statements of receipts and disbursements of cash showing number of checks, drafts, etc., issued	3 years.
	(d) Cash remittance reports of employee-custodians	3 yrs.
	(e) Requisitions on parent or holding company for cash	3 yrs.
	(f) Daily or other periodical statements or memoranda detailing sources of receipts of cash transferred to other departments of the carrier or to its parent company	Do.
9	Working or petty cash funds:	
	(a) Statements of receipts, disbursements, and balances of working or petty cash funds in hands of employee-custodians	Do.
	(b) Correspondence and memoranda relating to working or petty cash funds in hands of employee-custodians	Do.

C. GENERAL AND FINANCIAL REPORTS AND STATEMENTS

1	Annual reports: Annual financial statements to stockholders, balance sheets, income statements, and supporting detail statements of the condition of business at the close of the fiscal period	10 years.
2	Monthly, quarterly, and semiannual reports:	
	(a) Financial statements, cost statements, income statements, operating reports of primary and auxiliary operations, period comparisons, and all other statements rendered the management showing condition of business	4 years.
	(b) Monthly or other periodical statements of oil and oil products transactions expressed in terms of barrels or other units of measure	Do.
3	Incidental reports: Miscellaneous statistical reports, special reports of individual accounts or operations, statements, and summaries requested by the management for incidental supervisory purposes and which are not entered into the accounting records of the carrier	Optional.

DESTRUCTION OF RECORDS—Continued

D. FINANCIAL ACCOUNTING

Item	Record titles and descriptions	Period to be retained
	Whether the carrier's accounting system is conducted by bookkeeping machine, tabulating machine, or other data-processing equipment, or by manual method, in whole or in part; whether the record is kept in bound books, loose leaf books, run sheets, loose leaf files, card or strip files, or data-processing storage devices, the record corresponding to the following phraseology is intended.	
1	Ledgers:	
	(a) General and auxiliary ledgers and indexes thereto	Permanent.
	(b) Ledgers of detail transactions in receivable, payable, and deferred accounts; location or other subdivisions of revenue and expense accounts and similar subsidiary details not included in item D-1a above	10 years.
2	Journals: General and auxiliary journals, combination journals and voucher registers, and voucher registers	Permanent.
3	Clearing account records: Records of clearing accounts of operations incidental or subsidiary to pipe line operations such as automotive transportation, camps, communication systems, roads, shop, and storehouse operations which are apportioned or allocated to the major operations of the carrier according to the nature of the facilities, including supporting memoranda	4 years.
4	Vouchers, cash and transit: Vouchers approving acknowledgments of cash received from whatever source, receipts for cash paid out for whatever purpose, and supporting papers. Note: Different companies have different ideas about what papers should be attached to these vouchers; hence each group of documents, pay rolls, invoices, bills payable, material receipts, storehouse issues, cash receipts, expense accounts, telegrams, etc., regardless of filing media, are designated individually under corresponding sections of this classification and the period of retention pertaining to each of these shall govern.	6 years.
5	Budgets: Approved physical capital, financial, and operating budgets, forecasts for financing and operating the company during definite future periods and to guide the company's officials and employees in the expenditure of funds, together with work programs, estimates, books, and other records of comparison between estimated and actual expenditures and correspondence, memoranda, and work papers related thereto	2 years.
6	Transportation revenue and settlement records:	
	(a) Records of transportation revenues, settlements by shippers, and division of revenue by or with participating or connecting carriers	4 years.
	(b) Records of transportation revenue by movements and points of origin and delivery	Do.
7	Storage and loading revenue and settlement records: Records of revenue derived from storing, (including demurrage), loading, and unloading services, and of settlement by shippers	Do.
8	Miscellaneous revenue records: Records of miscellaneous revenues derived from rental of pipe line property, communications service, and other miscellaneous sources, including sale of oil and oil products accumulated from tariff allowances	Do.
9	Routine billing records:	
	(a) Office copies of bills rendered for transportation, materials and supplies sold, work performed for others, etc.	3 years.
	(b) Loading sheets controlling the transmission of invoices to other departments of the company and to affiliated companies	Optional.
	(c) Periodical statements of account issued by vendors from whom purchases were made	Do.
	(d) Abstracts of paid freight and express bills forwarded to the traffic department for examination and verification	Do.
10	Shop accounting:	
	(a) Shop orders or requisitions for shop work	Do.
	(b) Records reflecting details of cost of each shop job	4 years.
	(c) Records and memoranda supporting the distribution of shop job expenditures	Do.
	(d) Statistics relating to operating of shops, which are not used in support of book entries	Optional.
11	Stationery:	
	(a) Requisitions on stock clerk for stationery and office supplies	Do.
	(b) Card or other records of stationery and office supplies not necessary to support the accounting records of such materials purchased. (See item I-8c.)	Do.

DESTRUCTION OF RECORDS—Continued

D. FINANCIAL ACCOUNTING—continued

Item	Record titles and descriptions	Period to be retained
12	Audits:	
	(a) Audit reports of general audits and surveys made by independent public accountants	3 years.
	(b) Internal audits made by carrier, field audits, departmental audits, office surveys and special reports, reports of inventories of materials and supply stocks, and verifications and attestations of treasurer's cash funds and securities	Do.
	(c) Records of audit and reconciliation of working or petty cash funds in hands of employee-custodians	Do.
	(d) Statements reflecting turnover of cash in working or petty cash funds in hands of employee-custodians	Do.
	(e) Reports, correspondence, and memoranda concerning defalcations by employees	Do.
	(f) Reports of audits and surveys by regulatory agencies (except those pertaining to taxes). (See item E-1.)	Do.
13	Accounting codes and instructions:	
	(a) Records of established codes of accounts and changes therein	6 years after discontinuance of code.
	(b) Correspondence, rulings, interpretations, and instructions concerning accounting procedures and practices	6 years after supersedure.

E. TAX AND STATISTICAL REPORTS—FEDERAL, STATE AND LOCAL

	Note: If governing statutes of limitations are of longer periods than those specified in this section, or if Federal or State laws or regulations by taxing authorities require longer retention, then the applicable returns, reports, and records described in this section shall be retained for the longer periods.	
1	Tax reports: Copies of schedules and returns filed with, and audit reports received from, Federal, State, or local authorities for income and excess profits, and for transportation or pipeline, social security, ad valorem, and any and all other tax purposes, and all records, memoranda, and working papers in connection therewith	6 years.
2	Oil and oil products transportation control records: Records and reports, bills of lading, and other documents covering stocks, receipts, and deliveries required by Federal and State authorities for the purpose of controlling the transportation of oil and oil products	4 years.
3	Reports to Interstate Commerce Commission and other regulating bodies:	
	(a) Annual report to the Interstate Commerce Commission, Form P (the copies), and supporting papers filed with the report	10 yrs.
	(b) Other annual financial, operating, and statistical reports (the copies) and all supporting papers, memoranda, and working papers in connection therewith	6 years.
	(c) Quarterly reports of transportation revenue and number of barrels of all and oil products originated and received from connecting carriers, Form QP-2 (the copies)	1 year after current year.
	(d) Records regarding expenditures of proceeds from sale of authorized securities (the copies) and all supporting papers	3 years.
	(e) Valuation inventory reports and records, together with related field notes, maps, and sketches; underlying engineering, land, and accounting reports; printed schedules, summary or collection sheets; journal records of items and other miscellaneous data, all in connection with valuation of the carrier's property by the Interstate Commerce Commission	Permanently; but see § 1234.3 (b) under which application may be made for special authority to destroy after a reasonable period of time records of the classes for no longer needed following the Commission's acceptance of a completely new valuation inventory.
	(f) Statistical and information reports to governmental agencies not provided for in items E-1 through E-3a	6 years.

DESTRUCTION OF RECORDS—Continued

F. PAY ROLLS AND PERSONNEL

Item	Record titles and descriptions	Period to be retained
1	Pay roll records:	
	(a) Pay roll registers, abstracts, or summaries showing earnings, deductions and amounts paid to each employee by pay periods.	6 years; but see § 1234.3 which states that a carrier is not exempt from statutory requirements other than provided herein.
	(b) Applications and authorities for changes in pay rolls	Optional.
	(c) Records showing the detailed distribution of salaries and wages to various accounts.	6 years.
	(d) Records, reports, and memoranda concerning deductions and other miscellaneous accounts with employees whether handled through pay roll accounts or direct settlement.	2 years.
	(e) Receipted pay rolls, endorsed pay checks or drafts, receipted time tickets, certificates issued for wages, discharge tickets, and other evidences of payment for services rendered by employees. (See item B–77.)	3 years.
	(f) Canceled pay checks or drafts drawn in favor of employees in payment of wages for which receipt is shown on pay rolls or other records retained by the carrier.	Optional.
	(g) Comparative, analytical, or other statistical statements of pay rolls	Do.
	(h) Books, tickets, pay rolls, and pay checks furnished to agents and others for distribution to employees.	Do.
	(i) Records of annuities or pensions paid to retired employees and records of death benefits paid to beneficiaries of deceased employees.	3 years.
	(j) Files and records containing assignments, attachments, and garnishments of employees' salaries or wages, notices of suits, releases and correspondence incident thereto.	Do.
	(k) Timebooks, time cards, time sheets and summaries thereof, time slips, predetermined working schedules, overtime tickets, delayed time tickets, work orders, job tickets, check rolls and other records and papers pertaining to services of officers and employees.	Do.
2	Personnel records:	
	(a) Applications for employment, qualification records, service records, reports and certificates of physical examinations, efficiency tests, and similar records.	3 years after employment termination.
	(b) Contracts and agreements with employees or employee bargaining groups.	3 years after termination of contract or agreement.
	(c) Applications for employment and replies thereto, not resulting in employment of applicant.	Optional.

G. LANDS AND RIGHTS-OF-WAY

Item	Record titles and descriptions	Period to be retained
1	Land titles:	
	(a) Deeds and other papers conveying title to lands held by the carrier; also abstracts of title, maps, and pertinent memoranda in connection therewith.	Statute of limitations after relinquishment of title.
	(b) Leases of lands by or from the carrier, evidence of rentals paid and pertinent memoranda in connection therewith.	Statute of limitations after expiration of lease.
	(c) Documents conveying right-of-way and franchises to the carrier; releases from liability for damages to property and persons incident to construction, operation, or maintenance of pipe line properties on such rights-of-way; and all books or records, correspondence, and memoranda pertaining thereto.	Statute of limitations after abandonment of rights-of-way.
2	Licenses, agreements, and permits:	
	(a) Licenses or permits granted by Federal agencies for radio and similar communications, and by Federal, State, county, or municipal governments for the crossing of rivers, levees, streams, or other waterways, highways, or streets by pipe lines and communication lines, together with copies of corresponding applications and all book and other records thereof.	Statute of limitations after removal or abandonment of lines.
	(b) Licenses or permits granted by, or agreements made with, railroads and other transportation agencies for the crossing of railroads, canals, or other transportation facilities by pipe lines and communication lines, together with all records, correspondence, and memoranda in connection therewith.	Do.

DESTRUCTION OF RECORDS—Continued

H. PIPE LINE PROPERTY

Item	Record titles and descriptions	Period to be retained
	NOTE: All accounts, records, and memoranda requisite for making a complete analysis of the cost of pipe line property shall be retained for the periods mentioned. If any of the accounts, records, and memoranda elsewhere provided for in these regulations are of this character, they shall be retained for those periods, regardless of any lesser period of retention assigned to them.	
1	Pipe line property records:	
	(a) Fixed plant property ledgers in which are maintained a complete record of the cost or inventory value of all pipe line property, including additions and betterments, retirements and replacements.	5 years after abandonment or other disposition of property.
	(b) Construction records or ledgers (including completion reports and job cost or other records) in which are kept detailed construction costs of additions and betterments, extensions, and replacements of pipe line property, and similar records showing detailed costs of major repairs or dismantlements of existing pipe line property, which, when completed, are charged to other appropriate primary accounts.	Do.
	(c) Property depreciation records and memoranda relating thereto	20 years.
	(d) Files of detailed authorizations for expenditures, work or job orders showing estimated costs of additions and betterments, extensions, replacements, major repairs and dismantlements, approved by proper officials, together with all supporting memoranda and correspondence.	5 years.
	(e) Estimates, detail records, correspondence, and memoranda for proposed expenditures pertaining to projects not put into execution.	Optional.
	(f) Contracts and agreements relating to construction, acquisition, major repairs, dismantlement, sale or other disposal of pipe line property together with related bonds, correspondence, and memoranda, except as provided for in item 5(g).	6 years after fulfillment of contract or agreement.
	(g) Monthly or other periodical statements or reports reflecting the status of accounts covering authorized expenditures for extensions, additions, betterments, repairs, replacements, and retirements of pipe line property.	Optional.
	(h) Miscellaneous statistics pertaining to pipe line property changes, which are not used in support of book entries.	Do.
	(i) Miscellaneous statistics pertaining to depreciation of pipe line property, which are not used in support of book entries.	Do.
2	Inventories of pipe line property:	
	(a) Periodical inventories of individually identifiable units of pipe line and station property. (Also see item H–2b.)	6 years after prior inventory.
	(b) Periodical inventories of pipe line equipment when not used to record changes in investment. (Also see item H–2a.)	Until next inventory.

I. PURCHASES AND STORES

Item	Record titles and descriptions	Period to be retained
1	Material records:	
	(a) General office book, card, or other inventory control records of quantities and values of materials and supplies received, issued, or transferred and of balances on hand.	4 years.
	(b) Field storehouse book, card, or other records of quantities of materials and supplies received, issued, or transferred, and of balances on hand. (See item I–1a when such records are used for value accounting purposes.)	3 years.
	(c) Trial balances or other balancing media of general office or field storehouse records of materials and supplies.	Until audited.
	(d) Monthly or other periodical records of line pipe or other materials on hand at field locations.	Do.
	(e) Pipe tallies, wherever used, in connection with receipts, deliveries, or transfers of line pipe when totals are recorded elsewhere.	Do.
2	Purchases and sales:	
	(a) Requisitions or other advices from storekeepers and other employees for the purchase of material and supplies.	2 years.
	(b) Copies of orders issued for the purchase of materials and supplies	Do.
	(c) Contracts for the purchase or sale of materials and supplies, except as provided for in item 6(g).	3 years after expiration of contract.
	(d) Bids and offers, advices, and acknowledgments of receipts of orders and other records or reports of materials and supplies purchased or sold.	Optional.
	(e) Records and reports of surplus, obsolete and junk materials and scrap, including authorities for the sale thereof.	Do.
	(f) Records of stationery, printed forms, and first-aid and office supplies purchased for and distributed to various offices and field locations.	Do.

DESTRUCTION OF RECORDS—Continued

I. PURCHASES AND STORES—continued

Item	Record titles and descriptions	Period to be retained
3	Invoices and bills payable:	
	(a) Invoices and bills payable (originals) of all kinds, whether attached to vouchers or filed separately. (See note under item D–4.)	6 years.
	(b) Records and lists for following up receipts and transmittals of invoices and bills payable.	Optional.
4	Materials and supplies received:	
	(a) Records of materials and supplies received from all sources	2 years.
	(b) Records and memoranda pertaining to evaluation of materials and supplies salvaged and returned to stock.	Do.
	(c) Records of inspections and tests of materials and supplies received	Optional.
	(d) Records maintained to follow up receipts of materials and the return to vendors of valuable containers.	Do.
5	Materials and supplies issued or transferred:	
	(a) Prime documents, such as requisitions, issue tickets, or other vouchers supporting issues of materials and supplies issued from stock or transferred from one location to another.	4 years.
	(b) Records of materials and supplies consumed in shipping, write-offs of surplus, obsolete, and junk materials and supplies.	Do.
	(c) Summarizing records of requisitions, receipts, transfers, issue checks, or vouchers showing quantities of materials issued from stock or transferred from one location to another.	1 year.
6	Inventories of materials and supplies:	
	(a) Annual physical or perpetual (running) inventories of materials and supplies on hand.	2 years.
	(b) Records of adjustments booked to effect a reconciliation between materials and supplies ledgers or other control records and general accounts.	Do.
	(c) Incidental inventory work papers and reports not necessary to support the final record of materials and supplies stocks.	Optional.
7	Stock cards: Stock cards for materials and supplies carried in stock, showing receipts, issues, and balances of materials and supplies for accounting and other purposes.	6 years after termination of cards.
8	Fuel and power:	
	(a) Records and reports of fuel delivered to vessels	2 years.
	(b) Records and memoranda relating to oil and coal received and issued	Do.
	(c) Records and reports of fuel and power and daily reports of fuel on hand	Optional.

J. OIL AND OIL PRODUCTS STOCKS AND MOVEMENTS

Item	Record titles and descriptions	Period to be retained
1	Receipts of receipts, deliveries, shortages, stocks, and over and short:	
	(a) Pipe tickets showing quantities by tank measurements or meter readings of oil received from producers' tanks into the carrier's lines.	4 years.
	(b) Receiving tickets, delivery tickets, shipping receipts or deliveries of all or all products on vessels of shipment.	Do.
2	Custody of oil in tanks:	
	(a) Run tickets showing quantities by tank measurements or meter readings of all received from producers' tanks into the carrier's lines.	Do.
	(b) Receiving tickets, delivery tickets, shipping receipts or deliveries of all or all products on vessels of shipment.	Do.
3	Run sheets:	
	(a) Daily reports of all runs, showing quantities of oil run from each tank to main receiving stations, and all receipts, overages and deliveries.	Optional.
	(b) Reports or records of runs, shrinkage, and legal stocks by leases	4 years.
4	Hourly tank gage records: Gauge sheet records showing hourly tank gage measurements, including B. S. & W. tabulations, pump pressures, and other data pertinent to effecting the flow of oil and oil products through the pipe lines.	Optional.
5	Pipe line runs: Daily reports or shipping tickets showing the quantities of oil or oil products pumped by each pumping station or shipping point.	Do.
6	Reports of losses in gathering or transportation: Reports of damage or shortage claims over 100 barrels in respect thereto.	Do.
7	Reports of oil or oil products destroyed: Periodical reports of oil or oil products destroyed in tanks and pipe lines.	Do.

DESTRUCTION OF RECORDS—Continued

J. OIL AND OIL PRODUCTS STOCKS AND MOVEMENTS—continued

Item	Record titles and descriptions	Period to be retained
8	Statements of oil and oil products consumed as fuel: Statements showing the quantity and value of oil and oil products consumed as fuel and stations where consumed.	4 years.
9	Statements of oil lost or destroyed: Statements showing the quantity and value of oil and oil products lost due to pipe line breaks and leaks and points at which leaks occurred.	Do.
10	Reports of power furnished by producers: Monthly reports of the quantity of oil run in connection with which power was furnished by producers, and records of payment for such power.	Do.
11	Record of gathering property: Records identifying ownership and control of producers' tanks or wells to which carrier's lines are connected.	3 years after disconnection.
12	Tank gage tickets: Gage tickets for all tanks used in carrier operations	3 years after disconnection or scrapping.
13	Stock records:	
	(a) Daily records from received and terminals showing fluid changes in each tank, the results of such gaugings, and bank gages at close of business each day.	Optional.
	(b) Monthly or other periodical inventory reports of all or all products on hand.	3 years.
14	Division orders: Statements received by carrier as to the division of interest and to whom account transported oil should be credited.	4 years after disconnection.
15	Transfer orders:	
	(a) Documents received by the carrier for the transfer of division orders or interests from one interest owner to another.	Do.
	(b) Transfer orders for the transfer of ownership of all or all products in storage tankage.	4 years.
16	Powers of attorney: Powers of attorney authorizing carrier, as attorney in fact or as agent, to execute contracts for the principal.	4 years after cancellation.
17	Credentials of interstate agents: Statements of corporate action showing the officers duly authorized to transact business with the carrier.	Do.
18	Probate records: Certified copies of wills, application, copies of decrees of court, and certified copies of appointments of administrators, executors, and guardians.	4 years after disconnection.
19	Freight records: Other memorandums of charges on producers' oil shipped by carrier.	3 years.
20	Customers' ledgers: Record of amounts paid for oil runs purchased from producers and for daily gauges.	10 years.
21	Crude oil stocks and movement: Reports of oil purchased held in carrier lines to third parties.	Do.
22	Tenders of shipments and related records:	
	(a) Tenders of shipments, bills of lading, requests for stoppage in transit, requests for release from storage, reconsignments orders, and other documents issued in support of shipments of oil and oil products.	3 years.
	(b) Notices of shipments issued by initial carriers to participating connecting carriers, or successors thereof, for joint transportation, showing tender or order number, tariff number, quantity and grade of oil or oil product, consignor and consignee, destination, and date issued.	Do.
	(c) Notices of completed tenders by final carrier to succeeding or connecting carriers of tenders completely delivered to destination.	3 years.
	(d) Records of shipments received under orders furnished to the accounting department which indicate the initial carrier, the destination, the quantity of oil or oil products transported, name of shipper, and consignee.	Do.
	(e) Monthly or other periodical reconciliation reports, statements, and memorandums of oil and oil products received, delivered, and undelivered in transit.	Do.
23	Tank cars, trucks, and vessels: Records received from terminals and loading racks showing quantities received, shipped, and delivered, bills of lading, freight bills, demurrage records, memoranda of losses in transit, claims, reconsignments and diversions, records of cleaning of tank cars, trucks, and vessels reshipped with different products.	Do.
24	Tank car, truck, and vessel situation and condition reports: Reports of cars, vessels, and trucks received, inspections for movement of empty tank cars, and other reports relating to the movement, distribution and condition reports, other than reports	Do.
25	Miscellaneous records of oil products transactions: Miscellaneous records and memoranda relating to the handling and transportation of oil and oil products not provided for in items J–1 through J–24.	Do.

DISPOSITION OF RECORDS—Continued

E. INSURANCE AND CLAIMS

Item	Record titles and descriptions	Period to be retained
1	Insurance records:	
	Inventories and other reports of insurable equipment.	Until revised.
	Periodical reports of cash contents of insurable oil and oil products.	Do.
	Schedules of insurance against fire, storm, and other hazards; records of premium payments and of causes removed.	6 years.
2	Reports of casualties to, loss, damage, or destruction of, property; records of claims, settlements, and payments thereof; and reports and correspondence with insurance companies and adjusters in connection therewith.	Optional, 1 year after expiration of policy.
	(a) Reports to bureaus of accidents or boards and commissions on industrial accidents.	Optional.
	(b) Claim records	6 years after settlement.
3	Claim registers, card or book indexes, and other records in connection with the recording of personal injury claims.	Do.
4	Claim registers, card or book indexes, and other records in connection with the recording of overcharge, undercharge, damage, and other claims filed by the carrier against others, together with all supporting papers.	Do.
	(a) Reports and statements regarding damages by the or otherwise to property of others when such records are not necessary to support claims.	6 years.
5	Reports and statements regarding personal injuries to officers when such records are not necessary to support claims.	Do.

C. MISCELLANEOUS

Item	Record titles and descriptions	Period to be retained
1	Manuals, handbooks, pamphlets, books, and circulars issued for the instruction of employees in matters pertaining to the business of the carrier to the carrier's official file for the purpose.	1 year after expiration of circulation.
2	General correspondence:	Same period as prescribed for subject matter.
	(a) Correspondence and memoranda (including methods and procedures) directly relating to subjects in these regulations.	Optional.
	(b) Other correspondence and memoranda (including methods and procedures) necessary to determine compliance with the Act to Regulate Commerce.	Do.
3	Stenographic books, tapes, and other mechanical or electronic devices (stenographic records if transcription thereof has been retained as provided for in Item C-2).	Do.
4	Duplicates:	
	(a) Duplicates, photostatic and photographic reproductions, and duplicate memoranda copies of accounts, records, reports, statements, marks, memoranda, etc., listed in these regulations, when they are not otherwise provided for, and when they contain no information other than that shown on the original.	Do.
	(b) Extra copies of correspondence used for follow-up and other purposes, if originals or other official copies are retained as provided for in Item C-2a.	Do.
	(c) Duplicate copies of telegrams, cablegrams, etc., including policy copies, if originals or other official copies are retained as provided for in Item C-2a.	Do.
	(d) Copies of manuals, handbooks, pamphlets, books, and circulars of instructions to employees, issued by departments or by individual employees, and the surplus copies of such matter, if copies are retained in the official file for the purpose, as provided for in Item C-1a, b, and c, 1-4.	Do.
5	Data processing:	
	(a) Tabulating cards, tapes, and other media used in the compilation of statistics and other data, when the results are transferred to other records covered by these regulations.	Optional.
	(b) Tabulating cards, tapes, and other media used in the compilation of statistics and other data when the results are not transferred to other records covered by these regulations.	For the period prescribed for the records to which the data relate.
	(c) Machine listings and tabulations used in the compilation of statistics and other data which are not an integral part of the carrier's official financial or operating report.	Optional.
6	Record of records destroyed: The official record of records and documents destroyed.	Permanently, but see § 1219.3 (b).

DISPOSITION OF RECORDS—Continued

E. TARIFFS AND RATES

Item	Record titles and descriptions	Period to be retained
1	Tariffs and other rate authorities:	
	(a) Official file copies of tariffs, classifications, division-of-rate sheets, and circulars in which the carrier is interested as a transporter of oil and/or oil products.	4 years after cancellation of tariff.
	(b) All other copies of tariffs, classifications, division-of-rate sheets, and circulars referred to in Item E-1a above.	Optional.
2	Original tariffs, classifications, rate of all carriers in which the carrier has participated as a transportation authorities: Requests and receipts from bureaus and others for tariffs, classifications, rate quotations, division-of-rate sheets, and circulars issued or concurred in, relative to the transportation of oil and oil products.	Optional, after cancellation of tariff.
3	Commission: Copies of correspondence filed with the Interstate Commerce Commission and related work papers relating to the drawing of tariffs, preparation, and filing of tariffs, classifications, division-of-rate sheets, and circulars issued by the carrier, relative to the transportation of oil and oil products.	4 years after cancellation of tariff.
4	Tariff correspondence and related work papers relating to the drawing of tariffs, preparation, and filing of tariffs, classifications, division-of-rate sheets, and circulars issued by the carrier, relative to the transportation of oil and oil products.	2 years.

F. FIELD OPERATIONS

Item	Record titles and descriptions	Period to be retained
1	Field station records: Oath book, journals, file copies of such reports, and correspondence pertaining to field stations' working or petty cash funds.	3 years.
2	Weigh-master reports of tank measurements:	
	(a) Records, data sheets, and certificates pertaining to the calibration of tanks, prover tanks, and meters, including the determination of meter factors.	3 years after dismantlement or rearranging.
3	Other field records:	
	(a) Records, reports, and statistics covering only bituminous and gaseous products, tool records, communication system and automotive equipment operation and maintenance records and other such miscellaneous field records and reports.	Optional.
	(b) Field office records and reports which are duplicates of records and reports in the general office or in the same subdivision in available form.	Do.

H. MISCELLANEOUS

Item	Record titles and descriptions	Period to be retained
1	Route data: Plotted field notes, survey notes, survey plats, diagrams, or other data concerning property additions, betterments, and retirements. (See Item F-2a.)	3 years after abandonment or other disposition of property.
2	Maps: Showing routes, or plans prepared from basic data referred to in Item H-1.	Optional.
3	Specifications and engineering studies:	
	(a) Specifications, engineering studies, and other similar records of property changes originally made.	3 years.
	(b) Engineering studies, designs, plans, surveys, experimental work, and similar records of projects not put into execution.	Optional.

PART 1225—PERSONS FURNISHING CARS TO RAILROADS

Sec.
1225.1 Regulations prescribed.
1225.2 Statutory provisions.
1225.3 Authority to destroy records.
1225.4 Photographic copies.
1225.5 Periods of retention.

AUTHORITY: The provisions of this Part 1225 issued under secs. 12, 20, 24 Stat. 383, as amended, 386, as amended; 49 U.S.C. 12, 20.

§ 1225.1 Regulations prescribed.

All persons, including corporations and partnerships as well as individuals, which furnish cars to or on behalf of any carrier by railroad or express company subject to provisions of section 20 (6) of the Interstate Commerce Act, but do not furnish protective service against heat or cold, shall comply with regulations in this part before destroying records or documents which pertain or relate to the cars so furnished. Compliance with the regulations in this part will not, however, exempt such a person from statutory requirements other than provisions of the Interstate Commerce Act, for retention of such records or documents for periods longer than those hereinafter prescribed. (Car line companies which also provide protective service are subject to regulations in §§ 1220.1 to 1220.7 of this chapter.)

§ 1225.2 Statutory provisions.

(a) Section 20(6) of the Interstate Commerce Act includes the following requirements:

The Commission • • • shall at all times have authority to inspect and copy any and all accounts, books, records, memoranda, correspondence, and other documents of persons which furnish cars • • • to or on behalf of any carrier by railroad or express company • • •: *Provided, however,* That such authority shall be limited to accounts, books, records, memoranda, correspondence, or other documents which pertain or relate to the cars • • • so furnished. • • • Persons furnishing such cars • • • shall submit their accounts, books, records, memoranda, correspondence, or other documents, to the extent above provided, for inspection and copying • • • upon demand • • •.

(b) Section 20 (7) (b) of the Interstate Commerce Act includes the following provisions:

Any person who • • • shall knowingly and willfully destroy, mutilate, alter, or by any other means or device falsify the records of • • • accounts, records, or memoranda, • • • shall be deemed guilty of a misdemeanor and shall be subject • • • to a fine of not more than five thousand dollars or imprisonment for not more than two years, or both such fine and imprisonment: *Provided,* That the Commission may in its discretion issue orders specifying such operating, accounting, or financial papers, records, books, blanks, tickets, stubs, correspondence, or documents • • • as may, after a reasonable time, be destroyed, and prescribing the length of time the same shall be preserved.

§ 1225.3 Authority to destroy records.

Records and documents which pertain or relate to cars furnished subject to provisions of section 20(6) of the Interstate Commerce Act may be destroyed after the same have been retained respectively for periods hereinafter prescribed.

§ 1225.4 Photographic copies.

Records and documents covered by the regulations in this part may be destroyed at any time after they have been suitably photographed in the normal course of business under a program instituted for the protection or storage of other company records of a similar nature or purpose: *Provided, however,* That microfilm copies shall be retained for the periods of time prescribed for the original records or documents, respectively; that the microfilm copies shall be no less readily accessible than the original records or documents as normally filed or preserved would be; and that suitable facilities shall be available to locate, identify, read, or reproduce such microfilm copies.

§ 1225.5 Periods of retention.

Records and documents listed in this section, insofar as they pertain or relate to cars furnished to or on behalf of any carrier by railroad or express company, shall be retained for the periods of time shown for each kind of record or document, respectively. Inclusion of a record or document in the list imposes no requirement that it shall be installed if the information normally so recorded is not otherwise required by provisions of the Interstate Commerce Act.

Item	Description of records	Period to be retained
1	Contracts, leases, and agreements.	3 years after expiration or termination.
2	Copies and files of tax returns.	3 years.
3	Insurance records, including the policies.	2 years after expiration of coverage.
4	Records of the cost or construction of cars (see note).	3 years after sale or retirement.
5	Records of rents and revenues from cars, of repairs to and maintenance of cars, and of safety appliances installed or repaired.	3 years.
6	Car location records and reports.	2 years.
7	Records and files of claims for personal injuries, and fire and other damages.	6 years after settlement or rejection.
8	Accident records and reports, if not included in Item 7.	2 years.
9	Reports to regulatory agencies, file copies of and supporting papers.	3 years.
10	Correspondence	For the period prescribed for the records to which correspondence relates.

NOTE: In addition to records that become the property of the company which acquires cars, the safety regulations of the Department of Transportation require a car builder or noncarrier car repair shop to retain certain records relating to the construction or repair of tank cars. See Appendix W, A.A.R. Tank Car Specifications.

PART 1226—MOTOR CARRIERS AND BROKERS

Subpart A—Class I and Class II Motor Carriers

Sec.
1226.1 Class I Motor Carriers.
1226.2 Authority to destroy records.
1226.3 Photographic copies.
1226.4 Supervision of destruction.
1226.5 List of records destroyed.
1226.6 Motor carrier going out of business.
1226.7 Waivers of requirements of the regulations of this part.
1226.8 Prescribed periods of retention.
1226.10 Class II Motor Carriers.

Subpart B—Class III Motor Carriers

1226.20 Period of retention.
1226.21 Lawful destruction.
1226.22 Accidental destruction.

Subpart C—Brokers

1226.30 Brokers.

AUTHORITY: The provisions of this Part 1226 issued under secs. 304, 220, 49 Stat. 546, as amended; 563, as amended; 49 U.S.C. 304, 320.

Subpart A—Class I and Class II Motor Carriers

§ 1226.1 Class I Motor Carriers.

Regulations pertaining to the maintenance, and destruction, of records and documents for Class I motor carriers (as defined in §§ 1240.4 and 1240.5, of this chapter) are provided in §§ 1226.2 through 1226.8. Mention of a record or document hereinafter imposes no requirements that such record shall be installed if its purpose is otherwise being adequately served. Nothing contained in the regulations in this part shall be construed to excuse noncompliance with requirements of any other governmental body, Federal or State, prescribing longer retention periods for any category of records.

§ 1226.2 Authority to destroy records.

Motor carriers subject to these regulations may destroy records or documents named or described in these regulations after they have been preserved for the periods of time herein prescribed.

§ 1226.3 Photographic copies.

(a) All records and documents must be preserved in their orginal form for the periods specified in the "Schedule of Records," § 1226.8, unless the records and documents are suitably photographed and the microfilm is retained in lieu of the orginal record for the required retention period, subject to the limitations indicated below:

(1) The records listed in § 1226.8 with a permanent retention period may not be destroyed after being photographed for preservation unless a waiver is granted pursuant to § 1226.7.

(2) All records and documents listed in § 1227.8 other than those excluded above and those required to be retained in original form, may be destroyed after they have been suitably photographed for preservation.

(b) To be acceptable in lieu of original records, photographic copies of records must meet the following minimum requirements:

(1) Photographic copies shall be no less readily accessible than the orginal record or document as normally filed or preserved would be, and suitable means or facilites shall be available to locate, identify, read or reproduce such photographic copies.

(2) Any significant characteristic, feature or other attribute of the original record or document, which photography in black and white will not preserve, shall be clearly indicated before the photograph is made.

(3) The reverse side of printed forms need not be copies if nothing has been added to the printed matter common to all such forms, but an identified specimen of such form shall be on the film for reference.

(4) Film used for photographing copies shall be of permanent record type meeting in all respects the minimum specifications of the National Bureau of Standards, and all processes recommended by the manufacturer shall be observed to protect it from deterioration or accidental destruction.

(5) Each roll of film shall include a microfilm of a certificate or certificates stating that the photographs are direct and facsimile reproductions of the original records and that they have been made in accordance with prescribed instructions. Such certificate or certificates shall be executed by a person or persons having personal knowledge of the facts covered thereby.

§ 1226.4 Supervision of destruction.

(a) Immediately upon the effective date of these regulations, each motor carrier subject thereto shall appoint an officer or other supervisory employee to be responsible for the destruction of records and documents. Such appointment shall be by formal corporate act of the board of directors or its executive committee. Designation may be made by title only, rather than by name and title, and thus obviate the necessity for a new resolution or order each time a successor is appointed. An existing appointment in conformity with the procedure indicated herein which was made under prior regulations shall be recognized as being in compliance with the regulations herein.

(b) If the property of a motor carrier subject to these regulations is in the hands of a trustee, executor, administrator, or assignee, the officer or other employee to have responsibility for the destruction of records and documents shall be designated by such trustee, executor, administrator, or assignee.

(c) It is not required that a copy of the resolution or order of appointment be filed with the Commission.

§ 1226.5 List of records destroyed.

(a) The responsible officer or employee shall maintain a comprehensive list describing all records and documents which have been destroyed pursuant to these regulations. The list so maintained shall include all records and documents destroyed, including microfilms destroyed. This list shall include form numbers and descriptive title (or descriptions) of the records destroyed and the periods covered.

(b) The list so maintained shall be available for inspection in the office of the responsible officer or employee and shall be in such detail that the destroyed records or documents may be identified and the time, place, and method of destruction can be established. If the destruction is by accident or at the hand of an unauthorized person not subject to the motorcarrier's control, then the list shall include a statement of the relevant circumstances.

§ 1226.6 Motor carrier going out of business.

The records and documents herein referred to may be destroyed after business is discontinued and the motor carrier is completely liquidated. The records may not be destroyed until dissolution is final and all transactions are completed. When the operations of a motor carrier are continued by another company, the latter company shall preserve records and documents of such operations in the manner and for the retention periods prescribed herein.

§ 1226.7 Waivers of requirements of these regulations.

A waiver from any provision of these regulations may be made by the Commission upon its own initiative or upon submission of a written request therefor by any motor carrier. Each request for waiver shall demonstrate that unusual circumstances warrant a departure from prescribed retention periods, procedures, or techniques or that compliance with such prescribed requirements would impose an unreasonable burden upon the motor carrier, and that the granting of the waiver would be in the public interest.

§ 1226.8 Prescribed periods of retention.

The following "Schedule of Records" shows each category of records and the retention periods.

SCHEDULE OF RECORDS

Item	Category of records	Retention period
	1. GENERAL AND FINANCIAL	
1	Minute books of directors, executive committees, stockholders, and other corporate meetings.	Permanently.
2	Capital stock records:	
	(a) Capital stock ledger	Permanently.
	(b) Capital stock certificates, records of or stubs of	Permanently.
	NOTE: If the information shown on the stubs is recorded in permanent records the stubs are required to be retained only for a period of 3 years.	
	(c) Stock transfer register	Permanently.
	(d) Memoranda and bills of sale or of transfer of capital stock	3 years.
	(e) Capital stock subscription notices and requests for allotment	3 years.
	(f) Canceled capital stock certificates	Optional.
3	Bond records:	
	(a) Registered bond ledger	10 years after redemption.
	(b) Records or stubs of bonds	10 years after redemption.
	NOTE: If the information shown on the stubs is retained in other records for a longer period of time the stubs are required to be retained only for a period of 3 years.	
	(c) Memoranda and bills of sale or of transfer of registered bonds	3 years.
	(d) Records of interest coupons paid and unpaid	3 years after payment.
4	Corporate elections:	
	(a) Proxies of holders of voting securities	3 years.
	(b) Lists of holders of voting securities presented at meetings	3 years.
	(c) Ballots cast and tabulations of vote	3 years.
	(d) Judges' reports of election results	3 years.
5	Ledgers:	
	(a) General and auxiliary ledgers and indexes thereto	Permanently.
	(b) Trial balance sheets of general and auxiliary ledgers	4 years.
6	Record of securities owned, in treasury, or with custodians	10 years after the related securities are sold, redeemed or otherwise disposed of.
7	General journals:	
	(a) General journal entries	Permanently.
	(b) Supporting papers not otherwise provided for	6 years.
8	Cash receipts records:	
	(a) General cash receipts journals	Permanently.
	(b) Detailed records supporting totals recorded in item 8(a)	6 years.
	(c) Bank deposit slips	3 years.
9	Records summarizing the results of noncarrier operations for entry in general books.	6 years.
	NOTE: Ledgers, journals, abstracts, reports, vouchers, etc., shall be retained for the same periods as are provided for similar documents elsewhere in these regulations.	
10	Deeds and other title papers, franchises; applications to and certificates or permits from regulatory bodies authorizing operations or extensions of operations and all papers, memoranda and correspondence in connection therewith.	Until expiration or cancellation.
11	Contracts and agreements:	
	(a) Contracts, leases and agreements except as provided in Item 11(b), 49(c), 58(f), 72(c), and 76(c). These include property and equipment leases, owner-operator agreements and card or book records thereof.	3 years after expiration or cancellation.
	(b) Contracts and required files for transactions which are subject to the provisions of the Clayton Antitrust Act (15 USC 20).	In original form for 10 years after expiration, provided there is no pending litigation involving these records and, provided that the carrier informs the Commission of the intended action 2 weeks prior to date the records are to be destroyed.

SCHEDULE OF RECORDS—Continued

Item	Category of records	Retention period
	II. TRANSPORTATION	
40	Tariffs and other rate authorities—continued	
	(a) Authorities for the transportation of property, free or at reduced rates and supporting papers.	3 years.
	(b) Correspondence and working papers in connection with the making of rates and compilation of tariffs, classifications, divisions or practices and circulars affecting the transportation of property.	2 years after cancellation of tariff.
	(c) Records, circular, and settlements, regarding conventions, excursions, traffic promotions, and similar matters.	3 years.
	(d) Public timetables and literature, correspondence or records relating to them.	Optional.
41	Records pertaining to the diversion or reconsignment of freight, including requests, traces, and correspondence in connection therewith.	2 years.
42	Reports and reports pertaining to embargoes, congested traffic and similar matter.	2 years.
43	Journals, summaries, or other records of freight revenue	6 years.
44	Journals, summaries, or other records of passenger revenue	6 years.
45	Passes, reduced fare, and free tickets:	
	(a) Copies of orders for printing pass stock	Optional.
	(b) Records of passes issued or requested from other carriers.	3 years.
	(c) Records or reports of passes issued or requested from other carriers.	3 years.
	(d) Records and reports of tickets issued free or at reduced rates, and of such tickets requested from other carriers.	3 years.
	(e) All other records and documents relating to the issuance or use of passes and tickets at reduced rates or free.	1 complete calendar year.
	(f) Canceled passes or other records of transportation revenues other than cash fare and passenger.	2 years.
46	Journals, abstracts, and ledgers	6 years.
47	Journals, summaries or other records of revenues from operations other than transportation.	6 years.
48	Bills of lading and releases:	
	(a) Consignors' shipping orders, consignors' shipping tickets, and copies of bills of lading, freight bills from other carriers and memorandum documents furnished the carrier for movement of freight.	3 years.
	(b) Contracts covering risk of carriers to transportation and storage.	2 years after expiration.
49	Freight bills:	
	(a) Origin station copy	Optional.
	(b) Delivery receipt, records of and receipt for delivery of freight to consignee or connecting carriers:	
	(1) All other freight bills providing no claim has been filed	1 year.
	(2) All other freight bills	3 years.
	(c) Settlement copy receivable, paid copy of freight bill retained by carrier to support the receipt of freight charges:	
	(1) Bus express freight bills providing no claim has been filed	1 year.
	(2) All other freight bills	3 years.
	(d) Settlement copy payable, paid copy of freight bill retained by carrier to support payment of freight charges to other carriers:	
	(1) Bus express freight bills providing no claim has been filed	1 year.
	(2) All other freight bills	3 years.
	(e) Unsettled copy, records of unsettled freight bills, freight bills in suspense and supporting papers.	1 year after settlement or other final disposition.
	(f) All other copies (see item 121)	Optional.
	NOTE: A freight bill is a document, which shows shipper, consignee, origin of shipment, point of destination, number of pieces, description of the commodity, weight, rate, freight and any other connecting carrier involved in the transportation of the shipment and shows the total charges to be paid by the customer.	
50	Freight corrections:	
	(a) Correction notices	3 years.
	(b) Undercharge and overcharge collection notices	3 years.
	(c) Records and reports relating to import and export freight, bonded freight and lighterage or "steamship" agreements, etc.	3 years.
51	Records and reports pertaining to the operation of marine and floating equipment.	3 years after expiration or cancellation.
52	Mail service:	
	(a) Records and reports of mail weighing, mail failures, and deductions, dunks, detentions, and irregularities.	Optional.
	(b) Records and reports of mail pouches received and distributed	2 years after cancellation.
	(c) Records and reports of mail routes in effect	1 year.
	(d) Records and reports of mail pouches received and distributed	1 year.
	(e) Records and reports of mail routes in effect	1 year.
53	Records and reports pertaining to the operation of express cars	3 years.
54	Records and reports pertaining to the operation of sleeping, dining, and other special cars	3 years.
55	Records and reports pertaining to the operation of stations, docks, and other terminal facilities	3 years.
56	Records and reports pertaining to the operation of refrigerator cars	3 years.
57	Records and reports pertaining to the operation of motor vehicles	3 years.
58	Records and reports pertaining to the operation of pipelines:	
	(a) Records and reports of pipeline runs, gauges, and tenders	3 years.
	(b) Records and reports of pipeline leases	3 years after expiration or cancellation.
	(c) Records and reports of pipeline connections	3 years after expiration or cancellation.
	(d) Records and reports of pipeline agreements	3 years after expiration or cancellation.
	(e) Records and reports of pipeline rights-of-way	3 years after expiration or cancellation.
	(f) Records and reports of pipeline property	3 years after expiration or cancellation.
59	Records and reports pertaining to the operation of private cars	3 years.
60	Records and reports pertaining to the operation of trucks	3 years.
61	Records and reports pertaining to the operation of trailers	3 years.
62	Records and reports pertaining to the operation of containers	3 years.
63	Records and reports pertaining to the operation of chassis	3 years.
64	Records and reports pertaining to the operation of miscellaneous transportation equipment	3 years.
65	Records and reports pertaining to the operation of miscellaneous transportation facilities	3 years.
66	Records and reports pertaining to the operation of miscellaneous transportation services	3 years.
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304	Records and reports pertaining to the operation of miscellaneous transportation services	3 years.
305	Records and reports pertaining to the operation of miscellaneous transportation activities	3 years.
306	Records and reports pertaining to the operation of miscellaneous transportation agencies	3 years.
307	Records and reports pertaining to the operation of miscellaneous transportation companies	3 years.
308	Records and reports pertaining to the operation of miscellaneous transportation corporations	3 years.
309	Records and reports pertaining to the operation of miscellaneous transportation enterprises	3 years.
310	Records and reports pertaining to the operation of miscellaneous transportation facilities	3 years.
311	Records and reports pertaining to the operation of miscellaneous transportation services	3 years.
312	Records and reports pertaining to the operation of miscellaneous transportation activities	3 years.
313	Records and reports pertaining to the operation of miscellaneous transportation agencies	3 years.
314	Records and reports pertaining to the operation of miscellaneous transportation companies	3 years.
315	Records and reports pertaining to the operation of miscellaneous transportation corporations	3 years.
316	Records and reports pertaining to the operation of miscellaneous transportation enterprises	3 years.
317	Records and reports pertaining to the operation of miscellaneous transportation facilities	3 years.
318	Records and reports pertaining to the operation of miscellaneous transportation services	3 years.
319	Records and reports pertaining to the operation of miscellaneous transportation activities	3 years.
320	Records and reports pertaining to the operation of miscellaneous transportation agencies	3 years.
321	Records and reports pertaining to the operation of miscellaneous transportation companies	3 years.
322	Records and reports pertaining to the operation of miscellaneous transportation corporations	3 years.
323	Records and reports pertaining to the operation of miscellaneous transportation enterprises	3 years.
324	Records and reports pertaining to the operation of miscellaneous transportation facilities	3 years.
325	Records and reports pertaining to the operation of miscellaneous transportation services	3 years.
326	Records and reports pertaining to the operation of miscellaneous transportation activities	3 years.
327	Records and reports pertaining to the operation of miscellaneous transportation agencies	3 years.
328	Records and reports pertaining to the operation of miscellaneous transportation companies	3 years.
329	Records and reports pertaining to the operation of miscellaneous transportation corporations	3 years.
330	Records and reports pertaining to the operation of miscellaneous transportation enterprises	3 years.
331	Records and reports pertaining to the operation of miscellaneous transportation facilities	3 years.
332	Records and reports pertaining to the operation of miscellaneous transportation services	3 years.
333	Records and reports pertaining to the operation of miscellaneous transportation activities	3 years.
334	Records and reports pertaining to the operation of miscellaneous transportation agencies	3 years.
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336	Records and reports pertaining to the operation of miscellaneous transportation corporations	3 years.
337	Records and reports pertaining to the operation of miscellaneous transportation enterprises	3 years.
338	Records and reports pertaining to the operation of miscellaneous transportation facilities	3 years.
339	Records and reports pertaining to the operation of miscellaneous transportation services	3 years.
340	Records and reports pertaining to the operation of miscellaneous transportation activities	3 years.
341	Records and reports pertaining to the operation of miscellaneous transportation agencies	3 years.
342	Records and reports pertaining to the operation of miscellaneous transportation companies	3 years.
343	Records and reports pertaining to the operation of miscellaneous transportation corporations	3 years.
344	Records and reports pertaining to the operation of miscellaneous transportation enterprises	3 years.
345	Records and reports pertaining to the operation of miscellaneous transportation facilities	3 years.
346	Records and reports pertaining to the operation of miscellaneous transportation services	3 years.
347	Records and reports pertaining to the operation of miscellaneous transportation activities	3 years.
348	Records and reports pertaining to the operation of mi

SCHEDULE OF RECORDS—Continued

Item	Category of records	Retention period
	III. MAINTENANCE—continued	
72	Records of terminal property and highway equipment—continued (a) Plans, specifications, bids, and other records pertaining to the construction, alteration, or maintenance of additions and betterment projects which have been put in service except as provided for in item 11(b).	2 years after sale or retirement.
	(b) Plans, specifications, estimates of work, records of engineering studies, construction bids, and similar records pertaining to additions and betterment projects which have been abandoned.	2 years after abandonment.
	(c) Plans, records, and related data.	2 years after disposition or expiration of patent.
73	Records and reports of repairs and renewals of buildings and other structures.	6 years.
74	Payroll records: (a) Original negro documents used in preparation of payrolls; namely, time cards, trip records, work orders, etc.	2 years.
	(b) Payroll registers and related payroll records.	6 years.
	(c) Applications and authorities for changes in payroll.	1 year.
	(d) Reports and records pertaining to deductions from payroll.	3 years.
	(e) Records of employees' applications for employment, reports and records of physical and other examinations, service records, efficiency data, employees' notes and other similar records pertaining to employee.	1 year after termination of employment.
75	(f) Employees' welfare and pension records including records of employees' relief, benefit and insurance, savings, and workmen's compensation, and reports, returns, and records pertaining to the receipt and disbursement of funds.	1 year.
	Records of shipments, consignments, and enrollment of employees' salaries.	3 years.
76	Purchases and sales: (a) Copies of orders for the purchase of material and supplies.	2 years.
	(b) Bids and offers for the sale or purchase of material and supplies except as provided in item 11(b).	1 year.
	(c) Orders for the purchase of material and supplies except as provided in item 11(b).	2 years after expiration.
	(d) Advices or requisitions from storekeepers and others for the purchase of material and supplies.	Optional.
	(e) Price records of purchases, file copies of.	2 years.
77	Inventories of materials and supplies: (a) General inventories of materials and supplies on hand including land, oil and fuel.	6 years.
	(b) Stock control cards and other detail records.	1 year.
	(c) Receipts and reports of materials and supplies received and issued except as otherwise provided in item 78.	6 years.
	(d) Requisitions and receipts for materials and supplies issued, the totals of which have been transcribed into other records for retention.	1 year.
	(e) Price records of materials and supplies issued, file copies.	3 years.
	IV. SHOPS AND GARAGES	
80	Records and reports of repairs to automotive vehicles and other equipment.	2 years.
81	Records and reports of motor changes.	3 years.
82	Inspection records: (a) Certificates of inspection and test data including nondestructive tests of materials used in frame, underframe, truck, brake, coupling, draft gear, and other parts of locomotives, tenders, and passenger-train cars.	3 years after retirement or disposition.
	(b) Records and reports of motor changes.	3 years after retirement or disposition.
83	Records and reports of automotive equipment lightweighed and stenciled.	2 years after retirement or disposition.
84	Records and reports of equipment numbers changed.	3 years after retirement or disposition of vehicle.
85	Records and reports of automotive equipment in and out of service.	2 years.
86	Records and reports of automotive equipment failures.	2 years. In original form for 6 months.
87	Vehicle condition report by driver.	3 months.

SCHEDULE OF RECORDS—Continued

Item	Category of records	Retention period
	II. TRANSPORTATION—continued	
54	Revenue equipment movements: (a) Dispatchers' sheets, registers, and other records pertaining to the movement of boxes, trucks, and trailers.	2 years.
55	(b) Record and reports of trailers, bodies, and other vehicles interchanged.	2 years.
	(c) Books and circulars of instructions to agents, drivers, and others in the general ale of the carrier.	2 years after expiration or cancellation.
56	Records, reports, orders, and tickets pertaining to the weighing of truckloads and less than truckload shipments.	2 years.
57	Freight loading and unloading records: (a) Freight checkers' records.	2 years.
	(b) Bad order, damage, load sheets and inventory of shipments made and received.	2 years.
	(c) Orders for the reconsignment of freight.	2 years.
	(d) Reports of shipments received and transported by contract carriers not covered by freight bills.	2 years.
	(e) Records of vehicles load and ventilated.	2 years.
	(f) Records of unloading, feeding and watering livestock.	2 years.
	Orders of refusal to consignee of arrival of freight.	2 years.
58	Pilferage reports.	2 years.
	All records pertaining to shipments packed up, sent or delivered to a carrier by consignor, drayman, carrier's own equipment or any other source.	2 years.
	(a) Notice to consignee of tender of delivery.	1 year.
	(b) Pickup Service call Sheets.	1 year after cancellation.
	(c) Patron's authority for service desired (carriage authorities).	3 years after expiration or cancellation.
	(d) Record of c.o.d. collections and remittances.	2 years after expiration.
	(e) Contracts for pickup, delivery, and transfer service (see item 11(b)).	Optional.
	Drivers' reports not provided for elsewhere.	3 years.
59	Records and reports of tickets and ticket stock, whether in station or general office.	3 years.
60	Records and reports of baggage checks issued, sold, and on hand, agents' balance sheets.	3 years.
61	Agency cash books.	6 years.
62	Used and canceled tickets, cash fare slips, baggage checks, etc., reports of which showing their sale and use have been audited (except as otherwise provided in item 63(f)).	Optional.
63	All records, reports, and documents at stations and terminals not otherwise provided for in these regulations.	3 years.
	III. EXPENDITURES	
70	Cash disbursements (cash, checks, and drafts): (a) Check and cash disbursement journals (check registers).	Permanently.
	(b) Duplicate copies of checks or check stubs if dated is not shown in item (a).	Permanently.
71	Reports of petty cash disbursement.	3 years.
	(a) Payroll checks.	3 years.
	1—Payroll checks.	1 year.
	2—All other checks.	1 year.
	(b) Reports of drafts issued by agents and officers.	15 years.
	Invoices and vouchers:	6 years.
	(a) Invoice registers and voucher registers.	
	(b) Paid and canceled vouchers and supporting papers, except as otherwise provided in item 70(b) and (c).	
	(c) Invoices and vouchers not attached to vouchers or paid checks and supporting details. For expenditures relating to property see item 72.	
72	Records of terminal property and highway equipment: (a) Records, reports, statements and memoranda showing the details of all debits and credits on account of the cost of property.	3 years after sale or retirement.
	(b) Records and memoranda pertaining to depreciation, retirements and replacements of property.	3 years after sale or retirement.
	(c) Contracts and other agreements relating to the construction, acquisition or sale of property except as provided for in item 11(b).	3 years after sale or retirement.

SCHEDULE OF RECORDS—Continued

Item	Category of records	Retention period
	V. INSURANCE AND SAFETY	
96	Fidelity and indemnity bonds: (a) Records and files relating to expired, terminated, and canceled fidelity bonds of employees, including the bonds.	3 years after expiration of liability of bonding company.
	(b) Records and files relating to expired, terminated, and canceled indemnity bonds incident to transportation and other charges, including the bonds.	3 years after expiration of liability of bonding company.
97	Insurance records: (a) Schedules of fire, cargo, public liability and property damage, and other insurance.	3 years after policy expires.
	(b) Insurance policies.	Optional after expiration of liability of insurer.
	(c) Letter and telegraphic reports of damages by fire, collision, etc.	2 years.
	(d) Reports of minor losses by fire, collision, etc., not covered by insurance or less than minimum amount collectible.	2 years.
	(e) Schedules of risks covered by self-insurance reserves.	2 years.
98	Claim registers: (a) Claim registers, card, or book indexes and other records in connection with the recording of overcharge, loss and damage, personal injury, fire and other claims presented against carriers.	6 years.
	(b) Records showing the details of authorities issued to agents, carriers, and others for participation in freight claims.	3 years after settlement or rejection.
99	Claim papers substantiating overcharge, loss and damage, personal injury, fire, and other claims whether such papers are filed separately or attached to vouchers.	3 years.
100	Records of fire and other damages to property of others: (Reports and statements of employees regarding injuries by fire or otherwise, to property of others, when not necessary to support claims or vouchers.)	3 years.
101	Reports and statements regarding personal injuries, when not necessary to support claims and vouchers.	1 year.
102	Records of unclaimed, over, short, damaged, and refused freight: (a) Tracer, reports, and other records pertaining to unclaimed, over, short, damaged, and refused freight, when not necessary to support claims or vouchers.	3 years.
	(b) Authorities for disposal of unclaimed, damaged and refused freight.	3 years.
103	Vehicle accidents: (a) Record of automotive vehicle accidents.	3 years.
	(b) Reports of accidents by drivers or others.	3 years.
	(c) Reports of damage to equipment by accidents.	Optional.
104	Reports and records in connection with policing the motor carriers' detective service, investigations of robberies, and attempts to defraud when not the subject of claim against the carrier.	Optional.
105	Reports and records in connection with the prevention of loss and damage to freight shipments.	
	VI. MISCELLANEOUS	
120	Tabulating data: (a) When the results are transcribed to other records covered by these regulations.	Destroy at option after appropriate summaries have been made.
	(b) When the results are not transcribed to other records covered by these regulations.	For the period prescribed for the specific records.
	(c) Records of code numbers and the periods during which they were effective.	For the period prescribed for the specific records.
121	Duplicate copies of accounts, records, and memoranda listed in these regulations, if all information on such duplicates is contained on the originals or other copies retained, and if such duplicates are not specifically provided for in these regulations.	Optional.
122	Books and circulars of instructions to agents and others, in the general file of the department in which the complete official file is maintained.	2 years after expiration or cancellation.
123	Data relating to the destruction of records.	20 years.
124	Correspondence: (a) Correspondence and records thereof relating to subjects listed in Items 1 to 123, inclusive.	For the period prescribed for the records to which the correspondence relates.
	(b) Operators' copies of telegrams, including relay copies, if the original or other copies of such messages are retained as provided for in (a) above.	Optional.
	(c) Stenographers' notebooks and phonograph and other mechanical device records, if transcripts thereof are retained, as provided for in (a) above.	Optional.
	(d) Transcripts of teletype messages.	For the period prescribed for the records to which the correspondence relates.

INDEX TO RECORDS

Accident register, 16c.
Accident reports; to regulating bodies, 16e; vehicle accidents, 103a, b, c.
Agency cash books, 69.
Agent's balance sheets, 62.
Applications; to regulating bodies, 16g; for payroll changes, 74c; for special rate orders, 40g; for employment, 74c; for extension of operations, 10.
Assignments, attachments and garnishments, 75.
Attachments of employees' pay, 75.
Audits, 15.
Authorities; for security issues, 16g; for payroll changes, 74c; for claim participation, 98b; for disposal of unclaimed, damaged and refused freight, 102b; for rates, 40g; for destruction of records, 123.
Baggage checks; records, 61; used and canceled, 64.
Balance sheets; general and auxiliary ledgers, 5b; agents, 62.
Bank deposit slips, 8c; copies, 13d; statements from depositaries, 13b.
Bills of lading and releases, 48.
Bill of sale and transfer of securities, 2d, 8c.
Bonded freight and baggage, 51.
Bond records, 3.
Bonds; issues and transfers, 3, 16g.
Call sheets (pickup service), 58c.
Capital stock records; issues and transfers, 3.
Carriage authorities (patrons' authority for service desired), 58d.
Cash disbursements, 70.
Cash fare slips, 64.
Cash receipts records, 6.
Certificates; stock, 3b, f.
Checks (financial); outstanding, 12c; paid, 70d.
Claim papers, 99.
Claim registers; overcharge, loss and damage, personal injury, fire, and other, 98a.
Classifications (freight), 40a; 40b.
C.O.D. collections and remittances, 58e.
Codes for tabulating data, 120c.
Concurrences in rates, 40f.
Congestion of traffic, data concerning, 42.
Consignees' notices; orders for freight delivery, 58d; notice of freight arrival, 57; notice of tender of delivery, 58b.
Construction; records, 72a, contracts, 72c.
Contracts and agreements, 11.
Contracts; rate of contract motor carriers, 49c; covering risk of carriers to transportation and storage, 48b; with contract carriers not covered by freight bill, 56d; relating to construction, acquisition or sale of property, 72c; for purchase or sale of material and supplies, 76c.
Contracts; subject to Clayton Antitrust Act, 11b.
Corporate elections, 4.
Corrections; freight, 50a.
Correspondence, 124; extensions of operations, 10; tariffs and rates, 40h; public timetables and literature, 40j; diversion and reconsignments, 41.
Coupons, interest payments, 3.
Credit extension records, 14.
Damage claim records, 98; claim papers, 99.
Damaged freight, 102.
Damage to property of others, 100.
Deductions; from payrolls, 74d; in mail service, 53a.
Deeds, 10.
Delivery records; for freight, 49b.
Deposit slips, bank, 8c.
Depreciation records, 73b.
Destruction of records, 123.
Detective service, 104.
Detentions of mail, 54a.
Directors' minutes, 1.
Dispatching records, 54a.
Division sheets, 40a, b.
Drafts, issued by agents and officers, 70e.
Drivers' reports, 59.
Drivers' vehicle condition report, 87.
Diversion of freight, 41.
Duplicate accounts, records and memoranda, 121.
Embargoes, 42.
Employees; record of, 74.
Equipment failures, 86.
Equipment, in and out of service, 85.
Equipment, light-weighed and stenciled, 83.
Equipment, numbers changed, 84.
Estimates; for expenditures, 72d, e; for engineering projects, 72d, e.
Examinations and audits, reports of, 15.
Executive committee minutes, 1.
Export freight, 51.
Feeding of livestock, 56f.
Fidelity and indemnity bonds, 96a, b.
Fines for faulty mail service, 53.
Floating equipment operation records, 52.
Franchise records, 10.
Free tickets or passes, 45d, e, f.
Freight; insurance, 97; over and short freight, 102; damaged freight, 102; unclaimed freight, 102; refused freight, 102; diversion, 41; revenue, 43; reconsignment, 41; import, export and bonded freight, 51; freight transferred, 49; freight delivered, 49; checkers' records, 56; freight transported by contract carriers not covered by waybills, 56d; bills of lading, 48a; releases, 48b; weighing, 55; loading, 56; icing, 56e; handling livestock, 56f; freight bills, 49; arrival notices, 57; corrections, 50; unloading, 56.
Freight bills, 49; unsettled, 49e.
Garnishments of employees' pay, 75.
General journals, 7; general cash receipts journal, 8a.
Hours of service; reports to regulating bodies, 16d.
Icing; of vehicles, 56e.
Import freight, 51.

Indemnity bonds, 96b.
Inspection records, equipment, 82.
Interest coupons, 3d.
Instructions; to agents, drivers and others (books and circulars), 54c.
Insurance records, 97; policies, 97b.
Interchange of equipment, 54b.
Interest coupons; paid, 3f.
Inventories; material and supplies, 77.
Invoices and vouchers, 71; registers, 71a; paid and canceled, 71b; invoices for material and supplies not attached to vouchers, 71c.
Journals; general office, 7; journal entries, 7a; for noncarrier operations, 9, note; freight revenue, 43; passenger revenue, 44; revenues other than freight and passenger, 46; revenues from operations other than transportation, 47; general cash receipts journal, 8a.
Ledgers; of capital stock, 2a; of registered bonds, 3a; general and auxiliary, 5a; for noncarrier operations, 9, note; of agents' accounts, 8a.
Livestock; unloaded, fed and watered, 56f.
Loading vehicles; records, 56a, b, f; collections, 47.
Loss and damage; claim records, 98a; claim papers, 99.
Mail; revenue records, 46; service and penalty records, 53.
Manifests, load sheets and abstract of shipments made and received, 56b.
Marine equipment operation, 52.
Material and supplies records; on hand, 77a; purchases and sales, 76; inventories, 77; company fuel, oil and tires, 77.
Minimum rate schedules, contract carriers, 40c.
Minute books of corporation meetings, 1.
Motor changes, 81.
Noncarrier operations, records, 9.
Notices; of subscription for securities, 2e.
Notices to consignees, 57.
Orders; sale of freight, 102b; for material and supplies, 76a; for pass stock, 45a; from shippers and consignees, 56c.
Overcharges; claim records, 98a; claim papers, 99; statements, 50b.
Overfreight, 102.
Passenger revenue, 44.
Passes; pass stock 45a, b; records, 45c, d, e; canceled 45f.
Payroll records, 74.
Personal injuries; claim records, 98a; claim papers, 99; reports, 101.
Pickup and delivery records, 58.
Prevention of loss and damage to freight, 105.
Price records; of material and supplies issued, 77c; of purchased, 76c.
Proxies from security holders, 4.
Purchases and sales, 76.
Reconciliations, bank (checks, drafts, etc., issued and not presented), 13c.
Reconsignment of freight; records, 41; orders, 56c.
Reduced rate tickets; issued 46e; canceled 46f.
Refused freight, 102.
Registers; of stock transfers, 2c; of accidents, 16c; check registers, 70a; audited vouchers, 71a; invoices, 71a; payroll, 74b; claims 98a.
Remittance slips; agents', 13e.
Renewals of structures, 73.
Repairs; repairs to equipment, 80; repairs to structures, 73.
Reports by carrier; to regulatory bodies, 16; stockholders, 17.
Requests; for tariffs and other rate authorities, 40d, e; concerning freight diversion and reconsignment, 41; passes, 45c, d.
Requisitions; for material and supplies issued, 77d; for material and supplies purchased, 76d.
Retirements of property, 73b.
Revenue; equipment movements, 54.
Revenue; freight, 43; passengers, 44; transportation other than freight and passenger, 46; other than transportation, 47.
Robbery investigations, 104.
Sale of authorized securities, 16e.
Schedules; of insurance, 97a; of risks covered by self insurance, 97e.
Securities; lists of holders, 4b; owned, 6; applications and authorities for issue, 16g.
Service records; of vehicles, 85; of employees, 74e.
Shipping tickets, consignors', 48a.
Short freight, 102.
Specifications; for engineering projects, 72d, e.
Statements and summaries; of balances on hand with depositaries, 13a; statements from depositaries, 13b.
Stations and terminals, records at, 65.
Statistical records, 16, 18.
Steamships, traffic engagements, 51.
Stock cards for inventories, 77b.
Storekeepers' advices and requisitions, 76d.
Structures; cost of, 72; repairs and renewals, 73.
Stubs; of securities, 2b, 3b.
Subscription notices for securities, 2e.
Tabulating data, 120.
Tariffs, 40.
Tax records, 12.
Tender of delivery, notice of, 56b.
Terminal property and highway equipment, 72.
Tickets and ticket stock, 60.
Tickets issued free or at reduced rates; records and reports of 45d, e; canceled, 45f.
Time tables; public, 40j.
Title papers, 10.
Transfer records; for securities, 2c, d, 3c.
Traveling accountants' and auditors' reports, 15.
Treasurer's records, 13.
Unclaimed freight, 102.
Undercharges, 50b.
Unloading of livestock, 56f.
Unsettled freight bills, 49e.
Used and canceled tickets, cash fare slips, baggage checks, etc., 64.
Vehicle accidents, 103.
Vehicle condition report by driver, 87.
Watering livestock, 56f.
Weighing; automotive equipment, 83; of mail, 53; of freight, 55; charges collected, 47.
Weight inspectors' reports, 15.

§ 1226.10 Class II motor carriers.

Class II motor carriers (as defined in §§ 1240.4 and 1240.5 of this chapter) shall maintain their records and documents in accordance with the following:

(a) Motor carriers of property shall comply with the regulations governing Class I motor carriers as prescribed in §§ 1226.1 through 1226.8.

(b) Motor carriers of passengers shall comply with the regulations governing Class III motor carriers as prescribed in §§ 1226.20 through 1226.22.

Subpart B—Class III Motor Carriers

§ 1226.20 Period of retention.

(a) *Records To Be Permanently Preserved.* The following records of Class III Motor Carriers shall be retained permanently unless the motor carrier operations are sold or otherwise disposed of, in which event they may be transferred to the person or company continuing such operations:

(1) General and auxiliary ledgers, journals, cash books, and journal entries.

(2) Property records showing costs and dates acquired including certificates or abstracts of title and records pertaining to depreciation, retirements and replacements of property.

(3) Capital stock records, minutes of directors, stockholders, and other corporate meetings.

(b) *Other Documents.* Drivers' logs shall be preserved for 1 year as prescribed in the Motor Carrier Safety Regulations of the Department of Transportation. All other accounts, records, memoranda, documents, papers, and correspondence shall be preserved for a period of 3 years, or the period prescribed under § 1226.8 whichever is less. Nothing contained in the regulations in this part shall be construed to excuse noncompliance with requirements of any other governmental body, Federal or State, prescribing longer retention periods for any category of records.

§ 1226.21 Lawful destruction.

Any Class III motor carrier (as defined in §§ 1240.4 and 1240.5 of this chapter) may destroy its accounts, records, memoranda, documents, papers, and correspondence named in § 1226.20(b) after preserving the same for the periods of time respectively specified therein.

§ 1226.22 Accidental destruction.

If any accounts, records, memoranda, documents, papers, or correspondence shall be accidentally lost or destroyed by fire, flood, or other calamity, a statement shall be submitted to the Interstate Commerce Commission describing as accurately as possible the accounts, records, memoranda, documents, papers, or correspondence, and the circumstances under which they were lost or destroyed.

Subpart C—Brokers

§ 1226.30 Brokers.

The requirements of §§ 1226.20 to 1226.22 inclusive, shall apply equally to brokers when the subject matter permits application.

PART 1227—WATER CARRIERS

Sec.
1227.0 Regulations prescribed.
1227.1 Introduction.
1227.2 Authority to destroy records.
1227.3 Photographic copies.
1227.4 Supervision of destruction.
1227.5 Record of destroyed records.
1227.6 Carriers going out of business.
1227.7 Prescribed periods of retention.

AUTHORITY: The provisions of this Part 1227 issued under secs. 304, 313, 317, 54 Stat. 933, 944, as amended; 49 U.S.C. 904, 913, 917.

SPECIAL NOTE: Sections 317 and 313 of the Interstate Commerce Act, as amended, include the following provisions:

SEC. 317(d) Any water carrier or other person, or any officer, agent, employee, or representative thereof, who shall willfully fail or refuse * * * to keep accounts, records, and memoranda in the form and manner prescribed by the Commission, or shall willfully falsify, destroy, mutilate, or alter any report, account, record, memorandum, book, correspondence, or other document, required under this part to be kept, * * * shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was in whole or in part committed, be subject for each offense to a fine of not more than $5,000. As used in this subsection, the word "keep" shall be construed to mean made, prepared, or compiled, as well as retained.

SEC. 313(g) The Commission may issue orders specifying such operating, accounting, or financial papers, records, books, blanks, tickets, stubs, correspondence, or documents of water carriers or lessors as may, after a reasonable time, be destroyed, and prescribing the length of time the same shall be preserved.

§ 1227.0 Regulations prescribed.

Effective June 1, 1957, all carriers by water, including lessors, thereof, shall comply with the regulations in this part before destroying any operating, accounting, or financial papers, records, books, blanks, tickets, stubs, correspondence, or documents.

§ 1227.1 Introduction.

The regulations in this part specify the records and documents which may be destroyed and prescribe the length of time the same shall be preserved, but mention of a record or document hereinafter imposes no requirement that it shall be installed if its purpose is otherwise being adequately served. Compliance with the regulations in this part will not exempt a carrier from statutory requirements, other than provisions of the Interstate Commerce Act, for retention of records or documents for periods longer than those prescribed in this part.

§ 1227.2 Authority to destroy records.

(a) *General authority.* Carriers by water may destroy records or documents named or described in the regulations in this part after they have been preserved for the prescribed periods of time. Permanent records are those which may not be destroyed without special authority.

(b) *Special authority.* A carrier proposing to destroy records or documents which are not named or described in the regulations in this part, or which if named or described have not been retained for the period required by the regulations in this part, may request special authority to destroy them. Applications for such special authority shall describe in detail the records or documents to be destroyed and shall explain why their continued retention is unnecessary.

§ 1227.3 Photographic copies.

(a) Certain records and documents may be preserved on microfilm and the film retained in lieu of the original record or document, subject to the following limitations:

(1) The records listed in § 1227.7 with a permanent retention period may not be destroyed after being photographed for preservation unless special authority is first secured as provided in § 1227.2(b).

(2) Records and documents listed in the following items of § 1227.7 shall be retained in their original form throughout the entire period of retention prescribed for them respectively, unless special authority to destroy them is first secured as provided in § 1227.2(b):

Item	Description
5	Corporate elections.
8	Record of securities owned, in treasury, or with custodians.
15	Tax records.
41(a)	Payrolls and summaries.
43(a)	Register of audited vouchers payable and indexes thereto.
43(b)	Paid drafts, paid checks, and receipts for cash paid out.
43(c)	Vouchers or accounts payable and supporting papers.
44(a)	Register of bills collectible and indexes thereto.
116	Correspondence which pertains to records or documents required by this subsection to be retained in original form.

(3) The records and documents listed in this subparagraph, which are required under the regulations in this part to be retained two years or more, shall be retained in their original form at least two years, even after they have been photographed for preservation:

Item	Description
12	Records summarizing the results of auxiliary or holding company operations for entry in general books.
20	Miscellaneous records pertaining to agents' accounts.
30	Freight revenue records.
31	Passenger revenue records.
32	Line service revenue records, other than freight and passenger revenues, detailing settlements with agents and others, and with other carriers.
33	Records of revenues from operations other than line service, detailing settlements with agents and others, and with other carriers.
50	Claim records.
61	Diversion of freight.
89	Ship's records (for Ship's logs, see § 1227.3(a)(1)).
90 to 99	Agencies.
116	Correspondence which pertains to records or documents required by this subsection to be retained two years in original form.

(b) To be acceptable in lieu of original records, photographic copies must meet the following minimum requirements:

(1) Photographic copies shall be no less readily accessible than the original record or document as normally filed or preserved would be, and suitable means or facilities shall be available to locate, identify, read, or reproduce such photographic copies. Photographic copies shall be preserved until the end of the period prescribed for the original records or documents.

(2) Any significant characteristic, feature, or other attribute of the original record or document, which photography in black and white will not preserve, shall be clearly indicated before the photograph is made.

(3) The reverse side of printed forms need not be copied if nothing has been added to the printed matter common to all such forms, but an identified specimen of such form shall be on the film for reference.

(4) Film used for photographing copies shall be of permanent record type meeting in all respects the minimum specifications of the National Bureau of Standards, and all processes recommended by the manufacturer shall be observed to protect it from deterioration or accidental destruction.

§ 1227.4 Supervision of destruction.

Within six months after the effective date of the regulations in this part, or within six months after becoming subject to this provision, each carrier shall appoint an officer or other responsible employee to supervise the destruction of records and documents. Such appointment shall be by formal corporate act or, if the carrier is not incorporated, by such formal act as would be necessary to execute a contract binding on the carrier.

§ 1227.5 Record of destroyed records.

The supervising officer or other designated employee shall maintain a record of all carrier records and documents which have been destroyed pursuant to the regulations of this part, except those the retention of which is optional with the carrier. The record shall be available for inspection in the office of the supervising officer and shall be in such detail that the destroyed records or documents may be identified and the time, place, and method of destruction can be established. If the destruction is by accident or at the hand of someone not subject to the carrier's control, then the record shall include a statement of the relevant circumstances.

§ 1227.6 Carriers going out of business.

The records and documents relating to operations of a carrier subject to the regulations in this part may be destroyed without regard to the prescribed periods of retention after carrier status is abandoned for purposes of the Interstate Commerce Act: *Provided however,* (a) If the carrier is a corporation being dissolved by act of the authority which created it, the records may not be destroyed until dissolution is otherwise complete, and (b) if the carrier is not incorporated or is being kept alive for purposes other than carrier operations, records relating to former carrier operations may not be destroyed until all transactions relating to such operations are completed.

§ 1227.7 Prescribed periods of retention.

The following list describes the purpose for which a record is necessary and the prescribed periods shall be observed even if a record by some other name serves the described purpose. If identical copies of the same document serve more than one such described purpose, only one copy is required to be retained by the regulations of this part.

Item	Description of records, etc.	Period to be retained
	GENERAL AND FINANCIAL	
1	Minute books of directors', executive committee's, stockholders', and other meetings.	Permanent.
2	Code and cipher books, file copies of.	Permanent.
3	Capital stock records:	
	(a) Capital stock ledger	Permanent.
	(b) Capital stock certificates, records of or stubs of.	Permanent.
	NOTE: If the information shown on the stubs is recorded in permanent records, the stubs are required to be retained only for a period of three years.	
	(c) Stock transfer register	Permanent.
	(d) Memoranda and bills of sale or of transfer of capital stock	2 years.
	(e) Capital stock subscription notices and requests for allotment	1 year.
	(f) Canceled capital stock certificates. (See item 6.)	
4	Long-term debt records:	
	(a) Registers of bonds and certificates	Permanent.
	(b) Records or stubs of bonds and certificates	Permanent.
	NOTE: If the information shown on the stubs is recorded in permanent records, the stubs are required to be retained only for a period of three years.	
	(c) Memoranda and bills of sale or of transfer of registered bonds and certificates.	2 years.
	(d) Records of interest coupons paid and unpaid	3 years after payment.
	(e) Funded debt subscription notices and requests for allotment	1 year.
	(f) Canceled or unissued bonds, and certificates, and paid interest coupons. (See item 6.)	
5	Corporate elections:	
	(a) Proxies of holders of voting securities	2 years.
	(b) Lists of holders of voting securities presented at meetings	6 years.
	(c) Qualification oaths of judges of election	Optional.
	(d) Qualification oaths of directors	Optional.
	(e) Ballots cast and tabulations of vote	2 years.
	(f) Judges' reports of election results	2 years.
6	Retired stock certificates, bonds, notes, interest coupons, receiver's and trustee's certificates, and temporary certificates; taken up and canceled.	Optional.
7	Ledgers:	
	(a) General and auxiliary ledgers and indexes thereto, except as provided for elsewhere in these regulations.	Permanent.
	(b) Trial balance sheets of general and auxiliary ledgers	4 years.
8	Record of securities owned, in treasury, or with custodians	Permanent.
9	General and auxiliary journals	Permanent.
10	General and auxiliary cash books, except cash books at agencies provided for in item 97 (a).	Permanent.
	NOTE: If any receipts or payments are entered in the aggregate in the general cash book and are detailed only on loose sheets, such loose sheets constitute an auxiliary cash book when no other permanent record of the items thereon is made.	
11	(a) General journal entries	Permanent.
	(b) Supporting papers not otherwise provided for	6 years.
12	Records summarizing the results of auxiliary (outside) or holding company operations for entry in general books.	6 years.
	NOTE: Ledgers, journals, abstracts, reports, vouchers, tickets, etc., shall be retained for the same periods as are provided for similar documents elsewhere in these regulations.	
13	Corporate identity:	
	(a) Incorporation and other historical records	Permanent.
	(b) Charters and franchises with supporting details	Until legally required to release.
14	Contracts and agreements:	
	(a) Contracts, leases, and agreements except as provided in item 14(c)	5 years after expiration or cancellation.
	(b) Card or book records of contracts, leases, and agreements made, and expirations and renewals.	Do.
	(c) Contracts and required files for transactions which are subject to the provisions o the Clayton Antitrust Act (15 U.S.C. 20).	In original form for 10 years after expiration, provided there is no pending litigation involving these records and, provided that the carrier informs the Commission of its intended action 2 weeks prior to date the records are to be destroyed.
	(b) Card or book records of contracts, leases, and agreements made, and expirations and renewals.	5 years after expiration or cancellation.
15	(a) Tax records, copies of schedules and returns to taxing authorities for tax purposes.	6 years.
	(b) Records of appeals, tax bills, and statements	6 years after settlement.
	GENERAL AND FINANCIAL—continued	
16	Copies of applications to and authorities from regulating bodies for the issuance of stocks, bonds, and other securities.	Permanent.
17	Records of expired or canceled fidelity and indemnity bonds, including the bonds.	3 years.
18	Insurance records:	
	(a) Records pertaining to the payment of insurance premiums and to insurance recoveries.	3 years.
	(b) Inspectors' reports of conditions of insured property	2 years.
	(c) Insurance policies	Optional.
	(d) Schedules of risks covered by self insurance	3 years.
19	Treasurer's records:	
	(a) Statements from depositaries of funds received, disbursed, and transferred.	3 years.
	(b) Daily or other periodical statements of the receipt and disbursement of funds. (See note under item 10.)	3 years.
	(c) Ledgers, journals, and other records of outstanding vouchers, checks, drafts, etc., issued and not presented.	3 years.
	(d) Bank deposit books, and stubs, ledgers, or records of checks	Optional.
	(e) Copies of deposit slips	Optional.
20	Miscellaneous records pertaining to agents' accounts:	
	(a) General office records or ledgers of agents' accounts showing debits and credits from various sources.	6 years.
	(b) General office records relating to extension of credit for transportation and other charges.	2 years after discontinuance of credit arrangement.
	(c) Statements of corrections in agents' accounts	2 years.
21	Reports of examinations, audits, and transfers by special accountants, traveling auditors, time inspectors, weight inspectors, etc., and supporting papers.	3 years.
22	Records pertaining to verification of treasurer's cash or securities	2 years.
	REVENUES	
30	Freight revenue records:	
	(a) Details of settlements with agents and others, and with carriers	6 years.
	(b) Record of unsettled freight bills, freight bills in suspense, etc.	1 year after disposition.
	(c) Tracers and supporting papers concerning unsettled freight bills	Until settled.
31	Passenger revenue records:	
	(a) Details of settlements with agents and others, and with other carriers	6 years.
	(b) Records and reports of passenger associations and bureaus	3 years.
32	Line service revenue records, other than freight and passenger revenues, detailing settlements with agents and others, and with other carriers.	3 years.
33	Records of revenues from operations other than line service, detailing settlements with agents and others, and with other carriers.	3 years.
34	Cash fare collection journals, ledgers, and records	2 years.
	EXPENDITURES	
40	Labor distributions and summaries:	
	(a) Records showing the detailed distribution of labor expenditures charged to all accounts, including memoranda and memorandum recapitulation sheets, except as otherwise provided in item 45.	4 years.
	(b) Work orders, job tickets, and other papers covering the application of labor, the details of which have been transcribed into other records for retention.	2 years.
41	Payroll records:	
	(a) Payrolls and summaries	6 years.
	(b) Records and memoranda pertaining to deductions from payrolls	Optional.
	(c) Receipted pay checks, certificates issued for wages, discharge tickets, time tickets, and other evidences of payments for services rendered by employees, except as otherwise provided in item 45.	3 years.
	(d) Canceled pay checks drawn in favor of "bearer" in payment of wages for which receipt is shown on payrolls or other records retained by carrier.	Optional.
42	Material distributions and summaries:	
	(a) Journals, ledgers, or other records and memoranda showing the detailed distribution of expenditures for materials and supplies chargeable to all accounts, including memorandum recapitulation sheets.	4 years.
	(b) Work orders, job tickets, and other papers covering the application of labor and of materials and supplies, the details of which have been transcribed into other records for retention.	2 years.
43	Vouchers:	
	(a) Register of audited vouchers payable and indexes thereto	15 years.
	(b) Paid drafts, paid checks, and receipts for cash paid out, except as otherwise provided in item 50c.	10 years.
	(c) All vouchers or accounts payable and supporting papers. (See item 45)	6 years.
	(d) Stubs of bank check books	3 years.
	(e) Lists containing authorities for payments of specific vouchers	2 years.
	(f) Reports of drafts issued by claim agents, terminal and station agents, and others.	1 year.

Item	Description of records, etc.	Period to be retained
	EXPENDITURES—continued	
	(g) Record or index of vouchers to be made, with notations of dates of issue.	Optional.
44	Bills collectible:	
	(a) Register of bills collectible (or accounts receivable bills) and indexes thereto.	15 years.
	(b) Copies of bills issued for collection, and supporting papers which do not accompany the original bills.	4 years.
	(c) Copies of detailed receipts for rental of vessels to others under charter, contract, or oral agreement.	2 years after expiration of agreement.
	(d) Periodical statements of unsettled accounts, except trial balance sheets.	Optional.
	(e) Record or index of bills to be issued, with notations of dates of issue	Optional.
45	Real property and equipment records:	
	(a) Deeds and other title papers	Permanent.
	(b) Records and memoranda of the cost or the inventory value of real property and equipment.	Permanent.
	(c) Records and memoranda showing in detail all the items pertaining to expenditures for real property and equipment.	Permanent but only 3 years if transferred to permanent records.
	(d) Records and memoranda pertaining to depreciation, retirements, and replacements of equipment and other property; also historical records of equipment and other property.	Permanent.
	(e) Receipted pay checks, certificates issued for wages, time tickets, and other evidences of payment for services rendered by employees in connection with real property and equipment, if full information concerning the expenditures and the distribution of the charge is shown on payrolls or other records retained according to item 45c.	3 years.
46	Special authorities for expenditures:	
	(a) Estimates and special authorities for expenditures for maintenance and improvements.	Optional if expenditures are detailed in permanent records.
	(b) Detail records and memoranda pertaining to such estimates, if summarized in records covered by item 46a.	Optional.
	CLAIMS	
50	Claim records:	
	(a) Claim registers, card or book indexes, and other records in connection with overcharge, loss and damage, personal injury, fire, and other claims.	6 years.
	(b) Records showing the details of authorities issued to agents, carriers, and others for participation in freight claims.	6 years.
	(c) All papers substantiating overcharge, loss and damage, personal injury, fire, and other claims, whether such papers are filed separately or attached to vouchers. (See item 43b.)	3 years after settlement or rejection.
	(d) Claim jackets if all information thereon appears in records covered by item 50c.	Optional.
51	Claim investigation records:	
	(a) Reports and statements regarding personal injuries, when not necessary to support claims or vouchers.	3 years.
	(b) Tracers, reports, and other records pertaining to unclaimed, over, short, damaged, and refused freight, when not necessary to support claims or vouchers.	1 year.
52	Sales orders incident to disposal of damaged, refused, and unclaimed freight	3 years.
	TRAFFIC	
60	Tariffs and other rate authorities:	
	(a) Tariffs, classifications, division sheets, and related circulars affecting the transportation of persons or property, in the general files of the traffic or other department in which the complete official file is maintained.	2 years after expiration or cancelation.
	(b) Tariffs, classifications, division sheets, and related circulars in other departments and at agencies, if copies of the same issues of such tariffs, etc., are preserved in the general files referred to in item 60a.	Optional after expiration or cancelation.
	(c) Special or reduced rate orders, and supporting papers, covering the movement of passengers.	2 years after expiration or cancelation.
	(d) Requests and receipts from agents and others for tariffs, classifications, division sheets, and related circulars.	Optional.
	(e) Copies of concurrences and powers of attorney filed with the Interstate Commerce Commission and with other regulating bodies.	2 years after cancelation.
	(f) Written requests on carrier from persons and companies for quotations of rates and copies of carrier's quotations.	Optional.
	(g) Authorities for the transportation of property, free or at reduced rates, and supporting papers.	3 years.
	(h) Correspondence and working papers in connection with the making of rates and compilation of tariffs, classifications, division sheets, and related circulars affecting the transportation of persons or property.	3 years after cancelation of tariff, etc.
	TRAFFIC—continued	
61	Diversion of freight:	
	(a) Records pertaining to the diversion or reconsignment of freight	3 years.
	(b) Requests, tracers, and correspondence in connection with diversions or reconsignments.	2 years.
62	Ticket records:	
	(a) Copies of orders on printing houses for ticket stock	2 years.
	(b) Record of ticket stock received, issued, and destroyed	2 years.
	(c) Requisitions and receipts for tickets and cash fare receipts furnished agents, pursers, and stewards.	2 years.
	(d) Used or canceled passenger-fare tickets, chair tickets, stateroom tickets, meal tickets or checks, prepaid orders, exchange checks, and storage checks; the reports of which, showing their sale or issue, have been audited. (See item 80l.)	Optional.
	(e) Unissued or unused tickets if a complete record is kept in accordance with item 62b.	Optional.
	(f) Inventories of tickets in hands of agents	2 years.
	(g) Records and reports of tickets redeemed	2 years.
	PURCHASES AND STORES	
70	Bids, offers, copies of orders and correspondence pertaining to the purchase or sale of material and supplies.	3 years.
71	Material and supplies:	
	(a) Records of material and supplies on hand and detail papers of inventories.	3 years.
	(b) Records and reports of material and supplies received and issued	3 years.
	(c) Requisitions and receipts for material and supplies issued, the totals of which have been transcribed into other records for retention.	1 year.
	TRANSPORTATION	
80	Passes and free tickets:	
	(a) Copies of orders on printing houses for pass stock	1 year.
	(b) Records of pass stock received, distributed, and destroyed	1 year.
	(c) Requests for passes; copies or stubs of requests for passes, and receipts for passes.	3 years.
	(d) Records of passes issued	3 years.
	(e) Records of passes received from other carriers	3 years.
	(f) Stubs of trip passes	3 years.
	(g) Pass identification slips	1 year.
	(h) Records of annual or term passes honored	1 year.
	(i) Trip passes and free passenger-fare tickets collected	1 year.
	(j) Void, unused, and unissued passes	1 year.
	(k) Records of free passenger-fare tickets issued	3 years.
	(l) Pursers' and stewards' reports of passes collected or honored	1 year.
	(m) Reports of trip passes issued	2 years.
81	Pursers' and stewards' reports:	
	(a) Reports of cash collections if transcribed to records covered by Item 34.	Optional.
	(b) Reports of cash collections if not transcribed to records covered by Item 34.	2 years.
	(c) Reports of tickets collected or honored and of passengers carried	2 years.
	(d) Reports of passes collected or honored. (See item 80.)	
	(e) Reports of baggage handled	2 years.
	(f) Reports of freight and other traffic handled	2 years.
	(g) Balance sheets and supporting papers	2 years.
82	Operating department records pertaining to the movement of ships, lighters, and barges.	3 years.
83	Ship records:	
	(a) Ship's log	6 years.
	(b) Ship's articles	6 years.
	(c) Passenger and rooms list	6 years.
	(d) Correspondence in connection with reservations	1 year.
	(e) Accident reports	3 years.
	(f) Pursers' and stewards' berth and chair checks	Optional.
	AGENCIES	
90	Freight records:	
	(a) Reports of freight forwarded and received	3 years.
	(b) Transfer records of freight received from and delivered to connecting carriers.	3 years.
	(c) Records of freight received and freight delivered	3 years.

Item	Description of records, etc.	Period to be retained
	AGENCIES—continued	
91	Freight waybills and freight bills:	
	(a) Original local waybills and freight bills, and audited copies thereof	2 years.
	(b) Original interline waybills and freight bills received from other carriers	2 years.
	(c) Copies of all interline waybills and freight bills made to other carriers	2 years.
	(d) Copies of interline waybills moving between points on other lines to which the carrier is intermediate	2 years.
	(e) Reports of undercharges and overcharges (correction notices)	2 years.
	(f) Company freight waybills	2 years.
	(g) Copies of waybills and freight bills furnished to joint traffic associations, bureaus, and similar agencies, if such copies contain no information other than that appearing on the original waybills and freight bills or in other records	Optional.
	(h) Memoranda on slips on which are listed waybills and freight bills sent to the audit office, if such memoranda or slips are not used in auditing the accounts	Optional.
92	Bills of lading and releases:	
	(a) Copies of bills of lading	2 years.
	(b) Shippers' order-notify bills of lading taken up and canceled	2 years.
	(c) Contracts covering transportation and storage risks of carriers	4 years.
	(d) Shipping tickets	2 years.
	(e) Dray tickets	2 years.
93	Baggage records:	
	(a) Baggage waybills and manifests	2 years.
	(b) Records of baggage handled	2 years.
	(c) Used and canceled baggage checks (not excess baggage)	Optional.
	(d) Excess baggage checks (including c.o.d.), excess baggage book coupons, and excess baggage permits; the reports of which have been audited	Optional.
	(e) Record of baggage check stock received, issued, or destroyed	2 years.
	(f) Unused baggage checks, if record is kept in accordance with item 93e	Optional.
	(g) Receipts from agents, pursers, stewards, baggage masters, and others; for valuable letters and packages	Optional.
94	Agents' reports:	
	(a) Reports of ticket sales	2 years.
	(b) Baggage reports	2 years.
	(c) Reports of miscellaneous collections	2 years.
95	Remittances: Agents', pursers', and stewards' remittance slips, bank deposit slips, and supporting papers, not provided for elsewhere	2 years.
96	Agents' balance sheets and supporting papers	3 years.
97	Other records at stations, wharf offices, pursers' and stewards' offices, and other agencies:	
	(a) Cash books	6 years.
	(b) All others	3 years.
98	Instructions to agents and others:	
	(a) Books and circulars of instructions to agents and others in the general file of the department in which the complete official file is maintained	3 years after expiration or cancelation.
	(b) Surplus copies of books and circulars of instructions and copies in other departments and at agencies, if copies of the same issues are preserved in the general file referred to in item 98a	Optional.
99	Duplicate copies of reports, records, and documents retained in agency files, the retention of which is not provided for elsewhere	Optional.
	STATISTICS	
100	Reports to Interstate Commerce Commission and other regulating bodies:	
	(a) Annual financial, operating, and statistical reports, file copies of, and supporting records and papers. NOTE: If the figures for the above-mentioned reports are assembled on memorandum sheets, such sheets constitute a part of the supporting papers and should be retained accordingly	6 years.
	(b) Periodical reports of operating revenues, expenses, and income, file copies of, and supporting records and papers	3 years.
	(c) Accident reports, file copies of, and supporting records and papers	3 years.
101	Annual reports or statements to stockholders, file copies of	Permanent.
102	Statistical statements, statistical records, and supporting papers showing tonnage, revenues, and expenses not covered by item 100	3 years.
103	Reports of tonnage, revenue, and receipts used only for preparing statements of estimated revenues or expenses or the movement of traffic	Optional.
104	Tabulating cards used in the compilation of statistics and other data, when the results are transcribed to other records covered by these regulations	1 year.
111	Audit reports of public accountants	3 years.
112	Duplicate copies of records and documents listed in these regulations, if all information on such duplicates is contained on the originals or other copies retained	Optional.
113	Records of employees, including applications for employment, reports and certificates of examinations, service records, efficiency tests, employees' rosters, and other similar records	1 year.
114	Provident department records, such as employees' relief, hospital, insurance, and savings departments, other than records pertaining to the receipt and disbursement of funds. NOTE: The records pertaining to the receipt and disbursement of funds must be retained for the same periods as are provided for similar records in item 19b	1 year.
115	Data relating to records destroyed	Permanent.
116	Correspondence and records thereof relating to the subjects listed in these regulations, not otherwise provided for	For the period prescribed for the record to which the correspondence relates.

PART 1228—FREIGHT FORWARDERS

Sec.

1228.1 Introduction.
1228.2 Authority to destroy records.
1228.3 Photographic copies.
1228.4 Supervision of destruction.
1228.5 List of records destroyed.
1228.6 Freight forwarder going out of business.
1228.7 Waivers of requirements of these regulations.
1228.8 Prescribed periods of retention.

AUTHORITY: The provisions of this Part 1228 issued under secs. 408, 412, 56 Stat. 285, as amended, 294, as amended; 49 U.S.C. 1008, 1012, unless otherwise noted.

§ 1228.1 Introduction.

The following regulations specify the records and documents which may be destroyed and prescribe the length of time the same shall be preserved, but mention of a record or document hereinafter imposes no requirement that such record shall be installed if its purpose is otherwise being adequately served. Nothing contained in the regulations of this part shall be construed to excuse noncompliance with requirements of any other governmental body, Federal or State, prescribing longer retention periods for any category of records.

§ 1228.2 Authority to destroy records.

Freight forwarders subject to the regulations of this part may destroy records or documents named or described in these regulations after they have been preserved for the periods of time herein prescribed.

§ 1228.3 Photographic copies.

(a) All records and documents must be preserved in their original form for the periods specified in the "Schedule of Records" unless the records and documents are suitably photographed and the microfilm is retained in lieu of the original record for the required retention period, subject to the limitations indicated below. A "Microfilm Indicator" has been added to the "Schedule of Records" to show when microfilms may be substituted for retention of the original record. In the absence of an indicator, microfilms may not be substituted for the original records unless a waiver is granted pursuant to § 1228.7.

(b) An explanation of the symbols used as the microfilm indicators follows:

"M" (for Microfilm) indicates that microfilms may be substituted for retention of the original records at any time.

"M–1", "M–2", etc., indicates that microfilms may be substituted for retention of the original records only after the original records have been retained in their original form for the number of years corresponding to the numeral.

"ME" (for Microfilm and for Expiration) indicates that microfilms may be substituted for retention of the original records only for the period subsequent to the expiration, cancellation, supersedure, or other condition shown in the column for "Retention periods" in the "Schedule of Records." Thus, for item A–3(b) microfilms are not acceptable as a substitute for the contracts until they have expired or have been cancelled. At that time microfilms may be substituted for the original contracts for the required 3 years after the expiration or cancellation.

(c) To be acceptable in lieu of original records, photographic copies of records must meet the following minimum requirements:

(1) Photographic copies shall be no less readily accessible than the original record or document as normally filed or preserved would be, and suitable means or facilities shall be available to locate, identify, read or reproduce such photographic copies.

(2) Any significant characteristic, feature, or other attribute of the original record or document, which photography in black and white will not preserve, shall be clearly indicated before the photograph is made.

(3) The reverse side of printed forms need not be copied if nothing has been added to the printed matter common to all such forms, but an identified specimen of such form shall be on the film for reference.

(4) Film used for photographing copies shall be of permanent record type meeting in all respects the minimum specifications of the National Bureau of Standards, and all processes recommended by the manufacturer shall be observed to protect it from deterioration or accidental destruction.

(5) Each roll of film shall include a microfilm of a certificate or certificates stating that the photographs are direct and facsimile reproductions of the original records and that they have been made in accordance with prescribed instructions. Such certificate or certificates shall be executed by a person or persons having personal knowledge of the facts covered thereby.

§ 1228.4 Supervision of destruction.

(a) Immediately upon the effective date of these regulations, each freight forwarder subject thereto shall appoint an officer or other supervisory employee to be responsible for the destruction of records and documents. Such appointment shall be by formal corporate act of the board of directors or its executive committee. Designation may be made by title only, rather than by name and title, and thus obviate the necessity for a new resolution or order each time a successor is appointed. An existing appointment in conformity with the procedure indicated herein which was made under prior regulations shall be recognized as being in compliance with the regulations of this part.

(b) If the property of a freight forwarded subject to these regulations is in the hands of a trustee, executor, administrator, or assignee, the officer or other employee to have responsibility for the destruction of records and documents shall be designated by such trustee, executor, administrator, or assignee.

(c) It is not required that a copy of the resolution or order of appointment be filed with the Commission.

§ 1228.5 List of records destroyed.

(a) The officer or responsible employee shall maintain a comprehensive list describing all records and document which have been destroyed pursuant to the regulations of this part. The list so maintained shall include all records and documents destroyed, including microfilms destroyed. This list shall include form numbers and descriptive title (or descriptions) of the records destroyed and the periods covered.

(b) The list so maintained shall be available for inspection in the office of the responsible officer or employee and shall be in such detail that the destroyed records or documents may be identified and the time, place, and method of destruction can be established. If the destruction is by accident or at the hand of an unauthorized person not subject to the freight forwarder's control, then the list shall include a statement of the relevant circumstances.

§ 1228.6 Freight forwarder going out of business.

The records and documents herein referred to may be destroyed after business is discontinued and the freight forwarder is completely liquidated. The records may not be destroyed until dissolution is final and all transactions are completed. When a freight forwarder is merged with another regulated company, the successor company shall preserve records and documents of the merged company in the manner and for the retention periods prescribed herein.

§ 1228.7 Waivers of requirements of these regulations.

A waiver from any provision of these regulations may be made by the Commission upon its own initiative or upon submission of a written request therefor by any freight forwarder. Each request for waiver shall demonstrate that unusual circumstances warrant a departure from prescribed retention periods, procedures, or techniques or that compliance with such prescribed requirements would impose an unreasonable burden upon the freight forwarder, and that the granting of the waiver would be in the public interest.

§ 1228.8 Prescribed periods of retention.

The following is a list showing category of records and documents, the retention periods, and the microfilm indicators. The microfilm indicator is explained in § 1228.3.

SCHEDULE OF RECORDS

Item number and category of records	Retention periods	Microfilm indicator (§ 1228.3)
A. ADMINISTRATIVE AND CORPORATE		
1. Incorporation and reorganization:		
(a) Charter or certificate of incorporation and amendments thereto	Permanently	
(b) Legal documents in connection with mergers, consolidations, reorganization, receiverships and similar actions which affect the identity or organization of the company	do	M–6.
2. Titles, franchises, and licenses:		
(a) Certificates of public convenience and necessity issued by regulating bodies	Until expiration or cancellation	
(b) Copies of formal orders of regulatory bodies served upon the freight forwarder	1 year after expiration or cancellation	ME.
(c) Operating authorizations and exemptions to operate issued by regulating bodies	Until expiration or cancellation	
(d) Deeds and other title papers	3 years after disposition of property	ME.
3. Contracts and agreements (see also other pertinent categories):		
(a) Service contracts, such as for operational management, accounting, financial or legal service, or for rental or lease of property or equipment, or records of such contracts, leases or agreements	3 years after expiration or cancellation	ME.
(b) Contracts with other carriers for interchange or joint use of property	do	ME.
(c) Complete files and related papers of contracts entered into by competitive bidding under the provisions of Section 10 of the Clayton Antitrust Act	Shall not be broken up or destroyed without specific written authority.	
4. Corporate elections:		
(a) Proxies of holders of voting securities	3 years	M–2.
(b) Lists of holders of voting securities represented at meetings	do	M–2.
(c) Ballots cast and tabulations of votes	do	M–2.
(d) Judges' reports of election results	do	M–6.
5. Minutes of meetings of stockholders, directors, executive or other directors' committees, or other meetings	Permanently	
6. Communications code and cipher books	Until 2 years after change	ME.
B. TREASURY		
1. Capital stock records:		
(a) Detailed capital stock journals, ledgers or their equivalents	Permanently	M–6.
(b) Capital stock certificates, stubs or similar records of. NOTE: If the information shown on the stubs is recorded in permanent records, the stubs are required to be retained only for a period of 3 years	do	M–6.
(c) Subscription notices and requests for allotment	3 years	M.
(d) Stock transfer registers	Permanently	M–3.
(e) Papers pertaining to or supporting transfers of capital stock	3 years	M.
(f) Cancelled capital stock certificates	do	M.
2. Bond or other long-term debt records:		
(a) Bond indentures, underwriting, mortgage, and other long-term credit agreements	Permanently	M–6.
(b) Bond or other long-term debt detailed journals, vouchers and ledgers or their equivalents	3 years after redemption	ME.
(c) Stubs or similar records of bonds or other long-term debt issued. NOTE: If the information shown on the stubs is recorded in permanent records, the stubs are required to be retained only for a period of three years	Permanently	M–6.
(d) Subscription notices and requests for allotment	3 years	M.
(e) Records of interest paid and unpaid	do	M.
(f) Papers pertaining to or supporting transfer of bonds	do	M.
(g) Cancelled bonds, mortgages, notes or other long-term debt, and interest coupons	do	M.
3. Authorization from regulatory bodies for issuance of securities including applications, reports and supporting papers	1 year after expiration	ME.

SCHEDULE OF RECORDS—Continued

Item number and category of records	Retention periods	Microfilm indicator (§ 1228.3)
B. TREASURY—continued		
4. Copies of registration statements and other data filed with the Securities and Exchange Commission and supporting papers in connection with offerings of securities for sale to the public or the listing of securities on exchange.	6 years	M-8.
5. Records of securities owned or held by custodians, detailed ledgers and journals, or their equivalents.	2 years after the related securities are sold, redeemed or otherwise disposed of.	ME.
6. Statements of funds and deposits:		
(a) Statements from depositaries on funds received, disbursed and transferred.	3 years	M.
(b) Authorization for transfer of funds from one depositary to another.	1 year after expiration	ME.
(c) Periodical statements of the receipt and disbursement of funds.	1 year	M.
(d) Bank deposit books, stubs, ledgers, or records of checks, and copies of deposit slips.	3 years	
(e) Bank reconciliations; checks cancelled by banks; checks, drafts, etc., issued and not presented.	do	M-2.
(f) Records pertaining to verification of treasurers' cash or securities.	3 years for records of cash; 3 years after disposition of securities	M. ME.
C. FINANCIAL ACCOUNTING RECORDS		
1. Ledgers:		
(a) General and subsidiary ledgers and indexes thereto	Permanently	M-10.
(b) Balance sheets and trial balance sheets of general and subsidiary ledgers.	5 years	M-3.
2. Journals (except as otherwise provided herein):		
(a) General journals	Permanently	M-4.
(b) Subsidiary journals and any supporting papers necessary to explain journal entries.	10 years	M-4.
(c) Schedules of recurring or standard journal entries and entry numbers.	Until superseded	
3. General and subsidiary cash books, except cash books at agencies provided for under item H-5.	Permanently	M-4.
4. Voucher distribution registers or their equivalent	10 years	M-4.
5. Vouchers:		
(a) Voucher indexes	3 years	M.
(b) Vouchers, expenditure authorizations, detailed distribution sheets and other supporting papers, including original bills and invoices, except as otherwise provided herein.	6 years	M-2.
(c) Receipts for cash paid out	3 years	M-2.
(d) Reports of drafts issued by claim agents, terminal and station agents, and others.	1 year	
6. Accounts receivables and payables:		
(a) Traffic accounts receivable or payable, detailed journals and ledgers or their equivalents, with supporting papers.	4 years	M-3.
(b) General accounts receivable or payable, detailed journals and ledgers or their equivalents, together with supporting papers.	do	M-3.
(c) Bills issued for collection and supporting papers	2 years after settlement	ME.
7. Statements of receipts, disbursements, and balances of working or petty cash funds in hands of employee-custodians and supporting papers.	3 years	M.
8. Uncollectible accounts:		
(a) Reports and statements showing age and status of accounts receivable.	1 year	M.
(b) Authorization for writing off accounts receivable	do	M.
D. PAYROLLS AND PERSONNEL		
1. Payroll records:		
(a) Payroll sheets, registers, or their equivalents, of salaries and wages paid to individual officers and employees.	3 years. See § 1228.1	M-2.
(b) Records showing the distribution to accounts and jobs of the salaries and wages paid to officers and employees for each periodic payroll and summaries or recapitulation statements of such distribution.	3 years	M-2.

SCHEDULE OF RECORDS—Continued

Item number and category of records	Retention periods	Microfilm indicator (§ 1228.3)
D. PAYROLLS AND PERSONNEL—continued		
1. Payroll records—continued		
(c) Original source documents used in the preparation of payrolls such as time and attendance cards or job and cost distribution cards.	do	M.
(d) Payroll authorizations, removals and adjustment notices.	1 year	
(e) Paid checks, receipts for wages paid in cash, and other evidence of payments for services rendered by employees.	3 years	M.
2. Personnel records:		
(a) Applications for employment, qualification records, service records, reports and certificates of physical examinations, efficiency tests, and similar records.	1 year after termination of service	ME.
(b) Contracts and agreements with employees or employee organizations or groups.	1 year after expiration or cancellation	ME.
(c) Employees' welfare and pension records including records on employees' relief, health and insurance, savings, and workmen's compensation accident reports.	3 years	M-1.
E. EQUIPMENT AND OTHER PROPERTY		
1. Records, reports, statements and supporting papers, pertaining to debits and credits to accounts showing the cost or inventory value of property or equipment. Included in supporting papers would be job or work orders, maps, profiles, specifications, estimates, engineering studies, construction bids, and similar records.	3 years after sale or retirement	ME.
2. Records and memoranda pertaining to depreciation, retirements, and replacements of property.	do	ME.
3. Contracts and other agreements relating to the construction, acquisition, or sale of property and equipment, except as provided in item A-3(c).	do	ME.
F. PURCHASES AND STORES		
1. Records of materials and supplies on hand and detail papers of inventories taken.	3 years	M-2.
2. Bids, offers, copies of orders and correspondence pertaining to the sale or purchase of materials and supplies, except as specified in item A-3(c).	do	M-1.
3. Materials and supplies received and issued:		
(a) Records and reports of materials and supplies received and issued.	do	M-1.
(b) Requisitions and receipts for materials and supplies issued, totals of which have been transcribed into other records for retention.	1 year	M.
G. INSURANCE, TAXES AND CLAIMS		
1. Insurance records:		
(a) Registers, cards, or other records of insurance policies in force showing coverage, premiums paid, good experience credits and expiration dates.	3 years after policy expires	ME.
(b) Records of self-insurance provisions and actual losses from damages to persons and property.	3 years	M-2.
(c) Insurance policies	2 years after expiration	ME.
(d) Records of losses and recoveries from insurance companies and supporting papers.	3 years after settlement	ME.
(e) Records and files of fidelity bonds of employees and others responsible for funds of the freight forwarder.	1 year after expiration of bonds	ME.
2. Tax records:		
(a) Copies of schedules and returns to taxing authorities and supporting working papers, records of appeals, and copies of final determination in form of closing agreements.	3 years after final settlement	ME.
(b) Copies of schedules and returns to taxing authorities and supporting working papers in connection with taxes collected as agent.	3 years after settlement	ME.

SCHEDULE OF RECORDS—Continued

Item number and category of records	Retention periods	Microfilm indicator (§ 1228.3)
G. INSURANCE, TAXES AND CLAIMS—continued		
3. Claims records:		
(a) Claims registers, card or book indexes and other records in connection with the recording of overcharge, loss and damage, personal injury, fire, and other claims.	do	ME.
(b) All papers substantiating overcharge, loss and damage, personal injury, fire, and other claims, whether such papers are filed separately or attached to vouchers. See item C-5(b).	do	ME.
(c) Records showing the details of authorities issued to agents, carriers, and others for participation in freight claims.	do	ME.
(d) Reports, statements and other records pertaining to personal injuries, or damage to property in transit, when not necessary to support claims or vouchers.	do	ME.
(e) Reports, statements, tracers, and other records pertaining to unclaimed, over, short, damaged, and refused freight, when not necessary to support claims or vouchers.	1 year	M.
(f) Authorities for disposal of unclaimed, damaged, and refused freight.	3 years	M-1.
H. SHIPPING AND AGENCY DOCUMENTS		
1. Shipping documents: Consignors' shipping orders, shipping tickets, pick-up receipts, delivery receipts, copies of bills of lading and order-notify bills of lading taken up and cancelled, freight bills received from others, and other similar documents furnished to carriers for movement of freight; original local waybills and freight bills and certified copies thereof and company freight waybills, freight bills and cargo manifests; original underlying waybills, freight bills, and airway bills received from carriers, copies of those made to carriers, and copies of those issued to shippers.	do	M-3.
2. Contracts covering risks of freight forwarders in transportation and storage.	2 years after expiration	ME.
3. Freight waybills and freight bills: Copies of waybills and freight bills furnished to joint traffic associations, bureaus, and similar agencies, if such copies contain no information other than that appearing on the original waybills and freight bills or in other records.	1 year	M.
4. Freight records and reports:		
(a) Reports and records of freight received, forwarded, transferred, delivered to carriers, and records of diversion or reconsignment of freight including requests, tracers, and correspondence in connection therewith.	2 years	
(b) Records of joint-loaded shipments showing	do	
(1) Identity of all participating forwarders.		
(2) Total poundage of the joint shipment.		
(3) Poundage contributed by reporting forwarder.		
(4) Name of carrier transporting the shipment.		
(5) Amount of charges by the direct carrier on the total shipment, for transportation and other services.		
(6) Amount of such charges paid by reporting forwarder.		
5. Agents' remittance slips, bank deposit slips and all supporting papers not provided for elsewhere.	3 years	M-2.
6. Agents' balance sheets and supporting papers	do	M-2.
7. Miscellaneous records pertaining to agents' accounts:	do	M-2.
(a) General office records or ledgers of agents' accounts showing debits and credits from various sources.		
(b) General office records relating to extension of credit for transportation and other charges.	2 years after discontinuance of credit agreement.	ME.
(c) Statements of corrections in agents' accounts	3 years	M-2.

SCHEDULE OF RECORDS—Continued

Item number and category of records	Retention periods	Microfilm indicator (§ 1228.3)
H. SHIPPING AND AGENCY DOCUMENTS—continued		
8. Instructions to agents and representatives—bulletins and circulars of instructions to traffic agents and soliciting personnel.	3 years after expiration or cancellation	ME.
9. Information to the public—press releases, paid advertisements, pamphlets, brochures, circulars, and bulletins.	1 year	
10. Other agency records at stations or agencies not otherwise provided for herein.	3 years	M-2.
I. TARIFFS AND RATES		
1. Tariffs, classifications, division sheets, and circulars relative to the transportation of property in the general files of the department in which the complete official file is maintained.	3 years after expiration or cancellation	ME.
2. Tariffs, classifications, division sheets, and circulars in other departments and at agencies, if copies of the same issues of such tariffs, etc., are preserved in the general files referred to in item 1 above.	Until expiration or cancellation	
3. Special or reduced-rate orders and supporting papers, covering the movement of property.	3 years	M-1.
4. Requests and receipts from agents and others for tariffs, classifications, division sheets, and circulars.	Optional	
5. Copies of concurrences and powers of attorney filed with regulatory bodies.	2 years after expiration or cancellation	ME.
6. Written requests on freight forwarders from persons and companies for quotations of rates and copies of freight forwarder's quotations.	Optional	
7. Correspondence and working papers in connection with the making of rates and compilation of tariffs, classifications, division sheets, and circulars affecting the transportation of property.	3 years after cancellation or expiration of tariff.	ME.
J. REPORTS AND RELATED STATISTICS		
1. Annual reports to regulatory bodies, file copies of	10 years	M-6.
2. Quarterly and semi-annual reports to regulatory bodies, file copies of, and supporting papers.	3 years	M.
3. Annual reports or statements to stockholders, file copies of.	Permanently	M-6.
4. Accountants' and auditors' reports:		
(a) Certifications and reports of all examinations and audits conducted by public and certified public accountants.	3 years	M-1.
(b) Reports of examinations and audits conducted by internal auditors and others.	do	M-1.
5. Accident reports, file copies of, and supporting papers	do	M-1.
6. All other financial, operating and statistical statements or reports and supporting papers.	do	M.
7. Tabulating cards, tapes, and other media used in the compilation of statistics and other data when the results are transcribed to other records covered by these regulations.	Until appropriate summaries have been made.	
K. MISCELLANEOUS		
1. Correspondence and records thereof pertaining to the items listed herein.	Same period prescribed for the items to which related.	As may be permitted for items to which related.
2. Duplicate copies of accounts, records, and memoranda listed in these regulations, if all information on such duplicates is contained on the originals or other copies retained, and if such duplicates are not specifically provided for in these regulations.	Optional	
3. Written authorizations and certificates of destruction of accounts, records, and memoranda required by the regulations.	Permanently	M-2.
4. Organization manuals, handbooks, circulars and other instructions issued to employees on matters pertaining to the business of the freight forwarder.	3 years after expiration or cancellation	ME.

INDEX TO RECORDS

A—Administrative and corporate:
1. Incorporation and reorganization.
2. Titles, franchises and licenses.
3. Contracts and agreements.
4. Corporate elections.
5. Minutes of meetings.
6. Communications code and cipher books.

B—Treasury:
1. Capital stock records.
2. Bond or other long-term debt records.
3. Authorization from regulatory bodies for issuance of securities.
4. Registration statements filed with SEC.
5. Records of securities owned or held by custodians.
6. Statements of funds and deposits.

C—Financial accounting records:
1. Ledgers.
2. Journals.
3. General and subsidiary cash books.
4. Voucher distribution registers.
5. Vouchers.
6. Accounts receivables and payables.
7. Working or petty cash funds.
8. Uncollectible accounts.

D—Payrolls and personnel:
1. Payroll records.
2. Personnel records.

E—Equipment and other property:
1. Records, reports and statements showing cost or inventory value.
2. Records and memoranda pertaining to depreciation, retirements and replacements.
3. Contracts and agreements relating to construction, acquisition or sale.

F—Purchases and stores:
1. Records of materials and supplies inventory.
2. Bids, offers and orders pertaining to sale or purchase of materials and supplies.
3. Materials and supplies received and issued.

G—Insurance, taxes and claims:
1. Insurance records.
2. Tax records.
3. Claims records.

H—Shipping and agency documents:
1. Shipping documents.
2. Contracts covering risks in transportation and storage.
3. Copies of waybills and freight bills.
4. Freight records and reports.
5. Agents' remittance slips and bank deposit slips.
6. Agents' balance sheets.
7. Miscellaneous records pertaining to agents' accounts.
8. Instructions to agents and representatives.
9. Information to the public.
10. Other agency records.

I—Tariffs and rates:
1. Tariffs and classifications—originals.
2. Tariffs and classifications—duplicates.
3. Special or reduced-rate orders.
4. Requests and receipts for tariffs and classifications.
5. Concurrences and powers of attorney.
6. Written requests for quotations and copies of quotations.
7. Correspondence and working papers in connection with tariffs.

J—Reports and related statistics:
1. Annual reports to regulatory bodies.
2. Quarterly and semi-annual reports to regulatory bodies.
3. Annual reports or statements to stockholders.
4. Accountants' and auditors' reports.
5. Accident reports.
6. Other financial and statistical statements.
7. Tabulating cards, tapes and other media.

K—Miscellaneous:
1. Correspondence relating to records.
2. Duplicate copies of records.
3. Authorizations and certificates for destruction of records.
4. Organization manuals.

PARTS 1240–1259—REPORTS

NOTE: The report forms prescribed by Parts 1241–1259 are available upon request from the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

PART 1240—CLASSES OF CARRIERS

Subpart A—Railroads

Sec.
1240.1 Classification of Rail Carriers.

Subpart B—Carriers by Water

1240.2 Classification of Carriers by Water.

Subpart C—Carriers by Electric Railway

1240.3 Classification of Carriers by Electric Railway.

Subpart D—Motor Carriers

1240.4 Classification of Motor Carriers of Passengers.
1240.5 Classification of Motor Carriers of Property.

Subpart E—Freight Forwarders

1240.6 Classification of Freight Forwarders.

Subpart A—Railroads

§ 1240.1 Classification of rail carriers.

(a) For the purposes of annual, other periodical, and special reports, commencing with reports for the year, quarter or month beginning January 1, 1965, and thereafter until further order, operating carriers by railroad subject to the provisions of Part I of the Interstate Commerce Act shall be, and they are hereby, divided into two general classes designated respectively as class I and class II. Class I shall include all carriers having annual operating revenues of $5,000,000 or more; and class II, all carriers having annual operating revenue less than $5,000,000.

(b) In applying this classification to any switching or terminal company which is operated as a joint facility of owning or tenant railways, the sum of the annual railway operating revenues, the joint facility rent income, and the returns to joint facility credit accounts in operating expenses, shall be used in determining its class.

(c) Beginning with the calendar year 1956, the classification of operating railroads shall be based on the average annual operating revenues for the 3-year period ended with the calendar year 1955; and, subsequently, if at the close of any calendar year the average of the annual operating revenues for the latest 3-year period is greater or less than the amount applicable to the class in which the carrier has been reporting, its class for the second succeeding year shall change accordingly and shall remain in such class for a period of not less than three consecutive years; *Provided*, That: (1) Carriers which have operated for a period less than three calendar years shall be classified upon the basis of the average amount of their annual operating revenues for the latest period of such operation; (2) newly organized carriers which commence operations for revenue subsequent to January 1, 1956, shall be assigned to classes, as above defined, on the basis of their operating revenues known or estimated for a year; (3) nothing contained in this order shall prevent changes in the assignment of carriers to classes on the part of the Commission deemed to be warranted by special conditions; and (4) carriers shall within 60 days after the close of a calendar year notify the Commission's Bureau of Accounts when a change in classification has taken place.

(Sec. 12, 24 Stat. 383, as amended; 49 U. S. C. 12. Interprets or applies sec. 20, 24 Stat. 386, as amended; 49 U. S. C. 20)

Subpart B—Carriers by Water

§ 1240.2 Classification of carriers by water.

(a) For the purpose of annual, other periodical, and special reports, carriers by water subject to the provisions of the Interstate Commerce Act shall be, and they hereby are, divided into three general classes, designated respectively as Class A, Class B, and Class C. Class A shall include all carriers having annual operating revenues exceeding $500,000; Class B, all carriers having annual operating revenues exceeding $100,000 but not more than $500,000; and Class C, all carriers having annual operating revenues of $100,000 or less.

(b) For the calendar year 1946 the classification of carriers by water in paragraph (a) of this section shall be based on the average annual operating revenues for the 3-year period ended with the calendar year 1945; and subsequently, if at the close of any calendar year the average of the annual revenues for the latest 3-year period is greater or less than the amount applicable to the class in which the carrier has been reporting, its class for the next succeeding year shall change accordingly: *Provided*, That carriers which have operated for a period less than three calendar years shall be classified upon the basis of the average amount of their annual revenues, for the latest period of such operation: *And provided*, That newly organized carriers which commence operations for revenue subsequently to the effective date of this order (January 1, 1946), shall be assigned to classes as above defined, on the basis of their operating revenues known or estimated, for a year: *And provided*, That nothing contained in this order shall prevent changes in the assignment of carriers to classes on the part of the Commission deemed to be warranted by special conditions: *And provided further*, That carriers shall within 30 days after the close of a calendar year notify the Commission's Bureau of Accounts when a change of classification has taken place.

(Sec. 12, 24 Stat. 383, as amended, 54 Stat. 933; 49 U. S. C. 12, 904. Interprets or applies sec. 20, 24 Stat. 386, as amended, 54 Stat. 944; 49 U. S. C. 20, 913)

Subpart C—Carriers by Electric Railway

§ 1240.3 Classification of carriers by electric railway.

(a) For the purpose of annual, other periodical, and special reports, carriers by electric railway subject to the provisions of the Interstate Commerce Act shall be, and they hereby are, divided into three general classes, designated respectively as Class I, Class II, and Class III. Class I shall include all carriers having annual operating revenues exceeding $1,000,000; Class II, all carriers having annual operating revenues exceeding $250,000 but not more than $1,000,000; and Class III, all carriers having annual operating revenues of $250,000 or less.

(b) For the calendar year 1947 the classification of carriers by electric railway in paragraph (a) of this section shall be based on the average annual operating revenues for the 3-year period ended with the calendar year 1946; and, subsequently, if at the close of any calendar year the average of the annual revenues for the latest 3-year period is greater or less than the amount applicable to the class in which the carrier has been reporting, its class for the next succeeding year shall change accordingly: *Provided*, That carriers which have operated for a period less than three calendar years shall be classified upon the basis of the average amount of their annual revenues, for the latest period of such operation: *And provided*, That newly organized carriers which commence operations for revenue subsequently to the effective date of this order (January 1, 1947), shall be assigned to classes, as above defined, on the bases of their operating revenues, known or estimated, for a year: *And provided*, That nothing contained in this order shall prevent changes in the assignment of carriers to classes on the part of the Commission deemed to be warranted by special conditions: *And, provided further*, That carriers shall within 30 days after the close of a calendar year notify the Commission's Bureau of Accounts when a change of classification has taken place.

(Sec. 12, 24 Stat. 383, as amended; 49 U. S. C. 12. Interprets or applies sec. 20, 24 Stat. 386, as amended; 49 U.S.C. 20)

Subpart D—Motor Carriers

§ 1240.4 Classification of motor carriers of passengers.

(a) For purposes of the accounting regulations common and contract carriers of passengers subject to the Interstate Commerce Act are grouped into the following three classes:

Class I. Carriers having average gross operating revenues (including interstate and intrastate) of $200,000 or over annually, from passenger motor carrier operations.

Class II. Carriers having average gross operating revenues (including interstate and intrastate) of $50,000 or over, but under $200,000 annually, from passenger motor carrier operations.

Class III. Carriers having average gross operating revenues (including interstate and intrastate) of less than $50,000 annually, from passenger motor carrier operations.

(b) Class I carriers shall keep all the accounts prescribed in this part, where applicable. Separate systems of accounts will be prescribed for Class II and Class III carriers.

(c) The class to which any carrier belongs shall be determined by the average of its annual gross operating revenues derived from motor carrier operations for the 3 calendar years immediately preceding the effective date of this system of accounts. If, at the end of any calendar year following the effective date of this system of accounts, the average of its annual gross operating revenues from motor carrier operations for the 3 preceding years is greater than the maximum or less than the minimum for the class in which the carrier has been grouped, it shall automatically be grouped in the higher or lower class in which it falls because of such increased or decreased average annual gross operating revenues. Any carrier which begins new operations or extends its existing operations subsequent to the effective date of this system of accounts may be classified in accordance with a reasonable estimate of its prospective annual gross operating revenues.

(d) Any carrier may, at its option, place itself in any group higher than the one in which it falls on the basis of its average annual gross operating revenues. Notice of such action shall be promptly filed with the Commission.

(Secs. 204, 220, 49 Stat. 546, as amended, 563, as amended 49 U.S.C. 304, 320)

§ 1240.5 Classification of motor carriers of property.

(a) For purposes of the accounting regulations common and contract carriers of property subject to the Interstate Commerce Act are grouped into the following three classes:

Class I: Carriers having average annual gross operating revenues (including interstate and intrastate) of $1,000,000 or more from property motor carrier operations.

Class II: Carriers having average annual gross operating revenues (including interstate and intrastate) of $200,000, but less than $1,000,000, from property motor carrier operations.

Class III: Carriers having average annual gross operating revenues (including interstate and intrastate) of less than $200,000 from property motor carrier operations.

(b) The class to which any carrier belongs shall be determined by the average of its annual gross operating revenues derived from motor carrier operations as a property carrier for the three calendar years immediately preceding the effective date of this system of accounts. If, at the end of any subsequent calendar year, the average of a carrier's annual gross operating revenues from motor carrier operations for the last three preceding years is greater than the maximum or less than the minimum for the class in which the carrier has been previously grouped, it shall automatically be grouped in the higher or lower class in which it falls because of such increased or decreased average annual gross operating revenues, and it shall notify the Commission of the change in its status. Any carrier which begins new operations or extends its existing operations subsequent to the effective date of this system of accounts will be classified in accordance with a reasonable estimate of its prospective annual gross operating revenues.

(c) Any carrier may, at its option, place itself in a group higher than the one in which it falls on the basis of its average annual gross operating revenues. Notice of such action shall be promptly filed with the Commission.

(Secs. 204, 220, 49 Stat. 546, as amended, 563, as amended; 49 U.S.C. 304, 320)

Subpart E—Freight Forwarders

§ 1240.6 Classification for freight forwarders.

(a) For the purpose of annual, other periodical, and special reports, freight forwarders subject to the provision of part IV of the Interstate Commerce Act, shall be, and they hereby are, divided into two general classes designated respectively as Class A and Class B. Class A shall include all forwarders having annual gross operating revenues of $100,000 or more; and Class B, all forwarders having annual gross operating revenues less than $100,000.

(b) For the calendar year 1948 the classification of freight forwarders as aforesaid shall be based on the average annual gross operating revenues for the 3-year period ended with the calendar year 1947; and, subsequently, if at the close of any calendar year the average of the annual gross operating revenues for the latest 3-year period is greater or less than the amount applicable to the class in which the forwarder has been reporting, its class for the next succeeding year shall change accordingly; *Provided*, That:

(1) Forwarders which have operated for a period less than three calendar years shall be classified upon the basis of the average amount of their annual gross operating revenues, for the latest period of such operation;

(2) Newly organized forwarders which commence operations for revenue subsequently to the effective date of this order shall be assigned to classes, as above defined, on the basis of their gross operating revenues, known or estimated, for a year;

(3) Nothing contained in this section shall prevent changes in the assignment of forwarders to classes on the part of the Commission deemed to be warranted by special conditions; and

(4) Forwarders shall within 30 days after the close of a calendar year notify the Commission's Bureau of Accounts when a change of classification has taken place.

(Secs. 403, 412, 56 Stat. 285, 294, 49 U.S.C. 1003, 1012)

PART 1241—ANNUAL, SPECIAL OR PERIODICAL REPORTS; CARRIERS SUBJECT TO PART I OF THE INTERSTATE COMMERCE ACT

Sec.
1241.1 Common carriers.
1241.2 Reporting companies defined.
1241.9 Class I Railroads.
1241.11 Form prescribed for class I railroads.
1241.12 Form prescribed for Class II railroads.
1241.13 Form prescribed for lessors to railroads.
1241.21 Annual reports of electric railways.
1241.31 Annual reports of express companies.
1241.41 Sleeping car companies; fiscal period.
1241.52 Carriers by water; quarterly freight and passenger statistics.
1241.61 Annual reports of carriers by pipe line.
1241.62 Carriers by pipe line; quarterly revenue and volume of traffic.
1241.70 Annual reports of refrigerator car lines owned or controlled by railroad companies.
1241.71 Annual reports of persons furnishing cars, other than refrigerator car lines owned or controlled by railroad companies.

AUTHORITY: The provisions of this Part 1241 issued under secs. 12, 20, 24 Stat. 383, 386, sec. 201, 54 Stat. 933, 944; 49 U.S.C. 12, 20, 904, 913, unless otherwise noted.

§ 1241.1 Common carriers.

All common carriers subject to the provisions of Part I of Interstate Commerce Act, as amended, and the owners of all railroads engaged in interstate commerce as therein defined, are hereby required hereafter to file in the office of the Commission on or before the 31st day of March in each year, reports covering the period of 12 months ending with the 31st day of December preceding said date, giving the particulars heretofore called for in the annual reports required by the Commission of said carriers and owners of railroads.

§ 1241.2 Reporting companies defined.

Annual reports of steam railway corporations to the Interstate Commerce Commission relating to periods of time subsequent to June 30, 1916, should be prepared and submitted in accordance with the following rules:

(a) Every common carrier by rail which is required by the act to regulate commerce to file with the Commission any tariff or schedule of rates, fares, or charges, or any concurrence in such tariff or schedule, shall be required to keep operating accounts and to file an annual operating report unless specifically excused by the Commission.

(b) Every railway corporation owning but not operating a railway used in interstate or foreign commerce shall be required to file with the Commission an annual nonoperating report unless relieved therefrom under the provisions of rule following.

(c) Any actually existing inactive corporation coming within the scope of rule given above may be relieved from the requirements of that rule if it has no outstanding stocks or obligations not held by or for its controlling corporation and the controlling corporation reports for the inactive corporation such facts as the Commission may require to be reported.

(d) Reports of a controlling corporation and its controlled corporations must exclude duplications in respect of investments in railway plant and equipment and in respect of securities outstanding.

§ 1241.10 Class I Railroads.

(a) Commencing with reports of transactions occurring on August 1, 1966, and thereafter until further order, each Class I railroad as described in § 1240.1 of this chapter, subject to Part I of the Interstate Commerce Act, shall be required to file with the Interstate Commerce Commission a duplicate copy of any statement to the Securities and Exchange Commission concerning beneficial ownership or change in beneficial ownership of equity securities of any other carrier subject to economic regulation under Parts I, II, and III of the Interstate Commerce Act, or any freight forwarder subject to such regulation under Part IV of said Act, when any such statement is required to be filed with the Securities and Exchange Commission pursuant to section 16(a) of the Securities Exchange Act of 1934, as amended, or regulations thereunder.

(b) Such duplicate copy shall be filed in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before the date specified in the above-designated statute or regulations thereunder.

§ 1241.11 Form prescribed for Class I railroads.

Commencing with reports for the year ended December 31, 1965, and thereafter, until further order, all line-haul and switching and terminal railroad companies of Class I, as described in § 1240.1, viz. of this chapter, all carriers with average annual operating revenues of $5,000,000 or more, subject to the provisions of section 20, Part I of the Interstate Commerce Act, are required to file annual reports in accordance with Railroad Annual Report Form A. Such annual report shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 31, of the year following the year to which it relates.

§ 1241.12 Form prescribed for Class II railroads.

Commencing with reports for the year ended December 31, 1965, and thereafter, until further order, all line-haul and switching and terminal railroad companies of Class II, as described in § 1240.1 of this chapter, viz, all carriers with average annual operating revenues of less than $5 million, subject to the provisions of section 20, Part I of the Interstate Commerce Act, are required to file annual reports in accordance with Railroad Annual Report Form C, which is attached to and made a part of this section. Such annual report shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 31 of the year following the year to which it relates.

§ 1241.13 Form prescribed for lessors to railroads.

Commencing with the year ended December 31, 1964, and for subsequent years thereafter, until further order, all lessors to railroad companies subject to the provisions of section 20, Part I, of the Interstate Commerce Act, are required to file annual reports in accordance with Annual Report Form E, Railroad Lessor Companies, which is attached hereto and made a part of this section. Such annual reports shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 31 of the year following the year to which it relates.

§ 1241.21 Annual reports of electric railways.

Commencing with the year ended December 31, 1964, and for subsequent years thereafter, until further order, all electric railway companies subject to the provisions of section 20, Part I, of the Interstate Commerce Act, are required to file annual reports in accordance with Annual Report Form G (Electric Railways). Such report shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 31 of the year following the year to which it relates.

§ 1241.31 Annual reports of express companies.

Commencing with the year ended December 31, 1963, and for subsequent years thereafter, until further order, all express companies subject to the provisions of section 20, Part I, of the Interstate Commerce Act, are required to file annual reports in accordance with Annual Report Form H (Express Companies). Such report shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 31, of the year following the year to which it relates.

§ 1241.41 Sleeping car companies; fiscal period.

(a) All carriers by sleeping car companies subject to the provisions of the Interstate Commerce Act are required to file an annual report for each calendar year until further order, in accordance with Annual Report Form I (Sleeping Car Companies).

(b) The annual report shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 31, of the year following the one to which it relates.

§ 1241.52 Carriers by water; quarterly freight and passenger statistics.

Commencing with reports for the quarter ending September 30, 1963, and for subsequent quarters thereafter, until further order, all carriers by water, excluding Class C (carriers having average annual operating revenues of $100,000 or less), are required to file quarterly reports of freight revenue, number of tons of revenue freight carried, number of revenue tons carried one mile, passenger revenue, and number of revenue passengers carried, in accordance with Quarterly Report Form QWS (Quarterly Report of Revenue Traffic). Such quarterly report forms shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, within 30 days after the close of the period to which it relates.

§ 1241.61 Annual reports of carriers by pipe line.

Commencing with the year ended December 31, 1964, and for subsequent years thereafter, until further order, all carriers by pipe line subject to the provisions of section 20, Part I of the Interstate Commerce Act, are required to file annual reports in accordance with Annual Report Form P (Carriers by Pipe Line). Such report shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 31 of the year following the year to which it relates.

§ 1241.62 Carriers by pipe line; quarterly revenue and volume of traffic.

(a) Each and every pipe line company subject to the provisions of section 20 of the Interstate Commerce Act, if it has had annual operating revenues of more than $500,000 for the three consecutive calendar years prior to the period for which the report hereinafter mentioned is rendered, shall make a report every three months of its total transportation revenue and total number of barrels of oil originated and received from connections, in accordance with the appropriate quarterly form.

(b) Each said quarterly report shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, within 30 days after the close of the period to which it relates, the first report to be for the three months ended September 30, 1938.

§ 1241.70 Annual reports of refrigerator car lines owned or controlled by railroad companies.

Commencing with reports for the year ended December 31, 1963, and thereafter, until further order, all refrigerator car lines which are operated in interstate commerce subject to the provisions of section 20(6) of the Interstate Commerce Act, 49 U.S.C. 20, and which are owned or controlled by railroad companies, are required to file annual reports in accordance with Anual Report Form B–1 (Annual Reports of Refrigerator Car Lines Owned or Controlled by Railroad Companies). Such report shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 31 of the year following the year to which it relates.

§ 1241.71 Annual reports of persons furnishing cars, other than refrigerator car lines owned or controlled by railroad companies.

Commencing with reports for the year ended December 31, 1961, and thereafter, until further order, all persons furnishing cars to railroads or express companies, other than refrigerator car lines owned or controlled by railroad companies, and owning or operating 10 or more cars, are required to file annual reports in accordance with Form B–2 (Annual Reports of Persons Furnishing Cars, Other than Refrigerator Car Lines Owned or Controlled by Railroad Companies). Such report shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 31 of the year following the year to which it relates.

PART 1242—SEPARATION OF OPERATING EXPENSES BETWEEN FREIGHT AND PASSENGER SERVICES; [1] RAILROADS

Sec.
1242.0 Separation of operating expenses.

GENERAL

1242.01 Expenses directly assigned.
1242.02 Methods.
1242.03 Made by accounting divisions.
1242.04 Special test.
1242.05 Instructions for apportioning.

OPERATING EXPENSES

MAINTENANCE OF WAY AND STRUCTURES

1242.1 Superintendence (account 201).
1242.2 Roadway maintenance; tunnels and subways; bridges, trestles, and culverts; elevated structures; ties; rails; other track material; ballast; track laying and surfacing; and fences, snowsheds, and signs (accounts 202–221).
1242.3 Station and office buildings (account 227).
1242.4 Roadway buildings (account 229).
1242.5 Water stations (account 231).
1242.6 Fuel stations (account 233).
1242.7 Shops and enginehouses (account 235).
1242.8 Grain elevators; storage warehouses; wharves and docks; and coal and ore wharves (accounts 237–243).
1242.9 Communication systems (account 247).
1242.10 Signals and interlockers (account 249).
1242.11 Power plants (account 253).
1242.12 Power-transmission systems; and miscellaneous structures (accounts 257–265).
1242.13 Road property—depreciation; retirements-road, etc. (accounts 266–267).
1242.14 Roadway machines (account 269).
1242.15 Dismantling retired road property (account 270).
1242.16 Small tools and supplies; removing snow, ice, and sand; and public improvements; maintenance (accounts 271–273).
1242.17 Injuries to persons; insurance; stationery and printing; employees health and welfare benefits; and other expenses (accounts 274–277 and 283).
1242.18 Maintaining joint tracks, etc. (accounts 278–279).
1242.19 Right-of-way expenses (account 281).

MAINTENANCE OF EQUIPMENT

1242.20 Superintendence (account 301).
1242.21 Shop machinery (account 302).
1242.22 Power-plant machinery (account 304).
1242.23 Shop and power-plant machinery; depreciation; and dismantling retired shop and power-plant machinery (accounts 305–306).
1242.24 Steam locomotives—repairs (account 308).
1242.25 Other locomotives; repairs (account 311).
1242.26 Freight-train cars; repairs; and passenger-train cars; repairs (accounts 314–317).
1242.27 Floating equipment; repairs (account 323).
1242.28 Work equipment; repairs (account 326).
1242.29 Miscellaneous equipment; repairs (account 328).
1242.30 Dismantling retired equipment (account 329).
1242.31 Retirements; equipment (account 330).
1242.32 Equipment; depreciation (account 331).
1242.33 Injuries to persons; insurance; stationery and printing; employees health and welfare benefits; and other expenses (accounts 332–335 and 339).
1242.34 Joint maintenance of equipment expenses, etc. (accounts 336–337).

TRAFFIC

1242.36 Superintendence; outside agencies; advertising; traffic associations; fast freight lines; industrial and immigration bureaus; insurance; stationery and printing; employees health and welfare benefits; and other expenses (accounts 351–360).

TRANSPORTATION; RAIL LINE

1242.37 Superintendence (account 371).
1242.38 Dispatching trains (account 372).
1242.39 Station employees (account 373).
1242.40 Weighing, inspection, and demurrage bureaus; and coal and ore wharves (accounts 374–375).
1242.41 Station supplies and expenses (account 376).
1242.42 Yardmasters and yard clerks; yard conductors and brakemen; yard switch and signal tenders; and yard enginemen (accounts 377–380).
1242.43 Yard switching fuel (account 382).
1242.44 Yard switching power produced; and purchased (accounts 383–384).
1242.45 Water for yard locomotives (account 385).
1242.46 Lubricants, and other supplies for yard locomotives; enginehouse expenses, yard; and yard supplies and expenses (accounts 386–389).
1242.47 Operating joint yards and terminals, etc. (accounts 390–391).
1242.48 Train enginemen; train fuel; train power purchased (accounts 392–396).
1242.49 Water for train locomotives (account 397).
1242.50 Lubricants for train locomotives; other supplies for train locomotives (accounts 398–399).
1242.51 Enginehouse expenses—train (account 400).
1242.52 Trainmen; and train supplies and expenses (accounts 401–402).

[1] The accounts mentioned in this part refer to and agree with Part 1201 of this chapter.

Sec.
1242.53 Operating sleeping cars (account 403).
1242.54 Signal and interlocker operation; and crossing protection (accounts 404–405).
1242.55 Drawbridge operation (account 406).
1242.56 Communication system operation (account 407).
1242.57 Operating floating equipment (account 408).
1242.59 Employees health and welfare benefits; stationery and printing; and other expenses (accounts 409–411).
1242.60 Operating joint tracks and facilities, etc. (accounts 412–413).
1242.61 Insurance; clearing wrecks; damage to property; and damage to livestock on right-of-way (accounts 414–417).
1242.62 Loss and damage, freight (account 418).
1242.63 Loss and damage, baggage (account 419).
1242.64 Injuries to persons (account 420).

MISCELLANEOUS OPERATIONS

1242.65 Dining and buffet service; hotels and restaurants; grain elevators; producing power sold; other miscellaneous operations; operating joint miscellaneous facilities, and employees health and welfare benefits (accounts 441–449).

GENERAL EXPENSES

1242.66 Salaries and expenses of general officers; salaries and expenses of clerks and attendants; general office supplies and expenses; law expenses; insurance; employees health and welfare benefits; pensions; stationery and printing; other expenses; and general joint facilities (accounts 451–462).

INCOME ACCOUNT

TAXES, EQUIPMENT, RENTS, AND JOINT FACILITY RENTS

1242.67 Hire of freight cars; credit balance (account 503).
1242.68 Rent from locomotives (account 504).
1242.69 Rent from passenger-train cars (account 505).
1242.70 Rent from floating equipment (account 506).
1242.71 Rent from work equipment (account 507).
1242.72 Joint facility rent income (account 508).
1242.73 Railway tax accruals (account 532).
1242.74 Hire of freight cars, debit balance (account 536).
1242.75 Rent for locomotives; rent for passenger-train cars; and rent for floating equipment (accounts 537–539).
1242.76 Rent for work equipment (account 540).
1242.77 Joint facility rents (account 541).

CHARGES AND CREDITS BETWEEN SERVICES

1242.78 Charges and credits between services.

AUTHORITY: The provisions of this Part 1242 issued under secs. 12, 20, 24 Stat. 383, 386, secs. 304, 313, 54 Stat. 933, 944; 49 U.S.C. 12, 20, 904, 913.

§ 1242.0 Separation of operating expenses.

Effective as to annual or quarterly reports for the year 1964 or for any portion thereof, as the case might be, and thereafter until further order, all Class I railroad companies, including switching and terminal companies of Class I (§ 1240.1 of this chapter) subject to the provisions of section 20 of the Interstate Commerce Act as amended:

(a) Shall classify each of its various items of disbursement relating to operating expenses, railway taxes, equipment rents, and joint facility rents according to the relation which such item bears to the freight service and to the passenger and allied services of the carrier. Each such item shall have its character appropriately indicated on the carrier's records according to its relation (1) solely to freight service, or (2) solely to passenger and allied services, or (3) in common to both freight service and passenger and allied services, or (4) to neither freight service nor passenger and allied services. The results of such classification shall be shown in the annual or other reports made by each such carrier to the Interstate Commerce Commission, as may be indicated in forms adopted therefor. Similar analysis shall be made of every journal entry representing a charge or credit to the above-named accounts and the results of such analysis shall be appropriately indicated on the carrier's records;

(b) The operating expenses, railway taxes, equipment rents, and joint facility rents common to both freight service and passenger and allied services shall be apportioned between the two classes of service in accordance with the regulations in this part; and the result of such apportionment shall be shown in detail for the various primary accounts in the annual or other reports of each such carrier to the Interstate Commerce Commission as may be indicated in forms adopted therefor (§ 1241.11 of this chapter).

GENERAL

§ 1242.01 Expenses directly assigned.

Carriers shall first assign to freight service or to passenger service, including allied services, the expenses, taxes, equipment rents and joint facility rents incurred solely for the benefit of such services, respectively.

§ 1242.02 Methods.

The methods indicated under the various accounts are for apportioning common expenses, taxes, equipment rents and joint facility rents to the specific service when not incurred solely for the benefit of such service.

§ 1242.03 Made by accounting divisions.

The separation shall be made by accounting divisions, where such divisions are maintained, and the aggregate of the accounting divisions reported for the year.

§ 1242.04 Special test.

When the separation of expenses between freight and passenger services is based upon a special test or service unit factor, such test should be made at sufficiently frequent intervals to represent actual operating conditions. The service unit factors used should be those of the reporting period.

§ 1242.05 Instructions for apportioning.

Where groups of accounts are hereinafter stated, the instructions immediately thereunder apply to each account in the group.

OPERATING EXPENSES

MAINTENANCE OF WAY AND STRUCTURES

§ 1242.1 Superintendence (account 201).

Assign directly as per § 1242.01. Apportion common expenses according to proportions of accounts 202 and 265, inclusive, 269 to 277, inclusive, and 281 and 282, excluding common expenses in accounts 247, and 274 to 277, inclusive, and 282.

§ 1242.2 Roadway maintenance; tunnels and subways; bridges, trestles, and culverts; elevated structures; ties; rails; other track material; ballast; track laying and surfacing; and fences, snowsheds, and signs (accounts 202–221).

(a) Separate all tracks which are maintained by respondent into the following three classes: Yard switching tracks, Way switching tracks, and Running tracks, as defined in subparagraphs (1) through (3) of this paragraph;

(1) *Yard switching tracks.* Includes tracks in yards where separate switching services are maintained, including classification, house, team, industry, and other tracks switched by yard locomotives. Excludes running tracks located within yards which are regularly used by road trains, passing tracks, and all turnouts from these tracks to clearance points.

(2) *Way switching tracks.* Includes station, team, industry, and other switching tracks for which no separate switching service is maintained.

(3) *Running tracks.* Includes running tracks, passing tracks, crossovers, etc., including turnouts from those tracks to clearance points.

(b) The separation of the expenses between yard switching tracks, way switching tracks, and running tracks shall be based either on the work actually performed and materials used for each class of track or on a weighted track-mile basis, developed from special studies. The expenses for each class of track shall be separated between freight service and passenger service as follows:

(1) *Yard switching tracks.* Expenses for exclusively freight or passenger yards shall be directly assigned. Expenses for yards used in common by freight and passenger services shall be apportioned on the basis of the respective switching locomotive unit-hours in the common yards.

(2) *Way switching tracks.* Expenses of exclusively freight or passenger tracks shall be directly assigned. Where the tracks at any one location are used in common by both freight and passenger services, expenses may be assigned to that service which makes the preponderant use of them.

(3) *Running tracks.* Expenses of tracks exclusively used for freight or passenger service shall be directly assigned. The expenses of tracks used in common by both services shall be apportioned on the basis of gross ton-miles (including locomotive ton-miles) handled over these common tracks in the respective services.

§ 1242.3 Station and office buildings (account 227).

Assign directly as per § 1242.01. If the sum of the direct freight and the direct passenger expenses is more than 50 percent of the total charges to this account for an accounting division, apportion the common expenses on the basis of the directly assigned expenses in this account for the accounting division involved. Where the sum of the direct freight and the direct passenger expenses does not aggregate 50 percent of the total charges for an accounting division, the common expenses should be apportioned on the basis of special test. Where common expenses exist in any accounting division but the direct expenses are applicable to only one service, i. e., freight or passenger, the common expenses shall be apportioned on the basis of a special test. If the accounting is performed on a system basis rather than by accounting divisions, follow the intent of the above instructions.

§ 1242.4 Roadway buildings (account 229).

Assign directly as per § 1242.01. Apportion common expenses according to proportions of accounts 202 to 221, inclusive.

§ 1242.5 Water stations (account 231).

Assigns directly as per § 1242.01. Apportion common expenses according to proportions of accounts 385 and 397, after deducting charges for water issued from stations assigned direct.

§ 1242.6 Fuel stations (account 233).

Assign directly as per § 1242.01. Apportion common expenses according to proportions of charges to accounts 382 and 384, after deducting charges from fuel stations assigned direct.

§ 1242.7 Shops and enginehouses (account 235).

Assign directly as per § 1242.01. Apportion common expenses of shops according to proportions of accounts 308, 311, 314, 317, 323, and 326, excluding common expenses in account 326; of enginehouses according to proportions of accounts 388 and 400

§ 1242.8 Grain elevators; storage warehouses; wharves and docks; and coal and ore wharves (accounts 237–243).

Assign directly or apportion according to facts in individual instances.

§ 1242.9 Communication systems (account 247).

Assign directly as per § 1242.01. Apportion common expenses on basis of accounts 201, 201, 351, 371, and 372 taken together.

NOTE: As accounts 451 and 452 are apportioned on the basis of proportions established for accounts 201 to 449, inclusive, they are not included here as bases for apportioning account 247.

§ 1242.10 Signals and interlockers (account 249).

Assign directly as per § 1242.01. Apportion common expenses on the basis of the total train-hours (including train-switching hours) and yard-switching hours.

§ 1242.11 Power plants (account 253).

Assign directly as per § 1242.01. Apportion common expenses on basis of power used.

§ 1242.12 Power-transmission systems; and miscellaneous structures (accounts 257–265).

Assign according to the facts in individual instances.

§ 1247.13 Road property—depreciation; retirements-road, etc. (accounts 266–267).

Assign directly as per § 1242.01. Apportion common expenses according to the proportions of charges under the appropriate maintenance of way and structures accounts.

§ 1242.14 Roadway machines (account 269).

Assign directly as per § 1242.01. Apportion common expenses according to proportions of accounts 202 to 221, inclusive.

§ 1242.15 Dismantling retired road property (account 270).

Assign directly as per § 1242.01. Apportion common expenses according to proportions of charges under the appropriate maintenance of way and structures accounts.

§ 1242.16 Small tools and supplies; removing snow, ice, and sand; and public improvements; maintenance (accounts 271–273).

Assign directly as per § 1242.01. Apportion common expenses according to proportions of accounts 202 to 221, inclusive.

§ 1242.17 Injuries to persons; insurance; stationery and printing; employees health and welfare benefits; and other expenses (accounts 274–277 and 282).

When not determined by the particulars in individual instances, these expenses shall be apportioned according to the percentages used to divide common expenses of account 201.

§ 1242.18 Maintaining joint tracks, etc. (accounts 278–279).

Joint facility debits shall be separated according to use made of the facilities by the debtor carrier regardless of the use by the other carriers. The creditor carrier shall apportion the credits on the basis of accounts 202 to 277, inclusive, and 281 and 282, excluding common expenses in account 247.

§ 1242.19 Right-of-way expenses (account 281).

Assign directly as per § 1242.01. Apportion common expenses according to proportions of accounts 202 to 221, inclusive.

MAINTENANCE OF EQUIPMENT

§ 1242.20 Superintendence (account 301).

Assign directly as per § 1242.01. Apportion common expenses according to the proportions of accounts 302, 304, 306 to 329, inclusive, and 332 to 335, inclusive, and 339, excluding common expenses in accounts 328, and 332 to 335, inclusive, and 339.

§ 1242.21 Shop machinery (account 302).

Assign directly as per § 1242.01. Apportion common expenses according to proportions of accounts 308, 311, 314, 317, 323, and 326 combined.

§ 1242.22 Power-plant machinery (account 304).

Assign directly as per § 1242.01. Apportion common expenses on basis of power used.

§ 1242.23 Shop and power-plant machinery; depreciation; and dismantling retired shop and power-plant machinery (accounts 305–306).

Assign directly as per § 1242.01. Apportion common expenses according to tenor of accounts 302 and 304.

§ 1242.24 Steam locomotives—repairs (account 308).

(a) *Where the carrier maintains records of the repairs by individual locomotive units or classes of locomotive units.* When the individual locomotive units or classes of locomotive units are used exclusively in road-freight, road-passenger, yard-freight or yard-passenger services, the separation shall be actual. When the individual locomotive unit or classes of locomotive units are used interchangeably in road-freight (including train-switching), road-passenger, yard-freight or yard-passenger services, distribute the heavy shop repairs between these services on the basis of run-out miles of the individual locomotive units or classes of locomotive units since the previous shopping; and distribute the cost of running repairs between such services on the basis of the miles run by the individual locomotive unit or class of locomotive unit in each service during the accounting period for which the separation is being made.

(b) *Where the cost of heavy shop repairs is kept by individual locomotive units or classes of locomotive units, but the cost of running repairs is not kept either by individual locomotive units or classes of locomotive units.*—The heavy shop repairs should be distributed as indicated in paragraph (a) of this section. The cost of running repairs shall be apportioned among road-freight (includ-

ing train-switching), road-passenger, yard-freight and yard-passenger services on the basis of locomotive ton-miles or locomotive unit miles for the accounting period for which the separation is being made.

(c) *Where record is not kept of either heavy shop repairs or running repairs by individual locomotive units or classes of locomotive units.* The expenses shall be distributed among road-freight service (including train-switching), road-passenger service, yard-freight, and yard-passenger, on the basis of locomotive ton-miles or locomotive unit-miles for the accounting period for which the separation is being made.

§ 1242.25 Other locomotives; repairs (account 311).

Treat in accordance with the methods used for account 308.

§ 1242.26 Freight-train cars; repairs; and passenger-train cars; repairs (accounts 314–317).

Assign directly.

§ 1242.27 Floating equipment; repairs (account 323).

Apportion according to use made of the floating equipment.

§ 1242.28 Work equipment; repairs (account 326).

Apportion common expenses according to proportions of accounts 303 to 265, inclusive, 269 to 273, inclusive, and 281, excluding common expenses in account 247.

§ 1242.29 Miscellaneous equipment; repairs (account 328).

Assign directly as per § 1242.01. Apportion common expenses according to percentages used to divide common expenses of accounts 302, 301, 351, and 371.

§ 1242.30 Dismantling retired equipment (account 329).

Observe tenor of directions under accounts 308 to 328, inclusive.

§ 1242.31 Retirements; equipment (account 330).

Assign directly.

§ 1242.32 Equipment; depreciation (account 331).

Observe tenor of directions under accounts 308 to 328, inclusive.

§ 1242.33 Injuries to persons; insurance; stationery and printing; employees health and welfare benefits; and other expenses (accounts 332–335, and 339).

When not determined by the particulars in individual instances, these expenses shall be apportioned according to the percentages used to divide common expenses of account 301.

§ 1242.34 Joint maintenance of equipment expenses, etc. (accounts 336–337).

Joint equipment charges shall be treated on appropriate basis according to the use made of the equipment by the debtor carrier, regardless of the use by other carriers. Creditor carrier should apportion the credits on the basis of accounts 308 to 336, inclusive, and 339.

TRAFFIC

§ 1242.36 Superintendence; outside agencies; advertising; traffic associations; fast freight lines; industrial and immigration bureaus; insurance; stationery and printing; employees health and welfare benefits; and other expenses (accounts 351–360).

Assign directly as per § 1240.01. Apportion the unassigned remainder on the basis of the directly assigned expenses in this general account, other than advertising expense.

TRANSPORTATION; RAIL LINE

§ 1242.37 Superintendence (account 371).

Assign directly as per § 1242.01. Apportion common expenses according to the proportions of accounts 372 to 420, inclusive, excluding the total expenses in accounts 390, 391, 412, and 413, and common expenses in accounts 407, 409, 410, and 411.

§ 1242.38 Dispatching trains (account 372).

Assign directly as per § 1242.01. Apportion common expenses on the basis of transportation service train hours, including train switching hours.

§ 1242.39 Station employees (account 373).

Assign directly as per § 1242.01. If the sum of the direct freight and the direct passenger expenses is more than 50 percent of the total charges to this account for an accounting division, apportion the common expenses on the basis of the directly assigned expenses in this account for the accounting division involved. Where the sum of the direct freight and the direct passenger expenses does not aggregate 50 percent of the total charges for an accounting division, the common expenses should be apportioned on the basis of special test. Where common expenses exist in any accounting division but the direct expenses are applicable to only one service, i. e., freight or passenger, and even though the direct charges are over 50 percent of the total charges, the common expenses shall be apportioned on the basis of a special test. If the accounting is performed on a system basis rather than by accounting divisions, follow the intent of the above instructions.

§ 1242.40 Weighing, inspection, and demurrage bureaus; and coal and ore wharves (accounts 374–375).

Assign directly.

§ 1242.41 Station supplies and expenses (account 376).

Assign directly as per § 1242.01. If the sum of the direct freight and the direct passenger expenses is more than 50 percent of the total charges to this account for an accounting division, apportion the common expenses on the basis of the directly assigned expenses in this account for the accounting division involved. Where the sum of the direct freight and the direct passenger expenses does not aggregate 50 percent of the total charges for an accounting division, the common expenses should be apportioned on the basis of special test. Where common expenses apply in any accounting division but the direct expenses are applicable to only service, i. e., freight or passenger, and even though the direct charges are over 50 percent of the total charges, the common expenses shall be apportioned on the basis of a special test. If the accounting is performed on a system basis rather than by accounting divisions, follow the intent of the above instructions.

§ 1242.42 Yardmasters and yard clerks; yard conductors and brakemen; yard switch and signal tenders; and yard enginemen (accounts 377–380).

Expenses for exclusively freight or passenger yards shall be assigned directly. Apportion the expenses of common yards on the basis of the total yard-switching hours in those yards.

§ 1242.43 Yard switching fuel (account 382).

Expenses for exclusively freight and passenger yards shall be assigned directly. Apportion the common expenses of each kind of fuel on the basis of the switching locomotive unit-hours of the locomotives using that kind of fuel in those yards.

§ 1242.44 Yard switching power produced; and purchased (accounts 383–384).

Expenses for exclusively freight and passenger yards shall be assigned directly. Apportion the expenses of the common yards on the basis of the switching locomotive unit-hours of the locomotives in the common yards using the power produced or purchased.

§ 1242.45 Water for yard locomotives (account 385).

Expenses for exclusively freight and passenger yards shall be assigned directly. Apportion the expenses of common yards on the basis of account 382, yard-switching fuel.

§ 1242.46 Lubricants, and other supplies for yard locomotives; enginehouse expenses—yard; and yard supplies and expenses (accounts 386–389).

Expenses for exclusively freight or passenger yards shall be assigned directly. Apportion the expenses of common yards on the basis of the total switching locomotive unit-hours in those yards.

§ 1242.47 Operating joint yards and terminals, etc. (accounts 390–391).

Joint facilities shall be treated on appropriate bases according to the use made of the facilities by the debtor carrier, regardless of the use by other carriers. Creditor carriers shall apportion the total of account 391 on the basis of accounts 373, and 376 to 389, inclusive.

§ 1242.48 Train enginemen; train fuel; train power produced; and train power purchased (accounts 392–396).

Assign directly as per § 1242.01. Apportion common expenses on the basis of the direct assignment.

§ 1242.49 Water for train locomotives (account 397).

Assign directly as per § 1242.01. Apportion common expenses on the basis of the expense of fuel consumed by locomotive units in freight-train and passenger-train services, respectively.

§ 1242.50 Lubricants for train locomotives; and other supplies for train locomotives (accounts 398–399).

Observe tenor of directions under accounts 392 to 396, inclusive.

§ 1242.51 Enginehouse expenses—train (account 400).

Assign directly as per § 1242.01. Common expenses at each enginehouse shall be divided according to the number of locomotive units handled for each service.

§ 1242.52 Trainmen; and train supplies and expenses (accounts 401–402).

Observe tenor of directions under accounts 392 to 396, inclusive.

§ 1242.53 Operating sleeping cars (account 403).

Assign to passenger.

§ 1242.54 Signal and interlocker operation; and crossing protection (accounts 404–405).

Assign directly as per § 1242.01. Apportion common expenses on the basis of the total train-hours (including train-switching hours), and yard-switching hours.

§ 1242.55 Drawbridge operation (account 406).

Assign directly as per § 1242.01. Apportion common expenses on the basis of train hours of the particular operating division on which the bridge is located.

§ 1242.56 Communication system operation (account 407).

Assign directly as per § 1242.01. Apportion common expenses on the basis of the sum of the charges (assigned or apportioned) to accounts 201, 301, 351, 371, and 372.

NOTE: As accounts 451 and 452 are apportioned on the basis of proportions established for accounts 201 to 449, inclusive, they are not included here as bases for apportioning this account.

§ 1242.57 Operating floating equipment (account 408).

Assign directly as per § 1242.01. Apportion common expenses according to the use made of the floating equipment.

§ 1242.59 Employees health and welfare benefits; stationery and printing; and other expenses (accounts 409–411).

When not determined by the particulars in individual instances, these expenses shall be apportioned according to the percentages used to divide common expenses of account 371.

§ 1242.60 Operating joint tracks and facilities, etc. (accounts 412–413).

Joint facilities shall be treated on appropriate bases according to the use made of the facilities by the debtor carrier, regardless of the use by other carriers. Creditor carrier shall apportion the total of account 413 on the basis of accounts 392 to 402, inclusive.

§ 1242.61 Insurance; clearing wrecks; damage to property; and damage to livestock on right-of-way (accounts 414–417).

Assign directly as per § 1242.01. Apportion unassigned remainder on the basis of the directly assigned expenses.

§ 1242.62 Loss and damage, freight (account 418).

Assign to freight.

§ 1242.63 Loss and damage, baggage (account 419).

Assign to passenger.

§ 1242.64 Injuries to persons (account 420).

Assign directly as per § 1242.01. Apportion unassigned remainder on the basis of the directly assigned expenses.

MISCELLANEOUS OPERATIONS

§ 1242.65 Dining and buffet service; hotels and restaurants; grain elevators; producing power sold; other miscellaneous operations; operating joint miscellaneous facilities and employee health and welfare benefits (accounts 441–449).

Assign directly as per § 1242.01. Apportion remainder on appropriate units according to local conditions.

GENERAL EXPENSES

§ 1242.66 Salaries and expenses of general officers; salaries and expenses of clerks and attendants; general office supplies and expenses; law expenses; insurance; employees health and welfare benefits; pensions; stationery and printing; other expenses; and general joint facilities (accounts 451–462).

Assign directly as per § 1242.01. Apportion the remainder according to proportions of accounts 201 to 449, inclusive.

INCOME ACCOUNT

TAXES, EQUIPMENT RENTS, AND JOINT FACILITY RENTS

§ 1242.67 Hire of freight cars, credit balance (account 503).

Assign directly to freight service.

§ 1242.68 Rent from locomotives (account 504).

Assign according to type of locomotive rented.

§ 1242.69 Rent from passenger-train cars (account 505).

Assign directly.

§ 1242.70 Rent from floating equipment (account 506).

Assign according to type of equipment rented.

§ 1242.71 Rent from work equipment (account 507).

Apportion in accordance with rules for treating account 326.

§ 1242.72 Joint facility rent income (account 508).

Assign directly as per § 1242.01. Apportion common expenses on basis of the sum of accounts 279, 337, 391, 413, 448, and 462.

§ 1242.73 Railway tax accruals (account 532).

(a) Apportion current income tax accruals in accordance with separation of net railway operating income before deducting Federal and State income taxes. If result for one service upon that basis is a deficit, assign income tax to the other service showing an income.

(b) Apportion large or unusual debit and credit adjustments of prior years' income tax accruals on the basis of the respective tax accruals applicable to the year to which such tax adjustments relate.

(c) Apportion all other tax accruals on the basis of separation of total operating expenses.

§ 1242.74 Hire of freight cars, debit balance (account 536).

Assign directly to freight service.

§ 1242.75 Rent for locomotives; rent for passenger-train cars; and rent for floating equipment (accounts 537–539).

Assign directly.

§ 1242.76 Rent for work equipment (account 540).

Apportion in accordance with rules for treating account 326.

§ 1242.77 Joint facility rents (account 541).

Assign directly as per § 1242.01. Apportion common expenses on the basis of the sum of accounts 278, 336, 390, 412, 447 and 461.

CHARGES AND CREDITS BETWEEN SERVICES

§ 1242.78 Charges and credits between services.

Carriers in making apportionments under the preceding rules should not, until further notice, make any allowance for the credit that should be given to the freight service for work performed (such as carrying company fuel) for the passenger service and vice versa.

NOTE A: If compilation of the information in compliance with any of the foregoing rules or parts thereof result in an undue burden or increase in accounting expense, the matter of relief therefrom may be referred to the Bureau of Accounts for consideration and decision. Also, if data as good or better can be developed through methods and procedures other than any of those above prescribed, permission for substitu-

tion thereof should be requested of the said Bureau. Requests in either event should be supported by full particulars.

NOTE B: The total distribution to freight service or passenger service derived under the foregoing rules for separation consists of the solely related or directly assignable amounts plus an apportionment of the common on a service or use basis. Inasmuch as the amounts assigned and/or apportioned to the freight and passenger services, respectively, are based on the performance of both services, the operating expenses, taxes, equipment, and joint facility rents assigned and/or apportioned to either service may not represent the amounts that could be eliminated if either service were discontinued.

PART 1243—QUARTERLY OPERATING REPORTS—RAILROADS

Sec.
1243.1 Revenues and expenses.
1243.2 Selected income and balance-sheet items.
1243.3 Operating statistics.

AUTHORITY: The provisions of this Part 1243 issued under secs. 12, 20, 24 Stat. 383, 386; 49 U.S.C. 12, 20.

§ 1243.1 Revenues and expenses.

Commencing with reports for the three months beginning January 1, 1962, and thereafter until further order, all Class I railroads, except switching and terminal companies, subject to the provisions of Part I of the Interstate Commerce Act, be, and they are hereby, required to file quarterly reports of revenues and expenses in accordance with quarterly report Form R&E, and notes of instruction thereon. Such quarterly reports shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C., 20423, within 26 days after the end of the quarter to which they relate.

§ 1243.2 Selected income and balance-sheet items.

Commencing with reports for the three months beginning January 1, 1962, and thereafter until further order, all Class I railroads, except switching and terminal companies, subject to the provisions of Part I of the Interstate Commerce Act, be, and they are hereby, required to file quarterly reports of selected income and balance sheet items in accordance with quarterly report Form IBS, and notes of instruction thereon. Such quarterly reports shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C., 20423, within 45 days after the end of the quarter to which they relate.

§ 1243.3 Operating statistics.

Commencing with reports for the three months beginning January 1, 1964, and thereafter until further order, all Class I railroads, including Class I switching and terminal companies, subject to the provisions of Part I of the Interstate Commerce Act, be, and they are hereby, required to file quarterly reports of operating statistics in accordance with forms of reports, and notes of instruction thereon, designated as follows:

Form OS–A, Train and Yard Service.
Form OS–B, Revenue Traffic.
Form OS–C, Motive Power and Car Equipment.

Provided however, That Class I switching and terminal companies are not required to submit reports on Form OS–B. Such quarterly reports shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C., 20423, on or before the dates indicated in the instruction on each form.

PART 1244—WAYBILL ANALYSIS OF TRANSPORTATION OF PROPERTY—RAILROADS

Sec.
1244.1 Waybills.
1244.2 Supplemental statement required and form prescribed.
1244.3 Date of filing.

AUTHORITY: The provisions of this Part 1244 issued under sec. 12, 24 Stat. 383, as amended; 49 U.S.C. 12. Interpret or apply sec. 20, 24 Stat. 386, as amended; 49 U.S.C. 20.

§ 1244.1 Waybills.

(a) Effective January 1, 1965, and thereafter unless otherwise ordered, all railroads, other than switching and terminal companies, subject to the provisions of Part I of the Interstate Commerce Act, and every receiver, trustee, executor, administrator or assignee of any such railroad, having average annual operating revenues of $3,000,000 or more, are hereby required to file an authenticated copy of the front only of the audited waybills for all carload shipments terminated whose waybill serial numbers are "1" or end with "01".

(b) In determining the average annual operating revenues of railroads for purposes of this section, the method specified in § 1240.1(c) of this chapter, shall be followed.

§ 1244.2 Supplemental statement required and form prescribed.

A supplemental statement furnishing additional information in accordance with the prescribed waybill—Supplemental Statement shall be attached to and made a part of each waybill.

§ 1244.3 Date of filing.

Copies of said audited waybills and supplemental statements should be forwarded upon completion of audit, but shall be forwarded not less than once each calendar month, to the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423.

PART 1245—CLASSIFICATION OF RAILROAD EMPLOYEES; REPORTS OF SERVICE AND COMPENSATION

Sec.
1245.1 Rules governing classification of employees, service, and compensation.
1245.2 Reports; period covered, forms, date of filing.
1245.3 Employees; definition, service hours, and compensation.
1245.4 Forms required to be used.
1245.5 Explanatory instructions pertaining to Form A—Column 1.
1245.6 Explanatory instructions pertaining to Form B—Column 1.
1245.7 Appendix—Forms A and B.

AUTHORITY: The provisions of this Part 1245 issued under sec. 12, 24 Stat. 383, as amended; 49 U.S.C. 12. Interpret or apply sec. 20, 24 Stat. 386, as amended; 49 U.S.C. 20.

§ 1245.1 Rules governing classification of employees, service, and compensation.

The annexed revised rules governing the classification of railroad employees and reports of their service and compensation outlined in §§ 1245.3 and 1245.4 are hereby approved, to become effective on January 1, 1951, and each and every railroad (except electric railways) within the scope of section 20, Part 1, of the Interstate Commerce Act shall be governed by such rules in the preparation and submission of their annual and other periodical reports to the Interstate Commerce Commission in accordance with the forms adopted for such returns (§ 1245.2); and also with respect to any other matters covered by these rules.

§ 1245.2 Reports; period covered, forms, date of filing.

Commencing with the month of January 1951 and monthly thereafter until further order, each and every Class I railroad (§ 1240.1 of this chapter), including Class I switching and terminal companies, is hereby required to file monthly reports of employees, service and compensation in accordance with the forms outlined in §§ 1244.4 and 1244.7: *Provided*, That such carriers shall also file summary reports covering the period January 1 to December 31, inclusive, of each year beginning with returns for the year 1951 in accordance with the said forms. Such monthly reports shall be filed in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, within thirty days after the close of the month to which they relate; and, the annual summaries shall be filed within forty-five days following the close of the period for which they are compiled. Railroads of Class I, II, and III (§ 1240.1 of this chapter), including switching and terminal companies and lessor companies, shall include a statement of employees, service and compensation in their annual reports to the Interstate Commerce Commission in accordance with the requirements of the annual report forms prescribed for such carriers (Part 1241 of this chapter).

§ 1245.3 Employees; definition, service hours, and compensation.

(a) *Definition of "employees".* The word "employees," as used in this part, is intended to include every person in the service of the reporting carrier subject to its continuing authority to supervise and direct the manner of rendition of his service. Persons engaged to render only specifically defined service and not subject to the continuing authority of the carrier to supervise and control their acts, such as customhouse brokers, lawyers retained only for specific cases and not under general or continuing retainer, etc., are not employees in the meaning of the term used in this part.

(b) *Counting employees.* Since the number of employees fluctuates, carriers are required to classify and count all of their employees at twelve different times each year.

(c) *Joint employees.* Each person jointly employed shall, if carried on the payrolls of the several joint employers, be counted by each employer and represented in its return of number of employees by a fraction based on the number of employers reporting him; if a person, for example, is reportable by three employers, each should include him in its number of employees as one-third of an employee. When the entire compensation of a joint employee is shown on the payroll of a single joint employer and is paid to the employee by that employer such employee should, for the purpose of returns, be treated as if employed solely by such employer.

(d) *Service hours.* (1) The number of hours on duty, or held for duty, and the number of hours paid for are to be ascertained and recorded for every class of employee. For enginemen and trainmen, the actual number of miles run and miles paid for but not run are to be recorded, as well as the number of hours on duty and the number of hours paid for. (The service time of all classes of employees shall be recorded in hours instead of days or hours as heretofore.)

(2) Whenever an employee works at more than one occupation, or in more than one class of service, both the number of hours worked and the compensation paid, should be separated and reported under the proper Reporting Divisions.

(3) If an employee is paid a day's wage for a smaller number of hours than constitutes a day's work, the number of hours paid for as well as the actual number of hours the employee is on duty should be ascertained and recorded. Time allowed for meals, part holidays, holidays, absences on leave, vacations, etc., should be excluded from time actually worked, but if such time is paid for it should be appropriately reported as "Time paid for but not worked" on Form A or as a "constructive allowance" on Form B. These requirements apply to enginemen and trainmen paid on the basis of trips or of miles run, and to employees paid at piece rates, as well as to employees paid on hourly, daily, weekly, monthly, or other time basis. Service hours for officers and employees who do not receive payment for overtime should be reported as the number of hours in each month at 8 hours per day contemplated for the position.

(e) *Compensation.* The compensation of employees as defined in the rules in this part is to be stated in such manner and detail as the forms adopted for periodical returns require.

§ 1245.4 Forms required to be used.

(a) There are presented outlines of two forms for the report of information to the Interstate Commerce Commission on railroad employees, their service and compensation, designated as Form A (§ 1245.5), which relates to employees other than train and engine service employees, and Form B (§ 1245.6), which relates to train and engine service employees. These forms are explained by instructions, in order that the intent of the forms may be correctly understood.

(b) With general reference to the statement of the compensation of employees in Forms A and B, it should be understood that the total compensation received by the employees in each Reporting Division, as well as the amount of work they perform, should be shown properly distributed under the prescribed column heads as indicated by the forms. It should be noted that if the work of an employee varies during a report period, his time and compensation should be apportioned accordingly. Amounts reported should be gross compensation paid.

Illustrations. (a) In the course of a month, an employee works as a Machinist, and as such earns $300 and he works also as a Gang Foreman and earns $130. The pay received by him in the occupation of Machinist with corresponding time should be included in returns for Division 61, "Machinists", and his other pay and time as indicated should be included in returns for Division 53, "Gang Foremen and Gang Leaders". (b) When an employee works at two or more of the occupations of engineer, fireman, conductor, and brakeman, his time and compensation should be assigned in accordance with the facts. For example, in a certain month an employee earns as a Through Freight Engineer $110, as a Local or Way Freight Engineer $140, as a Yard Engineer $100, and as a Local or Way Freight Fireman $75. The time and the compensation of this employee should be correspondingly distributed among Reporting Divisions 122, 123, 124, and 127 as they are respectively applicable, without regard to the predominance of the time worked or the amount earned by him in one occupation.

(c) As elsewhere indicated, the statement of the number of employees in the service of a company with respect to Reporting Divisions depends upon the allocation of the individual employees as of the day of count.

(d) The Reporting Divisions shown in Forms A and B following will also be used in connection with the employees' schedule in the annual reports of railroads of Classes I and II to the Commission. Railroads of Class III and lessor companies shall report only the information required in the annual report forms prescribed for such companies.

§ 1245.5 Explanatory instructions pertaining to Form A—Column 1.

Employees should be classified for reporting purposes in accordance with the reporting divisions shown in this column.

Column 2. Enter the total number of employees in service as of the 15th day of the month, except when it falls on a Saturday, Sunday, or a holiday, in which case the count should be made as of the last preceding business day.

Employees whose duties are such as to make them includible in two or more Reporting Divisions should be reported in that Division indicated by the occupation in which engaged on the day of the middle of month count.

The count should not be restricted to employees actually on duty as of the day of the count, but should include all other regular assigned employees, employees under pay on vacation or sick leave and relief employees. Employees who are not subject to call for duty, such as employees absent on definite leave or under suspension; employees on furlough; and pensioners not bound to render service, should be excluded.

Column 3. Enter number of employees who made time during the month, no matter for how short a period, classified by reporting divisions. Employees who worked in more than one occupation during the month should be assigned according to the preponderance of their duties.

Column 4. There should be stated for each of the Reporting Divisions the total number of hours actually worked and paid for at straight time rates by the employees whose service is includible in the particular division. (Time previously reported as overtime at pro rata rates should be included.)

Column 5. Enter the total number of overtime hours paid for at punitive rates.

Column 6. Enter the totals of time paid for and not worked, such as payment for part holidays, holidays, absence on definite leave, vacations, miscellaneous time paid for but not worked, such as pay for attending court, suspensions, sickness, time allowed for meals, and other time that can properly be considered constructive, such as allowance to complete a minimum day when less than a minimum day is worked.

Where vacation allowances are based on compensation earned in previous year, the hours should be computed as in note to Column 7, Form B.

Column 7. Enter the total of columns 4 to 6.

Column 8. Enter the compensation for the time shown in column 4.

Column 9. Enter the compensation for the time shown in column 5.

Column 10. Enter the compensation for the time shown in column 6.

Column 11. Enter the total of columns 8 to 10.

§ 1245.6 Explanatory instructions pertaining to Form B—Column 1.

Employees should be classified for reporting purposes in accordance with the reporting divisions shown in this column.

Column 2. Enter the total number of employees in service as of the 15th day of the month, except when it falls on a Saturday, Sunday, or a holiday, in which

case the count should be made as of the last preceding business day.

Employees whose duties are such as to make them includible in two or more Reporting Divisions should be reported in that Division indicated by the occupation in which engaged on the day of middle of month count.

The count should not be restricted to employees actually on duty as of the day of the count, but should include all other regular assigned employees, employees under pay on vacation or sick leave, as well as those listed on the "extra board" in train and engine service who are subject to call for duty. Employees who are not subject to call for duty, such as employees absent on definite leave or under suspension; employees on furlough; and pensioners not bound to render service, should be excluded.

Column 3. Enter number of employees who made time during the month, no matter for how short a period, classified by reporting divisions. Employees who worked in more than one occupation during the month should be assigned according to the preponderance of their duties.

Column 4. Enter the number of straight-time hours actually worked.

Column 5. Enter the total straight-time hours paid for.

Column 6. Enter the number of hours of overtime paid for.

Column 7. Enter the number of constructive hours allowed which does not represent actual train service and for which mileage is not allowed, such as vacation time, pay for "Held away from home terminal" rule, called and not used, funaround, deadheading, attending court, suspensions, investigations, and claim and safety meetings.

NOTE: The total dollar amount of vacation allowance in a particular month, for each reporting division, should be divided by the average straight time hourly rate of such reporting division, to determine the constructive vacation hours paid for. The straight time hourly rate for each such reporting division should be determined by dividing the "Compensation—Straight Time Paid For" by "Service Hours—Straight Time Paid For" for the latest available month.

Column 8. Enter the total of amounts shown in columns 5, 6, and 7.

Column 9. Enter the straight-time compensation for the time shown in column 5.

Column 10. Enter the overtime compensation for the time shown in column 6.

Column 11. Enter the compensation for the time shown in column 7.

Column 12. Enter the sum of the amounts shown in columns 9, 10, and 11.

Column 13. Enter the number of miles run in performing actual train service.

Column 14. Enter the number of miles paid for but not run in connection with actual train service.

Column 15. Include in this column the number of trips made for which not less than a minimum day is paid.

§ 1245.7 Appendix—Forms A and B. I. C. C. Wage Statistics

MONTHLY REPORT OF EMPLOYEES SERVICE AND COMPENSATION

FORM A

Full name of reporting company .....

Miles of line covered by this report ..... Month of ....., 19..

Calendar year 19....

(Strike out one)

Division No.	Reporting division (1)	Column headings
	I. EXECUTIVES, OFFICIALS, AND STAFF ASSISTANTS	
1	Executives, general officers, and assistants	
2	Division officers, assistants, and staff assistants	
(001)	Total (executives, officials, and staff assistants)	
	II. PROFESSIONAL, CLERICAL, AND GENERAL	
3	Professional and subprofessional assistants	(2) Number of employees middle of month. (3) Number of employees who received pay during month. SERVICE HOURS (4) Time actually worked and paid for at straight time rates. (5) Overtime paid for at punitive rates. (6) Time paid for but not worked. (7) Total time paid for. COMPENSATION (8) Time actually worked and paid for at straight time rates. (9) Overtime paid for at punitive rates. (10) Time paid for but not worked. (11) Total.
4	Supervisory or chief clerks (major departments)	
5	Chief clerks (minor departments) and assistant chief clerks and supervising cashiers	
6	Clerks and clerical specialists (A)	
7	Clerks (B and C)	
8	Mechanical device operators (office)	
9	Stenographers and secretaries (A)	
10	Stenographers and typists (B)	
11	Storekeepers, sales agents, and buyers	
12	Ticket agents and assistant ticket agents	
13	Traveling auditors or accountants	
14	Telephone switchboard operators and office assistants	
15	Messengers and office boys	
16	Elevator operators and other office attendants	
17	Lieutenants and sergeants of police	
18	Patrolmen and watchmen	
19	Traffic and various other agents, inspectors, and investigators	
20	Claim agents or investigators	
21	Freight claim agents or investigators	
22	Chief claim agents or investigators	
23	Miscellaneous trades workers (other than plumbers)	
24	Motor vehicle and motor car operators	
25	Teamsters and stablemen	
26	Janitors and cleaners	
(002)	Total (professional, clerical, and general)	
	III. MAINTENANCE OF WAY AND STRUCTURES	
27	Roadmasters, general foremen and assistants	(2) Number of employees middle of month. (3) Number of employees who received pay during month. SERVICE HOURS (4) Time actually worked and paid for at straight time rates. (5) Overtime paid for at punitive rates. (6) Time paid for but not worked. (7) Total time paid for. COMPENSATION (8) Time actually worked and paid for at straight time rates. (9) Overtime paid for at punitive rates. (10) Time paid for but not worked. (11) Total.
28	Maintenance of way and scale inspectors	
29	Bridge and building gang foremen (skilled labor)	
30	Bridge and building carpenters	
31	Bridge and building ironworkers	
32	Bridge and building painters	
33	Masons, bricklayers, plasterers, and plumbers	
34	Maintenance of way and structures helpers and apprentices	
35	Portable equipment operators	
36	Portable equipment operator helpers	
37	Pumping equipment operators	
38	Gang foremen (extra gang and work train laborers)	
39	Gang foremen (bridge and building, signal and telegraph laborers)	
40	Gang or section foremen	
41	Extra gang men	
42	Section men	
43	Maintenance of way laborers (other than track and roadway) and gardeners and farmers	
44	General and assistant general foremen and inspectors (signal, telegraph, and electrical transmission)	
45	Gang foremen (signal and telegraph skilled trades labor)	
46	Signalmen and signal maintainers	
47	Linemen and groundmen	
48	Assistant signalmen and assistant signal maintainers	
49	Signalmen and signal maintainer helpers	
(003)	Total (maintenance of way and structures)	
	IV. MAINTENANCE OF EQUIPMENT AND STORES	
50	General, assistant general, and department foremen	(2) Number of employees middle of month. (3) Number of employees who received pay during month. SERVICE HOURS (4) Time actually worked and paid for at straight time rates. (5) Overtime paid for at punitive rates. (6) Time paid for but not worked. (7) Total time paid for. COMPENSATION (8) Time actually worked and paid for at straight time rates. (9) Overtime paid for at punitive rates. (10) Time paid for but not worked. (11) Total.
51	General and assistant general foremen (stores)	
52	Equipment, shop, electrical, material and supplies inspectors	
53	Gang foremen and gang leaders (skilled labor)	
54	Blacksmiths	
55	Boilermakers	
56	Carmen (A and B)	
57	Carmen (C and D)	
58	Electrical workers (A)	
59	Electrical workers (B)	
60	Electrical workers (C)	
61	Machinists	
62	Molders	
63	Sheet-metal workers	
64	Skilled trades helpers (*Mt. of E. and Stores*)	
65	Helper apprentices (*Mt. of E. and Stores*)	
66	Regular apprentices (*Mt. of E. and Stores*)	
67	Coach cleaners	
68	Gang foremen (shops, engine houses, and power plants)	
69	Gang foremen (stores and ice, reclamation, and timber-treating plants)	

FORM A—Continued

Division No.	Reporting division (1)	Column headings
	IV. MAINTENANCE OF EQUIPMENT AND STORES—continued	
70	Classified laborers (shops, engine houses, and power plants)	(2) Number of employees middle of month. (3) Number of employees who received pay during month. SERVICE HOURS (4) Straight time actually worked. (5) Straight time paid for. (6) Overtime paid for. (7) Constructive allowances. (8) Total. COMPENSATION (9) Straight time paid for. (10) Overtime paid for. (11) Constructive allowances. (12) Total. MILES (13) Actually run. (14) Paid for but not run. (15) Total number of trips for which not less than a minimum day was paid.
71	General laborers (shops, engine houses, and power plants)	
72	General laborers (stores and ice, reclamation, and timber-treating plants)	
73	Stationary firemen (steam)	
74	Stationary firemen, oilers, coal passers, and water tenders	
(004)	Total (maintenance of equipment and stores)	
	V. TRANSPORTATION; (OTHER THAN TRAIN, ENGINE, AND YARD)	
75	Chief train dispatchers	
76	Train dispatchers	
77	Train directors	
78	Station agents (supervisory—major stations—nonmanagraphers)	
79	Station agents (smaller stations—nonmanagraphers)	
80	Station agents (telegraph and telephoners)	
81	Chief telegraphers and chief telephoners or wire chiefs	
82	Telegraphers, telephoners, and towermen	
83	Station masters and assistants	
84	Supervising baggage agents	
85	Baggage agents and assistants	
86	Baggage, parcel room, and station attendants	
87	General yard foremen (freight stations, warehouses, grain elevators, and docks)	
88	Assistant general foremen (freight stations, warehouses, grain elevators, and docks)	
89	Gang foremen (freight stations, warehouses, grain elevator, and dock labor)	
90	Oilers, loaders, sealers, and perishable-freight inspectors (stations, warehouses, and platforms)	
91	Truckers (coal and on docks and grain elevators)	
92	Common laborers (stations, warehouses, platforms, and grain elevators)	
93	Stewards, restaurant and lodging-house managers, and dining-car supervisors	
94	Cooks and cooks' helpers (restaurant, dining car)	
95	Waiters, camp cooks, and kitchen helpers, etc.	
96	Other dining, buffet, and attendants on barges, launches, ferry boats, towing vessels, steamers, and shore workers	
97	Transportation and dining-service inspectors	
98	Parlor and sleeping car conductors	
99	Train attendants	
100	Bridge operators and helpers	
101	Crossing and bridge flagmen and gatemen	
102	Foremen (laundry and laundry workers)	
(005)	Total (transportation—other than train, engine, and yard)	
	VI (a). TRANSPORTATION (YARD MASTERS, SUPERINTENDENTS, AND SUPERVISORS)	(2) Number of employees middle of month. (3) Number of employees who received pay during month. SERVICE HOURS (4) Time actually worked and paid for at straight time rates. (5) Overtime paid for at punitive rates. (6) Time paid for but not worked. (7) Total time paid for. COMPENSATION (8) Time actually worked and paid for at straight time rates. (9) Overtime paid for at punitive rates. (10) Time paid for but not worked. (11) Total.
105	Yardmasters	
106	Assistant yardmasters	
107	Switch tenders	
108	Outside hostlers	
109	Inside hostlers	
110	Outside hostler helpers	
(006)	Total (transportation—yard masters, switch tenders, and hostlers)	
(007)	Total, all groups (except train and engine)	

NOTE: The reporting requirements of this order have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

PART 1246—NUMBER OF RAILROAD EMPLOYEES

§ 1246.1 Preliminary report of number of employees.

(a) Each steam railway of class I shall file a preliminary monthly report of the number of their employees at middle of month divided into seven groups in accordance with the following form:

PRELIMINARY REPORT OF NUMBER OF EMPLOYEES OF CLASS I RAILWAYS

Number of employees in each group	Executives, officials, and staff assistants	Professional, clerical, and general	Maintenance of way and structures	Maintenance of equipment and stores	Transportation (other than train, engine, and yard)	Transportation (yard masters, switch tenders, and hostlers)	Transportation (train and engine)	Total
Middle of month								

(b) The reports hereby required shall begin with that for the month of May 1968.

(Sec. 12, 24 Stat. 383, as amended; 49 U.S.C. 12. Interprets or applies sec. 20, 24 Stat. 386, as amended; 49 U.S.C. 20)

ORDER EFFECTIVE: For explanatory instructions, see 11 1245.5, 1246.5.

PART 1247—CLASSIFICATION OF EXPRESS COMPANY EMPLOYEES FOR REPORTS OF EMPLOYEES

§ 1247.1 Employees, service, and compensation; express.

Commencing with the month of January 1968, and continuing monthly and annually thereafter unless otherwise ordered, express companies, subject to the provisions of the Interstate Commerce Act, shall classify employees and make and file reports of their service hours and compensation in accordance with Form WSX, Monthly Report of Employees, Service, and Compensation—Express. The monthly reports shall be filed, in duplicate, in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before the 25th day of the month following the month to which it relates.

(Sec. 12, 24 Stat. 383, as amended; 49 U.S.C. 12. Interprets or applies sec. 20, 24 Stat. 386, as amended; 49 U.S.C. 20)

PART 1248—FREIGHT COMMODITY STATISTICS

Subpart A—Railroads

1248.1 Freight commodity statistics.
1248.2 Items to be reported.
1248.3 Carload and L. C. L. traffic defined.
1248.4 Originating and connecting line traffic.
1248.5 Report forms and date of filing.
1248.6 Public inspection—railroad reports.

Subpart B—Carriers by Water

1248.21 Freight commodity statistics.
1248.22 Items to be reported.
1248.23 Traffic defined.
1248.24 Number of tons of revenue freight carried.
1248.25 Gross freight revenue.
1248.26 Nonrevenue freight carried.
1248.27 Reports and date of filing.
1248.28 Public inspection—water carrier reports.

Subpart C—Electric Railways

1248.35 Freight commodity statistics and operating statistics.
1248.36 Items to be reported for each commodity class.
1248.37 Carload and L. C. L. traffic defined.
1248.38 Originating and connecting line traffic.
1248.39 Items of statistics of rail-line operations to be reported.
1248.40 Freight train-miles.
1248.41 Freight locomotive-miles.
1248.42 Freight-train car-miles.
1248.43 Report and date of filing.
1248.44 Public inspection—electric railway reports.

Subpart D—Motor Carriers

1248.51 Freight commodity statistics.
1248.52 Exempt carriers.
1248.53 Items to be reported.
1248.54 Truckload traffic defined.
1248.55 Freight revenue.
1248.56 Report form and date of filing.
1248.57 Public inspection.

Subpart E—Commodity Code

1248.100 Commodity classification designated.
1248.101 Commodity codes required.

Subpart A—Railroads

AUTHORITY: The provisions of Subpart A issued under secs. 12, 20, 24 Stat. 383, 386; 49 U.S.C. 12, 20.

§ 1248.1 Freight commodity statistics.

Commencing with reports for the first quarter of 1964 or for the year 1964, as the case might be, and thereafter until further order, all Class I and Class II railroads, as described in § 1240.1 of this chapter, subject to Part I of the Interstate Commerce Act, other than switching and terminal companies, shall compile and report freight commodity statistics on the basis of the commodity codes named in § 1248.101. Class I railroads shall report quarterly and annually on the basis of the 3, 4 and 5-digit commodity codes named in that section, and Class II railroads shall report annually on the basis of the 2-digit commodity codes named therein. Such reports shall be made in conformity with the outline of terms set forth in §§ 1248.2 to 1248.5, inclusive, as supplemented by instructions included in the appropriate report forms to be supplied to the reporting railroads.

§ 1248.2 Items to be reported.

(a) The following items are to be reported quarterly and annually by class I railroads:

(1) Average number of miles of road operated in freight service.

(2) For each commodity code used in reporting, except that the number of carloads for commodity code 431, "Small packaged freight shipments," shall be omitted, the following items:

Revenue freight originating on respondent's road:
Terminating on line:
Number of carloads.
Number of tons (2,000 pounds).
Delivered to connecting rail carriers.
Number of carloads.
Number of tons (2,000 pounds).
Revenue freight received from connecting rail carriers:
Terminating on line:
Number of carloads.
Number of tons (2,000 pounds).
Delivered to connecting rail carriers:
Number of carloads.
Number of tons (2,000 pounds).
Total revenue freight carried:
Number of carloads.
Number of tons (2,000 pounds).
Gross freight revenue.

(b) The following items are to be reported annually by Class II railroads for the 2-digit codes in § 1248.101:

Number of tons (2,000 pounds) of revenue freight originating on respondent's road.
Number of tons (2,000 pounds) of revenue freight received from connecting carriers.
Total revenue freight carried:
Number of tons (2,000 pounds each).
Gross freight revenue.

§ 1248.3 Carload and L.C.L. traffic defined.

(a) Commodity codes 01 through 422 and 44 through 462, named in § 1248.101, shall include only carload traffic. All shipments weighing less than 10,000 pounds shall be included in commodity code 431, "Small packaged freight shipments."

(b) A "carload" for the purpose of this order shall consist of a shipment of not less than 10,000 pounds of one commodity. A mixed carload for the purpose of this order shall be treated as a carload of that commodity which forms the major portion of the shipment in weight. If a single shipment is loaded into more than one car, each car used shall be reported as a carload. If more than one "carload" shipment is loaded into one car, each shipment shall be reported separately as a carload.

§ 1248.4 Originating and connecting line traffic.

(a) Revenue freight reported as "received from connecting rail carriers" shall include all shipments received from connecting rail carriers, either directly or indirectly, so far as apparent from information on the waybills or abstracts.

(b) Revenue freight reported as "originating on respondent's road" shall include shipments originating on line and shipments received from water lines and highway motor truck lines, except when identified as having had previous rail transportation, as provided in paragraph (a) of this section.

(c) Freight which receives its first line-haul on respondent's road, but originates on switching roads connecting directly or indirectly with respondent's line, shall be reported as freight originated by respondent.

(d) Revenue freight reported as "delivered to connecting rail carriers" shall include shipments delivered to connecting rail carriers, either directly or indirectly, as far as apparent from information on waybills or abstracts.

(e) Revenue freight reported as "terminating on respondent's road" shall include shipments terminating on line and shipments delivered to water lines and highway motor truck lines, except when identified as to receive further rail transportation as provided in paragraph (d) of this section.

(f) Freight which receives its last line haul on respondent's line, but is delivered to a switching road connecting directly or indirectly with respondent's line, shall be reported as freight terminated by respondent.

(g) Import and export traffic received from or delivered to water carriers and traffic from and to outlying possessions of the United States received from or delivered to water carriers shall be reported as originating or terminating at the port of entry or exit.

(h) Traffic interchanged with connecting rail lines operating in Canada and Mexico shall be reported as delivered to or received from connecting rail carriers.

(i) Lake cargo coal delivered to lower Lake and St. Lawrence River ports for transshipment by vessel shall be reported as "delivered to connecting rail carrier." Lake cargo coal received at upper Lake ports shall be reported as "received from connecting rail carriers."

(j) Iron ore delivered to upper Lake ports for transshipment by vessel shall be reported as "delivered to connecting rail carriers." Iron ore received at lower Lake and St. Lawrence River ports shall be reported as "received from connecting rail carriers."

(k) Tidewater coal to Atlantic ports shall be reported as "delivered to connecting rail carriers." Tidewater coal from Atlantic ports shall be reported as "received from connecting rail carriers."

(l) Freight accorded transit privileges shall be reported as "originated on respondent's road" at the transit point, even though the outbound shipment may move under transit balances or proportional rates.

(m) "Gross freight revenue" means respondent's gross revenue from freight without adjustment for absorptions or corrections.

(n) Commodity codes 44 and 441, "Freight forwarder traffic," as named in § 1248.101, include freight traffic in carloads shipped by or consigned to any forwarder holding a certificate under Part IV of the Interstate Commerce Act.

§ 1248.5 Report forms and date of filing.

(a) Reports required from Class I carriers by this section shall be filed in duplicate with the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on forms which will be furnished to the carriers. Data required under § 1248.2 shall be filed on Form QCS on or before the 60th day succeeding the close of the period for which they are compiled.

NOTE: The outline of Report Form QCS follows the tenor of the order.

(b) Reports required from Class II carriers by this section shall be included in their Annual Report to the Interstate Commerce Commission (§ 1241.11 of this chapter.)

§ 1248.6 Public inspection—railroad reports.

The individual commodity statistics reports of class I and class II railroads, required to be filed, for the year beginning January 1, 1964, or for quarters thereof, and for the quarters of 1965, as the case might be, under the terms of § 123.1, shall not be open to public inspection, and such required commodity statistics reports, to be filed for the years beginning January 1, 1965, and for the quarters of the year beginning January 1, 1966, and later, to the extent that they involve traffic of less than three shippers, reportable in one of the commodity reporting classes, may be excluded from a railroad's regular freight commodity statistics report and filed in a supplemental report which will not be open for public inspection, except that access to supplemental reports may be given upon approval by the Commission.

Subpart B—Carriers by Water

AUTHORITY: The provisions of Subpart B issued under secs. 12, 20, 24 Stat. 383, as amended, 386, as amended, 54 Stat. 933, 944; 49 U.S.C. 12, 20, 913, 933.

§ 1248.21 Freight commodity statistics.

Commencing with reports for the year beginning January 1, 1964, and thereafter until further order, all carriers by water subject to the provisions of Parts I and III of the Interstate Commerce Act, assigned to classes A and B, as described in § 1240.2, of this chapter, shall compile and report freight commodity statistics annually on the basis of the 3, 4 and 5-digit commodity codes named in § 1248.101. Full information shall be furnished in accordance with the terms of outlines and requirements set forth in §§ 1248.22 to 1248.27, as supplemented by instructions included in the annual report forms to be supplied to the reporting water carriers.

§ 1248.22 Items to be reported.

For each commodity code used in reporting, the following items and subdivisions thereof are to be reported annually by each carrier by water, except shipments of less than 10,000 pounds, which shall be reported as provided in § 1248.23(b):

a. Number of tons (2,000 pounds) of revenue freight carried:
Joint rail and water traffic
All other traffic
Total
b. Gross freight revenue (dollars):
Joint rail and water traffic
All other traffic
Total

§ 1248.23 Traffic defined.

(a) Commodity codes used in reporting, except commodity code 431, "Small packaged freight shipments," shall include shipments weighing 10,000 pounds or more, except as provided in paragraph (b) of this section.

(b) Shipments of less than 10,000 pounds of one commodity shall be reported under commodity code 431, "Small packaged freight shipments," unless the reporting carrier elects to distribute all revenue freight among the other designated classes.

§ 1248.24 Number of tons of revenue freight.

(a) *Tonnage of commodities.* Tonnage of commodities, in tons of 2,000 pounds, carried by the reporting carrier in its water-line and motor-truck operations, and for the reporting carrier in the vessels and motor trucks of other companies (carriers) under contract, in revenue service, shall be separate for each commodity code between "Joint rail and water traffic" and "All other traffic." The separation as to joint rail and water traffic and all other traffic may be omitted for commodity code 431, "Small packaged freight shipments."

(b) *Joint rail and water traffic.* Include all shipments that, so far as apparent from the information on the waybills or abstracts thereof, are being transported (partly) by railroad and partly by water when both are used under a common control, management, or arrangement for a continuous carriage or shipment such as traffic moving on joint rail-water and rail-motor-water rates.

(c) *All other traffic.* Include all shipments that, so far as apparent from the information on the waybills or abstracts thereof, are transported from point of origin to point of destination solely by water, solely by truck, partly by water and partly by truck, or by any other combination which does not involve the interchanging of traffic with a railroad company; also, shipments moving on water rates when the carrier by water absorbs out of its port-to-port rates certain charges for switching, terminal, drayage, or other services within a port terminal district.

(d) *Commodity code 37111.* Commodity code 37111, "Passenger cars, assembled," is confined to vehicles carried as revenue freight on freight rates and does not include those carried as an adjunct to passenger business.

(e) *Commodity code 441.* Commodity code 441, "Freight Forwarder Traffic," includes freight traffic shipped by or consigned to any forwarder holding a certificate under Part IV of the Interstate Commerce Act.

§ 1248.25 Gross freight revenue.

(a) Include under "Joint rail and water traffic" and "All other traffic," the revenues that are applicable to the tonnage, as provided in § 1248.24 (a), (b), and (c).

(b) Gross freight revenue means the respondent's gross revenue from freight without adjustment for absorption or corrections.

§ 1248.26 Nonrevenue freight carried.

The tonnage of nonrevenue freight carried shall be reported annually in total and not by classes of commodities.

§ 1248.27 Reports and date of filing.

Reports required from Class A and Class B carriers by water by § 1248.21 shall be included in their annual reports to the Interstate Commerce Commission (see § 1250.10 of this chapter).

§ 1248.28 Public inspection—water carrier reports.

The individual commodity statistics reports of water carriers required to be filed, for the year beginning January 1, 1964, under the terms of § 1248.21, shall not be open to public inspection, and such required commodity statistics reports, to be filed for the years beginning January 1, 1965, and later, to the extent that they involve traffic of less than three shippers, reportable in one of the commodity reporting classes, may be excluded from a water carrier's regular freight commodity statistics report and filed in a supplemental report which will not be open for public inspection, except that access to supplemental reports may be given upon approval by the Commission.

Subpart C—Electric Railways

AUTHORITY: The provisions of Subpart C issued under secs. 12, 20, 24 Stat. 383, as amended, 386, as amended; 49 U.S.C. 12, 20.

§ 1248.35 Freight commodity statistics and operating statistics.

Commencing with reports for the year beginning January 1, 1964, and thereafter until further order, carriers by electric railway, subject to the provisions of Part I of the Interstate Commerce Act, which reported more than 1,000,000 freight, mail, and express car-miles in rail-line operations during the year 1946, shall compile freight commodity statistics and operating statistics, and report annually such statistics to this Commission, according to the items and subdivisions thereof listed in § 1248.36, and for each 3, 4 and 5-digit commodity code named in § 1248.101. Full information shall be furnished in accordance with the terms and requirements outlined below, as supplemented by instructions included in the annual report forms to be supplied to the reporting electric railways.

§ 1248.36 Items to be reported for each commodity code.

For each commodity code used in reporting, the following items and subdivisions thereof are to be reported annually by each electric railway, as defined in § 1248.38, except that the number of car-

loads for commodity code 431, "Small packaged freight shipments," shall be omitted.

(a) Revenue freight originating on respondent's road:

Terminating on line:
Number of carloads.
Number of tons (2,000 pounds).
Delivered to connecting carriers:
Number of carloads.
Number of tons (2,000 pounds).

(b) Revenue freight received from connecting carriers:

Terminating on line:
Number of carloads.
Number of tons (2,000 pounds).
Delivered to connecting carriers:
Number of carloads.
Number of tons (2,000 pounds).

(c) Total revenue freight carried:

Number of carloads.
Number of tons (2,000 pounds).

(d) Gross freight revenue.

§ 1248.37 Carload and L.C.L. traffic defined.

(a) Commodity codes 01 through 422 and 44 through 462, shall include only carload traffic. All shipments weighing less than 10,000 pounds shall be included in commodity code 431, "Small packaged shipments."

(b) A "carload" for the purpose of this order shall consist of a shipment of not less than 10,000 pounds of one commodity. A mixed carload for the purpose of this order shall be treated as a carload of that commodity which forms the major portion of the shipment in weight. If a single shipment is loaded into more than one car, each car used shall be reported as a carload. If more than one "carload" shipment is loaded into one car, each shipment shall be reported separately as a carload.

§ 1248.38 Originating and connecting line traffic.

(a) Revenue freight reported as "received from connecting rail carriers" shall include all shipments received from connecting rail carriers, either directly or indirectly, so far as apparent from information on the waybills or abstracts.

(b) Revenue freight reported as "originating on respondent's road" shall include shipments originating on line and shipments received from water lines and highway motor truck lines, except when identified as having had previous rail transportation, as provided in paragraph (a) of this section.

(c) Freight which receives its first line-haul on respondent's road, but originates on switching roads connecting directly or indirectly with respondent's line, shall be reported as freight originated by respondent.

(d) Revenue freight reported as "delivered to connecting rail carriers" shall include shipments delivered to connecting rail carriers, either directly or indirectly, as far as apparent from information on waybills or abstracts.

(e) Revenue freight reported as "terminating on respondent's road" shall include shipments terminating on line and shipments delivered to water lines and highway motor truck lines, except when identified as to receive further rail transportation as provided in paragraph (d) of this section.

(f) Freight which receives its last line haul on respondent's line, but is delivered to a switching road connecting directly or indirectly with respondent's line, shall be reported as freight terminated by respondent.

(g) Import and export traffic received from or delivered to water carriers and traffic from and to outlying possessions of the United States received from or delivered to water carriers shall be reported as originating or terminating at the port of entry or exit.

(h) Traffic interchanged with connecting rail lines operating in Canada and Mexico shall be reported as delivered to or received from connecting rail carriers.

(i) Lake cargo coal delivered to lower Lake and St. Lawrence River ports for transhipment by vessel shall be reported as "delivered to connecting rail carrier." Lake cargo coal received at upper Lake ports shall be reported as "received from connecting rail carriers."

(j) Iron ore delivered to upper Lake ports for transhipment by vessel shall be reported as "delivered to connecting rail carriers." Iron ore received at lower Lake and St. Lawrence River ports shall be reported as "received from connecting rail carriers."

(k) Tidewater coal to Atlantic ports shall be reported as "delivered to connecting rail carriers." Tidewater coal from Atlantic ports shall be reported as "received from connecting rail carriers."

(l) Freight accorded transit privileges shall be reported as "originated on respondent's road" at the transit point, even though the outbound shipment may move under transit balances or proportional rates.

(m) "Gross freight revenue" means respondent's gross revenue from freight without adjustment for absorptions or corrections.

(n) Commodity code 441, "Freight forwarder traffic," as named in § 1248.101, includes freight traffic in carloads shipped by or consigned to any forwarder holding a certificate under Part IV of the Interstate Commerce Act.

§ 1248.39 Items of statistics of rail-line operations to be reported.

1. Average number of miles of road operated in freight service.
2. Freight train-miles (locomotive-propelled and motor-car trains).
   2-01. Ordinary.
   2-02. Light.
   2-03. Total.
3. Freight locomotive-miles.
   3-01. Principal.
   3-02. Helper.
   3-03. Light.
   3-04. Total.
4. Freight-train car-miles.
   4-01. Loaded freight cars.
   4-02. Empty freight cars.
   4-03. Caboose.
   4-04. Total.
5. Number of tons of revenue freight carried.
6. Number of tons carried one mile.
   6-01. Revenue freight.
   6-02. Non-revenue freight.
   6-03. Total.
7. Freight revenue (account 107).

Averages

8. Miles per revenue ton (6—01÷5).
9. Ton-miles per car-mile (6—03÷4—01).
10. Average freight revenue:
    10-01. Per revenue ton carried (7÷5).
    10-02. Per revenue ton-mile (7÷6—01).
    10-03. Per loaded car-mile (7÷4—01).

§ 1248.40 Freight train-miles.

Include miles run by all trains between terminals or stations for the transportation of revenue and company freight; also miles run by trains consisting of empty freight cars, and by trains consisting of a locomotive and caboose running light in connection with such service. Trains which contain passenger-train cars shall be classed as freight trains whenever the number of freight-train cars is in excess of the number of passenger-train cars in them. Freight-train miles should be subdivided as follows: Ordinary freight-train miles which includes miles run by trains consisting of a locomotive, with or without caboose, with other equipment; Light freight-train miles which includes miles run by trains consisting of a locomotive and caboose, running light in connection with freight-train service. Motor-car train-miles should be included.

§ 1248.41 Freight locomotive-miles.

Include miles run by locomotive in freight-train service. Miles of motor cars (propelling units) should not be classed as locomotive-miles. Locomotive-miles should be subdivided as follows: Principal freight locomotive-miles, including miles run by locomotives principal to the train, between terminals, or stations, with freight trains; also miles run by locomotives between terminals or stations, with cabooses, going to or returning from such service; and miles run in hauling the second cut of freight trains doubled over grades; Helper freight locomotive-miles, including miles run by locomotives as helpers over the division or that portion covered by the run, or on important grades including double-headers, triple-headers, and pushers, regardless of whether on the head end, in the middle, or on the rear of the train; Light freight locomotive-miles, including miles run by locomotives light between terminals or stations in connection with freight-train service on account of unbalanced traffic; miles run light for hauling second cuts of trains doubled; miles run light between freight trains and next coaling station or water tank for coal or water; miles run light to pick up or assist freight trains between terminals; miles run light by grade helpers in returning from assisting freight trains as pushers or double-headers; and miles run light by locomotives coming from or going to enginehouses or turntables from freight-train service.

§ 1248.42 Freight-train car-miles.

Include the miles run by freight-train cars (including caboose cars) in transportation service. Such car-miles should be subdivided as follows: loaded; empty; and caboose. The mileage of company service equipment, designed exclusively for work service and moved in transportation trains, should be classed as loaded freight car-miles. Car mileage of motor-car trains should be included.

§ 1248.43 Report and date of filing.

Reports required from carriers by electric railway by § 1248.35 shall be included in their annual reports to the Interstate Commerce Commission (see § 1241.21 of this chapter).

§ 1248.44 Public inspection—electric railway reports.

The individual commodity statistics reports of electric railways, required to be filed, for the year beginning January 1, 1964, under the terms of § 1248.35, shall not be open to public inspection and such required commodity statistics reports, to be filed for the years beginning January 1, 1965, and later, to the extent that they involve the traffic of less than three shippers, reportable in one of the commodity reporting classes, may be excluded from an electric railway's regular freight commodity statistics report and filed in a supplemental report which will not be open to public inspection, except that access to supplemental reports may be given upon approval by the Commission.

Subpart D—Motor Carriers

AUTHORITY: The provisions of Subpart D issued under 49 Stat. 546, as amended, 563, as amended; 49 U.S.C. 304, 320.

§ 1248.51 Freight commodity statistics.

Commencing with reports for the year beginning January 1, 1964, and thereafter until further order, all Class I common and contract motor carriers of property, as defined in § 1240.5 of this chapter, subject to Part II of the Interstate Commerce Act, and not hereinafter specifically exempted from the requirements of this part, shall compile and report annually certain freight traffic statistics according to the 3, 4, and 5-digit commodity codes named in § 1248.101 of this chapter, and in conformity with formal instructions included in the appropriate report forms hereinafter prescribed.

§ 1248.52 Exempt carriers.

Until further order of the Commission those Class I common and contract motor carriers of property which are predominantly engaged in the types of carriage or service indicated below will be exempt from the requirements for compiling and reporting freight commodity statistics:

(a) Dump trucking,
(b) Armored truck service,
(c) Film and associated commodities,
(d) Retail store delivery,
(e) Household goods,
(f) Carriers of specific commodities not grouped in Classes I to 16, inclusive, Schedule 20 of Motor Carrier Annual Report Form A, § 1249.1 of this chapter.

§ 1248.53 Items to be reported.

Information respecting intercity truckload shipments shall be compiled and reported for each commodity class named in § 1248.56, as follows:

(a) Revenue freight originated:

Terminating with carrier;
Number of shipments,
Number of tons (2,000 lbs.),
Delivered to another motor carrier;
Number of shipments,
Number of tons (2,000 lbs.).

(b) Revenue freight received from another motor carrier:

Terminating with carrier;
Number of shipments,
Number of tons (2,000 lbs.),
Delivered to another motor carrier:
Number of shipments,
Number of tons (2,000 lbs.).

(c) Total truckload revenue freight:

Number of shipments,
Number of tons (2,000 lbs.),
Freight revenue.

§ 1248.54 Truckload traffic defined.

For purposes of this part a truckload shipment shall mean any shipment of not less than 10,000 pounds of a single commodity represented by one of the classes of the Commission's freight commodity classification or any subdivision of such classes which moves on a single bill of lading. It is recognized that more than one shipment of 10,000 pounds will at times move in the same truck, but, in compiling the information, each such shipment will be treated as a truckload shipment. Truckload shipments received from or delivered to a carrier other than a motor carrier shall be classified as originating and terminating, respectively, with the reporting carrier.

§ 1248.55 Freight revenue.

Freight revenue as used in § 1248.53 means the reporting carrier's proportion of the revenue shown on each freight bill without subsequent adjustment for errors in rates, extensions, interline divisions, etc.

§ 1248.56 Report form and date of filing.

Commencing with reports for the year 1957, reports required by these rules and regulations shall be filed in duplicate with the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, within three months after the close of the year for which the reports are made, on Form TCS which will be furnished to the carriers. (The outline of the report Form follows the tenor of the order.)

§ 1248.57 Public inspection—motor carrier reports.

The individual commodity statistics reports of motor carriers required to be filed for the year beginning January 1, 1964, under the terms of § 1248.51, shall not be open to public inspection, and such required commodity statistics reports, required to be filed for the years beginning January 1, 1965, and later, to the extent that they involve the traffic of less than three shippers, reportable in one of the commodity reporting classes, may be excluded from a motor carrier's regular freight commodity statistics report and filed in a supplemental report which will not be open for public inspection, except that access to supplemental reports may be given upon approval by the Commission.

Subpart E—Commodity Code

AUTHORITY: The provisions of Subpart E issued under sec. 12, 24 Stat. 383, as amended, sec. 20, 24 Stat. 386, as amended, sec. 204, 49 Stat. 545, as amended, sec. 304, 54 Stat. 933, sec. 220, 49 Stat. 563, as amended, sec. 313, 54 Stat. 944, as amended; 49 U.S.C. 12, 20, 304, 320, 904, 913.

§ 1248.100 Commodity classification designated.

Commencing with reports for the year or quarter beginning January 1, 1964, as the case might be, and thereafter until further order, reports of commodity statistics required to be made to the Commission, shall be based on the commodity codes, up to 5 digits, in groups 01 through 40, in the Commodity Classification for Transportation Statistics, 1963, issued by the Bureau of the Budget, and on additional codes 411 through 462 shown in § 1248.101.

§ 1248.101 Commodity codes required.

Commodity codes required to be reported, as referred to in this part or in Part 206 of this chapter, are as follows:

Code	Description
01	FARM PRODUCTS.
011	Field Crops.
0112	Cotton, raw.
01121	Cotton in bales.
01131	Barley.
01132	Corn, except popcorn.
01133	Oats.
01134	Rice, rough.
01135	Rye.
01136	Sorghum grains.
01137	Wheat, except buckwheat.
01139	Grain, n.e.s.
0114	Oil seeds, oil nuts, and oil kernels, except edible tree nuts.
01144	Soybeans.
0115	Field seeds, except oil seeds.
0119	Miscellaneous field crops.
01193	Leaf tobacco.
01195	Potatoes, other than sweet.
01197	Sugar beets.
013	Fresh Fruits and Tree Nuts.
0121	Citrus fruits.
0122	Deciduous fruits.
01221	Apples.
01224	Grapes.
01226	Peaches.
0123	Tropical fruits, except citrus.
01232	Bananas.
0129	Miscellaneous fresh fruits and tree nuts.
01295	Coffee, green.
013	Fresh Vegetables.
0131	Bulbs, roots, and tubers, with or without tops except potatoes.
01318	Onions, dry.
0133	Leafy fresh vegetables.
01334	Celery.
01335	Lettuce.
0134	Dry ripe vegetable seeds, etc. (except artificially dried).
01341	Beans, dry ripe.
01342	Peas, dry.
0139	Miscellaneous fresh vegetables:
01392	Watermelons.
01394	Tomatoes.

Code	Description
01209	Melons, except watermelons (cantaloupes, muskmelons, etc.).
014	Livestock and Livestock Products.
0141	Livestock.
01411	Cattle.
01413	Hogs and pigs.
01414	Sheep and lambs.
0142	Dairy farm products, except pasteurized.
0143	Animal fibers.
01431	Wool.
015	Poultry and Poultry Products.
0151	Live poultry.
0152	Poultry eggs.
019	Miscellaneous Farm Products.
0191	Horticultural specialties.
0192	Animal specialties.
08	Forest Products.
084	Gums and Barks, Crude.
08422	Latex and allied gums (crude natural rubber).
089	Miscellaneous Forest Products.
09	Fresh Fish and Other Marine Products.
091	Fresh Fish and Other Marine Products.
0912	Fresh fish and whale products, including frozen unpackaged fish.
09131	Shells (oyster, crab, clam, etc.).
10	Metallic Ores.
101	Iron Ores.
10112	Beneficiating-grade ore, crude.
102	Copper Ores.
103	Lead and Zinc Ores.
1031	Lead ores.
1032	Zinc ores.
104	Gold and Silver Ores.
105	Bauxite and Other Aluminum Ores.
106	Manganese Ores.
107	Tungsten Ores.
108	Chromium Ores.
109	Miscellaneous Metal Ores.
11	Coal.
111	Anthracite Coal.
11111	Raw anthracite (lump).
11112	Cleaned or prepared anthracite (crushed, screened, or sized).
112	Bituminous Coal and Lignite.
1121	Bituminous coal.
13	Crude Petroleum, Natural Gas, and Natural Gasoline.
131	Crude Petroleum and Natural Gas.
132	Natural Gasoline.
14	Nonmetallic Minerals, Except Fuels.
141	Dimension Stone, quarry.
142	Crushed and Broken Stone, including riprap
14211	Agricultural limestone.
14219	Crushed and broken stone, including riprap, n.s.c.
144	Sand and Gravel.
14411	Sand (aggregate and ballast).
14412	Gravel (aggregate and ballast).
14413	Industrial sand and gravel.
145	Clay, Ceramic and Refractory Minerals.
14511	Bentonite.
14512	Fire clay.
14514	Kaolin and ball clay.
147	Chemical and Fertilizer Minerals.
14711	Barite.
14712	Potash, soda and borate.
14714	Phosphate rock.
14715	Rock salt.
14716	Sulphur.
149	Miscellaneous Nonmetallic Minerals, Except Fuels.
14911	Gypsum and anhydrite.
14913	Native asphalt and bituminous.
14914	Pumice and pumicite.
19	Ordnance and Accessories.
191	Guns, Howitzers, Mortars, and Related Equipment, Over 30 mm.
192	Ammunition, Except for Small Arms (over 30 mm.).
193	Full Tracked Combat Vehicles and Parts.
194	Sighting and Fire Control Equipment.
195	Small Arms, 30 mm. and Under.
196	Small Arms Ammunition, 30 mm. and Under.
199	Miscellaneous Ordnance and Accessories.
20	Food and Kindred Products.
201	Meat (Including Poultry and Small Game): Fresh, Chilled, or Frozen.
2011	Meat, fresh or chilled, except salted.
2012	Meat, fresh-frozen.
2013	Meat products.
2014	Animal by-products, inedible.
20141	Hides, skins and pelts, not tanned (cattle, pig, goat, sheep, mule, and horse).
2015	Dressed poultry, small game, and related products, fresh, chilled or canned.
2016	Dressed poultry, small game and related products, fresh-frozen.
202	Dairy Products.
2021	Creamery butter.
2023	Condensed, evaporated milk and dry milk.
2024	Ice cream and related frozen desserts.
2026	Cheese and other special dairy products.
2026	Processed whole milk, skim milk, cream and other fluid products.
203	Canned and Preserved Fruits, Vegetables and Sea Foods.
2031	Canned and cured sea foods.
2032	Canned specialties.
2033	Canned fruits and vegetables.
2034	Dried and dehydrated fruits and vegetables (except field dried) and soup mix.
2035	Pickled fruits and vegetables; sauces and seasoning; salad dressing.
2036	Fresh or frozen packaged fish.
2037	Frozen fruits, fruit juices, vegetables and specialties.
204	Grain Mill Products.
2041	Flour and other grain mill products.
20411	Wheat flour, except blended and prepared.
20421	Prepared feeds for animals and fowls, except canned.
20423	Canned feed for animals and poultry.
2043	Cereal preparations.
2044	Milled rice, flour and meal.
2045	Blended and prepared flour.
2046	Corn starch, sirup, oil, sugar and by-products (wet process).
20461	Corn sirup.
20462	Corn starch.
20463	Corn sugar.
205	Bakery Products.
206	Sugar (beet and cane).
2061	Sugar mill products and by-products.
20611	Raw cane and beet sugar.
20616	Sugar molasses, except blackstrap.
20617	Blackstrap molasses.
2062	Sugar, refined: Cane and beet.
20625	Sugar refining by-products.
20626	Pulp, molasses, beet.
207	Confectionery and related products.
208	Beverages and flavoring extracts.
20831	Beer, ale, porter, stout: Bottled, barrels, kegs.
20839	Malt extract and brewers' spent grains.
2083	Malt.
2084	Wines, brandy, and brandy spirits.
20851	Distilled, rectified and blended liquors.
20859	By-products of liquor distilling.
2086	Bottled and canned soft drinks and carbonated and mineral waters.
2087	Miscellaneous flavoring extracts and flavoring sirups and compounds except chocolate syrups.
209	Miscellaneous Food Preparations and Kindred Products.
20911	Cottonseed oil, crude or refined.
20914	Cottonseed cake, meal and other by-products.
20921	Soybean oil, crude or refined.
20923	Soybean cake, meal, flour, grits, and other by-products.
2093	Vegetable and nut oils and by-products, except cottonseed and soybean.
2094	Marine fats and oils.
2095	Roasted coffee, including instant coffee.
2096	Shortening, table oils, margarine and other edible fats and oils, n.s.c.
2097	Ice, natural or manufactured.
2098	Macaroni, spaghetti, vermicelli, and noodles.
21	Tobacco Products:
211	Cigarettes.
212	Cigars.
213	Chewing and Smoking Tobacco and Snuff.
214	Stemmed and Redried Tobacco.
22	Basic Textiles:
221	Cotton Broad Woven Fabrics.
222	Man-made Fiber and Silk Broad Woven Fabrics.
223	Wool Broad Woven Fabrics.
224	Narrow Fabrics.
225	Knit Fabrics.
227	Carpets and Rugs, Textile.
228	Yarn and Thread.
229	Miscellaneous Basic Textiles.
2296	Tire cord and fabrics.
2297	Wool and mohair (scoured, combed, carbonized): Tops, noils, nubs, slubs and grease.
2298	Cordage and twine.
23	Apparel and Other Finished Textile Products Including Knit.
231	Men's, Youths', and Boys' Clothing.
233	Women's, Misses', Girls' and Infants' Clothing.
235	Millinery, Hats and Caps.
237	Fur Goods.
238	Miscellaneous Apparel and Accessories.
239	Miscellaneous Fabricated Textile Products.
24	Lumber and Wood Products, Except Furniture.
241	Primary Forest Products (Pulpwood, Piling, Posts, Logs, Bolts, etc.).
24114	Pulpwood logs.
24115	Pulpwood chips.
24116	Woodposts, poles and piling.
242	Lumber and Dimension Stock:
2421	Lumber and dimension stock:
24212	Sawed ties (railroads, mine, etc.).
2429	Miscellaneous sawmill and planing mill products (shingles, cooperage stock, etc.).
243	Millwork, Veneer, Plywood, Prefabricated Structural Wood Products.
2431	Millwood.
2432	Veneer and plywood.
244	Wooden Containers.
249	Miscellaneous Wood Products:
2491	Creosoted or oil treated wood products.
25	Furnitures and Fixtures.
251	Household and Office Furniture.
253	Public Building and Related Furniture.
254	Partitions, Shelving, Lockers, Office, and Store Fixtures.
259	Miscellaneous Furniture and Fixtures.
26	Pulp, Paper and Allied Products
261	Pulp and pulp mill products.
26111	Pulp.
262	Paper, except building paper.
26211	Newsprint.
26216	Coarse paper, including wrapping paper.

Code	Description
265	Paperboard, pulpboard and fiberboard, except insulating board.
264	Converted paper and paperboard products, except containers and boxes.
2643	Paper bags.
265	Containers and boxes, paperboard, fiberboard and pulpboard.
266	Building paper and building board.
2661	Building paper and building board.
26613	Wallboard.
27	Printed Matter.
271	Newspapers.
272	Periodicals.
273	Books.
274	Miscellaneous Printed Matter.
276	Manifold Business Forms.
277	Greeting Cards, Seals, Labels, And Tags.
278	Blankbooks, Looseleaf Binders and Devices.
279	Products of Service Industries for the Printing Trades.
28	Chemical and Allied Products
281	Industrial Inorganic and Organic Chemicals.
2812	Sodium, potassium, and other basic inorganic chemical compounds and chlorine.
28123	Sodium compounds, except sodium alkalies.
2813	Industrial gases (compressed and liquefied).
2814	Crude products from coal tar, petroleum and natural gas.
2816	Inorganic pigments.
2818	Miscellaneous industrial organic chemicals.
28184	Alcohols.
2819	Miscellaneous industrial inorganic chemicals.
28193	Sulphuric acid.
282	Plastics Materials and Synthetic Resins, Synthetic Rubbers and Fibers.
28212	Synthetic rubber.
28213	Synthetic organic fibers.
283	Drugs (Biological Products, Medicinal Chemicals, Botanical Products and Pharmaceutical Preparations).
284	Soap, Detergents, and Cleaning Preparations, Perfumes, Cosmetics and Other Toilet Preparations.
2841	Soap and other detergents, except specialty cleansers.
285	Paints, Varnishes, Lacquers, Enamels, and Allied Products.
286	Gum and Wood Chemicals.
287	Agricultural Chemicals.
2871	Fertilizers.
289	Miscellaneous Chemical Products.
2892	Explosives.
28991	Salt.
29	Petroleum and Coal Products.
291	Products of Petroleum Refining.
29111	Gasoline, jet fuels and other high volatile petroleum fuels, except natural gasoline.
29112	Kerosene.
29113	Distillate fuel oil.
29114	Lubricating and similar oils and derivatives.
29115	Lubricating greases.
29116	Asphalt, tar and pitches (petroleum, cokeoven, coal tar).
29117	Residual fuel oil and other low volatile petroleum fuels.
29119	Products of petroleum refining, n.s.c.
2912	Liquefied petroleum gases and coal gases.
295	Paving and Roofing Materials.
2951	Paving mixtures and blocks.
2952	Asphalt felt and coatings.
299	Miscellaneous Petroleum and Coal Products.
29911	Coke and coal briquettes.
30	Rubber and Miscellaneous Plastic Products.
301	Tires and Inner Tubes.
302	Rubber Footwear.
303	Reclaimed Rubber.
306	Miscellaneous Fabricated Rubber Products.
307	Miscellaneous Plastics Products.
31	Leather and Leather Products.
311	Leather.
313	Industrial Leather Belting and Packing.
313	Boot and Shoe Cut Stock and Findings, All Materials.
314	Footwear, Except Rubber.
315	Leather Gloves and Mittens.
316	Luggage, Handbags, and Other Personal Leather Goods (all materials).
319	Miscellaneous Leather Goods.
32	Stone, Clay and Glass Products.
321	Flat Glass.
322	Glass and Glassware, Pressed and Blown.
3221	Glass containers.
324	Hydraulic Cement.
32411	Cement, hydraulic; Portland, natural, masonry, puzzolan.
325	Structural Clay Products.
3251	Brick and structural clay tile.
32511	Brick, except ceramic glazed and refractory brick.
3253	Ceramic wall and floor tile.
3255	Refractories, clay and nonclay.
3259	Miscellaneous structural clay products.
32594	Roofing tile.
326	Pottery and Related Products.
327	Concrete, Gypsum, and Plaster Products.
3271	Concrete products.
3274	Lime.
3275	Gypsum products.
328	Cut Stone and Stone Products.
329	Abrasives, Asbestos, and Miscellaneous Nonmetallic Mineral Products.
3291	Abrasive products.
33	Primary Metal Products.
331	Steel Works and Rolling Mill Products.
33111	Pig iron.
33112	Slag.
33113	Coke, screenings and breeze.
33119	Coke oven and blast furnace products, n.s.c.
3312	Primary iron and steel products, except coke oven by-products.
33121	Steel ingot and semi-finished shapes.
3313	Ferro-alloys.
3315	Steel wire, nails, and spikes.
332	Iron and Steel Castings.
33211	Iron and steel cast pipe and fittings.
333	Nonferrous Metals Primary Smelter Products (Slab, Ingot, Pig, etc., and Residues).
3331	Primary copper and copper base alloys smelter products.
3332	Primary lead and lead base alloys smelter products.
3333	Primary zinc and zinc base alloys smelter products.
3334	Primary aluminum and aluminum base alloys smelter products.
335	Nonferrous Metal Basic Shapes.
3351	Copper, brass or bronze and other copper base alloy basic shapes.
3352	Aluminum and aluminum base alloy basic shapes except aluminum foil.
3357	Nonferrous wire, including insulated wire.
336	Nonferrous and Nonferrous Base Alloy Castings.
3361	Aluminum and aluminum base alloy castings.
3362	Brass, bronze, copper, and copper base alloy castings.
339	Miscellaneous Primary Metal Products.
3391	Iron and steel forgings.
3392	Nonferrous forgings.
34	Fabricated Metal Products, Except Ordnance, Machinery, and Transportation Equipment.
341	Metal Cans.
342	Cutlery, Hand Tools, and General Hardware.
343	Plumbing Fixtures and Heating Apparatus, Except Electric.
3433	Heating equipment, except electric.
344	Fabricated structural metal products.
3441	Fabricated structural metal products.
345	Bolts, Nuts, Screws, Rivets, Washers, and Other Industrial Fasteners.
346	Metal Stampings.
348	Miscellaneous Fabricated Wire Products.
349	Miscellaneous Fabricated Metal Products.
3491	Metal barrels, drums, kegs, and pails.
3494	Valves and pipe fittings (except plumbers' brass goods and fittings), fabricated pipe and fabricated pipe fittings.
35	Machinery, Except Electrical.
351	Engines and Turbines.
352	Farm Machinery and Equipment.
353	Construction, Mining and Materials Handling Equipment.
3531	Construction machinery and equipment.
3532	Mining machinery and equipment, except oil field machinery and equipment.
3533	Oil field machinery and equipment.
3537	Industrial trucks, tractors, trailers, and stackers.
354	Metalworking Machinery and Equipment.
355	Special Industry Machinery, Except Metalworking Machinery.
356	General Industrial Machinery and Equipment.
357	Office, Computing, and Accounting Machines.
358	Service Industry Machines.
359	Miscellaneous Machinery and Parts, Except Electrical.
36	Electrical Machinery, Equipment and Supplies.
361	Electrical Transmission and Distribution Equipment.
362	Electrical Industrial Apparatus.
363	Household Appliances.
3631	Household cooking equipment, all types.
3632	Household refrigerators and home and farm freezers.
3633	Household laundry equipment.
364	Electric Lighting and Wiring Equipment.
365	Radio and TV Receiving Sets, Except Communication Types.
366	Communication Equipment.
367	Electronic Components and Accessories.
369	Miscellaneous Electrical Machinery, Equipment, and Supplies.
37	Transportation Equipment.
371	Motor Vehicles and Motor Vehicle Equipment.
3711	Motor vehicles.
37111	Passenger cars, assembled.
37112	Truck tractors, and trucks, assembled.
37113	Motor coaches, assembled (including trolley buses) and fire department vehicles.

Code	Description
3712	Passenger car bodies and body parts.
3713	Truck and bus bodies and body parts.
3714	Motor vehicle parts and accessories.
3715	Truck trailers.
372	Aircraft and Parts.
373	Ships and Boats.
374	Railroad Equipment.
375	Motorcycles, Bicycles, and Parts.
379	Miscellaneous Transportation Equipment.
38	Instruments, Photographic and Optical Goods, Watches and Clocks.
381	Engineering, Laboratory, and Scientific Instruments.
382	Measuring, Controlling, and Indicating Instruments.
383	Optical Instruments and Lenses.
384	Surgical, Medical, and Dental Instruments and Supplies.
385	Ophthalmic or Opticians' Goods.
386	Photographic Equipment and Supplies.
387	Watches, Clocks, Clockwork Operated Devices, and Parts.
39	Miscellaneous Products of Manufacturing.
391	Jewelry, Silverware, and Plated Ware.
393	Musical Instruments and Parts.
394	Toys, Amusement, Sporting and Athletic Goods.
3949	Sporting and athletic goods.
395	Pens, Pencils, and Other Office and Artists' Materials.
396	Costume Jewelry, Novelties, Buttons, and Notions.
398	Miscellaneous Manufactured Products—A.
399	Miscellaneous Manufactured Products—B.
40	Waste and Scrap Materials.
401	Ashes.
402	Waste and Scrap, Except Ashes.
4021	Metal scrap, waste and tailings.
40211	Iron and steel scrap, wastes and tailings.
4022	Textile waste, scrap and sweepings.
4024	Paper waste and scrap.
4026	Rubber and plastic scrap and waste.
41	Misc. Freight Shipments.
411	Misc. Freight Shipments.
41111	Outfits or kits.
41114	Articles, used except for repair, reconditioning (41115) returned empty (421), remelting 4091).
41115	Articles, used, returned for repair, incl. for reconditioning.
412	Miscellaneous Commodities Not Taken in Regular Freight Service.
42	Containers, Shipping, Returned Empty.
421	Containers, Shipping, Returned Empty Inc. Carriers or Devices.
422	Trailers, Semi-Trailers, Returned Empty.
44	Freight Forwarder Traffic.
441	Freight Forwarder Traffic, Carload or Truckload.
45	Shipper Association or Similar Traffic.
451	Shipper Association or Similar Traffic, Carload or Truckload.
46	Miscellaneous Mixed Shipments Exc. Forwarder Sec 44 Shipper Association Sec 45.
461	All Freight Rate Shipments, N.E.C., Inc. TOFC.
462	Mixed Shipments on One Factor Rates Cnstg. of Commodities Representing Two or More Major Industry Groups Where it is Impossible to Determine the Predominant Industry.
47	Small Packaged Freight Shipments.
471	Small Packaged Freight Shipments, Including LCL or LTL.

PART 1249—REPORTS OF MOTOR CARRIERS

Sec.

1249.1 Annual reports of Class I carriers of property.
1249.2 Annual reports of Class II carriers of property.
1249.3 Motor carrier holding companies.
1249.4 Annual reports of Class III carriers of property.
1249.5 Annual reports of Class I carriers of passengers.
1249.6 Annual reports of carriers of passengers other than Class I carriers.
1249.7 Class I Motor Carriers.
1249.11 Quarterly reports of passenger revenues, expenses and statistics.
1249.12 Quarterly reports of property revenues, expenses and statistics.
1249.13 Quarterly reports of revenues, expenses and statistics—Class I common carriers of general freight.
1249.14 Quarterly reports of Class II carriers of property.

Authority: The provisions of this Part 1249 issued under secs. 204, 220, 49 Stat. 546, as amended, 563, as amended; 49 U.S.C. 304, 320.

§ 1249.1 Annual reports of Class I carriers of property.

Commencing with reports for the year ended December 31, 1965, and thereafter, until further order, all Class I motor carriers of property, as described in § 1240.5 of this chapter, viz, carriers with average annual gross operating revenues (including interstate and intrastate) of $1,000,000 or more, from property motor carrier operations, are required to file annual reports in accordance with Motor Carrier Annual Report Form A (Property). Such annual report shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C., 20423, on or before March 31 of the year following the year to which it relates.

§ 1249.2 Annual reports of Class II carriers of property.

Commencing with reports for the year ended December 31, 1965, and thereafter, until further order, all Class II motor carriers of property, as described in § 1240.5 of this chapter, viz, carriers with average annual gross operating revenues (including interstate and intrastate) of $200,000 but less than $1,000,000, from property motor carrier operations, are required to file annual reports in accordance with Motor Carrier Annual Report Form B (Property). Such annual report shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C., 20423, on or before March 31 of the year following the year to which it relates.

§ 1249.3 Motor carrier holding companies.

Each person which is not a motor carrier, but which shall be considered a motor carrier subject to provisions of section 220 of the Interstate Commerce Act by reason of effective control over one or more motor carriers through ownership of securities issued or assumed by such controlled motor carrier or carriers, shall file a report of its financial transactions during the year 1956 in accordance with Motor Carrier Annual Report Form A as prescribed in § 1249.1. Such reports hereby required to be filed shall be complete as to all schedules, declarations, replies, attachments, and other requirements of Motor Carrier Annual Report Form A, other than those which relate solely to the direct ownership and operation of highway equipment, and shall be filed in duplicate with the Interstate Commerce Commission, Washington, D.C., on or before November 1, 1957. Such persons shall also file similar reports annually, prepared in accordance with requirements for compiling Motor Carrier Annual Report Form A, as those requirements are now in effect or may in the future be modified, for each succeeding calendar year beginning with the year 1957, such annual reports to be filed in duplicate with the Commission on or before March 31 of the year following the one to which the report relates.

Each company subject to this section is hereby required to file with this Commission, in addition to said Annual Report Form A, a supplemental consolidated report setting forth the complete financial condition of such company and its subsidiaries in the scope and form indicated in the instructions to the supplemental consolidated report for the calendar year 1959 and each succeeding year thereafter. Such supplemental financial reports shall be attached to and considered an integral part of the Motor Carrier Annual Report Form A filed by each company.

§ 1249.4 Annual reports of class III carriers of property.

Commencing with the year ended December 31, 1965, and for subsequent years thereafter, until further order, all class III motor carriers of property, as defined in § 1240.5 of this chapter, carriers having average annual gross operating revenues (including interstate and intrastate) of less than $200,000 from property motor carrier operations, are required to file annual reports in accordance with Motor Carrier Annual Report Form C (property). Such report shall be filed in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before April 30 of the year following the year to which it relates.

§ 1249.5 Annual reports of class I carriers of passengers.

Commencing with reports for the year ended December 31, 1965, and thereafter, until further order, all class I motor carriers of passengers, as defined in § 1240.4 of this chapter, carriers with average annual gross operating revenues (including interstate and intrastate) of $200,000 or more, from passenger motor carrier operations, are required to file annual reports in accordance with Motor Carrier Annual Report Form D (Passenger). Such annual report shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 31 of the year following the year to which it relates.

§ 1249.6 Annual reports of carriers of passengers other than class I carriers.

Commencing with the year ended December 31, 1965, and for subsequent years thereafter, until further order, all motor carriers of passengers other than class I carriers, as defined in § 1240.4 of this chapter, carriers having gross operating revenues (including interstate and intrastate) of less than $200,000 annually from passenger motor carrier operations, are required to file annual reports in accordance with Motor Carrier Annual Report Form E (passenger). Such report shall be filed in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before April 30 of the year following the year to which it relates.

§ 1249.7 Class I Motor Carriers.

(a) Commencing with reports of transactions occurring on August 1, 1966, and thereafter until further order, each Class I motor carrier, as described in §§ 1240.4 and 1240.5 of this chapter, subject to Part II of the Interstate Commerce Act, shall be required to file with the Interstate Commerce Commission a duplicate copy of any statement to the Securities and Exchange Commission concerning beneficial ownership or change in beneficial ownership of equity securities of any other carrier subject to economic regulation under Parts I, II, and III of the Interstate Commerce Act, or any freight forwarder subject to such regulation under Part IV of said Act, when any such statement is required to be filed with the Securities and Exchange Commission pursuant to section 16(a) of the Securities Exchange Act of 1934, as amended, or regulations thereunder.

(b) Such duplicate copy shall be filed in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before the date specified in the above-designated statute or regulation thereunder.

§ 1249.11 Quarterly reports of passenger revenues, expenses, and statistics.

Commencing with reports for the quarter ended March 31, 1961, and for subsequent quarters thereafter, until further order, all Class I common and contract motor carriers of passengers, as defined in § 1240.4 of this chapter, viz., carriers having average gross operating revenues (including interstate and intrastate) of $200,000 or over annually, from passenger motor carrier operations, are required to file quarterly reports in accordance with Motor Carrier Quarterly Report Form QPA (Class I Carriers of Passengers). Such quarterly report shall be filed in triplicate in the office of the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, within 30 days after the close of the period to which it relates.

§ 1249.12 Quarterly reports of property revenues, expenses and statistics.

Commencing with reports for the quarter ended September 30, 1962, and for subsequent quarters thereafter, until further order, all Class I common and contract motor carriers of property as defined in § 1240.5 of this chapter, carriers having average annual gross operating revenues (including interstate and intrastate) of $1,000,000 or more from property motor carrier operations, except carriers of general freight subject to the terms of § 1249.13, are required to file quarterly reports in accordance with Motor Carrier Quarterly Report Form QFR–I (Property). Such quarterly report shall be filed in triplicate in the office of the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C., 20423, within 30 days after the close of the period to which it relates.

§ 1249.13 Quarterly reports of revenues, expenses, and statistics—Class I common carriers of general freight.

Commencing with reports for the quarter ended September 30, 1962, and for subsequent quarters thereafter, until further order, all Class I common carriers of general freight, included in Class I carriers, as defined in § 1240.5 of this chapter, carriers having average annual gross operating revenues (including interstate and intrastate) of $1,000,000 or more, from property motor carrier operations, are required to file quarterly reports in accordance with Motor Carrier Quarterly Report Form QFR–I–GF (General Freight). Such quarterly report shall be filed in triplicate in the office of the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, within 30 days after the close of the period to which it relates.

§ 1249.14 Quarterly reports of Class II carriers of property.

Commencing with reports for the quarter ended March 31, 1961, and for subsequent quarters thereafter, until further order, all Class II common and contract motor carriers of property as defined in § 1240.5 of this chapter, viz., carriers having average annual gross operating revenues (including interstate and intrastate) of $200,000 but less than $1,000,000, from property motor carrier operations, are required to file quarterly reports in accordance with Motor Carrier Quarterly Report Form QFR–II (Property). Such quarterly report shall be filed in triplicate in the office of the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, within 30 days after the close of the period to which it relates.

PART 1250—REPORTS OF WATER CARRIERS

Sec.

1250.10 Annual reports of Class A and B water carriers on inland and coastal waterways.
1250.20 Form prescribed for maritime carriers.
1250.30 Annual reports of Class C water carriers.

Authority: The provisions of this Part 1250 issued under secs. 304, 313, as amended, 54 Stat. 933, 944, as amended; 49 U.S.C. 904, 913, unless otherwise noted.

§ 1250.10 Annual reports of Class A and B water carriers on inland and coastal waterways.

Commencing with the year ended December 31, 1964, and for subsequent years thereafter, until further order, all water carriers on inland and coastal waterways, subject to the provisions of section 313, Part III of the Interstate Commerce Act, and of Classes A and B, as described in § 1240.2, of this chapter, carriers with average annual operating revenues exceeding $100,000, are required to file annual reports in accordance with Inland and Coastal Waterways Annual Report Form K–A (Class A and Class B Water Carriers). Such annual report shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 31 of the year following the year to which it relates.

§ 1250.20 Form prescribed for maritime carriers.

Commencing with the year ended December 31, 1964, and for subsequent years thereafter, until further order, all maritime carriers subject to section 313, Part III, of the Interstate Commerce Act, are required to file annual reports in accordance with Annual Report Form M (Maritime Carriers). Such annual report shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 31 of the year following the year to which it relates.

§ 1250.30 Annual reports of Class C water carriers.

Commencing with the year ended December 31, 1957, and for subsequent years thereafter, until further order, all Class C water carriers, as described in § 1240.2 of this chapter, viz, carriers with annual operating revenues of $100,000 or less, subject to the provisions of section 313, Part III of the Interstate Commerce Act, are required to file reports in accordance with Annual Report Form K–C (Class C Water Carriers). Such annual report shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 31 of the year following the year to which it relates.

PART 1251—REPORTS OF FREIGHT FORWARDERS

Sec.

1251.1 Annual reports of Class A freight forwarders.
1251.2 Form prescribed for freight forwarders of Class B.
1251.3 Form prescribed for quarterly reports of freight forwarders.

Authority: The provisions of this part 1251 issued under Secs. 403, 412, 56 Stat. 285, 294; 49 U.S.C. 1003, 1012.

§ 1251.1 Annual reports of Class A freight forwarders.

Commencing with the year ended December 31, 1963, and for subsequent years thereafter, until further order, all Class A freight forwarders, as described in § 1240.6 of this chapter, viz, forwarders having annual gross operating revenues of $100,000 or more, are required to file annual reports in accordance with Annual Report Form F–a (Class A Freight Forwarders). Such annual report shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 31, of the year following the year to which it relates.

§ 1251.2 Form prescribed for freight forwarders of Class B.

All freight forwarders of Class B as described in § 1240.6 of this chapter, within the scope of section 412, part IV of the Interstate Commerce Act are hereby required to file annual reports for the year ended December 31, 1951, and for each succeeding year until further order, in accordance with Annual Report Form F–b (Freight Forwarders). The annual report shall be filed in duplicate, in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 31, of the year following the one to which it relates.

§ 1251.3 Form prescribed for quarterly reports of freight forwarders.

(a) Beginning with the three months' period ending March 31, 1943, and quarterly thereafter, until further order of this Commission, all Freight Forwarders within the scope of section 412, part IV of the Interstate Commerce Act having annual gross revenues of $100,000 or more for the calendar year 1942, are hereby required to file reports of revenues, expenses, and statistics in accordance with Form QFF.

(b) The said quarterly report shall be filed, in duplicate, in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, within 60 days after the close of the period to which it relates.

PART 1252—PIGGYBACK TRAFFIC STATISTICS

Sec.
1252.1 Rail carriers.
1252.2 Motor carriers.
1252.3 Water carriers.
1252.4 Freight forwarders.

§ 1252.1 Rail carriers.

Commencing with reports for the first quarter of 1964, and thereafter until further order, each class I railroad as described in § 1240.1 of this chapter, subject to Part I of the Interstate Commerce Act, other than switching or terminal companies, shall compile and file in accordance with Form PTR–R, Piggyback Traffic Terminated by Class I Railroads and Piggyback Car Movements, statistics of piggyback transportation, as defined therein, performed by such railroad, either in all-rail transportation or in participation with motor carriers of property, or shall, as may be required, advise the Commission that it does not perform such piggyback transportation service. The report on Form PTR–R shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, within 60 days after the close of the quarter to which it relates. The individual reports filed under this section shall not be open to public inspection.

(Sec. 12, 20, 24 Stat. 383, as amended, 386, as amended; 49 U.S.C. 12, 20)

§ 1252.2 Motor carriers.

Commencing with reports for the first quarter of 1964, and thereafter until further order, each class I intercity motor carrier of property, as defined in § 1240.5 of this chapter, subject to Part II of the Interstate Commerce Act, shall compile and file in accordance with Form PTR–M, Piggyback Traffic of Class I Motor Carriers of Property, statistics of piggyback transportation, as defined therein, used by such motor carrier in participation with railroads or with water carriers, or shall, as may be required, advise the Commission that it does not make use of such piggyback service. The report, on Form PTR–M, shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, within 60 days after the close of the quarter to which it relates. The individual reports filed under this section shall not be open to public inspection.

(Secs. 204, 220, 49 Stat. 546, as amended, 568, as amended; 49 U.S.C. 304, 320)

§ 1252.3 Water carriers.

Commencing with reports for the first quarter of 1964, and thereafter until further order, each carrier by water subject to Parts I and III of the Interstate Commerce Act, assigned to class A, as described in § 1240.2 of this chapter, and each maritime carrier subject to Part III of such Act, shall compile and file in accordance with Form PTR–W, Piggyback Traffic Terminated by Class A Water Carriers and Maritime Carriers, statistics of piggyback transportation as defined therein, performed by such water carriers, either in all-water transportation or in participation with motor carriers of property, or shall, as may be required, advise the Commission that it does not perform such piggyback transportation service. The report, on Form PTR–W, shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, within 60 days after the close of the quarter to which it relates. The individual reports filed under this section shall not be open to public inspection.

(Secs. 304, 313, 54 Stat. 933, 944 as amended, 49 U.S.C. 904, 913)

§ 1252.4 Freight forwarders.

Commencing with reports for the first quarter of 1964, and thereafter until further order, each freight forwarder subject to Part IV of the Interstate Commerce Act, assigned to class A, as described in § 1240.6 of this chapter, shall compile and file in accordance with Form PTR–FF, Piggyback Traffic Originated by Class A Freight Forwarders, statistics of piggyback transportation of railroads or water carriers used by such freight forwarder, or shall, as may be required, advise the Commission that it does not make use of piggyback transportation service. The report on Form PTR–FF shall be filed in duplicate in the office of the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, within 60 days after the close of the quarter to which it relates. The individual reports filed under this section shall not be open to public inspection.

(Secs. 403, 412, 56 Stat. 285, 294; 49 U.S.C. 1009, 1012)

PART 1253—RATE-MAKING ORGANIZATION; RECORDS AND REPORTS

Sec.
1253.10 Accounts.
1253.20 Other records.
1253.30 Retention of records.
1253.31 Destruction of records.
1253.40 Reporting requirements.

AUTHORITY: The provisions of this Part 1253 issued under sec. 5a(3), 62 Stat. 472; 49 U.S.C. 5b.

§ 1253.10 Accounts.

Accounts shall be kept by each conference, bureau, committee, or other organization subject to section 5a to record all receipts and expenditures of moneys. Such accounts shall be kept with sufficient particularity to show the facts pertaining to all transactions reflected in the entries made in the accounts. All receipts shall be supported by records, including records showing the basis for charges to members. All disbursements shall be supported by vouchers, payrolls, cancelled checks, and other evidences of expenditures, including the basis for any apportionment of expense items to members.

§ 1253.20 Other records.

Each such organization subject to section 5a shall maintain: (a)(1) A file for each proposal relating to rates, fares, classifications, divisions, allowances, or charges (including charges between carriers and compensation paid or received for the use of facilities and equipment), or rules and regulations pertaining thereto, which shall contain the complete proposal, all procedural documents issued, protests, memoranda, amendments, reports, etc., submitted and any other correspondence respecting the matter proposed. Also reports or minutes of all proceedings at any oral, committee or public hearing held thereon and the determination relating thereto; (2) a file covering each petition or protest filed by the organization against tariff publications of a member for suspension of rates or other matters published for such member carrier; (3) a file covering each instruction or request for publication by independent action.

(b) All accounts and other records covered by this part shall be filed in such manner as to be readily accessible for examination by representatives of the Commission.

§ 1253.30 Retention of records.

Except as otherwise specifically provided in § 1253.31, each such organization subject to section 5a shall retain records or documents, which relate or pertain to transactions or activities in that connection, for the periods of time specified for each kind respectively in the following list. Inclusion of a record or document in the list imposes no requirement that it shall be installed if its purpose is otherwise being adequately served.

Item	Description of records	Period to be retained
1.	Capital stock records, corporate charters or certificates, minutes of meetings, and all similar records pertaining to formation of the organization	Permanent.[1]
2.	General ledgers, general journals, and general cash books	10 years.
3.	Property records; those pertaining to the acquisition, depreciation, retirement, and replacement of property	5 years after sale or retirement.
4.	Contracts, leases, and agreements	3 years after expiration.
5.	Records and documents required by provisions of § 130.20 to be maintained	5 years.
6.	All other records, memoranda, documents, papers, and correspondence	3 years.

[1] Permanent records are those which may not be destroyed without special authority.

§ 1253.31 Destruction of records.

(a) A permanent record shall be maintained of all records and documents subject to this part which have been destroyed after the required periods of retention. Compliance with this part will not exempt an organization subject thereto from statutory requirements, other than the Interstate Commerce Act, for retention of records or documents for periods longer than those herein prescribed.

(b) *Photographic copies.* Records and documents not specifically designated as permanent records may be destroyed at any time after they have been suitably photographed in the normal course of business under a program instituted for the protection or storage of records generally: *Provided, however,* That microfilm copies shall be retained for the periods of time prescribed for the original records or documents, respectively; that the microfilm copies shall be no less readily accessible than the original records or documents as normally filed or preserved would be; and that suitable facilities shall be available to locate, identify, read, and reproduce such microfilm copies.

(c) *Special authority.* Organizations subject to the provisions of this part proposing to destroy records or documents which have not been retained for the period of time required by regulations, may request special authority to destroy them. Applications for such special authority shall describe in detail the records or documents to be destroyed and shall explain why their continued retention is unnecessary.

§ 1253.40 Reporting requirements.

All conferences, bureaus, committees, or other organizations, subject to section 5a shall file annual reports for the year ended December 31, 1959, and for each succeeding year until further notice in accordance with Annual Report Form RBO be filed, in duplicate, in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 31 of the year following the one to which it relates.

PARTS 1260–1269—VALUATION

NOTE: Forms prescribed in parts 1260–1269 are available upon request from the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

PART 1260—REPORTING OF DATA FOR INITIAL PIPELINE VALUATIONS

GENERAL

Sec.
1260.0 Regulations prescribed.
1260.1 Data to be filed.
1260.2 Responsibility for filing data.
1260.3 Copies required.
1260.4 Carrier and noncarrier property defined.
1260.5 Original cost defined.
1260.6 Reporting overhead expenditures.
1260.7 Reporting cost of organization.
1260.8 Valuation sections.
1260.9 Auxiliary documents.
1260.10 Assembling and numbering forms.
1260.11 Amendments and deviations.

PREPARATION OF DATA

1260.100 ACV Form No. 5—Inventory of Property Other Than Land and Rights-of-Way.
1260.101 ACV Form No. 6—Inventory of Land and Rights-of-Way.
1260.102 ACV Form No. 7—Summary of Original Cost of Inventory.
1260.103 ACV Form No. 8—Cost Data for Equipment and Tanks.
1260.104 ACV Form No. 9—Cost Data for Pipeline Construction.
1260.105 Maps.
1260.106 Plot plans.
1260.107 Sketches.
1260.108 Photographs.
1260.109 Special notes.
1260.110 Identification of aids, gifts, grants or donations.
1260.111 Reconciliations.
1260.112 Corporate history and development of fixed physical property.

AUTHORITY: The provisions of this Part 1260 issued under sec. 19a, 37 Stat. 701, as amended; 49 U.S.C. 19a, as amended.

GENERAL

§ 1260.0 Regulations prescribed.

Each common carrier by pipeline, subject to the provisions of the Interstate Commerce Act, for which an initial valuation is to be found by the Commission is required to comply with regulations in this Part pertaining to the preparation and filing of data with the Commission for its consideration in finding such initial valuation. The data to be filed shall be reported separately by ownership and use, by states, and by primary property accounts, as hereinafter prescribed.

§ 1260.1 Data to be filed.

(a) Except as may be otherwise directed by the Commission, the following data shall be filed:

ACV Form No. 5—Inventory of Property Other than Land and Rights-of-Way.
ACV Form No. 6—Inventory of Land and Rights-of-Way.
ACV Form No. 7—Summary of Original Cost of Inventory.
ACV Form No. 8—Cost Data for Equipment and Tanks.
ACV Form No. 9—Cost Data for Pipeline Construction.
Maps.
Pilot plans.
Sketches.
Photographs.
Special notes.
Identification of aids, gifts, grants or donations.
Reconciliations.
Corporate history and development of fixed physical property.

(b) All worksheets and other underlying support of data filed shall be retained by carriers in such manner that they may be readily verified.

§ 1260.2 Responsibility for filing data.

It shall be the responsibility of the carrier for which an initial valuation is to be found by the Commission to file the data prescribed by this order. This responsibility shall apply whether property included in the initial inventory is wholly or jointly owned and used, wholly or jointly owned but not used, or wholly or jointly used but not owned, or whether such property is a part of a "system" or otherwise. As used in these regulations, the term "agent operator" refers only to a carrier for which an initial valuation is to be found by the Commission.

§ 1260.3 Copies required.

The data referred to in § 1260.1 shall be filed with the Commission in an original only, and one copy shall be retained by carriers. However, copies of ACV Forms prepared by other than the filing carrier may be filed in lieu of originals.

§ 1260.4 Carrier and noncarrier property defined.

Carrier property is that which is used exclusively for common-carrier purposes. Noncarrier property is that which is used exclusively for purposes other than those of a common carrier. Property held in anticipation of an indefinite future use, and property which is owned by a common carrier and is leased to other than a common carrier shall be reported as noncarrier property. Classification of property under this definition shall be consistent with the classification of property for accounting purposes.

§ 1260.5 Original cost defined.

(a) Original cost means the actual cost of construction or acquisition of

property to the first person or corporation dedicating such property to public use. Interpretive examples of this definition follow:

(1) Where an entire property, or portion thereof, is acquired from another common carrier by purchase, merger, consolidation, or reorganization, the cost of the property, estimated if not known, to the vendor shall be construed to be the original cost of the property acquired.

(2) Where property which has not been previously dedicated to public use is acquired, the cost of acquisition to the vendee shall be regarded as the original cost of the property acquired.

(3) Where the actual cost of property acquired by lease from a noncarrier and placed in public use by a carrier is not obtainable, the estimated cost of such property, as of the date of the lease, shall be used as the original cost.

(b) Where estimated original cost is used it shall be prorated among the primary accounts on an equitable basis, and a notation shall be made that estimates were used, together with an explanation of the method employed in arriving at such estimates.

§ 1260.6 Reporting overhead expenditures.

To assure against the double inclusion of overhead in the determination by the Commission of the cost of reproduction new of the inventory of carrier property, overhead expenditures shall be reported separately under the caption "Overhead," in complete detail for each account for each valuation section, and shall be reported on ACV Form No. 5 and on ACV Form No. 6 immediately following the last original cost amount stated on these forms in accordance with §§ 1260.100 and 1260.101. The term overhead, as used in these regulations, shall be construed as consisting of those expenditures incurred in connection with the construction or acquisition of property which were applicable to a period prior to the date that the property to which they relate was placed in operation. Examples of such expenditures are interest during construction, engineering cost, taxes on physical property, etc.

§ 1260.7 Reporting cost of organization.

Cost of organization shall be reported, in complete detail by category of expenditure, on a separate ACV Form No. 5 which shall be headed "Account No. 2 Cost of organization." The total of amounts shown shall be reported on ACV Form No. 7 in accordance with instructions appearing in § 1260.102.

§ 1260.8 Valuation sections.

A valuation section is a geographical segregation of property within a state, and in no case may a valuation section extend beyond a state line. Separate valuation sections shall be established within each state for each group of property identified in the Uniform System of Accounts for Pipe Line Companies as "Gathering Lines," "Trunk Lines," and "General." Valuation sections so established shall be numbered and shall bear the corresponding identifying suffix G for gathering line property, T Crude or T Prods. for trunkline property, and Gen. for property classified as general. Jointly owning or jointly using carriers, and carriers wholly using property owned by others, shall assign their own valuation section numbers to property so owned or used. Mobile property servicing more than one valuation section of a state shall not be assigned to a valuation section but shall be reported as "Unallocated" for the state served. Mobile property servicing more than one state shall not be assigned to a valuation section but shall be reported as "Unallocated" for the carrier as a whole without state identity. Valuation section numbers and unallocated designations shall be decided by each carrier, subject to the approval of the Commission.

§ 1264.9 Auxiliary documents.

The following documents referred to in these regulations will be supplied by the Bureau of Accounts:

1947 Period Guide Prices and Annual and Period Indices.
Schedule of Element Codes and Guide Service Lives for Oil Pipeline Property.

ACV Forms No. 4, No. 5 and No. 6.

§ 1260.10 Assembling and numbering forms.

Related ACV Forms No. 5, 6, and 7 shall be associated, with ACV Forms No. 5 and 6 following ACV Form No. 7. ACV Forms No. 8 and 9 shall then be placed behind ACV Forms No. 5, 6, and 7. All ACV Forms thus assembled shall then be consecutively numbered in the upper right-hand corner. There shall also be shown in the upper right-hand corner of the ACV Form numbered 1 the total number of ACV Forms filed.

§ 1260.11 Amendments and deviations.

Only those amendments to or deviations from the regulations prescribed by this Order as may be directed by the Commission are authorized.

PREPARATION OF DATA

§ 1260.100 ACV Form No. 5—Inventory of Property Other Than Land and Rights-of-Way.

(a) This is a multipurpose form designed to meet the needs of both the carriers and the Commission. Columns 1 through 7 shall be used by carriers to document the inventory. The remaining columns will be completed by the Commission.

(b) A separate ACV Form No. 5 shall be filed bearing the following statement which shall be signed by a responsible officer of the carrier, or agent, filing the data prescribed by these regulations:

The data filed pursuant to Valuation Order No. 29 have been carefully examined by the undersigned who declares that such data have been prepared in accordance with regulations set out in said Order.

_____
(Signature)

_____
(Title)

_____
(Date)

(c) A pipeline mileage statement shall be presented on ACV Form No. 5, in the following format, on Sheet No. 1 of each valuation section, summarizing the pipeline footage included in the inventory. The gross and screwage shown on the statement shall represent the pipe footage reported on ACV Forms No. 5 documenting the inventory:

PIPELINE MILEAGE STATEMENT

	Footage[1]			
	Gross	Screwage	Net	Mileage[2]
Trunk lines:				
Crude:				
Line				
Loops				
Other[3]				
Products:				
Line				
Loops				
Other[3]				
All gathering lines				

[1] The footage reported must agree with the total footage shown in the summaries appearing on the right-of-way maps prepared for the valuation section.
[2] Enter the equivalent miles, to the nearest thousandth, for the net footage shown.
[3] Exclude service pipe such as water, air, steam, gas or fuel piping.

(d) Inventory data to be shown on ACV Form No. 5 shall be reported in summary form by kind of property within each account. By summary reporting is meant the grouping of property units having characteristics common to all such units. An example of summary reporting appears in paragraph (e) of this section.

(e) The number of units to be reported in column 6 of ACV Form No. 5 shall be governed by the applicability to such units of the identifying data shown in columns 1 through 5. Taking steel pipe as an example, the units of pipe to be reported in column 6 must be of the same construction, that is, either plain end or screw end, lap weld, electric weld, seamless, etc., and they must have the same diameter and weight in pounds per foot (all these identifications will appear in column 1); they must have been dedicated to public use in the same year (column 2); they must be includible in the same element code (column 3); they must have the same guide life years (column 4); and they will have a common unit of property, linear feet (column 5).

(f) ACV Form No. 5 shall be prepared by typewriter without interlineation as follows:

(1) Enter the date assigned for the valuation of the property on the line provided in the caption of the form.

(2) ☐ *Carrier Property* ☐ *Noncarrier Property.* Place an X in the appropriate block to identify the property being reported.

(3) *Account No. _____.* Enter the appropriate primary account number. When ACV Form No. 5 is used to report noncarrier property, the primary property account numbers used to report carrier property shall also be employed to facilitate the identification of such property.

(4) *State _____ Val. Sec. _____.* Identify the state and the valuation section in which the property is located. Enter "Unallocated" when appropriate.

(5) *Sheet No. _____ of _____ Sheets.* The use of this line shall be restricted to identifying the sheets relating to the valuation section or Unallocated, as appropriate.

(6) *Report Filed by _____ Property Owned by _____ Property Used by _____.* Identify, respectively, the carrier or agent filing the report, the owner of the property, and the carrier using the property. When the form is used to report jointly owned or jointly used property, enter an asterisk (*) on the Property Owned by _____ and Property Used by _____ lines of Sheet No. 1 of each valuation section, or Unallocated, and below, in the body of the form, the identity of both the owning and the using carriers and the percentage of their respective owning and using interest. Enter an asterisk on these two lines on all remaining sheets to indicate that the identity of the owning and using carriers is set out on Sheet No. 1.

(7) *Columns 1 and 5.* The property description and unit of property to be shown in these columns shall conform with those appearing in the 1947 Period Guide Prices and Annual and Period Indices. Where property descriptions do not appear in that document or where, in the view of the carrier, they are inadequate, they shall be shown in column 1 in sufficient detail to clearly describe the property being reported. Identify, in column 1, property representing public improvement projects, and show the total cost of the project, the identity of the participants, and the percentage of participation, in addition to the description of the property. Identify also in column 1 property included in the inventory, other than land and rights-of-way, which was acquired by aid, gift, grant or donation from private parties. See (11)(vii) below for instructions covering the reporting of original cost for public improvement projects and for aids, gifts, grants or donations received from private parties. Except for service pipe, show in column 1 the screwage included in the gross linear footage reported in column 6 for pipe in accounts 108, 158, 110, 160, 112 and 162.

(8) *Column 2.* Show the year the property was dedicated to public use. Where the year, or years, of construction or installation differ from the year of dedication to public use show the former in column 1, together with the number of units constructed or installed during such years.

(9) *Columns 3 and 4.* The data to be entered in these columns shall be taken from the Schedule of Element Codes and Guide Service Lives for Oil Pipeline Property. Guide life years shall not be shown for property reported under accounts 104, 105, 154, and 155, or for property reported under element code 24 of accounts 111 and 161. Use guide lives other than those shown in the Schedule of Element Codes and Guide Service Lives for Oil Pipeline Property only when specifically authorized by the Bureau of Accounts.

(10) *Column 6.* Enter the total number of units of property referred to in columns 1 through 5. See example of summary reporting appearing in (e) of this Section. Where the unit reported in column 5 is "Lot" make no entry in this column.

(11) *Column 7.* Report, to the nearest dollar, in this column, in the manner directed in (i) through (v) below, the original cost, exclusive of overhead which shall be reported in accordance with § 1260.6, of the property identified in Columns 1 through 6. With the exception of cathodic protection reported separately under element code 24, include the cost of cathodic protection with the cost of the property reported:

(i) Report a single total for the entire valuation section for each of the following accounts: 103, 104, 109, 114, 153, 154, 159, 164, 179, and 184.

(ii) Report a single total for the entire valuation section for each of the following element codes: 26, 128, 150, 154, 156, 174, 176, 178, and each element code assigned to other accounts when such element codes are used to identify property reported under accounts 116, 166 and 168.

(iii) Enter a single total for the entire valuation section for each of the following portions of element codes: cathodic protection reported under element code 24; the installation of oil lines in stations reported under element code 24; ordinary casing installations at railroad or highway crossings reported under element code 24; with the exception of river crossings, pipeline bridges, and unusual construction jobs, all other pipeline construction reported under element code 24 not enumerated in this paragraph; oil pipe in place reported under element code 26; fittings in place reported under element code 26; service pipe in place reported under element code 28; fittings in place reported under element code 28; the miscellaneous portion of element code 124; oil pipe in place reported under element code 130; and fittings in place reported under element code 130. When reporting clearing and grubbing under element code 24 include only those expenditures for areas where it is necessary to remove trees and heavy brush, and not for the entire right-of-way prior-to-ditching grading.

(iv) Enter a separate total for the following:

Accounts 105 and 155. Each river crossing, pipeline bridge, or each unusual construction job such as one involving long stretches of solid rock or swamp areas or an unusual casing installation, reported under element code 24; and each type of coating reported under element code 28.

Accounts 106, 156, and 176. Each building, station ground or bridge. Include communication system buildings and grounds.

Accounts 107, 108, 157, and 158. Each unit, or group of units, reported in accordance with (10) above.

Accounts 110, 112, 160, and 162. All of the property for each station reported under each of the element codes 100, 102, 152, 154, 156, 158, and 160.

Accounts 111 and 161. Each unit, or group of units, reported in accordance with (10) above. Include the miscellaneous portion of element code 124 and all of element code 126.

(v) Report the original cost of each unit of property, or each group of those units of property which are identical, which has not been specifically identified in (i) through (iv) above, or for which a description and unit price has not been provided in the 1947 Period Guide Prices and Annual and Period Indices.

(vi) The following chart, presenting graphically the reporting requirements set out in (i) through (v) above, is provided for ready reference. Portions of prescribed elements, only, have been identified in the column captioned "Element—Subtitle."

Account	Element: Code	Element: Subtitle	Report original cost as follows—: Single total for the entire valuation section	Separate total for each or for each group that is identical	Separate total for each station
103–153			X		
104–154			X		
105–155			X		
	24	Cathodic protection		X	
		Installation of oil lines in stations		X	
		Ordinary casing installations at railroad or highway crossings	X		
		River crossings		X	
		Pipeline bridges		X	
		Unusual construction jobs		X	
		All other pipeline construction	X		
	26		X		
	28	Type of coating		X	
106–156–176	40			X	
	42			X	
	44			X	
	46			X	
	48			X	
107–157	60			X	
	61			X	
108–158	62			X	
	66			X	
	70			X	
	71			X	
	72			X	
	73			X	
	74			X	
	76			X	

Account	Code	Subtitle	Element	Report original cost as follows— Single total for the entire valuation section	Separate total for each or for each group that is identical	Separate total for each station
109–159–179						
110–160	98	Oil pipe in place		X		
		Fittings in place		X		
	98	Service pipe in place		X		
		Fittings in place		X		
	100					X
	102					X
111–161					X[1]	
	124	Miscellaneous		X		
	128			X		
113–163						
	130	Oil pipe in place		X		
		Fittings in place		X		
	132					X
	134					X
	136					X
	138					X
	140					X
113–163–183						
	150			X		
	154			X		
	158			X		
114–164–184						
115–165–185						
	174			X		
	176			X		
	178			X		
116–166–186	(2)			X		
Property not covered above, or property for which a description and unit price has not been provided in the 1947 Period Guide Prices and Annual and Period Indices					X	

[1] Except the "Miscellaneous" portion of Element Code 124, and all of Element Code 128.
[2] For each element code assigned to other accounts when used to identify property reported under these accounts.

(vii) In reporting original cost in accordance with (i) through (vi) above include for property acquired by aid, gift, grant or donation from private parties, identified in column 1 in accordance with (7) above, the cost of such property, or the appraised value where the cost cannot be determined; in the case of property identified as a public improvement project in column 1 in accordance with (7) above, include only the cost borne by the carrier.

(12) When ACV Form No. 5 has been completed for each account, show the total of all amounts entered in column 7. In the case of jointly owned or jointly used property apply the owning or using percentages, shown on Sheet No. 1, to the total and identify the results by each jointly owning or jointly using carrier.

(g) ACV Forms No. 5 prepared by agent operators for "system" property as a whole, together with related ACV Forms No. 5 showing the proportionate share of the original cost of such property applicable to each jointly owning or jointly using carrier, shall be filed with the Commission for review and completion.

(h) Following review and completion by the Commission of ACV Forms No. 5 filed by agent operators in accordance with paragraph (g) of this section, agent operators will be supplied with photocopies of all ACV Forms No. 5 for "system" property as a whole, and with photocopies of all ACV Forms No. 5 showing proportionate shares of original cost on which corrections are made by the Commission. Agent operators shall then provide each jointly owning or jointly using carrier with two copies of its "proportionate share" ACV Forms No. 5, one to be retained and one to be filed with the Commission.

(i) Following their review and completion by the Commission ACV Forms No. 5 will be made available for required photocopying by wholly owning or wholly using carriers.

§ 1260.101 ACV Form No. 6—Inventory of Land and Rights-of-Way.

(a) The data to be reported on this form shall be typewritten and double spaced. To facilitate identification use carrier property primary account numbers when reporting noncarrier property. When the form is used to report jointly owned or jointly used property enter on Sheet No. 1, for each valuation section, an asterisk (*) on the Property Owned by ------- and Property Used by ------- lines and, in the body of the form, the identity of both the owning and the using carriers and the percentage of their respective owning or using interest.

(b) The form shall be executed as follows:

(1) Enter the date assigned for the valuation of the property on the line provided in the caption of the form.

(2) ☐ *Carrier Property* ☐ *Noncarrier Property.* Place an X in the appropriate block to identify the property being reported.

(3) *Report Filed by ------- Property Owned by ------- Property Used by -------* Enter appropriate identifications. Where jointly owned or jointly used property is being reported, enter an asterisk (*) on the Property Owned by ------- and Property Used by ------- line to indicate that the identity of the owning and the using carriers is set out on Sheet No. 1 of ACV Form No. 6 for the valuation section, as directed in (a) above.

(4) *State ------- Val. Sec. -------.* Identify the state and valuation section in which the property being reported is located.

(5) *Sheet No. ----- of ----- Sheets.* This line shall identify the sheets relating to the valuation section only.

(6) Enter the appropriate account number in the Land or Rights-of-Way block.

(7) *Column 1.* Enter the number of the land map assigned by the carrier in accordance with § 1260.105(b)(6).

(8) *Column 2.* Indicate the number assigned to the parcel, or parcels, on the map identified in column 1.

(9) *Column 3.* Indicate the date and the kind of instrument by which title to, or interest in, each parcel was derived, such as deed, quitclaim deed, condemnation, ordinance, lease, agreement, etc.

(10) *Columns 4 and 5.* Enter, respectively, the name of the grantor and grantee cited in the instrument identified in column 3.

(11) *Column 6.* Enter in this column the area, either in square feet or acres, of the parcel, or parcels, identified in column 2.

(12) *Column 7.* Enter, to the nearest dollar, the original cost of the area reported in column 6. In the case of land which was acquired by aid, gift, grant or donation record the cost, or the appraised value where the cost cannot be determined, of land so acquired from private parties only. Incidental costs and assessments for public improvements shall be reported separately in column 7 and identified in column 13. Incidental costs and assessments shall be allocated to the parcels affected. If considerations other than cash were exchanged for land, identify such considerations in column 13. Total column 7 for each valuation section, including overhead.

(13) *Column 8.* Use this column for both land and rights-of-way. Enter the year that the parcel, or parcels, of land, or the year that the first trunk pipeline right-of-way, or portion thereof, was dedicated to public use.

(14) *Columns 9 and 10.* Identify the termini of trunk pipeline rights-of-way placed in public service during the year shown in column 8.

(15) *Column 11.* Enter, for the termini identified in columns 9 and 10, the line miles of trunk pipeline right-of-way.

(16) *Column 12.* Enter, to the nearest dollar, the total original cost for the valuation section as a whole for either trunk or gathering lines. Where rights-of-way were acquired by aid, gift, grant or donation include in the total entered in column 12 the cost, or the appraised value where the cost cannot be determined, of rights-of-way so acquired from private parties only. Record overhead and show total. If considerations other than cash were exchanged for rights-of-way identify such considerations in column 13.

(17) *Column 13.* Include in this column the number of the right-of-way map, or maps, depicting the trunk line, or lines, identified by the termini shown in columns 9 and 10. Identify also in this column land or rights-of-way included in the inventory which were acquired by aid, gift, grant or donation from private parties, the cost or appraised value of which is included in amounts reported in column 7 or column 12.

(18) In the case of jointly owned or jointly used property apply the owning or using percentages, shown on Sheet No. 1 for the valuation section, to the total shown in column 7 or in column 12, and identify the results by each jointly owning or jointly using carrier.

(c) ACV Forms No. 6 prepared by agent operators for "system" property as a whole, together with related ACV Forms No. 6 showing the proportionate share of the original cost of such property applicable to each jointly owning or jointly using carrier, shall be filed with the Commission for review.

(d) Following review by the Commission of ACV Forms No. 6 filed by agent operators in accordance with paragraph (c) of this section, agent operators will be supplied with photocopies of all such forms on which corrections are made by the Commission. Agent operators shall then provide each jointly owning or jointly using carrier with two copies of its "proportionate share" ACV Forms No. 6, one to be retained and one to be filed with the Commission.

(e) Following the review of ACV Forms No. 6 filed for wholly owned or wholly used property, the Commission will provide each wholly owning or wholly using carrier with photocopies of those forms on which changes are made.

§ 1260.102 ACV Form No. 7—Summary of Original Cost of Inventory.

(a) ACV Form No. 7 shall be filed in typewritten form to report in summary the original cost of the inventory of carrier and noncarrier property. Include jointly owned and used property with wholly owned and used property when preparing the form for owned and used property. Report cost of organization and mobile property servicing more than one state in the column captioned "Unallocated." For uniformity in reporting, report the cost of noncarrier property on the ACV Form No. 7 prepared for owned and used property. Enter the names of the States in which property is located in the blank blocks provided in columns 2 through 9.

(b) Summarize, by primary account for carrier property and by the account 5 categories shown on ACV Form No. 7 for Miscellaneous physical property, the original cost totals, including the appropriate percentage thereof for jointly owned or jointly used property, shown on ACV Forms No. 5 and 6. Record the results in columns 2 through 10.

(c) Following the completion of paragraph (b) of this section, crossfoot amounts reported in columns 2 through 10 and enter the results in column 1. Produce the totals and grand totals indicated to be shown on ACV Form No. 7 and crossfoot to balance.

§ 1260.103 ACV Form No. 8—Cost Data for Equipment and Tanks.

(a) The purpose of this form is twofold:

(1) To provide information pertaining to the cost of line pipe, equipment and tanks included in the initial inventory of property reported on ACV Form No. 5 which were purchased during the year as of which an initial valuation will be found by the Commission or during the two previous years. ACV Forms No. 8 reporting such information shall be submitted with the data required to be filed in accordance with § 1260.1.

(2) To report the cost of line pipe, equipment and tanks purchased through December 1 of each year following the filing of initial inventory data, regardless of whether such property was placed in service during the reporting period or not. ACV Forms No. 8 presenting such data shall be filed with the Commission, in an original only, by each carrier or agent, required to file reports of property changes under the requirements of Revised Supplement No. 8 to Valuation Order No. 3, Second Revised Issue. Such ACV Forms No. 8 shall be filed not later than February 1 following the end of the reporting period.

(b) ACV Form No. 8 shall be prepared in typewritten form as follows:

(1) Enter an X in the (☐) Initial block when the form is prepared for the purpose set out in (a)(1) above. Show the year of purchase on the For the Year ----- line where the form is prepared for the purpose stated in (a)(2) above.

(2) The Sheet No. ------- of ------ Sheets line shall be used to identify the number of sheets used for each account reported.

(3) Enter the name of the carrier, or agent, filing the forms on the Report Filed by ---------- line, and the name of the carrier or system using, or which will use, the purchased property on the Property Used by ---------- line.

(4) Enter one of the following accounts, as appropriate, on the Account No. -------- line: 104, 154, 108, 158, 111, or 161.

(5) For accounts 108 and 158 report, only, purchases of new pipe in lots of 40,000 pounds or more. See (6), (7), (9), (11) below for further details concerning the reporting of line pipe.

For accounts 104 and 154 report, only, motor operated valves 12" and up; for accounts 108 and 158 report major units of pumping equipment only, such as large engines, large centrifugal or reciprocating pumps, electric motors over 250 horsepower, and speed increasers. Do not report purchases of portable or miscellaneous units, or secondhand equipment. For accounts 111 and 161 report tanks only. Exclude all appurtenances except where they are included in the purchase price as a standard fixture or fitting. See (6) below for further details concerning the reporting of tanks.

(6) Except for line pipe enter in column 1 a complete description of the property including, where applicable, the name of the manufacturer, serial number, size, dimensions, capacity, model, type, material from which manufactured, construction and special features, and all other specifications which will clearly identify the property being reported. Include in this column only those features which are included in the unit price reported in column 4. It is imperative when reporting tanks that the following be observed. The 1947 Period Guide Prices and Annual and Period Indices lists certain features of tank construction the cost of which is included in the prices per pound in place shown for the tanks identified in that document. Where features, appurtenances or accessories, other than those listed in the 1947 Period Guide Prices and Annual and Period Indices are included in the unit price of the tanks shown in Column 4, list each such item in column 1 showing its weight, where appropriate, and the cost applicable thereto (estimated where necessary) included in the unit price shown in column 4.

For line pipe enter in column 1 the name of the manufacturer, nominal diameter, wall thickness, weight in pounds per lineal foot, kind (i.e., electric weld, seamless, butweld, etc.), type of end, and A.P.I. grade.

(7) Except for line pipe report in column 2, for forms prepared to reflect the data referred to in (a)(1) above, the year in which the property described in column 1 was purchased. Leave this column blank when the form is prepared to report the data referred to in (a)(2) above.

For line pipe show the month and date of each purchase.

(8) Signify in column 3 the number of units purchased.

(9) State in column 4 the price paid for each unit of property reported in column 3 for equipment and tanks. Show "in place" unit prices for tanks. For line pipe, if purchased f.o.b. mill, report the unit price per one hundred lineal feet. Exclude from unit prices all sales, use or other taxes required by lawful taxing authority to be added to the total invoice cost of materials purchased.

(10) For equipment and tanks show the geographical location of the point indicated in column 5. For line pipe purchased f.o.b. destination report in column 5 the unit price per one hundred lineal feet.

(11) Show the geographical locations of the points indicated in columns 6 and 7.

(12) Except for line pipe enter in column 8 the net shipping weight for each of the units reported in column 3. Where actual net weight cannot be determined show estimated net weight and indicate that an estimate was used.

For line pipe purchased f.o.b. mill show freight charges in cents per hundred pounds.

(13) Where no purchases are made during the year covered by the report, so state on a separate ACV Form No. 8 or by letter indicating thereon the account in which there was no purchase activity.

§ 1260.104 ACV Form No. 9—Cost Data for Pipeline Construction.

(a) This form will serve two purposes:

(1) It will report the cost of pipeline construction included in the initial inventory of property reported on ACV Form No. 5 which was constructed during the year as of which an initial valuation will be found by the Commission, or during the two previous years. ACV Forms No. 9 reporting this information shall be submitted with the data required to be filed in accordance with § 1260.1.

(2) It will provide the cost of pipeline constructed through December 1 of each year following the filing of initial inventory data, including the cost of pipeline constructed during the year and not placed in service as of the end of the period covered by the report. ACV Forms No. 9 reporting this data shall be filed with the Commission, in an original only, by each carrier, or agent, required to file reports of property changes under the requirements of Revised Supplement No. 8 to Valuation Order No. 3, Second Revised Issue. Such ACV Forms No. 9 shall be filed not later than February 1 following the end of the reporting year.

(b) The information to be recorded on ACV Form No. 9 shall be reported separately by each contract, and shall include data pertaining only to contracts completed. Report subcontracts separately only when subcontract amounts are not included in amounts reported in column 11 for prime contracts. The form shall be executed in typewritten form as follows:

(1) Enter an X in the ☐ Initial block when the form is prepared for the purpose set out in (a)(1) above. Show the year of construction on the For the Year ----- line when the form is used for the purpose stated in (a)(2) above.

(2) The Sheet No. ----- of ----- Sheets line shall be used to identify the number of sheets used for each account.

(3) Enter the name of the carrier, or agent, filing the form on the Report Filed by ------- line and, on the Property Used by ------- line, the name of the carrier or system using, or which will use, the pipeline covered by the report.

(4) Enter account 105 or 155, as appropriate, on the Account No. ----- line.

(5) For forms prepared to show the information referred to in (a)(1) above, re-

port in column 1 the year in which the pipeline construction was completed. Leave this column blank when the form is prepared to report the data referred to in (a) (2) above.

(6) In column 2 show the name of the contractor, or subcontractor, and the contract number or other identity.

(7) Enter in columns 3 and 4 the geographical location of the terminal points of the pipeline constructed under the contract. Identify all states through which the pipeline runs.

(8) Show in column 5 the linear feet of pipeline constructed between the termini shown in columns 3 and 4.

(9) In columns 6 and 7 enter, respectively, the average depth and width, in inches, of the trench in which the line pipe was placed.

(10) Provide in columns 8 and 9 the descriptive matter called for pertaining to the line pipe used in the construction of the pipeline. In recording pipe diameter in column 8 show the inside measurement for pipe having diameters up to and including 12"; for pipe having diameters in excess of 12" show the outside measurement.

(11) Enter in column 10 the average number of miles it was required to haul line pipe during construction from rail point, pipe yard or other storage location to point of installation.

(12) Record in column 11 the amount of the contract covering the construction referred to in the preceding columns. Where claims by contractors for amounts in excess of the contract are in negotiation or litigation provide details. Identify, also, duplicate or extra costs, such as moving equipment, incurred by subsequent contractors as a result of failure to perform under the original contract.

(13) Show in column 12 the total expenditures incurred by the carrier, or carriers, incident to the construction over and above the amount of the contract.

(14) Show in columns 13 through 17, to the nearest hundredth of a cent, the cost per linear foot of performing the operations identified in the captions of these columns. Record contract and carrier costs on separate lines. Include as clearing and grubbing expenditures in the amount reported in column 13 only those applicable to areas where it is necessary to remove trees and heavy brush, and not for the entire right-of-way. Include the cost of the following operations in the amount reported in column 15: pilot road grading, hauling and stringing pipe, ditching, laying pipe, backfilling, and inspecting and testing pipe. Include in the amount reported in column 16 only those overhead expenditures defined in § 1260.6. Include in the amount reported in column 17 all other pipeline construction costs not provided for in columns 13 through 16, such as damages, cathodic protection, pipe supports, line markers, etc.

(15) Report in column 18 the total of amounts reported in columns 13 through 17. Total cost per linear foot reported separately in this column, representing contract cost and carrier cost, when multiplied by the linear feet reported in column 5 must agree with amounts reported in columns 11 and 12, respectively.

(16) Immediately below the data entered in the columns of ACV Form No. 9 in accordance with the above, provide the following information in narrative form:

(i) Describe the method used in applying coating referred to in column 14 and state whether it was applied at the factory, storage point or trench site. Also describe the kind of coating including the number and type of enamels, wraps, etc.

(ii) Describe the pipeline right-of-way terrain. Include in such description whether the land in the area of construction is isolated, hilly, mountainous, flat or swampy; whether forest or pasture land or otherwise under cultivation; whether the soil is sandy, rocky, loamy, etc.; and, when necessary, whether water crossings were submerged or overhead, and the identity of the body of water crossed. State also whether the construction area was congested, such as cities or towns, etc.

(iii) Discuss any other conditions encountered during construction which will aid in evaluating the cost data presented.

(c) If there was no pipeline construction during the year covered by the report, so indicate on a separate ACV Form No. 9 showing the accounts in which there was no such activity.

§ 1260.105 Maps.

(a) Right-of-way maps shall be filed for each valuation section. These maps, which shall be 17" x 11" in size, shall be drawn to a scale suitable for clearly identifying what is depicted on the maps. An arrow shall be placed on each map showing the north bearing. The following information shall be shown on each map:

(1) The general direction and approximate geographical location of the line shall be shown, the latter by identifying the state and county, and the city, village, town, township or section, or other geographical identity, through which the line runs, or to which the line is adjacent.

(2) Pipe in the line shall be identified by manufacturer, kind, diameter, weight in pounds per foot, and whether new or secondhand when laid. Loops and parallel lines shall be identified, as shall crude and products lines.

(3) All buildings including offices, pumping stations, and terminals shall be shown; also, tanks and tank areas, bridges, radio and microwave towers and telegraph and telephone lines where includible on the map as drawn, casing locations, and equipment which is not housed in or constituting a part of pumping stations or terminals, such as isolated pumps or gate valves. Where available, carrier assigned numbers or other identification shall be shown for this property depicted on the map.

(4) The beginning and ending survey station numbers assigned to the area depicted on the map shall be shown, as well as such intervening survey station numbers as will establish the location of structures, equipment, and tank and storage areas identified on the map. The beginning and ending survey station numbers assigned to land maps shall also be shown.

(5) Bodies of water shall be identified, and the land area through which the line runs shall be described to indicate whether it is hilly, mountainous or swampy, or in forest or pasture or otherwise under cultivation, and whether it is loamy, sandy or rocky. Other physical features of the terrain traversed by the pipeline shall be identified. Railroads, highways, roads, trails, fences, transmission lines, etc., including those which cross the line, shall also be identified. The beginning and ending survey station numbers shall be shown at the points at which the pipeline crosses or intersects the above described physical features.

(6) In most cases, it will be necessary to prepare a number of maps for a single valuation section. Such multiple maps shall be consecutively numbered beginning with number 1 for each valuation section, and shall show the total number of maps prepared for the valuation section, such as 1 of 10.

(7) There shall be shown in the bottom right-hand corner of each map, in the following order, the name of the carrier or agent filing the map, the state and valuation section identity, the map number, the beginning and ending survey station numbers shown on the map, and the scale used. Do not include survey station numbers assigned to land maps.

(8) There shall also be shown on each map for the line presented thereon a pipeline footage summary by kind, construction, diameter and weight in pounds per foot. When summarizing screw end pipe increase the footage by 1 percent for screwage and show the total footage including the screwage. Show, separately, the screwage included in the total footage. Show crude and product footage separately. The summary shall be also stated separately for new and secondhand pipe, these classifications to be interpreted as being representative of the pipe when installed.

(9) There shall also be presented on each map a summary of pipeline construction items identified thereon such as casings, vents, pipe supports, fences cut, drains cut, river weights, riprap, valve boxes, danger signs, line markers, piling, concrete, etc.

(10) From the above summaries ACV Form No. 5, headed "Map Summary Totals," shall be prepared for each valuation section to total, by like item, the items included on each map summary. In developing each item total show the number of units of the item on each summary and the number of the map on which the summary is shown. Item totals thus developed must agree with those reported on ACV Forms No. 5 prepared in accordance with § 1260.100.

(11) In those cases where items of property, such as telegraph and telephone lines and microwave installations, are located a great distance from the pipeline right-of-way such property may be shown on one, or more, legible maps 17" x 11" in size.

(b) Land maps, covering land purchased for right-of-way purposes and land purchased to provide required areas for storage, structures and equipment, shall be filed for each valuation section. These maps, which shall be 17" x 11" in size, shall be drawn to scale, not less than 100' equals 1", and shall bear an arrow showing the north bearing. The following information shall be shown on each map:

(1) The geographical location of the land shall be shown by indicating the state and county, and the city, village, town, township or section, or other geographical identity, in which the land is located or to which the land is adjacent.

(2) The dimensions, expressed in linear feet, of each parcel of land identified in column 2 of ACV Form No. 6 shall be shown, and shall bear the number corresponding to that recorded in column 2 of ACV Form No. 6.

(3) Where known, the property lines and the names of the owners, and the utility, of adjoining property shall be shown.

(4) There shall be shown, in outline, on maps covering land purchased to provide required areas for storage, structures and equipment, the location of such property on such land, as well as the location and direction of discharge lines, only, for trunk lines, and the location and direction of all gathering lines. The location and direction of all trunk and gathering lines shall be shown, in outline, on maps covering land purchased for right-of-way purposes.

(5) The beginning and ending survey station numbers assigned to the land covered by the map shall be shown. These survey station numbers shall agree with those shown on right-of-way maps in accordance with paragraph (a) (4) of this section.

(6) Where it is necessary to prepare more than one map for a valuation section, number such multiple maps consecutively, beginning with number 1 for each valuation section, and show the total number of maps prepared for the valuation section, such as 1 of 5. Where a single map covers all the land within a given valuation section it shall be numbered 1 of 1.

(7) There shall be shown in the bottom right-hand corner of each map, in the following order, the name of the carrier or agent filing the map, the state and valuation section identity, the map number, and the beginning and ending survey station numbers shown on the map.

(c) Existing maps meeting the specifications enumerated in paragraphs (a) and (b) of this section may be filed in lieu of preparing new ones.

(d) As directed in § 1260.106 selected items of property identified on maps will be depicted in greater detail on plot plans, and § 1260.107 provides for describing more fully on sketches certain items of property shown on plot plans or maps.

§ 1260.106 Plot plans.

(a) Plot plans, 17" x 11" in size, and bearing an arrow to indicate the north bearing, shall be filed to depict graphically, by schematic drawing or diagram, the following property identified on maps:

(1) *Accounts 105 and 155.* Pipeline bridges.

(2) *Accounts 106, 156, and 176.* Buildings and station grounds.

(3) *Accounts 111 and 161.* Tanks and firewalls.

(4) *Accounts 112 and 162.* Loading racks, railroad tracks, docks and dredged areas.

(5) *Accounts 113, 163, and 183.* Radio and microwave towers.

(b) Plot plans shall be consecutively numbered beginning with number 1 for each valuation section. Show the total number of plot plans prepared for the valuation section, such as 1 of 4. There shall be shown in the bottom right-hand corner of each plot plan, in the following order, the name of the carrier or agent filing the plot plan, the state and valuation section identity, the number of the map showing the property depicted on the plot plan, the plot plan number, and the beginning and ending survey station numbers applicable to the property depicted on the plot plan.

§ 1260.107 Sketches.

(a) Sketches, 17" x 11" in size, shall be filed to describe in greater detail, as indicated below, the following items of property which are depicted on plot plans or maps:

(1) *Accounts 105 and 155.* Profiles of river beds for all crossings, including approaches, and floor plans and elevations for pipeline bridges.

(2) *Accounts 106, 156, and 176.* Floor plans and elevations for buildings.

(3) *Accounts 110 and 160.* Layout for station oil pipe and service pipe.

(4) *Accounts 112 and 162.* Layout for delivery facility oil pipe, and elevation and details for loading racks and docks.

(b) Sketches shall be consecutively numbered beginning with number 1 for each valuation section. Show the total number of sketches prepared for the valuation section, such as 1 of 6. There shall be shown in the bottom right-hand corner of each sketch, in the following order, the name of the carrier or agent filing the sketch, and state and valuation section identity, the number of the plot plan depicting the property described on the sketch (indicate on profiles of river beds for accounts 105 and 155 and on sketches prepared for property reported under accounts 110 and 160 the number of the map on which the property is identified), the sketch number, and the beginning and ending survey station numbers applicable to the property described on the sketch.

§ 1260.108 Photographs.

(a) Representative photographs in sufficient quantity and of such size and clarity as will adequately illustrate the property inventoried shall be filed to provide the following:

(1) Where available, examples of both usual and unusual types of pipeline construction in progress, including river crossings.

(2) Illustrations of right-of-way terrain.

(3) Pictures of property, excluding railroad tracks and dredged areas, for which plot plans are prescribed in § 1260.106; equipment reported under accounts 108 and 158; and instruments and gauges reported under accounts 110 and 160, and 112 and 162.

(4) Pictures of building interiors, pumping stations and terminals.

(b) Photographs shall be mounted and assembled in looseleaf book form on sheets 17" x 11". A cardboard cover shall be provided on which shall be recorded the name of the carrier or agent filing the photographs.

(c) The identity of the subject matter shall be entered beneath each photograph, followed by the geographical location of the property and the State and valuation section number. Show next the map number for photographs depicting pipeline construction and right-of-way terrain, or the plot plan number for photographs of property for which plot plans have been prescribed. Identify, last, for each photograph filed the survey station number, or numbers, which will provide the location on the related map of the property photographed.

§ 1260.109 Special notes.

The following supplemental information shall be presented in narrative form on 17" x 11" sheets:

(a) Provide, for each valuation section, a brief description of the topography of the country traversed by the pipeline, and the general direction, connecting points and termini of the line.

(b) The rainfall and climatic conditions, including any unusual weather encountered during construction.

(c) The number and location of material yards used during construction and the shortest distance to the line for each.

(d) Discuss, by valuation section, the character and depth of trench excavations.

(e) Report the results of any soil surveys made.

(f) An estimate of the remaining life of each oil field served by the pipeline.

(g) Describe any unusual conditions encountered during construction including, especially, those resulting in either unusually high or unusually low construction costs.

§ 1260.110 Identification of aids, gifts, grants or donations.

List, on a separate ACV Form No. 5, the State, valuation section and sheet number on which aids, gifts, grants or donations from private parties are reported on ACV Form No. 8 and on ACV Form No. 6 and by account number the cost, or appraised value, thereof. If no property was acquired by aid, gift, grant or donation enter the word "None" on this report.

§ 1260.111 Reconciliations.

(a) Carrier property: Carriers shall prepare an analysis of the difference between the original cost shown for "Grand Total incl. land and rights-of-way" in column 1 of ACV Form No. 7, and the closing balances in Account 1, Investment in carrier property (primary accounts 101 to 193 inclusive) and Account 2, Cost of organization, as of the effective date of the initial inventory. This analysis shall be in such form as to separately indicate, by subheadings, amounts included in the closing balances of accounts 1 and 2 but not included in the original cost shown for "Grand Total incl. land and rights-of-way" in column 1 of ACV Form No. 7 and vice versa. The details of items shown under each subheading shall be grouped under appropriate descriptive headings according to the nature of the difference.

(b) Noncarrier property: Carriers shall also prepare an analysis of the difference between the amount shown for "Total account 8" in column 1 of ACV Form No. 7 and the closing balance in Account 8, Miscellaneous physical property as of the effective date of the initial inventory.

(c) The above reconciliations shall be presented on ACV Form No. 8.

§ 1260.112 Corporate history and development of fixed physical property.

Report, on 17" x 11" sheets, the following information for the filing carrier and for each predecessor:

(a) Give name of corporation, company, or firm, date of incorporation, and date of organization. If corporation, state whether incorporated under general law or by special act. If incorporated under general law, state where articles of incorporation were filed. If incorporated by special act, give reference to the act.

(b) Describe the property, or portion of property, constructed by each corporation, company, or firm, and show as to each such property, or portion of property, as so constructed, the termini and mileage of each trunk line, the total mileage of gathering lines, the dates of construction, and the dates the property, or portion thereof, was dedicated to public use.

(c) State length of time any such property, or portion of property, was actually operated by any such corporation, company, or firm, giving, in each instance, date of beginning and date of conclusion of such operation.

(d) If any such corporation has gone out of existence, describe the proceedings by virtue of which the dissolution took place. If any such corporation is still in existence, state where its records are kept and give name and address of person who has custody of them.

(e) State fully the chain of title by which the present corporation acquired the property which it now owns or operates. In this connection list all leases, reorganization proceedings and other instruments bearing upon the corporate history.

PART 1261—REGULATIONS GOVERNING THE REPORTING OF PROPERTY CHANGES; PIPELINE CARRIERS

GENERAL

Sec.
1261.0 Regulations prescribed.
1261.1 Prescribed forms.
1261.2 Preparation of forms.
1261.3 Copies required.
1261.4 Geographical identity of property changes.
1261.5 Carrier and noncarrier property defined.
1261.6 Reporting changes by class of carrier property.
1261.7 Responsibility for filing forms.
1261.8 Reporting period and filing date.
1261.9 Out-of-service property.
1261.10 Transfers between category of property.
1261.11 Exceptions.
1261.12 Reconciliations.
1261.13 Valuation sections.
1261.14 Corrections of additions or retirements previously reported.
1261.15 Ancillary documents.
1261.16 Assembling and numbering forms.
1261.17 Location sketches.
1261.18 Amendments and deviations.

FORMS INSTRUCTIONS

1261.100 Property changes other than land and rights-of-way.
1261.101 Land and rights-of-way property changes.
1261.102 Summary of original cost.
1261.103 Summary of cost of reproduction new and cost of reproduction new less depreciation.

INSTRUCTIONS COVERING THE PROCESSING OF PURCHASE, SALE, MERGER, CONSOLIDATION OR REORGANIZATION ACTIONS

1261.200 Introduction.
1261.201 Actions between common carriers affecting property representing one or more complete valuation sections.
1261.203 Actions between common carriers affecting property representing less than a complete valuation section.
1261.202 Actions between common carriers and individuals, firms, corporations or others not common carriers.
1261.204 Purchases and sales of jointly owned or jointly used agent operated property.
1263.205 Purchases and sales of jointly owned or jointly used nonagent operated property.

FORMS

1263.300 List of forms.

AUTHORITY: The provisions of this Part 1261 issued under sec. 12, 24 Stat. 383, sec. 19a, 87 Stat. 701; 49 U.S.C. 12, 19a.

NOTE: The reporting requirements contained in this part have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

GENERAL

§ 1261.0 Regulations prescribed.

Each common carrier by pipeline subject to provisions of the Interstate Commerce Act is required to comply with regulations in this part in reporting property changes subsequent to the date fixed for the basic inventory of its property. This does not supersede provisions of Valuation Order No. 3—Second Revised Issue, effective January 1, 1919 (Part 1262 of this chapter) requiring all carriers to record and report property changes. Those requirements are adapted by regulations in this part to the terminology and property units peculiar to pipeline carriers, as contemplated by the provisions of sec. 23 of Valuation Order No. 2—Second Revised Issue (§ 1262.23 of this chapter).

§ 1261.1 Prescribed forms.

ACV Forms No. 1, 2, 3, and 4, as listed in § 1261.300, are used as prescribed by this part.

§ 1261.2 Preparation of forms.

Detailed instructions concerning the information to be reported on the forms are set out in §§ 1261.100 to 1261.103, and §§ 1261.200 to 1261.205.

§ 1263.3 Copies required.

The prescribed forms shall be filed with the Commission in an original only and one copy shall be retained by carriers for examination by Commission representatives. Copies of forms prepared by other than filing carriers, appropriately amended by filing carriers to indicate their identity and their designated valuation section numbers, may be filed in lieu of originals.

§ 1261.4 Geographical identity of property changes.

Changes relating to property which is not normally moved from place to place, or mobile property such as vehicles or other work equipment or other property which services a particular valuation section on a reasonably permanent basis, shall be identified with the valuation section and State in which the property is physically located at the end of the reporting period. Changes relating to mobile property servicing more than one valuation section of a State shall be reported as unallocated for the State in which such valuation sections are located. If mobile property services more than one State, changes affecting same shall be reported as unallocated for the carrier as a whole without State identity.

§ 1261.5 Carrier and noncarrier property defined.

Carrier property is that which is used exclusively for common-carrier purposes. Noncarrier property is that which is used exclusively for purposes other than those of a common carrier. These definitions are to be interpreted as disregarding incidental or immaterial use.

§ 1261.6 Reporting changes by class of carrier property.

Property changes shall be reported separately by use and ownership category of carrier property. These are defined as follows:

(a) Class 1: Property owned by a common carrier and used for common-carrier purposes. This class of property includes:

(1) Wholly owned and wholly used by the same carrier.

(2) Jointly owned and used by the same carriers.

(b) Class 2: Property owned by a common carrier but used by another common carrier for common-carrier purposes. This class of property includes:

(1) Wholly owned by one carrier but wholly used by another carrier.

(2) Wholly owned by one carrier but jointly used by other carriers.

(3) Jointly owned by carriers but wholly used by another carrier.

(4) Jointly owned by carriers but jointly used by other carriers.

(c) Class 3: Property used by a common carrier for common-carrier purposes but owned by another common carrier. This class of property includes:

(1) Wholly used by one carrier but wholly owned by another carrier.

(2) Wholly used by one carrier but jointly owned by other carriers.

(3) Jointly used by carriers but wholly owned by another carrier.

(4) Jointly used by carriers but jointly owned by other carriers.

(d) Class 4: Property used by a common carrier for common-carrier purposes but owned by other than a common carrier. This class of property includes:

(1) Wholly used by a carrier but wholly owned by a noncarrier.

(2) Wholly used by a carrier but jointly owned by noncarriers.

(3) Jointly used by carriers but wholly owned by a noncarrier.

(4) Jointly used by carriers but jointly owned by noncarriers.

(e) All possible ownership and use combinations have not been included in the examples set out under the four classes of property defined above. Questions concerning those omitted shall be submitted to the Commission by carriers on an individual case basis.

§ 1261.7 Responsibility for filing forms.

(a) Class 1 property:

(1) ACV Forms No. 1, 2, 3 and 4 shall be filed by the owning carrier.

(2) For agent operated jointly owned and used property, ACV Forms No. 1, 2 and 4 shall be prepared for the property as a whole by the agent operator. In addition to preparing these ACV Forms No. 1, 2 and 4, agent operators shall also prepare, for jointly owned and used property, ACV Forms No. 1 and 2 showing the proportionate share of original cost changes for the reporting period applicable to each jointly owning and using carrier. Separate forms shall be prepared for each state and the identity of the jointly owning and using carrier shall be entered on the Report Filed by ----------, Property Owned by ----------, and Property Used by ---------- lines of the forms. The caption "Proportionate Share of the (Name of the system) Jointly Owned and Used" shall be entered in the body of the forms. Where acquisitions have occurred during the reporting period, enter the caption "Acquisitions" in column 6 of ACV Form No. 1, and in columns 6 and 13 of ACV Form No. 2. The affected primary accounts shall then be listed in column 1 of ACV Form No. 1 and in columns 1 and 11 of ACV Form No. 2. The valuation sections in which property changes have occurred shall be set out under the appropriate account numbers, and the original cost of additions and retirements applicable thereto shall be entered in the Original Cost columns of ACV Forms No. 1 and 2. Acquisitions, if any, shall be entered in the columns so headed. Totals shall be shown in these columns for each account.

(3) Agent operators shall also prepare for jointly owned and used property ACV Form No. 4 showing the proportionate share of cost of reproduction new and cost of reproduction new less depreciation, both including overhead, as of the end of the reporting period, applicable to each jointly owning and using carrier. A separate form shall be prepared for each state and the identity of the jointly owning and using carrier shall be entered on the Report Filed by ----------, Property Owned by ----------, and Property Used by ---------- lines of the form. The caption "Proportionate Share of the (Name of the system) Jointly Owned and Used" shall be entered in the body of the form. The valuation sections of the state shall be listed in column 9 of the form and the related cost of reproduction new and cost of reproduction new less depreciation shall be recorded in columns 21 and 22, respectively.

(4) Agent operators shall file the ACV Forms No. 1, 2 and 4, prepared by them in accordance with the preceding paragraphs, with the Commission where they will be reviewed and retained. Upon the completion of this review agent operators will be so advised and will be provided with photocopies of all ACV Forms No. 1, 2 and 4 on which corrections are made by the Commission. Each jointly owning and using carrier shall then be provided by agent operators with two copies of ACV Forms No. 1, 2 and 4, other than those prepared for jointly owned and used property as a whole, one to be retained by the recipient carrier and the other to be filed with the Commission. Copies of ACV Forms No. 1, 2 and 4 prepared by agent operators for jointly owned and used property as a whole may be made available to jointly owning and using carriers by arrangement with agent operators.

(5) For nonagent operated jointly owned and used property, ACV Forms No. 1, 2 and 4 shall be prepared by one of the jointly owning and using carriers, and two copies of these forms shall be mailed by the carrier preparing them to each jointly owning and using carrier. The recipient carrier shall retain one copy of these forms and shall file the other with the Commission.

(6) For both agent and nonagent operated jointly owned and used property, the proportionate share of original cost changes reported on ACV Forms No. 1 and 2 shall be included in amounts reported on ACV Form No. 3, and the proportionate share of cost of reproduction new and cost of reproduction new less depreciation shall be listed on the ACV Form No. 4 summary.

(b) Class 2 and 3 property:

(1) ACV Forms No. 1, 2, 3 and 4 shall be filed by the owning carrier for class 2 property and by the using carrier for class 3 property. ACV Forms No. 1, 2 and 4 may be prepared by a wholly owning but not using carrier, or by a wholly using but not owning carrier. Two copies of these forms shall be mailed by the carrier preparing them to the wholly owning or to the wholly using carrier, as appropriate.

(2) For agent operated jointly owned but not used property, or for agent operated jointly used but not owned property, ACV Forms No. 1, 2 and 4 shall be prepared for the property as a whole by the agent operator. In addition to preparing these ACV Forms No. 1, 2 and 4, agent operators shall also prepare, for jointly owned but not used and for jointly used but not owned property, ACV Forms No. 1 and 2 showing the proportionate share of original cost changes for the reporting period applicable to each jointly owning or jointly using carrier. Separate forms shall be prepared for each state. For Class 2 property, the identity of the jointly owning but not using carrier shall be entered on the Report Filed by ---------- and Property Owned by ---------- lines, and the identity of the using carrier, or carriers, shall be entered on the Property Used by ---------- line. For Class 3 property, the identity of the jointly using but not owning carrier shall be entered on the Report Filed by ---------- and Property Used by ---------- lines, and the identity of the owning carrier, or carriers, shall be entered on the Property Owned by ---------- line. The caption "Proportionate Share of the (Name of the system) Jointly Owned but not Used, or Jointly Used but not Owned," as appropriate, shall be entered in the body of the forms. Where acquisitions have occurred during the reporting period, enter the caption "Acquisitions" in column 6 of ACV Form No. 1, and in columns 6 and 13 of ACV Form No. 2. The affected primary accounts shall then be listed in column 1 of ACV Form No. 1 and in columns 1 and 11 of ACV Form No. 2. The valuation sections in which property changes have occurred shall be set out under the appropriate account numbers, and the original cost of additions and retirements applicable thereto shall be entered in the Original Cost columns of ACV Forms No. 1 and 2. Acquisitions, if any, shall be entered in the columns so headed. Totals shall be shown in these columns for each account.

(3) Agent operators shall also prepare for jointly owned but not used, and for jointly used but not owned, property ACV Form No. 4 showing the proportionate share of cost of reproduction new and cost of reproduction new less depreciation, both including overhead, as of the end of the reporting period, applicable to each jointly owning and using carrier, or jointly using but not owning carrier. A separate form shall be prepared for each state. The lines Report Filed by ----------, Property Owned by ----------, and Property Used by ---------- shall be filled in as directed in the preceding paragraph, and the caption "Proportionate Share of the (Name of the system) Jointly Owned but not Used," or "Jointly Used but not Owned," as appropriate, shall be entered in the body of the form. The valuation sections of the State shall be listed in column 9 of the form and the related cost of reproduction new and cost of reproduction new less depreciation shall be reported in columns 21 and 22, respectively.

(4) Agent operators shall file the ACV Forms No. 1, 2 and 4, prepared by them in accordance with the preceding paragraphs, with the Commission where they will be reviewed and retained. Upon

the completion of this review agent operators will be so advised and will be provided with photocopies of all ACV Forms No. 1, 2 and 4 on which corrections are made by the Commission. Each jointly owning but not using, and each jointly using but not owning carrier shall then be provided by agent operators with two copies of ACV Forms No. 1, 2 and 4, other than those prepared for jointly owned but not used and jointly used but not owned property as a whole, one to be retained by the recipient carrier and the other to be filed with the Commission. Copies of ACV Forms No. 1, 2 and 4 prepared by agent operators for jointly owned but not used, or for jointly used but not owned property as a whole may be made available to jointly owning or jointly using carriers by arrangement with agent operators.

(5) For nonagent operated jointly owned but not used or jointly used but not owned property, ACV Forms No. 1, 2 and 4 shall be prepared by one of the jointly owning or jointly using carriers, and two copies of these forms shall be mailed by the carrier preparing them to each jointly owning or jointly using carrier. The recipient carrier shall retain one copy of these forms and shall file the other with the Commission.

(6) For both agent and nonagent operated jointly owned but not used, or jointly used but not owned property, the proportionate share of original cost changes reported on ACV Forms No. 1 and 2 shall be included in amounts reported on ACV Form No. 3, and the proportionate share of cost of reproduction new and cost of reproduction new less depreciation shall be listed on the ACV Form No. 4 summary.

(c) Class 4 property:

(1) ACV Forms No. 1, 2, 3 and 4 shall be filed by the using carrier.

(2) For agent operated jointly used but not owned property, ACV Forms No. 1, 2 and 4 shall be prepared for the property as a whole by the agent operator. In addition to preparing these ACV Forms No. 1, 2 and 4, agent operators shall also prepare, for jointly used but not owned property, ACV Forms No. 1 and 2 showing the proportionate share of original cost changes for the reporting period applicable to each jointly using carrier. Separate forms shall be prepared for each state. The identity of the jointly using but not owning carrier shall be entered on the Report Filed by ---------- and Property Used by ---------- lines of the forms, and the identity of the owner, or owners, of the property shall be entered on the Property Owned by ---------- line of the form. The caption "Proportionate Share of the (Name of the system) Jointly Used but not Owned" shall be entered in the body of the forms. Where acquisitions have occurred during the reporting period, enter the caption "Acquisitions" in column 6 of ACV Form No. 1, and in columns 6 and 13 of ACV Form No. 2. The affected primary accounts shall then be listed in column 1 of ACV Form No. 1 and in columns 1 and 11 of ACV Form No. 2. The valuation sections in which property changes have occurred shall be set out under the appropriate account numbers, and the original cost of additions and retirements applicable thereto shall be entered in the Original Cost columns of ACV Forms No. 1 and 2. Acquisitions, if any, shall be entered in the columns so headed. Totals shall be shown in these columns for each account.

(3) Agent operators shall also prepare for jointly used but not owned property ACV Form No. 4 showing the proportionate share of cost of reproduction new and cost of reproduction new less depreciation, both including overhead, as of the end of the reporting period, applicable to each jointly using but not owning carrier. A separate form shall be prepared for each state. The identity of the jointly using but not owning carrier shall be entered on the Report Filed by ---------- and Property Used by ---------- lines of the form, and the identity of the owner, or owners, of the property shall be entered on the Property Owned by ---------- line of the form. The caption "Proportionate Share of the (Name of the system) Jointly Used but not Owned" shall be entered in the body of the form. The valuation sections of the state shall be listed in column 9 of the form and the related cost of reproduction new and cost of reproduction new less depreciation shall be recorded in columns 21 and 22, respectively.

(4) Agent operators shall file the ACV Forms No. 1, 2 and 4, prepared by them in accordance with the preceding paragraphs, with the Commission where they will be reviewed and retained. Upon the completion of this review agent operators will be so advised and will be provided with photocopies of all ACV Forms No. 1, 2 and 4 on which corrections are made by the Commission. Each jointly using but not owning carrier shall then be provided by agent operators with two copies of ACV Forms No. 1, 2 and 4, other than those prepared for jointly used but not owned property as a whole, one to be retained by the recipient carrier and the other to be filed with the Commission. Copies of ACV Forms No. 1, 2 and 4 prepared by agent operators for jointly used but not owned property as a whole may be made available to jointly using but not owning carriers by arrangement with agent operators.

(5) For nonagent operated jointly used but not owned property, ACV Forms No. 1, 2 and 4 shall be prepared by one of the jointly using carriers, and two copies of these forms shall be mailed by the carrier preparing them to each jointly using carrier. The recipient carrier shall retain one copy of these forms and shall file the other with the Commission.

(6) For both agent and nonagent operated jointly used but not owned property, the proportionate share of original cost changes reported on ACV Forms No. 1 and 2 shall be included in amounts reported on ACV Form No. 3, and the proportionate share of cost of reproduction new and cost of reproduction new less depreciation shall be listed on the ACV Form No. 4 summary.

(d) Forms filed with the Commission shall report all property changes whether made by the owning or by the using carrier.

(e) To assure the prompt review and early return by the Commission of the ACV Forms pertaining to agent operated property required by this Section to be mailed to the Commission, such forms shall be mailed as soon after the close of the reporting year as practicable.

(f) A summary by class of property shall be filed by each carrier on ACV Form No. 4, prepared in accordance with § 1261.103 (d) and (e).

§ 1261.8 Reporting period and filing date.

The forms shall be prepared as of December 31 of each year, shall be filed with the Commission not later than the next succeeding September 30, and shall cover property changes occurring since the date of basic inventory or since the date of the latest previously filed forms.

§ 1261.9 Out-of-service property.

Property temporarily out of service, and held under a definite plan for pipeline operations within a reasonable period of time, shall not be reported as a retirement or reported separately. Out-of-service property not meeting these criteria shall be reported as a retirement.

§ 1261.10 Transfers between category of property.

Transfers between carrier and noncarrier property, between classes of carrier property, or between primary accounts, shall be reported separately as additions and retirements and shall be clearly identified as such.

§ 1261.11 Exceptions.

Exceptions taken by the Commission to property transactions recorded or reported on forms prescribed by Valuation Order No. 3, or Supplements or Revisions thereto, fall into two categories: those evidenced by corrections made by the Commission on ACV Forms filed by carriers; and those made the subject of a letter of exception. Carriers will be provided with photocopies of ACV forms in the former category, and such forms shall supersede and shall replace in the files of carriers the related ACV forms originally filed. No further action need be taken by carriers on exceptions in this category. Exceptions made the subject of a letter of exception shall be processed on the first ACV forms prepared following the receipt of such a letter, and reference shall be made on the forms to the letter directing the action:

§ 1261.12 Reconciliations.

(a) Carrier property: Carriers shall prepare and submit on ACV Form No. 1 an analysis of the difference between the closing balance of original cost shown in column 5 of ACV Form No. 3 for owned property and the closing balance in Account 1, Investment in Carrier Property (primary accounts 101 to 198, inclusive) and Account 2, Cost of Organization at the end of the reporting period. This analysis shall be in such form as to separately indicate by subheadings, amounts included in Accounts 1 and 2 but not included in the closing balance of original cost at the end of the reporting period, and amounts included in the closing balance of original cost but not included in Accounts 1 and 2 at the end of the reporting period. The details of items under each subheading shall be grouped under appropriate descriptive headings according to the nature of the difference.

(b) Noncarrier property: Carriers shall also prepare and submit on ACV Form No. 1 a reconciliation statement showing an analysis of the difference between the closing balance of original cost shown in column 5 of ACV Form No. 3 for owned property and the closing balance in Account 5, Miscellaneous Physical Property at the end of the reporting period.

§ 1261.13 Valuation sections.

Valuation section identity shall be determined as of the date of original valuation, or subsequent thereto when appropriate, subject to the approval of the Commission.

§ 1261.14 Corrections of additions or retirements previously reported.

In reporting corrections of additions or retirements previously reported, the adjusting entry in the current report shall be shown as an increase or as a decrease in the same column in which the original item was reported.

§ 1261.15 Ancillary documents.

The following documents referred to in these regulations will be supplied by the Bureau of Accounts:

1947 Period Guide Prices and Annual and Period Indices.
Schedule of Annual and Period Indices.
Pipeline Condition Percent Table.
Schedule of Element Codes and Guide Service Lives.
Table of Index Reciprocals.
Schedule of ratios of Freight Rates to Delivered Prices of Pipe.

§ 1261.16 Assembling and numbering forms.

(a) To facilitate the review and processing of ACV forms they shall be assembled in the following order prior to their being filed with the Commission:

(1) ACV Form No. 1 bearing the carrier's certification and the identity of the forms filed.

(2) ACV Form No. 1 containing the narrative statement pertaining to significant changes which occurred during the reporting period.

(3) ACV Form(s) No. 1 presenting the Reconciliation Statement for carrier property.

(4) ACV Form(s) No. 1 presenting the Reconciliation Statement for noncarrier property.

(5) ACV Forms No. 3 followed by the ACV Form No. 4 summary. ACV Forms No. 3 shall be arranged as follows:

(i) Class 1 property.

(ii) Class 2 property: Assemble alphabetically by lessee.

(iii) Class 3 and 4 property: Assemble alphabetically by lessor without regard to class of property.

(6) ACV Forms No. 1, 2 and 4 prepared by the filing carrier and those prepared by other than the filing carrier, covering property changes for the reporting period, shall be grouped together by form number in the above order. ACV Form No. 2 listing by state those valuation sections in which there were no property changes for the reporting period shall be placed ahead of the ACV Forms No. 2 reporting property changes. Each group of forms thus assembled shall include all classes of property in the following order:

(i) Class 1 property: For wholly owned and used property, assemble forms alphabetically by state and under each state by gathering, trunk, and general valuation sections grouped separately, with each group in valuation section number order. Arrange forms so grouped by primary account number. For jointly owned and used nonagent operated property, assemble forms for each such property in the same order prescribed for wholly owned and used property, and file alphabetically by jointly owned and used property identity immediately following the forms for wholly owned and used property for the corresponding state. For jointly owned and used agent operated property, assemble forms alphabetically by state and thereunder alphabetically by system, and file immediately following the forms for jointly owned and used nonagent operated property for the corresponding state.

(ii) Class 2 property: For wholly owned but not used, and jointly owned but not used nonagent operated property, assemble forms alphabetically by lessee and thereunder alphabetically by state, the latter in the manner prescribed above for wholly owned and used Class 1 property. Interfile with these forms, alphabetically by lessee and thereunder alphabetically by state, forms for jointly owned but not used agent operated property.

(iii) Class 3 and 4 property: For wholly used but not owned, and jointly used but not owned nonagent operated property, assemble forms alphabetically by lessor, without regard to class of property, and thereunder alphabetically by state, the latter as prescribed above for wholly owned and used Class 1 property. Interfile with these forms alphabetically by lessor, also without regard to class of property, and thereunder alphabetically by state, forms for jointly used but not owned agent operated property.

(b) ACV Forms assembled in accordance with the foregoing shall be numbered consecutively beginning with ACV Form No. 1 referred to in paragraph (a) (1) of this section and ending with the last ACV Form No. 4 assembled under paragraph (a) (6) of this section. These consecutive numbers shall be shown in the top right-hand corner of the forms and shall be in addition to the numbers prescribed to be entered on the Sheet No. ------ of ------- Sheets line of the ACV forms.

§ 1261.17 Location sketches.

A sketch, or sketches, 17" x 11" in size, which need not be drawn to scale, shall be submitted showing, by valuation section, the approximate geographical location of trunk lines and pumping stations. Trunk lines shall be identified by crude or product, and loop or parallel lines shall be shown. The pumping station identity assigned by the carrier shall be indicated and cities adjacent thereto shall be shown. Indicate for gathering lines only the general areas served. It will not be necessary to submit a separate sketch for each valuation section. A single sketch for an entire state will suffice where a carrier's pipelines and pumping stations are located in one state. Where it can be produced legibly, a single sketch will also be acceptable where a carrier operates in a number of contiguous states. Following the initial submission of sketches it will be necessary thereafter to submit corrected sketches only to reflect significant changes such as added pumping stations, entry into a new field, construction of parallel or loop trunk lines, or trunk line extensions or connections.

§ 1261.18 Amendments and deviations.

Only those amendments to or deviations from the regulations prescribed by this part as may be directed by the Commission are authorized.

Forms Instructions

§ 1261.100 Property changes other than land and rights-of-way.

Instructions for the preparation of ACV Form No. 1 Statement of Property Changes other than Land and Rights-of-Way.

(a) The data to be reported on this form should be typewritten. However, the form may be prepared manually where such method will assure legibility and permanency. Where the form is prepared manually, required additional horizontal lines shall be provided at the time of printing to aid in its preparation and to improve its legibility. A new sheet shall be started for each primary account. When ACV Form No. 1 is used to report changes in noncarrier property, the primary account numbers used for carrier property shall also be employed to facilitate the identification of such changes. With the exception of column 1, all entries on the form shall be double spaced. Additions and retirements shall be reported on separate lines. If there have been no property changes in a given valuation section for the reporting period, a form shall be prepared for each such valuation section bearing the statement "No Property Changes." When a major addition to, or a major replacement of a portion of, a unit of existing property occurs, report as a retirement the entire unit of property affected by the action and, in the case of a major addition, report as an addition both the property so retired and the addition made; in the case of a major replacement, report as an addition both the

property retired less the replaced portion, and the replacing portion. For additions or retirements of pipe for accounts 103, 153, 110, 160, 112 and 162 report both the gross linear footage, and the related screwage included in such gross linear footage. To facilitate the preparation and verification of the Pipeline Footage Change Summary, segregate additions and retirements for the above accounts for trunk lines by crude and product, and thereunder separately by line, loops and other. Segregate, also, and report separately additions and retirements for all gathering lines and, if reported, service pipe. Except for service pipe, show both gross linear footage and related screwage totals for additions and for retirements for each of the above segregations.

(b) A single copy of the form shall be used to set forth the following statement whichshall be signed by a responsible officer of the carrier preparing the reports:

The forms identified hereon have been carefully examined by the undersigned who declares that they have been prepared in accordance with regulations issued by the Interstate Commerce Commission.

_____
(Signature)

_____
(Title)

_____
(Date)

There shall also be set forth on this copy the identity and the number of forms filed. To assure the receipt of such forms this information shall be presented in such manner as to permit ready verification. A single copy of the form shall also be used to present in narrative form a summary of significant changes which occurred during the reporting period. Record the statement "No significant changes during reporting period" when appropriate.

(c) Sheet No. 1 of ACV Form No. 1 of each valuation section shall be used to identify the primary accounts, by account number only, in which property changes are reported for the valuation section. Footage change totals reported for accounts 103, 153, 110, 160, 112 and 162 in accordance with § 1261.100(a) shall also be summarized on this sheet as follows:

PIPELINE FOOTAGE CHANGE SUMMARY

	Trunk Lines						All gath. lines	
	Line		Loops		Other			
	Adds.	Rets.	Adds.	Rets.	Adds.	Rets.	Adds.	Rets.
Account No.								
Less Screwage								
Account No.								
Less Screwage								
Account No.								
Less Screwage								
Totals [2]								
Equivalent Miles								

[1] Indicate whether Crude or Products for trunk lines.
[2] Show footage totals, less screwage, for all accounts. Convert to miles, to the nearest thousandth, and record results on the Equiv. Miles line. Enter these miles on the Pipeline Mileage Statement.

This same sheet shall also set forth a statement of changes in pipeline mileage occurring between the current and the next previously filed statement. This information shall be presented in the following form:

PIPELINE MILEAGE STATEMENT

(In Thousandths)

	At beginning of period	During period		At end of period
		Adds.	Rets.	
Trunk Lines:				
Crude:				
Line				
Loops				
Other				
Totals				
Products:				
Line				
Loops				
Other				
Totals				
All Gathering Lines				

The Pipeline Footage Change Summary and the Pipeline Mileage Statement shall be prepared to include only the category of pipeline being reported, i.e. Trunk Lines—Crude; or Trunk Lines—Products; or All Gathering Lines, as appropriate. It will not be necessary to include the inapplicable portions of the formats shown.

(d) When ACV Form No. 1 is used to report changes affecting jointly owned or jointly used property enter on Sheet No. 1, for each valuation section, an asterisk (*) on the Property Owned by _____ and Property Used by _____ line and, in the body of the form, the identity of both the owning and the using carriers and the percentage of their respective owning or using interest.

(e) ACV Form No. 1 shall be executed as follows:

(1) *Statement of Property Changes From* _____ *To* _____. Indicate the beginning and ending dates of the period covered by the report.

(2) ☐ *Carrier Property* ☐ *Noncarrier Property.* Place an X in the appropriate block to identify the property being reported. Data shall not be recorded in columns 4, 6, 8, 9, 10 and 12 of ACV Form No. 1 when reporting property changes for noncarrier property.

(3) *Report Filed by* _____ *Property Owned by* _____ *Property Used by* _____. Enter appropriate identifications. Where jointly owned or jointly used property is being reported, enter an asterisk (*) on the Property Owned by _____ and Property Used by _____ line to indicate that the identity of the owning and the using carriers is set out on Sheet No. 1 for the valuation section, as directed in (d) above.

(4) *State* _____ *Val. Sec.* _____. Identify the state and valuation section in which the property changes being reported occurred. Enter the word "Unallocated" on the Val. Sec. _____ line for mobile property servicing more than one valuation section of the state. Enter the word "Unallocated" on the State _____ line for mobile property servicing more than one state, leaving the Val. Sec. _____ line blank.

(5) *Sheet No.* _____ *of* _____ *Sheets.* Except when the form is used as a summary or as otherwise directed, the use of this line shall be restricted to identifying the sheets relating to the valuation section indicated on the line above on the form. It shall not be used for the consecutive numbering of all sheets constituting the complete carrier's report of all property changes for the reporting period. When the form is otherwise used this line shall identify the sheets so used.

(6) *Columns 1 and 3.* Property additions described in these columns shall be expressed as prescribed in the 1947 Period Guide Prices and Annual and Period Indices. When reporting significant additions, such as additional pipeline construction, excluding loops, or newly constructed buildings, file with related ACV Forms No. 1 right-of-way maps and station plats for pipeline construction, and floor plan sketches and pictures for buildings. Property retirements need not be described in complete detail. A general description, including the carrier's property number, will suffice. Include in column 1, however, for retirements, the identity of the B.V. Form 590 which reported, as a basic inventory item, the property being retired; include also the the identity of the Statement of Property Changes which reported, as an Addition, the property being retired. When reporting additions to existing property, such as an addition made to an existing building or tank, indicate this same identity for the existing property to which the addition was made. Report, also, the date of installation of the existing property in column 1. Identify secondhand property and station piping clearly as such in column 1, and indicate the applicable freight rates for accounts 103, 105, 110, 112, 153, 155, 160 and 162. Show in column 1 the computation of the factor and the quotient referred to in (8) below.

(7) *Column 2.* Enter for both additions and retirements the year, including the current year, the property was dedicated to public service. This shall be construed as the year in which the property was first placed in common-carrier service by a carrier, and this date shall also govern when reporting carrier property transactions for each successive owning or using common carrier. Record dates for additions, only, for accounts 104 and 154. When the year of dedication to public service differs from the year the property was actually installed indicate, also, the latter year in column 1. This requirement shall apply equally to property installed by previous owners. Where the precise year cannot be determined enter the best estimate. When showing these dates only the last two digits of the year need be shown. Thus, 1956 may be indicated by 56.

(8) *Column 4.* Enter applicable unit price from the 1947 Period Guide Prices and Annual and Period Indices. Where period guide prices have not been established enter appropriate annual index from this same document, or the corresponding reciprocal from the Table of Index Reciprocals. For retirements from accounts 104 and 154 enter factor, determined by dividing cumulative cost of reproduction new by cumulative original cost, both as of the end of the next previous reporting period. For retirements of construction damages from accounts 105 and 155, enter the quotient of cumulative cost of reproduction new divided by related lineal feet of line pipe, both as of the end of the next previous reporting period. All entries in this column shall be used as multipliers.

(9) *Columns 5 and 11.* Enter the number of units applicable to the property described in columns 1 and 3. Leave these columns blank where the unit in column 3 is Lot.

(10) *Column 6.* Enter, to the nearest dollar, the product of column 5 times column 4. This will represent the cost of reproduction new at 1947 period prices. Entries shall not be made in this column for overhead items.

(11) *Columns 7 and 13.* Enter in these columns, to the nearest dollar, the original cost of each unit, or the aggregate cost of all units, reported in related columns 8 and 11, or the original cost of each lot reported in column 3. The term original cost shall be interpreted to mean the actual cost of property to a carrier at the time of its initial dedication to public use. Overhead items shall be stated separately and shall be clearly defined and identified as such in column 1.

(12) *Columns 8 and 9.* The date to be entered in these columns shall be taken from the Schedule of Element Codes and Guide Service Lives. Where property is to be depreciated to a 50 percent minimum indicate an asterisk (*) after the guide service life in column 9. Service life shall not be shown in column 9 for accounts 104, 105, 154 and 155, nor for element code 124 of accounts 111 and 161.

(13) *Column 10.* Enter applicable percent for additions or retirements from the Pipeline Condition Percent Table. Indicate 100 percent when appropriate. Except as may be otherwise approved by the Commission in individual cases, additions to existing property, such as an addition to an existing building or tank shall follow the condition percent of the property to which it is added. Condition percent for accounts 104 and 105, and, 154 and 155, shall not be shown in this column since the condition percent of these accounts follows the condition percent of accounts 108 and 158, respectively. Omit condition percent also for element code 124 of accounts 111 and 161, since the condition percent for this element represents a composite of the condition percents of the remaining tank elements of accounts 111 and 161.

(14) *Column 12.* Enter, to the nearest dollar, the product of column 11 times column 4. This will represent the cost of reproduction new at 1947 period prices. Entries shall not be made in this column for overhead items.

(f) A total shall be shown on this form, at the end of each account, for columns 6, 7, 12 and 13. The amount of property changes reported in columns 6 and 12 shall then be summarized, by element code, and the summaries entered in these columns below the total, with the appropriate element code, service life, and weighted average condition percent being shown in columns 8, 9 and 10, respectively. Caption this summary "Distribution of columns 6 and 12." The total of amounts summarized by code in columns 6 and 12 must agree with the totals shown at the end of the account for these columns, and this summary shall serve as the posting medium for entries to be made in columns 7, 8, 9 and 10 of ACV Form No. 4.

(g) For jointly owned or jointly used property, the owning and the using percentages set out on Sheet No. 1 for the valuation section shall be applied to the totals prescribed in the preceding paragraph to be shown at the end of each account for columns 7 and 13. The percentages and resultant amounts shall be shown and identified by each owning and each using carrier.

(h) ACV Form No. 1 reporting changes to jointly owned or jointly used property representing less than a valuation section shall report the complete property change. There shall then be indicated on the form the identity of the participating carriers and their owning or using percentage of interest. The appropriate percentage shall then be applied to the totals prescribed to be shown at the end of each account for columns 7 and 13, and by element code for columns 6 and 12. The resultant amounts shall be shown and identified by each owning or using carrier, and two copies of ACV Form No. 1 shall be mailed by the carrier reporting the change to each participating carrier, one to be retained and the other to accompany related forms filed with the Commission. In the case of joint projects involving expenditures not exceeding $5,000.00 each, expenditures representing the portion borne by the carrier may be grouped for the entire valuation section and the total reported as a lot. Joint projects involving expenditures exceeding $5,000.00 each shall be described in complete detail, including the total cost of the project, the identity and percentage of participation, and the number of units, in column 1 of ACV Form No. 1 and the carrier's share of the expenditure reported in total in columns 6, 7, 12 or 13.

(i) See §§ 1261.201 to 1261.205 for instructions covering purchase, sale, merger, consolidation or reorganization actions.

§ 1261.101 Land and rights-of-way property changes.

Instructions for the preparation of ACV Form No. 2—Statement of Land and Rights-of-Way Property Changes.

(a) The data to be reported on this form shall be typewritten. When ACV Form No. 2 is used to report changes in noncarrier property, the primary account numbers used for carrier property shall also be employed to facilitate the identification of such changes. If there have been no property changes in a given valuation section for the reporting period, it will not be necessary to prepare ACV Form No. 2 for such valuation sections. Prepare, instead, a single copy of the form listing thereon by state the valuation sections in which there were no property changes for the reporting period. All classes of property shall be included on this copy. When the form is used to report changes affecting jointly owned or jointly used property enter on Sheet No. 1, for each valuation section, an asterisk (*) on the Property Owned by _____ and Property Used by _____ lines and, in the body of the form, the identity of both the owning and the using carriers and the percentage of their respective owning or using interest.

(b) Instructions set out in § 1261.100 (h) pertaining to the manner of preparing ACV Form No. 1 covering changes in jointly owned or jointly used property representing less than a valuation section, or when used to report joint projects, shall also apply in the preparation of ACV Form No. 2.

(c) Maps, prepared in accordance with the specifications set out in Valuation Order No. 26, showing land additions and retirements, shall be filed with ACV Form No. 2 for both carrier and noncarrier property. Land additions and retirements shall also be indicated on carriers' copies of maps. Maps will not be required to be filed where an entire parcel, previously reported, is retired.

(d) In reporting land acquisitions having an original cost of $500.00 or less per individual acquisition, group such acquisitions by county and report original cost and related areas by county total, and identify the county in column 17. It will not be necessary to file maps for acquisitions so reported. Undeveloped land having an original cost of $500.00 or less per lease, leased to a carrier or to a noncarrier, or leased from a carrier, shall not be reported. Undeveloped land leased from a noncarrier having an annual rental of $500.00 or less shall not be reported. When reporting undeveloped land leased from a noncarrier having an annual rental in excess of $500.00 omit original cost. Regardless of the original cost or annual rental amount, land shall be reported where the property leased includes improvements. Exclude, however, original cost when reporting such land leased from a noncarrier. See paragraph (f) of this section for instructions governing the treatment to be accorded leased land for agent or nonagent operated jointly owned or jointly used property. Portions of land owned and no longer used for common-carrier purposes, and having an original cost of $500.00 or less per portion, shall be regarded as incidental and immaterial with respect to its noncarrier category, and such portions shall not be transferred to noncarrier property.

(e) ACV Form No. 2 shall be executed as follows:

(1) From _____ To _____. Indicate the beginning and ending dates of the period covered by the report.

(2) ☐ *Carrier Property* ☐ *Noncarrier Property.* Place an X in the appropriate block to identify the property being reported.

(3) *Report Filed by* _____ *Property Owned by* _____ *Property Used by* _____. Enter appropriate identifications. Where jointly owned or jointly used property is being reported, enter an asterisk (*) on the Property Owned by _____ and Property Used by _____ line to indicate that the identity of the owning and the using carriers is set out on Sheet No. 1 of ACV Form No. 2 for the valuation section, as directed in (a) above.

(4) *State* _____ *Val. Sec.* _____. Identify the state and valuation section in which the property changes being reported occurred.

(5) *Sheet No.* _____ *of* _____ *Sheets.* This line shall identify the sheets relating to the valuation section, only, indicated on the line above on the form.

(6) *Column 1.* Enter the number of the land map assigned by the carrier.

(7) *Column 2.* Indicate the number assigned to the parcel, or parcels, on the map identified in column 1.

(8) *Column 3.* Indicate the date and the kind of instrument by which title to, or interest in, each parcel was derived, such as deed, quitclaim deed, condemnation, ordinance, lease, agreement, grant, donation, etc. In the case of land retirements requiring the execution of a new instrument, identify such instrument in this column.

(9) *Columns 4 and 5.* Enter, respectively, the name of the grantor and grantee cited in the instrument identified in column 3.

(10) *Columns 6 and 8.* Enter in these columns, respectively, the area, either in square feet or acres, of the land added or retired.

(11) *Columns 7 and 9.* Enter to the nearest dollar in these columns, respectively, the original cost of additions or retirements for the areas reported in columns 6 and 8. Incidental costs and assessments for public improvements shall be reported separately and shall be identified in column 17. Incidental costs and assessments shall be allocated to the parcels affected. If the considerations involved are other than cash identify such considerations in column 17. Enter valuation section totals for these columns.

(12) *Column 10.* Use this column for both land and rights-of-way. Enter the year that the parcel of land, or the year that the first trunk pipeline rights-of-way for the valuation section, or portion thereof, was dedicated to public service. Record this information for both additions and retirements.

(13) *Columns 11 and 12.* Identify the termini of the valuation section, or portion thereof, of trunk pipeline rights-of-way added or retired.

(14) *Columns 13 and 15.* Enter in these columns, for the termini identified in columns 11 and 12, the line miles of trunk pipeline rights-of-way added or retired.

(15) *Columns 14 and 16.* Enter to the nearest dollar in these columns, respectively, the total original cost for the valuation section as a whole of additions or retirements. If the considerations involved are other than cash identify such considerations in column 17.

(16) *Column 17.* Use this column to record information relevant to both land and rights-of-way not otherwise provided for on the form such as, in the case of land or rights-of-way acquired, a statement of the specific use to which such property has been put; or, in the case of land or rights-of-way retired, transferred or relinquished from carrier use, the disposition thereof, such as sales, transfers to noncarrier, reversions, etc. Record also in this column the dollar amount of land or rights-of-way sales.

(f) For jointly owned or jointly used agent or nonagent operated property, record the total original cost of each land change in column 17 of ACV Form No. 2, indicate the owning or using percentages set out on Sheet No. 1 for the valuation section, apply same to the total original cost recorded in this column and show, also in column 17, the resultant amounts representing each jointly owning or jointly using carrier's proportionate share of the change. For land changes other than those reporting the lease of undeveloped land to a carrier or to a noncarrier, or from a carrier, enter the total original cost also in column 7 or column 9, as appropriate. For land changes reporting the lease of undeveloped land add those proportionate shares appearing in column 17 which exceed $500.00 and enter the total in column 7 or column 9, as appropriate. In conformance with the provisions of paragraph (d) of this section, only those proportionate shares appearing in column 17 having an original cost in excess of $500.00 shall be included on ACV Forms No. 2 prepared by agent operators in accordance with § 1261.7, showing the proportionate share of original cost changes applicable to each jointly owing or jointly using carrier; also, jointly owning or jointly using carriers of nonagent operated property shall include only those proportionate shares shown in column 17 having an original cost in excess of $500.00 when preparing their ACV Forms No. 3. In the case of rights-of-way changes affecting jointly owned or jointly used agent or nonagent operated property, the owning or the using percentages appearing on Sheet No. 1 for the valuation section shall be applied to the total original cost recorded for the valuation section as a whole in column 14 or column 16 in accordance with paragraph (e) (15) of this section. The percentages and resultant amounts shall be shown and identified by each jointly owning or jointly using carrier.

(g) See §§ 1261.201 to 1261.205 for instructions covering purchase, sale, merger, consolidation or reorganization actions.

§ 1261.102 Summary of original cost.

Instructions for the preparation of ACV Form No. 3—Summary of Changes in Original Cost and Total Original Cost at Close of Period.

(a) This form includes two identical sections of five columns each for reporting, by primary account and by the noncarrier property categories indicated, the information cited in the title of the form, for the carrier as a whole and for each state and Unallocated. A blank block appears at the top of each section of the form to provide this latter identity. The information required for the carrier as a whole shall be entered in the first section of Sheet No. 1 and this section shall be headed "As a Whole" in the blank block provided. The information required for the first State to be reported shall be entered in the remaining section of Sheet No. 1 of the form, and this section shall bear the name of the State being reported in the blank block provided. The sections of all such additional sheets as may be required shall be used to report the remaining States, and Unallocated, and these sections shall also be appropriately identified in the blank blocks. Record States alphabetically, with Unallocated last in these blank blocks. When the form has been completed, the total of all amounts entered in similarly numbered columns in the state and Unallocated sections shall be balanced, by primary account and by noncarrier property category, with amounts entered in the corresponding columns of the "As a Whole" section. All totals and grand totals indicated to be shown on ACV Form No. 3 shall be crossfooted by individual state and Unallocated sections, which shall then be crossfooted to balance with amounts shown in the "As a Whole" section. Since this form will not be prepared by class of property for noncarrier property, for uniformity in reporting, record the data for all noncarrier property on ACV Form No. 3 prepared for class 1 property.

(b) The data reported on ACV Form No. 3 shall be typewritten and the form shall be executed as follows:

(1) *Summary of Changes in Original Cost From* ---------- *To* ----------, *and Total Original Cost at Close of Period.* Indicate the beginning and ending dates of the period covered by the report.

(2) *Sheet No.* ---- *of* ------- *Sheets.* This line shall identify the number of sheets constituting the Summary and the individual sheets thereof.

(3) *Report Filed by* ---------- *Property Owned by* ---------- *Property Used by* ---------- Enter appropriate identifications.

(4) *Accounts.* The primary accounts and the noncarrier property categories designated in this column shall identify the applicable amounts stated in columns 1 through 5 of both sections of the form.

(5) *Column 1.* Enter the amounts appearing in column 5 of the form for the previous reporting period.

(6) *Column 2. Each state and Unallocated.* Record, by primary account and by noncarrier property category, for all valuation sections, the total of acquisitions recorded on ACV Forms No. 1 and 2 prepared in accordance with § 1261.7 (a), (b) and (c); § 1261.201(b) (2) and (3); § 1261.202(b)(1); § 1261.203(b); and § 1261.205(a).

(7) *Columns 3 and 4. Each state and Unallocated.* Record, by primary account and by noncarrier property category, for all valuation sections, the total of additions and retirements recorded on ACV Forms No. 1 and 2 for the reporting period, exclusive of those acquisitions referred to in (6) above.

(8) *Column 5. Each state and Unallocated.* This column is the product of column 1 plus columns 2 and 3 minus column 4.

(9) *Columns 2, 3, 4 and 5. As a whole.* The amounts to be entered in these columns shall represent the total of amounts entered in similarly numbered columns of the state and Unallocated sections.

§ 1261.103 Summary of cost of reproduction new and cost of reproduction new less depreciation.

Instructions for the preparation of ACV Form No. 4—Summary of Cost of Reproduction New and Cost of Reproduction New Less Depreciation.

(a) The data to be reported on this form should be typewritten. However, the form may be prepared manually where such method will assure legibility and permanency. Where the form is prepared manually, required additional horizontal lines shall be provided at the time of printing to aid in its preparation and to improve its legibility. All entries on the form shall be double spaced. Because of changing condition percents and current period indices, it will be necessary to prepare and file this form even though there were no additions or retirements during the reporting period. When the form is used to report changes affecting jointly owned or jointly used property enter on Sheet No. 1, for each valuation section, an asterisk (*) on the Property Owned by ---------- and Property Used by ---------- line and, in the body of the form, the identity of both the owning and the using carriers and the percentage of their respective owning or using interest.

(b) ACV Form No. 4 shall be executed as follows:

(1) *For the Year* ------- Indicate the calendar year covered by the report.

(2) *Report Filed by* ---------- *Property Owned by* ---------- *Property Used by* ---------- Enter appropriate identifications. Where jointly owned or jointly used property is being reported, enter an asterisk (*) on the Property Owned by ---------- and Property Used by ---------- line to indicate that the identity of the owning and the using carriers is set out on Sheet No. 1 of ACV Form No. 4 for the valuation section, as directed in (a) above.

(3) *State* ---------- *Val. Sec.* ---------- Identify the state and valuation section in which the property changes being reported occurred. Enter the word "Unallocated" in the Val. Sec. ---------- line for mobile property servicing more than one valuation section of the state. Enter the word "Unallocated" on the State ---------- line for mobile property servicing more than one state, leaving the Val. Sec. ---------- line blank.

(4) *Sheet No.* ------- *of* ------- *Sheets.* Except where the form is used as a summary, the use of this line shall be restricted to identifying the sheets relating to the valuation section indicated on the line above on the form. It shall not be used for the consecutive numbering of all sheets constituting the complete carrier's report of all property changes for the reporting period. When the form is used as a summary this line shall identify the sheets so used.

(5) *Freight on Pipe.* Rate ------- percent. Enter the appropriate rate and percentage from the Schedule of Ratios of Freight Rates to Delivered Prices of Pipe.

(6) *Columns 1, 2, 3, 4 and 5.* Enter in these columns, respectively, the same information appearing in columns 1, 2, 3, 11 and 12 of the form for the next previous reporting period. Omit service life and condition percent in columns 3 and 5 for accounts 104, 105, 154, and 155, and for element code 124 of accounts 111 and 161. Where property changes occur during the current reporting period and no entries appear in columns 11 and 12 for the next previous reporting period, enter account number, element code, and service life in columns 1, 2 and 3, respectively, from ACV Form No. 1.

(7) *Column 6.* Enter the applicable current year condition percent for each element code from the Condition Percent Table. Omit condition percent for accounts 104, 105, 154 and 155, and for element code 124 of accounts 111 and 161.

(8) *Columns 7, 8, 9 and 10.* The data to be entered in these columns are those set out in columns 6, 10 and 12 under "Distribution of columns 6 and 12" which appears at the end of each account on ACV Form No. 1 for which property changes are reported. Since this distribution will report no condition percent for accounts 104, 105, 154 and 155, or for element code 124 of accounts 111 and 161, none will be shown in columns 8 and 10.

(9) *Column 11.* The amount to be entered in this column is produced as follows: Column 4 plus column 7, minus column 9. Enter account totals in this column.

(10) *Column 12.*

(i) This condition percent is arrived at by dividing the product of: Column 4 times column 6, plus column 7 times column 8, minus column 9 times column 10, by the amount in column 11.

(ii) In the case of element codes 2, 4, 6 and 8, for accounts 103 and 153 the percentage of cost new shall also be shown in this column. This percentage is determined by multiplying the salvage factor percent (to be shown as SF—in parentheses in column 13) by the difference between the condition percent and 100 percent, and adding the result to the condition percent. Entries in this column shall be shown, for example, as 70/75, the condition percent being 70 and the percentage of cost new being 75.

(iii) A weighted condition percent shall also be developed from the element codes of accounts 103 and 153 which shall be used for conditioning accounts 104 and 105, and 154 and 155, respectively. This weighted condition percent shall be developed as follows: Multiply the amount for each element code in column 11 by the related condition percent (not the percentage of cost new) in column 12. Add the products and divide the resultant sum by the total for account 103 or 153 appearing in column 11. This weighted condition percent shall be shown in parenthesis in this column opposite the total for these accounts. This condition percent shall be entered in this column for the element codes of accounts 104, 105, 154 and 155, and shall be used to condition amounts in column 11 for these elements. It shall not be used to condition accounts 103 or 153.

(iv) A weighted condition percent shall also be developed from the tank element codes of accounts 111 or 161, which shall be used for conditioning element code 124 of these accounts. This weighted condition percent shall be developed by multiplying the amount for each tank element code in column 11 by the related condition percent in column 12, adding the products and dividing the resultant sum by the total of the tank elements for account 111 or 161 appearing in column 11. This condition percent shall be entered in this column for element code 124, and shall be used to condition the amount in column 11 for this element.

(11) *Column 13.* This is the product of column 11 times column 12. For elements 2, 4, 6 and 8 of accounts 103 and 153 use the percentage of cost new instead of condition percent. Where a current period index (Column 14) is common to all elements of an account, the total of the account, only, shall be entered in this column. Enter also in parenthesis in this column for element codes 2, 4, 6 and 8 for accounts 103 and 153, the appropriate salvage factor (SF–) as shown in the Schedule of Element Codes and Guide Service Lives. Indicate account totals in this column.

(12) *Column 14.* Enter the current year period index from the Schedule of Annual and Period Indices. Since the amounts reported in columns 11 and 13 for accounts 103 and 153 include freight, for which a separate period index is established, it will be necessary to develop a weighted index for amounts in columns 11 and 13 for accounts 103 and 153. This weighted index shall be arrived at by multiplying the Freight on Pipe %, shown in the upper right hand portion of the form, by the current year period index for freight on pipe, and adding to this the product of 100 percent less the freight on pipe percent, times the current year period index for line pipe. Enter the weighted index computed for account 103 and for account 153 in this column, opposite the totals shown for these accounts in column 13 and, above the index, the factors used in computing it.

(13) *Columns 15 and 16.* Enter, respectively, the products of column 11 times column 14, and column 13 times column 14.

(14) Enter valuation section totals for columns 4, 7, 9, 11 (these columns must crossfoot), 13, 15 and 16.

(15) Entries will be made on ACV Form No. 4 in columns 17 through 23 as follows for the valuation section as a whole only:

(i) *Columns 17, 18, 19 and 20.* Enter the percentages approved for the carrier for each valuation section.

(ii) *Columns 21 and 22.* Add 100 to each of the percentages in columns 17 through 20, and multiply columns 17 times 18 times 19 times 20. Apply the product to the totals in columns 15 and 16 and enter the results in columns 21 and 22, respectively.

(c) For jointly owned or jointly used property, the owning and the using percentages, set out on Sheet No. 1 of ACV Form No. 4 for the valuation section, shall be applied to each of the totals appearing in columns 21 and 22. The resultant amounts shall be shown and identified by each owning and each using carrier.

(d) ACV Form No. 4 shall be used to produce summaries of the following categories of property:

(1) *Owned and Used Summary.* List wholly owned and wholly used property followed by jointly owned and used property. When listing jointly owned and used property identify the system of which it is a part, or other joint tenant or tenants.

(2) *Owned but Not Used Summary.* List property, whether wholly or jointly owned, leased to carriers and identify lessees.

(3) *Used but Not Owned Summary.* List property, whether wholly or jointly used, leased from carriers followed by property leased from noncarriers. Identify lessors.

(e) Execute the "For the Year," "Report Filed by ----------," and "Sheet No. ------ of ------ Sheets" captions in the heading of the form, and prepare the summaries, double spaced, as follows:

(1) Enter the following headings on the first line of the body of the form:

Column 7. Val. Sec.
Column 9. Line.
Column 11. Loops.
Column 13. Other.
Column 15. Total Trunk.
Column 16. All Gathering.

(2) Identify the summary being produced. Use the summary titles referred to in (d) above.

(3) On the next line, in column 11, indicate the state being summarized.

(4) Enter on successive lines for each valuation section:

(i) *Columns 7, 9, 11, 13, 15 and 16.* List, from Sheet No. 1 of ACV Form No. 1, the valuation section number and the appropriate mileages recorded in the At End of Period column of the Pipeline Mileage Statement. Add the suffix "Prod." to product valuation section numbers. For jointly owned and used, and jointly owned but not used or jointly used but not owned property record the total mileage for the valuation section and enter an asterisk (*) in column 6.

(ii) *Columns 21 and 22.* List, from ACV Form No. 4, the totals in these columns appearing at the end of each valuation section. Enter the proportionate share, only, for jointly owned and used, and for jointly owned but not used or jointly used but not owned property.

(iii) Include in the above listing, and identify as "Unallocated" in column 7, ACV Forms No. 4 for mobile property servicing more than one valuation section.

(iv) Where two or more valuation sections are listed in a single state for a given lessee or lessor, indicate a state total for each in columns 21 and 22 only.

(v) For jointly owned and used property identify, beginning in column 1, the system of which it is a part, or other joint tenant

or tenants. For owned but not used property, and property used but not owned, identify, also beginning in column 1, lessees and lessors, respectively.

(5) Indicate the subheading "State Totals" in column 4 and enter the totals of columns 21 and 22 only.

(6) Repeat (3), (4) and (5) above until all states have been summarized.

(7) Following the development of state totals enter, on the next line, the caption "Unallocated" in column 11 and, on the same line, record in columns 21 and 22 the totals appearing in these columns on ACV Form No. 4 for mobile property servicing more than one state.

(8) Enter the identification "As a Whole Totals" in column 4 on the next line and, on the same line, record, in columns 21 and 22 only, the grand summary of state and unallocated totals produced in accordance with (5), (6) and (7) above.

(9) When as a whole totals have been developed for each summary enter, on the next succeeding lines, the terms "Total Owned," and "Total Used." Record, in columns 21 and 22, opposite the former term, the totals of amounts appearing in these columns for the owned and used, and owned but not used summaries; record opposite the latter term, in columns 21 and 22, the totals of amounts in these columns for the owned and used, and used but not owned summaries.

(10) Enter an asterisk (*) on the last line followed by the phrase "Undivided joint mileage."

(f) See §§ 1261.201 to 1261.205 for instructions covering purchase, sale, merger, consolidation or reorganization actions.

INSTRUCTIONS COVERING THE PROCESSING OF PURCHASE, SALE, MERGER, CONSOLIDATION OR REORGANIZATION ACTIONS

§ 1261.200 Introduction.

(a) ACV Forms No. 1, 2, 3 and 4, and B. V. Form No. 588-R and related Subschedules prescribed by Supplement No. 8 to Valuation Order No. 3, Second Revised Issue, shall be used as outlined in this section to document actions in the captioned category. The term "acquiring carrier," as used in this section, refers to the carrier gaining title to property; "releasing carrier" refers to the carrier relinquishing title.

(b) Where purchase, sale, merger, consolidation or reorganization actions are between common carriers, the original cost of property to the releasing carrier as of the date of the action shall be used to record such actions. If such actions are between common carriers and individuals, firms, corporations, or others not common carriers, the purchase price paid by acquiring common carriers shall be used to record property acquisitions, and the original cost of property as of the date of the action shall be used to record property releases.

(c) Cost of organization, either added or retired in connection with purchase, sale, merger, consolidation or reorganization actions, shall be reported on ACV Form No. 1 under accounts 116, 166 or 186 as appropriate.

(d) In identifying actions being reported, as directed in §§ 1261.201 to 1261.205, include vendor or vendee identity in cases of significant sales or purchases.

§ 1261.201 Actions between common carriers affecting property representing one or more complete valuation sections.

(a) The releasing carrier shall:

(1) Prepare ACV Forms No. 1 and 2 covering changes occurring between the date of the latest previously filed statements of property changes and the date of the action.

(2) Prepare a separate ACV Form No. 1, by valuation section, identifying thereon the action being reported, showing the balances of original cost and cost of reproduction new remaining after giving effect to the property changes reported in accordance with subparagraph (1) of this paragraph. Identify the primary accounts affected in column 1, enter the appropriate element codes in column 8, and record related cost of reproduction new balances in column 12. Using the same primary account identity, enter related original cost balances in column 13.

(3) Prepare a separate ACV Form No. 2, by valuation section, identifying thereon the action being reported, showing the balances of original cost remaining after giving effect to the property changes reported on ACV Form No. 2 prepared in accordance with subparagraph (1) of this paragraph. Identify the primary accounts affected in column 1 and enter the balances in column 9 for land accounts, and in column 16 for rights-of-way accounts.

(4) Prepare ACV Form No. 4 through column 11, as directed in Section 1261.103, and include in column 9 amounts reported in column 12 of ACV Forms No. 1 prepared in accordance with subparagraph (2) of this paragraph. This will reduce the balance in column 11 of ACV Form No. 4 to zero.

(5) Provide the acquiring carrier with:

(i) A copy of its December 31, 1947, or later, basic inventory, showing units and costs, of the property affected by the action.

(ii) A copy of all its B. V. Forms No. 588-R and related Subschedules, and ACV Forms No. 1 and 2 covering all property changes through the effective date of the action.

(iii) A copy of its ACV Forms No. 4 referred to in subparagraph (4) of this paragraph showing zero balance in column 11.

(b) Following the close of the reporting period the acquiring carrier shall:

(1) Prepare ACV Forms No. 1 and 2 covering changes for the period from the date of the action to December 31, of the reporting year, including additional organization expenditures.

(2) Prepare a separate ACV Form No. 1, by valuation section, identifying thereon the action being reported. List the primary accounts affected in column 1 and record as acquisitions in column 7 the retirements reported in column 13 of ACV Forms No. 1 prepared by the releasing carrier in accordance with paragraph (a)(2) of this section, and provided the acquiring carrier in accordance with paragraph (a)(5) of this section. Exclude cost of organization reported by the releasing carrier.

(3) Prepare a separate ACV Form No. 2, by valuation section, identifying thereon the action being reported. List the primary accounts affected in column 1 and record as acquisitions in column 7 for land accounts, and in column 14 for rights-of-way accounts, the retirements reported in columns 9 and 16 of ACV Forms No. 2 prepared by the releasing carrier in accordance with paragraph (a)(3) of this section, and provided the acquiring carrier in accordance with paragraph (a)(5) of this section.

(4) Prepare ACV Form No. 4 to cover the entire reporting year, identifying same to indicate that it includes changes applicable to both the releasing and the acquiring carrier. To accomplish this, copy in the corresponding columns of this form the data appearing in columns 1, 2, 3, 4 and 5 of ACV Form No. 4 received from the releasing carrier in accordance with paragraph (a)(5) of this section. Consolidate, by element, the amounts of cost of reproduction new property changes appearing in columns 6 and 12 of the copy of ACV Form No. 1 received from the releasing carrier covering current year changes to the date of the action, and the ACV Form No. 1 prepared by the acquiring carrier covering current year changes from the date of the action to the end of the reporting year. Record these consolidated changes in columns 7 and 9 of ACV Form No. 4 and complete the form as directed in § 1261.103.

(5) Prepare, for the carrier as a whole, a separate ACV Form No. 1 identifying differences between amounts covering acquisitions recorded in account 1, Investment in Carrier Property, and related original cost amounts recorded on ACV Forms No. 1 and 2.

§ 1261.202 Actions between common carriers affecting property representing less than a complete valuation section.

(a) The releasing carrier shall:

(1) Identify the action and report same, by account, as a retirement on separate ACV Forms No. 1 and 2, including complete description, units, costs, etc., immediately following the recording of regular property changes for the reporting year.

(2) Provide the acquiring carrier with a copy of the ACV Forms No. 1 and 2 referred to in subparagraph (1) of this paragraph.

(b) The acquiring carrier shall:

(1) Identify the action and report same by account, as an acquisition on ACV Forms No. 1 and 2, including complete description, units, costs, etc., immediately following the recording of regular property changes for the reporting year. ACV Forms No. 1 and 2 received from the releasing carrier in accordance with paragraph (a)(2) of this section shall serve as the posting media for recording these data.

(2) Prepare, for the carrier as a whole, a separate ACV Form No. 1 identifying differences between amounts covering acquisitions recorded in account 1, Investment in Carrier Property, and related original cost amounts recorded on ACV Forms No. 1 and 2.

§ 1261.203 Actions between common carriers and individuals, firms, corporations or others not common carriers.

(a) The releasing carrier shall record the action as a retirement in the same manner as outlined in § 1261.202(a)(1), except that it will not be necessary to prepare separate ACV Forms No. 1 and 2.

(b) The acquiring carrier shall record the action as an acquisition in the same manner as outlined in § 1261.202(b)(1), except that if the property represents a valuation section or more separate ACV Forms No. 1 and 2 shall be prepared, the date of the acquisition shall be the year in which the property is dedicated to public service by the acquiring carrier and the source medium shall be the inventory of the property acquired. This inventory shall state the manner in which it was determined and shall identify the installation dates of the property included therein. Where accurate installation dates cannot be determined the best possible estimate shall be used.

(c) The acquiring carrier shall also prepare, for the carrier as a whole, a separate ACV Form No. 1 identifying differences between amounts covering acquisitions recorded in account 1, Investment in Carrier Property, and related purchase price amounts recorded on ACV Forms No. 1 and 2.

§ 1261.204 Purchases and sales of jointly owned or jointly used agent operated property.

In cases of purchase and sale actions affecting agent operated jointly owned or jointly used property the agent operator shall:

(a) Prepare a summary on ACV Forms No. 1 and 2 for each valuation section, identifying the action being reported, listing thereon by primary account the total additions and retirements, each shown separately, from the date of the latest previously filed statements of property changes to the date of the action. Indicate the appropriate owning or using percentage in effect prior to the date of the action for each jointly owning or jointly using carrier and apply same to the additions and retirements and record the resultant amounts.

(b) Prepare ACV Forms No. 1 and 2 for each valuation section, identifying the action being reported, and showing thereon the following information by primary account:

(1) The balance of original cost at the end of the latest previous reporting period.

(2) The total of additions and retirements reported in accordance with (a) above.

(3) The balance of original cost as of the date of the action after giving effect to subparagraph (2) of this paragraph.

(c) Apply to the balance developed under paragraph (b)(3) of this section, the percentage representing the relationship between the original cost of the portion of the valuation section involved in the action and the total original cost of the valuation section. Identify the result by each releasing and acquiring jointly owning or jointly using carrier.

(d) Include amounts developed under paragraphs (a) and (c) of this section in totals reported on ACV Forms No. 1 and 2 prepared in accordance with § 156.7 (a), (b) and (c) reporting the carrier's proportionate share of jointly owned or jointly used agent operated property.

(e) Include ACV Forms No. 1 and 2 prepared in accordance with paragraphs (a), (b) and (c) of this section with forms filed with the Commission.

§ 1261.205 Purchases and sales of jointly owned or jointly used nonagent operated property.

(a) The ACV Forms No. 1 and 2 referred to in § 1261.204 (a), (b) and (c) shall be prepared by the carrier having responsibility for preparing the ACV forms for the jointly owned or jointly used property.

(b) Two copies of the ACV Forms No. 1 and 2 referred to in paragraph (a) of this section shall be mailed to each jointly owning or jointly using carrier, one to be retained, the other to be included with reports filed with the Commission.

FORMS

§ 1261.300 List of Forms.

ACV Form No. 1—Statement of Property Changes other than Land and Rights-of-Way.

ACV Form No. 2—Statement of Land and Rights-of-Way Property Changes.

ACV Form No. 3—Summary of Changes in Original Cost and Total Original Cost at Close of Period.

ACV Form No. 4—Summary of Cost of Reproduction New and Cost of Reproduction New Less Depreciation.

PART 1262—UNIFORM SYSTEM OF RECORDS AND REPORTS OF PROPERTY CHANGES; COMMON CARRIERS SUBJECT TO PART I—INTERSTATE COMMERCE ACT

NOTE: Requirements in this part for filing reports with the Commission have been restricted, until further notice, to Class I railroad companies, and to a list of named Class II railroad companies the operating properties of which are generally inseparable from those of an affiliated Class I company. All carriers temporarily so exempted from such reporting requirements were individually notified. This temporary exemption by notice did not relieve any carrier from compliance with requirements for maintaining records or with any other provision of Valuation Order No. 3, second revised issue, and supplements thereto.

REGULATIONS AND INSTRUCTIONS

Sec.	
1262.0	Uniform system for recording and reporting changes in physical property.
1262.1	General.
1262.2	Records to be established.
1262.3	Reports to be prepared.
1262.4	Effective date of records; sources of entries.
1262.5	Classification of property changes.
1262.6	Recording of quantities.
1262.7	Reporting changes participated in by other carriers.
1262.8	Data required for newly built roads, branch lines constructed, or extensions of existing lines.
1262.9	Aids, gifts, grants, and donations.
1262.10	Property acquired through purchase, merger or consolidation.
1262.11	Reporting cost of property sold and cost of property acquired.
1262.12	Units, quantities and descriptions; statement.
1262.13	Reports to be attested.
1262.14	Authorities for expenditures.
1262.15	Detailed estimate sheet.
1262.16	Register of authorities for expenditures.
1262.17	Completion reports.
1262.18	Record of property changes.
1262.21	Statement of property units added and retired and their costs.
1262.23	Records and reports prescribed applicable to all carriers.

FORMS AND REPORTS

1262.101	Form of report.
1262.102	Property added.
1262.103	Cost of property added.
1262.104	Property retired.
1262.105	Retirement quantities.
1262.106	Costs applicable to property retired other than land.
1262.107	Land for transportation purposes.
1262.108	Costs applicable to land retired.
1262.109	Property transferred from carrier use, to noncarrier classification and vice versa.
1262.110	Jointly owned property and joint projects.
1262.111	Changes made in or to property of other common carriers.
1262.112	Changes in use of property.
1262.113	Reconciliation with investment accounts.
1262.114	Roads acquired through purchase, merger, consolidation, or reorganization.
1262.115	Reconstruction of road acquired through purchase, merger, consolidation, or reorganization.
1262.116	General expenditures (Accounts 71 to 77, inclusive).
1262.117	Other changes.
1262.118	Subschedules.
1262.119	Division of road accounts.
1262.120	Mass property.
1262.121	Structural property.
1262.122	Manner of reporting changes in mass property.
1262.123	Manner of reporting changes in structural property.
1262.124	Structural property additions and betterments.
1262.125	Structural property; major renewals.
1262.126	Valuation sections.
1262.127	Mileage changes.
1262.128	Separations by sheets or subschedules.
1262.129	Modifications of items and units.
1262.130	Inventory groups.
1262.131	Equipment acquired.
1262.132	Additions and betterments to and retirement of units.
1262.133	Subschedule M.
1262.200	List of units for use of carriers in the preparation of completion reports and the record of property changes.
1262.300	List of forms.

AUTHORITY: The provisions of this Part 1262 issued under sec. 12, 24 Stat. 383, 37 Stat. 701; 49 U.S.C. 12, 19a.

NOTE: In §§ 1262.0 to 1262.300 the numbers to the right of the decimal point correspond with the respective section numbers in regulations and instructions to govern the recording and reporting of all extensions and improvements or other physical property of every common carrier, Valuation Order 3, second revised issue, Interstate Commerce Commission, effective Jan. 1, 1919.

CROSS REFERENCE: for uniform system of records and reports of property changes, pipe line carriers, see part 1261 of this chapter.

REGULATIONS AND INSTRUCTIONS

§ 1262.0 Uniform system for recording and reporting changes in physical property.

(a) The regulations and instructions to govern the recording and reporting of changes in physical property of every common carrier subject to the provisions of the act to regulate commerce, which are set out in printed form to be hereafter known as Second Revised Issue are hereby prescribed for the use of the aforesaid carriers in the keeping of their records and in the preparation of reports of changes in physical property required by the Commission to be filed with it in accordance with section 19a of the Interstate Commerce Act; each and every such carrier and each and every receiver or operating trustee of any such carrier is hereby required to keep its records and to prepare and furnish to the Commission reports of changes in physical property in conformity therewith.

(b) Each and every carrier of the class hereinbefore described and referred to, and each and every receiver or operating trustee of any such carrier, whose property has been inventoried as of June 30, 1916, or as of June 30 of any previous year, shall be, and is hereby, required to file with the Commission on forms like B. V. Form No. 589, as soon as the same can be prepared, showing separately for each valuation section within each State, Territory, and the District of Columbia, annual reports for the years ending June 30 of each year, up to and including the year ending June 30, 1917, and separately a report for the 6 months ending December 31, 1917. Those carriers whose property was inventoried as of June 30, 1917, shall file reports for the 6 months ending December 31, 1917. Thereafter the reports shall be made annually for the year ending December 31. Beginning with the year ending December 31, 1919, the reports shall be made within 60 days from the close of the year. Each and every such carrier, and each and every receiver, or operating trustee of such carrier, be and is hereby required, within 90 days from the date prescribed by the Commission, to file on B. V. Forms No. 588 a statement of the property added since the inventory or since the date of any such previous list, and its cost, and a statement of the property retired or released since the inventory or since the date of any such previous list, and its cost, to December 31, 1927, or to such other date or dates as may be indicated, in accordance with the list of property units attached to Revised Supplement No. 4, to Valuation Order No. 3, Second Revised Issue (§ 1262.200), and the detailed instructions relating to the preparation of Forms No. 588.

(d) Other reports shall be prepared and filed as called for by the instructions: *Provided*, That each and every carrier of the class described and referred to in this part, and each and every receiver or operating trustee of any such carrier, shall be, and is hereby, required to keep, subsequent to December 31, 1918, the system of records provided in this part, in the manner prescribed in this part, so that reports on the forms and in accordance with the regulations and instructions provided in this part and prescribed can be prepared therefrom.

(e) Each and every carrier of the class described and referred to in this part, and each and every receiver or operating trustee of any such carrier, whose property has been inventoried as of June 30, 1918, or as of June 30 of any previous year, shall be, and is hereby, required, as rapidly as the work can be accomplished, to make up in accordance with "Exhibit E" (§ 1262.300) a record of property changes occurring between the date of inventory and December 31, 1918; the record to be made separately for each year ending June 30, up to and including the year ending June 30, 1917. The period from June 30, 1917, to December 31, 1917, should be shown separately. The period from December 31, 1917, to December 31, 1918, should be for the year for all carriers affected, except carriers whose property has been inventoried as of June 30, 1918. The last-named carriers shall prepare the record for the 6 months ending December 31, 1918. Thereafter the record shall be made up for the year ending December 31.

NOTE: The date for filing B. V. Form 588 and B. V. Form 589 reports, required by § 1262.0, were modified by orders of Apr. 7, 1941, and July 8, 1941; 6 F. R. 1915, 3478. The order of July 8, 1941, reads in part:

"Carriers are given to October 1, 1941, instead of June 30, 1941, in which to file B. V. Form 589 reports covering such periods, including 1940, for which they have not filed the B. V. Form 588 reports. For years subsequent to 1940 the returns upon B. V. Form 589 will be due on June 1 of the succeeding year provided returns upon B. V. Form 588 will not be filed by December 31. Reports upon B. V. Form 588 for 1941 and for any prior year not covered by such reports shall be filed by December 31, 1942, instead of by June 1, 1942, and beginning with the year 1942. B. V. Form 588 shall be filed annually by December 31, of the following year."

§ 1262.1 General.

That the Commission may be enabled to comply with that portion of section 19a of the act to regulate commerce reading:

Upon completion of the original valuations herein provided for, the Commission shall thereafter keep itself informed of all new construction, extensions, improvements, retirements, or other changes in the condition, quantity, use, and classification of the property of all common carriers as to which original valuations have been made, and of the cost of all additions and betterments thereto and of all changes in the investment therein, and may keep itself informed of current changes in costs and values of railroad properties, in order that it may have available at all times the information deemed by it to be necessary to enable it to revise and correct its previous inventories, classifications, and values of the properties; and when deemed necessary, may revise, correct, and supplement any of its inventories and valuations.

a uniform system of records, which shall be established by carriers, is here prescribed. In these records it is intended that carriers shall record the extensions, improvements, or tother changes that are made in their physical property after the date fixed by the Commission for the inventory of that property. For convenience, the extensions, improvements, or other changes in physical property are hereinafter referred to, individually and collectively, as property changes. From the records prescribed certain reports hereinafter indicated shall be prepared by carriers and filed with the Commission.

§ 1262.2 Records to be established.

(a) The records which compose the system that shall be established are here listed:

(1) Authority for Expenditure, "Exhibit A."

(2) Detailed Estimate Sheet to supplement the Authority for Expenditure, "Exhibit A-1."

(3) Register of Authorities for Expenditures, "Exhibit B."

(4) Roadway Completion Report, "Exhibit C."

(5) Continuation Sheet to supplement the Roadway Completion Report, "Exhibit C-1."

(6) Semiannual Completion Report of Changes in Equipment, "Exhibit D."

(7) Record of Property Changes, "Exhibit E."

(b) The forms of the records numbered (1) to (6), inclusive, here prescribed, are shown by the exhibit lettered "A" to "D" (§ 1262.300). These forms indicate the minimum information required for the Commission's purposes. Any or all of the records above specified may be varied as to the order and arrangement of the data required to be shown, and additional data may be shown at the option of the carrier, provided the minimum information required by these forms and instructions is shown upon the modified forms which carriers elect to use. The seventh record, styled Record of Property Changes, sample sheet of which is marked Exhibit "E" (§ 1262.300) and made a part of the instructions in this part, may be varied to suit the convenience of carriers: *Provided*, The minimum information required by this form and instructions is shown upon the modified form which carriers elect to use: *And provided further*, That such modified form, Exhibit "E" (§ 1262.300), shall not be adopted by the carrier until and unless approved by the Commission. With respect to size of forms, Numbers (1) to (7), inclusive, may be varied to suit the convenience of the carriers.

§ 1262.3 Reports to be prepared.

(a) The reports to be prepared by carriers from these records and filed with the Commission are here listed:

Statements compiled as of June 30 and December 31 of each year, listing the Roadway Completion Reports that have been prepared during the six months ending upon those dates, B. V. Form No. 588.

Statements compiled as of June 30 and December 31 of each year, listing the Equipment Completion Reports that have been prepared during the six months ending upon those dates, B. V. Form No. 587.

Statements of property units added and retired and their costs, to be prepared and filed at such times as the Commission may from time to time direct after the property is inventoried or after the date as of which any such previous lists are prepared and filed, B. V. Form No. 588.

Annual statements of charges and credits to the investment account for property brought into, or retired from, operation, to be prepared as of December 31 of each year, B. V. Form No. 589.

(b) The forms and dimensions of these reports shall be as prescribed and indicated by the samples shown hereafter.

§ 1262.4 Effective date of records; sources of entries.

(a) Carriers shall establish and begin using as of January 1, 1919, that part of the system here prescribed, which is embraced in the records marked exhibits "A" to "D" (§ 1262.300).

(b) The Record of Property Changes, marked exhibit "E," (§ 1262.300) shall be established, and the entries in it shall begin, as of July 1 next succeeding the date fixed by the Commission for the inventory of the property. The entries for the period prior to January 1, 1919, shall be taken from the available records. The source or sources from which the entries have been transcribed shall be shown with particularity for each entry.

§ 1262.5 Classification of property changes.

The property changes recorded in the records here prescribed shall be classified in conformity with the accounting regulations prescribed by the Commission.

CROSS REFERENCE: For record of property changes, see § 1262.16.

§ 1262.6 Recording of quantities.

The actual quantities only of material and property installed during the course of a property change shall be recorded in the records here prescribed. If payments to contractors or others in settlement of losses or claims have been based upon other than the actual quantities installed, the amounts paid shall be entered in the appropriate accounts in the records here prescribed, but the constructive quantities upon which such payments have been computed shall be excluded from these records.

§ 1262.7 Reporting changes participated in by other carriers.

Where one carrier assumes the cost of a change upon another carrier's property, or where one or more carriers participate with the owner in the cost of a change in the latter's property, the full detail of the property units involved and their costs shall be recorded in but one set of records and they shall be the records of the carrier to which the property in which the change has been made was originally inventoried by the Commission.

§ 1262.8 Data required for newly built roads, branch lines constructed, or extensions of existing lines.

(a) There shall be filed with the Commission such maps, profiles, plans, diagrams, or other data for newly built roads as will show the nature and extent of their property and its location. Upon request of the Commission, such roads shall also file an inventory of their property. The valuation section references to be given such newly built roads shall be assigned under advice of the Commission.

(b) Maps, profiles, plans, diagrams, or other data relating to branch lines built, or to extensions of existing lines shall be filed with the Commission. Valuation section references which shall be a continuation in consecutive, numerical order of those previously assigned to the other owned property within the State shall be given to such branch lines and extensions.

(c) When so directed, carriers shall file with the Commission such maps, profiles, plans, diagrams, or other data relating to betterments, improvements, conversions, or retirements of property, as will show the general character and extent of those changes.

CROSS REFERENCES: For map specifications, see Part 1263 of this chapter.

§ 1262.9 Aids, gifts, grants, and donations.

The nature, amount, extent, and value of any aid, gift, grant of right of way, or donation made by the Government of the United States or by any State, county, or municipal government or by individuals, associations, or corporations, to any common carrier in connection with property changes in its property shall be recorded in the records, prescribed in this part, of the carrier that was the recipient of such aid.

§ 1262.10 Property acquired through purchase, merger or consolidation.

(a) If a common carrier, by purchase, or through merger or consolidation, acquires part or all of the physical property of another common carrier, the vendee shall issue an Authority for Expenditure and prepare a Completion Report to record its release of the property. The vendee shall issue an Authority for Expenditure and prepare a Completion Report to record its acquisition of the property.

(b) If the transaction involves all of the property devoted to common carrier purposes by the vendor, and that property has been inventoried by the Commission, or if the part transferred consists of one or more valuation sections in entirety, the entries under the heading "Property Retired" in the vendor's Completion Report shall consist of a list of the valuation sections that comprise the property released, arranged by States and with the valuation section termini shown. A copy of the Record of Property Changes recording the changes that have been made in the property during the interval between the date it was inventoried and the date it is transferred to the vendee, shall be prepared by the vendor and given to the vendee at the time the transfer is effected. The record thus secured by the vendee shall be perpetuated and used to record the changes which it makes in the property subsequent to its acquisition. As reference the vendee shall use its own valuation section number or numbers and also refer to the previous owner and its valuation section number or numbers. The vendee shall list in its Completion Report, under the heading "Property Units Added," the valuation sections that comprise the property acquired; the list shall be so arranged, described, and referenced as to correspond with the vendor's list. If new valuation section references are assigned by the vendee to the property acquired, they also shall be shown.

(c) If all, or part, of the property transferred consists of a portion only of a valuation section, an inventory of the portion transferred that is less than a valuation section shall be taken and the Completion Reports of both the vendor and vendee shall enumerate the property units and quantities determined in that inventory, and their costs whenever possible.

(d) If a common carrier acquires railway property from individuals, firms, corporations, or others, that were not common carriers, the vendee shall inventory the property acquired and shall embody the inventory in the appropriate Completion Report.

§ 1262.11 Reporting cost of property sold and cost of property acquired.

The Completion Report of the vendor shall show the cost to the vendor of the property released. The Completion Report of the vendee shall show the cost to the vendee of the property acquired. If, in accordance with prescribed accounting regulations, the vendee is required to record the purchase price of property acquired, such cost shall be distributed equitably among the primary accounts applicable to such property.

§ 1262.12 Units, quantities and descriptions; statement.

The unit designations, the quantities and descriptions recorded in the Completion Reports and in the Record of Property Changes shall be stated so far as possible in the terms of the inventory taken by this Commission.

§ 1262.13 Reports to be attested.

The reports here prescribed to be filed with the Commission shall be attested under oath by the official under whose direction they were prepared.

§ 1262.14 Authorities for expenditures.

(a) Carriers shall issue an Authority for Expenditure for each change in their property. In so far as possible these Authorities shall be issued in advance of making the property changes. Those covering involuntary retirements of property, or changes effected under stress of emergency, may be issued as and when the changes are made.

(b) The Authorities issued for roadway and structural changes shall not overlap valuation section limits. Each Authority issued shall describe the change authorized and its location. A blanket Authority may be issued for minor changes upon a valuation section and for such changes as affect an entire valuation section. Changes in the form of additions, improvements, or retirements, made in connection with a general maintenance program upon a valuation section, may also be authorized under blanket Authority.

(c) Roadway changes shall be authorized separately from equipment changes, except when a railway property, in whole or in part, is acquired in which is included the acquisition of equipment.

(d) The Authorities that are issued for equipment changes shall be drawn separately for the classes indicated by the Commission's classification of investment in road and equipment.

(e) In case the Authorities for Expenditure are issued by other than the company that owns the property in which the change is to be made, the pertinent facts of the circumstance shall be stated. Before issuance each Authority shall be referenced by a registered number with the name of the State and the number of the valuation section suffixed. Those issued for changes in equipment shall bear merely the suffix "Eq."

(f) A form of Authority for Expenditure is shown by the exhibit marked "A." (§ 1262.300)

§ 1262.15 Detailed estimate sheet.

Whenever it is desired to make an extended statement of the estimated cost of any property change, a detailed estimate sheet to supplement the Authority for Expenditure shall be used. A suggested form for this purpose is marked exhibit "A–1." (§ 1262.300)

§ 1262.16 Register of authorities for expenditures.

Each carrier shall establish a register in which to record in consecutive, numerical order with the appropriate State and valuation section references, the Authorities for Expenditures issued. The registered number, with the State and valuation section references suffixed (or in the case of equipment merely the suffix "Eq.") shall become the identifying reference of the change authorized and shall thereafter be so used. A suggested form of Register is marked exhibit "B," (§ 1262.300) which is shown hereafter.

§ 1262.17 Completion reports.

(a) As each change affecting roadway property is turned over to, or retired from, operation, and as common carrier property is transferred from one owner to another, a Completion Report shall be prepared to record the details of each such change. As illustrative of desirable forms for this purpose, reference is made to the exhibits contained in this part marked "C" and "C–1" (§ 1262.300). Each Roadway Completion Report shall show:

Reference to the authority for expenditure.
The significant facts of ownership and operation.
The location of the property change.
A description of the property change.
By whom the costs involved are borne.
An enumeration by primary accounts of units added.
Aggregate cost but not cost per unit unless work was done by contract at a price per unit, in which case unit contract price shall be given. Aggregate cost of property added and retired shall be distributed by constituent parts or items of property under each primary account.
Cost of effecting property retirements shall be distributed by primary accounts.
Descriptive detail of the property units retired and their costs, and of any valuation sections, in whole or in part, released and their costs.
Classification of the property changes and of the costs involved, among the appropriate accounts.

(b) For changes in equipment, completion reports that will show by classes the minimum information indicated by the exhibit contained in this part marked "D" (§ 1262.300) shall be prepared as of June 30 and December 31, of each year, beginning June 30, 1919. These reports shall show:

Reference to the authority for expenditure.
The significant facts of ownership and operation.
The number, name, or other designation of the unit or series of units to which the change is applicable.
Description of the equipment to which the change is applicable.
Number of units affected by the change.
Description of the change.
Date of change.
Cost of change.
Distribution to the appropriate accounts of the cost of the change.

(c) If completion reports are prepared by other than the carrier that owns the property in which the change has been made, the pertinent facts of the circumstance shall be stated.

(d) Where roadway or structural changes are effected under contract and paid for in a lump sum, a list of the units involved in the change, if not obtainable otherwise, shall be secured by an inventory of the property change. The amount paid under the contract shall be distributed to the accounts to which the property is classified in the inventory.

(e) If portions of an authorized change are turned over to operation before completion of the project as a whole, "Progressive" completion reports, referenced as such and numbered, shall be prepared to record the portions of the change that have been brought into operation. The report that records the conclusion of the authorized change shall be designated as the "final" completion report.

(f) From the completion reports described, transcripts shall be made to the record of property changes, as hereinafter indicated.

(g) Completion reports covering property changes that were in progress on the date of valuation, portions of which changes had been turned over to operation and included in the inventory of this Commission, shall be divided into two parts—the first part to show the property turned over to operation and inventoried as of the date of valuation and its costs, the second part to show the property units subsequently installed and their costs. The quantities and costs included in the second part only shall be transcribed to the Record of Property Changes.

§ 1262.18 Record of property changes.

(a) As of July 1 next succeeding the date fixed by the Commission for inventory of the property, carriers shall establish for each valuation section a Record of Property Changes, the form of which is shown by the exhibit contained in this part marked "E" (§ 1262.300) to which shall be transcribed from the Completion Reports, a record of the changes which affect the property embraced in each valuation section. The record shall be established according to owners of the property in which the change is made and shall be arranged by those primary accounts of the classification prescribed by this Commission for investment in road and equipment that are applicable to each valuation section.

(b) For equipment, the Record of Property Changes shall be established according to owners of the property in which the change is made and in conformity with those primary accounts of the aforementioned classification which are applicable to that class of property. Equipment shall be grouped according to the regional assignment to which it is allocated.

(c) Each transcript to the record shall show reference to the appropriate Authority for Expenditure. In the case of installations of property, the date that such property was turned over to operation shall be shown. In the case of retirement of property, the date that such property was withdrawn from the service shall be shown. The amounts transcribed as the cost of property installed shall be those only that affect the investment in road and equipment. Those costs in the Completion Report that are distributed to other than the investment in road and equipment shall be omitted from the Record of Property Changes. The costs inserted for additional property or improvements shall be stated separately from the cost of property that has been retired. Under the appropriate headings descriptive of property units, there shall be shown separately the units added and the units retired. The entries for retired units shall be in red or otherwise clearly indicated.

(d) The headings inserted in the Record of Property Changes, descriptive of property units, shall be stated, so far as possible, in the terms of the Commission's inventory of the property. As new types of property units are introduced, appropriate descriptive headings shall be inserted.

(e) In aggregating the items entered in the Record of Property Changes the total inserted under each primary account shall be so arranged as to show separately the property additions and their costs, from the property retirements and their costs, for the period for which the total is being stated. Nowhere in the record shall use be made of net figures or amounts in recording property changes.

(f) The Record of Property Changes shall contain no entries for the inventoried portions of property changes that were under way on the date fixed by this Commission as of which the property was to be valued.

Cross Reference: For classification of property changes, see § 1262.5.

§ 1262.21 Statement of property units added and retired and their costs.

Upon forms like the one marked "B.V. Form No. 588," (§ 1262.300) carriers shall prepare and file with this Commission, when directed, statements that shall show for each valuation section and for equipment: (a) A list of property added since the inventory or since the date of any such previous list and its cost; (b) a list of property retired or released since the inventory or since the date of any such previous list and its cost. The property listed shall be stated in the terms of the inventory and shall be so arranged and classified as to correspond with the inventory. Provision shall be made under each account for inserting descriptions of any new types of property or units that may have been introduced since the inventory. The entries to be inserted in the columns headed "Property Added" and "Property Retired" shall be taken from the Record of Property Changes and shall correspond with the data there recorded. The amounts representing the costs inserted under the heading "Property Added" shall be those only that affect the investment in road and equipment.

Cross References: For property added, see § 1262.102. For property retired, see § 1262.104. For retirement quantities and costs applicable to property retired other than land, see §§ 1262.105, 1262.106. For costs applicable to land retired, see § 1262.107.

§ 1262.23 Records and reports prescribed applicable to all carriers.

The forms of the records and reports prescribed in this part are those applicable to steam roads only, and the instructions governing the use of those records and reports have been expressed in terms that are likewise applicable to steam roads only. Nevertheless, the records and reports prescribed and the instructions governing them, after suitable modification to adapt them to the varying terminology and arrangement of the accounting classifications prescribed by the Commission, shall apply with equal force to all common carriers that are subject to the act to regulate commerce.

§ 1262.101 Form of report.

Upon forms like B.V. Form 588 Revised (§ 1262.300), size 11 by 17 inches the carrier shall file with the Commission, statements that will show for each valuation section and for equipment: (a) A list of property added since the inventory or since the date of any such previous list and its cost.

(b) A list of property retired or released since the inventory or since the date of any such previous list and its cost.

Note: Effective with forms prepared and filed to report property changes made during the year 1957, the requirements for filing forms B. V. 588–R in duplicate was canceled, the original only being required to be filed as above.

§ 1262.102 Property added.

Property added shall be reported, together with its cost, separately from property retired and shall be reported by actual "in place" quantities in terms of the units shown in the "List of Units to be used in connection with valuation order No. 3, Second Revised Issue," with descriptive detail to conform with that therein prescribed, or as modified by § 1262.129 of the instructions in this part.

Cross Reference: For statement of property units added and retired and their costs, see § 1262.21.

§ 1262.103 Cost of property added.

(a) The amounts reported as the cost of property added shall be only those that affect the investment in road and equipment except as hereafter provided with respect to lands, miscellaneous physical property, and cost of road acquired through purchase, merger, consolidation or reorganization, and reconstruction of road so acquired.

(b) The cost reported need be only the total cost of each structure as defined in § 1262.121, the total cost for each mass account as defined in § 1262.120 of the instructions, or as prescribed by the subschedules.

(c) Except that when changes are reported under the unit designation "lot," the cost applicable to such unit shall be also reported.

(d) The costs to be reported for betterments shall be computed in accordance with the rules in the effective accounting regulations. With respect to costs to be reported for track changes in connection with betterments applied, the costs to be reported for account 9, Rails, shall be the cost of the excess in weight of heavier rails laid in replacement of lighter rails; for account 10, Other track material, the excess cost of heavier or improved track material; and for account 11, Ballast, the excess cost of improved ballast. (Added by order of April 17, 1968.)

(e) A supplemental Form No. 588–R shall be filed for account 9, Rails, account 10, Other track material, and account 11, Ballast, bringing the property costs, as shown in the valuation records of the Commission, into conformity with the costs recorded in the books of account pursuant to revised Instruction 2–19 of the accounting regulations. Carriers which recorded costs as shown in valuation records in their books of account at time of reorganizations shall file a supplemental Form 588–R for the period subsequent to the reorganization.

Cross Reference: For statement of property units added and retired and their costs, see § 1262.21. For subschedules, see § 1262.118.

§ 1262.104 Property retired.

Property retired shall be reported separately from property added, and shall also be reported in terms of the units shown in the "List of Units" (§ 1262.300 (c)) previously referred to, with descriptive details to conform with those therein prescribed, except however, property included in the basic valuation reports and subsequently retired may be stated in terms of the units shown therein. The retirement of a complete structure individualized in the basic reports need be described only to the extent necessary to permit ready identification of such structure in the basic reports.

§ 1262.105 Retirement quantities.

(a) In reporting retirements of property which was included in the final valuation reports of the Commission the quantities thereof shall agree with the quantities included in the final Engineering Report. If loss and waste is included in the reported quantities, a note to that effect shall be made.

(b) In reporting retirements of property which was not included in the final valuation reports of the Commission, but subsequently included in the records and reports prepared in compliance with valuation order No. 3, the quantities shall conform with the record covering the installation of such property.

§ 1262.106 Costs applicable to property retired other than land.

(a) The costs to be reported applicable to property retired other than land shall be:

(1) In column 12, the cost of reproduction new for property included in the basic valuation report, for equipment report also the original cost in column 11.

(2) In column 11, the cost included in the records and reports prescribed by valuation order No. 3 for property installed since date of basic valuation.

(b) [Reserved]

(c) In determining the cost of property retired from service when it is impracticable because of the relatively large number and small size of units of any kind to determine the specific cost thereof, average costs may be used.

(d) When changes are reported under the unit designation "lot," the cost applicable to such unit shall be also reported.

§ 1262.107 Land for transportation purposes.

(a) Changes in lands owned or used for the purposes of a common carrier including acquisitions of lands or rights and lands retired, sold, or otherwise transferred, shall be reported

on B. V. Form No. 588, subschedule "L," (§ 1262.300) attached hereto and made a part hereof. This subschedule shall be filed in duplicate with one copy carbon backed. In the preparation of subschedule "L" there shall be shown in column 15 under the caption "Remarks" for lands acquired a statement of the specific use to which such lands have been put and for lands retired or transferred from carrier use the disposition thereof, such as sales, transfers to noncarrier, reversions, etc. Such lands shall be designated by the map number and parcel number shown therefor in the basic Land Report if included therein.

(b) Assessments for public improvements applicable to lands owned or used for common-carrier purposes shall be reported on subschedule "L" in total for each valuation section and by years.

(c) Incidental land cost need not be reported in detail; only the lump-sum cost applicable to each parcel need be shown.

§ 1262.108 Costs applicable to land retired.

The costs to be reported under the heading "Property Retired" for items of land shall be, the cost at the date of dedication to public use, and separately, the amount entered in the investment account to record therein the retirement.

§ 1262.109 Property transferred from carrier use to noncarrier classification and vice versa.

In reporting changes in carrier property, transfers from noncarrier to carrier use shall be considered additions and transfers from carrier use to noncarrier classification shall be considered retirements and conversely when reporting for noncarrier property.

§ 1262.110 Jointly owned or jointly constructed property.

Changes in jointly owned or jointly constructed property shall be reported separately from other property. The total quantities and total costs shall be reported. The total cost shall be shown in the description column and a statement of the names of the owning or participating companies, individuals or political subdivisions with the amounts or proportions owned and contributed by each. The cost to be entered under the heading "Property Added" shall be the portion of the total cost borne by the company for which the report is made plus the cost of property relinquished and retired from service as a direct result of the arrangement less the salvage recovered therefrom, and less the depreciation accrued on the property. The net amount is part of the total cost of the property to the carrier.

§ 1262.111 Changes made in or to property of other common carriers.

Where one carrier assumes the cost of a change upon another carrier's property or where one or more carriers participate with the owner in the cost of a change in the latter's property, the full details of the property units involved and their cost shall be reported separately from other property changes and the facts as to ownership and use shall be stated.

§ 1262.112 Changes in use of property.

(a) Changes in use of carrier property, through leases from or to common carriers, shall be reported in sufficient particularity to permit identification of the property by ownership and physical characteristics in the basic valuation report or other valuation records.

(b) Changes in the use of property through leases from individuals, firms, corporations, or others not common carriers that are in effect at the date of the report shall be appropriately reported.

§ 1262.113 Reconciliation with investment accounts.

The carrier shall prepare and file with reports on B.V. Form 588 (§ 1262.300) a general analysis of the difference between the charges and credits in Columns 5, 11, and 12 of that form and the increases or decreases in the investment account during the reporting period. The detail of items forming such difference shall be grouped under appropriate descriptive headings according to the nature of the difference.

§ 1262.114 Roads acquired through purchase, merger, consolidation, or reorganization.

(a) Pursuant to sections 10 and 11 of Order No. 3 (§§ 1262.10, 1262.11) the changes made in the property during the interval between the date it was inventoried to the former owner and the date transferred to the vendee shall be reported separately from the changes made in such property subsequent to its acquisition. In addition to such changes there shall be reported separately a statement of the property acquired together with the money outlay for constructing and improving such property, which statement shall include the amounts representing the difference between the cost of acquisition and such money outlay in the convenience account styled "Difference between the price paid for property acquired and the money outlay for construction and improvement of that property," and also a statement describing the manner in which the money outlays were ascertained and the basis of distribution among the primary accounts that are applicable to the property.

(b) If the property has been acquired from individuals, firms, corporations or others that were not common carriers the statement shall show in addition to the foregoing the manner in which an inventory of the property was determined.

Cross Reference: For railroad consolidation plan and procedure, see Part 1111 of this chapter.

§ 1262.115 Reconstruction of road acquired through purchase, merger, consolidation, or reorganization.

(a) Property changes incident to reconstruction of road acquired shall be reported separately from all other property changes. The units installed and their costs and the units retired and their costs shall be allocated on such report to the primary accounts applicable to the property and under each such account they shall be subdivided to show:

(1) Property added in replacement of like property and the retirements in connection therewith.

(2) Property added in betterment of existing property together with retirements in connection therewith.

(b) With the exception of the foregoing subdivision, the reporting of the units and cost for the property added and property retired shall conform to the general rules set forth in this part for other additions and retirements.

Cross References: For rules concurring additions and betterments to and retirements of units, see § 1262.132.

§ 1262.116 General expenditures (Accounts 71 to 77, inclusive).

When items of general expenditures have been included in a particular road and equipment account as a part of the cost of any specific property such amount shall be separately stated under each primary account on the form and indication shall be given as to the general nature of the items.

§ 1262.117 Other changes.

The foregoing rules in this part relate to the manner of reporting property changes, the cost of which affects the investment in road and equipment account. The rules relating to the manner of reporting changes in miscellaneous physical property are shown in the special instructions in § 1261.23 of this chapter. If there have been other changes which affect the condition and value of the property, such changes shall be reported separately, with their costs, from those the cost of which affects the investment in road and equipment account, but in conformity with the general rules given in this part and an explanation made of the accounting performed in connection with such changes.

§ 1262.118 Subschedules.

Subschedules are provided by the instructions in this part for reporting changes in land equipment and miscellaneous physical property. Other subschedules may be used for reporting the foregoing and other classes of property provided that they are first approved by the Commission as to form and method of preparation. When subschedules are used, total charges and credits for each primary account shall be shown upon B.V. Form No. 588 (§ 1262.300) with appropriate reference to the subschedules. Subschedules shall be filed in duplicate with one copy carbon backed.

§ 1262.119 Division of road accounts.

For the purpose of conveniently indicating the treatment to be accorded different classes of property General Account I, Road (except land), will be considered as containing two distinct classes of property; namely, "mass property" and "structural property." By mass property is meant property of like kind and characteristics, the quantities of which may be considered collectively

and reported as a single item. By structural property is meant property which from its nature must be individualized and reported separately from property of like kind and characteristics.

§ 1262.120 Mass property.

This class of property shall be construed generally to include the following:

(a) All items in Account 3, Grading.

(b) All items in Account 6, Bridges, trestles, and culverts and Account 7, Elevated structures, except as required to be individualized and with respect to which instructions are contained in the "List of Units" under this account.

(c) All items in Accounts 8, Ties; 9, Rails; 10, Other track material; 11, Ballast; 12, Track laying and surfacing.

(d) All items in Account 13, Fences, snowsheds, and signs.

(e) All items in Account 26, Communication systems, except equipment of dispatcher or large relay offices.

(f) All items in Account 27, Signals and interlockers, except interlocking plants.

(g) All items in Account 37, Roadway machines; Account 38, Roadway small tools; and paving in Account 39, Public improvements—Construction.

§ 1262.121 Structural property.

This class of property shall be construed generally to include the following:

(a) Under Account 5, Tunnels and subways, each tunnel or subway.

(b) Under Account 6, Bridges, trestles, and culverts; Account 7, Elevated structures; and Account 39, Public improvements—Construction, each bridge or other structure required by the instructions in the "List of Units" under Account 6, to be treated individually.

(c) Under Account 16, Station and office buildings, and Account 17, Roadway buildings, each building except those of minor importance which conform in size and character to an established standard of construction.

(d) Under Account 18, Water stations, each water station or water-treating plant.

(e) Under Account 19, Fuel stations, each fuel station.

(f) Under Account 20, Shops and engine houses, each shop building, engine house, turntable, cinder pit, or gas production plant, each plant.

(g) Under Account 21, Grain elevators, and Account 22, Storage warehouses, each building.

(h) Under Account 23, Wharves and docks, and Account 24, Coal and ore wharves, each wharf, dock, or pier.

(i) [Reserved]

(j) Under Account 26, Communication systems, each dispatcher or large relay office.

(k) Under Account 27, Signals and interlockers, each interlocking plant.

(l) [Reserved]

(m) Under Account 29, Power plants, each building, including power substation buildings.

(n) Under Account 31, Power-transmission systems, each shop plant or each power system, including each power-distribution system, power-line poles and fixtures system, and underground conduits system.

(o) Under Account 35, Miscellaneous structures, important structures as may be appropriate.

(p) Under Account 44, Shop machinery, and Account 45, Power-plant machinery, each separate plant.

§ 1262.122 Manner of reporting changes in mass property.

Mass property shall be listed in total by units for all years to cover the complete period subsequent to valuation date or since the date of any such previous list, unless specific instructions to the contrary are given, and the weighted average date (year) of installation shall be shown for each item except for clearing, grubbing, grading, or items in Account 12.

§ 1262.123 Manner of reporting changes in structural property.

(a) Each bridge, building, structure, plant, or facility referred to in § 1262.121 as "structural property" shall be reported separately from every other bridge, building, structure, plant, or facility, and the accessories attached thereto, or forming a part thereof, such as furniture, fixtures, equipment, and appurtenances shall be grouped therewith and reported in appropriate units with descriptive detail as indicated in the "List of Units" § 1262.200(c).

(b) Structural property shall be reported in such a manner as to show date of installation of new facilities, date (year) of additions and betterments made to existing facilities, and date of retirements of facilities or parts thereof.

§ 1262.124 Structural property additions and betterments.

(a) In reporting additions and betterments to and retirements from structural property all changes affecting a given bridge, building, structure, plant, or facility shall be grouped under a common description of such facility or an appropriate reference to the same by page and item number of the Engineering Report. Each change shall be separately recorded thereunder in terms of the units and descriptions prescribed in the "List of Units" (§ 1262.200(c)) and the date (year) of each change shall be noted.

(b) In reporting retirements of units designated as structural property to which additions and betterments have been added since valuation date, the net cost of such additions and betterments shall be stated separately from the costs attaching to the unit as existing on valuation date or as installed subsequently thereto.

§ 1262.125 Structural property; major renewals.

When an important building or structure has been retired and replaced due to the renewal of its major portion, the retirement entry shall show all parts of the structure, including those left in place for reuse; the addition shall include such reused parts, in order that the units reported installed shall embrace all those in the facility as restored to service. Reused units and quantities must be separately stated on the report.

§ 1262.126 Valuation sections.

(a) Reports shall be prepared separately for each valuation section shown in the basic engineering report and for those since established.

(b) Appropriate combinations of present valuation sections should be made within practical limitations, to promote facility and economy, subject to the approval of the Commission.

(c) Roadway machines and other similar items may be reported "Unallocated" subject to the approval of the Commission.

§ 1262.127 Mileage changes.

Report shall be made of all changes in track mileage divided to show separately first main track, second main track, third main track, fourth main track, etc., and yard tracks and sidings.

§ 1262.128 Separations by sheets or subschedules.

The following accounts or groups of accounts should be reported on a single sheet or series of sheets; Accounts 1 and 71 to 77, inclusive; 2, 2½ (reproductible), and 39 (assessments); 2½ (nonreproductible), 3, and 5; 6 and 7; 8 to 13, inclusive, and 39 (construction); 16, 17, and 35; 18 and 19; 20 to 22, inclusive; 23 and 24; 26; 27; 29; 31; 40 to 43, inclusive; and, 44 and 45.

§ 1262.129 Modifications of items and units.

Modification in the items, units, forms, and manner of reporting may be made only with the approval of the Commission.

§ 1262.130 Inventory groups.

(a) The instructions pertaining to the equipment accounts are based on the group plan of recording and reporting changes in such property.

(b) This plan contemplates the establishment of groups of cars, locomotives, etc., hereinafter referred to as "inventory groups." A group once established should remain unaltered except to the extent of additions and betterments to individual units and the retirement of units. An inventory group for property included in the final Engineering Report shall be the group established by the Commission as indicated in the final Engineering Report. For equipment acquired since valuation date each class or series of like units built under uniform plans and specifications shall constitute a new inventory group except that subdivisions may be made for convenience in accounting where a series is constructed at different plants or under varying unit contract costs.

§ 1262.131 Equipment acquired.

(a) Each inventory group established for equipment shall be reported separately from every other such group on B.V. Form No. 588–R or with the descriptive detail outlined in the List of Units. Freight charges shall be separately reported with the place built, f. o. b. point

and also the setting-up point for locomotives and receiving point for cars. The name of the vendor shall be reported for equipment purchased second hand.

(b) For rebuilt or converted units constituting a new inventory group reference shall be made to the original group.

§ 1262.132 Additions and betterments to and retirements of units.

The changes which occur in each established inventory group such as additions, betterments, and retirements made since valuation date or since the group was established shall be reported on B.V. Form No. 588–R or subschedule B. There shall be recorded and reported the data indicated by the captions on the subschedule in summary form for each year the current status of each group, as a whole, with respect to the number of units at the end of the year and the changes during the year. There shall be reported in column K a description of major additions and betterments applied during the year or period. (See § 1262.129.) Symbols may be used to describe such additions and betterments.

§ 1262.133 Subschedule M.

(a) On B.V. Form No. 588, subschedule M (§ 1262.300) there shall be reported the changes in the physical property that is owned and "held for purposes other than those of a common carrier," including the additions to, and improvements of such property during the period and the sales, transfers, abandonments, or other dispositions made of such property or any part of it during the same interval.

(b) The information reported shall be as prescribed by subschedule M and shall be grouped as may be appropriate under the following headings that shall be inserted upon the form:

(1) Unimproved noncarrier lands.
(2) Improved noncarrier lands.
(3) Noncarrier improvements upon land which is classified as devoted to common-carrier purposes.
(4) Noncarrier improvements upon lands belonging to others.
(5) Assessments for public improvements applicable to noncarrier lands shall be reported by lump sums for each year.

§ 1262.200 List of units for use of carriers in the preparation of Completion Reports and the Record of Property Changes.

(a) *Order of Commission.* (1) Valuation Order No. 3, Second Revised Issue, prescribing the regulations and instructions to govern the recording and reporting of all extensions and improvements or other changes in physical property of every common carrier subject to the Interstate Commerce Act, provides in section 17, (§ 1262.17) that such carriers shall record on Completion Reports the details of each change affecting roadway property and equipment turned over to, or retired from, operation and of common carrier property transferred from one owner to another; section 18, (§ 1262.18) provides that such carriers shall establish a Record of Property Changes to which shall be transcribed from the Completion Reports a record of the changes which affect the property embraced in each valuation section.

(2) Supplement No. 5 to Valuation Order No. 3, Second Revised Issue, provides that carriers shall report to the Commission on B. V. Form 588 (§ 1262.300) the changes that have been made in the physical property since the date fixed for the basic inventory of the property or since the date of any such previous report.

(3) For the purpose of establishing a uniform manner of recording and reporting such details: *It is ordered*, That:

(i) Each and every such carrier and each and every such receiver or operating trustee of any such carrier, be, and is hereby required, to record such changes in property subsequent to December 31, 1932, in accordance with the list of property units attached hereto and made a part hereof.

(ii) Each and every carrier of the class described and referred to herein and each and every receiver or operating trustee of any such carrier whose Completion Reports, Record of Property Changes, or reports on B. V. Form 588 (§ 1262.300), have not been prepared for a given year or period as of the effective date of this order may prepare such records and reports in accordance with this list of property units.

(b) *Explanation.* (1) The units referred to herein are those prescribed for use of carriers in the preparation of Completion Reports, and also for the Record of Property Changes, and B. V. Form 588–R (§ 1262.300) except as otherwise noted.

(2) The items and units listed are to be considered as merely representative and not as excluding from any account necessary analogous items which are omitted from the list. Where additional units are desired in a given account, appropriate designations may be selected, preferably from the lists in other accounts.

(3) If type symbol designations are used as descriptive of the character and size of items, complete and detail description of what comprises each type shall be prepared, shall be filed with and be subject to the approval of the Commission.

(4) In the following list of units, the phrases shown in the parentheses after each item are indicative of the descriptive information required and the subdivision by classes for each item.

(5) All fixed property must be reported by definite location. Where necessary to supplement descriptions, reference to available plans and specifications should be shown on Completion Report.

(6) Materials salvaged from property retired when reused shall be designated as "second hand." Parts of a structure left in place and reused in connection with property retired and replaced shall be designated as "reused."

(c) *List of units by account numbers.*

Account 1, Engineering (No units are required for this account.)
Account 2. Land for Transportation Purposes
Account 3. Grading
See accounts 6 and 26.
Account 5. Tunnels and Subways
Account 6. Bridges, Trestles, and Culverts
Account 7. Elevated Structures
See account 6.
Account 8. Ties
Account 9. Rails
Account 10. Other Track Material
Account 11. Ballast
Account 12. Tracklaying and Surfacing
Account 13. Fences, Snowsheds, and Signs
Account 16. Station and Office Buildings
Account 17. Roadway Buildings
Account 18. Water Stations
Account 19. Fuel Stations
Account 20. Shops and Engine Houses
Account 21. Grain Elevators
Account 22. Storage Warehouses
Account 23. Wharves and Docks
Account 24. Coal and Ore Wharves
Account 26. Communications Systems
Account 27. Signals and Interlockers
Account 29. Power Plants
Account 31. Power-Transmission Systems
Account 35. Miscellaneous Structures
Account 37. Roadway Machines
Account 38. Roadway Small Tools
Account 39. Public Improvements; Construction
Account 40. Revenues and Operating Expenses During Construction
Account 42. Reconstruction of Road Property Acquired
Account 43. Other Expenditures; Road
Account 44. Shop Machinery
Account 45. Power-Plant Machinery

EQUIPMENT ACCOUNTS

Account 51. Steam Locomotives
Account 52. Other Locomotives
Account 53. Freight-Train Cars
Account 54. Passenger-Train Cars
Account 56. Floating Equipment
Account 57. Work Equipment
Account 58. Miscellaneous Equipment
Accounts 71, 72, 73, 74, 75, 76, 77

NOTE: Under these accounts there shall be recorded descriptive details which shall clearly set forth the character and the nature of the items and in such particulars as to distinguish as between payments for service, for supplies consumed, and for inventoriable property. With respect to items falling within the last-named class, appropriate unit designations shall be selected from the items shown under other accounts.

When items of general expenditures have been included in any road or equipment accounts as part of the cost of any specific property, such items shall be separately stated and the nature appropriately described.

§ 1262.300 List of forms.

Exhibit A—Authority for Expenditure.
Exhibit A–1—Detailed Estimate.
Exhibit B—Register of Authorities for Expenditure.
Exhibit C—Roadway Completion Report.
Exhibit C–1—Roadway Completion Report.
Exhibit D–Completion Report of Changes made in equipment for six months.
Exhibit E—Record of Property Changes.
B. V. Form No. 586—Report of roadway completion reports covering changes for six months.
B. V. Form No. 587—List of equipment completion reports covering changes for six months.
B. V. Form 588, Subschedule B (revised)—Equipment changes.
B. V. Form 588, Subschedule L (revised)—Statement showing changes in lands owned or used for the purpose of a common carrier.
B. V. Form 588, Subschedule M (revised)—Statement showing changes in physical property of owning company held for purposes other than those of a common carrier.
B. V. Form 588, Subschedule N (revised)—Statement showing changes in leases.
B. V. Form No. 588–R—Statement showing property changes for a certain period.
B. V. Form No. 589—Annual statement of charges and credits to the investment account for property brought into or retired from operation in a State.

PART 1263—MAP SPECIFICATIONS

MAP ORDER

Sec.
1263.0 General.

GENERAL

1263.1 Intent.

MAPS REQUIRED

1263.2 Classes and titles.
1263.3 Description and purpose.

FORM OF MAPS

1263.4 Size of sheets.
1263.5 Scales.
1263.6 Arrangements of data.
1263.7 Cardinal points.
1263.8 Indexing.
1263.9 Title.
1263.10 Certification.

DATA REQUIRED

1263.11 On the right-of-way and track map.
1263.12 On station maps.

AUTHORITY: The provisions of this Part 1263 issued under sec. 12, 24 Stat. 383, as amended; 37 Stat. 701, 49 U.S.C. 12, 19a.

NOTE: In §§ 1260.0 to 1260.12 the numbers to the right of the decimal point correspond with the respective section numbers in Specifications for Maps, Second Issue.

MAP ORDER

§ 1263.0 General.

(a) These specifications for maps are prescribed for the use of all steam railway carriers subject to the provisions of the act to regulate commerce, as amended, in the preparation of all maps which shall be required filed with this Commission in accordance with section 19a of the act to regulate commerce; each and every carrier and each and every receiver or operating trustee of any such carrier be required to prepare and furnish to the Commission all maps in conformity therewith; and a copy of the said second issue be sent to each and every such carrier and to each and every receiver or operating trustee of any such carrier.

(b) Every steam railway carrier shall have available maps of its property and shall currently record thereon the property changes, in conformity with the said specifications.

(c) Every steam railway carrier shall furnish on request copies of such maps showing its property as it exists on such date or dates as may be fixed by the Commission.

(d) January 1, 1933, is hereby fixed as the date on which the said Second Issue of the Specifications for Maps shall become effective.

GENERAL

§ 1263.1 Intent.

(a) In order that the Interstate Commerce Commission may investigate, ascertain, report, and record the value of property of railway carriers as it now exists and as it hereafter may be extended, improved, or changed, it is essential that certain maps shall be available, and copies thereof shall be filed with the Commission whenever requested.

(b) Where maps already in existence contain in the opinion of the Commission the necessary information in such form that it is reasonably available, these will be accepted.

MAPS REQUIRED

§ 1263.2 Classes and titles.

Two general classes of drawings shall be made by the carriers, viz:

(a) Right-of-Way and Track Map.
(b) Station Maps.

§ 1263.3 Description and purpose.

(a) The Right-of-Way and Track Map shall be a true horizontal projection of the right of way, tracks, and other important facilities.

(b) The Station Maps shall be a supplement to the above for terminals and other locations where the property of carriers is so extensive and complicated that it can not be clearly shown on the Right-of-Way and Track Map.

The maps shall be made of materials of standard quality using conventional symbols and plain lettering.

FORM OF MAPS

§ 1263.4 Size of sheets.

The maps shall be made in sheets 24 by 56 inches. A plain, single-line border shall be drawn on each sheet, dimensions inside of which shall be 23 by 55 inches. When more than one sheet is required to show a station property, the plat shall be made upon "matched marked" sheets in such manner as to require a minimum number.

§ 1263.5 Scales.

(a) The Right-of-Way and Track Map shall be made on a scale of 1 inch equals 400 feet, or 1 inch equals 200 feet.

(b) The Station Maps shall be made on a scale of 1 inch equals 100 feet, or in complicated situations 1 inch equals 50 feet.

§ 1263.6 Arrangement of data.

The maps shall be made with the zero or lowest numbered station at the left side of each sheet and shall be platted continuously from left to right. Where the use of this method would involve the abandonment of established survey station numbers of a railway, the platting may be done in such a way as to preserve them, provided the maps for any given main line or branch are continuous in same direction between termini of main line or branch. The general direction of the center line of track shall be as nearly as possible parallel to and half way between the long sides of sheets, so that the maximum space each side of platted right-of-way lines may be available for showing adjacent topography and property lines and for making notes as to physical property. The maximum length of main roadway represented on any one sheet (between "match marks") shall be 4 miles, if scale is 1 inch equals 400 feet, or 2 miles if scale is 1 inch equals 200 feet.

§ 1263.7 Cardinal points.

On all maps an arrow showing the true north and south line (as nearly as can be ascertained from existing records) shall be placed. This arrow shall not be less than 3 inches in length and shall have the letter "N" marked at its north end.

§ 1263.8 Indexing.

(a) All Right-of-Way and Track Map sheets shall be numbered serially, beginning with sheet 1. The sheets representing valuation sections shall form separate series, and the valuation sections shall be numbered serially with the letter "V" preceding the number. Index numbers shall be in lower right-hand corner of the sheet and inclosed in plain, single-line circle 1 inch in diameter. Valuation numbers shall be in the upper half of circle and sheet number below with a straight line between.

(b) The Station Maps shall be given the same serial number preceded by the letter "S" as the sheet of the Right-of-Way and Track Map which they supplement.

(c) In case a Right-of-Way and Track Map sheet is supplemented by more than one Station Map, a subscript letter should be used after the number, e. g., S 32a, S 32b, etc., where lands and track features are combined; S–L 32a, etc., where land only is shown; and S–T 22a, etc., where track features only are shown.

(d) On the Right-of-Way and Track Map sheets reference to all Station Maps shall be shown by outlining limits of Station Maps and giving the number of the Station Map sheets.

§ 1263.9 Title.

The title shall be placed as near the lower right-hand corner as practicable. The following information shall be given therein:

(a) Class: Right-of-Way and Track Map; Station Map.
(b) Corporate name of the railway.
(c) Name of operating company.
(d) Name of railway division or branch line.
(e) Beginning and ending survey station numbers on sheet.
(f) Scale or scales.
(g) Date as of which maps represent the facts shown thereon.
(h) Office from which issued.

§ 1263.10 Certification.

Certification as to the correctness of all maps shall be executed and shall accompany such maps when submitted to the Commission.

DATA REQUIRED

§ 1263.11 On the right-of-way and track map.

On the Right-of-Way and Track Map shall be shown the data given in paragraphs (a) to (h) of this section.

(a) *Boundary lines of all right-of-way.* (1) The term "right-of-way" as used in this part includes all lands owned or used for purposes of a common carrier, no matter how acquired.

(2) Show: Width of right-of-way, in figures, at each end of the sheet and at points where a change of width occurs, with station and plus of such points where known; boundary lines and dimension of each separate tract acquired where known; a schedule of deed, custodian's number, the name of grantor and grantee, kind and date of instrument. Each tract of land shall be given a serial number and listed serially in the schedule. The schedule shall also include reference to leases to the company, franchises, ordinances, grants, and all other methods of acquisition.

(b) *Boundary lines of detached lands.* (1) The term "detached lands" as used in this part includes:

(i) Lands owned or used for purposes of a common carrier, but not adjoining or connecting with other lands of the carrier.

(ii) Lands owned and not used for purposes of a common carrier, either adjoining or disconnected from other property owned by the carrier.

(2) Show: Boundary lines and dimensions where known; distance and bearing from some point on the boundary line to some established point or permanent land corner, where practicable, and separately on the schedule above, the lands not used for purposes of a common carrier.

(c) *Intersecting property lines of adjacent landowners.* Where known show: The property lines of adjacent landowners, the station and plus of important intersections of property lines with center line of railway or other railway base line, and the names of owners of the land adjacent to the right-of-way.

(d) *Intersecting divisional land lines.* Where known show: Section, township, county, State, city, town, village or other governmental lines, with names or designations; the width and names of streets and highways which intersect the right-of-way; and the approximate station and plus at all such points of crossing or intersections with center line of railway or other railway base line.

(e) *Division and subdivision of lands beyond the limits of the right-of-way.* Where known show: The section and quarter-section lines for a maximum distance of 1 mile on each side of the center or base line of railway where the land has been subdivided into townships and sections; such data as to divisions, tracts, streets, alleys, blocks, and lots, where the land has been divided in some other way than by sections; the distance, where known, from railway base line to permanent land corners or monuments; and the base line from which the railway's lands were located (center line of first, second, third, or fourth main track or other base line).

(f) *Alignment and tracks.* Show: The center line of each main and side track when such tracks are outside the limits covered by the Station Maps and center line of each main track also inside Station-Map limits; the length, in figures, of all sidetracks from point of switch to point of switch, or point of switch to end of track; all other railways, crossed or connecting, and state if crossing is over or under grade, and give name of owner of such tracks; survey station number at even 1,000 scale-feet intervals, and station and plus at points of all main line switches at points of curves and tangents and at beginning and ending points on each sheet; the degree and central angle of curves; and joint tracks and ownership thereof.

(g) *Improvements.* Show: Important facilities in general outlines and give approximate station and plus thereof.

(h) *Topographical features.* Where practicable show: Water courses, highway crossings, etc. Give names where known, and when highway crossings are over or under grade so state.

§ 1263.12 On station maps.

(a) The purpose of the large scale Station Maps is to permit the showing of improvements in more detail than is practicable on the right-of-way and track map.

(b) Where the station property to be mapped is extensive and complicated, it shall be delineated on two separate maps.

(1) Shall show all data relating to ownership of lands.

(2) Shall show all tracks and structures and external land boundaries.

(c) Where practicable, without sacrificing the clearness of the map, the two may be combined into one map.

(d) Show all information set forth under § 1263.11 (a) to (h), when inside of Station-Map limits.

(e) Tracks shall be represented on Station Maps either by center lines or by rail lines.

(f) Information called for under § 1263.11 (c), (e) and Station Maps under this section may be omitted upon the approval of the Commission.

PARTS 1270–1279—PASSES AND FREE TRANSPORTATION

NOTE: Forms prescribed by Parts 1270–1279 are available upon request from the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

PART 1270—RAIL AND WATER CARRIER PASSES

Sec.
1270.0 Application of the regulations.
1270.1 Nonrevenue passenger service.
1270.2 General classes of passes.
1270.3 Officers issuing and requesting passes.
1270.4 Countersignatures.
1270.5 Joint bureaus and associations.
1270.6 Signatures of issuing officers.
1270.7 [Reserved]
1270.8 Ordering and storing pass stock.
1270.9 Serial numbering of passes.
1270.10 Pass stock used more than 1 year.
1270.11 Letter prefix to pass numbers.
1270.12 Record of pass stock received and distributed.
1270.13 Preparation of passes.
1270.14 Identity and qualification of user.
1270.15 Inclusion of unnamed persons.
1270.16 Joint passes used separately.
1270.17 Account of issuance.
1270.18 Accommodations other than transportation.
1270.19 Territory or trip limits.
1270.20 Time limit.
1270.21 Requests for passes.
1270.22 Information required on pass requests.
1270.23 Certain written requests not required.
1270.24 Optional pass requests.
1270.25 Notice of passes without written requests.
1270.26 Filing pass requests.
1270.27 Signature on pass requests.
1270.28 [Reserved]
1270.29 Requests not by a carrier.
1270.30 Signatures of users of passes.
1270.31 Group passes in one name.
1270.32 Signatures on joint passes.
1270.33 Identification of unnamed user.
1270.34 Telegraph passes.
1270.35 Form for telegraph passes.
1270.36 Copies of telegraph passes.
1270.37 Substitutes for telegraph passes.
1270.38 Filing telegraph passes.
1270.39 Tickets in lieu of passes.
1270.40 Form of free ticket for accommodations.
1270.41 Record of free and reduced-rate tickets issued.
1270.42 Free transportation without passes.
1270.43 Emergency transportation without passes.
1270.44 Carrier's employees on duty.
1270.45 Transportation within a municipality.
1270.46 Post Office Department commissions.
1270.47 Transportation of caretakers.
1270.48 Caretakers' shipping contracts and tickets.
1270.49 Caretakers' return passage.
1270.50 Caretakers for shipments of milk.
1270.51 Auditing and filing caretaker tickets.
1270.52 Extension of passes by endorsement.
1270.53 Extension of passes without endorsement.
1270.54 Records of passes issued.
1270.55 Records of annual and term passes.
1270.56 Book records of annual and term passes.
1270.57 Card records of annual and term passes.
1270.58 Preparation of book and card records.
1270.59 Optional records of passes.
1270.60 Pass numbers on pass requests.
1270.61 Stubs or copies of trip passes.
1270.62 Records of commuter passes.
1270.63 Records of telegraph passes.
1270.64 Records of telegraph passes on printed forms.
1270.65 Passes canceled, returned, or lost.
1270.66 Filing pass records.
1270.67 Records of pass requests.
1270.68 Notices of passes issued by others.
1270.69 Passes issued jointly by two or more carriers.
1270.70 Honoring passes of other carriers.
1270.71 Filing passes.
1270.72 Reports of passes honored.
1270.73 Reports of transportation certificates.
1270.74 Reports of travel for Post Office Department.
1270.75 Rail annual and term passes honored.
1270.76 Rail trip passes collected.
1270.77 Identification slips for rail passes.
1270.78 Conductors' use of station numbers.
1270.79 Reports of water line passes honored and not collected.
1270.80 Reports of water line passes honored and collected.
1270.81 Locked boxes for water line passes.
1270.82 Ferry line passes.
1270.83 Reports of sleeping and parlor car passes honored.
1270.84 Sleeping and parlor car trip passes.
1270.85 Carriers' pass rules.
1270.86 Pass and record forms.
1270.87 Dimensions of pass and record forms.
1270.88 Additional matter on pass and record forms.
1270.89 Optional pass record forms.
1270.90 Special coupon pass form.
1270.101 List of forms.

AUTHORITY: The provisions of this Part 1270 issued under sec. 12, 20, 24 Stat. 383, 386; 49 U.S.C. 12, 20.

§ 1270.0 Application of the regulations.

(a) The regulations in this part apply to all carriers of classes designated in the order whether passes are issued or are honored for transportation wholly within one State or otherwise, and whether the operated mileage or termini of any such carrier be located entirely within the limits of one State or otherwise.

(b) These regulations shall apply, on and after the fifteenth day of February 1943, to all common carriers by water subject to part III of the Interstate Commerce Act.

(Secs. 1, 22, 24 Stat. 379, as amended, 387, as amended, 54 Stat. 933, 935, as amended; 49 U.S.C. 1, 22, 904, 906)

§ 1270.1 Nonrevenue passenger service.

All nonrevenue passenger service, whether transportation, meals, or sleeping, parlor, or other accommodations, except as provided in § 1270.39 and §§ 1270.42–1270.50, furnished by steam roads, electric railways, carriers by water, and sleeping car companies, subject to the regulations in this part shall be covered by passes as prescribed in this part.

§ 1270.2 General classes of passes.

(a) Passes issued shall consist of not more than eight general classes, viz:

(1) Annual or term passes for passage only.

(2) Annual or term passes for meals and sleeping, parlor, and other accommodations, but not including passage.

(3) Annual or term passes for passage, including meals and sleeping, parlor, and other accommodations.

(4) Trip passes for passage only.

(5) Trip passes for meals and sleeping, parlor, and other accommodations, but not including passage.

(6) Trip passes for passage, including meals and sleeping, parlor, and other accommodations.

(7) Commuter passes.

(8) Telegraph passes.

Annual passes are those good until the end of the calendar year without restriction as to the number of trips.

Term passes are those good for a designated period of time other than a calendar year and without restriction as to the number of trips.

Trip passes are those good for a specified period of time and restricted to a single trip or to one round trip.

Commuter passes are those good for a specified period of time and restricted as to the number of trips. This form of pass need not be confined to suburban territory, but may be issued over any portion of a carrier's line.

Telegraph passes are those issued upon telegraphic or telephonic authority and restricted to a trip in one direction within a specified period of time.

(b) Carriers are at liberty to enlarge this classification of pass forms, provided it is done by subdividing any of the general classes, and provided further, that the record of pass stock received and distributed shows the distinctive features of pass forms so subdivided. (See § 1270.12.) It is not desired that carriers file with the Commission samples of their passes.

(c) If the number of passes to be issued for meals and sleeping, parlor, and other accommodations, including passage, is relatively small, carriers are permitted to indorse a pass of any class prepared for passage only so as to include such accommodations as are to be furnished. (See § 1270.54.)

§ 1270.3 Officers issuing and requesting passes.

Each carrier shall maintain in its files (a) a list of the names and titles of officers in whom is reposed the authority for issuance of free transportation and over whose signature passes will be issued, and (b) a list of the names and titles of officers having the authority to request free transportation of other carriers except that requests for passes may be honored when signed by retired employees of lines which have been abandoned subsequent to the date of their retirement and upon satisfactory evidence that they are on the pension roll of the Railroad Retirement Board.

§ 1270.4 Countersignatures.

The names and titles of persons authorized to countersign passes and requests for passes need not be filed with the Commission.

§ 1270.5 Joint bureaus and associations.

Requests for passes for or on account of officers or employees of traffic associations, fast freight lines, demurrage and car-service bureaus, weighing and inspection bureaus, and other joint agencies maintained by or on behalf of carriers subject to the regulations in this part, for transportation over the lines which are members of such associations may be made direct on such lines in the same manner as provided for requests for passes for or on account of a carrier's own officers or employees. (See § 1270.27.) Requests for passes over lines other than member lines must be made in one of the three following methods:

(a) Requests may be made over the signature of an officer of a member line if such officer's name is included in a list maintained by such member line in compliance with § 1270.3(b), with the countersignature of an officer or employee of the association.

(b) Requests may be made over the signature of an officer of the association if such officer's name is included in a list maintained in the files of one or more of the member lines in accordance with § 1270.3(b), with appropriate evidence of authority to request passes on account of the association.

(c) Requests may be made over the signatures of officers of the association if such officers' names are included in a list maintained in the files of the association, in accordance with § 1270.3(b), provided authority has been appropriately delegated to the officers by the member lines to request passes on account of the association.

§ 1270.6 Signature of issuing officers.

Each pass (except a telegraph pass) must bear the signature of an issuing officer named in the list referred to in § 1270.3(a). This signature may be an autograph or a facsimile printed on the pass, or it may be impressed by a mechanical device or by any other means. Since the carrier has the obligation to safeguard the authenticity of passes, the carrier may also determine if this can be done more expeditiously than by autograph signatures. If the carrier requires a countersignature by a subordinate designated on the pass, such countersignature may also be affixed by any method acceptable to the issuing carrier.

§ 1270.7 [Reserved]

§ 1270.8 Ordering and storing pass stock.

The ordering of all pass stock must be confined to requisitions made by a single designated officer and delivery of the entire stock must be made to him. All vouchers or bills covering the cost of pass stock shall be approved by the officer making requisition therefor before they are carried through the accounts for payment. Unissued pass stock must be filed in such manner as to be accessible and convenient for examination.

§ 1270.9 Serial numbering of passes.

All passes (except telegraph passes issued on telegraph blanks) shall be consecutively numbered before or immediately upon receipt from the printer or stationer. No two passes of the same general class shall bear the same number without an indicative letter prefixed or affixed. Unless all passes are numbered in one series, each general class adopted shall constitute a series of numbers and each subdivision of any general class adopted shall constitute a series of numbers with an indicative letter prefixed or affixed.

§ 1270.10 Pass stock used more than 1 year.

If a separate stock of passes is provided for each year the numbering must begin with 0 or 1 at the beginning of the year. If the same stock is used for 2 or more years the numbers may continue consecutively from year to year, commencing with 0 or 1 when desired, but not oftener than once in each calendar year.

§ 1270.11 Letter prefix to pass numbers.

If adherence to the regulations in this part would result in passes carrying numbers consisting of more than five figures, a new series of numbers beginning with 0 or 1 with a letter prefixed may be adopted, provided the let-

ter so prefixed does not occur on any other class of passes.

§ 1270.12 Record of pass stock received and distributed.

A record of pass stock received and distributed must be kept by the officer ordering the pass stock. (See Form 9.) Each of the different forms and series of passes received must be entered on separate sheets or pages and must be recorded and distributed in numerical order. This record must show the form of pass, also the distinctive features of any pass prepared as a subdivision of any of the general classes as provided in § 1270.2(b). On the debit side of the record must be entered the entire pass stock received. On the credit side must be entered all pass stock distributed among other officers or countersigning subordinates, all stock assigned to the officer ordering the stock and issuable by him, and all pass stock destroyed. (For the periods of retention see regulations to govern the destruction of records Parts 1220–1225 of this chapter.)

§ 1270.13 Preparation of passes.

All passes must be filled out with a durable ink, either with pen or typewriter, or by printing, except that in case of emergency a trip pass may be filled out and countersigned by the use of indelible pencil.

§ 1270.14 Identity and qualification of user.

Each pass issued must bear upon its face the name of the person to be accorded free transportation, who must be of a class named in section 1 of the Interstate Commerce Act, as amended, as eligible to receive free transportation.

§ 1270.15 Inclusion of unnamed persons.

A pass may include, in addition to the person named thereon, a specified number of unnamed persons of any class eligible to receive free transportation, the number and the class to which such persons belong being specified upon the pass; e. g.,

Pass: John Smith, car, and five officers and employees.
Account: President, officers, and employees X. Y. & Z. Ry.
Pass: John Smith and six employees.
Account: Section foreman and laborers X. Y. & Z. Ry.
Pass: One extra messenger when presented with letter signed by superintendent of Eastern Express Co. authorizing use and giving name of person to be passed.
Account: Messenger, Eastern Express Co.

A car pass may be issued only for cars owned by the issuing carrier or held by it under lease for use in its business as a common carrier, and for cars owned by another carrier used for the benefit of the issuing carrier in a bona fide test of transportation equipment (including the return of such cars after the completion of the test). It may not be issued for other cars. This provision is not to be construed as prohibiting the issuance of passes for cars of lines operated as a part of the same system. See In the Matter of the Use of Private Passenger Train Cars, 186 I. C. C. 778.

A pass for "John Smith and three children" is not a sufficient compliance with the provisions of this paragraph; it must be made so that the representation that they are the children of the person named shall affirmatively appear; e. g.,

Pass: John Smith, one son, and two daughters.
Account: Brakeman, X. Y. & Z. Ry.

§ 1270.16 Joint passes used separately.

The name of the person presenting the pass must appear upon it unless it be prepared similar to the third example of § 1270.15, and presented with letter authorizing use and giving name of person to be passed. Passes issued for the transportation of more than one person so as to be used by such persons separately must name the person actually using the pass. For instance, a pass to be used by John Smith and his daughter, separately, or a pass to be used by William Brown and one brakeman, separately, should read:

Pass: John Smith and Miss Mary Smith.
Pass: John Smith and daughter Mary.
Pass: William Brown and Edgar Moore.

A pass issued to "John Smith and wife" or to "Mr. and Mrs. John Smith" is construed as if having the name of the wife appearing upon it and may be used by her in the absence of her husband.

§ 1270.17 Account of issuance.

Each pass must show, in accordance with the following, on what account it is issued:

(a) A pass for an officer or employee of the carrier issuing the pass must show the title or occupation of the person to whom it is issued, e. g.,

Pass: John Smith.
Account: Brakeman.

(b) A pass for a member of the family of an officer or employee of the carrier issuing the pass must show the name of such officer or employee, except as provided in paragraph (c) of this section, his title or occupation, and the relationship of the person to whom it is issued, e. g.,

Pass: Miss Mary Smith.
Account: Daughter of John Smith, brakeman.

(c) A pass for the wife of an officer or employee of the carrier issuing the pass, which shows the husband's Christian name, may omit, after "Account," the name of such officer or employee, e. g.,

Pass: Mrs. John Smith.
Account: Wife of brakeman.

(d) A pass for an officer or employee of a carrier other than the carrier issuing the pass must show the title or occupation of the person to whom the pass is issued and the name of the carrier by which employed, e. g.,

Pass: John Smith.
Account: Brakeman, A. & B. R. R.

(e) A pass for a member of the family of an officer or employee of a carrier other than the carrier issuing the pass must show the name of such officer or employee, except as provided in paragraph (f) of this section, his title or occupation, the relationship of the person to whom the pass is issued, and the name of the carrier by which employed, e. g.,

Pass: Miss Mary Smith.
Account: Daughter of John Smith, brakeman, A. & B. R. R.

(f) A pass for the wife of an officer or employee of a carrier other than the carrier issuing the pass, which shows the husband's Christian name, may omit, after "Account," the name of such officer or employee, e. g.,

Pass: Mrs. George Brown.
Account: Wife of clerk, A. & B. R. R.

(g) Every pass issued to a person other than an officer or employee of a common carrier or members of their families must state in the space provided for "Account" the reason for the issuance of the pass, e. g.,

Pass: Mrs. Sarah Jones.
Account: Charity.
Pass: Mr. Henry Brown.
Account: Traveling secretary, R. R. Y. M. C. A.

§ 1270.18 Accommodations other than transportation.

Every pass issued upon which meals, or sleeping, parlor, or other accommodations are to be furnished free must indicate the character of the accommodations to be furnished thereon, e.g.,

(a) When pass does not include passage (see Forms 2 and 5):

To occupy one statercom.
To meals and berth.

(b) When pass includes passage and accommodations (see Forms 3 and 6):

Including parlor room.
Including meals and berth.

§ 1270.19 Territory or trip limits.

The territory in which or the points between which a pass will be honored must be shown upon it, e.g.,

From ——— to ———.
Between ——— and ———.
Over entire system.

§ 1270.20 Time limit.

The period of time for which a pass will be accepted for transportation must be indicated upon it, e.g.,

Until ———.
Good for one trip only until ———.
Expires ———.
If used within ——— days.
During lifetime.

§ 1270.21 Requests for passes.

Passes shall be issued only upon written requests, or telegraphic requests confirmed by written requests, except as provided in §§ 1270.23 and 1270.24, and in accordance with the forms prescribed in this part as applicable.

§ 1270.22 Information required on pass requests.

All the information required to be shown on passes issued, as prescribed in §§ 1270.14 to 1270.20 must be indicated on requests for passes. In addition to such information requests must furnish information in accordance with the following:

(a) The address of the person for whom the pass is requested.

(b) If request be made for a pass for or on account of an officer or employee of a carrier other than the carrier by which such pass may be issued, it must contain a statement that the person for whom the pass is requested is not prohibited by law from receiving free transportation. (Form 16 and 17.)

(c) If request be made for a pass for a person other than an officer or employee, or the member of the family of an officer or employee, of a common carrier the request must give evidence, clearly set forth, or be accompanied by papers, showing the legality of the issuance of the pass requested. No form is prescribed for requests of this character.

§ 1270.23 Certain written requests not required.

Written requests for passes may be dispensed with in the following cases, provided the records of passes issued show the full information required, and in addition state upon whose authority the passes were issued and the reasons for dispensing with written requests:

(a) For passes issued to employees engaged in the office in which the passes are actually prepared.

(b) For passes sent to employees attached to the office in which the passes are actually prepared but temporarily located at other points to travel upon instructions from such office.

(c) In cases of emergency requiring immediate use of pass and when there is insufficient time to procure written requests before issuance.

§ 1270.24 Optional pass requests.

Carriers may, at their option, permit their principal officers to furnish passes to officers and employees, and to the members of families of officers and employees, of other carriers subject to the regulations in this part who are not prohibited by law from using free transportation, without requiring written requests, *Provided:*

(a) That acknowledgments, in accordance with Form 22 hereinafter prescribed, be secured from the persons to whom or on whose account the passes are issued, or from an officer whose name is included in a list maintained in compliance with § 1270.3(b), of the carrier on whose account the passes are issued; and provided further,

(b) That notices, in accordance with Form 23 hereinafter prescribed, be given the carriers on whose account the passes are issued through the officers of such carriers ordinarily authorized to issue requests on other carriers for passes (see § 1270.63): *And provided further,*

(c) That the records of the issuing carriers show upon whose authority the passes are issued.

Carriers should be prepared to furnish the Commission, when so required, a full report of passes issued without written requests under the provisions of this section.

§ 1270.25 Notice of passes without written requests.

Notices to other carriers advising of the issuance of passes without written request must be made in duplicate, or legible impression copies must be taken of them, and the duplicates or impression copies must be retained by the issuing carrier.

§ 1270.26 Filing pass requests.

Requests for passes, also acknowledgments received and copies of notices retained for passes issued without requests, must be filed in the office in which are filed records of annual or term passes or the stubs or carbon copies of trip passes, and in such manner as to be accessible and convenient for examination. The numbers of the passes issued must be noted upon the faces of the requests.

§ 1270.27 Signature on pass requests.

Requests for passes for or on account of officers or employees of a carrier subject to this part, other than the carrier issuing the pass, must be over the signature of an officer named in the list referred to in § 1270.3(b). If this signature is not an autograph, the method of affixing it must satisfy the carrier honoring the request that the request is by authority of the designated officer.

§ 1270.28 [Reserved]

§ 1270.29 Requests not by a carrier.

Requests for passes for any persons not covered by § 1270.27 must be made over the signatures of the persons making such requests.

§ 1270.30 Signatures of users of passes.

All passes must bear the signatures of the users, preferably in ink. On the back of each pass, other than a telegraph pass issued on a telegraph blank, must appear a statement that the holder is not prohibited by law from receiving free transportation, and that the pass will be lawfully used. This statement may be shown among other conditions, if any, and must be subscribed to by the holder.

§ 1270.31 Group passes in one name.

A pass issued for a number of persons, but naming only one person, such as:

John Smith, section foreman, and six employees of X. Y. & Z. Ry.
George Jones and two daughters,

need be signed only by the person whose name appears on the pass.

§ 1270.32 Signatures on joint passes.

A pass issued for a number of persons, the names of all appearing on the pass, such as:

William Brown and Edgar Moore, Brakemen,

must be signed by the users, whether the pass is used by one or by more than one of the persons named thereon; except that such pass when issued to the members of a family need be signed only by one of the persons using it.

§ 1270.33 Identification of unnamed user.

A pass issued for a person without giving the name, such as:

Pass one extra messenger when presented with letter, etc.,

need not be signed by the user. The letter or identification form which accompanies the pass must be endorsed by the user and collected and filed with collected trip passes.

§ 1270.34 Telegraph passes.

Telegraph passes may be issued in cases of emergency only and shall be confined to one-way passage. The issuance of telegraph passes shall be over the name of one of the officers named in the list referred to in § 1270.3(a) or that of one of the countersigning officers referred to in § 1270.7, and only within the territory over which such officers have authority to issue annual, term, or trip passes.

§ 1270.35 Form for telegraph passes.

Telegraph passes must be issued either on telegraph blanks in accordance with Form 8 or on a special printed form of telegraph pass, showing the same data as required on Form 8 but similar in form to trip passes.

§ 1270.36 Copies of telegraph passes.

Copies of telegraph passes and of the telegrams authorizing issuance of printed forms of telegraph passes must be made by the issuing officer and filed with the stubs or carbon copies of trip passes.

§ 1270.37 Substitutes for telegraph passes.

If, after a telegraph pass is used, a trip pass is substituted therefor, the former should be filed with requests for trip passes as the authority for issuing the latter.

§ 1270.38 Filing telegraph passes.

Except as provided in § 1270.37, used telegraph passes must be filed with used trip passes.

§ 1270.39 Tickets in lieu of passes.

Detectives and others engaged in similar work and, in cases of emergency, employees and others entitled to free transportation, may be furnished with regular passenger tickets or may be permitted to purchase tickets and have the amounts paid therefor afterwards refunded. In such cases the ticket agent's report of the tickets "without value," or the vouchers refunding the amounts paid for the tickets, must be supported by the authority of one of the officers named in the list referred to in § 1270.3 (a). Applications for refunds of fares paid or the authorities for such refunds must show the same information as is required to be shown on the requests for passes referred to in § 1270.22. When detectives and others engaged in similar work are known by number only and it is desired that their names shall not appear in the records, the numbers may be substituted for the names on the su-

thorities referred to above. Carriers must be prepared to furnish adequate evidence that the persons so designated were actually engaged in the service shown on the authorities.

§ 1270.40 Form of free ticket for accommodations.

The use of a special form of free ticket according to the holder certain privileges or accommodations, such as meals, staterooms, berths, or the use of limited trains, is prohibited. If such form is desired it must be issued either in regular pass form or as a subdivision of one of the general classes as provided for in § 1270.2(b).

§ 1270.41 Record of free and reduced-rate tickets issued.

A complete record of all tickets issued in lieu of passes, including tickets for which the fares have been refunded in whole or in part as well as those issued free or at reduced rates, must be maintained. This record must show the date; form and number of ticket; stations from and to; name and address or other designation of person to whom issued; account of issuance (in accordance with § 1270.17); amount of fare, amount of reduction, and the amount of refund if that is less than the fare; and name of officer authorizing the refund or issuance of the ticket. (See § 1270.101 *List of forms.* If this information with respect to such reduced-rate tickets is available in accounting or other records, a separate record of them on Form 13 is not required.)

§ 1270.42 Free transportation without passes.

At the option of carriers, the following designated persons may be given passage, meals and sleeping, parlor, or other accommodations without passes, when in the actual performance of their duties:

Crews of trains, cars, and vessels.
Sleeping car, parlor car, and dining car employees.
Express messengers.
Baggage agents.
Newsboys on trains.

§ 1270.43 Emergency transportation without passes.

In cases of wrecks, epidemics, or other calamitous visitations, persons not prohibited by law from receiving free transportation may be accorded such transportation without passes. In such cases a general statement of the facts must be made by conductors or pursers and filed with reports of passes honored.

§ 1270.44 Carrier's employees on duty.

Passes need not be issued to a carrier's own employees for necessary travel in the performance of their duties in the transportation, maintenance, or construction work of the carrier requiring the movement of employees between points on its line of road, or for travel to and from such duties: *Provided*, That in lieu of passes such employees be supplied with checks, uniforms, badges, or other evidence which will establish their identity as bona fide employees entitled to receive passes: *And, provided further*, That instructions to recognize the particular means of identification which the carrier adopts be issued to conductors and ticket collectors and included in the carrier's general rules and instructions governing the issuance and use of passes referred to in § 1270.85.

§ 1270.45 Transportation within a municipality.

Carriers are not required to issue passes for the free transportation wholly within any one municipality of their employees and others not prohibited by law from receiving free transportation: *Provided*, That persons so transported are distinguishable by badges, cap emblems, or uniforms indicative of their service.

§ 1270.46 Post Office Department commissions.

Commissions issued by the United States Post Office Department may be accepted for the passage of officers and employees of that department when traveling on official business. (See § 1270.74.)

§ 1270.47 Transportation of caretakers.

Pass forms must not be used for the transportation of caretakers of property The transportation of caretakers is regarded as revenue transportation, the cost of which is included in the rates covering the charges on shipments for which caretakers are allowed.

§ 1270.48 Caretakers' shipping contracts and tickets.

Caretakers in actual charge of shipments of livestock, poultry, milk, or fruit, and traveling on trains or vessels with such shipments, shall be furnished with no other evidences of their rights to transportation than are contained in shipping contracts, or in identification papers to be used in connection with notations on waybills. If caretakers are permitted under the provisions of tariffs to travel on passenger trains immediately preceding or following shipments, they must be furnished with a form of caretakers' ticket which must give full waybilling reference and conform to published tariff provisions.

§ 1270.49 Caretakers' return passage.

If a caretaker's return passage is furnished under the terms of the shipping contract, it shall be provided for either by having the shipping contract executed at destination for return, or by having it lifted and a caretaker's return ticket issued, which must conform to published tariff provisions and show (a) the waybill or the shipping contract reference or (b) the initials and numbers of the cars, or the name of vessel, the shipping point, and the destination named in the contract.

§ 1270.50 Caretakers for shipments of milk.

In case shipments of milk are handled on tickets instead of waybills, caretakers' tickets must give full references to dates and numbers of the trains, or names of vessels, on which the shipments move.

§ 1270.51 Auditing and filing caretaker tickets.

All collected caretakers' tickets, shipping contracts, and identification papers on which caretakers are carried must be checked against the waybills or waybill records and filed in such manner as to be accessible and convenient for examination.

§ 1270.52 Extension of passes by endorsement.

The time limit of a pass may be extended by an endorsement thereon: *Provided*, That appropriate record is maintained showing the final limit of passes so endorsed.

§ 1270.53 Extension of passes without endorsement.

The time limit of outstanding annual or term passes may be extended, without endorsement, by the issuance of a general notice to that effect. If this is done, a copy of the notice shall be filed with the Commission and a copy shall be filed in the office in which are kept the records of the issuance of passes so extended and shall become a part of the records of passes issued.

§ 1270.54 Records of passes issued.

A complete record of each pass issued must be kept by carriers subject to the regulations in this part. This record must supply information as indicated by the headings on the forms hereinafter prescribed appropriate for the class of pass to be recorded, and such information must correspond with that appearing on the pass and request. In space provided for "Accommodations, etc.," on the record of annual and term passes issued must be shown all accommodations and services included on pass other than passage, such as drawing room, stateroom, berth, or meals. If passes, prepared for passage only, are endorsed as permitted in § 1270.2(c) to include accommodations in addition to passage, similar endorsement must be made in the record of passes issued; if made on annual or term passes, it must appear in space for "Accommodations, etc.," on Form 10 or 11; if on trip passes, it must also appear on the stub or carbon copy of pass so endorsed.

§ 1270.55 Records of annual and term passes.

Annual and term passes issued must be recorded on sheets or cards prepared similar to Forms 10 or 11.

§ 1270.56 Book records of annual and term passes.

If Form 10 is adopted, the passes must be entered either in numerical order or in alphabetical order according to the surnames of the persons to whom the passes are issued. When passes are entered in numerical order, an alphabetical index by names shall be maintained; when entered in alphabetical order, a numerical index showing name shall be maintained.

§ 1270.57 Card records of annual and term passes.

If Form 11 is adopted, the cards must be filed either in numerical order or in alphabetical order according to the surnames of the persons to whom the passes are issued. When cards are filed in numerical order, an alphabetical index by names shall be maintained; when filed in alphabetical order, a numerical index showing name shall be maintained. In lieu of the index required in this paragraph, if desired, records on this form may be made in duplicate with one set of cards filed in numerical order and the other set filed in alphabetical order according to the surnames of the persons to whom the passes are issued.

§ 1270.58 Preparation of books and card records.

The numerical records or indexes referred to in §§ 1270.56 and 1270.57 must be kept separately by forms and series of passes; the alphabetical records or indexes may be kept either by forms and series of passes or in one complete alphabetical list for the entire issue.

§ 1270.59 Optional records of passes.

Carriers may, if it is desired, keep an additional record of passes issued entered by departments, carriers, or otherwise, on Forms 10 or 11, but such additional record shall not substitute the complete alphabetical or numerical record or index required in §§ 1270.56 and 1270.57.

§ 1270.60 Pass numbers on pass requests.

When the numbers of passes issued are shown in strict numerical order on request received for annual and term passes, such requests may constitute the numerical index required in §§ 1270.56 and 1270.57: *Provided*, That any numerical index so maintained shall be complete and shall contain not more than one series of numbers nor more than one form of pass.

§ 1270.61 Stubs or copies of trip passes.

The record of trip passes issued shall be kept on the stubs or carbon copies of trip passes. Full information must be shown on the stub or carbon copy of each trip pass, as provided on Forms 4, 5, and 6, and this information must conform to the data on the pass and coupon.

§ 1270.62 Records of commuter passes.

The record of commuter passes shall be kept on Form 10 or Form 11, if issued in card or book form, or on the stubs, if issued in coupon form with stub. These records must be maintained in the same manner as is provided for annual, term, or trip passes.

§ 1270.63 Records of telegraph passes.

The record of telegraph passes issued on telegraph blanks shall be kept on Form 12. Such passes may be entered (a) in chronological order, (b) in alphabetical order according to surnames of persons to whom passes were issued, or (c) under departments, carriers, etc.

§ 1270.64 Records of telegraph passes on printed forms.

The record of telegraph passes issued on printed forms similar to trip passes shall be kept either on Form 12 or upon the stubs, if issued with stubs. In either event the full information required on Form 12 shall be shown.

§ 1270.65 Passes canceled, returned, or lost.

If a pass is cancelled, returned, or lost, the fact must be stated on the record, with the date of cancellation, return, or loss entered.

§ 1270.66 Filing pass records.

The records of passes issued must be filed in such manner as to be accessible and convenient for examination.

§ 1270.67 Records of pass requests.

Requests on other carriers for passes must be made in duplicate, or legible impression copies must be taken of them, and the duplicates or impression copies must be retained by the requesting carrier and filed in such manner as to be accessible and convenient for examination. When a pass is received, its number must be noted on the duplicate or impression copy of the request.

§ 1270.68 Notices of passes issued by others.

Notices received from other carriers advising of the issuance of passes under the provisions of § 1270.24 shall be filed in the office in which are filed copies of requests on other carriers for passes.

§ 1270.69 Passes issued jointly by two or more carriers.

A pass issued jointly by two or more carriers must show, in space provided for "Name of carrier," the names of the carriers concerned in such pass, and must also bear the signature of an officer named in the list referred to in § 1270.3 (a) of each of the carriers interested. (See § 1270.6 in the matter of signatures by officers.)

§ 1270.70 Honoring passes of other carriers.

If arrangements are made to accept or honor passes issued by other carriers over certain portions of a carrier's lines, such arrangements must be embodied in the pass rules and regulations referred to in § 1270.85, or a statement of the arrangements must be filed with the Commission.

§ 1270.71 Filing passes.

All passes collected and passes spoiled or returned must be filed in such manner as to be readily accessible and convenient for examination.

§ 1270.72 Reports of passes honored.

Reports, showing the use of passes, shall be made in accordance with the provisions of §§ 1270.75 to 1270.84.

§ 1270.73 Reports of transportation certificates.

Travel performed on transportation certificates or similar authorities issued in accordance with the laws of a State which require designated officers to be accorded free transportation while on journeys entirely within the limits of such State, must be reported in the same manner as travel performed on annual or term passes.

§ 1270.74 Reports of travel for Post Office Department.

Travel performed on commissions issued by the United States Post Office Department must be shown on conductor's or purser's report of passes honored, except when the holder is actually engaged in handling mail on the train or vessel.

§ 1270.75 Rail annual and term passes honored.

Conductors or ticket collectors of carriers by rail must make reports of annual and term passes honored for each run on blank similar to Form 18 hereinafter prescribed, or on identification slips, as provided in § 1270.77. If desired, such reports may be combined with reports of revenue passengers, provided the required information is shown. It is optional with carriers by rail whether or not this report shall cover (a) passes issued to the employees of the reporting carrier and members of their families, (b) passes honored in suburban territory, and (c) passes honored for transportation wholly within any one city, town, or municipality. By the term "employees," as here used, is meant the officers and employees devoting substantially all their time to the work or business of the carrier and regularly carried on its payrolls. By "suburban territory," as used in this section, is meant the territory adjacent to large centers to and from which there is a regular commuter travel.

§ 1270.76 Rail trip passes collected.

Trip passes collected on rail lines, except as covered in § 1270.75 (a), (b), or (c), shall in all cases be endorsed or punched so as to indicate the dates and numbers of trains on which used, and in addition thereto:

(a) If a trip pass, except as covered in § 1270.75 (a), (b), or (c), is honored for passage between stations other than those named on its face and is collected, the conductor or ticket collector shall indicate upon it by punch or endorsement the stations between which it actually is used.

(b) If a trip pass, except as covered in § 1270.75 (a), (b), or (c), is honored for passage between stations other than those named on its face and is not collected, the conductor or ticket collector shall report the use of the pass on conductor's report, Form 18, or on identification slip, and in the same manner as provided for annual and term passes.

§ 1270.77 Identification slips for rail passes.

The use of identification slips and the form of such slips, if used, are left to the option of carriers by rail. If identification slips are used, and if they show the same information as required by conductor's report, Form 18, they

may be substituted in lieu of the conductor's report.

§ 1270.78 Conductors' use of station numbers.

Station numbers or letters instead of names may be used on conductors' reports and for endorsements on trip passes provided an official list of the symbols used is kept available for examination.

§ 1270.79 Reports of water line passes honored and not collected.

Pursers or stewards of carriers by water must make reports of all passes honored and not collected for each trip on blank similar either to Form 20 or 21 hereinafter prescribed. If desired, Form 20 may be combined with the landing or identification check (as used in the collection of transportation at the time passengers disembark) and Form 21 may be combined with the reports of revenue passengers, provided the information required on Forms 20 and 21 is shown. It is optional with carriers by water whether or not these reports shall cover trip passes honored and collected.

§ 1270.80 Reports of water line passes honored and collected.

A trip pass honored and collected, when not included in purser's report of passes honored, must be endorsed or punched by the ticket collector so as to indicate the date and name of vessel on which used, and the points between which used if other than those named on pass, and further, in the event that the pass includes sleeping or other accommodations, the state room or other accommodations furnished on the pass shall also be indicated by number or letter.

§ 1270.81 Locked boxes for water line passes.

Where locked boxes are used in which ticket collectors deposit all collections as passengers disembark, reports of or endorsements on trip passes, as to date and name of vessel on which used, shall be made by either the ticket collector or by the employee whose duty it is to open and report the contents of such boxes.

§ 1270.82 Ferry line passes.

It is optional with carriers by water whether or not reports shall be made covering passes honored over ferry lines when operated between points of close proximity.

§ 1270.83 Reports of sleeping and parlor car passes honored.

Conductors or ticket collectors of sleeping and parlor cars must make reports for each run of passes on which accommodations have been furnished, on blanks similar to From 19 hereinafter prescribed or on reports prepared in columnar form, similar to Form 18, with headings to provide for the information required. If desired, Form 19 may be combined with reports of revenue passengers, provided the information required on Form 19 is shown. It is optional with carriers whether or not these reports shall cover trip passes honored and collected.

§ 1270.84 Sleeping and parlor car trip passes.

Trip passes collected and not included in conductors' reports of passes honored, must be endorsed or punched by the conductors or ticket collectors so as to indicate the dates on which used, the points between which used if other than those named on pass, the accommodations furnished thereon, the names or numbers of cars, and the route.

§ 1270.85 Carriers' pass rules.

Carriers must file with the Commission on or before January 1, 1917, copies of all their general rules and instructions then in effect governing the issuance and use of passes, if such have not been filed, and forward promptly copies of any subsequent rules and instructions. It is not intended, however, that carriers shall cause to be printed such rules or instructions for the specific purpose of filing them with the Commission.

§ 1270.86 Pass and record forms.

Passes must be issued and records kept substantially in accordance with the forms hereinafter prescribed. Except as provided for elsewhere in the regulations of this part the forms indicate the nature of the information required and the order in which it shall appear. If, however, there is insufficient space on the face of any pass to show all the information required, reference may be made to the back of pass, where it shall be shown.

§ 1270.87 Dimensions of pass and record forms.

The dimensions of the forms contained in the regulations in this part are not prescribed; however, in order to facilitate the filing of records it is recommended that Forms 16, 17, and 23 be prepared on paper 8 by 10½ inches.

§ 1270.88 Additional matter on pass and record forms.

Carriers may include any additional matter in the pass forms or record forms, but such additional matter must not be permitted to impair the information required in the prescribed forms or to affect the order in which it is given. The matter printed in italic type in the prescribed forms is not intended to be a part o fthe form but merely to indicate the nature of the information required.

§ 1270.89 Optional pass record forms.

Carriers may adopt additional record forms, but must file with the commission a list of such forms, showing their use and their purpose, as provided in the order dated July 8, 1916.

§ 1270.90 Special coupon pass form.

For a special or unusual occasion—such as a convention of an association of railway employees, to attend which its members would use the lines of two or more carriers—when compliance with the foregoing regulations would be needlessly burdensome to the carriers concerned, consideration will be given by the Commission to an application from the initial carrier, made after an agreement with the other carrier or carriers over whose lines it is proposed to issue free transportation, for authority to issue a special form of pass, bearing coupons for the several carriers over whose lines the pass is to be effective.

§ 1270.101 List of forms.

Form 1: Annual or term pass (for passage only).
Form 2: Annual or term pass (for accommodations, meals, etc., but not including passage).
Form 3: Annual or term pass (for passage, including meals, berths, or other accommodations).
Form 4: Trip pass (for passage only).
Form 5: Trip pass (for accommodations, meals, etc., but not including passage).
Form 6: Trip pass (for passage, including meals, berths, or other accommodations).
Form 7: Commuter pass.
Form 8: Telegraph pass.
Form 9: Record of pass stock received and distributed.
Form 10: Record of annual and term passes issued—Book record.
Form 11: Record of annual and term passes issued—Card record.
Form 12: Record of telegraph passes issued.
Form 13: Record of free and reduced-rate tickets issued.
Form 14: Request from carrier's officers and employees for passes (passage only).
Form 15: Request from carrier's officers and employees for passes (passage and accommodations, or accommodations only).
Form 16: Request on another carrier for trip passes.
Form 17: Request on another carrier for annual or term passes.
Form 18: Conductor's report of passes honored (steam roads and electric railways).
Form 19: Conductor's report of passes honored (sleeping and parlor car accommodations).
Form 20: Purser's report of passes honored (carriers by water).
Form 21: Purser's report of passes honored (carriers by water).
Form 22: Acknowledgment of passes issued without written request.
Form 23: Notification of passes issued without written request.

PART 1271—MOTOR CARRIER PASSES

Sec.
1271.0 Application of the regulations.
1271.1 Nonrevenue passenger service.
1271.2 General classes of passes.
1271.3 Officers issuing and requesting passes.
1271.4 Persons who may receive free transportation.
1271.5 Signature of issuing officer.
1271.6 Numbering passes.
1271.7 Record of pass stock.
1271.8 Preparation of passes.
1271.9 Account of issuance.
1271.10 Pass to show accommodations furnished.
1271.11 Requests for passes.
1271.12 Passes without written requests.
1271.13 Retention of pass requests.
1271.14 Signatures on pass requests.
1271.15 Signatures of users of passes.
1271.16 Tickets in lieu of passes.
1271.17 Record of free and reduced-rate tickets issued.
1271.18 Free transportation without passes.
1271.19 United States Post Office Department commissions.
1271.20 Extension of time limit of passes.
1271.21 Records of passes issued.
1271.22 Records of requests on other carriers for passes.
1271.23 Filing passes.
1271.24 Reports of free transportation.
1271.25 Carriers' pass rules.
1271.26 Pass and pass record forms.
1271.27 List of forms.

AUTHORITY: The provisions of this Part 1271 issued under sec. 12, 24 Stat. 383, as amended, secs. 204, 220, 49 Stat. 546, as amended, 563, as amended; 49 U.S.C. 12, 304, 320.

§ 1271.0 Application of the regulations.

The regulations in this part apply to all common carriers by motor vehicle designated in the order whether passes are issued or are honored for transportation wholly within one State or otherwise, and whether the operated mileage or termini of any such carrier be located entirely within the limits of one State or otherwise.

§ 1271.1 Nonrevenue passenger service.

All nonrevenue passenger service, whether transportation or other accommodations, except as otherwise provided in § 1271.16, and §§ 1271.18 and 1271.19, furnished by common carriers by motor vehicle subject to the regulations in this part, shall be covered by passes as hereinafter prescribed. Carriers shall be prepared to furnish the Commission, when so required, a full report of all passes issued.

§ 1271.2 General classes of passes.

(a) Passes issued shall consist of not more than five general classes, viz:
(1) Annual or term passes for passage only.
(2) Annual or term passes for passage, including other accommodations.
(3) Trip passes for passage only.
(4) Trip passes for passage, including other accommodations.
(5) Commuter passes.

(b) (1) Annual passes are those good until the end of the calendar year in which issued without restriction as to the number of trips.

(2) Term passes are those good for a specified period of time other than a calendar year and without restriction as to the number of trips.

(3) Trip passes are those good for a specified period of time and restricted to a single trip or to one round trip.

(4) Commuter passes are those good for a specified period of time and restricted as to the number of trips. This form of pass need not be confined to suburban territory, but may be issued over any portion of a carrier's line.

(c) If the number of passes to be issued for accommodations other than passage is relatively small, carriers are permitted to indorse a pass of any class prepared for passage only so as to include such accommodations as are to be furnished. (See § 1271.21(a).)

§ 1271.3 Officers issuing and requesting passes.

Each carrier shall designate an officer in whom is reposed the authority for the issuance of passes, and for the requesting of passes over the lines of another carrier.

§ 1271.4 Persons who may receive free transportation.

The authority for the issuance of free transportation by common carriers by motor vehicle is contained in section 217 (b) of the Interstate Commerce Act by reference to provisions of section 1(7), and section 22.

§ 1271.5 Signature of issuing officer.

Each pass must bear the signature of the designated issuing officer, which may be an autograph, a facsimile printed on the pass, or a signature impressed by a mechanical device or any other means. The carrier has the obligation to safeguard the authenticity of passes, so the carrier may also determine if this can be done more expeditiously than by autograph signatures. If a countersignature by a subordinate designated on the pass is required, such countersignature may also be affixed by any method acceptable to the issuing carrier.

§ 1271.6 Numbering passes.

All passes shall be consecutively numbered before or immediately upon receipt from the printer or stationer. No two passes of the same general class shall bear the same number without an indicative letter prefixed or suffixed. Unless all passes are numbered in one series, each general class adopted shall constitute a series of numbers and each subdivision of any general class adopted shall constitute a series of numbers with an indicative letter prefixed or suffixed.

§ 1271.7 Record of pass stock.

(a) A record of pass stock received and distributed must be kept by the officer ordering the pass stock. (See Form 4, § 1271.27 (d).) Each of the different forms and series of passes received must be entered on separate sheets or pages and must be recorded and distributed in numerical order. On this same record must be entered all the pass stock destroyed. (For the periods of retention see regulations to govern the destruction of records.)

(b) Unissued pass stock must be filed in such manner as to be accessible and convenient for examination.

§ 1271.8 Preparation of passes.

(a) All passes must be filled out with a durable ink, either with pen or typewriter, or by printing, except that in case of emergency a trip pass may be filled out and countersigned by the use of indelible pencil.

(b) Each pass issued must bear upon its face the name of the person to be accorded free transportation, who must be of a class named in sections 1 and 22 of the Interstate Commerce Act as eligible to receive free transportation.

(c) A pass may include, in addition to the person named thereon, a specified number of unnamed persons of any class eligible to receive free transportation, the number and the class to which such persons belong being specified upon the pass, e.g.,

Pass John Smith and six employees.
Account Garage foreman and mechanics A. & B. Bus Line.

A pass for "John Smith and three children" is not a sufficient compliance with the provisions of this paragraph; it must be made so that the representation that they are children of the person named shall affirmatively appear; e.g.,

Pass John Smith, one son, and two daughters.
Account Driver, A. & B. Bus Line.

(d) The name of the person presenting the pass must appear on it. Passes issued for the transportation of more than one person so as to be used by such persons separately must name the person actually using the pass. For instance, a pass to be used by John Smith and his daughter, separately, or a pass to be used by William Brown and one driver separately, should read:

Pass John Smith and Miss Mary Smith.
Pass John Smith and daughter Mary.
Pass William Brown and Edgar Moore.

A pass issued to "John Smith and wife" or to "Mr. and Mrs. John Smith" is construed as if having the name of the wife appearing upon it and may be used by her in the absence of her husband.

§ 1271.9 Account of issuance.

Each pass must show, in accordance with the following, on what account it is issued:

(a) A pass for an officer or employee of the carrier issuing the pass must show the title or occupation of the person to whom it is issued; e.g.,

Pass John Smith.
Account Driver.

(b) A pass for a member of the family of an officer or employee of the carrier issuing the pass must show the name of such officer or employee, except as otherwise provided in paragraph (c) of this section, his title or occupation, and the relationship of the person to whom it is issued; e.g.,

Pass Miss Mary Smith.
Account Daughter of John Smith, driver.

(c) A pass for the wife of an officer or employee of the carrier issuing the pass, which shows the husband's Christian name, may omit, after "Account," the name of such officer or employee; e.g.,

Pass Mrs. John Smith.
Account Wife of driver.

(d) A pass for an officer or employee of a carrier other than the carrier issuing the pass must show the title or occupation of the person to whom the pass is issued and the name of the carrier by which employed; e.g.,

Pass John Smith.
Account Driver A. & B. Bus Line.

(e) A pass for a member of the family of an officer or employee of a carrier other than the carrier issuing the pass must show the name of such officer or employee, except as otherwise provided in paragraph (f) of this section, his title or occupation, the relationship of the person to whom the pass is issued, and

the name of the carrier by which employed; e.g.,

Pass Miss Mary Smith.
Account Daughter of John Smith, driver A. & B. Bus Line.

(f) A pass for the wife of an officer or employee of a carrier other than the carrier issuing the pass, which shows the husband's Christian name, may omit, after "Account," the name of such officer or employee; e.g.,

Pass Mrs. George Brown.
Account Wife of clerk, A. & B. Bus Line.

(g) Every pass issued to a person other than an officer or employee of a common carrier or members of their families must state in the space provided for "Account" the reason for the issuance of the pass; e.g.,

Pass Mrs. Sarah Jones.
Account Charity.
Pass Mr. Henry Brown.
Account Traveling secretary, Y.M.C.A.

§ 1271.10 Pass to show accommodations furnished.

(a) Every pass issued upon which accommodations other than passage are to be furnished free must indicate the character of the accommodations to be furnished thereon.

(b) The territory in which or the points between which a pass will be honored must be shown upon it; e.g.,

From _____ to _____
Between _____ and _____
Over entire system.

(c) The period of time for which a pass will be accepted for transportation must be indicated upon it; e.g.,

Until _____.
Good for one trip only until _____.
Expires _____.
If used within _____ days.
During lifetime.

§ 1271.11 Requests for passes.

(a) Passes shall be issued only upon written requests, except as otherwise provided in § 1271.12, and in accordance with the forms hereinafter prescribed as applicable.

(b) All the information required to be shown on passes issued, as prescribed in §§ 1271.8 to 1271.10, inclusive, must be indicated on requests for passes. In addition to such information, requests must furnish information in accordance with the following:

(1) The address of the person for whom the pass is requested.

(2) If request be made for a pass for or on account of an officer or employee of a carrier other than the carrier by which such pass may be issued, it must contain a statement that the person for whom the pass is requested is not prohibited by law from receiving free transportation. (Forms 9 and 10, § 1271.27 (i) and (j).)

(c) If request be made for a pass for a person other than an officer or employee, or the member of the family of an officer or employee, of a carrier, the request must give evidence, clearly set forth, or be accompanied by papers, showing the legality of the issuance of the pass requested. No form is prescribed for requests of this character.

§ 1271.12 Passes without written requests.

(a) Written requests for passes may be dispensed with in the following cases, provided the records of passes issued show the full information required, and in addition state upon whose authority the passes were issued and the reasons for dispensing with written requests:

(1) For passes issued to employees engaged in the office in which the passes are actually prepared.

(2) In cases of emergency requiring immediate use of pass and when there is insufficient time to procure written requests before issuance.

(b) Carriers may, at their option, permit their principal officers to furnish passes to officers and employees, and to the members of families of officers and employees, of other carriers subject to these regulations, who are not prohibited by law from using free transportation, without requiring written requests, provided:

(1) That acknowledgments, in accordance with Form 11 (§ 1271.27(k)) hereinafter prescribed, be secured from the persons to whom or on whose account the passes are issued, and provided further;

(2) That notices, in accordance with Form 12 (§ 1271.27(l)) hereinafter prescribed, be given the carriers on whose account the passes are issued, through the officers of such carriers ordinarily authorized to issue requests on other carriers for passes (see § 1271.22 (b)), and provided further;

(3) That the records of the issuing carriers show upon whose authority the passes are issued.

(c) Notices to other carriers advising of the issuance of passes without written requests must be made in duplicate and the duplicates must be retained by the issuing carrier.

§ 1271.13 Retention of pass requests.

Requests for passes, also acknowledgments received and copies of notices retained for passes issued without requests, must be filed in the office in which are filed records of annual or term passes or the stubs or carbon copies of trip passes, and in such manner as to be accessible and convenient for examination. The numbers of the passes issued must be noted upon the faces of the requests.

§ 1271.14 Signatures on pass requests.

(a) Requests for passes for or on account of a carrier's own officers or employees must be made over the signature of the person to whom or on whose account the passes may be issued, or by a superior or ranking officer or employee.

(b) Requests for passes for or on account of officers or employees of a carrier subject to these regulations other than the carrier issuing the pass, must be over the signature of the officer of the carrier designated to issue passes. If this signature is not an autograph, the method of affixing it must satisfy the carrier honoring the request that the request is by authority of the designated officer.

(c) Requests for passes for any persons not covered by paragraphs (a) and (b) of this section must be signed by the persons making such requests.

§ 1271.15 Signatures of users of passes.

(a) All passes must bear the signatures of the users, preferably in ink. On the back of each pass must appear a statement that the holder is not prohibited by law from receiving free transportation, and that the pass will be lawfully used. This statement may be shown among other conditions, if any, and must be subscribed to by the holder.

(b) A pass issued for a number of persons, but naming only one person, such as—

John Smith, garage foreman, and six employees of A. & B. Bus Line.
George Jones and two daughters.

need be signed only by the person whose name appears on the pass.

(c) A pass issued for a number of persons, the names of all appearing on the pass, such as—

William Brown and Edgar Moore, mechanics.

must be signed by the users, whether the pass is used by one or by more than one of the persons named thereon; except that such pass when issued to the members of a family need be signed only by one of the persons using it.

§ 1271.16 Tickets in lieu of passes.

(a) Detectives and others engaged in similar work and, in cases of emergency, employees and others entitled to free transportation, may be furnished with regular passenger tickets or may be permitted to purchase tickets and have the amounts paid therefor afterwards refunded in whole or in part. In such cases the ticket agent's report of the tickets "without value," or "reduced fare," or the vouchers refunding amounts paid for the tickets, must be supported by the authority of the officer authorized to issue passes. Applications for refunds of fares paid or the authorities for such refunds must show the same information as is required to be shown on the requests for passes referred to in § 1271.11 (b). Carriers must be prepared to furnish adequate evidence that the persons so designated were actually engaged in the service shown on the authorities.

(b) The use of a special form of free ticket, according to the holder certain privileges or accommodations, such as the use of limited buses, is prohibited. If such a form is desired, it must be issued in regular pass form.

§ 1271.17 Record of free and reduced-rate tickets issued.

A complete record of all tickets issued in lieu of passes, including tickets for which the fares have been refunded in whole or in part as well as those issued free or at reduced rates must be maintained by carriers and filed in the office of the officer authorizing such issuance or refund. This record must show the date; form and number of ticket; stations from and to; name and address or other designation of person to whom issued; account of issuance (in accordance with § 1271.9); amount of fare; and name of officer authorizing the issuance of free ticket or refund of fare paid. (See Form 7, § 1271.27(g).)

§ 1271.18 Free transportation without passes.

(a) At the option of carriers, the following designated persons may be given passage or other accommodations without passes, when in the actual performance of their duties:

Drivers.
Student drivers.
Drivers' helpers.
Hostesses (conductorettes) on buses.
Porters on buses.
Lecturers and guides on buses.
Stewards on buses.
Other employees engaged in the transportation or maintenance work of the carrier, requiring their transfer from one point to another in the performance of such duties; provided, that in lieu of passes such employees be supplied with checks, badges, uniforms, or other evidence which will establish their identity as bona fide employees entitled to receive passes.

(b) In cases of wrecks, epidemics, or other calamitous visitations, persons not prohibited by law from receiving free transportation may be accorded such transportation without passes. In such cases a general statement of the facts must be made by drivers and filed with reports of passes honored.

(c) Carriers are not required to issue passes for the free transportation wholly within any one municipality of their employees and others not prohibited by law from receiving free transportation; provided, that persons so transported are distinguishable by badges, cap emblems, or uniforms indicative of their service.

§ 1271.19 United States Post Office Department commissions.

Commissions issued by the United States Post Office Department may be accepted for the passage of officers and employees of that department when traveling on official business. (See § 1271.24(b).)

§ 1271.20 Extension of time limit of passes.

The time limit of a pass may be extended by an indorsement thereon, provided that appropriate record is maintained showing the final limit of passes so indorsed.

§ 1271.21 Records of passes issued.

(a) A complete record of each pass issued must be kept by carriers subject to these regulations. This record must supply information as indicated by the headings on the forms hereinafter prescribed appropriate for the class of pass to be recorded, and such information must correspond with that appearing on the pass and request. In space provided for "Accommodations, etc.," on the record of annual and term passes issued, must be shown all accommodations and services included on the pass.

(b) Annual and term passes issued must be recorded on sheets or cards prepared similar to Forms 5 or 6 (§ 1271.27 (e) and (f)).

(1) If Form 5 (§ 1271.27(e)) is adopted, the passes must be entered either in numerical order or in alphabetical order according to the surnames of the person to whom the passes are issued. When passes are entered in numerical order, an alphabetical index by names shall be maintained; when entered in alphabetical order, a numerical index showing name shall be maintained.

(2) If Form 6 (§ 1271.27(f)) is adopted, the cards must be filed either in numerical order or in alphabetical order according to the surnames of the persons to whom the passes are issued. When cards are filed in numerical order, an alphabetical index by names shall be maintained; when filed in alphabetical order, a numerical index showing name shall be maintained. In lieu of the index required in this paragraph, if desired, records on this form may be made in duplicate with one set of cards filed in numerical order and the other set filed in alphabetical order according to the surnames of the persons to whom the passes are issued.

(3) The numerical records or indexes must be kept separately by forms and series of passes; the alphabetical records or indexes may be kept either by forms and series of passes or in one complete alphabetical list for the entire issue.

(c) When the numbers of passes issued are shown in strict numerical order on requests received for annual and term passes, such requests may constitute the numerical index required in paragraph (b) of this section, provided that any numerical index so maintained shall be complete and shall contain not more than one series of numbers nor more than one form of pass.

(d) The record of trip passes issued shall be kept on the stubs or carbon copies of trip passes. Full information must be shown on the stub or carbon copy of each trip pass, as provided on Form 2 (§ 1271.27(b)); and this information must conform to the data on the pass and coupon.

(e) The record of commuter passes shall be kept on Form 5 (§ 1271.27(e)) or Form 6 (§ 1271.27(f)), if issued in card or book form, or on the stubs, if issued in coupon form with stub. These records must be maintained in the same manner as is provided for annual, term, or trip passes.

(f) If a pass is canceled, returned, or lost, the fact must be stated on the record, with the date of cancelation, return, or loss entered.

(g) The records of passes issued must be filed in such manner as to be accessible and convenient for examination.

§ 1271.22 Records of requests on other carriers for passes.

(a) Requests on other carriers for passes must be made in duplicate, and the duplicate copies must be retained by the requesting carrier and filed in such manner as to be accessible and convenient for examination. When a pass is received, its number must be noted on the duplicate of the request.

(b) Notices received from other carriers advising of the issuance of passes under the provisions of § 1271.12(b) shall be filed in the office in which are filed copies of requests on other carriers for passes.

§ 1271.23 Filing passes.

All passes collected and passes spoiled or returned must be filed in such manner as to be readily accessible and convenient for examination.

§ 1271.24 Reports of free transportation.

Reports of persons receiving free transportation shall be made in accordance with the following provisions.

(a) Travel performed on transportation certificates or similar authorities issued in accordance with the laws of a State which require designated officers to be accorded free transportation while on journeys entirely within the limits of such State, must be reported in the same manner as travel performed on annual or term passes.

(b) Travel performed on commissions issued by the United States Post Office Department must be shown on driver's report of passes honored.

(c) Drivers or ticket collectors must make reports of annual and term passes honored, and of persons receiving free transportation without passes as provided in § 1271.18(b). If desired, such reports may be combined with drivers' reports of revenue passengers, provided the required information is shown.

(d) Trip passes collected shall in all cases be indorsed or punched so as to indicate the date and schedule number on which used, and in addition thereto:

(1) If a trip pass is honored for passage between stations other than those named on its face and is collected, the driver or ticket collector shall indicate upon it by punch or indorsement the stations between which it actually is used.

(2) If a trip pass is honored for passage between stations other than those named on its face and is not collected, the driver or ticket collector shall report the use of the pass on driver's report in the same manner as provided for annual and term passes.

§ 1271.25 Carriers' pass rules.

Copies of all general rules and instructions governing the issuance and use of passes shall be filed with the Commission. It is not intended, however, that such rules or instructions shall be printed for the specific purpose of filing them with the Commission.

§ 1271.26 Pass and pass record forms.

(a) Passes must be issued and records kept substantially in accordance with the forms hereinafter prescribed. Except as provided for elsewhere in these regulations the forms indicate the nature of the information required and the order in which it shall appear. If, however, there is insufficient space on the face of any pass to show all the information re-

quired, reference may be made to the back of pass, where it shall be shown.

(b) Carriers may include any additional matter in the pass forms or record forms, but such additional matter must not be permitted to impair the information required in the prescribed forms or to affect the order in which it is given.

§ 1271.27 List of Forms.

(a) Form 1—Annual or term pass.
(b) Form 2—Trip pass.
(c) Form 3—Commuter pass.
(d) Form 4—Record of pass stock.
(e) Form 5—Record of annual and term passes issued, book record.
(f) Form 6—Record of annual and term passes issued; card record.
(g) Form 7—Record of free and reduced-rate tickets issued.
(h) Form 8—Request from carrier's officers and employees for passes.
(i) Form 9—Request on another carrier for trip passes.
(j) Form 10—Request on another carrier for annual or term passes.
(k) Form 11—Acknowledgment of passes issued without written request.
(l) Form 12—Notification of passes issued without written request.

SUBCHAPTER D—TARIFFS AND SCHEDULES

PARTS 1300–1319—PASSENGER AND FREIGHT TARIFFS AND SCHEDULES

PART 1300—FREIGHT SCHEDULES; RAILROADS

Sec.

1300.0 General provisions; definitions.
1300.1 Form, size, and arrangement.
1300.2 Changes to be indicated in tariff or supplement.
1300.3 Content of tariff title page.
1300.4 Content of tariffs.
1300.5 Proportional rates.
1300.6 Commodity-list tariffs.
1300.7 Alternating rates.
1300.8 Transfer and cancellation of rates.
1300.9 Amendments and supplements.
1300.10 Terminal and special services; distance and mileage rates.
1300.11 Index of tariffs.
1300.12 Restoration and discontinuance of water service.
1300.13 Filing tariffs.
1300.14 Statutory notice; additional procedure in filing tariffs.
1300.15 Rate basis books.
1300.16 Classification; exceptions tariff.
1300.17 Tariffs issued through an agent.
1300.18 Powers of attorney.
1300.19 Concurrences.
1300.20 Filing of powers of attorney and concurrences.
1300.21 Certificate stating correct name of carrier to be filed.
1300.22 Transfer of authority from one agent to another agent.
1300.23 Procedure when one publishing agent succeeds another.
1300.24 I.C.C. numbers of tariffs issued by a new agent or alternate agent.
1300.25 Powers of attorney and concurrences in special situations.
1300.26 Amendment and revocation of powers of attorney and concurrences.
1300.27 Intermediate application of rates.
1300.28 Tariff notations in connection with fourth section orders.
1300.29 Letter of transmittal.
1300.51 Movement of shipments refused by consignees.
1300.52 Responsibilities of carriers under tariffs.
1300.53 Withdrawal of filed tariffs not permitted.
1300.54 Changes in rates.
1300.55 Legal rate.
1300.56 Reduction of rate to equal the aggregate of the intermediate rates.
1300.57 Newly constructed lines of road and pipe lines and newly established service via water carriers.
1300.58 Applications under section 6 for authority to make changes in tariffs.
1300.59 Diversion or reconsignment privileges and rules.
1300.60 Free transportation of caretakers in connection with shipments of property.
1300.61 Demurrage on interstate shipment.
1300.62 Notice for changes in rates within Alaska and the Hawaiian Islands.
1300.63 Transportation of circus outfits.
1300.64 In absence of routes, rates apply via lines parties to tariffs.
1300.65 Fourth-section departures resulting from changes in official, southern, western, and Illinois classifications.
1300.66 Minimum carloads.
1300.67 Export and import traffic; ocean carriers.
1300.200 Alternation of through rates with aggregate of intermediate rates.

AUTHORITY: The provisions of this Part 1300 issued under sec. 12, 24 Stat. 383, as amended, 49 Stat. 546, as amended; 49 U.S.C. 12, 304, and secs. 5, 6, 24 Stat. 380 as amended, 49 Stat. 560, as amended; 49 U.S.C. 5, 6, 317.

NOTE: So far as water carriers are concerned, this part is applicable to the construction and filing of tariffs covering the transportation of property which was subject to the Interstate Commerce Act prior to January 1, 1941. This part also covers water common carriers of property which prior to that date were not subject to the jurisdiction of the Interstate Commerce Commission or the Maritime Commission but which elect to file tariffs conforming to the provisions of this part instead of under Part 1308 of this chapter.

CROSS REFERENCES: For air carrier and commercial operator certification and operations, see 14 CFR, Chapter I, subchapter G.

For other regulations applicable to the construction and filing of tariffs and schedules of water carriers of property subject to the Interstate Commerce Act, see Part 1308 of this chapter.

§ 1300.0 General provisions; definitions.

(a) *Confirmation to rules; reissue.* All tariffs filed on or after October 1, 1928, except as otherwise provided in this part or unless otherwise authorized by special permission of the Commission, must conform to the rules in this part. The Commission may direct the reissue of any tariff, power of attorney, or concurrence at any time.

CROSS REFERENCES: For filing tariffs, see § 1300.13. For provisions covering statutory notice, additional procedure in filing tariffs, rejection of tariffs or schedules, see § 1300.14. For provisions concerning powers of attorney and concurrences, see §§ 1300.17 to 1300.26, inclusive.

(b) *Definitions*—(1) *Local rate.* The term "local rate," as used in this part, is construed to mean a rate that extends over the lines of one carrier only.

(2) *Local tariffs.* "Local tariffs" are those which contain "local rates."

(3) *Joint rate.* The term "joint rate," as used in this part, is construed to mean a rate that extends over the lines of two or more carriers and that is made by arrangement or agreement between such carriers and evidenced by concurrence or power of attorney.

(4) *Joint tariffs.* "Joint tariffs" are those which contain "joint rates."

CROSS REFERENCES: For joint tariffs issued by joint agents, see § 1300.18(e).

(5) *Through rate.* The term "through rate" is construed to mean the total rate from point of origin to destination. It may be a local rate, a joint rate, or a combination of separately established rates.

§ 1300.1 Form, size, and arrangement.

(a) All tariffs and supplements thereto must be in book, pamphlet, or loose-leaf form of size 8 by 11 inches, and must be plainly printed on hard calendered or No. 1 machine finished book paper of durable quality using type of size not less than 8-point bold or full face, except as provided in § 1300.3(b) as to ICC number and § 1300.9(k) as to vacation notice and except further that not less than 6-point bold-face type may be used for reference marks, for explanation of reference marks when such explanation appears on the page on which such reference marks appear, and for column headings and other places where only a few words are used continuously. Stereotype, planograph, or other similar durable process may be used, provided the copies posted and filed are clear and legible in all respects. Reproductions by hectograph or similar process, typewritten sheets or proof sheets must not be used for posting or filing. Alterations in writing or erasures must not be made in tariffs filed with the Commission or posted at stations.

(b) A margin of not less than five-eighths of an inch without any printing thereon must be allowed at the binding edge of each tariff. When rates, rate basis numbers, or numerals used for other purposes are shown in tables, the page shall be ruled from top to bottom. When not more than three figures or letters, including reference characters, are employed, the columns shall be not less than one-fourth of an inch in width with a correspondingly greater width when more than three figures or letters, including reference characters, are employed. In such tables a break in the printed matter of at least one space across the page or a ruled line shall appear after each sixth line or less.

§ 1300.2 Changes to be indicated in tariff or supplement.

(a) *Symbols.* (1) All tariff publications and supplements thereto must indicate changes thereby made in existing rates or charges, rules, regulations or practices, or classifications by use of the following uniform symbols in connection with such changes:

↓ to indicate reductions.
↑ to denote increases.
◆ to denote changes in wording which result in neither increases nor reductions in charges.

(2) Explanation of such symbols must be provided in the tariff or supplement in which used, and these symbols shall not be used for any other purpose.

(3) When a change of the same character is made in all or in substantially all rates in a tariff or supplement, or a page thereof, that fact and the nature of such change may be indicated in distinctive type at the top of the title page of such issue, or at the top of each page, respectively, in the following manner, "All rates in this issue are increases," or "All rates on this page are reductions except as otherwise provided in connection with the rates." Under this paragraph of the rule a bold-face dot, "●" must be used to symbolize a rate in which no change has been made. This symbol must not be used for any other purpose.

(b) *Omissions from previous tariff.* When a tariff or supplement canceling a previous issue omits points of origin or destination, or rates, ratings, rules or regulations, or routes which were contained in such previous issue, the new tariff or supplement shall indicate the cancellation in the manner prescribed in § 1300.8(e), and if such omissions effect changes in charges or services that fact shall be indicated by the use of the uniform symbols prescribed in paragraph (a) of this section.

§ 1300.3 Content of tariff title page.

The title page of every tariff and of every supplement shall show in the order named:

(a) [Reserved]

(b) ICC number of tariff or supplement in not less than 12-point bold-face type on upper right-hand corner, and immediately thereunder, in smaller type, the ICC number or numbers of tariffs or supplements canceled thereby. If the number of canceled publications is so large as to render it impracticable to thus enter them on the title page, they must be shown immediately following the table of contents, provided specific reference thereto is entered on title page directly under the ICC number. Carriers' serial numbers, if desired, may be entered below the upper marginal line of title page. Separate series of ICC numbers must be used for freight and passenger tariffs.

(c) Corporate name of issuing carrier or name of agent issuing under power of attorney. (See § 1300.4(b).)

(d) Whether tariff or supplement contains local, joint, proportional, export, or import rates, or any combination of such rates; whether it contains class or commodity rates or both; and whether it contains all-rail, rail-motor, all-water, or rail-water rates, or any combination of such rates.

(e) The territory or points from and to which the tariff or supplement applies, briefly stated by Territories, States, points, or carriers. Where the publication contains both specific and distance or mileage rates, the title-page description must include the application of the distance or mileage rates as well as that of the specific rates. (See § 1300.4(d).)

(f) (1) Reference by name and I. C. C. number to the classification, exceptions thereto and/or rules circular, if any, governing the tariff. One of the following forms modified as required shall be used.

Governed, except as otherwise provided herein, by the ..... classification, ... I. C. C. No. ..., by exceptions thereto, ... I. C. C. No. ..., and by supplements to or successive issues of said publications,

or

Governed, except as otherwise provided herein, by (here insert common or popular name of governing classification) and by exceptions thereto, as described in Item ....

(2) Use of the short form title page reference as provided in (1) is on condition that complete and formal description of the governing publication(s) be made in the numbered item to which reference is made on the title page.

(3) A tariff is not governed by a classification, classification exceptions, or rules circular, except when and to the extent stated on or in the tariff.

(g) Date of issue and date effective. A provision in a tariff or supplement that the same or any part thereof, will expire with a given date, is not a guaranty that the tariff, or supplement, or such part of it, will remain effective until and including that date. Such provision if used, will be held to mean that the tariff or supplement, or specified part of it, will expire with the date named, unless the date is changed on statutory notice, or under authority of special permission of the Commission. In such tariffs or supplements the term "Expires with (date) ....., unless sooner canceled, changed or extended" must be used. The term "Expires with close of business" on a named date must not be used.

(h) On every tariff or supplement in which all the rates, rules, or regulations are made effective on less than 30 days' notice under authority of the Commission, notation that it is issued on..... days' notice under authority of..... (here show the authority).

CROSS REFERENCES: For exceptions to general effective date, see § 1300.9(d).

(i) At the bottom of the title page—name, title and mail address of the individual actually responsible for compiling and filing the schedule. If the tariff is issued by a natural person as agent, his name must be shown with the title of "Agent." If issued by a corporation or association as agent, the name and title of the person responsible for the actual compilation and filing must be shown.

§ 1300.4 Content of tariffs.

Tariffs shall contain in the order named:

(a) *Table of contents.* A full and complete statement, in alphabetical order, of the exact location where information under general headings, by subjects, will be found, specifying page or item numbers. If a tariff contains so small a volume of matter that its title page or its interior arrrangement plainly discloses its contents, the table of contents may be omitted.

(b) *Names of participating carriers.* A list, alphabetically arranged, of the correct names of all carriers participating therein, together with the form and number of power of attorney or certificate of concurrence. If there be not more than 10 participating carriers, their names and power of attorney or concurrence forms and numbers may be shown on the title page. Reference to the forms and numbers of powers of attorney and concurrences may be omitted provided this information is furnished to the Commission in an acceptable form.

CROSS REFERENCES: For provisions concerning powers of attorney and concurrences, see §§ 1300.17 to 1300.26, inclusive.

(c) *Index of commodities.* (1) A complete index, alphabetically arranged, of all articles upon which commodity rates are named therein, together with reference to each item (or page) where such article is shown. When nouns are not sufficiently distinctive, articles shall also be indexed under their adjectives. All of the entries relating to different kinds or species of the same commodity shall be grouped together. For example, all items of coal "Coal," and descriptive word or words following, as "Coal, anthracite," "Coal, bituminous," etc.

(2) When articles are grouped together in one list under a generic heading as authorized in paragraph (1) (8) of this section, such generic heading shall be shown in the index and opposite thereto shall be shown reference to each item (or page) where the generic term is used. Each article in the list must be shown separately in its proper alphabetical order in the index, together with reference to each item (or page) where such article is shown by name, but reference to the items (or pages) containings rates applying on the complete list may be omitted provided reference is given to the generic heading as it appears in the index or to an item in that tariff which contains a complete list of the articles covered by the generic term or to the ICC number of a separate tariff which contains such list.

(3) If all of the commodity rates to each destination in a general commodity tariff or a combined class and commodity tariff are arranged in alphabetical order by commodities, the index of commodities may be omitted from that tariff.

CROSS REFERENCES: For commodity-list tariffs see § 1300.6.

(d) *Index of stations.* (1) An alphabetical index of all points from which rates apply, and a separate alphabetical index of all points to which rates apply, together with the names of the States or Territories in which located, except that when the rates apply in both directions between all or substantially all of the stations, the points of origin and destination may be shown in one index. Such index or indexes must contain the item numbers in which rates from or to such

points appear, except that when station numbers are arranged in numerical order or when stations are alphabetically arranged in commodity items, and such commodity items are referred to in the commodity index prescribed by paragraph (c) of this section, item numbers and page numbers may be omitted from the index of points. When item numbers are not used the index or indexes must contain the index numbers of the points and the pages on which rates from or to such points will be found, except that when the index numbers are arranged in the rate tables in numerical order the page numbers may be omitted from the index. If there be not more than 12 points of origin or 12 points of destination, the name of each, if practicable, may be shown in alphabetical order on the title page of the tariff and the index of such points of origin or destination, as the case may be, may be omitted.

(2) If rates are shown in the tariff by territorial groups, such as "Colorado common points," "Chicago and points taking the same rates," or "Chicago and points taking the same rates and arbitraries or differentials to be added to or deducted therefrom," the indexes of points of origin and destination required by the subparagraph (1) of this paragraph must show for each point in such groups the railroad on which it is located and the group to which it is assigned, except that where reference is made to a separate publication as provided in § 1300.15 for lists of points in such groups, such points may be omitted from the indexes, *Provided*, That (i) there is shown in the table of contents specific reference to the item or page which gives ICC reference to the separate publication, and (ii), if the tariff contains any index of stations, there is shown at the head of such index ICC reference to the separate publication.

(3) If points of origin or of destination are shown throughout the tariff of rates, or throughout one or more sections of such tariff, alphabetically by States, and such States are alphabetically arranged, or if points of origin or of destination are shown throughout the tariff of rates in continuous alphabetical order no index of such points of origin or of destination will be required. But when such alphabetical arrangement in the tariff is used, the table of contents must refer to the pages on which points are shown and when arranged by States must give reference to the pages on which rates from or to points in each State will be found.

(4) When rates are shown in a tariff by geographical arrangement of stations, index numbers must be shown in connection with each station and in the alphabetical index of stations.

(5) If rates are shown in a tariff by geographical grouping of station index numbers, the alphabetical index of points of origin and of destination must show for each point the railroad on which it is located and the proper station number, and the tariff must contain a geographical list of stations in the order named in the rate tables, or refer by ICC number to a separate publication filed in accordance with §§ 1300.10(i) or 1300.15 which contains such geographical list of stations with corresponding station numbers. The station index number must follow the name of the station in the alphabetical index of stations and must precede the name of the station in the geographical list in all tariffs containing such list of stations.

(6) When the application of a tariff is extended to cover additional points by an intermediate rule as authorized in § 1300.27 or when the points in a tariff are arranged by States as authorized in paragraph (j) of this section, no index of such points need be shown.

(e) [Reserved]

(f) *List of exceptions.* List of exceptions, if any, to the classification or classification exception tariff or tariffs governing the tariff.

(g) *Explanatory statements.* Such explanatory statements in clear and explicit terms regarding the rates and rules contained in the tariff as may be necessary to remove all doubt as to their proper application.

(h) *Rules governing the tariffs.* (1) Rules and regulations which govern the tariff, the title of the subject of each rule or regulation to be shown in distinctive type. Under this head all of the rules, regulations, or conditions which in any way affect the rates named in the tariff shall be entered, except as otherwise provided in this part. A special rule affecting a particular item or rate must be specifically referred to in such item or in connection with such rate.

(2) Each rule or regulation should be given a separate number; portions which can be understandingly read without recourse to the whole may be published in separate paragraphs and such paragraphs be given subnumbers or letters.

(3) Except as provided in §§ 1300.7(c), 1300.27, no rule or regulation shall be included which in any way or in any terms authorizes substituting for any rate named in the tariff a rate found in any other tariff, nor shall any rule be provided to the effect that traffic of any nature will be "taken only by special agreement" or other provision of like import.

(4) Where it is not desirable or practicable to include the governing rules and regulations in the rate tariff, such rules and regulations may be separately published in tariffs filed by an individual carrier or by an agent. A carrier may have not more than two such rules tariffs, one published by an individual carrier and the other by an agent, except as follows:

(i) A carrier operating in more than one rate territory may have two such tariffs (one by an agent and one by a carrier) for each of such territories. The rate trritories to which reference is here made are: New England, trunk line, central, southern, western trunk line, and southwestern territories, and all of western territory not embraced in southwestern or western trunk-line territories.

(ii) The following tariffs will not be counted in applying the provisions of this section: Tariffs containing exclusively rules, regulations, and/or charges applying to the special services covered by § 1300.10(a); classification and classification exception tariffs authorized in § 1300.16; territorial directories, rate bases, and billing books authorized in § 1300.15; tariffs containing rules and regulations governing the transportation of explosives and other dangerous articles; tariffs containing list of stations showing facilities, billing instructions, etc., as authorized by § 1300.10(i); tariffs containing information with respect to freight cars required by § 1300.10(j); and tariffs containing exclusively provisions governing the terminal applications of rates to or from large terminal districts such as New York and Chicago.

(5) Separate publications may be made of the rules and regulations pertaining to a specific commodity to which reference by ICC number may be made in tariffs that contain rates on that commodity only, provided the general rules circular published under this section shall also contain a references as follows:

For rules and regulations applying on —— (here name commodity) see ICC No. —.

(6) When rules or regulations are thus separately published, rate tariffs may be made subject thereto only by specific ICC reference in the rate tariff. This reference should be made in substantially the following form:

Governed, except as otherwise provided herein, by rules and regulations shown in ———— ICC No. ——, supplements thereto or successive issues thereof.

(7) When tariffs of joint rates make reference to separate publications for governing rules and regulations such separate publications must be concurred in by all of the carriers parties to such joint rates.

(8) Tariffs which contain rates for the transportation of explosives and other dangerous articles must also contain the hazardous materials regulations of the Department of Transportation governing the transportation thereof, or must bear specific reference to the ICC number of the publication which contains such rules and regulations. When the latter plan is adopted, the tariff referred to shall contain no matter other than the regulations promulgated by the Department of Transportation.

(i) *Rates.* (1) An explicit statement of the rates, in cents or in dollars and cents, per 100 pounds, per ton, per car, or other unit, together with the names or designation of the places from and to which they apply, all arranged in a simple and systematic manner. Complicated plans or ambiguous terms must not be used.

(2) Insofar as possible such rates should be subdivided into small sections (by items, index numbers, or similar method) to each of which should be assigned an identifying number to facilitate reference thereto.

(3) If all rates in a tariff are stated in the same unit, that fact may be indicated on the title page immediately in connection with the application of the tariff. Tariffs containing rates per ton must state that rates apply per ton of 2,000 pounds or per ton of 2,240 pounds as the case may be. Where rates are stated in amounts per package definite specifications of the packages on which such rates apply must be shown or reference must be made to the I. C. C. number of a publication containing such specifications.

(4) A tariff may provide rates from or to designated points by the addition or deduction of arbitraries or differentials, from or to rates shown therein from or to base points, but provision for the addition or deduction of arbitraries or differentials must be shown either in connection with the base rate or in a separate item which must specifically name the base point. (See § 1300.15.)

(5) A tariff also may contain through rates made by combination on a base point when the factors are subject to different minimum weights or other conditions which affect the measure of the charge, provided the base point is named, the factors are shown immediately in connection with each other, and the conditions to which each factor is subject are shown in connection with each factor, except that each factor may refer to the governing classification or exceptions for such conditions. When all the conditions governing the separate factors are the same, this method of publication must not be used.

(6) A tariff may provide rates via water or rail-and-water routes by the deduction of arbitraries or differentials from the all-rail rates from and to the same points published in the same tariff.

(7) Minimum weights governing the application of commodity rates must be specifically stated in immediate conjunction with such rates or shown in such manner as will avoid an extensive search therefor, except as provided in subparagraph (2) of this paragraph, and excepting also that reference may be made to the appropriate rule of the governing classification or exceptions tariff for carload minimum weights graduated according to the length or capacity of the car or for carload minimum weights on shipments in tank cars. Minimum weights for mixed carload shipments may be provided for in rules authorizing such mixtures.

(8) An item of a commodity tariff may provide rates on a group of related articles by means of a generic description and without naming the individual articles, provided such item refers to another item of the same tariff or to another tariff (as authorized by §§ 1300.6 (a) and 1300.10) which contains under an identical generic description a complete list of the articles included; for example, "Iron and steel articles as described under that heading in Item ——— of ———— I. C. C. No. ———"

(Tariff)

Where cross reference is made to a list of commodities on which rates apply (as authorized in the preceding sentence), the minimum weight (or weights) governing the application of the rates may be omitted from the commodity-rate item and published with the list of commodities to which reference is made, provided the commodity-rate item specifically states that the minimum weight (or weights) will be found in the list of commodities referred to.

(9) If a carrier (not an agent) publishes, either for itself or jointly with other carriers, a tariff containing only commodity rates on a single commodity or a group of related commodities, it must include therein all commodity rates which it (not an agent) publishes on the same article or articles from the same points of origin to the same destination area. If additional commodity rates, local or joint, are published for it by an agent on the same article or articles from any of the same points of origin to other points in the same destination area, the individually-published commodity tariff must so state and make reference to the agency tariff in which the additional rates are published.

(10) A general commodity tariff or a combined class and commodity tariff shall contain reference to other tariffs in which rates on other commodities are published from any point of origin to any point of destination named therein via the same route. Such reference shall include the I. C. C. number or numbers of such other tariff or tariffs with a brief description of the character of traffic and territory or points of origin and of destination and may be shown in the index, or in alphabetical order in the rate tables, or in a separate list arranged alphabetically by commodities, such list to be specifically referred to in the table of contents. For example, "Staves, from ———— to ————, ———— I. C. C. No. ————." Carriers' tariff numbers may also be shown. The publication of class or commodity rates which duplicate or conflict with the rates published in some other tariff via the same route is not permissible and except as otherwise authorized in §§ 1300.7, 1300.10(g) and 1300.27, the publication of a statement in a tariff to the effect that the rates published therein take precedence over the rates published in some other tariff, or that the rates published in some other tariff take precedence over the rates published therein, is hereby prohibited.

(j) *State grouping.* A tariff naming rates from origins in not less than 20 States or to destinations in not less than 20 States may provide the same rates (1) from or to all points in a State or Territory located on the lines of the carriers parties to the tariff, or (2) from or to all points (except points named) in a State or Territory located on the lines of the carriers parties to the tariff without naming such points in the tariff, provided reference is made by ICC number to a separate publication (not another rate tariff) such as authorized in § 1300.10(i) or § 1300.15, containing a list of stations arranged in geographical order with an index, or in alphabetical order, which list shall include all the points in the State or Territory, together with the State and railroad location of each.

(2) Neither of the above plans may be used unless the carriers parties to the tariff reach at least 90 percent of the steam-railroad freight stations in the State or Territory. When the plan set forth in (2) is used, the list of points excepted must be shown in alphabetical order and may not exceed one-fourth of the number of points in the State or Territory on the lines of the carriers parties to the tariff.

EXAMPLE: A tariff may state that it applies from all points in New York on the lines of the carriers parties to the tariff, from all points in Delaware on the lines of the carriers parties to the tariff, except (here give alphabetical list of excepted points), and from the following points in Ohio (here give alphabetical list of such Ohio points). (See § 1300.4(d).)

(3) When origin points in a tariff are provided in accordance with this section, intermediate application rules as authorized in § 1300.27 may not be made applicable in connection with such origins; and when destinations are so provided, an intermediate rule may not be used in connection with such destinations.

(k) *Routing.* (1) Routing over which the rates apply, stated in such manner that such routes may be definitely ascertained.

This must be accomplished by one of the following plans: (i) By providing that the rates in the tariff apply only via the routes specifically shown therein, or (ii) by providing that the rates apply via all routes made by use of the lines of the carriers parties to the tariff except as otherwise specifically provided in the tariff.

When it is desired to follow the plan listed in subdivision (i) of this subparagraph and provide complete routing for all rates shown in the tariff, the following notation must be shown in the tariff under the heading "Routing instructions":

The rates herein apply only via the routes specified on pages (or in items —).

When it is desired to use the plan listed in subdivision (ii) of this subparagraph and provide complete routing for some but not all of the rates in the tariff, or incomplete routing for all of the rates, the following notation must be included in the tariff under the heading "Routing Instructions":

The rates herein apply via all routes made by use of the lines of any of the carriers parties to this tariff, except as otherwise specifically provided on pages —, in individual rate items, or in connection with individual rates.

The exceptions referred to in the notation shown next preceding may be provided either by showing affirmative routing, viz, a statement of routes (for one or more carriers, for all or a part of the route) together with a definite statement that the rates apply between such points and for account of such carrier or carriers only via the route or routes specified; and/or by showing negative routing, viz, a statement of routes (for one or more carriers, for all or a part of the route) via which the rates do not apply.

NOTE: This section does not authorize departures from the long-and-short-haul provisions of the fourth section of the act.

In lieu of showing in rate tariffs the affirmative routes provided in the plans listed in subdivisions (i) and/or (ii) of this subparagraph such affirmative routes may be published in a separate publication (or publications) filed either by a carrier or by an agent, and specific ICC reference must be made in the rate tariff to such guide. Such a separate publication will hereinafter be designated as a "Routing guide," and may be used only in accordance with the provisions of subparagraphs (2)–(5) of this paragraph.

(2) When in a tariff containing joint rates it is desired to refer to a routing guide or guides for all of the routes, the following notation shall be used:

The rates herein apply only via the routes of the carriers parties to this tariff specified in ——— ICC No. ———, supplements thereto or successive issues thereof.

When in a tariff containing local rates it is desired to refer to a routing guide for all of the routes, an appropriate modification of the notation shown next above shall be used.

When it is desired to refer to a routing guide or guides for routes in connection with some but not all of the rates in a tariff, or for routes for account of some but not all of the carriers parties to the tariff, an appropriate notation in lieu of those above set forth shall be used. When it is desired to provide that certain rates published in a tariff will not apply via all the routes shown in a routing guide to which the rate tariff is made subject, the rate tariff must show clearly what routes in the routing guide are not applicable, or are the only routes applicable, in connection with such rates. When a tariff which refers to a routing guide also shows routes, it must show clearly whether the routes named therein are in addition to the routes shown in the routing guide or are the only routes via which the rates will apply. No one rate may be made subject to more than one routing guide for account of any initial carrier except that (i) a subsidiary or small carrier which connects with two or more parent or connecting carriers may authorize each of such parent or connecting carriers to publish its routes via each of such carriers and its joint rates may be made subject to the routing guides of each of such carriers for routes via which rates apply via their respective lines; (ii) interterritorial rates from one of the major rate traffic territories (New England, trunk line, central, southern, western trunk line, and southwestern territories, and all of western territory not embraced in southwestern or western trunk line territories), to another of such territories, may be made subject to one guide for each of such territories in which it applies; and (iii) where complete through routes are shown in connection with joint rates (either in the rate tariff or in a routing guide or guides to which it is subject), such rates may be made subject to the separate routing guides of any of the carriers parties thereto for internal routing over their respective lines. An interterritorial or intraterritorial routing guide may contain reference to the ICC numbers of the tariffs of carriers parties thereto containing internal routing. When this is done, joint tariffs of rates which are subject to such interterritorial or intraterritorial guides may refer to such interterritorial or intraterritorial guides for internal routing over the lines of the carriers parties to the joint rates.

(3) A routing guide must contain three sections, (i) an alphabetical list of all of the points from and to which routes are provided, with the railroad location of each point which is served by more than one carrier, together with an index number for each of such points, (ii) a table containing the points from which routes apply, the points to which routes apply (or between which routes apply), and the numbers of the routes provided from and to (or between) such points, and (iii) a table containing all the route numbers in numerical order with a full statement of the route opposite each of such numbers.

In subdivision (ii) of this subparagraph the points from, and the points to (or the points between), which routes are provided must be arranged in geographical order. The names of such points must be shown in subdivision (ii) of this subparagraph unless a geographical list of stations is included in subdivision (i) of this subparagraph as part thereof, or reference is made to the ICC number of a separate publication filed in accordance with §§ 1300.10(i) or 1300.15 which contains such geographical list of stations with corresponding station numbers, in which case only the index numbers need be shown in subdivision (ii) of this subparagraph.

A routing guide must be concurred in by all carriers over whose lines routes are provided therein. Such guides must not contain exceptions to the routes provided therein. All exceptions thereto, if any, must be published in the tariffs making reference thereto.

(4) Routing guides must show on their title pages the following notation:

The routes provided herein may be used only in connection with rates made subject thereto by specific ICC reference to this guide in the tariffs containing such rates. Its use in connection with any tariff is restricted to the carriers and to the application provided in such tariff.

(5) If desired, the following tariff provision may be incorporated under the heading "Routing instructions" in rate tariffs:

The rates named in this tariff will apply only via the routes and junction points authorized herein except that when in the case of pronounced traffic congestion (not an embargo), washout, wreck, or other similar emergency, or through carriers' error, carriers forward shipments via other junction points of the same carriers or via the lines of other carriers parties to the tariff, the rate to apply will be that specified in this tariff but not higher than the rate applicable via the route of movement.

NOTE: If desired, the words "or via the lines of other carriers parties to the tariff" may be omitted from the emergency routing clause.

The above clause may not be shown in routing guides. Its publication in a rate tariff does not relieve carriers from the requirements of the fourth section of the act via the route used.

(l) [Reserved]

(m) *Explanation of abbreviations and reference marks.* (1) At the end of each tariff, except loose-leaf tariffs, there shall appear an Explanation of Abbreviations, followed by an Explanation of Reference Marks. Under the Explanation of Abbreviations shall appear an explanation of all abbreviations used in the tariff, except that commonly used abbreviations of State names may be omitted, and except further that the abbreviations of the names of participating carriers may be explained in the list of such carriers, provided a statement to that effect is included under the Explanation of Abbreviations.

(2) Under the Explanation of Reference Marks shall appear an explanation of all reference marks used in the tariff except reference marks used only once or a few times, which shall be explained on the page or pages of the tariff on which they appear.

(3) The following reference marks shall be used, and shall only be used, for the purposes indicated:

(↓ to denote reductions.
(↑ to denote increases.
(▲ to denote changes in wording which result in neither increases nor reductions in charges.
(• to denote no change in rate. (See § 1300.9 (a).)
(✱ to denote prepay stations or points.
(+ to denote intrastate application only.
(□ to denote reissued matter. (See § 1300.9 (d).)

(4) At the end of each supplement there shall likewise appear an Explanation of Abbreviations followed by an Explanation of Reference Marks. Under those headings shall be shown, subject to the exceptions stated in the preceding paragraphs of this section, an explanation of all abbreviations appearing in the supplement which were not explained in the original tariff (if explained in a prior supplement, the explanation shall be repeated); and an explanation of all reference marks appearing in the supplement.

(5) In loose-leaf tariffs an Explanation of Abbreviations followed by an Explanation of Reference Marks as provided for in this rule may be shown immediately following the index of stations.

§ 1300.5 Proportional rates.

Tariffs containing proportional rates must clearly and definitely show the application thereof. If the application is not restricted, such proportional rates will be useable in connection with any other applicable rates from or to the proportional rate point. It will not be permissible for a tariff to state that a proportional rate applies from (or to) points from (or to) which no through rates are published. Such a provision is not sufficiently definite to restrict the application of the rate. If a proportional rate is intended for use on traffic destined to a restricted territory such territory should be clearly defined. For example, a tariff naming a proportional rate to St. Louis intended for use on traffic destined to Kansas should state that the rates apply on traffic destined to Kansas only.

§ 1300.6 Commodity-list tariffs.

(a) A rate tariff may not refer to another rate tariff for a list of commodities on which rates apply. A separate tariff not containing rates may be filed either by a carrier or by an agent, showing under appropriate generic headings lists of commodities which are accorded common treatment for rate or other tariff purposes; and rate and other tariffs (including tariffs of classification exceptions, but not classifications) may be made subject thereto. When any commodity list consists of less than 20 articles it may not be published in a commodity-list tariff and must be published in the tariff naming the related rates or ratings. The commodities in each list shall be alphabetically arranged. Such tariffs shall be known as general commodity-list tariffs. No carrier or agent may maintain in effect at any time more than one such publication.

(b) In addition to one such general commodity-list tariff, a carrier or agent may file for the same purpose separate tariffs, each containing under an appropriate generic heading a single list of commodities (not less than 20, alphabetically arranged). Such publications shall be known as specific commodity-list tariffs. Rate and other tariffs, including tariffs of classification exceptions, but not classifications, may be made subject thereto.

(c) The title page of the tariffs authorized in this section shall contain the following: (1) In the case of the general commodity-list tariff, in large type the words "List of commodities upon which rates or other provisions affecting charges are published in tariffs making reference hereto"; and in the case of specific commodity-list tariffs, in large type the words "List of (here insert the generic description of the commodities listed in the tariffs, such as 'Iron and Steel Articles') upon which rates or other provisions affecting charges are published in tariffs making reference hereto;" and (2) in smaller type "This tariff is applicable only in connection with tariffs specifically made subject hereto." Rate or other tariffs governed by a commodity-list tariff shall, to the extent they are so governed, employ the same generic descriptions or headings as the commodity-list tariff, followed in each case by the words "as shown in Item ——— of ——— I. C. C. No. ———," or language equally definite. Commodity-list tariffs shall contain no other matter than that authorized in this section, except that they may contain minimum weights as authorized by § 1300.4(i) and except further that a specific commodity-list tariff may also contain rules applicable in connection therewith.

(d) All carriers that are parties to a tariff making reference to a general or specific commodity-list tariff must also be parties to the tariff so referred to.

(e) Where a tariff contains commodity rates on a given article (termed in this paragraph the basic article) rates may be provided in the same tariff on one or more related articles either (1) by a statement that the rates for the related articles will be specified amounts more or less than the rates for the basic article between the same points, or (2) by a table showing in adjoining columns what the rate for the related articles will be when the rate for the basic article is a specified amount.

(f) When commodity rates are established, the description of the commodity must be specific and the rates thereon must not be applied to analogous articles. As far as possible, uniform commodity descriptions should be used in all tariffs.

§ 1300.7 Alternating rates.

(a) *Alternative rates or ratings subject to different minimum weight or quantity limitations.* (1) Where it is desired to provide for the alternating application of rates or ratings subject to different minimum weight or quantity limitations otherwise than as authorized in paragraph (b) or (c) of this section, the following procedures must be observed:

(i) Alternating commodity rates must be published together, that is, in the same item or on the same page of the tariff.

(ii) Alternating ratings must be published in the same item of the tariff.

(iii) There must be published in the same tariff a note or rule plainly stating, in substance, that where rates or ratings are so published the applicable rate on any given shipment will be that which, subject to the minimum attached thereto, produces the lowest charge.

(2) Commodity rates may be established on different articles for shipment in mixed carloads and will be the applicable rates for such mixtures. Minimum carload weights should be specified, together with a statement in connection with the commodity description that the rates apply when shipped in mixed carloads. Such rates may also be made applicable upon straight carloads of one or more or all of the articles by provision to that effect in connection with the commodity description. When more than one article is included in an item or commodity description the tariff must specifically state whether or not the rates apply on straight or mixed carloads or both.

(b) *Alternative use of rates in sectional tariffs.* (1) Except as authorized or required by paragraphs (a) and (c) of this section, alternation of rates may be provided by publishing such rates in different sections of a single tariff in the manner herein prescribed. When alternating rates are so provided, carriers and publishing agents shall, at frequent intervals, carefully check the rates in one section against those in other sections and make proper cancellations to avoid unnecessary alternation of rates. Alternating reference obviously should not be given to another section unless that section contains rates which in fact alternate.

(2) The first page of each section, which shall be known as the title page of the section, shall contain the number of the section and, if desired, the application of the rates published in that section. Each succeeding page of the section shall also bear the section number. The title page of each section containing alternating rates (not the non-alternating section hereinafter referred to) shall also contain the following notation:

If the charge accruing on a given shipment under section ——— or ——— of this tariff is lower than that accruing under this section, the charge accruing under section ——— or ———, whichever is lower, will apply.

(3) Where the purpose is to provide for application of the higher or highest of the alternating rates or charges, rather than the lower or lowest of such charges, the foregoing notation and other notations prescribed in this section shall be appropriately changed.

(4) Each commodity tariff or class and commodity tariff arranged in alternating sections shall also contain a section hereinafter referred to as the non-alternating section. That section shall contain only commodity rates which in all instances result in charges lower than would result from the application of the commodity rates (but not necessarily the class rates) in any other section. If the tariff contains only commodity rates, the non-alternating section shall be section 1; if the tariff contains both class and commodity rates, the class rates shall be published in a section or sections preceding the commodity sections and the non-alternating section shall be the first commodity section. The title page of the non-alternating section shall contain either of the two following notations, as appropriate:

When rates are published in this section on a given shipment, such rates will apply to the exclusion of the rates in any other section.

or

When rates are published in this section on a given shipment, such rates will apply to the exclusion of the rates in any other commodity section; but if the charge accruing on the shipment under the class rates in section ——— is lower than that accruing under this section, the charge accruing under the class rates in section ——— will apply.

(5) The title page of each other commodity section of the tariff shall contain the following notation preceding that prescribed in subparagraph (2) of this paragraph:

When rates are published in section ——— (the non-alternating section) on a given shipment, such rates will apply to the exclusion of the rates in this section.

(6) The publication of alternating rates in different sections of a tariff is subject to the following restrictions: (i) that class rates in one section may alternate with class rates in only one other section, and that commodity rates in one section may alternate with commodity rates in not more than two other sections; (ii) that rates published in another tariff may not be reproduced for purposes of alternation; (iii) that one section of a tariff may not alternate with more than three other sections; and (iv) that alternating sections may not be sub-

divided and, except as authorized in paragraph (a) (1) of this section, a rate in one section may not be alternated with a rate in the same section.

(c) *Alternation of commodity rates in one tariff with class rates in another tariff.* (1) Provision for the alternation of the commodity rates in a tariff containing only commodity rates with class rates published in other tariffs may be made by including a notation in the following form in the commodity tariff amongst rules governing the application of rates:

If by use of the class rates published in the following tariffs, the charge accruing on a given shipment is lower than that accruing under the commodity rates published in this tariff, such lower charge will apply: (here show the I. C. C. numbers of the class-rate tariffs, together with so much of the territorial application of each class-rate tariff as lies within the territorial application of the commodity tariff).

(2) If a commodity tariff contains only a few rates which result in higher charges than would accrue under the class rates, the reference to the class tariffs prescribed in this section should be shown immediately in connection with such commodity rates or may be shown in a separate item under an appropriate heading and reference to such item shown immediately in connection with the commodity rates.

(3) Great care should be exercised in describing the scope of the class tariffs in order that users of the commodity tariff may determine without examining the class tariffs, which of such class tariffs is to be used in connection with any commodity rate. It also should be understood that the alternative application of commodity rates in one tariff with class rates in another tariff should be resorted to only where there is real necessity therefor and that wherever possible the commodity rates should be revised so that they will not exceed the class rates between the same points.

§ 1300.8 Transfer and cancellation of rates.

(a) *Transfer of rates from one tariff to another.* (1) If a tariff or supplement to a tariff or a revised page is issued which is to displace a part of another tariff which is in force at the time, and which tariff is not thereby canceled in full, it shall specifically state the portion of such other tariff or such other supplement which is thereby canceled, and such other tariff shall at the same time be correspondingly amended, effective on the same date, in the regular way; that is, by reissue if tariff is of four pages or less, by reissue or supplement if tariff is of more than four pages, and by revised pages if tariff is a loose-leaf tariff. (See paragraph (e) of this section and § 1300.9 (e), (k).) Such reissue, supplement, or revised page must state where rates will thereafter be found and must be filed at the same time and in connection with the tariff or supplement which contains the new rates. Cancellation may be indicated substantially as follows: "cancels ---------- ICC No. ----, to the extent shown in supplement No. ------ thereto."

(2) A tariff canceling more than one tariff in whole or in part must include a brief description of such tariffs. It will not be necessary to show on a commodity tariff or supplement reference to class tariffs that may be affected, nor to show on a class tariff or supplement reference to a commodity tariff.

(3) If a tariff is canceled by the issuance of another tariff to take its place, cancellation notice must not be given by supplement, but by notice printed, in the new tariff, as provided in § 1300.3(b). (See § 1300.2(b).)

(4) Cancellation of a tariff also cancels supplements to such tariff, if any in effect.

(b) *Transfer of rates from carriers' to agents' tariff and from agents' to carriers' tariff.* (1) An agent who acts under authority of power of attorney is fully authorized to act for the principals that have named him their agent and attorney, and therefore, when an agent publishes rates in his tariffs which are to displace the rates in his principals' tariff, the agent must cancel the rates in his principals' tariffs as per paragraph (a) of this section.

(2) A carrier must not publish in its individual tariff rates which are to displace the rates published in a tariff of a duly authorized agent unless the tariff is accompanied by a supplement issued by the agent canceling the rates in his tariff effective on the same date, as per paragraph (a) of this section.

(c) *Concurrence does not confer authority to cancel.* A concurrence does not confer authority upon a carrier to cancel tariffs of the concurring carrier, and tariffs issued under concurrence must not assume to do so. Such cancellations must be made by the carrier which issued the tariff that is to be canceled.

(d) *Cancellation notices must be by supplement.* If a tariff is canceled with the purpose of canceling entirely the rates named therein, or when, through error or omission, a later issue failed to cancel the previous issue and such tariff is canceled for the purpose of perfecting the records, the cancellation notice must not be given a new ICC number, but must be issued as a supplement to the tariff (including loose-leaf tariffs) which it cancels. In the issuance of such supplement the provisions of § 1300.9(e) need not be observed.

(e) *Notice to specify where rates can be found.* When a tariff is canceled in whole or in part by a supplement thereto, the supplement must show where the rates will thereafter be found or what rates will thereafter apply. When a tariff is canceled by another tariff which does not contain all of the rates shown in the tariff to be canceled the canceling tariff must show where rates not shown therein will thereafter be found, or what rates will thereafter apply. For example: "Rates in ---------- ICC No. ---------- will apply," or "Class rates will apply," or "Combination rates will apply." (See § 1300.2(b).)

(f) *Cancellation by item numbers.* (1) When portions of a tariff (excepting a tariff in loose-leaf form), or of a supplement to a tariff, are designated as items, they must be given numbers and the cancellation of an item by supplement must be made by bringing forward the item number with a capital letter suffix in alphabetical sequence. For example, if Item 445 is to be canceled, it shall be done by one of the following methods:

State the numbers of both the canceling and the canceled item. For example: "Item 445–A cancels Item 445."

or

Bring forward the item number with letter suffix; for example: "Item 445–A", "Item 445–B". When cancellation under this method is used the following provision is to be published in the general rules section of the tariff proper:

METHOD OF CANCELING ITEMS

As this tariff is supplemented numbered items with letter suffixes cancel correspondingly numbered items in the original tariff or in a prior supplement. Letter suffixes will be used in alphabetical sequence starting with A. Example: Item 445–A cancels Item 445, and Item 365–B cancels Item 365–A in a prior supplement, which in turn canceled Item 365.

(2) When special circumstances require, appropriate variations of the above methods may be used. For example, if an item is to be republished on the same or an earlier effective date, the following may be used: "Item 40–B cancels Item 40–A and 40."

(3) When due to suspension or other circumstances, a portion of an item is to be canceled or items cannot be canceled in consecutive sequence, the following may be used: "Item 40–B cancels Item 40–A except portions under suspension." or "Item 40–B cancels Item 40–A and completes the cancellation of Item 40."

(4) If an item or any part thereof is transferred to another item of different number in the same tariff, the cancellation must be carried under the original item number and must show in what item or items the effective rates are to be found.

(5) If an item is withdrawn in its entirety, leaving no rates or provisions in effect in that item, the cancellation must be brought forward in subsequent supplements as a reissued item.

(6) If an item in a supplement expires by its own terms, and that supplement is canceled by a subsequent supplement, the item, or more accurately, the item number, must be brought forward in the new supplement, together with a statement reading, "Expired with ------, in (Date) Supplement ------."

(7) An item once lawfully eliminated by cancellation or expiration may not be reinstated except by republication under a new effective date. Such republication must be under the same item number and must be given the next letter suffix. For example: If the canceling item is 445–B then the newly published item should be numbered 445–C.

(8) When withdrawing a rule or item designated by an item number the canceled matter need not be repreduced in connection with the item effecting the cancellation except to the extent necessary to identify the item.

§ 1300.9 Amendments and supplements.

(a) *Amendment procedure.* (1) A change in or addition to a tariff shall be known as an amendment, and, excepting amendments to tariffs of less than five pages and amendments to tariffs in loose-leaf form, shall be published in a supplement to the tariff. When an amendment is made in a numbered item or other unit, such item or other unit must be published in a supplement in its entirety as amended, except that additions, changes, or eliminations in a numbered item or other unit consisting of a list of commodities or a list of stations comprising 10 lines or more (measured along the left margin), may be made without publishing such items or units as amended in their entirety, provided that only one such partial amendment of any such item or unit may be in effect at any one time. When rates are published in numbered items, cancellation shall be made as prescribed in § 1300.8(f). When rates are published in numbered units other than item numbers, supplements effecting such change must specifically provide for cancellation of previously effective matter by reference to the number of the unit it cancels. When such a change is made in matter published in a supplement in a numbered unit other than an item, the new supplement must also give reference by number to the previous supplement. In those instances where matter is not published in numbered units, the changed provision must be published in the supplement in its entirety and reference must be made to the page or pages of the tariff on which the matter to be canceled is shown. If such matter has been canceled by a previous supplement, specific cancellation must be made of the corresponding matter in the "tariff as amended" and specific reference shall be made by number to page or pages of the previous supplement containing the matter to be changed, and to the page or pages of the original tariff formerly containing such matter corresponding thereto.

(2) The matter contained in each supplement shall be arranged in the same general manner and order as in the tariff which it amends and when stations in a tariff are given index numbers the same index number must be assigned to the same station in all supplements to the tariff.

(b) *Cancellation of rates when participating carrier is eliminated.* When a participating carrier is eliminated by supplement or by a revised page of a loose-leaf tariff, the tariff must be amended on the same effective date to provide for the cancellation of rates and other provisions in connection with that carrier. This may be done either by appropriate amendment of the individual items or provisions, or by a notation immediately following the statement that the carrier has been eliminated, reading:

This has the effect of canceling all rates and other provisions published in connection with this carrier in this tariff.

(1) When the notation method is used in a supplement the notation must be brought forward as reissued matter, together with reference to the supplement in which the change first appeared.

(2) When the notation method is used in loose-leaf tariffs, subsequent revised pages containing the list of participating carriers must bear reference to such elimination so long as the name of the eliminated carrier appears elsewhere in the tariff, the reference to be shown in the following manner:

---------- (Show name of carrier here) eliminated as a participating carrier in this tariff and all rates and other provisions published in connection with that carrier canceled effective ---------- See ---------- Revised Page ----

(c) *Supplement number and cancellations.* Supplements to a tariff shall be numbered consecutively. Each supplement shall specify on its title page the supplement or supplements or tariff or tariffs which it cancels, and shall also show what supplements contain actual changes from the rates, rules, or regulations in the original tariff. Supplements filed under the authority of paragraphs (i), (j), (k), (m) of this section, and § 1300.12(d), and blanket or special supplements that do not change rates, rules or regulations, must be shown separately and the nature of each such supplement must be clearly indicated.

(d) *Effective date; reissued matter.* (1) Every publication which contains rates, rules, or regulations effective upon a date different from the general effective date of such publication must show on its title page the following notation:

"Effective ----------, 19--, (except as otherwise provided herein)" or "except as provided in Item ---)" or "(except as provided on page —)."

(2) Every publication which consists partly but not wholly of matter established upon less than statutory notice shall show in connection with each change made effective on less than statutory notice a notation that such matter is issued on ---- days' notice under authority of ----------, (here give specific reference to the special permission, decision, order, rule, or other authority).

(3) Matter brought forward without change from a tariff which has not been in effect 30 days, also matter brought forward without change from one supplement to another, must be designated "Reissued" in distinctive type and, except as authorized in § 1300.10(i), must show the original effective date and the number of the supplement or tariff from which it is reissued; or must be uniformly indicated by the letter T in a square when reissued from another tariff or from a supplement to another tariff and by numerals commencing with 1 in squares when reissued from a prior supplement to the same tariff, printed in distinctive type and shown in a conspicuous manner, and the explanation thereof must be made in the tariff or supplement in which the symbols are used. Examples: "[1] Reissued from ICC No. ----, or (Supplement No. ---- to ICC No. ----), effective (date upon which item became effective in former tariff or supplement to another tariff ----------, 19--"; "[1] Reissued from Supplement No. 1, effective ----------, 19--," and so on numerically, the figures of the symbols always representing the number of the supplement to the same tariff from which the reissued item is brought forward. If items in a tariff or supplement are made effective on dates other than the general effective date shown on the title page, reissue of such items may be indicated in later publications by showing a letter suffix or other symbol in connection with, and as a part of, the letter T or the numerals in squares as authorized in this paragraph. When the reissued item became effective in a supplement to another tariff, the ICC number of that tariff must also be given.

(4) The letter T in a square and numerals commencing with 1 in a square shall not be used as reference marks or symbols for any other purpose in any tariff or supplement.

(e) *Amount of supplemental matter; loose-leaf tariffs.* (1) Except as authorized in §§ 1300.8(d), paragraphs (i), (j), (k), (m) of this section, 1300.11 and 1300.12(d), the following is the maximum number of effective supplements permitted to any tariff:

4 pages or less—No supplements.
5 to 16 pages, inclusive—1 supplement.
17 to 80 pages, inclusive—2 supplements.
81 to 200 pages, inclusive—3 supplements.
201 pages or more—4 supplements.

In addition to the above, tariffs of 17 pages or more may have one additional supplement not exceeding 4 pages.

(2) Except as authorized in §§ 1300.8 (d), paragraphs (f), (h), (i), (j), (k), (m) of this section, §§ 1300.11 and 1300.12(d), tariffs having 5 or more pages may have supplemental matter aggregating not more than 50 percent of the total number of pages in the tariff, except that if the number of pages in the supplement which brings the volume up to that authorized by this rule is not evenly divisible by 4, it may exceed the volume authorized to the extent necessary to bring the number of pages of such supplement to the next multiple of 4. The concluding page or pages of supplements on which appear only explanations of abbreviations and reference marks shall not be counted in applying this paragraph.

(3) The provisions of paragraphs (a), (b) of this section will also apply to tariffs filed prior to October 1, 1928.

(4) Pages of loose-leaf tariffs shall be printed on thin paper of strong texture, on one side only, and must be consecutively numbered and designated as "Original page 1," "Original page 2," etc. Each page must show at the top of the page the name of the issuing carrier, or of the issuing agent identified as

"Agent"). If the issuing agent is a corporation or association, there shall also be shown the full name of the bureau, committee or regional association, if any, under whose auspices the schedule is compiled and filed. It shall also show the page number and the I. C. C. number of the tariff. At the bottom of the page shall be shown the date of issue, the effective date, and the name, title, and mail address of the individual actually responsible for compiling and filing the schedule. If the tariff is issued by an individual agent, his name must be shown with the title of "Agent." If issued by a corporation or association as agent, the name and title of the person responsible for the actual compilation and filing must be shown.

(5) Changes in and additions to loose-leaf tariffs shall be made by reprinting the page upon which change or addition is made, and such changed page shall be designated as a revised page. For example, "First revised page 1 cancels original page 1," or "Second revised page 2 cancels first revised page 2," etc. When a revised title-page is issued the following notation shall be shown in connection with its effective date:

Original tariff effective _____ (here show effective date of the original tariff).

(6) If on account of expansion of matter on any page it becomes necessary to add an additional page in order to take care of the additional matter, such additional page shall be given the same number with a letter suffix; for example "Original page 4–A," "Original page 4–B," etc. If it is necessary to change matter on original page 4–A it may be done by issuing first revised page 4–A, which shall provide for the cancellation of original page 4–A.

(7) When a revised page is issued which omits rates, rules, or regulations theretofore published on the page which it cancels, and such rates, rules, or regulations are published on another page, the revised page must make specific reference to the page on which the rates, rules, or regulations will be found, and the page to which reference is so made must contain the following notation in connection with such rates, rules, regulations, etc.:

For _____ (here insert rates, rules, regulations, etc., as case may be) in effect prior to the effective date hereof see page —.

Subsequently revised pages of the same number must omit this notation insofar as this particular matter is concerned.

(8) If after a tariff has been filed with the Commission it is desired to file additional pages, such pages may be subsequently filed to the tariff and numbered beginning with the next successive page number to the last page of the tariff, and must be designated as "Original page —." For example, when the tariff filed has 150 pages, page 151 when filed must not be designated as an "Additional" page but should be designated as "Original page 151." Such a page can be filed only for the purpose of adding new matter which does not change the rates, rules, or regulations then in force on other pages of the tariff.

(9) The page of every loose-leaf tariff next to the title page shall be designated as "Original page 1" and shall be known as a "check sheet." When the original tariff is filed the check sheet must show the number of pages contained in the tariff. For example, "Pages 1 to 150, inclusive, of this tariff are effective as of the date shown." When new pages numbered 151, 152, etc., are added, the above notation must be correspondingly revised to include the added pages. When pages are revised, when new pages (including pages with letter suffix) are added to the tariff, or when supplements are issued the check sheet must be revised accordingly and, in addition to the above notation, shall show under the heading "Original and revised pages as named below and supplement No. — contain all changes from the original tariff that are in effect on the date hereof" in numerical order a list of all original pages that have been added to the tariff and the pages which have been revised, including the revision number. For example:

Page	Number of revision except as indicated
3	5th
5A	Orig.
10	8th
151	Orig.

(10) Revised check sheets listing the added or revised pages must accompany such pages when forwarded to the Commission for filing.

(11) Changes shall be indicated as required by § 1300.2(a). Items which have been in effect 30 days or more need not be shown as reissued items on revised pages but may be republished as effective on 30 days' notice. Items which have not been in effect 30 days when brought forward on revised page must be shown as reissued in the manner prescribed in paragraph (d) of this section.

(12) When protective covers for loose-leaf tariffs are used, only such information should appear thereon as will remain constant and in use during the life of the tariffs.

(13) Supplements shall not be issued to loose-leaf tariffs, except for the purposes authorized by paragraphs (i), (j), and (k) of this section, and § 1300.12(d). When all changes made by a supplement to a loose-leaf tariff have been incorporated in the tariff proper by revision of the appropriate pages, the supplement shall be canceled. Such cancellation must be made by the reissue of the check sheet page (page 1) and by adding in the upper right-hand corner immediately following the words "cancels revised page 1" the words "also cancels Supplement No. _____"

(f) *Periodical tariffs.* A tariff may provide that it will be reissued periodically, but not less frequently than once a year. Such tariff must carry on its title page the notation:

A reissue of this tariff will become effective not later than _____, 19—.

Supplements may be issued to such tariffs without limit as to volume.

(g) *Index to supplement.* (1) A supplement of 5 or more pages must have an index of the matter which it contains, and a supplement of more than 23 pages must also contain a table of contents. In view of the provision of § 1300.8(f) which requires that cancellation of a numbered item must be made under the same item number in a supplement as that given to that item in the tariff, and the requirement of paragraph (a) of this section which provides that the index number assigned to a station in a supplement must be the number assigned to that station in the tariff, the table of contents and indexes in a supplement of five or more pages need not contain therein entries which are shown in the table of contents or indexes in the tariff: *Provided*, That in connection with the index of points of origin (or destination) the following notation shall be shown:

The index numbers of stations in this supplement correspond with the index numbers of the same stations shown on pages — to —, inclusive, of the tariff, with the following additions and exceptions.

(2) The table of contents and indexes in such a supplement may be omitted if § 1300.4 does not require the tariff, to which the supplement is issued, to contain a table of contents and indexes.

(h) *Supplement to tariff filed not yet effective.* (1) If a tariff is filed on statutory notice canceling another tariff and after such filing a supplement to the tariff to be so canceled should be issued effective prior to the general effective date of such new tariff, rates in such supplement could not continue in effect for the 30 days required by law because the cancellation of the former tariff also cancels supplements to it. In such a case, and confined to additions or to changes in rates or provisions which were brought forward in the new tariff without change, the provisions of paragraph (e) of this section need not be observed as to the old tariff, and a supplement making the same changes in or additions to both tariffs may be issued as supplements both to the tariff in effect and to the tariff which will effect such cancellation, and be given both ICC numbers. In other words, such issue must be a supplement both to the old and the new tariffs and copies must be posted and filed accordingly. Only one such supplement may be in effect at any time.

(2) Rates or provisions which have been established in an old tariff and reproduced or reissued in a new tariff may be changed upon lawful notice by supplement to the new tariff, effective not earlier than the general effective date of the new tariff, by showing in the following manner in connection with the changed rates or provisions that the rates or provisions changed thereby have been in effect 30 days or more, in the former issue. Example: "Item 40–A cancels item 40. Item 40 effective _____, brought forward without change from Item No. _____ of ICC No. _____ (former issue)." New rates or provisions which do not change rates or provisions in either the old or new tariff may be established upon lawful notice by supplement to the new tariff, effective not earlier than the general effective date of the new tariff, by showing in the following manner, in connection with the new rates or provisions that the rates or provisions previously applicable have been in effect 30 days or more in a former issue. Example: "Addition. Changes class rates which became effective _____ in ICC No. _____." Unless the provisions of this paragraph are complied with no supplement to a tariff that is on file and not yet effective may be made effective within 30 days from the effective date of the tariff without special permission.

This section does not waive the requirements of §§ 1300.14, 1300.54.

Cross References: For additional procedure of statutory notice in filing tariffs, see § 1300.13.

(i) *Complete adoption notice.* (1) When the name of a carrier is changed, or when its operating control is transferred to another company the carrier which will thereafter operate the properties shall file and post an adoption notice, numbered in its ICC series, reading as follows:

The _____ (corporate name of adopting carrier) hereby adopts, ratifies, and makes its own, in every respect as if the same had been originally filed and posted by it, all freight tariffs, classifications, rules, notices, concurrences, traffic agreements, divisions, authorities, powers of attorney, or other instruments whatsoever, including supplements or amendments thereto, filed with the Interstate Commerce Commission by or heretofore adopted by, the _____ (corporate name of old company) prior to _____ (date).

(2) In addition to the above adoption notice the new carrier shall immediately file a consecutively numbered supplement to each of the tariffs covered by the adoption notice, reading as follows:

Effective _____ (here insert date shown in the adoption notice) this tariff, or as amended, became the tariff of the _____ (corporate name of new carrier) as per its adoption notice ICC No. _____

(3) Such supplements issued under authority of this section must contain no other matter, must bear reference to this section and may be issued without regard to the provisions of paragraph (e) of this section.

(4) Succeeding supplements to such tariffs filed by the adopting carrier must be numbered consecutively following the number of the adoption supplement. New tariffs reissuing or succeeding such tariffs shall be numbered in the ICC series of the adopting carrier. When adopted tariffs are canceled by new tariffs of the adopting carrier, the cancellation reference must describe the canceled tariff by using the name or initials of the former issuing carrier.

(5) Tariffs issued by other carriers or agents in which the line absorbed, taken over, operated by another carrier, or whose name is changed, is named as a participating carrier, shall be amended on statutory notice, to eliminate the name of the old carrier and to show the name of the new carrier by the first subsequent supplement. Such supplement shall also contain the following provision:

The _____ (corporate name of adopting carrier) by its adoption notice ICC No. _____ having taken over tariffs, etc., of the _____ (corporate name of old carrier) the _____ (corporate name of adopting carrier) is hereby substituted for the _____ (corporate name of old carrier) wherever it appears in this tariff.

(6) Similar adoption notice numbered consecutively in the ICC series of the carrier must immediately be filed by a receiver, when he assumes possession and control of a carrier's lines. When the receivership is terminated, the carrier taking over the properties shall file an adoption notice and shall also file supplements as hereinabove prescribed if a change in the name of the carrier has been made.

(7) Notices of adoption should be filed with the Commission immediately, and if possible, on or before the date shown therein. Copies must be sent to each agent or carrier to which power of attorney or concurrence has been given. The notice must refer to this section and its effective date must be the date (as shown in body of notice) on which the change in name or operation occurs. If prior approval of such change is necessary, reference must also be made to the order of the Commission.

(8) Concurrences and powers of attorney adopted by a carrier or a receiver must within 120 days be replaced and superseded by new concurrences and powers of attorney issued by and numbered in the series of the new carrier or receiver except that if desired the receiver may number concurrences and powers of attorney in the old series. The cancellation reference to the former concurrence or power of attorney must include name or initials of the former issuing carrier. Concurrences and powers of attorney which will not be replaced by new issues must be regularly revoked on the notice and in the manner prescribed in § 1300.26(b).

(9) If a carrier ceases operation without having a successor, its tariffs, concurrences, and powers of attorney must be regularly canceled on statutory notice, unless otherwise specifically provided by order of the Commission and when canceled on less than statutory notice the cancellation notice must show that cancellation is made on account of discontinuance of operation and must refer to the authority of the Commission permitting such discontinuance.

Cross References: For provisions concerning powers of attorney and concurrences, see §§ 1300.18 to 1300.26, inclusive.

(j) *Partial adoption notice.* (1) When the operating control of only a part of a carrier's properties is transferred to another company, the carrier which will thereafter operate the properties shall file and post an adoption notice, numbered in its ICC series, reading as follows:

The _____ (corporate name of adopting carrier) hereby adopts, ratifies, and makes its own, in every respect as if the same had been originally filed and posted by it, all freight tariffs, classifications, rules, notices, concurrences, traffic agreements, divisions, authorities, powers of attorney, or other instruments whatsoever, including supplements or amendments thereto, filed with the Interstate Commerce Commission by or heretofore adopted by the _____ (corporate name of adopting carrier as per adoption notice ICC No. _____ of _____ (corporate name of adopting carrier).

(2) If, on the transferred portion, there is a junction point which will remain a station on the old line as well as being established as a station on the new line, a note or reference mark may be provided in connection with the name of such point and explained substantially as follows:

This adoption notice does not have the effect of eliminating _____ as a station on _____ (corporate name of old carrier), but has the effect of establishing said station also as a station on _____ (corporate name of adopting carrier).

(3) In addition to the adoption notice in subparagraph (2) of this paragraph the old carrier shall immediatley file, under proper concurrence from the adopting carrier, a supplement to each of the tariffs covered by the adoption notice reading as follows:

Effective _____ (here insert date shown in the adoption notice), this tariff or as amended, in so far as it contains rates, rules, and/or regulations applying from, to, at, or via the following stations _____ (naming them), became the tariff of the _____ (corporate name of adopting carrier as per adoption notice ICC No. _____ of _____ (corporate name of adopting carrier).

(4) Such supplements must contain no other matter, must bear reference to this section, and may be issued without regard to the provisions of paragraph (e) of this section.

(5) Rates applying locally between points on the transferred portion shall as quickly as possible be transferred to tariffs of the adopting carrier. In all instances where rates are transferred from tariffs of the old carrier to tariffs of the adopting carrier, the adopting carrier shall establish the rates in its tariffs and the old carrier shall cancel the corresponding rates from its tariffs effective on the same date with a reference to the ICC number of the adopting carrier for rates applying thereafter.

(6) Tariffs issued by other carriers or agents, in which the line absorbed, taken over, or operated in part by another carrier is named as a participating carrier, shall be amended on statutory notice, to add the new carrier as a participating carrier by the first subsequent supplement. Such supplement shall also contain the following provision:

The _____ (corporate name of adopting carrier) by its adoption notice ICC No. _____ having taken over tariffs, etc., of the _____ (corporate name of old carrier) in so far as they contain rates, charges, rules, or regulations applying from, to, at, or via the following stations _____

(naming them), the _____ (corporate name of adopting carrier) is hereby substituted for the _____ (corporate name of old carrier) wherever the latter appears in this tariff in connection with said stations and rates.

(7) Similar adoption notice numbered in the ICC series of the carrier must immediately be filed by a receiver when he assumes possession and control of part of a carrier's lines. When the receivership is terminated, the carrier taking over the properties shall file an adoption notice and shall also file supplements as prescribed in this section if a change in the name of the carrier has been made.

(8) Notices of adoption should be filed with the Commission immediately, and if possible, on or before the date shown therein. Copies must be sent to each agent or carrier to which power of attorney or concurrence has been given. The notice must refer to this rule and its effective date must be the date (as shown in body of notice) on which the change in name or operation occurs. If prior approval of such change is necessary, reference must also be made to the order of the Commission.

(k) *Suspension of tariff schedules.* (1) Upon receipt of an order suspending any tariff or portion thereof, the carrier or agent who filed such tariff shall immediately file with the Commission a supplement, not bearing an effective date, which shall contain a reproduction of the pertinent portions of the Commission's order of suspension (including the paragraph prohibiting changes in the suspended matter), followed by a statement that by reason of the Commission's order (i) the use and application of the suspended publication or portions thereof (which must be identified with certainty) is either indefinitely deferred or deferred for the period prescribed in the Commission's suspension order and (ii) the schedules which were to be changed by the suspended publication (which schedules must also be identified with certainty) will remain in effect and will not be changed so long as effectiveness of the suspended matter is deferred (if deferred only for the term of the Commission's order, the date must be specified), except by order or special permission of the Commission.

(2) If the responsible carrier or publishing agent has elected to file a supplement deferring the suspended matter only for the period prescribed by the Commission's order, and if prior to the expiration of that order, the Commission formally or informally requests that a further deferment be made, the carrier or publishing agent may, under the authority of this section, issue a supplement effecting such further deferment. Where suspended matter has previously been deferred under the authority of this section, the carrier or publishing agent may, when requested by the Commission and prior to the date to which the matter is postponed, issue a supplement under the authority of this section, further postponing the effective date of the matter originally suspended. Supplements issued should be filed on statutory notice if practicable, and otherwise on shorter notice, but the notice shall be as long as time will reasonably permit and in no event less than one day. Where the effectiveness of matter originally suspended by the Commission has been voluntarily postponed beyond the term of the Commission's order, no change during the period of such voluntary postponement may be made in the tariff matter which was originally held in force by the Commission's suspension order, except by order or special permission of the Commission.

(3) Where, following the entry of a report and order in an investigation and suspension proceeding, a further order is entered in such proceeding postponing the effective date or requirement of the original order, the carrier or publishing agent, under authority of this section, may issue a supplement effecting such further deferment of the suspended schedule, and may also issue a supplement to announce postponement of the effective date of a cancellation or vacation supplement or notice filed following the entry of such report and order, to and including a date immediately preceding the effective date fixed in the further order effecting the postponement. Further, where pursuant to the provisions of section 17 (8) of the Interstate Commerce Act, the filing of an application for rehearing, reargument, or reconsideration stays the order fixing the effective date of a requirement or other action in an investigation and suspension proceeding, as evidenced by notice of the Commission to the parties, the carrier or publishing agent, under authority of this section, may issue a supplement effecting further deferment of the schedule under suspension or under voluntary postponement, and may also issue a supplement to announce postponement of the effective date of a cancellation or vacation supplement or notice that was filed following the entry of the report and order in such investigation and suspension proceeding. Postponement should be to the last day of the suspension period prescribed in the suspension order, except where the responsible carrier or publishing agent elects to defer the use of the suspended schedule beyond the statutory period of suspension, in which event postponement should be until the date upon which the supplement announcing such postponement is canceled.) Supplements issued should be filed on statutory notice if practicable, and otherwise on shorter notice, but the notice shall be as long as time will reasonably permit and in no event less than one day.

(4) When the Commission has suspended a supplement in whole or in part, it sometimes occurs that prior to the filing of the supplement announcing suspension, a later supplement has been filed which purports to reissue the suspended matter. In such instances the suspension supplement required by this section shall also (i) specifically cancel from the later supplement such reissued matter, and (ii) amend the cancellation notice on the title page of said supplement so as to except the suspended matter from the cancellation. Tardiness in filing supplements announcing suspension may result in the rejection by the Commission of the supplement which cancels the suspended matter.

(5) When the Commission suspends an entire tariff, the previous tariff and effective supplements are continued in effect and will remain in force during the period of suspension or until lawfully canceled or reissued. Except as to loose-leaf tariffs and tariffs of less than five pages, supplements containing additions and/or changes in rates or other provisions which were not sought to be changed by the suspended tariff may be filed to the previous tariff without regard to the volume of supplemental matter which the effective supplements in the aggregate may contain. If the volume of supplemental matter permitted by paragraph (e) of this section has been exceeded under authority of this paragraph, and the Commission orders the cancellation of the suspended tariff, the volume of supplemental matter must be brought within the requirements of paragraph (e) of this section by schedule filed within 90 days, or such tariff must be reissued in accordance with the following: If consisting of less than 100 pages, by schedule filed within 90 days, and if consisting of 100 or more pages, by schedule filed within 120 days, from date upon which the suspended tariff is canceled.

(6) When the Commission suspends an entire supplement, the supplement will not be counted in the number of supplements nor in the volume of supplemental matter permitted by paragraph (e) of this section; nor in the event of suspension of a portion of a supplement will that supplement be so counted after all matter therein except the suspended portions has been reissued in or canceled by a subsequent supplement. Such subsequent supplement shall cancel the supplement containing the suspended matter "except portions under suspension in I. & S. Docket No. _____, viz, (identifying the suspended portion by item and page number)."

(7) When a tariff (not a supplement), any portion of which is under suspension, is canceled, the new tariff may either (i) cancel the previous tariff "except portions under suspension in I. & S. Docket No. _____, viz, (identifying the suspended matter and the matter held in force by the suspension order by item and page number)," or (ii) cancel the previous tariff entirely and bring forward without change the matter held in force by the order of suspension, followed immediately by the matter under suspension. The matter held in force by the order of suspension must be identified as such and shown as expiring with the date to which the suspended matter has been postponed. The suspended matter immediately following must likewise be identified as such and shown as effective on the day following the expiration of the matter held in force by the order of suspension.

(8) When an order of suspension relates to a portion of a new tariff or a supplement thereto, intended to supersede completely a readily identifiable item (or other unit) in the prior tariff, such matter as is continued in effect by the order of suspension may be published (see Note following subparagraph (9) of this section) in the supplement announcing suspension. When so published the following notation must be provided in connection therewith, either as a note or in the form of a reference mark:

The matter subject to this (note or reference mark as the case may be) is reissued from tariff I. C. C. _____ and is continued in effect by the terms of the order of suspension in I. & S. Docket No. _____ and unless it is sooner canceled, changed, or extended, will expire with _____. (The date to be shown will be the date to which the suspended matter has been postponed.)

(9) When an order suspends a particular rate or rates or a portion of matter in an item (or other unit) in a new tariff and the matter remaining in effect in a prior tariff thereby becomes an integral part of such item (or other unit) of the new tariff, the entire item (or other unit) of the new tariff may be republished in the supplement announcing the suspension, provided there is shown in such item (or other unit), (i) the matter continued in effect by reason of the order of suspension, (ii) the suspended matter, and (iii) all other provisions of the item (or other unit) without change and appropriately indicated as reissued from the new tariff (see Note following this paragraph). The matter held in force by the order of suspension must be identified as such and shown as expiring with the date to which the suspended matter has been postponed. The suspended matter immediately following must likewise be identified as such and shown as effective on the day following the expiration of the matter held in force by the order of suspension. When the effective date of suspended matter has been indefinitely postponed, that fact must be stated by appropriate language.

NOTE: The form of publication permitted by the two paragraphs preceding may be used only when it permits complete cancellation of the tariff containing the matter continued in effect by the order of suspension. It may not be used in loose-leaf tariffs nor where the application of matter continued in effect depends in whole or in part upon other provisions, such as station grouping, rate bases, rules or regulations, which differ from those in the new tariff and which cannot be brought forward in the supplement announcing suspension.

(10) When a revised (not an original) loose-leaf page, a portion of which is under suspension, is reissued, the new revised page shall (i) include the matter continued in effect by reason of the order of suspension, (ii) cancel the page previously containing such matter, and (iii) cancel the loose-leaf page containing the suspended matter "except portions under suspension in I. & S. Docket No. _____, viz. (identifying the suspended portion by item and page number)."

(11) Neither a suspended tariff provision nor a provision held in force by reason of an order of suspension may be changed or canceled except by order or permission of the Commission.

(12) When the Commission vacates an order of suspension, or when suspended matter has been voluntarily postponed beyond the term of the Commission's order, and the Commission finds the suspended matter justified, a supplement may be filed making the suspended or postponed matter effective on one day's notice unless the Commission directs otherwise.

(13) When an order which suspended a tariff in its entirety is vacated and/or the Commission formally finds that the suspended tariff is justified, the vacating supplement filed under authority of this section may also include as reissues any changes or additions which in the interim have been made in the tariff which was held in force by the order of suspension. If by special permission a new tariff has been filed during the period of suspension, canceling the tariff proposed to be canceled by the suspended tariff, any changes or additions published in the new tariff which are not included in the suspended tariff may likewise be included in the vacating supplement as reissued items, but in such cases the vacating supplement must also cancel the new tariff. No other matter may be included in vacating supplements. When reissued matter is published in a vacating supplement, the vacation notice must be printed in not less than 10-point type, either on the title page or immediately preceding the particular tariff matter to which the notice applies.

(14) When a tariff has been canceled except portions under suspension by a new tariff and the Commission vacates its suspension order and/or formally finds the suspended matter justified after the new tariff has become effective, a supplement may be filed to the new tariff on not less than one day's notice (unless the Commission directs otherwise), republishing and establishing the suspended matter and canceling the matter which was effective during the period of suspension, together with the matter under suspension in the former issue. When the Commission vacates its suspension order and/or formally finds the suspended matter justified before the new tariff becomes effective, a vacating supplement as provided in this section should be filed to the old tariff, and a supplement should also be filed to the new tariff on not less than one day's notice (unless the Commission directs otherwise), establishing therein the matter which was under suspension in the old tariff. A supplement common to both tariffs as authorized by paragraph (h) of this section may be issued for this purpose.

(15) When the Commission suspends matter in a tariff or a supplement thereto and thereafter orders its cancellation, the cancellation shall become effective upon not less than one day's notice (unless the Commission directs otherwise), by supplement to or reissue of the tariff. When the Commission orders suspended matter canceled and the final date for compliance is subsequent to the date to which the matter has been postponed, carriers should endeavor to make the cancellation in time to prevent the rates or other provisions which have been found not justified from becoming effective. If this is not done and the suspended matter becomes temporarily effective, it is necessary when cancellation is effected to republish and reestablish the matter which was continued in force by reason of the order of suspension.

(16) Every suspension, vacation, and cancellation supplement issued under authority of this section must bear on its title page the following notation:

Issued under authority of rule 9 (k) of Tariff Circular No. 20 and in compliance with order of the Interstate Commerce Commission in I. & S. Docket No. _____ of (date).

Postponement supplements issued under authority of this section must show on the title page:

Issued upon _____ day's notice under authority of rule 9 (k) of Tariff Circular No. 20.

(17) Supplements issued under authority of this section will not be counted in the number of effective supplements, or the volume of supplemental matter, permitted under paragraph (e) of this section, but must be listed among the effective supplements as required by paragraph (c) of this section.

(18) The provisions of this section relating to suspension, postponement, vacation, and cancellation supplements will also govern in connection with tariffs issued in loose-leaf form, except that such supplements must not contain any other matter. All changes made in loose-leaf tariffs must be published on revised pages. (See paragraph (e) of this section.)

(l) [Reserved.]

(m) *Additional supplement to establish rates under rule or order of Commission.* Except as to loose-leaf tariffs and tariffs of less than five pages, one additional supplement may be issued to any tariff without regard to the requirements of paragraph (e) of this section for the purpose of establishing rates or other provisions in compliance with an order or formal decision of the Commission and/or to establish rates under authority of § 1300.56 or § 1300.57. The next regular supplement filed must bring the number of effective supplements within the requirements of paragraph (e) of this section. Only one such supplement may be in effect at any time and, except as provided in § 1300.14(f), may contain no other matter. It must be designated on its title page as "Issued under authority of rule 9 (m) of Tariff Circular No. 20."

§ 1300.10 Terminal and special services; distance and mileage rates.

(a) *Terminal and special services.* Each carrier or its agent shall publish, post, and file tariffs which shall contain in clear, plain, and specific form and terms all the rules governing and rates and charges for demurrage, switching, floating, lighterage, wharfage, and other terminal services, storage transfer and drayage, weighing, diversion, reconsignment, icing, refrigeration, heat, elevation, feeding, grazing, and other transit services, absorptions, allowances, and all other charges and rules which in any

way increase or decrease the amount to be paid on any shipment, or which increase or decrease the value of the service to the shipper. Tariffs authorizing such services, or providing charges therefor or for the absorption of such charges, must clearly show their application in connection with traffic moving under less-than-carload or any quantity rates.

(b) *Method of publication.* Subject to the provisions of paragraphs (c), (f) of this section, the application of the several services and/or the charges covered by paragraph (a) of this section in connection with line-haul rates lawfully on file with the Commission must be provided for in one of the three following ways:

(1) By including in the tariff which contains the rate upon which charges are finally to be assessed the specific authority for the extra service, the rules or regulations under which such extra service is to be performed, and the charge, if any, therefor; (2) by specific reference, in the tariff which contains the rate upon which charges are finally to be assessed, to the ICC number of a separate publication containing the authority for such service and the charge, if any, therefor; or (3) by including in the tariff which contains the rate upon which charges are finally to be assessed a clause providing that shipments made under the rates contained therein are entitled to the following services (here name specifically the services which will be permitted in connection with such rate (tariff) and are subject to the charges therefor, if any, of participating carriers performing the services "as per tariffs lawfully on file with the Interstate Commerce Commission."

(c) *Intermediate switching, drayage, or transfer.* A joint through rate from a point on the line of one carrier to a point on the line of another carrier includes switching, drayage, or other transfer service at intermediate interchange points, and no part of such charges may be added to the joint rate on shipments handled through and not stopped for special services at such intermediate interchange points. Carriers performing intermediate switching services in connection with joint rates should be shown as participating carriers in the joint rate; but if this is not done, the carrier performing the switching service must have on file with the Commission a tariff naming its charges for the intermediate switching service and the line-haul carriers parties to the joint rate must file tariffs providing for the payment of all such charges to the switching road.

All tariffs containing joint rates must contain the following provision:

The joint rates published herein include all charges for switching, drayage, or other transfer services at intermediate interchange points on shipments handled through and not stopped for special services at such intermediate interchange points.

(d) *Switching road charges.* (1) Any carrier performing a switching or terminal service, even though its line be located wholly within one State, must publish, post, and file in accordance with the law and the Commission's regulations a tariff containing its switching charges upon or for movements on interstate shipments; and this must be done regardless of absorption provisions published in connecting lines' tariffs. Such switching tariff must name the stations, warehouses, team, or industrial tracks, or other points at which shipments will be received or delivered within the switching limits, or must otherwise clearly define such limits.

(2) All of the switching charges of a carrier must be published in one tariff except as indicated in subdivisions (i), (ii), and (iii) of this subparagraph.

(i) When a carrier divides its line and publishes separate ICC series of tariffs for the different portions thereof, separate tariffs of switching charges must be published for each.

(ii) When a carrier publishes a separate ICC series to provide rates and charges on a single commodity or group of commodities, for example, coal and coke, it may publish a separate tariff covering all of its switching charges on that commodity or group of commodities.

(iii) Carriers may publish separate tariffs of switching charges applicable at important points on their lines, Provided, That such points are indexed in the general switching tariff and reference is made therein to the ICC number of the separate tariffs published for such points.

(3) Provisions, if any, for the absorption of connecting-line switching charges may be included in the tariff of rates or in the switching tariffs described in this section, or such provisions must be included in a single separate publication or in a single separate publication in each ICC series of tariffs. (See paragraph (f) of this section.)

(4) Nothing in this section shall be construed as prohibiting two or more carriers employing a joint agent for the publication of a consolidated switching tariff at a particular point, which tariff must contain all of the switching charges and absorption provisions of the carriers parties to the tariff at that point. In such cases the general switching tariff (or tariffs) of each carrier must index the point covered by the joint agency publication and must show reference by ICC number to the joint agency publication.

(e) *Switching and other terminal charges added to rate.* A carrier's charges for switching or other terminal services (except as otherwise provided in paragraph (c) of this section) must be added to the line-haul tariff charges unless such switching charges are absorbed, in whole or in part, in the manner provided by paragraph (f) of this section.

(f) *Switching road's charges absorbed.* Line-haul carriers may absorb charges for switching or other terminal services performed at point of origin, point of destination, or (except as otherwise provided in paragraph (c) of this section) at an intermediate point, provided, the line-haul carriers publish and file a tariff which shows that such switching charges as published in tariffs of the switching carrier (naming it) lawfully on file with the Interstate Commerce Commission will be absorbed in their entirety. Line-haul carriers may also absorb switching charges in part or in a specified amount. In such cases the tariff containing the absorption provision shall state that such charges are published in tariffs of the switching carrier (naming it) lawfully on file with the Interstate Commerce Commission and shall also state that charges not absorbed will be in addition to the line-haul rate.

(g) *Distance rates may be used when no other rates provided.* (1) A carrier or an agent acting for two or more carriers may file tariffs containing distance or mileage class or commodity rates, or both. Except as otherwise provided in §§ 1300.7 and 1300.27, distance or mileage class rates may be used only when no specific through class rates from and to the same points are provided and distance or mileage commodity rates may be used only when no specific through commodity rates from and to the same points are provided. Except as otherwise provided in §§ 1300.7 and 1300.27, distance or mileage commodity rates will apply even though specific through class rates from and to the same points are provided.

(2) Tariffs containing distance or mileage rates must clearly and definitely show the application of the rates, must contain an alphabetical list of points between which the rates apply and must also show in proper arrangement the specific distances between such points, or may make reference by I. C. C. number to a separate tariff for such list of points and distances. (See paragraph (h) of this section.)

(3) Each tariff that contains only distance or mileage class rates must bear on its title page the following rule:

The distance or mileage class rates shown herein may be used only when no commodity rates or specific through class rates from and to the same points have been provided on the same shipment.

(4) Each tariff that contains only distance or mileage commodity rates must bear on its title page the following rule:

The distance or mileage commodity rates shown herein may be used only when no specific through commodity rates from and to the same points have been provided on the same shipment.

(5) Each tariff that contains only distance or mileage class and commodity rates must bear on its title page the following rule:

The distance or mileage class rates shown herein may be used only when no commodity rates or specific through class rates from and to the same points have been provided on the same shipment; and the distance or mileage commodity rates shown herein may be used only when no specific through commodity rates from and to the same points have been provided on the same shipment.

(6) If distance or mileage rates without alternative application are published in a tariff which also contains specific rates, the notations for class or commodity or both class and commodity rates, as the case may be, prescribed by this paragraph must be shown immediately in connection with such distance or mileage rates.

(7) If distance or mileage rates have alternative application, the notations prescribed in this paragraph must be qualified by the prefatory words, "Except to the extent alternative application of rates is provided."

(h) *Distance or mileage tables.* (1) Each carrier must publish, post, and file, individually or through an agent, a tariff containing a list of its stations and the shortest distances via its line between such stations, arranged in one of the three following ways:

(i) Showing the distance from each station to each station.

(ii) Showing the distance from each station to each junction point with a branch of its own railroad and to each junction point with another railroad.

(iii) Showing the distance from each junction point on its line, either with a branch of its own railroad or with another railroad, to each other such junction point, and the distance from each local station to the nearest junction point in each direction.

(2) Each of such tariffs must also clearly indicate which of the stations are junction points at which it is possible to interchange carload traffic without transfer of lading and must name the connecting carriers at each such junction with which such transfer is possible.

(3) Where carriers participate in joint distance or mileage rates they must on or before May 5, 1930 either (i) publish in the tariff containing such joint distance or mileage rates or in a separate publication filed by an agent, an alphabetical list of all stations between which such distance or mileage rates apply and the distances from each of such stations to every other station, indicating in an appropriate manner which of such stations are junction points at which it is possible to interchange carload traffic without transfer of lading, and naming the connecting carriers at each such junction point with which such transfer is possible or (ii) file through an agent a separate joint publication which shall contain an alphabetical list of all the junction points on their respective lines at which it is possible to interchange carload traffic without transfer of lading in the area embraced by the application of such joint distance or mileage rates, together with the names of the connecting carriers at each junction point with which such transfer is possible, and the distance from each such junction to each other such junction point; and they must in the tariffs containing such joint distance or mileage rates give reference by ICC number to such separate joint publication. The latter must also contain the distance from each local station to the nearest junction point in each direction, or the tariff containing the joint distance or mileage rates must also refer by ICC number to the tariff or tariffs of each carrier containing the distances between points on its line and such junction points.

NOTE: It is not intended by the preceding paragraph to require carriers to have one separate publication for each rate tariff containing joint distance or mileage rates but all the distances over which joint rates in which such carrier participates may be included in one publication.

(i) *List of stations showing facilities, additions and abandonments.* (1) A tariff publication may be filed containing a list of stations with the railroad location of each, alphabetically and geographically arranged with index numbers, prepay requirements, station facilities, additions of stations, abandonments of stations, changes in names of stations, and restrictions as to acceptance and delivery of freight. No rates or charges and no matter that will in any way operate to increase or decrease the rate or charge in tariffs making reference to this publication may be shown therein. Changes in such a tariff may be made on not less than one day's notice, except that announcement of the abandonment of stations, changes in index numbers of stations and restrictions as to the acceptance or delivery of freight must be made effective on not less than thirty days' notice.

(2) Changes made on less than statutory notice under the authority of this paragraph shall recite that they are so made, either directly or by reference to an item in the original tariff stating:

Changes in this tariff that make reference to this item are established upon less than statutory notice under authority of rule 10 (i) of Tariff Circular No. 20.

Rate tariffs that are to be governed by such separate tariff publication must make reference thereto in the wording shown below:

Governed by ——— I. C. C. No. ———, supplements thereto or successive issues thereof, as to additions and abandonments of stations, and except as otherwise shown herein, as to prepay requirements, changes in names of stations, restrictions as to acceptance or delivery of freight and changes in station facilities. When a station is abandoned as of a date specified in the above named tariff, the rates from and to such station as published in this tariff are inapplicable on and after that date.

(3) When a station has been abandoned as of a date specified in the tariff authorized by this paragraph, the rates from or to such station in rate tariffs governed thereby have become inapplicable and must be eliminated in the next amendment of such rate tariffs. When the elimination is made by supplement, the following notation must be used:

Eliminate account station abandoned. For effective date see (here make reference to the governing tariff issued under this rule).

This notation must be continued in connection with the name of the station as long as the tariff remains effective, and indicated as a reissue from the supplement in which it was first published, without stating the effective date of such supplement.

(j) *Tank-line gauge books and equipment register.* When rates are published with minimum weights dependent upon the length or marked, cubical or gallonage capacity of the car used, the length or marked, cubical or gallonage capacity becomes an integral part of the charge and carriers must file tariffs showing the numbers, dimensions, capacities, and ownership of freight cars, and other information required by law to be filed with respect to such cars. Such information may be published in separate publications and be filed by duly authorized agents. Tariffs governed by such publications must bear specific reference to the ICC number thereof. Successive issues of such publications and supplements thereto may be made effective on 1 day's notice by noting thereon reference to this section.

§ 1300.11 Index of tariffs.

(a) Each carrier shall publish as a tariff, under I.C.C. number, a complete index of all effective tariffs to which it is a party either as initial or delivering carrier. Such index shall be arranged in sections as indicated below, and shall show as to each tariff: (1) I.C.C. number, (2) full or abbreviated name of issuing carrier, tariff publishing bureau, or agent, (3) type of tariff or description of the traffic upon which it applies, (4) where tariff applies from, (5) where tariff applies to, and (6) whether tariff contains other than all-rail rates. The information required by items (3), (4), and (5) shall be stated in sufficient detail to show clearly the application of the tariff. Additionally, the index may show as to each tariff the carrier's own number, the index number, and the issuing carrier's (or agent's or tariff publishing bureau's) number.

First section: A list of all tariffs as to which the carrier is an initial carrier, entered in the following order: Specific commodity tariffs, general commodity tariffs, class and commodity tariffs, class tariffs, and miscellaneous schedules such as billing books, classifications, exception sheets, switching tariffs, etc. Specific commodity tariffs shall be entered alphabetically under the names of commodities or principal commodities. Tariffs applying to different groups of the same commodity shall be grouped together; for example, "Lumber, hardwood, Lumber, yellow pine," etc. Each group of specific commodity tariffs and tariffs grouped under the respective heads of general commodity tariffs, class and commodity tariffs, and class tariffs, shall be entered by alphabetical arrangement of the points or territory from or to which they apply, in either the "From" or "To" column. Miscellaneous schedules shall be entered in alphabetical order.

Second section: A list of all tariffs under which the carrier is a delivering carrier arranged alphabetically by names of issuing carriers, tariff publishing bureaus, or agents, with the items arranged by commodities and classes under each of such carriers, tariff publishing bureaus, or agents, as prescribed for the first section. If carrier so desires, lists of tariffs under which it is an intermediate carrier may be included in this section provided those tariffs under which it is a

delivering carrier or an intermediate carrier or both are indicated.

Third section: A complete list of the numbers of effective tariffs of its own I. C. C. series arranged in numerical order.

(b) Tariffs covering only specific circus movements and supplements to tariffs should not be included in indexes. Where supplements have the effect of changing the application of the original tariff, the descriptions of such tariff in the index should be amended accordingly. If carriers so desire, lists of their intrastate tariffs, division sheets, official circulars, etc., may appear in this publication. In connection with intrastate tariffs which do not bear I. C. C. numbers the reference mark prescribed in § 1300.4(m) must be used with explanation "Rates in this tariff do not apply on interstate shipments." All intrastate tariffs which bear I. C. C. numbers must be properly shown in the index.

(c) A group of family lines may unite in the publication and filing by a connecting trunk line of a joint index of the tariffs of such family lines, provided the application of the tariffs as to each line is plainly indicated and such lines are shown as parties to the joint index under concurrence.

(d) The index must be kept current by supplements, which, however, need not be issued more frequently than quarterly; and must be reissued biennially. Supplements must be numbered consecutively, must be constructed in accordance with specifications for the index itself and must show additions, changes and cancellations made in index itself or in prior supplements, by reference to the page or index number of the entry changed or canceled. Supplements may be issued without regard to volume of supplemental matter permitted by § 1300.9(e), but not more than five supplements may be in effect at any time.

(e) Each index must bear on its title page these notations: "This index contains list of tariffs in effect on (date of issue of index)" to which in proper circumstances may be added "or which have been filed to become effective at a later date as shown within"; also "This index will be reissued on or before _____ 19__, and all changes will be reflected in supplements issued quarterly."

(f) Each supplement to an index must bear on its title page the notation, "Supplements Nos. _____ and _____ contain all changes from original index that are in effect on date hereof"; to which may be added "or which have been filed to become effective at a later date as shown within."

(g) The title page of each index and of each supplement must bear date of issue but must not bear an effective date. The rule requiring thirty days' notice does not apply to these indexes and their supplements.

NOTE: One index containing both freight and passenger tariffs may be filed, but if both freight and passenger tariffs are included in one index the information required by each rule must be shown in separate sections, the index must be given an I. C. C. number in both freight and passenger series, and four copies must be filed with the Commission.

§ 1300.12 Restoration and discontinuance of water service.

Tariffs containing rail-and-water or all-water rates applicable via routes upon which it is necessary to close navigation during a portion of each year, must provide for the restoration and discontinuance of service over such routes in the manner prescribed in paragraphs (a) to (e) of this section.

(a) *Notation on title page.* The following notation shall appear either (1) on the title page of the tariff, (2) amongst the rules governing the application of rates, or (3) immediately in conjunction with the rates to which the notation applies:

Transportation service in connection with (here insert name of water carrier or carriers specified in the tariff) is subject to restoration and discontinuance as indicated on page _____

When the foregoing notation is published in the tariff amongst the rules governing the application of rates, reference thereto must be made in the table of contents of the tariff, and the words "as follows" must be substituted for "as indicated on page _____."

(b) *When definite dates of service cannot be determined.* (1) When definite dates for restoration and discontinuance of transportation service for each season of navigation cannot be determined the following rule must be published in the tariff under the heading of "Application of rates":

Shipments will be accepted by carriers parties to this tariff during the period from _____ (here show date approximately 30 days prior to the first sailing from port of transshipment) to _____ (here insert date which will allow sufficient time for shipment to reach the port of transshipment prior to the last sailing) of each year, for transportation on the vessels of the _____ (here insert name of water carrier or carriers named in the tariff). Shipments also will be accepted from the latter date until the date announced by supplements to this tariff, subject to the condition that all freight left on hand at the port of transshipment after the closing of navigation for lack of space on vessels sailing after the arrival of such freight, and all freight reaching the port of transshipment after the last sailing of each season of navigation, will be forwarded via all-rail routes and be subject to the tariff rates applicable via such all-rail routes in effect on date of shipment from the point of origin of the shipment. In such cases shipping receipts, bills of lading and way-bills must bear notation to that effect. Supplements announcing the final date upon which shipments will be accepted for transportation, under this tariff and effective supplements thereto, will be filed with the Interstate Commerce Commission and posted at points from which the rates apply not less than 1 day in advance of such date.

NOTE: In applying the provisions of the preceding paragraph, the date on which final instructions are received for transportation via the water line will be considered the date of acceptance of the shipment for transportation by that line. The rate to be applied on shipments moved via the water line will be the rate in effect on the date shipments are received for transportation at points of origin.

(2) The dates for restoration and discontinuance of service as set forth in this paragraph shall be shown in boldface type.

(c) *When definite dates of service can be determined.* When definite dates for restoration and discontinuance of transportation service for each season of navigation can be determined the following rule must be published in the tariff under the heading of "Application of rates":

Shipments will be accepted by carriers parties to this tariff during the period from _____ (here show date approximately 30 days to the first sailing from port of transshipment) to _____ (here show date which will allow sufficient time for shipment to reach the port of transshipment prior to the last sailing) of each year, for transportation on the vessels of the _____ (here insert name of water carrier or carriers named in the tariff). Shipments also will be accepted from the latter date until _____ (here insert final date upon which shipments will be accepted for transportation under the tariff and effective supplements thereto), subject to the condition that all freight left on hand at the port of transshipment after the closing of navigation for lack of space on vessels sailing after the arrival of such freight, and all freight reaching the port of transshipment after the last sailing of each season of navigation, will be forwarded via all-rail routes and be subject to the tariff rates applicable via such all-rail routes in effect on date of shipment from the point of origin of the shipment. In such cases shipping receipts, bills of lading, and way-bills must bear notation to that effect.

No supplement will be issued to this tariff announcing the date of discontinuance of transportation service.

NOTE: In applying the provisions of the preceding paragraph, the date on which final instructions are received for transportation via the water line will be considered the date of acceptance of the shipment for transportation by that line. The rate to be applied on shipments moved via the water line will be the rate in effect on the date shipments are received for transportation at points of origin.

The dates for restoration and discontinuance of service as set forth in this section shall be shown in boldface type.

(d) *Contents of supplements.* Supplements announcing discontinuance of transportation service under this section may be filed with the Interstate Commerce Commission and posted at points from which the rates apply on not less than 1 day's notice by noting thereon reference to this section. Only one such supplement may be in effect at any time; it may not contain other matter and may be issued without regard to the requirements of § 1300.9(e).

(e) *Tariffs may be reissued.* Tariffs containing rail-and-water or all-water rates may be reissued or amended at any time in the regular manner, but tariffs containing the clause prescribed by paragraph (b) of this section which are made effective subsequent to the date of actual discontinuance of service must contain a statement that service was discontinued on _____ as per supplement No. _____ to ICC No. _____

(former tariff and that supplement announcing discontinuance of service for that season will not be filed.

CROSS REFERENCES: For regulations of the Federal Maritime Commission relating to tariffs of common carriers by water in interstate commerce, see 46 CFR Part 531.

§ 1300.13 Filing tariffs.

(a) *Authority to file.* Tariffs shall be published and filed by carriers either directly or through duly authorized tariff-publishing agents. When filed directly by a carrier the concurrence (or power of attorney as authorized in § 1300.18(f)), and when filed by an agent the power of attorney, of every carrier participating therein must be filed or on file with the Commission. (See §§ 1300.17 to 1300.20, inclusive.)

(b) *Agent will file under own I. C. C. number.* A tariff publishing agent must file tariffs under his or its own single series of I. C. C. numbers and not in the series of any of his principals. If the agent is a corporation or an unincorporated association (see § 1300.17(a)) having jurisdiction over two or more tariff publishing organizations, bureaus, or committees, the tariffs issued through each such tariff publishing organization may bear a separate series of I. C. C. numbers.

(c) *Filing by issuing carrier or agent.* Tariffs must be filed by the issuing carrier or agent, and such filing will constitute filing for all carriers parties thereto. Such tariffs must be posted at stations of carriers participating therein in the manner required by law.

(d) *Exchange of publications.* The agent or the carrier that issues a joint tariff publication shall at once send copies thereof to each and every carrier that is named as party thereto.

(e) *Conflict between tariffs; avoidance.* A carrier that grants authority to an agent or to another carrier to publish and file certain of its rates must not in its own issues publish rates which duplicate or conflict with those which are published by such authorized agent or other carrier.

CROSS REFERENCE: For provisions concerning powers of attorney and concurrences, see §§ 1300.17 to 1300.20, inclusive.

§ 1300.14 Statutory notice; additional procedure in filing tariffs.

(a) *Period of notice.* The act requires that all changes in rates, or in rules that affect rates, shall be filed with the Commission at least 30 days before the date upon which they are to become effective unless otherwise authorized by the Commission. Manifestly it is impossible for the Commission to check the items in tariffs to determine whether or not statutory notice has been given. Therefore, except as otherwise authorized by the Commission, 30 days' notice to the public and to the Commission must be given as to every tariff publication filed with the Commission, regardless of whether or not changes are effected thereby. (See §§ 1300.3(h), 1300.9(d).)

(b) *Filing of tariffs and receipt by Commission not relief of carriers from liability.* The law affirmatively imposes upon each carrier the duty of filing with the Commission all of its tariffs and amendments thereto in the manner prescribed in the law or in any rule which may be promulgated by the Commission. A penalty is provided for failure so to do, or for using any rate which is not contained in its lawfully published and filed tariffs. The receipt and filing of a tariff or supplement by the Commission does not relieve carriers from liability for violation of the act or of regulations issued thereunder.

(c) *Interstate shipments.* Rates for through shipments are often made by adding together two or more rates. All rates used in making combination through rates for interstate shipments, including rates between points in one State, must be filed with the Commission and posted at stations and can only be changed as to such traffic in accordance with the terms of the act.

(d) *Delivery free of charges.* No tariff, revised page, or supplement will be received by the Commission unless it is delivered to it free from all charges including claims for postage.

(e) *Rejection of tariffs and notices of revocation.* (1) Any tariff or schedule, tendered for filing, which fails to give lawful notice of changes in rates, charges or other provisions which it proposes to establish, or which fails to meet the requirements of the regulations contained in this chapter, or violates any order of the Commission or of a court, is subject to rejection by the Commission. When a tariff or schedule is rejected, the Commission, acting through a designated administrative officer, will inform the carrier or the agent who tendered it for filing, in writing, of the reasons for rejection, and will return the rejected tariff or schedule to such carrier or agent.

(2) The number assigned to a tariff or schedule which has been rejected may not again be used. The rejected tariff or schedule may not be referred to in any subsequent tariff or schedule as having been canceled, amended or withdrawn, but the tariff or schedule which is published in its stead must bear the following notation: "Issued in lieu of (here identify the rejected schedule or tariff), rejected by the Commission."

(3) A notice of the revocation, complete or partial, of a concurrence or power of attorney which, if it were to become effective, would require the establishment of rates, fares, or charges in violation of an order of the Commission or of a court, or of the regulations in this chapter, may be rejected in the same manner as a tariff or schedule, and any such notice of revocation which would require the establishment of rates, fares, or charges of doubtful lawfulness may be suspended.

(f) *Promulgation of rates prescribed in decisions of Commission.* (1) Rates prescribed by the Commission in its decisions and orders in formal cases shall be promulgated by the carriers against which such orders are entered, in duly published, filed, and posted tariffs, revised pages or supplements, and notice shall be sent to the Commission that its decision (or order) in Docket No. _____ has been complied with in item _____, page __ of _____ tariff, ICC No. _____ or supplement No. _____ to _____ tariff, ICC NO. _____

(2) Unless otherwise specified in the decision or order in the case, such tariff or supplement must be made effective upon statutory notice to the Commission and to the public. Whether made effective on less than statutory notice under special authority granted in the decision or order in the case, or upon statutory notice, when an entire tariff or supplement is issued in compliance with a decision or order, such tariff or supplement shall bear on its title page the notation "In compliance with decision (or order) of Interstate Commerce Commission in Docket No. _____." (Whenever possible, the volume and page number of the report of the Interstate Commerce Commission should be shown.)

(3) If the decision or order of the Commission affects only portions of the tariff or supplements, the above notice shall be shown in connection with each portion so affected.

(4) In establishing rates, classifications, rules or regulations effective on less than 30 days' notice under authority of a decision or order of the Commission in a formal case, the carrier or carriers parties of the record, or that are lawful parties to a joint tariff in which the rates, classifications, rules, or other regulations that are prescribed are published by some carrier that is a party to the record, may include change or changes in commodity or commodities that are grouped with that or those which are specified in the decision or order; and may include adjustment at other points in order to conform rates to the provisions of the fourth section of the act, or to preserve established grouping or relation of points; and may also include adjustment of rates to same points on other commodities for the purpose of maintaining established relation of rates between commodities: *Provided*, All changes made under authority of this section shall be effected by reductions in rates or charges.

(5) If a carrier that is not a party to the record or to the joint tariff desires to make on less than statutory notice the same changes that are made under the decision or order by carrier that is party to the same it must secure special permission so to do. (See also § 1300.9(m).)

(g) *Tariffs to bear consecutive numbers.* Each carrier and agent must file tariffs under consecutive ICC numbers. Occasionally a tariff or supplement is received which does not bear ICC number next in numerical order to that borne by the one last filed. Insofar as possible carriers should file tariffs and supplements in consecutive numerical order of ICC numbers. If from any cause this is not done the tariff or supplement that is filed bearing an ICC number that is not consecutive with the last number filed must be accompanied by a memorandum explaining as to the missing number or numbers.

(h) *Number of copies; address.* Two copies of each tariff, supplement, revised page, classification, or other schedule of rates or regulations, shall be filed with

the Commission, both copies to be filed together under one letter of transmittal (see § 1300.29). They must be addressed to the "Interstate Commerce Commission, Washington, D.C., 20423," with the envelope marked as containing "Tariffs."

§ 1300.15 Rate basis books.

(a) Separate tariffs may be filed showing lists of points located in territorial groups such as "Dayton-South Bend territory," "Colorado common points," "Chicago and points taking same rates," "Baltimore and points taking same rates and points taking arbitraries or differentials to be added to or deducted therefrom," or "Points taking arbitraries over or under base points." Such a publication shall be known as a "Territorial Directory," as a tariff of "Rate Bases," or as a tariff of "Rate Bases and Billing Instructions," all of which will hereinafter be referred to as rate basis books. Such tariffs may also contain routing, waybilling instructions, and divisions, provided duplicate or conflicting routing or waybilling instructions are not also shown in the base rate tariff or in publications which govern that tariff and may be published either by one of the interested carriers or by an agent. When such a separate publication is used, reference must be made in the rate tariff to the ICC number of such separate publication. A rate tariff may not refer to another rate tariff for lists of points in territorial groups, routing, or waybilling instructions. All carriers shown as participating carriers in the tariff of rates making reference to the separate publication shall also be shown as participating carriers in such separate publication.

(b) On and after October 10, 1930,[1] no one rate may be governed by more than two such separate publications, one for points of origin and one for points of destination.

(c) Rate basis books must conform to the following requirements: Such publications should name all of the points in the territories covered and may not rely upon intermediate application rules for this purpose. The railroad location of each point must be shown, and the points in such publication must be arranged in alphabetical order, or such publication must contain an index as provided in § 1300.4(d). The rate basis, group location, or territorial application, or arbitraries or differentials to be added to or deducted from the base or group rates, must be shown immediately in connection with the name of each station, except that reference may there be made to an item showing such information. Exceptions to the rate basis, group location, or territorial application should not be made in the rate basis books unless such exceptions apply to or from a considerable number of points or on a considerable number of commodities. When the arbitraries or differentials to be added to or reducted from the base rates are subject to a different classification or to different classification exceptions than apply in connection with the base rates, references to such classification and exceptions thereto must be made immediately in connection with the arbitraries or differentials.

(d) All the rules and regulations governing the through rates determined by the use of the base rate tariff and rate basis books should be published in the base rate tariff or should be made a part thereof by reference as provided in §§ 1300.4 (h), (k), and/or 1300.10. If, however, it is necessary in particular cases to include rules or regulations in the rate basis books, such rules must not duplicate or conflict with rules contained in the base rate tariff or made a part thereof by reference to other publications.

§ 1300.16 Classification; exceptions tariff.

(a) *Classification.* (1) A classification as the term is used in this part has reference to a tariff in which all of the commodities which the carriers parties thereto may be called upon to transport, so far as can reasonably be foreseen, are listed either by specific or generic names and are assigned to ratings or classes with reference to which the carriers' class rates are applied. The classification must contain an alphabetical index of all of the articles so listed.

(2) Appropriate rules should be provided in a classification, not only to govern the application of the classification itself, but also the application of other tariffs which are made subject to the classification. Each rule should be so expressed as to make it clear whether it applies only in connection with the classification proper, or in connection also with classification exceptions and commodity tariffs governed by the classification. The rules must be separately numbered, and thoroughly and accurately indexed.

(3) Among others, each classification must contain the following rules:

(i) Except when provision is made in exceptions tariffs for alternation of the exceptions with this classification, the establishment of a classification exception removes the application of the corresponding provisions of this classification on traffic covered by such exception.

(ii) Unless otherwise provided in applicable tariffs, if there is an effective commodity rate on a given shipment, that rate and not the class rate must be applied, except that rates (either class or commodity) specifically designated as applicable only on import, export, coastwise or intercoastal shipments must be applied on such shipments to the exclusion of all other rates not so designated.

(4) When a tariff is governed by a classification each carrier for which the tariff so governed applies must also be a party to the classification.

(5) Each classification should state on its title page:

This tariff is applicable only in connection with tariffs specifically made subject hereto.

(b) *Exceptions tariff.* (1) An exceptions tariff as the term is used in this part is a tariff which contains exceptions to the ratings and/or rules in a classification. Except as provided in subparagraph (9) of this paragraph, classification exceptions may be published only in exceptions tariffs.

(2) If it is desired to establish rates differing from the classification basis between a limited number of points, the method of publication must be by commodity rate tariffs and not by classification exceptions.

(3) Each exceptions tariff must state on its title page that it contains exceptions to a designated classification, and that:

This tariff is applicable only in connection with tariffs specifically made subject hereto.

(4) When a tariff is governed by an exceptions tariff each carrier for which the tariff so governed applies must also be a party to the exceptions tariff.

(5) A rate tariff may not be made subject to more than one exceptions tariff unless the rate tariff is subject to more than one classification, in which case the rate tariff may be made subject to not more than one exceptions tariff for each classification.

(6) Commodities for which ratings are provided in an exceptions tariff shall be listed and indexed therein in a manner corresponding with that in the classification. Commodity descriptions in the exceptions tariff should, so far as possible, conform to those in the classification. Exceptions to rules must be numbered and completely indexed, and each rule in the exceptions tariff must specify the rule in the classification to which it is in fact an exception. Each rule must likewise indicate clearly, as in the classification, whether it applies only in connection with traffic for which ratings are provided in the exceptions tariff or whether it has broader application, and if so, precisely how much broader.

(7) Alternation of certain ratings in an exceptions tariff with corresponding ratings in the classification (general alternation is not permitted) may be accomplished by publishing the following provision in the rules of the exceptions tariff and making specific reference to it in each item as to which alternation is desired, or by publishing it, appropriately modified, immediately in conjunction with each such item:

If on a given shipment the charge accruing under the provisions of (here identify the classification) is lower than that accruing under an item of this tariff which makes specific reference hereto, the lower charge under the classification will apply.

For alternation purposes, there may be published in the same item of an exceptions tariff an exceptions rating and a rating on the same article reproduced from the classification.

(8) Rules which are not classification exceptions, as covered by § 1300.4(h) may be included in exceptions tariffs. In such cases the exceptions tariff will be counted in applying the provisions of § 1300.4(h). Commodity lists as authorized by § 1300.6 (a) may also be published in exceptions tariffs, in which case the carriers parties thereto may not publish other general commodity-list tariffs. When classification exceptions are thus published in the same tariff with other rules and/or commodity lists, the tariff shall be divided into sections, the first containing the rules (all rules), the second containing the exceptions(ratings only), and the third containing commodity lists. The several sections must be separately indexed.

(9) Classification exceptions, either ratings or rules, which apply only in connection with the class rates published in a particular tariff may be published in that tariff.

§ 1300.17 Tariffs issued through an agent.

(a) If a carrier desires to issue a tariff or tariffs through an agent it may do so by filing with the Commission an appropriate power of attorney to the designated agent. Agents may be either natural persons, corporations, or unincorporated associations whose articles of association (or other form of agreement) have been approved by the Commission in a proceeding pursuant to the provisions of section 5a, part I, of the Interstate Commerce Act. An officer or employee of an incorporated tariff-publishing agent may not act as an agent in his individual capacity for the publication of tariffs.

(b) When an association or corporation has been appointed an issuing agent the executive head thereof shall at once notify the Commission of the name of the individual who is to be responsible for the actual compilation and filing of each I. C. C. series of tariffs issued by the agent. There may be only one issuing officer for each such series of tariffs, and the same individual may not act as issuing officer for more than one series without the special permission of the Commission. When an issuing officer is replaced the Commission shall be immediately notified in like manner of his successor.

(c) When a natural person is authorized by power of attorney to act as a tariff-publishing agent, such instrument shall designate another natural person to act as alternate agent in the event of the death or disability of the principal agent. On or before the date of filing of the first tariff or supplement by the alternate agent under the authority granted in the instrument, such alternate agent shall notify the Commission in writing that death or disability of the principal agent has occurred and that he, the alternate agent, will thereafter act until the appointment of a new principal agent. The term "disability" as used in the instrument means resignation, permanent transfer to other duties, or other permanent absence of the principal agent. After an alternate agent has once exercised the authority granted by the instrument, the principal agent may not thereafter act under that instrument.

§ 1300.18 Powers of attorney.

(a) *Publishing agents.* (1) A power of attorney shall be used by a carrier to give to a publishing agent, but not to another carrier, authority to publish and file freight rate tariffs and supplements for it, except that a carrier may give a power of attorney to another carrier in the circumstances and subject to the conditions stated in paragraph (f) of this section. Powers of attorney given to publishing agents may be either unlimited or limited, and in the case of corporations or unincorporated associations comprised of more than one bureau, committee or regional organization, the power of attorney may consist of multiple instruments, such instruments to define separately the authority to be exercised by each component bureau, committee or regional organization.

(2) A carrier may not have in effect at the same time an unlimited power of attorney and a limited power of attorney in favor of the same agent for use by the same bureau, committee, or regional organization.

(b) *Unlimited power of attorney form.* (1) An unlimited power of attorney, when given to a publishing agent, authorizes the agent to file any freight tariff in which the carrier giving the power is a participating carrier. Form FA1 confers unlimited authority to publish local rates and charges for the carrier issuing the power and to publish joint rates and charges for such carrier and such other carriers as have issued the necessary authority.

(2) The following form of power of attorney, FA1, shall be used to give such unlimited powers:

POWER OF ATTORNEY

FA1 No. --
Cancels ---- No. --

(Name of carrier)

(Mail address)

(Date)

Know all Men by These Presents:

That the [full and correct name of carrier] has made, constituted, and appointed, and by these presents does make, constitute, and appoint [name of principal agent] its true and lawful attorney and agent, to file in its name, place, and stead, (1) for it alone, and (2) for it jointly with other carriers [through its (name of bureau, committee, or regional organization, if any)], freight tariffs and supplements thereto, as required of common carriers by existing laws and regulations established thereunder. And does hereby give and grant unto its said attorney and agent full and unlimited power and authority to do and perform all and every act and thing above specified as fully, to all intents and purposes, as if the same were done and performed by the undersigned carrier itself, and does hereby assume full responsibility for the acts and failures to act of said attorney and agent.

And, further, that the undersigned carrier does hereby make and appoint [name of alternate agent] alternate attorney and agent to do and perform the same acts and exercise the same authority herein granted to the principal agent in the event and only in the event of the death or disability of the above-named principal agent.

(Name of carrier)

By ----------

Its ----------

(Title)

Duplicate mailed to:
(Name of Agent)
(Address)

(c) *Limited power of attorney form.* (1) A power of attorney may be limited in any appropriate manner provided the limitations are specifically and unambiguously expressed in the instrument. For example, the agent may be authorized to publish only local rates, only joint rates, only rates and charges on specified commodities or in a specified territory, or only specified tariffs or types of tariffs.

(2) The following power of attorney, Form FA2, shall be used to give such limited authority:

POWER OF ATTORNEY

FA2 No. --
Cancels -- No. --

(Name of carrier)

(Mail address)

(Date)

Know All Men by These Presents:

That the [full and correct name of carrier] has made, constituted, and appointed, and by these presents does make, constitute and appoint [name of principal agent] its true and lawful attorney and agent, to file in its name, place, and stead, (1) for it alone, and (2) for it jointly with other carriers [through its (name of bureau, committee, or regional organization, if any)], freight tariffs and supplements thereto and successive reissues thereof, as required of common carriers by existing laws and regulations established thereunder, but only as hereinafter specified:

(Here specify affirmatively the precise authority given to the agent)

And does hereby give and grant unto its said attorney and agent full power and authority to do and perform all and every act and thing above specified as fully, to all intents and purposes, as if the same were done and performed by the undersigned carrier itself, and does hereby assume full responsibility for the acts and failures to act of said attorney and agent.

And, further, that the undersigned carrier does hereby make and appoint [name of alternate agent] alternate attorney and agent to do and perform the same acts and exercise the same authority herein granted to the principal agent in the event and only in the event of the death or disability of the above-named principal agent.

(Name of carrier)

By ----------

Its ----------

(Title)

Duplicate mailed to:
(Name of Agent)
(Address)

(d) *Manner of execution.* (1) In the blank space for the name of the carrier in Forms FA1, FA2, and FA3, there must be shown, if the carrier is an individual, the individual name followed by the trade name, if any. If the carrier is a partnership, the correct names of all

[1] Except as to carriers in official territory the date was postponed until July 20, 1928, by amendment No. 13 to Special Permission No. 101515.

partners must be given, followed by the trade name, if any. If the carrier is a corporation, the correct corporate name must be used.

(2) If the carrier is an individual, the power of attorney must be signed by the individual; if a partnership, the power of attorney must be signed individually by each partner. If the carrier is a corporation, the power of attorney must be signed by the president, a vice-president or any other authorized official of the carrier. However, before the signature of an employee other than the president or a vice-president on a power of attorney will be recognized by the Commission, the carrier must file with the Commission, over the signature of the president or a vice-president, a statement reciting that the individual is authorized to sign powers of attorney. The statement must include a specimen signature of the individual or individuals so designated. The authority to sign powers of attorney may be conferred in the manner described, on more than one official of the carriers. If the carrier is being operated by trustees or receivers the power of attorney must be signed by each trustee or receiver individually or by his or their designee. Trustees or receivers may invest others with the authority to sign in the same manner as the president or vice-president of a corporation may confer the authority on subordinate officials.

(3) If the agent appointed by either FA1 or FA2 is a corporation or an unincorporated association the last full paragraph of the form shall be omitted.

(e) *Joint agents.* If an agent does not hold the requisite authority to publish a particular tariff the authority to do so may be obtained by pooling the authority held by him with that held by one or more other agents, and the tariff may be published jointly by both or all such agents in the I. C. C. series of each. For example, if one agent has authority to publish rates only from territory A to territory B, and another agent has authority to publish rates only from territory B to territory A, the rates may be published in a single tariff on a "between" basis and filed with the Commission as a joint tariff of both agents under the I. C. C. series of each.

(f) *Carrier acting for another carrier.* (1) A power of attorney may be given by small carriers to large carriers with which they connect, or by subsidiary to parent carriers, authorizing the large or parent carriers to publish tariffs, to give and receive concurrences, and to give powers of attorney to agents, all in behalf of the small or subsidiary carrier. The authority granted may be unlimited, as in the form which follows (Form FA3), or it may be limited in any appropriate manner, provided the limitations are specifically and unambiguously expressed in the instrument. When an FA3 form of power of attorney has been given, the granting carrier may not thereafter do in its own behalf anything which it has authorized the grantee carrier to do in its stead. Concurrences and powers of attorney given by the grantee carrier will, however, be deemed to be given on its own behalf only, unless the instrument expressly recites that it is given or is also given, in behalf of the granting carrier. An FA3 form of power of attorney will be construed as authorizing the grantee carrier to give a concurrence to itself in behalf of the granting carrier.

(2) The following form of power of attorney, Form FA3, shall be used by a carrier to give authority to another carrier. When the authority is to be limited in any way, the form should be altered to the extent necessary.

POWER OF ATTORNEY

FA3 No. ...
Cancels ... No. ...

(Name of carrier)

(Mail address)

(Date)

Know All Men by These Presents:

That the [name of granting carrier] has made, constituted, and appointed, and by these presents does make, constitute, and appoint [name of grantee carrier] its true and lawful attorney and agent (1) to issue in its name, place and stead powers of attorney to tariff-publishing agents, (2) to give and receive in its name, place and stead concurrences in tariffs of other carriers, and (3) to publish and file, or cause to be published and filed, freight tariffs and supplements thereto and successive reissues thereof, in which the undersigned carrier is a participant, all as required of common carriers by existing laws and regulations established thereunder. And the undersigned carrier does hereby give and grant unto its said attorney and agent, full, sole and exclusive power and authority to do and perform all and every act and thing above specified for and on behalf of the undersigned carrier as fully, to all intents and purposes, as if the same were done and performed by the undersigned carrier itself, and does hereby assume full responsibility for the acts and failures to act of its attorney and agent.

(Name of carrier)
By ---
Its ---
(Title)

Duplicate mailed to:
(Name and Title of Officer)
(Name of Carrier)
(Address)

§ 1300.19 Concurrences.

(a) A carrier desiring to become a participant in a tariff or tariffs issued by another carrier (not by an agent) may do so by filing with the Commission a limited or unlimited concurrence (except as provided in § 1300.18(f)) in one of the four following forms. In Forms FC2 and FC4 the limitations must be specifically and unambiguously expressed.

(1) Form FC1 which follows is unlimited and covers all freight tariffs applying on traffic moving from, to, via or at points on the line of the carrier giving the concurrence:

CONCURRENCE

FC1 No. ...
Cancels ... No. ...

(Name of carrier)

(Mail address)

(Date)

To THE INTERSTATE COMMERCE COMMISSION,
WASHINGTON, D.C., 20423.

This is to certify that [name of carrier issuing concurrence] assents to and concurs in all freight tariffs and supplements thereto, filed by [name of carrier to which concurrence is given] in which the undersigned carrier is shown as a participant, and the undersigned carrier hereby makes itself a party thereto and bound thereby insofar as such tariffs apply from, to, via or at points on its lines, until this authority is revoked by formal notice of revocation filed with the Interstate Commerce Commission and sent to the carrier to which this concurrence is given.

(Name of carrier)
By ---
Its ---
(Title)

Duplicate mailed to:
(Name and Title of Officer)
(Name of Carrier)
(Address)

(2) Form FC2 covers freight tariffs applying on limited but affirmatively specified traffic moving from, to, via or at points on the line of the carrier giving the concurrence. The form follows:

CONCURRENCE

FC2 No. ...
Cancels ... No. ...

(Name of carrier)

(Mail address)

(Date)

To the INTERSTATE COMMERCE COMMISSION,
Washington, D. C. 20423.

This is to certify that [name of carrier issuing concurrence] assents to and concurs in all freight tariffs and supplements thereto, filed by [name of carrier to which concurrence is given] in which the undersigned carrier is shown as a participant, but only to the extent that such tariffs apply:

(Here affirmatively state the limitations, such as designating the commodities to which, the points to and/or from and/or at which, the limited territory within which, or the specific publication(s) or series of tariffs to which, the concurrence shall be applicable.)

And the undersigned carrier hereby makes itself a party thereto and bound thereby insofar as such tariffs apply from, to, via or at points on its lines, until this authority is revoked by formal notice of revocation filed with the Interstate Commerce Commission and sent to the carrier to which this concurrence is given.

(Name of carrier)
By ---
Its ---
(Title)

Duplicates mailed to:
(Name and Title of Officer)
(Name of Carrier)
(Address)

(3) Form FC3 is restricted to freight tariffs applying on traffic moving to points on or via the line of the carrier giving the concurrence but is not otherwise limited. The form follows:

CONCURRENCE

FC3 No. ...
Cancels ... No. ...

(Name of carrier)

(Mail address)

(Date)

To THE INTERSTATE COMMERCE COMMISSION,
Washington, D. C. 20423.

This is to certify that [name of carrier issuing concurrence] assents to and concurs in all freight tariffs or supplements thereto filed by the [name of carrier to which concurrence is given] in which the undersigned carrier is shown as a participant, and hereby makes itself a party thereto and bound thereby, insofar as such tariffs or supplements contain rates or other provisions applying via its lines and to, but not from or at, points thereon, until this authority is revoked by formal notice of revocation filed with the Interstate Commerce Commission and sent to the carrier to which this concurrence is given.

(Name of carrier)
By ---
Its ---
(Title)

Duplicate mailed to:
(Name and Title of Officer)
(Name of Carrier)
(Address)

(4) Form FC4 which follows covers freight tariffs applying on limited but affirmatively specified traffic moving to points on or via the line of the carrier giving the concurrence.

CONCURRENCE

FC4 No. ...
Cancels ... No. ...

(Name of carrier)

(Mail address)

(Date)

To the INTERSTATE COMMERCE COMMISSION,
Washington, D. C. 20423.

This is to certify that [name of carrier issuing concurrence] assents to and concurs in all freight tariffs or supplements thereto filed by [name of carrier to which concurrence is given] in which the undersigned carrier is shown as a participant, but only to the extent that such tariffs apply:

(Here affirmatively state the limitations, such as designating the commodities to which, the points to or the lines over which the limited territory within which, or the specific publication(s) or series of tariffs to which, the concurrence shall be applicable.)

And the undersigned carrier hereby makes itself a party to such tariffs and bound thereby insofar as such tariffs or supplements contain rates or other provisions applying via its lines and to, but not from or at, points thereon, until this authority is revoked by formal notice of revocation filed with the Interstate Commerce Commission and sent to the carrier to which this concurrence is given.

(Name of carrier)
By ---
Its ---
(Title)

Duplicate mailed to:
(Name and Title of Officer)
(Name of Carrier)
(Address)

(b) Concurrences shall be personally signed by any official of the issuing carrier.

(c) If a carrier has been authorized by power of attorney to issue concurrences in behalf of one or more small or subsidiary carriers (see § 1300.18(f)), the carrier holding such authority may by a single instrument issue a concurrence in its own behalf and in behalf of any or all of such small or subsidiary carriers.

§ 1300.20 Filing of powers of attorney and concurrences.

(a) If a power of attorney or concurrence is issued subsequent to the date of the filing of the tariff with the Commission the original instrument shall be forwarded directly to the Commission with a copy to the issuing agent or carrier, but if it is issued prior to or concurrently with the issuance of the tariff, the original instrument may either be forwarded directly to the Commission, or it may be sent to the carrier or agent issuing the tariff and be transmitted by it or him to the Commission with the tariff. (For exceptions see §§ 1300.22 and 1300.23(a).)

(b) Powers of attorney, concurrences, amendments thereto and revocation notices shall be printed or typed on paper of good quality, 8 x 10½ inches, and must show the date on which they are issued. Each power of attorney and concurrence shall bear a form and serial number, the serial numbers to run consecutively for each form of instrument. Concurrences issued by a carrier jointly in its own behalf and in behalf of one or more other carriers (see § 1300.18(f)) may, if desired, be issued under a separate series of numbers. The form and serial numbers shall be shown on the upper right-hand corner and immediately thereunder shall be shown the form and number of the power of attorney or concurrence, if any, which is canceled thereby. If the instrument to be canceled contains more authority or is broader in scope than the new instrument, such new instrument must in addition to the date of issue, bear an effective date at least 60 days after the date on which it is received by the Commission. When the new instrument is the same or broader in scope than the instrument which it cancels, it becomes effective when filed with the Commission. The instrument shall also show, in the lower left-hand corner, the name, title and address of the person to whom the duplicate is sent.

§ 1300.21 Certificate stating correct name of carrier to be filed.

When a corporate or partnership carrier files its first tariff, power of attorney or concurrence, it shall also file a certificate stating the precisely correct name of the carrier as it appears in the charter or articles of incorporation, or in the articles of co-partnership, as the case may be. If, for example, the article "The" is a part of the carrier's name, if the conjunction "and" appears therein as "&", or if the word "Company" is abbreviated to "Co.", the certificate must so indicate.

§ 1300.22 Transfer of authority from one agent to another agent.

(a) When it is desired to transfer authority from one agent to another agent superseding the former agent as to all such agent's effective tariffs, the transfer shall be accomplished by filing a new power of attorney naming the agent (and alternate when the new agent is a natural person) thereafter to serve, which shall specifically cancel the previous instrument or instruments, by including the following in the power of attorney to the new agent:

This power of attorney cancels the following power(s) of attorney:

Power of attorney form and number	In favor of
(Insert power of attorney forms and numbers)	(Insert name of agent and alternate)

(b) Under all other conditions the power of attorney must be revoked in accordance with § 1300.26(b).

(c) The originals of such powers of attorney shall not be sent immediately to the Commission, but shall be forwarded to the new agent, who, after all the necessary instruments shall have been secured, shall file all of the originals with the Commission at one time. The new agent may file no tariffs with the Commission until the powers of attorney from all of the carriers shown therein as participants have been so filed.

§ 1300.23 Procedure when one publishing agent succeeds another.

(a) When powers of attorney have been issued to a natural person and his alternate, and death or disability of either the principal agent or the alternate occurs, new powers of attorney shall be filed with the Commission within 180 days, canceling the previous instruments and designating the new agent (and also his alternate if the new agent is a natural person) thereafter to serve. If the filing of the new instruments is occasioned by the death or disability of the former alternate, the new instruments may, if desired, continue the former principal agent and designate a new alternate only. Likewise if death or disability of the principal agent has occurred it is permissible to continue the former alternate agent in the new instruments and designate a new principal agent only. As soon as the instruments appointing the new agent are filed the alternate agent who in the interim has acted may no longer do so. The new powers of attorney shall not be forwarded directly to the Commission, but shall be collected by the new agent and forwarded to the Commission together, as provided in § 1300.22. The new agent may not file a tariff for any carrier until that carrier's power of attorney to him is on file with the Commission.

(b) In the first amendment to each tariff issued by the alternate agent after the death or disability of the principal agent, there shall be shown a statement reading substantially as follows: "On and after (show here the date on which the principal agent ceased to act) this publication shall be considered as the issue of ---, Alternate Agent."

(c) A new agent, on or after the filing of his or its authorities, shall include in the next supplement to each of the effective tariffs previously taken over by the alternate agent a statement reading substantially as follows: "On and after (show here the date on which the new

authorities are filed with this Commission) this publication shall be considered as the issue of _____, Agent."

§ 1300.24 I.C.C. numbers of tariffs issued by a new agent or alternate agent.

Tariffs issued by a new agent may be, and those issued by an alternate agent must be, numbered in the I. C. C. series of the former agent. If it is desired to number the tariffs of a new agent in a different I. C. C. series, this may be done as to new or reissued tariffs, but amendments (supplements or revised pages) to tariffs issued by the former agent must be continued in the original series.

§ 1300.25 Powers of attorney and concurrences in special situations.

(a) *Joint concurrences.* If joint concurrences are issued in behalf of two or more carriers by the same traffic officer, all concurrences in each series must be issued on behalf of all such carriers, except as to concurrences interchanged between those carriers. If concurrences in a single series are issued separately for different carriers, separate files in that series must be maintained for each carrier, and concurrences of each carrier must be issued in consecutive numerical order as required by § 1300.20(b).

(b) *When operation discontinued or taken over by another carrier.* Powers of attorney and concurrences issued in favor of a carrier which has discontinued operations should be revoked within 120 days after such discontinuance. If its operations have been taken over by another carrier all effective powers of attorney and concurrences should be canceled within 120 days either by new issues or revocation notices.

NOTE: § 1300.25(b) applies, among other situations, when an incorporated carrier is placed in the hands of trustees or receivers and is thereafter reorganized. When trustees or receivers are appointed they normally assume, and the corporation discontinues, operations; and thereafter, following reorganization, operations again pass from the receivers or trustees to the reorganized corporation.

(c) *Forms for joint rail-motor tariffs.* Powers of attorney and concurrences authorizing the publication of joint rail-motor tariffs and supplements shall be issued on the standard FA and FC Forms described in §§ 1300.18 and 1300.19. Such powers of attorney and concurrences must bear the following notation in the upper portion of the document: "Joint Rail-Motor Power of Attorney" or "Joint Rail-Motor Concurrence."

§ 1300.26 Amendment and revocation of powers of attorney and concurrences.

(a) *Amendments.* (1) A power of attorney on Forms FA2 or FA3 or a concurrence on Forms FC2 or FC4 may be amended by issuing an "Amendment to Power of Attorney," or "Amendment to Concurrence," respectively. However, only four amendments to any one power of attorney or concurrence will be permitted. The amendment must specify with particularity the exact change in the scope of the powers or the authority conferred, by appropriate reference by number to the power of attorney or concurrence affected, by identification by I. C. C. and agent's or carrier's number of the tariff or tariffs affected, and by a detailed description of the traffic or territory affected.

(2) If an amendment to a power of attorney or to a concurrence reduces the scope of the original instrument, such amendment must bear in addition to the date of issue, an "effective" date at least 60 days after the date on which it is received by the Commission. If the amendment adds to or increases the scope of the original power of attorney or concurrence, no notice is required, and it becomes effective when filed with the Commission. (See paragraph (e) of this section.)

(3) The form of an "Amendment to Power of Attorney" is as follows:

AMENDMENT TO POWER OF ATTORNEY

Amendment No. --
To FA -- No. --

_____
(Name of carrier)

_____
(Mail address)

_____
(Date)

Know All Men by These Presents:

Effective _____, the undersigned
(Date)
hereby amends the above-numbered power of attorney, in the following respects:

_____

_____
(Name of carrier)
By _____
Its _____
(Title)

Duplicate mailed to:
(Name of Agent or Carrier)
(Address)

(4) The form of an "Amendment to Concurrence" is as follows:

AMENDMENT TO CONCURRENCE

Amendment No. --
To FC -- No. --

_____
(Name of carrier)

_____
(Mail address)

_____
(Date)

To the INTERSTATE COMMERCE COMMISSION,
Washington, D. C. 20423.

The undersigned hereby amends FC ----- No. ----- in the following respects:

_____

_____
(Name of carrier)
By _____
Its _____
(Title)

Duplicate mailed to:
(Name of Carrier)
(Address)

(b) *Revocations.* A power of attorney or a concurrence may be revoked upon not less than 60 days' notice by filing a Notice of Revocation with the Commission and serving at the same time a copy thereof on the agent, in the case of powers of attorney on Forms FA1 and FA2, or on the carrier, in the case of concurrences or powers of attorney on FA3, in whose favor the instrument was executed. Such notice shall not bear a separate serial number, but shall specify the form and number of the power of attorney, or the form and number of the concurrence, to be revoked, shall name the agent, and alternate agent, if any, or the carrier in whose favor the instrument was executed, and shall specify a date upon which revocation is to become effective. (See paragraph (e) of this section.)

(c) *Corresponding revision of tariff.* When a power of attorney or concurrence is revoked corresponding revision of the tariff or tariffs must be made not later than the effective date stated in the notice of revocation. If the tariff or tariffs are not so amended the rates and other provisions therein remain effective and must be protected by the carrier or carriers responsible for their continued maintenance.

(d) *Form for revocations.* Revocation notices shall be in one of the following forms, as appropriate:

REVOCATION NOTICE

(Power of Attorney)

_____
(Name of carrier)

_____
(Mail address)

_____
(Date)

Know All Men by These Presents:

Effective _____, power of attorney
(Date)
FA _____ No. _____, issued by
_____
(Name of carrier issuing power of attorney)
in favor of _____

_____
(Name of carrier, or agent (an alternate), if any)
is hereby canceled and revoked.

_____
(Name of carrier)
By _____
Its _____
(Title)

Duplicate mailed to:
(Name of Agent or Carrier)
(Address)

REVOCATION NOTICE

(Concurrence)

_____
(Name of carrier)

_____
(Mail address)

_____
(Date)

To the INTERSTATE COMMERCE COMMISSION,
Washington, D. C. 20423.

Effective _____ concurrence FC
(Date)
_____ No. _____, issued by
_____
(Name of carrier issuing concurrence)
in favor of _____
(Name of carrier)
is hereby canceled and revoked.

_____
(Name of carrier)
By _____
Its _____
(Title)

Duplicate mailed to:
(Name of Carrier)
(Address)

(e) *Manner of execution.* (1) An amendment to, or a revocation of a power of attorney shall be executed in the same manner as powers of attorney, and a statement of the kind specified in § 1300.18(d) shall be filed with the Commission to designate persons authorized to sign such amendments or revocations. The statement filed in accordance with § 1300.18(d) may include in the one instrument designations and specimen signatures of persons authorized to sign powers of attorney, amendments to powers of attorney, and revocations of powers of attorney.

(2) An amendment to, or a revocation of a concurrence shall be executed in the same manner as concurrences. (See § 1300.19(b).)

§ 1300.27 Intermediate application of rates.

Tariffs may provide for the application of class or commodity rates from or to intermediate points (except for account of irregular-route motor carriers) by incorporating in such tariffs the appropriate one or more of the rules set forth below, subject to the limitations of this section.

(a) *Intermediate rules to be used only where routing is provided.* Effective on and after June 10, 1959, an intermediate point rule may not be published so as to result in establishing from (or to, as the case may be) an intermediate point, a rate from (or to) a more distant point unless the tariff contains specific routing instructions showing definitely in accordance with the plan listed in subdivision (l) of § 1300.4(k) the routes through the intermediate point over which the rate from (or to) the more distant point applies.

(b) *Intermediate point commodity rate rules*—(1) *From intermediate points.* Subject to the provisions of notes 1, 2, 3, and 4 in this subparagraph from any point of origin from which a commodity rate on a given article to a given destination and via a given route is not named in this tariff, which point is intermediate to a point from which a commodity rate on said article is published in this tariff via a route through the intermediate point over which such commodity rate applies to the same destination, apply from such intermediate point to such destination and via such route the commodity rate in this tariff on said article from the next point beyond from which a commodity rate is published herein on that article to the same destination via the same route.

NOTE 1: When by reason of branch or diverging lines there are two or more "next beyond" points, apply the rate from the next point beyond (in this tariff) which on that article to the same destination via the same route results in the lowest charge.

NOTE 2: If the intermediate point is located between two points from which commodity rates on the same article via the same route are published in this tariff, apply via that route from the intermediate point the rate from the next point in either direction which results in the higher charge. In applying this note, if there are two or more next beyond points due to branch or diverging lines, eliminate all such next beyond points except the point from which the lowest charge is applicable.

NOTE 3: If the class rate on the same article via the same route from the intermediate point produces a lower charge than would result from applying the commodity rate under this rule, such commodity rate will not apply.

NOTE 4: If there is in any other tariff a commodity rate on the same article from the intermediate origin point applicable over the same route to the same destination, the provisions of this rule are not applicable from such intermediate origin point.

(2) *To intermediate points.* Subject to the provisions of notes 1, 2, 3, and 4 in this subparagraph, to any point of destination to which a commodity rate on a given article from a given point of origin and via a given route is not named in this tariff, which point is intermediate to a point to which a commodity rate on said article is published in this tariff via a route through the intermediate point over which such commodity rate applies from the same point of origin, apply to such intermediate point from such point of origin and via such route the commodity rate in this tariff on said article to the next point beyond to which a commodity rate is published herein on that article from the same point of origin via the same route.

NOTE 1: When by reason of branch or diverging lines, there are two or more "next beyond" points, apply the rate to the next point beyond (in this tariff) which on that article from the same point of origin via the same route results in the lowest charge.

NOTE 2: If the intermediate point is located between two points to which commodity rates on the same article via the same route are published in this tariff, apply via that route to the intermediate point the rate to the next point in either direction which results in the higher charge. In applying this note, if there are two or more next beyond points due to branch or diverging lines, eliminate all such next beyond points except the point to which the lowest charge is applicable.

NOTE 3: If the class rate on the same article via the same route to the intermediate point produces a lower charge than would result from applying the commodity rate under this rule, such commodity rate will not apply.

NOTE 4: If there is in any other tariff a commodity rate on the same article to the intermediate destination point applicable over the same route from the same point of origin the provisions of this rule are not applicable to such intermediate destination point.

(c) *Intermediate point class-rate rules.* Class rates should be provided between practically all points and there appears little occasion for the employment of intermediate point rules in connection with class rates except for the purpose of establishing rates from and to newly established stations. For this purpose only the following clause may be shown in tariffs for use in connection with class rates: "From (or to) any point not named in this tariff which is intermediate to a point from (or to) which class rates are published herein through such unnamed point, apply from (or to) such unnamed point the class rate published herein from (or to) the next more distant point."

(d) *"From" and "to" rules may apply in connection with same rate.* When the rules providing application from and to intermediate points are both shown in connection with any class (or commodity) rate, they establish class (or commodity) rates from intermediate points of origin to intermediate points of destination on such classes (or commodities). Concurrences are not posted at stations and their provisions are not published in tariffs. Unless otherwise provided in the tariff intermediate application rules establish rates from (or to) intermediate points on the lines of carriers parties to the tariff without regard to the concurrence forms and numbers under authority of which carriers are shown as participating carriers.

(e) *Application of rules may be restricted.* Tariffs may by appropriate application published in connection with one or more of such rules, provide that they apply only in connection with the rates or routes making reference thereto, or may provide for the nonapplication of such rule or rules to particular rates or routes.

(f) *Wording of rules not to vary.* The wording of the above rules may not be varied, except that (1) in tariffs containing alternative sections the rules may be modified by substituting the words "in this section" for the words "in this tariff" wherever they appear. If this is done such rules must be published in each section of tariff in which they are to apply and may not be published elsewhere in the tariff; or (2) when it is desired to alternate the rates in any section of a tariff with the rates made only by use of an intermediate point rule applicable in connection with rates in another section, such intermediate rule must be published in a separate section and must be modified by changing the words "this tariff" to read "Section No. _____" (here insert number of the section which contains the points and rates in connection with which the intermediate rule is to be used). The provisions of this paragraph do not waive the requirements of § 1300.7(b).

§ 1300.28 Tariff notations in connection with fourth section orders.

(a) *When relief from long-and-short haul provision is granted.* (1) When the Commission has issued an order granting to a carrier authority to depart from the provisions of the amended fourth section of the act and to charge higher rates for shorter than for longer distances over the same line or route, the title page of each tariff or supplement issued and filed under such authority must bear the following notation:

This tariff (or supplement) contains rates that are higher for shorter than longer distances over the same route. Such departure from the terms of the amended fourth section of the Interstate Commerce Act is permitted by authority of Interstate Commerce Commission fourth section order (or orders), as indicated in individual items herein.

(2) In connection with the item or items containing the rates as to which such authority has been granted, specific reference to the Commission's fourth section order number and date must be given, except that in instances where all of the rates in the tariff or supplement are covered by one fourth section order

reference to the number and date thereof may be shown on the title page. When a general fourth section order is referred to, the particular section thereof granting such authority must be shown in addition to the order number.

(b) *When relief from aggregate of intermediate provision is granted.* (1) When the Commission has issued an order granting to a carrier authority to depart from the provisions of the amended fourth section of the Act and to charge rates higher than the aggregate of the intermediate rates subject to the act, the title page of each tariff or supplement issued and filed under such authority must bear the following notation:

This tariff (or supplement), contains rates that exceed the aggregates of the intermediate rates subject to the Interstate Commerce Act. Such departure from the terms of the amended fourth section of the Act is permitted by authority of Interstate Commerce Commission fourth section order (or orders), as indicated in individual items herein.

(2) In connection with the item or items containing the rates as to which such authority has been granted, specific reference to the Commission's fourth section order number and date must be given, except that in instances where all of the rates in the tariff or supplement are covered by one fourth section order, reference to the number and date thereof may be shown on the title page. When a general fourth section order is referred to, the particular section thereof granting such authority must be shown in addition to the order number.

(c) *When relief is denied.* When the Commission has denied authority to carriers to continue existing departures from the provisions of the amended fourth section of the act, but has not prescribed specific rates in lieu of those existing, and it becomes necessary for carriers to publish and file rates in full conformity with the provisions of that section, the rates so filed have not been approved by the Commission. Tariffs or supplements in which they are published should not indicate that they are prescribed by, or are in compliance with an order of the Commission. If desired, however, a clause reading substantially as follows may be shown:

Issued to bring rates into conformity with the provisions of the fourth section of the Interstate Commerce Act following the issuance by the Interstate Commerce Commission of its fourth section order No. _____ of _____ (date), denying carriers' application.

(d) *Fourth section not waived.* Nothing in this section may be construed as waiving any of the provisions of the amended fourth section of the Interstate Commerce Act.

§ 1300.29 Letter of transmittal.

(a) All tariffs and supplements filed with the Commission shall be accompanied by a letter of transmittal of one sheet 8 by 10½ inches in size, in form substantially as follows:

[Corporate name of carrier in full]
GENERAL FREIGHT DEPARTMENT,
[Post-office address]
_____, 19__

Transmittal No. _____
To the INTERSTATE COMMERCE COMMISSION,
Washington, D.C., 20423.

Accompanying schedule is sent you for filing in compliance with the requirements of the Interstate Commerce Act, issued by _____ and bearing ICC No. _____; Supp. No. _____ to ICC No. _____; revised page to ICC No. _____; effective _____, 19_____; and is concurred in by all carriers named therein as participants under continuing concurrences or authorizations now on file with the Interstate Commerce Commission, except the following-named carriers, whose concurrences are attached hereto:

_____
_____
_____
_____ [Sig.]
_____ [Title.]

(b) A separate letter may accompany each schedule, or the form may be modified to provide for filing under one letter as many schedules as can be conveniently entered. Separate letters must be used for freight and passenger schedules.

NOTE: If receipt for accompanying schedule is desired the letter of transmittal must be sent in duplicate, and one copy showing the date of receipt by the Commission will be returned to the sender.

§ 1300.51 Movement of shipments refused by consignees.

(a) Subject to the limitations in this section, rules (1) providing that shipments which are refused by consignee may be reconsigned and forwarded to a new destination under application of the through rate from point of origin to final destination, either with or without the exaction of a reconsignment charge, or (2) providing for the return of shipments (or portions of shipments) refused by consignee to point of origin at free or reduced rates, are permissible.

(b) For the purposes of this section shipments (or portions of shipments) in closed packages that have been accepted without examination by the consignee may be considered as refused if delivered to the carrier with 10 days for return to point of origin because of damage in transit that could not be determined before acceptance of the shipment.

(c) Such rules must provide that if reconsignment or forwarding to a new destination is permitted, the through rate to be applied shall be that in effect from point of origin to final destination through the point of reconsignment or reforwarding, and if return to point of origin is permitted such return must be made over the route over which the shipment moved to the original destination. Such rules must be published in tariffs and must be so worded and applied as to be free from unjust discrimination and to avoid abuse or improper practices thereunder. The practice of forwarding to a new destination or returning at reduced rates articles that have been delivered into the possession of consignees and have become shopworn or have gotten into a state of disrepair through use is neither proper nor free from unjust discrimination.

(d) Where a shipment is refused and is left on the hands of the carrier, it is believed that the carrier, when it recognises its responsibility for the value of the shipment and the transportation charges on same, may haul it for itself to such point on its own lines as offers the best opportunities or facilities for disposing of it to advantage, just as it may haul property of its own.

§ 1300.52 Responsibilities of carriers under tariffs.

(a) The Commission's tariff regulations require that the carrier or agent that issues a joint tariff shall, before issuing same, have secured definite and affirmative authority from every carrier shown therein as a participant, and shall show in connection with the name of each participating carrier the form and number of the instrument by authority of which that carrier is made a party to the tariff.

A carrier has no means of preventing another carrier from naming it as a party to a joint tariff without proper authority so to do, or of preventing another carrier from exceeding the authority conferred by a limited concurrence. It can not, however, be bound by such unauthorized act and it is its obvious duty to refuse to recognise or apply any such unlawful issue. It should also at once call the attention of the Commission and of the one that issued the tariff to such erroneous action.

(b) If one or more carriers are, without proper authority, so shown as participating in any tariff and other carriers are lawfully shown as parties thereto, the use of the publication is unlawful as to the carriers that are named as parties thereto without proper authority and lawful as to those that are parties to it under proper authority. The carrier over whose line shipments are sent under a joint tariff is bound by the terms of that tariff if it has lawfully concurred therein, and, if it has not lawfully concurred therein, may not accept earnings in accordance therewith, but must demand for the service performed its lawful earnings according to its lawful tariffs.

(c) Responsibility and liability for the unlawful incorporation of any carrier in a tariff, or for exceeding the authority conferred by a limited concurrence, will rest wholly upon the carrier that issued the tariff.

§ 1300.53 Withdrawal of filed tariffs not permitted.

Not infrequently the Commission is requested to return to carriers tariff publications which have been forwarded to the Commission for filing or which have been received by the Commission in the ordinary course of business. Such requests are usually based on the desire to substitute some corrected or changed publication for the one that has been filed. To surrender publications duly filed and permit the substitution of others would involve falsification of the records, which cannot be permitted. Tariff publications received for filing will not be returned unless rejected because of failure to give lawful notice of changes.

§ 1300.54 Changes in rates.

Section 6(3) of the act, as amended, provides that:

No change shall be made in the rates, fares, and charges or joint rates, fares, and charges which have been filed and published by any common carrier in compliance with the requirements of this section, except after 30 days' notice to the Commission and to the public published as aforesaid, which shall plainly state the changes proposed to be made in the schedule then in force and the time when the changed rates, fares, or charges will go into effect; and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection.

(a) *Effectiveness; notice of change.* This provision plainly refers to rates which have already become effective, and also applies the term "proposed changes" to rates which have not become effective. It follows that after notice of a change in rates has been published and filed the new rates must be allowed to go into effect, and cannot be changed, withdrawn, or canceled for at least 30 days after the date when the rates have become effective except as otherwise specifically authorized by rule, decision, or order of the Commission. A tariff may provide that it will expire with a date specified therein and which is at least 30 days subsequent to the date upon which it becomes effective, or a tariff may contain a notation that certain rates therein stated will expire with a date specified which is at least 30 days subsequent to the date upon which such rates become effective, and this will be legal notice of the cancellation or withdrawal of such tariff or of such rates. A provision in a tariff or supplement that the same or any part thereof will expire with a given date is not a guaranty that the tariff, or supplement, or such part thereof, will remain effective until and including that date. Such provision must be understood to mean that the tariff, or supplement, or specified part thereof, will expire with the date named unless sooner canceled, changed, or extended in lawful way. (See § 1300.3(g).)

(b) *Commission may allow exception.* Carriers must comply fully with the requirements of the law respecting the publication, filing, and taking effect of proposed rates, unless upon application and for good cause shown, the Commission, in the exercise of authority conferred upon it, shall allow rates to be changed or withdrawn upon less than 30 days' notice, or by formal order otherwise modify such requirements. No rule, decision, or order of the Commission is authority to change rates or issue tariffs on less than statutory notice unless so specifically provided in the rule, decision, or order. (See § 1300.14(f).)

§ 1300.55 Legal rate.

(a) *Rate named from origin to destination only legal rate.* When a rate, whether local or joint, from point of origin to destination, has been established via a route, it becomes the only legal rate for through transportation via that route, whether it is greater or less than the aggregate of intermediate rates.

(b) *Combination rate.* (1) If no rate is named from point of origin to destination of a shipment via the route of movement, the lowest combination of rates applicable via the route of movement is the legal rate.

(2) A combination rate for a through shipment must be treated as a unit from point of origin to final destination, and the rate applied must be the combination of the factors in effect on the date the shipment was accepted for transportation at point of origin. All of the conditions applicable to each factor in such combination rate for through shipment in effect on the date the shipment was accepted for transportation at point of origin must be observed and can not be varied as to that shipment during the period of its transportation to final destination.

(c) *Back-haul unnecessary.* If, in applying combination rates on a through shipment, the shipment moves from a point of origin (or to a point of destination) intermediate to a base point upon which the lowest combination makes, or moves via a junction point which the lowest combination makes, or moves via a junction point with connecting or branch line intermediate to the base point upon which the lowest combination makes, such combination must be applied; and it is not necessary to haul the shipment to such base point and back again through (or to) such intermediate point of origin (or destination), or such intermediate junction point: *Provided,* (1) That the rates use din such combination are applicable over the route the shipment would have moved had it been hauled to the base point and back again over the same route; and (2) That compliance with routing instructions will permit movement to the base point and back again over the same route.

NOTE: This section does not authorise equalising via one route or gateway the combination of rates applicable over another route or via a different gateway, and does not confer any authority to depart from the provisions of the fourth section of the act, which prohibits higher charges for shorter than for longer distances over the same route and higher charges than the aggregate of the intermediate rates over the same route. It must also be understood that in a case where the lowest combination of rates makes on a base point as to which the point of origin or of destination is directly intermediate, a specific rate to or from such point that is higher than such combination is included in the Commission's ruling that a through rate that is higher than the combination of intermediate rates between the same points is prima facie unreasonable. It must be further understood that in applying the lowest combination authorized in this section the Commission expresses no opinion as to the reasonableness of a rate so constructed.

§ 1300.56 Reduction of rate to equal the aggregate of the intermediate rates.

(a) Section 4 of the act, as amended, prohibits the charging of any greater compensation as a through rate than the aggregate of the intermediate rates that are subject to the act. The Commission has frequently held that through rates which are in excess of the sum of the intermediate rates between the same points via the same route are prima facie unreasonable. Many informal complaints are received in connection with regularly established through rates which are in excess of the sum of the intermediate rates between the same points. The Commission has no authority to change or fix a rate except after full hearing. It is believed to be proper for the Commission to say that if called upon to formally pass upon a case of this nature it would be its policy to consider a rate which is higher than the aggregate of the intermediate rates between the same points via the same route as prima facie unreasonable and that the burden of proof would be upon the carrier to defend such unreasonable rate.

(b) Where a rate is in effect by a given route from point of origin to destination which is higher than the aggregate of intermediate rates from and to the same points, by the same or another route, such higher rate may, on not less than 1 day's notice to the public and the Commission, be reduced to the actual aggregate of such intermediate rates. Such reduced rate must be published in a supplement to or a reissue of the tariff in which the rate so reduced appears; except that if the rate to be reduced is published in a tariff containing class rates only and the reduced rate is to be published as a commodity rate the reduced rate must be published in a commodity tariff or supplement thereto. Any tariff or supplement containing a rate reduced under authority of this section must bear on its title page, or in connection with such item, the notation "Issued on 1 day's notice under authority of rule 56 Interstate Commerce Commission Tariff Circular 20 (§ 1300.56). The rate (or rates) hereby reduced appears in _____ Tariff ICC _____, item (or page) __, and the factors to and from _____ (here insert point or points on which combination makes) used in making the new rate (or rates) are found in _____, Tariff ICC No. _____, item (or page) __, and _____, Tariff ICC No. _____, item (or page) __."

(c) (1) In order to facilitate the publication of rates which will be in accord with the aggregate of intermediates provision of the fourth section of the act the following rule may be incorporated in tariffs:

Carriers have endeavored to publish herein rates which do not exceed the aggregate of the intermediate rates between points between which there is an actual movement of traffic, but if there should be in this tariff any rate which is in excess of the aggregate of intermediates, or if through subsequent change in an intermediate factor any rate in this tariff becomes higher than the aggregate of intermediates in violation of the provisions of the fourth section of the Act, carriers will reduce such rates to the aggregate of the intermediate rates on 1 day's notice under authority of rule 56 of Interstate Commerce Commission Tariff Circular

20, on any commodity between points between which there is a movement or a prospective movement of that commodity. The publication of such reduced rate will be made within 30 days after such unlawful rate comes to carriers' notice.

Carriers, parties to this tariff, whose rate over the route of movement is higher than the aggregate of the intermediates over that route, further agree that on any shipment on which the higher rate named in this tariff for that route has been charged, application will be made promptly to the Interstate Commerce Commission for authority to award reparation on the basis of the aggregate of intermediates in effect on date of shipment. (See note.)

NOTE: Carriers or shippers who discover combinations which result in lower charges than the rates named herein, should promptly report such cases to the publishing agent of his tariff, showing the through rate and the item or page where it is found together with the separate factors which make up the combination, giving tariff reference by item or page, where possible, for each.

(2) In placing this rule in tariffs carriers must strictly adhere to the wording of the rule as no modification thereof will be permitted.

(3) The failure to publish and file reduced rates as provided in this part, within 30 days from the date that said rates are brought to the attention of the carriers parties thereto, or any of them, or their agents, will be considered by the Commission as sufficient ground for the issuance of an order prohibiting its use in connection with such carrier or carriers. A promise to publish certain rates, when published in a tariff, becomes the rule of the carriers parties to the tariff and therefore when a carrier or agent has been called upon to reduce rates under authority of the above rule it will not be necessary for such carrier or agent to secure any additional authority from the carriers parties to the tariff for the publication of the reduced rates and any delay on that account may cause carriers, to incur the penalties provided for violations of the fourth and sixth sections of the act in addition to losing the right to use the rule in tariffs.

§ 1300.57 Newly constructed lines of road and pipe lines and newly established service via water carriers.

(a) *Rates from, to, or via newly constructed lines.* Charges applicable at, and rates, charges, classifications, rules or regulations applicable from, to, or via points on newly constructed lines of road, including spur and industrial tracks and branches and extensions of existing roads, may be established in the first instance on not less than 10 days' notice. Such rates when established may be changed only in accordance with the act, except that where, by reason of the establishment of local rates between points on a newly constructed line as defined in this section, combination through rates have become effective between points on said line and points on other lines of the same or other carriers, such combination through rates may, within 60 days after the effective date of the local rates between points on said newly constructed line, be displaced on not less than 10 days' notice by other rates, through or combination, which produce lower charges than such combination rates.

(b) *Tariff notation when rates established in first instance.* A tariff or supplement establishing rates, charges, classifications, rules, or regulations in the first instance under authority of this section must contain the following notation on its title page, except that if only a portion of the rates, charges, classifications, rules, or regulations in such publications are established under authority of the rule the notation must be shown in connection with such rates, charges classifications, rules, or regulations:

Issued on 10 days' notice, authority rule 57, Tariff Circular 20. Rates established in the first instance (from, to, between, via, or at, as case may be) stations on railroads (or pipe line or reached by water carrier, as case may be).

(c) *Tariff notation for subsequent publications.* A tariff or supplement which changes combination rates from, to, or via points on a newly constructed line as provided in paragraph (a) of this section must contain the following notation on its title page, except that if only a portion of the rates, charges, classifications, rules, or regulations in such publication are established under authority of the rule, the notation must be shown in connection with such rates, charges, classifications, rules, or regulations:

Issued on 10 days' notice, authority rule 57, Tariff Circular 20. Rates established (from, to, between, via, or at, as case may be) stations on railroad (or pipe line or reached by water carrier, as case may be). Local rates first established (from, to, between, via, or at, as the case may be) such stations is ---------- ICC No. ----- effective ---------- (date).

(d) *Rates established may not be reduced by similar rates.* When class rates have been established from, to, or between points on a newly constructed line, different class rates from, to, via, or between the same points may not be established at a later date under authority of this section; and when a commodity rate has been established from, to, via, or between points on a newly constructed line, a different commodity rate from, to, via, or between the same points may not be established at a later date under authority of this section; but commodity rates may be established under authority of this section within the 60-day period prescribed herein notwithstanding class rates may have been established between the same points. Interested carriers and publishing agents should be notified as much in advance of the opening of a newly constructed line as is possible in order that rates may be established which will give carriers and shippers fullest possible use of such newly constructed lines.

(e) *Rates from, to, or via points reached by pipe line or water carrier.* Rates from, to, via, or at points reached via newly laid pipe lines and from, to, via, or at ports reached by water carriers when new water service has been inaugurated may be established or changed in like manner and upon like notice to that provided for newly constructed lines of railroad in paragraphs (a) to (d) of this section.

§ 1300.58 Applications under section 6 for authority to make changes in tariffs.

(a) *Rates changed on less than statutory notice.* Section 6 of the act authorizes the Commission in its discretion and for good cause shown, to permit changes in rates on less than statutory notice. The Commission will exercise this authority only in cases where actual emergency and real merit are shown. Desire to meet the rates of a competing carrier which has given the full statutory notice of change in rates will not of itself be regarded as good cause for allowing changes in rates on a notice of less than 30 days. Clerical or typographical errors in tariffs constitute good cause for the exercise of this authority, but every application based thereon must plainly specify the omissions or mistakes together with a full statement of the circumstances attending such omission or error and must be presented with reasonable promptness after issuance of the defective tariff.

(b) *Authority necessary to make applications.* Applications for permission to establish rates, rules, or regulations on less than statutory notice, or for waiver of the provisions of Tariff Circular 20 (this part) must be made by the agent or carrier that holds authority to file the proposed changes. If the application requests permission to make changes in joint tariffs it must state that it is filed for and on behalf of all carriers parties to the proposed change.

(c) *Permission will not issue to modify formal orders.* Frequently carriers file sixth section applications requesting authority to make changes on short notice when a formal order of the Commission required publication on 30 days' notice. Such requests in effect are requests for modification of the formal order and should be filed as petitions on the formal docket for modification of the order and not as applications under the sixth section.

(d) *Partial use of permission prohibited.* Instances have occurred where carriers or their agents have not used the full authority extended by special permissions. When passing upon sixth-section applications the Commission gives consideration to all of the facts and circumstances set forth in the application and if approved the special permission is issued with the understanding that all of its terms are to be compiled with and that all the authority dealing with the same subject matter will be used. Therefore, if all related matter authorized by special permissions will not be established and more limited authority is desired a new application complying with the provisions of this section in all respects and making reference to the previous authority must be filed.

(e) *Applications in duplicate.* Applications (including amendments thereto and exhibits made a part thereof) for permission to change rates, rules, or regulations, on less than statutory notice or for waiver of the provisions of Tariff Circular 20, (this part) shall be made in duplicate, shall be addressed to the Interstate Commerce Commission, and shall be sent to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423. Such applications shall be made on paper 8 by 10½ inches, shall be in the following form, shall give the information required by that form, shall be numbered consecutively and must bear the signature of the president, vice president, traffic manager, assistant traffic manager, general freight agent, or a duly authorized attorney and agent, specifying title.

FORM OF APPLICATION

(Name of carrier in full)

----------, 19---.

(Place and date)

To the INTERSTATE COMMERCE COMMISSION,
Washington, D.C. 20423:

The ---------- by ----------
(Name of carrier) (Name of officer)
its ---------- does hereby respect-
(Title of officer)
fully petition the Interstate Commerce Commission that it be permitted, under section 6 of the Interstate Commerce Act, as amended, to put in force the following rates (or rules or regulations) to become effective ------ days after the filing thereof with the Interstate Commerce Commission ----------

---

(State fully, either specifically or by references to an accompanying exhibit, the rates (or rules or regulations) which it is desired to put into effect, the articles upon which they are to apply and the points of origin and destination. If permission is sought to establish a rule or regulation the exact wording of the proposed rule or regulations must be shown)

Your petitioner further represents that the said rates (or rules or regulations) above mentioned will be published in Tariff ICC No. ----- (or in a consecutively numbered supplement to ICC No. -----), and will supersede and take the place of the rates (or rules or regulations) on like traffic from and to the points above named which are set forth in Tariff ICC No. ----- (or supplement) on file with the commission.

(Here state, either specifically or by reference to an accompanying exhibit, the present rates (state whether class, commodity or combination), rules, or regulations, together with the I. C. C. numbers in which published and the effect of the proposed change)

(State names of all carriers publishing rates on the commodity or commodities covered by the application between the same or related points and the I. C. C. numbers of tariffs containing such rates)

(State whether or not the proposed rates or rules or regulations, including the request to establish on less than statutory notice have been called to the attention of such carriers and their views thereon)

(State the basis on which the proposed rates are constructed, if the application seeks less than statutory notice)

(State the relationship existing between points of origin and destination covered by the application, and any point or points of origin or destination not covered by said application, if the application seeks less than statutory notice)

(State what relationship, if any, the rates on the commodity or commodities covered by the application bear to rates on other commodities if the application seeks less than statutory notice)

And your petitioner further bases such request upon the following facts, which present certain special circumstances and conditions justifying the request herein made:

(State fully all other circumstances and conditions which are relied upon as justifying the application and which may aid the commission in determining the question presented. If short notice is requested, state why the change was not established upon statutory notice)

(Corporate name of carrier)

By ----------
(Name and title of officer)

Subscribed and sworn to before me this ------ day of ----------, 19---.
(Only the original need be executed)

Notary Public.

When an application is made by an agent, appropriate change should be made in the introductory and closing paragraphs of the form.

§ 1300.59 Diversion or reconsignment privileges and rules.

(a) (1) Frequently a shipper desires to forward a shipment to a certain point and have the privilege of changing the destination or consignee while shipment is in transit or after it arrives at destination to which orginally consigned, and to forward it under the through rate from point of origin to final destination which generally is lower than the combination of intermediate rates.

(2) Such services are of value to the shipper. If they are granted, carriers' tariffs shall so state in terms that are not open to misconstruction, and shall also state clearly the conditions under which they may be used and the charges that will be made therefor.

(b) Some carriers do not consider a change of consignee which does not involve a change of destination as a reconsignment, while others do consider it a reconsignment and charge for it as such. The Commission holds the view that when not specifically qualified in tariffs, the terms "reconsignment" or "diversion" include changes in destination, routing, consignor or consignee. If carrier wishes to distinguish between such changes in its privileges or charges it must so specify in its tariff rules.

§ 1300.60 Free transportation of caretakers in connection with shipments of property.

(a) Section 1(7) of the Interstate Commerce Act provides that free transportation may be furnished "to necessary caretakers of livestock, poultry, milk, and fruit." This provision in the statute is construed to mean necessary caretakers of livestock, poultry, milk, or fruit that is loaded and ready for movement, or the movement of which is actually contracted for or that is actually in transit, and may include free or reduced-fare transportation for the return of such necessary caretakers. This transportation may be in the form of free pass or reduced-fare transportation, but in any event it must be the same for all under like circumstances. Authority for such free or reduced transportation must be published in the tariff governing the transportation of the commodity, which must also contain such policing regulations as will prevent the misuse of this provision. Tariffs may provide that caretaker sent out to return with shipment that is arranged for or that is in transit will be required to pay fare going and that such fare will be refunded if person so sent does return as actual caretaker of shipment for which he is sent. But a tariff rule which provides that if a person goes out over the line with the intention of purchasing livestock and returns within a certain time with a certain number of cars of livestock, the carrier will refund to him the fare paid on outgoing trip is improper and unlawful.

(b) The Commission is of the opinion that the term "fruit" as used in this section includes perishable vegetables, and that bees in hives and live fish may be included in the term "livestock" when shipped under conditions that make caretakers "necessary."

(c) When an express company provides in its tariff for free transportation for caretakers in charge of livestock, poultry, milk, or fruit, and the railroad company over whose lines such express company operates provides in its tariff that such caretakers may be permitted to ride in passenger car, the tariff of the express company and that of the railroad company must give reference to each other.

§ 1300.61 Demurrage on interstate shipments.

(a) The act requires that carriers shall publish, post and file tariffs containing terminal or other charges and all rules or regulations which in any wise change, affect, or determine the value of the service rendered to the shipper or consignee. Such terminal charges include demurrage charges.

(b) Demurrage rules and charges applicable to interstate shipments are governed by the act and therefore are within the jurisdiction of the Interstate Commerce Commission and not within the jurisdiction of State authorities.

(c) Demurrage rules and charges published and filed must be observed as strictly as transportation rules and charges. Such charges are controlled by the tariffs in effect contemporaneously with the accrual of the service, and therefore are subject to such changes as may be made in the applicable tariffs during the period of accrual.

CROSS REFERENCE: For regulations concerning posting tariffs at stations, see Part 1305 of this chapter.

§ 1300.62 Notice for changes in rates within Alaska and the Hawaiian Islands.

(a) Rates on freight traffic from a point in the Territory of Alaska to another point in the Territory of Alaska and from a point in the Territory of Hawaii to another point in the Territory of Hawaii may be changed upon notice of 10 days as to reductions in rates given to the Commission and to the public in manner required by law. As to increases in rates, full statutory notice of changes must be given unless shorter time is allowed in special cases by special permission of the Commission. (See § 1300.58.)

(b) Each supplement to a tariff, or each tariff publication in which reductions in rates are made on less than statutory notice under authority of this section, shall bear on its title page the notation "Issued on 10 days' notice under authority of rule 62, Interstate Commerce Commission Tariff Circular 20."

§ 1300.63 Transportation of circus outfits.

Rates for specified movements of circuses and other show outfits may be established on not less than 1 day's notice to the Commission. Such tariffs must bear reference to this rule and must publish the charges specifically, showing the number and kind of cars moved, or may consist of a proper title page reading "as per copy of contract attached," and to it may be attached a copy of the contract under which the circus is moved. Tariffs containing such rates need not be posted at stations. As far as practicable, general rules or regulations governing the fixing of such rates should be regularly published, posted, and filed upon statutory notice.

§ 1300.64 In absence of routes, rates apply via lines parties to tariffs.

If a tariff contains no routing direction the joint rates shown therein are applicable between the points specified via the lines of any and all carriers that are parties to the tariff; and shipper must not be required to pay higher charges than those stated in the tariff because the carriers have not agreed divisions of the rates via the junction through which the shipment moves. If agent of carrier bills or sends shipment via a route or junction point that is covered by the tariff but via which no division of the rate applies, it is for the carriers to agree between themselves upon the division of the rate.

§ 1300.65 Fourth-section departures resulting from changes in official, southern, western, and Illinois classifications.

(a) The attention of the Commission was called to the fourth-section difficulties that confronted carriers in making classification changes. The Commission is impressed with the desirability of having proper classification changes promptly made. In order to facilitate the publication of such changes, carriers will be permitted to publish the rule set forth next below in the official, southern, western, and Illinois classifications, respectively, subject to the conditions hereinafter stated:

The classification changes made herein may create fourth-section departures not authorized by amended fourth-section Order No. 144. (See note.) If any such departures are brought to the attention of carriers parties to this publication in connection with rates applicable on traffic of which there is a present or prospective movement, such departures, under the authority of rule 65, Tariff Circular No. 20 or reissues thereof, will be corrected on 1 day's notice to the Commission and the public by reducing any higher rate or charge on like property that may be applicable for a shorter than for a longer haul as a result of such change to the amount of the rate or charge applicable on like traffic for the longer haul, or by reducing any through rate or charge which is higher than the aggregate of the intermediate rates or charges subject to the Interstate Commerce Act to the amount of such aggregate of intermediate rates or charges.

Publication of such reduced rate or charge will be made within 60 days after such rate or charge comes to the carrier's attention. Carriers parties hereto further agree that on all shipments on which rates or charges are collected which are higher for shorter hauls than those applicable on like traffic for longer hauls over the same line or route in the same direction, the shorter being included within the longer, or which are higher than the aggregate-of-intermediate rates or charges, in situations not authorized by amended fourth-section Order No. 144, application will be made promptly to the Interstate Commerce Commission for authority to make reparation to the basis of the rate or charge applicable for the longer haul or to the basis of the aggregate of intermediate rates or charges, as the case may be, in effect on the date of shipment.

NOTE: Fourth-section Order No. 144 authorizes carriers to make changes in official, southern, western, and Illinois classification ratings, rules, or regulations without observing the long-and-short-haul clause of the Interstate Commerce Act in instances where class rates are protected by applications filed on or before February 17, 1911, or by outstanding fourth-section orders.

(1) The foregoing notice may be incorporated in the official, southern, western, and Illinois classifications only, as a separately numbered rule, and reference to such rule must be made on the title page of each supplement to the current issues of those classifications which contain changes and on the title page of succeeding issues of those classifications, by the following notation in bold-face type:

Concerning the correction of fourth-section departures resulting from changes in this classification (or "these classifications") see rule ——.

(2) The wording specified above, both for the notice to be incorporated as a classification rule and the supplementary notation to be shown on the title page, must be strictly adhered to, and no modifications thereof will be permitted.

(b) The failure of any carrier availing itself of the use of this rule to publish and file reduced rates and thereafter to apply for authority to make reparation as herein provided will be considered as sufficient ground for the issuance of an amendment to the rule prohibiting its use by or on behalf of such carrier.

§ 1300.66 Minimum carloads.

(a) *Weights for cars of varying dimensions.* (1) Carriers provide cars of varying dimensions and capacities, and they provide minimum weights for the several kinds of cars based upon those dimensions and capacities. At times when transportation facilities are inadequate to supply the demand upon them it frequently is difficult or impossible for the carrier to furnish a shipper with a car of the dimensions or capacity desired by him, although the carrier has in its tariffs provisions for the use of such car. Manifestly it is not equitable or proper to require the would-be shipper to pay additional transportation charges for the privilege of using a car of different dimensions or capacity from that which would suit his shipment or forego entirely his desire to ship.

(2) Some carriers provide elastic rules which properly permit the use of cars of different dimensions or capacities when they are furnished by the carrier in lieu of those ordered by the shipper, while other carriers do not so provide, and as a result instances arise in which the initial carrier under such provision furnishes the shipper with car at its convenience, and connecting carriers that have not adopted similar provisions assess higher charges in accordance with their tariffs, thus imposing upon the shipper a wholly unexpected and, in the view of the Commission, unreasonable charge.

(3) The Commission believes that when tariffs provide minimum weights which vary with the size of capacity of the car, it is the duty of the carrier to incorporate in such tariffs a rule to the effect that when a car of the dimensions or capacity ordered by the shipper cannot be promptly furnished, and when the carrier for its own convenience does provide a car of greater dimensions or capacity than that ordered, such car may be used on the basis of the minimum carload fixed in the tariffs for cars of the dimensions or capacity ordered by the shipper, provided the shipment could have been loaded into or upon car of the capacity or size ordered; and that if a car of smaller capacity than that ordered by the shipper is furnished, it may be used on the basis of actual weight when loaded to its capacity, or that that portion of the shipment which cannot be loaded into the smaller car will be taken in another car and the shipment treated as a whole on the basis of the minimum fixed for the car ordered by the shipper; and that if the carrier is unable to furnish a car of large dimensions, ordered by shipper, it may furnish two smaller cars which may be used on the basis of the minimum fixed for the car ordered; it being understood that shipper may not order a car of dimensions or capacity for which a minimum is not provided in the carrier's tariffs.

(4) In all such cases the capacity of the car ordered, the date of such order, the number, initials, and capacity of the car furnished should be stated on the bill of lading and the carrier's waybill.

(5) In case of controversy between shippers and carriers caused by the absence of such rule from tariffs which provide graduated minima for cars of different sizes the Commission will regard such tariffs as prima facie unreasonable.

(6) It is the duty of carriers to provide reasonable facilities for transportation, and if they cannot furnish equipment to move the carloads provided for in their regulations it is clearly their duty to provide some other method of transporting as one shipment, and at the rate named therefor, such carload weight when tendered by shipper.

(b) *Minimum carload weight is part of rate; through carload minimum; new cars.* (1) The minimum weight upon which carload rate is based is a part of the rate, because the charges on a shipment of a weight less than the minimum, are determined by such minimum weight. The publication, posting, and filing of the rate and of the minimum weight are therefore equally necessary.

(2) Where two or more carriers publish a joint through rate they must publish in connection therewith one carload minimum weight for the through movement under that rate, except that joint through rates made up in combination on a specific base point may be published, subject to one minimum weight in connection with the specified portion of the rate up to the base point and to a different minimum weight in connection with the specified portion of the rate beyond the base point. (See § 1300.4(l).)

(3) Carriers' mechanical departments have rules providing that a new car shall not be loaded to its full capacity on its first trip. Such rules generally provide that a car on its first trip shall not be loaded to more than 75 percent of its capacity, or of the minimum weight fixed in the tariff and that charges shall be based on such lower minimum. The lawful charges are those published in tariffs filed with the Commission. Therefore if such a rule is used it must be published in carriers' tariffs.

§ 1300.67 Export and import traffic—ocean carriers.

Ocean carriers between ports of the United States and foreign countries are not subject to the terms of the Interstate Commerce Act or to the jurisdiction of the Commission.

(a) *Export and import tariffs.* (1) The inland carriers of property exported to or imported from a foreign country by water must file their rates to the ports and from the ports, and such rates must be the same for all, regardless of what ocean carrier may be designated by the shipper except as otherwise provided by section 28 of the Merchant Marine Act (41 Stat. 999; 46 U. S. C. 884).

(2) When rates are published to apply on export or import traffic, but not on traffic destined to or originating at the port, the tariffs containing such rates shall specify by inclusion or exclusion the countries to or from which traffic subject to such rates shall move, whether such countries are, or are not, adjacent to the United States.

(3) In the interest of clearness the tariffs should also specify whether or not property destined to or coming from Cuba, the Philippine Islands, Porto Rico, the Hawaiian Islands, or the Canal Zone are included. For convenience, and without regard to the political status and relation of the Philippines, Porto Rico, the Hawaiian Islands, and the Canal Zone to the United States, they, together with Cuba, are for these purposes to be classed with foreign countries, and in the absence of statement in tariffs limiting the application of export and import rates, export and import rates will apply on traffic destined to or coming from the above-named territories.

(b) *Steamship charges may be shown.* As a matter of convenience to the public, said inland carriers may also publish as information in their tariffs in connection with the inland rate as above provided the steamship charges to or from foreign destinations. When this is done, such steamship charges may be changed without notice, but the rates of inland carriers to (or from) ports are subject to all provisions of section 6 of the Interstate Commerce Act and of the Commission's rules with respect to notice and form of publication. Tariffs containing such steamship charges must not be concurred in by the ocean carriers.

(c) *Through export and import billing.* Export and import shipments may be forwarded under through billing, but through bills of lading must clearly separate the liability of the inland carrier or carriers and of the ocean carrier, and must show the tariff rate of the inland carrier or carriers.

CROSS REFERENCES: For regulations governing the posting of freight tariffs of common carriers by rail, water, and pipe line, including tariffs containing joint motor-rail, motor-water, and/or motor-rail-water rates, see Subpart A of Part 1306 of this chapter.

§ 1300.200 Alternation of through rates with aggregate of intermediate rates.

(a) In order to facilitate the application of rates which will be in accord with the aggregate-of-intermediates provision of the fourth section of the act, common carriers by railroad and their duly appointed tariff publishing agents may depart from the terms of §§ 1300.4 (h) and (i) and 1300.7(b) (Rules 4(h), 4(i), and 7(b) of Tariff Circular No. 20) for the purpose of incorporating in tariffs naming rates and charges for the transportation of property the following rule in lieu of the rule authorized in § 1300.56 (Rule 56 of Tariff Circular No. 20):

If on any shipment an aggregate-of-intermediate local, joint and/or proportional interstate rates constructed via a route over which the through rate published in this tariff is applicable produces a lower charge than the through rate, such aggregate of rates will apply via all routes authorized in this tariff and the through rate has no application to any such shipment via any of those routes.

Common carriers by railroad and their duly appointed tariff publishing agents when publishing the foregoing rule may provide for its nonapplication to rates on particular descriptions of traffic, in which event, as to such rates, the rule authorized in § 1300.56 may be used.

(b) Publications issued hereunder shall make specific reference hereto as authority for tariff circular departure by using the following notation:

Rules 4(h), 4(i), and 7(b) of Tariff Circular No. 20 waived; I.C.C. Permission No. 16800.

(c) This permission does not modify any outstanding formal orders of the Commission nor waive, except as herein authorized, any of the requirements of its rules relative to the construction and filing of tariff publications. This permission shall continue in force and effect until otherwise ordered by the Commission.

PART 1301—LONG-AND-SHORT-HAUL AND AGGREGATE-OF-INTERMEDIATES RATES—RAILROADS

Sec.
1301.11 Continuation or establishment of rules for absorption of switching charges is authorized by publication, filing and posting of schedules.
1301.21 Disposition of fractions.
1301.31 Authorization for changes in classification ratings, rules and regulations.
1301.61 Relief for departure in rates on transit shipments.
1301.65 Filing schedules simultaneously with applications.
1301.75 Applications, preparation and filing, conformity with rules.
1301.76 Freight and passenger applications, separate.
1301.77 Long-and-short-haul and aggregate of intermediate applications separate.
1301.78 Number of copies, form, general specifications and requirements, signatures, and verification.
1301.79 Matters to be shown in the application.
1301.80 Additional information required.
1301.81 Additional matters to be shown.
1301.83 Miscellaneous provisions.
1301.89 Acceptance of applications.
1301.94 Applications for relief previously denied.
1301.95 Changes and additions.

AUTHORITY: The provisions of this Part 1301 issued under secs. 3, 4, 12, 24 Stat. 380; 49 U.S.C. 3, 4, 12.

§ 1301.11 Continuation or establishment of rules for absorption of switching charges is authorized by publication, filing and posting of schedules.

(a) All carriers that may desire to continue or to establish rules for the absorption of switching charges are hereby authorized to continue the practice of absorbing switching charges from competitive and not from noncompetitive stations for the present by the publication, filing, and posting of schedules in the manner and form as prescribed by law and by the Commission's regulations.

(b) Tariffs containing the rules in this part need contain no reference to this order. The Commission does not hereby approve any rules that may be filed under this permission, all such rules being subject to complaint, investigation, and cor-

section if they conflict with any other provision of the act.

§ 1301.71 *Disposition of fractions.*

(a) Applying the rule de minimis, all carriers are hereby authorized, in the making up of through fares or rates on the aggregate of the intermediate fares or rates, to disregard fractions of a cent less than .5, retaining the half cent in the rate when it is even .5, and making the rate in even cents when the fraction is more than .5.

(b) Tariffs need contain no reference to this order. The Commission does not hereby approve any fares or rates that may be filed under this authority, all such fares and rates being subject to complaint, investigation, and correction if in conflict with any other provision of the act.

§ 1301.31 *Authorization for changes in classification ratings, rules and regulations.*

(a) As to, and confined to, class rates authorized by fourth-section order or orders of this Commission or covered by applications filed on or before February 17, 1911, that have not been passed on, carriers are hereby authorized to make changes in classification ratings, rules, and regulations affecting traffic covered by the said class rates without observing the long-and-short-haul clause of the Interstate Commerce Act but subject to the succeeding paragraphs of this section.

(b) The relief granted in this section shall apply only to changes in classification ratings, rules, and regulations made by amendment to the official, southern, western, or Illinois classifications.

(c) Classification changes made by authority of Fourth-Section Order No. 144 and supplements thereto or amendments thereof prior to the date of this order shall not be required to be changed by reason of the provisions hereof until further order of the Commission.

(d) Until the effective date of the rates prescribed in Southern Class Rate Investigation, Docket No. 13494, carries parties to Southern Classification No. 47, R. H. Dulaney's I. C. C. No. 19, are hereby authorized to make changes in ratings, rules, and regulations in the said classification occurring in the ordinary course of business without observing the long-and-short-haul provision of the fourth section of the Interstate Commerce Act. The Commission does not hereby approve any changes in classification filed under this authority, all such changes being subject to complaint, investigation, and correction if in conflict with any provision of the act.

§ 1301.61 *Relief for departures in rates on transit shipments.*

In those instances in which fourth-section orders have been or may be entered granting carriers relief from the provisions of section 4 of the act to maintain lower rates for the transportation of like kind of property for longer than for shorter distances the same relief shall also apply when the said rates, with or without the addition of lawfully established charges to cover the cost of transit, are applied on transit shipments. This section shall not be construed as authorizing fourth-section departures which might result from the establishment of transit privileges at some points and not at other points on the route of movement, nor as approving any transit arrangements that may be established under this permission, all such arrangements being subject to complaint, investigation, and correction if in conflict with any other provision of the act.

§ 1301.65 *Filing schedules simultaneously with applications.*

(a) Section 4 (1) of the Interstate Commerce Act (49 U.S.C. 4 (1) has been amended by the Transportation Act of 1940, now effective, so as to eliminate the so-called equidistant clause and to provide:

That tariffs proposing rates subject to the provisions of this paragraph may be filed when application is made to the Commission under the provisions hereof, and in the event such application is approved, the Commission shall permit such tariffs to become effective upon one day's notice.

(b) Heretofore, the practice of carriers has been to file applications for, and to obtain, fourth-section relief of either a temporary or continuing character before publishing and filing rates which would without relief contravene the fourth section. The new proviso is construed as intended to shorten the period intervening between carriers' determination to publish rates and their effective date so that if relief is granted, the time now intervening between the filing of the application and its granting will be eliminated, but is not intended to set aside the 30 days' notice requirement of section 6 or to abridge the rights of interested persons to seek suspension under section 15 (7). To facilitate administration of the new proviso and at the same time to avoid interference with other sections of the act, the following procedure has been adopted:

(1) Insofar as possible, fourth section applications filed under the proviso will be acted upon before the effective date of the tariffs.

(2) In cases where it is found possible to pass upon applications before the effective date of the tariffs, if relief is granted, such relief will be made effective not with issuance of the order but on the same date as the effective date of the tariffs.

(3) In cases where action upon the application has not been taken prior to the effective date of the schedules, or where the relief sought has been denied in whole or in part, the present intention is to suspend the tariffs in order to avoid the unauthorized fourth-section departures which otherwise would result.

(4) Where rates were suspended solely because of failure to act upon the fourth-section application and where the necessary relief is subsequently granted, the present intention is promptly to vacate the order of suspension, the vacating order to be effective with issuance.

(c) Pending modification of the Commission's Rules of Practice and applicable tariff circulars, carriers that file applications for relief from the provisions of section 4 with respect to rates, fares or charges included in schedules filed concurrently with such applications, should include in the applications a complete statement of the tariffs and supplements containing such rates, fares or charges in substantially the following form:

The rates (fares) (charges) as to which relief is prayed herein have been published and filed to become effective _____ (Date)

in _____
(Name of agent or carriers)
Tariff, I. C. C. _____ (supplement number to (No.)
tariff should be shown if published therein).

(d) Tariffs and supplements filed under the above provision should show on the title page thereof a statement that they contain rates, fares, or charges, as the case may be, that contravene the long-and-short-haul (or aggregate-of-intermediates) provision of section 4, and should give specific reference to an item or page of the tariff or supplement on which shall be prominently displayed a complete and specific list of items and pages on which such rates are found, with specific number and date reference to the application for relief with respect to such rates, fares or charges.

(e) When appropriate fourth section relief has been granted before the effective date of tariffs or supplements, and such tariffs or supplements become effective, number reference to the order granting such relief need be given only when the next supplement or reissue is filed.

(f) Many outstanding orders granting relief from the long-and-short-haul provision of section 4 contain conditions designed to give effect to the equidistant clause. The present intention is not to eliminate such conditions in the absence of petitions for reopening of proceedings in which such orders were entered as it is believed that in some cases retention of such conditions may be warranted notwithstanding the repeal of the equidistant clause and in others some substitute limitation may be necessary.

NOTE: See previous notice in this matter, 5 F. R. 3758, Sept. 26, 1940.

§ 1301.75 *Applications, preparation and filing; conformity with rules.*

Any common carrier subject to the act may apply to this Commission, under section 4(1) of the act, for such authorization as it is empowered to grant thereunder. Such application must conform to the requirements hereinafter provided.

§ 1301.76 *Freight and passenger applications separate.*

Separate applications shall be filed for relief with respect to freight rates and passenger fares.

§ 1301.77 *Long-and-short-haul and aggregate of intermediate applications separate.*

Separate applications shall be filed for relief from the long-and-short-haul provision, and for relief from the aggregate-of-intermediates provision of section 4 of the act.

§ 1301.78 *Number of copies, form, general specifications and requirements, signatures, and verification.*

(a) Applications shall be substantially in the form shown below, and five copies of each, including all exhibits and maps, must be furnished.

FORM OF APPLICATION FOR RELIEF UNDER SECTION 4(1) OF THE ACT

FOURTH SECTION APPLICATION

Commission's No. _____
Carrier's No. _____

The _____ Company, by _____, _____ its _____ (Official title), hereby petitions the Interstate Commerce Commission for authority to establish rates (or fares, or charges or classifications) hereinafter set forth without observing the long-and-short-haul (or aggregate-of-intermediates) provision of section 4(1) of the Interstate Commerce Act. (If rates, etc., are to apply over the lines of more than one carrier, the application should show that it is made for and on behalf of all such carriers, naming them, or if made for or on behalf of all carriers parties to a particular tariff, reference may be made by I.C.C. No. to such tariff for the names of such carriers.)

I. (State fully the rates, fares, charges, etc., which it is desired to establish, with complete reference to the tariffs in which published and the effective date thereof, the routes over, and the articles or classes upon which they are to apply, and name, or descriptions of the points of origin and destination. See Note A following.)

II. (State fully names or description of intermediate points at which it is desired to maintain higher rates etc., and rates etc., at such points or a sufficient number of such points to illustrate the situation, including the first and last higher-rated and the highest-rated intermediate points. Distances between all points shown should be included in this statement. In applications for relief from the aggregate-of-intermediates provision, set forth typical examples of the higher through rates, fares, or charges, and the intermediate rates, fares, or charges that in the aggregate are less than the through rates, etc. See Note A following. Also show I.C.C. Nos. of tariffs, and supplements thereto, containing the rates and distances stated.)

III. This application is based upon the following facts which present all of the circumstances and conditions relied upon by your applicant in justification of the relief herein prayed: (Make a complete and accurate statement as to the necessity for the proposed changes, and all of the circumstances and conditions relied upon as justifying the relief prayed. See Note A. following.)

IV. (Give specific reference to any proceeding pending before or determined by the Commission, by docket number, and report citation, if any, which may have any bearing upon, or be in any way related to the rates, etc., sought to be established or maintained. If none, state that fact.)

_____ Company
(Corporate title of applicant)

By _____
(Personal signature of officer)

_____
(Title of officer)

NOTE A. When more convenient this information may be given in an exhibit or exhibits, and here referred to: "As stated in exhibit _____ attached to and made a part hereof." Information required under each numbered section, as above, should be shown in a separate exhibit.

Exhibits should conform to the following requirements:

Generally. Exhibits of a documentary character may have a maximum width of 22 inches by 12½ inches in height. Whenever practicable the sheets of each exhibit and the lines of each sheet should be numbered. If the exhibit consists of five or more sheets the first sheet or title-page should be confined to a brief statement of what the exhibit purports to show, with reference by sheet and line to illustrative or typical examples contained therein. The exhibit should bear an identifying number, letter, or short title which will readily distinguish it from other exhibits offered. It is desirable that, whenever practicable, rate comparisons and other evidence should be condensed into tables. Exhibits should not be argumentative, should be limited to statements of fact, and be relevant and material to the issue.

Reference to tariff authority, routes, and distances. All exhibits showing rates, fares, charges, or other tariff or schedule provision must, by appropriate Interstate Commerce Commission number reference, indicate the tariff or schedule authority therefor, and if distances are shown must also show the authority therefor and, by lines, highways, or waterways, and junction points, the routes over which the distances are computed; except that the routes over which the distances are computed need not be shown when such or schedule lawfully on file with the Commission showing rates prescribed by the Commission and based on short-line distances, or short-highway distances, provided the exhibit makes specific reference to such tariff or schedule as provided by this rule.

(b) Applications shall be on opaque, unglazed, durable paper not exceeding 8½ by 11 inches. To permit of binding in covers of uniform size, margins of at least 1½ and 1 inch, respectively, shall be allowed on the left and right margins. Binding shall be on the left margin. Reproduction may be by printing, multilithing, mimeographing, or any other process, provided the copies are clear and permanently legible. Whiteline blue prints which cannot be reproduced by photography are not desirable. If directly typewritten, or if in facsimile reproduction of typewriting, the impression must be on one side of the paper and must be double spaced, except that long quotations shall be single spaced and indented. If printed, nothing less than 10-point type shall be used, except that 8-point type may be used in footnotes.

(c) The original copy of the application must be over the personal signature of an executive officer, a responsible traffic officer, or a duly authorized attorney or agent, specifying his title, and sworn to before a notary public or other officer authorized by law to administer oaths. Verification shall be in the manner shown below:

VERIFICATION

State of _____ }
County of _____ } ss:

_____ (Name of affiant), being duly sworn, deposes and says: That he is the _____ (Title of affiant) of the _____ (Name of applicant); that he is authorized by said applicant to sign and file with the Interstate Commerce Commission this application and exhibits attached hereto, and to verify the facts and statements contained in said application and exhibits; that he has carefully examined all of such statements contained in said application and exhibits; and that the same are true and correct to the best of his knowledge, information, and belief.

_____

Subscribed and sworn to before me, a _____ in and for the State and County above, this _____ day of _____, 19__.

_____

(SEAL) My commission expires _____

§ 1301.79 *Matters to be shown in the application.*

(a) The information required in this section and in §§ 1301.80, 1301.81, and 1301.82, according to the grounds upon which relief is sought, shall be shown in the application when Commission action is desired on the presentation made therein, without hearing. When a hearing is desired and applicants propose to justify at the hearing the relief desired, the information specified in this section shall be included in the application, and the information required in §§ 1301.80, 1301.81, and 1301.82 may, instead, be introduced at the hearing. It should be understood, however, that where the information included in the application does not fully justify the relief sought, or for other good cause, the application may be assigned for hearing at the Commission's discretion. The application shall show:

(b) The names of the carrier or carriers for, or on behalf of which it is made, or, if made on behalf of all carriers parties to a particular tariff, the application may refer to such tariff by Interstate Commerce Commission number (hereinafter abbreviated I.C.C. No.).

(c) The I.C.C. No. of all tariffs in which rates, fares, or charges referred to in the application or exhibits are published.

(d) The rates, fares, or charges proposed to be established; the basis or bases therefor; the articles or classes on which they are to apply; the points of origin and destination; and the routes between such points over which the rates, fares, or charges will apply. (Direct routes only with respect to applications for long-and-short-haul relief). When relief is desired from or to "related" points or "group" points, the points or groups shall be indicated in the map hereafter required to be furnished, or defined by reference to tariff publications providing the grouping.

(e) If long-and-short-haul relief is sought, the intermediate points at which it is proposed to maintain rates, fares, or charges higher than those proposed from or to more distant points, and the rates, fares, or charges at such points. If relief from the aggregate-of-intermediate provision of section 4 is sought, the intermediate rates, fares, or charges that, in the aggregate, are less than the through rates, fares, or charges.

(f) A complete and accurate statement of the grounds relied upon as justification for the relief prayed.

(g) Applications for relief from the provisions of section 4 with respect to rates, fares, or charges included in schedules filed before the necessary relief has been obtained shall include in the opening or second paragraph a complete statement of the tariffs and supplements containing such rates, fares, or charges in substantially the following form:

The rates (fares) (charges) as to which relief is prayed herein have been published and filed to become effective _____ (Date) in _____ (Name of agent or carriers) tariff I.C.C. _____ (Number). (Supplement number should be shown if published in a supplement).

§ 1301.80 Additional information required.

(a) *Long-and-short-haul relief.* Applications should show:

(1) That, where proposed rates are depressed to meet competition, the competitive rates they are being established to meet are not within the control of applicant carriers, and any other facts tending to show that such rates should not be observed as maxima at intermediate points.

(2) That the lower rates for longer than for shorter hauls over the same line or route are reasonably compensatory.

The following information is considered pertinent in a showing as to the reasonably compensatory nature of rates:

(i) Statement of ton-mile, car-mile, and per-car earnings under the competitive rates. When a general adjustment is involved covering rates between numerous competitive points and applicable or to be applied by numerous routes, it will be sufficient, ordinarily, to give representative examples of rates throughout the territory yielding the lowest earnings for the longest and shortest hauls involved.

(ii) Statement of ton-mile and car-mile expenses of petitioning carriers on the traffic involved, or other evidence showing that the proposed rates will be reasonably compensatory.

(3) A statement of rates at representative intermediate points at which rates exceed or would exceed the rates at more distant points under the proposed adjustment, including rates at the first and last higher-rated intermediate points and the distances from and to such intermediate points. This information need not be shown where the rates at the more distant points are constructed on the basis of a mileage scale and the rates at the intermediate points reflect the same mileage scale.

(4) That the higher rates for the shorter than for the longer hauls over the same line or route are reasonable. (The usual facts tending to show the reasonableness of rates should be presented).

(5) Whether there is a complaint pending as to the reasonableness of the rates at the intermediate points on the applicant line or route.

(6) In the event the rates proposed to be superseded by subsequent revisions are maintained under authority of outstanding fourth-section orders, reference to such orders shall be furnished.

(7) Where the proposed adjustment is in any way related to a prior adjustment as to which relief has been authorized, that is, the addition of origins, destinations, commodities, etc., or involves rates for the return movement of commodities as to which relief for initial hauls has been authorized, reference to orders authorizing such relief shall be furnished.

(b) *Aggregate-of-intermediates relief.* Applications should show:

(1) The origins and destinations from and to which it is proposed to continue, or to establish and maintain through rates, fares, or charges which exceed the aggregate-of-intermediate rates, fares, or charges, together with the intermediate rates, fares, or charges that, in the aggregate, are less than the through rates, fares, or charges.

(2) That the intermediate rates, fares, or charges which, in the aggregate, are lower than the through rates, fares, or charges, are depressed by competitive conditions that do not affect the through rates, fares, or charges; and the same information with respect to the conditions alleged as affecting the intermediate rates as that required in applications for long-and-short-haul relief with respect to similar conditions when alleged as grounds for maintaining lower rates for longer than for shorter distances.

(3) That the through rates, fares, or charges that would exceed the aggregate-of-intermediate rates, fares, or charges are reasonable. (The usual facts tending to show the reasonableness of rates should be presented).

§ 1301.81 Additional matters to be shown.

(a) *Applications based on water competitions.* (1) The name of the competing water line or lines actually in operation between the water points and whether said water line or lines, in the transportation of the traffic involved, are subject to the Interstate Commerce Act.

(2) A detailed statement of the charges over the water line or lines, including marine insurance, wharfage, handling, shrinkage, and all other applicable incidental charges. Where such charges are named in tariffs on file with this Commission, reference should be made to such tariffs by I.C.C. number.

(3) Whether facilities for loading into and unloading from barges or ships are available.

(4) The minimum tender that may be made to the water carrier or carriers, and whether shippers and receivers are equipped to handle such amounts.

(5) If the season of navigation is restricted, and, if so, that available storage will permit the handling by water of receivers' needs during the season of navigation.

(6) The cost of installation, maintenance, etc., of loading, unloading, and storage facilities which must be constructed or installed before water transportation is feasible.

(7) Evidence supporting water costs and accessorial charges which are not published in tariffs on file with the Commission.

(8) Certification that a copy of the application has been served upon the competing water line or lines named in paragraph 1 hereof. The service and certification shall conform with the requirements of Rule 22 of the General Rules of Practice (§ 1100.22 of this chapter).

(b) *Applications based on motor carrier competition.* The charges over the competing motor line or lines, including all incidental charges, and if interstate common or contract carrier or carriers, reference to the applicable tariffs by I.C.C. numbers.

(c) *Applications based on market competition.* (1) The names of the producing or receiving points whose competition is to be met.

(2) The short line or route and distances, or the class rate distances if the latter are normally used for rate making purposes, from the various producing points to the common market and tariff authority for the distances.

(3) The rates from the competitive producing points with reference by I.C.C. No. to the tariffs naming the rates and whether they conform to the provisions of section 4 of the act. If relief has been granted or application is pending as to such rates, give reference to the I.C.C. No. of the application or order.

(4) Whether similar competition is to be met at intermediate points.

(d) *Applications based on weak financial condition or high operating costs of the applicant line.* Financial statistics and operating conditions.

§ 1301.82 Miscellaneous provisions.

(a) In addition to the above, applications should show any other conditions or circumstances relied upon as constituting a special case within the meaning of section 4(1) of the act.

(b) Applications should contain a map, made a part thereof, showing the relative location of lines or routes, the competitive points, and representative intermediate points at which higher rates are to be charged, or representative points from or to which it is proposed to maintain through rates, fares, or charges which exceed the aggregate of intermediates. This map need not be furnished where departures are due only to use of class rate distances and grouping, or to the use of relief line arbitraries.

§ 1301.83 Acceptance of applications.

In any case when, upon inspection, the Commission is of the opinion that an application does not sufficiently set forth required material or is otherwise deficient, the Commission may decline to accept the application for filing and may return it unfiled, or the Commission may accept it for filing and advise the person tendering it of the deficiencies and require that such deficiencies be corrected.

§ 1301.84 Applications for relief previously denied.

If the Commission denies an application, and the carrier presents a new application based upon new or additional facts in justification of the proposed rates, fares, or charges, such facts should be clearly indicated as such, and the modified application must refer specifically to the previous application and the number of the order by which it was denied.

§ 1301.85 Changes and additions.

Copies of any amendment to the application, or any additional information furnished to the Commission in connection therewith, including notices of any changes in the effective date of the rates, fares, or charges as set forth in compliance with § 1301.79(g), shall be served by applicant upon all parties served with a copy of the application and upon all parties protesting the application. The service and certification thereof shall conform with the requirements of Rule 22 of the General Rules of Practice (§ 1100.22 of this chapter).

PART 1302—EXPORT AND IMPORT SHIPMENTS; RAILROADS

CHARGES FOR RAIL TRANSPORTATION WHEN WATER TRANSPORTATION PERFORMED IN VESSELS NOT DOCUMENTED UNDER LAWS OF THE UNITED STATES

Sec.
1302.41 Suspension of statute.
1302.42 Further suspension of statute.
1302.43 Applicable rates on shipments in transit when statute becomes effective.

AUTHORITY: The provisions of this Part 1302 issued under sec. 28, 41 Stat. 990, as amended; 46 U.S.C. 826.

CROSS REFERENCES: For Bureau of Customs, Department of Treasury; see Customs Duties, 19 CFR Chapter I. For Foreign-Trade Zones Board; see Commerce, 15 CFR Chapter IV. For Regulations of Bureau of International Commerce concerning foreign trade statistics; see Commerce, 15 CFR Chapter III.

§ 1302.41 Suspension of statute.

The provisions of section 28 of the Merchant Marine Act, 1920, are hereby further suspended from and including the first day of January, 1921, until further order of this Commission.

§ 1302.42 Further suspension of statute.

(a) Order of March 11, 1924, as modified, which terminated order of June 14, 1920, as modified, suspending provisions of sec. 28 of the Merchant Marine Act, 1920, until further order of the Commission, is hereby vacated and set aside.

(b) The provisions of said order of June 14, 1920, as modified by the supplemental orders of July 27, 1920, December 11, 1920, and February 7, 1921, specified in the paragraph (a), shall continue in force until further order of the Commission.

§ 1302.43 Applicable rates on shipments in transit when statute becomes effective.

The following conditions are hereby prescribed as supplemental to the orders aforesaid suspending the provisions of section 28 of the Merchant Marine Act, that is to say, that notwithstanding the provisions of the aforesaid section 28 may become effective during the time when export or import shipments are in transit to or from the ports of export or import the following conditions shall be observed.

(a) With respect to all export shipments delivered to and receipted for by common carriers subject to the provisions of section 6 of the Interstate Commerce Act (Sec. 6, 24 Stat. 380, as amended; 49 U.S.C. 6(13)) the rates to the ports in force and applicable upon said shipments via the lines of said carriers upon the date of delivery to and receipt by such carriers shall be applied to said shipments; and,

(b) With respect to all import shipments delivered to and receipted for by common carriers subject to the provisions of section 6 of the Interstate Commerce Act (49 U.S.C. 6 (13)) the rates from the ports in force and applicable to said shipments over the lines of said carriers upon the date of delivery to and receipt by such carriers shall be applied to said shipments.

PART 1303—PASSENGER SERVICE SCHEDULES; RAIL AND WATER CARRIERS

PASSENGER FARE SCHEDULES

Sec.
1303.0 General provisions; definitions.
1303.1 Form, size, and printing.
1303.2 Indicating changes in tariff or amendment.
1303.3 Title page arrangement.
1303.4 Content of tariffs.
1303.5 Fares maintained for emergency or basing purposes.
1303.6 Loose-leaf tariffs.
1303.7 Cancelation of transfer of fares or other provisions.
1303.8 Amendment procedure.
1303.9 [Reserved]
1303.10 Index of tariffs.
1303.11 Filing Tariffs; rejections.
1303.12 Tariffs issued through an agent.
1303.13 Powers of attorney.
1303.14 Concurrences.
1303.15 Filing of powers of attorney and concurrences.
1303.16 Certificate stating correct name of carrier to be filed.
1303.17 Transfer of authority from one agent to another agent.
1303.18 Procedure when one publishing agent succeeds another.
1303.19 I.C.C. numbers of tariffs issued by a new agent or alternate agent.
1303.20 Powers of attorney and concurrences in special situations.
1303.21 Amendment and revocation of powers of attorney and concurrences.
1303.22 Round-trip excursion fares.
1303.23 Fares in special car or train service.
1303.24 Newly inaugurated regular sleeping-car or parlor-car service.
1303.25 Temporary rates for sleeping cars or parlor cars.
1303.26 Newly constructed lines of railroad and newly established service by water carriers.
1303.27 Transportation of circus and show outfits.
1303.28 Party-fare tickets.
1303.29 Round-trip tickets on certificate plan.
1303.30 Validation of round-trip passenger tickets.
1303.31 Emergency extension of time limit of tickets and granting stopovers.
1303.32 Free transportation of caretakers in connection with shipments of property.
1303.33 Ocean carriers' fares to or from foreign countries.
1303.34 Posting of tariffs.
1303.35 Applications for authority to make changes in tariffs.

AUTHORITY: The provisions of this Part 1303 issued under secs. 5, 6, 12, 24 Stat. 380, 49 Stat. 546, 560; secs. 304, 306, 54 Stat. 955; 49 U.S.C. 5, 6, 12, 304, 317, 906.

NOTE: This part is applicable to the construction, filing, and posting of passenger tariffs of common carriers by railroad (including sleeping car companies) and by water, and passenger tariffs containing joint fares or charges between motor common carriers and common carriers by railroad or by water.

§ 1303.0 General provisions; definitions.

(a) *Confirmation to rules; reissue.* All tariffs filed on or after May 1, 1958, shall conform to the regulations in this part. The Commission may direct the reissue of any tariff, power of attorney or concurrence at any time.

(b) *Definitions*—(1) *Local fare.* The term "local fare" as used in this part, means a fare for service by one carrier only. A local tariff is one which contains fares or charges for service by one carrier only.

(2) *Joint fare or joint charge.* The terms "joint fare" or "joint charge", as used in this part, mean a fare or charge for service by two or more carriers that is made by agreement between or among such carriers.

(3) *Joint tariff.* Joint tariffs are those which contain joint fares or charges.

(4) The term "suburban service" as used herein means the transportation of passengers between places or communities the limits of which are not more than 75 miles apart as measured by air line distances.

(5) The term "commutation fare" as used herein means the amount charged for a ticket good for travel for a limited number of trips (not for a single round trip) or for an unlimited number of trips within a certain period of time, the amount charged being less than would be paid in the aggregate at the normal one-way fare for the maximum number of separate trips possible.

(c) *Tariff includes amendments.* Except where the context indicates the contrary, the word "tariff" as used in this part also includes supplements and other amendments to tariffs.

(d) *Reference to section designations, shortcut method.* For convenience, that portion of a section designation appearing to the right of the decimal point in this part may be used in referring to such section in correspondence with the Commission; for example, § 1303.4(f)(1) may be referred to as section 4 (f) (1).

§ 1303.1 Form, size, and printing.

(a) *Form and size.* All tariffs must be in book, pamphlet, single-sheet or loose-leaf form, of size 8 by 11 inches, except that tariffs and supplements also in-

tended for use in collecting passenger fares and charges on trains may be in book or pamphlet form smaller in size than 8 by 11 inches.

(b) *Paper; size of type.* Tariffs must be plainly printed on paper of durable quality and in type not less than 6-point bold or full face, except as provided in § 1303.8(i) as to vacation notice, and except, further, that not less than 4-point full face type may be used for reference marks. Explanation of reference marks must be in type not less than 6-point bold or full face.

(c) *Method of printing.* Stereotype, planograph, mimeograph or other similar durable process may be used, provided the copies posted and filed are clear and legible in every respect. Reproduction by hectograph or similar process, typewritten sheets or proof sheets must not be used for posting or filing.

(d) *Alterations.* Erasures or alterations must not be made in tariffs filed with the Commission or posted at stations.

(e) *Margin.* A margin of not less than five-eighths of an inch with no printing thereon must be allowed at the binding edge of each tariff.

(f) *Tables, ruling of.* When tables of numerals are used, the page shall be vertically ruled in columns of sufficient width to accommodate the matter to be shown therein (including reference marks) without crowding.

(g) *Pages, numbering.* Except as provided in § 1303.6(e), the pages of a tariff shall be consecutively numbered. The title page shall be considered as page 1, but shall not be numbered; and the interior pages shall be numbered beginning with 2, except that in looseleaf tariffs the title page shall be designated as "Title Page" and the next page as page 1.

§ 1303.2 Indicating changes in tariff or amendment.

(a) *Reference marks.* All tariffs, supplements, and loose-leaf pages must indicate any change in existing fares, rates, or charges, and in rules, regulations, or practices except when a change in wording results in neither increase nor reduction, by use of uniform reference marks in connection with the change. The reference marks used shall be those specified for the purpose in § 1303.4(d).

(b) *General changes indicated at top of page.* (1) When a change of the same character is made in all or in substantially all of the fares or rates in a tariff or supplement, or a page thereof, the fact and the nature of such change may be indicated in distinctive type at the top of the title page of such issue, or at the top of each page, respectively, in substantially the following manner:

All fares in this issue are increased
or
All fares on this page are reductions, except as otherwise provided in connection with the fares.

(2) Fares which are not changed or changes not consistent with the notation shall be appropriately symbolized.

§ 1303.3 Title page arrangement.

The title page of every tariff and of every supplement shall show:

(a) *I. C. C. number and cancellations.* On the upper right-hand corner, the I. C. C. number of the tariff and immediately thereunder the I. C. C. number or numbers of tariffs or supplements canceled thereby. If the number of publications canceled is so large as to make it impracticable to enter them on the title page, the cancellation notice must be shown on page 2 and specific reference thereto shown on the title page directly under the I. C. C. number. Separate series of I. C. C. numbers must be used for freight and passenger tariffs.

(b) *Name of carrier or agent.* The name of the issuing carrier or the name of the agent issuing under power of attorney. See § 1303.4(b)(1).

(c) *Kind of tariff.* Whether tariff or supplement contains local or joint, or local and joint fares, rates, or charges; whether it applies for passengers, baggage, milk, or other kind of service; whether fares are one-way, round-trip, proportional, or basing; and whether it contains all-rail, rail-motor, all-water, or rail-water, motor-water, etc., fares or charges, or any combination of such types of fares or charges.

(d) *Territory.* The territory or points from and to which the tariff applies, briefly stated.

(e) *Effective date.* (1) Date of issue and effective date. Every publication which contains fares or other provisions effective upon a date different from the general effective date of such publication must show on its title page the following notation: "Effective ----------, 19-- (except as otherwise provided herein)" or "(except as provided in Item ----)" or "(except as provided on page ----)."

(2) A provision in a tariff or supplement that it or any part of it will expire with a given date is not a guaranty that the tariff or supplement or such part thereof will remain effective until and including that date. Such provision, if used, will be held to mean that the tariff or supplement or specified part of it will expire with the date named, unless the date is changed on statutory notice, or under special permission. Where used, the expiration notice must read: "Expires with ----------; (Date) unless sooner canceled, changed or extended."

(f) *Issuing officer or agent.* At the bottom of the title page, the name, title, and mail address of the individual actually responsible for compiling and filing the schedule. If the tariff is issued by a natural person as agent, his name must be shown with the title of "Agent." If issued by a corporation or association as agent, the name and title of the person responsible for the actual compilation and filing must be shown.

§ 1303.4 Content of tariffs.

Tariffs shall contain:

(a) *Table of contents.* A full and complete statement, alphabetically arranged, of general subject headings and the exact location where they will be found. If a tariff contains so small a volume of matter that its title page or interior arrangement clearly discloses its contents, the table of contents may be omitted.

(b) *Names of participating carriers.* (1) A list of the correct names of all carriers participating therein, subdivided according to (i) initial carriers, and (ii) intermediate and terminating carriers, each subdivision alphabetically arranged, together with the form and number of power of attorney or certificate of concurrence, except as provided in paragraph (b)(2), (3) and (4) of this section. If there be not more than 10 participating carriers, their names and power of attorney and concurrence forms and numbers may be shown on the title page. Reference to the forms and numbers of powers of attorney and concurrences may be omitted, provided this information is furnished to the Commission in an acceptable form.

(2) A tariff containing only regulations and charges for the transportation of baggage or dangerous articles may omit the list of intermediate and terminating carriers, provided there is included therein under the caption "Participating Carriers" a statement reading as follows:

Carriers parties to this tariff other than those specifically named herein, are the carriers named as participating carriers in fare tariffs which specifically refer to this tariff for regulations and charges.

(3) Where a tariff of round-trip excursion fares makes reference by I. C. C. number to a tariff of one-way fares for fares on which such round-trip fares are based, as provided in paragraph (f)(7) of this section, the tariff of round-trip excursion fares may state under the caption "Participating Carriers" that the carriers parties to the tariff of round-trip excursion fares are those which are parties to the tariff of one-way fares referred to, identifying the latter tariff by issuing carrier or agent and I. C. C. number.

(4) Where all-rail fares also are applicable as joint rail-motor fares under arrangements referred to in paragraph (g)(3) of this section, it will not be necessary in the tariff providing the fares to list the names of the motor carriers which participate in the fares only by arrangements published in the joint rail-motor routing and honoring tariff, but the tariff making reference to the joint rail-motor routing and honoring tariff, under the caption "Participating Carriers," shall contain the following statement:

Motor carriers participating in this tariff are those shown as parties to (name of joint rail-motor routing and honoring tariff) No. ----, Agent ---------- I. C. C. No. ----, over whose routes, as shown therein, fares in this tariff are applicable under the provisions of Rule ---------. (Here refer to rule in which provision authorized in paragraph (g)(3) of this section is published.)

(c) *Index of stations.* (1) Except as indicated in subparagraph (2) of this paragraph, an alphabetical index of points from which fares, rates, or charges apply, and a separate alphabetical index of points to which fares, rates, or charges apply, with reference to the location in the tariff of the fares, rates, or charges from or to such points. When fares, rates, or charges apply in both directions, the points of origin and destination may be shown in one index.

(2) If throughout the tariff, points of origin or destination are shown alphabetically by states or by carriers and such states or carriers are alphabetically arranged, or if throughout the tariff, points of origin or destination are shown in continuous alphabetical order, no index of such alphabetically arranged points of origin or destination will be required, but the table of contents must refer to the pages on which points are shown. If there be not more than twelve points of origin and twelve points of destination, they may be shown on the title page of the tariff, and the index omitted.

(d) *Explanation of reference marks and abbreviations.* (1) Explanation of reference marks and abbreviations used in the tariff or supplement, except that commonly used abbreviations of State names may be omitted, and except further that abbreviations of the names of participating carriers may be explained in the list of such carriers, provided a statement to that effect is included under the "Explanation of Abbreviations." If the explanation of a reference mark does not appear on the page on which the reference mark is used, that page shall show where the explanation is given. A supplement shall contain an explanation of all reference marks appearing in the supplement, but need contain the explanation only of those abbreviations appearing in the supplement which are not explained in the original tariff (if explained in a prior supplement, the explanation must be repeated).

(2) The following reference marks shall be used, and shall be used only, for the purposes indicated:

↓ or r to denote reductions.
♦ or a to denote increases.
• or n to denote no change in fare or rate.
+ or X to denote intrastate application only.
□ or ◇ to denote reissued matter. (See § 1303.8(d).)
b to indicate basing fare only.

(e) *Rules and regulations.* (1) Rules and other governing provisions, with the title or subject of each to be shown in distinctive type. Under this heading, all of the rules, regulations, explanatory statements, or other conditions which in any way affect the application of the fares, rates, or charges shall be clearly and explicitly stated, except that a special rule affecting a particular fare, rate, or charge shall be shown in connection with and on the same page with such fare, rate or charge.

(2) Except as provided in paragraph (f)(3) of this section, no rule or regulation shall be included which authorizes substituting for any fare, rate, charge, or route named in the tariff, a fare, rate, charge, or route provided in any other tariff.

(3) Where it is not desirable to include general governing rules and regulations in a passenger fare tariff, such rules and regulations may be separately published in a tariff filed by an individual carrier or by an agent. When rules or regulations are thus separately published, a fare tariff may be made subject thereto only by specific reference thereto by I. C. C. number.

(4) When tariffs of joint fares make reference to separate publications for governing rules and regulations, such separate publications must be concurred in by all of the carriers parties to such joint fares.

(5) A "Miscellaneous Regulations" rule may be included in a joint tariff for the purpose of applying in connection therewith specific rules of one or more participating carriers when such rules are not generally applicable to all of the carriers. The rule should read substantially as follows:

Except as otherwise specifically provided herein, the fares authorized in this tariff are subject to the rules and regulations shown in other tariffs of the issuing and participating carriers to this tariff, lawfully on file with the Interstate Commerce Commission, which in any way affect the measure of the service or charges shown in this tariff.

(6) For the purpose of providing through fares from and to all stations on the lines of the carriers within the territory covered by the application of the tariff, a tariff may contain a rule reading substantially as follows:

A fare to a destination or from a point of origin not shown in this tariff will be made by adding the fare shown in this tariff to or from an intermediate point on the route of travel to a fare of like class from or to the intermediate point shown in another tariff lawfully on file with the Interstate Commerce Commission, but if the fare so made exceeds the fare of like class to or from a point beyond on the same through line, as shown in this tariff, the latter fare will apply.

(f) *Fares, rates, or charges.* (1) An explicit statement of the fares, rates, or charges for transportation, in cents or in dollars and cents per passenger or other unit, all arranged in simple and systematic manner, as outlined in subparagraphs (2) to (9), inclusive, of this paragraph. Complicated plans or ambiguous terms must not be used.

(2) A tariff, in providing one-way adult fares, must show the exact fares, in one sum, for at least one class of service from and to the points from and to which it applies, or the exact fares, in one sum, for at least one class of service between the principal points, together with explicit rules and bases from which to determine the fares from and to other points.

(3) A station located on the border of two territories covered by two joint tariffs may be included in one or the other of such tariffs and the basis for fares from or to such point stated as:

(i) A specific amount added to the fare to or from an intermediate station shown in the same tariff, but not to exceed the corresponding fare to or from a station beyond on the same through route as published in the other tariff (see note); or

(ii) A specific amount added to the fare to or from an intermediate point, as shown in the other tariff (see note), but not to exceed the corresponding fare to or from a point beyond on the same through route as shown in the same tariff.

NOTE: When reference is made in the published basis to a fare published in another tariff, such reference must show the I. C. C. number of the tariff in which the fare is published, together with the name of the issuing agent or carrier.

(4) Children's fares may be stated in terms specifically related to adult fares.

(5) Except as otherwise provided in this paragraph, a tariff containing other types of fares (including round-trip fares), or excess-baggage rates and charges may show the exact fare, rate, or charge, or publish them by means of appropriate tables based on the one-way fares. Tariffs of fares, rates, or charges, other than excess baggage rates, based upon the one-way fares must give reference to the I. C. C. number or numbers of tariffs containing the one-way fares.

(6) A tariff of commutation fares may provide fares by means of a table based upon the distance in miles between stations, and include in the tariff a table showing the distances between stations or make reference by I. C. C. number to the tariff containing such distances.

(7) Tariffs naming temporary round-trip fares, which tariff is to be effective for a period not exceeding one year, may state such fares in terms specifically related to the one-way fares. Such tariffs must refer specifically by I.C.C. number to the tariffs of one-way fares on which the round-trip fares are based.

(8) Tariffs for sleeping car accommodations must contain specific rates for at least one class of accommodation. Rates for other sleeping car accommodations may be stated in terms specifically related to such specific rates. Rates for parlor car accommodations must be published in such manner that they can be readily ascertained.

(9) All other fares, rates, or charges for the transportation of passengers or property not specified in subparagraphs (2) to (8), inclusive, of this paragraph must be published in such manner that they can be readily ascertained, and the service for which they apply must be definitely stated.

(10) Except as provided in § 1303.5(b)(1), the publication of fares, rates, or charges which duplicate or conflict with those published in the same or some other tariff for application over the same route is not permissible.

(g) *Routes.* (1) The routes over which fares or rates apply, showing the names of the carriers and junction points; except that the routes may be shown directly in connection with the fares or rates, or in lieu of publication in the tariff naming fares or rates, such routes may be published in a separate tariff or tariffs which must be specifically referred to by I. C. C. number in the tariff naming the fares or rates.

(2) A tariff providing temporary round-trip fares, which tariff is to be effective for a period not exceeding one year, wherein such fares are provided by means of an appropriate table based on one-way fares or are stated in terms specifically related to one-way fares, may authorize the application of the temporary round-trip fares over routes, including reverse of routes, applicable in connection with the one-way fares on which based, and also over additional routes specifically provided in the tariff of temporary round-trip fares.

(3) A tariff containing all-rail fares which also are applicable as joint rail-motor fares from and to, or between, the same points, may refer to a joint agency tariff for routing and regulations governing the honoring of tickets over joint rail-motor routes by a statement in the rules governing the application of fares (see paragraph (e) of this section), reading substantially as follows:

Fares published in this tariff apply over routes shown in connection therewith and also are applicable as joint fares for transportation over routes composed of rail and motor carriers shown as parties to this tariff between points of origin and destination shown herein via the several junction points of such rail and motor carriers, to the extent and under conditions provided in ----------

(Name of joint rail-motor routing and honoring tariff)

No. ... Agent ---------- I. C. C. No. ...

§ 1303.5 Fares maintained for emergency or basing purposes.

(a) *Fares where no regular service.* When fares are published from and to points where passenger service is not regularly operated, such fares shall be symbolized to indicate that no regular service is operated but fares are maintained for emergency purposes.

(b) *Basing fares.* (1) Where desired, fares published in one tariff may be reproduced as basing fares only, for the construction of through fares.

(2) A tariff containing basing fares must specify clearly the extent and manner of their use. In making up a combination fare, all limitations which a tariff places upon the use of the basing, proportional or arbitrary fare must be fully observed.

§ 1303.6 Loose-leaf tariffs.

(a) *Title page.* The title page of a loose-leaf tariff shall be designated in the upper left-hand corner thereof as "Original Title Page," and shall be printed on one side of the leaf only. The pages following the title page shall be consecutively numbered as "Original Page 1," "Original Page 2," etc. Such pages may be printed on both sides but if so printed, the entire leaf must be reissued in accordance with paragraph (c) of this section whenever a change is made on either side.

(b) *Pages following title page.* Each page of a loose-leaf tariff following the title page must show at the top of the page the name of the issuing carrier, or of the issuing agent (identified as "Agent"). If the issuing agent is a corporation or association, there also shall be shown the full name of the bureau, committees or regional association, if any, under whose auspices the schedule is compiled and filed. At the top of the page also shall be shown the page number and I. C. C. number of the tariff. Each page also shall show the date of issue, the effective date, the name, title, and mail address of the individual actually responsible for compiling and filing the schedule. If the tariff is issued by an individual agent, his name must be shown with the title of "Agent". If issued by a corporation or association as agent, the name and title of the person responsible for the actual compilation and filing must be shown.

(c) *Amendments, by revised pages.* Changes in and additions to loose-leaf tariffs shall be made by reprinting the page upon which change or addition is made, and such changed page shall be designated as a revised page and shall direct the cancellation of the page which it replaces; for example, "1st Revised Page 1 cancels Original Page 1" or "4th Revised Page 3 cancels 3rd Revised Page 3." If the leaf is printed on both sides, both pages must be reissued and each designated as a revised page whenever a change is made on either side. Changes shall be indicated as required by § 1303.2, and if a page is reissued without change, the notation "No change on this page" shall appear at the top of the page. When a revised title page is issued, the following notation shall be shown in connection with the effective date, "Original tariff effective ----------"

(Date)

(d) *Matter brought forward without change.* (1) Matter in a loose-leaf tariff that has been in effect for thirty days or more need not be indicated as reissued matter, but may be republished as effective on thirty days' notice. Matter that has not been in effect for thirty days when brought forward must be shown as "Reissue: Effective ----------

(Date)

on Revised Page ----."

(2) When a revised page is issued which omits matter heretofore published on the page which it cancels, and such matter is published on another page, the revised page must make specific reference to the page on which the matter will be found, and the page to which reference is made must contain the following notation in connection with such matter:

For ----------

(Here insert fares, rates, rules, regulations, etc., as the case may be)

in effect prior to the effective date hereof see page ----.

Subsequently revised pages of the same number must omit this notation insofar as this particular matter is concerned.

(e) *Pages to accommodate expanded matter.* If, in a loose-leaf tariff, it becomes necessary to add an intervening page in order to accommodate expanded matter, such page shall be given the same number with a letter suffix; for example, "Original Page 4–A," "Original Page 4–B," etc. Change in matter on such revised pages may be made by issuing revised pages bearing the same number and letter suffix; for example, "1st Revised Page 4–A cancels Original Page 4–A."

(f) *Additional pages at end of tariff.* If, after a loose-leaf tariff has been filed with the Commission, it is desired to file additional pages thereto, such pages may be filed, and numbered beginning with the next successive page number. For example, if a tariff contains 150 pages, page 151 must not be designated as an additional page but as Original Page 151.

(g) *No supplement, except as indicated.* No supplement shall be issued to a loose-leaf tariff except for the purposes authorized in §§ 1303.7(a)(2), 1303.8(g), 1303.8(h), and 1303.8(i).

(h) *Check sheets.* (1) A check sheet shall be included in each loose-leaf tariff and shall be designated as "Original Check Sheet." This check sheet shall contain a numerical list of all effective pages, and must be kept current; that is, a revised check sheet listing the added or revised pages must accompany such pages when they are filed with the Commission; however, if each revised page of the tariff bears a consecutive "correction number" beginning with the number 1, the check sheet may omit the numerical list of effective pages and, instead, list correction numbers numerically so that each revised page, as received, may be checked by its "correction number."

(2) Fares, rules, or other tariff matter may not appear on the feverse side of a check sheet.

(3) When all changes made by a supplement to a loose-leaf tariff have been incorporated in the tariff proper by revision of the appropriate pages, the supplement shall be canceled. Such cancelation must be made by reissue of the check sheet and by adding in the upper right-hand corner immediately following the words "cancels ---- Revised Check Sheet" the words "also cancels Supplement No. ----."

§ 1303.7 Cancellation of transfer of fares or other provisions.

(a) *Cancellation of entire tariff.* (1) When a tariff is canceled by a new tariff, the cancellation notice must not be given by supplement but by notice in the new tariff as provided in § 1303.3(a).

(2) For the purpose of canceling entirely the fares and arrangements named in a tariff (including a loose-leaf tariff) not reissued, or when a later issue failed to cancel the previous issue and such issue is canceled for the purpose of perfecting the records, the tariff must be canceled by a supplement thereto, without regard to the provisions of § 1303.8(e). Such supplement must show specific reference to the I.C.C. number of the tariff where fares or other provisions will be found thereafter or shall state that no such fares or other provisions will be in effect.

(b) *Transfer of portion of contents from one tariff to another.* If a tariff or supplement or loose-leaf page is issued which is to displace a part of another tariff which is in effect at the time, and which tariff is not thereby canceled in full, it shall specifically state the portion of such other tariff which is thereby canceled, and such other tariff shall at the same time be correspondingly amended, effective on the same date, in the regular way, and shall indicate where fares or other provisions canceled thereafter will be found.

(c) *Notice to specify where fares can be found.* When a tariff is canceled in whole or in part by a supplement thereto, the supplement must show where the fares or other matter thereafter will be found or what fares thereafter will apply. When a tariff is to be canceled by another tariff or by a supplement to another tariff which does not contain all of the fares shown in the tariff to be canceled, i. e., omits points of origin or destination, or fares, rates, charges, rules, regulations, or routes, contained in such previous issue, the canceling (new) tariff or supplement shall explain the omission and must state where the fares not shown therein thereafter will be found, or what fares thereafter will apply.

(d) *Reestablish canceled matter by republication.* When a tariff, a supplement, or a loose-leaf page, or any part thereof, is canceled or expires and such cancelation or expiration has become effective, such tariff matter may not be reinstated except by republication with a new effective date.

(e) *Procedure in canceling portion of tariff.* When withdrawing an item, rule or other tariff matter, the canceled matter need not be reproduced except to the extent necessary to identify the matter that is thereby canceled. Such cancelation must be brought forward in successive supplements as reissued matter.

(f) *Transfer of fares from carrier's to agent's tariff and from agent's to carrier's tariff.* (1) If a tariff issued by an agent is intended to displace a tariff issued by one of his (or its) principals, the tariff to be displaced may be canceled by supplement thereto, with reference to the agent's tariff for fares in the future, or the agent's tariff may cancel the principal's tariff in accordance with paragraph (a) of this section. If, however, matter in an agent's tariff is intended to displace similar matter in a principal's tariff, but not to displace such tariff completely, cancelation shall be made in the manner shown in paragraph (b) of this section, and the carrier must issue a supplement to its tariff to cancel such matter. Such supplement must refer to the agent's tariff for future fares or other provisions.

(2) A carrier must not publish in its individual tariff fares or other matter intended to displace the fares or other matter published in a tariff of a duly authorized agent, unless the tariff is accompanied by a supplement issued by the agent canceling the fares or other matter in his (or its) tariff effective on the same date, as required by paragraph (b) of this section.

(g) *Concurrence does not confer authority to cancel.* A concurrence does not confer authority upon a carrier to cancel tariffs of the concurring carrier, and tariffs issued under concurrences must not assume to do so. Such cancelations must be made by the carrier which issued the tariff that is to be canceled.

§ 1303.8 Amendment procedure.

(a) *Definition and form.* (1) A change in, or addition to, a tariff shall be known as an amendment, and, excepting amendments to tariffs of less than two pages and amendments to tariffs in loose-leaf form, shall be published in a supplement to the tariff.

(2) Supplements to a tariff shall be numbered consecutively as issued, beginning with number 1. Each supplement shall specify on its title page the supplement or supplements, tariff or tariffs that it cancels, and shall state which supplements contain all changes. Supplements filed under authority of paragraphs (g), (h) or (i), of this section and blanket or special supplements that do not change fares, rates, charges, rules, or regulations must be shown separately and the nature of each such supplement must be clearly indicated.

(3) The matter contained in each supplement shall be arranged in the same general manner and order as in the tariff which it amends, and when stations are given index numbers the same index number must be assigned to the same station in all supplements to the tariff.

(4) When an amendment is made in a numbered item or other unit, such item or other unit must be published in a supplement in its entirety as amended. Supplements effecting change in, or cancelation of, matter published in numbered units must specifically provide for cancelation of previously effective matter by reference to the number of the unit it cancels, and if the unit to be canceled is in a supplement, the new supplement must also give reference by number to the previous supplement. Where matter is not published in numbered units, the changed provision must be published in the supplement in its entirety, and reference must be made to the page or pages of the tariff or supplement on which the matter to be canceled is shown.

(b) *Amendment canceling fares on abandoned lines.* When amending tariffs for the purpose of canceling fares to or from points on, or fares via, abandoned lines under authority of certificates and orders issued in the Commission's finance dockets or when canceling fares to and from points on lines over which passenger service has been discontinued, such cancelation may be accomplished by a general-term statement specifically naming the points from and to which such fares are canceled without showing in detail and in its entirety as amended, each item or other provision that is affected thereby. Such amendment may be published in a special supplement without observing the provisions of paragraph (e) of this section: *Provided*, That the matter in the special supplement is brought forward into a regular supplement when it again becomes necessary to supplement the tariff for purposes other than as provided for in this paragraph.

(c) *Cancelation of fares when participating carrier eliminated.* (1) When a participating carrier is eliminated by supplement or by revised page of a loose-leaf tariff, the tariff must be amended on the same effective date to provide for the cancelation of fares and other provisions in connection with that carrier. This may be done either by appropriate amendment of the individual items or other provisions, or by a notation immediately following the statement that the carrier has been eliminated, reading:

This has the effect of canceling all fares and other provisions published in connection with this carrier in this tariff.

(2) When this notation is used in a supplement, the notation must be brought forward as reissued matter, together with reference to the supplement in which the change first appeared.

(3) When the notation method is used in a loose-leaf tariff, subsequent revised pages containing the list of participating carriers must bear reference to such elimination so long as the name of the eliminated carrier appears elsewhere in the tariff, the reference to be shown in the following manner:

(Show name of carrier here)

eliminated as a participating carrier in this tariff and all fares and other provisions published in connection with that carrier canceled effective ---------- See ---- Revised Page ----.

(d) *Reissued matter, how designated.* Except as provided in § 1303.6, when matter that has not been in effect for thirty days is brought forward without change from a previous tariff, also when matter is brought forward without change from one supplement to another, such matter must be designated "Reissued" in distinctive type and must show the original effective date of the supplement or tariff from which reissued; or must be uniformly indicated by a rectangle, in which is shown the letter T if reissued from a previous tariff or from a supplement to a previous tariff, or a numeral representing the number of the supplement in which the matter was originally established when reissued from a prior supplement to the same tariff.

Examples. [T] Reissue, effective ----------

(Date)

in I. C. C. No. ...; or [8] Reissue, effective ---------- in Supplement 8. Reissues of

(Date)

items or other matter which became effective in a prior tariff or supplements on dates other than the general effective date shown on the title page thereof may be indicated by showing a letter suffix or other symbol in connection with, and as a part of, the letter T or numeral in rectangles herein authorized. When the reissued matter became effective in a supplement to another tariff, the I. C. C. number of that tariff also must be given.

(e) *Amount of supplemental matter permitted.* Except as authorized in § 1303.7(a), paragraphs (b), (f), (g), (h), and (i) of this section, §§ 1303.10 and 1303.22, the following shall govern the number of supplements and the volume of supplemental matter permitted to be effective at any one time:

Number of pages in tariff (including title page)	Number of effective supplements	Number of pages in supplements (including title page)
2 pages	None	None.
3 pages and not more than 4 pages	1	2.
5 pages and not more than 12 pages	1	Not more than 4 pages.
13 pages or more	2, one of which may not exceed 4 pages.	33⅓ percent of the number of pages in the tariff (see note).

NOTE.—If the number of pages in the supplement which brings the volume of matter up to 33⅓ percent of the number of pages in the tariff is not evenly divisible by 4, it may exceed the volume authorized to the extent necessary to bring the number of pages of such supplement to the next multiple of 4.

(f) *Supplement to tariff not yet effective.* (1) If a tariff is filed on statutory notice canceling another tariff and, after such filing, a supplement to the tariff to be so canceled should be issued prior to the general effective date of the new tariff, fares in that supplement would not remain in effect for thirty days as required by law, because the cancelation of the tariff also cancels the supplements to it. In such case, and confined to changes or additions necessary to be made in both the old and the new tariff, a supplement making the same changes in or additions to both tariffs may be issued as a supplement to both tariffs, bearing both I. C. C. numbers. The required number of copies of this supplement must be posted and filed for each tariff as though the supplement to each tariff was a separate publication. In issuing a supplement in accordance with this paragraph the requirements of paragraph (e) of this section, as to number of supplements and volume of supplemental matter, need not be observed with respect to the tariff to be canceled.

(2) Fares or provisions which have been established in a previous tariff and reproduced or reissued without change in a new tariff may be changed upon lawful notice, after they have been in effect for thirty days, by a supplement to the new tariff, effective not earlier than the general effective date of the new tariff, by indicating in the supplement effecting the change that the matter which is to be amended was brought forward without change from I. C. C. No. ____ (previous tariff), and showing the date such matter became effective therein.

(g) *Complete adoption notice.* (1) When the name of a carrier is changed, or when its operating control is transferred to another carrier, the carrier which will thereafter operate the properties shall file (see § 1303.11) and post (see § 1303.34) an adoption notice, numbered in its I. C. C. series, reading substantially as follows:

The _____
(Correct name of adopting carrier)
hereby adopts, ratifies and makes its own, in every respect as if the same had been originally filed and posted by it, all passenger tariffs, rules, notices, concurrences, traffic agreements, divisions, authorities, powers of attorney, or other instruments whatsoever, including supplements or amendments thereto, filed with the Interstate Commerce Commission by or heretofore adopted by the _____ prior to
(Correct name of old carrier)
_____
(Date)

(2) In addition to the above adoption notice, the adopting carrier shall file immediately a consecutively numbered supplement (individual or blanket) to each of the tariffs in the I. C. C. series of its predecessor, including any tariffs to which the predecessor has issued, or before the effective date of the adoption notice may issue, a supplement in accordance with this paragraph, reading as follows:

Effective _____
(Here insert date shown in the adoption notice)
this tariff, or as amended, becomes the tariff of the _____
(Correct name of new carrier)
as per its adoption notice I. C. C. No. _____

Such supplements must contain no other matter, must bear reference to this section, and may be issued without observing the provisions of paragraph (e) of this section.

(3) *Succeeding supplements* to adopted tariffs filed by the adopting carrier must be numbered consecutively following the number of the supplement announcing adoption, and also shall show in connection with the I. C. C. number that the number is in the series of the carrier that issued the original tariff. New tariffs reissuing or succeeding such tariffs shall be numbered in the I. C. C. series of the adopting carrier, and in effecting the cancelation of an adopted tariff, shall identify it by using the name or initials of the carrier in whose I. C. C. series it was issued.

(4) Tariffs issued by other carriers or agents in which the carrier absorbed, taken over, operated by another carrier, or whose name is changed, is named as a participating carrier, shall be amended on statutory notice to eliminate the name of the old carrier and to show the name of the new carrier by the first subsequent supplement. Such supplement also shall contain the following provision:

The _____
(Correct name of adopting carrier)
by its adoption notice I. C. C. No. _____ having taken over tariffs, etc., of the _____
(Correct name of adopted carrier)
the _____
(Correct name of adopting carrier)
is hereby substituted for the _____
(Correct name of adopted carrier)
wherever it appears in this tariff.

(5) Similar adoption notice numbered consecutively in the I. C. C. series of the adopted carrier must be filed immediately by a receiver or trustee when he assumes possession and control of a carrier's lines, and such person's name shall be shown on the title page as a part of the carrier's correct name. When such possession and operating control is terminated the carrier taking over the properties shall file an adoption notice and also shall file supplements announcing adoption as prescribed in the foregoing subparagraphs of this paragraph.

(6) Notices of adoption should be filed with the Commission immediately, and, if possible, on or before the date shown therein. Copies must be sent immediately to each agent or carrier to which power of attorney or concurrence has been given by the old carrier and to each carrier from which a concurrence has been received by the old carrier. The notice must refer to this section, and its effective date must be the date (as shown in the body of the notice) on which the change in name or operation occurs. If prior approval of such change is necessary, reference also must be made to the order of the Commission.

(7) Concurrences and powers of attorney adopted by a carrier, a receiver, or a trustee must be replaced and superseded within 120 days by new concurrences and powers of attorney issued by and numbered in the series of the new carrier, except that if desired the receiver or trustee may number concurrences and powers of attorney in the old series. The cancelation reference to the former concurrence or power of attorney must include name or initials of the former issuing carrier. Concurrences and powers of attorney which will not be replaced by new issues must be regularly revoked on the notice and in the manner prescribed in § 1303.21(b).

(8) If a carrier ceases operation without having a successor, its tariffs, concurrences, and powers of attorney must be regularly canceled on statutory notice, unless otherwise specifically provided by order of the Commission; and when canceled on less than statutory notice, the cancelation notice must show that cancelation is made on account of discontinuance of operation, and must refer to the authority of the Commission permitting such discontinuance.

(h) *Partial adoption notice.* (1) When the operating control of only a part of a carrier's properties is transferred to another carrier, the carrier which will thereafter operate the properties shall file (see § 1303.11) and post (see § 1303.34) an adoption notice, numbered in its I.C.C. series, reading substantially as follows:

The _____
(Correct name of old carrier)
hereby adopts, ratifies, and makes its own, in every respect as if the same had been originally filed and posted by it, all passenger tariffs, rules, notices, concurrences, traffic agreements, divisions, authorities, powers of attorney, or other instruments whatsoever, including supplements or amendments thereto, filed with the Interstate Commerce Commission by or heretofore adopted by the _____
(Correct name of old carrier)
prior to _____
(Date)
insofar as said instruments apply from, to, at, or via the following stations _____
(Naming them)

(2) If on the transferred portion, there is a function point which will remain a station of the old carrier as well as being established as a station of the new carrier, a notation may be provided

in connection with the name of such point in the adoption notice and the supplements required by subparagraph (3) of this paragraph, reading substantially as follows:

This does not have the effect of eliminating _____ as a station on _____
(Correct name of old carrier)
but has the effect of establishing said station also as a station on _____
(Correct name of adopting carrier)

(See also subparagraphs (3) and (5) of this paragraph.)

(3) In addition to the above adoption notice, the old carrier shall immediately file, under proper concurrence from the adopting carrier, a supplement (individual or blanket) to each of its tariffs covered by the adoption notice containing a provision reading as follows:

Effective _____
(Here insert effective date of adoption as shown in the adoption notice)
this tariff or as amended insofar as it contains fares, rules, and/or regulations applying from, to, at, or via the following stations _____
(Naming them)
became the tariff of the _____
(Correct name of adopting carrier)
as stated in its adoption notice I. C. C. No. _____

Such supplement must contain no other matter, must bear reference to this section, and may be issued without observing the provisions of paragraph (e) of this section. When the circumstances covered by subparagraph (2) of this paragraph are present, the notation directed in that subparagraph shall be added to the above notice.

(4) Fares and other provisions published by the old carrier applying between points on the transferred portion shall as quickly as possible be published in tariffs of the adopting carrier; and, effective on the same date, the old carrier shall cancel the corresponding fares and other provisions from its tariffs, with reference to the I. C. C. number of the adopting carrier for fares and other provisions applying thereafter.

(5) Tariffs issued by other carriers or agents, in which the carrier absorbed, taken over, or operated in part by another carrier is named as a participating carrier, shall be amended on statutory notice to add the new carrier as a participating carrier by the first subsequent supplement. Such supplement also shall contain the following provision:

The _____
(Correct name of adopting carrier)
by its adoption notice, I. C. C. No. _____, having taken over tariffs, etc., of the _____
(Correct name of old carrier)
insofar as they contain fares, charges, rules, or regulations applying from, to, at, or via the following stations _____
(Naming them)
the _____
(Correct name of adopting carrier)
is hereby substituted for the _____
(Correct name of old carrier)
wherever the latter appears in this tariff in connection with said stations and provisions.

When the circumstances covered by subparagraph (2) of this paragraph are present, the notation directed in that subparagraph shall be added to the above notice.

(6) Similar adoption notice numbered in the I. C. C. series of the carrier must be filed immediately by a receiver or trustee when he assumes possession and control of part of a carrier's lines. When the receivership or trusteeship is terminated, the carrier taking over the properties shall file an adoption notice, and, if a change is also made in the name of the carrier, supplements announcing adoption as prescribed in the foregoing subparagraphs of this paragraph.

(7) Notices of adoption should be filed with the Commission immediately, and if possible, on or before the date shown therein. Copies must be sent immediately to each agent or carrier to which power of attorney or concurrence has been given by the adopted carrier. The notice must refer to this section, and its effective date must be the date (as shown in the body of the notice) on which the change in name or operation occurs. If prior approval of such change is necessary, reference also must be made to the order of the Commission.

(i) *Suspension of tariff schedules.* (1) Upon receipt of an order suspending any tariff or portion thereof, the carrier or agent who filed such tariff shall immediately file with the Commission a supplement, not bearing any effective date, which shall contain a reproduction of the pertinent portions of the Commission's order of suspension (including the paragraph prohibiting changes in the suspended matter), followed by a statement that by reason of the Commission's order (i) the use and application of the suspended publication or portion thereof (which must be identified with certainty) is either indefinitely deferred or deferred for the period prescribed in the Commission's suspension order and (ii) the schedules which were to be changed by the suspended publication (which schedules also must be identified with certainty) will remain in effect and will not be changed so long as effectiveness of the suspended matter is deferred (if deferred only for the term of the Commission's order the date must be specified), except by order or special permission of the Commission.

(2) If the responsible carrier or publishing agent has elected to file a supplement deferring the suspended matter only for the period prescribed by the Commission's order, and if prior to the expiration of that order the Commission notifies the carrier or publishing agent that the report in the proceeding cannot be issued within the suspension period, the carrier or publishing agent may, under the authority of this section, issue a supplement effecting such further deferment. Where suspended matter has previously been deferred under the authority of this section, the carrier or publishing agent when notified by the Commission that the report in the proceeding cannot be issued prior to the date to which the schedules have been deferred, may, prior to the date to which the matter is postponed, issue a supplement under the authority of this section further postponing the effective date of the matter originally suspended. Supplements issued should be filed on statutory notice if practicable and otherwise on shorter notice, but the notice shall be as long as time will reasonably permit and in no event less than one day. Where the effectiveness of matter originally suspended by the Commission has been voluntarily postponed beyond the term of the Commission's order, no change may be made during the period of such voluntary postponement in the tariff matter which was originally held in force by the Commission's suspension order, except by order or special permission of the Commission.

(3) Where, following the entry of a report and order in an investigation and suspension proceeding, a further order is entered in such proceeding postponing the effective date or requirement of the original order, the carrier or publishing agent, under authority of this section, may issue a supplement effecting such further deferment of the suspended schedule, and may also issue supplements to announce postponement of effective date of canceling supplements or cancelation notices filed following the entry of a report and order in an investigation and suspension proceeding to and including a date immediately preceding the effective date fixed in the postponing order. Further, where, pursuant to the provisions of section 17 (8) of the Interstate Commerce Act, the filing of an application for rehearing, reargument, or reconsideration, stays the order fixing the effective date of a requirement or other action in an investigation and suspension proceeding, as evidenced by notice of the Commission to the parties, the carrier or publishing agent, under authority of this section, may issue a supplement effecting further deferment of the schedule under suspension or under voluntary postponement, and also may issue a supplement to announce postponement of the effective date of a cancelation supplement or notice that was filed following the entry of the report and order in such investigation and suspension proceeding. (Postponement should be to, and including, the last day of the suspension period prescribed in the suspension order, except where the responsible carrier or publishing agent elects to defer the use of the suspended schedules beyond the statutory period of suspension, in which event postponement should be until the date upon which the supplement announcing such postponement is canceled.) Supplements issued should be filed on statutory notice if practicable, and otherwise on shorter notice, but the notice shall be as long as time will reasonably permit and in no event less than one day.

(4) When the Commission has suspended a supplement in whole or in part, it sometimes occurs that prior to the filing of the supplement announcing suspension, a later supplement is filed which purports to reissue the suspended matter. In such instances the suspension sup-

plement required by subparagraph (1) of this paragraph shall also (i) specifically cancel from the later supplement such reissued matter, and (ii) amend the cancelation notice on the title page of said supplement so as to except the suspended matter from the cancelation. Tardiness in filing supplements announcing suspension may result in the rejection by the Commission of the supplement which cancels the suspended matter.

(5) When the Commission suspends an entire tariff, the previous tariff and effective supplements are continued in effect and will remain in force during the period of suspension or until lawfully canceled or reissued. Except as to loose-leaf tariffs and tariffs of less than two pages, supplements containing additions to and/or changes in fares or other provisions which were not sought to be changed by the suspended tariff may be filed to the previous tariff without regard to the volume of supplemental matter which the effective supplements in the aggregate may contain. If the volume of supplemental matter permitted by paragraph (e) of this section has been exceeded under authority of this paragraph and the Commission orders the cancelation of the suspended tariff, the volume of supplemental matter must be brought within the requirements of paragraph (e) of this section by schedule filed within ninety days, or such tariff must be reissued in accordance with the following: If consisting of less than 100 pages, by schedule filed within ninety days, and if consisting of 100 or more pages, by schedule filed within one hundred and twenty days, from date upon which the suspended tariff is canceled.

(6) When the Commission suspends an entire supplement, the supplement will not be counted in the number of supplements nor in the volume of supplemental matter permitted by paragraph (e) of this section; nor in the event of suspension of a portion of a supplement will that supplement be so counted after all matter therein except the suspended portions has been reissued in or canceled by a subsequent supplement. Such subsequent supplement shall cancel the supplement containing the suspended matter "except portions under suspension in I. & S. Docket No. ....., viz (identifying the suspended portion by item and page number)."

(7) When a tariff (not a supplement), any portion of which is under suspension, is canceled, the new tariff may either: (i) Cancel the previous tariff "except portions under suspension in I. & S. Docket No. ....., viz (identifying the suspended matter and the matter held in force by the suspension order by item and page number)," or (ii) cancel the previous tariff entirely and bring forward without change the matter held in force by the order of suspension, followed immediately by the matter under suspension. The matter held in force by the order of suspension must be identified as such and shown as expiring with the date to which the suspended matter has been postponed. The suspended matter immediately following must likewise be identified as such and shown as effective on the day following the expiration of the matter held in force by the order of suspension.

(8) When an order of suspension relates to a portion of a new tariff or a supplement thereto, intended to supersede completely a readily identifiable prior tariff item (or other unit), such matter as is continued in effect by the order of suspension may be published (see note following subparagraph (9) of this paragraph) in the supplement announcing suspension. When so published the following notation must be provided in connection therewith, either as a note or as the explanation of a reference mark:

> The matter subject to this [note or reference mark as the case may be] is reissued from tariff I. C. C. No. ..... and is continued in effect by the terms of the order of suspension in I. & S. Docket No. ....., and, unless it is sooner canceled, changed or extended, will expire with ..... (The date to be shown will be the date to which the suspended matter has been postponed.)

(9) When an order suspends a particular fare or fares or a portion of matter in an item (or other unit) in a new tariff and the matter remaining in effect in a prior tariff thereby becomes an integral part of such item (or other unit) of the new tariff, the entire item (or other unit) of the new tariff may be republished in the supplement announcing the suspension, provided there is shown in such item (or other unit) (i) the matter continued in effect by reason of the order of suspension, (ii) the suspended matter, and (iii) all other provisions of the item (or other unit) without change and appropriately indicated as reissued from the new tariff (see note following this subparagraph). The matter held in force by the order of suspension must be identified as such and shown as expiring with the date to which the suspended matter has been postponed. The suspended matter immediately following likewise must be identified as such and shown as effective on the day following the expiration of the matter held in force by the order of suspension. When the effective date of suspended matter has been indefinitely postponed, that fact must be stated by appropriate language.

NOTE: The form of publication permitted by the immediately preceding subparagraphs (8) and (9) may be used only when it permits complete cancelation of the tariff containing the matter continued in effect by the order of suspension. It may not be used in loose-leaf tariffs nor where the application of matter continued in effect depends in whole or in part upon other provisions, such as station grouping, rules or regulations, which differ from those in the new tariff and which cannot be brought forward in the supplement announcing suspension.

(10) When a revised (not an original) loose-leaf page, a portion of which is under suspension, is reissued, the new revised page shall (i) include the matter continued in effect by reason of the order of suspension, (ii) cancel the page previously containing such matter, and (iii) cancel the loose-leaf page containing the suspended matter "except portions under suspension in I. & S. Docket No. ....., viz. (identifying the suspended portion by item and page number)."

(11) Neither a suspended tariff provision nor a provision held in force by reason of an order of suspension may be changed or canceled except by order or permission of the Commission.

(12) When the Commission vacates an order of suspension, or when suspended matter has been voluntarily postponed beyond the term of the Commission's order, and the Commission finds the suspended matter justified, a supplement may be filed making the suspended or postponed matter effective on one day's notice unless the Commission directs otherwise.

(13) When an order which suspended a tariff in its entirety is vacated or the Commission formally finds that the suspended tariff is justified, the vacating supplement filed under authority of this section also may include as reissues, any changes or additions which in the interim have been made in the tariff which was held in force by the order of suspension. If by special permission a new tariff has been filed during the period of suspension, canceling the tariff proposed to be canceled by the suspended tariff, any changes or additions published in the new tariff which are not included in the suspended tariff likewise may be included in the vacating supplement as reissued items, but in such cases the vacating supplement also must cancel the new tariff. No other matter may be included in vacating supplements. When reissued matter is published in a vacating supplement, the vacation notice must be printed in not less than 8-point type, either on the title page or immediately preceding the particular tariff matter to which the notice applies.

(14) When a tariff has been canceled, except portions under suspension, by a new tariff, and the Commission vacates its suspension order and/or formally finds the suspended matter justified, after the new tariff has become effective, a supplement may be filed to the new tariff on not less than one day's notice (unless the Commission directs otherwise), republishing and establishing the suspended matter and canceling the matter which was effective during the period of suspension, together with the matter under suspension in the former issue. When the Commission vacates its suspension order and/or formally finds the suspended matter justified before the new tariff becomes effective, a vacating supplement as provided in this section should be filed to the old tariff, and a supplement also should be filed to the new tariff on not less than one day's notice (unless the Commission directs otherwise), establishing therein the matter which was under suspension in the old tariff. A supplement common to both tariffs as authorized by paragraph (f) of this section may be issued for this purpose.

(15) When the Commission suspends matter in a tariff or supplement thereto and thereafter orders its cancelation, the cancelation shall become effective upon not less than one day's notice (unless the Commission directs otherwise), by supplement to or reissue of the tariff. When the Commission orders suspended matter canceled and the final date for compliance is subsequent to the date to which the matter has been postponed, carriers should endeavor to make the cancelation in time to prevent the fares or other provisions which have been found not justified from becoming effective. If this is not done and the suspended matter becomes temporarily effective, it is necessary, when cancelation is effected, to republish and reestablish the matter which was continued in force by reason of the order of suspension.

(16) Every suspension, vacating, and cancelation supplement issued under authority of this section must bear on its title page the following notation:

> Issued under authority of § 1308.8(1) of Tariff Circular 24 and in compliance with decision of the Interstate Commerce Commission in I. & S. Docket No. ..... of (date).

Postponement supplements issued under authority of this section must show on the title page:

> Issued upon ..... days' notice under authority of § 1308.8(1) of Tariff Circular 24.

(17) Supplements issued under authority of this paragraph will not be counted against number of effective supplements or the volume of supplemental matter permitted under paragraph (e) of this section, but must be listed among the effective supplements as required by paragraph (a) (2) of this section.

(18) The provisions of the foregoing subparagraphs of this paragraph relating to suspension, postponement, vacating, and cancelation supplements also will govern in connection with tariffs issued in loose-leaf form, except that such supplements must not contain any other matter. All changes made in loose-leaf tariffs must be published on revised pages (see § 1303.6).

§ 1303.9 [Reserved]

§ 1303.10 Index of tariffs.

(a) *Tariffs to be included.* (1) Each carrier, except as otherwise provided, shall publish under proper I.C.C. number, post and file, a complete index of all tariffs issued by it or to which it is a party as an initial carrier which are in effect on the date of issue of the index or which have been filed with the Commission to become effective at a later date; except that a carrier which issues not more than five tariffs in its own I.C.C. series need not file an index if such tariffs contain only local fares, rates, and charges, and the rules and regulations applicable in connection therewith.

(2) Tariffs which remain in effect for a period less than thirty days may be omitted from the index.

(3) If the carrier so desires, lists of its intrastate tariffs, division sheets, official circulars, and the numbers of its tariffs or division sheets may be shown in the index.

(b) *Contents.* (1) The index shall show: I. C. C. number; full or abbreviated name of issuing carrier, tariff-publishing bureau or agent; a brief description of the character of the tariff; a concise statement of the territory from and to which the tariff applies.

(2) The index also shall contain a complete list of the effective tariffs of the carrier's own I. C. C. series arranged in numerical order, except that if the total number of effective tariffs is less than 20, such list may be omitted.

(c) *Joint index.* A carrier may issue for itself and its family lines under proper form of concurrence a joint index. In similar manner, an agent, acting under power of attorney for each of a group of carriers, may issue a joint or consolidated index of tariffs of such carriers. The joint or consolidated index must contain all information for each participating carrier that is required to be shown in a separate index of the carrier's issue.

(d) *Revisions and supplements.* The index shall be revised to reflect changes, either by reissue each three months, or by supplement which need not be issued oftener than every three months and reissue of the index at least every twenty-four months. Supplements must show additions, changes, and cancelations made in the index itself or in prior supplements by reference to the pages, or index number, if used, where the entry is to be added or where the changed or canceled entry appears. Supplements may be issued without regard to volume of supplemental matter permitted by § 1303.8(e), and not more than three supplements may be in effect at any time.

(e) *Notation on title page; no effective date.* The title page of an index (or a supplement thereto) must bear the notation: "This index (or as amended by this supplement) contains list of tariff publications in effect _____

(Date, the same as date of issue)

_____ or which have been filed to become effective at a later date as shown within." The title page shall bear date of issue but no effective date. Section 1303.11(b) requiring thirty days filing notice does not apply to indexes or supplements thereto.

(f) *Consolidated passenger and freight index.* One index containing both passenger and freight tariffs may be filed; in which event, the information required by the regulations governing each type of index must be shown in separate sections, the index must be given an I. C. C. number in both the freight and passenger series, and four copies must be filed with the Commission. The regulations governing the issuing of supplements and reissue of the index applying to the freight tariff index will govern the supplementing and reissue of a passenger and freight tariff index.

§ 1303.11 Filing tariffs; rejections.

(a) *Who may file.* Tariffs shall be published and filed by carriers either directly or through duly authorized tariff-publishing agents. When filed directly by a carrier, the concurrence (or power of attorney as authorized in § 1303.13 (f)), and when filed by an agent, the power of attorney, of every carrier participating therein must be filed or on file with the Commission. (See §§ 1303.12 to 1303.15 inclusive.)

(b) *Agent shall file under own I. C. C. number.* A tariff publishing agent must file tariffs under his (or its) own single series of I. C. C. numbers and not in the series of any of his (or its) principals. If the agent is a corporation or an unincorporated association (see § 1303.12 (a)), having jurisdiction over two or more tariff-publishing organizations, bureaus, or committees, the tariffs issued through each such tariff-publishing organization may bear a separate series of I. C. C. numbers.

(c) *Tariffs to bear consecutive I. C. C. numbers.* I. C. C. numbers shall be assigned to tariffs in consecutive numerical order and, insofar as possible, tariffs should be filed with the Commission in that order. If for any reason a tariff is filed with the Commission, the I. C. C. number of which is not consecutive with the last tariff filed, such tariff should be accompanied by a memorandum explaining as to the missing number or numbers.

(d) *One filing for all participating carriers.* Tariffs must be filed with the Commission by the issuing carrier or agent, and such filing will constitute filing for all of the carriers parties thereto. The agent or carrier that issues a joint tariff shall at once send copies thereof to each carrier that is named as a party thereto. (See § 1303.34 relating to posting requirements.)

(e) *Conflict between tariffs, avoidance.* A carrier that grants authority to an agent or to another carrier to publish and file certain of its fares or other provisions must not in tariffs of its own issue publish fares or other provisions which conflict with or duplicate those published by such agent or carrier. (See § 1303.4(f)(10).)

(f) *Period of notice.* (1) The act requires that all changes in fares, rates, or charges, or in rules that affect fares, rates, or charges, shall be filed with the Commission at least thirty days before the date they are to become effective unless otherwise authorized by the Commission. Manifestly it is impossible for the Commission to check the contents of tariffs to determine whether statutory notice has been given. Therefore, except as otherwise authorized by the Commission, thirty days' notice to the public and to the Commission must be given as to every tariff publication filed with the Commission, regardless of whether or not changes are effected thereby.

(2) A supplement in which all changes are made on less than statutory notice under authority of this part, special permission or other order of the Commission, and which supplement also contains provisions reissued without change may show on its title page the short-notice effective date so authorized for issued matter shows the original effective date. The notation required by the changed matter, provided all re-

§ 1303.3(e)(1) must be shown in connection with the effective date on the title page of the supplement.

(g) *Changes, 30 days' effectiveness required; expiration dates.* (1) After notice of a change in fares, rates or other tariff provisions has been published and filed, the new fares, rates or other provisions, unless they can be changed or canceled on or before their published effective date on thirty days' notice, must be allowed to go into effect, and fares, rates, or other provisions which have become effective cannot be changed or canceled for at least thirty days after their effective date, except as otherwise authorized by rule, decision or order of the Commission.

(2) A tariff or a part thereof may provide that it will expire with a date specified therein and which is at least thirty days subsequent to the date upon which it becomes effective, and this will be legal notice of the cancelation of such tariff or part of a tariff, except that the expiration date of a tariff or a part thereof issued under authority of §§ 1303.22 and 1303.25 may be less than thirty days subsequent to the date upon which it becomes effective.

(3) A tariff or a part thereof which provides that it will expire upon a specified date may be amended in the regular way and upon lawful notice, even though such amendment will not remain in effect for thirty days prior to the date of expiration.

(h) *Liability of carrier not relieved by filing of tariffs.* The law affirmatively imposes upon each carrier the duty of filing with the Commission and posting for public inspection all of its tariffs and amendments thereto in the manner prescribed in the act or in any rule which may be promulgated by the Commission. A penalty is provided for failure to do so or for using any fare or charge which is not contained in its lawfully filed tariffs. The receipt and filing of a tariff or supplement does not relieve the carrier from liability for violation of the act or of regulations issued thereunder.

(i) *Promulgation of fares prescribed by Commission.* (1) Fares, rates, charges, rules or regulations prescribed by the Commission in its decisions and orders in formal cases shall be promulgated by the carriers against which such orders are entered, in duly published and posted tariffs, loose-leaf pages, or supplements, and notice shall be sent to the Commission that its decision (or order) in Docket No. ____, has been complied with in item ____, page ____, of _____ tariff, I. C. C. No. ____ or supplement No. ____ to ____ tariff, I. C. C. No. ____.

(2) Unless otherwise specified in the decision or order in the case, such tariff, loose-leaf page, or supplement must be made effective upon statutory notice to the Commission and to the public. Whether made effective on less than statutory notice under special permission authority granted in the decision or order in the case, or upon statutory notice, when an entire tariff or supplement is issued in compliance with a decision or order, such tariff or supplement shall bear on its title page the notation "In compliance with decision (or order) of Interstate Commerce Commission in Docket No. ____." Whenever possible, the notation should include reference to the volume and page number of the report of the Interstate Commerce Commission. If the decision or order of the Commission affects only portions of the tariff or supplements, the notation shall be shown in connection with each portion so affected.

(j) *Number of copies; address.* (1) Two copies of each tariff shall be filed with the Commission, both copies to be filed together under one letter of transmittal. They must be addressed to the Interstate Commerce Commission, Washington, D.C. 20423, with the envelope marked as containing "Tariffs."

(2) No tariff will be received by the Commission unless it is delivered to it free of all charges, including claims for postage.

(k) *Letter of transmittal.* (1) All tariff publications filed with the Commission shall be accompanied by a letter of transmittal 8 x 10½ inches in size, in form substantially as follows:

[Correct name of carrier]

[Post Office Address]

_____
(Date)

Transmittal No. _____

To the Interstate Commerce Commission, Washington, D.C. 20423.

Accompanying schedule is sent you for filing in compliance with the requirements of the Interstate Commerce Act, issued by _____, and bearing tariff _____, I. C. C. _____; Supp. _____ to I. C. C. _____; _____ Revised Page _____ to I. C. C. _____; effective _____, 19__; and is concurred in by all carriers named therein as participants under continuing concurrences or authorizations now on file with the Interstate Commerce Commission, except the following-named carriers, whose concurrences are attached hereto:

_____
_____
_____

(Signed) _____
(Title) _____

(2) A separate letter may accompany each schedule, or the form may be modified to provide for filing under one letter as many schedules as can be conveniently entered. In filing blanket supplements a copy of the blanket supplement may be attached to the letter of transmittal as a part thereof in lieu of listing in the body of the letter of transmittal each supplement and tariff supplemented. When this is done, the statement "(See exhibit attached)" should be inserted in the body of the letter of transmittal where supplement numbers usually are listed. Separate letters must be used for freight and passenger schedules. If receipt for accompanying schedule is desired, the letter of transmittal must be sent in duplicate, and one copy showing the date of receipt by the Commission will be returned to the sender.

(l) [Reserved]

(m) *Rejection of tariffs or notices of cancelation.* (1) Any tariff or schedule tendered for filing, which fails to give lawful notice of changes in fares, rates, charges, or other provisions which it proposes to establish, or which fails to meet the requirements of the regulations, contained in this part, or violates any order of the Commission or of a court, is subject to rejection by the Commission. When a tariff or schedule is rejected, the Commission, acting through a designated administrative officer, will inform the carrier or the agent who tendered it for filing, in writing, of the reasons for rejection, and will return the rejected tariff or schedule to such carrier or agent.

(2) The number assigned to the tariff or schedule that has been rejected may not again be used. The rejected tariff or schedule may not be referred to in any subsequent tariff or schedule as having been canceled, amended or withdrawn, but the tariff or schedule that is published in its stead must bear the following notation: "Issued in lieu of (here identify the rejected schedule or tariff), rejected by the Commission."

(3) A notice of the revocation, complete or partial, of a concurrence or power of attorney which, if it were to become effective, would require the establishment of fares, rates, or charges in violation of an order of the Commission or of a court, or of the regulations contained in this part, may be rejected in the same manner as a tariff or schedule, and any such notice of revocation which would require the establishment of fares, rates or charges of doubtful lawfulness may be suspended.

(n) *Tariffs filed not returned, unless rejected.* Tariff publications received for filing will not be returned unless rejected in accordance with paragraph (m) of this section.

§ 1303.12 Tariffs issued through an agent.

(a) *Agents: natural persons, corporations, or associations.* If a carrier desires to issue a tariff or tariffs through an agent, it may do so by filing with the Commission an appropriate power of attorney to the designated agent. Agents may be either natural persons, corporations, or unincorporated associations whose articles of association (or other form of agreement) have been approved by the Commission in a proceeding pursuant to the provisions of section 5a, Part I, of the Interstate Commerce Act. An officer or employee of an incorporated tariff-publishing agent may not act as an agent in his individual capacity for the publication of tariffs.

(b) *Designation of issuing officer.* When an association or corporation has been appointed an issuing agent, the executive head thereof shall at once notify the Commission of the name of the individual who is to be responsible for the actual compilation and filing of each I. C. C. series of tariffs issued by the agent. There may be only one issuing officer for each such series of tariffs, and the same individual may not act as issuing officer for more than one series without the special permission of the Commission. When an issuing officer is replaced, the Commission shall be immediately notified in like manner of his successor.

(c) *Alternate agent.* When a natural person is authorized by power of attorney to act as a tariff-publishing agent, such instrument shall designate another natural person to act as alternate agent in the event of the death or disability of the principal agent. On or before the date of filing of the first tariff or supplement by the alternate agent under the authority granted in the instrument, such alternate agent shall notify the Commission in writing that death or disability of the principal agent has occurred and that he, the alternate agent, will thereafter act until the appointment of a new principal agent. The term "disability" as used in the instrument means resignation, permanent transfer to other duties, or other permanent absence of the principal agent. After an alternate agent has once exercised the authority granted by the instrument, the principal agent may not thereafter act under that instrument.

§ 1303.13 Powers of attorney.

(a) *Publishing agent.* (1) A power of attorney shall be used by a carrier to give to a publishing agent, but not to another carrier, authority to publish and file passenger tariffs and supplements for it, except that a carrier may give a power of attorney to another carrier in the circumstances and subject to the conditions stated in paragraph (f) of this section. Powers of attorney given to publishing agents may be either unlimited or limited, and in the case of corporations or unincorporated associations comprised of more than one bureau, committee or regional organization, the power of attorney may consist of multiple instruments, such instruments to define separately the authority to be exercised by each component bureau, committee or regional organization.

(2) A carrier may not have in effect at the same time an unlimited power of attorney and a limited power of attorney in favor of the same agent for use by the same bureau, committee, or regional organization.

(b) *Unlimited power of attorney form.* (1) An unlimited power of attorney, when given to a publishing agent, authorizes the agent to file any passenger tariff in which the carrier giving the power is a participating carrier. Form PA1 confers unlimited authority to publish local fares and charges for the carrier issuing the power and to publish joint fares and charges for such carrier and such other carriers as have issued the necessary authority.

(2) The following form of power of attorney, PA1, shall be used to give such unlimited powers:

POWER OF ATTORNEY

PA1 No. —
Cancels ____ No. —

_____
(Name of Carrier)

_____
(Mail Address)

_____
(Date)

Know All Men by These Presents:

That the [full and correct name of carrier] has made, constituted, and appointed, and by these presents does make, constitute, and appoint [name of principal agent] its true and lawful attorney and agent, to file in its name, place, and stead, (1) for it alone, and (2) for it jointly with other carriers [through its (name of bureau, committee, or regional organization, if any)], passenger tariffs and supplements thereto, as required of common carriers by existing laws and regulations established thereunder. And does hereby give and grant unto its said attorney and agent full and unlimited power and authority to do and perform all and every act and thing above specified as fully, to all intents and purposes, as if the same were done and performed by the undersigned carrier itself, and does hereby assume full responsibility for the acts and failures to act of said attorney and agent.

And, further, that the undersigned carrier does hereby make and appoint [name of alternate agent] alternate attorney and agent to do and perform the same acts and exercise the same authority herein granted to the principal agent in the event and only in the event of the death or disability of the above-named principal agent.

_____
(Name of Carrier)

By _____

Its _____
(Title)

Duplicate mailed to:
(Name of Agent)
(Address)

(c) *Limited power of attorney form.* (1) A power of attorney may be limited in any appropriate manner provided the limitations are specifically and unambiguously expressed in the instrument. For example, the agent may be authorized to publish only local fares, only joint fares, only specified rates and charges, or fares and charges in a specified territory, or only specified tariffs or types of tariffs.

(2) The following power of attorney, Form PA2, shall be used to give such limited authority:

POWER OF ATTORNEY

PA2 No. —
Cancels ____ No. —

_____
(Name of Carrier)

_____
(Mail Address)

_____
(Date)

Know All Men by These Presents:

That the [full and correct name of carrier] has made, constituted, and appointed and by these presents does make, constitute and appoint [name of principal agent] its true and lawful attorney and agent, to file in its name, place, and stead, (1) for it alone, and (2) for it jointly with other carriers [through its (name of bureau, committee, or regional organization, if any)], passenger tariffs and supplements thereto and successive reissues thereof, as required of common carriers by existing laws and regulations established thereunder, but only as hereinafter specified:

_____
(Here specify affirmatively the precise authority given to the agent)

And does hereby give and grant unto its said attorney and agent full power and authority to do and perform all and every act and thing above specified as fully, to all intents and purposes, as if the same were done and performed by the undersigned carrier itself, and does hereby assume full responsibility for the acts and failures to act of said attorney and agent.

And, further, that the undersigned carrier does hereby make and appoint [name of alternate agent] alternate attorney and agent to do and perform the same acts and exercise the same authority herein granted to the principal agent in the event and only in the event of the death or disability of the above-named principal agent.

_____
(Name of Carrier)

By _____

Its _____
(Title)

Duplicate mailed to:
(Name of Agent)
(Address)

(d) *Manner of execution.* (1) In the blank space for the name of the carrier in Forms PA1, PA2, and PA3, there must be shown, if the carrier is an individual, the individual name followed by the trade name, if any. If the carrier is a partnership, the correct names of all partners must be given, followed by the trade name, if any. If the carrier is a corporation, the correct corporate name must be used.

(2) If the carrier is an individual, the power of attorney must be signed by the individual. If a partnership, the power of attorney must be signed individually by each partner. If the carrier is a corporation, the power of attorney must be signed by the president, a vice president, or any other authorized official of the carrier. However, before the signature of an employee other than the president or a vice president on a power of attorney will be recognized by the Commission, the carrier must file with the Commission, over the signature of the president or a vice president, a statement reciting that the individual is authorized to sign powers of attorney. The statement must include a specimen signature of the individual or individuals so designated. The authority to sign powers of attorney may be conferred, in the manner described, on more than one official of the carriers. If the carrier is being operated by trustees or receivers, the power of attorney must be signed by each trustee or receiver individually or by his or their designee. Trustees or receivers may invest others with the authority to sign in the same manner as the president or vice president of a corporation may confer the authority on subordinate officials.

(3) If the agent appointed by either PA1 or PA2 is a corporation or an unincorporated association, the last full paragraph of the form shall be omitted.

(e) *Joint agents.* If an agent does not hold the requisite authority to publish a particular tariff, the authority to do so may be obtained by pooling the authority held by him with that held by one or more other agents, and the tariff may be published jointly by both or all such agents in the I. C. C. series of each. For example, if one agent has authority to publish fares only from territory A to territory B, and another agent has authority to publish fares only from territory B to territory A, the fares may be published in a single tariff on a "between" basis and filed with the Commission as a joint tariff of both agents under the I. C. C. series of each.

(f) *Carrier acting for another carrier.* (1) A power of attorney may be given by small carriers to large carriers with

which they connect, or by subsidiary to parent carriers, authorizing the large or parent carriers to publish tariffs, to give and receive concurrences, and to give powers of attorney to agents, all in behalf of the small or subsidiary carrier. The authority granted may be unlimited, as in the form which follows (Form PA-3), or it may be limited in any appropriate manner, provided the limitations are specifically and unambiguously expressed in the instrument. When a PA3 form of power of attorney has been given, the granting carrier may not thereafter do in its own behalf anything which it has authorized the grantee carrier to do in its stead. Concurrences and powers of attorney given by the grantee carrier, however, will be deemed to be given on its own behalf only, unless the instrument expressly recites that it is given or is also given, in behalf of the carrier for which it holds power of attorney. When a PA3 form of power of attorney authorizes the grantee carrier to publish and file tariffs in which the granting carrier is a participant, the grantee carrier need not give a concurrence to itself in behalf of the granting carrier.

(2) The following form of power of attorney, Form PA3, shall be used by a carrier to give authority to another carrier. When the authority is to be limited in any way, the form should be altered to the extent necessary.

POWER OF ATTORNEY

PA3 No. --
Cancels ---- No. --

(Name of Carrier)

(Mail Address)

(Date)

Know All Men by These Presents:

That the [name of granting carrier] has made, constituted, and appointed, and by these presents does make, constitute, and appoint [name of grantee carrier] its true and lawful attorney and agent (1) to issue in its name, place and stead powers of attorney to tariff-publishing agents, (2) to give and receive in its name, place and stead concurrences in tariffs of other carriers, and (3) to publish and file, or cause to be published and filed, passenger tariffs and supplements thereto and successive reissues thereof, in which the undersigned carrier is a participant, all as required of common carriers by existing laws and regulations established thereunder. And the undersigned carrier does hereby give and grant unto its said attorney and agent, full, sole and exclusive power and authority to do and perform all and every act and thing above specified for and on behalf of the undersigned carrier as fully, to all intents and purposes, as if the same were done and performed by the undersigned carrier itself, and does hereby assume full responsibility for the acts and failures to act of its attorney and agent.

(Name of Carrier)

By ---
Its ---
(Title)

Duplicate mailed to:
(Name and Title of Officer)
(Name of Carrier)
(Address)

§ 1303.14 Concurrences.

(a) A carrier desiring to become a participant in a tariff or tariffs issued by another carrier (not by an agent) may do so by filing with the Commission a limited or unlimited concurrence (except as provided in § 1303.13(f)) in one of the four following forms. In forms PC2 and PC4 the limitations must be specifically and unambiguously expressed.

(1) Form PC1, which follows, is unlimited and covers all passenger tariffs applying on traffic moving from, to, via, or at points on the line of the carrier giving the concurrence:

CONCURRENCE

PC1 No. --
Cancels ---- No. --

(Name of Carrier)

(Mail Address)

(Date)

To the Interstate Commerce Commission, Washington, D.C. 20423.

This is to certify that [name of carrier issuing concurrence] assents to and concurs in all passenger tariffs and supplements thereto, filed by [name of carrier to which concurrence is given] in which the undersigned carrier is shown as a participant, and the undersigned carrier hereby makes itself a party thereto and bound thereby insofar as such tariffs apply from, to, via or at points on its lines, until this authority is revoked by formal notice of revocation filed with the Interstate Commerce Commission and sent to the carrier to which this concurrence is given.

(Name of Carrier)

By ---
Its ---
(Title)

Duplicate mailed to:
(Name and Title of Officer)
(Name of Carrier)
(Address)

(2) Form PC2 covers passenger tariffs applying on limited but affirmatively specified traffic moving from, to, via, or at points on the line of the carrier giving the concurrence. The form follows:

CONCURRENCE

PC2 No. --
Cancels ---- No. --

(Name of Carrier)

(Mail Address)

(Date)

To the Interstate Commerce Commission, Washington, D.C. 20423.

This is to certify that [name of carrier issuing concurrence] assents to and concurs in all passenger tariffs and supplements thereto, filed by [name of carrier to which concurrence is given] in which the undersigned carrier is shown as a participant, but only to the extent that such tariffs apply:

(Here affirmatively state the limitations, such as designating the points to and/or from and/or at which, the limited territory within which, or the specific publication(s) or series of tariffs to which, the concurrence shall be applicable)

And the undersigned carrier hereby makes itself a party thereto and bound thereby insofar as such tariffs apply from, to, via or at points on its lines, until this authority is revoked by formal notice of revocation filed with the Interstate Commerce Commission and sent to the carrier to which this concurrence is given.

(Name of Carrier)

By ---
Its ---
(Title)

Duplicate mailed to:
(Name and Title of Officer)
(Name of Carrier)
(Address)

(3) Form PC3 is restricted to passenger tariffs applying on traffic moving to points on or via the line of the carrier giving the concurrence but is not otherwise limited. The form follows:

CONCURRENCE

PC3 No. --
Cancels ---- No. --

(Name of Carrier)

(Mail Address)

(Date)

To the Interstate Commerce Commission, Washington, D.C. 20423.

This is to certify that [name of carrier issuing concurrence] assents to and concurs in all passenger tariffs or supplements thereto filed by the [name of carrier to which concurrence is given] in which the undersigned carrier is shown as a participant, and hereby makes itself a party thereto and bound thereby, insofar as such tariffs or supplements contain rates or other provisions applying via its lines and to, but not from or at, points thereon, until this authority is revoked by formal notice of revocation filed with the Interstate Commerce Commission and sent to the carrier to which this concurrence is given.

(Name of Carrier)

By ---
Its ---
(Title)

Duplicate mailed to:
(Name and Title of Officer)
(Name of Carrier)
(Address)

(4) Form PC4, which follows, covers passenger tariffs applying on limited but affirmatively specified traffic moving to points on or via the line of the carrier giving the concurrence.

CONCURRENCE

PC4 No. --
Cancels ---- No. --

(Name of Carrier)

(Mail Address)

(Date)

To the Interstate Commerce Commission, Washington, D.C. 20423.

This is to certify that [name of carrier issuing concurrence] assents to and concurs in all passenger tariffs or supplements thereto filed by the [name of carrier to which concurrences is given] in which the undersigned carrier is shown as a participant, but only to the extent that such tariffs apply:

(Here affirmatively state the limitations, such as designating the points to or the lines over which, the limited territory within which, or the specific publication(s) or series of tariffs to which, the concurrence shall be applicable)

And the undersigned carrier hereby makes itself a party to such tariffs and bound thereby insofar as such tariffs or supplements contain fares or other provisions applying via its lines and to, but not from or at, points thereon, until this authority is revoked by formal notice of revocation filed with the Interstate Commerce Commission and sent to the carrier to which this concurrence is given.

(Name of Carrier)

By ---
Its ---
(Title)

Duplicate mailed to:
(Name and Title of Officer)
(Name of Carrier)
(Address)

(b) Concurrences shall be personally signed by any official of the issuing carrier.

(c) If a carrier has been authorized by power of attorney to issue concurrences in behalf of one or more small or subsidiary carriers (see § 1303.13(f)), the carrier holding such authority may by a single instrument issue a concurrence in its own behalf and in behalf of any or all of such small or subsidiary carriers.

§ 1303.15 Filing of powers of attorney and concurrences.

(a) If a power of attorney or concurrence is issued subsequent to the date of the filing of the tariff with the Commission, the original instrument shall be forwarded directly to the Commission with a copy to the issuing agent or carrier, but if it is issued prior to or concurrently with the issuance of the tariff, the original instrument may either be forwarded directly to the Commission, or it may be sent to the carrier or agent issuing the tariff and be transmitted by it or him to the Commission with the tariff. (For exceptions see §§ 1303.17 and 1303.18.)

(b) Powers of attorney, concurrences, amendments thereto and revocation notices shall be printed or typed on paper of good quality, 8 x 10½ inches, and must show the date on which they are issued. Each power of attorney and concurrence shall bear a form and serial number, the serial numbers to run consecutively for each form of instrument. Concurrences issued by a carrier jointly in its own behalf and in behalf of one or more other carriers (see § 1303.13(f)) may, if desired, be issued under a separate series of numbers. The form and serial numbers shall be shown on the upper right-hand corner, and immediately thereunder shall be shown the form and number of the power of attorney or concurrence, if any, which is canceled thereby. If the instrument to be canceled contains more authority or is broader in scope than the new instrument, such new instrument must in addition to the date of issue, bear an effective date at least 60 days after the date on which it is received by the Commission. When the new instrument is the same or broader in scope than the instrument which it cancels, it becomes effective when filed with the Commission. The instrument also shall show, in the lower left-hand corner, the name, title and address of the person to whom the duplicate is sent.

§ 1303.16 Certificate stating correct name of carrier to be filed.

When a corporate or partnership carrier files its first tariff, power of attorney or concurrence, it also shall file a certificate stating the precisely correct name of the carrier as it appears in the charter or articles of incorporation, or in the articles of co-partnership, as the case may be. If, for example, the article "The" is a part of the carrier's name, if the conjunction "and" appears therein as "&", or if the word "Company" is abbreviated to "Co.", the certificate must so indicate.

§ 1303.17 Transfer of authority from one agent to another agent.

(a) When it is desired to transfer authority from one agent to another agent superseding the former agent as to all such agent's effective tariffs, the transfer shall be accomplished by filing a new power of attorney naming the agent (and alternate when the new agent is a natural person) thereafter to serve, which shall specifically cancel the previous instrument or instruments, by including the following in the power of attorney to the new agent:

This power of attorney cancels the following power(s) of attorney:

Power of attorney form and number	In favor of
(Insert power of attorney forms and numbers)	(Insert name of agent and alternate)

(b) Under all other conditions the power of attorney must be revoked in accordance with § 1303.21(b).

(c) The originals of such powers of attorney shall not be sent immediately to the Commission, but shall be forwarded to the new agent, who, after all the necessary instruments shall have been secured, shall file all of the originals with the Commission at one time. The new agent may file no tariffs with the Commission until the powers of attorney from all of the carriers shown therein as participants have been so filed.

§ 1303.18 Procedure when one publishing agent succeeds another.

(a) When powers of attorney have been issued to a natural person and his alternate, and death or disability of either the principal agent or the alternate occurs, new powers of attorney shall be filed with the Commission within 180 days, canceling the previous instruments and designating the new agent (and also his alternate if the new agent is a natural person) thereafter to serve. If the filing of the new instruments is occasioned by the death or disability of the former alternate, the new instruments may, if desired, continue the former principal agent and designate a new alternate only. Likewise if death or disability of the principal agent has occurred it is permissible to continue the former alternate agent in the new instruments and designate a new principal agent only. As soon as the instruments appointing the new agent are filed the alternate agent who in the interim has acted may no longer do so. The new powers of attorney shall not be forwarded directly to the Commission, but shall be collected by the new agent and forwarded to the Commission together, as provided in § 1303.17. The new agent may not file a tariff for any carrier until that carrier's power of attorney to him is on file with the Commission.

(b) In the first amendment to each tariff issued by the alternate agent after the death or disability of the principal agent, there shall be shown a statement reading substantially as follows: "On and after (show here the date on which the principal agent ceased to act) this publication shall be considered as the issue of ---, Alternate Agent".

(c) A new agent, on or after the filing of his or its authorities, shall include in the next supplement to each of the effective tariffs previously taken over by the alternate agent a statement reading substantially as follows: "On and after (show here the date on which the new authorities are filed with this Commission), this publication shall be considered as the issue of ---, Agent".

§ 1303.19 I.C.C. numbers of tariffs issued by a new agent or alternate agent.

Tariffs issued by a new agent may be, and those issued by an alternate agent must be, numbered in the I. C. C. series of the former agent. If it is desired to number the tariffs of a new agent in a different I. C. C. series, this may be done as to new or reissued tariffs, but amendments (supplements or revised pages) to tariffs issued by the former agent must be continued in the original series.

§ 1303.20 Powers of attorney and concurrences in special situations.

(a) *Joint concurrences.* If joint concurrences are issued in behalf of two or more carriers by the same tariff officer, all concurrences in each series must be issued on behalf of all such carriers, except as to concurrences interchanged between those carriers. If concurrences in a single series are issued separately for different carriers, separate files in favor of a carrier which has discontinued that series must be maintained for each carrier, and concurrences of each carrier must be issued in consecutive numerical order as required by § 1303.15(b).

(b) *When operation discontinued or taken over by another carrier.* Powers of attorney and concurrences issued in operations should be revoked within 120 days after such discontinuance. If its operations have been taken over by another carrier, all effective powers of attorney and concurrences should be canceled within 120 days either by new issues or revocation notices.

NOTE: This rule applies, among other situations, when an incorporated carrier is placed in the hands of trustees or receivers and is thereafter reorganized. When trustees or receivers are appointed they normally assume, and the corporation discontinues, operations; and thereafter, following reorganization, operations again pass from the

receivers or trustees to the reorganized corporation.

(c) *Forms for tariffs joint with motors.* Powers of attorney and concurrences authorizing the publication of joint rail-motor or water-motor tariffs and supplements shall be issued on the standard PA and PC forms described in §§ 1303.13 and 1303.14.

§ 1303.21 Amendment and revocation of powers of attorney and concurrences.

(a) *Amendments.* (1) A power of attorney on Forms PA2 or PA3 or a concurrence on Forms PC2 or PC4 may be amended by issuing an "Amendment to Power of Attorney," or "Amendment to Concurrence," respectively. However, only four amendments to any one power of attorney or concurrence will be permitted. The amendment must specify with particularity the exact change in the scope of the powers or the authority conferred, by appropriate reference by number to the power of attorney or concurrence affected, by identification by I.C.C. and agent's or carrier's number of the tariff or tariffs affected, and by a detailed description of the traffic or territory affected.

(2) If an amendment to a power of attorney or to a concurrence reduces the scope of the original instrument, such amendment must bear in addition to the date of issue, an "effective" date at least 60 days after the date on which it is received by the Commission. If the amendment adds to or increases the scope of the original power of attorney or concurrence, no notice is required and it becomes effective when filed with the Commission. (See paragraph (e) of this section.)

(i) The form of an "Amendment to Power of Attorney" is as follows:

AMENDMENT TO POWER OF ATTORNEY

Amendment No. --
To PA ---- No. --

(Name of Carrier)

(Mail Address)

(Date)

Know All Men by These Presents:

Effective ----------, the undersigned
(Date)

hereby amends the above-numbered power of attorney, in the following respects:

(Name of Carrier)

By ----------
Its ----------
(Title)

Duplicate mailed to:
(Name of Agent or Carrier)
(Address)

(ii) The form of an "Amendment to Concurrence" is as follows:

Amendment No. --
To PC ---- No. --

(Name of Carrier)

(Mail Address)

(Date)

To the Interstate Commerce Commission, Washington, D.C. 20423.

The undersigned hereby amends PC -- No. -- in the following respects:

(Name of Carrier)

By ----------
Its ----------
(Title)

Duplicate mailed to:
(Name of Carrier)
(Address)

(b) *Revocations.* A power of attorney or a concurrence may be revoked upon not less than 60 days' notice by filing a Notice of Revocation with the Commission and serving at the same time a copy thereof on the agent, in the case of powers of attorney on Forms PA1 and PA2, or on the carrier in whose favor the instrument was executed, in the case of concurrences or powers of attorney on PA3. Such notice shall not bear a separate serial number, but shall specify the form and number of the power of attorney, or the form and number of the concurrence, to be revoked, shall name the agent, and alternate agent, if any, or the carrier, in whose favor the instrument was executed, and shall specify a date upon which revocation is to become effective. (See paragraph (e) of this section.)

(c) *Corresponding revision of tariff.* When a power of attorney or concurrence is revoked, corresponding revision of the tariff or tariffs must be made not later than the effective date stated in the notice of revocation. If the tariff or tariffs are not so amended, the fares, rates, and other provisions therein remain effective and must be protected by the carrier or carriers responsible for their continued maintenance.

(d) *Forms for revocations.* Revocation notices shall be in one of the following forms, as appropriate:

REVOCATION NOTICE
(Power of Attorney)

(Name of Carrier)

(Name of Carrier)

(Date)

Know All Men by These Presents:

Effective ----------, power of attorney
(Date)

PA -- No. --, issued by ----------
(Name of carrier issuing power of attorney)

---
in favor of ----------
(Name of carrier, or agent (and alternate) if any)

is hereby canceled and revoked.

(Name of Carrier)

By ----------
Its ----------
(Title)

Duplicate mailed to:
(Name of Agent or Carrier)
(Address)

REVOCATION NOTICE
(Concurrence)

(Name of Carrier)

(Mail Address)

(Date)

To the Interstate Commerce Commission, Washington, D.C. 20423.

Effective ----------, concurrence PC --
(Date)

No. --, issued by ----------
(Name of carrier issuing concurrence)

---
in favor of ----------
(Name of carrier)

is hereby canceled and revoked.

(Name of Carrier)

By ----------
Its ----------
(Title)

Duplicate mailed to:
(Name of Carrier)
(Address)

(e) *Amendment or revocation, manner of execution.* (1) An amendment to, or a revocation of, a power of attorney shall be executed in the same manner as powers of attorney, and a statement of the kind specified in § 1303.13(d) shall be filed with the Commission to designate persons authorized to sign such amendments or revocations. The statement filed in accordance with § 1303.13(d) may include in the one instrument designations and specimen signatures of persons authorized to sign powers of attorney, amendments to powers of attorney, and revocations of powers of attorney.

(2) An amendment to, or a revocation of, a concurrence shall be executed in the same manner as concurrences. (See § 1303.14(b).)

§ 1303.22 Round-trip excursion fares.

(a) *10-day limit or less.* Round-trip excursion fares limited to a designated period of not more than 10 days may be established upon posting a tariff one day in advance of the effective date at the stations where tickets for such excursion will be sold and mailing two copies thereof to the Commission.

(b) *Over 10- but not over 30-day limit.* Round-trip fares for an excursion limited to a designated period of more than 10 days and not more than thirty days may be established upon posting a tariff three days in advance of the effective date at the stations where tickets for such excursion will be sold and mailing two copies to the Commission.

(c) *"Designated period" defined.* The term "designated period" used in this section means the period beginning with the first day on which the transportation can be used and ending with, and including, the day upon which the return trip must be completed.

(d) *Series of excursion fares in one tariff.* A series of temporary round-trip excursion fares limited for designated periods as set forth in paragraphs (a) and (b) of this section, the effectiveness of which extends over a period exceeding thirty days but not more than one year, may be published in the same tariff and established as provided in paragraph (b) of this section as to certain of the fares and accompanying provisions, and on statutory notice as to the remainder. For example, tariff is filed with the Commission, March 2, to be effective March 7, 14, 21, 28, April 4, 11, 18, and 25, with final return limit of eight days in addition to date of sale. From March 7 to final return limit of

ticket sold April 25 is 56 days. In connection with the sale dates of March 7, 14, 21, and 28, the tariff must indicate by appropriate symbol that insofar as it is effective on those dates it is issued under authority of this section. The tariff insofar as it is effective on the dates of April 4, 11, 18 and 25, is filed on statutory notice, and no notation to that effect is necessary.

(e) *Supplement permitted; changes in tariff.* (1) No supplement may be issued to a tariff filed under authority of paragraph (a) of this section except for the purpose of canceling the tariff, and the title page must so state.

(2) A tariff issued under authority of paragraphs (b) and (d) of this section may have only one supplement in effect at one time.

(3) Changes in tariffs of two or more pages issued under authority of paragraphs (b) and (d) of this section may be made in the manner provided in subparagraphs (4) and (5) of this paragraph for the following purposes:

(i) Change or add dates of sale; but the effectiveness of a tariff, as amended, issued under authority of paragraph (d) of this section shall not extend over a period exceeding one year.

(ii) Extend return limit.

(iii) Add selling stations or destinations, routes, or privileges.

(iv) Reduce fares.

(4) Changes specified in subparagraph (3) of this paragraph in a tariff issued under authority of paragraph (b) of this section may be established by supplement to the tariff in the same manner as authorized in said paragraph (b) for the tariff.

(5) Changes specified in subparagraph (3) of this paragraph in tariffs issued under authority of paragraph (d) of this section may be made by supplement, or reissue of the tariff, by filing and posting such changes not later than three days before they are to become effective.

(f) *Title page notation.* Publications issued under authority of this section must bear the notation on its title page, "Issued under authority of § 1303.22 of Tariff Circular 24."

§ 1303.23 Fares in special car or train service.

(a) *Between competitive points.* In order to avoid maintenance of fares between rail-competitive points for application over routes infrequently used because of limited, or absence of, passenger train service, tariffs of one-way fares, subject to a three-day period of sales in each case and applicable only to movements of passengers by special car or special train service, may be filed and posted on one day's notice: *Provided,* That each such fare is the same as a fare on file with the Commission and in effect over another rail route: *And provided further,* That the fares filed under authority of this paragraph may not apply over any route which exceeds 135 percent of the short-line passenger mileage from origin to destination.

(b) *From and to local points.* From and to points on one railroad, when origin or destination is a local point, or when both origin and destination are local points, on that railroad, from and to which no regular passenger train service is operated and no fares are published, tariffs of one-way fares, subject to a three-day period of sales and restricted only to movements of passengers by special car or special train service, may be filed and posted on one day's notice, provided that each such fare is on the same basis as the carrier's one-way fares of the same class regularly maintained from and to other points on its line in the same territory.

(c) *Title page notation.* Publications issued under authority of this section shall bear on the title page the following notation, "Issued on one day's notice under authority of § 1303.23 of Tariff Circular 24."

§ 1303.24 Newly inaugurated regular sleeping-car or parlor-car service.

Rates and charges, including those for additional occupancy at termini or at stations en route for newly inaugurated regular service in sleeping cars or parlor cars, to and from points to and from which no rates and charges are in effect, may be filed and posted on one day's notice, provided such rates and charges are on the same basis as those of the carrier for the same type accommodations regularly maintained from and to other points in the same territory. Provisions published under authority of this section must contain a notation in connection therewith reading as follows: "Issued on one day's notice under authority of § 1303.24 of Tariff Circular 24."

§ 1303.25 Temporary rates for sleeping cars or parlor cars.

(a) A tariff containing temporary rates and charges for sleeping car and/or parlor car accommodations effective for a period not exceeding four months may be made effective upon posting one day in advance of the effective date at the stations where tickets for such accommodations will be sold and mailing two copies thereof to the Commission, subject to the following conditions:

(1) Rates and charges in such tariff shall apply only to transportation in (i) a through car in special service (see note, subparagraph (2) of this paragraph) from and to points between which, or over routes over which, no through service is maintained and no through rates are in effect, or (ii) a through car in special service (see note) in which the privilege of stopover, side trip, or additional occupancy at termini or at stations en route is permitted and the charges therefor are explicitly shown.

(2) Rates in such tariff shall be (i) the same as on file with the Commission and in effect from and to the same points over another rail route, (ii) either the lowest sum of intermediate rates from origin to destination over the route of movement or over another rail route, or (iii) on the same basis as rates of the carrier from and to other points in the same territory.

NOTE: As used in this section, "through car" means a car which moves through from origin to destination from and to which the fares and/or charges apply; and "special service" means sleeping-car or parlor-car service other than that ordinarily offered in regularly scheduled trains.

(b) Tariffs issued under authority of this section may be in a separate series of I. C. C. numbers, and each tariff must bear on its title page the notation, "Issued under authority of § 1303.25 of Tariff Circular 24."

§ 1303.26 Newly constructed lines of railroad and newly established service by water carriers.

(a) *Notice.* Charges applicable at, and fares, rates, charges, rules and regulations applicable from and to points on newly constructed lines of railroad, including branches and extensions of existing railroads, or ports reached by water carrier when new water-carrier service has been inaugurated, may be established in the first instance on not less than one day's notice. Such fares, rates, charges, rules or regulations, when established, may be changed only in accordance with the act.

(b) *Limitation.* No fare or other provisions may be filed under authority of this section, the effective date of which is more than sixty days after the effective date of the first fare or other provision established from, to, or at any point on the same line of newly constructed railroad or embraced in the same grant of authority for new service by water carrier, as the case may be.

(c) *Tariff notation.* Provisions published under authority of this section must contain a notation in connection therewith reading as follows:

Issued on one day's notice under authority of § 1303.26 of Tariff Circular 24. Fares (or other provisions) established in the first instance (from, to, between, or at, as the case may be), stations on railroad (or reached by water carrier, as the case may be).

Where all of the provisions in a tariff or supplement are issued under authority of this section, the above notation may be shown on the title page.

§ 1303.27 Transportation of circus and show outfits.

Rates for specified movements of circuses and other show outfits may be established on not less than one day's notice to the Commission. Such tariffs must bear reference to this section and must publish the charges specifically, showing the number and kind of cars moved, or may consist of a proper title page reading "as per copy of contract attached," and to it may be attached a copy of the contract under which the circus is moved. Tariffs containing such rates need not be posted at stations. As far as practicable, general rules or regulations governing the fixing of such rates should be regularly published, posted, and filed upon statutory notice.

§ 1303.28 Party-fare tickets.

(a) Party fares must not be restricted in their application to use by any class or classes of persons, but their use must be open to all; and no statement such as

"account High School" (or any organization) shall appear on the title page of, or elsewhere in, a tariff providing for such fares.

(b) A party-fare tariff that provides per capita fares which decrease as the minimum number in the party increases, must contain a provision that the maximum charge for any party shall not exceed the total minimum charge for a larger party.

(c) Party fares are primarily for a group traveling together; however, in connection with round-trip party fares, in lieu of one-round-trip ticket, there may be issued one ticket for the going trip and individual tickets for the return trip, if desired.

§ 1303.29 Round-trip tickets on certificate plan.

Round-trip tickets on the certificate plan may be issued at reduced fares and their use confined to the delegates to a particular convention or to the members of a particular association or society, upon the condition that a certain number of such tickets shall be presented for validation for return trip before the reduced fare for return trip will be granted to any ticket holder. The Commission suggests that the requirement be that not less than one hundred tickets shall be presented for validation for return trip before reduced fare will be granted to any ticket holder. Validation need not be required when it is obvious that the convention or meeting will be attended by a large number and there will be no question that the number using railroad service will exceed the minimum number which might be required. Tariffs of fares and regulations governing issuance and use of round-trip tickets on certificate plan must be filed and posted.

§ 1303.30 Validation of round-trip passenger tickets.

(a) *Validation for original purchaser.* A requirement that a round-trip passenger-fare ticket shall be validated for the original purchaser by carrier's agent at a given point is a condition affecting the value of the service, and must be published in the tariff under which the ticket is sold, and when published, must be observed. The tariff may provide for validation at numerous points, and it may provide for validation at any point intermediate to the original destination named in the ticket.

(b) *Avoid conflicting conditions in ticket and tariff.* The conditions stated upon the ticket should not conflict with the tariff provisions, but, if in any case there should be conflict between the tariff provisions and the conditions stated on the ticket, the tariff provisions must govern.

(c) *When illness or death occurs.* A carrier may provide in its tariff a rule that in case of illness or death of passenger, a specified officer of the carrier may validate round-trip ticket or tickets held by such passenger or members of his family travelling with him at a point short of that at which the tickets otherwise would be validated.

(d) *Failure to validate ticket.* A carrier may incorporate in its tariff a rule that when a passenger is compelled to pay the regular return fare because of his failure to have his round-trip ticket validated at the designated point, the carrier will refund the extra fare upon the filing with it of an affidavit by the holder of the round-trip ticket, certifying that the ticket has been used in accordance with all of the conditions of the tariff, except as to the matter of validation.

§ 1303.31 Emergency extension of time limit of tickets and granting stopovers.

(a) *Because of illness or quarantine.* (1) Carriers may provide in their tariffs that the time limit for the use of a passenger ticket may be extended in case of illness of the passenger holding such ticket. The tariff must give the title of the person who shall have authority to give such extension, and such person shall be required by the carrier to keep a memorandum of each instance in which such extension is given, and the data upon which it is allowed. Such information shall be made available to the Commission when requested. Only such illness as makes travel dangerous to the health of the traveler will justify the extension herein provided for.

(2) The extension also may be granted to one or more members of the family of the ill passenger when they are traveling with him, and to persons who are subject to an established quarantine.

(3) Stopover privileges for a limited time may be granted for the same causes and under the same conditions and restrictions as justify extension of time limit of tickets.

(b) *Because of washout, wreck, etc.* A carrier also may provide in its tariffs that whenever, because of washout, wreck, or other obstruction to its tracks, public calamity, the act of God or of the public enemy, a passenger is delayed on its lines so that the limit of such passenger's ticket has expired or has elapsed to such an extent as to curtail his stopover privileges, the conductor or other specified agent will give, by endorsement on ticket or otherwise, certificate of such detention, and that such certificate will operate to extend the limit of such ticket to the extent of detention so certified, and that such extension will be honored by succeeding conductors on its lines. It also may provide that like certificates of detention and extension given by other carriers will be honored on its lines; but no carrier may so extend any part of a ticket reading over lines other than its own, except when provision therefor is contained in a joint tariff to which it and each other carrier affected is a party.

§ 1303.32 Free transportation of caretakers in connection with shipments of property.

(a) Section 1(7) of the act provides that free transportation may be furnished "to necessary caretakers of livestock, poultry, milk, and fruit." This provision in the statute is construed to mean necessary caretakers of livestock, poultry, milk, or fruit that is loaded and ready for movement, or the movement of which is actually contracted for or that is actually in transit, and may include free or reduced-fare transportation for the return of such necessary caretakers. This transportation may be in the form of free pass or reduced-fare transportation, but in any event it must be the same for all under like circumstances. Authority for such free or reduced transportation must be published in the tariff governing the transportation of the commodity, which also must contain such policing regulations as will prevent the misuse of this provision. Tariffs may provide that caretaker sent out to return with shipment that is arranged for or that is in transit will be required to pay fare going and that such fare will be refunded if person so sent does return as actual caretaker of shipment for which he is sent. But a tariff rule which provides that if a person goes out over the line with the intention of purchasing livestock and returns within a certain time with a certain number of cars of livestock, the carrier will refund to him the fare paid on outgoing trip is improper and unlawful.

(b) The Commission has expressed the opinion that the term "fruit" as used in section 1(7) of the act includes perishable vegetables, and that bees in hives and live fish may be included in the term "livestock" when shipped under conditions that make caretakers "necessary."

(c) When an express company provides in its tariff for free transportation for caretakers in charge of livestock, poultry, milk, or fruit, and the railroad company over whose lines such express company operates provides in its tariff that such caretakers may be permitted to ride in passenger car, the tariff of the express company and that of the railroad company must give reference to each other.

§ 1303.33 Ocean carriers' fares to or from foreign countries.

Carriers subject to the regulations contained in this part may not join with ocean carriers in publishing joint fares, rates, or charges to or from nonadjacent foreign countries. As a matter of convenience to the public, however, carriers subject to the regulations contained in this part may publish as information in their tariffs in connection with the fare, rate, or charge to or from the port, the steamship charge to or from points in a foreign country. When this is done, such steamship charges may be changed without notice, but the fares, rates, or charges of the carriers subject to the regulations contained in this part to or from the port are subject to all of the provisions of the Interstate Commerce Act and the Commission's tariff-publishing rules. Tariffs containing such steamship charges must not be concurred in by the ocean carriers.

§ 1303.34 Posting of tariffs.

(a) *Posting defined.* The term "post" as used in this section means the maintenance of a file of tariffs in the custody of an agent of the carrier in a complete, accessible, and usable form, and keeping such file of tariffs available to the public upon request during ordinary business hours. The term "tariff" as used in this section includes tariff supplements or amendments.

(b) *Carriers required to post tariffs at stations.* (1) Each railroad, sleeping car company, and each common carrier by water shall post at each station at which passengers are received for transportation and at which an agent is employed all tariffs (including those filed for it by tariff-publishing agents or by other carriers with its concurrence) which contain fares applying from that station or which contain terminal or other charges applicable at that station, together with all other tariffs needed to determine the application of such fares or charges. There shall also be posted at each such station an index of the carrier's passenger tariffs in form as provided in § 1303.10.

(2) Each common carrier by motor vehicle shall post at each station or office at which passengers are received for transportation and at which an agent is employed all tariffs containing joint motor-rail, motor-water, and/or motor-rail-water fares applying from or at such station or office.

(c) *Relief from requirements.* If any tariff so posted (other than a tariff index) has not been used for a substantial length of time, the posting of that tariff, including reissues thereof, may be discontinued until such time as a request is made to the carrier's agent to have it reposted. It shall then be reposted within 20 days and thereafter kept posted.

(d) *Location of complete public files of tariffs.* (1) Each railroad, sleeping car company, and each common carrier by water shall post at its principal office a complete set of all tariffs which it issues or to which it is a party, together with an index thereto, and each rail carrier with 5,000 miles or more of first main track (including branch lines but excluding yard, terminal and industrial tracks) shall also post at not less than one additional point, a complete set of tariffs which it issues or to which it is a party. In determining the number of miles of first main track operated, family lines may be considered as a unit and subsidiary carriers as a part of the controlling carrier. A small carrier which has authorized its principal connecting carrier to file tariffs on its behalf may have its tariffs included in the complete public tariff file of such connecting carrier without such small carrier maintaining a separate complete public file.

(2) Each common carrier by motor vehicle shall post at its principal office a complete set of tariffs containing joint motor-rail, motor-water, and/or motor-rail-water fares which it issues or to which it is a party.

(e) *Selection of posting places.* When posting places in addition to the principal office are required, railroads will select posting places which, in their judgment, will best serve and promote the convenience of the public in using the tariffs. The places selected shall be cities directly served by the railroad. Each railroad will advise the Commission by letter of the posting places selected and of any changes thereafter made. The Commission may, after reasonable investigation and without formal hearing, designate posting places in addition to or in substitution of those selected by the carrier.

(f) *Time of posting.* Each tariff must be posted at least 30 days before its effective date, excepting those as to which the Commission has authorized a shorter period of notice to the public. Each carrier shall require the agent at every station or office at which tariffs are posted to write or stamp on each tariff the date on which it was posted.

(g) *Tariff files to be accessible to the public.* Each file of tariffs shall be in charge of an agent of the carrier. Each carrier shall require and instruct such agent to afford inquirers an opportunity to examine any of such tariffs without asking the inquirer to assign any reason therefor, and, upon request, to lend assistance to seekers of information therefrom with all promptness possible and consistent with proper performance of other duties.

(h) *Notice required to be posted.* Each carrier shall also cause to be displayed continuously in a conspicuous public place at each station or office at which tariffs are required to be posted, a notice printed in large type reading as follows:

With only such exceptions as have been authorized by the Interstate Commerce Commission, all tariffs which contain fares and charges applying from or at this station are on file at this office, together with an index of all of this company's passenger tariffs. The tariffs and index may be inspected by any person upon application and without the assignment of any reason for such inspection. The agent on duty in this office will lend any assistance desired in securing information therefrom.

If request is made for a tariff naming fares from this station, the posting of which has been discontinued because of nonuse, the agent will arrange to have it reposted within 20 days and thereafter keep it posted.

In addition a complete file of all of this company's tariffs, with indexes thereof, is maintained and kept available for public inspection at:

(Here indicate the place or places where complete tariff files are maintained, including the street address and, where appropriate, the room number)

(i) *Check-up on files of tariffs.* Each carrier shall place in effect a system of supervision that will insure the continued maintenance in proper and readily accessible form of tariff files required at each station and also at each office where complete files are maintained. Such stations and offices must be furnished at least once a year with a list of all of the tariffs which should be in their files. Upon receipt of the list the agent or employee in charge will immediately check the tariffs on hand against the list and report any deficiencies. Evidence of improper maintenance of files at any station or office may incur the prescription of detailed instructions to the carrier by the Commission necessary to insure compliance with these regulations.

(j) *Notice of proposed increases in fares for suburban service.* (1) Each carrier of passengers whose passenger operations are confined solely to suburban service also shall notify the public of any proposal to increase its local fares by means of a notice posted in a conspicuous place in each station where tickets are sold, and in a conspicuous place in each rail passenger car or motor bus used; and each other carrier of passengers likewise shall notify the public of any proposal to increase its commutation fares for suburban service by means of a notice posted in a conspicuous place in each station where commutation tickets for which an increase is proposed are sold, and in a conspicuous place in each rail passenger car or motor bus in which such commutation tickets are good for passage.

(2) The notice required by subparagraph (1) of this paragraph shall be not less than 120 square inches in size, printed in type sufficiently large to permit of its being read under ordinary conditions by passengers seated in the conveyance, and, except as provided in subparagraph (3) of this paragraph, shall contain substantially the following legend:

NOTICE OF INCREASED FARES

(Name of carrier)

This carrier has filed with the Interstate Commerce Commission tariffs proposing increases in fares, effective _____ for _____

(Date)

(Here describe briefly and generally the kind of transportation, points or localities affected, and the increases proposed)

Further information as to the proposed increases may be obtained from any of this carrier's offices where such transportation is sold or at its general office.

(Here give street address, city, and telephone number)

Under the law, any interested person may protest to the Commission and request suspension of the increased fares. The Commission's rules require that seven (7) copies of the protest shall be filed at its office in Washington, D. C., at least twelve* (12) days before the effective date of the increased fares and should indicate in what respect the increased fares are considered to be unlawful. The rules also require that a copy of the protest be simultaneously mailed to

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(Here name the carrier proposing the increased fares)

*In the event the increased fares are published on less than thirty (30) days' notice, the words "at least twelve (12) days" should read "as promptly as possible".

(2) If proposal to increase fares for suburban service, for which posting of notice is required by subparagraph (1) of this paragraph, is made by petition to the Commissioner prior to filing tariffs, a notice of the size and legibility required by subparagraph (2) of this paragraph shall be posted as required by subparagraph (1) of this paragraph, describing briefly the increases sought, the transportation service for which they are sought, and the points affected. The notice also shall state that interested

persons may object to the carrier's petition by filing with the Commission a reply thereto in accordance with the Commission's general rules of practice, and that information regarding the Commission's rules may be obtained by writing to the Secretary of the Commission.

(4) All notices shall be posted as prescribed in subparagraph (1) of this paragraph contemporaneously with the filing with the Commission of any tariff containing the proposed increased fares, and also contemporaneously with the filing of any petition with the Commission for authority to increase fares or in file a tariff containing proposed increased fares. Notices with respect to the filing of a tariff shall remain posted until the increased fares become effective, or until suspended by the Commission or withdrawn by the carrier prior to its effective date. Notices with respect to the filing of a petition shall remain posted until action on the petition is taken by the Commission.

§ 1303.35 Applications for authority to make changes in tariffs.

(a) *Fares charged on less than statutory notice.* (1) Sections 6, 217, and 306 of the act authorize the Commission in its discretion and for good cause shown, to permit changes in fares on less than statutory notice. The Commission will exercise this authority only in cases where actual emergency and real merit are shown. Desire to meet the fares or charges of a competing carrier which has given the full statutory notice of change in fares or charges will not of itself be regarded as good cause for allowing changes in fares or charges on a notice of less than thirty days. Clerical or typographical errors in tariffs constitute good cause for the exercise of this authority, but every application based thereon must plainly specify the omissions or mistakes, together with a full statement of the circumstances attending such omission or error, and must be presented with reasonable promptness after issuance of the defective tariff.

(2) Frequently carriers file applications requesting authority to make changes on short notice when an outstanding order of the Commission in a proceeding requires publication on thirty days' notice. Such requests in effect are requests for modification of the order and should be filed as petitions in the proceeding to which the order relates, and not as applications under sections 6, 217 or 306 of the Interstate Commerce Act.

(b) *Authority necessary to make applications.* Applications for permission to make tariff changes on less than statutory notice or waiver of any provision of this part (Tariff Circular 24) must be made by the agent or carrier that holds authority to file the proposed changes. If the application requests permission to make changes in joint tariffs, it must state that it is filed for and on behalf of all carriers parties to the schedules in which the change is proposed.

(c) *Partial use of permission prohibited.* It sometimes occurs that carriers or their agents do not use the full authority extended by special permissions. When passing upon special permission applications, the Commission gives consideration to all of the facts and circumstances set forth in the application and, if approved, the special permission is issued with the understanding that all of its terms will be complied with and all of the authority dealing with the same subject matter will be used. Therefore, if all related matter authorized by a special permission will not be published, and more limited authority is desired, a new application complying with the provisions of this section and making reference to the previous authority, must be filed.

(d) *Preparation of application.* Applications (including amendments thereto and exhibits made a part thereof) for permission to make tariff changes on less than statutory notice or under waiver of any provision of this part (Tariff Circular 24), shall be made in duplicate on paper 8 by 10½ inches, and addressed to the Secretary of the Interstate Commerce Commission, Washington, D.C. 20423. (Motor carriers also are required to send one copy to the Regional Director.) Such applications shall be in substantially the following form, shall be numbered consecutively, and must bear the signature of the president, vice president, traffic manager, assistant traffic manager, general passenger agent (or their equivalents, if the carrier does not designate its officials by those titles), or a duly authorized attorney and agent, specifying title.

FORM OF APPLICATION

---------- (Place and date)

To the Interstate Commerce Commission, Washington, D.C. 20423.

----------, Agent, for and on behalf of all carriers parties to his (or its) tariff bearing I. C. C. No. ... (or the ----------
(Name of carrier)
by ---------- its ----------)
(Name of officer) (Title of officer)
does hereby make application to the Interstate Commerce Commission for permission under section 6 (other sections to be cited if involved) of the Interstate Commerce Act, to put in force the following fares (or rates, charges, rules or regulations), to become effective ---------- days after filing thereof with the Commission:

(State fully, either specifically or by reference to an accompanying exhibit, the fares and/or other tariff provisions which it is desired to put into effect, (if rates or charges, the articles or service to which they apply) and the points of origin and destination. If permission is sought to establish a rule or regulation, the exact wording must be shown.)

And to depart from the provisions of the following sections of Tariff Circular 24 when making such publication, viz: ----------

Applicant further represents that the said fares (or rates, charges, rules or regulations) will be published in (a designated tariff) and will supersede the fares (or rates, charges, rules or regulations) on like traffic from and to the points above named which are set forth in (a designated tariff provision).

(Here state specifically or by reference to an accompanying exhibit, the present fares or other provisions which it is desired to change, together with the I. C. C. numbers in which published and the effect of the proposed change.)

(State the basis on which the proposed fares, rates and/or charges are constructed, if the application seeks less than statutory notice. If it is proposed to change a rule or regulation, state fully the nature and purpose of the change.)

(State the relation existing between points of origin and destination covered by the application and any point of origin or destination not covered by the application, if the application seeks less than statutory notice.)

And your petitioner further bases such request upon the following facts, which present certain special circumstances and conditions justifying the request herein made:

(State fully all other circumstances and conditions which are relied upon as justifying the application and which may aid the Commission in determining the question presented. If authority is sought to make publication under waiver of the provisions of Tariff Circular 24 (this part), state why it is believed that those provisions cannot or should not be fully complied with. If short notice is requested, state why the change was not published upon statutory notice.)

---------- (Correct name of carrier, if filed by a carrier)

---------- (Signature of agent, or of officer if filed by a carrier)

---------- (Title)

Subscribed and sworn to before me this ---------- day of ----------, 19....

[SEAL] ----------
Notary Public

(Only the original need be notarized)

PART 1304—EXPRESS COMPANY SCHEDULES AND CLASSIFICATIONS

Sec.
1304.0 General provisions; definitions.
1304.1 Form, size and arrangement.
1304.2 Indication of changes.
1304.3 Content of tariff title page.
1304.4 Content of tariffs in book or pamphlet form.
1304.5 Basing tariffs.
1304.6 Limiting use of terms.
1304.7 Commodity rates.
1304.8 Cancellations.
1304.9 Amendments and supplements.
1304.10 Charges to be shown; distance tariffs.
1304.11 Index of tariffs.
1304.12 Tariffs to or from season or summer offices.
1304.13 Filing of tariffs.
1304.14 General provisions in connection with filing.
1304.15 Issuance of classification by joint agent.
1304.16 Form of appointment of agent.
1304.17 Form of concurrence, EX2.
1304.18 Form of concurrence, EX3.
1304.19 Form of concurrence, EX4.
1304.20 Form of concurrence, EX5.
1304.21 Form of concurrence, EX6.
1304.22 Form of concurrence, EX7.
1304.23 Form of concurrence, EX8.
1304.24 Concurrences and powers of attorney; general provisions.
1304.25 Letter-of transmittal.
1304.26 Changes in rates.
1304.27 Joint rate greater or less than sum of intermediate rates.
1304.28 Reduction of rate to equal sum of intermediate rates.
1304.29 Rates to or from new offices.
1304.30 Rates on carload shipments of certain perishable commodities and of livestock between points between which carload rates on such commodities are not in effect.
1304.31 Requests for permission to amend tariffs on less than statutory notice.
1304.32 Free transportation of passengers in connection with shipments of property.
1304.33 Maximum rates not specific rates.
1304.34 Movement of shipments refused by consignees or damaged in transit.
1304.35 Responsibilities of carriers under tariffs.
1304.36 Withdrawal of filed tariffs not permitted.
1304.37 Ocean carriers; export and import tariffs.
1304.38 Tariffs to or from points in adjacent foreign countries.
1304.39 Publishing and filing tariffs under amended fourth section of the act.
1304.40 Rates, rules or charges applying to all-motor transportation.
1304.41 Arrangements for establishing through express-motor transportation.
1304.100 Express-motor tariffs, with certain exceptions, must conform to provisions of Tariff Circular No. 19-A.
1304.101 Number of copies; transmittal.
1304.102 Publication and filing of local and joint express-motor rates.
1304.103 Tariffs containing express-motor rates.
1304.104 Joint express-motor rates limited to certain defined carriers.
1304.105 Use of intermediate rules.
1304.106 Joint rates applicable regardless of lower aggregate.
1304.107 Separation of all-motor and express-motor rates.
1304.108 Indexing joint express-motor tariffs.
1304.109 Powers of attorney and concurrences applicable to express-motor rates.
1304.110 Tariffs containing express-motor rates for transportation of explosives.
1304.111 Posting of tariffs containing express-motor rates.
1304.112 Publication and filing of a directory by express companies.

AUTHORITY: The provisions of this Part 1304 issued under sec. 12, 24 Stat. 383, as amended, 49 Stat. 546, as amended; 49 U.S.C. 12, 304, and sec. 5, 6, 24 Stat. 380, as amended, 49 Stat. 560, as amended; 49 U.S.C. 5, 6, 317.

§ 1304.0 General provisions; definitions.

(a) *Conformation to rules; reissue.* When provision for rejection of publications that do not conform to the regulations in this part have been omitted, it is to avoid conflict with the penalties provided in section 6 of the act for failure to comply with rules and orders of the Commission, issued under that section.

Tariffs that were lawfully on file with the Commission on August 1, 1908, and that have not since that time been superseded or canceled, will be considered as continued in force until they can be properly reissued. All tariffs filed on or after May 1, 1911, must, except as otherwise specified herein, conform to all of the rules in this part. The Commission may direct the reissue of any tariff at any time.

(b) *Definitions.* (1) The term "joint rate," as used in this part, is construed to mean a rate that extends over the lines of two or more carriers and that is made by agreement between such carriers.

(2) "Joint tariffs" are those which contain or are made up from such "joint rates."

(3) Wherever used in the regulations in this part the term "joint express-motor rates" shall be understood to mean rates, rules or charges applicable to joint transportation between express companies listed in subparagraph (4) of this paragraph, on the one hand, and common carriers of property by motor vehicle other than such express companies, including transportation where such common carriers by motor vehicle participate only as intermediate carriers, on the other hand.

(4) Wherever used in the regulations in this part the term "local express-motor rates" shall be understood to mean rates, rules or charges applicable wholly over the lines of one or more of the following companies, viz: Railway Express Agency, Incorporated, Canadian National Railways (Express Department), Canadian Pacific Express Company, for transportation wholly by motor vehicle owned or leased by such express companies or partly by rail or water and partly by such motor vehicle.

(5) Wherever used in this part the term "express rates" shall be understood to mean rates, rules or charges applicable to all-rail or rail-water transportation by express companies subject to part I of the Interstate Commerce Act.

(6) Wherever used in this part the term "all-motor rates" shall be understood to mean rates, rules or charges applicable to all-motor transportation by common carriers or property by motor vehicle other than express companies named in subparagraph (4). Similarly the terms "all-motor tariff" or "all-motor transportation" shall be understood to mean tariffs or transportation (as the case may be) of such motor carriers.

CROSS REFERENCES: For filing of tariffs, see § 1304.13. For general provisions in connection with filing, see § 1304.14. For publishing and filing tariffs under amended fourth section of the act, see § 1304.39. For publication and filing of local and joint express-motor rates, see § 1304.102.

§ 1304.1 Form, size, and arrangement.

All tariffs must be printed on hard calendered paper of good quality from type of size not less than 6-point full face. Stereotype, planograph, or other printing-press process may be used. Alterations in writing or erasures must not be made in tariffs before filing. Reproductions by hectograph or similar process, typewritten sheets, or proof sheets must not be used for posting or filing.

All tariffs must be in book, sheet, or pamphlet form, and of size 9½ by 11½ inches. Loose-leaf plan may be used so that changes can be made by reprinting and inserting a single leaf.

§ 1304.2 Indication of changes.

(a) All tariff publications or supplements thereto must indicate increases thereby made in existing rates or charges, rules or regulations, or classifications by the use of black-faced type or by the use of a uniform symbol throughout the schedule. All tariff publications or supplements thereto which are filed with the Commission on or after May 1, 1911, must also indicate reductions thereby made in existing rates of charges, rules or regulations, or classifications by the use of italic type or by the use of a uniform symbol throughout the schedule. Clear explanation of the use of distinctive type or symbols must be made in the tariff.

(b) When a new tariff canceling a previous tariff omits offices of origin or destination or rates which were contained in such previous tariff, the new tariff shall show, in the manner prescribed in § 1304.8(e), where the rate or rates will thereafter be found, and if such omissions effect increases or decreases in charges that fact shall be shown by the use of proper symbols.

§ 1304.3 Content of tariff title page.

The title page of every tariff shall show:

(a) Name of issuing express company, express companies, or agent.

(b) ICC number of tariff in bold type on upper right-hand corner, and immediately thereunder, in smaller type, the ICC number or numbers of tariffs and supplements canceled thereby. If, however, the number of canceled tariffs is so large as to render it impracticable to thus enter them on title page, they must be shown on following page, and specific reference to such list must be entered on title page immediately under the number of the tariff. Serial numbers of express companies may, if desired, be entered below the upper marginal line of title page.

(c) Whether tariff is local, joint, proportional, or a combination of same, and whether merchandise, commodity, or a combination of both.

(d) The territory or points from and to which the tariff applies, briefly stated.

(e) Reference by name and ICC number to the classification and exception sheets governing the tariff. Following form will be used: "Governed, except as otherwise provided herein, by the ---------- classification, ----------, ICC No. ----, supplements thereto and reissues thereof; and by exceptions to said classification, ---------- ICC No.----, supplements thereto and reissues thereof." A tariff is governed by a classification or exceptions thereto when and only to the extent stated on the tariff.

(f) Date of issue and date effective. Any tariff may be changed upon statutory notice of 30 days, or, under special permission from the Commission, upon shorter notice. Therefore, a provision in a tariff that the same, or any part thereof, will expire upon a given date, is not a guaranty that the tariff, or such part of it, will remain effective until that date. The Commission considers ex-

piration notices undesirable, as many complications have arisen through their being overlooked. Such provision, if used, must be understood to mean that the tariff, or specified part of it, will expire upon the date named unless sooner canceled, changed, or extended in lawful way. On such tariffs the term "Expires _____, unless sooner canceled, changed, or extended," must be used.

(g) Name, title, and address of officer by whom tariff is issued.

(h) [Reserved]

(i) On every tariff or supplement that is issued on less than 30 days' notice by permission or orders or regulation of the Commission, notation that it is issued under special permission or order of the Interstate Commerce Commission, No. ____, of [date] _____; or by authority of Rule _____, Tariff Circular 19–A, or by authority of decision of the Commission in case No. _____.

§ 1304.4 Content of tariffs in book or pamphlet form.

Tariffs in book or pamphlet form shall contain in the order named:

(a) *Table of contents.* A full and complete statement in alphabetical order, of the exact location where information under general headings, by subjects, will be found, specifying page or item numbers. If a tariff contains so small a volume of matter that its title-page or its interior arrangement plainly discloses its contents, the table of contents may be omitted.

(b) *Participating carriers.* Names of issuing express companies, including those for which joint agent issues under power of attorney and names of express companies listed in § 1304.0(b)(4) that participate under concurrence, alphabetically arranged. The form and number of power of attorney or concurrence by which each such carrier is made party to the tariffs must be shown.

(c) *Commodity rates.* A tariff on a single commodity, or a few commodities, shall contain all of that express company's commodity rates on such commodity or commodities applying from any point of origin named in the tariff to any point of destination named in the tariff.

(d) *Index of offices.* An alphabetical index of offices from which rates apply, and an alphabetical index of offices to which rates apply, together with names of States in which located. When practicable, the index of offices and pages upon which rates will be found, or item numbers in which rates from or to such offices appear, should be shown. If there be not more than 12 points of origin or 12 points of destination, the name of each may, if practicable, be specified on title-page of tariff.

If a tariff is arranged by groups of origin or destination, by bases, or by bases numbers, the indices must show for each office the proper group, basis, or basis number.

If offices of origin or of destination are shown throughout the rate tables in continuous alphabetical order, or are shown alphabetically by States and such States are alphabetically arranged, or are shown by groups alphabetically arranged, no index of offices of origin or destination will be required. But when such alphabetical arrangement in rate tables is used the table of contents shall indicate the pages upon which points are so shown, and when arranged by States or groups, shall give specific reference to the pages on which rates to or from offices in each State or group will be found.

Geographical description of application of tariff may be used only when the tariff applies to or from all offices in one or more States or Territories or when it applies to or from all offices in a State or Territory except those specified. But such list of exceptions for a single State or Territory may not exceed one-third of the number of offices in that State or Territory to or from which (as the case may be) the tariff will apply. For example, a tariff may state that it applies from all offices of an express company in New York, Pennsylvania, and New Jersey, and from all offices in Delaware, except [here give alphabetical list of excepted offices], and from the following offices in Ohio [here give alphabetical list of Ohio offices].

Traffic territorial or group descriptions may be used to designate points to or from which rates named in the tariff apply, provided a complete list of such points arranged by traffic territories or groups is printed in the tariff or specific reference is given to the ICC number of the issue that contains such list. In this list the offices in each traffic territorial or group description shall be arranged alphabetically, or all of the offices in traffic territories or groups named in the tariff may be included in one alphabetical index: *Provided*, That points of origin and points of destination be shown separately, alphabetically, and the traffic territorial or group description in which they belong be shown opposite the several offices.

(e) *Reference marks and abbreviations.* Explanation of reference marks and technical abbreviations used in the tariff, except that a special rule or provision applying to a particular rate will be shown in connection with and on same page with such rate.

(f) *List of exceptions.* List of exceptions, if any, to the classification governing the tariff which are not contained in exception sheets referred to on title page.

(g) *Explanatory statements.* Such explanatory statement in clear and explicit terms regarding the rates and rules contained in the tariff as may be necessary to remove all doubt as to their proper application.

(h) *Rules governing the tariff.* Rules and regulations which govern the tariff, the title of each rule or regulation to be shown in bold type. Under this head all of the rules, regulations, or conditions which in any way affect the rates named in the tariff shall be entered, except that a special rule applying to a particular rate shall be shown in connection with and on the same page with such rate.

Except as provided in § 1304.7(b), no rule or regulation shall be included which in any way or in any terms authorizes substituting for any rate named in the tariff a rate found in any other tariff; but a scale of rates or a table of distance rates may be included in the tariff together with the provision, "If the use of the scale rate (or the distance rate) on page _____ of this tariff makes a less charge on any shipment than rate named herein, such lower charge will apply."

An express company or an agent may publish, under ICC number, post, and file a tariff publication containing the rules and regulations which are to govern certain rate schedules, and such publication may be made a part of such rate schedules by the specific reference "Governed by rules and regulations shown in _____ ICC No. _____."

A rate schedule may in like manner refer to another schedule for the governing rules and regulations.

A schedule or a publication so referred to must be on file with the Commission and be posted at every place where a schedule that refers to it is posted.

(i) *Rate tables.* An explicit statement of the rates, in cents or in dollars and cents, per 100 pounds, per barrel or other package, per ton or per car, together with the names or designation of the offices from and to which they apply, all arranged in a simple and systematic manner. Minimum carload weights must be specifically stated. Tariffs containing rates per ton must specify what constitutes a ton thereunder. A ton of 2,000 pounds must be specified as "net ton" or "ton of 2,000 pounds." A ton of 2,240 pounds must be specified a "gross ton," "long ton," or a "ton of 2,240 pounds." Complicated or ambiguous plans or terms must be avoided.

(j) *Routes under tariff.* The different routes via which tariff applies may be shown, together with appropriate reference to application of rates. When a tariff specifies routing, the rates may not be applied via routes not specified. A tariff may shown the routing ordinarily and customarily to be used and may provide that, if from any cause shipments are sent via other junction points, but over the lines of parties to the tariff, the rates will apply.

If a tariff contains no routing directions, the joint rates shown therein are applicable between the points specified via the lines of any and all parties to the tariff; and shipper must not be required to pay higher charges than those stated in the tariff because the express companies have not agreed divisions of the rates via the junction through which the shipment moves. If agent of express company bills or sends shipment via a route or junction point that is covered by the tariff, but via which no division of the rate applies, it is for the express companies to agree between themselves upon the division of the rates, and for the intermediate or delivering companies may demand from the company whose agents so missends shipment their full local rates for the services which they perform.

CROSS REFERENCES: For commodity rates, see § 1304.7. For indexing of tariffs, see §§ 1304.11, 1304.100. For tariffs containing express-motor rates general, and express-motor rates for the transportation of explosives, see §§ 1304.103, 1304.110.

§ 1304.5 Basing tariffs.

(a) *Construction in sections.* A basing rate tariff to be used in computing through rates between points between which no specific through rate applies may be constructed in sections, each section containing an alphabetical list of the offices and the basing rates for an individual State.

(b) *Joint basing transfer tariffs.* Express companies shall print, post, and file alphabetical lists of the offices reached by connecting concurring express companies, arranged by States, and designating the transfer points at which through business may be transferred, together with the rates from such transfer points to the destination offices via the lines of such connecting concurring companies. These lists shall be known as "Joint Basing Transfer Tariffs" and shall include the transfer points by which through rates may be figured, and shall provide that the lowest charge that can be computed therefrom via any transfer point named therein shall be the through charge from point of origin to destination applicable via any transfer point named therein.

(c) *Amendment.* Contemporaneous with issuance of supplement to such basing tariffs and effective on the same date, any section applying to an individual State may be reissued. Such reissue must bear the ICC number of the tariff of which it is a part; the name of the State to which it applies; the cancellation of superseded section, specifying its date and the effective date of the new section; but supplement issued contemporaneously with such reissued section may not contain any changes affecting the State to which the reissued section applies. Reissued sections under this section will not be counted as supplements under the section limiting the number of supplements to any tariff. Such tariff shall contain an index of the effective dates of its several sections, and such index must be kept up to date either by reissue or in supplement to the tariff.

(d) *May specify basing points or factors for combination rate.* An express company may provide in its tariffs that, in the absence of a specific rate from point of origin to destination of a through shipment, combination rate to or via certain points will be made upon specified basing point or points, or by using certain specified tariffs or rates, and the combination rate so specified will be the lawful rate for that shipment.

An express company may incorporate in a tariff the following rule:

> Rates to destinations or from points of origin not shown in this tariff will, in the absence of specific rate from point of origin to destination, be made by adding to the rates shown in this tariff the rates shown in other tariffs lawfully on file with the Interstate Commerce Commission, but if the rate so made exceeds the rate to or from a point beyond on the same direct line or route as shown in this tariff, the latter rate will apply.

NOTE: If a rate applies to or from a group or sons or blanket of points of origin or of destination, such rate will be considered as "named" or "shown" from each point within such properly described group, sons, or blanket.

When desired the following may be added:

> Rates so made will apply via all routes authorized under this tariff to or from contiguous points of origin or of destination.

If shipment moves to or from a point of origin or of destination or via a transfer point with connecting or branch line at which interchange is made directly intermediate to the base point upon which the lowest combination makes, such combination must be applied; and it is not necessary to haul the shipment to such base point and back again to or through point of origin or destination or such transfer point.

NOTE: Neither this section nor any portion thereof is to be construed as conferring any authority to depart from the prohibitions of the fourth section of the act against higher charges for shorter distances, and higher charges as a through route than the aggregate of the intermediate rate, or as modifying or authorizing departure from the Commission's ruling that a specific merchandise or commodity rate between two points is the lawful rate between those points regardless of any combination rate. It must also be understood that in a case where the lowest combination of rates makes on a base point as to which the point of origin or of destination is directly intermediate, a specific rate to or from such point that is higher than such combination is included in the Commission's ruling that a through rate that is higher than the combination of intermediate rates between the same points is prima facie unreasonable. It must be further understood that in applying the lowest combination when it makes upon a base point as to which the point of origin or of destination is directly intermediate, the Commission expresses no opinion as to the reasonableness of a rate so constructed.

(e) *Lowest combination lawful rate.* If no specific rate from point of origin to destination of a through shipment is provided, and no specific manner of constructing combination rate for it is prescribed, the lowest combination of rates applicable via the route over which the shipment moves is the lawful rate for that shipment.

Such combination through rate must be treated as a unit from the date of original shipment to the date of its arrival at destination, and the rate applied must be the combination of the rates which exists upon the date of original shipment. All of the conditions, regulations, and privileges obtaining as to any factor in such combination rate for through shipment at the time of original shipment upon such combination through rate must be adhered to and cannot be varied as to that shipment during the period of transportation of such shipment to its final destination. A local or proportional rate "in" cannot be absorbed, diminished, or affected by any "out" rate not in effect at the time when the traffic moved upon such local or proportional rate.

§ 1304.6 Limiting use of terms.

(a) *Terms "Missouri River points," "general specials," etc.* The terms "Missouri River points," "Puget Sound points," or similar terms shall not be used in any tariff for the purpose of indicating the points from or to which rates named therein apply unless a full list of such points is printed in the tariff or specific reference is given to the ICC number of the issue that contains such list.

The term "general specials," or similar term must not be used in any tariff for the purpose of indicating the articles to which the rates apply, unless a full list of the articles included in and covered by such term is printed in the tariff or specific reference is given to ICC number of issue that contains such list.

(b) *Commodity rates must be specific.* Commodity rates must be specific and must not be applied to analogous articles.

§ 1304.7 Commodity rates.

(a) Except as provided in paragraph (b) of this section, in every instance where a commodity rate is named in a tariff upon a commodity and between specified points such commodity rate is the lawful rate and the only rate that can be used by the companies parties thereto, with relation to that traffic between those points, even though a merchandise rate or some combination may make lower. The naming of a commodity rate on any article or character of traffic takes such article or traffic entirely out of the classification and out of the classification rating between the points to which such commodity rate applies, and the commodity rate so named is not modified by the provisions in the classification for extra valuation charges, limitation of liability, icing charges, or any variation of the commodity rate, except when the commodity tariff so provides either specifically or by reference to a governing classification.

Classifications and merchandise rate tariffs shall contai... the provision that wherever commodity rates are named they remove the application of the classification scale or rating on the same commodity and between the same points.

Rates may be made for specified mixed shipments and will be the lawful rates for such mixtures, even though certain parts of the mixtures are covered by merchandise or commodity rates when shipped separately.

(b) When the application of commodity rates, either distance or specific, results in charges higher than those accruing under class rates, provision may be made for alteration of class and commodity rates either by the use of subparagraph (1) below in the commodity tariff or by use of subparagraph (2) below in a tariff containing rules by which the commodity tariff is governed.

(1) Except as otherwise provided herein, if the charges accruing under class rates, published in tariffs lawfully

on file with the Interstate Commerce Commission, are lower than the charges provided herein, from and to the same points, such lower charges accruing under class rates will apply.

(2) Except as otherwise provided, if the charges accruing under class rates, published in tariffs lawfully on file with the Interstate Commerce Commission, are lower than the charges provided in commodity tariffs governed by and making reference to this tariff, such lower charges accruing under class rates will apply.

§ 1304.8 Cancellations.

(a) *Tariff or supplement to tariff shall specify cancellations.* If a tariff or supplement to a tariff is issued which conflicts with a part of another tariff or supplement to the same or another tariff which is in force at the time, and which is not thereby canceled in full, it shall specifically state the portion of such other tariff or such other supplement which is thereby canceled, and such other tariff shall at the same time be correspondingly amended, effective on the same date, in the regular way. Such amendment must state where rates will thereafter be found, and must be filed at the same time and in connection with the tariff which contains the new rates. It will not be necessary to give on commodity tariff or supplement reference to merchandise tariffs that may be affected, nor to give on merchandise tariffs or supplements reference to commodity tariffs, except as provided in § 1304.28.

(b) *Cancellation must be by authorized agent or by express company that issued the tariff canceled.* An agent who acts under power of attorney is fully authorized to act for the express companies that have named him their agent and attorney, and, therefore, it is permissible for him to cancel by his tariffs issues of such principals.

An express company may not by its individual tariff cancel, amend, or modify a tariff filed by a duly authorized agent, except when corresponding amendment to such agent's tariff is filed at the same time and as per paragraph (a) of this section.

(c) *Concurrence does not confer authority to cancel.* A concurrence does not confer authority upon either express company or agent to cancel tariffs of concurring express company, and, therefore, tariffs issued under concurrences may not assume to cancel, or carry notation of cancellation of tariffs of and issued by concurring express companies. Such cancellations must be made by the express company that issued the tariff that is to be canceled.

(d) *Cancellation notice must be by supplement.* If a tariff is canceled with the purpose of canceling entirely the rates named therein, or when, through error or omission, a later issue failed to cancel the previous issue and a tariff is canceled for the purpose of perfecting the records, the cancellation notice must not be given a new ICC number, but must be issued as a supplement to the tariff which it cancels, even though such tariff may at the time have the full number of supplements permitted by § 1304.9(m).

(e) *Cancellation notice shall specify where rates will thereafter be found.* When a tariff or a rate is canceled by supplement, the cancellation notice must show where rates or rate will thereafter be found or what rates or rate will thereafter apply. For example: "Rate in ——————, ICC No. ——, will apply," or "Classification ratings will apply," or "Combination rate will apply," or "No. rates in effect."

If a tariff is canceled with the purpose of applying in lieu thereof the rates shown in some other tariff, the cancellation notice shall make specific reference to the ICC number of tariff in which such rates will thereafter be found. Cancellation of a tariff also cancels supplements to such tariff, if any in effect. If a tariff is canceled by the issuance of a similar tariff to take its place, cancellation notice must not be given by supplement, but by notice printed in new tariff, as provided in § 1304.3(b).

(f) *Cancellation of an item must be under the same item number.* Where the items in a tariff or a supplement are designated by item numbers the cancellation of an item must be under the same item number; for example, Item 41–A cancels, Item 41. If a canceled item or any part thereof is taken up and thereafter carried in another item of different number, the cancellation must be carried under the original item number and must show in what item or items the effective rates are to be found, and the cancellation of the item in the original tariff or supplement must be brought forward in successive supplements as a reissued item as long as the cancellation is in force.

Cross References: For general provisions relating to concurrences and powers of attorney, see § 1304.24. For provisions governing powers of attorney and concurrences applicable to express-motor rates, see §1304.109.

§ 1304.9 Amendments and supplements.

(a) *Definition; form.* A change in or addition to a tariff shall be known as an amendment, and, excepting as provided in §§ 1304.1, 1304.5, shall be issued in a supplement to the tariff and shall refer to the page or pages or item or items of the tariff, or of previous supplement which it amends.

An amended item must always be printed in supplement in its entirety as amended.

A supplement shall contain either a list of carriers participating therein, or shall state that the list of participating carriers is "as shown in tariff."

(b) *Numbering of supplements; cancellations.* Supplements to a tariff shall be numbered consecutively as supplements to that tariff, and must not be given separate or new ICC numbers. Each supplement shall specify the supplement or supplements which it cancels, and shall also show on title-page what supplements contain all changes from original tariff that are in effect. For example:

"Supplement No. ——— to ICC ———." "Cancels Supplements Nos. ——— and ———." "Supplements Nos. ——— and ——— contain all changes from original tariff that are in effect on date hereof." The term "cancels conflicting portions" must not be used.

(c) *Show effective date of reissued items and ICC reference.* A tariff which contains reissued items brought forward from a previous issue which has not been in effect 30 days, or a supplement which brings forward reissued items without change from a former supplement or tariff, must bear the notation: "Effective ——— except as noted in individual items." Example: "Issued ———, 19—, Effective ———, 19—, except as noted in individual items." Reissued items brought forward without change must show in conspicuous form and convenient manner the following: "Reissue (in black-face type); effective [date upon which item became effective] in ICC No. ———" or "in Supplement No. ——— to ICC No. ———." When the reissued item became effective in a former supplement to the same tariff the ICC number of the tariff may be omitted, but the supplement number must be given.

Items reissued from publications that were on file prior to August 1, 1908, may show last date and reference prior to August 1, 1908.

(d) *Amendments to loose-leaf tariffs; no supplement.* All changes in and additions to tariffs issued in loose-leaf form must be made by reprinting both pages of the leaf upon which change is made. Changes or additions made must be indicated as provided in § 1304.2 and when no change or addition is made in one of the pages reprinted it must bear notation "No change in this page." Such pages must not be given supplement numbers, but must be designated "First revised page ———," "Second revised page ———," etc., must show the ICC number of the tariff, the issued and effective dates, and the name, title, and address of officer by whom issued.

(e) *Supplement to periodical tariffs.* If a tariff provides that it will be reissued periodically at specified times, not more than 6 months apart, and the life of the tariff does not exceed 6 months, and such provision is strictly observed, supplements to such tariff may contain all amendments thereto between such specified dates for reissue, without limit as to size. Such tariff must bear on upper left-hand corner of title-page notation "This tariff will be reissued effective on or before ——————, 19——."

(f) *Index to supplement.* A supplement of five or more pages must have an index of the matter which it contains, and a supplement of more than 23 pages must also contain a table of contents.

(g) *Supplement to tariff that is filed and not yet effective.* If a tariff is filed on statutory notice canceling another tariff and after such filing and prior to the effective date of such new tariff a supplement to the tariff to be so canceled should be lawfully issued, rates in that supplement could not continue in effect for the 30 days required by law because the cancellation of the tariff also cancels supplements to it. In such a case supplements containing changes not included in the tariff that is to become effective may be issued as supplements both to the tariff in effect and to the tariff on file that will effect such cancellation, and be given both ICC numbers. In other words, such issue must be a supplement to each of the tariffs, and copies must be filed accordingly. A supplement issued under this section containing reissued items shall note in connection with each of such items, in addition to the date effective as required by the section, that the reissued items expire on the date at which the new tariff becomes effective, and that the new tariff will apply in lieu thereof; and such reissued items must not be brought forward in subsequent supplements to the new tariff. Such supplement may not contain any changes except those lawfully made by supplement to the tariff which is to be canceled by the tariff that has been filed and that is also so supplemented; and no other kind of supplement to a tariff that is on file and not yet effective may be made effective within 30 days from the effective date of the tariff without special permission.

The provisions of paragraph (m) of this section as to the number of supplements to a tariff that may be in effect at any time, and the volume of supplemental matter they may contain must be observed in connection with supplement issued under this paragraph.

(h) Action when express company is absorbed. In case of change of ownership or control of an express company, the express company whose line is absorbed, taken over, or purchased by another company shall unite with that other express company in common supplements to the tariffs on file with the Commission, on the one hand withdrawing and on the other hand accepting and establishing such tariffs and all effective supplements thereto. Such common supplements shall be executed jointly by the traffic officers of both the old and the new express companies, shall be numbered consecutively as supplements to the tariffs to which they are directed, and may be made effective on 5 days' notice to the public and the Commission by noting thereon reference to this section. Such common supplements will not be counted against the number of supplements permitted to such tariff under paragraph (m) of this section. Amendments to such tariffs must thereafter be filed in consecutively numbered supplements thereto until the tariffs are reissued. New tariffs reissuing or superseding these shall be numbered in the ICC series of the new express company.

When an express route or a part of an express route is transferred from the operating control of one company to that of another, or when its name is changed, the existing tariffs issued by the express company that surrenders control must be withdrawn by it and adopted by the express company assuming control, as provided in paragraph (g) of this section.

(i) *Adoption of tariffs issued by other express companies or joint agents, and of concurrences, power of attorney.* As to tariffs issued by other express companies or joint agents under concurrences or powers of attorney granted by the old express company, the new express company shall, if it intends to use such tariff publications and rates, issue, file, and post, with ICC number, an adoption notice, substantially as follows:

The [name of express company] hereby adopts, ratifies, and makes its own, in every respect as if the same had been originally filed and posted by it, all tariffs, rules, notices, concurrences, traffic agreements, divisions, authorities, powers of attorney, or other instruments whatsoever, filed with the Interstate Commerce Commission by the [name of old express company] prior to [date] the beginning of its possession. By this tariff it also adopts and ratifies all supplements or amendments to any of the above tariffs, etc., which it has heretofore filed with said Commission.

This notice may be made effective and be filed on immediate notice.

Similar adoption notice must be filed by a receiver when assuming possession and control of an express company.

Concurrences and powers of attorney so adopted by an express company must, as soon as possible, be replaced and superseded by new concurrences and powers of attorney issued by and in the name of the new express company, and in each instance canceling the concurrence or power of attorney superseded.

The express company surrendering control of the express route has no lawful right to abandon its tariffs except on lawful notice, and when it surrenders control of the said route it surrenders all right to publish rates applicable thereover except under proper authority from the express company to whose control the route passes. The public has a right to available and lawfully applicable rates over that route.

(j) *Suspension of tariff publications containing increased rates.* When the Commission, under authority of section 15 of the Interstate Commerce Act, as amended, suspends the operation and defers the use of a tariff or classification, rate, charge, regulation, or practice, the following course shall be pursued by express companies:

Upon receipt of order of suspension of any publication in its entirety the express company or agent publishing and filing such schedule shall immediately file with the Commission a supplement stating that such schedule is under suspension and may not be used until further and proper notice, or until such specified date as the suspension order of the Commission may name, and that rates theretofore in effect and which were to be changed by the suspended publication will remain in effect. Such supplement shall state by ICC number or numbers the tariff or tariffs in which rates, classifications, charges, or regulations so restored will be found.

Upon receipt of order of suspension of parts of a publication which, except as to such parts, is allowed to become effective, the express company or agent publishing and filing such schedule shall immediately file with the Commission a supplement containing a copy of the Commission's order of suspension and stating that the part or parts of such schedule specified in the order are under suspension and may not be applied or charged until further notice, or until such specified date as the suspension order of the Commission may name. Such supplement shall also give reference by ICC number or numbers to the tariff or tariffs in which the rates, classifications, charges, or regulations applicable during the period of suspension will be found.

The title page of every suspension supplement issued under authority of this section must bear date of issue, but no effective date, inasmuch as the suspension is effective from the date of filing and serving the Commission's suspension order.

When the Commission vacates an order of suspension made by it under authority of section 15 of the act, as amended, the express company or agent who published and filed such suspended tariff or supplement shall immediately file with the Commission a supplement stating the date upon which, under the terms of the vacating order, the rate, classification, charge, regulation, or practice becomes effective.

Every suspension or vacating supplement issued under authority of this section must bear on title page the following notation:

Issued under authority of rule 9 (j) Tariff Circular 19–A and in compliance with Investigation and Suspension Order No. ——— of the Interstate Commerce Commission of [date] 19——.

Such supplements will not be counted against the number of supplements permitted to such tariff under paragraph (m) of this section.

Every supplement issued under this section must be forthwith posted in every depot, station, office, or other place where the schedule affected by the order of suspension or vacation is posted, and should be given the same general distribution.

As an assistance in taking care of the ordinary changes in rates which may be necessary during the period of suspension of an entire tariff, the tariff remaining in effect as a result of such postponement may be further amended without regard to the Commission's rule as to the volume of supplemental matter which the effective supplements in the aggregate may contain.

A new or changed rate, rule, or regulation made effective during the period of suspension shall remain in force for the statutory period of 30 days.

No change may be made in a tariff or supplement which has been suspended in its entirety except by special permission of the Commission.

When a 6 months' tariff or a supplement to a 6 months' tariff is suspended in its entirety by the Commission, the previous tariff and effective supplements will remain in force until lawfully changed or reissued, and the fixed period for the reissue of such 6 months' tariff may be deferred for the period of suspension of the increases in the tariff or supplements thereto.

The title page of the 6 months' tariffs referred to above should be corrected by

supplement to announce that the tariff will not be reissued prior to [date to which suspended] 19——.

(k) *Authority to make effective reduced items appearing in suspended schedules.* When the Commission, under authority of section 15 of the Interstate Commerce Act, as amended, suspends the operation and defers the use of a schedule which contains both increases and reductions in rates, charges, classifications, or regulations, the reduced rates, charges, classifications, or regulations therein named may be made effective on 1 day's notice to the Commission and to the public, prior to and effective upon the date the new schedule was intended to take effect, by the publication and filing of a supplement to the tariff continued in force by reason of such suspension, or in a new tariff. A supplement or tariff issued under authority of this section shall bear upon its title page the following notation:

Issued by authority of rule 9 (k), Interstate Commerce Commission Tariff Circular 18–A.

Cross Reference: For amendments, as provided in Rule 20 of the General Rules of Practice (§ 1100.22 of this chapter). For general provisions relating to concurrences and powers of attorney, see § 1304.24. For requests for permission to amend tariffs on less than statutory notice, see § 1304.31. For powers of attorney and concurrences applicable to express-motor rates, see § 1304.109.

(m) *Number of supplements effective at any time; amount of matter supplements may contain.* Except as authorized in § 1304.8(d), and paragraphs (h) and (j) of this section, a tariff containing the number of pages indicated under Column 1 may have in effect at any time not more than the number of supplements and the volume of supplemental matter shown opposite thereto in Columns 2 and 3, respectively.

Column 1, pages	Column 2, supplements	Column 3, volume (No. of pages)
1 but not more than 4	1	4.
5 but not more than 12	1	5.
13 but not more than 16	1	33⅓ percent of the number of pages in the tariff.
17 but not more than 80	2	
81 but not more than 200	3	
Over 200	4	

Tariffs of 13 or more pages: When the number of pages in the supplement which brings the volume of matter up to that authorized in Column 3 is not evenly divisible by four, that supplement may exceed the volume authorized to the extent of using additional pages within the next multiple of four. The smallest of three effective supplements to a tariff of more than 80 but not more than 200 pages shall contain not more than eight pages, and the smallest of four effective supplements to a tariff of more than 200 pages shall contain not more than 16 pages.

§ 1304.10 Charges to be shown; distance tariffs.

(a) In all cases where a charge in addition to tariff rate is made for icing, lighterage, or switching, the express company shall either specify such charge in the tariff or refer to ICC number of the tariff wherein such additional charge will be found.

(b) It is permissible for an express company, or for two or more express companies, to issue a tariff containing distance or mileage merchandise or scale rates or commodity rates for use in determining rates on its, or their, own lines; but in such cases the distance or mileage merchandise or scale rates may be used only when no other rates of like class are provided, and the distance or mileage commodity rates may be used only when no other commodity rates are provided.

Each tariff that contains distance or mileage merchandise or scale rates only must bear on its title page the following rule:

Merchandise or scale rates shown herein may be used only when no specific merchandise or scale rates have been provided. They may not be used either by themselves or in combination in preference to any specific merchandise or scale rate.

Each tariff that contains distance or mileage commodity rates only must bear on its title page the following rule:

Commodity rates shown herein may be used only when no specific commodity rates have been provided. They may not be used either by themselves or in combination in preference to any specific commodity rate.

(c) Every express company that uses a distance tariff, which is or may be used in connection with rates on interstate shipments, must incorporate therein an official list of all the offices in connection with which the tariff may apply, showing in proper arrangement the distances between them; or must give therein reference by ICC number to its issue that contains such list.

§ 1304.11 Index of tariffs.

Each express company shall publish under proper ICC number, post, and file a complete index of tariffs which are in effect and to which it is a party. Such index shall be prepared in sections as follows and shall show: (a) ICC number; (b) express company's own number; (c) index number; (d) initials of issuing express company or agent; (e) issuing express company or agent's number; (f) character of tariff or description of the articles upon which it applies; (g) where tariff applies from; (h) where tariff applies to.

Note: Items (b), (c), and (e) may be omitted. Items (f), (g), and (h) will be stated in concise general terms.

First section: A list of all the tariffs as to which the express company is an initial carrier. Commodity tariffs to be entered alphabetically under names of commodities or principal commodities. Tariffs applying to different groups of the same commodity must be grouped together; e. g., "Fruits," etc.

Following the specific commodity tariffs will be entered the general commodity tariffs and the merchandise tariffs. Under each of these heads the application of the tariffs will be described by alphabetical arrangement of the offices or territory from or to which they apply in either the "From" or "To" column. Tariffs applying between a certain office and other offices will be listed in alphabetical order of offices for which constructed and index must indicate which tariffs apply "between."

Second section: List of all tariffs under which the express company is an intermediate or terminal carrier, arranged under commodities or merchandise as prescribed in the first section. Tariffs under which the express company is a delivering carrier or an intermediate carrier, or both, must be so indicated.

Third section: A complete list of the numbers of tariffs of its own ICC series arranged in numerical order.

If express company so desires, lists of its intrastate tariffs, division sheets, official circulars, etc., may appear in this publication. In connection with intrastate tariffs a reference mark must be used with explanation: "Rates in this tariff do not apply to interstate shipments." Supplements to tariffs need not be included in indexes.

If any changes are made, the index must be revised to date, either by reissue each month or by supplement each month and reissue every 12 months. If supplements are used, they must be constructed in accordance with specifications as to construction of index and shall show, under the respective headings, "additions, changes, and cancellations" made in index or canceled supplement thereto.

Each index must bear on its title-page notations, as follows: "This index contains lists of tariff publications in effect on [date of issue of index];" to which may be added "or which have been filed to become effective at a later date as shown within." If supplements to index will not be used, "No supplement to this index will be issued;" if supplements will be used, "This index will be reissued on or before ——————————, 19—, and supplements will be issued each month in which change is made.

Each supplement to index must bear on title-page the notation "Supplements Nos. ____ and ____ contain corrections to and as in effect on date of issue of supplement];" to which may be added, "or which have been filed to become effective at a later date as shown within."

Note: As to indexes now on file which bear notation as to the number of supplements that may be issued thereto and which do not bear notation that they will be reissued on or before a specified date, the rule heretofore in effect as to supplements must be continued. Such indexes may be brought within the provisions of the above rule as to supplements by reissue.

A specified date for reissue stated on an index now on file must be observed.

The title page of index or of supplement must show the date of issue thereof, which must correspond to date shown in notations above and must not bear an effective date. The section requiring 30 days' notice does not apply to these indexes and their supplements.

§ 1304.12 Tariffs to or from season or summer offices.

Tariffs of rates applying to or from offices at which business is transacted only during certain portions of the year, or tariffs applying over water routes during season of navigation only, shall remain in force until changed in the manner provided by the regulations in this part, and it will not be necessary to refile with the Commission the rates in force to or from such office or over such route, temporarily closed, when it is reopened. Three days' previous notice of the opening and closing of any summer or season office or water route must be filed with the Commission and duly posted, in supplement to the tariff. All offices where rates are temporarily in effect shall be designated in tariffs as "summer" or "season" offices.

§ 1304.13 Filing of tariffs.

(a) *Authority to file.* Tariffs, classifications, and exception sheets and supplements thereto shall be filed with the Commission by proper officer of the express company or by an agent designated to perform that duty, and concurrence of every carrier amenable to the Interstate Commerce Act participating therein must be on file with the Commission or accompany the tariff or supplement. If an express company authorizes an agent to file its tariffs or classifications and exception sheets and supplements thereto, or certain of them, official notice of such authorization and of acceptance of responsibility by the express company for his acts, in form as hereinafter specified, must be filed with the Commission.

Such notice may be revoked by an express company upon 30 days' official notice to the Commission, or at any time be transferred to another agent by filing with the Commission notice of such transfer, accompanied by full-form authorization for the newly named agent.

(b) *Authorizations for agent and concurrences in his tariffs must be on file.* If two or more express companies appoint the same person as agent for the filing of tariffs or classifications and supplements thereto, each of them will be required to file with the Commission power of attorney in form prescribed appointing him their agent; and the concurrence of every other carrier amenable to the Interstate Commerce Act, participating in any tariff or classification or supplement thereto which is filed by him must be on file with the Commission or accompany the tariff.

(c) *Use his own ICC serial number.* Such joint agent duly authorized to act for several express companies must file joint tariffs or classifications or exception sheets under ICC serial numbers of his own.

(d) *Tariffs issued by an express company under concurrences will be filed.* Tariffs issued by an express company under its ICC numbers may include, under proper concurrences, shown therein, rates via, and to and from points on other express companies' lines and concurring express companies may use such tariffs for posting at their offices. Such tariff must be filed by the issuing express company and such filing will constitute filing for all lawfully concurring carriers.

(e) *Send copies of joint publication to every participant.* The agent or the express company that issues a joint tariff publication shall at once send copies thereof to each and every carrier that is named as party thereto.

(f) *Must not publish rates conflicting or duplicating.* An express company that grants authority to an agent or to another express company to publish and file certain of its rates must not in its own publications publish rates that duplicate or conflict with those which are published by such authorized agent or other express company.

(g) *All State or other rates used for interstate shipments must be posted and filed.* Rates for through shipments are often made by adding together two or more rates. All State or other rates used in combination for interstate shipments must be posted at offices and filed with the Commission, and can only be changed as to such traffic in accordance with the terms of the act.

Cross Reference: For general provisions relating to powers of attorney and concurrences, see § 1304.24.

§ 1304.14 General provisions in connection with filing.

(a) The act requires that all changes in rates, or in rules that affect rates, shall be filed with the Commission at least 30 days before the date upon which they are to become effective. Manifestly it is impossible for the Commission to check the items in tariffs to determine whether or not the statutory notice has been given. The title page of every tariff must show full 30 days' notice, or must bear a plain notation of the number and date of the permission, or the rule, or the decision of the Commission under which it is effective on less than statutory notice.

(b) The law affirmatively imposes upon each express company the duty of filing with the Commission all of its tariffs and amendments thereto, as prescribed in the law or in any rule relative thereto which may be announced by the Commission, under penalty for failure so to do, or for using any rate which is not contained in its lawfully published and filed tariffs. The Commission will give such consistent assistance as it can in this respect, but the fact that receipt of a tariff, or supplement to a tariff, is acknowledged by the Commission, or the fact that a tariff, or supplement to a tariff, is in the files of the Commission, will not serve or operate to excuse the express company from responsibility or liability for any violation of the law, or of any ruling lawfully made thereunder, which may have occurred in connection with the construction or filing of such tariff or supplement.

(c) Thirty days' notice to the public and to the Commission is required as to every publication which it is necessary for an express company to file with the Commission regardless of what changes may or may not be effected thereby.

(d) No tariff or supplement will be accepted for filing unless it is delivered to the Commission, free from all charges or claims for postage, the full 30 days required by law before the date upon which such tariff or supplement is stated to be effective. No consideration will be given to or for the time during which a tariff or supplement may be held by an express company for charges, or by the Post Office Department because of insufficient postage. A tariff or a supplement that is received by the Commission too late to give the Commission the full 30 days' notice required by law will be returned to sender, and correction of the neglect or omission cannot be made which takes into account any time elapsing between the date upon which such tariff or supplement was received and the date of attempted correction. In other words, when a tariff or a supplement is issued, and as to which the Commission is not given the statutory notice, it is as if it had not been issued, and full statutory notice must be given of any reissue thereof. No consideration will be given to telegraphic notices in computing the 30 days' notice required. For tariffs and supplements issued on short notice under special permission of the Commission full 30 days' notice is not required, but literal compliance with the requirements for notice named in any permission granted by the Commission will be exacted and in accord with the policy and practice above outlined.

(e) Any tariff or schedule, tendered for filing, which fails to give lawful notice of changes in rates, charges or other provisions which it proposes to establish, or which fails to meet the requirements of the regulations contained in this chapter, or violates any order of the Commission or of a court, is subject to rejection by the Commission. When a tariff or schedule is rejected, the Commission, acting through a designated administrative officer, will inform the carrier or the agent who tendered it for filing, in writing, of the reasons for rejection, and will return the rejected tariff or schedule to such carrier or agent.

The number assigned to a tariff or schedule which has been rejected may not again be used. The rejected tariff or schedule may not be referred to in any subsequent tariff or schedule as having been canceled, amended or withdrawn, but the tariff or schedule which is published in its stead must bear the following notation: "Issued in lieu of (here identify the rejected schedule or tariff), rejected by the Commission."

A notice of the revocation, complete or partial, of a concurrence or power of attorney which, if it were to become effective, would require the establishment of rates, fares, or charges in viola-

tion of an order of the Commission or of a court, or of the regulations in this chapter, may be rejected in the same manner as a tariff or schedule, and any such notice of revocation which would require the establishment of rates, fares, or charges of doubtful lawfulness may be suspended.

(f) Rates prescribed by the Commission in its decisions and orders after hearings upon formal complaints shall, in every instance, be promulgated by the carriers against which such orders are entered in duly published, filed, and posted tariffs, or supplements to tariffs, and notice shall be sent to the Commission that its order in case No. ____ has been complied within item ____, page ____ of _____ tariff, ICC No. ____, or supplement ____ to _____ tariff, ICC No. ____.

In establishing rates or regulations under an order of the Commission in a formal case, carrier or carriers that are actually and on the record parties to the case, or that are lawful parties to a joint tariff in which the rate or regulation that is prescribed is published by some carrier that is party to the case, may include in the change or changes made in compliance with the Commission's order commodity or commodities that are grouped with that or those which are specified in the order; and may also include adjustment at other points in order to preserve established grouping or relation of points, and may also include adjustment of rates to same points on other commodities for the purpose of maintaining established relation of rates between commodities: *Provided*, All such changes made by authority of this section shall be effected by reductions in rates or charges.

If carrier that is not so party to the case or to the joint tariff desires to make on less than statutory notice the same changes that are made under the order by carrier that is party to the same, it must secure special permission so to do.

Unless otherwise specified in the order in the case, such tariff or supplement may be made effective upon 5 days' notice to the Commission and to the public, and if made effective on less than statutory notice, either under this section or under special authority granted in the order in the case, shall bear on its title-page notation "In compliance with order of Interstate Commerce Commission in case No. ____."

If the order of the Commission affects any individual item or items in a tariff, above notation shall be shown in connection with said item or items and shall be repeated in each reissue thereof during the period of effectiveness of the Commission's order.

(g) Circulars announcing or explaining the attitude and course of express companies under injunction of a court, relating to tariff rates or regulations, must not be issued as supplements to tariffs nor given ICC numbers unless they are issued on statutory notice or under special permission from the Commission for shorter time. The Commission will, however, be pleased to have copies of such circulars and the information therein contained.

(h) Each express company files tariffs under ICC numbers, which are presumed to be used consecutively. Occasionally a tariff or supplement is received which does not bear ICC number next in numerical order to that borne by the one last filed. This is sometimes occasioned by the missing number having been assigned to a tariff that is in course of preparation. Request is made that insofar as is possible express companies will file tariffs and supplements in consecutive numerical order of ICC numbers. If from any cause this is not done in any instance, the tariff or supplement that is filed with an ICC number that is not consecutive with the last number filed must be accompanied by a memorandum explaining as to the missing number or numbers.

(i) Express companies and their agents are directed, in filing schedules in compliance with the statute, to transmit two copies of each tariff, supplement, classification, or other schedule of rates or regulations, for the use of the Commission, both copies to be included in one package and under one letter of transmittal.

Tariffs sent for filing must be addressed "Interstate Commerce Commission, Section of Tariffs, Washington, D.C. 20423."

Cross References: For letter of transmittal, see § 1304.25. For filing of tariffs under amended fourth section of the act, see § 1304.39. For filing of local and joint express-motor rates, see § 1304.102.

§ 1304.15 Issuance of classification by joint agent.

(a) An express company may grant to a joint agent authority to publish and file for it classification and supplements thereto and exceptions to the classification; or, such exceptions may be published by the express company in its own issues, either as parts of individual tariffs or in a publication that is given an ICC number that is filed and posted as required, and that is devoted to such exceptions. (See § 1304.3(e).) Such exceptions and changes therein may be made only on statutory notice or under special permission for shorter time.

Insofar as is reasonably practicable exceptions should be included in the tariff which they affect.

A joint agent to whom express companies have extended authority under power of attorney to publish and file classification and supplements thereto must issue them under his own ICC numbers; must show in the classification a list of the express companies for which he acts under power of attorney, giving as to each the EX1 number of such authority, and must file the classification and supplements thereto on behalf of all the express companies that have so authorised him to act for them; and such express companies will not file for themselves the classification or supplements thereto. The provisions of the law as to statutory notice must be observed in the issuance of supplements or reissue of the classification.

(b) If an express company fails to authorise an agent to file the classification for it and undertakes to file it for itself it is bound by the terms of the law as to notice of change and date of filing, both as to the classification and each supplement thereto.

A full list of participating express companies shall be shown in supplements.

(c) In giving power of attorney for this purpose the form shown in § 1304.16 may be modified by striking out from line 5 the word "tariffs," and, if desired, from line 6 the words "and exception sheets."

If an express company has given another express company concurrence EX4, under which it concurs in classification which that other express company or its agent may make and file, the express company to which that concurrence is given may exercise the authority by its lawfully appointed agent, and the express company which gave the authority be shown in the publication as participant under the form and number of its concurrence.

§ 1304.16 Form of appointment of agent.

The following form, on paper 8 by 10½ inches in size, will be used in giving authority to an agent to file for the express company giving the authority, tariffs and supplements thereto. Such authority must not be given to an association or bureau, and it may not contain authority to delegate to another power thereby conferred.

This form may be modified so as to confer the authority desired by omitting the words "(1) for it alone, and (2)," or by omitting the words "and (2) for it jointly with other express companies."

If two or more express companies execute this form containing the words "for it jointly with other express companies" in favor of a joint agent it will not be necessary for those express companies to exchange concurrences with each other as to the joint tariffs issued by that joint agent under that authority.

TO BE FILED WITH THE INTERSTATE COMMERCE COMMISSION

[Name of express company in full]

[Date] _____, _____

Form EX1—No. ___

Know all men by these presents:

That the [name of express company] has made, constituted, and appointed, and by these presents does make, constitute, and appoint [name of person appointed], its true and lawful attorney and agent for the said company and in its name, place, and stead, (1) for it alone, and (2) for it jointly with other express companies, to file tariffs, classifications, and exception sheets and supplements thereto, as required of common carriers by the act to regulate commerce and by regulations established by the Interstate Commerce Commission thereunder for the period of time the traffic and the territory now herein named:

_____

_____

And the said [name of express company] does hereby give and grant unto its said attorney and agent full power and authority to do and perform all and every act and thing above specified as fully to all intents and purposes as if the same were done and performed by the said company, hereby ratifying and confirming all that its said agent and attorney may lawfully do by virtue hereof, and assuming full responsibility for the acts and neglects of its said attorney and agent hereunder.

In witness whereof the said company has caused these presents to be signed in its name by its _____ president and to be duly attested under its corporate seal by its secretary, at _____, in the State of _____, on this _____ day of _____, in the year of our Lord nineteen hundred and _____.

THE [name of express company],

By _____,

Its _____ President.

Attest:

_____,

Secretary.

[CORPORATE SEAL]

The express company issuing this form will file the original with the Commission and will furnish duplicate to the agent to whom power of attorney is given.

For concurrence in tariffs issued and filed by another express company or its agent forms prescribed in §§ 1304.17 to 1304.23 will be used.

§ 1304.17 Form of concurrence, EX2.

The following form will be used in giving concurrence in a tariff that is issued and filed by another express company or its agent and to which the express company giving concurrence is a party. If given to continue until revoked, it will serve as continuing concurrence in the tariff described in the concurrence and all supplements to and reissues thereof. If provision for concurrence to continue until revoked is stricken out, a new concurrence will be required with each supplement or reissue.

TO BE FILED WITH THE INTERSTATE COMMERCE COMMISSION

[Name of express company in full]

[Date] _____, _____

Form E-2—No. _____

To the Interstate Commerce Commission, Washington, D.C. 20423:

This is to certify that the [name of express company] assents to and concurs in the publication and filing of the rate schedule described below, together with supplements thereto and reissues thereof which the named issuing express company or its agent may make and file, and hereby makes itself a party thereto and bound thereby, until this authority is revoked by formal and official notices or revocation placed in the hands of the Interstate Commerce Commission and of the express company to which this concurrence is given.

Title and number: [Here give exact description of title of schedule, including number and name of series.]

Date of issue: _____, _____

Date effective: _____, _____

Issued by { [Official.] / [Company.] } [Name of express company.]

By [Name of officer.]

[Title of officer.]

This form will be filed with the Commission by the express company or agent who files the tariff and will accompany the tariff.

§ 1304.18 Form of concurrence, EX3.

Concurrence may be given by any express company to embrace all tariffs issued by another express company or its agent in which the concurring express company is shown as a participating intermediate or delivering line, after the following form:

TO BE FILED WITH THE INTERSTATE COMMERCE COMMISSION

[Name of express company in full]

[Date] _____, _____

Form EX3—No. _____

To the Interstate Commerce Commission, Washington, D.C. 20423:

This is to certify that the [name of express company] assents to and concurs in the publication and filing of any rate schedule or supplement thereto which the [name of express company] or its agent may make and file, in which it is shown as a participating express company, and hereby makes itself a party to and bound thereby in so far as such schedule contains rates applying via its line and to, but not from, points thereon, until this authority is revoked by formal and official notices of revocation placed in the hands of the Interstate Commerce Commission and of the express company to which this concurrence is given.

[Name of express company.]

By [Name of officer.]

[Title of officer.]

The express company issuing this form will file the original with the Commission and will furnish duplicate to the express company to which concurrence is given. This form must not be qualified in any way except to show what agents have been given power of attorney and to provide that tariffs shall not be issued under the concurrence covering traffic provided for in tariffs issued by such agents.

§ 1304.19 Form of concurrence, EX4.

Concurrence may be given by an express company in tariffs issued by another express company or its agent applying rates to or from its offices or via its lines, on certain described traffic or between certain described points or territories, after the following form, modified as may be necessary to confer exactly the authority intended to be granted. For granting authority to publish and file rates to and from and via its lines, and not otherwise qualified, express company will use concurrence form EX5 or EX7, as per §§ 1304.20 and 1304.22.

TO BE FILED WITH THE INTERSTATE COMMERCE COMMISSION

[Name of express company in full]

[Date] _____, _____

For EX4—No. ___

To the Interstate Commerce Commission, Washington, D.C. 20423:

This is to certify that the [name of express company] assents to and concurs in the publication and filing of any rate schedule or supplement thereto which the [name of express company] or its agent may make and file and in which this company is shown as a participating express company, and hereby makes itself a party to and bound thereby in so far as such schedule contains rates applying upon _____; or between _____ and _____; or from _____ to _____; or via _____; until this authority is revoked by formal and official notices of revocation placed in the hands of the Interstate Commerce Commission and of the express company to which this concurrence is given.

[Name of express company.]

By [Name of officer.]

[Title of officer.]

The express company issuing this form will file the original with the Commission and will furnish duplicate to the express company to which concurrence is given.

§ 1304.20 Form of concurrence, EX5.

Concurrence may be given by an express company in tariffs issued by another express company or its agent applying rates to and from its offices and via its lines and after the following form:

TO BE FILED WITH THE INTERSTATE COMMERCE COMMISSION

[Name of express company in full]

[Date] _____, _____

Form EX5—No. _____

To the Interstate Commerce Commission, Washington, D.C. 20423:

This is to certify that the [name of express company] assents to and concurs in the publication and filing of any rate schedule or supplement thereto which the [name of express company] or its agent may make and file, and in which this company is shown as a participating express company, and hereby makes itself a party to and bound thereby in so far as such schedule contains rates applying to and from offices on its lines, and via its lines, until this authority is revoked by formal and official notices of revocation placed in the hands of the Interstate Commerce Commission and of the express company to which this concurrence is given.

[Name of express company.]

By [Name of officer.]

[Title of officer.]

The express company issuing this form will file the original with the Commission and will furnish duplicate to the express company to which concurrence is given. This form must not be qualified in any way, unless to show what agents have been given powers of attorney and to provide that tariffs shall not be issued under the concurrence covering traffic provided for in tariffs issued by such agents.

§ 1304.21 Form of concurrence, EX6.

If two or more express companies appoint the same person as agent for the publication and filing of tariffs and supplements thereto under powers of attorney form EX1, concurrence in tariffs issued by him under such authority may be in the following form:

TO BE FILED WITH THE INTERSTATE COMMERCE COMMISSION

[Name of express company in full]

[Date] _____, _____

Form EX6—No. _____

To the Interstate Commerce Commission, Washington, D.C. 20423:

This is to certify that the [name of express company] assents to and concurs in the

publication and filing of any rate schedule or supplement thereto which the [here give list of all express companies for which the agent has powers of attorney], or either or any of them, may make and file through their agent and attorney [name of agent], and in which it is shown as a participating express company, and hereby makes itself a party to and bound thereby in so far as such schedule contains rates applying via its line, and to but not from points thereon, until this authority is revoked by formal and official notices of revocation placed in the hands of the Interstate Commerce Commission and of the express companies to which this concurrence is given, or of their agent and attorney herein named.

[Name of express company.]
By [Name of officer.]
[Title of officer.]

The express company issuing this form will file the original with the Commission and will furnish duplicate to each of the express companies named in the concurrence, or, if each of those express companies has given said agent power of attorney to receive for it concurrences, original will be filed with the Commission and one duplicate may be filed with such agent instead of furnishing duplicates to each and every express company represented by him.

§ 1304.23 Form of concurrence, EX8.

If two or more express companies appoint the same person as agent for the publication and filing of tariffs and supplements thereto under powers of attorney form EX1, concurrence in tariffs issued by him under such authority applying to or from certain points or territory may be issued in the following form, modified as may be necessary to confer exactly the authority intended to be granted:

TO BE FILED WITH THE INTERSTATE COMMERCE COMMISSION

[Name of express company in full]

[Date] ----------, -----

Form EX8—No.------

TO THE INTERSTATE COMMERCE COMMISSION,
WASHINGTON, D.C. 20423:

This is to certify that the [name of express company] assents to and concurs in the publication and filing of any rate schedule or supplement thereto which the [here give list of all express companies for which the agent has powers of attorney], or either or any of them, may make and file through their agent and attorney [name of agent], and in which it is shown as a participating express company, and hereby makes itself a party to and bound thereby insofar as such schedule contains rates applying upon ----------;
or between---------- and----------;
or from ---------- to ----------;
or from ---------- to points on or reached via its line; or from points on or via its line to ---------- until this authority is revoked by formal and official notices of revocation placed in the hands of the Interstate Commerce Commission and of the express companies to which this concurrence is given, or of their agent and attorney herein named.

[Name of express company.]
By [Name of officer.]
[Title of officer.]

The express company issuing this form will file the original with the Commission and will furnish duplicate to each of the express companies named in the concurrence, or, if each of those express companies has given said agent power of attorney to receive for it concurrences, original will be filed with the Commission and one duplicate may be filed with such agent instead of furnishing duplicates to each and every express company represented by him.

§ 1304.22 Form of concurrence, EX7.

If two or more express companies appoint the same person as agent for the publication and filing of tariffs and supplements thereto, under powers of attorney form EX1, concurrence in tariffs issued by him under such authority may be in the following form:

TO BE FILED WITH THE INTERSTATE COMMERCE COMMISSION

[Name of express company in full]

[Date] ----------, -----

Form EX7—No.------

TO THE INTERSTATE COMMERCE COMMISSION,
WASHINGTON, D.C. 20423:

This is to certify that the [name of express company] assents to and concurs in the publication and filing of any rate schedule or supplement thereto which the [here give list of all express companies for which the agent has powers of attorney], or either or any of them may make and file through their agent and attorney [name of agent], and in which it is shown as a participating express company, and hereby makes itself a party to and bound thereby insofar as such schedule contains rates applying via its line, and to and from points thereon, until this authority is revoked by formal and official notices of revocation placed in the hands of the Interstate Commerce Commission and of the express companies to which the concurrence is given, or of their agent and attorney herein named.

[Name of express company.]
By [Name of officer.]
[Title of officer.]

The express company issuing this form will file the original with the Commission and will furnish duplicate to each of the express companies named in the concurrence, or, if each of those express companies has given said agent power of attorney to receive for it concurrences, original will be filed with the Commission and one duplicate may be filed with such agent instead of furnishing duplicates to each and every express company represented by him.

§ 1304.23 Form of concurrence, EX8.

If two or more express companies appoint the same person as agent for the publication and filing of tariffs and supplements thereto under powers of attorney form EX1, concurrence in tariffs issued by him under such authority applying to or from certain points or territory may be issued in the following form, modified as may be necessary to confer exactly the authority intended to be granted:

TO BE FILED WITH THE INTERSTATE COMMERCE COMMISSION

[Name of express company in full]

[Date] ----------, -----

Form EX8—No.------

TO THE INTERSTATE COMMERCE COMMISSION,
WASHINGTON, D.C. 20423:

This is to certify that the [name of express company] assents to and concurs in the publication and filing of any rate schedule or supplement thereto which the [here give list of all express companies for which the agent has powers of attorney], or either or any of them, may make and file through their agent and attorney [name of agent], and in which it is shown as a participating express company, and hereby makes itself a party to and bound thereby insofar as such schedule contains rates applying upon ----------;
or between---------- and----------;
or from ---------- to ----------;
or from ---------- to points on or reached via its line; or from points on or via its line to ---------- until this authority is revoked by formal and official notices of revocation placed in the hands of the Interstate Commerce Commission and of the express companies to which this concurrence is given, or of their agent and attorney herein named.

[Name of express company.]
By [Name of officer.]
[Title of officer.]

The express company issuing this form will file the original with the Commission and will furnish duplicate to each of the express companies named in the concurrence, or, if each of those express companies has given said agent power of attorney to receive for it concurrences, original will be filed with the Commission and one duplicate may be filed with such agent instead of furnishing duplicates to each and every express company represented by him.

NOTE: Concurrence, form EX2, applies to individual publication named therein. Concurrence, form EX3 or EX6, confers authority to publish and file rates to, but not from, offices on line of concurring express company, and via its lines. Concurrence, form EX5 or EX7, confers authority to publish and file rates to and from offices on line of concurring express company, and via its lines. Forms EX2, EX5, EX6, and EX7 are not to be modified except as specified in the rules. The use of these several forms as provided will therefore show by the form number just what authority has been given, except when form EX4 or EX8 is used, these forms being provided for instances which the other forms do not exactly fit.

§ 1304.24 Concurrences and powers of attorney; general provisions.

(a) Each express company will give authorizations and concurrences serial numbers, beginning with No. 1 in each series, as indicated by forms, and continuing in consecutive numbers as to each series, and keeping these numbers separate and apart from the ICC numbers of tariffs. (See paragraph (d) of this section.) Concurrences must be given to express companies named therein, and authority so granted to an express company may be by it delegated to its lawfully appointed agent.

(b) A concurrence may be revoked by filing notice of such revocation with the Commission and serving same upon the express company to which such concurrence was given. Such notice must specify the date upon which revocation is to be made effective and must give at least 60 days' notice to the Commission and to the express company to which concurrence was given. Corresponding revision of tariff or tariffs shall be made in the next supplement to or reissue thereof, and if necessary, supplement or reissue shall be made for the sole purpose of making such change lawfully effective on statutory notice upon the effective date stated in the notice of revocation.

Change in a tariff is effective when and only when the tariff as filed and posted is changed. Change effected by revocation of concurence cannot be known to the public or to the agents of express companies until it appears in the regular way in the tariff. An express company that has duly revoked a concurrence as herein provided has the right to be free from the unsatisfactory rate or regulation on the date upon which revocation becomes effective. The public have the right to use the rates shown in a lawfully filed and published tariff. The rule provides ample time within which to change a tariff. If, therefore, when a concurrence is revoked, the express company that publishes the tariff neglects to make change therein as provided in this section, shippers are entitled to have shipments moved as provided in the tariff, and the express company that so neglects to correct its tariff will be held liable to other express companies for the difference in charges under the tariff as it is and as it would be if it had been corrected in accordance with revocation of concurrence. If the tariff is published by a joint agent, the provisions hereof will apply to each of his principals, as traffic is tendered to them as initial express companies.

In giving concurrences care must be taken to avoid probability of two or more agents or express companies naming conflicting rates or rules.

(c) The granting of authority to issue tariffs under power of attorney, or concurrence, does not relieve the express company conferring the authority from the necessity of complying with the law with regard to posting tariffs. It is proper to use tariffs issued under its authority for that purpose.

(d) All powers of attorney and certificates of concurrence must be printed or typewritten on hard calendered paper, 8 by 10½ inches in size.

The series to which each power of attorney or certificate of concurrence belongs must be indicated, and the serial

number of each must be shown, in upper right-hand corner of first page. Immediately under the serial number shall be shown the number, or numbers, of powers of attorney or certificates of concurrence, as the case may be, to be canceled.

Each power of attorney or certificate of concurrence filed must show the post-office address of the issuing officer in the date line preceding body of form.

When a series of joint concurrences, issued on behalf of two or more express companies by the same traffic officer, is maintained, each concurrence filed in that series must be issued on behalf of all the express companies for whom the common traffic officer acts. Otherwise separate files of concurrences must be maintained, one for each express company, certificates in each series of such individual files to be filed in consecutive numerical order as required by paragraph (a) of this section.

CROSS REFERENCE: For powers of attorney and concurrences applicable to express-motor rates, see § 1304.109.

§ 1304.25 Letter of transmittal.

All tariffs that are filed with the Commission shall be accompanied by a letter of transmittal, on paper 8 by 10½ inches in size, and to the following effect:

[Name of express company in full]

[Date] ----------, -----

Advice No. -------

To the INTERSTATE COMMERCE COMMISSION,
WASHINGTON, D.C. 20423:

Accompanying schedule is sent you for filing, in compliance with the requirements of the Act to regulate commerce, issued by ---------- Express Company, and bearing
ICC No. -------
Supp. No. -------, to ICC No. -------.
Effective ----------, 19----;
and is concurred in by all express companies named therein as participants, under continuing concurrences or authorizations now on file with the Interstate Commerce Commission, except the following-named express companies, whose concurrences are attached hereto:

(Signature of filing agent)

A separate letter may accompany each schedule, or the form may be modified to provide for filing under one letter as many schedules as can conveniently be entered.

NOTE: If receipt for accompanying schedule is desired, the letter of transmittal must be sent in duplicate, and one copy will be stamped and returned as receipt.

§ 1304.26 Changes in rates.

Section 6 of the act as amended June 18, 1910, provides that:

No change shall be made in the rates, fares, and charges, or joint rates, fares, and charges, which have been filed and published by any common carrier in compliance with the requirements of this section, except after 30 days' notice to the Commission and to the public published as aforesaid, which shall plainly state the changes proposed to be made in the schedule then in force and the time when the changed rates, fares, or charges will go into effect; and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection.

(a) *Rate changes filed and published must become effective.* This provision plainly refers to rates which have already become effective, and also applies the term "proposed changes" to rates which have not become effective. It follows that after notice of a change in rates has been filed and published the new rates must be allowed to go into effect, and cannot be withdrawn, canceled, or superseded except upon notice filed and published for at least 30 days after the date when the rates have become effective. A tariff may contain a notation that rates therein stated will expire upon a date therein specified which is at least 30 days subsequent to the date on which such rates become legally effective, and this will be legal notice of the cancellation or withdrawal of such rates. Any tariff may be changed upon statutory notice of 30 days, or, under special permission from the Commission, upon shorter notice. Therefore a provision in a tariff that the tariff or any part of it will expire upon a given date is not a guaranty that the tariff, or such part of it, will remain effective until that date. Such provision must be understood to mean that the tariff, or specified part of it, will expire upon the date named unless sooner canceled, changed, or extended in lawful way.

(b) *For good cause Commission may allow exceptions.* Express companies must comply fully with the requirements of the law respecting the filing, publication, and taking effect of proposed rates, unless upon application and for good cause shown the Commission, in the exercise of authority conferred upon it, shall allow rates to be changed or withdrawn upon less than 30 days' notice, or by formal order otherwise modify such requirements. No regulation or rule of the Commission is authority to change rates or issue tariffs on less than statutory notice unless so specifically provided in the rule or regulation.

§ 1304.27 Joint rate greater or less than sum of intermediate rates.

Two or more connecting express companies may establish a joint rate only upon notice of 30 days or under special permission; *Provided*, That until otherwise ordered by the Commission express companies may establish on 1 day's notice to the Commission and to the public, tariffs or tariff supplements naming joint rates over the lines of two or more express companies between points as to which no joint rates are in effect via their lines, provided that such joint rates, so established, do not in any way, manner or extent, increase the rates or charges demanded from shippers. Tariffs or tariff supplements issued under this rule must bear notation:

"Issued by authority of rule 27, Interstate Commerce Commission Tariff Circular No. 19–A."

A joint rate when duly established and in force becomes the only lawful rate for through transportation.

A through rate from point of origin to destination of a shipment is the lawful rate applicable to that movement, whether the rate be confined to the line of one express company or be a joint rate applying over the lines of two or more express companies.

§ 1304.28 Reduction of rate to equal sum of intermediate rates.

(a) *Rates higher than sum of intermediate rates.* Where a rate is in effect by a given route between any points which is higher than the sum of the intermediate rates between the same points, by the same or another route, and such rate has been in effect 30 days or longer, such higher rate may, until further notice from the Commission, be changed by reducing the same to the sum of such intermediate rates, but not otherwise, upon posting and filing with the Commission one day in advance a supplement to or a reissue of the tariff in which the rate so reduced appears, which supplement or reissue shall show the reduced rate; shall bear notation that it is effective on less than statutory notice "by authority of rule 28, Interstate Commerce Commission Tariff Circular No. 19–A;" shall show on titlepage, or in connection with such item, by identifying references and ICC numbers, the tariffs that contain the factors which make up the new rate; except that, if the rate so reduced is contained in a strictly merchandise rate tariff, the reduced rate will be published in a new commodity tariff or in a supplement to or reissue of a tariff which contains commodity rates and in which all express companies whose lines make up the route over which the rate applies have concurred, and which is issued by the same express company or agent that issued the tariff which contained the rate so reduced. Such tariff, supplement, or reissue must bear on its title-page, or in connection with such item, the notation:

"Issued under authority of rule 28, Interstate Commerce Commission Tariff Circular No. 19–A. The rate (or rates) hereby reduced appears in ------- tariff, ICC No. -------, item (or page) -------, and the factors from which the new rate herein shown as equaling the sum of the intermediate rates are found in ------- Tariff, ICC No. -------, item (or page) -------, and ------- Tariff, ICC No. -------, item (or page) -------."

(b) *Through rate higher than sum of intermediate rates prima facie unreasonable.* Many informal complaints are received in connection with regularly established through rates which are in excess of the sum of the intermediate rates between the same points. The Commission has no authority to change or fix a rate except after full hearing upon formal complaint. It is believed to be proper for the Commission to say that if called upon to formally pass upon a case of this nature it would be its policy to consider the through rate which is higher than the sum of the intermediate rates between the same points as prima facie unreasonable and that the burden of proof would be upon the express company to defend such higher through rate.

Note: Attention is called to the fact that section 4 of the act, as amended, prohibits a through rate that exceeds the sum of the intermediate rates that are subject to the act. The term "intermediate rates" as used in said section is interpreted to mean the straightaway or direct-haul rates, and not to include any back-haul charge.

§ 1304.29 Rates to or from new offices.

An express company or a joint agent acting for it under power of attorney MC1, may establish, in the first instance rates to or from newly opened offices of such company upon 1 day's notice to the Commission and the public. Statutory notice will be required as to all changes in, or additions to, the rates so filed in the first instance. Such tariffs must bear notation that they apply to newly opened offices to or from which no rates are in effect, and bear the notation:

"Issued by authority of rule 30, Interstate Commerce Commission Tariff Circular No. 19–A."

Tariffs or supplements to tariffs issued by other express companies establishing rates to or from such newly opened offices may be issued only upon statutory notice or under special permission for shorter time. It will be the Commission's policy to grant such reasonable permissions as are necessary to give express companies and shippers fullest efficiency of such new service.

§ 1304.30 Rates on carload shipments of certain perishable commodities and of livestock between points between which carload rates on such commodities are not in effect.

Express companies may establish upon 10 days' notice to the Commission, and to the public, tariffs or supplements naming commodity rates for carload shipments of the following commodities, viz, fresh fruits, fresh vegetables, fish (fresh or frozen), clams, oysters, shrimp and livestock, between points between which carload rates on such commodities and via the same lines are not in effect. Each tariff or supplement containing rates established under this section must bear the notation:

"Issued on 10 days' notice by authority of Rule 30, Interstate Commerce Commission Tariff Circular No. 19–A."

§ 1304.31 Requests for permission to amend tariffs on less than statutory notice.

(a) *Form of application.* The act authorizes the Commission, in its discretion and for good cause shown, to permit changes in tariff rates on less than the statutory notice. It is believed that this authority should be exercised only in instances where special or peculiar circumstances or conditions fully justify it. Confusion and complication must follow indiscriminate exercise of this authority. Applications for permission to change tariffs on less than statutory notice shall be addressed to the Interstate Commerce Commission, and in form herein specified on paper 8 by 10½ inches. Such applications must be over signature of the president, vice president, traffic manager, assistant traffic manager, superintendent of traffic, or a duly authorized attorney and agent, specifying title.

_____
(Name of express company)

_____, 19____
(Place and date)

To the INTERSTATE COMMERCE COMMISSION,
WASHINGTON, D.C. 20423:

The _____, by
(Name of express company)

_____, its _____, does
(Name of officer) (Title of officer)

hereby respectfully petition the Interstate Commerce Commission that it be permitted, under section 6 of the act to regulate commerce as amended June 18, 1910, to put in force the following rates, to become effective _____ days after the filing thereof with the Interstate Commerce Commission:

_____
(State fully the rates which it is desired to put into effect, the articles upon which they are to apply, and the points of origin and destination)

Your petitioner further represents that the said rates above mentioned will be published in (Supp. No. ____ to) Tariff ICC No. ____, and will supersede and take the place of the rates on like traffic from and to the points above named which are set forth in Tariff ICC No. ____ (or supplement) on file with the Commission.

And your petitioner further bases such request upon the following facts, which present certain special circumstances and conditions justifying the request herein made:

_____
(State fully all the circumstances and conditions which are relied upon as justifying the application, and if based upon rates in effect via other lines, specific reference shall be given to the ICC numbers of the tariffs of such other line or lines)

_____
[Name of express company]

By _____
(Name and title of officer)

Subscribed and sworn to before me this _____ day of _____, 19____

_____
Notary Public.

The Commission requests that as far as possible these applications be sent by mail and not by telegraph. Action will be taken only on receipt of the verified application.

(b) *Permission to change rates.* This authority will be exercised only in cases where actual emergency and real merit are shown. Clerical or typographical errors in tariffs constitute good cause for the exercise of this authority, but every application based thereon must plainly specify the omissions or mistakes together with a full statement of the circumstances attending such omission or error and be presented with reasonable promptness after issuance of the defective tariff.

(c) *Where full notice was given by competing express company.* Desire to meet the rates of a competing express company which has given the full statutory notice of change in rates will not of itself be regarded as good cause for allowing changes in rates on a notice of less than 30 days.

(d) *Amendment of joint tariffs on less than statutory notice.* A request from one party to a joint tariff for permission to amend such tariff on less than statutory notice necessarily raises some question of doubt as to the wishes or concurrence of other interested parties to the tariff. It is desirable and proper that any such permission given by the Commission should affect alike all parties to the tariff that is to be amended under it. The Commission therefore decides:

(e) *Applications by express company or agent authorized to file the tariff.* That when an express company gives an agent authority to file tariff or tariffs and supplements thereto in its name, place, and stead, or concurrence in tariff or tariffs and supplements thereto which another express company or its agent may file thereunder, the agent or express company to whom such authority or concurrence is given has, under the terms of the authority or concurrence, the power and the right to request, in the name and on behalf of the express companies participating in such tariff or tariffs, permission to amend same on less than statutory notice.

(f) *Request must come from one who issues the tariff.* Such requests as to joint tariffs must be made by the agent or the express company that is authorized to file the tariff and in making them form same as that prescribed for use of individual carrier shall be used, except that the request must state that it is made in the name and on behalf of all parties to the tariff, and that formal authority to file the tariff, or formal concurrence in the tariff, is on file with the Commission from each of them.

(g) *Concurring express companies bound by act of authorized agent.* Request will be signed and verified by the agent or officer who makes it, and every express company that has, by formal authority or concurrence, made itself a party to such tariff will be held bound by the act of its agent under such authority or by its concurrence. This section will, insofar as is possible, be applied to tariffs now on file, and will be effective in all cases from and after August 1, 1908.

§ 1304.32 Free transportation of passengers in connection with shipments of property.

Section 1 of the act provides that free transportation may be furnished "to necessary caretakers of live stock, poultry, milk, and fruit." This provision in the statute is construed to mean necessary caretakers of live stock, poultry, milk, or fruit that is loaded and ready for movement, or the movement of which is actually contracted for or that is actually in transit. Such free transportation must be the same for all under like circumstances and the tariff governing transportation of the commodity must give notice thereof. Tariff may provide that caretaker sent out to return with shipment that is arranged for or that is in transit will be required to pay fare going and that such fare will be refunded if person so sent does return as actual caretaker of shipment for which he is sent.

(a) The Commission is of the opinion that the term "fruit" in this connection includes perishable vegetables, and that bees in hives and live fish may be included in the term "live stock," when shipped under conditions that render caretakers "necessary."

(b) When an express company provides in its tariff for free transportation for caretakers in charge of live stock, poultry, milk, or fruit, and the railroad company over whose lines such express company operates provides in its tariff that such caretakers may be permitted to ride in passenger car, the tariff of the express company and that of the railroad company must give reference to each other.

§ 1304.33 Maximum rates not specific rates.

Section 1304.4 prohibits including in a tariff any rule or regulation which in any way or in any terms authorizes substituting for any rate named in the tariff a rate found in any other tariff or made up on any combination or plan other than that clearly stated in specific terms in the tariff of which the rule or regulation is a part. This section is intended to bring about entire discontinuance of tariff rules which provide that rates named in tariff will apply to certain points "as maxima," or that if a combination on some gateway or basing point makes less than the rates named in tariff such combination will apply, or for equalizing or protecting any rate via another line or route or gateway, etc. The intent is that as rapidly as tariffs can be reconstructed in accordance with the regulations issued by the Commission they will state in specific, clear, and unambiguous terms the rates and their application.

The Commission decides that, pending the complete elimination of such rules, a rate that is stated in a tariff as applicable to a certain point as a maximum is not a specific through rate to that point, and that a rate made up on combination of lawfully filed tariffs may be used in preference to such maximum rate if there is no applicable rate via the route over which shipment moves, other than the one made by such maximum rule. In every instance where there is a specific joint through rate from point of origin to point of destination it must be applied to through shipments regardless of possible lower combinations. (See § 1304.27.)

Section 1304.4(d) provides that a tariff shall contain a complete alphabetical index of the offices from and to which it prohibiting the incorporation in a tariff of a rule providing for the affirmative and definite application of the rates named in that tariff to or from offices not indexed and which are directly intermediate on the same line or route with offices that are indexed.

§ 1304.34 Movement of shipments refused by consignees or damaged in transit.

(a) *Free carriage or reduced rates or reconsignment at through rate.* In one form or another many express companies provide for the return free or at reduced rates, or the reconsignment under through rate from point of origin, of shipments that are damaged in transit or are refused by consignees. In answer to request for ruling the Commission expresses the opinion that in a nondiscriminatory way and within reasonable limits such rule is not unlawful or improper. Care should be taken to preserve the distinction between shipments in which the express company has no interest except the collection of the transportation charges and which are reconsigned or returned purely out of consideration for the interests of the owner of the shipment, and shipments which, because of injury or damage in transit, are left on the express company's hands and in which it has an interest to the extent of the transportation charges and the value of the shipment.

A rule providing that shipments which are refused by consignee may be reconsigned and forwarded, under application of through rate from point of origin to final destination, either with or without the exaction of a reconsignment charge, is permissible. Where tariff provides for return of shipments at reduced rates the tariff rule must be strictly complied with. Such tariff rule should provide that waybill covering return movement and shipment receipt must show reference to original outbound shipment and waybill.

(b) *Shipments damaged in transit.* A rule providing for the reconsignment or return free or at reduced rates of articles damaged in transit is not improper if it is so framed and applied as to prevent abuses or improper practices under it. The practice of returning at reduced rates articles that have been delivered into the possession of consignees and have become shopworn or have gotten into a state of disrepair through use is neither proper nor free from unjust discrimination. A rule according reduced rates on return shipments is proper only insofar as it applies to the return of shipments that are received by the consignee in bad order or are refused by consignee without examination. As to shipments that are not in closed packages and thus are open to immediate inspection, the rule should provide that in order to secure reduced rates on return movement the goods shall not have left the possession of the express company before such claim is made. As to goods that are in closed packages, the rule should provide that in order to secure reduced rates on return movement such goods must be returned to the express company within 10 days.

§ 1304.35 Responsibilities of carriers under tariffs.

(a) *Concurrences.* In the past no uniform or definite practice or rule has been followed by express companies in regard to concurrence in joint tariffs.

To now undertake to check out and follow down definite and actual concurrence of express companies in tariffs, issued prior to effective date of the regulations in this part, would be a difficult task; and to declare unlawful all tariffs, and participation therein, which were not definitely and actually concurred in, other than by use thereof, would be to overthrow practically all such joint tariffs and leave transportation in chaos.

(b) *Specific notice of nonconcurrence.* The Commission cannot undertake to now excuse express companies from responsibilities placed upon them by tariffs that have been issued, and in which they are named as participants, except in accordance with and subsequent to filing of specific notices of nonconcurrence.

The regulations in this part require that the express company or agent that issues a joint tariff shall, before issuing same, secure the definite and affirmative concurrence of every carrier shown therein as a participant, and shall show in connection with the name of each participating carrier the form and number of the instrument by authority of which that carrier is made a party to the tariff.

(c) *Named as participants in tariff without authority.* An express company has no means of preventing another express company from naming it as party to a joint tariff without proper authority so to do, or of preventing another express company from exceeding the authority conferred by limited concurrence. It cannot, however, be bound by such unauthorized act and it is its obvious duty to refuse to recognize or apply any such unlawful issue. It should also at once call the attention of the Commission and of the one that issued the tariff to such erroneous action.

(d) *Tariffs lawful as to carriers shown as participants under lawful authorizations and unlawful as to others.* If one or more carriers are, without proper authority, so shown as participating in any tariff and other carriers are lawfully shown as parties thereto, the use of the publication is unlawful as to the carriers that are named as parties thereto without proper authority and lawful as to those that are parties to it under proper authority. The carrier over whose line shipments are sent under a joint tariff is bound by the terms of that tariff if it has lawfully concurred therein, and, if it has not lawfully concurred therein, may not accept earnings in accordance therewith, but must demand for the service performed its lawful earnings according to its lawful tariffs.

(e) *Responsibility for unlawful incorporation in a tariff.* Responsibility and liability for the unlawful incorporation of any carrier in a tariff, or for exceeding the authority conferred by a limited concurrence, will rest wholly upon the express company that issued the tariff; or, if a tariff is issued by a joint agent and attorney for two or more express companies, will rest upon each of his principals that accepts and forwards the business under that tariff. Such responsibility and liability will be measured by the difference between the charges under the tariff as it is published, filed, and posted, and as it would have been if no carrier had been improperly named as party thereto, or if the authority conferred by the concurrence of a participating carrier had not been exceeded.

(f) *Policy of Commission on complaints.* In passing upon a complaint of

overcharge, or demand for payment of undercharge, growing out of improper or unlawful inclusion of any carrier in the list of participating carriers, or of exceeding the authority conferred by limited concurrence, in the tariff under which the business was accepted and forwarded, the Commission will apply the principles above stated.

§ 1304.36 Withdrawal of filed tariffs not permitted.

Not infrequently the Commission is requested to return to carriers tariff publications which have been received and filed by the Commission in the ordinary course of business. Such requests are usually based on the desire to substitute some corrected or changed publication for the one that has been filed. Manifestly it would be improper for the Commission to permit such substitutions or to surrender any tariff publication duly and properly received and filed by it, unless such surrender is caused by rejection of such publication by the Commission because of illegality or irregularity in connection therewith. To surrender publications duly filed and permit the substitution of others would involve a species of falsification of the records which could not be permitted.

§ 1304.37 Ocean carriers; export and import tariffs.

Ocean carriers between ports of the United States and foreign countries not adjacent are not subject to the terms of the Interstate Commerce Act; nor to the jurisdiction of the Commission.

(a) *Export and import tariffs.* The inland carriers of traffic exported to or imported from a foreign country not adjacent must publish their rates to the ports and from the ports, and such rates must be the same for all, regardless of what ocean carrier may be designated by the shipper.

(b) *Through rates may be shown.* As a matter of convenience to the public they may publish in their tariffs such through export or import rates to or from foreign points as they may make in connection with ocean carriers. Such tariffs must, however, distinctly state the inland rate as above provided; and need not be concurred in by the ocean carrier, because concurrence can be required from, and is effective against, only carriers subject to the act.

It is permissible for an express company to state its inland rates, which must be open to all alike, regardless of what ocean carrier may be designated by the shipper, and in the same connection to show the additional steamship charges which go to make up through rates to or from foreign destinations.

(c) *Changes on less than statutory notice; through billing.* Whichever plan of publishing these rates is followed, the tariffs must be filed and posted, and may be changed only upon statutory notice or under special permission for shorter time, except that, in consideration of unusual and special circumstances surrounding the movement of traffic exported to or imported from foreign countries not adjacent to the United States and which moves through ports of the United States or Canada on the Pacific Ocean as to said traffic and confined to tariffs which contain only rates applicable thereto, the Commission authorizes express companies to make changes in said rates upon notice to the Commission and to the public in manner prescribed by law of 3 days as to changes which effect reductions in rates or charges and like notice of 10 days as to changes which effect increases in rates or charges. Tariffs issued upon short notice under authority of this section must bear notation:

"Issued under authority of rule 37, Interstate Commerce Commission Tariff Circular No. 19–A."

Export and import traffic may be forwarded under through billing, but such through billing must clearly separate the liability of the inland carrier or carriers and of the ocean carrier, and must show the tariff rate of the inland carrier or carriers.

CROSS REFERENCES: For export and import shipments as regulated by the Interstate Commerce Commission, see Part 1302 of this chapter. For regulations of the Bureau of Customs, Department of the Treasury, relating to customs districts and ports and the lading and unlading of vessels, see 19 CFR Parts 1, 2. For regulations of the Maritime Administration, Department of Commerce, concerning ocean carriers, see 46 CFR Chapter II. For regulations of the Federal Maritime Commission relating to ocean carriers, see 46 CFR Chapter IV.

§ 1304.38 Tariffs to or from points in adjacent foreign countries.

Through rates from points in the United States to points in foreign countries adjacent thereto and through rates from points in adjacent foreign countries to points in the United States are a great convenience, and the Commission therefore desires to permit and encourage the publication and filing of such through rates under lawful and proper conditions. Therefore, and until further order of the Commission:

(a) (1) A joint tariff naming rates from a point in the United States to a point in Mexico or in Canada; from a point in Mexico or in Canada to a point in the United States; from a point in Mexico through the United States to a point in Canada; from a point in Canada through the United States to a point in Mexico; from a point in Mexico through the United States to a point in Mexico; from a point in Canada through the United States to a point in Canada; from a point in the United States through Mexico or through Canada to a point in the United States, must be concurred in, in form prescribed in the regulations in this part and without reservation by all lines that are parties to the through rates and that participate in transportation thereunder; or, a statement of the divisions of the rates accruing to the express companies in the United States to or from the border must be incorporated in the tariff or be filed with the Commission together with and at the same time the tariff itself is filed.

(2) The purpose of subparagraph (1), requiring the domestic express companies to publish their divisions of rates to and from Canada or Mexico, is to give to this Commission definite information as to their lawful earnings, and is not intended as a means of exercising any jurisdiction over express companies in adjacent foreign countries.

(b) Rates on express traffic from a point in Canada through the United States to a point in Canada may be changed upon a notice of 30 days as to advances in rates and 3 days as to reductions in rates given to the Commission and the public in manner required by law, provided such express traffic moves in bond and that no transit or stop-over privilege is allowed thereon within the United States, and that tariff so states; *And provided further*, That such rates be published in tariffs which contain only rates on express traffic that has neither origin nor destination in the United States.

Each tariff publication in which changes in rates are made under the terms of this section shall bear on its title page the notation:

"Issued under authority of rule 38, Interstate Commerce Commission Tariff Circular 19–A."

§ 1304.39 Publishing and filing tariffs under amended fourth section of the act.

If tariffs containing commodity rates applicable from points of production provide for their application from intermediate points not named, it would be necessary to post those tariffs at every intermediate point, although such shipment may never be made from a point not specifically named. If such tariffs do not provide for application from intermediate points, they would conflict with the amended fourth section of the act whenever the merchandise rate, scale rate, or a combination from an intermediate point exceeds the commodity rate from a more distant point.

Tariffs should not contain volumes of unnecessary rates, and it is undesirable to require the posting of large numbers of tariffs at points from which no shipments are likely to move. Therefore, until further ordered, express companies may file tariffs containing commodity rates applicable from known points of production without making such rates applicable from all intermediate points. Each such tariff shall bear on its title-page the following notation:

By authority of rule 39 of Interstate Commerce Commission Tariff Circular No. 19–A, this tariff (these rates) is not (are not) made applicable from (or to) all intermediate points. Upon reasonable request therefor rates which will not exceed those in effect from (or to) more distant points will, under authority granted by the Interstate Commerce Commission, be established from (or to) any intermediate point hereunder upon one day's notice to the Commission and to the public.

In observance of this section express companies may on 1 day's lawful notice to the Commission and to the public extend the application of the rates shown in the tariff by establishing such rates from intermediate points which do not exceed the rates from the more distant point on same line or route, provided no advance is thereby made in any existing rate.

Ordinarily rates to intermediate points of detination not named in the tariff can properly and should be provided for by a clause in the tariff authorizing the application of its rates to intermediate points of destination, but in instances where the intermediate application of rates is impracticable or when conflicting rates would result therefrom, commodity rates may in the first instance be established to such intermediate destinations not higher than to more distant points on same line of route on like notice as from points of origin, provided no advance is thereby made in any existing rate.

For the purpose of eliminating from tariffs higher charges for shorter hauls as same are referred to in the amended fourth section of the act, and when same have been in effect 30 days or more, express companies may make such changes effective on 1 day's lawful notice to the Commission and to the public, provided such changes are in each instance reductions in rates or charges. (See §§ 1304.27 and 1304.28.)

A tariff or supplement containing rates issued upon short notice under authority of this section must bear on its title page or in connection with the item containing the rate the following notation:

Issued under authority of rule 39 of Interstate Commerce Commission Tariff Circular No. 19–A. The rate (or rates) hereby reduced appears (or appear) in _____ tariff ICC No. ____, item (or page) ____ and the rate (or rates) from (or to) _____ [name it], the more distant point, appears (or appear) in _____ tariff ICC No. ____, item (or page) ____.

When the Commission has issued an order granting to an express company authority to depart from the provisions of the amended fourth section of the act and to charge higher rates for shorter than for longer distances over the same line or route, the title page of each tariff issued and filed under such authority must bear the following notation:

This tariff contains rates that are higher for shorter distances than for longer distances over the same route. Such departure from the terms of the amended fourth section of the act to regulate commerce is permitted by authority of Interstate Commerce Commission Order F. S. No. ____ of [date] 19____.

When the Commission has issued an order granting to an express company authority to depart from the provisions of the amended fourth section of the act and to charge rates higher than the aggregate of the intermediate rates subject to the act, the title page of each tariff issued and filed under such authority must bear the following notation.

This tariff contains rates that exceed the sums of the intermediate rates subject to the act. Such departure from the terms of the amended fourth section of the act to regulate commerce is permitted by authority of Interstate Commerce Commission Order F. S. No. ____ of [date] 19____.

Nothing in this section may be construed as waiving nay of the provisions of the amended fourth section of the Interstate Commerce Act.

§ 1304.40 Rates, rules or charges applying to all-motor transportation.

Rates, rules or charges applying to all-motor transportation may not be published in any tariff filed pursuant to section 6 of Part I of the Interstate Commerce Act and issued under this part.

§ 1304.41 Arrangements for establishing through express-motor transportation.

The express companies listed in § 1304.0(b)(4) "Definition of Terms," may not file proportional rates to or from junction points with motor carriers for application on traffic to or from points on the lines of such motor carriers. Where it is desired to establish arrangements for through transportation with motor carriers, joint express-motor rates in accordance with the provisions of this part should be established.

§ 1304.100 Express-motor tariffs, with certain exceptions, must conform to provisions of Tariff Circular No. 19–A.

All tariffs except as otherwise provided in this part or unless otherwise authorized by special permission of the Commission, containing any express-motor rate (local or joint), must conform to all the provisions of Tariff Circular No. 19–A (this part) and effective supplements thereto (except §§ 1304.5, 1304.27, 1304.28, 1304.29, 1304.30, 1304.39, and rules which by their own terms apply only to the transportation of property by rail), subject to the exceptions and additions provided in this part.

§ 1304.101 Number of copies; transmittal.

Carriers and publishing agents shall transmit to the Commission five copies of each tariff, supplement, classification or other schedule (including indexes) containing express-motor rates (local or in one package and forwarded under one letter of transmittal and addressed "Interstate Commerce Commission, Section of Tariffs, Washington, D.C., 20423." When local or joint express-motor rates are included in a supplement to a tariff previously on file and containing express rates, such supplement and all succeeding supplements to that tariff (whether or not they contain any local or joint express-motor rates) shall be subject to this section.

§ 1304.102 Publication and filing of local and joint express-motor rates.

Local and joint express-motor rates must be published and filed not less than 30 days before their effective date.

§ 1304.103 Tariffs containing express-motor rates.

(a) The title page of tariffs and supplements thereto containing express-motor rates (local and joint) shall show in the upper right-hand corner immediately under the ICC number (as required by § 1304.3(b)) an additional number to be designated ME–ICC No. — (progressive series beginning with No. 1). Cancellations in the ME series shall be made in the manner required by § 1304.3(b).

(b) When local or joint express-motor rates are established for the first time in a supplement to a tariff then on file with the Commission containing express rates such supplement must assign an ME–ICC number to the tariff. Such supplement must be designated as supplement 1 to the ME–ICC number, and subsequent supplements (whether or not they contain any local or joint express-motor rates) must be numbered consecutively in the ME–ICC series. It will not be necessary to furnish the Commission with additional copies of the tariff or previous supplements thereto.

(c) Tariffs containing joint express-motor rates shall show on the title-page a statement indicating that such tariffs contain joint rates with common carriers of property by motor vehicle, including also either a brief description of the territory or points from and to which such joint express-motor rates apply, or reference to a separate publication published and filed in compliance with § 1304.112 (b).

§ 1304.104 Joint express-motor rates limited to certain defined carriers.

Joint express-motor rates may be made only between express companies listed in § 1304.0(b)(4) and common carriers of property by motor vehicle holding lawful certificates of public convenience and necessity, and only for operations of such carriers covered by such certificates.

§ 1304.105 Use of intermediate rules.

Joint express-motor rates may not be made applicable to or from points on the lines of participating motor carriers by the use of intermediate rules.

§ 1304.106 Joint rates applicable regardless of lower aggregate.

Tariffs containing joint express-motor rates that have been duly established for application via a route shall contain either (a) a provision that the charges under such rates from point of origin to destination are the applicable charges via that route notwithstanding that they may be higher than the aggregate charges under the separately-established rates of the respective motor carriers and express companies to and from the junction where the freight is received from, or delivered to, the motor carrier; or, (b) reference to a separate governing tariff containing such provision.

§ 1304.107 Separation of all-motor and express-motor rates.

(a) All-motor rates may not be published in any schedule containing local or joint express-motor rates.

(b) (Exceptions to § 1304.10(a)) Rules that govern, and also rates and charges for storage, weighing, diversion, reconsignment, icing, refrigeration, heat, and

other transit, terminal or special services including absorptions and allowances, applicable at points on the lines of motor carriers participating in joint express-motor rates, shall be published either in the tariffs containing the joint express-motor rates, or in a separate tariff filed under an ICC number restricted for application only in connection with joint express-motor rates. Such separate tariff shall be subject to all the provisions of this part and specific reference by ICC number to such separate tariff must be made in the tariffs of joint express-motor rates in connection with which such arrangements apply.

(c) No rule or provision of an all-motor tariff filed with the Bureau of Operations under an MF number may be made applicable to or made to govern any joint express-motor rates.

Cross References: For definitions of "express-motor rates" and "all-motor rates," see § 1304.0(b) (3), (6).

§ 1304.108 Indexing joint express-motor tariffs.

(a) Each express company that becomes a party to a joint express-motor rate or tariff shall thereafter subdivide each of the three sections of the index of tariffs required by § 1304.11 so as to provide separately in each section a list of tariffs containing joint express-motor rates, showing as to each of such tariffs the information now required by the said section.

(b) Each express company that issues any tariff or tariffs containing local or joint express-motor rates shall include in the third section of the index required by § 1304.11 a separate list of all of its effective schedules bearing ME-ICC numbers in numerical order.

(c) If a joint express-motor tariff is added to an index on file with the Commission by a supplement, such supplement shall assign an ME-ICC number to the index and five copies of the supplement and each succeeding supplement shall be sent to the Interstate Commerce Commission, Section of Tariffs.

§ 1304.109 Powers of attorney and concurrences applicable to express-motor rates.

(a) *Carriers required to execute and file; powers of attorney and concurrences.* All common carriers by motor vehicle participating in joint express-motor rates shall execute and file with the Commission concurrences or powers of attorney substantially in accordance with the forms prescribed in §§ 1304.16 to 1304.23.

(b) *Additional number.* Powers of attorney and concurrences applicable to joint express-motor rates shall show, as to powers of attorney issued under § 1304.16, an additional number in a new series entitled "MEXA1–", and as to concurrences issued under §§ 1304.17 to 1304.23, shall show an additional number in a new series entitled "MEXC1–", such numbers to be used consecutively commencing with No. 1, regardless of the EX form used.

(c) *Extra copy required.* In addition to the requirements of §§ 1304.16 to 1304.23, one extra copy duly executed and attested of each power of attorney or concurrence applicable to a joint express-motor rate or tariff shall be transmitted with the original.

(d) *Revocation and transfer notices.* Where powers of attorney and concurrences are revoked or transferred, the revocation or transfer notices shall refer to the MEXA1 or MEXC1 number (as the case may be) as well as to the EX number.

(e) *Carrier's names.* When a motor carrier issuing a power of attorney or concurrence is not a corporation, such motor carrier shall use the correct name which appears in its certificate (or application, if certificate has not yet been issued) and such power of attorney or concurrence must be signed by an officer, or other person duly authorized to execute such instruments for such carrier.

§ 1304.110 Tariffs containing express-motor rates for transportation of explosives.

Tariffs containing local or joint express-motor rates applicable to the transportation of explosives and other dangerous articles must contain the regulations promulgated by the commission governing the transportation thereof by motor vehicle, or must give specific reference to the number of the legally filed publication which contains such regulations, and provide that the portion of the through transportation by motor vehicle shall be subject to such regulations.

§ 1304.111 Posting of tariffs containing express-motor rates.

(a) All tariffs containing local or joint express-motor rates shall be posted at the stations or offices of the express companies named in § 1304.0(b)(4) in the manner required by section 6 of Part I of the Interstate Commerce Act for all-rail or rail-water transportation.

(b) Where the participating motor carrier is other than an intermediate carrier each tariff containing joint express-motor rates must be posted at the stations or offices of the motor carrier from, to, or at which such rates apply and at which station or office an exclusive agent is maintained. A general file of all such tariffs shall also be maintained at the principal place of business of such motor carrier and must be available for public inspection and examination at all reasonable times.

§ 1304.112 Publication and filing of a directory by express companies.

(a) *Directory of stations.* Each of the express companies listed in § 1304.0(b)(4) must publish and file a directory containing a complete list of the stations or offices at which property is received for transportation by express, arranged so as to indicate clearly which of such stations or offices are served by railroad, by water, by motor vehicle, or by two or more of such forms of transportation. All tariffs of rates must make reference to such directory by ICC and ME-ICC number.

(b) *List of participating motor carriers in joint express-motor rates with correct name of carrier and reference to concurrence.* Each of the express companies listed in § 1304.0(b)(4) participating in joint express-motor rates shall include either in the directory specified in paragraph (a) of this section or in a separate publication, a list of all participating common carriers of property by motor vehicle arranged by name in alphabetical order, showing the individual names and firm names or, in the case of a corporation, its correct name, with city and State in which their principal offices are located, together with the number of the certificate or certificates under which each such common carrier by motor vehicle operates, and the number or numbers of the concurrence or concurrences filed by such motor common carriers. If a carrier consists of an individual or individuals operating under a trade name, the trade name shall precede the name of the individual operator or names of partners. The list shall show as to each participating motor carrier the points between which express traffic is transported by it under joint express-motor rates, and the points at which interchange is made between the express company and such motor carrier.

PART 1305—POSTING TARIFFS AT STATIONS

Subpart A—Freight Tariffs of Common Carriers by Rail, Water, or Pipe Line, and Freight Tariffs of Common Carriers by Motor Vehicle Containing Joint Motor-Rail, Motor-Water, and/or Motor-Rail-Water Rates

Sec.
1305.0 Posting of tariffs defined.
1305.1 Carriers required to post tariffs at stations.
1305.2 Relief from requirements.
1305.3 Location of complete public files of tariffs.
1305.4 Selection of posting places.
1305.5 Time of posting.
1305.6 Tariff files to be accessible to the public.
1305.7 Notice required to be posted.
1305.8 Check-up on files of tariffs.

Subpart B—Passenger Tariffs of Common Carriers by Rail or Water and Passenger Tariffs of Common Carriers by Motor Vehicle Containing Joint Motor-Rail, Motor-Water, and/or Motor-Rail-Water Fares, Also Passenger Tariffs of Sleeping Car Companies

Subpart C—Freight Tariffs of Common Carriers by Water

1305.200 Posting of tariffs defined.
1305.201 Carriers required to post tariffs.
1305.202 Location of complete public file of tariffs.
1305.203 Time of posting.
1305.204 Tariff files to be accessible to the public.
1305.205 Check-up on files of tariffs.

Subpart D—Passenger Tariffs of Common Carriers by Water

Subpart A—Freight Tariffs of Common Carriers by Rail, Water, or Pipe Line, and Freight Tariffs of Common Carriers by Motor Vehicle Containing Joint Motor-Rail, Motor-Water, and/or Motor-Rail-Water Rates

Authority: The provisions of this Subpart A issued under sec. 6, 24 Stat. 380, sec. 12, 34 Stat. 383; 49 U.S.C. 6, 12.

§ 1305.0 Posting of tariffs defined.

The term "post" as used in this part means the maintenance of a file of tariffs in the custody of an agent of the carrier in a complete, accessible, and usable form, and keeping such file of tariffs available to the public upon request during ordinary business hours. The term "tariff" as used in this part includes tariff supplements or amendments.

§ 1305.1 Carriers required to post tariffs at stations.

(a) Each railroad and each common carrier by water shall post at each station (loading port as to water carriers) at which freight is received for transportation and at which an agent is employed all tariffs (including those filed for it by tariff-publishing agents or by other carriers with its concurrence) which contain rates applying from that station or which contain terminal or other charges applicable at that station, together with all other tariffs needed to determine the application of such rates or charges, excepting tariffs which show only the marked capacities, lengths, dimension and cubical capacities of cars. There shall also be posted at each such station an index of the carrier's freight tariffs in form as provided in § 1300.11 of this subchapter (Rule 11 of Tariff Circular No. 20).

(b) Each common carrier by motor vehicle shall post at each station or office at which freight is received for transportation and at which an agent is employed all tariffs containing joint motor-rail, motor-water, and/or motor-rail-water rates applying from or at such station or office.

§ 1305.2 Relief from requirements.

If any tariff so posted (other than a tariff index) has not been used for a substantial length of time the posting of that tariff, including reissues thereof, may be discontinued at that station until such time as a request is made to the carrier's agent to have it reposted. It shall then be reposted within 20 days and thereafter kept posted.

§ 1305.3 Location of complete public files of tariffs.

(a) Each common carrier by rail, water, and pipeline shall post at its principal office a complete set of all tariffs which it issues or to which it is a party, together with an index thereto, and each rail carrier with 5,000 miles or more of first main track (including branch lines but excluding yard, terminal, and industrial tracks) shall also post at not less than one additional point a complete set of all tariffs (see Note) which it issues or to which it is a party. In determining the number of miles of first main track operated, family lines may be considered as a unit and subsidiary carriers as a part of the controlling carrier.

Note: Switching and terminal railroads need maintain at their principal office a complete file of their local tariffs only.

A small carrier which has authorized its principal connecting carrier to file tariffs on its behalf may have its tariffs included in the complete public tariff file of such connecting carrier without such small carrier maintaining a separate complete public file.

(b) Each common carrier by motor vehicle shall post at its principal office a complete set of tariffs containing joint motor-rail, motor-water, and/or motor-rail-water rates or charges which it issues or to which it is a party.

§ 1305.4 Selection of posting places.

When posting places in addition to the principal office are required, railroads shall select posting places which, in their judgment, will best serve and promote the convenience of the public in using the tariffs. The places selected shall be cities directly served by the railroad. Each railroad shall advise the Commission by letter of the posting places selected and of any changes thereafter made. The Commission may, after reasonable investigation and without formal hearing, designate posting places in addition to or in substitution of those selected by the carrier.

§ 1305.5 Time of posting.

Each tariff must be posted at least 30 days before its effective date, excepting those as to which the Commission has authorized a shorter period of notice to the public. Each carrier shall require the agent at every station or office at which tariffs are posted to write or stamp on each tariff the date on which it was posted.

§ 1305.6 Tariff files to be accessible to the public.

Each file of tariffs shall be in charge of an agent of the carrier. Each carrier shall require and instruct such agent to afford inquirers an opportunity to examine any of such tariffs without asking the inquirer to assign any reason therefor, and, upon request, to lend assistance to seekers of information therefrom with all promptness possible and consistent with proper performance of other duties.

§ 1305.7 Notice required to be posted.

Each carrier shall also cause to be displayed continuously in a conspicuous public place at each station or office at which tariffs are required to be posted, a notice printed in large type reading as follows:

With only such exceptions as have been authorized by the Interstate Commerce Commission, all tariffs which contain rates and charges applying from or at this station are on file in this office, together with an index of all of this company's freight tariffs. The tariffs and index may be inspected by any person upon application and without the assignment of any reason for such inspection. The agent on duty in this office will lend any assistance desired in securing information therefrom.

If request is made for a tariff naming rates from this station, the posting of which has been discontinued because of nonuse, the agent will arrange to have it reposted within 20 days and thereafter keep it posted.

In addition a complete file of all of this company's tariffs, with indexes thereof, is maintained and kept available for public inspection at:

(Here indicate the place or places where complete tariff files are maintained, including the street address and, where appropriate, the room number.)

§ 1305.8 Check-up on files of tariffs.

Each carrier shall place in effect a system of supervision that will insure the continued maintenance in proper and readily accessible form of tariff files required at each station and also at each office where complete files are maintained. Such stations and offices must be furnished at least once a year with a list of all of the tariffs which should be in their files. Upon receipt of the list the agent or employee in charge will immediately check the tariffs on hand against the list, and report any deficiencies. Evidence of improper maintenance of files at any station or office may incur the prescription of detailed instructions to the carrier by the Commission necessary to insure compliance with the regulations.

Subpart B—Passenger Tariffs of Common Carriers by Rail or Water and Passenger Tariffs of Common Carriers by Motor Vehicle Containing Joint Motor-Rail, Motor-Water, and/or Motor-Rail-Water Fares, also Passenger Tariffs of Sleeping Car Companies

Cross References: For posting regulations applicable to passenger tariffs of common carriers by rail or water and passenger tariffs of motor common carriers containing joint motor-rail, motor-water, and/or motor-rail-water fares, also passenger tariffs of sleeping car companies, see Part 1303 of this chapter.

Subpart C—Freight Tariffs of Common Carriers by Water

Authority: The provisions of this Subpart C appear under sec. 304, 54 Stat. 933, sec. 306, 54 Stat. 935; 49 U.S.C. 904, 906.

Note: This subpart is applicable to the posting of freight tariffs constructed in conformity with Subpart A of Part 1306 of this chapter covering the transportation of property by common carriers by water which was not subject to the jurisdiction of the Federal Maritime Commission or the Interstate Commerce Commission prior to January 1, 1941.

Cross References: For posting regulations applicable to freight tariffs constructed in conformity with Part 1300 of this chapter see Subpart A of this part.

§ 1305.200 Posting of tariffs defined.

The term "post" as used in this part means the maintenance of a file of tariffs in the custody of an agent of the carrier in a complete, accessible, and usable form, and keeping such file of tariffs available to the public upon request during ordinary business hours. The term "tariff" as used in this part includes tariff supplements or amendments.

§ 1305.201 Carriers required to post tariffs.

Each common carrier by water shall post at each loading port at which freight is received for transportation and at which an agent is employed all tariffs (including those filed for it by tariff-publishing agents) which contain rates applying from that port or other charges applicable at that port, together with all other tariffs needed to determine the application of such rates or charges.

§ 1305.202 Location of complete public file of tariffs.

Each common carrier by water shall post at its principal office a complete set of tariffs which it issues, also tariffs containing joint water rates to which it is a party.

§ 1305.203 Time of posting.

Each tariff must be posted at least 30 days before its effective date, excepting those as to which the Commission has authorized a shorter period of notice. Each carrier shall require the agent at every port or office at which tariffs are posted to write or stamp on each tariff the date on which it was posted.

§ 1305.204 Tariff files to be accessible to the public.

Each file of tariffs shall be in charge of an agent of the carrier. Each carrier shall require and instruct such agent to afford inquirers an opportunity to examine any of such tariffs without asking the inquirer to assign any reason therefor, and, upon request, to lend assistance to seekers of information therefrom with all promptness possible and consistent with proper performance of other duties.

§ 1305.205 Check-up on files of tariffs.

Each carrier shall place in effect a system of supervision that will insure the continued maintenance in proper and readily accessible form of tariff files required at each port and also at its principal office where a complete file is maintained. Evidence of improper maintenance of files at any port or office may incur the prescription of detailed instructions to the carrier by the Commission necessary to insure compliance with these regulations.

Subpart D—Passenger Tariffs of Common Carriers by Water

CROSS REFERENCE: For posting regulations applicable to passenger tariffs of common carriers by water see Part 1308 of this chapter.

PART 1306—PASSENGER AND EXPRESS TARIFFS AND SCHEDULES OF MOTOR CARRIERS

CROSS REFERENCES: For provisions pertaining to suspension supplements affecting all carriers subject to the publishing rules contained in §§ 1306.0–1306.15, see § 1307.90.

For regulations governing the construction, filing, and posting of tariffs containing passenger fares of motor common carriers joint with railroads and/or water carriers see Part 1308 of this chapter.

Sec.

1306.0 Tariffs, schedules, and minimum fares defined.

COMMON CARRIER TARIFFS

1306.1 Construction and filing of tariffs.
1306.2 Title page of every tariff and supplement shall show in the order named.
1306.3 Tariffs shall contain in the order named.
1306.4 Round-trip excursion fares.
1306.5 Tariff changes.
1306.6 Posting regulations.

CONTRACT CARRIER SCHEDULES AND CONTRACTS

1306.7 Construction and filing of schedules.
1306.8 Filing of contracts.

EXPRESS TARIFFS AND SCHEDULES OF COMMON AND CONTRACT CARRIERS OF PASSENGERS

1306.9 Construction, filing, and posting of express tariffs and schedules.
1306.10 Size of tariffs and schedules.
1306.11 Tariffs and schedules shall contain.
1306.12 Commodity rates.
1306.13 Express rates, charges and rules.

MISCELLANEOUS RULES AND FORMS

1306.14 Applications for special permission.
1306.15 Powers of attorney and concurrences.
1306.16 Rejection of tariffs and notice of revocation.

RELEASED RATES

1306.50 Released rates; express service.

AUTHORITY: The provisions of this Part 1306 issued under secs. 204, 217, 218, 49 Stat. 546, as amended, 560, as amended, 561, as amended; 49 U.S.C. 304, 317, 318, unless otherwise noted.

§ 1306.0 Tariffs, schedules, and minimum fares defined.

All tariffs and schedules filed on and after the effective date hereof must conform to the regulations in this part, except as otherwise authorized by the Commission.

(a) The term "tariff" as used in this part means a publication stating the fares and charges of a common carrier, and all rules which it applies in connection therewith.

(b) The term "schedule" as used in this part means a publication stating the minimum fares and charges of a contract carrier, and all rules which it applies in connection therewith.

(c) The term "post" as used in this part means the maintenance of a file of tariffs in the custody of carrier's agent or other representative in a complete, accessible and usable form, which is available during ordinary business hours to the public upon request.

(d) The term "suburban service" as used herein means the transportation of passengers over a regular route between places or communities the limits of which are not more than 75 miles apart as measured by air line distances.

(e) The term "commutation fare" as used herein means the amount charged for a ticket good for travel for a limited number of trips (not for a single round trip) or for an unlimited number of trips within a certain period of time, the amount charged being less than would be paid in the aggregate at the normal one-way fare for the maximum number of separate trips possible.

COMMON CARRIER TARIFFS

§ 1306.1 Construction and filing of tariffs.

(a) *Style and size.* All tariffs and supplements thereto must be in book, pamphlet, or loose-leaf form of size 8 by 11 inches. They must be plainly printed, mimeographed, planographed, stereotyped, or reproduced by other similar durable process on paper of good quality.

(1) No alteration in writing or erasure shall be made in any tariff or supplement thereto.

(2) A margin of not less than five-eighths of an inch without any printing thereon must be allowed at the binding edge of each tariff and supplement.

(b) *Filing and posting.* Except as provided in § 1306.4, and unless otherwise authorized by the Commission, all tariffs and supplements must be filed and posted at least 30 days prior to the effective date thereof.

(c) *Number of copies to be filed.* Issuing carriers or their agents shall transmit to the Commission three copies of each tariff, supplement, or revised page. All copies shall be included in one package accompanied by a letter of transmittal listing all tariffs enclosed and addressed to the Interstate Commerce Commission, Bureau of Traffic, Washington, D.C. 20423. All postage, etc., must be prepaid.

§ 1306.2 Title page of every tariff and supplement shall show in the order named.

(a) *Serial number of tariffs.* (1) On upper right-hand corner each tariff shall be numbered beginning with No. 1. Such number shall be shown as follows:

MP–ICC No. —.

(2) When tariffs are issued canceling a tariff or tariffs previously filed, the MP–ICC number or numbers of the tariff or tariffs canceled must be shown in the upper right-hand corner immediately under the MP–ICC number of the new tariff.

Example:

MP–ICC No. 2
cancels
MP–ICC No. 1

(b) *Serial number of supplements.* supplements to a tariff in addition to showing the MP–ICC number of the tariff amended thereby shall be numbered beginning with the No. 1 and such information shall be shown in the upper right-hand corner. Supplements shall also show in the upper right-hand corner the number of any previous supplement canceled thereby and also the numbers of the supplements containing all changes from the tariff.

Example:

Supplement No. 3
to
MP–ICC No. 1
Cancels Supplement No. 2
Supplements Nos. 1 and 3 contain all changes

(c) *Name of participating carrier.* Name of carrier or name of agent issuing tariff.

(1) Whenever two or more carriers join in a through fare or charge the names of all such carriers must be shown. The name of a carrier must be the same as that appearing in its application for a certificate. In the event of a successor its name must be shown as "Successor to _____" as follows:

Example:

John Doe and William Doe
(Successors to A. B. C. Transportation Co.)

(2) If the carrier is not a corporation, and a trade name is used, the name of the individual or partners must precede the trade name.

Example:

John Doe and William Doe
doing business as
A. B. C. Transportation Co.

(3) Whenever two or more carriers join in a through fare or charge, authority by means of proper power of attorney or concurrence, as provided in § 186.15, must be given the agent or carrier publishing the tariff.

(d) *Territorial application.* A brief description of the territories in which, or points from and to or between which, the tariff applies briefly stated.

(e) *Dates.* Dates of issue and date effective.

(f) *Issuing officer.* Name, title, and street address of officer or agent by whom tariff is issued.

§ 1306.3 Tariffs shall contain in the order named.

(a) *Table of contents.* Table of contents, arranged in alphabetical order showing the number of the page on which each subject may be found. If a tariff contains so small a volume of matter that its title page or interior arrangement plainly discloses its contents, the table of contents may be omitted.

(b) *Abbreviations and symbols.* Explanation of all abbreviations, symbols, and reference marks used in the tariff.

(c) *Table of fares.* (1) An explicit statement of the fares in cents or in dollars and cents, together with the names or description of the points from and to which they apply. The names of the States in which the points are located must be shown.

(2) Tariffs containing tables of fares based on distances from point of origin to destination must show the mileages or indicate a definite method by which such mileages shall be determined.

(d) *Conflicting fares.* Carriers or their agents may not publish fares or charges which duplicate or conflict with fares or charges published by or for account of such carriers.

§ 1306.4 Round-trip excursion fares.

(a) *Sale of tickets.* Fares for round-trip excursions may be established, without further notice, upon posting tariffs in advance in a public and conspicuous place where tickets for such round-trip excursions are to be sold, and filing three copies thereof with the Commission, as follows:

(1) For a round-trip excursion limited to a designated period of not more than 3 days, including the first date any ticket to be sold under the tariff may be used for the going journey and the last date any ticket to be sold under the tariff may be used for the return journey, upon posting notice of 1 day;

(2) For a round-trip excursion limited to a designated period of more than 3 days but not more than 30 days, including the first date any ticket to be going journey and the last date any ticket to be sold under the tariff may be used for the return journey, upon posting notice of 3 days;

(3) For a series of round-trip excursions, such series covering a period not to exceed 30 days, including the first date any ticket to be sold under the tariff may be used for the going journey and the last date any ticket to be sold under the tariff may be used for the return journey, upon posting notice of 3 days as to the entire series.

(b) *Term "round-trip excursion."* The term "round-trip excursion" as used in this section means an excursion between points on the regularly operated route or routes of a common carrier, and is not intended to embrace so-called special or charter operations.

(c) *Supplements.* No supplement may be issued to any tariff which is published under this section except for the purpose of canceling the tariff.

(d) *Title page.* Each tariff issued under this section must bear on its title page the following notation:

Issued under the authority of Rule 4, Interstate Commerce Commission Tariff Circular MP No. 9.

§ 1306.5 Tariff changes.

(a) *Fares and charges.* Except as provided in § 1306.4 and unless otherwise authorized by the Commission, fares and charges which have been filed with the Commission must be allowed to become effective and remain in effect for a period of at least 30 days before being changed, canceled, or withdrawn.

(b) *Symbols to indicate changes.* (1) All tariffs, supplements, and revised pages shall indicate changes from preceding issues by use of the following symbols:

‡ or (R) to denote reductions.
♦ or (A) to denote increases.
▲ or (C) to denote changes, the result of which is neither an increase nor a reduction.

(2) The proper symbol must be shown directly in connection with each change.

§ 1306.6 Posting regulations.

(a) *Posting tariffs and supplements.* Each carrier of passengers or express by motor vehicle subject to the provisions of section 217 of Part II of the Interstate Commerce Act shall post and keep posted, to the extent provided in subparagraphs (1) and (2) of this paragraph, its tariffs, supplements thereto and/or revised pages thereof, including those filed for it by its duly authorized agent, and by other carriers in which it concurs, also publications containing proposed changes in, cancellations of, additions to, or reissues of, such tariffs, such posting to begin in time to give 30 days' notice, or shorter notice when authorized by the Commission, to the pubic before the effective dates:

(1) At the carrier's principal or central office a complete file of all tariffs which apply from or at any of the carrier's stations, offices, agencies or stops; sold under the tariff may be used for the

(2) At each station, office or agency at which passengers or express, respectively, are received for transportation and at which an agent is stationed for the sale of tickets or for the receipt of express shipments, and who is compensated for such services by a stated salary, all of its tariffs applying from or at such station, office or agency.

(b) *Stamping date of receipt by agent.* Each such carrier shall require its agent or other representative at each station, office or agency at which tariffs are required to be posted, upon receipt of a tariff, supplement thereto or revised page thereof, for posting thereat, immediately to indicate by stamping or writing thereon the date upon which such tariff, supplement or revised page thereto was received.

(c) *Tariff file at stations, offices or agencies to be accessible to the public.* (1) Each file of tariffs shall be kept and maintained in a complete and accessible form, shall be in charge of an agent or other representative of the carrier, and shall be kept available upon request to the public during ordinary business hours. Each carrier shall require and instruct such agent or other representative to afford inquirers opportunity to examine any of such tariff publications without requiring the inquirer to assign any reason therefor, and, upon request, to lend assistance to seekers of information therefrom, with all promptness possible and consistent with proper performance of other duties.

(2) Each such carrier of passengers or express shall also cause to be displayed and maintained continuously in a conspicuous public place in each station, office or agency at which tariffs are required to be posted by paragraph (a) (2) of this section, a notice, printed in large black type, reading as follows:

NOTICE

(Name of carrier)

The tariffs naming rates, fares, charges, rules and other provisions applying from or at this station are on file in this office, except as authorized by regulations of the Interstate Commerce Commission, and may be examined by any person upon request or with assigning any reason therefor. The agent or other representative on duty in the office will lend assistance, if requested, in securing information from such tariffs.

A complete file of this company's tariffs is located at _____, in the city

(Street address)

of _____

(Name of city and State)

(d) *Notice of nearest available tariff file.* Each such carrier of passengers or express shall cause to be displayed and maintained continuously in a conspicuous public place in each station, office or agency (other than those stations, offices or agencies at which tariffs are required to be posted in paragraphs (a), (1) and (2) of this section) at which its tickets are sold and passengers or express are received for transportation, a notice

printed in large black type reading as follows:

NOTICE

(Name of carrier)

The tariffs naming rates, fares, or charges applying from or at this station are available for examination in this company's office at

---

(Name of city or town and State)

A complete file of this company's tariffs is located at ---------- in the

(Street address)

city of ----------

(Name of city and State)

The station, office or agency named in the first paragraph of the above notice shall be the one nearest at which tariffs are required to be posted by paragraph (a), (1) or (2) of this section. The second paragraph of the above notice may be omitted if a complete file of the carrier's tariffs is maintained at the station or office named in the first paragraph of the notice.

(c) *Notice of proposed increases in fares for suburban service.* (1) Each carrier of passengers whose passenger operations over regular routes are confined solely to suburban service also shall notify the public of any proposal to increase its local regular-route fares by means of a notice posted in a conspicuous place in each station, agency, or office where tickets are sold and tariffs containing the proposed increased fares are required to be posted, and in a conspicuous place in each vehicle engaged in suburban service; and each other carrier of passengers likewise shall notify the public of any proposal to increase commutation fares for suburban service by means of a notice posted in a conspicuous place in each station, agency, or office where commutation tickets for which an increase is proposed are sold and tariffs containing the proposed increased fares are required to be posted, and in a conspicuous place in each vehicle engaged in the suburban service for which the increase is proposed.

(2) The notice required by subparagraph (1) of this paragraph shall be not less than 120 square inches in size, printed in type sufficiently large to permit of its being read under ordinary conditions by passengers seated in the conveyance, and, except as provided in subparagraph (3) of this paragraph, shall contain substantially the following legend:

NOTICE OF INCREASED FARES

(Name of carrier)

This carrier has filed with the Interstate Commerce Commission, tariffs proposing increases in fares, effective ---------- for ----

(Date)

(Here describe briefly and generally the kind of transportation, points or localities affected, and the increases proposed)

Further information as to the proposed increases may be obtained from any of this carrier's offices where such transportation is sold or at its general office ----------

---

(Here give street address, city, and telephone number)

Under the law, any interested person may protest to the Commission and request suspension of the increased fares. The Commission's rules require that seven (7) copies of the protest shall be filed at its office in Washington, D.C., at least twelve[1] (12) days before the effective date of the increased fares and should indicate in what respect fares are considered to be unlawful. The rules also require that a copy of the protest be simultaneously mailed to ----------

---

(Here name the carrier proposing the increased fares)

[1] In the event the increased fares are published on less than thirty (30) days' notice, the words "at least twelve (12) days" should read "as promptly as possible".

(3) If a proposal to increase fares for suburban service, for which the posting of notice is required by subparagraph (1) of this paragraph, is made by petition to the Commission prior to filing tariffs, a notice of the size and legibility required by subparagraph (2) of this paragraph, shall be posted as required by subparagraph (1) of this paragraph, describing briefly the increases sought, the transportation service for which they are sought, and the points affected. The notice also shall state that interested persons may object to the carrier's petition by filing with the Commission a reply thereto in accordance with the Commission's general rules of practice, and that information regarding the Commission's rules may be obtained by writing to the Secretary of the Commission.

(4) All notices shall be posted as prescribed in subparagraph (1) of this paragraph contemporaneously with the filing with the Commission of any tariff containing the proposed increased fares, and also contemporaneously with the filing of any petition with the Commission for authority to increase fares or to file a tariff containing proposed increased fares. Notices with respect to the filing of a tariff shall remain posted until the increased fares become effective, or until suspended by the Commission or withdrawn by the carrier prior to its effective date. Notices with respect to the filing of a petition shall remain posted until action on the petition is taken by the Commission.

CONTRACT CARRIER SCHEDULES AND CONTRACTS

§ 1306.7 Construction and filing of schedules.

All schedules of contract carriers of passengers must conform to the requirements set forth to govern the construction, filing, and posting of common carriers' tariffs and supplements in §§ 1306.1 to 1306.6.

(1) Wherever in such sections the words "tariff" or "tariffs" appear, substitute the words "schedule" or "schedules."

(2) Wherever in such sections the words "fares or charges" appear, substitute the words "minimum fares or charges."

(3) Wherever in such sections there appears reference to "certificate" substitute the word "permit."

§ 1306.8 Filing of contracts.

(1) Section 218(a) of Part II of the Interstate Commerce Act, provides that the filing of copies of contracts containing the minimum charges of contract carriers for the transportation of passengers or property in interstate or foreign commerce is permitted in the discretion of the Commission.

(2) Whenever it is desired to file copies of contracts in lieu of schedules, carriers must first secure authority from the Commission to do so. Applications requesting permission to file contracts in lieu of schedules must state fully the reasons for the carriers' request. Such applications shall be made in duplicate on paper 8 by 10½ inches.

EXPRESS TARIFFS AND SCHEDULES OF COMMON AND CONTRACT CARRIERS OF PASSENGERS

§ 1306.9 Construction, filing, and posting of express tariffs and schedules.

(a) *Conformity.* Tariffs and schedules of common and contract carriers of passengers containing rates and charges for the transportation of express or express classifications must conform to the requirements set forth to govern the construction, filing and posting of common and contract carriers' passenger tariffs and schedules in §§ 1306.1 to 1306.3, 1306.5 to 1306.8, subject to the modifications, exceptions, and additional requirements set forth in the following sections.

(b) *Substitution of "rates and charges."* (1) Wherever in §§ 1306.1 to 1306.8 and in §§ 1306.14, 1306.15, the words "fares or charges" appear, substitute the words "rates or charges."

(2) When express tariffs are published separately, substitute the abbreviation ME–ICC wherever there appears in the above sections and in §§ 1306.14, 1306.15 the abbreviation MP–ICC. (See also § 1306.13.)

§ 1306.10 Size of tariffs and schedules.

The size of tariffs may be either 8 by 11 inches or 9½ by 11½ inches.

§ 1306.11 Tariffs and schedules shall contain.

(a) *Index.* Immediately following the table of contents, a complete index of all the commodities on which specific rates are named therein, together with reference to the page or items in which they are shown. No index need be shown in tariffs of less than five pages or if all the rates to each destination are alphabetically arranged by commodities.

(b) *Classification.* (1) When a tariff names rates by classes, a classification of articles must be published in the tariff or in a separate tariff. When a classification is published in a separate tariff, reference must be made thereto on the title page of the rate tariff as follows:

Governed, except as otherwise provided herein, by the [here name] classification [how issuing agent], ME–ICC No. ---- (or ICC No. ----), supplements to or successive issues thereof.

(2) All carriers shown as originating carriers in a rate tariff which is governed by a separate classification must be named as participating carriers in such separate classification.

(c) *Table of rates.* (1) All rates must be explicitly stated in cents or in dollars and cents per 100 pounds, per barrel, per package, per bundle, or other definable measure.

(2) Where rates are stated in amounts per package or bundle, definite specifications of the packages or bundles must be shown.

(d) *Conflicting rates.* Carriers or their agents may not publish class or commodity express rates which duplicate or conflict with express rates published by or for account of such carriers.

§ 1306.12 Commodity rates.

Commodity rates may be established on any commodity or commodities.

§ 1306.13 Express rates, charges and rules.

(a) *Express matter.* Carriers of passengers by motor vehicle may publish the rates, charges and rules covering the transportation of express in their tariffs or schedules containing passenger fares and charges, provided such express matter is included in a separate section of such tariff. When this is done it will not be necessary for such passenger carrier to publish a separate tariff covering express. However, both the MP–ICC number and the ME–ICC number must be shown.

(b) *Number of copies.* When passenger tariffs contain express rates, charges, and rules, five copies of such issues shall be transmitted to the Commission.

MISCELLANEOUS RULES AND FORMS

§ 1306.14 Applications for special permission.

(a) *Short notice tariffs.* Part II of the Interstate Commerce Act, authorizes the Commission in its discretion and for good cause shown to permit changes in fares and charges on less than statutory notice, and also to permit departure from the Commission's regulations. The Commission will exercise this authority only in cases where actual emergency and real merit are shown. Desire to meet the fares and charges of a competing carrier that has given statutory notice of change in fares and charges will not of itself be regarded as good cause for permitting changes in fares and charges or other provisions on less than statutory notice. Clerical or typographical errors in tariffs constitute good cause for the exercise of this authority, but every application based thereon must plainly specify the error together with a full statement of the attending circumstances and must be presented with reasonable promptness after issuance of the defective tariff, supplement or revised page.

(b) *Note of effectiveness.* When a formal order of the Commission requires publication on a stated number of days' notice, a request addressed to the Bureau of Traffic for authority to file on less notice will not be granted. In any such instance a petition for modification of the order should be filed on the formal docket.

(c) *Applications to establish fares on short notice.* Applications for permission to establish fares, charges, rules, or other provisions on less than statutory notice, or for waiver of the provisions of this tariff circular must be made by the carrier or agent that holds authority to file the proposed publication. If the application requests permission to make changes in joint tariffs, it must state that it is filed for and on behalf of all carriers parties to the proposed change.

(d) *Number of copies; size; form.* (1) Two copies of applications (including amendments thereto and exhibits made a part thereof) shall be addressed to the Interstate Commerce Commission, Bureau of Traffic, Washington, D.C. 20423. An additional exact copy shall be addressed to the office of the Regional Director, Bureau of Operations, Interstate Commerce Commission, of the Region in which the main office of the applicant carrier or publishing agent is located. The application shall indicate that an exact copy including exhibits has been furnished the district office.

(2) Applications shall be made on paper 8 by 10½ inches, shall be in substantially the form shown in this section,[1] and shall give all the information required by this section together with any other pertinent facts. They shall be numbered consecutively and must bear the signature of the carrier or its agent or officer, specifying title.

(e) *Information to be shown on application.* Applications shall show the following information:

(1) The proposed tariff provisions shall be set forth clearly and completely. An accompanying exhibit may be used if identified by letter, such as Exhibit A, and so referred to in the application. If the proposed provisions consist of fares or charges, all points of origin and destination must be shown or definitely indicated; if permission is sought to establish a rule, the exact wording of the proposed rule must be given.

(2) The application shall show the tariffs in MP–ICC numbers of the publications in which the proposed fares, charges, ratings, rules, or other provisions will be published. If the publication is to be made in supplements to tariffs already referred to, this fact shall be shown.

(3) The application shall set forth the fares, charges, or tariff provisions which it is desired to change. Where the matter to be shown is voluminous or for other reasons difficult of presentation, it may be included in an accompanying exhibit, properly identified and referred to in the application. Reference shall be made by MP–ICC number and supplement number to the tariffs or supplements in which fares, charges, or provisions to be superseded are published. If such provisions are published in numbered items or other units, reference shall be made thereto by number, or, if not so published, the pages of the publication on which the provisions appear shall be shown. The extent to which cancelation will be made must be definitely indicated.

(4) The application shall state the names of carriers known to maintain competitive fares, charges, classification ratings, or rules between the same points or points related thereto, together with the MP–ICC numbers of the tariffs and supplements thereto containing such provisions.

(5) The application shall state whether such carriers have been advised of the proposed fares, charges, classification ratings, or rules and whether they have been advised that it is proposed to establish such provisions on less than statutory notice. If competitive carriers have expressed their views in regard to the proposed provisions, a brief statement of their views shall be given.

(6) The application shall state the special circumstances or unusual conditions which are relied upon as justifying the requested permission together with any related facts or circumstances which may aid the Commission in determining whether the requested permission is justified. If permission to establish provisions on less than statutory notice is sought, the petitioner shall state why the proposed provisions could not have been established upon 30 days' notice.

(f) *Short notice permission.* If the authority granted by special permission is used, it must be used in its entirety and in the manner set forth in the order of special permission. If it is not desired to use all of the authority granted and less or more extensive or different authority is desired, a new application complying with the provisions of this section in all respects and referring to the previous permission must be filed.

§ 1306.15 Powers of attorney and concurrences.

(a) *Agency tariff; size; form.* Whenever a carrier desires to give authority to an attorney and agent to issue and file tariffs and supplements thereto in its stead a power of attorney in the following form shall be used. Size 8 by 10½ inches:

MPXAi No. ----.
Cancels MPXAi No. ----.
[Name of carrier],
[Post Office Address],
----------, 19---.

Know all men by these presents:

That the [name of carrier] has made, constituted, and appointed, and by these presents does make, constitute, and appoint [name of principal agent appointed] its true and lawful attorney and agent for the said carrier, and in its name, place, and stead, (1) for it alone and (2) for it jointly with other carriers, to publish and file tariffs naming [here specify whether fares and charges and/or rules applying from, to, or at points on or via route or routes, or express classifications] as required of common carriers of passengers Part II of the Interstate Commerce Act, and by regulations established by the Interstate Commerce Commission thereunder. [If the authority granted runs only to a specific tariff, so state and describe such issue as follows:]

[Here give exact description of title page of tariff, including MP–ICC number and the name of series. When date of issue and/or effective date are determined such date or dates must be shown.]

[1] Form available upon request from the Office of the Secretary Interstate Commerce Commission, Washington, D.C. 20423.

And the said [name of carrier] does hereby give and grant unto its said attorney and agent full power and authority to do and perform all and every act and thing above specified as fully to all intents and purposes, as if the same were done and performed by the said carrier, hereby ratifying and confirming all that its said attorney and agent may lawfully do by virtue hereof, and assuming full responsibility for the acts and neglects of its said attorney and agent hereunder.

And further, that the [name of carrier] has made, constituted, and appointed, and by these presents does make, constitute, and appoint as alternate [name of alternative agent appointed] its true and lawful attorney and agent, for said carrier and in its name, place, and stead, (1) for it alone and (2) for it jointly with other carriers in case and only in case of the death or disability of the said [here insert name of principal agent] to do and perform the same acts and exercise the same authority as hereinabove granted to [here insert name of agent first hereinabove named].

In witness whereof the said carrier has caused these presents to be signed in its name by its [here give title of person signing] at [name of city or town] in [name of county] State of [name of State] on this [date] day of [month], 19---.

(Name of carrier in full)

By ---

(Name and title of person signing)

Attested ---

(Witness)

[Corporate seal if any.]

(b) *Concurrence form.* Whenever a carrier desires to concur in tariffs issued and filed by another carrier or its agent a concurrence in the following form shall be issued in favor of such other carrier. Size 8 by 10½ inches.

MFXC1 No. ---
Cancels MFXC1 No. ---
[Name of carrier],
[Post Office Address],
---, 19---

To the INTERSTATE COMMERCE COMMISSION,
WASHINGTON, D.C. 20423:

This is to certify that the [name of carrier] assents to and concurs in the publication and filing of any tariff or supplement thereto which [name of carrier to whom concurrence is given] or its agent may publish and file and in which this carrier is shown as a participating carrier and hereby makes itself a party thereto and bound thereby, insofar as such tariff or supplement contains [here specify whether fares or charges applying from, to, or at points on or via its route or routes or express classifications], until this authority is revoked by formal notice of revocation filed with the Interstate Commerce Commission and sent to the carrier to which this concurrence is given. [If the authority granted runs only to a specific tariff, so state and describe such issue as follows]:

[Here give exact description of title page of tariff, including MF-ICC number and name of series. When date of issue and/or date effective are determined, such date or dates must be shown.]

(Name of carrier in full)

By ---

(Name and title of person signing)

Attested ---

(Witness)

[Corporate seal if any.]

(c) *Filing.* The original of all powers of attorney and concurrences shall be filed with the Commission and a duplicate of the original sent to the agent or carrier in whose favor such document is issued.

(d) *Cancellation.* Whenever a carrier desires to cancel the authority granted an agent or another carrier by power of attorney or concurrence, this may be done by a letter addressed to the Commission revoking such authority, on 60 days' notice. Copies of such notice must also be mailed to all interested parties.

§ 1306.16 Rejection of tariffs and notices of revolation.

(a) Any tariff or schedule, tendered for filing, which fails to give lawful notice of changes in rates, charges or other provisions which it proposes to establish, or which fails to meet the requirements of the regulations contained in this chapter, or violates any order of the Commission or of a court, is subject to rejection by the Commission. When a tariff or schedule is rejected, the Commission, acting through a designated administrative officer, will inform the carrier or the agent who tendered it for filing, in writing, of the reasons for rejection, and will return the rejected tariff or schedule to such carrier or agent.

(b) The number assigned to a tariff or schedule which has been rejected may not again be used. The rejected tariff or schedule may not be referred to in any subsequent tariff or schedule as having been canceled, amended or withdrawn, but the tariff or schedule which is published in its stead must bear the following notation: "Issued in lieu of (here identify the rejected schedule or tariff), rejected by the Commission."

(c) A notice of the revocation, complete or partial, of a concurrence or power of attorney which, if it were to become effective, would require the establishment of rates, fares, or charges in violation of an order of the Commission or of a court, or of the regulations in this chapter, may be rejected in the same manner as a tariff or schedule, and any such notice of revocation which would require the establishment of rates, fares or charges of doubtful lawfulness may be suspended.

RELEASED RATES

§ 1306.50 Released rates; express service.

(a) *Establishment.* All common carriers of passengers by motor bus who have been, or who may hereafter be, granted authority by the Commission to transport express are hereby authorized to establish and maintain, by filing and posting in the manner prescribed in the Interstate Commerce Act, rates for the transportation of property in express service, by motor bus in interstate commerce, dependent upon the value declared in writing by the shipper or agreed upon in writing as the released value of the property as follows:

Released Valuations and Rate Basis

Released to value not exceeding $50 for any shipment of 100 pounds or less, or not exceeding 50 cents per pound actual weight for any shipment in excess of 100 pounds. Base rate or charge.

Released to value exceeding $50 for any shipment of 100 pounds or less, or exceeding 50 cents per pound actual weight for any shipment in excess of 100 pounds. 10 cents for each $100 or fraction thereof in excess of the valuation to which the base rate or charge applies.

(b) *Changes in rates or released valuations.* Changes may be made in any base rate or charge established under the authority of this section, but the released value to which the base rate or charge applies may not be reduced, nor may the charge for excess released value be increased without specific authority of the Commission.

(c) *Authority for released rates must be shown in tariff.* Tariffs containing released rates and charges filed under authority of this section, as amended, shall show in connection with such rates and charges, the following notation:

Rates and charges herein based on released value have been authorized by the Interstate Commerce Commission in Released Rates Order No. MC-393 of January 14, 1949, as amended March 3, 1949, subject to complaint or suspension.

(c-1) *Notation required on receipts.* The receipt issued for any shipment accepted for transportation at released rates established and maintained under authority of this section shall have stamped, or printed in boldface type, on the face thereof a statement reading substantially as follows:

This carrier will not pay over $50 for any shipment of 100 pounds or less, or over 50 cents per pound actual weight for any shipment in excess of 100 pounds, unless a greater value is declared and charges for such greater value paid.

(d) *Carriers affected.* This section does not constitute authority for the establishment of released rates or charges on any description of traffic or over the line of any carrier other than as herein specifically indicated.

(e) *Lawfulness of rates.* The Commission does not hereby approve the lawfulness, except under sections 20 (11) and 219 of the Interstate Commerce Act of any rates or charges which may be filed under authority of this section.

(Secs. 12, 20, 24 Stat. 383, as amended, 386, as amended, sec. 219, 49 Stat. 563, as amended; 49 U.S.C. 12, 20, 319)

PART 1307—FREIGHT RATE TARIFFS, SCHEDULES, AND CLASSIFICATIONS OF MOTOR CARRIERS

Subpart A—Schedules of Motor Contract Carriers of Property

Sec.
1307.0 Schedules and supplements filed prior to August 15, 1960.
1307.1 Conformity required.
1307.2 Definitions.
1307.3 Waiver of rules; rejection of schedules.
1307.4 Publication, filing and posting of schedules.
1307.5 Form and content of schedules.
1307.6 Applications for special permission.
1307.7 Powers of attorney.
1307.8 Change of name or transfer of entire operation.
1307.9 Transfer of part of an operation.
1307.10 Assumption of operating control by a receiver.
1307.11 Adoptions; general instructions.
1307.12 Temporary operation of contract carrier properties.
1307.13 Suspension of schedules.

Subpart B—Common Carrier Freight Tariffs and Classifications

1307.21 General.
1307.22 Application of regulations.
1307.23 Conformity required.
1307.24 Definitions.
1307.25 Form and preparation of tariffs.
1307.26 Title page.
1307.27 Contents of tariffs.
1307.28 Statement of rates.
1307.29 Routing.
1307.30 Supplements.
1307.31 Amendments.
1307.32 Sectional tariffs.
1307.33 Transfer of rates; item adjustment.
1307.34 Suspended matter.
1307.35 Terminal and special services.
1307.36 Distance rates.
1307.37 Classification, exceptions, and rules tariffs.
1307.38 Rate basis books.
1307.39 Tariffs of joint agents.
1307.40 Seasonal motor-water rates.
1307.41 Rates prescribed by Commission.
1307.42 Transfer of operations; changes in name and control.
1307.44 Filing and posting tariffs.
1307.45 Applications for special permission.
1307.46 Powers of attorney.
1307.47 Concurrences.

Subpart C—Special Permissions

1307.90 Suspension supplements and postponement notices.
1307.95 Circus outfits.
1307.100 Motor common carriers of property; establishment of rates, etc., covering emergency movements of property.
1307.101 Motor contract carriers of property; establishment of actual or minimum rates, etc., covering emergency movements of property.

Subpart D—Released Rates

1307.200 Released rates on certain articles.
1307.201 Released rates on household goods.
1307.202 Released ratings; household goods.

CROSS REFERENCE: For tariff circular governing joint rail-motor tariffs, see Part 1300 of this chapter.

Subpart A—Schedules of Motor Contract Carriers of Property

AUTHORITY: The provisions of Subpart A issued under secs. 204, 218, 49 Stat. 546, as amended, 561, as amended, sec. 210a, 53 Stat. 1238, as amended; 49 U.S.C. 304, 318, 310a, unless otherwise noted.

§ 1307.0 Schedules and supplements filed prior to August 15, 1960.

Schedules and supplements thereto filed prior to August 15, 1960, which are designated as "Minimum Rates and Charges" shall be amended to show that they are actual rates and charges, or as to any contract carrier serving but one shipper having rendered continuous service to such shipper for not less than one year who elects to continue its schedule as a schedule of "Minimum Rates and Charges" shall supplement such schedule to include therein the following statement:

This carrier has been serving but one shipper and has rendered continuous service to such shipper for not less than one year.

§ 1307.1 Conformity required.

Every schedule filed with the Commission shall conform to the regulations set out in Subpart A.

§ 1307.2 Definitions.

Except where the context indicates otherwise:

The term "act" means the Interstate Commerce Act, as amended.

The term "Commission" means the Interstate Commerce Commission.

The term "contract carrier" means a contract carrier of property as defined in section 203(a)(15) of the act.

The term "rates" means actual rates and charges or minimum rates and charges.

The term "schedule" means a publication stating rates of a contract carrier or rules and other provisions applicable in connection with those rates, or a publication containing rates together with such rules and other provisions.

§ 1307.3 Waiver of rules; rejection of schedules.

(a) *Waiver of rules.* In response to an application which has been prepared in the manner outlined in § 1307.6 and which provides adequate justification for that action, the Commission in its discretion may authorize the waiving of any of these regulations, or the notice requirements of the act.

(b) *Rejection of schedules.* Any schedule tendered for filing which fails to give lawful notice of the change in rates, or other provisions which it proposes to establish, or which fails to meet the requirements of these regulations, or which violates any order of the Commission or of a court, is subject to rejection by the Commission. When a schedule is rejected, the Commission, acting through a designated administrative officer, will inform the carrier who tendered it for filing, in writing, of the reasons for rejection and will return the rejected schedule to that carrier.

(c) *Commission may direct reissue.* For good cause the Commission may at any time without formal hearing direct the reissue of any schedule.

§ 1307.4 Publication, filing and posting of schedules.

(a) *Contract carriers must file schedules.* Except as otherwise provided in Subpart A and except to the extent that the Commission grants relief from the requirements of the act for filing schedules every contract carrier shall publish and file in its own name schedules clearly and explicitly stating actual rates and charges (see Notes A and B) covering the services which it performs, together with rules, regulations and practices affecting those rates and charges or the value of the service thereunder, except that a carrier serving but one shipper having rendered continuous service to such shipper for not less than one year may file reasonable minimum rates and charges (see Note A) covering the services which it performs, together with rules, regulations and practices affecting those rates and charges or the value of the service thereunder, unless the Commission requires the filing of actual rates and charges.

NOTE A. Rates shall be stated in cents or in dollars per 100 pounds, per mile, per hour, per ton of 2,000 pounds, per ton of 2,240 pounds, per truckload of specified amount or per other defined unit.

NOTE B. When a contract carrier has more than one contract covering similar but not identical services or contracts covering identical services for which different rates of compensation are provided by the contracts, exceptional care must be exercised to accomplish publication of clear and explicit schedule provisions that reflect actual rates, charges, rules, or practices. In such a case, the carrier may publish a separate schedule for each contract provided the carrier submits in the same envelope with the schedule, when tendered for filing, a separate statement identifying the contract in connection with which the schedule applies. If rates, charges and other provisions applying in connection with more than one contract are published in a single schedule, the carrier filing the schedule shall submit in the same envelope with the schedule, when tendered for filing, a separate statement indicating as to each rate table, charge, item, rule or regulation, the contract or contracts in connection with which that rate table, charge, item, rule or regulation applies.

(b) *Agency or joint schedules prohibited.* A contract carrier may not participate in a tariff or schedule issued by another carrier or by an agent except that it may participate under power of attorney in an agency publication containing highway distances and in an agency publication containing the Hazardous Materials Regulations promulgated by the Department of Transportation to govern the transportation of explosives or other dangerous articles. See § 1307.5(v).

(c) *Three copies to be filed.* Three copies of every schedule must be filed with the Commission at its office in Washington, D.C. All three copies, together with a true copy of each contract or amendment to a contract filed with that schedule to comply with the requirements of paragraph (f) of this section shall be included in one package marked "Tariffs" and addressed to Interstate Commerce Commission, Washington, D.C. 20423, and shall be accompanied by a letter of transmittal listing the schedules, contracts and amendments to contracts enclosed therewith. All postage or other charges must be prepaid.

(d) *Letters of Transmittal.* (1) Each letter of transmittal shall be on paper 8 x 10½ inches in size and in form substantially as follows:

(Correct name of carrier)

(Permit or Docket No.)

(Complete address)

(Date)

Transmittal No. ------- to Interstate Commerce Commission, Washington, D.C. 20423:

The accompanying contract carrier schedule is sent to you for filing in compliance with the requirements of the Interstate Commerce Act, issued by ---------, and bearing

MF-I.C.C. No. ---------: or Supplement No. --------- to MF-I.C.C. No. --------- effective ---------.

The following contracts or amendments to contracts with shippers for the transportation of property are sent to you for filing in compliance with the Regulations of the Commission.

(Name and address of shipper)	(Effective date of contract)
(Name and address of shipper)	(Effective date of contract)
(Name and address of shipper)	(Effective date of contract)

Signed ----------
Title ----------

(2) Each letter of transmittal shall bear the signature of the person issuing the schedule, except that it may bear the signature of the carrier's representative authorized to file schedules with the Commission, provided that a letter of authorization in the form set forth in this subparagraph accompanies the letter of transmittal or has been previously submitted and is effective in the Commission's files. A carrier may have in effect in the Commission's files at any time one, and only one, such letter of authorization. The Commission may decline to accept for filing any schedule not accompanied by a properly signed letter of transmittal.

LETTER OF AUTHORIZATION

TO FILE SCHEDULES OF CONTRACT CARRIERS

(Complete name of carrier)
Permit or Docket No. MC-----

(Complete address)
Date ----------

TO THE INTERSTATE COMMERCE COMMISSION.
WASHINGTON, D.C. 20423:

This is to certify that

(Name and address of individual authorized to act)

is hereby authorized to sign letters of transmittal and transmit to the Commission thereunder for filing in compliance with the Interstate Commerce Act, as amended, schedules and supplements thereto issued in the name and MF-I.C.C. series of the carrier named herein, and contracts or amendments to contracts.

All such schedules and supplements are to be considered the official filings of the carrier named herein when tendered for filing by the individual named in the first paragraph hereof.

Name of Carrier ----------
By ----------
Verification:
The above statement was subscribed and sworn to before me this ---------- day of ----------, 19---.

(Notary Public)

(3) A separate letter of transmittal may accompany each schedule and each contract or the form may be modified to provide for filing with one letter as many schedules, supplements to schedules and contracts or amendments to contracts as can be conveniently listed. If receipt for the schedules or contracts is desired, letters of transmittal must be sent in duplicate and one copy showing the date of receipt by the Commission will be returned to the sender.

(e) *Notice of filing.* (1) Each new rate or charge and each reduced rate or charge, also each new or changed rule, regulation or practice which effects a reduction in rates or charges or which increases the value of the service shall be published in a schedule which shall be posted and filed with the Commission at its office in Washington, D.C., at least 30 days prior to the effective date of such rate, charge, rule, regulation or practice.

(2) Increased rates or charges and changes in rules, regulations, or practices which effect a decrease in the value of service or increase in a rate or charge, and rates, charges, rules, regulations or practices republished without change, shall be published in a schedule which shall be posted and filed with the Commission at least one day prior to the effective date of such rates, charges, rules, regulations, or practices. See §§ 1307.5(g) and 1307.6.

(f) *Schedules must be supported by a true copy of each related contract.* A schedule shall not be published and filed to apply on any commodity or from or to any point or for any service not covered by contract filed with this Commission, unless it is accompanied and supported by a true copy of a contract or of an amendment to a previously filed contract.

NOTE: The provisions of this paragraph do not apply to the filings of schedules of carriers transporting only bullion, currency, jewels, or other precious or very valuable articles.

(g) *Posting of schedules.* At its headquarters or general offices every contract carrier shall keep available for public inspection a complete file of all its effective schedules. Upon request assistance shall be furnished to anyone seeking information from those schedules.

§ 1307.5 Form and content of schedules.

(a) *Form of schedule.* A schedule shall be filed in a book, loose-leaf, or pamphlet form. It shall be plainly printed, mimeographed, planographed, stereotyped, or reproduced by other durable process on paper of good quality. Typewritten, photostat, hectograph, or proof sheets will not be accepted for filing. A schedule shall be eight inches in width and eleven inches in length. It shall contain no alteration or erasure. A margin of not less than five-eights of an inch with no printing thereon shall be provided on the binding edge of each page. Schedules filed in loose-leaf form shall comply with all provisions set forth in Tariff Circular MF No. 3 pertaining to the filing of such schedules by motor common carriers.

(b) *Numbering of schedules.* Schedules other than supplements shall bear consecutive MF-I.C.C. numbers beginning with MF-I.C.C. No. 1 or continuing with the next consecutive MF-I.C.C. number in the same series of schedules.

(c) *Number assigned to a rejected schedule.* The number assigned to a schedule which has been rejected may not be used again. The rejected schedule may not be referred to in any subsequent schedule as having been canceled, amended or withdrawn, but the schedule published in its stead shall bear the following notation:

Issued in lieu of (here identify the rejected schedule by MF-I.C.C. number or supplement number) rejected by the Interstate Commerce Commission.

(d) *Title page.* The first (front or top) page of a schedule shall be prepared as a title page showing in the upper right-hand corner its MF-I.C.C. number and immediately thereunder notice of cancellation identifying by number any schedule or schedules being canceled thereby.

(e) *Name of carrier.* On the upper central part of the title page shall appear the exact complete name of the issuing carrier and the number of the permit, or if no permit has been issued, the docket number assigned to the application.

(f) *Application of schedule.* Below the carrier's name and permit or docket number shall be shown, following the words "Contract Carrier Schedule of Actual Rates and Charges Applying On" or "Contract Carrier Schedule of Minimum Rates and Charges Applying On," (see note) whichever is appropriate, a short, specific description of the commodity or commodities covered by the schedule, (or the word "Commodities" where the articles covered are too numerous to list); and a brief description of the territories within which or points from, to, or between which the schedule applies.

NOTE: Any contract carrier serving but one shipper, having rendered continuous service to such shipper for not less than one year, who elects to file a schedule of minimum rates and charges shall include on page 2 thereof, immediately preceding the table of contents, if any, the following: "This carrier has been serving but one shipper and has rendered continuous service to such shipper for not less than one year."

(g) *Issue and effective dates.* On the lower left-hand side of the title page shall be shown the date of issue and on the lower right-hand side the date on which the schedule is to become effective. Schedules which contain new or changed rates or other provisions effective on more dates than one shall show a general (title page) effective date not earlier than 30 days subsequent to the date on which the schedule is filed with the Commission, followed by a notation reading substantially as follows: "except as otherwise provided on page (here give reference to the page or pages on which new or changed rates or other provisions are shown as becoming effective on dates other than the general effective date of the schedules)."

(h) *Issuing officer.* At the bottom of the title page below the issued and effective dates shall be shown the name, title and mail address of the owner, partner, representative or officer of the carrier by whom the schedule is issued. The title "agent" may not be used.

(i) *Table of contents.* Immediately after title page shall be published a table of contents arranged in alphabetical order to indicate the page on which each subject is treated. If the schedule contains so small a volume of matter that its title page and interior arrangement plainly disclose its contents, the table of contents may be omitted.

(j) *Index of Commodities.* (1) Next shall be provided a complete alphabetical index of commodities indicating the number of the page on which rates or charges on each commodity will be found.

(2) If all of the commodity rates to each destination in a schedule are arranged in alphabetical order by commodities, the index of commodities may be omitted from that schedule.

(k) *Index of points.* Following the index of commodities a schedule naming rates or charges from, to, or between specific points shall publish an index showing those points, the states in which they are located and the page or pages on which each point is named. If there be not more than 12 points of origin or 12 points of destination, the names of such points may, if practicable, be shown in alphabetical order in the schedule, in which event the index of points of origin or destination, or both, as the case may be, may be omitted.

(l) *Rules.* Rules and other provisions affecting rates and charges shall be published following the index of points. Each rule and other governing provision must be designated as an "item", and given a separate "item" number; portions which can be understandingly read without recourse to the whole and "exceptions" to the general application of a rule or other such provision may be published in separate paragraphs and such paragraphs may be given subnumbers or letters.

(m) *Rate tables.* (1) Rate tables shall show rates and shall name the commodities on which the rates apply or make reference to pages or items listing those commodities. When rate tables refer to lists of commodities such lists of commodities shall be shown immediately preceding the rate tables and following the rules and other provisions required by paragraph (1) of this section. Rate tables shall also show points of origin and points of destination. Insofar as practicable such points shall be shown alphabetically or, if desired, they may be arranged in alphabetical order by States, the points in each State also being arranged in alphabetical order.

(2) Rate tables should be subdivided into small sections called "Items", and each should be given a separate "Item" number.

(n) *Designation of commodity or article.* When a rate is established or modified, the designation of the commodity or articles in connection with which the new or changed provision is to apply must be aptly descriptive; also, it must be sufficiently explicit to preclude conflicting or duplicating applications and to show clearly the articles which it embraces.

(o) *Multiple minimum-quantity rates.* Different rates based on different minimum quantities may be published provided the schedule shows clearly in connection with such provisions whether the lowest charge obtainable under the different rates and minimums applicable thereto (or actual quantities, if greater) will be applied, or whether the provisions will be applied in some different, explicitly stated manned.

(p) *Mixed shipments.* Rates may be established on different articles for mixed quantity shipments. Minimum quantities should be specified together with a statement in connection with the commodity description that the rates apply on mixed quantity shipments. Such rates may also be made applicable upon straight shipments of one or more or all of the articles by a provision to that effect in connection with the commodity description. When more than one article is included in an item or commodity description, the schedule should state whether or not the rates apply on straight or mixed shipments or both.

(q) *Changes must be indicated.* Schedules must indicate any change thereby made in existing rates or rules, regulations, practices or other provisions by use of the reference marks specified for the purpose in paragraph (r) of this section.

(r) *Uniform reference marks.* All schedules shall indicate changes made in existing rates, rules, regulations, practices or other provisions by use of the following uniform symbols in connection with those changes.

↓ or (R) to denote reductions.
♦ or (A) to denote increases.
▲ or (C) to denote changes which result in neither reductions nor increases in charges.

(s) *Explanation of abbreviations and reference marks.* At the end of each schedule there shall appear an Explanation of Abbreviations, followed by an Explanation of Reference Marks. Under the Explanation of Abbreviations shall appear an explanation of all abbreviations used in the schedule, except that commonly used abbreviations of state names or parts of names of companies, places or addresses may be omitted. Under the Explanation of Reference Marks shall appear an explanation of all characters, symbols or reference marks used in the schedule, except reference marks, characters or symbols which are explained on the page or pages of the schedule on which they appear.

(t) *Distance rates.* Schedules carrying rates dependent on mileages or distances for their application shall publish those distances between points or provide a definite method for determining them.

(u) *Supplements.* A change in or addition to a schedule shall be known as an amendment, and shall be published in a supplement. Supplements shall be numbered consecutively and shall carry the same MF-I.C.C. number as the schedule amended. Each supplement shall specify on its title page the supplement or supplements or schedule which it cancels, and shall also list by their numbers the supplements containing effective changes from matter published in the originally filed schedule. The matter contained in each supplement shall be arranged in the same general manner and order as the schedule which it amends. The following is the maximum number of effective supplements permitted to any one schedule:

16 pages or less----------	2 supplements.
17 pages or more----------	3 supplements.

In addition to the above, schedules of 17 or more pages may have one additional supplement of not exceeding 4 pages. Supplements announcing adoptions or suspension effected by orders of the Commission will not be counted in computing the allowable number of supplements.

(v) *Explosive and dangerous articles.* Schedules which contain rates for the transportation of hazardous materials must also contain the rules and regulations promulgated by the Department of Transportation governing the transportation thereof, or must bear specific reference to the MF-I.C.C. number of a separate publication which contains such rules and regulations.

(w) *Item amendment.* When an amendment (such as a change, cancellation, addition or deletion) is made in a numbered item, such item shall be published in the supplement in its entirety as amended. The revised item showing the amended provision should be given the same item number with a letter suffix; for example: Item 40–A cancels Item 40; Item 40–B cancels Item 40–A; and so on. When any rate or other provision contained in an item designated by an item number is amended, resulting in the cancellation of all or a portion there of, the canceled matter shall not be reproduced in the new item effecting the cancellation except to the extent necessary to identify the item.

§ 1307.6 Applications for special permissions.

(a) *Reductions in rates and charges and establishment of new rates and charges on less than statutory notice; waiver of requirements of these regulations.* The act authorizes the Commission in its discretion and for good cause shown to permit reductions in or the establishment of new rates or charges on less than statutory notice, and also to permit departure from the Commission's regulations. This authority will be exercised only in cases where actual emergency and real merit are shown. Commercial competition or the desire to meet the rates of a competing carrier that has given statutory notice for reduced rates or for the establishment of new rates and charges will not of itself be regarded as cause for permitting changes in rates or other provisions on less than statutory notice. Clerical or typographical errors in schedules constitute good cause for the exercise of this authority, but every application based thereon must plainly specify the error, together with a full statement of the attending circum-

stances and must be presented with reasonable promptness after publication of the defective schedule.

(b) *Form of application.* Applications shall be submitted in duplicate on paper 8 by 11 inches in substantially the form set forth in this paragraph and shall furnish all pertinent information. They should be numbered consecutively and must bear the signature and title of the owner or of an officer or duly authorized representative of the carrier.

Form of application:

(Address)

(Date)

To THE INTERSTATE COMMERCE COMMISSION,
WASHINGTON, D.C. 20423.
APPLICATION NO.-----

(Name of carrier)

by ---
(Name of officer, specifying title)

does hereby petition the Interstate Commerce Commission that he (it) be permitted, under section 218 of the act, to put in force the following provisions to become effective ------- days after the filing thereof with the Interstate Commerce Commission.

(Here show matter as directed by paragraph (d) of § 1307.6.)

Your petitioner further represents that the said (state whether rates, charges, or other provisions) above mentioned will be published in (here show matter as directed by paragraph (e) of § 1307.6).

1. (Here state matter as directed by paragraph (f) of § 1307.6.)

2. (Here state matter as directed by paragraph (g) of § 1307.6.)

3. (Here show justification as directed by paragraph (h) of § 1307.6.)

(Name of carrier)

By ---
(Name and title)

Verification: [1]

The above statement was subscribed and sworn to before me this ------- day of ----------, 19----.

(Notary Public)

(c) *Partial use of authority prohibited.* The authority granted by special permission, if used, must be used in its entirety and in the manner set forth in the order of special permission. If it is not desired to use all of the authority granted, and less or more extensive or different authority is desired, a new application complying with the provisions of this section in all respects and referring to the previous permission must be filed.

(d) *Proposed provisions.* The proposed provisions shall be set forth clearly and completely in the application. An accompanying exhibit may be used if identified by letter, such as "Exhibit A", and so referred to in the application. If the proposed provisions consist of rates, all points of origin and destination must be shown or definitely indicated; if permission is sought to establish a rule, the exact wording of the proposed rule must be given.

(e) *MF–I.C.C. numbers to be shown.* The application shall show MF–I.C.C. numbers of the schedules in which the proposed rates, rules or other provisions will be published. If publication is to be made in schedules already referred to, that shall be stated.

(f) *Rates desired to be changed.* The application shall set forth the rates or provisions which it is desired to change. Where the matter to be shown is voluminous or for other reasons difficult of presentation, it shall be included in an accompanying exhibit, properly identified and referred to in the application. Reference shall be made by MF–I.C.C. number, supplement number and item or page number to the schedules in which rates or provisions to be superseded are published. The extent to which cancellations will be made must be definitely indicated.

(g) *Carriers, schedule or tariff numbers, notifications, advisements and objections.* Where changes in rates or practices or where new rates or practices are proposed, applications should name the carriers, and specify by I.C.C. or MF–I.C.C. number the schedules or tariffs maintaining corresponding rates or other provisions. Applications should also state whether those carriers have been notified of the applications, including any short-notice features. Applications to establish on less than thirty days' notice schedules to cover temporary operating authority granted under the authority of section 210a of the act should show that common carriers or their tariff publishing agents as well as contract carriers maintaining corresponding rates or other provisions have been advised of the proposals. All applications shall state what objections or other views have been expressed by the carriers so notified The Commission must obtain information of the types mentioned before acting upon requests for tariff-circular relief or short notice; and applications will be handled with materially more speed when the carriers in filing their applications are careful to furnish the facts requested.

(h) *Special circumstances.* Applications shall state the special circumstances or unusual conditions relied upon as justifying the requested permission, together with any related facts or circumstances which may aid the Commission in determining whether the requested permission is justified. If permission to establish provisions on less than statutory notice is sought, the petitioner shall state why the proposed provisions could not have been established upon thirty days' notice.

§ 1307.7 Powers of attorney.

(a) *Forms.* (1) The forms set forth in this section shall be used by a contract carrier of property to give authority to an agent to publish distance tariffs and supplements thereto or tariffs and supplements thereto naming the hazardous materials regulations as promulgated by the Department of Transportation to govern the transportation of explosives and other dangerous articles. See § 1307.4 (b).

(2) Powers of attorney shall be printed or typed on paper of good quality, 8x11 inches in size. Each power of attorney shall be given a serial number which shall run consecutively for each form of instrument.

(b) *Individual acting as agent.* This form shall be used to authorize an individual to act as agent:

POWER OF ATTORNEY

MFA 4 No. ------
cancels
MFA -- No. ------

(Name of carrier)

(Post office address)

---, 19--

Know all men by this instrument:

That [Name of granting carrier—see paragraph (d) of § 1307.7], a contract carrier of property by motor vehicle, does (do) hereby make, constitute and appoint [Name of principal agent] attorney and agent to publish and file for such carrier [Here specify affirmatively the precise authority given to the agent; that is, either distance tariffs and supplements thereto or tariffs and supplements thereto naming rules and regulations as promulgated by the Department of Transportation to govern the transportation of hazardous materials] as permitted or required of contract carriers by motor vehicle under the authority of Part II of the Interstate Commerce Act and the regulations of the Interstate Commerce Commission and Department of Transportation issued pursuant thereto and does (do) hereby ratify and confirm all that said attorney and agent may lawfully do by virtue of the authority herein granted and does (do) hereby assume full responsibility for the acts and failures to act of said attorney and agent.

And, further, that [Name of granting carrier—see paragraph (d) of § 1307.7] does (do) hereby make and appoint [Name of alternate agent] alternate attorney and agent to do and perform the same acts and exercise the same authority herein granted to [Name of principal agent] in the event and only in the event of the death or disability of [Name of principal agent].

(Name of carrier)

By ---
(See paragraph (e), § 1307.7)

Attest (if a corporation):

(Secretary)
[CORPORATE SEAL]
Duplicate mailed to ---, Agent.

(c) *Corporation or association acting as agent.* This form shall be used to authorize a corporation or association (see paragraph (g) of this section) to act as agent:

POWER OF ATTORNEY

MFA 5 No. ------
cancels
MFA -- No. ------

(Name of carrier)

(Post office address)

---, 19--

Know all men by this instrument:

That [Name of granting carrier—see paragraph (d) of § 1307.7], a contract carrier of property by motor vehicle, does (do) hereby make, constitute and appoint [Name of agent] attorney and agent to publish and file for such carrier [Here specify affirmatively the precise authority given to the agent; that is, either distance tariffs and supplements thereto or tariffs and supplements thereto naming rules and regulations as promulgated by the Department of Transportation to govern the transportation of hazardous materials] as permitted or required of contract carriers by motor vehicle under the authority of Part II of the Interstate Commerce Act and the regulations of the Interstate Commerce Commission and Department of Transportation issued pursuant thereto and does (do) hereby ratify and confirm all that said attorney and agent may lawfully do by virtue of the authority herein granted and does (do) hereby assume full responsibility for the acts and failures to act of said attorney and agent.

(Name of carrier)

By ---
(See paragraph (e), § 1307.7)

Attest (if a corporation):

(Secretary)
[CORPORATE SEAL]
Duplicate mailed to ---, Agent.

(d) *Full and correct carrier name to be shown.* In the space for the name of the carrier in Forms MFA 4 and MFA 5, there must be shown, if the carrier is an individual, the individual name followed by the trade name, if any. If the carrier is a partnership, the correct names of all partners must be given, followed by the trade name, if any. If the carrier is a corporation, the correct corporate name must be used. (See paragraph (e) of this section.) In all cases, the name of the carrier must be identical with the name as it appears in the permit issued by the Commission.

(e) *Persons who may sign powers of attorney.* If the carrier is an individual, the power of attorney must be signed by the individual. If a partnership, the power of attorney must be signed individually by each partner. If the carrier is a corporation, the power of attorney must be signed by the president or a vice president, attested by the secretary of the corporation, and the corporate seal shall be affixed.

(f) *Type of publication to be specified.* The power of attorney shall specify whether the agent designated therein shall publish a distance tariff or a tariff of rules and regulations governing the transportation of explosives and other dangerous articles, or both.

(g) *Agents, who may be.* Agents may be natural persons, corporations, or unincorporated associations whose articles of association (or other form of agreement) have been approved by the Commission in a proceeding pursuant to the provisions of section 5a, Part I of the Act. An officer or employee of an incorporated tariff publishing agent may not act as agent in his individual capacity for the publication of tariffs.

(h) *Revocation of powers of attorney.* A power of attorney may be revoked upon not less than sixty days' notice to the Commission by filing a notice of revocation with the Commission, serving at the same time a copy thereof on the agent in whose favor such power of attorney was executed. Such notice shall not bear a separate serial number, but shall specify the form and number of the power of attorney to be revoked, shall name the agent and alternate agent, if any, in whose favor the power of attorney was executed, shall specify a date upon which revocation is to become effective, which must not be less than sixty days subsequent to the date of its receipt by the Commission and shall be executed in the following manner on paper of good quality, size 8 by 11 inches:

REVOCATION NOTICE

(Name of carrier)

(Post office address)

---, 19--

Know all men by this instrument:

Effective ---, 19--, power of attorney MFA ------ No. ------ issued by ---
(Name of carrier)

in favor of ---
(Name of agent and of alternate, if any)

is hereby canceled and revoked.

(Name of carrier)

By ---
(See paragraphs (d) and (e) of § 1307.7)

Attest (if a corporation):

(Secretary)
[CORPORATE SEAL]
Duplicate mailed to ---
(Name of agent)

(Address)

(Date)

§ 1307.8 Change of name or transfer of entire operation.

(a) *Adoption notice.* (1) When the name of a contract carrier is changed or when its operating control is transferred to another contract carrier, the carrier which will thereafter operate the properties shall file with the Commission and post an adoption notice, numbered in its MF–I.C.C. series as follows:

MF–I.C.C. No.------

(Show name and doing business as, if any, of the adopting carrier)

ADOPTION NOTICE

The above-named carrier hereby adopts, ratifies, and makes its own in every respect, as if the same had been originally filed and posted by it, all schedules, concurrences, or other instruments whatsoever, including supplements or amendments thereto, filed with the Interstate Commerce Commission by or heretofore adopted by ---
prior to the effective date shown below.

Issued ---. Effective ---
Issued under authority of Section 1307.8 Tariff Circular MF No. 4 and in conformity with Interstate Commerce Commission Docket No. MC—------.
Issued by ---

(2) Notices of adoption shall be filed with the Commission immediately and, if possible, on or before the effective date shown therein.

(b) *Adoption supplement.* In addition to the adoption notice, the new carrier shall immediately file with the Commission and post a consecutively numbered supplement to each of the effective schedules issued or adopted by its predecessor reading as follows:

Effective ---------- (here insert date shown in the adoption notice) this schedule, or as amended, became the schedule of ---------- (name and doing business as, if any, of the new carrier) as per its adoption notice MF–I.C.C. No. ------.

(c) *Supplement number and MF–I.C.C. series.* All supplements to such adopted schedules filed by the adopting carrier shall be numbered consecutively and shall show in connection with the MF–I.C.C. number that the number is in the series of the former carrier.

(d) *Adopted schedule to be republished.* As soon as practicable a schedule adopted in its entirety shall be republished in the series of the adopting carrier. The notice directing its cancelation shall identify it by reference to its MF–I.C.C. number and to the series in which it was issued. Any schedule not so reissued prior to its second adoption shall immediately thereafter be republished in the series of the second adopting carrier.

§ 1307.9 Transfer of part of an operation.

(a) *Old carrier shall issue supplements.* When the operating control of a contract carrier's properties is transferred in part to another contract carrier, the old carrier shall issue a supplement to each of its affected schedules upon 30 days' notice carrying this cancelation notice:

Effective ---------- (date) the rates, charges, rules and regulations in this schedule are withdrawn and canceled insofar as they apply ---------- (here describe the operations transferred). For rates, charges, rules and regulations to apply see schedule MF–I.C.C. No. ------, issued by (name and doing business as, if any, of the new carrier).

NOTE—whenever necessary the term, "minimum rates" shall be substituted for the term, "rates", in this notice.

(b) *New carrier shall issue and file a schedule or schedules.* The new carrier shall issue and file at the same time, to become effective on the same date, a schedule or schedules establishing on 30 days' notice rates, rules and regulations in lieu of those withdrawn by the old carrier.

§ 1307.10 Assumption of operating control by a receiver.

NOTE: As used in §§ 1307.10 and 1307.11, the term "receiver" means a receiver, trustee, executor, administrator, assignee, or other similar party.

Adoption notices and supplements similar to those prescribed in § 1307.8, but numbered consecutively in the MF–I.C.C. series of the old carrier, must immediately be filed by a receiver when he assumes full possession and operating control of a carrier's lines, and must show the name of the receiver on the title page in connection with the carrier name. When such possession and operating control are terminated, the carrier taking over the properties in their

[1] Only the original need be executed.

entirety shall file an adoption notice, and if a change in the name of the carrier has been made, shall also file supplements as prescribed in § 1307.8.

§ 1307.11 Adoptions; general instructions.[1]

(a) *Copies of notices of adoption to agents.* Copies of notices of adoption shall be sent to each agent to which power of attorney has been given by the old carrier. The effective date must be the date on which the change in name or operation occurs, except that if prior approval by the Commission of such change is required, the effective date shown shall not antedate that approval.

(b) *Powers of attorney.* Powers of attorney adopted by a receiver or other carrier shall, within 120 days, be replaced and superseded by new powers of attorney issued by, and numbered in the series of the receiver or other new carrier, except that a receiver may number powers of attorney in the old series (See also paragraph (b) of § 1307.12.) The cancellation reference to the former power of attorney must include the name of the former issuing carrier. Powers of attorney which will not be replaced by new issues shall be regularly revoked on the notice and in the manner prescribed by § 1307.7.

(c) *Adoption notices and supplements to contain no other matter.* Adoption notices and special supplements issued under the authority of §§ 1307.8 to 1307.11 shall contain no other matter.

§ 1307.12 Temporary operation of contract carrier properties.

(a) *New carrier assuming temporary control.* When temporary authority to take over the operating control of all or a portion of the operations of a contract carrier is granted pursuant to the provisions of section 210a(b) of the act, the new carrier that assumes temporary control of the operations of the old carrier shall, except as provided in paragraph (b) of this section, comply with the provisions of §§ 1307.8, 1307.9 and 1307.11.

(b) *New powers of attorney to be in series of old carrier.* The new carrier is not required to reissue the adopted powers of attorney during the period of temporary control of the operations of the old carrier. New powers of attorney relating to the temporarily controlled operations shall be in the series of the old carrier; for example:

MFXA 4 No. 6 (Roe's Trucking Series)
John Doe Transport, Inc.
Operator of
Richard Roe d/b/a Roe's Trucking
(Post Office Address)

(c) *Publications of the new carrier to be in its name as operator of the old carrier.* Changes in schedules of rates, minimum rates, charges or provisions relating thereto, applying from, to, or between points in the temporarily controlled operations shall be published and filed in the name of the new carrier as operator of the old carrier and numbered in the series of the old carrier. For example, if John Doe Transport, Inc., assumes temporary control of the operations of Richard Roe, d/b/a Roe's Trucking, the title page of schedules must show the MF–I.C.C. number and name of the carrier in substantially the following manner:

MF–I.C.C. No. 17 (Roe's Trucking Series)
John Doe Transport, Inc.
Operator of
Richard Roe d/b/a Roe's Trucking

(d) *Adoption notice to be filed when permanent authority is granted to take over temporarily controlled operations.* When permanent authority to take over the temporarily controlled operation is granted pursuant to the provisions of section 5 of the act, the new carrier shall file an adoption notice and otherwise comply with provisions of §§ 1307.8, 1307.9 and 1307.11.

(e) *Adoption notice to be filed when temporary authority ends.* If the temporary authority to assume operating control of the old carrier is discontinued or vacated, the old carrier must file an adoption notice and otherwise comply with §§ 1307.8, 1307.9 and 1307.11. The effective date to be shown in the adoption notice and adoption supplements is the date on which the new carrier's temporary authority to operate the properties of the old carrier expires or is vacated.

§ 1307.13 Suspension of schedules.

Upon receipt of an order suspending a schedule in part or in its entirety, the carrier who filed such schedule shall immediately file with the Commission a consecutively numbered supplement to the schedule which shall not bear an effective date but which shall quote in full the Commission's order of suspension, followed by a statement that by reasons of the Commission's order the use and application of the suspended publication or portions thereof is deferred for the period prescribed in the suspension order. Such supplement shall give specific reference by MF–I.C.C. number or numbers to the schedule or schedules where rates, charges, rules, regulations, or practices continued in effect by the suspension order will be found. The carrier who filed the schedule which has been suspended in part or in its entirety shall also comply with such other instructions as may be furnished it with the order of suspension.

Subpart B—Common Carrier Freight Tariffs and Classifications

AUTHORITY: The provisions of Subpart B issued under secs. 204, 217, 49 Stat. 546, as amended, 560, as amended, sec. 210a, as amended, 52 Stat. 1238, as amended; 49 U.S.C. 304, 317, 310a.

§ 1307.21 General.

Tariffs of common carriers of property by motor vehicle, also joint tariffs of common carriers of property by motor vehicle and common carriers by water, other than railroad owned or controlled water carriers, filed pursuant to section 217 of Part II of the Interstate Commerce Act, and as amended, shall be constructed, published, filed, posted, and kept open for public inspection in accordance with regulations adopted and promulgated in Subpart B.

§ 1307.22 Application of regulations.

(a) The regulations in Subpart B will also apply to tariffs containing joint rates of common carriers of property by motor vehicle and common carriers by water, other than railroad-owned or railroad-controlled water carriers.

(b) The regulations in Subpart B will not apply to tariffs containing joint rates between motor carriers and common carriers by rail or by water when such water carriers are railroad-owned or railroad-controlled and operate under the provisions of section 5 (21) Part I of the Interstate Commerce Act or to tariffs containing joint motor-rail-water rates whether or not the water carrier is railroad-owned or controlled.

§ 1307.23 Conformity required.

(a) Except as otherwise provided herein, all tariffs and supplements thereto filed by common carriers of property by motor vehicle and agents on or after April 1, 1941, unless otherwise authorized by special permission of the Commission, shall conform to the regulations in Subpart B.

(b) Tariffs and supplements thereto filed prior to April 1, 1941, which do not conform to the regulations in Subpart B shall be brought into conformity therewith on or before October 1, 1941.

(c) The Commission may, for reasons deemed sufficient, direct the reissue of any tariff, power of attorney, or concurrence at any time.

§ 1307.24 Definitions.

(a) The term "Tariff" means a publication containing the rates, charges, classification ratings, rules, and regulations (or any of them) published for a common carrier, and it may be in the form of a rate tariff, classification of articles or commodities, or a tariff containing rules and regulations or incidental charges.

(b) The term "Local Rate" means a rate that applies over the lines or routes of one carrier only. "Local Tariffs" are those which contain local rates.

(c) The term "Joint Rate" means a rate that applies over the lines or routes of two or more carriers and that is made by arrangement or agreement between such carriers evidenced by concurrence or power of attorney. "Joint Tariffs" are those which contain joint rates.

(d) The term "Through Rate" means the total rate from point of origin to destination. It may be a local rate, a joint rate, or combination of separately established rates.

(e) The term "Proportional Rate" means a rate published to apply only on traffic originating beyond the point from which such rate applies, destined beyond the point to which such rate applies, or originating and destined beyond the points from and to which such rate applies. "Proportional Tariffs" are those which contain proportional rates.

(f) The term "Commodity Rate" means a rate published to apply on a commodity or commodities which are specifically named or described in the tariff in which the rate is published or in a separate commodity list. "Commodity Tariffs" are those which contain commodity rates.

(g) The term "Classification" means a publication containing a list of articles or commodities and the class ratings to which they are assigned for the purpose of applying class rates, together with governing rules and regulations.

(h) The term "Class Rate" means a rate which applies on any one or more of various articles according to the class rating to which they are assigned in a classification or tariff of exceptions thereto or in the class rate tariff. "Class Tariffs" are those which contain class rates.

(i) The term "Regular Route Carrier" means one operating over a specified route between fixed termini, as set forth in the carrier's certificate.

(j) The term "Irregular Route Carrier" means one operating within a specified and defined territory, as set forth in the carrier's certificate, but not over specified route or routes between fixed termini.

§ 1307.25 Form and preparation of tariffs.

(a) *Form and size of tariff.* All tariffs and supplements thereto shall be in book, pamphlet, or loose-leaf form of size 8 by 11 inches, and shall be plainly printed, planographed, stereotyped, or prepared by other similar durable process on paper of good quality. All tariffs and supplements thereto which are filed and posted shall be clearly legible. Type-written or proof sheets shall not be used for filing or posting.

(b) *Size of type.* The type used shall be of size not less than 8 point bold or full face, except as provided in § 1307.26 (b) and except that 6 point bold or full face type may be used for explanation of reference marks and for column headings. No alteration in writing or erasure shall be made in any tariff or supplement thereto.

(c) *Margin on binding edge.* A margin of not less than five-eighths of an inch, without any printing thereon, shall be allowed at the binding edge of each tariff or supplement thereto.

(d) *Tables of rates to be ruled and spaced.* When rates, rate basis numbers, numerals, or letters for other purposes are shown in tables, the tables shall be ruled from top to bottom. When not more than three figures or letters, including reference characters, are employed, the columns shall be not less than one-fourth of an inch in width with a correspondingly greater width when more than three figures or letters, including reference characters, are employed. Such tables shall not contain more than six horizontal lines without a break in the printed matter by a ruled line or at least one blank space across the page.

(e) *Loose-leaf tariffs.* Pages of loose-leaf tariffs shall be printed on thin paper of strong texture, on one side only, must be consecutively numbered in the upper left-hand corner and designated as "Original Page 1", "Original Page 2", etc. Each page must show at the top of the page the name of the carrier or agent, the page number, and the MF–I.C.C. number of the tariff. At the bottom of the page shall be shown the date of issue, the effective date, and the name, title, and street address of the issuing carrier or agent.

§ 1307.26 Title page.

(a) *Title page shall show.* The top cover of every tariff or supplement shall consist of durable but flexible paper of sufficient weight and strength to withstand hard usage and shall be prepared as a title page containing the following information in the order named:

(1) *MF–I.C.C. numbers and cancelations.* On the upper right-hand corner an MF–I.C.C. number in prominent bold face type, which shall, on printed tariffs, be not less than 12 point. Numbers shall run consecutively beginning with the next consecutive number in the existing series or, if no tariffs shall have been issued previously, beginning with MF–I.C.C. No. 1. Immediately under this number there shall be shown the MF–I.C.C. number or numbers of the tariff or tariffs canceled thereby, except that, when the cancellations are so numerous that it is inconvenient to show a list of the canceled publications on the title page, it may be shown immediately preceding the table of contents, in which event a reference thereto shall be shown under the MF–I.C.C. number on the title page.

(2) *Name of carrier or name of agent.* On the upper central portion of the title page shall be shown the name of the issuing carrier or agent. When an individual carrier or a partnership operates under a trade name, the individual name or names shall precede the trade name. The names of carriers shall each be followed by the carrier's certificate number. On agency publications, when the agent is a corporation, the name of the corporation shall be shown, but, when the agent is an individual, the name of the association (if any) for whom the agent acts may also be shown. If this is done, the name of the agent shall be preceded by the name of the association in substantially the following form:

A.B.C. TARIFF BUREAU
JOHN DOE, AGENT

Only one such agent may be thus shown.

(3) *Kind of tariff.* There shall be shown a statement indicating whether the rates are: (i) local, (ii) joint, (iii) proportional, (iv) export, import, coastwise, or intercoastal, (v) joint motor-water, (vi) distance rates, or (vii) a combination of any such rates, and (viii) whether class or commodity or both. When a tariff contains both distance rates and other rates a concise statement of the extent of the application of each kind of rates shall be given. If the tariff is a classification or if it contains rules or other governing provisions, this fact shall be shown.

(4) *Territory.* A brief but reasonably complete statement of the territory within which or the points from and to or between which the rates or other provisions apply shall be given, and, where the application is indicated by States, the names of all States to or from which rates apply shall be shown.

(5) *Governing tariffs.* Reference to the item and page number of the tariff containing a statement of the publications governing the tariff in substantially the following form (this reference need not be shown on the title pages of supplements):

For reference to governing classification, and other governing publications see Item No. ------, Page ------, or as amended.

(6) *Effective and issued dates.* (i) The date on which the rates or other provisions will become effective shall be shown on the lower right-hand side. (For exceptions, see § 1307.34 and the following paragraph of this section.) The date on which the publication is issued should be on the lower left-hand side.

(ii) Every publication which contains rates, rules, or other provisions effective upon a date different from the general effective date of such publication shall show on its title page a notation in substantially the following form:

Effective ----------, 19-- (except as otherwise provided herein) or (except as provided in Item ------) or (except as provided on Page ------).

(7) *When issued by permission or order of commission on less than statutory notice.* On every tariff or supplement in which all rates, rules or regulations are made effective on less than 30 days' notice under authority of the Commission, a notation in substantially the following form shall be shown:

Issued on ------ days' notice under authority of ---------- of the Interstate Commerce Commission, ----------; No. --------; dated ----------.
(Show the authority)

(8) *Name of individual or agent issuing.* (i) The name, title, and address of the person issuing the tariff shall be shown near the bottom of the title page except that when the tariff is issued by a corporation as publishing agent, the name and title of the official of such corporation who has been appointed by the corporation to handle all tariff matters with the Commission shall be shown at the bottom of the title page.

(ii) There may be shown if desired, the name and address of a joint agent (if any) in substantially the following form:

Richard Roe, Agent,
XYZ Freight Tariff Bureau,
40 Central Avenue,
Indianapolis, Indiana.
Issued by:
John Doe, Agent,
101 Fifth Street,
Washington, D.C.

(iii) Tariffs filed in the MF-I. C. C. series of individual carriers shall show in the lower left-hand corner the principal address of the carrier, where such

[1] See note in § 1307.10.

address is different from that of the individual filing the tariff for such carrier.

(9) *Expiration notice.* (i) A provision in a tariff or supplement that the same, or any part thereof, will expire with a given date, is not a guaranty that the tariff, or supplement, or such part thereof, will remain in effect until and including that date. Such provision, if used, will be held to mean that the tariff or supplement, or specified part thereof, will expire with the date named, unless the date is changed on statutory notice, or under special permission of the Commission. In such tariffs and supplements the following notation shall be used to indicate the date upon which the publication will expire:

Expires with ----------, unless
(Date)
sooner canceled, changed, or extended.

(ii) If the entire publication is to expire with the specified date, the notation shall be placed near the bottom of the title page. If only a portion of the published rates or other provisions will expire with the specified date, the notation shall be shown in connection with the particular item, rate, or other provision which will expire in such a way as to clearly indicate the matter affected thereby.

§ 1307.27 Contents of tariffs.

Tariffs shall contain in the order named:

(a) *Table of contents.* A table of contents containing a full and complete statement, in alphabetical order, of the exact location where information under general headings, by subjects, will be found, specifying page or item numbers. If a tariff contains so small a volume of matter that its title page or its interior arrangement plainly discloses its contents, the table of contents may be omitted.

(b) *Participating carriers.* (1) The individual names and firm names or (in the case of corporations) corporate names of participating carriers, with city and State in which their principal offices are located and certificate numbers, shall be shown alphabetically arranged together with the form and number of power of attorney or concurrence of each. If the carrier consists of an individual or individuals operating under a trade name, the trade name shall precede the name of the individual operator or names of partners (or the name of the individual operator or names of partners may precede the trade name, provided the trade name is shown in alphabetical sequence and in a prominent manner with the individual name or names shown above being indented). When reference to concurrences is shown in agency issues, there shall be included information indicating the carriers to whom such concurrences are given.

(2) Initial, intermediate, and terminal participation may be indicated by any or all of the following reference marks, which must be explained on each page on which they are used: "X" to indicate carriers participating as initial lines; "Y" to indicate intermediate carriers; and "Z" to indicate terminal or delivering line. If there be not more than four participating carriers, they may be shown on the title page.

(c) *Index of commodities.* (1) A complete index, alphabetically arranged, of all articles upon which commodity rates are named therein, together with reference to each item (or page) where a particular article is shown. When nouns are not sufficiently explicit, articles shall be indexed also under the names of descriptive adjectives. All of the entries relating to different kinds or species of the same commodity shall be grouped together. For example, "Paper, building; paper, printing; paper, wrapping."

(2) When articles are grouped together in one list under a generic heading as authorized in § 1307.28(e), such generic name shall be shown in the index and opposite thereto shall be shown reference to each item (or page) where the generic term is used. Each article in the generic list must be shown separately in its proper alphabetical order in the index together with reference to each item (or page) where such article is shown by name, but when such article appears only in a generic list, reference to the items (or pages) containing rates may be omitted, provided reference is given to the generic name as it appears in the index.

(3) If all of the commodity rates to each destination in a general commodity tariff or a combined class and commodity tariff are arranged in alphabetical order by commodities, the index of commodities may be omitted from the tariff.

(d) *Index of points.* (1) Indexes of points of origin and destination. Tariffs of regular route carriers which name specific point to point rates shall provide an alphabetical index of all points from which rates apply and a separate alphabetical index of all points to which rates apply showing the States in which points are located and, when the tariff names rates for account of more than one carrier, the carrier or carriers serving such points. Where desirable the rate tariff may refer to a separate publication (not a rate tariff) for the name or names of carriers serving the points appearing in such rate tariff. When all or substantially all of the rates named in a tariff apply in both directions between the points shown therein, the points of origin and destination may be shown in one index. If there be not more than 12 points of origin or 12 points of destination, the names of such points may, if practicable, be shown in alphabetical order on the title page of the tariff, in which event the index of such points of origin or destination or both, as the case may be, may be omitted.

(2) If rates are shown in a tariff by rate bases or by named or numbered territorial groups, indexes of points or origin, and destination shall show the basis or group to which each point is assigned, except that, when reference is made to a separate publication as provided in § 1307.38 for list of points in such groups, such points may be omitted from the indexes: *Provided,* That (i) there is shown in the table of contents the item or page giving reference by MF-I.C.C. number to the separate publication and (2) there is shown at the beginning of the index of points (if the tariff contains any such index) MF-I.C.C. reference to the separate publication.

(3) If rates in a tariff are so arranged that grouping of points is by geographical arrangement, the alphabetical indexes of points of origin and of destination shall show index numbers corresponding to those assigned to the points in the rate tables and, unless the rate tables themselves indicate that all points shown therein are arranged in geographical order for the carriers shown, there shall be included also a geographical list of points or reference shall be made by MF-I.C.C. number to a separate publication filed in accordance with § 1307.36 containing such a geographical list of points with corresponding index numbers. The index numbers shall follow the names of the points in the alphabetical index of points and shall precede the names of the points in the geographical list where tariffs contain such lists of points.

(4) If rates are published in numbered items, indexes of points shall show the numbers of items in which rates from or to such points appear, except that, if points are arranged in commodity items in alphabetical order or in numerical sequence by index numbers and such commodity items are referred to in the commodity index prescribed in paragraph (c) of this section, such item numbers may be omitted from the indexes of points. When rates are not published in numbered items, indexes shall show the pages on which rates from or to such points will be found, as well as index numbers of the points, except that, when the points are arranged in rate tables in numerical sequence of index numbers, the page numbers may be omitted from the index. If points of origin or of destination are shown in the rate or rate basis tables in groups arranged by States, the points being in alphabetical order in the groups and such groups also being in alphabetical order of States, or if points of origin or destination are shown in rate tables in continuous alphabetical order throughout the tariff, no index of such points of origin or destination, as the case may be, will be required provided that, when the tariff names rates for more than one carrier, information be included showing the carrier or carriers serving the various points. When points are arranged in rate tables in alphabetical order and indexes of points of origin and destination are not included in the tariff, the table of contents shall refer to the pages on which the rate tables showing an alphabetical list of points are to be found, and, when points are grouped in rate tables by States, the table of contents shall give reference to the pages on which rates from or to points in each State will be found.

(5) Tariffs of irregular route carriers are required to define clearly the territory within which such carriers operate or to contain reference to a separate publication (not a rate tariff) on file with this Commission and bearing an MF-I.C.C. number, similar to publications authorized in § 1307.36, clearly defining such territory.

(e) *References marks and abbreviations.* (1) Explanation of symbols, reference marks, and abbreviations of technical terms used in the tariff shall be shown. If the explanation of a reference mark or symbol does not appear on the page on which it is used, the particular page on which the character is used shall show where the explanation is given.

(2) The following symbols shall be used for the purposes indicated and shall not be used for any other purpose in any tariff:

↓ or (R) to denote reductions.
↑ or (A) to denote increases.
▲ or (C) to denote changes in wording which result in neither increases nor reductions in charges.
● to denote no change in rate. (See § 1307.31 (b).)
+ to denote intrastate application only.
□ to denote reissued matter. (See § 1307.31 (e).)

(f) *Governing tariffs.* (1) An item containing reference by name of the carrier or publishing agent and MF-I.C.C. number to any separately published classification, tariff of classification exceptions, tariff of rules, or similar publication affecting the provisions of the tariff shall be shown in substantially the following form:

This tariff is governed, except as otherwise provided herein, by ---------- Classification MF-I.C.C. No. ------ issued by ----------; by exceptions thereto ----------MF-I.C.C. No. -----, issued by ----------, by Rules Circular, MF-I.C.C. No. -----, and by supplements to or subsequent issues of these publications.

(2) A rate tariff may not refer to another rate tariff for classification ratings, exceptions to the classification, rules, or other governing provisions.

(3) Exceptions to classification ratings or rules which apply only in connection with the rates published in a single tariff shall be included in the tariff to which they apply and shall be shown in a separate section under the heading "Exceptions to the Governing Classification" or "Exceptions to the Governing Classification and Tariffs of Exceptions Thereto." Classification exceptions when published in a rate tariff are subject to the provisions of § 1307.37 (d).

(g) *Explanatory statements.* Such explanatory statements as may be necessary to remove all doubt as to the proper application of the rates and rules contained in the tariff. When rates are published for account of any carrier under authority of a concurrence or of a limited power of attorney, there shall be included in this section of the tariff an explicit statement clearly indicating to what extent the published rates apply for account of such carrier. Only such specific statements as are required to indicate the application with respect to particular carriers should be included in this section. General rules relating to the application of the rates should be published under paragraph (h) of this section.

(h) *Rules governing the tariffs.* (1) Rules and other provisions which govern the tariff. Under this head all of the rules or provisions stating conditions which in any way affect the rates named in the tariff shall be entered, except as otherwise provided in this section or in paragraph (g) of this section. A special rule affecting a particular item or rate must be specifically referred to in such item or in connection with such rate, except that provisions affecting more than one but not all of the rates contained in the tariff or applying to only a protion of the carriers for whom the rates are published may be included in the explanatory statements authorized in paragraph (g) of this section provided that reference is made thereto in such a way as to leave no doubt as to the application of the rates.

(2) Each rule or similar provision should be given a separate number. Such rules or provisions may, if desired, be designated "items" in which event numbers shall be in the same series as those of other items and amendment shall be made as provided in § 1307.33 (e).

(3) Except as provided in §§ 1307.28 (f), (k) and 1307.32, no rule or other provision shall be included which in any way or in any terms authorizes substituting for any rate named in the tariff a rate found in any other tariff, or a rate made up by means of a combination of rates, nor shall any rule be provided to the effect that traffic of any nature will be "Taken only by special agreement," or other provisions of like import.

(4) Where it is not desirable or practicable to include the governing rules and regulations in the rate tariff, such rules and regulations may be separately published in tariffs filed by a carrier or an agent, provided specific reference is made in the rate tariff to such separate publication in the manner set forth in § 1307.37 (f).

(5) Tariffs which contain rates for the transportation of explosives, inflammable or corrosive materials, or other dangerous articles shall also contain the rules and regulations promulgated by the Commission governing the transportation thereof, or must bear specific reference to the MF-I.C.C. number of the separate publication which contains such rules and regulations. (See § 1307.37 (f), (g).)

(i) *Rates.* A statement of rates applicable for transportation of the articles or class of articles on which rates are named therein, arranged as set forth in § 1307.28.

(j) *Routes.* A clear and explicit statement of routes over which the published rates apply prepared in accordance with the provisions of § 1307.29.

§ 1307.28 Statement of rates.

(a) *Explicit statement.* (1) All rates shall be clearly and explicitly stated in cents or in dollars and cents (lawful money of the United States), per 100 pounds, per ton of 2,000 pounds, per ton of 2,240 pounds, per stated truckload, or other defined unit, except unit of time (however, charges for terminal and special services (see § 1307.35(a)) may be published in cents or dollars and cents per unit of time), together with the names or other proper designation of the places from and to which they apply. If all rates in a tariff are stated in the same unit, that fact may be indicated on the title page in connection with the application of the tariff.

(2) It must be clearly shown whether the named rates apply from, to, or between the named points and all rates must be arranged in a simple and systematic manner. Complicated plans or ambiguous terms must not be used. Insofar as possible such rates should be subdivided into small sections (by items, index numbers, or similar method) to each of which should be assigned an identifying number to facilitate reference thereto.

(3) Where rates are stated in amounts per package, definite specifications showing size, capacity, or weight of the packages on which such rates apply must be shown or reference must be made by MF-I.C.C. number to a publication, on file with this Commission, containing such specifications.

(b) *Arbitraries or differentials.* A tariff may provide rates from or to designated points by the addition or deduction of arbitraries or differentials from or to rates shown therein from or to base points, but provision for the addition or deduction of arbitraries or differentials shall be shown either in connection with the base rate or in a separate item which must specifically name the base point and clearly and definitely state the manner in which such arbitraries or differentials shall be applied.

(c) *Percentages of class rates.* When articles are made subject to percentages of class rates (for example, 110 percent of first class, 83½ percent of fifth class, etc.), whether in a tariff of rates, a classification, or exceptions thereto, the rates applicable under such provisions must be shown in the class tariffs just as if those percentages were additional numbered or lettered classes, or reference must be made to an appropriate table, published in the tariff containing the class rates or in a governing publication which will show in one column the class rates and in succeeding columns the actual rates representing the various specified percentages of class rates. Unless one of these methods is used, specific commodity rates must be published.

(d) *Minimum quantities.* When truckload or volume commodity rates are published, the minimum quantities on which the rates apply shall be specifically stated in the tariff naming the commodity rates, except as provided in paragraph (e) of this section. When rates on mixed truckload or quantity shipments of two or more articles are published, the tariff shall show the minima on which the rates apply, and if the various articles are not made subject to the same rate, or if different minima are provided for different articles, the tariff shall show how the minimum charge per shipment shall be determined.

(e) *Grouping of articles under generic head.* (1) A commodity item may, by use of a generic term, provide rates on a number of articles without naming such articles, provided such commodity item contains reference to an item (not a rate item) in the tariff which contains a complete list of such articles, or contains reference to the MF–I.C.C. number of a separate tariff (not a rate tariff) containing such a list of articles. Example: "Packing-house products, as described in Item ----------, or successive issues thereof," or "Packing-house products, as described under heading 'Packing-house products' in MF–I.C.C. No. --, supplements thereto or successive issues thereof." Such reference to a separate item or tariff may not be made unless a definite and complete list of the articles under the same generic term is shown in the item or tariff to which reference is thus made.

(2) A separate tariff, not containing rates, may be filed by a carrier or an agent, showing lists of the commodities and minimum quantities, on which rates published by reference to generic terms will apply, and rate tariffs may be made subject thereto as provided above. The title page of such separate publication shall contain the following: (i) In large type the words, "List of commodities upon which rates are provided in tariffs making reference hereto," and (ii) in smaller type, "This tariff may be used only in connection with tariffs making specific reference hereto by MF–I.C.C. number." In the separate publication, the generic terms shown must be the same as those used in the tariffs making reference thereto and under each heading the different commodities shall be alphabetically arranged. Except as provided in § 1307.37 (e), a separate publication issued for the purpose of publishing generic lists shall contain no information other than that authorized in this rule. Only one such publication may be in effect at any time in a carrier's or agent's file and it shall list only generic terms which refer to 10 or more commodities, otherwise the tariff of rates shall specify each commodity upon which the rates therein apply. A tariff of rates may not refer to another tariff of rates for lists of commodities.

(f) *Commodity rates must be specific.* (1) When commodity rates are established, the description of the commodity must be specific and the rates thereon may not be applied to analogous articles. As far as possible uniform commodity descriptions should be used in all tariffs.

(2) If a commodity rate (distance or otherwise) is published, such commodity rate, except as otherwise provided in these rules, is the applicable rate and the only rate that may be applied from and to the same points over the route or routes over which the commodity rate applies, even though a class rate (except as provided in subparagraphs (5) of this paragraph, paragraph (k) of this section and in § 1307.32) may make a lower charge.

(3) Different rates based on different minimum quantities may be published, provided the lowest charge resulting from any such rate applied in connection with its published minimum (or actual quantity shipped, if greater) is made applicable by publishing such rates in the same item or in different columns on the same page and by providing in connection with such items or rate columns a rule to the effect that the lowest charge obtainable under the different rates and minima applicable thereto (or actual quantities, if greater) will be applied.

(4) Commodity rates may be established on different articles for mixed truckload or mixed quantity shipments. Minimum quantities shall be specified together with a statement in connection with the commodity description that the rates apply in mixed truckload or mixed quantity shipments. Such rates may also be made applicable upon straight shipments of one or more or all of the articles by a provision to that effect in connection with the commodity description. When more than one article is included in an item or commodity description the tariff shall specifically state whether or not the rates apply on straight or mixed shipments.

(5) When because of differences in minimum weights, package requirements, mixed quantity provisions, or other conditions the charges accruing under commodity rates result in higher charges than those accruing under the class rates published in other tariffs, provision may be made in a tariff containing commodity rates only, for the alternation of such rates with class rates published in not more than three other tariffs, provided that the commodity tariff contains specific reference to the MF–I. C. C. number or numbers of the class tariffs and shows in connection with each MF–I. C. C. number a complete description of the origin and destination territory shown in that tariff. The following notation must be shown in the commodity tariff under the application of rates:

> If the charges accruing under the class rates published in the following tariffs, including supplements to or successives issues thereof, from and to the same points via the same routes are lower than the charges accruing under the commodity rates published in this tariff, the lower charges resulting from such class rates will apply. (Here show MF–I. C. C. numbers of the class tariffs and the required description of each.)

(6) If a commodity tariff contains only a few rates which result in higher charges than would accrue under the class rates the reference to the class tariffs prescribed herein should be shown immediately in connection with such commodity rates or may be shown in a separate item shown under an appropriate heading and reference to such item shown immediately in connection with the commodity rates.

(7) Great care should be exercised in describing the scope of the class tariffs in order that users of the commodity tariff may determine without examining the class tariffs, which of such class tariffs is to be used in connection with any commodity rate. It also should be understood that the alternative application of commodity rates in one tariff with class rates in another tariff should be resorted to only where there is real necessity therefor and that wherever possible the commodity rates should be revised so that they will not exceed the class rates between the same points.

(8) The continuance of the authority to alternate rates in a commodity tariff with class rates in not more than three other tariffs as contained in the subparagraphs (5), (6), and (7) of this paragraph will depend upon the progress made by carriers in revising commodity rates in order to avoid unnecessary alternations, and upon the accuracy used in describing the class rate tariffs.

(g) *Tariff must contain all rates on same commodities.* (1) A tariff naming rates on a single commodity, or a group of related commodities, shall contain all of the commodity rates (other than distance or mileage rates; however, such tariffs may contain distance or mileage rates) on the same commodity or commodities published to apply for the same carriers from and to points in the same origin and destination territory except that, when only local commodity rates are named in a tariff published by or for a carrier, that carrier may also participate in tariffs of other carriers naming rates from or to points on the line of the issuing carrier and may participate in not more than one agency issue naming rates on the same commodity or commodities between points or over routes not covered by carrier's issues.

(2) A general commodity tariff or a combined class and commodity tariff shall contain reference to any other tariffs published by the same carrier or agent in which rates on other commodities are published from any point of origin to any point of destination named therein over the same route. Such reference shall include the MF–I.C.C. number or numbers of such other tariff or tariffs with a description of the commodities and territory or points of origin and of destination. The reference shall be shown in a separate list arranged alphabetically by commodities immediately following the table of contents. For example, "For rates on textiles from ------ to ------, see MF–I.C.C. No. ------ of ---------- Agent."

(h) *Conflicting or duplicating rates prohibited.* The publication of class or commodity rates which duplicate or conflict with the rates published in the same or any other tariff over the same route is not permissible, and except as otherwise authorized in Subpart B, the publication of a statement in a tariff to the effect that the rates published therein take precedence over the rates published in some other tariff, or that the rates published in some other tariff take precedence over or alternate with the rates published therein, is hereby prohibited.

(i) *Through rate applies.* When a carrier or carriers establish a local or joint rate for application over any route from point of origin to destination such rate is the applicable rate of such carrier or carriers over the authorized route, notwithstanding that it may be higher than the aggregate of intermediate rates over such route.

(j) *Proportional rates.* (1) Tariffs containing proportional rates must clearly and definitely show the application thereof. If a proportional rate is intended for use on traffic destined to a restricted territory, such territory should be clearly defined. For example, a tariff naming a proportional rate to St. Louis, Missouri, intended for use on traffic destined to points in Kansas, shall state that the proportional rate applies only for the purpose of constructing rates on traffic destined to points in Kansas. If the application of a proportional rate is not restricted, such proportional rate will be usable in connection with any other applicable rates from or to the proportional rate point. A statement that proportional rates apply from (or to) points from (or to) which no through rates are published must not be used, as such a statement is not sufficiently definite to restrict the application of the rates and such proportional rates could not in any event be applied on traffic on which applicable through one factor rates are published. However, proportional rates may be published to apply only on traffic from or to (or from and to) points on the line or lines of a particular carrier or carriers. It is not permissible to include a provision in a tariff to the effect that proportional rates will be stated percentages of other rates.

(2) Export, import, coastwise, and intercoastal rates, when so designated, whether class or commodity, take precedence over other rates (either class or commodity) between the same points, over the same route on export, import, coastwise, or intercoastal traffic, as the case may be, and tariffs containing such rates must so provide.

(k) *Intermediate application of rates.* (1) On and after April 1, 1942, tariffs containing rates of regular route carriers may provide for the application of class or commodity rates from or to intermediate points on the lines of such carriers by incorporating in such tariffs the rule or rules set forth below, or in paragraph (m) of this section, subject to the limitations contained herein. An intermediate point rule may not be published which will result in establishing from or to an intermediate point a joint rate from or to a more distant point unless the tariff naming the rate from or to the more distant point contains specific routing instructions or refers to a routing guide containing such routing instructions. (See § 1307.29.)

(2) The wording of the rules shall not be varied. Tariffs may, however, by appropriate provision published in connection with any of such rules, provide that it will apply only in connection with the rates or routes making reference thereto, or may provide for the nonapplication of any such rule to particular rates or routes.

(3) The rules applicable in connection with commodity rates shall read as follows:

(i) *Commodity rates applicable from intermediate points.* When any point of origin is not provided in this tariff with a commodity rate on a given article to a particular destination over a particular route, and such origin is between the considered destination and a point from which a commodity rate on the article is published herein over the same route to such destination, apply on such article the commodity rate from the next more distant point from which a commodity rate is named thereon over the considered route through the intermediate point, except as provided in notes 1, 2, 3, and 4.

> NOTE 1: When, by reason of branch or diverging routes, there are more than one more-distant points from which commodity rates on the article to the considered destination are named herein, apply the rate from the more-distant point which, on that article to the same destination over the same route, results in the lowest charge.
>
> NOTE 2: If the intermediate point is located between two points from which commodity rates on the same article are published in this tariff to the same destination over the same route, apply that one of such rates which results in the higher charge. If, due to branch or diverging routes, there are two or more next more-distant points in the same direction, only that one of such points from which the lowest charge results will be considered in applying the provisions of this note.
>
> NOTE 3: If the class rate on the same article to the same destination over the same route from the intermediate point produces a lower charge than would result from applying the commodity rate under this section, such commodity rate will not apply.
>
> NOTE 4: If there is any other tariff a commodity rate (not made by use of an intermediate-point rule) published for account of the same carrier or carriers on the same article from the considered intermediate point, applicable to the same destination over the same route, the provisions of this section will not be applied from such intermediate point.

(ii) *Commodity rates applicable to intermediate points.* When any point of destination is not provided in this tariff with a commodity rate on a given article from a particular origin over a particular route, and such destination is between the considered origin and a point to which a commodity rate on the article is published herein over the same route from such origin, apply on such article the commodity rate to the next more-distant point to which a commodity rate is named thereon over the considered route through the intermediate point, except as provided in notes 1, 2, 3, and 4.

> NOTE 1: When, by reason of branch or diverging routes, there are more than one more-distant points to which commodity rates on the article from the considered origin are named herein, apply the rate to the more-distant point which, on that article from the same origin over the same route, results in the lowest charge.
>
> NOTE 2: If the intermediate point is located between two points to which commodity rates on the same article are published in this tariff from the same origin over the same route, apply that one of such rates which results in the higher charge. If, due to branch or diverging routes, there are two or more next more-distant points in the same direction, only that one of such points to which the lowest charge results will be considered in applying the provisions of this note.
>
> NOTE 3: If the class rate on the same article from the same origin over the same route to the intermediate point produces a lower charge than would result from applying the commodity rate under this section, such commodity rate will not apply.
>
> NOTE 4: If there is in any other tariff a commodity rate (not made by use of an intermediate-point rule) published for account of the same carrier or carriers on the same article to the considered intermediate point, applicable from the same origin over the same route, the provisions of this section will not be applied to such intermediate point.

(l) [Reserved]

(m) *Class rates from and to intermediate points.* (1) Class rates should be provided between practically all points and there appears little occasion for the employment of intermediate-point rules in connection with class rates except for the purpose of establishing rates from and to new points. For this purpose only the following clause may be shown in tariffs for use in connection with class rates.

(2) The rule applicable in connection with class rates shall read as follows:

(i) *Class rates from and to intermediate points.* From or to any point not named in this tariff which is intermediate to a point from or to which class rates are published herein through such unnamed point, the class rate published herein over the same route from or to the next more-distant point will be applied.

(n) *"From" and "to" rules may apply in connection with same rate.* When the rules providing application "from" and "to" intermediate points are both shown in connection with any class or commodity rate, they establish class or commodity rates from intermediate points of origin to intermediate points of destination on such classes or commodities. Unless otherwise provided in the tariff, intermediate application rules establish rates from or to intermediate points on the routes of carriers parties to the tariff without regard to the concurrence forms and numbers under authority of which carriers are shown as participating carriers.

§ 1307.29 Routing.

(a) *Routing to be specified.* (1) On and after April 1, 1942, all tariffs containing joint rates shall specify routing over which such rates apply, stated in such manner that such routes may be definitely ascertained. This must be accomplished, insofar as may be practicable, by providing that the rates in the tariff apply only over the routes specifically shown therein.

(2) Subparagraph (1) of this paragraph has reference to the names of carriers and transfer points via which such joint rates apply, and does not mean that highway numbers must be shown.

(b) *Routing guide.* (1) Instead of showing in rate tariffs the routes over which rates apply, such routes may be published in a separate publication (or publications) filed with this Commission either by a carrier or by an agent, provided specific MF–I.C.C. reference be made in the rate tariff to such publica-

tion. Such a separate publication may be designated as a "Routing Guide," and may be used only in accordance with the provisions of the following subparagraphs of this paragraph.

(2) When it is desired to refer to a routing guide or guides for all of the routes, the following notation shall be used:

The rates herein apply only over the routes of the carriers parties to this tariff specified in MF-I.C.C. No. ..., supplements thereto or successive issues thereof.

(3) When it is desired to refer to a routing guide or guides for routes in connection with some but not all of the rates in a tariff, or for routes for account of some but not all of the carriers parties to the tariff, an appropriate notation shall be used. When it is desired to provide that certain rates published in a tariff will not apply over all the routes shown in a routing guide to which the rate tariff is made subject, the rate tariff shall show clearly what routes in the routing guide are not applicable, or are the only routes applicable, as the case may be, in connection with such rates.

(4) When a tariff which refers to a routing guide also shows routes, it shall show clearly whether the routes named therein are in addition to the routes shown in the routing guide or are the only routes over which the rates making reference to such routes will apply. No one rate may be made subject to more than one routing guide for account of any initial carrier except that interterritorial rates may be made subject to one guide for each of such territories in which such a guide is published for that territory alone.

(c) *Form of routing guide.* (1) A routing guide shall contain three sections containing (i) an alphabetical list of all of the points from and to which routes are provided, with the name of the carrier serving each point, together with an index number for each of such points; (ii) a table indicating the points from which routes apply, the points to which routes apply (or between which routes apply), and the numbers assigned in the routing guide to routes provided from and to (or between) such points; and (iii) a table containing all such route numbers in numerical order with a full explanation thereof together with names of the interchange (transfer) points.

(2) The names of the points from, to, or between which routes are provided shall be shown in section 2, arranged in geographical order by carriers, unless names of points, arranged in geographical lists by carriers, are included in section 1 of the guide.

(d) *Application of routing guide.* (1) A routing guide must be concurred in by all carriers over whose lines routes are provided therein. Such guides shall not contain exceptions to the routes provided therein. All exceptions thereto, if any, shall be published in the tariffs making reference thereto.

(2) Routing guides shall show on their title pages the following notation:

The routes provided herein may be used only in connection with rates made subject thereto by specific MF-I. C. C. reference to this guide in the tariffs containing such rates. Its use in connection with any tariff is restricted to the carriers and to the application provided in such tariff.

(3) If desired, the following tariff provision may be incorporated under the heading "Routing Instructions" in rate tariffs:

The rates named in this tariff will apply only over the routes and through transfer points authorized herein except that when in the case of pronounced traffic congestion (not an embargo), detours or other similar emergency, or through carriers' error, carriers forward shipments by other transfer points of the same carriers or over the lines of other carriers parties to the tariff, the rate specified in this tariff (but not higher than the rate applicable over the actual route of movement) will be applied.

NOTE: If desired, the words "or over the lines of other carriers parties to the tariff" may be omitted from the emergency routing clause.

§ 1307.30 Supplements.

(a) *Amendments and supplements.* (1) When it is desired to make changes in the rates, ratings, rules, or other provisions of a tariff, other than a loose-leaf tariff, this may, except as provided in paragraph (d) of this section, be accomplished by issuing a supplement to the tariff constructed generally in the same manner as is the tariff which it supplements.

(2) The first supplement to a tariff shall be designated on the upper right-hand corner of the title page as follows:

Supplement No. 1
to
MF-I.C.C. No. ---------

(3) Subsequent supplements shall be numbered consecutively in like manner. Each supplement shall specify on its title page, immediately under the supplement number and MF-I.C.C. number of the tariff supplemented, the publications which the supplement cancels, and shall also specify the supplements that are in effect. The statement that the supplement cancels conflicting portions of the tariff or prior supplements shall not be used; cancellations must be specific.

(4) The matter contained in each supplement shall be arranged in the same general manner and order as in the tariff which it amends and when points in a tariff are given index numbers the same index number must be assigned to the same point in all supplements to the tariff.

(b) *Participating carriers; how shown in supplement.* (1) A supplement shall contain either a list of carriers participating in the tariff as amended or shall state that the list of participating carriers is "as shown in tariff," or "as shown in tariff and effective supplements," to which may be added "except (here show corrections in, additions to, or eliminations from the original list that are effected by that supplement)." Changes in or additions to the list of participating carriers in the tariff or previous supplements shall be listed alphabetically as provided in § 1307.27(b).

(2) When a participating carrier is eliminated by supplement, such supplement must also provide for cancellation of rates in connection with that carrier. This cancellation of rates should be accomplished by amending the individual items or provisions affected or by the publication of a blanket cancellation notice specifically indicating that all rates in the tariff applying for account of the carrier are canceled.

(c) *Index to supplement.* (1) A supplement of 5 or more pages must be properly indexed, and a supplement of more than 23 pages must also contain a table of contents. In view of the provision of § 1307.33(e) which requires that cancellation in a supplement of a numbered item must be made under the same item number as is given to that item in the tariff, and the requirement of paragraph (a) of this section, which provides that the index number assigned to a point in a supplement must be the number assigned to that point in the tariff, the table of contents and indexes in a supplement of 5 or more pages need not contain entries which are shown in the table of contents or indexes in the tariff, provided that, in connection with the index of points of origin (or destination), the following notation shall be shown:

The index numbers of points in this supplement correspond with the index numbers of the same points shown on pages ------ to ------, inclusive, of the tariff, with the following additions and exceptions.

(2) The table of contents to such a supplement may be omitted if § 1307.27(a) does not require the tariff to which the supplement is issued to contain a table of contents.

(d) *Number of supplements effective at any time.* (1) Except as otherwise authorized in Subpart B tariffs of 4 pages or less may have no supplement; not more than 1 supplement may be in effect at any time to a tariff containing 5 and not more than 16 pages; not more than 2 supplements may be in effect at any time to a tariff containing 17 and not more than 80 pages; not more than 3 supplements may be in effect at any time to a tariff containing 81 and not more than 200 pages; and not more than 4 supplements may be in effect at any time to a tariff containing more than 200 pages.

(2) Except as otherwise authorized in Subpart B tariffs containing 5 and not more than 12 pages may have not more than 4 pages of supplemental matter, and tariffs containing more than 12 pages may have supplemental matter aggregating not more than 33⅓ percent of the number of pages in the tariff except that if the number of pages in the supplement which brings the volume of matter up to that authorized by this paragraph is not evenly divisible by 4, it may exceed the volume authorized to the extent necessary to bring the number of pages of such supplement to the next multiple of 4. The smallest of 3 effective supplements to a tariff of more than 80 but not more than 200 pages shall contain not more than 8 pages, and the smallest of 4 effective supplements to a tariff of more than 200 pages shall contain not more than 16 pages.

(e) *Additional supplement to establish rates, under rule or order of Commission.* (1) Except in the case of loose-leaf tariffs and tariffs containing less than 13 pages, one additional supplement may be issued to any tariff without regard to the requirements of paragraph (d) of this section for the purpose of establishing rates, classifications, rules, and other provisions in compliance with a decision or order of the Commission in a formal case. Only one such supplement may be in effect at any time and may contain no other matter.

(2) If the volume of supplemental matter is not exceeded by the issuance of such additional supplement it shall bear on its title page the following notation in addition to showing reference to the opinion, or order, as the case may be:

This supplement is issued under authority of rule 6(e), Tariff Circular MF No. 8, and will be included in and canceled by the next regular supplement filed to this tariff.

(3) The next regular supplement filed shall bring the number of effective supplements within the requirements of paragraph (d) of this section.

(4) If the volume of supplemental matter is exceeded by the issuance of the additional supplement authorized by this section, the next regular supplement filed shall bring the volume of supplemental matter within the requirements of paragraph (d) of this section, and, further, the volume of supplemental matter shall be brought within the requirements of that paragraph by the issuance of a new supplement filed within 120 days from the effective date of the additional supplement, or a new issue of the tariff shall be filed within that period.

(5) Such additional supplement, in addition to showing reference to the opinion or order as the case may be, shall bear on its title page a notation in substantially the following form:

This supplement is issued under authority of rule 6(e), Tariff Circular MF No. 8. It will be canceled by a new supplement or the tariff will be reissued, the new supplement or tariff to be filed on or before (here name a date which will observe the period of time provided above).

(f) *Supplement to tariff that is filed and not yet effective.* (1) In an instance where a tariff is filed on statutory notice canceling another tariff and it is desired to issue a supplement to the tariff to be canceled, effective prior to the effective date of the new tariff, a supplement may be issued which makes the same changes in or additions to both tariffs and which is indicated as a supplement to both the tariff to be canceled and the canceling tariff (being given supplement numbers running in proper sequence to both MF-I. C. C. numbers). In other words, such a supplement shall be numbered and treated as a supplement both to the old and new tariffs and shall be filed and posted as such. The matter contained in such a supplement shall be confined to additions or to changes in rates or provisions which were brought forward in the new tariff without change. It is not required that the provisions of paragraph (d) of this section be observed in connection with such a supplement to the old tariff, but only one such supplement may be in effect at any time.

(2) If the matter to be changed is not arranged or numbered in the same way in both tariffs, the changed provision shall be shown in the proper manner to indicate the change made in the old tariff, and also to indicate the change in the new tariff. For example, if the changed provision is indicated as item 40–B in the old tariff and as item 50 in the new tariff, the amended provision shall be shown as follows:

Item 40–C cancels Item 40–B of MF–I.C.C. No. ----------

Item 50–A cancels Item 50 of MF–I.C.C. No. ----------

(3) Rates or other provisions may be changed upon lawful notice by supplement effective on or after the general effective date of the tariff supplemented, provided the matter amended has been in effect for 30 days or more either in the supplemented issue or in a former issue. Where such matter was in effect in a former issue, a notation in connection with the revised matter, shall show that it has been in effect 30 days or more. Example: "Item 40–A cancels Item 40. Item 40, effective ----------, brought forward without change from item No. ------- of MF–I.C.C. ------- (former issue)". Rates or provisions which effect changes in rates or provisions not contained in either the former tariff or a reissue thereof may be established upon lawful notice by supplement to such new tariff, effective not earlier than the general effective date of the tariff, by showing in the following manner, in connection with the new rates or provisions that the rates or provisions previously applicable have been in effect 30 days or more in a different issue. Example: "Addition. Changes class rates which became effective ---------- in MC–I.C.C. No. -------." Unless the provisions of this paragraph are complied with no supplement to a tariff that has been filed and has not become effective may be issued to become effective within 30 days from the effective date of the tariff without special permission.

(4) This section does not waive the requirements of § 1307.44.

§ 1307.31 Amendments.

(a) *How made.* (1) Any change in or addition to a tariff shall be known as an amendment. Amendment of a bound tariff shall be made by reissue of the tariff or by issue of a supplement as provided in § 1307.30. Amendment of a loose-leaf tariff shall be made by reissue of the tariff or of a page or pages as provided in paragraph (f) of this section. (See also §§ 1307.34(g), 1307.40 and 1307.43.)

(2) When an amendment is made in a numbered item or other unit in a supplement, such item or other unit shall be published in the supplement in its entirety as amended. When rates or other provisions are published in numbered items, cancelation shall be made as prescribed in § 1307.33(e). When rates or rules are published in numbered units other than items, the supplement changing the rates or other provisions shall specifically provide for the cancelation of such matter by reference to the page of the tariff and number of the rule or other unit which it cancels. Numbered units other than items shall not be given suffix letters when amended. When such a change is made in matter previously published in a supplement in a numbered unit other than an item, the new supplement shall also give reference by number to the previous supplement.

(3) In any instance where matter is not published in a numbered unit, the changed provision shall be published in the supplement in its entirety and reference shall be made to the page or pages of the tariff on which the matter to be canceled is shown clearly indicating the matter which is canceled. If the matter to be amended has been amended by a previous supplement, specific cancelation shall be made of the corresponding matter in the "tariff as amended" and specific reference shall be made by number to the page or pages of the previous supplement containing the matter to be changed, and, when corresponding matter originally was effective in the tariff, to the page or pages of the tariff formerly containing the matter amended.

(b) *Changes indicated.* (1) All tariff publications shall indicate changes made in existing rates, charges, classifications, rules or other provisions by use of the following uniform symbols in connection with such change:

↓ or (R) to denote reductions.
↑ or (A) to denote increases.
▲ or (C) to denote changes in wording which result in neither increases nor reductions in charges.

(2) Explanation of such symbols shall be provided (see § 1307.27(e)) in the publication in which they are used, and these symbols shall not be used for any other purpose.

(3) When a change of the same character is made in all or in substantially all rates in a tariff or supplement, or a page thereof, that fact and the nature of such change may be indicated in distinctive type at the top of the title page of such issue, or at the top of each page, as the case may be, in the following manner: "All rates in this issue are increases"; or "All Rates on this page are reductions"; or there may be added, when appropriate, "except as otherwise provided in connection with particular rates." In complying with this paragraph, a bold-faced dot "●" shall be used to symbolize a rate or other provision in which no change has been made and the proper symbol shall be used for the purpose of denoting any other change not indicated by the general statement referred to above.

(c) *Omissions from previous tariff.* When a tariff or supplement canceling a previous issue omits points of origin or destination, routes, rates, ratings, rules or other provisions contained in the previous issue, the new tariff or supplement shall indicate the cancellation in the

manner prescribed in paragraph (a) of this section, and if such omission effects changes in charges or services that fact shall be indicated by the use of the uniform symbols prescribed in paragraph (b) of this section.

(d) *Notation; matter (part) established on short notice.* Every publication which consists partly but not wholly of matter established upon less than statutory notice shall show in connection with each change made effective on less than statutory notice a notation that such matter is issued on ____ days' notice under authority of (here give specific reference to the special permission, decision, order, rule, or other authority).

(e) *Reissued matter.* (1) Matter brought forward without change from a tariff which has not been in effect 30 days, also matter brought forward without change from one supplement to another, must be designated "Reissued" in distinctive type and must show the original effective date and the number of the supplement or tariff from which it is reissued; or must be uniformly indicated by the letter [R] in a square when reissued from another tariff or from a supplement to another tariff and by numerals, commencing with 1, in squares when reissued from a prior supplement to the same tariff, printed in distinctive type and shown in a conspicuous manner, and the explanation thereof must be made in the tariff or supplement in which the symbols are used. Example: "[1] Reissued from MF-I.C.C. No. ____, (or Supplement No. ____, to MF-I.C.C. No. ____,), effective _____ (date upon which item became effective in former tariff or supplement to another tariff)." "[1] Reissued from Supplement No. 1, effective _____;" and so on numerically, the figures of the symbols representing the number of the supplement to the same tariff from which the reissued item is brought forward. If items in a tariff or supplement are made effective on dates other than the general effective date shown on the title page, reissue of such items may be indicated in later publications by showing a letter suffix or other symbol in connection with, and as a part of, the letter [R] or the numerals in squares as herein authorized. If the reissued items have become effective in a supplement to another tariff, the MF-I.C.C. number of that tariff shall also be given.

(2) The letter [T] in a square and numerals commencing with [1] in a square shall not be used as reference marks or symbols for any other purpose in any tariff or supplement.

(f) *Loose-leaf tariffs.* (1) Amendment of loose-leaf tariffs shall be made by reprinting the page upon which a change or addition is made, and such changed page shall be designated as a revised page. For example, "First Revised Page 1 cancels Original Page 1", or "Second Revised Page 2 cancels First Revised Page 2", etc. When a revised title page is issued, the following notation shall be shown in connection with and immediately under the effective date:

Original tariff effective (here shown effective date of the original tariff).

(2) If, on account of expansion of matter on any page, it becomes necessary to add an additional page in order to take care of the additional matter, such additional page (except when it follows the final page) shall be given the same number with a letter suffix; for example, "Original Page 4–A", "Original Page 4–B", etc. If it is necessary to change matter on original page 4–A, it may be done by issuing first revised page 4–A, which shall indicate the cancellation of original page 4–A.

(3) When a revised page is issued which omits rates, rules, or other provisions previously published on the page which it cancels, and such rates, rules, or provisions are published on a different page, the revised page shall make specific reference to the page on which the rates, rules, or provisions will be found, and the page to which reference is so made shall contain the following notation in connection with such rates, rules, or other provisions, etc.:

For (here insert rates, rules, other provisions, etc., as case may be) in effect prior to the effective date hereof see page —.

Subsequently revised pages of the same number shall omit this notation insofar as this particular matter is concerned.

(4) If, after a loose-leaf tariff has been filed with the Commission, it is desired to file additional pages at the end of the tariff they shall be numbered consecutively with the last page of the tariff, and shall be designated as original pages. For example, when the tariff as filed has 150 pages, page 151 when filed shall not be designated as an "Additional" page but shall be designated as "Original Page 151." Such a page may be filed only for the purpose of adding new provisions which do not change the rates, rules, or provisions on other pages of the tariff.

(5) One of the following methods shall be used in identifying and checking revised pages filed for the purpose of amending loose-leaf tariffs:

(i) When the original tariff is filed, the page next to the title page shall be designated as "check sheet" which shall show the number of pages contained in the tariff. When pages of the tariff are revised or when new pages are added, the check sheet shall be correspondingly revised to include the amended and added pages. The revised check sheet listing the added or revised pages shall accompany such pages when forwarded to the Commission for filing; or

(ii) Instead of a revised check sheet issued each time revised pages are filed, such revised pages may show, in the lower left-hand corner, correction numbers running in consecutive order beginning with No. 1, all revised pages issued and filed at the same time being given the same correction number. If this method is adopted, a permanent check sheet containing in numerical order a list of correction numbers beginning with No. 1 shall be filed with the original tariff in order to permit the checking of correction numbers on this sheet and thus to maintain a permanent record by number of all corrections received.

(6) Changes shall be indicated as required by paragraph (b) of this section. Items which have been in effect 30 days or more need not be shown as reissued items on revised pages but may be republished as effective on 30 days' notice. Items which have not been in effect 30 days when brought forward on revised pages shall be shown as reissued in the manner prescribed in paragraph (e) of this section.

(7) When protective covers for loose-leaf tariffs are used, only such information should appear thereon as will remain constant and in use during the life of the tariffs.

(8) Supplements shall not be issued to loose-leaf tariffs, except for the purposes authorized by §§ 1307.34, 1307.40 and 1307.43.

§ 1307.32 Sectional tariffs.

(a) *Alternative use of rates in sectional tariffs.* (1) The alternative use of rates may be provided by publishing such rates in different sections of the same tariff. The first page of each section, which shall be known as the title page of the section, shall contain the number of the section and the application of the rates published in that section. The title page of each section containing alternating rates shall also contain the following rule:

If the charge accruing under section ____ or ____ of this tariff is lower than the charge accruing under this section on the same shipment over the same route, the charge accruing under section ____ or ____ whichever is lower, will apply.

(2) Each succeeding page of the section shall also bear the section number. Unnecessary alternation of rates must be avoided by checking the rates in one section against those in other sections and omitting rates which would clearly result in charges higher than those in other sections. Alternating reference should not be given to another section unless that section actually contains rates which alternate.

(b) *Nonalternating section.* (1) Each commodity tariff arranged in sections for alternative use shall contain a nonalternating section and each class and commodity tariff similarly arranged for alternative use shall contain a commodity section which does not alternate with other sections of the tariff.

(2) When an exclusive commodity tariff is issued under authority of this section, section 1 of the tariff shall not have alternative application with other sections. In the portion of the tariff containing rules, under the heading "Application of Rates," the following shall appear:

The rates in section 1 are specific commodity rates and do not alternate with rates in other sections of the tariff. See application of that section.

(3) The title page of section 1 shall contain the following notation:

When rates are published in this section on the commodity transported from point of origin to destination, rates named in this section will apply regardless of rates between the same points, over the same routes, published in other sections.

(4) The title page of each other section containing commodity rates shall contain the following notation preceding that prescribed in paragraph (a) of this section:

When rates are published in section 1, the rates named in this section on the same commodity from and to the same points, over the same route, will not apply.

(c) *Position of sections.* (1) When both class and commodity rates are published in separate sections of a tariff, under authority of this section, the class rates shall be published in a section preceding the commodity sections. Commodity rates which do not alternate with the rates in other sections shall be published in the first commodity section. Under the heading of "Application of Rates," in the rules portion of the tariff, the following notation shall appear:

The rates in section 2 are specific commodity rates and do not alternate with rates in other sections of the tariff. See application of that section.

(2) The title page of the nonalternating commodity section shall contain the following notation:

When rates are published in this section on the commodity transported from point of origin to destination, rates named in this section will apply regardless of rates between the same points, over the same routes, published in other sections.

(3) The title page of each other section containing commodity rates shall also contain the following notation preceding that prescribed in paragraph (a) of this section:

Where rates are published in section 2, the rates named in this section on the same commodity from and to the same points, over the same route, will not apply.

(d) *Restrictions, publication of alternating rates.* (1) Publication of alternative rates in different sections of a tariff is subject to the following restrictions:

(i) Only one alternation of class rates against class rates may be provided, and not more than two alternating sections of commodity rates, which may alternate with each other, will be permitted;

(ii) Rates published in another tariff may not be reproduced for alternative purposes;

(iii) One section of a tariff may not alternate with more than three other sections;

(iv) Except as otherwise authorized in § 1307.28(f), a rate in one section may not alternate with a rate in the same section; and

(v) Alternating sections may not be subdivided.

(2) A tariff which, as originally filed, does not contain alternating sections may not be changed into one with alternating sections except by reissue; nor may another section be added by supplement to a tariff already containing alternating sections.

§ 1307.33 Transfer of rates; item adjustment.

(a) *Transfer of rates from one tariff to another.* If a tariff or supplement to a tariff or a revised page is issued which cancels another tariff in part only, such tariff, supplement, or revised page shall specifically state the portion of such other tariff which is thereby canceled, and the tariff to be canceled in part shall at the same time be correspondingly amended, effective on the same date, in the regular way; that is, by reissue if tariff contains four pages or less, by reissue or supplement if tariff contains more than four pages, and by revised pages if tariff is a loose-leaf tariff. Such reissue, supplement, or revised page of the tariff canceled in part shall state where rates will thereafter be found and shall be filed at the same time and in connection with the tariff or supplement which contains the new rates. Cancellation notice on the title page of the new issue shall read substantially as follows: "Cancels MF-I.C.C. No. _____, to the extent shown in Supplement No. _____ thereto."

(b) *Cancellation when tariff reissued.* (1) If a tariff is canceled in full by an issue which will thereafter be found. The new issue and the cancellation supplement shall be made effective on the same date, and the new issue shall contain a cancellation notice reading substantially as follows: "Cancels MF-I.C.C. No.____, to the extent shown in supplement No. ____ thereto."

(2) When a tariff is canceled in full by another tariff which does not contain all of the rates superseding those formerly in the canceled tariff, the canceling tariff shall show where rates not appearing therein will thereafter be found, or what rates thereafter will apply. For example: "Rates formerly published in MF-I.C.C. No. ____ and not appearing herein are published in MF-I.C.C. No. ____ of ____," or it may be stated that such rates are canceled and that "Class rates will apply," or "Combination rates will apply." (See § 1307.31(c).)

(3) When the rates which are not brought forward in the canceling issue are transferred to another tariff or tariffs, such publication or publications shall show directly in connection with the rates appearing therein for the first time where such rates were formerly published, shall state that such formerly published rates were canceled by MF-I.C.C. No. ____, effective _____. (Here show reference to the tariff which canceled the rates.)

(4) When a tariff is canceled in full and numerous rates are transferred to two or more other issues, cancellation of the superseded issue may be made by supplement thereto, in which event each of the superseding issues shall show the notation in paragraph (a) of this section and the canceling supplement shall specifically indicate the rates or provisions thereafter to be published in each of the superseding issues, and shall state that the issue supplemented thereby is canceled in full.

(5) When a joint agency tariff is to be canceled in full and the rates therein are to be transferred to an agency tariff not issued by the same joint agents, the cancellation shall be accomplished by supplement. The canceling supplement shall give reference by MF-I.C.C. number and name of agent or agents, to the tariff in which future rates will be found, and the new tariff shall show that rates from and to the points named therein were formerly published in MF-I.C.C. No. ____ (here show the MF-I.C.C. numbers and names of agents appearing on the joint agency tariff that is canceled by the supplement required in this paragraph).

(c) *Cancellation notice must be by supplement.* (1) If a tariff is canceled with the purpose of discontinuing the rates named therein, or when, through error or omission, a tariff failed to cancel the previous issue and such previous tariff is canceled for the purpose of perfecting the records the cancellation notice shall not be given a new MF-I.C.C. number, but shall be issued as a supplement to the tariff (including loose-leaf tariffs) which it is desired to cancel. In the issuance of such supplement the provisions of § 1307.30(d) need not be observed.

(2) When any tariff is canceled in whole or in part by a supplement thereto, the supplement shall show where the rates will thereafter be found or what rates will thereafter apply.

(3) A tariff canceling more than one tariff in whole or in part shall include a brief description of such tariffs.

(d) *Transfer of rates from carriers' to agents' tariff and from agents' to carriers' tariff.* (1) An agent, when publishing rates in his tariffs which are to supersede the rates in his principals' tariffs, shall cancel the rates in his principals' tariffs as directed in paragraph (a) or paragraph (b) of this section, as the case may be. When cancellation of rates in the individual issue is made by supplement thereto in pursuance to this section, such supplement must be issued by the individual carrier.

(2) A carrier may not publish in its individual tariff rates which are to supersede the rates published in a tariff of a duly authorized agent unless the tariff is accompanied by a supplement issued by the agent canceling the rates in his tariff effective on the same date, and indicating where rates superseding those canceled will thereafter be found.

(3) As a concurrence does not confer authority upon either a carrier or an agent to cancel tariffs of the concurring carrier, tariffs issued under concurrence may not assume to cancel tariffs of concurring carriers. Such cancellations shall

be made by the carrier or agent who issued the tariff which is to be canceled, but the tariff or supplement containing the provisions formerly published in the issue of the concurring carrier may bear a notation stating where such provisions were formerly published.

(c) *Definition of items.* (1) The rates, rules, regulations, or other provisions of a tariff may, for convenience, be divided into relatively small and distinct portions which may be given individual numbers and designated "Items." The numbers of items as published in an original tariff should run in regular sequence but need not be consecutive; for example, items may be numbered 5, 10, 15, 20, etc. Only one series of item numbers may be used.

(2) When any provision contained in a nitem, other than those contained in a classification, is amended, the revised item showing the amended provision shall be given the same item number with a letter suffix; for example: Item 40–A cancels Item 40; Item 40–B cancels Item 40–A; and so on.

(3) When any rate or provision contained in an item designated by an item number is amended, resulting in the cancelation of all or a portion thereof, the canceled matter shall not be reproduced in the new item effecting the cancelation except to the extent necessary to identify the item.

(4) If an item is withdrawn in its entirety, or expires by its own terms, leaving no rates or provisions in effect in that item, a statement of the cancelation or expiration shall be brought forward in subsequent supplements as a reissued item, bearing the same item number and the appropriate letter suffix.

(5) If the matter in an item or any part thereof is transferred to another tariff or another portion of the same tariff, the original item shall be revised (being given the same number with proper letter suffix) in order to show the revised provision or, when no effective provision is continued in the item, to indicate cancelation of the item, and also to show where the transferred rates or provisions will thereafter be found. For example: "Item 10–A, cancels Item 10; rates formerly appearing in Item 10, but not shown herein will be found in Item ____ (or in MF–I.C.C. No. ____)."

(6) When the provisions of an item have been eliminated by cancelation or expiration they may not be reinstated except by republication in a revised item bearing a new number or the same number with a new letter suffix, and in either case bearing a new effective date. In other words, republication of the expired or canceled matter, except when the item is in a classification as provided in the next succeeding subparagraph of this paragraph, may be under the same item number only when the new item cancels the former item and is given the next letter suffix. For example: If the canceled item is 40–A the new item shall read "Item 40–B cancels Item 40–A."

(7) The items in each supplement to a classification shall be numbered consecutively, commencing with Item 1 on each page, shall cancel the item superseded and shall show where the canceled item appeared; for example: Item 6 cancels Item 3, page 2 of Supplement 2; Item 10 cancels Item 1, page 2, of classification.

§ 1307.34 Suspended matter.

(a) *Supplement announcing suspension.* (1) Upon receipt of an order suspending any publication in part or in its entirety, the carrier or agent who filed such publication shall immediately file with the Commission, and post in accordance with § 1307.44, a consecutively numbered supplement, which shall not bear an effective date, containing a notice of suspension specifically indicating the portion of the publication that is under suspension and the date to which such matter is suspended, also stating that rates and provisions under suspension may not be used during the period of suspension and giving specific reference by MF–I.C.C. number or numbers to the tariff or tariffs or supplements thereto or revised pages thereof in which rates, charges, classifications, rules, or provisions respecting practices continued in effect will be found. Such supplement shall quote the portions of the order which describe the suspended matter contained in the publication, the paragraph of the order naming the date to which such matter is suspended, and the paragraph prohibiting changes in the matter continued in effect during the period of suspension.

(2) Upon receipt of an order resuspending any publication in part or its entirety beyond the date to which originally suspended, the carrier or agent who filed such publication shall immediately issue and file with the Commission a supplement to each suspended tariff, which shall not bear an effective date, quoting in full the resuspension order and showing on the title page thereof a statement to the effect that the provisions suspended by the original suspension order in Investigation and Suspension Docket No. M ___ as indicated by Supplement No. (here show the number of the supplement announcing the original suspension under the same I. & S. Docket number) are further suspended until (here show the date to which the suspended matter is further suspended, as indicated in the resuspension order).

(b) *Reissue of suspended matter to be canceled.* If, prior to the filing of the supplement announcing suspension, a carrier or agent files a later supplement which contains as reissues the matter suspended in the previous supplement, the suspension supplement required by this section shall also specifically cancel from the later supplement such reissued matter, and by amendment to the title page of said later supplement shall eliminate the cancellation of the suspended supplement when the latter is suspended in full, and when a supplement is suspended in part shall provide that such later supplement cancels such previous supplement, except portions under suspension. Tardiness in filing supplements announcing suspension may result in the rejection by the Commission of the later supplement which cancels the suspended matter.

(c) *Reissue of effective tariff when suspended tariff is ordered canceled.* (1) When the Commission suspends an entire tariff, any tariffs which would have been canceled by the suspended tariff are continued in effect and will remain in force during the period of suspension or until lawfully canceled or reissued. Except in the case of loose-leaf tariffs or tariffs of less than five pages, supplements to tariffs thus continued in effect containing additions to and changes in matter not sought to be changed by the suspended tariff may be filed without regard to the volume of supplemental matter which the effective supplements in the aggregate contain. If the volume of supplemental matter permitted by § 1307.30(d) is exceeded under authority of this paragraph and the Commission orders the cancellation of the suspended tariff, the volume of supplemental matter in the tariff continued in effect by such suspension shall be brought within the requirements of § 1307.30(d) by supplement filed within 120 days, or such tariff shall be reissued within that time.

(2) Suspension of portions of a tariff or of matter contained in a supplement does not authorise disregard of § 1307.30 (d) relative to the permissible volume of supplemental matter in and the number of effective supplements to such tariff, except that a supplement containing suspended matter will not be counted against the number of effective supplements or the volume of supplemental matter permitted to such tariff under § 1307.30(d) provided the effective matter in such supplement is reissued and the supplement itself, except the suspended portions thereof is canceled.

(3) When a tariff (or supplement) which is suspended in part is reissued, such reissue shall cancel the tariff (or supplement) containing the suspended matter "except portions under suspension in I. and S. Docket No. M _____." If a supplement is suspended in whole or in part and the tariff is thereafter reissued, the reissue shall cancel the tariff "except portions under suspension in Supplement No. _____ (or in Item No. _____ of Supplement No. _____) in I. and S. Docket No. M _____" and, if the matter continued in effect by the suspension is contained in the tariff being reissued, such matter shall be brought forward. When a tariff which is suspended in part is reissued, such reissue shall cancel the tariff containing the matter which is continued in effect by reason of the suspension when such tariff contains no other effective matter.

(d) *No change may be made in suspended provisions nor in provisions left in effect by reason of suspension.* A suspended rate, charge, classification, rule, or provision respecting practices may not be changed or withdrawn or the effective date thereof further deferred except by order or special permission of the Commission, nor may any change be made in a rate, charge, classification, rule or provision respecting practices which is continued in effect as a result of such suspension except under order or special permission of the Commission.

(e) *When Commission's order of suspension vacated.* (1) When the Commission vacates an order of suspension effective on a date earlier than the date to which the matter is suspended, the carrier or agent who filed the suspended tariff, supplement, or revised page may file with the Commission, and post in accordance with § 1307.44, on not less than 1 day's notice, unless otherwise provided by the order, a supplement stating the date upon which, under authority of the vacating order, the tariff, supplement, revised page, item, rate, charge, classification, rule, or provision respecting practices will become effective. Unless the supplement announcing vacation is filed naming a date earlier than the date to which it is suspended, the suspended matter will become effective on that date.

(2) When an order which suspended a tariff in its entirety is vacated, the vacating supplement, if made effective on or before the date to which the tariff is suspended, may also include as reissues, any changes or additions lawfully established in supplements to the tariff which remained in effect during the period of suspension. If a new tariff is filed during the period of suspension, canceling the tariff sought to be canceled by the suspended tariff, any changes or additions published in the new tariff which are not included in the suspended tariff may be included in the vacating supplement as reissued matter, provided the vacating supplement also cancels such new tariff. When reissued matter is published in a vacating supplement the vacating notice shall be printed in not less than 10-point type, either on the title page or immediately following indexes of points and commodities, if any.

(3) When a tariff containing suspended matter is canceled during the period of suspension, except portions under suspension, by a new tariff, and the Commission vacates its suspension order in its entirety effective on a date subsequent to the effective date of the new tariff, a supplement to the new tariff effective on not less than 1 day's notice, republishing and establishing the suspended matter and canceling the matter which was effective during the period of suspension, also canceling the matter under suspension in the former issue, shall be filed and posted in accordance with § 1307.44. When the Commission vacates its suspension order effective on a date prior to the effective date of the new tariff, a vacating supplement to the old tariff should be filed and posted and a supplement to the new tariff should also be filed and posted on not less than 1 day's notice, establishing therein on the effective date of such new tariff, matter which was under suspension in the old tariff. A common supplement to both tariffs as authorized by § 1307.30(f) may be filed and posted upon not less than 1 day's notice to accomplish this purpose.

(f) *Cancellation of suspended matter.* When the Commission orders the cancelation of a tariff, supplement, revised page, item, rate, charge, classification, rule, or provision respecting practices previously suspended by it, the cancelation shall be effected by filing with the Commission and posting upon not less than 1 day's notice, unless otherwise provided by the order, a supplement stating the date upon which in accordance with the Commission's order said rate, charge, classification, rule, or provision respecting practices is canceled; except that, when desired, such cancelation may be accomplished in a new tariff canceling the tariff containing the suspended matter.

(g) *Notation on supplement.* (1) Every suspension, vacating and cancelation supplement issued under authority of this rule shall bear on its title page the following notation: "Issued under authority of Rule 10, Tariff Circular MF No. 3, and in compliance with order of the Interstate Commerce Commission, in Investigation and Suspension Docket No. M– ----------, of ----------." (Date)

(2) Such supplements will not be counted against the number of effective supplements or the volume of supplemental matter permitted under § 1307.30 (d) but they must list effective supplements as required by § 1307.30(a).

(3) The provisions of this section relating to suspension, vacating and cancelation supplements will also govern in connection with tariffs issued in loose-leaf form, except that such supplements shall not contain rates, charges, classifications, rules, or provisions respecting practices. All changes made in loose-leaf tariffs shall be published on revised pages.

(4) Supplements issued under authority of this section shall contain nothing except matter permitted thereunder.

§ 1307.35 Terminal and special services.

(a) *Terminal and special services.* Each carrier or its agent shall publish, post, and file tariffs which shall contain in clear and explicit terms all of the rates and charges for and rules governing detention of vehicles, storage, weighing, diversion, reconsignment, icing, refrigeration, heat, C.O.D. services, transit services, absorptions, allowances, and other terminal services, and all other charges and rules which in any way increase or decrease the amount to be paid on any shipment, or which increase or decrease the value of the service to the shipper. Tariffs authorising such services, or providing charges therefor, shall clearly show their application.

(b) *Method of publication.* The performance of special services and the charges therefor in addition to those based on line-haul rates lawfully on file with the Commission shall be provided for in one of the following three ways:

(1) By including in the tariff which contains the rates on which charges are based the specific authority for the extra service, the rules under which such extra service is to be performed, and the charge, if any, for the service; (2) by specific reference, in the tariff which contains the rates on which charges are based, to the MF–I.C.C. number of a separate publication containing the provision for such service and the charge, if any, for it; or (3) by including in the tariff which contains the rates on which charges are based, a clause providing that shipments made under the rates contained therein are entitled to the following services (naming specifically the services which will be permitted in connection with such rates) and that shipments are subject to the charges for such services, if any, of participating carriers performing the services "as shown in tariffs lawfully on file with the Interstate Commerce Commission."

(c) *Intermediate drayage or transfer.* (1) Joint through rates from points on the line of one carrier to points on the line of another carrier include drayage or other transfer services at intermediate transfer points, and no part of such charges may be added to the joint rates on shipments handled through and not stopped for special services at such intermediate transfer points.

(2) All tariffs containing joint rates shall contain the following provision:

The joint rates published herein include all charges for drayage or other transfer services at intermediate transfer points on shipments handled through and not stopped for special services at such intermediate transfer points.

(d) *Pick-up and delivery service.* (1) All tariffs containing rates for the transportation of property shall specify whether such rates do or do not include pick-up and delivery service at all points within the limits of the cities, towns, or villages from, to or between which the rates apply.

(2) If pick-up and delivery service will be performed also in an area beyond or outside the limits of the cities, towns, or villages, from, to or between which the rates apply, such area shall be described in the tariffs.

§ 1307.36 Distance rates.

(a) *Distance rates may be used when no other rates provided.* (1) A carrier or an agent acting for a carrier or carriers, may file tariffs containing distance or mileage class or commodity rates, or both. Except as otherwise provided in Subpart B, distance or mileage class rates may be used only when no through class rates (other than distance class rates) are published to apply from and to the same points over the same route, and distance or mileage commodity rates may be used only when no through commodity rates (other than distance commodity rates) are published to apply from and to the same points over the same route. Except as otherwise provided in Subpart B, distance or mileage commodity rates will apply even though through class rates are published to apply from and to the same points over the same route.

(2) Tariffs containing distance or mileage rates shall clearly and definitely show the application of the rates. Distance tariffs of regular route carriers shall contain an alphabetical list of points between which the rates apply and shall also show in proper arrange-

ment the distances between such points, or shall make reference by MF–I.C.C. number to a separate tariff, constructed in accordance with one of the plans set forth in paragraph (c) of this section, for such list of points and distances. Tariffs of irregular route carriers naming mileage rates may either contain a list of points served together with distances or may refer by MF–I.C.C. number to a distance guide or guides issued by such carriers or their duly authorized agents clearly and accurately indicating distances between all points served.

(b) *Notation on distance class rate tariff.* (1) Each tariff that contains only distance or mileage class rates must bear on its title page the following rule:

Distance or mileage class rates shown herein may be used only when no commodity rates or class rates (other than distance class rates) have been published to apply from and to the same points over the same route.

(2) Each tariff that contains only distance or mileage commodity rates must bear on its title page the following rule:

Distance or mileage commodity rates shown herein may be used only when no commodity rates (other than distance commodity rates) have been published to apply from and to the same points over the same route.

(3) Each tariff that contains only distance or mileage class and commodity rates must bear on its title page the following rule:

Distance or mileage class rates shown herein may be used only when no commodity rates or class rates (other than distance class rates) have been published to apply from and to the same points over the same route, and distance or mileage commodity rates shown herein may be used only when no commodity rates (other than distance commodity rates) have been published to apply from and to the same points over the same route.

(4) If distance or mileage rates without alternative application are published in a tariff which also contains rates other than distance rates, the notations for class, or commodity, or both class and commodity rates, as the case may be, prescribed by this section shall be shown immediately in connection with such distance or mileage rates.

(c) *Local distance table must be filed.* (1) Each regular route carrier that maintains local distance or mileage rates published in a tariff which does not contain a list of points between which such rates apply together with distances between such points shall publish, post, and file, individually or through an agent, a tariff containing a list of points served and the distances over its line between such points, arranged in one of the following four ways:

(i) Showing the distance from each point to each point.

(ii) Showing the distance from each point to each transfer point with another carrier or with a branch of the same carrier.

(iii) Showing the distance from each transfer point with another carrier or with a branch of its own line to each other such transfer point, and the distance from each local point to the nearest transfer point in each direction.

(iv) Until further notice, carriers may comply with this section by including in each tariff naming distance rates a map, specially prepared and made an integral part of the tariff, indicating clearly and accurately the distances between all points between which rates are published. Instead of including separate maps in rate tariffs, reference may be made in the rate tariff to a separate distance guide constructed on the principle of maps, or combinations of tables and maps, definitely and clearly indicating distances between the points covered by the rate tariff making reference thereto. All carriers parties to rate tariffs making reference to separate distance guides must be parties also to the distance guide referred to in the rate tariff.

(2) Each of such tariffs shall clearly indicate the transfer points at which the carrier interchanges traffic and shall name the connecting carrier with which transfer is made at each such transfer point.

(d) *Joint distance or mileage tables.* (1) Carriers, operating over regular or irregular routes, that participate in joint distance or mileage rates must either (i) publish in the tariff containing such joint distance or mileage rates or in a separate duly authorized publication an alphabetical list of all points between which such distance or mileage rates apply and the distances from each of such points to every other point, indicating in an appropriate manner which of such points are transfer points at which it is possible to interchange traffic and naming the connecting carriers at each such transfer point with which such transfer is possible; or (ii) file through an agent, duly authorized, a separate joint publication which shall contain an alphabetical list of all the transfer points on their respective lines at which it is possible to interchange traffic in the area embraced by the application of such joint distance or mileage rates, together with the names of the connecting carriers at each transfer point with which transfer is possible, and the distance from each such transfer point to each other transfer point; and they shall, in the tariffs containing such joint distance or mileage rates, give reference by MF–I. C. C. number to such separate joint publication. The latter shall also contain the distance from each local station to the nearest transfer point in each direction over the line of the same carrier, or the tariff containing the joint distance or mileage rates shall refer by MF–I.C.C. number to the tariff or tariffs of each carrier containing the distances between points on its line and such junction points.

(2) Until further notice, a method of publication of distances similar to that authorized in paragraph (c) (1) (iv) of this section may be used instead of the methods of publication specified in paragraph (1) (i) and (ii) of this paragraph.

NOTE: It is not intended by the two preceding paragraphs to require carriers to have a separate publication for each rate tariff containing joint distance or mileage rates but all the distances over which joint rates in which such carrier participates may be included in one publication.

§ 1307.37 Classification, exceptions, and rules tariffs.

(a) *Classification.* A tariff may be filed containing a classification of the articles or commodities upon which the rates named in other tariffs making reference thereto will apply. The various articles or commodities shall be listed in the classification in an orderly manner and a rating indicating the class rate to be applied shall be shown in connection with each item or items containing a description of the articles. Such a tariff shall contain an alphabetically arranged index of all of the articles or commodities so listed. It is not permissible to state that the rating or rate on any article will be that applying upon another article. For example: The classification may not state that "Fire clay, crude or ground," will take "Fire-brick rates." If it is intended that fire clay take the same rating as is designated for fire brick, the same rating shall be shown in connection with the item listing fire clay.

(b) *Rule in classification.* (1) Each classification shall contain the following rule:

The establishment of a commodity rate removes the application of the class rate on the same article between the same points over the same route, except when and insofar as alternative use of class and commodity rates is specifically provided in the tariff containing such commodity rates, and except that import, export, coastwise, and intercoastal class rates will take precedence over commodity rates which are not published to apply specifically on import, export, coastwise, or intercoastal traffic.

(2) In applying the rule in subparagraph (1) of this paragraph, a local commodity rate will take precedence, on traffic originating or destined beyond, over a proportional class rate between the same points over the same route whether higher or lower, but an import, export, coastwise, or intercoastal class rate will take precedence on import, export, coastwise, or intercoastal traffic, respectively, over a domestic commodity rate.

(c) *Rules.* Rules which have a general application in a classification territory, or throughout the country, may be published in a classification tariff. Such rules must precede the list of articles shown in the classification and must be consecutively numbered and separately indexed.

(d) *Exceptions to classification.* (1) A separate tariff may be filed containing exceptions to the classification for application in connection with tariffs or rates making reference thereto. Each classification exceptions tariff shall contain the rule above provided for a classification tariff. Exceptions published therein must not be restricted to a small number of points in order to avoid the publication of commodity rates between such points. One rate tariff may be governd for account of any one carrier by not more than one tariff of exceptions to each classification governing the tariff, published either individually or by an agent

A tariff of exceptions may not contain any matter which is not in fact an exception to a rule, rating, or other condition published in a classification, except as provided in paragraph (e) of this section, nor will it be permissible to state that the rating or rate on any article will be that applying to another article. When tariffs naming joint rates make reference to separate publications containing exceptions to the classification, the tariffs of exceptions must be concurred in by all of the carriers participating in the joint rates.

(2) Different classification ratings on the same article, or articles, based on different minimum quantities may be published in an exceptions tariff provided the lowest charge resulting from any such rating applied in connection with its published minimum (or actual quantity shipped, if greater) is made applicable by publishing such ratings in the same item and by providing in connection with such item a rule to the effect that the lowest charge obtainable under the different ratings and minima applicable thereto (or actual quantities if greater) will be applied.

(3) Tariffs containing exceptions to the clasification may not provide for the alternation of such exceptions with the classification proper.

(e) *To be arranged same as classification.* (1) The matter in a tariff of exceptions shall be arranged in the same order as in the classification and separate and complete alphabetical indexes of the rules and of the articles listed therein shall be shown. Each general rule published in the exceptions to the clasification shall be given a number and shall refer to the rule in the classification to which it is an exception. The following notation shall be shown on the title page of each tariff of exceptions:

Applicable only in connection with tariffs making reference to the MF–I.C.C. number hereof.

(2) When desired, rules and regulations covered by § 1307.27 (h) may be included in the same publication with classification exceptions. In such cases, the clasification exceptions tariff will be counted in applying the provisions of paragraph (f) of this section. Lists of commodities authorized in § 1307.28 (c) may also be included with classification exceptions, in which case carriers may not have other tariffs publishing commodity lists exclusively. Where classification exceptions are published in the same tariff with rules, or commodity lists, the publication should be divided into sections, the first containing the classification exceptions, the second containing the rules and similar provisions, and the third containing the lists of articles. Such a publication shall contain a complete index.

(f) *Rules may be published in separate tariffs.* (1) If it is not desirable or practicable to include the governing rules and similar provisions in the rate tariff, such rules and similar provisions may be separately published in tariffs filed by an individual carrier or by an agent. Except as noted below, any carrier may not apply more than two such rules tariffs, one of which shall be published by such carrier itself, and the other by an agent. The following tariffs will not be counted in applying the provisions of this paragraph. Tariffs containing exclusively rules and charges applying to the special services covered by § 1307.35; classification and classification exceptions tariffs authorized by paragraphs (a) and (d) of this section; rate basis books authorized by § 1307.38; and tariffs containing rules and regulations governing the transportation of explosives and other dangerous articles.

(2) When rules or regulations are thus separately published, rate tariffs may be made subject thereto only by specific MF–I.C.C. reference in the rate tariff. This reference should be made in substantially the following form:

Governed, except as otherwise provided herein, by rules (or regulations) shown in MF–I.C.C. No. ____, supplements thereto or successive issues thereof. (When issued by an agent, add "issued by ____, Agent.")

(g) *Explosives regulations.* Tariffs which name rates for the transportation of explosives, inflammable or corrosive materials, or other dangerous articles shall, as required by § 1307.27 (h), contain the hazardous materials regulations promulgated by the Department of Transportation governing the transportation of such articles or give reference to a separate publication filed with this Commission by the carrier or by an agent containing such regulations. When the latter method is adopted, the tariff to which reference is made shall contain nothing except the regulations promulgated by the Department for handling such articles and necessary provisions for the application of such regulations.

(h) *Participation in governing publications.* All carriers parties to tariffs making reference to separate publications for classification ratings, exceptions thereto, rules, or other provisions affecting the rates or the services rendered, except such carriers as indicate by restrictions published in the tariffs making reference to such separate publications that they will not apply the provisions therein, shall also be participating carriers in such separate governing publications. This section does not require participation in local drayage tariffs or tariffs containing other provisions which are local to the lines publishing such tariffs.

§ 1307.38 Rate basis books.

(a) *Rate basis books.* (1) Separate tariffs may be published, filed, and posted showing the rate groups or rate bases to be used in determining rates between points named therein. When such a separate publication is issued, reference shall be made in the rate tariff to the MF–I.C.C. number of such separate publication in substantially the form prescribed in § 1307.27(f). All carriers parties to the rates governed by the rate basis book shall be shown as participating carriers both in the rate tariff and in the separate publication.

(2) No rate may be governed by more than two such separate publications, one for points of origin and one for points of destination. A rate tariff may not refer to another rate tariff for list of points assigned rate groups or rate bases.

(b) *Order of arrangement.* Rate basis books must conform to the following requirements. Such a publication shall not contain rules for application of bases or rates at intermediate points. The name of the carrier serving each point shall be shown, and the points in such publication shall be arranged in alphabetical order, or such publication shall contain an index as provided in § 1307.27(d). The rate group or rate basis, or arbitraries or differentials to be added to or deducted from the group or base rates, shall be shown immediately in connection with the name of each point, except that reference may there be made to an item showing such information. Exceptions to the rate group or rate basis should not be made in rate basis books unless such exceptions apply to or from a considerable number of points or on a considerable number of commodities. When arbitraries or differentials which are to be added to or deducted from the base or group rates are governed by classification provisions, other than those governing the base or group rate, reference to such other classification provisions shall be made immediately in connection with the arbitraries or differentials.

(c) *Rules governing rates.* All the rules and other provisions governing the application of rates determined by the use of a rate tariff and rate-basis books shall be published in the rate tariff or made a part thereof by reference as provided in §§ 1307.27(h) and 1307.37(f).

(d) *Carriers' operating rights.* A separate section in a rate-basis book or a separate tariff similarly constructed, published, and filed may include information describing the operating rights of the carriers parties thereto as set forth in the carriers' certificates.

§ 1307.39 Tariffs of joint agents.

(a) *Joint tariffs issued by joint agents.* An agent for certain carriers may join with not more than two other agents for other carriers in the issuance of tariffs. This may be done without each of such agents having powers of attorney from all of the carriers parties to the tariff as required by § 1307.27(b), provided each carrier is shown as participating under authority issued to one of such agents. In such cases, each agent acts for the carriers that have given him powers of attorney or have given concurrences to the carriers issuing powers of attorney and for such lines only.

(b) *MF–I.C.C. numbers and filing.* Such publication shall bear a separate MF–I.C.C. number in the series of each agent and each of the agents shall file the publication and each and every supplement thereto for and on behalf of the carriers for which he is agent, as if it were his individual publication on behalf of those carriers alone.

(c) *Tariffs and supplements must be identical and must be filed under one cover.* The tariff filed by one agent is not a complete publication properly authorized by all carriers named therein. It is a complement of the tariff filed by each agent and, therefore, identical copies of each tariff and of each supplement thereto must be filed by each agent. As each agent will file the tariff for the carriers which he lawfully represents, the cross exchange of concurrences between all of the different carriers represented by each agent will not be necessary as to that tariff. In order to avoid complications, all copies of each publication, accompanied by a letter of transmittal signed by each agent, shall be filed under one cover. A tariff filed by one agent shall not be amended to show an additional agent as participating in the issuance thereof except upon reissue of the tariff; nor shall a tariff issued by joint agents be converted into one issued by a lesser number of agents except by reissue.

(d) *List of participating carriers.* Each publication issued by two or three agents jointly shall show one complete alphabetical list of participating carriers indicating the carriers from which each of the agents has power of attorney, by showing in separate columns the form and number of the authority granted to each, and also indicating the carriers that participate under concurrences to any of the carriers for which one of the agents acts, by showing in an additional column the form and number of such concurrences together with appropriate reference marks to indicate the carriers to whom the concurrences are given.

§ 1307.40 Seasonal motor-water rates.

(a) *Discontinuance and restoration of water service.* Tariffs containing motor and water rates, applicable over routes upon which it is necessary to close navigation during a portion of each year, shall provide for the restoration and discontinuance of service over such routes in the manner prescribed below.

NOTE: Existing tariffs which contain provisions at variance with the requirements of this rule must be supplemented or reissued for the purpose of substituting the provisions of this rule for the provisions now contained in such tariffs.

(b) *Notation on title page.* The following notation shall appear on the title page of the tariff:

Transportation service in connection with (here insert name of water carrier or carriers named in the tariff) is subject to restoration and discontinuance as indicated on page—.

(c) *When definite dates of service can not be determined.* (1) When definite dates for restoration and discontinuance of transportation service for each season of navigation cannot be determined, the following rule shall be published in the tariff under the heading of "Application of Rates";

Shipments will be accepted by carriers parties to this tariff during the period from (here show date approximately thirty days prior to the first sailing from port of transshipment) to (here insert date which will allow sufficient time for shipment to reach the port of transshipment prior to the last sailing) of each year, for transportation on the vessels of the (here insert name of water carrier or carriers named in the tariff). Shipments will also be accepted from the latter date until the date announced by supplements to this tariff subject to the conditions that all freight left on hand at the port of transshipment after the closing of each season of navigation, will be forwarded over all-motor routes and be subject to the tariff rates applicable over such all-motor routes in effect on date of shipment from the point of origin of the shipment. In such cases shipping receipts and bills of lading shall bear notation to that effect. Supplements announcing the final date upon which shipments will be accepted for transportation under this tariff and effective supplements thereto will be filed with the Interstate Commerce Commission and posted at points from which the rates apply not less than one day in advance of such date.

(2) The dates for restoration and discontinuance of service as set forth in this section shall be shown in boldface type.

(d) *When definite dates of service can be determined.* (1) When definite dates for restoration and discontinuance of transportation service for each season of navigation can be determined, the following rule shall be published in the tariff under the heading of "Application of Rates":

Shipments will be accepted by carriers parties to this tariff during the period from (here show date approximately thirty days prior to the first sailing from port of transshipment) to (here show date which will allow sufficient time for shipment to reach the port of transshipment prior to the last sailing) of each year, for transportation on the vessels of the (here insert name of water carrier or carriers named in the tariff). Shipments will also be accepted from the latter date until (here insert final date upon which shipments will be accepted for transportation under the tariff and effective supplements thereto), subject to the condition that all freight left on hand at the port of transshipment after the closing of navigation for lack of space on vessels sailing after the arrival of such freight, and all freight reaching the port of transshipment after the last sailing of each season of navigation, will be forwarded over all-motor routes and be subject to the tariff rates applicable over such all-motor routes in effect on date of shipment from the point of origin of the shipment. In such cases shipping receipts and bills of lading shall bear notation to that effect. No supplement will be issued to this tariff announcing the date of discontinuance of transportation service.

(2) The dates for restoration and discontinuance of service as set forth in this rule shall be shown in boldface type.

(e) Supplements announcing discontinuance of transportation service under this rule may be filed with the Interstate Commerce Commission and posted at points from which the rates apply on not less than 1 day's notice by noting thereon reference to this section. Only one such supplement may be in effect at any time; it may not contain other matter and may be issued without regard to the requirements of § 1307.30 (d).

(f) *Tariffs may be reissued.* Tariffs containing motor and water rates may be reissued or amended at any time in the regular manner, but tariffs containing the clause prescribed by paragraph (c) of this section which are made effective subsequent to the date of actual discontinuance of service shall contain a statement that service was discontinued on ---------- as per Supplement No. ---- to MF-I.C.C. No. ---- (former tariff) and that a further supplement announcing discontinuance of service for that season will not be filed.

§ 1307.41 Rates prescribed by Commission.

(a) *Rates prescribed by Commission must be promulgated in tariffs and Commission notified.* Rates prescribed by the Commission in its decisions and orders in formal cases shall be promulgated by the carriers to which such orders are issued in duly published, field, and postal tariffs, revised page, or supplements, and notice shall be furnished the Commission that its decision (or order) in Docket No. ----, has been complied with in Item ----, page ---- of ---------- tariff, MF-I.C.C. No. ---- or Supplement No. ---- to ---------- tariff, MF-I.C.C. No. ----. Unless otherwise specified in the decision or order in the case, the prescribed rates shall be made effective upon statutory notice to the Commission and to the public.

(b) *Notation on tariff.* (1) When an entire tariff or supplement is issued in compliance with a decision or order of the Commission, whether made effective on less than statutory notice under special authority granted in the decision or order in the case or upon statutory notice, such tariff or supplement shall bear on its title page the notation, "In compliance with decision (or order) of Interstate Commerce Commission in Docket No. ----." (When possible, the volume and page number of the report of the Interstate Commerce Commission should be shown.)

(2) If the decision or order of the Commission affects only portions of the tariff or supplement, the above notation shall be shown in connection with each portion so affected.

§ 1307.43 Transfer of operations; changes in name and control.

(a) *Complete adoption notice.* (1) When the name of a common carrier is changed, or when its operating control is transferred to another common carrier, the carrier which will thereafter operate the properties shall file with the Interstate Commerce Commission and post as required in § 1307.44 an adoption notice in the form of a tariff numbered in its MF-I.C.C. series and containing substantially the following:

(Name, also trade name, if any, of adopting carrier) hereby adopts, ratifies, and makes its own, in every respect as if the same had been originally filed and posted by it, all tariffs, classifications, rules, notices, traffic agreements, statements of divisions, powers of attorney, concurrences, or other instruments whatsoever, including supplements or amendments thereto, filed with the Interstate Commerce Commission by, or heretofore adopted by (name and trade name, if any, of former carrier) prior to (date).

(2) In addition to the above adoption notice the adopting carrier shall immediately file with the Interstate Commerce Commission and post as required in § 1307.44 a consecutively numbered supplement to each of the effective tariffs issued or adopted by its predecessor, reading as follows:

Effective (here insert date shown in the adoption notice) this tariff, or as amended, became the tariff of (name and trade name, if any, of the adopting carrier) as stated in its adoption notice MF-I.C.C. No. ----.

(3) Subsequent supplements to adopted tariffs shall be numbered consecutively, beginning with the number following that of the adoption supplement, and shall show in connection with the MF-I.C.C. number that the number is in the series of the former carrier.

(4) New tariffs reissuing or superseding adopted tariffs shall be numbered in the MF-I.C.C. series of the adopting carrier. The adopting carrier, when canceling any tariff issued or adopted by the old carrier, shall identify such tariff in the cancelation notice by reference to its MF-I.C.C. number, by reference to the name of the carrier that issued it, and, when tariffs have been published by the old carrier in more than one series, by reference to the particular series in which that tariff was published.

(b) *Old carrier's name to be eliminated and new carrier's name added.* Tariffs issued by other carriers or agents participated in by a carrier whose name is changed or that is absorbed, taken over, or operated by another carrier or of a carrier whose name is changed shall be amended on statutory notice in the regular way (that is, by the next supplement or revised page filed) to eliminate from the list of participating carriers the name of the old carrier and to add thereto the name of the new carrier. Such supplement or revised page shall also contain the following provision:

(Name and trade name, if any, of the adopting carrier) by its adoption notice, MF-I.C.C. No. ----, which became effective on ----------, having taken over the tariffs, etc., of (name and trade name, if any, of the former carrier), (name and trade name, if any, of the adopting carrier) is hereby substituted for (name and trade name, if any, of the old carrier) wherever it appears in this tariff.

(c) *Partial adoption notice.* (1) When the operating control of a common carrier's properties is transferred in part to another common carrier, the carrier which will thereafter operate that part of the properties shall file with the Interstate Commerce Commission and post as required in § 1307.44 an adoption notice in the form of a tariff numbered in its MF-I.C.C. series and containing substantially the following:

(Name and trade name, if any, of adopting carrier) hereby adopts, ratifies, and makes its own in every respect as if the same had been originally filed and posted by it, all tariffs, classifications, rules, notices, traffic agreements, statements of divisions, powers of attorney, concurrences, or other instruments whatsoever, including supplements or amendments thereto, filed with the Interstate Commerce Commission by, or heretofore adopted by (name and trade name, if any, of former carrier) prior to (date).

(2) In addition to the above adoption notice the adopting carrier shall immediately file with the Interstate Commerce Commission and post as required in § 1307.44 a consecutively numbered supplement to each of the effective tariffs issued or adopted by its predecessor, reading as follows:

Effective (here insert date shown in the adoption notice) this tariff, or as amended, became the tariff of (name and trade name, if any, of the adopting carrier) as stated in its adoption notice MF-I.C.C. No. ----.

(3) Subsequent supplements to adopted tariffs shall be numbered consecutively, beginning with the number following that of the adoption supplement, and shall show in connection with the MF-I.C.C. number that the number is in the series of the former carrier.

(4) New tariffs reissuing or superseding adopted tariffs shall be numbered in the MF-I.C.C. series of the adopting carrier. The adopting carrier, when canceling any tariff issued or adopted by the old carrier, shall identify such tariff in the cancelation notice by reference to its MF-I.C.C. number, by reference to the name of the carrier that issued it, and, when tariffs have been published by the old carrier in more than one series, by reference to the particular series in which that tariff was published.

(b) *Old carrier's name to be eliminated and new carrier's name added.* Tariffs issued by other carriers or agents participated in by a carrier whose name is changed or that is absorbed, taken over, or operated by another carrier or of a carrier whose name is changed shall be amended on statutory notice in the regular way (that is, by the next supplement or revised page filed) to eliminate from the list of participating carriers the name of the old carrier and to add thereto the name of the new carrier. Such supplement or revised page shall also contain the following provision:

(Name and trade name, if any, of the adopting carrier) by its adoption notice, MF-I.C.C. No. ----, which became effective on ----------, having taken over the tariffs, etc., of (name and trade name, if any, of the former carrier), (name and trade name, if any, of the adopting carrier) is hereby substituted for (name and trade name, if any, of the old carrier) wherever it appears in this tariff.

(c) *Partial adoption notice.* (1) When the operating control of a common carrier's properties is transferred in part to another common carrier, the carrier which will thereafter operate that part of the properties shall file with the Interstate Commerce Commission and post as required in § 1307.44 an adoption notice in the form of a tariff numbered in its MF-I.C.C. series and containing substantially the following:

(Name and trade name, if any, of adopting carrier) hereby adopts, ratifies, and makes its own in every respect as if the same had been originally filed and posted by it, all tariffs, classifications, rules, notices, traffic agreements, statements of divisions, powers of attorney, concurrences, or other instruments whatsoever, including supplements or amendments thereto, filed with the Interstate Commerce Commission by, or heretofore adopted by (name and trade name, if any, of the original carrier) prior to (date) insofar as said instruments apply (here describe the operations transferred).

(2) In addition to the above adoption notice, the old carrier shall immediately file with the Interstate Commerce Commission and post as required in § 1307.44, under proper concurrence from the adopting carrier, a supplement to each of its effective tariffs covered by the adoption notice reading as follows:

Effective (here insert date shown in adoption notice) this tariff or as amended, insofar as it contains rates, rules, and other provisions applying (here describe the operations transferred), became the tariff of (name and trade name, if any, of the adopting carrier) as stated in its adoption notice, MF-I.C.C. No. ----.

(d) *Tariffs to be amended.* (1) Tariffs issued by other carriers or agents applicable in connection with that part of the line taken over or operated in part by another carrier shall be amended on statutory notice in the regular way, that is, by the next supplement or revised page filed, to incorporate necessary changes. Such supplement or revised page shall also contain a provision in the following form:

(Name and trade name, if any, of the adopting carrier) by its adoption notice MF-I.C.C. No. ----, having taken over tariffs, etc., of (name and trade name, if any, of the old carrier) insofar as they contain rates, charges, rules, and other provisions applying (here describe the operations transferred), (name and trade name, if any, of the adopting carrier) is hereby substituted for (name and trade name, if any, of the old carrier) wherever the latter appears in this tariff in connection with said points, routes, or territory.

(2) Rates, rules, and other provisions applying locally between points on the transferred portion shall be transferred as quickly as possible to tariffs of the adopting carrier. The former carrier shall cancel such rates, rules, and other provisions from its tariffs on statutory notice and shall refer by MF-I.C.C. number to the tariffs of the adopting carrier for rates to apply thereafter. The adopting carrier shall publish, file, and post corresponding rates, rules, and other provisions on statutory notice to become effective upon the date upon which the cancelation of the former carrier's rates, rules, and other provisions becomes effective.

(3) If, after the transfer of operations, any point will be served by both the former carrier and by the adopting carrier, a statement shall be shown in connection with the name of that point reading substantially as follows:

This adoption notice does not have the effect of eliminating ---------- as a point served by (name and trade name, if any, of the original carrier), but has the effect of establishing service at said point by (name and trade name, if any, of the adopting carrier).

(e) *Receiver, etc., must file adoption notice and supplement.* Adoption notices and supplements similar to those prescribed in paragraphs (a) and (c) of this section but numbered consecutively in the MF-I.C.C. series of the old carrier, shall immediately be filed and posted by a receiver, trustee, executor, administrator, assignee, or lessee when he assumes possession and operating control of a carrier's lines, either in whole or in part, and shall show the names of the receivers, trustees, executors, administrator, assignees, or lessees on the title page in connection with the former carrier's name. When such possession and operating control are terminated, the carrier taking over the properties shall file an adoption notice and if a change in the name of the carrier has been made, shall also file supplements as prescribed in paragraphs (a) and (c) of this section.

(f) *Adoption notice effective date.* (1) Notices of adoption shall be filed and posted immediately and if possible on or before the date shown therein. Copies shall be sent to each agent or carrier to which power of attorney or concurrence has been given by the adopted carrier. The effective date shall be the date (as shown in the body of the notice) on which the change in name or operation occurs, except that if prior approval of such change by the Interstate Commerce Commission is required, the effective date shown shall not antedate that approval.

(2) Concurrences and powers of attorney adopted by a carrier, receiver, trustee, executor, administrator, assignee, or lessee shall, within 120 days, be replaced and superseded by new concurrences and powers of attorney issued by and numbered in the series of the adopting carrier, receiver, trustee, executor, administrator, assignee, or lessee, except that receivers, trustees, executors, administrators, assignees, or lessees may continue concurrences and powers of attorney in the same series of numbers. The cancellation references to the former concurrence or power of attorney shall include the name of the former issuing carrier. Powers of attorney and concurrences which will not be replaced by new issues shall be regularly revoked on the notice and in the manner prescribed by §§ 1307.46(n) and 1307.47(d).

(3) Adoption notices and special supplements issued under the authority of this section shall contain no other matter.

(g) *Temporary control.* (1) When temporary authority to take over the operating control of all or a portion of the operations of a carrier is granted pursuant to the provisions of section 210a. (b) of Part II of the Interstate Commerce Act, as amended, the new carrier that assumes temporary control of the operations of the old carrier shall comply with the provisions of paragraphs (a), (b), (c), (d), and (f) of this section except that the new carrier is not required to reissue the adopted concurrences and powers of attorney during the period of temporary control of the operations of the old carrier. New concurrences and powers of attorney granting authority to

publish rates from or to points included in the temporarily controlled operations, shall be in the series of the old carrier; for example:

MFXA 2 No. 6 (Roe's Trucking Series)
John Doe Transport, Inc.
Operator of
Richard Roe
d/b/a
Roe's Trucking
(Post Office Address)

(2) The new carrier, when it publishes in a tariff issued in its name, rates, charges, or other provisions relating thereto, from, to, or between points included in the temporarily controlled operations, shall file such publication in the name of the new carrier as operator of the old carrier under consecutive MF-I.C.C. numbers and in the series of the old carrier. For example, if John Doe Transport, Inc., assumes temporary control of the operations of Richard Roe d/b/a Roe's Trucking, the title page of tariffs or supplements thereto, must show the MF-I.C.C. number and name of the carrier in substantially the following manner:

MF-I.C.C. No. 17 (Roe's Trucking Series)
John Doe Transport, Inc.
Operator of
Richard Roe
d/b/a
Roe's Trucking

(3) When permanent authority to take over the temporarily controlled operations is granted pursuant to the provisions of section 213 of Part II of the Interstate Commerce Act, and as amended, the new carrier shall file a new adoption notice in the name specified in the permanent authority and otherwise comply with the provisions of paragraphs (a), (b), (c), (d), and (f) of this section.

(4) If the temporary authority to assume operating control of the old carrier is not made permanent, the old carrier must file an adoption notice reassuming control of the operations and otherwise comply with all of the provisions of this section. The effective date to be shown in the adoption notice and adoption supplements is the date on which the temporary authority for the new carrier to operate the properties of the old carrier expires or is vacated.

(h) The provisions of this section do not apply to changes in name or operating control of:

(1) A rail carrier;

(2) A water carrier operating under the provisions of section 5(21) Part I of the Interstate Commerce Act;

(3) A motor carrier, to the extent that it participates in the publication and maintenance of joint rates with carriers named in subparagraphs (1) and (2) of this paragraph;

or to changes in name or operating control not authorized by Part II of the Interstate Commerce Act and as amended.

§ 1307.44 Filing and posting tariffs.

(a) *Filing tariffs.* Tariffs and supplements thereto shall be filed by the proper officer or duly authorized agent of the carrier. When filed by an officer, the concurrence, and when filed by an agent, the power of attorney of every carrier participating therein shall be on file with the Commission or accompany the tariff or supplement. Tariffs shall be filed by the issuing carrier or agent, and such filing will constitute filing for all carriers parties thereto. An agent duly authorized to act for carriers shall file tariffs under his own MF-I.C.C. serial numbers.

(b) *Avoid conflict between tariffs.* A carrier that grants authority to an agent or to another carrier to publish and file certain of its rates shall not in its own issues publish rates which duplicate or conflict with those which are published by such authorized agent or other carrier.

(c) *Numerical order, or explanation of missing numbers required.* Each carrier and agent shall file tariffs and supplements under consecutive MF-I.C.C. or supplement numbers. If, for any reason, this is not done, the tariff or supplement which is not numbered consecutively with the publication last filed must be accompanied by a memorandum explaining why consecutive numbers were not used.

(d) *Letter of transmittal.* (1) All tariffs and supplements filed with the Commission shall be accompanied by a letter of transmittal of one sheet 8 by 10½ inches in size, in form substantially as follows:

_____
(Name of carrier or agent in full)
_____
(Post office address)
_____, 19__

Transmittal No. ____
To the INTERSTATE COMMERCE COMMISSION,
WASHINGTON, D.C. 20423:

Accompanying publication is sent you for filing in compliance with the requirements of Part II of the Interstate Commerce Act, issued by _____ and bearing MF-I.C.C. No. _____; or Supp. No. _____ to MF-I.C.C. No. _____; or revised page to MF-I.C.C. No. _____; effective _____, 19__; and is concurred in by all carriers named therein as participants under continuing concurrences or powers of attorney now on file with the Interstate Commerce Commission, except the following-named carriers, whose authorities are attached hereto:

_____
_____
_____

_____
(Signature)
_____
(Title)

(2) A separate letter may accompany each publication or the form may be modified to provide for filing with one letter as many publications as can be conveniently listed.

(3) If receipt for the accompanying publications is desired, letters of transmittal must be sent in duplicate, and one copy showing the date of receipt by the Commission will be returned to the sender.

(e) *Number of copies.* (1) Except as provided in the subparagraph (2) of this paragraph, carriers and agents shall transmit to the Commission three copies of each tariff, supplement, revised page, classification, or other publication to be filed, all copies to be included in one package and under one letter of transmittal. A separate letter of transmittal shall be included for each joint agent.

(2) Eighteen copies of the following publications shall be transmitted: publications governing other tariffs, authorized in § 1307.37, containing exclusively classification ratings, or exceptions thereto, rules and other provisions of general application.

(3) No tariff, revised page, or supplement will be received by the Commission unless it is delivered to it free from all charges, including claims for postage.

(4) Tariffs sent for filing shall be addressed:

Interstate Commerce Commission,
Washington, D.C. 20423.

(5) Tariff publications received for filing will not be returned unless rejected because of failure to give lawful notice of changes, or for other valid reason.

(f) *Statutory notice must be shown unless otherwise authorized.* (1) Part II of the Interstate Commerce Act requires that all changes in rates or charges, or in rules or other provisions that affect rates, shall be filed with the Commission at least 30 days before the date upon which they are to become effective unless otherwise authorized by the Commission. Manifestly it is impossible for the Commission to check the items in tariffs to determine whether or not statutory notice has been given. Therefore, except as otherwise authorized by the Commission, 30 days' notice to the public and to the Commission must be given as to every tariff publication filed with the Commission, regardless of whether or not changes are effected thereby.

(2) Rates, charges, rules, or other provisions which have been filed with the Commission must be allowed to become effective and remain in effect for a period of at least 30 days before being changed, canceled, or withdrawn, unless otherwise authorized by the Commission.

(g) *Filing of tariffs with Commission does not relieve carriers from liability for violation of act or regulations thereunder.* (1) The law affirmatively imposes upon each carrier the duty of filing with the Commission and posting for public inspection all of its tariffs and amendments thereto in the manner prescribed in the law and in regulations promulgated by the Commission. A penalty is provided for failure to do so, or for using any rate which is not contained in its lawfully published and filed tariffs. The receipt and acceptance for filing of a tariff or supplement by the Commission does not relieve carriers from liability for violation of the act or of regulations issued thereunder.

(2) All rates used in making combination through rates for interstate shipments, including rates between points in one State, must be filed with the Commission and posted for public inspection and they can be changed as to such traffic only in accordance with the provisions of Part II of the Interstate Commerce Act, and as amended.

(h) *Posting of Tariffs.* (1) Except as provided herein, each carrier by motor vehicle subject to the provisions of section 217 of Part II of the Interstate Commerce Act, and as amended, shall post and file at each of its stations or offices which is in charge of a person employed exclusively by the carrier or by it jointly with another carrier and at which freight is received for transportation all of the tariffs containing rates, charges, classifications, and rules or other provisions applying from, or at, such station or office.

(2) Except as provided herein, each of such carriers shall also maintain at its principal or general office a complete file of all tariffs issued by it or by its agents, including those tariffs in which it concurs.

(3) Carriers operating only as pick-up carriers within the pick-up area at point of origin and carriers operating only as delivery carriers within the delivery area at point of destination who are shown as participating carriers in the tariffs naming rates from, to, or between such points will not be required to post such tariffs, provided the line-haul carrier with whom they interchange traffic maintains a terminal at the pick-up or delivery point, as the case may be, and posts such tariffs in accordance with this section.

(4) The granting of authority to issue tariffs under powers of attorney or concurrences does not relieve the carriers conferring the authority from the necessity of complying with the Commission's regulations with regard to posting tariffs. Tariffs issued under such authority must be posted as required by the regulations in this paragraph.

(5) Each file of tariffs shall be kept in complete and accessible form. Employees of the carrier shall be required to give any desired information contained in such tariffs, to lend assistance to seekers of information therefrom, and to afford inquirers opportunity to examine any of such tariffs without requiring the inquirer to assign any reason for such desire.

(i) *Rejection of tariffs and notices of revocation.* (1) Any tariff or schedule, tendered for filing, which fails to give lawful notice of changes in rates, charges or other provisions which it proposes to establish, or which fails to meet the requirements of the regulations contained in this chapter, or violates any order of the Commission or of a court, is subject to rejection by the Commission. When a tariff or schedule is rejected, the Commission, acting through a designated administrative officer, will inform the carrier or the agent who tendered it for filing, in writing, of the reasons for rejection, and will return the rejected tariff or schedule to such carrier or agent.

(2) The number assigned to a tariff or schedule which has been rejected may not again be used. The rejected tariff or schedule may not be referred to in any subsequent tariff or schedule as having been canceled, amended or withdrawn, but the tariff or schedule which is published in its stead must bear the following notation: "Issued in lieu of (here identify the rejected schedule or tariff), rejected by the Commission."

(3) A notice of the revocation, complete or partial of a concurrence or power of attorney which, if it were to become effective, would require the establishment of rates, fares, or charges in violation of an order of the Commission or of a court, or of the regulations in this chapter, may be rejected in the same manner as a tariff or schedule, and any such notice of revocation which would require the establishment of rates, fares, or charges of doubtful lawfulness may be suspended.

§ 1307.45 Applications for special permission.

(a) *Rates changed on less than statutory notice.* Part II of the Interstate Commerce Act, as amended, authorizes the Commission in its discretion and for good cause shown to permit changes in rates on less than statutory notice, and also to permit departure from the Commission's regulations. The Commission will exercise this authority only in cases where actual emergency and real merit are shown. Desire to meet the rates of a competing carrier that has given statutory notice of change in rates will not of itself be regarded as good cause for permitting changes in rates or other provisions on less than statutory notice. Clerical or typographical errors in tariffs constitute good cause for the exercise of this authority, but every application based thereon must plainly specify the error together with a full statement of the attending circumstances and must be presented with reasonable promptness after issuance of the defective tariff, supplement or revised page.

(b) *Permission will not issue to modify formal orders.* When a formal order of the Commission requires publication on a stated number of days' notice, a request for authority to file on less notice will not be granted. In any such instance a petition for modification of the order should be filed on the formal docket.

(c) *Applications must be by carrier or agent authorized to file tariff.* Applications for permission to establish rates, rules, or other provisions on less than statutory notice, or for waiver of the provisions of Subpart B must be made by the carrier or agent that holds authority to file the proposed publication. If the application requests permission to make changes in joint tariffs, it must state that it is filed for and on behalf of all carriers parties to the proposed change.

(d) *Number of copies.* (1) Two copies of applications (including amendments thereto and exhibits made a part thereof) shall be sent to the Interstate Commerce Commission, Washington, D.C. 20423. One additional exact copy shall be sent to the office of the district director of the district in which the main office of the applicant carrier or publishing agent is located. One additional exact copy, also, shall be furnished each director of the district in which is located the main office of each of the particular carriers for whom such application is filed. The application shall indicate that the copies required by this section are furnished the district offices interested and shall show the offices to which such copies are furnished.

(2) Application shall be made on paper 8 by 10½ inches, shall be in substantially the form shown hereinbelow, and shall give all the information required by this section together with any other pertinent facts. They shall be numbered consecutively and must bear the signature of the carrier or its agent or officer, specifying title.

_____
(Address)
_____
(Date)

TO THE INTERSTATE COMMERCE COMMISSION,
WASHINGTON, D.C. 20423.

Application No. ____

_____, by _____
(Name of carrier) (Name of officer, specifying title)

for and on behalf of all carriers parties to its Tariff MF-I.C.C. No. ____,[1] does hereby petition the Interstate Commerce Commission that he (it) be permitted, under section 217 of the Interstate Commerce Act and as amended to put in force the following tariff provisions to become effective ____ days after the filing thereof with the Interstate Commerce Commission:

(Here show matter as directed by paragraph (e) (1) of this section.)

Your petitioner further represents that the said: [state whether rates, charges, classification ratings, or other provisions] above mentioned will be published in [here show matter as directed by paragraph (e) (2) of this section.]

1. (Here state matter as directed by paragraph (e) (3) of this section)
2. (Here state matter as directed by paragraph (e) (4) of this section)
3. (Here state fully matter as directed by paragraph (e) (5) of this section)
4. (Here show justification as directed by paragraph (e) (6) of this section)

_____
(Name of carrier)

By _____
(Name and title)

Verification:[2]

The above statement was subscribed and sworn to before me this ____ day of _____, 19___

_____
(Notary public)

Copy sent to District Director
at _____;
date _____;
at _____;
date _____;
at _____;
date _____;

When the publication is made by an agent, appropriate change should be made in the introductory and closing paragraphs of this form.

[1] If reference to tariff or tariffs does not exactly designate carrier involved, other methods of designating carriers should be employed.

[2] Only the original need be executed.

(e) *Applications shall show.* Applications shall show the following information:

(1) The proposed tariff provisions shall be set forth clearly and completely. An accompanying exhibit may be used if identified by letter, such as "Exhibit A," and so referred to in the application. If the proposed provisions consist of rates, all points of origin and destination must be shown or definitely indicated; if permission is sought to establish a rule, the exact wording of the proposed rule must be given.

(2) The application shall show the tariffs and MF–I.C.C. numbers of the publications in which the proposed rates, ratings, rules, or other provisions will be published. If publication is to be made in supplements to tariffs already referred to, this fact shall be shown.

(3) The application shall set forth the rates or tariff provisions which it is desired to change. Where the matter to be shown is voluminous or for other reasons difficult of presentation, it may be included in an accompanying exhibit, properly identified and referred to in the application. Reference shall be made by MF–I.C.C. number and supplement number to the tariffs or supplements in which rates or provisions to be superseded are published. If such provisions are published in numbered items or other units, reference shall be made thereto by number, or, if not so published, the pages of the publication on which the provisions appear shall be shown. The extent to which cancellations will be made must be definitely indicated.

(4) The application shall state the names of carriers known to maintain competitive rates, charges, classification ratings, or rules between the same points or points related thereto, together with the MF–I.C.C. or I.C.C. numbers of the tariffs and supplements thereto containing such provisions.

(5) The application shall state whether such carriers have been advised of the proposed rates, charges, classification ratings, or rules and whether they have been advised that it is proposed to establish such provisions on less than statutory notice. If competitive carriers have expressed their views in regard to the proposed provisions, a brief statement of their views shall be given.

(6) The application shall state the special circumstances or unusual conditions which are relied upon as justifying the requested permission together with any related facts or circumstances which may aid the Commission in determining whether the requested permission is justified. If permission to establish provisions on less than statutory notice is sought, the petitioner shall state why the proposed provisions could not have been established upon 30 days' notice.

(f) *Partial use of permission prohibited.* If the authority granted by special permission is used, it must be used in its entirety and in the manner set forth in the order of special permission. If its is not desired to use all of the authority granted and less or more extensive or different authority is desired, a new application complying with the provisions of this section in all respects and referring to the previous permission must be filed.

§ 1307.46 Powers of attorney.

(a) *Forms of powers of attorney.* (1) The following forms shall be used by a carrier to give authority to an agent to publish and file tariffs and supplements in which such carrier participates. (Existing powers of attorney which are not otherwise objectionable need not be reissued merely to comply with the prescribed form.)

(2) If common carriers by water (other than railroad owned or railroad controlled water carriers operating under the provisions of section 5(21), part I, of the Interstate Commerce Act) desire to give powers of attorney to agents authorizing the publication of joint rates with common carriers of property by motor vehicle, the forms set forth in paragraphs (b) and (c) of this section may be altered by substituting for the words "common carrier of property by motor vehicle," the words, "common carrier of property by water," or appropriate words of similar import.

(b) *Individual.* This form shall be used to authorize an individual to act as agent:

POWER OF ATTORNEY

MFXA2, No. ----
Cancels MFXA–, No. ----

(Name of carrier)

(Post office address)
----------, 19--

Know all men by this instrument:

That, on the ------ day of ----------, 19--, ----------, a common

(See note 1 of paragraph (c))

carrier of property by motor vehicle does (do) hereby make and appoint ----------

(Name and principal agent)

attorney and agent to publish and file for such carrier freight tariffs and supplements thereto, as permitted or required of common carriers of property by motor vehicle under authority of Part II of the Interstate Commerce Act, and the regulations of the Interstate Commerce Commission issued pursuant thereto, and does (do) hereby ratify and confirm all that said attorney and agent may lawfully do by virtue of the authority herein granted and does (do) hereby assume full responsibility for the acts and failures to act of said attorney and agent.

And, further, that ----------

(See Note 1 of Paragraph (c))

does (do) hereby make and appoint ---------- ---------- alternate attorney

(Name of alternate agent)

and agent to do and perform the same acts and exercises the same authority herein granted to ---------- in the

(Name of principal agent)

event and only in the event of the death or disability of ----------

(Name of principal agent)

(Name of carrier)

By ----------

Attest (If a corporation):

----------, *Secretary.*

[CORPORATE SEAL]

Duplicate mailed to ----------, *Agent.*

(c) *Corporation.* This form shall be used to authorize a corporation to act as agent:

POWER OF ATTORNEY

MFXA3, No. ----
Cancels MFXA–, No. ----

(Name of carrier)

(Post office address)
----------, 19--

Know all men by this instrument:

That, on the ------ day of ----------, 19--, ----------, a common

(See note 1)

carrier of property by motor vehicle does (do) hereby make and appoint ----------

(Name of corporation)

attorney and agent to publish and file for such carrier freight tariffs and supplements thereto, as permitted or required of common carriers of property by motor vehicle under authority of Part II of the Interstate Commerce Act, and the regulations of the Interstate Commerce Commission issued pursuant thereto, and does (do) hereby ratify and confirm all that said attorney and agent may lawfully do by virtue of the authority herein granted and does (do) hereby assume full responsibility for the acts and failure to act of said attorney and agent.

(Name of carrier)

By ----------

Attest (If a corporation):

----------, *Secretary.*

[CORPORATE SEAL]

Duplicate mailed to ----------, *Agent.*

NOTE 1: In the blank space for the name of the carrier, there shall be shown, if the carrier by an individual, the individual name followed by the trade name, if any. If the carrier be a partnership, the correct names of all partners must be given, followed by the trade name, if any. If the carrier be a corporation, the correct corporate name must be used. (See note 2.)

NOTE 2: The power of attorney shall be signed by the individual carrier, if the carrier be an individual, and shall be signed by all of the partners individually, if a partnership. If the carrier be a corporation, the power of attorney shall be signed by the president or vice president, attested by the secretary of the corporation, and the corporate seal shall be affixed. In all cases, the name of the carrier shall be identical with the name as it appears in the certificate of convenience and necessity issued by the Commission, or, in the event that such certificate shall not have been issued, the name of the carrier shall be identical with the name appearing in the application for such certificate.

(d) Unless specifically authorized by the Commission, an official or an employee of a corporation may not act as agent when such corporation acts as agent.

(e) *Corporation, as agent.* (1) A corporation, duly authorized and acting as an attorney and agent, shall issue tariffs in the name of the corporation as agent. At the bottom of the title page of each publication filed by the corporation as agent shall be shown the name and title of the official of the corporation who has been appointed by such corporation to issue tariffs and file them with the Commission.

(2) A corporation acting as a publishing agent under powers of attorney shall forward to the Commission a certified minute of the meeting of the board of directors of such corporation showing the name and title of the official who has been appointed to handle all tariff matters with the Commission.

(f) *Authority conferred.* (1) Powers of attorney authorized by this section, if executed without modification, confer unlimited authority to publish local rates for the carrier issuing the power of attorney and to publish joint rates for such carrier and such other carriers as shall have issued the necessary authority. If it is desired to limit the authority granted to the agent, the form may be modified by adding at the end of the first paragraph the statement: "This authority is restricted to the filing of the publications or types of publications set forth below," and by clearly stating immediately thereafter the extent of the authority granted. The instrument may limit the authority of the agent to publication of rates from points on the carrier's lines only, or to points on its lines only, or may limit the authority granted to publication of either local or joint rates. The authority granted may be restricted, also, to publication of either class or commodity rates, but it may not be limited to publication of rates on a particular commodity or commodities or to publication of specifically named rates.

(2) If it is desired to give to an agent authority for the publication of a classification, a classification exceptions tariff, or a rules tariff, only, the form may be modified by omitting from line six the words "freight tariffs" and substituting therefor the word or words, "classification," "classification exceptions tariffs" or "rules tariffs," or the instrument may be so modified as to authorize the publication of any or all of such tariffs, including rate tariffs. If it is desired to limit the authority granted to publication of a particular tariff or tariffs, this may be done by giving a sufficiently accurate description of the title page of each tariff to identify it and by showing the MF–I.C.C. number, if known. If it is intended that the authority granted shall include supplements to or reissues of specifically named tariffs, that fact should be made clear by adding after the designation of the tariff, "supplements thereto and successive issues thereof."

(g) *Specifications for powers of attorney.* Powers of attorney shall be printed on good paper of durable quality, 8 by 10½ inches in size, and shall be signed as indicated in note 2, paragraph (c) of this section. Each power of attorney shall be given a form and serial number which shall run consecutively for each form of instrument. The form and serial numbers shall be shown on the upper right-hand corner and immediately thereunder shall be shown the form and number of the power of attorney, if any, which is canceled thereby. If the instrument to be canceled contains more authority or is broader in scope than the new instrument, such new instrument must bear an effective date at least 60 days after the date on which it is received by the Commission. When the new instrument is broader in scope than the instrument which is to be canceled, no notice is required. The term "freight tariff" as used in this section means not only rate tariffs but all other freight publications which in any way affect the value of the service or the measure of the charge. Each instrument shall show, under the serial number, the post-office address of the person or persons issuing it and the date of issue. The instrument shall show, also, in the lower left-hand corner, the name, title, and address of the person or corporation to whom the duplicate is sent.

(h) *Number of copies.* All instruments must be prepared in triplicate. Except when there is specific instruction in individual rules to send originals to an agent, the original of the instrument shall be filed with the Commission, the duplicate sent to the agent to whom such authorization is directed, and the third copy retained by the issuing carrier.

(i) *Conflicting authority to be avoided.* Powers of attorney may not contain authority to delegate to another the power thereby conferred. In giving authority to an agent to publish and file rates for the carrier by whom such authority is issued, care must be taken to avoid duplicating to two or more agents authority which, if used, would result in conflicting rates or other provisions.

(j) *Filing by alternate agent.* When a power of attorney is issued to an individual to act as agent, such instrument shall name an alternate agent to act in the event of the death or disability of the principal agent. On or before the date of filing of the first tariff or supplement by the alternate agent under the authority granted in the instrument, such alternate agent shall submit to the Commission a sworn statement setting forth the facts which justify such exercise of authority. The term "disability" as used in the instrument means resignation, permanent transfer to other duties, or other permanent absence of the principal agent, and does not mean temporary absence of the principal caused by vacation, illness, or other similar causes. After an alternate agent has once exercised the authority granted by the instrument, the principal agent may not thereafter act under that instrument.

(k) *Transfer of authority from one agent to another agent.* (1) When it is desired to transfer authority from one agent to another agent, superseding the former agent as to all such agent's effective tariffs, the transfer shall be accomplished by filing a new power of attorney naming the agent (and alternate when the new agent is an individual) thereafter to serve, which shall specifically cancel the previous power of attorney. Under all other conditions the power of attorney must be revoked in accordance with paragraph (n) of this section.

(2) When a power of attorney shall have been issued to an individual and an alternate, and the death or disability of either the principal or alternate agent occurs, new powers of attorney canceling the previously effective powers of attorney and naming the agent (and alternate when the new agent is an individual) thereafter to serve shall be filed within 180 days. The new powers of attorney shall bear no effective date. The originals thereof shall not be sent direct to the Commission, but shall be forwarded to the new agent, who, after all the necessary instruments shall have been secured, shall file the originals with the Commission all at one time. Such powers of attorney will become effective upon the date they are received by the Commission.

(l) [Reserved]

(m) *Substitution of agents.* (1) When a new agent is appointed, or when an alternate agent assumes the duties of the principal agent, the new agent, immediately upon receipt of necessary authority, or the alternate agent, upon death or disability of his principal, shall issue a supplement to each of the effective tariffs issued by the agent superseded, which shall bear on its title page no effective date, but which shall contain a statement reading substantially as follows: "On and after [show here, in the case of a new agent, the date on which authorities are filed with this Commission; or in the case of an alternate agent, the date on which the principal ceased to act] this publication shall be considered as the issue of [show here name of new agent or the alternate acting as such]." In the case of a new agent, such supplement shall also contain a list of participating carriers, giving reference to the new authorities. If tariffs issued by the new agent will be numbered in a different MF–I.C.C. series from those of the former agent, supplements filed by the new agent to tariffs issued by the former agent shall show in connection with MF–I.C.C. numbers, that they are in the series of the former agent.

(2) When an agent who is superseded by a new agent or alternate participates with other agents in the issuance of a joint agency tariff, a special supplement for the purpose of indicating the change need not be issued unless the agent superseded actually issues the tariff, but the information with respect to the change in agents and the list of carriers showing current powers of attorney shall be included in the next regular supplement issued.

(n) *Revocation of power of attorney.* A power of attorney may be revoked upon not less than 60 days' notice to the Commission by filing a notice of revocation with the Commission, serving at the same time a copy thereof on the agent in whose favor such power of attorney was executed. Such notice shall not bear a separate serial number, but shall specify the form and number of the power of attorney to be revoked, shall name the agent (and alternate agent when form MFXA2 is being revoked) in whose favor the power of attorney was executed, shall specify a date upon which revocation is to become effective, which must not be less than 60 days subsequent

to the date of its receipt by the Commission, and shall be executed in the following manner on paper of good quality, size 8 by 10½ inches:

REVOCATION NOTICE

_____
(Name of carrier)

_____
(Post office address)

_____, 19___

Know All Men by This Instrument:

Effective _____, 19__, power of attorney MFXA–, No. _____, issued by _____ (Name of _____ in favor of _____ (Name of agent and _____ is hereby canceled and of alternate, if any) revoked.

_____
(Name of carrier)

By _____

Attest (if a corporation):

_____, Secretary.

[CORPORATE SEAL]

Duplicate mailed to

_____
(Name of Agent)

_____
(Address)

_____
(Date)

§ 1307.47 Concurrences.

(a) *Forms of concurrences.* The following forms shall be used in giving to carriers subject to Subpart B concurrences in tariffs which are issued and filed by such carriers or their agents and in which the carriers giving concurrences are participants. The provisions of § 1307.46 (g) and (h) will apply also to concurrences. If two or more carriers execute powers of attorney authorizing an agent to publish joint rates for them, it will not be necessary for those carriers to exchange concurrences with each other as to the joint tariffs issued by that agent under that authority.

(b) *Specific.* Form MFXC2 shall be used in giving concurrence in a particular tariff that is issued and filed by another carrier. The original of form MFXC2 shall be forwarded to the carrier issuing the tariff and shall by such carrier be transmitted to the Commission with the tariff. This form when not restricted will serve as continuing evidence of participation in the tariff described in the concurrence and in all supplements to and successive issues thereof. If reference to successive issues be stricken out a new concurrence will be required for each successive issue of the tariff. Except as provided above, this form shall not be qualified in any way but must evidence concurrence in all rates, rules or other provisions contained in the tariff publication named therein.

CONCURRENCE

MFXC2, No.____
Cancels MFXC–, No.____

_____
(Name of carrier)

_____
(Post office address)

_____, 19___

TO THE INTERSTATE COMMERCE COMMISSION,
WASHINGTON, D.C. 20423.

This is to certify that [show name of carrier giving concurrence; see note 1 to § 1307.46(c)] assents to and concurs in the publication and filing of the freight tariff described below, filed by [show name of carrier to whom concurrence is given], together with supplements thereto and successive issues thereof, and that such concurring carrier hereby makes itself a party thereto and bound thereby, insofar as such tariff applies between points on the lines or routes of [show name of carrier to whom concurrence is given], on the one hand, and points on the lines or routes of [show name of carrier giving concurrence], on the other; or rates in connection with which [show name of carrier giving concurrence] acts as an intermediate carrier between points on the lines or routes of [show name of carrier to whom concurrence is given] on the one hand, and points on the lines or routes of other carriers parties to such tariff, on the other, until this authority is revoked by formal and official notice of revocation filed with the Interstate Commerce Commission and sent to the carrier to which this concurrence is given. (Here give an exact description of the title page of the tariff, including the name of the issuing carrier, the MF–I.C.C. number, and dates on which issued and effective). Issued by (name and title of officer shown as issuing tariff.)

_____
(Name of carrier)

By _____

Attest (if a corporation):

_____, *Secretary.*

[CORPORATE SEAL]

(c) *General.* If general concurrence be given by a carrier in tariffs issued by another carrier or its agent, naming rates from or to points on its lines or over its lines, form MFXC3 shall be used. Form MFXC3 may be executed as shown, when it will authorize publication of rates for the concurring carrier from and to points served by such carrier as well as from and to points served by other carriers where the concurring carrier acts as intermediate line. If it is desired to limit the authority granted to exclude publication of rates in connection with which the concurring carrier would act as either origin, intermediate, or destination line, the form may be modified to that extent by substituting the words "from—to" for the words "between—and" or by use of other appropriate language to effect the modification authorized. When authority is given an agent to publish rates for a carrier participating under authority of a concurrence to another carrier for whom such agent acts, care must be exercised that the rates published for the concurring carrier do not exceed the scope of the authority given.

CONCURRENCE

MFXC3, No. _____
Cancels MFXC–, No. _____

_____
(Name of carrier)

_____
(Post office address)

_____, 19_____

TO THE INTERSTATE COMMERCE COMMISSION,
WASHINGTON, D.C. 20423.

This is to certify that [show name of carrier giving concurrence; see note 1 to § 207.46 (c)] assents to and concurs in the publication and filing of any freight tariff or supplement thereto, which [show name of carrier to whom concurrence is given] or such carrier's agent may publish and file, and in which the said [show name of concurring carrier] is shown as a participating carrier, and that such concurring carrier hereby makes itself a party thereto and bound thereby insofar as such tariff applies between points on the lines or routes of [show name of carrier to whom concurrence is given], on the one hand, and points on the lines or routes of [show name of carirer giving concurrence], on the other; or rates in connection with which [show name of carrier giving concurrence] acts as an intermediate carrier between points on the lines or routes of [show name or carrier to whom concurrence is given], on the one hand, and points on the lines or routes of other carriers parties, to such tariff, on the other, until this authority is revoked by formal and official notice of revocation filed with the Interstate Commerce Commission and sent to the carrier to which this concurrence is given.

_____
(Name of carrier)

By _____

Attest (if a corporation):

_____, *Secretary.*

[CORPORATE SEAL]

Duplicate mailed to _____
at _____
(Show complete address)

(d) *Revocation of concurrence.* A concurrence may be revoked upon not less than 60 days' notice to the Commission by filing a notice of revocation with the Commission, serving at the same time a copy thereof on the carrier to which such concurrence was given. Such notice shall not bear a separate serial number, but shall specify the form and number of the concurrence to be revoked, shall name the carrier in whose favor issued, an shall specify a date upon which revocation is to become effective, which must not be less than 60 days subsequent to the date of its receipt by the Commission. The revocation notice shall be as follows:

REVOCATION NOTICE

_____
(Name of carrier)

_____
(Post office address)

_____, 19___

TO THE INTERSTATE COMMERCE COMMISSION,
WASHINGTON, D.C. 20423

Effective _____, 19__, concurrence form MFXC–, No. _____, issued by _____ in favor of _____ (Name of carrier) (Name of _____ is hereby canceled carrier to whom issued) and revoked.

_____
(Name of carrier)

By _____

Attest (if a corporation):

_____, Secretary.

[CORPORATE SEAL]

Duplicate mailed to:

_____
(Name and title of officer)

_____
(Name of carrier)

_____
(Address)

(e) *Revision of tariffs when authority revoked.* When a power of attorney or concurrence is revoked, corresponding revision of the tariff or tariffs should be made effective upon statutory notice not later than the effective date stated in the notice of revocation. In the event of failure to so revise the applicable tariff or tariffs, the rates in such tariff or tariffs remain applicable until lawfully canceled.

(f) *Conflicting authority to be avoided.* In giving concurrences care must be taken to avoid duplicating authority to two or more carriers which, if used, would result in conflicting rates or rules.

Subpart C—Special Permissions

AUTHORITY: The provisions of Subpart C issued under secs. 204, 217, as amended, 218, as amended, 40 Stat. 548, as amended, 560, as amended, 561, as amended; 49 U.S.C. 304, 317, 318, unless otherwise noted.

§ 1307.90 Suspension supplements and postponement notices.

(a) All carriers subject to the tariff publishing rules in Subpart A (Tariff Circular MF No. 4), Subpart B (Tariff Circular MF No. 3) and §§ 1306.0–1306.16 of this chapter, and their duly appointed agents are hereby authorized to:

(1) Publish the following provisions in the supplements (other than consolidated suspension supplements) to their respective tariffs or schedules, announcing suspension of rates, fares or other provisions of said tariffs and schedules:

POSTPONEMENT NOTICE

If this supplement is not canceled on or before (here insert date to which suspended), the effective date of the above-described suspended publication or publications remaining under suspension until that date is hereby postponed to the date upon which this supplement is canceled. The rates, fares, charges, classifications, rules, regulations, practices, and other provisions continued in force by the above-mentioned order of suspension will apply during the period of suspension and postponement unless and until lawfully changed.

(2) Publish in bound tariffs or supplements thereto, or in looseleaf tariffs or pages thereto, immediately following the first sentence of the "Notice of Suspension" authorized in paragraph 1(b) of Special Permission No. M–89600, a postponement notice reading substantially as follows:

The effective date of such suspended provisions is hereby postponed to and including _____

or

The effective date of such suspended provisions which was postponed to and including _____ is hereby further postponed to and including _____

All such provisions to be made effective not later than the date to which suspended or postponed and upon as much notice as possible, but in no event less than 1 day's notice.

(b) Where the supplement announcing suspension does not contain the postponement notice authorized in paragraph (a)(1) of this § 1307.90 and some or all of the matter remains under suspension until the end of the suspension period, carriers and their agents are hereby authorized to issue a postponement notice in a regular supplement or a postponement supplement to their tariff or schedule affected, such postponement notice or postponement supplement to provide that the effective date of such matter remaining under suspension is postponed to a specific date or to the date upon which the postponement notice or postponement supplement is canceled. The supplement containing such postponement notice to provide for the cancellation of the suspension supplement, bear an effective date which will be the same date as that named in the suspension order and to be made effective upon as much notice as possible, but in no case less than 1 day's notice.

(c) Where the suspended matter is under postponement to a specific date under authority of paragraph (b) of this section and it is desired to further postpone the effective date, carriers or agents may issue a supplement to their tariff or schedule affected, such supplement to cancel the postponement supplement (if it contains only the notice of postponement) or the postponement notice (if in a supplement containing other matter) and to provide that the effective date of the matter remaining under postponement to the end of the postponement period, is further postponed to a specific date or to the date upon which the postponement supplement or postponement notice is canceled. The postponement notice or supplement issued hereunder to be made effective not later than the date shown in the previous postponement notice and upon as much notice as possible but in no case less than 1 day's notice.

(d) When the Commission has found the suspended matter justified and the effective date of such matter is under postponement or further postponement, the publishing carrier or agent may within the period of postponement publish and file a supplement (when to a bound tariff) or revised page (when to a looseleaf tariff) to their tariff or schedule affected, such supplement or page to cancel the postponement notice or postponement supplement (in the case of a looseleaf tariff the postponement supplement may be canceled by a revised check sheet), cancel the matter continued in effect during the period of postponement and make the postponed matter effective, the supplements or pages issued under this paragraph to bear an effective date which will be earlier than the date to which postponed and be made effective upon not less than 1 day's notice.

(e) Supplements issued to bound tariffs under authority of paragraphs (b), (c), and (d) of this section which contain no other matter may be issued without regard to the terms of § 1307.30(s)(1)(2) (Rule 6(d) of the Tariff Circular MF No. 3), or § 1307.5(u) of Tariff Circular MF No. 4, but thereafter such supplements will be counted against the number of supplements and volume of supplemental matter until they are canceled.

(f) Publications issued hereunder to make specific reference hereto as authority for short notice filing or for tariff circular departure by using the following notation wholly or in part:

Issued on (show number of days) notice; Tariff Circular departure authorized; ICC Permission No. M-93800.

This authority does not, except as expressly indicated, waive or modify any outstanding formal order of the Commission, any of the requirements of its published rules relative to the construction and filing of the tariffs or schedules, nor any of the provisions of the Interstate Commerce Act. This permission shall continue in force and effect until July 1, 1970.

§ 1307.95 Circus outfits.

(a) All common carriers of property by motor vehicle, subject to Part II of the Interstate Commerce Act, are hereby authorized to publish and file with the Commission tariffs providing for the transportation of circus outfits, such tariffs to publish rates or charges specifically, or to consist of a title page with notation reading "as per copy of contract attached," to which title page shall be attached a copy of the contract under which the circus outfit is moved. Tariffs issued under this authority need not be posted, but must be filed with the Commission at least one day prior to the effective date and must bear the notation:

Issued on one day's notice under special permission of the Interstate Commerce Commission No. M-3677 of October 6, 1936.

(b) This permission does not modify any outstanding formal orders of the Commission, nor waive any of the requirements of its published rules relative to the construction and filing of tariffs or schedules, nor modify any of the provisions of Part II of the Interstate Commerce Act, except as to the notice to be given.

§ 1307.100 Motor common carriers of property; establishment of rates, etc., covering emergency movements of property.

(a) Subject to the limitations herein, motor common carriers of property may establish rates and other tariff provisions covering emergency movements of property under section 210(a) of Part II of the Interstate Commerce Act, without further notice prior to acceptance of shipments for transportation other than posting, where required, of an individual tariff publication (not a loose-leaf page), containing such rates and other tariff provisions, and having four copies of the publication, with a letter of transmittal, filed with the Regional Director of the Bureau of Operations in whose region the carrier is domiciled or with the Supervisor designated by the Regional Director.

(b) *Additional departure from the terms of Tariff Circular MF No. 3 (Subpart B).* Motor common carriers of property may depart from the terms of Tariff Circular MF No. 3 (Subpart B) to the extent necessary to permit the filing of tariff publications in the manner

authorized in the foregoing paragraph hereof.

(c) *Limitations.* (1) This permission does not authorize the cancellation of any rate or provision on the same commodity between the same points and may not be used to establish rates and other provisions which will result in duplicating or conflicting rates, except as authorized in subparagraph (5) of this paragraph.

(2) Tariffs filed hereunder must be consecutively numbered in the carrier's "W" series in the following manner:

MF-ICC No. W-------

(3) Tariffs filed hereunder may contain only the rates, rules, and other provisions covering the movement of property under emergency temporary authority and then only for a period of not more than 30 days and such tariffs may not contain other rates or provisions.

(4) All tariffs filed hereunder must bear a specific expiration date which will not be later than the date upon which the emergency temporary authority expires.

(5) When it has been discovered that provisions of one "W" series tariff do not conform to emergency temporary authority actually granted, another tariff, in the carrier's "W" series, may be filed in accordance with this section to cancel the first and conform tariff provisions to the operating authority.

(6) Supplements to "W" series tariffs are permissible only for the purpose of changing, specifically, the expiration date of the tariff to a date not later than the date upon which the emergency temporary authority, or an extension thereof, expires.

This permission does not modify any outstanding formal order of the Commission, nor waive any of the requirements of its published rules relative to the construction and filing of tariff publications, except as herein authorized, nor modify any of the provisions of Part II of the Interstate Commerce Act, except as to notice.

§ 1307.101 Motor contract carriers of property; establishment of actual or minimum rates, etc., covering emergency movements of property.

(a) Subject to the limitations herein, motor contract carriers of property may establish rates and other schedule provisions covering emergency movements of property under section 210(a) of Part II of the Interstate Commerce Act, without further notice prior to acceptance of shipments for transportation other than posting of an individual schedule publication (not a loose-leaf page), containing such rates and other schedule provisions, and having four copies of the publication, with a letter of transmittal, filed with the Regional Director of the Bureau of Operations in whose region the carrier is domiciled or with the Supervisor designated by the Regional Director.

(b) *Additional departure from the terms of Tariff Circular MF No. 4 (Subpart A).* Motor contract carriers of property may depart from the terms of Tariff Circular MF No. 4 (Subpart A) to the extent necessary to permit the filing of schedules authorized in paragraph (a) of this section.

(c) *Limitations.* (1) This permission does not authorize the cancellation of any actual or minimum charge or provisions on the same commodity between the same points and may not be used to establish actual or minimum charges or other provisions which will result in duplicating and/or conflicting actual or minimum charges, except as authorized in subparagraph (5) of this paragraph.

(2) Schedules filed hereunder must be consecutively numbered in the carrier's "W" series in the following manner:

MF-ICC No. W-------

(3) Schedules filed hereunder may contain only the actual or minimum charges, rules, and other provisions covering the movement of property under emergency temporary authority and then only for a period of not more than 30 days, and such schedules may not contain other actual or minimum charges or provisions.

(4) All schedules filed hereunder must bear a specific expiration date which will not be later than the date upon which the emergency temporary authority expires.

(5) When it has been discovered that provisions of one "W" series schedule do not conform to emergency temporary authority actually granted, another schedule, in the carrier's "W" series, may be filed in accordance with this section to cancel the first and conform schedule provisions to the operating authority.

(6) Supplements to "W" series schedules are permissible only for the purpose of changing, specifically, the expiration date of the schedule to a date not later than the date upon which the emergency temporary authority, or an extension thereof, expires.

This permission does not modify any outstanding formal order of the Commission, nor waive any of the requirements of its published rules relative to the construction and filing of schedule publications, except as herein authorized, nor modify any of the provisions of Part II of the Interstate Commerce Act, except as to notice.

Subpart D—Released Rates

§ 1307.200 Released rates on certain articles.

(a) *Authority for, and manner of, establishment.* All motor carriers and their duly authorized agents or the duly accredited successors of such agents are authorized to establish and maintain by filing and posting in the manner prescribed in sections 217 and 218 of Part II of the Interstate Commerce Act, truckload and less-than-truckload classification and exception ratings for carpets and carpeting; graphite crucibles; hides, pelts, or skins, not dressed nor tanned; household goods; jewelers' sweepings; leather scrap; leatherboard scrap; ores not otherwise indexed in the classification; painting and pictures; pottery, chinaware, earthenware, porcelainware or stoneware, not otherwise indexed in the classification; printed matter; silk, raw, spun, schappe, or thrown, including organzine, singles, tram, warp, or yarns; watches and clocks dependent upon the released value of the property declared by the shipper in writing, or agreed upon in writing in the following manner:

(1) Carpets or carpeting:

Rugs, N.O.I., value declared in writing by the shipper, or agreed upon in writing as the released value of the property in accordance with the following (see Note 3):
- If not exceeding $125.00 per 100 pounds, in burlapped bales or rolls, or in boxes, or wrapped bundles (see Note 1)-------
- If exceeding $125.00 per 100 pounds, and not exceeding $200.00 per 100 pounds, in boxes (see Note 1)----------
- If exceeding $200.00 per 100 pounds, and not exceeding $300.00 per 100 pounds (see Note 1)
- If exceeding $300.00 per 100 pounds, in boxes (see Note 1)----------

NOTE 1: The value declared in writing by the shipper, or agreed upon in writing as the released value of the property, as the case may be, must be entered on shipping order and bill of lading as follows:

The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding-------per 100 pounds.

NOTE 2: If consignor declines to declare the value, or agree to release value in writing, shipment will not be accepted.

(2) Hides, pelts, or skins, not dressed nor tanned:

Hides, pelts, or skins, not dressed nor tanned, N.O.I.:
- Dry (see Note), in packages:
- Released to value not exceeding $1.50 per pound---------
- Released to value exceeding $1.50 per pound but not exceeding $5.00 per pound-------
- Released to value exceeding $5.00 per pound but not exceeding $7.50 per pound---------
- If declared or released value exceeds $7.50 per pound or shipper declines to declare or release value, Not Taken.

NOTE: The value declared in writing by the shipper or agreed upon in writing as the released value of the property, as the case may be, must be entered on shipping order and bill of lading as follows:

The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding ------- per pound for each article.

If consignor declines to declare value or agree to released value in writing, the shipment will not be accepted.

(3) Household goods:

Household goods, as described in Note 2, prepaid, each article released in value in accordance with the following (see Note 1):
- Released to value not exceeding 10 cents per pound----------
- Released to value exceeding 10 cents but not exceeding 20 cents per pound-------
- Released to value exceeding 20 cents but not exceeding 50 cents per pound---------
- Released to value exceeding 50 cents but not exceeding $2.00 per pound -------
- Released to value exceeding $2.00 but not exceeding $5.00 per pound ---------

NOTE 1: If consignor declines to release each article in the shipment to a value not exceeding $5.00 per pound, the shipment will not be accepted.

The released value, which shall be deemed to relate to each article separately and not to the shipment as a whole, must be entered on shipping order and bill of lading in the following form:

The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding ------- per pound.

NOTE 2: Ratings on household goods apply only on second-hand (used) household or personal effects such as clothing, furniture or furnishings for residence, with not to exceed one piano. Ratings do not apply on articles specifically named in Rule 3 of the classification nor on goods shipped for sale or speculation.

(4) Jewelers' sweepings:

Jewelers' sweepings, value declared in writing by the shipper, or agreed upon in writing as the released value of the property, in accordance with the following (see Note):
- Wet, in water-tight barrels, value not exceeding 10 cents per pound ---------
- Wet, in water-tight barrels, value exceeding 10 cents per pound but not exceeding 40 cents per pound ---------
- Dry, in barrels, value not exceeding 10 cents per pound ---------
- Dry, in barrels, value exceeding 10 cents per pound but not exceeding 40 cents per pound ---------
- If value exceeds 40 cents per pound, or if consignor declines to declare value or agree to released value in writing, shipment will not be accepted.

NOTE: The value declared in writing by the shipper, or agreed upon in writing as the released value of the property, as the case may be, must be entered on the shipping order and bill of lading as follows:

The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding ---------- cents per pound.

(5) Leather:

Leather scrap, value declared in writing by the shipper, or agreed upon in writing, as the released value of the property, in accordance with the following, in packages (see Notes 1 and 2):
- If not exceeding 3½ cents per pound -----
- If exceeding 3½ cents per pound ---------

NOTE 1: The value declared in writing by the shipper, or agreed upon in writing as the released value of the property, as the case may be, must be entered on the shipping order and bill of lading as follows:

The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding ---------- cents per pound.

If consignor declines to declare value or agree to released value in writing, the shipment will not be accepted.

NOTE 2: Ratings apply only on old, worn-out leather articles, other than belting, boots or shoes, or on scraps of old (used) leather, or on tanners' tearoffs or rough roundings, or on leather refuse from manufacture of leather or leather goods, and do not apply on bellies, heads, shanks, or shoulders, nor on leather cut or stamped into forms, shapes, or strips.

(6) Leatherboard scrap:

Leatherboard scrap, value declared in writing by shipper, or agreed upon in writing as the released value of the property, in accordance with the following (see Note):
- If not exceeding 3½ cents per pound, in packages -------
- If exceeding 3½ cents per pound, in packages ---------

NOTE: The value declared in writing by the shipper, or agreed upon in writing as the released value of the property, as the case may be, must be entered on the shipping order and bill of lading as follows:

The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding ---------- cents per pound.

If consignor declines to declare value or agree to released value in writing, the shipment will not be accepted.

(7) Ores:

Ores, N. O. I., value declared in writing by the shipper, or agreed upon in writing as the released value of the property, in accordance with the following (see Note):
- If value does not exceed 5 cents per pound, in bags, barrels or boxes-------
- If value exceeds 5 cents per pound but does not exceed 40 cents per pound, in bags, barrels or boxes-------
- If value exceeds 40 cents per pound but does not exceed $1.00 per pound, in bags, barrels or boxes-------
- If value exceeds $1.00 per pound, in bags, barrels or boxes-------

If consignor declines to declare value or agree to released value in writing, shipment will not be accepted.

NOTE: The value declared in writing by the shipper, or agreed upon in writing as the released value of the property, as the case may be, must be entered on shipping order and bill of lading as follows:

The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding------- per pound.

(8) Paintings or pictures:

Paintings or pictures, N.O.I., value declared in writing by the shipper, or agreed upon in writing as the released value of the property, in accordance with the following (see Note):
- If value does not exceed 50 cents per pound, in boxes-------
- If value exceeds 50 cents per pound and does not exceed $2.00 per pound, in boxes-------
- If value exceeds $2.00 per pound and does not exceed $5.00 per pound, in boxes-------
- If declared or released value exceeds $5.00 per pound, Not Taken.

If consignor declines to declare value or agree to released value in writing, the shipment will not be accepted.

NOTE: The value declared in writing by the shipper or agreed upon in writing as the released value of the property, as the case may be, must be entered on shipping order and bill of lading as follows:

The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding----------- per pound.

(9) Pottery:

Chinaware, earthenware, porcelainware or stoneware, N.O.I.

Released to value not exceeding $20.00 per 100 pounds (see Note 1):
- In baskets with solid wooden covers (see Note 2), or in barrels, boxes or crates, or in salesmen's sample trunks, locked, or in trunks in crates-------

Not released to value of $20.00 per 100 pounds:
- In baskets with solid wooden covers (see Note 2), or in barrels, boxes or crates, or in salesmen's sample trunks, locked, or in trunks in crates-------

NOTE 1: The released value must be entered on shipping order and bill of lading in the following form:

The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding $20.00 per 100 pounds.

NOTE 2: Ratings apply on shipments packed in hay or straw in closely woven stave shipping baskets with 2 hoops not less than ¼ inch thick, clinch nailed, further reinforced with 2 metal straps not less than ½ inch wide running outside the 2 staves and fastened to the hoops. Cover must be made of closely fitting boards not less than ½ inch thick with cross-batten not less than ¾ x 6 inches, fitting under the wire handles and nailed.

(10) Printed matter, paper or paper board:

Printed matter having exchange value, such as sales coupons and certificates, prepaid (see Notes 1 and 2), in boxes or in chemically hardened fibre boxes or trunks, reinforced at all corners and edges with iron or steel bracing, covers secured by metal clasps and seals:
- If value does not exceed 50 cents per pound-------
- If value exceeds 50 cents per pound and does not exceed $1.00 per pound-------
- If declared or released value exceeds $1.00 per pound, Not Taken.

If consignor declines to declare value or agree to released value in writing, the shipment will not be accepted.

NOTE 1: The value declared in writing by the shipper, or agreed upon in writing as the released value of the property, as the case may be, must be entered on shipping order and bill of lading, as follows:

The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding---------- per pound.

NOTE 2: Sales coupons or certificates having exchange value may be included with shipments of merchandise at rates or ratings provided for the merchandise with which they are shipped, provided weight of the sales coupons or certificates does not exceed 1 percent of gross weight of shipment. Under the terms of this note, released ratings will not apply on sales coupons or certificates accompanying merchandise to the extent stated.

(11) Silk:

Silk, value declared in writing by the shipper, or agreed upon in writing as the released value of the property, in accordance with the following:

Raw (see Note):
- If value does not exceed $1.00 per pound, in bags, bales or boxes-------
- If value exceeds $1.00 per pound, in bags, bales or boxes-------

If consignor declines to declare value or agree to released value in writing, shipment will not be accepted.

Spun, schappe or thrown, including organzine, single, tram, warp or yarns (see Note):
- If value does not exceed $1.00 per pound, in bags, bales or boxes or on wrapped beams in crates-------
- If value exceeds $1.00 per pound, in bags, bales or boxes, or on wrapped beams in crates-------

If consignor declines to declare value or agree to released value in writing, shipment will not be accepted.

NOTE: The value declared in writing by the shipper, or agreed upon in writing as the released value of the property, as the case may be, must be entered in shipping order and bill of lading, as follows:

The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding------- per pound.

(12) Watches, clocks:

Watches, clocks, value declared in writing by the shipper or agreed upon in writing as the released value of the property, in accordance with the following (see Note):

If value does not exceed $1.00 each, in boxes.....

If value exceeds $1.00 each, in boxes.....

If consignor declines to declare value or agree to released value in writing, the shipment will not be accepted.

Note: The value declared in writing by the shipper, or agreed upon in writing as the released value of the property, as the case may be, must be entered on shipping order and bill of lading as follows:

The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding ..... per clock watch.

(13) Graphite articles:

Graphite (black lead or plumbago) articles:

Crucibles, packed in excelsior, hay, straw, or similar material:

Value declared in writing by the shipper, or agreed upon in writing as the released value, if exceeding 5 cents per pound (see Note) .....

Value declared in writing by the shipper, or agreed upon in writing as the released value, if not exceeding 5 cents per pound (see Note) .....

Note: The value declared in writing by the shipper or agreed upon in writing as the released value of the property, as the case may be, must be entered on shipping order and bill of lading as follows:

The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding ..... cents per pound.

If consignor declines to declare value or agree to released value in writing of crucibles packed in excelsior, hay, straw or similar packing material, but not braced, the shipment will not be accepted.

(b) *Changes.* Changes may be made in any rating and container or packing specification established under authority of this section, but no change in commodity description or in the released valuations upon which the ratings are dependent may be made without specific authority of the Commission.

(c) *Lawfulness of rates.* The Commission does not hereby approve the lawfulness, except under sections 20(11) and 219 of the Interstate Commerce Act, of any ratings or valuations which may be filed under this authority.

(d) *Authority to be shown in tariff.* The ratings dependent upon released value filed under the authority of this section shall show in connection therewith the following notation:

Ratings herein based on released value have been authorized by the Interstate Commerce Commission in Released Rates Order No. MC-1 of January 16, 1936, as amended October 26, 1943, subject to complaint and suspension.

(Sec. 26, as amended; 24 Stat. 386, as amended, 204, 217, as amended, 218, as amended, 219, as amended; 49 Stat. 546, as amended, 560, as amended, 561, as amended, 562, as amended; 49 U.S.C. 26, 304, 217, 218, 219)

§ 1307.201 Released rates on household goods.

(a) *Establishment authorized; rate bases.* Subject to the conditions specified in succeeding paragraphs of this section, each motor common carrier authorized to perform the specialized service of a household goods carrier be, and it is hereby, authorized to establish and maintain by filing and posting in the manner required by the Interstate Commerce Act, commodity rates for the transportation in interstate or foreign commerce, and charges for accessorial services in connection therewith, of household goods, as defined by the Commission, said rates and charges to be applicable only when the value of the property as declared by the shipper in writing, or agreed upon in writing as the released value thereof is as follows:

Released value and liability limitations	Transportation rate basis	Storage in transit rate basis
Released to a value not exceeding 60 cents per pound per article for the actual weight of any article or articles in a shipment.	Base transportation rate.....	Base storage rate.
Released to a declared lump sum value for an entire shipment. However, if the value declared is less than $1.25 times the actual weight (in pounds) of the shipment, such declaration will be ineffective, and the shipment will be deemed instead to have been released to a declared lump sum value equal to $1.25 times the actual total weight (in pounds) of the shipment.	Base transportation rate plus a valuation charge of 50 cents for each $100, or fraction thereof, of the released value of the entire shipment. On shipments destined to a point in Mexico and picked up prior to Dec. 31, 1948, the valuation charge will be $1.50 for each $100, or fraction thereof of the released value of the entire shipment.	110 percent of the base storage rate for the first 60-day period of storage. Thereafter, 120 percent of the base storage rate for each storage period of 30 days, or fraction thereof.

No rule or corresponsibility may be employed to reduce the liability of the carrier for loss, damage, or delay to the property. The total parts comprising any article knocked down or taken apart for handling or loading shall constitute one article for the purpose of determining the carrier's liability as provided above.

(b) *Changes in rates or released valuations.* Changes may be made in the rates or charges established under the authority of this order but the released values provided in this section may not be decreased, nor may the value charges as specified in this section be increased without specific authority of the Commission.

(c) *Statement on bills of lading.* The bill of lading issued for any shipment accepted for transportation and storage at released rates and charges established and maintained under authority of this order, shall have printed in distinctive color in boldface, type on the face thereof a statement reading as follows:

Unless the shipper expressly releases the shipment to a value of 60 cents per pound per article, the carrier's maximum liability for loss and damage shall be either the lump sum value declared by the shipper or an amount equal to $1.25 for each pound of weight in the shipment, whichever is greater.

The release of value must be entered in the following form directly below and immediately following the foregoing statement, and must be completed only by the person signing it.

The shipment will move subject to the rules and conditions of the carrier's tariff. Shipper hereby releases the entire shipment to a value not exceeding.....

.....
(To be completed by the person signing below)

Notice: The shipper signing this contract must insert in the space above, in his own handwriting, either his declaration of the actual value of the shipment, or the words, "60 cents per pound per article." Otherwise, the shipment will be deemed released to a maximum value equal to $1.25 times the weight of the shipment in pounds.

.....
(Shipper)

.....
(Date)

(d) *Statement in tariffs.* Tariffs containing rates or charges established under authority of this order shall specifically provide the carrier's maximum liability for loss of or damage to property shall be the lump sum value declared or an amount equal to $1.25 times the weight of the shipment in pounds, whichever is greater, unless the shipper expressly releases the shipment to a value of 60 cents per pound per article, in which case the carrier's liability shall not exceed that value. Tariffs shall provide that in the event shipper does not declare a lump sum value or release the shipment to a value of 60 cents per pound per article the shipment will be deemed released to a lump sum value equal to $1.25 times the total weight of the shipment (in pounds). No rule of corresponsibility may be employed. Such tariffs shall show the following notation:

Rates or charges herein based on released value have been authorized by the Interstate Commerce Commission in Released Rates Order No. ——— of ———, subject to complaint or suspension.

(e) *Limitation of authority.* This section does not constitute authority for the establishment of released rates or charges on any description of traffic other than herein specifically indicated, nor on traffic originating in an adjacent foreign country destined to points in the United States.

(f) *Lawfulness of rates.* The Commission does not hereby approve the lawfulness, except under sections 20(11) and 219 of the Interstate Commerce Act, of any rate or charge which may be filed under authority of this section.

(Sec. 204, 219, as amended, 220, as amended, 49 Stat. 546, 562; 49 U.S.C. 304, 319, 320)

§ 1307.202 Released ratings; household goods.

(a) *Establishment.* All common carriers of property by motor vehicle and all freight forwarders, their duly authorized agents or the duly accredited successors to such agent, who have been or who may hereafter be, granted authority by the Commission to transport household goods in interstate or foreign commerce, be, and they are hereby, authorized to establish and maintain by filing and posting in the manner prescribed in the Interstate Commerce Act, classification ratings and exceptions ratings for household goods dependent upon the value declared in writing by the shipper or agreed upon in writing, as the released value of the property, as follows:

	Less than truckload	Truckload or volume
Household goods, as described in note 1 below, prepaid. Each article released in value in accordance with the following, see note 2.		
Released value not exceeding 10 cents per pound	1	2-1-1
Released to value exceeding 10 cents but not exceeding 20 cents per pound	1½	1-1-1
Released to value exceeding 20 cents but not exceeding 50 cents per pound	1½	1½-1-1
Released to value exceeding 50 cents but not exceeding $2 per pound	D1	1½-1-1
Released to value exceeding $2 but not exceeding $5 per pound	3t1	D1-1½-1½

Note 1: Ratings on household goods apply only on second-hand (used) household or personal effects such as clothing, furniture or furnishings for residences with not to exceed one piano; and with each truckload or volume shipment there may also be included not to exceed one second-hand (used) freight (not driving trucks for freight vehicles or fire apparatus) or passenger automobile, or one second-hand (used) motorcycle. Ratings do not apply on articles specifically named in

.....
(insert here reference to the rule in the classification or exceptions which names articles of extraordinary value not accepted for transportation.)

nor on goods shipped for sale or speculation.

Articles not included in the above description will be subject to their less-than-truckload ratings if shipped with household goods.

Note 2: If consignor declines to release each article in the shipment to a value not exceeding $5 per pound, the shipment will not be accepted.

The release, which shall be deemed to relate to each article separately and not to the shipment as a whole, must be entered on shipping order and bill of lading in the following form:

"The agreed or declared value of each article in this shipment is hereby specifically stated by the shipper to be not exceeding.....per pound."

(b) *Changes in ratings or released valuations.* Changes may be made in any ratings or packing specifications established under the authority of this order, but the commodity description may not be broadened to embrace other articles nor may any change be made in the released valuation upon which the ratings are dependent without the specific authority of the Commission.

(c) *Authority for released ratings must be shown in tariff.* Tariffs containing released ratings filed under authority of this order shall show in connection therewith the following notation:

Ratings herein based on released value have been authorized by the Interstate Commerce Commission in Released Rates Order No. MC-814, FF-56, of September 14, 1950 subject to complaint or suspension.

(d) *Notation required on receipt or bill of lading.* The value declared or agreed upon by the shipper as the released value shall be stated in each bill of lading or receipt issued for property accepted for transportation at the released ratings herein authorized to be established and maintained.

(e) *Carriers and freight forwarders affected.* This order does not constitute authority for the establishment of released ratings on any description of traffic or over the line of any carrier or freight forwarder other than as herein specifically indicated.

(f) *Lawfulness of ratings.* The Commission does not hereby approve the lawfulness, except under sections 20 (11), 219 and 413 of the Interstate Commerce Act, of any ratings which may be filed under authority of this order.

(g) *Application denied in other respects.* The said application, insofar as it requests authority other than that granted by paragraphs (a) to (f) of this section is hereby denied.

(Secs. 406, 405, 413, 56 Stat. 285, 287; 49 U.S.C. 1008, 1006, 1012)

PART 1308—FREIGHT TARIFFS AND SCHEDULES OF WATER CARRIERS

Subpart A—Tariffs of Common Carriers

Sec.

1308.0 General provisions; definitions.
1308.1 Construction and filing.
1308.2 Indication of changes.
1308.3 Title pages.
1308.4 Contents.
1308.5 Changes in tariffs.
1308.7 Applications for special permission.
1308.8 Powers of attorney and concurrences.
1308.9 Letters of transmittal.
1308.10 Periodical tariffs.
1308.11 Rejection of tariffs and notices of revocation.

Subpart B—Schedules of Contract Carriers

1308.100 General provisions; definitions.
1308.101 Construction and filing.
1308.102 Indication of changes.
1308.103 Title pages.
1308.104 Contents.
1308.105 Changes in schedules.
1308.106 Posting regulations.
1308.107 Applications for special permission.
1308.108 Rejection of tariffs or schedules.

Authority: The provisions of this Part 1308 issued under secs. 304, 306, 54 Stat. 933, 935; 49 U.S.C. 904, 906.

Note: This part is applicable to the construction and filing of tariffs and schedules of minimum rates covering the transportation of property by water which was not subject to the jurisdiction of the Federal Maritime Commission or the Interstate Commerce Commission prior to January 1, 1941. Where water common carriers of property elect to file tariffs conforming to the provisions of Part 1300 of this chapter, the provisions of Subpart A of this part do not apply.

Cross Reference: For other regulations applicable to the construction and filing of tariffs and schedules of water carriers of property subject to the Interstate Commerce Act, see Part 1300 of this chapter.

Subpart A—Tariffs of Common Carriers

§ 1308.0 General provisions; definitions.

(a) *Definitions*—(1) *Tariff.* The term "tariff" as used in this part means a publication stating the rates, charges, and classification of a common carrier, and the rules and regulations which apply in connection therewith.

(2) *Towage.* The term "towage" means the service of towing, pushing or otherwise propelling another vessel (loaded or empty) the property of another, but does not include towage performed for another carrier, common or contract, subject to the Interstate Commerce Act, when the transportation being performed is subject to that act.

(b) *Conformation to regulations, etc.* All tariffs applicable on traffic subject to the regulations in this subpart must conform to all of their provisions, except as otherwise authorized by the Commission. They shall state and arrange the rates, charges, rules, and regulations clearly and explicity in such manner that there will be no doubt of their proper application. Carriers or their agents may not publish rates or provisions which duplicate or conflict with rates or provisions published by or for account of such carriers. Tariffs governed by the regulations in this subpart must not contain:

Joint water-rail rates;
Joint water-motor rates;
Joint water-rail-motor rates;
Passenger fares;
Contract carrier rates or charges.

§ 1308.1 Construction and filing.

(a) (1) All tariffs and supplements thereto shall be in book or pamphlet form, of size 8 inches wide by 11 inches long, and shall be plainly printed on paper of durable quality, from type of size not smaller than 8-point (full face), except that 6-point (full-face) type may be used for explanation of reference marks. The term "printed" includes reproduction by stereotype, mimeograph, planograph, or other similar durable process. All copies posted and filed must be clear and legible in all respects.

(2) No erasure or other alteration shall be made in any tariff or supplement thereto.

(3) A margin of not less than five-eighths of an inch without any printing thereon shall be allowed at the binding edge of each tariff or supplement. No advertising matter shall be included in any tariff or supplement thereto.

(4) All tariffs of each carrier or agent shall be numbered consecutively. Carriers or agents not now filing with this Commission should commence with I.C.C. No. 1, and others should continue their present series of numbers. If a carrier files both contract carrier schedules and common carrier tariffs, only one series of numbers should be used.

(5) Tariffs shall have each page thereof numbered.

(6) When portions of a tariff or of a supplement thereto are designated as Items, they must be given numbers.

(b) All tariffs and supplements (except as provided in paragraph (c) of this section) must be filed and posted at least 30 days prior to the effective date thereof, unless otherwise authorized by the Commission.

(c) Tariffs published to become effective on the date on which section 306(a) of the Interstate Commerce Act becomes effective, but not thereafter, may be filed and posted upon not less than one day's notice, that is, at least one day prior to the effective date thereof. All subsequent publications must comply with paragraph (b) of this section.

(d) Issuing carriers or their agents shall file with the Commission two copies of each tariff or supplement. Both copies shall be included in one package accompanied by a letter of transmittal (see § 1308.9) listing all publications enclosed, and shall be addressed to the "Interstate Commerce Commission, Section of Tariffs, Washington, D.C. 20423." All postage or other charges must be prepaid.

§ 1308.2 Indication of changes.

All tariffs and supplements shall indicate the changes from preceding issues by use of the following symbols:

↑ or (R) to denote reductions.
♦ or (A) to denote increases.
▲ or (C) to denote changes, the result of which is neither an increase nor a reduction.

§ 1308.3 Title pages.[2]

The title-page of each tariff and supplement shall show in the order named:

(a) In the upper right-hand corner, the I.C.C. number of the tariff.

(b) When a tariff is issued canceling a tariff or tariffs previously filed, the I.C.C. number or numbers of the tariff or tariffs canceled in the upper right-hand corner immediately under the I.C.C. number of the new tariff. Example:

I.C.C. No. 2
cancels
I.C.C. No. 1

(c) Supplements, in addition to showing the I.C.C. number of the tariff amended thereby, shall be numbered consecutively beginning with No. 1 and such information shall be shown in the upper right-hand corner. Supplements shall also show in the upper right-hand corner the number of any previous supplement canceled thereby and also the numbers of the effective supplements containing all changes from the tariff. Example:

Supplement No. 3
to
I.C.C. No. 1
cancels Supplement No. 2
Supplements Nos. 1 and 3 contain all changes

(d) The name of the carrier or agent issuing the tariff in the upper central portion of the title-page. The name of the carrier shall be the same as that used in its application for a certificate or in the certificate when issued. If the carrier is not a corporation and a trade name is used, the name of the individual or partners shall precede the trade name. Example:

John Doe and William Doe
doing business as
A.B.C. Transportation Co.

(e) The character of the tariff; for example, whether local or joint or both; whether class, commodity, or a combination of both.

(f) A brief description of the territories in which, or points from and to which, or between which the rates or charges in the tariff apply.

(g) A reference by name and I.C.C. number to any governing classification, exceptions thereto, or other governing publication which is separately published, posted, and filed (see § 1308.4 (f) and (g)). Example:

Governed, except as otherwise provided herein, by the ratings, rules, regulations, packing specifications, and minimum weights of _____ Classification _____, I.C.C. No. _____, supplements thereto and reissues thereof.

In tariffs containing no class rates the word "ratings" should be omitted.

(h) On the lower left side of the title-page, the date of issue; on the right side, opposite the date of issue, the effective date. If the publication contains rates, rules, or regulations effective upon a date different from the general effective date of the publication, notation must be made in connection with the effective date reading, "(Except as otherwise provided herein)" or "(Except as provided in Item _____)" or "(Except as provided on page _____)."

(i) On every tariff or supplement in which all the rates, charges, rules, or regulations are made effective on less than 30 days' notice under authority of the Commission, notation that it is issued on _____ days' notice under authority of _____ (here show the authority).

(j) The name, title, and post office address of the individual, officer, or agent issuing the publication.

§ 1308.4 Contents.[1]

Tariffs shall contain in the order named:

(a) A table of contents, arranged in alphabetical order, showing the number of the item or page in or on which each subject may be found. If a tariff contains so small a volume of matter that its title-page or interior arrangement plainly discloses its contents, the table of contents may be omitted.

(b) A list of carriers participating in the tariff with reference to the form and number of the power of attorney or concurrence under which publication is made. If desired, this information may be shown on the upper central portion of the title-page of the tariff in connection with the name of the issuing carrier or agent.

(c) A complete index, alphabetically arranged, of all commodities specifically named on which rates, charges, ratings, rules, or regulations are published therein, together with reference to the numbers of the items or pages in or on which they are shown. No index will be required in tariffs of less than five pages or if the commodities are arranged in alphabetical order in the tables or rates and charges.

(d) A complete alphabetical index of all points from and to which rates or charges apply, together with the names of the States in which located and a reference to numbers of the items or pages in or on which the rates or charges from and to such points appear. If the points are arranged in alphabetical order in the rate items or tables, no index will be required.

(e) Explanation of all abbreviations, symbols, and reference marks used in the tariff.

(f) When a tariff names rates by classes, a classification of articles must be published in the tariff or in a separate tariff.

If the rate tariff is governed by a separately published classification, any exceptions to the ratings, rules or other provisions of the classification must be published in the rate tariff or in a separate tariff.

When a separate tariff is used for a Classification or an Exceptions to a Classification, reference must be made thereto on the title-page of the rate tariff in the manner indicated in § 1308.3 (g).

(g) (1) The rules and regulations which govern the rates or charges in the tariff. The title or subject of each rule or regulation shall be shown in distinctive type. Under this heading shall be shown all provisions which affect the charges for, or the value of, the service, such as separate charges for demurrage, loading or unloading, or similar services, or whether and to what extent the rates and charges in the tariff include separate services, such as loading, unloading, etc., and any other rules necessary to state plainly the arrangements sought to be established; except that special rules applying to particular rates or charges shall be shown in connection therewith, and on the same page.

(2) If desired, general rules and regulations may be published in a separate tariff, but reference must be made thereto on the title-page or in an appropriate item of the rate tariff, in the manner indicated in § 1308.3(g).

(h) The rates and charges explicitly stated (except as provided in paragraph (i) of this section) in cents, or in dollars and cents, per 100 pounds, per ton of 2,000 pounds, per ton of 2,240 pounds, or other unit of weight, or per barrel or other package, together with the names of the places from and to which they apply, arranged in a simple and systematic manner. Where rates or charges are stated in amounts per package, definite specifications of the packages must be shown.

[2] Paragraphs (a), (b), (c), (f), and (h) of this section need not be observed in tariffs containing only charges for towage.

(i) (Applies only to towage.) A clear statement of the rates and charges stated in cents, or in dollars and cents.

(j) Routing over which the rates apply, stated in such manner that such routes may be definitely ascertained.

§ 1308.5 Changes in tariffs.

(a) Unless otherwise authorized by the Commission, rates, charges, ratings, rules, and regulations which have been filed with the Commission must be permitted to become effective and remain in effect for a period of at least 30 days before being changed or canceled.

(b) A change in or addition to a tariff shall be published in a supplement to the tariff or in a reissue thereof. The matter in each supplement shall be arranged in the same general manner and order as in the tariff which it amends.

(c) A change published in a supplement shall cancel specifically the corresponding item or other matter of the tariff or prior supplement which is thereby changed. An item or other unit in its amended form must be published in its entirety.

(d) Any change in or cancelation of an item by supplement must be under the same item number with letter suffix; for example: Item 40–A cancels Item 40; Item 40–B cancels Item 40–A; and so on.

(e) Matter brought forward without change from one supplement to another, must be designated "Reissued" and show the original effective date and the number of the supplement from which it is reissued. For example: "Reissued from Supplement No. _____, effective _____, 19__."

(f) Each tariff or supplement which consists partly but not wholly of matter established upon less than statutory notice shall show in connection with each change made effective on less than statutory notice a notation that such matter is issued on _____ days' notice under authority of _____ (here give specific reference to the special permission, decision, order, or other authority).

(g) A tariff containing the number of pages indicated under Column 1 may have in effect at any time not more than the number of supplements and the volume of supplemental matter shown opposite thereto in Columns 2 and 3, respectively. (See § 1308.10.)

Column 1 Pages	Column 2 Supplements	Column 3 Volume (number of pages)
1 but not more than 2	0	0
3 but not more than 4	1	2
5 but not more than 12	1	4
13 but not more than 16	1	6
17 but not more than 21	2	33⅓ percent of the number of pages in the tariff.
22 but not more than 80	3	
81 but not more than 200	4	
Over 200	5	

(1) *Tariffs of 13 or more pages.* When the number of pages in the supplement which brings the volume of matter up to that authorized in Column 3 is not evenly divisible by 4, that supplement may exceed the volume authorized to the extent of using additional pages within the next multiple of 4.

Example: A tariff of 97 pages is entitled to 4 effective supplements containing 20 pages of matter. If there are three effective supplements, two of which aggregate 20 pages and the other of which contains 4 pages, there are 5 more pages available. Since 5 is not evenly divisible by 4, the fourth effective supplement may contain 8 pages.

(2) *Tariffs of 32 or more pages.* One of the permitted supplements shall not contain in excess of 4 pages.

§ 1308.7 Applications for special permission.

(a) *Applications for short notice.* Applications for permission to publish rates, charges, ratings, rules, or regulations upon less than the 30 days' notice required by the Interstate Commerce Act shall be in form substantially as follows:

APPLICATION FOR SPECIAL PERMISSION

_____
(Name of carrier)

_____
(Address)

_____
(Date)

Application No. ____

INTERSTATE COMMERCE COMMISSION,
WASHINGTON D.C. 20423.

The (insert name of carrier) hereby petitions the Interstate Commerce Commission for permission under the Interstate Commerce Act to put in force the following rates, charges, ratings, rules, or regulations, to become effective _____ days after the filing thereof with the Interstate Commerce Commission.

_____
(Here state fully, either specifically or by reference to an accompanying exhibit, the rates, charges, ratings, rules, or regulations which it is desired to put into effect, the articles upon which they are to apply, and the points of origin and destination. If permission is sought to establish a rule or regulation the exact wording of the proposed rule or regulation must be shown.)

Your petitioner further represents that the said (rates, charges, etc., as the case may be) above specified will be published in tariff I.C.C. No. _____ (or in a consecutively numbered supplement to I.C.C. No. _____) and will supersede and take the place of the (rates, charges, etc., as the case may be) on like traffic from and to the points above named as set forth in tariff I.C.C. No. _____ (or supplement) on file with the Commission

_____
(Here state, either specifically or by reference to an accompanying exhibit, the present rate, rule, etc., together with the I.C.C. number of the tariff in which published.)

_____
(Here state the names of competing carriers that publish rates, rules, etc., on the commodity or commodities covered by the application between the same points and the date under which they have been notified of the changes proposed by the application. If competing carriers have expressed their views in regard to the proposal a brief statement of views shall be given.)

_____
(Here state the basis on which the proposed rates are constructed.)

Your petitioner bases such request upon the following facts, which present certain special circumstances and conditions justifying the request herein made:

_____
(Here state fully all circumstances and conditions which are relied upon as justifying the application and which may aid the Commission in determining the question presented. If short notice is requested, state why the change was not established upon statutory notice.)

_____
(Name of carrier)

Subscribed and sworn to before me this
(Only the original need be executed)
____ day of _____, 19__.

_____
Notary Public.

(b) *Applications for short notice and waiver of rules.* Where permission is sought to publish upon less than 30 days' notice and also to depart from one or more of the Commission's rules as to publishing or posting tariffs, the form set forth in paragraph (a) of this section shall be used, adding thereto the numbers of the rules, and the reasons waiver is sought.

(c) *Applications for waiver of rules.* Applications for waiver of rules not involving publication on less than 30 days' notice need not be made on any specified form but shall contain a list of the rules waiver of which is sought and the reasons therefor.

(d) Three copies of applications, including amendments thereto and exhibits made a part thereof, shall be addressed to "Secretary, Interstate Commerce Commission, Washington, D.C. 20423." Such applications shall give all the information required, together with any other pertinent facts, shall be made on paper 8 by 10½ inches, and shall be numbered consecutively. Carriers or agents not now filing with this Commission should commence with No. 1, and others should continue their present series of numbers.

(e) (1) Applications must be filed in the correct legal name of the carrier whether an individual, a partnership or a corporation, and must be signed by a duly authorized representative.

(2) When an application is filed by an agent, appropriate change should be made in the introductory paragraph to indicate that it is filed for and on behalf of all carriers participating in the tariff or tariffs covered by the application and shall be signed by said agent.

(f) A desire to meet the rates of a competing carrier which has given statutory notice of change will not of itself be regarded as good cause for permitting changes to be published on less than statutory notice.

§ 1308.8 Powers of attorney and concurrences.

(a) A carrier may give authority to an agent to issue and file tariffs and supplements thereto in its stead, by executing a power of attorney in the following form, size 8 by 10½ inches:

POWER OF ATTORNEY

FX 10 No. _____
Cancels FX 10 No. _____

_____
(Name of Carrier) (See Notes 1 and 3, § 312.8 (g).)

_____
(Post office address)
_____, 19__.

Know all men by these presents:

That _____ has
(Name of carrier) (See Notes 1 and 3, § 1308.8(g))
(have) made, constituted and appointed, and by these presents does (do) make, constitute and appoint _____ its
(Name of principal agent)
(their) attorney and agent to publish and file for it (them) freight tariffs and supplements thereto, as permitted or required of common carriers of property by water under the Interstate Commerce Act and the Regulations of the Interstate Commerce Commission issued pursuant thereto, and does (do) hereby ratify and confirm all that the said attorney and agent may lawfully do by virtue of the authority herein granted, and does (do) hereby assume full responsibility for the acts and failures to act of said attorney and agent.

That the authority herein granted shall extend until revoked and shall cover all territories and all rates or charges, except as hereinafter stated:

If limited as to time, traffic, or territories, here state the period of time, the traffic and the territory covered.

If the authority runs only to a particular tariff, state its I.C.C. number, the date of issue and effective date if known, and a brief description of its application. If intended also to include reissues thereof, so state.

And, further, That _____ does (do)
(Name of carrier) (See Notes 1 and 3, § 1308.8 (g))
hereby make, constitute and appoint _____
_____ alternate attorney and agent to do and perform the same acts and exercise the same authority herein granted to _____
(Name of alternate agent)
(Name of principal agent)
in the event, and only in the event, of the death or disability of _____
(Name of principal agent)
and does (do) hereby ratify and confirm all that the said alternate attorney and agent may lawfully do by virtue of the authority herein granted and does (do) hereby assume full responsibility for the acts and failures to act of said alternate attorney and agent.

_____
(Name of carrier) (See Notes 1, 2, 3, § 1308.8(g))

By _____
(See Note 2, § 1308.8(g))

Title _____

Attested:

_____

Title _____

(Corporate Seal, if any)

(b) Whenever a carrier desires to concur in tariffs issued and filed by another carrier, a concurrence in the following form, size 8 by 10½ inches, shall be issued in favor of such other carrier. A concurrence may not be used to publish the local rates of another carrier.

CONCURRENCE

FX 11 No. _____
Cancels FX 11 No. _____

_____
(Name of carrier) (See Notes 1, and 3, § 1308.8(g))

_____
(Post office address)

_____, 19__

To THE INTERSTATE COMMERCE COMMISSION, SECTION OF TARIFFS, WASHINGTON, D.C. 20423.

This is to certify that _____
(Name of carrier) (See Notes 1 and 3, § 1308.8(g))
assents to and concurs in the publication and filing of tariffs and supplements thereto which _____ may
(Name of carrier to whom concurrence is given)
publish and file and in which this carrier is shown as a participating carrier and hereby makes itself a party thereto and bound thereby until this instrument is revoked, as follows:

Here state whether the concurrence includes all tariffs or supplements issued by the carrier to whom the concurrence is given, whether and to what extent it is limited to particular rates, charges, ratings, rules, or regulations, or to traffic to, from, at, or via its line, or whether it is limited to a specific tariff (in which event state its I.C.C. number, the date of issue and effective date if known, and a brief description of its application). If intended also to include reissues thereof, so state.

_____
(Name of carrier) (See Notes 1, 2, and 3, § 1308.8(g))

By _____
(See Note 2, § 1308.8(g))

(c) A power of attorney or concurrence may be revoked only upon not less than sixty days' notice to the Commission by filing a notice of revocation with the Commission and serving, at the same time, a copy thereof on the agent or carrier in whose favor the power of attorney or concurrence was executed. Such revocation notice shall be in the following form on paper of size 8 by 10½ inches and shall specify a date upon which the revocation is to become effective, which must be not less than sixty days subsequent to the date of its receipt by the Commission. A revocation notice must be signed and otherwise executed in the same manner as the form which it revokes. (See Note 2, paragraph (g) of this section.)

REVOCATION NOTICE

(Power of Attorney)

_____
(Name of Carrier) (See Notes 1 and 3, § 1308.8(g))

_____
(Post office address)

_____, 19__

Known all men by these presents:

Effective _____, 19__, power of attorney FX 10 No.____ issued by _____
(Name of carrier)
_____ in favor of _____
(Here show name of agent (and alternate agent) in whose favor power of attorney was executed)
is hereby canceled and revoked.

_____
(Name of carrier) (See Notes 1, 2, and 3, § 1308.8(g))

By _____
(See Note 2, § 1308.8(g))

Title _____

Attested:

Title _____

(Corporate Seal, if any)

Duplicate mailed to _____ at _____

Date duplicate mailed _____

REVOCATION NOTICE

(Concurrence)

_____
(Name of Carrier)
(See Notes 1 and 3, § 1308.8(g))

_____
(Post office address)

_____, 19__

To the INTERSTATE COMMERCE COMMISSION, *Section of Tariffs, Washington, D.C. 20423.*

Effective _____, 19__, concurrence form FX 11 No. ____ issued by _____
(Name of _____ in favor of _____
carrier) (Here show name of _____
carrier in whose favor concurrence was issued) is hereby canceled and revoked.

_____
(Name of carrier) (See Notes 1, 2, and 3, § 1308.8(g))

By _____
(See Note 2, § 1308.8(g))

Title _____

Duplicate mailed to _____ at _____

Date duplicate mailed _____

(d) The original of all powers of attorney, concurrences and revocation notices shall be filed with the Commission and a duplicate thereof sent to the agent or carrier in whose favor the document is issued. Powers of attorney and concurrences shall be in separate series and numbered consecutively, commencing with No. 1 for each series. Revocation notices shall bear no serial number but shall specify the form and number of the instrument to be revoked.

(e) A carrier that grants authority to an agent or to another carrier to publish and file certain of its rates or provisions must not in its own issues publish rates or provisions which duplicate or conflict with those which are published by such authorized agent or other carrier, and must not grant duplicating or conflicting authority to another agent or carrier.

(f) All carriers parties to tariffs making reference to separate publications for classification ratings, exceptions thereto, rules, or other provisions affecting the rates or the services rendered, except such carriers as indicate by restrictions published in the tariffs making reference to such separate publications that they will not apply the provisions therein, shall also be participating carriers in such separate governing publications. This paragraph does not require participation in local terminal tariffs or tariffs containing other provisions which are local to the lines publishing such tariffs.

(g) Explanation of notes referred to in this section:

NOTE 1: In the blank space for the name of the carrier, there shall be shown, if the carrier is an individual, the individual name followed by the trade name, if any. If the carrier is a partnership, the correct names of all partners must be given, followed by the trade name, if any. If the carrier is a corporation, the correct corporate name must be used.

NOTE 2: Powers of attorney, concurrences and revocation notices shall be signed only with the individual name of the carrier, if the carrier is an individual, and shall be signed by all of the partners individually, if a partnership. If the carrier is a corporation, a power of attorney shall be signed by the president or vice president, attested by the secretary, and the corporate seal affixed, and a concurrence shall be signed by any official of the company, provided his title is shown.

NOTE 3: In all cases the name of the carrier shall be identical with the name used in the application for a certificate or in the certificate when issued.

§ 1308.9 Letters of transmittal.

Letters of transmittal shall be on paper of size 8 by 10½ inches and in substantially the following form. They should be submitted in duplicate if a receipt is desired.

FORM OF LETTER OF TRANSMITTAL

(Name of carrier, or agent filing under power of attorney, in full)

Address _____
Date _____

Transmittal No. ____

To the INTERSTATE COMMERCE COMMISSION, *Section of Tariffs, Washington, D.C. 20423.*

Accompanying publication or publications hereinafter designated are sent you for filing in compliance with the requirements of the Interstate Commerce Act.

I.C.C. No. _____ Supplement No. _____
Effective Date _____

_____
(Signature of filing officer or agent)

§ 1308.10 Periodical tariffs.

(a) A tariff may provide that it will be reissued periodically at specified times, not more than twelve months apart. Such tariff must bear on the upper left corner of the title page the notation:

This tariff will be reissued effective on or before _____, 19__.

(b) Supplements to such tariff may contain all amendments thereto without limit as to volume.

(c) Unless the date fixed for reissue of a particular tariff is strictly observed, future issues of that tariff may not be published under authority of this section.

§ 1308.11 Rejection of tariffs and notices of revocation.

(a) Any tariff or schedule, tendered for filing, which fails to give lawful notice of changes in rates, charges or other provisions which it proposes to establish, or which fails to meet the requirements of the regulations contained in this chapter, or violates any order of the Commission or of a court, is subject to rejection by the Commission. When a tariff or schedule is rejected, the Commission, acting through a designated administrative officer, will inform the carrier or the agent who tendered it for filing, in writing, of the reasons for rejection, and will return the rejected tariff or schedule to such carrier or agent.

(b) The number assigned to a tariff or schedule which has been rejected may not again be used. The rejected tariff or schedule may not be referred to in any subsequent tariff or schedule as having been canceled, amended or withdrawn, but the tariff or schedule which is published in its stead must bear the following notation: "Issued in lieu of (here identify the rejected schedule or tariff), rejected by the Commission."

(c) A notice of the revocation, complete or partial, of a concurrence or power of attorney which, if it were to become effective, would require the establishment of rates, fares, or charges in violation of an order of the Commission or of a court, or of the regulations in this chapter, may be rejected in the same manner as a tariff or schedule, and any such notice of revocation which would require the establishment of rates, fares or charges of doubtful lawfulness may be suspended.

Subpart B—Schedules of Contract Carriers

§ 1308.100 General provisions; definitions.

(a) *Conformation to regulations, etc.* All schedules filed must conform to the regulations in this subpart, except as otherwise authorized by the Commission. They shall state and arrange the rates, charges, rules, and regulations clearly and explicitly in such manner that there will be no doubt of their proper application. Common carrier rates and charges must not be included in schedules of contract carriers.

(b) *Definitions*—(1) *Schedule.* The term "schedule" as used herein means a publication of a contract carrier stating minimum rates and charges, and the rules or regulations which apply in connection therewith.

(2) *Minimum rates and minimum charges.* The terms "minimum rates" and "minimum charges" as used herein mean minimum rates or charges "actually maintained and charged" by a contract carrier by water for the transportation of property in interstate or foreign commerce.

(3) *Towage.* The term "towage" means the service of towing, pushing, or otherwise propelling another vessel (loaded or empty) the property of another person, but does not include towage under a charter arrangement as defined in subparagraph (4) of this paragraph, or towage performed for another carrier, common or contract, subject to the Interstate Commerce Act when the transportation being performed is subject to that act.

(4) *Charter arrangements.* The term "charter arrangements" means the furnishing for compensation, under a charter, lease, or other agreement, of a vessel, to a person other than a carrier subject to the act, to be used by such person in the transportation of his or its own property.

§ 1308.101 Construction and filing.

(a) (1) All schedules and supplements thereto shall be in book or pamphlet form, of size 8 inches wide by 11 inches long, and shall be plainly printed on paper of durable quality, from type of size not smaller than 8-point (full face), except that 6-point (full face) type may be used for explanation of reference marks. The term "printed" includes reproduction by stereotype, mimeograph, planograph, or other similar durable process. All copies posted and filed must be clear and legible in all respects.

(2) No erasure or other alteration shall be made in any schedule or supplement thereto.

(3) A margin of not less than five-eighths of an inch without any printing thereon shall be allowed at the binding edge of each schedule or supplement. No advertising matter shall be included in any schedule or supplement thereto.

(4) All schedules of each carrier shall be numbered consecutively beginning with I.C.C. No. 1. If any carrier files both contract carrier schedules and common carrier tariffs, only one series of numbers should be used.

(5) Schedules shall have each page thereof numbered.

(6) When portions of a schedule or of a supplement thereto are designated as items, they must be given numbers.

(b) All schedules and supplements (except as provided in paragraph (c) of this section) must be filed and posted at least 30 days prior to the effective date thereof, unless otherwise authorized by the Commission.

(c) Schedules published to become effective on the date on which section 306(e) of the Interstate Commerce Act becomes effective, but not thereafter, may be filed and posted upon not less than one day's notice, that is at least one day prior to the effective date thereof. All subsequent publications must comply with paragraph (b) of this section.

(d) Issuing carriers shall file with the Commission two copies of each schedule or supplement. Both copies shall be included in one package accompanied by a letter of transmittal (in duplicate if a receipt is desired) listing all publications enclosed, and shall be addressed to the "Interstate Commerce Commission, Section of Tariffs, Washington, D.C. 20423." All postage or other charges must be prepaid.

§ 1308.102 Indication of changes.

All schedules and supplements shall indicate the changes from preceding issues by use of the following symbols:

↓ or (R) to denote reductions.
↓ or (A) to denote increases.
▲ or (C) to denote changes, the result of which is neither an increase nor a reduction.

§ 1308.103 Title pages.

The title page of each schedule and supplement shall show in the order named:

(a) In the upper right-hand corner, the I.C.C. number of the schedule.

(b) When a schedule is issued canceling a schedule or schedules previously filed, the I.C.C. number or numbers of the schedule or schedules canceled in the upper right-hand corner immediately under the I.C.C. number of the new schedule. Example:

I.C.C. No. 2
cancels
I.C.C. No. 1

(c) Supplements, in addition to showing the I.C.C. number of the schedule

amended thereby, shall be numbered consecutively beginning with No. 1 and such information shall be shown in the upper right-hand corner. Supplements shall also show in the upper right-hand corner the number of any previous supplement canceled thereby and also the numbers of the effective supplements containing all changes from the schedule. Example:

Supplement No. 3
to
I.C.C. No. 1
cancels Supplement No. 2
Supplements Nos. 1 and 3 contain all changes

(d) The name of the carrier issuing the schedule in the upper central portion of the title-page. The name of the carrier shall be the same as that used in its application for a permit or in the permit when issued. If the carrier is not a corporation and a trade name is used, the name of the individual or partners shall precede the trade name. Example:

John Doe and William Doe
doing business as
A.B.C. Transportation Co.

(e) A brief description of the territories in which, or points from and to which, the minimum rates or charges in the schedule apply.

(f) On the lower left side of the title-page, the date of issue; on the right side, opposite the date of issue, the effective date. If the publication contains rates, rules, or regulations effective upon a date different from the general effective date of the publication, notation must be made in connection with the effective date reading, "(Except as otherwise provided herein)" or "(Except as provided in Item —)" or "(Except as provided on page—)."

(g) On every schedule or supplement in which all the rates, charges, rules, or regulations are made effective on less than 30 days' notice under authority of the Commission, there shall be shown a notation that it is issued on ____ days' notice under authority of _____ (here show the authority).

(h) The name, title, and post office address of the individual or officer issuing the publication.

§ 1308.104 Contents.[1]

Schedules shall contain in the order named:

(a) A table of contents arranged in alphabetical order showing the number of the item or page in or on which each subject may be found. If a schedule contains so small a volume of matter that its title-page or interior arrangement plainly discloses its contents, the table of contents may be omitted.

(b) A complete index, alphabetically arranged, of all commodities on which rates or charges are shown in the schedule, together with reference to the numbers of the items or pages in or on which they are shown. No index will be required in schedules of less than five pages or if the commodities are arranged in alphabetical order in the tables of rates or charges.

(c) A complete alphabetical index of all points from and to which rates or charges apply, together with the names of the States in which located and a reference to the numbers of the items or pages in or on which the rates or charges front and to such points appear. If the points are arranged in alphabetical order in the rate items or tables, no index will be required.

(d) Explanation of all abbreviations, symbols, and reference marks used in the schedule.

(e) Rules and regulations which govern the rates or charges in the schedule, including all provisions that affect the charge for, or the value of, the service, such as separate charges for demurrage, loading or unloading, or similar services, or whether and to what extent the rates and charges in the schedule include separate services such as loading, unloading, etc.

(f) An explicit statement of minimum rates and charges actually maintained and charged, stated (except as provided in paragraph (g) of this section) in cents, or in dollars and cents per 100 pounds, per ton of 2,000 pounds, per ton of 2,240 pounds, or other unit of weight. Where it is found impracticable to state rates or charges per unit of weight, units of measurement such as per cubic foot, or charges per barrel or other package, or per bargeload, may be used. Where rates are stated in amounts per package or per bargeload, definite specifications of the package or barge must be shown.

(g) (Applies only to towage and charter arrangements.) A clear statement of the minimum rates and charges actually maintained and charged, stated in cents, or in dollars and cents.

§ 1308.105 Changes in schedules.

(a) Unless otherwise authorized by the Commission, rates and charges which have been filed with the Commission must be permitted to become effective and remain in effect for a period of at least 30 days before being changed or canceled.

(b) A change in or addition to a schedule shall be published in a supplement to the schedule or in a reissue thereof. The matter in each supplement shall be arranged in the same general manner and order as in the schedule which it amends.

(c) A change published in a supplement shall cancel specifically the corresponding item or other matter of the schedule or prior supplement which is thereby changed. An item or other unit in its amended form must be published in its entirety.

(d) Any change in or cancellation of an item by supplement must be under the same item number with letter suffix; for example: Item 40–A cancels Item 40; Item 40–B cancels Item 40–A; and so on.

(e) Matter brought forward without change from one supplement to another, must be designated "Reissued" and show the original effective date and the number of the supplement from which it is reissued. For example: "Reissued from Supplement No. ____, effective _____, 19____."

(f) Each schedule or supplement which consists partly but not wholly of matter established upon less than statutory notice shall show in connection with each change made effective on less than statutory notice a notation that such matter is issued on ____ days' notice under authority of _____ (here give specific reference to the special permission, decision, order, or other authority).

§ 1308.106 Posting regulations.

Each carrier shall post in a public and conspicuous place at its principal place of business and at each other office at which an agent authorized to enter into contractual arrangements is located all of its schedules, including supplements thereto. Each said schedule and supplement shall be forwarded to the carrier's agent at the same time that it is forwarded to the Commission. Upon its receipt by the agent, there shall be written or stamped upon its title page the date upon which it is received. All schedules and supplements so posted shall be kept in an orderly manner and be open to public inspection and examination at all reasonable times.

§ 1308.107 Applications for special permission.

(a) *Applications for short notice.* Applications for permission to publish rates, charges, rules, or regulations upon less than the 30 days' notice required by the Interstate Commerce Act shall be in form substantially as follows:

APPLICATION FOR SPECIAL PERMISSION

_____
(Name of carrier)

_____
(Address)

_____
(Date)

Application No. _____

INTERSTATE COMMERCE COMMISSION,
WASHINGTON, D.C. 20423.

The (insert name of carrier) hereby petitions the Interstate Commerce Commission for permission under the Interstate Commerce Act to put in force the following minimum rates or charges (or rules or regulations), to become effective _____ days after the filing thereof with the Interstate Commerce Commission

_____

(Here state fully, either specifically or by reference to an accompanying exhibit, the rates, charges, rules, or regulations which it is desired to put into effect, the articles upon which they are to apply, and the points of origin and destination. If permission is sought to establish a rule or regulation the exact wording of the proposed rule or regulation must be shown)

Your petitioner further represents that the said (rates, charges, etc., as the case may be) above specified will be published in schedule I.C.C. No. _____ (or in a consecutively numbered supplement to I.C.C. No. _____) and will supersede and take the place of the (rates, charges, etc., as the case may be) on like traffic from and to the points above named as set forth in schedule I.C.C. No. _____ (or supplement) on file with the Commission.

_____

(Here state, either specifically or by reference to an accompanying exhibit, the present rate, rule, etc., together with the I.C.C. number of the schedule in which published)

_____

(Here state the names of competing carriers that publish rates, rules, etc., on the commodity or commodities covered by the application between the same points and the date under which they have been notified of the changes proposed by the application. If competing carriers have expressed their views in regard to the proposal, a brief statement of views shall be given.)

Your petitioner bases such request upon the following facts, which present certain special circumstances and conditions justifying the request herein made:

_____

(Here state fully all circumstances and conditions which are relied upon as justifying the application and which may aid the Commission in determining the question presented. If short notice is requested, state why the change was not established upon statutory notice.)

_____
(Name of carrier)

Subscribed and sworn to before me this _____ day of _____ 19—

(Only the original need be executed)

_____
Notary Public.

(b) *Applications for short notice and waiver of rules.* Where permission is sought to publish upon less than 30 days' notice and also to depart from one or more of the Commission's rules as to publishing or posting schedules, the form set forth in paragraph (a) of this section shall be used, adding thereto the numbers of the rules, and the reasons waiver is sought.

(c) *Applications for waiver of rules.* Applications for waiver of rules not involving publication on less than 30 days' notice need not be made on any specified form but shall contain a list of the rules waiver of which is sought and the reasons therefor.

(d) Three copies of applications, including amendments thereto and exhibits made a part thereof, shall be addressed to "Secretary, Interstate Commerce Commission, Washington, D.C. 20423." Such applications shall be made on paper 8 x 10½ inches, shall be numbered consecutively, beginning with No. 1, and shall give all the information required, together with any other pertinent facts.

(e) Applications must be filed in the correct legal name of the carrier whether an individual, a partnership or a corporation, and must be signed by a duly authorized representative.

§ 1308.108 Rejection of tariffs or schedules.

(a) Any tariff or schedule, tendered for filing, which fails to give lawful notice of changes in rates, charges or other provisions which it proposes to establish, or which fails to meet the requirements of the regulations contained in this chapter, or violates any order of the Commission or of a court, is subject to rejection by the Commission. When a tariff or schedule is rejected, the Commission, acting through a designated administrative officer, will inform the carrier or the agent who tendered it for filing, in writing, of the reasons for rejection, and will return the rejected tariff or schedule to such carrier or agent.

(b) The number assigned to a tariff or schedule which has been rejected may not again be used. The rejected tariff or schedule may not be referred to in any subsequent tariff or schedule as having been canceled, amended or withdrawn, but the tariff or schedule which is published in its stead must bear the following notation: "Issued in lieu of (here identify the repected schedule or tariff), rejected by the Commission."

[1] Paragraphs (a), (b), and (f) of this section need not be observed in schedules containing only charges for towage or charter arrangements, and paragraph (c) need not be observed in schedules containing only charges for charter arrangements.

PART 1309—TARIFFS AND CLASSIFICATIONS OF FREIGHT FORWARDERS

Sec.
1309.1 Form, publication and filing.
1309.2 Striking of motor carrier concurrences in joint forwarder-motor rates.
1309.3 Serial designation.
1309.4 Posting and filing at stations and offices.
1309.25 Released ratings; household goods.

AUTHORITY: The provisions of this Part 1309 issued under sec. 20, 24 Stat. 386, as amended, secs. 204, as amended, 217, as amended, 219, as amended, 49 Stat. 546, as amended, 560, as amended, 563, as amended, secs. 403, 405, 413, 56 Stat. 285, 287, 295; 49 U.S.C. 20, 304, 317, 319, 1003, 1005, 1013.

§ 1309.1 Form, publication and filing.

Tariffs of freight forwarders authorized under and required by the provisions of section 405 of the Interstate Commerce Act shall be constructed, published, and filed in accordance with the regulations which have been or may be adopted and promulgated in Tariff Circular No. 20, effective supplements thereto or successive issues thereof (see Part 1300 of this chapter) so far as the same may be applicable.

§ 1309.2 Striking of motor carrier concurrences in joint forwarder-motor rates.

All concurrences issued by motor common carriers of property which authorize freight forwarders to publish and file joint forwarder-motor rates pursuant to section 409(b) of the act and which have been filed with the Interstate Commerce Commission are hereby stricken from the Commission's files.

§ 1309.3 Serial designation.

Tariffs of freight forwarders shall bear the numerical serial designation "I.C.C. F.F. No. _____" instead of the designation prescribed in the tariff circular above indicated.

§ 1309.4 Posting and filing at stations and offices.

Each freight forwarder shall post and file at each of its stations or offices which is in charge of a person employed exclusively by the freight forwarder or by it jointly with another carrier and at which freight is received for transportation directly or through an agent, all of the tariffs containing rates, charges, classifications and rules or other provisions applying from, or at, such station or office. Each freight forwarder shall also maintain at its principal or general office a complete file of all tariffs issued by it or its agents. All such tariffs shall be kept open to public inspection.

§ 1309.25 Released ratings; household goods.

(a) *Establishment.* All common carriers of property by motor vehicle and all freight forwarders, their duly authorized agents or the duly accredited successors to such agent, who have been, or who may hereafter be, granted authority by the Commission to transport household goods in interstate or foreign commerce, be, and they are hereby, authorized to establish and maintain by filing and posting in the manner prescribed in the Interstate Commerce Act, classification ratings and exceptions ratings for household goods dependent upon the value declared in writing by the shipper or agreed upon in writing, as the released value of the property, as follows:

	Less than truckload	Truckload or volume
Household goods, as described in note 1 below, prepaid.		
Each article released in value in accordance with the following, see note 2.		
Released value not exceeding 10 cents per pound	1	1-1-1
Released to value exceeding 10 cents but not exceeding 20 cents per pound	1½	1-1-1
Released to value exceeding 20 cents but not exceeding 50 cents per pound	1½	1½-1-1
Released to value exceeding 50 cents but not exceeding $2 per pound	D1	1½-1-1
Released to value exceeding $2 but not exceeding $5 per pound	8t1	D1-1½-1½

NOTE: Ratings on household goods apply only on second-hand (used) household or personal effects such as clothing, furniture or furnishings for residences with not to exceed one piano; and with each truckload or volume shipment there may also be included not to exceed one second-hand (used) freight (not driving trucks for freight vehicles or fire apparatus) or passenger automobile, or one second-hand (used) motorcycle. Ratings do not apply on articles specifically named in

_____
(insert here reference to the rule in the classification or

_____
exceptions which names articles of extraordinary value

_____
not accepted for transportation.)
nor on goods shipped for sale or speculation.

Articles not included in the above description will be subject to their less-than-truckload ratings if shipped with household goods.

NOTE 2: If consignor declines to release each article in the shipment to a value not exceeding $5 per pound, the shipment will not be accepted.

The release, which shall be deemed to relate to each article separately and not to the shipment as a whole, must be entered on shipping order and bill of lading in the following form:

"The agreed or declared value of each article in this shipment is hereby specifically stated by the shipper to be not exceeding _____ per pound."

(b) *Changes in ratings or released valuations.* Changes may be made in any ratings or packing specifications established under the authority of this order, but the commodity description may not be broadened to embrace other articles nor may any change be made in the released valuation upon which the ratings are dependent without the specific authority of the Commission.

(c) *Authority for released ratings must be shown in tariff.* Tariffs con-

taining released ratings filed under authority of this order shall show in connection therewith the following notation:

Ratings herein based on released value have been authorized by the Interstate Commerce Commission in Released Rates Order No. MC-314, FF-56, of September 14, 1960, subject to complaint or suspension.

(d) *Notation required on receipt or bill of lading.* The value declared or agreed upon by the shipper as the released value shall be stated in each bill of lading or receipt issued for property accepted for transportation at the released ratings herein authorized to be established and maintained.

(e) *Carriers and freight forwarders affected.* This order does not constitute authority for the establishment of released ratings on any description of traffic or over the line of any carrier or freight forwarder other than as herein specifically indicated.

(f) *Lawfulness of ratings.* The Commission does not hereby approve the lawfulness, except under section 20(11), 219 and 418 of the Interstate Commerce Act, of any ratings which may be filed under authority of this order.

(g) *Application denied in other respects.* The said application, insofar as it requests authority other than that granted by paragraphs (a) to (f) of this section is hereby denied.

PARTS 1320–1329—CREDIT REGULATIONS

PART 1320—EXTENSION OF CREDIT TO SHIPPERS BY RAIL CARRIERS

Sec.

1320.1 Carrier may extend credit to shipper.
1320.2 Less-than-carload traffic.
1320.3 Carload traffic.
1320.4 Delivery retarded by retention of freight.
1320.5 Additional charges.
1320.6 Icing charges.
1320.7 Demurrage charges.
1320.8 Periods of credit following delivery.
1320.9 Periods of credit following presentation of freight bill.
1320.10 Presentation of freight bills.
1320.11 Time of presentation when mailed.
1320.12 Saturdays, Sundays, and legal holidays may be excluded from period.
1320.13 Time of collection when payment is mailed.
1320.14 Computation of 96-hour period for payment of demurrage charges on coal delivered to tidewater exchanges.
1320.15 Computation of 96-hour period for payment of export traffic rates.
1320.16 Computation of 96-hour period for payment of freight rates at interior California points not served by railroads.
1320.17 Interline settlement of revenues.

AUTHORITY: The provisions of this Part 1320 issued under secs. 8, 12, 24 Stat. 380, 383; 49 U.S.C. 8, 12.

CROSS REFERENCES: For regulations with respect to carriers by motor vehicles governing extension of credit to shippers, see Part 1323 of this chapter. For settlement of rates and charges of common carriers by water, see Part 1323 of this chapter. For settlement of freight charges, see Part 1324 of this chapter.

§ 1320.1 Carrier may extend credit to shipper.

The carrier, upon taking precautions deemed by it to be sufficient to assure payment of the tariff charges within the credit periods specified in this part, may relinquish possession of freight in advance of the payment of the tariff charges thereon and may extend credit in the amount of such charges to those who undertake to pay such charges, such persons herein being called shippers, for a period of 48 hours computed as set forth in this part. In regard to traffic of nonprofit shippers' associations and shippers' agents, within the meaning of section 402(c) of part IV of the Interstate Commerce Act, the carriers shall require such organizations to furnish the names of the beneficial owners of the property in the bills of lading or at least have the bills of lading incorporate by reference a document containing the names of the beneficial owners.

§ 1320.2 Less-than-carload traffic.

Effective March 24, 1949, respondents are hereby authorized to extend credit for 96 hours and 120 hours in respect of charges on less-than-carload traffic in lieu of 48 hours and 96 hours, respectively, under the present rules in this part, computation of time to be made in the same manner as provided in connection with the 48-hour and 96-hour periods. (See § 1320.4.)

§ 1320.3 Carload traffic.

Effective on March 10, 1961, the rail carriers subject to the jurisdiction of the Interstate Commerce Commission are hereby authorized to extend credit for 96 hours and 120 hours in respect of charges on carload traffic, in lieu of 48 hours and 96 hours, respectively, under the present rules in this part, computation of time to be made in the same manner as provided in connection with the 48-hour and 96-hour periods. (See § 1320.4.)

§ 1320.4 Delivery retarded by retention of freight.

Where retention of possession of freight by the carrier until the tariff rates and charges thereon have been paid will retard prompt delivery or will retard prompt release of equipment or station facilities, the carrier, upon taking precautions deemed by it to be sufficient to assure payment of the tariff charges within the credit period specified in this part may relinquish possession of the freight in advance of the payment of the tariff charges thereon and may extend credit in the amount of such charges to shippers for a period of 96 hours to be computed as set forth in this part.

CROSS REFERENCES: For computation of 96-hour credit rule and 96-hour credit period for payment of export traffic rates, and freight rates at interior California points not served by railroads, see §§ 1320.14–1320.16.

§ 1320.5 Additional charges.

Where a carrier has relinquished possession of freight and collected the amount of tariff charges represented in a freight bill presented by it as the total amount of such charges, and another freight bill for additional charges is thereafter presented to the shipper, the carrier may extend credit in the amount of such additional charges for a period of 30 days, to be computed as set forth in this part, from the date of the presentation of the subsequently presented freight bill.

CROSS REFERENCES: For presentation of freight bills and periods of credit following, see §§ 1320.9–1320.11.

§ 1320.6 Icing charges.

Where icing charges are not published in the tariffs at fixed amounts determinable at the time the shipment moves from point of origin, and where freight charges are prepaid and icing charges are to be paid by the consignor, the carrier, upon taking precautions deemed by it to be sufficient to assure prompt payment of the tariff charges within the credit period specified in this part, may relinquish possession of the freight in advance of the payment of the icing charges and may delay presentation of bills for such icing charges for a period not exceeding 15 days after the end of the calendar month during which the charges accrued and may extend credit in the amount of such charges for 15 days from the presentation of the bill for such charges.

§ 1320.7 Demurrage charges.

Where the amount of demurrage charges is determinable under average agreements made in accordance with tariff provisions, the carrier, upon taking precautions deemed by it to be sufficient to assure prompt payment of the tariff charges within the credit period, may delay the presentation of bills for such demurrage charges for a period not to exceed 15 days from the expiration of the authorized demurrage period and may extend credit in the amount of the demurrage charges accruing during the demurrage period for 15 days from the presentation of the bill for such charges.

§ 1320.8 Periods of credit following delivery.

Where the freight bill is presented to the shipper prior to, or at the time of, delivery of the freight, the 48-hour and 96-hour periods of credit shall run from the first 12 o'clock midnight following the delivery of the freight.

§ 1320.9 Periods of credit following presentation of freight bill.

Where the freight bill is presented to the shipper subsequent to the time the freight is delivered, the 48-hour and 96-hour periods of credit shall run from the first 12 o'clock midnight following the presentation of the freight bill.

§ 1320.10 Presentation of freight bills.

Every carrier shall present freight bills for all transportation charges except those specifically excepted in this part to shippers prior to the first 12 o'clock midnight following forwarding of prepaid shipments or delivery of collect shipments except that when information sufficient to enable the carrier to compute the tariff charges is not then available to the carrier at the billing point, the freight bills shall be presented not later than the first 12 o'clock midnight following the day upon which sufficient information becomes available at the billing point of the carrier. A carrier shall not extend further credit to any shipper which fails to furnish sufficient information to allow the carrier to render a freight bill within a reasonable time after the shipment is tendered to the origin carrier. As used in this section the term "shipper" includes, but is not limited, to, freight forwarders as well as shippers' associations and shippers' agents within the meaning of section 402(c) of part IV of the Interstate Commerce Act.

§ 1320.11 Time of presentation when mailed.

Shippers may elect to have their freight bills presented by means of the United States mails, and when the mail service is so used the time of mailing by the carrier shall be deemed to be the time of presentation of the bills. In case of dispute as to the time of mailing the post mark shall be accepted as showing such time.

§ 1320.12 Saturdays, Sundays, and legal holidays may be excluded from period.

In the computation of the various periods of credit Saturdays, Sundays, and legal holidays may be excluded, and where the time for presentation to shippers of freight bills for transportation and related charges falls on Saturday, Sunday or a legal holiday such bills may be presented prior to 12 o'clock midnight of the next succeeding regular work day.

§ 1320.13 Time of collection when payment is mailed.

The mailing by the shipper of valid checks, drafts, or money orders, which are satisfactory to the carrier, in payment of freight charges within the credit periods allowed such shipper may be deemed to be the collection of the tariff charges within the credit period for the purposes of the rules in this part. In case of dispute as to the time of mailing the post mark shall be accepted as showing such time.

§ 1320.14 Computation of 96-hour period for payment of demurrage charges on coal delivered to tidewater exchanges.

The period of 96 hours fixed for the payment of transportation rates and charges, insofar as applicable to the payment of demurrage accruing at New York, N.Y., Philadelphia, Pa., Baltimore, Md., and Sewalls Point (Norfolk), Va., on coal pooled for transshipment at those points under control of coal exchanges, may be computed from the first 4 p. m. following the day when the demurrage bills are presented by such exchanges to individual shippers, members thereof.

§ 1320.15 Computation of 96-hour period for payment of export traffic rates.

The period of 96 hours fixed for the payment of transportation rates and charges, insofar as applicable to export traffic which is loaded into vessels direct from railroad cars or piers or from such cars or piers by means of lighters, may be computed from the first 4 p. m. following the time when the vessel is completely loaded, freight bills to be delivered to vessel owner or his representative not later than the day on which the loading of the vessel is completed.

§ 1320.16 Computation of 96-hour period for payment of freight rates at interior California points not served by railroads.

The period of 96 hours fixed for the payment of transportation rates and charges, insofar as applicable to freight from and to Bartle, Calif., when destined to or from interior points described in the report, in Siskiyou, Shasta, and Modoc Counties, Calif., not served by railroad, may be computed from the first 4 p.m. following 26 days after the mailing by petitioner of the freight bills for such traffic.

§ 1320.17 Interline settlement of revenues.

Nothing in this part shall be interpreted as affecting the interline settlement of revenues from traffic which is transported over through routes composed of lines of common carriers subject to parts I, II, or III of the Interstate Commerce Act.

PART 1321—EXTENSION OF CREDIT TO SHIPPERS BY EXPRESS COMPANIES

Sec.

1321.1 Credit period allowed; Saturdays, Sundays, and legal holidays may be excluded.
1321.2 Additional charges.
1321.3 Presentation of express bills.
1321.4 Time of collection when payment is mailed.

AUTHORITY: The provisions of this Part 1321 issued under secs. 3, 12, 24 Stat. 383, 386; 49 U.S.C. 3, 12.

§ 1321.1 Credit period allowed; Saturdays, Sundays, and legal holidays may be excluded.

Upon taking precautions deemed by them to be sufficient to assure payment of the tariff charges within the credit period herein specified, express companies subject to Part I of the Interstate Commerce Act may relinquish possession of express in advance of the payment of the tariff charges thereon and may extend credit in the amount of such charges to those who undertake to pay them, such persons herein being called shippers, for a period of 7 days, excluding Saturdays, Sundays, and legal holidays, computed as hereinafter set forth. The credit period shall run from the first 12 o'clock midnight following the presentation of the express bill.

§ 1321.2 Additional charges.

Where an express company has relinquished possession of express and collected the amount of the tariff charges represented in an express bill presented by it as the total amount of such charges, and another express bill for additional charges is thereafter presented to the shipper, the express company may extend credit in the amount of such additional charges for a period of 30 calendar days to be computed from the first 12 o'clock midnight following the presentation of the subsequently presented express bill.

§ 1321.3 Presentation of express bills.

Express bills for all transportation charges may cover all transactions, collect shipments delivered and prepaid shipments picked up, handled during a calendar week, designated as the billing week. Express bills for all transportation charges shall be presented to the shippers within 4 working days following the close of the billing week. When mail service is used the time of mailing by the carrier shall be deemed to be the time of presentation of the bills. In case of dispute as to the time of mailing, the postmark shall be accepted as showing such time.

§ 1321.4 Time of collection when payment is mailed.

The mailing by the shipper of valid checks, drafts or money orders, which are satisfactory to the express company, in payment of express charges within the credit period allowed such shipper may be deemed to be the collection of the tariff rates and charges within the credit period for the purpose of these rules. In case of dispute as to the time of mailing, the postmark shall be accepted as showing such time.

PART 1322—EXTENSION OF CREDIT TO SHIPPERS

Sec.

1322.1 Carrier may extend credit to shipper.
1322.2 Credit for additional charges after freight relinquished.
1322.3 Period of credit following delivery of freight.
1322.4 Freight bills may be presented by mail.
1322.5 Payment by checks, drafts, or money orders.

AUTHORITY: The provisions of this Part 1322 issued under 49 Stat. 546, as amended, 565; 49 U.S.C. 304, 323.

§ 1322.1 Carrier may extend credit to shipper.

Upon taking precautions deemed by them to be sufficient to assure payment of the tariff charges within the credit period herein specified, common carriers by motor vehicle may relinquish possession of freight in advance of the payment of the tariff charges thereon and may extend credit in the amount of such charges to those who undertake to pay them, such persons herein being called shippers, for a period of 7 days excluding Saturdays, Sundays, and legal holidays. When the freight bill covering a shipment is presented to the shipper on or before the date of delivery, the credit period shall run from the first 12 o'clock midnight following delivery of the freight. When the freight bill is not presented to the shipper on or before the date of delivery, the credit period shall run from the first 12 o'clock midnight following the presentation of the

freight bill. In regard to traffic of nonprofit shippers' associations and shippers' agents, within the meaning of section 402(c) of part IV of the Interstate Commerce Act, the carriers shall require such organizations to furnish the names of the beneficial owners of the property in the bills of lading or at least have the bills of lading incorporate by reference a document containing the names of the beneficial owners.

§ 1322.2 Credit for additional charges after freight relinquished.

Where a common carrier by motor vehicle has relinquished possession of freight and collected the amount of tariff charges represented in a freight bill presented by it as the total amount of such charges, and another freight bill for additional charges is thereafter presented to the shipper, the carrier may extend credit in the amount of such additional charges for a period of 30 calendar days, to be computed from the first 12 o'clock midnight following the presentation of the subsequently presented freight bill.

§ 1322.3 Period of credit following delivery of freight.

Freight bills for all transportation charges shall be presented to the shippers within 7 calendar days from the first 12 o'clock midnight following delivery of the freight, except that motor common carriers of household goods shall present their freight bills for all transportation charges to the shippers within 15 calendar days, excluding Saturday, Sundays and holidays, from the first 12 o'clock midnight following delivery of the freight.

§ 1322.4 Freight bills may be presented by mail.

Shippers may elect to have their freight bills presented by means of the United States mails, and when the mail service is so used the time of mailing by the carrier shall be deemed to be the time of presentation of the bills. In case of dispute as to the time of mailing, the postmark shall be accepted as showing such time.

§ 1322.5 Payment by checks, drafts, or money orders.

The mailing by the shipper of valid checks, drafts, or money orders, which are satisfactory to the carrier, in payment of freight charges within the credit period allowed such shipper, may be deemed to be the collection of the tariff charges within the credit period for the purposes of the rules in this part. In case of dispute as to the time of mailing, the postmark shall be accepted as showing such time.

PART 1323—SETTLEMENT OF RATES AND CHARGES OF COMMON CARRIERS BY WATER

Sec.
1323.1 Relinquishment of freight in advance of payment of charges.
1323.2 Extension of credit for 48-hour period.
1323.3 Extension of credit for 96-hour period.
1323.4 Computation of credit period.
1323.5 Presentation of freight bills; mailing.
1323.6 Extension of credit for additional charges.
1323.7 Extension of credit for demurrage charges.
1323.8 Collection of freight charges; mailing.

AUTHORITY: The provisions of this Part 1323 issued under secs. 204, 216, 54 Stat. 933, 949; 49 U.S.C. 304, 916.

§ 1323.1 Relinquishment of freight in advance of payment of charges.

All common carriers of property by water subject to Part III of the Interstate Commerce Act, after having taken precautions deemed by them to be sufficient to assure payment of their freight charges within the credit periods hereinafter specified, such as examination of the credit rating of the person or persons undertaking to pay the freight charges or the obtaining of satisfactory surety bonds, are hereby authorized to relinquish possession of freight at destination or in advance of the payment of the tariff charges lawfully due thereon and to extend credit to those who undertake to pay such charges, as hereinafter authorized.

§ 1323.2 Extension of credit for 48-hour period.

Except as otherwise provided in § 1323.3, credit may be extended for a period not exceeding 48 hours, computed as provided in § 1323.4.

§ 1323.3 Extension of credit for 96-hour period.

When retention of possession of freight by the carrier until the tariff rates and charges thereon have been paid will retard prompt delivery or will retard prompt release of equipment or terminal facilities of the carrier, credit may be extended for a period not exceeding 96 hours, computed as provided in § 1323.4.

§ 1323.4 Computation of credit period.

(a) When the freight bill is presented to the person or persons undertaking to pay the charges prior to, or at the time of, delivery of the freight, the 48-hour and 96-hour periods of credit shall run from the first 12 o'clock midnight following delivery of the freight.

(b) When the freight bill is presented to the person or persons undertaking to pay the charges subsequent to the time the freight is delivered, the 48-hour and 96-hour periods of credit shall run from the first 12 o'clock midnight following presentation of the freight bill.

(c) In the computation of the various periods of credit Saturdays, Sundays, and legal holidays may be excluded, and where the time for presentation of freight bills for transportation and related charges falls on Saturday, Sunday or a legal holiday such bills may be presented prior to 12 o'clock midnight of the next succeeding regular work day.

§ 1323.5 Presentation of freight bills; mailing.

(a) Except as otherwise provided in paragraph (b) of this section and in §§ 1323.4, 1323.6, and 1323.7, carriers shall present freight bills for all transportation charges to the person or persons undertaking to pay those charges as promptly as practicable but in every case prior to the second 12 o'clock midnight following delivery of the freight.

(b) When information sufficient to enable the carrier to compute the tariff charges is not available to the carrier at the point where it computes the charges, presentation of the freight bill may be delayed until such information is available. In such cases it shall be the duty of the shipper (or consignee, as the case may be) to present, and of the carrier to obtain, the information as promptly as practicable. If, in any case, the necessary information has not become available to the carrier at the point where it computes the charges within 15 days after delivery of the freight, carrier shall present the freight bill and collect charges based upon the best information in its possession and arrange for correction later when detailed information is furnished.

(c) The person or persons undertaking to pay freight charges may elect to have their freight bills presented by means of the United States mails. When mail service is so used, the time of mailing by the carrier shall be deemed to be the presentation of the bills. In case of dispute as to the time of mailing, the post mark shall be accepted as showing such time.

§ 1323.6 Extension of credit for additional charges.

Where carrier has relinquished possession of freight and collected the amount of tariff charges represented in a freight bill presented by it as the total amount of such charges and another freight bill for additional charges is thereafter presented to the shipper the carrier may extend credit in the amount of such additional charges for a period of 30 days, to be computed as herein set forth, from the date of the presentation of the subsequently presented freight bill.

§ 1323.7 Extension of credit for demurrage charges.

Where the amount of demurrage charges is determinable under average agreements made in accordance with tariff provisions the carrier may delay the presentation of bills for such demurrage charges for a period not to exceed 15 days from the expiration of the authorized demurrage period and may extend credit in the amount of the demurrage charges accruing during the demurrage period for 15 days from the presentation of the bill for such charges.

§ 1323.8 Collection of freight charges; mailing.

Mailing by the person or persons paying the freight charges of valid checks, drafts, or money orders, which are satisfactory to the carrier, in payment of freight charges within the credit periods allowed, may be deemed to be the collection of the tariff charges within the credit period. In case of dispute as to the time of mailing, the post mark shall be accepted as showing such time.

PART 1324—SETTLEMENT OF FREIGHT CHARGES BY FREIGHT FORWARDERS

§ 1324.1 Credit for freight charges on forwarder freight by freight forwarders subject to part IV of the Interstate Commerce Act and by common carriers by motor vehicle subject to part II of that act collecting charges for such forwarders.

The rules and regulations prescribed in Part 1322 of this chapter, governing the extension of credit for freight charges by common carriers by motor vehicle in case of service subject to part II of the Interstate Commerce Act, shall apply on and after August 14, 1942, to freight forwarders subject to part IV of the Interstate Commerce Act and to common carriers by motor vehicle subject to part II of that act when collecting charges for such forwarders, in the case of service subject to part IV of that act.

(Secs. 403, 414, 56 Stat. 285; 296; 49 U.S.C. 1003, 1014)

PARTS 1330–1339—GENERAL

PART 1330—FILING QUOTATIONS FOR GOVERNMENT SHIPMENTS AT REDUCED RATES

Sec.
1330.1 Applicability.
1330.5 Manner of submitting quotations.

AUTHORITY: The provisions of this Part 1330 issued under sec. 12, 24 Stat. 383, sec. 22, 24 Stat. 387; 49 U.S.C. 12, 22.

§ 1330.1 Applicability.

The provisions of this part shall apply to copies of quotations or tenders made by all common carriers by railroad, including express and sleeping-car companies, by pipeline, by motor vehicle, and by water, and freight forwarders, to the United States Government, or any agency or department thereof, for the transportation, storage or handling of property or the transportation of persons free or at reduced rates as permitted by section 22 of the Interstate Commerce Act, as amended, except quotations or tenders which, as indicated by the United States Government or any department or agency thereof to any carrier or carriers, involves information the disclosure of which would endanger the national security.

§ 1330.5 Manner of submitting quotations.

(a) *General.* Copies of all quotations or tenders by common carriers to which this part applies, concerning rates, fares, or charges for the transportation, storage, or handling of property, or the transportation of persons free or at reduced rates, including quotations or tenders for retroactive application whether negotiated or renegotiated after the services have been performed, which are submitted to the Interstate Commerce Commission on and after the effective date of this part in conformity with the provisions of paragraph (2) of section 22 of the Interstate Commerce Act (49 U. S. C. 22) shall conform to the provisions of paragraphs (b), (c), (d), (e), (f) and (g) of this section.

(b) *Copies to be submitted concurrently with submittal to government agencies.* Exact copies of the quotation or tender shall be submitted to the Commission concurrently with the submittal of the quotation or tender to the Federal department or agency for whose account the quotation or tender is offered or the proposed services are to be rendered.

(c) *Filing in duplicate required.* All quotations or tenders shall be filed in duplicate, one copy of which will be maintained at the Washington office of this Commission for public inspection. One of such copies shall be signed and both shall clearly indicate the name and official title of the officer executing the document.

(d) *Filing procedure.* Both copies of the quotations or tenders shall be filed together with a letter of transmittal which clearly indicates that they are being filed in accordance with the requirements of section 22, as amended. They must be addressed to the "Interstate Commerce Commission, Washington, D.C. 20523," with the envelope marked as containing "Section 22 Quotations", and delivered free of all charges. If receipt for the accompanying documents is desired, the letter of transmittal must be sent in duplicate, and one copy showing date of receipt by the Commission will be returned to the sender.

(e) *Numbering.* The copies of quotations or tenders which are filed with this Commission by each carrier or agent shall be numbered consecutively in a series maintained by such carrier or agent beginning with the number "1".

(f) *Quotation or tender superseding prior one.* A quotation or tender which supersedes a prior quotation or tender shall, by a statement shown immediately under the number of the new document, cancel the prior document by number.

(g) *Amendments or supplements to quotations or tenders.* When amendments or supplements are filed to quotations or tenders issued prior to August 31, 1967, copies of the original quotations or tenders, and any prior amendments thereto, must be filed with the amendments or supplements.

PART 1331—SECTION 5a APPLICATIONS

APPLICATIONS FOR AUTHORITY TO ESTABLISH OR CONTROL AGREEMENTS BETWEEN OR AMONG CARRIERS

Sec.
1331.1 Form and contents of application.
1331.2 Required exhibits.
1331.3 Procedure.
1331.4 New parties to an agreement.
1331.5 Public notice.

AUTHORITY: The provisions of this Part 1331 issued under sec. 12, 24 Stat. 383, as amended; 62 Stat. 472; 49 U.S.C. 5b, 12.

§ 1331.1 Form and contents of application.

The application and supporting exhibits shall conform to Rule 15 of the general rules of practice (§ 1100.15 of this chapter) and shall show, in the order indicated, with the following paragraph designations, the following information:

(a) Full and correct name and business address (street and number, city and ZIP Code, county and State) of the carrier applicant or applicants (hereinafter called applicant); whether applicant is a corporation, individual, or partnership; if a corporation, the government, State or territory under the laws of which the applicant was organized and received its present charter, and if a partnership, the names of the partners and date of formation of the partnership.

(b) Full and correct name and business address (city and State) of each carrier on whose behalf the application is filed and whether it is a corporation, individual, or partnership.

(c) Whether applicant and each carrier on whose behalf the application is filed is a carrier by railroad, motor vehicle, or water, a freight forwarder, or express, sleeping-car, or pipe-line company.

(d) If the agreement of which approval is sought pertains to a conference, bureau, committee, or other organization, a complete description of such organization, including any sub-units, and of its or their functions and methods of operation, together with a description of the territorial scope of such operations; and, if such organization has a working or other arrangement or relationship with any other organization, a complete description of such arrangement or relationship. If the agreement is of any other character, a precise statement of its nature and scope and the mode of procedure thereunder.

(e) The facts and circumstances relied upon to establish that the agreement will be in furtherance of the national transportation policy declared in the Interstate Commerce Act, as amended.

(f) The name, title, and post office address of counsel, officer, or other person to whom correspondence in regard to the application is to be addressed.

§ 1331.2 Required exhibits.

There shall be filed with and made a part of each original application, and each copy, the following exhibits:

(a) As Exhibit 1, a true copy of the agreement.

(b) As Exhibit 2, if the agreement pertains to a conference, bureau, committee, or other organization, a copy of the constitution, by-laws, or other documents or writings, specifying the organization's powers, duties, and procedures, unless incorporated in the agreement filed as Exhibit 1.

(c) As Exhibit 3, if the agreement relates to a conference, bureau, committee, or other organization, an organization chart.

(d) As Exhibit 4, if the agreement relates to a conference, bureau, committee, or other organization, a schedule of its charges to members or, where expenses are divided among the members, a statement showing how the expenses are divided.

(e) As Exhibit 5, opinion of counsel for applicant that the application made meets the requirements of law as set forth in section 5a of the Interstate Commerce Act, as amended, and will be legally authorized if approved by the Commission, with specific reference to any specially pertinent provisions of articles of incorporation or association.

§ 1331.3 Procedure.

The following procedure shall govern the execution, filing, and disposition of the application:

(a) The original application shall be made under oath and shall be signed in ink by applicant, if an individual; by all partners, if a partnership; and if a corporation, by an executive officer having knowledge of the matters therein contained; and shall show, among other things, that the affiant is duly authorized to verify and file the application.

(b) The original application and supporting papers and twenty copies thereof for the use of the Commission shall be filed with the Secretary of the Interstate Commerce Commission, Washington, D.C. 20423. Each copy shall bear the dates and signatures that appear in the original and shall be complete in itself, but the signatures in the copies may be stamped or typed, and the officer's seal may be omitted.

(c) A copy of the application shall be served by applicant by first-class mail upon the regulatory body having jurisdiction as to rates, fares, or charges of each State, territory, or district embraced within the scope of the agreement, and the original application filed with the Commission shall include a certificate naming the bodies upon whom the application has been so served.

(d) A public notice will be issued by the Commission and filed with the Director of the Federal Register stating the fact that an application has been filed under these rules and indicate how a hearing on such application may be obtained.

(e) A protest against the granting of an application should be filed in accordance with Rule 40 of the general rules of practice (§ 100.40 of this chapter).

(f) To the extent that matters of procedure are not covered by these special rules, the Commission's general rules of practice shall apply.

§ 1331.4 New parties to an agreement.

Where a carrier becomes a party to an agreement which has been approved by the Commission, such approval will extend and be applicable to such carr upon the filing with the Commission the carrier or its authorized agent of verified statement that it has become party to the agreement, which statem shall show the information required § 1331.1(b): *Provided* (a) That such ca rier is not, under the agreement, to with carriers of a different class, with the meaning of section 5a (4) of t Interstate Commerce Act, except as t agreement relates to transportati under joint rates or over through rout and (b) that no change is made in t agreement except the addition of su carrier.

§ 1331.5 Public notice.

When independent action is announc and tariff publication is to be made by publishing agent operating pursuant an agreement under section 5a of t Interstate Commerce Act, notificati thereof will be given by the agent to t same extent and in the same manne that the agent gives notice of action proposed under procedures for collecti consideration of the parties to the agre ment; and no other joint or collecti procedures under the agreement a thereby invoked.

[F.R. Doc. 67-14404; Filed, Dec. 19, 196 8:45 a.m.]

246

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The Congress
Agricultural Stabilization and Conservation Service
Air Force Department
Atomic Energy Commission
Business and Defense Services Administration
Civil Aeronautics Board
Civil Service Commission
Comptroller of the Currency
Consumer and Marketing Service
Federal Aviation Administration
Federal Communications Commission
Federal Home Loan Bank Board
Federal Power Commission
Federal Trade Commission
Fish and Wildlife Service
Food and Drug Administration
Housing and Urban Development Department
Internal Revenue Service
Interstate Commerce Commission
Land Management Bureau
National Park Service
Post Office Department
Securities and Exchange Commission

Detailed list of Contents appears inside.

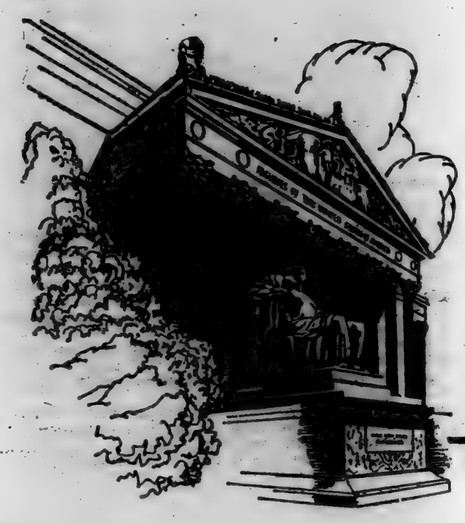

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Contents

THE CONGRESS

Acts Approved 20684

EXECUTIVE AGENCIES

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Rules and Regulations

Diverted acreage; designation, use, and care 20629

AGRICULTURE DEPARTMENT

See Agricultural Stabilization and Conservation Service; Consumer and Marketing Service.

AIR FORCE DEPARTMENT

Rules and Regulations

Career reserve status for reserve officers and active duty service commitments for officers and warrant officers 20648

ATOMIC ENERGY COMMISSION

Notices

Lowell Technological Institute; extension of completion dates 20671
Veterans Administration Hospital, Omaha, Nebr.; issuance of facility license amendment 20671

BUSINESS AND DEFENSE SERVICES ADMINISTRATION

Notices

Decisions on applications for duty-free entry of scientific articles:
Agricultural Research Service 20666
California State College at Long Beach 20666
Cancer Foundation of Santa Barbara 20667
Columbia University 20667
Florida State University 20667
Iowa State University 20667
Kansas State University 20668
University of Miami 20668

CIVIL AERONAUTICS BOARD

Notices

Hearings, etc.:
Alaska Airlines, Inc 20672
Allegheny-Lake Central merger case 20672
Domestic trunkline carriers 20672

CIVIL SERVICE COMMISSION

Rules and Regulations

Excepted service; miscellaneous amendments 20627

COMMERCE DEPARTMENT

See Business and Defense Services Administration.

COMPTROLLER OF THE CURRENCY

Proposed Rule Making

New national banks; use of registration statements and offering circulars 20657

CONSUMER AND MARKETING SERVICE

Rules and Regulations

Navel oranges grown in Arizona and California; handling limitation 20629

DEFENSE DEPARTMENT

See Air Force Department.

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations

Federal airways; alteration 20630
Transition areas; designations (2 documents) 20630, 20631

Proposed Rule Making

Federal airways:
Alteration 20657
Designation 20658
Objects interfering with air navigation facilities; construction or alteration 20658
Transition area; designation 20658
VOR Federal airways; extensions (2 documents) 20657

FEDERAL COMMUNICATIONS COMMISSION

Proposed Rule Making

"Pre-sunrise" operation by Class II stations; extension of time 20659

Notices

"Walkie-Talkie" radios; use of caution in purchase 20675
Hearings, etc.:
Bradley, Carol L 20674
Buckeye Cablevision, Inc 20674
Great River Broadcasting, Inc., et al 20674

FEDERAL HOME LOAN BANK BOARD

Rules and Regulations

Federal Savings and Loan System; policy statements; establishment:
Agencies 20630
Branch offices 20630

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:
Florida Gas Transmission Co 20677
Minnesota Power & Light Co 20677
Placid Oil Co 20677
Sinclair Oil & Gas Co. et al 20675
State of California Department of Water Resources and City of Los Angeles Department of Water and Power 20678

FEDERAL TRADE COMMISSION

Rules and Regulations

Prohibited trade practices; Pat and Bobbie's, Inc., and Patricia A. Farrell 20631

FISH AND WILDLIFE SERVICE

Rules and Regulations

Hunting; Sand Lake National Wildlife Refuge, S. Dak 20656
Importation of wildlife or eggs thereof; miscellaneous amendments 20655
Sport fishing; Mattamuskeet National Wildlife Refuge, N.C., and Okefenokee National Wildlife Refuge, Ga 20656

FOOD AND DRUG ADMINISTRATION

Rules and Regulations

Food additives:
Industrial starch-modified 20632
Normal propyl alcohol 20631
Slimicides (2 documents) 20632

Notices

Food additive and pesticide petitions:
Agricultural Research Service 20668
American Cyanamid Co 20669
Anchem Products, Inc.; withdrawal 20669
Chas. Pfizer and Co., Inc.; withdrawal 20669
Commercial Solvents Corp 20669
Dr. Mayfield Laboratories 20669
E. I. du Pont de Nemours & Co 20669
E. I. du Pont de Nemours & Co., Inc.; withdrawal 20669
Merck and Co., Inc 20670
Schering Corp 20670

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Food and Drug Administration.

(Continued on next page)

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Notices

Director and Deputy Director for Northwest Area Office at Seattle, Wash., Region VI; redelegations of authority (2 documents) 20670, 20671

INTERIOR DEPARTMENT

INTERNAL REVENUE SERVICE

See Fish and Wildlife Service; Land Management Bureau; National Park Service.

Rules and Regulations

Statement of procedural rules; miscellaneous amendments 20645

INTERSTATE COMMERCE COMMISSION

Rules and Regulations

Practice rules; Temporary Authorities, Transfer, Finance, Operations, Special Permission, Released Rates, and Operating Rights Boards 20654

Tariffs and schedules; released rates; express service 20654

Proposed Rule Making

Transportation of household goods in interstate or foreign commerce; accessorial or terminal services 20659

Notices

Fourth section application for relief 20691

Motor carrier, broker, water carrier, and freight forwarder applications 20680

Motor carrier temporary authority applications 20691

Percent of empty to loaded freight-train car-miles by type of equipment and performance factors for way trains and all trains combined 20693

LAND MANAGEMENT BUREAU

Notices

Classifications and proposed classifications of land:

Arizona 20660

California (6 documents) ..... 20660, 20661, 20663, 20664.

Colorado 20665

Utah 20665

Filing of plat; Arizona 20669

Partial termination of proposed withdrawal and reservation of lands; California (2 documents 20664, 20665

NATIONAL PARK SERVICE

Notices

Kings Canyon National Park; concession permit 20666

POST OFFICE DEPARTMENT

Rules and Regulations

Incoming parcels, customs; miscellaneous amendments 20643

Money orders; miscellaneous amendments 20633

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:

Growth Capital, Inc. 20679

North American Research & Development Corp. 20680

Roto American Corp. 20680

Silver Shield Corp. 20680

TRANSPORTATION DEPARTMENT

See Federal Aviation Administration.

TREASURY DEPARTMENT

See Comptroller of the Currency; Internal Revenue Service.

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

5 CFR

213 20627

7 CFR

792 20629

907 20629

12 CFR

556 (2 documents) 20630

PROPOSED RULES:

16 20657

14 CFR

71 (3 documents) 20630, 20631

PROPOSED RULES:

71 (5 documents) 20657, 20658

77 20658

16 CFR

13 20631

21 CFR

121 (4 documents) 20631, 20632

26 CFR

601 20645

32 CFR

888c 20648

39 CFR

171 20633

232 20643

261 20643

47 CFR

PROPOSED RULES:

73 20659

49 CFR

1100 20654

1306 20654

PROPOSED RULES:

1056 20659

50 CFR

13 20655

32 20656

33 2056

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Miscellaneous Amendments

Part 213 is amended to identify positions removed from Schedule C by § 213.3301a effective November 17, 1967. The amendments are set out below.

Paragraph (a) of § 213.3303, *Executive Office of the President*, is amended by revoking subparagraph (5).

Paragraph (c) of § 213.3303 is amended by revoking subparagraph (3).

Paragraph (a) (5) of § 213.3304, *Department of State*, is amended to read as follows:

(5) Four Special Assistants to the Under Secretary.

Paragraph (c) of § 213.3304 is amended by revoking subparagraphs (1) and (8).

Paragraph (d) of § 213.3304 is amended by revoking subparagraph (6).

Paragraph (i) of § 213.3304 is amended by revoking subparagraph (4).

Paragraph (l) (1) of § 213.3304 is amended to read as follows:

(1) One Deputy Legal Adviser.

Paragraph (m) of § 213.3304 is amended by revoking subparagraph (1).

Paragraph (n) of § 213.3304 is amended by revoking subparagraph (7) and amending subparagraph (3) to read as follows:

(3) Ten Members.

Paragraph (a) of § 213.3305, *Treasury Department*, is amended by revoking subparagraphs (3), (4), (5), (6), (11), (12), (14), (22), (23), and (14), and amending subparagraph (1) to read as follows:

(1) One Special Assistant to the Secretary.

Paragraph (d) of § 213.3305 is amended by revoking subparagraph (1).

Paragraph (a) of § 213.3306, *Department of Defense*, is amended by revoking subparagraphs (4), (8), (9), (17), (19), (20), (27), (31), (34), (37), (40), (42), (45), (47), (53), and (54), and amending subparagraph (28) to read as follows:

(28) One Staff Assistant to the Special Assistant to the Secretary of Defense.

Paragraph (a) of § 213.3307, *Department of the Army*, is amended by revoking subparagraphs (5), (7), (10), (14), (15), (16), (17), and (18).

Paragraph (a) of § 213.3308, *Department of the Navy*, is amended by revoking subparagraphs (6) and (10), and amending subparagraph (1) to read as follows:

(1) One Civilian Aide or Executive Assistant to the Secretary.

Paragraph (a) of § 213.3309, *Department of the Air Force*, is amended by revoking subparagraphs (4) and (5), and amending subparagraph (1) to read as follows:

(1) One Special Assistant to the Secretary, and one Special Assistant to the Under Secretary, and to each Assistant Secretary of the Air Force.

Paragraph (a) of § 213.3310, *Department of Justice*, is amended by revoking subparagraphs (1), (2), and amending subparagraphs (5) and (9) to read as follows:

(5) One Special Assistant for Public Relations.

(9) One Confidential Assistant to the Attorney General.

Paragraph (b) of § 213.3310 is amended by revoking subparagraphs (2), (3), (4), and (5).

Paragraph (c) of § 213.3310 is amended by revoking subparagraphs (1) and (2).

Paragraph (d) of § 213.3310 is amended by revoking subparagraphs (1), (3), (4), (5), (6), (7), (10), (11), (15), (16), and (17), and amending subparagraph (8) to read as follows:

(8) Chief, Field Office (4 positions).

Paragraph (e) of § 213.3310 is amended by revoking subparagraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), (12), and (13).

Paragraph (f) of § 213.3310 is amended by revoking subparagraphs (1), (2), (3), (4), (8), (9), and (10).

Paragraph (g) of § 213.3310 is amended by revoking subparagraphs (1), (2), (3), (4), (6), (7), and (8).

Paragraph (h) of § 213.3310 is amended by revoking subparagraphs (1), (2), (3), and (5).

Paragraph (j) of § 213.3310 is amended by revoking subparagraphs (1), (3), (4), and (5).

Paragraph (k) of § 213.3310 is amended by revoking subparagraph (2).

Paragraph (l) of § 213.3310 is amended by revoking subparagraphs (2) and (3).

Paragraph (m) of § 213.3310 is amended by revoking subparagraphs (4), (5), and (6).

Paragraph (n) of § 213.3310 is amended by revoking subparagraph (3).

Paragraph (p) of § 213.3310 is amended by revoking subparagraphs (1), (2), (3), and (5).

Paragraph (q) of § 213.3310 is amended by revoking subparagraphs (1) and (2).

Paragraph (r) of § 213.3310 is amended by revoking subparagraphs (1), (3), (4), (5), (13), and (14).

Paragraph (a) of § 213.3311, *Post Office Department*, is amended by revoking subparagraphs (1), (11), (14), (15), and (20), and amending subparagraph (2) to read as follows:

Four Special Assistants to the Postmaster General.

Paragraph (b) of § 213.3311 is amended by revoking subparagraphs (3), (5), and (9).

Paragraph (c) of § 213.3311 is amended by revoking subparagraph (6).

Paragraph (f) of § 213.3311 is amended by revoking subparagraphs (2) and (4).

Paragraph (h) of § 213.3311 is amended by revoking subparagraphs (1) and (5).

Paragraph (a) of § 213.3312, *Department of the Interior*, is amended by revoking subparagraphs (1), (6), (14), (15), (17), (19), (20), (21), (22), (25), (26), (29), (31), (32), and (33), and amending subparagraphs (3) and (8) as follows:

(3) Three special Assistants to the Secretary.

(8) One Deputy Assistant Secretary (for Fish and Wildlife); and one Confidential Assistant (Administrative Assistant) to each of the four Assistant Secretaries for Mineral Resources, Public Land Management, Water and Power Development, and Fish and Wildlife.

Paragraph (b) of § 213.3312 is amended by revoking subparagraphs (3), (4), and (5).

Paragraph (d) of § 213.3312 is amended by revoking subparagraphs (4), (5), (6), (7), and (8).

Paragraph (f) (2) of § 213.3312 is amended as follows:

(2) One Assistant Commissioner.

Paragraph (g) of § 213.3312 is amended by revoking subparagraph (1).

Paragraph (h) of § 213.3312 is amended by revoking subparagraph (4).

Paragraph (l) of § 213.3312 is amended by revoking subparagraphs (1), (4), (7), and (10).

Paragraph (m) of § 213.3312 is amended by revoking subparagraph (2).

Paragraph (o) of § 213.3312 is amended by revoking subparagraph (1).

Paragraph (a) of § 213.3313, *Department of Agriculture*, is amended by revoking subparagraphs (4), (14), (16), (17), (18), (19), (21), and (23), and amending subparagraph (5) to read as follows:

(5) Four Confidential Assistants to the Secretary.

Paragraph (b) of § 213.3313 is amended by revoking subparagraphs (2), (3), and (5).

Paragraph (d) of § 213.3313 is amended by revoking subparagraphs (1) and (2).

Paragraph (e) of § 213.3313 is amended by revoking subparagraphs (1), (3), (4), and (5).

Paragraph (f) of § 213.3313 is amended by revoking subparagraphs (1), (2), and (6).

Paragraph (g) of § 213.3313 is amended by revoking subparagraph (4).

Paragraph (h) of § 213.3313 is amended by revoking subparagraphs (2), (3), (6), (7), (8), (9), (10), (11), (12), and (13), and amending subparagraph (4) as follows:

(4) Four Confidential Assistants to the Administrator.

Paragraph (i) of § 213.3313 is amended by revoking subparagraph (4).

Paragraph (j) of § 213.3313 is amended by revoking subparagraphs (1) and (2).

Paragraph (k) of § 213.3313 is amended by revoking subparagraph (2).

Paragraph (m) of § 213.3313 is amended by revoking subparagraph (4).

Paragraph (n) of § 213.3313 is amended by amending subparagraph (4) to read as follows:

(4) One Staff Assistant to the Director.

Paragraph (o) of § 213.3313 is amended by revoking subparagraphs (1) and (2).

Paragraph (p) of § 213.3313 is amended by revoking subparagraph (2).

Paragraph (q) of § 213.3313 is revoked in its entirety.

Paragraph (r) of § 213.3313 is revoked in its entirety.

Paragraph (a) of § 213.3314, *Department of Commerce*, is amended by revoking subparagraphs (8), (10), (12), (16), (21), (30), (34), (35), (37), (39), and (41), and amending subparagraph (1) as follows:

(1) Six Confidential Assistants to the Secretary.

Paragraph (c) of § 213.3314 is amended by revoking subparagraph (3).

Paragraph (g) of § 213.3314 is amended by revoking subparagraph (1).

Paragraph (h) of § 213.3314 is amended by revoking subparagraph (4).

Paragraph (j) of § 213.3314 is amended by revoking subparagraph (1).

Paragraph (l) of § 213.3314 is amended by revoking subparagraph (2).

Paragraph (m) of § 213.3314 is amended by revoking subparagraphs (2), (4), (5), (8), and (9).

Paragraph (n) of § 213.3314 is amended by revoking subparagraphs (1), (3), and (5).

Paragraph (q) of § 213.3314 is amended by revoking subparagraphs (8), (15), (16), (18), (19), (20), (27), (29), and (31), and amending subparagraph (21) to read as follows:

(21) One Director, Office of Business Development, Economic Development Administration.

Paragraph (a) of § 213.3315 *Department of Labor*, is amended by revoking subparagraphs (8), (19), (22), (24), and (26), and amending subparagraph (1) to read as follows:

(1) Four Special Assistants, two Confidential Assistants, and one Confidential Assistant (Private Secretary) to the Secretary of Labor.

Paragraph (c) of § 213.3315 is amended by revoking subparagraph (1).

Paragraph (g) of § 213.3315 is amended by revoking subparagraph (1).

Paragraph (h) of § 213.3315 is amended by revoking subparagraph (1).

Paragraph (i) of § 213.3315 is revoked in its entirety.

Paragraph (j) of § 213.3315 is revoked in its entirety.

Paragraph (l) of § 213.3315 is revoked in its entirety.

Paragraph (a) of § 213.3316, *Department of Health, Education, and Welfare*, is amended by revoking subparagraphs (7), (20), (22), (24), (26), (27), (28), (29), and amending subparagraphs (4) and (30) as follows:

(4) One Assistant to the Secretary.

(30) Two Confidential Assistants to the Special Assistant to the Secretary (for Civil Rights).

Paragraph (b) of § 213.3316 is amended by revoking subparagraph (2).

Paragraph (c) of § 213.3316 is amended by revoking subparagraphs (3) and (7).

Paragraph (e) of § 213.3316 is revoked in its entirety.

Paragraph (f) of § 213.3316 is amended by revoking subparagraph (2).

Paragraph (g) of § 213.3316 is amended by revoking subparagraph (2).

Paragraph (h) of § 213.3316 is amended by revoking subparagraphs (2), (6), (7), and (8).

Paragraph (i) of § 213.3316 is amended by revoking subparagraph (1).

Paragraph (j) of § 213.3316 is amended by revoking subparagraphs (1), (2), (5), (8), (9), (10).

Paragraph (k) of § 213.3316 is amended by revoking subparagraphs (4) and (5).

Paragraph (n) of § 213.3316 is amended by revoking subparagraphs (2), (3), (4), and (5).

Paragraph (o) of § 213.3316 is amended by revoking subparagraphs (1), (2), (3), and (5).

Section 213.3322, *Interstate Commerce Commission*, is amended by revoking paragraphs (b) and (c).

Paragraph (a) of § 213.3325, *The Tax Court of the United States*, is amended to read as follows:

(a) One Private Secretary and two Technical Assistants for each Judge and one Technical Assistant for the Chief Judge.

Paragraph (a) of § 213.3327, *Veterans Administration*, is amended by revoking subparagraphs (1), (6), and (7).

Paragraph (c) of § 213.3327 is amended by revoking subparagraph (1).

Section 213.3328, *U.S. Information Agency*, is amended by revoking paragraph (b).

Section 213.3329, *Federal Power Commission*, is amended by revoking paragraphs (c), (d), (g), (h), and (j).

Section 213.3330, *Securities and Exchange Commission*, is amended by revoking paragraphs (a), (b), and (e).

Section 213.3332, *Small Business Administration*, is amended by revoking paragraphs (c), (d), (v), (gg), and (ll).

Section 213.3334, *Federal Trade Commission*, is revoked in its entirety.

Paragraph (a) of § 213.3337, *General Services Administration*, is amended by revoking subparagraphs (7) and (8).

Paragraph (f) is revoked in its entirety.

Section 213.3338, *Federal Communications Commission*, is revoked in its entirety.

Section 213.3340, *Civil Aeronautics Board*, is amended by revoking paragraphs (b), (e), (f), (i), and (k).

Section 213.3341, *National Labor Relations Board*, is amended by revoking paragraphs (b), (c), (e), and (f), and amending paragraph (g) to read as follows:

(g) Two Special Assistants to the General Counsel.

Section 213.3342, *Export-Import Bank of Washington*, is amended by revoking paragraphs (a), (d), (f), (g), and (j).

Section 213.3343, *Farm Credit Administration*, is amended by revoking paragraphs (b) and (c), and amending paragraph (d) to read as follows:

(d) One Deputy Director of Credit Service.

Paragraph (c) of § 213.3344, *Housing and Home Finance Agency*, is amended by revoking subparagraph (4).

Section 213.3347, *Federal Mediation and Conciliation Service*, is revoked in its entirety.

Section 213.3354, *Federal Home Loan Bank Board*, is amended by revoking paragraphs (b), (c), (g), (j), (k), and (o).

Section 213.3356, *Commission on Civil Rights*, is amended by revoking paragraphs (b) and (f).

Section 213.3357, *Federal Aviation Agency*, is amended by revoking paragraph (b).

Section 213.3364, *U.S. Arms Control and Disarmament Agency*, is amended by revoking paragraphs (e) and (f).

Section 213.3367, *Federal Maritime Commission*, is amended by revoking paragraphs (b) and (c).

Section 213.3369, *President's Committee on Equal Opportunity in Housing*, is revoked in its entirety.

Paragraph (a) of § 213.3373, *Office of Economic Opportunity*, is amended by revoking subparagraphs (2), (3), (4), (5), (6), and (13).

Paragraph (b) of § 213.3373 is amended by revoking subparagraphs (4) and (6).

Paragraph (c) of § 213.3373 is amended by revoking subparagraphs (1) and (5).

Paragraph (d) of § 213.3373 is amended by revoking subparagraphs (1), (4), and (5).

Section 213.3377, *Equal Employment Opportunity Commission*, is amended by revoking paragraphs (b), (c), (g), and (h).

Section 213.3380, *Water Resources Council*, is revoked in its entirety.

Paragraph (a) of § 213.3384, *Department of Housing and Urban Development*, is amended by revoking subparagraphs (4), (5), (10), (18), (19), (20), (21), (22), and (24), and amending subparagraph (17) to read as follows:

(17) Two Special Assistants to the Secretary.

Paragraph (b) of § 213.3384 is amended by revoking subparagraphs (2), (4), (5), (6), (7), (8), (10), and (11).

Paragraph (c) of § 213.3384 is amended by revoking subparagraphs (2), (4), (6), (7), and (8).

Paragraph (d) of § 213.3384 is amended by revoking subparagraphs (2), (4), (5), (9), and (10).

Paragraph (e) of § 213.3384 is amended by revoking subparagraphs (5) and (6).

Section 213.3387, *District of Columbia Redevelopment Land Agency*, is revoked in its entirety.

Paragraph (a) of § 213.3394, *Transportation Department*, is amended by revoking subparagraphs (1), (2), (9), and (10).

Paragraph (c) of § 213.3394 is revoked in its entirety.

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67–14794; Filed, Dec. 20, 1967; 8:48 a.m.]

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER D—PROVISIONS COMMON TO MORE THAN ONE PROGRAM

[Amdt. 8]

PART 792—CONSERVING BASE AND DESIGNATED DIVERTED ACREAGE

Designation, Use, and Care of Diverted Acreage

The regulations governing conserving base and designated diverted acreage are amended as follows:

1. Section 792.3 is amended by deleting subparagraph (13) of paragraph (b) and changing the introductory text of paragraphs (a) and (a)(5) and paragraph (d) to read as follows:

§ 792.3 Designation, use, and care of diverted acreage under the feed grain, upland cotton, wheat diversion, and wheat certificate programs; approved conservation uses.

(a) *Cropland eligible for designation.* Land to be eligible for designation as diverted acreage must be cropland as provided in this paragraph. Where the county committee determines that the average productivity of the land diverted is substantially less than the average productivity of the cropland which would normally be devoted to the crop, the payments for the farm shall be reduced to take into account the actual productivity of the diverted acreage. Subject to the provisions of paragraph (b) of this section, designated diverted acreage must be cropland:

* * * * *

(5) On a farm with an old farm cotton allotment or feed grain base. Such acreage will be limited to the extent needed to enable producers on the farm to participate in the upland cotton or feed grain program after all other acreage eligible under this paragraph is designated.

* * * * *

(b) * * *

(13) [Deleted]

* * * * *

(d) *Restriction on grazing.* The designated diverted acreage shall not be grazed during the period between April 30 and October 1 of the current year, or at the election of the State committee with advance notice to the operator and the Director, Farmer Programs Division, between March 31 and September 1 or between April 14 and September 15, except where the Secretary considers it necessary to permit the diverted acreage to be grazed in order to alleviate a shortage of forage in the area resulting from severe drought, flood, or other natural disaster and consents to such grazing subject to an appropriate reduction in the payment rate. In addition to the foregoing restriction, the designated diverted acreage shall not be grazed on or after September 1 of the current year when planted to wildlife food plots or devoted to a grain or oilseed crop which has matured, other than a substitute crop.

* * * * *

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on December 15, 1967.

E. A. JAENKE,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 67–14820; Filed, Dec. 20, 1967; 8:50 a.m.]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Navel Orange Reg. 140]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.440 Navel Orange Regulation 140.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 19, 1967.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period December 22, 1967, through December 28, 1967, are hereby fixed as follows:

(i) District 1: 200,000 cartons;

(ii) District 2: 45,621 cartons;

(iii) District 3: 38,000 cartons;

(iv) District 4: 26,000 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," "District 4," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 20, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67–14915; Filed, Dec. 20, 1967; 11:26 a.m.]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 21,196]

PART 556—STATEMENTS OF POLICY

Establishment of Branch Offices

DECEMBER 12, 1967.

Resolved that the Federal Home Loan Bank Board, upon the basis of consideration by it of the advisability of its statement of policy with respect to Establishment of Branch Offices by Federal Savings and Loan Associations (30 F.R. 11981) and for the purpose of effecting such codification, hereby amends Part 556 of the rules and regulations for the Federal Savings and Loan System (12 CFR Part 556) by adding, immediately after § 556.4, a new section, § 556.5, to read as follows:

§ 556.5 Establishment of branch offices.

(a) As a general policy, the Board permits branches by Federal savings and loan associations in a particular State if the State law, or State practice in absence of statutory prohibition, permits savings and loan associations, savings banks, or commercial banks of the State to establish branches in such state or to conduct chain, group, or affiliate operations. The Board will not, however, approve the establishment of a particular branch unless in its judgment a necessity exists for the proposed branch office in the community to be served by it, nor unless there is a reasonable probability of its usefulness and success, nor unless the same can be established without undue injury to properly conducted existing local thrift and home-financing institutions.

(b) It is the Board's policy not to approve the establishment of a branch office by such an association in a state other than that where the home office of the association is located.

(c) It is the Board's policy to consider applications by such an association for permission to establish a branch office or to maintain a branch office acquired as a result of merger only when the proposed branch office is to be situated within 75 miles of the association's home office, unless the association is located in Alaska, Hawaii, or Puerto Rico. This policy is applicable whether or not an association was converted from a State-chartered institution at a time when it made loans on the security of real estate located more than 100 miles from its home office and whether or not it was organized initially as a Federal savings and loan association.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] HARRY W. CAULSEN, *Secretary.*

[F.R. Doc. 67–14791; Filed, Dec. 20, 1967; 8:48 a.m.]

[No. 21,197]

PART 556—STATEMENT OF POLICY

Establishment of Agencies

DECEMBER 12, 1967.

Resolved that the Federal Home Loan Bank Board, upon the basis of consideration by it of the advisability of publishing a statement of its policy concerning the establishment of agencies by Federal savings and loan associations and for the purpose of effecting codification of such statement of policy, hereby amends Part 556 of the rules and regulations for the Federal Savings and Loan System (12 CFR Part 556) by adding, immediately after § 556.5, a new section, § 556.6, to read as follows:

§ 556.6 Establishment of agencies.

(a) As a general policy, the Board will not approved the establishment of agencies by Federal associations under Federal Regulation 545.15 unless the business to be transacted at the agency will be limited to the origination of mortgage loans, in addition to the loan servicing functions which § 545.15 expressly authorizes, thereby precluding the transaction of any savings account business at the agency office.

(b) In extremely exceptional cases, however, where community need for such service is established, the Board is willing to permit the additional agency function of receiving payments on existing savings accounts. The Board will consider approval of an agency which may receive such savings payments only in cases where the proposed agency is to be located in a small town situated in an area that is sparsely settled and considerably distant from existing associations. With rare exceptions, such an agency will not be approved if the community is of such size and nature that the establishment of a branch office or the organization of a local association would seem economically feasible or if any savings and loan facilities insured by the Federal Savings and Loan Insurance Corporation are already located in such community.

(c) It is also the Board's policy not to approve the establishment of an agency in a state other than that in which the home office of the association is located.

(d) All agency approvals will be limited to a 5-year period in order to afford the Board an opportunity at the end of such period to reappraise the community situation in all pertinent aspects.

(Sec. 5, 48 Stat. 133, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] HARRY W. CAULSEN, *Secretary.*

[F.R. Doc. 67–14790; Filed, Dec. 20, 1967; 8:48 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 67–WE–48]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airways

On September 27, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 13526) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the floors on certain segments of VOR Federal airway Nos. 4, 253, and 500 in the vicinity of Boise, Idaho.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., February 29, 1968, as hereinafter set forth.

1. Section 71.123 (32 F.R. 2009, 3219, 5497, 6434, 7251, 7252, 7588, 7589, 9220) is amended as follows:

a. In V–4 "including an N alternate from Boise, 21 miles, 12 AGL, 28 miles, 90 MSL, 95 MSL INT Boise 104° and Burley 344° radials," is deleted and "including an north alternate from Boise, 25 miles, 12 AGL, 25 miles, 90 MSL, 95 MSL INT Boise 104° and Burley 344° radials," is substituted therefor.

b. In V–253 "30 miles, 12 AGL, 99 MSL McCall, Idaho;" is deleted and "42 miles, 12 AGL, 99 MSL McCall, Idaho;" is substituted therefor.

c. In V–500 "21 miles, 12 AGL, 28 miles, 90 MSL, 48 miles, 95 MSL, 25 miles, 75 MSL, 12 AGL Pocatello, Idaho." is deleted and "25 miles, 12 AGL, 25 miles, 90 MSL, 48 miles, 95 MSL, 25 miles, 75 MSL, 12 AGL Pocatello, Idaho." is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on December 12, 1967.

H. B. HELSTROM, *Chief, Airspace and Air Traffic Rules Division.*

[F.R. Doc. 67–14780; Filed, Dec. 20, 1967; 8:47 a.m.]

[Airspace Docket No. 67–CE–111]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On pages 13933 and 13934 of the FEDERAL REGISTER dated October 6, 1967, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Boone, Iowa.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0001 e.s.t., February 29, 1968.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Kansas City, Mo., on December 6, 1967.

DANIEL E. BARROW, *Acting Director, Central Region.*

In § 71.181 (32 F.R. 2148), the following transition area is added:

BOONE, IOWA

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Boone Municipal Airport (latitude 42°03' 05" N., longitude 93°50'45" W.) and within 3 miles each side of the 338° bearing from Boone Municipal Airport extending from the airport to 8 miles north and that airspace extending upward from 1,200 feet above the surface within 8 miles east and 8 miles west of the 338° bearing from Boone Municipal Airport extending from the airport to 12 miles north.

[F.R. Doc. 67–14781; Filed, Dec. 20, 1967; 8:48 a.m.]

[Airspace Docket No. 67–CE–114]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On pages 13934 and 13935 of the FEDERAL REGISTER dated October 6, 1967, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Shelbyville, Ind.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0001 e.s.t., February 29, 1968.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Kansas City, Mo., on December 6, 1967.

DANIEL E. BARROW, *Acting Director, Central Region.*

In § 71.181 (32 F.R. 2148), the following transition area is added:

SHELBYVILLE, IND.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Shelbyville Memorial Airport (latitude 39°34'50" N., longitude 85°48'20" W.), and within 2 miles each side of the Shelbyville, Ind., VOR 340° radial extending from the 5-mile radius area to 8 miles north of the VOR.

[F.R. Doc. 67–14782; Filed, Dec. 20, 1967; 8:48 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 8735]

PART 13—PROHIBITED TRADE PRACTICES

Pat and Bobbie's, Inc., and Patricia A. Farrell

Subpart—Importing, selling, or transporting flammable wear: § 13.1060 *Importing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 67 Stat. 111, as amended; 15 U.S.C. 45, 1191)

[Cease and desist order, Pat and Bobbie's, Inc., et al., Seattle, Wash., Docket 8735, Nov. 24, 1967]

In the Matter of Pat and Bobbie's, Inc., a Corporation, and Patricia A. Farrell, Individually and as an Officer of Said Corporation

Order requiring a Seattle, Wash., distributor of handcraft materials to cease importing or selling fabric, including rice paper, so highly flammable as to be dangerous when worn.

The order to cease and desist is as follows:

It is ordered, That respondents Pat and Bobbie's, Inc., a corporation, and its officers, and Patricia A. Farrell, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from:

(a) Importing into the United States; or

(b) Selling, offering for sale, introducing, delivering for introduction, transporting, or causing to be transported, in commerce, as "commerce" is defined in the Flammable Fabrics Act, as amended; or

(c) Transporting or causing to be transported, for the purpose of sale or delivery after sale in commerce;

any fabric, as "fabric" is defined in the Flammable Fabrics Act, as amended, including rice paper which, under the provisions of section 4 of the said Act, is so highly flammable as to be dangerous when worn by individuals.

By "Final Order" further order requiring report of compliance is as follows:

It is further ordered, That respondents Pat and Bobbie's, Inc., a corporation, and Patricia A. Farrell shall, within sixty (60) days after service of this order upon them, file with the Commission a report in writing, signed by the respondents, setting forth in detail the manner and form of their compliance with the order to cease and desist.

Issued: November 24, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67–14766; Filed, Dec. 20, 1967; 8:46 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in the Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

NORMAL PROPYL ALCOHOL

The Commissioner of Food and Drugs, having evaluated the data submitted in a petition filed by Feed Service Corp., Crete, Nebr. 68333, and other relevant material, has concluded that a food additive regulation should be issued to provide for the safe use of normal propyl alcohol in feeds and feed supplements for cattle. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), Part 121 is amended by adding to Subpart C the following new section:

§ 121.307 Normal propyl alcohol.

Normal propyl alcohol may be safely used in feeds and feed supplements for cattle as a source of metabolizable energy. It is incorporated in the feed or feed supplement in an amount which provides not more than 54.5 grams of the additive per head per day.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348 (c)(1))

Dated: December 14, 1967.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 67-14823; Filed, Dec. 20, 1967; 8:51 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

SLIMICIDES

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 7H2149) filed by the Nalco Chemical Co., 180 North Michigan Avenue, Chicago, Ill. 60601, and other relevant material, has concluded that the food additive regulations should be amended to provide for the safe use of an additional slimicide, as set forth below, in the manufacture of paper and paperboard that contact food.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; U.S.C. 348a(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), § 121.2505(c) is amended by alphabetically inserting in the list of substances a new item, as follows:

§ 121.2505 Slimicides.

* * * * * *

(c) * * *

List of substances	*Limitations*
* * *	* * *
Chlorinated levulinic acids.	----------
* * *	* * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; U.S.C. 348a (c)(1))

Dated: December 12, 1967.

WESTON B. RANKIN,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 67-14824; Filed, Dec. 20, 1967; 8:51 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

SLIMICIDES

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 8H2207) filed by Buckman Laboratories, Inc., 1256 North McLean Boulevard, Memphis, Tenn. 38108, and other relevant material, has concluded that the food additive regulations should be amended to provide for the safe use of two additional slimicides, as set forth below, in the manufacture of paper and paperboard for food-contact use. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), § 121.2505(c) is amended by alphabetically inserting in the list of substances two new items, as follows:

§ 121.2505 Slimicides.

* * * * * *

(c) * * *

List of substances	*Limitations*
* * *	* * *
Chloromethyl butanethiolsulfonate.	----------
* * *	* * *
Methylenebisbutanethiolsulfonate.	----------
* * *	* * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: December 12, 1967.

WESTON B. RANKIN,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 67-14825; Filed, Dec. 20, 1967; 8:51 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

INDUSTRIAL STARCH-MODIFIED

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 8B2224) filed by Grain Processing Corp., Post Office Box 341, Muscatine, Iowa 52761, and other relevant material, has concluded that the food additive regulations should be amended to provide for the safe use of industrial starch modified by treatment with not more than 0.3 percent of ammonium persulfate as a component of articles intended for food-contact use. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), § 121.2506 (a) is amended by inserting alphabetically in the list of reactants a new item, as follows:

§ 121.2506 Industrial starch-modified.

* * * * * *

(a) * * *

List of reactants	*Limitations*
Ammonium persulfate, not to exceed 0.3 percent.	----------
* * *	* * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348 (c)(1))

Dated: December 14, 1967.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 67-14822; Filed, Dec. 20, 1967; 8:50 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 171—MONEY ORDERS

Miscellaneous Amendments

Sections 171.2, 171.3, and 171.4 are republished to clarify instructions regarding money orders and to provide conversion tables for international money orders. Accordingly, these updated sections now read as follows:

§ 171.2 International money orders.

(a) *Issuance*—(1) *Where sold.* International money orders may be purchased at almost all first-class post offices. Some second-, third-, and fourth-class post offices have been designated to provide this service. Post offices not designated but having sufficient need for the service will make application to the regional controller. International money orders will be issued to addressees in those countries that have agreed with the United States to conduct such business.

(2) *Application.* (i) For all countries and localities listed in subparagraphs (8) and (9) of this paragraph, the international money order form is used and application must be made on Form 6701. In some cases, the order is written in foreign currency. In most cases, the amount is written in U.S. dollars and converted into foreign currency in the country where payable.

(ii) Purchasers must complete Form 6083, Supplemental International Money Order Advice, written in the foreign language if possible, when they send money orders payable in Greece, Lebanon, Syria, Yugoslavia, and Japan.

(iii) When the international money order form is used, purchasers will be given a receipt. The postmaster will arrange for sending the order abroad, as prescribed in subparagraph (4)(ii)(c) of this paragraph.

(iv) Purchasers must state the following details in their application regarding the payee: full name, exact address, name of city, town, or village; name of the canton, department, or district as the case may be. If the payee is a woman, state whether single, married, or widowed.

(3) *Domestic international money orders.* For countries listed in subparagraph (7) of this paragraph the domestic money order form is used and there is no application.

(4) *Preparation of orders*—(i) *When domestic form is used.* Postal employees shall handle in the same manner as for domestic orders. For Canada, the amount on the order must be expressed in both United States and Canadian money. Consult the current conversion table. Put the amount received in U.S. money in the figure block. Write the Canadian amount under the figure blocks and put Canadian before it.

(ii) *When international form is used.* Postal employees shall complete the transaction the same way as for a domestic money order, with these exceptions:

(a) Print all particulars of the application on the order, including office of payment, if known.

(b) Enter amount in U.S. money. If patron requests foreign equivalent of an order payable in one of the following countries, see paragraph (b) of this section, *Conversion tables,* and enter that amount also: Great Britain and Northern Ireland, Guyana, Ireland, New Zealand, Republic of South Africa, Belgium, Denmark, France, Luxembourg, Netherlands, Norway, Surinam, Sweden, Switzerland, and Tunis.

(c) Give receipt to patron, and send order to the International Money Order Branch, Post Office Department, General Accounting Office Building, Washington, D.C. 20260, by ordinary mail. When necessary, also attach any required foreign language advice, Form 6083, Supplemental International Money Order Advice. (See subparagraph (2)(ii) of this paragraph.)

(d) If the patron wishes expedited service, he may purchase an airmail stamp for affixing to the envelope transmitting the order to the International Money Order Branch, Post Office Department, General Accounting Office Building, Washington, D.C. 20260. The money order will be included by that office with others for the same country, and no stamp need be furnished for its transmission overseas by airmail.

(5) *Refunds.* The amounts of orders sent on the international form may not be repaid here until authorized by the foreign postal administration. Form 6684, Inquiry Concerning International Money Order Issued in the United States, shall be sent to the International Money Order Branch, Post Office Department, General Accounting Office Building, Washington, D.C. 20260, when purchaser requests repayment on U.S. issued orders.

(6) *Lost reissued orders.* The postmaster shall report the facts concerning lost reissued orders (an order certified to the United States by a foreign country and reissued in the United States) to the International Money Order Branch, Post Office Department, General Accounting Office Building, Washington, D.C. 20260.

(7) *Countries where service is available on domestic basis.*[1]

Country	*Address*
Antigua ----------	Administrator, St. Johns, Antigua.
Bahamas ----------	Postmaster, Nassau, Bahamas.
Barbados ----------	Postmaster General, Bridgetown, Barbados.
Bermuda ----------	Colonial Postmaster, Hamilton, Bermuda.
British Honduras.	Postmaster General, Belize, British Honduras.
British Virgin Islands.	Administrator, Tortola, British Virgin Islands.
Canada (see 171.214a).	Deputy Postmaster General, Financial Branch, Money Order Division, Ottawa 8, Ontario, Canada.
Canal Zone ------	Director of Posts, Balboa Heights, C.Z.
Dominica ----------	Colonial Postmaster, Dominica, West Indies.
Grenada ----------	Colonial Postmaster, Grenada, West Indies.
Jamaica ----------	Postmaster General, Kingston, Jamaica.
Montserrat -------	Administrator, Montserrat, West Indies.
Saint Kitts-Nevis-Anguilla.	Administrator, St. Kitts-Nevis-Anguilla, West Indies.
Saint Lucia-------	Postmaster General, Saint Lucia, West Indies.
Saint Vincent-----	Colonial Postmaster, Saint Vincent, West Indies.
Trinidad and Tobago.	Postmaster General, Port of Spain, Trinidad, West Indies.

[1] See subparagraph (2) of this paragraph and § 171.4(b)(iii) of this chapter.

(8) *Countries where service is available on direct exchange basis.* Direct exchange of international money orders is conducted between the U.S. office and the foreign exchange office of the places named in the following table:

U.S. office	*Foreign country*—Continued
International Money Order Branch, Post Office Department, General Accounting Office Building, Washington, D.C. 20260.	Guyana. Iceland. Ireland. Italy. Japan.[2] Lebanon.[2] Luxemburg. Mexico. Morocco, Kingdom of. Netherlands. Netherlands Antilles (Aruba, Bonaire, Curacao, Saba, St. Eustatius, and southern part of St. Martin). New Zealand. Norway. Peru. Philippines. Poland. Ryukyu Islands (Okinawa). Salvador. South Africa, Republic of. Surinam. Sweden. Switzerland. Syria.[2] Thailand. Tunis. United Arab Republic (Egyptian Territory). Uruguay. Vatican City. Yugoslavia.[2]
Foreign country	
Argentina. Australia, Commonwealth of: New South Wales. Queensland. South Australia. Tasmania. Victoria. Western Australia. Austria. Belgium. Chile. China, Republic of (Formosa). Colombia. Costa Rica. Czechoslovakia (except Province of Ruthenia). Denmark. Egypt (United Arab Republic). Finland. France. Germany[1] Great Britain and Northern Ireland. Greece.[2] Guatemala. Hungary.	

[1] Money order service is in effect with the American, British, and French zones of Germany and the western sector of Berlin only.

[2] Money orders to be accompanied by Form 6083, Supplemental International Money Order Advice. (See subparagraph (4)(ii)(c) of this paragraph.)

(9) *Countries where service is available on indirect exchange basis.* (Orders are paid in the designated country through an intermediary country which reserves the right to deduct a fee for the service.)

Country or locality	Basis: Through intermediary of—
Aden	Great Britain.
Including Kamaran Island.	
Aegean Islands (see Dodecanese Islands)	Greece.
Aitutaki, Cook Islands	New Zealand.
Algeria	France.
Andaman Islands	Great Britain.
Andorra, Republic of (Andorre la Vielle only)	France.
Azores [1]	Great Britain.
Bahrein (and Awali)	Do.
Baluchistan (see Pakistan)	Do.
Basutoland (see Lesotho)	South Africa, Republic of.
Bechuanaland Protectorate (see Botswana)	Do.
Borneo, North (see Malaysia)	Great Britain.
Botswana (formerly Bechuanaland Protectorate)	South Africa, Republic of.
British Somaliland (see Somali Republic)	Great Britain.
Burma	Do.
Cameroon, Republic of	France.
Central African Republic (Oubangui-Chari)	Do.
Ceylon	Great Britain.
Chad, Republic of (Tchad)	France.
Chios (Dodecanese Islands)	Greece.
Comoro Islands	France.
Congo, Republic of (Brazzaville)	Do.
Cook Islands	New Zealand.
Aitutaki, Rarotonga	
Corsica	France.
Cos (Dodecanese Islands)	Greece.
Crete	Do.
Cyprus	Great Britain.
Famagusta, Kyrenia, Larnaca, Lefka, Lefkara, Lefkoniko, Limassol, Morphou, Nicosia, Paphos, Pedhoulas, Platres, Polis, Troodos, Yialousa. (Pedhoulas, Platres, and Troodos are summer offices only.)	
Dahomey, Republic of	France.
Dodecanese Islands	Greece.
Astypalaia, Kalymnos (Calino, Calymnos), Karpathos (Scarpanto), Kassos, Kastellorizon, Cos, Leros (Lero), Nisyros (Nisiro), Patmos, Rhodes (Rodi), and Symi.	
Ellice Islands	New South Wales.
Falkland Islands	Great Britain.
Fanning Island	New Zealand.
Faroe Islands	Denmark.
Fiji Islands	Great Britain.
French Cameroon (see Cameroon, Republic of)	France.
French Equatorial Africa (see Central African Republic, Chad, Congo, and Gabon Republic).	Do.
French Guiana	Do.
French Oceania (see Polynesia)	Do.
French Sudan (see Mali)	Do.
French Togoland (see Togo)	Do.
French West Africa (see Dahomey, Ivory Coast, Mali, Mauritania, Niger, Senegal, Upper Volta).	Do.
Friendly Islands (or Tonga Islands)	New South Wales.
Gabon Republic	France.
Gambia	Great Britain.
Barra (paid through Bathurst), Basse, Bathurst, Cape St. Mary (paid through Bathurst), Georgetown, Kunta-Ur, Macarthy Island (paid through Georgetown).	
Ghana	Do.
Gibraltar	Do.
Gilbert and Ellice Islands Colony	New South Wales.
Guadeloupe	France.
India	Great Britain.
Iraq [2]	Do.
Islamic Republic (see Mauritania)	France.
Ivory Coast, Republic of	Do.
Kalymnos (Dodecanese Islands)	Greece.
Kamaran Island (Aden)	Great Britain.
Karpathos (Dodecanese Islands)	Greece.
Kenya	Great Britain.
Leros (Dodecanese Islands)	Greece.
Lesbos (Dodecanese Islands)	Do.
Lesotho (formerly Basutoland)	South Africa, Republic of.
Liechtenstein, Principality of	Switzerland.
Madagascar (Malagasy Republic)	France.
Madeira Islands [1]	Great Britain.
Makatea (see Polynesia, French)	France.
Malagasy Republic (see Madagascar)	Do.
Malawi	Great Britain.
Malaysia (Federation of):	Do.
Johore, Kedah, Kelantan, Malacca, Negri Sembilan, Pahang, Penang (including Province of Wellesley), Perak, Perlis, Selangor and Trengganu; also Sabah (North Borneo) and Sarawak.	
Mali, Republic of	France.
Malta	Great Britain.
Birkirkara, Notabile, Siggieul, Sliema, Valletta, Victoria (Gozo).	
Martinique	France.
Mauritania (Islamic Republic)	Do.
Mauritius	Great Britain.
Middle Congo (see Congo, Republic of)	France.
Monaco	Do.
Mozambique (Portuguese East Africa)	South Africa, Republic of.
Nauru Island	New South Wales.
New Caledonia	France.
New Guinea, Territory of	New South Wales.
New Hebrides	Do.
Nicobar Islands	Great Britain.
Niger, Republic of	France.
Nigeria	Great Britain.
Nisyros (Dodecanese Islands)	Greece.
Niue or Savage Island	New Zealand.
Norfolk Island	New South Wales.
North Borneo (see Malaysia)	Great Britain.
Northern Rhodesia (see Zambia)	South Africa, Republic of.
Nyasaland (see Malawi)	Great Britain.
Oceania, French (see Polynesia, French)	France.
Oubangui-Chari (see Central African Republic)	Do.
Pakistan (including Baluchistan)	Great Britain.
Papeete, Tahiti (see Polynesia, French)	France.
Papua (Territory of)	New South Wales.
Penrhyn Island	New Zealand.
Persian Gulf Ports (see Bahrein, Qatar and Trucial States)	Great Britain.
Polynesia, French	France.
Makatea, Raiatea, Society Islands, Tahiti.	
Portugal [1]	Great Britain.
Portuguese East Africa (Mozambique)	South Africa, Republic of.
Qatar (Doha and Umm Said)	Great Britain.
Raiatea (see Polynesia, French)	France.
Rarotonga (Cook Islands)	New Zealand.
Reunion Island	France.
Rhodes (Dodecanese Islands)	Greece.
Rhodesia (Northern and Southern)	South Africa, Republic of.
Rodrigues, Island of	Great Britain.
Saar	Germany.
Sabah (see Malaysia)	Great Britain.
Saint Helena	Do.
Saint Pierre and Miquelon	France.
Samoa (Western)	New Zealand.
Samos (Dodecanese Islands)	Greece.
San Marino, Republic of	Italy.
Sarawak (see Malaysia)	Great Britain.
Savage Islands (Niue)	New Zealand.
Senegal, Republic of	France.
Seychelles Islands	Great Britain.
Sierra Leone	Great Britain.
Bauya, Biama, Bo, Bonthe, Cline Town, Daru Freetown, Hangha, Kabala, Kailahun, Kambia, Kenema, Lunsar, Magburaka (Mafump) Makeni, Mano, Moyamba, Pandembu, Port Loko, Punjehun, Rotifunk, Segbwema, Sembehun, Sumbuya, Waterloo.	
Singapore	Do.
Society Islands (see Polynesia, French)	France.
Solomon Islands	New South Wales.
Somali Republic (Northern Region only)	Great Britain.
Berbera, Borama, Burao, Erigavo, Hargeisa, Hargeisa Town, Lasanod, Shaikh.	
Soudanese Republic (See Mali, Republic of)	France.
Southern Rhodesia (see Rhodesia)	South Africa, Republic of.
Southwest Africa	Do.
Sudan, French (See Mali Republic)	France.
Swaziland	South Africa, Republic of.
Tahiti (see Polynesia, French)	France.
Tanganyika (see Tanzania)	Great Britain.
Tanzania (see Tanganyika and Zanzibar Protectorate)	Do.
Tchad (See Chad Republic)	France.
Togo	Do.
Ancho, Atakpamé, Lomé, Palimé	
Tonga Islands (or Friendly Islands)	New South Wales.
Trucial States (Abu Dhabi and Dubai only)	Great Britain.
Uganda	Do.
Arua, Bombo, Busambatia, Butiaba, Entebbe, Fort Portal, Gulu, Hoima, Iganga, Jinja, Kabale, Kaberamaido, Kakira, Kaliro, Kampala, Kamuli, Kitgum, Lira, Lugazi, Masaka, Masindi, Mbale, Mbarara, Mubende, Nanasagali, Ngora, Soroti, Tororo.	
Upper Volta	France.
Western Samoa	New Zealand.
Zambia	South Africa, Republic of.
Zanzibar Protectorate (see Tanzania)	Great Britain.

See footnotes at end of table.

[1] The maximum amount which may be sent on any one day by the same purchaser is £40.
[2] The maximum amount which may be sent on any one day by the same purchaser is £10.

(b) *Conversion tables, international money orders.* Following are conversion tables of foreign currencies to be used for international money orders (see paragraph (a) (4) (ii) (b) of this section).

(1) *List of tables to be used for countries designated.*

Country	Currency	Use table No.
Belgium	Franc	3
Canada	Dollar	1
Denmark	Krone	5
France	Franc	7
Great Britain and Northern Ireland	Pound sterling	2
Guyana	Pound sterling	2
Ireland (Eire)	Pound sterling	2
Luxembourg	Franc	3
Morocco	Dirham	7
Netherlands	Florin	9
New Zealand	Dollar	12
Norway	Krone	4
Surinam	Florin	10
Sweden	Krona	6
South Africa, Republic of	Rand	11
Switzerland	Franc	8
Tunisia	Franc (French)	7

(2) *Caution in use of tables.* (i) These tables are for reference only whenever a patron requests information as to the foreign equivalent of the amount being transmitted by money order.

(ii) While the equivalents of some foreign currencies are expressed in fractions of a cent, no single money order may be listed for a fractional part of a cent.

(iii) Should an overpayment occur as a result of carelessness or error in conversion, the postmaster will be held responsible.

TABLE No. 1

(Rate: 1 United States dollar=1.67 dollars, Canadian money)

FROM 1 CENT TO 100 DOLLARS

United States money	Canadian money	United States money	Canadian money	United States money	Canadian money	United States money	Canadian money	United States money	Canadian money
Cents	*Cents*	*Cents*	*Cents*	*Cents*	*Cents*	*Dollars*	*Dollars*	*Dollars*	*Dollars*
1	1	40	42	79	84	19.00	20.23	58.00	62.06
2	2	41	43	80	85	20.00	21.40	59.00	63.13
3	3	42	44	81	86	21.00	22.47	60.00	64.20
4	4	43	46	82	87	22.00	23.54	61.00	65.27
5	5	44	47	83	88	23.00	24.61	62.00	66.34
6	6	45	48	84	89	24.00	25.68	63.00	67.41
7	7	46	49	85	90	25.00	26.75	64.00	68.48
8	8	47	50	86	92	26.00	27.82	65.00	69.56
9	9	48	51	87	93	27.00	28.89	66.00	70.62
10	10	49	52	88	94	28.00	29.96	67.00	71.69
11	11	50	53	89	95	29.00	31.03	68.00	72.76
12	12	51	54	90	96	30.00	32.10	69.00	73.83
13	13	52	55	91	97	31.00	33.17	70.00	74.90
14	14	53	56	92	98	32.00	34.24	71.00	75.97
15	16	54	57	93	99	33.00	35.31	72.00	77.04
16	17	55	58	94	$1.00	34.00	36.38	73.00	78.11
17	18	56	59	95	1.01	35.00	37.45	74.00	79.18
18	19	57	60	96	1.02	36.00	38.52	75.00	80.25
19	20	58	62	97	1.03	37.00	39.59	76.00	81.32
20	21	59	63	98	1.04	38.00	40.66	77.00	82.39
21	22	60	64	99	1.05	39.00	41.73	78.00	83.46
22	23	61	65	$1.00	1.07	40.00	42.80	79.00	84.53
23	24	62	66	2.00	2.14	41.00	43.87	80.00	85.60
24	25	63	67	3.00	3.21	42.00	44.94	81.00	86.67
25	26	64	68	4.00	4.28	43.00	46.01	82.00	87.74
26	27	65	69	5.00	5.35	44.00	47.08	83.00	88.81
27	28	66	70	6.00	6.42	45.00	48.15	84.00	89.88
28	29	67	71	7.00	7.49	46.00	49.22	85.00	90.95
29	30	68	72	8.00	8.56	47.00	50.29	86.00	92.02
30	32	69	73	9.00	9.63	48.00	51.36	87.00	93.09
31	33	70	74	10.00	10.70	49.00	52.43	88.00	94.16
32	34	71	76	11.00	11.77	50.00	53.50	89.00	95.23
33	35	72	77	12.00	12.84	51.00	54.57	90.00	96.30
34	36	73	78	13.00	13.91	52.00	55.64	91.00	97.37
35	37	74	79	14.00	14.98	53.00	56.71	92.00	98.44
36	38	75	80	15.00	16.05	54.00	57.78	98.00	99.51
37	39	76	81	16.00	17.12	55.00	58.85		
38	40	77	82	17.00	18.19	56.00	59.92		
39	41	78	83	18.00	19.26	57.00	60.99		

NOTE: The maximum amount for which a money order payable in Canada may be drawn is $98.46 United States money.

TABLE No. 2

(Rate, 1=$2.41)

FROM 1 POUND TO 41 POUNDS

Pounds	Dollars	Pounds	Dollars	Pounds	Dollars	Pounds	Dollars	Pounds	Dollars
1	$2.41	10	$24.10	18	$43.38	26	$62.66	34	$81.94
2	4.82	11	26.51	19	45.79	27	65.07	35	84.35
3	7.23	12	28.92	20	48.20	28	67.48	36	86.76
4	9.64	13	31.33	21	50.61	29	69.89	37	89.17
5	12.05	14	33.74	22	53.02	30	72.30	38	91.58
6	14.46	15	36.15	23	55.43	31	74.71	39	93.99
7	16.87	16	38.56	24	57.84	32	77.12	40	96.40
8	19.28	17	40.97	25	60.25	33	79.53	41	98.81
9	21.69								

TABLE No. 2—Continued

FROM 1 PENNY TO 20 SHILLINGS

s.	d.	Dollars	s.	d.	Dollars	s.	d.	Dollars	s.	d.	Dollars	s.	d.	Dollars
	1	0.01	4	1	0.49	8	1	0.97	12	1	1.46	16	1	1.94
	2	.02	4	2	.50	8	2	.98	12	2	1.47	16	2	1.95
	3	.03	4	3	.51	8	3	.99	12	3	1.48	16	3	1.96
	4	.04	4	4	.52	8	4	1.00	12	4	1.49	16	4	1.97
	5	.05	4	5	.53	8	5	1.01	12	5	1.50	16	5	1.98
	6	.06	4	6	.54	8	6	1.02	12	6	1.51	16	6	1.99
	7	.07	4	7	.55	8	7	1.03	12	7	1.52	16	7	2.00
	8	.08	4	8	.56	8	8	1.04	12	8	1.53	16	8	2.01
	9	.09	4	9	.57	8	9	1.05	12	9	1.54	16	9	2.02
	10	.10	4	10	.58	8	10	1.06	12	10	1.55	16	10	2.03
	11	.11	4	11	.59	8	11	1.07	12	11	1.56	16	11	2.04
1	0	.12	5	0	.60	9	0	1.08	13	0	1.57	17	0	2.05
1	1	.13	5	1	.61	9	1	1.09	13	1	1.58	17	1	2.06
1	2	.14	5	2	.62	9	2	1.10	13	2	1.59	17	2	2.07
1	3	.15	5	3	.63	9	3	1.11	13	3	1.60	17	3	2.08
1	4	.16	5	4	.64	9	4	1.12	13	4	1.61	17	4	2.09
1	5	.17	5	5	.65	9	5	1.13	13	5	1.62	17	5	2.10
1	6	.18	5	6	.66	9	6	1.14	13	6	1.63	17	6	2.11
1	7	.19	5	7	.67	9	7	1.15	13	7	1.64	17	7	2.12
1	8	.20	5	8	.68	9	8	1.16	13	8	1.65	17	8	2.13
1	9	.21	5	9	.69	9	9	1.17	13	9	1.66	17	9	2.14
1	10	.22	5	10	.70	9	10	1.18	13	10	1.67	17	10	2.15
1	11	.23	5	11	.71	9	11	1.19	13	11	1.68	17	11	2.16
2	0	.24	6	0	.72	10	0	1.20	14	0	1.69	18	0	2.17
2	1	.25	6	1	.73	10	1	1.21	14	1	1.70	18	1	2.18
2	2	.26	6	2	.74	10	2	1.22	14	2	1.71	18	2	2.19
2	3	.27	6	3	.75	10	3	1.23	14	3	1.72	18	3	2.20
2	4	.28	6	4	.76	10	4	1.24	14	4	1.73	18	4	2.21
2	5	.29	6	5	.77	10	5	1.25	14	5	1.74	18	5	2.22
2	6	.30	6	6	.78	10	6	1.26	14	6	1.75	18	6	2.23
2	7	.31	6	7	.79	10	7	1.27	14	7	1.76	18	7	2.24
2	8	.32	6	8	.80	10	8	1.28	14	8	1.77	18	8	2.25
2	9	.33	6	9	.81	10	9	1.30	14	9	1.78	18	9	2.26
2	10	.34	6	10	.82	10	10	1.31	14	10	1.79	18	10	2.27
2	11	.35	6	11	.83	10	11	1.32	14	11	1.80	18	11	2.28
3	0	.36	7	0	.84	11	0	1.33	15	0	1.81	19	0	2.29
3	1	.37	7	1	.85	11	1	1.34	15	1	1.82	19	1	2.30
3	2	.38	7	2	.86	11	2	1.35	15	2	1.83	19	2	2.31
3	3	.39	7	3	.87	11	3	1.36	15	3	1.84	19	3	2.32
3	4	.40	7	4	.88	11	4	1.37	15	4	1.85	19	4	2.33
3	5	.41	7	5	.89	11	5	1.38	15	5	1.86	19	5	2.34
3	6	.42	7	6	.90	11	6	1.39	15	6	1.87	19	6	2.35
3	7	.43	7	7	.91	11	7	1.40	15	7	1.88	19	7	2.36
3	8	.44	7	8	.92	11	8	1.41	15	8	1.89	19	8	2.37
3	9	.45	7	9	.93	11	9	1.42	15	9	1.90	19	9	2.38
3	10	.46	7	10	.94	11	10	1.43	15	10	1.91	19	10	2.39
3	11	.47	7	11	.95	11	11	1.44	15	11	1.92	19	11	2.40
4	0	.48	8	0	.96	12	0	1.45	16	0	1.93	20	0	2.41

TABLE No. 3

(Rate: 1 franc (or other unit of foreign currency)=2-2/100 cents)

FROM 1 CENT TO 100 DOLLARS

Cents	Francs	Cents	Francs	Cents	Francs	Dollars	Francs	Dollars	Francs
1	0.50	41	20.30	81	40.10	22.00	1,089.11	62.00	3,069.31
2	.99	42	20.79	82	40.59	23.00	1,138.61	63.00	3,118.81
3	1.49	43	21.29	83	41.09	24.00	1,188.12	64.00	3,168.32
4	1.98	44	21.78	84	41.58	25.00	1,237.62	65.00	3,217.82
5	2.48	45	22.28	85	42.08	26.00	1,287.13	66.00	3,267.33
6	2.97	46	22.77	86	42.57	27.00	1,336.63	67.00	3,316.83
7	3.47	47	23.27	87	43.07	28.00	1,386.14	68.00	3,366.34
8	3.96	48	23.76	88	43.56	29.00	1,435.64	69.00	3,415.84
9	4.46	49	24.26	89	44.06	30.00	1,485.15	70.00	3,465.35
10	4.95	50	24.75	90	44.55	31.00	1,534.65	71.00	3,514.85
11	5.45	51	25.25	91	45.05	32.00	1,584.16	72.00	3,564.36
12	5.94	52	25.74	92	45.54	33.00	1,633.66	73.00	3,613.86
13	6.44	53	26.24	93	46.04	34.00	1,683.17	74.00	3,663.37
14	6.93	54	26.73	94	46.53	35.00	1,732.67	75.00	3,712.87
15	7.43	55	27.23	95	47.03	36.00	1,782.18	76.00	3,762.38
16	7.92	56	27.72	96	47.52	37.00	1,831.68	77.00	3,811.88
17	8.42	57	28.22	97	48.02	38.00	1,881.19	78.00	3,861.39
18	8.91	58	28.71	98	48.51	39.00	1,930.69	79.00	3,910.89
19	9.41	59	29.21	99	49.01	40.00	1,980.20	80.00	3,960.40
20	9.90	60	29.70	$1.00	49.50	41.00	2,029.70	81.00	4,009.90
21	10.40	61	30.20	2.00	99.01	42.00	2,079.21	82.00	4,059.41
22	10.89	62	30.69	3.00	148.51	43.00	2,128.71	83.00	4,108.91
23	11.39	63	31.19	4.00	198.02	44.00	2,178.22	84.00	4,158.42
24	11.88	64	31.68	5.00	247.52	45.00	2,227.72	85.00	4,207.92
25	12.38	65	32.18	6.00	297.03	46.00	2,277.23	86.00	4,257.43
26	12.87	66	32.67	7.00	346.53	47.00	2,326.73	87.00	4,306.93
27	13.37	67	33.17	8.00	396.04	48.00	2,376.24	88.00	4,356.44
28	13.86	68	33.66	9.00	445.54	49.00	2,425.74	89.00	4,405.94
29	14.36	69	34.16	10.00	495.05	50.00	2,475.25	90.00	4,455.45
30	14.85	70	34.65	11.00	544.55	51.00	2,524.75	91.00	4,504.95
31	15.35	71	35.15	12.00	594.06	52.00	2,574.26	92.00	4,554.46
32	15.84	72	35.64	13.00	643.56	53.00	2,623.76	93.00	4,603.96
33	16.34	73	36.14	14.00	693.07	54.00	2,673.27	94.00	4,653.47
34	16.83	74	36.63	15.00	742.57	55.00	2,722.77	95.00	4,702.97
35	17.33	75	37.13	16.00	792.08	56.00	2,772.28	96.00	4,752.48
36	17.82	76	37.62	17.00	841.58	57.00	2,821.78	97.00	4,801.98
37	18.32	77	38.12	18.00	891.09	58.00	2,871.29	98.00	4,851.49
38	18.81	78	38.61	19.00	940.59	59.00	2,920.79	99.00	4,900.99
39	19.31	79	39.11	20.00	990.10	60.00	2,970.30	100.00	4,950.50
40	19.80	80	39.60	21.00	1,039.60	61.00	3,019.80		

TABLE No. 4

(Rate: 1 krona (or other unit of foreign currency)=14 cents)

FROM 1 CENT TO 100 DOLLARS

Cents	Kronor	Cents	Kronor	Cents	Kronor	Dollars	Kronor	Dollars	Kronor
1	0.07	41	2.93	81	5.79	22.00	157.14	62.00	442.86
2	.14	42	3.00	82	5.86	23.00	164.29	63.00	450.00
3	.21	43	3.07	83	5.93	24.00	171.43	64.00	457.14
4	.29	44	3.14	84	6.00	25.00	178.57	65.00	464.29
5	.36	45	3.21	85	6.07	26.00	185.71	66.00	471.43
6	.43	46	3.29	86	6.14	27.00	192.86	67.00	478.57
7	.50	47	3.36	87	6.21	28.00	200.00	68.00	485.71
8	.57	48	3.43	88	6.29	29.00	207.14	69.00	492.86
9	.64	49	3.50	89	6.36	30.00	214.29	70.00	500.00
10	.71	50	3.57	90	6.43	31.00	221.43	71.00	507.14
11	.79	51	3.64	91	6.50	32.00	228.57	72.00	514.29
12	.86	52	3.71	92	6.57	33.00	235.71	73.00	521.43
13	.93	53	3.79	93	6.64	34.00	242.86	74.00	528.57
14	1.00	54	3.86	94	6.71	35.00	250.00	75.00	535.71
15	1.07	55	3.93	95	6.79	36.00	257.14	76.00	542.86
16	1.14	56	4.00	96	6.86	37.00	264.29	77.00	550.00
17	1.21	57	4.07	97	6.93	38.00	271.43	78.00	557.14
18	1.29	58	4.14	98	7.00	39.00	278.57	79.00	564.29
19	1.36	59	4.21	99	7.07	40.00	285.71	80.00	571.43
20	1.43	60	4.29	$1.00	7.14	41.00	292.86	81.00	578.57
21	1.50	61	4.36	2.00	14.29	42.00	300.00	82.00	585.71
22	1.57	62	4.43	3.00	21.43	43.00	307.14	83.00	592.86
23	1.64	63	4.50	4.00	28.57	44.00	314.29	84.00	600.00
24	1.71	64	4.57	5.00	35.71	45.00	321.43	85.00	607.14
25	1.79	65	4.64	6.00	42.86	46.00	328.57	86.00	614.29
26	1.86	66	4.71	7.00	50.00	47.00	335.71	87.00	621.43
27	1.93	67	4.79	8.00	57.14	48.00	342.86	88.00	628.57
28	2.00	68	4.86	9.00	64.29	49.00	350.00	89.00	635.71
29	2.07	69	4.93	10.00	71.43	50.00	357.14	90.00	642.86
30	2.14	70	5.00	11.00	78.57	51.00	364.29	91.00	650.00
31	2.21	71	5.07	12.00	85.71	52.00	371.43	92.00	657.14
32	2.29	72	5.14	13.00	92.86	53.00	378.57	93.00	664.29
33	2.36	73	5.21	14.00	100.00	54.00	385.71	94.00	671.43
34	2.43	74	5.29	15.00	107.14	55.00	392.86	95.00	678.57
35	2.50	75	5.36	16.00	114.29	56.00	400.00	96.00	685.71
36	2.57	76	5.43	17.00	121.43	57.00	407.14	97.00	692.86
37	2.64	77	5.50	18.00	128.57	58.00	414.29	98.00	700.00
38	2.71	78	5.57	19.00	135.71	59.00	421.43	99.00	707.14
39	2.79	79	5.64	20.00	142.86	60.00	428.57	100.00	714.29
40	2.86	80	5.71	21.00	150.00	61.00	435.71		

TABLE No. 5

(Rate: 1 krona (or other unit of foreign currency) = 14½ cents)

FROM 1 CENT TO 100 DOLLARS

Cents	Kroner	Cents	Kroner	Cents	Kroner	Dollars	Kroner	Dollars	Kroner
1	0.07	41	2.93	81	5.80	$22.00	151.72	$62.00	427.59
2	.14	42	2.90	82	5.66	23.00	158.62	63.00	434.48
3	.21	43	2.97	83	5.73	24.00	165.52	64.00	441.38
4	.28	44	3.03	84	5.79	25.00	172.41	65.00	448.28
5	.34	45	3.10	85	5.86	26.00	179.31	66.00	455.17
6	.41	46	3.17	86	5.93	27.00	186.21	67.00	462.07
7	.48	47	3.24	87	6.00	28.00	193.10	68.00	468.97
8	.55	48	3.31	88	6.07	29.00	200.00	69.00	475.86
9	.62	49	3.38	89	6.14	30.00	206.90	70.00	482.76
10	.69	50	3.45	90	6.21	31.00	213.79	71.00	489.66
11	.76	51	3.52	91	6.28	32.00	220.69	72.00	496.55
12	.83	52	3.59	92	6.34	33.00	227.59	73.00	503.45
13	.90	53	3.66	93	6.41	34.00	234.48	74.00	510.34
14	.97	54	3.72	94	6.48	35.00	241.38	75.00	517.24
15	1.08	55	3.79	95	6.55	36.00	248.28	76.00	524.14
16	1.10	56	3.86	96	6.62	37.00	255.17	77.00	531.03
17	1.17	57	3.93	97	6.69	38.00	262.07	78.00	537.93
18	1.24	58	4.00	98	6.76	39.00	268.97	79.00	544.83
19	1.31	59	4.07	99	6.83	40.00	275.86	80.00	551.72
20	1.38	60	4.14	$1.00	6.90	41.00	282.76	81.00	558.62
21	1.45	61	4.21	2.00	13.79	42.00	289.65	82.00	565.52
22	1.52	62	4.28	3.00	20.69	43.00	296.55	83.00	572.41
23	1.59	63	4.34	4.00	27.59	44.00	303.45	84.00	579.31
24	1.66	64	4.41	5.00	34.48	45.00	310.34	85.00	586.21
25	1.73	65	4.48	6.00	41.38	46.00	317.24	86.00	593.10
26	1.79	66	4.55	7.00	48.28	47.00	324.14	87.00	600.00
27	1.86	67	4.62	8.00	55.17	48.00	331.03	88.00	606.90
28	1.93	68	4.69	9.00	62.07	49.00	337.93	89.00	613.79
29	2.00	69	4.76	10.00	68.97	50.00	344.83	90.00	620.69
30	2.07	70	4.83	11.00	75.86	51.00	351.72	91.00	627.59
31	2.14	71	4.90	12.00	82.76	52.00	358.62	92.00	634.48
32	2.21	72	4.97	13.00	89.66	53.00	365.52	93.00	641.38
33	2.28	73	5.03	14.00	96.55	54.00	372.41	94.00	648.28
34	2.34	74	5.10	15.00	103.45	55.00	379.31	95.00	655.17
35	2.41	75	5.17	16.00	110.34	56.00	386.21	96.00	662.07
36	2.48	76	5.24	17.00	117.24	57.00	393.10	97.00	668.97
37	2.55	77	5.31	18.00	124.14	58.00	400.00	98.00	675.86
38	2.62	78	5.38	19.00	131.03	59.00	406.90	99.00	682.76
39	2.69	79	5.45	20.00	137.93	60.00	413.79	100.00	689.66
40	2.76	80	5.52	21.00	144.83	61.00	420.69		

TABLE No. 6

(Rate: 1 krona (or other unit of foreign currency) = 19½ cents)

FROM 1 CENT TO 100 DOLLARS

Cents	Kroner	Cents	Kroner	Cents	Kroner	Dollars	Kroner	Dollars	Kroner
1	0.05	41	2.10	81	4.15	$22.00	112.82	$62.00	317.94
2	.10	42	2.15	82	4.20	23.00	117.94	63.00	323.06
3	.15	43	2.21	83	4.26	24.00	123.07	64.00	328.19
4	.21	44	2.26	84	4.31	25.00	128.20	65.00	333.32
5	.26	45	2.31	85	4.36	26.00	133.33	66.00	338.45
6	.31	46	2.36	86	4.41	27.00	138.46	67.00	343.58
7	.36	47	2.41	87	4.46	28.00	143.58	68.00	348.70
8	.41	48	2.46	88	4.51	29.00	148.71	69.00	353.83
9	.46	49	2.51	89	4.56	30.00	153.84	70.00	358.96
10	.51	50	2.56	90	4.62	31.00	158.97	71.00	364.09
11	.56	51	2.62	91	4.67	32.00	164.10	72.00	369.22
12	.62	52	2.67	92	4.72	33.00	169.22	73.00	374.34
13	.67	53	2.72	93	4.77	34.00	174.35	74.00	379.47
14	.72	54	2.77	94	4.82	35.00	179.48	75.00	384.60
15	.77	55	2.82	95	4.87	36.00	184.61	76.00	389.73
16	.82	56	2.87	96	4.92	37.00	189.74	77.00	394.86
17	.87	57	2.92	97	4.97	38.00	194.86	78.00	399.98
18	.92	58	2.97	98	5.03	39.00	200.00	79.00	405.11
19	.97	59	3.03	99	5.08	40.00	205.13	80.00	410.24
20	1.03	60	3.08	$1.00	5.13	41.00	210.25	81.00	415.37
21	1.08	61	3.13	2.00	10.26	42.00	215.38	82.00	420.50
22	1.13	62	3.18	3.00	15.38	43.00	220.50	83.00	425.62
23	1.18	63	3.23	4.00	20.51	44.00	225.63	84.00	430.75
24	1.23	64	3.28	5.00	25.64	45.00	230.76	85.00	435.88
25	1.28	65	3.33	6.00	30.77	46.00	235.89	86.00	441.01
26	1.33	66	3.38	7.00	35.90	47.00	241.02	87.00	446.14
27	1.38	67	3.44	8.00	41.02	48.00	246.14	88.00	451.26
28	1.44	68	3.49	9.00	46.15	49.00	251.27	89.00	456.39
29	1.49	69	3.54	10.00	51.28	50.00	256.40	90.00	461.52
30	1.54	70	3.59	11.00	56.41	51.00	261.53	91.00	466.65
31	1.59	71	3.64	12.00	61.54	52.00	266.66	92.00	471.78
32	1.64	72	3.69	13.00	66.65	53.00	271.78	93.00	476.90
33	1.69	73	3.74	14.00	71.79	54.00	276.91	94.00	482.03
34	1.74	74	3.79	15.00	76.92	55.00	282.04	95.00	487.16
35	1.79	75	3.85	16.00	82.05	56.00	287.17	96.00	492.29
36	1.85	76	3.90	17.00	87.18	57.00	292.30	97.00	497.42
37	1.90	77	3.95	18.00	92.30	58.00	297.42	98.00	502.54
38	1.95	78	4.00	19.00	97.43	59.00	302.55	99.00	507.67
39	2.00	79	4.06	20.00	102.56	60.00	307.68	100.00	512.80
40	2.05	80	4.10	21.00	107.69	61.00	312.81		

TABLE No. 7

(Rate: 1 franc (or other unit of foreign currency) = 20½ cents)

FROM 1 CENT TO 100 DOLLARS

Cents	Francs	Cents	Francs	Cents	Francs	Dollars	Francs	Dollars	Francs
1	0.05	41	2.00	81	3.95	22.00	107.32	62.00	302.44
2	.10	42	2.05	82	4.00	23.00	112.20	63.00	307.32
3	.15	43	2.10	83	4.05	24.00	117.07	64.00	312.20
4	.20	44	2.15	84	4.10	25.00	121.95	65.00	317.07
5	.24	45	2.20	85	4.15	26.00	126.83	66.00	321.95
6	.29	46	2.24	86	4.20	27.00	131.71	67.00	326.83
7	.34	47	2.29	87	4.24	28.00	136.59	68.00	331.71
8	.39	48	2.34	88	4.29	29.00	141.46	69.00	336.59
9	.44	49	2.39	89	4.34	30.00	146.34	70.00	341.46
10	.49	50	2.44	90	4.39	31.00	151.22	71.00	346.34
11	.54	51	2.49	91	4.44	32.00	156.10	72.00	351.22
12	.59	52	2.54	92	4.49	33.00	160.98	73.00	356.10
13	.63	53	2.59	93	4.54	34.00	165.85	74.00	360.98
14	.68	54	2.63	94	4.59	35.00	170.73	75.00	365.85
15	.73	55	2.68	95	4.63	36.00	175.61	76.00	370.73
16	.78	56	2.73	96	4.68	37.00	180.49	77.00	375.61
17	.83	57	2.78	97	4.73	38.00	185.37	78.00	380.49
18	.88	58	2.83	98	4.78	39.00	190.24	79.00	385.37
19	.93	59	2.88	99	4.83	40.00	195.12	80.00	390.24
20	.98	60	2.93	$1.00	4.88	41.00	200.00	81.00	395.12
21	1.02	61	2.98	2.00	9.76	42.00	204.88	82.00	400.00
22	1.07	62	3.02	3.00	14.63	43.00	209.76	83.00	404.88
23	1.12	63	3.07	4.00	19.51	44.00	214.63	84.00	409.76
24	1.17	64	3.12	5.00	24.39	45.00	219.51	85.00	414.63
25	1.22	65	3.17	6.00	29.27	46.00	224.39	86.00	419.51
26	1.27	66	3.22	7.00	34.15	47.00	229.27	87.00	424.39
27	1.32	67	3.27	8.00	39.02	48.00	234.15	88.00	429.27
28	1.37	68	3.32	9.00	43.90	49.00	239.02	89.00	434.15
29	1.41	69	3.37	10.00	48.78	50.00	243.90	90.00	439.02
30	1.46	70	3.41	11.00	53.66	51.00	248.78	91.00	443.90
31	1.51	71	3.46	12.00	58.54	52.00	253.66	92.00	448.78
32	1.56	72	3.51	13.00	63.41	53.00	258.54	93.00	453.66
33	1.61	73	3.56	14.00	68.29	54.00	263.41	94.00	458.54
34	1.66	74	3.61	15.00	73.17	55.00	268.29	95.00	463.41
35	1.71	75	3.66	16.00	78.05	56.00	273.17	96.00	468.29
36	1.76	76	3.71	17.00	82.93	57.00	278.05	97.00	473.17
37	1.80	77	3.76	18.00	87.80	58.00	282.93	98.00	478.05
38	1.85	78	3.80	19.00	92.68	59.00	287.80	99.00	482.93
39	1.90	79	3.85	20.00	97.56	60.00	292.68	100.00	487.80
40	1.95	80	3.90	21.00	102.44	61.00	297.56		

TABLE No. 8

(Rate: 1 franc (or other unit of foreign currency) = 23½ cents)

FROM 1 CENT TO 100 DOLLARS

Cents	Francs	Cents	Francs	Cents	Francs	Dollars	Francs	Dollars	Francs
1	0.04	41	1.77	81	3.48	22.00	94.62	62.00	266.66
2	.09	42	1.81	82	3.53	23.00	98.92	63.00	270.96
3	.13	43	1.85	83	3.57	24.00	103.23	64.00	275.26
4	.17	44	1.89	84	3.61	25.00	107.53	65.00	279.57
5	.22	45	1.94	85	3.66	26.00	111.83	66.00	283.87
6	.26	46	1.98	86	3.70	27.00	116.13	67.00	288.17
7	.30	47	2.02	87	3.74	28.00	120.43	68.00	292.47
8	.34	48	2.06	88	3.78	29.00	124.73	69.00	296.77
9	.39	49	2.11	89	3.83	30.00	129.03	70.00	301.07
10	.43	50	2.15	90	3.87	31.00	133.33	71.00	305.37
11	.47	51	2.19	91	3.91	32.00	137.63	72.00	309.67
12	.52	52	2.24	92	3.96	33.00	141.93	73.00	313.97
13	.56	53	2.28	93	4.00	34.00	146.23	74.00	318.27
14	.60	54	2.32	94	4.04	35.00	150.54	75.00	322.58
15	.65	55	2.37	95	4.09	36.00	154.84	76.00	326.88
16	.69	56	2.41	96	4.13	37.00	159.14	77.00	331.18
17	.73	57	2.45	97	4.17	38.00	163.44	78.00	335.48
18	.77	58	2.49	98	4.21	39.00	167.74	79.00	339.78
19	.82	59	2.54	99	4.26	40.00	172.04	80.00	344.08
20	.86	60	2.58	$1.00	4.30	41.00	176.34	81.00	348.38
21	.90	61	2.62	2.00	8.60	42.00	180.64	82.00	352.68
22	.95	62	2.67	3.00	12.90	43.00	184.94	83.00	356.98
23	.99	63	2.71	4.00	17.20	44.00	189.24	84.00	361.28
24	1.03	64	2.75	5.00	21.51	45.00	193.55	85.00	365.59
25	1.08	65	2.80	6.00	25.81	46.00	197.85	86.00	369.89
26	1.12	66	2.84	7.00	30.11	47.00	202.15	87.00	374.19
27	1.16	67	2.88	8.00	34.41	48.00	206.45	88.00	378.49
28	1.20	68	2.92	9.00	38.71	49.00	210.75	89.00	382.79
29	1.25	69	2.97	10.00	43.01	50.00	215.05	90.00	387.09
30	1.29	70	3.01	11.00	47.31	51.00	219.35	91.00	391.39
31	1.33	71	3.05	12.00	51.61	52.00	223.65	92.00	395.69
32	1.38	72	3.10	13.00	55.91	53.00	227.95	93.00	399.99
33	1.42	73	3.14	14.00	60.21	54.00	232.25	94.00	404.29
34	1.46	74	3.18	15.00	64.52	55.00	236.56	95.00	408.60
35	1.51	75	3.23	16.00	68.82	56.00	240.86	96.00	412.90
36	1.55	76	3.27	17.00	73.12	57.00	245.16	97.00	417.20
37	1.59	77	3.31	18.00	77.42	58.00	249.46	98.00	421.50
38	1.63	78	3.35	19.00	81.72	59.00	253.76	99.00	425.80
39	1.68	79	3.40	20.00	86.02	60.00	258.06	100.00	430.10
40	1.72	80	3.44	21.00	90.32	61.00	262.36		

TABLE No. 9

(Rate: 1 florin (or other unit of foreign currency) = 26 cents)

FROM 1 CENT TO 100 DOLLARS

Cents	Florins	Cents	Florins	Cents	Florins	Dollars	Florins	Dollars	Florins
1	0.04	41	1.46	81	2.89	22.00	78.57	62.00	221.43
2	.07	42	1.50	82	2.93	23.00	82.14	63.00	225.00
3	.11	43	1.54	83	2.96	24.00	85.71	64.00	228.57
4	.14	44	1.57	84	3.00	25.00	89.29	65.00	232.14
5	.18	45	1.61	85	3.04	26.00	92.86	66.00	235.71
6	.21	46	1.64	86	3.07	27.00	96.43	67.00	239.29
7	.25	47	1.68	87	3.11	28.00	100.00	68.00	242.86
8	.29	48	1.71	88	3.14	29.00	103.57	69.00	246.43
9	.32	49	1.75	89	3.18	30.00	107.14	70.00	250.00
10	.36	50	1.79	90	3.21	31.00	110.71	71.00	253.57
11	.39	51	1.82	91	3.25	32.00	114.29	72.00	257.14
12	.43	52	1.86	92	3.29	33.00	117.86	73.00	260.71
13	.46	53	1.89	93	3.32	34.00	121.43	74.00	264.29
14	.50	54	1.93	94	3.36	35.00	125.00	75.00	267.86
15	.54	55	1.96	95	3.39	36.00	128.57	76.00	271.43
16	.57	56	2.00	96	3.43	37.00	132.14	77.00	275.00
17	.61	57	2.04	97	3.46	38.00	135.71	78.00	278.57
18	.64	58	2.07	98	3.50	39.00	139.29	79.00	282.14
19	.68	59	2.11	99	3.54	40.00	142.86	80.00	285.71
20	.71	60	2.14	$1.00	3.57	41.00	146.43	81.00	289.29
21	.75	61	2.18	2.00	7.14	42.00	150.00	82.00	292.86
22	.79	62	2.21	3.00	10.71	43.00	153.57	83.00	296.43
23	.82	63	2.25	4.00	14.29	44.00	157.14	84.00	300.00
24	.86	64	2.29	5.00	17.86	45.00	160.71	85.00	303.57
25	.89	65	2.32	6.00	21.43	46.00	164.29	86.00	307.14
26	.93	66	2.36	7.00	25.00	47.00	167.86	87.00	310.71
27	.96	67	2.39	8.00	28.57	48.00	171.43	88.00	314.29
28	1.00	68	2.43	9.00	32.14	49.00	175.00	89.00	317.86
29	1.04	69	2.46	10.00	35.71	50.00	178.57	90.00	321.43
30	1.07	70	2.50	11.00	39.29	51.00	182.14	91.00	325.00
31	1.11	71	2.54	12.00	42.86	52.00	185.71	92.00	328.57
32	1.14	72	2.57	13.00	46.43	53.00	189.29	93.00	332.14
33	1.18	73	2.61	14.00	50.00	54.00	192.86	94.00	335.71
34	1.21	74	2.64	15.00	53.57	55.00	196.43	95.00	339.29
35	1.25	75	2.68	16.00	57.14	56.00	200.00	96.00	342.86
36	1.29	76	2.71	17.00	60.71	57.00	203.57	97.00	346.43
37	1.32	77	2.75	18.00	64.29	58.00	207.14	98.00	350.00
38	1.36	78	2.79	19.00	67.86	59.00	210.71	99.00	353.57
39	1.39	79	2.82	20.00	71.43	60.00	214.29	100.00	357.14
40	1.43	80	2.86	21.00	75.00	61.00	217.86		

TABLE No. 10

(Rate: 1 florin (or other unit of foreign currency) = 54 cents)

FROM 1 CENT TO 100 DOLLARS

Cents	Florins	Cents	Florins	Cents	Florins	Dollars	Florins	Dollars	Florins
1	0.02	41	0.76	81	1.50	22.00	40.74	62.00	114.81
2	.04	42	.78	82	1.52	23.00	42.59	63.00	116.67
3	.06	43	.80	83	1.54	24.00	44.44	64.00	118.52
4	.07	44	.81	84	1.56	25.00	46.30	65.00	120.37
5	.09	45	.83	85	1.57	26.00	48.15	66.00	122.22
6	.11	46	.85	86	1.59	27.00	50.00	67.00	124.07
7	.13	47	.87	87	1.61	28.00	51.85	68.00	125.93
8	.15	48	.89	88	1.63	29.00	53.70	69.00	127.78
9	.17	49	.91	89	1.65	30.00	55.56	70.00	129.63
10	.19	50	.93	90	1.67	31.00	57.41	71.00	131.48
11	.20	51	.94	91	1.69	32.00	59.26	72.00	133.33
12	.22	52	.96	92	1.70	33.00	61.11	73.00	135.19
13	.24	53	.98	93	1.72	34.00	62.96	74.00	137.04
14	.26	54	1.00	94	1.74	35.00	64.81	75.00	138.89
15	.28	55	1.02	95	1.76	36.00	66.67	76.00	140.74
16	.30	56	1.04	96	1.78	37.00	68.52	77.00	142.59
17	.31	57	1.06	97	1.80	38.00	70.37	78.00	144.44
18	.33	58	1.07	98	1.81	39.00	72.22	79.00	146.30
19	.35	59	1.09	99	1.83	40.00	74.07	80.00	148.15
20	.37	60	1.11	$1.00	1.85	41.00	75.93	81.00	150.00
21	.39	61	1.13	2.00	3.70	42.00	77.78	82.00	151.85
22	.41	62	1.15	3.00	5.56	43.00	79.63	83.00	153.70
23	.43	63	1.17	4.00	7.41	44.00	81.48	84.00	155.56
24	.44	64	1.19	5.00	9.26	45.00	83.33	85.00	157.41
25	.46	65	1.20	6.00	11.11	46.00	85.19	86.00	159.26
26	.48	66	1.22	7.00	12.96	47.00	87.04	87.00	161.11
27	.50	67	1.24	8.00	14.81	48.00	88.89	88.00	162.96
28	.52	68	1.26	9.00	16.67	49.00	90.74	89.00	164.81
29	.54	69	1.28	10.00	18.52	50.00	92.59	90.00	166.67
30	.56	70	1.30	11.00	20.37	51.00	94.44	91.00	168.52
31	.57	71	1.31	12.00	22.22	52.00	96.30	92.00	170.37
32	.59	72	1.33	13.00	24.07	53.00	98.15	93.00	172.22
33	.61	73	1.35	14.00	25.93	54.00	100.00	94.00	174.07
34	.63	74	1.37	15.00	27.78	55.00	101.85	95.00	175.93
35	.65	75	1.39	16.00	29.63	56.00	103.70	96.00	177.78
36	.67	76	1.41	17.00	31.48	57.00	105.56	97.00	179.63
37	.69	77	1.43	18.00	33.33	58.00	107.41	98.00	181.48
38	.70	78	1.44	19.00	35.19	59.00	109.26	99.00	183.33
39	.72	79	1.46	20.00	37.04	60.00	111.11	100.00	185.19
40	.74	80	1.48	21.00	38.89	61.00	112.96		

TABLE No. 11

(Rate: 1 rand (or other unit of foreign money) = $1.41)

FROM 1 CENT TO 100 DOLLARS

South African money	United States money	South African money	United States money	South African money	United States money	South African money	United States money	South African money	United States money
Cents	*Cents*	*Cents*	*Cents*	*Cents*	*Dollars and cents*	*Rand*	*Dollars and cents*	*Rand*	*Dollars and cents*
1	1	35	49	69	97	1	1.41	37	52.17
2	3	36	51	70	99	2	2.82	38	53.55
3	4	37	52	71	1.00	3	4.23	39	54.99
4	6	38	54	72	1.02	4	5.64	40	56.40
5	7	39	55	73	1.03	5	7.05	41	57.81
6	8	40	56	74	1.04	6	8.46	42	59.22
7	10	41	58	75	1.06	7	9.87	43	60.63
8	11	42	59	76	1.07	8	11.28	44	62.04
9	13	43	61	77	1.09	9	12.69	45	63.45
10	14	44	62	78	1.10	10	14.10	46	64.86
11	16	45	63	79	1.11	11	15.51	47	66.27
12	17	46	65	80	1.13	12	16.92	48	67.68
13	18	47	66	81	1.14	13	18.33	49	69.09
14	20	48	68	82	1.16	14	19.74	50	70.50
15	21	49	69	83	1.17	15	21.15	51	71.91
16	23	50	71	84	1.18	16	22.56	52	73.32
17	24	51	72	85	1.20	17	23.97	53	74.73
18	25	52	73	86	1.21	18	25.38	54	76.14
19	27	53	75	87	1.23	19	26.79	55	77.55
20	28	54	76	88	1.24	20	28.20	56	78.96
21	30	55	78	89	1.26	21	29.61	57	80.37
22	31	56	79	90	1.27	22	31.03	58	81.78
23	32	57	80	91	1.28	23	32.43	59	83.19
24	34	58	82	92	1.30	24	33.84	60	84.60
25	35	59	83	93	1.31	25	35.25	61	86.01
26	37	60	85	94	1.33	26	36.66	62	87.42
27	38	61	86	95	1.34	27	38.07	63	88.83
28	39	62	87	96	1.35	28	39.48	64	90.24
29	41	63	89	97	1.37	29	40.89	65	91.65
30	42	64	90	98	1.38	30	42.30	66	93.06
31	44	65	92	99	1.40	31	43.71	67	94.47
32	45	66	93	100	1.41	32	45.12	68	95.88
33	47	67	94	----------	----------	33	46.53	69	97.29
34	48	68	96	----------	----------	34	47.94	70	98.70
						35	49.35		
						36	50.76		

TABLE No. 12

(Rate: 1 New Zealand dollar = $1.12 U.S. money)

FROM 1 CENT TO 100 DOLLARS

New Zealand cents	United States cents	New Zealand cents	United States cents	New Zealand cents	United States cents	New Zealand dollars	United States dollars	New Zealand dollars	United States dollars
1	1	39	44	77	87	16.00	18.08	$4.00	$1.02
2	2	40	45	78	88	17.00	19.21	5.00	2.15
3	3	41	46	79	89	18.00	20.34	6.00	3.28
4	5	42	47	80	90	19.00	21.47	7.00	4.41
5	6	43	49	81	91	20.00	22.60	8.00	5.54
6	7	44	50	82	93	21.00	23.73	9.00	6.67
7	8	45	51	83	94	22.00	24.86	10.00	7.80
8	9	46	52	84	95	23.00	25.99	11.00	8.93
9	10	47	53	85	96	24.00	27.13	12.00	10.06
10	11	48	54	86	97	25.00	28.25	13.00	11.19
11	12	49	55	87	98	26.00	29.38	14.00	12.32
12	13	50	56	88	99	27.00	30.51	15.00	13.45
13	15	51	58	89	$1.00	28.00	31.64	16.00	14.58
14	16	52	59	90	1.02	29.00	32.77	17.00	15.71
15	17	53	60	91	1.03	30.00	33.90	18.00	16.84
16	18	54	61	92	1.04	31.00	35.03	19.00	17.97
17	19	55	62	93	1.05	32.00	36.16	20.00	19.10
18	20	56	63	94	1.06	33.00	37.29	21.00	20.23
19	21	57	64	95	1.07	34.00	38.42	22.00	21.36
20	23	58	65	96	1.08	35.00	39.55	23.00	22.49
21	24	59	67	97	1.10	36.00	40.68	24.00	23.62
22	25	60	68	98	1.11	37.00	41.81	25.00	24.75
23	26	61	69	99	1.12	38.00	42.94	26.00	25.88
24	27	62	70	$1.00	1.13	39.00	44.07	27.00	27.01
25	28	63	71	2.00	2.26	40.00	45.20	28.00	28.14
26	29	64	72	3.00	3.39	41.00	46.33	29.00	29.27
27	30	65	73	4.00	4.52	42.00	47.46	30.00	30.40
28	32	66	74	5.00	5.65	43.00	48.59	31.00	31.53
29	33	67	76	6.00	6.78	44.00	49.72	32.00	32.66
30	34	68	77	7.00	7.91	45.00	50.85	33.00	33.79
31	35	69	78	8.00	9.04	46.00	51.98	34.00	34.92
32	36	70	79	9.00	10.17	47.00	53.11	35.00	36.05
33	37	71	80	10.00	11.30	48.00	54.24	36.00	37.18
34	38	72	81	11.00	12.43	49.00	55.37	37.00	38.31
35	39	73	82	12.00	13.56	50.00	56.50	38.00	39.44
36	41	74	84	13.00	14.69	51.00	57.63	39.00	40.57
37	42	75	85	14.00	15.82	52.00	58.76	----------	----------
38	43	76	86	15.00	16.95	53.00	59.89	----------	----------

§ 171.3 Cashing money orders.

(a) *Period of validity.* No money order shall be paid after 20 years from the last day of the month of original issue.

(b) *Where to cash.* (1) A card money order may be cashed at any post office or bank.

(2) Claim for an old-style paper money order should be made on Form 6401, Inquiry as to Payment of Money Order, accompanied by the order, if available, and sent to the Money Order Division.

(3) Rural carriers will cash money orders for rural patrons including patrons of nonpersonnel rural stations and branches. Money orders must be endorsed in his presence. No fee or compensation is required for this service.

(4) Money orders issued at military post offices are payable only at military post offices and U.S. military banking facilities, or at post offices or banks located in the United States, its possessions or Territories, and countries with which the United States transacts domestic-international money order business. If the purchaser or payee of a money order issued at a military post office transfers ownership by endorsement to another, the endorsee must cash the money order at either a military post office, a U.S. military banking facility, or a post office located in the United States, its possessions, or Territories.

(c) *Signature requirements*—(1) *Acceptance of signature.* The paying post office may accept any signature of the payee, purchaser, or endorsee that is not different from the name given on the order.

(2) *Signature by mark.* Patrons who cannot write must use a mark. Marks (usually X) must be witnessed by someone who is not a post office employee.

(3) *Signature by firms, organizations, and their representatives.* All money orders payable to a business firm, an organization, society, institution, or government agency must be signed in the name of the organization by a representative authorized to do so. It may be necessary for such authority to be presented and filed. The representative must also sign with his own name and organizational title. If drawn in favor of an official by name and presented by a successor, the latter must sign as follows: "William Jones, treasurer, successor to George Thompson."

(4) *Use of titles.* Use of such titles as "Dr.," "Rev.," "Prof.," "Madam," "Mrs.," "M.D.," or "D.D.S.," not required in signing a money order for payment, whether or not such title is used on the face of the money order.

(5) *Stamped signatures.* A stamped signature is acceptable as an endorsement on a money order when drawn in favor of a firm, corporation, association, society, or individual, provided the money order is presented to a bank for payment. A post office will accept stamped signatures, provided an agreement is filed in advance regarding the responsibility for the correctness of such payments.

(6) *More than one payee.* Money orders completed by purchaser to show more than one firm or person as payee may be paid to any one of them.

(d) *Payment of orders to other than payee*—(1) *Transfer of money order*—(i) *By purchaser or payee.* The payee or purchaser of a money order may endorse it to any other person or firm.

(ii) *On power of attorney.* A person with power of attorney may cash money orders in behalf of the payee who gave him that authority. The power of attorney must be filed at the office of payment.

(iii) *On separate written order.* A payee may file a separate written order with the post office authorizing payment to another person. The person must be designated by name as the one to receive payment.

(2) *Upon assignment.* When a payee, such as an individual or firm, makes an assignment, and intends that money orders be paid to the assigned person, he must file a power of attorney or a written order in the post office. The person designated to receive payment must receipt the money order and indicate below his signature the capacity in which he acts.

(3) *On death of payee.* A money order belonging to a deceased owner may be paid to the executor or administrator of the estate appointed by the court. A certified copy of the appointment as executor or administrator must be filed with the local postmaster. Payments will be made in accordance with the laws of the State of which the deceased was a resident.

(4) *To a concern no longer in business.* Money orders will be paid to the legal representative of a firm, association, or company that has ceased to exist.

(5) *To a committee or a guardian.* Money orders will not be issued or paid to a ward when declared incompetent by a court. They will be paid only to the committee, guardian, or other duly authorized person.

(6) *To minors.* A money order payable to a minor may be paid to the father or mother as natural guardian unless prohibited by court order.

(e) *When orders will not be paid*—(1) *When there is a second endorsement.* A money order with more than one endorsement is invalid. For proper procedure to obtain a duplicate, see § 171.1(g)(1).

(2) *When there is a question on a COD parcel.* No payment will be made when a money order has been issued in return for a COD parcel, and is presented by the addressee (purchaser) and the money order has not been endorsed by the payee (shipper) or the payee has not expressly authorized payment to the purchaser by written approval.

(f) *Examination of the order.* The postal employee shall examine the order to see that:

(1) It is not a form reported stolen. If it is, he shall try to delay the person; immediately notify local police, nearest postal inspector, or postal inspector in charge; and hold order for instructions.

(2) It is properly stamped and drawn by the issuing office. Machine-issued orders are payable in the amount imprinted by the machine and for no more than the amount stamped between the words "not valid for more than" and the word "pay."

(3) It does not bear any alterations or erasures.

(4) It is presented by the payee, endorsee, or purchaser. (A duplicate money order is payable only if presented by the payee or by his endorsee.) Money orders may be accepted from responsible individuals or business firms bearing rubber-stamp endorsements, provided a specimen of the form of endorsement to be so used is filed with the postmaster over the signature of the individual, or an authorized officer of the company, accepting responsibility for the payment of orders so endorsed.

If in doubt as to the date or amount on a domestic order, an inquiry shall be sent to the issuing postmaster for verification, using POD Form 31, Office Memorandum.

(g) *Identification of payee.* If the payee presenting the money order is not personally known to the postal employee, he must prove his identity. Social security cards are not acceptable. Drivers permits, military identification cards, or other credentials showing signature of bearer and having serial numbers or other indicia which can be traced to the holder are helpful in identification. The owner must sign the money order in the presence of the postal employee. The postal employee shall compare signature with identification, if possible; shall enter on the back of the order the license or serial number and full description of the identification, including street address, city, and State; and shall also initial the back of the order. This will aid in apprehending persons attempting forgery or other wrong payment. If the postal employee has taken proper care under the circumstances, the Department will recommend that he be relieved of financial responsibility for wrong payment. This procedure must be followed carefully in the case of endorsed money orders, as they might bear a forged endorsement and be in the hands of the wrong person.

(h) *Disposition of paid orders.* The postal employee shall put the office dating stamp and his initials on the back of the money orders paid and handle them as postal funds. When a patron regularly presents a large number of money orders for payment, write to Bureau of Finance and Administration, Money Order Division, for special instructions on handling.

(i) *Cashing money orders issued by foreign countries.* Money orders issued in countries listed in § 171.2(a)(7), either with or without an advice, and money orders issued by the International Money Order Branch for the countries listed in §§ 171.2(a)(8) and (9), are valid for 1 year from the last day of the month of original issue. Except for the period of validity, payment shall be made in accordance with instructions covering domestic money orders.

§ 171.4 Inquiries.

(a) *Who may receive information.* Information about money order transactions may be given to purchaser, payee, or endorsee, or their agent, or to a representative of the Department. Compliance with requests from others must be authorized by Headquarters. (See § 113.1 (a) and (c) of this chapter.)

(b) *Inquiries regarding payment.* Postal employees shall handle as follows:

(1) *Orders issued on domestic form.* Send Form 6401 to the Money Order Division. Do not accept until 60 days after the issue date of the money order.

(2) *Orders issued on international form.* Send Form 6684, Inquiry Concerning International Money Order Issued in the United States, to International Money Order Branch, Post Office Department, General Accounting Office Building, Washington, D.C. 20260, for order issued in the United States. Do not accept until 30 days after the issue date of the money order. When reply is received from the International Money Order Branch, Post Office Department, General Accounting Office Building, Washington, D.C. 20260, enter the required information on Form 6860 Reply to Inquiry Concerning Payment of International Money Order, and forward it to the patron.

(3) *Orders issued by other countries.* Send directly to the country of origin all inquiries, applications for duplicates and requests for photostats of money orders issued in countries with which business is conducted on the domestic-international basis. See § 171.2(a)(7) for addresses.

NOTE: The corresponding Postal Manual sections are 171.2, 171.3, and 171.4 respectively.

(5 U.S.C. 301, 39 U.S.C. 501, 505)

TIMOTHY J. MAY,
General Counsel.

DECEMBER 18, 1967.

[F.R. Doc. 67-14846; Filed, Dec. 20, 1967; 8:52 a.m.]

PART 232—INCOMING PARCELS

PART 261—CUSTOMS

MISCELLANEOUS AMENDMENTS

The regulations of the Post Office Department are amended as follows:

I. Section 232.5 is revised to refer to the procedure to be followed when the addressee refuses a dutiable package and asks that protest be made to customs.

§ 232.5 Undeliverable.

(a) *U.S. origin.* Returned parcels are subject on delivery to the sender to collection of returned postage and any other charges assessed by the foreign postal authorities. The amount of such charges will be indicated by the exchange office. If the sender refuses the parcel, it shall be disposed of as dead parcel post. If the sender has moved to another address in the United States the parcel may be redirected, subject to forwarding postage at the U.S. domestic zone rate. If the sender has moved to another country, the post office will hold the parcel and request instructions from the Classification and Special Services Division, Bureau of Operations, Post Office Department, Washington, D.C. 20260, indicating the new address of the sender, the amount of return charges due on the parcel, weight, whether ordinary, registered, or insured, and the nature of the contents as shown on the customs declaration tag.

(b) *Foreign origin*—(1) *Retention period.* Parcels will be held at the disposal of the addressee for 30 days, except as follows:

(i) A parcel refused or known to be neither deliverable nor forwardable shall be treated as undeliverable at once. See § 261.5(d)(7) of this chapter concerning procedure when addressee conditionally refuses a parcel because of the duty assessed and asks to have the matter protested to the customs service. The parcel is held until the customs office renders a decision on the protest, but if no decision is received within 30 days, request the customs office to expedite the decision.

(ii) A parcel bearing the sender's request for delivery to an alternate addressee shall be held 15 days at the disposal of the first addressee and 15 days at the disposal of the second. If the alternate addressee is at another post office, the parcel is forwarded subject to § 232.4(a) of this chapter, and the 15-day period begins from the date of receipt at the second office of address. Under the circumstances given in subdivision (iv) of this subparagraph, the parcel may be held for 30 days at the disposal of each addressee.

(iii) A parcel returned from customs custody with advice that the addressee has not complied with required customs entry procedures shall be treated as undeliverable at once.

(iv) On written request of the addressee or other person acting for the addressee, a parcel which remains undelivered may be held up to 60 days on condition that the storage charges due at the end of the first 30-day retention period are paid at the time of the request and that the storage charges which accumulate thereafter are paid every 10 days.

(v) A parcel from Great Britain which bears request to "Return forthwith to sender at sender's expense" shall be returned within 10 days, or immediately if definitely known to be undeliverable.

(2) *Directory service.* See section 355.171 of the Postal Manual concerning directory service to be accorded parcels of foreign origin.

(3) *Marking and disposal.* At the end of the retention period prescribed in subparagraph (1) of this paragraph, mark parcel and the accompanying dispatch note, if any, to show reason for nondelivery (see section 355.111b of the Postal Manual), and cross out address of the addressee but do not obliterate it entirely. Unless sender has given instructions on the wrapper or dispatch note for abandonment, return the parcel to the sender. Parcels to be returned to senders are dispatched to the appropriate exchange office by surface means, including those originally received by air. The post office of address will cross out the Par Avion label or other airmail marking. A parcel bearing the sender's instruction to abandon shall be marked. Abandoned and sent to the appropriate dead parcel post branch for disposal, unless it has been assessed with customs duty. In the latter case, send the parcel to the nearest customs port (see § 261.3(c) of this chapter); detach the customs entry forms and treat as prescribed in § 261.5(f) of this chapter.

(4) *Storage charges.* If a parcel to be returned to origin or forwarded to another country has storage charges due, the wrapper shall be marked with the amount so that appropriate action may be taken at the exchange office.

(5) *Postage due parcels.* If an undeliverable parcel bears postage due stamps, follow the procedure prescribed in sections 335.35 and 335.36 of the Postal Manual.

NOTE: The corresponding Postal Manual section is 232.5.

II. Sections 261.4 and 261.5 are revised to clarify procedures relating to customs, and § 261.6 is deleted as instructions on discrepancies in remittances to customs are transferred to section 437.2 of the Postal Manual.

§ 261.4 Repacking

(a) *Responsibility of customs and postal employees.* Customs and postal employees shall carefully examine and repack contents of importations, particularly those that contain delicate instruments, glass, china, or other fragile items, liquids, and easily liquefiable substances. Shipments must be restored to their original or better condition. Postal employees accepting articles which have been in customs custody for examination, must determine from external inspection whether the shipment can safely bear further handling and transportation. Postal and customs employees jointly will restore parcels that are not in satisfactory condition. Employees may be held responsible when damage occurs as a result of negligence or improper handling.

(b) *Customs shipments in bad order.* Shipments found to be in bad order in transit or at the delivery office must be reconditioned by postal employees. Note bad order and evidence of rifling or damage on the address side of the wrapper over the signature of the employee.

§ 261.5 Treatment at delivery office.

(a) *Detecting dutiable importations.* Postal employees will promptly examine all incoming mail to detect dutiable importations. These packages will bear the following endorsement, placed near the address and completed by the customs office where the duty was assessed:

Examined by U.S. Customs
Port of _____
Collect Duty and Postal Fees
Mail Entry No. _____

The package will also be accompanied by an Original and Addressee Receipt copy of Customs Form 3419, Mail Entry, enclosed in a Treasury Department envelope securely attached to the package.

(b) *Missing mail entries.* (1) Withhold delivery of dutiable packages from which Customs Forms 3419 have become detached. If the mail entry forms are not found, complete Form 2937, Importer's Objection and/or Lost Mail Entries, in duplicate, requesting issuance of a duplicate set of entry forms. Send the original

Form 2937 to Bureau of Customs, Data Center, 7961 Eastern Avenue, Silver Spring, Md. 20910. Retain copy of Form 2937 with the package until duplicate set of entries is received, then process parcel as prescribed in paragraph (d) of this section using duplicate set of entry forms.

(2) If the missing original set of entry forms is located before receiving the requested duplicate set, use the original set, and when the duplicate set is received mark it "Original set located and used" and return the duplicate to the Customs Data Center in Silver Spring. If the original set is located after delivery or other disposal has been made of the package following receipt of the duplicate set, destroy the original set.

(c) *Dispatch to delivery units.* Promptly forward dutiable articles to delivery units.

(d) *Delivery of dutiable mail.* (1) Dutiable mail will be delivered by city, village, and rural carriers, and by window delivery units. Form 2921, Held Notice—International Mail, is used to notify addressees of the arrival of dutiable parcels.

(2) Charge packages and both copies of the customs mail entry to delivery employee on Form 2944, Receipt for Customs Duty Mail, prepared in duplicate. For control and accounting purposes, enter on Form 2944 the mail entry numbers as shown on the entryforms. Retain both copies of Form 2944 at post office as record of employee's accountability.

(3) When customs charges are collected and delivery is made, delivering employee will obtain addressee's signature and date of delivery on the "Original" Customs Form 3419, as well as on the receipt for registered and insured mail if required. The delivering employee will sign and date the Addressee Receipt copy of Customs Form 3419 and give it to the addressee as a receipt for the duty. The delivery employee will turn in amounts collected with the signed originals of Customs Form 3419 and any undelivered packages with both copies of the related Customs Forms 3419.

(4) At first-class offices carriers' accountability will be cleared by completing the two copies of Form 2944 prepared pursuant to subparagraph (2) of this paragraph. Hand both copies of completed Form 2944 to carrier who will deposit the original in the slotted and locked receptacle provided for that purpose and file the duplicate which he will retain for 3 months after the last day of the month of issue. The Forms 2944 shall be removed from the locked receptacle by an employee or supervisor, other than the clearing clerk, and forwarded daily to the chief accountant (or accounting unit). Clearing clerk will send signed originals of Form 3419 to the chief accountant (or accounting unit). Employees at delivery windows who have been charged with dutiable packages will be similarly cleared, but will be required to execute a new set of Form 2944 covering all dutiable packages remaining in their custody at the close of business.

(5) At other than first-class offices the delivery employees' accountability will be cleared in the same manner as for COD transactions.

(6) The Customs Service in certain instances will attach a Customs Form 3433, Authorization to Postmaster to Deliver Mail Importation Conditionally Free of Duty, and a Customs Form 3342, Declaration for Free Entry of Gifts, to the mail entries, Customs Form 3419, of incoming dutiable packages. Deliver these packages without collection of the duty under the conditions stated on Form 3433. After delivery, endorse the original Customs Form 3419 Form 3342 executed by addressee, and report the transaction as an uncollected customs duty item in accordance with § 261.5(f)(3) of this chapter. Return of the executed customs form will be authority for the clearing clerk to allow credit for unreturned postage due stamps delivered with the package pursuant to § 224.1(a)(5)(ii) of this chapter. The clearing clerk will keep a daily record of such voided stamp credits in the manner prescribed in section 335.36 of the Postal Manual.

(7) When an addressee objects to the assessed value, rate, or amount of duty charged, the following alternatives are available:

(i) Addressee may take delivery, pay the duty and postal fees and protest (within 60 days from date of entry) directly to the issuing customs port.

(ii) Addressee may conditionally refuse the package pending review of the entry by the customs service. In this case, the procedure is as follows:

(a) Delivery employee will advise addressee to state his objections in writing to the postmaster and submit any evidence he may have substantiating his claim (invoice, declaration of value, etc.). Addressee may be allowed to copy customs mail entry number and other particulars that will assist in associating his protest with the package at the post office.

(b) Delivery employee will mark package "Addressee protests duty," date and initial, and return the package and related Customs Forms 3419 to the post office to be held awaiting a receipt of addressee's written protest. On receipt of addressee's statement, promptly prepare report, in duplicate, on Form 2937, Importers, Objections and/or Lost Mail Entries. Forward original Form 2937, with supporting statements and both copies of mail entry, to customs mail division where entry was prepared—unless addressee is located in vicinity of one of the customs ports listed in § 261.3(e) of this chapter, in which case package and other documents may be delivered to the local customs office for consideration of the protest. Retain duplicate Form 2937 as office file and record copy.

(c) If the addressee's written protest is not received within 5 days after package is returned to post office, notify him that package is on hand and will be held for a further 5 days only. Mark package "Notified," and date, and if patron does not furnish the required statement within another week, endorse package Unclaimed, show date, and treat as prescribed in paragraph (f) of this section.

(d) If an adjustment is made by the customs officer he will endorse the adjustment on the mail entries and return them with the original Form 2937 to the postmaster. When delivery of the package is effected, collect and report the corrected amount of duty and handle as prescribed in paragraph (e) of this section. If the adjusting customs officer waives the duty, report the entry as an uncollected item, as prescribed in paragraph (f)(2) of this section.

(e) If no decision on a protest is received from the customs office within 30 days request that matter be expedited. Continue to hold package until a decision is received.

(iii) Addressee may definitely refuse the package if he does not wish to pay the duty or to protest the assessment. In this case the delivery employee shall make it clear to addressee that package will be disposed of immediately as undeliverable. Employee will mark package "Refused," date and initial, and return package and entry forms to post office for disposal. (See paragraph (f) of this section.)

(e) *Recording and reporting collections.* Post offices making delivery-collection of dutiable articles will deposit the customs collections with postal funds. See section 437.2 of the Postal Manual for accounting and control functions, and the preparation of Form 2932, Customs Collections Summary.

(f) *Uncollected items*—(1) *Disposal.* When it is definitely established that a dutiable package is undeliverable, detach the customs mail entry forms and treat package as prescribed in § 224.4 of this chapter (for postal union articles) or in § 232.5(b) of this chapter (for parcel post). Mark the entry forms to show the reason for nondelivery and report as prescribed in subparagraph (2) of this paragraph.

(2) *Reporting.* Complete Form 2933, Register of uncollected customs charges, in duplicate, listing uncollected items in numerical order according to the 7-digit serial numbers on the mail entries. Forward the original Form 2933, accompanied with both copies of the mail entries and the supporting Customs Form 3342 or other statements, if any, to the Regional Commissioner of Customs, Attention: Cashier, New York, N.Y. 10004. File duplicate of Form 2933 for reference purposes. Prepare reports as needed, but not less frequently than weekly.

(3) *Past-due entries.* When the customs service fails to receive a remittance of duty or report of disposition made of a dutiable package, postmaster will receive a set of reproduced copies of the mail entry. Search shall be made at the post office of address and a report of the findings made to the Regional Commissioner of Customs, Attention: Cashier, New York, N.Y. 10004.

(g) *Refund of duty*—(1) *Duty not refundable by postmasters.* Amounts collected on customs mail entry forms are not refundable by postmasters. An addressee who requests a refund of duty shall be advised to make application therefor to the customs office which issued the mail entry within 60 days from the date of entry. It is suggested, if refund is claimed for damage, the article be forwarded with the application. If the addressee wishes to abandon the article to the Government, he should so state in his application. In case the addressee also intends to file a claim for indemnity with the Post Office Department, he shall, before taking the above action, present the contents, container, and complete wrapping to the postmaster for the inspection prescribed by Form 2855, Claims for Indemnity—International Insured Mail.

(2) *By Customs Service.* Refund of duties paid will be considered by the Customs Service if merchandise, covered by a mail entry, representing 5 percent or more of the total value of all of the merchandise of the same class or kind entered in the invoice in which the item appears, is abandoned and delivered to the customs office where the entry was made within 60 days after the date of entry.

(3) *On returned merchandise.* Refund of duties paid less 1 percent will also be considered by the Customs Service if merchandise covered by a mail entry and found not to conform to sample or specification or shipped without the consent of the consignee is, within 90 days from the date of delivery, returned to customs custody for exportation, unless the Secretary of the Treasury authorizes in writing a longer time. The postal charges incident to returning the merchandise to the sender must be paid by the addressee.

(4) *As drawback on exported merchandise.* See Part 257 of this chapter.

(5) *No duty refund in certain cases.* When an addressee requests delivery of parcel post packages to be made at his residence or place of business after the customs duty thereon has been paid at the post office, the Treasury Department has declined to refund the duty in such cases when the goods become lost between the post office and the addressee's residence or place of business, and if there should be any loss there is no appropriation available from which the Post Office Department could make reimbursement for the amount of duty paid.

(h) *Duty*—(1) *Rates.* Patrons desiring information concerning rates of duty on articles imported into the United States, or other customs procedure, should communicate with the appropriate customs office, located at various points throughout the country (see § 261.31(e) of this chapter), or with the Commissioner of Customs, Treasury Department, Washington, D.C. 20226.

(2) *Prepayment.* No provision is made for the prepayment abroad of customs duty on mail shipments addressed for delivery in the United States.

(3) *On articles repaired abroad.* Before sending an article abroad for repair, the patron should submit it to a customs officer for issuance of a certificate of registration. Otherwise, the entire article may be subjected to customs duty when it is returned to the United States.

(4) *In other countries.* See § 231.2(d) of this chapter.

(i) *Forwarding or returning dutiable mail*—(1) *Forwarding within the United States.* Dispatch page as prescribed in § 224.3(a) of this chapter (for postal union articles) or § 232.4(a) of this chapter (for parcel post). Allow the Customs Forms 3419 to remain attached to the redirected package in its original envelope, which is also redirected to the new address. Prepare Form 3814, Record of C.O.D. Parcels Held for Delivery, in duplicate, showing name and address of addressee, forwarding address, and name of port where the duty was assessed. In Bin No. block on Form 3814, enter the 7-digit serial number from related Customs Form 3419. Mail original Form 3814 to the Regional Commissioner of Customs, Attention: Cashier, New York, N.Y. 10004. File duplicate of Form 3814 for reference in case of later inquiry.

(2) *Forwarding to another country.* See § 224.3(b) of this chapter concerning forwarding of postal union articles and § 232.4 (b) and (c) of this chapter concerning forwarding of parcel post. When a dutiable package is entitled to be forwarded to another country, detach the Customs Forms 3419, endorse both copies Addressee moved outside jurisdiction of the United States, and report as an uncollected item (see paragraph (b)(2) of this section).

(3) *Return to sender.* When a dutiable package is to be returned to the sender, detach the Customs Forms 3419, endorse them "Refused", unclaimed, etc., and report as an uncollected item (see paragraph (b)(2) of this section).

(4) *By stations and branches.* Postmasters may authorize stations and branches to forward or return packages directly from those units, without sending the packages to the main office.

§ 261.6 [Deleted]

NOTE: The corresponding Postal Manual sections are 261.4, 261.5, and 261.6 respectively.

(5 U.S.C. 301, 39 U.S.C. 501, 505)

TIMOTHY J. MAY,
General Counsel.

DECEMBER 15, 1967.

[F.R. Doc. 67-14775; Filed, Dec. 20, 1967; 8:47 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER H—INTERNAL REVENUE PRACTICE

PART 601—STATEMENT OF PROCEDURAL RULES

Miscellaneous Amendments

This part as filed with the FEDERAL REGISTER on June 29, 1955, was last amended on September 14, 1967 (32 F.R. 13058). The following amendments are made to Part 601:

PARAGRAPH 1. Section 601.104 is amended by revising paragraph (c)(2) to read as follows:

§ 601.104 Collection functions.

* * * * * *

(c) *Enforcement procedure.* * * *

(2) *Levy.* If a taxpayer neglects or refuses to pay any tax within the period provided for its payment, it is lawful for the district director to make collection by levy on the taxpayer's property. See section 6331 of the Code. No suit for the purpose of restraining the assessment or collection of an internal revenue tax may be maintained in any court, except to restrain the assessment or collection of income, estate, or gift taxes during the period within which the assessment or collection of deficiencies in such taxes is prohibited. See section 7421 of the Code. Property taken under authority of any revenue law of the United States is irrepleviable. 28 U.S.C. 2463. If the Service sells property, and it is subsequently determined that the taxpayer had no interest in the property or that the purchaser was misled by the Service as to the value of the taxpayer's interest, immediate action will be taken to refund any money wrongfully collected if a claim is made and the pertinent facts are present. The mere fact that a taxpayer's interest in property turns out to be less valuable than the purchaser expected will not be regarded as giving the purchaser any claim against the Government.

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PAR. 2. Section 601.105 is amended by revising paragraph (d)(1) to read as follows:

§ 601.105 Examination of returns and claims for refund, credit or abatement; determination of correct tax liability.

* * * * * *

(d) *Thirty-day letters and protests*—(1) *General.* The report of the examining officer, as approved after review, recommends one of four determinations:

(i) Acceptance of the return as filed and closing of the case;

(ii) Assertion of a given deficiency or additional tax;

(iii) Allowance of a given overassessment, with or without a claim for refund, credit, or abatement;

(iv) Denial of a claim for refund, credit, or abatement which has been filed and is found wholly lacking in merit.

In an unagreed case, the district director sends to the taxpayer a preliminary or "30-day letter" if any one of the last three determinations is made (except a full allowance of a claim in respect of any tax). The 30-day letter is a form letter which states the determination proposed to be made. It is accompanied by a copy of the examining officer's report explaining the basis of the proposed determination. It suggests to the taxpayer that if he concurs in the recommendation, he indicate his agreement by executing and returning a waiver or acceptance. The preliminary letter also advises the taxpayer that if he disagrees with the proposed determination he may file a written protest (see §§ 601.103(c)(1) and 601.507) within 30 days (60 days if tax-

payer is outside of the country) from the date of the letter stating the grounds for his disagreement, and he may have a conference in the Appellate Division of the region if requested and if that Division has jurisdiction (see § 601.106(a)(3)). If the taxpayer does not respond to the letter within 30 days, a statutory notice of deficiency will be issued or other appropriate action taken, such as the issuance of a notice of adjustment, the denial of a claim in income, profits, estate, and gift tax cases, or an appropriate adjustment of the tax liability or denial of a claim in excise and employment tax cases.

* * * * *

PAR. 3. Section 601.106 is amended by revising paragraphs (b), (d), (e), and (f)(1), (2), and (3), and by adding immediately after paragraph (g) a new paragraph (h). These revised and added provisions read as follows:

§ 601.106 Appellate functions.

* * * * *

(b) *Initiation of proceedings before the Appellate Division.* In any case in which the district director has issued a preliminary or "30-day letter" and the taxpayer files a written protest (see paragraph (c)(1) of § 601.103 and § 601.507) against the proposed determination of tax liability, except as to those taxes described in paragraph (a)(3) of this section, the taxpayer has the right (and will be so advised by the district director) of administrative appeal to the regional office of the Appellate Division. Organizations such as labor unions and trade associations which have been examined by the district director to determine the amounts expended by the organization for purposes of lobbying, promotion or defeat of legislation, political campaigns, or propaganda related to those purposes are treated as "taxpayers" for the purpose of this right of administrative appeal. Thus, upon filing a protest to the district director's findings that a portion of member dues is to be disallowed as a deduction to each member because expended for such purposes, the organization will be afforded full rights of administrative appeal to the Appellate Division of the region similar to those rights afforded to taxpayers generally. After review of any protest by the district director, the case and its administrative record are referred to the Appellate Division. No taxpayer is required to submit his case to the Appellate Division for consideration. Appeal is at the option of the taxpayer. A request for administrative appeal to the Appellate Division will not be denied because no district conference was held in the district director's office. After the issuance by the district director of a statutory notice of deficiency, upon the taxpayer's request, the Appellate Division may take up the case for settlement and may grant the taxpayer a conference thereon. Except in unusual circumstances, however, no conference will be granted prior to the filing of a petition in the Tax Court for a redetermination of the deficiency proposed in the statutory notice.

* * * * *

(d) *Disposition and settlement of cases before the Appellate Division*—(1) *General.* During consideration of a case, the Appellate Division should neither reopen an issue as to which the taxpayer and the office of the district director are in agreement nor raise a new issue, unless the ground for such action is a substantial one and the potential effect upon the tax liability is material.

(2) *Cases not docketed in the Tax Court.* (i) If after consideration of the case by the Appellate Division of the region a satisfactory settlement of the issues is reached with the taxpayer, he will be requested to sign Form 870–AD or other appropriate agreement form waiving restrictions on the assessment and collection of any deficiency and accepting any overassessment resulting under the agreed settlement.

(ii) If after consideration of the case by the Appellate Division of the region it is determined that there is a deficiency in income, profits, estate, or gift tax, to which the taxpayer does not agree, a statutory notice of deficiency will be prepared and issued by the Appellate Division after consideration by the regional counsel of such statutory notice and of the memorandum recommending the issuance of such notice. Officers of the Appellate Division having authority for the administrative determination of tax liabilities referred to in paragraph (a) of this section are also authorized to prepare, sign on behalf of the Commissioner, and send to the taxpayer by registered or certified mail any statutory notice of deficiency prescribed in sections 6212 and 6861 of the Code, and in corresponding provisions of the Internal Revenue Code of 1939. Within 90 days, or 150 days if the notice is addressed to a person outside of the States of the Union and the District of Columbia, after such a statutory notice of deficiency is mailed (not counting Saturday, Sunday, or a legal holiday in the District of Columbia as the last day), the taxpayer may file a petition with the Tax Court of the United States for a redetermination of the deficiency. In any other unagreed case, the case and its administrative file will be forwarded to the service center director or returned to the district director with directions to take such action with respect to the tax liability determined in the Appellate Division as may be appropriate, such as the issuance of a statutory notice of disallowance of a claim for refund or credit in whole or in part, the preparation of a notice of adjustment or other appropriate action, or the collection of any additional tax (excise and employment tax cases).

(3) *Cases docketed in the Tax Court.* (i) If the case under consideration in the Appellate Division is docketed in the Tax Court and agreement is reached with the taxpayer with respect to the issues involved, the disposition of the case is effected by a stipulation of agreed deficiency or overpayment to be filed with the Tax Court and in conformity with which the Court will enter its order.

(ii) If the case under consideration in the Appellate Division is docketed in the Tax Court and the issues remain unsettled after consideration and conference in the Appellate Division, the case will be referred to the regional counsel for the region for defense of the tax liability determined.

(iii) If the deficiency notice in a case docketed in the Tax Court was not issued by the Appellate Division and no recommendation for criminal prosecution is pending, the case will be referred by the regional counsel to the Appellate Division for settlement as soon as it is at issue in the Tax Court. The settlement procedure shall be governed by the following rules:

(*a*) The Appellate Division will arrange a conference for settlement purposes promptly after receipt of the file. Except in unusual circumstances, the regional counsel will be represented at the conference and will actively participate in it.

(*b*) If a settlement is agreed upon by the Appellate Division and the regional counsel as a result of a conference with the taxpayer, the stipulation of settlement will be prepared and filed with the Tax Court without delay.

(*c*) If no settlement is reached at a conference with the taxpayer, the file will be returned promptly to the regional counsel for preparation for trial and the taxpayer will be so advised by appropriate letter by the Appellate Division.

(*d*) In the event of disagreement between the Appellate Division and the regional counsel as to the settlement of the case, any issue in the case, or with respect to the amount of a counter offer which should be made, efforts will be made to resolve the matter quickly. If agreement cannot be reached, the case will promptly be referred in writing to the Chief Counsel for decision.

(*e*) During the period between receipt of the Tax Court's "Trial Status Order" (usually issued from 60 to 90 days in advance of the issuance of the trial calendar) and the receipt of the trial calendar (usually issued about 90 days in advance of the opening date of the trial calendar) the Appellate Division will conclude settlement negotiations on any case not previously settled or referred to the regional counsel.

(*f*) In order to enable the regional counsel to prepare the case for trial and stipulate the undisputed facts in any case on the trial calendar which has not been settled, the Appellate Division will ordinarily, upon receipt of the trial calendar, return to the regional counsel any file still in its possession in any case on the calendar. Concurrent with any such return of the file, the Appellate Division will advise the taxpayer by letter that, since settlement negotiations have not been productive, the case is being referred to the regional counsel for preparation for trial.

(*g*) Upon receipt of the trial calendar, the regional counsel will address an appropriate letter to the taxpayer in each case on the calendar which has not been settled, or where the file has been retained by the Appellate Division, or in which the parties are not then negotiating a stipulation of facts. This letter will arrange or suggest a conference at an early date for the purpose of stipulating facts, as required by Rule 31(b) of the Tax Court, to clarify and, if possible, limit the issues.

(*h*) Any request for conferences received after receipt of the trial calendar will be referred to the regional counsel.

(e) *Transfer and centralization of cases.* (1) A Regional Appellate Division is authorized to transfer settlement jurisdiction in a non-docketed case or in an excise or employment tax case to another region, if the taxpayer resides in and his books and records are located (or can be made available) in such other region. Otherwise, transfer to another region requires the approval of the Director of the Appellate Division.

(2) A Regional Appellate Division is authorized to transfer settlement jurisdiction in a docketed case to another region if the location for the hearing by the Tax Court has been set in such other region, except that if the place of hearing is Washington, D.C., settlement jurisdiction shall not be transferred to the region in which Washington, D.C., is located unless the petitioner resides in and his books and records are located (or can be made available) in that region. Otherwise, transfer to another region requires the approval of the Director of the Appellate Division. Likewise, the Chief Counsel has corresponding authority to transfer the jurisdiction, authority, and duties of the regional counsel for any region to the regional counsel of another region within which the case has been designated for trial before the Tax Court.

(3) Should a regional commissioner determine that it would better serve the interests of the Government, he may, by order in writing, withdraw any case not docketed before the Tax Court from the jurisdiction of the Appellate Division of the region, and provide for its disposition under his personal direction.

(f) *Conference and practice requirements.* * * *

(1) *Rule I.* An exaction by the U.S. Government, which is not based upon law, statutory or otherwise, is a taking of property without due process of law, in violation of the Fifth Amendment to the U.S. Constitution. Accordingly, an Appellate Division representative in his conclusions of fact or application of the law, shall hew to the law and the recognized standards of legal construction. It shall be his duty to determine the correct amount of the tax, with strict impartiality as between the taxpayer and the Government, and without favoritism or discrimination as between taxpayers.

(2) *Rule II.* In recognition of the difference between abstract theory and practical administration, where substantial uncertainties exist either in law or in fact, or both, as to the correct application of the law to the whole record of a controversy, the Appellate Division will give serious consideration to an offer of settlement of the dispute on a basis which fairly reflects the relative merits of the opposing views in the light of the hazards which would prevail if the case were litigated. However, no settlement will be countenanced based upon nuisance value of the case to either party. If the taxpayer makes an unacceptable proposal of settlement under circumstances indicating that he is trying in good faith to reach an agreed disposition of the case on a basis fair both to the Government and himself, the Appellate Division representative generally should give his evaluation of the case in such a manner as to enable the taxpayer to ascertain the kind of settlement the Appellate Division representative would recommend for acceptance. (In docketed cases, the above rule is applied by the Appellate Division in conjunction with Regional Counsel.)

* * * * *

(5) *Rule V.* In order to bring before the Appellate Division an unagreed income, estate, or gift tax case in prestatutory notice status, an unagreed employment or excise tax case, or an offer in compromise, the taxpayer or his representative must first file with the district director a written protest setting forth specifically the reasons for his refusal to accept the district director's findings. A protest submitted by the taxpayer should contain a statement of facts on which the taxpayer relies, made under the penalties of perjury, and should meet all the issues raised by the Service which the taxpayer desires to contest (see paragraph (c)(1) of § 601.103 and § 601.507). The protest and any new facts, law, or arguments presented therewith will be reviewed by the district director for the purpose of deciding whether further development or action is required prior to referring the case to the Appellate Division. Where the Appellate Division has an issue under consideration as a result of the filing of a protest or Tax Court petition, it may, with the concurrence of the taxpayer, assume jurisdiction in a related case without the necessity of an additional protest, after the district director has completed any necessary action. The Director, Appellate Division, may authorize the regional Appellate Division to accept jurisdiction (after any necessary action by the district director) in specified classes of cases without a written protest, provided a written request for Appellate Division consideration is submitted by or on behalf of each taxpayer.

* * * * *

(h) *Reopening closed cases not docketed in the Tax Court.* (1) A case not docketed in the Tax Court and closed by the Appellate Division on the basis of concessions made by both the Appellate Division and the taxpayer will not be reopened by action initiated by the Service unless the disposition involved fraud, malfeasance, concealment or misrepresentation of material fact, or an important mistake in mathematical calculation, and then only with the approval of the Director of the Appellate Division.

(2) Under certain unusual circumstances favorable to the taxpayer, such as retroactive legislation, a case not docketed in the Tax Court and closed by the Appellate Division on the basis of concessions made by both the Appellate Division and the taxpayer may be reopened upon written application from the taxpayer. Except as provided hereinafter, all requests to reopen such cases will be forwarded, with the recommendation of the Assistant Regional Commissioner (Appellate), to the Director of the Appellate Division for approval or disapproval. The processing of an application for a tentative carryback adjustment or of a claim for refund or credit for an overassessment (for a year involved in the prior closing) attributable to a net operating loss carryback or an investment credit carryback, and not included in a previous Appellate Division determination, shall not be considered a reopening requiring the approval of the Director of the Appellate Division. A subsequent assessment of an excessive tentative allowance shall likewise not be considered such a reopening. The Director of the Appellate Division may authorize, in advance, the reopening of similar classes of cases where legislative enactments or compelling administrative reasons require such advance approval.

(3) A case not docketed in the Tax Court and closed by the Appellate Division on a basis not involving concessions made by both the Appellate Division and the taxpayer will not be reopened by action initiated by the Service unless the disposition involved fraud, malfeasance, concealment or misrepresentation of material fact, an important mistake in mathematical calculation, or such other circumstance that indicates that failure to take such action would be a serious administrative omission, and then only with the approval of the Director of the Appellate Division.

(4) A case not docketed in the Tax Court and closed by the Appellate Division on the basis of concessions made by both the Appellate Division and the taxpayer may be reopened by the taxpayer by any appropriate means, such as by the filing of a timely claim for refund.

PAR. 4. Section 601.202 is amended by revising paragraph (a)(2) to read as follows:

§ 601.202 Closing agreements.

(a) *General.* * * *

(2) Closing agreements under section 7121 of the Code may relate to any taxable period ending prior or subsequent to the date of the agreement. With respect to taxable periods ended prior to the date of the agreement, the matter agreed upon may relate to the total tax liability of the taxpayer or it may relate to one or more separate items affecting the tax liability of the taxpayer. A closing agreement may also be entered into in order to provide a "determination", as defined in section 1313 of the Code, and for the purpose of allowing a deficiency dividend deduction under section 547 of the Code. But see also sections 547(e)(3) and 1313(a)(4) of the Code and the regulations thereunder as to other types of "determination" agreements. With respect to taxable periods

ending subsequent to the date of the agreement, the matter agreed upon may relate to one or more separate items affecting the tax liability of the taxpayer. A closing agreement with respect to any taxable period ending subsequent to the date of the agreement is subject to any change in or modification of the law enacted subsequent to the date of the agreement and applicable to such taxable period, and each such closing agreement shall so recite. Closing agreements may be entered into even though under the agreement the taxpayer is not liable for any tax for the period to which the agreement relates. There may be a series of agreements relating to the tax liability for a single period. A closing agreement may be entered into in any case in which there appears to be an advantage in having the case permanently and conclusively closed, or where good and sufficient reasons are shown by the taxpayer for desiring a closing agreement and it is determined by the Commissioner or his representatives that the Government will sustain no disadvantage through consummation of such an agreement.

* * * * *

PAR. 5. Section 601.301 is amended by revising so much of paragraph (c) as precedes subparagraph (1) thereof. This revised provision reads as follows:

§ 601.301 Imposition of taxes, qualification requirements, and regulations.

* * * * *

(c) *Regulations.* The procedural requirements with respect to matters relating to distilled spirits, wines, and beer which are within the jurisdiction of the Alcohol and Tobacco Tax Division are published in the regulations described in this paragraph. These regulations contain full information as to the general course and method by which the functions concerning liquors are channeled and determined, including the nature and requirements of formal and informal procedures, the forms, records, reports, and other documents required, and the contents of applications, notices, registrations, permits, bonds, and other documents. Supplies of prescribed forms may be obtained from the office of assistant regional commissioners (alcohol and tobacco tax), except that Forms 52–A, 52–B, 122, 133, 338, 2051, 2056–2060, 2621, and 2637 must be provided by the users at their own expense. Users and commercial printers may procure specimen copies of such forms from such offices. IRS Publication No. 480, which contains a listing of alcohol and tobacco tax public-use forms, may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Such publication is available, for reference purposes, in Internal Revenue Service reading rooms. The following is a brief description of the several regulations arranged according to the principal subjects and operations concerned:

* * * * *

PAR. 6. Section 601.318 is revised to read as follows:

§ 601.318 Forms.

Detailed information as to all forms prescribed for use in connection with tobacco taxes is contained in the regulations referred to in § 601.311(b). Copies of all necessary forms, and instructions as to their preparation and filing, may be obtained from assistant regional commissioners (alcohol and tobacco tax). IRS Publication No. 480, which contains a listing of alcohol and tobacco tax public-use forms, may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Such publication is available, for reference purposes, in Internal Revenue Service reading rooms.

(5 U.S.C. 301, 552(a)(1))

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

[F.R. Doc. 67-14796; Filed, Dec. 20, 1967; 8:49 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

SUBCHAPTER I—MILITARY PERSONNEL

PART 888c—CAREER RESERVE STATUS FOR RESERVE OFFICERS AND ACTIVE DUTY SERVICE COMMITMENTS FOR OFFICERS AND WARRANT OFFICERS

Subchapter I of Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

A new Part 888c is added as follows:

Sec.
888c.0 Purpose.

Subpart A—General

888c.1 Statutory authority.
888c.2 Tours of duty under certain statutory authorities.
888c.3 Definitions.
888c.4 Policy for career officers.
888c.5 Initial tour for nonprior service AFROTC graduates.
888c.6 Mandatory separation of officers.

Subpart B—Career Reserve Status

888c.7 General.
888c.8 Counseling Reserve officers.
888c.9 Required service.
888c.10 Reserve categories eligible for career Reserve status.
888c.11 Forms required for career Reserve status (CRS).

Subpart C—Active Duty Service Commitments

888c.12 Reference tables.
888c.13 Active duty service commitment for Operation Bootstrap, service schools, and technical training.
888c.14 Active duty service commitment for flying training.
888c.15 Active duty service commitments for physicians and dentists.
888c.16 Active duty service commitment when eliminated from training.
888c.17 After training.
888c.18 Medical service training.
888c.19 After PCS movement.
888c.20 Restriction on involuntarily incurred active duty service commitments.

AUTHORITY: The provisions of this Part 888c issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012, except as otherwise noted.

SOURCE: AFR 36–51, Feb. 18, 1964; AFR 36–51, Change 1, June 5, 1967.

§ 888c.0 Purpose.

This part tells how Reserve officers may obtain Career Reserve status and establishes active duty service commitments for officers and warrant officers. Provisions of this part will not preclude an officer from applying for separation, resignation, or retirement under current Air Force directives.

Subpart A—General

§ 888c.1 Statutory authority.

(a) 10 U.S.C. 672 provides that any officer of any Reserve component may, with his or her consent, be ordered to EAD, including ANGUS officers with the consent of proper State authorities.

(b) 10 U.S.C. 8444 provides that in time of an emergency declared by the President or by the Congress, and in time of war, the President may appoint qualified persons, including persons who are not Regular or Reserve, in any temporary commissioned grade. Persons so appointed may be ordered to EAD for a period of time prescribed by the President.

§ 888c.2 Tours of duty under certain statutory authorities.

Reserve officers of the Air Force may be detailed to duty, or, when necessary, may be ordered to EAD to serve under the statutes cited in this section.

(a) *10 U.S.C. 8033.* Officers ordered to active duty under this authority serve for a period of 4 years in Hq USAF under 10 U.S.C. 8031.

(b) *10 U.S.C. 8496.* Officers ordered to active duty under this authority serve for a period of 4 years with the National Guard Bureau under 10 U.S.C. 8031.

(c) *10 U.S.C. 265.* Officers ordered to active duty under this authority serve for a period of 4 years at Hq USAF under 10 U.S.C. 8031. Officers ordered to active duty under this authority for assignment to other Air Force Headquarters charged with Reserve affairs will serve for a like period.

§ 888c.3 Definitions.

(a) *Active duty service commitment.* A period of active military service which an officer must serve as a result of PCS movement or government-sponsored training received as a commissioned officer while on active duty, EAD, or as required by other Air Force directives. Service commitments are acquired on active duty or EAD after commissioning.

(b) *Active duty service obligation.* A period of military service, effective upon commissioning, which an officer is required to serve on active duty or EAD. Duration of this obligation varies with the source of commission and precommissioning training involved. Specific durations of these obligations are contained in the Air Force directive establishing the commissioning source.

(c) *AFROTC Category I–P and I–N cadets.* AFROTC Category I–P cadets are those AFROTC cadets programmed to enter pilot training upon commissioning from AFROTC. AFROTC Category I–N cadets are those AFROTC cadets programmed to enter navigation training upon commissioning from AFROTC.

(d) *Career officer.* A Regular Air Force officer or a Reserve officer who has been approved for Career Reserve status.

(e) *Career Reserve status (CRS).* The status of an officer of a Reserve component serving on active duty for an indefinite period. This status is achieved when a Reserve officer's AF Form 1229, "Application for Career Reserve Status," is approved.

(f) *Established date of separation (DOS).* A date established in accordance with law or policy for termination of an officer's tour of active military service.

(g) *Extended active duty (EAD).* Full-time duty performed by Reserve and temporary officers while occupying authorized troop spaces of the active military establishment.

(h) *Officer.* An Air Force male or female commissioned or warrant officer of any component or without specification of component.

(i) *Reserve components.* Air National Guard of the United States and the Air Force Reserve.

(j) *Specified period of time contract (SPTC).* A signed statement in which a noncareer officer or an appointee from civilian or airman status voluntarily agrees to serve on EAD in commissioned officer status for a specified period of time (see AFR 36–94 (Specified Period of Time Contracts (SPTC))). This statement also is required when such personnel enter Air Force-sponsored schooling or training, volunteer for overseas duty with insufficient retainability to complete the minimum prescribed tour, or for other purposes deemed in the best interest of the Air Force.

§ 888c.4 Policy for career officers.

(a) The Air Force will be manned by voluntary officers to the greatest extent possible. An officer will not be required to serve longer than is necessary to meet Air Force requirements.

(b) Commanders normally will give preference to Regular and Career Reserve officers over noncareer Reservists in making assignments to positions of responsibility and opportunity. Also, Regular and Career Reserve officers will be given preference over noncareer Reservists in selection of officers for training conducted by the Air Force Institute of Technology (AFIT) and for training courses outlined in AFM 50–5 (USAF Formal Schools Catalog).

§ 888c.5 Initial tour for nonprior service AFROTC graduates.

AFROTC graduates are appointed to meet Air Force EAD requirements. Length of EAD tours to which these graduates are ordered will be stipulated in their advanced course contracts. All AFROTC graduates not programmed for flying training are encouraged to apply for Career Reserve status before commissioning. AFROTC graduates programmed for flying training following commissioning are required to apply for Career Reserve status on AF Form 1056, "Category I Agreement of a Member of the AFROTC," before entry on EAD as Air Force officers.

§ 888c.6 Mandatory separation of officers.

Service commitments incurred under this part are waived if an officer's separation is mandatory for any of the reasons specified in sections D and H, AFR 36–12 (Administrative Separation of Commissioned Officers and Warrant Officers of the Air Force).

Subpart B—Career Reserve Status

§ 888c.7 General.

In the interest of stability and economy of operation in the Air Force, it is desirable that all qualified Reserve officers apply for Career Reserve Status. Commanders will make every effort to provide an environment within their commands which will encourage qualified Reserve officers to apply. Sections 888c.10 and 888c.11 contain information on eligibility for Career Reserve Status, the procedure for obtaining this status, and the required forms.

§ 888c.8 Counseling Reserve officers.

(a) Commanders will insure that each Reserve officer with an established DOS is advised officially of the contents of this part approximately 1 year before the officer's DOS. Advantages accruing to Career Reserve officers as a result of the policy prescribed in § 888c.4 will be emphasized. The officer will be requested to sign the following applicable statement:

I have read section B, AFR 36–51 (date), and on (date) I made application for Career Reserve Status.

or

I have read section B, AFR 36–51(date), and I decline to apply for Career Reserve Status at this time.

(b) Officers returning on PCS from an oversea assignment who will have less than 6 months' retainability on arrival at the port of debarkation in the United States, and those being returned for separation before completion of the normal oversea tour, will be given the opportunity to request Career Reserve status before departing from the oversea assignment. If an officer declines to request Career Reserve status, he will accomplish the following declaration in duplicate:

Before my departure from (name of oversea major air command), I was afforded an opportunity to request Career Reserve status as prescribed in section B, AFR 36–51 (date). I declined. (Date.)

Full Name, Grade, and AFSN (typed)

(c) A signed copy of the above statements will be placed in the Unit Personnel Record Group of each Reserve officer concerned.

(d) Further counseling of officers with an established DOS is prescribed in AFR 36–20 (USAF Officer Career Motivation Program).

§ 888c.9 Required service.

Officers whose request for CRS is approved must serve a minimum of 4 years' active commissioned service on their current tour, including 1 year as a career Reserve officer. See AFR 36–12.

§ 888c.10 Reserve categories eligible for career Reserve status.

Rule	A If member is—	B Then application may be made for CRS—	C Using AF form—	D And the approving authority will be—	E And effective date of CRS will be—
1	Officer ordered to AD under: 10 U.S.C. 265. 10 U.S.C. 8033. 10 U.S.C. 8496.	In time to insure effective date of CRS coincides with completion of tour.	1229	USAFMPC (AFPMREB).	Upon completion of current AD service obligation.
2	AFROTC I–P or I–N cadet who is qualified for flying training	Before entry on EAD.	1056	Professor of Aerospace studies.	When ordered to EAD.
3	AFROTC cadet in Cat II & III (includes former Cat I–P & I–N).	Before entry on EAD.	1056	Professor of Aerospace studies.	When ordered to EAD.
4	USAF aviation cadet or student, officer trainee enrolled in OTS or AECP.	When applying for flying training, OTS, or AECP.	56	MAJCOM.	After completion of training and acceptance of commission with concurrent EAD.
5	Other than medical officer or chaplain on EAD with a DOS (note 1, 2).	Before entering last 6 mos of current AD svc obligation or SPTC.	1229	MAJCOM for line of AF; Hq USAF for cols and legal officers.	Date AF Form 1229 is signed.
6	Chaplain on EAD with a DOS.	NET 24 mos after entry on EAD (note 4).	1229	Hq USAF (AFHCHA).	Date AF Form 1229 is signed.
7	Med svc officer on EAD with a DOS (note 3).	When applying for EAD, or anytime after entry on EAD.	1229	USAFMPC (AFMSM).	Date AF Form 1229 is signed.

See footnotes at end of table.

Rule	A If member is—	B Then application may be made for CRS—	C Using AF form—	D And the approving authority will be—	E And effective date of CRS will be—
8	Officer ordered to EAD under AFR 45-26 (Voluntary Entry on Extended Active Duty (EAD) of Commissioned Officers & Warrant Officers of the Air Reserve Forces) for indefinite period.	When applying for EAD.	126 or 1229	AFR 45-26	Date ordered to EAD.

NOTES: 1. May not apply after travel incident to separation has been initiated. When separation orders have been issued, they must be revoked before the effective DOS specified. See AFM 10-3 (Administrative Orders).
2. Officers with DOS whose application is disapproved after DOS has passed will be released. Officers ordered to AD for 6 months training are not eligible under this part.
3. Medical standards are set forth in AFM 160-1 (Medical Examination and Medical Standards). When an applicant has a disqualifying physical disability which would warrant consideration for waiver, forward the SF 88 and all supporting medical [illegible] by separate letter of transmittal to USAFMPC (AFMSMD) for decision. Check items 77B, SF 88, and, if indicated, item 75 may be annotated.
4. If ordered to extended AD for 24 months, waiver may be requested upon completion of 18 months AD.

§ 888c.11 Forms required for career Reserve status (CRS).

Line	A When using—	B Submit forms—	C Accomplish forms—	D Prepare forms—	E Forward original (signed) of approved form:—	F Forward duplicate(signed) of approved form—	G Forward triplicate of approved form—
1	AF Form 1229 (note 1).	In time to insure effective date of CRS coincides with completion of tour.	For rating section (note 2); for indorsement (note 3).	In duplicate for line AF & medical; triplicate for legal and chaplains.	TO USAFMPC (AFPMD RO).	To Unit Personnel Record Group.	To Hq USAF: (AFJAG) for legal officers; (AFHCH) for chaplains.
2	SF Form 88 & 89.	Upon submission of AF Form 1229.	As prescribed in AFM 160-1.	In duplicate.....	To USAFM PC (AFPMDRO)	To Health Record Group.	
3	AF Form 1056.	In time to insure effective date of CRS coincides with completion of tour.	As prescribed in AFR 51-4 (Flying Training in Officer Grade).	As prescribed in AFR 51-4.	As prescribed in AFR 51-4.	As prescribed in AFR 51-4.	As prescribed in AFR 51-4.

NOTES: 1. Approving authority will stamp CRS statement "Final Approval Authority AFR 36-51."
2. The rating section will be filled in by the officer who normally prepares the applicant's effectiveness report. He will consider the manner of performance, adaptability, growth potential, physical qualifications, and general background. To insure adequate evaluation, commanders may require newly assigned officers to perform duty in the unit for a period of not less than 90 days before submitting this form.
3. Indorsed by commander of the organization to which the officer is assigned. Include recommendations; level of education attained, and any academic degree; source of Reserve commission; and any additional remarks considered appropriate.

Subpart C—Active Duty Service Commitments

§ 888c.12 Reference tables.

Active duty service commitments incurred by officers as a result of Air Force-sponsored training are contained in the following sections:

(a) *Section 888c.13.* Bootstrap, Service Schools and Technical Training, including AFR 50-9 (Special Training) training and Fellowships, Scholarships or Grants.
(b) *Section 888c.14.* Flying Training.
(c) *Section 888c.15.* Medical Service Training.
(d) *Section 888c.16.* Elimination from Training.

§ 888c.13 Active duty service commitment for Operation Bootstrap, service schools, and technical training.

Rule	A If type training is—	B And date of entry in training was (note 6)—	C And period of training is (note 4)—	D Then service commitment incurred upon completion of training is (note 3)—	E Go to § 888c.16, if training is not completed—
1	Operation Bootstrap with final semester or final year TDY (AFM 213-1 (Operation & Administration of the Air Force Education Services Program)).	A. Before Oct. 1, 1963.	(1) Less than 6 months.	2 years	X
			(2) 6 months or more but less than 12 months.	3 years	X
		B. On or after Oct. 1, 1963, but before Feb. 13, 1964.	-----	3 times length of TDY	X
		C. On or after Feb. 13, 1964.	-----	3 times length of TDY (note 5).	X
2	Operation Bootstrap with tuition assistance given under AFM 213-1.	-----	-----	2 years after termination of class for which assistance was given.	X
3	Fellowship, scholarship, or grant (note 1).	-----	-----	3 times length of education or training period (note 1).	X
4	AFIT Minuteman Missile Combat Crew Education Program.	-----	-----	2 years	X
5	For any AFIT professional education or training-with-industry programs, except special short courses.	A. Before Dec. 4, 1959.	-----	Period equal to length of directed duty.	
		B. On or after Dec. 4, 1959, but before Oct. 1, 1963.	(1) Less than 10 weeks.	1 year	X
			(2) 10 weeks or more but less than 20 weeks.	2 years	X
			(3) 20 weeks or more but less than 12 months.	3 years	X
			(4) 12 months or more but less than 24 months.	4 years	X
			(5) 24 months or more.	4 years plus 2 months for each additional month of training or portion thereof.	X
		C. On or after Oct. 1, 1963, but before Feb. 13, 1964.	-----	3 times length of course.	X
		D. On or after Feb. 13, 1964.	-----	3 times length of course (note 5).	X
6	SAC Missile ORT Course.	A. Before Aug. 1, 1963.	-----	3 years	X
		B. On or after Aug. 1, 1963.	-----	None	
7	ATC missile course (note 2).	On or after Oct. 1, 1963 (for SAC only: on or after Aug. 1, 1963).	-----	10 times length of course	X
8	Technical training, including AFR 50-9, Special Training; AFIT special short courses; educational or professional training requiring absence from normal duties not specifically shown in other portions of this part.	-----	(1) Less than 20 weeks.	6 times length of course	X
			(2) 20 weeks or more but less than 12 months.	3 years	X
			(3) 12 months or more but less than 24 months.	4 years	X
			(4) 24 months or more.	4 years plus 2 months for each additional month of training or portion thereof.	X
9	National War College; Air War College; Industrial College of the Armed Forces; Armed Forces Staff College, Command & Staff College; or completion of training at comparable schools conducted by other services or nations.	-----	-----	3 years	X
10	Sq Officer School; Academic Instructors School (AU); or completion of training at comparable schools conducted by other services or nations.	-----	-----	1 year	X
11	Special tour with Manned Spacecraft Center (NASA), Houston, Tex. (note 7).	-----	-----	2 years	X
12	Professional training for medical service officers, except physicians and dentists, part of which is performed under AFIT sponsorship and remainder in a military establishment (note 8).	On or after Jan. 1, 1960.	-----	3 times length of course	X

See footnotes at end of table.

NOTES: 1. If the purpose of the award is to permit the officer to work on a project of value to the United States rather than fulfill the requirements of an academic degree, a service commitment is not incurred (AFR 36-95 (Fellowships, Scholarships, and Grants)). As a condition of acceptance, recipient will agree in writing to serve the commitment incurred.
2. Officers receiving basic (OBR) and specialized (OZR) training will count total training time to determine AD service commitment, regardless of whether training is received at one or more technical training centers.
3. In using the ratio computations for Rules 1B, 3, 5C, 7, and 8(1), the following applies:
(a) If the AD service commitment is computed as 60 days or less, a service commitment is not incurred.
(b) If the AD service commitment is computed as 61 days or more, but less than 181 days, the service commitment is 6 months.
4. Periods of training are computed in calendar weeks from the day the student reports for training until the day he departs from the training facility.
5. Officers completing these courses will incur AD service commitments from the date of completion of the training or completion of any unfilled AD service obligation or service commitment, whichever is later.
6. Prior commitments which exceed the requirements of this part will be reduced to comply with those stated therein. Prior commitments which are less than the requirements of this part will not be increased to comply with those stated therein.
7. Formalized by a memorandum of understanding, July 18, 1965, between NASA and USAF.
8. No obligated service commitment will be incurred by Biomedical Sciences Corps officers (dietitians) for the 6 months' military residence which normally follows sponsored civilian training. Service obligation incurred for civilian training will be that indicated in Rule 5.

§ 888c.14 Active duty service commitment for flying training.

Rule	A If training is—	B And date of entry is—	C And period of training is (note 1)—	D Then service commitment is—
1	Undergraduate pilot/navigator.	Before Jan. 1, 1970	-----	4 years (note 2).
		On/after Jan. 1, 1970	-----	5 years (notes 2, 3).
2	Formal combat or specialized that is conducted by a MAJCOM or established AF school (note 1, 4, 5).	-----	Less than 4 weeks	1 year.
			4 weeks or more but less than 8 weeks.	2 years.
			8 weeks or more but less than 12 weeks.	3 years.
			12 weeks or more	4 years.

NOTES: 1. Period of training will be based on the length of the course, as listed in AFM 50-5. If not listed, the length of the course is as announced by the MAJCOM conducting the course.
2. Officers will incur commitments commencing from date of award of aeronautical rating.
3. The majority of officers entering training on/after January 1, 1970, will have previously executed AF Forms 56, 1056, etc., or statements reflecting the 5-year commitment. It is anticipated that some officers entering training on/after January 1, 1970, will have executed agreements indicating a 4-year commitment. As a general rule, this latter category will be comprised of certain AFROTC officers who negotiated contracts prior to announcement of the increased commitment, AFROTC officers who are delayed entering training due to approved educational delays, and Air Force Academy Cadets of the class of 1969 who are delayed entering training due to participation in the "Hump Back" graduate program. For these officers, the 4-year commitment will apply even though entry is on/after January 1, 1970.
4. No additional commitment will be incurred for completion of this training, provided it is entered into within the first year after award of the aeronautical rating.
5. Training received in the type aircraft listed below will result in a 1-year commitment regardless of the length of training. The 1-year commitment will be considered satisfied upon completion of a tour in SEA, if such occurs prior to 1 year.
(a) A-1.
(b) U-6.
(c) U-10.
(d) C-47.
(e) C-123.
(f) O-1.
(g) T-28, except for officers who attend IP training conducted by Hq ATC who will accrue commitments based on rule 3.
(h) C-7A.

§ 888c.16 Active duty service commitments when eliminated from training.

Rule	A If member is eliminated—	B And training was conducted at—	C And period of training was—	D And training was terminated—	E Then service commitment incurred is—
1	When separation action is not appropriate under other regulations.	----------	(1) Less than 10 weeks.	----------	1 year from date of elimination.
		----------	(2) 10 weeks or more.	----------	2 years from date of elimination.
2	From AFIT Minuteman Missile Combat Crew Education Program.	----------	(1) Less than 12 months.	----------	1 year from date of elimination.
		----------	(2) 12 months or more.	----------	2 years from date of elimination.
3	From medical or dental residency.	A. Civilian hospital or institution.	----------	(a) Before completion of first year (note).	2 years from effective date of termination.
				(b) After completion of first year (note).	1 month for each month or fraction thereof of additional training.
		B. Military facility.	----------	(a) Before completion of first year (note).	1 year from effective date of termination.
				(b) After completion of first year (note).	1 month for each month or fraction thereof of additional training.
4	From postgraduate or professional education & training.	A. Civilian hospital or institution.	10 or more weeks.	(a) Less than 80% completed.	Equal to the incompleted portion of the course.
				(b) More than 80% completed.	2 years from effective date of termination.
		B. Military facility.	10 or more weeks.	(a) Less than 80% completed.	Equal to the incompleted portion of the course.
				(b) More than 80% completed.	1 year from effective date of termination.
5	From medical education, Regular and Reserve officers, leading to M.D. degree.	Civilian institution.	----------	(a) Before completion of first year.	2 years from effective date of termination.
				(b) After completion of first year.	1 month for each month or fraction thereof of additional training.

NOTE: When termination of training is for reasons other than a National emergency or discharge.

§ 888c.15 Active duty service commitments for physicians and dentists.

Rule	A If type training is—	B And conducted at—	C For period of—	D Then service commitment is—	E Go to § 888c.13 if training is not complete.
1	Senior medical student program.	----------	----------	3 years following completion of internship (note 4).	X
2	Internship (note 1)	A. Civilian hospital or institution.	----------	1 year after training and completion of other AD service commitments.	X
		B. Military facility.	----------	None, other than existing UMT&SA AD service obligation and/or unfilled AD service commitments.	X
3	Residency (note 1)	A. Civilian hospital or institution.	First year and/or additional years.	2 years for first year training and 1 year for each additional year training (note 2).	X
		B. Military facility.	First year and/or additional years.	1 year for each year training (note 2).	X
4	Postgraduate or graduate professional education and training.	A. Civilian hospital or institution.	(1) 10 thru 52 weeks.	2 years (note 2).	X
			(2) more than 52 weeks.	1 month for each month, or fraction thereof, for additional training (note 2).	X
		B. Military facility.	(1) 10 thru 52 weeks.	1 year.	X
			(2) more than 52 weeks.	1 month for each month, or fraction thereof for additional training (note 2).	X
5	Medical education, Regular and Reserve officers, leading to M.D. degree.	Civilian institution.	----------	3 times the length of course (note 2).	X

NOTES: 1. A UMT&SA obligation is different from service commitments incurred for sponsored training. A UMT&SA obligation must be fulfilled before AF service commitments for sponsored training. Service during a sponsored residency will be credited toward UMT&SA obligation but not toward a service commitment for previous sponsored training.

2. Service commitment will be effective following completion of training or completion of other AD service commitment or obligation, whichever is later.

3. Senior medical education program incurs a 2-year service agreement following intern training regardless of prior service. Two of the 3 years may be treated as UMT&SA obligation, and 1 year as service commitment for training.

§ 888c.17 After training.

Duration of the service commitment will vary with the length of training completed or received, or other circumstances involved. Such factors as cost of training, length of training, and criticalness to the Air Force mission are some of the considerations in the determination of the length of service commitments. The primary purpose of the service commitment is to assure a reasonable return to the Air Force, in terms of service, for monies and time expended in the training process.

(a) An officer with an established DOS, detailed to training in accordance with AFR 36–94, will not incur an AD service commitment extending beyond his DOS unless he obtains Career Reserve status before expiration of the AD service commitment associated with the training for which detailed.

(b) Career and DOS officers incur the same AD service commitment upon completion of training unless:

(1) DOS officer completes training entered involuntarily and his DOS precedes the termination date of his service commitment. In this case the officer is separated on his established DOS.

(2) Officer with a DOS volunteers for training or duty for which he is required to sign an SPTC for a period which extends beyond the existing DOS. The termination date of the SPTC becomes the new DOS.

(3) An established DOS is invalidated by the election of Career Reserve status after completion of training. The AD service commitment for the training completed or terminated will then be effective.

(c) Meeting these active duty service commitments will not fulfill the officer's initial active duty service obligation. Except for Rules 1 and 5, § 888c.13, AD service commitments are effective from the date of completion of the training, and are fulfilled concurrently with the active duty service obligation or other active duty service commitments. Prior commitments which exceed the requirements of this part will be reduced to comply with those stated herein. Entries in Item 4, AF Form 11, will be made in accordance with Chapter 8, AFM 35–9 (Officer Military Personnel Records System). Uniform Officer Record (UOR) entries will be made in accordance with AFM 30–3 (Mechanized Personnel Procedures).

§ 888c.18 Medical service training.

(a) Excepting courses leading to degrees that are conducted at civilian institutions and special courses specifically described by other directives, service commitments will not be invoked for training in this category that an officer entering active duty received before reporting to his first duty station.

(b) Service commitments will not be invoked for courses of less than 10 weeks. However, attendance will not be approved unless the officer has a minimum of 12 months remaining active service following completion of the course.

(c) Physicians and dentists completing training programs as senior medical students, medical and dental internships, medical and dental residencies, postgraduates, and graduate professional education and training will incur AD service commitments, as shown in § 888c.15. Participation in the programs contained in that section may be in sequence or as a separate training program. However, each incurs a separate AD service commitment which is accumulative and fulfilled consecutively Credits against incurred AD service commitments are suspended during periods of additional training. Commitments incurred before November 30, 1961, will not be increased should they be less than stated herein. All other officers of the medical service will incur AD service commitments for training received, as prescribed in § 888c.13.

§ 888c.19 After PCS movement.

A PCS movement to a CONUS station will result in an active duty service commitment of 1 year from the date of PCS departure from the last duty station. Officers reassigned to oversea areas whose dependents accompany or join them in the oversea area will have an active duty service commitment equivalent to the prescribed oversea tour. Officers serving unaccompanied oversea tours will have an active duty commitment of 1 year from the date of CONUS departure.

§ 888c.20 Restriction on involuntarily incurred active duty service commitments.

(a) For the purpose of this part, all assignments are considered to have been accepted voluntarily unless the assignee states in writing to the contrary.

(b) Career officers are obligated to accept any duty assignment for which selected, except those who are eligible to retire (see paragraph 61b, AFM 35–7 (Service Retirements)). In accepting the duty assignment they incur the active duty service commitment associated with the assignment, whether acceptance of the assignment is voluntary or involuntary. An assignment accepted by an officer eligible to retire is a voluntary assignment.

(c) When a career officer accepts a duty assignment involuntarily he must submit a statement within 30 days after assignment notification that he desires the opportunity to apply for separation from the service or retirement effective upon completion of the commitment accruing from this assignment action. This statement will be contained in a letter sent to Hq USAF (AFDASE), through the major air command, for file in the Officer's Correspondence and Miscellaneous Documents Group, Officer Master Personnel Record Group. The responsible unit personnel officer will insure that one copy of the letter is filed in the AF Form 10, "Officer Unit Personnel Record Group." A fax copy of the statement will be attached to the officer's request for separation or retirement when submitted. An officer who has submitted such a letter:

(1) Must initiate a request for separation (see paragraph (e) of this section) or intent to retire during the seventh calendar month before the date the active duty service commitment will expire; otherwise he will be considered for unrestricted assignment action.

(2) Will attach a fax copy of the statement indicating his desire for separation or retirement to his request for separation or retirement. Unless Air Force requirements are of overriding importance, the request will be approved upon completion of the first involuntary active duty service commitment, or sooner if it is in the best interest of the Air Force.

(d) Career officers will not be subjected to two consecutive involuntary active duty service commitments without having an opportunity to apply for separation or retirement. An officer who has submitted a letter as indicated in paragraph (c) of this section who is:

(1) Ordered to perform an assignment action that would result in a second involuntary active duty service commitment, and who has not yet reached the seventh calendar month, will submit his objection in the form of a resignation or request for release from active duty, or, if eligible to retire, a letter of intent to retire with the application for retirement forwarded during the sixth calendar month.

(2) Within 12 months of completion of the commitment and who must be mandatorily reassigned because of completion of stabilized tour as outlined in AFM 36–11 (Officer Assignment Manual), or as a result of base inactivation, will be given the opportunity to request separation or retirement or indicate voluntary status for reassignment. If separation or retirement is approved, officer's release date will be consistent with the mandatory reassignment date.

(e) A request for separation will be submitted as a resignation or application for release in accordance with AFR 36–12, referring to this part and section in the reasons for requesting separation. If approved, separation normally will be effected upon completion of the active duty service obligation or active duty service commitment, as applicable.

(f) An officer who is fulfilling a voluntarily incurred active duty service commitment or an initial active duty service obligation may submit a request for separation (see paragraph (e) of this section) during the seventh calendar month before the date the active duty service commitment will expire; otherwise, he will be considered for unrestricted assignment action. Unless Air Force requirements prohibit the action, the request will be approved.

(g) When a duty assignment involves an active duty service commitment which will expire before completion of the initial active duty service obligation or a current active duty service commitment, as applicable, no service commitment is considered to have been incurred.

By order of the Secretary of the Air Force.

LUCIAN M. FERGUSON,
Colonel, U.S. Air Force, Chief, Special Activities Group, Office of The Judge Advocate General.

[F.R. Doc. 67-14760; Filed, Dec. 20, 1967; 8:45 a.m.]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 55]

PART 1100—GENERAL RULES OF PRACTICE

Procedure of Temporary Authorities, Transfer, Finance, Operations, Special Permission, Released Rates, and Operating Rights Boards

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 21st day of November 1967.

There being under consideration the Commission's general rules of practice and for good cause appearing therefor:

It is ordered, That § 1100.225 of Chapter X of Title 49 of the Code of Federal Regulations be amended as follows: The caption is revised; paragraph (a) is revised; paragraph (b) is revised; paragraph (c) is redesignated as paragraph (e) without change; new paragraphs (c) and (d) are added; paragraph (d) is redesignated as paragraph (f) and amended; and paragraph (e) is redesignated as paragraph (g) without change. As amended, § 1100.225 reads as follows:

§ 1100.225 Special rules of practice governing the procedure of the Temporary Authorities Board, the Transfer Board, the Finance Board,[1] the Operations Boards, the Special Permission Board, the Released Rates Board, and the Operating Rights Board.[2] (Rule 225)

(a) The proceedings of the Temporary Authorities Board, the Transfer Board, the Finance Board, the Operations Boards, the Special Permission Board, the Released Rates Board, and the Operating Rights Board shall be informal. No transcript of such proceedings will be made. Subpoenas will not be issued and, except when applications, petitions, or statements are required to be attested, oaths will not be administered.

(b) A petition for reconsideration of an order of one of the following boards may be filed by any interested person:

(1) The Temporary Authorities Board, the Transfer Board, an Operations Board, the Special Permission Board, or the Released Rates Board; or

(2) The Operating Rights Board only with respect to matters arising pursuant to the Commission's deviation rules as set out in Part 1042 of this chapter.

(c) A petition for reconsideration of the Operating Rights Board, except as provided in paragraph (b) of this section, and the Finance Board may only be filed by a party to the proceeding.

(d) A petition for reconsideration pursuant to paragraphs (b) and (c) of this section and reply thereto will be governed by the Commission's general rules of practice, except as provided in paragraphs (e), (f), and (g) of this section.

(e) The original and six copies of every pleading, document, or paper permitted or required to be filed under this section, shall be furnished for the use of the Commission.

(f) A petition seeking reconsideration of an order of the Temporatory Authorities Board entered under section 210a(a) or 311(a) or of the Finance Board entered under section 210a(b) or 311(b) of the Interstate Commerce Act must be filed within 20 days after the date of service of the order. Within 20 days after the filing of such petition with the Commission any interested person may file and serve a reply thereto.

(g) A petition seeking reconsideration of an affirmative order of the Transfer Board entered pursuant to the rules and regulations governing transfers of property brokers' licenses, Part 1045 of this chapter, passenger brokers' licenses, Part 1133 of this chapter, motor carrier operating rights, Part 1132 of this chapter, water carrier operating rights, Part 1141 of this chapter, and freight forwarder permits, Part 1151 of this chapter, must be filed within 20 days following publication of a synopsis of such order in the FEDERAL REGISTER. In such a petition that matters claimed to have been erroneously decided and the alleged errors must be specified with particularity. If the petition contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted in affidavit form. Within 20 days after the final date for filing of such petitions with the Commission, any interested person may file and serve a reply thereto.

(Secs. 12, 17, 24 Stat. 383, as amended, 385, as amended; secs. 204, 205, 49 Stat. 546, as amended; secs. 304, 316, 54 Stat. 933, 948, secs. 408, 417, 56 Stat. 285, 307; 49 U.S.C. 12, 17, 304, 305, 904, 916, 1008, 1017)

It is further ordered, That these amendments shall be effective upon publication in the FEDERAL REGISTER.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy hereof in the Office of the Secretary of the Commission, Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 67-14634; Filed, Dec. 20, 1967; 8:45 a.m.]

[1] The general rules of practice apply to the procedure of all employee boards except to the extent specifically provided for in Rules 200 and 225.

SUBCHAPTER D—TARIFFS AND SCHEDULES

[Released Rates Order No. MC-293, Amdt. 2]

PART 1306—PASSENGER AND EXPRESS TARIFFS AND SCHEDULES OF MOTOR CARRIERS

Released Rates; Express Service

At a session of the Interstate Commerce Commission, Released Rates Board, held at its office in Washington, D.C., on the 29th day of November 1967.

By Released Rates Application No. MC-1106, as amended, National Bus Traffic Association, Inc., for and on behalf of carriers parties to its tariffs No. A-601-I, ME-ICC No. 302; No. A-603-B, ME-ICC No. 295; No. A-604-B, ME-ICC No. 296, and No. A-605-B, ME-ICC No. 298, requests authority to establish and maintain in said tariffs, an increased charge of 25 cents for each $100 or fraction thereof of excess value in lieu of the presently effective charge of 10 cents for each $100 of excess value authorized by Released Rates Order No. MC-293, as amended. A full investigation of the matters and things involved in Application No. MC-1106, as amended, having been made, and upon further consideration of Released Rates Order No. MC-293 and amendment thereto, entered January 14, 1949, and March 3, 1949, respectively, which application and order are hereby referred to and made a part hereof, and good cause therefor appearing:

It is ordered, That paragraphs (a) and (c) of § 1306.50 of Chapter X of Title 49 of the Code of Federal Regulations be amended to read as follows:

§ 1306.50 Released rates; express service.

(a) *Establishment.* All common carriers of passengers by motorbus who have been, or who may hereafter be, granted authority by the Commission to transport express are hereby authorized to establish and maintain, by filing and posting in the manner prescribed in the Interstate Commerce Act, rates for the transportation of property in express service by motorbus in interstate commerce, dependent upon the value declared in writing by the shipper or agreed upon in writing as the released value of the property as follows:

Released valuations	*Rate basis*
Released to value not exceeding $50 for any shipment of 100 pounds or less, or not exceeding 50 cents per pound actual weight for any shipment in excess of 100 pounds.	Base rate or charge.
Released to value exceeding $50 for any shipment of 100 pounds or less, or exceeding 50 cents per pound actual weight for any shipment in excess of 100 pounds.	25 cents for each $100 or fraction thereof in excess of the valuation to which the base rate or charge applies.

(c) *Authority for released rates must be shown in tariff.* Tariffs containing released rates and charges filed under authority of this order, as amended, shall show in connection with such rates and charges, the following notation:

Rates and charges herein based on released value have been authorized by the Interstate Commerce Commission in Released Rates Order No. MC-293 of January 14, 1949, as amended March 3, 1949, and November 29, 1967, subject to complaint or suspension.

(Secs. 12, 20, 24 Stat. 383, as amended, 386, as amended, sec. 219, 49 Stat. 563, as amended; 49 U.S.C. 12, 20, 319)

It is further ordered, That this amendment shall be effective November 29, 1967.

And it is further ordered, That in all other respects, the terms and conditions of Released Rates Order No. MC-293, as amended, shall be and remain in full force and effect.

By the Commission, Released Rates Board.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 67-14635; Filed, Dec. 20, 1967; 8:45 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

SUBCHAPTER B—HUNTING AND POSSESSION OF WILDLIFE

PART 13—IMPORTATION OF WILDLIFE OR EGGS THEREOF

Miscellaneous Amendments

There was published in the FEDERAL REGISTER of Thursday, July 27, 1967, on page 10982, a notice of proposed rule making regarding amendments to Title 50, Part 13 of the Code of Federal Regulations governing the importation into the United States of live or dead specimens of those species of wild mammals, wild birds, fish, mollusks, crustaceans, amphibians, and reptiles, and the eggs thereof, which have been determined to be injurious or potentially injurious to human beings, to the interests of agriculture, forestry, horticulture, or to the native wildlife or wildlife habitat of the United States.

Investigations by the Secretary of the Interior have determined that the dioch (including the subspecies black-fronted, red-billed, or Sudan dioch), Quelea quelea, is a serious depredator of cereal grain crops in its native habitat in Africa. Likewise, the Java sparrow, Padda oryzivora, depredates in a somewhat similar manner in its native habitat of Southeast Asia. Further, determinations have been made that the species of red-whiskered bul-bul, Pynonctus jocosus, has been detrimental to the interests of horticulture in its native habitat of Southeast Asia.

Viral hemorrhagic septicemia, "Egtved disease", and "whirling disease", caused by the protozoan, Myxosoma cerebralis, although not contagious to humans or warm blooded animals, have caused devastating losses and serious problems in trout hatcheries in Europe. No therapeutic agents have been discovered which will control the diseases. In order to preclude the spread of whirling disease and prevent the introduction of viral hemorrhagic septicemia, it is essential that all importations of fish species which are known to harbor these disease agents be screened to prevent the introduction into the United States of viable organisms which cause the aforementioned diseases.

A period of 60 days was provided within which any interested person could submit written comments, suggestions, and objections. Requests for additional time were received.

By publication in the FEDERAL REGISTER of Thursday, September 28, 1967 on page 13595, this time period was extended to November 30, 1967.

After consideration of all such relevant matter as was presented by interested persons, the regulations are amended to read as follows, and will become effective on July 1, 1968.

1. Section 13.7 in the table of contents is amended to read:

Sec.
13.7 Importation of live or dead fish, mollusks, and crustaceans, or their eggs.

2. The authority citation for Part 13 is amended to read:

AUTHORITY: The provisions of this Part 13 issued under sec. 43, 62 Stat. 667, as amended, 18 U.S.C. 42; 77A Stat. 20, 19 U.S.C. 1202 (Schedule 1, part 3, headnote 1-4, 4E, headnote 1).

3. Section 13.2 is amended to read:

§ 13.2 General restrictions.

Any importation or transportation of live wildlife or eggs thereof, or dead fish or eggs of salmonids of the fish family Salmonidae into the United States or its territories or possessions is deemed to be injurious or potentially injurious to the health and welfare of human beings, to the interest of forestry, agriculture, and horticulture, and to the welfare and survival of the wildlife or wildlife resources of the United States; and any such importation into or the transportation of live wildlife or eggs thereof between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any territory or possession of the United States, by any means whatsoever, is prohibited except for certain purposes and under certain conditions as hereinafter provided in this part: *Provided*, That the provisions of this section shall not apply to game mammals imported from Mexico or to migratory birds, psittacine birds, and bald and golden eagles, the importation of which is governed by other Federal regulations.

4. Section 13.6 (a) and (b) is amended to read:

§ 13.6 Importation of live wild birds or their eggs.

(a) The importation, transportation, or acquisition is prohibited of any live specimen or egg of (1) the species of so-called "pink starling" or "rosy pastor" Sturnus roseus; (2) the species of dioch (including the subspecies black-fronted, red-billed, or Sudan dioch) Quelea quelea; (3) any species of Java sparrow, Padda oryzivora; (4) the species of red-whiskered bul-bul, Pycnonctus jocosus: *Provided*, That the Director shall issue permits authorizing the importation, transportation, and possession of such live birds under the terms and conditions set forth in §§ 13.10 through 13.11.

(b) Upon the filing of a written declaration with the District Director of Customs at the port of entry as required under § 13.12, all species of live wild game birds may be imported, transported, and possessed in captivity, without a permit, for scientific, medical, educational, exhibition, or propagating purposes, and the eggs of such birds may be imported, transported, and possessed, without a permit, for propagating or scientific collection purposes, but no such live wild game birds or any progeny thereof may be released into the wild except by the State wildlife conservation agency having jurisdiction over the area of release or by persons having prior written permission for release from such agency.

5. Section 13.7 is amended to read:

§ 13.7 Importation of live or dead fish, mollusks, and crustaceans or their eggs.

(a) Except for the salmonids of the fish family Salmonidae, all species of live or dead fish, mollusks and crustaceans, or parts thereof, or their eggs, may be imported, transported, and possessed in captivity without a permit, for scientific, medical, educational, exhibition, or propagational purposes upon the filing of a written declaration with the District Director of Customs at the port of entry as required under § 13.12. No such live fish, mollusks, crustacean, or any progeny or eggs thereof, may be released into the wild except by the State wildlife conservation agency having jurisdiction over the area of release or by persons having prior written permission from such agency.

(b) Notwithstanding authority granted Federal agencies in § 13.4, all live or dead fish or eggs of salmonids of the fish family Salmonidae are prohibited entry into the United States for any purpose unless such importations are by direct shipment, accompanied by a certification that the importation is free of the protozoan Myxosoma cerebralis, the causative agent of so-called "whirling disease", and the virus causing viral hemorrhagic septicemia or "Egtved disease". The certification shall be signed in the country of origin by a designated official acceptable to the Secretary of the Interior, as being qualified in fish pathology, or in the

United States, by a qualified fish pathologist designated for this purpose by the Secretary of the Interior.

(c) Nothing in this part shall restrict the importation and transportation of dead fish or dead eggs of salmonids of the fish family Salmonidae when such fish or eggs have been processed by canning, pickling, smoking, or otherwise prepared in a manner whereby all spores of the protozoan Myxosoma cerebralis, the causative agent of so-called "whirling disease", and the virus causing viral hemorrhagic septicemia or so-called "Egtved disease" have been killed. Salmon landed in North America and brought into the United States for processing or sale, or any salmonid caught in the wild in North America under a sport or a commercial fishing license shall be exempt from the requirement for certification.

6. Section 13.12 is amended to read:

§ 13.12 Declaration required to be filed upon entry.

With respect to any authorized importation of live wildlife, or dead salmonids of the fish family Salmonidae, without a permit, pursuant to provisions of §§ 13.4 through 13.9, the importer or his broker must file a Declaration for Importation of Wildlife (Bureau of Sport Fisheries and Wildlife Form 3–177 available through Customs at ports of entry) with the District Director of Customs at the port of entry where actual Customs inspection for clearance or release occurs. Such declaration must list the name and address of the importer and the broker if any; the name and address of the consignor; and the number of specimens and the common and scientific names of each species imported: *Provided*, That no such declaration shall be required for the importation of domesticated canaries and psittacine birds.

JOHN S. GOTTSCHALK,
Director, Bureau of Sport Fisheries and Wildlife.

DECEMBER 18, 1967.

[F.R. Doc. 67–14821; Filed, Dec. 20, 1967; 8:50 a.m.]

SUBCHAPTER C—THE NATIONAL WILDLIFE REFUGE SYSTEM

PART 32—HUNTING

Sand Lake National Wildlife Refuge, S. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

SOUTH DAKOTA

SAND LAKE NATIONAL WILDLIFE REFUGE

Public hunting of upland game is permitted on the Sand Lake National Wildlife Refuge, S. Dak., excepting those areas designated by signs as closed to hunting. This open area, comprising 20,000 acres, is delineated on a map[1] available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn. 55408. Hunting shall be in accordance with all applicable State regulations covering the hunting of upland game subject to the following conditions:

(1) Hunters will not be allowed to drive on refuge maintained trails, but may park their vehicles and hunt on foot.

(2) The open season for hunting pheasants on the refuge is from December 26, through December 31, 1967, inclusive.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1967.

LYLE J. SCHOONOVER,
Refuge Manager, Sand Lake National Wildlife Refuge.

DECEMBER 15, 1967.

[F.R. Doc. 67–14793; Filed, Dec. 20, 1967; 8:48 a.m.]

PART 33—SPORT FISHING

Mattamuskeet National Wildlife Refuge, N.C., and Okefenokee National Wildlife Refuge, Ga.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

NORTH CAROLINA

MATTAMUSKEET NATIONAL WILDLIFE REFUGE

Sport fishing on the Mattamuskeet National Wildlife Refuge, New Holland, N.C., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 40,000 acres, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 809 Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fishing shall be in accordance with all applicable State regulations except the following special conditions:

(1) Fishing permitted during daylight hours only.

(2) Boats with motors not larger than 10 h.p., canoes and rowboats permitted.

(3) Artificial and live bait (except live minnows) permitted.

(4) Trotlines, limb lines, nets, or other set tackle prohibited.

(5) Persons entering refuge from main access points must register with the respective concessioner.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33.

W. L. TOWNS,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

DECEMBER 13, 1967.

[F.R. Doc. 67–14767; Filed, Dec. 20, 1967; 8:46 a.m.]

[1] Map filed as part of the original document.

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[12 CFR Part 16]

NEW NATIONAL BANKS

Use of Registration Statements and Offering Circulars

Notice is hereby given that the Comptroller of the Currency, pursuant to the authority contained in the National Banking Laws (R.S. 324 et seq., as amended; 12 U.S.C. 1 et seq.) and sections 12(l), 14(a), 14(c), and 16(a), Securities Exchange Act of 1934, as amended, is considering the adoption of revisions of 12 CFR 16.6 and 16.8 relating to the use of registration statements and offering circulars by all new national banks.

Under the present regulations new national banks are required to file registration statements and use offering circulars only if the amount of capital they are soliciting is $1 million or more. Under the proposed rule all new national banks would be required to file registration statements and use offering circulars with respect to their public sale of initial securities, regardless of the amount being sold.

Prior to the adoption of the revised regulation, consideration will be given to any written comments pertaining thereto which are submitted within 30 days of the publication hereof to the Comptroller of the Currency, Washington, D.C. 20220 (Attention Chief Counsel, Room 4134, Main Treasury Building). All national banks and other interested parties are invited to submit their comments.

It is proposed that 12 CFR 16.6 and 16.8 be amended as follows:

§ 16.6 Registration of securities of new national banks.

No new national bank shall sell any of its securities unless such securities shall have been made the subject of a registration statement filed in the Office of the Comptroller of the Currency which has been declared effective by the Comptroller.

§ 16.8 Filing of registration statement and use of offering circular.

(a) No securities of a new national bank shall be sold by, for, or on behalf of any new national bank unless at the time of, or prior to such sale, the purchaser of such security has received an offering circular which forms part of a registration statement declared effective by the Comptroller of the Currency.

* * * * *

Dated: December 14, 1967.

[SEAL] WILLIAM B. CAMP,
Comptroller of the Currency.

[F.R. Doc. 67–14797; Filed, Dec. 20, 1967; 8:49 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 67–CE–146]

VOR FEDERAL AIRWAY

Proposed Extension

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation regulations that would extend VOR Federal airway No. 175 from Hallsville, Mo., to Sioux City, Iowa.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Building, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The FAA proposes to extend V–175 from Hallsville to Sioux City, with a 1,200-foot AGL floor, via Macon, Mo.; Kirksville, Mo.; and Des Moines, Iowa. This extended airway segment would provide a route with controlled airspace for aircraft operating between Hallsville and Sioux City.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on December 12, 1967.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67–14784; Filed, Dec. 20, 1967; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67–SW–80]

VOR FEDERAL AIRWAY

Proposed Extension

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would extend VOR Federal airway No. 289 from Fort Smith, Ark., to Vichy, Mo.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The FAA proposes to extend V–289 from Fort Smith with a 1,200-foot AGL floor to Vichy, Mo., via Harrison, Ark.; Dogwood, Mo.; and the intersection of Dogwood 028° T (020° M) and Vichy, Mo., 239° T (233° M) radials. This proposed extension of V–289 would provide controlled airspace for aircraft operating between these points.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on December 13, 1967.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67–14785; Filed, Dec. 20, 1967; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67–SW–70]

FEDERAL AIRWAY

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would realign VOR Federal airway No. 15 west alternate from Dallas, Tex., to Ardmore, Okla.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box

1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The FAA is proposing to realign V-15 west alternate segment from Dallas to Ardmore with a 1,200-foot AGL floor via the intersection of the Dallas 299° T (291° M) and the Ardmore 178° T (169° M) radials.

Terminal air traffic control procedures currently utilized within the Dallas terminal area require traffic arriving at Dallas from Ardmore or from over Ardmore be routed via the proposed realigned V-15W alternate. This revised airway segment would provide an airway for clearance and coordinating procedures. No appreciable increase in procedural routing of arrival aircraft will be required since they are presently routed via the proposed realigned route.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on December 12, 1967.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-14786; Filed, Dec. 20, 1967; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-EA-117]

FEDERAL AIRWAY

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate V-339 from Whitesburg, Ky., 1,200 feet AGL to Falmouth, Ky. This action would designate controlled airspace within which to provide air traffic service for aircraft operating in accordance with instrument flight rules between these two terminals.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on December 12, 1967.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-14787; Filed, Dec. 20, 1967; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-CE-147]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Winner, S. Dak.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

As a result of the development of a VOR public use instrument approach procedure to serve Wiley Field, Winner, S. Dak., utilizing an Federal Aviation Administration VOR as a navigational aid, it is necessary to designate a transition area at Winner, S. Dak., in order to provide protection for aircraft executing this approach procedure.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (32 F.R. 2148), the following transition area is added:

WINNER, S. DAK.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Wiley Field (latitude 43°23'20" N., longitude 99°50'40" W.); and within 2 miles each side of the Winner VOR 212° radial, extending from the 7-mile radius area to the VOR; and that airspace extending upward from 1,200 feet above the surface within 5 miles southeast and 8 miles northwest of the Winner VOR 032° and 212° radials, extending from 5 miles southwest to 18 miles northeast of the VOR; and within 5 miles each side of the Winner VOR 212° radial, extending from 12 to 19 miles southwest of the VOR.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued at Kansas City, Mo., on December 6, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 67-14788; Filed, Dec. 20, 1967; 8:48 a.m.]

[14 CFR Part 77]

[Docket No. 8800; Notice 67-54]

OBJECTS INTERFERING WITH AIR NAVIGATION FACILITIES

Proposed Construction or Alteration

The Federal Aviation Administration is considering amending Part 77 of the Federal Aviation Regulations to permit the Administrator to consider the effect a proposed construction or alteration would have upon the operation of an air navigation facility.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket GC-24, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before January 22, 1968, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Part 77 of the Federal Aviation Regulations establishes standards for determining obstructions in navigable airspace, sets forth the notice requirements of certain proposed construction or alteration, provides for aeronautical studies of obstructions to determine their effect on the safe and efficient use of airspace and provides for public hearings on the hazardous effect of proposed construction or alteration. In accordance with previous interpretations and practice, this part applies to the physical effect of an obstruction on the flight of aircraft through the navigable airspace.

The FAA is encountering, with increasing frequency, situations where construction or alteration has a deleterious effect on the operation of air navigation facilities without being a physical hazard in the flight path of aircraft. These situations have ranged from construction which partially blocked the view from a control tower of runways, taxi, and parking areas, to obstructions which blocked or reflected electromagnetic radiation in the vicinity of navigational aids like radio or radar installations. In some instances, the navigational aid could be moved to an interference-free location. In other situations, however, no interference-free locations were available, or the cost of razing and relocating facilities, because of their size or number, was exorbitant.

It appears desirable that when an aeronautical study is made, the Administrator should include in that study the effect that construction or alteration may have on the operation of air navigation facilities. It would be an unreasonable burden on the public to require a proponent to consider this effect because the public may not be aware of the existence or operational characteristics of an air navigation facility, and any effect thereon may not easily be ascertained by the proponent. Accordingly, whether or not a notice is required under Subpart B of this part, the Administrator should have the authority of including in an aeronautical study the physical or electromagnetic effect of proposed construction on air navigation facilities. The study may enable the Administrator to recommend changes in the design, location, or construction material that would eliminate or reduce interference with the operation of the air navigation facility. A reduction or elimination of interference may permit the retention of existing approach minimums, use of existing runways or facility structures or avoid costly relocation expenses to the airport or the FAA.

In consideration of the foregoing, it is proposed to amend §§ 77.31 and 77.35 of Part 77 of the Federal Aviation Regulations to read as follows:

§ 77.31 Scope.

(a) This subpart applies to the conduct of aeronautical studies of the effect of proposed construction or alteration on the use of air navigation facilities or navigable airspace by aircraft. In the aeronautical studies, present and future IFR and VFR aeronautical operations and procedures are reviewed and any possible changes in those operations and procedures and in the construction proposal that would eliminate or alleviate the conflicting demands are ascertained.

* * * * *

§ 77.35 Aeronautical studies.

(a) The Regional Director of the region in which the proposed construction or alteration would be located, or his designee, conducts the aeronautical study of the effect of the proposal upon the operation of air navigation facilities and the safe and efficient utilization of the navigable airspace. This study may include the physical and electromagnetic radiation effect the proposal may have on the operation of an air navigation facility.

* * * * *

This amendment is proposed under the authority of sections 307, 313, and 1101 of the Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354, 1501).

Issued in Washington, D.C., on December 13, 1967.

WILLIAM E. MORGAN,
Acting Director, Air Traffic Service.

[F.R. Doc. 67-14783; Filed, Dec. 20, 1967; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 17562]

PRESUNRISE OPERATION BY CLASS II STATIONS

Order Extending Time for Filing Reply Comments

In the matter of "Presunrise" operation by Class II stations under presunrise service authorization on U.S. I-A clear channels, Docket No. 17562.

1. Reply comments in this proceeding, which concerns "presunrise" operation by Class II AM stations on U.S. I-A channels, are now due December 14, 1967. The Commission has received a number of requests for additional time to file reply comments, including a letter request by A. Earl Cullum, Jr., & Associates and a "Request for Extension of Time" filed by KXA, Inc., and Nationwide Communications, Inc., both requesting that the time be extended to January 15, 1968. The reasons advanced include the need for more time to analyse and reply to the fairly large amount of material filed in initial comments, the difficulty of obtaining material filed because the Commission has been moving its offices in recent weeks, and the imminent holiday season.

2. It appears that additional time for reply comments is warranted, but that grant of the full amount requested would not be appropriate. We point out that a considerable amount of the initial comment material was filed well before the due date for initial comments, and also that a number of initial comments were served on the other parties immediately concerned. Accordingly, it appears that an extension of time until January 8, 1968, should be sufficient.

3. In view of the foregoing: *It is ordered*, That the time for filing reply comments in this proceeding is extended to and including January 8, 1968. Authority for this action is contained in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules and regulations.

Adopted: December 13, 1967.

Released: December 14, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14807; Filed, Dec. 20, 1967; 8:49 a.m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1056]

[Ex Parte No. MC-19 (Sub No. 4)]

TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE OR FOREIGN COMMERCE

Accessorial or Terminal Services

DECEMBER 13, 1967.

In the matter of amendment of § 1056.4.[1]

In the Commission's notice to all parties dated August 30, 1967, and served September 5, 1967, in the above-entitled proceeding, the name of the following party of record was inadvertently omitted as a party in opposition to the proposed rulemaking therein:

E. J. Flavin, Allied Van Lines, Inc., Post Office Box 4403, Chicago, Ill. 60680.

Copies of statements in support of the proposals have been served on the party by the Commission. All future statements in opposition and statements in reply should be served on the above party at the time they are served on the Commission.

The time for filing statements in opposition has been extended to January 15, 1968. Reply statements by supporting parties will be due January 25, 1968.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 67-14803; Filed, Dec. 20, 1967; 8:49 a.m.]

[1] Formerly numbered 49 CFR 176.4.

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A 662]

ARIZONA

Notice of Classification of Public Lands for Multiple-Use Management

1. Pursuant to section 2 of the Act of September 19, 1964 (43 U.S.C. 1411–18) and to the regulations in 43 CFR Parts 2410 and 2411, the public lands in the area described below are classified for multiple-use management. Publication of this notice has the effect of segregating all of the described lands from appropriation under the agricultural land laws (43 U.S.C. Parts 7 and 9, 25 U.S.C. 334), private exchange (43 U.S.C. 315g(b)), State exchange (43 U.S.C. 315g(c)), sales under section 2455 Revised Statutes (43 U.S.C. 1171), State selections (43 U.S.C. 851, 852), and the mining and mineral leasing laws. As used in this order, "public lands" means any lands (1) withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or (2) within a Grazing District established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. The public lands classified in this notice are shown on maps on file, and available for inspection, in the Phoenix District Office, Bureau of Land Management, Federal Building, Ariz.

3. The lands affected by this classification are located in Apache, Maricopa, Navajo, and Pima Counties, and are described as follows:

GILA AND SALT RIVER MERIDIAN, ARIZ.

T. 12 N., R. 26 E.,
Sec. 18, lots 1 and 2, E½NW¼, SW¼NE¼, and SE¼.
T. 19 N., R. 16 E.,
Sec. 20, E½NE¼.
T. 11 S., R. 13 E.,
Sec. 4, S½S½ and NE¼SW¼;
Sec. 7, lots 1 and 2, SW¼NW¼ and S½NE¼;
Sec. 13, W½;
Sec. 15, NW¼ and N½NE¼;
Sec. 24, NW¼.
T. 10 S., R. 12 E.,
Sec. 19, lots 2, 3, 4, 9, and 10;
Sec. 21, N½, N½S½, S½SE¼, and SE¼SW¼;
Sec. 23, N½SW¼ and SW¼NW¼;
Sec. 27, SE¼;
Sec. 30, lots 1 and 2;
Sec. 34, E½;
Sec. 35, S½, S½NW¼, and SE¼NE¼.

The lands described aggregate 3,133.93 acres of public lands.

4. The above lands in T. 12 N., R. 26 E., lie approximately 2 miles southwest of Concho, Ariz., and are partially within Concho Lake. Concho Lake is a permanent water area which provides trout fishing. These lands are considered important for public access to the lake.

The lands in T. 6 N., R. 2 E., described in the proposed classification decision and located approximately 25 miles north of Phoenix, adjacent to the Black Canyon Shooting Range, are embraced in application filed by the Arizona State Game and Fish Department for additional development to the Black Canyon Shooting Range. Separate classification action will be taken later concerning this property.

The lands in T. 19 N., R. 16 E., are located approximately 3 miles northeast of Winslow, Ariz., and contain a large Indian ruin.

The balance of these lands are located from 11 to 15 miles north of Tucson, Ariz., in the Tortolita Mountains. These lands have significant value for wildlife and outdoor recreation. These lands, being close to the Tucson metropolitan area, are popular with hunters seeking deer, quail, and javelina, and provide study areas for data collection of their habitat requirements.

5. No adverse comments were received following publication of a notice of proposed classification (32 F.R. 13332).

6. For a period of 30 days from date of publication in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior, BLM, 721, Washington, D.C. 20240.

FRED J. WEILER,
State Director.

DECEMBER 14, 1967.

[F.R. Doc. 67-14768; Filed, Dec. 20, 1967; 8:46 a.m.]

[Group 435]

ARIZONA

Notice of Filing of Plat

DECEMBER 13, 1967.

1. Plat of survey of the land described below will be officially filed in the Land Office, Phoenix, Ariz., effective at 10 a.m., January 18, 1968.

GILA AND SALT RIVER MERIDIAN.

T. 5 N., R. 7 E.,
Secs. 33 to 36, inclusive.

The area described aggregates 2,560 acres of public land.

2. The land described above varies from rolling to broken. The soil is from gravelly loam to rocky. There is a moderate growth of palo verde with an undergrowth of cacti, catclaw, creosote, and brush.

3. All the above-described land is embraced in the Tonto National Forest by Proclamation 1672 of August 14, 1923.

4. The land consisting of W½ and W½E½ sec. 33, is embraced in Secretary's order of withdrawal for Salt River River Project, December 4, 1904.

5. In view of the above, the land described will not be subject to disposition under the general public land laws by reason of the official filing of the plat.

GLENDON E. COLLINS,
Manager.

[F.R. Doc. 67-14771; Filed, Dec. 20, 1967; 8:47 a.m.]

[S 572]

CALIFORNIA

Notice of Classification of Public Lands for Multiple-Use Management

1. Pursuant to the Act of September 19, 1964 (78 Stat. 986; 43 U.S.C. 1411–18) and to the regulations in 43 CFR Parts 2410 and 2411, the public lands in paragraph 3 are classified for multiple use, together with any lands therein that may become public lands in the future. As used herein, "Public Lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

Publication of this notice segregates the described lands from appropriation only under the agricultural land laws (43 U.S.C. Chs. 7 and 9; 25 U.S.C. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171), and the lands described in paragraph 4 from appropriations under the mining laws (30 U.S.C. Ch. 2). The lands shall remain open to all other applicable forms of appropriation.

2. No adverse comments were received following publication of the notice of proposed classification (32 F.R. 13600, Sept. 28, 1967), or at the public hearing at Auburn, Calif., which was held on October 19, 1967. No changes have been made in the list of lands included in this classification. The record showing reaction to the classification made by members of the public attending or interested in the hearing is on file and can be examined in the Folsom District Office, Folsom, Calif.

3. The public lands affected by this classification are located within the following described areas and are shown on the Placer-El Dorado Planning Unit Classification Map, on file in the Folsom District Office, 63 Natoma Street, Folsom, Calif., and on the Sacramento Land Office records, Bureau of Land Management, 650 Capitol Mall, Sacramento, Calif.:

MOUNT DIABLO MERIDIAN, CALIFORNIA

BLOCK NO. I

All public lands in:
T. 15 N., R. 9 E.,
Secs. 12, 13, 14, 22, 23, and 24.
T. 15 N., R. 10 E.,
N½ sec. 1, N½ sec. 2, secs. 3 to 8, inclusive, secs. 18 and 19.
T. 16 N., R. 10 E.,
Secs. 24 to 27, inclusive, and secs. 33 to 36, inclusive.

Except the following public lands:
T. 15 N., R. 10 E.,
Sec. 2, E½ lot 5;
Sec. 8, W½SE¼.

BLOCK NO. II

All public lands in:
T. 15 N., R. 9 E.,
Secs. 25 and 36.
T. 15 N., R. 10 E.,
S½ sec. 1, S½ sec. 2, secs. 9 to 12, inclusive, secs. 14 to 17, inclusive, secs. 20 to 22, inclusive, and secs. 27 to 33, inclusive.

BLOCK NO. III

All public lands in:
T. 12 N., R. 9 E.,
Secs. 1 to 6, inclusive.
T. 13 N., R. 9 E.,
Secs. 1 and 2, secs. 10 to 15, inclusive, and secs. 22 to 36, inclusive.
T. 14 N., R. 9 E.,
Secs. 1, 12, 13, 24, 25, 35, and 36.
T. 13 N., R. 10 E.,
Secs. 1 to 32, inclusive.
T. 14 N., R. 10 E.
T. 15 N., R. 10 E.,
Secs. 13, 23, 24, 25, 26, 34, 35, and 36.

BLOCK NO. IV

All public lands in:
T. 11 N., R. 10 E.,
Secs. 1 to 30, inclusive.
T. 12 N., R. 10 E.
T. 13 N., R. 10 E.,
Secs. 33 to 36, inclusive.
T. 11 N., R. 11 E.,
Secs. 4 to 9, inclusive, secs. 16 to 21, inclusive, secs. 28 to 30, inclusive, secs. 32 and 33.
T. 12 N., R. 11 E.,
Secs. 17 to 20, inclusive, and secs. 29 to 32, inclusive.

Except the following public land:
T. 12 N., R. 10 E.,
Sec. 27, lot 3.

BLOCK NO. V

All public lands in:
T. 9 N., R. 10 E.,
Secs. 1, 12, 13, 14, 23, 24, 25, and 26.
T. 9 N., R. 11 E.,
Secs. 1, 6, and 7, and secs. 12 to 30, inclusive.
T. 9 N., R. 12 E.,
Secs. 1 to 30, inclusive.

BLOCK NO. VI

All public lands in:
T. 12 N., R. 8 E.,
Sec. 25, north extension of Mineral Survey 6091, NW¼NW¼, exclusive of Mineral Survey 6091, and north extension of Mineral Survey 6091, SW¼NW¼, exclusive of Mineral Survey 6091; and S½SE¼NW¼, exclusive of Mineral Survey 6091.
T. 8 N., R. 9 E.,
Sec. 13, E½SE¼;
Sec. 24, lots 1, 2, and 3, unpatented portion of New Virginia Quartz Mine of Mineral Survey 3904, and E½E½;
Sec. 25, lots 1, 2, and 3, and E½NW¼;
Sec. 36, SE¼NE¼NE¼ and NE¼SE¼NE¼.
T. 8 N., R. 10 E.,
Sec. 2, lots 2, 6, 7, and 30, exclusive of Mineral Survey 5421;
Sec. 18, lots 1, 2, 3, and 4, and E½SW¼;
Sec. 19, lots 1, 2, 3, and 4, and E½W½;
Sec. 22, S½NW¼;
Sec. 30, lots 1 and 2, and NE¼NW¼.
T. 8 N., R. 12 E.,
Sec. 1, N½SW¼;
Sec. 13, NE¼SE¼.
T. 8 N., R. 13 E.,
Sec. 4, N½SW¼SW¼ and N½S½SW¼SW¼;
Sec. 18, lot 3, N½ lot 4, lot 8, S½SE¼NE¼NE¼NW¼, N½NE¼SE¼NE¼NW¼, S½N½S½SE¼NW¼, S½N½NE¼SW¼, SW¼NE¼SW¼, and N½SE¼SW¼.

The public lands being classified aggregate approximately 21,051 acres.

4. As provided in paragraph 1 above, the following lands are segregated from appropriation under the mining laws (totaling approximately 3,294 acres):

MOUNT DIABLO MERIDIAN, CALIF.

T. 12 N., R. 8 E.,
Sec. 25, North extension of Mineral Survey 6091, NW¼NW¼, exclusive of Mineral Survey 6091, and north extension of Mineral Survey 6091, SW¼NW¼, exclusive of Mineral Survey 6091, and S½SE¼NW¼, exclusive of Mineral Survey 6091.
T. 8 N., R. 9 E.,
Sec. 13, E½SE¼;
Sec. 24, lots 1, 2, and 3, unpatented portion of New Virginia Quartz Mine of Mineral Survey 3904, and E½E½;
Sec. 25, lots 1 and 3, and E½NW¼;
Sec. 26, SE¼NE¼NE¼ and NE¼SE¼NE¼.
T. 13 N., R. 9 E.,
Sec. 1, portion of lot 51;
Sec. 2, lots 2 and 7, N½SW¼, SW¼SW¼;
N½SE¼SW¼, and SW¼SE¼SW¼;
Sec. 11, S½SW¼;
Sec. 13, SE¼SE¼;
Sec. 22, N½SW¼ and SW¼SW¼;
Sec. 23, lot 41;
Sec. 24, lot 1, exclusive of Mineral Survey 5487, lot 2, exclusive of Mineral Surveys 5487, 5488, 4962, and 5209, and SE¼SW¼, exclusive of Mineral Survey 5488;
Sec. 25, Mineral Survey 4948;
Sec. 28, NE¼NE¼, S½NW¼NE¼, SE¼NW¼, NW¼SW¼, N½SW¼SW¼, E½SW¼SW¼SW¼, and W½SE¼SW¼SW¼;
Sec. 34, lot 4;
Sec. 36, lots 1, 2, and 3.
T. 14 N., R. 9 E.,
Sec. 1, lot 5;
Sec. 24, SW¼;
Sec. 25, lot 1, exclusive of Mineral Survey 5816, lots 2, 4, 5, and 6, and W½SW¼;
Sec. 35, lots 1 and 3, NE¼, E½NW¼, SW¼SW¼, and NE¼SE¼;
Sec. 36, NW¼.
T. 8 N., R. 10 E.,
Sec. 2, lots 2, 6, 7, and 30, exclusive of Mineral Survey 5421;
Sec. 18, lots 1, 2, 3, and 4, and E½SW¼;
Sec. 19, lots 1, 2, 3, and 4, and E½W½;
Sec. 30, lots 1 and 2, and NE¼NW¼.
T. 9 N., R. 10 E.,
Sec. 13, lot 1, exclusive of lot 55, Mineral Surveys 5423 and 5552, lots 8, 9, and 15;
Sec. 24, N½NW¼, exclusive of Mineral Survey 4749.
T. 11 N., R. 10 E.,
Sec. 2, lot 13.
T. 12 N., R. 10 E.,
Sec. 1, lot 2, exclusive of Mineral Survey 6312, and SW¼NE¼, exclusive of Mineral Survey 6312;
Sec. 7, lots 1, 19, 20, 21, and 22;
Sec. 15, lot 1, N½NE¼, SW¼NE¼, N½SE¼NE¼, and SW¼SE¼NE¼;
Sec. 17, lots 8, 9, 10, 11, 12, 13, and 16, and E½SW¼NW¼.
T. 13 N., R. 10 E.,
Sec. 2, lot 1, lots 3 to 7, inclusive, and lots 10 to 14, inclusive;
Sec. 3, lots 4 and 5, and lots 8 to 12, inclusive;
Sec. 4, lots 48, 49, 50, and 51;
Sec. 9, lots 8, 12, and 13, and SW¼NE¼;
Sec. 10, lots 1, 2, and 3, and lots 5 to 9, inclusive, E½NE¼, E½NW¼, and SW¼NW¼;
Sec. 18, lots 1, 2, 3, and 4, S½ lot 5, S½ lot 8, lots 11 and 13;
Sec. 19, lot 24;
Sec. 20, lot 1 and N½NE¼.
T. 14 N., R. 10 E.,
Sec. 18, lots 2, 7, 10, and 15;
Sec. 30, lots 8 and 16, NE¼, E½NW¼, SE¼SW¼, and SW¼SE¼.
T. 15 N., R. 10 E.,
Sec. 1, lot 68;
Sec. 22, SE¼, exclusive of lot 104;
Sec. 23, S½S½NE¼, NW¼SE¼, NW¼SE¼SE¼, and NE¼SE¼.
T. 9 N., R. 11 E.,
Sec. 7, E½NW¼ and NE¼SW¼;
Sec. 18, E½NW¼.
T. 11 N., R. 11 E.,
Sec. 20, N½NW¼ and SW¼SE¼.
T. 9 N., R. 12 E.,
Sec. 14, SW¼SW¼;
Sec. 15, S½S½;
Sec. 17, E½NE¼, S½SW¼, and N½SE¼;
Sec. 18, N½SE¼SE¼ and W½SW¼SE¼SE¼;
Sec. 19, lot 1 and NE¼SW¼;
Sec. 20, SE¼NE¼ and NE¼NW¼;
Sec. 21, S½NE¼NE¼ and SE¼NE¼;
Sec. 22, N½NE¼, SW¼NE¼, S½SE¼NE¼, NE¼NW¼, S½NW¼, and N½SW¼;
Sec. 23, NW¼NW¼, S½NW¼, NE¼SW¼, and SE¼;
Sec. 24, lots 1, 2, 4, and 39, N½SW¼, SW¼SW¼, and NW¼SE¼;
Sec. 25, lots 1 and 4, E½NE¼, E½NW¼NE¼, SW¼NE¼, and E½NE¼SW¼;
Sec. 26, NE¼NE¼, S½NE¼, NW¼NW¼, and SE¼NW¼.

5. For a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2411.2(c).

J. R. PENNY,
State Director.

[F.R. Doc. 67-14813; Filed, Dec. 20, 1967; 8:50 a.m.]

[S 598]

CALIFORNIA

Notice of Classification of Public Lands for Multiple-Use Management

DECEMBER 14, 1967.

1. Pursuant to the Act of September 19, 1964 (78 Stat. 986; 43 U.S.C. 1411–18), and to the regulations in 43 CFR Parts 2410 and 2411, the public lands in paragraph 3 are classified for multiple-use management together with any lands therein that may become public lands in the future. Publication of this notice has the effect of segregating (a) all public land described below from appropriation under the agricultural land laws (43

U.S.C., Chs. 7 and 9; 25 U.S.C., sec. 334) and from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171), and (b) the lands described in paragraph 4 from appropriation under the mining laws (30 U.S.C., Ch. 2).

As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. Comments were received following publication of the notice of proposed classification in the FEDERAL REGISTER on October 3, 1967, and after the public hearing held in Ukiah on October 10, 1967. None of the comments suggested a change in the classification. The record showing reaction to the classification is on file and can be examined in the Ukiah District office.

3. The public lands located within the following described areas are in Mendocino, Lake, and Trinity Counties. For the purpose of this classification, the lands have been subdivided into blocks, each of which has been analyzed in detail and described in documents and on maps available for inspection at the Ukiah District Office, 168 Washington Avenue, Ukiah, California 95482, and on the records in the Sacramento Land Office, 650 Capitol Mall, Sacramento, Calif. 95814. The overall description of the area is as follows:

BLOCK A

TRINITY AND MENDOCINO COUNTIES, CALIF.

Mount Diablo Meridian

All public lands in:
T. 23 N., R. 11 W.,
Secs. 4 to 9, inclusive;
Secs. 16 to 18, inclusive.
T. 24 N., R. 11 W.,
Tract 4.
T. 24 N., R. 12 W.,
Secs. 1 to 12, inclusive;
Tracts 5 and 12;
Secs. 14 and 15.
T. 25 N., R. 12 W.,
Secs. 1 to 12, inclusive;
Secs. 14 to 36, inclusive.
T. 24 N., R. 13 W.,
Secs. 1, 5, 6, 11, and 12.

Humboldt Meridian

All public lands in:
T. 5 S., R. 7 E.,
Sec. 22 to 27, inclusive;
Secs. 34 to 36, inclusive.
T. 5 S., R. 8 E.,
Secs. 8 to 11, inclusive;
Secs 14 to 17, inclusive;
Secs. 19 to 23, inclusive;
Secs. 26 to 30, inclusive.

BLOCK B

MENDOCINO COUNTY, CALIF.

Mount Diablo Meridian

All public lands in:
T. 20 N., R. 11 W.,
Secs. 1 to 18, inclusive.
T. 21 N., R. 11 W.,
Secs. 2 to 10, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.
T. 22 N., R. 11 W.,
Secs. 4 to 9, inclusive;
Secs. 16 to 36, inclusive.
T. 23 N., R. 11 W.,
Secs. 4 to 9, inclusive;
Secs. 16 to 22, inclusive;
Secs. 27 to 34, inclusive.
T. 23 N., R. 11 W.,
Secs. 31 to 36, inclusive.
T. 20 N., R. 12 W.,
Secs. 1 to 3, inclusive;
Secs. 10 to 15, inclusive.
T. 21 N., R. 12 W.,
Secs. 1 to 4, inclusive;
Secs. 9 to 16, inclusive;
Secs. 21 to 28, inclusive;
Secs. 33 to 36, inclusive.
T. 22 N., R. 12 W.,
Secs. 1 to 3, inclusive;
Secs. 10 to 15, inclusive;
Secs. 22 to 27, inclusive;
Secs. 34 to 36, inclusive.
T. 23 N., R. 12 W.,
Secs. 34 to 36, inclusive.

BLOCK C

MENDOCINO AND LAKE COUNTIES, CALIF.

Mount Diablo Meridian

All public lands in:
T. 18 N., R. 11 W.,
Secs. 6, 7, and 8;
Secs. 14 to 23, inclusive;
Secs. 26 to 35, inclusive.
T. 19 N., R. 11 W.,
Sec. 31.
T. 18 N., R. 12 W.,
Secs. 1 to 36, inclusive.
T. 19 N., R. 12 W.,
Secs. 3 to 11, inclusive;
Secs. 14 to 36, inclusive.
T. 20 N., R. 12 W.,
Secs. 4 to 9, inclusive;
Secs. 16 to 24, inclusive;
Secs. 26 to 35, inclusive.
T. 21 N., R. 12 W.,
Secs. 5 to 8, inclusive;
Secs. 17 to 20, inclusive;
Secs. 29 to 32, inclusive.
T. 18 N., R. 13 W.,
Secs. 1 to 3, inclusive;
Secs. 10 to 15, inclusive;
Secs. 22 to 27, inclusive;
Secs. 34 to 36, inclusive.
T. 19 N., R. 13 W.,
Secs. 1 to 6, inclusive;
Secs. 9 to 15, inclusive;
Secs. 22 to 27, inclusive;
Secs. 34 to 36, inclusive.
T. 20 N., R. 13 W.,
Secs. 1 to 4, inclusive;
Secs. 9 to 36, inclusive.
T. 21 N., R. 13 W.,
Secs. 1 to 30, inclusive;
Secs. 33 to 36, inclusive.
T. 22 N., R. 13 W.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.
T. 20 N., R. 14 W.,
Secs. 24 and 25.
T. 21 N., R. 14 W.,
Secs. 12, 13, and 24.

Except the following public lands:
T. 18 N., R. 12 W.,
Sec. 32, SW¼NE¼.
T. 18 N., R. 13 W.,
Sec. 15, SW¼NW¼;
Sec. 24, SW¼SW¼;
Sec. 25, lot 3.

BLOCK D

MENDOCINO COUNTY, CALIF.

Mount Diablo Meridian

All public lands in:
T. 14 N., R. 13 W.,
Secs. 4 to 10, inclusive.
T. 15 N., R. 13 W.,
Secs. 19 and 20;
Secs. 28 to 33, inclusive.
T. 15 N., R. 13 W.,
Secs. 5, 6, and 8.
T. 17 N., R. 13 W.,
Secs. 31 and 32.
T. 16 N., R. 14 W.,
Secs. 1, 4, 9, 10, 11, 14, 15, 22, and 23;
Secs. 25 to 28, inclusive;
Sec. 35.
T. 17 N., R. 14 W.,
Secs. 1, 10, 11, 13, 14, 23, and 24.

The public lands hereby classified aggregate approximately 75,995 acres.

4. As provided in paragraph 1 above, the following lands totaling approximately 5,464.86 acres are further segregated from appropriation under the mining laws:

TRINITY AND MENDOCINO COUNTIES, CALIF.

MOUNT DIABLO MERIDIAN

T. 18 N., R. 11 W.,
Sec. 7, SW¼SE¼;
Sec. 18, NW¼NE¼;
Sec. 20, NE¼NE¼;
Sec. 26, SE¼SE¼;
Sec. 30, lot 1 and NE¼SW¼.
T. 20 N., R. 11 W.,
Sec. 1, NE¼NW¼.
T. 21 N., R. 11 W.,
Sec. 30, SE¼SW¼.
T. 18 N., R. 12 W.,
Sec. 5, lot 2, W½ lot 6;
Sec. 8, N½S½, SE¼SW¼, and SW¼SE¼;
Sec. 9, N½SW¼;
Sec. 12, SE¼NE¼;
Sec. 13, SW¼NW¼ and NW¼SW¼;
Sec. 14, S½NE¼, SE¼NW¼, and N½S½;
Sec. 24, SE¼NW¼, NE¼SE¼, and SW¼SE¼.
T. 19 N., R. 12 W.,
Sec. 6, lots 2 to 5, inclusive, lots 10 and 11, S½NE¼ and SE¼NW¼;
Sec. 7, lots 1 to 8, inclusive, S½NE¼, SE¼NW¼, E½SW¼, W½SE¼; and SE¼SE¼;
Sec. 17, SW¼NW¼ and NW¼SW¼;
Sec. 18, lots 1 to 14, inclusive, E½SW¼, NE¼SE¼, and W½SE¼;
Sec. 19, N½ lot 1 of NW¼;
Sec. 25, lots 2, 5, 6, and 7, N½SW¼, SE¼SW¼ and NW¼SE¼;
Sec. 33, NE¼SW¼;
Sec. 35, SE¼SE¼.
T. 20 N., R. 12 W.,
Sec. 31, lots 4, 5, 8, and 9.
T. 21 N., R. 12 W.,
Sec. 35, NE¼NE¼ and SE¼NW¼.
T. 25 N., R. 12 W.,
Sec. 24, SE¼;
Sec. 25, NW¼ and SW¼.
T. 18 N., R. 13 W.,
Sec. 1, W½ lot 5, lot 6, SW¼ and SW¼SE¼;
Sec. 2, lots 6, 7, and SE¼.
T. 19 N., R. 13 W.,
Sec. 1, SE¼;
Sec. 12, lot 1;
Sec. 13, lot 1;
Sec. 23, lot 1;
Sec. 24, lots 4 and 13;
Sec. 25, lots 4 and 5.
T. 16 N., R. 14 W.,
Sec. 10, lots 1, 2, and 3;
Sec. 11, SW¼SW¼;
Sec. 14, NE¼NW¼, W½NW¼, and NW¼SW¼;
Sec. 15, lot 1;
Sec. 23, SW¼NE¼.

5. For a period of thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2411.2(c).

J. R. PENNY,
State Director.

[F.R. Doc. 67-14814; Filed, Dec. 20, 1967; 8:50 a.m.]

[S 599]

CALIFORNIA

Notice of Classification of Public Lands for Multiple-Use Management

DECEMBER 8, 1967.

1. Pursuant to the Act of September 19, 1964 (78 Stat. 986; 43 U.S.C. 1411–18) and to the regulations in 43 CFR Parts 2410 and 2411, the public lands in paragraph 3 are classified for multiple-use management, together with any lands therein that may become public lands in the future. Publication of this notice has the effect of segregating all the public lands described in paragraph 3 from appropriation only under the agricultural land laws (43 U.S.C. Chs. 7 and 9; 25 U.S.C. sec. 334) and from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171). The lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws.

As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. Comments were received following publication of the notice of proposed classification in the FEDERAL REGISTER on October 3, 1967, and after the public hearing held in Ukiah on October 10, 1967. None of the comments suggested a change in the classification. The record showing reaction to the classification is on file and can be examined in the Ukiah District Office.

3. The public lands involved are located within the following described areas in Mendocino and Lake Counties, Calif. These lands have been analyzed in detail and are described in documents and on maps available for inspection at Ukiah District Office, 168 Washington Avenue, Ukiah, Calif. 95482, and on records in the Sacramento Land Office, 650 Capitol Mall, Sacramento, Calif. 95814. The overall description of the areas is as follows:

MENDOCINO AND LAKE COUNTIES, CALIF.

MOUNT DIABLO MERIDIAN

All public lands in:
T. 12 N., R. 9 W.,
Sec. 7, S½.
T. 12 N., R. 10 W.,
Secs. 1 to 5, inclusive;
Secs. 10 to 12, inclusive;
Sec. 14.
T. 13 N., R. 10 W.,
Secs. 2, 11, 14, 15, and 16;
Secs. 20 to 29, inclusive;
Secs. 32 to 36, inclusive.
T. 14 N., R. 10 W.,
Secs. 3, 4, 9, 10, 15, 16, 21, 28, 33, and 34.
T. 15 N., R. 10 W.,
Sec. 7;
Secs. 13 to 17, inclusive;
Secs. 20 to 28, inclusive;
Secs. 26 to 29, inclusive;
Secs. 33 and 34.
T. 12 N., R. 11 W.,
Sec. 1, N½.
T. 13 N., R. 11 W.,
Secs. 4, 5, 8, 9 and 10;
Secs. 14 to 16, inclusive;
Secs. 22 to 26, inclusive;
Secs. 35 and 36.
T. 14 N., R. 11 W.,
Secs. 5, 6, 19, 30, 31, and 32.
T. 15 N., R. 11 W.,
Secs. 31 and 32.
T. 16 N., R. 11 W.,
Sec. 31.
T. 14 N., R. 12 W.,
Secs. 1 and 2;
Secs. 11 to 14, inclusive;
Sec. 24.
T. 15 N., R. 12 W.,
Secs. 3, 11, 14, 23, 25, and 36.
T. 16 N., R. 12 W.,
Secs. 35 and 36.

The public lands hereby classified aggregate approximately 9,105.94 acres.

4. For a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2411.2(c).

E. J. PETERSEN,
Acting State Director.

[F.R. Doc. 67-14815; Filed, Dec. 20, 1967; 8:50 a.m.]

[S 669]

CALIFORNIA

Notice of Classification of Public Lands for Multiple-Use Management

DECEMBER 8, 1967.

1. Pursuant to the Act of September 19, 1964 (73 Stat. 986; 43 U.S.C. 1411–18) and to the regulations in 43 CFR Parts 2410 and 2411, the public lands in paragraph 3 are classified for multiple-use management, together with any lands therein that may become public lands in the future. Publication of this notice has the effect of segregating (a) all public lands described below from appropriation only under the agricultural land laws (43 U.S.C., Chs. 7 and 9; 25 U.S.C., sec. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171) and (b) the lands described in paragraph 4 from appropriation under the mining laws (30 U.S.C. Ch. 2). The lands shall remain open to all other applicable forms of appropriations.

As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. Comments were received following publication of the notice of proposed classification in the FEDERAL REGISTER on October 3, 1967, and after the public hearing held in Ukiah on October 10, 1967. None of the comments suggested a change in the classification. The record showing reaction to the classification is on file and can be examined in the Ukiah District Office.

3. The public lands are located within the following described areas of Mendocino, Humboldt, and Trinity Counties. For the purpose of this classification, the area has been subdivided into blocks, each of which has been analyzed in detail and described in documents and maps available for inspection at the Ukiah District Office, 168 Washington Avenue, Ukiah, Calif. 95482, and on the records in the Sacramento Land Office, 650 Capitol Mall, Sacramento, Calif. 95814.

The overall descriptions of the areas are as follows:

BLOCK A

MENDOCINO COUNTY, CALIF.

Mount Diablo Meridian

All public lands in:
T. 21 N., R. 15 W.,
Secs. 5 to 8, inclusive;
Secs. 17 and 18.
T. 22 N., R. 15 W.,
Secs. 19, 30, and 31.
T. 21 N., R. 16 W.,
Secs. 1 and 2;
Secs. 11 to 13, inclusive.
T. 22 N., R. 16 W.,
Secs. 3 to 10, inclusive;
Secs. 15 to 23, inclusive;
Secs. 26 to 28, inclusive;
Secs. 33 to 35, inclusive.
T. 23 N., R. 16 W.,
Secs. 3 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 34, inclusive.
T. 24 N., R. 16 W.,
Secs. 3 to 10, inclusive;
Secs. 15 to 22, inclusive;
Secs. 27 to 34, inclusive.
T. 22 N., R. 17 W.,
Secs. 1, 12, 13, and 24.
T. 23 N., R. 17 W.,
Secs. 1 and 2;
Secs. 11 to 14, inclusive;
Secs. 23 to 26, inclusive;
Secs. 35 and 36.
T. 24 N., R. 17 W.,
Secs. 1 to 4, inclusive;
Secs. 9 to 14, inclusive;
Secs. 23 to 26, inclusive;
Secs. 35 and 36.

Except the following public lands:
T. 22 N., R. 17 W.,
Sec. 1, S½NW¼ and NW¼SW¼.

Humboldt Meridian

T. 5 S., R. 5 E.,
Secs. 28 and 29;
Secs. 32 to 34, inclusive.

BLOCK B

MENDOCINO COUNTY, CALIF.

Mount Diablo Meridian

All public lands in:
T. 24 N., R. 15 W.,
Secs. 4 to 6, inclusive.

Humboldt Meridian

T. 5 S., R. 5 E.,
Secs. 25 and 26.
T. 5 S., R. 6 E.,
Secs. 30 and 31.

HUMBOLDT COUNTY, CALIF.

Humboldt Meridian

T. 5 S., R. 5 E.,
Secs. 14, 15, 22, and 24.

TRINITY COUNTY, CALIF.

Humboldt Meridian

T. 5 S., R. 6 E.,
Sec. 31.

BLOCK C

MENDOCINO COUNTY, CALIF.

Mount Diablo Meridian

All public lands in:
T. 21 N., R. 14 W.,
Secs. 4 to 6, inclusive.
T. 22 N., R. 14 W.,
Secs. 5 to 7, inclusive;
Secs. 17 to 21, inclusive;
Secs. 27 to 29, inclusive;
Secs. 32 to 34, inclusive.
T. 23 N., R. 14 W.,
Sec. 30.
T. 21 N., R. 15 W.,
Sec. 1.
T. 23 N., R. 15 W.,
Secs. 1, 12, 13, and 24.
T. 23 N., R. 15 W.,
Secs. 13, 24, 25, and 36.

Except the following public lands:
T. 22 N., R. 14 W.,
Sec. 5, lot 7;
Sec. 6, lot 4.
T. 23 N., R. 14 W.,
Sec. 30, N½ lot 6.

BLOCK D

MENDOCINO COUNTY, CALIF.

Mount Diablo Meridian

All public lands in:
T. 22 N., R. 14 W.,
Sec. 23, NE¼NE¼;
Sec. 24, SE¼NE¼.
T. 23 N., R. 14 W.,
Sec. 28, W½NE¼ and NW¼SE¼.

The public lands hereby classified aggregate approximately 33,600 acres.

4. As provided in paragraph 1, the following lands are segregated from appropriation under the mining laws (totaling approximately 870 acres):

MENDOCINO COUNTY, CALIF.

Mount Diablo Meridian

T. 22 N., R. 14 W.,
Sec. 20, W½SE¼.
T. 22 N., R. 15 W.,
Sec. 13, SW¼NE¼.
T. 23 N., R. 16 W.,
Sec. 4, NE¼NW¼.
T. 24 N., R. 16 W.,
Sec. 9, SE¼SE¼;
Sec. 10, SW¼SW¼.
T. 24 N., R. 17 W.,
Sec. 23, NE¼SE¼.

Humboldt Meridian

T. 5 S., R. 5 E.,
Sec. 30, S½NE¼ and N½SE¼.

Including all public lands within 200 feet on each side of the centerline of the following roads:

Mount Diablo Meridian

(1) Red Mountain Road, No. 5201, extending from sec. 5, T. 24 N., R. 16 W., to sec. 4, T. 24 N., R. 17 W.

(2) Mail Ridge Road (County):

(a) Extending through lots 2 and 6, sec. 3, T. 24 N., R. 16 W.

Humboldt Meridian

(b) Road No. 5812 extending from eastern boundary of sec. 29 to near center of sec. 29, T. 5 S., R. 5 E.

5. For a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2411.2(c).

E. J. PETERSEN,
Acting State Director.

[F.R. Doc. 67-14816; Filed, Dec. 20, 1967; 8:50 a.m.]

[S 857]

CALIFORNIA

Notice of Classification of Public Lands For Multiple-Use Management

DECEMBER 15, 1967.

1. Pursuant to the Act of September 19, 1964 (78 Stat. 986; 43 U.S.C. 1411–18 and to the regulations in 43 CFR Parts 2410 and 2411), the public lands in paragraph 3 are hereby classified for multiple use management together with any lands therein that may become public lands in the future. Publication of this notice has the effect of segregating (a) all public lands described in Blocks I and II from appropriation only under the agricultural land laws (43 U.S.C. Chs. 7 and 9; 25 U.S.C. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171) and (b) the lands described in Block I from further appropriation under the mining laws (30 U.S.C. Ch. 2). The lands shall remain open to all other applicable forms of appropriation.

As used herein, "Public Lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. No adverse comments were received following publication of the notice of proposed classification (32 F.R. 13601, Sept. 28, 1967). No changes have been made in the list of lands included in this classification. The record showing reaction to the classification made by members of the public attending or interested in the hearing is on file and can be examined in the Folsom District Office, Folsom, Calif.

3. The public lands affected by this classification are shown on the South Bay Planning Unit Classification Map on file in the Folsom District Office, 63 Natoma Street, Folsom, Calif. 95630, and on the Sacramento Land Office records, Bureau of Land Management, 650 Capitol Mall, Sacramento, Calif. 95814. The overall descriptions of the areas are as follows:

MOUNT DIABLO MERIDIAN, CALIFORNIA

BLOCK NO. II

All public lands in:
T. 6 S., R. 4 E.,
Secs. 1, 2, 11, 12, 13, and 14.
T. 6 S., R. 5 E.,
Secs. 1 to 18, inclusive;
Secs. 20 to 24, inclusive.

The public lands proposed to be classified in Block II aggregate approximately 4,784 acres.

BLOCK NO. I

All public lands in:
T. 7 S., R. 4 E.,
Secs. 25, 26, 27, 32, 34, 35, and 36.
T. 8 S., R. 4 E.,
Secs. 1 to 16, inclusive;
Secs. 23 and 24.
T. 9 S., R. 4 E.,
Sec. 16, NW¼NE¼.
T. 7 S., R. 5 E.,
Secs. 30 and 31.
T. 8 S., R. 5 E.,
Secs. 6, 7, 18, and 19.

The public lands proposed to be classified in Block I aggregate approximately 6,016 acres.

4. For a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided in 43 CFR 2411.2(c).

R. E. MCCARTHY,
Acting State Director.

[F.R. Doc. 67-14817; Filed, Dec. 20, 1967; 8:50 a.m.]

[S 573; R 566]

CALIFORNIA

Notice of Proposed Classification of Public Lands Multiple-Use Management; Correction

In F.R. Doc. 67-13584 appearing at 32 F.R. 15887, November 18, 1967, the following corrections are made:

1. In Column 2, under "Block No. 2" T. 26 E., R. 35 E. is changed to T. 26 S., R. 35 E.

2. Under "Block No. 3" Column 3, T. 26 E., R. 32 E. is changed to T. 26 S., R. 32 E.

3. The signature is corrected to read:

For the State Director.

JAMES B. GARNER,
Acting District Manager.

For the State Director.

RALPH W. COLLINGS,
Acting District Manager.

[F.R. Doc. 67-14769; Filed, Dec. 20, 1967; 8:47 a.m.]

[S 138]

CALIFORNIA

Notice of Partial Termination of Proposed Withdrawal and Reservation of Lands

DECEMBER 13, 1967.

Notice of a Bureau of Indian Affairs, U.S. Department of the Interior application, S 188, for withdrawal and reservation of lands in aid of Legislation, for an addition to the XL Ranch, was published as F.R. Doc. No. 66-13726 on page 16371 of the issue for December 22, 1966. The applicant agency has canceled its application insofar as it affects the following described lands:

T. 42 N., R. 13 E., M.D.M.,
Sec. 4, lot 1.

Therefore, pursuant to the regulations contained in 43 CFR Part 2311, such lands at 10 a.m., on January 15, 1968, will be relieved of the segregative effect of the above-mentioned application.

JESSE H. JOHNSON,
Acting Chief,
Lands Adjudication Section.

[F.R. Doc. 67-14772; Filed, Dec. 20, 1967; 8:47 a.m.]

CALIFORNIA

Notice of Partial Termination of Proposed Withdrawal and Reservation of Lands

DECEMBER 13, 1967.

Notice of a Bureau of Reclamation application, Riverside 07752, for withdrawal and reservation of lands for construction of dike and flood control works in connection with the Coachella Rehabilitation and Betterment Project, All-American Canal System, Calif., was published as F.R. Doc. 66-6610, on page 8471 of the issue for June 16, 1966. The applicant agency has cancelled its application insofar as it affects the following described lands:

SAN BERNARDINO MERIDIAN, CALIFORNIA

T. 6 S., R. 7 E.,
Sec. 32, N½NE¼NE¼, N½NW¼NE¼, SW¼NW¼NE¼, W½SW¼NE¼, SE¼SW¼NE¼, S½SE¼NE¼.
T. 7 S., R. 7 E.,
Sec. 10, W½NW¼NE¼, SE¼NW¼NE¼, W½SE¼NE¼, W½NE¼SE¼.

Therefore, pursuant to the regulations contained in 43 CFR Part 2311, such lands at 10 a.m., on January 22, 1968, will be relieved of the segregative effect of the above mentioned application.

WALTER P. HOLMES,
Acting Manager.

[F.R. Doc. 67-14773; Filed, Dec. 20, 1967; 8:47 a.m.]

[C-3147]

COLORADO

Notice of Proposed Classification of Public Lands for Multiple-Use Management

DECEMBER 15, 1967.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18) and to the regulations in 43 CFR Parts 2410 and 2411, it is proposed to classify for multiple-use management the public lands within the areas described below together with any lands therein that may become public lands in the future. Publication of this notice has the effect of segregating all the described lands from appropriation only under the agricultural land laws (43 U.S.C. Parts 7 and 9, 25 U.S.C. 334) and from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171). All the described lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws. As used in this order, the term "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. The public lands proposed for classification are located within the following described areas and are shown on a map on file in the Glenwood Springs District Office, Bureau of Land Management, Glenwood Village Inn, Glenwood Springs, Colo., and Land Office, Bureau of Land Management, Room 15019 Federal Building, 1961 Stout Street, Denver, Colo. 80202.

SIXTH PRINCIPAL MERIDIAN, COLORADO

LARIMER COUNTY

T. 11 N., R. 76 W.,
Secs. 1 to 15, inclusive;
Secs. 17 to 19, inclusive;
Secs. 22 to 24, inclusive;
Sec. 26.
T. 11 N., R. 77 W.,
Secs. 1 to 5, inclusive;
Secs. 9 to 15, inclusive;
Secs. 22 and 24.
T. 12 N., R. 75 W.,
Secs. 20, 28, 31, and 32.
T. 12 N., R. 76 W.,
Secs. 19 to 23, inclusive;
Secs. 26 to 35, inclusive.
T. 12 N., R. 77 W.,
Secs. 19 to 22, inclusive;
Secs. 26 to 33, inclusive;
Sec. 35.

The total area of public lands described aggregates approximately 25,500 acres.

3. For a period of 60 days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the District Manager, Bureau of Land Management, Glenwood Village Inn, Post Office Box 1009, Glenwood Springs, Colo. 81601.

4. A public hearing on the proposed classification will be held at 7 p.m., January 24, 1967, at the Glen Eyre School House located on the main road along the Laramie River near the center of the area involved in this proposal.

J. ELLIOTT HALL,
Acting State Director.

[F.R. Doc. 67-14770; Filed, Dec. 20, 1967; 8:47 a.m.]

[U-0130675, U-0142805-06, U-0142810, U-0147324, U-3641-65, inclusive]

UTAH

Notice of Proposed Classification

DECEMBER 14, 1967.

Pursuant to section 2 of the Act of September 19, 1964 (43 U.S.C. 1412), notice is hereby given of a proposal to classify the lands described below under section 7 of the Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315f), as amended, as proper for selection by and transfer to the State of Utah in satisfaction in part of the State's outstanding land grant accorded them under the provisions of sections 2275 and 2276 of the Revised Statutes (43 U.S.C. 851; 852), as amended. The selection is made as indemnity for an equal acreage of mineral land lost to the State by reservation or apppropriation of what would have been school sections in place when surveyed. If the proposal is effected, the State of Utah will obtain title to both the surface and the mineral estates owned by the United States in these lands.

The selected lands include 16,362.72 acres and are located from 4 to 16 miles northwest of Grantsville, in Tooele County.

Available information indicates that these lands meet the criteria for classification for selection by the State as provided for in 43 CFR 2410.1–1(a)(2) and 43 CFR 2410.1–3(c). The lands are not required for public programs and their selection by the State will not interfere with administration of other public lands. The area represents a reasonable management unit and the State will recognize existing uses in determining future management programs if the selection is consummated.

Information concerning this proposal is available at the Bureau's Salt Lake District Office, 1750 South Redwood Road, Salt Lake City, Utah, or the office of the State Director, Federal Building 125 South State, Salt Lake City, Utah. For a period of 60 days from the date of this publication, interested parties may submit comments to the District Manager or the State Director.

The lands affected by this proposal are located in Tooele County and are described as follows:

SALT LAKE MERIDIAN

T. 2 S., R. 5 W.,
Sec. 6, lots 1 and 2.
T. 2 N., R. 6 W.,
Sec. 9, lot 6.
T. 1 S., R. 6 W.,
Sec. 5, all;
Sec. 6, lots 1, 2, 3, and 4, SE¼NE¼, and E½SE¼;
Sec. 7, lots 1, 2, 3, and 4, and E½E½;
Sec. 8, N½, and SW¼;
Sec. 26, S½S½;
Sec. 29, N½SW¼, and SE¼SW¼;
Sec. 30, lots 1, 2, and 3, and E½E½;
Sec. 32, N½, and N½SW¼;
Secs. 33, 34, and 35, all.
T. 2 S., R. 6 W.,
Sec. 1, lots 2, 3, and 4, SW¼NE¼, S½NW¼, and SW¼;
Sec. 3, all;
Sec. 4, lots 1, 2, 3, and 4, S½N½, E½SW¼, and SE¼;
Sec. 5, lots 1, 2, 4, and 5, and SE¼NE¼;
Sec. 6, lots 1, 2, and 3, SE¼NE¼, and NE¼SE¼;
Sec. 7, lots 3 and 4, and NE¼SE¼;
Sec. 9, E½, E½NW¼, and NE¼SW¼;
Sec. 10, all;
Sec. 11, N½, SW¼, and W½SE¼;
Sec. 12, N½NW¼;

Sec. 15, N½NW¼;
Sec. 17, lot 8;
Sec. 18, lots 1, 2, 3, 9, 12, 13, and 14;
Sec. 19, lots 5, 8, and 9.
T. 1 S., R. 7 W.,
Sec. 1, all;
Sec. 3, lots 1, 2, 3, and 4, S½NE¼, and SE¼;
Sec. 4, lots 1, 2, 3, and 4;
Sec. 5, lots 1, 2, 3, and 4, SW¼NE¼, S½NW¼, SW¼, and W½SE¼;
Sec. 6, all;
Sec. 7, lots 1 and 2, NE¼, and E½NW¼;
Sec. 8, W½NE¼, W½, and SW¼SE¼;
Sec. 9, W½NE¼SW¼, NE¼NE¼SW¼, SE¼SW¼SE¼, and E½SE¼;
Sec. 10, NE¼, and S½;
Secs. 11, 12, 13, and 14, all;
Sec. 15, NE¼, E½NW¼, NW¼NW¼, and NE¼SE¼;
Sec. 23, N½NE¼, SE¼NE¼, and NE¼NW¼;
Sec. 24, N½, N½SW¼, SE¼SW¼, and SE¼;
Sec. 25, N½NE¼, and NE¼NW¼.

The area described aggregates 16,362.72 acres.

R. D. NIELSON,
State Director.

[F.R. Doc. 67-14796; Filed, Dec. 20, 1967; 8:46 a.m.]

National Park Service

KINGS CANYON NATIONAL PARK

Notice of Intention To Issue Concession Permit

Pursuant to the provisions of section 5, Public Law 89-249, public notice is hereby given that the Department of the Interior, through the Superintendent of Sequoia and Kings Canyon National Parks, National Park Service, proposes, thirty (30) days after the date of publication of this notice, to issue for the period January 1, 1968, through December 31, 1972, the concession permit under which Dick R. Wilson conducts pack and saddle horse operations for the public at the Grant Grove area in Kings Canyon National Park.

The foregoing concessioner has performed his obligations under a prior permit to the satisfaction of the National Park Service and, therefore, pursuant to the act cited above is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. However, under the act cited above the Service is also required to consider and evaluate all proposals received as a result of this notice.

Interested parties should contact the Superintendent, Sequoia and Kings Canyon National Parks, Three Rivers, Calif. 93271, for information as to the requirements of the proposed permit.

JACK L. HIGH,
Acting Superintendent of Sequoia and Kings Canyon National Parks.

OCTOBER 2, 1967.

[F.R. Doc. 67-14774; Filed, Dec. 20, 1967; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

AGRICULTURAL RESEARCH SERVICE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00081-33-11600. Applicant: U.S. Department of Agriculture, Agricultural Research Service, Eastern Utilization Research and Development Division, 600 East Mermaid Lane, Philadelphia, Pa. 19118. Article: Cigarette Making Machine. Manufacturer: Hauni-Werke, Koerber & Co., K.G., West Germany. Intended use of article: Applicant states:

• • • We wish to modify tobacco and/or modifications on the chemical and biological properties of cigarette smoke. Since the initial amounts of the modifying agents will be extremely limited in most cases, it will be necessary to produce cigarettes from the modified tobacco as efficiently as possible • • •

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is designed to produce cigarettes in small quantities (150 to 200 grams) and to permit modification of the tobacco mixtures for the purpose of determining corresponding changes in the chemical and biological properties of the cigarette smoke. The only cigarette making machines known to the Department of Commerce are designed for large scale industrial production.

The Department of Commerce knows of no other instrument or apparatus being manufactured in the United States, which could be used for the purposes for which the foreign article is intended to be used.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-14755; Filed, Dec. 20, 1967; 8:45 a.m.]

CALIFORNIA STATE COLLEGE AT LONG BEACH

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00084-33-02400. Applicant: California State College at Long Beach, 6101 East Seventh Street, Long Beach, Calif. 90801. Article: Anthropometric Instruments consisting of: Anthropometer—No. 101, Sliding Caliper—No. 104, Spreading Caliper, Rounded—No. 106, Steel Tape, 2000mm—No. 110, Small Coordinate Caliper—No. 115, Goniometer (attachable)—No. 117, Cubic Craniophor—No. 201, Diagraph—No. 202, Osteometric Table—No. 217, Mandibulometer—No. 218. Manufacturer: Siber Hegner & Co., Ltd., Switzerland. Intended use of article: Applicant states:

The anthropometric instruments will be used as teaching devices in a laboratory course in physical anthropology devoted to the study of the human skeleton. Through laboratory exercises, students will learn how to use the instruments for the measurement and analysis of human skeletal material.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article consists of a set of instruments for measuring and recording structural details of the human skeleton. This article is intended for teaching in a course in physical anthropology. The complete set is necessary to accomplish the purposes for which the foreign article is tended to be used.

The Department of Commerce knows of no domestic manufacturer capable of supplying the entire set of the instruments necessary for measurement and analysis of skeletal material and, therefore, finds that no instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-14752; Filed, Dec. 20, 1967; 8:45 a.m.]

CANCER FOUNDATION OF SANTA BARBARA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00083-33-39700. Applicant: The Cancer Foundation of Santa Barbara, 2315 Bath Street, Santa Barbara, Calif. 93105. Article: Implantation Gun, Royal Marsden Gold Grain Model Mark III with forceps and sterilizer box. Manufacturer: Medical Supply Association (International), Ltd., United Kindom. Intended use of article: Applicant states: "Implant irradiated gold grains in certain cancers." Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article automatically counts the number of grains or radon seeds implanted in the patient. We know of no domestic instrument or apparatus for implanting irradiated gold grains, which has this capability. (2) The foreign article also permits diminished radiation exposure to the medical personnel during the implant procedures. We know of no domestic instrument or apparatus which has this capability.

For the foregoing reasons, we find that no instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-14753; Filed, Dec. 20, 1967; 8:45 a.m.]

COLUMBIA UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00069-33-54500. Applicant: Columbia University, 116th and Broadway, New York, N.Y. 10027. Article: Light Coagulator, Model 5000. Manufacturer: Carl Zeiss Jena, East Germany. Intended use of article: Applicant states: "To coagulate the retina or iris of the human eye, with the capability of photographing the process." Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article combines the capability for optically coagulating the retina of the eye with the capability for concurrently recording photographically the case history of the retina in the process of being coagulated. This combination is considered pertinent to accomplishing the objectives of the research purposes for which the foreign article is intended to be used.

The Department of Commerce knows of no instrument or apparatus being manufactured in the United States, which possesses these capabilities in combination and therefore finds that no instrument of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-14754; Filed, Dec. 20, 1967; 8:45 a.m.]

FLORIDA STATE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00065-33-43600. Applicant: Florida State University, Purchasing Department, Tallahassee, Fla. 32306. Article: Harmonic Analyzer, Mader-Ott, Model No. 212 A PETEK. Manufacturer: A. Ott Instrument Co., West Germany. Intended use of article: The article will be used for instruction of graduate and senior undergraduate students of the University. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a fast and efficient means of reducing various forms of mathematical curves into their sine and cosine components.

The Department of Commerce knows of no instrument or apparatus being manufactured in the United States, which is capable of accomplishing the purposes for which the foreign article is intended to be used.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-14755; Filed, Dec. 20, 1967; 8:46 a.m.]

IOWA STATE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00078-33-46500. Applicant: Iowa State University, Purchasing Department, 16 Beardshear Hall, Ames, Iowa 50010. Article: Reichert Thermal Advance Ultra Microtome "OM U2." Manufacturer: C. Reichert Optische Werke A.G., Austria. Intended use of article: Applicant states:

Using diamond knives we intend to prepare ultrathin, serial sections in the 100-200 Å range of chromosomes in nuclei of epoxy-embedded dividing cells. Micrographs of these sections will be used to reconstruct the three-dimensional architecture of the eukaryotic chromosomes at various stages in mitosis.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a thermal advance system for ultrathin sectioning. The only known comparable domestic instrument, the Model MT-2 ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall), employs a mechanical advance system

for both ultrathin sections and for thicker sections. (See catalogue on Sorvall Models MT–1 and MT–2 ultramicrotomes.) In the case of a prior application relating to an identical foreign article, we were advised by the Department of Health, Education, and Welfare (HEW), that in the experience of experts working with biological materials, ultramicrotomes equipped with a thermal advance have been proven superior to ultramicrotomes equipped only with a mechanical feed. (See Docket No. 67–00052–33–46500 and memorandum from HEW dated July 26, 1967 contained therein.) In cited memorandum, HEW also advised that consistent reproducibility of section thickness is substantially greater when the thermal feed is used, than when the advance is achieved through purely mechanical means. We therefore find that differences in the design of the advance mechanisms between the foreign article and the Sorvall Model MT–2 are pertinent characteristics.

For the foregoing reasons, we find that the Sorvall Model MT–2 is not of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67–14756; Filed, Dec. 20, 1967; 8:46 a.m.]

KANSAS STATE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68–00090–33–46500. Applicant: Kansas State University, Manhattan, Kans. 66502. Article: Reichert Thermal Advance Ultra Microtome "Om U2." Manufacturer: C. Reichart Optische Werke A.G., Austria. Intended use of article: Applicant states:

> Research is in the areas of fundamental biological studies of cells and their motile systems. Specimens to be sectioned include insect tissue with included chitin and spores and dormant cells with hard coatings, all of which are unusually refractory to sectioning and require unusually hard embedding media. Conventional samples of softer tissues such as the testes and muscles of several species are also to be sectioned and sections will need to be thin and of uniform thickness.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a thermal advance system for ultrathin sectioning. The only known comparable domestic instrument, the Model MT–2 ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall), employs a mechanical advance system for both ultrathin sections and for thicker sections. (See catalogue on Sorvall Models MT–1 and MT–2 ultramicrotomes.) In the case of a prior application relating to an identical foreign article, we were advised by the Department of Health, Education, and Welfare (HEW), that in the experience of experts working with biological materials, ultramicrotomes equipped with a thermal advance have been proven superior to ultramicrotomes equipped only with a mechanical feed. (See Docket No. 67–00052–33–46500 and memorandum from HEW dated July 26, 1967, contained therein.) In cited memorandum, HEW also advised that consistent reproducibility of section thickness is substantially greater when the thermal feed is used, than when the advance is achieved through purely mechanical means. We therefore find that differences in the design of the advance mechanisms between the foreign article and the Sorvall Model MT–2 are pertinent characteristics.

For the foregoing reasons, we find that the Sorvall Model MT–2 is not of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67–14757; Filed, Dec. 20, 1967; 8:46 a.m.]

UNIVERSITY OF MIAMI

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68–00090–33–46040. Applicant: University of Miami, Coral Gables, Fla. 33124. Article: Electron Microscope HS–7S. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: Study of the biochemical and cytological mechanisms controlling macromolecular synthesis in the unfertilized egg and early developmental stages of the sea urchin. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides accelerating voltages of 25 and 50 kilovolts. The only known domestic instrument, the Model EMU–4 electron microscope manufactured by the Radio Corporation of America (RCA), provides accelerating voltages of 50 and 100 kilovolts. It has been experimentally established that the lower accelerating voltage of 25 kilovolts provides optimum contrast for ultrathin unstained specimens, such as will be investigated by the applicant with the foreign article. We therefore find the difference in the lower accelerating voltage provided by the foreign article and the lower accelerating voltage provided by the RCA Model EMU–4 electron microscope, to be pertinent to the purposes for which the foreign article is intended to be used.

For this reason, we find that the RCA Model EMU–4 electron microscope is not of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67–14759; Filed, Dec. 20, 1967; 8:46 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

AGRICULTURAL RESEARCH SERVICE

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 8H2239) has been filed by the Market Quality Research Division, Agricultural Research Service, U.S. Department of Agriculture, Federal Center Building, Hyattsville, Md. 20782, proposing the amendment of § 121.1074 *Piperonyl butoxide* and § 121.1075 *Pyrethrins* to provide for the safe use of piperonyl butoxide and pyrethrins insecticide in the treatment of cotton bags to be used for dried foods and feeds.

Dated: December 13, 1967.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 67–14832; Filed, Dec. 20, 1967; 8:51 a.m.]

AMERICAN CYANAMID CO.

Notice of Filing of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 8F0661) has been filed by American Cyanamid Co., Agricultural Division, Post Office Box 400, Princeton, N.J. 08540, proposing the establishment of tolerances for residues of the insecticide dimethoate (*O,O*-dimethyl *S*-(*N*-methyl-carbamoylmethyl) phosphorodithioate) and its oxygen analog in or on the raw agricultural commodities lemons and oranges at 2 parts per million.

The analytical method proposed in the petition for determining residues of the insecticide and its oxygen analog is the method of Steller et al. "Journal of Association of Official Agricultural Chemists," vol. 47 (1964), page 645.

Dated: December 11, 1967.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 67–14827; Filed, Dec. 20, 1967; 8:51 a.m.]

AMCHEM PRODUCTS, INC.

Notice of Withdrawal of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), the following notice is issued:

In accordance with § 120.8 *Withdrawal of petitions without prejudice* of the pesticide regulations (21 CFR 120.8), Amchem Products, Inc., Ambler, Pa. 19002, has withdrawn its petition (PP 8F0631), notice of which was published in the FEDERAL REGISTER of August 17, 1967 (32 F.R. 11895), proposing the establishment of a tolerance of 0.3 part per million for negligible residues of the herbicide pyrason (5-amino-4-chloro-2-phenyl-3(2H)-pyridazinone) in or on the raw agricultural commodities beets (roots and tops) and sugar beets (roots and tops).

Dated: December 11, 1967.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 67–14826; Filed, Dec. 20, 1967; 8:51 a.m.]

CHAS. PFIZER AND CO., INC.

Notice of Withdrawal of Petition for Food Additives Oleandomycin and Diethylstilbestrol

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Chas. Pfizer and Co., Inc., 235 East 42d Street, New York, N.Y. 10017, has withdrawn its petition, notice of which was published in the FEDERAL REGISTER of August 10, 1967 (32 F.R. 11579), proposing the issuance of a food additive regulation to provide for the safe use in cattle feed of oleandomycin for growth promotion and feed efficiency, alone or in combination with diethylstilbestrol added for fattening beef cattle.

Dated: December 14, 1967.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 67–14828; Filed, Dec. 20, 1967; 8:51 a.m.]

COMMERCIAL SOLVENTS CORP.

Notice of Filing of Petition for Food Additive Zearalanol

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition has been filed by Commercial Solvents Corp., 1331 South First Street, Terre Haute, Ind. 47808, proposing the issuance of a food additive regulation to provide for the safe use of zearalanol [6-(6,10-dihydroxyundecyl)-β-resorcylic acid-μ-lactone] as a subcutaneous implant pellet in the ear of growing beef cattle to increase the rate of gain and feed conversion.

Dated: December 11, 1967.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 67–14829; Filed, Dec. 20, 1967; 8:51 a.m.]

DR. MAYFIELD LABORATORIES

Notice of Filing of Petition for Food Additive Sodium Arsanilate

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition has been filed by Dr. Mayfield Laboratories, 1209 South Main Street, Charles City, Iowa 50616, proposing the issuance of a food additive regulation to provide for the safe use of sodium arsanilate in the drinking water of turkeys as a growth stimulant and for the prevention and control of blackhead.

Dated: December 11, 1967.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 67–14834; Filed, Dec. 20, 1967; 8:51 a.m.]

E. I. DU PONT DE NEMOURS & CO.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 8F0662) has been filed by E. I. du Pont de Nemours & Co., Wilmington, Del. 19898, proposing the establishment of tolerances for residues of the herbicide diuron in or on raw agricultural commodities as follows: 2 parts per million for residues in or on peppermint hay; and 0.1 part per million for negligible residues in or on nuts.

The analytical method proposed in the petition for determining residues of the herbicide is that of H. L. Pease published in the "Journal of Agricultural and Food Chemistry," vol. 10, pp. 279–281 (1962).

Dated: December 14, 1967.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 67–14830; Filed, Dec. 20, 1967; 8:51 a.m.]

E. I. DU PONT DE NEMOURS & CO., INC.

Notice of Withdrawal of Petitions for Pesticide and Food Additive Maneb (Manganese Ethylenebisdithiocarbamate)

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 408(d)(1), 409(b), 68 Stat. 512, 72 Stat. 1786; 21 U.S.C. 346a(d)(1), 348(b)), the following notice is issued:

In accordance with § 120.8 *Withdrawal of petitions without prejudice* of the pesticide procedural regulations (21 CFR 120.8) and § 121.52 *Withdrawal of petitions without prejudice* of the food additive procedural regulations (21 CFR 121.52), E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898, has withdrawn its petition (PP 7F0563) proposing the establishment of pesticide tolerances for residues of the fungicide maneb (manganese ethylenebisdithiocarbamate), calculated as zinc ethylenebisdithiocarbamate, in or on raw agri-

cultural commodities, as follows: 5 parts per million in or on the grain of barley, oats, rye, and wheat; and 45 parts per million in or on the hay, forage, and straw of barley, oats, rye, and wheat.

Notice is also given that E. I. du Pont de Nemours & Co., Inc., has withdrawn a related petition (FAP 7H2147) proposing the establishment of a food additive tolerance of 20 parts per million for residues of the fungicide in milled fractions (except flour) derived from barley, oats, rye, and wheat. Notice of these related petitions was published in the FEDERAL REGISTER of March 14, 1967 (32 F.R. 4031).

Dated: December 14, 1967.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 67-14831; Filed, Dec. 20, 1967; 8:51 a.m.]

MERCK AND CO., INC.

Notice of Filing of Petition for Food Additives Thiabendazole, Penicillin, and Streptomycin

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition has been filed by Merck Sharp and Dohme Research Laboratories, Division of Merck and Co., Inc., Rahway, N.J. 07065, proposing that § 121.260 *Thiabendazole* be amended to provide for the safe use in swine feed of thiabendazole in combination with penicillin and streptomycin added for growth promotion and feed efficiency.

Dated: December 11, 1967.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 67-14833; Filed, Dec. 20, 1967; 8:51 a.m.]

SCHERING CORP.

Notice of Filing of Petition for Food Additives Dienestrol Diacetate, Amprolium, and Penicillin

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition has been filed by Schering Corp., Bloomfield, N.J. 07003, proposing that the food additive regulations (21 CFR Part 121) be amended to provide for the safe use of dienestrol diacetate, amprolium, and penicillin in the feed of roaster chickens for growth promotion.

Dated: December 14, 1967.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 67-14835; Filed, Dec. 20, 1967; 8:52 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

DIRECTOR FOR NORTHWEST AREA OFFICE AND DEPUTY DIRECTOR FOR NORTHWEST AREA OFFICE AT SEATTLE, WASH., REGION VI

Redelegations of Authority Regarding Advance Acquisition of Land and Other Programs

SECTION A. *Redelegations of authority.* The Director for Northwest Area Office and the Deputy Director for Northwest Area Office at Seattle, Wash., Region VI, each is hereby authorized, within the entire States of Washington, Oregon, Alaska, and Montana, together with the Northern portion of Idaho, including the counties of Adams, Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lemhi, Lewis, Nez Perce, Shoshone, Valley, and Washington, to exercise the power and authority of the Secretary of Housing and Urban Development, with respect to the following programs, except as specified under this section A and as additionally excepted under section B:

1. Program of Advances for Public Works Planning (including first and second programs) under:

a. Section 702 of the Housing Act of 1954, as amended (40 U.S.C. 462), except the authority to conduct surveys under section 702(f).

b. Title V of the War Mobilization and Reconversion Act of 1944, Public Law 458, 78th Cong., as amended (50 U.S.C. App. 1671 note), and the Act of October 13, 1949, Public Law 352, 81st Cong., as amended (40 U.S.C. 451), subject to section 1112 of the Housing and Urban Development Act of 1965 (40 U.S.C. 462 note).

2. Advance Acquisition of Land Program under section 704 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3104) except the authority to determine not to require an applicant to agree to repay under section 704(d).

3. Basic Water and Sewer Facilities Grant Program under section 702 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3102) except the authority to make a grant of more than 50 percent under section 702(b).

4. Public Facility Loans Program under Title II of the Housing Amendments of 1955, as amended (42 U.S.C. 1491–1497), except the authority to:

a. Establish technical advisory services under section 207 (42 U.S.C. 1497).

b. Make loans for mass transportation facilities and equipment under section 202(a)(2) (42 U.S.C. 1492(a)(2)).

5. Public Facilities Liquidating Programs, including those with respect to:

a. Section 5 of the Alaska Public Works Act, as amended (48 U.S.C. 486), and the delegation from Secretary of Interior effective April 17, 1964 (29 F.R. 5516, Apr. 24, 1964).

b. Defense community facilities under Title III of the Defense Housing and Community Facilities and Services Act of 1951, as amended (42 U.S.C. 1592–1592n).

c. Prefabricated housing loans under Reorganization Plan No. 23 of 1950 (5 U.S.C. 133z–15 note), including section 103–102c of the Housing Act of 1948, as amended (12 U.S.C. 1701g—1701g–3); section 104 of the Defense Housing and Community Facilities and Services Act of 1951, as amended (42 U.S.C. 1591c); and section 401 of the Independent Offices Appropriation Act of 1952 (12 U.S.C. 1701g–4).

d. War public works under Title II of the Lanham Act, as amended (42 U.S.C. 1531–1534).

e. Section 202(c) of the Housing Amendments of 1955, as amended by section 5(b) of the Public Works Acceleration Act (42 U.S.C. 1492(c)).

f. Sections 7 and 8 of the Area Redevelopment Act (42 U.S.C. 2506 and 2507) and delegation from Secretary of Commerce dated July 20, 1961 (26 F.R. 7974, Aug. 25, 1961).

6. Compensation of condemnees under Title IV of the Housing and Urban Development Act of 1965 (42 U.S.C. 3071) to the extent applicable to matters redelegated to the Director and Deputy Director for Northwest Area Office at Seattle.

SEC. B. *Additional authority excepted.* There is further excepted from the authority redelegated under section A the power to:

1. Establish interest rates.

2. Issue notes or other obligations for purchase by the Secretary of the Treasury.

3. Exercise the powers under section 402(a) of the Housing Act of 1950, as amended (12 U.S.C. 1749a(a)).

4. Sue and be sued.

5. Issue rules and regulations.

SEC. C. *Revocations.* The following redelegations of authority are hereby revoked as of the date of publication of this document in the FEDERAL REGISTER:

1. Redelegation of authority to the Director for Northwest Operations with respect to Basic Water and Sewer Facilities Program, effective May 18, 1966 (32 F.R. 287, Jan. 11, 1967).

2. Redelegation of authority to the Director for Northwest Operations with respect to Advances for Public Work Planning (first, second, and third programs) effective May 13, 1965 (30 F.R. 6607, May 13, 1965).

3. Redelegations of authority to the Director for Northwest Operations with respect to Public Facility Loans Program effective May 13, 1965 (30 F.R. 6607, May 13, 1965).

4. Redelegations of authority to the Director for Northwest Operations with respect to Public Works Acceleration Act effective May 13, 1965 (30 F.R. 6607, May 13, 1965); effective July 23, 1963 (28 F.R. 7802, July 31, 1963).

5. Redelegation of authority to the Director for Northwest Operations, Seattle VI, Seattle, with respect to Alaska Public Works Act, effective February 1, 1965 (30 F.R. 3731).

6. Redelegation of authority to the Director for Northwest Operations with respect to loans and grants authorized under Area Redevelopment Act, effective May 13, 1965 (30 F.R. 6607, May 13, 1965).

7. Redelegation of authority to the Director for Northwest Operations, Region VI, Seattle, with respect to Prefabricated Housing Loan Program, effective October 1, 1965. (Not published in FEDERAL REGISTER.)

(Redelegations of authority by Assistant Secretary for Metropolitan Development effective May 18, 1966 (31 F.R. 7359–7360, May 20, 1966, as amended at 31 F.R. 13148, Oct. 11, 1966))

Effective date. These redelegations of authority shall be effective as of the 1st day of September 1967.

ROBERT B. PITTS,
Regional Administrator, Region VI.

[F.R. Doc. 67-14815; Filed, Dec. 20, 1967; 8:50 a.m.]

DIRECTOR FOR NORTHWEST AREA OFFICE AND DEPUTY DIRECTOR FOR NORTHWEST AREA OFFICE AT SEATTLE, WASH., REGION VI

Redelegations of Authority Regarding Open-Space Land and Urban Beautification Programs, and Urban Planning Assistance Program

SECTION A. *Redelegations of authority.* The Director for Northwest Area Office and the Deputy Director for Northwest Area Office at Seattle, Wash., Region VI, each is hereby authorized, within the entire States of Washington, Oregon, Alaska, and Montana, together with the Northern portion of Idaho, including the counties of Adams, Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lemhi, Lewis, Nez Perce, Shoshone, Valley, and Washington, to exercise the power and authority of the Secretary of Housing and Urban Development, with respect to the programs and matters listed below, except as specified under this section A and as additionally excepted under section B:

1. Open-Space Land and Urban Beautification Programs under Title VII of the Housing Act of 1961, as amended (42 U.S.C. 1500–1500e), except the authority to:

a. Approve the conversion of open-space land to other uses under section 704 (42 U.S.C. 1500c).

b. Provide technical assistance and undertake studies and publish information under section 706 (42 U.S.C. 1500d).

c. Determine further terms and conditions under section 702(d) (42 U.S.C. 1500a(d)).

d. Make a grant of more than 50 percent under section 706 (42 U.S.C. 1500e–2).

2. Urban Planning Assistance Program under section 701 of the Housing Act of 1954, as amended (40 U.S.C. 461), except the authority to:

a. Undertake studies, research, and demonstration projects under section 701(b).

b. Determine the acceptability of a planning agency under section 701(a)(1) and (2).

c. Make a three-fourths grant under section 701(b) for an area described in section 701(a)(7).

d. Determine that an organization is representive of the political jurisdictions within a metropolitan area or urban region under section 701(g).

SEC. B. *Additional authority excepted.* There is further excepted from the authority redelegated under section A the power to:

1. Approve applications, authorize loans, grants, and advances and amend or modify the terms thereof.

2. Establish interest rates.

3. Issue notes or other obligations for purchase by the Secretary of the Treasury.

4. Exercise the powers under section 402(a) of the Housing Act of 1950, as amended (12 U.S.C. 1749a(a)).

5. Sue and be sued.

6. Issue rules and regulations.

(Redelegations of Authority by Assistant Secretary for Metropolitan Development effective May 18, 1966 (31 F.R. 7359–7360, May 20, 1966), as amended at 31 F.R. 13148, Oct. 11, 1966)

Effective date. These redelegations of authority shall be effective as of the 1st day of September 1967.

ROBERT B. PITTS,
Regional Administrator, Region VI.

[F.R. Doc. 67-14819; Filed, Dec. 20, 1967; 8:50 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-228]

LOWELL TECHNOLOGICAL INSTITUTE

Notice of Extension of Completion Dates

The Commission has issued an order extending the earliest and latest completion dates to December 31, 1968, and June 30, 1969, respectively, for Construction Permit No. CPRR–87. The permit authorizes Lowell Technological Institute to construct a 1-megawatt, pool-type nuclear reactor on the Institute's campus in Lowell, Mass.

Copies of the Commission's order and the Institute's application dated November 3, 1967, are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 12th day of December 1967.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director, Division of Reactor Licensing.

[F.R. Doc. 67-14780; Filed, Dec. 20, 1967; 8:45 a.m.]

[Docket No. 50-131]

VETERANS ADMINISTRATION HOSPITAL, OMAHA, NEBR.

Notice of Issuance of Facility License Amendment

The Atomic Energy Commission has issued Amendment No. 4, as set forth below and effective as of the date of issuance, to Facility License No. R-57. The license authorizes the Veterans Administration Hospital to operate its TRIGA type nuclear reactor located at Omaha, Nebr. The amendment authorizes the Hospital to use a two (2) curie sealed americium-beryllium neutron source for reactor startup as an alternate to the presently authorized sealed polonium-beryllium neutron source as described in the Hospital's application for license amendment dated October 24, 1967.

Within fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing, and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. A request for hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's regulations (10 CFR Part 2). If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this amendment, see (1) the licensee's application for license amendment dated October 24, 1967, and (2) a related Safety Evaluation prepared by the Division of Reactor Licensing, both of which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of item (2) above may be obtained at the Commission's Public Document Room or upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 12th day of December 1967.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

AMENDMENT TO FACILITY LICENSE

[License No. R-57, Amdt. 4]

The Atomic Energy Commission having found that:

a. The Veterans Administration Hospital's application for amendment dated October 24, 1967, complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter I, CFR;

b. Operation of the reactor in accordance with the license, as amended, will not be inimical to the common defense and security or to the health and safety of the public; and

c. Prior public notice of proposed issuance of this amendment is not required since the

amendment does not involve significant hazard considerations different from those previously evaluated;

Facility License No. R-87, as amended, issued to Veterans Administration Hospital, is hereby further amended by revising subparagraph 3.C in its entirety to read as follows:

3.C Pursuant to the Act and Title 10, Chapter I, CFR, Part 30—"Rules of General Applicability to Licensing of Byproduct Material", to receive, possess, and use up to 5 curies of sealed polonium-beryllium neutron sources (U.S. Nuclear Corporation Type 32S) and a 2 curie sealed americium-beryllium neutron source (NUMEC—AM-02 Type I) either of which may be used for reactor startup only; and to possess, but not to separate, such byproduct material as may be produced by operation of the reactor.

This amendment is effective as of the date of issuance.

Date of issuance: December 12, 1967.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[F.R. Doc. 67-14751; Filed, Dec. 20, 1967; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 19333; Order No. E-26134]

ALASKA AIRLINES, INC.

Order Dismissing Complaint Regarding Roundtrip Tour Fares Between Kotzebue and Fairbanks

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 18th day of December 1967.

By tariff revisions[1] marked to become effective December 20, 1967, Alaska Airlines, Inc. (ASA), proposes to reduce its round-trip tour fare between Kotzebue and Fairbanks, via Nome and Anchorage, from $110 to $100,[2] (which is the present level of its tour fare between Kotzebue and Anchorage). Stopover privileges at Nome and Anchorage are not restricted under the proposed fare. The proposal, which represents a reduction from the existing fare of 9.09 percent, is applicable in conjunction with an advertised air tour; on a round-trip basis; and for transportation which must be completed within 7 days.

Wien has filed a complaint requesting suspension and investigation of ASA's tariff revisions on the ground that the proposed fare is uneconomic in that it bears no reasonable relationship to the cost of providing service over circuitous mileages and routings involved. The carrier alleges, inter alia, that Alaska's only justification is, under the guise of "common rating," to establish a reduced fare in a market in which it is not certificated to provide direct service. Finally, Wien contends that the proposed fare per mile of 5.1 cents undercuts its fare yield of 11.3 cents by nearly 55 percent, and that the proposal will be highly diversionary of Wien's traffic because of the attractiveness of the fare which will give tour passengers stopover privileges at Anchorage, Nome, and Kotzebue.

In support of its proposal and in answer to the complaint, ASA states that the purpose of its tariff revision is to reduce the Fairbanks-Kotzebue tour basing fare; that the regular first-class fares between Fairbanks and Kotzebue are now common rated with Anchorage and Kotzebue and it is its desire to provide a similar reduction in the tour basing fare; and that the proposed fare will give the traveling public in Fairbanks the opportunity to utilize ASA's Arctic Winter Tours as that in Anchorage. ASA further contends that its proposed $100 tour fare is not competitive with Wien's $99 tour fare because of the high degree of circuity and lack of passenger convenience; that such fares are offered year around whereas Wien offers only summer tours; and that Wien has not advanced factual data that the proposed fare will divert its traffic.

The Board, upon consideration of the proposed tariff, the complaint with respect thereto, and other matters of record, finds that the complaint against such tariff should be dismissed. While there is routing circuity involved in ASA's service between Fairbanks and Kotzebue, the proposed tour basing fare bears a reasonable relationship to the normal one-way first-class fare both in terms of percent (153.8 percent) and gross fare yield—5.09 cents for the proposed fare versus 6.61 cents for the regular one-way first-class fare. Further, the proposed fare is only $5 lower than the tour fare established during 1964 by ASA. The Board also notes that the $99 tour fare of Wien[3] in this market is (1) applicable only on circle-trip flights via Nome and Kotzebue subject to the restriction that a passenger may not stop over at these two points longer than 10 days; and (2) only 1 dollar less than the normal round-trip first-class fare charged by it therein. While the complainant asserts, inter alia, that the proposed tour fare is diversionary, there has been no showing to support that allegation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof:

It is ordered, That:

1. The complaint of Wien Alaska Airlines, Inc., in Docket 19333 is dismissed; and

2. A copy of this order be served upon Wien Alaska Airlines, Inc., and Alaska Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-14800; Filed, Dec. 20, 1967; 8:49 a.m.]

[1] Alaska Airlines, Inc., Local and Joint Tour Passenger Tariff No. T-4, CAB No. 123, bearing a filing date of Nov. 20, 1967. The present fare has been in effect since Oct. 8, 1966, at which time it was increased from the $108 fare that had been established on Apr. 15, 1964.

[3] Wien Alaska Airlines, Inc., Tariff C.A.B. No. 46.

[Docket No. 19151]

ALLEGHENY-LAKE CENTRAL MERGER CASE

Notice of Postponement of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled proceeding previously assigned to be held on December 19, 1967, is postponed to January 17, 1968, at 10 a.m., e.s.t., in Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C.

Dated at Washington, D.C., December 18, 1967.

[SEAL] MILTON H. SHAPIRO,
Hearing Examiner.

[F.R. Doc. 67-14801; Filed, Dec. 20, 1967; 8:49 a.m.]

[Docket No. 19404; Order No. E-26130]

DOMESTIC TRUNKLINE CARRIERS

Order of Investigation and Suspension Regarding Revisions of Discover America Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 15th day of December 1967.

By tariff revisions,[1] filed on or after November 8, 1967, and marked to become effective January 1, 1968, various domestic trunkline carriers have proposed several modifications to their Discover America round-trip excursion fares tariff. The filings of some carriers include increases in the present $200 transcontinental fares, the extension of the weekend blackout periods to include Saturday and Sunday mornings, and the establishment of summer blackouts in 1968. Also, the domestic trunklines either have extended, or are proposing to extend, the expiration dates of their respective fares to April 27 or December 31, 1968.[2]

American Airlines, Inc. (American), Eastern Air Lines, Inc. (Eastern), Trans World Airlines, Inc. (TWA), and United Air Lines, Inc. (United), are the carriers proposing to cancel the reduced $200 trans-continental fares and reestablish them to reflect the uniform 25 percent discount from regular jet coach fares applying between all other points. This action would raise those fares in amounts ranging from about $3 to $28. These four carriers, along with Braniff Airways, Inc. (Braniff), and Western Air Lines, Inc. (Western), are the proponents of the extended weekend blackout periods.[3] Presently, Discover America travel is blacked out between noon and midnight on Fridays, and between Sunday noon and Monday noon. The proposals would also preclude Discover America travel between 12:01 a.m. and noon on Saturdays and Sundays, leaving noon to midnight on Saturday as the only period during the weekend when Discover America fares would be valid.

Summer blackout periods, which would affect originating travel only, are being proposed by American, TWA, United, and Western. The proposed blackout periods are from June 14 through July 6, and from August 9 through August 31.

The American Society of Travel Agents (ASTA) has filed a complaint and comments with respect to these filings, as well as the proposals to modify the family fare weekend blackout periods. ASTA opposes the broadening of the weekend blackout periods and asks the Board to maintain current discount levels until April 27, 1968. ASTA submits that the disadvantages of extending the weekend blackout periods would outweigh the benefits to be derived therefrom, and that to permit without reasonable notice to the public the carriers' proposals would not be justified or consistent with the public interest.

American, TWA, and United have all filed statements in support of their tariff filings. With respect to the $200 transcontinental fare, all three carriers contend that the lower fares in these markets have not generated additional traffic but have merely reduced revenues. The carriers state that the summer blackouts are necessary to prevent undue traffic peaking in these periods and to effect a better use of resources. It is suggested that such additional equipment and facilities as may be needed to handle the greater traffic peak, if the Discover America fares apply through the summer, would be substantially underutilized during the remainder of the year. TWA and American submit that the added weekend blackouts are needed to curb peaking. TWA also contends that many of its Discover America travelers on Saturday and Sunday mornings represent nondiscretionary travel and contribute to very high load factors, especially in the shorter haul markets. United has indicated that it does not believe the added weekend blackouts are of major significance, but has filed them only for the sake of uniformity.

The filings before us represent the judgments of these carriers as to ways to improve the economics of the important Discover America excursion fares. The carriers generally contend that these modifications will reduce diversion of normal fare traffic, reducing traffic peaking, and reduce revenue and yield dilution. With respect to the proposed increases in the transcontinental excursion fares, American, TWA, and United assert that the greater discount available since last April 23d in these markets, as compared with the 25 percent discount applicable elsewhere on Discover America fares, has not generated additional traffic but has merely reduced revenues.

The Board has long held that the effective use of promotional discount pricing can work to the advantage of the traveling public and the carriers alike. The potential market for air transportation is not a single homogeneous unit, but is comprised of various segments, some of which are clearly responsive to promotional pricing. By the same token, demand for air service is not evenly spread over all times, days, and seasons but fluctuates rather widely. The inherent perishability of the airline seat, in these circumstances, makes discount pricing a particularly effective marketing device. Therefore, while we have long urged the carriers to experiment with promotional fares, we have recognized that such experimentation would sometimes entail modifications of discounts to improve their economic effect.

We would observe that the very substantial numbers of passengers using the Discover America fare this year are ample evidence of the attractiveness of the fares. Indeed, the complaint of some of the carriers seems to be that too many people have used it. While it is desirable to strike a reasonable balance between the proportions of full-fare and discount-fare traffic, the means to do this may well ultimately be in an adjustment of normal fares especially in the long haul markets. The latter possibility, however, is not among the issues before the Board in these filings.

It is to be noted that some carriers have not filed tariffs imposing these new restrictions or increases with respect to the Discover America fares. It may well be that the fares in their present form are better suited to the needs of these carriers, and they are in a position to continue to make them available to the public on their present terms. Indeed, their competitive position may be enhanced by the greater liberality of their Discover America fares.

With respect to the increased transcontinental fares that have been proposed, the Board is not in a position to suspend these fares in any case, as such action would leave no Discover America fares in effect in these markets. We express no view, therefore, with respect to the merits of these increases by the carriers who have filed them.

With respect to the new Saturday and Sunday morning blackouts, the information presented by the carriers tends to show this change would improve the economics of the excursion fare and, at the same time, would not unduly prejudice the traveling public. Accordingly, the Board is prepared to permit this change to be made in due course.

However, we are concerned with the potential impact on large numbers of passengers if the higher transcontinental fare and the longer weekend blackouts are made effective on January 1st as proposed. It is reasonable to assume that many persons have arranged to travel at Discover America fares after the first of the year and that many of them would be adversely affected by these changes. Therefore, we urge the carriers to defer the effectiveness of these changes until April 28, 1968, which should very substantially reduce the potential problem.[4]

The proposed blackout of extensive summer periods presents a somewhat different problem. The four carriers—American, TWA, United, and Western—largely justify the proposed blackouts on the need to mitigate traffic peaking in these periods. The Board shares the carriers' concern about traffic peaking and the concomitant problems of congestion, as a general proposition. However, these problems cannot be attributed only to the Discover America excursion fares and we are very doubtful that the proposed summer blackout periods constitute the soundest approach to the peaking problem. Moreover, there is no apparent basis to blackout the application of the Discover America fares on all route segments whether or not they are all affected to the same degree by traffic peaking and high load factor characteristics.

The Discover America fares are essentially directed to the vacation or pleasure travel market. It would be anomalous to blackout these fares during a large portion of the normal vacation period when the best opportunity for traffic generation prevails. Rather than a total blackout, a sounder approach to the traffic peak and valley problem may be to provide a lesser discount on-season and a greater discount off-season, e.g., 20 and 30 percent, respectively, instead of the 25 percent now available all year. Another approach preferable to the seasonal blackout may be to blackout each week additional days or parts of days particularly affected by traffic peaks during the summer season.

In light of the foregoing considerations, the Board finds that the proposed summer blackout periods may be unjust and unreasonable and should be investigated and suspended.

Accordingly, pursuant to the Federal Aviation Act of 1958, particularly sections 204(a), 403, 404, and 1002 thereof:

It is ordered, That:

1. An investigation be instituted to determine whether the provisions described in Appendix A attached hereto,[5] and rules, regulations, and practices affecting such provisions, are or will be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful; to determine and prescribe the lawful provisions, and rules, regulations, or practices affecting such provisions;

2. Pending hearing and decision by the Board, the provisions described in Appendix A hereto[5] are suspended (insofar as they apply to interstate air transportation) and their use deferred

[1] Revisions to Airline Tariff Publishers, Inc., Agent, Local and Joint Passenger Fares Tariff No. DA-1, CAB No. 90.

[2] Apr. 27, 1968, for Braniff, Delta, Eastern, Northeast, and Northwest. Dec. 31, 1968, for American, Continental, National, Trans World, United, and Western.

[3] These same carriers, except Braniff, have proposed similar weekend blackouts for their family fares, effective Jan. 1, 1968.

[4] We will direct our staff to give prompt consideration to carrier short notice applications to so defer these revisions and we will expect such applications to be made by Dec. 22, 1967. We reach the same conclusion and would give the same treatment to the proposals, effective January 1st, to extend the weekend blackouts of the family fares.

[5] Appendix A filed as part of the original document.

to and including March 30, 1968, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The complaint of The American Society of Travel Agents, in Docket 19316, to the extent granted herein, be consolidated in this docket;

4. This investigation be assigned for hearing before an Examiner of the Board at a time and place hereafter to be designated; and

5. A copy of this order will be filed with the aforesaid tariffs and be served on American Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., National Airlines, Inc., Northeast Airlines, Inc., Northwest Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and Western Air Lines, Inc., which are made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 67-14803; Filed, Dec. 20, 1967; 8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 17881; FCC 67M-2049]

CAROL L. BRADLEY

Order Scheduling Hearing

In the matter of Carol L. Bradley, Clinton, Md., Docket No. 17881; application for authorization in the Citizens Radio Service:

It is ordered, That James D. Cunningham shall serve as Presiding Officer in the above-entitled proceeding; and that the hearing therein shall be convened in the offices of the Commission, Washington, D.C., on January 17, 1968, at 10 a.m.

Issued: December 8, 1967.

Released: December 15, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-14806; Filed, Dec. 20, 1967; 8:49 a.m.]

[Docket No. 17882; FCC 67M-2048]

BUCKEYE CABLEVISION, INC.

Order Scheduling Hearing

In re Buckeye Cablevision, Inc., Toledo, Ohio, Docket No. 17882; request for special relief pursuant to § 74.1109:

It is ordered, That Elizabeth C. Smith shall serve as Presiding Officer in the above-entitled proceeding; that the hearings therein shall be convened on March 4, 1968, at 10 a.m.; and that a prehearing conference shall be held on January 4, 1968, commencing at 9 a.m.: *And, it is further ordered*, That all proceedings shall take place in the offices of the Commission, Washington, D.C.

Issued: December 8, 1967.

Released: December 15, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-14809; Filed, Dec. 20, 1967; 8:49 a.m.]

[Docket No. 17210 etc.; FCC 67R-505]

GREAT RIVER BROADCASTING, INC., ET AL.

Memorandum Opinion and Order Enlarging Issues

In re applications of Great River Broadcasting, Inc., St. Louis, Mo., Docket No. 17210, File No. BP-16749; et al., 17211, 17212, 17213, 17214, 17215, 17217, 17219; for construction permits.

1. The Review Board has before it a motion to enlarge issues, filed August 4, 1967, by WKJG, Inc., licensee of Station WKJG, Fort Wayne, Ind. (WKJG),[1] seeking addition of an issue to determine whether the transmitter site proposed by certain of the applicants herein is satisfactory "with particular regard to any conditions that may exist in the vicinity of the antenna system which would distort the proposed antenna radiation pattern."[2]

2. In its present posture, this proceeding involves eight mutually exclusive applications for authority to construct a new standard broadcast station to operate on the frequency 1380 kHz in St. Louis, Mo. The competing applications were designated for consolidated hearing by memorandum opinion and order, FCC 67-225, released February 21, 1967, 5 FCC 2d 809. Prior to designation, the Commission granted Radio Thirteen-Eighty, Inc. (RTEI), interim authority to operate the subject facility which became vacant as a result of the license revocation of former Station KWK, Pike-Mo Broadcasting Co., 2 FCC 2d 207, 6 RR 581 (1965). The requested issue is directed to those applicants proposing to use the transmitter site of the interim operation on a permanent basis.[3] In support of its motion to enlarge, WKJG contends that it is being subjected to increased nighttime interference from RTEI's 5 kw interim operation over that which was received from former Station KWK;[4] that this increased interference results from reradiation of the signal from towers formerly employed by KWK; that reradiation from these towers has prevented adjustment of RTEI's array to provide protection to WKJG; and that the problems encountered by the interim operation in attempting to provide protection to WKJG raise serious questions as to the suitability of the interim site for a permanent operation. The Broadcast Bureau contingently supports the petition if the applicants cannot resolve the reradiation problem. Missouri Broadcasting, Inc., and Great River Broadcasting, Inc., propose to operate from the interim site with nighttime power of only 1 kw and accordingly, since they would not encounter the same reradiation problem, they urge that the requested issue be reframed to specifying the five applicants proposing 5 kw nighttime operations from the interim site.

3. In a joint opposition, Home State Broadcasting Corp., Archway Broadcasting Corp., Prudential Broadcasting Co., St. Louis Broadcasting Co., and Six-Eighty-Eight Broadcasting Co. contend that the Review Board has recently considered and denied a request for the precise issue sought by WKJG, and that WKJG has advanced no reason why the Board should reverse its prior decision. The joint opposition concedes that the RTEI signal intensity radiated toward WKJG is 10 percent in excess of the maximum expected operating value (MEOV) shown in the proposed nighttime radiation pattern; but argues that the presence of the old KWK towers is transitory; that it is reasonable to assume that by the time this proceeding has been finally adjudicated the towers will have been removed; that in the meantime RTEI will seek to readjust "around" the old towers; and finally, that should readjustment efforts prove unsuccessful, RTEI will "presumably" seek the Commission's aid in obtaining permission to detune the old KWK towers. In reply, WKJG contends that the proof-of-performance measurements necessary to show that the required protection to WKJG has been obtained will not be filed for some time; that there is no assurance that radiation checks will be maintained to assure that the required protection toward WKJG will be provided, and that, "if the proof-of-performance measures up", an appropriate stipulation can be entered into by the parties.

4. In both its memorandum opinion and order granting RTEI interim authority to operate the facility here in contest (Pike-Mo Broadcasting Co., supra) and its order designating the St. Louis applicants for hearing, the Commission made it clear that existing stations would not be required to accept any more interference from the new St. Louis proposal than they were required to accept from former Station KWK. According to WKJG's undisputed allegations, it presently receives such increased nighttime interference from RTEI's operation and will continue to receive such interference in the event the Commission grants any of the five St. Louis applications proposing to use the RTEI site with the same nighttime power (5 kw) and directional array presently employed by RTEI. Although on an earlier occasion the Board denied Victory Broadcasting Co., Inc.'s request for a similar issue with regard to interference to Station KJCF, Festus, Mo., and five other existing stations located west-northwest clockwise to the southeast of St. Louis,[5] it did so on the grounds that Victory's allegations were insufficient to support its claim that the proposals of the St. Louis applicants specifying the RTEI site would cause new, increased or changed interference to such stations. Here the allegations of increased nighttime interference stand unrebutted and are strengthened by the Commission's October 14, 1966, letter directing RTEI to reduce its radiation in the direction of WKJG.[6] The pleadings before the Board contain no indication that this directive has been complied with and, accordingly, the requested issue will be added with respect to those applicants proposing to use the interim site with 5 kw nighttime power.

Accordingly, it *is ordered*, That the petition to accept motion to enlarge issues for consideration on the merits, filed August 4, 1967, by WKJG, Inc., is granted; and

It is further ordered, That the motion to enlarge issues, filed August 4, 1967, by WKJG, Inc., is granted to the extent indicated below, and denied in all other respects; and

It is further ordered, That the issues in this proceeding are enlarged by the addition of the following issue: To determine whether the transmitter site proposed by Prudential Broadcasting Co., Six-Eighty-Eight Broadcasting Co., St. Louis Broadcasting Co., Home State Broadcasting Corp., and Archway Broadcasting Corp. is satisfactory, with particular regard to any conditions that may exist in the vicinity of the antenna system which would distort the proposed antenna radiation pattern to affect the operation of Station WKJG, Fort Wayne, Ind.

It is further ordered, That the burden of proceeding and burden of proof under the issue added herein will be on Prudential Broadcasting Co., Six-Eighty-Eight Broadcasting Co., St. Louis Broadcasting Co., Home State Broadcasting Corp., and Archway Broadcasting Corp.

Adopted: December 4, 1967.

Released: December 12, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[7]
[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-14810; Filed, Dec. 20, 1967; 8:50 a.m.]

[1] 1380 kHz, 5 kw, U, DA-2.

[2] Also before the Review Board are (a) Broadcast Bureau's comments, filed Aug. 22, 1967; (b) joint opposition, filed Aug. 29, 1967, by Home State Broadcasting Corp., Archway Broadcasting Corp., Prudential Broadcasting Co., St. Louis Broadcasting Co., and Six-Eighty-Eight Broadcasting Co.; (c) comments of Missouri Broadcasting, Inc., and Great River Broadcasting, Inc., filed Aug. 29, 1967; and (d) reply to joint opposition, filed Sept. 11, 1967, by WKJG, Inc. In addition, on Aug. 4, 1967, WKJG filed a petition to accept motion to enlarge issues for consideration on the merits. This latter petition is unopposed (see footnote 3, infra).

[3] In its concurrently filed petition to accept the motion to enlarge issues for consideration on the merits, WKJG alleges that in October 1966, the Commission advised RTEI that "the radiation, as shown on the measured horizontal pattern, is in the order of 220 mv/m, which value is in excess of the 200 mv/m shown on the calculated horizontal radiated pattern authorized by the Commission in BP-4848 which was granted to KWK in 1948." On the basis of the foregoing, the Commission directed RTEI to limit radiation toward WKJG "to such a value that inverse distance field at 1 mile in the direction of 59°, True, does not exceed 200 mv/m". WKJG now contends that despite numerous extensions of time RTEI has not been able to comply with the Commission's directive; that WKJG consented to such extensions in the hope that a solution would be found that would obviate the need for exploration of the matter in this proceeding; and that because, to date, no such solution has been found, it was necessary to file its subject motion to enlarge issues. The Board is of the view that WKJG's unchallenged allegations demonstrate good cause for the late filing of its motion.

[4] The designation order herein made WKJG a party only with respect to the application of Slater Broadcasting Co. (WBEL) which has since dismissed its application. However, in view of WKJG's showing as to the increased nighttime interference it presently receives from RTEI and the possibility of such increased interference from certain of the St. Louis applicants, WKJG would have standing as a party under section 309 of the Communications Act. This fact was apparently recognized by the parties herein, none of which questioned WKJG's standing to file its subject petitions. In order to clarify the matter, we now hold that WKJG has standing in this proceeding with respect to the St. Louis applicants.

[5] 8 FCC 2d 1036, 10 RR 2d 906 (1967). The five existing stations referred to in Victory's pleading were Stations KCH, Washington, Iowa; WWCM, Brasil, Ind.; KUDL, Fairway, Kans.; WMTA, Central City, Ky.; and WPBO, Lincoln, Ill.

[6] See footnote 3, supra.

[7] Review Board Member Nelson not participating; Board Member Pincock absent.

[FCC 67-1347]

"WALKIE-TALKIE" RADIOS

Use of Caution in Purchase

The Federal Communications Commission urges caution in buying Walkie-Talkie radios as Christmas gifts for children or others. Use of radios for transmitting without an FCC license may violate Federal law. Only the very low-power (100 milliwatts or less) two-way radios may be used without a license. They should not be confused with "Citizens Band" radios which are higher powered. In order to be certain that a license is not needed for the Walkie-Talkie, be sure a certificate is attached which states that the Walkie-Talkie complies with Part 15 of the FCC rules.

Even if a license is not required, if interference is caused to any licensed radio service, the user of the Walkie-Talkie may be required to limit communications or cease operation entirely.

Unlicensed Walkie-Talkie radios permitted under Part 15 of the FCC rules are forbidden to communicate with licensed Citizens Band radio stations.

Licenses for Citizens Band radios may be granted only to U.S. citizens over 18 years of age. Youngsters interested in radio as a hobby should request information from the FCC concerning the Amateur Radio Service.

Adopted: December 13, 1967.

Released: December 15, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-14811; Filed, Dec. 20, 1967; 8:50 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-4681, etc.]

SINCLAIR OIL & GAS CO. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

DECEMBER 14, 1967.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service heretofore authorized as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 8, 1968.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no protest or petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given: *Provided, however*, That pursuant to § 2.56, Part 2, Statement of General Policy and Interpretations, Chapter I of Title 18 of the Code of Federal Regulations, as amended, all permanent certificates of public convenience and necessity granting applica-

[1] This notice does not provide for consolidation for hearing of the several matters covered herein, nor should it be so construed.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
CI64-328 A 11-29-67	Chief Drilling, Inc. (successor to Hanlon Oil Co.) c/o Robert E. Wright, attorney, Box 24, Ballard Bldg., Wichita Falls, Tex. 76301.	Consolidated Gas Supply Corp., Clay District, Ritchie County, W. Va.	25.0	14.65
CI64-1170 C 12-4-67	Shell Oil Co., 50 West 50th St., New York, N.Y. 10020.	Natural Gas Pipeline Co. of America, Thomas Plant Area, Dewey and Custer Counties, Okla.	13.0	14.65
CI65-1800 E 11-28-67	Chief Drilling, Inc. (successor to Hanlon Oil Co.).	Consolidated Gas Supply Corp., Grant and Lewis Districts, Pleasants County and Grant District, Ritchie County, W. Va.	25.0	15.325
CI66-642 C 12-4-67	Pan American Petroleum Corp., Post Office Box 591, Tulsa, Okla. 74102.	Northern Natural Gas Co., Tangier Field, Woodward County, Okla.	14.65	14.65
CI66-1300 E 12-4-67	Paschin-Wilmoth Industrial, Inc. (successor to E. B. Clark d.b.a. E. B. Clark Drilling Co. et al.), 1100 Commerce, Fort Worth, Tex. 76102.	Consolidated Gas Supply Corp., Glenville District, Gilmer County, W. Va.	25.0	15.325
CI67-944 C 11-15-67	Cabot Corp., (50%) (Operator) et al., Post Office Box 1101, Pampa, Tex. 79065.	Natural Gas Pipeline Co. of America, acreage in Texas County, Okla.	17.0	14.65
CI67-1360 E 11-20-67	Chief Drilling, Inc. (successor to Hanlon Oil Co.).	Consolidated Gas Supply Corp., Ellsworth District, Calhoun County, W. Va.	25.0	15.325
CI67-1740 C 12-1-67	Buttes Gas & Oil Co.	Michigan Wisconsin Pipe Line Co., Laverne Field, Harper County, Okla.	17.0	14.65
CI68-635 A 11-6-67 [3] 12-4-67 [4] CI68-635 A 11-7-67	Mesa Petroleum Co. (Operator) et al., Post Office Box 2009, Amarillo, Tex. 79105. Humble Oil & Refining Co. [11]	Michigan Wisconsin Pipe Line Co., Northeast Beaver Field, Woodward County, Okla. North Cheyenne Field, Peos County, Tex.	17.0	14.65
CI68-700 A 11-30-67	Woods Petroleum Corp. [12] 4900 North Santa Fe, Oklahoma City, Okla. 73118.	Michigan Wisconsin Pipe Line Co., Woodward Area, Major County, Okla.	13.0	14.65
CI68-710 A 11-30-67	Bedhen Oil Co., 3100 Northwest 36th, Oklahoma City, Okla. 73112.	Ottie Service Gas Co., acreage in Kay County, Okla.	13.0	14.65
CI68-711 B 11-30-67	Quaker State Oil Refining Corp., Box 387, Bradford, Pa. 16701.	United Fuel Gas Co., Jefferson District, Lincoln County, W. Va.	Depleted	----
CI68-712 B 11-30-67	Quaker State Oil Refining Corp., et al.	do	Depleted	----
CI68-713 B 12-1-67	Sawyer and Fitzgerald, c/o Edmund Fitzgerald, 703 Main St., Beall-Rogers, Arnoldsburg, W. Va. 25234.	Cumberland & Allegheny Gas Co., Roaring Creek District, Randolph County, W. Va. Consolidated Gas Supply Corp., Washington District, Calhoun County, W. Va.	Depleted 25.0	---- 15.325
CI68-714 A 12-1-67	Stonestreet Lands Co., et al., Parkersburg Road, Spencer, W. Va. 25276.	Consolidated Gas Supply Corp., Burning Springs District, Wirt County, W. Va.	Unconnected	----
CI68-715 B 12-1-67	Buttes Gas Co. (Operator) et al., 2000 Bank of the Southwest Bldg., Houston, Tex. 77002.	Transcontinental Gas Pipe Line Corp., East LaBlanc Field, Allen Parish, La.	15.0	15.025
CI68-716 A 12-1-67	J. C. Trahan, Drilling Contractor, Inc., 2625 Line Ave., Shreveport, La. 71104 (partial abandonment).	Arkansas Louisiana Gas Co., acreage in Latimer County, Okla.	14.65	14.65
CI68-717 A 12-4-67	Wagoner Properties, c/o Robert K. Pace, attorney, 11th Floor, Hamilton Bldg., Wichita Falls, Tex. 76301.	Northern Natural Gas Co., acreage in Woodward County, Okla.	17.0	14.65
CI68-718 A 12-4-67	Tipco Petroleum, Inc., Post Office Box 681, Amarillo, Tex. 79105.	Colorado Interstate Gas Co., Vilas Field Area, Bent County, Colo.	14.6	14.65
CI68-719 A 12-4-67	W. C. McBride, Inc. (Operator) et al., 23 North Brentwood Blvd., St. Louis, Mo. 63105.	Gulf Coast Corp., Sheridan District, Calhoun County, W. Va.	17.5	15.325
CI68-720 A 12-4-67	Francis Cain, Big Bend, W. Va. 25136.	Ohio Fuel Gas Co., Calhoun County, W. Va.	17.0	14.65
CI68-721 A 12-4-67	Petroleum, Inc., 200 West Douglas, Wichita, Kans. 67202.	Northern Natural Gas Co., acreage in Beaver County, Okla.		

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
G-4691 C 12-4-67	Sinclair Oil & Gas Co., Post Office Box 521, Tulsa, Okla. 74102.	Champlin Petroleum Co., Mercedes Field, Hidalgo County, Tex.	14.125	14.65
G-8380 E 11-29-67	Chief Drilling, Inc. (successor to Hanlon Oil Co.), c/o Robert E. Wright, attorney, Box 24, Ballard Bldg., Wichita Falls, Tex. 76301.	Consolidated Gas Supply Corp., Murphy District, Ritchie County, W. Va.	20.0	15.325
G-8417 E 11-28-67	Mark Production Co. (successor to Gawthrop Oil & Gas Producers, Inc.), c/o Clarence M. Rogers, attorney, Prunty Bldg., Clarksburg, W. Va. 26301.	Consolidated Gas Supply Corp., Various Districts, Harrison and Doddridge Counties, W. Va.	20.0	15.325
G-13543 D 12-4-67	Mobil Oil Corp., Post Office Box 2444, Houston, Tex. 77001 (partial abandonment).	Natural Gas Pipeline Co. of America, Caledonia Field, Rusk County, Tex.	Depleted	----
G-15144 D 12-1-67	MAPCO Production Co., 800 Oil Center Bldg., Tulsa, Okla. 74119 (partial abandonment).	Colorado Interstate Gas Co., Hugoton Field, Haskell County, Okla.	Depleted	----
G-17084 11-15-67 1	Phillips Petroleum Co. (Operator) et al., Bartlesville, Okla. 74003.	El Paso Natural Gas Co., acreage in San Juan County, N. Mex.	[13] 12.2465	15.025
G-18098 E 11-27-67	Shell Oil Co. (Operator) et al. (successor to Reef Corp. (Operator) et al.), Post Office Box 1650, Tulsa, Okla. 74102.	El Paso Natural Gas Co., East Vealmoor Plant, Howard County, Tex.	[9] 15.215	14.65
CI61-220 D 12-1-67	Sinclair Oil & Gas Co.	Transwestern Pipeline Co., Crawar Field, Ward County, Tex.	(7)	----
CI61-790 E 12-1-67	Buttes Gas & Oil Co. (Operator) (successor to Juniper Oil & Gas Co. (Operator) et al.), 2100 Franklin St., Oakland, Calif. 94612.	Kansas-Nebraska Natural Gas Co., Inc., Cotton Valley Field, Weld County, Colo.	13.0	15.4
CI61-908 D 12-4-67	Mobile Oil Corp.	Arkansas Louisiana Gas Co., Chester Field, Marion County, Tex.	(7)	----
CI62-347 C 12-4-67	Monsanto Co. (Operator) et al., 1300 Main St., Houston, Tex. 77002.	El Paso Natural Gas Co., Marble Wash Area, Montezuma County, Colo.	13.0	15.025
CI62-521 D 12-1-67	J. C. Trahan, Drilling Contractor, Inc., 2625 Line Ave., Shreveport, La. 71104 (partial abandonment).	Texas Gas Transmission Corp., West Monroe Field, Union, Quachita and Morehouse Parishes, La.	Declined in pressure	----
CI62-1160 C 11-30-67	Louis J. Smith, Sutton, W. Va.	Equitable Gas Co., Otter District, Braxton County, W. Va.	25.0	15.325
CI63-1161 D 12-7-67	Humble Oil & Refining Co., Post Office Box 2180, Houston, Tex. 77001.	Northern Natural Gas Co., Como Area, Beaver County, Okla.	Declined in pressure	----
CI64-17 E 12-1-67	Buttes Gas & Oil Co. et al. (successor to Juniper Oil & Gas Co. et al.).	Kansas-Nebraska Natural Gas Co., Inc., Logan Field, Weld and Morgan Counties, Colo.	13.0	15.4

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.
See footnotes at end of table.

tions, filed after July 1, 1967, without further notice, will contain a condition precluding any filing of an increased rate at a price in excess of that designated for the particular area of production for the period prescribed therein unless at the time of filing such certificate application, or within the time fixed herein for the filing of protests or petitions to intervene the Applicant indicates in writing that it is unwilling to accept such a condition. In the event Applicant is unwilling to accept such condition the application will be set for formal hearing.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
CI66-722 A 11-27-67	Prior Oil Co., c/o Hays & Co., agent, Box 880, Spencer, W. Va. 25276.	Pennzoil Co., acreage in Harrison County, W. Va.	12.0	15.325

[1] Application to amend certificate to reflect change in signatory status of coowner.
[2] Rate in effect subject to refund in Docket No. RI63-425.
[3] Rate in effect subject to refund in Docket No. RI61-65.
[4] Gas reserves are insufficient to justify laying lines necessary to connect to well on subject acreage.
[5] Deletes from contract certain nonproducing leases.
[6] Includes 2.55 cents per Mcf upward B.t.u. adjustment and 0.01586 cent per Mcf tax reimbursement. Subject to upward and downward B.t.u. adjustment.
[7] Dedicates interest of Everett L. Richards, et ux to Cabot's contract.
[8] Subject to upward and downward B.t.u. adjustment.
[9] Application previously noticed Nov. 16, 1967, in Docket Nos. G-3913 et al., at a total initial rate of 15 cents per Mcf.
[10] Amendment to application filed to reflect a total initial rate of 17 cents per Mcf in lieu of the original proposed rate of 15 cents.
[11] By letter filed Dec. 4, 1967, Applicant agreed to accept permanent certificate containing conditions similar to those imposed by Opinion No. 468, as modified by Opinion No. 468-A.
[12] Applicant states its willingness to accept permanent certificate on the same terms specified by the Commission's order issued Mar. 30, 1964, in Docket Nos. G-10417 et al.
[13] Subject to deduction for compression should Buyer compress gas.

[F.R. Doc. 67-14765; Filed, Dec. 20, 1967; 8:45 a.m.]

[Docket No. G-9262]

FLORIDA GAS TRANSMISSION CO.

Notice of Petition To Amend

DECEMBER 14, 1967.

Take notice that on December 4, 1967, Florida Gas Transmission Co. (Petitioner), Post Office Box 44, Winter Park, Fla. 32789, filed in Docket No. G-9262 a petition to amend the order issued in said docket on December 28, 1956, authorizing the construction and operation of three new delivery points to Florida Power & Light Co. (Power Company) and increasing the quantities of gas authorized for delivery at another existing delivery point, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the aforementioned order of December 28, 1956, Petitioner was authorized, inter alia, to transport and deliver an annual average daily quantity of up to 100,000 Mcf of natural gas to various electric generating plants of Power Company in Florida. By the instant filing, Petitioner seeks authorization to increase the volume of natural gas authorized for delivery to Power Company's Riviera plant now served by Applicant and to add to existing delivery points the Port Everglades, Kennedy, and Turkey Point plants of Power Company as additional points for receipt of gas transported by Petitioner, such deliveries to be made pursuant to Petitioner's Rate Schedule T-2.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before January 10, 1968.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-14761; Filed, Dec. 20, 1967; 8:46 a.m.]

[Docket No. E-7361]

MINNESOTA POWER & LIGHT CO.

Notice of Application

DECEMBER 13, 1967.

Take notice that on December 5, 1967, Minnesota Power & Light Co. (Applicant), filed an application seeking authority pursuant to section 204 of the Federal Power Act authorizing the issuance of $18 million principal amount of First Mortgage Bonds.

Applicant is incorporated under the laws of Minnesota with its principal business office at Duluth, Minn., and is engaged in the electric utility business in the State of Minnesota.

The Bonds will be sold at competitive bidding in accordance with the Commission's regulations, are to be dated January 1, 1968, and are to mature on January 1, 1998. The Bonds will not be callable for purposes of refunding with money borrowed at a lower cost for a period not to exceed 5 years from the date of issuance.

The proceeds from the sale of the Bonds will be applied to the payment of an estimated $11 million in bank loans and will finance, in part, the Applicant's construction program which is expected to require the expenditure of $19.7 million in 1967 and 1968. This program includes $8.1 million for transmission lines, $4.5 million for substations and $1.1 million for generating facilities.

Any person desiring to be heard or to make any protest with reference to said application should, on or before January 5, 1968, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-14762; Filed, Dec. 20, 1967; 8:46 a.m.]

[Docket No. RI68-269]

PLACID OIL CO.

Order Providing for Hearing on and Suspension of Proposed Change in Rate

DECEMBER 13, 1967.

On November 13, 1967, Placid Oil Co. (Placid)[1] tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change is contained in the following designated filing:

Description: Notice of change, dated November 10, 1967.
Purchaser and producing area: Tennessee Gas Pipeline Co., a division of Tenneco, Inc. (Leeville Area, Lafourche Parish, La.) (South Louisiana Area).
Rate schedule designation: Supplement No. 3 to Placid's FPC Gas Rate Schedule No. 31.
Effective date: December 14, 1967.[2]
Amount of annual decrease: $300.
Effective rate: 23.25 cents per Mcf.[3,4]
Proposed rate: 23.15 cents per Mcf.[4]
Pressure base: 15.025 p.s.i.a.

Placid proposes a rate decrease from 23.25 cents to 23.15 cents per Mcf, amounting to $300 annually, for gas sold to Tennessee Gas Pipeline Co., a division of Tenneco, Inc., from the Leeville Area, Lafourche Parish, La. The stated reason for Placid's filing a rate decrease is to place the rate under a section 4(e) obligation to refund in lieu of its refund obligation under the temporary certificate. Placid requests that the Commission's 30-day notice period be shortened to the extent necessary to permit the proposed rate to go into effect on December 1, 1967, because the notice provides for a decrease in rate.

The Commission in Opinion No. 436 issued July 23, 1964, in Union Texas Petroleum et al., Docket Nos. G-13221 et al., 32 FPC 254, determined that the in-line price for the subject sale, among others, was 20 cents per Mcf, inclusive of tax reimbursement. The U.S. Court of Appeals for the 10th Circuit in Pan American Petroleum Corporation et al., v. F.P.C., 376 F. 2d 161, affirmed the Commission's in-line base price determination of 18.5 cents per Mcf in Opinion No. 436, but remanded the case to the Commission for further consideration of the 1.5 cents tax reimbursement allowance. Petitions for certiorari have been filed in that case before the Supreme Court of the United States, but none have contested the court's ruling on the tax reimbursement issue.

[1] Address is: 2800 First National Bank Building, Dallas, Tex. 75202. Attention: Paul W. Hicks, Esquire.
[2] The stated effective date is the first day after expiration of the statutory notice.
[3] Rate as conditioned by temporary certificate issued June 16, 1961, in Docket No. CI61-1362, in lieu of contractually authorized rate of 23.6 cents. Amounts collected in excess of 20 cents under the temporary are subject to refund.
[4] Inclusive of tax reimbursement.

While the proposed change does constitute a decrease in rate from Placid's presently effective rate, it also represents an increase above the 20 cents in-line price determined in Opinion No. 436.[2] Under the 10th Circuit decision the in-line price may still be 20 cents per Mcf, but in any event it will not exceed 20.8 cents per Mcf based upon 100 percent tax reimbursement of 2.3 cents per Mcf Louisiana severance tax in lieu of the 1.5 cents per Mcf tax reimbursement provided for in Opinion No. 436. Placid's proposed rate therefore also exceeds the highest possible in-line rate under the court's ruling. In these circumstances, we conclude that the proposed change should be suspended for 5 months from December 14, 1967, the expiration date of the 30-day statutory notice period.[3] Good cause has not been shown for granting the effective date requested by Placid and the request is denied.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed change, and that Supplement No. 3 to Placid's FPC Gas Rate Schedule No. 31 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed change contained in Supplement No. 3 to Placid's FPC Gas Rate Schedule No. 31.

(B) Pending such hearing and decision thereon, Supplement No. 3 to Placid's FPC Gas Rate Schedule No. 31 is hereby suspended and the use thereof deferred until May 14, 1968, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before January 29, 1968.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Acting Secretary.*

[F.R. Doc. 67-14764; Filed, Dec. 20, 1967; 8:46 a.m.]

[Project 2426]

STATE OF CALIFORNIA DEPARTMENT OF WATER RESOURCES AND CITY OF LOS ANGELES DEPARTMENT OF WATER AND POWER

Notice of Application for License Superseding Earlier Application for License for Unconstructed Project

DECEMBER 13, 1967.

Public notice is hereby given that application for license has been filed under the Federal Power Act (16 U.S.C. 791a–825r) by State of California Department of Water Resources and city of Los Angeles Department of Water and Power (correspondence to: Alfred R. Golze, Deputy Director, Department of Water Resources, Post Office Box 388, Sacramento, Calif. 95814) for unconstructed Project No. 2426, known as California Aqueduct Project, to be located in the counties of Contra Costa, Alameda, Fresno, Kern, Kings, Los Angeles, Merced, Riverside, San Bernardino, San Joaquin, San Luis Obispo, and Stanislaus—all in the State of California—in the vicinity of the towns and cities of Tracy, Los Banos, Coalinga, Kettleman City, San Luis Obispo, Taft, Gorman, Palmdale, Pearblossom, Hesperia, San Bernardino, Riverside, Sunnymead, Los Angeles, and Perris, and affecting lands of the United States within Angeles, Los Padres, and San Bernardino National Forests, and other lands of the United States.

The subject application for license in effect supersedes a previously filed application in that the subject application has been joined in by the city of Los Angeles Department of Water and Power to the extent of its construction and operation with the State of California of the Castaic pumped-storage facilities of the West Branch Division (set forth more fully below), and describes in complete detail all of the facilities comprising the California Aqueduct Project. Notice of the previously filed application was published on April 11, 18, and 25, and May 2, 1966 in newspapers in the counties in which the project is to be located.

The proposed California Aqueduct System will comprise all the facilities (with the exception of the State-Federal San Luis Joint Use Facility which is not included for license purposes) necessary to transport water some 420 miles from the Sacramento-San Joaquin Delta for delivery at canal-side points en route to termini in the counties of Los Angeles, Riverside, and San Luis Obispo. The project is divided into several divisions described as follows: I. North San Joaquin Division consisting of all aqueduct facilities from Clifton Court (mile 0) in Contra Costa County some 30 miles east of San Francisco southerly through portions of Alameda, San Joaquin, and Stanislaus Counties to O'Neill Forebay in Merced County, including (1) Clifton Court Forebay near the end of Italian Slough, to be supplied with water from the Delta via Old River and West Canal, (2) fish protective facilities and intake channel, (3) Delta Pumping Plant having 11 electric motor-driven pumps with total design rating (capacity, power requirement, and design head) of 10,300 c.f.s. (cubic feet per second), 343,000 hp. (horsepower), and 249 feet (243-foot lift), (4) Bethany Reservoir, and (5) Delta Operation and Maintenance Center; II. San Luis Division, located in Merced, Fresno, and Kings Counties, is operated jointly by the State of California and by the Department of the Interior's Bureau of Reclamation and is not a part of Project No. 2426 for license purposes; III. South San Joaquin Division, located in Kings and Kern Counties, consisting of (1) aqueduct facilities beginning at Kettleman City at mile 173 and terminating at Tehachapi Pumping Plant in the San Joaquin Valley, (2) Buena Vista Pumping Plant having 10 electric motor-driven pumps with a total design rating of 4,900 c.f.s. and 128,000 hp. at a 225-foot head (205-foot lift), (3) Wheeler Ridge Pumping Plant having nine electric motor-driven pumps with a total design rating of 4,600 c.f.s. and 136,500 hp. at a 238-foot head (231-foot lift), (4) Wind Gap Pumping Plant having nine electric motor-driven pumps with a total design rating of 4,400 c.f.s. and 290,500 hp. at a 524-foot head (518-foot lift), and (5) operation and maintenance facilities; IV. Tehachapi Division, located wholly within Kern County, consisting of (1) the Tehachapi Pumping Plant having 14 pumps with a total rating of 4,100 c.f.s. and 1,007,500 hp. at a 1,970-foot lift, and (2) aqueduct facilities to the junction of the West Branch and Mohave Divisions; V. Mohave Division, located in Kern, Los Angeles, and San Bernardino Counties, consisting of (1) the Cottonwood Development—to be initially comprised of an energy dissipater in lieu of a powerplant to be constructed around 1981 consisting of a 20,000 hp. turbine and a 14.1 mw. (megawatt) generator with design head and discharge of 125 feet and 1,475 c.f.s., respectively, (2) Pearblossom Pumping Plant having six electric-driven pumps with a total design capacity of 1,381 c.f.s. and 98,000 hp. at a 545-foot lift, (3) aqueduct facilities beginning at the Cottonwood Development, including the Cedar Springs Reservoir and Dam, and (4) Pearblossom Operation and Maintenance Center; VI. Santa Ana Division, located in San Bernardino, Los Angeles, and Riverside Counties, consisting of (1) aqueduct facilities beginning at Cedar Springs Dam, connecting with Devil Canyon Powerplant, and ultimately terminating in Perris Reservoir, (2) Devil Canyon Powerplant containing two 81,000 hp. turbines and two 58.5 mw. generators (1,435-foot static head), and (3) the Perris Reservoir located some 16 miles southeast of Riverside, Calif.; VII. West Branch Division, located in Kern and Los Angeles Counties, is described herein in two parts inasmuch as the supersedere application for license states that one part of this division will be developed solely by the State of California and a second part will be developed jointly by the State and by the city of Los Angeles as a pumped-storage facility. (A) According to the application the State will develop and operate (1) all West Branch aqueduct facilities beginning at the turnout from the main aqueduct in the southern end of the Tehachapi Afterbay at the junction of the Mohave and Tehachapi Divisions, and extending to Pyramid Reservoir—the upper pool of the Castaic pumped-storage facility, (2) Oso Pumping Plant, to consist of eight electric-driven pumps with total design capacity of 3,114 c.f.s. and 91,000 hp. at a 231-foot operating head (210-foot lift), (3) Pyramid Powerplant, to contain two 86 mw. generators and two 118,000 hp. turbines—each with a 655-foot design head and a 1,330 c.f.s. design discharge capacity operating under a 747-foot static head, and (4) Castaic Dam and Reservoir—a 335-foot high earthfill dam with a crest length of 5,200 feet and a reservoir with a surface area of 2,630 acres and a capacity of 350,000 acre-feet at a surface elevation of 1,515 feet—to be located at the terminus of the West Branch Aqueduct. (B) According to the application the State and the city of Los Angeles will develop jointly the remaining portion of the West Branch Division as a pumped-storage generating facility.

The State will construct, subject to provisions of the application, (1) Pyramid Dam and Reservoir—a 390-foot-high earth and rockfill dam with a 1,000-foot-long crest, and a reservoir having a surface area of 1,330 acres and a 173,500 acre-foot capacity with surface elevation of 2,578 feet—which will be utilized as the pper pool of the Castaic pumped-storage scheme, (2) Pyramid Reservoir outlet works, (3) 30-foot-diameter Angeles Tunnel which extends from the upper pool (Pyramid Reservoir) to the penstocks of Castaic Powerplant, (4) a surge chamber on Angeles Tunnel near the Castaic Powerhouse, and (5) a communication link between the State's facilities and those of the city, in addition to public access roads to the Upper Castaic recreation areas. The city will construct, subject to provisions of the application, (1) facilities to connect the Angeles Tunnel to the penstocks of Castaic Powerplant, (2) Castaic Powerplant—to consist of one 50 mw. impulse turbine for starting purposes and six pump-turbine units, each rated at 200 mw. when generating and requiring 283 mw. to develop a full unit capacity of 275,000 hp. and discharge of 3,000 c.f.s. when pumping under a 920-foot operating head, (3) Castaic Pumping Forebay, to be formed by constructing a dam of earth and rockfill across the northwesterly fork of the proposed Castaic Reservoir at a location to be approved by the State, and (4) appurtenant facilities.

NOTE: Operation of the pumped-storage facilities will be in accordance with terms mutually agreed upon by the State and by the city as set forth in the amended application for license, and the application states that the total net benefits of the Castaic pumped-storage facility will be equally shared by the two parties.

And VIII. Coastal Branch, located in Kings, Kern, and San Luis Obispo Counties, which will take off from the main aqueduct at mile 186 some 10 miles south of Kettlemen City in the South San Joaquin Division and will be comprised of (1) Las Perillas Pumping Plant having six pumping units with total design capacity and power requirement of 450 c.f.s. and 4,050 hp. at a 61-foot design head to be installed in 1968, 1971, and 1980, (2) Badger Hill Pumping Plant having six pumping units with total design capacity and power requirement of 450 c.f.s. and 10,500 hp. at a design head of 162 feet, to be installed in 1968, 1971, and 1980, (3) Devil's Den Pumping Plant scheduled for installation in 1980 will have six pumping units with total capacity and power requirement of 127 c.f.s. and 3,000 hp. at a lift of 409 feet, (4) Sawtooth Pumping Plant will be located at the base of Sawtooth Ridge in Kern County and will consist of six pumping units to be installed in 1980 having a capacity of 127 c.f.s. and power requirement of 6,500 hp. at a 331-foot lift, (5) Polonio Pumping Plant to be installed in 1980 will be located at the base of the Temblor Range in Kern County and will consist of six pumping units having a total design capacity and power requirement of 127 c.f.s. and 15,750 hp. at a lift of 810 feet, (6) San Luis Obispo Powerplant scheduled for installation in 1980 will be located some 4 miles southeast of the city of San Luis Obispo and will consist of a single 6 mw. unit driven by an 8,400 hp. turbine operating under a static head of 730 feet and an operating head of 658 feet, and (7) all aqueduct facilities required for the operation of the Coastal Branch units terminating at Santa Maria Terminus.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is February 1, 1968. The application is on file with the Commission for public inspection.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-14765; Filed, Dec. 20, 1967; 8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[811-697]

GROWTH CAPITAL, INC.

Notice of Filing of Application for Order Declaring Company Has Ceased To Be Investment Company

DECEMBER 15, 1967.

Notice is hereby given that Growth Capital, Inc. ("Applicant"), 118 St. Clair Avenue, NE., Cleveland, Ohio 44114, an Ohio corporation registered as a nondiversified, closed-end investment company under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section 8(f) of the Act for an order declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was organized in March 1960 as a registered closed-end investment company and a licensee under the Small Business Investment Act of 1958. It has operated as a small business investment company since that time.

On January 10, 1967, shareholders of Applicant approved a plan of liquidation of Applicant pursuant to which Applicant transferred its interest in its operating subsidiaries to Growth International, Inc. ("GH"), a wholly owned subsidiary. On April 1, 1967, Applicant was dissolved under the laws of the State of Ohio; and on April 28, 1967, Applicant's surrender of its license to operate as a small business investment company became effective. Since April 1, 1967, Applicant has conducted no business except as necessary and incidental to its liquidation.

As of October 20, 1967, 97 percent of the outstanding shares of Applicant have been submitted by 94 percent of the shareholders, and certificates representing shares of GH have been delivered to them. Applicant has contacted the holders of the remaining 3 percent of the shares (146 shareholders) in an effort to persuade them to surrender Applicant's stock certificates for shares of GH, and one more mail request will be recommended.

Applicant states that the only value of its outstanding shares is that they represent the right to receive shares of GH. The Cleveland Trust Co., Transfer Agent and Registrar of Applicant, will mail shares of GH to all shareholders even if they do not surrender their shares of Applicant. Any of the certificates which cannot be delivered will be returned to the Cleveland Trust Co. and held by it in an "undeliverable stock account." Applicant states that an effort will be made to trace any lost stockholders and the certificates for any stockholders who cannot be so reached will be held indefinitely.

[2] The proposed rate also exceeds the applicable area increased rate ceiling set forth in the Commission's statement of general policy No. 61–1.

[3] Similar rate decreases in the past have also been suspended for 5 months from the expiration of statutory notice. Hassie Hunt Trust (Operator) et al., Docket Nos. RI64–733 et al., order issued May 6, 1964.

The sole distribution in liquidation of Applicant will be that of the shares of GII. Applicant is also engaged in disposing of the investment securities which it held to satisfy all of its indebtedness and has agreed to transfer to GII all of its assets, if any, remaining after the payment of the indebtedness in return for GII's guarantee of such indebtedness.

Section 3(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than January 5, 1968, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It is ordered, That the Secretary of the Commission shall send a copy of this notice by certified mail to the Director, Office of Investment Assistance, Small Business Administration, Washington, D.C. 20416.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14776; Filed, Dec. 20, 1967; 8:47 a.m.]

NORTH AMERICAN RESEARCH & DEVELOPMENT CORP.

Order Suspending Trading

DECEMBER 15, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of North American Research & Development Corp., 1935 South Main Street, Salt Lake City, Utah, and all other securities of North American Research & Development Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period December 17, 1967 through December 26, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14777; Filed, Dec. 20, 1967; 8:47 a.m.]

[File No. 1-6215]

ROTO AMERICAN CORP.

Order Suspending Trading

DECEMBER 15, 1967.

The common stock, $1 par value, of Roto American Corp., being listed and registered on the National Stock Exchange pursuant to the provisions of the Securities Exchange Act of 1934 and the 7 percent cumulative preferred, $10 par value, being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period December 17, 1967 through December 26, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14778; Filed, Dec. 20, 1967; 8:47 a.m.]

SILVER SHIELD CORP.

Order Suspending Trading

DECEMBER 15, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Silver Shield Corp. (formerly Silver Shield Mining & Milling Co.), Spokane, Wash., otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period December 17, 1967 through December 26, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-14779; Filed, Dec. 20, 1967; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 1134]

MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER APPLICATIONS

DECEMBER 15, 1967.

The following applications are governed by Special Rule 1.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with § 1.247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of § 1.247(d)(4) of the special rule, and shall include the certification required therein.

Section 1.247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's General Policy Statement Concerning Motor Carrier Licensing Procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 531 (Sub-No. 237), filed December 1, 1967. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, Houston, Tex. 77021. Applicant's representative: Wray E. Hughes (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors*, in bulk, in tank vehicles, from ports of entry on the international boundary line between the United States and Canada, located at Detroit and Port Huron, Mich., to San Francisco, Calif. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 2202 (Sub-No. 336), filed November 27, 1967. Applicant: ROADWAY EXPRESS, INC., 1077 George Boulevard, Post Office Box 471, Akron, Ohio 44309. Applicant's representatives: Douglas Faris, Post Office Box 471, Akron, Ohio 44309, and William O. Turney, 2001 Massachusetts Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving the plantsite of Simkins Industries, Inc., located at or near Harmans, Md., as an off-route point in connection with applicant's regular route authority to and from Baltimore and Laurel, Md. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 5470 (Sub-No. 31), filed December 4, 1967. Applicant: ERSKINE & SONS, INC., Rural Delivery No. 5, Mercer, Pa. 16137. Applicant's representative: Theodore Polydoroff, 1329 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferro-alloys and silicon metal* in dump vehicles, (1) from Graham, W. Va. to points in Maryland, Virginia, Connecticut, New Hampshire, Massachusetts, Vermont, New Jersey, and Delaware, and (2) from Vancoram, Ohio, to points in New Hampshire. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 5470 (Sub-No. 32), filed December 4, 1967. Applicant: ERSKINE & SONS, INC., Rural Delivery No. 5, Mercer, Pa. 16137. Applicant's representative: Theodore Polydoroff, Munsey Building, Washington, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap carbon, furnace lining, and carbon butts*, from Niagara Falls, N.Y., to points in Pennsylvania, Ohio, and West Virginia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 8989 (Sub-No. 211), filed December 1, 1967. Applicant: HOWARD SOBER, INC., 2400 West St. Joseph Street, Lansing, Mich. 48904. Applicant's representative: Albert F. Beasley, 1019 Investment Building, 1511 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tow tractors*, in initial movements in truckaway service, from De Kalb, Ill., to points in the United States, including Alaska, but excluding Hawaii, and (2) *damaged or rejected shipments*, from points in the United States to De Kalb, Ill. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 22195 (Sub-No. 133), filed December 1, 1967. Applicant: DAN DUGAN TRANSPORT COMPANY, a corporation, 41st and Grange Avenue, Post Office Box 946, Sioux Falls, S. Dak. 57101. Applicant's representative: J. P. Everist (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer and liquid fertilizer ingredients*, in bulk, from Climax, Crookston, Glyndon, and Stephen, Minn., to points in Minnesota, Montana, North Dakota, and South Dakota. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Fargo, N. Dak.

No. MC 22229 (Sub-No. 47), filed December 4, 1967. Applicant: TERMINAL TRANSPORT COMPANY, INC., 248 Chester Avenue SE., Atlanta, Ga. 30316. Applicant's representative: Ralph B. Matthews (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment, serving Conyers, Ga., as an off-route point in connection with regular route operations to and from Atlanta, Ga. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 24549 (Sub-No. 6), filed December 4, 1967. Applicant: JEAN E. VERMEULEN AND GARY T. VERMEULEN, a partnership, doing business as G. VERMEULEN TRUCKING, 3477 South Ninth Street, Oshtemo, Mich. 49077. Applicant's representative: Ronald R. Pentecost, 1400 Michigan National Tower, Lansing, Mich. 48933. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ice cream mix*, in bulk, in tank vehicles, from Kalamazoo, Mich., to Kendallville, Ind., under contract with Kalamazoo Creamery Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lansing, Mich.

No. MC 30844 (Sub-No. 244), filed December 4, 1967. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial, Waterloo, Iowa 50704. Applicant's representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such articles as dealt in by retail discount stores*, (1) between Mount Clements and Romulus, Mich., on the one hand, and, on the other, points in Iowa and Colorado, and Freeport, Rockford, Peru, Galesburg, Peoria, Pekin, Mattoon, and Moline, Ill.; and, (2) from New York, N.Y., and points in the New York commercial zone to points in Iowa and Colorado, and to Freeport, Rockford, Peru, Galesburg, Peoria, Pekin, Mattoon, and Moline, Ill., restricted to shipments originated by or destined to Arlan's Department Stores, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 30884 (Sub-No. 13), filed November 22, 1967. Applicant: JACK COOPER TRANSPORT COMPANY, INC., 3501 Manchester Trafficway, Kansas City, Mo. 64120. Applicant's representative: James W. Wrape, 2111 Sterick Building, Memphis, Tenn. 38103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles*, except trailers, in truckaway and driveaway service, in initial and secondary movements, from the plantsite of General Motors Corp. located at or near Kansas City, Mo., to points in Kentucky, under contract with General Motors Corp. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 31617 (Sub-No. 6), filed November 30, 1967. Applicant: W. G. THALMANN, doing business as JONES TRUCK LINE, R.F.D. 6, Hopkinsville, Ky. 42240. Applicant's representative: Harold Seligman, 1808 West End Avenue, Suite 1204, Nashville, Tenn. 47203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Forest products, crossarms, and finished railroad ties*, except those which because of size or weight require the use of pole trailers or other special equipment, (1) from the plantsite of Koppers Co. at or near Guthrie, Ky., to points in Kentucky, Alabama, Tennessee, Georgia, Pennsylvania, Mississippi, Texas, Arkansas, Florida,

[1] Copies of Special Rule 1.247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

Illinois, Ohio, North Carolina, Louisiana, South Carolina, Indiana, Missouri, Virginia, and West Virginia; and (2) from the plantsites of Koppers Co. at or near Montgomery, Ala., Grenada and Jackson, Miss., Caddo Gap, Ark., Carbondale, Ill., Finney, Ohio, and Sumiton, Ala., to the plantsite of Koppers Co. at or near Guthrie, Ky. NOTE: If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Hopkinsville, Ky.

No. MC 31617 (Sub-No. 7), filed November 30, 1967. Applicant: W. G. THALMANN, doing business as JONES TRUCK LINE, R.F.D. 6, Hopkinsville, Ky. 42240. Applicant's representative: Harold Seligman, 1808 West End Avenue, Suite 1204, Nashville, Tenn. 47203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containerized shipments of used household goods* moving on through bills of lading of freight forwarders operating under the exemption provided by section 402(b)(2) of the Interstate Commerce Act and having an immediately prior or subsequent line-haul movement by rail, motor, water, or air, between Clarksville, Tenn., and Hopkinsville, Ky., on the one hand, and, on the other, points in Kentucky on and west of U.S. Highway 31E and points in Tennessee on and west of U.S. Highway 231. NOTE: If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Hopkinsville, Ky.

No. MC 31879 (Sub-No. 24), filed November 27, 1967. Applicant: EXHIBITORS FILM DELIVERY & SERVICE CO., INC., 101 West 10th Avenue, North Kansas City, Mo. 64116. Applicant's representative: James W. Wrape, 2111 Sterick Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except classes A and B explosives, household goods as defined in 17 M.C.C. 467, commodities in bulk, and livestock, restricted so that no service shall be rendered in the transportation of any parcels, packages, or articles weighing in the aggregate more than 100 pounds from one consignor at any one location to one consignee at any one location on any one day, between Denver, Colo., on the one hand, and, on the other, points in Kansas. NOTE: Applicant desires the right to tack the above operating authority with that now held and pending, and to interline with other motor common carriers. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 42261 (Sub-No. 96), filed December 1, 1967. Applicant: LANGER TRANSPORT CORP., Route 1 and Foot of Danforth Avenue, Jersey City, N.J. 07303. Applicant's representative: W. C. Mitchell, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbon black*, between Cabot, W. Va., and Belpre, Ohio, on the one hand, and, on the other, Oaks, Pa., Woodburn, Ind., and Akron, Marietta, and Marion, Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Akron, Ohio.

No. MC 42261 (Sub-No. 97), filed December 7, 1967. Applicant: LANGER TRANSPORT CORP., Route 1 and Foot of Danforth Avenue, Jersey City, N.J. 07303. Applicant's representative: W. C. Mitchell, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals* (except calcium chloride), in bulk, in tank and hopper-type vehicles, from Solvay, N.Y., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 42487 (Sub-No. 683), filed December 1, 1967. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. 94025. Applicant's representative: Vernon S. Tyler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum lubricating oil*, in bulk, in tank vehicles, from Seattle, Wash., to Libby Dam Site, Mont. NOTE: Applicant states it could tack the authority sought herein at Seattle with its presently held authority in MC 42487 Sub 302, to authorize service from Portland, Oreg., to Libby Dam Site, Mont. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., or San Francisco, Calif.

No. MC 45736 (Sub-No. 31), filed November 21, 1967. Applicant: GUIGNARD FREIGHT LINES, INC., Post Office Box 26067, Charlotte, N.C. 28206. Applicant's representative: Francis J. Ortman, Suite 770, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardboard sheets and boards*, from Siler City, N.C., to points in Virginia, Tennessee, Maryland, Delaware, Pennsylvania, New Jersey, New York, West Virginia, and the District of Columbia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Charlotte, N.C.

No. MC 50069 (Sub-No. 391), filed December 6, 1967. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 930 North York Road, Hinsdale, Ill. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solutions and liquid fertilizer compounds*, in bulk, from Logansport, Ind., and points within 10 miles thereof, to points in Illinois, Kentucky, Michigan, Ohio, and Wisconsin. NOTE: Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 50069 (Sub-No. 392), filed December 7, 1967. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 930 North York Road, Hinsdale, Ill. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia, fertilizers, and fertilizer ingredients*, in bulk, from the plantsite of the United States Steel Corp. at or near Tilton, Ill., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. NOTE: Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 51146 (Sub-No. 69), filed December 4, 1967. Applicant: SCHNEIDER TRANSPORT & STORAGE, INC., 817 McDonald Street, Green Bay, Wis. 54306. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and metal container ends* and *accessories;* and *equipment* used in connection with the distribution of metal containers and metal container ends when moving with metal containers, between Detroit, Mich., on the one hand, and, on the other, Pittsburgh, Pa., and points in Illinois, Indiana, Iowa, Kentucky, Minnesota, Missouri, Ohio, West Virginia, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 52574 (Sub-No. 36), filed November 27, 1967. Applicant: ELIZABETH FREIGHT FORWARDING CORP., 120 South 20th Street, Irvington, N.J. 07111. Applicant's representative: Edward F. Bowes, 744 Broad Street, Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products, and containers* therefor, from Baltimore, Md., to Linden N.J., under contract with Gourmet Bakers, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 54567 (Sub-No. 6), filed December 1, 1967. Applicant: RELIANCE TRUCK CO., a corporation, 2500 North 24th Avenue, Phoenix, Ariz. 85009. Applicant's representative: A. Michael Bernstein, 1327 Guaranty Bank Building, Phoenix, Ariz. 85012. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities which because of size or weight require the use of special equipment*, between points in that part of Arizona bounded on the north by the Colorado River, on the east by the eastern boundaries of Mohave and Yuma Counties, and on the south by the United States-Mexico international boundary line; and that part of California bounded on the north by the California-Nevada State line, on the west by a north-south line beginning at the said State line directly north of Nipton, Calif., and extending south through Nipton and Desert Center to the northern boundary of Imperial County thence west along the northern boundary of Imperial County to the Imperial-San Diego, Calif., county line, thence south along the Imperial-San Diego County line to the United States-Mexico international boundary line, and on the south by said international boundary line; including points on the indicated portions of the highways and county lines specified. NOTE: If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz., or Los Angeles, Calif.

No. MC 55236 (Sub-No. 153), filed November 30, 1967. Applicant: OLSON TRANSPORTATION COMPANY, a corporation, 1970 South Broadway, Green Bay, Wis. 54306. Applicant's representative: G. R. Richmond, 1970 South Broadway, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solutions and liquid fertilizer compounds*, in bulk, in tank vehicles, from Logansport, Ind., and points within 10 miles thereof, to points in Illinois, Kentucky, Michigan, Ohio, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Indianapolis, Ind.

No. MC 59264 (Sub-No. 39), filed December 4, 1967. Applicant: SMITH & SOLOMON TRUCKING COMPANY, a corporation, How Lane, New Brunswick, N.J. Applicant's representative: Herbert Burstein, 160 Broadway, New York, N.Y. 10038. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A, B, and C explosives, blasting materials, and supplies, ammunition and component parts of ammunition and explosives*, between West Hanover and Hingham, Mass., Dover, N.J., and Yorktown, Va. NOTE: Applicant states it could tack at Dover, N.J., and Philadelphia, Pa. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 61396 (Sub-No. 194), filed November 24, 1967. Applicant: HERMAN BROS., INC., 2501 North 11th Street, Omaha, Nebr. 68110. Applicant's representatives: Dale G. Herman, Post Office Box 189, Omaha, Nebr. 68101, and Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, from Kaneb Pipe Line Co. and Williams Brothers Pipe Line Co. terminals located at or near Spencer and Spirit Lake, Iowa, and points within 15 miles thereof, to points in Iowa, Illinois, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Omaha, Nebr.

No. MC 64932 (Sub-No. 443), filed December 4, 1967. Applicant: ROGERS CARTAGE CO., a corporation, 1439 West 103d Street, Chicago, Ill. 60643. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Products of corn and products of soybeans and blends*, in bulk, from Decatur, Ill., to points in the United States (except Alaska and Hawaii). NOTE: If a hearing is deemed necessary, requests it be held at Chicago, Ill.

No. MC 64932 (Sub-No. 444), filed December 4, 1967. Applicant: ROGERS CARTAGE CO., a corporation, 1439 West 103d, Chicago, Ill. 60643. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solutions and liquid fertilizer compounds*, in bulk, from Logansport, Ind. and points within 10 miles thereof, to points in Illinois, Kentucky, Michigan, Ohio, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 64932 (Sub-No. 445), filed December 4, 1967. Applicant: ROGERS CARTAGE CO., a corporation, 1439 West 103d Street, Chicago, Ill. 60603. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60643. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Anhydrous ammonia, fertilizers, and fertilizer ingredients*, in bulk, from the plantsite of the United States Steel Corp., at or near Tilton, Ill., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 71855 (Sub-No. 3), filed November 20, 1967. Applicant: ESSEX VAN AND STORAGE, INC., 1500 Eastern Avenue, Baltimore, Md. Applicant's representative: Robert J. Gallagher, 66 Central Street, Wellesley, Mass. 02181. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, as defined by the Commission, between points in Delaware, Maryland, Virginia, and the District of Columbia, restricted to the transportation of shipments both (1) moving on the through bill of lading of a freight forwarder operating under the exemption provisions of section 402(b)(2) of the Act, as amended, and (2) having an immediately prior or subsequent out-of-State line haul movement by rail, motor, water, or air. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 73688 (Sub-No. 23), filed November 27, 1967. Applicant: SOUTHERN TRUCKING CORPORATION, 1500 Orenda Avenue, Memphis, Tenn. Applicant's representative: Charles H. Hudson, Jr., 833 Stahlman Building, Nashville, Tenn. 37201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, flooring, paneling, moulding, plywood, and accessories such as adhesive, mastic, decorative stripe, fasteners, adhesive trowels, flooring cement, nails, stains, putty, and advertising material* not to exceed 10 percent of the total shipment, between Memphis, Tenn., and points in Tipton County, Tenn., on the one hand, and, on the other, points in Kentucky, Illinois, Indiana, Virginia, North Carolina, South Carolina, Georgia, Alabama, Tennessee, Mississippi, Louisiana, Arkansas, Texas, Oklahoma, Missouri, Ohio, West Virginia, Michigan, Iowa, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 77368 (Sub-No. 4), filed December 7, 1967. Applicant: ABEL'S TRANSFER SERVICE, INC., Belle, Mo. Applicant's representative: Thomas P. Rose, Jefferson Building, Jefferson City, Mo. 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal*, in bulk, from points in Osage, Maries, and Gasconade Counties, Mo., to plantsite of Cumberland Corp. near Burnside, Ky. NOTE: Applicant states it presently holds authority from part of Osage, Maries, and Gasconade Counties, Mo., to the destination point and does not seek any duplicating authority by this application. If a hearing is deemed necessary, applicant requests it be held at Jefferson City or St. Louis, Mo.

No. MC 79135 (Sub-No. 40), filed December 1, 1967. Applicant: COSSITT MOTOR EXPRESS, INC., 63 West Kendrick Avenue, Hamilton, N.Y. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberboard; wallboard; composition board; parts, materials, supplies, and accessories* used in the installation of the products shown, from the plantsite of the Celotex Corp. located in Deposit, N.Y., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut. NOTE: If a hearing is deemed necessary, applicant requests it be held at Syracuse, N.Y., Washington, D.C., or New York, N.Y.

No. MC 81818 (Sub-No. 8), filed November 24, 1967. Applicant: MARSH TRUCKING COMPANY, INC., 16621 Broadway, Maple Heights, Ohio 44137. Applicant's representative: Edwin C. Reminger, 731 Leader Building, Cleveland, Ohio 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Caskets, finished, unboxed, and unwrapped and casket material*, from Cleveland, Ohio, and Chicago, Ill., to Denver, Colo., and Salt Lake City, Utah, under contract with F. H. Hill Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio.

No. MC 82841 (Sub-No. 42), filed November 28, 1967. Applicant: R. D. TRANSFER, INC., 801 Livestock Exchange Building, Omaha, Nebr. 68107. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. 68102. Authority sought

to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dewatering, wellpoint, water handling and hydraulicing systems*, and related commodities, (2) *power units, equipment, parts, attachments, and accessories* for the commodities in (1) above, (1) between Omaha, Nebr., on the one hand, and, on the other, Orange, Calif.; Mobile, Ala.; St. Petersburg, Fla.; and Tacoma, Wash.; restricted to the handling of traffic originating at or destined to the plantsites of John W. Stang Corp. at the above-named locations, and (2) between Omaha, Nebr., on the one hand, and, on the other, points in Arkansas, Alabama, Colorado, Idaho, Illinois, Iowa, Indiana, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Montana, Missouri, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Wisconsin, and Wyoming. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 83217 (Sub-No. 33), filed November 30, 1967. Applicant: DAKOTA EXPRESS, INC., 110 North Reid Street, Post Office Box 1252, Sioux Falls, S. Dak. 57101. Applicant's representative: Henry J. Schuette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs including advertising material* and (2) *commodities*, the transportation of which is partially exempt under the provisions of section 203(b)(6) of the Interstate Commerce Act if transported in vehicles not used in carrying any other property, when moving in the same vehicle at the same time with foodstuffs including advertising material, from points in Illinois, Indiana, Michigan, Wisconsin, and Sioux Falls, S. Dak., to points in Iowa, Minnesota, North Dakota, South Dakota, and Nebraska. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 83539 (Sub-No. 222), filed November 27, 1967. Applicant: C & H TRANSPORTATION CO., INC., 1935 West Commerce Street, Dallas, Tex. 75223. Applicant's representative: W. T. Brunson, 419 Northwest Sixth Street, Oklahoma City, Okla. 73102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, the transportation of which, by reason of size or weight, require the use of special equipment; and *related machinery and related contractor's materials and supplies* when their transportation is incidental to the transportation of the commodities authorized above, and (2) *self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, (a) between points in California, on the one hand, and, on the other, points in Montana, Oregon, Utah, Washington, and Wyoming, and (b) between points in Oregon and Washington, on the one hand, and, on the other, points in Utah and Wyoming. Restriction: The operations sought herein are, to be restricted against the transportation of the above-described commodities between points in California, on the one hand, and, on the other, points in Oregon. NOTE: Applicant indicates tacking possibilities. If a hearing is deemed necessary, applicant requests it be held at Los Angeles or San Francisco, Calif., or Salt Lake City, Utah.

No. MC 87720 (Sub-No. 73), filed December 5, 1967. Applicant: BASS TRANSPORTATION CO., INC., Old Croton Road, Flemington, N.J. 08822. Applicant's representative: Bert Collins, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper bags and closures* therefor, from East Pepperell, Mass., to points in Delaware; points in Pennsylvania west of U.S. Highway 11; and points in Maryland and Virginia east of the Chesapeake Bay; and, (2) *plastic bottles, jars, jugs and closures*, in containers, from Nashua, N.H., to points in Pennsylvania west of U.S. Highway 11; Wilmington, N.C.; Brundidge, Ala.; and East Pepperell, Mass., under contract with Bemis Company, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 98952 (Sub-No. 19), filed November 27, 1967. Applicant: GENERAL TRANSFER COMPANY, a corporation, 2880 North Woodford Street, Decatur, Ill. 62526. Applicant's representative: Kirkwood Yockey, Suite 501, Union Federal Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by wholesale and retail food and drug business houses*, and in connection therewith, *equipment, materials, and supplies used in the conduct of such business*, between Champaign and Springfield, Ill., on the one hand, and, on the other, points in Indiana on and south of U.S. Highway 30. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.

No. MC 101075 (Sub-No. 107), filed November 27, 1967. Applicant: TRANSPORT, INC., 1215 Center Avenue, Moorhead, Minn. 56560. Applicant's representative: Ronald B. Pitsenbarger, Post Office Box 396, Moorehead, Minn. 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, from St. Cloud, Minn., and points within 10 miles thereof, to points in Minnesota, North Dakota, South Dakota, Wisconsin, and the Upper Peninsula of Michigan. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 101075 (Sub-No. 108), filed November 27, 1967. Applicant: TRANSPORT, INC., 1215 Center Avenue, Moorhead, Minn. 56561. Applicant's representative: Ronald B. Pitsenbarger, Post Office Box 396, Moorhead, Minn. 56561. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, as described in appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, from Superior, Wis., to points in the Upper Peninsula of Michigan. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Madison, Wis.

No. MC 103721 (Sub-No. 14), filed December 4, 1967. Applicant: RAYMOND B. LONG, INC., Ridge Road, Tylersport, Pa. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime, lime products, limestone, limestone products, slag, slag products, gravel, concrete mix, mortar mix, sand mix, sand, cements, fertilizer, ammonia sulphate, sulphate phosphate, superphosphate, salt, bituminous concrete, and ores*, between points in Berks, Bucks, Chester, Lehigh, Montgomery, Northampton, and Philadelphia Counties, Pa., on the one hand, and, on the other, points in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, and Virginia. NOTE: Applicant states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 103880 (Sub-No. 391), filed November 29, 1967. Applicant: PRODUCERS TRANSPORT, INC., 215 East Waterloo Road, Akron, Ohio 44306. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia, fertilizers, and fertilizer ingredients*, in bulk, from the plantsite of the United States Steel Corp. located at or near Tilton, Ill., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 103993 (Sub-No. 312), filed December 4, 1967. Applicant: MORGAN DRIVE AWAY, INC., 2800 West Lexington Avenue, Elkhart, Ind. 46514. Applicant's representative: Robert C. Tessar (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, in sections mounted on wheeled undercarriages with hitch ball connector, from points in Oswego County, N.Y., to points in Pennsylvania, Connecticut, Massachusetts, Rhode Island, New Jersey, and New York. NOTE: If a hearing is deemed necessary, applicant requests it be held at Syracuse, N.Y.

No. MC 105813 (Sub-No. 159), filed November 29, 1967. Applicant: BELFORD TRUCKING CO., INC., 3500 North West 79th Avenue, Miami, Fla. 33148. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, building and siding materials and materials* used in the installation thereof, from Bardstown, Ky., to points in Alabama, Florida, Georgia, North Carolina, and South Carolina. NOTE: If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Washington, D.C.

No. MC 106398 (Sub-No. 354), filed November 17, 1967. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings* in sections, from points in California to points in Idaho, Oregon, and Washington (except from Cucamonga, Cyprus, Santa Clara, Anaheim; points in Los Angeles County; La Habra and Costa Mesa in Orange County; points in Riverside County, Calif., within 4 miles of Mira Loma but not including Riverside, to points in Idaho, Washington, and Oregon and from Corona, Chino, and Oxnard, Calif., to points in Washington and Oregon). NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 106398 (Sub-No. 355), filed November 17, 1967. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Buildings* in sections, mounted on wheeled undercarriages with hitchball connector; and (2) *buildings* in sections, mounted on wheeled undercarriages with hitchball connector and *trailers* designed to be drawn by passenger automobiles in initial movements, (a) from the plantsite of Anel Engineering Industries, Inc. at or near Winona, Miss.; and (b) from points in Franklin County, Va. to points in the United States (except Alaska and Hawaii). NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107496 (Sub-No. 602), filed December 4, 1967. Applicant: RUAN TRANSPORT CORPORATION, Keosauqua Way at Third, Post Office Box 855, Des Moines, Iowa 50304. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal tar products*, in bulk, from Cleveland, Ohio, to points in Minnesota, Wisconsin, South Dakota, and Iowa. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Des Moines, Iowa.

No. MC 107496 (Sub-No. 603), filed December 4, 1967. Applicant: RUAN TRANSPORT CORPORATION, Keosauqua Way at Third, Post Office Box 855, Des Moines, Iowa 50304. Applicant's representative: H. L. Fabrits (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand and sand products*, from Serena, Ill., and points within 5 miles thereof, to points in the United States (except Alaska and Hawaii). NOTE: If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Chicago, Ill.

No. MC 108053 (Sub-No. 78), filed December 6, 1967. Applicant: LITTLE AUDREY'S TRANSPORTATION CO., INC., Post Office Box 709, Fremont, Nebr. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery*, from Denver, Colo., to points in Idaho, Utah, Washington, Oregon, Arizona, Nevada, New Mexico, and California. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 108449 (Sub-No. 276), filed December 4, 1967. Applicant: INDIANHEAD TRUCK LINES, INC., 1947 West County Road C, St. Paul, Minn. 55113. Applicant's representatives: W. A. Mylenbeck (same address as applicant) and Adolph J. Bieberstein, 121 West Doty Street, Madison, Wis. 53702. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, from points in Plymouth and Dickinson Counties, Iowa, to points in Minnesota, South Dakota, Nebraska, and Iowa. NOTE: Applicant states that tacking could be done at Minneapolis, St. Paul, and Winona; Minn., and Waterloo, Iowa, to serve points in Wisconsin and Michigan, under MC 108449 and at Jamestown, N. Dak., and Aberdeen, S. Dak., to serve points in Montana and Wyoming under MC 108449 Sub 200. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 109337 (Sub-No. 8), filed December 4, 1967. Applicant: WATSON BROS. VAN LINES AND HEAVY HAULING CO., a corporation, 3514 South 25th Street, Omaha, Nebr. 68105. Applicant's representative: Samuel Zacharia, 711 First National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dewatering, wellpoint, water handling, and hydraulicing systems, and related commodities*, and (2) *power units, equipments, parts, attachments, and accessories* for the commodities described in (1) above, (a) between Omaha, Nebr., on the one hand, and, on the other, Orange, Calif.; Mobile, Ala.; St. Petersburg, Fla.; and Tacoma, Wash.; restricted to handling of traffic originating at or destined to the plantsites of John W. Stang Corp. located at the above-named origin points, and (b) between Omaha, Nebr., on the one hand, and, on the other, points in Arkansas, Alabama, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Wisconsin, and Wyoming. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 111545 (Sub-No. 100), filed November 28, 1967. Applicant: HOME TRANSPORTATION COMPANY, INC., Post Office Box 6426, Station A, Marietta, Ga. 30060. Applicant's representative: Robert E. Born, 1425 Franklin Road SE., Marietta, Ga. 30060. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Material handling equipment; winches; compaction and roadmaking equipment, rollers, self-propelled and non-self-propelled; mobile cranes, and highway freight trailers*; and, (2) *parts, attachments, and accessories* for the commodities described in (1) above, between the plantsites of the Hyster Co. located at or near Danville, Keowanee, and Peoria, Ill., on the one hand, and, on the other, points in Alabama, Florida, Georgia, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Carolina, South Carolina, Tennessee, Virginia, and Wisconsin, restricted to the handling of traffic originating at or destined to the named plantsites. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., Chicago, Ill., or Washington, D.C.

No. MC 111785 (Sub-No. 32), filed November 29, 1967. Applicant: BURNS MOTOR FREIGHT, INC., U.S. Highway 219 North, Post Office Box 149, Marlinton, W. Va. 24954. Applicant's representative: Theordore Polydoroff, 1329 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Manufactured fertilizer*, from Harrisonburg, Va., to points in West Virginia on and north of U.S. Highway 60. NOTE: If a hearing is deemed necessary, applicant requests it be held at Harrisonburg, Va., or Washington, D.C.

No. MC 112520 (Sub-No. 169), filed December 7, 1967. Applicant: McKENZIE TANK LINES, INC., Post Office Box 1200, Tallahassee, Fla. 32302. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, in bulk, in tank vehicles, from points in Tift County, Ga., to points in Alabama and Florida. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., Tallahassee, Fla., Savannah, Ga., Jacksonville, Fla., or Washington, D.C.

No. MC 113495 (Sub-No. 30), filed November 28, 1967. Applicant: GREGORY HEAVY HAULERS, INC., 61 Oldham Street, Post Office Box 2566, Nashville, Tenn. Applicant's representative: Wilmer B. Hill, 529 Transportation Building, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Material handling equipment; winches; compaction and roadmaking equipment, rollers, self-propelled and non-self-propelled; mobile cranes; and highway freight trailers*, and (2) *parts, attachments, and accessories* for the commodities described in (1) above, between the plantsites of the Hyster Co. located at or near Danville, Kewanee, and Peoria, Ill., on the one hand, and, on the other, points in Tennessee, Virginia, West Virginia, and North Carolina, restricted to traffic originating at or destined to the above-named plantsites. NOTE: If a hearing is deemed necessary, applicant requests it

be held at Louisville, Ky., or Nashville, Tenn.

No. MC 113855 (Sub-No. 171), filed November 16, 1967. Applicant: INTERNATIONAL TRANSPORT, INC., South Highway 52, Rochester, Minn. 55902. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and farm implements, and parts and attachments* when moving with said farm machinery and farm implements, (1) from points in Cache County, Utah to points in the United States and (2) from points in Adams and Denver County, Colo., to points in the United States. NOTE: If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah.

No. MC 113861 (Sub-No. 39), filed December 1, 1967. Applicant: WOOTEN TRANSPORTS, INC., 153 Gaston Street, Memphis, Tenn. 38106. Applicant's representative: James N. Clay III, 2700 Sterick Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Memphis, Tenn., to points in Mississippi, Alabama, Arkansas, Illinois, Missouri, and Kentucky. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 114019 (Sub-No. 181), filed November 29, 1967. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, Ill. 60629. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, building and siding materials, and materials* used in the installation thereof, from Bardstown, Ky., to points in Colorado, Connecticut, the District of Columbia, Illinois, Indiana, Iowa, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Washington, D.C.

No. MC 114019 (Sub-No. 182), filed December 6, 1967. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, Ill. 60629. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wine*, in bulk, in tank vehicles, from Chicago, Ill., to Westfield, N.Y. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114045 (Sub-No. 302), filed November 28, 1967. Applicant: TRANS-COLD EXPRESS, INC., Post Office Box 5842, Dallas, Tex. 75222. Applicant's representative: R. L. Moore (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines, and toilet preparations*, in vehicles equipped with mechanical refrigeration, from Philadelphia, Pa., and points within the Philadelphia, Pa., commercial zone to points in Texas and Oklahoma. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114912 (Sub-No. 20), filed November 28, 1967. Applicant: CHARLES J. KOTWICA, doing business as ROME EXPRESS, Erie Boulevard West, Rome, N.Y. Applicant's representative: Bert Collins, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Materials, supplies, and products*, as sold or used in the manufacture and distribution of paper products and plastic products and pulpboard, from Baltimore, Md., New York, N.Y., and points in New Hampshire, New Jersey, Massachusetts, Connecticut, Rhode Island, Delaware, and that part of Pennsylvania east of a line beginning at the Pennsylvania-Maryland State line, and extending along U.S. Highway 11 to Lemoyne, thence across the Susquehanna River to Harrisburg, thence along U.S. Highway 22 to Clarks Ferry, thence along Pennsylvania Highway 147 (formerly Pennsylvania Highway 14) to junction U.S. Highway 220 (at or near Halls), thence along U.S. Highway 220 to Williamsport, thence along U.S. Highway 15 to the Pennsylvania-New York State line, including points on the indicated portions of the highways specified, to Oneida, N.Y., under contract with Smith-Lee Co., Inc. NOTE: Applicant holds common carrier authority under docket No. MC 92688, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Buffalo, N.Y.

No. MC 115176 (Sub-No. 3), filed December 7, 1967. Applicant: MAYBELLE TRANSPORT COMPANY, a corporation, Post Office Box 573, Lexington, N.C. 27992. Applicant's representative: William P. Sullivan, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ceramic products and materials used in the manufacture, installation, repair, and maintenance of ceramic products*, between Lexington, N.C., on the one hand, and, on the other, points in Alabama, Arkansas, Delaware, Florida, Georgia, Indiana, Illinois, Kentucky, Louisiana, Mississippi, Missouri, New Jersey, New York, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia, under a continuing contract with the Mid-State Tile Co. of Lexington, N.C. NOTE: Applicant holds common carrier authority under MC 114106 Sub-1 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Raleigh, N.C.

No. MC 115311 (Sub-No. 77), filed December 1, 1967. Applicant: J & M TRANSPORTATION CO., INC., Post Office Box 488, Milledgeville, Ga. 31061. Applicant's representative: T. Baldwin Martin, 700 Home Federal Building, Macon, Ga. 31201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silica clay*, from the plantsite and warehouses of Wedron Silica Co. at or near Sewanee, Tenn., to points in Bibb County, Ga. NOTE: If a hearing is deemed necessary, applicant requests it be held at Macon or Atlanta, Ga.

No. MC 115311 (Sub-No. 78), filed December 1, 1967. Applicant: J & M TRANSPORTATION CO., INC., Post Office Box 488, Milledgeville, Ga. 31061. Applicant's representative: T. Baldwin Martin, 700 Home Federal Building, Macon, Ga. 31201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silica clay*, in bulk, from the plantsites and warehouses of Illinois Minerals Co. and Tamms Industries, located at or near Cairo, Ill., to points in Bibb County, Ga. NOTE: If a hearing is deemed necessary, applicant requests it be held at Macon or Atlanta, Ga.

No. MC 115826 (Sub-No. 180), filed December 6, 1967. Applicant: W. J. DIGBY, INC., 1960 31st Street, Post Office Box 5088, Terminal Annex, Denver, Colo. 80217. Applicant's representative: Paul M. Daniell, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I. *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from the plantsite of Missouri Beef Packers at or near Friona, Tex., to points in Wisconsin, Illinois, Minnesota, Iowa, Missouri, Wyoming, Nebraska, Kansas, Colorado, New Mexico, Montana, Washington, Idaho, Oregon, California, Nevada, Utah and Arizona, restricted to traffic originating at the above-named plantsite and destined to the States named. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., Dallas or Amarillo, Tex.

No. MC 117119 (Sub-No. 406), filed November 30, 1967. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., Elm Springs, Ark. 72728. Applicant's representative: John H. Joyce, 26 North College, Fayetteville, Ark. 72702. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Breading base mixes and batter mixes*, from Ponchatoula, La., to points in California. NOTE: If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or New York, N.Y.

No. MC 117165 (Sub-No. 24), filed December 4, 1967. Applicant: C. J. DAVIS, doing business as ST. LOUIS FREIGHT LINES, INC., 1000 Michigan Avenue, St. Louis, Mich. Applicant's representative: Robert A. Sullivan, 1800 Buhl Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Moldings*, further finished than primed in boxes, from the plantsite of Middlebury Moldings, Inc., at Middlebury, Ind., to points in Alabama, Arkansas, North Carolina, South Carolina, Colorado, Connecticut, North Dakota, South Dakota, Delaware, District of Columbia, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Chicago, Ill.

No. MC 117765 (Sub-No. 63), filed November 24, 1967. Applicant: HAHN TRUCK LINE, INC., 5800 North Eastern, Oklahoma City, Okla. 73111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Products, used in the agricultural, water treatment, food processing, wholesale grocery and institutional supply industries* when shipped in mixed truckloads with salt and salt products (presently authorized, also pending in its Sub 61), (1) from Hutchinson, Kans., to points in Arkansas, Iowa, Kansas, Oklahoma, Grayson, and Lamar Counties, Tex.; (2) from Kanopolis, Kans., to points in Arkansas, Iowa, Kansas, Nebraska, Oklahoma, Grayson, and Lamar Counties, Tex.; and (3) from Lyons, Kans., to points in Arkansas, Kansas, Oklahoma, Grayson, and Lamar Counties, Tex. NOTE: If a hearing is deemed necessary, applicant requests it be held at Wichita, Kans., Kansas City, Mo., or Oklahoma City, Okla.

No. MC 117815 (Sub-No. 131), filed November 27, 1967. Applicant: PULLEY FREIGHT LINES, INC., 405 South East 20th Street, Des Moines, Iowa 50317. Applicant's representative: William A. Landau, 1451 East Grand Avenue, Des Moines, Iowa 50306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and commodities distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Green Bay, Wis., to points in the Davenport, Iowa, Rock Island, and Moline, Ill., commercial zone as defined by the Commission. NOTE: If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 117815 (Sub-No. 133), filed December 1, 1967. Applicant: PULLEY FREIGHT LINES, INC., 405 South East 20th Street, Des Moines, Iowa 50317. Applicant's representative: William A. Landau, 1451 East Grand Avenue, Des Moines, Iowa 50306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods and noncarbonated beverages*, from Clyman and Watertown, Wis., to points in Kansas, Missouri, and Nebraska. NOTE: If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis.

No. MC 118159 (Sub-No. 45), filed December 4, 1967. Applicant: EVERETT LOWRANCE, 4916 Jefferson Highway, Post Office Box 10216, New Orleans, La. 70121. Applicant's representative: Harold R. Ainsworth, 2307 American Bank Building, New Orleans, La. 70130. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy, confectionary products, and snack foods*, from New Orleans and Ponchatoula, La., and Memphis, Tenn., to points in Alabama, Arizona, Arkansas, California, Colorado, Delaware, District of Columbia, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. NOTE: If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 119441 (Sub-No. 15), filed December 4, 1967. Applicant: BAKER HI-WAY EXPRESS, INC., Post Office Box 484, Dover, Ohio 44622. Applicant's representative: Edwin C. Reminger, 731 Leader Building, Cleveland, Ohio 44114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tile, facing or flooring, concrete or terrazzo* for transportation on flat-bed trailers equipped with mechanical unloading devices; between Cleveland, Ohio, on the one hand, and, on the other, points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio.

No. MC 119531 (Sub-No. 74), filed December 4, 1967. Applicant: DIECKBRADER EXPRESS, INC., 5391 Wooster Road, Cincinnati, Ohio 45226. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Suite 1625, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, from Battle Creek, Flint, and Monroe, Mich., to points in Kentucky, New York, Pennsylvania, West Virginia, and that part of Ohio on and east of Interstate Highway 71, and (2) *materials and supplies* used in the manufacture, sale, and distribution of paper and paper products, from points in Kentucky, New York, Ohio, Pennsylvania, and West Virginia to Battle Creek, Flint, and Monroe, Mich. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Detroit, Mich.

No. MC 119707 (Sub-No. 1), filed November 30, 1967. Applicant: YELLOW TRANSFER COMPANY OF TAMPA, INC., Air Freight Building No. 1, Tampa International Airport, Tampa, Fla. Applicant's representative: James E. Wharton, 506 First National Bank Building, Orlando, Fla. 32802. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and commodities, the transportation of which requires the use of vehicles equipped with mechanical refrigeration), restricted to traffic having an immediately prior or immediately subsequent movement by air, (1) between the Tampa International Airport, Tampa, Fla., and the St. Petersburg-Clearwater International Airport, Pinellas County, Fla., on the one hand, and, on the other, points in Highlands, De Soto, Charlotte, Lee, Osceola, Pinellas, and Hillsborough Counties, Fla., and (2) between the Herndon Municipal Airport, Orlando, Fla., and the McCoy Air Force Base Air Terminal, Orlando, Fla., on the one hand, and, on the other, points in Sarasota, Manatee, Hardee, Polk, Pasco, Osceola, Hernando, Highlands, De Soto, Charlotte, Lee, Pinellas, and Hillsborough Counties, Fla. NOTE: Applicant states it intends to combine the authority sought herein with its presently held authority in MC 119707. If a hearing is deemed necessary, applicant requests it be held at Tampa, Fla.

No. MC 119934 (Sub-No. 145), filed November 29, 1967. Applicant: ECOFF TRUCKING, INC., 625 East Broadway, Fortville, Ind. 46040. Applicant's representative: Robert C. Smith, 620 Illinois Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia, fertilizers, and fertilizer ingredients*, in bulk, from the plantsite of the United States Steel Corp. located at or near Tilton, Ill., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. NOTE: Applicant is authorized to operate as a contract carrier in Docket No. MC 128161, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 123393 (Sub-No. 191), filed November 13, 1967. Applicant: BILYEU REFRIGERATED TRANSPORT CORP., 2105 East Dale Street, Springfield, Mo. 65803. Applicant's representative: Harley E. Laughlin, Post Office Box 948, Commercial Station, Springfield, Mo. 65803. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs, candy, confectionery* and (2) *commodities*, the transportation of which is partially exempt under the provisions of section 203(b)(6) of the Interstate Com-

merce Act if transported in vehicles not used in carrying any other property, when moving in the same vehicle at the same time with foodstuffs, candy, and confectionery, from Douglas, Ga., Little River, Fla., and Dunn, N.C., to points in the United States (except Hawaii). NOTE: If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C.

No. MC 123502 (Sub-No. 20), filed December 4, 1967. Applicant: FREE STATE TRUCK SERVICE, INC., 10 Vernon Avenue, Glen Burnie, Md. 21061. Applicant's representative: Donald E. Freeman, Post Office Box 806, Westminster, Md. 21157. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metal alloys and scrap metal*, from points in Connecticut and Massachusetts, those in Bergen, Essex, Hudson, Middlesex, and Passaic Counties, N.J., those in Autauga, Dallas, and Lownes Counties, Ala., those in Hamilton and Clermont Counties, Ohio, those in Oakland and Wayne Counties, Mich., and Chicago, Ill., Detroit, Mich., New York, N.Y., and Cincinnati, Ohio, to Baltimore, Md.; (2) *alloys and ores*, in dump vehicles, from Philadelphia, Pa., to points in Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Kentucky, Ohio, Indiana, Illinois, Michigan, and the District of Columbia; and (3) *cement clinker*, in bulk, between points in Maryland and Pennsylvania on the one hand, and, on the other, Martinsburg, W. Va. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 124078 (Sub-No. 308), filed December 7, 1967. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, Wis. 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime, limestone, and limestone products*, from Sequiota, Mo., to points in Arkansas, Iowa, Kansas, Nebraska, and Oklahoma. NOTE: Applicant states it intends to tack with its present authority in MC 124078, Sub 6 at Davenport, Iowa, to serve points in Minnesota and Wisconsin. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 124669 (Sub-No. 23), filed November 27, 1967. Applicant: TRANSPORT INC., OF SOUTH DAKOTA, 1012 West 41st Street, Sioux Falls, S. Dak. 57105. Applicant's representative: Ronald B. Pitsenbarger, Post Office Box 396, Moorhead, Minn. 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, (1) from the sites of the pipeline terminals of Kaneb Pipe Line Co., located at or near Le Mars and Milford, Iowa, to points in Iowa, Minnesota, North Dakota, and South Dakota; and (2) from the site of the pipeline terminal of Williams Bros. Pipe Line Co. located at or near Milford, Iowa, to points in Iowa, Minnesota, North Dakota, and South Dakota. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 124807 (Sub-No. 8), filed December 4, 1967. Applicant: JACK LINK TRUCK LINE, INC., Dyersville, Iowa 52040. Applicant's representative: John Goen, Dyersville, Iowa 52040. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Spring water*, in packages, from Chippewa Falls, Wis., to points in Illinois (except points in the Chicago, Ill., commercial zone), Indiana, Iowa, Missouri, Nebraska, and South Dakota, under contract with Bowman Dairy Co., Chicago, Ill. NOTE: Applicant is also authorized to conduct operations as a common carrier in Certificate No. 128497, therefor dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., Des Moines, Iowa, or Madison, Wis.

No. MC 125708 (Sub-No. 77), filed December 4, 1967. Applicant: HUGH MAJOR, 150 Sinclair Avenue, South Roxana, Ill. 62087. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Railroad ties, timber, lumber, laminated wood products, and other forest products*, from points in Jefferson and Laurel Counties, Ky., to points in Illinois, Indiana, Iowa, Michigan, Missouri, Ohio, Pennsylvania, Tennessee, West Virginia, and Wisconsin. NOTE: Applicant indicates tacking possibilities (unspecified) with its authority in MC 125708 and subs thereunder. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or St. Louis, Mo.

No. MC 125708 (Sub-No. 79), filed December 8, 1967. Applicant: HUGH MAJOR, 150 Sinclair Avenue, South Roxana, Ill. 62087. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building, paving, roofing, and plastic materials*, between Bardstown, Ky., on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, North Dakota, Ohio, Pennsylvania, South Dakota, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Springfield, Ill.

No. MC 127047 (Sub-No. 6), filed December 6, 1967. Applicant: ED RACETTE & SON, INC., 5409 North Broadway, Wichita, Kans. 67214. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Water treating compounds*, in containers, from Minneapolis, Minn., to points in Iowa on and south of U.S. Highway 30; points in Nebraska, Missouri and Kansas; points in Texas on and north of U.S. Highway 80; points in Colorado east of the Continental Divide; and points in Laramie, Goshen, Platte, and Albany Counties, Wyo. NOTE: If a hearing is deemed necessary, applicant did not specify location.

No. MC 127170 (Sub-No. 4), filed October 5, 1967. Applicant: MYRL D. CROWE, doing business as TRUCK RENTAL COMPANY, Route 1, Argyle, Iowa. Applicant's representative: Thomas F. Kilroy, 913 Colorado Building, 1341 G Street, NW., Washington, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer compounds*, dry in bulk, and in containers; *insecticide*, in containers; *herbicides* in containers; and *applicators* for these commodities, from points in Des Moines and Lee Counties, Iowa, to points in North Dakota, South Dakota, Nebraska, Kansas, Missouri, Minnesota, Wisconsin, Illinois, Kentucky, Indiana, Michigan, Ohio, and Iowa. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 127204 (Sub-No. 3), filed December 7, 1967. Applicant: KINDSVATER, INC., Fort Dodge Road, Dodge City, Kans. 67801. Applicant's representative: Arthur L. Claussen, 303 New England Building, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Irrigation equipment*, from Valley, Nebr., and Dodge City, Kans., to points in Kansas on and west of U.S. Highway 81 and points in Oklahoma and Texas on and west of U.S. Highway 77, (2) *animal feed blenders and mixers*, from Dodge City, Kans., to points in California, Idaho, Illinois, Iowa, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming and (3) *animal fats and vegetable oils* used in animal consumption, in bulk, in tank vehicles, between points in Kansas on the one hand, and, on the other, points in Arkansas, Colorado, Missouri, Nebraska, Oklahoma, and Texas. NOTE: If a hearing is deemed necessary, applicant requests it be held at Topeka, Kans., or Kansas City, Mo.

No. MC 127946 (Sub-No. 2), filed December 1, 1967. Applicant: MARTIN ALAN, INC., Post Office Box 780, 13th and Ferguson Road, Fort Wayne, Ind. 46801. Applicant's representative: Robert W. Loser, 409 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Drugs and sundries, including items dealt in by drug stores or hospitals*, from the plant and warehouse facilities of the South Bend Drug Co., Inc., South Bend, Ind., to points in that part of Indiana on and north of U.S. Highway 40, points in the Lower Peninsula of Michigan, and that part of Ohio bounded on and east by Interstate Highway 75, from Toledo, Ohio to its intersection with Interstate Highway 70, and bounded on the south by Interstate 70 to the Indiana-Ohio State line including points on the indicated portions of the highways specified above, under contract with South Bend Drug Co., Inc., of South Bend, Ind. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.

No. MC 128273 (Sub-No. 17), filed December 4, 1967. Applicant: MIDWESTERN EXPRESS, INC., Post Office Box 189, Fort Scott, Kans. 66701. Applicant's representative: John Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic twine*, from Houston, Tex., and New Orleans, La., to points in Arkansas, Oklahoma, Colorado, Kansas, Missouri, Illinois, Nebraska, Iowa, South Dakota, Wyoming, Minnesota, North Dakota, and Montana, restricted against the transportation of shipments destined to points in the commercial zones of St. Louis, Mo., and Chicago and Alton, Ill., and (2) *twine*, from Houston, Tex., and New Orleans, La., to points in West Virginia, Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Tennessee, and Michigan. NOTE: If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 128273 (Sub-No. 18), filed December 4, 1967. Applicant: MIDWESTERN EXPRESS, INC., Post Office Box 189, Fort Scott, Kans. 66701. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Twine*, from Houston, Tex., and New Orleans, La., to points in Wisconsin, Indiana, Ohio, and Kentucky. NOTE: If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 128302 (Sub-No. 2), filed December 8, 1967. Applicant: THE MANFREDI MOTOR TRANSIT COMPANY, a corporation, Route 87, Newbury, Ohio. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid concrete admixtures*, in bulk, in tank vehicles, (1) from Chicago, Ill., to points in Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Tennessee, West Virginia, and Wisconsin and (2) from Camden, N.J., to points in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia. NOTE: Applicant presently holds contract carrier authority in MC 112184 and subs thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 128473 (Sub-No. 8), filed December 4, 1967. Applicant: MONTANA EXPRESS, INC., 207 Behner Building, 2822 Third Avenue North, Billings, Mont. 59101. Applicant's representative: J. F. Meglen, Post Office Box 1581, Billings, Mont. 59103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats and articles distributed by meat packinghouses* as described in parts A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except commodities in bulk, in tank vehicles, from Williston, N. Dak., to points in California, Colorado, Oregon, Washington, Wisconsin, Illinois, and Minnesota. NOTE: If a hearing is deemed necessary, applicant requests it be held at Billings, Mont.

No. MC 128814 (Sub-No. 11), filed December 8, 1967. Applicant: TRI-STATE MOTOR TRANSIT CO., as OPERATOR OF H. MESSICK, INC., Post Office Box 113, Business I-44, Joplin, Mo. 64802. Applicant's representative: Max G. Morgan, 450 American National Building, Oklahoma City, Okla. 73102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Explosives*, from Kenvil, N.J., to Electra, Bridgeport, and Laredo, Tex., and points within 5 miles thereof, under contract with Hercules Inc. NOTE: Applicant holds common carrier authority in MC 109397, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Washington, D.C.

No. MC 128814 (Sub-No. 13), filed December 8, 1967. Applicant: TRI-STATE MOTOR TRANSIT CO., as OPERATOR OF H. MESSICK, INC., Post Office Box 113, Business I-44, Joplin, Mo. 64802. Applicant's representative: Max G. Morgan, 450 American National Building, Oklahoma City, Okla. 73102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Explosives*, from plantsite of Hercules Inc., Kenvil, N.J., to Merriam, Kans., and points within 5 miles thereof. NOTE: Applicant holds common carrier authority in MC 109397, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Washington, D.C.

No. MC 128814 (Sub-No. 14), filed December 8, 1967. Applicant: TRI-STATE MOTOR TRANSIT CO., as OPERATOR OF H. MESSICK, INC., Post Office Box 113, Business I-44, Joplin, Mo. 64802. Applicant's representative: Max G. Morgan, 450 American National Building, Oklahoma City, Okla. 73102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Blasting caps and electric blasting caps*, between Port Ewen, N.Y.; Jasonville, Ind.; Fairbanks, Pa.; Carthage, Mo.; Sedalia, Colo.; North Salt Lake City, Utah; Lincoln, Calif., and points within 5 miles of each under contract with customers of Hercules, Inc. NOTE: Applicant holds common carrier authority in MC 109397 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Washington, D.C.

No. MC 129135 (Sub-No. 2), filed December 6, 1967. Applicant: KATUIN BROTHERS, INC., 102 Terminal Street, Dubuque, Iowa 52001. Applicant's representative: John J. Goen, Dyersville, Iowa 52040. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Diammonium phosphate* (a dry fertilizer), in bulk, from Depue, Ill., to points in Iowa, under contract with the New Jersey Zinc Co., and Quaker Oats Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., Des Moines, Iowa, or Madison, Wis.

No. MC 129543, filed November 20, 1967. Applicant: ANDY'S TRANSPORT, LTD., 516 Circle Drive East, Saskatoon, Saskatchewan, Canada. Applicant's representative: William Nykyforuk, 305 Canada Building, Saskatoon, Saskatchewan, Canada. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts*, from ports of entry on the international boundary line between the United States and Canada located in Montana and North Dakota, to points in Montana, North Dakota, South Dakota, Iowa, Minnesota, Wisconsin, Idaho, Oregon, and Washington, under contract with Midtown Farm Equipment, Ltd., Saskatoon, Saskatchewan, Canada. NOTE: If a hearing is deemed necessary, applicant requests it be held at Billings, Mont., or Bismarck, N. Dak.

No. MC 129549, filed November 21, 1967. Applicant: BATH LIGHTNING EXPRESS, INC., West Main Street, Shortsville, N.Y. 14548. Applicant's representative: Raymond A. Richards, 23 West Main Street, Webster, N.Y. 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *General commodities* (except household goods as defined by the Commission and commodities in bulk, in tank vehicles), (1) over regular routes: Between Rochester and Hammondsport, N.Y., from Rochester over U.S. Highway 15 to Wayland, thence over New York Highway 21 to North Cohocton, thence over New York Highway 371 to Cohocton, thence over U.S. Highway 51 to Bath, thence over New York Highway 54 to Hammondsport, and return over the same route serving all intermediate points and the off-route points of Atlanta, Candice Corners, Haskinville, Perkinsville, Prattsburg, Pulteney, and Wheeler, N.Y.; and (2) over irregular routes: From Rochester, N.Y., to points in the Village of Naples, Hamlet of Bristol Springs, Hamlet of Bristol Center, and Hamlet of Vincent (all in Ontario County), N.Y. NOTE: Applicant states that by this application it seeks to convert certificate of registration in MC 9818 (Sub-No. 3) into a certificate of public convenience and necessity. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Rochester or Buffalo, N.Y., or Washington, D.C.

No. MC 129557 (Sub-No. 1), filed November 30, 1967. Applicant: FRANK A. PAONE, doing business as F. PAONE TRUCKING CO., 88 Briggs Street, Cranston, R.I. 02909. Applicant's representative: Russell B. Curnett, 36 Circuit Drive, Edgewood Station, Providence, R.I. 02905. Authority sought to operate as a *common carrier*, by motor vehicle, over

irregular routes, transporting: *Sodium chloride*, with or without anticaking agents, in bulk, in dump-type vehicles, from Providence, R.I., to points in New London and Windham Counties, Conn., to points in Barnstable, Bristol, Norfolk, and Plymouth Counties, Mass., to points in Rhode Island. NOTE: Applicant is also authorized to conduct operations as a contract carrier in permit No. MC 126467, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Providence, R.I. or Boston, Mass.

No. MC 129559 filed November 27, 1967. Applicant: ACE HIGH MOVING & STORAGE CO., 20159 East Valley Boulevard, Rialto, Calif. Applicant's representative: Robert J. Gallagher, 66 Central Street, Wellesley, Mass. 02181. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods* restricted to the transportation of shipments (1) moving on the through bill of lading of a freight forwarder operating under the exemption provisions of section 402(b)(2) of the Interstate Commerce Act, as amended; and (2) having an immediately prior or subsequent line haul movement by rail, motor, water, or air, between points in Los Angeles, San Bernardino, Riverside, and Orange Counties, Calif. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 129563 (Sub-No. 1), filed December 1, 1967. Applicant: ONONDAGA BEVERAGE TRANSPORT, INC., 345 Spencer Street, Syracuse, N.Y. 13204. Applicant's representative: Herbert M. Canter, 345 South Warren Street, Syracuse, N.Y. 13202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers (except in bulk, in tank vehicles), from Natick and Willimansett, Mass.; Cleveland, Ohio; New York, N.Y.; ports of entry between the United States and Canada in New York; and Newark, N.J.; to Syracuse, Watertown, and Auburn, N.Y., and *empty containers* on return, under continuing contracts with Onondaga Beverage Corp., Owasco Beverage Corp., and Best Distributing Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Syracuse, N.Y.

No. MC 129565, filed November 30, 1967. Applicant: EDWARD BIALICK, doing business as ACTION MOVING & STORAGE, 875 East Hennepin, Minneapolis, Minn. 55414. Applicant's representative: Paul F. Sullivan, 913 Colorado Building, 1341 G Street, NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, restricted to shipments moving in containers and having an immediately prior or subsequent movement by rail, motor, water, or air and moving on through bills of lading of forwarders, operating under section 402(b)(2) exemption, between points within 200 miles of Minneapolis, Minn., including Minneapolis. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Washington, D.C.

No. MC 129566, filed November 24, 1967. Applicant: BENSON WORLD AIR-CHARTER CORPORATION, doing business as B.W.A.C., Dickenson-Tidewater Building, Elkridge Landing Road, Post Office Box 8715, Friendship International Airport, Baltimore, Md. 21240. Applicant's representative: Robert F. Vavrina, 14 East Fayette Street, Baltimore, Md. 21202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, incidental to transportation by aircraft, between points in Baltimore City, Baltimore, Frederick, and Carroll Counties, Md., to Friendship International Airport, Md., Washington National Airport, Washington, D.C., and Dulles International Airport, Va., and return movements to the same areas, under contract with Random House, Inc., Mother Goose Corp., and Westminster Shoe Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Baltimore, Md., or Washington, D.C.

No. MC 129567, filed November 29, 1967. Applicant: HEWITT OIL COMPANY, INC., 516 East First Street, Pratt, Kans. 67124. Applicant's representative: Leland M. Spurgeon, 308 Casson Building, Topeka, Kans. 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fuels*, commonly described as gasolines, distillates, and liquefied petroleum gases, in bulk, in tank vehicles, (1) from Ponca City, Okla., to Pratt, Dodge City, Kinsley, Greensburg, Coldwater, and Ashland, Kans.; and (2) from the Phillips Pipeline Terminal located at or near Laverne, Okla., to Ashland and Dodge City, Kans., under contract with Phillips Petroleum Co., Bartlesville, Okla. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Wichita, Kans.

No. MC 129568, filed November 29, 1967. Applicant: HAROLD KLEIN CARTAGE, INC., 5235 North Hopkins Street, Milwaukee, Wis. 53209. Applicant's representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Milwaukee, Wis., to points in Illinois, North of State Highway 9, except points in the Chicago, Ill., commercial zone, under a continuing contract with Forster-Mueller Lumber Co., Inc. NOTE: Applicant holds common carrier authority under MC 44445 and Sub 1 thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis.

No. MC 129569, filed November 29, 1967. Applicant: J. B. MOORE, 525 Allegheny Avenue, Lynchburg, Va. 24501. Applicant's representative: Carlyle C. Ring, Jr., 710 Ring Building, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Preston Glenn Airport (Lynchburg Municipal Airport) located at or near Lynchburg, Va., including terminal area and Farmville, Va., on the one hand, and, on the other, Byrd Airport located at or near Sandston, Va., or Dulles International Airport located at or near Chantilly, Va., or National Airport located at or near Arlington, Va. Restricted to goods having an immediately prior or immediately subsequent movement by air. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lynchburg or Roanoke, Va.

No. MC 129577, filed November 13, 1967. Applicant: FRANCIS KAY TRUST AND BONNIE KAY TRUST, a copartnership, doing business as BONNIE C. TRUCKING CO., STANLEY B. KORENGOLD, TRUSTEE, 3171 Fifth Street SE., Minneapolis, Minn. 55401. Applicant's representative: Stanley B. Korengold, 810 Title Insurance Building, Minneapolis, Minn. 55401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Potatoes*, processed and unprocessed, and *shortening*, between points in Wisconsin, under contract with Processed Potatoes, Inc., and Northern Star, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, or St. Paul, Minn.

No. MC 129583, filed December 6, 1967. Applicant: J. D. ROBINSON, doing business as ROBINSON TRUCK LINE, Post Office Box 737, Sylacauga, Ala. Applicant's representative: Robert E. Tate, Suite 2025-2028, City Federal Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pallets*, from points in Johnson County, Ark., to points in Talladega County, Ala. NOTE: If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala.

MOTOR CARRIERS OF PASSENGERS

No. MC 1515 (Sub-No. 120), filed November 29, 1967. Applicant: GREYHOUND LINES, INC., 10 South Riverside Plaza, Chicago, Ill. 60606. Applicant's representative: R. J. Bernard (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, express and newspapers*, in the same vehicle with passengers, between St. Petersburg, and Fort Lauderdale, Fla.: From St. Petersburg over U. S. Highway 19 to junction U.S. Highway 41, thence over U.S. Highway 41 to junction, U.S. Highway 41 Business, thence over U.S. Highway 41 and U.S. Highway 41 Business to junction South of Bradenton, thence over U.S. Highway 41 to Naples, thence over Florida Highway 858 to junction Florida Highway 838 (Alligator Alley—Everglades Parkway), thence over Florida Highway 838 to junction U.S. Highway 27 and Florida Highway 84, thence over Florida Highway 84 to Fort Lauderdale, and return over the same route, serving all intermediate points. NOTE: If a hearing is deemed necessary, applicant requests it be held at Sarasota and Miami, Fla.

No. 1934 (Sub-No. 25), filed November 29, 1967. Applicant: THE ARROW LINE, INC., 105 Cherry Street, East Hartford, Conn. 06108. Applicant's representatives: Thomas W. Murrett, 410 Asylum Street, Hartford, Conn. 06103, and Hugh M. Joseloff. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers, and their baggage* when transported in the same vehicle with passengers, limited to not more than 14 passengers, not including the driver, in any one vehicle, between points in Nassau and Suffolk Counties, N.Y., on the one hand, and, on the other, Hartford, Conn., Springfield, Worcester, and Boston, Mass. NOTE: If a hearing is deemed necessary, applicant requests it be held at Boston, Mass., Hartford, Conn., Hempstead or Long Island, N.Y.

No. MC 125708 (Sub-No. 3), filed November 24, 1967. Applicant: BALTIMORE-SOLOMONS BUS LINES, INC., Prince Frederick, Md. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage and express and newspapers* in the same vehicle with passengers, (1) between Washington, D.C., and points on Maryland Highway 4 between the boundary line between Prince Georges County and Anne Arundel County, Md., and the intersection of Maryland Highways 4 and 260, from Washington, D.C., over city streets to the District of Columbia-Maryland State line, thence over Maryland Highway 4 to intersection Maryland Highways 4 and 260, and return over the same route serving all intermediate points, including that point of intersection, (2) between intersection Maryland Highways 4 and 2 and intersection Maryland Highways 408 and 4, from intersection Maryland Highways 4 and 2 over Maryland Highway 2 to intersection Maryland Highway 259, thence over Maryland Highway 259 to intersection Maryland Highway 408, thence over Maryland Highway 408 to intersection Maryland Highway 4, and return over the same route serving all intermediate points, and (3) between Deale, Md., and intersection Maryland Highways 258 and 4, from Deale over Maryland Highway 256 to intersection Maryland Highways 256 and 258, thence over Maryland Highways 258 to intersection Maryland Highways 258 and 4, and return over the same route serving all intermediate points. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

WATER CARRIER OF PROPERTY

No. W-457 (Sub-No. 2) McALLISTER BROTHERS, INC., Extension—Intercoastal, filed December 11, 1967. Applicant: McALLISTER BROTHERS, INC., 1y Battery Place, New York, N.Y. Applicant's representative: Gordon P. Macdougall, 705 Ring Building, Washington, D.C. 20036. Application of McAllister Brothers, Inc., filed December 11, 1967, for a revised certificate authorizing extension of operations to include operation as a common carrier by water in interstate or foreign commerce, by towing vessels in the towage of barges loaded with *structural steel*, from Seattle, Wash., Long Beach and Los Angeles, Calif., to New York, N.Y. (New York Harbor), and *empty barges and rejected articles*, on return.

APPLICATION IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 127681 (Sub-No. 2), filed December 4, 1967. Applicant: JOE JONES, JR., doing business as JONES TRUCKING COMPANY, 2340 Bankhead Highway, Atlanta, Ga. 30318. Applicant's representative: Morris J. Levin, 910 17th Street NW., Suite 917, Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, manufactured, packaged in paper bags and drums, from suppliers of Mayo Chemical Co., located at points in Illinois, Indiana, Louisiana, and Missouri, to the plantsites of Mayo Chemical Co. located in Smyrna and Dalton, Ga., and Chattanooga, Tenn., and to customers of Mayo Chemical Co. located at points in the United States (excluding Alaska and Hawaii), under contract with Mayo Chemical Co.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-14737; Filed, Dec. 20, 1967; 8:45 a.m.]

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 18, 1967.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41190—*Lumber from Burlington, Kans.* Filed by Southwestern Freight Bureau, agent (No. B9029), for interested rail carriers. Rates on lumber and related articles, in carloads, from Burlington, Kans., to points in southern territory.

Grounds for relief—Market competition.

Tariff—Supplement 49 to Southwestern Freight Bureau, agent, tariff ICC 4607.

FSA No. 41191—*Commodity rates—Texas Central Railroad Co.* Filed by Southwestern Freight Bureau, agent (No. B9038), for interested rail carriers. Rates on property moving on commodity rates, between stations on Texas Central Railroad Co., on the one hand, and points in the United States and Canada, on the other.

Grounds for relief—New stations on the Texas Central Railroad Co.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-14804; Filed, Dec. 20, 1967; 8:49 a.m.]

[Notice 513]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 18, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and 6 copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 30837 (Sub-No. 349 TA), filed December 14, 1967. Applicant: KENOSHA AUTO TRANSPORT CORPORATION, 4519 76th Street, Kenosha, Wis. 53141. Applicant's representative: Albert P. Barber (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled electric motor vehicles*, in initial movements, in truckaway service, from Redlands, Calif., to all points in the United States, for 180 days. Supporting shipper: Westinghouse Electric Corp., 3 Gateway Center, Box 2278, Pittsburgh, Pa. 15230. Send protests to: Lyle Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 49387 (Sub-No. 35 TA), filed December 11, 1967. Applicant: ORSCHELN BROS. TRUCK LINES, INC., Moberly, Mo. 65270. Applicant's representative: Arnold L. Burke, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Hospital, medical and dental supplies and related articles and materials and supplies used in the manufacture and packaging thereof*, serving the Johnson & Johnson plant and warehouse site, Argonne Industrial District, Will County, Ill., as an off-route point

in connection with applicant's presently held authorized regular route operations to and from Chicago, Ill., for 180 days. Supporting shipper: Johnson & Johnson, 501 George Street, New Brunswick, Mo. 08903. Send protests to: H. J. Simmons, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 55236 (Sub-No. 154 TA), filed December 14, 1967. Applicant: OLSON TRANSPORTATION COMPANY, 1970 South Broadway, Post Office Box 1187, Green Bay, Wis. 54304. Applicant's representative: G. R. Bailey (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel, and iron and steel articles*, from the plantsite of Jones & Laughlin Steel Corp., Putnam County, Ill., to points in Arkansas, Indiana, Iowa, Minnesota, Michigan, Missouri, Ohio, Oklahoma, Nebraska, and Wisconsin, for 150 days. Supporting shipper: Jones & Laughlin Steel Corp., 3 Gateway Center, Pittsburgh, Pa. 15230 (C. F. Coombs, Manager, Traffic and Transportation). Send protests to: District Supervisor, Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 75320 (Sub-No. 136 TA), filed December 11, 1967. Applicant: CAMPBELL SIXTY-EXPRESS, INC., 2333 Mill Street Road 66802, Post Office Box 807, Springfield, Mo. 65801. Applicant's representatives: Dick Messersmith (same address as above) and Arnold L. Burke, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Hospital, dental and medical supplies and related articles, and materials and supplies used in the manufacture and packaging thereof*, serving the Johnson & Johnson plant and warehouse site, Argonne Industrial District, Will County, Ill., as an off-route point in connection with carrier's regular route operations to and from Chicago. NOTE: Applicant indicates tacking or interlining possibilities (unspecified), for 180 days. Supporting shipper: Johnson & Johnson, 501 George Street, New Brunswick, N.J. 08901. Send protests to: H. J. Simmons, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 113678 (Sub-No. 303 TA), filed December 14, 1967. Applicant: CURTIS, INC., Post Office Box 16004, Stockyards Station (mail), 770 East 51st Avenue, Denver, Colo. 80216. Applicant's representative: Duane W. Acklie, Post Office Box 806, Lincoln, Nebr. 68508. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles* distributed by meat packinghouses from Le Mars, Iowa, to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Maine, Massachusetts, Michigan, Nebraska, New Jersey, New York, Pennsylvania, District of Columbia, Colorado, and Ohio, for 180 days. Supporting shipper: Blue Ribbon Beef Packing Co., Le Mars, Iowa. Send protests to: District Supervisor, H. C. Ruoff, Interstate Commerce Commission, 2022 Federal Building, 1961 Stout Street, Denver, Colo. 80202.

No. MC 117119 (Sub-No. 407 TA), filed December 11, 1967. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., Elm Springs, Ark. 72728. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Breading base mixes* and *batter mixes*, from Ponchatoula, La., to Los Angeles and Wilmington, Calif., for 180 days. Supporting shipper: Modern Maid Food Products, Inc., 110-60 Dunkirk Street, Jamaica, N.Y. 11412. Send protests to: District Supervisor, D. R. Partney, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 127651 (Sub-No. 2 TA), filed December 11, 1967. Applicant: EVERETT G. ROEHL, 201 West Upham Street, Marshfield, Wis. 54449. Applicant's representative: Nancy Johnson, 111 South Fairchild Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Onalaska, Wis., to points in Minnesota, Iowa, and Illinois, for 180 days. Supporting shippers: Erickson Hardwoods, Inc., Onalaska, Wis. 54650. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 214 North Hamilton Street, Madison, Wis. 53703.

No. MC 127651 (Sub-No. 3 TA), filed December 11, 1967. Applicant: EVERETT G. ROEHL, 201 West Upham Street, Marshfield, Wis. 54449. Applicant's representative: Nancy Johnson, 111 South Fairchild Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points in Wisconsin, south of U.S. Highway 8 and on and west of U.S. Highway 45, to points in Nebraska and Kentucky, for 180 days. Supporting shipper: Bennett-Daniels Lumber Co., Inc., Dorchester, Wis. 54425. Send protests to: Barney L. Hardin, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 214 North Hamilton Street, Madison, Wis. 53703.

No. MC 128707 (Sub-No. 1 TA), filed December 11, 1967. Applicant: LLOYD W. FORSBORG, doing business as FORSBORG TRUCK LINE, 1406 Sixth Avenue NW., Great Falls, Mont. 59401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* in containers, from Vancouver, Wash., to Lewistown, Mont., and empty containers, on return, for 180 days. Supporting shipper: Quality Beverage Co., Lewistown, Mont. 59457. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 251 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 129579 (Sub-No. 1 TA), filed December 11, 1967. Applicant: W. E. SCHMITT, doing business as SCHMITT TRUCKING COMPANY, 12739 Stark Road, Livonia, Mich. 48150. Applicant's representative: William B. Elmer, 22644 Gratiot Avenue, East Detroit, Mich. 48021. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Insulation board and materials and supplies incidental to the installation thereof*, from Rockdale, Ill., to points in Genesee, Ingham, Macomb, Oakland, Saginaw, and Wayne Counties, Mich., for 150 days. Supporting shipper: George Hobby & Associates, 9362 Owen Road, Grosse Isle, Mich. 48138. Send protests to: District Supervisor, Gerald J. Davis, Interstate Commerce Commission, Bureau of Operations, 1110 Broderick Tower, 10 Witherell, Detroit, Mich. 48226.

No. MC 128864 (Sub-No. 1 TA), filed December 11, 1967. Applicant: HENRY T. FARMER, JR., doing business as H. T. FARMER TRUCK, 5100 Rayburn Drive, Washington, D.C. 20031. Applicant's representative: Paul F. Sullivan, Colorado Building, 1341 G Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Stone dust*, in bulk, in dump vehicles, from Occoquan, Va., to the plant and facilities of McGuire & Rolfe, Inc., at or near Waldorf, Md., for 150 days. Supporting shipper: McGuire & Rolfe, Inc., Post Office Box 476, Waldorf, Md. 20601. Send protests to: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1220 Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C. 20423.

No. MC 129596 TA, filed December 11, 1967. Applicant: GILFORD BROYLES, Limestone, Tenn. 37681. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Air freight and air express shipments*, between Hurd Lock & Manufacturing Co., Greeneville, Tenn., and Tri-Cities Airport, Johnson City, Tenn., for 180 days. Supporting shipper: Hurd Lock & Manufacturing Co., 603 Bohannon Avenue, Greeneville, Tenn. 37743. Send protests to: J. E. Gamble, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 706 U.S. Courthouse, Nashville, Tenn. 37203.

MOTOR CARRIER OF PASSENGERS

No. MC 30490 (Sub-No. 7 TA), filed December 14, 1967. Applicant: APPLEYARD'S BUS, INC., 7 Lowell Street, Methuen, Mass. 01844. Applicant's representative: William Young (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers*, in special operations, beginning and ending at Haverhill, Lawrence, and Methuen, Mass., and extending to Merrimack, N.H., for 150 days. Supporting shipper: Rosalie Dinsmore, 76 Ayer Street, Methuen, Mass. Send protests to: District Supervisor, Maurice C. Pollard, Interstate Commerce Commission, Bureau of Operations, John F. Kennedy Building, Government Center, Boston, Mass. 02203.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-14805; Filed, Dec. 20, 1967; 8:49 a.m.]

[Docket No. 34893]

PERCENT OF EMPTY TO LOADED FREIGHT-TRAIN CAR-MILES BY TYPE OF EQUIPMENT AND PERFORMANCE FACTORS FOR WAY TRAINS AND ALL TRAINS COMBINED

DECEMBER 15, 1967.

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 29th day of November 1967.

The matter of special reports to be filed by selected class I railroad companies being under consideration pursuant to section 20(1) of the Interstate Commerce Act, as amended; and,

It appearing, that the information described in the forms which are attached hereto[1] and available upon request from the Office of the Secretary, Interstate Commerce Commission, Washington D.C. 20423 and made a part hereof, is relevant and necessary for proper administration of Part I of the Act; and will not unduly burden the reporting carriers;

It further appearing, that selected railroads were permitted the option of providing the required data on either the basis of a scientific sample or on a 100 percent basis, therefore:

[1] Forms not filed with Office of the Federal Register.

It is ordered, That each class I line-haul railroad company subject to the Act shown on Appendix A below is hereby required to complete the attached Forms 1 and 2[1] in accordance with the instructions set out thereon; and that, the class I line-haul railroads listed in Appendix A as selecting the 100 percent basis shall report on such basis; and that all other class I railroads named in Appendix A shall report on one of the two sampling bases contained in the instructions for Forms 1 and 2; and that, the completed forms be filed with the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, within 30 days following the close of each test period specified in the instructions; and,

It is further ordered, That a copy of this order with the attachments shall be served on each class I line-haul railroad company subject to its provisions, and that notice be given to the general public by depositing a copy of this order in the Office of Secretary of the Commission at Washington, D.C. 20423.

By the Commission, Division 2.

[SEAL] H. NEIL GARSON, *Secretary.*

APPENDIX A

EASTERN DISTRICT

I. Railroads Reporting on Sampling Basis:
1 Akron, Canton & Youngstown RR. Co.
2 Bangor & Aroostook RR. Co.
3 Bessemer & Lake Erie RR. Co.
4 Boston & Maine Corp.
5 Central RR. Co. of New Jersey.
6 Central Vermont Ry., Inc.
7 Chicago & Eastern Illinois RR. Co.
8 Chicago & Illinois Midland Ry. Co.
9 Elgin, Joliet & Eastern Ry. Co.
10 Grand Trunk Western RR. Co.
11 Illinois Terminal RR. Co.
12 Long Island RR. Co.
13 Monon RR.
14 Reading Co.
15 Richmond, Fredericksburg & Potomac RR. Co.
16 Western Maryland Ry. Co.

II. Railroads Reporting on 100 Percent Basis:
1 Ann Arbor RR. Co.
2 Baltimore & Ohio RR. Co.
3 Canadian Pacific Lines in Maine.
4 Chesapeake & Ohio Ry. Co.
5 Delaware & Hudson RR. Corp.
6 Detroit & Toledo Shore Line RR. Co.
7 Detroit, Toledo & Ironton RR. Co.
8 Erie-Lackawanna RR. Co.
9 Lehigh Valley RR. Co.
10 Maine Central RR. Co.
11 Missouri-Illinois RR. Co.
12 New York Central RR. Co.
13 New York, New Haven & Hartford RR. Co.
14 Norfolk & Western Ry. Co.
15 Pennsylvania RR. Co.
16 Pennsylvania-Reading Seashore Lines.
17 Pittsburgh & Lake Erie RR. Co.

SOUTHERN DISTRICT

I. Railroads Reporting on Sampling Basis:
1 Clinchfield RR. Co.
2 Georgia RR., Lessee Organization.
3 Gulf, Mobile & Ohio RR. Co.
4 Norfolk Southern Ry. Co.
5 Piedmont & Northern Ry. Co.

II. Railroads Reporting on 100 Percent Basis:
1 Alabama Great Southern RR. Co.
2 Central of Georgia Ry. Co.
3 Cincinnati, New Orleans & Texas Pacific Ry. Co.
4 Florida East Coast Ry. Co.
5 Georgia Southern & Florida Ry. Co.
6 Illinois Central RR. Co.
7 Louisville & Nashville RR. Co.
8 New Orleans & Northeastern RR. Co.
9 Savannah and Atlanta Ry. Co.
10 Seaboard Coast Line RR. Co.
11 Southern Ry. Co.

WESTERN DISTRICT

I. Railroads Reporting on Sampling Basis:
1 Chicago, Milwaukee, St. Paul & Pacific RR. Co.
2 Chicago, Rock Island & Pacific RR. Co.
3 Colorado & Southern Ry. Co.
4 Denver & Rio Grande Western RR. Co.
5 Duluth, Missabe & Iron Range Ry. Co.
6 Duluth, Winnipeg & Pacific Ry. Co.
7 Fort Worth & Denver Ry. Co.
8 Lake Superior & Ishpeming RR. Co.
9 Northern Pacific Ry. Co.
10 St. Louis-San Francisco Ry. Co.
11 St. Louis Southwestern Ry. Co. and Subsidiary Cos.
12 Spokane, Portland & Seattle Ry. Co. and Affiliate Cos.
13 Toledo, Peoria & Western RR. Co.

II. *Railroads Reporting on 100 Percent Basis:*
1 Atchinson, Topeka & Santa Fe Ry. Co. and Affiliated Cos.
2 Chicago & North Western Ry. System.
3 Chicago, Burlington & Quincy RR. Co.
4 Chicago Great Western Ry. Co.
5 Great Northern Ry. Co.
6 Kansas City Southern Ry. Co. and Controlled Cos.
7 Louisiana & Arkansas Ry. Co.
8 Missouri-Kansas-Texas RR. Co. and Controlled Cos.
9 Missouri Pacific RR. Co.
10 Northwestern Pacific Ry. Co.
11 Soo Line RR. Co.
12 Southern Pacific Co.
13 Texas & Pacific Ry. Co.
14 Union Pacific RR. Co. Including its Leased Lines.
15 Western Pacific RR. Co.

[F.R. Doc. 67-14806; Filed, Dec. 20, 1967; 8:49 a.m.]

Title 2—THE CONGRESS

ACTS APPROVED BY THE PRESIDENT

EDITORIAL NOTE: After the adjournment of the Congress *sine die*, and until all public acts have received final Presidential consideration, a listing of public laws approved by the President will appear in the daily FEDERAL REGISTER under Title 2—The Congress. A consolidated listing of the new acts approved by the President will appear in the Daily Digest in the final issue of the Congressional Record covering the 90th Congress, First Session.

Approved December 18, 1967

H.R. 2188 ..... Public Law 90-215
An Act to amend section 319 of the Immigration and Nationality Act to permit naturalization for certain employees of United States nonprofit organizations engaged in disseminating information which significantly promotes United States interests, and for other purposes.

H.R. 2152 ..... Public Law 90-208
An Act to amend the Act incorporating the Disabled American Veterans so as to provide for an annual audit of their accounts.

H.R. 5709 ..... Public Law 90-213
An Act to amend the District of Columbia Teachers' Leave Act of 1949 to remove certain limitations, and for other purposes.

H.R. 8386 ..... Public Law 90-216
An Act to create a new division for the Western District of Texas, and for other purposes.

H.R. 8376 ..... Public Law 90-217
An Act to provide that the United States District Court for the Eastern District of New York shall be held at Brooklyn, New York, and Mineola, New York.

H.R. 11565 ..... Public Law 90-211
An Act to amend section 358 of the Agricultural Adjustment Act of 1938, as amended, to authorize the transfer of peanut acreage allotments.

H.R. 12121 ..... Public Law 90-213
An Act to amend the Act of September 19, 1964 (78 Stat. 983), establishing the Public Land Law Review Commission, and for other purposes.

S. 814 ..... Public Law 90-209
An Act to establish the National Park Foundation.

S. 2126 ..... Public Law 90-210
An Act to amend the Food and Agriculture Act of 1965.

S. 2247 ..... Public Law 90-214
An Act to amend the Merchant Marine Act, 1936, to increase the Federal ship mortgage insurance available in the case of certain oceangoing tugs and barges.

H.J. Res. 888 ..... Public Law 90-218
Joint Resolution making continuing appropriations for the fiscal year 1968, and for other purposes.

CUMULATIVE LIST OF PARTS AFFECTED—DECEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during December.

3 CFR

	Page
PROCLAMATIONS:	
2761A (see Proc. 3822)	19002
3548 (see Proc. 3822)	19002
3821	17571
3822	19002
EXECUTIVE ORDERS:	
Dec. 5, 1913 (revoked in part by PLO 4327)	16531
Mar. 21, 1914 (revoked in part by PLO 4327)	16531
June 24, 1914 (revoked in part by PLO 4327)	16531
11075 (see Proc. 3822)	19002
11248:	
Amended by EO 11384	17423
Amended by EO 11385	18081
11383	17421
11384	17423
11385	18081

5 CFR

210	16474
213	16477, 177615, 17849, 20627
315	16474
351	16474
352	16474
353	16475
430	16475
511	16475
531	16475
713	16476
731	16476
752	16476
754	16476
771	16477
772	16477
831	16477
891	16477
2200	17573
2300	17651

7 CFR

301	18015, 18017
401	16478, 17425, 17513
718	17513
722	17467, 17887, 17923
724	16478
725	16479
729	17887
792	20629
794	19155
811	18083
815	16525
905	16525, 17615, 17616, 17925
907	16526, 17515, 17888, 20629
909	17849
910	16526, 17617, 17651, 18017, 18018, 18085
944	17425
982	16527
987	19156
989	17467, 18086
1062	16479
1073	16480
1094	16527
1103	16527
1106	16480
1126	16480
1421	16528
1427	16528, 19156

7 CFR—Continued

1464	17849
1474	17888
1488	18018
PROPOSED RULES:	
51	17893
58	17893
812	17669
817	17669
911	17431
915	17431
948	17671
950	17433
989	17625
993	17434
1001	17626
1008	17626
1036	17626
1048	17626

8 CFR

238	17651
280	17651
PROPOSED RULES:	
242	17624
243	17624
244	17624
299	17624

9 CFR

71	19157
76	19157
78	18086
79	19157
95	19157
96	19158
97	17618
151	19158

12 CFR

1	17574, 17926
12	17468
206	17469
224	17425
265	19159
335	17470
545	17926
556	20630
581	17515
605	17652
PROPOSED RULES:	
16	20657
563	17544

14 CFR

21	17850
39	16481, 17426, 17515, 17516, 17652, 17927
61	16481
71	16482, 16483, 17426, 17427, 17516–17518, 17574–17576, 17653, 17851, 18020, 20630, 20631
73	17427, 17653, 18087
75	17518
91	16483, 17654
97	16484, 17577, 17928, 19170
121	16481, 17889

14 CFR—Continued

	Page
141	17851
151	17471
214	18020
217	18020
221	18022
241	18023
301	16491
303	16491
311	16491
320	16491
421	16491
430	16491
431	16491
435	16491
PROPOSED RULES:	
1	16495
21	17485
25	17487
39	17439, 17672, 17673, 17895
71	16495, 17488, 17543, 17596–17598, 17673–17675, 17861, 17982, 18060–18062, 20657, 20658
73	17488
75	18062
77	20658
91	16495, 19190
214	16535
241	17983
295	16535
298	17598

15 CFR

373	17471

16 CFR

13	17427, 17618, 17853–17855, 18025, 20631
15	17582, 17856, 18087
PROPOSED RULES:	
301	17544
415	17601

17 CFR

230	17933
239	17933
240	17583
270	17583
274	17583
PROPOSED RULES:	
240	17983, 18063
270	17861

19 CFR

5	17619
12	17428
16	19159
19	17619
23	16528
24	17619

20 CFR

404	18026, 19159
405	18026, 18027
422	18030
PROPOSED RULES:	
405	18050, 18054

21 CFR

	Page
19	18096
29	17654
120	16529, 17472, 18096
121	16529, 16530, 17472, 17567, 17654, 17655, 17856, 17857, 18096, 20631, 20632
130	16531
146	16531
146a	16491, 17657
149q	18096
166	17473
191	19176
PROPOSED RULES:	
1	18113
15	18114
31	16533
46	17482, 17671, 18114
128	17980
130	17671
138	16533, 17626

22 CFR

10	17454

23 CFR

255	17938, 18032, 18033
PROPOSED RULES:	
255	16534

24 CFR

234	17587

25 CFR

PROPOSED RULES:	
221	17543

26 CFR

1	17479, 17518, 17657, 17890, 17938, 18039
31	18039
46	18039
48	18039
49	18039
147	17858
601	20645
701	17890
PROPOSED RULES:	
151	17861

28 CFR

0	16531

29 CFR

1610	16491

30 CFR

PROPOSED RULES:	
18	18098
34	18098

31 CFR

1	17519
82	17859
214	18044

32 CFR

53	17661
84	17619
57	18087
564	18089
627	17519
701	17588
888c	20648

33 CFR

109	17726, 17890
110	17726, 17890
114	17726, 17890
115	17726, 17890
116	17726, 17890
117	17726, 17890, 17939
209	17522

36 CFR

7	17661

39 CFR

123	17479
171	20633
224	18045
232	18045, 20643
261	20643
742	17479, 17860

41 CFR

1–1	16491, 18045
1–2	18049
1–16	18049
5–1	17542
Ch. 18	17002
101–26	17939

42 CFR

53	17662

43 CFR

2210	17890
PUBLIC LAND ORDERS:	
334 (revoked in part by PLO 4333)	17480
1796 (revoked in part by PLO 4331)	17479
2764 (see PLO 4331)	17479
4327	16531
4328	17429
4329	16532
4330	17479
4331	17479
4332	17479
4333	17480
4334	17429
4335	17429
4336	17620
4337	17662
4338	17891

45 CFR

30	17891
1105	17663

46 CFR

39	17621
55	19180
61	19180
72	19180
76	19180
77	19181
78	19181
98	17621
111	19181
112	19182
113	19182
221	17595
255	17595
308	17891
510	17480
526	17667
PROPOSED RULES:	
Ch. II	17980
510	19192
514	16496
536	19192

47 CFR

73	19183, 19187
97	17429
PROPOSED RULES:	
2	16495, 18115
73	19191, 20659
87	16495, 18115
91	17440

48 CFR

501	17940

49 CFR

Ch. X	20003
290	17941
291	17941
292	17941
293	17941
294	17941
295	17892, 17941
296	17941
297	17941
890	17480
1100	20654
1200	17480
1306	20654
PROPOSED RULES:	
177	18114
239	18062
294	18114
1056	20659

50 CFR

13	20655
28	17623
32	17542, 20656
33	16532, 17430, 17481, 17623, 17667, 17668, 18049, 20656
254	16492

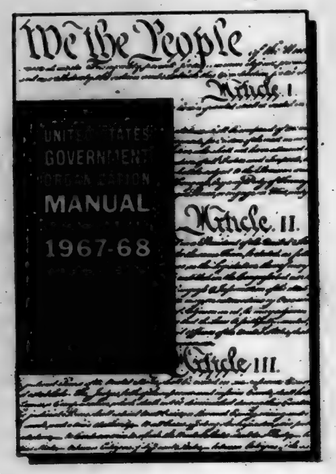

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247

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Agricultural Research Service
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Consumer and Marketing Service
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Fish and Wildlife Service
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Detailed list of Contents appears inside.

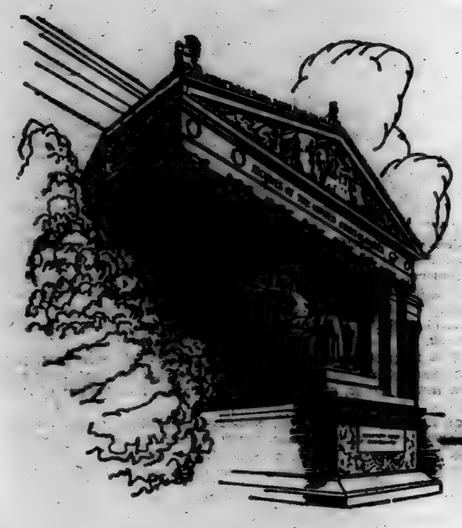

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Contents

AGRICULTURAL RESEARCH SERVICE
Notices
Licensed dealers under Laboratory Animal Welfare Act; list of persons ... 20740

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE
Rules and Regulations
Beet sugar area; approved areas for 1966 crop ... 20701

AGRICULTURE DEPARTMENT
See also Agricultural Research Service; Agricultural Stabilization and Conservation Service; Consumer and Marketing Service.
Notices
Indiana, Ohio and Texas; designation of areas for emergency loans ... 20742

AIR FORCE DEPARTMENT
Rules and Regulations
Appointment of officers in United States Air Force or as Reserves of the Air Force; miscellaneous amendments ... 20720

ATOMIC ENERGY COMMISSION
Notices
Special nuclear material; notice of proposed new lease agreement ... 20748
State of Colorado; proposed agreement for assumption of certain AEC regulatory authority ... 20749

BUSINESS AND DEFENSE SERVICES ADMINISTRATION
Notices
Duty-free entry of scientific articles:
Agriculture Department ... 20744
Louisiana State University et al. ... 20742
New Haven College et al. ... 20743
Ohio State University ... 20744
University of Missouri and City College Research Foundation ... 20743
University of North Carolina ... 20745
University of Washington Medical School ... 20742

CIVIL AERONAUTICS BOARD
Rules and Regulations
Report of charter services performed for Military Airlift Command ... 20711
Proposed Rule Making
Charter trips and special services; liberalization of volume restrictions for all-cargo carriers ... 20739
Statement of general policy; participation of combination carriers in blocked space service ... 20739

CIVIL SERVICE COMMISSION
Rules and Regulations
Transportation Department; excepted service ... 20701

COMMERCE DEPARTMENT
See also Business and Defense Services Administration.
Notices
Economic Development Administration; organization and functions ... 20745

CONSUMER AND MARKETING SERVICE
Rules and Regulations
Irish potatoes grown in Washington; expenses and rate of assessment ... 20702
Onions grown in South Texas; shipment limitations ... 20702
Proposed Rule Making
Raisins produced from grapes grown in California; decision and referendum ... 20732

DEFENSE DEPARTMENT
See Air Force Department; Navy Department.

EMERGENCY PLANNING OFFICE
Rules and Regulations
Employee responsibilities and conduct ... 20722
Employee responsibilities and conduct; cross reference ... 20726

FARM CREDIT ADMINISTRATION
Rules and Regulations
Miscellaneous amendments to chapter ... 20703

FEDERAL AVIATION ADMINISTRATION
Rules and Regulations
Control zone; alteration ... 20704
Control zone and transition area; alteration ... 20705
Standard instrument approach procedures; miscellaneous amendments ... 20706
Transition area:
Alteration ... 20704
Designation (3 documents) ... 20705
Proposed Rule Making
Control area; proposed designation (2 documents) ... 20737, 20738
Control zone and transition area; proposed designation ... 20738
Federal airway; proposed alteration ... 20737

FEDERAL COMMUNICATIONS COMMISSION
Proposed Rule Making
Standard broadcast services; standard method for calculating radiation ... 20739
Notices
Hearings, etc.:
American Television Co., Inc. ... 20749
Berwick Broadcasting Corp., and P.A.L. Broadcasters, Inc. ... 20749
Buckeye Cablevision, Inc. ... 20749
Lebanon Broadcasting Co., and Risner Broadcasting, Inc. ... 20751
Muniz, Lucas Tomas and Arecibo Broadcasting Corp., Inc. ... 20752
Natchez Broadcasting Co. (WMIS) ... 20752
Outer Banks Radio Co. et al. ... 20752
South Jersey Radio, Inc. et al. ... 20752

FEDERAL HIGHWAY ADMINISTRATION
Proposed Rule Making
Private motor carriers of hazardous materials; annual safety accident report; correction ... 20739

FEDERAL HOUSING ADMINISTRATION
Rules and Regulations
Miscellaneous amendments to chapter ... 20716

FEDERAL POWER COMMISSION
Notices
Hearings, etc.:
Manco Corp. et al. ... 20754
Northern States Power Co. ... 20753
Standard Oil Company of Texas ... 20753
Stringer, J. Frank ... 20755
Union Light, Heat, and Power Co. ... 20756

FEDERAL TRADE COMMISSION
Rules and Regulations
Administrative opinions and rulings; legality under antitrust laws of complying with State milk marketing orders ... 20716

FISH AND WILDLIFE SERVICE
Rules and Regulations
Brazoria National Wildlife Refuge, Texas; sport fishing ... 20704

FISCAL SERVICE
Rules and Regulations
Secretary of Defense; delegation of authority to issue substitute checks ... 20717

(*Continued on next page*)

CONTENTS

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Federal Housing Administration.

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Mines Bureau.

Notices

Texas; determination of commercial fishery failure due to resource disaster 20740

INTERNAL REVENUE SERVICE

Proposed Rule Making

Income tax; unincorporated business enterprises taxed as domestic corporations 20727

INTERSTATE COMMERCE COMMISSION

Notices

Fourth section applications for relief 20757

Motor carrier temporary authority applications 20757

MINES BUREAU

Proposed Rule Making

Supplied-air respirators; procedures for investigation, tests, certification, approval, and fees 20730

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Rules and Regulations

Boards and committees; Aerospace Safety Advisory Panel 20714

NAVY DEPARTMENT

Rules and Regulations

Procedures and requirements for appointment as midshipman at U.S. Naval Academy; miscellaneous amendments 20717

Standards of conduct; miscellaneous amendments 20719

SECURITIES AND EXCHANGE COMMISSION

Notices

American General Insurance Co.; notice of application 20756

TRANSPORTATION DEPARTMENT

See Federal Aviation Administration; Federal Highway Administration.

TREASURY DEPARTMENT

See Fiscal Service; Internal Revenue Service.

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

5 CFR

213 20701

7 CFR

842 20701
946 20702
959 20702

PROPOSED RULES:

989 20732

12 CFR

610 20703
670 20703

14 CFR

71 (6 documents) 20704, 20705
97 20706
243 20711
1209 20714

PROPOSED RULES:

71 (4 documents) 20737, 20738
207 20739
399 20739

16 CFR

15 20716

24 CFR

203 20716
207 20716
220 20717

26 CFR

PROPOSED RULES:

1 20727

30 CFR

PROPOSED RULES:

12 20730

31 CFR

365 20717

32 CFR

710 20717
721 20719
881 20720
1703 20722

32A CFR

OEP (Ch. I):
Reg. 6 20726

47 CFR

PROPOSED RULES:

73 20739

49 CFR

PROPOSED RULES:

177 20739
294 20739

50 CFR

33 20704

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Transportation

Section 213.3394 is amended to show that the position of Deputy Administrator, Federal Highway Administration is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, § 213.3394 is amended by adding paragraph (d) as set out below.

§ 213.3394 Department of Transportation.

* * * * *

(d) *Federal Highway Administration.*

(1) Deputy Administrator.

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67-14883; Filed, Dec. 21, 1967; 8:49 a.m.]

Title 7—AGRICULTURE

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER F—DETERMINATION OF NORMAL YIELDS AND ELIGIBILITY FOR ABANDONMENT AND CROP DEFICIENCY PAYMENTS

[§ 842.2, Supp. 10]

PART 842—BEET SUGAR AREA

Approved Local Areas for 1966 Crop

§ 842.12 Approved local areas for the 1966 crop.

For purposes of considering eligibility for abandonment and crop deficiency payments on 1966-crop sugar beets, the respective Agricultural Stabilization and Conservation county committees have determined with respect to the following counties and local producing areas that due to drought, flood, storm, freeze, disease, or insects, the actual yields of commercially recoverable sugar from the acreages planted to sugar beets on farms in each such county or local producing area were below 80 percent of the applicable normal yields either for 10 percent or more of the number of such farms or for 10 percent or more of the total acres of sugar beets planted on all farms in such county or local producing area.

(a) *Arizona.*

ENTIRE COUNTIES

Maricopa.
Pinal.

(b) *California.*

ENTIRE COUNTIES

Alameda.	Sacramento.
Butte.	San Benito.
Colusa.	San Joaquin.
Fresno.	San Luis Obispo.
Glenn.	Santa Clara.
Imperial.	Solano.
Los Angeles.	Sutter.
Merced.	Tulare.
Riverside.	

INDIVIDUAL LOCAL PRODUCING AREAS

COUNTIES AND AREAS

Kern: Area 1; Area 2; Area 3.
Kings: T. 24 S., R. 21 E.; T. 24 S., R. 22 E.
Monterey: Area 1; Area 2; Area 3; Area 4; T. 15 S., R. 4 E.; T. 16 S., R. 4 E.; T. 17 S., R. 6 E.; T. 19 S., R. 8 E.
Santa Barbara: Area 1.
Stanislaus: Area 1; T. 2 S., R. 10 E.
Yolo: Area 2; Area 4; Area 5; Area 7.

(c) *Colorado.*

ENTIRE COUNTIES

Adams.	Montrose.
Baca.	Morgan.
Bent.	Otero.
Boulder.	Phillips.
Crowley.	Prowers.
Delta.	Pueblo.
Kit Carson.	Sedgwick.
Larimer.	Weld.
Las Animas.	Washington.
Logan.	Yuma.
Mesa.	

INDIVIDUAL LOCAL PRODUCING AREAS

COUNTY AND AREA

Rio Grande: T. 39, R. 8.

(d) *Idaho.*

ENTIRE COUNTIES

Ada.	Jefferson.
Bannock.	Jerome.
Bingham.	Lincoln.
Bonneville.	Madison.
Canyon.	Minidoka.
Cassia.	Oneida.
Elmore.	Owyhee.
Franklin.	Payette.
Fremont.	Power.
Gem.	Twin Falls.
Gooding.	Washington.

INDIVIDUAL LOCAL PRODUCING AREAS

COUNTY AND AREA

Caribou: Area 1.

(e) *Illinois.*

ENTIRE COUNTY

Cook.

(f) *Iowa.*

ENTIRE COUNTIES

Cerro Gordo.	Worth.
Kossuth.	

(g) *Kansas.*

ENTIRE COUNTIES

Finney.	Sherman.
Grant.	Stanton.
Greeley.	Wallace.
Kearny.	

(h) *Maine.*

ENTIRE COUNTY

Aroostook.

(i) *Michigan.*

ENTIRE COUNTIES

Arenac.	Lapeer.
Bay.	Monroe.
Clinton.	Saginaw.
Genesee.	St. Clair.
Gratiot.	Sanilac.
Huron.	Shiawassee.
Ingham.	Tuscola.
Isabella.	

INDIVIDUAL LOCAL PRODUCING AREAS

COUNTY AND AREAS

Midland: Geneva; Mills.

(j) *Minnesota.*

ENTIRE COUNTIES

Marshall.	Stevens.
Martin.	Swift.
Sibley.	Wilkin.

INDIVIDUAL LOCAL PRODUCING AREAS

COUNTIES AND AREAS

Big Stone: Artichoke.
Clay: Georgetown; Viding.
Faribault: Area 2.
Norman: Area 1; Area 2; Area 4.
Renville: Area 3; Area 5.
West Polk: Area 1; Area 3; Area 4; Area 5; Area 6; Area 10; Grand Forks.

(k) *Montana.*

ENTIRE COUNTIES

Blaine.	Lewis and Clark.
Broadwater.	Missoula.
Carbon.	Ravalli.
Lake.	Yellowstone.

INDIVIDUAL LOCAL PRODUCING AREAS

COUNTIES AND AREAS

Big Horn: Area 1.
Custer: Area 1; Area 3.
Rosebud: Area 2; Area 3.

(l) *Nebraska.*

ENTIRE COUNTIES

Box Butte.	Kearney.
Buffalo.	Keith.
Burt.	Morrill.
Chase.	Perkins.
Cheyenne.	Phelps.
Deuel.	Red Willow.
Dundy.	Sioux.
Garden.	

INDIVIDUAL LOCAL PRODUCING AREAS

COUNTIES AND AREAS

Dawson: Area 1.
Lincoln: T. 13 N., R. 3 W.
Scotts Bluff: Area 2; T. 22 N., R. 52 W.; T. 23 N., R. 57 W.; T. 23 N., R. 58 W.

(m) *Nevada.*

ENTIRE COUNTIES

Churchill. Pershing.

(n) *New Mexico.*

ENTIRE COUNTY

Curry.

(o) *New York.*

ENTIRE COUNTIES

Cayuga.	Ontario.
Genesee.	Orleans.
Herkimer.	Oswego.
Livingston.	Seneca.
Madison.	Tompkins.
Monroe.	Wayne.
Oneida.	Yates.
Onondaga.	

(p) *North Dakota.*

ENTIRE COUNTIES

McLean.	Walsh.

INDIVIDUAL LOCAL PRODUCING AREAS

COUNTIES AND AREAS

Cass: Area 2; Area 3.
Grand Forks: Area 2; Chester.

(q) *Ohio.*

ENTIRE COUNTIES

Allen.	Mercer.
Defiance.	Ottawa.
Erie.	Putnam.
Hancock.	Van Wert.
Hardin.	

INDIVIDUAL LOCAL PRODUCING AREAS

COUNTIES AND AREAS

Henry: Bartlow; Flatrock; Richfield; Pleasant; Marion.
Lucas: Jerusalem.
Sandusky: Area 3; Madison.
Wood: Area 3; Area 4; Perrysburg.

(r) *Oregon.*

ENTIRE COUNTIES

Malheur.	Umatilla.

(s) *Texas.*

ENTIRE COUNTIES

Castro.	Parmer.
Deaf Smith.	Swisher.
Hale.	

(t) *Utah.*

ENTIRE COUNTIES

Cache.	Sevier.
Carbon.	Utah.
Iron.	Weber.

(u) *Washington.*

ENTIRE COUNTIES

Adams.	Grant.
Benton.	Walla Walla.
Franklin.	Yakima.

(v) *Wyoming.*

ENTIRE COUNTIES

Converse.	Platte.
Goshen.	Sheridan.
Johnson.	Washakie.
Laramie.	

INDIVIDUAL LOCAL PRODUCING AREAS

COUNTIES AND AREAS

Big Horn: Area 2; Area 6.
Fremont: Area 1; Area 2.

STATEMENT OF BASES AND CONSIDERATIONS

One of the conditions of eligibility of a sugar-beet producer for an acreage abandonment or crop deficiency payment is that the farm of such producer is located in a county or local producing area for which the Agricultural Stabilization and Conservation county committee determines that certain uncontrollable natural conditions have caused a prescribed amount of damage to the sugar-beet crop.

The purpose of this supplement is to give notice that specific counties and local producing areas have qualified under the requirements with respect to the 1966 crop of sugar beets and that any sugar-beet producer operating a farm which is located in any one of these counties or local producing areas and which is otherwise qualified may apply for payment accordingly, if he has not already done so.

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153. Sec. 303, 61 Stat. 930; 7 U.S.C. 1133)

Effective date: Date of publication.

Signed at Washington, D.C., on December 18, 1967.

CHARLES L. FRAZIER,
Acting Deputy Administrator, State and County Operations.

[F.R. Doc. 67-14914; Filed, Dec. 21, 1967; 8:50 a.m.]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 946—IRISH POTATOES GROWN IN WASHINGTON

Expenses and Rate of Assessment

Notice of rule making regarding the proposed expenses and rate of assessment, to be made effective under Marketing Agreement No. 113 and Order No. 946 (7 CFR Part 946), regulating the handling of Irish potatoes grown in the State of Washington, was published in the FEDERAL REGISTER November 28, 1967 (32 F.R. 16220). This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.). The notice afforded interested persons an opportunity to file data, views, or arguments pertaining thereto not later than 15 days after its publication in the FEDERAL REGISTER. None was filed.

After consideration of all relevant matters, including the proposals set forth in the aforesaid notice which were recommended by the State of Washington Potato Committee, established pursuant to the said marketing agreement and order, it is hereby found and determined that:

§ 946.219 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal year ending May 31, 1968, by the State of Washington Potato Committee to perform its functions and for such other purposes as the Secretary determines to be appropriate, will amount to $28,884.45.

(b) The rate of assessment to be paid by each handler in accordance with Marketing Agreement No. 113 and this part shall be one-tenth of one cent ($0.001) per hundredweight, or equivalent quantity, of potatoes handled by him, as the first handler thereof, during said fiscal year.

(c) Terms used in this section shall have the same meaning as when used in the said marketing agreement and order.

It is hereby found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said marketing agreement and this part require that the rate of assessment fixed for a particular fiscal period shall be applicable to all assessable potatoes from the beginning of such period, and (2) the current fiscal year began June 1, 1967, and the rate of assessment herein fixed will automatically apply to all assessable potatoes beginning with such date.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: December 18, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-14859; Filed, Dec. 21, 1967; 8:46 a.m.]

[959.308]

PART 959—ONIONS GROWN IN SOUTH TEXAS

Limitation of Shipments

Notice of rule making with respect to a proposed limitation of shipments regulation to be made effective under Marketing Agreement No. 143 and Order No. 959 (7 CFR Part 959), both as amended, regulating the handling of onions grown in designated counties in south Texas, was published in the FEDERAL REGISTER, November 2, 1967 (32 F.R. 15177). This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

The notice afforded interested persons an opportunity to file data, views, or arguments pertaining thereto not later than 30 days after publication. None was filed.

After consideration of all relevant matters, including the proposal set forth in the aforesaid notice which was recommended by the South Texas Onion Committee, established pursuant to the said amended marketing agreement and order, it is hereby found that the limitation of shipments regulation, as hereinafter set forth, will tend to effectuate the declared policy of the act.

§ 959.308 Limitation of shipments.

During the period beginning March 1, 1968, through June 15, 1968, no handler may package or load onions on Sundays, or handle any lot of onions grown in the production area, except red onions, unless such onions meet the grade requirements of paragraph (a) of this section, one of the applicable size requirements of paragraph (b) of this section, the container requirements of paragraph (c) of this section, and the inspection requirements of paragraph (f) of this section, or unless such onions are handled in accordance with the provisions of paragraph (d) or (e) of this section.

(a) *Minimum grade.* Not to exceed 20 percent defects of U.S. No. 1 grade. In percentage grade lots, tolerances for serious damage shall not exceed 10 percent including not more than 2 percent decay. Double the lot tolerance shall be permitted in individual packages in percentage grade lots. Application of tolerances in U.S. Grade Standards shall apply to in-grade lots.

(b) *Size requirements.* (1) "Small"—1 to 2¼ inches in diameter, and limited to whites only;

(2) "Repacker"—1¾ to 3 inches in diameter, with 60 percent or more 2 inches in diameter or larger;

(3) 2 to 3½ inches in diameter; or

(4) "Jumbo"—3 inches or larger in diameter.

(c) *Container requirements.* (1) 25-pound bags, with not to exceed in any lot an average net weight of 27½ pounds per bag, and with outside dimensions not larger than 29 inches by 31 inches; or

(2) 50-pound bags, with not to exceed in any lot an average net weight of 55 pounds per bag, and with outside dimensions not larger than 33 inches by 38½ inches.

(3) These container requirements shall not be applicable to onions sold to Federal agencies.

(d) *Minimum quantity exemption.* Any handler may handle, only as individual shipments and other than for resale, not more than 100 pounds of onions per day, in the aggregate, without regard to the requirements of this section or to the inspection and assessment requirements of this part.

(e) *Special purpose shipments and culls*—(1) *Experimental shipments.* Onions may be handled for experimental purposes as follows:

(i) Each handler desiring to make such shipments shall first apply to the committee for and obtain a Certificate of Privilege to make such shipments.

(ii) After obtaining an approved Certificate of Privilege, each handler may handle onions packed in 3- or 5-pound consumer size containers, or 50-pound cartons, if they meet the grade and size requirements of paragraphs (a) and (b) of this section and if they are handled in accordance with the reporting requirements established in subparagraph (2) of this paragraph on such shipments: *Provided*, That shipments of 3- and 5-pound containers shall not exceed 10 percent of a handler's total weekly onion shipments, and provided further that shipments of 50-pound cartons shall not exceed 10 percent of a handler's total weekly onion shipments of all onions allowed to be marketed under this section.

(iii) The average gross weight of master containers per lot, as computed by multiplying the number of packages therein by their weight classification, plus the weight of the master container, may not exceed 15 percent over the designated net contents.

(iv) The average net weight per lot of 50-pound cartons shall not exceed 55 pounds.

(2) *Reporting requirements for experimental shipments.* Each handler who handles such experimental shipments of onions shall report thereon to the committee on forms and at such times as the committee prescribes, as follows:

(i) The number of the inspection certificate showing the grade and size of onions so packed and the size container in which such onions were handled.

(ii) Prices received for each such shipment on a f.o.b. basis and prices paid to growers of such onions.

(iii) Any adjustments from the original sales price agreement for such onions on each shipment, with reasons therefor, and the final net prices paid to the grower of such onions.

(iv) Such other incidental and related information necessary to provide the foregoing data on prices received by growers, as requested by the committee.

(v) The time and location at which such shipment may be reinspected at destination.

Such reports, in accordance with § 959.80, shall be furnished to the committee in such manner or form and in such time as it may prescribe. Also, each handler of experimental shipments of onions shall maintain records of such marketings, pursuant to § 959.80(c). Such records shall be subject to review and audit by the committee to verify reports thereon.

(3) *Onions failing to meet requirements.* Onions failing to meet the grade, size, and container requirements of this section, and are not exempted under paragraph (d) of this section, may be handled only pursuant to § 959.126. Culls may be handled pursuant to § 959.126 (a) (1). Shipments for relief or charity may be handled without regard to inspection and assessment requirements.

(f) *Inspection.* (1) No handler may handle any onions regulated hereunder (except pursuant to paragraph (d) or (e) (3) of this section) unless an appropriate inspection certificate has been issued with respect thereto and the certificate is valid at the time of shipment.

(2) No handler may transport or cause the transportation of any shipment of onions by motor vehicle for which an inspection certificate is required unless each such shipment is accompanied by a copy of the inspection certificate applicable thereto or by documentary evidence on forms furnished by the committee identifying truck lots to which a valid inspection certificate is applicable and a copy of such inspection certificate or committee document, upon request, is surrendered to authorities designated by the committee.

(3) For purpose of operation under this part each inspection certificate or committee form required as evidence of inspection is hereby determined to be valid for a period not to exceed 72 hours following completion of inspection as shown on the certificate.

(g) *Definitions.* The term "U.S. No. 1" shall have the same meaning as set forth in the U.S. Standards for Bermuda-Granex-Grano Type Onions (§§ 51.3195-51.3209 of this title), or in the U.S. Standards for Grades of Onions (§§ 51.2830-51.2854 of this title), whichever is applicable to the particular variety.

All terms used in this section shall have the same meaning as when used in Marketing Agreement No. 143, as amended, and this part.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: December 18, 1967 to become effective March 1, 1968.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-14860; Filed, Dec. 21, 1967; 8:47 a.m.]

Title 12—BANKS AND BANKING

Chapter VI—Farm Credit Administration

SUBCHAPTER B—FEDERAL FARM LOAN SYSTEM

PART 610—FEDERAL LAND BANKS GENERALLY

SUBCHAPTER F—BANKS FOR COOPERATIVES

PART 670—BANKS FOR COOPERATIVES GENERALLY

Miscellaneous Amendments

In Chapter VI of Title 12 of the Code of Federal Regulations, Part 610 is amended by revising §§ 610.41 and 610.42 (31 F.R. 16238), and Part 670 is amended by revising §§ 670.90 and 670.92 (31 F.R. 16258), to read as follows:

§ 610.41 Interest rates on loans and overdue items.

(a) *Loan or charge rate.* On loans made through associations, the rate of interest at which the loan is written, and any lesser rate of interest to be charged the borrower, shall be as determined by the board of directors of the bank with the approval of the Farm Credit Administration.

(b) *Overdue items.* The rate of interest specified in the mortgage or note for loan payments that are in default and in the mortgage for payments made by the bank for taxes, liens, judgments, or assessments against the mortgaged property not paid when due or for insurance premiums covered by the mortgage, shall be as determined by the board of directors of the bank but may not exceed 8 per centum per annum.

§ 610.42 Special interest rates.

Approval is given to an interest rate one-half of 1 percent per annum in excess of the interest rate otherwise authorized for bank loans through associations secured by first mortgages on the following farm property in the continental United States:

(a) Land that is employed primarily in the production of naval stores as defined by section 2 of the Naval Stores Act (sec. 2, 42 Stat. 1435; 7 U.S.C. 92);

(b) Land used for the raising of livestock, in estimating the earning power and in establishing the value of which leases or permits for the use of other lands were taken into consideration and were a factor in determining the amount of the loan; and

(c) Land, a substantial part of the earnings from which is derived from orchard crops.

(Sec. 6, 47 Stat. 14, as amended, sec. 12 Third, Ninth, 39 Stat. 370, as amended; 12 U.S.C. 665, 771 Third and Ninth, as amended)

§ 670.90 General authority to determine rates of interest.

Loans to cooperative associations made by any bank for cooperatives shall bear such rates of interest as the board of directors of the bank shall from time to time determine with the approval of the Farm Credit Administration.

§ 670.92 Interest escalator or adjustment clauses.

Any policy providing for adjustment of the interest rate on outstanding loan balances of cooperative associations borrowing from a bank for cooperatives has the approval of the Farm Credit Administration so long as such policy:

(a) Has been approved by the bank's board of directors;

(b) Has been approved by the general counsel or attorney for the bank;

(c) Is made uniformly and consistently applicable to all loans of any kind (e.g., seasonal or term) which are covered by the policy;

(d) Is set forth as a provision of each loan agreement to which it applies;

Provided, however, That (1) all loan agreements covering term loans made with a final maturity date of more than 10 years shall include a clause providing for adjustment of interest no later than at the end of the 10th year and at subsequent 5-year intervals, and (2) each bank shall keep the Farm Credit Administration currently informed of any changes made in its policy relating to loan interest escalator or adjustment clauses.

(Sec. 6, 47 Stat. 14, as amended, secs. 34, 41, 48 Stat. 262, 264, as amended; 12 U.S.C. 665, 1134j and 1134c, as amended)

R. B. TOOTELL,
Governor,
Farm Credit Administration.

[F.R. Doc. 67-14868; Filed, Dec. 21, 1967; 8:47 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Brazoria National Wildlife Refuge, Tex.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

TEXAS

BRAZORIA NATIONAL WILDLIFE REFUGE

Sport fishing on the Brazoria National Wildlife Refuge, Tex., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 600 acres, are delineated on maps available at refuge headquarters, Angleton, Tex., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions.

(1) The open season for saltwater sport fishing on the refuge extends from February 1, 1968 through January 31, 1969, inclusive; except that Nick's Lake will be closed to fishing November 1, 1968 through January 31, 1969, inclusive.

(2) Freshwater fishing is not permitted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through January 31, 1969.

RUSSEL W. CLAPPER,
Refuge Manager, Brazoria National Wildlife Refuge, Angleton, Tex.

DECEMBER 20, 1967.

[F.R. Doc. 67-14844; Filed, Dec. 21, 1967; 8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

SUBCHAPTER E—AIRSPACE

[Airspace Docket No. 67-EA-68]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

On page 14665 of the FEDERAL REGISTER for October 21, 1967, the Federal Aviation Administration published proposed regulations which would alter the Patuxent River, Md., control zone.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0001 e.s.t., February 1, 1968.

(Sec. 307(a), Federal Aviation Act of 1958; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Jamaica, N.Y., on December 1, 1967.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations by deleting the description of the Patuxent River, Md., control zone and insert in lieu thereof the following:

PATUXENT RIVER, MD.

Within a 5-mile radius of the center, 38°-17'15" N., 76°24'30" W., of NAS Patuxent River Airport, Patuxent River, Md.; within 2 miles each side of the Patuxent River VOR TAC 043° radial, extending from the 5-mile radius zone to 7 miles northeast of the VOR TAC; within 2 miles each side of the Patuxent River VORTAC 234° radial extending from the 5-mile radius zone to 7.5 miles southwest of the VORTAC; within 2 miles each side of the Patuxent River LF RBN 233° bearing extending from the 5-mile radius zone to 7 miles southwest of the RBN; within 2 miles each side of the Patuxent River VORTAC 139° radial, extending from the 5-mile radius zone to 12 miles southeast of the VORTAC; within 2 miles each side of the Patuxent River UHF RBN 139° bearing extending from the 5-mile radius zone to 12 miles southeast of the RBN; within a ½-mile radius of the center, 38°13'30" N., 76°26'30" W., of Park Hall, Md., Airport; and within a ½-mile radius of the center, 38°21'40" N., 76°24'15" W., of Chesapeake Ranch Airpark.

[F.R. Doc. 67-14847; Filed, Dec. 21, 1967; 8:45 a.m.]

[Airspace Docket No. 67-EA-66]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On page 14666 of the FEDERAL REGISTER for October 21, 1967, the Federal Aviation Administration published proposed regulations which would alter the 700-foot floor Cincinnati, Ohio, transition area.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0001 e.s.t., February 1, 1968.

(Sec. 307(a), Federal Aviation Act of 1958; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Jamaica, N.Y., on December 1, 1967.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete in the Cincinnati, Ohio, 700-foot floor transition area the phrase "14 miles north of the Runway 18 OM" and substitute therefor, "14 miles north of the Runway 18 OM; within 2 miles each side of a line bearing 270° from the Burlington, Ky. RBN extending from the 11.5-mile radius area to 8 miles west of the RBN and within 2 miles each side of the Cincinnati VORTAC 290° radial extending from the 11.5-mile radius area to 21 miles west of the VORTAC."

[F.R. Doc. 67-14848; Filed, Dec. 21, 1967; 8:45 a.m.]

[Airspace Docket No. 67-EA-72]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

On page 14666 of the FEDERAL REGISTER for October 21, 1967, the Federal Aviation Administration published proposed regulations which would alter the Harrisburg, Pa., control zone and 700-foot floor transition area.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0001 e.s.t., February 1, 1968.

(Sec. 307(a), Federal Aviation Act of 1958; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Jamaica, N.Y., on December 1, 1967.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

Amend § 71.181 of Part 71 of the Federal Aviation Regulations by deleting the description of the Harrisburg, Pa., 700-foot floor transition area and insert in lieu thereof the following:

HARRISBURG, PA.

That airspace extending upward from 700 feet above the surface within a 12-mile radius of a point 40°13'24" N., 76°52'39" W.; within 5 miles south and 8 miles north of the Harrisburg-York State Airport ILS localizer west course extending from the 12-mile radius area to 12 miles west of the OM; within 5 miles north and 8 miles south of the Harrisburg VOR 280° radial extending from the 12-mile radius area to 12 miles west of the VOR; within a 9-mile radius of the center, 40°11'35" N., 76°45'47" W. of Olmsted State Airport, Middletown, Pa.; within 5 miles north and 8 miles south of the Olmsted State Airport ILS localizer northwest course extending from the 12-mile radius area to 12 miles northwest of the OM; and within 2 miles each side of the centerline of Olmsted State Airport Runway 13 extended from the 9-mile radius area to 9 miles southeast of the end of the runway.

[F.R. Doc. 67-14849; Filed, Dec. 21, 1967; 8:45 a.m.]

[Airspace Docket No. 67-EA-67]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On page 14667 of the FEDERAL REGISTER for October 21, 1967, the Federal Aviation Administration published proposed regulations which would designate a 700-foot floor transition area over Wooster Municipal Airport, Wooster, Ohio.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0001 e.s.t., February 1, 1968.

(Sec. 307(a), Federal Aviation Act of 1958; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Jamaica, N.Y., on December 1, 1967.

WAYNE HENDERSHOT,
Acting Director, Eastern Region

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by designating a 700-foot floor Wooster, Ohio, transition area described as follows:

WOOSTER, OHIO

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 40°50'00" N., 81°54'36" W., of Wooster Municipal Airport, Wooster, Ohio; within 2 miles each side of the Wooster, Ohio, RBN (40°48'50" N., 81°54'30" W.), 178° bearing extending from the 5-mile radius area to 8 miles south of the RBN and within 2 miles each side of the centerline of Runway 16 extended from the 5-mile radius area to 6 miles south of the end of the runway.

[F.R. Doc. 67-14850; Filed, Dec. 21, 1967; 8:46 a.m.]

[Airspace Docket No. 67-EA-69]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On page 14667 of the FEDERAL REGISTER for October 21, 1967, the Federal Aviation Administration published proposed regulations which would designate a 700-foot floor transition area over Youngstown Executive Airport, Youngstown, Ohio.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0001 e.s.t., February 1, 1968.

(Sec. 307(a), Federal Aviation Act of 1958; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Jamaica, N.Y., on December 1, 1967.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a 700-foot floor Youngstown, Ohio (Youngstown Executive Airport), described as follows:

YOUNGSTOWN, OHIO (YOUNGSTOWN EXECUTIVE AIRPORT)

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 41°03'34" N., 80°40'48" W., of Youngstown Executive Airport, Youngstown, Ohio; within 2 miles each side of the centerline of Runway 29 extended from the 5-mile radius area to 5 miles west of the end of the runway; within 2 miles each side of the centerline of Runway 11 extended from the 5-mile radius area to 6 miles east of the end of the runway and within 2 miles each side of the 208° radial of the Youngstown, Ohio, VOR extending from the 5-mile radius area to 11 miles southwest of the VOR.

[F.R. Doc. 67-14851; Filed, Dec. 21, 1967; 8:46 a.m.]

[Airspace Docket No. 67-EA-73]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On page 14668 of the FEDERAL REGISTER for October 21, 1967, the Federal Aviation Administration published proposed regulations which would designate a 700-foot floor transition area over Gloucester Airport, Gloucester, Va.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0001 e.s.t., February 1, 1968.

(Sec. 307(a), Federal Aviation Act of 1958; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Jamaica, N.Y., on December 1, 1967.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a 700-foot floor transition area described as follows:

GLOUCESTER, VA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 37°23'45" N., 76°31'50" W. of the Gloucester Airport, Gloucester, Va.; and within 2 miles each side of the 110° radial of the Harcum, Va., VOR, extending from the 5-mile radius area to the VOR, excluding the portion within the West Point, Va., transition area.

[F.R. Doc. 67-14852; Filed, Dec. 21, 1967; 8:46 a.m.]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 8992; Amdt. 978]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

The amendments to the standard instrument approach procedures contained herein are adopted to become effective when indicated in order to promote safety. The amended procedures supersede the existing procedures of the same classification now in effect for the airports specified therein. For the convenience of the users, the complete procedure is republished in this amendment indicating the changes to the existing procedures.

As a situation exists which demands immediate action in the interests of safety in air commerce, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In view of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 97 (14 CFR Part 97) is amended as follows:

1. By amending the following low or medium frequency range procedures prescribed in § 97.11(a) to read:

LFR STANDARD INSTRUMENT APPROACH PROCEDURES

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
				T-dn	300-1	300-1	300-1
				C-dn*	600-1	600-1	600-1½
				A-dn*	1200-2	1200-2	1200-2

Procedure turn N side NW crs, 289° Outbnd, 109° Inbnd, 3000' within 20 miles.
Minimum altitude over facility on final approach crs, 2140'.
Crs and distance, facility to airport, 089°—1.3 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile of FWL LFR, turn left, climbing to 4000' on NW crs (285°) within 20 miles.
NOTE: This procedure not approved for ADF approach.
CAUTION: (1) Maneuvering SE of airport not authorized due to hill 2889', 1.7 miles SE of airport. (2) Mountain range NE through SE of airport. (3) After takeoff proceed immediately to Farewell LFR. Left turn after takeoff on Runway 8.
*When control zone not effective, use McGrath altimeter setting; ceiling minimums for circling approach becomes 800'. Alternate minimums not authorized.
MSA within 25 miles of facility: NE 7000'; SE 8000'; SW 8000'; NW 2500'.

City, Farewell; State, Alaska; Airport name, Farewell; Elev., 1250'; Fac. Class., BMRLZ; Ident., FWL; Procedure No. LFR Runway 8, Amdt. 8; Eff. date, 13 Jan. 68; Sup. Amdt. No. LFR 1, Amdt. 7; Dated, 3 Oct. 65

2. By amending the following automatic direction finding procedures prescribed in § 97.11(b) to read:

ADF STANDARD INSTRUMENT APPROACH PROCEDURES

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	

PROCEDURE CANCELED, EFFECTIVE 13 JAN. 1968.

Canton Island; Phoenix Islands; Airport name, Canton Island; Elev., 9'; Fac. Class., HHW; Ident., CIS; Procedure No. 1, Amdt. 7; Eff. date, 8 Nov. 62; Sup. Amdt. No. 6; Dated, 6 Apr. 67

Reno Inf	DA LOM	Direct	1700	T-dn	300-1	300-1	300-1½
Nottingham VORTAC	DA LOM	Direct	1700	C-dn	600-1	600-1	600-1½
Ironsides Int	DA LOM	Direct	1700	S-dn-32	600-1	600-1	600-1
Herndon VORTAC	DA LOM	Direct	1800	A-dn	NA	NA	NA

Radar available.
Procedure turn not authorized. Davison LOM (DA) holding fix 322° Inbnd, 142° Outbnd, 1-minute left turns, 1800'.
Minimum altitude over facility on final approach crs, 1600'.
Crs and distance, facility to airport, 322°—4.3 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.3 miles after passing DA LOM, climb to 2000', proceed direct to Springfield RBn. Hold NW, 151° Inbnd, 1-minute right turns.
NOTE: Authorized for military use only, except by prior arrangement.
MSA within 25 miles of facility: 090°–225°—2100'; 225°–180°—1600'; 180°–270°—1700'; 270°–360°—2100'.

City, Fort Belvoir; State, Va.; Airport name, Davison AAF; Elev., 69'; Fac. Class., LOM; Ident., DA; Procedure No. NDB(ADF) Runway 32, Amdt. Orig.; Eff. date, 13 Jan. 68

ADF STANDARD INSTRUMENT APPROACH PROCEDURES—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Donnellson Int	Greenville NDB	Direct	2200	T-dn	300-1	300-1	NA
Beaver Int	Greenville NDB	Direct	2200	C-dn	300-1	300-1	NA
				S-dn-18	300-1	300-1	NA
				A-dn	NA	NA	NA

Procedure turn W side of crs, 344° Outbnd, 164° Inbnd, 2200' within 10 miles.
Minimum altitude over facility on final approach crs, 1040'.
Facility on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile after passing Greenville NDB, make right turn, climbing to 2300' on 344° bearing from Greenville NDB within 10 miles, make right turn and return to Greenville NDB.
NOTE: Use Vandalia, Ill., altimeter setting.
MSA within 25 miles of facility: 000°–360°—2000'.

City, Greenville; State, Ill.; Airport name, Greenville; Elev., 540'; Fac. Class., MHW; Ident., GRE; Procedure No. NDB(ADF) Runway 18, Amdt. Orig.; Eff. date, 13 Jan. 68

MOL VOR	HSP RBn	Direct	6000	T-dn %	300-1	300-1	300-1½
Natural Well Int	HSP RBn	Direct	6000	C-dn*	800-2	800-2	800-2
ROA VOR	HSP RBn	Direct	6000	S-dn-24	800-1	800-1½	800-1½
MOL VOR	Goshen Int	Via MOL R 209°	6000	A-dn	NA	NA	NA
Goshen Int	HSP RBn (final)	Direct	4601				

Procedure turn N side of crs, 060° Outbnd, 240° Inbnd, 5300' within 10 miles.
Minimum altitude over facility on final approach crs, 4601'.
Facility on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile of HSP RBn, make immediate right-climbing turn to 6000' to Natural Well Int via MOL VOR R 279°. Hold N, 1-minute left turns, 183° Inbnd.
NOTE: Use Roanoke altimeter.
CAUTION: Terrain 4289', 1.6 miles SSW airport boundary.
*All circling approaches are prohibited in the area S of Runway 6 and SW of Runway 32.
%Runway 24—Climb on heading 279° to 5000' before proceeding on crs.
MSA within 25 miles of facility: 090°–120°—5500'; 120°–210°—5300'; 210°–300°—5600'; 300°–090°—5900'.

City, Hot Springs; State, Va.; Airport name, Ingalls Field; Elev., 2201'; Fac. Class., MHW; Ident., HSP; Procedure No. NDB(ADF) Runway 24, Amdt. 2; Eff. date, 13 Jan. 68; Sup. Amdt. No. 1; Dated, 2 Dec. 67

HSV VOR	CWH RBn	Direct	2600	T-dn	300-1	300-1	300-1½
Owens Int	CWH RBn	Direct	3000	C-dn	600-1	600-1	600-1½
Bluff Int	CWH RBn	Direct	2600	S-dn-18R*	600-1	600-1	600-1
DCU VOR	CWH RBn	Direct	2600	A-dn	800-2	800-2	800-2
Tanner Int	CWH RBn	Direct	2600	OM minimums:			
Bethel Int	CWH RBn	Direct	2600	C-dn	800-1	800-1	800-1½
				S-dn-18R#	800-1	800-1	800-1

Procedure turn W side of crs, 338° Outbnd, 179° Inbnd, 2600' within 10 miles of Capshaw RBn.
Minimum altitude over Capshaw RBn on final approach crs, 2600'.
Crs and distance, Capshaw RBn to airport, 179°—7.3 miles; OM to airport, 179°—4.3 miles; MM to airport, 179°—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 7.3 miles after passing CWH RBn, climb to 2600' on crs, 179° from CWH RBn within 15 miles or, when directed by ATC, turn right, climb to 2600', return to CWH RBn, enter holding pattern.
*Reduction not authorized.
#Reduction below ¾ mile not authorized.
MSA within 25 miles of facility: 000°–090°—3100'; 090°–180°—3100'; 180°–270°—2600'; 270°–360°—2000'.

City, Huntsville; State, Ala.; Airport name, Huntsville-Madison County; Elev., 628'; Fac. Class., MHW; Ident., CWH; Procedure No. NDB(ADF) Runway 18R, Amdt. 1; Eff. date, 13 Jan. 68; Sup. Amdt. No. Orig.; Dated, 11 Nov. 67

Oakwood Int	RAC NDB	Direct	2100	T-dn%	300-1	300-1	300-1½
MK LOM	RAC NDB	Direct	2100	C-dn	600-1	600-1	600-1½
Pike Int	RAC NDB	Direct	2100	S-dn-22	600-1	600-1	600-1
Racine Int	RAC NDB	Direct	2100	A-dn	NA	NA	NA
				Minimums with final ADF receivers or radar:			
				S-dn-22	500-1	500-1	500-1

Radar available.
Procedure turn N side of crs, 026° Outbnd, 206° Inbnd, 2100' within 10 miles.
Minimum altitude over Marion Int on final approach crs, 1300'.
Facility on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile of NDB, make left-climbing turn to 2100' on 026° bearing from NDB within 10 miles, return to NDB.
NOTE: Use Milwaukee, Wis., altimeter setting.
%For southbound traffic/aircraft departing Runways 22 and 14, climb to 1600' on runway heading before proceeding on crs. Restriction due 1079' tower, 2.6 miles S of airport.
MSA within 25 miles of facility: 000°–270°—2200'; 270°–360°—2800'.

City, Racine; State, Wis.; Airport name, Horlick-Racine; Elev., 699'; Fac. Class., MH; Ident., RAC; Procedure No. NDB (ADF) Runway 22, Amdt. 4; Eff. date, 13 Jan. 68; Sup. Amdt. No. ADF No. 3, Amdt. 3; Dated, 28 Apr. 66

3. By amending the following very high frequency omnirange (VOR) procedures prescribed in § 97.11(c) to read:

VOR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots
7-mile DME Fix, R 192° R 282°, AHN VORTAC counterclockwise	4-mile DME Fix, R 192° (final) R 192°, AHN VORTAC	Direct 7-mile Arc AHN, R 206°, lead radial.	1207 2300	T–dn C–dn S–dn–2° A–dn	300–1 500–1 500–2 500–2	300–1 500–1 500–1 500–2	300–1½ 500–1½ 500–1 500–2
R 106°, AHN VORTAC clockwise	R 192°, AHN VORTAC	7-mile Arc AHN, R 178°, lead radial.	2300	When 4-mile DME Fix received, minimums become: S–dn–2	400–1	400–1	400–1

Procedure turn E side of crs, 192° Outbnd, 012° Inbnd, 2300' within 10 miles.
Minimum altitude over 4-mile DME Fix on final approach crs, 1207'.
Facility on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6 mile of AHN VOR, climb to 2300' on R 061° within 15 miles.
CAUTION: Tower 1036', 4 miles W of facility.
*Reduction below ¾ mile not authorized.
MSA within 25 miles of facility: 000°–090°—2400'; 090°–180°—2400'; 180°–270°—3100'; 270°–360°—2600'.
City, Athens; State, Ga.; Airport name, Athens Municipal; Elev., 807'; Fac. Class., BVORTAC; Ident., AHN; Procedure No. VOR Runway 2, Amdt. 3; Eff. date, 13 Jan. 68; Sup. Amdt. No. TerVOR–2, Amdt. 2; Dated, 15 Aug. 64

7-mile DME Fix, R 076° R 061°, AHN VORTAC clockwise	4-mile DME Fix, R 076° (final) R 076°, AHN VORTAC	Direct 7-mile Arc AHN, R 062°, lead radial.	1207 2300	T–dn C–dn S–dn–27° A–dn When 4-mile DME Fix received, minimums become: S–dn–27	300–1 500–1 500–2 500–2 400–1	300–1 500–1 500–1 500–2 400–1	300–1½ 500–1½ 500–1 500–2 400–1

Procedure turn N side of crs, 076° Outbnd, 256° Inbnd, 2300' within 10 miles.
Minimum altitude over 4-mile DME Fix on final approach crs, 1207'.
Facility on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6 mile of AHN VOR, climb to 2300' on R 122° within 15 miles.
CAUTION: Tower 1036', 4 miles W of facility.
*Reduction below ¾ mile not authorized.
MSA within 25 miles of facility: 000°–090°—2400'; 090°–180°—2400'; 180°–270°—3100'; 270°–360°—2600'.
City, Athens; State, Ga.; Airport name, Athens Municipal; Elev., 807'; Fac. Class., BVORTAC; Ident., AHN; Procedure No. VOR Runway 27, Amdt. 3; Eff. date, 13 Jan. 68; Sup. Amdt. No. TerVOR–27, Amdt. 2; Dated, 15 Aug. 64

PROCEDURE CANCELED, EFFECTIVE 13 JAN. 1968.
City, Fort Benning; State, Ga.; Airport name, Lawson AAF; Elev., 222'; Fac. Class., VOR; Ident., LSF; Procedure No. TerVOR–3, Amdt. 4; Eff. date, 14 Aug. 66; Sup. Amdt. No. 3; Dated, 13 Mar. 65

PROCEDURE CANCELED, EFFECTIVE 13 JAN. 1968.
City, Fort Benning; State, Ga.; Airport name, Lawson AAF; Elev., 222'; Fac. Class., VOR; Ident., LSF; Procedure No. TerVOR–14, Amdt. 4; Eff. date, 16 July 66; Sup. Amdt. No. 3; Dated, 14 Aug. 66

PROCEDURE CANCELED, EFFECTIVE 13 JAN. 1968.
City, Fort Benning; State, Ga.; Airport name, Lawson AAF; Elev., 222'; Fac. Class., VOR; Ident., LSF; Procedure No. TerVOR–20, Amdt. 3; Eff. date, 14 Aug. 65; Sup. Amdt. No. 2; Dated, 8 Feb. 64

PROCEDURE CANCELED, EFFECTIVE 13 JAN. 1968.
City, Fort Benning; State, Ga.; Airport name, Lawson AAF; Elev., 222'; Fac. Class., T–VOR; Ident, LSF; Procedure No. VOR Runway 32, Amdt. Orig.; Eff. date, 13 May 67

HOU VORTAC HOU VORTAC	Hyde Int 17-miles DME Fix, R 078°	Direct 17 miles Direct 17 miles	1600 1600	T–dn C–dn A–dn	300–1 300–1 NA	300–1 300–1 NA	300–1½ 300–1½ NA

Radar available.
Procedure turn N side of crs, 078° Outbnd, 258° Inbnd, 1600' within 10 miles.
Minimum altitude over Hyde Int or 17-mile DME Fix on final approach crs, 1000'.
Crs and distance, Hyde Int or 17-mile DME Fix to airport, 258°—8.9 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished upon reaching 11.1-mile DME Fix of HOU VORTAC or within 8.9 miles after passing Hyde Int, turn right, intercept HOU VORTAC R 060° and proceed to Fry Int, climbing to 1600'.
NOTES: (1) Dual VOR equipment or DME required. (2) Use Houston, Tex., altimeter setting.
CAUTION: Monument 610', 5 miles N of airport. Stack 220', 2.3 miles NE of airport.
MSA within 25 miles of facility: 000°–090°—1400'; 090°–180°—2300'; 180°–270°—2600'; 270°–360°—1900'.
City, La Porte; State, Tex.; Airport name, La Porte Municipal; Elev., 29'; Fac. Class., H–BVORTAC; Ident., HOU; Procedure No. VOR–1, Amdt. 1; Eff. date, 13 Jan. 68; Sup. Amdt. No. Orig.; Dated, 8 Apr. 67

VOR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots
Crisfield Int SBY VORTAC SWL VORTAC	SWL VORTAC Shoreline Int Shoreline Int	Direct Direct Direct	2000 1800 1800	T–dn C–dn A–dn	300–1 600–1 NA	300–1 600–1 NA	NA

Shuttle. Shoreline Int holding fix, 0.55 Inbnd, 238° Outbnd, 1800'.
Minimum altitude over Shoreline Int on final approach crs, 1800'.
Crs and distance, Shoreline Int to airport, 055°—6 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6 miles of shoreline Int, make right-climbing turn to 1800' and return to Shoreline Int. Hold SW on SWL R 055°, 055° Inbnd, 1-minute right turns.
NOTES: (1) 100' antennas 1 mile N of airport. (2) Use Salisbury FSS altimeter setting. (3) Runway lights on dusk-dawn summer season, on request during winter.
MSA within 25 miles of facility: 000°–360°—1700'.
City, Ocean City; State, Md.; Airport name, Ocean City; Elev., 12'; Fac. Class., L–BVORTAC; Ident., SWL; Procedure No. VOR–1, Amdt. Orig.; Eff. date, 13 Jan. 68

White Bear Int FGT VOR	STP VOR STP VOR	Direct Direct	2500 2500	T–dn* C–dn S–dn–30 A–dn Minimums with dual VOR receivers or radar: S–dn–30	300–1 900–1½ 900–1 900–2 700–1	300–1 900–1½ 900–1 900–2 700–1	300–1 900–1½ 900–1 900–2 700–1

Radar available.
Procedure turn E side of crs, 107° Outbnd, 287° Inbnd, 2500' within 10 miles.
Minimum altitude over facility on final approach crs, 2100'; over Lakeland Int., 1600'.
Crs and distance facility to airport 286°—4.6 miles. Final approach crs, 287°, distance FAF to MAP, 4.6 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.6 miles after passing STP VOR, make right-climbing turn to 2500' and return to the STP VOR.
Supplementary charting information: Final approach crs intercepts Runway CL 3000' from threshold.
NOTES: (1) Final approach from holding pattern at STP VOR not authorized, procedure turn required. (2) Use Minneapolis altimeter setting when control zone not effective. Alternate minimums not authorized when control zone not effective.
CAUTION: 1262' antenna on top of building 1 mile NW of airport. Runways 16/34 unlighted.
* Takeoff minimums of 600–1 required for all departures on Runways 26, 30, and 34. Departure on Runway 8 make right-climbing turn to STP VOR before proceeding on crs; Runway 12, climb direct to STP VOR before proceeding on crs; and Runway 16, make left-climbing turn to STP VOR before proceeding on crs.
MSA within 25 miles of facility: 000°–360°—2600'.
City, St. Paul; State, Minn.; Airport name, St. Paul-Downtown (Holman Field); Elev., 709'; Fac. Class., T–VOR; Ident., STP; Procedure No. VOR Runway 30, Amdt. 3; Eff. date, 13 Jan. 68; Sup. Amdt. No. VOR 1, Amdt. 2; Dated, 29 Apr. 65

				T–dn* C–dn C–n* S–d–8/26 S–n–26 A–dn	700–1 1100–1½ 1200–2 900–1½ 1000–1½ NA	700–1 1100–2 1200–2 900–1½ 1000–1½ NA	700–1 1100–2 1200–2 900–2 1000–2 NA

Procedure turn N side of crs, 251° Outbnd, 071° Inbnd, 4000' within 11 miles.
Facility on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile after passing SLK VOR, climb on R 071° to 3000' within 5 miles. Then left-climbing turn to 4000' direct SLK VOR. Hold W of SLK VOR, 1-minute left turns, 071° Inbnd.
NOTES: (1) Approach from a holding pattern not authorized. Procedure turn required. (2) Commence procedure turn SW of Lake Clear FM. (3) *Night operations Runways 5/23 only. (4) *Reduction not authorized. (5) Use Massena altimeter setting.
IFR departure: Depart SLK VOR IFR at 2400' climbing on R 071° to 3000' within 5 miles, then left turn, climb in holding pattern. Shuttle to 4500' or above prior to departing on airways.
MSA within 25 miles of facility: 000°–090°—3900'; 090°–180°—3400'; 180°–270°—3700'; 270°–360°—4400'.
City, Saranac Lake; State, N.Y.; Airport name, Adirondack; Elev., 1659'; Fac. Class., L–BVOR; Ident., SLK; Procedure No. VOR Runways 5/9, Amdt. 4; Eff. date, 13 Jan. 68; Sup. Amdt. No. VOR 1, Amdt. 3; Dated, 20 July 66

4. By amending the following instrument landing system procedures prescribed in § 97.17 to read:

ILS STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots
Marsh Int BPT VOR ILS LOM	Groves Int (final) Groves Int Groves Int	Direct Direct Direct	1000 1500 1500	T–dn C–dn S–dn–29° A–dn	200–1 400–1 400–1 800–2	200–1 500–1 400–1 800–2	200–½ 500–1½ 400–1 800–2

Procedure turn E side of SE crs ILS, 114° Outbnd, 294° Inbnd, 1500' within 10 miles of Groves Int.
No glide slope. Minimum altitude over Groves Int on final approach crs, 1000'.
Crs and distance, Groves Int to Runway 29, 294°—4.9 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.9 miles after passing Groves Int, climb to 1500' on NW crs BPT ILS within 20 miles or, when directed by ATC, turn left and climb to 1600' on R 247, BPT VOR within 20 miles.
*400–¾ authorized with operative HIRL, except for 4-engine turbojets.
City, Beaumont; State, Tex.; Airport name, Jefferson County; Elev., 16'; Fac. Class., ILS; Ident., I–BPT; Procedure No. LOC(BC) Runway 29, Amdt. 7; Eff. date, 3 Jan. 68; Sup. Amdt. No. ILS–29(BC), Amdt. 6; Dated, 29 Aug. 64

ILS STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition From—	Transition To—	Course and distance	Minimum altitude (feet)	Ceiling and visibility minimums: Condition	2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots
				T-dn*‡	300-1	300-1	200-½
				C-dn‡	600-1	600-1	600-1½
				S-dn-22L**	500-1	500-1	500-1
				A-dn	800-2	800-2	800-2

Radar required.
Procedure turn not authorized. Radar vectors to final approach crs at 5-mile Radar Fix required.
Minimum altitude over 5-mile Radar Fix, 215° Inbnd on final approach crs, 1500'.
Crs and distance, 5-mile Radar Fix to airport, 215°—5 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5 miles after passing Radar Fix, climb to 2000' direct BO LOM. Hold SW of BO LOM, 1-minute right turns, 035° Inbnd.
CAUTION: 370' stack, 1 mile SW; 804' building, 1.7 miles W; 840' building and antenna, 3.1 miles W; 1349' antennas, 10.5 miles W of airport.
*Departures from Runway 27, make left turn to heading 360° as soon as practicable after takeoff.
‡RVR 2400' authorized for Runways 4R and 33.
#No circling W of airport authorized from centerline extended Runway 4L to centerline extended Runway 15 when ceiling is less than 800'.
**Reduction not authorized.

City, Boston; State, Mass.; Airport name, Gen. Edward Lawrence Logan International; Elev., 19'; Fac. Class., ILS; Ident., I-BOS; Procedure No. LOC (BC) Runway 22L, Amdt. Orig.; Eff. date, 13 Jan. 68

Reno Int	DA LOM	Direct	1700	T-dn	300-1	300-1	200-½
Nottingham VORTAC	DA LOM	Direct	1700	C-dn	600-1	600-1	600-1½
Ironsides Int	DA LOM	Direct	1700	S-dn-32	300-1	300-1	300-1
Herndon VORTAC	DA LOM	Direct	1980	A-dn	NA	NA	NA
				With glide slope inoperative: S-dn-32	400-1	400-1	400-1

Radar available.
Procedure turn not authorized. Davison LOM (DA) holding fix, 321° Inbnd, 141° Outbnd, 1-minute left turns, 1800'.
Crs and distance, facilities to airport, 321°—4.3 miles.
Minimum altitude at glide slope intercept Inbnd, 1800'.
Altitude of glide slope and distance to approach end of runway at OM, 1512'—4.3 miles; at MM, 309'—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.3 miles after passing DA LOM, climb to 2000', proceed direct to Springfield RBn. Hold NW, 141° Inbnd, 1-minute right turns.
NOTE: Authorized for military use only, except by prior arrangement.
MSA within 25 miles of LOM: 000°–090°—2100'; 090°–180°—1600'; 180°–270°—1700'; 270°–360°—2100'.

City, Fort Belvoir; State, Va.; Airport name, Davison AAF; Elev., 60'; Fac. Class., ILS; Ident., I-DAA; Procedure No. ILS Runway 32, Amdt. Orig.; Eff. Date, 13 Jan. 68

HSV VOR	CWH RBn	Direct	2600	T-dn	300-1	300-1	200-½
Owens Int	CWH RBn	Direct	3000	C-dn	600-1	600-1	600-1½
Bluff Int	CWH RBn	Direct	2600	S-dn-18R*	200-½	200-½	200-½
DCU VOR	CWH RBn	Direct	2600	A-dn	600-2	600-2	600-2
Tanner Int	CWH RBn	Direct	2600				
Bethel Int	CWH RBn	Direct	2600				

Procedure turn W side of N crs, 338° Outbnd, 178° Inbnd, 2600' within 10 miles of Capshaw RBn.
Minimum altitude over Capshaw RBn on final approach crs, 2600'.
Crs and distance, Capshaw RBn to airport, 178°—7.3 miles.
Minimum altitude at glide slope interception Inbnd, 2600'.
Altitude of glide slope and distance to approach end of runway at OM, 1926'—4.3 miles; at MM, 947'—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 7.3 miles after passing CWH NDB, climb to 2600', proceed out S crs HSV ILS to Bluff Int, hold S, 1-minute left turns, 178° Outbnd, 358° Inbnd, or, when directed by ATC, turn right, climb to 2600', proceed direct to DCU VOR, enter holding pattern.
*300-⅞ required when glide slope not utilized. Reduction not authorized.
MSA within 25 miles of CWH RBn: 000°–090°—3100'; 090°–180°—3200'; 180°–270°—2800'; 270°–360°—2000'.

City, Huntsville; State, Ala.; Airport name, Huntsville-Madison County; Elev., 628'; Fac. Class., ILS; Ident., I-HSV; Procedure No. ILS Runway, 18R, Amdt. 1; Eff. date, 13 Jan. 68; Sup. Amdt. No. Orig.; Dated, 11 Nov. 67

HSV VOR	CWH RBn	Direct	2600	T-dn	300-1	300-1	200-½
CWH RBn	Bluff Int	Direct	2600	C-dn	600-1	600-1	600-1½
HSV VOR	Bluff Int	Direct	2600	S-dn-36L	400-1	400-1	400-1
Rountree Int	LOC BC	077°, 7.3	2600	A-dn	800-2	800-2	800-2
Fairview Int	LOC BC	Via MSL R 118°, 4.3	2600				

Procedure turn W side of crs, 178° Outbnd, 358° Inbnd, 2600' within 10 miles of Bluff Int.
Minimum altitude over Bluff Int on final approach crs, 2600'.
Crs and distance, Bluff Int to airport, 358°—5.4 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.4 miles after passing Bluff Int, climb to 2600', proceed out N crs HSV ILS to Capshaw RBn, hold N, 1-minute right turns, 358° Outbnd, 178° Inbnd, or, when directed by ATC, turn left, climb to 2600', proceed direct to DCU VOR, enter holding pattern.

City, Huntsville; State, Ala.; Airport name, Huntsville-Madison County; Elev., 628'; Fac. Class., ILS; Ident., I-HSV; Procedure No. LOC (BC) Runway 36L Amdt. 1; Eff. date, 13 Jan. 68; Sup. Amdt. No. Orig.; Dated, 11 Nov. 67

5. By amending the following radar procedures prescribed in § 97.19 to read:

RADAR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet, MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If a radar instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for en route operation in the particular area, or as set forth below. Positive identification must be established with the radar controller. From initial contact with radar to final authorized landing minimums, the instructions of the radar controller are mandatory except when (A) visual contact is established on final approach at or before descent to the authorized landing minimums, or (B) at pilot's discretion if it appears desirable to discontinue the approach, except when the radar controller may direct otherwise prior to final approach, a missed approach shall be executed as provided below when (A) communication on final approach is lost for more than 5 seconds during a precision approach, or for more than 30 seconds during a surveillance approach; (B) directed by radar controller; (C) visual contact is not established upon descent to authorized landing minimums; or (D) if landing is not accomplished.

Transition From—	Transition To—	Course and distance	Minimum altitude (feet)	Ceiling and visibility minimums: Condition	2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots
		Within:		Precision approach			
000°	360°	17–20 miles	3000	T-dn‡	300-1	300-1	200-½
000°	360°	7–17 miles	2200	C-dn	600-1	600-1	600-1½
000°	360°	0–7 miles	2000	S-d-3-14‡	300-⅞	300-⅞	300-⅞
				S-n-2-14‡	400-1	400-1	400-1
				S-d-20	400-⅞	400-⅞	400-⅞
				S-n-20	400-1½	400-1½	400-1½
				S-dn-32**	200-½	200-½	200-½
				A-dn	800-2	800-2	800-2
				Surveillance approach			
				S-dn-3-14-20*‡	600-1	600-1	600-1
				A-dn	800-2	800-2	800-2

All bearings and distances are from Radar antenna site with sector azimuths progressing clockwise, Radar control must provide 3 miles or 1000' vertical separation from following tower: 2240', 10.8 miles E.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished: Runway 2—Turn left, climb to 3000' on 202° crs from AWS RBn within 15 miles. Runway 20—Climb to 2000' on 202° crs from AWS RBn within 15 miles. Runway 14—Immediate right turn, climb to 2000' on 262° crs from AWS RBn within 15 miles. Runway 32—Turn left climb to 2000' on 202° crs from AWS RBn within 15 miles.
NOTE: Authorized for military use only except by prior arrangement.
CAUTION: Jump towers 850', 1½ miles NE, E–2002 E and SE of Lawson AAF.
*Reduction not authorized.
**RVR 2400' authorized. Descent below 422' not authorized unless approach lights are visible.
‡RVR Runway 14, 4000' day, 5000' night authorized. Absolute ceiling 300' day, 400' night.
#RVR 5000' Runways 14/32 2-engine or less. RVR 2400' more than 2-engine authorized.
%RVR 5000' authorized Runway 14. Absolute ceiling 600'.

City, Fort Benning; State, Ga.; Airport name, Lawson AAF; Elev., 232'; Fac. Class. and Ident., Lawson AAF Radar; Procedure No. Radar-1, Amdt. 4; Eff. date, 13 Jan. 68; Sup. Amdt. No. 1, Amdt. 3; Dated, 15 Apr. 67

These procedures shall become effective on the dates specified therein.

(Secs. 307(c), 313(a), 601, Federal Aviation Act of 1958; 49 U.S.C. 1348(c), 1354(a), 1421; 72 Stat. 749, 752, 775)

Issued in Washington, D.C., on December 6, 1967.

EDWARD C. HODSON,
Acting Director, Flight Standards Service.

[F.R. Doc. 67-14562; Filed, Dec. 21, 1967; 8:45 a.m.]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. No. ER-522]

PART 243—REPORT OF CHARTER SERVICES PERFORMED FOR THE MILITARY AIRLIFT COMMAND

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of November 1967.

In EDR-92, dated September 8, 1965, and published at 30 F.R. 11729, the Board gave notice that it proposed to promulgate new Part 243 of the Economic Regulations and related CAB Form 243 to provide for the separate reporting of charter services performed under contracts with the Military Airlift Command (MAC), and a summary of revenues and traffic derived from other specified Department of Defense sources. The proposed regulation was designed to keep the Board currently informed of trends in costs and rates of return for MAC charter operations and to serve as the basis for a review of minimum rates for MAC charters when such a review was indicated. Most of the scheduled air carriers were strongly opposed to the proposal, alleging that it was excessively burdensome and inadequate for ratemaking purposes and should be withdrawn. MAC also indicated, in amended comments, that Part 243 would not provide sufficient data on which to base its recommendations in a ratemaking proceeding.

In EDR-92B, dated March 29, 1967, and published at 32 F.R. 5562, the Board issued a revised proposal which would require only the minimum amount of data necessary for analysis of current results of services under fiscal-year contracts with MAC. The proposed rule would be applicable only to MAC contractors rather than all certificated air carriers.

The Department of Defense conditionally supported adoption of Part 243, provided commercial backhauls to one-way charters were reported and Form 243[1] reports were not to be considered a substitute for special data requests for periodic rate review. MAC urged that mileages, utilization, expenses, and revenues for commercial backhaul charters be added to the respective schedules.

However, despite the simplification of the reporting requirements, the revised proposal met with opposition from the industry. Nine carriers participating in joint comments filed by the Air Transport Association objected in general to any formal reporting requirement, and in particular to the allocation of expenses and invested capital to MAC operations. These carriers proposed to furnish MAC statistics and revenues to the Board on an informal memorandum basis, and suggested that the Board develop operating ratios from these reports and Form 41 reports to determine the trends in costs and rates of return. Individual carriers objected to "distortion" of data resulting from quarterly rather than annual allocations of Form 41 results to MAC operations, although one carrier proposed that invested capital be reported on a quarterly rather than a semiannual basis to avoid distortion in the investment base. All the carriers and MAC requested that the Board prescribe a uniform basis for reporting charter miles flown. The carriers further suggested that MAC pay miles be separately

[1] Form 243 filed as part of the original document.

reported to end the confusion over miles used for costing and miles used for payment. Numerous modifications as to reporting expense and investment items were also proposed.

Several carriers requested informal conferences with the staff to explore other methods of reporting MAC data and to resolve the carriers' objections to various items before any final action was taken by the Board. A public meeting was held June 23, 1967, followed by meetings of technical working groups to consider the treatment of specific items of expense, investment, and statistics. The carriers' attention was primarily focused on the requirement that all expense and invested capital items be allocated to MAC operations. The carriers contended that "direct" operating expenses (aircraft operating expense and passenger service expense) constituted about 75 to 80 percent of total operating expenses and that "indirect" operating expenses tended to vary directly with the direct expenses. The flight equipment investment, in like manner, was said to represent the major capital item, with ground equipment varying in a direct ratio. The carriers therefore proposed that direct operating expenses and flight equipment investment be allocated in the same detail now reported on Form 41, and that the indirect operating expenses and ground equipment investment be computed by each carrier from the ratio derived from allocated data submitted in the last MAC ratemaking proceeding. An analysis was submitted of each carrier's cost data submitted in the fiscal 1968 rate review, using the results of two subsequent quarters for the four largest-volume carriers as a check, in support of the argument that computing, instead of allocating, the indirect expenses would not affect the reliability of the cost data.

After full consideration of all comments offered by the industry and MAC, we have decided to adopt Part 243 and CAB Form 243 as a formal reporting requirement. The large amount of public monies involved, the significant percentage of total carrier operations these services represent, and the Board's role in fixing minimum rates all militate against voluntary, confidential reports. We believe the carriers' fears that Form 243 reports may be misinterpreted so as to appear inconsistent with Form 41 reports or special data submitted for periodic MAC rate reviews are greatly exaggerated. Several modifications have been made in the rule to guard against this possibility, however. In order to avoid duplication of military charter reports under Form 41, supplemental reports of nonscheduled services presently required of route carriers by section 21(k) of Part 241 will be waived upon a showing that such nonscheduled services consist mostly of military charters reflected in the Form 243 reports.

The regulation adopted herein is a compromise between the refined data requirements originally proposed by the Board and accounting short cuts devised by the carriers to give close approximations of expense and investment related to MAC services. In our view, the most important consideration is that the carriers make a beginning toward systematic separation of financial and statistical data for MAC services as part of their routine accounting procedures. All data shall be reported consistent with Part 241 and Form 41, but where the accounting is different from the basis used by the Board to establish MAC uniform minimum rates, the data may also be shown on the latter basis in footnote. The many changes made in the proposed rule in response to carrier suggestions are briefly discussed under the applicable parts of Form 243.[1]

Certification. The certification form has been modified to call attention to the fact that data reported on CAB Form 243 reflect allocations in accordance with procedures filed with the Board. This language is intended as a caveat to the user that the amounts reported are not actual balances, as in the carrier's accounts, but are the results of informed judgments.

Category X results. Category X planeload charter services are not required to be reported on Form 243. Since the U.S.-flag carriers operate a substantial number of such inbound charters, however, and the data affect the unit costs of MAC charter services, these carriers suggested that the schedules be modified to include Category X data. The rule, accordingly, provides that Category X planeload charter data may be included with Category B charter results with appropriate identification in footnote. If statistics and revenues for Category X charters are reported, however, the related expenses must also be included. No data shall be reported for so-called "quasi-Category X" traffic carried on inbound scheduled flights.

Invested capital (schedule D-1). As originally proposed, flight equipment will be allocated by aircraft type to MAC services consistent with Form 41 classifications. Ground property and equipment and preoperating costs, however, may be allocated on the basis of the historical ratio of those items to flight equipment. Working capital must bear some demonstrable relationship to sums actually available in the accounts; an arbitrary or fictitious sum, such as 1 month's operating expenses, if not acceptable. Although an account-by-account allocation of assets and liabilities is not required, the carrier must state the bases applied to each item or group of items allocated. The reserve for depreciation of flight equipment must be reported on the same basis as in Form 41, but if the depreciation reserve used for periodic MAC rate reviews is different it may be reported in footnote.

Expenses and revenues (schedule D-2). Aircraft operating expenses and passenger service expense, for purposes of this regulation defined as "direct" expenses, will be allocated in the same detail now reported on Form 41. Aircraft servicing, traffic servicing, general and administrative expense, and maintenance and depreciation of ground property, here defined as "indirect" operating expenses, may be combined and allocated in the ratio of such combined indirect expenses to direct operating expenses as submitted by the carrier in the last MAC rate review. Adjustments must be made for any projected increase in volume of operations, or material changes in service (such as introduction of new aircraft types, shift from passenger to cargo service or vice versa, or shift in geographical area). A statement must be filed describing the method of treating expenses with subsequent revisions to describe the effect of material changes on the established ratio. Since each carrier must use its own indirect-direct expense ratio, carriers without previous or appropriate MAC experience will have to work out and file a statement of allocation procedures for initial reports. Aircraft depreciation will be reported on a separate line to permit comparison where a different depreciation basis for periodic MAC rate reviews is shown in footnote.

Operating statistics and utilization (schedule D-3). All aircraft miles flown for Category B (and Category X) charters will be reported as airport-to-airport great-circle distances, as defined in Part 241. "MAC pay miles" for Category B (and Category X) charters will be reported on a separate line. Logair and Quicktrans revenue miles will be reported as course-flown miles specified in the contract. The noncommercial backhaul miles to Category B one-way charters will be identified as "cargo" or "passenger and mixed," in order to segregate the backhaul miles in aircraft types that are suitable for both passengers and cargo. Cargo and passenger miles will not be separately reported for "paid ferry miles", as that term is defined in § 288.9, because cargo is not an important factor in this operation. In reporting aircraft utilization, the carriers may use system utilization for aircraft types used in MAC services.

Filing dates and effective date. In order to avoid conflict with filing dates of Form 41 reports from which Form 243 reports are derived, statistics (schedule D-3) will be due (postmarked) 40 days after the close of the accounting period, while revenues and expenses (schedule D-2) and invested capital (schedule D-1) will be due 60 days after the close of the period, including the period ended December 31. Although Form 243 data are derived from Form 41 reports, for which the final calendar year reports are not due until 90 days after the end of the calendar year, schedules D-1 and D-2 are needed as soon as available in conjunction with the Board's consideration of rates for the coming fiscal year. Therefore, these schedules for the last quarter of each calendar year are to be submitted within 60 days, which is 30 days after the due dates for preliminary Form 41 reports. Amended schedules may be filed within a reasonable period after final Form 41 reports are filed if serious discrepancies develop. Schedules D-2 and D-3 will be quarterly reports, but schedule D-1 will be reported semiannually. Although quarterly reports are a more sensitive index of trends and changes, a semiannual report of invested capital is believed to be adequate and will relieve the carriers of some burden.

Since MAC charter operations are conducted under fiscal-year contracts, it would be appropriate to require reports for complete fiscal year 1968, beginning July 1, 1967. However, the carriers are presently engaged in preparing reports of MAC operations in response to a special request for data covering fiscal year 1967 and the first two quarters of fiscal year 1968. Operating results for the 1967 calendar quarters ending in September and December will therefore be available to the Board in approximately the same detail and at the same time as would have been required if Part 243 were made effective July 1, 1967. The Board's needs will be met and the carriers will be spared additional burden at a peak accounting load period if Part 243 is made effective as of January 1, 1968. While this provides somewhat less than the 30 days' statutory notice, the carriers will receive sufficient actual notice since the first reports will not be due until more than 4 months after the effective date.

Accordingly, the Board hereby amends Chapter II of Title 14 of the Code of Federal Regulations (14 CFR) by adding new Part 243, which prescribes CAB Form 243 reports, to Subchapter A—Economic Regulations, effective January 1, 1968, to read as follows:

Sec.
243.1 Definitions.
243.2 Applicability and CAB Form 243 filing requirements.
243.3 Extension of filing time.
243.4 Statement of allocation procedures.
243.5 Certification.
243.6 Schedule D-1—summary of invested capital—MAC Charter Contracts.
243.7 Schedule D-2—summary of financial results of operations—MAC Charter Contracts.
243.8 Schedule D-3—summary of operating statistics and aircraft utilization—MAC Charter Contracts.

AUTHORITY: The provisions of this Part 243 issued under secs. 204(a) and 407, 72 Stat. 743, 766; 49 U.S.C. 1324, 1377.

§ 243.1 Definitions.

Charter services performed under fiscal-year contracts between certificated air carriers and the Military Airlift Command (MAC) are defined as follows:

"Category B"—air transportation of planeload charters of passengers and/or cargo in international and territorial operations.

"Category X"—air transportation of planeload charters of passengers or cargo inbound to continental United States at "Category B" round-trip passenger or cargo rates, at the option of MAC, in fixed proportion to individually waybilled cargo outbound from continental United States in scheduled international and territorial services ("Category A").

"Logair"—all-cargo domestic charters over routes principally between Air Force installations.

"Quicktrans" — all-cargo domestic charters over routes principally between Navy installations.

§ 243.2 Applicability and CAB Form 243 filing requirements.

(a) This part applies only to certificated air carriers performing Category B, Logair, or Quicktrans charter services under fiscal-year contracts with the Military Airlift Command. Scheduled carriers operating full planeload Category X charters may include the results of such operations with Category B charters: *Provided*, That all Category X data are included—i.e., revenues, expenses, and traffic statistics; and *Provided further*, That no data for "quasi-Category X" scheduled services are included. Each contractor air carrier shall prepare and file, in triplicate, CAB Form 243 entitled "Report of Charter Services Performed for the Military Airlift Command."

(b) The CAB Form 243 report consists of:

	Filing frequency
(1) Certification	Quarterly.
(2) Schedule D-1—Summary of Invested Capital—MAC Charter Contracts.	Semiannually.
(3) Schedule D-2—Summary of Financial Results of Operations—MAC Charter Contracts.	Quarterly.
(4) Schedule D-3—Summary of Operating Statistics and Aircraft Utilization—MAC Charter Contracts.	Do.
(5) A statement of the various allocation procedures by which the financial results of MAC charter services are separated from results for other services.	Initially and upon revision (see § 243.4).

(c) Schedules D-1 and D-2 of Form 243 shall be filed with the Board (i.e., postmarked) not more than 60 days after the end of each reporting period; Schedule D-3 shall be filed not more than 40 days after the end of each reporting period. The report shall be addressed to the Civil Aeronautics Board. Attention of the Bureau of Accounts and Statistics, Washington, D.C. 20428.

§ 243.3 Extension of filing time.

If circumstances prevent the filing of a report within the prescribed time limit, consideration will be given to the granting of an extension upon receipt of a written request therefor. Such a request must give a sufficient reason for granting the extension, set forth the date when the report can be filed, and be submitted sufficiently in advance of the due date to permit proper time for consideration and communication to the air carrier of the action taken. Except in cases of emergency, no request for extension will be entertained which is not received in sufficient time to enable the Board to pass thereon before the prescribed due date. If a request is denied, the air carrier remains subject to the filing requirements to the same extent as if no request for extension had been made.

§ 243.4 Statement of allocation procedures.

(a) Each air carrier shall submit with its initial report on CAB Form 243 a statement of the various allocation or other procedures by which the investment in and operating results of MAC charter services are separated from those of other services. A complete description shall be given for the bases used for each indicated balance sheet classification on Schedule D-1—Summary of Invested Capital, and each profit and loss classification on Schedule D-2—Summary of Financial Results of Operations.

(b) With respect to Schedule D-1, the statement pertaining to "working capital" shall describe the balance sheet elements included, as well as the method of allocation; "ground equipment cost" may be derived from the ratio of ground equipment to flight equipment cost as set forth in the carrier's report of investment allocated to MAC charter services submitted in connection with the last MAC rate-making proceeding. In the event the carrier did not furnish such data, each ground equipment account shall be individually allocated to MAC services until such time as the carrier files a statement of the equipment ratio to be used in subsequent reports and the basis for computing such ratio.

(c) On Schedule D-2, "All other indirect expenses" may be derived from the ratio of such expenses to "total direct operating expenses" (comprising total aircraft operating expenses and passenger service expenses) as set forth in the carrier's report of operating expenses allocated to MAC charter services submitted in connection with the last MAC rate-making proceeding. In the event the carrier did not furnish such report, each operating expense account included in "all other indirect expenses" shall be individually allocated to MAC charter services until such time as the carrier files a statement of the indirect-direct expense ratio to be used in subsequent reports and the basis for computing such ratio.

(d) Whenever investment or operating-expense ratios or allocation procedures are revised, a supplementary statement shall be filed with the Form 243 report for the period in which such revisions are made, and shall clearly and completely describe the procedures upon which such revised reports are based. The effect of such change in procedures on expense and investment in the current report shall be clearly and completely described in the supplementary statement.

[1] MAC's suggestion that expense, revenue, and statistics for commercial backhauls to one-way charters be included in the rule has not been adopted. MAC rates are based on round-trip operations; the Board adjusts the rate to reflect lower costs of operating empty backhauls and to eliminate costs attributable to backhaul flights that produced revenues. Miles for one-way charters and noncommercial backhauls are separately reported. These statistics will provide sufficient information to alert the Board to any significant trend in proportion of commercial backhauls to empty backhauls. The pertinent data for these adjustments are obtained in the periodic rate review, and there is no reason to impose this additional burden on the carriers.

§ 243.5 Certification.

The certificate of the officer in charge of the carrier's accounts, executed in triplicate, shall accompany each Form 243 filed with the Board. This certificate is the cover sheet of Form 243 and applies to all schedules and documents filed therewith.

§ 243.6 Schedule D–1—summary of invested capital—MAC Charter Contracts.

(a) This schedule shall be prepared as of December 31 and June 30.

(b) Data reported on this schedule shall conform with the instructions pertaining to balance sheet classifications within Part 241.

(c) Each indicated asset classification, allocated in accordance with procedures that are submitted as required by § 243.4, shall be reported for the respective charter services, with flight equipment shown by aircraft types.

(d) Only cost data relating to equipment actually furnished by the carrier should be included in this schedule. Do not report equipment furnished by MAC.

(e) Line 7 "Reserve for depreciation" shall reflect depreciation computed on the basis used for reporting on Form 41. If the depreciation basis is different for periodic MAC rate reviews, the latter depreciation reserve values may be entered for each type of charter in footnote.

(f) A detailed breakdown of amounts reported on line 15 "Other" shall be provided in footnote.

§ 243.7 Schedule D–2—summary of financial results of operations—MAC Charter Contracts.

(a) This schedule shall be prepared for each calendar quarter.

(b) Data reported on this schedule shall conform with the instructions pertaining to expense classifications within Part 241.

(c) Each indicated classification of revenues and operating expenses, income taxes, and interest expense shall be allocated or assigned to the respective charter services in accordance with procedures that are submitted as required by § 243.4.

(d) This paragraph applies only to those carriers whose contracts specify Category X charter services. Category X charter revenue may be included with Category B on lines 1, 2, and 3, as appropriate. (See § 243.2(a).) If included, the amount of such revenue shall be shown in footnote for each line, segregated between Atlantic and Pacific areas of operations. If not included, the footnote should state "No Category X revenue is included in this schedule."

(e) Line 5 "Paid ferry trips" shall reflect revenue for ferry trips performed in the course of round-trip MAC charters as required by § 288.9 of the Economic Regulations.

(f) "Operating expenses" shall include all expenses incurred in empty ferry backhauls of one-way MAC charters to point of origin of such charters, consistent with the mileages reported on Schedule D–3.

(g) Line 3 "Aircraft depreciation" shall reflect depreciation expense computed on the basis used for reporting on Form 41. If the depreciation basis is different for periodic MAC rate reviews, the latter depreciation values may be entered for each type of charter in footnote.

§ 243.8 Schedule D–3—summary of operating statistics and aircraft utilization—MAC Charter Contracts.

(a) This schedule shall be prepared for each calendar quarter.

(b) If MAC charter services are performed in both the Atlantic and the Pacific areas, separate schedules shall be prepared for each area and the appropriate box checked.

(c) Separate data shall be presented for each aircraft type.

(d) This paragraph applies only to those carriers whose contracts specify Category X charter services. Category X charter aircraft miles flown may be included on lines 2, 4, and 6, as appropriate. (See § 243.2(a).) If included, such miles shall be shown in footnote for each line, segregated by aircraft type. If not included, the footnote should state "No Category X miles are included in this schedule."

(e) Miles flown in Category B (and Category X) charters shall be reported on the basis of the great-circle distance, in statute miles, between airports served. Line 14 "Total MAC charter pay miles" shall reflect the total miles, as set out in MAC contracts and service orders, upon which MAC payments are based. Miles reported for Logair and Quicktrans charters shall be the miles as set out in the contracts.

(f) Line 9 "Paid ferry miles" shall reflect ferry miles flown in the course of round-trip charters and paid for by MAC as required by § 288.9 of the Economic Regulations.

(g) On trips designated "convertible" by MAC, the miles flown with passengers shall be reported on line 7, not line 2; and the miles flown with cargo shall be reported on line 8, not line 4.

(h) The average daily utilization reported on line 15 shall be based on the system utilization of each aircraft type used in MAC charter services: *Provided*, That utilization of any aircraft used primarily for operations not related to the carrier's MAC charter services and only incidentally used for MAC charter services shall be excluded.

(i) Directed landings reported on line 18 or 19, as appropriate, shall reflect the number of landings directed by MAC and performed by the carrier, for which the carrier receives a fixed compensation in addition to the line-haul rate.

NOTE: The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary*.

[F.R. Doc. 67-14679; Filed, Dec. 21, 1967; 8:45 a.m.]

Chapter V—National Aeronautics and Space Administration

PART 1209—BOARDS AND COMMITTEES

Subpart 5—Aerospace Safety Advisory Panel

1. Subpart 5 added.

Sec.
1209.500 Scope.
1209.501 Authority.
1209.502 Duties.
1209.503 Procedures.
1209.504 Organization.
1209.505 Support.

AUTHORITY: The provisions of this Subpart 5 issued under sec. 6, National Aeronautics and Space Administration Authorization Act of 1968; Pub. Law 90–67, 90th Cong., 81 Stat. 168, 170.

§ 1209.500 Scope.

This subpart sets forth the authority for, and the duties, procedures, organization, and support of the Aerospace Safety Advisory Panel.

§ 1209.501 Authority.

The Aerospace Safety Advisory Panel (hereafter called the "Panel") was established under section 6 of the National Aeronautics and Space Administration Authorization Act of 1968 (Pub. Law 90–67, 90th Congress, 81 Stat. 168, 170). Since the panel was established by statute, its formation and use are not subject to the provisions of Executive Order 11007 or of NASA Management Instruction 1150.2 except to the extent that such provisions are made applicable to the panel under this subpart.

§ 1209.502 Duties.

(a) The duties of the panel are set forth in section 6 of the National Aeronautics and Space Administration Authorization Act of 1968, as follows:

The panel shall review safety studies and operations plans referred to it and shall make reports thereon, shall advise the Administrator with respect to the hazards of proposed or existing facilities and proposed operations and with respect to the adequacy of proposed or existing safety standards, and shall perform such other duties as the Administrator may request.

(b) Pursuant to carrying out its statutory duties, the panel will review, evaluate, and advise on all elements of NASA's safety system, including especially the industrial safety, systems safety, and public safety activities, and the management of these activities. These key elements of NASA's safety system are identified and delineated as follows:

(1) *Industrial safety.* This element includes those activities which, on a continuing basis, provide protection for the well being of personnel and prevention of damage to property involved in NASA's business and exposed to potential hazards associated with carrying out this business. Industrial safety relates especially to the operation of facilities in the many programs of research, development, manufacture, test, operation, and maintenance. Industrial safety activities include, but are not limited to, such functions as:

(i) Determination of industrial safety criteria.

(ii) Establishment and implementation of safety standards and procedures for operation and maintenance of facilities, especially test and hazardous environment facilities.

(iii) Development of safety requirements for the design of new facilities.

(iv) Establishment and implementation of safety standards and procedures for operation of program support and administrative aircraft.

(2) *Systems safety.* This element includes those activties specifically organized to deal with the potential hazards of complex R&D systems that involve many highly specialized areas of technology. It places particular emphasis on achieving safe operations of these systems over their life cycles, and it covers major systems for aeronautical and space flight activities, manned or unmanned, including associated groundbased research, development, manufacturing, and test activities. Systems safety activities include, but are not limited to, such functions as:

(i) Determination of systems safety criteria, including criteria for crew safety.

(ii) Determination of safety data requirements.

(iii) Performance of systems safety analyses.

(iv) Establishment and implementation of systems safety plans.

(3) *Public safety.* This element includes those activities which, on a continuing basis, provide protection for the well being of people and prevention of damage to property not involved in NASA's business, but which may nevertheless be exposed to potential hazards associated with carrying out this business. Public safety activities include, but are not limited to, such functions as:

(i) Determination of public safety criteria.

(ii) Establishment and control of public safety hazards associated with facility and systems tests and operations.

(iii) Establishment and implementation, as required, of emergency or catastrophe control plans.

(4) *Safety management.* This element includes both the program and functional organizations of NASA and its contractors involved in the identification of potential hazards and their elimination or control as set forth in the foregoing description of safety activities. It also includes the management systems for planning, implementing, coordinating, and controlling these activities. These management systems include, but are not limited to, the following:

(i) The authorities, responsibilities, and working relationships of the organizations involved in safety activities, and the assessment of their effectiveness.

(ii) The procedures for insuring the currency and continuity of safety activities, especially systems safety activities which may extend over long periods of time and where management responsibilities are transferred during the life cycles of the systems.

(iii) The plans and procedures for accident/incident investigations, including those for the followup on corrective actions and the feedback of accident/incident information to other involved or interested organizations.

(iv) The analysis and dissemination of safety data.

§ 1209.503 Procedures.

(a) The panel will function in an advisory capacity to the Administrator and, through him, to those organizational elements responsible for management of the NASA safety activities.

(b) The panel will be provided with all information required to discharge its advisory responsibilities as they pertain to both NASA and its contractors' safety activities. This information will be made available through the mechanism of appropriate reports, and by means of in situ reviews of safety activities at the various NASA and contractor sites, as deemed necessary by the panel and arranged through the Administrator. The panel will thus be enabled to examine and evaluate not only the general status of the NASA safety system, but also the key elements of the planned and on-going activities in this system.

§ 1209.504 Organization.

(a) *Membership.* (1) The panel will consist of a maximum of nine members, who will be appointed by the Administrator. Appointments will be for a term of 6 years, except that, in order to provide continuity of membership, one-third of the members appointed originally to the panel will be appointed for a term of 2 years, one-third for a term of 4 years, and one-third for a term of 6 years.

(2) Not more than four members of the panel shall be employees of NASA, nor shall such NASA members constitute a majority of the composition of the panel at any given time.

(3) Compensation and travel allowances for panel members shall be as specified in section 6 of the NASA Authorization Act, 1968.

(b) *Officers.* (1) The Officers of the panel shall be a Chairman and a Vice Chairman, who shall be selected by the panel from their membership to serve for 1-year terms.

(2) The Chairman, or Vice Chairman in his absence, shall preside at all meetings of the panel and shall have the usual powers of a presiding officer.

(c) *Committees.* (1) The panel is authorized to establish special committees, as necessary and as approved by the Administrator, to carry out specified tasks within the scope of duties of the panel.

(2) All such committee activities will be considered an inseparable extension of panel activities, and will be in accordance with all applicable procedures and regulations set forth in this subpart.

(3) The Chairman of each special committee shall be a member of the Aerospace Safety Advisory Panel. The other committee members may or may not be members of the panel, as recommended by the panel and approved by the Administrator.

(4) Appointment of panel members to committees as officers or members will be either for 1 year, for the duration of their term as panel members, or for the lifetime of the committee, whichever is the shortest. Appointments of nonpanel members to committees will be for a period of 1 year or for the lifetime of the committee, whichever is shorter.

(5) Compensation and travel allowances for committee members who are not members of the panel shall be the same as for members of the panel itself, except that compensation for such committee members appointed from outside the Federal Government shall be at the rate prescribed by the Administrator for comparable services.

(d) *Meetings.* (1) Regular meetings of the panel will be held as often as necessary and at least twice a year. One meeting each year shall be an annual meeting. Business conducted at this meeting will include selecting the Chairman and the Vice Chairman of the panel, recommending new committees and committee members as required or desired, approving the panel's annual report to the Administrator, and such other business as may be required.

(2) Special meetings of the panel may be called by the Chairman, by notice served personally upon or by mail or telegraph to the usual address of each member at least 5 days prior to the meeting.

(3) Special meetings shall be called in the same manner by the Chairman, upon the written request of three members of the panel.

(4) If practicable, the object of a special meeting should be sent in writing to all members, and if possible a special meeting should be avoided by obtaining the views of members by mail or otherwise, both on the question requiring the meeting and on the question of calling a special meeting.

(5) All meetings of special committees will be called by their respective chairmen pursuant to and in accordance with performing their specified tasks.

(6) Minutes of all meetings of the panel, and of special committees established by the panel, will be kept. Such minutes shall, as a minimum, contain a record of persons present, a description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the panel or committee. The accuracy of all minutes will be certified to by the Chairman of the panel (or by the Vice Chairman in his absence) or of the committee.

(e) *Reports and records.* (1) The panel shall submit an annual report to the Administrator.

(2) The panel will submit to the Administrator reports on all safety reviews and evaluations with comments and recommendations as deemed appropriate by the panel.

(3) All records and files of the panel, including agendas, minutes of panel and committee meetings, studies, analyses, reports, or other data compilations or work papers, made available to or pre-

pared by or for the panel, will be retained by the panel.

(f) *Avoidance of conflicts of interest.* (1) Nongovernmental members of the panel, and of special committees established by the panel, are "Special Government Employees" within the meaning of NHB 1900.2A, which sets forth guidance to NASA Special Government Employees regarding the avoidance of conflicts of interest and the observance of ethical standards of conduct. A copy of NHB 1900.2A and related NASA instructions on conflicts of interest will be furnished to each panel or committee member at the time of his appointment as a NASA consultant or expert.

(2) Nongovernmental members of the panel or a special committee will submit a "NASA Special Government Employees Confidential Statement of Employment and Financial Interests" (NASA Form 1271) prior to participating in the activities of the panel or a special committee.

§ 1209.505 Support.

(a) A staff, to be comprised of full-time NASA employees, shall be established to support the panel. The members of this staff will be fully responsive to direction from the Chairman of the panel.

(b) The director of this staff will serve as Executive Secretary to the panel. The Executive Secretary of the panel, in accordance with the specific instructions from the Chairman of the panel, shall:

(1) Administer the affairs of the panel and have general supervision of all arrangements for safety reviews and evaluations, and other matters undertaken by the panel.

(2) Insure that a written record is kept of all transactions, and submit the same to the panel for approval at each subsequent meeting.

(3) Insure that the same service is provided for all special committees of the panel.

Effective date. The provisions of this Subpart 5 are effective December 7, 1967.

JAMES E. WEBB,
Administrator.

[F.R. Doc. 67-14862; Filed, Dec. 21, 1967; 8:47 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Legality Under Antitrust Laws of Complying With State Milk Marketing Orders

§ 15.154 Legality under antitrust laws of complying with State milk marketing orders.

(a) The Commission rendered an advisory opinion that a distributor who complied with a State's milk marketing order fixing the minimum resale prices of dairy products would not be subject to a charge of violating the antitrust laws.

(b) The distributor in question did not have a warehouse in the State in question, but shipped dairy products into the State from its warehouses located in neighboring States. In most cases, the price increases required by the order issued pursuant to the State's dairy products marketing act would be significant and the distributor sells the same products at substantially lower prices to stores located in the neighboring States because competitive pressures dictate lower prices except where the higher prices are required by law.

(c) The distributor expressed concern that by agreeing to comply with the orders of the State, it would subject itself to possible action under the Sherman Act, the Federal Trade Commission Act, or possibly even the Clayton Act, as amended by the Robinson-Patman Act, since sales will be made at different prices to purchasers in different States of commodities of like grade and quality. Hence an opinion was requested as to whether the distributor will be in violation of any of the laws administered by the Commission if it complies with the State laws fixing the minimum resale prices of dairy products.

(d) The Commission advised that it was of the opinion that the distributor would not be subject to a charge of violating any of the laws it administers because of its compliance with the lawful orders of the State as to the minimum resale prices of dairy products. In the Commission's view, it is well settled that the antitrust laws have application to the actions of individuals, partnerships, and corporations and not to the activities of a State. While a State may not authorise individuals to perform acts which violate the antitrust laws nor declare that such action is lawful, it may, in the exercise of its sovereign power, itself conduct such regulation of business activities within its borders as its own legislature shall properly deem necessary in the public interest. So long as the resulting regulation is a State as opposed to individual activity, those subject to the regulation would not be subject to a charge of violating the antitrust laws by reason of their compliance with the State's orders.

(38 Stat. 717, as amended; 15 U.S.C. 41-58)

Issued: December 21, 1967.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 67-14837; Filed, Dec. 21, 1967; 8:45 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Chapter II—Federal Housing Administration, Department of Housing and Urban Development

MISCELLANEOUS AMENDMENTS TO CHAPTER

The following miscellaneous amendments have been made to this chapter:

SUBCHAPTER C—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Subpart B—Contract Rights and Obligations

Section 203.405 is amended to read as follows:

§ 203.405 Debenture interest rate.

Debentures shall bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued, or as of the date the mortgage was endorsed for insurance, whichever rate is the higher. The following interest rates are effective for the dates listed:

Effective rate (percent)	On or after—	Prior to—
4½	Jan. 1, 1966	July 1, 1966
4½	July 1, 1966	Jan. 1, 1967
4½	Jan. 1, 1967	Jan. 1, 1968
5½	Jan. 1, 1968	

Section 203.479 is amended to read as follows:

§ 203.479 Debenture interest rate.

Debentures shall bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued, or as of the date the loan was endorsed for insurance, whichever rate is the higher. The following interest rates are effective for the dates listed:

Effective rate (percent)	On or after—	Prior to—
4½	Jan. 1, 1966	July 1, 1966
4½	July 1, 1966	Jan. 1, 1967
4½	Jan. 1, 1967	Jan. 1, 1968
5½	Jan. 1, 1968	

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply sec. 203, 52 Stat. 10, as amended; 12 U.S.C. 1709)

SUBCHAPTER D—RENTAL HOUSING INSURANCE

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

Subpart B—Contract Rights and Obligations

In § 207.259 paragraph (e) (6) is amended to read as follows:

§ 207.259 Insurance benefits.

* * * * *

(e) *Issuance of debentures.* * * *

(6) Bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued, or as of the date of initial insurance endorsement of the mortgage, whichever rate is the higher. The following interest rates are effective for the dates listed:

Effective rate (percent)	On or after—	Prior to—
4½	Jan. 1, 1966	July 1, 1966
4½	July 1, 1966	Jan. 1, 1967
4½	Jan. 1, 1967	Jan. 1, 1968
5½	Jan. 1, 1968	

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 207, 52 Stat. 16, as amended; 12 U.S.C. 1713)

SUBCHAPTER F—URBAN RENEWAL HOUSING INSURANCE AND INSURED IMPROVEMENT LOANS

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

Subpart D—Contract Rights and Obligations—Projects

Section 220.830 is amended to read as follows:

§ 220.830 Debenture interest rate.

Debentures shall bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued, or as of the date the loan was endorsed for insurance, whichever rate is the higher. The following interest rates are effective for the dates listed:

Effective rate (percent)	On or after—	Prior to—
4½	Jan. 1, 1966	July 1, 1966
4½	July 1, 1966	Jan. 1, 1967
4½	Jan. 1, 1967	Jan. 1, 1968
5½	Jan. 1, 1968	

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 220, 68 Stat. 596, as amended; 12 U.S.C. 1715k)

Issued at Washington, D.C., December 18, 1967.

PHILIP N. BROWNSTEIN,
Federal Housing Commissioner.

[F.R. Doc. 67-14864; Filed, Dec. 21, 1967; 8:47 a.m.]

Title 31—MONEY AND FINANCE: TREASURY

Chapter II—Fiscal Service, Department of the Treasury

SUBCHAPTER C—OFFICE OF THE TREASURER OF THE UNITED STATES

[Dept. Circular 1001 (Rev.)]

PART 365—ISSUE OF SUBSTITUTES OF LOST, DESTROYED, MUTILATED, AND DEFACED CHECKS DRAWN ON THE TREASURER OF THE UNITED STATES

Delegation of Authority to Secretary of Defense To Issue Substitute Checks

Part 365, Chapter II, Title 31 of the Code of Federal Regulations (appearing also as Treasury Department Circular No. 1001 (Revised), 27 F.R. 8491, Aug. 24, 1962) is hereby amended by adding immediately after § 365.7 a new section to read as follows:

§ 365.8 Delegation of Authority to Secretary of Defense to issue substitute checks.

The Secretary of Defense is authorized to provide by regulations for the issuance of substitutes for checks drawn for pay and allowances of civilian and military personnel and which are lost, stolen, or destroyed in shipment between military offices or installations. The Secretary of Defense may redelegate such authority within the Department of Defense.

(R.S. 3646, as amended, 31 U.S.C. 528b; Treasury Department Order No. 177-16)

Dated: December 18, 1967.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[F.R. Doc. 67-14866; Filed, Dec. 21, 1967; 8:47 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VI—Department of the Navy

SUBCHAPTER C—PERSONNEL

PART 710—PROCEDURES AND REQUIREMENTS FOR APPOINTMENT AS A MIDSHIPMAN AT THE U.S. NAVAL ACADEMY

Miscellaneous Amendments

Scope and purpose. Part 710 is updated and amended as follows:

1. Delete editorial note at beginning of Subchapter C. Delete footnotes 1, 2, and 3 appearing at §§ 710.24, 710.25, and 710.32 respectively.

2. Section 710.13 is amended by revising paragraphs (a) and (b) (7) to read as follows:

§ 710.13 Obtaining a nomination.

(a) *General.* U.S. citizens are appointed to the Naval Academy without regard to race, creed, or national origin. It is necessary for a young man to obtain a nomination in order to be considered for appointment to the Naval Academy. The sources of nominations are described in this section. The applicant should study carefully the various sources to determine those through which he is eligible to apply. College Board Test results taken for purposes of qualifying for the Naval Academy apply to all nominations a candidate may hold.

(b) *Types and sources of nominations.*

* * * * *

(7) *Regular Navy and Marine Corps.* The Secretary of the Navy may appoint 85 enlisted men of the Regular Navy and Marine Corps to the Naval Academy each year. These men must meet all of the entrance requirements and may not have passed their 21st birthday as of July 1 of the year of entrance to the Naval Academy. Applicants must have enlisted before in the Navy or Marine Corps on or before July 1 of the year preceding the desired date of entrance to the Naval Academy. Since the selection of candidates for this school begins in the spring, enlisted men who fulfill the age and service requirements should make their desires known to their commanding officers as early in the year as possible. Recruits enlisted prior to July 1 are eligible and encouraged to apply for consideration for this program.

* * * * *

3. Section 710.25 is amended by revising § 710.25(a) to read as follows:

§ 710.25 College certificate method.

(a) *Requirements.* A candidate who holds a nomination as a Congressional, District of Columbia, or Vice Presidential principal or alternate or who is seeking admission as the son of a Medal of Honor winner may fulfill the scholastic requirements for admission by submitting an acceptable secondary school certificate and an acceptable college certificate. He is also required to take the College Board Tests specified in § 710.24 for the information of the Naval Academy. A candidate competing under any other source of nomination than those outlined in this paragraph must qualify by the Examination Method. This includes all Congressional candidates being evaluated by the Competitive Method. All candidates using College Certificate Method should advise the Dean of Admissions, U.S. Naval Academy, of their intent to do so by letter prior to March 15 of the year in which they are seeking admission.

* * * * *

4. Section 710.32 is amended by revising § 710.32(c) as follows:

§ 710.32 Medical and physical aptitude examinations.

* * * * *

(c) *Delay in taking examination.* Candidates who are ordered to report for Medical and Physical Aptitude Examination and who are unable to take the Physical Aptitude Examination at that time will be required to produce substantiating medical evidence. Insufficient evidence will be cause for their disqualification. Formally nominated candidates who are injured or ill for any reason and unable to comply with instructions to report for Medical and Physical Aptitude Examinations are required to communicate with the Chief of Naval Personnel and the scheduled examining facilities to explain the circumstances of the injury or illness before further examination or delay in examination will be authorized. Candidates who have undergone major surgery involving knee, ankle, shoulder, elbow, wrist, or spine, will not be scheduled for examination until 6 months have elapsed following surgery. Medical and Physical Aptitude Examinations will terminate on March 15 prior to admission of each class. Injury and surgical cases will not be considered after this date. Candidates having orthodontic appliances in place

are not required to have them removed prior to reporting for Qualifying Medical Examination.

• • • • •

5. Section 710.34 is amended by revising the table appearing in § 710.34(b) and the text of § 710.34 (k) and (o) as follows:

§ 710.34 Special medical examination considerations.

• • • • •

(b) *Weight standards.*

Height (inches)*	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78
Weight (pounds):															
Minimum	105	106	107	111	115	119	123	127	131	135	139	143	147	151	155
Maximum	133	137	141	196	202	208	214	219	225	231	237	243	248	254	260

*Waiver for height up to 80 inches may be granted to a limited number of candidates with exceptional scholastic and leadership achievements.

These weight standards are necessarily arbitrary. • • •

• • • • •

(k) *Asthma.* Asthma, or recurrent asthmatic bronchitis by diagnosis or history since age 12, is cause for rejection.

• • • • •

(o) *Denial standards.* A candidate for appointment must have a minimum of 16 natural permanent teeth, of which a minimum of 8 must be in each arch. All missing teeth causing unsightly spaces or significantly reducing masticatory or incisal efficiency must be replaced by well-designed bridges or partial dentures which are in good condition. Except for minor or questionable carious areas, all required dental treatment must be completed. Candidates undergoing active orthodontic treatment will be temporarily disqualified. Each such applicant will be considered on an individual basis by the Permanent Board of Medical Examiners at the Academy. Disqualifying defects are as follows:

Lack of satisfactory incisal or masticatory function.

Failure to have a minimum of 8 natural permanent teeth in each arch.

Edentulous spaces which are unsightly or which significantly reduce masticatory function.

Carious teeth, except minor or questionable carious areas. Infections or chronic diseases of the soft tissue of the oral cavity. Marked malocclusion resulting in severe dentofacial deformity.

Unsatisfactory restorations, bridges, or dentures. Severe or extensive apical or periodontal infection. Perforations from the oral cavity into the nasal cavity or maxillary sinus.

Tumors or cysts of the oral tissues which require treatment or may require treatment in the foreseeable future.

6. Section 710.54 is revised by updating the list of examining activities as follows:

§ 710.54 Authorized medical examining facilities for Naval Academy medical examinations.

ALABAMA

Brookley AFB, Mobile.
Fort Rucker, Daleville.
Maxwell AFB, Montgomery.

ALASKA

Elmendorf AFB, Anchorage.
USNAS, Adak.
USNAS, Kodiak.

ARKANSAS

Blytheville AFB, Blytheville.
Little Rock AFB, Jacksonville.

ARIZONA

Davis-Monthan AFB, Tucson.
Fort Huachuca, Cochise County.
Williams AFB, Chandler.

CALIFORNIA

Beale AFB, Marysville.
Castle AFB, Merced.
Edwards AFB, Edwards.
Fort Ord, Monterey.
George AFB, Victorville.
Hamilton AFB, Ignacio.
Letterman Gen Hosp, San Francisco.
March AFB, Riverside.
Mather AFB, Sacramento.
McClellan AFB, Sacramento.
Travis AFB, Fairfield.
NAS, Alameda.
Naval Hosp, Camp Pendleton.
NAF, El Centro.
NAAS, Beam Field, Imperial Beach.
NAS, Lemoore.
Naval Hosp, Long Beach.
NAS, Los Alamitos, Long Beach.
NAS, Moffett Field.
NAAS, Monterey.
Naval Hosp, Oakland.
Naval Missile Ctr, Point Mugu.
MCAS, El Toro, Santa Ana.
Naval Hosp, San Diego.
NAS, North Island, San Diego.
NAS, Miramar, San Diego.
Vandenberg AFB, Lompoc.

COLORADO

Fitzsimons Gen Hosp, Denver.
Lowry AFB, Denver.
U.S. Air Force Academy, Colorado Springs.

DELAWARE

Dover AFB, Dover.

DISTRICT OF COLUMBIA

Andrews AFB.
NAF Washington, Andrews AFB.
Walter Reed Gen Hosp.

FLORIDA

Eglin AFB, Valparaiso.
Homestead AFB, Homestead.
MacDill AFB, Tampa.
Tyndall AFB, Panama City.
NAS, Cecil Field.
Naval Hosp, Jacksonville.
NAS, Jacksonville.
Naval Hosp, Key West.
Naval Hosp, Pensacola.
NAS, Sanford.
NAS, Whiting Field.

GEORGIA

Fort Benning, Columbus.
Fort Gordon, Groveton.
Fort McPherson, Atlanta.
Fort Stewart, Hinesville.
Moody AFB, Valdosta.
Robins AFB, Warner Robins.
Turner AFB, Albany.
NAS, Atlanta.
NAS, Glynco.

HAWAII

Hickam AFB, Honolulu.
Tripler Gen Hosp, Honolulu.
USNAS, Barbers Point.

IDAHO

Mountain Home AFB, Mountain Home.

ILLINOIS

Chanute AFB, Rantoul.
Fort Sheridan, Highland Park.
Scott AFB, Belleville.
Naval Hosp, Great Lakes.
NAS, Glenview.

INDIANA

Bunker Hill AFB, Peru.
Fort Benjamin Harrison, Indianapolis.

KANSAS

Fort Leavenworth, Leavenworth.
Fort Riley, Junction City.
McConnell AFB, Wichita.
NAS, Olathe.

KENTUCKY

Fort Knox, Hardin County.

LOUISIANA

Barksdale AFB, Shreveport.
England AFB, Alexandria.
NAS, New Orleans.

MAINE

Dow AFB, Bangor.
Loring AFB, Limestone.
NAS, Brunswick.

MARYLAND

Fort George G. Meade, Odenton.
NTC, Bainbridge.
U.S. Naval Academy, Annapolis.
NAS, Patuxent River.

MASSACHUSETTS

Boston Army Base, Boston.
Fort Devens, Ayer.
Otis AFB, Falmouth.
Naval Hosp, Chelsea.
NAS, South Weymouth.
Westover AFB, Chicopee Falls.

MICHIGAN

Kincheloe AFB, Kincross.
K. I. Sawyer AFB, Gwinn.
Selfridge AFB, Mount Clemens.
NAS, Grosse Ile.
Wurtsmith AFB, Oscoda.

MINNESOTA

NAS, Minneapolis.

MISSISSIPPI

Columbus AFB, Columbus.
Keesler AFB, Biloxi.
NAAS, Meridian.

MISSOURI

Fort Leonard Wood, Waynesville.
Richards-Gebaur AFB, Grandview.
Whiteman AFB, Knob Noster.

MONTANA

Glasgow AFB, Glasgow.
Malmstrom AFB, Great Falls.

NEBRASKA

Offutt AFB, Omaha.

NEVADA

Nellis AFB, Las Vegas.

NEW HAMPSHIRE

Pease AFB, Portsmouth.
Naval Hosp, Portsmouth.

NEW JERSEY

Fort Dix, Wrightstown.
Fort Monmouth, Oceanport.
McGuire AFB, Wrightstown.
NAS, Lakehurst.

NEW MEXICO

Cannon AFB, Clovis.
Holloman AFB, Alamogordo.
Kirtland AFB, Albuquerque.

NEW YORK

Griffiss AFB, Rome.
Plattsburgh AFB, Plattsburgh.
Stewart AFB, Newburgh.
Suffolk County AFB, Westhampton Beach, Long Island.
U.S. Military Academy, West Point.
NAS, Brooklyn.
Naval Hosp, St. Albans, Long Island.

NORTH CAROLINA

Fort Bragg, Fayetteville.
Seymour Johnson AFB, Goldsboro.
Naval Hosp, Camp Lejeune.
MCAS, Cherry Point.

NORTH DAKOTA

Grand Forks, AFB, Mecklnock.
Minot AFB, Minot.

OHIO

Lockbourne AFB, Columbus.
Wright-Patterson AFB, Dayton.

OKLAHOMA

Altus AFB, Altus.
Clinton-Sherman AFB, Burns Flat.
Fort Sill, Lawton.
Tinker AFB, Oklahoma City.

OREGON

Portland International Airport, Portland.

PENNSYLVANIA

Carlisle Barracks, Carlisle.
NAF, Johnsville.
Naval Hosp, Philadelphia.
NAS, Willow Grove.
Valley Forge Gen Hosp, Phoenixville.

RHODE ISLAND

Naval Hosp, Newport.
Naval Stn, Newport.
NAS, Quonset Point.

SOUTH CAROLINA

Charleston AFB, Charleston.
Fort Jackson, Columbia.
Shaw AFB, Sumter.
Naval Hosp, Beaufort.
MCAS, Beaufort.
Naval Hosp, Charleston.

SOUTH DAKOTA

Ellsworth AFB, Rapid City.

TENNESSEE

Fort Campbell, Clarksville.
Sewart AFB, Smyrna.
NAS, Memphis.

TEXAS

Amarillo AFB, Amarillo.
Bergstrom AFB, Austin.
Carswell AFB, Fort Worth.
Dyess AFB, Abilene.
Fort Hood, Killeen.
Fort Sam Houston, San Antonio.
Lackland AFB, San Antonio.
Laughlin AFB, Del Rio.
Perrin AFB, Sherman.
Randolph AFB, San Antonio.
Reese AFB, Lubbock.
Sheppard AFB, Wichita Falls.
NAAS, Beeville.
Naval Hosp, Corpus Christi.
NAS, Corpus Christi.
NAS, Dallas.
NAS, Kingsville.
Webb AFB, Big Spring.
William Beaumont Gen Hosp, El Paso.

UTAH

Hill AFB, Ogden.

VIRGINIA

Langley AFB, Hampton.
Fort Belvoir, Fairfax County.
Fort Eustis, Lee Hall.
Fort Lee, Petersburg.
Fort Monroe, Old Point Comfort.
NAS, Norfolk.
Naval Hosp, Portsmouth.
Naval Hosp, Quantico.
MCAS, Quantico.
NAS, Oceana, Virginia Beach.

WASHINGTON

Fairchild AFB, Spokane.
Fort Lewis, Tacoma.
McChord AFB, Tacoma.
Naval Hosp, Bremerton.
NAS, Seattle.
NAS, Whidbey Island.

WYOMING

Francis E. Warren AFB, Cheyenne.

CANAL ZONE

Albrook AFB, Balboa.
Fort Clayton.

CUBA

USN Hosp, Guantanamo Bay.

ENGLAND

S. Ruislip Air Stn, Middlesex.
USN Support Activity, London.

GERMANY

U.S. Army Hosp, Heidelberg.
Wiesbaden AB, Wiesbaden.

GUAM

USN Hosp.

ITALY

USN Support Activity, Naples.

JAPAN

Camp Zama.
Tachikawa AB, Honshu.
USN Hosp, Yokosuka.

NEWFOUNDLAND

USN Stn, Argentia.

PHILIPPINE ISLANDS

Clark AB, Luzon.
USN Hosp, Subic Bay.

PUERTO RICO

Ramey AFB, Aguadilla.
USNAS, Roosevelt Rds.

SPAIN

Torrejon AB
USNAS, Rota.

(5 U.S.C. 301; 10 U.S.C. 516, 5081, 6951–5974)

Dated: December 15, 1967.

By direction of the Secretary of the Navy.

ROBERT H. HARE,
Rear Admiral, U.S. Navy,
Deputy Judge Advocate General of the Navy.

[F.R. Doc. 67-14693; Filed, Dec. 21, 1967; 8:49 a.m.]

PART 721—STANDARDS OF CONDUCT

Action

Scope and purpose. Part 721 is updated and revised as follows:

1. Part 721.5 is amended by updating paragraphs (b)(3) and (f); adding new subparagraphs (f)(1) and (f)(2); and deleting paragraph (q) as follows:

§ 721.5 Action.

• • • • •

(b) The Judge Advocate General and the General Counsel of the Navy are designated as the counselors for the Department of the Navy, pursuant to § 40.735–12(c)(1) of this title. • • •

• • • • •

(3) Other matters under the assigned jurisdiction of the General Counsel (SecNav Instruction 5430.25 series; also outlined in the pertinent paragraph of the U.S. Government Organization Manual; e.g., page 179 of the 1967–68 edition). The Judge Advocate General shall be consulted with regard to statements submitted by all other officers and employees.

• • • • •

(f) In connection with each Fitness Report or Performance Rating with respect to officers or civilian employees described in § 40.735–14(a) (3) and (4) of this title, the appropriate supervisor shall review the billet or position as required by § 40.735–14(b) of this title, and shall determine whether the duties and responsibilities of the position are such as to require the individual to file a statement of employment and financial interests. He shall cause his determination to be recorded in the individual's billet or position description and in the individual's local personnel record. Such determinations will be reviewed at least annually. An officer or employee who is transferred from one position to another within the Department of the Navy shall be responsible for furnishing a current statement to his new appropriate supervisor if he is required to file such a statement in that position. Any individual who believes that his position has been improperly included in Category (3) or (4) may request a review of the decision requiring him to file a statement through the established grievance or complaint procedure of the Department.

(f) (1) For the purpose of § 40.735–14 (a) (4) (i) of this title entitled "Contracting or Procurement," reports will be required only from persons who sign contracts or those, at higher levels, who have overall responsibility for the entire transaction. This includes but is not limited to heads of procuring activities, directors of contracting divisions, personnel engaged in business clearance of contracts and others performing comparable functions.

(2) Each officer and employee who previously filed a statement of employment and financial interest and who, pursuant to Parts 40 and 721 of this title, is still required so to do, shall file an annual supplementary statement prior to January 31, 1968, reporting, as of September 30, 1967, the information referred to in § 40.735–14(i) of this title. Similarly, personnel required for the first time to file statements of employment and financial interest shall do so prior to January 31, 1968, as of September 30, 1967. Thereafter, changes or additions will be reported in a supplementary

statement to be filed on June 30 of each year.

• • • • •

(q) [Deleted]

(5 U.S.C. 301; 10 U.S.C. 133, 8031)

Dated: December 19, 1967.

By direction of the Secretary of the Navy.

WILFRED HEARN,
Rear Admiral, U.S. Navy, Judge Advocate General of the Navy.

[F.R. Doc. 67-14804; Filed, Dec. 21, 1967; 8:49 a.m.]

Chapter VII—Department of the Air Force

SUBCHAPTER I—MILITARY PERSONNEL

PART 881—APPOINTMENT OF OFFICERS IN THE U.S. AIR FORCE OR AS RESERVES OF THE AIR FORCE

Miscellaneous Amendments

Part 881 of Subchapter I of Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

Subpart A—General

1. Section 881.1a is added; and in § 881.3, paragraph (b) is revised to read as follows:

§ 881.1a Statutory authority.

The statutory authority for appointments tendered according to this part is contained in 10 U.S.C. 591, 593, 1211, 2067, 8853, 8358, 8359, and 8444. This part implements the following DoD Instructions:

(a) DoD Instruction 1120.5, July 3, 1967.

(b) DoD Instruction 1205.1, September 27, 1960.

(c) DoD Instruction 1205.2, October 24, 1956.

(d) DOD Instruction 1205.4, June 23, 1959.

(e) DOD Instruction 1205.7, October 4, 1960.

§ 881.3 Temporary appointments.

• • • • •

(b) Physicians and dentists who are resident aliens or conscientious objectors normally do not qualify for Reserve appointment. Such persons having an active duty obligation as special registrants under the Universal Military Training and Service Act (UMT&S Act) may, if otherwise qualified, be appointed as follows:

(1) Applicants who are 26 years of age or over at time of appointment will be tendered temporary appointments in grades as specified in the table at the end of § 881.12(e). Temporary appointments made under this authority terminate upon release from active duty.

(2) Applicants, including participants in the Armed Forces Physicians' Appointment and Residency Consideration Program (Berry Plan), who must be appointed on a date that will require acceptance of commission before age 26 will be initially tendered Reserve appointments. The provisions of §§ 881.8(d) and 881.10 are waived in this instance.

(3) Noncitizen applicants must possess a valid Form I–151, "Immigration and Naturalization Service (INS) Alien Registration Receipt Card," which may be obtained from the local Immigration and Naturalization Office, as evidence of lawful entry into the United States for permanent residence. Since reproduction of this form is prohibited, the applicant must submit the following statement signed by an officer, notary public, or other person authorized to administer oaths:

I certify that I have this date seen INS Form I–151 issued to _____
(Name of applicant)
indicating lawful entry into the United States for permanent residence on _____
(Date)

• • • • •

Subpart B—Eligibility Requirements

3. Section 881.7 is amended by revising paragraph (b) (4) and the introduction of paragraph (d) (1); and § 881.12 is amended by revising paragraph (g) (1) to read as follows:

§ 881.7 Who may apply for appointment.

• • • • •

(b) • • •

(4) Appointment may be made in the grade (permanent or temporary) in which serving at time of discharge. Constructive service appropriate for the grade will be awarded based on length of active Federal commissioned service and education where applicable. Constructive service will also be awarded for prior service in an active status as a Reserve officer not on extended active duty (EAD) for those years in which minimum participation requirements for retention and retirement were satisfied (50 points minimum per year). If an applicant does not have the length of service which would permit the crediting of sufficient constructive service for Reserve appointment in the active duty grade, satisfactory performance in the active duty grade constitutes the basis for the award of the minimum amount of constructive service appropriate to the Reserve grade as indicated in the table at the end of this subparagraph. Constructive service possessed by an applicant that is in excess of that required for the grade in which appointed will be awarded as service in grade and identified as a promotion service date (PSD). No individual will be appointed as a Reserve officer in a grade higher than that in which he served on active duty. Accordingly, constructive service credit in excess of the maximum authorized for the active duty grade will not be awarded regardless of length of actual service. For example, an applicant whose highest active duty grade was captain must be awarded at least 7 but less than 14 years constructive service.

CONSTRUCTIVE SERVICE

When active duty grade is—	Minimum years of constructive service are—
First lieutenant	3
Captain	7
Major	14
Lieutenant colonel	21
Colonel	23

• • • • •

(d) *Former rated officers.* (1) Former rated officers of any of the services (including former Regular Air Force officers who did not apply for a Reserve commission within 1 year after resignation) may be appointed in a grade held at time of discharge, not above captain or equivalent (O–3), to fill rated positions in the Ready Reserve. To be eligible for appointment, the applicant must:

• • • • •

§ 881.8 [Amended]

2. In § 881.8, paragraph (p) is amended by deleting the word "commissioned" in line 7.

§ 881.12 Age, education, experience, and grade requirements.

• • • • •

(g) *Computing and recording TYSD, PSD, and TFCSD.* (1) Total years service date (TYSD): This date is computed by backdating the date of acceptance of appointment by the total amount of constructive credit awarded under paragraph (f) of this section.

NOTE: If an officer has prior commissioned service time for which he has not received constructive credit, such service is creditable as TYSD after determination of a grade in accordance with paragraph (e) of this section. However, in no case will any service be counted more than once in determining TYSD.

Upon reappointments generally, TYSD will be recomputed from the effective date of reappointment to reflect the additional constructive credit allowable for education and/or experience under paragraph (f) of this section. Upon reappointment as a judge advocate under Subpart D of this part, for example, credit for full-time experience as a lawyer accrues from date of graduation from law school or date of admission to the bar, whichever is later, to date of acceptance. To determine the actual period of time for which constructive service for education is given, backdate the applicable date of graduation or admission to the bar, whichever is later, by 3 years. Any commissioned service held during the period for which constructive service for education and experience is awarded may not be counted again for TYSD purposes. Unusual cases should be referred to USAFMPC (AFPMRDC) for resolution.

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Subpart C—Application and Processing Procedures

§ 881.13 [Amended]

4. In § 881.13(b), the table is amended by deleting the words "CAC, Robins AFB GA 31094 and" in lines 11 and 12, second column, and by deleting the words "in turn" in line 13, second column.

5. Section 881.13 is amended by revising paragraph (a) (4) to read as follows:

(4) DD Form 398, "Statement of Personal History." Six copies for applicants requiring a Background Investigation under subdivisions (i), (ii), (iii), or (iv) of this subparagraph. One copy for all others, including persons being considered for appointment on the basis of a prior or existing investigation.

(i) Any person who is an alien.

(ii) Any person who has relatives residing in one of the countries listed in attachment 3, AFR 205–6, except that relatives other than father, mother, sister, brother, spouse, or children will not be considered.

(iii) Any person who is a U.S. citizen and has resided or traveled in one or more countries listed in attachment 3, AFR 205–6, after the dates indicated, for 30 or more continuous days. Travel or residence in these countries under the auspices of the U.S. Government will not be considered.

(iv) Any person who has made entries on DD Form 98 which provide reason for belief that appointment may not be clearly consistent with the interests of national security.

Subpart D—Appointment of Judge Advocate Officers

6. Section 881.17 is amended by revising paragraph (c); and § 881.19 is amended by revising paragraph (a) to read as follows:

§ 881.17 Application.

• • • • •

(c) In lieu of AF Form 1229, "Application for Career Reserve Status," the following statement will be entered in the remarks section of AF Form 24:

I agree to accept appointment in Career Reserve Status for an indefinite period and understand that I must serve a minimum of 4 years active duty. I understand that I may incur an active duty service commitment which may extend beyond the minimum 4 years under the provisions of AFR 36–51 as the result of training received or permanent change of station.

• • • • •

§ 881.19 Appointment and reappointment.

(a) *Appointment.* The Commander, Air Training Command, is authorized to tender appointments in all grades up to and including captain, as Reserves of the Air Force, to eligible applicants upon the recommendation of a board of officers as reviewed and recommended by the Staff Judge Advocate. Appointments in grades above captain may be made by the Commander, ATC, only after review and approval of the applicant's qualifications by The Judge Advocate General, or his designee, for the Chief of Staff and Hq USAF (AFPMRDC). Original appointments in this specialty are contingent upon the applicants' consent to immediate entry upon extended active duty, except for Air National Guard applications.

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Subpart E—Appointment of Chaplains

7. Section 881.20(c) is amended by revising subparagraphs (1) (ii) and (3) and the introduction of subparagraph (4) to read as follows:

§ 881.20 Application for the Air Force chaplaincy.

• • • • •

(c) *Qualifications and requirements—*
(1) *Age and grade.* (i) • • •

(ii) In times of national emergency or war, or when a continuing serious shortage of Air Force chaplains exists, the Chief of Air Force Chaplains may grant age waivers not to exceed the maximum age of appointment by 3 years.

• • • • •

(3) *Appointment in the grade of first lieutenant.* Applicants may be initially appointed in the grade of first lieutenant if they are less than 34 years of age; have completed 3 years of graduate study or have a graduate theological degree from an accredited or recognized theological seminary; have attained full ecclesiastical ordination status; and have the professional experience required by their denomination.

(4) *Appointment in the grade of captain.* Applicants may be initially appointed in the grade of captain if they are less than 40 years of age and can qualify under one of the following constructive service credit categories:

• • • • •

Subpart F—Appointment of Physicians, Dentists, Veterinarians, and Nurses

8. Section 881.28 is amended by adding subparagraphs (3), (4), and (5) to paragraph (a), and § 881.29 is amended by adding subparagraph (3) to paragraph (a) as follows:

§ 881.28 Doctors of dentistry.

(a) • • •

(3) Applications from dental students may be accepted and processed before receipt of the qualifying degree. The applicant must furnish a statement from the institution indicating he has completed all the degree requirements or is expected to do so within 7 months. If otherwise qualified, the applicant will be tendered an appointment generally between 150 to 180 days before graduation. After appointment and following graduation, the officer concerned must furnish evidence that the degree has been conferred and all other applicable requirements have been met. Officers so appointed who do not successfully complete their educational requirements or fail to receive the qualifying degree will be discharged under 10 U.S.C. 1162. At time of application, each student will be required to sign the following certificate, which will become a part of his permanent file:

I understand that if appointed, the appointment is contingent upon my completing the requirements of the appropriate degree and that failure to receive my graduate degree on _____ will result in the termination of my appointment as a Reserve of the Air Force. (Authority: 10 U.S.C. 1162.) Upon meeting the qualifications for appointment, I agree to serve a minimum of 2 full years on extended active duty unless sooner relieved by proper authority.

_____ _____
(Date) (Signature)

(4) Applications for appointment as Reserve Dental officers will not be accepted from senior dental students who will have an obligation for military service upon graduation, except from:

(i) Students applying for a sponsored internship.

(ii) Students enrolled in the Early Commissioning Program under Part 906 of this chapter; the Senior Dental Student Program, when offered; or any "extended leave" or "in-service arrangement" programs, when offered.

(iii) Students allocated to the Air Force under the Armed Forces Reserve Dental Officer Allocation and Commissioning Program.

(5) Unless authorized in subparagraph (4) of this paragraph, applications for Reserve commissions from senior dental students who do not participate in the Armed Forces Reserve Dental Officer Allocation and Commissioning Program will not be accepted until 4 months after the person's graduation or when allocated to the Air Force as the result of a special call for dentists.

• • • • •

§ 881.29 Doctors of veterinary medicine.

(a) • • •

(3) Appointment of veterinary students before graduation may be made as prescribed for dental students in § 881.28 (a) (3).

• • • • •

Subpart H—Appointment of Officers in the Biomedical Sciences Corps

9. Section 881.39 is amended by revising the introductory paragraph and paragraph (a); in §§ 881.40 and 881.41 the headings are revised; and in § 881.44 the heading and paragraph (b) are revised to read as follows:

§ 881.39 Appointment for training.

Applicants (excluding married women) who are 21 but not 28 years of age may be appointed as second lieutenants and ordered to active duty to complete training in one of the following courses:

(a) *Dietetic training.* Applicant must possess a bachelor's degree and have been accepted for an approved dietetic internship.

(1) Appointment of dietetic students before graduation may be made in substantially the same manner as that prescribed for dental students in § 881.28 (a) (3). At time of application, each student will submit a statement as follows:

As an applicant for the USAF Dietetic Internship Program, I understand that I will be appointed as a Reserve of the Air Force contingent upon my completing the requirements for a bachelor's degree. I understand

that if I fail to receive the degree at the appropriate time, I will be discharged from all appointments held as prescribed in 10 U.S.C. 1162. Upon being ordered to active duty, I further understand that my initial tour of active duty will total 4 years (48 months) and will consist of the following:

12 Months—Dietetic Internship at an approved civilian institution.
6 Months—Additional dietetic training at a USAF hospital.
30 Months—Active duty assignments as a dietitian.

(Date) (Signature)

§ 881.40 Pharmacy officer (AFSC 9241).

§ 881.41 Optometry officer (AFSC 9251).

§ 881.44 Biomedical laboratory officer (AFSC 9151).

(b) *Education.* The minimum educational requirement for qualification in this specialty is a baccalaureate degree in medical technology, bacteriology, parasitology, chemistry, biochemistry, pharmaceutical chemistry, pharmacology, hematology, serology, or virology. A master's or Ph. D. degree with a major study in one of the referenced fields is desirable.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012; 10 U.S.C. 591, 593, 8067, 8353, 8358, 8359, and 8444, except as otherwise noted) [AFM 36-5, Change 1, Sept. 15, 1967]

By order of the Secretary of the Air Force.

LUCIAN M. PINDERHUGHES,
Colonel, U.S. Air Force, Chief, Special Activities Group, Office of The Judge Advocate General.

[F.R. Doc. 67-14832; Filed, Dec. 21, 1967; 8:46 a.m.]

Chapter XVII—Office of Emergency Planning

PART 1703—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Pursuant to and in conformity with sections 201 through 209 of Title 18 of the United States Code, Executive Order 11222 of May 8, 1965 (30 F.R. 6469), and Title 5, Chapter I, Part 735 of the Code of Federal Regulations, Title 22 is amended by adding a new Part 1703. This new Part 1703 supersedes OEP Reg. 6 in Title 32A. This reprint includes amendments reflecting amendments to Part 735 of Title 5 (32 F.R. 8221).

Subpart A—General Provisions

Sec.
1703.735-101 Purpose.
1703.735-102 Definitions.
1703.735-103 Interpretation and advisory service.
1703.735-104 Review of statements of employment and financial interests.
1703.735-105 Disciplinary and other remedial action.

Subpart B—Ethical and Other Conduct and Responsibilities of Employees

1703.735-201 Gifts, entertainment, and favors.
1703.735-202 Outside employment and other activity.
1703.735-203 Financial interests.
1703.735-204 Use of Government property.
1703.735-205 Misuse of information.
1703.735-206 Indebtedness.
1703.735-207 Gambling, betting, and lotteries.
1703.735-208 General conduct prejudicial to the Government.
1703.735-209 Miscellaneous statutory provisions.

Subpart C—Ethical and Other Conduct and Responsibilities of Special Government Employees

1703.735-301 Use of Government employment.
1703.735-302 Use of inside information.
1703.735-303 Coercion.
1703.735-304 Gifts, entertainment, and favors.
1703.735-305 Miscellaneous statutory provisions.
1703.735-306 General provisions.

Subpart D—Statements of Employment and Financial Interests

1703.735-401 Form and content of statements.
1703.735-402 Employees required to submit statements.
1703.735-402A Employee's complaint on filing requirements.
1703.735-403 Employees not required to submit statements.
1703.735-404 Time and place for submission of employees' statements.
1703.735-405 Supplementary statements.
1703.735-406 Interests of employees' relatives.
1703.735-407 Information not known by employees.
1703.735-408 Information excluded.
1703.735-409 Confidentiality of employees' statements.
1703.735-410 Effect of employees' statements on other requirements.
1703.735-411 Specific provisions of regulations for special Government employees.

AUTHORITY: The provisions of this Part 1703 issued under E.O. 11222, 30 F.R. 6469, 3 CFR 1965, Supp.; 5 CFR 735-101, et seq.

Subpart A—General Provisions

§ 1703.735-101 Purpose.

The maintenance of unusually high standards of honesty, integrity, impartiality, and conduct by Government employees and special Government employees is essential to assure the proper performance of the Government business and the maintenance of confidence by citizens in their Government. The avoidance of misconduct and conflicts of interest on the part of Government employees and special Government employees through informed judgment is indispensable to the maintenance of these standards. In accord with these concepts the Office of Emergency Planning's regulations are set forth to cover the employees and special Government employees of the Office of Emergency Planning with regard to prescribed standards of conduct and responsibilities, and statements for reporting employment and financial interests.

§ 1703.735-102 Definitions.

In the regulation in this part:

(a) "Employee" means an officer or employee of the Office of Emergency Planning, but does not include a special Government employee or a member of the uniformed services.

(b) "Executive order" means Executive Order 11222 of May 8, 1965.

(c) "Person" means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other organization or institution.

(d) "Special Government employee" means a "special Government employee" as defined in section 202 of Title 18 of the United States Code who is employed by the Office of Emergency Planning, but does not include a member of the uniformed services.

(e) "Uniformed services" has the meaning given that term in section 101(3) of Title 37 of the United States Code.

§ 1703.735-103 Interpretation and advisory service.

(a) The General Counsel, Office of Emergency Planning, is designated as Counselor for the Office of Emergency Planning and to serve as the Office of Emergency Planning's designee to the Civil Service Commission on matters covered by this regulation. The Counselor is responsible for coordination of the Office of Emergency Planning's counseling services provided under paragraph (a) of this section and for assuring that counseling and interpretations on questions of conflicts of interest, and other matters covered by this regulation are available to the Deputy Counselors designated under paragraph (b) of this section.

(b) The Counselor shall designate such Deputy Counselors as may be necessary. The Counselor and Deputy Counselors shall give advice and guidance to each employee and special Government employee who seeks advice and guidance on questions of conflicts of interest and on other matters covered by this regulation.

§ 1703.735-104 Review of statements of employment and financial interests.

Each statement of employment and financial interests submitted under this regulation shall be reviewed by the General Counsel or such other persons as he may designate, except the statement of the General Counsel which shall be reviewed by the Director. When this review indicates a conflict between the interests of an employee or special Government employee of the Office of Emergency Planning and the performance of his services for the Government, the General Counsel shall have the indicated conflict brought to the attention of the employee or special Government employee, grant the employee or special Government employee an opportunity to explain the indicated conflict, and attempt to resolve the indicated conflict. If the indicated conflict cannot be resolved, the General Counsel shall forward a written report on the indicated conflict to the Director, Office of Emergency Planning.

§ 1703.735-105 Disciplinary and other remedial action.

An employee or special Government employee of the Office of Emergency Planning who violates any of the sections of this regulation may be disciplined. The disciplinary action may be in addition to any penalty prescribed by law for the violation. In addition to, or in lieu of, disciplinary action, remedial action to end conflicts or appearances of conflicts of interest may include but is not limited to:

(a) Changes in assigned duties;

(b) Divestment by the employee or special Government employee of his conflicting interest; or

(c) Disqualification for a particular assignment.

Subpart B—Ethical and Other Conduct and Responsibilities of Employees

§ 1703.735-201 Gifts, entertainment, and favors.

(a) Except as provided in paragraphs (b) and (f) of this section, an employee shall not solicit or accept directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from a person who:

(1) Has or is seeking to obtain contractual or other business or financial relations with the Office of Emergency Planning;

(2) Conducts operations or activities that are regulated by the Office of Emergency Planning; or

(3) Has interests that may be substantially affected by the performance or nonperformance of his official duty.

(b) Exceptions to paragraph (a) of this section are deemed necessary and appropriate in view of the Office of Emergency Planning's work and the duties and responsibilities of its employees. These exceptions are limited to those that:

(1) Govern obvious family or personal relationships when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors;

(2) Permit acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meetings or on an inspection tour where an employee may properly be in attendance;

(3) Permit acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans;

(4) Permit acceptance of unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value; and

(5) Are approved by the Counselor or a Deputy Counselor.

(c) An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:

(1) Using public office for private gain;

(2) Giving preferential treatment to any person;

(3) Impending Government efficiency or economy;

(4) Losing complete independence or impartiality;

(5) Making a Government decision outside official channels; or

(6) Affecting adversely the confidence of the public in the integrity of the Government.

(d) An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(e) An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in 5 U.S.C. 7342.

(f) Neither this section nor § 1703.735-202 precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this part for which no Government payment or reimbursement is made. However, this paragraph does not allow an employee to be reimbursed, or payment to be made in his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits. It also does not allow an employee to be reimbursed by a person for travel on official business under agency orders when reimbursement is proscribed by Decision B-128527 of the Comptroller General dated March 7, 1967.

§ 1703.735-202 Outside employment and other activity.

(a) An employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of his Government employment. Incompatible activities include but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in or create the appearance of, conflicts of interest; or

(2) Outside employment which tends to impair his mental or physical capacity to perform his Government duties and responsibilities in an acceptable manner.

(b) An employee shall not receive any salary or anything of monetary value from a private source as compensation for his services to the Government (18 U.S.C. 209).

(c) Employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law, the Executive order or this regulation. However, an employee shall not, either for or without compensation, engage in teaching, lecturing, or writing that is dependent on information obtained as a result of his Government employment, except when that information has been made available to the general public or will be made available on request, or when the Director, Office of Emergency Planning gives written authorization for the use of nonpublic information on the basis that the use is in the public interest. In addition, an employee who is a Presidential appointee covered by section 401(a) of the Executive order shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance the subject matter of which is devoted substantially to the responsibilities, programs, or operations of the Office of Emergency Planning, or which draws substantially on official data or ideas which have not become part of the body of public information.

(d) An employee shall not engage in outside employment under a State or local government, except in accordance with 5 CFR 734, 101 et seq.

(e) This section does not preclude an employee from:

(1) Participation in the activities of national or State political parties not prohibited by law.

(2) Participation in the affairs of or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit, educational and recreational, public service, or civic organization.

§ 1703.735-203 Financial interests.

(a) An employee shall not:

(1) Have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his Government duties and responsibilities; or

(2) Engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through his Government employment.

(b) This section does not preclude an employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government so long as it is not prohibited by law, the Executive order, or the regulation in this part.

§ 1703.735-204 Use of Government property.

An employee shall not directly or indirectly use, or allow the use of, Government property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to him.

§ 1703.735-205 Misuse of information.

For the purpose of furthering a private interest, an employee shall not, except as

provided in § 1703.735–202(c), directly or indirectly use, or allow the use of, official information obtained through or in connection with his Government employment which has not been made available to the general public.

§ 1703.735–206 Indebtedness.

An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court, and "in a proper and timely manner" means in a manner which the Office of Emergency Planning determines does not under the circumstances, reflect adversely on the Government as his employer. In the event of dispute between an employee and an alleged creditor, this section does not require the Office of Emergency Planning to determine the validity or amount of the disputed debt.

§ 1703.735–207 Gambling, betting, and lotteries.

An employee shall not participate, while on Government-owned or leased property or while on duty for the Government, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket. However, this section does not preclude activities:

(a) Necessitated by an employee's law enforcement duties; or

(b) Under section 3 of Executive Order 10927 and similar activities approved by the Office of Emergency Planning.

§ 1703.735–208 Conduct prejudicial to the Government.

An employee shall not engage in criminal, infamous, dishonest, immoral or notoriously disgraceful conduct, or other conduct prejudicial to the Government.

§ 1703.735–209 Miscellaneous statutory provisions.

Each employee shall acquaint himself with each statute that relates to his ethical and other conduct as an employee of the Government. The attention of employees is directed to the following statutory provisions:

(a) House Concurrent Resolution 175, 85th Congress, 2d Session, 72 Stat. B12, the "Code of Ethics for Government Service."

(b) Chapter 11 of Title 18, United States Code, relating to bribery, graft, and conflicts of interest, as appropriate to the employees concerned.

(c) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(d) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).

(e) The prohibition against the employment of a member of a Communist organization (50 U.S.C. 784).

(f) The prohibitions against (1) the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783); and (2) the disclosure of confidential information (18 U.S.C. 1905).

(g) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(h) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a(c)).

(i) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).

(j) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(k) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(l) The prohibition against multilating or destroying a public record (18 U.S.C. 2071).

(m) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(n) The prohibitions against (1) embezzlement of Government money or property (18 U.S.C. 641); (2) failing to account for public money (18 U.S.C. 643); and (3) embezzlement of the money or property of another person in the possession of an employee by reason of his employment (18 U.S.C. 654).

(o) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(p) The prohibitions against political activities in subchapter III of chapter 73 of Title 5, United States Code and 18 U.S.C. 602, 603, 607, and 608.

(q) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

Subpart C—Ethical and Other Conduct and Responsibilities of Special Government Employees

§ 1703.735–301 Use of Government employment.

A special Government employee shall not use his Government employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for himself or another person, particularly one with whom he has family, business, or financial ties.

§ 1703.735–302 Use of inside information.

(a) A special Government employee shall not use inside information obtained as a result of his Government employment for private gain for himself or another person either by direct action on his part or by counsel, recommendation, or suggestions to another person, particularly one with whom he has family, business, or financial ties. For the purpose of this section, "inside information" means information obtained under Government authority which has not become part of the body of public information.

(b) Special Government employees may teach, lecture, or write in a manner not inconsistent with § 1703.735–202(c) in regard to employees.

§ 1703.735–303 Coercion.

A special Government employee shall not use his Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to himself or another person, particularly one with whom he has family, business or financial ties.

§ 1703.735–304 Gifts, entertainment, and favors.

(a) Except as provided in paragraph (b) of this section, a special Government employee, while so employed or in connection with his employment, shall not receive or solicit from a person having business with the Office of Emergency Planning anything of value as a gift, gratuity, loan, entertainment, or favor for himself or another person, particularly one with whom he has family, business, or financial ties.

(b) Exceptions to paragraph (a) of this section for special Government employees are those applicable to employees under § 1703.735–201(b).

§ 1703.735–305 Miscellaneous statutory provisions.

Each special Government employee shall acquaint himself with each statute that relates to his ethical and other conduct as a special Government employee of the Government. The attention of special Government employees is directed to the statutory provisions listed in § 1703.735–309 that are applicable to special Government employees.

§ 1703.735–306 General provisions.

Each special Government employee shall adhere to the standards of conduct made applicable to employees by §§ 1703.735–303 through 1703.735–308.

Subpart D—Statements of Employment and Financial Interests

§ 1703.735–401 Form and content of statements.

The statements of employment and financial interests required under this subpart for use by employees and special Government employees shall contain the information required by the formats prescribed by the General Counsel which have been approved by the Civil Service Commission.

§ 1703.735–402 Employees required to submit statements.

Except as provided in § 1703.735–403 the following employees shall submit statements of employment and financial interests:

(a) Employees paid at a level of the Executive Schedule in subchapter II of Chapter 53 of Title 5, United States Code.

(b) Employees who are incumbents of the following positions:

ASSISTANT DIRECTORS

OFFICE OF THE DIRECTOR OF TELECOMMUNICATIONS MANAGEMENT

Director.
Associate Director, National Communications.
Associate Director, Research and Technology.
Associate Director, Frequency Management.
Executive Assistant.

ADMINISTRATION

Director of Administration.
Chief, Financial Management Branch.
Head, Audit Section.
Chief, Administrative Services Branch.
Supervisor, Procurement and Property Section.

EMERGENCY OPERATIONS OFFICE

Director.
Chief, Government Readiness Division.
Chief, Disaster Assistance Division.
Chief, Special Facilities Division.

FIELD SERVICES

Director.
Regional Directors.

PROGRAM PLANNING AND EVALUATION

Director.

INFORMATION

Director.
Assistant Director.

LIAISON

Director.

STAFF ASSISTANT FOR HEALTH

Staff Assistant for Health.

GENERAL COUNSEL

General Counsel.
Deputy General Counsel.

NATIONAL RESOURCE ANALYSIS CENTER

Director.
Executive Assistant.
Chief, Resource Evaluation Division.
Deputy Chief, Resource Evaluation Division.
Chief, Systems Evaluation Division.
Deputy Chief, Systems Evaluation Division.
Chief, Materials Policy Division.
Deputy Chief, Materials Policy Division.
Chief, Mobilization Plans Division.
Chief, Economic Stabilization Division.

§ 1703.735–402a Employee's complaint on filing requirements.

Incumbents of positions listed in section 1703.735–402 may file a complaint stating that his position has been improperly included under the provisions of the Regulation. All such complaints shall be heard in accordance with grievance procedures established under Chapter 12 of the Administrative Manual (AM–5).

§ 1703.735–403 Employees not required to submit statements.

A statement of employment and financial interest is not required by this subpart from the Director, Office of Emergency Planning, who is subject to separate reporting requirements under section 401 of the Executive order, nor from employees not covered by § 1703.735–402.

§ 1703.735–404 Time and place for submission of employees' statements.

An employee required to submit a statement of employment and financial interests under this subpart shall submit that statement to the Office of the General Counsel not later than:

(a) If employed on or before the effective date of this part, no later than 30 days after the effective date of this part.

(b) If appointed after that effective date, within 30 days after his entrance on duty.

§ 1703.735–405 Supplementary statements.

Changes in, or additions to, the information contained in an employee's statement of employment and financial interests shall be reported in a supplementary statement as of June 30 each year. If no changes or additions occur, a negative report is required. Notwithstanding the filing of the annual report required by this section, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflicts of interest provisions of section 208 of Title 18, United States Code, or Subpart B of this part.

§ 1703.735–406 Interests of employees' relatives.

The interest of a spouse, minor child, or other member of an employee's immediate household is considered to be an interest of the employee. For the purpose of this section, "member of an employee's immediate household" means those blood relations who are residents of the employee's household.

§ 1703.735–407 Information not known by employees.

If any information required to be included on a statement of employment and financial interests or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information in his behalf.

§ 1703.735–408 Information excluded.

This subpart does not require an employee to submit on a statement of employment and financial interests or supplementary statement any information relating to the employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civil, or political organization, or a similar organization not conducted as a business enterprise. For the purpose of this section, education and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement of employment and financial interest.

§ 1703.735–409 Confidentiality of employees' statements.

(a) The Office of Emergency Planning will hold each statement of employment and financial interests, and each supplementary statement, in confidence. To insure this confidentiality, only the General Counsel is authorized to retain the statements.

(b) The General Counsel is responsible for maintaining the statements in confidence and shall not allow access to, or allow information to be disclosed from a statement except to carry out the purpose of this part. Information from a statement may not be disclosed except as the Civil Service Commission or the Director of the Office of Emergency Planning may determine for good cause shown.

§ 1703.735–410 Effect of employees' statements on other requirements.

The statements of employment and financial interests and supplementary statements required of employees are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a statement or supplementary statement by an employee does not permit him or any other person to participate in a matter in which his or the other person's participation is prohibited by law, order, or regulation. Nor does it relieve any employee of the Office of Emergency Planning of the responsibility to call to the attention of the Counselor or a Deputy Counselor any of his employment or financial interests which conflict substantially, or appear to conflict substantially, with his Government duties and responsibilities.

§ 1703.735–411 Specific provisions of regulations for special Government employees.

(a) Except as provided in paragraph (b) of this section, each special Government employee shall submit a statement of employment and financial interests which reports:

(1) All other employment; and

(2) The financial interests of the special Government employee which are relevant in light of the duties he is to perform.

(b) The requirements in paragraph (a) of this section for the submission of a statement of employment and financial interests is waived for the following special Government employees:

(1) Clerk-typists.
(2) Clerk-stenographers.
(3) Clerk (Administrative Assistant).
(4) Natural Disaster Specialists.

(c) Statements of employment and financial interest required to be submitted under this section shall be submitted not later than the time of employment of the special Government employee. Each special Government employee shall keep his statement current throughout his employment with the Office of Emergency Planning by the submission of supplementary statements. Special Government employees required to submit statements of employment and financial interests under this section shall also be subject to the provisions of §§ 1703.735–406, 1703.735–408, 1703.735–409, and 1703.735–410.

This part was approved by the Civil Service Commission on November 29, 1967, and is in accord with amended Commission regulations on Employee Responsibilities and Conduct published in the FEDERAL REGISTER of June 9, 1967 (5 CFR 735.101 et seq.).

This Part 1703 supersedes OEP Reg. 6 which was published in the FEDERAL REGISTER on April 8, 1966. OEP Reg. 6 is hereby revoked.

Effective date. This Part 1703 shall become effective upon publication in the FEDERAL REGISTER.

Dated: December 19, 1967.

PRICE DANIEL,
Director,
Office of Emergency Planning.

[F.R. Doc. 67-14895; Filed, Dec. 21, 1967; 8:50 a.m.]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter I—Office of Emergency Planning

OEP REG. 6—EMPLOYEE RESPONSIBILITIES AND CONDUCT

CROSS REFERENCE: For a document superseding the material in Title 32A, Chapter I, OEP Reg. 6, see F.R. Doc. 67-14895, Title 32, Chapter XVII, Part 1703, *supra*.

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Unincorporated Business Enterprises Taxed as Domestic Corporations

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

In order to conform the INCOME TAX Regulations (26 CFR Part 1) under section 1361 of the Internal Revenue Code of 1954 to section 4 of the Act of April 14, 1966 (Public Law 89-389, 80 Stat. 115), such regulations are amended as follows:

PARAGRAPH 1. Section 1361 of section 1.1361 is amended by revising subsections (a), (c), (e), and (l), by deleting subsection (m), by adding a subsection (n), and by revising the historical note. These amended and added provisions read as follows:

§ 1.1361 Statutory provisions; unincorporated business enterprises electing to be taxed as domestic corporations.

SEC. 1361. *Unincorporated business enterprises electing to be taxed as domestic corporations*—(a) *General rule.* Subject to the qualifications in subsection (b), an election may be made, in accordance with regulations prescribed by the Secretary or his delegate, not later than 90 days after the close of any taxable year of a proprietorship or partnership owning an unincorporated business enterprise, by the proprietor or all the partners, owning an interest in such enterprise at any time on or after the first day of the first taxable year to which the election applies or of the year described in subsection (f), to be subject to the taxes described in subsection (h) as a domestic corporation for such year and subsequent years. No election (other than an election referred to in subsection (f)) may be made under this subsection after the date of the enactment of this sentence.

* * * * *

(c) *Corporate provisions applicable.* Under regulations prescribed by the Secretary or his delegate, an unincorporated business enterprise as to which an election has been made under subsection (a), shall be considered a corporation for purposes of this subtitle, except chapter 2 thereof, with respect to operation, distributions, sale of an interest, and any other purpose; and each owner of an interest in such enterprise shall be considered a shareholder thereof in proportion to his interest.

* * * * *

(e) *Election irrevocable.* Except as provided in subsections (f) and (n), the election, described in subsection (a) shall be irrevocable—

(1) With respect to an enterprise as to which such election has been made and the proprietor or partners of such enterprise; and

(2) Any unincorporated successor to the business of such enterprise and the proprietor or partners of such successor.

* * * * *

(l) *Personal holding company income*—(1) *Excluded from income of enterprise.* There shall be excluded from the gross income of the enterprise as to which an election has been made under subsection (a) any item of gross income (computed without regard to the adjustments provided in section 543(b)(3) or (4)) if, but for this paragraph, such item (adjusted, where applicable, as provided in section 543(b)(3) or (4)) would constitute personal holding company income (as defined in section 543(a)) of such enterprise.

(2) *Income and deductions of owners.* Items excluded from the gross income of the enterprise under paragraph (1), and the expenses attributable thereto, shall be treated as the income and deductions of the proprietor or partners (in accordance with their distributive shares of partnership income) of such enterprise.

(3) *Distributions.* If—

(A) The amount excluded from gross income under paragraph (2) exceeds the expenses attributable thereto, and

(B) Any portion of such excess is distributed to the proprietor or partner during the year earned,

such portion shall not be taxed as a corporate distribution. The portion of such excess not distributed during such year shall be considered as paid-in surplus or as a contribution to capital as of the close of such year.

* * * * *

(m) [Deleted]

(n) *Revocation and termination of elections*—(1) *Revocation.* An election under subsection (a) with respect to an unincorporated business enterprise may be revoked after the date of the enactment of this subsection by the proprietor of such enterprise or by all the partners owning an interest in such enterprise on the date on which the revocation is made. Such enterprise shall not be considered a domestic corporation for any period on or after the effective date of such revocation. A revocation under this paragraph shall be made in such manner as the Secretary or his delegate may prescribe by regulations.

(2) *Termination.* If a revocation under paragraph (1) of an election under subsection (a) with respect to any unincorporated business enterprise is not effective on or before December 31, 1968, such election shall terminate on January 1, 1969, and such enterprise shall not be considered a domestic corporation for any period on or after January 1, 1969.

[Sec. 1361 as amended by sec. 7(h), Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 829); sec. 225(k)(5), Rev. Act 1964 (78 Stat. 94); sec. 4, Act of Apr. 14, 1966 (Public Law 89-389, 80 Stat. 115)]

PAR. 2. Paragraph (a)(1) of § 1.1361-1 is amended to read as follows:

§ 1.1361-1 Unincorporated business enterprises electing to be taxed as domestic corporations.

(a) *General rule.* (1) Section 1361 provides that, if certain qualifications are met, the proprietor or the partners of an unincorporated enterprise engaged in the operation of a trade or business may elect to have the enterprise treated as a domestic corporation subject to (i) the normal tax and surtax imposed by section 11 (including any additional tax imposed by section 1562(b)), (ii) the accumulated earnings tax imposed by section 531, and (iii) the alternative tax for capital gains imposed by section 1201(a). An election made under section 1361 shall apply to the taxable year for which made and to all subsequent taxable years, except as provided in paragraph (b) of § 1.1361-16 (relating to termination of all elections on January 1, 1969). An election made under section 1361 shall be irrevocable except as provided in § 1.1361-15 and paragraph (a) of § 1.1361-16. See, however, paragraph (b) of § 1.1361-5 for effect of ceasing to conduct the business of the enterprise in an unincorporated form, and § 1.1361-6 for effect of a change of ownership. An election may be made only with respect to taxable years of a proprietor or partnership beginning after December 31, 1953, and ending after August 16, 1954. However, an election may not be made after April 14, 1966, except as provided in section 1361(f) and paragraph (b) of § 1.1361-6, relating to an election after change of ownership.

* * * * *

PAR. 3. Section 1.1361-5 is amended to read as follows:

§ 1.1361-5 Election irrevocable.

(a) *Conducting of business in unincorporated form.* Except as provided in § 1.1361-6 (relating to effect of change

of ownership), § 1.1361–15 (relating to revocation of election within stated period of time), and § 1.1361–2(f) (relating to revocation of election after Apr. 14, 1958, and termination of all elections on Jan. 1, 1969), an election made under section 1361(a) is irrevocable so long as the business of the enterprise is conducted in an unincorporated form. A section 1361 corporation, and any unincorporated successor to the business thereof, shall be taxable as a domestic corporation for the taxable year with respect to which the election is made and for all subsequent taxable years, and the proprietor or partners of the enterprise shall be treated as corporate shareholders for the same period. The election applies not only to the original enterprise and its owner or owners but also to any unincorporated successor to the business of the original enterprise and to the owner or owners of such successor. For example, the termination of a partnership under applicable local law and the transfer of the business to a new partnership does not terminate the election unless a change of ownership occurs (as described in paragraph (a)(2) of § 1.1361–6) and no new election is made.

(b) *Effect of ceasing to conduct business in an unincorporated form*—(1) *Transactions prior to April 15, 1966.* Except as provided in paragraph (a) of this section, an election made under section 1361 continues so long as the business of the enterprise is conducted in an unincorporated form. If the owners cease conducting the business of the enterprise in an unincorporated form before April 15, 1966, the election terminates and the assets of the enterprise are deemed to have been distributed to the owners in a complete liquidation of the section 1361 corporation. The effect of the liquidation on the owners shall be determined under the provisions of sections 331, 334(a) and, in appropriate cases, 341. Therefore, if a substantial part of the business is transferred to an actual corporation before April 15, 1966, the transaction shall be treated as if immediately before the transfer all of the assets of the enterprise had been distributed to the owners in a complete liquidation. Accordingly, the transfer of the assets to the actual corporation shall be treated as a transfer made by the owners in their individual capacities immediately after the liquidation.

(2) *Transactions after April 14, 1966.* In transactions occurring after April 14, 1966, a section 1361 corporation shall be considered a corporation and its owners shall be considered shareholders for purposes of parts III and IV, subchapter C, chapter 1 of the Code, relating to corporate organizations and reorganizations, and to insolvency reorganizations. See § 1.1361–12. Therefore, if the owners cease conducting the business of the enterprise in an unincorporated form after April 14, 1966, the section 1361 corporation and its owners may be treated as if the corporation had distributed its assets in complete liquidation, as provided in subparagraph (1) of this paragraph. However, if there is a transfer of assets of a section 1361 corporation to an actual corporation after April 14, 1966, the transaction may be treated as a reorganization within the meaning of section 368(a)(1) (C), (D), or (F). In such a case, the transfer of the assets to the actual corporation shall be treated as a transfer made by the section 1361 corporation to the actual corporation which is immediately followed by a transfer of all of the assets and liabilities of the section 1361 corporation to the owners in exchange for their stock in the section 1361 corporation, with the consequences to the owners determined under the provisions of section 354, 355, or 356. In the case of a partnership which retains some of the assets or liabilities following a transfer of assets to an actual corporation which is treated as a reorganization, the partners who are treated as shareholders of the section 1361 corporation shall, nevertheless, be treated as having received all of the assets and liabilities of the section 1361 corporation in exchange for their stock in the section 1361 corporation, immediately followed by a contribution of such retained assets or liabilities to a new partnership. The provisions of this subparagraph may be illustrated by the following example:

Example. A and B are partners, each owning a one-half interest in the profits and capital of X, a section 1361 corporation. A and B desire to operate their business enterprise in the form of an actual corporation rather than in the form of a section 1361 corporation. X has accumulated earnings and profits, and the fair market value of its property exceeds its adjusted basis. X and the owners, A and B, adopt a plan providing that, after April 14, 1966, all of the assets of X are to be transferred to, and all of the liabilities of X are to be assumed by, an actual corporation, Y, in exchange for all of the common stock of Y. Immediately after such exchange, X will transfer all of the common stock of Y to A and B, in equal shares and in exchange for their "stock" in X.

The transaction is consummated after April 14, 1966, in accordance with the plan. It qualifies as a reorganization under section 368(a)(1)(F). Assuming that the nature and amount of the liabilities assumed by Y do not make the provisions of section 357(b) or (c) applicable, no gain is recognized as a result of the exchanges, pursuant to sections 1032, 361, and 354. The basis of the property acquired by Y is the same as its basis was in the hands of X, pursuant to section 362(b). The basis of the Y stock acquired by A and B is the same as their basis was for their stock in X, pursuant to section 358(a). The taxable year of X does not end as a result of the transaction, and Y succeeds to and takes into account, as of the close of the day of the transfer from X, various items of X as provided in section 381 for transfers in connection with a reorganization described in section 368(a)(1)(F).

PAR. 4. Paragraph (c) of § 1.1361–6 is amended to read as follows:

§ 1.1361–6 Change of ownership of 20 percent or more.

* * * * *

(c) *Failure to make new election after change of ownership*—(1) *Transactions occurring before April 15, 1966.* If during a taxable year of a section 1361 corporation, in a transaction occurring before April 15, 1966, a change of ownership occurs and if no new election is made, then the section 1361 corporation and its owners shall be treated as if the corporation had distributed its assets in a complete liquidation on the first day of the corporation's taxable year in which the change of ownership occurs. The effect of the liquidation on the owners shall be determined under the provisions of sections 331, 334(a) and, in appropriate cases, 341. If the enterprise is a proprietorship, then as of the first day of such taxable year, the owner shall be treated as if he had used the assets deemed received in liquidation, in the conduct of an unincorporated business. Accordingly, any transfer by him during such taxable year shall be treated as a sale or other disposition of assets of the business. If the enterprise is a partnership, then the partners shall be treated as if they had contributed the assets deemed received in liquidation to a new partnership as of the moment such assets were deemed received. Accordingly, any transfer of an owner's interest during such taxable year shall be treated as a sale or other disposition of a partner's interest in a partnership, and any transfer of the enterprise's property during such taxable year shall be treated as a sale or other disposition of property by a partnership.

(2) *Transactions occurring after April 14, 1966.* In transactions occurring after April 14, 1966, a section 1361 corporation shall be considered a corporation and its owners shall be considered shareholders for purposes of parts III and IV, subchapter C, chapter 1 of the Code, relating to corporate organizations and reorganizations, and to insolvency reorganizations. See § 1.1361–12. Therefore, if during a taxable year of a section 1361 corporation in a transaction occurring after April 14, 1966, a change of ownership occurs and if no new election is made, the section 1361 corporation and its owners may be treated as if the corporation had distributed its assets in a complete liquidation on the first day of the corporation's taxable year in which the change of ownership occurs, as provided in subparagraph (1) of this paragraph. However, a change of ownership which occurs after April 14, 1966, and which is followed by a transfer to another corporation of all or part of the assets of the section 1361 corporation (as, for example, where a corporation is the new owner), or which is preceded by such a transfer, may have the effect of the distribution of a dividend or a transaction in which no loss is recognized and gain is recognized only to the extent of "other property." See sections 301 and 356.

* * * * *

PAR. 5. Paragraph (a)(4) of § 1.1361–9 is amended to read as follows:

§ 1.1361–9 Computation of taxable income.

(a) *In general.* * * *

(4) Unless a section 1361 corporation is a party to a reorganization (within the meaning of section 368(b)) as a result of a transaction occurring after April 14, 1966, any carryover or carryback of an item of the corporation (such as a carryover or carryback under section 170, 172, or 1212) attributable to a taxable year to which section 1361 applies may be carried over or carried back only to another taxable year of such corporation and then may be used solely in computing the taxable income of such corporation. Similarly, any carryover or carryback arising out of the conduct of the business enterprise in a year to which section 1361 is not applicable may not be carried over or carried back to the corporation for a year to which section 1361 applies, but should be carried over or carried back by the owners in computing their individual income tax liabilities. However, if a section 1361 corporation is a party to a reorganization (with the meaning of section 368(b)) as a result of a transaction occurring after April 14, 1966, see section 381 and the regulations thereunder for the rules relating to carryovers in certain corporate acquisitions.

* * * * *

PAR. 6. Section 1.1361–11 is amended to read as follows:

§ 1.1361–11 Distributions in liquidation.

(a) *General rule.* A section 1361 corporation may make distributions to its owners in complete or partial liquidation of the corporation. In addition, the failure to continue conducting the business of the enterprise in an unincorporated form, or the failure to make a new election after a change of ownership, may result in a liquidation of the section 1361 corporation. See paragraph (b) of § 1.1361–5, and paragraph (c) of § 1.1361–6. The effect of such distributions shall be determined in accordance with the appropriate provisions of part II, subchapter C, chapter 1 of the Code, and the regulations thereunder. See, however, paragraph (c) of this section.

(b) *Requirement of a written plan.* Except as provided in paragraph (b) of § 1.1361–5, paragraph (c) of § 1.1361–6, and paragraphs (a) and (b) of § 1.1361–16, a section 1361 corporation shall not be considered to have made a distribution in partial or complete liquidation, or a distribution in redemption of stock, unless prior to the date of the distribution the corporation adopts a written plan providing for such liquidation or redemption. Moreover, the requirements of section 6043 (relating to information returns) and paragraph (d) of § 1.331–1 (relating to returns of shareholders) must be complied with.

(c) *Distributions not treated as liquidating distributions*—(1) Except as provided in paragraphs (a) and (b) of § 1.1361–16, distributions by a section 1361 corporation shall not be treated as distributions in liquidation under part II, subchapter C, chapter 1 of the Code, if the owner or owners use the assets received in the distribution to conduct substantially the same business in an unincorporated form as that conducted by the corporation. In such a case, the section 1361 corporation shall continue in existence and any withdrawal of assets from the business shall be treated as a distribution which is not in partial or complete liquidation of the corporation.

(2) A liquidation by a section 1361 corporation in a transaction occurring after April 14, 1966, which is followed by a transfer to another corporation of all or part of the assets of the section 1361 corporation or which is preceded by such a transfer may have the effect of the distribution of a dividend or of a transaction in which no loss is recognized and gain is recognized only to the extent of "other property." See sections 301 and 356.

PAR. 7. Section 1.1361–12 is amended to read as follows:

§ 1.1361–12 Organizations and reorganizations.

(a) *Transactions occurring before April 15, 1966*—(1) *General rule.* In transactions occurring before April 15, 1966, except as provided in subparagraphs (2) and (3) of this paragraph, a section 1361 corporation shall not be considered a corporation nor shall its owners be considered shareholders for purposes of parts III and IV, subchapter C, chapter 1 of the Code, relating to corporate organizations and reorganizations, and to insolvency reorganizations.

(2) *Contributions to capital.* In any case where gain or loss would be recognized upon the contribution of property constituting either paid-in surplus or a contribution to capital by a shareholder to a corporation, gain or loss shall be recognized upon a similar contribution to a section 1361 corporation. For example, in a case where a shareholder in an actual corporation would recognize gain under section 357 on a transfer of property, an owner of a section 1361 corporation shall also recognize gain in a similar transaction.

(3) *Elections made for first taxable year of an enterprise.* In any case in which the election under section 1361(a) is made with respect to the first taxable year of an unincorporated enterprise, the appropriate provisions of part III, subchapter C, chapter 1 of the Code, shall be applicable with respect to its initial organization. For example, for the purpose of determining whether gain or loss is recognized upon the organization of the enterprise, the provisions of section 351 and section 357 shall be applicable as if the owners had contributed property or services in exchange for corporate stock.

(b) *Transactions occurring after April 14, 1966.* In transactions occurring after April 14, 1966, a section 1361 corporation shall be considered a corporation and its owners shall be considered shareholders for purposes of parts III and IV, subchapter C, chapter 1 of the Code, relating to corporate organizations and reorganizations, and to insolvency reorganizations. Thus, a section 1361 corporation may be a "party to a reorganization" within the meaning of section 368(b) in a transaction occurring after April 14, 1966. However, it may not be a party to a reorganization described in subparagraph (A), (B), or (E) of section 368(a)(1). See paragraph (b) (2) and (3) of § 1.1361–5, paragraph (c)(2) of § 1.1361–6, paragraph (a)(4) of § 1.1361–9, paragraph (c)(2) of § 1.1361–11, and paragraphs (a) and (b) of § 1.1361–16.

PAR. 8. The following new section is added immediately after § 1.1361–15:

§ 1.1361–16 Revocation and termination of elections.

(a) *Revocation of election after April 14, 1966*—(1) *Manner of revoking.* An election under section 1361(a) with respect to an unincorporated business enterprise may be revoked after April 14, 1966, and before January 1, 1969, in accordance with the provisions of this subparagraph. An election may be revoked by filing a statement that the proprietor or partners, as the case may be, revoke the election under section 1361(a) to have the unincorporated business enterprise treated as a domestic corporation. The statement of revocation shall be filed on or before December 31, 1968, with the internal revenue officer with whom the enterprise would be required to file its income tax return if it were an actual corporation for the taxable year during which the statement is filed (see section 6091(b)(2)). Such statement of revocation shall set forth the names and addresses of, and shall be signed by, the proprietor of, or all of the partners owning a profit or capital interest in, the enterprise on the date on which the revocation is filed. The statement must state the name, address, and employer identification number under which the income tax returns of the section 1361 corporation were filed for the prior taxable years during which the election was applicable, and the internal revenue officer with whom such returns were filed. The revocation shall be effective on the date on which the statement of revocation is filed (see section 7502 and the regulations thereunder) unless the statement of revocation specifies a later effective date, in which case the revocation shall be effective on such later date. However, no date after December 31, 1968 may be specified as the effective date. A revocation under this subparagraph is binding and may not be withdrawn.

(2) *Effect of revocation.* The section 1361 corporation and its owners shall be treated as if the corporation had distributed its assets in a complete liquidation on the effective date of the revocation made pursuant to subparagraph (1) of this paragraph. The effect of the liquidation on the owners shall be determined under the provisions of sections 331, 334(a) and, in appropriate cases, 341 or 333 and 334(c). (However, a liquidation which is followed by a transfer to another corporation of all or part of the assets of the liquidating corporation or which is preceded by such a transfer may have the effect of the distribution of a dividend or of a transaction in which no loss is recognized and gain is recognized only to the extent of "other property." See sections 301 and 356.) If an effective revocation is made pursuant to subparagraph (1) of this paragraph, the provisions of paragraph (c)(1) of § 1.1361–11

are not thereafter applicable to the business enterprise, and the requirement of a written plan contained in paragraph (b) of § 1.1361–11 is not applicable in order for the section 1361 corporation to be considered to have made a distribution in complete liquidation resulting from the revocation. However, the requirements of section 6043 (relating to information returns), paragraph (d) of § 1.331–1 (relating to returns of shareholders), and, in appropriate cases, the regulations under section 333 (relating to complete liquidations in some one calendar month) must be complied with.

(b) *Termination of all elections on January 1, 1969.* If any election under section 1361(a) with respect to an unincorporated business enterprise would be effective on January 1, 1969, without regard to paragraph (2) of section 1361(n) and the provisions of this paragraph, such election shall terminate on January 1, 1969. The section 1361 corporation and its owners shall be treated as if the corporation had distributed its assets in a complete liquidation on January 1, 1969. The effect of the liquidation on the owners shall be determined under the provisions of sections 331 and 334(a). (However, a liquidation which is followed by a transfer to another corporation of all or part of the assets of the liquidating corporation or which is preceded by such a transfer may have the effect of the distribution of a dividend or of a transaction in which no loss is recognized and gain is recognized only to the extent of "other property." See sections 301 and 356.) The provisions of paragraph (c) (1) of § 1.1361–11 are not applicable to a business enterprise with respect to which an election has been terminated under this paragraph. The requirements of section 6043 (relating to information returns) and paragraph (d) of § 1.331–1 (relating to returns of shareholders) must be complied with.

[F.R. Doc. 67–14869; Filed, Dec. 21, 1967; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Mines

[30 CFR Part 12]

[Bureau of Mines Schedule 19B]

SUPPLIED-AIR RESPIRATORS

Procedures for Investigation, Tests, Certification, Approval, and Fees

Pursuant to section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003), notice is hereby given that under authority contained in the Act of May 16, 1910 (35 Stat. 370; 30 U.S.C. 3, 5, and 7), as amended, it is proposed to amend the regulations issued as Part 12 of Chapter I, Title 30, Code of Federal Regulations. The current regulations were adopted on April 19, 1955 (20 F.R. 2564), were amended November 6, 1963 (28 F.R. 12120, Nov. 14, 1963), and the fees were revised on March 23, 1966 (30 F.R. 3752).

The purposes of the proposed revision are to bring up-to-date the regulations to incorporate provision for technologic advances in the design and construction of supplied-air respirators, to provide for a greater variety of equipment to better meet new environmental conditions, to provide for combination purpose equipment, and to make certain administrative procedures and requirements consistent with those of other parts.

In accordance with the policy of the Department of the Interior, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendment of the regulations to the Director, Bureau of Mines, Interior Building, Washington, D.C. 20240, within 30 days after the date of publication in the FEDERAL REGISTER.

WALTER R. HIBBARD, JR.,
Director, Bureau of Mines.

Part 12 of Chapter 1 of Title 30 would be amended as follows:

1. A new paragraph (e) is added to § 12.2 as follows:

§ 12.2 Types of supplied-air respirators.

* * * * *

(e) *Types A, AE, B, BE, C, or CE respirator in combination with another type of respiratory protective device.* (1) A respirator of this type may consist of a supplied-air respirator in combination with a self-contained breathing apparatus or with an air-purifying respirator such as a gas mask, dispersoid respirator, or chemical-cartridge respirator. A combination supplied-air respirator and self-contained breathing apparatus which meets the applicable requirements of this part and of Part 11 of this chapter may be worn in atmospheres immediately-harmful to life. A combination supplied-air respirator and air-purifying respirator which meets the requirements of this part and of other applicable parts will not be approved to be worn in atmospheres which exceed the limitations prescribed by the Bureau for use of the air-purifying respirator.

(2) Respiratory protective devices combining the characteristics of a supplied-air respirator and another type of respiratory protective device shall meet the requirements of this part as well as the requirements of any other part which is applicable to the total purpose of the device for which approval is sought. The approval, if granted, will be issued under the other applicable part(s). The Bureau will specify, in the certificate of approval and on the approval label, the limitations which shall apply to the use of the combination respiratory protective device.

2. Paragraphs (a), (b), (d), (e), (f), (g), (h), and (i) of § 12.4 are amended as follows:

§ 12.4 Conditions under which supplied-air respirators will be tested.

(a) *Consultation.* By appointment, applicants or their representatives may visit the Bureau's Health and Safety Research and Testing Center, 4800 Forbes Avenue, Pittsburgh, Pa. 15213 to discuss with qualified Bureau personnel proposed supplied-air respirators to be submitted in accordance with the regulations of this part. No charge is made for such consultation and no written report thereof will be made to the applicant.

(b) *Application.* No investigating or testing (including retesting of a respirator that has been previously tested and disapproved) will be undertaken hereunder by the Bureau except pursuant to a written application, in duplicate, accompanied by all drawings, specifications, descriptions, and related matters and also a check, bank draft, or money order, payable to the Bureau of Mines to cover the fees. The application and all related matters and correspondence concerning it shall be addressed to the Bureau of Mines, Health and Safety Research and Testing Center, 4800 Forbes Avenue, Pittsburgh, Pa. 15213, Attention: Approval and Testing.

* * * * *

(d) *Drawings and specifications required.* (1) Drawings, specifications, and descriptions shall be adequate in detail to identify fully all components and subassemblies and the assembled respirator. All drawings shall include title, number, and date; any revision dates shall be shown on the drawings and the purpose of each revision shall be shown on the drawings or described in an attachment to the drawing to which it applies.

(2) Duplicate sets of detailed drawings and specifications shall be a part of the application. These shall fully describe the construction, dimensions, composition, materials, finishes, and assembly of all parts of the respirator.

(3) The application shall state that, when tested by the applicant or his testing agency, the respirator has met the pertinent requirements of this part. Two copies of the results of the applicant's inspections and tests shall accompany the application.

(4) The application shall state that the respirator is completely developed and is a finished marketable product.

(5) The application shall describe the function of the respirator and the operation of its parts.

(e) *Control-test requirements.* The application shall state how production items will be tested to maintain quality control of the respirator and its component parts. The Bureau may have its qualified representative(s) inspect the applicant's control-test methods, equipment parts. The Bureau may have its the personnel who conduct the control tests, at all reasonable times.

(f) *Material required for approval testing.* When the Bureau notifies the applicant that the application has been accepted, it will also inform him of the number of complete respirators and extra parts that will be required for testing. All test materials shall be delivered (charges prepaid) to the Bureau of Mines, Health and Safety Research and Testing Center, 4800 Forbes Avenue, Pittsburgh, Pa. 15213, Attention: Approval and Testing.

(g) *Date for conducting tests.* The date of acceptance of an application will determine its order of precedence for investigation and testing. The applicant, if he so specifies, will be notified of the date when tests on his respirator will begin. If a respirator fails to meet any of the requirements, it shall lose its order of precedence. If the application is resubmitted, after the cause of failure has been corrected, it will be treated as a new application.

(h) *Conduct of investigations, tests, and demonstrations.* (1) Prior to the issuance of a certificate of approval, only Bureau personnel representatives of the applicant, and such other persons as may be mutually agreed upon, may observe the investigations or tests. The Bureau shall hold as confidential, and shall not disclose, principles or patentable features prior to certification. It shall not disclose any analyses, nor any details of the applicant's drawings, specifications, and related material. The conduct of all such investigations, tests, and demonstrations shall be under the sole direction and control of the Bureau. Any other persons shall be present only as observers or as required under subparagraph (3) of this paragraph.

(2) After the issuance of a certificate of approval, the Bureau may conduct such public demonstrations and tests of the approved device as it deems appropriate.

(3) When requested by the Bureau, the applicant shall provide assistance in assembling or disassembling the respirator and its components, subassemblies, or assemblies for testing, and in operating the respirator during the tests.

(4) Applicants shall be responsible for their representatives present during tests and for observers admitted at their request and shall save the Government harmless in the event of damage to applicant's property or injury to applicant's representatives or to observers admitted at their request.

§ 12.5 [Amended]

4. In Table 1, Air-Supply-Line Requirements and Tests, under paragraph (f) of § 12.5, the Air flow requirements for Type C supplied-air respirators are amended to read as follows:

The air-supply hose with air regulating valve or orifice shall permit a flow of not less than 115 liters (4 cubic feet) per minute to tight-fitting and 170 liters (6 cubic feet) per minute to loose-fitting respiratory-inlet coverings through the maximum length of hose for which approval is granted and at the minimum specified air-supply pressure. The maximum flow shall not exceed 425 liters (15 cubic feet) per minute at the maximum specified air-supply pressure with the minimum length of hose for which approval is granted.	
The air-supply hose, detachable coupling, and demand valve of the demand class or pressure-demand valve of the pressure-demand class for Type C supplied-air respirators, demand and pressure-demand classes, shall be capable of delivering respirable air at a rate of not less than 115 liters (4 cubic feet) per minute to the respirator-inlet covering at an inhalation resistance not exceeding 50 millimeters (2 inches) of water-column height measured at the respiratory-inlet covering with any combination of air-supply pressure and length of hose within the applicant's specified range of pressure and hose length. The air-flow rate and resistance to inhalation shall be measured while the demand or pressure-demand valve is actuated 20 times per minute by a source of intermittent suction. The maximum rate of flow to the respiratory-inlet covering shall not exceed 425 liters (15 cubic feet) per minute under the specified operating conditions.	

5. In Table 1, Air-Supply-Line Requirements and Tests, under paragraph (f) of § 12.5, the Air-regulating valve requirements for Type C supplied-air respirators are amended to read as follows:

If an air-regulating valve is provided, it shall be so designed that it will remain at a specific adjustment, which will not be affected by the ordinary movement of the wearer. The friction developed between the packing and a valve stem will not be considered as meeting this requirement.	
The valve must be so constructed that the air supply with the maximum length of hose and at the minimum specified air-supply pressure will not be less than 115 liters (4 cubic feet) of air per minute to tight-fitting and 170 liters (6 cubic feet) of air per minute to loose-fitting respiratory inlet coverings for any adjustment of the valve.	
If a demand or pressure-demand valve replaces the air-regulating valve, it shall be connected to the air supply at the maximum air pressure for which approval is sought by means of the minimum length of air-supply hose for which approval is sought. The outlet of the demand or pressure-demand valve shall be connected to a source of intermittent suction so that the demand or pressure-demand valve is actuated approximately 20 times per minute for a total of 100,000 inhalations. To expedite this test, the rate of actuation may be increased if mutually agreeable to the applicant and the Bureau. During this test the valve shall function without failure and without excessive wear of the moving parts.	
The demand or pressure-demand valve shall not be damaged in any way when subjected at the outlet to a pressure or suction of 10 inches of water gage for 2 minutes.	

6. Subparagraph (2) of paragraph (j) *Requirements and tests for complete respirator*, of § 12.5 *Requirements for Bureau of Mines approval*, is amended to read as follows:

(2) *Protection against gases or vapors (direct leakage and man tests).* Direct leakage and man tests will be made in duplicate. A man will enter a chamber containing a gas or vapor and put on (wear) the respirator to be tested. Gas-tight goggles will be used where necessary to protect the eyes against irritation. The gas or vapor used for this test, the arrangement of the hose, and the air supply will be in accordance with specific directions given in the following subdivisions. After the respirator is properly fitted the man will spend 10 minutes in work to provide observations on freedom of the device from leakage. The freedom and comfort allowed the wearer will also be considered. The time will be divided as follows:

5 minutes	Walking, turning head, dipping chin.
5 minutes	Pumping air with a tire pump into a 1-cubic-foot cylinder to a pressure of 25 pounds per square inch or equivalent work.

To meet the requirements of this test no odor of the test gas or vapor shall be detected in the air breathed, and undue discomfort and encumbrance shall not be experienced because of the fit, air delivery, or other features of the respirator.

(i) *Types A and AE supplied-air respirators.* (a) The complete respirator will be worn in a chamber containing 1±0.25 percent ammonia in air. The blower, intake of the hose, and not more than 25 percent of the hose length shall be located in ammonia-free air.

(b) The man in the ammonia atmosphere will draw his inspired air through the hose, connections, and all parts of the air device by means of his lungs alone (blower not operated).

(c) The 10-minute work test will be repeated with the blower in operation at any practical speed up to 50 revolutions of the crank per minute.

(ii) *Types B and BE supplied-air respirators.* (a) The complete respirator will be worn in a chamber containing 0.1±0.025 percent iso-amyl acetate vapor. The intake of the hose, and not more than 25 percent of the hose length shall be located in iso-amyl acetate free air.

(b) The man in the chamber will draw his inspired air through the hose and connections by means of his lungs alone.

(iii) *Types C, continuous-flow class, and CE supplied-air respirators.* The complete respirator will be worn in a chamber containing 0.1±0.025 percent iso-amyl acetate vapor. The intake of the hose shall be connected to suitable source of respirable air. Not more than 25 percent of the hose length shall be located outside the chamber. The minimum flow of air required to maintain a positive pressure in the respiratory-inlet covering throughout the entire breathing cycle will be supplied to the wearer, provided that this flow is not less than 115 liters per minute for tight-fitting and 170 liters per minute for loose-fitting respiratory inlet-coverings. The test will then be repeated with the maximum rate of flow attainable within the specified operating pressures.

(iv) *Type C supplied-air respirator, demand and pressure-demand classes.* The complete respirator will be worn in a chamber containing 0.1±0.025 iso-amyl acetate vapor. The intake of the hose shall be connected to a suitable source of respirable air. Not more than 25 percent of the hose length shall be located outside the chamber. The test will be made at the minimum pressure with the maximum hose length and will be repeated at the maximum pressure with the minimum hose length.

7. New paragraphs (k) and (l) are added to § 12.5 as follows:

(k) *Breathing gas requirements.* A supplied-air respirator will be approved for use only when it supplies respirable air to the wearer. Compressed breathing air shall meet the most recent requirements of Compressed Gas Association Specification G7.1 for Type I, Class D gaseous air. Breathing air shall contain less than 5 milligrams per cubic meter of oil vapor or oil particulates.

(1) *Requirements for combination supplied-air respirator and another type of respiratory protective device.* Respiratory protective devices combining the characteristics of a supplied-air respirator and another type of respiratory protective device shall meet the requirements of this part as well as the requirements of any other part which is applicable to the total purpose of the device for which approval is sought. The Bureau will specify, in the certificate of approval and on the approval label, the limitations which shall apply to the use of the combination device.

8. Section 12.7 is amended as follows:

§ 12.7 Notification of approval or disapproval.

(a) Certificates of approval will be issued hereunder only for completely assembled respirators, and not for component parts or subassemblies.

(b) Upon completion of the investigation and testing of a respirator, the Bureau will issue to the applicant either a certificate of approval or a written notice of disapproval. Informal notifications of approval will not be issued. If a certificate of approval is issued, no test data or detailed results will accompany it. If a notice of disapproval is issued, it will be accompanied by any available information about the defects, with a view to possible correction. The Bureau will not disclose except to the applicant, any information on a respirator upon which a notice of disapproval has been issued.

(c) A certificate of approval will be accompanied by a list of the drawings and specifications covering the details of design and construction of the respirator. The applicant shall keep exact duplicates of the drawings and specifications submitted to the Bureau. The approved drawings and specifications shall be adhered to exactly in commercial production of the certified respirator.

9. Section 12.8 is amended as follows:

§ 12.8 Approval markings.

(a) A certificate of approval will be accompanied by photograph(s) of design(s) of approval label(s). Legible reproductions of the entire label(s) shall be attached permanently to each respirator. When, in the Bureau's opinion, there is insufficient space, or some other valid reason, the label(s) may be reproduced on the respirator instructions. The label(s) will bear the seal of the Bureau of Mines; the approval number; the manufacturer's name and address; any limitation on duration of use for which the respirator is approved, and the limitations or conditions for safe and efficient use of the respirator.

(b) The Bureau will notify the applicant if any additional label(s) or marking(s) will be required on subassemblies and parts.

(c) Full-scale reproductions of approval labels and markings and a sketch or description of their method of application and position on the respirator shall be submitted to the Bureau for approval before final adoption.

(d) Use of the Bureau's approval label obligates the applicant to maintain the quality of the respirator and to guarantee that it is manufactured according to the drawings and specifications upon which the certificate of approval is based. The approval label shall be used only by the applicant.

10. Section 12.9 is amended to read as follows:

§ 12.9 Material required for Bureau of Mines record.

(a) The Bureau will retain, as part of the permanent record of each investigation, a complete respirator and any component thereof that has been tested and certified. Material not required for record will be returned to the applicant at his request and expense.

(b) As soon as a certified respirator is commercially available, the applicant shall deliver one complete unit free of charge to the Bureau of Mines, Health and Safety Research and Testing Center, 4800 Forbes Avenue, Pittsburgh, Pa. 15213, Attention: Approval and Testing.

11. Section 12.10 is amended to read as follows:

§ 12.10 Changes subsequent to approval.

If an applicant desires to change any feature of a certified respirator, he shall first obtain the Bureau's approval of the change, pursuant to the following procedure:

(a) Application shall be made as for an original certificate of approval, requesting that the existing certification be extended to cover the proposed change(s). The application shall be accompanied by drawings, specifications, and related material in full detail.

(b) The application and accompanying material will be examined by the Bureau to determine whether testing will be required. The Bureau will inform the applicant of the fee required for any testing involved.

(c) If the proposed modification meets the requirements of this part, a formal extension of certification will be issued, accompanied by a list of new and revised drawings and specifications covering the change(s).

[F.R. Doc. 67-14845; Filed, Dec. 21, 1967; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 989]

[Docket No. AO 198-A6]

RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Decision and Referendum Order With Respect to Proposed Amendment of the Marketing Agreement and Order, as Amended

Pursuant to the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held in Fresno, Calif., on April 24–27, 1967, after notice thereof published in the FEDERAL REGISTER (32 F.R. 5690) on proposals to amend the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California. The previous amendment resulting from consideration of some of the proposals became effective August 28, 1967 (32 F.R. 12157, 12555, 12710). The amended marketing agreement and the amended order (hereinafter collectively referred to as the "order") are effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674), hereinafter referred to as the act.

On the basis of the evidence adduced at the hearing, and the record thereof, the recommended decision in this proceeding was filed on October 12, 1967, with the Hearing Clerk, U.S. Department of Agriculture, and notice thereof, affording opportunity to file written exceptions thereto, was published October 18, 1967, in the FEDERAL REGISTER (F.R. Doc. 67-12303; 32 F.R. 14396).

Material issues, findings and conclusions, and rulings. The material issues, findings and conclusions, and rulings of the recommended decision set forth in the FEDERAL REGISTER (F.R. Doc. 67-12303; 32 F.R. 14396) are hereby approved and adopted as the material issues, findings and conclusions, and rulings of this decision as if set forth in full herein, except as they are modified by rulings on the exceptions as hereinafter set forth.

Rulings on exceptions. Exceptions to the recommended decision were filed, within the prescribed time, by the following: Thomas Boyajian; Leslie W. Dobbings; Jay O. Eaton; Allan Grant for the California Farm Bureau Federation; Elmer D. Wood; O. B. Reimer, Wilbur O. Cowin; Paul J. Boyer; Harry Fittje; John T. Jesse; Harold C. Marthedal; Pearl Satterberg; Amador Lopes; Irwin L. Keithly; W. L. Jackson for the Raisin Administrative Committee; R. L. Engell for Del Monte Corp.; Abraham A. Garabedian; and Douglas J. Johnson. These exceptions have been considered carefully and fully, in conjunction with the evidence in the record and the proposed findings and conclusions of the recommended decision in arriving at the findings and conclusions set forth herein. To any extent that the findings and conclusions contained herein are at variance with any of the exceptions pertaining thereto, such exceptions are denied on the basis of the findings and conclusions relating to the issues to which the exceptions refer.

The exceptions, and the rulings thereon, are as follows:

Two exceptors indicated that strict quality control and improved marketability were the essential needs of the raisin industry in lieu of producer allotments. However, improved raisin quality was an issue of the amendment proceeding and referendum immediately

preceding the current one. The issue now is whether or not the raisin industry should have available to it means in addition to the quality control, volume allocation and pooling provisions already included in the order. The recommended decision has correctly concluded that the addition of producer allotment provisions would tend to effectuate the declared policy of the act and the industry should have opportunity to adopt them. Accordingly, the exceptions are denied.

Two exceptors indicated that permitting distillation to be a nonnormal outlet for raisins in excess of allotments would increase competition with fresh grapes and depress prices for raisin packing house residue going to this outlet. However, the evidence of record is that the grape production levels causing consideration of producer allotments for raisins have resulted in larger-than-needed supplies of grapes available for distillation and that prices in years of these large supplies in this outlet have tended to be at minimum levels. Also, the distillation outlet results in a product of long storability which may be held, in part, for sale in years of reduced productions of grapes. Consequently, while there will be some competitive effect, it may not be significant on prices and the resultant product will have more marketability, in terms of demand trends and time, than will excess grapes converted to raisins. Accordingly, the exceptions are denied.

Five exceptors expressed concern relative to eligibility for allotment bases contending that allotment bases should not be restricted primarily to those producers who produced raisins in 1966. However, the recommended decision correctly concluded that 1966 was the year in which the largest number of tons of all varieties of raisins were delivered by producers of any recent year and apparently includes the largest total number of both old and new raisin producers. Hence, by using the year of 1966 as the basis of eligibility, there should be due opportunity for raisin producers, in general, to qualify for allotment bases. Moreover, provision is made for issuing allotment bases to those raisin producers failing to produce in 1966 because of severe adverse weather or incapacitating personal hardship and who produce raisins in the first crop year after the effective date of the amendment. In view of this and of the exceptors' offering no alternative solutions based on the evidence of record, the exceptions are denied.

Three exceptors indicated they recently planted grapes prior to April 7, 1967, with the intent to make raisins and should not be ineligible for an allotment base because they had no production in 1966. They request, therefore, that the proposed allotment program not be enacted. The evidence of record is that persons not theretofore raisin producers but who planted a variety which also may be used for fresh shipment, crushing by wineries, or for canning, cannot be said to have planted solely with the intent of making raisins. A multiple outlet grape is often planted and, when it comes into bearing, the sales outlet is determined by the then opportunities. Moreover, the lack of eligibility for allotment bases for such persons is not sufficient basis for not enacting the program. Accordingly, the exceptions are denied.

Exceptions were taken to recommend § 989.63(a)(2) in that subdivision (1) did not specifically limit the increase in allotment base to 100 percent of that referable to 1966 (that determined pursuant to recommended § 989.63(a)(1)), said subdivision did not provide a limiting ratio based on a 2-year average where there was production in 1964 or 1965, but not both, and in 1966, and nowhere in subparagraph (2) was provision made for an appropriate allotment for a raisin producer expanding by purchase of bearing acreage, prior to April 7, 1967, and after the 1966 crop was committed to nonraisin outlets, in lieu of by new planting. So that these matters may be clarified, consistent with the evidence of record and their discussion, in part, in the recommended decision and the exceptions granted, the discussion as set forth in the 15th and 16th paragraphs of material issue (2) (32 F.R. 14393) is revised. There is inserted in the first sentence of the 15th paragraph, after reason (1), a new reason (2) as follows: "(2) he acquired bearing acreage of raisin grapes prior to April 7, 1967, but subsequent to the commitment of the 1966 crop on such acreage to other than raisins." Reasons (2), (3), and (4) are redesignated (3), (4), and (5) respectively.

Paragraph 16 is revised to read as follows: "In regard to the first item, a producer with raisin sales in 1966 and with immature acreage (i.e., who planted new acreage on or after Jan. 1, 1964, and prior to the publication of the notice of hearing on the allotment plan, Apr. 7, 1967), of a varietal type other than Zante Currants or Monukka grapes, should be entitled to an allotment base which includes such new acreage as can be construed as raisin production acreage. This should not include plantings prior to 1964 as such plantings would have matured enough to have substantial yields by 1966. There is involved in the immature acreage situation the issue of whether the investment in new plantings was with the intent to make raisins or to sell fresh grapes to the table, crushing or canning outlets. The evidence of record is that this should be resolved in the raisin producer's favor to the extent of permitting his total allotment base to reflect such new acreage as will not result in an increase exceeding 100 percent of the allotment base referable to 1966 nor cause his ratio of raisin production to total grape production (based on acreage used for raisins to total acreage) to exceed that of 1966 or, if he also had raisin production in one or both of the 2 prior years, such average ratio for the years of raisin production 1964, 1965, and 1966. Since this necessitates computing the increase of allotment base for the additional acreage, as such may be immature acreage, the increase should be the applicable new acreage multiplied by the producer's average sales per acre in the portion of the allotment base computed for his mature acreage. If all the producer's raisin production acreage is immature, the sales per acre referable to 1966 would not constitute an appropriate sales history and in such case the allotment base should be the producer's raisin producing acreage multiplied by the lower of the 1966 industry-wide average sales per acre of the like varietal type or the committee's determination of the probable sales per acre when mature. Thus, the producer would receive an apportionment comparable to producers in general but not in excess of the productive capacity of his acreage. The further allotment base problems of a raisin producer in 1966 expanding acreage by acquisition, in lieu of plantings, prior to April 7, 1967, but under circumstances where the entire 1966 crop of raisin grapes had been committed by the former owner to an outlet other than raisins, should be resolved the same as an expansion by new plantings. There would be no allotment base due the former owner (not having made raisins in 1966) and hence, no transfer is possible. The acquiring raisin producer is thus in a similar position, as to allotment base, as the producer planting additional vines, and his allotment base should be similarly computed by the committee." Subdivision (i) of § 989.63(a)(2) is revised accordingly.

An inadvertent error in the first sentence of paragraph 17 is corrected by deleting from the words in parentheses the words "or with new plantings" and inserting in lieu thereof the word "and".

Exception was taken to recommend § 989.63 for failure to provide an appropriate allotment base for a producer who had removed a portion or all the vines from his raisin grape vineyard prior to harvest in 1966, with intention to replant such vines, and the removal resulted in the producer's 1966 raisin sales per acre being produced from fewer acres or in his having no raisin sales. It was contended that, in order to determine a fair and equitable allotment base, recognition should be given to this normal practice of pulling out old vines and replacing them with young vines, to improve the producing capacity of the vineyard. While the recommended decision did not provide for such adjustment in computing allotment bases, it did provide that once allotment bases are assigned, producers may have up to 5 consecutive years of no production, without losing the applicable portion of their base, to rework their vineyard. It is recognized that some producers will be caught in this situation when the program is instituted. Hence, the exception is granted and the first sentence of the 15th paragraph, material issue (2) (32 F.R. 14393), is revised by striking the word "or" preceding redesignated reason (5), changing the period at the end of the sentence to a semicolon and adding: "or (6) he had removed acreage from production prior to 1966, for the purpose of replanting and improving yield per acre, and hence, had reduced raisin sales and re-

duced 1966 acreage". A new paragraph is inserted in the recommended decision immediately after the nineteenth (19) paragraph (32 F.R. 14399) of material issue (2), to read: "Provision should also be made for an appropriate allotment base for a producer who removed vines from a raisin producing vineyard prior to harvest time in 1966, for the purpose of replanting the vineyard to improve production from such acreage, and this action resulted in the producer having either no raisin sales in 1966 or reduced sales of raisins due to fewer acres. Such a producer should be permitted an allotment base which includes the applicable replanted acreage multiplied by the 1966 industry-wide average sales per acre of the varietal type or, if higher, by the committee's determination of probable sales per acre from such acreage when mature. Thus, this producer would be granted the same opportunity for an appropriate allotment base as the producer with a commitment to improve his raisin sales per acre. However, the portion of the allotment base applicable to the producers' removed acreage should not be issued until the first year, after the effective date of the section, in which grapes from such acreage are made into raisins. Moreover, if the producer fails to make raisins on such acreage by the sixth year after removal, he should lose his eligibility for such portion of his allotment base. These limitations are necessary to prevent issuance of allotment bases to persons with no intention of replanting and to permit cancellation of eligibility after 5 years of no production, the same as is provided hereafter relative to a producer not making raisins subsequent to receiving his allotment base." Section 989.63 (a)(2) is revised accordingly.

Exceptions were also taken to reserving the raisin outlet to present producers, to authorizing regulation of raisin varieties presently unrestricted by volume regulation and to preventing adequate production of a variety for which sales expansion is indicated. The amendment in the recommended decision, however, provides such reasonable flexibility as may be permitted in an allotment program except in the area of increased demand of a varietal type. Thus, there is provision for transfers of allotment bases among old producers or to new producers, for producers to change locations, and for producers to remove existing vineyards and either replant on new acreage or on the existing acreage after up to 5 years for such things as land preparation and soil improvement. There is provision, too, under proposed § 989.63 (b) for additional allotment bases, to either new or existing producers to satisfy the demand for one or more varietal types or to adjust the total of all allotment bases to trade demand. Further adjustment, in the form of authority to permit producers to exchange an allotment base on one varietal type for a varietal type of more favorable sales outlook, would enhance the flexibility of the program. Hence, to recognize the possibility of demand shifts, and so grant one of these exceptions, the final sentence of the paragraph preceding the final paragraph of material issue (2) of (32 F.R. 14399) is deleted and the following inserted in lieu thereof: "In addition, to recognize that there may be shifts in demand such that one varietal type becomes more salable than another, the committee should permit producers, to surrender the allotment base on one varietal type in exchange for a like allotment base on another varietal type. Such an exchange, of course, should be within such reasonable limits as tend to equate supplies with demand for each type and maintain the price stabilizing objectives of the program. Since both the granting of additional allotment bases and the exchange of bases will involve means of determination and assignment which should be known to the producers, the committee should prescribe, with the approval of the Secretary, such rules and regulations as are necessary to administer the provisions." Section 989.63(b) is revised accordingly.

The remainder of the exceptions either constitute requests for a determination of their allotment base, or are commentaries which, as opposed to the evidence of record, do not provide a basis for revising either the findings or conclusions or the proposed provisions of the recommended decision.

Amendment of the amended marketing agreement and the amended order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement, as Amended, Regulating the Handling of Raisins Produced from Grapes Grown in California" and "Order Amending the Order, as Amended, Regulating the Handling of Raisins Produced from Grapes Grown in California" which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the aforesaid rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Referendum order. Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), it is hereby directed that a referendum be conducted among producers who, during the period August 15, 1966, through August 14, 1967 (which period is hereby determined to be a representative period for the purpose of such referendum), have been engaged in the State of California, in the production for market of grapes which were sun-dried upon, or prior to, removal from the vines or dehydrated by artificial means until they became raisins to determine whether such producers favor the issuance of the said annexed order amending the order, as amended, regulating the handling of raisins produced from grapes grown in California.

Charles Fuqua, Richard Van Diest, Joe Perrin, and Joseph C. Genske of the Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, are hereby designated referendum agents of the Secretary of Agriculture to conduct said referendum severally or jointly.

The procedure applicable to the referendum shall be the "Procedure for the Conduct of Referenda in Connection with Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended" (7 CFR Part 900).

The ballots used in the referendum shall contain a summary describing the terms and conditions of the proposed amendatory order.

Any producer entitled to vote in the referendum who does not receive a copy of the aforesaid annexed order, voting instructions, or a ballot or other necessary information will be able to obtain the same from any of the County Directors of Agricultural Extension in the California Counties of Fresno, Kern, Kings, Madera, Merced, Stanislaus, and Tulare, or from Charles Fuqua, Fresno Marketing Field Office, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, Room 3114, Federal Building, 1130 O Street, Fresno, Calif. 93721 or Dower T. Mohun, San Francisco Marketing Field Office, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, Room 836, 630 Sansome Street, San Francisco, Calif. 94111.

It is hereby ordered. That all of this decision and referendum order, except the annexed marketing agreement, as amended, be published in the FEDERAL REGISTER. The regulatory provisions of the said marketing agreement, as amended, are identical with those contained in the said order, as amended, and as further amended by the annexed order which will be published with this decision.

Dated: December 19, 1967.

ROBERT E. LEONARD,
Deputy Assistant Secretary.

Order[1] Amending the Order, as Amended, Regulating the Handling of Raisins Produced From Grapes Grown in California

§ 989.0 Findings and determinations.

(a) *Previous findings and determinations.* The findings and determinations hereinafter set forth are supplementary, and in addition, to the findings and determinations made in connection with the issuance of the order and the previously issued amendments hereby ratified and affirmed except insofar as such prior findings and determinations may be in conflict with the findings and determinations set forth herein. (For prior findings and determinations see 14 F.R. 5136; 20 F.R. 6435; 21 F.R. 6182; 25 F.R. 12814; 29 F.R. 9482; 32 F.R. 12157).

(b) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure effective thereunder (7 CFR Part 900), a public hearing was held in Fresno, Calif., on April 24–27, 1967, on a proposed amendment of the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California. On the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended and as hereby further amended, and all the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The said order, as amended and as hereby further amended, regulates the handling of raisins produced from grapes grown in California in the same manner as, and is applicable only to persons in the respective classes of commercial or industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The said order, as amended and as hereby further amended, is limited in application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the area of production would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of raisins in the production area covered by the order, as amended and as hereby further amended, which would require different terms applicable to different parts of such area; and

(5) All handling of raisins produced from grapes grown in the area of production is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

It is, therefore, ordered, That, on and after the effective date hereof, all handling of raisins produced from grapes grown in California shall be in conformity to, and in compliance with, the terms and conditions of the said order, as amended, and as hereby further amended as follows:

§ 989.5 [Amended]

1. A new sentence reading as follows is added at the end of § 989.5: "This definition may be revised by the Secretary, upon recommendation of the committee, to include grapes dried prior to removal from the vines and used in normal outlets for raisins."

2. Delete present §§ 989.54 and 989.55 and insert in lieu thereof the following:

§ 989.54 Marketing policy.

(a) *Allotment percentage.* As soon as practicable after February 1, but no later than June 15, the committee shall prepare and submit to the Secretary a report setting forth at least its recommended producer allotment marketing policy for the ensuing crop year. In formulating such marketing policy the committee shall consider and shall include in its report to the Secretary, at least the first eight of the following estimates and recommendations with respect to any varietal type on which such volume regulation is intended and shall include the other following estimates and recommendations, when pertinent, no later than the October meeting pursuant to paragraph (c) of this section:

(1) The likely carry-over of free and reserve tonnage raisins as of September 1;

(2) The prospective crop year trade demand in free tonnage outlets and the desirable free tonnage;

(3) The prospective crop year trade demand in reserve tonnage outlets other than as free tonnage, considering the estimated world raisin supply and demand situation;

(4) The desirable carry out of free and reserve raisins at the end of the ensuing crop year;

(5) The salable quantity of raisins necessary to meet total trade demand, permit desirable adjustments in carryover, and recognize the reduced annual allotments, due to productive capacity, of § 989.63(c);

(6) The producer allotment percentage for the ensuing crop computed by dividing the salable quantity by the total of all producer allotment bases established pursuant to § 989.63;

(7) Current raisin prices being received and the probable general level of raisin prices to producers and handlers in the ensuing crop year;

(8) The trend and level of consumer income;

(9) Other estimates or recommendations pertinent to the ensuing crop such as the estimated tonnage of standard and offgrade raisins, modifications of the minimum grade standards, free and reserve percentages, prohibition of trade practices pursuant to § 989.62 or other matters; and

(10) Any other pertinent factors bearing on the marketing of raisins including the estimated supply and demand for other varietal types and regulations applicable thereto.

(b) *Desirable free tonnage.* The tonnage of raisins of any varietal type to be sold in the ensuing crop year as free tonnage shall be designated as "desirable free tonnage". Until changed by the committee, with the approval of the Secretary, the desirable free tonnage shall be 140,000 tons for natural Thompson Seedless raisins.

(c) *Free and reserve percentages.* Either as part of its pre-June 16 marketing policy or on or before October 5 of each crop year (except that this date may be extended by the committee not more than 5 days if warranted by a late crop) the committee shall recommend to the Secretary a preliminary free tonnage percentage which will release not less than 65 percent of the desirable free tonnage established for any varietal type. Upon a committee determination that field prices are firmly established and open price contracts have been closed as to price on at least 65 percent of the tonnage acquired by packers not marketing cooperatives, or such other percent as is recommended by the committee and approved by the Secretary, but no later February 15, the committee shall recommend to the Secretary a free percentage which will tend to release the full desirable free tonnage. Prior to February 15, an interim change of percentage may be made to release less than the full tonnage. The difference between any preliminary or final free tonnage percentage and 100 percent shall be the reserve percentage. In developing its free and reserve percentage for any varietal type, the committee shall consider and report to the Secretary any factors pertinent to its recommendation and not included in a prior marketing policy report for the crop year.

(d) *Modification.* In the event the committee deems it advisable to modify its marketing policy for any crop year, because of national emergency, crop failure or other major change in economic conditions, it shall hold a meeting for that purpose, and file a report thereof with the Secretary within 5 days (exclusive of Saturdays, Sundays, or holidays) after the holding of such meeting, which report shall show each modification, the basis therefor, and the recommendation of the board.

(e) *Verbatim record.* The committee shall file with its report to the Secretary a verbatim record of that portion of its meeting or meetings relating to its marketing policy.

(f) *Publicity and notice.* The committee shall promptly give reasonable publicity to producers, dehydrators, handlers, and cooperative bargaining association(s) of each meeting to consider a marketing policy or any modification thereof, and each such meeting shall be open to them. Similar notice shall be given to producers, dehydrators, handlers, and cooperative bargaining association(s) of each marketing policy report or modification thereof, filed with the Secretary and of the Secretary's action thereon. Copies of all marketing policy reports shall be maintained in the office of the committee, where they shall be made available for examination by any producer, dehydrator, handler, or cooperative bargaining association representative. The committee shall notify handlers, dehydrators, and cooperative bargaining associations(s) of the Secretary's action on percentages by registered or certified mail.

§ 989.55 Establishment.

If the Secretary finds from the recommendation and supporting information supplied by the committee, or from other information, that limiting the quantity of raisins of any varietal type that handlers may purchase from or handle on behalf of producers in any crop year would tend to effectuate the declared policy of the act he shall determine the salable quantity of such raisins and establish the annual allotment percentage, on the ensuing crop, to be applied to each producer's allotment base on such raisins. This percentage shall be determined by dividing the salable quantity by the total of all allotment bases established pursuant to § 989.63. He shall also

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and orders have been met.

establish as necessary, or modify, the desirable free tonnage for any varietal type; and simultaneously, or in a subsequent action, depending upon the time of the committee's recommendation and his finding that it would tend to effectuate the declared policy of the act, designate free and reserve percentages, applicable to the standard raisins acquired exclusive of surplus, and such modifications thereof as are consistent with § 989.54(c). In the event the Secretary subsequently finds from the recommendations and supporting information supplied by the committee, or from any other available information, that modification, suspension, or termination of any such designation will tend to effectuate the declared policy of the act, he shall so modify, suspend, or terminate such designation. No such modification shall decrease the free percentage initially designated by the Secretary. The Secretary shall notify the committee promptly of each such action.

3. Add a new § 989.56 reading as follows:

§ 989.56 Prohibition.

Whenever an allotment percentage has been established by the Secretary and is in effect for a varietal type of any crop, no handler other than a processor shall acquire such raisins, except as provided in § 989.68, in excess of a producer's annual allotment as determined by the committee pursuant to § 989.63(c) nor acquire any varietal type from a producer without an allotment base nor with respect to a varietal type for which no allotment percentage is in effect from acreage in excess of that for which the allotment base was established.

4. Add new §§ 989.63 and 989.64 reading as follows:

§ 989.63 Allotment of salable quantity.

(a) *Allotment bases.* (1) Except as provided in subparagraph (2) of this paragraph, the allotment base for each producer of raisins in 1966, for any varietal type of raisins, shall be the higher of:

(i) His sales of 1966-crop raisins; or

(ii) If his 1965 and 1966 raisin sales were from the same land, his sales per acre of 1965 crop raisins multiplied by his 1966 acreage used to produce the same varietal type of raisins.

(2) If for the reasons listed in this subparagraph the committee finds that a producer's allotment base computed pursuant to subparagraph (1) of this paragraph is inappropriate, such producer's allotment base shall be determined consistent with that applicable to each reason as follows:

(i) For new acreage planted on or after January 1, 1964, and prior to April 7, 1967, of a varietal type (other than Zante Currant or Monukka grapes) in which producer shows raisin sales in 1966, but only for such new acreage as will result in a ratio of his raisin production acreage to total grape acreage to exceed either such 1966 ratio or the average such ratio for the years of raisin production 1964, 1965, and 1966, the allotment base shall include his applicable new acreage multiplied by the producer's average sales per acre in the portion of the allotment base computed for his mature acreage or if all his raisin production acreage was immature in 1966, such acreage multiplied by the lower of the 1966 industry-wide average sales per acre of the like varietal type or the committee's determination of the probable sales per acre when mature. However, no increase of allotment base relative to that computed pursuant to subparagraph (1) of this paragraph shall exceed 100 percent of such computation. If in lieu of additional plantings, a producer of raisins in 1966 acquired bearing acreage of raisin grapes prior to April 7, 1967, but subsequent to commitment of the 1966 crop on such acreage to an outlet other than raisins, the committee shall determine such producer's total allotment base consistent with this subdivision.

(ii) For new acreage planted on or after January 1, 1964, and prior to April 7, 1967, of either Zante Currant or Monukka grapes, the producer's total allotment base shall include such new acreage multiplied by the producer's 1966 sales per acre of the like varietal type from his mature acreage or if none, by the lower of the 1966 industry-wide average sales per acre of the like varietal type or the committee's determination of the probable sales per acre when mature.

(iii) For a raisin producing grape vineyard acquired prior to April 7, 1967, but on or after November 1, 1964, on which the 1965 and 1966 raisin sales per acre on the acreage used to produce raisins was below the 1966 industry-wide average for the varietal type and the producer establishes to the satisfaction of the committee a commitment to improve the raisin sales per acre, the allotment base shall be determined as the raisin producing acres in 1966 multiplied by the 1966 industry-wide average sales per acre of the varietal type or, if higher, by the committee's determination of the probable sales per acre from such raisin acreage in the third year after acquisition.

(iv) For severe adverse weather or incapacitating personal hardship, established to the satisfaction of the committee as the primary factor causing a raisin producer to have a sharply reduced level of sales in 1965 and 1966 or failure to produce any raisins in 1966, the allotment base shall be the highest acreage of the vineyard used for raisins in the 1964–1966 period, but not in excess of the producer's total 1966 acreage of that varietal type, multiplied by the lower of the 1966 industry-wide average sales per acre of the like varietal type or the producer's highest prior raisin sales per acre in the 1964–1966 period, as determined by the committee.

(v) For replanted acreage not in production in 1966 due to prior vine removal for the purpose of land improvement and replanting to increase yields per acre, the allotment base shall include the applicable replanted acreage multiplied by the 1966 industry-wide average sales per acre of the varietal type or, if higher, by the committee's determination of the probable sales per acre from such acreage when mature. However, the portion of an allotment base applicable to the removed and replanted acreage shall not be issued until the first year after the effective date of this section in which the grapes from such acreage are made into raisins and any producer failing to make raisins on such acreage in the sixth year after removal shall lose his eligibility for such portion of any allotment base.

(3) For purposes of allotment, those varietal types designated in § 989.10 as natural (sun-dried) Thompson Seedless, Golden Seedless, Sulphur Bleached and Soda Dipped shall be combined into the "Thompson Seedless Raisin" varietal type and natural (sun-dried) Muscat, Layer Muscat, and Valencia shall be combined into the "Muscat Raisin" varietal type. The committee, with the approval of the Secretary, shall establish industry-wide average sales per acre by varietal types and such conversion factors of fresh tons to dry tons as will permit allotment bases and annual allotments on raisins to be administered, where appropriate, as fresh tons of grapes.

(4) In accordance with this paragraph (a) and based on reports of handlers, producer certifications and other information, the committee shall establish and assign to each producer his allotment base: *Provided*, That no base or adjusted base shall be assigned to a person no longer a producer nor pursuant to (2) (iv) of this paragraph unless the committee finds that he made a bona fide effort to produce his applicable annual allotment of raisins in the first crop year after the effective date of this section and failing to do so, his eligibility for an allotment base shall be cancelled. The eligibility of any producer, or his legal successor in interest, to receive or retain an allotment base shall be dependent upon his continuing to make a bona fide effort to produce his annual allotment of raisins and failing to do so in any year, the applicable allotment base shall be reduced by a percentage equivalent to the unproduced portion of the allotment: *Provided*, That the committee, with the approval of the Secretary, may waive this requirement for good cause. However, 5 consecutive years of reduced or no production shall be permitted to replant existing acreage or rotate to new acreage. Administration of the assignment and retention of allotment bases shall be in accordance with such rules and procedures as the committee may prescribe, with the approval of the Secretary.

(b) *Additional allotment bases and exchanges.* Each year the committee shall consider the need for granting, and if appropriate grant, with the approval of the Secretary, additional allotment bases, to either new producers or existing producers, or both; for such purposes as satisfying the demand for one or more varietal types, or adjusting the total of all allotment bases to the trade demand. Also, the committee shall permit producers to surrender the allotment base on one varietal type in exchange for a like allotment base on another varietal type but only of such volume as will tend to equate supplies with demand for each type. The committee shall prescribe, with the approval of the Secretary, such rules and regulations as are necessary to administer this paragraph.

(c) *Issuance of annual allotments.* As early as possible in each calendar year, the committee shall issue to each eligible producer, for the ensuing crop, an annual allotment determined by applying the allotment percentage established pursuant to § 989.55 to the producer's allotment base. Such issuance shall be conditioned upon the producer filing annually with the committee, a form provided by it wherein the producer states such things as where he intends to produce his annual allotment, his raisin variety grape acreage, the acreage he intends to harvest for raisins, changes of location, if any, and such other information as is necessary for administration of this part. Where a producer indicates that his acreage, or that which he intends to harvest for raisins, will be insufficient to produce his computed annual allotment, the committee shall make an appropriate reduction in the annual allotment it issues. Except in conjunction with the transfer of an allotment base pursuant to § 989.64, no handler, producer, or other person shall be the assignee or transferee of an annual allotment, or portion thereof, except that a person other than a handler may deliver raisins in the stead of the producer holding the allotment but no handler shall receive raisins from such other person except to the extent authorized by the committee. The committee, with the approval of the Secretary, may issue such rules and procedures as are necessary to administer this paragraph.

§ 989.64 Transfers.

(a) *Of location.* A producer owning the vineyard(s) determining the allotment base may transfer from the location(s) where he produces his annual allotment to other land which he farms. If a producer does not own the original vineyard land no such transfer shall be valid and no further annual allotments referable to such vineyard(s) shall be granted by the committee to such producer unless the vineyard owner consents to the transfer. The committee shall, by such means as are provided in § 989.63(c), obtain information as to the location(s) where each producer intends to produce each annual allotment.

(b) *To another producer.* A producer owning the vineyard(s) determining the allotment base may transfer all or part of an allotment base from himself to another producer. However, if the transferor is not the owner of the vineyard(s), the transfer shall not be valid nor shall an annual allotment be granted by the committee to the potential transferee unless the vineyard owner consents to the transfer. No transfer shall be recognized by the committee except upon the transferor and transferee notifying the committee in writing and the transferee submitting evidence of capability to produce and harvest the annual allotment referable thereto. If any producer disposes of acreage and ceases to be a producer thereon prior to the issuance of allotment bases pursuant to § 989.63(a), and if the purchaser continues the acreage in the production of raisins, such purchase shall be deemed to authorize issuance of the applicable allotment base to the successor producer.

5. Add a new § 989.68 reading as follows:

§ 989.68 Excess over allotments.

(a) *General.* Raisins that are in excess of an effective individual producer annual allotment, or the total of such allotments to members of a cooperative marketing association, shall be surplus raisins. Prior to February 15 of the crop year such excess raisins may be sold or transferred to producers capable of using them to satisfy a deficiency of production relative to their annual allotment. No handler, other than a processor disposing of raisins in nonnormal outlets, shall acquire surplus raisins, except that any handler who is a packer shall be a designee of the committee, under such conditions as it shall specify with the approval of the Secretary, as to holding and delivery obligations, to receive and hold surplus raisins for the account of the committee. Any producer or dehydrator selling or delivering surplus raisins other than to the committee or its designees, to a producer satisfying a deficiency as provided in this paragraph, or to a processor disposing of them in nonnormal outlets, shall be a handler relative to such transaction. Any producer may dispose of surplus raisins of his own production within his own livestock feeding or other farming operation or may deliver them, prior to or after February 15 of the crop year in which produced, to the committee for inclusion in a surplus pool.

(b) *Pooling.* Surplus raisins held by a handler or other designee of the committee and those delivered directly to the committee, shall be treated as a surplus raisin pool and shall be disposed of by the committee as soon as practicable in nonnormal outlets and at the best terms and conditions obtainable. The proceeds, after deduction of committee expenses of receiving, handling, holding and disposing, including compensation to handlers or other designees, shall be distributed on a pro rata basis to the equity holders and in the case of a cooperative marketing association may be to such association.

[F.R. Doc. 67-14858; Filed, Dec. 21, 1967; 8:46 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 67-RA-116]

FEDERAL AIRWAY

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would extend V-178 from Lexington, Ky., 1,200 feet AGL to Bluefield, W. Va. This action would provide controlled airspace within which to provide air traffic service to aircraft operating in accordance with Instrument Flight Rules between these terminals.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on December 13, 1967.

T. McCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-14858; Filed, Dec. 21, 1967; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-CE-140]

CONTROL AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate an additional control area from St. Louis, Mo., to Moline, Ill.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director: Central Region, Attention: Chief, Air Traffic Division, Federal Building, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office

of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The FAA proposes to designate an additional control area from the St. Louis VOR direct to the Moline VOR, with the floor to be designated at 6,000 feet MSL. This proposed control area would provide controlled airspace for instrument type air traffic operating between these terminals.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on December 13, 1967.

T. McCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-14864; Filed, Dec. 21, 1967; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-CE-142]

CONTROL AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate an additional control area from Macon, Mo., direct to Columbia, Mo.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Building, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The Federal Aviation Administration proposes to designate the Macon, Mo., additional control area to extend from the Macon VOR with a 1,200-foot AGL floor direct to the Columbia VOR.

This proposed additional control area would provide controlled airspace for instrument type air traffic operating from Macon via Moberly, Mo., to Columbia.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on December 13, 1967.

T. McCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-14855; Filed, Dec. 21, 1967; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-AL-26]

CONTROL ZONE AND TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amendments to Part 71 of the Federal Aviation Regulations which would designate a part-time control zone and transition area at Dillingham, Alaska.

A rule effecting amendments to Part 71 of the Federal Aviation Regulations was published in the FEDERAL REGISTER (30 F.R. 4391) designating a Dillingham control zone and transition area. However, due to difficulties experienced in establishing the necessary communications link between Dillingham and King Salmon, the effective date of the rule designating this airspace was deferred. While communications now exist during the operational hours of the Dillingham Flight Service Station, additional instrument approach procedures subsequently authorized at Dillingham require a major revision to this rule. Therefore, the Dillingham controlled airspace described in FEDERAL REGISTER (30 F.R. 4391) in connection with Airspace Docket No. 64-AL-6 has been revoked. It is now proposed to designate the controlled airspace presently required to protect the prescribed Dillingham instrument approach and departure procedures as follows:

1. The Dillingham control zone, proposed herein, would be designated within a 5-mile radius of the Dillingham Municipal Airport (lat. 59°02'36" N., long. 158°30'20" W.); within 2 miles each side of the Dillingham VOR 025° T (005° M) radial extending from the 5-mile radius zone to 14 miles northeast of the VOR; within 2 miles each side of the Dillingham VOR 205° T (185° M) radial extending from the 5-mile radius zone to 8 miles southwest of the VOR; and within 2 miles each side of the 053° T (033° M) bearing from the Northern Consolidated Airlines RBN (lat. 59°04'12" N., long. 158°26'30" W.) extending from the 5-mile radius zone to 8 miles northeast of the RBN. This control zone would be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time would thereafter be continuously published in the Alaska Airmen's Guide and Chart Supplement.

2. The proposed Dillingham transition area would be designated as that airspace upward from 700 feet above the surface, within a 6-mile radius of the Dillingham Airport (lat. 59°02'36" N., long. 158°30'20" W.); within 5 miles northwest and 8 miles southeast of the Dillingham VOR 025° T (005° M) radial extending from the VOR to 18 miles northeast; within 5 miles northwest and 8 miles southeast of the 053° T (033° M) bearing from the Northern Consolidated Airlines RBN (lat. 59°04'12" N., long. 158°26'30" W.) extending from the RBN to 12 miles northeast; and that airspace extending upward from 1,200 feet above the surface within 5 miles northwest and 8 miles southeast of the Dillingham VOR 205° T (185° M) radial extending from the VOR to 12 miles southwest. This transition area would be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Alaska Airman's Guide and Chart Supplement.

The control zone would provide protection for aircraft executing prescribed instrument approach and departure procedures at the Dillingham Municipal Airport.

The 700-foot transition area would provide protection for aircraft executing portions of the prescribed instrument approach and departure procedures authorizing flight below 1,500 feet above the surface beyond the limits of the control zone. The 1,200-foot transition area would provide protection for aircraft executing the prescribed instrument approaches, missed approaches, departures, and holding procedures conducted beyond the limits of the control zone and 700-foot transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposal contained in this notice may be changed in the light of comments received.

The public docket will be available for examination by interested persons at the Office of the Regional Counsel, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Anchorage, Alaska, on December 14, 1967.

LYLE K. BROWN,
Director, Alaskan Region.

[F.R. Doc. 67-14856; Filed, Dec. 21, 1967; 8:46 a.m.]

Federal Highway Administration

[49 CFR Parts 177, 294]

[Docket No. MC-1]

PRIVATE MOTOR CARRIERS OF HAZARDOUS MATERIALS

Annual Safety Accident Report

Correction

In F.R. Doc. 67-14703, appearing at page 18114 of the issue for Tuesday, December 19, 1967, in the second paragraph the reference to "December 29, 1967" should read "January 22, 1968".

CIVIL AERONAUTICS BOARD

[14 CFR Part 207]

[Docket No. 19278; EDR-128A]

CHARTER TRIPS AND SPECIAL SERVICES

Proposed Liberalization of Volume Restrictions for All-Cargo Carriers; Extension of Time To File Comments

DECEMBER 19, 1967.

The Board in 32 F.R. 16223, November 28, 1967, and by circulation of EDR-128, dated November 21, 1967, gave notice that it had under consideration proposed amendments to Part 207 of the Economic regulations (14 CFR Part 207) to liberalize the off-route charter volume limitation in § 207.6 applicable to all-cargo carriers, so as to permit them to perform off-route charters not to exceed 20 percent of the base revenue plane miles performed in the preceding calendar year; provided that not more than 10 percent of such base revenue plane mileage shall constitute passenger charters. Interested persons were invited to participate in the rule-making proceedings by submission of comments and reply comments on the foregoing amendments, to be received on or before December 26, 1967 and January 10, 1968, respectively.

By letter dated December 15, 1967, The Flying Tiger Line, Inc., requests extension of the time to file comments to January 9, 1968, and reply comments to January 24, 1968. The carrier notes that the present date for the filing of comments falls in the middle of the holiday season, and that it would be difficult and burdensome to meet the present date under the circumstances.

The undersigned finds that good cause has been shown for an extension of time as requested. Accordingly, pursuant to authority delegated in § 385.20(d) of the Board's organization regulations, effective June 21, 1967, the undersigned hereby extends the time for submitting comments to January 9, 1968, and for reply comments to January 24, 1968.

In order to facilitate the availability of comments for making replies thereto, it is requested that fifteen (15) copies of such comments, in lieu of the ten (10) copies stated in the rule-making notice (EDR-128, supra), be filed with the Board's Docket Section.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324)

By the Civil Aeronautics Board.

[SEAL] ROBERT VOTE,
Acting Associate General Counsel, Rules and Rates Division.

[F.R. Doc. 67-14881; Filed, Dec. 21, 1967; 8:49 a.m.]

[14 CFR Part 399]

[Docket No. 19279; PSDR-19A]

BLOCKED SPACE SERVICE

Participation of Combination Carriers; Extension of Time To File Comments

DECEMBER 19, 1967.

The Board in 32 F.R. 16225, November 28, 1967, and by circulation of PSDR-19, dated November 21, 1967, gave notice that it had under consideration proposed amendments to § 399.37 of its statements of general policy (14 CFR Part 399), to permit combination as well as all-cargo carriers to provide blocked space service to air freight forwarders and to large volume shippers. Interested persons were invited to participate in the rule-making proceedings by submission of comments and reply comments on the foregoing amendments, to be received on or before December 26, 1967 and January 10, 1968, respectively.

By letter dated December 15, 1967, The Flying Tiger Line, Inc., requests extension of the time to file comments to January 9, 1968, and reply comments to January 24, 1968. The carrier notes that the present date for the filing of comments falls in the middle of the holiday season, and that it would be difficult and burdensome to meet the present date under the circumstances.

The undersigned finds that good cause has been shown for an extension of time as requested. Accordingly, pursuant to authority delegated in § 385.20(d) of the Board's organization regulations, effective June 21, 1967, the undersigned hereby extends the time for submitting comments to January 9, 1968, and for reply comments to January 24, 1968.

In order to facilitate the availability of comments for making replies thereto, it is requested that fifteen (15) copies of such comments, in lieu of the ten (10) copies stated in the rule-making notice (PSDR-19, supra), be filed with the Board's Docket Section.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324)

By the Civil Aeronautics Board.

[SEAL] ROBERT VOTE,
Acting Associate General Counsel, Rules and Rates Division.

[F.R. Doc. 67-14880; Filed, Dec. 21, 1967; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 16222]

STANDARD BROADCAST SERVICE; STANDARD METHOD FOR CALCULATING RADIATION

Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of Part 73 of the Commission's rules to specify, in lieu of the existing MEOV concept, a standard method for calculating radiation for use in evaluating interference, coverage, and overlap of mutually prohibited contours in the Standard Broadcast Service.

1. The notice of proposed rule making of October 18, 1965, which initiated this proceeding, invited comments by January 14, 1966. In subsequent orders, the time for filing comments has been extended to December 14, 1967, and for reply comments to January 16, 1968.

2. The Association of Federal Communications Consulting Engineers, in a petition for extension of time for filing comments, filed December 8, 1967, requests that the filing time be extended 90 days from the present December 14 deadline.

3. The Association and its Rules and Standards Committee, which has been working closely with FCC engineering personnel, believe that additional time is needed for the study of a number of points developed in discussions of the new rules, and for tests of the application of tentative procedures in specific situations, before a final position of the Association can be formulated.

4. We are aware of the diligent and exhaustive examination the Association is giving the matters involved in this proceeding, and expect its comments, when available, will be very helpful in the preparation of the final version of the proposed rules. In the light of the problems involved, we believe that the additional time requested is not unreasonable, and that it would be in the public interest to grant the instant petition.

5. *Accordingly, it is ordered*, That the time for filing comments in this proceeding is extended from December 14, 1967, to March 14, 1968, and the time for filing reply comments is extended from January 16, 1968, to April 16, 1968.

6. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules.

Adopted: December 13, 1967.

Released: December 18, 1967.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14870; Filed, Dec. 21, 1967; 8:48 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Office of the Secretary

TEXAS

Determination of Commercial Fishery Failure Due to Resource Disaster

DECEMBER 16, 1967.

Whereas, many firms and individuals are engaged in raising, harvesting, processing, and marketing oysters in the State of Texas; and

Whereas, on September 20, 1967, Hurricane Beulah passed over south central Texas, subjecting the area to torrential rains and causing record discharges of flood waters into coastal bay areas; and

Whereas, the sudden and prolonged lowering of salinities in coastal bay waters has caused destruction of oyster resources; and

Whereas, insurmountable uninsured losses of oyster production in the 1967–68 season will amount to a several hundred thousand dollar decrease in State income; and

Whereas, the serious disruption of the oyster fishery in the coastal bays of central Texas caused by alternation of habitat was due to natural causes;

Now, therefore, as Secretary of the Interior, I hereby determine that the foregoing circumstances constitute a commercial fishery failure due to a resource disaster within the meaning of section 4(h) of Public Law 88-309. Pursuant to this determination, I hereby authorize the use of funds appropriated under the above legislation to rehabilitate, restore, and put back into production the oyster grounds of the State of Texas and for such other measures as may be necessary to mitigate the damage to the resource.

STEWART L. UDALL,
Secretary of the Interior.

[F.R. Doc. 67-14867; Filed, Dec. 21, 1967; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

LICENSED DEALERS UNDER LABORATORY ANIMAL WELFARE ACT

List of Persons

Pursuant to § 2.127 of the regulations (9 CFR 2.127) under the Act of August 24, 1966 (80 Stat. 350; 7 U.S.C. 2131 et seq.), commonly known as the Laboratory Animal Welfare Act, notice is hereby given that, as of December 1, 1967, the following persons were licensed as dealers under said Act and regulations as indicated below:

ALABAMA

G. R. Floyd and E. A. Marchand, partners, Route 1, Box 236D, McDonald Road, Irvington 36544.
Claude Hancock, Route 2, Section 35771.

ARKANSAS

George J. E. Holzwarth, doing business as George J. E. Holzwarth Co., Post Office Box 126, Fayetteville 72701.

CALIFORNIA

AZO Research Associates, 1205 San Pablo Avenue, Berkeley 94710.
Henry K. Knudsen, doing business as Knudsen's Biological Supplies, J 12466 South, Highway 50, Lathrop 95330.
Charles V. Means, Jr., doing business as California Caviary, 10630 Prairie Avenue, Inglewood 90303.

DELAWARE

J. Merrel Shockley, Route 1, Delmar 19940.

DISTRICT OF COLUMBIA

George Masur Enterprises, Inc., 77 Rye Street SE., Washington 20003.

FLORIDA

Dawson Research Corp., 114 West Grant Avenue, Orlando 32805.
Otis D. Tisdale Farm, Route 1, Century 32535.

ILLINOIS

John C. Akers, doing business as Sailfin Pet Shop, 104 North Sixth Street, Champaign 61820.
Am-Lab Corp., 196th and Route 54, Homewood 60430.
Cesar V. Calanca, doing business as Calanca's Beagles, Rural Route 1, Box 175, Grayslake 60030.
Don A. Carlson and Carl S. Carlson, partners, doing business as Viking Kennels, 238 Sanders Road, Deerfield 60015.
Dr. Lawrence G. Clark and Edwin W. Short, partners, doing business as Roseland Research, Route 1, Box 15, Crete 60417.
CWC, Inc., Beecher 60401.
General Foods Corp., c/o Gaines Research Kennels, Rural Route 2, St. Anne 60964.
George Lomax, Opdyke 62872.
Moline Dog Pound, 1701 First Avenue, Moline 61265.
Robert B. Motsinger, doing business as Robert Motsinger Kennel, Rural Route 2, St. Joseph 61873.
Oasis Corp., 804 North Parside Avenue, Chicago 60644.
Bertha Peterson, 1607 Delaney Road, Gurnee 60031.
Southern Illinois Farms, Valmeyer 62295.
Lewis N. Warren, Box 126, Pana 62557.

INDIANA

American Animal Industries, Inc., Rural Route 3, Box 309A, Sheridan 46069.
Atlantic Kennels, Inc., Rural Route 1, Box 167, Bloomville 44077.
Robert A. Everett, doing business as Oakdale Farm and Kennel, Rural Route 5, Decatur 46733.
David W. Wilson, doing business as Wilson Small Animal Farm, Rural Route 8, Box 91, Vincennes 47591.
Alton S. Windsor, Sr., doing business as Windsor Biology Gardens, Box 1210, Bloomington 47401.
Harry K. Zook, doing business as Maple Hill Kennel, Rural Route 5, Martinsville 46151.

IOWA

Dewey Adams, 514 North East Street, Knoxville 50138.
Henry F. Bockenstedt, R.F.D. 1, Earlville 52041.
Coralee Hull, Rural Route 1, Weldon 50264.
Dave Irving, Route 1, Charlton 50049.
Robert R. Lauer, doing business as Lauer's Kennels, 1210 Home Park Boulevard, Waterloo 50701.
Elmer B. Scherbring, doing business as Clearview Kennels, Box 106, Earlville 52041.

KANSAS

Charles M. Brink, Route 2, Box 13, Paola 66071.
Dale Seppington, 8245 Merriam Lane, Merriam 66203.

KENTUCKY

Earl Feeback, doing business as Bourbon County Dog Pound, County Farm, Ruddles Mills Road, Route 8, Paris 40361.
William A. Newman, Star Route, Beech Creek 42321.
M. E. Northcutt, doing business as Goodwill Kennels, Rural Route 5, Cynthiana 41031.
J. W. Toombs, Moreland 40454.

MAINE

The Jackson Laboratory, Otter Creek Road, Bar Harbor 04609.

MARYLAND

W. L. Ecker, Harney Road, Taneytown 21787.
Edgar E. Walls, Jr., Route 1, Box 87A, Centreville 21617.

MASSACHUSETTS

Dr. Thomas Boris, doing business as Scientific Breeding Laboratory, 1108 Main Street, Worcester 01608.
John Ciaspisi, 36 Paderewski Avenue, Chicopee 01013.
Dr. Orville H. Drumm, doing business as O'Malley Animal Hospital, 100 Boylston Street, Clinton 01510.
Alvin C. Finch, doing business as Pineland Farm Kennels, Leonard Street, Raynham 02767.
Vincent R. Malone, 42 Oakland Street, Medway 02053.
Rome Kennels, Inc., Main Street, Dunstable 01827.

MICHIGAN

Herie Fehrenbach, doing business as H-Bar-B Research Beagles, 201 Main Street, Essexville 48732.
Grant Hodgins, doing business as Hodgins Kennel, 6110 Lange Road, Howell 48843.
Laboratory Research Enterprises, 5040 Meredith Road, Kalamazoo 49002.
Edward Radzilowski, doing business as Meadow Brook Farms and Co., 10533 Gratiot, Richmond 48062.
Tri-Co Research Projects, Inc., 214 South Sherwood Avenue, Plainwell 49080.

MINNESOTA

Delores N. Beise, Route 4, Hastings 55033.
Melvin Beise, Jordan 55352.
James Goebel, Janesville 56048.
Earland Gustafson, New Germany 55367.
Donald Hippert, Kasson 55944.
Ben M. Kruger, Hayfield 55940.
Allen W. LaPave, 402 Third Street SE., East Grand Forks 56721.

Norman L. Larson, doing business as Wayside Kennels, Route 2, Box 449, Long Lake 55356.
Math Serger, Watkins 55389.
M. J. Wachlin, Sargeant 55073.

MISSISSIPPI

Holley Vanlandingham, Post Office Box 133, Vardaman 38878.

MISSOURI

Bill Adams, doing business as Adams Kennels, 603 North Allen, Marshall 65340.
Wanda Barnfield, doing business as Bar-Wan Rabbitry and Kennel, Route 1, Box 60, Crocker 65452.
Elmer G. Hines, doing business as Sho-Me Kennels, Rural Route 1, Grain Valley 64029.
Woodrow W. Huffstutler, Vienna 65582.
Dr. M. L. McGown, 208 East Church Street, Aurora 65605.
Harold Miller, Granger 63442.
Dick Palmer, doing business as Palmer's Livestock Farm, Rural Route 2, Box 186, Liberal 64762.
Charles E. Sharp, D.O., and Boy Woods, partners, doing business as Calleo Animal Welfare, Box D, Calleo 65324.

MONTANA

Earl M. Pruyn, doing business as Pruyn Veterinary Hospital, 1515 Livingston, Missoula 59801.

NEBRASKA

Mrs. Kenneth Campbell, South Fulton, Falls City 68355.
Sam A. Gross, Shickley 68436.
Harold Hansen and Viola Hansen, partners, Route 2, Hooper 68031.
Clarence E. Hayes, 7732 Main Street, Ralston 68127.
Richard McGinnis, Route 3, Omaha 68123.
Mrs. Sylvia Meisinger, Rural Route 1, Ashland 68008.

NEW HAMPSHIRE

Henry Bickford, Goose Pond Road, Lyme Center 03769.
John B. Simpson, Pike 03780.

NEW JERSEY

James Joseph Barton and Edward D. Barton, partners, doing business as Barton's West End Farms, Rural Delivery 1, Box 45, Hackettstown 07840.
Carl Calabrese, doing business as Eastcoast Animal Supply, 477 North Main Street, Lodi 07644.
Henry Christ, Box 217, Marlboro Road, Old Bridge 08857.
George Clauss, 18–19 Saddle River Road, Fairlawn 07410.
Howard E. Doolittle, doing business as H Bar D Farms, Rural Delivery 1, Box 103, Lafayette 07848.
John W. Jaeger, doing business as John W. Jaeger Enterprises, Post Office Box 345, Rural Delivery 1, Sussex 07461.
K-G Farms, Inc., 3651 Hill Road, Parsippany 07054.
Donald Munson, doing business as Munson Farms, Almond Road, Norma 08347.
Ernest Parker and Walter H. Daniels, partners, doing business as West Jersey Kennels, Lindenwold 08021.
Price Laboratories, Inc., 2367 Lakewood Road, Toms River 08753.
Valley Farms, Post Office Box 585, West Paterson 07424.
Lloyd D. Wenger, doing business as Wenger Pet Farm, Box 235, Oxford 07863.
James E. Williams, doing business as Hillidale Farms, Box 728, Dutchmill Road, Franklinville 08322.

NEW YORK

Abark, Inc., Route 17-M, M.D. 1, Monroe 10950.
E. J. Argetsinger, 302 Pine Tree Road, Ithaca 14850.
Ronald M. Barlow, doing business as Barlow Research Animals, Ridge Road, Pompey 13138.
Beagles for Research, Inc., White Sulphur Springs 12787.
Mrs. Eugenia K. Bean, Rural Route 3, Iowa Road, Moravia 13118.
Claude Benjamin, doing business as Lake Brook Kennel, Hobart 13788.
Cornell Dog Farm—New York State College of Agriculture at Cornell University, 37 Sapsucker Woods Road, Ithaca 14850.
Dr. Thomas M. Flanagan, doing business as Grouse Ridge Kennel's, Manley Road, Norwich 13815.
Food and Drug Research Laboratories, Inc., Maurice Avenue at 58th Street, Maspeth 11378.
Arthur F. Kelcher, 948 South French Road, Cheektowaga 14225.
Kinwood Farm, Inc., Rural Delivery 1, Mannsville 13661.
Marshall Research Animals, Inc., North Rose 14516.
Steven Molnar, 231 Union Street, Box 182, Hudson 12534.
Clarence Morey, Rural Delivery 2, Waverly 14892.
J. J. Nowak, doing business as J. J. Nowak Kennels, 4347 Broadway, Depew 14043.
Michael Partisky, Route 52, Holmes 12531.
Robert W. Steedman, North Road, Leroy 14482.
Donald L. Stumbo, doing business as Stumbo Farms, Reed Road, Lima 14485.
Eugene E. Wells, Box 174, Springfield Center 13468.
Western New York Animal Resources, Inc., 10 Boston Road, Ontario 14519.
Warren H. Wilson, Shay Road, Middlesex 14507.

OHIO

Paul Anthony, Route 1, Trestle Road, St. Paris 43072.
Carrol Blue, doing business as Blue's Animal Farm, Route 1, Plain City 43064.
James C. Cotrell and George F. Cotrell, partners, doing business as Cotrell Farm and Kennel, Route 1, Fort Laramie 45845.
Romeo Marchetti and Quintino Marchetti, partners, doing business as Roe-Quinn Kennels, 16726 Route 700, Burton 44021.
Frank H. Maxfield, doing business as Maxfield Animal Supply, Box 44004, 2192 Little Dry Run Road, Cincinnati 45244.
A. W. Sterrett, doing business as A. W. Sterrett Laboratory Animals, 2223 Savoy Avenue, Akron 44305.

OKLAHOMA

Charles Alexander, doing business as Alexander's Kennels, Route 1, Wayne 73095.

OREGON

James Dennis, 332 A Street, Vernonia 97064.
Percy A. Powers, doing business as Gresham Veterinary Clinic, 520 Northwest Division, Gresham 97030.
Robert Shoemake, doing business as R. G. Kennels, 17225 Southeast McLoughlin Boulevard, Milwaukie 97222.

PENNSYLVANIA

The Buckshire Corp., Ridge Road, Route 1, Perkasie 18944.
Dierolf Farms, Inc., Post Office Box 26, Rural Delivery 2, Boyertown 19512.
Sam Esposito, Box 127, Rural Delivery 1, Quakertown 18951.
Patricia Haab, Daisy M. Grosso, and Walter Haab, partners, doing business as Poconno Rabbit Farm and Laboratory, Dutch Hill Road, Canadensis 18325.
W. J. Hess, doing business as Three Springs Kennels, 146 Bascom Street, Pittsburgh 15214.
Hayeock Kennels, Inc., Rural Delivery 4, Quakertown 18951.
Charles Hazzard, doing business as North Creek Kennels, Box 121, West Chester 19380.
M. L. Kredovski, doing business as Lone Trail Kennels, Post Office Box 46, Friedensburg 17933.
Dale M. Lightner and Myrtle M. Mehring, partners, doing business as The Orange and Black Farm, Rural Delivery 5, Hanover 17331.
William R. Miller, doing business as Broken Arrow Kennels, Box 111, McConnelsburg 17233.
Vincent Neamond and Janet Neamond, partners, doing business as White Eagle Farms, 2015 Lower State Road, Rural Delivery 3, Doylestown 18901.
George F. Pierce, doing business as Pleasant View Kennel, Box 131, Rural Delivery 3, Hummelstown 17036.
Harry Pratt, doing business as Pratt Laboratories, 1739 South 54th Street, Philadelphia 19143.
Frances V. Stinson, doing business as Hy-Line Beagles, Kellers Church Road, Bedminster 18910.
Marlin U. Zartman, Rural Delivery 2, Douglassville 19518.

RHODE ISLAND

James Leo Burke, doing business as Shangri-La Kennels, 750 Greenville Avenue, Johnston 02919.

TENNESSEE

Barney, Inc., 4119 Hillsboro Road, Nashville 37215.
Terrell Fisher, Route 1, Greenbrier 37073.
William L. Hargrove Jr., West Avenue, Medina 38355.
James B. Wampler, doing business as Rocky Mountain Kennels, Post Office Box 991, Cleveland 37311.

TEXAS

Carmon Nichols, doing business as Carmon Nichols Kennels, 100 South Elm Street, Bonham 75418.
Dr. James E. Teague, doing business as Dublin Veterinary Clinic, Post Office Box 206, Dublin 76446.
Carl Walden, doing business as Clayco Kennels, Box 506, Henrietta 76365.

UTAH

Thomas F. Imlay, doing business as Dogs for Research, 4996 South Redwood Road, Murray 84107.

VERMONT

Allen Clark, Box 171, Hartford 05047.
Harold I. Johnson, Star Route 2, Windsor 05089.
Richard Frank Lahue, doing business as Shady Maples Animal Farm, Box 132, East Berkshire 05447.

VIRGINIA

ANTEC Corp., 1162 Daleview Drive, McLean 22101.
Dublin Laboratory Animals, Inc., Box 875, Dublin 24084.
Sidney J. Edwards, 3014 West Norfolk Road, Chesapeake 23703.
Haselton-Saunders, Inc., Post Office Box 8, Midlothian 23113.
Leslie H. Judd and Ronnie Judd, partners, doing business as Rockey Lane Kennels, Route 1, Edinburg 22824.
Noel E. Leach, doing business as Leach Kennels, Route 3, Chase City 23924.
Jack T. Musick, 2333 Shakesville Road, Bristol 24201.
Earl Saunders, doing business as Myers Creek Kennel and Supply Co., Route 2, Box 666, Lancaster 22503.

John F. Thompson, R.F.D. 2, Box 62, Saltville 24370.
E. W. Wilson, Box 413, Tazewell 24651.

WASHINGTON

H. D. Cowan, 19015 140th Avenue SE., Renton 98055.
Robert L. Dry and Margot F. Dry, partners, doing business as Berliner Zwinger Kennels, Route 1, Box 302, Colbert 99005.
Charles C. Kruger, D.V.M., doing business as Schaferhaus Kennels, 33707 30th Avenue South, Auburn 98002.
Mrs. Janet R. Wilcox, doing business as Jereaux Kennels, 26607 Pacific Highway South, Kent 98031.

WEST VIRGINIA

Mrs. Ella Jane Custer, doing business as Custer's Boarding, Kennels, Dallas Pike, Triadelphia 26059.
John F. Troxell, doing business as The "Show Me" Farm, Route 4, Box 197d, Martinsburg 25401.

WISCONSIN

Fred J. Barr, doing business as Bar Beagle Kennels, Route 2, Greenwood 54437.
Richard Bubolz, R.F.D. 2, Rio 53960.
Mrs. Doris Carlstrom, Ellsworth 54011.
John W. Evans, doing business as Merry Hill Kennel, Route 1, Box 177, Sun Prairie 53590.
Felix A. Hartmeister, doing business as Northern Biological Supply, 455 South Arch Avenue, New Richmond 54017.
Walter Feuschel, 13101 North Wauwatosa Road, 76 West, Mequon 53092.
Ridgian Farms, Inc., 301 West Main Street, Mount Horeb 53572.
Joseph R. Schettle Frog Farm, Inc., Houlton.
Leonard Tauber, Route 1, Waldo 53093.
Stanley Wilka, R.F.D. 2, Waunakee 53597.

Done at Washington, D.C., this 19th day of December 1967.

E. E. SAULMON,
Director, Animal Health Division, Agricultural Research Service.

[F.R. Doc. 67-14017; Filed, Dec. 21, 1967; 8:50 a.m.]

Office of the Secretary

INDIANA, OHIO, AND TEXAS

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the States of Indiana, Ohio, and Texas, natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

INDIANA

Adams.	Grant.
Allen.	Hamilton.
Benton.	Hendricks.
Blackford.	Henry.
Boone.	Howard.
Cass.	Huntington.
Clay.	Jasper.
Decatur.	Jay.
De Kalb.	Kosciusko.
Elkhart.	Lagrange.
Fayette.	Lake.
Fountain.	La Porte.
Fulton.	Marion.

INDIANA—Continued

Marshall.	Steuben.
Miami.	Sullivan.
Montgomery.	Tippecanoe.
Morgan.	Tipton.
Newton.	Union.
Noble.	Vermillion.
Parke.	Vigo.
Porter.	Wabash.
Pulaski.	Warren.
Putnam.	Wayne.
Rush.	Wells.
St. Joseph.	Whitley.
Starke.	

OHIO

Allen.	Madison.
Ashtabula.	Mercer.
Auglaize.	Morrow.
Brown.	Ottawa.
Champaign.	Paulding.
Clark.	Putnam.
Defiance.	Richland.
Delaware.	Sandusky.
Erie.	Seneca.
Fulton.	Van Wert.
Hancock.	Williams.
Highland.	Wood.
Huron.	Wyandot.
Lucas.	

TEXAS

Van Zandt.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1968, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 18th day of December 1967.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 67-14061; Filed, Dec. 21, 1967; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

UNIVE[illegible] OF WASHINGTON MEDICAL SCHOOL

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00169-33-46040. Applicant: University of Washington Medical School, Department of Pathology, Seattle, Wash. 98105. Article: Electron Microscope, Model EM6-B, and Anticontamination Device. Manufacturer: Associated Electrical Industries, Ltd., United Kingdom. Intended use of article: The article will be used in research projects that include studies of amyloid fibers, morphologic variations of elementary particles of mitochondrial membranes, renal ultrastructure, various disease tissue, and experimentally altered tissues. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which the article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article provides a guaranteed resolution of 5 Angstroms. The only known domestic instrument, the Model EMU-4 electron microscope manufactured by the Radio Corporation of America (RCA), provides a guaranteed resolution of 8 Angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolution.) For the purposes for which the foreign article is intended to be used, the additional resolving capabilities of the foreign article are pertinent. (2) The foreign article provides 5 accelerating voltages, 30, 40, 50, 60, and 80 kilovolts, whereas the RCA Model EMU-4 provides only two accelerating voltages, 50 and 100 kilovolts. It has been experimentally established that the lower accelerating voltage of the foreign article affords optimum contrast for unstained biological specimens and that the voltages intermediate between 50 and 100 kilovolts afford optimum contrast for negatively stained specimens. For the purposes for which the foreign article is intended to be used, the additional accelerating voltages provided by the foreign article are pertinent.

For the foregoing reasons, we find that the RCA Model EMU-4 electron microscope is not of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLES M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-14062; Filed, Dec. 21, 1967; 8:49 a.m.]

LOUISIANA STATE UNIVERSITY ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C.

A copy of each comment filed with the Director of the Office of Scientific and Technical Equipment must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 68-00246-00-76560. Applicant: Louisiana State University in New Orleans, Lakefront, New Orleans, La. 70122. Article: Extension for Steinheil Universal Spectrograph. Manufacturer: Optische Werke C.A. Steinheil Soehne, GMBH, West Germany. Intended use of article: The article will be used as a high (f/4) aperature attachment for the Steinheil Universal Spectrometer now used at the applicant institution. Application received by Commissioner of Customs: November 22, 1967.

Docket No. 68-00247-15-40500. Applicant: Bartol Research Foundation, Whittier Place, Swarthmore, Pa. 19081. Article: Automatically Controlled Fabry-Perot Interferometer. Manufacturer: Scientific Optical Laboratories of Australia, Pty. Ltd., Australia. Intended use of article: Applicant states: The article will be used for "astronomical research." Application received by Commissioner of Customs: November 22, 1967.

Docket No. 68-00249-33-46040. Applicant: University of Pennsylvania, Administrative Offices, Philadelphia, Pa. 19104. Article: Electron Microscope, Model Elmiskop IA, and attachments. Manufacturer: Siemens AG, West Germany. Intended use of article: The article will be used to continue studies of central nervous system disorders with special concentration on morphological studies of membrane systems and of particles of probable viral nature by analysis of subunit structures. The applicant lists 44 publications as references to these intended uses. Application received by Commissioner of Customs: November 27, 1967.

CHARLES M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-14063; Filed, Dec. 21, 1967; 8:49 a.m.]

NEW HAVEN COLLEGE

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C.

A copy of each comment filed with the Director of the Office of Scientific and Technical Equipment must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 68-00250-01-77030. Applicant: New Haven College, 300 Orange Avenue, West Haven, Conn. 06505. Article: Nuclear Magnetic Resonance Spectrometer, Model JNM-C-60H, with 60 MHz RF unit and probe for observing proton resonance with other attachments for other nuclei studies. Manufacturer: Japan Electron Optics Laboratory Co., Inc., Japan. Intended use of article: The article will be used for teaching purposes and various specific analytical chemistry research projects as listed in the application. Application received by Commissioner of Customs: November 27, 1967.

Docket No. 68-00251-33-46040. Applicant: Stanford University, 820 Quarry Road, Palo Alto, Calif. 94304. Article: Electron Microscope, Model HS-8. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used to correlate morphological observations with biochemical findings. The observations will include localization and description of developing subcellular organelles as well as development of morphological criteria for recognition of cells growing in tissue culture. Localisation of specific enzyme proteins on particular membrane structures during development will also be studied. Application received by Commissioner of Customs: November 27, 1967.

Docket No. 68-00252-01-77030. Applicant: East Tennessee State University, Johnson City, Tenn. 37601. Article: Nuclear Magnetic Resonance Spectrometer, Model JNM-C-60H with attachments. Manufacturer: Japan Electron Optics Laboratory Co., Inc., Japan. Intended use of article: The article will be used for teaching purposes and various specific analytical chemistry research projects as listed in the application. Application received by Commissioner of Customs: November 28, 1967.

CHARLES M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F. R. Doc. 67-14087; Filed, Dec. 21, 1967; 8:49 a.m.]

UNIVERSITY OF MISSOURI ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C.

A copy of each comment filed with the Director of the Office of Scientific and Technical Equipment must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 68-00242-01-77040. Applicant: University of Missouri at Rolla, General Services Building, Purchasing Department, Rolla, Mo. 65401. Article: Mass Spectrometer, Model Atlas GD-150. Manufacturer: Atlas Messund AnalysenTechnik GMBH, West Germany. Intended use of article: The article will be used for graduate teaching and research at the applicant institution. The application further shows that the instrument will be used for the kinetic measurement of one isotope in a particu-

lar mass range and that the mass range of remaining isotopes may be studied by a determination of the isotope ratios in that mass range. Investigations will be conducted over a period of several days duration as the isotope composition is of low abundance. Application received by Commissioner of Customs: November 17, 1967.

Docket No. 68-00243-33-46040. Applicant: The City College Research Foundation of The City College of New York, 138th Street and Convent Avenue, New York, N.Y. 10031. Article: Electron Microscope, Model EM 300 with Plate Camera, Rotating Tilting Stage, High Temperature Holder, Low Temperature Holder, Temperature Control, Decontamination Device, High Resolution Diffraction Attachment, Water Recirculator, 70-mm. Film Holder equipped with Auto Translation between exposures, TV display with Pfumbicon, monitor and recorder. Manufacturer: Philips Electronics NVD, The Netherlands. Intended use of article: Applicant states:

. . . [The article will be used for] investigation of the fine structure of materials in such diverse disciplines as biology, metallurgy, polymers, ceramics, as well as physical and organic chemistry.

Projects which will involve immediate use of this facility are cited below:

1. The morphology and structure of organic polymer crystals.

2. The structure of protozoan cell membranes.

3. Cryptocotyle lingua and its significance for problems of trematode structure and function.

4. Analytic and odor studies of organic aerosols in air.

5. The mechanism of particle nucleation in emulsion polymerization.

6. Fundamentals of the oxidation protection of columbium and tantalum.

7. Vacuum deposition of aluminum oxide and the refractory metals to form coatings and structures.

8. Hard facing of steel by vacuum deposition for high temperature dies.

Application received by Commissioner of Customs: November 17, 1967.

Docket No. 68-00244-60-73610. Applicant: University of Hawaii, Plant Pathology, 1825 Edmundson Road, Henke Hall, Room 311, Honolulu, Hawaii 96822. Article: Spore Trap, Model T 13500/1007. Manufacturer: C. F. Casella & Co., Limited, United Kingdom. Intended use of article: Applicant states: "[The article will be used for the] sampling of air to determine what types of micro spores are present volumetrically and by the hour." Application received by Commissioner of Customs: November 22, 1967.

Docket No. 68-00245-33-46040. Applicant: Harvard University, Purchasing Department, 75 Mount Auburn Street, Cambridge, Mass. 02138. Article: Electron Microscope, Model EM 200. Manufacturer: Philips Electronics N.V.D., The Netherlands. Intended use of article: Applicant states:

The electron microscope will be used for continuing research programs in medical and biological research. The project includes diverse activities, some of which are outlined below:

a. Study of the fine structure of the junctional complexes in epithelia, mesothelia, and endothelia.* * *

b. Fine structural investigation of the localization of various enzymes in skeletal muscle, cardiac muscle, and intercalated cells of the testes.* * *

c. Study of a large variety of pathological lesions both in experimental animals and in the human disease, specifically related to states of acute and chronic inflammation.* * *

d. Study of interactions between macrophages and red cells under immunological conditions.* * *

Application received by Commissioner of Customs: November 22, 1967.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-14388; Filed, Dec. 21, 1967; 8:49 a.m.]

OHIO STATE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00122-65-01000. Applicant: The Ohio State University, 190 North Oval Drive, Columbus, Ohio 43210. Article: Stereoplotter, Model B-8 Aviograph. Manufacturer: Wild Heerbrugg Instruments, Inc., Switzerland. Intended use of article: Applicant states:

* * * The instrument embodies the principle of optical-mechanical system geared to medium and small scale mapping from wide and super wide angle photographs * * *. The B-8 Stereoplotter is to be used in the instruction of the optical mechanical principle in stereophotogrammetry and the instruction and research in mapping and revision of topographic maps at medium scales, compilation of small-scale maps from aerial photographs, investigation based on aerial wide and super wide angle images for scientific and engineering purposes.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is intended to be used for graduate research and instruction in the principles of stereophotogrammetry. The only known domestic photogrammetric instruments are either completely automatic or are of a highly complex design that is not generally used in photogrammetric laboratories. Neither of these two classes of photogrammetric instruments are suitable for the purposes for which the foreign article is intended to be used.

The Department of Commerce therefore finds that no instrument of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-14389; Filed, Dec. 21, 1967; 8:49 a.m.]

DEPARTMENT OF AGRICULTURE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00087-33-46040. Applicant: U.S. Department of Agriculture, Agricultural Research Service, Crops Research Division, Plant Industry Station, Beltsville, Md. 20705. Article: Electron Microscope, Model EM-200 with power supply cabinet, specimen-chamber cooling device, heated objective aperture with power supply, closed circuit water cooling unit with automatic water shut off. Manufacturer: N. V. Philips, Holland. Intended use of article: Applicant states:

The instrument for which free entry is requested will be used for determination of both gross particle morphology and particle size and for studies of internal particle structure, including studies of virus synthesis and degradation. Development of viral inclusions will also be studied within the cell.

The instrument will also be used to study subcellular structure including mitochondria, plastids and other cell organelles.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article provides accelerating voltages of 40, 60, 80, and 100 kilovolts. The only known comparable domestic instrument, the Model EMU-4 electron microscope manufactured by the Radio Corporation of America (RCA), provides accelerating voltages of only 50 and 100 kilovolts. It has been experimentally established that the lower accelerating voltage provided by the foreign article affords optimum contrast for unstained specimens and that the voltages intermediate between 50 and 100 kilovolts afford optimum contrast for negatively stained specimens. We find the additional accelerating voltages provided by the foreign article to be pertinent to the purposes for which such article is intended to be used. (2) The foreign article provides a magnification range from 300 × to 350,000 × whereas the RCA Model EMU-4 provides a magnification range from 1,400 × to 200,000 ×. For the purposes for which the foreign article is intended to be used, we find that magnifications from 400 × to 250,000 × are necessary.

For the foregoing reasons, we find that the RCA Model EMU-4 is not of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-14390; Filed, Dec. 21, 1967; 8:49 a.m.]

UNIVERSITY OF NORTH CAROLINA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00165-33-46040. Applicant: University of North Carolina, Center for Research in Pharmacology and Toxicology, Research Triangle Institute, Research Triangle, Chapel Hill, N.C. 27514. Article: Electron Microscope EM6B and Plate Desiccator. Manufacturer: Associated Electrical Industries, Ltd., England. Intended use of article: Biological research which involves: (1) Developing and applying techniques for high-resolution autoradiography of soluble compounds, (2) in the fields of pharmacology and toxicology the localization of drug concentrations within cell structures at the biomolecular level requiring the ultimate in resolution. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article provides a guaranteed resolution of five Angstroms. The only known comparable domestic instrument, the Model EMU-4 electron microscope manufactured by the Radio Corporation of America (RCA), provides a guaranteed resolution of 8 Angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolution.) For the purposes for which the foreign article is intended to be used, we find the difference between 5 and 8 Angstroms in resolution to be pertinent. (2) The foreign article provides five accelerating voltages, 30, 40, 50, 60, and 80 kilovolts, whereas the RCA Model EMU-4 provides only two accelerating voltages, 50 and 100 kilovolts. It has been experimentally established that the accelerating voltages below 50 kilovolts afford the optimum contrast for unstained biological specimens and that the accelerating voltages intermediate between 50 and 100 kilovolts afford the optimum contrast for negatively stained specimens. We therefore find that the accelerating voltages provided by the foreign article, but not possessed by the RCA Model EMU-4 electron microscope are pertinent to the purposes for which the foreign article is intended to be used.

For the foregoing reasons, we find that the RCA Model EMU-4 electron microscope is not of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-14391; Filed, Dec. 21, 1967; 8:49 a.m.]

Office of the Secretary

[Dept. Order 5-B]

ECONOMIC DEVELOPMENT ADMINISTRATION

Organization and Functions

This order supersedes the material appearing at 31 F.R. 16729, December 30, 1966; and 32 F.R. 10386, July 14, 1967.

SECTION 1. *Purpose.* The purpose of this order is to prescribe the organization and assignment of functions within the Economic Development Administration.

SEC. 2. *Organization structure.* The principal organization structure and line of authority of the Economic Development Administration shall be as depicted in the attached organization chart.

SEC. 3. *Functions of the Office of the Assistant Secretary for Economic Development.* .01 The Assistant Secretary directs the programs and is responsible for the conduct of all activities of the Economic Development Administration subject to the policies and directives prescribed by the Secretary of Commerce. He assists the Secretary in the general supervision and coordination of the Federal cochairman and in the resolution of policy questions between the Federal cochairman, the Federal Development Committees and other Federal agencies.

.02 The Deputy Assistant Secretary directs and coordinates the Area Offices, assists the Assistant Secretary in all matters affecting the Economic Development Administration, and performs the duties of the Assistant Secretary during the latter's absence.

SEC. 4. *Functions of the Office of the Deputy Assistant Secretary for Policy Coordination.* The Deputy Assistant Secretary for Policy Coordination, as the principal advisor to the Assistant Secretary on matters of policy coordination shall:

a. Exercise responsibility for EDA's interagency and intergovernmental relations and its relations with those quasi-public and private agencies interested in economic development;

b. Develop policies for improving Federal, State, and local government economic development programing;

c. Provide staff assistance in defining policy issues, coordinate the development and formulation of policy for consideration by the Assistant Secretary, explain the position of the Administration, and exercise principal staff responsibility for policy review and evaluation;

d. Represent the Administration on international organizations when so designated;

e. Coordinate and manage Administration representation on interagency committees;

f. Serve as Executive Secretary and, as required, provide or arrange for staff support for the National Public Advisory Committee on Regional Economic Development;

g. Act as an alternate to the Assistant Secretary in serving as Chairman of EDA's Policy Planning Board and provide secretariat services for the Policy Planning Board; and

h. Review and evaluate legislative and administrative proposals related to economic development and intergovernmental relations for substantive and policy implications.

SEC. 5. *Functions of the Office of the Deputy Assistant Secretary for Economic Development Planning.*—.01 The Deputy Assistant Secretary for Economic Development Planning is the principal advisor to the Assistant Secretary on matters of development planning. Through the offices reporting to him, he shall:

a. Coordinate and direct EDA economic development planning relating to regions, districts (including economic development centers), redevelopment areas, and other areas of substantial need;

b. Formulate and recommend to the Assistant Secretary standards and criteria for administration of economic development planning by Area Officers;

c. Inform the Deputy Assistant Secretary for Policy Coordination of signifi-

cant developments and problems affecting interagency and intergovernmental development planning for regions, districts, and areas;

d. Maintain an information system to support development planning in regions, districts, and redevelopment areas, and to support program evaluation, budget planning and reporting, and administrative control of project applications and projects;

e. Maintain a central reference collection of economic development materials;

f. Designate economic development districts, economic development centers, redevelopment areas, and Title I areas which fulfill the statutory criteria;

g. Conduct an annual review of the areas and districts designated for assistance under the Act and make such modifications or terminations of eligibility as may be appropriate;

h. Provide economic data, analyses, and studies, and, in coordination with the Deputy Assistant Secretary for Economic Development Operations, provide administrative funds to Regional Commissions, and planning grants to development districts and areas;

i. Recommend technical assistance proposals for areas, districts, and regions; and

j. Provide a principal point of liaison with and support to the Federal cochairmen and Regional Commissions.

.02 The Deputy Assistant Secretary for Economic Development Planning shall direct and supervise the following organization elements:

a. The Office of Regional Development Planning which shall:

1. Provide and evaluate information to aid the Assistant Secretary in designating economic development regions, and subsequently, in modifying their boundaries, in accordance with provisions of the Act;

2. Assist States to establish Regional Action Planning Commissions (hereinafter called "Regional Commissions") within designated regions;

3. Develop suggested criteria, methods, and guidelines for use by the Regional Commissions in developing economic development programs;

4. Provide, on request, staff assistance to the Regional Commissions in preparing work and study programs for regional development planning;

5. Advise Regional Commissions on the consistency and compatibility of regional plans and programs with Federal programs and policies and on the regional implications of national, social, economic, and technological trends;

6. Arrange for administrative and informational services for the Regional Commissions, including the following: budgeting, publications, office, statistical, library, map and graphics;

7. Develop suggested program innovations to prevent regional decline and accelerate regional growth based on studies and research findings on the nature, causes, and processes of regional growth and decline;

8. Specify requirements for research, technical assistance, and similar services to the appropriate offices of EDA and assist those offices, as required, in arranging and monitoring such research, technical assistance, and other activities;

9. Serve as a source of information and special services for domestic and international regional development planning;

10. Develop program guidance in order to facilitate the coordination of efforts among EDA offices and with the Regional Commissions; and

11. Provide staff assistance and support to the Federal cochairmen of the Regional Commissions.

b. The Office of Development Districts which shall:

1. Design and carry out a program to establish multicounty development districts in consultation and with the assistance and cooperation of EDA Area Offices, and with the concurrence of the States affected;

2. Advise and assist Area Offices in implementing economic planning activities after the formal designation of Economic Development Districts (EDD);

3. Initiate policy guidelines and criteria concerning the economic development district program for use by other elements of EDA, and by appropriate State and local agencies;

4. Evaluate and approve proposed economic development district organizations and programs for economic soundness, and for compatibility with the requirements and intent of Title IV, part B of the Act;

5. Assist State and local efforts to organize economic development districts, including the preparation of district Overall Economic Development Programs (OEDP's) and the recruitment of professional staff;

6. Develop and recommend model EDD administrative budgets, planning programs, reporting procedures, and job specifications;

7. Provide guidance to EDD organizations on the techniques and methods of district economic analysis, budgeting, and program planning;

8. Maintain a system of records to indicate progress as compared to planned objectives on all grants made under section 301(b) of the Act;

9. Evaluate, recommend approval, and administer planning grants made under the Act to State and district agencies;

10. Evaluate and recommend candidates for appointments to professional staff positions in economic development districts;

11. Recommend the designation and/or termination of economic development districts and economic development centers;

12. Promptly advise interested Federal, State, and local agencies of all changes affecting the eligibility status of existing or proposed economic development districts;

13. Prepare and distribute maps and related materials showing organizational and designation status of economic development districts; and

14. Formulate planning and development policies and procedures for guiding the preparation and submittal of District OEDP's, including the establishment of policies and standards for their review by Area Offices.

c. The Office of Area Planning and Program Support which shall:

1. Develop and maintain a system for the collection, compilation, and reporting of project statistics for planning, operational, and program management purposes;

2. Have prime responsibility for coordinating the preparation and distribution of Area Policy Papers;

3. Develop through these Area Policy Papers an analysis of redevelopment areas and a recommended strategy for each area's economic development to include a system of priorities for EDA's financial assistance;

4. Develop, evaluate, and recommend approval of planning assistance grant applications in redevelopment areas not located in economic development districts, and monitor planning assistance projects for program content;

5. Provide reports on the demand for specified commodities and services, efficient capacity, and existing competitive enterprises in industries for use by the Deputy Assistant Secretary for Economic Development Operations in making determinations on excess capacity, pursuant to section 702 of the Act;

6. Administer a comprehensive economic and administrative information and data base system for the Administration;

7. Develop and recommend procedures for the preparation of redevelopment area and Title I area Overall Economic Development Programs (OEDP's) and policies and standards for their review and approval by Area Offices, and evaluate and maintain surveillance of the administration and certification of area OEDP's by Area Offices;

8. Determine whether an area meets the statistical criteria to qualify as a redevelopment area or a Title I area;

9. Initiate changes in the qualification status of redevelopment areas and Title I areas;

10. Initiate designation or change in the designation status of redevelopment or Title I areas;

11. Conduct an annual review of area eligibility and initiate termination of areas no longer eligible for designation;

12. Recommend minor adjustments in boundaries of redevelopment areas; and

13. Initiate suspension of the receipt and processing of all applications for assistance from areas and districts which fail to submit acceptable OEDP progress reports.

SEC. 6. *Functions of the Office of the Deputy Assistant Secretary for Economic Development Operations.*—.01 The Deputy Assistant Secretary for Economic Development Operations, through the offices reporting to him shall:

a. Provide coordinated direction of all EDA activities related to financial assistance for or to physical projects which will improve local economies and supervise the execution of this aspect of the EDA programs;

b. Recommend standards, policies and criteria for the technical evaluation and processing of project applications for financial assistance, including public works grants and loans, business loans, technical assistance and supplementary Appalachian assistance grants;

c. Direct, conduct, coordinate, monitor and, where appropriate, originate technical assistance projects (including management assistance and feasibility studies) subject to coordination with the Deputy Assistant Secretary for Economic Development Planning on proposed technical assistance projects related to area, district, center or regional planning;

d. Review and recommend approval or denial of project applications;

e. Evaluate activities of the Area Offices in applying policies, standards, and procedures for processing project applications to assure efficient, effective, and economical accomplishment of approved projects;

f. Execute agreements with other Federal departments and agencies in consultation with the Deputy Assistant Secretary for Policy Coordination for the conduct of specialized technical assistance; and

g. Study and devaluate the manpower development and training needs of redevelopment areas and of economic development districts, and recommend appropriate joint action with the Departments of Labor and Health, Education, and Welfare.

.02 The Deputy Assistant Secretary for Economic Development Operations shall direct and supervise the following organization elements:

a. The Office of Public Works which shall:

1. Recommend policies, standards and procedures for accepting, processing, reviewing, and approving requests for public works grants and loans, consistent with the procedures contained in the Act;

2. Review and recommend for approval or denial public works grant and loan project applications, and suggest alternate methods of financing where indicated;

3. Maintain surveillance, evaluate progress, and submit reports on the application by Area Offices of standards, policies, and procedures to assure efficient, effective, and economical accomplishment of the approved projects;

4. Arrange for services from other Federal agencies for the administration of approved public works grants and loans;

5. Maintain operating liaison with Federal agencies having grant-in-aid programs which may supplement EDA programs, and with those Federal agencies delegated responsibility for administering or servicing EDA projects; and

6. Plan and conduct a program to assure the orderly discharge of any Departmental responsibilities pursuant to section 214 of the Appalachian Regional Development Act of 1965.

b. The Office of Business Development which shall:

1. Recommend policies, standards, and procedures for processing and approving applications for financial assistance for industrial or commercial usage, consistent with the criteria contained in the Act;

2. Review applications for commercial or industrial loans and working capital guarantees, and recommend approval or denial;

3. Maintain surveillance over the implementation by Area Officers of policies, standards and procedures related to processing loan applications for business development to assure efficient, effective, and economical accomplishment of the business development programs;

4. Develop and implement EDA approved agreements with the Small Business Administration and other Federal agencies to secure support of the business development programs;

5. Monitor operations of industrial and commercial projects approved by the Administration, including outstanding loans for projects approved under provisions of the Area Redevelopment Act, and prepare reports of accomplishments;

6. Arrange for or provide needed specialized assistance to recipients of EDA industrial and commercial loans and guarantees and ARA loans;

7. Develop policies, plans, and procedures to improve or terminate projects in default of loan conditions;

8. Provide assistance in the liquidation of the affairs and functions conducted under the Area Redevelopment Act; and

9. Maintain operating liaison with other agencies concerned with the activities of this office.

c. The Office of Technical Assistance which shall:

1. Propose policies, standards, and procedures pertaining to the acceptance, review, and approval of requests for technical assistance, consistent with the criteria of the Act;

2. Plan and develop technical assistance projects in cooperation with other offices, where appropriate;

3. Direct or monitor the performance and implementation of approved technical assistance projects;

4. Recommend policies, standards, and procedures for evaluating and utilizing the results of technical assistance projects;

5. Execute agreements with other Federal departments and agencies for the conduct of specialized technical assistance, in consultation with the Deputy Assistant Secretary for Policy Coordination;

6. Recommend, to the Deputy Assistant Secretary for Policy Coordination, policies and practices to facilitate effective relationships with other Government agencies which have complementary programs for technical assistance;

7. Maintain surveillance over the application of policies, standards, and procedures by the Area Offices in processing project applications;

8. Review and recommend project applications for approval or denial; and

9. Coordinate the efforts of EDA in the manpower training program.

SEC. 7. *Functions of the Office of Program Analysis and Economic Research.* The Office of Program Analysis and Economic Research shall:

a. Develop and implement measures of resource utilization for programing and budgeting purposes and develop alternative long-range plans;

b. Establish and implement a Program Planning and Budgeting System by identifying objective-oriented program categories and developing a multiyear program budget;

c. Prepare the annual Program Memorandum and other analytical studies required by the Bureau of the Budget;

d. Develop and prepare the annual budget for EDA;

e. Develop cost benefit studies to aid the Assistant Secretary in making choices and decisions, employing advanced techniques of operations research analysis, econometrics, and mathematical economics to determine the relative merit between, and the optimum balance among, alternative programs for economic development;

f. Evaluate the effectiveness of economic development projects, activities, and programs in achieving the objectives of the Act and EDA;

g. Direct and conduct a program of internal and external economic research designed to meet both planning and operating needs;

h. Arrange for and monitor EDA sponsored research by other elements of the Department, other Government agencies, or private organizations;

i. Encourage and stimulate research and data collection on economic development both in and out of Government;

j. Coordinate, review, analyze, and disseminate research findings and analysis of economic development processes;

k. Study and evaluate the effects of Government policies on sub-national economic development; and

l. Plan and organize seminars, institutes, and workshops on economic development in cooperation with, and for, interested persons in the public and private sectors.

SEC. 8. *Functions of the Office of the Chief Counsel.* The Office of the Chief Counsel shall:

a. Render all necessary legal services, subject to the provisions of Department Order 104; and

b. Have primary responsibility for the preparation, coordination, and clearance of all legislation, regulations, and external orders subject to the provisions of applicable Department and Administrative Orders.

SEC. 9. *Functions of the Office of Public Affairs.* The Office of Public Affairs shall:

a. Advise on all public information matters;

b. Conduct a public information program under the policy guidance of the Assistant Secretary for Economic Development; and

c. Provide assistance in the editing, printing, or reproduction, and distribution of technical materials and publications.

SEC. 10. *Functions of the Office of Congressional Relations.* The Office of Congressional Relations shall:

a. Advise on all Congressional matters pertinent to the activities under the direction of the Assistant Secretary; and

b. Serve as the primary point of coordination for continuing liaison with the Congress in collaboration with the Special Assistant to the Secretary for Congressional Relations.

SEC. 11. *Functions of the Office of Equal Opportunity.* The Office of Equal Opportunity shall:

a. Advise the Assistant Secretary in the development and implementation of policy and guidance affecting equality of opportunity connected with economic development programs;

b. Maintain liaison with Federal, State and local governmental organizations and with nongovernmental organizations to coordinate and assist in planning operations aimed at achieving nondiscrimination and equality of opportunity;

c. Provide leadership, staff services and advice in matters affecting nondiscrimination to economic development program units, to organizations obligated as participants in an economic development program to achieve nondiscrimination, and to ultimate beneficaries of economic development program activities;

d. Conduct, sponsor, or coordinate meetings, conferences, and training courses for equal employment specialists, program managers, and executives to achieve nondiscrimination in economic development programs;

e. Establish effective systems throughout the Economic Development Administration to obtain and monitor accurate reports concerning the program of equality of opportunity and assure conformance thereto;

f. Establish report requirements to insure equality of opportunity by participants in economic development programs, conduct on-site inspections, and receive, investigate, and resolve complaints; and

g. Receive, investigate, review, adjust and adjudicate complaints, and evaluate EDA experience relating to the Equal Employment Opportunity program and make recommendations to the Assistant Secretary for improvement of employment practices within the Economic Development Administration.

SEC. 12. *Functions of the Office of Administration.* The Office of Administration shall:

a. Develop, promulgate, and administer administrative management policies, programs, and standards;

b. Plan and conduct an investigations program;

c. Conduct organization and management studies and surveys;

d. Plan and conduct a program for achieving maximum economy, effectiveness and efficiency and for obtaining optimum personnel utilization;

e. Provide office services for the headquarters and, as required, for Area Offices;

f. Develop and conduct a program for the efficient management of all official records and the design and control of official forms;

g. Plan, arrange for, and coordinate any administrative management services obtained through the Departmental staff offices;

h. Plan and conduct a comprehensive personnel program, and an equal opportunity program as relates to employment within the Administration;

i. Develop and maintain an accounting system and prepare financial reports for internal and external use; and

j. Develop, interpret, and administer travel regulations for the Economic Development Administration in accordance with Bureau of the Budget and Department of Commerce directives.

SEC. 13. *Economic Development Area Offices.* .01 The Economic Development Area Offices, headed by Area Directors, are as follows:

Name	Located at—	Serves
Northeastern	Portland, Maine	Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont.
Mid-Atlantic	Wilkes Barre, Pa	Delaware, Maryland, New Jersey, Pennsylvania, and Puerto Rico.
Midseastern	Huntington, W. Va	Kentucky, North Carolina, Ohio, Virginia, and West Virginia.
Southeastern	Huntsville, Ala	Alabama, Florida, Georgia, Mississippi, South Carolina, and Tennessee.
North-central	Duluth, Minn	Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin.
Southwestern	Austin, Tex	Arizona, Arkansas, Colorado, Kansas, Louisiana, New Mexico, Nevada, Oklahoma, Texas, Utah, and Wyoming.
Western	Seattle, Wash	Alaska, American Samoa, California, Guam, Hawaii, Idaho, Montana, Oregon, and Washington.

.02 Each Area Director is responsible within the limits of his delegated authority for the programs of the Administration in his area and, in this connection, shall:

a. Coordinate with local communities in economic planning and in development of Overall Economic Development Programs (OEDP's) which are related to the needs of designated areas and districts serviced by the Area Office;

b. Manage the Economic Development Administration's resources available for use for the economic development of designated areas and districts serviced by the Area Office; and

c. Process applications for economic development assistance, monitor and service approved projects and, when appropriate, liquidate projects.

Effective date: December 1, 1967.

DAVID R. BALDWIN,
Assistant Secretary for Administration.

[F.R. Doc. 67-14892; Filed, Dec. 21, 1967; 8:49 a.m.]

ATOMIC ENERGY COMMISSION

SPECIAL NUCLEAR MATERIAL

Notice of Proposed New Lease Agreement

The U.S. Atomic Energy Commission hereby announces the proposed adoption of a new Lease Agreement for all special nuclear material leased by the Commission to persons other than agencies of the Federal Government. The new agreement, which combines and revises the current Agreement for Supply of Enriched Uranium for Conversion and Fabrication and the current Special Nuclear Material Lease Agreement, is being made available for public comment.

Copies of the proposed new Lease Agreement may be obtained from: Oak Ridge Operations Office, U.S. Atomic Energy Commission, Attention: AEC Materials Leasing Office, Oak Ridge, Tenn. 37830. Any comments on the new Lease Agreement should be addressed to that office so as to be received prior to March 1, 1968.

The new Lease Agreement incorporates those changes which 3 years' experience indicate are desirable, and also certain changes which are considered appropriate to implement the Private Ownership of Special Nuclear Materials Act, Public Law 88-489. The proposed new uniform expiration date of December 31, 1970, was selected because it coincides with the date after which the Commission will no longer distribute special nuclear material by lease for use in a nuclear power reactor.

Neither the execution of the Lease Agreement nor its expiration will alter or affect the rights and obligations of any Commission licensee under its license or construction permit or any allocation of special nuclear material in connection therewith.

All current Agreements for Supply of Enriched Uranium for Conversion and Fabrication and current Special Nuclear Materials Lease Agreements have an expiration date of March 31, 1968. As of that date, persons possessing special nuclear material under the expiring terms and conditions of either form of agreement must have executed the new Lease Agreement or must purchase or return the affected material to the Commission. The new Lease Agreement must be executed by each person other than agencies of the Federal Government desiring to lease special nuclear material from the Commission, whether received directly from the Commission or from another lessee of the Commission.

Dated at Germantown, Md., this 18th day of December 1967.

For the U.S. Atomic Energy Commission.

JOSEPH L. SMITH,
Director, Division of Contracts.

[F.R. Doc. 67-14884; Filed, Dec. 21, 1967; 8:49 a.m.]

STATE OF COLORADO

Proposed Agreement for Assumption of Certain AEC Regulatory Authority

On October 10 (32 F.R. 14069), October 17 (32 F.R. 14337), October 24 (32 F.R. 14898), and October 31 (32 F.R. 15049), 1967, the U.S. Atomic Energy Commission published in the FEDERAL REGISTER for public comment a proposed agreement received from the Governor of the State of Colorado for the assumption of certain of the Commission's regulatory authority pursuant to section 274 of the Atomic Energy Act of 1954, as amended. The proposed agreement as published included a proposed effective date of January 1, 1968.

Notice is hereby given that the proposed effective date is changed from January 1, 1968, to February 1, 1968.

Dated at Washington, D.C., this 5th day of December 1967.

For the Atomic Energy Commission.

W. B. MCCOOL,
Secretary.

[F.R. Doc. 67-14859; Filed, Dec. 7, 1967; 8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 17849; FCC 67M-2040]

AMERICAN TELEVISION CO., INC.

Order Regarding Procedural Dates

In re applications of American Television Co., Inc., Fort Smith, Ark., Docket No. 17,849, File No. BPH-5831, for construction permit.

As a result of agreements reached at a prehearing conference held this date in the above matter, *It is ordered*, That:

(1) Exhibits are to be exchanged on or before March 11, 1968; and

(2) The hearing now scheduled to commence on February 1, 1968 is hereby rescheduled to commence on March 25, 1968, at a place and time in Fort Smith, Ark., to be announced in a subsequent order.

Issued: December 7, 1967.

Released: December 18, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14871; Filed, Dec. 21, 1967; 8:48 a.m.]

[Docket Nos. 17884, 17885; FCC 67-1288]

BERWICK BROADCASTING CORP. AND P.A.L. BROADCASTERS, INC.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of: Berwick Broadcasting Corp., Berwick, Pa., Requests: 103.1 mc, No. 276; 420 watts (H), 420 watts (V); 691 feet, Docket No. 17884, File No. BPH-5812; P.A.L. Broadcasters, Inc., Pittston, Pa., Requests: 103.1 mc, No. 276; 930 watts (H), 930 watts (V); 500 feet, Docket No. 17885, File No. BPH-5926; for construction permits.

1. The Commission has before it for consideration the above-captioned and described applications for construction permits which are mutually exclusive in that operation by the applicants as proposed would cause mutually destructive interference.

2. Examination of the Berwick Broadcasting Corp. application indicates that a total of approximately $16,008 will be required to finance construction and first-year operation. This amount includes the down payment on equipment ($2,985), first-year equipment payments including interest ($3,523), miscellaneous costs ($1,500), and working capital ($8,000). To meet these requirements Berwick relies on cash on hand of $3,800 and a bank loan of $20,000. The bank's letter indicates that its willingness to provide this amount is subject to unstated satisfactory terms and conditions. Thus it will be necessary to determine whether, and under what circumstances, this amount is available to Berwick.

3. The respective proposals, which are for different communities,[1] would serve substantially different areas and populations. Consequently, it will be necessary to determine pursuant to section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service.

4. Except as indicated by the issues specified below the applicants are qualified to construct and operate as proposed. However, because of their mutual exclusivity, the Commission is unable to make a statutory finding that a grant of the subject applications would serve the public interest, convenience, and necessity, and is of the opinion that they must be designated for hearing in a consolidated proceeding on the issues set forth below.

It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether, and subject to what terms and conditions, the bank loan will be available to Berwick Broadcasting Corp. to provide the necessary funds to demonstrate its financial qualifications.

2. To determine the areas and populations which would receive FM service of 1 mv/m or greater intensity from the respective proposals and the availability of other FM services of 1 mv/m or greater intensity in such areas.

3. To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service.

4. To determine in the light of the evidence adduced pursuant to the foregoing issues, which of the applications for construction permit should be granted.

It is further ordered, That to avail themselves of the opportunity to be heard, the applicants, pursuant to § 1.221 (c) of the Commission's rules, in person or by attorney shall, within twenty (20) days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: November 22, 1967.

Released: December 19, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14873; Filed, Dec. 21, 1967; 8:48 a.m.]

[Docket No. 17882; FCC 67-1281]

BUCKEYE CABLEVISION, INC.

Memorandum Opinion and Order Designating Proceeding for Hearing

In re Buckeye Cablevision, Inc., Toledo, Ohio, request for special relief pursuant to § 74.1109.

1. The Commission has before it for consideration a "Petition to Impose Special Requirements With Respect to the Operation of the CATV System Operated by Buckeye Cablevision, Inc., in Toledo, Ohio," and a supplement thereto, filed on April 29, and August 25, 1966, respectively, by D. H. Overmyer Telecasting Co., Inc., permittee of UHF Station WDHO-TV, Toledo. Buckeye began CATV operations in March 1966, and currently provides 5,000 subscribers with the following Grade B or better signals: WTOL-TV, WSPD-TV, WGTE-TV,[1] and WDHO-TV, Toledo, Ohio; WJBK-TV, WWJ-TV, WXYZ-TV, and WKBD-TV, Detroit, Mich.; and CKLW-TV, Windsor, Ontario.[2] Overmyer seeks to prevent Buckeye's continued carriage of the De-

[1] Channel 276 is assigned to White Haven, Pa., and is available for use in either Berwick or Pittston pursuant to the "25-mile" rule.

[1] In Buckeye Cablevision, Inc. (CATV 100-102), FCC 66-817, released Sept. 22, 1966, the Commission's rules were waived to permit Buckeye to carry any other educational signal when WGTE-TV is not on the air.

[2] On Sept. 18, 1967, pursuant to request of applicant, Buckeye's microwave application (BPCAR-81), to relay Detroit and Windsor signals, was dismissed.

troit-Windsor stations pending an evidentiary hearing to determine whether such carriage is consistent with the public interest.[2] Buckeye has opposed the petition and supplement. It also filed a motion to dismiss the petition on September 8, 1967; Overmyer opposed the motion and Buckeye replied.

2. In support of its request for hearing, Overmyer alleges that public interest considerations, referred to in paragraph 151 and footnote 69 of the Second Report and Order, 2 FCC 725, 786, are raised by the Grade B contour overlap of the Detroit and Toledo markets[3] and should be resolved in an evidentiary hearing; and that Buckeye should be precluded from continued carriage of the Detroit-Windsor stations pending Commission determination whether such carriage is consistent with the public interest.

3. Buckeye replies that the Overmyer petition lacks factual support; that its economic analysis is based on assumptions and comparisons with unrelated situations in other television markets, and thus fails to show in precise terms the actual impact of CATV in Toledo, or any exceptional circumstances there to justify the extraordinary relief requested; that Overmyer was aware of the existing off-the-air competition between Detroit-Windsor and Toledo stations prior to applying for Channel 24; that CATV benefits WDHO–TV by making it available on nonconverted television sets; that Buckeye will suffer discrimination if it is precluded from carrying Detroit-Windsor signals, because Toledo antenna dealers advertise and sell special equipment capable of bringing in signals from 125 miles distant; that compliance with Overmyer's request would rearrange the whole concept of television markets and normally-served areas, rendered CATV subscribers "captives" of the Toledo market, and insulate Toledo stations from natural competition from Detroit signals; and that in any event, no Commission action should be taken pending the outcome of current copyright legislation.

4. In the motion to dismiss, Buckeye further alleges that despite Overmyer's original classification of WDHO–TV as an independent station carrying a "modest" number of network shows on a per program basis, the station's prime time schedule for Fall 1967 includes 40 quarter-hours of NBC and 39 quarter-hours of CBS programing; that as a result, a full schedule of all three networks is now available on the Toledo stations and Toledo's network fare is no longer "inferior," as implied by Overmyer's economic analysis. It also contends that Overmyer has failed to supplement its analysis with any specific facts on viewing habit shifts during more than 1 year of operation by Buckeye and WDHO–TV; that Overmyer has likewise failed to bring its showing up to date with specific facts on WDHO–TV's current financial condition, Toledo market data, or evidence of any actual impact of private injury to WDHO–TV. Overmyer opposes the motion to dismiss and Toledo Telecasting Corp., permittee of a new television station to be operated on Channel 54, Toledo (BPCT–3887) has adopted Overmyer's allegations in a statement which also opposes the motion to dismiss.

5. Overmyer's petition to impose special requirements on Buckeye will be granted to the extent that an evidentiary hearing will be ordered in order to determine whether carriage of Detroit-Windsor signals on the CATV system is consistent with the public interest and healthy maintenance of television broadcast service in Toledo.[4] The petition raises questions which, under the policies expressed in the second report and order, require factual examination. The lack of information concerning the impact of CATV upon UHF activity in Toledo compels that a meaningful record be established before we render a decision. Because of the passage of time and duration of the Buckeye and WDHO–TV operations, both parties should now be able to substantiate their allegations with appropriate factual information. Commission action based on such a record should thus have some valid relationship to the facts of CATV effect in the market.

6. Finally, Overmyer requests that Buckeye be precluded from carrying any Detroit-Windsor stations pending the outcome of the evidentiary hearing. The second report and order makes clear the impracticability of withdrawing service, once established, because of its disruptive effect. Second Report and Order, supra, 784–786. However, we will grant temporary relief, pending final disposition of this proceeding, in the form of an order requiring Buckeye to confine delivery of the Detroit-Windsor stations carried on its system to areas where feeder cable is located as of the date of this order. Buckeye may continue to expand its system beyond the above limits within its franchised area, so long as the expansion is confined to carriage of the Toledo signals. See Midwest Television, Inc., FCC 66–683, 4 FCC 2d 612, vacated in part, sub nom. Southwestern Cable Co., et al. v. United States of America and Federal Communications Commission, 378 F. 2d 118 (9th Cir. 1967), cert. granted Oct. 23, 1967 (Nos. 363, 428); Ultravision Broadcasting Company, FCC 66–907, 5 FCC 2d 217.

7. Accordingly, in view of the above, and pursuant to § 74.1109 of the Commission's rules, *It is ordered*, That this proceeding is hereby designated for hearing, at a time and place to be specified in a further order, upon the following issues:

1. To determine the present and proposed penetration and extent of CATV service, including television signals carried, in the market area.

2. To determine the effects of current and proposed CATV service in the Toledo area upon existing, proposed and potential television broadcast stations in the market.

3. To determine the present policy and proposed future plans of Buckeye Cablevision, Inc. with respect to the initiation of pay-TV operations based upon or in connection with its CATV operations.

4. To determine whether expansion of Buckeye Cablevision, Inc., CATV system should be limited and, if so, the appropriate conditions thereof.

It is further ordered, That Buckeye Cablevision, Inc., and D. H. Overmyer Telecasting Co., Inc., are made parties to this proceeding, and to participate must comply with the applicable provisions of § 1.221 of the Commission's rules.

It is further ordered, That petitioner D. H. Overmyer Telecasting Co., Inc., has the burden of proceeding and the burden of proof with respect to Issues 1, 2, and 3, except that with respect to Issue 3 Buckeye has the burden of proceeding. Issue 4 is conclusory.

It is further ordered, That pending the outcome of this proceeding, respondent Buckeye Cablevision, Inc., is directed to limit the operation of its CATV system at Toledo as set forth in paragraph 6, supra.

It is further ordered, That the motion to dismiss filed by Buckeye Cablevision, Inc., is denied.

It is further ordered, That the petition to impose special requirements filed by D. H. Overmyer Telecasting Co., Inc., and the supplement thereto, to the extent indicated above, is granted, and, in all other respects, is denied.

It is further ordered, That the ruling as to temporary relief shall be effective on the 3d day, not counting Saturdays, Sundays, and holidays, after the day of release of this opinion, provided that the ruling on temporary relief shall not be effective until judicial determination of the motion for a stay if respondent notifies the Commission within 2 days that it intends to seek judicial review and seeks judicial review and a judicial stay within 14 days of release of this opinion.

Adopted: November 22, 1967.

Released: December 19, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[5]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67–14373; Filed, Dec. 21, 1967; 8:46 a.m.]

[2] Overmyer's petition was filed at the time the Commission was considering issuance of a cease and desist order against Buckeye for alleged violations of § 74.1107. Overmyer sought to broaden that proceeding (Docket No. 16551) to include the question of continued carriage of the Detroit-Windsor stations. The relief was denied, Buckeye Cablevision, Inc., FCC 66–449, 3 FCC 2d 798, but the Commission stated that the issues raised by Overmyer's petition would be considered in a separate action. In the interim, Buckeye had filed a petition for declaratory ruling concerning those operations which were the subject of the cease and desist proceeding. In Buckeye Cablevision, Inc., FCC 66–455, 3 FCC 2d 806, the petition was treated as a request for waiver of the evidentiary hearing requirement of section 74.1107; was denied by the Commission; and the matter was assigned Case No. CATV 100–5. The Commission's memorandum opinion and order also specified that Overmyer's petition would be ruled on at the time CATV 100–5 was designated for hearing. However, CATV 100–5 was dismissed by request of counsel before designation (Public Notice–B, Dec. 7, 1966, FCC Mimeo No. 93033, Report No. 48); hence, Overmyer's petition is now before us on the merits.

[3] Six channels have been assigned to Toledo: 11 (WTOL–TV, CBS); 13 (WSPD–TV, ABC); 24 (WDHO–TV, Ind.); *30 (WGTE–TV, Educ.); 54 (construction permit held by Toledo Telecasting Corp.); and 60 (idle).

[4] In Buckeye Cablevision, Inc., FCC 66–449, 3 FCC 2d 798, we held that a Detroit station whose Grade B contour penetrates Toledo's city limits was entitled to carriage on CATV throughout the community, under § 74.1103 of the rules. The sole issue in that case, however, was Buckeye's compliance with the rules; the Commission specifically reserved judgment on the overall Toledo-Detroit question raised by Overmyer, including any public interest questions presented by such carriage. Thus, our determination that a paragraph 69 situation exists in Toledo and that the broad public interest questions inherent therein must be explored in evidentiary hearing does not conflict with our earlier decision on the single issue of compliance.

[5] Dissenting Statement of Commissioner Bartley filed as part of the original document. Commissioner Loevinger dissenting.
Commissioner Wadsworth concurring in the result.

[Docket Nos. 17898, 17899; FCC 67–1305]

LEBANON BROADCASTING CO. AND RISNER BROADCASTING, INC.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of: Lebanon Broadcasting Co., Lebanon, Mo., Req: 103.7mc, No. 279; 100 kw; 347 ft., Docket No. 17898, File No. BPH–5167; Risner Broadcasting, Inc., Lebanon, Mo., Req: 103.7mc, No. 279; 25.5 kw; 251 ft., Docket No. 17899, File No. BPH–5207; for construction permits.

1. The Commission has under consideration (a) the above captioned and described applications which are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference, (b) informal objection against the Risner application filed by Lebanon, and (c) informal responsive pleadings filed by both Risner and Lebanon.

2. Lebanon Broadcasting Co. ("Lebanon") filed an informal objection to the Risner Broadcasting, Inc. ("Risner") application, pursuant to § 1.587 of the Commission's rules, alleging that Risner had misrepresented its efforts to determine local programing needs and interests and that in fact such efforts were meager at best. This dispute, which has continued through the filing of a total of five informal pleadings, centers on Risner's statement in response to Paragraph 1B of section IV–A that it conducted "extensive personal interviews with persons in the city of Lebanon and the surrounding community", and in response to Paragraph 1A of section IV–A, that it had conducted "Personal interviews with a good representative number of persons in the city of Lebanon, Mo., and Laclede County." The latter exhibit continued with a listing of 18 categories of persons said to have been interviewed, categories such as doctors, merchants, lawyers, and car dealers. Lebanon attacked these statements, contending that many of these individuals had not been interviewed, and in support submitted statements from some or all members of seven of these groups indicating that as of December 3, 1965,[1] they had not been contacted regarding the need for a second radio station in Lebanon, Mo.[2]

3. Risner's opposition pleadings argued that the signers of Lebanon's statements did not include all of the members of the relevant groups and that contacts with a number of other individuals had been made. In addition, a sample post card used in a mail survey conducted after the filing of the application was submitted in support of its efforts to obtain views from the citizenry in general.

4. Even taking the view most favorable to Risner, there is a serious question regarding the extent of the contacts which were made before the filing of the application. Risner acknowledged that it used the plural in describing some of the contacts when in fact only a single contact was made. Moreover, these contacts were said to have been with persons in the city of Lebanon and surrounding area, when in fact the persons contacted in at least two of the categories appeared to have only a limited connection with the Lebanon area. Rather, in both of these instances, the individuals are primarily associated with the Osage Beach area where the Risner stations are located. Finally, affidavits have been submitted which deny that the contacts in question took place before December 3, 1965.[3] Under these circumstances questions are raised regarding the truthfulness of Risner's statements regarding its efforts to ascertain local needs and interests and of the adequacy of its efforts. In this connection we note that Risner did not indicate what information, if any, it was able to obtain from its belated mail survey regarding programing needs and interests. Nor did it indicate the significance of such information in terms of its programing proposal which was not altered as a result of the post-card survey.

5. Mr. and Mrs. Risner, who control Risner also control the licensee of Station KRMS–FM, Osage Beach, Mo. Because of their proximity, the proposed station would be precluded from significantly increasing their facilities without causing 1 mv/m overlap in contravention of § 73.240(a)(1) of the Commission's rules. Accordingly, we will specify an issue to determine whether grant of the Risner application would impede or prevent a full and efficient utilization of this channel.

6. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purposes of comparison, the areas and populations within the 1 mv/m contours together with the availability of other FM services of 1 mv/m or greater intensity in such areas will be considered under the contingent comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, because of their mutual exclusivity, the Commission is unable to make the statutory finding that a grant of the applications would serve the public interest, convenience and necessity, as is of the opinion that the applications must be designated for hearing on the issues set forth below.

It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine whether the above captioned application of Risner Broadcasting, Inc., contained misrepresentations and/or distortions or omissions of fact.

2. To determine the efforts made by Risner Broadcasting, Inc., to ascertain the programing needs and interests of the area to be served and the manner in which Risner Broadcasting, Inc., proposes to meet such needs and interests.

3. To determine whether grant of the Risner Broadcasting, Inc., application would impede or prevent a full and efficient utilization of the Lebanon, Mo., channal.

4. To determine, if issues 1, 2, and 3 are resolved in favor of Risner Broadcasting, Inc., which of the proposals would better serve the public interest.

5. To determine in the light of the evidence adduced pursuant to the foregoing issues which of the applications for construction permit should be granted.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants, pursuant to § 1.221 (c) of the Commission's rules, in person or by attorney, shall, within twenty (20) days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence of the issues specified in this order.

It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner pre-

[1] The date Risner's application was executed.

[2] Lebanon is licensee of an AM station there.

[3] Originally, certain of these individuals signed statements which indicated that no contacts had been made; then they submitted counterstatements saying they had been contacted; finally they denied that such contacts as had been made occurred before Dec. 3, 1965.

scribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: November 29, 1967.

Released: December 19, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[4]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14874; Filed, Dec. 21, 1967; 8:48 a.m.]

[Docket Nos. 17896, 17897; FCC 67-1304]

LUCAS TOMAS MUNIZ AND ARECIBO BROADCASTING CORP., INC.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Lucas Tomas Muniz, Toa Alta, P.R., Docket No. 17896, File No. BPH-5625; Req: 96.9 mc, No. 245; 48.2 kw (H), 46 kw (V); 214.03 feet; Arecibo Broadcasting Corp., Inc., Manati, P.R., Docket No. 17897, File No. BPH-5897; Req: 96.9 mc, No. 245; 18.25 kw; 0 feet; for construction permits.

1. The Commission has under consideration the above captioned and described applications which are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference.

2. The respective proposals, which are for different communities, would serve substantially different areas and populations. Consequently, it will be necessary to determine pursuant to section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service.

3. According to the Lucas Tomas Muniz application the main studio location is to be determined, presumably in Toa Alta. However, he proposes to duplicate approximately 99.25 percent of the programing of his Bayamon AM station. Thus it appears that the vast majority of the programs will originate from the AM main studio location which is neither in Toa Alta nor at the proposed FM transmitter site. Under these circumstances we will specify an issue to determine whether the proposed main studio location complies with the requirements of § 73.210(a)(2) of the Commission's rules, and if not, whether waiver of these requirements is justified.

4. Except as indicated below, the applicants are qualified to construct and operate as proposed. However, because of their mutual exclusivity, the Commission is unable to make the statutory finding that a grant of the applications would serve the public interest, convenience and necessity, and is of the opinion that the applications must be designated for hearing on the issues set forth below.

It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine whether the main studio location proposed by Lucas Tomas Muniz meets the requirements of § 73.210(a)(2) of the Commission's rules, and if not, whether waiver of this provision is justified.

2. To determine the areas and populations which would receive FM service of 1 mv/m or greater intensity from the respective proposals and the availability of other FM services of 1 mv/m or greater intensity in such areas.

3. To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if either, of the applications should be granted.

It is further ordered, That to avail themselves of the opportunity to be heard, the applicants, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney shall, within twenty (20) days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: November 29, 1967.

Released: December 19, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14875; Filed, Dec. 21, 1967; 8:48 a.m.]

[Docket No. 17626; FCC 67M-2077]

NATCHEZ BROADCASTING CO. (WMIS)

Order Continuing Hearing

In re application of Natchez Broadcasting Co. (WMIS), Natchez, Miss., Docket No. 17626, File No. BP-16963; for construction permit.

The Chief Hearing Examiner having under consideration a motion in behalf of the applicant, filed December 13, 1967, that the hearing heretofore scheduled for December 14, 1967, in the above-entitled proceeding be continued to January 23, 1968;

It appearing, that a delay in the commencement of the hearing herein is found to be essential and that all parties to the proceeding consent to the continuance sought by the applicant;

It is ordered, That the motion is granted and that the hearing in the above-entitled proceeding is hereby rescheduled and will be convened in the offices of the Commission, Washington, D.C., at 10 a.m., on January 23, 1968.

Issued: December 13, 1967.

Released: December 18, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14876; Filed, Dec. 21, 1967; 8:48 a.m.]

[Docket Nos. 17788, 17789; FCC 67M-2091]

SOUTH JERSEY RADIO, INC., AND ATLANTIC CITY TELEVISION CO.

Order Scheduling Further Prehearing Conference

In re applications of South Jersey Radio, Inc., Atlantic City, N.J., Docket No. 17788, File No. BPCT-3898; Victor M. Ruby, Mid-Atlantic Broadcasting Co., Frederick Perone and James Edghill, a partnership and joint venture, doing business as Atlantic City Television Co., Atlantic City, N.J., Docket No. 17789, File No. BPCT-3951; for construction permit for new television broadcast station (Channel 53).

To formalize the ruling made on the record at a prehearing conference held this date: *It is ordered*, That a further prehearing conference shall be scheduled for January 9, 1968 at 9 a.m., and that the hearing presently scheduled for January 9, 1968, is hereby continued to a date to be set at said further conference.

Issued: December 14, 1967.

Released: December 19, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14877; Filed, Dec. 21, 1967; 8:48 a.m.]

[Docket Nos. 17886-17888; FCC 67-1291]

OUTER BANKS RADIO CO. ET AL.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Douglas Lystra Craddock and Lacy Phil Wicker doing business as Outer Banks Radio Co., Wanchese, N.C., Docket No. 17886, File No. BP-16917; Requests: 1530 kc, 250 w, Day; J. M. Farlow and William D. Mills doing business as Onslow County Broadcasters, Midway Park, N.C., Docket No. 17887, File No. BP-17272; Requests: 1530 kc, 1 kw, 250 w(CH), Day; Hendon M. Harris, Maysville, N.C., Docket No. 17888, File No. BP-17275; Requests: 1530 kc, 500 w, Day; for construction permits.

1. The Commission has before it the above-captioned applications which are mutually exclusive in that simultaneous operation of the stations proposed would result in prohibitive overlap of contours as defined by § 73.37 of the Commission's rules.

2. Hendon M. Harris estimates that $14,650 will be required for construction and $27,500 for first-year operating expense, bringing to $42,250 the total projected cost of operating his proposed station for 1 year without revenues. The applicant has available existing capital of $2,000. His balance sheet lists $25,000 in bonds, but does not further describe the type or nature of these bonds. No other liquid assets are listed. The applicant, therefore, has failed to show sufficient cash and liquid assets to meet the amount required to construct and operate the proposed station for 1 year without revenues. Accordingly, a financial issue will be specified.

3. From the information before the Commission is appears that except as indicated by the issues below, the applicants are qualified to construct and operate as proposed. However, because the applications are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues set forth below.

Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which would receive primary service from each of the proposed operations and the availability of other primary service to such areas and populations.

2. To determine whether Hendon M. Harris is financially qualified to construct and operate his proposed station.

3. To determine whether there is a reasonable possibility that the tower height and location proposed by Onslow County Broadcasters would constitute a menace to air navigation.

4. To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service.

5. To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if any, of the applications should be granted.

It is further ordered, That, the Federal Aviation Administration is made a party to the proceeding.

It is further ordered, That in the event of grant of the applications of either Onslow County Broadcasters or Hendon H. Harris, the construction permit shall provide that the permittee accept such overlap as may be received due to a grant of the application filed by 1530 Radio (File No. BP-17270) requesting the facilities 1530 kc, 5 kw, DA(CH), Day, at Chapel Hill, N.C.

It is further ordered, That, in the event of a grant of any of the applications, the construction permit shall contain the following condition:

Any presunrise operation must conform with §§ 73.87 and 73.99 of the rules, as amended June 28, 1967 (32 F.R. 10437), supplementary proceedings (if any) involving Docket No. 14419, and/or the final resolution of matters at issue in Docket No. 17562.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and party respondent herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: November 22, 1967.

Released: December 19, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14878; Filed, Dec. 21, 1967; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket No. E-7588]

NORTHERN STATES POWER CO. (WISCONSIN)

Notice of Application

DECEMBER 15, 1967.

Take notice that on December 7, 1967, Northern States Power Co. (Applicant), a public utility incorporated and doing business in the State of Wisconsin with its principal place of business office at Eau Claire, Wis., filed an application with the Federal Power Commission seeking authority pursuant to section 204 of the Federal Power Act to issue up to $11 million in promissory notes.

According to the application the promissory notes will be issued from time to time to evidence short-term borrowings from commercial banks, but no note will mature more than 12 months after the date of issue or renewal thereof, nor shall the maturity date of any note be later than December 31, 1969. Applicant states that the interest rate of the notes will be at a rate that to the best knowledge and belief of the Applicant's officers does not exceed the prime loan interest rate at the time and place of the issuance thereof.

Proceeds from the promissory notes to be issued by the Applicant during 1968 will be added to general funds of the Applicant and will be used among other things to pay in part expenditures made and to be made in 1968 and 1969 in connection with the Applicant's construction program. During 1968, Applicant's construction program calls for the expenditures of $9,800,000 and for $5,240,000 subsequent to 1968.

Any person desiring to be heard or to make any protest with reference to the application should on or before January 8, 1968, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-14889; Filed, Dec. 21, 1967; 8:45 a.m.]

[Docket No. RI68-170]

STANDARD OIL COMPANY OF TEXAS

Order Amending Order Accepting Contract Amendment, Providing for Hearings on and Suspension of Proposed Changes in Rates, To Permit Substitute Rate Filing

DECEMBER 15, 1967.

On September 21, 1967, Standard Oil Company of Texas, a division of Chevron Oil Co. (Standard), filed with the Commission a proposed change in rate from 16.832 cents to 17.919 cents per Mcf[1] which pertains to its jurisdictional sales of natural gas from the SW Enville Field, Sadler Unit, Love County, Okla. (Oklahoma "Other" Area), to Cimarron Gas Transmission Co. The Commission by order issued October 13, 1967, suspended for 5 months Standard's rate filing until March 22, 1968, and thereafter until made effective in the manner prescribed by the Natural Gas Act. Standard's suspended rate has not been made effective pursuant to section 4(e) of the Natural Gas Act.

On November 17, 1967, Standard submitted an amended notice of change in rate[2] amending Supplement No. 6 to its aforementioned rate schedule to provide for a rate increase to 17.9015 cents instead of the 17.919 cents per Mcf, inclusive of tax reimbursement, filed on September 21, 1967. The proposed rate of 17.919 cents erroneously reflected a tax reimbursement of 0.035 cent. Standard now proposes to amend such filing to reflect a total proposed rate of 17.9015 cents including a corrected tax reimbursement of 0.0175 cent. Such correction reduces the annual amount suspended by $19.

[1] Designated as Supplement No. 6 to Standard's FPC Gas Rate Schedule No. 30.
[2] Designated as Supplement No. 1 to Supplement No. 6 to Standard's FPC Gas Rate Schedule No. 30.

[4] Commissioner Wadsworth absent.
[1] Commissioner Wadsworth absent.
[1] Commissioner Cox concurring in the result.

Standard's proposed corrected rate of 17.9015 cents per Mcf exceeds the area ceiling for increased rates in the Oklahoma "Other" Area as announced in the Commission's Statement of General Policy No. 61–1, as amended, as did the previously suspended rate in said docket. Since Standard's instant rate filing reflects a corrected tax reimbursement increase under the rate schedule involved, we believe that it would be in the public interest to accept the corrective rate filing subject to the suspension proceeding in Docket No. RI68–170 with the suspension period of such corrective rate filing to terminate concurrently with the suspension period (Mar. 22, 1968) of the original filing in said docket.

The Commission orders:

(A) The suspension order issued October 13, 1967, in Docket No. RI68–170, is amended only so far as to permit the 17.9015 cents per Mcf rate contained in Supplement No. 1 to Supplement No. 6 to Standard's FPC Gas Rate Schedule No. 30 to be filed to supersede the 17.919 cents per Mcf rate provided by Supplement No. 6 to the aforementioned rate schedule, subject to the suspension proceeding in Docket No. RI68–170. The suspension period for such substitute filing shall terminate concurrently with the suspension period (Mar. 22, 1968) presently in effect in said docket.

(B) In all other respects, the order issued by the Commission on October 13, 1967, in Docket No. RI68–170, shall remain unchanged and in full force and effect.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67–14840; Filed, Dec. 21, 1967; 8:45 a.m.]

[Docket Nos. RI68–270 etc.]

MANCO CORP. ET AL.

Order Permitting Rate Filings, Accepting Contract Amendment, Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

DECEMBER 15, 1967.

The above-named Respondents have tendered for filing proposed changes in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are designated as follows:

[1] Does not consolidate for hearing or dispose of the several matters herein.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI68–270	Manco Corp. (Operator) et al., Post Office Box 687, Corpus Christi, Tex. 78403.	3	2	Valley Gas Transmission, Inc. (O. A. Winn Field, Live Oak County, Tex.) (R.R. District No. 2).	$1,460	11–24–67	[2] 12–25–67	5–25–68	[3] 14.0	[4] [5] 18.0	—
RI68–271	Atlantic Richfield Co., Post Office Box 2819, Dallas, Tex. 75221.	260	16	Tennessee Gas Pipeline Co., a division of Tennessee, Inc. (Grand Isle Block 47 Field, Jefferson Parish, La.) (Offshore Louisiana).	5,454	11–27–67	[2] 12–28–67	5–28–68	[3] 19.0	[7] 20.5	
RI68–272	The Midland National Bank, Trustee, Midland, Tex. 79701, Attn: Barry S. Walton, Trust Officer.	1	[8] 11	El Paso Natural Gas Co. (Spraberry Field, Reagan County, Tex.) (R.R. District No. 7–C) (Permian Basin Area).	1,713	11–27–67	[2] 12–28–67	(Accepted) 5–28–68	11.1066	[4] [9] [10] 18.2620	
		1	12								
RI68–273	George E. Cameron, Inc., 801 Random Dr., Palm Springs, Calif. 92262.	1	2	Cimarron Transmission Co., (Southwest Enville Field, Love County, Okla.) (Oklahoma "Other" Area).	12,987	11–24–67	[2] 12–25–67	5–25–68	[3] 16.275	[4] [9] 18.375	
RI68–274	Sneedan Oil Corp. et al., Post Office Box 309, Ardmore, Okla. 73401.	14	[8] 4	Natural Gas Pipeline Co. of America (Putman Field, Dewey County, Okla.) (Oklahoma "Other" Area).	18,613	11–16–67	[2] 12–17–67	5–17–68	[3] 15.015	[4] [9] 20.46	RI68–174.
RI68–275	Union Texas Petroleum, a division of Allied Chemical Corp. (Operator) et al., Post Office Box 2120, Houston, Tex. 77001.	85	3	Cities Service Gas Co. (Moore Field, Cleveland County, Okla.) (Oklahoma "Other" Area).	1,800	11–21–67	[2] 12–22–67	5–22–68	[3] 12.0	[4] [9] 13.0	RI64–742.

[2] The stated effective date is the first day after expiration of the statutory notice.
[3] Periodic rate increase.
[4] Pressure base is 14.65 p.s.i.a.
[5] Subject to a downward B.t.u. adjustment.
[6] The stated effective date is the effective date requested by Respondent.
[7] "Fractured" rate increase. Contractually due 22.5 cents per Mcf.
[8] Pressure base is 15.025 p.s.i.a.
[9] Initial rate as conditioned in temporary certificate issued June 3, 1964, in Docket No. G–20020.
[10] Contract amendment dated Nov. 9, 1967, eliminates favored-nation clause and provides for proposed 18 cents per Mcf rate, plus tax, with 1 cent per Mcf periodic escalations.
[11] Renegotiated rate increase due to a favored-nation clause triggered by Pan American Oil Corp.'s rate increase made effective subject to refund in Docket No. RI65–111.
[12] Rate being collected subject to refund by Pan American Petroleum Corp. under Docket No. RI65–111.
[13] Includes base rate of 13.5 cents plus upward B.t.u. adjustment before increase and 17.5 cents plus upward B.t.u. adjustment after increase for 1,050 B.t.u. gas shown in filing. Base rate subject to upward and downward B.t.u. adjustment.
[14] As corrected by letter dated Dec. 4, 1967, filed Dec. 7, 1967.
[15] Includes base rate of 19.5 cents plus 0.015 cent Excise Tax reimbursement plus 0.975 cent production tax reimbursement. Base rate subject to downward B.t.u. adjustment.
[16] Includes base rate of 15 cents plus 0.045 cent Excise Tax reimbursement. Base rate subject to downward B.t.u. adjustment.

Manco Corp. (Operator) et al. (Manco) requests that its proposed rate increase be permitted to become effective on the fifth anniversary date of first delivery of gas in October, 1965. The Midland National Bank, Trustee (Midland) requests a retroactive effective date of January 1, 1965, for its proposed contract amendment and rate increase. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit earlier effective dates for Manco and Midland's rate filings and such requests are denied.

George E. Cameron, Inc. (Cameron), requests waiver of the statutory notice to permit an effective date of July 1, 1967, for his proposed rate filing. In the alternative, Cameron requests the date of filing or 30-days thereafter, and waiver of any suspension period, or, if suspended, the suspension period be shortened to 1 day. Good cause has not been shown for authorizing the requested effective date, the date of filing or 30-days thereafter, or for waiving the 30 days notice period, or for limiting the suspension period to 1 day, and such request is denied.

Concurrently with the filing of its proposed rate increase, Midland submitted a contract amendment dated November 9, 1967, designated as Supplement No. 11 to Midland's FPC Gas Rate Schedule No. 1, which provides the basis for its proposed rate increase. We believe that it would be in the public interest to accept for filing Midland's proposed contract amendment to become effective on December 28, 1967, the expiration date of the statutory notice, but not the proposed rate contained therein which is suspended as hereinafter ordered for the reason that it exceeds the applicable area rate of 14.5 cents per Mcf as determined in the rate schedule quality statement accepted pursuant to Opinion No. 468, as amended. Except for the stay of the moratorium in Opinion No. 468, Midland's proposed rate increase would be rejectable because it is in excess of the applicable area ceiling determined in Opinion No. 468. If the moratorium is ultimately upheld upon judicial review, Midland's rate increase will be rejected ab initio.

The sale related to Atlantic Richfield Co.'s (Atlantic) rate increase was initially made under a temporary certificate containing a Condition (2) provision, prohibiting changes in the initial rate unless changed by the Commission order in the related certificate proceeding in Docket No. G–20020. Atlantic requests waiver of such condition inasmuch as 3 years have elapsed since Atlantic initiated service under its temporary certificate (date of initial delivery is June 3, 1964). Consistent with Commission action involving sales being made pursuant to temporary certificates containing a Condition (2) provision where such sales commenced more than 3 years from date of initial delivery and request for a rate increase, we believe that it would be in the public interest that Condition (2) in Atlantic's temporary certificate in Docket No. G–20020 be waived to permit Atlantic's proposed notice of change in rate contained in Supplement No. 16 to its FPC Gas Rate Schedule No. 230 to be filed.

Samedan Oil Corp. et al. (Samedan), proposes a periodic rate increase plus tax reimbursement for production and excise taxes for a sale of gas in the Oklahoma "Other" Area, which has been designated as Supplement No. 4 to Samedan's FPC Gas Rate Schedule No. 14. The sale is presently being made under a conditioned temporary certificate issued October 9, 1962, in Docket No. CI62–1503, which provides for an initial rate not to exceed 15 cents per Mcf. The temporary certificate also contained a Condition (2) which states that the conditioned rate shall remain in effect until changed by Commission order in the related certificate proceeding. Consistent with the Commission's action involving sales being made pursuant to temporary certificates containing a Condition (2) provision where such sales commenced more than 3 years from date of initial delivery, we conclude that it would be in the public interest that Condition (2) of Samedan's temporary certificate in Docket No. CI62–1503 be waived to permit Samedan's proposed notice of change in rate to be filed. Samedan requests that 0.975 cent of its proposed rate relating to the Oklahoma production tax reimbursement be made effective as of November 29, 1962, and the remainder of the rate be made effective as of November 29, 1967. Samedan also requests waiver of the statutory notice and waiver of any suspension period and any other relief to which it may be entitled. Adequate notice has not been given for any of the aforementioned dates and Samedan's gives no reasons in support of such requests. Good cause has not been shown for granting Samedan's requests and they are denied. The proposed rate shall be suspended herein for 5 months from the expiration of the statutory notice period.

With the exception of the rate increase filed by Midland, which exceeds the area rate established in the related quality statement filed pursuant to Opinion No. 468, as amended, all of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61–1, as amended (18 CFR Ch. I, Part 2, § 2.56).

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) Good cause exists for waiving Condition (2) in the temporary certificate issued in Docket No. G–20020 with respect to Atlantic's notice of change, designated as Supplement No. 16 to Atlantic's FPC Gas Rate Schedule No. 230, and for allowing such notice of change to be filed.

(2) Good cause exists for waiving Condition (2) in the temporary certificate issued in Docket No. CI62–1503 with respect to Samedan's notice of change, designated as Supplement No. 4 to Samedan's FPC Gas Rate Schedule No. 14, and for allowing such notice of change to be filed.

(3) Good cause has been shown for accepting for filing Midland's contract amendment dated November 9, 1967, designated as Supplement No. 11 to Midland's FPC Gas Rate Schedule No. 1, and for permitting such supplement to become effective on December 28, 1967, the date of expiration of the statutory notice.

(4) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon public hearings concerning the lawfulness of the proposed changes, and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered (except for the supplement set forth in paragraph (3) above).

The Commission orders:

(A) Condition (2) in the temporary certificate issued in Docket No. G–20020 is hereby waived with respect to Atlantic's notice of change in rate, designated as Supplement No. 16 to Atlantic's FPC Gas Rate Schedule No. 230, and such rate change is permitted to be filed.

(B) Condition (2) in the temporary certificate issued in Docket No. CI62–1503, with respect to Samedan's notice of change in rate, designated as Supplement No. 4 to Samedan's FPC Gas Rate Schedule No. 14, and such rate change is permitted to be filed.

(C) Midland's contract amendment dated November 9, 1967, designated as Supplement No. 11 to Midland's FPC Gas Rate Schedule No. 1, is accepted for filing and permitted to become effective on December 28, 1967, the expiration date of the statutory notice.

(D) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings shall be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in the above-designated rate supplements (except for the supplement set forth in (C) above).

(E) Pending hearings and decisions thereon, the above-designated rate supplements are hereby suspended and the use thereof deferred until the date indicated in the above "Date Suspended Until" column, and thereafter until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(F) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(G) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)), on or before February 1, 1968.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67–14848; Filed, Dec. 21, 1967; 8:45 a.m.]

[Docket No. CS68–38]

J. FRANK STRINGER

Notice of Application for Small Producer Certificate

DECEMBER 15, 1967.

Take notice that on November 27, 1967, J. Frank Stringer, Post Office Box 3037, San Angelo, Tex. 76901, filed in Docket No. CS68–38 an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce from the Permian Basin area of Texas and New Mexico, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 8, 1968.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission

providing no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter believes that a grant of the certificate is required by the public convenience and necessity. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-14841; Filed, Dec. 21, 1967; 8:45 a.m.]

[Docket No. E-7384]

UNION LIGHT, HEAT AND POWER CO.

Notice of Application

DECEMBER 15, 1967.

Take notice that on December 7, 1967, the Union Light, Heat & Power Co. (Applicant) filed an application pursuant to section 203 of the Federal Power Act seeking authority to acquire certain electric transmission facilities from Kentucky Power Co., a Kentucky corporation.

Applicant is incorporated under the laws of Kentucky with its principal business office at Covington, Ky., and is engaged in the electric utility business in seven counties in north-central Kentucky.

The facilities to be acquired consist of an existing 3.2 mile segment of a 345 kv. single circuit, metal structured, electric transmission tower line located in Boone County, Ky. The proposed purchase price is to be in net original cost of the facilities as shown on the books of Kentucky Power Co., as of the date of transfer. As of October 31, 1967, the purchase price would have been $357,607.

Any person desiring to be heard or to make any protest with reference to the application should on or before January 10, 1968, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and is available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-14842; Filed, Dec. 21, 1967; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[812-2238]

AMERICAN GENERAL INSURANCE CO.

Notice of Filing of Application

DECEMBER 19, 1967.

Notice is hereby given that American General Insurance Co. ("American General"), 2727 Allen Parkway, Houston, Tex., 77019, has filed an application pursuant to the Investment Company Act of 1940 ("Act") for an order pursuant to section 17(b) exempting from the provisions of section 17(a) of the Act the issuance by American General of two-tenths of a share of its convertible preferred stock and eight-tenths of a share of its common stock in exchange for each outstanding share of capital stock of Life and Casualty Insurance Company of Tennessee ("Life and Casualty") owned by Insurance Securities Trust Fund ("ISTF"), a registered open-end, diversified investment company. Such exchange is part of a plan ("Plan") for the merger of Life and Casualty into American General. The application also requests an order pursuant to section 6(c) of the Act exempting the proposed transactions from section 17(d) and Rule 17d-1 thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

ISTF owns 933,748 shares (6.91 percent) of the outstanding common stock of American General and 709,493 shares (9.48 percent) of the outstanding capital stock of Life and Casualty. Maryland Casualty Co., a 96.6 percent owned subsidiary of American General, owns 969,600 shares (12.96 percent) of the outstanding capital stock of Life and Casualty.

American General, incorporated in 1926 under the laws of the State of Texas, is engaged, together with its subsidiaries, in the life insurance and fire and casualty insurance business. American General has outstanding 3,279,558 shares of convertible preferred stock and 13,505,430 shares of common stock. The preferred stock has three votes per share and votes with the common stock, which has one vote per share, for the election of directors and other matters.

Life and Casualty, incorporated in 1903 under the laws of the State of Tennessee, is engaged in the business of writing life, accident and health insurance on an ordinary, weekly premium (industrial) and group basis. Life and Casualty has outstanding 7,490,585 shares of capital stock.

Pursuant to the plan, Life and Casualty has created a wholly owned Tennessee subsidiary ("New Life and Casualty"). On the effective date of the plan, the business of Life and Casualty will be transferred to New Life and Casualty; and Life and Casualty will be merged into American General which will survive the merger and succeed to the then assets (consisting of shares of New Life and Casualty) of Life and Casualty. Upon the merger, each outstanding share of Life and Casualty capital stock will automatically be converted into two-tenths of a share of convertible preferred stock and eight-tenths of a share of common stock of American General.

The application states that the ratio at which shares of Life and Casualty are to be converted into shares of American General was established by the boards of directors of the two companies. The ratio was recommended by the investment firm of Lehman Brothers which was retained by the board of directors of American General and by Goldman, Sachs & Co. and Equitable Securities Corp. who were retained by the board of directors of Life and Casualty to advise each board respectively in respect to an appropriate ratio. The boards of directors based their determination on these recommendations and consideration of the relative per share market prices, the per share earnings and capital stock equities of both companies, dividend payments and other factors.

The Plan has been approved by the Commissioner of Insurance and Banking of Tennessee. Final approval of the Plan by the Insurance Commissioner of Texas has not yet been obtained. The holders of each class of the outstanding stock of American General and the holders of Life and Casualty capital stock have approved the Plan.

Upon effectuation of the Plan, New Life and Casualty will become a wholly owned subsidiary of American General. ISTF will own 8.62 percent of the outstanding shares of American General common stock and 3.91 percent of the outstanding shares of American General convertible preferred stock. Maryland Casualty Co. proposes as soon as practicable after the merger to sell to underwriters for distribution in a public offering the shares of American General preferred and common stock which it will receive in the merger.

Section 17(a) of the Act, as here pertinent, prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, from selling to or purchasing from such registered company any securities or other property unless the Commission, upon application pursuant to section 17(b), grants an exemption from the provisions of section 17(a) after finding that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of such investment company and with the general purposes of the Act.

Section 17(d) and Rule 17d-1 prohibit any affiliated person of a registered investment company, or any affiliated person of such person, acting as principal from effecting any transaction in which such registered company is a joint or a joint and several participant with such affiliated person, unless the Commission, upon application pursuant to Rule 17d-1, grants an application regarding such matter prior to the submission of the matter to security holders for approval. Rule 17d-1 provides that in passing upon such application the Commission will consider whether participation of such registered company in such joint enterprise on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which its participation is on a basis different from or less advantageous than that of other participants.

Section 6(c) authorizes the Commission by order upon application to exempt any person or transaction from any provisions of the Act or the rules and regulations thereunder if the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

Notice is further given that any interested person may, not later than December 29, 1967, at 1 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon American General at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-14913; Filed, Dec. 21, 1967; 8:50 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

DECEMBER 19, 1967.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41192—*Alfalfa from and to points in western trunkline territory.* Filed by Western Trunk Line Committee, agent (No. A-2531), for interested rail carriers. Rates on alfalfa, chopped or ground, in carloads, as described in the application, from points in Colorado, Kansas (except Kansas City, Atchison, and Leavenworth), Nebraska (except Omaha and South Omaha), and South Dakota, to points in Illinois, Iowa, and Missouri, on traffic destined to points east of the Illinois-Indiana State Line.

Grounds for relief—Rate relationship.

Tariff—Western Trunk Line Committee, agent, tariff ICC A-4436.

FSA No. 41193—*Class and commodity rates from and to Gold Kist, Ga.* Filed by O. W. South, Jr., agent (No. A-5073), for interested rail carriers. Rates on property moving on class and commodity rates between Gold Kist, Ga., on the one hand, and points in the United States and Canada, on the other.

Grounds for relief—New station and grouping.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 67-14865; Filed, Dec. 21, 1967; 8:47 a.m.]

[Notice 514]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 19, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 59120 (Sub-No. 31 TA), filed December 12, 1967. Applicant: EAZOR EXPRESS, INC., Easor Square, Pittsburgh, Pa. 15201. Applicant's representative: R. T. Hefferin (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plant of Jones & Laughlin Steel Corp. at Hennepin, Putnam County, Ill., to points in Indiana, Iowa, Arkansas, Kentucky, Minnesota, Michigan, Missouri, Ohio, Oklahoma, Nebraska, Tennessee, and Wisconsin, for 180 days. Supporting shipper: Jones & Laughlin Steel Corp., 3 Gateway Center, Pittsburgh, Pa. 15230. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2109 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 65697 (Sub-No. 38 TA), filed December 11, 1967. Applicant: THEATRES SERVICE COMPANY, 830 Willoughby Way NE., Post Office Box 1695, Atlanta, Ga. 30301. Applicant's representative: Guy H. Postell, 1375 Peachtree Street NE., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), from Conyers, Ga., to Atlanta, Ga., over U.S. Highway 278 and U.S. Interstate Highway 20. NOTE: Applicant states it intends to tack this authority at Atlanta, Ga., so as to provide service from Conyers, Ga., to all points applicant is already authorized to serve in the transportation of general commodities in the States of Alabama, Tennessee, and Kentucky, for 180 days. Supporting shipper: Frank M. Cushman Associates, 36 South Main Street, Sharon, Mass., agent for Sweetheart Plastics, Inc., Wilmington, Mass., and Conyers, Ga. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 95876 (Sub-No. 76 TA) (Correction), filed November 24, 1967, published FEDERAL REGISTER, issue of December 2, 1967, and republished as corrected this issue. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, Post Office Box 344, St. Cloud, Minn. 56301. Applicant's representative: Grant J. Merritt, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood paneling, hardboard, wallboard, or wood particle board and materials, supplies, and accessories* used in connection therewith, from Phillips, Wis., to points in Colorado, Iowa, Kansas, Minnesota, Montana, Nebraska, New Mexico, North Dakota, South Dakota, and Wyoming, for 180 days. NOTE: The purpose of this republication is to correctly set forth the territory proposed to be served. Supporting shipper: Conwed Corp., Cloquet, Minn. 55720. Send protests to: C. H. Bergquist, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building and U.S. Courthouse, 100 South Fourth Street, Minneapolis, Minn.

No. MC 103435 (Sub-No. 199 TA), filed December 11, 1967. Applicant: UNITED-BUCKINGHAM FREIGHT LINES, INC., East 4005 Broadway Avenue, 99202, Post Office Box 2726, Spokane, Wash. 99220. Applicant's representative: George R. LaBissoniere, 920 Logan Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel, and iron and steel articles*, from the plantsite of Jones & Laughlin Steel Corp. at Hennepin, Putnam County,

Ill., to points in Indiana, Iowa, Arkansas, Kentucky, Minnesota, Michigan, Missouri, Ohio, Oklahoma, Nebraska, Tennessee, and Wisconsin. NOTE: Applicant states it intends to tack with other authority at Minneapolis, Des Moines, Omaha, Cleveland, and St. Louis for 180 days. Supporting shipper: Jones & Laughlin Steel Corp., 3 Gateway Center, Pittsburgh, Pa. 15230. Send protests to: L. C. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 401 U.S. Post Office Building, Spokane, Wash. 99201.

No. MC 117934 (Sub-No. 6 TA), filed December 11, 1967. Applicant: HOWARD L. JORGENSEN, doing business as B & T TRUCK LINE, Brigham City, Utah 84302. Applicant's representative: Bartly G. McDonough, 755 Windsor Street, Salt Lake City, Utah 84102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron or steel wire*, on spools or stems, from the railroad yards at Ogden, Utah, to the fabricating plant of Sauk Valley Manufacturing Co. at Brigham City, Utah, and *empty spools or stems* on return, for 180 days. Supporting shipper: Sauk Valley Manufacturing Co., Post Office Box 659, Brigham City, Utah 84302. Send protests to: John T. Vaughan, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2224 Federal Building, Salt Lake City, Utah 84111.

No. MC 121534 (Sub-No. 1 TA), filed December 12, 1967. Applicant: CASHMERE TRANSFER COMPANY, 435 Rock Island Road, East Wenatchee, Wash. 98801. Applicant's representative: George R. LaBissoniere, 920 Logan Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, between points in Okanogan, Douglas, Chelan, Kittitas, Grant, and Yakima Counties, Wash., and between points in Kittitas County, Wash., on the one hand, and Seattle or Tacoma, Wash., on the other hand: *household goods, heavy machinery, and building materials* (excluding cement, in bulk, in tank or hopper bottom vehicles or similar specialized equipment) between points in Washington. NOTE: Applicant intends to interline with another carrier at Yakima, Seattle, Spokane, and Wenatchee, Wash., for 180 days. Supporting shippers: H. R. Spinner Co., 1556 South Wenatchee Avenue, Post Office Box 1409, Wenatchee, Wash. 98801; Keyes Fibre Co., Post Office Box 460, Wenatchee, Wash. 98801; Van Doren Sales, Inc., Post Office Box 623, Wenatchee, Wash. 98801; Chamberlin Distributing Co., Post Office Box 365, Wenatchee, Wash. 98801. Send protests to: L. C. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 401 U.S. Post Office Building, Spokane, Wash. 99201.

No. MC 124554 (Sub-No. 6 TA), filed December 11, 1967. Applicant: HILARD F. LANG AND MEDARD SCHMITZ, a partnership, doing business as LANG CARTAGE, 338 South 17th Street, Milwaukee, Wis. 53233. Applicant's representative: William C. Dineen, 412 Empire Building, 710 North Plankinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by Stanley Home Products, Inc., Westfield, Mass.*, from La Crosse, Wis., to points in Winona, Wabasha, Goodhue, Dakota, Houston, Freeborn, Steele, Dodge, Mower, Olmsted, Fillmore, and Wascca Counties, Minn.; and *returned merchandise* from points in the above-named destination counties in Minnesota, to La Crosse, Wis., for 180 days. Supporting shipper: Stanley Home Products, Inc., Westfield, Mass. (Mark Reply Attention—Distributing Station, Box No. 55, Dubuque, Iowa 52003, John Walachy, Manager). Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 129510 TA (Correction), filed November 9, 1967, published FEDERAL REGISTER, issue of November 15, 1967, and republished as corrected this issue. Applicant: CHESTER W. ENGLUND, doing business as W. ENGLUND CO., 740 Old Stage Road, Salinas, Calif. 93901. Applicant's representative: Stuart J. Shoob, 1510 Arizona Title Building, 111 West Monroe Street, Phoenix, Ariz. 85003. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a) *Used automobile bumpers*, to and from plantsites of Electro Chemical Industries in San Diego, Ontario, and North Hollywood, Calif.; Las Vegas, Nev.; St. Louis, Mo.; Chicago, Ill.; Cleveland, Ohio; Minneapolis, Minn.; Newark and Palmyra, N.J.; Allentown, Pa.; and Baltimore, Md. (b) *Stone and finished stone products, steel products, finished wood products, and finished epoxy resin products*; from Nashua, N.H.; Hicksville, Long Island; Schuyler, Va.; Elkins, W. Va.; Monroe, N.C.; McDermott, Ohio; Dayton, Ohio, to construction jobsites in New Mexico, Arizona, Colorado, Wyoming, Utah, Idaho, Montana, Nevada, California, Washington, Oregon, and Texas; and from points of origin named to the plantsite of Permalab-Metalab Equipment Corp. in Los Angeles, Calif., for 180 days. NOTE: The purpose of this republication is to add certain destination States in (b) above, inadvertently omitted from previous publication. Supporting shippers: Electro Chemical Industries, 706 East Bonita Avenue, Pomona, Calif. 91767; Permalab-Metalab Equipment Corp., 1717 North Main Street, Los Angeles, Calif. 90012. Send protests to: Wm. R. Murdoch, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-14866; Filed, Dec. 21, 1967; 8:47 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—DECEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during December.

3 CFR

Page

PROCLAMATIONS:
- 2761A (see Proc. 3822) 19002
- 3548 (see Proc. 3822) 19002
- 3821 17571
- 3822 19002

EXECUTIVE ORDERS:
- Dec. 5, 1913 (revoked in part by PLO 4327) 16531
- Mar. 21, 1914 (revoked in part by PLO 4327) 16531
- June 24, 1914 (revoked in part by PLO 4327) 16531
- 11075 (see Proc. 3822) 19002
- 11248:
  - Amended by EO 11384 17423
  - Amended by EO 11385 18061
- 11383 17421
- 11384 17423
- 11385 18061

5 CFR

- 210 16474
- 213 ..... 16477, 17615, 17849, 20627, 20701
- 315 16474
- 351 16474
- 352 16474
- 353 16475
- 430 16475
- 511 16475
- 531 16475
- 713 16476
- 731 16476
- 752 16476
- 754 16476
- 771 16477
- 772 16477
- 831 16477
- 891 16477
- 2200 17573
- 2300 17651

7 CFR

- 301 ..... 18015, 18017
- 401 ..... 16478, 17425, 17513
- 718 17513
- 722 ..... 17467, 17887, 17923
- 724 16478
- 725 16479
- 729 17887
- 792 20629
- 794 19155
- 811 18083
- 815 16525
- 842 20701
- 905 ..... 16525, 17615, 17616, 17925
- 907 ..... 16526, 17515, 17888, 20629
- 909 17849
- 910 ..... 16526, 17617, 17651, 18017, 18018, 18085
- 944 17425
- 946 20702
- 959 20702
- 982 16527
- 987 19156
- 989 ..... 17467, 18086
- 1062 16479
- 1073 16480
- 1094 16527
- 1103 16527
- 1106 16480

7 CFR—Continued

Page

- 1126 16480
- 1421 16528
- 1427 ..... 16528, 19156
- 1464 17849
- 1474 17888
- 1488 18018

PROPOSED RULES:
- 51 17893
- 58 17893
- 812 17669
- 817 17669
- 911 17431
- 915 17671
- 948 17431
- 950 17433
- 989 ..... 17625, 20732
- 993 17434
- 1001 17626
- 1008 17626
- 1036 17626
- 1048 17626

8 CFR

- 238 17651
- 280 17651

PROPOSED RULES:
- 242 17624
- 243 17624
- 244 17624
- 299 17624

9 CFR

- 71 19157
- 76 19157
- 78 18086
- 79 19157
- 95 19157
- 96 19158
- 97 17618
- 151 19158

12 CFR

- 1 ..... 17574, 17926
- 12 17468
- 206 17469
- 224 17428
- 265 19159
- 335 17470
- 545 17926
- 556 20630
- 561 17515
- 605 17652
- 610 20703
- 670 20703

PROPOSED RULES:
- 16 20657
- 563 17544

14 CFR

- 21 17850
- 39 ..... 16481, 17426, 17515, 17516, 17652, 17927
- 61 16481
- 71 ..... 16482, 16483, 17426, 17427, 17516–17518, 17574–17576, 17653, 17851, 18020, 20630, 20631, 20704, 20705.
- 73 ..... 17427, 17653, 18087

14 CFR—Continued

Page

- 75 17518
- 91 ..... 16483, 17654
- 97 ..... 16484, 17577, 17928, 19170, 20706
- 121 ..... 16481, 17889
- 141 17851
- 151 17471
- 214 18020
- 217 18020
- 221 18022
- 241 18023
- 243 20711
- 301 16491
- 303 16491
- 311 16491
- 320 16491
- 421 16491
- 430 16491
- 431 16491
- 435 16491
- 1209 20714

PROPOSED RULES:
- 1 16495
- 21 17485
- 25 17487
- 39 ..... 17439, 17672, 17673, 17896
- 71 ..... 16495, 17488, 17543, 17596–17598, 17673–17675, 17861, 17962, 18060–18062, 20657, 20658, 20737, 20738.
- 73 17488
- 75 18062
- 77 20658
- 91 ..... 16495, 19190
- 207 20739
- 214 16535
- 241 17983
- 295 16535
- 298 17598
- 399 20739

15 CFR

- 373 17471

16 CFR

- 13 ..... 17427, 17618, 17853–17855, 18025, 20631
- 15 ..... 17582, 17856, 18087, 20716

PROPOSED RULES:
- 301 17544
- 415 17601

17 CFR

- 230 17933
- 239 17933
- 240 17583
- 270 17583
- 274 17583

PROPOSED RULES:
- 240 ..... 17983, 18063
- 270 17861

19 CFR

- 5 17619
- 12 17428
- 16 19159
- 19 17619
- 23 16528
- 24 17619

20 CFR

	Page
404	18026, 19159
405	18026, 18027
422	19990
PROPOSED RULES:	
405	18050, 18054

21 CFR

	Page
19	18096
29	17654
120	16528, 17472, 18096
121	16529, 16530, 17472, 17587, 17654, 17655, 17656, 17657, 18096, 20631, 20632
130	16531
146	16531
146a	16491, 17657
148q	18096
166	17473
191	19176
PROPOSED RULES:	
1	18113
15	18114
31	16533
46	17482, 17671, 18114
128	17980
130	17671
138	16523, 17626

22 CFR

	Page
10	17454

23 CFR

	Page
255	17938, 18032, 18033
PROPOSED RULES:	
255	16534

24 CFR

	Page
203	20716
207	20716
220	20716
234	17587

25 CFR

	Page
PROPOSED RULES:	
221	17543

26 CFR

	Page
1	17479, 17518, 17657, 17890, 17938, 18039
31	18039
46	18039
48	18039
49	18039
147	17858
601	20645
701	17890
PROPOSED RULES:	
1	20727
151	17861

28 CFR

	Page
0	16531

29 CFR

	Page
1610	16491

30 CFR

	Page
PROPOSED RULES:	
12	20730
18	18096
34	18096

31 CFR

	Page
1	17519
82	17859
214	18044
345	20717

32 CFR

	Page
52	17661
54	17619
57	18087
504	18089
537	17519
701	17588
710	20717
721	20719
881	20720
888c	20648
1702	20722

32A CFR

	Page
OEP (Ch. I):	
Reg. 6	20726

33 CFR

	Page
109	17726, 17890
110	17726, 17890
114	17726, 17890
115	17726, 17890
116	17726, 17890
117	17726, 17890, 17939
209	17522

36 CFR

	Page
7	17661

39 CFR

	Page
123	17479
171	20633
224	18045
232	18045, 20643
241	20643
742	17479, 17860

41 CFR

	Page
1-1	16491, 18045
1-3	18049
1-16	18049
9-1	17542
Ch. 18	17002
101-26	17939

42 CFR

	Page
53	17662

43 CFR

	Page
2210	17890
PUBLIC LAND ORDERS:	
334 (revoked in part by PLO 4383)	17480
1796 (revoked in part by PLO 4331)	17479
2764 (see PLO 4331)	17479
4327	16531
4328	17429
4329	16532
4330	17479
4331	17479
4332	17479
4333	17480
4334	17429
4335	17429
4336	17[illegible]
4337	17[illegible]
4338	17[illegible]

45 CFR

	Page
30	17[illegible]
1105	17[illegible]

46 CFR

	Page
38	17[illegible]
55	19[illegible]
61	19[illegible]
72	19[illegible]
76	19[illegible]
77	19[illegible]
78	19[illegible]
98	17[illegible]
111	19[illegible]
112	19[illegible]
113	19[illegible]
221	17[illegible]
256	17[illegible]
308	17[illegible]
510	17[illegible]
526	17[illegible]
PROPOSED RULES:	
Ch. II	17[illegible]
510	19[illegible]
514	16[illegible]
536	19[illegible]

47 CFR

	Page
73	19183, 19[illegible]
97	17[illegible]
PROPOSED RULES:	
2	16495, 18[illegible]
73	19191, 20650, 20[illegible]
87	16495, 18[illegible]
91	17[illegible]

48 CFR

	Page
501	17[illegible]

49 CFR

	Page
Ch. X	20[illegible]
290	17[illegible]
291	17[illegible]
292	17[illegible]
293	17[illegible]
294	17[illegible]
295	17892, 17[illegible]
296	17[illegible]
297	17[illegible]
890	17[illegible]
1100	20[illegible]
1200	17[illegible]
1306	20[illegible]
PROPOSED RULES:	
177	18114, 20[illegible]
230	18[illegible]
294	18114, 20[illegible]
1056	20[illegible]

50 CFR

	Page
13	20[illegible]
28	17[illegible]
32	17542, 20[illegible]
33	16532, 17480, 17481, 17623, 17667, 17668, 18049, 20656, 20704
254	16492

FEDERAL REGISTER

VOLUME 32 • NUMBER 248

Saturday, December 23, 1967 • Washington, D.C.

Pages 20761–20795

THE UNIVERSITY OF MICHIGAN

DEC 29 1967

MAIN READING ROOM

Agencies in this issue—

Agricultural Research Service
Agricultural Stabilization and Conservation Service
Civil Aeronautics Board
Coast Guard
Commerce Department
Commodity Credit Corporation
Consumer and Marketing Service
Customs Bureau
Federal Aviation Administration
Federal Communications Commission
Federal Maritime Commission
Federal Power Commission
Foreign Assets Control Office
Interstate Commerce Commission
Justice Department
Land Management Bureau
Maritime Administration
National Transportation Safety Board
Post Office Department
Securities and Exchange Commission
Tax Court of the United States
Transportation Department

Detailed list of Contents appears inside.

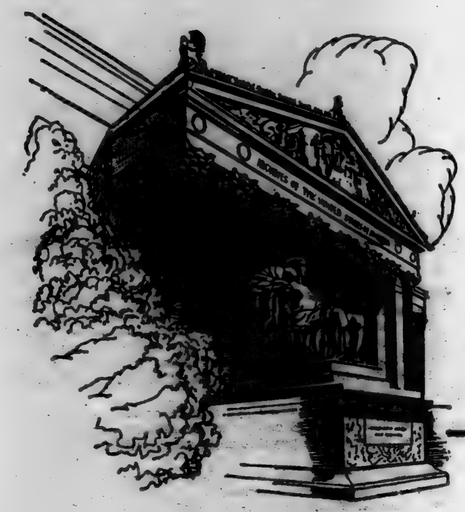

248

Volume 80

UNITED STATES STATUTES AT LARGE

89th Congress, 2d Session
1966

Part 1—Contains the public laws and reorganization plans.

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Contents

AGRICULTURAL RESEARCH SERVICE
Rules and Regulations
Overtime services relating to imports and exports; border ports, seaports, and airports (2 documents) ---- 20765, 20768

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE
Rules and Regulations
Sugar; allotment of quotas for 1967; mainland cane sugar area 20765

AGRICULTURE DEPARTMENT
See Agricultural Research Service; Agricultural Stabilization and Conservation Service; Commodity Credit Corporation; Consumer and Marketing Service.

CIVIL AERONAUTICS BOARD
Rules and Regulations
Uniform system of accounts and reports for certificated air carriers; miscellaneous amendments ---- 20770
Notices
Ozark Air Lines, Inc.; hearing, etc ---- 20784

COAST GUARD
Rules and Regulations
Navigation requirements for certain inland waters and Western rivers; lights and shapes for towing vessels and dredges ---- 20772
Security of vessels and waterfront facilities; bulk cargoes considered to involve particular hazards ---- 20773

COMMERCE DEPARTMENT
See also Maritime Administration.
Rules and Regulations
Aircraft allocation; cross reference ---- 20771

COMMODITY CREDIT CORPORATION
Rules and Regulations
Peanuts; standards for approval of cold storage warehouses ---- 20767

CONSUMER AND MARKETING SERVICE
Rules and Regulations
Fruits grown in Arizona and California; handling limitations:
Lemons ---- 20766
Oranges, Navel ---- 20766

CUSTOMS BUREAU
Notices
Antidumping; color television picture tubes from the Netherlands ---- 20783
Foreign currencies; rates of exchange:
Ceylon rupee, Irish pound, New Zealand dollar, Spanish peseta, and United Kingdom pound ---- 20783
Finnish markka ---- 20783

FEDERAL AVIATION ADMINISTRATION
Rules and Regulations
Transition areas; alterations (2 documents) ---- 20769
Proposed Rule Making
Alteration; control zones and transition area ---- 20780
Designations:
Controlled airspace ---- 20780
Transition areas (3 documents) ---- 20781

FEDERAL COMMUNICATIONS COMMISSION
Proposed Rule Making
Aviation services; eligibility of licensee; extension of time ---- 20782
High frequency channels; use for flight test purposes and in support of off-shore drilling operations; extension of time ---- 20782

FEDERAL MARITIME COMMISSION
Notices
Agreements filed for approval:
Japan-Puerto Rico & Virgin Islands Freight Conference ---- 20785
Java/New York Rate Agreement ---- 20785
Trans-Pacific Freight Conference of Japan ---- 20785

FEDERAL POWER COMMISSION
Notices
Hearings, etc.:
Detroit Edison Co. and Consumers Power Co ---- 20786
Eastern Shore Natural Gas Co ---- 20786
Florida Gas Transmission Co ---- 20786
Iowa-Illinois Gas and Electric Co ---- 20787
Knoxville Utilities Board et al ---- 20786
United Fuel Gas Co ---- 20787

FOREIGN ASSETS CONTROL OFFICE
Notices
Importation of dried, canned loquats directly from Japan; available certification ---- 20783

INTERIOR DEPARTMENT
See Land Management Bureau.

INTERSTATE COMMERCE COMMISSION
Rules and Regulations
General rules of practice; miscellaneous amendments ---- 20778
Notices
Diversion or rerouting of traffic; Frankfort and Cincinnati Railroad Co ---- 20792
Fourth section application for relief ---- 20788
Motor carriers:
Temporary authority applications ---- 20788
Transfer proceedings ---- 20792

JUSTICE DEPARTMENT
Rules and Regulations
Organization; settlement of tort claims ---- 20772

LAND MANAGEMENT BUREAU
Rules and Regulations
Washington; public land order; withdrawal for Colockum Game Range ---- 20775

MARITIME ADMINISTRATION
Rules and Regulations
Uniform system of accounts for operating-differential subsidy contractors; miscellaneous amendments ---- 20775

NATIONAL TRANSPORTATION SAFETY BOARD
Rules and Regulations
Aircraft accidents, incidents, overdue aircraft, and safety investigations; miscellaneous amendments ---- 20771

POST OFFICE DEPARTMENT
Notices
Apartment buildings; policy statement regarding delivery and collection service ---- 20783

SECURITIES AND EXCHANGE COMMISSION
Rules and Regulations
Securities Exchange Act of 1934; information required in proxy statement ---- 20771
Notices
Hearings, etc.:
Continental Vending Machine Corp ---- 20788
Fastline, Inc ---- 20788
Pakco Companies, Inc ---- 20788
Westec Corp ---- 20788

(Continued on next page)

CONTENTS

TAX COURT OF THE UNITED STATES

Rules and Regulations

Rules of practice; computation of time; correction 20772

TRANSPORTATION DEPARTMENT

See also Coast Guard; Federal Aviation Administration.

Rules and Regulations

Aircraft allocation 20777

TREASURY DEPARTMENT

See Customs Bureau; Foreign Assets Control Office.

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

7 CFR

354 20765
814 20765
907 20766
910 20766
1422 20767

9 CFR

97 20768

14 CFR

71 (2 documents) 20769
241 20770
430 20771
1502 20771

PROPOSED RULES:

71 (5 documents) 20780, 20781

17 CFR

240 20771

26 CFR

701 20772

28 CFR

0 20772

33 CFR

80 20772
95 20772
124 20773
126 20773

43 CFR

PUBLIC LAND ORDER:

4339 20775

46 CFR

282 20775

47 CFR

PROPOSED RULES:

2 20782
87 (2 documents) 20782

49 CFR

93 20777
1100 20778

Rules and Regulations

Title 7—AGRICULTURE

Chapter III—Agricultural Research Service, Department of Agriculture

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Overtime Work at Border Ports, Seaports, and Airports

Section 354.1 of Part 354, Title 7, Code of Federal Regulations, is further amended to read as follows:

§ 354.1 Overtime work at border ports, seaports, and airports.

(a) Any person, firm, or corporation having ownership, custody, or control of plants, plant products, or other commodities or articles subject to inspection, certification, or quarantine under this chapter, who requires the services of an employee of the Plant Quarantine Division on a holiday or at any other time outside the regular tour of duty of such employee, shall sufficiently in advance of the period of overtime or holiday service request the Division inspector in charge to furnish inspection, quarantine, or certification service during such overtime or holiday period, and shall pay the Government therefor at the rate of $7.52 per man-hour per employee. A minimum charge of 2 hours shall be made for any holiday or unscheduled overtime duty performed by an employee on a day when no work was scheduled for him or which is performed by an employee on his regular work day beginning at least 1 hour before his scheduled tour of duty or which is not in direct continuation of the employee's regular tour of duty. In addition, each period of unscheduled overtime or holiday work to which the 2-hour minimum charge provision applies which requires the employee involved to perform additional travel may include a commuted travel time period the amount of which shall be prescribed in administrative instructions to be issued by the Director of the Plant Quarantine Division for the areas in which the holiday or overtime work is performed and such period shall be established as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which the employee performs such overtime or holiday duty if such travel is performed solely on account of such overtime or holiday service. With respect to places of duty within the metropolitan area of the employee's headquarters, such commuted travel period shall not exceed 3 hours. When inspection, quarantine or certification services are performed at locations outside the metropolitan area in which the employee's headquarters is located, one-half of the commuted travel period applicable to the point at which the services are performed shall be charged when duties involve overtime that begins less than 1 hour before the beginning of the regular tour and/or is in continuation of the regular tour of duty. It will be administratively determined from time to time which days constitute holidays.

(b) The Division inspector in charge in honoring a request to furnish inspection, quarantine or certification service, shall assign employees to such holiday or overtime duty with due regard to the work program and availability of employees for duty.

(64 Stat. 561; 7 U.S.C. 2260)

The foregoing amendment shall become effective December 24, 1967, when it shall supersede 7 CFR 354.1, effective July 31, 1966.

The purpose of this amendment is to increase the hourly rate for overtime or holiday services from $7.20 to $7.52 commensurate with salary increases provided in the Postal Revenue and Federal Salary Act of 1967 (Public Law 90-206). Determination of the hourly rate for overtime services and of the commuted travel time allowances depends entirely upon facts within the knowledge of the Department of Agriculture. It is to the benefit of the public that this amendment be made effective at the earliest practicable date. Accordingly, pursuant to the administrative provisions of 5 U.S.C. 553, it is found upon good cause that notice and public procedure on this amendment are impracticable, unnecessary, and contrary to the public interest and good cause is found for making this amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 20th day of December 1967.

[SEAL] GEORGE W. IRVING, Jr.,
Administrator,
Agricultural Research Service.

[F.R. Doc. 67-14930; Filed, Dec. 22, 1967; 8:47 a.m.]

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

[Sugar Reg. 814.5, Amdt. 5]

PART 814—ALLOTMENT OF SUGAR QUOTAS, MAINLAND CANE SUGAR AREA

1967 Quota

Basis and purpose. This amendment is issued under section 205(a) of the Sugar Act of 1948, as amended (61 Stat. 922), as amended, hereinafter called the "Act", for the purpose of amending Sugar Regulation 814.5, Amdt. 4 (32 F.R. 10553) which established allotments for the Mainland Cane Sugar Area for the calendar year 1967.

This amendment is necessary to revise allotments to determine and prorate deficits in allotments. On the basis of written advice that Sunshine Processing Co., Inc., will not process any 1967 crop sugarcane and will have no sugar to market in 1967, the Secretary of Agriculture has determined that Sunshine Processing Co., Inc., is unable to utilize any of its 1967 allotment of the mainland cane sugar area quota amounting to 2,353 short tons, raw value.

Accordingly, a deficit of 2,353 short tons, raw value, is declared and is herein prorated to other allottees on the basis of 1967 allotments made effective by Sugar Regulation 814.5, Amdt. 4 (32 F.R. 10553).

It was found after notice and public hearing that this order shall be revised, without further notice or hearing, for the purpose of allotting any quantity of an allotment to other allottees when written notification of release by an allottee of any part of an allotment becomes a part of the official records of the Department.

The allotments set forth herein have been established in accordance with findings heretofore made by the Secretary in the course of this proceeding (32 F.R. 6188).

Order. Pursuant to provisions of section 205(a) of the Act and in accordance with paragraph (3) of § 814.5 of this chapter, paragraph (a) of such § 814.5 is amended to read as follows:

§ 814.5 Allotment of the 1967 sugar quota for the mainland cane sugar area.

(a) The 1967 sugar quota for the Mainland Cane Sugar Area of 1,169,233 short tons, raw value, is hereby allotted to the following processors in the quantities which appear opposite their respective names:

Processors	Allotments (short tons, raw value)
Albania Sugar Co.	10,057
Alma Plantation, Ltd.	9,954
J. Aron & Co., Inc.	13,557
Billeaud Sugar Factory	9,712
Breaux Bridge Sugar Co-op.	8,968
Wm. T. Burton Industries, Inc.	7,104
Caire & Graugnard	5,367
Cajun Sugar Co-op., Inc.	20,275
Caldwell Sugars Co-op., Inc.	12,807
Columbia Sugar Co.	8,517
Core-Texas Manufacturing Co., Inc.	5,564
Dugas & LeBlanc, Ltd.	14,713
Duhe & Bourgeois Sugar Co.	10,289
Erath Sugar Co., Ltd.	6,413
Evan Hall Sugar Co-op., Inc.	22,494
Frisco Cane Co., Inc.	2,886
Glenwood Co-op., Inc.	15,909
Helvetia Sugar Co-op., Inc.	13,506
Iberia Sugar Co-op., Inc.	18,920
Lafourche Sugar Co.	18,253
Harry L. Laws & Co., Inc.	15,045
Levert-St. John, Inc.	12,908

	Allotments (Short tons, raw value)
Little Texas, Inc.	5,242
Louisa Sugar Co-op., Inc.	11,021
Louisiana State Penitentiary	3,805
Louisiana State University	100
Meeker Sugar Co-op., Inc.	10,746
Milliken & Farwell, Inc.	10,114
M. A. Patout & Son, Ltd.	16,254
Poplar Grove Planting & Refining Co	8,839
Savoie Industries	14,678
St. James Sugar Co-op., Inc.	20,301
St. Mary Sugar Co-op., Inc.	14,517
South Coast Corp.	62,276
Southdown, Inc.	87,345
Sterling Sugars, Inc.	26,693
Sunshine Processing Co., Inc.	0
J. Supple's Sons Planting Co., Inc.	5,425
Valentine Sugars, Inc.	10,160
Vida Sugars, Inc.	5,747
A. Wilbert's Sons Lumber & Shingle Co	10,368
Young's Industries, Inc.	6,942
Louisiana subtotal	346,350
Atlantic Sugar Association	34,415
Florida Sugar Corp.	18,496
Glades County Sugar Growers Co-op., Association	46,148
Osceola Farms Co.	52,396
South Puerto Rico Sugar Co., Inc.	77,613
Sugarcane Growers Co-op. of Florida	114,668
Talisman Sugar Corp.	51,311
United States Sugar Corp.	226,130
Florida subtotal	622,977
Total all mainland cane	1,169,333

* * * * *

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153; secs. 205, 209; 61 Stat. 926, as amended, 928, as amended; 7 U.S.C. 1115, 1119)

Effective date. Because of the limited time remaining in the quota year to which the allotments apply, it is imperative that this amendment become effective at the earliest possible date in order to permit processors to fully utilize the entire quota for the area. Accordingly, it is hereby found that compliance with the 30-day effective date requirement of 5 U.S.C. 553 (80 Stat. 378) is impracticable and contrary to the public interest and consequently, this amendment shall be effective upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., this 20th day of December 1967.

E. A. JAENKE,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 67-14923; Filed, Dec. 22, 1967; 8:46 a.m.]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Navel Orange Reg. 139, Amdt. 1]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Navel oranges grown in Arizona and designated part of California.

Order, as amended. The provisions in paragraph (b) (1) (iii) of § 907.439 (Navel Orange Regulation 139, 32 F.R. 17888) are hereby amended to read as follows:

§ 907.439 Navel Orange Regulation 139.

* * * * *

(b) *Order.* (1) * * *

(iii) District 3: 125,000 cartons.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 20, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-14916; Filed, Dec. 22, 1967; 8:46 a.m.]

[Lemon Reg. 300]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.600 Lemon Regulation 300.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 19, 1967.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period December 24, 1967, through December 30, 1967, are hereby fixed as follows:

(i) District 1: 13,950 cartons;

(ii) District 2: 51,150 cartons;

(iii) District 3: 130,200 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 21, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-14967; Filed, Dec. 22, 1967; 8:48 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1422—PEANUTS

Subpart—Standards for Approval of Cold Storage Warehouses for Peanuts

Sec.

1422.1 General statement and administration.
1422.2 Standards for warehousemen and warehouses.
1422.3 Financial statement.
1422.4 Bonding requirements.
1422.5 Inspection of warehouses.
1422.6 Exceptions.
1422.7 Basis for approval or disapproval.
1422.8 Other conditions for disapproval.
1422.9 Approval of warehouse and duration of approval.
1422.10 Waiver of requirements.

AUTHORITY: The provisions of this subpart issued under sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b.

§ 1422.1 General statement and administration.

(a) This subpart prescribes the procedure to be followed by warehousemen who desire the Commodity Credit Corporation (hereinafter referred to as "CCC") to approve their cold storage warehouses for the storage and handling, under contract with CCC, of shelled peanuts which are owned by CCC or held by CCC as security for price support loans and which require refrigerated storage. It also prescribes the requirements of CCC for approval of such warehouses. Warehousemen desiring to secure approval of their warehouses under this subpart may obtain information and the necessary application and other forms from (1) the Producer Associations Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, or (2) the following associations, each of which, under contract with CCC, performs certain functions in connection with CCC's inventory of peanuts: GFA Peanut Association, Camilla, Ga. (Southeastern Area); Southwestern Peanut Growers Association, Gorman, Tex. (Southwestern Area); and Peanut Growers Cooperative Marketing Association, Franklin, Va. (Virginia-Carolina Area). Warehousemen shall submit all forms, statements, and other information required by this subpart to be furnished to CCC to the association in the area where the warehouse is located.

(b) Although a warehouse must be approved by CCC before it will be used for the storage and handling of peanuts, such approval, or the execution of a storage contract with the warehouseman, does not constitute a commitment that the warehouse will be used by CCC and no official or employee of CCC or any association named in this section is authorized to make any such commitment.

§ 1422.2 Standards for warehousemen and warehouses.

Initial approval of a warehouse by CCC, and its continued approval of an approved warehouse, are conditioned upon conformance with the following standards.

(a) The warehouseman shall, except as provided in § 1422.6:

(1) Be an individual, partnership, or an existing legal entity engaging in the business of storing for hire and, if organized in the corporate form, have charter authority to engage in such business.

(2) Have sufficient experience in, and knowledge of, the warehousing business to enable him to give adequate protection and services with respect to the peanuts to be stored.

(3) Have satisfactorily complied with all previous contracts with CCC and instructions issued thereunder: *Provided, however,* That this provision shall apply only in circumstances expected from CCC regulations governing suspension and debarment (31 F.R. 4950), and any amendments thereto, unless suspension or debarment action has been taken as provided in such regulations.

(4) Have a net worth of at least $10,000 to assure his financial responsibility.

(5) Have sufficient funds available to meet ordinary operating expenses which, if not paid, would cause cessation of operations.

(6) Furnish CCC a completed Application for Approval of a Warehouse (Form CCC–1029).

(7) Furnish CCC a completed Schedule of Rates (Form CCC–1030–2) on which he certifies that the rates quoted in the schedule are not in excess of rates charged other customers.

(8) Furnish CCC financial statements as may be required under § 1422.3.

(9) Furnish CCC surety bonds as may be required under § 1422.4.

(10) Maintain complete and accurate inventory and operating records.

(11) If State or local law requires that warehousemen be licensed to engage in the business of storing goods for hire, furnish CCC evidence that he is so licensed by the appropriate licensing authority.

(b) Supervisory employees of the warehouse shall meet the requirements of (1) paragraph (a) (2) of this section, and (2) paragraph (a) (3) of this section.

(c) Owners, directors, responsible officers, and employees of the warehouse shall meet requirements of paragraph (a) (3) of this section.

(d) The warehouse shall meet the following requirements:

(1) Be of sound construction with equipment in good repair, and so constructed as to adequately protect the peanuts.

(2) Be under the control at all times of the warehouseman who executes the storage contract. Peanuts are not to be stored in an area operated as a "field warehouse" unless the warehouseman is the "field warehouseman."

(3) Not be subject to greater than normal risk of fire, flood, or other hazards.

(4) Have equipment to adequately handle, preserve, and protect the peanuts, including dual refrigeration units and adequate fire fighting equipment.

(5) Have space for the storage separate from peanuts of any products which CCC determines adversely affect the storage life, quality, or flavor of peanuts or are subject to a significantly greater fire risk than peanuts.

(6) Have adequate load-out capacity, as determined by CCC.

§ 1422.3 Financial statement.

(a) Except as provided in § 1422.6, the warehouseman shall furnish either (1) a fully completed financial statement on Form TW–51, Financial Statement, or (2) a Form TW–51 (i) completed as to page 1 and the General Information and Certification section of page 4, and (ii) accompanied by a financial statement prepared and certified or otherwise authenticated by the public accountant to the extent consistent with the accountant's verification of the facts contained in the statement. Such certification or authentication may be separate from the financial statement. The warehouseman shall execute the Certification on Form TW–51 in every case.

(b) A financial statement furnished by a warehouseman shall show the financial condition of the warehouseman as of the date not more than 60 days prior to (1) the date of the application, if the statement accompanies the application, or (2) the date of the statement, if the statement is furnished under § 1422.9.

(c) The financial statement and other financial data furnished by a warehouseman will not be disclosed by CCC except as required by law or authorized by CCC regulations relating to official records.

§ 1422.4 Bonding requirements.

(a) Except as provided in § 1422.6 and paragraph (b) of this section, the warehouseman shall furnish to CCC a performance bond, executed on a form furnished or approved by CCC by surety companies which have been approved by the U.S. Treasury Department (Circular No. 570) and which maintain an officer or representative authorized to accept service of legal process in the State where the warehouse is located.

(1) The amount of such performance bond shall be not less than 5 percent of the net book value of the estimated quantity of peanuts to be stored, but in no event less than $5,000 or, except as provided in paragraph (c) of this section, more than $100,000.

(2) The warehouseman may apply against the total amount of bond coverage required the amount of a surety bond which is furnished under State law or under operational rules of nongovernmental supervisory bodies and which is determined by the Director, Producer Associations Division, to protect adequately the interest of CCC.

(b) Cash, negotiable securities, and legal liability insurance policies may be accepted in lieu of the equivalent amount of required bond coverage under the following conditions:

(1) CCC will determine the acceptability of and valuation to be placed on any cash or negotiable securities offered

in substitution for bond coverage. When the period for which the bond was required has ended and it is determined that all liability under the storage agreement with CCC has terminated, the cash or securities will be returned to the warehouseman.

(2) Legal liability insurance policies offered in substitution for bond coverage must show CCC as the insured and be approved by the Director, Producer Associations Division.

(c) Notwithstanding any other provisions of this subpart, CCC may require additional bond coverage if in the light of all the circumstances relating to the operation of the warehouse, CCC determines that the amount of bond coverage required under paragraph (a)(1) of this section is not sufficient to protect adequately the interests of CCC.

§ 1422.5 Inspection of warehouses.

Except in the case of a warehouse licensed under the U.S. Warehouse Act for the storage and handling of peanuts, prior to the time CCC approves a warehouse for the storage and handling of peanuts CCC will have the warehouse examined and will take such other action as it considers necessary to determine whether the requirements of § 1422.2 have been met. The warehouse examiner will make recommendations regarding the approval or disapproval of the warehouse.

§ 1422.6 Exceptions.

Notwithstanding any other provision of this subpart:

(a) Warehousemen licensed under the U.S. Warehouse Act for the storage and handling of peanuts will not be required to furnish performance bonds or financial statements in order to be approved by CCC, and their warehouses will not be subject to regular examinations other than those required by that Act, but will be subject to such special examinations as CCC may determine are necessary. All other requirements of this subpart shall, unless otherwise provided, be met by such warehousemen seeking approval under this subpart.

(b) CCC will accept a Certificate of Competency issued by the Small Business Administration with respect to a warehouseman as establishing conformance by the warehouseman with the standards prescribed in § 1422.2(a)(1), (2), (4), and (5); (b)(1); and (d)(1), (2), (3), and (4).

(c) CCC may approve a warehouseman who meets the standard set forth in paragraph (a)(4) of § 1422.2 but who fails, or whose warehouse fails to meet one or more of the other standards of that section, if (1) CCC determines that the storage and handling conditions within the warehouse provide satisfactory protection for peanuts, (2) CCC determines that the services of the warehouseman are required, and (3) the warehouseman furnishes additional bond coverage (or acceptable substitute security) which is in an amount equal to at least twice the amount of the bond requirement under § 1422.4(a)(1) and which meets the other requirements of § 1422.4.

§ 1422.7 Basis for approval or disapproval.

A review and an analysis will be made of the information disclosed by the warehouseman's application, warehouse examiner's report and recommendation, financial statement, credit reports, and other pertinent information available from other sources. If, on the basis of this review and analysis, it is determined that the warehouseman and the warehouse conform with the standards and other requirements set out in this subpart, the warehouse will be approved. If it is determined that the warehouseman fails to meet the standard set forth in §§ 1422.2(a)(4) and 1422.8, the warehouse will not be approved. If it is determined that one or more of the other standards of § 1422.2 are not met, the applicant may be approved as provided in § 1422.6(c).

§ 1422.8 Other conditions for disapproval.

Applications shall not be approved (or existing approval continued in effect) if:

(a) The warehouseman (if license is required) is in violation of any provisions of the regulations of the licensing authority, or if any condition which has resulted or may result in the refusal, suspension, or revocation of the applicable warehouse license has not been corrected. Correction of any such condition shall not result in automatic approval of the warehouse and CCC may require the submission of a new application, such additional information as it deems pertinent, and a new inspection of the warehouse to determine whether it meets the requirements of this subpart.

(b) The warehouseman operating the warehouse for which approval is being sought, or any of the directors, responsible officers and employees thereof are suspended or debarred from contracting pursuant to regulations of CCC.

§ 1422.9 Approval of warehouse and duration of approval.

(a) After a warehouse has been approved and the applicable storage contract has been signed by CCC, a copy of such contract will be forwarded to the warehouseman by CCC. The warehouse will then be eligible to store and handle CCC-owned and loan peanuts.

(b) The financial condition of, and the amount of bond or substitute security furnished by, approved warehousemen will be reviewed from time to time to determine that the requirements of CCC are being met and the warehouseman shall furnish any additional bond coverage or substitute security which may be determined by CCC to be required under the provisions of this subpart. The warehouse will be reexamined from time to time to determine its continued compliance with the standards and requirements of this subpart. If at any time it is determined that a warehouseman or the warehouse does not conform with the standards and other requirements set out in this subpart, CCC shall take such appropriate action as may be necessary to protect the interests of CCC.

(c) Approval of the warehouse will remain in effect until the warehouse is removed from the list of approved warehouses, the storage contract is terminated, or the warehouseman is suspended or debarred from contracting with CCC under applicable regulations.

§ 1422.10 Waiver of requirements.

If warehousing services required in fulfilling responsibilities under CCC's programs cannot be secured under the provisions of this subpart and no reasonable and economical alternative is available, CCC may exempt the applicant from one or more of the provisions of this subpart and may establish other requirements in lieu thereof as determined necessary to safeguard the interests of CCC. Such action may be taken only by the Executive Vice President, Commodity Credit Corporation.

Effective date: Date of publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on December 7, 1967.

H. D. GODFREY,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 67-14926; Filed, Dec. 22, 1967; 8:46 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS AND ANIMAL PRODUCTS

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Overtime, Night and Holiday Inspection and Quarantine Activities at Border, Coastal, and Air Ports

Pursuant to the authority conferred by the Act of August 28, 1950 (64 Stat. 561; 7 U.S.C. 2260), § 97.1 of Part 97, Title 9, Code of Federal Regulations, is further amended to read as follows:

§ 97.1 Overtime work at laboratories, border ports, ocean ports and airports.[1]

Any person, firm, or corporation having ownership, custody or control of animals, animal byproducts, or other commodities subject to inspection, laboratory testing, certification, or quarantine under this subchapter and Subchapter G of this chapter, and who requires the services of an employee of the Animal Health Division on a holiday or at any other time outside the regular tour of duty of such employee, shall sufficiently in advance of the period of overtime or holiday service request the division inspector in charge to furnish inspection, laboratory testing, certification or quarantine service during such overtime or holiday period and shall pay the Administrator of the Agricultural Research Service at the rate of $7.52 per man-hour per employee as follows: A minimum charge of 2 hours shall be made for any holiday or unscheduled overtime duty performed by an employee on a day when no work was scheduled for him or which is performed by an employee on his regular work day beginning either at least 1 hour before his scheduled tour of duty or which is not in direct continuation of the employee's regular tour of duty. In addition, each such period of unscheduled overtime or holiday work to which the 2-hour minimum charge provision applies which requires the employee involved to perform additional travel may include a commuted travel time period the amount of which shall be prescribed in administrative instructions to be issued by the Director of Animal Health Division for the ports, stations, and areas in which the employees are located and shall be established as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from such overtime or holiday duty if such travel is performed solely on account of such overtime or holiday service. With respect to places of duty within the metropolitan areas of the employee's headquarters, such commuted travel period shall not exceed 3 hours. When inspection, laboratory testing, quarantine or certification services are performed at locations outside the metropolitan area in which the employee's headquarters are located, one-half of the commuted travel time period applicable to the point at which the services are performed shall be charged when duties involve overtime that either begins less than 1 hour before the beginning of the regular tour and/or is in continuation of the regular tour of duty: *Provided, however,* That periods of unscheduled overtime or holiday service performed by laboratory personnel shall be limited to Saturdays, Sundays, and holidays, and shall further be limited to hours which would normally constitute a regular work day. It shall be administratively determined from time to time which days constitute holidays.

The foregoing amendment shall become effective December 24, 1967, when it shall supersede 9 CFR 97.1, effective July 31, 1966.

The purpose of this amendment is to increase the hourly rate for overtime services from $7.30 to $7.52 commensurate with salary increases provided in the Federal Employees Salary Act of 1967 (Public Law 90-206). It is to the benefit of those who require such overtime services, as well as the public generally, that this amendment be made effective at the earliest practicable date. Accordingly, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and public procedure on this amendment are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making this amendment effective less than 30 days after publication in the FEDERAL REGISTER.

(64 Stat. 561; 7 U.S.C. 2260)

Done at Washington, D.C., this 20th day of December 1967.

GEORGE W. IRVING, JR.,
Administrator,
Agricultural Research Service.

[F.R. Doc. 67-14926; Filed, Dec. 22, 1967; 8:47 a.m.]

[1] For designated ports of entry for certain animals, animal semen, poultry, and hatching eggs see 9 CFR 92.1 through 92.5; and for designated ports of entry for certain purebred animals see 9 CFR 151.1 through 151.3.

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 67-CE-95]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On pages 12120 and 12121 of the FEDERAL REGISTER dated August 23, 1967, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Eau Claire, Wis.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the amendment as so proposed is hereby adopted, subject to the following change: The Eau Claire Municipal Airport coordinates recited in the Eau Claire, Wis., transition area designation as "latitude 44°51'47" N., longitude 91°29'13" W." are changed to read "latitude 44°51'50" N., longitude 91°29'10" W.".

This amendment shall be effective 0001 e.s.t., February 29, 1968.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Kansas City, Mo., on December 8, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

In § 71.181 (32 F.R. 2148), the following transition area is amended to read:

EAU CLAIRE, WIS.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Eau Claire Municipal Airport (latitude 44° 51'50" N., longitude 91°29'10" W.); and within 2 miles each side of the Eau Claire VORTAC 011° radial, extending from the 9-mile radius area to 8 miles north of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within 8 miles south and 5 miles north of the 274° bearing from Eau Claire Municipal Airport, extending from the airport to 13 miles west of the airport and within the arc of a 14-mile radius circle centered on the Eau Claire VORTAC, extending from the Eau Claire VORTAC 256° radial clockwise to the Eau Claire VORTAC 091° radial.

[F.R. Doc. 67-14934, Filed, Dec. 22, 1967; 8:47 a.m.]

[Airspace Docket No. 67-CE-112]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On page 13934 of the FEDERAL REGISTER dated October 6, 1967, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Ottumwa, Iowa.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the amendment as so proposed is hereby adopted, subject to the following change: The Ottumwa Industrial Airport coordinates recited in the Ottumwa, Iowa, transition area designation as "latitude 41°06'25" N., longitude 92°26'50" W." are changed to read "latitude 41°06'20" N., longitude 92°26'50" W.".

This amendment shall be effective 0001 e.s.t., February 29, 1968.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Kansas City, Mo., on December 8, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

In § 71.181 (32 F.R. 2148), the following transition area is amended to read:

OTTUMWA, IOWA

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Ottumwa Industrial Airport (latitude 41°06'20" N., longitude 92°26'50" W.) and within 2 miles each side of the Ottumwa VORTAC 309° radial extending from the 6-mile radius area to 13 miles northwest of the airport; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at the intersection of a line 5 miles south of and parallel to the Ottumwa 351° radial and the arc of a 25-mile radius circle centered on the Ottumwa VORTAC, thence clockwise along the arc of a 25-mile radius circle centered on the Ottumwa VORTAC, to and south along a line 5 miles east of and parallel to the Ottumwa VORTAC 026° radial, to and clockwise along the arc of a 15-mile radius circle centered on the Ottumwa VORTAC, to and west along a line 5 miles south of and parallel to the Ottumwa VORTAC 251° radial to the point of beginning.

[F.R. Doc. 67-14935; Filed, Dec. 22, 1967; 8:47 a.m.]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER–534; Amdt. 16]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Miscellaneous Amendments

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of December 1967.

This amendment consists of editorial changes (1) to conform delegations of authority recited in section 02 with amended §§ 385.17 and 385.18 of the Organization Regulations;[1] (2) to revise sections 04 and 21 to effect deletions of carriers and a change in Western's reporting entities as the result of mergers and the addition of a newly certificated carrier; and (3) to revise sections 2–1(b) and 6—account 1311 to reflect amended provisions of sections 22(d) and 32(d).[2]

This regulation is issued by the undersigned, pursuant to a delegation of authority from the Board to the General Counsel in 14 CFR 385.19, and shall become effective 20 days after publication in the FEDERAL REGISTER. Procedures for review of this amendment by the Board are set forth in Subpart C of Part 385 (14 CFR 385.50–385.54).

Accordingly, the Board hereby amends Part 241 of the Economic Regulations (14 CFR Part 241), effective January 12, 1967, as follows:

1. Revise Section 02 to read as follows:

Section 02—Administration of Accounting and Reporting Regulations

(a) *Delegated authority to the Director, Bureau of Accounts and Statistics.* Under authority delegated by the Board as set forth in § 385.17 of this chapter, the Director, Bureau of Accounts and Statistics, is authorized to take any or all of the following actions:

(1) Waive any of the accounting, reporting, and record-retention requirements as warranted, to meet temporary or local conditions.

(2) Interpret the Board's accounting, reporting, and record-retention requirements. This authority may not be redelegated.

(3) Establish detailed standard accounting, reporting, and record-retention practices required to achieve conformance with regulations promulgated by the Board.

(4) Grant or deny with the concurrence of the General Counsel, the Director, Bureau of Economics and the Director, Bureau of Operating Rights, requests for confidential treatment of preliminary yearend financial reports.

(5) Grant or deny requests by air carriers for substitution of their own forms or adaptation of Board forms to meet special needs where Board approval of such forms is required by the Economic Regulations.

(6) Establish classification of aircraft types for reporting financial data and traffic capacity statistics.

(7) Prescribe, in specific instances, different passenger weight standards to approximate variations in actual experience, for reporting passenger ton-miles and available ton-miles.

(8) Require submission by carrier of special statements necessary to an explanation of any carrier accounting or reporting practice.

(9) Dismiss petitions for Board action with respect to accounting and reporting matters when such dismissal is requested or consented to by the petitioner.[3]

(b) *Delegated authority to the Chief, Regulations and Reports Division, Bureau of Accounts and Statistics.* Under authority delegated by the Board as set forth in § 385.18 of this chapter, the Chief, Regulations and Reports Division, Bureau of Accounts and Statistics, is authorized to take any or all of the following actions:

(1) Extend, with the concurrence of the Director, Bureau of Enforcement, the time period for the preservation of records relating to errors, oversales, irregularities, and delays in handling of passengers. (Category 303(a) of Schedule of Records in § 249.13(f) of this chapter.)

(2) Grant or deny individual requests for the extension of time for filing reports.

2. Amend Section 04—Air Carrier Groupings and Standard Name Abbreviations, by deleting the following air carriers:

GROUP II ROUTE AIR CARRIERS	
Central Airlines, Inc.	Central
GROUP III ROUTE AIR CARRIERS	
Pacific Northern Airlines, Inc.	Pacific Northern

3. Amend Section 2—General Accounting Policies, by deleting paragraph (c) and revising paragraph (b) of section 2–1 to read:

Sec. 2–1 Bases of allocation between entities.

* * * * *

(b) In accordance with the provisions of section 22(d) or 32(d), as applicable, each air carrier shall file with the Civil Aeronautics Board a statement detailing practices and techniques used in assigning and prorating profit and loss items between separate entities. The statement shall comply with the provisions of paragraph (a) of this section.

* * * * *

4. Amend Section 6—Objective Classification of Balance Sheet Elements, by revising paragraph (d) of account 1311 to read:

1311 Obsolescence and Deterioration Reserves—Expendable Parts.

* * * * *

(d) In accordance with the provisions of section 22(d) or 32(d), as applicable, each air carrier shall file with the Civil Aeronautics Board a statement fully describing its plans of accounting for reserves for obsolescence and deterioration of expendable parts. The required statement shall indicate for each class or type of parts the predetermined level of the inventory against which a reserve is being accrued and shall fully explain the bases of the estimated losses and the rate of reserve accrual.

5. Amend Section 21—Introduction to System of Reports, by amending the list "Route Air Carriers Reporting Entities" in paragraph (1) as follows:

(a) Add the following line after "American Airlines, Inc.":

Aspen Airways, Inc.	Dom-Special

(b) Delete the following lines:

Central Airlines, Inc.	Dom-Local
Mackey Airlines, Inc.	Int/Ter-Latin Amer
Pacific Northern Airlines, Inc.	Ter/Dom-Alaska
Pan American-Grace Airways, Inc.	Int/Ter-Latin Amer

(c) Revise the line for Western Air Lines, Inc. to read:

Western Air Lines, Inc.	Dom/Can-Trunk Int/Ter-Latin Amer Ter/Dom-Alaska

(Secs. 204(a), 407(a), Federal Aviation Act of 1958, as amended; 72 Stat. 743, 766; 49 U.S.C. 1324, 1377)

By the Civil Aeronautics Board.

[SEAL] JOSEPH B. GOLDMAN, *General Counsel.*

[F.R. Doc. 67–14946; Filed, Dec. 22, 1967; 8:47 a.m.]

[1] OR–19, effective June 21, 1967.

[2] ER–483, effective Jan. 1, 1967. Present section 2–1(c) is inconsistent with amended sections 22(d) and 32(d) and is deleted. In addition certain language in section 2–1(b) and section 6, account 1311(d), has become superfluous by amended sections 22(d) and 32(d) and is deleted.

Chapter III—National Transportation Safety Board

PART 430—RULES PERTAINING TO AIRCRAFT ACCIDENTS, INCIDENTS, OVERDUE AIRCRAFT, AND SAFETY INVESTIGATIONS

Miscellaneous Amendments

Part 430 is amended to expedite the receipt and processing of accident reports by the Board. This is accomplished by amending § 430.15 to provide that, effective January 1, 1968, all reports required to be filed under this section by operators of aircraft shall be filed with the nearest field office of the NTSB, including the reports presently required by this section to be filed with the nearest FAA Flight Standards District Office which involve fixed-wing aircraft with a maximum takeoff weight of 12,500 pounds or less. In addition, the definition of the term "substantial damage" in § 430.2 is amended to establish a uniform definition pertinent to all aircraft by eliminating the division of aircraft according to the takeoff weight of the aircraft and § 430.5 is modified to delete the requirement that the operator of an aircraft shall notify the Board with respect to fatal or serious injuries sustained during ground operation of the aircraft when the engines are operating but there is no intention of flight. Section 430.15 is also amended to reflect that effective January 1, 1968, the operator of an aircraft shall file his report on NTSB Form 6120.1 or 6120.2 rather than CAB Form 453 or 454.

Since these amendments are procedural in nature and will not impose any additional burden on any person, notice and public procedure hereon are unnecessary, and the amendments may be made effective in less than 30 days after adoption.

Accordingly, the National Transportation Safety Board hereby amends Part 430 of its regulations (14 CFR Part 430), effective January 1, 1968, as follows:

1. Amend § 430.2 to read as follows:

§ 430.2 Definitions.

As used in this part the following words or phrases are defined as follows:

"Aircraft accident" means an occurrence associated with the operation of an aircraft which takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, in which any person suffers death or serious injury as a result of being in or upon the aircraft or by direct contact with the aircraft or anything attached thereto, or the aircraft receives substantial damage.

"Fatal injury" means any injury which results in death within 7 days.

"Operator" means any person who causes or authorizes the operation of an aircraft, such as the owner, lessee, or bailee of an aircraft.

"Serious injury" means any injury which (1) requires hospitalization for more than 48 hours, commencing within 7 days from the date the injury was received; (2) results in a fracture of any bone (except simple fractures of fingers, toes, or nose); (3) involves lacerations which cause severe hemorrhages, nerve, muscle, or tendon damage; (4) involves injury to any internal organ; or (5) involves second or third degree burns, or any burns affecting more than 5 percent of the body surface.

"Substantial damage":

(1) Except as provided in subparagraph (2) of this paragraph, substantial damage means damage or structural failure which adversely affects the structural strength, performance, or flight characteristics of the aircraft, and which would normally require major repair or replacement of the affected component.

(2) Engine failure, damage limited to an engine, bent fairings or cowling, dented skin, small punctured holes in the skin of fabric, ground damage to rotor or propeller blades, damage to landing gear, wheels, tires, flaps, engine accessories, brakes, or wing tips are not considered "substantial damage" for the purpose of this part.

2. Amend § 430.5 to read as follows:

§ 430.5 Immediate notification.

The operator of an aircraft shall immediately, and by the most expeditious means available, notify the nearest National Transportation Safety Board, Bureau of Aviation Safety[1] Field Office when:

(a) An aircraft accident or any of the following listed incidents occur:

(1) Flight control system malfunction or failure;

(2) Inability of any required flight crewmember to perform his normal flight duties as a result of injury or illness;

(3) Turbine engine rotor failures excluding compressor blades and turbine buckets;

(4) In-flight fire;

(5) Aircraft collide in flight.

(b) An aircraft is overdue and is believed to have been involved in an accident.

3. Amend paragraph (a) of § 430.15 to read as follows:

§ 430.15 Reports and statements to be filed.

(a) *Reports.* The operator of an aircraft shall file a report as provided in paragraph (c) of this section on National Transportation Safety Board Form 6120.1 or 6120.2, which forms are attached hereto and incorporated herein as part of this section.[2]

(1) Within ten (10) days after an accident for which notification is required by § 430.5(a) or when after seven (7) days, an overdue aircraft is still missing.

(2) A report on an incident for which notification is required by § 430.5(a) shall be filed only as requested by an authorized representative of the National Transportation Safety Board.

* * * * *

4. Amend paragraph (c) of § 430.15 to read as follows:

§ 430.15 Reports and statements to be filed.

* * * * *

(c) *Where to file the reports.* The operator of an aircraft shall file with the Field Office of the National Transportation Safety Board nearest the accident or incident any report required by this section.

(Secs. 5(b), 5(k), and 6(c), 80 Stat. 935, 936, 938; sec. 701, 72 Stat. 781, as amended; 49 U.S.C. 1441, 1654)

By the National Transportation Safety Board.

[SEAL] JOSEPH J. O'CONNELL, Jr., *Chairman.*

DECEMBER 13, 1967.

[F.R. Doc. 67–14924; Filed, Dec. 22, 1967; 8:46 a.m.]

Chapter XV—Office of the Under Secretary of Commerce for Transportation, Department of Commerce

PART 1502—AIRCRAFT ALLOCATION

CROSS REFERENCE: For a document superseding Part 1502 of Chapter XV of Title 14, see F.R. Doc. 67–14911, Title 49, Subtitle A, Part 98, *infra.*

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Information Required in Proxy Statement

On December 11, 1952, in Securities Exchange Act Release No. 4775, which appeared at 17 F.R. 11431, the Commission announced the adoption of certain amendments to Regulation X–14 (17 CFR 240.14a–1 *et seq.*). Included among them, under Schedule 14A (later codified as 17 CFR 240.14a–101) was Item 21. On December 22, 1965, in Release 34–7775,

[1] The National Transportation Safety Board field offices are listed under U.S. Government in the telephone directories in the following cities: Anchorage, Alaska; Chicago, Ill.; Denver, Colo.; Fort Worth, Tex.; Kansas City, Mo.; Los Angeles, Calif.; Miami, Fla.; New York, N.Y.; Oakland, Calif.; Seattle, Wash.; Washington, D.C.

[2] Forms are obtainable from the National Transportation Safety Board Field Offices (see Footnote 1) or the National Transportation Safety Board, Washington, D.C. Forms filed as part of the original document.

which appeared at 31 F.R. 211, the Commission announced certain additional amendments to Schedule 14A, including amendments to Item 20 and Item 22 thereunder, but did not at that time either amend or revoke Item 21. Nevertheless, Item 21 was inadvertently deleted from this section at a subsequent printing of Title 17 of the Code of Federal Regulations. Since the Commission never revoked Item 21 from Schedule 14A, Item 21 is to be restored in § 240.14a–101 immediately following Item 20. As so restored, Item 21 reads as follows:

§ 240.14a–101 Schedule 14A. Information required in proxy statement.[1]

• • • • •

Item 21. Other proposed action. If action is to be taken with respect to any matter not specifically referred to above, describe briefly the substance of each such matter in substantially the same degree of detail as is required by Items 5 to 20, inclusive, above.

• • • • •

The Commission finds that the foregoing merely corrects an error in codification and does not affect the substance of Regulation 14A as it exists. Therefore, the procedures specified in section 3 of the Administrative Procedure Act as codified in 5 U.S.C. 552 are unnecessary.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

DECEMBER 18, 1967.

[F.R. Doc. 67–14906; Filed, Dec. 22, 1967; 8:45 a.m.]

Title 26—INTERNAL REVENUE

Chapter II—The Tax Court of the United States

PART 701—RULES OF PRACTICE

Computation of Time; Correction

In F.R. Doc. 67–14584 appearing at page 17890 of the issue for Thursday, December 14, 1967, make the following change:

Paragraph (a) of § 701.61 should read as follows:

§ 701.61 Computation of time; Saturdays, Sundays, and holidays.

(a) *Computation of time; exclusions.* The day of the act, event, or default starting any period of time prescribed or allowed by the rules in this part or by an order of this Court shall not be counted as a part of the period, but Saturdays, Sundays, legal holidays in the District of Columbia, and legal holidays established by other Federal statute shall count just as any other days, except that when the period would expire on a Saturday, Sunday, legal holiday in the District of Columbia, or a legal holiday established by other Federal statute, it shall extend to and include the next succeeding day that is not a Saturday, Sunday, or such legal holiday.

• • • • •

Dated: December 20, 1967.

By the Court.

WILLIAM M. DRENNEN, *Chief Judge, Tax Court of the United States.*

[F.R. Doc. 67–14882; Filed, Dec. 22, 1967; 8:45 a.m.]

Title 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice

[Order No. 387–67]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Settlement of Tort Claims

By virtue of the authority vested in me by sections 509 and 510 of Title 28 and section 301 of Title 5 of the United States Code, Part 0 of Chapter I of Title 28 of the Code of Federal Regulations is amended as follows:

§ 0.78 [Revoked]

1. Section 0.78 of Subpart O is revoked.

2. A new § 0.179 is added to Subpart W as follows:

§ 0.179 Authority; Federal tort claims.

(a) The Director of the Bureau of Prisons, the Commissioner of Federal Prison Industries, Inc., and the Commissioner of Immigration and Naturalization shall have authority to adjust, determine, compromise, and settle a claim involving the Bureau, Federal Prison Industries, Inc., and the Immigration and Naturalization Service, respectively, under section 2672 of Title 28, United States Code, relating to the administrative settlement of Federal tort claims, if the amount of a proposed adjustment, compromise, settlement or award does not exceed $2,500. When in the opinion of the said Director or one of the said Commissioners such a claim pending before him presents a novel question of law or a question of policy, he shall obtain the advice of the Assistant Attorney General in charge of the Civil Division.

(b) Subject to the provisions of § 0.160, the assistant Attorney General in charge of the Civil Division shall have authority to adjust, determine, compromise, and settle any other claim involving the Department under section 2672 of Title 28, United States Code, relating to the administrative settlement of Federal tort claims.

Dated: November 29, 1967.

RAMSEY CLARK, *Attorney General.*

[F.R. Doc. 67–14903; Filed, Dec. 22, 1967; 8:45 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

[CGFR 67–92]

SUBCHAPTER D—NAVIGATION REQUIREMENTS FOR CERTAIN INLAND WATERS

PART 80—PILOT RULES FOR INLAND WATERS

SUBCHAPTER F—NAVIGATION REQUIREMENTS FOR WESTERN RIVERS

PART 95—PILOT RULES FOR WESTERN RIVERS

Navigation Lights and Shapes for Towing Vessels and Dredges

1. Pursuant to the notice of proposed rule making published in the FEDERAL REGISTER of January 24, 1967 (32 F.R. 795–807), and the Merchant Marine Council Public Hearing Agenda dated March 20, 1967 (CG–249), the Merchant Marine Council held a public hearing on March 20, 1967, for the purpose of receiving comments, views, and data. The proposals considered were identified as Items PH 1–67 to PH 13–67, inclusive. Item PH 4–67 (CG–249, pages 81 to 88, inclusive) contained proposals regarding navigation lights and shapes for motorboats, uninspected vessels and inspected vessels. Item PH 4c–67 contained proposals regarding navigation lights and shapes for towing vessels and dredges on inland waters. Item PH 4d–67 contained proposals regarding navigation lights and shapes for towing vessels and dredges on western rivers. These proposals are adopted and set forth in this document. The necessary changes in the marine safety regulations regarding navigation lights and shapes for motorboats, uninspected vessels, and inspected vessels are in a separate document, CGFR 67–91.

2. Interested persons have been afforded an opportunity to participate in the consideration of these proposals. The Merchant Marine Council's actions with respect to comments received and proposals in Item PH 4–67 are approved.

3. The amendments to the rules of the road in this document are applicable to both new and existing vessels. Because definite light standards are established in 46 CFR Chapter I for all vessels other than public vessels of the United States, it is necessary to reduce the visibility requirement for red lights from 5 miles to 2 miles for certain vessels so that light requirements will be consistent.

4. By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by section 632 of Title 14, United States Code, and Department of Transportation Order 1100.1, dated March 31, 1967 (49 CFR 1.4(a)(2), 32 F.R. 5606), to promulgate regulations in accordance with the laws cited with the regulations below, the following amendments are prescribed and shall be effective on and after the 91st day after date of publication of this document in the FEDERAL REGISTER; however, the regulations in this document may be complied with in lieu of existing requirements prior to that date.

5. The authority note for Part 80 is amended to read as follows:

AUTHORITY: The provisions of this Part 80 issued under sec. 2, 30 Stat. 102, as amended, sec. 6(b)(1), 80 Stat. 938; 33 U.S.C. 157, 49 U.S.C. 1655(b); Department of Transportation Order 1100.1, Mar. 31, 1967, 49 CFR 1.4(a)(2), 32 F.R. 5606; unless otherwise noted.

LIGHTS AND DAY SIGNALS FOR VESSELS, DREDGES OF ALL TYPES, AND VESSELS WORKING ON WRECKS AND OBSTRUCTIONS, ETC.

6. Section 80.18(b) is amended to read as follows:

§ 80.18 Signals to be displayed by a towing vessel when towing a submerged or partly submerged object upon a hawser when no signals can be displayed upon the object which is towed.

• • • • •

(b) By night the towing vessel shall display the regular sidelights but in lieu of the regular white towing lights shall display four lights in a vertical position not less than 3 feet nor more than 6 feet apart, the upper and lower of such lights to be white and of the same character as the regular towing lights, and the middle of such lights to be red and of such character as to be visible on a dark night with a clear atmosphere for a distance of at least 2 miles.

7. Section 80.21(b) is amended to read as follows:

§ 80.21 Dredges underway and engaged in dredging operations.

• • • • •

(b) By night self-propelled dredges underway and engaged in dredging operations shall carry, in addition to the regular running lights, two red lights in a vertical line beneath the white masthead light. These red lights shall be not less than 3 feet nor more than 6 feet apart and the upper red light shall be not less than 3 feet nor more than 6 feet below the masthead light. They shall also carry on or near the stern two red lights in a vertical line not less than 3 feet nor more than 6 feet apart, to show through 12 points of the compass; that is, from right astern to 6 points on each quarter. The forward red lights and after red lights shall be of such character as to be visible on a dark night with a clear atmosphere for a distance of at least 2 miles.

8. Section 80.24 is amended by revising paragraphs (a) and (b) to read as follows:

§ 80.24 Lights generally.

(a) All the lights required by §§ 80.18 to 80.23, inclusive, except as provided in § 80.18(b), shall be of such character as to be visible on a dark night with a clear atmosphere for a distance of at least 2 miles. The white lights provided for in § 80.18(b) shall be visible for at least 5 miles.

(b) The lights required by § 80.18(b) shall be of the same construction as the regular towing lights. The lights required by § 80.21(b) shall be of the same construction as the masthead light.

• • • • •

MISCELLANEOUS

§ 80.40 [Amended]

8a. Section 80.40 *Exceptions to the statutory and regulatory requirements for lights, day signals, or other navigational means and appliances when operating under bridges* is amended by deleting from the authority note at the end thereof the phrase "Treasury Department Order 167–58, Jan. 29, 1964, 29 F.R. 2314".

9. The authority note for Part 95 is amended to read as follows:

AUTHORITY: The provisions of this Part 95 issued under R.S. 4233A, as amended, sec. 6(b)(1), 80 Stat. 938; 33 U.S.C. 353, 49 U.S.C. 1655(b); Department of Transportation Order 1100.1, Mar. 31, 1967, 49 CFR 1.4(a)(2), 32 F.R. 5606; unless otherwise noted.

GENERAL

§ 95.02 [Amended]

10. Section 95.02 *Demarcation lines between "Rules of the Road—Western Rivers" and "Rules of the Road—Great Lakes"* is amended by deleting from the authority note at the end thereof the phrase "Treasury Department Orders 120, July 31, 1950, 15 F.R. 6721; 167–17, June 29, 1955, 20 F.R. 4970, 167–33, September 23, 1958, 23 F.R. 7592."

LIGHTS AND DAY SIGNALS

11. Section 95.52(b) is amended to read as follows:

§ 95.52 Signals to be displayed by a towing vessel when towing a submerged or partly submerged object upon a hawser when no signals can be displayed upon the object which is towed.

• • • • •

(b) By night the towing vessel shall display the regular sidelights, but in lieu of the regular white towing lights shall display four lights in a vertical position not less than 3 feet, nor more than 6 feet apart, the upper and lower of such lights to be white and of the same character as the regular towing lights, and the middle of such lights to be red and of such character as to be visible on a dark night with a clear atmosphere for a distance of at least 2 miles.

12. Section 95.55(b) is amended to read as follows:

§ 95.55 Self-propelling suction dredges underway and engaged in dredging operations.

• • • • •

(b) By night self-propelled dredges underway and engaged in dredging operations shall carry, in addition to the regular running lights, two red lights in a vertical line beneath the white masthead light. These red lights shall be not less than 3 feet nor more than 6 feet apart and the upper red light to be not less than 3 feet nor more than 6 feet below the masthead light. They shall also carry on or near the stern two red lights in a vertical line not less than 3 feet nor more than 6 feet apart, to show through 12 points of the compass; that is, from right astern to 6 points on each quarter. The forward red lights and after red lights shall be of such character as to be visible on a dark night with a clear atmosphere for a distance of at least two miles.

13. Section 95.58 is amended by revising paragraphs (a) and (b) to read as follows:

§ 95.58 Lights generally.

(a) All the lights required by §§ 95.52 to 95.57, inclusive, except as provided in § 95.53(b), shall be of such character as to be visible on a dark night with a clear atmosphere for a distance of at least 2 miles. The white lights provided for in § 95.53(b) shall be visible for at least 3 miles.

(b) The lights required by § 95.53(b) shall be of the same construction as the regular towing lights. The lights required by § 95.55(b) shall be of the same construction as the masthead light.

• • • • •

Dated: December 19, 1967.

W. J. SMITH, *Admiral, U.S. Coast Guard, Commandant.*

[F.R. Doc. 67–14921; Filed, Dec. 22, 1967; 8:46 a.m.]

[CGFR 67–93]

SUBCHAPTER K—SECURITY OF VESSELS

PART 124—CONTROL OVER MOVEMENT OF VESSELS

SUBCHAPTER L—SECURITY OF WATERFRONT FACILITIES

PART 126—HANDLING OF EXPLOSIVES OR OTHER DANGEROUS CARGOES WITHIN OR CONTIGUOUS TO WATERFRONT FACILITIES

Bulk Cargoes Considered To Involve Particular Hazards

1. Pursuant to the notice of proposed rule making published in the FEDERAL REGISTER of January 24, 1967 (32 F.R. 795–807), and the Merchant Marine Council Public Hearing Agenda dated March 20, 1967 (CG–249), the Merchant Marine Council held a public hearing on March 20, 1967, for the purpose of receiving comments, views, and data. The proposals considered were identified as Items PH 1–67 to PH 13–67, inclusive. Item PH 3–67 (CG–249, pages 76 to 80, inclusive) contained proposals regarding United States and foreign vessels carrying bulk cargoes having particular hazards and the handling of bulk cargoes having particular hazards on waterfront facilities. These proposals, as revised, are adopted and set forth in this document.

2. Interested persons have been afforded an opportunity to participate in the consideration of these proposals.

Many changes were made in the proposals in Item PH 3–67. Informal meetings were held with the Chemical Transportation Advisory Panel of the Merchant Marine Council and others. The major changes consist of revising the descriptive term from "cargoes having potential unusual risks" to "cargoes considered to involve particular hazards"; listing the commodities considered to involve particular described hazards; clarifying the application of regulations to U.S. vessels engaged solely in domestic trade; and clarifying the conditions for establishing designated waterfront facilities for handling cargoes having particular hazards. The Merchant Marine Council's actions with respect to comments received and proposals in Item PH 3–67 are approved.

3. By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by section 633 of Title 14, United States Code, and Department of Transportation Order 1100.1, dated March 31, 1967 (49 CFR 1.4(a)(2), 32 F.R. 5606), to promulgate regulations in accordance with the laws and Executive orders cited with the regulations below, the following amendments and new regulations are prescribed and shall be effective on and after January 1, 1967:

4. The authority note for Part 124 is amended to read as follows:

AUTHORITY: The provisions of this Part 124 issued under sec. 1, 40 Stat. 220, as amended, sec. 6(b)(1), 80 Stat. 938; 50 U.S.C. 191, 46 U.S.C. 1655(b); E.O. 10173, 15 F.R. 7005, 3 CFR, 1950 Supp., E.O. 10277, 16 F.R. 7537, 3 CFR, 1951 Supp., E.O. 10352, 17 F.R. 4607, 3 CFR, 1952 Supp. Department of Transportation Order 1100.1, Mar. 31, 1967, 49 CFR 1.4(a)(2), 32 F.R. 5606.

5. Section 124.14 is amended to read as follows:

§ 124.14 Advance notice of arrival of vessel laden with explosives or certain specified dangerous cargoes.

(a) The master, agent, or person in charge of any domestic or foreign vessel which is bound for a port or place in the United States and which is carrying as cargo any of the dangerous cargoes described in this paragraph, whether for discharge in the United States or not, shall at least 24 hours in advance of arrival at each port or place, notify the Captain of the Port or the Commander of the Coast Guard District in which such port or place is located concerning the amount and location of stowage on board the vessel of any of the following:

(1) Explosives, class A (commercial or military).

(2) Oxidizing materials for which a special permit for water transportation is required by 46 CFR 146.22.

(3) Radioactive materials for which a special approval by the Commandant for water transportation is required by 46 CFR 146.25–30.

(4) Any dangerous cargo considered to involve a particular hazard, when transported or handled in bulk quantities, as further described in paragraph (b) of this section.

(b) (1) A dangerous cargo considered to involve a particular hazard, when transported in bulk quantities on board vessels, or when handled in bulk quantities on waterfront facilities, is any commodity which by virtue of its properties would create an unusual hazard if released. The commodities subject to this section are:

Acetaldehyde.	Hydrochloric acid.
Acetone cyanohydrin.	Methane.
	Methyl acrylate.
Acetonitrile.	Methyl bromide.
Acrylonitrile.	Methyl chloride.
Allyl alcohol.	Methyl methacrylate (monomer).
Allyl chloride.	
Ammonia, anhydrous.	Nonyl phenol.
	Oleum.
Aniline.	Phenol.
Butadiene.	Phosphorus, elemental.
Carbolic oil.	
Carbon disulfide.	Propane.
Chlorine.	Propylene.
Chlorohydrins, crude.	Propylene oxide.
	Sulfuric acid.
Crotonaldehyde.	Sulfuric acid, spent.
1,2-Dichloropropane.	
	Tetraethyl lead.
Dichloropropene.	Tetraethyl lead mixture.
Epichlorohydrin.	
Ethylene.	Vinyl acetate.
Ethyl ether.	Vinyl chloride.
Ethylene oxide.	Vinylidene chloride.

(2) Each commodity listed in subparagraph (1) of this paragraph is considered to possess one or more of the following properties:

(i) Is highly reactive or unstable; or

(ii) Has severe or unusual fire hazards; or

(iii) Has severe toxic properties; or

(iv) Requires refrigeration for its safe containment; or

(v) Can cause brittle fracture of normal ship structural materials or ashore containment materials by reason of its being carried at low temperatures, or because of its low boiling point at atmospheric pressure (unless uncontrolled release of the cargo is not a major hazard to life).

(c) For U.S. vessels, this section is applicable to such vessels on international voyages, coastwise voyages, or Great Lakes voyages. For foreign vessels this section is applicable to such vessels when bound to a port or place in the United States, or a port or place under the jurisdiction of the United States.

(d) When the arrival is a direct result of "force majeure" and it is not possible to give at least 24 hours advance notice, then advance notice as early as possible will be given.

6. The authority note for Part 126 is amended to read as follows:

AUTHORITY: The provisions of this Part 126 issued under sec. 1, 40 Stat. 220, as amended, sec. 6(b)(1), 80 Stat. 938; 50 U.S.C. 191, 49 U.S.C. 1655(b); E.O. 10173, 15 F.R. 7005, 3 CFR, 1950 Supp., E.O. 10277, 16 F.R. 7537, 3 CFR, 1951 Supp., E.O. 10352, 17 F.R. 4607, 3 CFR, 1952 Supp. Department of Transportation Order 1100.1, Mar. 31, 1967, 49 CFR 1.4(a)(2), 32 F.R. 5606.

7. Section 126.05 is amended by designating the present text as paragraph (a) and by adding a new paragraph (b) so that it reads as follows:

§ 126.05 Designated waterfront facility.

(a) *Designated waterfront facility.* The term "designated waterfront facility" means a waterfront facility designated by § 126.13 for the handling and storage of, and for vessel loading and discharging of, explosives, flammable or combustible liquids in bulk, or other dangerous articles or cargo covered by the regulations entitled "Explosives or Other Dangerous Articles on Board Vessels" (46 CFR Part 146) and the regulations governing tank vessels (46 CFR Parts 30 to 39, inclusive).

(b) *Facility of particular hazard.* The term "facility of particular hazard" means a designated waterfront facility which is authorized to handle in bulk quantities any of the commodities listed in § 124.14(b) or any commodity for which a permit is required by 46 CFR Part 146.

8. Section 126.15 is amended by revising paragraph (m)(6) and by adding a new paragraph (o), which read as follows:

§ 126.15 Conditions for designation as designated waterfront facility.

* * * * *

(m) * * *

(6) Cross aisles, at least five (5) feet wide and straight shall be maintained at intervals not exceeding seventy-five (75) feet, and extending to the side of the waterfront facility.

* * * * *

(o) *Maintenance of bulk liquid cargo transfer systems.* The cargo transfer system(s) used for handling any bulk dangerous cargo shall be so maintained as to prevent leakage. Suitable means, such as drip pans for collecting liquids, shall be provided during coupling or uncoupling operations if necessary.

9. Part 126 is amended by inserting after § 126.15 a new § 126.16 reading as follows:

§ 126.16 Conditions for designating a "facility of particular hazard."

(a) *Basic requirements.* The facility shall comply with all the conditions in § 126.15 except where specifically waived by § 126.11.

(b) *Warning alarms.* Warning alarms shall be installed at the waterside of such a facility to warn approaching or transiting water traffic of immediate danger in the event of fire or cargo release. Warning alarms shall be of the siren type, or the emergency rotating flashing light type, and be of sufficient intensity to be heard, or seen, a distance of 1 mile during normal facility working conditions. The alarm signal shall not conflict with local municipal prescription.

Dated: December 19, 1967.

W. J. SMITH,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 67-14922; Filed, Dec. 22, 1967; 8:46 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4339]

[Washington 018636]

WASHINGTON

Withdrawal for Colockum Game Range

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands which are under the jurisdiction of the Secretary of the Interior, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, and reserved for management in cooperation with the State of Washington as an addition to the existing Colockum Game Range:

WILLAMETTE MERIDIAN

T. 19 N., R. 21 E.,
Sec. 24, NW¼NE¼ and NE¼SE¼.
T. 19 N., R. 22 E.,
Sec. 4, lots 1, 2, 4, and SW¼SE¼;
Sec. 10, S½NW¼ and N½SW¼;
Sec. 12, lots 2, 3, 4, and 5;
Sec. 20, SE¼SW¼;
Sec. 24, lots 1, 2, 3, 4, W½NE¼, and W½;
Sec. 26, lots 1, 2, and SE¼SW¼.
T. 19 N., R. 23 E.,
Sec. 16, lot 2.

The areas described aggregate 1,262.07 acres in Kittitas County.

2. Upon execution of a cooperative agreement with the Secretary of the Interior or his delegate, the State of Washington is authorized to manage the lands for the conservation of wildlife, consistent with Federal programs for the management of the lands.

3. The withdrawal made by this order does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws. However, leases, licenses, contracts, or permits will be issued only if the proposed use of the lands will not interfere with the proper management of the Colockum Game Range.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

DECEMBER 18, 1967.

[F.R. Doc. 67-14903; Filed, Dec. 22, 1967; 8:45 a.m.]

Title 46—SHIPPING

Chapter II—Maritime Administration, Department of Commerce

SUBCHAPTER C—REGULATIONS AFFECTING SUBSIDIZED VESSELS AND OPERATORS

[General Order 23, Rev., Amdt. 6]

PART 282—UNIFORM SYSTEM OF ACCOUNTS FOR OPERATING-DIFFERENTIAL SUBSIDY CONTRACTORS

Miscellaneous Amendments

Part 282 of this title and chapter is hereby amended as set forth below:

1. Add a new section following § 282.0–10 under the center heading "General Instructions" to read as follows:

§ 282.0–11 Extraordinary and prior period items.

(a) (1) All items of profit and loss recognized during the year are includable in ordinary income except nonrecurring items which in the aggregate for the same class are both material in relation to operating revenues and ordinary income for the year and are clearly not identified with or do not result from the usual business operations of the year. Important items of the kind which occur from time to time and which, when material in amount, are to be excluded from ordinary income are those resulting from unusual sales of property and investment securities other than temporary cash investments; from wars and similar calamities and catastrophies, which are not a recurrent hazard of the business and which are not usually covered by insurance; from change in application of accounting principles; and from prior period items (other than ordinary adjustments of a recurring nature). Material items are those which, unless excluded from ordinary income, would distort the accounts and impair the significance of ordinary income for the year. Items so excludable from ordinary income are to be entered directly in the income accounts provided for extraordinary and prior period items upon approval or direction of the Administration.

(2) Adjustments constituting items of customary business activities or corrections or refinements resulting from the natural use of estimates inherent in the accounting process, including those arising from disposal of a unit of property sold or retired in the regular course of business operations, shall not be considered extraordinary or prior period items regardless of size.

(b) In determining materiality, items of a similar nature shall be considered in the aggregate; dissimilar items should be considered individually. As a general standard, an item to qualify for inclusion as an extraordinary or prior period item, shall exceed 1 percent of total waterline operating revenues and 10 percent of ordinary income for the year.

(c) Ordinary delayed items and adjustments arising during the current year which are applicable to or related to transactions of prior years shall be included in the same accounts which would have been charged or credited if the item had been taken up or adjusted in the period to which it pertained. Ordinary delayed items exclude items of the character described in paragraph (a) of this section.

2. Amend § 282.329 *Reserve for revaluation of investments* by revising paragraph (a) thereof to read as follows:

§ 282.329 Reserve for revaluation of investments.

(a) This account shall be credited at the close of each accounting period with amounts necessary to reflect the decline in value of securities and other assets held as investments, where there appears to be a permanent impairment in their value, by contra charge to account 979, "Miscellaneous deductions from income," or account 990, "Extraordinary items," as appropriate.

* * * * *

3. Amend § 282.330 *Property and equipment* by revising paragraph (a) thereof as follows:

§ 282.330 Property and equipment.

(a) This account shall include the cost of acquisition or construction, including additions and betterments, of property and equipment owned by the carrier.

* * * * *

4. Amend § 282.332 *Reserve for amortization and depreciation; vessels* by changing the heading and paragraph (a) thereof to read as follows:

§ 282.332 Reserve for depreciation; vessels.

(a) This account shall be credited with all depreciation on vessels charged to account 961, "Depreciation; floating equipment; vessels."

* * * * *

5. Amend § 282.338 *Reserve for amortization and depreciation; other floating equipment* by changing the heading and paragraph (a) thereof to read as follows:

§ 282.338 Reserve for depreciation; other floating equipment.

(a) This account shall be credited with all depreciation charged to account 964, "Depreciation; other floating equipment."

* * * * *

6. Amend § 282.343 *Terminal property and equipment* to read as follows:

§ 282.343 Terminal property and equipment.

(a) This account shall include the cost of construction or acquisition, in-

cluding additions and betterments, of terminal, land, buildings (including improvements to property under long term lease), shore cranes, trucks, furniture and fixtures, and other terminal gear and equipment.

(b) Subsidiary accounts shall be subdivided as between the various kinds of property and equipment, and shall be maintained in such manner as to show location, original cost, cost of additions and betterments.

7. Amend § 282.344 *Reserve for amortization and depreciation; terminal property and equipment* by changing the heading and paragraph (a) thereof to read as follows:

§ 282.344 Reserve for depreciation; terminal property and equipment.

(a) This account shall be credited with all depreciation on terminal property and equipment which is charged to account 987, "Depreciation; terminal property and equipment."

* * * * *

§ 282.349 [Amended]

8. Amend § 282.349 *Other shipping property and equipment* by deleting in in paragraph (a) thereof the following after the word "betterments" ", and any appreciated book value" and by deleting the following ", and any appreciation of book value" at the end of paragraph (b).

§ 282.350 [Amended]

9. Amend § 282.350 *Reserve for amortization and depreciation; and other shipping property and equipment* by changing the heading thereof to read "§ 282.350 Reserve for depreciation; other shipping property and equipment."

10. Amend § 282.354 *Reserve for amortization and depreciation; nonshipping property and equipment* by changing the heading and paragraph (a) thereof to read as follows:

§ 282.354 Reserve for depreciation; nonshipping property and equipment.

(a) This account shall be credited with all depreciation on nonshipping property and equipment which is charged to account 986, "Depreciation; nonshipping property and equipment."

* * * * *

11. Amend § 282.384 *Debt discount and expense* by revising paragraph (b) thereof to read as follows:

§ 282.384 Debt discount and expense.

* * * * *

(b) When an issue of funded debt, or any part thereof, is refunded and at the date of refunding there is a balance of unamortized discount and expense relating to such issue, such balance, together with any premium paid in retiring such issue, shall be charged to account 979, "Miscellaneous deductions from income," or to account 990, "Extraordinary items," as may be appropriate, in accordance with the text of these accounts.

12. Amend § 282.556 *Premium on funded debt* by revising paragraph (b) thereof to read as follows:

§ 282.556 Premium on funded debt.

* * * * *

(b) When an issue of funded debt or any part thereof is refunded and at the date of refunding there is a balance of unamortized premium relating thereto, the amount of such balance shall be credited to account 690, "Miscellaneous other income," or to account 990, "Extraordinary items," as may be appropriate, in accordance with the text of these accounts.

§ 282.570 [Amended]

13. Amend § 282.570 *Reserve for insurance* by revising the last sentence of paragraph (b) to read "At the end of each accounting year, any balance in this account applicable to voyages terminated during the preceding accounting year, in those instances where the records indicate that all claims have been settled, shall be transferred to the appropriate insurance expense account, consistent with § 282.0–11(c)."

§ 282.595 [Deleted]

14. Delete § 282.595 *Appreciation surplus* in its entirety.

15. Revise § 282.599 *Earned surplus; unappropriated* to read as follows:

§ 282.599 Earned surplus; unappropriated.

(a) All profits and losses shown in account 095, "Profit and loss account," at the end of the accounting year shall be recorded in this account.

(b) Any part of earned surplus appropriated for any purpose shall be charged to this account, including excess profits accruing to the Maritime Administration under the "recapture" clauses in sections 606 and 607 of the Merchant Marine Act, 1936, which shall be credited to account 550, "Recapturable profits; Maritime Administration."

(c) This account shall include losses on resale of reacquired capital stock and charges which reduce or write off discount on capital stock issued by the company but only to the extent that such charges exceed credit balances in capital surplus for shares reacquired.

(d) This account shall include other adjustments, net of assigned Federal income taxes, not provided for elsewhere in this system but only after such inclusion has been authorized by the Administration.

16. Amend the center heading preceding § 282.600 and revise paragraph (a) of § 282.600 to read as follows:

INCOME ACCOUNTS
ORDINARY ITEMS
WATER LINE OPERATING REVENUE

§ 282.600 Operating revenue; terminated voyages.

(a) This account shall include all revenue on terminated voyages transferred from account 500, "Unterminated voyage revenue." Revenue items recorded on terminated voyages, after the transfer has been made, shall be posted in detail direct to this account. Revenue items arising in connection with voyages terminated in prior years shall be accounted for as ordinary delayed items pursuant to § 282.0–11(c).

* * * * *

17. Revise § 282.690 *Miscellaneous other income* to read as follows:

§ 282.690 Miscellaneous other income.

(a) This account shall include all income not provided for elsewhere, such as:

Cash discounts.
Profits from conversion of foreign currencies. (Transferred from account 060, "Foreign exchange account.")
Fees collected in connection with exchange of coupon bonds for registered bonds.
Profit from sale of securities.
Profit from sale of shipping and nonshipping property.
Profit from company bonds reacquired.

(b) When the profit from sale of property and equipment, or securities, or from reacquisition of the company's own bonds is of an amount sufficiently large to constitute an extraordinary item, pursuant to § 282.0–11, such profit shall be credited to account 990, "Extraordinary items."

§ 282.700 [Amended]

18. Amend § 282.700 *Operating expenses; terminated voyages* by revising the last sentence of paragraph (a) thereof to read "Expense items arising in connection with voyages terminated in prior years shall be accounted for as ordinary delayed items pursuant to § 282.0–11(c)."

19. Amend § 283.979 *Miscellaneous deductions from income* to read as follows:

§ 282.979 Miscellaneous deductions from income.

(a) This account shall include amounts properly chargeable to income, not provided for elsewhere, such as:

Calls for bids in accordance with provision of mortgages.
Cost of advertising bonds drawn for redemption.
Losses due to conversion of foreign currencies. (Transferred from account 060, "Foreign exchange account.")
Premiums on bonds to assure performance of contracts when chargeable to income.
Taxes on interest on funded debt payable at source under tax-free covenants.
Trusts, current expenses of maintaining, and administering.
Trustees' commissions and fees for paying bond interest on coupons and expenses connected with such payments.
Loss on sale of shipping and nonshipping property and equipment.
Loss on sale of securities and charges to write down the book value of securities because of impairment in their value.
Loss on company bonds reacquired.

(b) When the loss from sale of property and equipment, or securities, or from write down of securities because of impairment in value, or reacquisition of the company's own bonds is of an amount sufficiently large to constitute an extraordinary item, pursuant to § 282.0–11 such loss shall be charged to account 990, "Extraordinary items."

§ 282.985 [Redesignated]

20. Section 282.985 *Expense of nonshipping operations* is redesignated § 282.985.

21. Redesignate § 283.986 *Depreciation; nonshipping property and equipment* as § 282.986 and revise it to read as follows:

§ 282.986 Depreciation; nonshipping property and equipment.

The annual or other periodical accrual of depreciation of property and equipment used in ventures other than shipping and shipping auxiliary operations shall be charged to this account with a corresponding credit to account 354, "Reserve for depreciation; nonshipping property and equipment."

22. Revise the heading and text of § 282.999 *Provision for Federal income taxes* to read as follows:

§ 282.989 Federal income taxes on ordinary income.

(a) This account shall be charged with accrued provision for Federal income taxes applicable to ordinary income of the accounting year. See the text of account 599, "Earned surplus; unappropriated" and account 998, "Federal income taxes on extraordinary and prior period items," for recording other income tax consequences.

(b) Details pertaining to the tax consequences of other unusual and significant items and also cases where the tax consequences are disproportionate to the related amounts included in the income accounts, shall be submitted to the Administration for consideration and decision as to proper accounting.

(c) Income taxes which are refundable or reduced as the result of carryback or carry-forward of operating loss shall be credited to this account, if a carryback, in the year in which the loss occurs, or, if a carry-forward, in the year in which such loss is applied to reduce taxes. However, when the amount constitutes an extraordinary item pursuant to § 282.0–11, it shall be included in account 994, "Prior period items."

23. Add a new center heading and sections (Account Numbers) following new § 282.989 *Federal income taxes on ordinary income* reading as set forth below:

EXTRAORDINARY AND PRIOR PERIOD ITEMS

§ 282.990 Extraordinary items (net).

(a) This account shall include extraordinary items accounted for during the current accounting year in accordance with the text of § 282.0–11, upon approval of the Administration. Among the items which shall be included in this account are:

Net gain or loss on sale of shipping and nonshipping property and equipment.
Net gain or loss on sale of securities and charges to write down the book value of such securities because of impairment of value.
Net gain or loss on reacquisition of company bonds.
Change in application of accounting principles.

(b) This account shall be maintained to show the nature and gross amount of each debit and credit, together with the applicable year, vessel name, and voyage number.

(c) Federal income tax consequences of charges and credits to this account shall be recorded in account 998, "Federal income taxes on extraordinary and prior period items."

§ 282.994 Prior period items (net).

(a) This account shall include unusual delayed items accounted for during the current accounting year in accordance with the text of § 282.0–11, upon approval of the Administration. Among the items which shall be included in this account are:

Unusual adjustments, refunds or assessments of Federal income taxes of prior years.
Similar items representing transactions of prior years which are not identifiable with or do not result from business operations of the current year.

(b) This account shall be maintained to show the nature and gross amount of each debit and credit, together with the applicable year, vessel name, and voyage number.

(c) Federal income tax consequences of charges and credits to this account shall be recorded in account 998, "Federal income taxes on extraordinary and prior period items."

§ 282.998 Federal income taxes on extraordinary and prior period items.

This account shall include the estimated Federal income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which, for accounting purposes, are classified as unusual and extraordinary, and are recorded in accounts 990, "Extraordinary items" and 994, "Prior period items."

§ 282.090 [Deleted]

24. Delete § 282.090 *Adjustments applicable to prior periods* in its entirety.

25. Revise § 282.095 *Profit and loss account* to read as follows:

§ 282.095 Profit and loss account.

At the end of the accounting year this account shall be credited or charged, as the case may be, with the balances in all ordinary, extraordinary and prior period revenue and expense accounts, except where otherwise specifically indicated. After all entries have been made, the account shall reflect the net income for the accounting year. The net balance in this account after adjustments have been made for the accounting year shall be transferred to account 599, "Earned surplus; unappropriated."

§ 282.0–20 [Amended]

26. Amend § 282.0–20 *Balance sheet statement* by deleting account 595, "Appreciation surplus" and by changing the headings of certain accounts listed thereunder to read as follows:

382 Less: Reserve for depreciation.
386 Less: Reserve for depreciation.
844 Less: Reserve for depreciation.
850 Less: Reserve for depreciation.
864 Less: Reserve for depreciation.

§ 282.0–30 [Amended]

27. Amend § 282.0–30 *Income statement* by (a) inserting a new center heading "Ordinary Items" directly preceding the accounts listing; (b) deleting line items following Account No. 695, and (c) adding the following:

985 Expense of nonshipping operations.
Gross profit (or loss) from nonshipping operations.
986 Overhead expense.
986 Depreciation; nonshipping property and equipment.
Total expenses.
Net profit (or loss) from nonshipping operations.
Ordinary income (or loss) before Federal income taxes.
989 Federal income taxes on ordinary income.
Ordinary income (or loss).

EXTRAORDINARY AND PRIOR PERIOD ITEMS

990 Extraordinary items (net).
994 Prior period items (net).
998 Federal income taxes on extraordinary and prior period items.
Total extraordinary and prior period items.
Net income (or loss).

Effective date. The foregoing shall be effective January 1, 1967.

(Sec. 204, 49 Stat. 1967, as amended; 46 USC, 1114; Cross Reference: 49 CFR Part 293)

By order of the Acting Maritime Administrator.

Dated: December 19, 1967.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 67-14913; Filed, Dec. 22, 1967; 8:45 a.m.]

Title 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation

[OST Docket No. 14]

PART 93—AIRCRAFT ALLOCATION

Part 1502 of Title 14, Code of Federal Regulations, published in the FEDERAL REGISTER on January 22, 1964 (29 F.R. 526), contained certain rules implementing section 3(c)(2) of Executive Order 10999, relating to aircraft allocation to the Department of Defense for the Civil Reserve Air Fleet Program and as a civil reserve fleet for use in that program. At that time the regulation was administered by the Office of Emergency Transportation in the Office of the Under Secretary of Commerce for Transportation. Under the Department of Transportation Act (Public Law 89-670) this function was transferred to the Department of Transportation and the regulation is now administered by the Office of Emergency Transportation within the Office of the Secretary of Transportation.

For these reasons, Part 1502 of Title 14 is being superseded by a new Part 93 of Title 49 CFR, containing the substance of Part 1502 with changes in

terminology to reflect the vesting of functions within the Department of Transportation.

Since this amendment relates to Departmental management, procedures, and practices, notice and public procedure thereon is unnecessary and it may be made effective in less than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Title 49 of the Code of Federal Regulations is amended by adding the following new Part 93 "Aircraft Allocation" which supersedes the Department of Commerce regulation Part 1502 of Title 14, dated January 22, 1964. This amendment is effective upon publication in the FEDERAL REGISTER.

Issued in Washington, D.C., on December 19, 1967.

ALAN S. BOYD,
Secretary of Transportation.

Sec.
93.1 Issuance of aircraft allocations.
93.3 Reporting requirements.

AUTHORITY: The provisions of this Part 93 issued under sec. 9, Department of Transportation Act (49 U.S.C. 1657).

§ 93.1 Issuance of aircraft allocations.

From time to time, the Director, Office of Emergency Transportation, issues planning orders allocating aircraft to the Department of Defense, identified by FAA registration number, for the Civil Reserve Air Fleet Program, or as a reserve fleet for use in certain contingencies in the Civil Reserve Air Fleet Program of the Department of Defense. The current listing of aircraft allocations will appear in the Notices section of the FEDERAL REGISTER.

§ 93.3 Reporting requirements.

In the event any aircraft identified in the allocations in effect—

(a) Is destroyed or suffers major damage the owner or operator, or both, shall give immediate notice thereof to the Director, Office of Emergency Transportation; or

(b) Is sold, leased, or otherwise transferred, the transferor or owner, or both, shall give immediate notice thereof to the Director, Office of Emergency Transportation, together with full information concerning the identity of the transferee, the date and place of transfer, and the terms and conditions of the transfer.

[F.R. Doc. 67-14911; Filed, Dec. 22, 1967; 8:46 a.m.]

Chapter X—Interstate Commerce Commission

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 86]

PART 1100—GENERAL RULES OF PRACTICE

Miscellaneous Amendments

Order. At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 15th day of December 1967.

There being under consideration the Commission's general rules of practice and for good cause appearing therefor:

It is ordered, That Part 1100 of Chapter X of Title 49 be amended as follows:

1. In § 1100.8, the caption, opening paragraph, and paragraph (a) are amended and a new paragraph (c) is added to read as follows:

§ 1100.8 Practitioners' qualifications and requirements. (Rule 8)

The following persons shall be permitted to practice before the Commission:

(a) *Attorneys at Law.* Any person who is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth or the District of Columbia may represent others before the Commission upon filing with the Commission a written declaration so stating that he is currently qualified. The written declaration shall contain the declarant's full name, address, and telephone number. A declaration may be filed with the Secretary of the Commission in the form as shown in Appendix D to this part, in which event the attorney's name will be entered in the Register of Attorneys at Law. Attorneys may also file declarations with the Secretary or a Hearing Officer when making an initial appearance in any proceeding and the Attorney's name will be entered in the Register of Attorneys at Law. Once an attorney's name is entered in the Register of Attorneys at Law no further declaration of qualification will be required except in those instances where an attorney's right to practice has been suspended in which event a written declaration will be required that he is now properly qualified in accordance with this paragraph.

* * * * *

(c) *Appearances.* Practitioners who meet the requirements set forth in paragraphs (a) and (b) of this section shall also file a declaration that they are authorized to represent the particular party in whose behalf they propose to act at the time of making an initial appearance in any proceeding. This requirement will be met by the practitioner entering his name as the representative of an applicant in the appropriate space on an application form; by signing any complaint, petition, protest, reply, or other pleading with a designation following the practitioner's signature that he is the attorney or other representative of a party therein named; by entering an appearance on the form provided at any hearing; or by filing a letter with the Secretary of the Commission stating that he is authorized to represent a party, whose name and address is given in a particular proceeding which shall be identified.

2. In § 1100.9 the caption and text is amended to read as follows:

§ 1100.9 Nonattorneys' applications for admission to practice. (Rule 9)

An application under oath for admission to practice shall be addressed to the Commission, Washington, D.C. 20423, and must state the name, residence address, and business address of the applicant, and the nature of his qualifications. Such application shall also state whether the applicant has ever been suspended or disbarred as an attorney, or whether his right to practice has ever been revoked by any court, commission, or administrative agency, in any jurisdiction. Such application shall be accompanied by a certificate signed by three or more practitioners as sponsors for the applicant, which certificate shall recite that applicant possesses all the requisite qualifications under this section and under Rule 8(b), and the sponsors shall incorporate in their certificate a recommendation and motion that applicant be admitted to practice under this section.

3. In § 1100.10, the caption is amended to read as follows:

§ 1100.10 Additional certificates by applicant's sponsors; hearing; abandonment of application. (Rule 10)

* * * * *

4. Section 1100.11 is revised to read as follows:

§ 1100.11 Application fee. (Rule 11)

An application filed under Rule 9 must be accompanied by a fee of $10. Payment must be made either in cash, or by check, or money order payable to the Interstate Commerce Commission. The fee will be returned if applicant is not admitted to practice.

5. In § 1100.12, the caption and text is amended to read as follows:

§ 1100.12 Applicant's oath. (Rule 12)

No applicant under Rule 9 shall be admitted to practice before the Commission until he shall have subscribed to an oath or affirmation that he will demean himself, as a practitioner before the Commission, uprightly, and according to law; and that he will support the Constitution of the United States and laws of the United States and will conform to the rules and regulations of the Commission.

6. Section 1100.13 is revised to read as follows:

§ 1100.13 Denial of admission, censure, suspension, or disbarment of practitioners. (Rule 13)

The Commission may, in its discretion, deny admission, censure, suspend, or disbar any person not an attorney who, it finds, does not possess the requisite qualifications to represent others, or is lacking in character, integrity, or proper professional conduct. All persons whether or not admitted to practice under Rule 8 or 9, must, in their representations before the Commission conform to the code of ethics for Practitioners, which code is set forth as Appendix A to this part. If for good cause shown, the Commission shall be of the opinion that any attorney is not conforming to such standards, or that he has been otherwise guilty of conduct warranting disciplinary action the Commission may issue an order requiring such attorney to show cause why he should not be suspended or denied the right to practice before the Commission. If such attorney shall fail to show good cause why he should not be suspended or denied the right to practice, he may be censured, suspended, or disbarred. Any person who has been admitted to practice may be suspended or disbarred only after he is afforded an opportunity to be heard.

7. Following the text of Part 1100, a new Appendix D is added reading as follows:

APPENDIX D

I, _____
(Name)
_____ _____
(Address) (Telephone No.)
hereby declare that I am an attorney at law qualified as a member in good standing of the bar of the highest court of the[1] _____
_____

_____
(Signature)

(Secs. 12, 17, 24 Stat. 383, as amended, 385, as amended; secs. 204, 208, 49 Stat. 546, as amended; secs. 304, 316, 54 Stat. 933, 946; secs. 408, 417, 56 Stat. 285, 297; 49 U.S.C. 12, 17, 304, 908, 904, 916, 1003, 1017)

It is further ordered, That these amendments shall be effective December 29, 1967.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy hereof in the Office of the Secretary of the Commission, Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 67-14925; Filed, Dec. 22, 1967; 8:46 a.m.]

[1] Specify State, possession, Commonwealth or territory.

Proposed Rule Making

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 67-SW-60]

CONTROL ZONES AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter controlled airspace in the San Antonio, Tex., terminal area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

The Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

It is proposed to amend the San Antonio, Tex. (International Airport) control zone, as described in FAR, Part 71, § 71.171 (32 F.R. 2133), as follows:

SAN ANTONIO, TEX. (INTERNATIONAL AIRPORT)

That airspace within a 5-mile radius of San Antonio International Airport (lat. 29°31'50" N., long. 98°28'12" W.); within 2 miles each side of the San Antonio VORTAC 184° radial (175° magnetic) extending from the 5-mile radius zone 1 mile south of the VORTAC; within 2 miles each side of the San Antonio ILS localizer northwest course extending from the 5-mile radius zone to 1 mile southeast of the OM, within 2 miles each side of the San Antonio ILS localizer northeast course extending from the 5-mile radius zone to 6 miles northeast of the airport, and within 2 miles each side of San Antonio ILS localizer southeast course extending from the 5-mile radius zone to 7 miles southeast of the localizer, and within 2 miles each side of a 132° bearing (123° magnetic) from the RBN extending from the 5-mile radius zone to 15.5 miles southeast of the RBN.

The control zone extensions 7 miles southeast of the localizer and 15.5 miles southeast of the RBN will provide controlled airspace for aircraft executing ILS and ADF approaches respectively to Runway 30L at San Antonio International Airport.

It is proposed to amend the San Antonio, Tex. (Randolph AFB) control zone, as described in FAR, Part 71, § 71.171 (32 F.R. 2133), as follows:

SAN ANTONIO, TEX. (RANDOLPH AFB)

That airspace within a 5-mile radius of Randolph AFB (lat. 29°32'09" N., long. 98°16'57" W.); within 2 miles each side of the La Vernia, Tex., VOR 329° and 332° radials (320° magnetic and 329° magnetic respectively) extending from the 5-mile radius zone to 1 mile northwest of the VOR, within 2 miles each side of the Randolph AFB TACAN 323° radial (314° magnetic) extending from the TACAN to 8 miles northwest, and within 2 miles each side of the Randolph AFB TACAN 156° (147° magnetic) radial extending from the TACAN to 8 miles southeast.

The control zone extensions 8 miles northwest and 8 miles southeast of the Randolph AFB TACAN will provide necessary controlled airspace for aircraft executing en route radar tacan approaches to Runways 14L/32R at Randolph AFB.

It is proposed to amend the San Antonio, Tex., 700-foot portion of the transition area, as described in FAR, Part 71, § 71.181 (32 F.R. 2249, 10840), as follows:

SAN ANTONIO, TEX.

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 29°22'30" N., long. 97°47'00" W., thence west via lat. 29°22'30" N., to and clockwise along the arc of a 23-mile radius circle centered at lat. 29°21'50" N., long. 98°28'12" W., to lat. 29°46'30" N., east of long. 98°30'00" W.; thence to lat. 29°43'00" N., long. 98°01'30" W., thence to point of beginning, within 5 miles northeast and 8 miles southwest of the La Vernia VOR 149° radial (140° magnetic) extending from the VOR to 12 miles southeast, within 2 miles each side of the Kelly VOR 189° (180° magnetic) radial extending from the VOR to 26 miles south; within 2 miles each side of the Stinson VOR 166° radial (157° magnetic) extending from the VOR to 8 miles southeast, and within 2 miles each side of the Stinson VOR 148° radial (139° magnetic) extending from the VOR to 16 miles southeast.

Extensions to the 700-foot portion of the San Antonio, Tex., transition area will provide necessary controlled airspace for aircraft executing the VOR instrument approach to Stinson Municipal Airport and for IFR aircraft transitioning from the McCoy intersection to the Stinson VOR.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Fort Worth, Tex., on December 14, 1967.

A. L. COULTER,
Acting Director, Southwest Region.

[F.R. Doc. 67-14986; Filed, Dec. 22, 1967; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-AL-24]

CONTROLLED AIRSPACE

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a control area between Bettles, Alaska, and Point Barrow, Alaska.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The Federal Aviation Administration proposes the designation of the Bettles, Alaska, additional control area as that airspace within 5 nautical miles each side of a direct line extending from the Bettles radio beacon to the Point Barrow, Alaska, radio beacon (Identification—PBA) including the additional airspace between lines diverging at 5° angles from the centerline extending northwest from the Bettles radio beacon and southeast from the Point Barrow radio beacon and which terminate at the intersecting points midway between Bettles and Point Barrow; excluding the airspace within the Continental Control Area and the airspace above FL 450 north of lat. 68°-00'00" N. The floor for the additional control area would be designated from the Bettles radio beacon 48 nautical miles, 3,000 feet MSL; 128 nautical miles, 9,500 feet MSL; thence 1,500 feet MSL to the Chip River Intersection (intersection of the Point Barrow radio beacon (PBA) 155° T (129° M) and the Lonely, Alaska, radio beacon 246° T (218° M) bearings); thence 1,500 feet MSL to the Point Barrow radio beacon (PBA). This additional control area would be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time would thereafter be continuously published in the Alaska Airman's Guide and Chart Supplement.

The proposed control area would provide controlled airspace for the high volume of scheduled and itinerant flight operations which operate between these terminals under instrument flight rules. Air-ground communications would be provided within the proposed control area by the Bettles and Point Barrow Flight Service Stations.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on December 18, 1967.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-14987; Filed, Dec. 22, 1967; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-CE-160]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Moberly, Mo.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

The special instrument approach procedures serving Omar N. Bradley Airport, Moberly, Mo., utilizing a privately owned radio beacon located on the airport as a navigational aid, are primarily used by Ozark Airlines. Since these special procedures are not presently protected by controlled airspace, the Federal Aviation Administration believes it to be in the public interest to designate a transition area at Moberly in order to provide this protection.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (32 F.R. 2148), the following transition area is added:

MOBERLY, MO.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Omar N. Bradley Airport (latitude 39°-27'50" N., longitude 92°25'40" W.); within 2 miles each side of the 026° bearing from Omar N. Bradley Airport, extending from the 6-mile radius area to 18 miles northeast of the airport; and within 5 miles northeast and 8 miles southwest of the 316° bearing from Omar N. Bradley Airport, extending from the airport to 12 miles northwest of the airport; and that airspace extending upward from 1,200 feet above the surface, within 5 miles southeast and 8 miles northwest of the 026° bearing from Omar N. Bradley Airport, extending from the airport to 12 miles northeast of the airport.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued at Kansas City, Mo., on December 8, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 67-14988; Filed, Dec. 22, 1967; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-SO-120]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Madison, Ga., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Area Manager, Atlanta Area Office, Attention: Chief, Air Traffic Branch, Federal Aviation Administration, Post Office Box 20636, Atlanta, Ga. 30320. All communications received within thirty days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The Madison transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Madison Municipal Airport (lat. 33°36'46" N, long. 83°27'39" W.); within 2 miles each side of the Athens VORTAC 199° radial, extending from the 6-mile radius area to 18 miles south of the VORTAC.

The proposed transition area is required for the protection of IFR operations at Madison Municipal Airport. A prescribed instrument approach procedure to this airport utilizing the Athens VORTAC is proposed in conjunction with the designation of this transition area.

The official docket will be available for examination by interested persons at the Southern Regional Office, Federal Aviation Administration, Room 724, 3400 Whipple Street, East Point, Ga.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)).

Issued in East Point, Ga., on December 13, 1967.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 67-14989; Filed, Dec. 22, 1967; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-SW-59]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a transition area at Conroe, Tex. The proposed transition area will provide airspace protection for aircraft executing approach/departure procedures proposed at Montgomery County Airport, Conroe, Tex.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, South-

west Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (32 F.R. 2148), the following transition area is added:

COMFORT, TEX.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Montgomery County Airport (lat. 30°21'-07" N., long. 95°26'55" W.); and within 2 miles each side of the 326° bearing (320° magnetic) from the Comfort RBN (lat. 30°21'50" N., long. 95°26'20" W.), extending from the 6-mile radius area to 8 miles northwest of the RBN.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Fort Worth, Tex., on December 14, 1967.

A. L. COULTER,
Acting Director, Southwest Region.

[F.R. Doc. 67-14940; Filed, Dec. 22, 1967; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2, 87]

[Docket No. 17868]

HIGH FREQUENCY (HF) CHANNELS

Use for Flight Test Purposes and in Support of Offshore Drilling Operations; Order Extending Time for Filing Comments

In the matter of amendment of Parts 2 and 87 of the Commission's rules to permit use of high frequency (HF) channels for flight test purposes and in support of offshore drilling operations, Docket No. 17858, RM 1000.

1. A notice of proposed rule making was released in this proceeding November 9, 1967. It provided for the filing of comments by December 18, 1967, and reply comments by December 28, 1967. The Aerospace and Flight Test Radio Coordinating Council (AFTRCC) has filed a motion for extension of time in which to file comments.

2. The proposal of the Commission in this proceeding is based upon a Petition (RM 1000) filed by AFTRCC; however, the proposal contains a limitation that HF be available "for communications with aircraft operating over open water areas beyond the range of VHF propagation • • •." AFTRCC avers that this limitation was not included in the petition and the limitation would hamper seriously the utility of the proposed allocation. The Council states it is in the process of compiling the data necessary to demonstrate the serious nature of this limitation. The additional time requested is for the purpose of permitting the collection and review of such data and the consideration by AFTRCC of the collected data at its forthcoming meeting during the week of January 15, 1968. An extension until February 15, 1968, for filing comments is requested and 15 days thereafter for replies.

3. In view of the foregoing and in order that the Commission may have the benefit of the comments of the petitioner, additional time appears warranted *Accordingly, it is ordered*, That the time for filing comments and reply comments in this proceeding is extended to February 15, 1968, and March 4, 1968, respectively.

4. This action is taken pursuant to authority contained in section 4(i) and 5(d)(1) of the Communications Act of 1934, as amended and § 0.331(b)(4).

Adopted: December 18, 1967.

Released: December 20, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14949; Filed, Dec. 22, 1967; 8:48 a.m.]

[47 CFR Part 87]

[Docket No. 17870]

AVIATION SERVICES

Eligibility of Licensee; Order Extending Time for Filing Comments

In the matter of amendment of Part 87—Aviation Services, to broaden the scope of persons eligible for flight test station licenses under § 87.333, Docket No. 17870.

1. A notice of proposed rule making was released in this proceeding on November 17, 1967. It provided for the filing of comments by December 26, 1967, and reply comments by January 5, 1968. The Aerospace and Flight Test Radio Coordinating Council (AFTRCC) has filed a motion for extension of time in which to file comments.

2. AFTRCC in its motion states that members of its council, who manufacture aircraft or major aircraft components, have been for many years one of the significant groups eligible for flight test station licenses under the present provisions for § 87.333 of the Commission's rules. It further avers that it will be possible to secure the composite judgment of the AFTRCC membership with respect to the proposed rule changes at its forthcoming meeting during the week of January 15, 1968. The additional time is requested to permit the preparation of comments based upon the meeting's review of the rule changes proposed in this proceeding. AFTRCC requests an extension until February 15, 1968 for filing comments and until March 4, 1968, for filing reply comments.

3. In view of the foregoing and in order for the Commission to have the benefit of the comments of the petitioner, additional time appears warranted, and it will not have an adverse effect upon this proceeding. *Accordingly, it is ordered*, That the time for filing comments and reply comments in this proceeding is extended to February 15, 1968, and March 4, 1968, respectively.

4. This action is taken pursuant to authority contained in sections 4(i) and 5(d)(1) of the Communications Act of 1934, as amended, and § 0.331(b)(4) of the Commission's rules.

Adopted: December 19, 1967.

Released: December 20, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-14950; Filed, Dec. 22, 1967; 8:48 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[Antidumping—ATS 663.3-2]

COLOR TELEVISION PICTURE TUBES FROM THE NETHERLANDS

Antidumping Proceeding Notice

DECEMBER 19, 1967.

On September 26, 1967, information was received in proper form pursuant to the provisions of § 14.6(b) of the Customs Regulations indicating a possibility that color television picture tubes manufactured by N. V. Philips Gloeilampenfabrieken, Inkoopcentrale, Eindhoven, Netherlands, are being, or likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

The information was submitted by Burgess Cellulose Co., Freeport, Ill.

Ordinarily, merchandise is considered to be sold at less than fair value when the net, f.o.b. factory price for exportation to the United States is less than the net, f.o.b. factory price to purchasers in the home market, or, where appropriate, to purchasers in other countries, after due allowance is made for differences in quantity and circumstances of sale.

Having conducted a summary investigation, and having determined on this basis that there are grounds for so doing, the Bureau of Customs is instituting an inquiry pursuant to the appropriate provisions of the Customs Regulations to determine the validity of the information.

A summary of information received from all sources is as follows:

Large quantities of color television picture tubes manufactured by N. V. Philips Gloeilampenfabrieken, Inkoopcentrale, of the Netherlands, are being sold to purchasers in the United States at prices substantially lower than those at which such or similar merchandise is sold by the manufacturer either for home consumption or to third country customers.

This notice is published pursuant to § 14.6(d)(1)(i) of the Customs Regulations (19 CFR 14.6(d)(1)(i)).

[SEAL] LESTER D. JOHNSON,
Commissioner of Customs.

[F.R. Doc. 67-14942; Filed, Dec. 22, 1967; 8:48 a.m.]

[T.D. 68-6]

FOREIGN CURRENCIES

Rates of Exchange for Ceylon Rupee, Irish Pound, New Zealand Dollar, Spanish Peseta, and United Kingdom Pound

DECEMBER 19, 1967.

Treasury Decision 67-235 published the following rates of exchange for the currencies named for use during the calendar quarter beginning October 1, through December 31, 1967, as certified to the Secretary of the Treasury by the Federal Reserve Bank of New York under the provisions of section 522(c) of the Tariff Act of 1930, as amended (31 U.S.C. 372(c)):

Ceylon Rupee	$0.209975
Irish Pound	2.784000
New Zealand Dollar	1.378217
Spanish Peseta	.0166357
United Kingdom Pound	2.784000

For the dates and currencies listed below, the Federal Reserve Bank of New York certified rates which vary by 5 per centum or more from the foregoing quarterly rates. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for customs purposes to convert any such currency into currency of the United States, conversion shall be at the daily rate certified by the Federal Reserve Bank of New York, as follows:

Ceylon Rupee:	
Nov. 27, 1967	$0.166333
Irish Pound:	
Nov. 22, 1967	2.419550
Nov. 24, 1967	2.419600
New Zealand Dollar:	
Nov. 21, 1967	1.106889
Nov. 22, 1967	1.117938
Nov. 24, 1967	1.118500
Spanish Peseta:	
Nov. 23, 1967	.0141838
Nov. 24, 1967	.0142407
United Kingdom Pound:	
Nov. 22, 1967	2.419550
Nov. 24, 1967	2.419600

Rates of exchange certified for the currencies listed which vary by 5 per centum or more from the previously published quarterly rate during the remainder of the calendar quarter ending December 31, 1967, will be published in the weekly Customs Bulletin for dates subsequent to those cited above for all currencies listed.

[SEAL] LESTER D. JOHNSON,
Commissioner of Customs.

[F.R. Doc. 67-14943; Filed, Dec. 22, 1967; 8:48 a.m.]

[T.D. 68-6]

FOREIGN CURRENCIES

Rates of Exchange for Finnish Markka

DECEMBER 19, 1967.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified the following rates of exchange for the Finnish markka which vary by 5 per centum or more from the rate of $0.310618 for the dates indicated. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for customs purposes to convert Finnish currency into currency of the United States, conversion shall be at the daily rate certified by the Federal Reserve Bank of New York, as herewith published:

Finnish markka:	
Oct. 30, 1967, through Nov. 3, 1967	$0.237200
Nov. 6, 1967	.237100
Nov. 8, 1967 through Nov. 10, 1967	.237125
Nov. 13, 1967	.237200
Nov. 14, 1967, through Nov. 17, 1967	.237125
Nov. 21, 1967, through Nov. 22, 1967	.237125
Nov. 24, 1967	.237100

[SEAL] LESTER D. JOHNSON,
Commissioner of Customs.

[F.R. Doc. 67-14945; Filed, Dec. 22, 1967; 8:48 a.m.]

Office of Foreign Assets Control

IMPORTATION OF DRIED, CANNED LOQUATS DIRECTLY FROM JAPAN

Available Certification

Notice is hereby given that certificates of origin issued by the Ministry of International Trade and Industry of the Government of Japan, under procedures agreed upon between that Government and the Office of Foreign Assets Control in connection with the Foreign Assets Control Regulations are now available with respect to the importation into the United States directly, or on a through bill of lading, from Japan of the following additional commodity:

Loquats, dried, canned.

[SEAL] MARGARET W. SCHWARTZ,
Director,
Office of Foreign Assets Control.

[F.R. Doc. 67-14946; Filed, Dec. 22, 1967; 8:48 a.m.]

POST OFFICE DEPARTMENT

APARTMENT BUILDINGS

Statement of Policy Regarding Delivery and Collection Service

An increasing number of apartment buildings are being built with self-closing and self-locking doors at the street entrance. Where the building management does not provide a full-time attendant, this new arrangement poses serious problems for carriers, collectors, and special delivery messengers.

It is the policy of the Department not to require delivery and collection employees to carry keys to private buildings and offices. It is not intended that delivery units or employees will be responsible for keeping and safeguarding keys other than the two types for Arrow (inside)

locks and padlocks used in the city delivery service.

Where an apartment building is locked and an attendant is not on the premises, there are two distinctly different methods of providing postal employees access to building lobbies, neither of which requires furnishing of entrance door keys to delivery and collection employees. One method incorporates a combination electrical-mechanical system in which the standard Arrow key activates the master lock on the door. The other method is a small metal box containing the entrance door key; the door on the box itself is secured by the official post office Arrow lock. Either system is acceptable and is installed at the expense of the building management, except for the Arrow lock.

Apartment building owners and managers are advised that if suitable arrangements are not made to assure easy access to buildings by carriers, collectors, and special delivery messengers, it will be virtually impossible to provide adequate collection and delivery of mail.

Regional offices of the Post Office Department have a list of known manufacturers and distributors of the devices mentioned above, and inquiries should be directed to the Director, Postal Operations Division.

(5 U.S.C. 301, 39 U.S.C. 501)

TIMOTHY J. MAY,
General Counsel.

DECEMBER 19, 1967.

[F.R. Doc. 67-14905; Filed, Dec. 22, 1967; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket Nos. 18984, 17007; Order E-26131]

OZARK AIR LINES, INC.

Order Regarding Change in Service Pattern, etc.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 15th day of December 1967.

Application of Ozark Air Lines, Inc., for a change in service pattern and for a show cause order, or for exemption pursuant to section 416(b) of the Federal Aviation Act of 1958, as amended, or for expedited hearing, Docket No. 18984; Application of Ozark Air Lines, Inc., for amendment of its certificate of public convenience and necessity for Route 107, Docket No. 17007.

On September 8, 1967, Ozark Air Lines, Inc. (Ozark), filed an application, Docket 18984, for—

(1) A change of service pattern which will permit Ozark to operate nonstop between Chicago, Ill., and Des Moines, Iowa, in the event the Board finds Ozark does not already have such authority; and

(2) Issuance of a show cause order granting that portion of Ozark's application in Docket 17007 which seeks a new route segment between the terminal point Des Moines, Iowa, and the terminal point Omaha, Nebr.; or, in the alternative, issuance of temporary exemption authority permitting Ozark to provide nonstop service between said points of Des Moines and Omaha; or in the further alternative, issuance of an order setting down for expedited hearing Ozark's above-mentioned application for a new route segment between Des Moines and Omaha.

Ozark states that under such authority it would offer Chicago-Des Moines-Omaha schedules, and that it would operate in these markets on a subsidy-ineligible basis.

In support of the request to conduct nonstop operations between Chicago and Des Moines, Ozark notes that both cities are certified on segments 9 and 12, among others, of Ozark's route 107. Chicago is a terminal point on both segments 9 and 12, and Des Moines is an intermediate point on segment 9 and a terminal point on segment 12. The carrier believes that it already possesses Chicago-Des Moines authority on segment 9 because condition (5), relating to mandatory intermediate stops between terminals, does not require an intermediate stop between Chicago and Des Moines. In the event the Board does not agree with Ozark's interpretation of its authority, the carrier requests a change in service pattern to permit such nonstop service. Ozark states that United Air Lines, Inc. (United), is the exclusive carrier serving this market and that nearly all of its jet schedules offer a first-class fare structure only. Ozark proposes three daily round-trip flights operating in the morning, midday, and evening that would offer both coach and first-class fares. Financially, Ozark estimates an operating profit of $165,815, and an indicated subsidy need of about $100,000 based on proposed Subpart K.

In the case of the Des Moines-Omaha market, which is also served exclusively by United, Ozark asserts that such authority would be operated in combination with Chicago-Des Moines nonstop flights so as to provide Chicago-Des Moines-Omaha schedules, and that such a combination would further improve service at Des Moines, and enhance the profitability of the Chicago-Des Moines operation. The carrier estimates that with the addition of the Omaha extension, Chicago-Des Moines service would result in an operating profit of $367,619, and a subsidy reduction of $82,956.

The city and Chamber of Commerce of Des Moines, Iowa, filed an answer in support of Ozark's application. Des Moines asserts that improved service at Des Moines is necessary because only one carrier (United) provides service in the Des Moines-Chicago and Des Moines-Omaha markets and in 1966 these markets averaged 386 and 90 passengers per day, respectively. Des Moines considers Ozark's traffic forecast attainable.

Answers in opposition were filed by American Air Lines, Inc. (American), and United; and Ozark filed a reply thereto.

American and United, inter alia, challenge Ozark's assertion that it now possesses nonstop authority between Chicago and Des Moines. United cites the Fort Dodge-Peoria Service Case, 23 C.A.B. 677 (1956), in which proceeding Des Moines was added to Ozark's route 107 as the western terminal on segment 9 which extended to Chicago. However, Ozark's operations over this segment were made subject to a two-stop restriction. Subsequently, when segment 9 was redescribed in Quad Cities-Twin Cities Service Case, 24 C.A.B. 654 (1957), a two-stop restriction was again imposed on Ozark's authority in the Des Moines-Chicago market. In the Seven States Area Investigation, 28 C.A.B. 680 (1958), segment 9 was again redescribed and Sioux City was added as the western terminal and the segment was extended from Sioux City to Chicago via Des Moines, Ottumwa, Burlington, and Peoria. Operations over the new segment 9 were made subject to a restriction (condition (5)) which requires flights between the terminals to stop at one intermediate point other than Des Moines. Since Des Moines was the first intermediate on segment 9 appearing after the terminal point Sioux City, the effect of condition (5) was to prohibit nonstop operations in the Des Moines-Chicago market. United claims Ozark's argument that it has nonstop Chicago-Des Moines authority turns on the effect of revision of segment 9 made in the Ozark Air Lines, Inc., "Use It or Lose It" Investigation, 36 C.A.B. 228 (1962), which did not involve any issue of service between Des Moines and Chicago, but was confined to "use it or lose it" problems affecting Ozark's system. Thus United believes that the minor route amendment made in response to a "use it or lose it" problem was not intended to change Ozark's Chicago-Des Moines authority, and it could not have affected that authority because of the limited scope of the issues of the "Use It or Lose It" Investigation. We are persuaded by the arguments advanced by American and United that Ozark does not now possess nonstop authority between Des Moines and Chicago.

United further alleges that it provides a full pattern of nonstop jet and piston service in both the Chicago-Des Moines and Des Moines-Omaha markets at reasonable load factors. In the former market, United provides coach service on eight nonstop flights and asserts that in the spring of 1968 it will improve its jet aircraft schedules by adding four round trips with Boeing-737 aircraft. United also claims that Ozark will not earn a profit on the overall proposal because it will not be able to attain the level of traffic that it forecasts in the light of United's present schedules, has not used a dilution factor equivalent to United's experience in the market, and has understated flight time and overstated utilization.

American contends that Ozark has not attempted to show that its requests for Chicago-Des Moines and Des Moines-Omaha nonstop authority meet the statutory requirements for the grant of an exemption under section 416(b) of the Act. Similarly, United states that Ozark has not met the statutory requirements for an exemption including the fact that it has not demonstrated any public need for its proposed Chicago-Des Moines-Omaha service.

Upon consideration of the pleadings and all relevant facts, we have decided to deny Ozark's request for a show cause order or an exemption or change in service pattern. We will, however, set for hearing that portion of Ozark's application which requests nonstop authority in the Chicago-Des Moines market.[1] Any authority awarded in this proceeding shall be on a subsidy-ineligible basis and any award to a new carrier shall be in the form of a separate segment.

We will not place in issue the question of additional service in the Des Moines-Omaha market. The issue of long-haul Des Moines-Omaha service has been included in the Omaha-Des Moines Transcontinental Investigation (Order E-25771, Oct. 3, 1967). In addition, in the Service to Omaha Case, Docket 18401, there is an issue of Chicago-Omaha nonstop service. We believe that the issue of Des Moines-Omaha service can best be decided subsequent to the disposition of these cases.

Accordingly, it is ordered, That:

1. That portion of Ozark's application, Docket 17007, which requests nonstop authority between Chicago, Ill., and Des Moines, Iowa, be and it hereby is set for hearing before an examiner of the Board at a time and place to be hereafter designated;

2. Any authority awarded in this proceeding shall be on a subsidy-ineligible basis, and any award to a carrier not now holding Chicago-Des Moines on-segment authority shall be in the form of a separate segment;

3. Applications, motions to consolidate, and motions or petitions seeking modification or reconsideration of this order shall be filed no later than 20 days from the date of service of this order, and answers to such pleadings shall be filed no later than 10 days thereafter;

4. The balance of Ozark's application, Docket 17007, not set for hearing herein, be and it hereby is dismissed without prejudice;

5. Ozark's application in Docket 18984, except to the extent granted herein, be and it hereby is denied; and

6. A copy of this order shall be served on American Airlines, Inc., United Air Lines, Inc., and Ozark Air Lines, Inc., who are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-14947; Filed, Dec. 22, 1967; 8:47 a.m.]

[1] In Docket 17007, Ozark has applied, inter alia, for Chicago-Des Moines authority.

FEDERAL MARITIME COMMISSION

JAPAN-PUERTO RICO & VIRGIN ISLANDS FREIGHT CONFERENCE

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. D. P. Gillette, Chairman, Japan-Puerto Rico & Virgin Islands Freight Conference, Second Floor, Sumitomo Seimei Yaesu Building, 3, 4-Chome Yaesu, Chuo-Ku, Tokyo, Japan.

Agreement No. 8190-8, between the member lines of the Japan-Puerto Rico & Virgin Islands Freight Conference, amends the basic agreement (8190, as amended) by the addition of a new Article 11-A, entitled, "Admission Fee". Article 11-A provides for the assessment of a conference admission fee of $2,000 (two thousand dollars) for new members, no part of which is to be returned except upon dissolution of the conference.

Dated: December 19, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-14931; Filed, Dec. 22, 1967; 8:47 a.m.]

JAVA/NEW YORK RATE AGREEMENT

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. R. J. Flynn, Chairman, Java/New York Rate Agreement, 11 Broadway, New York, N.Y. 10004.

Agreement 90-13 between the member lines of the Java/New York Rate Agreement modifies the basic agreement by changing the notice period for withdrawals from 3 months to 30 days.

Dated: December 19, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-14932; Filed, Dec. 22, 1967; 8:47 a.m.]

TRANS-PACIFIC FREIGHT CONFERENCE OF JAPAN

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. D. P. Gillette, Chairman, Trans-Pacific Freight Conference of Japan, Second Floor, Sumitomo Seimei Yaesu Building, 3, 4-Chome Yaesu, Chuo-Ku, Tokyo, Japan.

Agreement No. 150-32, between the member lines of the Trans-Pacific Freight Conference of Japan, proposes the amendment of Article 15 of the basic agreement (150, as amended) to increase the amount of the admission fee for new members from $1,000 (one thousand dollars) to $2,000 (two thousand dollars).

Dated: December 19, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-14933; Filed, Dec. 22, 1967; 8:47 a.m.]

FEDERAL POWER COMMISSION

[Docket No. E-7234]

DETROIT EDISON CO. AND CONSUMERS POWER CO.

Order Continuing Proceedings

DECEMBER 18, 1967.

Upon consideration of the joint request by Respondents and Commission staff filed November 28, 1967, which also indicates that the Intervenor, Michigan Public Service Commission, has no objection thereto, the respective dates for service of prepared testimony and further hearing in this proceeding are continued for a period of 6 months from and after the several dates set forth in the Commission's order issued August 12, 1966.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-14926; Filed, Dec. 22, 1967; 8:45 a.m.]

[Docket No. CP68-169]

EASTERN SHORE NATURAL GAS CO.

Notice of Application

DECEMBER 12, 1967.

Take notice that on December 1, 1967, Eastern Shore Natural Gas Co. (Applicant), 114 East Main Street, Salisbury, Md. 21801, filed in Docket No. CP68-169 an application pursuant to section 7(c) of the Natural Gas Act for authority to increase for a 12-month period the level of transportation service rendered on behalf of Delmarva Power & Light Co. (DP&L), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes an increase of 3,000 Mcf of natural gas per day in transportation deliveries yielding a total daily volume of 7,000 Mcf of gas transported for DP&L during the 12-month period commencing December 1, 1967 and ending November 30, 1968. The natural gas will be used to meet the space heating and other fuel requirements of domestic, commercial, and industrial customers located in the western portion of the DP&L service territory.

Applicant states that it proposes to render the additional transportation service under its T-1 rate schedule applicable to its current deliveries of transportation service to DP&L, and further states that no additional facilities are needed to effectuate the proposed increase in service.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before January 8, 1968.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-14927; Filed, Dec. 22, 1967; 8:45 a.m.]

[Docket No. CP68-170]

FLORIDA GAS TRANSMISSION CO.

Notice of Application

DECEMBER 12, 1967.

Take notice that on December 4, 1967, Florida Gas Transmission Co. (Applicant), Post Office Box 44, Winter Park, Fla. 32789, filed in Docket No. CP68-170 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain facilities heretofore used for service to the Sarasota power plant of Florida Power & Light Co. (Power Company), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the Power Company's Sarasota electric generating plant has been retired from service, closed down, and dismantled, and delivery of gas to that plant has ceased. Accordingly, Applicant requests permission and approval to abandon the facilities formerly used in service to the aforementioned plant.

Specifically, Applicant proposes to abandon in place lateral pipeline facilities consisting of approximately 2,904 feet of 8-inch pipe extending from Applicant's existing Meter Station formerly serving the electric plant, and to dismantle, remove, and salvage such Meter Station.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before January 8, 1968.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-14928; Filed, Dec. 22, 1967; 8:45 a.m.]

[Docket No. E-7365]

IOWA-ILLINOIS GAS AND ELECTRIC CO.

Notice of Application

DECEMBER 19, 1967.

Take notice that on December 11, 1967, Iowa-Illinois Gas and Electric Co. (Applicant) filed an application pursuant to section 203 of the Federal Power Act seeking authority to sell certain electric transmission facilities to Eastern Iowa Light and Power Cooperative.

Applicant is incorporated under the laws of Illinois with its principal business office at Davenport, Iowa, and is engaged in the generation, transmission and distribution of electric energy and the distribution of natural gas in western Illinois and in five counties in the eastern part of Iowa.

The facilities to be sold consist of a portion of a 69 kv transmission line extending from a point near the northwest corner of sec. 36, T. 78 N., R. 1 E. of the fifth principal meridian in Muscatine County, Iowa, a distance of 13.385 miles to a point near the northwest corner of sec. 12, T. 77 N., R. 2 W. of the fifth principal meridian, Muscatine County, Iowa at which the aforesaid transmission line connects with the substation of Eastern Iowa Light and Power Cooperative. The consideration for the sale of these facilities is $114,446.

The purchaser, Eastern Iowa Light and Power Cooperative is a cooperative association established under the laws of the State of Iowa with its principal office at Wilton Junction, Iowa and generates, transmits and distributes electricity in the east quadrant of the State of Iowa.

Any person desiring to be heard or to make any protest with reference to the application should on or before January 12, 1968 file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and is available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-14929; Filed, Dec. 22, 1967; 8:45 a.m.]

[Docket No. EP68-3]

KNOXVILLE UTILITIES BOARD ET AL.

Order Instituting Investigation and Providing for Hearing

DECEMBER 18, 1967.

Knoxville Utilities Board et al.[1] (Knoxville), on August 10, 1967, filed a formal complaint against East Tennessee Natural Gas Co. (East Tennessee) alleging that the latter's resale rates are excessive and unlawful and requested that the matter be set down for hearing. East Tennessee, on September 11, 1967, filed an answer denying the allegation.

In support of its complaint, Knoxville submitted a cost of service and revenue study for the year 1966 alleging that East Tennessee earned revenues in excess of $1 million above a 6½ percent return. Complainant states that its study is based upon purchased gas costs at supplier's current rates, flow through of liberalized depreciation, 10 year amortization of Account 282, and consolidated tax savings. The revenue comparison study submitted by complainants reflects Opinion No. 497 rates, estimated third year sales from East Tennessee's Virginia extension, and gives effect to the terms of the settlement agreement between complainants herein and East Tennessee dated October 17, 1966, at rates set out in Opinion No. 497.

East Tennessee's denial states that Knoxville's cost of service-revenue comparisons are faulty in that they do not reflect (1) the loss of interruptible sales to Chattanooga Gas Co.; (2) increased labor costs and property taxes; (3) proper accounting treatment of the reserves in Account 282; (4) the impact of the Commission's order issued December 22, 1966, staying Opinion No. 497, pending judicial review of the issue of liberalized depreciation flow through, and (5) an appropriate rate of return.

Upon analysis of the documents filed, it is our view that an investigation should be instituted into the reasonableness of East Tennessee's rates and a public hearing be held to provide all parties an opportunity to submit evidence on the issues presented; and that an opportunity be provided to define and resolve issues by stipulation prior to hearing.

The Commission finds: It is necessary and appropriate for the purposes of carrying out the provisions of the Natural Gas Act (15 U.S.C. 717), and particularly section 5 thereof, that an investigation be instituted and a hearing held to determine the lawfulness of East Tennessee's jurisdictional rates.

The Commission orders:

(A) An investigation hereby is instituted to determine whether the jurisdictional rates and charges of East Tennessee are unjust and unreasonable. If, after hearing, the Commission finds that any rates, charges, classifications, rules, regulations, practices, or contracts are unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful, the Commission thereupon shall determine, fix, and prescribe by appropriate order or orders, just, reasonable, nondiscriminatory and nonpreferential rates, charges, classifications, rules, regulations, practices, or contracts.

(B) Pursuant to the authority contained in, and subject to the jurisdiction conferred upon the Federal Power Commission by the Natural Gas Act, particularly sections 5, 14, 15, and 16 thereof, and to the Commission's rules of practice and procedure a public hearing shall be held in a hearing room of the Commission at 441 G Street NW., Washington, D.C., concerning the matters specified in paragraph (A) above on a date designated by the Presiding Examiner.

(C) Pursuant to the Commission's rules of practice and procedure, particularly §§ 1.27, 1.30(j), and 3.4(e)(6) thereof, the Chief Examiner shall designate a hearing officer to preside at the prehearing conferences and hearing herein provided for, and any other prehearing conferences he may deem appropriate in these proceedings, to prescribe an appropriate schedule for the filing of evidence by complainants, respondent, the staff and intervenors: *Provided, however,* That: The staff shall be allowed at least 90 days from the date of respondent's filing of evidence within which to review, analyze and prepare and serve its exhibits and testimony.

(D) Pursuant to § 1.18 of the Commission's rules of practice and procedure, a prehearing conference before the Presiding Examiner shall commence at 10 a.m., e.s.t., on January 9, 1968, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., for the purpose of defining the issues, reaching an agreement and stipulation thereon and on any other matters relevant to this proceeding.

(E) Notices of intervention and petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure, §§ 1.8 and 1.37(f), on or before January 9, 1968.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-14900; Filed, Dec. 22, 1967; 8:45 a.m.]

[1] A group of municipalities and distribution companies all of whom are customers of East Tennessee located in Tennessee; i.e., Knoxville Utilities Board, Athens Utility Board, Citizens Gas Utility District, Cookeville Gas Department, Elk River Public Utility District, Englewood Natural Gas System, Etowah Utilities District, Fayetteville Gas System, Gallatin Natural Gas System, Harriman Utility Board, City of Jamestown Gas System, Jefferson-Cocke Utility District, Lenoir City Utilities Board, Lewisburg Gas Department, Loudon Utilities Board, Middle Tennessee Utility District, Oak Ridge Utility District, Sevier County Utility District, City of Sweetwater, Unicoi Natural Gas Utility District, City of Rockwood Natural Gas Co., United Cities Gas Co., Volunteer Natural Gas Co., Madisonville Gas Co., Marion County Natural Gas Co.

[Docket No. CP68-83]

UNITED FUEL GAS CO.

Notice of Application

DECEMBER 19, 1967.

Take notice that on September 13, 1967, United Fuel Gas Co. (Applicant), Post Office Box 1273, Charleston, W. Va. 25325, filed in Docket No. CP68-83 an application requesting the issuance of an order finding that the construction and operation of certain natural gas purchase and transportation facilities, more particularly designated and described therein, come within the purview of section 1(b) of the Natural Gas Act, as amended, and as production and gathering facilities do not require the issuance of a certificate of public convenience and necessity, or, in the alternative, the issuance of a certificate of public convenience and necessity under section 7(c) of the Natural Gas Act, as amended, authorizing the construction and operation of said facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application alleges that new and significant developments in the Newburg formation south of the city of Charleston, Kanawha County, W. Va., exceed both the market requirements and transportation capacity of Applicant's existing markets and transportation facilities in the area necessitating the construction and operation of certain additional gas purchase and transportation facilities in order to provide Applicant sufficient transportation capacity to deliver such volumes to its existing high-pressure transmission facilities.

Applicant further alleges that the estimated cost of constructing the proposed facilities is to be $828,700 with estimated operating expenses to aggregate $5,390 per year.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before January 10, 1968.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-14901; Filed, Dec. 22, 1967; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-3421]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

DECEMBER 18, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period December 19, 1967, through December 28, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-14907; Filed, Dec. 22, 1967; 8:45 a.m.]

FASTLINE, INC.

Order Suspending Trading

DECEMBER 18, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Fastline, Inc., New York, N.Y., otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period December 19, 1967, through December 28, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-14908; Filed, Dec. 22, 1967; 8:45 a.m.]

[File No. 0-592]

PAKCO COMPANIES, INC.

Order Suspending Trading

DECEMBER 18, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Pakco Companies, Inc., and all other securities of Pakco Companies, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period December 19, 1967, through December 28, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-14909; Filed, Dec. 22, 1967; 8:46 a.m.]

[File No. 1-4271]

WESTEC CORP.

Order Suspending Trading

DECEMBER 18, 1967.

The common stock, 10 cents par value, of Westec Corp., being listed and registered on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Westec Corp., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the American Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period December 19, 1967, through December 28, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-14910; Filed, Dec. 22, 1967; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 20, 1967.

Protests to the granting of an application must be prepared in accordance with Rule 101.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41194—*Corn and sorghum grains to points in SWL territory, also Kansas and Missouri.* Filed by Southwestern Freight Bureau, agent (No. B-9033), for interested rail carriers. Rates on corn and sorghum grains, in carloads, as described in the application, from points in SWL and WTL territories, to points in SWL territory, also Kansas and Missouri.

Grounds for relief—Carriers competition.

Tariffs—Supplement 93 to Southwestern Freight Bureau, agent, tariff ICC 4495 and 13 other schedules named in the application.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 67-14926; Filed, Dec. 22, 1967; 8:46 a.m.]

[Notice 515]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 20, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 66562 (Sub-No. 2281 TA), filed December 13, 1967. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York, N.Y. 10017. Applicant's representative: John H. Engel, 2413 Broadway, Kansas City, Mo. 64108. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* moving in express service, in interstate or foreign commerce, over regular routes: (1) Between Kansas City, Mo., and Tulsa, Okla., serving the intermediate and/or off-route points of Pleasanton, Fort Scott, Pittsburg, Cherokee, and Parsons, Kans., and Miami, Okla.; from Kansas City, Mo., over U.S. Highway 69 to the intersection with U.S. Highway 160, thence over U.S. Highway 160 to Parsons, Kans., thence over U.S. Highway 160 to the intersection with U.S. Highway 69, thence over U.S. Highway 69 to intersection with Will Rogers Turnpike to Tulsa, Okla., and return over the same route; (2) Between Garnett, Kans., and Tulsa, Okla., serving the intermediate and/or off-route points of Iola, Chanute, Tri-Cities Airport, Cherryvale, and Coffeyville, Kans., and Bartlesville and Tulsa, Okla., and serving the intersection of U.S. Highway 169 and U.S. Highway 160 for purposes of joinder only; from Garnett, Kans., over U.S. Highway 59 to the junction of U.S. Highway 169, thence over U.S. Highway 169 to Coffeyville, Kans., thence over U.S. Highway 166 to the intersection with U.S. Highway 75, thence over U.S. Highway 75 to Tulsa, Okla., and return over the same route.

(3) Between Parsons, Kans., and Neodesha, Kans., serving the off-route point of Tri-Cities Airport and serving the intersection of U.S. Highway 169 and U.S. Highway 160 for purposes of joinder only; from Parsons, Kans., over U.S. Highway 160 to the intersection with U.S. Highway 169 and Kansas State Highway 37, thence over Kansas State Highway 37 to the intersection with U.S. Highway 75, thence over U.S. Highway 75 to Neodesha, Kans., and return over the same route; (4) between Henryetta, Okla., and McAlester, Okla., serving no intermediate points; from Henryetta, Okla., over U.S. Highway 75 to the intersection with the Indian Nation Turnpike, thence over Indian Nation Turnpike to the intersection with U.S. Highway 69, thence over U.S. Highway 69 to McAlester, Okla., and return over the same route; (5) between Durant, Okla., and Madill, Okla., serving no intermediate points; from Durant, Okla., over U.S. Highway 70 to Madill, Okla., and return over the same route; (6) between Topeka, Kans., and Woodward, Okla., serving the intermediate and/or off-route points of Emporia, Wichita, Wellington, South Haven, Caldwell, Kiowa, Anthony, and Harper, Kans., and Enid, Okla.; (a) from Topeka, Kans., over Kansas Turnpike/Interstate Highway 35 to the intersection with U.S. Highway 166, thence over U.S. Highway 166 to South Haven, Kans., thence over U.S. Highway 81 to Enid, Okla., thence over U.S. Highway 60 to intersection with Oklahoma State Highway 15, thence over Oklahoma State Highway 15 to Woodward, Okla., and return over the same route; (b) from Woodward, Okla., over Oklahoma State Highway 15 to the intersection with U.S. Highway 281, thence over U.S. Highway 281 to the intersection with Kansas State Highway 2, thence over Kansas State Highway 2 to Wichita, Kans., thence over Kansas Turnpike/Interstate Highway 35 to Topeka, Kans., and return over the same route.

(7) Between Wichita, Kans., and Guymon, Okla., serving the intermediate and/or off-route points of Kingman, Cunningham, Pratt, Greensburg, Bucklin, Meade, and Liberal, Kans.; from Wichita, Kans., over U.S. Highway 54 to Guymon, Okla., and return over the same route; (8) between Liberal, Kans., and Garden City, Kans., serving no intermediate points, for purposes of joinder only; from Liberal, Kans., over U.S. Highway 83 to Garden City, Kans., and return over the same route; (9) between the intersection of U.S. Highway 54 and U.S. Highway 283 at Minneola, Kans., and Dodge City, Kans., serving no intermediate points for purposes of joinder only; from the intersection of U.S. Highway 54 and U.S. Highway 283 at Minneola, Kans., over U.S. Highway 283 to Dodge City, Kans., and return over the same route; (10) between Salina, Kans., and Colby, Kans., serving the intermediate and/or off-route points of Ellsworth, Russell, Hays, Ellis, Wakeeney, Grainfield, Grinnell, Oakley, and La Crosse, Kans.; (a) from Salina, Kans., over Interstate Highway 70 to the intersection of Kansas State Highway 25, thence over Kansas State Highway 25 to Colby, Kans., and return over the same route; (b) from Hays, Kans., over U.S. Highway 183 to La Crosse, Kans., and return over the same route; (11) between Wichita, Kans., and Hutchinson, Kans., serving the intermediate and/or off-route points of Newton, Hesston, Moundridge, and McPherson, Kans.; from Wichita, Kans., over U.S. Highway 81/Interstate Highway 35 W to McPherson, Kans., thence over U.S. Highway 81 to intersection with Kansas State Highway 61 to Hutchinson, Kans., and return over the same route.

(12) Serving Olathe, Kans., as an off-route point on existing authority; (13) between Wichita, Kans., and Wichita Falls, Tex., serving the intermediate and/or off-route points of Oxford, Winfield, and Arkansas City, Kans., and Newkirk, Ponca City, Stillwater, Oklahoma City, Chickasha, Rush Springs, Marlow, Duncan, Lawton, Enid, Perry, Tonkawa, and Blackwell, Okla.; (a) from Wichita, Kans., over Kansas Turnpike/Interstate Highway 35 to Oklahoma City, Okla., thence over H. W. Bailey Turnpike/U.S. Highway 281, to Wichita Falls, Tex., and return over the same route; (b) from Lawton, Okla., over Oklahoma State Highway 7 to intersection with U.S. Highway 81 to Duncan, Okla., thence over U.S. Highway 81 to Chickasha, Okla., and return over the same route; (c) from the intersection of Interstate Highway 35 and Oklahoma State Highway 51, to Stillwater, Okla., thence over U.S. Highway 177 to intersection with U.S. Highway 77, thence over U.S. Highway 77 to Winfield, Kans., thence over U.S. Highway 160 to intersection with Interstate Highway 35, and return over the same route; (d) from the intersection of Interstate Highway 35 and U.S. Highway 64 over U.S. Highway 64 to Enid, Okla., and return over the same route; (14) between Ottawa, Kans., and Trinidad, Colo., serving the intermediate and/or off-route points of Emporia, Newton, Hutchinson, Stafford, St. John, Lewis, Kinsley, Dodge City, and Garden City, Kans., and Lamar, Los Animas, and La Junta, Colo.; from Ottawa, Kans., over U.S. Highway 50 to La Junta, Colo., thence over U.S. Highway 350 to Trinidad, Colo., and return over the same route; (15) between Oklahoma City, Okla., and Amarillo, Tex., serving the intermediate and/or off-route points of Weatherford, Clinton, and Elk City, Okla., and Shamrock and McLean, Tex.; from Oklahoma City, Okla., over U.S. Highway 66/Interstate 40 to Amarillo, Tex., and return over the same route.

(16) Between Dallas, Tex., and Oklahoma City, Okla., serving the intermediate and/or off-route points of Gainesville, Tex., and Ardmore, Sulphur, Pauls Valley, Purcell, Shawnee, and Ada, Okla.; (a) from Dallas, Tex., over U.S. Highway 77/Interstate Highway 35 to Oklahoma City, Okla., and return over the same route; (b) from Oklahoma City, Okla., over Interstate Highway 40 to intersection with U.S. Highway 177, thence over U.S. Highway 177 to intersection with Oklahoma State Highway 13, thence over Oklahoma State Highway 13 to intersection with Oklahoma State Highway 19, thence over Oklahoma State Highway 13/19 to Ada, Okla., thence over Oklahoma State Highway 12 to intersection with Oklahoma State Highway 7, thence over Oklahoma State Highway 7 to Davis, Okla., and return over the same route; (17) between Houston, Tex., and Bryan, Tex., serving the intermediate and/or off-route points of Waller, Navasota, Caldwell, Somerville, Brenham, Bellville, Sealy, Orchard, and Rosenberg, Tex.; from Houston, Tex., over U.S. Highway 290 to intersection with Texas State Highway 6, thence over State Highway 21 to intersection with Texas State Highway 36, thence over Texas State Highway 36 to intersection with Alternate U.S. Highway 90, thence over Alternate U.S. Highway 90 to Houston, Tex., and return over the same route; (18) between Lubbock, Tex., and Dallas, Tex., serving the intermediate and/or off-route points of Slaton, Post, Snyder, Sweetwater, Abilene, Cisco, Eastland, Ranger, Strawn, and Weatherford, Tex.; from Lubbock, Tex., over U.S. Highway 84 to intersection with

U.S. Highway 80/Interstate Highway 20, thence over U.S. Highway 80/Interstate Highway 20 to Dallas, Tex., and return over same route.

(19) Between Dallas, Tex., and Ballinger, Tex., serving the intermediate and/or off-route points of Cleburne, Stephenville, Comanche, Brownwood, and Coleman, Tex.; from Dallas, Tex., over U.S. Highway 67 to the intersection with U.S. Highway 84, thence over U.S. Highway 84 to intersection with Texas State Highway 206, thence over Texas State Highway 206 to the intersection with U.S. Highway 67, thence over U.S. Highway 67 to Ballinger, Tex., and return over the same route; (20) between Coleman, Tex., and Abilene, Tex., serving no intermediate points; from Coleman, Tex., over U.S. Highway 84 to Abilene, Tex., and return over the same route; (21) between Amarillo, Tex., and Pampa, Tex., serving the intermediate points of Borger, and McLean, Tex.; from Amarillo, Tex., over U.S. Highway 66 to the intersection with Texas State Highway 15, thence over Texas State Highway 15 to the intersection with Texas State Highway 152, thence over Texas State Highway 152 to Pampa, Tex., thence over Texas State Highway 273 to McLean, Tex., thence over Texas State Highway 273 to intersection with U.S. Highway 60, thence over U.S. Highway 60 to Amarillo, Tex., and return over the same route; (22) between Canyon, Tex., and Clovis, N. Mex., serving the intermediate point of Hereford, Tex.; from Canyon, Tex., over U.S. Highway 60 to Clovis, N. Mex., and return over the same route; (23) between Albuquerque, N. Mex., and El Paso, Tex., serving the intermediate and/or off-route points of Belen, Socorro, Truth or Consequences, Las Cruces, Alamogordo, Tularosa, and Carrizozo, N. Mex.; (a) from Albuquerque, N. Mex., over U.S. Highway 85/Interstate Highway 25 to Las Cruces, N. Mex., thence over New Mexico State Highway 478 to Anthony, Tex., thence over U.S. Highway 80/85 to El Paso, Tex., and return over the same route; (b) from Las Cruces, N. Mex., over U.S. Highway 80/Intersection Highway 10 to El Paso, Tex., and return over the same route for operating convenience only.

(c) From Las Cruces, N. Mex., over U.S. Highway 70/82 to the intersection with U.S. Highway 54, thence over U.S. Highway 54 to the intersection with U.S. Highway 380, thence over U.S. Highway 380 to the intersection with U.S. Highway 85/Interstate Highway 25, and return over the same route; (24) between Albuquerque, N. Mex., and Durango, Colo., serving the intermediate and/or off-route points of Grants, Gallup, Farmington, and Aztec, N. Mex.; from Albuquerque, N. Mex., and Durango, Colo., serving the intermediate and/or off-route points of Grants, Gallup, Farmington, and Aztec, N. Mex.; from Albuquerque, N. Mex., over U.S. Highway 66/Interstate Highway 40 to Gallup, N. Mex., thence over U.S. Highway 666 to the intersection of U.S. Highway 550, thence over U.S. Highway 550 to Durango, Colo., thence over U.S. Highway 550 to intersection with New Mexico State Highway 44, thence over New Mexico State Highway 44 to intersection with U.S. Highway 85/Interstate Highway 25, thence over U.S. Highway 85/Interstate Highway 25 to Albuquerque, N. Mex., and return over the same route; (25) between Las Vegas, N. Mex., and Santa Fe, N. Mex., serving no intermediate points; from Las Vegas, N. Mex., over U.S. Highway 85/Interstate Highway 25 to Santa Fe, N. Mex., and return over the same route; (26) between Roswell, N. Mex., and Tularosa, N. Mex., serving no intermediate points; from Roswell, N. Mex., over U.S. Highway 70 to Tularosa, N. Mex., and return over the same route.

(27) Between Grand Island, Nebr., and Norfolk, Nebr., serving the intermediate points of Central City and Columbus, Nebr.; from Grand Island, Nebr., over U.S. Highway 30 to Columbus, Nebr., thence over U.S. Highway 81 to Norfolk, Nebr., and return over same route. Restrictions: The service to be performed shall be limited to that which is auxiliary to or supplemental of express service of the Railway Express Agency, Inc. Shipments transported shall be limited to those moving on through bills of lading or express receipts. NOTE: Applicant requests that the authority for the proposed operations, if granted, be construed as an extension, to be joined, tacked, and combined with R E A's existing authority in MC 66562 and subs thereunder, thereby negating the restrictions against tacking or joinder customarily placed upon temporary authority. Duplicating authority not sought: There is some minor duplication between the authority sought herein and applicant's existing authority. The whole route proposed is so described for administrative convenience and intelligibility, and applicant does not seek more than one operating right and understands that if the authority proposed is provided no more than one operating right would be intended or thereby conferred, for 150 days. Supporting shippers: There are approximately 115 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Stephen P. Tomany, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 346 Broadway, New York, N.Y. 10013.

No. MC 103435 (Sub-No. 300 TA), filed December 13, 1967. Applicant: UNITED-BUCKINGHAM FREIGHT LINES, INC., East 4005 Brodaway Avenue 99220, Post Office Box 2728, Spokane, Wash. 99292. Applicant's representative: George R. LaBissoniere, 920 Logan Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except household goods as defined by the Commission, commodities in bulk, commodities which because of size or weight require the use of special equipment, livestock, and articles of unusual value), serving the plantsite location of Johnson & Johnson at the Argonne Industrial District in Du Page County, Ill. (approximately 30 miles south of Chicago), as an off-route point in connection with applicant's present operation to and from Chicago, Ill., for 180 days. Supporting shipper: Johnson & Johnson, 501 George Street, New Brunswick, N.J. Send protests to: L. C. Taylor, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 401 U.S. Post Office Building, Spokane, Wash. 99201.

No. MC 107496 (Sub-No. 604 TA), filed December 11, 1967. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way, Post Office Box 855, Des Moines, Iowa 50304. Applicant's representative: H. L. Fabritz (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polyurethane*, in bulk, in tank vehicles, from McCook, Ill., to Edgerton, Wis., for 150 days. Supporting shipper: Pelron Corp., 7847 West 47th Street, Lyons, Ill. 60534. Send protests to: Ellis L. Annett, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 227 Federal Office Building, Des Moines, Iowa 50309.

No. MC 107500 (Sub-No. 103 TA), filed December 13, 1967. Applicant: BURLINGTON TRUCK LINES, INC., 796 South Pearl Street, Galesburg, Ill. 61401. Applicant's representative: Harold T. Bangs (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading), serving the Johnson & Johnson plantsite, located in the Argonne Industrial District, located in Will and Du Page Counties, Ill., as an off-route point in connection with operations authorized in No. MC 107500 and subs thereto, to and from Chicago, Ill., for 180 days. The authority sought herein is restricted against service between the Johnson & Johnson plantsite, located in the Argonne Industrial District, on the one hand, and, on the other, points in the Chicago, Ill., commercial zone, except for purpose of joinder with carrier's existing authority. Supporting shipper: Johnson & Johnson, 501 George Street, New Brunswick, N.J. Send protests to: Raymond E. Mauk, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Courthouse, Federal Office Building 1086, 219 South Dearborn Street Chicago, Ill. 60604.

No. MC 107515 (Sub-No. 599 TA), filed December 15, 1967. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Road, Post Office Box 10799, Station A, Atlanta, Ga. 30310. Applicant's representative: B. L. Gundlach (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* and *dairy products*, from Washington, D.C., and Baltimore, Md., to points in North Carolina, South Carolina, Georgia, Virginia, and Texas, for 180 days. Supporting shippers: Harry Gottlieb, Inc., 11-23 Narroway Court, Baltimore, Md. 21231, and Fairfield Farm Kitchens, 5200 Addison Road, NE., Washington, D.C. 20027. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Room 309, 1252 West Peachtree Street N.W., Atlanta, Ga. 30309.

No. MC 111594 (Sub-No. 34 TA), filed December 13, 1967. Applicant: C W TRANSPORT, INC., 610 High Street, Post Office Box 200, Wisconsin Rapids, Wis. 54494. Applicant's representative: S. B. Lewandoski (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plantsite of Jones & Laughlin Steel Corp., at or near Hennepin, Putnam County, Ill., to points in Ohio, Indiana, Minnesota, and Wisconsin. Applicant does not intend to tack the authority here applied for to other authority held by it. Authority requested for 180 days. Supporting shipper: Jones & Laughlin Steel Corp., 3 Gateway Center, Pittsburgh, Pa. 15230. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 214 North Hamilton Street, Madison, Wis. 53703.

No. MC 113325 (Sub-No. 120 TA), filed December 15, 1967. Applicant: SLAY TRANSPORTATION CO., INC., 2001 South Seventh Street, St. Louis, Mo. 63104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Resin Plasticizers*, in bulk, in tank vehicles, from the plantsite of the United States Steel Corp.-Chemical Co., at or near Neville Island, Pa., to the plantsites of the Monsanto Co. in the St. Louis, Mo.-East St. Louis, Ill., commercial zone as defined by the Commission, for 180 days. Supporting shipper: Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166. Send protests to: J. P. Werthmann, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 3248-B, 1520 Market Street, St. Louis, Mo. 63103.

No. MC 115669 (Sub-No. 84 TA), filed December 13, 1967. Applicant: HOWARD N. DAHLSTEN, doing business as DAHLSTEN TRUCK LINE, Post Office Box 95, Clay Center, Nebr. 68933. Applicant's representative: Howard N. Dahlsten (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime and limestone products*, from Davenport, Iowa, to De Soto, Lawrence, Kansas City, and Mission, Kans., for 180 days. Supporting shipper: Linwood Stone Products Co., Inc., Rural Route 2, Davenport, Iowa 52804. Send protests to: District Supervisor Max H. Johnston, Bureau of Operations, Interstate Commerce Commission, 315 Post Office Building, Lincoln Building, Lincoln, Nebr. 68508.

No. MC 116365 (Sub-No. 8 TA), filed December 11, 1967. Applicant: C. ROBERT MATTRESS AND DONALD MATTRESS, a partnership, doing business as B & D TRUCKING SERVICE, 35 West Garfield Avenue, Norwood, Pa. 19074. Applicant's representative: Ralph C. Busser, Jr., 1710 Locust Street, Philadelphia, Pa. 19103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fresh bakery products*, from Philadelphia, Pa., to Wilmington and Newark, Del., for 180 days. Supporting shipper: Tasty Baking Co., 2810 Hunting Park Avenue, Philadelphia, Pa. 19129. Send protests to: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Second and Chestnut Streets, Philadelphia, Pa. 19106.

No. MC 119632 (Sub-No. 32 TA), filed December 13, 1967. Applicant: REED LINES, INC., 634 Ralston Avenue, Defiance, Ohio 43512. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beverage preparations*, dry, from Plantsite of Muller Packaging Corp. at or near Oberlin, Ohio, to Greenville, Ill., for 180 days. Supporting shipper: Pet Inc., Milk Products Division, Arcade Building, St. Louis, Mo. 63166. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5234 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 124251 (Sub-No. 21 TA), filed December 15, 1967. Applicant: JACK JORDAN, INC., U.S. Highway 41 South, Dalton, Ga. 30720. Applicant's representative: Ariel Vincent Conlin, Suite 626, Fulton National Bank Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Latex and latex compounds*, from points in Whitfield County, Ga., to Chattanooga, Tenn., for 180 days. Supporting shipper: The Dow Chemical Co., Freeport, Tex. 77541. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga.

No. MC 125035 (Sub-No. 15 TA), filed December 15, 1967. Applicant: RAY E. BROWN TRUCKING, INC., 1122 58th Street NE., North Canton, Ohio 44721. Applicant's representative: Fred H. Zellinger, 800 Cleve-Tusc Building, Canton, Ohio. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, such as chocolate milk, oleomargarine, cottage cheese, cottage cheese products, cream cheese, cream cheese products, fruit and water beverages, milk, buttermilk, cream, and other products normally sold on wholesale and retail dairy routes, when moving in mixed shipments with the aforementioned products, from Cleveland, Ohio, to points in Erie County, Pa., for 180 days. Supporting shipper: The Great Atlantic & Pacific Tea Co., Inc., 3440 Forbes Avenue, Pittsburgh, Pa. 15213. Send protests to: District Supervisor G. J. Bessel, Interstate Commerce Commission, Bureau of Operations, 436 Federal Building, 215 Superior Avenue, Cleveland, Ohio 44114.

No. MC 126367 (Sub-No. 4 TA), filed December 15, 1967. Applicant: EVERGREEN TRUCKING COMPANY, Box 39, Rural Route, Jewell, Oreg. 97126. Applicant's representative: Earl V. White, 2400 Southwest Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Peeler cores*, from Ford, Wash., to Priest River, Idaho, for 180 days. Supporting shipper: Merritt Bros. Lumber Co., Route 1, Box 1A, Priest River, Idaho. Send protests to: S. P. Martin, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, 120 Southwest Fourth Street, Portland, Oreg. 97204.

No. MC 126420 (Sub-No. 11 TA), filed December 12, 1967. Applicant: ALASKA STEAMSHIP COMPANY, Pier 42, Seattle, Wash. 98134. Applicant's representative: Edward G. Lowry III, 14th Floor, Norton Building, Seattle, Wash. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (with the usual exceptions), from Seattle, Wash., to points in Alaska over Washington Highways to Puget Sound Terminal of Alaska Marine Highway System and then over system to Alaska, and return, for 150 days. Supporting shipper: Applicant's affidavit of explanation is enclosed. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 128196 (Sub-No. 3 TA), filed December 13, 1967. Applicant: KARL ARTHUR WEBER, 2408 North 20th Drive, Phoenix, Ariz. 85009. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood building materials*; (a) from points in Arizona, California, and Oregon to points in Arkansas, Louisiana, Oklahoma, New Mexico, and Texas; (b) from points in Arkansas, Colorado, Louisiana, New Mexico, and Texas to points in Arizona, California, and Nevada, for 180 days. Supporting shipper: Tarter, Webster & Johnson, Ins. of Texas, Post Office Box 1, West Hurst Boulevard, Hurst, Tex. 76053. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 3427 Federal Building, Phoenix, Ariz. 85025

No. MC 128503 (Sub-No. 1 TA), filed December 15, 1967. Applicant: WORLD-WIDE PET TRAVEL SERVICE, 1546 South 53d Street, Philadelphia, Pa. 19143. Applicant's representative: David W. Greer, Jr. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animals*, other than horses for racing or show purposes, such as *dogs, cats, monkeys, and reptiles* used for pets, resale, research, or exhibit, between points in Delaware; New Jersey, New York City, N.Y., Nassau County, N.Y., Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa.,

for 180 days. Supporting shipper: Military Travel Service, Inc., Wrightstown Cookstown Road, Post Office Box 127, Cookstown, N.J. 08511. Send protests to: Peter R. Guman, District Supervisor, 906 U.S. Customhouse, Second and Chestnut Streets, Philadelphia, Pa. 19106.

No. MC 129555 (Sub-No. 1 TA), filed December 13, 1967. Applicant: M. C. CLODFELTER AND JACK M. CLODFELTER, a partnership, doing business as M. & J. TRUCK SERVICE, 314 West Eighth Street, Winfield, Kans. 67156. Applicant's representative: C. Zimmerman, 503 Schweiter Building, Wichita, Kans. 67202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass pipe and fittings*, from Wichita, Kans., to points in Oklahoma, Texas, Illinois, Louisiana, South Dakota, North Dakota, Montana, Wyoming, and New Mexico, for 150 days. Supporting shipper: Rock Island Oil & Refining Co., Inc., 321 West Douglas, Wichita, Kans. 67202. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 906 Schweiter Building, Wichita, Kans. 67202.

No. MC 129567 TA, filed December 12, 1967. Applicant: RONALD ROSSANA, doing business as R. ROSSANA VAN LINES, 141 Main Street, Northport, N.Y. 11768. Applicant's representative: Irving Abrams, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Loudspeaker cabinets*, in cartons, from Farmingdale, N.Y., to Smithfield, N.C., for 180 days. Supporting shipper: Esaco Industries, Inc., 21–31 Route 110, Farmingdale, N.Y. Send protests to: E. N. Carignan, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 346 Broadway, New York, N.Y.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67–14627; Filed, Dec. 22, 1967; 8:46 a.m.]

[S.O. No. 994; ICC Order 2, Amdt. 2]

FRANKFORT AND CINCINNATI RAILROAD CO.

Diversion or Rerouting of Traffic

Upon further consideration of ICC Order No. 2 (Frankfort & Cincinnati Railroad Co.) and good cause appearing therefor:

It is ordered, That:

ICC Order No. 2 be, and it is hereby amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) Expiration date: This order shall expire at 11:59 p.m., January 31, 1968, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., December 19, 1967, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., December 19, 1967.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER, *Agent.*

[F.R. Doc. 67–14628; Filed, Dec. 22, 1967; 8:46 a.m.]

[Notice 85]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 19, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pendings its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–69742. By order of December 11, 1967, the Transfer Board approved the transfer to Mercer Trucking Co., Inc., Greenacres, Wash., of a portion of the operating rights in certificate No. MC–1545, issued December 6, 1966, to Merchants Trucking Co., Inc., Sandpoint, Idaho, authorizing the transportation, over irregular routes, of milk, flour, feed, soap, canned goods, sugar, salt, lumber, lath, shingles, contractor's equipment, machinery, and specified incidental equipment, between various specified points in Idaho, Washington, and Montana. George R. LaBissoniere, 920 Logan Building, Seattle, Wash. 98101, attorney for applicants.

No. MC–FC–69834. By order of December 11, 1967, the Transfer Board approved the transfer to Mercer Trucking Co., Inc., Greenacres, Wash., of the operating rights in Certificate No. MC–59410, issued April 28, 1966, to Stuart Trucking Co., a corporation, Greenacres, Wash., authorizing the transportation, over irregular routes, of manufactured forest products, grain, feed, poles, piling, milling machinery and equipment, building materials, livestock, sand and gravel, lumber, brick, sewer tile, building logs, and mouldings and mastick between specified points in Idaho, Washington, and Montana. George R. LaBissoniere, 920 Logan Building, Seattle, Wash. 98101, attorney for applicants.

No. MC–FC–69910. By order of December 11, 1967, the Transfer Board approved on reconsideration, the transfer to Cheney Motor Express, Inc., of that portion of the operating rights of L. J. Kreutzer, doing business as Kreutzer Motor Express, Mankato, Minn., in permit No. MC–111301, issued July 19, 1956, authorizing the transportation of mineral wool, from Mankato, Minn., to points in Iowa, Nebraska, North Dakota, South Dakota, and Wisconsin, and the entire operating rights authorized in permit No. MC–111301 (Sub-No. 6), issued October 15, 1959, authorizing the transportation, over irregular routes, of mineral wool, from Mankato, Minn., to points in the Upper Peninsula of Michigan and those in a described portion of Illinois. Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402, attorney for applicants.

No. MC–FC–70014. By order of December 11, 1967, the Transfer Board approved the transfer to J. N. Wilson Co., Inc., Erie, Pa., of the operating rights in certificate No. MC–107911 issued April 6, 1950, to Gordon F. Way and Edward Hayes, a partnership, doing business as J. N. Wilson Co., Erie, Pa., authorizing the transportation of heavy machinery, road and building construction equipment, other commodities requiring special handling or rigging because of size or weight, and incidental tools, materials, equipment, and supplies, over irregular routes, between points in Erie County, Pa., on the one hand, and, on the other, points in New York and Ohio and on the Lower Peninsula of Michigan. Bernard L. Siegel, 506 G. Daniel Baldwin Building, Erie, Pa. 16501, attorney for applicants.

No. MC–FC–70016. By order of December 11, 1967, the Transfer Board approved the transfer to Wittwer, Inc., Mount Horeb, Wis., of the operating rights in certificate No. MC–117708, issued April 27, 1959, to Clarence Stark, Mount Hope, Wis., authorizing the transportation of animal and poultry feed from Minneapolis, Minn., to points in Vernon, Crawford, Richland, Sauk, Iowa, Grant, Dane, Lafayette, Green, Columbia, and Rock Counties, Wis. Claude J. Jasper, 111 South Fairchild Street, Madison, Wis. 53703, attorney for applicants.

No. MC–FC–70039. By order of December 11, 1967, the Transfer Board approved the transfer to Edgar Rimback, doing business as Maplewood Transfer & Storage Co., Millburn, N.J., of the operating rights in certificate No. MC–25618, issued September 12, 1940 to Patrick A. Albanese, Millburn, N.J., authorizing the transportation of household goods, over irregular routes, between Millburn, N.J., and points and places in New Jersey within 10 miles of Millburn, on the one hand, and, on the other, New York, N.Y., and points and places in New Jersey and Pennsylvania. Robert B. Pepper, 297 Academy Street, Jersey City, N.J. 07306, practitioner.

No. MC–FC–70041. By order of December 11, 1967, the Transfer Board approved the transfer to Boyer-Rosene Moving & Storage, Inc., 2045 North Janice Avenue, Melrose Park, Ill. 60160, the operating rights in certificate No. MC–40544, issued June 16, 1964, to Richards Moving & Storage Co., a corporation, Melrose Park, Ill., authorizing the transportation of *household* goods as defined by the Commission, between Chicago, Ill., and points in Illinois within 50 miles of Chicago, Ill., on the one hand, and, on the other, points in New York, New Jersey, Pennsylvania, Connecticut, Massachusetts, Illinois, Indiana, Michigan, Ohio, Missouri, Iowa, Wisconsin, Minnesota, Kentucky, Alabama, Nebraska, Tennessee, and the District of Columbia.

No. MC–FC–70042. By order of December 11, 1967, the Transfer Board approved the transfer to Ferrara Interstate Movers, Inc., Rockville Centre, N.Y., of the operating rights in certificate No. MC–89981 issued October 9, 1952, to Globatta Carbone, Daniele Morello, and Giovanni Zaffiro, a partnership, doing business as John Ferrera & Co., New York, N.Y., authorizing the transportation of *household goods* as defined by the Commission, over irregular routes, between points in Connecticut, Rhode Island, Massachusetts, and New Jersey, those in New York on and southeast of New York Highway 7, and those in Pennsylvania east of a line beginning at the Pennsylvania–New York State line and extending along U.S. Highway 220 to Muncy, Pa., thence along the Susquehanna River to the Pennsylvania–Maryland State line. A. David Millner, 744 Broad Street, Newark, N.J. 07102, attorney for applicants.

No. MC–FC–70043. By order of December 11, 1967, the Transfer Board approved the transfer to Walter Baker Trucking Corp., Brooklyn, N.Y., of the operating rights in corrected permit No. MC–73687 issued December 13, 1956, to Arrow Trucking Corp., Brooklyn, N.Y., authorizing the transportation of brick, tile, and clay products, between points and areas in Connecticut, New Jersey, New York, and Pennsylvania. Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006, attorney for applicants.

No. MC–FC–70047. By order of December 14, 1967, the Transfer Board approved the transfer to Koberlein Express & Transfer Co., Inc., New York, N.Y., of certificate in No. MC–114303 issued August 18, 1958, to Michael's Delivery Service, Inc., Smithtown, Long Island, N.Y., authorizing the transportation of new furniture, uncrated, in retail delivery, from New York, N.Y., to points in New York, New Jersey, and Connecticut, within 50 miles of New York, N.Y. Morris Honig, 150 Broadway, New York, N.Y. 10038, attorney for applicants.

No. MC–FC–70048. By order of December 14, 1967, the Transfer Board approved the transfer to Rahier Trucking, Inc., Yakima, Wash., of certificate No. MC–61748 issued July 29, 1965, to Paddison Truck Lines, Inc., Yakima, Wash., and authorizing the transportation of fruits and farm products, between points in Yakima County, Wash., on the one hand, and, on the other, Portland and Hillsboro, Oreg., and spray materials, between Portland, Oreg., on the one hand, and, on the other, points in Yakima County, Wash. Douglas A. Wilson, 303 East D Street, Yakima, Wash. 98901, attorney for applicants.

No. MC–FC–70037. By order of December 14, 1967, the Transfer Board approved the transfer to Tank Truck Rentals, Inc., Lancaster, Pa., of the operating rights in permits Nos. MC–86188 (Sub-No. 6), MC–86188 (Sub-No. 25), and MC–86188 (Sub-No. 34), issued December 27, 1946, June 13, 1955, and August 22, 1960, respectively, to Northland Petroleum Transport Co., a corporation, Lancaster, Pa., authorizing the transportation of petroleum and petroleum products, in bulk, in tank vehicles, between specified points and areas in New Jersey, Ohio, West Virginia, Delaware, and Pennsylvania. S. S. Sisen, 140 Cedar Street, New York, N.Y. 10006, attorney for applicants.

No. MC–FC–70038. By order of December 14, 1967, the Transfer Board approved the transfer to Kristoffer D. Sertland, doing business as Crawford-Maher Stage Line, Post Office Box 158, Crawford, Colo. 81415, of the operating rights in certificate No. MC–31147 issued November 12, 1965, to Edgar L. Rice, doing business as Crawford-Maher Stage Line, Crawford, Colo. 81415, authorizing the transportation, over a regular route, of general commodities, except household goods, classes A and B explosives, commodities in bulk, and Maher, Colo., serving all intermediate points.

[SEAL] ANTHONY ANDREW, Jr., *Acting Secretary.*

[F.R. Doc. 67–14667; Filed, Dec. 21, 1967;

CUMULATIVE LIST OF PARTS AFFECTED—DECEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during December.

3 CFR

Page

PROCLAMATIONS:
- 2761A (see Proc. 3822) 19002
- 3548 (see Proc. 3822) 19002
- 3821 17571
- 3822 19002

EXECUTIVE ORDERS:
- Dec. 5, 1913 (revoked in part by PLO 4327) 16531
- Mar. 21, 1914 (revoked in part by PLO 4327) 16531
- June 24, 1914 (revoked in part by PLO 4327) 16531
- 11075 (see Proc. 3822) 19002
- 11248:
  - Amended by EO 11384 17423
  - Amended by EO 11385 18061
- 11383 17421
- 11384 17423
- 11385 18061

5 CFR

- 210 16474
- 213 ..... 16477, 17615, 17849, 20627, 20701
- 315 16474
- 351 16474
- 352 16474
- 353 16475
- 430 16475
- 511 16475
- 531 16475
- 713 16476
- 731 16476
- 752 16476
- 754 16476
- 771 16477
- 772 16477
- 831 16477
- 891 16477
- 2200 17573
- 2300 17651

7 CFR

- 301 ..... 18015, 18017
- 354 20765
- 401 ..... 16478, 17425, 17513
- 718 17513
- 722 ..... 17467, 17887, 17923
- 724 16478
- 725 16479
- 729 17887
- 793 20629
- 794 19155
- 811 18063
- 814 20765
- 815 16525
- 842 20701
- 905 ..... 16525, 17615, 17616, 17925
- 907 ..... 16526, 17515, 17888, 20629, 20766
- 909 17849
- 910 ..... 16526, 17617, 17651, 18017, 18918, 18085
- 944 17425
- 946 20702
- 959 20702
- 982 16527
- 987 19156
- 989 ..... 17467, 18086
- 1062 16479
- 1073 16480
- 1094 16527

7 CFR—Continued

Page

- 1103 16527
- 1106 16480
- 1126 16480
- 1421 16528
- 1422 20767
- 1427 ..... 16528, 19156
- 1464 17849
- 1474 17888
- 1488 18018

PROPOSED RULES:
- 51 17893
- 58 17893
- 812 17669
- 817 17669
- 911 17431
- 915 17431
- 948 17671
- 950 17433
- 989 ..... 17625, 20732
- 993 17434
- 1001 17626
- 1006 17626
- 1036 17626
- 1048 17626

8 CFR

- 238 17651
- 299 17651

PROPOSED RULES:
- 242 17624
- 243 17624
- 244 17624
- 299 17624

9 CFR

- 71 19157
- 76 19157
- 78 18086
- 79 19157
- 95 19157
- 96 19158
- 97 ..... 17618, 20768
- 151 19158

12 CFR

- 1 ..... 17574, 17926
- 12 17468
- 206 17469
- 224 17425
- 265 19159
- 335 17470
- 545 17926
- 556 20630
- 561 17515
- 605 17652
- 610 20703
- 670 20703

PROPOSED RULES:
- 16 20657
- 563 17544

14 CFR

- 21 17850
- 39 ..... 16481, 17426, 17515, 17516, 17652, 17927
- 61 16481
- 71 ..... 16482, 16483, 17426, 17427, 17516–17518, 17574–17576, 17653, 17851, 18020, 20630, 20631, 20704, 20705, 20769

14 CFR—Continued

Page

- 73 ..... 17427, 17653, 18087
- 75 17518
- 91 ..... 16483, 17654
- 97 ..... 16484, 17577, 17928, 19170, 20706
- 121 ..... 16481, 17889
- 141 17851
- 151 17471
- 214 18020
- 217 18020
- 221 18022
- 241 ..... 18023, 20770
- 243 20711
- 301 16491
- 303 16491
- 311 16491
- 320 16491
- 421 16491
- 430 ..... 16491, 20771
- 431 16491
- 435 16491
- 1209 20714
- 1502 20771

PROPOSED RULES:
- 1 16495
- 21 17485
- 25 17487
- 39 ..... 17439, 17672, 17673, 17895
- 71 ..... 16495, 17488, 17543, 17596–17598, 17673–17675, 17861, 17982, 18066–18062, 20657, 20658, 20737, 20738, 20780, 20781.
- 73 17488
- 75 18062
- 77 20658
- 91 ..... 16495, 19190
- 207 20739
- 214 16535
- 241 17983
- 295 16535
- 298 17598
- 399 20739

15 CFR

- 373 17471

16 CFR

- 13 ..... 17427, 17618, 17853–17855, 18025, 20631
- 15 ..... 17582, 17856, 18087, 20716

PROPOSED RULES:
- 301 17544
- 415 17601

17 CFR

- 230 17933
- 239 17933
- 240 ..... 17583, 20771
- 270 17583
- 274 17583

PROPOSED RULES:
- 240 ..... 17963, 18063
- 270 17861

19 CFR

- 5 17619
- 12 17428
- 16 19159
- 19 17619
- 23 16528
- 24 17619

20 CFR

Page

- 404 ..... 18026, 19159
- 405 ..... 18026, 18027
- 422 18030

PROPOSED RULES:
- 405 ..... 18050, 18054

21 CFR

- 19 18096
- 29 17654
- 120 ..... 16529, 17472, 18096
- 121 ..... 16529, 16530, 17472, 17587, 17654, 17655, 17856, 17857, 18096, 20631, 20632
- 130 16531
- 146 16531
- 146a 16491, 17657
- 148q 18096
- 166 17473
- 191 19176

PROPOSED RULES:
- 1 18113
- 15 18114
- 31 16533
- 46 ..... 17482, 17671, 18114
- 128 17980
- 130 17671
- 138 ..... 16533, 17626

22 CFR

- 10 17454

23 CFR

- 255 ..... 17938, 18032, 18033

PROPOSED RULES:
- 255 16534

24 CFR

- 203 20716
- 207 20716
- 220 20716
- 234 17587

25 CFR

PROPOSED RULES:
- 221 17543

26 CFR

- 1 ..... 17479, 17518, 17657, 17890, 17938, 18039
- 31 18039
- 46 18039
- 48 18039
- 49 18039
- 147 17858
- 601 20645
- 701 ..... 17890, 20772

PROPOSED RULES:
- 1 20727
- 151 17861

28 CFR

- 0 ..... 16531, 20772

29 CFR

- 1610 16491

30 CFR

PROPOSED RULES:
- 12 20730
- 18 18098
- 34 18098

31 CFR

Page

- 1 17519
- 82 17859
- 214 18044
- 365 20717

32 CFR

- 52 17661
- 54 17619
- 57 18087
- 504 18089
- 537 17519
- 701 17588
- 710 20717
- 721 20719
- 881 20720
- 888c 20648
- 1703 20722

32A CFR

OEP (Ch. I):
- Reg. 6 20726

33 CFR

- 80 20772
- 95 20772
- 109 ..... 17726, 17890
- 110 ..... 17726, 17890
- 114 ..... 17726, 17890
- 115 ..... 17726, 17890
- 116 ..... 17726, 17890
- 117 ..... 17726, 17890, 17939
- 124 20773
- 126 20773
- 209 17522

36 CFR

- 7 17661

39 CFR

- 123 17479
- 171 20633
- 224 18045
- 232 ..... 18045, 20643
- 261 20643
- 742 ..... 17479, 17860

41 CFR

- 1–1 ..... 16491, 18045
- 1–2 18049
- 1–16 18049
- 9–1 17542
- Ch. 18 17002
- 101–26 17939

42 CFR

- 53 17662

43 CFR

- 2210 17890

PUBLIC LAND ORDERS:
- 334 (revoked in part by PLO 4333) 17480
- 1796 (revoked in part by PLO 4331) 17479
- 2764 (see PLO 4331) 17479
- 4327 16531
- 4328 17429
- 4329 16532
- 4330 17479
- 4331 17479
- 4332 17479
- 4333 17480
- 4334 17429
- 4335 17429

43 CFR—Continued

Page

PUBLIC LAND ORDERS—Continued
- 4336 17620
- 4337 17662
- 4338 17891
- 4339 20775

45 CFR

- 30 17891
- 1105 17663

46 CFR

- 39 17621
- 55 19180
- 61 19180
- 72 19180
- 76 19180
- 77 19181
- 78 19181
- 98 17621
- 111 19181
- 112 19182
- 113 19182
- 221 17595
- 255 17595
- 282 20775
- 308 17891
- 510 17480
- 536 17667

PROPOSED RULES:
- Ch. II 17980
- 510 19192
- 514 16496
- 536 19192

47 CFR

- 73 ..... 19183, 19187
- 97 17429

PROPOSED RULES:
- 2 ..... 16495, 18115, 20782
- 73 ..... 19191, 20659, 20739
- 87 ..... 16495, 18115, 20782
- 91 17440

48 CFR

- 501 17940

49 CFR

- 93 20777
- 290 17941
- 291 17941
- 292 17941
- 293 17941
- 294 17941
- 295 ..... 17892, 17941
- 296 17941
- 297 17941
- 890 17480
- Ch. X 20603
- 1100 ..... 20654, 20778
- 1200 17480
- 1306 20654

PROPOSED RULES:
- 177 ..... 18114, 20739
- 239 18062
- 294 ..... 18114, 20739
- 1056 20659

50 CFR

- 13 20655
- 28 17622
- 32 ..... 17542, 20656
- 33 ..... 16532, 17430, 17481, 17623, 17667, 17668, 18049, 20656, 20704.
- 254 16492

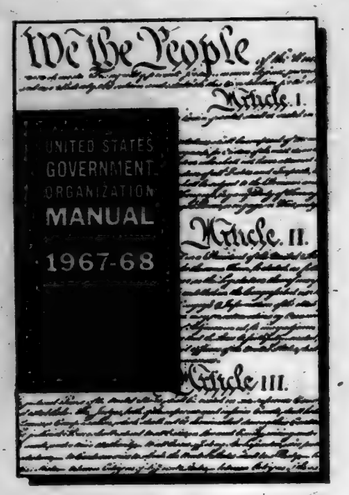

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The Congress
Agriculture Department
Atomic Energy Commission
Census Bureau
Civil Aeronautics Board
Civil Service Commission
Coast Guard
Commerce Department
Consumer and Marketing Service
Federal Aviation Administration
Federal Communications Commission
Federal Housing Administration
Federal Maritime Commission
Fish and Wildlife Service
Interagency Textile Administrative Committee
Interstate Commerce Commission
Labor Department
Maritime Administration
Packers and Stockyards Administration
Post Office Department
Securities and Exchange Commission
Social and Rehabilitation Service
Subversive Activities Control Board
Small Business Administration

Detailed list of Contents appears inside.

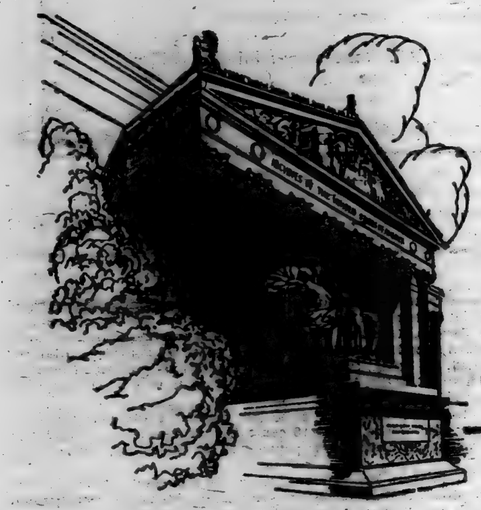

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Contents

THE CONGRESS

Acts Approved 20829

EXECUTIVE AGENCIES

AGRICULTURE DEPARTMENT

See also Consumer and Marketing Service; Packers and Stockyards Administration.

Rules and Regulations

Import quotas and fees 20801

ATOMIC ENERGY COMMISSION

Notices

Cobalt 60 sources; withdrawal from production and distribution 20821
Radiological Service Co., Inc.; issuance and amendment to by-product, source, and special nuclear material license 20821
University of Florida; issuance of facility license amendment 20820

CENSUS BUREAU

Rules and Regulations

Foreign trade statistics; miscellaneous amendments (3 documents) 20805–20807

CIVIL AERONAUTICS BOARD

Rules and Regulations

Organizational regulations; deletion of part 20805

Notices

Hearings, etc.:
Alitalia-Linee Aeree Italiane, S.p.A 20822
British United Airways (Services) Ltd 20822
Visas Enforcement Case 20822

CIVIL SERVICE COMMISSION

Rules and Regulations

Employment of relatives; restrictions 20801

COAST GUARD

Rules and Regulations

Dangerous cargoes; restrictions against loading and transporting Class B poisonous liquids or solids with foodstuffs 20816
Electrical engineering regulations 20814
Navigation lights and shapes for motorboats and vessels 20812

COMMERCE DEPARTMENT

See also Census Bureau; Maritime Administration.

Notices

Organization; effect on other orders 20819

CONSUMER AND MARKETING SERVICE

Rules and Regulations

Lemons grown in California and Arizona; handling limitations 20804

FEDERAL AVIATION ADMINISTRATION

Proposed Rule Making

Airworthiness directives; Lockheed Model 382 and 382B Series airplanes 20818

Notices

Airport traffic control tower at Huntsville, Ala.; notice of relocation 20819

FEDERAL COMMUNICATIONS COMMISSION

Notices

Hearings, etc.:
Long Island Video, Inc., and Granik Broadcasting Co., Inc. (2 documents) 20822, 20823
Manor, Joe and Mobilfone Communications, Inc. 20823
S R C, Inc., and San Angelo Independent School 20823

FEDERAL HOUSING ADMINISTRATION

Rules and Regulations

Introduction; delegations of basic authority and functions 20808
Miscellaneous amendments to chapter 20809

FEDERAL MARITIME COMMISSION

Proposed Rule Making

Significant vessel operating common carriers in domestic offshore trade; reports of rate and and base income account 20818

FEDERAL TRADE COMMISSION

Rules and Regulations

Prohibited trade practices:
Southern Yarns, Inc., et al 20807
Williams, J. B., Inc., et al 20808

FISH AND WILDLIFE SERVICE

Rules and Regulations

Bitter Lake National Wildlife Refuge, New Mexico; sport fishing 20817

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Social and Rehabilitation Service.

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Federal Housing Administration.

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

Notices

Certain cotton textiles and cotton textile products; entry or withdrawal from warehouse for consumption:
Produced or manufactured in:
Brazil 20824
Republic of the Philippines 20824
Tunisia 20825
Yugoslavia 20825

INTERIOR DEPARTMENT

See Fish and Wildlife Service.

INTERSTATE COMMERCE COMMISSION

Rules and Regulations

Car service; appointment of embargo agents 20817
Rerouting of traffic; appointment of agents 20817

Notices

Chicago, Rock Island and Pacific Railroad Co.; rerouting or diversion of traffic 20829
Motor carrier; temporary authority applications 20828

LABOR DEPARTMENT

Notices

Assistant Secretary for Manpower; delegation of authority 20828

MARITIME ADMINISTRATION

Notices

U.S. Government-sponsored commodities; voyage charter rate guidelines 20819

PACKERS AND STOCKYARDS ADMINISTRATION

Notices

Franklin County Livestock Market, Inc., et al.; proposed posting of stockyards 20819

POST OFFICE DEPARTMENT

Rules and Regulations

Issuances; cooperation with Red Cross during natural disasters 20811
Miscellaneous amendments to chapter 20810

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:
Hartford Electric Light Co. 20826
New England Power Co., and New England Electric System 20827
Pakoo Companies, Inc. 20827
Penrose Industries Corp. 20827

(Continued on next page)

CONTENTS

SOCIAL AND REHABILITATION SERVICE

Rules and Regulations

Organizational changes (4 documents) 20811

SUBVERSIVE ACTIVITIES CONTROL BOARD

Rules and Regulations

Employee responsibilities and conduct 20809

SMALL BUSINESS ADMINISTRATION

Notices

Alabama; declaration of disaster loan area 20827

TRANSPORTATION DEPARTMENT

See Coast Guard; Federal Aviation Administration.

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

5 CFR

310 20801

7 CFR

6 20801
910 20804

14 CFR

386 20805

PROPOSED RULES:

39 20818

15 CFR

30 (2 documents) 20805–20807

16 CFR

13 (2 documents) 20807, 20808

24 CFR

200 20808
203 20809
221 20809
236 20809

28 CFR

200 20809

39 CFR

113 20810
114 (2 documents) 20810, 20811
116 20811
135 20810

42 CFR

Ch. II 20811

45 CFR

Ch. II 20811
Ch. IV 20811
Ch. IX 20811

46 CFR

25 20812
32 20814
111 20814
112 20815
113 20812
146 20816
184 20813

PROPOSED RULES:

514 20818

49 CFR

1033 20817
1034 20817

50 CFR

33 20817

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 310—EMPLOYMENT OF RELATIVES

A new Part 310 is added to supply regulations governing the employment of relatives. The new Part, which is set forth below, is effective December 16, 1967.

Subpart A—Restrictions on the Employment of Relatives

Sec.
310.101 Coverage.
310.102 Definitions.
310.103 Restrictions.

Subpart B—Emergency Exceptions

310.201 Coverage.
310.202 Exceptions.

AUTHORITY: The provisions of this Part 310 issued under 5 U.S.C. 3302, 7301; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–58 Comp., p. 218; E.O. 11222, 30 F.R. 6469, 3 CFR, 1965 Supp., p. 130. Secs. 310.201 and 310.202 issued under 5 U.S.C. 3110.

Subpart A—Restrictions on the Employment of Relatives

§ 310.101 Coverage.

This subpart applies to appointment, employment, promotion, or advancement in (a) the competitive service; and (b) the excepted service in the executive branch.

§ 310.102 Definitions.

In this subpart:

(a) "Relative" means father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

(b) "Public official" means an officer, a member of the uniformed services, an employee, and any other individual, in whom is vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals, or to recommend individuals for appointment, employment, promotion, or advancement.

(c) "Chain of command" is the line of supervisory personnel that runs from a public official to the head of his agency.

§ 310.103 Restrictions.

(a) A public official shall not advocate one of his relatives for appointment, employment, promotion, or advancement to a position in his agency or in an agency over which he exercises jurisdiction or control.

(b) A public official shall not appoint, employ, promote, or advance to a position in his agency or in an agency over which he exercises jurisdiction or control:

(1) One of his relatives; or

(2) The relative of a public official of his agency, or of a public official who exercises jurisdiction or control over his agency, if the public official has advocated the appointment, employment, promotion, or advancement of that relative.

(c) For the purpose of this section, a public official who recommends a relative, or refers a relative for consideration by a public official standing lower in the chain of command, for appointment, employment, promotion, or advancement is deemed to have advocated the appointment, employment, promotion, or advancement of the relative.

(d) This section does not prohibit the appointment in the competitive service of a preference eligible if (1) his name is within reach for selection from an appropriate certificate of eligibles and (2) an alternative selection cannot be made from the certificate without passing over the preference eligible and selecting an individual who is not a preference eligible.

Subpart B—Emergency Exceptions

§ 310.201 Coverage.

This subpart applies to an office, agency, or other establishment in the executive, legislative, or judicial branch of the Federal Government, and in the government of the District of Columbia.

§ 310.202 Exceptions.

When necessary to meet urgent needs resulting from an emergency posing an immediate threat to life or property, an agency may employ relatives to meet those needs without regard to the restrictions in section 3110 of title 5, United States Code, and this part. Appointments under these conditions are temporary not to exceed 1 month, but may be extended for a second month if the emergency need still exists. Extensions beyond one month in the competitive service may be made only with the prior approval of the Commission.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67-14500; Filed, Dec. 26, 1967; 8:49 a.m.]

Title 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture

[Import Reg. 1, Rev. 4]

PART 6—IMPORT QUOTAS AND FEES

Subpart—Section 22 Import Quotas

Import Regulation 1, Revision 3, as amended (7 CFR §§ 6.20 to 6.31), governing the manner in which licenses may be obtained and used for the importation of certain commodities subject to import restrictions proclaimed pursuant to section 22 of the Agricultural Adjustment Act, as amended, is revised to read as set forth below.

The regulation as herein revised incorporates provisions similar to those contained in Amendments 1 and 2 to Import Regulation 1, Revision 3, which were issued (32 F.R. 10833, 32 F.R. 12437) in accordance with Presidential Proclamation 3790, dated June 30, 1967, to provide for the issuance of licenses for the importation, during the period July 1, 1967, through December 31, 1967, of American-type cheese, other than Cheddar, and the increased quantity of Cheddar cheese. Changes required to place the quota year on a calendar year basis and to provide for the issuance of licenses on a semiannual basis, as required by Presidential Proclamation 3790, are also made, together with certain other minor changes.

Sec.
6.20 Determination.
6.21 Definitions.
6.22 Prohibitions and restrictions on imports.
6.23 Exceptions.
6.24 Applications for licenses.
6.25 Eligibility.
6.26 Allocation of annual quotas and issuance of licenses.
6.27 Use of licenses.
6.28 Records and inspection.
6.29 Suspension or revocation of eligibility.
6.30 Delegation of authority.
6.31 Effective date.

AUTHORITY: The provisions of this subpart issued under sec. 3, 52 Stat. 1348, as amended; 7 U.S.C. 624; Proclamation 2545, Proclamation 3552, Proclamation 3563, Proclamation 3907, sec. 86 of the Tariff Schedules Technical Amendments Act of 1965 (79 Stat. 956), Proclamation 3709, and Proclamation 3790 (Part 3 of the Appendix to the Tariff Schedules of the United States, 19 U.S.C. 1202).

§ 6.20 Determination.

The provisions proclaimed by the President pursuant to section 22 of the Agricultural Adjustment Act, as amended, imposing quantitative limitations on certain commodities imported into the United States which are set forth in Part 3 of the appendix to the Tariff Schedules

of the United States, as amended, include the issuance of licenses, by or under the authority of the Secretary of Agriculture, for the importation of the commodities which are listed in appendix 1 of §§ 6.20 to 6.31. It is further provided that such licenses shall be issued under regulations of the Secretary of Agriculture which he determines will, to the fullest extent practicable, result in (a) the equitable distribution of the respective quotas for such commodities among importers or users and (b) the allocation of shares of the respective quotas for such commodities among supplying countries, based upon the proportion supplied by such countries during previous representative periods, taking due account of any special factors which may have affected or may be affecting the trade in the commodities concerned and that no licenses shall be issued which will permit any of the cheeses or substitutes for cheese to be entered during the first 6 months of a quota year in excess of more than one-half of the annual import quotas specified for such commodities. It is hereby determined that the regulations set forth in §§ 6.20 to 6.31 will, to the fullest extent practicable, accomplish this result.

§ 6.21 Definitions.

Except where the context otherwise requires, the following terms shall have the meanings set forth in this section:

(a) "Licensing Authority" means the Chief, Import Branch, Foreign Agricultural Service, U.S. Department of Agriculture, and any other officer or employee of the Department designated in writing as Acting Chief in the absence of the Chief.

(b) "Appendix 1" means appendix 1 of §§ 6.20 to 6.31.

(c) "Import" or "enter" means to enter through, or withdraw from warehouse, under custody of the U.S. Bureau of Customs for consumption in the United States.

(d) "United States" means the United States, the District of Columbia, and Puerto Rico.

(e) "Person" includes any individual, firm, corporation, partnership, association, or other organized group of persons. It also includes any government (other than the Government of the United States and any agency thereof).

(f) "Eligible applicant" means a person applying for a license to import a commodity who has established, to the satisfaction of the Licensing Authority, his eligibility to import such commodity.

(g) "Licensee" means any person to whom an import license has been issued pursuant to §§ 6.20 to 6.31.

(h) "Annual quota" means the quantity of a commodity which may be imported in a quota year as provided in appendix 1.

(i) "Quota year" means the 12-month period beginning on January 1 of any year.

(j) "Quota share" means that part of the annual quota of a commodity listed in appendix 1 for which a person is eligible.

(k) The terms "Supplying country" and "Country of origin" mean the country in which the commodity was produced.

(l) "Commodity" and "Commodities" mean commodity or product referred to in appendix 1.

(m) The meaning of the terms "butter," "dried cream," "malted milk," "dried whole milk," "dried skim milk," "dried buttermilk," "dried whey," and "cheese" shall be that as provided in appendix 1.

(n) "Other Country" or "Other Countries" shall refer to those countries as shown in the appendix as sharing a common quota and shall be deemed to be one country of origin for the purpose of this regulation.

§ 6.22 Prohibitions and restrictions on imports.

(a) No person shall import or cause to be imported any commodity listed in appendix 1, except as provided in § 6.23 or as authorized by an import license issued pursuant to §§ 6.20 to 6.31.

(b) The issuance of an import license does not relieve any person from compliance with any requirement of §§ 6.20 to 6.31 or any other applicable laws and regulations.

§ 6.23 Exceptions.

The requirements of §§ 6.20 to 6.31 shall not apply to—

(a) Commodities imported by or for the account of any agency of the U.S. Government.

(b) Commodities with an aggregate value not over $10 in any shipment, if imported as samples for taking orders, for the personal use of the importer, or for research.

(c) Commodities imported for exhibition, display, or sampling at a Trade Fair, or for research, if written approval of the Licensing Authority is obtained.

§ 6.24 Applications for licenses.

Application to the Licensing Authority for the issuance of licenses to import commodities referred to in appendix 1 shall be addressed to the Chief, Import Branch, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250, Ref. IR–1 (Agricultural Imports). Each application must state the commodity (including type thereof in the case of cheese), the country of origin from which importation is to be made, and the port or ports of entry at which importations are to be made.

§ 6.25 Eligibility.

(a) *Historical eligibility.* Any person is eligible for a license to import a quota share of any commodity listed in appendix 1 who (1) imported such commodity during the specified base period or has been recognized by the Licensing Authority as the successor-in-interest of such person, (2) submits or has submitted records of such importation which are acceptable to the Licensing Authority, and (3) is actively operating an independent business of importing such commodity.

(b) *Nonhistorical eligibility.* Any person who, during the preceding quota year, was not historically eligible under paragraph (a) of this section to receive a license to import a cheese under quota is eligible to receive an initial maximum annual new business share of 20,000 pounds of Cheddar cheese, 20,000 pounds of American-type cheese, other than Cheddar, and one, but only one, of 2,500 pounds of Blue mold cheese, 5,000 pounds of Italian-type cow's milk cheese, or 10,000 pounds of Edam and Gouda cheese upon the submission of evidence satisfactory to the Licensing Authority that, during such period, he was operating an independent business of importing cheese or cheese products and had made commercial importations in his own name of such cheese or cheese products, and who certifies that he is not a part of or an affiliate of the business of any person eligible for an import license for any commodity under this § 6.25 and is not an officer, member, partner, associate, or employee of such business. Once established, the eligibility and participation of new business licensees shall be treated in the same manner as historical licensees under §§ 6.21 to 6.31.

(c) *Establishment of eligibility.* Evidence required to establish the eligibility of a person making application to receive a license to import a quota share of a commodity must be received and approved by the Licensing Authority no later than 30 days preceding the quota year for which the license to import such commodity is first requested.

(d) *Continuation of eligibility.* The eligibility of a person to receive a license to import a quota share of any commodity, established under §§ 6.20 to 6.31, will be continued for subsequent quota years unless suspended or revoked pursuant to § 6.29.

(e) *Transfer of eligibility.* Upon receipt of evidence acceptable to the Licensing Authority that the entire dairy products business of a person who has established eligibility for a quota share has been sold or otherwise transferred to a person who is assuming the operation of the entire dairy products business, the Licensing Authority will recognize the successor-in-interest as having eligibility for such quota share: *Provided, however,* That, in the event of the merger of the businesses of two or more persons, the successor-in-interest, with the historical eligibility of all persons for whom he is successor-in-interest, shall be considered only as one person for the purpose of determining eligibility for new business quota shares.

§ 6.26 Allocation of annual quota and issuance of licenses.

(a) *New business licensees.* There shall be set aside for allocations to nonhistorical eligible applicants the amounts specified in the appendix. Each new business licensee shall be entitled to a quota share of the maximum applicable amounts except as provided in paragraph (c) of this section: *Provided,* That the new business quota share of any person for any type of such cheese shall not exceed the quantity of such cheese for which he requested an import license: *Provided, further,* That the amounts so utilized will not exceed the amounts so set aside: *And provided, further,* That any unallocated amounts shall be made available for distribution to historical licensees.

(b) *Historical licensees.* The annual quota amounts, less the quantities allocated to new business licensees, shall be allocated among historical eligible applicants on the basis of their average imports during the respective base periods as shown in the appendix, except as provided for in paragraph (c) of this section: *Provided, however,* That the historical quota share of any person for any type of cheese may not exceed 30 percent of the amount which may be imported during any quota year from a particular country of origin and the quantities not allocated due to this limitation shall be apportioned among other historical eligible applicants as set forth in this paragraph: *Provided, further,* That the quantity of a commodity imported during the base period by a person who is not as of the beginning of a quota year actively operating an independent business of importing such commodity shall, for the purpose of determining the quota shares of eligible applicants, be deemed to have been imported by his successor-in-interest, if any, to whom such business has been sold or otherwise transferred (which transfer has been recognized by the Licensing Authority) and who is actively operating such business as of the beginning of the quota year.

(c) *Reduction of quota share.* The quota share of a person or firm, who has imported during each of the preceding 2 quota years less than 85 percent of his authorized quota share, shall be reduced in the following quota year to 110 percent of his average imports during the preceding 2 quota years, unless the licensee establishes that he was unable to import the quota share either due to the lack of supply in the country of origin or other reasons acceptable to the Licensing Authority: *Provided,* (1) That once such reduced quota share has been established the quota share of the licensee in each of the following quota years shall be no less than 110 percent of his imports during the quota year immediately preceding; (2) That a reduced quota share of a commodity shall not be less than one-half of the initial maximum new business quota share for that commodity, except that such minimum shall not apply in case of further failures to import the quota share; (3) That once a reduced quota share has again reached 85 percent of the average of the quota shares during the quota years on which the reduced quota share was based, the original quota base shall be reestablished.

(d) *Licenses*—(1) *Commodities other than cheese.* Licenses to import quota shares of commodities other than cheese may be issued on an annual basis.

(2) *Cheese.* In the absence of specific circumstances which the Licensing Authority determines would warrant an annual quota share license, quota shares of cheese shall be divided into two parts, as nearly equal as practicable, each to be covered by a license valid on the first day of the first and seventh month of each calendar year: *Provided,* That licenses may not be issued which would permit the importation of any type of cheese during the first 6 months of the quota year in excess of one-half the annual quota share.

(e) *Advance against next period license.* Notwithstanding any other provision herein, any person eligible for a license to import a quota share of any commodity may be given an advance against his next period license in order to permit him to import an additional quantity of such commodity upon a determination by the Licensing Authority that not to grant the advance against his next period license would result in an undue hardship to such person.

§ 6.27 Use of licenses.

Licenses shall be used in making importations of commodities as follows:

(a) The commodity imported must be a product of the country of origin specified in the license.

(b) The licensed commodities may be entered only in the name of the licensee, by him or for him by his agent acting under power of attorney:

(1) As a consumption entry under a license issued to the authorized person shown as the consignee on a through bill of lading from the country of origin;

(2) In the event of a sale in transit, as a consumption entry under a license issued to an authorized person to whom the sale has been made against a properly endorsed through bill of lading and a certified copy of the bill of sale from the original consignee showing the amount paid and the date of purchase;

(3) In the event of the loss of the original through bill of lading, as a consumption entry under a license issued to the authorized person named as consignee on a carrier's certificate which certifies the shipment is a through shipment; and

(4) As a warehouse entry under bond only in the manner prescribed above for consumption entries. Withdrawal of goods from bond may be made only under license issued to the authorized person who made the entry; or, in the event of a sale in bond, under license issued to an authorized person or firm to whom sale has been made and only upon the presentation of a properly endorsed Customs Form 7505 and a certified copy of the bill of sale, showing the amount and date of sale.

(c) Consolidated entries or withdrawals from bond may not be made except with the written approval of the Licensing Authority.

(d) Entries or withdrawals from bond may be made only at the port of entry designated on the license, except when the Licensing Authority has, upon prior request of the licensee, authorized entry at another port.

(e) Each entry or withdrawal from warehouse must also be accompanied by a completed Form FAS 65 or other approved form.

§ 6.28 Records and inspection.

Any person making an importation, except as provided in § 6.23, of a commodity listed in appendix 1 shall retain all records of all purchases, entries, withdrawals, sales, and deliveries of such commodities for a period of not less than 2 years subsequent to the end of the quota year during which importation was made. The Licensing Authority or his designee shall be entitled to make such audit and inspection of such records, to inspect the premises and stocks of commodities of such person, and to make such other investigations as may be necessary or appropriate in the enforcement or administration of §§ 6.20 to 6.31.

§ 6.29 Suspension or revocation of eligibility.

(a) *Failure to import quota share.* (1) The eligibility of a person for a quota share of a commodity shall, upon his failure to import any of such commodity in any quota year, be suspended for the following quota year unless application to receive a license to import such commodity is received and approved by the Licensing Authority no later than 6 months after the beginning of such following quota year.

(2) The eligibility of a person for a quota share of a commodity shall, upon his failure to import any of such commodity during 2 consecutive quota years from the date of this amendment, be revoked unless the licensee establishes that he was unable to import such commodity due to reasons acceptable to the Licensing Authority.

(b) *Violation of regulations*—(1) *Withholding of licenses.* The Administrator, Foreign Agricultural Service, upon reasonable cause to believe that a licensee has violated the provisions of §§ 6.20 to 6.31, or has furnished false or incomplete information in connection therewith, may, after notice to the licensee, withhold for a period of not to exceed 120 days, the issuance of further licenses to the licensee for a quota share of a commodity or commodities.

(2) *Suspension and revocation.* The Administrator, Foreign Agricultural Service, may suspend or revoke the eligibility of a person for a quota share of a commodity or commodities upon written notice to such person and with opportunity for a hearing, if he determines on the basis of information available to him and the records of the administrative hearing, if one is held, that such person has violated the provisions of §§ 6.20 to 6.31 or has furnished false or incomplete information in connection therewith.

(3) *Charge against licenses.* Any quantity of a commodity imported by any person contrary to §§ 6.20 to 6.31 may be charged against any unused import license held by, or to be issued to, such person for such commodity.

(c) *Civil and criminal liability.* Any person who violates any provision of §§ 6.20 to 6.31 may be prosecuted under any and all applicable laws. Civil action may also be instituted to enforce any

liability or duty created by, or existing any violation of any provision of §§ 6.20 to 6.31 or requirements pursuant hereto.

§ 6.30 Delegation of authority.

(a) The administration of §§ 6.20 to 6.31 is vested in the Administrator, Foreign Agricultural Service, or his designee, who may promulgate interpretative rules and procedures and issue statements of policy which he determines necessary for the efficient administration thereof, taking due account of any special factors which may have affected or may be affecting the trade in the commodities concerned (including transferring quota shares to other countries of origin).

(b) The powers vested in the Administrator, FAS, insofar as such powers relate to the functions vested in the Licensing Authority by §§ 6.20 to 6.31 are hereby delegated to the Licensing Authority.

§ 6.31 Effective date.

Sections 6.20 to 6.31 shall become effective January 1, 1968, and, except as herein provided, shall supersede the provision of Import Regulation 1, Revision 3, as amended, heretofore in effect. With respect to violations, rights accrued, liabilities incurred, or appeals taken concerning Import Regulation 1, as amended and revised, prior to the effective date hereof, all provisions of said Import Regulation 1, as amended and as revised, in effect at the time when such violations occurred, rights accrued, liabilities incurred, or appeals taken shall be deemed to continue in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, liability, or appeal.

It is hereby determined that the foregoing revision of Import Regulation 1, Revision 3, as amended, is necessary and must be made effective as of January 1, 1968. Therefore, under section 553 of Title 5 of the United States Code, it is found upon good cause that notice and other public rule making procedure concerning the revision are impracticable, unnecessary, and contrary to the public interest and that good cause exists for making the revision effective less than 30 days after publication in the FEDERAL REGISTER.

Proposals for amendment or modification of this revision are invited. They may be addressed to the Chief, Import Branch, Foreign Agricultural Service, Washington, D.C. 20250. All proposals received will be given immediate consideration. Any such proposal should be accompanied by a written statement in explanation and support of such proposal.

NOTE: The reporting and recordkeeping requirements of these regulations have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Issued at Washington, D.C., this 21st day of December 1967.

RAYMOND A. IOANNIS,
Administrator,
Foreign Agricultural Service.

ANNEX I—COMMODITIES [1] SUBJECT TO IMPORT REGULATION, REVISION 4 AND ANNUAL [2] IMPORT QUOTAS FOR EACH QUOTA YEAR

Commodity	Base period [3]	Annual import quota (pounds)	New business set aside (pounds)
Group I:			
(a) Butter:			
New Zealand	Jan. 1, 1961, to Dec. 31, 1965	220,000	
Denmark		212,000	
Argentina, Australia, Canada, Netherlands, Norway, Sweden, and Switzerland.		168,000	
(b) Dried cream	Jan. 1, 1961, to Dec. 31, 1962	800	
(c) Malted milk	July 1, 1953, to June 30, 1963	5,000	
(d) Dried whole milk	Jan. 1, 1961, to Dec. 31, 1962	7,000	
(e) Dried skimmed milk	July 1, 1960, to Aug. 3, 1961	1,807,000	
(f) Dried buttermilk and whey	Jan. 1, 1961, to Dec. 31, 1962	495,000	
Group II [4]	Jan. 1, 1962, to Dec. 31, 1965 [5]		
Edam and Gouda cheese		8,200,400	820,000
Blue-mold cheese (except Stilton), and cheese and substitutes for cheese containing or processed from Blue-mold cheese.		8,018,200	200,000
Italian-type cheeses made from cow's milk, in original loaves. Romano made from cow's milk, Reggiano, Parmesano, Provolone, Provoletta, Sbrinz.		12,500,100	1,100,000
Group III [3]	Jan. 1, 1961, to Dec. 31, 1965		
Cheddar cheese, and cheese and substitutes for cheese containing or processed from Cheddar cheese.		5,313,200	[6] 1,326,100
Australia		3,000,100	
Canada		612,300	
Ireland		302,700	
New Zealand		5,302,400	
Sweden		130,100	
Other (Austria, Belgium, Bulgaria, Denmark, Israel, Italy, Netherlands, Portugal, Switzerland, United Kingdom, and West Germany).		308,400	
American-type cheese, including Colby washed curd, and granular cheese (but not including Cheddar) and cheese and substitutes for cheese containing, or processed from, such American-type cheese.		6,000,000	1,324,150 of which
Australia		1,000,000	400,000
Ireland		501,000	140,000
New Zealand		3,300,000	940,000
Sweden		165,000	32,350
Others (Austria, Belgium, Bulgaria, Italy, Denmark, Israel, Netherlands, Portugal, Switzerland, United Kingdom, and West Germany).		273,000	92,000

[1] Commodities provided for in Items 950.01 through 950.11, except 950.05, of Part 3 of the appendix to the Tariff Schedules of the United States; this includes all items classifiable as the listed items.

[2] Importers of record during following periods have historical eligibility; quota shares prorated on basis of historical imports by countries of origin.

[3] Annual quota allocated 2 times annually on January 1 and July 1 of each quota year.

[4] Quota base may be 1948–50 or 1949 to 50 average, adjusted to 1962, or 1960 total, whichever is the largest. If no imports during 1948–50, imports during base period January 1–August 6, 1962, may be considered as made in 1962.

[5] Up to 397,600 pounds may be set aside from the amount allocated to "Other" countries. Not more than 25 percent of the amounts allocated to each of the individual countries, New Zealand, Australia, Ireland, and Sweden, may be set aside.

[F.R. Doc. 67-14962; Filed, Dec. 26, 1967; 8:45 a.m.]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Lemon Reg. 299, Amdt. 7]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

Order, as amended. The provisions in paragraph (a)(1)(i), (ii), and (iii) of § 910.599 Lemon Regulation 299, 32 F.R. 16979 are hereby amended to read as follows:

§ 910.599 Lemon Regulation 299.

* * * * *

(i) District 1: Unlimited movement;
(ii) District 2: 106,950 cartons;
(iii) District 3: Unlimited movement.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 21, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-14966; Filed, Dec. 26, 1967; 8:46 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter II—Civil Aeronautics Board

SUBCHAPTER E—ORGANIZATION REGULATIONS

[Reg. No. OR–86]

PART 386—DELEGATION AND REVIEW OF ACTION UNDER DELEGATION; DETERMINATION OF PROBABLE CAUSE OF AIRCRAFT ACCIDENTS

Deletion of Part

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of December 1967.

Part 386 of the Board's Organization Regulations contains a delegation of authority to the Director of the Board's former Bureau of Safety concerning the determination of the probable cause of aircraft accidents under certain circumstances and also sets forth the procedures governing discretionary review by the Board of action taken under such delegation. By section 12 of the Department of Transportation Act (80 Stat. 949) this regulation was continued in effect until modified, terminated, superseded, set aside, or repealed by the National Transportation Safety Board.

The National Transportation Safety Board has issued a regulation (14 CFR Part 400.25),[1] containing a delegation of authority to the Director, Bureau of Aviation Safety, which supersedes Part 386, and it is therefore appropriate to delete the part.

Since this action does not affect a substantive rule but affects a rule of agency organization and procedure, notice and public procedure hereon are unnecessary, and the deletion may be made effective less than 30 days following publication thereof.

Accordingly, the Board hereby deletes Part 386 of the Organization Regulations, 14 CFR Part 386, effective as of the end of the day on December 31, 1967.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324)

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-14976; Filed, Dec. 26, 1967; 8:47 a.m.]

[1] 32 F.R. 12839.

Title 15—COMMERCE AND FOREIGN TRADE

Chapter I—Bureau of the Census, Department of Commerce

PART 30—FOREIGN TRADE STATISTICS

Miscellaneous Amendments

Pursuant to Title 13, United States Code, section 302, the following amendments are made to the regulations published in the FEDERAL REGISTER on August 27, 1966 (31 F.R. 11368) (15 CFR Part 30). In accordance with the Administrative Procedure Act, 5 U.S.C. 553, notice and hearing on these amendments and postponement of the effective date thereof are unnecessary because (1) the amendments are changes in the substantive rules which grant or recognize exemptions or relieve restrictions, and (2) are interpretive rules and statements of policy.

These amendments will (1) provide a simplified procedure for the filing of Shipper's Export Declarations for air shipments which are split at the port of export and exported in more than one aircraft of the same airline, (2) extend the "port of origin" procedure presently provided in § 30.36(b) of the Foreign Trade Statistics Regulations to the following additional ports of origin: Atlanta, Ga.; Kansas City, Mo.; Oklahoma City, Okla.; St. Louis, Mo.; and Tucson, Ariz.; (3) clarify the intended coverage of the exemption from Shipper's Export Declaration filing requirements presently provided in § 30.53(d) of the Foreign Trade Statistics Regulations for shipments of books, maps, charts, etc., by U.S. Government offices to U.S. foreign libraries or Government establishments, (4) exempt from Shipper's Export Declaration filing requirements shipments of interplant correspondence, executed invoices and other documents, and other shipments of company business records from a U.S. firm to its subsidiary or affiliate, (5) eliminate all requirements for reporting commodities in terms of Schedule W, *Statistical Classification of U.S. Waterborne Exports and Imports*, and (6) provide for new editions of Schedule C, *Classification of Country Designations Used in Compiling the U.S. Foreign Trade Statistics*, and Schedule D, *Code Classification of U.S. Customs Districts and Ports*.

Effective date: These amendments are effective on the date of publication.

§ 30.7 [Amended]

1. Section 30.7(1)(5) is deleted in its entirety.

2. Section 30.22 is amended by the deletion of selected sentences in paragraph (a) and by the addition of new paragraphs (c), (d), and (e), so that as amended § 30.22 now reads as follows:

§ 30.22 Requirements for the filing of Shipper's Export Declarations by departing carriers.

(a) To meet the requirements of § 30.20 for the filing of Shipper's Export Declarations, every departing carrier transporting merchandise as specified in § 30.20, including vessels, aircraft, rail carriers, trucks and other vehicles, ferries, and every other carrier shall deliver to the District Director of Customs at the port of exportation, with the manifest of the carrier, if a manifest is required by the regulations in this part, Shipper's Export Declarations prepared and signed by the exporters or their agents covering all the cargo for which such Shipper's Export Declarations are required by the regulations in this part. Except as provided in paragraph (b) of this section, the declarations delivered by the carrier shall have been previously authenticated by Customs, in accordance with the provisions of § 30.14(a).

(b) For shipments where the ultimate destination is Canada or a nonforeign area, and where the exporting carrier acts as agent of the exporter in presenting declarations to Customs, the District Director of Customs, in accordance with the provisions of § 30.14(b), may waive the requirement that the Shipper's Export Declarations delivered by the carrier shall have been previously authenticated. In that event, the presentation to the District Director of Customs by the carrier of the number of copies of the Shipper's Export Declaration required by § 30.5 will satisfy the requirements of § 30.14 for presentation by the exporter, as well as the requirements of this section for presentation by the carrier.

(c) The carrier shall make sure that the correct information as to the actual "exporting carrier" is shown on all declarations and shall make changes on declarations for this purpose, if necessary, before delivering the declarations to Customs.

(d) Except as provided in paragraph (e) of this section, when a transportation company finds, prior to the filing of declarations and manifest as provided in (a) of this section, that due to circumstances beyond the control of the transportation company or to inadvertence, a portion of the merchandise covered by an individual Shipper's Export Declaration has not been exported on the intended carrier, the transportation company shall correct the descriptions and the quantity, value and shipping weight (if any) amounts shown on the declaration to reflect the amount actually exported on the carrier named in the Shipper's Export Declaration. If a short shipment of this type is discovered by the carrier after the Shipper's Export Declaration in question has been delivered to the District Director of Customs, the transportation company will immediately notify the District Director of Customs so that a correction can be made by the Director on all copies of the declaration if it is still in his possession. If the statistical copy of the declaration has been transmitted by the Director to the Bureau of the Census at the time of such notification, the Director will require the filing of a correction form, Form FT–7403, by the exporter or his agent, to effect the correction of the export declaration. If the balance of the short-shipped merchandise is subsequently exported, a new Shipper's Ex-

port Declaration, complete in all detail, will be required. If the short-shipped merchandise is exported on a carrier of the transportation company named in the original declaration, and if such exportation is made within a reasonable period, the District Director of Customs may accept a declaration executed by such transportation company; otherwise the new declaration shall be executed by the exporter or his agent. In any event, the new declaration shall contain the following statement:

These commodities or technical data were included, but not shipped, under authenticated Shipper's Export Declaration number ——— at ——— on ———
(Port) (Date)

If, under the provisions of (b) of this section, the original Shipper's Export Declaration was not authenticated, the space for authentication number in the above statement may be left blank.

(c) When a shipment by air covered by a single Shipper's Export Declaration is divided by the transportation company and exported in more than one aircraft of the transportation company, the "split shipment" procedure provided in § 30.41 shall be followed by the transportation company in delivering manifests and Shipper's Export Declarations to the District Director of Customs.

3. Section 30.36(b)(3) is amended to read as follows:

§ 30.36 Procedure for the filing of export documentation for air shipments at other than the actual port where the merchandise is laden aboard the exporting carrier.

* * * * *

(b) *Cargo transferred from a domestic flight originating at designated ports of origin to an international flight at the port of exit.* * * *

(3) Only the following ports may be utilized as ports of origin:

Atlanta, Ga.	Newark, N.J.
Baltimore, Md.	New Orleans, La.
Boston, Mass.	New York, N.Y.
Buffalo, N.Y.	Oklahoma City, Okla.
Chicago, Ill.	Philadelphia, Pa.
Cleveland, Ohio.	Port Everglades, Fla.
Dallas, Tex.	Portland, Oreg.
Detroit, Mich.	St. Louis, Mo.
Honolulu, Hawaii.	San Diego, Calif.
Houston, Tex.	San Francisco, Calif.
Kansas City, Mo.	San Juan, P.R.
Los Angeles, Calif.	Seattle, Wash.
Miami, Fla.	Tucson, Ariz.
Minneapolis, Minn.	

* * * * *

4. Subpart C is amended by the addition of a new § 30.41 to read as follows:

Subpart C—Special Provisions Applicable Under Particular Circumstances

§ 30.41 "Split shipments" by air.

When a shipment by air covered by a single Shipper's Export Declaration is divided by the exporting transportation company at the port where the declaration is filed, and part of the shipment is exported on one aircraft and part on another aircraft of the same transportation company, the following procedure shall apply:

(a) The carrier will deliver the manifest copy of the declaration to the District Director of Customs with the manifest covering the flight on which the first part of the split shipment is exported, and will make no changes on the declaration. However, the manifest will show in the "number of packages" column the actual portion of the declared total quantity being carried and will carry a notation to indicate "Split Shipment".

(b) On each subsequent manifest covering a flight on which any part of a split shipment is exported, a prominent notation "SPLIT SHIPMENT" will be made adjacent to the item on the manifest for ready identification. For the last shipment the notation will read "SPLIT SHIPMENT, FINAL".

Each subsequent manifest covering a part of a split shipment shall also show in the "number of packages" column only the merchandise carried on that particular flight and a reference to the total amount originally declared for export, e.g., 5 of 11, or 5/11; and immediately following the line showing the portion of the split shipment carried on that flight, a notation will be made showing the original Shipper's Export Declaration number (or date, where authentication is not required) and the portions of the originally declared total carried on each previous flight together with the number or date of each such previous flight, e.g., original Shipper's Export Declaration number 1U834241: 2 of 11 flight 36A, June 6; 4 of 11, flight 40X, June 10.

(c) Export declarations will not be required for these subsequent shipments.

5. Section 30.53(d) is amended to read as follows:

§ 30.53 Special exemptions for certain shipments to U.S. Government agencies and employees.

* * * * *

(d) Books, maps, charts, pamphlets, and similar articles shipped by U.S. Government offices to U.S. or foreign libraries, Government establishments or similar institutions.

6. Section 30.55(f) is amended and is a new paragraph (i) to read as follows:

§ 30.55 Miscellaneous exemptions.

* * * * *

(f) Shipments to foreign libraries, Government establishments, or similar institutions, as provided in § 30.53(d).

* * * * *

(i) Shipments of interplant correspondence, executed invoices and other documents, and other shipments of company business records from a U.S. firm to its subsidiary or affiliate.

7. Section 30.70 (g) and (k) are amended to read as follows and paragraph l is deleted:

§ 30.70 Statistical information required on import entries.

* * * * *

(g) *Description of merchandise.* (All forms.) Except on Customs Form 7512 when used as a Transportation and Exportation (T and E) or Immediate Exportation (IE) entry, the description of merchandise shall be in terms of the Tariff Act in accordance with the *Tariff Schedules of the United States Annotated for Statistical Reporting* (TSUSA) and in sufficient detail to permit the identification of the TSUSA statistical reporting number to which each commodity properly belongs. The name of the commodity and any and all characteristics of the commodity which distinguish it from commodities of the same name covered by other TSUSA statistical reporting numbers shall be clearly and fully stated. For merchandise classified in TSUSA classifications for which the instruction "specify by name" is shown in TSUSA the specific name of the commodity or a further identifying description in addition to the description in the more general terms of the commodity classification definition is required. When Customs Form 7512 is used as a Transportation and Exportation or Immediate Exportation entry importers need only report in terms of the first five digits of TSUSA (i.e., in terms of TSUS).

* * * * *

(k) *TSUSA reporting number.* (All forms.) Except on Customs Form 7512 when used as an in-transit entry, the reporting number according to the current edition of the Tariff Schedules of the United States Annotated shall be shown in the column provided on the form. The reporting number assigned shall reflect the correct TSUSA classification of the merchandise and be consistent with the rate of duty applicable to the commodity. Where correct reporting as indicated in TSUSA requires the use of more than one TSUSA commodity number, all required reporting numbers will be shown for an item on the Customs form. On Customs Form 7512 when used as a Transportation and Exportation or Immediate Exportation entry, the reporting number, the first five digits of TSUSA (TSUS), is required to be shown in the column provided on the form for "Description and Quantity of Merchandise". This code should appear to the right of that column, on the same line as the reported gross weight and value.

§ 30.92 [Amended]

8. In the paragraphs of § 30.92 entitled *Schedule C—Classification of Country Designations Used in Compiling the U.S. Foreign Trade Statistics* and *Schedule D—Code Classification of U.S. Customs Districts and Ports*, "1966 edition" is changed to read "1967 edition".

9. The last paragraph of § 30.92 entitled *Schedule W—Statistical Classification of U.S. Waterborne Exports and Imports* is deleted in its entirety.

A. Ross Eckler,
Director,
Bureau of the Census.

October 30, 1967.

I concur: November 28, 1967.

True Davis,
Assistant Secretary
of the Treasury.

[F.R. Doc. 67-14955; Filed, Dec. 26, 1967; 8:45 a.m.]

PART 30—FOREIGN TRADE STATISTICS

Miscellaneous Amendments

Elimination of power-of-attorney requirement for shipments to nonforeign areas; elimination of requirement for filing Shipper's Export Declarations for shipments under $100.

Pursuant to Title 13, United States Code, section 302, the following amendments are made to the regulations published in the Federal Register on August 27, 1966 (31 F.R. 11368) (15 CFR Part 30). In accordance with the Administrative Procedure Act, 5 U.S.C. 553, notice and hearing on these amendments and postponement of the effective date thereof are unnecessary because (1) the amendments are changes in the substantive rules which grant or recognize exemptions or relieve restrictions, and (2) are interpretative rules and statements of policy.

Earlier action was taken to eliminate the requirement for the filing of Shipper's Export Declarations for shipments (except shipments requiring a validated export license) valued under $100 to Canada, to the U.S. Possessions, between the United States and Puerto Rico and to all countries (except Cuba) in North and South America. The present amendment will extend this exemption to cover similar shipments to all countries except countries included in country groups W, X, Y, and Z as defined in the export control regulations of the Office of Export Control (15 CFR Parts 368–399). In addition, this amendment will eliminate the power-of-attorney requirement for shipments to nonforeign areas.

Effective date: This amendment is effective on the date of publication.

Section 30.4(a) is amended so that the amended paragraph reads as follows:

§ 30.4 Preparation and signature of Shipper's Export Declarations.

(a) The Shipper's Export Declaration shall be prepared and signed by the shipper, owner, or consignor, or his properly authorized agent. For shipments to foreign countries, if the Shipper's Export Declaration is prepared by an agent his authority to sign such declaration shall be in the form of a properly executed power of attorney, signed by the shipper, owner, or consignor on file in the Customs office where the export declaration is to be presented, or in the less formal written authorization printed on the export declaration. In every event the data required in the Shipper's Export Declaration shall be complete and correct and shall be based on personal knowledge of the facts stated, or on invoices or information furnished by the principal. Exporters who authorize the preparation of their export declarations by an agent shall provide the agent with information for this purpose which will in every respect meet the specifications in § 30.7. Particular attention is called to the fact that invoices and other commercial documents furnished to the agent for other purposes may not necessarily contain all of the particular types of information needed for the preparation of the export declaration, and special arrangements should be made so that the information needed for the export declaration is noted upon or accompanies the commercial documents furnished to the agent, if he is to prepare the Shipper's Export Declaration.

Section 30.55(h) is amended to read as follows:

§ 30.55 Miscellaneous exemptions.

* * * * *

(h) Shipments (except shipments requiring a validated export license or moving under the Office of Export Control General License GLV) between the United States and Puerto Rico, to the U.S. Possessions, and to all countries except countries included in country groups W, X, Y, and Z as defined in the export control regulations of the Office of Export Control (15 CFR Parts 368–399)*, where the value of the commodities classified under a single Schedule B number and shipped on the same exporting carrier from one exporter to one importer is less than $100: *Provided*, That in order to adequately maintain factors for estimating the statistics on under $100 shipments, the Bureau of the Census may from time to time require the complete enumeration of such shipments for selected periods.

A. Ross Eckler,
Director,
Bureau of the Census.

November 8, 1967.

I concur: November 30, 1967.

True Davis,
Assistant Secretary
of the Treasury.

[F.R. Doc. 67-14956; Filed, Dec. 26, 1967; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket C-1276]

PART 13—PROHIBITED TRADE PRACTICES

Southern Yarns, Inc., et al.

Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* 13.1108–80 Textile Fiber Products Identification Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185–80 Textile Fiber Products Identification Act; 13.1185–90 Wool Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212–80 Textile Fiber Products Identification Act; 13.1212–90 Wool Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-70 Textile Fiber Products Identification; 13.1852–80 Wool Products Labeling Act.

(Sec. 6, 38 Stat. 724; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; secs. 2–6, 54 Stat. 1128–1130; 72 Stat. 1717; 15 U.S.C. 45, 68, 70) [Cease and desist order, Southern Yarns, Inc., et al., Albertville, Ala., Docket C-1276, Dec. 8, 1967]

In the Matter of Southern Yarns, Inc., a Corporation, and Roger R. Ferry, Individually and as an Officer of Said Corporation

Consent order requiring an Albertville, Ala., manufacturer of carpet yarn to cease misbranding its textile fiber and wool products and failing to maintain required records.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Southern Yarns, Inc., a corporation, and its officers, and Roger R. Ferry, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, manufacture for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber products which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce of any textile fiber product, whether in its original state or contained in other textile fiber products, as the term "commerce", and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by falsely or deceptively stamping, tagging, labeling, invoicing, advertising, or otherwise identifying such products as to the name or amount of constituent fibers contained therein.

B. Failing to maintain and preserve proper records showing the fiber content of textile fiber products manufactured by said respondents, as required by section 6 of the Textile Fiber Products Identification Act and Rule 39 of the rules and regulations promulgated thereunder.

It is further ordered, That respondents Southern Yarns, Inc., a corporation, and its officers, and Roger R. Ferry, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the manufacture for

* The following countries, as listed in Schedule C, comprise country groups W, X, Y, and Z, as defined in the export control regulations: Poland and Danzig; Rumania, Hong Kong, Macao, Albania, Bulgaria, Czechoslovakia, East Germany, Estonia, Hungary, Latvia, Lithuania, Outer Mongolia, Union of Soviet Socialist Republics, China, North Korea, North Viet Nam, and Cuba.

introduction into commerce, the introduction into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment, or shipment in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by failing to securely affix to, or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a)(2), of the Wool Products Labeling Act of 1939.

It is further ordered, That respondents Southern Yarns, Inc., a corporation, and its officers; and Roger R. Ferry, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of carpet yarns, or other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting the character or amounts of constituent fibers contained in such products on invoices or shipping memoranda applicable thereto, or in any other manner.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: December 5, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-14958; Filed, Dec. 26, 1967; 8:46 a.m.]

[Docket 8647]

PART 13—PROHIBITED TRADE PRACTICES

J. B. Williams Company, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.170 *Qualities or properties of product or service:* 13.170–52 Medicinal, therapeutic, healthful, etc. Subpart—Misrepresenting oneself and goods—Goods: § 13.1710 *Qualities or properties.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1863 *Limitations of product.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Modified order to cease and desist, The J. B. Williams Company, Inc., et al., New York, N.Y., Docket 8647, Nov. 24, 1967]

In the Matter of The J. B. Williams Co., Inc., a Corporation, and Parkson Advertising Agency, Inc., a Corporation

Order modifying, pursuant to a final decree of the U.S. Court of Appeals, Sixth Circuit, 381 F. 2d 884 (1967), a cease and desist order, 30 F.R. 15369, issued September 28, 1965, against a New York City manufacturer of drugs by eliminating from paragraph 1(f) of the order the prohibition of advertising which represents that iron deficiency anemia can be self-diagnosed or can be determined without a medical test conducted by a physician.

The modified order to cease and desist, is as follows:

It is ordered, That respondents, The J. B. Williams Co., Inc., a corporation, and Parkson Advertising Agency, Inc., a corporation, and their officers, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of the preparation designated Geritol Liquid or the preparation designated Geritol Tablets, or any other preparation of substantially similar composition or possessing substantially similar properties, under whatever name or names sold, do forthwith cease and desist from:

1. Disseminating or causing to be disseminated by means of the U.S. mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement:

(a) which represents directly or by implication and without qualification that the preparation is an effective remedy for tiredness, loss of strength, run-down feeling, nervousness or irritability;

(b) which represents directly or by implication that the preparation is a generally effective remedy for tiredness, loss of strength, run-down feeling, nervousness or irritability;

(c) which represents directly or by implication that the preparation is an effective remedy for tiredness, loss of strength, run-down feeling, nervousness or irritability in more than a small minority of persons experiencing such symptoms;

(d) Which represents directly or by implication that the use of such preparation will be beneficial in the treatment or relief or tiredness, loss of strength, run-down feeling, nervousness or irritability, unless such advertisement expressly limits the claim of effectiveness of the preparation to those persons whose symptoms are due to an existing deficiency of one or more of the vitamins contained in the preparation, or to an existing deficiency of iron or to iron deficiency anemia, and further, unless the advertisement also discloses clearly and conspicuously that: (1) In the great majority of persons who experience such symptoms, these symptoms are not caused by a deficiency of one or more of the vitamins contained in the preparation or by iron deficiency or iron deficiency anemia; and (2) for such persons the preparation will be of no benefit;

(e) Which represents directly or by implication that tiredness, loss of strength, run-down feeling, nervousness or irritability are generally reliable indications of iron deficiency or iron deficiency anemia;

(f) Which represents directly or by implication that the use of such preparation will increase the strength or energy of any part of the body in any amount of time less than that in which the consumer may actually experience improvement;

(g) Which represents directly or by implication that the use of such preparation will promote convalescence from a cold, flu, fever, virus infection, sore throat or any other winter illnesses;

(h) Which represents directly or by implication that the vitamins supplied in such preparation are of any benefit in the treatment or relief of an existing deficiency of iron or iron deficiency anemia.

2. Disseminating, or causing to be disseminated, by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of any such preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the representations prohibited in, or which fails to comply with the affirmative requirements of, paragraph 1 hereof.

It is further ordered, That respondents shall, within thirty (30) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist contained herein.

Issued: November 24, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-14959; Filed, Dec. 26, 1967; 8:46 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

CHAPTER II—FEDERAL HOUSING ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER A—GENERAL

PART 200—INTRODUCTION

Subpart D—Delegations of Basic Authority and Functions

In § 200.52a, a new paragraph (f) is added to read as follows:

§ 200.52a Assistant Commissioner for Field Operations and Deputy.

* * * * *

(f) To approve or disapprove the noncollection or refund of fees, to extend the period within which a mortgagee or lender is required to take action in order to prevent the expiration of a multifamily housing commitment or in order to reopen an expired multifamily housing commitment, and to approve or disapprove the retroactive reinstatement or reopening of an expired multifamily housing commitment.

In § 200.57, paragraph (g) is revoked as follows:

§ 200.57 Assistant Commissioner for Multifamily Housing and Deputy.

* * * * *

(g) [Revoked]

(Sec. 2, 48 Stat. 1246, as amended; sec. 211, 52 Stat. 23, as amended; sec. 607, 65 Stat. 61, as amended; sec. 712, 63 Stat. 1281, as amended; sec. 907, 65 Stat. 301, as amended; sec. 807, 60 Stat. 651, as amended; 12 U.S.C. 1703, 1715b, 1742, 1747k, 1748f, 1750f)

Issued at Washington, D.C., December 19, 1967.

[SEAL] PHILIP N. BROWNSTEIN, *Federal Housing Commissioner.*

[F.R. Doc. 67-14976; Filed, Dec. 26, 1967; 8:46 a.m.]

MISCELLANEOUS AMENDMENTS TO CHAPTER

The following miscellaneous amendments have been made to this chapter:

SUBCHAPTER C—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Subpart A—Eligibility Requirements

In § 203.19 paragraph (b) is amended to read as follows:

§ 203.19 Mortgagor's minimum investment.

* * * * *

(b) A mortgagor who is 62 years of age or older, as of the date the mortgage is accepted for insurance, or who meets the requirements of § 203.18(d), or who is purchasing a single-family home under a low income housing demonstration project which is being assisted by the Secretary of Housing and Urban Development pursuant to section 207 of the Housing Act of 1961, may obtain a loan to meet the payment required by paragraph (a) of this section and to pay settlement costs. Such loan shall be from a corporation or person satisfactory to the Commissioner. The settlement costs paid with the loan may include initial payments for taxes, hazard insurance premium, mortgage insurance premium, and other prepaid expenses, as determined by the Commissioner. As security for the loan, the mortgagor may give a note or other evidence of indebtedness bearing interest at a rate not in excess of that permitted in the insured mortgage. The aggregate amount of the insured mortgage and the loan referred to in this section shall not exceed an amount equal to the Commissioner's estimate of the appraised value of the property, plus an amount equal to the initial payments for taxes, hazard insurance premium, mortgage insurance premium, and other prepaid expenses, as determined by the Commissioner.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 203, 52 Stat. 10, as amended; 12 U.S.C. 1709)

SUBCHAPTER G—HOUSING FOR MODERATE INCOME AND DISPLACED FAMILIES

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

Subpart C—Eligibility Requirements—Moderate Income Projects

In § 221.501 paragraph (a) is amended to read as follows:

§ 221.501 Certificate by Secretary to Commissioner.

(a) Before a mortgage executed by a mortgagor other than a general mortgagor shall be eligible for insurance under this subpart, the Secretary of Housing and Urban Development shall certify to the Commissioner that the community in which the project is to be located has submitted to the Secretary a workable program which has been approved by the Secretary and which is in effect at the time the Commissioner notifies the sponsor or having completed the preapplication analysis of the proposed project and indicates that a formal application for insurance will be accepted.

* * * * *

In § 221.542 a new paragraph (c) is added to read as follows:

§ 221.542 Assurance of completion.

* * * * *

(c) Rehabilitation projects involving 11 or less living units shall be excepted from the bonding escrow, or letter of credit requirements of paragraphs (a) and (b), but the benefits of such exception shall not be available where it has already been applied to two rehabilitation projects (each involving 11 or less living units) currently being constructed and which involve the same mortgagor or general contractor.

Section 221.553 is amended to read as follows:

§ 221.553 Certificate of public accountants.

(a) In all projects, except those specified in paragraph (b) of this section, the certificate of actual cost shall be supported by a certificate as to accuracy by an independent Certified Public Accountant or independent public accountant, which shall include a statement that the accounts, records and supporting documents have been examined in accordance with generally accepted auditory standards to the extent deemed necessary to verify the actual costs.

(b) The provisions of paragraph (a) of this section shall not be applicable to projects involving 40 or less living units.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply sec. 221, 66 Stat. 599, as amended; 12 U.S.C. 1715l)

SUBCHAPTER L—CONDOMINIUM HOUSING INSURANCE

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

In Part 234 in the Table of Contents a new § 234.506 is added as follows:

Sec.
234.506 Application filing and approved fees.

Subpart C—Eligibility Requirements—Projects—Conversion

INDIVIDUAL SALES UNITS

In § 234.501 paragraph (a) is amended by adding to the listed exceptions the following:

Sec.
207.1 Application filing and approved fees.

In Part 234 a new § 234.506 is added to read as follows:

§ 234.506 Application filing and approved fees.

All of the provisions of § 207.1 of this chapter relating to the filing of an application for insurance and the fees to be paid to the Commissioner apply to cases involving mortgages to be insured under this subpart, except that in all cases the combined application, commitment, and inspection fees shall aggregate no less than the following amounts:

(a) $45 per dwelling unit, in a case involving new construction.

(b) $35 per dwelling unit, in a case involving rehabilitation.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply sec. 224, 73 Stat. 150; 12 U.S.C. 1715y)

Issued at Washington, D.C., December 19, 1967.

[SEAL] PHILIP N. BROWNSTEIN, *Federal Housing Commissioner.*

[F.R. Doc. 67-14977; Filed, Dec. 26, 1967; 8:47 a.m.]

Title 28—JUDICIAL ADMINISTRATION

Chapter II—Subversive Activities Control Board

PART 200—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Pursuant to and in accordance with sections 201 through 209 of Title 18 of the United States Code, Executive Order 11222 of May 8, 1965 (30 F.R. 6469), and Title 5, Chapter I, Part 735 of the Code of Federal Regulations, Part 200 was added to Title 28 of the Code of Federal Regulations.

To conform its own regulations to the Civil Service Commission's amended regulations regarding Employee Responsibilities and Conduct, Part 200 is revised and amended to read as follows:

Sec.
200.735–101 Adoption of regulations.
200.735–102 Review of statements of employment and financial interests.
200.735–103 Disciplinary and other remedial action.
200.735–104 Gifts, entertainment, and favors.
200.735–105 Miscellaneous statutory provisions.
200.735–106 Specific provisions of agency regulations governing special Government employees.
200.735–107 Employee's complaint on filing requirement.
200.735–108 Supplementary statements.

AUTHORITY: The provisions of this Part 200 issued under E.O. 11222, 30 F.R. 6469, 3 CFR, 1965 Supp.; 5 CFR 735.101 et seq.

§ 200.735-101 Adoption of regulations.

Pursuant to 5 CFR 735.104(f), the Subversive Activities Control Board (referred to hereinafter as the board or agency or agency head) hereby adopts the following sections of Part 735 of Title 5, Code of Federal Regulations: 735.101–735.102(a)–(f), 735.201a (a)–(f), 735.202 (a) (1)–(3), (d), (e), (f), 735.203 (a) (1)–(2), (b), (c), (d), (e) (2)–(3), 735.204 (a) (1)–(2), (b), 735.205–735.207, 735.208 (a)–(b), 735.209, 735.302, 735.303 (a), 735.304, 735.305(a), 735.401, 735.402 (a), 735.404(b), 735.405 (a)–(b), 735.406–735.411, 735.412 (b), (d). These adopted sections are in addition to those modified and supplemented as set forth in this part.

§ 200.735-102 Review of statements of employment and financial interests.

Each statement of employment and financial interests required to be submitted hereunder shall be submitted to the Office of the General Counsel and shall be reviewed by the General Counsel. When this review indicates a conflict between the interests of an employee or special Government employee of the board and the performance of his services for the Government, the General Counsel shall have the indicated conflict brought to the attention of the employee or special Government employee, grant the employee or special Government employee an opportunity to explain the indicated conflict, and attempt to resolve the indicated conflict. If the indicated conflict cannot be resolved, the General Counsel shall forward a written report on the indicated conflict to the board.

§ 200.735-103 Disciplinary and other remedial action.

(a) An employee or special Government employee of the board who violates any of the sections in this part as adopted under § 200.735-101 may be disciplined. The disciplinary action may be in addition to any penalty prescribed by law for the violation. In addition to or in lieu of disciplinary action, remedial action to end conflicts or appearances of conflicts of interests may include but is not limited to:

(1) Changes in assigned duties;

(2) Divestment by the employee or special Government employee of his conflicting interests; or

(3) Disqualification for a particular assignment.

(b) Remedial action, whether disciplinary or otherwise, shall be in accordance with applicable laws, Executive orders, and regulations.

§ 200.735-104 Gifts, entertainment, and favors.

The board authorizes the exceptions to 5 CFR 735.202(a) set forth in 5 CFR 735.202(b) (1)–(4).

§ 200.735-105 Miscellaneous statutory provisions.

Each employee shall acquaint himself with each statute that relates to his ethical and other conduct as an employee of the board and of the Government. The attention of each employee is directed to the regulations issued under this part and to the statutory provisions referred to in 5 CFR 735.210.

§ 200.735-106 Specific provisions of agency regulations governing special Government employees.

(a) Special Government employees of the board shall adhere to the standards of conduct applicable to employees as set forth in this part and adopted under § 200.735-101, except 5 CFR 735.203(b);

(b) Special Government employees of the board may teach, lecture, or write in a manner not inconsistent with 5 CFR 735.203(c);

(c) Pursuant to 5 CFR 735.305(b), the board authorizes the same exceptions concerning gifts, entertainment, and favors for special Government employees as are set forth for employees by 5 CFR 735.202(b) (1)–(4);

(d) Each special Government employee shall acquaint himself with each statute that relates to his ethical and other conduct as a special Government employee of the board and of the Government. The attention of each special Government employee is directed to regulations issued under this part and to the applicable statutory provisions referred to in 5 CFR 735.210.

§ 200.735-107 Employee's complaint on filing requirement.

Any employee who complains that his position has been improperly included under the adopted provisions of 5 CFR 735.403(a) as one requiring the submission of a statement of employment and financial interests shall have the opportunity to have his complaint reviewed through the board's internal grievance procedure.

§ 200.735-108 Supplementary statements.

Changes in, or additions to, the information contained in an employee's statement of employment and financial interests shall be reported in a supplementary statement as of June 30 each year. If no changes or additions occur, a negative report is required. Notwithstanding the filing of the annual report required by this section, each employe shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflict-of-interest provisions of section 208 of Title 18, United States Code, or Subpart B of Part 735 of Title 5, Code of Federal Regulations, as adopted herein.

This amended Part 200 was approved by the Civil Service Commission on December 15, 1967, and is effective upon publication in the FEDERAL REGISTER.

JOHN W. MACY,
Chairman.

[F.R. Doc. 67-14978; Filed, Dec. 26, 1967; 8:46 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 113—INFORMATION ON POSTAL SERVICE AND RECORDS RELATING TO OPERATION OF THE DEPARTMENT

PART 114—INFORMATION ON POSTAL MATTERS

PART 135—FOURTH CLASS

Miscellaneous Amendments

The regulations of the Post Office Department are amended as follows:

I. In § 113.2, paragraph (b) is revised to clarify the availability of certain Post Office Department publications.

§ 113.2 Opinions, orders, administrative manuals, and instructions to staff.

* * * * *

(b) *Administrative manuals and instructions to staff.* Section 114.2 of this chapter identifies those manuals, instructions, and other publications and issuances of the Department that are used by post offices and indicates how, where, and if they may be obtained. Those which are not listed for sale and are available to the public under the Freedom of Information Act may be inspected in the Library, Room 6012, Post Office Department Building, Washington, D.C. 20260. If desired, they may be obtained by paying a fee in accordance with § 113.5, unless it is specifically stated that they are available free of charge.

* * * * *

NOTE: The corresponding Postal Manual section is 113.22.

II. In § 114.2 *General postal publications,* make the following changes in the list of Post Office publications:

A. *Annual Report of the Postmaster General* is amended to read as follows:

Title	Price
Annual Report of the Postmaster General 1967	$0.60

The Postmaster General presents the annual report to the President on the services of the Department for the fiscal year ended June 30, 1967. The report is presented according to services, major programs, and principal activities. It is based upon the planning, programing and budgeting system (PPBS) established throughout the Government by the President. Nine categories have been designated which comprise the responsibilities and functions of the Post Office Department: Direct services to mailers, processing of mail, delivery services, transportation, auxiliary services, enforcement of postal laws, research and development, general postal support. Among several of the new and expanded services described are: Self-service units, postage vending machines, and new procedures for handling imprint mail and other services to large mailers. Finally, the organization of the Post Office Department is presented.

B. *How to pack and wrap parcels for mailing* is amended to read as follows:

Title	Price
How to pack and wrap parcels for mailing (excerpts from Ch. 1, Postal Manual) (Nov. 1966)	(1)

C. *Domestic postage rates and fees* is amended to read as follows:

Title	Price
Domestic postage rates and fees (excerpts from Ch. 1, Postal Manual) (Nov. 1965)	(1)

D. *Mailing permits* is amended to read as follows:

Title	Price
Mailing permits (excerpts from Ch. 1, Postal Manual) (July 1966)	(1)

E. *Mailing chute rules, regulations, and specifications* is amended to read as follows:

Title	Price
Mailing chute rules, regulations, and specifications (excerpts from Ch. 1, Postal Manual) (May 1967)	(1)

F. *How to prepare second- and third-class mailings* is amended to read as follows:

Title	Price
How to prepare second- and third-class mailings (excerpts from Ch. 1, Postal Manual) (July 1966)	(1)

NOTE: The corresponding Postal Manual section is 114.2.

III. In § 135.1 *Rates,* make the following changes:

A. Paragraph (b) (1) (i) is amended to permit use of company imprint permits on catalog mailings and paragraph (b) (2) (ii) is amended to state that postage must be paid for each label, including labels returned as undeliverable.

§ 135.1 Rates.

* * * * *

(b) *Catalogs and similar printed advertising matter in bound form having 24 or more pages at least 22 of which are printed, weighing 16 ounces or more but not exceeding 10 pounds—(1) Rates for bulk mailings of separately addressed identical pieces in quantities of not less than 300 mailed at one time.* * * *

(i) *Postage.* Postage must be paid by permit imprints. Each imprint must show name of the post office, permit number, and the words "U.S. Postage Paid" unless the mailer is authorized to use a company permit print as provided in § 144.3(c) of this chapter. The words "Bulk Catalog Rate" shall be printed within the permit imprint. The position of the imprint may be varied so that automatic data processing equipment may be utilized to simultaneously print the address, imprint and any other information.

* * * * *

NOTE: The corresponding Postal Manual section is 135.121a.

(2) *Optional handling of bulk mailings of catalogs weighing in excess of 2 pounds when addressed for delivery in local parcel post zone only.*

* * * * *

(ii) Postage must be paid by permit imprints or each label, including labels returned as undeliverable. The imprint may be placed on the catalog or on the label. See § 144.1(a) of this chapter. The imprints must be prepared in the manner prescribed in subparagraph (1) (i) of this paragraph.

* * * * *

NOTE: The corresponding Postal Manual section is 135.122b.

(5 U.S.C. 301, 39 U.S.C. 501)

TIMOTHY J. MAY,
General Counsel.

DECEMBER 19, 1967.

[F.R. Doc. 67-14904; Filed, Dec. 26, 1967; 8:50 a.m.]

PART 114—ISSUANCES

PART 118—COOPERATION WITH RED CROSS DURING NATURAL DISASTERS

Miscellaneous Amendments

The regulations of the Post Office Department are amended as follows:

I. The title for Part 114 is changed to issuances.

II. Sections 114.3 and 114.4 are deleted as this material has been superseded by the regulations in Part 113.

III. Section 114.5 is redesignated as new Part 118.

(5 U.S.C. 301, 39 U.S.C. 501)

TIMOTHY J. MAY,
General Counsel.

DECEMBER 21, 1967.

[F.R. Doc. 67-14903; Filed, Dec. 26, 1967; 8:48 a.m.]

Title 42—PUBLIC HEALTH

Chapter II—Children's Bureau, Social and Rehabilitation Service, Department of Health, Education, and Welfare

ORGANIZATIONAL CHANGE

Effective August 15, 1967, Part 9 of the Statement of Organization and Delegations of Authority of the Department of Health, Education, and Welfare was superseded and Part 7 was added to establish the Social and Rehabilitation Service under the supervision and direction of the Administrator, Social and Rehabilitation Service (32 F.R. 12068). In order to reflect such organizational change the chapter heading for Chapter II of Title 42 is revised to read as set forth above.

Dated: December 19, 1967.

DONALD F. SIMPSON,
Assistant Secretary for Administration.

[F.R. Doc. 67-14900; Filed, Dec. 26, 1967; 8:47 a.m.]

Title 45—PUBLIC WELFARE

Chapter II—Social and Rehabilitation Service (Assistance Programs), Department of Health, Education, and Welfare

ORGANIZATIONAL CHANGE

Effective August 15, 1967, Part 9 of the Statement of Organization and Delegations of Authority of the Department of Health, Education, and Welfare was superseded and Part 7 was added to establish the Social and Rehabilitation Service under the supervision and direction of the Administrator, Social and Rehabilitation Service (32 F.R. 12068). In order to reflect such organizational change the chapter heading for Chapter II of Title 45 is revised to read as set forth above.

Dated: December 19, 1967.

DONALD F. SIMPSON,
Assistant Secretary for Administration.

[F.R. Doc. 67-14907; Filed, Dec. 26, 1967; 8:47 a.m.]

Chapter IV—Social and Rehabilitation Service (Rehabilitation Programs), Department of Health, Education, and Welfare

ORGANIZATIONAL CHANGE

Effective August 15, 1967, Part 12 of the Statement of Organization and Delegations of Authority of the Department of Health, Education, and Welfare was superseded and Part 7 was added to establish the Social and Rehabilitation Service under the supervision and direction of the Administrator, Social and Rehabilitation Service (32 F.R. 12068). In order to reflect such organizational change the chapter heading for Chapter IV of Title 45 is revised to read as set forth above.

Dated: December 19, 1967.

DONALD F. SIMPSON,
Assistant Secretary for Administration.

[F.R. Doc. 67-14908; Filed, Dec. 26, 1967; 8:47 a.m.]

Chapter IX—Administration on Aging, Social and Rehabilitation Service, Department of Health, Education, and Welfare

ORGANIZATIONAL CHANGE

Effective August 15, 1967, Part 5 of the Statement of Organization and Delegations of Authority of the Department of Health, Education, and Welfare was superseded and Part 7 was added to establish the Social and Rehabilitation Service under the supervision and direction of the Administrator, Social and Rehabilitation Service (32 F.R. 12068). In order to reflect such organizational change the chapter heading for Chapter IX of Title 45 is revised to read as set forth above.

Dated: December 19, 1967.

DONALD F. SIMPSON,
Assistant Secretary for Administration.

[F.R. Doc. 67-14909; Filed Dec. 26, 1967; 8:47 a.m.]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

[CGFR 67-91]

NAVIGATION LIGHTS AND SHAPES FOR MOTORBOATS AND VESSELS

Miscellaneous Amendments

1. Pursuant to the notice of proposed rule making published in the FEDERAL REGISTER of January 24, 1967 (32 F.R. 795–807), and the Merchant Marine Council Public Hearing Agenda dated March 20, 1967 (CG–249), the Merchant Marine Council held a public hearing on March 20, 1967, for the purpose of receiving comments, views, and data. The proposals considered were identified as Items PH 1–67 to PH 12–67, inclusive. Item PH 4–67 (CG–249, pages 31 to 38, inclusive) contained proposals regarding navigation lights and shapes for motorboats, uninspected vessels, and inspected vessels. Item PH 4a–67 contained proposals regarding navigation lights and shapes for motorboats and uninspected vessels. Item PH 4b–67 contained proposals regarding navigation lights and shapes for all classes of inspected vessels. These proposals, as revised, are adopted and set forth in this document. The necessary changes to the Rules of the Road for "Inland Waters" and "Western Rivers" are in a separate FEDERAL REGISTER Document, CGFR 67–92.

2. Interested persons have been afforded an opportunity to participate in the consideration of these proposals and certain changes were made in the proposals in Items PH 4a–67 and PH 4b–67 to clarify the requirements. The Merchant Marine Council's actions with respect to comments received are approved.

3. The new regulations added to 46 CFR Parts 25, 113, and 184 are applicable to new and existing vessels. The standards established should aid vessel operators to select an appropriate electric lamp for their navigation lights, as well as establish criteria which will enable a person to determine the minimum value of intensity for any given distance of visibility required to be met.

4. By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by section 633 of Title 14, United States Code, and Department of Transportation Order 1100.1, dated March 31, 1967 (49 CFR 1.4(a)(2), 32 F.R. 5606), to promulgate regulations in accordance with the laws cited with the regulations below, the following regulations are prescribed and shall be effective on and after the 91st day after the date of publication of this document in the FEDERAL REGISTER; however, the regulations in this document may be complied with prior to that date.

SUBCHAPTER C—UNINSPECTED VESSELS

PART 25—REQUIREMENTS

5. The authority note for Part 25 is amended to read as follows:

AUTHORITY: The provisions of this Part 25 issued under R.S. 4405, as amended, 4462, as amended, sec. 17, 54 Stat. 166, as amended, sec. 6(b)(1), 80 Stat. 938; 46 U.S.C. 375, 416, 526p, 49 U.S.C. 1655(b); Department of Transportation Order 1100.1, Mar. 31, 1967, 49 CFR 1.4(a)(2), 32 F.R. 5606.

Subpart 25.05—Navigation Lights and Shapes, Whistles, Foghorns, Fog Bells, and Gongs

6. Subpart 25.05 is amended by inserting after § 25.05–10 a new § 25.05–15 reading as follows:

§ 25.05–15 Light intensity standards.

(a) Navigation lights shall be of sufficient intensity so that the candlepower outside the lens is not less than that amount corresponding to the required distance of visibility as specified in Table 25.05–15(a).

TABLE 25.05–15(a)

Distance of visibility, in nautical miles	Candlepower
1	1.0
2	5.5
3	17.6
5	100.0

NOTE: In Table 25.05–15(a) the standards are based upon a transmissivity factor of 70 percent per sea-mile and a practical threshold of vision of ¾ sea-mile candles.

(b) As an aid in complying with the provisions of this section, the standard double contact bayonet candelabra base lamps listed in Table 25.05–15(b) are recommended for motorboats having 6- to 32-volt electrical systems.

TABLE 25.05–15(b)

Distance of visibility, in nautical miles	Color	Lamp number for certain voltage systems—					
		With fresnel lens			Without fresnel lens		
		6	12	32	6	12	32
1	Red	82	90	1,236	1,130	1,142	1,230
1	Green	86	94	1,238			
2	White	84	88	1,234	82	90	1,226
3	White	82	80	1,230	1,130	1,142	1,230

NOTE: In Table 25.05–15(b) the recommended lamp numbers for lights with fresnel lenses assume a lamp-to-light ratio of 1 to 4. The following filter efficiencies are assumed: Red—8 percent; green—2 percent.

(c) As an aid in complying with the provisions of this section, the incandescent lamps listed in Table 25.05–15(c) are recommended for vessels having 115-volt electrical systems.

TABLE 25.05–15(c)

Distance of visibility, in nautical miles	Color	Wattage—	
		With fresnel lens	Without fresnel lens
1	Red	25	25
1	Green		50
2	White		15
2	Amber		25
2	Red	40	100
3	Green	75	200
3	White		25
3	Amber	25	75
5	White	40	100

NOTE: In Table 25.05–15(c) the following filter efficiencies are assumed: Amber—20 percent; red—8 percent; green—2 percent.

SUBCHAPTER J—ELECTRICAL ENGINEERING

PART 113—COMMUNICATION AND ALARM SYSTEMS AND EQUIPMENT

Subpart 113.55—Navigation Lights

7. Subpart 113.55 is amended by inserting after § 113.55–25 a new § 113.55–30 reading as follows:

§ 113.55–30 Light intensity standards.

(a) Navigation lights shall be of sufficient intensity so that the candlepower outside the lens is not less than that amount corresponding to the required distance of visibility as specified in Table 113.55–30(a).

TABLE 113.55–30(a)

Distance of visibility, in nautical miles	Candlepower
1	1.0
2	5.5
3	17.6
5	100.0

NOTE: In Table 113.55–30(a) the standards are based upon a transmissivity factor of 70 percent per sea-mile and a practical threshold of vision of ¾ sea-mile candles.

(b) As an aid in complying with the provisions of this section, the following standard double contact bayonet candelabra base lamps listed in Table 184.15–5(b) are recommended for vessels less than 65 feet in length having 6- to 32-volt electrical systems.

TABLE 184.15–5(b)

Distance of visibility, in nautical miles	Color	Lamp number for certain voltage systems—					
		With fresnel lens			Without fresnel lens		
		6	12	32	6	12	32
1	Red	82	90	1,236	1,130	1,142	1,230
1	Green	86	94	1,238			
2	White	84	88	1,234	82	90	1,226
3	White	82	80	1,230	1,130	1,142	1,230

NOTE: In Table 184.15–5(b) the recommended lamp numbers for lights with fresnel lenses assume a lamp-to-light ratio of 1 to 4. The following filter efficiencies are assumed: Red—8 percent; green—2 percent.

(c) As an aid in complying with the provisions of this section, the incandescent lamps listed in Table 184.15–5(c) are recommended for vessels having 115-volt electrical systems.

TABLE 184.15–5(c)

Distance of visibility, in nautical miles	Color	Wattage—	
		With fresnel lens	Without fresnel lens
1	Red	25	25
1	Green		50
2	White		15
2	Amber		25
2	Red	40	100
3	Green	75	200
3	White		25
3	Amber	25	75
5	White	40	100

NOTE: In Table 184.15–5(c) the following filter efficiencies are assumed: Amber—20 percent; red—8 percent; green—2 percent. For this table it is also assumed the lamps have the following intensities: 15 w.—11 cp.; 25 w.—21 cp.; 40 w.—36 cp.; 75 w.—80 cp.; 100 w.—130 cp.; 200 w.—320 cp. The computations are based upon Allen's Law, using the formula:

$$I_c = \frac{E \cdot D^2}{75}$$

Where:
I_c = Intensity of the source in candlepower.
E = The practical threshold of vision, ¾ sea-mile candles.
D = Distance light must be seen in nautical miles.
T = 0.7, the transmissivity factor, or fraction of light passing through each nautical mile of atmosphere as a "dark night with a clear atmosphere."

(R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Interprets or apply R.S. 4290, as amended, 4400, as amended, 4417, as amended, 4417a, as amended, 4418, as amended, 4451, as amended, 4488, as amended, 4457, as amended, 4488, as amended, 4488, as amended, 4491, as amended, sec. 10, 35 Stat. 428, as amended, sec. 4, 39 Stat. 305, as amended, sec. 14, 29 Stat. 690, as amended, sec. 1, 49 Stat. 1544, as amended, sec. 17, 54 Stat. 166, as amended, sec. 4, 74 Stat. 497, as amended, sec. 6, 80 Stat. 937, 938, sec. 3, 63 Stat. 496, as amended, sec. 6(b)(1),

[CGFR 67-98]

ELECTRICAL ENGINEERING REGULATIONS

Miscellaneous Amendments

1. Pursuant to the notice of proposed rule making published in the FEDERAL REGISTER of January 24, 1967 (32 F.R. 795–807), and the Merchant Marine Council Public Hearing Agenda dated March 20, 1967 (CG–249), the Merchant Marine Council held a public hearing on March 30, 1967, for the purpose of receiving comments, views, and data. The proposals considered were identified as Items PH 1–67 to PH 13–67, inclusive. Item PH 10–67 (CG–249, pages 170 to 186, inclusive) contained proposals regarding electrical engineering regulations. These proposals, as revised, are adopted and set forth in this document.

2. Interested persons have been afforded an opportunity to participate in the consideration of these proposals and certain changes were made in the proposals in Item PH 10–67. The changes in 46 CFR 111.35–35 (b) (1) and (c) (1) regarding disconnect means for switchboards clarify requirements. The change in 46 CFR 111.55–20(b) (1) regarding circuit breakers provides greater latitude in application of the requirements. The proposals in Item PH 10g–67 regarding operation of general alarm systems (46 CFR 113.25–5) are included in another FEDERAL REGISTER Document CGFR 67–67 containing amendments regarding fire protection on passenger vessels. The Merchant Marine Council's actions with respect to comments received and proposals in Item PH 10–67 are approved.

3. As stated in 46 CFR 110.05–2, the amendments to the electrical engineering regulations in this document are not retroactive in effect. The requirements in these amendments apply to new vessels contracted for on or after the effective date of these changes and to new installations or major replacements on existing vessels made on or after the effective date of these changes.

4. By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by section 633 of Title 14, United States Code, and Department of Transportation Order 1100.1, dated March 31, 1967 (49 CFR 1.4(a) (2), 32 F.R. 5606), the proposals regulations in accordance with the laws cited with the regulations below, the following amendments are prescribed and shall be effective on and after the 31st day after the date of publication of this document in the FEDERAL REGISTER; however, the regulations in this document may be complied with in lieu of existing requirements prior to that date.

SUBCHAPTER D—TANK VESSELS

PART 32—SPECIAL EQUIPMENT, MACHINERY, AND HULL REQUIREMENTS

5. The authority note for Part 32 is amended to read as follows:

AUTHORITY: The provisions of this Part 32 issued under R.S. 4405, as amended, 4417a, as amended, 4488, as amended; 46 U.S.C. 375, 391a, 416. Interpret or apply sec. 2, 38 Stat. 1164, as amended, sec. 14, 39 Stat. 660, as amended, sec. 10, 36 Stat. 482, as amended, 41 Stat. 305, as amended, sec. 5, 49 Stat. 1384, as amended, secs. 1, 3, 49 Stat. 1544, 1545, as amended, sec. 17, 54 Stat. 166, as amended, sec. 8, 54 Stat. 247, as amended, sec. 2, 70 Stat. 152, sec. 3, 63 Stat. 675, sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 361, 362, 391, 391a, 392, 399, 404, 405, 411, 435, 481, 489, 390b, 395, 396, 399, 367, 526p, 1333, 390b, 50 U.S.C. 198, 46 U.S.C. 1655(b); R.O. 11239, July 31, 1965, 30 F.R. 9671, 3 CFR, 1965 Supp. Department of Transportation Order 1100.1, Mar. 31, 1967, 49 CFR 1.4(a)(2), 32 F.R. 5606.

Subpart 32.25—General Alarm Systems

6. Section 32.25–1(b) is amended to read as follows:

§ 32.25–1 Alarm bells for tankships constructed on or after September 15, 1943—T/ALL.

• • • • •

(b) Four manually operated contact makers shall be provided in accessible locations for operating the general alarm system. The contact makers shall be provided at the following locations:

(1) Wheelhouse;

(2) Space where feeder distribution panel is located;

(3) Deck officers' quarters furthest from the engineroom; and

(4) Engineroom.

SUBCHAPTER J—ELECTRICAL ENGINEERING

PART 111—ELECTRICAL SYSTEM; GENERAL REQUIREMENTS

Subpart 111.05—General Requirements

7. Section 111.05–25(b) is amended by changing Table 111.05–25(b) to read as follows:

§ 111.05–25 Nature of electrical supply.

• • • • • •

(b) • • •

TABLE 111.05–25(b)—STANDARD VOLTAGES

Equipment	Direct current (volts)	Alternating current (volts)
Lighting	115	115 and 120.
Power	115 and 230	115, 120, 208, 220, and 440.
Generators	230 and 240	230, 125, 216, 230, and 460.
Propulsion	4,000 maximum	7,500 maximum.

Subpart 111.35—Switchboards and Propulsion Controls

8. Section 111.35–15 is amended by changing subparagraphs (b) (1) and (c) (1) to read as follows:

§ 111.35–15 Ship's service generator and distribution switchboards.

• • • • • •

(b) • • •

(1) An unfused generator switch or links which will completely disconnect the generator and its circuit breaker from the bus. This disconnecting means need not be provided if the generator circuit breaker is of the drawout type which either disconnects all conductors, or, in the case of dual voltage systems, disconnects all ungrounded conductors or disconnecting links and is supplemented by a switch in the generator neutral conductor.

• • • • • •

(c) • • •

(1) An unfused generator switch or links which will completely disconnect the generator and its circuit breaker from the bus. This disconnecting means need not be provided if the generator circuit breaker is of the drawout type which either disconnects all conductors, or, in the case of dual voltage systems, disconnects all ungrounded conductors and is supplemented by a switch or disconnecting links in the generator neutral conductor.

Subpart 111.40—Distribution Panelboards (Switchboard and Panelboard Types)

§ 111.40–1 [Amended]

9. Section 111.40–1. *General requirements* is amended by changing in paragraph (g) in the first sentence the phrase from "60 overcurrent devices" to "42 overcurrent devices" and in the second sentence the phrase from "50 amperes" to "30 amperes."

Subpart 111.55—Overcurrent Protection

10. Section 111.55–1 is amended by revising paragraphs (d), (h) (1), and (i) (1) to read as follows:

§ 111.55–1 Installation of overcurrent devices.

• • • • • •

(d) *Ungrounded conductors.* An overcurrent device (fuse or overcurrent trip unit of a circuit breaker) shall be placed in each ungrounded conductor. A branch switch or circuit breaker shall open all conductors of the circuit, including grounded conductors. Individual single-pole circuit breakers with operating handles yoked together may be used for the protection of each conductor of ungrounded 2-wire circuits.

• • • • • •

(h) *Three-wire direct-current generators*—(1) *Circuit-breaker poles.* Separate circuit-breaker poles should be provided for the positive, negative and also for the equalizer leads unless protection is provided by the main poles. When equalizer poles are provided for the three-wire generators, the overload trips should be of the "Algebraic" type. If a neutral pole is provided in the generator circuit breaker, no overload trip element shall be provided for the neutral pole. A neutral overcurrent relay and alarm system should be provided and set to function at a current value equal to the neutral rating.

• • • • • •

(i) *Three-wire single-phase and four-wire three-phase generators*—(1) *Circuit-breaker poles.* Circuit-breaker poles shall be provided for each generator lead, except the neutral of dual voltage systems.

11. Section 111.55–20 is amended to read as follows:

§ 111.55–20 Interrupting rating of fuses and circuit breakers.

(a) *General.* All generator circuit breakers and all circuit breakers and fuses used in vital circuits shall have, and other circuit breakers and fuses shall generally have, sufficient interrupting capacity to interrupt the maximum short circuit current available at the point of application of the circuit breaker or fuse in the electrical system.

(b) *Circuit breakers and fuses in cascade systems.* For circuits not vital to the propulsion, control, or safety of the vessel, cascading of circuit breakers and fuses is permitted. That is, circuit breakers and fuses may be installed at a point in the electrical distribution system where the short-circuit current available exceeds the interrupting capacity of the circuit breaker or fuse. Any such circuit breaker or fuse shall be protected by a backup circuit breaker or current limiting fuse. This backup device shall have an interrupting rating not less than the maximum short-circuit current available at the point of application. Generator circuit breakers shall not be used as backup circuit breakers.

(1) *Circuit breakers.* Unless otherwise approved by the Commandant, a circuit breaker used as a backup device shall have an instantaneous trip setting of not more than 80 percent of the interrupting rating of the circuit breakers or fuses protected. Fused circuit breakers with fuses connected to the load side may be used for backup service provided the fuses and circuit breakers are of coordinated design so that are restrike in the circuit breaker cannot occur when a fuse blows.

(2) *Current limiting fuses.* If a fuse is used as a backup device, its selection and application shall be governed by the following design parameters:

(i) The maximum fuse rating shall be selected which will give adequate protection, on fault currents, to the device it backs up. In no case shall the device being backed up be called upon to interrupt fault currents in excess of 90 percent of its interrupting rating.

(ii) Fault currents cleared by the device backed up shall not cause damage or any change in the time-current characteristics of the current limiting fuse.

(iii) Fuses should be so applied that single phase operation of any three-phase connected motor will be precluded.

(c) *Calculation of short-circuit currents.* Unless precise calculations are submitted for review, the maximum short-circuit current of a direct-current system will be assumed to be equal to ten times the combined normal rated current of all generators (including a spare) plus six times the combined normal rated current of all motors which may be in operation simultaneously. On alternating-current systems, the maximum short-circuit current will be assumed to be equal to ten times the combined normal rated current of all generators (including a spare) plus three times the combined normal rated current of all motors which may be in operation simultaneously.

(R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Interpret or apply R.S. 4399, as amended, 4400, as amended, 4417, as amended, 4417a, as amended, 4418, as amended, 4431, as amended, 4426, as amended, 4427, as amended, 4433, as amended, 4488, as amended, 4491, as amended, sec. 14, 38 Stat. 660, as amended, sec. 10, 36 Stat. 482, as amended, 41 Stat. 305, as amended, sec. 5, 49 Stat. 1384, as amended, secs. 1, 3, 49 Stat. 1544, 1545, as amended, sec. 17, 54 Stat. 166, as amended, sec. 8, 54 Stat. 247, as amended, sec. 2, 70 Stat. 152, sec. 3, 63 Stat. 675, sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 361, 362, 391, 391a, 392, 399, 404, 405, 411, 435, 481, 489, 390b, 395, 396, 399, 367, 526p, 1333, 390b, 50 U.S.C. 198, 46 U.S.C. 1655(b); R.O. 11239, July 31, 1965, 30 F.R. 9671, 3 CFR, 1965 Supp. Department of Transportation Order 1100.1, Mar. 31, 1967, 49 CFR 1.4(a)(2), 32 F.R. 5606)

PART 112—EMERGENCY LIGHTING AND POWER SYSTEM

12. Section 112.05–5(a) is amended by revising Table 112.05–5(a) to read as follows:

§ 112.05–5 Emergency source of supply.

(a) • • •

TABLE 112.05–5(a)

Size of vessel and service	Type or types of emergency source of power	Period of operation and minimum capacity of emergency source of power
Passenger vessels over 65 feet in length		
Ocean and Coastwise	Storage battery	36 hours.
	or	
	A generator driven by a suitable prime mover with an independent fuel supply and a temporary source of emergency power consisting of a storage battery of sufficient capacity to supply the temporary emergency source loads for not less than ½ hour.	36 hours (generator) and ½ hour (battery).
Other than Ocean and Coastwise, 100 g.t. and over.[1]	Storage battery with automatic transfer gear or diesel generator with automatic starting and transfer gear.	6 hours or twice the time of run, whichever is the smaller.
Other than Ocean and Coastwise, over 15 g.t. but less than 100 g.t.[1]	Storage battery or diesel generator with automatic or manual operation.[2]	6 hours or twice the time of run, whichever is smaller.
Cargo and miscellaneous self-propelled vessels and tank ships; barges with sleeping accommodations for more than six persons.[3]		
All waters, 1,600 g.t. and over	Storage battery or diesel generator automatic or manual operation.	12 hours.
All waters, 300 g.t. and over, but less than 1,600 g.t.	Storage battery or diesel generator, automatic or manual operation, or approved relay-controlled battery-operated lanterns.[5]	12 hours or twice the time of run, whichever is the smaller.[4]

[1] See also § 112.05–15.
[2] See also §§ 112.35–1 and 112.35–5.
[3] Applicable to barges contracted for on or after Nov. 19, 1968.
[4] Minimum period of operation of relay-controlled, battery-operated lanterns may be less than 12 hours but not less than 6 hours.
[5] Battery-operated lanterns shall have rechargeable batteries, shall incorporate an automatic battery charger that will maintain the battery in a fully charged condition, and shall not be readily portable.

Subpart 112.50—Emergency Diesel-Engine-Driven Generator Sets

13. Section 112.50–1 is amended to read as follows:

§ 112.50–1 General requirements.

(a) The diesel engine of the generator set shall be complete with all accessories necessary for operation and protection of the engine, shall have a self-contained cooling system of size to assure continuous engine operation using 100° F. air, and the fuel used shall have a flashpoint of not less than 110° F. The room in which the set is located shall be provided with suitable intake and exhaust ducts to supply adequate cooling air. The diesel engine as installed shall be without starting aid except that a thermostatically controlled electric water jacket heater, connected to the final emergency bus, may be employed. The diesel engine as installed shall be capable of carrying its full rated load within 20 seconds after cranking is initiated with the intake air, room ambient, and starting equipment all at a temperature of 32° F. The diesel engine shall be started by either hydraulic or electric means. The generator sets shall lubricate and operate satisfactorily when permanently inclined to an angle of 22½° athwartship and 10° fore and aft, and shall be arranged so that it will not spill oil under a vessel roll of 30° each side of the vertical. Units shall shut down automatically upon loss of lubricating oil pressure, dangerous overspeeding, and release of carbon dioxide in the emergency generator room. An audible alarm device shall be provided to sound on low oil pressure and high cooling water temperature.

(b) Hydraulic starting means shall comply with the following conditions:

(1) The hydraulic cranking device shall be a self-contained system which will provide the required cranking forces and engine starting RPM as recommended by engine manufacturer.

(2) Electrically operated means shall automatically provide and maintain the stored hydraulic pressure within the predetermined pressure limits.

(3) The means of automatically maintaining the hydraulic system within the predetermined pressure limits shall be energized from the final emergency bus.

(4) Means shall be provided to manually recharge the hydraulic system.

(5) Charging of the hydraulic cranking system shall not create an absence of hydraulic power for engine starting at any time.

(6) The capacity of the hydraulic cranking system shall provide not less than six cranking cycles. Each cranking cycle shall provide the necessary number

of revolutions at the required RPM to permit the diesel engine to meet the requirements of carrying its full rated load within 20 seconds after cranking is initiated with intake air, room ambient temperature and hydraulic cranking system at 32° F.

(7) Capacity of the hydraulic cranking system sufficient for three starts under conditions of subparagraph (6) of this paragraph shall be held in reserve and arranged so that the operation of a single control by one person will isolate the discharged or initially used part of the system and permit the reserve capacity to be employed.

(c) Electrical starting means shall comply with the following conditions:

(1) The starting battery shall be of sufficient capacity to provide not less than six consecutive cranking cycles. Each cycle shall consist of not less than one-half minute of battery rest.

(2) At the end of the sixth cranking cycle the battery voltage while cranking the engine, shall be not less than 30 percent of nominal battery voltage.

(3) The cranking cycles shall be with the intake air, room ambient, and starting battery at a temperature of not more than 32° F.

[R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Interprets or apply R.S. 4399, as amended, 4469, as amended, 4417, as amended, 4417a, as amended, 4418, as amended, 4421, as amended, 4426, as amended, 4427, as amended, 4428, as amended, 4453, as amended, 4465, as amended, 4491, as amended, sec. 14, 39 Stat. 690, as amended, sec. 10, 35 Stat. 428, as amended, 41 Stat. 305, as amended, sec. 8, 49 Stat. 1384, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 17, 54 Stat. 166, as amended, sec. 2, 54 Stat. 847, as amended, sec. 3, 70 Stat. 152, sec. 3, 63 Stat. 675, sec. 6(b)(1), 80 Stat. 938; 46 U.S.C. 361, 362, 391, 391a, 392, 390, 404, 405, 411, 435, 481, 469, 396, 395, 366, 369, 367, 390p, 1333, 390b, 50 U.S.C. 198, 49 U.S.C. 1655(b); E.O. 11239, July 31, 1965, 30 F.R. 9671, 3 CFR, 1965 Supp. Department of Transportation Order 1100.1, Mar. 31, 1967, 49 CFR 1.4(a)(2), 32 F.R. 5606]

Dated: December 19, 1967.

W. J. SMITH,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 67-14912; Filed, Dec. 26, 1967; 8:45 a.m.]

SUBCHAPTER N—DANGEROUS CARGOES

[CGFR 67-86]

PART 146—TRANSPORTATION OR STORAGE OF EXPLOSIVES OR OTHER DANGEROUS ARTICLES OR SUBSTANCES, AND COMBUSTIBLE LIQUIDS ON BOARD VESSELS

Subpart 146.25—Detailed Regulations Governing Poisonous Articles

RESTRICTIONS AGAINST LOADING AND TRANSPORTING CLASS B POISONOUS LIQUIDS OR SOLIDS WITH FOODSTUFFS

1. There have been several recent instances of food poisoning attributed to the consumption of food which had become contaminated by a poisonous insecticide or pesticide during the course of transportation. The poisons involved were liquids or solids, of the types defined and described as Class B in § 146.25-10, Coast Guard Dangerous Cargo Regulations (46 CFR 146-149). These incidents have caused the death of several persons. While none of the incidents occurred in the United States, there has been, within the past year, a number of container leakages, adverse handling experiences, and other accidents involving shipments of poisonous liquids or solids, Class B. Therefore, it is possible for the conditions which caused the deaths in other countries to arise in this country.

2. Investigations of the leakages and other accidents in the United States have not yet developed all of the information which would indicate conclusively the need for changes in the specification packaging requirements for poisons. However, a review of all of the incidents concerned clearly shows that there is good cause for the restricting of mixed shipments of poisonous liquids or solids, Class B, and foodstuffs, feeds, and other materials intended for consumption by humans or animals which are not packaged in airtight nonpermeable containers to minimize the possibility of food poisoning that could be caused by inadvertent contamination during transportation. Also, because of the multiple uses of transportation equipment, it is considered necessary to place a restriction on the reuse of transportation equipment which has been contaminated by the leakage of poisonous liquids or solids, Class B, until the contamination has been removed, to preclude injury to transportation personnel and contamination of subsequent shipments.

3. General rules pertaining to restriction for stowage of poisons and foodstuffs are now contained in the Coast Guard Dangerous Cargo Regulations (46 CFR 146.25-45(i), 146.25-50(a), and 146.25-200). However, in light of these recent casualties, it is considered necessary that specific rules be specified for the stowage of poisons and foodstuffs. The existing regulation 46 CFR 146.25-45(i) requires that poisons be stowed "away from" foodstuffs not packed in hermetically sealed containers. "Away from" is interpreted to mean that the stowage may be in the same hold or compartment but must be separated in such a way by distance and other cargo so that in event of leakage or damage to containers the poisons will not contaminate the foodstuffs.

4. For the purpose of this Order, the following requirements shall apply to stowage of poisonous liquids and solids, Class B, and foodstuffs:

(a) If the foodstuffs are in airtight nonpermeable containers, poisons may be stowed "away from" the foodstuffs.

(b) If the foodstuffs are in bulk or are packed in bags or wooden barrels, the poisons shall be stowed in a hold or compartment that is separated from the foodstuffs by a tight bulkhead.

(c) Poisons shall not be stowed on weather deck hatches over a stowage of foodstuffs in bulk or packed in bags or wooden barrels.

5. The provisions of this Order shall also apply to the detailed requirements in Table H in 46 CFR 146.25-200; however, the necessary changes to these requirements are under study and will be included with the changes required to be published before July 1, 1968. Additionally, these regulation changes will be in agreement with those of the Department of Transportation.

6. The regulations in 46 CFR 146.25-50(a) regarding care following leakage or sifting of poisonous articles shall apply to all poisonous liquids or solids, Class B.

7. As a situation exists which demands immediate adoption of these rules in the interests of public safety, it is found that notice and public procedure hereon are impractical and good cause exists for making this Order effective under the emergency procedure specified in 46 U.S.C. 170, as amended (R.S. 4472). In consideration of the foregoing, these amendments to the Coast Guard Dangerous Cargo Regulations (46 CFR Parts 146-149) are effective January 1, 1968; however, the regulations in this document may be complied with in lieu of existing requirements prior to that date.

8. By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by section 633 of Title 14, United States Code, and Department of Transportation Order 1100.1, dated March 31, 1967 (49 CFR 1.4(a)(2), 32 F.R. 5606), to promulgate regulations in accordance with the laws cited with the regulations below, the following amendments are prescribed:

9. The authority note for Part 146 is amended to read as follows:

AUTHORITY: The provisions of this Part 146 issued under R.S. 4405, as amended, 4462, as amended, 4472, as amended, sec. 2, 63 Stat. 675, sec. 6(b)(1), 80 Stat. 938; 46 U.S.C. 375, 416, 170 50 U.S.C. 198, 49 U.S.C. 1655(b); E.O. 11239, July 31, 1965, 30 F.R. 9671; Department of Transportation Order 1100.1, Mar. 31, 1967, 49 CFR 1.4(a)(2), 32 F.R. 5606; except as otherwise noted.

10. Section 146.25-45 is amended by revising the headnote and paragraph (i), and by adding a new paragraph (j), which read as follows:

§ 146.25-45 Stowage of poisonous articles with explosives and other dangerous articles and away from living quarters and foodstuffs.

• • • • •

(i) Containers of poisonous articles shall be stowed well away from living quarters and ventilation ducts serving living quarters.

(j) Containers of poisonous articles shall be stowed well away from foodstuffs. The phrase "away from" means that the stowage may be in the same hold or compartment but must be separated in such a way by distance and other cargo so that in event of leakage or damage to containers the poisons will not contaminate the foodstuffs. The following additional requirements shall apply to the stowage of poisonous liquids and solids, Class B, and foodstuffs:

(1) If the foodstuffs are in airtight nonpermeable containers, these poisons may be stowed "away from" the foodstuffs.

(2) If the foodstuffs are in bulk or are packed in bags or wooden barrels, these poisons shall be stowed in a hold or compartment that is separated from the foodstuffs by a tight bulkhead.

(3) These poisons shall not be stowed on weather deck hatches over a stowage of foodstuffs in bulk or packed in bags or wooden barrels.

11. Section 146.25-50(a) is amended by changing the phrase from "arsenic or arsenical compounds, calcium cyanide, potassium cyanide, or sodium cyanide" to "poisonous liquids and solids, Class B," so that it reads as follows:

§ 146.25-50 Care following leakage or sifting of poisonous articles.

(a) Compartments or holds in which have been stowed packages containing poisonous liquids and solids, Class B, or radioactive ores of low activity shall, in the event any leakage or sifting from the containers has occurred, be thoroughly cleaned after the cargo is unloaded and before the hold is used for stowage of other cargo.

• • • • •

Dated: December 13, 1967.

W. J. SMITH,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 67-14926; Filed, Dec. 26, 1967; 8:48 a.m.]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 995, Amdt. 1]

PART 1033—CAR SERVICE

Appointment of Embargo Agents

At a session of the Interstate Commerce Commission, Division 3, held in Washington, D.C., on the 15th day of December 1967.

Upon further consideration of Service Order No. 995 (32 F.R. 11948) and good cause appearing therefor:

It is ordered, That:

Section 1033.995 *Service Order No. 995* (Appointment of agents) be, and it is hereby amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1968, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1967.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2))

It is further ordered, That copies of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 67-14927; Filed, Dec. 26, 1967; 8:48 a.m.]

[S.O. 994, Amdt. 1]

PART 1034—ROUTING OF TRAFFIC

Rerouting of Traffic; Appointment of Agents

At a session of the Interstate Commerce Commission, Division 3, held in Washington, D.C., on the 15th day of December 1967.

Upon further consideration of Service Order No. 994 (32 F.R. 11949) and good cause appearing therefor:

It is ordered, That:

Section 1034.994 *Service Order No. 994* (Apointment of agents) be, and it is hereby amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1968, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1967.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10-17), 15(4), and 17(2), 49 Stat. 101, as amended 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2))

It is further ordered, That copies of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 67-14928; Filed, Dec. 26, 1967; 8:48 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Bitter Lake National Wildlife Refuge, N. Mex.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

NEW MEXICO

BITTER LAKE NATIONAL WILDLIFE REFUGE

Sport fishing on the Bitter Lake National Wildlife Refuge, N. Mex., is permitted from April 1, through October 15, 1968, inclusive, only on the areas designated by signs as open to fishing. These open areas, comprising 945 acres, are delineated on maps available at refuge headquarters, 13 miles northeast of Roswell, N. Mex., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following special condition:

(1) The use of boats or floating devices is prohibited. The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through October 15, 1968.

WILLIAM C. REFFALT,
Refuge Manager, Bitter Lake National Wildlife Refuge, Roswell, N. Mex.

DECEMBER 13, 1967.

[F.R. Doc. 67-14930; Filed, Dec. 26, 1967; 8:48 a.m.]

Proposed Rule Making

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 67-SO-121]

AIRWORTHINESS DIRECTIVES

Lockheed Model 382 and 382B Series Airplanes

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Lockheed Model 382 and 382B Series Airplanes. There have been chordwise cracks in the wing lower skins at Wing Stations 181L and 181R on Lockheed Model 382 and 382B Series Airplanes that could, if unchecked, lead to failure of the wing. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require inspection and repair as necessary of chordwise cracks in the wing lower surface and in the adjacent stringers at Wing Stations 181 Left and 181 Right.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Regional Counsel, Attention: Rules Docket, Post Office Box 20636, Atlanta, Ga. 30302. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423).

In consideration of the foregoing, it is proposed to amend § 39.13 of the Federal Aviation Regulations by adding the following new airworthiness directive:

Lockheed.—Applies to Model 382 and 382B series airplanes, Serial Nos. 3946 and 4101 through 4146.

Compliance required as indicated.

To detect and repair chordwise cracks in the wing lower surface and in the adjacent stringers at Wing Stations 181 Left and 181 Right accomplish the following:

1. For airplanes with 2,000 or more hours' time in service on the effective date of this AD, inspect in accordance with paragraph 3, below, within the next 150 hours' time in service unless accomplished within 450 hours' time in service prior to the effective date of this AD, and thereafter at intervals not to exceed 600 hours.

2. For those airplanes with less than 2,000 hours' time in service on the effective date of this AD, inspect in accordance with paragraph 3, prior to the accumulation of 2,150 hours' time in service and thereafter at intervals not to exceed 600 hours' time in service from the last inspection.

3. Inspect P/N 370584-9 (lower surface panel No. 1), P/N 370585-5 (lower surface panel No. 2), and P/N 3705586-3 (lower surface panel No. 3) at Wing Stations 181 Left and 181 Right at the end fastener holes which are common to the outboard ends of the reinforcing beams running spanwise beneath P/N 370557-5 (stringer No. 15), P/N 370560-7 (stringer No. 16), P/N 370560-7 (stringer No. 20) and P/N 370557-5 (stringer No. 21). Inspect an area 4 inches spanwise by 7 inches chordwise surrounding each fastener hole. Inspect the surface of each stringer which is adjacent to a wing lower surface panel crack over a spanwise length of two inches to each side of the wing surface crack. Inspection shall be by dye penetrant method in accordance with Lockheed Alert Service Bulletin A382-026 or later FAA approved revision, or in an equivalent manner approved by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region.

4. Except as provided in subparagraphs a and b, below, prior to further flight repair cracked skin and cracked stringers in accordance with Lockheed Service Bulletin 382-028 or later FAA approved revision, or in an equivalent manner approved by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region.

a. The airplane may be flown in accordance with FAR 21.197 to a base at which the repair can be made.

b. Chordwise cracks in the inspection areas designated in paragraph 3, are not cause for restriction on standard category operations for the conditions described in either (1) or (2), below.

(1) At Wing Stations 181 Left and 181 Right, only one lower surface panel contains a single crack which does not exceed 2 inches in length, and there is no crack in any stringer.

(2) At Wing Stations 181 Left and 181 Right, two or more lower surface panels contain cracks, each of which does not exceed 0.70 inches in length including fastener hole, and the sum of individual crack lengths in all panels does not exceed 3.80 inches, and there are no cracks in any stringer. For airplanes which are operated with such surface panel cracks, inspect in accordance with paragraph 3 at intervals not to exceed 60 hours' time in service from the last inspection.

5. The inspections required by this AD may be discontinued for those airplanes repaired or reinforced in accordance with paragraph 4 or in accordance with an equivalent repair or reinforcement approved by the Chief, Engineering and Manufacturing Branch, FAA Southern Region.

6. Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA, Southern Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for such operator.

Issued in East Point, Ga., on December 15, 1967.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 67-14965; Filed, Dec. 26, 1967; 8:46 a.m.]

FEDERAL MARITIME COMMISSION

[46 CFR Part 514]

[Docket No. 67-57]

SIGNIFICANT VESSEL OPERATING COMMON CARRIERS IN THE DOMESTIC OFFSHORE TRADE; REPORTS OF RATE BASE AND INCOME ACCOUNT

Enlargement of Time for Filing

At the request of counsel for United States Lines, and good cause appearing, time within which comments may be filed in this proceeding is enlarged to and including February 15, 1968. Time within which Hearing Counsel shall file reply to comments is enlarged to and including March 5, 1968. Time within which answer to Hearing Counsel's replies may be made is enlarged to and including March 20, 1968.

By the Commission.

[SEAL] THOMAS LISI,
Secretary.

[F.R. Doc. 67-14966; Filed, Dec. 26, 1967; 8:47 a.m.]

Notices

FEDERAL AVIATION ADMINISTRATION

AIRPORT TRAFFIC CONTROL TOWER AT HUNTSVILLE, ALA.

Notice of Relocation

Notice is hereby given that on October 29, 1967, the Combined Station/Tower at Huntsville, Ala., was relocated to the new Huntsville-Madison County Airport and its status changed to that of Airport Traffic Control Tower. The Flight Service Station services formerly provided by this facility were concurrently transferred to the Muscle Shoals Flight Service Station, Muscle Shoals Municipal Airport, Sheffield, Ala. This information will be reflected in the FAA Organization Statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Memphis, Tenn., on December 13, 1967.

B. D. ALEXANDER,
Manager, Memphis Area.

[F.R. Doc. 67-14941; Filed, Dec. 26, 1967; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

FRANKLIN COUNTY LIVESTOCK MARKET, INC.

Proposed Posting of Stockyards

The Acting Chief, Registrations, Bonds and Reports Branch, Packers and Stockyards Administration, U.S. Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

Franklin County Livestock Market, Inc., Carnesville, Ga.
McClure-Bennett Commission Co., Toccoa, Ga.
Tripoli Livestock Auction, Tripoli, Iowa.
Greer Horse & Pony Auction, Greer, S.C.
West Tennessee Horse Auction, Somerville, Texas.
Groveton Auction Barn, Groveton, Tex.
Scott County Livestock Market, Gate City, Va.

Notice is hereby given, therefore, that the said Acting Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. et seq.), proposes to issue a rule designating the stockyards named above as posted stockyards subject to the provisions of the Act, as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule, may do so by filing them with the Acting Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards Administration, U.S. Department of Agriculture, Washington, D.C. 20250, within 15 days after publication in the FEDERAL REGISTER.

All written submissions made pursuant to this notice shall be made available for public inspection at such times and places in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 18th day of December 1967.

G. H. HOPPER,
Acting Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[F.R. Doc. 67-14969; Filed, Dec. 26, 1967; 8:46 a.m.]

DEPARTMENT OF COMMERCE

Maritime Administration

U.S. GOVERNMENT-SPONSORED COMMODITIES

Voyage Charter Rate Guidelines

By notice (F.R. Doc. 67-13567) published in the FEDERAL REGISTER on November 16, 1967, 32 F.R. 15770, the Acting Maritime Administrator approved for a 90-day period temporary adjustments in voyage charter rate guidelines applicable to the carriage of Government-sponsored commodities moving in full shipload lots in privately owned U.S.-flag vessels. The Maritime Administration thereafter requested the operators to furnish current data for study in connection with possible further adjustments that might be required in such rates.

Based on the cost data received in response to the Maritime Administration's request, the Acting Maritime Administrator has approved the following adjustments of the temporary guideline rates referred to above, effective as of noon, e.s.t., December 21, 1967, and continuing for the balance of the previously announced 90-day period, which will expire on February 14, 1968:

(1) For small ships (10,000 through 15,599 TDWT), the base rates, excluding incremental allowances, that were effective prior to November 16, 1967, will be increased by 22.5 percent, and the resultant rates will hereinafter be referred to as "adjusted small ship rates." (Incremental allowances include adjustments required by special circumstances such as for routing around the Cape of Good Hope and multiple ports of loading and/or discharge).

(2) For intermediate ships (15,600 through 29,999 TDWT), the rates will be:

(a) The adjusted small ship rates minus 26.2 percent;

(b) When lightening of cargo by use of other ocean-going vessel(s) is required for discharge at the ultimate port of destination, the rate for cargo so lightened will be the intermediate ship rate for such port plus $6.50 for each ton of cargo so lightened.

Rates for ships 30,000 TDWT and over will continue to require special rate determinations.

The rates so determined represent fair and reasonable voyage charter rates for the transportation of full cargo lots of U.S. Government-sponsored commodities on U.S.-flag vessels and do not apply to shipments for private account. Said rates contain no allowance for delays due to port congestion, strikes, labor disputes, etc. It is, therefore, incumbent upon shipowners and operators to protect themselves from the consequences of such delays by the use of appropriate fair and reasonable charter terms.

The foregoing temporary adjustments are in effect further temporary adjustments in the basic guideline rates. Certain individual rates may require further adjustments, increases or decreases, as deemed warranted by the Maritime Administration. Listings of the rates in effect prior to November 16, 1967, may be obtained from the Office of Ship Operations.

Representatives of the interested parties have today been notified of the foregoing action.

Dated: December 21, 1967.

By order of the Acting Maritime Administrator.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 67-15126; Filed, Dec. 26, 1967; 11:10 a.m.]

Office of the Secretary

[Department Order 83; Amdt. 7]

DEPARTMENT OF COMMERCE

Organization; Effect on Other Orders

The following amendment to the order was issued by the Secretary of Commerce on December 12, 1967. This material amends the material appearing at 32 F.R. 12622 of September 23, 1967.

Department Order 83, dated September 13, 1967, is hereby amended as follows:

Sec. 6. *Effect on other orders.* Paragraph .02 is revised to read:

.02 The attached organization chart, dated December 13, 1967, supersedes the organization chart of the U.S. Department of Commerce (attachment to Department Order 83 of September 13, 1967), dated September 13, 1967.

The revised chart reflects the establishment of the Office of Telecommunications as a constituent operating unit under the Assistant Secretary for Science and Technology.

Effective date: December 13, 1967.

DAVID R. BALDWIN,
Assistant Secretary for Administration.

U.S. DEPARTMENT OF COMMERCE

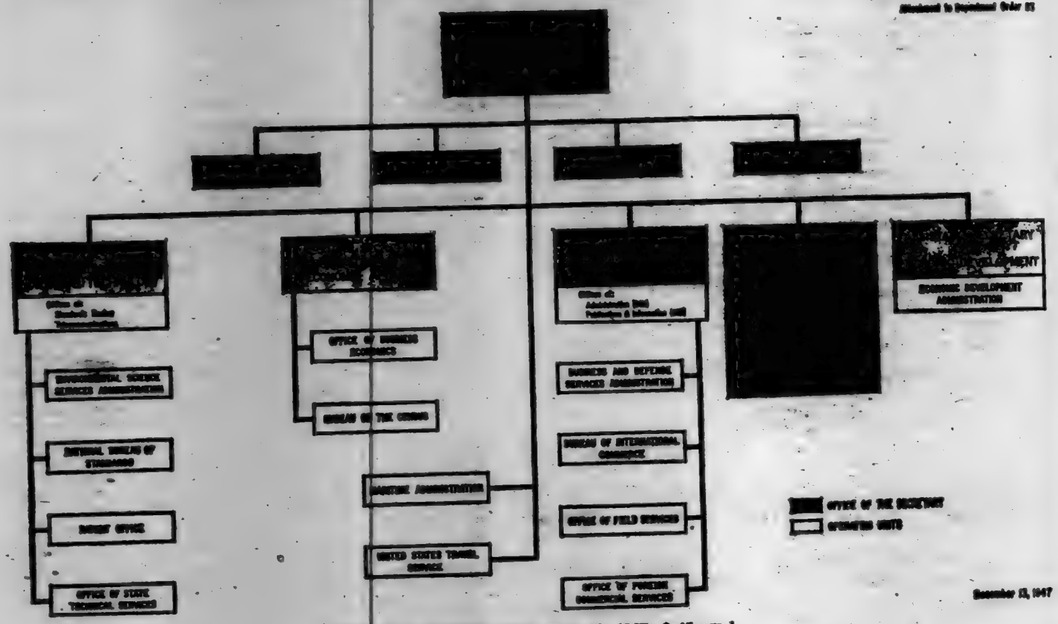

December 13, 1967

[F.R. Doc. 67-14957; Filed, Dec. 26, 1967; 8:45 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-83]

UNIVERSITY OF FLORIDA

Notice of Issuance of Facility License Amendment

The Commission has issued Amendment No. 9, as set forth below and effective as of the date of issuance, to Facility License No. R-56. The license authorizes the University of Florida to operate its training reactor located in Gainesville, Fla. The amendment extends the license period to December 23, 1977, in accordance with application for extension dated November 20, 1967. No change in operating conditions is involved.

Within fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for hearing, and any person whose interest may be affected by the issuance of this amendment may file a petition for leave to intervene. A request for a hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's rules of practice, 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, a notice of hearing or an appropriate order will be issued.

For further details with respect to this amendment, see the application for amendment dated November 20, 1967, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 18th day of December 1967.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

UNIVERSITY OF FLORIDA

FACILITY LICENSE AMENDMENT

(License R-56, Amdt. 9)

The Atomic Energy Commission has found that:

a. The application for extension of the license complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in title 10, chapter 1, CFR;

b. The issuance of this amendment for license extension will not be inimical to the common defense and security or to the health and safety of the public; and

c. Prior public notice of proposed issuance is not required since the extension does not involve hazard considerations different from those previously evaluated.

Facility License No. R-56, as amended, which authorizes the University of Florida to operate the University of Florida Training Reactor located in Gainesville, Fla., is hereby further amended in accordance with application dated November 20, 1967, by revising paragraph 6 to read:

"6. This license is effective as of the date of issuance and shall expire at midnight, December 23, 1977."

This amendment is effective as of the date of issuance.

Date of issuance: December 18, 1967.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[F.R. Doc. 67-14963; Filed, Dec. 26, 1967; 8:46 a.m.]

[Docket No. 27-29]

RADIOLOGICAL SERVICE CO., INC.

Notice of Issuance of Amendment to Byproduct, Source, and Special Nuclear Material License

Please take notice that the Atomic Energy Commission has issued Amendment No. 19 to License No. 31-1672-1 as set forth below. This amendment renews the license for a period of 5 years. The license has been reissued in its entirety for purposes of consolidation of previously issued amendments.

This license provides for receipt and possession of packaged radioactive waste materials in any state of the United States except in "Agreement States." Radiological Service Co., Inc., is licensed by the State of New York for its activities in that State.

The Commission has determined that prior public notice of proposed issuance of this amendment is not required since the amendment does not involve any hazard considerations different from those previously evaluated.

Within fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER, any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the Commission's regulations (10 CFR Part 2). If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order. Petitions to intervene or requests for public hearing may be filed with the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545.

For further details with respect to this amendment see the application and amendment thereto which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., December 19, 1967.

For the Atomic Energy Commission.

J. A. McBRIDE,
Director, Division of Materials Licensing.

RADIOLOGICAL SERVICE CO., INC.

BYPRODUCT, SOURCE, AND SPECIAL NUCLEAR MATERIAL LICENSE

[License 31-1672-1, Amdt. 19]

The Atomic Energy Commission having found that:

A. The licensee's equipment, facilities, and procedures are adequate to protect health and minimize danger to life or property;

B. The licensee is qualified by training and experience to use the material for the purpose requested in accordance with the regulations in Title 10, Code of Federal Regulations, and in such manner as to protect health and minimize danger to life or property;

C. The applications for license amendment dated May 24, 1965, and April 11, 1967, comply with the requirements of the Atomic Energy Act of 1954, as amended, and Title 10, Code of Federal Regulations, Chapter 1, and is for a purpose authorized by that act; and

D. The issuance of the license will not be inimical to the common defense and security or to the health and safety of the public.

License No. 31-1672-1 is amended in its entirety to read as follows:

Pursuant to the Atomic Energy Act of 1954, as amended, 10 CFR Part 30, Rules of General Applicability to Licensing of Byproduct Material, 10 CFR Part 40, Licensing of Source Material, and 10 CFR Part 70, Special Nuclear Material, a license is hereby issued to Radiological Service Co., Inc., 35 Urban Avenue, Westbury, N.Y. 11590, to receive and possess packages containing waste byproduct, source, and special nuclear material in any state of the United States except in "Agreement States" as defined in § 150.3 (b), 10 CFR Part 150.

This license shall be deemed to contain the conditions specified in section 183 of the Atomic Energy Act of 1954, as amended, and is subject to the provisions of 10 CFR Part 20, Standards for Protection Against Radiation, all other applicable rules, regulations, orders of the Atomic Energy Commission now or hereafter in effect, and to the following conditions:

1. The licensee shall possess at any one time not more than:

A. 750 curies of byproduct material other than hydrogen-3.

B. 5,000 curies of hydrogen-3.

C. 12,500 pounds of source material.

D. 200 grams of special nuclear material, not more than 35 milligrams of which will be plutonium and uranium-233.

2. Except as specifically provided otherwise by this license, the licensee shall receive and possess byproduct, source, and special nuclear material in accordance with the radiological safety procedures and limitations contained in the applications for license amendment dated May 24, 1965, and April 11, 1967.

3. Byproduct, source, and special nuclear material shall be received and handled by Herman Glasser, Ellery Foley, or employees who have training and experience as specified in applications for license amendment dated March 27, 1962; May 15, 1963; and June 4, 1963.

4. The transportation of AEC-licensed material shall be subject to all applicable regulations of the Department of Transportation and other agencies of the United States having jurisdiction.

When the Department of Transportation regulations in 49 CFR Parts 173-179 are not applicable to shipments by land of AEC-licensed material by reason of the fact that the transportation does not occur in interstate or foreign commerce, (1) the transportation shall be in accordance with the requirements relating to packaging of radioactive material, marking and labeling of the package, placarding of the transportation vehicle, and accident reporting set forth in the regulations of the Department of Transportation in §§ 173.391-173.396, 49 CFR Part 173, Regulations Applying to Shippers, and §§ 177.823, 177.860 (c) and (d), 49 CFR Part 177, Regulations Applying to Shipments Made by Way of Common, Contract, or Private Carriers by Public Highways, and (2) any requests for modifications or exceptions to those requirements, and any notifications referred to in those requirements shall be filed with, or made to, the Atomic Energy Commission.

5. The licensee shall not store byproduct, source, and special nuclear material in any of the states in which the licensee is authorized to possess and use such material.

6. Any container received by the licensee may contain not more than 20 grams of special nuclear material.

This license shall expire on November 30, 1972.

Date of issuance: December 19, 1967.

For the U.S. Atomic Energy Commission.

J. A. McBRIDE,
Director, Division of Materials Licensing.

[F.R. Doc. 67-14964; Filed, Dec. 26, 1967; 8:46 a.m.]

COBALT-60 SOURCES

Withdrawal From Production and Distribution

The Commission has carefully considered the commercial availability of cobalt-60 sources of 45 curies per gram specific activity and less, and is now proposing to withdraw voluntarily from routine production and distribution of these sources. The AEC will continue to meet requests for cobalt-60 sources to the extent that the purchaser certifies in writing that he requires material which is not commercially available.

In accordance with the Commission's statement of policy published on March 9, 1965, in the FEDERAL REGISTER (30 F.R. 3247), the Commission has tentatively determined that cobalt-60 sources are reasonably available from commercial firms.

Additional relevant factors are that:

1. There exists effective competition in the marketing of cobalt-60 sources.

2. If private production of cobalt-60 sources were discontinued, the AEC could resume production without significant delay.

3. The commercial cobalt-60 source prices are reasonable and consistent with encouragement of research and development and use, and they are comparable to current AEC prices for material from which AEC withdrawal is being proposed.

All interested persons who desire to submit written comments for consideration in connection with the Commission's proposed action on withdrawing from cobalt-60 sources production and distribution should send them to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, within 30 days after publication of this notice in the FEDERAL REGISTER. Comments received after that period will be considered if it is practicable to do so, but assurance of consideration cannot be given except as to comments filed within the period specified.

The Commission will make a final decision on the proposed withdrawal following receipt and evaluation of public comments.

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Washington, D.C., this 20th day of December 1967.

For the Atomic Energy Commission.

W. B. McCOOL,
Secretary.

[F.R. Doc. 67-15001; Filed, Dec. 26, 1967; 8:48 a.m.]

CIVIL AERONAUTICS BOARD

[Docket Nos. 19108, 18606; Order E-26786]

ALITALIA-LINEE AEREE ITALIANE, S.p.A.

Order Relating to Foreign Air Carrier Permit

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of December 1967.

In the matter of the foreign air carrier permit authority of Alitalia-Linee Aeree Italiane, S.p.A., Docket 19108; Application of Alitalia-Linee Aeree Italiane, S.p.A. for renewal of its foreign air carrier permit; Docket 18606.

In Order E-25823 the Board, in Docket 19108, directed Alitalia-Linee Aeree Italiane, S.p.A. (Alitalia) and other interested persons to show cause why Alitalia's foreign air carrier permit should not be amended in the manner specified in the said Order. In addition, the application of Alitalia for renewal of its permit, Docket 18606, was consolidated into the proceeding in the show cause order.

On November 6, 1967, Alitalia filed a memorandum in opposition which requested the Board not to amend Alitalia's permit as contemplated by Order E-25823.

Seaboard World Airlines, Inc. (Seaboard), filed on November 6, 1967, a petition to intervene.

The Board has determined, in light of the memorandum of opposition filed by Alitalia, to set for hearing the issue of whether Alitalia's permit should be amended as set forth in Order E-25823. We will also grant Seaboard's petition for leave to intervene.

In view of the tentative findings set forth in the show cause order, it is imperative that the Board be in a position to determine at the earliest possible date whether the proposed conditions should be included in Alitalia's permit in order to vest in the U.S. Government authority over Alitalia comparable to that possessed by the Italian Government over U.S. carriers. Accordingly, we are directing that this hearing be expedited to the maximum extent possible. We will expect the examiner to set procedural dates in consonance with this objective and that procedural delays be held to a minimum.

In order to further expedite the matter we are excluding from the present proceeding any issues relating to renewal of the permit which was granted to Alitalia under the bilateral agreement.[1] Thus, the issues will be confined solely to the conditions which should be attached to Alitalia's permits, as proposed in the show cause order.

Accordingly, it is ordered, That:

1. The matter of the amendments to the permits of Alitalia, as proposed in Order E-25823, shall be set for hearing before an Examiner of the Board on an expedited basis;

2. Consideration of the application of Alitalia for renewal of its foreign air carrier permit shall be deferred; and

3. Seaboard World Airlines, Inc., be and it hereby is granted leave to intervene.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 67-14979; Filed, Dec. 26, 1967; 8:47 a.m.]

[1] This permit, which was granted pursuant to Order E-20067, effective April 8, 1964, provides for expiration upon termination of the bilateral agreement between the United States and Italy. Although the bilateral agreement has been terminated, Alitalia requested renewal prior to such termination and its permit authority continues in effect pursuant to 5 U.S.C. 558.

[Docket No. 19258]

BRITISH UNITED AIRWAYS (SERVICES), LTD.

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on February 1, 1968, at 10 a.m., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner William F. Cusick.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., December 20, 1967.

[SEAL] WILLIAM F. CUSICK, *Hearing Examiner.*

[F.R. Doc. 67-14980; Filed, Dec. 26, 1967; 8:48 a.m.]

[Docket No. 18791]

VIASA ENFORCEMENT CASE

Notice of Postponement of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled matter now assigned to be held on January 16 is postponed to February 13, 1968, 10 a.m. (e.s.t.), Room 211, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before examiner Edward T. Stodola.

Dated at Washington, D.C., December 20, 1967.

[SEAL] FRANCIS W. BROWN, *Chief Examiner.*

[F.R. Doc. 67-14981; Filed, Dec. 26, 1967; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 17889, 17890; FCC 67-1292]

LONG ISLAND VIDEO, INC., AND GRANIK BROADCASTING CO., INC.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of: Long Island Video, Inc., Patchogue, N.Y., Docket No. 17889, File No. BPCT-3242; Granik Broadcasting Co., Inc., Patchogue, N.Y., Docket No. 17890, File No. BPCT-3422; for construction permit for new television broadcast station.

1. The Commission has before it for consideration the above-captioned applications each requesting a construction permit for a new television broadcast station to operate on Channel 67, Patchogue, N.Y.

2. Granik Broadcasting Co., Inc., proposes to locate its main studios outside of the corporate limits of Patchogue, N.Y., for economic reasons. We believe that good cause has been shown for so locating the main studios and that the location proposed would not be inconsistent with the operation of the station in the public interest. We will provide, therefore, that in the event of a grant of the application of Granik Broadcasting Co., Inc., the Commission's consent to the location will be granted, pursuant to § 73.613(b) of the rules.

3. Granik Broadcasting Co., Inc., proposes to modify the existing antenna structure of Standard Radio Broadcast Station WPAC in order to accommodate the applicant's television antenna. Therefore, in the event of a grant of the application of Granik Broadcasting Co., Inc., such grant shall be made subject to an appropriate condition.

4. Since Long Island Video, Inc.'s sole stockholder, Broadcast Industries Corp. has a wholly owned subsidiary AAA Cablevision Corp. which has interests in CATV systems and since Theodore Granik, one of the principals of Granik Broadcasting Co., Inc., has an interest in a CATV system and the Commission has issued a Notice of Inquiry into Developing Patterns of Ownership in the CATV Industry, Docket No. 17371, 7 FCC 2d 853, in the event of a grant of either application, the grant shall be made without prejudice to whatever action the Commission may deem appropriate as a result of the pending proceeding in Docket No. 17371.

5. The applicants are qualified to construct, own and operate the proposed new television broadcast station. The applications are, however, mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference. The Commission is, therefore, unable to make the statutory finding that a grant of the applications would serve the public interest, convenience, and necessity, and is of the opinion that they must be designated for hearing in a consolidated proceeding on the issues set forth below.

It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications of Long Island Video, Inc., and Granik Broadcasting Co., Inc., are designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine which of the proposals would better serve the public interest.

2. To determine, in the light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

It is further ordered, That, in the event of a grant of the application of Granik Broadcasting Co., Inc., the applicant's request, pursuant to § 73.613(b) of the Commission's rules to locate its main studios outside of the corporate limits of Patchogue, N.Y., shall be granted.

It is further ordered, That, in the event of a grant of the application of Granik Broadcasting Co., Inc., such grant shall be made subject to the following condition:

Subject to the condition that prior to the commencement of construction, authority shall be obtained to determine the operating power of Station WPAC by the indirect method and that upon completion of construction, the common point (and antenna) resistance shall be remeasured and the results submitted with Form 302 as a request to determine the operating power by the direct method. In addition, a skeleton proof shall be submitted, consisting of at least five field intensity measurements on each radial measured in connection with the original proof of performance to prove that the directional pattern of Station WPAC has not been changed. Data shall include a tabulation of all the pertinent meter indications and the measured fields at the monitor locations.

It is further ordered, That, in the event of a grant of either application, the grant shall be without prejudice to whatever action the Commission may deem appropriate as a result of the pending proceeding in Docket No. 17371.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within twenty (20) days of the mailing of this order, file with the Commission, in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That, the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or if feasible, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: November 22, 1967.

Released: December 12, 1967.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-14951; Filed, Dec. 26, 1967; 8:45 a.m.]

[Docket Nos. 17889, 17890; FCC 67M-2074]

LONG ISLAND VIDEO, INC., AND GRANIK BROADCASTING CO., INC.

Order Scheduling Hearing

In re applications of Long Island Video, Inc., Patchogue, N.Y., Docket No. 17889, File No. BPCT-3242; Granik Broadcasting Co., Inc., Patchogue, N.Y., Docket No. 17890, File No. BPCT-3422; for construction permit for new television broadcast station (Channel 67).

It is ordered, That Chester F. Naumowicz, Jr., shall serve as Presiding Officer in the above-entitled proceeding; that the hearings therein shall be convened on March 5, 1968, at 10 a.m.; and that a prehearing conference shall be held on January 4, 1968, commencing at 9 a.m.: *And it is further ordered*, That all proceedings shall take place in the offices of the Commission, Washington, D.C.

Issued: December 8, 1967.

Released: December 18, 1967.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-14952; Filed, Dec. 26, 1967; 8:45 a.m.]

[Docket Nos. 17904, 17905; FCC 67M-2084]

JOE MANOR AND MOBILFONE COMMUNICATIONS, INC.

Order Scheduling Hearing

In re applications of Joe Manor for renewal of license of station KKM583 in the Domestic Public Land Mobile Radio Service at Austin, Tex., Docket No. 17904, File No. 205-C2-R-66; Mobilfone Communications, Inc., for a modification of license to modify the facilities of station KKX714 in the Domestic Public Land Mobile Radio Service at Austin, Tex., Docket No. 17905, File No. 5335-C2-ML-66.

It is ordered, That Millard F. French shall serve as Presiding Officer in the above-entitled proceeding; that the hearing therein shall be convened on March 6, 1968, at 10 a.m.; and that a prehearing conference shall be held on January 10, 1968, commencing at 9 a.m.: *And, it is further ordered*, That all proceedings shall take place in the offices of the Commission, Washington, D.C.

Issued December 13, 1967.

Released: December 18, 1967.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-14953; Filed, Dec. 26, 1967; 8:45 a.m.]

[Docket Nos. 17541, 17542; FCC 67M-2102]

SRC, INC., AND SAN ANGELO INDEPENDENT SCHOOL

Order Regarding Procedural Dates

In re applications of SRC, Inc., San Angelo, Tex., Docket No. 17541, File No. BPCT-3764; San Angelo Independent School District No. 226-903, San Angelo, Tex., Docket No. 17542, File No. BPCT-3783; for construction permit for new television broadcast station (Channel 6).

The Hearing Examiner having under consideration a joint request for extension of procedural dates filed December 12, 1967, by counsel for the applicants; and

It appearing that counsel request that the procedural dates in this case be rescheduled as set forth in the ordering clause below; and

It further appearing that good cause for the grant of the request has been shown; and

It further appearing that counsel for the Broadcast Bureau, the only other party in this proceeding, has indicated his consent to the immediate consideration and grant of this request;

It is therefore, ordered, That the joint request for extension of procedural dates is granted, and the procedural dates in this case are rescheduled as follows:

January 3, 1968—Exchange of direct written exhibits.

January 8, 1968—Request for witnesses for cross-examination.

January 15, 1968—Commencement of hearing sessions (previously scheduled for Jan. 3, 1968).

Issued: December 15, 1967.

Released: December 20, 1967.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-14954; Filed, Dec. 26, 1967; 8:45 a.m.]

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN BRAZIL

Entry and Withdrawal From Warehouse for Consumption

DECEMBER 16, 1967.

On December 14, 1967, the U.S. Government, in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, including Article 6(c) thereof relating to nonparticipants, informed the Government of Brazil that it was renewing for an additional 12-month period beginning December 16, 1967, and extending through December 15, 1968, the restraint on imports to the United States of cotton textiles and cotton textile products in Categories 1, 2, 3, and 4, produced or manufactured in Brazil. The level of restraint for this 12-month period is 5 percent greater than the level of restraint applicable to these combined categories for the preceding 12-month period.

There is published below a letter of December 14, 1967, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, directing that the amount of cotton textiles and cotton textile products in Categories 1, 2, 3, and 4, produced or manufactured in Brazil which may be entered or withdrawn from warehouse for consumption in the United States for the 12-month period beginning December 16, 1967, be limited to the designated level.

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.

SECRETARY OF COMMERCE

PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE

DECEMBER 14, 1967.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, including Article 6(c) thereof relating to nonparticipants, and in accordance with the procedures outlined in Executive Order 11052 of September 28, 1962, as amended by Executive Order 11214 of April 7, 1965, you are directed to prohibit, effective December 16, 1967, and for the 12-month period extending through December 15, 1968, entry into the United States for consumption and withdrawal from warehouse for consumption, of cotton textiles and cotton textile products in Categories 1, 2, 3, and 4, produced or manufactured in Brazil, in excess of a combined level of restraint for the four categories of 6,300,000 pounds.

In carrying out this directive, entries of cotton textiles and cotton textile products in Categories 1, 2, 3, and 4, produced or manufactured in Brazil, which have been exported to the United States from Brazil prior to December 16, 1967, shall, to the extent of any unfilled balances be charged against the level of restraint established for such goods for the twelve-month period beginning December 16, 1966, and extending through December 15, 1967. In the event that the level of restraint established for the 12-month period ending December 15, 1967, has been exhausted by previous entries, such goods shall be subject to the directives set forth in this letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on July 7, 1966 (31 F.R. 9310).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Brazil and with respect to imports of cotton textiles and cotton textile products from Brazil have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 553 (Supp. II, 1965–66). This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

HOWARD J. SAMUELS,
Acting Secretary of Commerce, Chairman, President's Cabinet Textile Advisory Committee.

[F.R. Doc. 67-14994; Filed, Dec. 26, 1967; 8:48 a.m.]

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE REPUBLIC OF THE PHILIPPINES

Entry or Withdrawal From Warehouse for Consumption

DECEMBER 18, 1967.

On September 21, 1967, the U.S. Government, in furtherance of the objectives of, and under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, concluded a bilateral agreement with the Republic of the Philippines concerning exports of cotton textiles from the Republic of the Philippines to the United States over a 3-year period. Under this agreement the Republic of the Philippines has undertaken to limit its exports to the United States of certain cotton textiles and cotton textile products to specified annual amounts. Among the provisions of the agreement are those applying to specific export limitations to Categories 9, 22, 26, 32, 39, 42, 43, 45, 46, 50, 51, 60, and 61, for the first agreement year beginning January 1, 1968.

There is published below a letter of December 15, 1967, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, directing that the amounts of cotton textiles and cotton textile products in Categories 9, 22, 26, 32, 39, 42, 43, 45, 46, 50, 51, 60, and 61, produced or manufactured in the Republic of the Philippines which may be entered, or withdrawn from warehouse, for consumption in the United States from January 1, 1968, through December 31, 1968, be limited to certain designated levels. This letter and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement but are designed to assist only in the implementation of certain of its provisions.

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.

SECRETARY OF COMMERCE

PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE

DECEMBER 15, 1967.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of September 21, 1967, between the United States and the Republic of the Philippines, and in accordance with the procedures outlined in Executive Order 11052 of September 28, 1962, as amended by Executive Order 11214 of April 7, 1965, you are directed to prohibit, effective January 1, 1968, and for the period extending through December 31, 1968, entry into the United States for consumption and withdrawal from warehouse for consumption, of cotton textiles and cotton textile products in Categories 9, 22, 26, 32, 39, 42, 43, 45, 46, 50, 51, 60, and 61, produced or manufactured in the Republic of the Philippines, in excess of the following levels of restraint:

Category		12-Month Level of Restraint
9	square yards	1,250,000
22	do	1,800,000
26	do	[1] 1,250,000
32	dozen	3,000,000
39	dozen pairs	275,000
42	dozen	30,000
43	do	60,000
45	do	20,000
46	do	10,000
50	do	10,000
51	do	10,000
60	do	8,500
61	do	1,560,000

[1] Not more than 3000,000 sq. yds. may be in duck.

[2] Only T.S.U.S.A. Nos.:
320....01 through 04, 06, 08.
321....01 through 04, 06, 08.
322....01 through 04, 06, 08.
326....01 through 04, 06, 08.
327....01 through 04, 06, 08.
328....01 through 04, 06, 08.

Entries of cotton textiles and cotton textile products in Categories 9, 22, 26, 32, 39, 42, 43, 45, 46, 50, 51, 60, and 61, produced or manufactured in the Republic of the Philippines and which have been exported to the United States from the Republic of the Philippines prior to January 1, 1968, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the period January 1, 1967, through December 31, 1967. In the event that the level of restraint established for the period January 1, 1967, through December 31, 1967, has been exhausted by previous entries, such goods shall be subject to the directives set forth in this letter. However, entries of cotton textiles and cotton textile products in Categories 42, 43, and 46, produced or manufactured in the Republic of the Philippines and which have been exported to the United States from the Republic of the Philippines prior to January 1, 1968, shall not be subject to this directive.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of September 21, 1967, between the Governments of the United States and the Republic of the Philippines which provide in part that within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements. Any appropriate adjustments pursuant to the provisions of the bilateral agreement referred to above, will be made to you by letter from the Chairman of the Interagency Textile Administrative Committee.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on July 7, 1966 (31 F.R. 9310).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of the Philippines and with respect to imports of cotton textiles and cotton textile products from the Republic of the Philippines have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 553 (Supp. II, 1965–66). This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

A. B. TROWBRIDGE,
Secretary of Commerce, Chairman, President's Cabinet, Textile Advisory Committee.

[F.R. Doc. 67-14995; Filed, Dec. 26, 1967; 8:48 a.m.]

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN TUNISIA

Entry and Withdrawal From Warehouse for Consumption

DECEMBER 21, 1967.

On November 28, 1967, the U.S. Government, in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, including Article 6(c) thereof relating to nonparticipants, requested the Government of Tunisia to restrain its exports of cotton textiles in Category 26 (duck only) for the period beginning January 1, 1968, and extending through December 31, 1968, to a level of 320,000 square yards. In a note dated December 14, 1967, the Government of Tunisia informed the U.S. Government that it accepted the United States request as a satisfactory solution to the problem of Tunisian duck fabric exports to the United States. The level of restraint agreed upon by the Governments of the United States and Tunisia does not apply to cotton textiles produced or manufactured in Tunisia and exported to the United States prior to the beginning of the applicable 12-month period designated above.

There is published below a letter of December 20, 1967, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, directing that the amount of cotton textiles in Category 26 (duck only) produced or manufactured in Tunisia which may be entered or withdrawn from warehouse for consumption in the United States for the 12-month period beginning January 1, 1968, and extending through December 31, 1968, be limited to the designated level.

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.

SECRETARY OF COMMERCE

PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE

DECEMBER 20, 1967.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, including Article 6(c) thereof relating to nonparticipants, and in accordance with the procedures outlined in Executive Order 11052 of September 28, 1962, as amended by Executive Order 11214 of April 7, 1965, you are directed, effective January 1, 1968, and for the 12-month period extending through December 31, 1968, to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption, of cotton textiles in Category 26 (duck only[1]), produced or manufactured in Tunisia, in excess of a level of restraint for the period of 320,000 square yards.

In carrying out this directive, entries of cotton textiles in Category 26 (duck only[1]), produced or manufactured in Tunisia, and which have been exported to the United States prior to January 1, 1968, shall not be subject to this directive.

A detailed description of Category 26 in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on July 7, 1966 (31 F.R. 9310).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Tunisia and with respect to imports of cotton textiles and cotton textile products from Tunisia have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 553 (Supp. II, 1965–66). This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

A. B. TROWBRIDGE,
Secretary of Commerce, Chairman, President's Cabinet, Textile Advisory Committee.

[F.R. Doc. 67-14996; Filed, Dec. 26, 1967; 8:48 a.m.]

[1] Only T.S.U.S.A. Nos.:
320....01 through 04, 06, 08.
321....01 through 04, 06, 08.
322....01 through 04, 06, 08.
326....01 through 04, 06, 08.
327....01 through 04, 06, 08.
328....01 through 04, 06, 08.

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN YUGOSLAVIA

Entry and Withdrawal From Warehouse for Consumption

DECEMBER 18, 1967.

On September 26, 1967, the Government of the United States, in furtherance of the objectives of, and under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, concluded a bilateral cotton textile agreement with the Government of the Socialist Federal Republic of Yugoslavia, concerning exports of cotton textiles and cotton textile products from Yugoslavia to the United States. Under this agreement the Government of the Socialist Federal Republic of Yugoslavia has undertaken to limit its exports to the United States of all cotton textiles and cotton textile products to an aggregate limit of 16,750,000 square yards equivalent for the first agreement year, beginning January 1, 1968. Among the provisions of the agreement are those applying specific export limitations to Categories 9, 18–19, 22, 26 (duck), 26 (other than duck), 28–29, 31, 34–35, 45–46–50–51, 48, and 49.

Accordingly, there is published below a letter of December 15, 1967, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, directing that for the period beginning January 1, 1968, and extending through December 31, 1968, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 9, 18–19, 22, 26 (duck), 26 (other than duck), 28–29, 31, 34–35, 48, and 49, produced or manufactured in the Socialist Federal Republic of Yugoslavia and exported to the United States on or after January 1, 1968, be limited to the designated levels. This letter and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement but are designed to assist only in the implementation of certain of its provisions.

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.

DEPARTMENT OF COMMERCE

PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE

DECEMBER 15, 1967.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of September 28, 1967, between the United States and the Socialist Federal Republic of Yugoslavia, and in accordance with the procedures outlined in Executive Order 11052 of September 28, 1962, as amended by Executive Order 11214 of April 7, 1965, you are directed to prohibit, effective January 1, 1968, and for the 12-month period extending through December 31, 1968, entry into the United States for consumption, and withdrawal from warehouse for consumption, of cotton textiles and cotton textile products in Categories 9, 18–19, 22, 26 (duck only[1]), 26 (other than duck), 30–39, 31, 34–36, 43, and 49, produced or manufactured in the Socialist Federal Republic of Yugoslavia, in excess of the following levels of restraint:

Category		12-Month Level of Restraint
9	square yards	6,947,279
18–19	do	1,666,666
22	do	1,600,000
26 (duck[1])	do	2,000,000
26 (other than duck)	do	1,500,000
30–39	pieces	307,320
31	do	474,180
34–36	do	332,220
43	dozen	3,413
49	do	14,294

[1] The level for Category 9 has been reduced by 52,721 square yards pursuant to an administrative arrangement requested by the Socialist Federal Republic of Yugoslavia which allowed this amount of goods to be entered during the agreement year ending December 31, 1967.

Entries of cotton textiles and cotton textile products in Categories 9, 18–19, 22, 26 (duck only[1]), 26–39, 31, 34, 43, and 49, produced or manufactured in Yugoslavia, and exported to the United States prior to January 1, 1968, shall, to the extent of any unfilled balances, be charged against the level of restraint established for such goods during the period January 1, 1967, through December 31, 1967. In the event that the level of restraint established for such goods for that period has been exhausted by previous entries, such goods shall be subject to the directives set forth in this letter. Cotton textiles and cotton textile products in Categories 26 (other than duck), and 36, produced or manufactured in Yugoslavia and which have been exported to the United States from Yugoslavia prior to January 1, 1968, shall not be subject to this directive.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of September 28, 1967, between the Governments of the United States and the Socialist Federal Republic of Yugoslavia which provide in part that within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements. Any appropriate adjustments pursuant to the provisions of the bilateral agreement referred to above, will be made to you by letter from the Chairman of the Interagency Textile Administrative Committee.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on July 7, 1966 (31 F.R. 9010).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Socialist Federal Republic of Yugoslavia and with respect to imports of cotton textiles and cotton textile products from the Socialist Federal Republic of Yugoslavia have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 553 (Supp. II, 1965–66). This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

A. B. THOMPSON,
Secretary of Commerce, Chairman, President's Cabinet, Textile Advisory Committee.

[1] T.S.U.S.A. Nos.:
230....01 through 04, 06, 08.
231....01 through 04, 06, 08.
232....01 through 04, 06, 08.
236....01 through 04, 06, 08.
237....01 through 04, 06, 08.
238....01 through 04, 06, 08.

[F.R. Doc. 67-14497; Filed, Dec. 26, 1967; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[70-4567]

HARTFORD ELECTRIC LIGHT CO.

Notice of Proposed Issue and Sale of Principal Amount of First Mortgage Bonds and Shares of Preferred Stock at Competitive Bidding

DECEMBER 19, 1967.

Notice is hereby given that the Hartford Electric Light Co. ("HELCO"), 176 Cumberland Avenue, Wethersfield, Conn. 06109, a public-utility subsidiary company of Northeast Utilities, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

HELCO proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $10 million principal amount of ____ percent first mortgage bonds, 1968 series, due February 1, 1998. The interest rate of the bonds (which will be a multiple of one-eighth of 1 percent) and the price, exclusive of accrued interest, to be paid to HELCO (which will be not less than 99 percent nor more than 102¾ percent of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under the first mortgage indenture and deed of trust dated as of January 1, 1958, between HELCO and Old Colony Trust Co., trustee, as heretofore amended and supplemented and as to be further amended and supplemented by a sixth supplemental mortgage indenture to be dated as of February 1, 1968.

HELCO also proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, 200,000 shares of its preferred stock, par value $50 per share. The dividend rate of the new perferred stock (which will be a multiple of 0.05 percent) and the price, exclusive of accrued dividends, to be paid to HELCO (which will be not less than $50 nor more than $51.375) will be determined by the competitive bidding.

The net proceeds from the sale of the new bonds and preferred stock will be used by HELCO to pay bank borrowings, estimated to total $18,500,000 at the time of such sale. These bank borrowings have been and will be incurred to finance, in part, the company's construction program, to pay $2,197,750 of bonds which matured on August 1, 1967, and to supply funds for investment in Connecticut Yankee Atomic Power Co. and other nuclear generating companies. The company's 1968 construction program is estimated at $37 million.

The application states that the issue of the new bonds and preferred stock is subject to the jurisdiction of the Connecticut Public Utilities Commission. Statements of the fees and expenses related to the proposed transactions are to be filed by amendment.

Notice is further given that any interested person may, not later than January 18, 1968, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified should the Commission order a hearing in respect thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service thereof (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-14681; Filed, Dec. 26, 1967; 8:48 a.m.]

[70-4566]

NEW ENGLAND POWER CO., AND NEW ENGLAND ELECTRIC SYSTEM

Notice Regarding Issue and Sale of Promissory Notes by Subsidiary Company to Bank and/or to Holding Company

DECEMBER 20, 1967.

Notice is hereby given that New England Electrical System ("NEES") 441 Stuart Street, Boston, Mass. 02116, a registered holding company, and one of its electric-utility subsidiary companies, New England Power Co. ("NEPCO"), have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7, 9(a), 10, and 12 of the Act and Rule 43(a) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

NEPCO proposes to issue, from time to time through December 31, 1968, unsecured short-term promissory notes to The First National Bank of Boston and/or to NEES in the maximum aggregate amount of $29 million to be outstanding at any one time. The proceeds of the proposed borrowings are to be used by NEPCO to pay its then outstanding notes payable to a bank and/or to NEES at or prior to maturity thereof, and to provide new money for construction expenditures or reimburse its treasury therefor. Such outstanding notes of NEPCO presently aggregate $14,200,000, and it is expected that by December 31, 1967, the aggregate amount will be $19 million.

Each proposed note will bear interest at not in excess of the prime rate in effect at the time of issue, will mature in less than 1 year from the date of issue and in any event not later than March 31, 1969, and will be prepayable at any time, in whole or in part, without premium.

NEPCO may prepay its notes to NEES, in whole or in part, with borrowings from banks, or vice versa. Any note issued to NEES for such prepayment of a note to a bank will bear interest at the prime rate or the interest rate on the note being prepaid, whichever is lower, but at the prime rate after the maturity date of the note being prepaid. In the case of a note issued to a bank for such prepayment of a note to NEES, if the interest rate on the new note being issued exceeds that of the note being prepaid, NEES will credit NEPCO with an amount equal to the difference between such interest payments for the period from the date of the issuance of such new note to the maturity date of the note being prepaid.

It is proposed that in the event of any permanent financing by NEPCO the proceeds therefrom, in excess of amounts used for refunding other securities at par or the principal amount thereof, will be applied to payment of its short-term note indebtedness then outstanding, but the maximum of short-term note indebtedness to be outstanding at any one time proposed herein will not be reduced by the amount of such payment.

Incidental services in connection with the proposed note issues will be performed, at cost, by New England Power Service Co., an affiliated service company; such cost is estimated not to exceed $500 for each applicant-declarant, an aggregate of $1,000. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than January 11, 1968, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon New England Electric System at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from its rules under the Act as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-14678; Filed, Dec. 26, 1967; 8:47 a.m.]

[File No. 0-322]

PAKCO COMPANIES, INC.

Order Terminating Summary Suspension of Trading

DECEMBER 19, 1967.

The common stock and all other securities of Pakco Companies, Inc., being traded otherwise than on a national securities exchange; and

The Commission having, on December 18, 1967, issued an order pursuant to section 15(c)(5) of the Securities Exchange Act of 1934 summarily suspending trading in said security in the over-the-counter market effective for the period December 18, 1967, through December 26, 1967, inclusive; and

The Commission being of the opinion that the public interest does not require the continuance of said suspension of trading after December 21, 1967;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that the suspension of trading pursuant to said order of December 18, 1967, shall terminate effective at the close of business on December 21, 1967.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-14691; Filed, Dec. 26, 1967; 8:47 a.m.]

[File No. 1-1277]

PENROSE INDUSTRIES CORP.

Order Terminating Summary Suspension of Trading

DECEMBER 19, 1967.

The common stock, $3 par value, of Penrose Industries Corp., being listed and registered on the American Stock Exchange and the 5 percent cumulative convertible preferred stock, $20 par value of Penrose Industries Corp., being traded otherwise than on a national securities exchange; and

The Commission having, on December 14, 1967, issued an order pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934 summarily suspending trading in said securities effective for the period December 15, 1967, through December 24, 1967; and

The Commission being of the opinion that the public interest does not require the continuance of said suspension of trading after December 21, 1967;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that the suspension of trading pursuant to said order of December 14, 1967, shall terminate effective at the closing of business on December 21, 1967.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-14692; Filed, Dec. 26, 1967; 8:47 a.m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 645]

ALABAMA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of December 1967, be-

cause of the effects of certain disasters, damage resulted to residences and business property located in Madison, Morgan, and Limestone Counties in the State of Alabama;

Whereas, the Small Business Administration has investigated and received other reports of investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the offices below indicated from persons or firms whose property, situated in the aforesaid counties, and areas adjacent thereto, suffered damage or destruction resulting from tornadoes and flooding occurring on December 18, 1967.

OFFICE

Small Business Administration Regional Office, 908 South 20th Street, Birmingham, Ala. 35205.

2. A temporary office will be established at Huntsville, Ala., address to be announced locally.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to June 30, 1968.

Dated: December 19, 1967.

ROBERT C. MOOT,
Administrator.

[F.R. Doc. 67-14974; Filed, Dec. 26, 1967; 8:47 a.m.]

DEPARTMENT OF LABOR

Office of the Secretary

[Secretary's Order No. 33-67]

ASSISTANT SECRETARY FOR MANPOWER

Delegation of Authority To Enter Into and Execute Contracts

1. *Purpose.* To delegate authority to enter into and execute contracts for property and services.

2. *Delegation of authority.* The Assistant Secretary for Manpower, or an officer acting in that capacity, is hereby delegated, subject to his redelegation, the authority to procure, except by formal advertising, property and services in the discharge of his responsibilities under Secretary's Order No. 4-67, utilizing the provisions of Title III of the Federal Property and Administrative Services Act of 1949, as amended, and to enter into and execute contracts, agreements or grants therefor, obligating funds appropriated or allocated for such purposes.

3. *Directives affected.* This order further implements Secretary's Order No. 10-64. The provisions of Secretary's Order 13 and 24-64 are not abrogated by this order.

4. *Effective date.* This order is effective immediately.

Signed at Washington, D.C., this 2d day of October 1967.

LEO R. WERTS,
Assistant Secretary for Administration.

[F.R. Doc. 67-14973; Filed, Dec. 26, 1967; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 816]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 21, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 3255 (Sub-No. 8 TA), filed December 18, 1967. Applicant: PEP TRUCKING CO., INC., 74 Montgomery Street, Jersey City, N.J. 07302. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in pneumatic slide air trailers, and in bags, from Jersey City, N.J., and Brooklyn, N.Y., to Bayshore, N.Y., for 150 days. Supporting shipper: Entenmann Fine Baked Goods, 1724 Fifth Avenue, Bayshore, N.Y. Send protests to: District Supervisor Walter J. Grossmann, Interstate Commerce Commission, Bureau of Operations, 1060 Broad Street, Room 363, Newark, N.J. 07102.

No. MC 115669 (Sub-No. 85 TA), filed December 18, 1967. Applicant: HOWARD N. DAHLSTEN, doing business as DAHLSTEN TRUCK LINE, Post Office Box 95, Clay Center, Nebr. 68933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Edible corn grits and meal*, from Crete, Nebr., to North Lake, Ill., and Milwaukee, Wis., for 180 days. Supporting shipper: Crete Mills, Division of Lauhoff Grain Co., 14th and Norman, Crete, Nebr. Send protests to: District Supervisor Max H. Johnston, Bureau of Operations, Interstate Commerce Commission, 315 Post Office Building, Lincoln, Nebr. 68508.

No. MC 116063 (Sub-No. 105 TA), filed December 18, 1967. Applicant: WESTERN-COMMERCIAL TRANSPORT, INC., 2400 Cold Springs Road, 76111, Post Office Box 270, Fort Worth, Tex. 76101. Applicant's representative: W. H. Cole (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flavoring syrup*, in bulk, in tank vehicles, from Arlington, Tex., to Denver, Colo., for 180 days. Supporting shipper: Pepsico, Inc., 500 Park Avenue, New York, N.Y. 10022. Send protests to: District Supervisor Billy R. Reid, Interstate Commerce Commission, Bureau of Operations, 9A27 Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 127204 (Sub-No. 4 TA), filed December 11, 1967. Applicant: KINDSVATER, INC., Fort Dodge Road, Dodge City, Kans. 67801. Applicant's representative: Arthur L. Claussen, 303 New England Building, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Irrigation equipment;* from Valley, Nebr., and Dodge City, Kans., to points in Kansas on and west of U.S. Highway 81 and points in Oklahoma and Texas on and west of U.S. Highway 77; (2) *animal feed blenders and mixers;* from Dodge City, Kans., to points in California, Idaho, Illinois, Iowa, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming; and (3) *animal fats and vegetable oils used in animal consumption, in bulk, in tank vehicles;* between Kansas, on the one hand, and on the other, points in Arkansas, Colorado, Missouri, Nebraska, Oklahoma, and Texas, for 180 days. Supporting shippers: Manufacturing Co., Inc., East Wyatt Earp Boulevard, Post Office Box 370, Dodge City, Kans. 67801; Producers Packing Co., Box 957, Garden City, Kans. 67846; Casterline and Sons, First and Maple, Dodge City, Kans. 67801. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 906 Schweiter Building, Wichita, Kans. 67202.

No. MC 127962 (Sub-No. 3 TA), filed December 18, 1967. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Street, South Gate, Calif. 90280. Applicant's representative: Karl K. Roos, 825 City National Bank Building, 606 South Olive Street, Los Angeles, Calif. 90014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Empty glass containers* on pallets, from points in Los Angeles County, Calif., to Las Vegas, Nev., under continuing contract with Brockway Glass Co., Inc., and Glass Containers Corp., for 120 days. Supporting shippers: Brockway Glass Co., Inc., 8717 G Street, Oakland, Calif.; Glass Containers Corp., 536 North Gilbert Avenue, Fullerton, Calif. 92634. Send protests to: John E. Nance, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 129502 (Sub-No. 1 TA), filed December 18, 1967. Applicant: JOHN HERBERT CARMAN, doing business as CARBOY'S TRUCKING COMPANY, 93 Loretta Street, New Brunswick, N.J. 08902. Applicant's representative: Charles H. Trayford, 127 East 30th Street, New York, N.Y. 10016. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobile engines, motors and parts, automobile parts, accessories and equipment, oil, batteries, mufflers, tail pipes, antifreeze, paint, polish, repair parts, paper towels, wiping rags, printed matter, cleaners, repairing equipment, tool boxes, and household light bulbs*, from South Plainfield, N.J., New Brunswick, N.J., to points in the New York Counties of Rockland, Orange, Sullivan, Ulster, Dutchess, Putnam, Westchester. Return of the above commodities for trade-in, repair or refund, or damaged, obsolete or rejected shipments in the reverse direction, for 150 days. Supporting shippers: (1) United Engine Rebuilders, Inc., 976 Jersey Avenue, New Brunswick, N.J. 08902; (2) Napa New Jersey Warehouse, 1770 New Durham Road, South Plainfield, N.J. 07080. Send protests to: Robert S. H. Vance, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1060 Broad Street, Newark, N.J. 07102.

No. MC 129597 TA, filed December 18, 1967. Applicant: BILLY J. JONES, 3006 Murphy Street, Fort Worth, Tex. 76111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Repossessed automobiles*, in driveaway and towaway service, from Fort Worth, Tex., and between points in the United States, excluding Hawaii, under continuing contract with General Motors Acceptance Corp., for 180 days. Supporting shipper: General Motors Acceptance Corp., 4015 West Freeway, Fort Worth, Tex. 76107. Send protests to: District Supervisor, Billy R. Reid, Interstate Commerce Commission, 9A27 Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 129598 TA, filed December 18, 1967. Applicant: LEWIS-CLARK TRANSIT & SCENIC TOURS, INC., 3632 13th Street, Lewiston, Idaho 83501. Applicant's representative: Rex M. Thomas, 3632 13th Street, Lewiston, Idaho 83501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in chartered bus service, between Nez Perce and Benewah Counties, Idaho, on the one hand, and, on the other, points in Washington on and east of U.S. Highway No. 97, for 180 days. Supporting shippers: Washington State University, Pullman, Wash. 99163; The Lewiston-Clarkston YWCA, 300 Main, Lewiston, Idaho 83501; North-South Ski Bowl, Inc., 302 Shirley Street, Pullman, Wash. 99163; The Church of Jesus Christ of Latter-Day Saints, Ninth and Preston Streets, Lewiston, Idaho 83501; Greater Lewiston Chamber of Commerce Hotel Lewis-Clark, Lewiston, Idaho; Global Travel Service, Hotel Lewis-Clark, Lewiston, Idaho 83501. Send protests to: L. C. Taylor, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 401 U.S. Post Office Building, Spokane, Wash. 99201.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 67-14980; Filed, Dec. 26, 1967; 8:48 a.m.]

[S.O. 994, ICC Orders No. 1; Amdt. 2]

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD CO.

Rerouting or Diversion of Traffic

Upon further consideration of ICC Order No. 1 (Chicago, Rock Island and Pacific Railroad Co.) and good cause appearing therefor:

It is ordered, That:

ICC Order No. 1 be, and it is hereby amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., June 30, 1968, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., December 31, 1967, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., December 20, 1967.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 67-14982; Filed, Dec. 26, 1967; 8:48 a.m.]

Title 2—THE CONGRESS

ACTS APPROVED BY THE PRESIDENT

EDITORIAL NOTE: After the adjournment of the Congress *sine die*, and until all public acts have received final Presidential consideration, a listing of public laws approved by the President will appear in the daily FEDERAL REGISTER under Title 2—The Congress. A consolidated listing of the new acts approved by the President will appear in the Daily Digest in the final issue of the Congressional Record covering the 90th Congress, First Session.

Approved December 20, 1967

H.R. 6111..... Public Law 90-219
An Act to provide for the establishment of a Federal Judicial Center, and for other purposes.

H.R. 11895..... Public Law 90-220
An Act to amend the National Capital Transportation Act of 1965 authorizing the prosecution of a transit development program for the National Capital region and to further the objectives of the Act of July 14, 1960.

Approved December 23, 1967

S. 1726..... Public Law 90-231
An Act to improve certain benefits for employees who serve in high-risk situations, and for other purposes.

S. 2088..... Public Law 90-222
Economic Opportunity Amendments of 1967.

CUMULATIVE LIST OF PARTS AFFECTED—DECEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during December.

3 CFR

PROCLAMATIONS:
- 2761A (see Proc. 3822) — 19003
- 2848 (see Proc. 3822) — 19002
- 3821 — 17871
- 3822 — 19002

EXECUTIVE ORDERS:
- Dec. 5, 1913 (revoked in part by PLO 4327) — 16531
- Mar. 21, 1914 (revoked in part by PLO 4327) — 16531
- June 24, 1914 (revoked in part by PLO 4327) — 16531
- 11075 (see Proc. 3822) — 19002
- 11248:
  - Amended by EO 11384 — 17423
  - Amended by EO 11385 — 18081
- 11382 — 17421
- 11384 — 17423
- 11385 — 18081

5 CFR

- 210 — 16474
- 213 — 16477, 17615, 17849, 20627, 20701
- 310 — 20801
- 315 — 16474
- 351 — 16474
- 352 — 16474
- 353 — 16475
- 430 — 16475
- 511 — 16475
- 531 — 16475
- 713 — 16476
- 731 — 16476
- 752 — 16476
- 754 — 16476
- 771 — 16477
- 772 — 16477
- 831 — 16477
- 891 — 16477
- 2300 — 17873
- 2300 — 17651

7 CFR

- 6 — 20801
- 301 — 18015, 18017
- 354 — 20765
- 401 — 16478, 17428, 17513
- 718 — 17513
- 722 — 17467, 17887, 17923
- 724 — 16478
- 725 — 16479
- 729 — 17887
- 792 — 20629
- 794 — 19155
- 811 — 18083
- 814 — 20765
- 815 — 16525
- 842 — 20701
- 905 — 16525, 17615, 17616, 17925
- 907 — 16526, 17515, 17888, 20629, 20766
- 909 — 17849
- 910 — 16526, 17617, 17651, 18017, 18018, 18085, 20766, 20804.
- 944 — 17425
- 946 — 20702
- 959 — 20702
- 982 — 16527
- 987 — 19156
- 989 — 17467, 18086
- 1062 — 16479
- 1073 — 16480
- 1094 — 16527
- 1103 — 16527
- 1106 — 16480
- 1126 — 16480
- 1421 — 16528
- 1422 — 20767
- 1427 — 16528, 19156
- 1464 — 17849
- 1474 — 17888
- 1488 — 18018

PROPOSED RULES:
- 51 — 17893
- 58 — 17893
- 812 — 17669
- 817 — 17669
- 911 — 17431
- 915 — 17431
- 948 — 17671
- 950 — 17433
- 989 — 17625, 20732
- 993 — 17434
- 1001 — 17626
- 1008 — 17626
- 1036 — 17626
- 1046 — 17626

8 CFR

- 238 — 17651
- 280 — 17651

PROPOSED RULES:
- 242 — 17624
- 243 — 17624
- 244 — 17624
- 299 — 17624

9 CFR

- 71 — 19157
- 76 — 19157
- 78 — 18086
- 79 — 19157
- 95 — 19157
- 96 — 19158
- 97 — 17618, 20765
- 151 — 19158

12 CFR

- 1 — 17574, 17926
- 12 — 17468
- 206 — 17469
- 224 — 17425
- 265 — 19159
- 335 — 17470
- 545 — 17926
- 556 — 20630
- 561 — 17515
- 605 — 17652
- 610 — 20703
- 670 — 20703

PROPOSED RULES:
- 16 — 20687
- 563 — 17544

14 CFR

- 21 — 17850
- 39 — 16481, 17426, 17515, 17516, 17652, 17927
- 61 — 16481
- 71 — 16482, 16483, 17426, 17427, 17516–17518, 17574–17576, 17653, 17851, 18020, 20630, 20631, 20704, 20705, 20769
- 73 — 17427, 17653, 18087
- 75 — 17518
- 91 — 16483, 17654
- 97 — 16484, 17577, 17928, 19170, 20706
- 121 — 16481, 17889
- 141 — 17851
- 151 — 17471
- 214 — 18020
- 217 — 18020
- 221 — 18022
- 241 — 18023, 20770
- 243 — 20711
- 301 — 16491
- 303 — 16491
- 311 — 16491
- 320 — 16491
- 386 — 20805
- 421 — 16491
- 430 — 16491, 20771
- 431 — 16491
- 435 — 16491
- 1209 — 20714
- 1502 — 20771

PROPOSED RULES:
- 1 — 16495
- 21 — 17485
- 25 — 17487
- 39 — 17439, 17672, 17673, 17895, 20818
- 71 — 16495, 17488, 17543, 17596–17598, 17673–17675, 17861, 17982, 18060–18062, 20657, 20658, 20737, 20738, 20780, 20781.
- 73 — 17488
- 75 — 18062
- 77 — 20658
- 91 — 16496, 19190
- 207 — 20739
- 214 — 16535
- 241 — 17983
- 295 — 16535
- 298 — 17598
- 399 — 20739

15 CFR

- 30 — 20805–20807
- 373 — 17471

16 CFR

- 13 — 17427, 17618, 17853–17855, 18025, 20631, 20807, 20808.
- 15 — 17582, 17856, 18087, 20716

PROPOSED RULES:
- 301 — 17544
- 415 — 17601

17 CFR

- 230 — 17933
- 239 — 17933
- 240 — 17583, 20771
- 270 — 17583
- 274 — 17583

PROPOSED RULES:
- 240 — 17983, 18063
- 270 — 17861

19 CFR

- 8 — 17619
- 12 — 17428
- 16 — 19159
- 19 — 17619
- 23 — 16528
- 24 — 17619

20 CFR

- 404 — 18026, 19159
- 405 — 18026, 18027
- 422 — 18030

PROPOSED RULES:
- 405 — 18050, 18054

21 CFR

- 19 — 18096
- 19 — 17654
- 120 — 16529, 17472, 18096
- 121 — 16529, 16530, 17472, 17587, 17654, 17655, 17856, 17857, 18096, 20631, 20632
- 130 — 16531
- 146 — 16531
- 146a — 16491, 17657
- 148i — 18096
- 166 — 17473
- 191 — 19176

PROPOSED RULES:
- 1 — 18113
- 15 — 18114
- 31 — 16533
- 46 — 17482, 17671, 18114
- 128 — 17980
- 130 — 17671
- 138 — 16533, 17626

22 CFR

- 10 — 17454

23 CFR

- 255 — 17938, 18032, 18033

PROPOSED RULES:
- 255 — 16534

24 CFR

- 200 — 20808
- 203 — 20716, 20809
- 207 — 20716
- 220 — 20716
- 221 — 20809
- 234 — 17587, 20809

25 CFR

PROPOSED RULES:
- 221 — 17543

26 CFR

- 1 — 17479, 17518, 17657, 17890, 17938, 18039
- 31 — 18039
- 46 — 18039
- 48 — 18039
- 49 — 18039
- 147 — 17858
- 601 — 20645
- 701 — 17890, 20772

PROPOSED RULES:
- 1 — 20727
- 151 — 17861

28 CFR

- 0 — 16531, 20772
- 200 — 20809

29 CFR

- 1610 — 16491

30 CFR

PROPOSED RULES:
- 12 — 20730
- 18 — 18098
- 34 — 18098

31 CFR

- 1 — 17519
- 82 — 17859
- 214 — 18044
- 365 — 20717

32 CFR

- 52 — 17661
- 54 — 17619
- 57 — 18087
- 504 — 18089
- 537 — 17519
- 701 — 17588
- 710 — 20717
- 721 — 20719
- 881 — 20720
- 888c — 20643
- 1703 — 20722

32A CFR

OEP (Ch. I):
- Reg. 6 — 20726

33 CFR

- 80 — 20772
- 95 — 20772
- 109 — 17726, 17890
- 110 — 17726, 17890
- 114 — 17726, 17890
- 115 — 17726, 17890
- 116 — 17726, 17890
- 117 — 17726, 17890, 17939
- 124 — 20773
- 126 — 20773
- 209 — 17522

36 CFR

- 7 — 17661

39 CFR

- 113 — 20810
- 114 — 20810, 20811
- 116 — 20811
- 123 — 17479
- 135 — 20810
- 171 — 20633
- 224 — 18045
- 232 — 18045, 20643
- 261 — 20643
- 742 — 17479, 17860

41 CFR

- 1–1 — 16491, 18045
- 1–2 — 18049
- 1–16 — 18049
- 9–1 — 17542
- Ch. 18 — 17002
- 101–26 — 17939

42 CFR

- Ch. II — 20811
- 53 — 17662

43 CFR

- 2210 — 17890

PUBLIC LAND ORDERS:
- 334 (revoked in part by PLO 4333) — 17480
- 1796 (revoked in part by PLO 4331) — 17479
- 2764 (see PLO 4331) — 17479
- 4327 — 16531
- 4328 — 17429
- 4329 — 16532
- 4330 — 17479
- 4331 — 17479
- 4332 — 17479
- 4333 — 17480
- 4334 — 17429
- 4335 — 17429
- 4336 — 17620
- 4337 — 17662
- 4338 — 17891
- 4339 — 20775

45 CFR

- Ch. II — 20811
- Ch. IV — 20811
- Ch. IX — 20811
- 30 — 17891
- 1105 — 17663

46 CFR

- 25 — 20812
- 32 — 20814
- 39 — 17621
- 55 — 19180
- 61 — 19180
- 72 — 19180
- 76 — 19180
- 77 — 19181
- 78 — 19181
- 98 — 17621
- 111 — 19181, 20814
- 112 — 19182, 20815
- 113 — 19182, 20812
- 146 — 20816
- 184 — 20813
- 221 — 17595
- 255 — 17595
- 282 — 20775
- 308 — 17891
- 510 — 17480
- 526 — 17667

PROPOSED RULES:
- Ch. II — 17980
- 510 — 19192
- 514 — 16496, 20818
- 536 — 19192

47 CFR

- 73 — 19183, 19187
- 97 — 17429

PROPOSED RULES:
- 2 — 16495, 18115, 20782
- 73 — 19191, 20659, 20739
- 87 — 16495, 18115, 20782
- 91 — 17440

48 CFR

- 501 — 17940

49 CFR

- Ch. X — 20003
- 93 — 20777
- 290 — 17941
- 291 — 17941
- 292 — 17941
- 293 — 17941
- 294 — 17941
- 295 — 17892, 17941
- 296 — 17941
- 297 — 17941
- 890 — 17480
- 1033 — 20817
- 1034 — 20817
- 1100 — 20654, 20778
- 1200 — 17480
- 1306 — 20654

PROPOSED RULES:
- 177 — 18114, 20739
- 239 — 18062
- 294 — 18114, 20739
- 1056 — 20659

50 CFR

- 13 — 20655
- 28 — 17622
- 32 — 17542, 20656
- 33 — 16532, 17430, 17481, 17622, 17667, 17668, 18049, 20656, 20704, 20817.
- 254 — 16492

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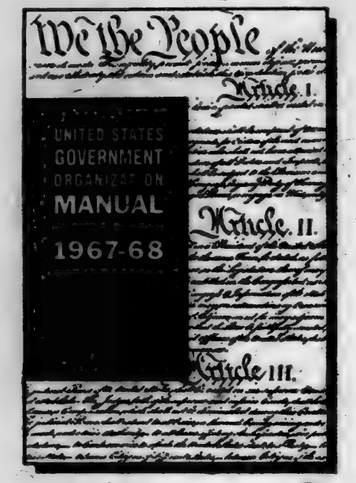

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Agricultural Research Service
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Atomic Energy Commission
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Consumer and Marketing Service
Farm Credit Administration
Federal Aviation Administration
Federal Communications Commission
Federal Highway Administration
Federal Home Loan Bank Board
Federal Maritime Commission
Federal Trade Commission
Fish and Wildlife Service
Indian Claims Commission
Interior Department
Interstate Commerce Commission
Labor Department
Land Management Bureau
Treasury Department
United States Arms Control and Disarmament Agency

Detailed list of Contents appears inside.

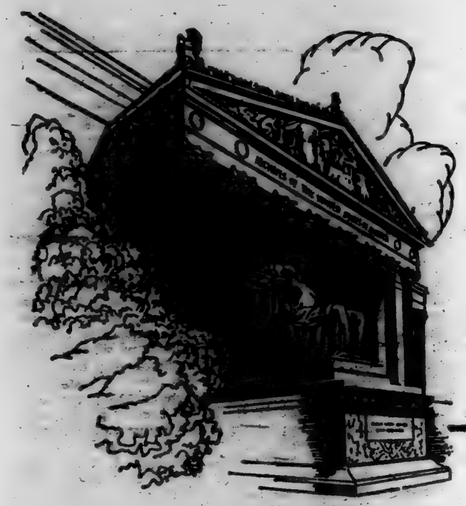

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Contents

AGRICULTURAL RESEARCH SERVICE

Rules and Regulations

Accredited veterinarians; standards and rules of practice 20839

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Rules and Regulations

Upland cotton; acreage allotments for 1966 and subsequent crops; miscellaneous amendments 20838

Notices

Texas; authorization for grazing and harvesting of hay on diverted acreage in designated counties 20889

AGRICULTURE DEPARTMENT

See also Agricultural Research Service; Agricultural Stabilization and Conservation Service; Commodity Credit Corporation; Consumer and Marketing Service.

Notices

Georgia and North Carolina; designation of areas for emergency loans 20889

ATOMIC ENERGY COMMISSION

Proposed Rule Making

Restricted data 20868

Notices

Safe Inc.; application for facility license 20889

CIVIL AERONAUTICS BOARD

Proposed Rule Making

Uniform system of accounts and reports for certified air carriers; identification of non-depreciable overhaul values 20880

Notices

Sudflug, Suddeutsche Fluggesellschaft mbH; indefinite postponement of prehearing conference 20889

CIVIL SERVICE COMMISSION

Rules and Regulations

Excepted service; miscellaneous amendments; correction 20837

COMMERCE DEPARTMENT

Rules and Regulations

War risk insurance; cross reference 20853

COMMODITY CREDIT CORPORATION

Rules and Regulations

Farm storage facilities; correction 20839

Notices

New Mexico; declaration of acute distress area for purpose of donating feed to needy Indian livestockmen 20889

CONSUMER AND MARKETING SERVICE

Rules and Regulations

General regulations and policies; commodity distribution; obligations of distributing agencies 20837

Milled rice; moisture content 20837

Oranges, Navel, in Arizona and California; handling limitation 20838

Proposed Rule Making

Florida oranges and tangelos; standards for grades 20864

FARM CREDIT ADMINISTRATION

Rules and Regulations

Banks for cooperatives; miscellaneous amendments 20842

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations

Airworthiness directives; Piper Model PA 32-300 airplanes 20842

Transition area; designation 20843

War risk insurance 20843

FEDERAL COMMUNICATIONS COMMISSION

Rules and Regulations

Organization; rules of practice 20859

Proposed Rule Making

Domestic public point-to-point microwave radio services; increase of maximum radio channel bandwidth 20881

Standard broadcast stations operated by remote control 20862

Notices

Hearings, etc.:

American Telephone and Telegraph Co., and Western Union Telegraph Co 20889

Berwick Broadcasting Corp., and P.A.L. Broadcasters, Inc. 20890

Big Basin Radio and Booneville Broadcasting Corp 20890

Blancett Broadcasting Co., and Breckinridge Broadcasting Co 20890

General Electric Cablevision Corp 20890

KCIL, Inc., and La-Terr Broadcasting Corp 20890

Lebanon Broadcasting Co., and Risner Broadcasting, Inc 20891

Little Dixie Radio, Inc., et al 20891

Munis, Lucas Tomas and Arecibo Broadcasting Corp., Inc 20894

Outer Banks Radio Co., et al 20894

FEDERAL HIGHWAY ADMINISTRATION

Proposed Rule Making

Federal motor vehicle safety standards 20865

FEDERAL HOME LOAN BANK BOARD

Rules and Regulations

Statements of policy:

Advances 20841

Advances for purchase of loans and participation interests in loans 20841

FEDERAL MARITIME COMMISSION

Notices

Agreements filed for approval:

A/B Atlanttrafik (Atlanttrafik Express Service) and Sea-Land Service, Inc 20894

Seatrain Lines, Inc., and Seaway Lines, Inc. (2 documents) 20894

FEDERAL TRADE COMMISSION

Rules and Regulations

Imported wool products 20853

FISH AND WILDLIFE SERVICE

Rules and Regulations

Public access, use, and recreation:

Bombay Hook National Wildlife Refuge, Del 20862

Great Swamp National Wildlife Refuge, N.J 20862

Iroquois National Wildlife Refuge, N.Y 20862

Sport fishing; Iroquois National Wildlife Refuge, N.Y 20863

Notices

Snake Creek National Wildlife Refuge, N. Dak.; change of name 20888

INDIAN CLAIMS COMMISSION

Rules and Regulations

Standards of conduct 20855

(Continued on next page)

CONTENTS

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Land Management Bureau.

Notices

Statements of changes in financial interests:
- Hall, Elmer S. 20888
- Hope, Alvin C. 20888
- Remalia, William R. 20889

INTERSTATE COMMERCE COMMISSION

Rules and Regulations

Car service:
- Chicago, Burlington & Quincy Railroad Co. 20862
- Chicago, Rock Island and Pacific Railroad Co. 20861
- Union Pacific Railroad Co. 20862

Proposed Rule Making

St. Louis, Mo.-East St. Louis, Ill. commercial zone; redefinition of limits 20883

Notices

Chicago, Burlington and Quincy Railroad Co.; rerouting or diversion of traffic 20912

Motor carrier:
- Alternate route deviation notices 20912
- Applications and certain other proceedings 20895
- Broker, water carrier and freight forwarder applications 20904
- Intrastate applications 20899
- Temporary authority applications 20900
- Transfer proceedings 20903

San Francisco Movers Tariff Bureau; agreement 20912

LABOR DEPARTMENT

Rules and Regulations

Examination and copying of documents; procedure for disclosure 20858

LAND MANAGEMENT BUREAU

Notices

Colorado; termination of classification of lands 20887

Elko District Office; change of mailing address 20888

Idaho; opening of public land 20887

Nevada; notice of public sale of land 20886

New Mexico:
- Classification of lands 20888
- Proposed classification of lands 20888

Outer continental shelf off California; oil and gas lease sale 20884

TREASURY DEPARTMENT

Notices

Executive Assignment Board; establishment 20884

TRANSPORTATION DEPARTMENT

See Federal Aviation Administration; Federal Highway Administration.

UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

Notices

Public Affairs Adviser; notice of basic compensation 20895

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

5 CFR
- 213 20837

7 CFR
- 68 20837
- 250 20837
- 722 20838
- 907 20838
- 1474 20839

PROPOSED RULES:
- 51 20864

9 CFR
- 160 20839
- 161 20839
- 162 20839

10 CFR

PROPOSED RULES:
- 25 20868
- 26 20868
- 95 20868

12 CFR
- 531 (2 documents) 20841
- 670 20842

14 CFR
- 39 20842
- 71 20843
- 199 20843
- 1501 20853

PROPOSED RULES:
- 241 20880

16 CFR
- 300 20853

23 CFR

PROPOSED RULES:
- 255 20865

25 CFR
- 500 20855

29 CFR
- 70 20858

47 CFR
- 0 20859
- 1 20859

PROPOSED RULES:
- 21 20881
- 73 20882

49 CFR
- 1033 (3 documents) 20861, 20862

PROPOSED RULES:
- 1048 20883

50 CFR
- 28 (3 documents) 20862
- 33 20863

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Miscellaneous Amendments

Correction

In F.R. Doc. 67-14794, appearing at page 20627 of the issue for Thursday, December 21, 1967, in the amendatory language for § 213.3305(a), following the reference to "(23)" the reference should read "(24)" instead of "(14)".

Title 7—AGRICULTURE

Chapter I—Consumer and Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 68—REGULATIONS AND STANDARDS FOR INSPECTION AND CERTIFICATION OF CERTAIN AGRICULTURAL COMMODITIES AND PRODUCTS THEREOF

Moisture Content of Milled Rice

On October 20, 1967, a document containing a revision of the U.S. Standards for Milled Rice (7 CFR 68.301 et seq.) was published in the FEDERAL REGISTER (32 F.R. 14637). The revision was promulgated to become effective January 1, 1968, pursuant to the authority contained in sections 203 and 205 of the Agricultural Marketing Act of 1946, 60 Stat. 1087 and 1090, as amended (7 U.S.C. 1622 and 1624).

Sections 68.328, 68.329, 68.330, and 68.331 of the revised standards provide that milled rice which contains more than 14 percent of moisture shall be graded U.S. Sample Grade. Under the present standards, milled rice which contains more than 15 percent of moisture is graded U.S. Sample Grade.

Prior to the publication of the revision of the rice standards there was published a notice of proposed rule making (32 F.R. 8004) regarding the proposed revisions. The proposed reduction of the moisture content in the numerical grades of milled rice from the present 15 percent to 14 percent received a substantial amount of adverse comment. The opposition claimed that it would not be practical to make such a change since the removal of the hull in the milling process would raise the moisture level of the milled rice by about 1 percent. The available scientific data indicates that a 15 percent moisture limit in the milled rice standards is too high to assure safe transit of export shipments during the hot months of the year.

Data obtained on the moisture content of rice inspected during fiscal year 1967 showed that less than 2 percent of the milled rice had a moisture content in excess of 14 percent. In view of this and the theoretical safe moisture limit for milled rice storage and transport, it was deemed desirable to set the limit for moisture in the numerical grades of milled rice at 14 percent. However, the rice trade in California objected because almost 9 percent of the milled rice inspected in that State had a moisture content in excess of 14 percent.

The trade has commented that since the effective date for the revised standards occurs after the 1967 crop of rough rice has already been harvested, it will be impractical to require a limit of 14 percent moisture for this crop of milled rice. They also claim that they have received no complaints on spoilage of rice due to high moisture. Opinion was also expressed that the present limit of 15 percent moisture has been satisfactory and to lower the limit would cause a hardship on the trade.

The USDA therefore decided to review and study for at least 1 year the moisture levels at which milled rice is traded, the maximum moisture level for safe storage, and the relationship between the moisture content of rice before and after milling.

Accordingly, under the authority cited above, in §§ 68.328, 68.329, 68.330, and 68.331 of the revised milled rice standards with respect to U.S. Sample Grade, the phrase "14 percent of moisture" is deleted and the phrase "15 percent of moisture" is substituted therefor.

At a future date the Department will propose public rule making concerning this matter if the above-mentioned studies indicate that a further change is warranted. This amendment merely reinstates the present requirement that milled rice containing more than 15 percent moisture shall be graded Sample grade, and the amendment must be made effective promptly in order to accomplish its purpose. It does not appear that public rule making procedures on this amendment would make additional information available to the Department. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public rule making procedures with respect to the amendment are unnecessary and impracticable, and good cause is found for making the amendment effective less than 30 days after publication hereof in the FEDERAL REGISTER.

This amendment shall become effective on January 1, 1968.

(Secs. 203, 205, 60 Stat. 1087, 1090, as amended, 7 U.S.C. 1622, 1624; 29 F.R. 16210, as amended; 32 F.R. 11741)

Done at Washington, D.C., this 22d day of December 1967.

G. R. GRANGE,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 67-15048; Filed, Dec. 27, 1967; 8:49 a.m.]

Chapter II—Consumer and Marketing Service (Consumer Food Programs), Department of Agriculture

SUBCHAPTER B—GENERAL REGULATIONS AND POLICIES—COMMODITY DISTRIBUTION

[Amdt. 1]

PART 250—DONATION OF FOOD COMMODITIES FOR USE IN UNITED STATES FOR SCHOOL LUNCH PROGRAMS, TRAINING STUDENTS IN HOME ECONOMICS, SUMMER CAMPS FOR CHILDREN, AND RELIEF PURPOSES, AND IN STATE CORRECTIONAL INSTITUTIONS FOR MINORS

Obligations of Distributing Agencies

The regulations for the operation of the Commodity Distribution Program (31 F.R. 14297) are hereby amended as follows: Section 250.6(e)(1)(i) is revised to read as follows:

§ 250.6 Obligations of distributing agencies.

* * * * * * *

(e) * * *

(1) * * *

(i) *Public assistance households.* Those households in which (*a*) all members are receiving benefits under the federally-aided public assistance programs for the needy authorized in the Social Security Act or under State or local welfare programs; or (*b*) those households in which some of the members receive such benefits, but all members thereof are included in the determination to grant such benefits; or (*c*) those households in which all members are recipients of assistance from grants under a Work Experience and Training Program (Title V, Economic Opportunity Act of 1964).

This amendment shall be effective upon publication in the FEDERAL REGISTER.

RODNEY E. LEONARD,
Deputy Assistant Secretary.

DECEMBER 22, 1967.

[F.R. Doc. 67-15049; Filed, Dec. 27, 1967; 8:49 a.m.]

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 19]

PART 722—COTTON

Subpart—Acreage Allotments for 1966 and Succeeding Crops of Upland Cotton

MISCELLANEOUS AMENDMENTS

Basis and purpose. This amendment is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.). The purposes of this amendment are (1) to establish the closing dates for filing applications for transfers of allotment by sale, lease and owner and for export market acreage; (2) to clarify the 100-acre limitation on sale and lease transfers; (3) to clarify the conditions applicable to owner transfers; (4) to limit transfers where small farm eligibility would be created and (5) to extend the prohibition on transfers of new farm allotments.

Since such applications are now being acted upon by the county committees and since farmers need to know these closing dates, it is essential that these amendments become effective as soon as possible. It is hereby determined and found that compliance with the notice, public procedure and 30-day effective date requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest. Accordingly, this amendment shall be effective upon filing with the Director, Office of the Federal Register.

The regulations for Acreage Allotments for 1966 and Succeeding Crops of Upland Cotton (31 F.R. 5300, as amended) are amended as follows:

1. Section 722.436 is amended by adding the following language at the end of paragraph (a)(2) and by adding a new subparagraph (3) to paragraph (b) to read as follows:

§ 722.436 Applications for transfer.

(a) *Persons eligible to file applications for transfers.* • • •

(2) *By owner.* • • • The county committee shall approve a transfer under this subparagraph requested on a nonpermanent basis to a farm controlled but not owned by the applicant only if such applicant will be the operator of the farm to which transfer is to be made for each of the years for which the transfer is requested. Such requirement shall apply to transfers approved for 1966 and 1967 only with respect to such years remaining in the term of years previously approved beginning with 1968. However, if the county committee determines that the applicant is prevented from remaining the operator of such farm for which such transfer has been approved due to conditions beyond his control, the transfer shall remain in effect. Conditions beyond his control shall include, but are not limited to, death, illness, incompetency, or bankruptcy of such person.

(b) *When applications to be filed.* • • •

(3) *For transfers effective beginning in 1968.* Applications shall be filed for transfers to take effect in 1968 during the period June 1, 1967, through January 2, 1968.

2. Section 722.437 is amended by adding a new subparagraph (3) at the end of paragraph (b), by adding language at the end of paragraph (d), and by amending paragraph (f) and paragraph (g) to read as follows:

§ 722.437 Amount of allotment transferable.

• • • • • •

(b) *No transfer of acreage from national acreage reserve.* • • •

(3) *For 1968.* The provisions of subparagraph (2) of this paragraph shall be applicable for 1968.

• • • • • •

(d) *Sale and lease transfers—limit on amount of acreage transferred.* • • • In determining the allotment which may be transferred by sale or lease, any increases or decreases of allotment on the farm to which transfer by sale or lease will be made resulting from exchanges of cotton and rice allotments and from owner transfers shall be disregarded. In the case of farms consisting of separately owned tracts, such tracts shall not be considered a farm for purposes of computing the 100-acre limitation in any case where the county committee, with the approval of a representative of the State committee, determines that an owner of a tract has an ownership interest in one or more of the other tracts by reason of ownership of stock in a corporate owner of such other tract, or by reason of membership as a partner in a partnership owner of such other tract, or the owner of a tract is a member of the same family living in the same household and the other tract is owned by another member of such family.

• • • • • •

(f) *No transfer of new farm allotment.* No transfer of allotment under section 344a of the act shall be made from a farm which received a new farm allotment in the current year or within the three immediately preceding crop years.

(g) *No permanent transfers by sale or by owner from farms to which transfer by sale or by owner within 3 years.* No permanent transfer by sale or by owner shall be made from any farm to which allotment was permanently transferred by sale or by owner within the three immediately preceding crop years.

3. Section 722.438 is amended by adding a new paragraph at the end thereof as follows:

§ 722.438 Additional conditions and limitations.

• • • • • •

(m) *Small farm eligibility.* No transfer under section 344a of the act shall be approved in any case where the county committee determines that a person having an interest as owner or operator in two or more farms requests transfer between such farms for the primary purpose of creating small farm eligibility under the price support program under § 722.802.

4. A new section is added after § 722.451 to read as follows:

§ 722.452 Export market acreage for 1968.

The national export market acreage reserve for the 1968 crop of cotton in the amount of 250,000 acres was established in § 722.451 (32 F.R. 14268). Applications for export market acreage shall be filed with the county committee of the county in which the farm is located on or before January 2, 1968. Procedures applicable to the 1968 program will be similar to those for the 1967 program covered by § 722.451 and such procedures will be published in the near future.

(Secs. 344a, 346(c), 375, 79 Stat. 1197, 1192, 52 Stat. 66, as amended; 7 U.S.C. 1344b, 1346(c), 1375)

Effective date: Date of filing with the Director, Office of the Federal Register.

Signed at Washington, D.C., on December 21, 1967.

E. A. JAENKE,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 67-14970; Filed, Dec. 21, 1967; 1:31 p.m.]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Navel Orange Reg. 141]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.441 Navel Orange Regulation 141.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 26, 1967.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period December 29, 1967, through January 4, 1968, are hereby fixed as follows:

(i) District 1: 300,000 cartons;
(ii) District 2: 90,552 cartons;
(iii) District 3: 30,000 cartons;
(iv) District 4: 30,000 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," "District 4," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 27, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-15133; Filed, Dec. 27, 1967; 11:22 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Farm Storage and Drying Equipment Loan Program Regs., Amdt. 1]

PART 1474—FARM STORAGE FACILITIES

Subpart—Farm Storage and Drying Equipment Loan Program Regulations

ADMINISTRATION

Correction

In F.R. Doc. 67-14525 appearing at page 17888 in the issue of Thursday, December 14, 1967, the 10th line of § 1474.2 (e) should read as follows: "member of the county committee, or, ex-".

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER I—ACCREDITATION OF VETERINARIANS AND REVOCATION OF SUCH ACCREDITATION

STANDARDS FOR ACCREDITED VETERINARIANS AND RULES OF PRACTICE

On October 13, 1967, there was published in the FEDERAL REGISTER (32 F.R. 14225) a Notice of Proposed Standards for Accredited Veterinarians and Rules of Practice to be added as a new Subchapter I to Chapter I of Title 9, Code of Federal Regulations. After due consideration of all relevant material submitted with respect to such proposal, and pursuant to the provisions of sections 3, 4, 5, 6, 11, and 13 of the Act of May 29, 1884, as amended, section 10 of the Act of August 30, 1890, sections 1 and 2 of the Act of February 2, 1903, as amended, section 3 of the Act of March 3, 1905, as amended, the Act of March 4, 1907, the Act of July 24, 1919, the Act of May 31, 1920, and sections 3 and 11 of the Act of July 2, 1962 (21 U.S.C. 80–86, 89, 96, 105, 111–113, 114, 114a, 114a–1, 115, 116, 120, 121, 125, 134b, and 134f), said Standards and Rules of Practice are hereby issued. Subchapter I is hereby added to Chapter I, Title 9, Code of Federal Regulations to read as follows:

SUBCHAPTER I—ACCREDITATION OF VETERINARIANS AND REVOCATION OF SUCH ACCREDITATION

PART 160—DEFINITION OF TERMS

Sec.
160.1 Definitions.

PART 161—REQUIREMENTS AND STANDARDS FOR ACCREDITED VETERINARIANS AND REVOCATION OF SUCH ACCREDITATION

Sec.
161.1 Requirements for accreditation.
161.2 Standards for accredited veterinarians.
161.3 Revocation of veterinary accreditation.

PART 162—RULES OF PRACTICE

Sec.
162.1 Institution of proceedings.
162.2 Hearing; request for formal hearing; hearing procedure; procedure upon admission of facts and waiver of hearing; hearing officer's report; exceptions to hearing officer's report; preparation and issuance of final order.
162.3 Service and proof of service.

AUTHORITY: The provisions of this Subchapter I issued under 23 Stat. 32, as amended; 58 Stat. 734, as amended; 65 Stat. 693; 26 Stat. 417; 32 Stat. 791, 792, as amended; 33 Stat. 1265, as amended; 34 Stat. 1263, 1264; 41 Stat. 241; 41 Stat. 699; 76 Stat. 130, 132; 21 U.S.C. 80–86, 89, 96, 105, 111–113, 114, 114a, 114a–1, 115, 116, 120, 121, 125, 134b, 134f.

SUBCHAPTER I—ACCREDITATION OF VETERINARIANS AND REVOCATION OF SUCH ACCREDITATION

PART 160—DEFINITION OF TERMS

§ 160.1 Definitions.

For the purposes of this subchapter the following words, phrases, names, and terms shall be construed, respectively, to mean:

(a) *Division.* The Animal Health Division, Agricultural Research Service, U.S. Department of Agriculture.

(b) *Director.* The Director of the Division, or any other official of the Division to whom authority has heretofore been delegated or may hereafter be delegated to act in his stead.

(c) *State.* Any State, Territory, the District of Columbia or the Commonwealth of Puerto Rico.

(d) *Accredited Veterinarian.*[1] A veterinarian approved by the Director in accordance with the provisions of Part 161 of this subchapter to perform functions specified in Subchapters B, C, and D of this chapter.

(e) *Veterinarian-in-Charge.* The veterinary official of the Division who is assigned by the Director to supervise and perform the official work of the Division in the State where the veterinarian concerned is accredited or wishes to be accredited.

(f) *State Animal Health Official.* The animal health official responsible for the livestock and poultry disease control and eradication programs of the State in which the veterinarian is accredited or wishes to be accredited.

PART 161—REQUIREMENTS AND STANDARDS FOR ACCREDITED VETERINARIANS AND REVOCATION OF SUCH ACCREDITATION

§ 161.1 Requirements for accreditation.

(a) The Director is hereby authorized to accredit a veterinarian when he determines that such veterinarian (1) is a graduate of a college of veterinary medicine; (2) is licensed to practice veterinary medicine in the State in which he wishes to be accredited; (3) has made formal application for accreditation on Form 1–36A, "Application for Veterinary Accreditation"; (4) has passed an examination administered by the Division; and (5) has been jointly recommended by the State Animal Health Official and the Veterinarian-in-Charge in the State in which the veterinarian wishes to be accredited.

(b) The Director is hereby authorized to accredit a veterinarian whose accreditation has been revoked when he determines that such veterinarian (1) is li-

[1] The provisions of Subchapters B, C, and D of this chapter authorize Federal and state veterinarians and accredited veterinarians to perform specified functions. Full time Federal (including military) and state veterinary employees are authorized to perform such functions without specific accreditation under the provisions of this subchapter.

censed to practice veterinary medicine in the State in which he wishes to be accredited; (2) has made formal application for accreditation on Form 1–36A, "Application for Veterinary Accreditation"; and (3) has been jointly recommended by the State Animal Health Official and the Veterinarian-in-Charge in the State in which the veterinarian wishes to be accredited.

§ 161.2 Standards for accredited veterinarians.

An accredited veterinarian shall perform official duties in accordance with the following standards:

(a) Prior to completing and signing a certificate with respect to animals or poultry, the accredited veterinarian shall individually inspect such animals or poultry in accordance with professionally accepted procedures.

(b) Certificates, forms, and reports shall be accurately and fully completed, including identification of animals, and shall be distributed according to instructions issued to him by the State Animal Health Official or the Veterinarian-in-Charge, or both.

(c) Official tests and vaccinations shall be applied according to procedures and standard techniques prescribed by the State Animal Health Official or the Veterinarian-in-Charge, or both.

(d) Certificates issued by an accredited veterinarian that reflect results of tests performed by another accredited veterinarian shall clearly indicate the name of the veterinarian conducting the tests, the place where the tests were conducted, and the date and results of the tests.

(e) Reactor animals disclosed by tests shall be identified within prescribed time limitations and according to State-Federal instructions issued to him by the State Animal Health Official or the Veterinarian-in-Charge, or both.

(f) All diagnosed or suspected cases of diseases of livestock or poultry named in § 71.3 (a) and (b) of Part 71, Subchapter C, of this chapter, including any vesicular conditions, shall be reported immediately to the appropriate State Animal Health Official or the Veterinarian-in-Charge.

(g) Professionally accepted sanitary procedures shall be followed to minimize the danger of spread of disease between animals and between premises.

(h) The accredited veterinarian shall keep himself currently informed on State and Federal policies, regulations, and procedures concerning livestock disease control and eradication and shall advise livestock owners, shippers, and other interested parties accordingly.

(i) Official duties and activities of an accredited veterinarian in a State shall be performed subject to supervision and direction of the appropriate State Animal Health Official and the Veterinarian-in-Charge.

§ 161.3 Revocation of veterinary accreditation.

The Director is authorized to revoke the accreditation of a veterinarian when he determines that the accredited veterinarian has not complied with the "Standards for Accredited Veterinarians" as set forth in § 161.2. Any such revocation of accreditation shall be applicable in all States in which the veterinarian is accredited.

PART 162—RULES OF PRACTICE

§ 162.1 Institution of proceedings.

(a) *Complaint.* A complaint in writing shall be issued by the Veterinarian-in-Charge and served on the accredited veterinarian, whenever there is reason to believe that he has not complied with the "Standards for Accredited Veterinarians" as contained in § 161.2 of this subchapter. The complaint shall state briefly and clearly the allegations of fact which constitute the basis for the proceeding and shall specify the "Standards" alleged to have been violated. At any time prior to the close of the hearing the complaint may be amended; but, at the request of the accredited veterinarian, the hearing shall be adjourned for a period not exceeding 15 days.

(b) *Answer.* The accredited veterinarian shall file with the Veterinarian-in-Charge an answer to the complaint within 20 days after service of the complaint. Such answer shall be signed by the accredited veterinarian or his attorney. Upon request by the accredited veterinarian and where the circumstances warrant, the Director may extend the period of time for filing of the answer. The answer shall contain a statement of the facts which constitute the grounds of defense and shall specifically admit, deny, or explain each of the allegations of the complaint. The answer may be supported by such affidavits, depositions or other documents which the accredited veterinarian desires to submit. Failure to file an answer to or plead specifically to any allegation of fact in the complaint shall constitute an admission of such allegation.

(c) *Suspension of accreditation pending final determination.* When the Director deems such action necessary in order to adequately protect the public health, interest, or safety, he may suspend the accreditation of an accredited veterinarian pending final determination in the matter.

(d) *Informal conference and consent orders.* At the request of the accredited veterinarian, the Veterinarian-in-Charge, with the concurrence of the State Animal Health Official, will arrange an informal conference to discuss the matter, at the time and place designated by the Veterinarian-in-Charge. The accredited veterinarian may bring with him to the conference any representative or other person whom he desires. If the accredited veterinarian, in writing, admits the facts alleged in the complaint, or states that he neither admits nor denies the facts alleged in the complaint, and consents to the issuance of an order revoking his accreditation, such an order will be issued without further procedure.

§ 162.2 Hearing; request for formal hearing; hearing procedure; procedure upon admission of facts and waiver of hearing; hearing officer's report; exceptions to hearing officer's report; preparation and issuance of final order.

(a) *Request for formal hearing.* An accredited veterinarian may request a formal hearing on the allegations set forth in the complaint by including such request in the answer or by a separate request in writing filed with the Director. Failure to request a formal hearing at the conclusion of an informal appearance referred to in § 162.1(d) or within the time allowed for the filing of the answer, shall constitute a waiver of such hearing. If the accredited veterinarian does not request a formal hearing, the Director may order that such a hearing be held if he determines that a hearing is necessary to fully develope the facts.

(b) *Hearing Procedure.* Upon request by the accredited veterinarian for a formal hearing or upon the order of the Director, a hearing within 30 days shall be arranged. The following shall apply to such hearing:

(1) Notice of the time and place of such hearing shall be given to the accredited veterinarian in writing at least 10 days prior to the hearing.

(2) Such hearing shall be held before a hearing officer appointed by the Director.

(3) The parties may appear in person or by counsel or other representative.

(4) A representative of the Division shall proceed first at the hearing to present the facts upon which the complaint was based.

(5) The hearing officer shall be authorized to administer oaths and affirmations, examine witnesses at such hearing, and rule upon motions and requests.

(6) All testimony of witnesses at the hearing shall be upon oath or affirmation and subject to cross-examination. Any witness may, in the discretion of the hearing officer, be examined separate and apart from all other witnesses except the interested parties.

(7) The hearing officer may exclude obviously immaterial or irrelevant evidence, but the party offering such evidence may state what he expects to prove thereby.

(8) The hearing officer may postpone or adjourn a hearing for good cause shown.

(9) Oral argument will be permitted before the hearing officer at the close of the hearing and any argument advanced will be embodied in the record.

(10) A transcript shall be made of the hearing to which the hearing officer shall attach his certificate stating that the transcript is a true transcript of the hearing, except in such particulars as he shall specify, and that the exhibits accompanying the transcript are all the exhibits introduced at the hearing, with such exceptions as he shall specify.

(11) Written briefs or arguments may be submitted and made a part of the record if received by the hearing officer within 15 days after the close of the hearing. This period may be extended by the hearing officer for good cause shown.

(12) If the accredited veterinarian, after being duly notified, fails to appear at the hearing, he will have waived the right to a hearing.

(c) *Procedure upon admission of facts; waiver of hearing.* The admission, in the answer or by failure to file an answer, of all the material allegations of fact contained in the complaint shall constitute a waiver of hearing. Upon such admission of facts, unless the Director has ordered that a hearing be held, the hearing officer, without further procedure, shall prepare his report, in which he shall adopt as his proposed findings of fact the material facts alleged in the complaint.

(d) *The hearing officer's report.* The hearing officer, within a reasonable time after the termination of the period allowed for the filing of written briefs or arguments following the hearing, shall prepare upon the basis of the record and submit to the Director his report together with the record of the proceeding. Such report shall include recommended findings of fact and conclusions. A copy of the report shall be served upon the parties.

(e) *Exceptions to the hearing officer's report.* Within 15 days after the receipt of the hearing officer's report, exceptions thereto, and written arguments or a brief in support of such exceptions, may be filed with the Director. The Director may extend such period for good cause shown.

(f) *Preparation and issuance of order.* As soon as practicable after the termination of the period allowed for the filing of exceptions to the hearing officer's report, the Director, upon the basis of and after due consideration of the record, shall prepare his decision and order in the proceeding. Such decision and order shall be issued and served upon the parties and shall be the final and conclusive order in the proceeding.

§ 162.3 Service and proof of service.

Copies of all documents served upon a veterinarian whose accreditation is the subject of the proceeding shall be served in person or by certified mail. Proof of service shall be made by the affidavit of the person who actually made the service: *Provided*, That if the service is made by certified mail, proof of service shall be made by the return post office receipt. Such proof of service shall be made a part of the record of the proceeding.

The Department of Agriculture accredits veterinarians to perform certain functions under the regulations of the Department relating to the cooperative control and eradication of livestock and poultry diseases, the interstate transportation of certain animals and poultry and the exportation and importation of certain animals and poultry and products (9 CFR Chapter I, Subchapters B, C, and D). Copies of the standards of conduct required of such veterinarians are furnished to each veterinarian upon his accreditation.

The standards of conduct and rules of practice contained herein embody slight changes from the proposals in the notice of rule making. These changes are made for the purpose of clarification and uniformity of interpretation. It does not appear that further notice and public procedure would make additional information available to the Department. These standards and rules of practice should be made effective as soon as possible.

Accordingly, pursuant to the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that further public rule making procedure with respect to the foregoing provisions is unnecessary, and good cause is found for making these Standards and Rules of Practice effective less than 30 days after publication in the FEDERAL REGISTER.

The reporting and recordkeeping requirements contained in the foregoing have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Effective date. The foregoing provisions shall become effective upon publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 22d day of December 1967.

R. J. ANDERSON,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 67-15063; Filed, Dec. 27, 1967; 8:49 a.m.]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

[No. 21,219]

PART 531—STATEMENTS OF POLICY

Advances for Purchase of Loans and Participation Interests in Loans

DECEMBER 12, 1967.

Resolved that the Federal Home Loan Bank Board, upon the basis of consideration by it of the advisability of revising and codifying its statement of policy concerning Advances by the Federal Home Loan Banks to Permit Members to Purchase Loans and Participation Interests, adopted by the Board on October 13, 1965, and published in the FEDERAL REGISTER on October 21, 1965 (30 F.R. 13415), and for the purpose of making certain changes in the conditions on which a member institution may be granted advances to purchase participations or whole loans secured by real estate located outside its normal lending territory, hereby amends Part 531 of the regulations for the Federal Home Loan Bank System (12 CFR Part 531) by adding, immediately after § 531.1, a new section, § 531.2, to read as follows:

§ 531.2 Advances for purchase of loans and participation interests in loans.

Advances for the purchase of participations or whole loans secured by real estate located outside a member's normal lending territory are not to be made to members, except to the extent otherwise permitted by the Board. Such advances are not consistent with the purposes of permitting purchases of loans or participations and ordinarily conflict with the provisions in the Board's general policy statement contained in § 531.1 of this Part that advances shall not be made to permit members to obtain what is primarily a rate differential. A member may be granted advances to a limited extent to purchase participations or whole loans secured by real estate located outside its normal lending territory, provided each of the following conditions is met:

(a) Advances for the purchase of such participations or whole loans can be repaid entirely from the member's resources within 9 months;

(b) The volume of expansion advances to the member, including any advances for the purchase of such participations or whole loans, is not in excess of 5 percent of withdrawable accounts; and

(c) All expansion advances to the member are subject to repayment in 2 years or less.

Moreover, additional advances to the member for purposes other than withdrawals will not be made during the period such advances are outstanding.

(Sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1437. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, Jr.,
Assistant Secretary.

[F.R. Doc. 67-15046; Filed, Dec. 27, 1967; 8:48 a.m.]

PART 531—STATEMENTS OF POLICY

Supplemental Statement of Policy on Advances

Resolved that the Federal Home Loan Bank Board, upon the basis of consideration by it of the advisability of amending § 531.3 of the regulations for the Federal Home Loan Bank System (12 CFR 531.3) for the purpose of permitting a member to convert its outstanding withdrawal advances into expansion advances, insofar as it may be eligible, hereby amends § 531.3, aforesaid, by revising paragraph (a) of § 531.3 to read as follows:

§ 531.3 Supplemental statement of policy on advances.

(a) Withdrawal advances should ordinarily be liquidated in as brief a period as the member's flow of savings would reasonably permit. However, where a member's eligibility to obtain advances for relending purposes has been established, the member may elect to convert its withdrawal advances to advances for

relending within its established eligibility.

* * * * *

(Sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1437. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, JR.,
Assistant Secretary.

[F.R. Doc. 67–15047; Filed, Dec. 27, 1967; 8:48 a.m.]

Chapter VI—Farm Credit Administration

SUBCHAPTER F—BANKS FOR COOPERATIVES

PART 670—BANKS FOR COOPERATIVES GENERALLY

Miscellaneous Amendments

Part 670 of Chapter VI of Title 12 of the Code of Federal Regulations is amended by revising §§ 670.22, 670.23, 670.25, 670.144, and 670.161 (31 F.R. 16257, 16259), to read as follows:

§ 670.22 Lending limits of district banks.

Except with the written approval of the Director of Cooperative Bank Servic, the lending limits of each district bank for cooperatives are hereby fixed so that loans to any one borrower outstanding at any time (exclusive of participations therein sold to others) may not exceed the following percentages of the net worth of the bank as of the close of the preceding fiscal year, or at an interim date if such net worth is changed materially (e.g., by reason of voluntary retirement of or investment in capital stock or other equities), as determined by the Director of Cooperative Bank Service:

(a) Term loans, 25 percent;

(b) Seasonal loans exclusive of loans secured by approved commodities, 25 percent;

(c) Seasonal loans secured by approved commodities (excluding loans secured by Commodity Credit Corporation documents), 45 percent;

(d) The sum of term and seasonal loans exclusive of seasonal loans secured by approved commodities, 25 percent;

(e) The sum of term, seasonal, and seasonal loans secured by approved commodities (excluding loans secured by Commodity Credit Corporation documents), 45 percent;

Provided, however, That a loan made within established limits, but which becomes excessive by virtue of a subsequent decrease in the net worth of the bank, may be retained and liquidated in an orderly manner.

§ 670.23 Lending limits of the Central Bank for Cooperatives.

The total loans from the Central Bank for Cooperatives to any one farmers' cooperative association, exclusive of seasonal loans secured by approved commodities, or of loans to finance commodities within the limits of Government price support programs, shall not at any time exceed 25 percent of the net worth of the bank.

§ 670.25 District banks—sale of participations; loans exceeding lending limits.

The district bank shall request the Central Bank for Cooperatives (or, when approved by the Director of Cooperative Bank Service, another district bank) to participate in the extension of credit for amounts which exceed the lending limits set forth in § 670.22, and, except when otherwise agreed, such participation shall take place in the following order: First, seasonal loans secured by approved commodities; second, other seasonal loans; and third, term loans.

§ 670.144 Definition of "borrower".

For purposes of the sentence in section 42(a) (3) of the Farm Credit Act of 1933, as amended (12 U.S.C. 1134d), which reads:

> In addition, each borrower as defined by the Farm Credit Administration for purposes of this sentence, shall be required to invest quarterly in class C stock an amount equal to not less than 10 nor more than 25 per centum, as prescribed by the board of directors of the bank with the approval of the Farm Credit Administration, of the amount of interest payable by it to the bank during the calendar quarter.

the word "borrower" is defined as any farmers' cooperative association which is primarily liable to a bank for cooperatives for the repayment of a loan made by the bank pursuant to sections 34 or 41 of the Farm Credit Act of 1933, as amended (12 U.S.C. 1134j, 1134c). In cases where a district bank for cooperatives participates in such a loan made by another district bank for cooperatives, the latter bank shall be deemed a "borrower" from the former bank with reference to such participation, and the approved investment required in class C stock shall be at the same per centum of interest payable that is applicable to the farmers' cooperative association.

§ 670.161 Patronage refunds and allocated reserves.

For purposes of subsection (b) of section 36 of the Farm Credit Act of 1933, as amended (12 U.S.C. 1134f), relating to patronage refunds, the word "borrowers" is defined as all farmers' cooperative associations which, during any part of the fiscal year for which patronage refunds are declared, were primarily liable for the repayment of loans made by a bank for cooperatives pursuant to sections 34 or 41 of the Farm Credit Act of 1933, as amended (12 U.S.C. 1134j, 1134c): *Provided,* That, if the bylaws of a bank so provide, this definition shall not include any association which files with the bank, prior to the beginning of a fiscal year, a written refusal to accept patronage refunds for said year. In cases where a district bank for cooperatives participates in such a loan made by another district bank for cooperatives, the latter bank shall be deemed among the "borrowers" of the former bank as respects patronage refunds with reference to such participation.

(Sec. 6, 47 Stat. 14, as amended, secs. 34, 36, 41, 42, 48 Stat. 262, 263, 264, as amended; 12 U.S.C. 665, 1134j, 1134f, 1134c, 1134d, as amended)

R. B. TOOTELL,
Governor,
Farm Credit Administration.

[F.R. Doc. 67–15032; Filed, Dec. 27, 1967; 8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

SUBCHAPTER C—AIRCRAFT

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 67–SO–106, Amdt. 39–526]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Model PA 32–300 Airplanes

Amendment 39–508, 32 F.R. 15523, AD 67–30–6 requires inspection of the flexible duct between the engine air box and the engine throttle body assembly and replacement if necessary on Piper PA 32–300 and PA 32S–300 series airplanes. After issuing Amendment 39–508, the Administrator approved a Piper design improvement for the inlet duct which when incorporated on the aircraft will eliminate the need for the repetitive inspections required by Amendment 39–508. Therefore, the AD is being amended to require replacement of the original duct with the improved duct.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39–508, 32 F.R. 15523, AD 67–30–6 is amended by deleting the inspection requirements, revising the compliance times and substituting with the following requirement:

Compliance required within the next 50 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent the possibility of restricting air flow through the engine air induction system, accomplish the following:

(a) Replace the engine air inlet duct, Piper Part No. 457599 or 63633–50, with parts and per instructions contained in Piper Modification Kit 760159.

(b) The compliance time may be adjusted up to a maximum of 10 hours to coincide with aircraft annual or 100-hour scheduled inspections.

(c) Piper Service Bulletin No. 260 dated November 6, 1967, covers this same subject.

Other means of compliance with the requirements of this directive may be utilized, if approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region.

This amendment becomes effective December 22, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in East Point, Ga., on December 15, 1967.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 67–15015; Filed, Dec. 27, 1967; 8:46 a.m.]

SUBCHAPTER E—AIRSPACE

[Airspace Docket No. 67–SO–101]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On November 1, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 15121), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Aiken, S.C., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

Subsequent to the publication of the notice, the geographic coordinate (lat. 33°39'10" N., long. 81°41'25" W.) for Aiken Municipal Airport was obtained from Coast and Geodetic Survey. Accordingly, action is taken herein to add the geographic coordinate for the airport in the description of the transition area.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., February 29, 1968, as hereinafter set forth.

In § 71.181 (32 F.R. 2148), the following transition area is added:

AIKEN, S.C.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Aiken Municipal Airport (lat. 33°-39'10" N., long. 81°41'25" W.); within 5 miles each side of the 048° bearing from the Aiken RBN (lat. 33°39'06" N., long. 81°40'38" W.), extending from the 8-mile radius area to 8 miles northeast of the RBN.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348(a))

Issued in East Point, Ga., on December 15, 1967.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 67–15016; Filed, Dec. 27, 1967; 8:46 a.m.]

SUBCHAPTER N—WAR RISK INSURANCE

[Docket No. 8505]

PART 198—WAR RISK INSURANCE

Part 1501 of Title 14 of the Code of Federal Regulations was published in the FEDERAL REGISTER on October 31, 1963 (28 F.R. 11618). Part 1501 implements Title XIII of the Federal Aviation Act of 1958 (49 U.S.C. 1531–1542) that authorizes the Secretary of Commerce to provide insurance against loss, damage, or legal liability arising out of war risks, under certain conditions. The Under Secretary of Commerce for Transportation issued Part 1501 under section 1307 of the Federal Aviation Act of 1958 (49 U.S.C. 1537), that authorizes the Secretary of Commerce to issue rules in administration of Title XIII, and a delegation of that authority from the Secretary of Commerce.

Section 6(a) (3) (C) of the Department of Transportation Act (49 U.S.C. 1655 (a) (3) (C)) transfers to and vests in the Secretary of Transportation all functions, powers, and duties of the Secretary of Commerce under Title XIII of the Federal Aviation Act of 1958, as amended. The Secretary of Transportation has delegated his functions, powers, and duties relating to aircraft generally, under Title XIII of the Federal Aviation Act of 1958, to the Federal Aviation Administrator in 49 CFR 1.4(b) (1)–(32 F.R. 5606).

The Federal Aviation Administrator is adopting new Part 198 that supersedes present Part 1501. Part 198 retains the substance of Part 1501, but several changes are made to reflect the existing situation vesting the War Risk Insurance function in the Department of Transportation: (1) References to the Under Secretary of Commerce for Transportation are changed to the Federal Aviation Administrator. (2) Section numbers are changed only to reflect the new part number. (3) Forms are removed from the body of the regulation and published in new Appendices A–E. (4) Forms are renumbered as "FAA Form 2000– (12–67)", and the obsolete UST Form numbers are shown as superseded. (5) The forms are changed only to reflect the transfer of the War Risk Insurance function to the Department, and the responsibility of the Federal Aviation Administrator.

This amendment relates to departmental management, procedures, and practices. Therefore, it is excepted from the notice, public procedure, and effective date requirements of section 553 of Title 5, United States Code, and it may be made effective upon publication in the FEDERAL REGISTER.

In consideration of the foregoing, effective December 28, 1967, Chapter I of Title 14 of the Code of Federal Regulations is amended by adding a new Subchapter N, as hereinafter set forth, that supersedes the Department of Commerce regulation Part 1501 of Title 14 of the Code of Federal Regulations, dated September 30, 1963.

(Sec. 1307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1537(a)); sec. 6(a) (3) (C), Department of Transportation Act (49 U.S.C. 1655(a) (3) (C))

Issued in Washington, D.C., on December 19, 1967.

WILLIAM F. MCKEE,
Administrator.

Subpart A—General

Sec.
198.1 Eligibility of aircraft for insurance.
198.2 Change in status of an aircraft after interim binders have been issued.
198.3 Applications for insurance and payment of binding fees.
198.4 Time of attachment of insurance.
198.5 Premiums and payment thereof.
198.6 War risk insurance underwriting agents.
198.7 Modifications.

Subpart B—War Risk Hull Insurance

198.100 Amounts of insurance for which application may be made.
198.101 Form of application.
198.102 Issuance of interim binder; its terms and conditions.
198.103 Sums which will be insured.
198.104 Calculation of premiums.
198.105 Additional war risk hull insurance.
198.106 Standard forms of war risk hull insurance interim binders.
198.107 Standard forms of war risk hull insurance policies.

Subpart C—War Risk Liability Insurance, Exclusive of Cargo Liability

198.200 Limits of liability insurance for which application may be made.
198.201 Form of application.
198.202 Issuance of interim binder; its terms and conditions.
198.203 Sums which will be insured.
198.204 Calculation of premiums.
198.205 Standard forms of war risk liability insurance, exclusive of cargo liability, interim binders.
198.206 Standard forms of war risk liability insurance, exclusive of cargo liability, policies.

Subpart D—War Risk Carriers Liability to Cargo Insurance

198.300 Limits of liability insurance for which application may be made.
198.301 Form of application.
198.302 Issuance of interim binder; its terms and conditions.
198.303 Sums which will be insured.
198.304 Calculation of premiums.
198.305 Standard forms of war risk carriers liability to cargo insurance interim binders.
198.306 Standard forms of war risk carriers liability to cargo insurance policies.
198.307 Effect on other General Orders—War Risk Insurance.
Appendix A—Forms of Application, named in § 198.101.
Appendix B—Standard Forms of War Risk Hull Insurance Interim Binders, named in § 198.106.
Appendix C—Standard Forms of War Risk Hull Insurance Policies, named in § 198.107.
Appendix D—Standard Forms of War Risk Liability Insurance, Exclusive of Cargo Liability, Policies, named in § 198.206.
Appendix E—Forms of Application, named in § 198.301.
Appendix F—Standard Forms of War Risk Carriers Liability to Cargo Insurance Interim Binders, named in § 198.305.

AUTHORITY: The provisions of this Part 198 issued under Sec. 1307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1537(a)); and sec. 6(a) (3) (C) of the Department of Transportation Act (49 U.S.C. 1655(a) (3) (C)).

Subpart A—General

§ 198.1 Eligibility of aircraft for insurance.

An aircraft is eligible for insurance if it is:

(a) An American aircraft as defined in section 1301(a), Title XIII of the Federal Aviation Act of 1958, as amended; or

(b) A foreign-flag aircraft engaged in aircraft operations deemed by the Federal Aviation Administrator to be in the

interest of the national defense or the national economy of the United States.

§ 198.2 Change in status of an aircraft after interim binders have been issued.

In the event that an aircraft shall cease to come within either § 198.1 (a) or (b) after any interim binders named in §§ 198.106, 198.205, and 198.305 have been issued, interim binders covering such an aircraft shall automatically terminate. In the event of sale, lease, confiscation, requisition, or total loss of an aircraft, or any other change in the status, which by the terms of the binder causes same to terminate, prompt notice shall be given in writing to the Federal Aviation Administrator.

§ 198.3 Applications for insurance and payment of binding fees.

Applications for war risk hull and war risk liability, exclusive of cargo, insurance, shall be filed on the same form, in duplicate, and applications for war risk carriers liability to cargo insurance shall be filed on a separate form, also in duplicate. Applications for insurance on those foreign-flag aircraft referred to in § 198.1 shall be accompanied by a signed statement in quadruplicate, setting forth the dates of the applications, the forms of insurance applied for, the identification number of the aircraft, its flag, the name of the owner or lessee, the operations in which the aircraft is engaged and the reason such operations should be considered to be in the interest of the national defense or national economy of the United States, which statement shall be deemed to be a part of each application for insurance filed with respect to such aircraft. Applications shall be made to the Federal Aviation Administrator, Department of Transportation, 800 Independence Avenue SW., Washington, D.C. 20590. A check payable to the Treasurer of the United States for the total amount of all binding fees payable by each applicant shall accompany the applications. Binding fees are not returnable unless applications are rejected.

§ 198.4 Time of attachment of insurance.

The war risk insurance to be provided under this part shall attach:

(a) In the case of premium insurance, not earlier than the date and hour commercial war risk insurance terminates by reason of the operation of the "24-hour automatic termination clause," whether or not the aircraft was covered by such commercial insurance; and

(b) In the case of nonpremium insurance, as specified in the binder or policy.

§ 198.5 Premiums and payment thereof.

The rates of premium for insurance shall be subject to review and revision by the Federal Aviation Administrator each calendar month, and the Federal Aviation Administrator may deem it appropriate to fix premium surcharges or rate loadings. Premiums shall accrue upon the fixing of the rates by the Federal Aviation Administrator, and shall be payable within 10 days after receipt of notice of the amounts thereof by the Insured. Premiums shall be paid to the Federal Aviation Administrator by check payable to the order of the Treasurer of the United States.

§ 198.6 War risk insurance underwriting agents.

Applications from companies or groups of companies authorized to do an aviation insurance business in any State of the United States for appointment as underwriting agents will not be received until the Federal Aviation Administrator finds that it is practical to employ such companies as underwriting agents. The Federal Aviation Administrator will promulgate, and publish in the FEDERAL REGISTER, the forms and agreements required for the appointment of underwriting agents.

§ 198.7 Modifications.

The provisions of this part may be amended or modified at any time by the Federal Aviation Administrator.

Subpart B—War Risk Hull Insurance

§ 198.100 Amounts of insurance for which application may be made.

An applicant for war risk hull insurance shall state the amount of insurance desired, but any payment for damage to or total loss of the aircraft will be made as provided in § 198.103.

§ 198.101 Form of application.

Applications submitted shall be in strict accordance with one of the forms set forth in Appendix A of this part, as follows:

(a) Application for Premium War Risk Hull and Liability, Exclusive of Cargo, Insurance, FAA Form 2000–2 (12–67) (supersedes UST Form No. WRI–1 (9–63)).

(b) Application for Nonpremium War Risk Hull and Liability, Exclusive of Cargo, Insurance, FAA Form 2000–2.1 (12–67) (supersedes UST Form No. WRI–1B (9–63)).

(c) Application for Nonpremium War Risk Hull and Liability, Exclusive of Cargo, Insurance, FAA Form 2000–2.2 (12–67) (supersedes UST Form No. WRI–1C (9–63)).

§ 198.102 Issuance of interim binder; its terms and conditions.

Upon acceptance of an application, an interim binder in the form of one of those named in § 198.106 will be issued and there shall be deemed to be incorporated therein by reference, all of the terms, conditions and warranties contained in the standard war risk hull insurance policy to be prescribed by the Federal Aviation Administrator pursuant to the provisions of § 198.107, to the same extent as if such policy were made a part of the binder. The binding fee shall be $100 per aircraft.

§ 198.103 Sums which will be insured.

The sum insured, in each instance, may not exceed the amount in effect on the date of application by which the air carrier has insured, or self-insured, the aircraft against risks other than war risks: *Provided*, That such amount is not in excess of the "fair and reasonable value of the aircraft" within the meaning of section 1307(a) of the Federal Aviation Act of 1958, as amended.

§ 198.104 Calculation of premiums.

Premiums will be calculated on the basis of the applicable premium rate multiplied by the dollar amount of insurance in force during the period under consideration.

§ 198.105 Additional war risk hull insurance.

Persons having insurable interests in aircraft may obtain, on an excess basis, additional war risk hull insurance in such amounts as desired, and such insurance shall not inure to the benefit of the Federal Aviation Administrator as underwriter.

§ 198.106 Standard forms of war risk hull insurance interim binders.

The standard forms of war risk hull insurance interim binders for premium and nonpremium war risk hull insurance are set forth in Appendix B of this part, as follows:

(a) Interim Binder No. PR–H&LWR, FAA Form 2000–3 (12–67) (supersedes UST Form No. WRI–2 (9–63)).

(b) Interim Binder No. NON–PR–H&LWR, FAA Form 2000–3.1 (12–67) (supersedes UST Form No. WRI–2C (9–63)).

§ 198.107 Standard forms of war risk hull insurance policies.

The standard form of war risk hull insurance policy, FAA Form 2000–4 (12–67) (supersedes UST Form No. WRI–3B (9–63)), is set forth in Appendix C of this part.

Subpart C—War Risk Liability Insurance, Exclusive of Cargo Liability

§ 198.200 Limits of liability insurance for which application may be made.

Applicants for war risk liability insurance, exclusive of cargo liability, shall state the limits of liability desired, but such limits shall not exceed the corresponding amounts in effect on the date of application by which the Insured has insured, or self-insured, itself against liability arising from risks other than war risks involving the following coverages:

(a) Bodily Injury or Death (Excluding Passengers).

(b) Property Damage.

(c) Bodily Injury or Death (Passengers).

(d) Baggage and Personal Effects.

§ 198.201 Form of application.

Applications submitted shall be in strict accordance with the forms named in § 198.101.

§ 198.202 Issuance of interim binder; its terms and conditions.

Upon acceptance of an application, there will be issued either an interim binder or a policy in the form of one of those named in § 198.106, § 198.107, or § 198.206, and there shall be deemed to be incorporated in the interim binder by reference all of the terms, conditions and warranties contained in the standard war risk carriers liability to cargo insurance policies to be prescribed by the Federal Aviation Administrator, pursuant to the provisions of § 198.306, to the same extent as if such policies were made a part of the binder. The binding fee shall be $25 per aircraft.

§ 198.303 Sums which will be insured.

The sums insured shall be those stated in the application, but the liability for any one accident shall not exceed $1 million.

§ 198.304 Calculation of premiums.

Premiums will be calculated by multiplying the applicable premium rate by the gross revenue received by the Insured for the transportation of cargo.

§ 198.305 Standard forms of war risk carriers liability to cargo insurance interim binders.

The standard forms of carriers liability to cargo insurance interim binders for premium and nonpremium war risk carriers liability to cargo insurance are set forth in Appendix F of this part, as follows:

(a) Interim Binder No. PR–CLWR, FAA Form 2000–7 (12–67) (supersedes UST Form No. WRI–7 (9–63)).

(b) Interim Binder No. NON–PR–CLWR, FAA Form 2000–7.1 (12–67) (supersedes UST Form No. WRI–7A (9–63)).

§ 198.306 Standard forms of war risk carriers liability to cargo insurance policies.

Standard forms of war risk carriers liability to cargo insurance policies for premium and nonpremium insurance will be prescribed by the Federal Aviation Administrator, and published in the FEDERAL REGISTER as as amendment to this section.

§ 198.307 Effect on other General Orders—War Risk Insurance.

This part supersedes all General Orders—War Risk Insurance previously issued.

APPENDIX A—FORMS OF APPLICATION, NAMED IN § 198.101

The application forms that must be used under § 198.101 are as follows:

(a) *FAA Form 2000–2 (12–67) (supersedes UST Form No. WRI–1 (9–63))*.

UNITED STATES OF AMERICA

DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION

Application for Premium War Risk Hull and Liability, Exclusive of Cargo, Insurance

Application is made for premium War Risk Hull and Liability, exclusive of Cargo, Insurance, pursuant to Title XIII of the Federal Aviation Act of 1958, as amended, and in accordance with all provisions of law and subject to all limitations thereof, on the aircraft described in the attached Schedule of Aircraft, with the understanding that this application does not commit the Government to any liability or make the applicant liable for any premium unless insurance is effected by the Federal Aviation Administrator.

Name of applicant _____

Address _____

Applicant's interest in aircraft described is that of _____

_____

Mortgage, or other encumbrance, if any _____

_____

Hull loss, if any, payable to _____

_____

Hull

Amounts set forth in the attached "Schedule of Aircraft" as representing the amount of war risk hull insurance desired for each such aircraft shall not exceed the amount in effect on the date of this application, by which the applicant has insured, or self-insured, that aircraft against risks other than war risks.

Liability

The type of coverage required for the aircraft described in the attached "Schedule of Aircraft" shall be indicated and the limits of liability for each such coverage shall be specified in the schedule, but such limits shall not exceed the corresponding amounts in effect on the date of this application by which the applicant has insured, or self-insured, itself against liability arising from risks other than war risks.

Type of coverage	Each person amount requested	Each occurrence amount requested	Insurance (including self-insurance) in effect for risks other than war risks: Each person	Insurance (including self-insurance) in effect for risks other than war risks: Each occurrence
( ) Bodily injury or death (excluding passengers)				
( ) Property damage				
( ) Bodily injury or death (passengers)				
( ) Baggage and personal effects				

General

Insurance to attach, in the event of outbreak of war between any of the four Great Powers (France, Great Britain and/or any of the British Commonwealth of Nations, the Union of Soviet Socialist Republics and the United States of America), at and from 24 hours from midnight G.M.T. of the day on which such outbreak of war occurs. Nevertheless, should the aircraft:

(1) Be in the air when such outbreak of war occurs, or

(2) Being at an airport depart therefrom as a measure of safety in respect of an insured peril within 24 hours of such outbreak of war, this insurance shall not attach until midnight G.M.T. of the day on which the aircraft lands wherever such landing may be regardless of whether or not accidental damage has been sustained by the aircraft.

If this application is for insurance with respect to a foreign-flag aircraft, it shall be accompanied by the statement specified in § 198.2 of the regulations of the Federal Aviation Administrator (14 CFR Part 198) which statement shall be deemed to be part of this application.

Binding fee (not returnable unless application is rejected) is $100 per aircraft.

Check payable to the Treasurer of the United States for the total amount of all binding fees enclosed herewith.

Rate of premium shall be fixed by the Federal Aviation Administrator, acting for the Secretary of Transportation.

The war risk insurance applied for hereunder shall not cover war risks on persons

or property engaged or transported exclusively in air commerce within the several States of the United States and the District of Columbia.

Applicant warrants that the particulars herein are true and complete to the best of his knowledge and that no information has been withheld or suppressed.

Applicant agrees that this application and the terms and conditions of the form of policy prescribed by the Federal Aviation Administrator, acting for the Secretary of Transportation, will constitute the basis of any contract between him and the United States of America.

Applicant _____

By _____
(Name and Title)

Date _____

Schedule of Aircraft

To be attached to FAA Form 2000-2 (12-67)

Make, model and configuration (passenger, cargo, or convertible)	*FAA identification No. or equivalent*	*Amount of war risk hull insurance desired for each aircraft*	*Amount for which each aircraft is currently insured (including self-insurance) for risks other than war risks*

the aircraft lands wherever such landing may be regardless of whether or not accidental damage has been sustained by the aircraft.

This binder shall terminate:

(a) Upon expiration of the authority of the Secretary of Transportation to provide War Risk Insurance under Title XIII of the Federal Aviation Act of 1958, as amended, or

(b) Three years from its date, or

(c) Five days after telegraphic notice of cancellation has been dispatched to the Insured by the Federal Aviation Administrator, or

(d) Upon the issuance of a policy by the Federal Aviation Administrator with respect to any insurance bound herein which is covered by that policy, whichever shall occur first.

The Insured agrees that if the amounts of insurance, or self-insurance, carried against loss, damage, or liability arising from risks other than war risks are voluntarily reduced to amounts less than the amounts of insurance provided by this binder, the insurance under this binder shall be considered to have been automatically reduced to the new amounts at the time of such reduction.

The insurance provided hereunder does not cover any war risks on persons or property engaged or transported exclusively in air commerce within the several States of the United States and the District of Columbia.

There shall be deemed to be incorporated herein all of the terms, conditions, and warranties contained in the applicable war risk hull and war risk liability, exclusive of cargo, insurance policies prescribed by the Federal Aviation Administrator pursuant to the provisions of §§ 198.107 and 198.206, respectively, of the regulations of the Federal Aviation Administrator (14 CFR Part 198).

In the event of any loss covered by this binder, prompt notice thereof shall be given by the Insured to the Federal Aviation Administrator, but failure to give such prompt notice because of wartime conditions or regulations shall not prejudice this insurance. The Insurer shall be subrogated to all rights which the Insured may have against any other person or entity in respect of any payment made under this binder to the extent of such payment, and the Insured shall, upon the request of the Insurer, execute all documents necessary to secure such rights to the Insurer.

Warranted that during the period of this binder and the term of any insurance attaching hereunder the aircraft is (1) an American aircraft as defined in section 1301 (a), Title XIII of the Federal Aviation Act of 1958, as amended, or (2) a foreign-flag aircraft engaged in aircraft operations deemed by the Federal Aviation Administrator to be in the interest of the national defense or the national economy of the United States, and if, at any time during the binder period or after insurance attached hereunder, the aircraft shall cease to comit within either (I) or (2) above, this binder and insurance provided hereunder shall automatically terminate at the time of such change with respect to such aircraft, without return of premium unless the Federal Aviation Administrator agrees otherwise.

UNITED STATES OF AMERICA

By FEDERAL AVIATION ADMINISTRATOR, ACTING FOR THE SECRETARY OF TRANSPORTATION.

(FEDERAL AVIATION ADMINISTRATOR)

Date ---

(b) *FAA Form 2000–3.1 (12–67) (supersedes UST Form No. WRI–3C (9–63)).*

UNITED STATES OF AMERICA

DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION

Interim Binder No. NON–PE–HALWR

The United States of America, represented by the Federal Aviation Administrator, acting for the Secretary of Transportation, in consideration of the agreement of the Secretary of State to indemnify the Secretary of Transportation against all losses covered by war risk insurance provided, without premium, for United States air carriers having agreements with the Department of State for the continuation of regularly scheduled service or the provision of charter service, and in consideration of the binding fee provided for herein, hereby insures, in accordance with applicable provisions of law and subject to all limitations thereof, particularly Title XIII of the Federal Aviation Act of 1958, as amended, against Hull and Liability, exclusive of Cargo, War Risks only, subject to the conditions stated herein, on the aircraft described in the attached Schedule of Aircraft while being operated by the Insured under Department of State contract(s) No.------, dated ---

Name of Insured ---

Address ---

Hull loss, if any, payable to ---

Hull

Amounts set forth in the "Schedule of Aircraft" attached to the Insured's application for war risk hull and liability, exclusive of cargo, insurance, without premium, a copy of which is attached hereto and made a part hereof, as representing the amount of war risk hull insurance desired for each of such aircraft, shall be deemed to be the "sum insured"; *Provided*, This amount, in each instance, may not exceed either (i) the amount determined by the Federal Aviation Administrator in accordance with the provisions of section 1307(a), Title XIII of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1537(a)), or (ii) the amount in effect on the date of application for this insurance by which the Insured has insured, or self-insured, that aircraft against risks other than war risks covered by this binder.

Liability

Insurance of the type indicated and in the limits shown below is provided in respect to each of the aircraft shown in the attached "Schedule of Aircraft":

Type of coverage	*Each person*	*Each occurrence*
Bodily injury or death (excluding passengers)	$----------	$----------
Property damage		$----------
Bodily injury or death (passengers)	$----------	$----------
Baggage and personal effects		$----------

The above amounts may not exceed the corresponding amounts in effect on the date of application for this insurance by which the Insured has insured, or self-insured, itself against similar liabilities arising from risks other than war risks covered by this binder.

General

Attaching when the Insured commences performance of services under Department of State contract(s) No. ------, dated ---

This binder shall terminate:

(a) Upon expiration of the authority of the Secretary of Transportation to provide War Risk Insurance under Title XIII of the Federal Aviation Act of 1958, as amended, or

(b) Three years from its date, or

(c) Upon expiration or cancellation of the Insured's Department of State contract(s) No. ------, dated ---, or

(d) Five days after telegraphic notice of cancellation has been dispatched to the Insured by the Federal Aviation Administrator, or

(e) Upon the issuance of a policy by the Federal Aviation Administrator, with respect to any insurance bound herein which is covered by that policy, whichever shall occur first.

The Insured agrees that if the amounts of insurance, or self-insurance, carried against loss, damage, or liability arising from risks other than war risks are voluntarily reduced to amounts less than the amounts of insurance provided by this binder, the insurance under this binder shall be considered to have been automatically reduced to the new amounts at the time of such reduction.

The insurance provided hereunder does not cover any war risks on persons or property engaged or transported exclusively in air commerce within the several States of the United States and the District of Columbia.

There shall be deemed to be incorporated herein all of the terms, conditions, and warranties contained in the applicable war risk hull and war risk liability, exclusive of cargo, insurance policies prescribed by the Federal Aviation Administrator pursuant to the provisions of §§ 198.107 and 198.206, respectively, of the regulations of the Federal Aviation Administrator (14 CFR Part 198).

In the event of any loss covered by this binder, prompt notice thereof shall be given by the Insured to the Federal Aviation Administrator, but failure to give such prompt notice because of wartime conditions or regulations shall not prejudice this insurance. The Insurer shall be subrogated to all rights which the Insured may have against any other person or entity in respect of any payment made under this binder to the extent of such payment, and the Insured shall, upon the request of the Insurer, execute all documents necessary to secure such rights to the Insurer.

Warranted that during the period of this binder and the term of any insurance attaching hereunder the aircraft is an American aircraft as defined in section 1301(a), Title XIII of the Federal Aviation Act of 1958, as amended, and if at any time during the binder period or after insurance attaches hereunder, the aircraft shall cease to be an American aircraft as so defined, or ceases to be under the agreement with the Department of State, this binder and insurance provided hereunder shall automatically terminate at the time of such change with respect to such aircraft, without return of binding fee unless the Federal Aviation Administrator agrees otherwise.

UNITED STATES OF AMERICA

By FEDERAL AVIATION ADMINISTRATOR, ACTING FOR THE SECRETARY OF TRANSPORTATION.

(Federal Aviation Administrator)

Date ---

APPENDIX C—STANDARD FORMS OF WAR RISK HULL INSURANCE POLICIES, NAMED IN § 198.107

The standard form policy prescribed under § 198.107 is as follows:

FAA Form 2000–4 (12–67) (supersedes UST Form No. WRI–3B (9–63)).

UNITED STATES OF AMERICA

DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

Policy No. NON–PE–HWR.------

The United States of America (hereinafter referred to as the Insurer), represented by the Federal Aviation Administrator, acting for the Secretary of Transportation, by this Policy of Insurance, in accordance with applicable provisions of law and subject to all limitations thereof, particularly Title XIII of the Federal Aviation Act of 1958, as amended, and in consideration of the agreement of the Secretary of Defense to indemnify the Secretary of Transportation against all losses covered by War Risk Insurance provided, without premium, for U.S. air carriers having air transportation contracts with the Department of Defense and the payment of binding fees, does insure, without premium, the aircraft described in the attached "Schedule of Aircraft and Government Contracts" for the account of ---- (hereinafter referred to as the Insured) while being operated by the Insured under a contract listed in the Schedule.

Loss, if any, payable to ---

Amounts set forth in the "Schedule of Aircraft and Government Contracts" attached to the Insured's application for war risk hull and liability, exclusive of cargo, insurance, without premium, a copy of which is attached hereto and made a part hereof, as representing the amount of war risk hull insurance desired for each of such aircraft shall be deemed to be the "sum insured"; *Provided*, This amount, in each instance, may not exceed either (i) the amount determined by the Federal Aviation Administrator in accordance with the provisions of section 1307(a), Title XIII of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1537(a)), or (ii) the amount in effect on the date of application for this insurance by which the Insured has insured, or self-insured, that aircraft against risks other than war risks covered by this Policy.

The Insured agrees that if the amount of insurance or self-insurance, carried against loss or damage from risks other than war risks is voluntarily reduced to an amount less than the amount of insurance provided by this Policy, the insurance under this Policy shall be considered to have been automatically reduced to the new amounts at the time of such reduction.

The "Schedule of Aircraft and Government Contracts" attached hereto may be revised from time to time by agreement of the Federal Aviation Administrator and the Insured and with approval of the Military Air Transport Service to add aircraft or to add contracts.

The insurance covers from ---M., e.s.t. of the ------ day of ---, 19-- until cancelled or terminated in accordance with the terms of this Policy.

This insurance covers all physical loss or damage to the aircraft described and set forth in the "Schedule of Aircraft and Government Contracts" attached hereto, including engines, navigational instruments, parts and equipment usually carried on said aircraft, resulting from the risks which would be excluded from a commercial Aviation Hull Policy by the following clause:

"Loss or damage due to or resulting from: (1) Capture, seizure, arrest, restraint or detention or the consequences thereof or of any attempt thereat, or any taking of the property insured or damage to or destruction thereof by any Government or governmental authority or agent (whether secret or otherwise) or by any military, naval or usurped power, whether any of the foregoing be done by way of requisition or otherwise and whether in time of peace or war and whether lawful or unlawful; (2) war, invasion, civil war, revolution, rebellion, insurrection or warlike operations, whether there be a declaration of war or not."

Notwithstanding anything contained in the foregoing clause, this insurance does not cover any loss or damage caused by or resulting from capture, seizure, arrest, restraint, detainment, preemption, confiscation or requisition by the Government of the United States, or from arrest, restraints, or detainments under Customs or quarantine regulations or similar arrests, restraints, or detainments not arising from actual or impending hostilities or sanctions.

The Insurer will pay, subject to the terms and conditions of this Policy: (1) In respect to total loss, the insured value of the aircraft, and (2) in respect to partial loss:

(a) If repairs are made by other than the Insured, the cost to repair the damaged property with material of like kind and quality, plus the reasonable cost of transporting new and/or damaged parts and/or the damaged aircraft to place of repair and the return of the repaired aircraft to place of accident or home airport, whichever be nearer.

(b) If repairs are made by the Insured, the total of the following items:

I. Actual cost of material or parts of like kind and quality.

II. Actual wages paid for direct labor, excluding extra charges for overtime.

III. A reasonable percentage of Item II in lieu of all overhead, including supervisory services, or actual overhead costs as determined by the Federal Aviation Administrator.

IV. The reasonable cost of transporting new and/or damaged parts and/or the damaged aircraft to place of repair and return of the repaired aircraft to place of accident or home airport, whichever be nearer.

(c) If repairs are not made and the aircraft is subsequently lost, then the estimated cost of making such repairs to the damaged property with material of like kind and quality.

The amount due under this Policy in respect to a partial loss shall not exceed the amount due were the loss payable as a total loss. Where the amount paid hereunder is equal to the amount payable as a total loss, any salvage value remaining shall inure to the benefit of the Insurer. There shall, however, be no abandonment without the consent of the Insurer.

The sum insured shall be reduced by the amount of any loss or damage, whether or not covered by this Policy, until repairs have been completed.

In the event of any loss covered by this Policy, prompt notice thereof, on being known to the Insured, shall be given by the Insured to the Federal Aviation Administrator, but failure to give such prompt notice because of wartime conditions or regulations shall not prejudice this insurance.

Within sixty (60) days after loss or damage, the Insured shall render to the Federal Aviation Administrator a proof of loss signed and sworn to by the Insured, stating the place, time and cause of the loss or damage, the interest of the Insured and of all others in the property, the sound value thereof, the amount and nature of the loss or damage, all encumbrances thereon, all changes in title, and all other insurance covering said property whether valid and collectible or not.

The Insurer shall be subrogated to all the rights which the Insured may have against any other person or entity, in respect of any payment made under this Policy, to the extent of such payment, and the Insured shall, upon the request of the Insurer, execute all documents necessary to secure to the Insurer such rights.

The insurance provided hereunder covers only loss or damage to the aircraft described in the attached "Schedule of Aircraft and Government Contracts" while the aircraft is being operated by the Insured, during the Policy period, under a contract listed in that Schedule when the loss or damage occurs. Such operations under the listed contracts shall be deemed to include ferry flights to position or deposition the aircraft, provided that on such ferry flight the aircraft does not carry any passengers, cargo or mail for remuneration or hire, and provided further that such ferry flight is operated nonstop (i) to the point of origin of the military traffic flight or (ii) from the point of destination of the military traffic flight back to the point of origin, or to a maintenance base normally used by the Insured, or to a point where the Insured intends to place the aircraft in commercial or military service.

The insurance provided hereunder does not cover any war risks on aircraft engaged exclusively in air commerce within the several States of the United States and the District of Columbia.

This Policy shall terminate:

(a) Upon expiration of the authority of the Secretary of Transportation to provide War Risk Insurance under Title XIII of the Federal Aviation Act of 1958, as amended, or

(b) Five (5) days after telegraphic notice of cancellation has been dispatched to the Insured by the Federal Aviation Administrator, or

(c) As to any aircraft or contract upon the date specified in a notice from the Insured to the Federal Aviation Administrator requesting such cancellation, or

(d) As to any aircraft or contract five (5) days after telegraphic notice of cancellation has been dispatched to the Insured by the Federal Aviation Administrator with the approval of the Military Air Transport Service.

Warranted free from any claim for loss, damage or expense covered under any commercial policy in effect for the benefit of the Insured. This Policy may be cancelled, in whole or in part, by the Federal Aviation Administrator if comparable insurance becomes obtainable on reasonable terms and conditions from companies authorized to do an insurance business in a State of the United States. The Insured agrees that it will promptly notify the Federal Aviation Administrator of any significant change in the terms and conditions under which insurance of the type provided by this Policy is obtainable from such sources.

Warranted during the term of this insurance the aircraft insured hereunder are American aircraft as defined in section 1301 (a), Title XIII of the Federal Aviation Act of 1958, as amended, and if at any time during such term an aircraft shall cease to be

an American aircraft as so defined, the insurance provided hereunder shall automatically terminate at the time of such change with respect to such aircraft without the return of binding fee unless the Federal Aviation Administrator agrees otherwise.

UNITED STATES OF AMERICA
By FEDERAL AVIATION ADMINISTRATOR, ACTING FOR THE SECRETARY OF TRANSPORTATION.

(Federal Aviation Administrator)

Date ----------

NOTE: Additional standard forms of war risk hull insurance policies will be prescribed by the Federal Aviation Administrator, and published in the FEDERAL REGISTER as an amendment to § 198.107 and this appendix.

APPENDIX D—STANDARD FORMS OF WAR RISK LIABILITY INSURANCE, EXCLUSIVE OF CARGO LIABILITY, POLICIES, NAMED IN § 198.206

The standard form policy prescribed under § 198.206 is as follows:

FAA FORM 2000–5 (12–67) (supersedes UST Form No. WRI–4B (9–63)).

UNITED STATES OF AMERICA

DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION

Policy No. HON–FB–LWR ----------

The United States of America (hereinafter the Federal Aviation Administrator, acting for the Secretary of Transportation, by this policy of insurance, in accordance with applicable provisions of law and subject to all limitations thereof, particularly Title XIII of the Federal Aviation Act of 1958, as amended, and in consideration of the agreement of the Secretary of Defense, to indemnify the Secretary of Transportation against all losses covered by War Risk Insurance provided, without premium, for U.S. air carriers having air transportation contracts with the Department of Defense and the payment of binding fees, does insure, without premium, ---------- (hereinafter referred to as the Insured) as specified in this Policy.

Insurance of the type indicated and in the limits shown below is provided in respect to each of the aircraft shown in the "Schedule of Aircraft and Government Contracts," attached hereto and made a part hereof, while being operated by the Insured under a contract listed in such schedule. The "Schedule of Aircraft and Government Contracts" may be revised from time to time by agreement of the Federal Aviation Administrator and the Insured and with the approval of the Military Air Transport Service to add aircraft or to add contracts.

Type of coverage	*Each person*	*Each occurrence*
Bodily injury or death (excluding passengers)	$----------	$----------
Property damage		$----------
Bodily injury or death (passengers)	$----------	$----------
Baggage and personal effects		$----------

The above amounts may not exceed the corresponding amounts in effect on the date of application for this insurance by which the Insured has insured, or self-insured, itself against similar liability arising from risks other than the war risks covered by this Policy.

The Insured agrees that if the amounts of insurance, or self-insurance, carried against liabilities arising from such other risks are reduced to amounts less than the amounts of insurance provided by this Policy, the insurance under this Policy shall be considered to have been automatically reduced to the new amounts at the time of such reduction.

This insurance covers from ---------- M., e.s.t. of the ---------- day of ----------, 19--, until cancelled or terminated in accordance with the terms of this Policy.

Subject to the limits of liability, exclusions, conditions and other terms of this Policy, the Insurer hereby agrees to pay on behalf of the Insured all sums which the Insured shall be legally liable to pay and shall pay or by final judgment be adjudged to pay to any person or persons, including damages for care and loss of services, for personal injuries sustained, including death at any time resulting therefrom, or by reason of loss or damage to or destruction of property, including the loss of use thereof (but including property owned, rented, leased, in charge of, or transported by the Insured other than passenger baggage), in respect of the aircraft described and set forth in the attached "Schedule of Aircraft and Government Contracts" (each aircraft separately insured), while such aircraft are being operated by the Insured under the contracts listed in the Schedule, resulting from the risks which would be excluded from a commercial Aviation Liability Policy by the following clause:

"Any liability arising out of occurrence due directly or indirectly to war, invasion, insurrection, military, naval or usurped power, or by order of any civil authority."

Notwithstanding anything contained in the foregoing clause, this insurance does not cover any loss or damage or any legal liability arising out of or caused by or resulting from capture, seizure, arrest, restraint, detainment, preemption, confiscation or requisition by the Government of the United States, or from arrests, restraints, or detainments under Customs or quarantine regulations or similar arrests, restraints or detainments not arising from actual or impending hostilities or sanctions.

The Insured shall, unless directed otherwise by the Insurer: defend in its name and behalf any suit against it alleging such injury or destruction and seeking damages on account thereof, even if such suit is groundless, false or fraudulent; but the Insurer shall at its election have the right to participate in or conduct such defense and to make such investigation, negotiation and settlement of any claim or suit as may be deemed expedient by the Insurer.

The Insurer shall reimburse the Insured, if suit is defended by the Insured, for: All premiums on bonds to release attachments for an amount not in excess of the applicable limits of liability of this Policy, all premiums on appeal bonds required in such suit, all costs taxed against the Insured in such suit, all expenses incurred by the Insured, all interest accruing after entry of judgment until the Insurer has paid, tendered or deposited in court such part of such judgment as does not exceed the limit of the Insurer's liability thereon: *Provided*, That the Insurer shall pay only such expenses incurred as a result of a claim covered by this Policy.

In the event of any happening which may result in loss, damage or expense for which the Insurer may become liable, prompt notice thereof, on being known to the Insured, shall be given by the Insured to the Federal Aviation Administrator, but failure to give such prompt notice because of wartime emergency conditions or regulations shall not prejudice this insurance.

If claim is made or suit is brought against the Insured, the Insured shall immediately forward to the Insurer a copy of every demand, notice, summons or other process received by him or his representatives.

The Insured shall not make any admission of liability, either before or after any occurrence which may result in a claim for which the Insurer may be liable. The Insured shall not interfere in any negotiations of the Insurer for settlement of any legal proceedings in respect of any occurrence for which the Insurer is liable under this Policy: *Provided, however*, That in respect of any occurrence likely to give rise to a claim under this Policy, the Insured is obligated to and shall take such steps to protect his and the Insurer's interests as would reasonably be taken in the absence of this or similar insurance.

Whenever required by the Insurer, the Insured shall aid in securing information and evidence and in obtaining witnesses and shall cooperate with the Insurer in the defense of any claim or suit or in the appeal from any judgment, in respect of any occurrence as hereinbefore provided.

No action shall lie against the Insurer unless as a condition precedent thereto, the Insured shall have fully complied with all of the terms of this Policy nor until the amount of the Insured's obligation to pay shall have been finally determined either by judgment against the Insured after actual trial or by written agreement of the Claimant and the Insurer. Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this Policy to the extent such judgment or written agreement is not in excess of the insurance afforded by this Policy. Nothing contained in this Policy shall give any person or organization any right to join the Insurer as a codefendant in any action against the Insured to determine the Insured's liability. Bankruptcy or insolvency of the Insured or of the Insured's estate shall not relieve the Insurer of any of its obligations hereunder.

The Insurer shall be subrogated to all the rights which the Insured may have against any other person or entity, in respect of any payment made under this Policy, to the extent of such payment, and the Insured shall, upon the request of the Insurer, execute all documents necessary to secure to the Insurer such rights.

The insurance provided hereunder applies only to the aircraft described in the attached "Schedule of Aircraft and Government Contracts" while the aircraft involved is being operated by the Insured, during the Policy period, under a contract listed in that Schedule when the injury, loss or damage leading to the liability occurs. Such operations under the listed contracts shall be deemed to include ferry flights to position or deposition the aircraft, provided that on such ferry flight the aircraft does not carry any passengers, cargo or mail for remuneration or hire, and provided further that such ferry flight is operated nonstop (i) to the point of origin of the military traffic flight or (ii) from the point of destination of the military traffic flight back to the point of origin, or to a maintenance base normally used by the Insured, or to a point where the Insured intends to place the aircraft in commercial or military service.

The insurance provided hereunder does not cover any liability under the provisions of Public Law 267, 64th Congress, approved September 7, 1916, known as the Federal Employees Compensation Act.

The insurance provided hereunder does not apply to persons or property engaged or transported exclusively in air commerce within the several States of the United States and the District of Columbia.

This Policy shall terminate:

(a) Upon expiration of the authority of the Secretary of Transportation to provide War Risk Insurance under Title XIII of the Federal Aviation Act of 1958, as amended, or

(b) Five (5) days after telegraphic notice of cancellation has been dispatched to the Insured by the Federal Aviation Administrator, or

(c) As to any aircraft or contract upon the date specified in a notice from the Insured to the Federal Aviation Administrator requesting such cancellation, or

(d) As to any aircraft or contract five (5) days after telegraphic notice of cancellation has been dispatched to the Insured by the Federal Aviation Administrator, with the approval of the Military Air Transport Service.

Warranted free from any claim for loss, damage or expense covered under any commercial policy in effect for the benefit of the Insured. This Policy may be canceled, in whole or in part, by the Federal Aviation Administrator if comparable insurance becomes obtainable on reasonable terms and conditions from companies authorized to do an insurance business in a State of the United States. The Insured agrees that it will promptly notify the Federal Aviation Administrator of any significant change in the terms and conditions under which insurance of the type provided by this Policy is obtainable from such commercial sources.

Warranted that during the term of this insurance the aircraft insured hereunder are American aircraft as defined in section 1201 (a), Title XIII of the Federal Aviation Act of 1958, as amended, and if at any time during such term an aircraft shall cease to be an American aircraft as so defined, the insurance provided hereunder shall automatically terminate at the time of such change with respect to such aircraft without return of binding fee unless the Federal Aviation Administrator agrees otherwise.

UNITED STATES OF AMERICA
By FEDERAL AVIATION ADMINISTRATOR, ACTING FOR THE SECRETARY OF TRANSPORTATION.

(Federal Aviation Administrator)

Date ----------

NOTE: Additional standard forms of war risk hull insurance policies will be prescribed by the Federal Aviation Administrator, and published in the FEDERAL REGISTER as an amendment to § 198.206 and this appendix.

APPENDIX E—FORMS OF APPLICATION, NAMED IN § 198.301

The application forms that must be used under § 198.301 are as follows:

(a) *FAA Form 2000–6 (12–67) (supersedes UST Form No. WRI–6 (9–63)).*

UNITED STATES OF AMERICA

DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION

Application for Premium War Risk Carriers Liability to Cargo Insurance

Application is made for Premium War Risk Carriers Liability to Cargo Insurance, pursuant to Title XIII of the Federal Aviation Act of 1958, as amended, and in accordance with all provisions of law and subject to all limitations thereof, on the aircraft described in the attached Schedule of Aircraft, with the understanding that this application does not commit the Government to any liability or make the applicant liable for any premium unless insurance is effected by the Federal Aviation Administrator:

Name of applicant ----------
Address ----------
Loss, if any, payable to ----------

Limits of liability desired for each of the aircraft described in the attached Schedule of Aircraft shall be specified, but the limit for any one accident shall not exceed $1 million.

Insurance to attach, in the event of outbreak of war between any of the four Great Powers (France, Great Britain and/or any of the British Commonwealth of Nations, the Union of Soviet Socialist Republics and the United States of America), at and from 24 hours from midnight G.M.T. of the day on which such outbreak of war occurs. Nevertheless, should the aircraft:

(1) Be in the air when such outbreak of war occurs, or

(2) Being at an airport depart therefrom as a measure of safety in respect to an insured peril within 24 hours of such outbreak of war,

this insurance shall not attach until midnight G.M.T. of the day on which the aircraft lands wherever such landing may be regardless of whether or not accidental damage has been sustained by the aircraft.

If this application is for insurance with respect to a foreign-flag aircraft, it shall be accompanied by the statement specified in § 198.3 of the regulations of the Federal Aviation Administrator (14 CFR Part 198) which statement shall be deemed to be a part of this application.

Binding fee (not returnable unless application is rejected) is $25 per aircraft.

Check payable to the Treasurer of the United States for the total amount of all binding fees enclosed herewith.

Rate of premium shall be fixed by the Federal Aviation Administrator, acting for the Secretary of Transportation.

The war risk insurance applied for hereunder shall not cover war risks on property (cargo) transported exclusively in air commerce within the several States of the United States and the District of Columbia.

Applicant warrants that the particulars herein are true and complete to the best of his knowledge and that no information has been withheld or suppressed.

Applicant agrees that this application and the terms and conditions of the form of policy prescribed by the Federal Aviation Administrator, acting for the Secretary of Transportation, will constitute the basis of any contract between him and the United States of America.

Applicant ----------
By ----------
(Name and Title)

Date ----------

Schedule of Aircraft

To be attached to FAA Form 2000–6 (12–67)

Make, model, and configuration (passenger, cargo or convertible)	*FAA identification No. or equivalent*	*Limits of liability desired for each aircraft*
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----------	----------	----------
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UNITED STATES OF AMERICA

DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION

Interim Binder No. FB–CLWR

The United States of America, represented by the Federal Aviation Administrator, acting for the Secretary of Transportation, in consideration of the binding fee and premium provided for herein, hereby insures, in accordance with applicable provisions of law and subject to all limitations thereof, particularly Title XIII of the Federal Aviation Act of 1958, as amended, against Carriers Liability to Cargo War Risks only, subject to the conditions stated herein, on the aircraft described in the attached Schedule of Aircraft.

Name of Insured ----------
Address ----------
Loss, if any, payable to ----------

Limits of liability set forth in the Schedule of Aircraft attached to the Insured's application for premium war risk carriers liability to cargo insurance, a copy of which is attached hereto and made a part hereof, as representing the limits of liability insurance desired for each of such aircraft shall be the sums insured, but liability for any one accident shall not exceed $1 million.

Attaching in the event of outbreak of war between any of the four Great Powers (France, Great Britain and/or any of the British Commonwealth of Nations, the Union of Soviet Socialist Republics and the United States of America), at and from 24 hours from midnight G.M.T. of the day on which such outbreak of war occurs. Nevertheless, should the aircraft:

(1) Be in the air when such outbreak of war occurs, or

(2) Being at an airport depart therefrom as a measure of safety in respect to an insured peril within 24 hours of such outbreak of war,

this insurance shall not attach until midnight G.M.T. of the day on which the aircraft lands wherever such landing may be regardless of whether or not accidental damage has been sustained by the aircraft.

This binder shall terminate:

(a) Upon expiration of the authority of the Secretary of Transportation to provide War Risk Insurance under Title XIII of the Federal Aviation Act of 1958, as amended, or

(b) Three years from its date, or

(c) Five days after telegraphic notice of cancellation has been dispatched to the Insured by the Federal Aviation Administrator, or

(d) Upon the issuance of a policy by the Federal Aviation Administrator with respect to any insurance bound herein which is covered by that policy, whichever shall occur first.

The insurance provided hereunder does not cover any war risks on property (cargo) transported exclusively in air commerce within the several States of the United States and the District of Columbia.

There shall be deemed to be incorporated herein all of the terms, conditions, and warranties contained in the applicable war risk carriers liability to cargo insurance policies prescribed by the Federal Aviation Administrator pursuant to the provisions of § 198.306 of the regulations of the Federal Aviation Administrator (14 CFR Part 198).

The premium rate for this insurance shall be subject to review and revision by the Federal Aviation Administrator each calendar month. Unless the revised premium rate is accepted in writing by the Insured within ten days after dispatch of notice of the amount thereof, the insurance provided hereunder shall automatically terminate at the end of such ten day period. Premium at the new revised rate shall be charged for the ten day period during which this insurance remained in force, unless the Federal Aviation Administrator receives notice within such period of the refusal of the Insured to accept such new revised premium rate, in which event premium at the new revised rate shall be charged for that portion of the ten day period prior to receipt of such notice. Upon receipts of such notice of nonacceptance, the insurance provided hereunder shall terminate, notwithstanding any other provision for cancellation in this binder. In the event this insurance is cancelled, or otherwise terminated, and not replaced by a policy, there shall be a premium charge hereunder for the period during which this insurance has been in force. Premium payments shall be made to the Federal Aviation Administrator by check payable to the order of the Treasurer of the United States of America.

In the event of any loss covered by this binder, prompt notice thereof shall be given by the Insured to the Federal Aviation Administrator, but failure to give such prompt notice because of wartime conditions or regulations shall not prejudice this insurance.

The Insurer shall be subrogated to all rights which the Insured may have against any other person or entity in respect of any payment made under this binder to the extent of such payment, and the Insured shall, upon the request of the Insurer, execute all documents necessary to secure such rights to the Insurer.

Warranted that during the period of this binder and the term of any insurance attaching hereunder the aircraft is (1) an American aircraft as defined in section 1301(a), Title XIII of the Federal Aviation Act of 1958, as amended, or (2) a foreign-flag aircraft engaged in aircraft operations deemed by the Federal Aviation Administrator to be in the interest of the national defense or the national economy of the United States, and if, at any time during the binder period or after insurance attaches hereunder, the aircraft shall cease to come within either (1) or (2) above, or ceases to be operated by the Insured, this binder and insurance provided hereunder shall automatically terminate at the time of such change with respect to such aircraft, without return of premium unless the Federal Aviation Administrator agrees otherwise.

UNITED STATES OF AMERICA
By FEDERAL AVIATION ADMINISTRATOR,
ACTING FOR THE SECRETARY OF TRANSPORTATION,

(Federal Aviation Administrator)

Date ----------

(b) *FAA Form 2000–7.1 (12–67) (supersedes UST Form No. WRI 7–A (9–63))*.

UNITED STATES OF AMERICA

DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION

Interim Binder No. NON–PR–CLWR

The United States of America, represented by the Federal Aviation Administrator, acting for the Secretary of Transportation, in consideration of the agreement of the Secretary of State to indemnify the Secretary of Transportation against all losses covered by war risk insurance provided, without premium, for U.S. air carriers having agreements with the Department of State for the continuation of regularly scheduled service or the provision of charter service, and in consideration of the binding fee provided for herein hereby insures, in accordance with applicable provisions of law and subject to all limitations thereof, particularly Title XIII of the Federal Aviation Act of 1958, as amended, against Carriers Liability to Cargo War Risks only, subject to the conditions stated herein, on the aircraft described in the attached Schedule of Aircraft to be operated by the Insured under Department of State contract(s) No. ------, dated ----------

Name of Insured ----------
Address ----------
Loss, if any, payable to ----------

Limits of liability set forth in the Schedule of Aircraft attached to the Insured's application for war risk carriers liability to cargo insurance, without premium, a copy of which is attached hereto and made a part hereof, as representing the limits of liability insurance desired for each of such aircraft shall be the sums insured, but liability for any one accident shall not exceed $1 million.

Attaching while the aircraft described in the schedule are being operated by the Insured under its Department of State contract(s) No. ------, dated ----------

This binder shall terminate:

(a) Upon expiration of the authority of the Secretary of Transportation to provide War Risk Insurance under Title XIII of the Federal Aviation Act of 1958, as amended, or

(b) Three years from its date, or

(c) Upon expiration or cancellation of the Insured's agreement(s) with the Department of State dated ---------- or

(d) Five days after telegraphic notice of cancellation has been dispatched to the Insured by the Federal Aviation Administrator, or

(e) Upon the issuance of a policy by the Federal Aviation Administrator with respect to any insurance bound herein which is covered by that policy,

whichever shall occur first.

The insurance provided hereunder does not cover any war risks on property (cargo) transported exclusively in air commerce within the several States of the United States and the District of Columbia.

There shall be deemed to be incorporated herein all of the terms, conditions, and warranties contained in the applicable war risk carriers liability to cargo insurance policies prescribed by the Federal Aviation Administrator pursuant to the provisions of § 198.306 of the regulations of the Federal Aviation Administrator (14 CFR Part 198).

In the event of any loss covered by this binder, prompt notice thereof shall be given by the Insured to the Federal Aviation Administrator, but failure to give such prompt notice because of wartime conditions or regulations shall not prejudice this insurance. The Insurer shall be subrogated to all rights which the Insured may have against any other person or entity in respect to any payment made under this binder to the extent of such payment, and the Insured shall, upon the request of the Insurer, execute all documents necessary to secure such rights to the Insurer.

Warranted that during the period of this binder and the term of any insurance attaching hereunder the aircraft is an American aircraft as defined in section 1301(a), Title XIII of the Federal Aviation Act of 1958, as amended, and if, at any time during the binder period or after insurance attaches hereunder the aircraft shall cease to be an American aircraft as so defined, or ceases to be under the agreement with the Department of State, this binder and insurance provided hereunder shall automatically terminate at the time of such change with respect to such aircraft without return of binding fee unless the Federal Aviation Administrator agrees otherwise.

UNITED STATES OF AMERICA
By FEDERAL AVIATION ADMINISTRATOR,
ACTING FOR THE SECRETARY OF TRANSPORTATION,

(Federal Aviation Administrator)

Date ----------

NOTE: The reporting and/or recordkeeping contained herein have been exempted from clearance by the Bureau of the Budget.

[F.R. Doc. 67–14918; Filed, Dec. 27, 1967; 8:45 a.m.]

Chapter XV—Office of the Under Secretary of Commerce for Transportation, Department of Commerce

PART 1501—WAR RISK INSURANCE

CROSS REFERENCE: For a document superseding Part 1501 of Chapter XV of Title 14, see F.R. Doc. 67–14918, Part 198, Chapter I of this title, *supra*.

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

SUBCHAPTER C—REGULATIONS UNDER SPECIFIC ACTS OF CONGRESS

PART 300—RULES AND REGULATIONS UNDER THE WOOL PRODUCTS LABELING ACT OF 1939

Imported Wool Products

On September 12, 1966, a notice of proposed rulemaking was issued by the Federal Trade Commission. Such notice was published in the FEDERAL REGISTER on September 15, 1966. The notice stated that on October 26, 1966, the Commission would hold a public hearing and give consideration to a proposal to amend the rules and regulations under the Wool Products Labeling Act of 1939 to provide a procedure for testing imported wool products and for determination of whether such products comply with the Wool Products Labeling Act of 1939 and the rules and regulations thereunder.

The notice of proposed rule making provided that views, arguments or other pertinent data could be submitted in writing on or before the date of the hearing or presented orally at the hearing and that further written views, arguments and data could be submitted for 20 days after such public hearing.

A draft of the proposed rule designated as proposed § 300.36 (Rule 36) of the rules and regulations under the Wool Products Labeling Act of 1939 was made a part of the notice of proposed rule making.

Pursuant to such notice interested parties were afforded an opportunity to submit the written arguments and other data until October 26, 1966. Interested parties were afforded an opportunity to present their views orally at the public hearing held pursuant to the notice of proposed rule making on October 26 and October 27, 1966. Further written views, arguments and data were received for 20 days after the public hearing. All views, arguments, and data presented pursuant to the notice of proposed rule making were made a part of the public record.

Interested parties were also afforded an opportunity to confer informally with representatives of the staff of the Commission's Bureau of Textiles and Furs whenever such a request was made and to present their views informally either orally or in writing.

After due consideration of the proposed amendment and all pertinent information and material relating thereto available to the Commission, including suggested revisions, deletions, and additions thereto, and all views, arguments, or other data submitted, the Commission on June 21, 1967, amended the rules and regulations under the Wool Products Labeling Act of 1939 by adding a new section thereto designated as § 300.36 (Rule 36) of Part 300, rules and regulations under the Wool Products Labeling Act of 1939. Such amendment was published in the FEDERAL REGISTER on June 24, 1967, and provided that interested persons might submit their comments within 30 days after publication, but specified that this should not affect the effective date unless the Commission should so order. The effective date was specified as 120 days after publication in the FEDERAL REGISTER.

In accordance with the aforesaid notice, the Commission afforded interested parties further opportunity to submit written comments for thirty (30) days after publication of the notice in the FEDERAL REGISTER. All views, arguments, and data so submitted have been made a part of the public record.

After due consideration of all pertinent information and material available to it including comments and views presented both formally and informally after publication of the amendment on June 24, 1967, the Commission determined to defer the effective date of the rule and to revise § 300.36 (Rule 36). By notice issued on October 18, 1967, and published in the FEDERAL REGISTER on October 21, 1967, the Commission deferred the effective date of § 300.36 (Rule 36) pending further order of the Commission. On October 30, 1967, the Commission issued a proposed revision of § 300.36 (Rule 36) which was published in the FEDERAL REGISTER on November 2, 1967. Written views, arguments, and other pertinent data were received by the Commission for fifteen (15) days after publication of the proposed revision in the FEDERAL REGISTER as provided in the notice. Such written views, arguments, and data have been made a part of the public record and have been fully considered by the Commission.

After consideration of the proposed amendment of § 300.36 (Rule 36) of the rules and regulations under the Wool Products Labeling Act of 1939 and of the entire record in the matter including suggested changes, additions to, deletions from, and modifications of the proposed amendments, § 300.36 (Rule 36) of Part 300, the rules and regulations under the Wool Products Labeling Act of 1939 is amended to read as follows:

§ 300.36 Imported wool products.

(a) *Filing of notice of entry.* Any person who imports wool products into the United States that are subject to a requirement for formal entry through Customs shall file with the Bureau of Customs, at the time of entry for consumption or at the time of entry or withdrawal for consumption from warehouse, a form (Form 36A) in quadruplicate, in the manner prescribed by the Federal Trade Commission showing (1) the proposed type of entry of the shipment (consumption, warehouse, etc.), (2) the port of entry of the shipment, (3) the country of origin of the shipment, (4) a complete description of the products contained in the shipment and the cost thereof per unit in American dollars, (5) the information contained in the required fiber content labels affixed to wool products contained in the shipment, (6) the names and addresses of (i) the exporter, (ii) the manufacturer, (iii) the importer of record, and (iv) the actual importer of the wool products, and (7) the signature of the person filing such form. The original and two copies of Form 36A will be forwarded by the Bureau of Customs to the Bureau of Textiles and Furs, Federal Trade Commission, Washington, D.C. 20580, one copy being retained by the Bureau of Customs.

(b) *Temporary retention in customs.* Wool products subject to this section will be temporarily retained in Customs custody and not released to the importer until the Commission has issued a notice of release: *Provided, however,* That such wool products may be released from Customs custody prior to receipt of the required notice of release upon the giving of a bond, such as an immediate delivery and consumption entry bond, in a form acceptable to the Commissioner of Customs conditioned upon the redelivery to Customs custody of the goods or any part thereof, upon demand by an officer of the Bureau of Customs based upon the determination of the Commission not to issue a notice of release.

(c) *Notice of release.* The Commission will issue a notice of release in one of the following ways: (1) A preentry notice of release may be obtained in appropriate cases where the requirements of paragraph (d) of this section are met by the importer. (2) At ports of entry where a Commission inspector is on duty, he will, upon examination of the Form 36A, either issue a notice of release or inform the importer that certification or testing as provided in paragraph (e) of this section is required. Failure to make such determination within 3 working days after Form 36A is filed at such a port of entry shall be equivalent to the issuance of a notice of release. (3) At ports of entry where no Commission inspector is on duty, a determination whether to issue a notice of release or to require certification or testing will be made within 3 working days after the

Commission receives the Form 36A. Failure of the Commission to make any determination within this period shall be equivalent to issuance of a notice of release. (4) If certification or testing is required, a notice of release will be issued by the Commission when and if the requirements of paragraph (e) of this section are satisfied.

(d) *Preentry notice of release.* The Commission will, at the request of an importer and upon a proper showing, issue a notice of release prior to entry into the United States of any shipment of wool products. Requests for preentry release shall be accompanied by such information or data, including manufacturers' records, laboratory analyses, foreign government certifications, and certifications of government designated trade associations or other bodies, as will show no reason to believe that they may be misbranded. The Commission will also consider as relevant a statement that such products are of the same type, category, and fiber content and from the same manufacturer as products that were previously released by the Commission if such statement is accompanied by a copy of the original notice of release. Requests for preentry notice of release shall be filed as early as possible, but in no case less than 7 working days prior to the entry of any shipment. Prior to entry, the Commission will either (1) issue a notice of release, (2) inform the importer that it will require certification and testing of such shipment, or (3) inform the importer that the information submitted is insufficient to support a determination.

(e) *Certification or testing.* (1) Where the Commission has reason to believe that any wool products subject to this section may be misbranded, it may determine not to issue a notice of release but to require that such wool products be held for certification or testing. In such a case, at the option of the Commission, the Commission may (i) accept a certification as to the fiber content of such products based on a test method and sampling procedure approved by the Commission and submitted by a laboratory included in the Commission's list of approved testing laboratories, or (ii) require that it be furnished with samples of the wool products extracted by a person designated by the Commission, which the Commission will test or have tested at the expense of the importer. Upon acceptance of a proper certification or test results showing the products to be correctly labeled, the Commission will immediately issue a notice of release.

(2) If the certification or test results show the goods to be misbranded, the Commission will not issue a notice of release until after the goods have been correctly relabeled. If the certification or test results demonstrate that there are such wide variations in the fiber content of individual wool products as to preclude a determination of fiber content on the basis of random sampling, the Commission will not issue a notice of release until after it has determined, upon consultation with the importer, the manner in which such goods should be relabeled, and such goods have been relabeled in conformity with that determination. Relabeling will be done at the expense of the importer, and the Commission will issue a notice of release immediately upon the receipt of satisfactory evidence from the importer showing that the goods have been correctly relabeled.

(f) *Forfeiture of bond.* Upon determination by the Commission that a notice of release will not be issued and where such wool products have been released to an importer under a bond described in paragraph (b) of this section, demand for their redelivery will be made. The failure of the importer to redeliver wool products to Customs custody, after demand therefor, shall subject such importer to payment of liquidated damages as provided for in the bond referred to in paragraph (b) of this section.

(g) *Examination and testing after release.* Any notice given by the Commission as to the manner of labeling imported wool products or any notice of release of wool products given under this section shall be without prejudice to the right of the Commission to subsequently examine and test additional wool products contained in any shipment of imported wool products which has been subject to the procedure provided by this section or to make inspections or investigations relative to such products. The Commission will not proceed against any party for misbranding of wool products which have been subject to the testing procedures provided by this section without notice to such party and affording such party an opportunity to take such effective action as the Commission may deem appropriate to cause any misbranded products to be properly labeled: *Provided, however,* That such party must be able to establish that the wool products have been subject to the testing procedures provided by this section.

STATEMENT OF BASIS AND PURPOSE

Section 300.36 (Rule 36) of the rules and regulations under the Wool Products Labeling Act of 1939 is promulgated on the basis of the Commission's determination that such regulation is the most practical and equitable means of achieving substantial equality in the administration of the Wool Products Labeling Act of 1939 as applicable to domestic products and imported products and to assure that the ultimate consumer receives the same degree of protection with respect to both types of products.

Domestic manufacturers of wool products are required to keep extensive and detailed manufacturing records disclosing the fiber content of products manufactured by them, and are subject to penalties for failure to maintain such records. In many instances such records are records which would not ordinarily be kept in the regular course of business and are maintained at substantial expense to meet the requirements of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder. Many domestic manufacturers also utilize fiber content testing performed at their own expense to substantiate their manufacturing records and to determine the fiber content of end products manufactured or sold by them.

Domestic manufacturers and dealers are also subject to inspections at their places of business by investigators of the Commission's Bureau of Textiles and Furs.

Foreign manufacturers and producers are not subject to the aforesaid requirements and are not subject to the jurisdiction of the Federal Trade Commission. Therefore, the Commission has found it necessary to develop a different program intended to achieve substantial equality in enforcement as between domestically produced products and imported products and designed to offer substantially equal protection to the public with reference to all types of wool products.

With respect to imported wool products, Commission enforcement efforts must necessarily be directed at other than the manufacturing level. Since the Commission has no authority to require record-keeping by foreign producers as to the accuracy of labeling, or to impose sanctions upon them in cases of misbranding, it therefore looks primarily to their customers, American importers, for compliance with the statute. The documentary information submitted by these importers on the form which they are required to file (Form 36A) and the documentary information they may file in requesting preentry release, as set forth in paragraph (d) of Rule 36, shall be considered confidential information under § 4.10 of the Commission's rules of practice, 32 F.R. 8442 (1967), and subject to the requirements of § 4.11 of those rules.

The testing or certification procedures of Rule 36 are not intended to be applicable to products which are not indicated to be subject to widespread misbranding. The rule provides for the testing or certification by an approved laboratory of wool imports prior to their entry into American channels of commerce in only those instances, hopefully infrequent, where, for the purpose of facilitating effective administration and enforcement of the Act, it is in the public interest to require such testing or certification before the imports move into the stream of domestic commerce.

The rule contemplates a cooperative endeavor between importers and the Government. If, upon testing or certification, products are found to be correctly labeled, the rule provides for their immediate release. If, however, they are found to be misbranded, the importer will be given the opportunity to relabel the products in accordance with the requirements of American law and, upon proper relabeling, the goods will immediately be released. In situations where imported wool products, initially tested or certified and released by the Commission, are subsequently found to be misbranded, the Commission will not proceed against any party without notice where such party is able to show that the goods were subject to this procedure, but will afford reasonable opportunity for fully corrective action to be taken.

It is the understanding of the Commission that the immediate delivery and consumption entry bond referred to in paragraph (c) of § 300.36 (Rule 36) is at present furnished by importers under standard importation procedures and that goods ordinarily move into the hands of the importer under this bond. It is the intention of the Commission to continue to permit goods to pass through Customs and into the hands of the importer subject to the terms and conditions of the bond and § 300.36 (Rule 36) even in those instances where goods are required to be tested.

Where testing or certification is required, it is the intention of the Commission to utilize applicable methods of testing and procedures developed, prescribed, and published by the American Society for Testing and Materials and the American Association of Textile Chemists and Colorists. These methods and procedures have been utilized by producers of and dealers in textile products and by Government agencies, including the Commission, in determining the fiber content of textiles, and are recognized methods of testing textile materials.

Every effort has been made to minimize delays. At those points of entry where a sufficiently large number of wool imports arrive, the Commission will place inspectors on duty so that they may determine upon arrival whether to release a shipment or require its testing or certification. As to shipments arriving at points of entry where the Commission does not have an inspector on duty, paragraph (c) provides that unless the Commission orders testing and certification within 3 working days after receipt of the necessary forms, such goods will be automatically released. Further, the Commission may issue a notice of release prior to importation of any shipment where it is able to determine, on the basis of information submitted, that such shipment should not be retained for purposes of testing. If testing is utilized it is the hope of the Commission that sampling, testing and certification will be completed within a week or 10 days after Form 36A is filed with the Bureau of Customs.

Authority. Such action is taken pursuant to the authority given to the Federal Trade Commission under paragraph (a) of section 6 of the Wool Products Labeling Act of 1939 (54 Stat. 1131; 15 U.S.C. 68d) which provides in part:

> The Commission is authorized and directed to make rules and regulations for the manner and form of disclosing information required by this Act, and for segregation of such information for different portions of a wool product as may be necessary to avoid deception or confusion, and to make such further rules and regulations under and in pursuance of the terms of this Act as may be necessary and proper for administration and enforcement.
>
> The Commission is also authorized to cause inspections, analyses, tests, and examination to be made of any wool products subject to this Act; and to cooperate with any department or agency of the Government, with any State, Territory, or possession, or with the District of Columbia; or with any department, agency, or political subdivision thereof; or with any person.

Effective date. Section 300.36 (Rule 36), as amended, shall become effective on February 12, 1968.

Issued: December 22, 1967.

By the Commission.[1]

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-14971; Filed, Dec. 27, 1967; 8:45 a.m.]

Title 25—INDIANS

Chapter III—Indian Claims Commission

PART 500—STANDARDS OF CONDUCT

Sec.
500.735-101 Purpose.
500.735-102 Definitions.
500.735-103 Proscribed actions.
500.735-104 Gifts, entertainment, and favors.
500.735-105 Outside employment; off-job activity.
500.735-106 Financial interests.
500.735-107 Use of government property.
500.735-108 Misuse of information.
500.735-109 Indebtedness.
500.735-110 Gambling, betting, and lotteries.
500.735-111 Prejudicial conduct.
500.735-112 Counseling and interpretations.
500.735-113 Miscellaneous statutory provisions.
500.735-114 Disciplinary action.
500.735-115 Conduct of special government employees.
500.735-116 Statements of outside employment and financial interests; format.
500.735-117 Same; employees included.
500.735-118 Same; contested inclusion.
500.735-119 Same; original and supplementary statements; when required.
500.735-120 Same; relatives' interests and information known to others.
500.735-121 Same; information prohibited.
500.735-122 Same; confidentiality of statements.
500.735-123 Same; effect on other requirements.
500.735-124 Statements of outside employment and financial interests; special government employees.
500.735-125 Statements of outside employment and financial interests; review.

Appendix A.

AUTHORITY: The provisions of this Part 500 issued under E.O. 11222 of May 8, 1965 (30 F.R. 6469), and Part 735 of Title 5, Code of Federal Regulations.

SOURCE: The provisions of this Part 500 appear at 32 F.R. 20655.

§ 500.735-101 Purpose.

The maintenance of unusually high standards of honesty, integrity, impartiality, and conduct by Government employees and special Government employees is essential to assure the proper performance of the Government business and the maintenance of confidence by citizens in their Government. The avoidance of misconduct and conflicts of interest on the part of Government employees and special Government employees through informed judgment is indispensable to the maintenance of these standards. To accord with these concepts, this part sets forth the Commission's regulations covering its employees and special Government employees, prescribing standards of conduct and responsibilities, and governing statements reporting employment and financial interests.

§ 500.735-102 Definitions.

(a) "Commission" means the Indian Claims Commission.

(b) "Employee" means any Commissioner of the Indian Claims Commission, including the Chairman, and any individual employed by the Commission other than a Special Government Employee.

(c) "Executive Order" means Executive Order No. 11222 of May 8, 1965.

(d) "Special Government Employee" has the meaning given that term by section 202 of Title 18, United States Code.

§ 500.735-103 Proscribed actions.

An employee shall avoid any action, whether or not specifically prohibited by this part, which might result in, or create the appearance of:

(a) Using public office for private gain;

(b) Giving preferential treatment to any person;

(c) Impeding Government efficiency or economy;

(d) Losing complete independence or impartiality;

(e) Making a Government decision outside official channels; or

(f) Affecting adversely the confidence of the public in the integrity of the Government.

§ 500.735-104 Gifts, entertainment, and favors.

(a) Except as provided in paragraphs (b) and (e) of this section, an employee shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from a person who:

(1) Has, or is seeking to obtain, contractual or other business or financial relations with the Commission;

(2) Conducts operations or activities over which the Commission exercised or may exercise jurisdiction; or

(3) Has interests that may be substantially affected by action or inaction of the Commission or any employee thereof.

(b) Excepted from the proscriptions contained in § 500.735-104(a) are:

(1) Gifts motivated by obvious family or personal relationships;

(2) Food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon, dinner meeting, or other meeting, where an employee may properly be in attendance;

(3) Acceptance of loans from banks or other financial institutions on prevailing terms to finance proper and usual activities of employees, such as home mortgage loans; and

[1] Dissenting statements of Commissioner Kiman filed as part of original document.

(4) Acceptance of unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value.

(c) An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation to an official superior, or accept a gift from an employee receiving less pay than himself (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(d) An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in 5 U.S.C. 7342.

(e) Neither this section nor § 500.735–105 precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this part for which no Government payment or reimbursement is made. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits, nor does it allow an employee to be reimbursed by a person for travel on official business under Commission orders when reimbursement is proscribed by Decision B–128527 of the Comptroller General dated March 7, 1967.

§ 500.735–105 Outside employment; off-job activity.

(a) An employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of his Government employment. Incompatible activities include but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, conflicts of interest; or

(2) Outside employment which tends to impair his mental or physical capacity to perform his Government duties and responsibilities in an acceptable manner.

(b) An employee shall not receive any salary or anything of monetary value from a private source as compensation for his services to the Government (18 U.S.C. 209).

(c) Employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law, the Executive Order, or this part. However, an employee shall not, either for or without compensation, engage in teaching, lecturing, or writing that is dependent on information obtained as a result of his Government employment, except when that information has been made available to the general public or will be made available on request, or when the Commission gives written authorization for use of nonpublic information on the basis that the use is in the public interest. In addition, an employee who is a Presidential appointee covered by section 401(a) of the Executive order shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance the subject matter of which is devoted substantially to the responsibilities, programs, or operations of his Commission, or which draws substantially on official data or ideas which have not become part of the body of public information.

(d) An employee shall not engage in outside employment under a State or local government, except in accordance with Part 734 of Title 5, Code of Federal Regulations.

(e) This section does not preclude an employee from:

(1) Participation in the activities of national or State political parties not proscribed by law;

(2) Participation in the affairs of or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational and recreational public service, or civic organization; or

(3) Outside employment permitted under this part.

§ 500.735–106 Financial interests.

(a) An employee shall not:

(1) Have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his Government duties and responsibilities; or

(2) Engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through his Government employment.

(b) This section does not preclude an employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government so long as it is not prohibited by law, the Executive order, or this part.

§ 500.735–107 Use of government property.

An employee shall not directly or indirectly use, or allow the use of, Government property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to him.

§ 500.735–108 Misuse of information.

For the purpose of furthering a private interest, an employee shall not, except as provided in § 500.735–105(c), directly or indirectly use, or allow the use of, official information obtained through or in connection with his Government employment which has not been made available to the general public.

§ 500.735–109 Indebtedness.

An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court, and "in a proper and timely manner" means in a manner which the Commission determines does not, under the circumstances, reflect adversely on the Government as his employer. In the event of dispute between an employee and an alleged creditor, this section does not require the Commission to determine the validity or amount of the disputed debt.

§ 500.735–110 Gambling, betting, and lotteries.

An employee shall not participate, while on Government-owned or leased property or while on duty for the Government, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket. However, this section does not preclude activities under section 3 of Executive Order No. 10927 of March 18, 1961, and similar Commission-approved activities.

§ 500.735–111 Prejudicial conduct.

An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government.

§ 500.735–112 Counseling and interpretations.

(a) The Chairman of the Commission shall, from time to time, designate an employee in whom he has complete personal confidence to be the counselor for the Commission and to serve as the Commission's designee to the Civil Service Commission on matters covered by this Part 500. The counselor shall be responsible for coordination of the Commission's counseling services provided under paragraph (b) of this section and for assuring that counseling and interpretations on questions of conflicts of interest and other matters covered by this Part 500 are available to deputy counselors designated under paragraph (b) of this section.

(b) The Chairman of the Commission shall also designate one or more deputy counselors, as required, for the Commission's employees and Special Government Employees. Deputy counselors designated under this section shall be qualified and in a position to give authoritative advice and guidance to each employee and Special Government Employee who seeks advice and guidance on questions of conflicts of interest and on other matters covered by this Part 500.

(c) Notification to existing employees and Special Government Employees of the Commission of the availability of such counseling services, including how and where available, shall be made by delivery of glossed copies of this Part 500 to each employee or Special Government Employee within 90 days after approval of this Part 500. Notification to employees and Special Government Employees who enter on duty after 90 days after approval of this Part 500 shall be made by delivery of glossed copies of this Part 500 when such employee or Special Government Employee reports for his first work day.

§ 500.735–113 Miscellaneous statutory provisions.

Each employee shall acquaint himself with each statute or portion thereof that relates to his ethical and other conduct as an employee of the Commission and of the Government. The attention of all employees is directed to the following statutory provisions:

(a) House Concurrent Resolution 175, 85th Congress, 2d Session, 72 Stat. B12, the "Code of Ethics for Government Service".

(b) Chapter 11 of Title 18, United States Code, relating to bribery, graft, and conflicts of interest, as appropriate to employees of the Commission.

(c) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(d) The prohibitions against disloyalty and striking (5 U.S.C. 7311; 18 U.S.C. 1918).

(e) The prohibition against the employment of a member of a Communist organization (50 U.S.C. 784).

(f) The prohibitions against (1) the disclosure of classified information (18 U.S.C. 798; 50 U.S.C. 783) and (2) the disclosure of confidential information (18 U.S.C. 1905).

(g) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(h) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a(c)).

(i) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).

(j) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(k) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(l) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

(m) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(n) The prohibitions against (1) embezzlement of Government money or property (18 U.S.C. 641), (2) failing to account for public money (18 U.S.C. 643), and (3) embezzlement of the money or property of another person in the possession of an employee by reason of his employment (18 U.S.C. 654).

(o) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(p) The prohibitions against political activities in subchapter III of Chapter 73 of Title 5, United States Code, and in 18 U.S.C. 602, 603, 607, and 608.

(q) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

(r) The prohibition against any Commissioner of the Commission engaging in other business during his term of office or representing any Indian tribe, band, or group within two years after termination of his term of office (25 U.S.C. 70b(c)).

§ 500.735–114 Disciplinary action.

(a) Any violation of the regulations contained in this Part 500 or the Miscellaneous Statutory Provisions incorporated therein by reference may be cause for appropriate disciplinary action. Such disciplinary action may be in addition to any penalty prescribed by law.

(b) In the event that the violation is a conflict of interest or an apparent conflict of interest and the Commission concludes that remedial action is required, immediate action shall be taken to end the conflict or appearance of conflict of interest.

(c) Remedial action may include, but is not limited to:

(1) Changes in assigned duties;

(2) Divestment by the employee or Special Government Employee of his conflicting interest;

(3) Disciplinary action; or

(4) Disqualification for a particular assignment.

(d) Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws, Executive Orders, and regulations.

§ 500.735–115 Conduct of special government employees.

(a) Special Government Employees shall adhere to the standards of conduct made applicable to employees by the Commission's regulations contained in §§ 500.735–103, 500.735–104, and 500.735–106 through 500.735–112.

(b) A Special Government Employee shall not use his Government employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for himself or another person, particularly one with whom he has family, business, or financial ties.

(c) A Special Government Employee shall not use inside information obtained as a result of his Government employment for private gain for himself or another person either by direct action on his part or by counsel, recommendation, or suggestion to another person, particularly one with whom he has family, business, or financial ties. For the purpose of this subsection, "inside information" means information obtained under Government authority which has not become part of the body of public information.

(d) Special Government Employees may teach, lecture, or write in a manner not inconsistent with § 500.735–105(c).

(e) A Special Government Employee shall not use his Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to himself or another person, particularly one with whom he has family, business, or financial ties.

(f) Except as provided in § 500.735–115(d), a Special Government Employee, while so employed or in connection with his employment, shall not receive or solicit from a person having business with this Commission anything of value as a gift, gratuity, loan, entertainment, or favor for himself or another person, particularly one with whom he has family, business, or financial ties.

(g) Excepted from the "gift, gratuity, loan, entertainment, or favor" categories of § 500.735–115(f) are the items detailed in §§ 500.735–104(b)(1) through 500.735–104(b)(4).

(h) Each Special Government Employee shall acquaint himself with each statute that relates to his ethical and other conduct as a Special Government Employee of the Commission and of the Government. The Commission will alert each Special Government Employee to the regulations contained in this Part 500 and such statutes as relate to the ethical and other conduct of Special Government Employees by making available to such Special Government Employees glossed copies of this Part 500.

§ 500.735–116 Statements of outside employment and financial interests; format.

Statements of outside employment and financial interests required of certain employees and Special Government Employees by § 500.735–117 shall contain the information required by the formats prescribed by the Civil Service Commission in the Federal Personnel Manual at the times such statements are due.

§ 500.735–117 Same; employees included.

Statements of outside employment and financial interest shall be filed by all employees of the Commission classified at GS–13 and above, who:

(a) Fill positions designated by the Commission as "Hearing Officers" or any equivalent term under section 18 of the Indian Claims Commission Act of 1946 (25 U.S.C. 70q); or

(b) Fill positions designated by the Civil Service Commission as "Hearing Examiners" under section 3105 of Title 5, United States Code, for determination of Indians' claims in accordance with the procedure set out in section 556 of Title 5, United States Code; or

(c) Issue initial decisions on Indians' claims without prior clearance of such initial decisions by one or more of the Commissioners of this Commission.

§ 500.735–118 Same; contested inclusion.

If any employee required to file a statement of outside employment and financial interest under § 500.735–117 complains or contends that his inclusion is improper, resolution of that complaint or contention shall be accomplished by review through the Commission's grievance procedure.

§ 500.735–119 Same; original and supplementary statements; when required.

An employee required to file a statement of outside employment and financial interest under § 500.735–117 shall submit that statement to the Chairman of the Commission not later than:

(a) Ninety days after the effective date of this Part 500 if employed on or before that effective date; or

(b) Thirty days after his entrance on duty, but not earlier than 90 days after the effective date, if appointed after that effective date.

(c) Annual supplementary statements, due on June 30 of each year, shall report:

(1) Changes in or additions to the information contained in an employee's statement of outside employment or financial interest; or

(2) That no changes or additions have occurred.

Notwithstanding the filing of the annual report required by this section, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflicts-of-interest provisions of section 208 of Title 18, United States Code, or of §§ 500.735–103 through 500.735–111 and § 500.735–113.

§ 500.735–120 Same; relatives' interests and information known to others.

If an employee is required to file a statement of outside employment and financial interest under §§ 500.735–116 and 500.735–117:

(a) The interest of a spouse, minor child, or other member of an employee's immediate household is considered to be an interest of the employee. For the purpose of this subsection, "member of an employee's immediate household" means those blood relations who are residents of the employee's household.

(b) If any information required to be included on a statement of outside employment and financial interests or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information in his behalf.

§ 500.735–121 Same; information prohibited.

An employee required to file a statement or annual supplement of outside employment and financial interest under §§ 500.735–116 and 500.735–117 shall not be required to include therein any information relating to the employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise. For the purpose of this subsection, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement of outside employment and financial interests.

§ 500.735–122 Same; confidentiality of statements.

The Commission will hold each statement of outside employment and financial interest, and supplementary statements, in confidence. To that end, only the Chairman of the Commission, to whom such statements are to be submitted, and the remaining Commissioners if there is a possibility of disciplinary action under § 500.735–114, shall be permitted to examine such statements. The Chairman shall maintain exclusive custody of the statements and supplements in confidence and shall not allow access to, or allow information to be disclosed from, a statement or supplement except to carry out the purpose of this Part 500. The Commission shall not disclose information from a statement or supplement except as the Chairman or the Civil Service Commission may determine for good cause shown.

§ 500.735–123 Same; effect on other requirements.

The statements of outside employment and financial interest and supplementary statements required to certain employees are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a statement or supplementary statement by an employee does not permit him or any other person to participate in a matter in which his or the other person's participation is prohibited by law, order, or regulation.

§ 500.735–124 Statements of outside employment and financial interests; special government employees.

(a) Each Special Government Employee shall submit a statement which reports:

(1) All other concurrent employment; and

(2) Such categories of financial interests as the Chairman may determine are relevant in the light of the duties such Special Government Employee is to perform.

(b) The Chairman may waive the requirement in paragraph (a)(2) of this section if:

(1) The Special Government Employee is not a consultant or an expert; and

(2) The Commission finds that the duties of the position held by that Special Government Employee are of a nature and at such a level of responsibility that the submission of the statement by the incumbent is not necessary to protect the integrity of the Government.

(c) For the purpose of this § 500.735–124, "consultant" and "expert" have the meanings given those terms by Chapter 304 of the Federal Personnel Manual, but do not include:

(1) A physician, dentist, or allied medical specialist whose services are procured to provide care and service to patients; or

(2) A veterinarian whose services are procured to provide care and service to animals.

(d) A statement of employment and financial interests required to be submitted under this section shall be submitted not later than the time of employment of the Special Government Employee as provided in the Commission's regulations. Each Special Government Employee shall keep his statement current throughout his employment with the Commission by the submission of supplementary statements as changes, additions, or deletions become necessary.

§ 500.735–125 Statements of outside employment and financial interest; review.

(a) The required initial and supplementary statements of outside employment and financial interest shall be reviewed by the recipient designated by § 500.735–119. Review by that designee will be made at his convenience to determine whether there is any apparent conflict of interest on the part of the reporting employee or Special Government Employee.

(b) The recipient designated by § 500.735–119 will also initially review any information from sources other than an initial or supplementary report tending to suggest a conflict of interest.

(c) In the event that the designee concludes that no conflict of interest exists, the employee shall be so notified and the subject closed.

(d) In the event that the designee concludes that a conflict of interest may exist, he shall confer with the employee concerned. If an accord is reached, the Commission need take no further action. If no accord is reached, the Commission in the form of a majority of the Commissioners will determine what disciplinary or remedial action, if any, may be warranted and will execute the same.

(e) At every stage of review, the affected employee or Special Government Employee will be afforded the opportunity to explain the conflict or appearance of conflict.

These amendments were approved by the Civil Service Commission on December 19, 1967, and are effective on publication in the FEDERAL REGISTER.

J. WARREN MILLS III,
Staff Counselor.

[F.R. Doc. 67–15059; Filed, Dec. 27, 1967; 8:49 a.m.]

Title 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 70—EXAMINATION AND COPYING OF LABOR DEPARTMENT DOCUMENTS

Procedure for Disclosure

Pursuant to authority in 5 U.S.C. 301, 552, 559 and in Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004) Part 70 of Title 29 of the Code of Federal Regulations is amended by revising § 70.4(a) to read as set out below.

As the change made by this document relates solely to a rule of agency procedure or practice, and is not substantive, neither notice of proposed rule making, public participation therein, nor delay in effective date is required by 5 U.S.C. 553. I do not believe such participation or such delay would serve a useful purpose here. This amendment shall, therefore, be effective immediately.

In § 70.4, paragraph (a) is revised to read as follows:

§ 70.4 Procedure for disclosure.

(a) *Request.* Any person who desires to exercise the right to inspect or copy any document as provided in § 70.2(a) shall make a written request to the administration, bureau, or office of the Department of Labor which has custody of the document he desires to inspect or copy. The request shall be directed to the chief of the administration, bureau, or office unless the document is in the custody of one of its field offices. If the document is in the custody of a field office, the request shall be directed to the chief of the regional office (or, if there are no regional offices, the chief of the highest field office) which has custody of the document or supervisory authority over the field office which has such custody. The administrations, bureaus, and offices referred to are: Office of the Secretary of Labor; Office of the Solicitor; Office of Information, Publications and Reports; Office of Federal Contract Compliance (EEO); Office of the Plans for Progress; Labor-Management Services Administration; Manpower Administration; Wage and Labor Standards Administration; Wage and Hour and Public Contracts Divisions; Bureau of International Labor Affairs; Bureau of Labor Statistics. For this purpose only, the Chief of the Office of the Secretary shall be considered to be the Assistant Secretary for Administration, and the Chief of the Office of the Solicitor shall be considered to be the Deputy Solicitor. The organization of the Department of Labor, its principal officers, and addresses of its regional and other field offices are found in the "U.S. Government Organization Manual," published annually by the Office of the Federal Register, and available for purchase from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. The request shall identify the document with the symbols provided for it in the index referred to in § 70.5, unless the request is by mail or the document is not referred to in such index, in which case the request shall identify the document as fully as is possible by reference to subject matter, date, author, addressee, and otherwise so as to permit its convenient selection from among the many documents likely also to be in the possession and custody of the officer to whom the request is directed.

* * * * *

(5 U.S.C. 301, 552, 559. Reorganization Plan No. 6 of 1950, 3 CFR 1949–53 Comp. 1004)

Signed at Washington, D.C., this 21st day of December 1967.

W. WILLARD WIRTZ,
Secretary of Labor.

[F.R. Doc. 67–15003; Filed, Dec. 27, 1967; 8:45 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 0—COMMISSION ORGANIZATION

PART 1—PRACTICE AND PROCEDURE

Miscellaneous Amendments

Order. 1. The amendments to Parts 0 and 1 set forth below are editorial in nature:

Changes in §§ 0.93, 0.121, 0.184, 0.401, and 1.912 reflect changes in the addresses of Commission offices.

Changes in §§ 0.114, 0.311, and 1.61 reflect a change in the name of the Federal Aviation Agency to Federal Aviation Administration.

The note preceding Subpart A of Part 1 has been relocated following § 1.61.

The change in § 0.211 reflects the Commission's public information rules (32 F.R. 10568, July 19, 1967), by which the Executive Director rather than the Chairman was authorized to act on requests or demands for the inspection of records. See §§ 0.461 and 0.463.

Changes in §§ 0.261, 0.289, 0.314, 0.315, 0.385, 1.202, 1.526, and 1.570 correct erroneous or confusing cross-references.

Changes in §§ 0.422 and 1.412 reflect a change in the name of the Office of Reports and Information to Office of Information.

The change in the note to § 1.573 reflects the Fourth Report and Order (FCC 64–919) in Docket No. 14185, which disposed of certain matters to which the note relates.

2. Authority for the attached amendments is contained in sections 4(i), 5(d), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 155(d), and 303(r). Because the amendments relate to internal Commission organization and procedure and because they are editorial in nature, the prior notice and effective date provisions of section 4 of the Administrative Procedure Act, 5 U.S.C. 553, do not apply.

In view of the foregoing: *It is ordered*, Effective December 29, 1967, that Parts 0 and 1 of the rules and regulations are amended as set forth below.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303).

Adopted: December 20, 1967.

Released: December 21, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

Parts 0 and 1 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

1. Section 0.93 is revised to read as follows:

§ 0.93 Field offices.

Common Carrier Bureau field offices are located at 90 Church Street, New York, N.Y. 10007; and Room 1016, 208 North Broadway, St. Louis, Mo. 63102.

§ 0.114 [Amended]

2. In § 0.114 the term "Federal Aviation Agency" is redesignated "Federal Aviation Administration."

3. In § 0.121, the first two columns in the table in paragraph (a), and paragraphs (b), (c), (d), and (e), are revised to read as follows:

§ 0.121 Location of field offices and monitoring stations.

(a) * * *

Radio district	Address of engineer in charge	* * *
1	1600 Customhouse, Boston, Mass. 02109.	* * *
2	748 Federal Bldg., 641 Washington St., New York, N.Y. 10014.	* * *
3	1005 New U.S. Customhouse, Philadelphia, Pa. 19106.	* * *
4	Room 415, U.S. Customhouse, Gay and Water Sts., Baltimore, Md. 21202.	* * *
5	Room 406, Federal Bldg., Norfolk, Va. 23510.	* * *
6	2010 Atlanta Merchandise Mart, 240 Peachtree St., Atlanta, Ga. 30303.	* * *
	Suboffice: Post Office Box 77, Room 238, Post Office Bldg., Savannah, Ga. 31402.	
7	Room 919, 51 Southwest First Ave., Miami, Fla. 33130.	* * *
8	829 Federal Office Bldg., 600 South St., New Orleans, La. 70130.	* * *
	Suboffice: 430 U.S. Courthouse and Customhouse, Mobile, Ala. 36602.	
9	New Federal Office Bldg., 515 Rusk Ave., Room 5636, Houston, Tex. 77002.	* * *
	Suboffice: 200 Federal Bldg., 300 Willow St., Beaumont, Tex. 77701.	
10	1314 Wood St., Room 707, Dallas, Tex. 75202.	* * *
11	849 South Broadway, Los Angeles, Calif. 90014.	* * *
	Suboffice: Fox Theatre Bldg., 1245 Seventh Ave., San Diego, Calif. 92101.	
12	323–A Customhouse, 555 Battery St., San Francisco, Calif. 94111.	* * *
13	441 U.S. Courthouse, 620 Southwest Main St., Portland, Oreg. 97205.	* * *
14	809 Federal Office Bldg., First Ave. and Marion, Seattle, Wash. 98104.	* * *
15	564 New Customhouse, Denver, Colo. 80202.	* * *
16	208 Federal Courts Bldg., Sixth and Market Sts., St. Paul, Minn. 55102.	* * *
17	1703 Federal Bldg., 601 East 12th St., Kansas City, Mo. 64106.	* * *
18	1572 New U.S. Courthouse and Federal Office Bldg., 219 South Dearborn St., Chicago, Ill. 60604.	* * *
19	1029 New Federal Bldg., Detroit, Mich. 48226.	* * *
20	328 Federal Bldg., Buffalo, N.Y. 14203	* * *
21	803 Federal Bldg., Post Office Box 1021, Honolulu, Hawaii 96808.	* * *
22	Post Office Box 2907, 323–325 Federal Bldg., San Juan, P.R. 00903.	* * *
23	Post Office Box 644, Room 53, U.S. Post Office and Courthouse Bldg., Anchorage, Alaska 99502.	* * *
24	Room 214, 1919 M St. NW., Washington, D.C. 20554.	* * *

(b) The Marine Offices are located at the following addresses:

Federal Communications Commission, 738 Federal Office Building, 500 Zack Street, Tampa, Fla. 33602.

Federal Communications Commission, Post Office Box 3009, Terminal Island, 300 South Ferry Street, Room 2525, San Pedro, Calif. 90731.

(c) The Class A monitoring stations are located at the following addresses:

Federal Communications Commission, Allegan Monitoring Station, Post Office Box 89, Allegan, Mich. 49010.

Federal Communications Commission, Anchorage Monitoring Station, Post Office Box 6308 Annex, Anchorage, Alaska 99502.

Federal Communications Commission, Canandiagqua Monitoring Station, Post Office Box 374, Canandaigua, N.Y. 14424.

Federal Communications Commission, Fort Lauderdale Monitoring Station, Post Office 22826, Fort Lauderdale, Fla. 33315.

Federal Communications Commission, Grand Island Monitoring Station, Post Office Box 788, Grand Island, Nebr. 68801.

Federal Communications Commission, Kingsville Monitoring Station, Post Office Box 633, Kingsville, Tex. 78363.

Federal Communications Commission, Laurel Monitoring Station, Post Office Box 40, Laurel, Md. 20810.

Federal Communications Commission, Livermore Monitoring Station, Post Office Box 311, Livermore, Calif. 94551.

Federal Communications Commission, Powder Springs Monitoring Station, Post Office Box 85, Powder Springs, Ga. 30073.

Federal Communications Commission, Santa Ana Monitoring Station, Post Office Box 8136, Santa Ana, Calif. 92704.

Federal Communications Commission, Waipahu Monitoring Station, Post Office Box 1035, Waipahu, Hawaii 96797.

(d) The Class B monitoring stations are located at the following addresses:

Federal Communications Commission, Ambrose Monitoring Station, Post Office Box 1126, Denison, Tex. 75020.

Federal Communications Commission, Chillicothe Monitoring Station, Post Office Box 261, Chillicothe, Ohio 45601.

Federal Communications Commission, Douglas Monitoring Station, Post Office Box 6, Douglas, Ariz. 85607.

Federal Communications Commission, Spokane Monitoring Station, Post Office Box 191, Spokane, Wash. 99210.

(e) The Class C monitoring stations are located at the following addresses:

Federal Communications Commission, Marietta Monitoring Station, Post Office Box 330, Bellingham, Wash. 98225.

Federal Communications Commission, Wahiawa Monitoring Station, Post Office Box 529, Wahiawa, Hawaii 96786.

Federal Communications Commission, Winter Harbor Monitoring Station, Post Office Box 64, Prospect Harbor, Maine 04669.

Federal Communications Commission, Imperial Beach Monitoring Station, Post Office Box 1087, Imperial Beach, Calif. 92032.

Federal Communications Commission, Post Office Box 191, Sabana Seca, P.R. 00749.

* * * * *

4. In § 0.184, the headnote is revised, and paragraph (c) is amended in part to correct addresses of the Regional Liaison Officers for OCD/OEP Regions 3, 5, 6, and 7, to read as follows:

§ 0.184 Regional Liaison Officers of the Office of Executive Director, Emergency Communications Division.

* * * * *

(c) * * *

OCD/OEP Region	Address of the FCC Regional Liaison Officer	* * *
* * *	* * *	* * *
3	OCD Region Three, Thomasville, Ga. 31792.	* * *
* * *	* * *	* * *
5	OCD Region Five, Denton Federal Center, Denton, Tex. 76201.	* * *
6	OCD Region Six, Denver Federal Center, Bldg. 50, Denver, Colo. 80225.	* * *
7	OCD Region Seven, Post Office Box 1200, Santa Rosa, Calif. 95402.	* * *
* * *	* * *	* * *

* * * * *

§ 0.211 [Amended]

5. In § 0.211, paragraph (c) is deleted.

§ 0.261 [Amended]

6. In § 0.261(b), the reference to "§ 0.445" is deleted and a reference to "§ 0.485" is added in lieu thereof.

7. Section 0.289(b) is revised to read as follows:

§ 0.289 Authority delegated.

* * * * *

(b) All minutes of actions taken by the Chief of the CATV Task Force pursuant to the authority delegated in this section shall be maintained for public inspection by the CATV Task Force. The authorizations issued by the Task Force in accordance with its assigned functions and delegations of authority shall bear the seal of the Commission and the signature of the Secretary.

* * * * *

8. Section 0.311(a)(9) is revised to read as follows:

§ 0.311 Authority delegated to the Chief and to the Deputy Chief of the Field Engineering Bureau.

(a) * * *

(9) To act on requests by holders of a pilot certificate issued by the Civil Aeronautics Administration, the Federal Aviation Agency or the Federal Aviation Administration for a waiver of the U.S. citizenship requirement under section 303(l) of the Communications Act of 1934, as amended.

* * * * *

9. Section 0.314(e) is revised to read as follows:

§ 0.314 Authority delegated to the Engineers in Charge.

* * * * *

(e) For periodic survey as required by section 385 of the Communications Act of 1934, as amended, and issuance of Communications Act radiotelephony certificates in accordance with § 83.512 of this chapter.

* * * * *

10. Section 0.315(b) is revised to read as follows:

§ 0.315 Authority delegated to Engineers in Charge who serve as FCC representatives to Office of Civil Defense (OCD) Regional Civil Defense Coordinating Boards and Regional Preparedness Committees of the Office of Emergency Planning (OEP).

* * * * *

(b) Engineers in Charge of Field Engineering Bureau district offices at Boston, Mass.; Baltimore, Md.; Atlanta, Ga.; Detroit, Mich.; Dallas, Tex.; Denver, Colo.; San Francisco, Calif.; and Seattle, Wash., are designated as the alternate FCC representatives to the Regional Civil Defense Coordinating Boards. (FCC Regional Liaison Officers of the Emergency Communications Division are designated as the principal representatives to the Regional Civil Defense Coordinating Boards.)

* * * * *

11. Section 0.385(a) is revised to read as follows:

§ 0.385 FCC representatives assigned to Regional Preparedness Committees of the Office of Emergency Planning during a wartime emergency period.

* * * * *

(a) *When communication is available to higher authority within the FCC.* When instructions can be obtained from higher authority within the FCC, the authority of FCC representatives assigned to Regional Preparedness Committees shall comprise that delegated to the Engineers in Charge in nonemergency periods under § 0.314. Action under this delegation must be consistent with any defense rules that supersede rules for normal conditions, wartime plans and emergency orders that may be adopted by the Commission, emergency legislation, Executive orders, and any pertinent actions of other Government agencies taken pursuant to authority delegated to them under section 606 of the Communications Act of 1934, as amended.

* * * * *

12. Section 0.401(a) is revised to read as follows:

§ 0.401 Location of Commission offices.

(a) The main offices of the Commission are located at 1919 M Street NW., Washington, D.C.

(1) Documents submitted by mail to those offices should be addressed to:

Federal Communications Commission, Washington, D.C. 20554.

(2) Hand-carried applications accompanied by a filing fee should be delivered to:

Mail and Files Division, Office of Executive Director, 1919 M Street NW., Washington, D.C.

(3) Other hand-carried documents should be delivered to:

Office of the Secretary, 1919 M Street NW., Washington, D.C.

* * * * *

§ 0.422 [Amended]

13. In § 0.422, the staff unit, "Office of Reports and Information," is redesignated "Office of Information."

§ 1.61 [Amended]

14. The note preceding Subpart A of Part 1 is deleted from its present position and added at the end of § 1.61; and, in § 1.61 (c), (e), and (f) the term "Federal Aviation Agency" is redesignated "Federal Aviation Administration."

15. Section 1.202 is revised to read as follows:

§ 1.202 Official reporter; transcript.

The Commission will designate from time to time an official reporter for the recording and transcribing of hearing proceedings. The transcript of the testimony taken, or argument had, at any hearing will not be furnished by the Commission, but will be open to inspection under § 0.453(a)(1) of this chapter. Copies of such transcript, if desired, may be obtained from the official reporter upon payment of the charges therefor.

§ 1.412 [Amended]

16. In § 1.412(a)(1), the staff unit, "Office of Reports and Information," is redesignated "Office of Information."

§ 1.526 [Amended]

17. In subparagraphs (1), (2), and (3) of § 1.526(a), the references to "§ 0.417" are deleted and references to "§§ 0.451–0.461" are added in lieu thereof.

18. In the notes following § 1.570 (b)(3), Note 2 is revised to read as follows:

§ 1.570 Standard broadcast applications involving other North American countries.

* * * * *

(b) * * *

NOTE 2: For the purpose of this section, an application is not regarded as inconsistent with the provisions of NARBA if it is for Class IV facilities operating with more than 250 watts but no more than 1 kw power, to be located in those portions of the United States where such facilities are not precluded under note 1 to § 73.21(c) of this chapter, and where such facilities would not cause objectionable interference (under the standards set forth in NARBA) to a duly notified station in any other NARBA signatory country or in Haiti.

* * * * *

19. The note following § 1.573 is revised to read as follows:

§ 1.573 Processing of FM and noncommercial educational FM broadcast applications.

* * * * *

NOTE: During further consideration of the matters and issues in Docket No. 14185 (pertaining to the revision of the FM broadcast rules), applications for noncommercial educational FM broadcast authorizations will be subject to the following procedures, notwithstanding any provision of the FM Broadcast rules or of this section to the contrary:

(a) *Noncommercial educational stations.* With respect to grant and (after Aug. 8, 1962) acceptance of applications for construction permits for new or changed facilities on the channels reserved in § 73.501 of this chapter for educational use, the following restrictions will apply:

(1) Applications for facilities on channels 218, 219, and 220 must meet the following criteria:

(i) The facilities requested must not exceed the maximum facilities specified in § 73.211 of this chapter (as amended July 25, 1963, effective Sept. 11, 1963) for Class B or Class C commercial stations, depending on the zone in which the requested facilities would be located.

(ii) The requested facilities must be located, with respect to any assignment on FM Channels 221, 222, and 223 specified in the table of assignments in § 73.202 of this chapter at no less than the minimum mileage separations specified for stations of their class in §§ 73.207 and 73.504 of this chapter.

(iii) Where the application is for change in transmitter site, the move must not shorten the separation between the station and other cochannel and adjacent-channel stations, if the result would be a spacing less than that specified in § 73.207 of this chapter (as amended July 25, 1963, effective Sept. 11, 1963).

(2) No application for facilities on any channel specified in § 73.501 of this chapter will be granted or accepted if the facilities requested would cause objectionable interference within the 1 mv/m contour of any cochannel or adjacent-channel station, or receive interference within the proposed 1 mv/m contour. The following standards shall be used to determine the existence of objectionable interference:

(i) The distance to the 1 mv/m contour shall be determined by use of Figure 1 of § 73.333 of this chapter (as amended July 25, 1963, effective Sept. 10, 1963).

(ii) The distance to the applicable interference contour shall be determined by the F(50, 10) curve published with the Commission's Order, FCC 61–1447, adopted December 6, 1961, setting forth the interim procedure for processing FM applications.

(iii) Objectionable interference will be considered to exist where, on the basis of the curves referred to in this subparagraph, the undesired signal of a cochannel signal exceeds one-half of the desired signal, the undesired signal of a station 20 kc/s removed exceeds one-half of the desired signal, the undesired signal of a station 400 kc/s removed exceeds 10 times the desired signal, or the undesired signal of a station 600 kc/s removed exceeds 100 times the desired signal.

(3) Directional antennas: No application for construction permit for a new station, change in channel, or change in existing facilities on the same channel will be granted or accepted for filing where it proposes a directional antenna with a maximum-to-minimum ratio of more than 15 db.

(b) *Maximum and minimum facilities for stations on noncommercial channels.* No provisions of these rules as to minimum facilities shall apply to noncommercial educational stations operating on the channels specified in § 73.501 of this chapter, or to grant or acceptance of applications by any existing station for increase in facilities on its present channel; and no provisions as to maximum facilities shall apply to noncommercial educational stations on Channels 201 to 217, inclusive, set forth in § 73.501 of this chapter.

20. In § 1.912 paragraph (c) is revised to read as follows:

§ 1.912 Where applications are to be filed.

* * * * *

(c) All other applications shall be filed with the Commission's offices in Washington as follows:

(1) Applications submitted by mail shall be addressed to:

Federal Communications Commission, Washington, D.C. 20554.

(2) Hand-carried applications accompanied by fees shall be delivered to:

Mail and Files Division, Office of Executive Director, 1919 M Street NW., Washington, D.C.

(3) Hand-carried applications not accompanied by fees shall be delivered to:

Office of the Secretary, 1919 M Street NW., Washington, D.C.

[F.R. Doc. 67–15019; Filed, Dec. 27, 1967; 8:45 a.m.]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 948, Amdt. 8]

PART 1033—CAR SERVICE

Chicago, Rock Island and Pacific Railroad Co. Authorized To Operate Over Trackage of Union Pacific Railroad

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 20th day of December 1967.

Upon further consideration of Service Order No. 948 (29 F.R. 564, 5757, 18426; 30 F.R. 8269, 16005; 31 F.R. 8872, 16151; 32 F.R. 9230), and good cause appearing therefor:

It is ordered, That:

Section 1033.948 *Service Order No. 948* (The Chicago, Rock Island and Pacific Railroad Co. authorized to operate over trackage of Union Pacific Railroad, be, and it is hereby amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) Expiration date: This order shall expire at 11:59 p.m., June 30, 1968, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1967.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1 (10–17), 15(4), and 17(2), 40 Stat. 101, as amended 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That copies of this order and direction shall be served upon the State Corporation Commission of Kansas and upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67–15036; Filed, Dec. 27, 1967; 8:48 a.m.]

[S.O. 950, Amdt. 7]

PART 1033—CAR SERVICE

Chicago, Burlington & Quincy Railroad Co. Authorized To Operate Over Trackage of Union Pacific Railroad

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 20th day of December 1967.

Upon further consideration of Service Order No. 950 (29 F.R. 565, 5757, 18427; 30 F.R. 8163, 16006; 31 F.R. 16152; 32 F.R. 3231), and good cause appearing therefor:

It is ordered, That:

Section 1033.950 *Service Order No. 950* (Chicago, Burlington & Quincy Railroad authorized to operate over trackage of Union Pacific Railroad), be, and it is hereby amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) Expiration date: This order shall expire at 11:59 p.m., March 31, 1968, unless otherwise modified, changed, or suspended by the order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1967.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That copies of this order and direction shall be served upon the State Corporation Commission of Kansas and upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-15037; Filed, Dec. 27, 1967; 8:48 a.m.]

[S.O. 992, Amdt. 1]

PART 1033—CAR SERVICE

Union Pacific Railroad Co. Authorized To Operate Over Trackage of Great Northern Railway Co.

At a session of the Interstate Commerce Commisdon, Railroad Service Board, held in Washington, D.C., on the 20th day of December 1967.

Upon further consideration of Service Order No. 992 (32 F.R. 8037) and good cause appearing therefor:

It is ordered, That:

Section 1033.992 *Service Order No. 992* (Union Pacific Railroad Company authorized to operate over trackage of Great Northern Railway Co.), be, and it is hereby amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) Expiration date: This order shall expire at 11:59 p.m., March 31, 1968, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1967.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That copies of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-15035; Filed, Dec. 27, 1967; 8:47 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Bombay Hook National Wildlife Refuge, Del.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 28.28 Special regulations; recreation; for the individual wildlife refuge areas.

DELAWARE

BOMBAY HOOK NATIONAL WILDLIFE REFUGE

Travel by motor vehicle, bicycle, or on foot is permitted on designated routes unless prohibited by posting, for the purpose of nature study, photography, hiking, and sightseeing, during daylight hours. Pets are permitted if on a leash not over 10 feet in length. Outdoor lunches are permitted in designated areas where lunch facilities are provided. Under special regulations, fishing is permitted in tidal waters from boats only. Public hunting under special regulations may be permitted on parts of the refuge.

The refuge area, comprising 16,280 acres, is delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office and Courthouse, Boston, Mass. 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1968.

RICHARD E. GRIFFITH,
Regional Director, Bureau of Sport Fisheries & Wildlife.

DECEMBER 18, 1967.

[F.R. Doc. 67-15005; Filed, Dec. 27, 1967; 8:45 a.m.]

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Great Swamp National Wildlife Refuge, N.J.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 28.28 Special regulations: recreation; for the individual wildlife refuge areas.

NEW JERSEY

GREAT SWAMP NATIONAL WILDLIFE REFUGE

Travel by motor vehicle or on foot is permitted on designated routes unless prohibited by posting, for the purpose of nature study, photography, hiking, and sightseeing, during daylight hours. Pets are allowed if on a leash not over 10 feet in length.

The refuge area, comprising 4,008 acres, is delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office and Courthouse, Boston, Mass. 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1968.

RICHARD E. GRIFFITH,
Regional Director, Bureau of Sport Fisheries and Wildlife.

DECEMBER 18, 1967.

[F.R. Doc. 67-15004; Filed, Dec. 27, 1967; 8:45 a.m.]

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Iroquois National Wildlife Refuge, N.Y.

The following special regulation is issued and is effective on the date of publication in the FEDERAL REGISTER.

§ 28.28 Special regulations: recreation; for the individual wildlife refuge areas.

NEW YORK

IROQUOIS NATIONAL WILDLIFE REFUGE

Travel by motor vehicle or on foot is permitted on designated travel routes, for the purpose of nature study, photography, hiking, and sightseeing, during daylight hours. Pets are permitted if on a leash not over 10 feet in length. Fishing and hunting may be permitted on parts of the refuge under special regulations.

The refuge area, comprising 10,783 acres, is delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office and Courthouse, Boston, Mass. 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1968.

RICHARD E. GRIFFITH,
Regional Director, Bureau of Sport Fisheries and Wildlife.

DECEMBER 18, 1967.

[F.R. Doc. 67-15006; Filed, Dec. 27, 1967; 8:45 a.m.]

PART 33—SPORT FISHING

Iroquois National Wildlife Refuge, N.Y.

The following special regulation is issued and is effective on the date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulation: sport fishing, for individual wildlife refuge areas.

NEW YORK

IROQUOIS NATIONAL WILDLIFE REFUGE

Sport fishing on the Iroquois National Wildlife Refuge, Basom, N.Y., is permitted on the areas designated by signs as open to fishing. These open areas, comprising 26 acres, are delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions.

(1) The use of boats with motors is not permitted.

(2) The use of boats after October 15th is not permitted.

The provisions of this special regulation supplement the regulations governing fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1968.

RICHARD E. GRIFFITH,
Regional Director, Bureau of Sport Fisheries and Wildlife.

DECEMBER 18, 1967.

[F.R. Doc. 67-15007; Filed, Dec. 27, 1967; 8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 51]

FLORIDA ORANGES, TANGELOS, GRAPEFRUIT, AND TANGERINES

Standards for Grades [2]

Notice is hereby given that the U.S. Department of Agriculture is considering the amendment of U.S. Standards for Grades of Florida Oranges and Tangelos (7 CFR 51.1140–51.1179) pursuant to the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621–1627).

Notice is hereby given that the U.S. Department of Agriculture is considering the amendment of U.S. Standards for Grades of Florida Grapefruit (7 CFR 51.750–51.783) pursuant to the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621–1627).

Notice is hereby given that the U.S. Department of Agriculture is considering the amendment of U.S. Standards for Grades of Florida Tangerines (7 CFR 51.1810–51.1834) pursuant to the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621–1627).

All persons who desire to submit written data, views, or arguments for consideration in connection with these proposals should file the same in duplicate, not later than January 30, 1968, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, where they will be available for public inspection during official hours of business (paragraph (b) of § 1.27, as amended at 29 F.R. 7311).

Statement of considerations leading to the proposed amendment of these grade standards. For many years the destination tolerance for decay in the U.S. Grade Standards for Florida Oranges and Tangelos, Grapefruit, and Tangerines has been 3 percent and this tolerance has been accepted over the years by the trade. The Standards published in the FEDERAL REGISTER on September 27, 1967, and which became effective October 15, 1967, failed to adequately reflect this decay tolerance. The statistical approach system is recognized as being better than one which provides for a constant tolerance. It has been established that not holding to a constant percent is more equitable to both seller and buyer.

In converting the percent tolerance to acceptance numbers based on statistical sampling, it was not possible to hold to a constant percent, such as 3 percent. However, this proposal would change the acceptance numbers for decay in Table II, "En Route or at Destination," to more nearly reflect the long established 3 percent destination tolerance than does the current standard.

As proposed to be amended, § 51.1152 *Table II*, in the U.S. Standards for Grades of Florida Oranges and Tangelos, the acceptance numbers for decay are as follows:

TABLE II—EN ROUTE OR AT DESTINATION

Factor	Grades	AL [1]	Number of 50-count samples [2]																		
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
			Acceptance numbers [3] (maximum permitted)																			
Decay	All	4	3	4	6	7	9	10	11	13	14	15	16	18	19	20	21	23	24	25	26	27

As proposed to be amended, § 51.761 *Table II*, in the U.S. Standards for Grades of Florida Grapefruit, the acceptance numbers for decay are as follows:

TABLE II—EN ROUTE OR AT DESTINATION

Factor	Grades	AL [1]	Number of 25-count samples [2]																		
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
			Acceptance numbers [3] (maximum permitted)																			
Decay	All	3	2	3	4	5	6	7	8	9	10	11	12	13	[4]13	14	15	16	17	18	[4]13	19

As proposed to be amended, § 51.1818 *Table II*, in the U.S. Standards for Grades of Florida Tangerines, the acceptance numbers for decay are as follows:

TABLE II—EN ROUTE OR AT DESTINATION

Factor	Grades	AL [1]	Number of 50-count samples [2]																		
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
			Acceptance numbers [3] (maximum permitted)																			
Decay	All	4	3	4	6	7	9	10	11	13	14	15	16	18	19	20	21	23	24	25	26	27

(Secs. 203, 205, 60 Stat. 1087, as amended; 1090 as amended; 7 U.S.C. 1622, 1624)

Dated: December 21, 1967.

G. R. GRANGE,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 67-15000; Filed, Dec. 27, 1967; 8:45 a.m.]

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[23 CFR Part 255]

FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Notice of Proposed Rule Making

The Federal Highway Administration is considering amending § 255.21 of Part 255, Federal Motor Vehicle Safety Standards, by adding new standards and by amending certain of the Initial Federal Motor Vehicle Safety Standards issued January 31, 1967.

The new standards under consideration are:

Head Restraints—Passenger Cars.
Headlamp Concealment Devices—Passenger Cars, Multipurpose Passenger Vehicles, Trucks, Buses, and Motorcycles.
Hood Latch Systems—Passenger Cars, Multipurpose Passenger Vehicles, Trucks, and Buses.
Theft Protection—Passenger Cars.
Vehicle Identification Number—Passenger Cars.
Impact Protection for Occupants from Interior Compartment Doors—Passenger Cars.
Exterior Protrusions—Passenger Cars, Multipurpose Passenger Vehicles, Trucks, Buses, Trailers, and Motorcycles.
Windshield Mounting—Passenger Cars.

The amendments under consideration would amend Standard No. 103, "Windshield Defrosting and Defogging—Passenger Cars and Multipurpose Passenger Vehicles;" Standard No. 104, "Windshield Wiping and Washing Systems—Passenger Cars;" and Standard No. 206, "Door Latches and Door Hinge Systems—Passenger Cars." The proposal to amend Standard No. 103 supersedes the notice of proposed rule making published in the FEDERAL REGISTER February 3, 1967 (32 F.R. 2418) (Docket No. 9; Notice No. 67-3).

In drafting these proposed standards and amendments, the Administration considered the comments received in response to the advance notices of proposed rule making published in the FEDERAL REGISTER on February 3, 1967 (32 F.R. 2417), and on October 14, 1967 (32 F.R. 14278), and those received in technical conferences held with interested persons on September 7, November 14, December 13, and December 14, 1967, and consulted with the National Motor Vehicle Safety Advisory Council.

Interested persons are invited to participate in the making of the standards and amendments by submitting written data, views, or arguments. Comments should contain supporting statements and data to justify all conclusions and recommendations. Comments must identify the individual docket number and be submitted in 10 copies to the National Highway Safety Bureau, Attention: Rules Docket, Room 512, Federal Highway Administration, U.S. Department of Transportation, Washington, D.C. 20591. All comments received on or before the close of business January 26, 1968, will be considered by the Administrator before taking action upon the proposed standards and amendments. The proposals contained in this notice may be changed if warranted by comments received. All comments will be available in the Rules Docket for examination by interested persons both before and after the closing date for comments.

In consideration of the foregoing, it is proposed to amend § 255.21 of Part 255, Federal Motor Vehicle Safety Standards, as set forth below.

This notice is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1407) and the delegation of authority of March 31, 1967 (32 F.R. 5606), as amended April 6, 1967 (32 F.R. 6495), July 27, 1967 (32 F.R. 11276), and October 11, 1967 (32 F.R. 14277).

Issued in Washington, D.C., on December 22, 1967.

LOWELL K. BRIDWELL,
Federal Highway Administrator.

1. Add the following new Federal Motor Vehicle Safety Standards:

[Docket No. 6]

HEAD RESTRAINTS—PASSENGER CARS

S1. *Purpose and scope.* This standard specifies requirements for head restraints to reduce the frequency and severity of neck injury in rear end collisions.

S2. *Application.* This standard applies to passenger cars.

S3. *Definition.* "Head restraint" means a device that limits rearward angular displacement of the occupant's head relative to his torso line.

S4. *Requirements.*

S4.1 A head restraint shall be installed at each outboard front designated seating position that either—

(a) When tested in accordance with S5.1, during a forward acceleration of at least 8g on the seat supporting structure, limits rearward angular displacement of the head to 45° from the torso line; or

(b) When adjusted to its fully extended design position, conforms to each of the following:

(1) The top of the head restraint shall not be less than 27.5 inches above the seating reference point measured parallel to the torso line.

(2) The lateral width of the head restraint shall, 25 inches above the seating reference point measured parallel to the torso line, be not less than—

(i) 10 inches for use with bench-type seats; and

(ii) 6.75 inches for use with individual-type seats.

(3) When tested in accordance with S5.2, the rearmost portion of the head form shall not be displaced to more than 4 inches rearward of the torso line (measured perpendicular to the torso line) during the application of the load required by S5.2(b).

(4) When tested in accordance with S5.2, the head restraint shall not fail to withstand an increasing load until one of the following occurs—

(i) Failure of the seat or seat back; or

(ii) Application of a load of 300 pounds.

S5. *Demonstration procedures.*

S5.1 Compliance with S4.1(a) shall be demonstrated in accordance with the following:

(a) Establish reference lines on the head and torso of a test device having the weight and "H" point to top-of-head dimension of a 95th percentile adult male, and an approved representation of human, articulated neck structure.

(b) At each designated seating position having a head restraint, place the test device, snugly restrained by a Type 1 seat belt, with the head restraint adjusted to its fully extended position.

(c) During a forward peak acceleration of at least 8g on the seat supporting structure, measure the maximum rearward angular displacement between the torso reference line (extended) and the head reference line.

S5.2 Compliance with S4.1(b) shall be demonstrated in accordance with the following:

(a) Install the head restraint in the fully extended design position.

(b) Using a 6.5-inch diameter head form, apply a rearward initial load of 132 pounds to the head restraint perpendicular to the torso line at a point 25 inches above the seating reference point (measured parallel to the torso line).

(c) Gradually increase this initial load to 300 pounds or until the seat or seat back fails, whichever occurs first.

Anticipated effective date: January 1, 1969.

[Docket No. 1-16]

HEADLAMP CONCEALMENT DEVICES—PASSENGER CARS, MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, BUSES, AND MOTORCYCLES

S1. *Purpose and scope.* This standard specifies requirements for headlamp concealment devices to ensure that these devices, if installed, provide fail-safe operation.

S2. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, buses, and motorcycles.

S3. *Definitions.*

"Headlamp concealment device" means a device with its operating system and components that provides concealment of the headlamps when they are not in use, including movable headlamp covers and headlamps that displace for concealment purposes.

"Power" means any power source utilized to operate the headlamp concealment device.

"Fully opened" means the position of the headlamp concealment device that provides a completely exposed headlamp without affecting the aim or light emission of the headlamp.

S4. *Requirements.*

S4.1 Each headlamp concealment device in the fully opened position shall, during vehicle operation, remain in the

fully opened position should any of the following occur:

(a) Sudden or gradual loss of power to or within the operating mechanism.

(b) Disconnection, open-circuiting, or malfunctioning in the wiring, tubing, hoses, solenoids, or other components that control or conduct power for operating the concealment device.

(c) Complete stoppage of or loss of power from the engine of the vehicle.

S4.2 In the event of loss of power, with the headlamp concealment device in the closed position, the device shall open by actuation of a switch or similar mechanism or be capable of being manually placed in the fully opened position and shall remain in this position until manually closed.

S4.3 Normal actuation of the headlamp concealment device and illumination of the headlamps shall be accomplished by means of a single switch or similar mechanism.

S4.4 Each headlamp concealment device shall be designed, constructed, and installed so that no component of the device, other than components of the headlamp assembly, need be removed when mounting, aiming, or adjusting the headlamps.

S4.5 If the headlamps are illuminated during the opening and closing of the headlamp concealment device, the headlamp beams shall not project to the left of or above the position of the beams in the fully opened position.

S4.6 Within an ambient temperature range of minus 20 to plus 120° F., each headlamp concealment device shall open to the fully opened position within 3 seconds after normal actuation of the switch or similar mechanism.

Anticipated effective date: January 1, 1969.

[Docket No. 1–17]

HOOD LATCH SYSTEMS—PASSENGER CARS, MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, AND BUSES

S1. *Purpose and scope.* This standard specifies requirements for hood latch systems to reduce the possibility of an inadvertent hood opening that would impair the driver's normal forward view.

S2. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, and buses.

S3. *Requirements.*

S3.1 A primary hood latch system shall be provided.

S3.2 A secondary hood latch system shall be provided for each front opening hood that, when in any open position, impairs the driver's normal forward view.

Anticipated effective date: January 1, 1969.

[Docket No. 1–21]

THEFT PROTECTION—PASSENGER CARS

S1. *Purpose and scope.* This standard specifies requirements for theft protection to reduce the incidence of unauthorized vehicle use.

S2. *Application.* This standard applies to passenger cars.

S3. *Requirements.* A key locking system shall be provided that, with the key removed, will prevent—

(a) Operation of the vehicle power plant; and

(b) Steering or mobility of the vehicle.

S3.1 There shall not be less than 1,000 key combinations for each manufacturer's key locking system.

S3.2 It shall not be possible to remove the key from the locking system without activating the deterrents required by S3.

S3.3 The deterrent required by S3.(b) shall not be activated when the key of the locking system is turned to the "off" position.

S3.4 A warning shall be provided to the driver that the key has been left in the locking system when the driver's door is opened.

Anticipated effective date: January 1, 1970.

[Docket No. 1–32]

VEHICLE IDENTIFICATION NUMBER—PASSENGER CARS

S1. *Purpose and scope.* This standard specifies requirements for vehicle identification numbers to reduce the incidence and extent of unauthorized vehicle use.

S2. *Application.* This standard applies to passenger cars.

S3. *Definition.* "Vehicle identification number" means that number assigned to a vehicle by the manufacturer for identification purposes.

S4. *Requirements.* The vehicle identification number shall—

(a) Be sunk into or embossed from the permanent structure or body of the vehicle or on a separate plate permanently affixed to the permanent structure or body, but shall not be applied to the vehicle glazing;

(b) Be located inside the vehicle so that it is readable through the vehicle glazing by an observer from a position outside the vehicle adjacent to the left windshield pillar;

(c) Provide permanent legibility;

(d) Not be duplicated by any number assigned to another vehicle of the same manufacturer during any 10-year period; and

(e) Be so affixed that removal, replacement, or alternation of the number will show evidence of tampering.

Anticipated effective date: January 1, 1969.

[Docket No. 2–2]

IMPACT PROTECTION FOR OCCUPANTS FROM INTERIOR COMPARTMENT DOORS—PASSENGER CARS

S1. *Purpose and scope.* This standard specifies requirements for interior compartment door assemblies to minimize the likelihood of injury to occupants during impact.

S2. *Application.* This standard applies to passenger cars.

S3. *Requirements.* Each interior compartment door assembly located in an instrument panel, console assembly, seat back, or side panel adjacent to a designated seating position shall remain closed when unlocked—

(a) During a front end longitudinal barrier collision test at not less than 30 miles per hour conducted in accordance with Society of Automotive Engineers Recommended Practice J850, "Barrier Collision Tests," February 1963, or approved equivalent;

(b) When the latch system is subjected to an inertia load of 30g in any horizontal or vertical direction in accordance with section 5 of SAE Recommended Practice J839b, "Passenger Car Side Door Latch Systems," May 1965, or an approved equivalent; and

(c) When tested in accordance with S3.1, or S3.2, as applicable, of Motor Vehicle Safety Standard No. 201 "Occupant Protection in Interior Impact," except compartment door assemblies located in a console assembly or side panel need not meet the requirements contained in this subparagraph (c).

Anticipated effective date: January 1, 1970.

[Docket No. 2–5]

EXTERIOR PROTRUSIONS—PASSENGER CARS, MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, BUSES, TRAILERS, AND MOTORCYCLES

S1. *Purpose and scope.* This standard specifies requirements to limit ornamental exterior protrusions, decreasing the risk of personal injury to pedestrians and cyclists in the event of impact.

S2. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, buses, trailers, and motorcycles.

S3. *Requirements.* No protrusion serving only a decorative or identification purpose may be mounted on any hood, fender, door, tail gate, rear quarter panel, or rear deck panel at a height above the ground of less than 75 inches, unless—

(a) It projects not more than ½ inch outward from the surrounding panel surface; or

(b) Upon application of a 10-pound force in all possible directions, it breaks away or deflects, leaving no residual protrusion projecting more than ½ inch from the surrounding panel surface.

Anticipated effective date: January 1, 1969.

[Docket No. 2–6]

WINDSHIELD MOUNTINGS—PASSENGER CARS

S1. *Purpose and scope.* This standard specifies requirements for windshield mountings to retain the windshield during impact.

S2. *Application.* This standard applies to passenger cars.

S3. *Requirements.* When tested in accordance with S4., at least 75 percent of the periphery of the windshield shall be retained by the mounting.

S4. *Demonstration procedures.* A front end longitudinal barrier collision test shall be conducted at not less than 30 miles per hour in accordance with Society of Automotive Engineers Recommended Practice J850, "Barrier Collision Tests," February 1963.

Anticipated effective date: January 1, 1970.

2. Revise Motor Vehicle Safety Standard No. 103 to read as follows:

[Docket Nos. 9, 1–13]

WINDSHIELD DEFROSTING AND DEFOGGING—PASSENGER CARS, MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, AND BUSES

S1. *Purpose and scope.* This standard specifies requirements for windshield defrosting and defogging systems.

S2. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, and buses, manufactured for sale in the Continental United States.

S3. *Definitions.* "Road load" means the power output required to move a given motor vehicle at curb weight plus 400 pounds on level, clean, dry, smooth, Portland cement concrete pavement (or other surface with equivalent coefficient of surface friction) at a specified speed through still air at 68° F. and standard barometric pressure (29.92" of Hg.), and includes driveline friction, rolling friction, and air resistance.

S4. *Requirements.*

S4.1 A windshield defrosting and defogging system shall be provided.

S4.2 Passenger cars shall have a windshield defrosting and defogging system that meets the requirements of section 3 of SAE Recommended Practice J902, "Passenger Car Windshield Defrosting Systems," August 1964, when tested in accordance with S4.3 except that the "critical area" specified in paragraph 3.1 of SAE J902 shall be that established as Area C and the "entire windshield" specified in paragraph 3.3 of SAE J902 shall be that established as Area A in accordance with Motor Vehicle Safety Standard No. 104, "Windshield Wiping and Washing Systems."

S4.3 *Demonstration procedures.* The passenger car windshield defrosting and defogging system shall be tested in accordance with the portions of section 4 of SAE Recommended Practice J902, August 1964, applicable to that system except that—

(a) For the first 5 minutes of the test, the engine speed or speeds may be that which the manufacturer recommends as the warm-up procedure for cold weather starting;

(b) For the remaining test period (or the complete test period if the 5-minute warm-up procedure is not used), either—

(i) The engine speed shall not exceed 1,500 r.p.m. in neutral gear; or

(ii) The engine speed and load shall not exceed that at 25 m.p.h. in the manufacturer's recommended gear with road load;

(c) A room air change of 90 times per hour is not required;

(d) The windshield wipers may be used during the test provided they are operated without manual assist;

(e) One or two windows may be opened a total of 1 inch;

(f) The defroster blower may be turned on at any time; and

(g) The maximum wind velocity shall not exceed 5 m.p.h.

Anticipated effective date: January 1, 1969.

3. Revise Motor Vehicle Safety Standard No. 104 to read as follows:

[Docket No. 7]

WINDSHIELD WIPING AND WASHING SYSTEMS—PASSENGER CARS, MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, AND BUSES

S1. *Purpose and scope.* This standard specifies requirements for windshield wiping and washing systems.

S2. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, and buses.

S3. *Definitions.* In the following referenced SAE Standards and Recommended Practices, substitute the term "seating reference point" for "manikin H point" and "H point":

"95 percent eye range contour" means the 95th percentile tangential cutoff specified in Society of Automotive Engineers Recommended Practice J941, "Passenger Car Driver's Eye Range," November 1965.

"Glazing surface reference line" means the line resulting from the intersection of the glazing surface and a horizontal plane 25 inches above the seating reference point as shown in figure 1 of SAE Recommended Practice J903a, "Passenger Car Windshield Wiper Systems," May 1966.

"Plan view reference line" means—

(a) For vehicles with bench-type seats, a line parallel to the vehicle centerline outboard of the steering wheel centerline 0.15 times the difference between one-half of the shoulder room dimension and the steering wheel centerline-to-car centerline dimension as shown in figure 2 of SAE J903a; or

(b) For vehicles with individual-type seats, a line parallel to the vehicle centerline through the centerline of the driver's designated seating position.

"Shoulder room dimension" means the front shoulder room dimension "W3" as defined in section E, Ground Vehicle Practice, SAE Aerospace-Automotive Drawing Standards, September 1963.

"Overall width" means the maximum overall body width dimension "W116" as defined in section E, Ground Vehicle Practice, SAE Aerospace-Automotive Drawing Standards, September 1963.

"Daylight opening" means the maximum unobstructed opening through the glazing surface as defined in 2.3.12 of section E, Ground Vehicle Practice, SAE Aerospace-Automotive Drawing Standards, September 1963.

S4. *Requirements.*

S4.1 *Windshield wiping system.* A power-driven windshield wiping system shall be provided that meets the requirements of S4.1.1.

S4.1.1 *Frequency.*

S4.1.1.1 At least two frequencies or speeds shall be provided.

S4.1.1.2 One frequency shall be at least 45 cycles per minute regardless of engine load.

S4.1.1.3 The high and low frequencies shall have a differential of at least 15 cycles per minute.

S4.1.2 *Wiped area.* When tested wet in accordance with SAE J903a, May 1966, each passenger car windshield wiping system shall wipe the percentage of the windshield specified in column 2 (of the applicable table) of the area (determined in accordance with S4.1.2.1) specified in column 1 that is within the area bounded by a perimeter line on the glazed surface 1 inch from the edge of the daylight opening.

S4.1.2.1 Established areas A, B, and C, as shown in figures 1 and 2 of SAE J903a, May 1966, using the angles specified in columns 3 through 6 in the following table I, II, III, or IV, as applicable.

Anticipated effective date: January 1, 1969.

TABLE I—PASSENGER CARS OF LESS THAN 60 INCHES IN OVERALL WIDTH

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Area	Minimum percent to be wiped	Angles in degrees			
		Left	Right	Up	Down
A	80	16	49	7	5
B	94	13	46	4	3
C	99	7	15	3	1

TABLE II—PASSENGER CARS OF 60 OR MORE BUT LESS THAN 64 INCHES IN OVERALL WIDTH

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Area	Minimum percent to be wiped	Angles in degrees			
		Left	Right	Up	Down
A	80	17	51	8	5
B	94	13	49	4	3
C	99	7	15	3	1

TABLE III—PASSENGER CARS OF 64 OR MORE BUT LESS THAN 68 INCHES IN OVERALL WIDTH

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Area	Minimum percent to be wiped	Angles in degrees			
		Left	Right	Up	Down
A	80	17	52	9	5
B	94	14	51	5	3
C	99	8	15	4	1

TABLE IV—PASSENGER CARS OF 68 OR MORE INCHES IN OVERALL WIDTH

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Area	Minimum percent to be wiped	Angles in degrees			
		Left	Right	Up	Down
A	80	13	55	10	5
B	94	14	53	5	3
C	99	10	15	5	1

S4.2 *Windshield washing system.* A windshield washing system shall be provided that meets the requirements of SAE Recommended Practice J942, "Passenger Car Windshield Washer Systems," November 1965.

Anticipated effective date: January 1, 1969.

4. Revise Motor Vehicle Safety Standard No. 206 to read as follows:

[Docket No. 7]

DOOR LATCHES, HINGES, AND LOCKS—PASSENGER CARS

S1. *Purpose and scope.* This standard specifies load requirements for door latch and hinge systems and lock requirements to minimize the likelihood of occupants being thrown from the vehicle as a result of impact.

S2. *Application.* This standard applies to passenger cars.

S3. *Requirements.* Side doors that can be used for occupant egress shall conform with this standard.

S3.1 *Door latches.* Each door latch and striker assembly shall be provided with two positions consisting of—

(a) A fully latched position; and

(b) A secondary latched position.

S3.1.1 *Longitudinal load.* The door latch and striker assembly shall withstand a longitudinal load of 2,500 pounds in the fully latched position and 1,000 pounds in the secondary latched position.

S3.1.2 *Transverse load.* The door latch and striker assembly of hinged doors shall withstand a transverse load of 2,000 pounds in the fully latched position and 1,000 pounds in the secondary latched position.

S3.1.3 *Inertia load.* The door latch shall not move from the fully latched position when a longitudinal or transverse inertia load of 30g is applied to the door latch system (including the latch and its actuating mechanism).

S3.2 *Door hinges.* Each door hinge system shall support the door and withstand a longitudinal load of 2,500 pounds and a transverse load of 2,000 pounds.

S3.3 *Door locks.* Each door shall be equipped with a locking mechanism with an operating means in the interior of the vehicle. The mechanism, when engaged, shall prevent opening of each rear door latch by operation of the inside or outside door latch release control, and shall prevent opening of each front door by operation of the outside latch release control.

S4. *Demonstration procedures.*

S4.1 *Door latches.* Door latches shall be tested in accordance with Society of Automotive Engineers Recommended Practice J839, "Passenger Car Side Door Latch Systems," May 1965.

S4.1.1 *Inertia load.* Compliance with paragraph S3.1.3 shall be demonstrated by approved tests or in accordance with section 5 of SAE Recommended Practice J839b, May 1965.

S4.2. *Door hinges.* Door hinges shall be tested in accordance with SAE Recommended Practice J934, "Vehicle Passenger Door Hinge System," July 1965.

Anticipated date: January 1, 1969.

5. Revise Motor Vehicle Safety Standard No. 206 to read as follows:

[Docket No. 2-16]

DOORS, LATCHES, HINGES, AND LOCKS—PASSENGER CARS, MULTIPURPOSE PASSENGER VEHICLES, AND TRUCKS

S1. *Purpose and scope.* This standard specifies load requirements for doors, latches, hinges, and locks to minimize the likelihood of occupants being thrown from the vehicle as a result of impact.

S2. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, and trucks.

S3. *Definitions.* "Temporary door" means a door applied to a vehicle designed for use without doors.

S4. *Requirements.* Except for temporary, folding, and rollup doors, side doors that are laterally adjacent to a designated seating position and can be used for occupant egress shall conform with this standard.

S4.1 *Hinged doors.*

S4.1.1 *Door latches.* Each door latch and striker assembly shall be provided with two positions consisting of—

(a) A fully latched position; and

(b) A secondary latched position.

S4.1.1.1 *Longitudinal load.* The door latch and striker assembly shall withstand a longitudinal load of 2,500 pounds in the fully latched position and 1,000 pounds in the secondary latched position.

S4.1.1.2 *Transverse load.* The door latch and striker assembly shall withstand a transverse load of 2,000 pounds in the fully latched position and 1,000 pounds in the secondary latched position.

S4.1.1.3 *Inertia load.* The door latch shall not move from the fully latched position when a longitudinal or transverse inertia load of 30g is applied to the door latch system (including the latch and its actuating mechanism).

S4.1.2 *Hinges.* Each door hinge system shall support the door and withstand a longitudinal load of 2,500 pounds and an ultimate transverse load of 2,000 pounds.

S4.1.3 *Locks.* Each door shall be equipped with a locking mechanism with an operating means in the interior of the vehicle. The mechanism, when engaged, shall prevent opening of each rear door latch by operation of the inside or outside door latch release control, and shall prevent opening of each front door by operation of the outside latch release control.

S4.2 *Sliding doors.* Each sliding door shall withstand a transverse load of 4,000 pounds when the door is in the fully latched position.

S5. *Demonstration procedures.*

S5.1 *Hinged doors.*

S5.1.1 *Latches.* Compliance with S4.1.1.1 and S4.1.1.2 shall be demonstrated in accordance with Section 4 of Society of Automotive Engineers Recommended Practice J839b, "Passenger Car Side Door Latch Systems," May 1965.

S5.1.1.1 *Inertia load.* Compliance with S4.1.1.3 shall be demonstrated by approved tests or in accordance with Section 5 of SAE Recommended Practice J839b, May 1965.

S5.1.2 *Hinges.* Compliance with S4.1.2 shall be demonstrated in accordance with SAE Recommended Practice J934, "Vehicle Passenger Door Hinge System," July 1965, or approved tests.

S5.2 *Sliding doors.* Compliance with S4.2 shall be demonstrated by applying an outward transverse load to the door uniformly distributed over a vertical 6-inch wide band extending from the center of the lower edge of the window aperture to the level of the seating reference point.

Anticipated effective date: January 1, 1970.

[F.R. Doc. 67-15063; Filed, Dec. 22, 1967; 4:35 p.m.]

ATOMIC ENERGY COMMISSION

[10 CFR Parts 25, 26, 95]

RESTRICTED DATA

Notice of Proposed Rule Making

The Atomic Energy Commission is considering a new Part 26, "Dissemination of and Access to Private Restricted Data," designed to formalize procedures for the control of Restricted Data developed independently of the Government. "Restricted Data" is defined by statute to include all data concerning the design, manufacture, or utilization of atomic weapons, the production of special nuclear material, or the use of special nuclear material in the production of energy, except data which has been specifically declassified by the Commission. Notice is also being given of proposed related amendments to Parts 25, "Permits for Access to Restricted Data", and 95, "Safeguarding of Restricted Data".

The Atomic Energy Act directs that the development, use, and control of atomic energy shall at all times be subject to "the paramount objective of making the maximum contribution to the common defense and security." The Commission is accordingly proposing Part 26 to provide a mechanism for controlling the dissemination of information relating to extremely sensitive developments. It should be noted that the statutory definition of Restricted Data comprehends much information not within the categories described in Part 26. The identification of certain categories of particularly sensitive information as Private Restricted Data is not intended to imply that other privately developed Restricted Data not so identified has been declassified or if not declassified, that it can be communicated to unauthorized persons. Also, a statement that any item is or could be used in a device or facility in any of the categories in the Appendix to Part 26 could reveal Restricted Data. Persons undertaking research and development in areas which may generate information within this definition are encouraged to consult the Commission's "Guide to the Unclassified Fields of Research," or to seek a determination from the Commission as to whether their work involves Restricted Data.

At this time classified data in the four categories identified in Part 26 require special controls in the national interest. If new developments in technology make it advisable, new categories may be added to Part 26, and the controls to which existing categories are subject may be altered.

The effort to control the spread of nuclear weapons has been a major concern of many agencies of this and other governments for many years. Part 26 represents a continuation of this effort; unless there are controls on the dissemination of classified information concerning atomic weapons, and concerning, centrifuges and gaseous diffusion plants (which can be used for the production of the special nuclear material used in weapons), the efficacy of all nonproliferation efforts is seriously weakened. In this light, the question of whether the data are developed for private commercial purposes or pursuant to a Government contract is irrelevant—it is the content of the data which necessitates the control.

It is obviously extremely important to the national security to minimize the number of people who have access to classified data relating to atomic weapons. Since classified gas centrifuge technology offers greater potential for clandestine operation than other methods of producing special nuclear materials useful in weapons, it poses potentially extremely serious challenges to the effectiveness of safeguards against the clandestine production of weapons. Thus, § 26.27(a) indicates no dissemination permits will be issued in these two categories except for the purpose of filing patent applications or reports pursuant to section 151c. of the Atomic Energy Act.

Part 26 also applies to naval nuclear propulsion data. It is necessary to protect U.S. naval nuclear propulsion technology which, because of its significant superiority to that of other countries, represents a substantial national defense asset. The regulations of the State Department (22 CFR 382.4(c)(2)) and the Commerce Department (15 CFR 385.4(c)(2)) indicate that the importance of protecting naval nuclear propulsion information is recognized by the other Government agencies concerned.

The Commission has carefully considered another area, that of isotope separation by processes other than gaseous diffusion or gas centrifugation, which is analogous to the categories identified in the appendix to Part 26. However, the Commission has decided not to include such other categories, not previously declassified, in the appendix. Instead, in order to minimize interference with private research while still providing the necessary safeguards against proliferation, the Commission has declassified all research and development work concerning any such method of isotope separation until that method has a reasonable potential for the practical production of special nuclear material in substantial quantities. Any additional information developed after a method has advanced to the point of having such potential would be Restricted Data until specifically declassified. Accordingly, any person engaging in research and development on isotope separation should notify the Commission immediately whenever he foresees his work having such a potential. Classification guidance will be promptly provided. Whenever the Commission determines that a method of isotope separation has been developed sufficiently to have a reasonable potential for the practical production of special nuclear material in substantial quantities, consideration will be given to adding a category to the appendix of Part 26 referring specifically to the new method.

The previously proposed new Part 26 and amendments to Parts 25 and 95, published in the FEDERAL REGISTER (32 F.R. 6702, 6706, and 6710) on May 2, 1967, resulted in numerous public comments and further Commission study. The proposed revision of those documents is derived from this study.

The main points in the several comments received, and the Commission's evaluation thereof, are as follows:

(1) Doubt was expressed as to whether the term "Restricted Data" as defined in the Atomic Energy Act encompasses information developed independently of the Government's programs, as to whether the Act authorizes the Commission to control the communication of such information in private transactions, and as to whether such controls are constitutionally permissible. The Commission has reviewed its earlier conclusions in the light of the comments received, and remains convinced that the Atomic Energy Act does reach independently developed Restricted Data, and that Commission control of specifically defined areas of such information is consistent with the statute and the Constitution. A statement of the legal and policy bases for the control of Private Restricted Data is available on request from the Secretary of the Commission.

(2) There was comment that the description of the categories of Restricted Data subject to the regulations, particularly in Part 25, was too broad in the light of the possibility of criminal sanctions. The Commission has decided that the categories in Part 25, originally designed to identify areas of governmentally developed information available for commercial purposes, are not appropriate for defining areas of information subject to controls when privately generated. Part 25 will therefore be applicable only to persons who have access to Restricted Data received from the Government or other related Restricted Data developed subsequent to such access, rather than (as previously proposed) to any person generating information in the categories described, whether or not based on information received from the Government. As in the versions proposed in May, information relating to the gas centrifuge process of isotope separation is removed from Part 25 to Part 26. Such information received or generated under an access permit has now been specifically included within the definition of Private Restricted Data, to make clear that Parts 26 and 95 will apply to it. Part 95 has been limited to persons receiving Restricted Data under an access permit issued under Part 25 and persons possessing Private Restricted Data. The new proposed regulations will also clarify the fact that subsection 161p. of the Atomic Energy Act is the authority for Part 26. Although 161p. carries no criminal penalties, injunctions may be obtained to assure compliance with the regulations. A related amendment to Part 95 makes it clear that violators of the regulations in Part 95 who are subject only to Part 26 will not be subject to criminal penalties for violation of the regulations. Of course, a violation of the criminal sections of the Act itself by a person subject to Part 26 would subject the offender to criminal penalties regardless of whether or not the action also violated Parts 25, 26, and 95.

(3) Despite the provisions made for compensation, questions were raised concerning the appropriateness of the provisions in proposed § 26.28(c) reserving to the Government a license to use inventions, discoveries, and proprietary data developed by private persons subject to the regulations. The Commission has eliminated these provisions, adding a new subsection restating only the Commission's preexisting legal right to use for governmental purposes any U.S. patent, secret patent application, or invention useful in the production or utilization of special nuclear material or atomic energy.

(4) It was claimed that the proposed regulations relating to Private Restricted Data would impose unreasonable administrative burdens and expenses on employees and employers who must determine whether research is within the scope of the regulations and if it is, whether it should be continued. The burdens of complying with the security procedures were also noted. The Commission has added several provisions to help clarify and facilitate compliance with the regulations. These include: (a) To facilitate the decision by a dissemination permittee or his employer whether to carry out further work relating to the Private Restricted Data, the revised § 26.22 permits an employee who has developed Private Restricted Data to communicate it to as many as five other employees of his employer who already have active access authorizations—for example, under Part 25 or by virtue of contract work; (b) under the revised § 26.7, classification advice may be obtained directly from any Commission Operations Office, as well as from the Classification Office of the Commission in Washington, D.C.; (c) § 26.27 has been revised to provide for communications necessary to file and prosecute patent applications or make reports to the Commission pursuant to subsection 151c. of the Act; (d) the term "components" as used in the categories in the appendix to Part 26 has been defined to provide that an item will be considered a component if (1) it is designed for use in a device or facility in one of the described categories or (2) it is any other item which is not an off-the-shelf item if the Commission determines that it is useful in a device or facility in one of the categories and notifies the developer or manufacturer that the item reveals Restricted Data and that he is subject to the regulations of Part 26. The notification requirement would assure that persons designing items for use in a device or facility not

in one of the categories (for example, in a centrifuge to separate tungsten isotopes) would receive adequate notice of the applicability of Part 26.

(5) It was suggested that public discussion of the policy issues underlying the regulations would be desirable before the regulations became effective. The Commission plans to hold one or more industry conferences during the comment period at which discussion of the regulations will be invited. Anyone who wishes to attend such a conference should notify the Commission Secretary.

The definition of Private Restricted Data in Part 26 has been changed to make it clear that it includes not only privately generated Restricted Data but also Restricted Data in the specified categories which is possessed as a result of and subsequent to the termination of activities conducted by a Government agency or of work under a contract with and funded in whole or in part by the Government. Therefore, persons retaining such data must comply not only with the contractual commitments they have made concerning the protection of such data, but also with the requirements of Part 95.

A further change to Part 26 is the addition of a new § 26.34 of the proposed Part 26 which points out that in the event the Commission's program objectives would be served by contracting with an applicant for a dissemination permit a mutually acceptable contract could be negotiated with the applicant. The dissemination of any Restricted Data would be controlled by the terms of the contract.

Notice is hereby given that adoption of the following rules is contemplated. All interested persons who desire to submit written comments and suggestions for consideration in connection with the proposed rules should submit them to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, within 45 days after publication of this notice in the FEDERAL REGISTER. Comments received after that period will be considered if it is practicable to do so, but assurance of consideration cannot be given if the comments are not filed within the period specified.

PART 26—DISSEMINATION OF AND ACCESS TO PRIVATE RESTRICTED DATA

GENERAL PROVISIONS

Sec.
26.1 Purpose.
26.2 Scope.
26.3 Definitions.
26.4 Interpretations.
26.5 Communications.
26.6 Specific waivers and exceptions.
26.7 Classification.
26.8 Requirements.

DISSEMINATION PERMITS AND PRIVATE RESTRICTED DATA ACCESS AUTHORIZATIONS

26.21 Applications for Dissemination Permits.
26.22 Special Dissemination Authorization.
26.23 Requests for Private Restricted Data Access Authorizations.
26.24 Additional information from applicants.
26.25 Issuance of Dissemination Permits.
26.26 Issuance of Private Restricted Data Access Authorizations.
26.27 Special Conditions Applicable to Categories of Private Restricted Data.
26.28 Terms and Conditions of Dissemination Permits and Private Restricted Data Access Authorizations.
26.30 Term.
26.30 Amendment.
26.31 Suspension and revocation of permits.
26.32 Administration.
26.33 Exceptions and additional requirements.
26.34 Contracts.
26.35 Violations.

AUTHORITY: The provisions of this Part 26 issued under sec. 161 p., 68 Stat. 950, 42 U.S.C. 2201 p. Interpret or apply secs. 141, 145b, 68 Stat. 940, 942, 42 U.S.C. 2161, 2165.

GENERAL PROVISIONS

§ 26.1 Purpose.

The regulations in this part are promulgated by the Atomic Energy Commission, pursuant to the Atomic Energy Act of 1954, as amended, in the interest of the common defense and security of the United States to provide procedures and standards for the issuance of a dissemination permit to an individual who desires to disseminate Private Restricted Data; and to provide for the issuance of Private Restricted Data Access Authorization to individuals desiring access to such Restricted Data.

§ 26.2 Scope.

The regulations in this part apply to any individual within or under the jurisdiction of the United States who possesses Private Restricted Data and to any individual within or under the jurisdiction of the United States who desires to disseminate or to have access to Private Restricted Data. Categories of Restricted Data subject to this part are described in the appendix to this part. The regulations in this part do not apply to Restricted Data within the categories described in Part 25 of this chapter.

§ 26.3 Definitions.

As used in this part:

(a) "Access authorization" means an administrative determination by the AEC that an individual who is an AEC contractor, a contractor of another Federal agency, or an Access Permittee, or employee or consultant of such contractor or permittee is eligible for access to Restricted Data.

(b) "Act" means the Atomic Energy Act of 1954 (68 Stat. 919), including any amendments thereto.

(c) "Atomic weapon" means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principal purpose of which is for use as, or for development of, a weapon, a weapon prototype, or a weapon test device.

(d) "Commission" means the Atomic Energy Commission or its duly authorized representatives.

(e) "Dissemination" means the publication of Private Restricted Data; the communication of Private Restricted Data by any means from one individual to another individual; or permitting any individual to have access to Private Restricted Data.

(f) "Dissemination Permit" means a permit issued by the Atomic Energy Commission pursuant to the regulations of this part authorizing the individual to whom the permit is issued to disseminate the Private Restricted Data identified in the permit to each individual identified in the permit who is granted Private Restricted Data Access Authorization.

(g) "Dissemination Permittee" means the holder of a permit issued pursuant to the regulations in this part.

(h) "Private Restricted Data" means all Restricted Data within the categories in the appendix of this part which is

(1) Generated or acquired by a person other than in the course of (i) activities conducted by or for a Government agency or (ii) work under a contract with, and funded in whole or in part by, the United States; or

(2) Possessed by a person as a result of and subsequent to the termination of the person's participation in work or activities described in subdivision (i) or (ii) of this subparagraph; or

(3) Within Category b. of the appendix of this part if such information was received or developed by a person under an Access Permit.

(i) "Private Restricted Data Access Authorization" means a determination by the Atomic Energy Commission that an individual is eligible for access to specifically identified Private Restricted Data.

(j) "Person" means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Commission, any State or any political subdivision of, or any political entity within a State, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

(k) "Restricted Data" means all data concerning (1) design, manufacture or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but does not incude data declassified or removed from the Restricted Data category pursuant to section 142 of the Act.

(l) "Technical information or data of a proprietary nature" means information or data which:

(1) Is not the property of the Government by virtue of any agreement;

(2) Concerns the details of trade secrets or manufacturing processes which the holder of a dissemination permit or Private Restricted Data Access Authorization has protected from use by others; and

(3) Is specifically identified as proprietary at the time it is made available to the Commission.

Such information or data shall not be deemed proprietary in nature whenever substantially the same information or data is available to the Government which has been prepared, developed, or furnished as nonproprietary information independently of the information and data furnished by the person pursuant to the regulations of this part.

§ 26.4 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

§ 26.5 Communications.

All communications and reports concerning the regulations in this part and applications filed under them should be addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Assistant General Manager, Communications, reports and applications may be delivered in person at the Commission's offices at 1717 H Street NW., Washington, D.C., or its offices at Germantown, Md.

§ 26.6 Specific waivers and exceptions.

The Commission may, upon application of any interested party, grant such waivers and exceptions from the requirements of this part as it determines are authorized by law and will not constitute an undue risk to the common defense and security.

§ 26.7 Classification.

The Director, Division of Classification, U.S. Atomic Energy Commission, Washington, D.C. 20545, or the Classification Officer at any AEC Operations Office will, on request, provide classification advice with respect to data within the Restricted Data category.

§ 26.8 Requirements.

Each person to whom these regulations apply shall comply with all applicable provisions of the Act, with the regulations in this Part 26, with the regulations in Part 95, Safeguarding of Restricted Data, and with all other applicable rules, regulations, and orders of the Commission.

DISSEMINATION PERMITS AND PRIVATE RESTRICTED DATA ACCESS AUTHORIZATIONS

§ 26.21 Applications for Dissemination Permits.

(a) Any individual desiring to disseminate Private Restricted Data (except as provided in § 95.31(b) (1) through (3) of Part 95 of this chapter and except as provided in § 26.22) shall submit a written application in triplicate for a dissemination permit to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Assistant General Manager.

(b) An application shall include the following information:

(1) Name of applicant.

(2) Address of applicant.

(3) Description of business or occupation of applicant.

(4) Citizenship and age of applicant.

(5) If application is submitted in connection with the applicant's duties as an employee:

(i) Name of employer.

(ii) A statement by the applicant's employer authorizing the submission of the application.

(iii) If employer is a partnership, the name, citizenship and address of each partner and the principal address where the partnership does business.

(iv) If employer is a corporation or an unincorporated association:

(a) The State where it is incorporated or organized and the principal address where it does business;

(b) The name, address and citizenship of each director and principal officer;

(c) Whether it is owned, controlled or dominated by an alien, a foreign corporation, or foreign government, and if so, the details.

(6) Description of the Private Restricted Data that the applicant desires to disseminate and the period of time (not more than 2 years) during which such dissemination would take place.

(7) Whether the applicant desires to exchange, as well as disseminate, the Private Restricted Data described in subparagraph (6) of this paragraph, with the individuals identified in subparagraphs (8) and (9) of this paragraph, and thus will request a Private Restricted Data Access Authorization.

(8) The total number of employees of the applicant or of the applicant's employer who would be given access to the Private Restricted Data; the name and title of each such individual and a detailed explanation of each such individual's previous access to Restricted Data.

(9) The name, title and address of each individual who is not employed by the applicant or by the applicant's employer to whom the applicant wishes to disseminate Private Restricted Data and a detailed explanation of such individual's previous access to Restricted Data.

(10) A detailed explanation of the reason for the proposed dissemination of Private Restricted Data.

(11) A detailed explanation showing the extent, if any, to which products or services provided by the applicant or by persons to whom the applicant desires to disseminate Private Restricted Data would contain or reveal Restricted Data.

(12) A statement of security procedures adopted showing that the Private Restricted Data is or will be protected in accordance with the regulations of Part 95 of this chapter.

(13) The application must be signed by the applicant.

§ 26.22 Special Dissemination Authorization.

An individual who is an employee and who develops Private Restricted Data may communicate it to other employees of his employer in order to determine whether an application for a Dissemination Permit should be submitted or to complete such an application provided that

(a) Any employee to whom Private Restricted Data is to be communicated has an active access authorization;

(b) Not more than five such employees receive access to the Private Restricted Data; and

(c) In the event an application for a Dissemination Permit is not submitted within 30 days of the first communication to such employee, the Assistant General Manager, U.S. Atomic Energy Commission, Washington, D.C. 20545, shall be promptly informed of the nature of the Private Restricted Data by the individual who develops such data.

§ 26.23 Requests for Private Restricted Data Access Authorizations.

A request for a Private Restricted Data Access Authorization may be made only by and individual identified in a dissemination permit. The request for Private Restricted Data Access Authorization form shall be in writing. Completed forms shall be submitted to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Assistant General Manager.

§ 26.24 Additional information from applicants.

The Commission may at any time either before or after issuance of a dissemination permit or Private Restricted Data Access Authorization, require additional information in order to enable the Commission to determine whether in the interest of the common defense and security a dissemination permit or a Private Restricted Data Access Authorization should be granted, denied, continued, modified or revoked.

§ 26.25 Issuance of Dissemination Permits.

(a) Upon a determination (1) that an application for a dissemination permit meets the requirements of these regulations; (2) that the application demonstrates that the proposed dissemination would advance the peaceful applications of Restricted Data or atomic energy; (3) that the application compiled with such additional requirements that the Commission may adopt for a particular category of Restricted Data; and (4) that permitting dissemination of the Private Restricted Data described in the application to the extent proposed, or as modified by the Commission, will not endanger the common defense and security, the Commission will issue to the applicant a dissemination permit identifying the Private Restricted Data that may be disseminated and the individuals to whom it may be disseminated, and who may exchange it, provided those individuals are granted Private Restricted Data Access Authorizations.

(b) In considering the determination in paragraph (a) of this section, the Commission may take into account (1) the relative importance to the common defense and security of the category of Private Restricted Data which would be disseminated if the permit is issued; (2) the total number of individuals to whom the applicant desires to disseminate the Private Restricted Data; (3) the total number of individuals who have access to Restricted Data in the category identified in the application; and (4) any other

factors which in the opinion of the Commission affect the common defense and security.

(c) A dissemination permittee is authorized to disseminate the Private Restricted Data identified in the permit to the individuals identified in the permit provided the individuals are granted Private Restricted Data Access Authorizations for such Private Restricted Data.

§ 26.26 Issuance of Private Restricted Data Access Authorizations.

(a) Upon a determination (1) that a dissemination permit identifying the applicant for Private Restricted Data Access Authorization has been issued, (2) that the applicant's procedures for safeguarding the Private Restricted Data are in compliance with the regulations in Part 95 of this chapter, (3) that the applicant is eligible for access to the Private Restricted Data identified in the dissemination permit, and (4) that granting the access authorization will not endanger the common defense and security, the Commission will grant to the applicant a Private Restricted Data Access Authorization to the Private Restricted Data identified in the dissemination permit.

(b) An individual who possesses a Private Restricted Data Access Authorization is authorized, for such time as a dissemination permit identifying him is in effect, (1) to have access to the Private Restricted Data identified in the dissemination permit in which the individual is identified, (2) to exchange that Private Restricted Data with the other individuals identified in the same dissemination permit and who have been granted Private Restricted Data Access Authorization, and (3) to disseminate that Private Restricted Data in accordance with the regulations in § 95.31(b) (1) through (3) of this chapter.

§ 26.27 Special conditions applicable to Categories of Private Restricted Data.

(a) Restricted Data concerning atomic weapons and gas centrifuges. No dissemination permit authorizing dissemination of Private Restricted Data concerning information in categories (a) or (b) of the appendix or Private Restricted Data Access Authorization to such data will be issued except for the purpose of filing and prosecuting patent applications or reports to the Commission pursuant to subsection 151c of the Act; any individual possessing such data is subject to the provisions of the regulations in Part 95 of this chapter concerning safeguarding of Private Restricted Data.

(b) Restricted Data concerning gaseous diffusion and naval nuclear propulsion. Applications for dissemination permits authorizing dissemination of Private Restricted Data concerning information in categories (c) and (d) of the Appendix will be considered by the Commission under the criteria described in § 26.25.

§ 26.28 Terms and conditions of Dissemination Permits and Private Restricted Data Access Authorizations.

(a) Each dissemination permittee and each individual granted Private Restricted Data Access Authorization shall comply with all applicable provisions of the Act, with the provisions of Part 95 of this chapter, with the regulations in this Part 26 and with all other applicable rules, regulations and orders of the Commission.

(b) Each dissemination permittee shall pay all established charges for Private Restricted Data Access Authorizations requested by individuals identified in his dissemination permit.

(c) (1) Each dissemination permittee and each individual granted a Private Restricted Data Access Authorization shall furnish the Commission such report as the Commission may from time to time require concerning the results of work with Private Restricted Data, including reports in writing, in reasonable detail, respecting all technical information or data which the individual or the Commission considers may be of interest to the Commission, and reports of patent applications on inventions or discoveries and of technical information and data of a proprietary nature.

(2) Each individual subject to these regulations agrees to make available to the Commission, at all reasonable times, for inspection by Commission personnel or, by mutual agreement, others on behalf of the Commission, all experimental equipment and technical data developed, during work with Private Restricted Data, by the dissemination permittee or individuals granted Private Restricted Data Access Authorization.

(3) Where a report or inspection pursuant to subparagraphs (1) and (2) of this paragraph (c) discloses any technical information or data of a proprietary nature the Commission will protect such information from unauthorized disclosure.

(4) Under statutory authority the Commission has the right to use and have used for governmental purposes, subject to compensation or award for such use, any U.S. patent, any secret patent application, or any invention useful in the production or utilization of special nuclear material or atomic energy.

§ 26.29 Term.

(a) A dissemination permit shall be issued for a 2-year term unless otherwise stated in the permit. When no longer needed for the purpose specified in the application therefor dissemination permits and Private Restricted Data Access Authorizations shall be surrendered to the Commission and on such surrender the authority they had granted shall terminate.

(b) An application for renewal of a dissemination permit shall be filed in accordance with § 26.21. Each renewal application must be complete, without reference to previous applications. In any case in which a dissemination permittee has filed a properly completed application for renewal more than thirty (30) days prior to the expiration of his existing permit, such existing permit shall not expire until the application for a renewal has been finally acted upon by the Commission.

(c) The expiration, suspension or revocation of a dissemination permit or Private Restricted Data Access Authorization shall not relieve any individual from compliance with the Act, the provisions of Part 95 of this chapter or the regulations of this part.

§ 26.30 Amendment.

A dissemination permit may be amended from time to time upon application by the individual to whom it was issued, filed in triplicate, in letter form and signed by the applicant.

§ 26.31 Suspension and revocation of permits.

The Commission may revoke or suspend any dissemination permit for any material false statement in the application or in any report submitted to the Commission pursuant to the regulations in this part or because of conditions or facts which would have warranted a refusal to grant the permit in the first instance, or for violation of any of the terms and conditions of the Act or Commission rules, regulations, or orders issued pursuant thereto.

§ 26.32 Administration.

With respect to each dissemination permit issued pursuant to the regulation of this part, the Commission will:

(a) Make a determination with respect to each Private Restricted Data Access Authorization requested in connection with the dissemination permit; and

(b) Review the procedures submitted by the applicant for a dissemination permit and applicants for Private Restricted Data Access Authorizations for the safeguarding of Restricted Data.

Communications regarding these matters should be addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Assistant General Manager.

§ 26.33 Exceptions and additional requirements.

Notwithstanding any other provision in the regulations in this part, the Commission may deny an application for a dissemination permit or a Private Restricted Data Access Authorization or suspend or revoke any dissemination permit or Private Restricted Data Access Authorization or incorporate additional conditions or requirements in any dissemination permit, upon finding that such denial, suspension, revocation, or the incorporation of such conditions or requirements is necessary or appropriate in the interest of the common defense and security or is otherwise in the public interest.

§ 26.34 Contracts.

Notwithstanding any other provision in the regulations in this part, if the Commission determines that its program objectives warrant entering into a contract with an applicant for a dissemination permit for work involving dissemination of Restricted Data, the Commission may negotiate a mutually acceptable contract for the conduct of the work. In that event, control over the dissemination of Restricted Data would be provided by the terms of the contract.

§ 26.35 Violations.

An injunction or other court order may be obtained prohibiting any violation of any provision of the Act or any regulation or order issued thereunder.

APPENDIX

CATEGORIES OF PRIVATE RESTRICTED DATA

All Restricted Data (except that removed from the Restricted Data category pursuant to section 142) concerning:

(a) Atomic weapons and nuclear explosive devices or components thereof, including lasers and laser systems designed to produce of capable of producing in deuterium, tritium, or mixtures containing these materials, a 1 percent rise in absolute temperature or a 1 percent rise in the mean kinetic energy of the charged particles at any point in the material or mixture as a result of thermonuclear reactions;

(b) Gas centrifuges and cascades of gas centrifuges capable of separating one or more isotopes of an element, technology concerning and components of such centrifuges and cascades;

(c) Gaseous diffusion plants capable of separating one or more isotopes of an element, technology concerning such plants, and components of such plants;

(d) Naval nuclear propulsion reactors and components of such reactors.

As used in this appendix, the term "components" means (1) items designed for use in a device or facility in one of the above categories, and (2) any other item (except items customarily offered for sale and having broad industrial uses) which the Commission determines is useful in a device or facility described in one of the above categories, provided that the Commission notifies the person developing or manufacturing the item that the item reveals Restricted Data and that the person is subject to the regulations in this part.

PART 25—PERMITS FOR ACCESS TO RESTRICTED DATA

GENERAL PROVISIONS

Sec.
25.1 Purpose.
25.2 Applicability.
25.3 Definitions.
25.4 Interpretations.
25.5 Communications.
25.6 Categories of available information.
25.7 Specific waivers.

APPLICATIONS

25.11 Applications.
25.12 Nonelligibility.
25.13 Additional information.
25.14 Public inspection of applications.
25.15 Requirements for approval of applications.

PERMITS

25.21 Issuance.
25.22 Scope of permit.
25.23 Terms and conditions of access.
25.24 Administration.
25.25 Term and renewal.
25.26 Assignment.
25.27 Amendment.
25.28 Commission action on application to renew or amend.
25.29 Suspension, revocation and termination of permits.
25.30 Exceptions and additional requirements.
25.31 Violations.

AUTHORITY: The provision of Part 25 issued under sec. 161i., 68 Stat. 949, 42 U.S.C. 2201i.

§ 25.1 Purpose.

This part establishes procedures and standards for the issuance of an Access Permit to any person subject to this part who requires access to Restricted Data received from the Government or other related Restricted Data developed subsequent to such access, applicable to civil uses of atomic energy for use in his business, trade or profession; provides for the amendment, renewal, suspension, termination, and revocation of an Access Permit; and specifies the terms and conditions under which the Commission will issue the permit.

§ 25.2 Applicability.

The regulations in this part apply to any person within or under the jurisdiction of the United States who desires access to Restricted Data received from the Government or other related Restricted Data developed subsequent to such access for use in his business, profession or trade.

§ 25.3 Definitions.

As used in this part:

(a) "Access authorization" means an administrative determination by the AEC that an individual who is an AEC contractor, a contractor of another Federal agency, or an Access Permittee, or an employee or consultant of such contractor or permittee is eligible for access to Restricted Data.

(b) "Access Permit" means a permit, issued to a person by the Atomic Energy Commission, pursuant to the regulations of this part, by means of which individuals possessing appropriate access authorization may obtain access to Restricted Data received from the Government or other related Restricted Data developed subsequent to such access applicable to civil uses of atomic energy in accordance with the terms and conditions stated on the permit.

(c) "Access Permittee" means the holder of a permit issued pursuant to the regulations in this part.

(d) "Act" means the Atomic Energy Act of 1954 (68 Stat. 919), including any amendments thereto.

(e) "Commission" means the Atomic Energy Commission or its duly authorized representatives.

(f) "Person" means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Commission, any State or any political subdivision of, or any political entity within a State, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

(g) "Restricted Data" means all data concerning (1) design, manufacture or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to section 142 of the Act.

§ 25.4 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this Part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

§ 25.5 Communications.

Communications concerning rule making, i.e., petition to change Part 25, should be addressed to Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545. All other communications concerning the regulations in this Part, and applications filed under them, should be addressed to the Commission Operations Office listed in Appendix B of this part responsible for the geographical area in which (a) the applicant's principal place of business is located, or (b) the principal place where the applicant will use the Restricted Data is located.

§ 25.6 Categories of available information.

For administrative purposes the Commission has categorized Restricted Data which will be made available to access permittees in the categories as set forth in Appendix A to this part. Top Secret information; information subject to the regulations of Part 26 of this chapter; and defense information other than Restricted Data are not included in these categories and will not be made available under this part.

§ 25.7 Specific waivers.

The Commission may, upon application of any interested party, grant such waivers from the requirements of this part as it determines are authorized by law and will not constitute an undue risk to the common defense and security.

APPLICATIONS

§ 25.11 Applications.

(a) Any person desiring access to Restricted Data pursuant to this part should submit an application (Form AEC 378), in triplicate, for an access permit to the Commission's Operations Office, listed in Appendix B to this part, responsible for the area in which (1) the applicant's principal place of business is located, or (2) the principal place where the applicant will use the Restricted Data is located.

(b) Where an individual desires access to Restricted Data received from the Government or other related Restricted Data developed subsequent to such access for use in the performance of his duties as an employee, the application for an access permit must be filed in the name of his employer.

(c) Self-employed private consultants, desiring access to Restricted Data, must

file the application in their own name for an individual access permit.

(d) Each application should contain the following information:

(1) Name of applicant (unincorporated subsidiaries or divisions of a corporation must apply in the name of the corporation);

(2) Address of applicant;

(3) Description of business or occupation of applicant;

(4) (i) If applicant is an individual, state citizenship.

(ii) If applicant is a partnership, state name, citizenship, and address of each partner and the principal location where the partnership does business.

(iii) If applicant is a corporation or an unincorporated association, state:

(a) The State where it is incorporated or organized and the principal location where it does business;

(b) The names, addresses, and citizenship of its directors and of its principal officers;

(c) Whether it is owned, controlled, or dominated by an alien, a foreign corporation, or foreign government, and if so, give details.

(iv) If the applicant is acting as agent or representative of another person in filing the application, identify the principal and furnish information required under this subparagraph with respect to such principal;

(5) Total number of full-time employees;

(6) Classification of Restricted Data (Confidential or Secret) to which access is requested;

(7) Potential use of the Restricted Data in the applicant's business, profession or trade. If access to Secret Restricted Data is requested, list the specific categories by number and furnish detailed reasons why such access within the specified categories is needed by the applicant. The need for Secret information should be stated by describing its proposed use in specific research, design, planning, construction, manufacturing, or operating projects; in activities under licenses issued by the Commission; in studies or evaluations planned or under way; or in work or services to be performed for other organizations. In addition, if access to Secret Restricted Data in Category C–65, Plutonium Production, is requested, the application should also include sufficient information to satisfy the requirements of § 25.15(b) (2) or (3), as the case may be.

(8) Principal location(s) at which Restricted Data will be used.

(e) Applications should be signed by a person authorized to sign for the applicant.

(f) Each application shall contain complete and accurate disclosure with respect to the real party or parties in interest and as to all other matters and things required to be disclosed.

§ 25.12 Noneligibility.

The following persons are not eligible to apply for an access permit:

(a) Corporations not organized under the laws of the United States or a political subdivision thereof.

(b) Any individual who is not a citizen of the United States.

(c) Any partnership not including among the partners one or more citizens of the United States; or any other unincorporated association not including one or more citizens of the United States among its principal officers.

(d) Any organization which is owned, controlled, or dominated by the Government of, a citizen of, or an organization organized under the laws of a country or area listed as a Subgroup A country or destination in § 371.3 (15 CFR 371.3) of the Comprehensive Export Schedule of the U.S. Department of Commerce.

(e) Persons subject to the jurisdiction of the United States who are not doing business within the United States.

§ 25.13 Additional information.

The Commission may, at any time after the filing of the original application and before the termination of the permit, require additional information in order to enable the Commission to determine whether the permit should be granted or denied or whether it should be modified or revoked.

§ 25.14 Public inspection of applications.

Applications and documents submitted to the Commission in connection with applications may be made available for public inspection in accordance with the regulations contained in Part 2 of this chapter.

§ 25.15 Requirements for approval of applications.

(a) An application for an access permit authorizing access to Confidential Restricted Data in the categories set forth in Appendix A (except C–91) will be approved only if the application demonstrates that the applicant has a potential use or application for such data in his business, trade, or profession and has filed a complete application form.

(b) (1) An application for an access permit authorizing access to Secret Restricted Data will be approved only if the application demonstrates that the applicant has a need for such data in his business, trade, or profession and has filed a complete application form.

(2) An application for an access permit authorizing access to Secret Restricted Data in category C–65 Plutonium Production will be approved only if the application demonstrates also that the applicant:

(i) Is directly engaged in a substantial effort to develop, design, build, or operate a chemical processing plant or other facility related to his participation in the peaceful uses of atomic energy for which such production rate and cost data are needed; or

(ii) Is furnishing to a permittee having access to C–65 under subdivision (i) of this subparagraph, substantial scientific, engineering, or other professional services to be used by said permittee in carrying out the activities for which said permittee received access to category C–65.

(3) An application for an access permit authorizing access to Confidential and Secret Restricted Data in C–91, Nuclear Reactors for Rocket Propulsion, will be approved only if the application demonstrates also that the applicant:

(i) Possesses qualifications demonstrating that he is capable of making a contribution to research and development in the field of nuclear reactors for rocket propulsion and is directly engaged in or proposes to engage in a substantial research and development program in such field of work; or

(ii) Is engaged in or proposes to engage in a substantial study program in the field of nuclear reactors for rocket propulsion preparatory to the submission of a research and development proposal to the Atomic Energy Commission; or

(iii) Is furnishing to a permittee having access under subdivision (i) or (ii) of this subparagraph substantial scientific, engineering, or other professional services to be used by that permittee in a study or research and development program for which said permittee received access.

PERMITS

§ 25.21 Issuance.

(a) Upon a determination that an application meets the requirements of this regulation, the Commission will issue to the applicant an access permit on Form AEC 379.

(b) An Access Permit is not an access authorisation. It does not authorize any individual not having an appropriate AEC access authorization to receive Restricted Data. See § 25.24 and Part 95 of this chapter.

§ 25.22 Scope of permit.

(a) All access permits will as a minimum authorize access, subject to the terms and conditions of the access permit, to Confidential Restricted Data in all of the categories set forth in Appendix A, except C–91.

(b) In addition, access permits may authorize access, subject to the terms and conditions of the access permit, to such Secret Restricted Data as is included within the particular category or categories specified in the permit.

§ 25.23 Terms and conditions of access.

(a) Neither the United States, nor the Commission, nor any person acting on behalf of the Commission makes any warranty or other representation, express or implied, (1) with respect to the accuracy, completeness, or usefulness of any information made available pursuant to an access permit, or (2) that the use of any such information may not infringe privately owned rights.

(b) The Commission hereby waives such rights with respect to any invention or discovery as it may have pursuant to section 152 of the Act by reason of such invention or discovery having been made or conceived in the course of, in connection with, or resulting from access to Restricted Data received under the terms of an access permit.

(c) Each access permittee shall:

(1) Comply with all applicable provisions of the Act and with Part 95 of this chapter and with all other applicable rules, regulations, and orders of the Commission;

(2) Be deemed to have waived all claims for damages under section 183 of Title 35 United States Code by reason of the imposition of any secrecy order on any patent application and all claims for just compensation under section 173 of the Act with respect to any invention or discovery made or conceived in the course of, in connection with or as a result of access to Restricted Data received under the terms of the access permit;

(3) Be deemed to have waived any and all claims against the United States, the Commission, and all persons acting on behalf of the Commission that might arise in connection with the use, by the applicant, of any and all information supplied by them pursuant to the access permit;

(4) Obtain and preserve in his files written agreements from all individuals who will have access to Restricted Data under his access permit. The agreement shall be as follows:

In consideration for receiving access to Restricted Data under the access permit issued by the AEC, I hereby agree to:

(a) Waive all claims for damages under section 183 of Title 35 United States Code by reason of the imposition of any secrecy order on any patent application, and all claims for just compensation under section 173 of the Act, with respect to any invention or discovery made or conceived in the course of, in connection with or resulting from access to Restricted Data received under the terms of the access permit issued to (insert the name of the holder of the access permit);

(b) Waive any and all claims against the United States, the Commission, and all persons acting on behalf of the Commission that might arise in connection with the use, by me, of any and all information supplied by them pursuant to the access permit issued to (insert the name of the holder of the access permit).

(5) Pay all established charges for personnel access authorizations, AEC consulting services, publication and reproduction of documents, and such other services as the Commission may furnish in connection with the access permit.

§ 25.24 Administration.

With respect to each permit issued pursuant to the regulations in this part, the cognizant Operations Office will:

(a) Process all personnel access authorizations requested in connection with the permit;

(b) Review the procedures submitted by the applicant in accordance with Part 95 of this chapter, for the safeguarding of Restricted Data; and

(c) Provide information to the access permittee with respect to the sources and locations of Restricted Data available under this permit and to assist the access permittee in other matters pertaining to the administration of his permit.

§ 25.25 Term and renewal.

(a) Each access permit will be issued for a 2-year term, unless otherwise stated in the permit.

(b) Applications for renewal shall be filed in accordance with § 25.11. Each renewal application must be complete, without reference to previous applications. In any case in which a permittee has filed a properly completed application for renewal more than thirty (30) days prior to the expiration of his existing permit, such existing permit shall not expire until the application for a renewal has been finally acted upon by the Commission.

§ 25.26 Assignment.

An access permit is nontransferable and nonassignable.

§ 25.27 Amendment.

An access permit may be amended from time to time upon application by the access permittee. An application for amendment may be filed, in triplicate, in letter form and shall be signed by an individual authorized to sign on behalf of the applicant. The term of an access permit shall not be altered by an amendment thereto.

§ 25.28 Commission action on application to renew or amend.

In considering an application by an access permittee to renew or amend his permit, the Commission will apply the criteria set forth in § 25.15. Failure of an applicant to reply to a Commission request for additional information concerning an application for renewal or amendment within 60 days shall result in a rejection of the application without prejudice to resubmit a properly completed application at a later date.

§ 25.29 Suspension, revocation and termination of permits.

The Commission may revoke or suspend any access permit for any material false statement in the application or in any report submitted to the Commission pursuant to the regulations in this part or because of conditions or facts which would have warranted a refusal to grant the permit in the first instance, or for violation of any of the terms and conditions of the Act or Commission rules, regulations, or orders issued pursuant thereto. An access permittee should request termination of his permit when he no longer requires Restricted Data for use in his business, trade, or profession.

§ 25.30 Exceptions and additional requirements.

Notwithstanding any other provision in the regulations in this part, the Commission may deny an application for an access permit or suspend or revoke any access permit, or incorporate additional conditions or requirements in any access permit, upon finding that such denial, revocation or the incorporation of such conditions and limitations is necessary or appropriate in the interest of the common defense and security or is otherwise in the public interest.

§ 25.31 Violations.

An injunction or other court order may be obtained prohibiting any violation of any provision of the Act or any regulation or order issued thereunder. Any person who willfully violates any provision of the Act or any regulation or order issued thereunder may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by law.

APPENDIX A

Categories of Restricted Data Available (Including Scope Notes for Each Category).

C–44 Nuclear Technology. This category includes classified technical information concerning nuclear technology. It may contain information on the following:

a. Materials, including metals, ceramics, organic and inorganic compounds. Included are such technical areas as the technology and fabrication of fuel elements, corrosion studies, cladding techniques, and radiation studies.

b. Chemistry, chemical engineering, and radiochemistry of all the elements and their compounds. Included are techniques and processes of chemical separations, radioactive waste handling, and feed material processing.

c. Reactor physics, engineering and technology including theory, design, criticality studies and operation of reactors, reactor systems and reactor components.

d. Aerospace safety, testing, studies, and evaluations. Included are technology and evaluation of nuclear safety performance or characteristics of materials, components, subsystems and systems, for nuclear primary and auxiliary power, and/or propulsion devices by flight tests and ground environmental impact, chemical and thermal experiments. Also includes chemical kinetics, reactor kinetics, reentry burnup phenomena, fission product release and dispersion.

This category does not include:

a. Information which reveals or from which can be calculated actual or planned (as distinguished from design) capacities, production rates, and unit costs for the plutonium production program; or

b. Information on an actual or planned reactor system which falls within the scope of categories C–60, 91, 92, 93, and 94.

c. Classified methods of isotope separation.

d. Classified information on specific aerospace system objectives, schedules, or operational uses.

C–65 Plutonium Production. This category includes information on reactor, fuel element and separations technology which reveals or from which can be calculated actual or planned (as distinguished from design) capacities, production rates and unit costs for the Hanford and Savannah River production facilities.

Technology which does not reveal or enable calculation of production rates and unit costs of Hanford or Savannah River production facilities is categorized in C–44 Nuclear Technology.

C–60 Nuclear Reactors for Ram-Jet Propulsion. This category includes information on:

a. Programs pertaining to the development of nuclear reactors for application to ram-jet propulsion systems including theory and/or design, test philosophy procedures and/or results.

b. Fabrication technology and evaluation of performance or characteristics of materials or components for such reactors.

c. Controls, control systems, and instrumentation relating to the design or technology of such reactors.

d. Data pertaining to heat transfer, propellant kinetics, or corrosion and erosion of materials under conditions of high temperature, high-gas flows or other environmental conditions characteristic of ram-jet propulsion systems.

This category does not include information on:

a. Design details of weapons systems or nuclear warheads.

b. Military operational techniques or characteristics.

c. General aspects of nuclear ram-jet missiles, such as payload, aerodynamic characteristics, guidance systems, physical size, gross weight, thrust, and information of this kind which is associated with utilization of a nuclear ram-jet propulsion system.

C-91 Nuclear Reactors for Rocket Propulsion. This category includes information on:

a. Programs pertaining to nuclear reactors for rocket propulsion; i.e., missile propulsion, theory and/or design, test philosophy procedures and/or results.

b. Design, fabrication technology and evaluation of performance or characteristics of material, components, or subsystems of nuclear rocket reactors.

c. Controls, control systems and instrumentation relating to the design or technology of rocket reactor systems.

d. Data pertaining to heat transfer, propellant kinetics or corrosion and erosion of rocket reactor system materials under conditions of high temperature, high-gas flows, or other environmental conditions characteristic of rocket reactors.

This category does not include information on:

a. Design details of weapons systems or nuclear warheads.

b. Military operational techniques or characteristics.

c. General aspects of payload and aerodynamic characteristics.

d. Design details and development information of components and subsystems of the nuclear rocket engine other than that associated with the reactor system.

C-92 Systems for Nuclear Auxiliary Power (SNAP). This category includes information on:

a. Isotopic SNAP Program, including theory, design, research and development, fabrication, test procedures and results for the device, including power conversion device and the fuels used.

b. Reactor SNAP Program, including theory, design, research and development, fabrication, test procedures and results for the reactor, including the directly associated power conversion device when developed by the AEC.

This category does not include basic technical and scientific data developed under the SNAP Advanced Concept Program which should be reported in C-93.

C-93 Advanced Concepts for Future Application.

C-93a Reactor Experiments. This category includes classified technical information developed in the pursuit of work on new or advanced concepts of reactors or components which the AEC considers essential to future growth or for general application to future generations of reactors. Classified information developed in the pursuit of work on the lithium cooled reactor experiment is an example of the type of information to be reported in this category; i.e., information resulting from an experimental reactor project or component development which may have many future applications but which is not currently being pursued to meet the specific needs of an approved requirement for which other information categories have been provided. For example, classified technical information developed in the pursuit of work on Naval, Ram-Jet or Rocket nuclear reactors would not be reported here but under their respective specific categories. This category will include classified technical information on the following:

a. Theory, design, and performance, either estimated or actual.

b. Design details, composition and performance characteristics of major components (e.g., fuel media, reflectors, moderators, heat exchangers, pressure shells or containment devices, control rods, conversion devices, instrumentation, and shielding).

c. Material (metals, ceramics, and compounds) development, alloying, cladding, corrosion, erosion, radiation studies, and fabrication techniques.

d. Chemistry, including chemical engineering, processes, and techniques. Reactor physics, engineering, and criticality studies.

C-93b Conversion Devices. This category includes classified technical information developed in the pursuit of studies, designs, research and development, fabrication, and operation of any energy conversion device to be used with nuclear energy sources which is not being applied to a specific system development project.

C-94 Military Compact Reactor (MCR). This category includes classified technical information on the actual or planned Military Compact Reactor and its components developed in the pursuit of studies, designs, research and development, fabrication, and operation of the reactor system or its components.

Examples of the areas of information included are:

a. Reactor core physics.

b. Fuel elements and fuel element components.

c. Moderator and reflector details.

d. Data on primary coolant system.

e. Radiation shield.

f. Controls and instrumentation.

This category does not include information on military operational characteristics or techniques.

APPENDIX B

Commission's operations offices and geographical areas of responsibility.

Albuquerque Operations Office, U.S. Atomic Energy Commission, Post Office Box 5400, Albuquerque, N. Mex. 87115: Arizona, Kansas, New Mexico, Oklahoma, and Texas.

Chicago Operations Office, U.S. Atomic Energy Commission, 9800 South Cass Avenue, Argonne, Ill. 60439: Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin.

New York Operations Office, U.S. Atomic Energy Commission, 376 Hudson Street, New York, N.Y. 10114: Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.

Oak Ridge Operations Office, U.S. Atomic Energy Commission, Post Office Box E, Oak Ridge, Tenn. 37831: Arkansas, Kentucky, Louisiana, Mississippi, Missouri, Panama Canal Zone, Puerto Rico, Tennessee, Virginia, Virgin Islands, and West Virginia.

Richland Operations Office, U.S. Atomic Energy Commission, Post Office Box 550, Richland, Wash. 99352: Alaska, Oregon, and Washington.

San Francisco Operations Office, U.S. Atomic Energy Commission, 2111 Bancroft Way, Berkeley, Calif. 94704: California, Colorado, Hawaii, Idaho, Montana, Nevada, Utah, Wyoming, and U.S. Pacific Territories.

Savannah River Operations Office, U.S. Atomic Energy Commission, Post Office Box A, Aiken, S.C. 29802: Alabama, Florida, Georgia, North Carolina, and South Carolina.

PART 95—SAFEGUARDING OF RESTRICTED DATA

GENERAL PROVISIONS

Sec.
95.1 Purpose.
95.2 Scope.
95.3 Definitions.
95.4 Communications.
95.5 Submission of procedures by Access Permit Holder.
95.6 Specific waivers.
95.7 Interpretations.
95.8 Requirements.

PHYSICAL SECURITY

95.21 Protection of Restricted Data in storage.
95.22 Protection while in use.
95.23 Establishment of security areas.
95.24 Special kinds of classified material.
95.25 Protective personnel.

CONTROL OF INFORMATION

95.31 Access to Restricted Data.
95.32 Classification and preparation of documents.
95.33 External transmission of documents and material.
95.34 Accountability for Secret Documents.
95.35 Authority to reproduce.
95.36 Changes in classification.
95.37 Destruction of documents or material containing Restricted Data.
95.38 Suspension or revocation of access authorization.
95.39 Expiration, suspension or revocation of Access Permits.
95.40 Expiration, suspension or revocation of Dissemination Permits or Private Restricted Data Access Authorizations.
95.41 Termination of employment or change of duties.
95.42 Continued applicability of the regulations in this Part.
95.43 Reports.
95.44 Inspection.
95.45 Violations.

AUTHORITY: The provisions of this Part 95 issued under sec. 161 i and p, 68 Stat. 948, 42 U.S.C. 2201 i and p.

GENERAL PROVISIONS

§ 95.1 Purpose.

The regulations in this part establish requirements for the safeguarding of (a) Restricted Data received or developed under an Access Permit and (b) Private Restricted Data.

§ 95.2 Scope.

The regulations in this part apply to all persons (a) who receive access to Restricted Data under an Access Permit and (b) who possess Private Restricted Data.

§ 95.3 Definitions.

As used in this part,

(a) "Access authorization" means an administrative determination by the AEC that an individual who is an AEC contractor, contractor of another Federal agency, or an Access Permittee, or an employee or consultant of such contractor or permittee is eligible for access to Restricted Data;

(b) "Access Permit" means a permit, issued to a person by the Atomic Energy Commission pursuant to the regulations in Part 25 of this chapter, by means of which individuals possessing appropriate access authorization may obtain access to Restricted Data received from the Government and other related Restricted Data developed subsequent to such access, applicable to civil uses of atomic energy in accordance with the terms and conditions stated on the permit;

(c) "Access Permittee" means the holder of an Access Permit;

(d) "Act" means the Atomic Energy Act of 1954 (68 Stat. 919), including any amendments thereto;

(e) "Commission," "USAEC," or "AEC" means the U.S. Atomic Energy Commission or its duly authorized representatives;

(f) "Dissemination Permit" means a permit issued by the Atomic Energy Commission pursuant to the regulations in Part 26 of this chapter authorizing the individual to whom the permit is issued to disseminate the Private Restricted Data identified in the permit to each individual identified in the permit who is granted Private Restricted Data Access Authorizations;

(g) "Dissemination Permittee" means the holder of a Dissemination Permit;

(h) "Document" means any piece of recorded information regardless of its physical form or characteristics;

(i) "DoD" means the Department of Defense;

(j) "Government Agency" means any executive department, commission, independent establishment, corporation, wholly or partly owned by the United States of America which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the Government;

(k) "L(X) access authorization" means a determination by the AEC that an individual is eligible for access to Confidential Restricted Data under an Access Permit;

(l) "NASA" means the National Aeronautics and Space Administration;

(m) "Person" means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Commission, any State or any political subdivision of, or any political entity within a State, or other entity; and (2) any legal successor, representative, agent or agency of the foregoing;

(n) "Private Restricted Data" means all Restricted Data within the categories in the appendix of Part 26 to this chapter which is

(1) Generated or acquired by a person other than in the course of (i) activities conducted by or for a Government agency or (ii) work under a contract with, and funded in whole or in part by, the United States; or

(2) Possessed by a person as a result of and subsequent to the termination of the person's participation in work or activities described in (i) or (ii) above; or

(3) Within Category B of the appendix to Part 26 of this chapter if such information was received or developed by a person under an Access Permit;

(o) "Private Restricted Data Access Authorization" means a determination by the Atomic Energy Commission that an individual is eligible for access to specifically identified Private Restricted Data;

(p) "Q(X) access authorization" means a determination by the AEC that an individual is eligible for access to Secret and Confidential Restricted Data under an Access Permit;

(q) "Restricted Data" means all data concerning (1) design, manufacture or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to section 142 of the Act;

(r) "Security area" means a physically defined space, access to which is subject to security restrictions and control;

(s) "Security clearance" means an administrative determination by the AEC that an employee of the AEC or of another Federal agency is eligible for access to Restricted Data or defense information;

(t) "United States," when used in a geographical sense, includes all Territories and Possessions of the United States, the Canal Zone and Puerto Rico.

§ 95.4 Communications.

Communications concerning the regulations in this part should be addressed to the U.S. Atomic Energy Commission at the Commission Operations Office (listed in Appendix B of 10 CFR Part 25) administering Access Permits for the geographical area if the communication involves an Access Permit or to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Assistant General Manager, if the communication involves any other matter. Communications involving an Access Permit may be delivered in person at the Commission Operations Office. Other communications may be delivered in person at the Commission's offices at 1717 H Street NW., Washington, D.C. or its office at Germantown, Maryland.

§ 95.5 Submission of procedures by Access Permit holder.

No access permittee shall have access to Restricted Data until he shall have submitted to the Commission a written statement of his procedures for the safeguarding of Restricted Data and for the security education of his employees and the Commission shall have determined and informed the permittee that his procedures for the safeguarding of Restricted Data are in compliance with the regulations in this part and that his procedures for the security education of his employees assure that his all employees, who will have access to Restricted Data, are informed about and understand the regulations in this part.

§ 95.6 Specific waivers.

The Commission may, upon application of any interested party, grant such waivers from the requirements of this part as it determines are authorized by law and will not constitute an undue risk to the common defense and security.

§ 95.7 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

§ 95.8 Requirements.

Each person to whom these regulations apply shall comply with all applicable provisions of the Act, with the regulations in this part, and with all other applicable rules, regulations and orders of the Commission.

PHYSICAL SECURITY

§ 95.21 Protection of Restricted Data in storage.

(a) All persons subject to this regulation shall store Secret and Confidential documents and material when not in use in accordance with one of the following methods:

(1) In a locked vault, safe or safe-type steel file cabinet having a three-position dial-type combination lock; or

(2) In a dual key, Bank Safety Deposit Box; or

(3) In a steel file cabinet secured by a steel lock bar and a three-position dial-type changeable combination padlock; or

(4) In a locked steel file cabinet when located in a security area established under § 95.23 or when the cabinet or the place in which the cabinet is located is under Commission approved automatic alarm protection.

(b) Changes of combination: Each person subject to this regulation shall change the combinations on locks of his safekeeping equipment whenever such equipment is placed in use, whenever an individual knowing the combination no longer requires access to the repository as a result of change in duties or position, or termination of employment, or whenever the combination has been subjected to compromise, and in any event at least once a year. Records of combinations shall be classified no lower than the highest classification of the documents and material authorized for storage in the safekeeping equipment concerned.

(c) The lock on safekeeping equipment of the type specified in paragraph (a)(4) of this section shall be replaced immediately whenever a key is lost.

§ 95.22 Protection while in use.

While in use, documents and material containing Restricted Data shall be under the direct control of an appropriately authorized individual and the Restricted Data shall be capable of being removed from sight immediately.

§ 95.23 Establishment of security areas.

(a) When, because of their nature or size, it is impracticable to safeguard documents and material containing Restricted Data in accordance with the pro-

visions of §§ 95.21 and 95.22, a security area to protect such documents and material shall be established.

(b) The following controls shall apply to security areas:

(1) Security areas shall be separated from adjacent areas by a physical barrier designed to prevent entrance into such areas, and access to the Restricted Data within the areas, by unauthorized individuals.

(2) During working hours, admittance shall be controlled by an appropriately authorized individual posted at each unlocked entrance.

(3) During nonworking hours, admittance shall be controlled by protective personnel on patrol, with protective personnel posted at unlocked entrances, or by such automatic alarm systems as the Commission may approve.

(4) Each individual authorized to enter a security area shall be issued a distinctive badge or pass when the number of employees assigned to the area exceeds 30.

§ 95.24 Special kinds of classified material.

When the Restricted Data contained in material is not ascertainable by observation or examination at the place where the material is located and when the material is not readily removable because of size, weight, radioactivity, or similar factors, the Commission may authorize such lesser protection than is otherwise required by §§ 95.21 to 95.23, inclusive, as the Commission determines to be commensurate with the difficulty of removing the material.

§ 95.25 Protective personnel.

Whenever protective personnel are required by § 95.23, such protective personnel shall:

(a) Be armed with sidearms of not less than .38 caliber, and

(b) With respect to Restricted Data within the categories of Appendix "A" to Part 25, possess a "Q" or "L" security clearance or "Q(X)" or "L(X)" access authorization if the Restricted Data being protected is classified Confidential or a "Q" security clearance or "Q(X)" access authorization if the Restricted Data being protected is classified Secret, or

(c) With respect to Private Restricted Data, possess a Private Restricted Data Access Authorization for the specific Private Restricted Data.

§ 95.31 Access to Restricted Data.

(a) Except as the Commission may authorize, no person subject to the regulations in this part shall permit any individual to have access to Restricted Data in his possession unless the individual:

(1) Is an employee of a Government agency who has been granted security clearance and who requires access to the Restricted Data in connection with his official duties; or

(2) Has been certified to the Commission by DoD or NASA and the individual needs such access in connection with his duties as certified by DoD or NASA; or

(3) Is a Commission contractor employee, who has been granted appropriate access authorization for access to the Restricted Data and who requires access to the Restricted Data in the course of the performance of his duties; or

(4) Has appropriate access authorization and, in the case of information in Category C–01 of Appendix A to Part 26 and Secret Restricted Data, the Access Permittee determines that the individual requires the access in the course of his duties.

(b) Except as the Commission may authorize, no person subject to the regulations in this part and Part 26 of this chapter shall permit any individual to have access to Restricted Data in his possession unless the individual:

(1) Is an AEC employee who requires access to the Restricted Data in connection with his official duties; or

(2) Is a Commission contractor employee, who has been granted appropriate access authorization and who requires access to the Restricted Data in the course of the performance of his duties; or

(3) Is an employee of the U.S. Patent Office, who has been granted security clearance and who requires access to the Restricted Data in connection with his official duties; or

(4) Has been granted a Private Restricted Data Access Authorization for the specified Private Restricted Data.

(c) Inquiries concerning the clearance status of individuals, the scope of Access Permits, or the nature of contracts should be addressed to the Commission Office administering the Access Permit or the contract. Inquiries concerning Private Restricted Data Access Authorizations should be addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Assistant General Manager.

§ 95.32 Classification and preparation of documents.

(a) *Classification.* (1) Restricted Data originated by an Access Permittee must be appropriately classified. "Guide to the Unclassified Fields of Research" will be furnished each Access Permittee. In the event an Access Permittee originates information within the definition of Restricted Data (§ 95.3(q)) or information which he is not positive is not within that definition and "Guide to Unclassified Fields of Research" does not provide positive classification guidance for such information, he shall designate the information as Confidential Restricted Data and request classification guidance from the USAEC through the Classification Officer at the Operations Office administering the permit, who will refer the request to the Director, Division of Classification, U.S. Atomic Energy Commission, Washington, D.C. 20545 if he does not have authority to provide the guidance.

(2) Private Restricted Data must be appropriately classified. Classification guidance is available from the Director, Division of Classification, U.S. Atomic Energy Commission, Washington, D.C. 20545 or the Classification Officer at any AEC Operations Office.

(b) *Classification consistent with content.* Each document containing Restricted Data shall be classified according to its own content.

(c) *Document which custodian believes improperly classified or lacking appropriate classification markings.* If a person receives a document which in his opinion is not properly classified, or omits the appropriate classification markings, he shall communicate with the sender and suggest the classification which he believes to be appropriate. Pending final determination of proper classification, such documents shall be safeguarded with the highest classification in question.

(d) *Classification markings.* Unless otherwise authorized below, the assigned classification of a document shall be conspicuously marked or stamped at the top and bottom of each page and on the front cover, if any, and the document shall bear the following additional markings on the first page and on the front cover:

RESTRICTED DATA

This document contains Restricted Data as defined in the Atomic Energy Act of 1954. Its transmittal or the disclosure of its contents in any manner to an unauthorized person is prohibited.

(e) *Documentation.* (1) All Secret documents shall bear on the first page a properly completed documentation stamp such as the following:

This document consists of _____ pages. Copy No. _____ of _____ Series _____

(2) The series designation shall be a capital letter beginning with the letter "A" designating the original set of copies prepared. Each subsequent set of copies of the same documents shall be identified by the succeeding letter of the alphabet.

(f) *Letter of transmittal.* A letter transmitting Restricted Data shall be marked with a classification at least as high as its highest classified enclosure. When the contents of the letter of transmittal warrant lower classification or require no classification, a stamp or marking such as the following shall be used on the letter:

When separated from enclosures handle this document as _____

(g) Permanently fastened documents. Classified books or pamphlets, the pages of which are permanently and securely fastened together, shall be conspicuously marked or stamped with the assigned classification in letters at least one fourth (¼) inch in height at the top and bottom on the outside front cover, on the title page, on the front page and on the inside and outside of the back cover. The additional markings referred to in paragraph (d) of this section shall be placed on the first page and on the front cover.

(h) Physically connected documents. The classification of a file or group of physically connected documents shall be at least as high as that of the most highly classified document therein. It shall bear only one overall classification, although pages, paragraphs, sections, or components thereof may bear different classifications. Each document separated from the file or group shall be handled in accordance with its individual classification.

(i) Attachment of security markings. Documents which do not lend themselves to marking or stamping shall have securely affixed or attached a tag, sticker, or similar device bearing the appropriate security markings.

§ 95.33 External transmission of documents and material.

(a) *Restrictions.* (1) Documents and material containing Restricted Data shall be transmitted only to persons who possess appropriate clearance, access authorization or Private Restricted Data Access Authorization and are otherwise eligible for access under the requirements of § 95.31.

(2) In addition, such documents and material shall be transmitted only to persons who possess facilities for their physical security consistent with this part. Any person subject to the regulation in this part who transmits such documents or material shall be deemed to have fulfilled his obligations under this subparagraph by securing a written certification from the prospective recipient that such recipient possesses facilities for its physical security consistent with this part.

(3) Documents and material containing Restricted Data shall not be exported from the United States without prior authorization of the Commission.

(b) *Preparation of documents.* Documents containing Restricted Data shall be prepared for transmission outside an individual installation in accordance with the following:

(1) They shall be enclosed in two sealed opaque envelopes or wrappers.

(2) The inner envelope or wrapper shall be addressed in the ordinary manner and sealed with tape, the appropriate classification shall be placed on both sides of the envelope and the additional marking referred to in § 95.32(d) shall be placed on the side bearing the address.

(3) The outer envelope or wrapper shall be addressed in the ordinary manner. No classification, additional marking or other notation shall be affixed which indicates that the document enclosed therein contains classified information or Restricted Data.

(4) A receipt, which identifies the document, the date of transfer, the recipient and the person transferring the document shall accompany the document and shall be signed by the recipient and returned to the sender whenever the custody of a Secret document is transferred.

(c) *Preparation of material.* Material, other than documents, containing Restricted Data shall be prepared for shipment outside an individual installation in accordance with the following:

(1) The material shall be so packaged that the classified characteristic will not be revealed.

(2) A receipt which identifies the material, the date of shipment, the recipient, and the person transferring the material shall accompany the material and the recipient shall sign such receipt whenever the custody of Secret material is transferred.

(d) *Methods of transportation.* (1) Secret documents and material shall be transported only by one of the following methods:

(i) Registered mail.

(ii) Railway or air express in "Armed Guard Service" or "Armed Surveillance Service".

(iii) Individuals possessing appropriate AEC security clearance or access authorization who have been given written authority by their employers and individuals possessing appropriate Private Restricted Data Access Authorization.

(2) Confidential documents and material shall be transported by one of the methods set forth in subparagraph (1) of this paragraph or by one of the following methods:

(i) Certified or first-class mail, if approved by the Manager of Operations administering the Permit. Certified or first-class mail may not be used in any transmission of Confidential documents to Alaska, Hawaii, the Canal Zone, Puerto Rico, or any U.S. territory or possession.

(ii) Railway or air express "Protective Signature Service"; railway express "Recorded Tally Service"; airlines "Protective Signature Service," when available; rail or motor vehicles in sealed car or sealed van service; or services providing equivalent protection.

(iii) Material in less than carload, truckload, or planeload lots, by regular commercial carrier when the container and its contents weigh more than 500 pounds and such container is locked and sealed.

(e) *Transmission by cryptographic means.* Cryptographic systems shall not be used for the transmission of Restricted Data unless approved by the Commission.

(f) *Telephone conversations.* No discussion of classified information is permitted during a telephone conversation.

§ 95.34 Accountability for Secret documents.

Each person subject to this regulation possessing documents containing Secret Restricted Data shall establish a document accountability procedure and shall maintain records to show the disposition of all such documents which have been in his custody at any time.

§ 95.35 Authority to reproduce.

Nothing in this part shall be deemed to prohibit any person possessing documents containing Restricted Data from reproducing any Confidential documents, or any Secret documents originated by him. He shall not reproduce any other documents containing Secret Restricted Data without prior authorization from the Commission or from the originator of the document.

§ 95.36 Changes in classification.

Documents containing Restricted Data shall not be downgraded to a lower classification or declassified except as authorized by the Commission. Requests for downgrading or declassification shall be submitted to the AEC's Operations Office administering the Permit; the U.S. Atomic Energy Commission, Declassification Branch, Oak Ridge Operations Office, Post Office Box E, Oak Ridge, Tenn. 37831, or U.S. Atomic Energy Commission, Washington, D.C. 20545, attention: Division of Classification. If the Commission approves a change of classification or declassification, the previous classification marking shall be canceled and the following statement, properly completed, shall be placed on the first page of the document:

Classification canceled (or changed to) _____

(Insert appropriate classification)

by authority of _____

(Person authorizing change in classification)

by _____

(Signature of person making change and date thereof)

Any person making a change in classification or receiving notice of such a change shall forward notice of the change in classification to holders of all copies as shown on his records.

§ 95.37 Destruction of documents or material containing Restricted Data.

(a) Documents containing Restricted Data may be destroyed only by shredding and burning, pulping, or by any other method that assures complete destruction of the information. If the document contains Secret Restricted Data, a permanent record of the subject, title, or report number of the document, its date of preparation, its series designation and copy number, and the date of destruction shall be signed by the person destroying the document and shall be maintained in the office of the last custodian.

(b) Restricted Data contained in material, other than documents, may be destroyed only by a method that assures complete obliteration, removal, or destruction of the Restricted Data.

§ 95.38 Suspension or revocation of access authorization or Private Restricted Data Access Authorization.

In any case where the access authorization or the Private Restricted Data Access Authorization of an individual subject to the regulations in this part is suspended or revoked in accordance with the procedures set forth in Part 10 of this chapter, such individual shall, upon due notice from the Commission of such suspension or revocation and demand by the Commission, deliver to the Commission any and all documents or materials in his possession containing Restricted Data for safekeeping and such further disposition as the Commission determines to be just and proper.

§ 95.39 Expiration, suspension or revocation of Access Permits.

(a) Upon expiration of an Access Permit, the person to whom such permit has been issued may, except as provided in paragraph (b) of this section: (1) Deliver all documents or materials in his possession containing Restricted Data to

the Commission or to a person authorized to receive them and file with the Commission a certificate of nonpossession of Restricted Data; (2) destroy them, and file with the Commission a certificate of nonpossession; or (3) file with the Commission a certified inventory of Restricted Data attached to a request for approval of retention of such data. A person retaining[1] Restricted Data must maintain an active Access Permit unless otherwise authorized by the Commission. Only such individuals having such clearance for access to Restricted Data as the Commission may prescribe shall have access to such Restricted Data.

(b) In any case where an Access Permit has expired or has been suspended or revoked and the Commission has determined that further possession by the former Access Permittee of documents or materials containing Restricted Data would endanger the common defense and security, such former Access Permittee shall upon due notice from the Commission of such expiration, suspension, or revocation and of such determination, deliver to the Commission any and all documents or materials in his possession containing Restricted Data for safekeeping and such further disposition as the Commission determines to be just and proper.

§ 95.40 Expiration, suspension or revocation of Dissemination Permits or Private Restricted Data Access Authorizations.

(a) Upon expiration of a Dissemination Permit or a Private Restricted Data Access Authorization, the individual to whom such permit or access authorization has been issued may, except as provided in paragraph (b) of this section: (1) Deliver all documents or materials in his possession containing Restricted Data to the Commission or to a person authorized to receive them and file with the Commission a certificate of nonpossession of Restricted Data, or (2) destroy them and file with the Commission a certificate of nonpossession; or (3) file with the Commission a certified inventory of Restricted Data attached to a statement that all Restricted Data in his possession will be retained and safeguarded as the Commission requires. Only such individuals having such clearance for access to Restricted Data as the Commission may prescribe shall have access to such Restricted Data.

[1] (b) In any case where a Dissemination Permit or Private Restricted Data Access Authorization has expired or has been suspended or revoked and the Commission has determined that further possession by the former Dissemination Permittee or individual formerly possessing the Private Restricted Data Access Authorization of documents or materials containing Restricted Data would endanger the common defense and security, such former Permittee or former access authorization holder shall upon due notice from the Commission of such expiration, suspension, or revocation and of such determination, deliver to the Commission any and all documents or materials in his possession containing Restricted Data for safekeeping and such further disposition as the Commission determines to be just and proper.

§ 95.41 Termination of employment or change of duties.

Each Access Permittee or Dissemination Permittee shall furnish promptly to the Commission written notification of the termination of employment of each individual who possesses an access authorization or Private Restricted Data Access Authorization under his Permit or whose duties are changed so that access to Restricted Data is no longer needed. Upon such notification, the Commission may (a) terminate the individual's access authorization or Private Restricted Data Access Authorization or (b) transfer the individual's access authorization to the new employer of the individual to Data where authorized pursuant to Commission regulations. Access Permittees shall also report to the cognisant AEC Operations Office at the end of each calendar year the use made of the permit and access authorizations during the year, the number of "Q(X)" and "L(X)" access authorizations received or terminated during the year and the number remaining active at the end of the year and such other information requested by the Commission for determination of the use and continuing need of the Access Permit Program.

§ 95.42 Continued applicability of the regulations in this part.

The expiration, suspension, revocation, or other termination of a security clearance, access authorization, Access Permit, Private Restricted Data Access Authorization, or Dissemination Permit shall not relieve any person from compliance with the regulations in this part.

§ 95.43 Reports.

Each person subject to these regulations shall report promptly to the Commission Office administering the Access Permit, Dissemination Permit or Private Restricted Data Access Authorization all losses of Restricted Data documents or material and to that Commission Office and the nearest office of the Federal Bureau of Investigation any alleged or suspected violation of the Atomic Energy Act or the Espionage Act.

§ 95.44 Inspection.

The Commission may make such inspections of the premises, activities, records, and procedures of any person subject to the regulations in this part as the Commission deems necessary to effectuate the purposes of the Act.

§ 95.45 Violations.

An injunction or other court order may be obtained prohibiting any violation of any provision of this part. Any person who receives access to Restricted Data under an Access Permit issued pursuant to Part 25 and who willfully violates, attempts to violate or conspires to violate any provision of this part, may be guilty of a crime and upon conviction may be punished by fine or imprisonment, or both, as provided by law.

Dated at Germantown, Md., this 20th day of December 1967.

For the Atomic Energy Commission.

W. B. McCool,
Secretary.

[F.R. Doc. 67-15032; Filed, Dec. 27, 1967; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 241]

[Economic Reg. Docket No. 19452; EDR-132]

UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Proposed Identification of Nondepreciable Overhaul Values on Schedule B-43

DECEMBER 22, 1967.

Notice is hereby given that the Civil Aeronautics Board has under consideration a proposed amendment to Part 241 of the Economic regulations which would provide for separate reporting of nondepreciable overhaul values on schedule B-43, Inventory of Airframes and Aircraft Engines. The principal features of the proposed amendment are described in the Explanatory Statement below, and the proposed amendment is set out in the proposed rule below. The amendment is proposed under authority of sections 204(a) and 407(a) of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 766; 49 U.S.C. 1324, 1377).

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views or arguments pertaining thereto, addressed to the docket section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before January 17, 1968, will be considered by the Board before taking action on the proposal. Copies of communications will be available for examination by interested persons in the Docket Section, Room 710- Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

Explanatory statement. Schedule B-43 "Inventory of Airframes and Aircraft Engines" of Form 41[1] does not presently provide a column for reporting nondepreciable overhaul values excluded from depreciable cost. As a result, nondepreciable overhaul values cannot always be determined from the data shown on the schedule. Of the carriers who exclude nondepreciable overhaul values from the depreciable cost of airframes and/or aircraft engines, some are including such overhaul values in column 11 "Estimated Residual Value" while others are not reporting these values at all. This amendment would add a column for reporting the nondepreciable overhaul values and thus provide for uniform reporting of normal residual values and overhaul residual values. The instructions for schedule B-43 are also revised and clarified.

[1] Filed as part of the original document.

It is proposed to amend Part 241 of the Economic Regulations (14 CFR Part 241), effective December 31, 1967, as follows:

1. Amend section 23 by revising the instructions for schedule B-43 to read as follows:

SCHEDULE B-43—INVENTORY OF AIRFRAMES AND AIRCRAFT ENGINES

(a) This schedule shall be filed by all route air carriers.

(b) A single set of this schedule shall be filed for the overall corporate or other legal entity comprising the air carrier.

(c) The indicated data shall be reported for each individual airframe, identified by type, model, and design of cabin as to use for passengers exclusively, cargo exclusively, or both passengers and cargo in combination. Data pertaining to aircraft engines shall be reported on a group basis by type of engine and by type of aircraft to which related.

(d) Data in this schedule shall be grouped and subtotaled as between data pertaining to airframes and data pertaining to aircraft engines. Data pertaining to nonoperating airframes and aircraft engines shall be reported in a group below the data for operating equipment.

(e) The data to be reported shall include owned and rented airframes and aircraft engines currently in operation or in conversion. Data pertaining to rented airframes and aircraft engines shall be listed in columns 1 through 7 and in column 14; the cost of improvements thereto shall be listed in columns 8 through 13.

(f) Column 8, "Cost" shall agree in totals for owned and operating airframes and aircraft engines, respectively, with corresponding amounts reflected in accounts 1601 and 1602 in column 7 of schedule B-5 as at December 31 of the reporting year.

(g) Column 9, "Reserve for Depreciation" shall include the accumulations of all provisions for losses due to use and obsolescence as recorded in balance sheet accounts 1611 Reserve for Depreciation-Airframes and 1612 Reserve for Depreciation-Aircraft Engines.

(h) Column 10, "Depreciated Cost" shall reflect Cost (col. 8) less Reserve for Depreciation (col. 9).

(i) Column 11, "Estimated Residual Value" shall reflect in dollars the residual value assigned to airframes and aircraft engines respectively, exclusive of any amount reported in columns 12 and 14, respectively.

(j) Column 12, "Overhaul Value Not Depreciable" shall reflect the overhaul value excluded from computations of airframe and aircraft engine depreciation.

(k) Column 13, "Estimated Depreciable Life (Months)" shall reflect the estimated depreciable life of each airframe and each group of aircraft engines.

(l) Column 14, "Flight Equipment Airworthiness Reserves or Maintenance Liability" shall include amounts accumulated for owned airframes and aircraft engines and amounts accumulated for leased airframes and aircraft engines in accounts 2190 Other Current Liabilities and 2290 Other Noncurrent Liabilities.

(m) Totals for owned operating equipment shall agree with property and equipment accounts 1601 Airframes; 1611 Reserve for Depreciation-Airframes; 1602 Aircraft Engines; 1612 Reserve for Depreciation-Aircraft Engines; and 1629 Flight Equipment Airworthiness Reserves. The airworthiness liabilities for rented equipment included in accounts 2190 Other Current Liabilities and 2290 Other Noncurrent Liabilities shall be shown in column 14.

2. Amend section 23 by revising the instructions for schedule B-43 to read as follows:

SCHEDULE B-43—INVENTORY OF AIRFRAMES AND AIRCRAFT ENGINES

(a) This schedule shall be filed by each supplemental air carrier.

(b) The indicated data shall be reported for each individual airframe, identified by type, model, and design of cabin as to use for passengers exclusively, cargo exclusively, or both passengers and cargo in combination. Data pertaining to aircraft engines shall be reported on a group basis by type of engine and by type of aircraft to which related.

(c) Data in this schedule shall be grouped and subtotaled as between data pertaining to airframes and data pertaining to aircraft engines. Data pertaining to nonoperating airframes and aircraft engines shall be reported in a group below the data for operating equipment.

(d) The data to be reported shall include owned and rented airframes and aircraft engines currently in operation or in conversion. Data pertaining to rented airframes and aircraft engines shall be listed in columns 1 through 7 and in column 14; the cost of improvements thereto shall be listed in columns 8 through 13.

(e) Column 8, "Cost" shall agree in totals for owned and operating airframes and aircraft engines, respectively, with corresponding amounts reflected in accounts 1601 and 1602 in column 7 of schedule B-5 as at December 31 of the reporting year.

(f) Column 9, "Reserve for Depreciation" shall include the accumulations of all provisions for losses due to use and obsolescence as recorded in balance sheet accounts 1611 Reserve for Depreciation-Airframes and 1612 Reserve for Depreciation-Aircraft Engines.

(g) Column 10, "Depreciated Cost" shall reflect Cost (col. 8) less Reserve for Depreciation (col. 9).

(h) Column 11, "Estimated Residual Value" shall reflect in dollars the residual value assigned to airframes and aircraft engines respectively, exclusive of any amount reported in columns 12 and 14, respectively.

(i) Column 12, "Overhaul Value Not Depreciable" shall reflect the overhaul value excluded from computations of airframe and aircraft engine depreciation.

(j) Column 13, "Estimated Depreciable Life (Months)" shall reflect the estimated depreciable life of each airframe and each group of aircraft engines.

(k) Column 14, "Flight Equipment Airworthiness Reserves or Maintenance Liability" shall include amounts accumulated for owned airframes and aircraft engines in account 1629 Flight Equipment Airworthiness Reserves and amounts accumulated for leased airframes and aircraft engines in accounts 2190 Other Current Liabilities and 2290 Other Noncurrent Liabilities.

(l) Totals for owned operating equipment shall agree with property and equipment accounts 1601 Airframes; 1611 Reserve for Depreciation-Airframes; 1602 Aircraft Engines; 1612 Reserve for Depreciation-Aircraft Engines; and 1629 Flight Equipment Airworthiness Reserves. The airworthiness liabilities for rented equipment included in accounts 2190 Other Current Liabilities and 2290 Other Noncurrent Liabilities shall be shown in column 14.

3. Revise schedule B-43—Inventory of Airframes and Aircraft Engines of CAB Form 41 by redesignating present columns (12) and (13) as (13) and (14), respectively, and adding new column (12) entitled "Overhaul Value not Depreciable", as shown in the exhibit attached hereto and incorporated herein.[1]

[F.R. Doc. 67-15064; Filed, Dec. 27, 1967; 8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 21]

[Docket No. 17935; FCC 67-1378]

DOMESTIC PUBLIC POINT-TO-POINT MICROWAVE RADIO SERVICES

Increase of Maximum Radio Channel Bandwidth

In the matter of amendment of Part 21 of the Commission's rules to increase the maximum radio channel bandwidth to 3.5 MHz in the 2110–2200 MHz frequency band, Docket No. 17935, RM-1188.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. The Commission has before it a joint petition filed July 25, 1967, by the United Telephone Company of Arkansas, United Telephone of Kansas, Inc., and United Telephone Company of Missouri to ament § 21.703(g) of its rules and regulations to increase the maximum radio channel bandwidth authorized in the 2110–2200 MHz frequency band allocations for the Domestic Public Point-To-Point Microwave Radio Services from 0.8 MHz to 3.5 MHz.

3. In support of their position, the petitioners state that little use is presently being made of frequencies in the 2110–2200 MHz band largely because the voice channel capacity that can be derived within a bandwidth of 0.8 MHz is not adequate to meet most initial light density common carrier route requirements and falls far short of most 10-year traffic projections. Consequently, common carriers are bypassing the 2110–2200 MHz band and using the higher, more congested, microwave bands for their light density routes.[2] The petitioners also note that the higher microwave bands are intended for high density broadband systems and not for light density systems.

4. The petitioners would alleviate this situation by increasing the maximum bandwidth authorized in the 2110–2200 MHz band to 3.5 MHz. Engineering studies accompanying the petition indicate that the 3.5 MHz bandwidth could accommodate a basic 132 medium performance voice channel system or a maximum of 252 channels for a short haul medium

[1] Filed as part of the original document.

[2] Petitioners appear to consider light density routes as those with an ultimate requirement of approximately 200 voice channels and point out that the light density requirement anticipated by the Commission when it assigned the current 0.8 MHz (800 kc) allowable bandwidth has not developed.

performance system whereas the 0.8 MHz bandwidth limits the practical capacity of a system to 24 voice channels.[3] The petitioners further state that radio multiplexing equipment presently available can economically provide for this increase in voice channels. The petitioners contend that this increase in bandwidth would bring about a more efficient use of spectrum space in that it would result in greater utilization of frequencies in the 2110–2200 MHz band which at present are relatively unused [4] and would reduce the demand for frequencies in the higher microwave bands for systems which do not require broadband capability.

5. Comments on the rule making petition were received by the Commission from United Telephone Company of the Northwest, Farinon Electric, Carolina Telephone and Telegraph Co., and G.T. & E. Service Corp.[5] The comments were in general agreement with the petition and all favored the proposed amendment to increase the allowable radio channel bandwidth to 3.5 MHz in the 2110–2200 MHz band.

6. The Commission has become increasingly aware of the relative lack of use of the 2110–2200 MHz band. The Commission is also concerned that light density systems requiring radio, in most circumstances, have no recourse other than to use the higher microwave bands (4, 6, and 11 GHz) which are intended primarily for systems with wideband requirements. Continued expansion of facilities in the higher bands by the common carriers, coupled by the sharing of the four and six GHz bands with satellite communications, has resulted in a scarcity of available frequencies in these latter bands. It would appear that the recommended inducement to the common carriers to use the 2110–2200 MHz band would help to alleviate this problem as well as stimulate interest in the band.

7. Therefore, a proposed amendment to § 21.703(g) of the Commission's rules to increase the maximum bandwidth authorized to 3.5 MHz in the 2110–2200 MHz band is offered for comment. In addition, the Commission proposes an amendment to Note 3 under § 21.701 of its rules to reflect a maximum radio channel bandwidth of 3.5 MHz in the 2110–2200 MHz band (thus conforming it with the proposed amendment of § 21.701) and to remove certain other restrictions which appear to impede use of the band.

8. The proposed amendments to the Commission's rules are set forth below.

9. Authority for the proposed amendment is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.

10. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before January 19, 1968, and reply comments on or before January 29, 1968. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

11. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs, and comments filed should be furnished the Commission.

Adopted: December 20, 1967.

Released: December 21, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[6]
[SEAL] BEN F. WAPLE,
Secretary.

Part 21 of the Commission's rules is proposed to be amended as follows:

1. Note 3 under § 21.701(a) is amended as follows:

§ 21.701 Frequencies.

(a) • • •

[3] Television transmission in this band is not authorized and radio frequency channel widths shall not exceed 3.5 MHz.

• • • • • •

2. Section 21.703(g) is amended to read as follows:

§ 21.703 Bandwidth and emission limitations.

• • • • • •

(g) The maximum bandwidth authorized in this service in the following frequency bands shall not exceed the limits set forth below:

Frequency band (MHz)	*Authorized bandwidth (MHz)*
2,110– 2,200	3.5
3,700– 4,200	20
5,925– 6,875	30
10,700–11,700	50
12,200–12,250	25
17,700–19,300	100
19,400–19,700	100
27,525–31,300	200
38,600–40,000	200

• • • • • •

[F.R. Doc. 67–15064; Filed, Dec. 27, 1967; 8:50 a.m.]

[3] The engineering studies were based on the Commission's standards pertaining to necessary bandwidth contained in Part 2 of its rules and recommendations of the International Radio Consultive Committee and the International Telegraph and Telephone Consultive Committee.

[4] A November count of the FCC Frequency List registration cards shows only 265 common carrier frequency assignments in this band.

[5] The comments submitted by G.T. & E. Service Corp. were not timely filed but have been considered.

[6] Commissioner Cox concurring and issuing a statement filed as part of the original document and Commissioner Johnson concurring in the result.

[47 CFR Part 73]

[Docket No. 17873; RM–320]

STANDARD BROADCAST STATIONS OPERATED BY REMOTE CONTROL

Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of Part 73 of the Commission rules and regulations to permit standard broadcast stations operated by remote control to transmit telemetry signals directly related to the technical operation of the broadcast station, Docket No. 17873, RM–320.

1. On November 15, 1967, the Commission adopted a notice of proposed rule making, which looked toward the amendment of Part 73 of the rules to permit the licensee of a standard broadcast station to transmit low-frequency tones on the broadcast carrier for the purpose of conveying, to a remote control point, information as to the functioning of the transmitter plant. December 26, 1967, was set as the deadline for receiving comments in this proceeding, and January 5, 1968, for receiving reply comments.

2. On December 15, 1967, WGN Continental Broadcasting Co., licensee of WGN, Chicago, Ill., filed a petition for extension of time for filing comments. In its petition, WGN notes that we have requested information in several important areas, and in view of the complexity and importance of the matters involved, it requests additional time for the study of the proposed amendment by its engineers.

3. We are of the view that the 30-day extension requested by WGN is reasonable, and that a grant of its petition would be in the public interest.

4. *Accordingly, it is ordered,* That the time for filing comments in this proceeding is extended from December 26, 1967, to January 25, 1968, and the time for filing reply comments is extended from January 5, 1968, to February 5, 1968.

5. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules.

Adopted: December 19, 1967.

Released: December 21, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67–15020; Filed, Dec. 27, 1967; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1048]

[No. MC–C–1 (Sub-No. 3)]

ST. LOUIS, MO.-EAST ST. LOUIS, ILL. COMMERCIAL ZONE

Redefinition of Limits

DECEMBER 22, 1967.

Redefinition of the limits of the St. Louis, Mo.-East St. Louis, Ill., commercial zone heretofore defined in MC–C–1 (Sub-No. 2), St. Louis, Mo.-East St. Louis, Ill., commercial zone 105 M.C.C. 193 at page 197.

Petitioner: ACME FAST FREIGHT, INC., Petitioner's representative: G. M. Rebman, 314 North Broadway, St. Louis, Mo. By petition filed August 7, 1967, Acme Fast Freight, Inc., requests the Commission to reopen the above proceeding for the purpose of redefining the limits of the St. Louis, Mo.-East St. Louis, Ill., commercial zone which were most recently defined on June 6, 1967, in St. Louis, Mo.-East St. Louis, Ill., commercial zone, 105 M.C.C. 193 at pages 197 and 198 (49 CFR 1048.3) so as to include therein the Valley Junction Railroad Yards at Centerville, Ill.

As presently defined, the St. Louis, Mo.-East St. Louis, Ill., commercial zone includes, in part, the municipality of East St. Louis, Ill., which is bounded on the west, in part, by 21st Street. Petitioner requests the Commission to include within the zone an area bounded by a line as follows: Beginning at the intersection of Baker Avenue and 26th Street (the corporate limit of East St. Louis, Ill.), southwesterly along Baker Avenue to its junction with Owen Street, thence southwesterly along Owen Street to its junction with Church Road, thence southeasterly along Church Road to its junction with Illinois Avenue, thence southwesterly along Illinois Avenue to the southwesterly side of the right-of-way of the Illinois-Central Railroad Co., thence along the southwesterly side of the right-of-way of the Illinois-Central Railroad Co. to the corporate limits of East St. Louis, Ill., thence along the corporate limits of East St. Louis, Ill., to the point of beginning.

No oral hearing is contemplated at this time, but anyone wishing to make representations in favor of, or against, the above-proposed revision of the limits of the St. Louis, Mo.-East St. Louis, Ill., commercial zone, may do so by the submission of written data, views, or arguments. An original and 11 copies of such data, views, or arguments shall be filed with the Commission on or before January 31, 1968. Each such statement should include a statement of position with respect to the proposed revision, and a copy thereof should be served upon petitioner's representative.

Notice to the general public of the matter herein under consideration will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 67–15038; Filed, Dec. 27, 1967; 8:48 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Order 211]

EXECUTIVE ASSIGNMENT BOARD

Establishment

By virtue of the authority vested in me as Secretary of the Treasury, including the authority in Reorganization Plan No. 26 of 1950, and in order to carry out the objectives of Executive Order 11315 establishing an Executive Assignment System, I hereby establish and authorize in the Treasury (1) an Executive Assignment Board, (2) an Executive Assignment Committee of that board, and (3) auxiliary boards, panels, and committees as provided in section 3 hereof. All of these units shall function in accord with regulations of the Civil Service Commission and of the Treasury Department, as approved in Civil Service Commission letter of December 5, 1967.

SECTION 1. *The Executive Assignment Board.* A. The permanent composition of the Executive Assignment Board is as follows:

Under Secretary of the Treasury.	Chairman.
Under Secretary for Monetary Affairs.	Alternate Chairman.
General Counsel	Member.
Assistant Secretaries	Members.
Commissioner of Internal Revenue.	Member.
Special Assistant to the Secretary (for Enforcement).	Member.
Fiscal Assistant Secretary.	Member.
Assistant Secretary for Administration.	Member.
Director of Personnel	Executive Secretary.

The Office of the Director of Personnel will provide administrative support to the Board. Action may be taken for the Board between meetings as provided in the bylaws by the Chairman (or Alternate Chairman), the member whose jurisdiction is involved, the Assistant Secretary for Administration, and the Director of Personnel.

B. The Board shall have the following functions:

(a) Approval of significant executive manpower policy planning, of staffing and utilization of executives, and of filling specific positions either in the Bureaus or the Office of the Secretary, as deemed necessary by the Under Secretary or as required.

(b) Approval of Executive Assignment Committee recommendations or review of actions, as deemed necessary by the Under Secretary, or as required.

(c) Approval of other matters relating to the Executive Assignment System as requested by the Under Secretary, or as required.

(d) Performance of the function of outside search for executive talent placed upon an Executive Assignment Board by Subchapter 3 of Chapter 305 of the Federal Personnel Manual, to the extent and in the manner authorized by the Civil Service Commission.

The Executive Assignment Board will develop its bylaws and begin operations immediately. It is desirable that some of the functions of the Board evolve gradually and after careful study. Therefore, the full functions of the Board will be activated in stages, as the Board deems appropriate.

SEC. 2. *The Executive Assignment Committee.* A. The permanent composition of the Executive Assignment Committee is as follows:

Under Secretary of the Treasury	Chairman.
Assistant Secretary for Administration	Member.
Director of Personnel	Member.

Ad hoc members shall be other members of the Board, Bureau Heads, or members of Bureau Boards and Panels. Associate Members shall be Staff Representatives in the Office of the Assistant Secretary for Administration and of Staffs in the Bureaus who will provide administrative support.

B. The Committee shall have the following functions:

(a) Executive manpower-management planning, staffing, and utilization in the Office of the Secretary and review of Bureau recommendations on these matters and on the staffing and filling of specific positions.

(b) Assessment of Office of the Secretary and Treasury Department long range executive manpower needs.

(c) Early identification of potential executive vacancies.

(d) Analysis of Office of the Secretary and Bureau executive manpower resources.

(e) Analysis of organizational structure.

(f) Review of Bureau recommendations for Outside Search.

(g) Approval of all other Executive Assignment System matters except in cases where Executive Assignment Board action is deemed necessary by the Under Secretary, or as required.

SEC. 3. *Establishment of auxiliary boards, panels, and committees.* The Executive Assignment Committee may establish auxiliary boards and subcommittees. Heads of Bureaus and Offices may establish, with the approval of the Assistant Secretary for Administration or the Director of Personnel, such auxiliary boards, panels, and committees or subcommittees as may be necessary to effectuate the Executive Assignment System.

Dated: December 21, 1967.

[SEAL] HENRY H. FOWLER,
Secretary of the Treasury.

[F.R. Doc. 67-15066; Filed, Dec. 27, 1967; 8:50 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

OUTER CONTINENTAL SHELF OFF CALIFORNIA

Oil and Gas Lease Sale

Pursuant to section 8 of the Outer Continental Shelf Lands Act (67 Stat. 462, 468; 43 U.S.C. sec. 1337) and the regulations issued thereunder (43 CFR Part 3380) sealed bids addressed to the Manager, Pacific Coast Outer Continental Shelf Office, Bureau of Land Management, 300 North Los Angeles Street, Room 7749, Los Angeles, Calif. 90012, will be received until 9:30 a.m., P.s.t., on February 6, 1968, for the lease of oil and gas in certain areas of the Outer Continental Shelf, adjacent to the State of California. Bids will be opened at 10 a.m., P.s.t., on February 6, 1968, in the Renaissance Room of the Biltmore Hotel, 515 South Olive Street, Los Angeles, Calif.

On that day bids may be delivered in person to the Manager, Pacific Coast Outer Continental Shelf Office, Bureau of Land Management, at the Renaissance Room, Biltmore Hotel between 8:30 a.m., and 9:30 a.m., P.s.t. No bids received by mail or in person after 9:30 a.m., P.s.t., will be accepted.

All bids must be submitted in accordance with applicable regulations, particularly 43 CFR 3382.1, 3382.3, and 3382.4. Each bidder must submit the certification required by 41 CFR 60–1.6(b) and Executive Order No. 11246 of September 24, 1965, on Form 1140–1, November 1966. Bids may not be modified or withdrawn unless written modifications or withdrawals are received prior to the end of the period fixed for the filing of bids. Bidders are warned against violation of section 1860 of Title 18 U.S.C., prohibiting unlawful combination or intimidation of bidders. Attention is directed to the nondiscrimination clauses in section 2(k) of the lease agreement (Form 3380–1, February 1966). Bidders must submit with each bid one-fifth of the amount bid, in cash or by cashier's check, bank draft, certified check, or money order, payable to the order of the Bureau of Land Management. The leases will provide for a royalty rate of one-sixth, and a yearly rental or minimum royalty of $3 per acre or fraction thereof. The successful bidder will be required to pay the remainder of the bid and the first year's rental of $3 per acre or fraction thereof and furnish an acceptable surety bond as required in 43 CFR 3384.1 prior to the issuance of each lease.

Bids will be considered on the basis of the highest cash bonus offered for a tract, but no total bid amounting to less than $15 per acre or fraction thereof will be considered. The U.S. Government reserves the right to reject any and all bids even though the bid may exceed the minimum referred to previously. Oil payments, overriding royalty, logarithmic, or sliding scale bids will not be considered. No bid for less than a full tract, as listed below, will be considered.

A separate bid, in a separate, sealed envelope, must be submitted for each tract. The envelope should be endorsed "Sealed bid for oil and gas lease, California (insert number of tract) not to be opened until 10 a.m., P.s.t., February 6, 1968."

The tracts offered for bids are shown on official leasing maps designated Map Nos. 6A and 6B, Channel Islands Area, approved August 8, 1966, revised July 24, 1967, and are described as:

CALIFORNIA

Official Leasing Map, Channel Islands Area Map No. 6A

Tract No.	Block	Description	Acreage
Cal. 200	45N 72W 46N 72W	All those portions lying seaward of a line 3 geographical miles distant from the coastline of California (as said coastline is defined in the Submerged Lands Act of 1953).	4,205
Cal. 300	45N 76W S½ 46N 76W	do	3,125
Cal. 301	46N 77W 46N 77W	do	5,400
Cal. 302	46N 73W	do	3,304
Cal. 303	46N 74W	do	4,274
Cal. 304	46N 75W	do	4,472
Cal. 305	N½ 46N 76W S½ 47N 76W	All	5,760
Cal. 306	46N 76W 47N 76W	All those portions lying seaward of a line 3 geographical miles distant from the coastline of California (as said coastline is defined in the Submerged Lands Act of 1953).	5,670
Cal. 307	47N 72W	All	5,760
Cal. 308	47N 73W	do	5,760
Cal. 309	47N 74W	do	5,760
Cal. 310	47N 75W	do	5,760
Cal. 311	N½ 47N 76W	do	2,880
Cal. 312	47N 77W	do	5,760
Cal. 313	47N 79W	All those portions lying seaward of a line 3 geographical miles distant from the coastline of California (as said coastline is defined in the Submerged Lands Act of 1953).	884
Cal. 314	47N 81W	do	361
Cal. 315	48N 76W	All	5,760
Cal. 316	48N 79W	All those portions lying seaward of a line 3 geographical miles distant from the coastline of California (as said coastline is defined in the Submerged Lands Act of 1953).	5,230
Cal. 317	48N 80W	do	3,837
Cal. 318	49N 81W	do	5,405
Cal. 319	49N 79W	All	5,760
Cal. 320	49N 80W	do	5,760
Cal. 321	49N 81W	do	5,760
Cal. 322	52N 74W	do	5,760
Cal. 323	52N 75W	do	5,760
Cal. 324	52N 76W	do	5,760
Cal. 325	52N 77W	do	5,760
Cal. 326	52N 78W	do	5,760
Cal. 327	52N 79W	do	5,767
Cal. 328	52N 80W	do	5,760
Cal. 329	52N 81W	do	5,760
Cal. 330	53N 73W	All those portions lying seaward of a line 3 geographical miles distant from the coastline of California (as said coastline is defined in the Submerged Lands Act of 1953).	3,362
Cal. 331	53N 74W 53N 74W 54N 74W	do	4,946 5,661
Cal. 332	N½ 53N 75W 54N–75W	do	3,840
Cal. 334	S½ 53N 75W	All	2,960
Cal. 335	53N 76W	do	5,760
Cal. 336	N½ 53N 77W 54N 77W	All those portions lying seaward of a line 3 geographical miles distant from the coastline of California (as said coastline is defined in the Submerged Lands Act of 1953).	3,561
Cal. 337	S½ 53N 77W	All	2,960
Cal. 338	N½ 53N 78W 54N 78W	All those portions lying seaward of a line 3 geographical miles distant from the coastline of California (as said coastline is defined in the Submerged Lands Act of 1953).	3,316
Cal. 339	S½ 53N 78W 53N 79W 54N 79W	All All those portions lying seaward of a line 3 geographical miles distant from the coastline of California (as said coastline is defined in the Submerged Lands Act of 1953).	2,880 5,695
Cal. 341	53N 80W 53N 81W 54N 81W	do	4,735 4,998

CALIFORNIA

Official Leasing Map, Channel Islands Area Map No. 6

Tract No.	Block	Description	Acreage
Cal. 343	45N 85W	All	5,760
Cal. 344	46N 80W	All those portions lying seaward of a line 3 geographical miles distant from the coastline of California (as said coastline is defined in the Submerged Lands Act of 1953).	4,804
Cal. 345	45N 86W	do	2,726
Cal. 346	45N 81W 46N 82W	do	4,080
Cal. 347	46N 83W 46N 83W	do	4,345
Cal. 348	46N 85W 46N 86W	do	4,320
Cal. 349	46N 86W 46N 86W	do	5,167
Cal. 350	46N 85W	do	2,824
Cal. 351	46N 80W	All	5,760
Cal. 352	46N 81W	do	5,760
Cal. 353	46N 81W	do	5,760
Cal. 354	46N 82W	do	5,760
Cal. 355	46N 84W	do	3,719
Cal. 356	46N 84W	All those portions lying seaward of a line 3 geographical miles distant from the coastline of California (as said coastline is defined in the Submerged Lands Act of 1953).	2,160
Cal. 357	46N 87W	do	2,405
Cal. 358	46N 88W	do	1,807
Cal. 359	46N 89W	do	4,709
Cal. 360	47N 85W	do	5,669
Cal. 361	47N 60W	All	5,760
Cal. 362	47N 61W	do	5,760
Cal. 363	47N 62W	do	5,760
Cal. 364	47N 63W	do	5,760
Cal. 365	47N 64W	do	5,760
Cal. 366	47N 65W	do	5,760
Cal. 367	47N 66W	do	5,760
Cal. 368	47N 67W	do	5,760
Cal. 369	47N 68W	All those portions lying seaward of a line 3 geographical miles distant from the coastline of California (as said coastline is defined in the Submerged Lands Act of 1953).	5,541
Cal. 370	47N 70W	do	4,536
Cal. 371	48N 59W 49N 59W	do	3,474
Cal. 372	48N 60W	All	5,760
Cal. 373	48N 61W	do	5,760
Cal. 374	48N 62W	do	5,760
Cal. 375	48N 63W	do	5,760
Cal. 376	48N 64W	do	5,760
Cal. 377	48N 65W	do	2,760
Cal. 378	48N 66W	do	5,760
Cal. 379	48N 67W	do	5,760
Cal. 380	48N 68W	do	5,760
Cal. 381	49N 60W 50N 60W	All those portions lying seaward of a line 3 geographical miles distant from the coastline of California (as said coastline is defined in the Submerged Lands Act of 1953).	4,177
Cal. 382	49N 61W	All	5,760
Cal. 383	49N 62W	do	5,760
Cal. 384	49N 63W	do	5,760
Cal. 385	49N 64W	do	5,760
Cal. 386	49N 65W	do	5,760
Cal. 387	49N 66W	do	5,760
Cal. 388	49N 67W	do	5,760
Cal. 389	49N 68W	do	5,760
Cal. 390	49N 69W	do	5,760
Cal. 391	S½ 50N 61W	All those portions lying seaward of a line 3 geographical miles distant from the coastline of California (as said coastline is defined in the Submerged Lands Act of 1953).	2,091
Cal. 392	S½ NW¼ 50N 62W	All	4,320
Cal. 393	50N 63W	do	5,760
Cal. 394	50N 64W	do	5,760
Cal. 395	50N 65W	do	5,760
Cal. 396	50N 66W	do	5,760
Cal. 397	50N 67W	do	5,760
Cal. 398	50N 68W	do	5,760
Cal. 399	50N 69W	do	5,760
Cal. 400	S½ 51N 68W	do	2,880
Cal. 401	51N 64W	do	5,760
Cal. 402	S½ NE¼, S½ NW¼ NE¼, NE¼ NW¼ 51N 65W.	do	5,400
Cal. 403	S½ 51N 66W	do	2,880
Cal. 404	S½ 51N 67W	do	2,880
Cal. 405	S½ S½ NW¼ S½ N 68W.	do	4,320
Cal. 406	51N 69W	do	5,760
Cal. 407	S½ 52N 70W	do	2,880
Cal. 408	S½ NW¼ S½ NE¼ NW¼ NE¼, S½ NE¼ NE¼, NW¼ NE¼ NE¼ 52N 71W.	do	5,670

As stated on the official leasing maps, the 3-mile line shown thereon is approximate only and does not necessarily delineate such a line in its true horizontal position. In the event of a conflict between the official leasing maps and the written description, the written description shall prevail. The official leasing maps Nos. 6A and 6B, Channel Islands Area, can be purchased for 1 dollar each. The maps, copies of the lease form (Form 3390–1, February 1966) as well as the Compliance Report Certification Form (Form 1140–1, November 1966) may be obtained from the above listed manager, or the Manager, Eastern States Land Office, 7981 Eastern Avenue, Silver Spring, Md. 20910.

All leases issued pursuant to this offer will be subject to the special conditions of Geological Survey Supervisory Order No. 9, which provides that platforms will be of sufficient size to accommodate 20 or more wells and that platforms will be of acceptable design, properly camouflaged, and subject to such other conditions as may be prescribed to protect aesthetic values. Operations under such leases will also be subject to provisions for the protection of fishing operations and aquatic values.

Leases which may be issued for Tracts Cal. 313, 314, 316, 317, 318, 319, 320, 321, 328, 329, 341, and 342 will be subject to the following stipulation: "The lessee, recognizing that mineral explorations and exploitation and recovery operations on the leased areas of tide and submerged lands can impede tactical military operations, hereby recognizes and agrees that the United States reserves and has the right to temporarily suspend operations of the lease under this lease in the interests of national security requirements. Such temporary suspension of operations, including the evacuation of personnel, will come into effect upon the order of the Air Force Western Test Range Safety Officer, or higher authority, that national security interests necessitates such action. It is understood that any temporary suspension of operations ordered by said official may not exceed 72 hours, however, any suspension may be extended by order of the Secretary of Defense. During such periods equipment may remain in place."

Leases which may be issued for the tracts enumerated in the preceding paragraph and for tracts Cal. 306, 301, 302, 303, 304, 305, 306, 308, 309, 310, 311, 312, 315, 325, 326, 327, 337, 338, 339, and 340 will be subject to the following stipulation: "The lessee assumes all risk of damage or injury to any person or persons who are the agents, employees, or invitees of the lessee, its agents, subcontractors or any independent contractor doing business with the lessee in connection with any activities being performed by the lessee on the leased premises, and of any damage to any property of the lessee, its agents, employees, invitees, subcontractors or independent contractors doing business with the lessee and which occurs on the leased premises, and which injury to such person or property occurs by reason of the activities of any agency of the U.S. Government being conducted as a part of or in connection with the programs and activities of the Air Force Western Test Range, whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States or its contractors, or any of their officers, agents or employees, and whether or not based upon any concept of strict or absolute liability or otherwise; and the lessee agrees to indemnify and save harmless the United States against, and to defend at its own expense, all such claims for loss, damage, or injury sustained by the lessee, its agents, employees, invitees, subcontractors, or any independent contractors doing business with the lessee in connection with its activities on the leased premises, or their agents or employees, which such claims may arise by reason of injury or damage occurring in connection with the programs and activities of the said Air Force Western Test Range, whether the same be caused in whole or in part, by the negligence or fault of the United States or its contractors or any of their officers, agents, and employees, or based upon any concept of strict liability or otherwise."

Bidders are requested to submit their bids in the following form:

Manager, Bureau of Land Management, U.S. Department of the Interior, 200 North Los Angeles Street, Room 7749, Los Angeles, Calif. 90012.

OIL AND GAS BID

The following bid is submitted for an oil and gas lease on land of the Outer Continental Shelf specified below:

Area ---------- Official Leasing Map No. ------

Tract No.	Total Amount Bid	Amount Per Acre	Amount Submitted With Bid

(Signature)

(Address)

Important. The bid must be accompanied by one-fifth of the total amount bid. This amount may be in cash, money order, cashier's check, certified check, or bank draft.

JOHN O. CROW,
Acting Director, Bureau of Land Management.

Approved: December 20, 1967.

STEWART L. UDALL,
Secretary of the Interior.

[F.R. Doc. 67–14966; Filed, Dec. 27, 1967; 8:45 a.m.]

[Serial No. N–1239]

NEVADA

Notice of Public Sale

DECEMBER 20, 1967.

Pursuant to the Act of September 19, 1964 (78 Stat. 988; 43 U.S.C. 1421–27) and 43 CFR Subpart 2243, there will be offered to the highest bidder, but at not less than the appraised value, at a public sale to be held at 9:30 a.m., local time, on February 6, 1968, at the Las Vegas Convention Center, Room 14, 350 South Paradise Road, Las Vegas, Nev., the following tracts of land:

MOUNT DIABLO MERIDIAN, NEVADA

(T. 19 S., R. 60 E., sec. 22; 105 tracts)

Tract No.	Width and boundary of right-of-way reservations	Legal description	Appraised value
87	50'N., 30'W.	NW¼NW¼NE¼NE¼	$1,500
88	30'N., 30'E.	NE¼SW¼NE¼NE¼	1,400
89	30'E., 30'N.	NE¼SE¼NE¼NE¼	1,500
90	30'N., 30'W.	NW¼SE¼NE¼NE¼	1,400
91	30'E., 30'S.	SE¼SE¼NE¼NE¼	1,500
92	30'N., 30'E.	NE¼NE¼NW¼NE¼	1,500
93	30'E., 30'N.	NE¼NW¼NW¼NE¼	1,500
94	30'N., 40'W.	NW¼NW¼NW¼NE¼	1,500
95	40'W., 30'S.	SW¼NW¼NW¼NE¼	1,500
96	30'N., 30'E.	NE¼SW¼NW¼NE¼	1,500
97	40'W., 30'N.	NW¼SW¼NW¼NE¼	1,500
98	30'E., 30'S.	SE¼SW¼NW¼NE¼	1,400
99	30'N., 30'W.	NW¼NE¼SW¼NE¼	1,400
100	30'E., 30'N.	NE¼NE¼SW¼NE¼	1,400
101	30'N., 30'W.	NW¼NW¼SW¼NE¼	1,500
102	30'W., 40'S.	SW¼SW¼SW¼NE¼	1,500
103	30'E., 40'S.	SE¼SE¼SW¼NE¼	1,500
104	40'E., 30'N.	NE¼NE¼SE¼NE¼	1,400
105	30'W., 30'S.	SW¼NE¼SE¼NE¼	1,500
106	30'W., 40'S.	NE¼SE¼SE¼NE¼	1,500
107	30'W., 30'S.	NW¼SE¼SE¼NE¼	1,400
108	30'E., 30'N.	NW¼NE¼SE¼NE¼	1,500
109	30'N., 30'W.	SW¼SE¼SE¼NE¼	1,500
110	30'W., 40'S.	SE¼SE¼SE¼NE¼	1,500
111	40'E., 40'S.	NE¼NE¼NE¼SW¼	1,500
112	40'E., 40'N.	NW¼NE¼NE¼SW¼	1,500
113	40'N., 30'W.	NE¼NW¼NE¼SW¼	1,500
114	40'N., 30'E.	NW¼NW¼NE¼SW¼	1,500
115	30'E., 30'N.	NE¼SW¼NE¼SW¼	1,400
116	30'E., 30'N.	NW¼SW¼NE¼SW¼	1,400
117	30'N., 30'W.	SW¼SW¼NE¼SW¼	1,400
118	30'W., 30'S.	NE¼NE¼NW¼SW¼	1,500
119	40'N., 30'E.	NW¼NE¼NW¼SW¼	1,500
120	40'N., 30'W.	SW¼NE¼NW¼SW¼	1,400
121	30'W., 30'S.	SE¼NE¼NW¼SW¼	1,400
122	30'E., 30'S.	NE¼SW¼NW¼SW¼	1,400
123	30'E., 30'N.	NW¼SW¼NW¼SW¼	1,500
124	30'N., 50'W.	SE¼SE¼NW¼SW¼	1,500
125	30'E., 30'S.	NE¼NE¼NE¼SE¼	1,500
126	50'E., 40'N.	NW¼NE¼NE¼SE¼	1,500
127	40'N., 30'W.	SE¼NE¼NE¼SE¼	1,500
128	30'E., 30'S.	NE¼NW¼NE¼SE¼	1,500
129	40'N., 30'W.	NW¼NW¼NE¼SE¼	1,400
130	40'E., 30'S.	SE¼NW¼NE¼SE¼	1,400
131	40'N., 30'W.	NE¼SW¼NE¼SE¼	1,400
132	40'E., 30'S.	NW¼SW¼NE¼SE¼	1,400
133	30'E., 30'N.	SW¼SW¼NE¼SE¼	1,400
134	30'E., 30'N.	NE¼SE¼NE¼SE¼	1,400
135	30'E., 30'W.	NW¼SE¼NE¼SE¼	1,400
136	30'W., 30'S.	SW¼SE¼NE¼SE¼	1,500
137	50'E., 30'N.	NE¼NE¼NW¼SE¼	1,400
138	30'W., 30'S.	SE¼NE¼NW¼SE¼	1,500
139	30'S., 50'E.	NE¼NW¼NW¼SE¼	1,500
140	30'E., 40'N.	NW¼NW¼NW¼SE¼	1,500
141	40'N., 30'W.	SW¼NW¼NW¼SE¼	1,400
142	30'W., 30'S.	SE¼NW¼NW¼SE¼	1,500
143	30'E., 40'N.	NE¼SW¼NW¼SE¼	1,500
144	40'N., 40'W.	NW¼SW¼NW¼SE¼	1,400
145	30'E., 30'N.	NE¼SE¼NW¼SE¼	1,400
146	30'W., 30'S.	SW¼SE¼NW¼SE¼	1,400
147	30'S., 30'E.	SE¼SE¼NW¼SE¼	1,400
148	30'N., 30'W.	NW¼NE¼SW¼SE¼	1,300
149	40'W., 30'S.	SW¼NE¼SW¼SE¼	1,300
150	30'S., 30'E.	SE¼NE¼SW¼SE¼	1,400
151	30'E., 30'N.	NE¼NW¼SW¼SE¼	1,400
152	40'W., 30'S.	NW¼NW¼SW¼SE¼	1,300
153	30'E., 30'N.	NE¼SW¼SW¼SE¼	1,400
154	30'N., 30'W.	NW¼SW¼SW¼SE¼	1,400
155	30'W., 30'S.	SW¼SW¼SW¼SE¼	1,400
156	30'N., 30'W.	NW¼NW¼SE¼SE¼	1,400
157	30'W., 30'S.	SW¼NW¼SE¼SE¼	1,400
158	30'S., 30'E.	SE¼NW¼SE¼SE¼	1,400
159	30'W., 30'S.	SW¼SW¼SE¼SE¼	1,500
160	50'S., 30'E.	SE¼SW¼SE¼SE¼	1,500
161	50'E., 30'N.	NE¼SE¼SE¼SE¼	1,000
162	30'N., 30'W.	NW¼SE¼SE¼SE¼	1,300
163	50'S., 30'E.	SE¼SE¼SE¼SE¼	1,500

All tracts contain 2.50 acres.

No bid will be accepted for less than the appraised value. Cost of publication, if any, will be assessed proportionately among the successful bidders on the first 20 tracts sold.

Sealed or oral bids may be made by the principal or his agent. Bids for a parcel must be for all the lands in the parcel. Sealed bids will be considered only if received at the Las Vegas District Office, 1859 North Decatur Boulevard, Las Vegas, Nev. 89108, prior to 3 p.m., on February 5, 1968. Sealed bids must be in envelopes accompanied by certified checks, post office money orders, bank drafts, or cashier's checks, made payable to the Bureau of Land Management for the amount bid. The envelopes must be marked in the lower left-hand corner "Public Sale Bid, February 6, 1968, 9:30 a.m., Tract No. ------". Successful oral bidders at the sale will be required to pay immediately the amount thereof together with any cost of publication. Personal checks will be accepted from successful oral bidders. The right is reserved at any time to determine that the lands should not be sold or that any and all bids should be rejected.

The lands will be sold subject to a reservation to the United States of rights-of-way for ditches and canals under the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. sec. 945); subject to existing rights-of-way; and subject to the access and utilities rights-of-way listed above. All minerals will be reserved to the United States, and withdrawn from appropriation under the public land laws.

Tracts remaining unsold at the February 6, 1968, auction, will be reoffered at 9 a.m., on the first Wednesday of the following month, and subsequent months, at the Las Vegas District Office, 1859 North Decatur Boulevard, Las Vegas, Nev., until either all tracts are sold or the sale is terminated.

For further information write: Nevada Land Office, Bureau of Land Management, Room 3008, Federal Building, 300 Booth Street, Reno, Nev. 89502.

ROLLA E. CHANDLER,
Chief, Division of Lands and Minerals, Program Management and Land Office.

[F.R. Doc. 67–15011; Filed, Dec. 27, 1967; 8:45 a.m.]

[C–2649]

COLORADO

Notice of Termination of Classification of Lands

DECEMBER 18, 1967.

Notice of classification of lands, Serial No. C–2649, published as F.R. Doc. No. 67–14375, at page 17627 of the issue for Saturday, December 9, 1967, is hereby canceled so far as it affects the hereinafter described lands. The segregative effect thereof will terminate upon publication of this notice in the FEDERAL REGISTER as provided by the regulations in 43 CFR 2411.2e(3)(ii):

SIXTH PRINCIPAL MERIDIAN, COLORADO
EAGLE COUNTY

T. 4 S., R. 87 W.,
Secs. 2, 11, and 14.

J. ELLIOTT HALL,
Acting State Director.

[F.R. Doc. 67–15009; Filed, Dec. 27, 1967; 8:46 a.m.]

[Serial No. I–1557]

IDAHO

Order Providing for Opening of Public Land

DECEMBER 20, 1967.

1. In an exchange of land made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1272, as amended, 43 U.S.C. 315g), the following land has been reconveyed to the United States:

BOISE MERIDIAN, IDAHO

T. 9 S., R. 18 E.,
Sec. 16, NE¼NE¼.

The area described aggregates 40 acres.

2. The land is located in Jerome County approximately 12 miles southeast of Jerome, Idaho. The surface is rough and rocky with poor soil. Plant cover consists of cheatgrass and sagebrush. There is no public access to the land. No potential for agricultural use.

3. Subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law, the land is hereby open to application, petition, location, and selection. All valid applications received at or prior to Jan-

MOUNT DIABLO MERIDIAN, NEVADA—Continued

(T. 19 S., R. 60 E., sec. 22; 105 tracts)

Tract No.	Width and boundary of right-of-way reservations	Legal description	Appraised value
91	50'N., 30'E.	NE¼NW¼NW¼NW¼	1,500
92	50'N., 50'W.	NW¼NW¼NW¼NW¼	1,500
93	30'E., 30'N.	NE¼SW¼NW¼NW¼	1,400
94	50'W., 30'S.	NW¼SW¼NW¼NW¼	1,500
95	30'E., 30'S.	SE¼SW¼NW¼NW¼	1,500
96	30'E., 30'N.	NE¼SE¼NW¼NW¼	1,400
97	30'N., 30'W.	NW¼SE¼NW¼NW¼	1,400
98	30'E., 30'N.	NE¼NE¼SW¼NW¼	1,400
99	30'N., 30'W.	NW¼NE¼SW¼NW¼	1,400
100	30'N., 30'W.	NE¼NW¼SW¼NW¼	1,400
101	30'N., 30'W.	NW¼NW¼SW¼NW¼	1,500
102	30'W., 40'S.	SW¼SW¼SW¼NW¼	1,500
103	30'E., 40'S.	SE¼SE¼SW¼NW¼	1,500
104	40'E., 30'N.	NE¼NE¼SE¼NW¼	1,400
105	30'W., 30'S.	SW¼NE¼SE¼NW¼	1,500
106	30'W., 40'S.	NE¼SE¼SE¼NW¼	1,500
107	30'W., 30'S.	NW¼SE¼SE¼NW¼	1,400
108	30'E., 30'N.	NW¼NE¼SE¼NW¼	1,500
109	30'N., 30'W.	SW¼SE¼SE¼NW¼	1,500
110	30'W., 40'S.	SE¼SE¼SE¼NW¼	1,500
111	40'E., 40'S.	NE¼NE¼NE¼SW¼	1,500
112	40'E., 40'N.	NW¼NE¼NE¼SW¼	1,500
113	40'N., 30'W.	NE¼NW¼NE¼SW¼	1,500
114	40'N., 30'E.	NW¼NW¼NE¼SW¼	1,500
115	30'E., 30'N.	NE¼SW¼NE¼SW¼	1,400
116	30'E., 30'N.	NW¼SW¼NE¼SW¼	1,400
117	30'N., 30'W.	SW¼SW¼NE¼SW¼	1,400
118	30'W., 30'S.	NE¼NE¼NW¼SW¼	1,500
119	40'N., 30'E.	NW¼NE¼NW¼SW¼	1,500
120	40'N., 30'W.	SW¼NE¼NW¼SW¼	1,400
121	30'W., 30'S.	SE¼NE¼NW¼SW¼	1,400
122	30'E., 30'S.	NE¼SW¼NW¼SW¼	1,400
123	30'E., 30'N.	NW¼SW¼NW¼SW¼	1,500
124	30'N., 50'W.	SE¼SE¼NW¼SW¼	1,500
125	30'E., 30'S.	NE¼NE¼NE¼SE¼	1,500
126	50'E., 40'N.	NW¼NE¼NE¼SE¼	1,500
127	40'N., 30'W.	SE¼NE¼NE¼SE¼	1,500
128	30'E., 30'S.	NE¼NW¼NE¼SE¼	1,500
129	40'N., 30'W.	NW¼NW¼NE¼SE¼	1,400
130	40'E., 30'S.	SE¼NW¼NE¼SE¼	1,400
131	40'N., 30'W.	NE¼SW¼NE¼SE¼	1,400
132	40'E., 30'S.	NW¼SW¼NE¼SE¼	1,400
133	30'E., 30'N.	SW¼SW¼NE¼SE¼	1,400
134	30'E., 30'N.	NE¼SE¼NE¼SE¼	1,400
135	30'E., 30'W.	NW¼SE¼NE¼SE¼	1,400
136	30'W., 30'S.	SW¼SE¼NE¼SE¼	1,500
137	50'E., 30'N.	NE¼NE¼NW¼SE¼	1,400
138	30'W., 30'S.	SE¼NE¼NW¼SE¼	1,500
139	30'S., 50'E.	NE¼NW¼NW¼SE¼	1,500
140	30'E., 40'N.	NW¼NW¼NW¼SE¼	1,500
141	40'N., 30'W.	SW¼NW¼NW¼SE¼	1,400
142	30'W., 30'S.	SE¼NW¼NW¼SE¼	1,500
143	30'E., 40'N.	NE¼SW¼NW¼SE¼	1,500
144	40'N., 40'W.	NW¼SW¼NW¼SE¼	1,400
145	30'E., 30'N.	NE¼SE¼NW¼SE¼	1,400
146	30'W., 30'S.	SW¼SE¼NW¼SE¼	1,400
147	30'S., 30'E.	SE¼SE¼NW¼SE¼	1,400
148	30'N., 30'W.	NW¼NE¼SW¼SE¼	1,300
149	40'W., 30'S.	SW¼NE¼SW¼SE¼	1,300
150	30'S., 30'E.	SE¼NE¼SW¼SE¼	1,400
151	30'E., 30'N.	NE¼NW¼SW¼SE¼	1,400
152	40'W., 30'S.	NW¼NW¼SW¼SE¼	1,300
153	30'E., 30'N.	NE¼SW¼SW¼SE¼	1,400
154	30'N., 30'W.	NW¼SW¼SW¼SE¼	1,400
155	30'W., 30'S.	SW¼SW¼SW¼SE¼	1,400
156	30'N., 30'W.	NW¼NW¼SE¼SE¼	1,400
157	30'W., 30'S.	SW¼NW¼SE¼SE¼	1,400
158	30'S., 30'E.	SE¼NW¼SE¼SE¼	1,400
159	30'W., 30'S.	SW¼SW¼SE¼SE¼	1,500
160	50'S., 30'E.	SE¼SW¼SE¼SE¼	1,500
161	50'E., 30'N.	NE¼SE¼SE¼SE¼	1,000
162	30'N., 30'W.	NW¼SE¼SE¼SE¼	1,300
163	50'S., 30'E.	SE¼SE¼SE¼SE¼	1,500

nary 24, 1968, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. The mineral rights in the land were not exchanged. Therefore, the mineral status of the land is not affected by this order.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Boise, Idaho.

ORVAL G. HADLEY,
Manager, Land Office.

[F.R. Doc. 67-15060; Filed, Dec. 27, 1967; 8:50 a.m.]

[New Mexico 2738]

NEW MEXICO

Notice of Classification of Lands

DECEMBER 20, 1967.

Pursuant to section 2 of the Act of September 19, 1964 (43 U.S.C. 1412), the lands described below are hereby classified for disposal through exchange under section 8 of the Act of June 28, 1934 (48 Stat. 1272), as amended, for lands within Catron and Valencia Counties, New Mexico, and are described as follows:

NEW MEXICO PRINCIPAL MERIDIAN

T. 3 S., R. 4 W.,
Sec. 4 lot 3, SE¼NW¼, and NE¼SW¼;
Sec. 6, SE¼SE¼;
Sec. 7, lots 2, 5, 6, 7, 8, E½, and SE¼NW¼;
Sec. 18, NE¼NE¼ and S½NE¼.
T. 4 S., R. 4 W.,
Sec. 6, lots 1, 2, 3, 4, 6, 7, E½SW¼, and SE¼;
Sec. 7;
Sec. 18, lots 1, 2, 3, NE¼, E½NW¼, NE¼SW¼, and N½SE¼.
T. 4 S., R. 5 W.,
Sec. 1, SE¼SE¼;
Sec. 12, E½NE¼ and SE¼;
Sec. 26, W½NW¼;
Sec. 27, E½NE¼.
T. 5 S., R. 5 W.,
Sec. 17, lots 3, 4, SW¼NE¼, S½NW¼, SW¼, and W½SE¼;
Sec. 18, lots 6, 7, 8, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 19;
Sec. 20, lot 1, W½NE¼, SE¼NE¼, NW¼, and S½;
Sec. 21, lots 1, 2, 3, 4, S½N½, and N½S½;
Sec. 28, W½E½, and W½;
Secs. 29 and 30;
Sec. 31, lots 5, 6, 7, 8, 9, 12, 13, 14, W½NE¼, E½NW¼, NE¼SW¼, and NW¼SE¼;
Sec. 32, lots 1 to 6, inclusive;
Sec. 33.

The areas described aggregate 8,540.39 acres.

W. J. ANDERSON,
State Director.

[F.R. Doc. 67-15061; Filed, Dec. 27, 1967; 8:50 a.m.]

[New Mexico 3039]

NEW MEXICO

Notice of Proposed Classification

DECEMBER 20, 1967.

Pursuant to section 2 of the Act of September 19, 1964 (43 U.S.C. 1412), notice is hereby given of a proposal to classify the lands described below for disposal through exchange, under the Act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315g), as amended, for lands in Torrance and Valencia Counties, N. Mex.

The District Advisory Board, local governmental officials and other interested parties have been notified of this application. Information derived from discussions and other sources indicate that these lands meet the criterion of 43 CFR 2410.1-3(c)(4), which authorizes classification of lands "for exchange under appropriate authority where they are found to be chiefly valuable for public purposes because they have special values, arising from the interest of exchange proponents, for exchange for other lands which we need for the support of a Federal program." Information concerning the lands, including the record of public discussions, is available for inspection and study in the Land Office, Bureau of Land Management, U.S. Post Office and Federal Building, Santa Fe, N. Mex., and the Roswell District Office, 1902 South Main, Roswell, N. Mex. 88201.

For a period of 60 days from the date of this publication interested parties may submit comments to the district manager of the Roswell District Office.

The lands affected by this proposal are located in Lea and Guadalupe Counties, and are described as follows:

NEW MEXICO PRINCIPAL MERIDIAN

T. 5 N., R. 16 E.,
Sec. 5, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 8, N½, and SW¼;
Sec. 9, NW¼;
Sec. 11, W½SE¼;
Sec. 14, W½E½;
Sec. 18, lots 1, 2, 3, 4, E½, and E½W½.
T. 6 N., R. 16 E.,
Sec. 31, SE¼SW¼;
Sec. 35, E½NE¼.
T. 35 S., R. 35 E.,
Sec. 24, S½SE¼;
Sec. 25, S½.
T. 36 S., R. 36 E.,
Secs. 17 and 20;
Sec. 21, lot 4.

The areas described aggregate 3,999.25 acres.

W. J. ANDERSON,
State Director.

[F.R. Doc. 67-15062; Filed, Dec. 27, 1967; 8:50 a.m.]

ELKO DISTRICT OFFICE

Change of Mailing Address

Notice is hereby given that the mailing address of the Elko District Office, Bureau of Land Management, in Elko, Nev., is changed effective Monday, January 15, 1968. The new mailing address will from that date forward be Bureau of Land Management, Elko District Office, 2002 Idaho Street, Elko, Nev. 89801. The use of Post Office Box 592, Elko, Nev., is being discontinued and the last official mail collection from Post Office Box 592 will be at 10 a.m., on January 12, 1968.

Dated: December 19, 1967

J. KENT GILES,
District Manager.

[F.R. Doc. 67-15010; Filed, Dec. 27, 1967; 8:46 a.m.]

Fish and Wildlife Service

SNAKE CREEK NATIONAL WILDLIFE REFUGE, N. DAK.

Notice of Name Change to Audubon National Wildlife Refuge

Notice is hereby given that the Snake Creek National Wildlife Refuge, established May 25, 1956, shall hereafter be known as the Audubon National Wildlife Refuge.

This name change is in honor of John James Audubon, whose writing and painting did so much to create an interest in wildlife in the American people. Mr. Audubon visited this area in 1843 while on one of his most important journeys.

J. P. LINDUSKA,
Acting Director, Bureau of Sport Fisheries and Wildlife.

SEPTEMBER 4, 1967.

[F.R. Doc. 67-15009; Filed, Dec. 27, 1967; 8:46 a.m.]

Office of the Secretary

ELMER S. HALL

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of December 5, 1967.

Dated: December 5, 1967.

ELMER S. HALL.

[F.R. Doc. 67-15013; Filed, Dec. 27, 1967; 8:46 a.m.]

ALVIN C. HOPE

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of November 21, 1967.

Dated: December 13, 1967.

ALVIN C. HOPE.

[F.R. Doc. 67-15012; Filed, Dec. 27, 1967; 8:46 a.m.]

WILLIAM R. REMALIA

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of October 15, 1967.

Dated: December 5, 1967.

WILLIAM R. REMALIA.

[F.R. Doc. 67-15014; Filed, Dec. 27, 1967 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

HAY ON DIVERTED ACREAGE IN DESIGNATED COUNTIES

Notice of Authorization for Grazing and Harvesting

Notice is hereby given that the Secretary of Agriculture has authorized the grazing or harvesting of hay, as indicated, on acreage designated as diverted from the production of crops under the Soil Bank Program (Part 750 of Chapter VII), the Cropland Adjustment Program (Part 751 of Chapter VII), the Cropland Conversion Program (Part 751 of Chapter VII), the Feed Grain Program (Part 775 of Chapter VII), and the Upland Cotton Program (Part 722 of Chapter VII), in the counties listed below. The grazing and harvesting of hay on the diverted acreage shall be subject to the terms and conditions in the regulations for each program and instructions issued with respect thereto, which are available in the county ASCS offices. The designated counties are as follows:

TEXAS

Oldham.

Signed at Washington, D.C., on December 21, 1967.

RAY FITZGERALD,
Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 67-15050; Filed, Dec. 27, 1967; 8:49 a.m.]

Commodity Credit Corporation

DONATING FEED TO NEEDY INDIAN LIVESTOCKMEN

Notice of Declaration of Acute Distress Area

Notice is hereby given that, pursuant to the provisions of section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427, 63 Stat. 1055), and Executive Order 11336, the Secretary of Agriculture has declared the reservation and grazing lands designated for the use of the Indian tribe described below to be an acute distress area. The Secretary has authorized the donation of feed grains owned by the Commodity Credit Corporation to livestockmen who are determined by the Bureau of Indian Affairs, Department of the Interior, to be needy members of the tribe specified below in such acute distress area.

Location of reservation and grazing lands	*Indian tribe*
1 New Mexico	Ramah Navajo
2 New Mexico	Mescalero Apache

Signed at Washington, D.C., on December 21, 1967.

RAY FITZGERALD,
Vice President, Commodity Credit Corporation.

[F.R. Doc. 67-15051; Filed, Dec. 27, 1967; 8:49 a.m.]

Office of the Secretary

GEORGIA AND NORTH CAROLINA

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafternamed counties in the States of Georgia and North Carolina natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

GEORGIA	
Baldwin.	Hancock.
Barrow.	Jackson.
Columbia.	Jefferson.
Cook.	McDuffie.
Decatur.	Taliaferro.
Elbert.	Warren.
Glascock.	Washington.
Greene.	

NORTH CAROLINA	
Bertie.	Rockingham.
Davie.	Rowan.
Granville.	Stokes.
Iredell.	Surry.
Lee.	Yadkin.
Pitt.	Yancey.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1968, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 21st day of December 1967.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 67-15052; Filed, Dec. 27, 1967; 8:49 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-814]

SAFE, INC.

Notice of Receipt of Application for Facility License

Notice is hereby given that SAFE, Inc., of Galveston, Tex., pursuant to section 104.b of the Atomic Energy Act of 1954, as amended, has filed an application dated December 1, 1967, for the necessary licenses to authorize the possession, refueling, reactor startup and sea-trial testing operations of the NS *Savannah*. SAFE, Inc., is jointly owned by First Atomic Ship Transport, Inc. (FAST), and Todd Shipyards Corp. (Todd). The refueling process will be carried out at the Todd Shipyard in Galveston, Tex.

The NS *Savannah* has been operated since August 1965 by First Atomic Ship Transport, Inc. (FAST), under AEC Facility License No. NS-1.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 19th day of December 1967.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director, Division of Reactor Licensing.

[F.R. Doc. 67-15003; Filed, Dec. 27, 1967; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 19907]

SUDFLUG, SUDDEUTSCHE FLUGGESELLSCHAFT mbH

Notice of Indefinite Postponement of Prehearing Conference

At the request of counsel for the applicant in this proceeding the Prehearing Conference scheduled for December 28, 1967, at 10 a.m. is hereby indefinitely postponed.

Dated at Washington, D.C., December 21, 1967.

[SEAL] JOSEPH L. FITZMAURICE,
Hearing Examiner.

[F.R. Doc. 67-15055; Filed, Dec. 27, 1967; 8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 15094; FCC 67M-2107]

AMERICAN TELEPHONE AND TELEGRAPH CO. AND WESTERN UNION TELEGRAPH CO.

Order Continuing Hearing

In the matter of American Telephone and Telegraph Co. and The Western Union Telegraph Co., charges and classi-

fications for private line telegraph and private line telephotograph services furnished to the press, Docket No. 15094.

It is ordered, On the Hearing Examiner's own motion that a prehearing conference and hearing herein presently scheduled for the dates of January 4, 1968 and February 5, 1968, respectively, are continued to the dates of January 18, 1968, for the prehearing conference and February 20, 1968 for hearing, both to commence at 10 a.m., in the offices of the Commission at Washington, D.C.

Issued: December 18, 1967.

Released: December 20, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-15021; Filed, Dec. 27, 1967; 8:46 a.m.]

[Docket Nos. 17884, 17885; FCC 67M-2112]

BERWICK BROADCASTING CORP. AND P.A.L. BROADCASTERS, INC.

Order Scheduling Hearing

In re applications of Berwick Broadcasting Corp., Berwick, Pa., Docket No. 17884, File No. BPH-5812; P.A.L. Boardcasters, Inc., Pittston, Pa., Docket No. 17885, File No. BPH-5924; for construction permits.

It is ordered, That Jay A. Kyle shall serve as Presiding Officer in the above-entitled proceeding; that the hearings therein shall be convened on March 12, 1968, at 10 a.m.; and that a prehearing conference shall be held on January 8, 1968, commencing at 9 a.m.: *And, it is further ordered*, That all proceedings shall take place in the offices of the Commission, Washington, D.C.

Issued: December 15, 1967.

Released: December 21, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-15022; Filed, Dec. 27, 1967; 8:46 a.m.]

[Docket Nos. 17775, 17776; FCC 67M-2123]

BIG BASIN RADIO AND BOONEVILLE BROADCASTING CORP.

Memorandum and Order Continuing Procedural Dates Including Date of Hearing

In re applications of Wheeler Mayo trading as Big Basin Radio, Sallisaw, Okla., Docket No. 17775, File No. BP-16915; Booneville Broadcasting Corp., Booneville, Ark., Docket No. 17776, File No. BP-16919; for construction permits.

Under consideration is a motion to continue hearing filed by Booneville Broadcasting Co. on December 4, 1967, an opposition to motion to continue hearing filed by Big Basin Radio on December 13, 1967, and Broadcast Bureau's comments on motion for continuance filed December 12, 1967.

The motion asks a 30-day extension of the procedural dates now scheduled, or, preferably, 30 days extension following action by the Review Board on certain petitions filed by Booneville pending before the Review Board.

On December 19, 1967, an informal conference was held to discuss the subject pleadings. The action taken below conforms to agreements reached at that conference.

It is ordered, That Big Basin Radio's motion to continue hearing is granted in part, and denied in part: *And it is further ordered*, That the dates governing procedural steps to be taken in this proceeding are modified as follows:

Preliminary exchange of direct case continued from December 15, 1967, to January 8, 1968.

Final exchange of direct case continued from January 4, 1968, to January 22, 1968.

Hearing continued from January 10, 1968, to January 30, 1968.

Issued: December 21, 1967.

Released: December 21, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-15023; Filed, Dec. 27, 1967; 8:47 a.m.]

[Docket Nos. 17856, 17857; FCC 67M-2116]

BLANCETT BROADCASTING CO. AND BRECKINRIDGE BROADCASTING CO.

Order Continuing Prehearing Conference

In re applications of J. C. Blancett trading as Blancett Broadcasting Co., Hardinsburg, Ky., Docket No. 17856, File No. BPH-5815; Dr. O. C. Carter, Paul Fuqua, and Dr. Robert D. Ingram doing business as Breckinridge Broadcasting Co., Hardinsburg, Ky., Docket No. 17857, File No. BPH-5927; for construction permits.

It is ordered, That the prehearing conference heretofore scheduled for December 28, 1967, in the above-entitled proceeding is hereby continued to January 3, 1968, commencing at 9 a.m.

Issued: December 20, 1967.

Released: December 20, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-15024; Filed, Dec. 27, 1967; 8:47 a.m.]

[Docket No. 17861, FCC 67M-2120]

GENERAL ELECTRIC CABLEVISION CORP.

Order Continuing Hearing

In re petition by General Electric Cablevision Corp., Merced, Calif., for authority pursuant to § 74.1107 of the rules to operate a CATV system in the Fresno, Calif., television market (ARB 90), Docket No. 17861, File No. CATV 100-62.

It is ordered, Pursuant to agreements reached at the prehearing conference held on December 20, 1967, that the evidentiary hearing in the above-entitled proceeding now scheduled for January 8, 1968, is continued to January 30, 1968, beginning at 10 a.m., in the offices of the Commission, Washington, D.C.

Issued: December 20, 1967.

Released: December 21, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-15025; Filed, Dec. 27, 1967; 8:47 a.m.]

KCIL, INC., AND LA-TERR BROADCASTING CORP.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of: KCIL, Inc., Houma, La., Has: 107.1 mc, No. 296; 3 kw; 140 ft., Requests: 104.1 mc, No. 281; 80 kw; 355 ft., Docket No. 17911, File No. BPH-5914; La-Terr Broadcasting Corp., Houma, La., Requests: 104.1 mc, No. 281; 56.5 kw; 325.4 ft., Docket No. 17912, File No. BPH-6009; for construction permits.

1. The Commission, by the Chief, Broadcast Bureau, under delegated authority considered the above-captioned and described applications for construction permits.

2. KCIL, Inc.'s, application to change from its present operation on Class A Channel 296 to Class C Channel 281 is mutually exclusive within La-Terr's new application for Channel 281 in that operation by the applicants as proposed would cause mutually destructive interference.

3. Each of the applicants is qualified to construct and operate as proposed. However, because of their mutual exclusivity the Commission is unable to make the statutory finding that a grant of the subject applications would serve the public interest, convenience, and necessity, and is of the opinion that they must be designated for hearing in a consolidated proceeding on the issues set forth below.

It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine which of the proposals would better serve the public interest.

2. To determine, in the light of the evidence adduced pursuant to the foregoing issue, which of the applications for construction permit should be granted.

It is further ordered, That to avail themselves of the opportunity to be heard, the applicants pursuant to § 1.221 (c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: December 19, 1967.

Released: December 21, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-15026; Filed, Dec. 27, 1967; 8:47 a.m.]

[Docket Nos. 17898, 17899; FCC 67M-2119]

LEBANON BROADCASTING CO. AND RISNER BROADCASTING CO.

Order Scheduling Hearing

In re applications of Lebanon Broadcasting Co., Lebanon, Mo., Docket No. 17898, File No. BPH-5167; Risner Broadcasting, Inc., Lebanon, Mo., Docket No. 17899, File No. BPH-5207; for construction permits.

It is ordered, That Herbert Sharfman shall serve as Presiding Officer in the above-entitled proceeding; that the hearings therein shall be convened on March 4, 1968, at 10 a.m.; and that a prehearing conference shall be held on January 9, 1968, commencing at 9 a.m.; *And, it is further ordered*, That all proceedings shall take place in the Offices of the Commission, Washington, D.C.

Issued: December 13, 1967.

Released: December 21, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-15027; Filed, Dec. 27, 1967; 8:47 a.m.]

[Docket Nos. 17918-17920; FCC 67-1329]

LITTLE DIXIE RADIO, INC., ET AL.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Little Dixie Radio, Inc., Sallisaw, Okla., Requests: 1510 kc, 1 kw, 500 w (CH), Day, Docket No. 17918, File No. BP-16768; Ozark Broadcasting Co., Inc., Ozark, Ark., Requests: 1540 kc, 500 w, Day, Docket No. 17919, File No. BP-16797; Alcuin C. Wiederkehr, Leo J. Wiederkehr, and John Hilton doing business as Hilton and Wiederkehr Enterprises, Ozark, Ark., Requests: 1510 kc, 1 kw, 250 w (CH), Day, Docket No. 17920, File No. BP-16814; for construction permits.

1. The Commission has before it the above-captioned and described applications. The application of Hilton and Wiederkehr Enterprises (Hilton) is mutually exclusive with both the application of Ozark Broadcasting Co., Inc. (Ozark) and that of Little Dixie Radio, Inc. (Little Dixie), in that simultaneous operation of the stations as proposed would result in prohibited overlap of contours as defined in § 73.37(a) of the Commission's rules.

2. Also before the Commission are: (a) Petitions to Deny the application of Hilton and Ozark, filed by Gordon Hixson, trading as Logan County Broadcasting Co., licensee of Station KCCL, Paris, Ark.; (b) a Supplement to Petition to Deny, filed by KCCL against Hilton; (c) Hilton's opposition to the KCCL petitions; (d) a reply to the opposition by KCCL; (e) a "Petition to Require Proof of Performance" filed by WLAC, Inc., licensee of Station WLAC, Nashville, Tenn., directed to the Little Dixie application; and (f) a Petition for Consolidated Hearing, filed by Giant Broadcasting Co. No opposition pleadings have been filed by Ozark in response to the KCCL petition and Little Dixie has not responded to the WLAC petition. None of the applicants have replied to the Giant petition.

3. Petitioner Logan County Broadcasting Co. (KCCL) claims standing as a party in interest within the meaning of section 309(d) of the Communications Act on the basis of the proximity of Paris, KCCL's station location, to Ozark and the fact that petitioner and the two Ozark applicants would place 2 mv/m signals over the other's city of identification. Petitioner alleges that a grant of either application would divert advertising revenue from KCCL and would have an adverse economic impact on the station. Since the proposed stations would compete directly with petitioner's station for listening audience and revenues, we find that KCCL is a "party in interest" within the meaning of section 309(d)(1) of the Communications Act of 1934, as amended and § 1.580(i) of the Commission's rules. FCC v. Sanders Bros. Radio Station, 309 U.S. 470, 9 RR 2008 (1940).

4. In its petitions, KCCL states that Paris and Ozark are situated about 15 miles apart in adjacent Logan and Franklin Counties. Petitioner alleges that between the 1950 and 1960 census these counties had respective declines in population of 21 and 17 percent[1]; that there is high unemployment and economic decline in the area; that local advertising revenue is not sufficient to support a second station; and that if either the Ozark or Hilton applications are granted, KCCL will suffer substantial economic injury. Petitioner argues that two stations cannot survive in this area and that the listening public will ultimately suffer if both stations must compete for potential revenues sufficient to support only the existing operation.

5. In support of these allegations, petitioner estimates that approximately $100,000 is spent yearly on all forms of advertising in Logan and Franklin Counties and that during the past 3 years KCCL has sold advertising to more than 80 percent of the business establishments in the area. Petitioner operated at a profit in 1963 and 1964, but suffered a net loss in 1965.[2] KCCL's revenues in 1965 totalled $24,986 of which 15.1 percent was attributable to advertising from the Ozark community. With the advent of an Ozark station, petitioner claims it will lose between 13 and 17 percent of its total annual revenues. As Exhibit C to its petition to deny the Ozark application, petitioner lists 22 firms which would allegedly shift all their advertising commitments to an Ozark station and 18 of its present subscribers who would split their advertising between KCCL and a new Ozark facility. Although KCCL is the only radio station located in the Paris or Ozark vicinity, petitioner argues that it is already in direct competition for local advertising revenue with five area newspapers and a total of seven AM, FM, or television broadcast services from Fort Smith, Ark.

6. KCCL contends that Ozark and the surrounding area are already well served by its efforts and that any division of present revenues caused by the advent of a new station would cause both facilities to operate at a loss, thereby diminishing the quality of service to the public. In this regard, petitioner argues that the quality of his service has been excellent, public service announcements and programs at times accounting for "50 percent of petitioner's typical broadcast weeks." With loss of revenues petitioner suggests that a reduction in staff might be necessary, and since as of 1965 KCCL was operating with only four full-time and one part-time employee, further cutbacks could not be accomplished. The only other alternative according to petitioner would be a curtailment of some $2,225 per year for news wire service subscription.

7. Although its petitions nowhere cite the case, presumably KCCL is requesting designation of the Ozark and Hilton applications for hearing on the Carroll issue,[3] i.e., to determine whether there are sufficient revenues in the area to support another station without a net loss of service to the public. In Missouri-Illinois Broadcasting Co., FCC 64-748, adopted July 29, 1964, 3 RR 2d 232, the Commission set out the type of specific

[1] According to the 1960 census, the respective populations in question are: Paris, 3007; Logan County, 15,957; Ozark, 1965; and Franklin County, 10,212.

[2] According to its petition, KCCL's profits were $8,070 in 1963 and $10,574 in 1964, while in 1965 the station operated at a loss of $268 although more recent financial data was not included in the petition itself, information on file shows that KCCL operated at a profit once again in 1966.

[3] Carroll Broadcasting Company v. Federal Communications Commission, 103 U.S. App. D.C., 346, 258 F 2d 440, 17 RR 2066 (1958).

economic data necessary to support a request for a Carroll issue. Subsequently, the Court of Appeals held that the Commission could not demand of Carroll petitioners "exact calculation" or "preknowledge of the exact economics of the situation" which would occur after grant of the proposed station. Folkways Broadcasting Co., Inc., v. FCC, 375 F 2d 299, 3 RR 2d 2089 (1967). In the present case, however, petitioner, while apparently attempting to provide economic data pertinent to a Carroll issue, has fallen far short of the specific criteria set forth in the Missouri-Illinois opinion. Certain information specifically requested by the Commission in that case is absent from KCCL's various petitions. For example, no information is provided concerning the total amount of retail sales in the Ozark area during the past 3 years. Moreover, petitioner's data on the area's economy and population figures are not current. Reliance is placed on Government statistics no more recent than 1960 and 1962. This deficiency is especially pertinent because the applicant Hilton in its opposition to KCCL argues that the area is experiencing substantial economic growth, and these allegations are supported by more recent statistics than those provided by KCCL.[4] Furthermore, many of petitioner's allegations are far too generally stated. Often they are of a conjectural nature and without proper substantiation. KCCL's estimate of $100,000 annually spent in the area for all forms of advertising is unsupported. Likewise its claim of sales of past broadcast time to 80 percent of the area businesses is not substantiated by documentation of any sort. Petitioner concludes that certain advertisers will "probably" split or shift their patronage to a proposed Ozark facility merely because of their location in Ozark or because of financial interests in one of the Ozark applicants. There is no evidence that petitioner interviewed these advertisers as to their intentions. Moreover, a complete shift by Ozark advertisers is doubtful in light of petitioner's own contention that the communities of Paris and Ozark are in close contact in the same general market area.

8. Assuming, arguendo, that KCCL would be hurt financially by the advent of local service in Ozark, petitioner has nonetheless failed to explain how a grant of the Hilton or Ozark applications would be detrimental to the public interest. As stated by the Court of Appeals in the Carroll case, private economic injury is in itself far from conclusive of public detriment: "Competitors may severely injure each other to the great benefit of the public." Carroll Broadcasting Company, supra, 258 F 2d at 443, 17 RR at 2068. Petitioner argues, however, that any further loss of revenues, which he claims are already at peak levels, would mean a loss of ability to operate profitably and that this in itself would be a detriment to the listening public. But the Commission is afforded no details as to a possible loss or cutback of public service programing or spot announcements.[5] No specific discontinuation or shifts in public service programing or total program format and policies are mentioned. KCCL's only statement in this connection is the hint that wire service may have to be discontinued, but there is no showing in detail why, how, or if in fact this would occur. Furthermore, assuming that KCCL would be forced to curtail certain programs, it has advanced no reason why a newcomer could not take up the slack. In summary, the Commission cannot find that KCCL has raised substantial and material questions of fact relevant to the area's ability to sustain another station without a net loss or degradation of service to the public.[6] Accordingly, the petition with respect to a Carroll issue will be denied.

9. Additionally, KCCL's petition directed against Ozark requests an issue in regard to that applicant's ability to operate the proposed station for 1 year without additional revenue. Ultravision Broadcasting Co., 1 FCC 2d 544, 5 RR 2d 343 (1965). By amendment filed on December 12, 1966, Ozark attempted to meet most of the objections raised by the petitioner. However, examination of the amended Ozark application as well as study of the financial statements submitted by the other applicants indicates among other things that they are not current. Accordingly, it will be necessary for all the applicants to amend their proposals to establish their financial qualifications in hearing, and financial issues will be included.

10. The Commission is unable to determine from the aerial photograph submitted with Ozark's application whether the proposed transmitter site is satisfactory with regard to any conditions that may exist in the vicinity of the antenna system. Therefore, an appropriate issue with regard to this matter will be specified.

11. Ozark's application provides initially for only three employees to staff its daytime operation. These are a general manager, a combined station manager and program director, and an engineer. Although the applicant proposes only 2.75 percent live programing per week, the Commission nevertheless believes that an issue as to the adequacy of Ozark's staff must be added. In answer to Question 12 of section IV of its application, Ozark states that "other personnel will be employed as needed." This statement is too vague to satisfy the Commission's doubts as to Ozark's ability to operate as proposed, and accordingly a staffing issue will be included. Spanish International, FCC 64R-239, 2 RR 2d 853 (1964).

12. With regard to the Little Dixie application, Station WLAC, Nashville, Tenn. (1510 kc, 50 kw, DA-N, U, Class I-B) has filed a petition requesting that if the applicant is granted a construction permit, it be required to submit proof-of-performance and additionally to demonstrate that radiation toward WLAC during the critical hours does not exceed 130.8 mv/m, the maximum permissible radiation toward WLAC under § 73.187. The petition is directed toward Dixie's proposed 500 watt operation during critical hours. WLAC disputes neither the proposed antenna efficiency of 127 mv/m determined from Figure 8 of the Commission's rules, nor the applicant's contention that the maximum permissible radiation toward the WLAC 0.1 mv/m contour is 130.8 mv/m pursuant to § 73.187 of the rules. WLAC notes that § 73.182(i) of the rules states that Figure 8 is only an estimate, and that the difference between 127 mv/m and 130.8 mv/m allows for an error of only 3 percent. WLAC therefore requests that the applicant be required to make proof-of-performance measurements to determine whether compliance with § 73.187 is met. The petitioner's argument is reasonable insofar as it requests that a condition be included to insure that radiation does not exceed the proposed 127 mv/m. Therefore, in the event of a grant of the Little Dixie proposal, the construction permit will be so conditioned.

13. The final petition to be considered is that filed by Giant Broadcasting Co. (Giant) requesting that it be designated for consolidated hearing with the instant applicants. Petitioner is itself an applicant for a new standard broadcast station at Ozark, Ark., to be operated on 1060 kc, with power of 5 kw, daytime only.[7] While conceding that its application involves no electrical interference with the Hilton and Ozark proposals (which are over 400 kilocycles removed), Giant nevertheless contends that it is entitled to consolidation with them based on considerations involving section 307(b). Petitioner's argument is that in the event either of the instant Ozark applications is granted prior to a decision in the prospective comparative hearing involving Giant and the mutually exclusive Babcom and Upshur proposals, then petitioner's 307(b) merits vis-a-vis these applicants would be adversely affected.[8] Brainerd Broadcasting Company, 38 FCC 1195, 5 RR 2d 351 (1965), is cited as support for this proposition. Additionally, Giant argues that the limited population of Ozark and Franklin County suggests that the area can support only one local service without a degradation of programing and that consolidation is required to determine which of the requested facilities in Ozark would best serve the public interest.

14. The Commission finds that petitioner's reliance on Brainerd Broadcasting Co., supra, is not justified by the facts of the present case. Brainerd held that applicants were entitled to comparative consideration where a grant of one would so operate to deprive the other of a significant element of "efficiency" that it would in fact have a "substantial and material" adverse effect upon the other's prospects for success. The Commission in Brainerd carefully limited its holding to the unusual facts and circumstances of that case which dealt with an applicant's prospects of showing under a § 73.24(b) issue that its proposal would not constitute an inefficient allocation, notwithstanding the receipt of extensive nighttime interference. In keeping with this limitation, the Brainerd opinion has never been extended to 307(b) considerations as proposed by Giant.

15. Of continuing authority in this regard is Big Sioux Broadcasting Co., 12 FCC 146, 3 RR 1407 (1947), which held that the 307(b) requirement of equitable distribution of facilities does not demand a consolidated hearing of applications not in conflict. In Big Sioux, as here, it was argued that the Commission could not proceed separately with other applications if this would weaken petitioner's 307(b) showing, even where the separately treated proposals involved no engineering conflict amounting to mutual exclusivity. Likewise, Giant urges that, since it faces a 307(b) issue as a result of mutual exclusivity with the Babcom and Upshur proposals, it is entitled to a comparative hearing with all other applicants for the Ozark area even though its proposal involves no engineering conflict with them. Petitioner is, in effect, proposing an unwarranted extension of the Supreme Court's holding in the Ashbacker case[9] since that case was specifically limited to applicants proposing mutually exclusive operations. In rejecting the same contention made by Giant, the Commission in Big Sioux held that applications not involving engineering conflict were not entitled to comparative consideration where the only justification for such consideration was that a prior grant of one application might have some bearing on a 307(b) issue confronting the other applicant in an unrelated proceeding. In actuality, Giant is asking the Commission to preserve the status quo by keeping any and all usable broadcast signals out of its proposed service area until its application has been granted or denied. To proceed in this fashion would inevitably retard assignments and "render the Communications Act incapable of administration, rather than * * * promote an equitable allocation of facilities". Big Sioux Broadcasting Co., supra, at 149, 3 RR at 1411.

16. Petitioner's reference to the Carroll case, supra, and the alleged inability of Franklin County to support two stations is totally unsupported by any specific data whatsoever. Furthermore, petitioner is a mere applicant, without the requisite interest contemplated by the Carroll requirement that only an existing station may offer to prove that the economic effect of two or more stations would be detrimental to the public interest. In light of these inadequacies, the Commission finds that Giant has failed to allege any substantial or material questions of fact and, accordingly, its petition will be denied.

17. Except as indicated by the issues specified below, the applicants are qualified, but, since the applications are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues set forth below.

Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which would receive primary service from each of the proposals and the availability of other primary service to such areas and populations.

2. To determine whether any of the applicants are financially qualified to construct and operate their proposed station.

3. To determine whether the transmitter site proposed by Ozark Broadcasting Co., Inc., is satisfactory with particular regard to any conditions that may exist in the vicinity of the antenna system which would distort the proposed antenna radiation pattern.

4. To determine whether Ozark Broadcasting Co., Inc., in view of its proposal as to staff, is qualified to operate its station in the manner proposed.

5. To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service.

6. To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to section 307(b), which of the operations proposed in the above-captioned applications would better serve the public interest.

7. To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if any, of the applications should be granted.

It is further ordered, That the petition to deny the Hilton application filed by Gordon Hixson is denied; that the petition to deny the Ozark application also filed by Gordon Hixson is granted to the extent that it requests imposition of a financial issue and is denied in all other respects.

It is further ordered, That the petition for consolidated hearing filed by Giant Broadcasting Co., is denied.

It is further ordered, That the petition to require proof of performance and restriction of radiation filed by WLAC, Inc., is granted.

It is further ordered, That, in the event of a grant of any of the applications the construction permit shall contain the following condition:

Any presunrise operation must conform with §§ 73.87 and 73.99 of the rules, as amended June 28, 1967 (32 F.R. 10437), supplementary proceedings (if any) involving Docket No. 14419, and/or the final resolution of matters at issue in Docket No. 17562.

It is further ordered, That in the event of a grant of the application of Little Dixie Radio, Inc., the construction permit shall contain the following condition:

Before program tests are authorized, permittee shall submit sufficient field intensity measurement data to establish that the inverse distance field intensity at 1 mile towards Station WLAC, Nashville, Tenn., is essentially 127 mv/m 500 watts as proposed.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: December 13, 1967.

Released: December 21, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-15028; Filed, Dec. 27, 1967; 8:47 a.m.]

[1] Concurring Statement of Commissioner Cox filed as part of the original document.

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[4] Hilton alleges that a special census taken in Ozark in 1965 shows a population increase of 268 over the previous year. Similarly Hilton cites new housing development in the area as well as an increase in retail business establishments from 80 in 1964 to 117 in 1966. Noteworthy with reference to the economic condition of the Ozark area is the fact that two additional standard broadcast applications for the vicinity (aside from the instant Hilton and Ozark proposals) have also recently been filed with the Commission. See applications of Booneville Broadcasting Corp., Booneville, Ark. (BP-16919) and Giant Broadcasting Co., Ozark, Ark. (BP-17102). KCCL offers no explanation for this current demand for broadcast facilities in a community that is allegedly economically depressed.

[5] In this regard it should be noted that KCCL's claim that its public service broadcasting has at times reached a maximum of 50 percent of its broadcast week appears greatly exaggerated in light of its submitted program log.

[6] Recently, for substantially the same reasons, we denied a similar petition by KCCL attempting to raise a Carroll issue against an applicant for a new station in another town (Booneville, Ark.) within KCCL's service area. Big Basin Radio, FCC 67-9092, adopted Sept. 27, 1967.

[7] The Giant application (BP-17108) is mutually exclusive with standard broadcast applications filed by Babcom, Inc., for a facility in Springfield, Mo. (BP-16906) and Upshur Broadcasting Co., Inc., for Gilmer, Tex. (BP-16962). The Commission has designated these applications for consolidated hearing in an order adopted concurrently with this designation.

[8] Giant fails to recognize its mutual exclusivity with the Babcom application. Reference is made only to a prospective consolidated hearing with Upshur. This apparent oversight does not change the fact that the 307(b) argument voiced by Giant would apply to comparative considerations with regard to both the Babcom and the Upshur proposals.

[9] Ashbacker Radio Corp. v. Federal Communications Commission, 326 U.S. 327 (1945).

[Docket Nos. 17896, 17897; FCC 67M-2111]

LUCAS TOMAS MUNIZ AND ARECIBO BROADCASTING CORP.

Order Scheduling Hearing

In re applications of Lucas Tomas Muniz, Toa Alta, P.R., Docket No. 17896, File No. BPH-5625; Arecibo Broadcasting Corp., Inc., Manati, P.R., Docket No. 17897, File No. BPH-5897; for construction permits.

It is ordered, That Thomas H. Donahue shall serve as Presiding Officer in the above-entitled proceeding; that the hearings therein shall be convened on March 13, 1968, at 10 a.m.; and that a prehearings therein shall be convened on March 11, 1968, commencing at 9 a.m.: *And, it is further ordered*, That all proceedings shall take place in the offices of the Commission, Washington, D.C.

Issued: December 13, 1967.

Released: December 21, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-15039; Filed, Dec. 27, 1967; 8:47 a.m.]

[Docket Nos. 17886-17888; FCC 67M-2113]

OUTER BANKS RADIO CO. ET AL.

Order Scheduling Hearing

In re applications of Douglas Lystra Craddock and Lacy Phil Wicker, doing business as OUTER BANKS RADIO CO., Winchese, N.C., Docket No. 17886, File No. BP-16917; J. M. Farlow and William D. Mills, doing business as ONSLOW COUNTY BROADCASTERS, Midway Park, N.C., Docket No. 17887, File No. BP-17272; HENDON M. HARRIS, Maysville, N.C., Docket No. 17888, File No. BP-17275; for construction permits.

It is ordered, That Isadore A. Honig shall serve as Presiding Officer in the above-entitled proceeding; that the hearings therein shall be convened on March 1, 1968, at 10 a.m.; and that a prehearing conference shall be held on January 9, 1968, commencing at 9 a.m.; *And, it is further ordered*, That all proceedings shall take place in the offices of the Commission, Washington, D.C.

Issued: December 15, 1967.

Released: December 21, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-15030; Filed, Dec. 27, 1967; 8:47 a.m.]

FEDERAL MARITIME COMMISSION

A/B ATLANTTRAFIK AND SEA LAND SERVICE, INC.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. F. Eijer, Jr., Commerce Manager, Sea-Land Service, Inc., Terminal and Fleet Streets, Post Office Box 1050, Elizabeth, N.J. 07207.

Agreement No. 9681 between A/B Atlanttrafik (Atlanttrafik Express Service) (Atlanttrafik) and Sea-Land Service, Inc. (Sea-Land), provides for the transportation of cargo on prepaid through bills of lading from loading ports of Sea-Land in the Commonwealth of Puerto Rico to ports of call of Atlanttrafik in the Commonwealth of Australia and various South Pacific Islands with transshipment at New York, N.Y., under terms and conditions as set forth in said agreement.

Dated: December 22, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-15056; Filed, Dec. 27, 1967; 8:49 a.m.]

SEATRAIN LINES, INC., AND SEAWAY LINES, INC.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. Joseph Hodgson, Jr., General Traffic Manager, Seatrain Lines, Inc., 595 River Road, Edgewater, N.J. 07020.

Agreement 9686 between Seatrain Lines, Inc., and Seaway Lines, Inc., establishes a through billing arrangement from port of New York to ports in the West Indies with transshipment at the port of San Juan, P.R., in accordance with terms and conditions set forth in the agreement.

Dated: December 22, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-15057; Filed, Dec. 27, 1967; 8:49 a.m.]

SEAWAY LINES, INC., AND SEATRAIN LINES, INC.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. Joseph Hodgson, Jr., General Traffic Manager, Seatrain Lines, Inc., 595 River Road, Edgewater, N.J. 07020.

Agreement 9685 between Seaway Lines, Inc., and Seatrain Lines, Inc., establishes a through billing arrangement from ports in the West Indies to the port of New York with transshipment at San Juan, P.R., in accordance with terms and conditions set forth in the agreement.

Dated: December 22, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-15058; Filed, Dec. 27, 1967; 8:49 a.m.]

UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

PUBLIC AFFAIRS ADVISER

Notice of Basic Compensation

Pursuant to the provisions of section 309 of Public Law 88-426, as modified by the Federal Employees Salary Act of 1967, notice is hereby given that the basic compensation of the Public Affairs Adviser of the U.S. Arms Control and Disarmament Agency has been fixed at the rate of $27,055 per annum, effective October 8, 1967.

Dated: December 18, 1967.

WILLIAM C. FOSTER,
Director.

[F.R. Doc. 67-15018; Filed, Dec. 27, 1967; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 1135]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

DECEMBER 22, 1967.

The following publications are governed by Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER issue of April 20, 1966, which became effective May 20, 1966.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 13250 (Sub-No. 85) (Republication), filed July 20, 1966, published FEDERAL REGISTER issues of August 18, 1966, September 14, 1966, and republished this issue. Applicant: J. H. ROSE TRUCK LINE, INC., 5003 Jensen Drive, Houston, Tex. 77026. Applicant's representative: Thomas E. James, 904 Lavaca Boulevard, Austin, Tex. 78701. By application filed July 20, 1966, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of transporting earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe incidental to, used in, or in connection with (a) transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, to, from, or between points substantially as indicated below. A report of the Commission, Review Board Number 4, decided December 5, 1967, and served December 13, 1967, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of (1) *earth drilling machinery and equipment, and (2) machinery, equipment, materials, supplies, and pipe incidental to*, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, from, to, or between the points as described below:

(1) Between points in Arkansas, California, Kansas, Louisiana, New Mexico, Oklahoma, and Texas; (2) between points in California and Texas, on the one hand, and, on the other, points in Arizona, Colorado, and Utah; (3) between points in Texas, on the one hand, and, on the other, points in Wyoming and Montana; (4) between points in Idaho, Montana, Wyoming, Colorado, North Dakota, South Dakota, and Nebraska; (5) between points in Nevada, on the one hand, and, on the other, points in Idaho, Wyoming, Utah, Colorado, Arizona, and New Mexico, restricted against the transportation of shipments moving between points in California, on the one hand, and, on the other, points in Nevada; (6) between points in California, south of the northern boundaries of San Luis Obispo, Kern, and San Bernardino Counties, Calif., on the one hand, and, on the other, Casper, Wyo.; (7) (a) between points in Nevada, (b) between points in Nevada, on the one hand, and, on the other, points in Wyoming, Colorado, Montana, North Dakota, South Dakota, and Utah, (c) between points in Idaho, (d) between points in Idaho, on the one hand, and, on the other, points in Wyoming, Colorado, Montana, North Dakota, South Dakota, and Utah, (e) between points in California, on the one hand, and, on the other, points in Wyoming, Colorado, North Dakota, and South Dakota; (8) (a) between points in Alabama, Florida, and Georgia, (b) between points in Texas, on the one hand, and, on the other, points in Alabama, Florida, and Georgia, (c) between Anderson, Angelina, Bell, Bosque, Bowie, Brazos, Burleson, Camp, Cass, Cherokee, Collin, Cooke, Coryell, Dallas, Denton, Ellis, Falls, Fannin, Freestone, Franklin, Grayson, Gregg, Grimes, Hardin, Harris, Harrison, Henderson, Hill, Hood, Hopkins, Houston, Hunt, Jasper, Johnson, Kaufman, Lamar, Leon, Liberty, Limestone, Madison, Marion, Milam, Montague, Montgomery, McLennan, Macogdoches, Navarro, Newton, Orange, Panola, Parker, Polk, Rains, Red River, Robertson, Rockwell, Rusk, Sabine, San Augustine, San Jacinto, Shelby, Somervell, Smith, Tarrant, Titus, Trinity, Tyler, Van Zandt, Walker, Waller, Washington, Wise, and Wood Counties, Tex., on the one hand, and, on the other, points in Arkansas, Louisiana, Mississippi, and Oklahoma;

(9) Between points in San Juan, Rio Arriba, and McKinley Counties, N. Mex., Dolores, San Miguel, Montezuma, San Juan, La Plata, and Archuleta Counties, Colo., Navajo and Apache Counties, Ariz., and San Juan County, Utah; (10) between points in Washington and Oregon, on the one hand, and, on the other, points in Colorado, Wyoming, and Utah; and, (11) (a) between points in Illinois, Indiana, Louisiana, Kentucky, Missouri, and Tennessee, (b) between points in Oklahoma, on the one hand, and, on the other, points in Illinois, Indiana, Louisiana, Kentucky, Missouri, and Tennessee; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 83539 (Sub-No. 193) (Republication), filed July 21, 1966, published FEDERAL REGISTER issue of August 25, 1966, and republished this issue. Applicant: C & H TRANSPORTATION CO., INC., 1935 West Commerce Street, Dallas, Tex. 75222. Applicant's representative: W. T. Brunson, 419 Northwest Sixth Street, Oklahoma City, Okla. 73102. By application filed July 21, 1966, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of (1) earth drilling machinery and equipment, and (2) machinery, equipment, materials, supplies, and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and, (d) the injection or removal of commodities into or from holes or wells, to, from, or between points substantially as indicated below. A report

of the Commission, Review Board Number 4, decided December 5, 1967, and served December 13, 1967, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of (1) *earth drilling machinery and equipment, and* (2) *machinery, equipment, materials, supplies, and pipe incidental to, used in, or in connection with* (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment.

(b) The completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, from, to, or between the points as described below: (1) (a) Between points in Kansas, New Mexico, Texas, Oklahoma, and Louisiana, (b) between points in New Mexico, Texas, and Oklahoma, on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Mississippi, and Arkansas, and (c) between points in Illinois, Indiana, Kentucky, Mississippi, and Arkansas; (2) (a) between points in Wisconsin, on the one hand, and, on the other, points in Arkansas, Colorado, Kansas, Louisiana, Mississippi, New Mexico, Oklahoma, Texas, and Wyoming, and (b) between points in Oklahoma, on the one hand, and, on the other, points in North Dakota and South Dakota; (3) between points in Nevada, on the one hand, and, on the other, points in Oklahoma, Kansas, Texas, New Mexico, and Colorado; (4) (a) from Oil City and Braddock, Pa., to points in Arkansas, Colorado, Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Montana, North Dakota, Oklahoma, and Wyoming, (b) from points in Arkansas, Illinois, Kansas, Louisiana, Mississippi, Oklahoma, and Texas to Oil City and Braddock, Pa., and (c) from Wichita Falls, Tex., to points in Pennsylvania (except Oil City and Braddock). Restriction: The authority herein shall not be tacked or joined with carrier's other authorized operations for the purpose of conducting through operations. (5) (a) From points in Ohio to points in Arkansas, Louisiana, New Mexico, Oklahoma, and Texas, and (b) from Tulsa, Okla., to points in Ohio; (6) between points in Texas, on the one hand, and, on the other, points in Oregon and Washington. Restriction: The authority granted herein is restricted against the tacking of the authority to transport commodities, the transportation of which require the use of special equipment, and parts of such commodities when moving in the same shipment, any of which have an origin or destination at points in Illinois, Indiana, or Ohio, with any other authority now held by carrier for the purpose of providing a through service.

(7) Between points in Texas, on the one hand, and, on the other, points in Colorado, Montana, Utah, and Wyoming; (8) between points in Alaska, on the one hand, and, on the other, points in the continental United States south of the southern United States-Canada boundary line and west of the Mississippi River (except points in Minnesota, Iowa, Missouri, Nebraska, Idaho, and California), and points in Wisconsin, Illinois, Michigan, Ohio, Pennsylvania, and West Virginia; (9) between Coffeyville, Kans., and Bartlesville and Tulsa, Okla., on the one hand, and, on the other, points in Michigan and West Virginia; (10) (a) between Houston, Tex., and Memphis, Tenn., on the one hand, and, on the other, points in Dyer County, Tenn., Mobile County, Ala., and Levy, Dade, Nassau, and Suwannee Counties, Fla., (b) between points in Louisiana, Arkansas, Oklahoma, Texas, and Mississippi, on the one hand, and, on the other, points in Alabama, Georgia, Florida, and Tennessee, and (c) between points in Alabama, Georgia, Florida, and Tennessee; (11) between points in Kansas and Oklahoma, on the one hand, and, on the other, points in Oregon and Washington; (12) between points in Michigan, on the one hand, and, on the other, points in Texas; (13) (a) from points in Texas to points in Ohio, and (b) from points in Ohio to points in Kansas and Mississippi.

Restriction: The authority herein from points in Ohio, to points in Kansas shall not be joined or tacked to carrier's other authorized operations for the purpose of conducting through operations; (14) between points in Wyoming, Colorado, Montana, North Dakota, South Dakota, and Utah; (15) (a) between points in Texas, (b) between points in New Mexico and Oklahoma, on the one hand, and, on the other, points in that part of Texas north of U.S. Highway 80 and west of U.S. Highway 75, including points on the indicated portions of the highways specified, (c) between points in Texas within an area bounded on the east by U.S. Highway 281, extending from the Texas-Oklahoma State line to junction U.S. Highway 290, at or near Johnson City, and on the south by U.S. Highway 290 to its junction with U.S. Highway 377, and then by U.S. Highway 377 to the Mexico-Texas border, (d) between points in Eddy, Lea, and Roosevelt Counties, N. Mex., on the one hand, and, on the other, points in Texas within an area bounded on the east by U.S. Highway 281, extending from the Texas-Oklahoma State line to junction U.S. Highway 290, at or near Johnson City, and on the south by U.S. Highway 290 to its junction with U.S. Highway 377 and then by U.S. Highway 377 to the Mexico-Texas border, (e) between points in New Mexico and Oklahoma, on the one hand, and, on the other, points in Arizona, Colorado, Utah, and Wyoming, and (f) between points in that part of Texas north of U.S. Highway 80, and west of U.S. Highway 75, and within an area bounded on the east by U.S. Highway 281, extending from the Texas-Oklahoma State line to junction U.S. Highway 290, at or near Johnson City, and on the south by U.S. Highway 290 to its junction with U.S. Highway 377 and then by U.S. Highway 377 to the Mexico-Texas border, including points on the indicated portions of the highways specified on the one hand, and, on the other, points in Colorado and Wyoming; and

(16) (a) Between points in Colorado, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming, (b) between points in Kansas and Oklahoma, (c) between points in Arkansas, Colorado, and Texas, on the one hand, and, on the other, points in Kansas and Oklahoma, and (d) between points in Arkansas, Colorado, and Texas; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described on the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 107322 (Sub-No. 92) (Republication), filed July 20, 1966, published FEDERAL REGISTER issue of August 25, 1966, and republished this issue. Applicant: BELL TRANSPORTATION COMPANY, a corporation, 1406 Hays Street, Post Office Box 8598, Houston, Tex. 77009. Applicant's representative: Thomas E. James, 904 Lavaca Boulevard, Austin, Tex. 78701. By application filed July 20, 1966, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole site, and (d) the injection or removal of commodities into or from hole or wells, to, from, or between points substantially as indicated below. A report of the Commission, Review Board Number 4, decided December 5, 1967, and served December 13, 1967, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of (1) *earth drilling machinery and equipment, and* (2) *machinery, equipment, materials, supplies, and pipe incidental to, used in, or in connection with* (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, from, to, or between the points as described below:

(1) Between points in Kansas, Oklahoma, Texas, Arkansas, Louisiana, Mississippi, Tennessee, Alabama, North Carolina, Georgia, and Florida; (2) between Archer, Baylor, Bosque, Brown, Callahan, Coke, Coleman, Comanche, Concho, Coryell, Eastland, Erath, Fisher, Haskell, Hamilton, Hood, Jack, Johnson, Jones, Knox, Lampasas, McCulloch, Mills, Nolan, Parker, Runnels, San Saba, Shackelford, Stephens, Stonewall, Taylor, Throckmorton, Wise, and Young Counties, Tex., on the one hand, and, on the other, points in Lea and Eddy Counties, N. Mex.; (3) (a) between points in Kentucky, South Carolina, Virginia, West Virginia, Ohio, Pennsylvania, and New York, (b) between points in Texas, Arkansas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, and North Carolina, on the one hand, and, on the other, points in Kentucky, South Carolina, Virginia, West Virginia, Ohio, Pennsylvania, and New York; (4) (a) between points in Nevada, on the one hand, and, on the other, points in Montana, Utah, and Wyoming, (b) between points in Nevada, on the one hand, and, on the other, points in Kansas, Texas, and Oklahoma; and (5) between points in Illinois, Indiana, Kentucky, and Tennessee; that applicant is fit, willing, and able properly of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 124692 (Sub-No. 30) (Republication), filed January 3, 1967, published FEDERAL REGISTER issue of January 26, 1967, and republished this issue. Applicant: SAMMONS TRUCKING, a corporation, Post Office Box 932, Missoula, Mont. 59801. Applicant's representative: Charles E. Nieman, 1160 Northwestern Bank Building, Minneapolis, Minn. 55402. By application filed January 3, 1967, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of the commodities from and to the points indicated below, except metal buildings which are designed to be drawn by passenger vehicles. An order of the Commission, Operating Rights Board dated November 30, 1967, and served December 7, 1967, as amended, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of *prefabricated metal buildings*, knocked down, *prefabricated metal building sections*, knocked down, *component parts thereof, equipment, materials, and supplies* used in the installation, construction, or erection thereof (except commodities which, by reason of size or weight, require special equipment or special handling), from Evansville, Wis., to points in North Dakota, South Dakota, Montana, Wyoming, Colorado, Utah, Idaho, Oregon, and Washington; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 128345 (Sub-No. 1) (Republication), filed July 21, 1966, published FEDERAL REGISTER issues of April 6, 1967, May 18, 1967, May 25, 1967, and republished this issue. Applicant: OTTO SCOTT TRUCKING CO., a corporation, 517 Tennessee Avenue, Chickasha, Okla. 73018. By application filed July 21, 1966, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of piggyback trailers, loaded or empty, having a prior movement by rail, and containing general commodities when loaded, between points in described portions of Oklahoma. That by order entered herein on September 29, 1967, the application was denied for failure of applicant to submit verified statements of public witnesses in support of the application establishing with specificity the nature of the proposed service. A supplemental order of the Commission, Operating Rights Board dated November 20, 1967, and served December 8, 1967, as amended, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of *general commodities* (except those of unusual value, and classes A and B explosives), restricted to the transportation of traffic having a prior or subsequent movement by rail, between points in Grady and Caddo Counties, Okla., those points in those parts of Stephens County, Okla., on and north of Oklahoma Highway 29; those points in those parts of Garvin, McClain, and Cleveland Counties, Okla., on and west of Oklahoma Highway 74; and those points in that part of Canadian County, Okla., on and west of U.S. Highway 81 and on and south of Interstate Highway 40; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

APPLICATION FOR CERTIFICATE OR PERMIT WHICH IS TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 1.240 TO THE EXTENT APPLICABLE

No. MC 109821 (Sub-No. 35), filed December 13, 1967. Applicant: H. W. TAYNTON COMPANY, INC., 40 Main Street, Wellsboro, Pa. Applicant's representative: Robert De Kroyft, 24 Branford Place, Newark, N.J. 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those commodities injurious to other lading), (1) between Ithaca, N.Y., and Syracuse, N.Y., as follows: (a) From Ithaca over New York Highway 13 to Cortland, thence over U.S. Highway 11 to Syracuse; (b) from Ithaca over New York Highway 13 to South Cortland, thence over New York Highway 281 to junction with U.S. Highway 11 at or north of Tully, thence over U.S. Highway 11 to Syracuse, and return over the same routes, serving all intermediate points; (2) between Auburn, N.Y., and Syracuse, N.Y., as follows: (a) From Auburn over New York Highway 5 to Syracuse; (b) from Auburn over U.S. Highway 20 to Skaneateles, thence over an unnumbered highway to Marcellus, thence over New York Highway 175 and New York Highway 20N to Syracuse, and return over the same routes, serving all intermediate points; (3) between Ithaca, N.Y., and Waverly, N.Y., as follows: (a) From Ithaca over New York Highway 79 to Richford, thence over New York Highway 38 to Oswego, thence over New York Highway 17 to Waverly.

(b) From Ithaca over New York Highway 96B to Candor, thence over New York Highway 96 to Owego, thence over New York Highway 17 to Waverly; (c) from Ithaca over New York Highway 13

to Elmira, thence over New York Highway 17 to Waverly; (d) from Ithaca over New York Highway 13 to junction with New York Highway 34, thence over New York Highway 34 to Waverly, and return over the same routes, serving all intermediate points and the off-route points of Aurora, Cayuga, Kandaia, Lodi, MacDougall, Millport, Pine Valley, Sampson, Union Springs, Wellsburg, and Willard, N.Y., restricted to service between the authorized points on said routes, on the one hand, and, on the other, points in Nos. (1) and (2) above; (4) between Ithaca, N.Y., and Auburn, N.Y., as follows: (a) From Ithaca over New York Highway 96 to Waterloo Junction, thence over U.S. Highway 20 and New York Highway 5 to Auburn; (b) from Ithaca over New York Highway 34 to Auburn; (c) from Ithaca over New York Highway 34 to junction with New York Highway 34B, thence over New York Highway 34B to junction with New York Highway 34 at Fleming, thence over New York Highway 34 to Auburn; (d) from Ithaca over New York Highway 13 to junction with New York Highway 366, thence over New York Highway 366 to junction with New York Highway 38, thence over New York Highway 38 to Auburn, N.Y., and return over the same routes, serving all intermediate points and the off-route points of Aurora, Cayuga, Kandaia, Lodi, MacDougall, Millport, Pine Valley, Sampson, Union Springs, Wellsburg, and Willard, N.Y., restricted to service between the authorized points on said routes, on the one hand, and, on the other, points in Nos. (1) and (2) above.

(5) Between Ithaca, N.Y., and Watkins Glen, N.Y., as follows: From Ithaca over New York Highway 13 to junction with New York Highway 224, thence over New York Highway 224 to Watkins Glen, and return over the same route, serving all intermediate points and the off-route points of Aurora, Cayuga, Kandaia, Lodi, MacDougall, Millport, Pine Valley, Sampson, Union Springs, Wellsburg, and Willard, N.Y., restricted to service between the authorized points on said routes, on the one hand, and, on the other, points in Nos. (1) and (2) above. NOTE: This application is a matter directly related to MC-F-9977, published in the FEDERAL REGISTER issue of December 20, 1967. The instant application seeks to convert the certificate of registration of Ithaca Delivery, Inc., under MC 55817 (Sub-No. 3) into a certificate of public convenience and necessity. Control of the authorities of Ithaca Delivery, Inc., under MC 55817 and (Sub-No. 3) is being sought in the above referenced OR-9 application and temporary authority to control and operate the same is being sought in a concurrently filed BMC-46 application. Upon approval of this application and MC-F-9977, the authority under MC 55818 and (Sub-No. 3) will be canceled. Applicant intends to tack the authority sought herein at points in New York with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

NOTICES

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-9248. (Republication) (CHICAGO-AURORA MOTOR SERVICE, INC. — Purchase (Portion) — JAMES V. SHEPLEY), published in the November 10, 1965, issue of the FEDERAL REGISTER, on page 14185. By decision and order, Review Board No. 5, adopted the order of the hearing examiner served September 12, 1967, granting the section 5 application, subject to conditions, effective January 24, 1968. Operating rights granted in No. MC-14277 Sub-1, are as follows: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over irregular routes, between points in Illinois within the Chicago, Ill., commercial zone, on the one hand, and, on the other, points in that part of Illinois (including points on the indicated portions of the highways specified) bounded by a line commencing at the junction of Illinois Highway 7 and U.S. Highway 45, and extending south along U.S. Highway 45 to the Kankakee County line, thence westerly along the Kankakee County line to the Grundy County line, thence northerly along the Grundy County line to the Kendall County line, thence northerly along the Kendall County line to U.S. Highway 30, thence northwesterly along U.S. Highway 30 to the Kane County line, thence easterly along Kane County line to Du Page County line, thence easterly along the Du Page County line to the Cook County line, thence southerly along the Cook County line to junction Illinois Highway 7, and thence easterly along Illinois Highway 7 to the point of beginning.

No. MC-F-9978. Authority sought for control and merger by INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minn., of the operating rights and property of O. I. M. TRANSIT CORPORATION, Commerce Drive, Fort Wayne, Ind., and for acquisition by LESTER A. WILSEY, JR., also of St. Paul, Minn., of control of such rights and property through the transaction. Applicants' attorney: Adolph J. Bieberstein, 121 West Doty Street, Madison, Wis. 53703. Operating rights sought to be controlled and merged: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Kalamazoo, Mich., and Lansing, Mich., serving the off-route point of Byron Center, between Plainwell, Mich., and Holland, Mich., serving all intermediate points, with restrictions; between Chicago, Ill., and junction U.S. Highway 6 and Indiana Highway 9, near Kendallville, Ind., serving no intermediate points between Chicago, Ill., and junction U.S. Highways 6 and 41, serving no intermediate points, with restrictions; between Willshire, Ohio, and Chattanooga, Ohio, serving no intermediate points; over numerous alternate routes for operating convenience only; *general commodities*, between Fort Wayne, Ind., and points in Michigan and Ohio, serving off-route points within 5 miles of Fort Wayne, Ind., and Beer Field, Ind., between Ohio points, serving all intermediate points, between Sturgis, Mich., and Coldwater, Mich., serving no intermediate points; and *new furniture*, over irregular routes, from the plantsite of Lee L. Woodard Sons, Inc., at Owosso, Mich., to Lansing, Mich. INDIANHEAD TRUCK LINE, INC., is authorized to operate as a *common carrier* in Wisconsin, Minnesota, Illinois, Michigan, Iowa, South Dakota, North Dakota, Montana, Nebraska, Kansas, Indiana, Missouri, Arkansas, Kentucky, Oklahoma, Tennessee, Ohio, Colorado, Wyoming, and Texas. Application has been filed for temporary authority under section 210a(b).

No. MC-F-9979. Authority sought for purchase by ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, Ohio 44309, of the operating rights of HUB TRANSPORTATION CO., INC., 558 River Street, Haverhill, Mass. 01830, and for acquisition by GALEN J. ROUSH, also of Akron, Ohio, of control of such rights through the purchase. Applicants' attorney: Russell R. Sage, 2001 Massachusetts Avenue NW., Washington, D.C. 20036. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC-97921 Sub No. 2, covering the transportation of general commodities, as a common carrier, in intrastate commerce, within the State of Massachusetts. Vendee is authorized to operate as a *common carrier* in Alabama, Arkansas, Connecticut, Delaware, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, Wisconsin, West Virginia, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b). NOTE: MC-3202 Sub 237 is a matter directly related.

No. MC-F-9980. Authority sought for purchase by GLOBAL VAN LINES, INC., Number One Global Way, Anaheim, Calif. 92803, of the operating rights and property of TRANS OCEAN VAN SERVICE OF HAWAII, c/o Joseph Rabin, 8201 Beverly Boulevard, Suite 610, Los Angeles, Calif. 90043, and for acquisition by W. C. MOEN, MAX OLSAN, D. D. HEYDLAUFF, and E. W. SCHUMACHER; all also of Anaheim, Calif., of control of such rights and property through the purchase. Applicants' attorney: Alan F. Wohlstetter, One Farragut Square South, Washington, D.C. 20006. Operating rights sought to be transferred: *Household goods*, as defined by the Commission, as a *common carrier*, over irregular routes, between points in the State of Hawaii. Restriction: The operations authorized herein are restricted to the handling of traffic originating at or destined to points beyond the State of Hawaii. Vendee is authorized to operate as a *common carrier* in all points in the United States (except Alaska). Application has been filed for temporary authority under section 210a(b).

No. MC-F-9981. Authority sought for purchase by KENMORE TRANSPORTATION CO., 22 Eskow Road, Worcester, Mass., of the operating rights and property of R & R TRANS., INC., 340 Franklin Street, Worcester, Mass., and for acquisition by ABRAHAM SACK, 182 June Street, Worcester, Mass., of control of such rights and property through the purchase. Applicants' attorney: Robert J. Gallagher, 66 Central Street, Wellesley, Mass. 02181. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC-121045 Sub-1, covering the transportation of general commodities, as a common carrier, in intrastate commerce, within the State of Massachusetts. Vendee is authorized to operate as a *common carrier* in Massachusetts, New York, New Jersey, Connecticut, and Rhode Island. Application has been filed for temporary authority under section 210a(b). NOTE: MC-59720 Sub-4, is a matter directly related.

No. MC-F-9982. Authority sought for purchase by CLAY HYDER TRUCKING LINES, INC., 502 East Bridgers Avenue, Auburndale, Fla. 33823, of a portion of the operating rights of BONNEY MOTOR EXPRESS, INC., Post Office Box 12388, Norfolk, Va. 23502, and for acquisition by COMMERCIAL CARRIER CORPORATION, and, in turn by GUY BOSTICK, both also of Auburndale, Fla., of control of such rights through the purchase. Applicants' attorney: M. Craig Massey, 223 South Florida Avenue (Post Office Drawer J), Lakeland, Fla. 33802. Operating rights sought to be transferred: *Canned goods*, as a *common carrier*, over irregular routes, from Cheriton and Hopeton, Va., points in Delaware, and points in Worcester, Wicomico, Somerset, Dorchester, Caroline, Talbot, and Queen Annes Counties, Md., to points in Virginia, from points in Northampton County, Va., to points in Georgia and Florida, traversing North Carolina and South Carolina for operating convenience only, from Cheriton, Va., to points in North Carolina and South Carolina; and *frozen foods*, from Crosset, Va., to points in Florida, Georgia, and South Carolina. Vendee is authorized to operate as a *common carrier* in all points in the United States (except Alaska and Hawaii). Application has not been filed for temporary authority under section 210a(b).

No. MC-F-9983. Authority sought for purchase by WORSTER MOTOR LINES, INC., East Main Road, Rural Delivery No. 1, North East, Pa., of the operating rights of FINTON DELIVERY, INC., 55 Linden Avenue, Salamanca, N.Y., and for acquisition by DAVID B. WORSTER, West Lake Road, Rural Delivery No. 1, North East, Pa., of control of such rights through the purchase. Applicants' Attorney: William W. Knox, 23 West 10th Street, Erie, Pa. Operating rights sought to be transferred: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Buffalo, N.Y., and Lewis Run, Pa., serving Buffalo, N.Y., and Lewis Run, Pa., and all intermediate points, and off-route points of Derrick City and Rew City, Pa., between junction U.S. Highway 219 and New York Highway 16 and Franklinville, N.Y., serving Franklinville, N.Y., and all intermediate points. Vendee is authorized to operate as a *common carrier* in Pennsylvania, New York, Massachusetts, Alabama, Connecticut, Rhode Island, New Jersey, Pennsylvania, Delaware, Maryland, Florida, West Virginia, Illinois, Indiana, Michigan, Ohio, Maine, Minnesota, Vermont, New Hampshire, Virginia, South Carolina, Wisconsin, Kentucky, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-9984. Authority sought for purchase by METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047, of the operating rights of HENRY J. BRINKER, INC. (ALFRED M. JAMES, Receiver), 75 Montgomery Street, Jersey City, N.J. 07302, and for acquisition by NICHOLAS J. MANGIONE, EDWARD MANGINO, and JOSEPH MANGINO, all also of North Bergen, N.J., of control of such rights through the purchase. Applicants' attorney and representative: Charles J. Williams, 47 Lincoln Park, Newark, N.J. 07102, and Alfred M. James, 75 Montgomery Street, Jersey City, N.J. 07302. Operating rights sought to be transferred: *General commodities*, excepting among others, household goods and commodities in bulk, as a *common carrier*, over irregular routes, between points in Bergen, Essex, Hudson, Middlesex, Morris, Passaic, Somerset, and Union Counties, N.J., on the one hand, and, on the other, New York, N.Y.; and *calcium carbide*, from Hillside, N.J., to Tarrytown, N.Y. Vendee is authorized to operate as a *common carrier* in New Jersey, New York, Connecticut, Pennsylvania, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-9985. Authority sought for purchase by CARGO-IMPERIAL FREIGHT LINES, INC., 23 South Essex Avenue, Orange, N.J., of the operating rights of MOORE'S MOTOR EXPRESS, INC., 26 Park Place, Pascoag, R.I., and for acquisition by COOPER-JARRETT, INC., and in turn by R. E. COOPER, JR., also of Orange, N.J., of control of such rights through the purchase. Applicants' attorney: Irving Klein, 280 Broadway, New York, N.Y. 10007. Operating rights sought to be transferred: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over irregular routes, between Providence, R.I., on the one hand, and, on the other, points in the towns of Burrillville, Cranston, East Providence, Gloucester, Johnston, North Providence, North Smithfield, and Smithfield, Providence County, R.I.; and under a certificate of registration, in No. MC-14529 Sub-3, covering the transportation of general commodities, as a *common carrier*, in intrastate commerce, within the State of Rhode Island. Vendee is authorized to operate as a *common carrier* in New York, Massachusetts, Rhode Island, and Connecticut. Application has been filed for temporary authority under section 210a(b). NOTE: MC-114877 Sub-5 is a matter directly related.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 67-15042; Filed, Dec. 27, 1967; 8:48 a.m.]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

DECEMBER 22, 1967.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the *State* Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. T-681 Sub 25, filed September 28, 1967. Applicant: HELMS MOTOR EXPRESS, INC., 1024 Rear North Second Street, Albermarle, N.C. 28001. Applicant's representative: Thomas D. Bunn, Post Office Box 527, Raleigh, N.C. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities* (*Group 1*), and *Group 12 explosives and other dangerous articles*, from Charlotte, N.C., over North Carolina Highway 49 to junction of North Carolina Highway 160, thence over North Carolina Highway 160 to junction U.S. Highway 29 (at or near Charlotte), and return over the same route, serving all intermediate points. NOTE: Notice of this application was timely filed with this Commission, but inadvertently the publication was overlooked. Hearing was held on November 15, 1967, at the North Carolina Utilities Commission, Raleigh, N.C. At the hearing evidence was submitted with respect to both intrastate and interstate operations. No objections were voiced and the North Carolina Utilities Commission

found that the present and future public convenience and necessity require the proposed operations in interstate and foreign commerce as well as in intrastate commerce. This publication is being made so that any party desiring to object to these findings insofar as they relate to operations in interstate or foreign commerce, may express such objection with the Interstate Commerce Commission within 30 days from the date of this publication in the FEDERAL REGISTER.

State Docket No. T–681 (Sub-No. 26), filed December 15, 1967. Applicant: HELMS MOTOR EXPRESS, INC., North Second Street, Albemarle, N.C. Applicant's representatives: Bailey-Dixon & Wooten, 10th Floor, Insurance Building, Post Office Box 2246, Raleigh, N.C. Certificate of public convenience and necessity sought to operate a freight service as follows: (1) Transportation of *general commodities* (except those requiring special equipment over regular routes as follows): (a) From Mocksville over U.S. Highway 64 to its intersection with County Road 1306, 4 miles west of Mocksville, thence over County Road 1306, 5.6 miles to Iredell County line, thence over County Road 2126, 3.6 miles to its intersection with N.C. Highway 901, 1.4 miles south of Harmony, thence over N.C. Highway 901 to Harmony and return over same route serving all intermediate points, (b) from Harmony over N.C. Highway 901 to its intersection with N.C. Highway 115, thence over N.C. Highway 115 to North Wilkesboro, and return over same route, serving all intermediate points, (c) from North Wilkesboro over N.C. Highway 268 to its intersection with U.S. Highway 321, 6 miles north of Lenoir and return over the same route, serving all intermediate points, (d) from the intersection of U.S. Highway 601 and N.C. Highway 801, 2 miles east of Cooleemee, over N.C. Highway 801 to its intersection with U.S. Highway 158 approximately 12 miles west of Winston-Salem and return over same route, serving all intermediate points.

(e) From intersection of U.S. Highway 64 and County Road 1605, 4 miles east of Mocksville over County Road 1605, 3 miles to its intersection with County Road 1616, thence over County Road 1616, 4.7 miles to its intersection with N.C. Highway 801 at Advance and return over same route, serving all intermediate points, (f) from the intersection of Highway 901 in Iredell County with County Road 1862, thence over County Road 1862 to its intersection with County Road 1896, and return over the same route, serving all intermediate points, (2) transportation of *general commodities*, except those requiring special equipment, as set forth in Group 1 of Rule 37 of the Commission's rules and regulations for the administration and enforcement of the North Carolina Truck Act: From the intersection of North Carolina Highway 268 and Wilkes County Road Number 1957, 5.3 miles northeast of North Wilkesboro, thence over County Road 1957 to County Road 1002 over the Community of Hays, thence over County Road 1002 to its intersection with U.S. Highway 21, and return over same route serving all intermediate points. Both intrastate and interstate authority sought.

HEARING: Thursday, February 1, 1968, 10 a.m., temporary offices, North Carolina Utilities Commission, corner Edenton and Wilmington Streets, Raleigh, N.C. 27602. Request for procedural information, including the time for filing protests, concerning this application should be addressed to the North Carolina Utilities Commission, Post Office Box 991, Raleigh, N.C. 27602, and should not be addressed to the Interstate Commerce Commission.

State Docket No. T–681 (Sub-No. 27), filed December 15, 1967. Applicant: HELMS MOTOR EXPRESS, INC., North Second Street, Albemarle, N.C. Applicant's representatives: Bailey-Dixon & Wooten, 10th Floor Insurance Building, Post Office Box 2246, Raleigh, N.C. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities* (except those requiring special equipment), over regular routes between Winston-Salem and North Wilkesboro, N.C., over U.S. Highway 421, and return, serving all intermediate points. Both intrastate and interstate authority sought.

HEARING: Friday, February 2, 1968, 10 a.m., North Carolina Utilities Commission, Temporary Offices, corner Edenton and Wilmington Streets, Raleigh, N.C. 27602. Requests for procedural information, including the time for filing protests, concerning this application should be addressed to the North Carolina Utilities Commission, Post Office Box 991, Raleigh, N.C. 27602, and should *not* be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67–15043; Filed, Dec. 27, 1967; 8:48 a.m.]

[Notice 517]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 22, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC–67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 504 (Sub-No. 92 TA), filed December 18, 1967. Applicant: HARPER MOTOR LINES, INC., 213 Long Avenue, Post Office Box 781, Elberton, Ga. 30635. Applicant's representative: Guy H. Postell, 1273 West Peachtree Street NE., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, (1) between Blackshear, Ga., and Baxley, Ga., over State Highways Nos. 121 and 15, serving all intermediate points; (2) between Macon and Eastman, Ga., through Perry, Clinchfield, Hawkinsville, Cochran, Empire, Dubois, and Greston, over State Highways Nos. 11, 26, and 87; (3) between Macon and Americus, Ga., over Echeconnee, Fort Valley, Montezuma, and Oglethorpe, over State Highways Nos. 11 and 49; (4) between Atlanta and Waycross, Ga., over Newnan, Moreland, Greenville, Harris, Clipley, Columbus, Cusseta, Dawson, Cuthbert, Colquitt, Bainbridge, Cairo, Thomasville, Quitman, Valdosta, and Homerville, over State Highways Nos. 14, 41, 18, 55, 50, 1, and 33 (with closed doors between Atlanta and Columbus); with the right to operate between Valdosta and Moody Field, Ga., as an off-route point, over State Highway No. 125 and unnumbered highways; also with the right to serve Shellman, Ga., as an off-route point, over State Highway 41; (5) between Thomasville and Dawson, Ga., over Moultrie, Sylvester, and Albany, over State Highways Nos. 35, 33, and 50.

(6) Between Atlanta and Albany, Ga., over Griffin, Zebulon, Thomaston, Butler, Ellaville, and Americus, over State Highway No. 3; also between Atlanta, Ga., and the Army Depot at Conley, Ga., over State Highways Nos. 42 and 54, without the privilege of handling traffic originating in Atlanta through interchange or otherwise and destined to the Army Depot at Conley, with final destination Atlanta or for interchange in Atlanta. (7) Between Albany and Fort Gaines, Ga., over Newton, Leary, Morgan, and Edison, over State Highways Nos. 91 and 37; (8) between Albany and Thomasville, Ga., over Pelham and Camilla, over State Highway No. 3; (9) between Macon and Eastman, Ga., over Cochran, Empire, Dubois, and Greston, State Highways Nos. 19 and 87; (10) between Harris and Columbus, Ga., over Warm Springs and Waverly Hall, State Highways Nos. 41, 85W and 85 (with closed doors at Harris, Ga., except for points between Harris and Columbus), and without the right to pick up or deliver at Warm Springs, Ga., except for traffic to or from points south of Warm Springs; (11) between Moultrie, Ga., and the U.S. Government facility known as Hawthorne Flying School, located near State Highway 33, over all available highways; (12) between Moultrie, Ga., and the U.S. Government facility known as Sunset Airport, located near State Highway No. 35, over all available highways; (13) between junction State Highways Nos. 62 and 91 and Blakely, Ga., over Leary, State Highway No. 62, serving Edison as an off-route point over State Highway No. 45; also between junction State Highways Nos. 62 and 91 and Colquitt, Ga., over Newton, State Highway No. 91; also serving Damascus, Ga., as an off-route point, over State Highway No. 45 between Arlington and Colquitt, Ga., and over State Highway No. 200 between Newton and Blakely, Ga.

(14) Between Macon and McRae, Ga., over Warner Robins, Hawkinsville, Eastman, Godwinsville, Chauncey, Suomi, Ashord, and Helena, over State Highways Nos. 11, 247, 11, and 27; (15) between Quitman and Bainbridge, Ga., over Berlin, Moultrie, Funston, Hartsfield, Camilla, and Vada, over State Highways Nos. 33, 37, and 97, with the right to operate to Sale City and Pelham, Ga., over State Highway No. 93, as off-route points; (16) between Albany and Moultrie, Ga., over Doerun and other intermediate points, over State Highway No. 133; with the right to operate between Doerun and the junction of State Highways 270 and 33 over State Highway No. 270; (17) between Valdosta, Ga., and the Georgia-Florida State line, over Clyattville, State Highway No. 31, with the right to serve the papermill near Valdosta, Ga., as an off-route point; (18) between Thomasville and Quitman, Ga., over Barwick, over State Highway No. 122 and unnumbered county highway; also between junction of State Highway 122 and unnumbered highway east of Thomasville and junction of State Highways Nos. 122 and 33, over Pavo, over State Highway No. 122; also between Barwick, Ga., and junction of State Highways Nos. 133 and 35 South of Moultrie, over State Highway No. 133; (19) between Waycross, Ga., and the Georgia-Florida State line, over Folkston, over State Highway No. 4 (U.S. 1 and U.S. 23); (20) between Atlanta, Ga., and the junction of State Highways Nos. 85 and 85W (U.S. alternate 27), over State Highway No. 85, with closed doors; (21) between Newton and Camilla, Ga., over State Highway No. 37; (22) between Waycross and Sylvester, Ga., over State Highway No. 50 (U.S. 82), serving all intermediate points, except with closed doors at Tifton for freight moving to, from, or through Valdosta, Macon, or Atlanta, and with closed doors at Tifton for freight to or from Albany.

(23) Between Atlanta and Waycross, Ga., over State Highways Nos. 42, 19, 87, 27, 19, and 4 (U.S. 23), with an alternate route between Hazelhurst and the junction of State Highways Nos. 19 and 4, over State Highway 27 (U.S. 341), and State Highway No. 4 (U.S. 1); with closed doors at all intermediate points except Hazelhurst, Ga., and except Macon, Ga., for traffic from or passing through Atlanta, Ga., and also with the right to serve Percale, Ga., between the junction of State Highways 87 and 18 and Percale, over State Highway No. 18, with open doors at Percale, Ga.; (24) between Griffin and Forsyth, Ga., over Barnesville, over State Highways Nos. 7 and 18, with closed doors at all intermediate points and at Forsyth except for the purpose of connecting with other authorized routes. Also, between Barnesville and Eastman, Ga., over State Highways Nos. 7, 11, and 27 (U.S. 341), with closed doors at all intermediate points and at Barnesville and Eastman except for the purpose of connecting with other authorized route; junction of State Highways 87 and 18 and Percale, over State Highway No. 18, with open doors at Percale, Ga.; (25) between Valdosta, Ga., and junction of State Highway Nos. 33 and 122, over State Highways Nos. 94, 76, and 122; also an alternate route between Morven and junction of State Highways Nos. 94 and 33, over extension of State Highway No. 94; (26) between Atlanta and Tucker, Ga., and points and places within 1 mile thereof, as off-route points, over all available routes from Atlanta, Ga., without the right to deliver or to originate or to interchange freight at Atlanta.

(27) Between Atlanta, Ga., and the Tucker-Stone Mountain District and/or Stone Mountain Industrial Park, over all available highways, as off-route points, for shipments originating at or destined to points on carrier's authorized routes, without the right to deliver or to originate or to interchange freight at Atlanta, Ga.; (28) between Atlanta, Ga., and the Georgia-South Carolina State line, over State Highway No. 403 (I–85), as an alternate route for operating convenience only; with entrance and exist to and from Interstate Highway No. I–85 restricted to those entrances and exists which connect directly with carrier's other authorized routes; (29) between Atlanta, Ga., and the Georgia-Florida State line, over Interstate Highway 75, as an alternate route for operating convenience only; with entrance and exist to and from Interstate Highway No. 75 restricted to those entrances and exists which connect directly with carrier's other authorized routes; (30) between Fort Valley, Ga., and Columbus, Ga., over Georgia Highway 96 to Geneva, thence over Georgia Highway 22 to Columbus, as an alternate route for operating convenience only; with entrance and exist to and from Georgia Highways Nos. 96 and 22 restricted to those entrances and exits which connect directly with carriers' other authorized routes; (31) between Macon and Savannah, Ga., over Interstate Highway 16, as an alternate route for operating convenience only; with entrance and exit to and from Interstate Highway No. 16 restricted to those entrances and exits which connect directly with carrier's authorized routes; (32) between Ellaville, Ga., and the junction of Georgia Highway 26 and Georgia Highway 1 (U.S. 27 and 280), over Georgia Highway 26 as an alternate route for operating convenience only; with entrance and exit to and from Georgia Highways Nos. 26 and 1 (U.S. 27 and 280) restricted to those entrances and exits which connect directly with carrier's other authorized routes.

(33) Between Macon, Ga., and Thomaston, Ga., over Georgia Highway 74 as an alternate route for operating convenience only; with entrance and exit to and from Georgia Highway No. 74 restricted to those entrances and exits which connect directly with carrier's other authorized routes. (34) Between Americus, Ga., and Rochelle, Ga., over Georgia Highway 27 to junction of Georgia Highway 30 (U.S. 280), and thence over Georgia Highway 30 to Rochelle as an alternate route for operating convenience only; with entrance and exit to and from Georgia Highways Nos. 27 and 30 restricted to those entrances and exits which connect directly with carrier's other authorized routes; (35) between Rhine, Ga., and Vidalia, Ga., over Georgia Highway 30 as an alternate route for operating convenience only, with entrance and exit to and from Georgia Highway No. 30 restricted to those entrances and exits which connect directly with carrier's other authorized routes; (36) between Lyons, Ga., and Savannah, Ga., over Georgia Highway No. 292 to Bellville, thence over Georgia Highway No. 30 to junction Georgia Highway 26, and thence over Georgia Highway No. 26 to Savannah as an alternate route for operating convenience only; with entrance and exit to and from Georgia Highways Nos. 292, 26, and 30, restricted to those entrances and exits which connect directly with carrier's other authorized routes; (37) between Tifton, Ga., and Moultrie, Ga., over Georgia Highway No. 35 as an alternate route for operating convenience only; with entrance and exit to and from Georgia Highway No. 35 restricted to those entrances and exits which connect directly with carrier's other authorized routes, for 180 days. Supporting shippers: There are approximately 30 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. NOTE: Applicant states to tack the authority here applied for to other authority held by it, at authorized points in Georgia. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 29555 (Sub-No. 50 TA), filed December 19, 1967. Applicant: BRIGGS TRANSPORTATION CO., 2360 West County Road C, St. Paul, Minn. 55113. Applicant's representative: Winston W. Hurd (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, livestock, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requir-

ing special equipment (except those requiring temperature control), and those injurious or contaminating to other lading, as a common carrier by motor vehicle in interstate or foreign commerce serving Argonne Industrial District, Du Page Township, Will County, Ill. (plant location of Johnson & Johnson), as an off-route point in connection with applicant's authorized regular route operations between the commercial zone of Chicago, Ill., and points in Iowa, Nebraska, Minnesota, and Wisconsin, over regular routes, with no local service between the Johnson & Johnson plant-site and points in the Chicago commercial zone, for 180 days. NOTE: Applicant is for off-route authority in conjunction with present authority as delineated in Exhibit A. Supporting shipper: Johnson & Johnson, New Brunswick, N.J. Send protests to: District Supervisor, A. E. Rathert, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401.

No. MC 66562 (Sub-No. 2280 TA), filed December 11, 1967. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York, N.Y. 10017. Applicant's representative: Elmer F. Slovacek, Suite 1008, 105 West Madison Street, Chicago, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* moving in express service, between Minneapolis, Minn., and Kansas City, Mo.; from Minneapolis over U.S. Highway 65 to junction U.S. Highway 36, thence over U.S. Highway 36 to junction U.S. Highway 69, thence over U.S. Highway 69 to Kansas City, and return over the same route; serving the intermediate and/or off-route points of Lakeville, Farmington, Owatonna, and Albert Lea, Minn.; Mason City, Iowa Falls, Des Moines, Chariton, Lucas, Osceola, and Corydon, Iowa; Princeton, Trenton, and Chillicothe, Mo.; alternate authority, for operating convenience only, is requested over Interstate 35, as and where opened, for 120 days. Restrictions: (1) The service to be performed by the applicant shall be limited to that which is auxiliary to or supplemental of express service of the Railway Express Agency, Inc. (2) Shipments transported by applicant shall be limited to those on through bills of lading or express receipts. (3) Such further specific conditions as the Commission, in the future, may find necessary to impose in order to restrict applicant's operations to a service which is auxiliary to or supplemental of express service of the Railway Express Agency, Inc. Supporting shippers: There are approximately 16 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Stephan P. Tomany, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 346 Broadway, New York, N.Y. 10013.

No. MC 111729 (Sub-No. 254 TA), filed December 18, 1967. Applicant: AMERICAN COURIER CORPORATION, 222–17 Northern Boulevard, Bayside, N.Y. 11361. Applicant's representative: J. K. Murphy, President, 222–17 Northern Boulevard, Bayside, N.Y. 11361. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Between papers, records, and audit and accounting media of all kinds*, between Atlanta, Ga., on the one hand, and, on the other, points in Duval County, Fla., and points in Davidson County, Tenn.; (2) *exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies and advertising literature moving therewith* (excluding motion picture film used primarily for commercial theatre and television exhibition), between Novi, Mich., on the one hand, and, on the other, points in Ohio, and points in West Virginia, for 150 days. Supporting shippers: J. C. Penney Co., Inc., Post Office Box 1693, Atlanta, Ga. 30301; A.B.C. Photo, Inc., 1734 West Lafayette Boulevard, Detroit, Mich. 48216. Send protests to: E. N. Carignan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 346 Broadway, New York, N.Y. 10013.

No. MC 125608 (Sub-No. 6 TA), filed December 18, 1967. Applicant: VALER LUPU, doing business as VALER TRANSPORTATION COMPANY, 18615 Dix Avenue, Melvindale, Mich. 48122. Applicant's representative: Frank J. Kerwin, Jr., 900 Guardian Building, Detroit, Mich. 48226. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beer and malt beverages*, from St. Paul, Minn., to Detroit, Mich., under a continuing contract with Action Distributing Co., Inc., of Detroit, Mich., for 180 days. Supporting shipper: Action Distributing Co., Inc., 6011 Avery, Detroit, Mich. 48208. Send protests to: District Supervisor, Gerald J. Davis, Bureau of Operations, Interstate Commerce Commission, 1110 Broderick Tower, 10 Witherell, Detroit, Mich. 48226.

No. MC 126420 (Sub-No. 11 TA) (Republication), filed December 12, 1967, published in the FEDERAL REGISTER in notice No. 515, and republished this issue. Applicant: ALASKA STEAMSHIP COMPANY, Pier 42, Seattle, Wash. 98134. Applicant's representative: Edward G. Lowry III, 14th Floor, Norton Building, Seattle, Wash. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (with the usual exceptions), from Seattle, Wash., to points in Alaska over Washington Highway, to Puget Sound Terminal of Alaska Marine Highway System and then over system to Alaska, and return, for 150 days. Supporting shippers: The Seattle Chamber of Commerce, Pacific Fruit and Produce, Port of Seattle, Alaska Ferry-Bellingham, Northern Commercial, Associated Grocers, American Wholesale Grocers, Northwest Furniture Manufacturers, Northwest Fisheries Association, Van Waters & Rogers, Governor Hickel of Alaska, Pacific Marine Schwabacher, West Coast Grocers, Sears Roebuck, M. L. Davies, and Alaska Distributers. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6130 Arcade Building, Seattle, Wash. 98101. NOTE: The purpose of this republication is to list the supporting shippers as shown above. Also, the statements from the above-named supporting shippers may be examined at the field office named above.

No. MC 129599 TA, filed December 18, 1967. Applicant: WERMUTH CAL VAN STORAGE CO., INC., 2224 Del Monte Avenue, Monterey, Calif. 93940. Applicant's representative: Berol, Loughran & Geernaert, 100 Bush Street, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, as defined by the Commission in 17 MCC 467 between points in Monterey, Santa Cruz, San Benito, and San Luis Obispo Counties, Calif., for 180 days. Supporting shippers: Asiatic Forwarders Inc., 335–Valencia Street, San Francisco, Calif. 94103; HC&D Moving & Storage Co., Inc., 22 Julian Avenue, San Francisco, Calif. 94103. Send protests to: District Supervisor, William R. Murdoch, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 129603 TA, filed December 19, 1967. Applicant: JOSEPH MOVING AND STORAGE CO., INC., doing business as ST. JOSEPH MOTOR LINES, 643 10th Street NW., Atlanta, Ga. 30318. Applicant's representative: O. H. Weaver, Jr., Post Office Box 58, Griffin, Ga. 30223. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *New furniture, kitchen cabinets, sink tops, and office and store fixtures*, (1) from points in Georgia and South Carolina to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Washington, D.C., and (2) from points in Connecticut, Massachusetts, and Vermont to points in Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Washington, D.C., Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia, for 180 days. Supporting shippers: Boro Wood Products Co., Inc., Bennettsville, S.C., Sparta Furniture Manufacturing Corp., Sparta, Ga., Hitchcock Chair Co., Riverton, Conn., Industrial Traffic Associates of Georgia, Inc., Atlanta, Ga., H. T. Cushman Manufacturing Corp., North Bennington, Vt., Temple-Stuart Co., Furniture Manufacturers, Baldwinville, Mass., The George B. Bent Co., Inc., Gardner, Mass., and Nichols & Stone Co., Gardner, Mass. Send protests to: William L. Scrogg, District Supervisor, Interstate Commerce Commission, Room 309, 1252 West Peachtree Street, NW., Atlanta, Ga.

MOTOR CARRIER OF PASSENGERS

No. MC 129633 (Sub-No. 1 TA), filed December 13, 1967. Applicant: NATCHEZ TRANSIT LINES, INC., 3 South Circle, Natchez, Miss. 39120. Applicant's representative: Fred J. Hawkins (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers, and baggage, mail, express, and newspapers* in the same vehicle with passengers, between Natchez, Miss., and Hattiesburg, Miss., serving all intermediate points, from Natchez, over U.S. Highway 61 and 84 to Washington, thence U.S. Highway 85 to Prentiss, thence Mississippi Highway 42 to junction U.S. Highway 49, thence south on U.S. Highway 49 to Hattiesburg, and return over the same routes. NOTE: Applicant intends to interline with other carriers at Hattiesburg, Prentiss, Brookhaven, and Natchez, Miss., for 150 days. Supporting shippers: There are approximately 28 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Floyd A. Johnson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 312A U.S. Post Office and Courthouse, Jackson, Miss. 39201.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67–15044; Filed, Dec. 27, 1967; 8:48 a.m.]

[Notice 66]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 22, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–69907. By order of December 19, 1967, the Transfer Board approved the transfer to Bath Lightning Express, Inc., Shortsville, N.Y., of certificate in No. MC–9818, issued June 7, 1951, to Louis Trudell, doing business as Bath Lightning Express, Bath, N.Y., authorizing the transportation of general commodities, with the usual exceptions, over a regular route, between Rochester, N.Y., and Bath, N.Y. Raymond A. Richards, 23 West Main Street, Webster, N.Y. 14580, practitioner for applicants.

No. MC–FC–70008. By order of December 19, 1967, the Transfer Board approved the transfer to C. Malone Trucking, Inc., Waltham, Mass., of that portion of the operating rights in certificate No. MC–113951, issued August 4, 1959, to M. D. Creasy Co., Inc., Charlestown District, Boston, Mass., authorizing the transportation, over regular routes, of paper and paper products, and articles used in connection with paper products, twine, clothespins, coat hangers, mops, brooms, candles, and metal and wooden pails, between Somerville, Mass., and Newark, N.J., between Somerville, Mass., and Albany, N.Y., and over irregular routes, of paper and paper products, and articles used in connection with paper products, twine, clothespins, coat hangers, mops, brooms, candles, and metal and wooden pails, between Somerville, Mass., on the one hand, and, on the other, Ashuelot, Hinsdale, Keene, and Ashland, N.H.; Gilman, Bennington, and Wallingford, Vt.; Norwich and New London, Conn.; and Providence, R.I.; paper and paper products, and articles used in connection with paper products, twine, clothespins, coat hangers, mops, brooms, candles, and metal and wooden pails, except liquid or dry bulk commodities in bulk, in tank vehicles or hopper type vehicles, between Somerville, Mass., on the one hand, and, on the other, points in a described portion of Connecticut, between Somerville, Mass., on the one hand, and, on the other, points in Nassau County, N.Y., and those in a described portion of New York, and between Somerville, Mass., on the one hand, and, on the other, points in a described portion of New York. Mary E. Kelley, 10 Tremont Street, Boston, Mass. 02108, attorney for transferee. Raymond E. Bernard, 60 Brattle Street, Cambridge, Mass. 02138, attorney for transferor.

No. MC–FC–70070. By order of December 14, 1967, the Transfer Board approved the transfer to Jess R. Neufeld, Inc., New York, N.Y., of the operating rights in certificate No. MC–43888 issued November 16, 1955, to Jess R. Neufeld, New York, N.Y., authorizing the transportation of general commodities, except household goods, between New York, N.Y., on the one hand, and, on the other, points in New Jersey within 25 miles of Newark, N.J., and plastic film, cloth or sheeting, and resins, flakes, and granules used in the production of plastic film, between New York, N.Y., and Flemington, N.J. John P. Walsh, 161 William Street, New York, N.Y. 10038, attorney for applicants.

No. MC–FC–70076. By order of December 19, 1967, the Transfer Board approved the transfer to Catencamp Transfer & Storage, Inc., Shawano, Wis., of permits Nos. MC–114052 (Sub-No. 2), and MC–114052 (Sub-No. 4) issued August 24, 1956, and May 28, 1957, respectively, to Howard Catencamp, doing business as Catencamp Transfer & Storage, Shawano, Wis., and authorizing the transportation of liquid glue, in bulk, in tank vehicles, from Shawano, Wis., to points in Illinois, Indiana, Iowa, Michigan, Minnesota, and Ohio; and formaldehyde, in bulk, in tank vehicles, from Calumet City, Ill., to Shawano, Wis. John T. Porter, 16 North Carroll Street, Madison, Wis. 53703, attorney for applicants.

No. MC–FC–70080. By order of December 19, 1967, the Transfer Board approved the transfer to James D. Griggs, doing business as J. D. Griggs Trucking Co., Chicago, Ill., of the certificate of registration in No. MC–121147 (Sub-No. 1) issued December 20, 1963, to E. J. Harrington, doing business as Harrington's Organ Rental & Service, Chicago, Ill., and evidencing a right to transport musical instruments and equipment of bands and orchestras, and miscellaneous local cartage, within a 50-mile radius of 5113 North Kostner Avenue, Chicago, Ill., as specified in certificate of public convenience and necessity No. 12584MC dated April 19, 1955, issued by the Illinois Commerce Commission. Robert H. Levy, 29 South La Salle Street, Chicago, Ill. 60603, attorney for applicants.

No. MC–FC–70082. By order of December 19, 1967, the Transfer Board approved the transfer to Siclari Trucking & Warehouse, Inc., Brooklyn, N.Y., of certificate No. MC–123188 issued July 7, 1961, to Gus Siclari, doing business as Siclari Trucking, Brooklyn, N.Y., and authorizing the transportation of plywood and hardboard, from points in the New York, N.Y., commercial zone, as defined by the Commission, to points in Bergen, Essex, Hudson, Union, Passaic, Middlesex, and Somerset Counties, N.J., and Nassau and Westchester Counties, N.Y., and refused or returned shipments of these commodities, from points in the specified New Jersey and New York counties, to points in the New York, N.Y., commercial zone, as defined by the Commission. William D. Traub, 10 East 40th Street, New York, N.Y. 10016, practitioner for applicants.

No. MC–FC–70083. By order of December 20, 1967, the Transfer Board approved the transfer to Lytle's Transfer & Storage, Inc., Altoona, Pa., of certificate No. MC–102971 (Sub-No. 1) issued February 1, 1956, to James A. Lytle, doing business as Lytle's Transfer & Storage, Altoona, Pa., and authorizing the transportation of household goods, as defined by the Commission, from Altoona, Pa., and points within 20 miles thereof, to points in Maryland, New Jersey, New York, Ohio, and the District of Columbia, and from points in the described destination territory to Altoona, Pa., and points within 50 miles thereof; household goods, as defined by the Commission, between points in Blair, Bedford, Huntingdon, Clearfield, and Cambria Counties, Pa., on the one hand, and, on the other, points in 14 States and the District of Columbia; and, household goods, between Philadelphia, Pa., on the one hand, and, on the other, Washington, D.C., and points in Pennsylvania, Maryland, Delaware, New Jersey, and New York. Robert H. Griswold, Post Office Box 432, Harrisburg, Pa. 17108, attorney for applicants.

No. MC–FC–70065. By order of December 19, 1967, the Transfer Board approved the transfer to Cam & Sons Motor Transportation, Inc., Fitchburg, Mass., of the operating rights in Permit No. MC–10360 issued July 31, 1958, to T. L. Clunan Motor Transportation, Inc., Fitchburg, Mass., authorizing the transportation, over irregular routes, of textile products and textile machinery, between Fitchburg, Mass., on the one hand, and, on the other, points in Massachusetts, Connecticut, Rhode Island, New Hampshire, Vermont, and New York. Arthur A. Wentzell, Post Office Box 720, Worcester, Mass. 01601, representative for applicants.

No. MC–FC–70096. By order of December 20, 1967, the Transfer Board approved the transfer to Dale Snyder and Marvin Huelsing, a partnership, doing business as Breda Truck Line, Breda, Iowa, of certificate No. MC–2775 issued December 13, 1966, to Vincent Snyder and Dale Snyder, a partnership, doing business as Breda Truck Line, Breda, Iowa, and authorizing the transportation of livestock and agricultural products, from Arcadia, Iowa, to Omaha, Nebr., serving all intermediate and off-route points within 15 miles of Arcadia, from Arcadia over Iowa Highway 385 to junction U.S. Highway 30, thence over U.S. Highway 30 to Missouri Valley, Iowa, and thence over U.S. Highway 75 to Omaha; and building materials, feed, including mineral feeds, farm machinery and parts, hardware, twine, lubricating oils and greases, wire, and fencing, from Omaha, Nebr., to Arcadia, Iowa, serving all intermediate and off-route points within 15 miles of Arcadia, from Omaha, Nebr., over the above-specified route to Arcadia. Dale Snyder, Breda, Iowa, 51436, representative for applicants.

No. MC–FC–70098. By order of December 19, 1967, the Transfer Board approved the transfer to B. T. Hall, doing business as B. T. Hall Trucking, 2753 North 32d, Kansas City, Kans. 66104, of the certificate in No. MC–118985 (Sub-No. 2), issued January 30, 1964, to H. L. Sewell and Lester Foster, a partnership, doing business as Sewell Trucking, 6703 Hunter, Raytown, Mo. 64133, authorizing the transportation of sand and gravel, in bulk, from Muncie, Kans., and points within 5 miles thereof, to points within a specified Missouri territory.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67–15045; Filed, Dec. 27, 1967; 8:48 a.m.]

[Notice 1136]

MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER APPLICATIONS

DECEMBER 22, 1967.

The following applications are governed by Special Rule 1.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with § 1.247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of § 1.247(d)(4) of the special rule, and shall include the certification required therein.

Section 1.247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearings, or other procedures) will be determined generally in accordance with the Commission's General Policy Statement Concerning Motor Carrier Licensing Procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 431 (Sub-No. 6), filed December 1, 1967. Applicant: SOUTH BEND TRANSFER INC., First and Alder Streets, South Bend, Wash. 98586. Applicant's representative: W. R. Lorentson, Box 253, 111 Maple Street, South Bend, Wash. 98586. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, between South Bend and Seattle, Wash., from South Bend, over U.S. Highway 101 to Aberdeen, thence over U.S. Highway 410 to Olympia (also from junction U.S. Highway 101 and Washington Highway 107, over Washington Highway 107 to junction U.S. Highway 410 at or near Montesano) thence over Interstate Highway 5 to Seattle, and return over the same routes, serving the intermediate point of Tacoma. NOTE: Applicant states that it will tack with its existing authority and interline with other carriers. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash., or Portland, Oreg.

No. MC 1641 (Sub-No. 78), filed December 8, 1967. Applicant: PEAKE TRANSPORT SERVICE, INC., Box 366, Chester, Nebr. 68327. Applicant's representative: R. B. Parker (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizers and fertilizer materials*, from points in Lancaster County, Nebr., to points in Iowa, Kansas, Nebraska, Missouri, South Dakota, Wyoming, and Colorado. NOTE: If a hearing is deemed necessary, applicant requests it be held at Sioux City, Iowa, or Omaha, Nebr.

No. MC 16831 (Sub-No. 15), filed December 11, 1967. Applicant: LAVERNE W. SIMPSON, doing business as MID SEVEN TRANSPORTATION COMPANY, 2323 Delaware Avenue, Des Moines, Iowa 50317. Applicant's representative: Robert L. Page (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Aluminum sheets, bars, tubing, structurals, extrusions, and plates*, in mixed shipments with iron and steel articles and moving in the same vehicle at the same time with iron and steel articles, (1) between Chicago, Ill., and Des Moines, Iowa, over Interstate Highway 80, serving no intermediate points and (2) between Chicago, Ill., and junction Interstate Highways 55 and 80, over Interstate Highway 55, serving no intermediate points. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Des Moines, Iowa.

No. MC 20872 (Sub-No. 10), filed December 11, 1967. Applicant: LIME CITY TRUCKING COMPANY, INCORPORATED, 1455 Swan Street, Huntington, Ind. 46750. Applicant's representative: Donald W. Smith, 511 Fidelity Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite of Huffer Foundry Co., Inc., near Warsaw, Ind., as an off-route point in connection with applicant's regular route operations to and from Warsaw, Ind. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 30237 (Sub-No. 13), filed December 11, 1967. Applicant: YEATTS TRANSFER COMPANY, a corporation, Post Office Box 666, Altavista, Va. 24517. Applicant's representative: Eston H. Alt, Post Office Box 81, Winchester, Va. 22601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, as described in appendix II to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from Saddle Brook, N.J., to points in Delaware, Maryland, North Carolina, Virginia, West Virginia, and the District of Columbia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 30844 (Sub-No. 246), filed December 8, 1967. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial, Waterloo, Iowa 50704. Applicant's representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes, and potato products*, (1) from Presque Isle and Portland, Maine, to points in New York (except those in Suffolk, Westchester, Rockland, Nassau Counties, and the Boroughs of Queens, Brooklyn, Bronx, Richmond, and Manhattan), Pennsylvania (except those in Montgomery, Bucks, and Delaware Counties, and Philadelphia), West Virginia, and Kentucky, (2) from Washburn and Belfast, Maine, and Watertown, Mass., to points in New York (except those in Suffolk, Westchester, Rockland, Nassau, and the Boroughs of Queens, Brooklyn, Bronx, Richmond, and Manhattan), Pennsylvania (except those in Montgomery, Bucks, and Delaware Counties, and Philadelphia), West Virginia, Kentucky, Ohio, Indiana, and Michigan, and (3) from Easton, Maine, to points in New York (except those in Suffolk, Westchester, Rockland, Nassau Counties, and the Boroughs of Queens, Brooklyn, Bronx, Richmond, and Manhattan), Pennsylvania (except those in Montgomery, Bucks, and Delaware Counties, and Philadelphia), West Virginia, and Kentucky. NOTE: Applicant indicates tacking at points in Indiana with present authority serving points in Iowa, Nebraska, Missouri, Kansas, Arkansas, Colorado, Oklahoma, and Texas. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Portland or Augusta, Maine.

No. MC 45657 (Sub-No. 47), filed December 6, 1967. Applicant: PIC-WALSH FREIGHT CO., a corporation, 731 Campbell Avenue, St. Louis, Mo. 63147. Applicant's representative: David I. Harfeld, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment, (1) between Memphis, Tenn., and Chicago, Ill., from Memphis over U.S. Highway 51 to junction Illinois Highway 37, thence over Illinois Highway 37 to junction U.S. Highway 45, thence over U.S. Highway 45 to junction U.S. Highway 66 and thence over U.S. Highway 66 to Chicago, and return over the same route, serving no intermediate points, except Salem and Effingham, Ill., for purposes of joinder only, (2) between Tupelo, Miss., and Chicago, Ill., from Tupelo over U.S. Highway 45 to junction U.S. Highway 45E, thence over U.S. Highway 45E to junction U.S. Highway 51, thence over U.S. Highway 51 to junction Illinois Highway 37, thence over Illinois Highway 37 to junction U.S. Highway 45, thence over U.S. Highway 45 to junction U.S. Highway 66, thence over U.S. Highway 66 to Chicago, and return over the same route, serving no intermediate points, except at Salem and Effingham, Ill., for purposes of joinder only, and (3) between Tupelo, Miss., and St. Louis, Mo., from Tupelo over U.S. Highway 45 to junction U.S. Highway 45E, thence over U.S. Highway 45E to junction U.S. Highway 51, thence over U.S. Highway 51 to junction Illinois Highway 3, thence over Illinois Highway 3 to St. Louis, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only in connection with carrier's presently authorized regular-route operations between Tupelo, Miss., and Memphis, Tenn., on the one hand, and, on the other, Chicago, Ill., St. Louis, Mo., Springfield and Vandalia, Ohio, and other authorized points east thereof. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 59499 (Sub-No. 11) (Correction), filed October 27, 1967, published FEDERAL REGISTER issue of November 23, 1967, and republished as corrected this issue. Applicant: UNITED MOTOR FREIGHT TERMINAL, INC., 3700 First Avenue South, Birmingham, Ala. 35222. Applicant's representative: R. J. Reynolds III, 403 Healey Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Birmingham, Ala., and Sherman, Miss., over U.S. Highway 78, serving the intermediate point of Guin, Ala., for purposes of joinder only, and serving Tupelo, Miss., and all intermediate and off-route points within 15 air miles of Birmingham, (2) between Tupelo, Miss., and Selmer, Tenn., over U.S. Highway 45, serving all intermediate points, (3) between Guin, Ala., and Tupelo, Miss.; from Guin over U.S. Highway 278 to junction U.S. Highway 45, thence over U.S. Highway 45 to junction Mississippi Highway 41, thence over Mississippi Highway 41 to Okolona, Miss., thence over Mississippi Highway 45W to junction U.S. Highway 45 (near Shannon, Miss.), thence over U.S. Highway 45 to Tupelo, Miss., and return over the same route, serving Guin for purposes of joinder only; and serving the intermediate and off-route points of Amory and Okolona, Miss., (4) serving points in Lee County, Miss., as intermediate and off-route points in connection with applicant's regular route operations to, from, and through Tupelo, Miss., and (5) serving Buchanan, Ga., as an off-route point in connection with applicant's authorized regular route authority between Atlanta, Ga., and Birmingham, Ala. NOTE: Applicant states service to points proposed on route (1), (2), (3), and (4) above shall be limited to traffic moving from, to, or through Birmingham, Ala., or points within 15 air miles thereof. The purpose of this republication is to add the intermediate point of Tupelo, Miss., in (1) above, inadvertently omitted in previous publication. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., Atlanta, Ga., and Tupelo, Miss.

No. MC 61592 (Sub-No. 93), filed December 11, 1967. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, Iowa 52722. Applicant's representative: R. Connor Wiggins, Jr., Suite 909, 100 North Main Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition roofing and building slabs and equipment, materials, and supplies* used in the installation thereof, from Terry, Miss., to points in Illinois, Indiana, Iowa, Kansas, Michigan, Missouri, Nebraska, North Dakota, Ohio, Pennsylvania, South Carolina, Virginia, West Virginia, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss.

No. MC 73165 (Sub-No. 239) (Amendment), filed October 23, 1967, published in the FEDERAL REGISTER issue of November 9, 1967, amended December 12, 1967, and republished as amended, this issue. Applicant: EAGLE MOTOR LINES, INC., Post Office Box 1348, Birmingham, Ala. 35201. Applicant's representative: Robert M. Pearce, Post Office Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Material handling equipment; winches; compaction and roadmaking equipment, rollers, self-propelled and non-self-propelled; mobile cranes; and highway freight trailers*, and (2) *parts, attachments, and accessories for the commodities described in (1) above*, between the plantsites of the Hyster Co. located at or near Danville, Kewanee, and Peoria, Ill., on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Louisiana, Mississippi, Georgia, Tennessee, and Texas, restricted to the handling of traffic originating at or destined to the above-named plantsites.

[1] Copies of Special Rule 1.247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

NOTE: The purpose of this republication is to widen the scope of the authority sought. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Nashville, Tenn.

No. MC 80847 (Sub-No. 5), filed December 5, 1967. Applicant: J. B. ACTON, INC., 216 Southwest Boulevard, Kansas City, Mo. 64108. Applicant's representative: Elbert C. Wilson, 5402 West Skelly Drive, Tulsa, Okla. 74131. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, in bales or bundles, weighing 2,000 pounds or more each, which require the use of special equipment: plates, posts, angles, forms, sheets, rounds, channels, beams, ingots, piling, billets, blooms, reinforcing rods, bards, wire mesh, and pipe; from Houston, Beaumont, Port Arthur, Corpus Christi, Galveston, Orange, Victoria, Baytown, Eagle Pass, Laredo, Brownsville, Port Isabel, Hidalgo, and Presidio, Tex., to points in Kansas, Oklahoma, Texas, New Mexico, Arkansas, and Louisiana, and (2) *iron and steel articles*, weighing 2,000 pounds or more each, requiring the use of special equipment: Sheets, beams, plates, and coils, from Houston, Beaumont, Port Arthur, Corpus Christi, Galveston, Orange, Victoria, Baytown, Eagle Pass, Laredo, Brownsville, Port Isabel, Hidalgo, and Presidio, Tex., to points in Texas. NOTE: Applicant states it presently holds certificate of public convenience and necessity No. MC 80847 Sub 2, in which it is authorized to serve over irregular routes: Oil-field equipment, machinery, and materials, between points in Kansas, Oklahoma, Texas, New Mexico, Arkansas, and Louisiana. To the extent that articles listed in proposed authority would move as oil-field equipment, machinery, and materials the proposed authority will duplicate that presently held in MC 80847 Sub 2. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex., or Tulsa, Okla.

No. MC 87861 (Sub-No. 10), filed December 11, 1967. Applicant: BELL DIAMOND EXPRESS, INC., 6901 North Michigan Road, Indianapolis, Ind. 46268. Applicant's representative: Warren C. Moberly, 1212 Fletcher Trust Building, Indianapolis, Ind. 64204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Finished and unfinished railroad ties, timbers, and other forest products*, from Louisville, Ky., to points in Illinois, Michigan, Ohio, Indiana, Wisconsin, Missouri, West Virginia, and Pennsylvania. NOTE: If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Indianapolis, Ind.

No. MC 89697 (Sub-No. 24), filed December 12, 1967. Applicant: KRAJACK TANK LINES, INC., 480 East Westfield Avenue, Roselle Park, N.J. Applicant's representative: Bert Collins, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals* (except calcium chloride) in bulk, in tank or hopper-type vehicles, from Solvay, N.Y., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 93944 (Sub-No. 5), filed December 4, 1967. Applicant: DANELLA BROS., INC., 250 Diamond Avenue, Norristown, Pa. 19401. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime, lime products, limestone, limestone products, slag, slag products, gravel, concrete mix, mortar mix, sand mix, sand, cements, fertilizer, ammonia sulphate, sulphate phosphate, superphosphate, salt, bituminous concrete and ores*, between points in Berks, Bucks, Chester, Lehigh, Montgomery, Northampton, and Philadelphia Counties, Pa., on the one hand, and, on the other, points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and the District of Columbia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 100449 (Sub-No. 12), filed November 27, 1967. Applicant: MALLINGER TRUCK LINE, INC., Otho, Iowa 50569. Applicant's representative: William A. Landau, 1451 East Grand Avenue, Des Moines, Iowa 50306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Fort Dodge, Iowa, to points in Minnesota, Nebraska, North Dakota, and South Dakota. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 102567 (Sub-No. 122), filed December 8, 1967. Applicant: EARL GIBBON TRANSPORT, INC., 235 Benton Road, Post Office Drawer 5357, Bossier City, La. 71010. Applicant's representative: Jo E. Shaw, 816 Houston First Savings Building, Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molasses and feed grade molasses*, in bulk, in tank vehicles, from points in Louisiana (except those points within a 75-mile radius of New Orleans, La.), to points in Mississippi, Arkansas, Oklahoma, and Texas. NOTE: If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 103654 (Sub-No. 130), filed November 13, 1967. Applicant: SCHIRMER TRANSPORTATION COMPANY, INCORPORATED, 1145 Homer Street, St. Paul, Minn. 55116. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum and petroleum products*, in bulk, (a) from the Williams Brothers Pipe Line Co., terminal and the Kaneb Pipe Line Co., terminal both located at or near Milford, Iowa, to points in Iowa, Minnesota, and South Dakota, and (b) from the Williams Brothers Pipe Line Co., terminal located at or near St. Cloud, Minn., to points in Minnesota, South Dakota, North Dakota, and Wisconsin, (2) *liquid fertilizer*, in bulk, from points in Redwood, Renville and Brown Counties, Minn., to points in Iowa, Minnesota, Nebraska, North Dakota, and South Dakota, (3) *lecithin*, in bulk, from Mankato, Minn., to points in Minnesota and Ohio, and (4) *fertilizer and fertilizer ingredients*, in bulk, from points in Martin County, Minn., to points in Iowa, Minnesota, North Dakota, South Dakota, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 105045 (Sub-No. 19) (Amendment), filed October 23, 1967, published FEDERAL REGISTER issue November 9, 1967, and republished as amended, this issue. Applicant: R. L. JEFFRIES TRUCKING CO., INC., 1020 Pennsylvania Street, Evansville, Ind. 47708. Applicant's representative: Robert M. Pearce, Post Office Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Material handling equipment; winches; compaction and roadmaking equipment, rollers*, self-propelled and non-self-propelled; *mobile cranes; and highway freight trailers, and parts, attachments, and accessories therefor*, between the plantsite of the Hyster Co. located at or near Danville, Kewanee, and Peoria, Ill., on the one hand, and, on the other, points in Alabama, Arkansas, District of Columbia, Florida, Georgia, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, Nebraska, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Virginia, Wisconsin, and West Virginia, restricted to the handling of traffic originating at or destined to the named plantsites. NOTE: The purpose of this republication is to reflect the change in the territorial scope of the application. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Nashville, Tenn.

No. MC 106497 (Sub-No. 40), filed December 11, 1967. Applicant: PARKHILL TRUCK COMPANY, a corporation, 4219 South Memorial Street, Tulsa, Okla. 74152. Applicant's representative: Tom B. Kretzinger, 450 Professional Building, Kansas City, Mo. 64106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Material handling equipment, winches, compaction and roadmaking equipment, rollers, self-propelled and non-self-propelled, mobile cranes, and highway freight trailers*, and (2) *parts, attachments, and accessories* for the commodities described in (1) above, between the plantsites of the Hyster Co. located at or near Danville, Kewanee, and Peoria, Ill., on the one hand, and, on the other, points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Missouri, New Mexico, Ohio, Oklahoma, Texas, and Wyoming restricted to the handling of traffic originating at or destined to the named plantsites. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., Kansas City, Mo., or Washington, D.C.

No. MC 106679 (Sub-No. 9), filed December 11, 1967. Applicant: WHEELER FREIGHTWAYS, a corporation, 3375 South Polaris, Las Vegas, Nev. 89102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum plaster*, gypsum wallboard (plasterboard), between points in Clark and Lincoln Counties, Nev., and points in Orange, Riverside, and San Bernardino Counties, Calif. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif., or Las Vegas, Nev.

No. MC 107012 (Sub-No. 76), filed December 11, 1967. Applicant: NORTH AMERICAN VAN LINES, INC., Post Office Box 988, Fort Wayne, Ind. 46801. Applicant's representative: Martin A. Weissert (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New industrial, institutional, technical, and laboratory furniture*, uncrated, from Rochester, Minn., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, and Wyoming. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 107496 (Sub-No. 605), filed December 8, 1967. Applicant: RUAN TRANSPORT CORPORATION, Keosauqua at Third, Post Office Box 855, Des Moines, Iowa 50304. Applicant's representative: H. L. Fabritz (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn and corn products*, from Atchison, Kans., and points within 5 miles thereof to points in Indiana, Illinois, Wisconsin, Iowa, Missouri, Minnesota, Arkansas, Louisiana, Texas, Oklahoma, Colorado, and Nebraska. NOTE: If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Kansas City, Mo.

No. MC 107496 (Sub-No. 606), filed December 8, 1967. Applicant: RUAN TRANSPORT CORPORATION, Keosauqua Way at Third, Post Office Box 855, Des Moines, Iowa 50304. Applicant's representative: H. L. Fabritz (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry, manufactured fertilizer and fertilizer ingredients*, in bulk and bag, from Kansas City, Mo., to points in Kansas, Iowa, and Nebraska. NOTE: If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Kansas City, Mo.

No. MC 107496 (Sub-No. 607), filed December 8, 1967. Applicant: RUAN TRANSPORT CORPORATION, Keosauqua Way at Third, Post Office Box 855, Des Moines, Iowa 50304. Applicant's representative: H. L. Fabritz (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals and fertilizers*, from Lincoln, Nebr., to points in Colorado, Iowa, Kansas, Missouri, South Dakota, and Wyoming. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Sioux City, Iowa, or Omaha, Nebr.

No. MC 107496 (Sub-No. 608), filed December 8, 1967. Applicant: RUAN TRANSPORT CORPORATION, Keosauqua at Third, Post Office Box 855, Des Moines, Iowa 50304. Applicant's representative: H. L. Fabritz (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia, fertilizer, and fertilizer ingredients*, in bulk, from the plantsite of the United States Steel Corp. at or near Tilton, Ill., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Pittsburgh, Pa.

No. MC 107496 (Sub-No. 609), filed December 8, 1967. Applicant: RUAN TRANSPORT CORPORATION, Keosauqua Way at Third, Post Office Box 855, Des Moines, Iowa 50304. Applicant's representative: H. L. Fabritz (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solutions and liquid fertilizer compounds*, from Logansport, Ind., and points within 10 miles thereof, to points in Illinois, Kentucky, Michigan, Ohio, and Wisconsin. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Chicago, Ill.

No. MC 107515 (Sub-No. 598), filed December 11, 1967. Applicant: REFRIGERATED TRANSPORTATION CO., INC., Post Office Box 10799 Station A, Atlanta, Ga. 30310. Applicant's representative: B. L. Gundlach (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and dairy products*, from Washington, D.C., and Baltimore, Md., to points in Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Kentucky, and Tennessee. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 108313 (Sub-No. 10), filed December 10, 1967. Applicant: CALEDONIA LINES, INC., Ontario, N.Y. 14519. Applicant's representative: Raymond A. Richards, 23 West Main Street, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals, cleansers, detergents, and sanes*, in containers, and *empty containers* for those commodities, between Barberton, Ohio, on the one hand, and, on the other, Branchton, Erie, Greenville, North East, Pittsburgh, Saegertown (Saegerstown), and Youngstown, Pa., under contract with Jones Chemicals, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

No. MC 109497 (Sub-No. 20), filed December 5, 1967. Applicant: A. F. COMER TRANSPORT SERVICE, INC., Post Office Box 2933, West Durham Station, Durham, N.C. 27705. Applicant's representative: Louis Reznek, 5009 Keokuk Street, Washington, D.C. 20016. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Creosote*, in bulk, in tank vehicles, from Chesapeake, Va., to points in North Carolina. NOTE: If a hearing is deemed necessary, applicant requests it be held at Raleigh, N.C., or Washington, D.C.

No. MC 109537 (Sub-No. 3), filed December 11, 1967. Applicant: HERRON TRANSFER CO., a corporation, 1026 Franklin Street, Salem, Ohio 44460. Applicant's representative: John P. McMahon, Suite 1800, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rolling mill machinery and parts therefor, and equipment, materials, and supplies used in the manufacture, sale, and distribution of rolling mill machinery and parts therefor*, between Salem, Ohio, on the one hand, and, on the other, points in Delaware, Illinois, Indiana, Michigan, New Jersey, New York, Ohio, Pennsylvania, and West Virginia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 111545 (Sub-No. 101), filed December 5, 1967. Applicant: HOME TRANSPORTATION COMPANY, INC., Post Office Box 6426, Station A, Marietta, Ga. 30060. Applicant's representative: Robert E. Born, 1425 Franklin Road SE., Marietta, Ga. 30060. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heavy machinery*; (2) *contractors equipment*; (3) *tractors* (except truck tractors); (4) *lift and hoist trucks*; (5) *commodities* (other than those described in Nos. (1) through (4) above), which because of size or weight require the use of special equipment; and (6) *parts, attachments, and accessories for commodities* named in Nos. (1) through (5) above, when moving in the same shipment with the commodities named therein, between points in Georgia and South Carolina on the one hand, and, on the other, points in Florida. NOTE: Applicant intends to tack at points in Georgia and South Carolina to provide service between points in Florida with its existing authority serving Illinois, Indiana, Iowa, Kansas, Michigan, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Wisconsin, Delaware, Missouri,

Nebraska, North Carolina, Virginia, Kentucky, Tennessee, Alabama, Minnesota, Texas, Mississippi, Arkansas, Louisiana, Maryland, and the District of Columbia. If a hearing is deemed necessary, applicant requests it be held at Tampa, Fla.

No. MC 114106 (Sub-No. 57) (Amendment), filed November 15, 1967, published in the FEDERAL REGISTER issue of December 7, 1967, amended December 13, 1967, and republished as amended, this issue. Applicant: MAYBELLE TRANSPORT COMPANY, a corporation, Post Office Box 573, Lexington, N.C. 27292. Applicant's representative: William P. Sullivan, Federal Bar Building West, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, from points in North Carolina to points in North Carolina, South Carolina, and Georgia. NOTE: Applicant has contract carrier authority in MC 115176 Subs 1 and 2, therefore, dual operations may be involved. The purpose of this republication is to add the destination State of Georgia. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 115669 (Sub-No. 80), filed November 13, 1967. Applicant: HOWARD N. DAHLSTEN, doing business as DAHLSTEN TRUCK LINE, Post Office Box 95, Clay Center, Nebr. 68933. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lime and limestone products*, (2) *animal and poultry feed, and animal and poultry feed ingredients*, and (3) *animal and poultry health products, insecticides and pesticides, empty bags and other containers, and advertising matter and premiums*, when moving in mixed shipments with lime, limestone products, animal and poultry feed, and animal and poultry feed ingredients, from Quincy, Ill., and points within 5 miles thereof, to points in Iowa, Kansas, Minnesota, Missouri, Nebraska, and South Dakota. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 116564 (Sub-No. 18), filed November 30, 1967. Applicant: LEWIS W. McCURDY, doing business as McCURDY'S TRUCKING CO., 571 Unity Street, Latrobe, Pa. 15650. Applicant's representative: Paul F. Sullivan, 918 Colorado Building, 1341 G Street, NW., Washington, D.C. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from Latrobe, Pa., to points in North Carolina, Massachusetts, and Rhode Island, and *empty malt beverage containers* on return, restricted to service performed under contract with Latrobe Brewing Co. NOTE: Applicant has common carrier authority in MC 119118 and subs thereunder therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 117686 (Sub-No. 83), filed December 13, 1967. Applicant: HIRSCHBACH MOTOR LINES, INC., 3324 U.S. Highway 75 North, Post Office Box 417, Sioux City, Iowa 51102. Applicant's representative: George L. Hirschbach (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carriers Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Austin, Minn.; Fremont and Scottsbluff, Nebr.; and Huron and Mitchell, S. Dak., to points in Alabama, Mississippi, and Louisiana. NOTE: Applicant states that the above-proposed authority is restricted to traffic originating at the plantsites and/or warehouse facilities of George A. Hormel & Co. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 119295 (Sub-No. 5), filed December 11, 1967. Applicant: RAY E. CAGLE AND FORREST L. CAGLE, a partnership, doing business as CAGLE BROS. TRUCKING SERVICE, Post Office Box 14187, Maryvale Station, 59th Street and Buckeye Road, Phoenix, Ariz. 85031. Applicant's representative: Pete H. Dawson, 4453 East Piccadilly Road, Phoenix, Ariz. 85018. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fire-trol* (a fire retardant), from Phoenix, Ariz., to points in California, Colorado, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming. NOTE: If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz.

No. MC 119443 (Sub-No. 20), filed December 8, 1967. Applicant: P. E. KRAMME, INC., Monroeville, N.J. Applicant's representative: V. Baker Smith, 2107 Fidelity Philadelphia Trust Building, Philadelphia, Pa. 19109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chocolate and liquid chocolate products*, in bulk, in tank vehicles, from Scotch Plains, N.J., to points in Delaware, Maryland, Pennsylvania, and Virginia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 119531 (Sub-No. 75), filed December 7, 1967. Applicant: DIECKBRADER EXPRESS, INC., 5391 Wooster Road, Cincinnati, Ohio 45226. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Suite 1625, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Beverages*, bottled and canned, from Cincinnati, Ohio, to points in Illinois, Indiana, Kentucky, Michigan, and Pennsylvania, and (2) *materials and supplies* used in the manufacture, sale, and distribution of beverages, bottled and canned, from points in Illinois, Indiana, Kentucky, Michigan, and Pennsylvania, to Cincinnati, Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 119777 (Sub-No. 90) (Amendment), filed November 3, 1967, published FEDERAL REGISTER issue of November 30, 1967, amended December 14, 1967, and republished as amended, this issue. Applicant: LIGON SPECIALIZED HAULER, INC., Post Office Drawer L, Madisonville, Ky. 42431. Applicant's representative: Robert M. Pearce, Post Office Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Material handling equipment, winches, compaction and roadmaking equipment, rollers, self-propelled and non-self-propelled, mobile cranes, and highway freight trailers*, and (2) *parts, attachments, and accessories* for the commodities described in (1) above, between the plantsites of the Hyster Co. located at or near Danville, Kewanne, and Peoria, Ill., on the one hand, and, on the other, points in Indiana, Kentucky, Ohio, Pennsylvania, Tennessee, West Virginia, and the New York, N.Y., commercial zone, restricted to traffic originating at or destined to the named plantsites. NOTE: Applicant is authorized to operate as a contract carrier in MC 126970 Sub 1, therefore dual operations may be involved. The purpose of this republication is to broaden the radial authority of the application. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Nashville, Tenn.

No. MC 121340 (Sub-No. 2) (Amendment), filed May 31, 1967, published in the FEDERAL REGISTER issues of June 22, 1967, and November 22, 1967, amended and republished as amended, this issue. Applicant: R. LEVINGE and T. L. ALLEN, JR., a partnership, doing business as L & A TRANSPORTATION COMPANY, 5094 Buelow, Houston, Tex. 77023. Applicant's representative: Joe G. Fender, 802 Houston First Savings Building, Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials and supplies* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts; (2) *machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, except the stringing and picking up of pipe in connection with main or trunk pipelines; and, (3) *commodities*, other than those described above, the transportation of which, because of their size or weight, requires the use of special equipment, and parts thereof, when moving in connection with such commodities, between points in Texas. NOTE: Applicant, which operates only between points in Texas, seeks by related proceedings in Docket MC-FC-69629 to purchase authority to physically operate between Texas and Louisiana. It is the sole purpose of the subject proceeding to preserve applicant's present interstate authority under its registration certificate No. 121340 (Sub 1) by converting it to a certificate of convenience and necessity. No extension of present territory or authority is considered to be involved. On grant of authority here sought, applicant would have canceled its certificate No. MC-121340 (Sub 1). The purpose of this republication is to show that proposed operation will be between points in Texas. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 121362 (Sub-No. 2), filed August 4, 1967. Applicant: C. R. VON ARX and L. R. VON ARX, a partnership, doing business as RIVERVIEW TRANSPORTATION CO., Lone Redwood Road, Post Office Box 2365, Santa Rosa, Calif. Applicant's representative: Edward J. Hegarty, 100 Bush Street, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber and forest products* (excluding wood chips) in shipments of 20,000 pounds or more, between points in Monterey, San Benito, Fresno, Santa Cruz, Santa Clara, Stanislaus, Merced, Madera, San Mateo, San Francisco, Alameda, Contra Costa, San Joaquin, Marin, Solano, Sacramento, Sonoma, Napa, Yolo, Sutter, Placer, Lake, Colusa, Yuba, Mendocino, Glenn, Butte, Tahama, Humboldt, Trinity, and Shasta Counties, Calif., and (2) *buildings* assembled and partially assembled (except buildings and buildings in sections mounted on wheeled undercarriages with hitch-ball connectors) and *parts and materials* required for the erection of such buildings, when such parts and materials move on the same vehicle as the building, from the plantsite of Speedspace Corp., located approximately 8 miles from Santa Rosa, Sonoma County, Calif., to points in Idaho, Montana, Nevada, Arizona, Oregon, Utah, Washington, Colorado, and Wyoming. NOTE: In connection with (1) above, applicant seeks to convert its presently held certificate of registration in MC 121362 (Sub-No. 1) to a certificate of public convenience and necessity. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 123502 (Sub-No. 21), filed December 5, 1967. Applicant: FREE STATE TRUCK SERVICE, INC., 10 Vernon Avenue, Glen Burnie, Md. 21061. Applicant's representative: Donald E. Freeman, Post Office Box 806, Westminster, Md. 21157. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Nickel scrap*, in dump vehicles, from Johnstown, Pa., to points in Maryland, (2) *metals and metal alloys*, in dump vehicles, from Vancoram, Ohio, and Graham, W. Va., to points in Maryland, Virginia, New Jersey, Delaware, Connecticut, Massachusetts, and the District of Columbia, and (3) *alloys, granular refractories, minerals, and ores*, in dump vehicles, from East Liverpool, Powhatan, Brilliant, and Philo, Ohio, and Pittsburgh, Pa., to points in Maine, Vermont, New Hampshire; Massachusetts, Rhode Island, New York, Pennsylvania, Ohio, Indiana, Illinois, Michigan, Tennessee, Kentucky, Alabama, Georgia, Florida, North Carolina, South Carolina, West Virginia, Virginia, Maryland, Delaware, New Jersey, and Connecticut (except points within 175 miles of Pittsburgh, Pa., and the District of Columbia). NOTE: Applicant states it could tack at Baltimore, Md., to enable service to points in Maryland, West Virginia, Virginia, Pennsylvania, Delaware, New York, Connecticut, Ohio, and New Jersey. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 125646 (Sub-No. 4), filed November 28, 1967. Applicant: SAMUEL R. FOX, 12 Second Street, Bridgeport, Ohio 43912. Applicant's representative: D. L. Bennett, 206 First National Bank Building, 2207 National Road, Wheeling, W. Va. 26003. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dairy store equipment and supplies* (except commodities in bulk), from Worthington, Ohio, to points in Delaware, Maryland, points in that part of Pennsylvania (except Aliquippa, Altoona, Apollo, Beaver Falls, Blairsville, Brownsville, Butler, Canonsburg, Kittanning, Greensburg, Jeannette, Johnstown, Latrobe, Charleroi, Connelsville, Indiana, Irwin, Mount Pleasant, Somerset, Uniontown, Washington, Pa., and except points in Allegheny County, Pa.); points in that part of Kentucky, on, east or north of a line beginning at Louisville, Ky., on the Ohio River, thence along U.S. Highway 60 to Mount Sterling, Ky., thence along U.S. Highway 460 to the Kentucky-Virginia State line; points in that part of New York, on and west of a line beginning at Oswego, N.Y., on Lake Ontario, thence along U.S. Highway 104 to its junction with U.S. Highway 11 at or near Mexico, N.Y., thence along U.S. Highway 11 to Syracuse, N.Y., thence along New York Highway 5 to Utica, N.Y., thence along New York Highway 8 to its junction with New York Highway 17 at or near Deposit, N.Y., thence along New York Highway 17 to its junction with U.S. Highway 11 near Binghampton, N.Y., thence along U.S. Highway 11 to the New York-Pennsylvania State line; (2) *paper cups, soda straws, plastic dishes*, from Baltimore, Md., (3) *flavor syrups*, from Rochester and Victor, N.Y.; and (4) *meat patties*, frozen, from Scranton, Pa., to Worthington, Ohio, in connection with (2), (3), and (4) above. NOTE: Applicant states the authority sought herein is under contract with International Dairy Queen, Inc., Worthington, Ohio. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Pittsburgh, Pa.

No. MC 125708 (Sub-No. 80), filed December 6, 1967. Applicant: HUGH MAJOR, 150 Sinclair Avenue, South Roxana, Ill. 62087. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses*, between Alabama, Arkansas, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, and Wisconsin on the one hand, and, on the other, Brentwood, Mo. NOTE: Applicant indicates tacking possibilities with present authority under MC 125708 and subs thereunder, wherein applicant is authorized to serve points in the States shown above. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Springfield, Ill.

No. MC 128122 (Sub-No. 5), filed December 8, 1967. Applicant: STATE TRANSPORT COMPANY, a corporation, Post Office Box 691, Corvallis, Oreg. Applicant's representative: Earle V. White, 2400 Southwest Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber*, from points in Benton, Lane, Linn, Lincoln, Marion, and Polk Counties, Oreg., to points on Coos Bay and Yaquina Bay, Oreg., (2) *composition board such as particleboard, chipboard, fiberboard and hardboard*, as construction materials (except gypsum board, paperboard and pulpboard), from points in Benton, Lane, Linn, Lincoln, Marion, and Polk Counties, Oreg., to points on Yaquina Bay and Coos Bay, Oreg., Portland, Oreg.; points in Clark County, Wash., and Longview, Wash., and (3) *bituminous fiber pipe and conduits, fittings, and accessories therefor* moving in connection therewith, from Corvallis, Oreg., to points on Coos Bay and Yaquina Bay, Oreg. NOTE: If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 128814 (Sub-No. 12), filed December 8, 1967. Applicant: TRI-STATE MOTOR TRANSIT CO., as Operator of H. MESSICK, INC., Post Office Box 113, Business I-44, Joplin, Mo. 64802. Applicant's representative: Max G. Morgan, 450 American National Building, Oklahoma City, Okla. 73102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Class A explosives*, from the plantsite of Hercules, Inc., located at McAdory, Ala., to points in Alameda County, Calif., under contract with customers of Hercules, Inc. NOTE: Applicant holds common carrier authority in MC 109397, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., Washington, D.C., or Dallas, Tex.

No. MC 128909 (Sub-No. 1) (Amendment), filed March 2, 1967, published FEDERAL REGISTER issues of March 23, 1967, April 13, 1967, June 29, 1967, respectively, amended December 11, 1967, and republished as amended, this issue. Applicant: COMMODORE CONTRACT CARRIER, INC., 2410 Dodge Street, Omaha, Nebr. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. Authority sought to operate as a *contract carrier*, by ma-

tor vehicle, over irregular routes, transporting: (A) *Mobile homes, house trailers* designed to be drawn by passenger autos, and *buildings*, in sections mounted on wheeled undercarriages with hitch-ball connector, in initial and secondary movement, in towaway and truckaway service: (1) Between Falls City and North Bend, Nebr., Arlington (Shelby County), Tenn., Hamilton, Haleyville, and Red Bay, Ala., Danville, Va., and Roseburg, Oreg.; (2) between Falls City, Nebr., on the one hand, and, on the other, points in Arizona, Arkansas, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, Washington, Wyoming, and Wisconsin, and ports of entry on the international boundary line between the United States and Canada, located in Minnesota, North Dakota, Montana, and Washington; (3) between North Bend, Nebr., on the one hand, and, on the other, points in Arizona, Arkansas, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Montana, Nevada, New Mexico, North Dakota, South Dakota, Oklahoma, Oregon, Utah, Tennessee, Texas, Wyoming, Washington, and Wisconsin, and ports of entry on the international boundary line between the United States and Canada located in Minnesota, North Dakota, and Montana.

(4) Between Hamilton, Haleyville, and Red Bay, Ala., and Arlington (Shelby County), Tenn., on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia; (5) between Danville, Va., on the one hand, and, on the other, points in Delaware, Georgia, Kentucky, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, West Virginia, and the District of Columbia; (6) between Roseburg, Oreg., on the one hand, and, on the other, points in Washington, California, Nevada, Arizona, New Mexico, Colorado, Utah, Idaho, Montana, and Wyoming, and ports of entry on the international boundary line between the United States and Canada located in Washington and Montana; (B) *wheels, axles, and hitches*, between points in the United States (except Alaska and Hawaii), on the one hand, and, on the other, Falls City and North Bend, Nebr.; Arlington (Shelby County), Tenn.; Hamilton, Haleyville, and Red Bay, Ala.; Danville, Va.; and Roseburg, Oreg. Restriction: All service included herein is to be performed under continuing contracts with the Commodore Corp., Omaha, Nebr., its wholly owned subsidiaries and its divisions, having plants at the specific named points set out in Parts A and B above. NOTE: The purpose of this republication is to more clearly set forth the commodity description. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 128900 (Sub-No. 3) (Amendment), filed August 28, 1967, published FEDERAL REGISTER issue September 21, 1967, and republished as amended this issue. Applicant: COMMODORE CONTRACT CARRIERS, INC., 2410 Dodge Street, Omaha, Nebr. Applicant's representative: Donald L. Stern, Suite 630, City National Bank Building, Omaha, Nebr. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Mobile homes, house trailers* designed to be drawn by passenger autos, and buildings in sections mounted on wheeled undercarriages with hitch-ball connector, in initial and secondary movement, in towaway and truckaway service, between Fort Worth, Tex., on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Utah, Virginia, West Virginia, and Wyoming, and (2) *wheels, axles, and hitches*, between points in the United States (except Alaska and Hawaii), on the one hand, and, on the other, Fort Worth, Tex., under a continuing contract with the Commodore Corp., Omaha, Nebr. NOTE: The purpose of this republication is to more clearly set forth the commodity description. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 129149 (Sub-No. 4), filed December 11, 1967. Applicant: ELLIS HAINES, doing business as HAINES TRUCK LINES, 995 Washington Street, Bushnell, Ill. 61422. Applicant's representative: Robert T. Lawley, 308 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gravity flow wagon boxes, storage tanks, water tanks, and component parts thereof*, from Bushnell, Ill., to points in Alabama, Arkansas, Kentucky, Mississippi, and Tennessee, under contract with Bushnell, Ill., Tank Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Springfield, Ill.

No. MC 129254 (Sub-No. 2), filed December 4, 1967. Applicant: E. T. USHER, Post Office Box 312, Chiefland, Fla. 32626. Applicant's representative: Richard J. Brooks, Post Office Box 1531, Tallahassee, Fla. 32302. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dolomite*, in bulk, in dump vehicles, from points in Levy, Suwannee, and Citrus Counties, Fla., to Bainbridge, Ga., and (2) *fertilizer and processed fertilizer*, in bulk, in dump vehicles, from Bainbridge, Ga., to Branford, Fla. NOTE: If a hearing is deemed necessary, applicant requests it be held at Jacksonville, Ocala, Tallahassee, or Orlando, Fla.

No. MC 129546 (Sub-No. 2) (Amendment), filed October 5, 1967, published in the FEDERAL REGISTER issue of October 19, 1967, under No. MC 129861 (Sub-No. 2), amended December 7, 1967, and republished as amended this issue. Applicant: LAND-AIR DELIVERY, INC., 413 Lou Holland Drive, Kansas City, Mo. 64116. Applicant's representative: Tom B. Kretsinger, 450 Professional Building, Kansas City, Mo. 64106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) between the Municipal Mid-Continent International Airport and Fairfax Airport, located within the Kansas City, Mo.-Kans., commercial zone, as defined by the Commission, on the one hand, and, on the other, points in Missouri, Kansas, and Nebraska, and (2) between Municipal Airport, Wichita, Kans., on the one hand, and, on the other, points in Kansas, Missouri, and Nebraska, restricted to the transportation of shipments moving on air bills of lading and having an immediately prior or subsequent movement by air under a continuing contract or contracts with Emery Air Freight Corp., of Wilton, Conn. NOTE: The purpose of this republication is to show that the application has been amended to seek contract carrier rights rather than those of a common carrier. The amendment also eliminates certain states previously sought to be served. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 129496 (Sub-No. 1), filed November 29, 1967. Applicant: EARL HALLENBECK, doing business as HALLENBECK FEED & GRAIN, Rural Route No. 1, Linwood, Kans. 66052. Applicant's representative: Clyde N. Christey, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) *Liquid fertilizer and liquid fertilizer ingredients*, (1) from the warehouse and/or plant facilities of Vistron Chemical Co. at or near a point about 6 miles east of Webb City, Mo.; (2) from the warehouse and/or plant facilities of Phillips Chemical Co. at or near Hogue, Nebr.; (3) from the warehouse and/or plant facilities of Allied Chemical Co. at or near La Platte, Nebr.; (4) from the barge facilities of the Tennessee Valley Authority at or near Nebraska City, Nebr.; and (5) from the warehouse and/or plant facilities of Feltex, Inc., located on U.S. Highway 77 at a point about 3 miles north of Fremont, Nebr.; to the plant and/or warehouse facilities of Agricultural Business Co., Inc., located at a point about 7 miles west of Lawrence, Kans., on U.S. Highway 24 and also, at a point about 2 miles south of Lansing, Kans., on U.S. Highway 73 and also at a point about 3 miles south of Effingham, Kans., on an unnumbered county road, and also at a point about one-half mile north of Easton, Kans., on an unnumbered county road, in connection with (1) through (5) above; and (B) *liquid fertilizer and liquid fertilizer ingredients*, from the plant and/or warehouse facilities of Agricultural Business Co., Inc., located at a point about 7 miles west of Lawrence, Kans., on U.S. Highway 24 (a) to points in Nebraska located on and south of U.S. Highway No. 34 and on and east of U.S. Highway No. 81; (b) points in Iowa, on and south of U.S. Highway 34 and on and west of U.S. Highway 71; and, (c) points in Missouri, located on and west of U.S. Highway 65 and on and north of U.S. Highway 54. NOTE: Applicant states the authority sought herein will be under contract with Agricultural Business Co., Inc., Lawrence, Kans. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 129532, filed November 13, 1967. Applicant: THOMAS A. NICOLL, doing business as NICOLL TRANSPORT, 320 12th Street SE., Medicine Hat, Alberta, Canada. Applicant's representative: J. J. Joyce, 1666 Boundary Road, Burnaby, British Columbia, Canada. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Feed and grain products, agricultural equipment, aluminum and pipes and sprinkling machines*, between ports of entry on the international boundary line between the United States and Canada located in Washington, Idaho, and Montana, and points in Washington and Oregon, under contract with the Alberta Linseed Oil Co., Ltd. NOTE: If a hearing is deemed necessary, applicant does not specify a location.

No. MC 129556 (Sub-No. 1), filed December 11, 1967. Applicant: WALLACE PETERSON, doing business as AMERICAN MOVING & STORAGE OF MARIN, 160 Paul Drive, San Rafael, Calif. Applicant's representative: Alan P. Wohlstetter, 1 Farragut Square South, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Marin, San Francisco, Solano, Santa Clara, San Mateo, Alameda, Contra Costa, Napa, Yolo, and Sonoma Counties, Calif., restricted to shipments having a prior or subsequent movement beyond said points in containers, and further restricted to pickup and delivery services incidental to and in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such shipments. NOTE: If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif., or Washington, D.C.

No. MC 129570, filed December 1, 1967. Applicant: GEORGIANNI TRANSPORTATION, INC., 149 North Gramercy Place, Los Angeles, Calif. 90004. Applicant's representative: Herbert Cameron (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Structural steel products*, from points in the Los Angeles Harbor, Calif., commercial zone, to points in Los Angeles, Orange, Riverside, San Bernardino, and Ventura Counties, Calif.; and (b) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from points in the destination territory specified above, to points in the Los Angeles Harbor, Calif., commercial zone. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles or Long Beach, Calif.

No. MC 129572 (Sub-No. 1), filed December 8, 1967. Applicant: GAYLE E. ANDERSON, 3367 South 8400 West, Magna, Utah 84044. Applicant's representative: Irene Warr, 419 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, fittings, valves, and supplies relative to mechanical piping applications; tubing, bar stock, sheet and plate metals and supplies and machinery relative to structural and/or machining applications*, between points in Utah, Idaho, Wyoming, Montana, Colorado, Arizona, New Mexico, Nevada, and California, under a continuing contract with Tubular Service Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah.

No. MC 129574, filed December 4, 1967. Applicant: FRANK R. CHULLINO, doing business as MIDWEST TRANSPORTATION COMPANY, 2802 Avenue B, Council Bluffs, Iowa 51501. Applicant's representative: Einar Viren, 904 City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Distilled spirits, liquors, and wine*, in bottles and packages, from points in New York, Indiana, Pennsylvania, Illinois, Ohio, Michigan, and Kentucky, to Omaha, Nebr., under contract with Sterling Distributing Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 129578, filed December 7, 1967. Applicant: ORLANDO CARTAGE, INC., 1700 Glendale Road, Orlando, Fla. 32808. Applicant's representative: Richard J. Brooks, Post Office Box 1531, Tallahassee, Fla. 32302. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), restricted to traffic having a prior movement by rail, from Orlando, Fla., to points in Orange, Lake, Marion, Volusia, Brevard, Seminole, Osceola, and Polk Counties, Fla. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Orlando, Fla.

No. MC 129582, filed December 8, 1967. Applicant: FRASCONA, INC., Post Office Box 728, Warren Street, New Britain, Conn. 06052. Applicant's representative: Thomas W. Murrett, 410 Asylum Street, Hartford, Conn. 06103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Hudson, Cementon, Alison, Glens Falls, Howe's Cave, and Ravena, N.Y.; Copley, Cementon, and Nazareth, Pa.; Framingham and Charlestown, Mass.; and Hoboken, N.J., to points in Connecticut, limited to transportation performed under a continuing contract or contracts with Sherman-Tomasso Concrete, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Hartford or New Haven, Conn.

MOTOR CARRIER OF PASSENGERS

No. MC 96336 (Sub-No. 2), filed November 30, 1967. Applicant: JOHN C. ESTES, JR., doing business as CAVALIER TRANSPORTATION COMPANY, 711 Hospital Street, Richmond, Va. 23219. Applicant's representative: Jno. C. Goddin, Post Office Box 1636, Richmond, Va. 23219. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: (1) Over regular routes: *Passengers and their baggage, mail, newspapers, and express* in the same vehicle with passengers, between Gloucester, Mathews, and Cobbs Creek, Va., from Gloucester over Virginia Highway 14 to its junction with Virginia Highway 198, thence over Virginia Highway 198 to Mathews and Cobbs Creek and return over the same route, serving all intermediate points; and (2) over irregular routes: *passengers and their baggage*, in special and charter operations, beginning and ending at points in Mathews County, Va., and extending to points in the United States (except Alaska and Hawaii). NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., Richmond or Norfolk, Va.

No. MC 124233 (Sub-No. 4), filed November 27, 1967. Applicant: VANCOUVER ISLAND TRANSPORTATION COMPANY, LIMITED, doing business as VANCOUVER ISLAND COACH LINES, LIMITED, 710 Douglas Street, Victoria, British Columbia, Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Passengers and their baggage*, in round-trip charter operations, beginning and ending at ports of entry on the international boundary line between the United States and Canada located in Washington, and extending to points in Washington, Oregon, California, Nevada, Utah, Arizona, and Colorado. Restriction: Charter parties shall originate and terminate at points on Vancouver Island, British Columbia, Canada, and (2) *passengers and their baggage* in the same vehicle with passengers, in special operations, in round trip, all expense, pleasure and sightseeing tours, escorted by a person employed by carrier, beginning and ending at ports of entry on international boundary line between the United States and Canada located in Washington, and extending to points in Arizona, California, Colorado, Nevada, Oregon, Utah, and Washington. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 93944 (Sub-No. 4) (amendment), filed September 14, 1967, pub-

lished in the FEDERAL REGISTER issue of October 5, 1967, amended and republished as amended, this issue. Applicant: DANELLA BROS., INC., 250 Diamond Avenue, Norristown, Pa. 19401. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Slag, ore, and ferro Chromium*, in dump vehicles, between points in Philadelphia and points in Bucks County, Pa., on the one hand, and, on the other, points in the United States east of the Mississippi River and points in Minnesota. NOTE: The purpose of this republication is to broaden the authority sought.

No. MC 129383 (Sub-No. 1), filed December 13, 1967. Applicant: McCARLEY MOVING & STORAGE COMPANY, INC., 4245 Milgen Road, Columbus, Ga. 31907. Applicant's representative: James L. Fiemister, 1026 Fulton Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Muscogee County, Ga., and points in Chattahoochee, Troup, Meriwether, Harris, Talbot, Upson, Taylor, Marion, Schley, Macon, Sumter, Webster, Stewart, Quitman, Randolph, Terrell, and Clay Counties, Ga., and Chambers, Tallapoosa, Macon, Lee, Russell, Bullock, and Barbour Counties, Ala., restricted to shipments moving in containers and having an immediately prior or subsequent movement by rail, motor, water, or air and moving on through bills of lading of forwarders, operating under section 402(b)(2) exemption.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 67-15034; Filed, Dec. 27, 1967; 8:47 a.m.]

[Section 5a Application No. 24, Amdt. 2[1]]

SAN FRANCISCO MOVERS TARIFF BUREAU

Approval of Amendment to Agreement

DECEMBER 26, 1967.

The Commission is in receipt of a section 5a application in the above-entitled proceeding for approval of an amendment to the agreement therein approved.

Filed November 30, 1967, by: William M. Larimore, Agent, San Francisco Movers Tariff Bureau, 260 California Street, Room 809, San Francisco, Calif. 94111.

The amendment involves: (1) Revision of the procedures for collective ratemaking so as to make the provisions more definite and certain; (2) revision of the fees and dues schedule; (3) compliance with Ex Parte No. 258; (4) amends the internal procedures of the Bureau; and (5) making such other incidental changes made necessary by the foregoing.

The amendment is docketed and may be inspected at the office of the Commission in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing within 20 days from the date of this notice. As provided by the general rules of practice of the Commission, persons other than applicants should disclose their interest, and the position they intend to take with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved without public hearing.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 67-15039; Filed, Dec. 27, 1967; 8:48 a.m.]

[S.O. 994; ICC Order 4, Amdt. 2]

CHICAGO, BURLINGTON AND QUINCY RAILROAD CO.

Rerouting or Diversion of Traffic

Upon further consideration of ICC Order No. 4 (Chicago, Burlington and Quincy Railroad Co.) and good cause appearing therefor:

It is ordered, That:

ICC Order No. 4 be, and it is hereby amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) Expiration date: This order shall expire at 11:59 p.m., June 30, 1968, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., December 31, 1967, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., December 21, 1967.

INTERSTATE COMMERCE COMMISSION, R. D. PFAHLER, *Agent*.

[SEAL]

[F.R. Doc. 67-15040; Filed, Dec. 27, 1967; 8:48 a.m.]

[Notice 478]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

DECEMBER 22, 1967.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission, under the Commission's Deviation Rules Revised, 1957 (49 CFR 211.1 (c)(8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1(d)(4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1(e)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 2379 (Deviation No. 10), SNYDER BROS. MOTOR FREIGHT, INC., 363 Stanton Avenue, Akron, Ohio 44301, filed December 14, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: Between Breezewood, Pa., and Frederick, Md., over Interstate Highway 70, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Akron, Ohio, over U.S. Highway 224 to Deerfield, Ohio, thence over Alternate Ohio Highway 14 (formerly Ohio Highway 14) to junction Ohio Highway 14, thence over Ohio Highway 14 to the Ohio-Pennsylvania State line, thence over Pennsylvania Highway 51 to Rochester, Pa., thence over Pennsylvania Highway 88 to Pittsburgh, Pa., thence over U.S. Highway 30 to Breezewood, Pa., thence over Pennsylvania Highway 126 to Warfordsburg, Pa., thence over U.S. Highway 522 to Hancock, Md., thence over U.S. Highway 40 to Frederick, Md., thence over U.S. Highway 240 to Washington, D.C., thence over U.S. Highway 1 via Fredericksburg, Va., to Petersburg, Va., thence over U.S. Highway 460 to junction Virginia Highway 337 (formerly U.S. Highway 460) thence over city streets and connecting highways to Norfolk, Va., and return over the same route.

No. MC 2379 (Deviation No. 11), SNYDER BROS. MOTOR FREIGHT, INC., 363 Stanton Avenue, Akron, Ohio 44301, filed December 14, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: Between Columbus, Ohio, and Washington, Pa., over Interstate Highway 70, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: Between Columbus, Ohio, and New Stanton, Pa., over U.S. Highway 40.

No. MC 10873 (Deviation No. 11), BE-MAC TRANSPORT CO., INC., 7400 North Broadway, St. Louis, Mo. 63147, filed December 14, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: Between Marengo, Ill., and Chicago, Ill., over U.S. Highway 20, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Marengo, Ill., over Illinois Highway 176 to Crystal Lake, Ill., thence over Illinois Highway 176 to Wauconda, Ill., thence over U.S. Highway 12 to Chicago, Ill., and return over the same route.

No. MC 30311 (Deviation No. 7) A.C.E.-FREIGHT, INC., Post Office Box 123, Northfield, Ohio 44067, filed December 14, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Indianapolis, Ind., over Interstate Highway 70 (U.S. Highway 40 where incomplete) to Columbus, Ohio, thence over Interstate Highway 71 to Mansfield, Ohio, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Youngstown, Ohio, over U.S. Highway 422 to junction Ohio Highway 169, thence over Ohio Highway 169 to Warren, Ohio, thence over Ohio Highway 5 to Akron, Ohio, thence over Ohio Highway 18 to Medina, Ohio, thence over U.S. Highway 42 to Mansfield, Ohio, thence over U.S. Highway 30S to Lima, Ohio, thence over U.S. Highway 25 to Wapakoneta, Ohio, thence over U.S. Highway 33 to St. Marys, Ohio, thence over Ohio Highway 29 to the Ohio-Indiana State line, thence over Indiana Highway 67 to Indianapolis, Ind., thence over Indiana Highway 34 to Crawfordsville, Ind. (also from the Ohio-Indiana State line over Indiana Highway 67 to junction unnumbered highway approximately 2 miles east of Anderson, Ind., thence over unnumbered highway to junction Indiana Highway 32, thence over Indiana Highway 32 to Crawfordsville), thence continuing over Indiana Highway 34 to the Indiana-Illinois State line, thence over Illinois Highway 10 to Danville, Ill., thence over U.S. Highway 150 to Peoria, Ill., and (2) from Youngstown, Ohio, over U.S. Highway 62 via Salem, Ohio, to Canton, Ohio, thence over Ohio Highway 8 to Akron, Ohio (also from Youngstown over Ohio Highway 18 to Akron; also from Salem over Ohio Highway 14 to Edinburg, Ohio, thence over Ohio Highway 18 to Akron), thence to Mansfield, Ohio, as specified in (1) above, thence over U.S. Highway 30N to Delphos, Ohio, thence over U.S. Highway 30 to Van Wert, Ohio, thence over U.S. Highway 224 to Huntington, Ind., thence over U.S. Highway 24 to Peoria, Ill., and return over the same routes.

No. MC 59957 (Deviation No. 6), MOTOR FREIGHT EXPRESS, INC., Post Office Box 1029, York, Pa. 17403, filed December 14, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Breezewood, Pa., over Interstate Highway 70 to junction Interstate Highway 70S, thence over Interstate Highway 70S to Washington, D.C., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: From Pittsburgh, Pa., over U.S. Highway 30 to Ligonier, Pa., thence over Pennsylvania Highway 711 to Seward, Pa., thence over Pennsylvania Highway 56 to junction U.S. Highway 220, thence over U.S. Highway 220 to Bedford, Pa., thence over U.S. Highway 30 to Lancaster, Pa., and (2) from Baltimore, Md., over U.S. Highway 140 to Reisterstown, Md., thence over Maryland Highway 30 to Maryland-Pennsylvania State line, thence over Pennsylvania Highway 94 to Hanover, Pa., thence over Pennsylvania Highway 116 to junction U.S. Highway 30, thence over U.S. Highway 30 to York, Pa. (also from Baltimore over U.S. Highway 111 to York), thence over U.S. Highway 111 to junction U.S. Highway 11, thence over U.S. Highway 11 to Harrisburg, Pa., and return over the same routes.

MOTOR CARRIER OF PASSENGERS

No. MC 1515 (Deviation No. 420) (Cancels Deviation No. 410), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third St., Cleveland, Ohio 44113, filed December 12, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Kalamazoo, Mich., over U.S. Highway 131 to Grand Rapids, Mich., with the following access routes, (1) from Kalamazoo. Mich., over Business Route 131 to junction U.S. Highway 131, (2) from Plainwell, Mich., over Michigan Highway 89 to junction U.S. Highway 131, (3) from Martin, Mich., over Michigan Highway 118 to junction U.S. Highway 131, and (4) from Wayland, Mich., over unnumbered county highway to junction U.S. Highway 131, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Kalamazoo, Mich., over unnumbered highway (formerly U.S. Highway 131) via Plainwell, Martin, and Wayland, Mich., to Grand Rapids, Mich., and return over the same route.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*

[F.R. Doc. 67-15041; Filed, Dec. 27, 1967; 8:48 a.m.]

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[1] This amendment is filed in lieu of Amendment No. 2 filed Feb. 13, 1967, published in the FEDERAL REGISTER Apr. 4, 1967, and all subsequent amendments thereto for the purpose of clarifying the record and making the changes which applicant seeks to accomplish more understandable.

CUMULATIVE LIST OF PARTS AFFECTED—DECEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during December.

3 CFR — Page

PROCLAMATIONS:
2761A (see Proc. 3822) 19002
3548 (see Proc. 3822) 19002
3821 17571
3822 19002

EXECUTIVE ORDERS:
Dec. 5, 1913 (revoked in part by PLO 4327) 16531
Mar. 21, 1914 (revoked in part by PLO 4327) 16531
June 24, 1914 (revoked in part by PLO 4327) 16531
11075 (see Proc. 3823) 19002
11248:
Amended by EO 11384 17423
Amended by EO 11385 18081
11383 17421
11384 17423
11385 18081

5 CFR

210 16474
213 ..... 16477, 17615, 17849, 20627, 20701, 20837
310 20801
315 16474
351 16474
352 16474
353 16475
430 16475
511 16475
531 16475
713 16476
722 20838
731 16476
752 16476
754 16476
771 16477
772 16477
831 16477

5 CFR—Continued — Page

891 16477
2200 17573
2300 17651

7 CFR

6 20801
68 20837
250 20837
301 ..... 18015, 18017
354 20765
401 ..... 16478, 17425, 17513
718 17513
722 ..... 17467, 17887, 17923, 20838
724 16478
725 16479
729 17887
792 20629
794 19155
811 18083
814 20765

7 CFR—Continued

Page

815 16525
842 20701
905 16525, 17615, 17616, 17925
907 16526, 17515, 17883, 20629, 20766, 20838
909 17849
910 16526, 17617, 17651, 18017, 18018, 18085, 20768, 20804.
944 17425
946 20702
959 20702
982 16527
987 19156
989 17467, 18086
1062 16479
1073 16480
1094 16527
1103 16527
1106 16490
1126 16480
1421 16528
1422 20767
1427 16528, 19156
1464 17849
1474 17886, 20839
1488 18018

PROPOSED RULES:

51 17893, 20864
59 17893
812 17669
817 17669
911 17431
915 17431
948 17671
950 17433
980 17625, 20732
983 17434
1091 17626
1006 17626
1036 17626
1049 17626

8 CFR

238 17651
280 17651

PROPOSED RULES:

242 17624
243 17624
244 17624
299 17624

9 CFR

71 19157
76 19157
78 18086
79 19157
95 19157
96 19158
97 17618, 20768
151 19158
160 20839
161 20839
162 20839

10 CFR

PROPOSED RULES:

25 20866
26 20866
95 20866

12 CFR

1 17574, 17926
12 17468
206 17469
224 17425

12 CFR—Continued

Page

265 19159
335 17470
331 20841
345 17926
356 20630
361 17515
406 17652
619 20703
670 20703, 20842

PROPOSED RULES:

16 20657
563 17544

14 CFR

21 17850
39 16481, 17426, 17515, 17516, 17652, 17927, 20842.
91 16481
71 16482, 16483, 17426, 17427, 17516–17518, 17574–17576, 17653, 17851, 18020, 20630, 20631, 20704, 20705, 20769, 20843.
73 17427, 17653, 18087
75 17518
91 16483, 17654
97 16484, 17577, 17928, 19170, 20706
121 16481, 17889
141 17851
151 17471
198 20843
214 18020
217 18020
221 18022
241 18023, 20770
243 20711
261 16491
363 16491
311 16491
329 16491
396 20805
421 16491
430 16491, 20771
431 16491
435 16491
1209 20714
1501 20853
1502 20771

PROPOSED RULES:

1 16495
21 17485
25 17487
39 17439, 17672, 17673, 17895, 20818
71 16495, 17488, 17543, 17596–17598, 17673–17675, 17861, 17982, 18060–18062, 20657, 20658, 20737, 20738, 20780, 20781.
73 17488
75 18062
77 20658
91 16495, 19190
207 20739
214 16535
241 17983, 20880
295 16535
298 17598
399 20739

15 CFR

30 20805, 20807
373 17471

16 CFR

13 17427, 17618, 17853–17855, 18025, 20631, 20807, 20808.

16 CFR—Continued

Page

15 17562, 17856, 18087, 20716
300 20853

PROPOSED RULES:

301 17544
415 17601

17 CFR

230 17933
239 17933
240 17583, 20771
270 17583
274 17583

PROPOSED RULES:

240 17983, 18063
270 17861

19 CFR

5 17619
12 17428
16 19159
19 17619
23 16528
24 17619

20 CFR

404 18026, 19159
405 18026, 18027
422 18030

PROPOSED RULES:

405 18050, 18054

21 CFR

19 18096
29 17654
120 16529, 17472, 18096
121 16529, 16530, 17472, 17567, 17654, 17655, 17856, 17857, 18096, 20631, 20632
130 16531
146 16531
146a 16491, 17657
148q 18096
166 17473
191 19176

PROPOSED RULES:

1 18113
15 18114
31 16533
46 17482, 17671, 18114
128 17980
130 17671
138 16533, 17626

22 CFR

10 17454

23 CFR

255 17938, 18032, 18033

PROPOSED RULES:

255 16534, 20865

24 CFR

200 20808
203 20716, 20809
207 20716
220 20716
221 20809
234 17587, 20809

25 CFR

500 20855

PROPOSED RULES:

221 17543

26 CFR

Page

1 17479, 17518, 17657, 17890, 17938, 18039
31 18039
46 18039
48 18039
49 18039
147 17858
601 20645
701 17890, 20772

PROPOSED RULES:

1 20727
151 17861

28 CFR

0 16531, 20772
200 20809

29 CFR

70 20858
1610 16491

30 CFR

PROPOSED RULES:

12 20730
18 18098
34 18098

31 CFR

1 17519
82 17859
214 18044
365 20717

32 CFR

52 17661
54 17619
57 18087
504 18089
537 17519
701 17588
710 20717
721 20719
881 20720
888c 20648
1703 20722

32A CFR

OEP (Ch. I):

Reg. 6 20726

33 CFR

80 20772
95 20772
109 17726, 17890
110 17726, 17890
114 17726, 17890
115 17726, 17890
116 17726, 17890
117 17726, 17890, 17939
124 20773
126 20773
209 17522

36 CFR

Page

7 17661

39 CFR

113 20810
114 20810, 20811
118 20811
122 17479
135 20810
171 20633
224 18045
232 18045, 20643
261 20643
742 17479, 17860

41 CFR

1-1 16491, 18045
1-2 18049
1-16 18049
9-1 17542
Ch. 18 17002
101-26 17939

42 CFR

53 17662
Ch. II 20811

43 CFR

2210 17890

PUBLIC LAND ORDERS:

334 (revoked in part by PLO 4333) 17480
1796 (revoked in part by PLO 4331) 17479
2764 (see PLO 4331) 17479
4327 16531
4328 17429
4329 16532
4330 17479
4331 17479
4332 17479
4333 17480
4334 17429
4335 17429
4336 17620
4337 17662
4338 17891
4339 20775

45 CFR

30 17891
Ch. II 20811
Ch. IV 20811
Ch. IX 20811
1105 17663

46 CFR

25 20812
32 20814
39 17621
55 19180
61 19180
72 19180
76 19181
77 19181
78 19181

46 CFR—Continued

Page

96 17621
111 19181, 20814
112 19182, 20815
113 19182, 20812
146 20816
184 20813
221 17595
255 17595
282 20775
308 17891
510 17480
526 17667

PROPOSED RULES:

Ch. II 17980
510 19192
514 16496, 20818
536 19192

47 CFR

0 20859
1 20859
73 19183, 19187
97 17429

PROPOSED RULES:

2 16496, 18115, 20782
21 20881
73 19191, 20659, 20739, 20882
87 16496, 18115, 20782
91 17440

48 CFR

501 17940

49 CFR

93 20777
290 17941
291 17941
292 17941
293 17941
294 17941
295 17892, 17941
296 17941
297 17941
890 17480
Ch. X 20003
1033 20817, 20861, 20862
1034 20817
1100 20654, 20778
1200 17480
1306 20654

PROPOSED RULES:

177 18114, 20739
239 18062
294 18114, 20739
1048 20883
1056 20659

50 CFR

13 20655
28 17622, 20862
32 17542, 20656
33 16532, 17430, 17481, 17623, 17667, 17668, 18049, 20656, 20704, 20817, 20863
254 16492

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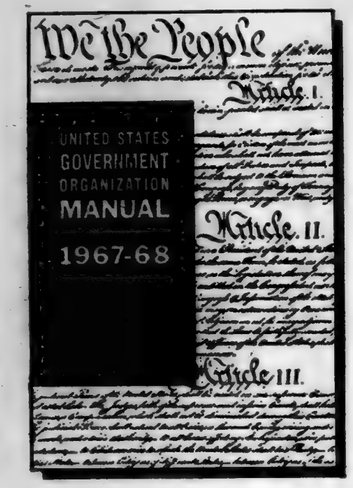

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251

FEDERAL REGISTER

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Pages 20917–21017

PART I

THE UNIVERSITY OF MICHIGAN
JAN 4 1968
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(Part II begins on page 21011)

Agencies in this issue—

Agricultural Research Service
Army Department
Atomic Energy Commission
Civil Aeronautics Board
Civil Service Commission
Commerce Department
Comptroller of the Currency
Consumer and Marketing Service
Employment Security Bureau
Federal Aviation Administration
Federal Power Commission
Federal Reserve System
Federal Trade Commission
Fish and Wildlife Service
Internal Revenue Service
Interstate Commerce Commission
Land Management Bureau
National Bureau of Standards
Packers and Stockyards Administration
Securities and Exchange Commission
Small Business Administration
Transportation Department

Detailed list of Contents appears inside.

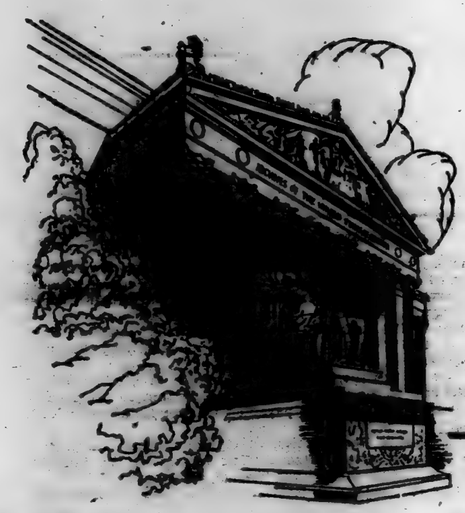

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Contents

AGRICULTURAL RESEARCH SERVICE
Rules and Regulations
Domestic quarantine notices; pink bollworm; correction ... 20942

AGRICULTURE DEPARTMENT
See Agricultural Research Service; Consumer and Marketing Service; Packers and Stockyards Administration.

ARMY DEPARTMENT
Rules and Regulations
Claims on behalf of U.S.; claims for damage to or loss or destruction of Army property ... 20977

ATOMIC ENERGY COMMISSION
Rules and Regulations
Statement of organization, delegations, and general information; miscellaneous amendments (2 documents) ... 20942, 20944
Notices
State of Colorado; proposed agreement for assumption of certain AEC regulatory authority ... 21008

CIVIL AERONAUTICS BOARD
Rules and Regulations
Economic proceedings; rules of practice ... 20958
Notices
Alitalia-Linee Aeree Italiane, S.p.A.; notice of prehearing conference ... 21006

CIVIL SERVICE COMMISSION
Rules and Regulations
Excepted service ... 20922
Pay administration; miscellaneous amendments ... 20942

COMMERCE DEPARTMENT
See also National Bureau of Standards.
Notices
Softwood lumber; recommended standards ... 20992

COMPTROLLER OF THE CURRENCY
Rules and Regulations
Wisconsin University Building Corp., and Wisconsin State Agencies Building Corp.; investment securities regulation ... 20945

CONSUMER AND MARKETING SERVICE
Notices
Peanuts, 1967 crop; indemnification ... 20991

DEFENSE DEPARTMENT
See Army Department.

EMPLOYMENT SECURITY BUREAU
Rules and Regulations
Miscellaneous amendments to chapter ... 20969

FEDERAL AVIATION ADMINISTRATION
Rules and Regulations
Airworthiness directives:
Certain General Dynamics Model 240/340/440 airplanes using turbo-propeller power ... 20945
McDonnell Douglas Model DC-9 Series airplanes ... 20946
IFR altitudes; miscellaneous amendments ... 20947
Standard instrument approach procedures; miscellaneous amendments ... 20949
Transition area; designation ... 20947
Transportation of dangerous articles and magnetized materials; cross reference ... 20958
Proposed Rule Making
Aeronautical skill requirements ... 20985
Control zone and transition area; proposed alteration ... 20986
Periodic pilot flight instruction or proficiency checks ... 20984
Transition area:
Proposed alteration ... 20988
Proposed designation ... 20987

FEDERAL POWER COMMISSION
Rules and Regulations
Statements and reports (schedules); reporting of expenditures for donations by public utilities, licensees and natural gas companies; annual report form ... 20967
Notices
Hearings, etc.:
Alabama Power Co ... 21006
Champlin Petroleum Co., et al ... 21004
Southern Natural Gas Co ... 21006
Sun Oil Co., et al ... 21005

FEDERAL RESERVE SYSTEM
Notices
Central Bancorp.; notice of application for approval of acquisition of shares of banks ... 21006

FEDERAL TRADE COMMISSION
Rules and Regulations
Administrative opinions and rulings:
Origin of toilet preparations ... 20960
Varying discount price schedule—distributor recruitment through grant of override ... 20960

FISH AND WILDLIFE SERVICE
Rules and Regulations
White River National Wildlife Refuge, Ark.; hunting ... 20963

INTERIOR DEPARTMENT
See Fish and Wildlife Service; Land Management Bureau.

INTERNAL REVENUE SERVICE
Rules and Regulations
Income tax; investment companies ... 20976

INTERSTATE COMMERCE COMMISSION
Proposed Rule Making
Incentive per diem charges for 1968 ... 20987
Notices
Fourth section application for relief ... 21008

LABOR DEPARTMENT
See Employment Security Bureau.

LAND MANAGEMENT BUREAU
Rules and Regulations
Public land orders:
Alaska (3 documents) ... 20960, 20961
California ... 20960
Colorado ... 20960
Idaho ... 20979
Nebraska ... 20960
New Mexico (2 documents) ... 20960, 20981
Wyoming ... 20981
Notices
Classification of public lands for multiple use management:
California ... 20988
Colorado ... 20991
Correction ... 20990
Utah:
Proposed classification of lands for multiple use management (2 documents) ... 20988, 20989
Proposed withdrawal and reservation of lands ... 20990

NATIONAL BUREAU OF STANDARDS
Rules and Regulations
Measurement services; policies, services, procedures, and fees ... 21012
Standard reference materials ... 21017
Notices
National Bureau of Standards radio stations; notice of standard frequency and time broadcasts ... 20991

PACKERS AND STOCKYARDS ADMINISTRATION
Rules and Regulations
Custodial accounts for trust funds ... 20921

(*Continued on next page*)

CONTENTS

SECURITIES AND EXCHANGE COMMISSION

Rules and Regulations

Proxy and stockholder information rules 20960

Notices

Hearings, etc.:

Coditron Corp. 21007
Kaneb Pipe Line Co. 21007
Leeds Shoes, Inc. 21008

SMALL BUSINESS ADMINISTRATION

Notices

Hawaii; declaration of disaster loan area 21008

TRANSPORTATION DEPARTMENT

See also Federal Aviation Administration.

Rules and Regulations

Class B poisonous liquids or solids with foodstuffs; restrictions against loading and transporting 20982

TREASURY DEPARTMENT

See Comptroller of the Currency; Internal Revenue Service.

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

5 CFR

213 20922
550 20942

7 CFR

301 20942

9 CFR

201 20921

10 CFR

1 (2 documents) 20942, 20944

12 CFR

1 20945

14 CFR

39 (2 documents) 20945, 20948
71 20947
95 20947
97 20949
103 20958
302 20958

PROPOSED RULES:

61 (2 documents) 20984, 20985
71 (3 documents) 20986, 20987

15 CFR

200 21012
230 21017

16 CFR

15 (2 documents) 20960

17 CFR

240 20960

18 CFR

141 20967
260 20967

20 CFR

609 20969
610 20969
611 20969
614 20969

26 CFR

1 20976

32 CFR

837 20977

43 CFR

PUBLIC LAND ORDERS:

1035 (revoked by PLO 4341) 20980
1230 (revoked in part by PLO 4348) 20981
3623 (revoked in part by PLO 4342) 20980
4340 20979
4341 20980
4342 20980
4343 20980
4344 20980
4345 20980
4346 20980
4347 20981
4348 20981
4349 20981

49 CFR

171–190 20983

PROPOSED RULES:

1033 20987
1034 20987

50 CFR

32 20983

Rules and Regulations

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter II—Packers and Stockyards Administration, Department of Agriculture

PART 201—REGULATIONS UNDER THE PACKERS AND STOCKYARDS ACT

Custodial Accounts for Trust Funds

On June 24, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 9025) concerning amendments to § 201.42 of the regulations (9 CFR 201.42) under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.). Interested persons were given an opportunity to submit written data, views, and arguments with respect to the proposed amendments. After consideration of all relevant matters submitted by interested persons, § 201.42, Part 201, Chapter II, Title 9 of the Code of Federal Regulations is hereby amended to read as follows:

§ 201.42 Custodial accounts for trust funds.

(a) *Payments for livestock or poultry purchases are trust funds.* Each payment made by a livestock or poultry buyer to a market agency or licensee is a trust fund until such market agency's or licensee's custodial account has been paid in full in connection with such purchase and funds deposited in custodial accounts are also trust funds. This is the case under either the net proceeds or gross proceeds method of maintaining the custodial account referred to in paragraph (c) of this section.

(b) *Market agencies and licensees required to establish and maintain custodial accounts.* Every market agency and licensee engaged in selling livestock or live poultry on a commission or agency basis shall establish and maintain a separate bank account designated as "Custodial Account for Shippers' Proceeds," or by some similar identifying designation, under terms and conditions with the bank where established, to disclose that the depositor is acting as a fiduciary with respect thereto and that the funds in the account are trust funds.

(c) *Deposits in Custodial Accounts.* Before the close of the next banking business day after consigned livestock or live poultry is sold, the market agency or licensee shall deposit in its custodial account the proceeds from the sale of consigned livestock or live poultry that are collected or received on the day of sale, and an amount equal to the proceeds receivable from the sale of consigned livestock or live poultry that are due from (1) the market agency or licensee; (2) any owner, officer, or employee of the market agency or licensee; or (3) any buyer to whom the market agency has extended credit. On or before the third day following the sale of consigned livestock or live poultry (or the next banking business day after the third day if such third day is a nonbanking business day), the market agency or licensee shall deposit in the custodial account an amount equal to all the proceeds receivable from the sale of consigned livestock or live poultry, whether or not such proceeds have been collected or received by the market agency or licensee. In lieu of the foregoing, any market agency or licensee may adopt, and thereafter continuously follow, a "net method" for making deposits in its custodial account. Under the "net method" the market agency or licensee shall, before the close of the next banking business day after livestock or live poultry is sold, deposit an amount equivalent to the proceeds of the sale of consigned livestock or live poultry less marketing charges due the market agency or licensee.

(d) *Withdrawals from custodial accounts.* The custodial account referred to in paragraph (b) of this section shall be drawn on only for payment of the net proceeds to the consignor or shipper, or such other person or persons who the market agency or licensee has knowledge is entitled thereto, to pay all legal charges against the consignment of livestock or live poultry which the market agency or licensee may, in its capacity as agent, be required to pay for and on behalf of the consignor or shipper, and when the account is not kept on a net proceeds basis, to obtain therefrom the sums due the market agency or licensee as compensation for its services.

(e) *Custodial accounts for buyers' funds.* If the Secretary finds that any market agency or licensee has used for purposes of its own any funds received for the purchase of livestock or live poultry on a commission or agency basis, or any other funds which have come into its possession in its capacity as agent of the buyer, such market agency or licensee shall thereafter deposit any such funds in a separate bank account designated as "Custodial Account for Buyers' Funds," or by a similar identifying designation, which account shall be set up under terms and conditions with the bank where established, to disclose that the depositor is acting as a fiduciary with respect thereto and that the funds in the account are trust funds. Such accounts shall be drawn on only for payment of the purchase price of livestock or live poultry purchased on behalf of a principal and to obtain therefrom the sums due the market agency or licensee as compensation for its services, and for such sums as are necessary to pay all legal charges incurred in connection with the purchase of livestock or live poultry which the market agency or licensee may in its capacity as agent, be required to pay for and on behalf of its principal.

(f) *Accounts and records.* Every market agency and licensee shall keep such accounts and records as will at all times disclose the handling of the funds in the custodial account referred to in paragraphs (b) and (c) of this section, including without limitation, such accounts and records as will at all times disclose the names of the consignors and the amount due and payable to each from funds in the Custodial Account for Shippers' Proceeds, and the names of the principals, from whom funds have been received in the capacity of buyer for such principals, the amount of funds received from such principals, and the amount paid on behalf of such principals from funds in the Custodial Account for Buyers' Funds.

(g) *Insured banks.* The separate custodial accounts referred to in paragraphs (b) and (c) of this section shall be established and maintained in banks whose deposits are insured by the Federal Deposit Insurance Corporation.

(h) *Certificates of deposit.* Any market agency or licensee which has established and maintains the separate custodial account referred to in paragraph (b) of this section may invest, in certificates of deposit issued by the bank in which such account is kept, such portion of the custodial funds as will not impair the market agency's or licensee's ability to meet its obligations to its consignors. Such certificates of deposit shall be made payable to the market agency or licensee in its fiduciary capacity as trustee of the custodial funds.

The purposes of the amendments are to provide an alternative "net" method for the handling and maintaining of the custodial account and to make explicit the duties of the market agency and licensee with respect to depositing funds in the custodial account whether or not they elect the "net" proceeds method. The amendments should be made effective promptly in order to be of maximum benefit to persons desiring to use the "net" method and in order to fully accomplish their purposes in the public interest. Good cause is found, therefore, for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

A minor change has been made in § 201.42(c)(3) from the provisions set forth in the notice of rule making. This change is for clarification of the provision and is not substantive in nature. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that further public rule making is unnecessary.

The amendments shall become effective on January 1, 1968.

(Sec. 407(a), 42 Stat. 169, 72 Stat. 1750; 7 U.S.C. 223(a); interprets or applies secs. 307, 312, 42 Stat. 161 et seq., 7 U.S.C. 208, 213; 29 F.R. 16210 and 32 F.R. 7185)

Done at Washington, D.C., this 22d day of December 1967.

DONALD A. CAMPBELL,
Acting Administrator, Packers and Stockyards Administration.

[F.R. Doc. 67-15104; Filed, Dec. 28, 1967; 8:48 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

SUBCHAPTER B—CIVIL SERVICE REGULATIONS

PART 213—EXCEPTED SERVICE

Part 213 is revised to read as follows:

Subpart A—General Provisions

Sec.
213.101 Definitions.
213.102 Identification of positions in Schedule A, B, or C.

Subpart B—[Reserved]

Subpart C—Excepted Schedules

SCHEDULE A

213.3101 Positions other than those of a confidential or policy-determining character for which it is not practicable to examine.
213.3102 Entire executive civil service.
213.3103 Executive Office of the President.
213.3104 Department of State.
213.3105 Treasury Department.
213.3106 Department of Defense.
213.3107 Department of the Army.
213.3108 Department of the Navy.
213.3109 Department of the Air Force.
213.3110 Department of Justice.
213.3111 Post Office Department.
213.3112 Department of the Interior.
213.3113 Department of Agriculture.
213.3114 Department of Commerce.
213.3115 Department of Labor.
213.3116 Department of Health, Education, and Welfare.
213.3121 National Security Council.
213.3123 Interagency Committee on Mexican American Affairs.
213.3124 Board of Governors, Federal Reserve System.
213.3126 Office of Emergency Planning.
213.3127 Veterans Administration.
213.3128 U.S. Information Agency.
213.3129 Federal Power Commission.
213.3130 Securities and Exchange Commission.
213.3132 Small Business Administration.
213.3133 Federal Deposit Insurance Corporation.
213.3135 National Capital Housing Authority.
213.3136 U.S. Soldiers' Home.
213.3137 General Services Administration.
213.3138 Federal Communications Commission.
213.3139 U.S. Tariff Commission.
213.3141 National Labor Relations Board.
213.3142 Export-Import Bank of Washington.
213.3143 Farm Credit Administration.
213.3144 Housing and Home Finance Agency.
213.3145 Selective Service System.
213.3147 Federal Mediation and Conciliation Service.
213.3148 National Aeronautics and Space Administration.
213.3149 Panama Canal Company, New Orleans.
213.3152 St. Lawrence Seaway Development Corporation.
213.3153 District of Columbia Government.
213.3154 Federal Home Loan Bank Board.
213.3156 Commission on Civil Rights.
213.3157 Federal Aviation Agency.
213.3158 Franklin Delano Roosevelt Memorial Commission.
213.3159 The President's Committee on Urban Housing.
213.3161 James Madison Memorial Commission.
213.3162 National Aeronautics and Space Council.
213.3163 Advisory Commission on Parcel Distribution Services.
213.3164 U.S. Arms Control and Disarmament Agency.
213.3165 President's Advisory Committee on Labor-Management Policy.
213.3169 President's Committee on Equal Opportunity in Housing.
213.3170 Civil Service Commission.
213.3176 Smithsonian Institution.
213.3178 President's Commission on Postal Organization.
213.3178 Atlantic-Pacific Interoceanic Canal Study Commission.
213.3179 The President's Commission on Crime in the District of Columbia.
213.3181 The President's Commission on Law Enforcement and Administration of Justice.
213.3182 National Foundation on the Arts and the Humanities.
213.3183 National Advisory Commission on Food and Fiber.
213.3184 Department of Housing and Urban Development.
213.3187 District of Columbia Redevelopment Land Agency.
213.3190 Commission on Marine Science, Engineering, and Resources.
213.3191 Select Commission on Western Hemisphere Immigration.
213.3193 National Advisory Commission on Rural Poverty.
213.3194 Department of Transportation.
213.3195 President's Temporary Commission on Pennsylvania Avenue.
213.3196 President's Commission on Budget Concepts.
213.3197 Interagency Committee on Civil Disorders.

SCHEDULE B

213.3201 Positions other than those of a confidential or policy-determining character for which it is not practicable to hold a competitive examination.
213.3202 Entire executive civil service.
213.3204 Department of State.
213.3205 Treasury Department.
213.3206 Department of Defense.
213.3209 Department of the Air Force.
213.3210 Department of Justice.
213.3212 Department of the Interior.
213.3214 Department of Commerce.
213.3215 Department of Labor.
213.3216 Department of Health, Education, and Welfare.
213.3228 United States Information Agency.
213.3229 Federal Power Commission.
213.3237 General Services Administration.
213.3242 Export-Import Bank of Washington.
213.3245 Selective Service System.
213.3253 District of Columbia Government.
213.3256 Commission on Civil Rights.
213.3268 Agency for International Development.
213.3273 Office of Economic Opportunity.
213.3276 Appalachian Regional Commission.

SCHEDULE C

213.3301 Positions of a confidential or policy-determining character.
213.3301a Special revocation of exceptions.
213.3303 Executive Office of the President.
213.3304 Department of State.
213.3305 Treasury Department.
213.3306 Department of Defense.
213.3307 Department of the Army.
213.3308 Department of the Navy.
213.3309 Department of the Air Force.
213.3310 Department of Justice.
213.3311 Post Office Department.
213.3312 Department of the Interior.
213.3313 Department of Agriculture.
213.3314 Department of Commerce.
213.3315 Department of Labor.
213.3316 Department of Health, Education, and Welfare.
213.3322 Interstate Commerce Commission.
213.3325 The Tax Court of the United States.
213.3326 Office of Emergency Planning.
213.3327 Veterans Administration.
213.3328 U.S. Information Agency.
213.3329 Federal Power Commission.
213.3330 Securities and Exchange Commission.
213.3331 National Mediation Board.
213.3332 Small Business Administration.
213.3333 Federal Deposit Insurance Corporation.
213.3337 General Services Administration.
213.3339 U.S. Tariff Commission.
213.3340 Civil Aeronautics Board.
213.3341 National Labor Relations Board.
213.3342 Export-Import Bank of Washington.
213.3343 Farm Credit Administration.
213.3344 Housing and Home Finance Agency.
213.3345 Indian Claims Commission.
213.3348 National Aeronautics and Space Administration.
213.3350 Foreign Claims Settlement Commission of the United States.
213.3351 Subversive Activities Control Board.
213.3352 St. Lawrence Seaway Development Corporation.
213.3354 Federal Home Loan Bank Board.
213.3355 The Renegotiation Board.
213.3356 Commission on Civil Rights.
213.3357 Federal Aviation Agency.
213.3364 U.S. Arms Control and Disarmament Agency.
213.3367 Federal Maritime Commission.
213.3368 Agency for International Development.
213.3371 President's Committee on Consumer Interest.
213.3372 Administrative Office of the U.S. Courts.
213.3373 Office of Economic Opportunity.
213.3374 Smithsonian Institution.
213.3375 President's Council on Equal Opportunity.
213.3376 Appalachian Regional Commission.
213.3377 Equal Employment Opportunity Commission.
213.3384 Department of Housing and Urban Development.
213.3385 President's Council on Youth Opportunity.
213.3386 Regional Commissions, Public Works and Economic Development Act of 1965.
213.3394 Department of Transportation.

AUTHORITY: The provisions of this Part 213 issued under 5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR, 1954–58 Comp.

Subpart A—General Provisions

§ 213.101 Definitions.

In this chapter:

(a) **Excepted service** has the meaning given that term by section 2103 of title 5, United States Code, and includes all positions in the executive branch of the Federal Government which are specifically excepted from the competitive service by or pursuant to statute, by the President, or by the Commission under section 6.1 or 9.20 of the civil service rules (Subchapter A of this chapter).

(b) "**Excepted position**" means a position in the excepted service.

§ 213.102 Identification of positions in Schedule A, B, or C.

The Commission shall decide whether the duties of any particular position are such that it may be filled as an excepted position under Schedule A, B, or C.

Subpart B—[Reserved]

Subpart C—Excepted Schedules

SCHEDULE A

§ 213.3101 Positions other than those of a confidential or policy-determining character for which it is not practicable to examine.

(a) The positions enumerated in §§ 213.3102 to 213.3199 are positions other than those of a confidential or policy-determining character for which it is not practicable to examine and which are excepted from the competitive service and constitute Schedule A.

(b) An agency (including a military department) may not appoint the son or daughter of a civilian employee of that agency, or the son or daughter of a member of its uniformed service, to a position listed in Schedule A for part-time, seasonal, intermittent, or other temporary employment within the United States, between May 14, 1967, and September 2, 1967; except that this prohibition shall not apply to the appointment of persons who are eligible for placement assistance under the Commission's Displaced Employee (DE) Program.

(c) An agency may appoint for part-time, seasonal, intermittent, or other temporary employment within the United States, between May 14, 1967, and September 2, 1967, in positions listed in Schedule A only in accordance with the terms of the Commission's 1967 summer employment program. This restriction does not apply to positions which are excepted only when filled by particular type of individuals.

§ 213.3102 Entire executive civil service.

(a) Positions of Chaplain and Chaplain's Assistant.

(b) Cooks, except at fixed locations such as hospitals, quarantine stations, and penal institutions.

(c) Positions to which appointments are made by the President without confirmation by the Senate.

(d) Attorneys.

(e) Law clerk trainee positions. Appointments under this paragraph shall be confined to graduates of recognized law schools or persons having equivalent experience and shall be for periods not to exceed 14 months pending admission to the bar. No person shall be given more than one appointment under this paragraph. However, an appointment which was initially made for less than 14 months may be extended for not to exceed 14 months in total duration.

(f) Chinese, Japanese, and Hindu interpreters.

(g) Any position the duties of which are part-time or intermittent in which the appointee will receive compensation during his service year that aggregates not more than 40 percent of the annual salary rate for the first step of GS–3. This limitation on compensation includes any premium pay such as for overtime, night, Sunday, or holiday work. It does not, however, include any mandatory within-grade salary increases to which the employee becomes entitled subsequent to appointment under this authority. Appointments under this authority shall not be for job employment. In the metropolitan area of Washington, D.C., appointments under this authority shall be subject to the prior approval of the Commission.

(h) Subject to prior approval by the Commission, positions in Federal mental institutions when filled by persons who have been patients of such institutions and been discharged and are certified by the medical head thereof as recovered sufficiently to be regularly employed but it is believed desirable and in the interest of the persons and the institution that they be employed at the institution.

(i) Subject to prior approval of the Commission, positions requiring temporary, part-time, or intermittent employment in wage board type occupations (i.e., position excluded from Classification Act coverage by section 202(7) of the Act) on construction or repair work, where the activity is carried on in localities where examination coverage for the positions has not been provided and where because of employment conditions there is a shortage of available candidates for the positions. Appointments under this paragraph shall not extend beyond 1 year, and the employment thereunder shall not exceed 180 working days a year. Seasonal employments of a recurring nature are not authorized under this paragraph.

(j) [Reserved]

(k) Positions without compensation provided appointments thereto meet the requirements of applicable laws relating to compensation.

(l) Positions requiring the temporary or intermittent employment of professional, scientific, or technical experts for consultation purposes.

(m) Nonsupervisory positions of custodial laborer (levels 1, 2, and 3) and general laborer (levels 2 and 3) in field establishments outside central office and regional office cities of the Commission where examination coverage has not been provided for the positions, as follows:

(1) For temporary, intermittent, or seasonal employment (exclusive of positions covered by paragraph (i) of this section) not to exceed 180 working days a year in the Departments of Agriculture, Commerce, and Interior, in the Federal Aviation Agency, and in the International Boundary and Water Commission; or

(2) When it is specifically held by the Commission that this authority is applicable, for employment in localities that are isolated with respect to labor supply and where there is a shortage of available candidates for the positions.

(n) Any local physician, surgeon, or dentist employed under contract or on a part-time or fee basis when, in the opinion of the Commission, appointment through competitive examination is impracticable.

(o) Positions of a scientific, professional or analytical nature when filled by bona fide members of the faculty of an accredited college or university who have special qualifications for the positions to which appointed. Employments under this provision shall not exceed 130 working days a year.

(p) Positions of a scientific, professional, or analytical nature when filled by bona fide graduate students at accredited colleges or universities provided that the work performed for the agency is to be used by the student as a basis for completing certain academic requirements toward a graduate degree. Employments under this provision may be continued only so long as the foregoing conditions are met, and the total period of such employment shall not exceed one year in any individual case: *Provided*, That such employment may, with the approval of the Commission, be extended for not to exceed an additional year.

(q) Temporary or intermittent positions at GS–7 and below when the appointees are to assist scientific, professional, or technical employees. Persons employed under this provision shall be (1) bona fide students at high schools or accredited colleges or universities pursuing courses related to the field in which employed; or (2) bona fide high school science and mathematics teachers. No person shall be employed under this provision (i) in a position of a routine clerical type; or (ii) in excess of 1,040 working hours a year; except that the 1,040-working-hours-a-year limitation shall not apply to persons employed under this provision in positions at GS–5 and below which are established in connection with an organized work-study program involving alternating periods of work experience and related study at an accredited college or university in a cooperative curriculum in which the work experience is a prerequisite to the award of a degree. Appointments under this authority may be made only to positions for which qualification standards established under part 302 of this chapter are consistent with the education and experience standards established for comparable positions in the competitive service.

(r) All positions of a project nature when filled by individuals the salaries for whom are paid out of funds allocated by the President under authority of Public Law 87–658, approved September 14, 1962, the Public Works Acceleration Act. Employment under this authority shall be for a temporary period not to exceed one year.

(s) [Reserved]

(t) Not to exceed September 30, 1968, and subject to prior approval of the Civil Service Commission, positions when filled by mentally retarded persons in accordance with written agreements executed between an agency and the Civil Service Commission. Provisions to be

included in such agreements are specified in the Federal Personnel Manual.

(u) Subject to prior approval of the Commission, positions when filled by severely handicapped persons who, under temporary appointment, have demonstrated their ability to perform the duties satisfactorily.

(v) Between May 14, 1967, and September 30, 1967, temporary summer trainee positions whose duties involve work of a routine nature not regularly covered under the General Schedule and requiring no specific knowledges or skills, when filled by persons appointed in furtherance of the President's Youth Opportunity Campaign. A person may not be appointed unless he has reached his 16th but not his 22d birthday, or employed for more than 700 hours under this paragraph. This paragraph shall apply only to positions whose pay is fixed at the equivalent of the minimum wage rate established by the Fair Labor Standards Amendments of 1966 (currently $1.40 an hour) or at the equivalent of an applicable State or municipal minimum wage rate, if that is higher.

(w) Part-time or intermittent positions the duties of which involve work of a routine nature when filled by students appointed in furtherance of the President's Youth Opportunity Stay-in-School Campaign and when the following conditions are met: (1) Appointees are enrolled in or accepted for enrollment in a resident secondary school or institution of higher learning, accredited by a recognized accrediting body; (2) employment does not exceed 16 hours in any calendar week (40 hours in any calendar week which falls within a vacation period during the regular school year); (3) while employed, appointees continue to maintain an acceptable school standing, although they need not attend school during the summer; (4) appointees need the earnings from the employment to continue in school; and (5) salaries are fixed by the agency head at a level commensurate with the duties assigned and the expected level of performance. Appointments under this authority may not extend beyond 1 year: *Provided*, That such appointments may be extended for additional periods of not to exceed 1 year each if the conditions for initial appointment are still met. An agency head may not appoint under this authority the son or daughter of a civilian employee of that agency or the son or daughter of a member of its uniformed service. A person may not be appointed under this authority unless he has reached his 16th but not his 22d birthday.

(x) Subject to prior approval of the Commission, positions for which a local recruiting shortage exists when filled by inmates of Federal and District of Columbia penal and correctional institutions under work release programs authorized by the Prisoner Rehabilitation Act of 1965 and the District of Columbia Work Release Act. Initial appointments under this authority may not exceed one year. An initial appointment may be extended for one or more periods not to exceed one additional year each with the prior approval of the Commission upon a finding that the inmate is still in a work release status and that a local recruiting shortage still exists. No person may serve under this authority longer than one year beyond the date he is released from custody.

(y) [Reserved]

(z) Not to exceed 30 positions of assistants to top-level Federal officials when filled by persons designated by the President as White House Fellows.

(aa) Scientific and professional research associate positions at GS–12 and above when filled on a temporary basis by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and their agencies. Appointments are limited to persons referred by the National Research Council under its postdoctoral research associate program and may be made initially for 1 year only. An agency may extend an appointment made under this authority for up to one additional year when the program committee at the laboratory concerned determines that extension will benefit both the associate and the laboratory.

§ 213.3103 Executive Office of the President.

(a) *Office of Science and Technology.* (1) All professional positions on the Staff of the Office.

(b) *National Council on Marine Resources and Engineering Development.* (1) All positions on the Council staff.

§ 213.3104 Department of State.

(a) *Office of the Secretary.* (1) Six physical science administration officers at GS–14 and above in International Scientific and Technological Affairs.

(2) Six positions of Member of the Executive Secretariat.

(3) Chief, Reports and Operations Staff, Executive Secretariat.

(4) Four Assistants to the Executive Secretary, Executive Secretariat.

(5) Executive Officer, Executive Secretariat.

(6) Chief, Correspondence Review Staff, Executive Secretariat.

(b) *Bureau of Intelligence and Research.* (1) Not to exceed 35 professional and technical positions.

(2) Two professional positions in the Division of Intelligence Acquisition and Distribution.

(c) *International Boundary and Water Commission, United States and Mexico.* (1) Gage readers employed part time or intermittently at isolated localities when, in the opinion of the Commission, appointment through competitive examination is impracticable.

(2) Not to exceed 27 Realty Officers, Appraisers, Negotiators, Specialists, and Assistants, GS–5 through 14. Not to exceed five Interviewers (Interpreter), GS–5 through 11. Appointment under this authority may not extend beyond 4 years from the date of authorization of the Chamizal Project.

(3) Not to exceed three Administrative Assistants GS–7 through 11. Appointments under this authority may not extend beyond 4 years from the date of authorization of the Chamizal Project.

(d) *International Boundary Commission, United States and Canada.* (1) Temporary and intermittent field employees such as instrumentmen, foremen, recorders, packers, cooks, and axemen, for not to exceed 130 working days or 6 months within any 1 calendar year.

(e) *Office of the Assistant Secretary for Public Affairs.* (1) Chief, Public Studies Division.

(2) Chief, Public Services Division.

(3) Chief, Historical Division.

(4) One Special Assistant to the Chief, News Division.

(5) One Special Assistant to the Deputy Assistant Secretary (Domestic Affairs).

(f) *Bureau of International Organization Affairs.* (1) One Special Assistant to the Assistant Secretary.

§ 213.3105 Treasury Department.

(a) *Bureau of Narcotics.* (1) Fifty positions of Narcotic Agent for undercover work.

(b) *Bureau of Customs.* (1) Positions in foreign countries designated as "interpreter-translator" and "special employees," when filled by appointment of persons who are not citizens of the United States; and positions in foreign countries of messenger and janitor.

(2) [Reserved]

(3) Part-time, intermittent, or temporary Customs Inspectors, Deputy Collectors, and Deputy Collectors in Charge in Alaska at a salary rate not in excess of GS–8, for not to exceed 130 working days a year.

(4) Positions of day "pickup" laborers whose assignments are to intermittent duties of short duration that must be performed without delay in field establishments where hiring of "pickup" laborers is authorized by the Bureau of Customs headquarters. Persons appointed under this authority may not be employed in this kind of work in the Bureau of Customs for more than 180 working days a year under this authority or under a combination of this authority and any other authority for excepted appointment that may be appropriate. This authority is not appropriate for job employment.

(5) Positions at the GS–9 grade level and below of customs enforcement officer, customs inspector, customs marine clerk/officer, customs sampler, customs warehouse officer, deputy collector, interpreter, janitor, and laborer that are of a continuing nature, and the duties of which are intermittent or part-time and require the services of an employee for not more than 700 hours of employment during his service year. A person appointed under this authority may not be employed in the Bureau of Customs under a combination of this authority and any other authority for excepted appointment for more than 700 hours during his service year.

(6) Twenty-five positions of Criminal Investigator for special assignments.

(7) One position of Confidential Assistant to the Commissioner of Customs.

(8) Staff assistant positions established to aid in the reorganization of the Bureau of Customs under Reorganization Plan No. 1 of 1965, when filled by persons with 1 year or more of current service as a Presidential appointee in a key position in the Bureau. No person may be employed under this paragraph in excess of 3 years.

(c) *Coast Guard.* (1) Lamplighters.

(2) Professors, associate professors, assistant professors, instructors, one principal librarian, one cadet hostess, and one psychologist (counseling) at the Coast Guard Academy, New London, Conn.

(d) *U.S. Savings Bonds Division.* (1) Positions of State Director and Deputy State Director, and Regional Director and Assistant Regional Director.

(e) *Internal Revenue Service.* (1) Fifty positions of investigator for special assignments.

(f) *Office of the Assistant Secretary for International Affairs.* (1) Not to exceed 10 positions in the Research and Planning Office at the equivalent of GS–13 through GS–17 to supplement the permanent staff in the study of complex problems relating to international financial and economic policies and programs of the Government, when filled by individuals with special qualifications for the particular study being undertaken. Employment under this authority may not exceed 4 years.

§ 213.3106 Department of Defense.

(a) *Office of the Secretary.* (1) Five Special Advisers in the immediate office of the Secretary or Deputy Secretary with responsibility for studies and recommendations in broad program areas. These positions have advisory rather than operating duties, except as operating or administrative responsibility may be exercised in connection with pilot studies.

(2) Positions assigned exclusively to Communications Intelligence Activities.

(3) Positions assigned to or in support of special classified training activities.

(4) Three Staff Assistants.

(b) *Entire Department (including the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force).* (1) Professional positions in Military Dependent School Systems overseas.

(2) Positions in attache systems overseas, including all professional and scientific positions in the Naval Research Branch Office in London.

(3) Positions of clerk-translator, translator, and interpreter overseas.

(4) Positions of Educational Specialist the incumbents of which will serve as Director of Religious Education on the Staffs of the Chaplains in the military services.

(5) Positions under the program for utilization of alien scientists approved under pertinent directives administered by the Director of Defense Research and Engineering of the Department of Defense when occupied by alien scientists initially employed under the program including those who have acquired United States citizenship during such employment.

(c) *Interdepartmental Activities.* (1) Positions in support of National Security Programs and Space, Council Activities.

(d) *General.* (1) Positions the duties of which are of a quasi-military nature and involve the security of secret or confidential matter when, in the opinion of the Commission, appointment through competitive examination is impracticable.

§ 213.3107 Department of the Army.

(a) *General.* (1) Positions the duties of which are of a quasi-military nature and involve the security of secret or confidential matter when, in the opinion of the Commission, appointment through competitive examination is impracticable.

(2) Unskilled laborers and munitions handlers engaged in handling Ordnance material, including ammunition, where temporary or intermittent employment is necessary.

(3) Student occupational therapist positions in Army hospitals. Appointments to these positions will not extend beyond the training period applicable to each individual case, which is a minimum of 3 months' training and a maximum of 12 months' training, depending upon the individual's previous clinical training.

(4) [Reserved]

(5) Positions assigned exclusively to Army Communications Intelligence Activities.

(6) Trainee student medical technologist (intern) positions at the Rodriguez Army Hospital, Fort Brooke, Puerto Rico. Appointments to these positions will not extend beyond the training period applicable to each individual case, depending upon the individual's previous clinical training. Employment under this provision may not exceed 1 year in any individual case: *Provided*, That such employment may, with the approval of the Commission, be extended for not to exceed an additional year. This authority shall be applied only to positions whose compensation is fixed in accordance with the provisions of section 3 of Public Law 80–336.

(b) *Transportation Corps.* (1) Longshoremen and stevedores employed at ports of embarkation in the United States; and all positions on vessels operated by the Transportation Corps.

(c) *Corps of Engineers.* (1) Land appraisers employed on a temporary basis for a period not to exceed 1 year on special projects where knowledge of local values or conditions or other specialized qualifications not possessed by appraisers regularly employed by the Corps of Engineers are required for successful results.

(2) Nonsupervisory positions of custodial laborer (levels 1, 2, and 3) and general laborer (levels 2 and 3) on survey, construction, short-term maintenance, or flooding-plant operations, where because of turnover, lack of housing facilities, mobility of work site, or remoteness of personnel servicing facilities, an adequate labor force can be recruited only by immediate-gate hiring on a local basis. This authority can be used only when the Commission has determined that it is specifically applicable to a given situation; ordinarily, it will not be used for employment in Civil Service central office, regional, and branch office cities or in cities where there is a local Board of U.S. Civil Service Examiners to service the employing establishment.

(3) Positions of Academic Director, Department Head, and Instructor at the U.S. Military Academy Preparatory School, Fort Belvoir, Va.

(d) *U.S. Military Academy, West Point, N.Y.* (1) Civilian professors, instructors, teachers (except teachers at the Children's School), hostesses, chapel organist and choirmaster, librarian when filled by an officer of the Regular Army retired from active service, and military secretary to the Superintendent when filled by a Military Academy graduate retired as a regular commissioned officer for disability.

(e) *National War College, Washington, D.C.* (1) Civilian directors of studies for employment of not to exceed 1 year: *Provided*, That such employment may, with the prior approval of the Commission, be extended for not to exceed 1 additional year.

(f) *Joint Brazil–United States Defense Commission.* (1) One position of clerk-stenographer-translator or civilian aide requiring a knowledge of English, Portuguese, and Spanish.

(g) *Defense Language Institute.* (1) Language instructor positions and professional positions at the West Coast Branch whose duties require supervising the language instructors or developing and evaluating instructional material and methods directly related to the teaching of foreign languages.

(2) Typists of foreign language material at the West Coast Branch whose duties require them to make corrections in grammar and spelling of the material typed.

(3) Professors, instructors, and teachers at the East Coast Branch.

(4) Foreign language instructor positions at local Army language training facilities established pursuant to the Defense Language Program.

(h) *Army War College, Carlisle Barracks, Pa.* (1) One position of Educational Specialist for employment of not to exceed 1 year: *Provided*, That such employment may, with the prior approval of the Commission, be extended for not to exceed 1 additional year.

§ 213.3108 Department of the Navy.

(a) *General.* (1) Intelligence and Counter Intelligence positions assigned exclusively to Naval Intelligence Activities and positions assigned to Naval Security Group Activities/Functions.

(2) [Reserved]

(3) Positions of teachers in indigenous schools at Chichi Jima, Bonin-Volcano Islands.

(4) Not to exceed 90 positions of Resident-in-Training at U.S. Naval hospitals

which have residency training programs, when filled by residents assigned as affiliates for part of their training from non-Federal hospitals. Assignments to these positions shall be on a temporary (full-time or part-time) or intermittent basis, shall not amount to more than 6 months for any person, and shall be only to positions excepted from the Classification Act under the provisions of Public Law 330 of the 80th Congress.

(5) One Staff Assistant to the Naval Aide to the President.

(6) Until December 31, 1967, not to exceed two positions when occupied by U.S. citizens who were serving under excepted or overseas limited appointment at the Naval Base at Guantanamo Bay, Cuba, during October 1962.

(7) Positions of Student Social Worker for temporary, part-time, or intermittent employment in Navy hospitals when filled by bona fide students enrolled in academic institutions: *Provided*, That the work performed in the agency is to be used by the student as a basis for completing certain academic requirements required by such educational institution to qualify for a graduate degree in social work. This authority shall be applied only to positions the compensation of which is fixed in accordance with the provisions of section 3 of Public Law 80-330.

(8) Positions of Student Practical Nurse for temporary, part-time, or intermittent employment in Naval Hospitals and Station Hospitals, when filled by trainees enrolled in a non-Federal institution in an approved program of educational and clinical training which meets the requirements for licensing as a practical nurse. This authority shall be applied only to positions the compensation of which is fixed in accordance with the provisions of section 3 of Public Law 80-330.

(9) One Personnel Security Specialist, Naval Personnel Program Support Activity, Bureau of Naval Personnel.

(10) Positions of Medical Technology Intern in Naval and station hospitals when filled by students enrolled in approved programs of training in non-Federal institutions. Employment under this authority may be on a full-time, part-time or intermittent basis but may not exceed 1 year. This authority shall be applied only to positions the compensation of which is fixed in accordance with the provisions of section 3 of Public Law 80-330.

(11) Positions of Medical Intern at U.S. Naval Hospitals when filled by persons who are serving medical internships at participating non-Federal hospitals and whose compensation is fixed under 5 U.S.C. 5351-5356. Employment under this authority may not exceed 1 year.

(12) Positions of Student Speech Pathologist at U.S. Naval Hospitals when filled by persons who are enrolled in participating non-Federal institutions and whose compensation is fixed under 5 U.S.C. 5351-5356. Employment under this authority may not exceed 1 year.

(b) *U.S. Naval Academy.* (1) Professors, instructors, and teachers in the U.S. Naval Academy, the U.S. Naval Postgraduate School, and the Naval War College; and the librarian, organist-choirmaster, registrar, the Dean of Admissions at the U.S. Naval Academy, and social counselors.

(c) *U.S. Naval Home.* (1) Positions of Orderly when filled by the appointment of beneficiaries of the Home.

(d) *Military Sea Transportation Service.* (1) All positions on vessels operated by the Military Sea Transportation Service.

(e) [Reserved]

(f) *U.S. Naval Radiological Defense Laboratory, San Francisco, Calif.* (1) Scientific and professional research positions at GS-12 and above when filled on a temporary basis by persons having a doctoral degree or its equivalent in natural science and related fields of study, for research activities of mutual interest to the appointee and the Laboratory. Total employment under this provision may not exceed six positions at any one time. Employment under this provision may not exceed 1 year in any individual case: *Provided*, That such employment may, with the approval of the Commission, be extended for not to exceed 1 additional year.

§ 213.3109 Department of the Air Force.

(a) *Office of the Secretary.* (1) Four Special Assistants in the Office of the Secretary of the Air Force. These positions have advisory rather than operating duties except as operating or administrative responsibilities may be exercised in connection with pilot studies.

(b) *General.* (1) Positions on the cable ship operated by the Air Force Communication Service.

(c) [Reserved]

(d) *U.S. Air Force Academy, Colorado.* (1) Positions of Cadet Hostesses, Instructors in Physical Education, and two Instructors in Music (Choirmasters).

§ 213.3110 Department of Justice.

(a) *General.* (1) Field Deputy U.S. Marshals employed on an hourly basis for intermittent service.

(2) Positions of temporary deputy marshals in lieu of bailiff in the U.S. courts when employed on an intermittent basis.

(3) U.S. Marshal in the Virgin Islands.

(4) Until December 31, 1967, 25 professional, technical, and administrative positions at grade GS-9 and above to staff the program under the Law Enforcement Assistance Act of 1965.

(b) *Immigration and Naturalization Service.* (1) Information Officer.

(2) Four positions of Regional Commissioner.

§ 213.3111 Post Office Department.

(a) *General.* (1) Clerks in fourth-class post offices.

(2) Substitute Rural Carriers employed:

(i) During the incumbency of a Rural Carrier to serve the Carrier's route when he is absent on leave or for military duty, or

(ii) To serve pending the filling of a Rural Carrier vacancy, provided that the Post Office Department shall obtain prior approval of the Commission for employment of any substitute in a Rural Carrier vacancy in excess of 90 days.

(3) Special delivery messengers in second-, third-, and fourth-class post offices.

(4) One Administrative Assistant to each Regional Director (15 positions).

(5) One Administrative Assistant to the Assistant to the Regional Director (Dallas Region).

(6) [Reserved]

(7) Clerks employed on a part-time basis in third-class post offices in Alaska.

(8) Fourth-class postmaster positions in Alaska.

(9) Positions (other than Postmaster) in Samoa, The Trust Territory, Canton Island, and Wake Island.

(10) One additional assistant to the Boston Regional Director.

(11) Temporary employment of Christmas assistants in the postal field service for not more than 28 calendar days in December.

(12) For employment of 11 deaf mutes on an experimental basis with prior approval of the Commission.

§ 213.3112 Department of the Interior.

(a) *General.* (1) Temporary, intermittent, or seasonal positions in the field service of the Department of the Interior, when filled by the appointment of persons who are certified as maintaining a permanent and exclusive residence within, or contiguous to, a field activity or district, and as being dependent for livelihood primarily upon employment available within the field activity of the Department.

(2) All positions on Government-owned ships or vessels operated by the Department of the Interior.

(3) Temporary or seasonal caretakers at temporarily closed camps or improved areas to maintain grounds, buildings, or other structures and prevent damage or theft of Government property. Such appointments shall not extend beyond 130 working days a year without the prior approval of the Commission.

(4) Temporary, intermittent, or seasonal field assistants at GS-5, or its equivalent, and below in such areas as forestry, range management, soils, engineering, fishery and wildlife management, and with surveying parties. Employment under this authority shall not exceed 180 working days a year for positions at GS-4 and below in survey parties in the Bureau of Land Management and Geological Survey and shall not exceed 130 working days a year for other positions authorized under this subparagraph. This authority shall not apply to positions of field assistants engaged in fishery management work in Alaska.

(5) Temporary positions established in the field service of the Department for emergency forest and range fire prevention or suppression and blister rust control for not to exceed 130 working days a year.

(6) Persons employed in field positions, the work of which is financed jointly by the Department of the Interior and cooperating persons or organizations outside the Federal service.

(7) All positions in the Bureau of Indian Affairs and other positions in the Department of the Interior directly and primarily related to the providing of services to Indians when filled by the appointment of Indians who are one-fourth or more Indian blood.

(8) Subject to prior approval of the Commission, temporary, intermittent, or seasonal positions at GS-7 or below in Alaska, as follows: Positions in nonprofessional mining activities, such as those of drillers, miners, caterpillar operators; and samplers; and positions of field assistants engaged in fishery management work. Employment under this authority shall not exceed 180 working days a year and shall be appropriate only when the activity is carried on in a remote or isolated area, there is no Board of U.S. Civil Service Examiners to service the employing establishment, and there is a shortage of available candidates for the positions.

(9) Subject to prior approval of the Commission, temporary, part-time, or intermittent employment of mechanics, skilled laborers, equipment operators and tradesmen on construction, repair, or maintenance work for not to exceed 180 working days a year in Alaska, when the activity is carried on in a remote or isolated area, there is no Board of U.S. Civil Service Examiners to service the employing establishment, and there is a shortage of available candidates for the positions.

(10) Seasonal airplane pilots and airplane mechanics in Alaska, not to exceed 180 working days a year.

(11) Scientific and technical positions when filled by aliens in the absence of qualified citizens. Approval of the Office of the Secretary is required in each case. No more than 25 appointments may be made under this authority in any year.

(b) *Bureau of Indian Affairs.* (1) Housekeeper positions at a gross salary not in excess of the entrance rate of grade GS-4 or its equivalent when, because of isolation or lack of quarters, appointment through competitive examination is, in the opinion of the Commission, impracticable.

(2) Subject to prior approval of the Commission, assistants in Alaska native schools (not including teachers and instructors) at a salary rate not in excess of that of GS-4 or its equivalent where the schools are in isolated or remote areas or lack suitable quarters.

(c) *Indian Arts and Crafts Board.* (1) The Executive Director.

(d) *Bonneville Power Administration.* (1) Five Area Managers.

(e) *Office of Territories.* (1) The Clerk of the High Court of American Samoa.

(2) [Reserved]

(3) The Government Comptroller for the Virgin Islands.

(4) Special Assistants to the Governor of American Samoa who perform specialized administrative, professional, technical, and scientific duties as members of his immediate staff.

(f) *National Park Service.* (1) Park Ranger positions (general, naturalist, historian, and archeologist) at salaries equivalent to GS-5 or GS-4, and not to exceed 200 such positions at salaries equivalent to grade GS-7 or GS-9 in which the duties are supervisory or are limited to a highly specialized part of the duties performed by career protective or interpretive personnel of the National Park Service. Employment under this subparagraph is limited to persons who meet the qualifications standards for each salary level which have been agreed upon by the Commission and the Department. These standards include as a minimum the following number of previous seasons' experience in the National Park Service as a park ranger at a salary equivalent to the next lower grade:

(i) For IGS-7, 2 seasons at IGS-6 level;
(ii) For IGS-6, 2 seasons at IGS-5 level;
(iii) For IGS-5, 1 season at IGS-4 level.

Employment under this subparagraph shall be only for duty that is temporary, intermittent, or seasonal, and no person shall be employed by the National Park Service under this subparagraph or a combination of this and any other excepting authorities in excess of 180 working days a year.

(g) *Bureau of Reclamation.* (1) Appraisers and examiners employed on a temporary, intermittent, or part-time basis on special valuation or prospective-entrymen-review projects where knowledge of local values or conditions or other specialized qualifications not possessed by regular Bureau employees are required for successful results. Employment under this provision shall not exceed 130 working days a year in any individual case: *Provided*, That such employment may, with prior approval of the Commission, be extended for not to exceed an additional 50 days in any single year.

(h) *The Alaska Railroad.* (1) Reserved.

(2) The General Manager.

(3) The Assistant General Manager.

(i) *Office of Geography.* (1) One position of Research Analyst (Native Arabic Language Expert), GS-7.

§ 213.3113 Department of Agriculture.

(a) *General.* (1) Agents employed in field positions the work of which is financed jointly by the Department and cooperating persons, organizations, or governmental agencies outside the Federal service. This authority is not applicable to positions in the Agricultural Research Service or positions in the Statistical Reporting Service. This authority is not applicable to the following positions in the Consumer and Marketing Service: Agricultural commodity grader (grain) and (meat), agricultural commodity aid (grain), and poultry and tobacco inspection positions.

(2) Any local veterinarian employed on a fee basis or a part-time basis.

(3) Not to exceed 25 professional, scientific, or technical positions in grade GS-7 or higher to be filled on an exchange basis by qualified employees on the rolls of State governments, colleges, or universities, for a limited period not to exceed 1 year.

(4) Local Agents, except veterinarians, employed temporarily outside Washington, in demonstrating in their respective localities the necessity of eradicating contagious or infectious animal diseases.

(5) Temporary, intermittent, or seasonal employment in the field service of the Department of Agriculture in the kinds of positions indicated below. This authority is applicable to positions where the salary is equivalent to GS-5 or below; except that for the forest worker positions under subdivision (v) of this subparagraph it may be used regardless of salary for wage board positions, and for the positions under subdivision (viii) of this subparagraph it may be used for the levels therein indicated. Employment under this authority shall not exceed 130 working days a year for positions under subdivisions (ii), (iii), and (iv) of this subparagraph; and total employment under this subparagraph shall not exceed 180 working days a year.

(i) Field assistants for subprofessional services.

(ii) Subject to prior approval of the Commission, clerical positions and positions in the trades, crafts, and manual laborer occupational groups exclusive of those covered by § 213.3102 (i) and (m) at places other than at central office and regional and branch office cities of the Commission when (a) there is no local Board of U.S. Civil Service Examiners to service the employing establishment, and (b) there is no appropriate register or there is a shortage of available eligibles.

(iii) Caretakers at temporarily closed camps or improved areas.

(iv) Field enumerators and supervisors.

(v) Forest workers engaged primarily for fire prevention or suppression activities and also other forest workers when the employment is with headquarters other than forest supervisor and regional offices.

(vi) State Performance Assistants of the Agricultural Stabilization and Conservation Service.

(vii) Collectors of the Farmers Home Administration.

(viii) Agricultural Research helpers, helper-leaders, and workers, paid at rates not in excess of WB-5 and Leader-5 in the Agricultural Research Service.

(6) Not to exceed eight positions whose incumbents serve on an intermittent or temporary basis as field representatives of the Department of Agriculture and in this capacity represent the Department's Disaster Committee in conducting surveys and appraisals of conditions in areas whose status as "major disaster" areas under Public Law 81-875, is under consideration. Employment under this authority shall not exceed 130 working days a year.

(7) [Reserved]

(8) Until December 31, 1968, not to exceed 100 positions directly concerned with programs of the Department for employment of Cuban refugees possessing college-level training appropriate

for such positions: *Provided*, That, employment under this authority in any individual case shall be on a temporary basis for periods not to exceed 1 year and shall not exceed 2 years without the prior approval of the Civil Service Commission.

(b) *Office of the Secretary.* (1) Special Livestock Loans Committeemen employed for not more than 180 working days a year, to approve and direct the servicing of emergency livestock loans.

(2) The positions of the two members and two alternate members of the Board of Forest Appeals which must be filled under Departmental regulation by persons who have not been Federal employees for 2 years before appointment. Employment under this exception shall be on a when-actually-employed basis.

(c) *Forest Service.* (1) Temporary, intermittent, or seasonal positions when filled by the appointment of persons who are certified as maintaining a permanent and exclusive residence within, or contiguous to, a national forest and as being dependent for livelihood primarily upon employment available within the national forest.

(2) Positions in Alaska of Laborers, Boat Operators, Mechanics, Equipment Operators, and Carpenters whose duties require the operation of boats in coastal waters and/or the establishment and maintenance of work camps in remote areas.

(d) *Agricultural Stabilization and Conservation Service.* (1) Six Area Directors above GS–14.

(2) Members of State Committees.

(3) State Executive Directors.

(4) Farmer fieldmen and farmer fieldwomen to interpret and explain and supervise farm programs.

(e) *Farmers Home Administration.* (1) State committeemen to consider, recommend, and advise with respect to the Farmers Home Administration program.

(2) County committeemen to consider, recommend, and advise with respect to the Farmers Home Administration program.

(3) Temporary positions whose principal duties involve the making and servicing of emergency loans pursuant to Public Law 87–128. Appointment under this provision shall not exceed 1 year unless extended with the prior approval of the Commission for additional periods of not to exceed 1 year each.

(4) State Directors and not to exceed three positions of State Director-at-Large.

(5) Temporary positions in State and county offices of the Farmers Home Administration whose principal duties involve the making and servicing of loans pursuant to the Economic Opportunity Act of 1964. Appointments under this provision shall not exceed 1 year unless extended with prior Commission approval for not to exceed 1 additional year.

(f) *Consumer and Marketing Service.* (1) Positions of cotton classers GS–9 and below, clerks GS–3, and laborers, employed on a seasonal basis in cotton-classing offices outside the Washington, D.C., Metropolitan Area. Employment under this authority (or under a combination of this authority and any other excepting authority) shall not exceed 1,280 hours a year in the case of cotton classers and laborers and 1,040 hours a year in the case of clerks; except that GS–5 cotton classers may be employed as trainees during their first appointment only for an initial period of 6 months for training purposes without regard to the above time limitation.

(2) Positions of poultry inspector (veterinarian at GS–11 and below, and nonveterinarian at appropriate grades below GS–11) for employment on a temporary, intermittent, or seasonal basis, not to exceed 1,280 hours a year.

(3) Milk Market Administrators.

(4) All positions on the staffs of Milk Market Administrators.

(5) Positions of agricultural commodity aid (cotton) GS–2, 3, and 4, employed on a seasonal basis in cotton-classing offices outside the Washington, D.C., Metropolitan Area for not to exceed 1,280 hours a year. Employment under this authority may not exceed 850 positions at GS–2, and 92 positions at GS–3 and GS–4.

(g) *Agricultural Research Service.* (1) Field employees on programs conducted under the terms of cooperative agreements or memorandums of understanding with States or other non-Federal cooperating organizations, provided the employees are jointly selected and their salary is supplied by the cooperators on the basis of not less than a 40-percent contribution by each of the cooperators.

(2) Temporary field positions concerned with the control, suppression, and eradication of emergency livestock diseases. Persons appointed under this authority may not be employed in these positions in the Agricultural Research Service for longer than 1 year under this authority, or under a combination of this and any other authorities for excepted appointment that may be appropriate, without prior approval of the Commission. This authority shall be appropriate only in situations declared by the Secretary of Agriculture to be emergencies threatening the livestock industry of the country.

(h) *Foreign Agricultural Service.* (1) Agricultural Attaché positions at grade GS–16 and above where the duties require that the major portion of the employee's time be spent in foreign countries.

(i) *International Agricultural Development Service.* (1) Positions of Technical Leader at Grade GS–13 and above employed in the training of foreign nationals on a temporary basis for not to exceed 130 working days a year.

§ 213.3114 Department of Commerce.

(a) *General.* (1) Agents to take and transmit meteorological observations in connection with aviation who are employed on a part-time basis and whose compensation is based on a fee for each observation performed rather than on an hourly or per annum basis: *Provided*, That the number of observations shall not exceed a daily average of 12 during any calendar month.

(2) Employment of individuals, firms, or corporations for not to exceed 1 year for special statistical studies and statistical compilations, other than Personal Census Records Service, the compensation for which is derived from funds deposited with the United States under the Act of May 27, 1935 (49 Stat. 292): *Provided*, That such employments may, with the approval of the Commission, be extended for not to exceed an additional year.

(3) Not to exceed 50 scientific and technical positions whose duties are performed primarily in the Antarctic. Incumbents of these positions may be stationed in continental United States for periods of orientation, training, analysis of data, and report writing.

(b) *Office of the Secretary.* (1) The positions of Security Control Officer, Deputy Security Control Officer, and Chief, Personnel Security Division.

(2) One Civil Aviation Specialist.

(3) One Adviser on Equal Employment Opportunity.

(c) *Coast and Geodetic Survey.* (1) All civilian positions on vessels operated by the Coast and Geodetic Survey.

(2) Temporary positions required in connection with the surveying operations of the field service of the Coast and Geodetic Survey. Appointment to such positions shall not exceed 8 months in any 1 calendar year.

(d) *Bureau of the Census.* (1) Supervisors, assistant supervisors, supervisors' clerks, and enumerators in the field service for temporary, part-time, or intermittent employment, for not to exceed 1 year: *Provided*, That such appointments may be extended for additional periods of not to exceed 1 year each; but that prior Commission approval is required for extension of full-time employment for longer than 1 year.

(2) Positions of Field Agent to conduct the 1966–67 census of governmental finances and government employment. Employment under this authority may not extend beyond June 30, 1968.

(e) [Reserved]

(f) *Bureau of Public Roads.* (1) Temporary, intermittent, or seasonal employment in the field service of the Bureau of Public Roads at grades not higher than GS–5 for subprofessional engineering aide work on highway surveys and construction projects, for not to exceed 180 working days a year, whenever in the opinion of the Commission appointment through competitive examination is impracticable.

(g) *Business and Defense Services Administration.* (1) Not to exceed 30 positions, at grades GS–13 and higher, to be filled by appointment of persons, qualified as industrial specialists, who possess specialized knowledge and experience in the field of industrial production, industrial operations and related problems, applicable to one or more of the current segments of industry served by the Business and Defense Services Administration. Appointments under this authority may be made for a period not to exceed 2 years, and may, with prior approval of the Commission, be extended for an additional period of 2 years.

(h) *Maritime Administration.* (1) Public Information Officer.

(2)–(4) [Reserved]

(5) The positions of Chief Investigator and Security Officer and Deputy Chief Investigator and Security Officer.

(6) All positions on Government-owned vessels or those bareboats chartered to the Government and operated by or for the Maritime Administration.

(7) [Reserved]

(8) One Special Assistant to the Administrator (Tanker Adviser).

(9) Two Special Assistants to the Deputy Administrator.

(10) U.S. Merchant Marine Academy, positions of: Professors, instructors, and teachers; including heads of the Departments of Physical Training and Athletics, Ships Medicine, Ship Management, History and Languages, Mathematics and Science, Nautical Science and Engineering; the Regimental Officer; the Drill and Activities Officers; the Band and Activities Officer; and the First, Second, and Third Battalion Officers.

(11) U.S. Merchant Marine Academy, positions of: The Superintendent, the Executive Officer and Assistant Superintendent; Dean; Registrar and Educational Services Officer; Educational Specialist (Administration) (Assistant Dean); Alumni Records Officer and Placement Director; Librarian; the Special Assistant to the Superintendent; and three Academy Training Representatives.

(i) *Office of the Assistant Secretary for Domestic and International Business.* (1) Ten positions at GS–13 and above in specialized fields relating to international trade or commerce in the Bureau of International Commerce or in other units under the jurisdiction of the Assistant Secretary for Domestic and International Business. Incumbents shall be assigned to advisory rather than to operating duties, except as operating and administrative responsibility may be required for the conduct of pilot studies or special projects. Employment under this authority will not exceed 2 years for any individual appointee.

(2) Not to exceed 40 positions of Managers and Deputy Managers of International Trade Fairs and Exhibit Programs in foreign countries when the duties require a considerable portion of the employee's time to be spent in foreign countries.

(3) Until December 31, 1967, 40 positions in Alaska whose function is to aid in carrying out U.S. participation in the Alaska Purchase centennial celebration, as follows: One Exposition Officer GS–14; two deputy Exposition Officers GS–13; nine Guide-Demonstrators GS–6; nine Building Guards GS–3 and GS–4; one fiscal and Property Officer GS–9; one Secretary GS–6; one Information Clerk GS–5; and 10 Cleaners, five Projectionists, and one Electrician to be paid at prevailing rates under the wage board system. The 24 positions under the General Schedule may be established at lower grade levels than those indicated as required.

(j) *Environmental Science Services Administration.* (1) Subject to prior approval of the Commission, which shall be contingent upon a showing of inadequate housing facilities, meteorological aid positions at the following stations in Alaska: Barrow, Bethal, Kotzebue, McGrath, Northway, and St. Paul Island.

(2) Cook positions on Swan Island.

§ 213.3115 Department of Labor.

(a) *Office of the Secretary.* (1) Chairman and two Members, Employees' Compensation Appeals Board.

(b) *Bureau of Employment Security.* [Reserved]

(c) [Reserved]

(d) *Bureau of Labor Statistics.* (1) Part-time and intermittent employment for field survey and enumeration work in the Bureau of Labor Statistics. This authority is applicable to positions where the salary is equivalent to GS–5 and below. Employment within the Bureau of Labor Statistics under this authority, or a combination of this authority and any other authorities for excepted appointment, shall not exceed:

(i) 180 working days a year for positions at GS–5;

(ii) 130 working days a year for positions at GS–4 and below.

The total number of appointments at GS–5 shall not exceed 75. Appointments at the GS–3 and GS–4 grade levels are not limited in number.

(e) [Reserved]

(f) *Office of Federal Contract Compliance.* (1) All positions in the Office of Federal Contract Compliance established under Parts II, III, and IV of Executive Order No. 11246 of September 24, 1965.

§ 213.3116 Department of Health, Education, and Welfare.

(a) *St. Elizabeths Hospital.* (1) Three Medical Officers (Surgical Resident).

(2) Student Medical Interns for temporary or part-time employment.

(3) Temporary positions of graduate nurses appointed as students for the purpose of receiving 12 weeks of training equivalent to psychiatric affiliation. This authority shall be applied only to positions whose compensation is fixed in accordance with the provisions of section 3 of Public Law 90–330.

(4) Three positions of Medical Officers (Radiology Resident): *Provided*, That employment under this authority shall not exceed 1 year, except that selected residents may be nominated and reappointed for an additional year of training when the parent hospital determines that the supplemental training will meet the specialized needs of the individual resident.

(5) Until June 30, 1969, eight psychodrama trainees, including interns and first- and second-year residents. This authority shall be applied only to positions with compensation fixed in accordance with the provisions of section 3 of Public Law 90–330.

(6) Two Medical Officers (Anatomical Pathology Resident) for not to exceed 2 years' employment in the case of any one individual.

(7) Three Medical Officers (Internal Medicine Resident) for not to exceed 3 months' employment in the case of any one individual.

(8) Four positions of Medical Officer (Physical Medicine and Rehabilitation Resident): *Provided*, That employment under this authority shall not exceed 1 year, except that selected residents may be nominated and reappointed for an additional year of training when the parent hospital determines that the supplemental training will meet the specialized needs of the individual resident. Initial appointments may be made at any level within the 3-year residency as approved by the American Medical Association.

(9) Not to exceed 22 positions of Chaplain Residents: *Provided*, That employment under this authority shall not exceed 39 months for any individual. This authority shall be applied only to positions whose compensation is fixed in accordance with the provisions of section 3 of Public Law 90–330.

(10) One position of Medical Officer (Ophthalmology Resident) when filled by persons whose compensation is fixed under 5 U.S.C. 5351–5356. Employment under this authority may not exceed 4 months.

(b) *Public Health Service.* (1) Special escorts to accompany patients of the Public Health Service in accordance with existing laws and regulations. Employment under this subparagraph shall be only for the period of time necessary for the escort to deliver the patient to his destination and to return.

(2) Positions at Government sanatoria when filled by patients during treatment or convalescence.

(3) All positions in leprosy investigation stations.

(4) Positions concerned with problems in preventive medicine financed or participated in by the Department of Health, Education, and Welfare and a cooperating State, county, municipality, incorporated organization, or an individual in which at least one-half of the expense is contributed by the cooperating agency either in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

(5) Medical and dental interns, externs, and residents; and student nurses.

(6) Positions of scientific, professional, or technical nature when filled by bona fide students enrolled in academic institutions: *Provided*, That the work performed in the agency is to be used by the student as a basis for completing certain academic requirements required by an educational institution to qualify for a scientific, professional, or technical field: *And provided further*, That appropriate exclusions of the positions under the authority of Public Law 90–330 have been approved by the Civil Service Commission.

(7) Student Dieticians and Resident Physicians at Freedman's Hospital.

(8) Positions directly and primarily related to the providing of services to Indians when filled by the appointment of Indians who are one-fourth or more Indian blood.

(9) Not to exceed 30 positions of clerical assistants employed on a part-time and intermittent basis to aid cooperating clinicians in non-Federal tuberculosis sanatoria in the keeping of records and the preparation of reports in connection with research studies into the effectiveness of antimicrobial agents in the treatment of tuberculosis. Persons appointed under this authority may not be employed in this kind of work in the Public Health Service for more than 180 working days in a single year under this authority or under a combination of this and any other authority for excepted appointment that may be appropriate.

(c) *Office of Education.* (1) Positions concerned with problems in education financed and participated in by the Office of Education, Department of Health, Education, and Welfare, and a cooperating State educational agency, or university or college, in which there is joint responsibility for selection and supervision of employees, and at least one-half of the expense is contributed by the cooperating agency in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

(d) *Social Security Administration.* (1) One position of claims examiner or social insurance representative in a district office of the Bureau of Old-Age and Survivors Insurance in the State of Arizona when filled by the appointment of a person of one-fourth or more Indian blood.

(e) *General.* (1) Until December 31, 1967, 60 positions in medical and related occupations for employment under the Cuban refugee program. Employment of any person under this authority shall not extend more than one year beyond the expiration of the authority.

(f) *The President's Council on Physical Fitness.* (1) Three staff assistants, The President's Council on Physical Fitness.

(g) *Welfare Administration.* (1) Not to exceed 225 positions directly concerned with programs conducted by the Department in connection with the problems of Cuban refugees: *Provided*, That employment under this authority shall be temporary and no employment shall be made under it after December 31, 1967.

§ 213.3121 National Security Council.

(a) All positions on the staff of the Council.

§ 213.3123 Interagency Committee on Mexican American Affairs.

(a) All positions on the committee staff.

§ 213.3124 Board of Governors, Federal Reserve System.

(a) All positions.

§ 213.3126 Office of Emergency Planning.

(a) One Field Representative, Resource Readiness Office.

§ 213.3127 Veterans Administration.

(a) *Construction Division.* (1) Temporary construction workers paid from "purchase and hire" funds and appointed for not to exceed the duration of a construction project.

§ 213.3128 U.S. Information Agency.

(a) Two Liaison Officers (Congressional) in the Office of the General Counsel.

(b) One Chief of Religious Information.

§ 213.3129 Federal Power Commission.

(a) Three special assistants to the Commission.

§ 213.3130 Securities and Exchange Commission.

(a) Director, Division of Corporation Finance; Director, Division of Corporate Regulation; Director, Division of Trading and Markets.

(b) Nine positions of Regional Administrator.

§ 213.3132 Small Business Administration.

(a)–(d) [Reserved]

(e) When the President under 42 U.S.C. 1855–1855g, or the Secretary of Agriculture under 7 U.S.C. 1961, declares an area to be a disaster area, positions filled by temporary appointment of employees to make and administer disaster loans in that area under the Small Business Act, as amended, for the duration of the disaster. Original appointments may not exceed 6 months, and no employee appointed under this exception may work in any one disaster area for more than 6 months without prior approval of the Commission.

(f) Until December 31, 1968, positions of receivers or trustees who serve on an intermittent basis in receivership actions affecting Small Business Investment Companies.

§ 213.3133 Federal Deposit Insurance Corporation.

(a) All field positions concerned with the work of liquidating the assets of closed banks or the liquidation of loans to banks, and all temporary field positions the work of which is concerned with paying the depositors of closed insured banks.

(b) One position of Chief Clerk in the San Juan, P.R., office.

§ 213.3135 National Capital Housing Authority.

(a) Executive Director.

§ 213.3136 U.S. Soldiers' Home.

(a) All positions.

§ 213.3137 General Services Administration.

(a) *General.* (1) Custodians, guards, watchmen, laborers, and other employees engaged in the custody, care, and preservation of plants, warehouses, shipyards, airfields, and surplus facilities of a similar nature pending disposition of such facilities.

§ 213.3138 Federal Communications Commission.

(a) One Associate Chief Engineer.

(b) The Chief of each of the following Bureaus: Broadcast, Common Carrier, and Safety and Special Radio Services.

§ 213.3139 U.S. Tariff Commission.

(a) The Secretary of the Commission.

§ 213.3141 National Labor Relations Board.

(a) Election Clerks and Election Examiners for temporary, part-time, or intermittent employment in connection with elections under the Labor-Management Relations Act.

§ 213.3142 Export-Import Bank of Washington.

(a) Three Special Assistants to the Board of Directors, grade GS–14 and above, with responsibility for carrying out special overseas assignments for the Board.

§ 213.3143 Farm Credit Administration.

(a) Federal Land Bank Association receivers and conservators.

(b) Not to exceed seven positions in the Credit Services of the Farm Credit Administration in grades GS–13 or above, requiring technical or administrative experience in the field of agricultural credit: *Provided*, That this authority may be used only when making appointments of persons who have acquired such experience in the Farm Credit Administration or in one or more of the institutions supervised by the Farm Credit Administration.

§ 213.3144 Housing and Home Finance Agency.

(a) *Office of the Administrator.* (1)–(4) [Reserved]

(5) One Special Assistant to the Deputy Administrator.

§ 213.3146 Selective Service System.

(a) State Directors.

(b) Deputy or Assistant State Directors and State Medical Officers in State Headquarters.

(c) Until June 30, 1971, Executive Secretary, National Advisory Committee on the Selection of Physicians, Dentists, and Allied Specialists.

(d) Executive Secretary, National Selective Service Appeal Board.

§ 213.3147 Federal Mediation and Conciliation Service.

(a) Executive Secretary of a Board of Inquiry appointed under section 206 of the Labor-Management Relations Act of 1947 (29 U.S.C. 176).

§ 213.3148 National Aeronautics and Space Administration.

(a) One hundred fifty alien scientists having special qualifications in the fields of aeronautical and space research

where such employment is deemed by the Administrator of the National Aeronautics and Space Administration to be necessary in the public interest.

(b) Forty scientific specialists to be engaged on special research projects.

(c) [Reserved]

(d) Ten medical officer positions for employment of third year medical residents in the field of aerospace medicine. An individual may not be employed more than one year under this exception.

§ 213.3149 Panama Canal Company, New Orleans.

(a) All positions on vessels operated by the Panama Canal Company.

§ 213.3152 St. Lawrence Seaway Development Corporation.

(a) One Assistant Manager, Seaway International Bridge.

§ 213.3153 District of Columbia Government.

(a) Positions of noneducational employees of the Board of Higher Education, the Board of Vocational Education, the Federal City College, and the Washington Technical Institute.

§ 213.3154 Federal Home Loan Bank Board.

(a) One Secretary, Federal Home Loan Bank Board.

(b) [Reserved]

(c) All temporary field positions in the Federal Savings and Loan Insurance Corporation concerned with the work of liquidating the assets of closed insured institutions, or the liquidation of loans or the handling of contributions to insured institutions and the purchase of assets therefrom, and all temporary field positions of the Federal Savings and Loan Insurance Corporation the work of which is concerned with paying the depositors of closed insured institutions.

§ 213.3156 Commission on Civil Rights.

(a) Fifteen positions at grade GS–11 and above to engage in and advise on the collection, study, and appraisal of information developed in accordance with Public Law 88–352. Appointments made under this authority shall be limited to persons having a particular competency in the areas concerned and shall not extend beyond March 31, 1968.

(b) Until March 31, 1968, not to exceed 20 positions at GS–5 through GS–11 for the temporary part-time or intermittent employment of persons hired locally to investigate sworn complaints of patterns or practices of fraud or discrimination in the conduct of national elections. Employment under this authority shall not exceed 130 days in any one service year.

§ 213.3157 Federal Aviation Agency.

(a) Caretakers and light attendants employed on emergency fields and other air navigation facilities, who are paid on a fee basis.

(b) Medical Officer positions on Canton and Wake Islands.

(c) Laborer positions on Swan Island.

§ 213.3158 Franklin Delano Roosevelt Memorial Commission.

(a) All positions on the staff of the Commission.

§ 213.3160 The President's Committee on Urban Housing.

(a) All positions on the Committee staff.

§ 213.3161 James Madison Memorial Commission.

(a) One Executive Secretary.

§ 213.3162 National Aeronautics and Space Council.

(a) All positions.

§ 213.3163 Advisory Commission on Parcel Distribution Services.

(a) Until January 31, 1969, all positions on the Commission's staff.

§ 213.3164 U.S. Arms Control and Disarmament Agency.

(a) Until April 30, 1969, seven project officers above GS–13 in the Weapons Evaluation and Control Bureau and 10 physical science officers above GS–12.

§ 213.3165 President's Advisory Committee on Labor-Management Policy.

(a) One Assistant Executive Director.

§ 213.3169 President's Committee on Equal Opportunity in Housing.

(a) Positions, other than the Staff Director, on the Staff of the President's Committee on Equal Opportunity in Housing established by the President on November 20, 1962.

§ 213.3170 Civil Service Commission.

(a) Persons employed on a WAE basis to serve as members of the International Organizations Employees Loyalty Board for the purpose of holding hearings overseas.

§ 213.3174 Smithsonian Institution.

(a) Positions when filled by alien scientists and technicians appointed after the Secretary has determined in each case that no qualified citizen is available for the particular position.

§ 213.3175 President's Commission on Postal Organization.

(a) Until June 30, 1968, all positions on the Commission staff.

§ 213.3178 Atlantic-Pacific Interoceanic Canal Study Commission.

(a) All positions on the Commission staff.

§ 213.3179 The President's Commission on Crime in the District of Columbia.

(a) All positions on the President's Commission on Crime in the District of Columbia.

§ 213.3181 The President's Commission on Law Enforcement and Administration of Justice.

(a) All positions on the President's Commission on Law Enforcement and Administration of Justice.

§ 213.3182 National Foundation on the Arts and the Humanities.

(a) *National Endowment for the Arts.* (1) One Deputy Chairman.

(2) Director of State and Local Operations.

(3) Seven Arts Program Directors.

(4) [Reserved]

(5) Director of Studies and Analysis.

(6) Project Coordinator.

(7) Three Project Evaluators.

(8) Four Grant Processors.

(9) Director, Education Programs and Public Media.

(b) *National Endowment for the Humanities.* (1) Deputy Chairman.

(2) Director, Division of Educational Programs and Special Projects.

(3) Director of Planning and Analysis.

(4) Director, Division of Fellowships and Stipends.

(5) Director, Division of Research and Publications.

(6) Special Assistant to the Chairman.

(7) Program Officer, Division of Educational Programs and Special Projects.

(8) Program Officer, Division of Fellowships and Stipends.

(9) Program Officer, Division of Research and Publications.

(10) Assistant to the Director, Division of Planning and Analysis.

§ 213.3183 National Advisory Commission on Food and Fiber.

(a) All positions on the staff of the Commission.

§ 213.3184 Department of Housing and Urban Development.

(a) *Office of the Secretary.* (1) Director, Inspection Division.

(b) *Office of the Assistant Secretary for Mortgage Credit and Federal Housing Commissioner.* (1) Five regional operations commissioners.

§ 213.3187 District of Columbia Redevelopment Land Agency.

(a) Neighborhood Aide (Urban Renewal) positions when filled by residents of the urban renewal project area in which the Aides will serve. Employment under this authority may not exceed 2 years.

§ 213.3190 Commission on Marine Science, Engineering, and Resources.

(a) All positions on the Commission staff.

§ 213.3191 Select Commission on Western Hemisphere Immigration.

(a) All positions on the Commission staff.

§ 213.3193 National Advisory Commission on Rural Poverty.

(a) Until June 30, 1968, not to exceed 25 positions on the Commission staff.

§ 213.3194 Department of Transportation.

(a) *Coast Guard.* (1) Continuing positions at grade GS–9 and below whose incumbents are engaged in the admeasurement or documentation of merchant vessels on a part-time or intermittent basis

not exceeding 700 hours in a service year. A person appointed under this authority may not be employed in the Coast Guard under a combination of this authority and any other authority for excepted appointment for more than 700 hours during his service year.

§ 213.3195 President's Temporary Commission on Pennsylvania Avenue.

(a) Not to exceed six positions on the Temporary Commission staff.

§ 213.3196 President's Commission on Budget Concepts.

(a) Until June 30, 1968, all positions on the staff of the Commission.

§ 213.3197 Interagency Committee on Civil Disorders.

(a) Until September 30, 1968, all positions on the Committee staff.

SCHEDULE B

§ 213.3201 Positions other than those of a confidential or policy-determining character for which it is not practicable to hold a competitive examination.

The positions enumerated in §§ 213.3202 to 213.3299 are positions other than those of a confidential or policy-determining character for which it is not practicable to hold a competitive examination and which are excepted from the competitive service and constitute Schedule B. Appointments to these positions are subject to such noncompetitive examination as may be prescribed by the Commission.

§ 213.3202 Entire executive civil service.

(a) Student Trainee positions established in connection with an organized preprofessional undergraduate work-study program involving alternating periods of planned work experience (including at least 6 months in the agency) and related study at an accredited college or university in either (1) a cooperative curriculum in which the work experience is a prerequisite to the award of a degree, or (2) a curriculum where formal arrangements are made with the college or university for selecting and retaining program participants, and for scheduling and coordinating work experience and academic study. Appointments under this paragraph may be made only to Student Trainee positions which are preparatory to professional work which the Commission determines to be in a shortage occupation for this purpose. The Commission's determinations in this respect and other requirements relating to appointments under this paragraph will be published in the Federal Personnel Manual. Except for the requirement of competitive selection from a register, appointments under this paragraph are subject to all the requirements and conditions governing career-conditional appointment, including investigation by the Commission to establish the appointee's qualifications and suitability. Appointees may not continue to serve in Student Trainee positions more than 90 days after they complete or are separated from the work-study program.

§ 213.3204 Department of State.

(a) Persons formerly employed abroad in the Foreign Service of the United States (this means civilian employment in the executive branch) for a period of at least 4 years for service in executive and administrative positions, or for at least 2 years for professional positions, in grades GS–9 and above.

(b) Technical cryptographic positions in the Communications Security Division, Office of Communications.

(c) Director and Deputy Director, Foreign Buildings Operations.

§ 213.3205 Treasury Department.

(a) Positions of Deputy Comptroller of the Currency, Chief National Bank Examiner, Assistant Chief National Bank Examiner, Regional Chief National Bank Examiner, Deputy Regional Chief National Bank Examiner, Senior National Bank Examiner, National Bank Examiner, Senior Assistant National Bank Examiner, Assistant National Bank Examiner, Deputy to the Comptroller of the Currency for Trusts, Representatives in Trusts, Associates in Trusts, Assistants in Trusts and one Administrative Assistant to the Comptroller of the Currency, whose salaries are paid from assessments against national banks and other financial institutions.

(b) Cryptographer, U.S. Coast Guard.

(c) Not to exceed two positions of Accountant (Tax Specialist) at grades GS–13 and above to serve as specialists on the accounting analysis and treatment of corporation taxes. Employments under this paragraph shall not exceed a period of 18 months in any individual case.

(d) Positions concerned with the protection of the life and safety of the President and members of his immediate family, or other persons for whom similar protective services are prescribed by law, when filled in accordance with special appointment procedures approved by the Commission. Service under this authority may not exceed (1) a total of 4 years or (2) 120 days following completion of the service required for conversion under Executive Order 11203, whichever occurs first.

§ 213.3206 Department of Defense.

(a) *Office of the Secretary.* (1) Professional members of Policy Planning Staff in positions at grades GS–16 and above and two Special Projects Directors, GS–15, Office of Deputy Assistant Secretary (Planning and NSC), Office of the Assistant Secretary of Defense (International Security Affairs).

(2) Professional positions at GS–11 and above involving systems, costs, and economic analysis functions in the Office of the Assistant Secretary (Systems Analysis); and in the Operations Analysis Group and in the Office of the Deputy Assistant Secretary (Management Systems Development), both in the Office of the Assistant Secretary (Comptroller).

(3) Professional positions at grades GS–16 and above in the Directorate for Special Studies, Office of the Deputy Assistant Secretary (Manpower Requirements and Special Studies), Office of the Assistant Secretary of Defense (Manpower).

(4) One Assistant for Counter-Insurgency, Office of the Assistant Secretary (International Security Affairs).

§ 213.3209 Department of the Air Force.

(a) Positions assigned exclusively to Air Force Communications Intelligence Activities.

(b) Civilian Deans and Professors at the Air Force Institute of Technology, Wright-Patterson Air Force Base, Dayton, Ohio.

§ 213.3210 Department of Justice.

(a) [Reserved]

(b) Positions of Port Receptionist and Supervisory Port Receptionist, Immigration and Naturalization Service.

§ 213.3212 Department of the Interior.

(a) Any competitive position at an Indian school when filled by the spouse of a competitive employee of the school, when because of isolation or lack of quarters, the Commission deems appointment through competitive examination impracticable.

§ 213.3214 Department of Commerce.

(a) *Bureau of Census.* (1) Not to exceed 100 positions of interviewers, supervisors, and data collection specialists in the Census Bureau who conduct interviews in the hard-core poverty areas of large cities or who supervise the conduct of these interviews, when filled by residents of the areas served.

(b) *Economic Development Administration.* (1) Four Area Supervisors.

(2) Four Assistant Area Supervisors.

(c) *Office of the Under Secretary for Transportation.* (1) Special Assistant for Traffic Safety Program Planning.

(2) Special Assistant for Traffic Safety Research Coordination.

(3) Special Assistant for Traffic Safety Research Testing and Demonstration.

(d) *National Highway Safety Agency.* (1) Until November 30, 1968, 25 positions of specialists at GS–14 and above concerned with the development of vehicle and program safety standards and requiring pertinent engineering, research, and other technical experience in related program specialities.

§ 213.3215 Department of Labor.

(a) Not to exceed 25 positions of Manpower Development Specialist at grades GS–9 through GS–15 for employment in the Bureau of Work Programs. This authority may not be used after June 30, 1968.

§ 213.3216 Department of Health, Education, and Welfare.

(a) *Office of Education.* (1) Fifty positions, GS–7 through GS–11, concerned with advising on education policies, practices, and procedures under unusual and abnormal conditions. Persons employed under this provision must be bona fide elementary school and high school teachers. Appointments under this authority may be made for a period of not to exceed 1 year, and may, with the prior approval of the Civil Service Commission, be extended for an additional period of 1 year.

§ 213.3228 U.S. Information Agency.

(a) Persons formerly employed abroad in the Foreign Service of the United States or as Binational Center Grantees for a period of at least 4 years for service in executive and administrative positions, or for at least 2 years for professional positions, in grades GS–9 and above.

§ 213.3229 Federal Power Commission.

(a) A Chief Engineer.

§ 213.3237 General Services Administration.

(a) *National Advisory Council on Economic Opportunity.* (1) Until June 30, 1968, one Research Specialist.

§ 213.3242 Export-Import Bank of Washington.

(a) Not to exceed three positions of Loan Specialist GS–11 through GS–13 when occupied by persons selected jointly by commercial banks and the agency for participation in the Eximbank-Commercial Bank Orientation Program. Appointments under this authority may not exceed 15 months.

§ 213.3246 Selective Service System.

(a) Positions in the Selective Service System when filled by persons who as commissioned officer personnel in the Armed Forces have previously been trained for or have been on active military duty in the Selective Service program, and cannot, for some reason beyond their control, be brought to active military duty in the current Selective Service program.

§ 213.3253 District of Columbia Government.

(a) Chairman, Secretary and Members of the Board of Police and Fire Surgeons, District of Columbia.

§ 213.3256 Commission on Civil Rights.

(a) Until March 31, 1968, three positions at grades GS–9 and above to engage in the preparation and dissemination of information about the developments, legislation, and other pertinent happenings relating to the field of civil rights gathered by the Commission on Civil Rights in carrying out its assigned functions.

§ 213.3268 Agency for International Development.

(a) Not to exceed 30 positions at GS–9 and above when filled by persons who have served overseas with the Agency for International Development for not less than 2 years.

§ 213.3273 Office of Economic Opportunity.

(a)–(d) [Reserved]

(e) Seven Regional Directors.

(f) Not to exceed 50 positions at GS–9 through GS–15 in new, experimental programs or special projects when it is determined that existing registers are not appropriate or do not permit appointment expeditiously. This authority may not be used after June 30, 1968.

(g) [Reserved]

(h) One Chief, Research and Plans Division.

§ 213.3276 Appalachian Regional Commission.

(a) Two Program Coordinators.

SCHEDULE C

§ 213.3301 Positions of a confidential or policy-determining character.

The positions enumerated in §§ 213.3302 to 213.3399 are positions of a confidential or policy-determining character which are excepted from the competitive service, to which appointments may be made without examination by the Commission and which constitute Schedule C.

§ 213.3301a Special revocation of exceptions.

The exception from the competitive service for each position in the executive branch listed in Schedule C which is classified in grade GS–16, GS–17, or GS–18, and is covered by Civil Service Rule IX (§ 9.1 of Subchapter A of this chapter) is revoked effective November 17, 1967. Each such position is removed from Schelude C effective November 17, 1967.

§ 213.3303 Executive Office of the President.

(a) *Bureau of the Budget.* (1) Three Assistant Directors.

(2) Two Private Secretaries to the Director.

(3) One Private Secretary to the Deputy Director.

(4) One Private Secretary to each of the three Assistant Directors.

(b) *Council of Economic Advisers.* (1) Three Private Secretaries to the Chairman and one to each of the other two members.

(c) *Office of Science and Technology.* (1) One Confidential and Secretarial Assistant to the Director.

(2) One Confidential and Secretarial Assistant to the Deputy Director.

(3) [Reserved]

(4) One Staff Assistant.

(5) One Confidential Secretary and Assistant to the Director, Energy Policy Staff.

(d) *Office of the Special Representative for Trade Negotiations.* (1) One Confidential Assistant to the Deputy Special Representative.

§ 213.3304 Department of State.

(a) *Office of the Secretary.* (1) Five Special Assistants.

(2) and (3) [Reserved]

(4) Two confidential Assistants and four Private Secretaries to the Secretary.

(5) Four Special Assistants to the Under Secretary.

(6) One Special Assistant (Fisheries) to the Under Secretary.

(7) Three Confidential Assistants and one Private Secretary to the Under Secretary.

(8) Two Staff Assistants.

(9)–(15) [Reserved]

(16) One Personal Assistant and one Private Secretary to the Under Secretary for Economic Affairs.

(17) [Reserved]

(18) One Special Assistant and one Staff Assistant to the Under Secretary for Economic Affairs.

(19) One Assistant Director, Food for Peace, Office of the Under Secretary.

(20) One Personal Assistant and one Special Assistant to the Ambassador-at-Large.

(21) One Special Assistant to the Secretary (Food-for-Peace Program).

(22) One Executive Assistant, Office of the Special Assistant to the Secretary (Food-for-Peace Program).

(b) *Bureau of Security and Consular Affairs.* (1) Deputy Administrator.

(2) Administrator.

(3) Deputy Administrator for Refugee Relief.

(4) One Private Secretary to the Administrator.

(5) Deputy Administrator.

(c) *Office of the Assistant Secretary for Congressional Relations.* (1) [Reserved]

(2) Deputy Assistant Secretary.

(3) Congressional Liaison Officer (Senate).

(4) One Confidential Assistant to the Assistant Secretary.

(5) One Staff Assistant.

(6) Four Legislative Management Officers.

(7) Two Legislative Officers.

(8) [Reserved]

(9) One Personal Assistant to the Assistant Secretary.

(d) *Office of the Assistant Secretary for Public Affairs.* (1) One Deputy Assistant Secretary.

(2) One Private Secretary to the Assistant Secretary.

(3) One Special Assistant to the Assistant Secretary.

(4) Director of the Office of News.

(5)–(6) [Reserved]

(7) One Deputy Assistant Secretary (Policy Plans and Guidance).

(e) *Bureau of Economic Affairs.* (1) One Deputy Assistant Secretary (International Finance and Development), one Deputy Assistant Secretary (International Trade), and one Deputy Assistant Secretary (International Resources).

(2) One Private Secretary to the Assistant Secretary.

(f) *Bureau of Intelligence and Research.* (1) One Private Secretary.

(2) Director of Intelligence and Research.

(3) Deputy Director of Intelligence and Research.

(4) One Staff Assistant.

(g) *Bureau of Near Eastern and South Asian Affairs.* (1) Deputy Assistant Secretary.

(2) One Private Secretary to the Assistant Secretary.

(3) One Deputy Assistant Secretary.

(h) *Bureau of International Organization Affairs.* (1) Two Deputy Assistant Secretaries.

(2) One Private Secretary to the Assistant Secretary.

(3) One Special Assistant to the Assistant Secretary.
(4) One Special Assistant to the Assistant Secretary (Public Affairs).
(l) *Bureau of European Affairs.* (1) Deputy Assistant Secretary.
(2) One Private Secretary to the Assistant Secretary.
(3) Deputy Assistant Secretary (German and NATO Affairs).
(j) *Bureau of East Asian and Pacific Affairs.* (1) Deputy Assistant Secretary.
(2) One Private Secretary to the Assistant Secretary.
(3) Deputy Assistant Secretary for East Asian and Pacific Economic Affairs.
(4) [Reserved]
(5) One Special Assistant to the Assistant Secretary.
(6) One Staff Assistant.
(k) *Bureau of Inter-American Affairs.* (1) Deputy Assistant Secretary.
(2) One Private Secretary to the Assistant Secretary.
(3) [Reserved]
(4) One Special Assistant to the Assistant Secretary (Public Affairs).
(5) One Deputy Assistant Secretary for Inter-American Economic Affairs.
(6) Deputy Assistant Secretary (Social Development).
(7) Two Secretaries and Personal Assistants to the U.S. Representative to the Council of the Organization of American States.
(l) *Office of the Legal Adviser.* (1) One Deputy Legal Adviser.
(2) One Private Secretary to the Legal Adviser.
(m) *Executive Secretariat.* (1) [Reserved]
(2) Two Deputy Executive Secretaries.
(n) *Policy Planning Council.* (1) [Reserved]
(2) The Executive Secretary.
(3) Ten Members.
(4) and (5) [Reserved]
(6) One Staff Assistant.
(7) [Reserved]
(8) One Secretary and Personal Assistant to the Chairman.
(o) *Office of the Assistant Secretary for Administration.* (1) Deputy Assistant Secretary for Personnel.
(2) One Confidential Assistant to the Assistant Secretary.
(3) One Private Secretary to the Assistant Secretary for Administration.
(p) *Office of the Deputy Under Secretary for Administration.* (1) One Confidential Assistant to the Deputy Under Secretary.
(2) Chief, Special Liaison Staff.
(3) [Reserved]
(4) Three Special Liaison Assistants, Special Liaison Staff.
(5) The Deputy Assistant Secretary for Security.
(6) Two Special Assistants to the Deputy Under Secretary.
(7) Director, Office for Special Representational Services.
(8) Deputy Assistant Secretary for Community Advisory Services.
(9) The Chief of Protocol.
(10) Two Staff Assistants and one Private Secretary to the Chief of Protocol.
(q) *Office of the Deputy Under Secretary for Political Affairs.* (1) One Special Assistant to the Deputy Under Secretary.
(2) One Confidential Assistant to the Deputy Under Secretary.
(3) One Deputy Assistant Secretary for Political-Military Affairs.
(4) One Special Assistant to the Secretary and Coordinator of International Labor Affairs.
(r) *Bureau of African Affairs.* (1) Deputy Assistant Secretary.
(2) One Private Secretary to the Assistant Secretary.
(3) One Deputy Assistant Secretary for African Economic Affairs.
(4) One Special Assistant to the Assistant Secretary.
(5) One Staff Assistant to the Assistant Secretary.
(s) *Bureau of Educational and Cultural Affairs.* (1) One Private Secretary to the Assistant Secretary for Educational and Cultural Affairs.
(2) One Special Assistant.
(3) One Deputy Assistant Secretary.
(4) One Deputy Assistant Secretary for Plans.
(t) *Office of the Inspector General, Foreign Assistance.* (1) One Private Secretary to the Inspector General, Foreign Assistance.
(2) One Private Secretary to the Deputy Inspector General, Foreign Assistance.

§ 213.3305 Treasury Department.

(a) *Office of the Secretary.* (1) One Special Assistant to the Secretary.
(2)–(7) [Reserved]
(8) Assistant to the Secretary (National Security Affairs).
(9) Deputy Assistant Secretary (International Affairs).
(10) One Public Affairs Specialist.
(11)–(12) [Reserved]
(13) One Deputy Under Secretary for Monetary Affairs.
(14)–(15) [Reserved]
(16) One Staff Assistant to the Assistant to the Secretary (National Security Affairs).
(17) One Deputy Director, Office of Financial Analysis.
(18) [Reserved]
(19) One Special Assistant to the Secretary (for Enforcement).
(20) One Private Secretary to the Special Assistant to the Secretary (for Enforcement).
(21) Two Liaison Officers in the Office of the Special Assistant to the Secretary (for Enforcement).
(22)–(24) [Reserved]
(25) One Deputy Assistant to the Secretary (Debt Management).
(26) One Confidential Assistant to the Assistant to the Secretary (Public Affairs).
(27) One Congressional Liaison Officer.
(28) One Staff Assistant to the Under Secretary (Liaison Officer).
(29) One Deputy Assistant to the Secretary (National Security Affairs).
(30) One Staff Assistant to the Assistant to the Secretary (Congressional Relations).
(31) One Executive Assistant to the Special Assistant to the Secretary (for Enforcement).
(32) Deputy Special Assistant to the Secretary (for Enforcement).
(b) [Reserved]
(c) *Bureau of Customs.* (1) Commissioner of Customs.
(d) *U.S. Savings Bonds Division.* (1) [Reserved]
(2) One Staff Assistant to the National Director.

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* (1) One Special Assistant and two Private Secretaries to the Secretary of Defense.
(2) Two Private Secretaries to the Deputy Secretary of Defense and one Private Secretary to each of the following: the Director of Defense Research and Engineering; the Principal Deputy Director of Defense Research and Engineering; the Deputy Directors of Defense Research and Engineering (Tactical Warfare Programs), (Strategic and Space Systems), (Chemistry and Materials), (Electronics and Information Systems); the Director, Advanced Research Projects Agency; the Assistant Secretaries of Defense (Manpower), (International Security Affairs), (Public Affairs), (Installations and Logistics), (Administration), (Comptroller), and (Systems Analysis); the General Counsel; the Deputy General Counsel; the Assistant to the Secretary of Defense (Atomic Energy); and the Military Assistants to the Secretary of Defense.
(3) Three Chauffeurs for the Secretary of Defense.
(4) [Reserved]
(5) Two Confidential Assistants to the Assistant Secretary of Defense (International Security Affairs).
(6) The Defense Adviser to USRO in Paris, France.
(7) Two Private Secretaries to the Defense Adviser to USRO in Paris, France.
(8)–(9) [Reserved]
(10) One Deputy Assistant Secretary (International Security Affairs), Office of the Assistant Secretary of Defense for International Security Affairs.
(11) One Assistant to the Secretary of Defense (Legislative Affairs).
(12) One Private Secretary to the Assistant to the Secretary of Defense (Legislative Affairs).
(13) One Special Assistant to the Assistant to the Secretary of Defense (Legislative Affairs).
(14) One Personal Secretary to the Deputy Secretary of Defense.
(15) One Private Secretary to the Deputy Assistant Secretary (International Security Affairs), Office of the Assistant Secretary of Defense for International Security Affairs.
(16) Three Private Secretaries to the Special Assistant to the Secretary of Defense.
(17)–(21) [Reserved]
(22) One Confidential Assistant to the Special Assistant to the Secretary of Defense.
(23)–(25) [Reserved]
(26) One Congressional Liaison Officer (Civil Defense), Office of the Assistant to the Secretary of Defense (Legislative Affairs).
(27) [Reserved]
(28) One Staff Assistant to the Special Assistant to the Secretary of Defense.
(29) One Staff Assistant to the Director of Economic Utilization Policy, Office of the Assistant Secretary of Defense (Installations and Logistics).
(30) One Private Secretary to the Chairman, Joint Chiefs of Staff.
(31) [Reserved]
(32) One Confidential Assistant to the Assistant Secretary of Defense (Installations and Logistics).
(33)–(34) [Reserved]
(35) One Staff Assistant to the Deputy Assistant Secretary (Civil Rights and Industrial Relations).
(36) One Private Secretary to the Deputy Assistant Secretary (Civil Rights and Industrial Relations).
(37) [Reserved]
(38) One Private Secretary to the Director for Equal Employment Opportunity.
(39) One Staff Assistant to the Director for Equal Employment Opportunity.
(40) [Reserved]
(41) One Deputy Assistant Secretary (Near East, South Asia Affairs and MAP Policy Review), Office of the Assistant Secretary of Defense for International Security Affairs.
(42) [Reserved]
(43) Five Deputy Directors of Defense Research and Engineering and the Director, Advanced Research Projects Agency.
(44)–(45) [Reserved]
(46) One Private Secretary to the Deputy Assistant Secretary (Operations), Office of the Assistant Secretary of Defense (Public Affairs).
(47) [Reserved]
(48) One Principal Deputy Director of Defense Research and Engineering.
(49) One Private Secretary to the Deputy Assistant Secretary for Education and Manpower Resources, Office of the Assistant Secretary of Defense (Manpower).
(50) One Secretary to the Deputy Assistant Secretary of Defense (Manpower Planning and Research).
(51) One Private Secretary to the Deputy Assistant Secretary (Policy Planning and Far Eastern Affairs).
(52) Principal Deputy Assistant Secretary of Defense (Comptroller).
(b) *Court of Military Appeals.* (1) One Private Secretary and one Technical Assistant to each Judge of the Court.
(c) *Interdepartmental Programs.* (1) Two Personal Secretaries and Confidential Assistants to the Military Representatives of the President.
(2) Six Private Secretaries engaged in the interdepartmental activities of the Office of the Secretary of Defense.
(3) Two Staff Assistants.
(d) *Defense Supply Agency.* (1) One Confidential Assistant (Economic Utilization Policy) to the Director, Defense Supply Agency.

§ 213.3307 Department of the Army.

(a) *Office of the Secretary.* (1) One Private Secretary or Confidential Assistant to the Secretary, to the Under Secretary, and to each Assistant Secretary of the Army.
(2) [Reserved]
(3) The General Counsel.
(4)–(7) [Reserved]
(8) One Confidential Assistant to the Deputy Under Secretary of the Army—International Affairs.
(9)–(12) [Reserved]
(13) The Director of Civil Defense.
(b) *General.* (1) [Reserved]
(2) One Administrative Assistant and four Private Secretaries to the Military Aide to the President.

§ 213.3308 Department of the Navy.

(a) *Office of the Secretary.* (1) One Civilian Aide or Executive Assistant to the Secretary.
(2) Two Private or Confidential Secretaries to the Secretary and one to the Under Secretary and to each Assistant Secretary of the Navy.
(3) One Chauffeur for the Secretary of the Navy.
(4) One Confidential Secretary to the Civilian Aide to the Secretary of the Navy.
(5) One Private Secretary to the Naval Aide to the President.
(6) [Reserved]
(7) Four Civilian Aides or Executive Assistants to the Assistant Secretary (Installations and Logistics).
(8) Two Civilian Aides or Executive Assistants each to the Assistant Secretary (Research and Development) and the Assistant Secretary (Financial Management).
(9) One Confidential Assistant (Economic Utilization Policy) to the Assistant Secretary of the Navy (Installations and Logistics).

§ 213.3309 Department of the Air Force.

(a) *Office of the Secretary.* (1) One Special Assistant to the Secretary, and one Special Assistant to the Under Secretary, and to each Assistant Secretary of the Air Force.
(2) Six Private Secretaries. (For employment of Private Secretaries to Officials in the Office of the Secretary who are appointed by the President or are appointed under subparagraph (1) of this paragraph, and of one Private Secretary engaged in the interdepartmental activities of the Department.)
(3) The General Counsel.
(4)–(5) [Reserved]
(6) One Private Secretary to the General Counsel.

§ 213.3310 Department of Justice.

(a) *Office of the Attorney General.* (1)–(2) [Reserved]
(3) Three Private Secretaries to the Attorney General.
(4) One Chauffeur for the Attorney General.
(5) One Special Assistant for Public Relations.
(6) One Confidential Assistant to the Attorney General.
(7) Two Secretaries for the Attorney General.
(8) Two Receptionists for the Attorney General.
(9) One Confidential Assistant to the Attorney General.
(b) *Office of the Deputy Attorney General.* (1) Two Confidential Assistants (Private Secretaries) to the Deputy Attorney General.
(2)–(6) [Reserved]
(7) One Confidential Secretary to the Assistant Deputy Attorney General for Legal Administration.
(8) One Confidential Secretary to the Assistant Deputy Attorney General for Litigation.
(c) *Office of the Solicitor General.* (1)–(2) [Reserved]
(3) One Confidential Assistant (Private Secretary) to the Solicitor General.
(d) *Anti-Trust Division.* (1) [Reserved]
(2) Chief, General Litigation Section.
(3)–(7) [Reserved]
(8) Chief, Field Office (four positions).
(9) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.
(e) *Civil Division.* (1)–(9) [Reserved]
(10) Chief, Admiralty and Shipping Section, New York.
(11) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.
(12)–(13) [Reserved]
(14) One Private Secretary (interdepartmental activities).
(f) *Criminal Division.* (1)–(8) [Reserved]
(9) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.
(g) *Tax Division.* (1)–(4) [Reserved]
(5) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.
(h) *Land and Natural Resources Division.* (1)–(3) [Reserved]
(4) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.
(5)–(6) [Reserved]
(7) Chief, General Litigation Section.
(i) [Reserved]
(j) *Immigration and Naturalization Service.* (1) [Reserved]
(2) One Confidential Assistant (Private Secretary) to the Commissioner.
(k) *Board of Immigration Appeals* (1) Executive Assistant.
(2) [Reserved]
(3) Four Members of the Board.
(l) *Office of Legal Counsel.* (1) One Confidential Assistant (Private Secretary) to the Attorney General.
(m) *Bureau of Prisons.* (1) The Director.
(n) *Federal Prison Industries, Inc.* (1) The Commissioner of Industries.
(o) *Office of U.S. Attorney.* (1) Secretary and Confidential Assistant to the U.S. Attorney (10 positions).
(p) *Internal Security Division.* (1)–(3) [Reserved]
(4) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.

(5) [Reserved]
(6) Chief, Civil Section.
(7) Chief, Foreign Agents Registration section.
(8) Chief, Criminal Section.
(q) *Civil Rights Division.* (1)–(2) [Reserved]
(3) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.
(r) *Community Relations Service.* (1)–(7) [Reserved]
(8) Two Private Secretaries to the Director.
(9) One Private Secretary to the Deputy Director.
(10) One Private Secretary to the Associate Director for Conciliation and Field Services.
(11) [Reserved]
(12) One Private Secretary to the Special Assistant to the Director.

§ 213.3311 Post Office Department.

(a) *Office of the Postmaster General.* (1) [Reserved]
(2) Four Special Assistants to the Postmaster General.
(3) One Receptionist.
(4) Four Assistants to the Executive Assistant to the Postmaster General.
(5) Two Confidential Assistants to the Postmaster General.
(6) Two Secretaries to the Executive Assistant to the Postmaster General.
(7) One Secretarial Assistant to the Postmaster General.
(8) One Confidential Administrative Assistant to the Postmaster General.
(9) One Private Secretary to each of the three Assistants to the Executive Assistant to the Postmaster General.
(10) One Administrative Assistant to the Executive Assistant to the Postmaster General.
(11) [Reserved]
(12) One Confidential Assistant to the Special Assistant to the Postmaster General (Information).
(13) One Private Secretary to the Special Assistant to the Postmaster General (Information).
(14)–(15) [Reserved]
(16) One Director of Community Programs.
(17) One Private Secretary to the Deputy Executive Assistant to the Postmaster General.
(18) One Special Assistant to the Director, Office of Regional Administration.
(19) One Director, Office of Research and Engineering.
(b) *Bureau of Facilities.* (1) One Confidential Assistant to the Assistant Postmaster General.
(2) One Private Secretary to the Assistant Postmaster General.
(3) [Reserved]
(4) One Private Secretary to the Deputy Assistant Postmaster General.
(5)–(6) [Reserved]
(7) One Private Secretary to the Executive Assistant to the Assistant Postmaster General.
(8) One Deputy Assistant Postmaster General.
(9) [Reserved]
(10) One Special Assistant to the Assistant Postmaster General (Financial Affairs).
(c) *Bureau of Transportation.* (1) One Special and Confidential Assistant to the Assistant Postmaster General.
(2) One Information Specialist.
(3) One Private Secretary to the Assistant Postmaster General.
(4) One Deputy Assistant Postmaster General.
(5) One Executive Assistant to the Assistant Postmaster General.
(d) *Bureau of Personnel.* (1) One Private Secretary to the Assistant Postmaster General.
(e) *Office of the General Counsel.* (1) Two Private Secretaries to the General Counsel.
(f) *Bureau of Operations.* (1) One Confidential Assistant to the Assistant Postmaster General.
(2) [Reserved]
(3) One Private Secretary to the Assistant Postmaster General.
(4) [Reserved]
(5) One Private Secretary to each of two Deputy Assistant Postmasters General.
(g) *Bureau of Finance.* (1) One Confidential Assistant to the Assistant Postmaster General.
(2) One Special Representative to the Assistant Postmaster General.
(3) One Private Secretary to the Assistant Postmaster General.
(h) *Office of the Deputy Postmaster General.* (1) [Reserved]
(2) One Confidential Administrative Assistant to the Deputy Postmaster General.
(3) Two Private Secretaries to the Deputy Postmaster General.
(4) One Private Secretary to the Executive Assistant to the Deputy Postmaster General.
(5) [Reserved]
(6) One Staff Assistant to the Deputy Postmaster General.
(7) One Special Assistant.

§ 213.3312 Department of the Interior.

(a) *Office of the Secretary.* (1) [Reserved]
(2) One Confidential Assistant and one Private Secretary to the Secretary.
(3) Three Special Assistants to the Secretary.
(4) Six Confidential Assistants (Field Representatives).
(5) Chauffeur for the Secretary.
(6)–(7) [Reserved]
(8) One Deputy Assistant Secretary (for Fish and Wildlife); and one Confidential Assistant (Administrative Assistant) to each of the four Assistant Secretaries for Mineral Resources, Public Land Management, Water and Power Development, and Fish and Wildlife.
(9) Director, Resources Program Staff.
(10) Assistant Director, Resources Program Staff.
(11) Planning Reports Review Coordinator, Resources Program Staff.
(12) One Confidential Assistant (Administrative Assistant) to the Director, Resources Program Staff.
(13) One Private Secretary to the Under Secretary.
(14)–(15) [Reserved]
(16) One Secretarial Attendant to the Secretary.
(17)–(22) [Reserved]
(23) One Staff Assistant to the Assistant Secretary for Public Land Management.
(24) One Assistant to the Secretary (International Affairs).
(25)–(26) [Reserved]
(27) One Special Assistant to the Secretary (Liaison-International Atomic Energy Agency).
(28) One Assistant and Science Adviser to the Secretary.
(29) [Reserved]
(30) One Confidential Assistant to the Assistant Secretary for Water Pollution Control.
(b) *Office of the Solicitor.* (1) One Confidential Assistant to the Solicitor.
(2) Two Special Assistants to the Solicitor.
(c) *U.S. Fish and Wildlife Service.* (1) One Special Assistant to the Commissioner of Fish and Wildlife.
(d) *Bureau of Mines.* (1) One Private Secretary to the Director.
(e) [Reserved]
(f) *Bureau of Reclamation.* (1) [Reserved]
(2) One Assistant Commissioner.
(g) *Southeastern Power Administration.* (1) [Reserved]
(2) One Private Secretary to the Administrator.
(h) *National Park Service.* (1) Director.
(2) One Private Secretary to the Director.
(3) One Assistant Director.
(i) *Bonneville Power Administration.* (1) Administrator.
(2) One Private Secretary to the Administrator.
(3) One Special Assistant to the Administrator.
(4) Two Assistants to the Administrator.
(j) *Bureau of Indian Affairs.* (1) Three Assistants to the Commissioner.
(2) One Private Secretary to the Commissioner.
(k) *Southwestern Power Administration.* (1) Administrator.
(2) Assistant Administrator.
(3) One Confidential Secretary, Office of the Administrator.
(l) *Office of Territories.* (1) [Reserved]
(2) One Confidential Assistant to the Director.
(3)–(4) [Reserved]
(5) One Secretary of American Samoa.
(6) One Chief Justice of American Samoa.
(7) [Reserved]
(8) One Private Secretary to the Governor of Virgin Islands.
(9) One Administrative Assistant to the Governor of Virgin Islands.
(10) [Reserved]
(11) One Confidential Assistant to the Governor of American Samoa.
(12) One Secretary to the Government Secretary of American Samoa.

(13) One Private Secretary to the Governor of Guam.
(14) One Secretary to the Government Secretary of Guam.
(15) Chief Justice of the Trust Territory.
(16) One Secretary to the High Commissioner of the Trust Territory.
(17) One Secretary to the Deputy High Commissioner of the Trust Territory.
(m) *Bureau of Outdoor Recreation.* (1) The Director.
(2) [Reserved]
(3) One Confidential Assistant to the Director.
(n) *Federal Water Pollution Control Administration.* (1) Commissioner.

§ 213.3313 Department of Agriculture.

(a) *Office of the Secretary.* (1) One Administrative Assistant to the Secretary.
(2) One Assistant to the Secretary (States Relations).
(3)–(4) [Reserved]
(5) Four Confidential Assistants to the Secretary.
(6) One Private Secretary to the Secretary.
(7) Two Chauffeurs for the Secretary.
(8) One Private Secretary and Administrative Assistant to the Executive Assistant to the Secretary.
(9) One Confidential Assistant to the Assistant Secretary for Marketing and Consumers' Services.
(10) One Private Secretary to each of the three Assistant Secretaries other than the Administrative Assistant Secretary.
(11) [Reserved]
(12) One Special Assistant to the Secretary.
(13)–(19) [Reserved]
(20) One Confidential Assistant to the Assistant Secretary for Rural Development and Conservation.
(21) [Reserved]
(22) One Confidential Assistant to the Executive Assistant to the Secretary.
(b) *Rural Electrification Administration.* (1) One Private Secretary to the Administrator.
(2)–(3) [Reserved]
(4) Three Assistants to the Administrator.
(c) *Offices of the Under Secretary.* (1) One Administrative Officer and Private Secretary to the Under Secretary.
(2) One Deputy Under Secretary.
(3) One Private Secretary to the Deputy Under Secretary.
(d) *Office of the General Counsel.* (1)–(2) [Reserved]
(3) One Private Secretary to the General Counsel.
(e) *Foreign Agricultural Service.* (1) [Reserved]
(2) The Administrator.
(f) *Farmers Home Administration.* (1)–(2) [Reserved]
(3) One Assistant to the Administrator.
(4) Two Confidential Assistants to the Administrator.
(5) One Private Secretary to the Administrator.
(g) *Federal Crop Insurance Corporation.* (1) The Manager.
(2) Members of the Board of Directors.
(3) One Private Secretary to the Manager.
(h) *Agricultural Stabilization and Conservation Service.* (1) Administrator.
(2)–(3) [Reserved]
(4) Four Confidential Assistants to the Administrator.
(5) One Private Secretary to the Administrator.
(i) *Commodity Credit Corporation.* (1) The President.
(2) The Executive Vice-President.
(3) The Secretary.
(j) *Federal Extension Service.* (1)–(2) [Reserved]
(3) One Private Secretary to the Administrator.
(k) *Soil Conservation Service.* (1) Administrator.
(2) [Reserved]
(3) One Confidential Assistant to the Administrator.
(4) One Private Secretary to the Administrator.
(l) [Reserved]
(m) *Consumer and Marketing Service.* (1) The Administrator.
(2) One Private Secretary to the Administrator.
(3) Two Confidential Assistants to the Administrator.
(n) *Agricultural Economics.* (1) The Director.
(2) One Confidential Assistant to the Director.
(3) One Private Secretary to the Director.
(4) One Staff Assistant to the Director.
(o) *Rural Community Development Service.* (1)–(2) [Reserved]
(3) One Private Secretary to the Administrator.
(4) One Private Secretary to the Deputy Administrator.
(p) *Science and Education.* (1) The Director.

§ 213.3314 Department of Commerce.

(a) *Office of the Secretary.* (1) Six Confidential Assistants to the Secretary.
(2) Three Private Secretaries to the Secretary.
(3) One Confidential Assistant and two Private Secretaries to the Under Secretary.
(4) One Confidential Assistant and one Private Secretary to the Under Secretary for Transportation.
(5) One Confidential Assistant and one Private Secretary to the Assistant Secretary for Economic Affairs.
(6) One Confidential Assistant and one Private Secretary to the General Counsel.
(7) One Private Secretary to the Deputy Under Secretary for Transportation.
(8) [Reserved]
(9) One Private Secretary to the Deputy General Counsel.
(10) [Reserved]
(11) One Chauffeur for the Secretary.
(12) [Reserved]
(13) One Private Secretary to the Deputy Assistant Secretary for Economic Affairs.
(14) One Confidential Assistant to the Assistant Secretary for Administration.
(15) Two Congressional Liaison Officers.
(16)–(18) [Reserved]
(19) One Special Assistant to the Director, Office of Field Services.
(20) One Private Secretary to the Director, Office of Field Services.
(21) [Reserved]
(22) Deputy Director, Office of Emergency Transportation.
(23)–(25) [Reserved]
(26) One Special Assistant to the Secretary (Economic Affairs).
(27) and (28) [Reserved]
(29) One Confidential Assistant to the Under Secretary for Transportation.
(30) [Reserved]
(31) Deputy Assistant Secretary for Statistics and Economic Research, Office of the Assistant Secretary for Economic Affairs.
(32)–(35) [Reserved]
(36) One Private Secretary to the Assistant to the Under Secretary.
(37) [Reserved]
(38) One Deputy Under Secretary for Transportation.
(39) [Reserved]
(40) One Private Secretary to the Administrator, National Highway Safety Agency.
(b) [Reserved]
(c) *Business and Defense Services Administration.* (1) Administrator.
(2) Three Confidential Assistants to the Administrator.
(3) [Reserved]
(4) One Confidential Assistant to the Deputy Administrator.
(5) One Secretarial Assistant to the Administrator.
(6) and (7) [Reserved]
(8) One Confidential Secretary to the Administrator.
(d) *Bureau of Census.* (1) [Reserved]
(2) One personal assistant to the Director.
(e) [Reserved]
(f) *National Bureau of Standards.* (1) One Private Secretary to the Director.
(g) *Bureau of Public Roads.* (1) [Reserved]
(2) Four Special Assistants to the Federal Highway Administrator.
(3) One Private Secretary to the Federal Highway Administrator.
(4) One Private Secretary to the Solicitor.
(5) The Deputy Federal Highway Administrator.
(h) *Patent Office.* (1) Private Secretary to the Commissioner, and to each of the Assistant Commissioners.
(2) [Reserved]
(3) One Confidential Secretary to the Chairman of the President's Commission on the Patent System.
(i) [Reserved]
(j) *Maritime Administration.* (1) [Reserved]

(2) Two Confidential Assistants to the Administrator.

(3) One Private Secretary to the General Counsel.

(k) [Reserved]

(l) *U.S. Travel Service.* (1) One Confidential Assistant to the Director.

(2) [Reserved]

(3) One Private Secretary to the Deputy Director.

(m) *Office of the Assistant Secretary for Domestic and International Business.* (1) One Private Secretary and two Confidential Assistants to the Assistant Secretary for Domestic and International Business.

(2) [Reserved]

(3) One Private Secretary to the Deputy Assistant Secretary for Domestic Business Policy.

(4)–(5) [Reserved]

(6) One Private Secretary to the Deputy Assistant Secretary for Trade Policy.

(7) One Private Secretary to the Deputy Assistant Secretary for Financial Policy.

(8)–(9) [Reserved]

(10) One Private Secretary to the Director, Bureau of International Commerce.

(11) One Private Secretary to the Deputy Director, Bureau of International Commerce.

(n) *Office of the Assistant Secretary for Science and Technology.* (1) [Reserved]

(2) Two Special Assistants to the Assistant Secretary for Science and Technology.

(3) [Reserved]

(4) One Private Secretary to the Director, Office of State Technical Services.

(o) [Reserved]

(p) *Environmental Science Services Administration.* (1) One Private Secretary to the Administrator.

(2) One Private Secretary to the Deputy Administrator.

(q) *Office of the Assistant Secretary for Economic Development.* (1)–(8) [Reserved]

(9) One private secretary to the Assistant Secretary for Economic Development.

(10)–(16) [Reserved]

(17) One private secretary to the Program Coodinator.

(18)–(20) [Reserved]

(21) One Director, Office of Business Development, Economic Development Administration.

(22)–(25) [Reserved]

(26) One special assistant to the Deputy Assistant Secretary for Economic Development.

(27) [Reserved]

(28) One Assistant to the Deputy Assistant Secretary for Policy Coordination.

(29)–[Reserved]

(30) One Executive Assistant to the Deputy Assistant Secretary for Economic Development Planning.

(31) [Reserved]

(32) One Special Assistant to the Deputy Assistant Secretary for Economic Development Operations.

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.* (1) Four Special Assistants, two Confidential Assistants, and one Confidential Assistant (Private Secretary) to the Secretary of Labor.

(2) One Chauffeur for the Secretary of Labor.

(3) One Special Assistant and one Private Secretary to the Under Secretary of Labor.

(4) One Private Secretary to each Assistant Secretary of Labor who is appointed by the President.

(5) One Private Secretary to the Secretary.

(6) Two Confidential Assistants to the Under Secretary of Labor.

(7) One Confidential Assistant to the Assistant Secretary.

(8) [Reserved]

(9) One Special Assistant to the Secretary.

(10) One Assistant to each Assistant Secretary of Labor appointed by the President.

(11) One Special Assistant to the Assistant Secretary for Labor-Management Relations.

(12) One Private Secretary to the Executive Assistant to the Secretary.

(13) One Confidential Assistant to the Assistant Secretary for International Labor Affairs.

(14) One Assistant to the Special Assistant to the Secretary, Office of Legislative Liaison.

(15) One Economic Adviser to the Secretary.

(16) [Reserved]

(17) The Manpower Administrator.

(18) The Labor-Management Services Administrator.

(19) [Reserved]

(20) One Private Secretary to the Economic Adviser to the Secretary.

(21) One Private Secretary to the Manpower Administrator.

(22) [Reserved]

(23) One Private Secretary to the Associate Manpower Administrator for Policy, Evaluation, and Research.

(24) [Reserved]

(25) One Confidential Assistant to the Assistant Secretary for Manpower.

(b) *Office of the Solicitor.* (1) One Private Secretary to the Solicitor.

(c) *Bureau of Employment Security.* (1) The Administrator.

(2) One Secretary (Stenography) in the Office of the Administrator.

(d) *Bureau of Labor Statistics.* (1) One Private Secretary to the Commissioner.

(e) *Bureau of Apprenticeship and Training.* (1) [Reserved]

(2) One Private Secretary to the Administrator.

(f) *Women's Bureau.* (1) One Private Secretary to the Director.

(2) Two Special Assistants to the Director.

(g) *Bureau of Labor Standards.* (1) [Reserved]

(2) One Private Secretary to the Director.

(3) One Confidential Assistant to the Director.

(h) *Wage and Hour and Public Contracts Divisions.* (1) [Reserved]

(2) One Confidential Assistant to the Administrator.

(i)–(j) [Reserved]

(k) *President's Committee on Migratory Labor.* (1) The Executive Director.

§ 213.3316 Department of Health, Education, and Welfare.

(a) *Office of the Secretary.* (1) Director of Security.

(2) Two Confidential Assistants to the Secretary.

(3) Publications Writer.

(4) One Assistant to the Secretary.

(5) [Reserved]

(6) Two Confidential Secretaries to the Under Secretary.

(7) [Reserved]

(8) One Congressional Liaison Officer.

(9) One Assistant to the Congressional Liaison Officer.

(10) One Confidential Assistant to the Under Secretary.

(11) [Reserved]

(12) One Confidential Secretary to the Assistant to the Secretary authorized under subparagraph (7) of this paragraph.

(13) One Staff Assistant to the Secretary.

(14) One Confidential Secretary to each of the Assistants to the Secretary authorized under subparagraph (4) of this paragraph.

(15)–(20) [Reserved]

(21) Two Confidential Secretaries to the Special Assistant to the Secretary (for Mental Retardation Activities).

(22) [Reserved]

(23) One Assistant to the Secretary for Special Programs.

(24) [Reserved]

(25) One Confidential Assistant to the Special Assistant to the Secretary (for Mental Retardation Activities).

(26)–(29) [Reserved]

(30) Two Confidential Assistants to the Special Assistant to the Secretary (for Civil Rights).

(31) One Confidential Secretary to the Special Assistant to the Secretary (for Civil Rights).

(b) *Vocational Rehabilitation Administration.* (1) Commissioner of Vocational Rehabilitation.

(c) *Office of Education.* (1) One Special Assistant to the Commissioner of Education.

(2) One Assistant to the Commissioner (Public Affairs).

(3) [Reserved]

(4) One Assistant to the Deputy Commissioner.

(5) One Staff Assistant to the Deputy Commissioner.

(6) One Confidential Secretary to the Deputy Commissioner.

(d) *Office of the Assistant Secretary for Federal-State Relations.* [Reserved]

(e) [Reserved]

(f) *Office of the Assistant Secretary for Legislation.* (1) Four Special Assistants to the Assistant Secretary.

(2)–(3) [Reserved]

(4) One Confidential Secretary to the Deputy Assistant Secretary for Legislation.

(5) [Reserved]

(6) One Deputy Assistant Secretary for Legislative Services.

(7) Two Confidential Secretaries to the Assistant Secretary.

(g) *Welfare Administration.* (1) The Commissioner.

(h) *Office of the Assistant Secretary for Health and Scientific Affairs.* (1) Two Confidential Secretaries to the Assistant Secretary for Health and Scientific Affairs.

(2) [Reserved]

(3) One Confidential Secretary to the Deputy Assistant Secretary for Health and Scientific Affairs.

(4) One Confidential Assistant to the Assistant Secretary for Health and Scientific Affairs.

(i) *Administration on Aging.* (1) [Reserved]

(2) Two Confidential Secretaries to the Commissioner on Aging.

(j) *Office of the Assistant Secretary for Education.* (1)–(5) [Reserved]

(6) One Deputy Assistant to the Assistant Secretary for Education (Educational Television).

(7) Two Confidential Secretaries to the Assistant Secretary.

(k) *Office of the Assistant Secretary for Program Coordination.* (1) Two Confidential Secretaries to the Assistant Secretary.

(l) *Social Security Administration.* (1) One Deputy Commissioner.

(2) One Confidential Assistant to the Commissioner.

(m) [Reserved]

(n) *Office of the Assistant Secretary for Individual and Family Services.* (1) Two Confidential Secretaries to the Assistant Secretary for Individual and Family Services.

(o) *Social and Rehabilitation Service.* (1)–(3) [Reserved]

(4) Administrator, Social and Rehabilitation Service.

§ 213.3322 Interstate Commerce Commission.

(a) One Confidential Assistant to each Commissioner.

(b)–(c) [Reserved]

(d) One Confidential Assistant to the Managing Director.

§ 213.3325 The Tax Court of the United States.

(a) One Private Secretary and two Technical Assistants for each Judge and one Technical Assistant for the Chief Judge.

§ 213.3326 Office of Emergency Planning.

(a) *Office of the Director.* (1) Two Administrative Assistants to the Director.

(2) One Courier.

(3) Two Special Assistants to the Director.

(4) Legal Adviser.

(5) [Reserved]

(6) Director of Information.

(b) *Office of the Deputy Director.* (1) One Confidential Administrative Assistant to the Deputy Director.

(2) One Secretary to the Deputy Director.

(c) *Office of the Assistant Director for Telecommunications Management.* (1) One Confidential Administrative Assistant to the Assistant Director.

(d) *Office of the Assistant Director.* (1) One Confidential Administrative Assistant to the Assistant Director.

(2) One Special Assistant to the Assistant Director.

(e) *Office of the Assistant Director.* (1) One Confidential Administrative Assistant to the Assistant Director.

(f) *Office of Liaison and Public Affairs.* (1) The Director.

(g) and (h) [Reserved]

(i) *Program Development Office.* (1) The Director.

(j) *Government Readiness Office.* (1) The Director.

(2) Coordinator, National Defense Executive Reserve.

(k) [Reserved]

(l) *Resource Readiness Office.* (1) The Director.

(m) [Reserved]

(n) *Program Evaluation Office.* (1) The Director.

(o) *National Resource Analysis Center.* (1) Director.

§ 213.3327 Veterans Administration.

(a) *Office of the Administrator.* (1) [Reserved]

(2) Two Confidential Assistants to the Special Assistant to the Administrator.

(3) The Deputy Administrator.

(4) The General Counsel.

(5) The Associate Deputy Administrator.

(6)–(7) [Reserved]

(8) One Confidential Assistant to the Associate Deputy Administrator.

(b) *Department of Veterans Benefits.* (1) The Chief Benefits Director.

§ 213.3328 U.S. Information Agency.

(a) One Secretarial Assistant to the Deputy Director.

(b) [Reserved]

(c) One Secretarial Assistant to the Director.

(d) One Secretary to the Director.

(e) One Special Assistant to the Deputy Director.

(f) One Special Assistant to the Director.

§ 213.3329 Federal Power Commission.

(a) Three Private Secretaries in the Office of the Chairman, one Confidential Assistant to the Chairman, and one Private Secretary, and one Confidential Assistant to each other Commissioner.

(b) One Assistant to the Chairman.

(c)–(d) [Reserved]

(e) Two Private Secretaries to the Executive Director.

(f) Two Technical Assistants to each Commissioner.

(g)–(h) [Reserved]

(i) The Assistant Executive Director.

§ 213.3330 Securities and Exchange Commission.

(a)–(c) [Reserved]

(d) One Confidential Assistant to each Member of the Commission (five positions).

§ 213.3331 National Mediation Board.

(a) One Private Secretary to each Member of the National Railroad Adjustment Board.

(b) One Private Secretary to each Member of the Third Division Regional Supplemental Railroad Adjustment Board (10 positions).

(c) One Private Secretary to each member of the First Division, Firemen's Supplemental Adjustment Board, National Railroad Adjustment Board.

§ 213.3332 Small Business Administration.

(a) One Deputy Administrator, the Associate Administrator for Investment, the Associate Administrator for Financial Assistance, and the Associate Administrator for Procurement and Management Assistance.

(b)–(d) [Reserved]

(e) and (f) [Reserved]

(g) [Reserved]

(h) Two Special Assistants to the Administrator.

(i) Two Private Secretaries to the Administrator.

(j)–(w) [Reserved]

(x) Special Assistant for Equal Employment Opportunity.

(y)–(gg) [Reserved]

(hh) Three Congressional Relations Officers.

(ii) Director, Office of Congressional Relations.

(jj) One Special Assistant to the Administrator for Advisory Councils.

(kk) One Special Assistant to the Associate Administrator for Investment.

§ 213.3333 Federal Deposit Insurance Corporation.

(a) One Assistant to each member of the Board of Directors.

(b) One Confidential Assistant to the Board of Directors.

(c) General Counsel.

(d) One Special Assistant to the Chairman.

(e) Executive Assistant and Controller.

(f) [Reserved]

(g) Assistant to the Board of Directors.

(h) One Managerial Aide to the Director (Appointive).

(i) One Special Assistant to the Director (Appointive).

§ 213.3337 General Services Administration.

(a) *Office of the Administrator.* (1) Six Members of the Board of Contract Appeals.

(2) The Deputy Administrator.

(3) One Special Assistant to the Administrator.

(4) [Reserved]

(5) The Assistant Administrator.

(6) Two Confidential Assistants to the Assistant Administrator.

(7)–(8) [Reserved]

(9) One Confidential Assistant to the Deputy Administrator.

(10) [Reserved]

(b) *Public Buildings Service.* (1) The Commissioner.

(c) *Federal Supply Service.* (1) The Commissioner.

(d) *National Archives and Records Service.* (1) The Archivist of the United States.

(e)–(g) [Reserved]

(h) *Property Management and Disposal Service.* (1) Commissioner.

(i) *National Advisory Council on Economic Opportunity.* (1) One Special Assistant to the Chairman.

§ 213.3339 U.S. Tariff Commission.

(a) One Private Secretary to each Commissioner.

§ 213.3340 Civil Aeronautics Board.

(a)–(f) [Reserved]

(g) One Administrative Assistant to each Member of the Board.

(h) One Secretary to each Member of the Board.

§ 213.3341 National Labor Relations Board.

(a) One Private Secretary to the Chairman of the Board.

(b)–(c) [Reserved]

(d) One Confidential Assistant to each Board Member.

(e)–(f) [Reserved]

(g) Two Special Assistants to the General Counsel.

(h) One Confidential Assistant to the General Counsel.

§ 213.3342 Export-Import Bank of Washington.

(a) [Reserved]

(b) One Confidential Assistant to the President.

(c) One Private Secretary to the First Vice-President.

(d) [Reserved]

(e) One Private Secretary to each of the three members of the Board of Directors.

(f)–(h) [Reserved]

(i) One Special Assistant to the President and Chairman.

§ 213.3343 Farm Credit Administration.

(a) Three Directors of Credit Services.

(b)–(c) [Reserved]

(d) One Deputy Director of Credit Service.

§ 213.3344 Housing and Home Finance Agency.

(a) *Office of the Administrator.* (1)–(10) [Reserved]

(11) One Confidential Assistant to the Commissioner, Urban Renewal Administration.

(12)–(17) [Reserved]

(18) One Private Secretary to the Assistant Administrator (Community Programs).

(19) Deputy Assistant Administrator (Housing for Senior Citizens).

(20)–(22) [Reserved]

(23) One Executive Assistant to the Commissioner, Urban Renewal Administration.

(24)–(39) [Reserved]

(40) One Secretary and Confidential Assistant to the Assistant Administrator (Metropolitan Development).

(41) One Special Assistant to the Commissioner, Urban Renewal Administration.

(b) [Reserved]

(c) *Public Housing Administration.* (1) One Special Assistant to the Commissioner (Liaison).

(2) and (7) [Reserved]

(8) One Assistant Commissioner for Program Planning.

§ 213.3345 Indian Claims Commission.

(a) One Private Secretary to each Commissioner.

§ 213.3348 National Aeronautics and Space Administration.

(a) One Secretary to the Administrator.

(b) One Secretary to the Deputy Administrator.

(c) [Reserved]

(d) One Secretary to each of the following: The Associate Administrator for Manned Space Flight, the Associate Administrator for Advanced Research and Technology, and the Associate Administrator for Space Science and Applications.

(e) and (f) [Reserved]

(g) Associate Administrator.

(h) Associate Administrator for Advanced Research and Technology.

(i) Associate Administrator for Space Science and Applications.

(j) Associate Administrator for Manned Space Flight.

(k) Associate Deputy Administrator.

(l) Deputy Associate Administrator.

(m) General Counsel.

(n) [Reserved]

(o) One Special Assistant to the Director, Office of Manned Space Flight Field Center Development.

(p) One Staff Assistant to the Administrator.

(q) One Secretary to the Associate Administrator.

§ 213.3350 Foreign Claims Settlement Commission of the United States.

(a) Special Assistant to the Commissioners.

(b) One Confidential Assistant to the Chairman.

(c) One Private Secretary to the Chairman and to each of the other two Commissioners.

§ 213.3351 Subversive Activities Control Board.

(a) One Executive Secretary and Chief Clerk.

(b) One Private Secretary to each Member of the Board.

(c) One Confidential Administrative Assistant to each Member of the Board.

§ 213.3352 St. Lawrence Seaway Development Corporation.

(a) One Private Secretary to the Administrator.

(b) One Special Assistant to the Administrator.

§ 213.3354 Federal Home Loan Bank Board.

(a)–(d) [Reserved]

(e) Two Secretaries to the Chairman of the Board.

(f) Two Secretaries to Board Members.

(g)–(l) [Reserved]

(m) One Assistant to each of three Board Members (including the Chairman).

(n) One Private Secretary to the Assistant to each of three Board Members (including the Chairman).

§ 213.3355 The Renegotiation Board.

(a) One Special Assistant to the Chairman and one Special Assistant to each of the other four Renegotiation Board Members.

(b) One Secretary to the Chairman.

(c) One Secretary to each of the four Board Members.

§ 213.3356 Commission on Civil Rights.

(a)–(b) [Reserved]

(c) One Confidential Secretary to the Staff Director.

(d) One Program Assistant (Special Assistant to the Staff Director).

(e)–(f) [Reserved]

(g) One Special Assistant to the Staff Director.

§ 213.3357 Federal Aviation Agency.

(a) One Assistant to the Chief, Congressional Relations Division.

(b)–(c) [Reserved]

(d) One Private Secretary to the Administrator.

(e)–(i) [Reserved]

(j) Assistant Administrator for Congressional Liaison.

(k) One Congressional Liaison Specialist.

§ 213.3364 U.S. Arms Control and Disarmament Agency.

(a) One Private Secretary to the Director.

(b) One Private Secretary to the Deputy Director.

(c) One Private Secretary to each Assistant Director appointed by the President (four positions).

(d) One Public Affairs Adviser.

(e)–(f) [Reserved]

(g) The General Counsel.

(h) One Private Secretary to the General Counsel.

§ 213.3367 Federal Maritime Commission.

(a) One Confidential Assistant to each Commissioner.

(b)–(c) [Reserved]

(d) One Private Secretary to the Chairman, one Private Secretary to each Commissioner, one Private Secretary to the General Counsel, and one Private Secretary to the Managing Director.

§ 213.3368 Agency for International Development.

(a) *Office of the Administrator.* (1) Three Special Assistants to the Administrator.

(2) One Confidential Assistant (Private Secretary) to the Administrator.

(3) One Chauffeur for the Administrator.

(4) One Private Secretary to each of the two Deputy Administrators.

(b) *Office of the Director, Congressional Liaison Staff.* (1) One Staff Assistant to the Director.

(2) One Private Secretary to the Director.

(3) Four Congressional Liaison Officers.

(4) One Staff Assistant (Congressional Liaison).

(c) *Office of the General Counsel.* (1) One Private Secretary to the General Counsel.

(2) The General Counsel.

(d) *Office of the Assistant Administrator for Development Finance and Private Enterprise.* (1) One Special Assistant (Confidential) to the Assistant Administrator.

§ 213.3371 President's Committee on Consumer Interests.

(a) One Confidential Assistant.

(b) The Executive Director.

(c) One Congressional Liaison Specialist.

(d) One Public Affairs Officer.

§ 213.3372 Administrative Office of the U.S. Courts.

(a) One Assistant Director.

§ 213.3373 Office of Economic Opportunity.

(a) *Office of the Director.* (1) One Executive Secretary.

(2)–(6) [Reserved]

(7) One Assistant Director for Research, Plans, Programs, and Evaluation.

(8) [Reserved]

(9) Executive Adviser (Programs).

(10) Special Assistant to the Deputy Director.

(11) One Confidential Assistant to the Director.

(12) One Confidential Secretary and one Private Secretary to the Director.

(13) [Reserved]

(14) Deputy Assistant Director for Congressional Relations.

(b) *Community Action Program.* (1) One Associate Director for Program Planning.

§ 213.3374 Smithsonian Institution.

(a) One Confidential Executive Assistant to the Secretary.

§ 213.3376 Appalachian Regional Commission.

(a) One Special Assistant to the Federal Cochairman and one Special Assistant to his Alternate.

(b) One Private Secretary to the Federal Cochairman and one Private Secretary to his Alternate.

§ 213.3377 Equal Employment Opportunity Commission.

(a) Two Special Assistants to the Chairman.

(b)–(c) [Reserved]

(d) One Special Assistant and one Secretary to each Member of the Commission.

(e) Two Secretaries to the Chairman.

(f) One Secretary to the Special Assistant to the Chairman.

§ 213.3384 Department of Housing and Urban Development.

(a) *Office of the Secretary.* (1) One Deputy Under Secretary for Policy Analysis and Program Evaluation.

(2) Two positions of Confidential Assistant and Private Secretary to the Secretary.

(3) One Private Secretary to the Under Secretary.

(4)–(5) [Reserved]

(6) One Assistant to the Under Secretary.

(7) One Private Secretary to the Deputy Under Secretary for Policy Analysis and Program Evaluation.

(8) One Private Secretary to the General Counsel.

(9) One Executive Secretary.

(10) [Reserved]

(11) One Administrative Assistant to the Secretary.

(12) President, Federal National Mortgage Association.

(13) Two Special Assistants to the Under Secretary.

(14) Three Congressional Liaison Assistants.

(15) One Secretary to the Assistant for Congressional Services.

(16) One Special Assistant to the Under Secretary.

(17) Two Special Assistants to the Secretary.

(18)–(22) [Reserved]

(23) One Special Assistant to the Director of Public Affairs.

(24) [Reserved]

(25) One Deputy Director, Division of International Affairs.

(b) *Office of the Assistant Secretary for Mortgage Credit and Federal Housing Commissioner.* (1) One Private Secretary to the Assistant Secretary.

(2) [Reserved]

(3) One Director, Congressional Liaison.

(4)–(8) [Reserved]

(9) Deputy Assistant Secretary for Mortgage Credit.

(10)–(11) [Reserved]

(12) One Assistant to the Commissioner (Special Projects).

(13) One Assistant to the Commissioner (Intergroup Relations).

(14) One Assistant to the Commissioner.

(15) One Confidential Assistant to the Assistant Commissioner for Programs.

(16) One Special Assistant for Home Improvement Plans and Mortgage Servicing.

(17) One Special Assistant for Elderly Housing.

(18) One Special Assistant for Nursing Homes.

(c) *Office of the Assistant Secretary for Renewal and Housing Assistance.* (1) One private Secretary to the Assistant Secretary.

(2) [Reserved]

(3) One Deputy Assistant Secretary, Renewal Projects Administration.

(4) [Reserved]

(5) One Deputy Assistant Secretary, Housing Assistance Administration.

(d) *Office of the Assistant Secretary for Metropolitan Development.* (1) One Private Secretary to the Assistant Secretary.

(2) One Staff Assistant for Metropolitan Development.

(3)–(5) [Reserved]

(6) One Special Assistant to the Assistant Secretary.

(7) One Assistant to the Assistant Secretary.

(8) Director, Urban Transportation Administration.

(9)–(10) [Reserved]

(11) One Special Assistant to the Assistant Secretary.

(12) One Private Secretary to the Director, Urban Transportation Administration.

(e) *Office of the Assistant Secretary for Demonstrations and Intergovernmental Relations.* (1) One Private Secretary to the Assistant Secretary.

(2) [Reserved]

(3) Two Special Assistants to the Assistant Secretary.

(4) Director, Demonstration Cities Administration.

(5)–(6) [Reserved]

(7) One Congressional Services Officer.

§ 213.3385 President's Council on Youth Opportunity.

(a) Executive Director.

§ 213.3386 Regional Commissions, Public Works and Economic Development Act of 1965.

(a) One Special Assistant to the Federal Cochairman of each Regional Commission established under the Public Works and Economic Development Act of 1965.

(b) One Special Assistant to the Alternate Federal Cochairman of each Regional Commission established under the Public Works and Economic Development Act of 1965.

(c) One Private Secretary to the Federal Cochairman of each Regional Commission established under the Public Works and Economic Development Act of 1965.

(d) One Private Secretary to the Alternate Federal Cochairman of each Regional Commission established under the Public Works and Economic Development Act of 1965.

§ 213.3394 Department of Transportation.

(a) *Office of the Secretary.* (1) [Reserved]

(2) One Deputy Under Secretary.

(3) [Reserved]

(4) One Special Assistant to the Secretary.

(5) One Confidential Secretary to the Secretary.

(6) One Special Assistant to the Assistant Secretary for International Affairs.

(7) Two Confidential Secretaries to the Assistant Secretary for Public Affairs.

(8) One Confidential Secretary to the General Counsel.

(b) *National Transportation Safety Board.* (1) One Administrative Assistant to each of the five Board members.

(2) One Confidential Secretary to each of the five Board members.

(c) [Reserved]

(d) *Federal Highway Administration.* (1) Deputy Administrator.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67-15065; Filed, Dec. 28, 1967; 8:45 a.m.]

PART 550—PAY ADMINISTRATION (GENERAL)

Miscellaneous Amendments

Part 550 is amended to show the minimum and maximum annual rates for administratively uncontrollable overtime pursuant to 5 U.S.C. 5545(c)(2) as amended by section 217 of Public Law 90-206. Effective at the beginning of the first pay period which begins on or after December 16, 1967, §§ 550.151, 550.153 (b)(1), and 550.154 are amended as set out below.

§ 550.151 Authorization of premium pay on an annual basis.

An agency may pay premium pay on an annual basis, instead of other premium pay prescribed in this subpart except premium pay for regular overtime work, to an employee in a position in which the hours of duty cannot be controlled administratively, and which requires substantial amounts of irregular or occasional overtime work and work at night, on Sundays, and on holidays with the employee generally being responsible for recognizing, without supervision, circumstances which require him to remain on duty. Premium pay under this section is determined as an appropriate percentage, not less than 10 percent nor more than 25 percent of that part of the employee's rate of basic compensation which does not exceed the minimum rate of basic compensation for grade GS-10 of the Classification Act of 1949, as amended.

§ 550.153 Bases for determining positions for which premium pay under § 550.151 is authorized.

* * * * *

(b) In order to satisfactorily discharge the duties of a position referred to in section 550.151, an employee is required to perform "substantial amounts of irregular or occasional" overtime work and work at night, on Sundays, and on holidays. In regard to this requirement:

(1) A "substantial amount" of irregular or occasional overtime work means an average of at least 3 hours a week of that overtime work.

* * * * *

§ 550.154 Rates of premium pay payable under § 550.151.

(a) An agency may pay the premium pay on an annual basis referred to in § 550.151 to an employee who meets the requirements of that section, at one of the following percentages of that part of the employee's rate of basic compensation which does not exceed the minimum rate of basic compensation for grade GS-10 of the Classification Act of 1949, as amended:

(1) A position which requires an average of at least 3 but not more than 5 hours a week of irregular or occasional overtime work—10 percent;

(2) A position which requires an average of at least 5 but not more than 7 hours a week of irregular or occasional overtime work—15 percent;

(3) A position which requires an average of at least 7 but not more than 9 hours a week of irregular or occasional overtime work—20 percent;

(4) A position which requires an average of over 9 hours a week of irregular or occasional overtime work—25 percent.

(b) If an agency proposes to pay an employee premium pay on an annual basis under § 550.151 but unusual conditions seem to make the applicable rate in paragraph (a) of this section unsuitable, the agency may propose a rate of premium pay on an annual basis for the Commission's approval. The proposal shall include full information bearing on the frequency and duration of the irregular or occasional overtime work and the night and holiday, and Sunday work required; the nature of the work which prevents hours of duty from being controlled administratively; the necessity for the employee's being generally responsible for recognizing, without supervision, circumstances which require him to remain on duty; and any other pertinent conditions.

(5 U.S.C. 5548)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67-15118; Filed, Dec. 28, 1967; 8:49 a.m.]

Title 7—AGRICULTURE

Chapter III—Agricultural Research Service, Department of Agriculture

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Pink Bollworm

CORRECTION

F.R. Document 67-14005, published at 32 F.R. 16385-16387, in the issue of Thursday, November 30, 1967, should be corrected by inserting the word "Acting" before the word "Administrator" in the title after the signature.

Dated: December 22, 1967.

[SEAL] R. J. ANDERSON,
Acting Administrator, Agricultural Research Service.

[F.R. Doc. 67-15103; Filed, Dec. 28, 1967; 8:48 a.m.]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 1—STATEMENT OF ORGANIZATION, DELEGATIONS, AND GENERAL INFORMATION

Miscellaneous Amendments

Notice is hereby given of the amendment of the Statement of Organization, Delegations, and General Information of the U.S. Atomic Energy Commission, 10 CFR Part 1, published in the FEDERAL REGISTER on December 29, 1961 (26 F.R. 12729-12745), as amended.

The present amendments add center headings, and revise existing headings as the result of assignment and reassignment of functions; revise and clarify statements of responsibilities of staff units; and reflect a change of name of a field office.

Because these amendments relate to matters of internal management, general notice of proposed rule making and public procedure thereon are unnecessary.

Pursuant to the Atomic Energy Act of 1954, as amended, the Administrative Procedure Act of 1946, as amended, and 1 CFR 17.2, the following amendments of 10 CFR Part 1 are published as a document, subject to codification, to be effective upon publication in the FEDERAL REGISTER.

Part 1 of Chapter I of Title 10 of the Code of Federal Regulations is amended as follows:

1. The center heading preceding § 1.30 is revised to read as follows:

OFFICE OF THE GENERAL COUNSEL

2. A center heading is added preceding § 1.35 reading as follows:

DIVISION OF INSPECTION

3. Section 1.43 is amended as follows: Paragraph (a) is amended; paragraph (b) is revised. As amended § 1.43 reads as follows:

§ 1.43 Division of Military Application.

(a) The Division of Military Application is established by the Act. The Division of Military Application (1) directs the research, development, production, custody, storage, readiness assurance, and testing of atomic weapons; (2) assists in maintaining liaison between the Atomic Energy Commission and the Department of Defense; and (3) administers AEC activities under international agreements for cooperation involving atomic weapons.

(b) The Director, Division of Military Application, exercises contract authority as described in § 1.5(b) within the limits of the Division's programmatic responsibilities. Within the scope of his assigned functions, he determines (1) that exemptions of individual AEC prime contractors and subcontractors from AEC licensing requirements are authorized by law; and (2) that under the terms of a contract or subcontract there is adequate assurance that the work thereunder can be accomplished without undue risk to the health and safety of government and contractor personnel and the general public from the hazards associated with his assigned functions.

4. Section 1.50(c) is revised to read as follows:

§ 1.50 Office of the Assistant General Manager for Plans and Production.

* * * * *

(c) The Assistant General Manager for Plans and Production, within the scope of his assigned functions, determines (1) that exemptions of individual AEC prime contractors and subcontractors from AEC licensing requirements are authorized by law; and (2) that under the terms of a contract or subcontract there is adequate assurance that the work thereunder can be accomplished without undue risk to the health and safety of government and contractor personnel and the general public from the hazards associated with his assigned functions.

5. Section 1.51(c) is revised to read as follows:

§ 1.51 Division of Production.

* * * * *

(c) The Director, Division of Production, within the scope of his assigned functions, is responsible for assuring that appropriate consideration is given to the protection of the health and safety of government and contractor personnel and of the general public from the hazards associated with his assigned functions.

6. Section 1.52(c) is revised to read as follows:

§ 1.52 Division of Raw Materials.

* * * * *

(c) The Director, Division of Raw Materials, exercises contract authority as described in § 1.5(b) with respect to the procurement of sources material and the operation of the Grand Junction Office, except that such authority is limited to $10 million under § 1.5(b)(1)(i). Within the scope of his assigned functions, he assures that appropriate consideration is given to the protection of the health and safety of Government and contractor personnel and the general public from the hazards associated with his assigned functions.

7. Section 1.60(f) is revised to read as follows:

§ 1.60 Office of the Assistant General Manager for Research and Development.

* * * * *

(f) Within the scope of his assigned functions, the Assistant General Manager for Research and Development determines (1) that exemptions of individual AEC prime contractors and subcontractors from AEC licensing requirements are authorized by law; and (2) that under the terms of a contract or subcontract there is adequate assurance that the work thereunder can be accomplished without undue risk to the health and safety of Government and contractor personnel and the general public from the hazards associated with his assigned functions.

8. Section 1.61 is amended by adding a new paragraph (d) reading as follows:

§ 1.61 Division of Research.

* * * * *

(d) Within the scope of his assigned functions, the Director, Division of Research, assures that appropriate consideration is given to the protection of the health and safety of the general public from the hazards associated with his assigned functions.

9. A center heading is added preceding § 1.66, reading as follows:

THE ASSISTANT GENERAL MANAGER FOR REACTORS

10. Section 1.66 is amended by adding a new paragraph (c) reading as follows:

§ 1.66 Office of the Assistant General Manager for Reactors.

* * * * *

(c) Within the scope of his assigned functions, the Assistant General Manager for Reactors determines (1) that exemptions of individual AEC prime contractors and subcontractors from AEC licensing requirements are authorized by law; and (2) that under the terms of a contract or subcontract there is adequate assurance that the work thereunder can be accomplished without undue risk to the health and safety of Government and contractor personnel and the general public from the hazards associated with his assigned functions.

11. A center heading is added, preceding § 1.67, reading as follows:

DIVISIONS REPORTING TO THE ASSISTANT GENERAL MANAGER FOR REACTORS

12. Section 1.67(b) is revised to read as follows:

§ 1.67 Division of Reactor Development and Technology.

* * * * *

(b) Within the scope of his assigned functions, the Director, Division of Reactor Development and Technology, assures that appropriate consideration is given to the protection of the health and safety of Government and contractor personnel and the general public from the hazards associated with his assigned functions.

13. Section 1.69(b) is amended by changing the financial limitation of $1 million to "$2,500,000." and § 1.69(c) is revised to read as follows:

§ 1.69 Division of Space Nuclear Systems.

* * * * *

(c) Within the scope of his functions, the Director, Division of Space Nuclear Systems, assures that appropriate consideration is given to the protection of the health and safety of Government and contractor personnel and the general public from the hazards associated with his assigned functions.

14. The center heading preceding § 1.91 is revised to read as follows:

DIVISIONS AND OFFICES REPORTING TO THE ASSISTANT GENERAL MANAGER FOR OPERATIONS

15. Section 1.200(c) is revised to read as follows:

§ 1.200 Chicago Operations Office.

* * * * *

(c) Within the scope of his functions, the Manager, Chicago Operations Office, assures that appropriate consideration is given to the protection of the health and safety of Government and contractor personnel and the general public from the hazards associated with his assigned functions.

16. Section 1.201(d) is amended by revising the first sentence to read as follows:

§ 1.201 Idaho Operations Office.

* * * * *

(d) Within the scope of his functions, the Manager, Idaho Operations Office, assures that appropriate consideration is given to the protection of the health and safety of Government and contract personnel and the general public from the hazards associated with his assigned functions.

* * * * *

17. Section 1.202(e) is revised to read as follows:

§ 1.202 Oak Ridge Operations Office.

* * * * *

(e) Within the scope of his functions, the Manager, Oak Ridge Operations Office, assures that appropriate consideration is given to the protection of the health and safety of Government and contractor personnel and the general public from the hazards associated with his assigned functions.

§ 1.203 [Amended]

* * * * *

18. Section 1.203(d) is revoked.

19. Section 1.204 is revised to read as follows:

§ 1.204 Richland Operations Office.

(a) The Richland Operations Office, under the direction of a Manager of Operations responsible to the General Manager, is responsible (1) for the production of special nuclear materials; (2) for the supervision of related process development, engineering and construction programs, and (3) for the execution of certain statutory functions of the AEC under the Atomic Energy Community Act of 1955, as amended, with respect to properties and activities in Richland, Wash.

(b) The Manager, Richland Operations Office, exercises contract authority as described in § 1.5(c).

(c) The Manager, Richland Operations Office, administers AEC access permits in Alaska, Oregon, and Washington.

(d) Within the scope of his functions, the Manager, Richland Operations Office, assures that appropriate consideration is given to the protection of the health and safety of Government and contractor personnel and the general public from the hazards associated with his assigned functions.

(e) The Manager, Richland Operations Office, exercises the settlement authority described in § 1.5(d).

20. Section 1.205(d) is revised to read as follows:

§ 1.205 Savannah River Operations Office.

* * * * *

(d) Within the scope of his functions, the Manager, Savannah River Operations Office, assures that appropriate consideration is given to the protection of the health and safety of Government

and contractor personnel and the general public from the hazards associated with his assigned functions.

* * * * *

21. Section 1.206(f) is revised to read as follows:

§ 1.206 Albuquerque Operations Office.

* * * * *

(f) Within the scope of his functions, the Manager, Albuquerque Operations Office, assures that appropriate consideration is given to the protection of the health and safety of Government and contractor personnel and the general public from the hazards associated with his assigned functions.

* * * * *

22. Section 1.207(d) is revised to read as follows:

§ 1.207 San Francisco Operations Office.

* * * * *

(d) Within the scope of his functions, the Manager, San Francisco Operations Office, assures that appropriate consideration is given to the protection of the health and safety of Government and contractor personnel and the general public from the hazards associated with his assigned functions.

* * * * *

23. Section 1.208(d) is revised to read as follows:

§ 1.208 Nevada Operations Office.

* * * * *

(c) Within the scope of his functions, the Manager, Nevada Operations Office, assures that appropriate consideration is given to the protection of the health and safety of Government and contractor personnel and the general public from the hazards associated with his assigned functions.

* * * * *

24. Section 1.210(c) is revised to read as follows:

§ 1.210 Grand Junction Office.

* * * * *

(c) Within the scope of his functions, the Manager, Grand Junction Office, assures that appropriate consideration is given to the protection of the health and safety of Government and contractor personnel and the general public from the hazards associated with his assigned functions.

* * * * *

25. Section 1.215(c) is revised to read as follows:

§ 1.215 Brookhaven Office.

* * * * *

(c) Within the scope of his functions, the Manager, Brookhaven Office, assures that appropriate consideration is given to the protection of the health and safety of Government and contractor personnel and the general public from the hazards associated with his assigned functions.

* * * * *

26. Section 1.225(c) is revised to read as follows:

§ 1.225 Pittsburgh Naval Reactors Office.

* * * * *

(c) Within the scope of his functions, the Manager, Pittsburgh Naval Reactors Office, assures that appropriate consideration is given to the protection of the health and safety of Government and contractor personnel and the general public from the hazards associated with his assigned functions.

* * * * *

27. Section 1.226(c) is revised to read as follows:

§ 1.226 Schenectady Naval Reactors Office.

* * * * *

(c) Within the scope of his functions, the Manager, Schenectady Naval Reactors Office, assures that appropriate consideration is given to the protection of the health and safety of Government and contractor personnel and the general public from the hazards associated with his assigned functions.

* * * * *

(Sec. 161, Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201)

Dated at Washington, D.C., this 26th day of December 1967.

For the Atomic Energy Commission.

P. T. Hoss,
Acting Secretary.

[F.R. Doc. 67-15115; Filed, Dec. 28, 1967; 8:49 a.m.]

PART 1—STATEMENT OF ORGANIZATION, DELEGATIONS, AND GENERAL INFORMATION

Miscellaneous Amendments

Notice is hereby given of the amendment of the Statement of Organization, Delegations, and General Information of the U.S. Atomic Energy Commission, 10 CFR Part 1, published in the FEDERAL REGISTER on December 29, 1961 (26 FR 12729–12745), as amended.

The present amendment covers miscellaneous clarifying and other changes in statements of responsibilities of certain officers and organizational units of the Commission.

Because this amendment relates to matters of internal management, general notice of proposed rulemaking and public procedure thereon are unnecessary.

Pursuant to the Atomic Energy Act of 1954, as amended, the Atomic Energy Community Act of 1955, as amended, the Administrative Procedure Act of 1946, as amended, and 1 CFR 17.2, the following amendments to 10 CFR Part 1 are published as a document, subject to codification to be effective upon publication in the FEDERAL REGISTER.

1. In § 1.35, the first sentence is revised; as amended § 1.35 reads as follows:

§ 1.35 Division of Inspection.

The Division of Inspection, under the supervision of a Director of Inspection appointed by the Commission, is established by the act, and assigned the function of gathering information to show whether or not the contractors, licensees and officers and employees of the Commission are complying with the provisions of the act (except those for which the Federal Bureau of Investigation is responsible) and the appropriate rules and regulations of the Commission. The Division of Inspection (a) conducts the necessary checks and inspections to ascertain the integrity and efficiency of all AEC operations; (b) for operations under the General Manager, develops standards and policies for inspection and appraisal and reporting of incidents, appraises application of these standards and policies, and investigates serious incidents as necessary; (c) for operations under the Director of Regulation, reviews inspection procedures and standards and ascertains that approved procedures and standards are followed; (d) directly investigates all questions of employee misconduct and fraud; and (e) performs other independent investigations, reviews and appraisals and makes reports as the Commission directs.

2. In § 1.50, paragraph (a) is amended by a deletion. As amended paragraph (a) reads as follows:

§ 1.50 Office of the Assistant General Manager for Plans and Production.

(a) The Assistant General Manager for Plans and Production directs and coordinates the programs of the Divisions of Production, Raw Materials, Plans and Reports, and Operations Analysis and Forecasting.

* * * * *

3. In § 1.53 paragraphs (a) and (c) are amended. As amended § 1.53 reads as follows:

§ 1.53 Division of Plans and Reports.

The Division of Plans and Reports (a) recommends systems to increase effectiveness of program planning, project control, cost reduction, and reporting; (b) assists in preparation of long-range plans; (c) prepares consolidated plans, planning reports, project and program progress reports, cost reduction reports, and statistical data, for AEC management, Congress, and others; (d) provides advice and assistance to field offices and Headquarters in the use of project control and planning systems; and (e) analyses and reports project control data.

4. Section 1.63 is amended by adding new paragraph (h), with mechanical amendments in paragraphs (f) and (g) to accommodate to the addition. As amended paragraphs (f), (g), and (h) read as follows:

§ 1.63 Division of Peaceful Nuclear Explosives.

* * * (f) gives program direction to the Lawrence Radiation Laboratory, other AEC laboratories, and the Operations Offices with respect to Plowshare program; (g) assures in carrying out the above functions and responsibilities, that adequate provision is made for the health and safety of Government and contractor personnel and of the general public; and (h) maintains liaison within AEC and with other interested Federal agencies, State and local governments and industrial and scientific groups in areas of the Division's responsibilities.

5. In § 1.208, subparagraph (2) of paragraph (a) is revised; as amended paragraph (a) reads as follows:

§ 1.208 Nevada Operations Office.

(a) The Nevada Operations Office, under the direction of a Manager of Operations, responsible to the General Manager, (1) manages the Nevada Test Site (NTS) and other experimental nuclear explosive test sites within and outside the continental United States, where development projects administered by AEC and other agencies may be carried out; (2) provides support services to the various users of NTS and other experimental nuclear test sites within and outside the continental United States as agreed with the individual users; and (3) coordinates the planning and execution of weapons and other nuclear explosive tests both within and outside the continental United States and develops equipment and processes to assure safe and effective operations.

* * * * *

6. Section 1.270 is amended by inserting, immediately following the heading, an unnumbered paragraph reading as follows:

§ 1.270 Delegation of authority with respect to development and sale of residential lots at Los Alamos, N. Mex.

The Area Manager, Los Alamos Area Office, has the following authority with respect to development and sale of residential lots at Los Alamos, N. Mex.:

* * * * *

7. Paragraph (a) of § 1.271 is amended to read as follows:

§ 1.271 Delegation of authority with respect to sale of additional undeveloped land in the White Rock Area of Los Alamos County, N. Mex.

(a) The Area Manager, Los Alamos Area Office, has the following authority with respect to the establishment and development of a community at White Rock, County of Los Alamos, State of New Mexico, and to the sale of land within said area for housing development:

* * * * *

(Sec. 161, Atomic Energy Act of 1946, as amended, 60 Stat. 755, 42 U.S.C. 1801; Atomic Energy Act of 1954, as amended, 68 Stat. 919; 42 U.S.C. 2011, and Atomic Energy Community Act of 1955, 69 Stat. 463; 42 U.S.C. 2305, Administrative Procedure Act of 1946, as amended, 5 U.S.C. 551 et seq.)

Dated at Washington, D.C., this 22d day of December 1967.

For the Atomic Energy Commission.

W. B. McCool,
Secretary.

[F.R. Doc. 67-15116; Filed, Dec. 28, 1967; 8:49 a.m.]

Title 12—BANKS AND BANKING

Chapter I—Bureau of the Comptroller of the Currency, Department of the Treasury

PART 1—INVESTMENT SECURITIES REGULATION

Wisconsin University Building Corporation and Wisconsin State Agencies Building Corporation

§ 1.204 Wisconsin University Building Corporation and the Wisconsin State Agencies Building Corporation.

(a) *Request.* The Comptroller of the Currency has been requested to consider whether the rulings of September 25, 1964, that bonds of the Wisconsin University Building Corporation and the Wisconsin State Agencies Building Corporation are public securities and therefore eligible for purchase, dealing in, underwriting, and unlimited holding by national banks (§§ 1.150 and 1.151) are now applicable with respect to outstanding and future bond issues of the two corporations.

(b) *Opinion.* (1) The State of Wisconsin has authorized The Regents of the University of Wisconsin, The Board of Regents of State Colleges and the Department of Public Welfare to enter into long-term lease rental agreements with a nonprofit corporation for the construction and financing of buildings and other improvements related to activities under their control.

(2) The Wisconsin University Building Corporation is a nonprofit corporation organized under the provisions of the Wisconsin Nonstock Corporation law for the purpose of acquiring, financing and improving real estate and leasing such improved real estate to the University of Wisconsin. The Wisconsin State Agencies Building Corporation is also a nonprofit corporation organized under the provisions of the same law for the purpose of constructing buildings and other improvements for University, State college, and general State purposes.

(3) The proceeds of the bonds issued and to be issued by these corporations are for the construction of facilities to be leased to the University, the State colleges or the Department of Public Welfare, respectively, on long-term leases. Rental payments under the leases are in an amount determined to be sufficient to pay the principal of and interest on the bonds issued in connection with the project. While funds from various sources are available for the payment of the lease rentals the law specifically provides that the State shall be liable and may be sued on contract for accrued rentals and for any other default under any such lease.

(4) The State of Wisconsin, which possesses general powers of taxation, has thus pledged its full faith and credit to make payments to the corporations of amounts sufficient to provide for all required payments in connection with these bonds.

(c) *Ruling.* It is our conclusion, therefore, that bonds of the Wisconsin University Building Corporation and the Wisconsin State Agencies Building Corporation are general obligations of the State of Wisconsin under paragraph Seventh of 12 U.S.C. 24 and, accordingly, are eligible for purchase, dealing in, underwriting, and unlimited holding by national banks.

Dated: December 21, 1967.

[SEAL] WILLIAM B. CAMP,
Comptroller of the Currency.

[F.R. Doc. 67-15110; Filed, Dec. 28, 1967; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

SUBCHAPTER C—AIRCRAFT

[Airworthiness Docket No. 67-WE-28-AD, Amdt. 39-328]

PART 39—AIRWORTHINESS DIRECTIVES

Certain General Dynamics Model 240/340/440 Airplanes Using Turbo-Propeller Power

Pursuant to the authority delegated to me by the Administrator (14 CFR 11.81), an airworthiness directive (AD) was adopted on December 7, 1967, and made effective by telegram immediately as to all known operators of General Dynamics Model 240/340/440 airplanes using turbo-propeller power which have been modified per STC Nos. SA1316WE, SA1054WE, SA1132WE, or SA1096WE. The AD requires that, before further flight from the next maintenance base, an external inspection of each wing in the area of the fuel tank be conducted to determine whether there is fuel leakage in that area. An additional internal inspection of each wing fuel tank and repair of structural damage are called for under certain circumstances. Also, the AD requires that all under-wing

fueling be accomplished with the over-wing fuel tank filler cap(s) removed when filling each tank above 80 percent of its capacity.

Telegraphic issuance of this AD was necessitated by three reports of overpressurization of the wing fuel tanks in affected airplane types which was attributed to failure of the upper and lower diaphragm assemblies in the pressure fueling valves. In two of these cases, actual structural damage to the wing resulted. It was found that failure of the diaphragms in question, together with overpressurization of the wing tanks, constituted an unsafe condition which was likely to exist or develop in other General Dynamics Model 240/340/440 airplanes using turbo-propeller power which had been modified per the STCs referenced herein. The telegram also indicated that an approved modification of the pressure fueling valves was unavailable at the time.

Since it was found that corrective action was required within a very short time, notice and public procedure thereon was impracticable and contrary to the public interest, and good cause existed for making the AD effective immediately as to all known operators of the modified General Dynamics Model 240/340/440 airplanes using turbo-propeller power by individual telegrams dated December 8, 1967. These conditions still exist, and the AD is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.81), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

GENERAL DYNAMICS. Applies to Model 240/340/440 airplanes using turbo-propeller power which have been modified per STC Nos. SA1216WE, SA1054WE, SA1138WE, or SA1606WE. Compliance required as indicated.

Because of three reports of overpressurization of the wing fuel tank in affected airplane types that have been attributed to failure of the upper and lower diaphragm assemblies in the pressure fueling valves (P/N 2640644 or P/N 2650196), accomplish the following:

(1) Before further flight from the next maintenance base where facilities and personnel are available, externally inspect each wing in the area of the fuel tank for fuel leakage;

(2) If fuel leakage is found as a result of the inspection per paragraph (1), before further flight internally inspect each wing fuel tank exhibiting fuel leakage for presence of structural damage;

(3) If structural damage is found as a result of the inspection per paragraph (2), before further flight repair portion of each wing exhibiting structural damage as necessary; and

(4) After the effective date of this AD, when filling at or above 80 percent of the fuel tank capacity, perform all under-wing fueling with over-wing fuel tank filler cap(s) removed.

This amendment becomes effective upon publication in the FEDERAL REGISTER for all persons except those to whom it was made effective immediately by telegram issued previously.

Issued in Los Angeles, Calif., on December 19, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423))

LEE E. WARREN,
Acting Regional Director,
Western Region.

[F.R. Doc. 67-15137; Filed, Dec. 28, 1967; 8:49 a.m.]

[Airworthiness Docket No. 67-WE-21-AD, Amdt. 39-527]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-9 Series Airplanes

Amendment 39-505 (initially issued by telegram on Oct. 21, 1967, and later published in 32 F.R. 15579), AD 67-30-5, essentially prohibits inflight electrical activation of the battery charger installed in McDonnell Douglas Model DC-9 Series airplanes and limits operation of the battery charger on the ground to certain phases of the ground operation of the aircraft.

Subsequent to the adoption of the AD, the manufacturer of the aircraft proposed certain modifications to the battery charger installation and the electrical compartment which, if accomplished, would allow the agency to lift the restrictions imposed by AD 67-30-5. These modifications are designed to improve the overall heat resistance characteristics of the battery charger installation and to prevent overheating of the battery charger itself. More specifically, the modifications consist of:

1. Replacing the three single-phase 20 amp circuitbreakers on the ground service bus with a single three-phase companion-trip 8 amp circuit breaker;

2. Removing the three single-phase 20 amp circuitbreakers on the left A.C. bus and deactivating the three wires to the transfer relay;

3. Replacing the junction box cover, the relay panel cover, and the d.c. volt/ammeter shunt cover, respectively, with similar covers manufactured from material exhibiting improved heat resistance characteristics; and

4. Installing a heat deflecting shroud over the battery charger manufactured from the same heat resistant material.

The agency finds that the accomplishment of these modifications in accordance with the manufacturer's service bulletins referenced in this amendment will provide an adequate level of safety and an alternative means of compliance with paragraphs 1 and 3 of AD 67-30-5. Therefore, action is taken herein to amend AD 67-30-5 to reflect this finding.

Also, action is taken herein to prescribe amendments to the appropriate DC-9 Series Airplane Flight Manuals to account for changes in the emergency procedures section thereof caused by replacement and removal of certain circuit breakers.

In addition to the substantive changes to AD 67-30-5 set forth herein, action is taken to amend that AD as it appeared in the FEDERAL REGISTER to add a paragraph that was included in the telegraphic version of the AD but inadvertently left out of the FEDERAL REGISTER version. This paragraph relates to the method of displaying the operating limitations prescribed in paragraph 3 of AD 67-30-5.

Since the changes to AD 67-30-5 brought about by this amendment are either editorial in nature or provide an alternative means of compliance, I find that notice and public procedure hereon are unnecessary. Also, since this amendment imposes no additional burden on any person, and since it has been made known to the agency that affected operators desire to have this amendment become effective at the earliest practicable date, I find that good cause exists for making this amendment effective on the date of adoption.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.81), § 39.13 of part 39 of the Federal Aviation Regulations, Amendment 39-505 (initially issued by telegram on Oct. 21, 1967, and later published in 32 F.R. 15579), AD 67-30-5 is amended as follows:

1. Paragraph 3 is amended by inserting the following new flush paragraph at the end thereof (immediately below the text of note No. 2):

The operating limitations specified in subparagraphs A and B of this paragraph must be placed in the aircraft in the form of a placard in clear view of the pilot. For the purpose of this AD, any document (including a pilot checklist) including these limitations constitutes a "placard" within the meaning of this paragraph.

2. Paragraph 4 is amended to read as follows:

4. Compliance with paragraphs 1 and 3 of this AD is no longer required, and the operating limitations prescribed in those paragraphs may be removed upon:

A. Accomplishing the modifications specified in the "Accomplishment Instructions" sections of McDonnell Douglas DC-9 Service Bulletin Nos. 24-25 dated December 1, 1967 (or later FAA-approved revision), 24-27 dated December 1, 1967 (or later FAA-approved revision), 25-97 dated November 10, 1967 (or later FAA-approved revision); and

B. Removing FAA-approved revisions dated May 2, 1967, and incorporating FAA-approved revisions dated December 1, 1967, to the Emergency Procedures Section of the FAA-approved DC-9 Series 10 Airplane Flight Manual (Douglas Report DAC-82999) or the FAA-approved DC-9 Series 30 Airplane Flight Manual (Douglas Report DAC-83580), as appropriate, under the heading of "Electrical Smoke of Unknown Origin", Phase III.

This amendment becomes effective on December 19, 1967.

Issued in Los Angeles, Calif., on December 19, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423))

LEE E. WARREN,
Acting Regional Director,
FAA Western Region.

[F.R. Doc. 67-15138; Filed, Dec. 28, 1967; 8:49 a.m.]

SUBCHAPTER E—AIRSPACE

[Airspace Docket No. 67-WE-68]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On November 7, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 15493) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate controlled airspace in the Logan, Utah, terminal area. Interested persons were given 30 day in which to submit written comments, suggestions, or objections.

No objections have been received, and the proposed amendment is hereby adopted subject to the following change: F.R. Doc. 67-13135 (32 F.R. 15493) is changed by striking out "° ' ", Colo." where it appears in the heading for the transition area description, and inserting "° ' ", Utah" in place thereof.

Since this change is editorial in nature, notice and public procedure hereon are unnecessary.

Effective date. This amendment is effective February 29, 1968.

Issued in Los Angeles, Calif., on December 20, 1967.

LEE E. WARREN,
Acting Director, Western Region.

In § 71.181 (32 F.R. 2147) the following transition area is added:

LOGAN, UTAH

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Logan-Cache Airport (latitude 41°47'09" N., longitude 111°50'38" W.); that airspace extending upward from 1,200 feet above the surface bounded on the north by the south edge of V-4, on the east by longitude 111°40'-30" W., on the south by the north edge of V-388, on the west by the east edge of V-21; and that airspace extending upward from 10,500 feet MSL bounded on the northeast by the southwest edge of V-45, on the west by longitude 111°40'30" W., and on the south by the north edge of V-228.

[F.R. Doc. 67-15139; Filed, Dec. 28, 1967; 8:49 a.m.]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 8612; Amdt. 95-162]

PART 95—IFR ALTITUDES

Miscellaneous Amendments

The purpose of this amendment to Part 95 of the Federal Aviation Regulations is to make changes in the IFR altitudes at which all aircraft shall be flown over a specified route or portion thereof. These altitudes, when used in conjunction with the current changeover points for the routes or portions thereof, also assure navigational coverage that is adequate and free of frequency interference for that route or portion thereof.

As a situation exists which demands immediate action in the interest of safety, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 95 of The Federal Aviation Regulations is amended, effective February 1, 1968, as follows:

1. By amending Subpart C as follows:

Section 95.240 *Red Federal airway 40* is amended to read in part:

From, to, and MEA

Kodiak, Alaska, LFR; Homer, Alaska, LFR; 6,000.

Section 95.1001 *Direct routes—United States* is amended to delete:

Binghamton, N.Y., VOR; Buffalo, N.Y., LFR or VOR; 4,500.
Blackstone, Va., LFR; Int direct ors Lynchburg, Va., LFR to Blackstone, Va., LFR and South Boston, Va., VOR rad, 081°; 2,000.
Cape Charles, Va., VOR; Waverly INT, Va.; *3,000. *1,800—MOCA.
Lake Charles, La., VOR; Singer INT, La.; *3,000. *1,500—MOCA.
Red Hook INT, N.Y.; Starkville INT, N.Y.; 6,000.
Somerton INT, Va.; Windsor INT, Va.; 2,100.
Toltec INT, Ariz.; Int. PEK 147°/TUS 285°; *7,000. *6,500—MOCA.

Section 95.1001 *Direct routes—United States* is amended by adding:

Johnsey INT, Ala.; Decatur, Ala., VOR; *3,000. *2,000—MOCA.
Dellrose INT, Tenn.; Shelbyville, Tenn., VOR; *3,000. *2,500—MOCA.
Dellrose INT, Tenn.; Nashville, Tenn., VOR; *3,000. *2,200—MOCA.
Decatur, Ala., VOR; Fairview INT, Ala.; *3,000. *2,200—MOCA.
Roundtree INT, Ala.; Huntsville, Ala., VOR; *2,000. *2,400—MOCA.
Hobbs INT, Ala.; Huntsville, Ala., VOR; *3,000. *2,600—MOCA.
Bluff INT, Ala.; Huntsville, Ala., VOR; 2,600.
Huntsville, Ala., LMM; Huntsville, Ala., VOR; *2,600. *2,500—MOCA.
Decatur, Ala., VOR; Int, 147° M rad, Huntsville VOR and 113° M rad, Decatur VOR; *3,000. *2,600—MOCA.
Taylor, Fla., VOR; Tarboro INT, Ga.; *2,000. *1,400—MOCA.
Flint INT, Ga.; Albany, Ga., VOR; *2,000. *1,300—MOCA.
Tallahassee, Fla., VOR; Flint INT, Ga.; *2,000. *1,600—MOCA.
Marianna, Fla., VOR; Flint INT, Ga.; *2,000. *1,500—MOCA.
Dothan, Ala., VOR; Flint INT, Ga.; 2,500.
Taos, N. Mex., VOR; *Charles INT, Colo.; 15,000. MAA—45,000. *10,000—MCA Charles INT, southbound.
Lake Charles, La., VOR; Long INT, La.; *3,000. *1,500—MOCA.

Section 95.1001 *Direct routes—United States* is amended to read in part:

Cox INT, Ga.; Alma, Ga., VOR; *2,000. *1,600—MOCA.
Cox INT, Ga.; Brunswick, Ga., VOR; *2,000. *1,300—MOCA.
Folsom INT, Ala.; Huntsville, Ala., VOR; *3,000. *2,400—MOCA.
McAllen, Tex., VOR; Brownsville, Tex., VOR; 2,100. via MPE 067°/BRO 209° M rads.
Binghamton, N.Y., VOR; Buffalo, N.Y., LF/RBN; 4,500.
Binghamton, N.Y., VOR; Buffalo, N.Y., VOR; 4,500.
Richmond, Ind., LF/RBN; Cincinnati, Ohio, LF/RBN; 3,400.
Richmond, Ind., LF/RBN; Arba INT, Ind.; 2,300.
*Charles INT, Colo.; **Pueblo, Colo., VOR; 8,000. MAA—45,000. *10,000—MCA Charles INT, southbound. **7,200—MCA Pueblo VOR, southbound.
*Charles INT, Colo.; **Pueblo, Colo., LOM; 8,000. *10,000—MCA Charles INT, southbound. **7,200—MCA Pueblo VOR, southbound.
Yolo INT, Calif.; Marysville, Calif., VOR; *2,000. via MYV 185° M rad. *1,200—MOCA.

Panama Routes

V-12
France Field, C.Z.; Mike 5; *5,000. *2,200—MOCA.

Section 95.6001 *VOR Federal airway 1* is amended to read in part:

Cape Charles, Va., VOR; Int, 013° M rad. Cape Charles VOR and 214° M rad. Salisbury VOR; *2,000. *1,800—MOCA.
Int, 013° M rad. Cape Charles VOR and 214° M rad. Salisbury VOR; Crisfield INT, Md.; *2,000. *1,700—MOCA.
Crisfield INT, Md.; Salisbury, Md., VOR; 2,000.

Section 95.6007 *VOR Federal airway 7* is amended to read in part:

Chicago Heights, Ill., VOR; Niles INT, Ill.; 2,500.
Niles INT, Ill.; Evanston INT, Ill.; 3,000.
Evanston INT, Ill.; Papi INT, Ill.; 2,500.

Section 95.6010 *VOR Federal airway 10* is amended to read in part:

Naperville, Ill., VOR, via N alter.; Surf INT, Ill., via N alter.; 3,000.
Surf INT, Ill., via N alter.; Neptune INT, Ill., via N alter.; *2,200. *2,000—MOCA.

Section 95.6016 *VOR Federal airway 16* is amended to read in part:

Moscow INT, Tenn., via S alter.; Selmer INT, Tenn., via S alter.; *2,500. *1,900—MOCA. *Selmer INT, Tenn., via S alter.; Graham, Tenn., VOR, via S alter.; **5,500. *5,500—MCA Selmer INT, northeast-bound. **3,000—MOCA.

Section 95.6020 *VOR Federal airway 20* is amended to read in part:

Anderson, S.C., VOR; Spartanburg, S.C., VOR; *2,500. *2,800—MOCA.

Section 95.6033 *VOR Federal airway 33* is amended to read in part:

Cofield, N.C., VOR; Carrsville INT, Va.; *2,000. *1,100—MOCA.
Carrsville INT, Va.; Harcum, Va., VOR; 2,000.

Section 95.6035 *VOR Federal airway 35* is amended to read in part:

Albany, Ga., VOR; Cobb INT, Ga.; *2,000. *1,800—MOCA.

Section 95.6045 *VOR Federal airway 45* is amended to read in part:

Saginaw, Mich., VOR; via W alter.; Bentley INT, Mich., via W alter.; 2,200.
Bentley INT, Mich., via W alter.; Red Oak INT, Mich., via W alter.; *5,000. *2,600—MOCA.

Section 95.6067 *VOR Federal airway 67* is amended to read in part:

Cedar Rapids, Iowa, VOR; *Vinton INT, Iowa; **2,700. *2,200—MRA. **2,200—MOCA.
Vinton INT, Iowa; *Flyum INT, Iowa; **2,700. *2,200—MRA. **2,200—MOCA.
Flyum INT, Iowa; Waterloo, Iowa, VOR; 2,200.

Section 95.6076 *VOR Federal airway 76* is amended to read in part:

Industry, Tex., VOR; Sealy INT, Tex.; *2,000. *1,700—MOCA.

Section 95.6094 *VOR Federal airway 94* is amended to delete:

Newman, Tex., VOR; Water Hole INT, Tex.; 8,700.
Water Hole INT, Tex.; Mayfield INT, Tex.; 9,000.
Mayfield INT, Tex.; *McConnell INT, Tex.; **10,500. *10,500—MRA. **9,000—MOCA.
McConnell INT, Tex.; *Salt Flat, Tex., VOR; 9,000. *9,100—MOA Salt Flat VOR, eastbound.

Section 95.6094 *VOR Federal airway 94* is amended by adding:

Newman, Tex., VOR; Salt Flat, Tex., VOR; *8,900. *8,700—MOCA.
Newman, Tex., VOR, via N alter.; Waterhole INT, Tex., via N alter.; 8,700.
Waterhole INT, Tex., via N alter.; Mayfield INT, Tex., via N alter.; 9,000.
Mayfield INT, Tex., via N alter.; *McConnell INT, Tex., via N alter.; **10,500. *10,500—MRA. **9,000—MOCA.
McConnell INT, Tex., via N alter.; *Salt Flat, Tex., VOR; via N alter.; 8,000. *9,100—MCA Salt Flat VOR, eastbound.

Section 95.6097 *VOR Federal airway 97* is amended to read in part:

Americus INT, Ga.; *Junction City INT, Ga.; **3,500. *3,000—MRA. **1,800—MOCA.

Section 95.6116 *VOR Federal airway 116* is amended to read in part:

Naperville, Ill., VOR; Surf INT, Ill.; 3,000.
Surf INT, Ill.; Neptune INT, Ill.; *2,200. *2,000—MOCA.

Section 95.6129 *VOR Federal airway 129* is amended by adding:

Eau Claire, Wis., VOR; Duluth, Minn., VOR; *4,000. *3,000—MOCA.

Section 95.6133 *VOR Federal airway 133* is amended to read in part:

Saginaw, Mich., VOR; Wheeler INT, Mich.; *2,200. *1,800—MOCA.

Section 95.6139 *VOR Federal airway 139* is amended to read in part:

Willards INT, Md.; Sea Isle, N.J., VOR; *2,000. *1,700—MOCA.
Sea Isle, N.J., VOR; Avalon INT, N.J.; 2,000.
Avalon INT, N.J.; Harbor INT, N.J.; *3,000. *1,800—MOCA.
Harbor INT, N.J.; Manta INT, N.J.; *5,000. *1,800—MOCA.

Section 95.6159 *VOR Federal airway 159* is amended to read in part:

Dogwood, Mo., VOR; Ford DME Fix, Mo.; 3,600.
Ford DME Fix, Mo.; Springfield, Mo. VOR; northwest-bound, 3,600, southeast-bound, 3,600.

Section 95.6162 *VOR Federal airway 162* is amended to read in part:

Astna INT, Pa.; Auburn INT, Pa.; 3,400.
Auburn INT, Pa.; East Texas, Pa., VOR; 3,000.

Section 95.6167 *VOR Federal airway 167* is amended to read in part:

Coyle, N.J., VOR; Kennedy, N.Y., VOR; *2,000. *1,200—MOCA.

Section 95.6181 *VOR Federal airway 181* is amended to read in part:

Watertown, S. Dak., VOR; Barney INT, N. Dak., *3,900. *3,100—MOCA.
Barney INT, N. Dak.; Fargo, N. Dak., VOR; *3,400. *3,100—MOCA.

Section 95.6194 *VOR Federal airway 194* is amended to delete:

Norfolk, Va., VOR; Gwynn INT, Va.; 2,000.

Section 95.6194 *VOR Federal airway 194* is amended by adding:

Norfolk, Va., VOR; Gwynn INT, Va.; *2,000. *1,700—MOCA.
Gwynn INT, Va.; Int, 219° M rad. Snow Hill, Md., VOR and 063° M rad. Harcum VOR; *2,700. *1,200—MOCA.

Section 95.6194 *VOR Federal airway 194* is amended to read in part:

Charlotte, N.C., VOR; Liberty, N.C., VOR; 2,000.

Section 95.6218 *VOR Federal airway 218* is amended to read in part:

Naperville, Ill., VOR; Surf INT, Ill.; 3,000.
Surf INT, Ill.; Neptune INT, Ill.; *2,300. *2,000—MOCA.

Section 95.6232 *VOR Federal airway 232* is amended by adding:

Harbor View INT, Ohio; Sandusky, Ohio, VOR; 2,600.

Section 95.6297 *VOR Federal airway 297* is amended to read in part:

Saginaw, Mich., VOR; Bentley INT, Mich.; 2,200.
Bentley INT, Mich.; Red Oak INT, Mich.; *5,000. *2,600—MOCA.

Section 95.6308 *VOR Federal airway 308* is amended to read in part:

Avalon INT, N.J.; Harbor INT, N.J.; *3,000. *1,500—MOCA.
Harbor INT, N.J.; Manta INT, N.J.; *5,000. *1,500—MOCA.

Section 95.6438 *VOR Federal airway 438* is amended to read in part:

Kodiak, Alaska, VOR; Homer, Alaska, VOR; 6,000.
Homer, Alaska, VOR; *Skilak INT, Alaska; 5,000. *4,000—MCA Skilak INT, southbound.
Kodiak, Alaska, VOR, via W alter.; Int, 125° M rad. Homer VOR and 335° M rad. Kodiak VOR, via W alter.; *6,000. *4,000—MOCA.
Int, 125° M rad. Homer VOR and 335° M rad. Kodiak VOR, via W alter.; Homer, Alaska, VOR, via W alter.; 6,000.

Section 95.6498 *VOR Federal airway 498* is amended to read in part:

Galena, Alaska, VOR; Kateel DME Fix, Alaska, westbound, 8,000, eastbound, 4,000.
Kateel DME Fix, Alaska; Kotzebue, Alaska, VOR; *8,000. *5,900—MOCA.

Section 95.7015 *Jet Route No. 15* is amended to read in part:

From, To, MEA, and MAA

Salt Lake City, Utah, VORTAC; Boise, Idaho, VORTAC; 18,000, 45,000. MEA is established with a gap in navigation signal coverage.

Section 95.7590 *Jet Route No. 590* is added to read:

United States-Canadian border; Sault Ste Marie, Mich., RBN; 12,000, 45,000.

(Secs. 307, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1248, 1510)

Issued in Washington, D.C., on December 19, 1967.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[F.R. Doc. 67-15017; Filed, Dec. 28, 1967; 8:45 a.m.]

[Reg. Docket No. 8691; Amdt. 376]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

The amendments to the standard instrument approach procedures contained herein are adopted to become effective when indicated in order to promote safety. The amended procedures supersede the existing procedures of the same classification now in effect for the airports specified therein. For the convenience of the users, the complete procedure is republished in this amendment indicating the changes to the existing procedures.

As a situation exists which demands immediate action in the interests of safety in air commerce, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In view of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 97 (14 CFR Part 97) is amended as follows:

1. By amending the following automatic direction finding procedures prescribed in § 97.11(b) to read:

ADF STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
				T-dn	800-1	800-1	800-1½
				C-dn	800-1	800-1	800-1¾
				A-dn	800-2	800-2	862

Procedure turn N side of crs, 021° Outbnd, 201° Inbnd, 1700' within 10 miles.
Minimum altitude over facility on final approach crs, 700'.
Crs and distance, facility to airport, 201°—3.3 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.3 miles after passing PBA NDB, climb to 1700' on 201° bearing within 15 miles of PBA NDB.
MSA within 25 miles of facility: 000°–090°—1200'.

City, Barrow; State, Alaska; Airport name, Wiley Post-Will Rogers Memorial; Elev., 49'; Fac. Class., H; Ident., PBA; Procedure No. NDB(ADF)-1, Amdt. Orig.; Eff. date, 20 Jan. 68

Roberts VOR	Sidney Int	Direct	3400	T-dn*	800-1	800-1	800-1½
Sidney Int	LOM	Direct	3400	C-dn	800-1	800-1	800-1½
DEC VOR	Atwood Int	Direct	3400	S-dn-31	800-1	800-1	800-1
Atwood Int	LOM	Direct	3400	A-dn	800-2	800-2	800-2
CMI VOR	LOM	Direct	3400				
Bemet Int	LOM	Direct	3400				
Mansfield Int	CMI VOR	Direct	3700				

Procedure turn N side of crs, 138° Outbnd, 318° Inbnd, 2400' within 10 miles.
Minimum altitude over facility on final approach crs, 2400'.
Crs and distance, facility to airport, 318°—5.7 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.7 miles after passing LOM, climb to 2700' and proceed to Mansfield Int via CMI VOR, R 226°.
*When weather is less than 400-1, aircraft departing Runways 4, 31, and 36 maintain runway track until reaching 1500' due to 1146' tower, 2.5 miles NNE.
MSA within 25 miles of facility: 000°–330°—3000'.

City, Champaign (Urbana); State, Ill.; Airport name, University of Illinois-Willard; Elev., 759'; Fac. Class., LOM; Ident., CM; Procedure No. NDB (ADF) Runway 31, Amdt. 2; Eff. date, 20 Jan. 68; Sup. Amdt. No. ADF 1, Amdt. 1; Dated, 5 Sept. 64

API VOR	LOM (final)	Direct	1700	4T-dn	800-1	800-1	800-1½
DPA VOR	LOM	Direct	2500	C-dn	800-1	800-1	800-1½
ORD VOR	LOM	Direct	2500	S-dn-4	800-1	800-1	800-1
OBK VOR	LOM	Direct	2400	A-dn	800-2	800-2	800-2
Niles Int	LOM	Direct	2400				
York Int	LOM (final)	Direct	1700				
Bartlett Int	LOM	Direct	2500				
Tiger Int	York Int	Via ORD R 215°.	2500				

Radar available.
Procedure turn S side of crs, 215° Outbnd, 035° Inbnd, 2500' within 10 miles.
Minimum altitude over facility on final approach crs, 1700'.
Crs and distance, facility to airport, 035°—3.6 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.6 miles of LOM, climb to 2500' turn left and proceed to OBK VOR via OBK VOR, R 170°.
NOTES: (1) LOM designated Pine. (2) Final approach from holding pattern at LOM not authorized. Procedure turn required.
CAUTION: Takeoffs on Runway 32L, when weather is below 1000-3, climb to 2000' MSL on runway heading prior to making left turn.
MSA within 25 miles of facility: 000°–090°—2600'; 090°–180°—3000'; 180°–360°—2500'.

City, Chicago; State, Ill.; Airport name, Chicago-O'Hare International; Elev., 667'; Fac. Class., LOM; Ident., HN; Procedure No. NDB(ADF) Runway 4, Amdt. 1; Eff. date, 20 Jan. 68; Sup. Amdt. No. Orig.; Dated, 11 Mar. 67

ADF STANDARD INSTRUMENT APPROACH PROCEDURES—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Lakewood Int	LOM (final)	Via OBK R 272° and 136° bearing to LOM.	2200	T-dn	300-1	300-1	200-½
				C-dn	400-1	500-1	500-1½
				S-dn-14L	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2
Warren Int	LOM	Direct	2600				
Niles Int	LOM	Direct	3000				
Deerfield Int	LOM	Direct	2500				
OBK VOR	LOM	Direct	2500				

Radar available.
Procedure turn W side of crs, 312° Outbnd, 132° Inbnd, 2500' within 10 miles.
Minimum altitude over LOM on final approach crs, 2200'.
Crs and distance, facility to airport, 132°—5.2 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.2 miles after passing LOM turn left to heading of 129° and climb to 1500', make left-climbing turn to 2600' and proceed to Evanston Int via ORD R 078.
NOTE: Runway 14L, LOM named "LIMA".
CAUTION: Takeoffs on Runway 32L, when weather is below 1000-3, climb to 2000' MSL on runway heading prior to making left turn.
MSA within 25 miles of facility: 000°-090°—2600'; 090°-180°—3000'; 180°-360°—2600'.

City, Chicago; State, Ill.; Airport name, Chicago-O'Hare International; Elev., 667'; Fac. Class., LOM; Ident., OH; Procedure No. NDB(ADF) Runway 14L, Amdt. 8; Eff. date, 20 Jan. 68; Sup. Amdt. No. 7; Dated, 25 Mar. 65

Lakewood Int	LOM (final)	Via OBK, R 272° and bearing 136° to LOM.	2200	T-dn	300-1	300-1	200-½
				C-dn	400-1	500-1	500-1½
				S-dn-14R	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2
ORD VOR	LOM	Direct	2600				
OBK VOR	LOM	Direct	2500				
Warren Int	LOM	Direct	2500				
Niles Int	ORD VOR	Direct	3000				
Deerfield Int	LOM	Direct	2500				
Elgin Int	LOM	Direct	2500				

Radar available.
Procedure turn W side of crs, 312° Outbnd, 132° Inbnd, 2500' within 10 miles.
Minimum altitude over facility on final approach crs, 2200'.
Crs and distance, facility to airport, 132°—5.2 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.2 miles after passing LOM, turn right to heading 155° and climb to 1500' then make right-climbing turn to 2500' and proceed to DPA VOR via DPA R 085° or, as directed by ATC, turn right to heading of 155° and climb to 1500', then make right-climbing turn to 2500' and proceed to Elgin Int, via ORD R 271°.
NOTE: Runway 14R, LOM named "ROMEO".
CAUTION: Takeoffs on Runway 32L, when weather is below 1000-3, climb to 2000' MSL on Runway heading prior to making left turn.
MSA within 25 miles of facility: 000°-090°—2600'; 090°-180°—4000'; 180°-360°—2600'.

City, Chicago; State, Ill.; Airport name, Chicago-O'Hare International; Elev., 667'; Fac. Class., LOM; Ident., OB; Procedure No. NDB(ADF) Runway 14R, Amdt. 7; Eff. date, 20 Jan. 68; Sup. Amdt. No. ADF 1, Amdt. 6; Dated, 26 June 65

	LOM	Direct	2200	T-dn	300-1	300-1	200-½
Papi Int	ORD VOR	Direct	2500	C-dn	400-1	500-1	500-1½
Warren Int	LOM	Direct	2200	S-dn-27R	400-1	400-1	400-1
ORD VOR	LOM	Direct	3000	A-dn	800-2	800-2	800-2
OBK VOR	ORD VOR	Via OBK, R 272° and ORD, R 218°.	2500				
Lakewood Int			2200				
Deerfield Int	LOM	Direct	3000				
Niles Int	LOM	Direct					

Radar available.
Procedure turn N side of crs, 088° Outbnd, 268° Inbnd, 2200' within 10 miles.
Minimum altitude over facility on final approach crs, 2200'.
Crs and distance, facility to airport, 268°—4.5 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.5 miles after passing LOM, turn right to 288° heading, climb to 1800' then make right-climbing turn to 3600' and proceed to Lakewood Int via ORD VOR, R 310° and OBK VOR, R 272° or, as directed by ATC, turn right to 288° heading, climb to 1800' then make climbing right turn to 3600' and proceed direct OBK VOR.
NOTE: LOM named "Taft".
CAUTION: Takeoffs on Runway 32L, when weather is below 1000-3, climb to 2000' MSL on runway heading prior to making left turn.
MSA within 25 miles of facility: 000°-090°—2600'; 090°-180°—3000'; 180°-360°—2600'.

City, Chicago; State, Ill.; Airport name, Chicago-O'Hare International; Elev., 667'; Fac. Class., LOM; Ident., IA; Procedure No. NDB(ADF) Runway 27R, Amdt. 6; Eff. date, 20 Jan. 68; Sup. Amdt. No. ADF 3, Amdt. 5; Dated, 26 Jan. 66

ADF STANDARD INSTRUMENT APPROACH PROCEDURES—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
CGT VOR	Stack Int	Via CGT, R 356° and bearing 315° to RV LOM.	3600	T-dn	300-1	300-1	200-½
				C-dn	400-1	500-1	500-1½
				S-dn-32L	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2
API VOR*	Stack Int	Direct	3600				
Niles Int	Stack Int	Via API, R 088° and bearing 315° to RV LOM.	3600				
Stack Int	LOM (final)	Direct	2200				
ORD VOR*	Stack Int	Direct	3500				
OBK VOR*	Stack Int	Direct	3600				
Lakewood Int	ORD VOR	Via OBK VOR, R 272° and ORD, R 218°.	3600				

Radar available.
Procedure turn E side of crs, 126° Outbnd, 315° Inbnd, 2200' within 10 miles of Stack Int.
Minimum altitude over LOM on final approach crs, 2200'; over Stack Int, 3600'.
Crs and distance, LOM to airport, 315°—3.6 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.6 miles after passing LOM, turn left to 260° heading, climb to 1500', then make left-climbing turn to 3600' and proceed direct to DPA VOR.
NOTES: (1) ADF/VOR receivers or radar required. (2) Runway 32L LOM named River Grove. (3) *Requires holding pattern entry at Stack Int during nonradar operation; (4) All transition to Stack Int except as noted.
CAUTION: Takeoffs on Runway 32L, when weather is below 1000-3, climb to 2000' MSL on runway heading prior to making left turn.
MSA within 25 miles of facility: 000°-180°—3000'; 180°-360°—3600'.

City, Chicago; State, Ill.; Airport name, Chicago-O'Hare International; Elev., 667'; Fac. Class., LOM; Ident., RV; Procedure No. NDB(ADF) Runway 32L; Amdt. 8; Eff. date, 20 Jan. 68; Sup. Amdt. No. 4; Dated, 11 Feb. 67

CGT VOR	Park Int	Via CGT, R 356° and bearing 315° to ID LOM.	3600	T-dn	300-1	300-1	200-½
				C-dn	400-1	500-1	500-1½
				S-dn-32R	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2
API VOR*	Park Int	Direct	3600				
Niles Int	Park Int	Via API, R 088° and bearing 315° to ID LOM.	3600				
ORD VOR*	Park Int	Direct	3500				
OBK VOR*	Park Int	Direct	2200				
Park Int	LOM (final)	Direct	3600				
Lakewood Int	ORD VOR	Via OBK, R 272° and ORD VOR R 218.					

Radar available.
Procedure turn E side of crs, 135° Outbnd, 315° Inbnd, 3500' within 10 miles of Park Int.
Minimum altitude over LOM on final approach crs, 2200', over Park Int on final approach crs, 3500'.
Crs and distance, LOM to airport, 315°—5 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6 miles after passing LOM turn right to 225° heading, climb to 1500', then make right-climbing turn to 3500' and proceed to Evanston Int via ORD R 078.
NOTES: (1) Functioning VOR receiver required unless a radar vector to final approach crs is obtained. (2) LOM 32R named Indian. (3) *Requires holding pattern entry at Park Int during nonradar operation. (4) All transitions to Park Int except as noted.
CAUTION: Takeoffs on Runway 32L, when weather is below 1000-3, climb to 2000' MSL on runway heading prior to making left turn.
MSA within 25 miles of facility: 000°-180°—3000'; 180°-360°—3500'.

City, Chicago; State, Ill.; Airport name, Chicago-O'Hare International; Elev., 667'; Fac. Class., LOM; Ident., ID; Procedure No. NDB(ADF) Runway 32R; Amdt. 8; Eff. date, 20 Jan. 68; Sup. Amdt. No. 4; Dated, 9 Sept. 67

Nantucket VOR	AC LOM	Direct	1700	T-dn	300-1	300-1	200-½
Great Point Int	AC LOM	Direct	1700	C-dn	400-1	400-1	400-1½
				S-dn-24	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Radar vectoring.
Procedure turn N side of crs, 060° Outbnd, 240° Inbnd, 1700' within 10 miles.
Minimum altitude over facility on final approach crs, 1600'.
Crs and distance, facility to airport, 240°—4.4 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.4 miles after passing AC LOM, make climbing left turn to 1700' direct to AC LOM. Hold NE of AC LOM 240° Inbnd, 1-minute right turns.
CAUTION: 342' tower 2.6 miles W of airport; 650' Loran antenna 3 miles ESE of airport.
MSA within 25 miles of facility: 000°-360°—1700'.

City, Nantucket; State, Mass.; Airport name, Nantucket Memorial; Elev., 47'; Fac. Class., LOM; Ident., AC; Procedure No. NDB(ADF) Runway 24; Amdt. 4; Eff. date, 20 Jan. 68; Sup. Amdt. No. ADF 1, Amdt. 3; Dated, 26 Dec. 66

2. By amending the following very high frequency omnirange (VOR) procedures prescribed in § 97.11(c) to read:

VOR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Mansfield Int	CMI VOR	Direct	2700	T–dn°	300–1	300–1	200–½
R 115°, CMI VOR clockwise	R 294°, CMI VOR	Via 12-mile DME Arc.	2300	C–dn	500–1	500–1	500–1½
				S–dn–4	500–1	500–1	500–1
R 300°, CMI VOR counterclockwise	R 294°, CMI VOR	Via 12-mile DME Arc.	2700	A–dn	800–2	800–2	800–2
				Minimums with DME:			
12-mile DME Fix, R 294°	4-mile DME Fix, R 294° (final)	Direct	1283	C–dn	400–1	400–1	400–1½
				S–dn–4	400–1	400–1	400–1

Procedure turn S side of crs, 294° Outbnd, 054° Inbnd, 2300' within 10 miles.
Minimum altitude over 4-mile DME Fix on final approach crs, 1253'.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile of CMI VOR, make left turn, climb to 2700' and proceed to "Mansfield Int northwestbound on CMI R 225° or, when directed by ATC, make right turn, climb to 2300' and proceed direct to CM LOM.
"When weather is less than 400–1, aircraft departing Runways 4, 31, and 36 maintain runway track until reaching 1500' due to 1146' tower, 2.5 miles NNE.
MSA within 25 miles of facility: 030°–360°—3000'.

City, Champaign (Urbana); State, Ill.; Airport name, University of Illinois-Willard; Elev., 753'; Fac. Class., L–BVORTAC; Ident., CMI; Procedure No. VOR Runway 4, Amdt. 4; Eff. date, 30 Jan. 68; Sup. Amdt. No. TerVOR–4, Amdt. 3; Dated, 28 May 64

Mansfield Int	CMI VOR	Direct	2700	T–dn°	300–1	300–1	200–½
R 208°, CMI VOR clockwise	R 225°, CMI VOR	Via 12-mile DME Arc.	2700	C–dn	700–1	700–1	700–1½
				S–dn–13	700–1	700–1	700–1
R 058°, CMI VOR counterclockwise	R 225°, CMI VOR	Via 12-mile DME Arc.	2700	A–dn	900–2	900–2	900–2
				Minimums with DME:			
12-mile DME Fix, R 225°	4-mile DME Fix, R 225° (final)	Direct	1453	C–dn	400–1	500–1	500–1½
				S–dn–13	400–1	400–1	400–1

Procedure turn W side of crs, 225° Outbnd, 145° Inbnd, 2700' within 10 miles.
Minimum altitude over 4-mile DME Fix on final approach crs, 1453'.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile of VOR, climb to 2700' southeastbound on R 145°, reverse crs and return to VOR.
"When weather is less than 400–1, aircraft departing Runways 4, 31, and 36 maintain runway track until reaching 1500' due to 1146' tower, 2.5 miles NNE.
MSA within 25 miles of facility: 030°–360°—3000'.

City, Champaign (Urbana); State, Ill.; Airport name, University of Illinois-Willard; Elev., 753'; Fac. Class., L–BVORTAC; Ident., CMI; Procedure No. VOR Runway 13, Amdt. 1; Eff. date, 20 Jan. 68; Sup. Amdt. No. VOR/DME No. 1, Orig.; Dated, 9 Oct. 65

Mansfield Int	CMI VOR	Direct	2700	T–dn°	300–1	300–1	200–½
12-mile DME Fix, R 027°	2.7-mile DME Fix, R 027° (final)	Direct	1453	C–dn	700–1	700–1	700–1½
R 270°, CMI VOR clockwise	R 027°, CMI VOR	Via 12-mile DME Arc.	2700	A–dn	900–2	900–2	900–2
				Minimums with DME:			
R 148°, CMI VOR counterclockwise	R 027°, CMI VOR	Via 12-mile DME Arc.	2300	C–dn	400–1	500–1	500–1½

Procedure turn E side of crs, 027° Outbnd, 207° Inbnd, 2700' within 10 miles.
Minimum altitude over 2.7-mile DME Fix on final approach crs, 1453'.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile of VOR, climb to 2700' and proceed to Mansfield Int northwestbound on CMI R 225°, or when directed by ATC, climb to 2500' and proceed to Bement Int southwestbound on CMI VOR R 234°.
"When weather is less than 400–1, aircraft departing Runways 4, 31, and 36 maintain runway track until reaching 1500' due to 1146' tower, 2.5 miles NNE.
MSA within 25 miles of facility: 030°–360°—3000'.

City, Champaign (Urbana); State, Ill.; Airport name, University of Illinois-Willard; Elev., 753'; Fac. Class., L–BVORTAC; Ident., CMI; Procedure No. VOR Runway 22, Amdt. 1; Eff. date, 20 Jan. 68; Sup. Amdt. No. VOR/DME No. 2, Orig.; Dated, 9 Oct. 65

Mansfield Int	CMI VOR	Direct	2700	T–dn°	300–1	300–1	200–½
R 260°, CMI VOR clockwise	R 120°, CMI VOR	Via 12-mile DME Arc.	2300	C–dn	500–1	500–1	500–1½
				S–dn–31	500–1	500–1	500–1
R 240°, CMI VOR counterclockwise	R 120°, CMI VOR	Via 12-mile DME Arc.	2300	A–dn	900–2	900–2	900–2
				Minimums with DME:			
12-mile DME Fix, R 120°	4-mile DME Fix (final)	Direct	1283	C–dn	400–1	500–1	500–1½
				S–dn–31	400–1	400–1	400–1

Procedure turn N side of crs, 120° Outbnd, 300° Inbnd, 2300' within 10 miles.
Minimum altitude over 4-mile DME Fix on final approach crs, 1283'.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile of CMI VOR climb to 2700' and proceed to "Mansfield Int northwestbound on CMI R 225° or, when directed by ATC, climb to 2300' and proceed to Bement Int southwestbound on CMI VOR R–234°.
"When weather is less than 400–1, aircraft departing Runways 4, 31, and 36 maintain runway track until reaching 1500' due to 1146' tower, 2.5 miles NNE.
MSA within 25 miles of facility: 030°–360°—3000'.

City, Champaign (Urbana); State, Ill.; Airport name, University of Illinois-Willard; Elev., 753'; Fac. Class., L–BVORTAC; Ident., CMI; Procedure No. VOR Runway 31, Amdt. 5; Eff. date, 20 Jan. 68; Sup. Amdt. No. TerVOR–31, Amdt. 4; Dated, 5 Sept. 64

PROCEDURE CANCELED, EFFECTIVE 20 JAN. 1968.

City, Chicago; State, Ill.; Airport name, Chicago-O'Hare International; Elev., 667'; Fac. Class., L–VORTAC; Ident., ORD; Procedure No. VOR Runway 4, Amdt. 4; Eff. date, 11 May 67; Sup. Amdt. No. TerVOR–4, Amdt. 3; Dated, 18 June 66

VOR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Papi Int	Ridge Int	Via OBK R 076° and ORD R 096°.	2800	T–dn	300–1	300–1	200–½
				C–dn	400–1	500–1	500–1½
				S–dn–22	400–1	400–1	400–1
				A–dn	800–2	800–2	800–2
OBK VOR	Ridge Int	Direct	2800				
Niles Int	ORD VORTAC	Direct	3000				
Warren Int	ORD VORTAC	Direct	2500				

Radar available.
Procedure turn N side of crs, 096° Outbnd, 216° Inbnd, 2600' within 10 miles of Ridge Int.
Minimum altitude over Ridge Int on final approach crs, 2600'; over Rand Int 1800'.
Crs and distance, Rand Int to VOR, 216°—4.5 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile, of ORD VOR, climb to 3500' and proceed to DPA VOR via ORD R 218° and DPA R 095° or, as directed by ATC, climb to 1500' on ORD R 218°, then make right-climbing turn to 2500' and proceed to Elgin Int via ORD R 271°.

NOTE: Radar fix may be requested in lieu of Rand and Ridge Intersections.
CAUTION: Takeoffs on Runway 32L, when weather is below 1000–3, climb to 2000' MSL on runway heading prior to making left turn.
MSA within 25 miles of facility: 000°–090°—2500'; 090°–180°—3000'; 180°–360°—2800'.

City, Chicago; State, Ill.; Airport name, Chicago-O'Hare International; Elev., 667'; Fac. Class., L–BVORTAC; Ident., ORD; Procedure No. VOR Runway 22, Amdt. 6; Eff. date, 20 Jan. 68; Sup. Amdt. No. TerVOR–22, Amdt. 5; Dated, 18 Jan. 68

CMI VOR	DNV VOR	Direct	2300	T–dn	300–1	300–1	200–½
EPT VOR	DNV VOR	Direct	2300	C–dn	400–1	500–1	500–1½
Tab VHF/DME Int	DNV VOR (final)	Direct	2300	S–dn–21	400–1	400–1	400–1
R 295°, DNV VOR clockwise	R 014°, DNV VOR	Via 8-mile DME Arc.	2300	A–dn°	NA	NA	NA
R 095°, DNV VOR counterclockwise	R 014°, DNV VOR	Via 8-mile DME Arc.	2800				
8-mile DME Fix, R 014°	DNV VOR (final)	Direct	2300				

Procedure turn W side of crs, 014° Outbnd, 194° Inbnd, 2300' within 10 miles.
Minimum altitude over facility on final approach crs, 2300'.
Crs and distance, facility to airport, 194°—5.4 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.4 miles after passing DNV VOR, make left-climbing turn to 2300' and return to DNV VOR.
CAUTION: 1090' tower, 2 miles SSW of airport.
°800–2 authorized for air carrier with approved weather service.
MSA within 25 miles of facility: 000°–090°—2100'; 090°–180°—2300'; 180°–270°—3000'; 270°–360°—2400'.

City, Danville; State, Ill.; Airport name, Vermilion County; Elev., 699'; Fac. Class., L–BVORTAC; Ident., DNV; Procedure No. VOR Runway 21, Amdt. 3; Eff. date, 20 Jan. 68; Sup. Amdt. No. VOR 1, Amdt. 2; Dated, 13 Aug. 66

				T–dn	300–1	300–1	300–1
				C–dn	600–1	600–1	600–1½
				A–dn	NA	NA	NA

Radar available.
Procedure turn N side of crs, 261° Outbnd 081° Inbnd, 2600' within 10 miles.
Minimum altitude over IND VOR on final approach crs, 2500'.
Crs and distance, facility to airport, 081°—5.5 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.5 miles of VOR, make left turn, climb to 2600' and return to VOR.
NOTES: (1) No lights available. (2) Use Indianapolis altimeter setting.
°Avoid climb in NE quadrant of airport after takeoff when weather is below 1000–3 due to 1042' tower, 1.1 miles N, 1104' tower 2 miles ENE, and 1040' tower 7 miles NE.
MSA within 25 miles of facility: 000°–180°—2000'; 180°–360°—2800'.

City, Indianapolis; State, Ind.; Airport name, Bob Shank; Elev., 770'; Fac. Class., H–BVORTAC; Ident., IND.; Procedure No. VOR–1, Amdt. Orig.; Eff. date, 20 Jan. 68

Mansfield Int	CMI VOR	Direct	2700	T–d	300–1	300–1	300–1
R 090°, CMI VOR clockwise	R 207°, CMI VOR	Via 7-mile DME Arc.	2300	C–d	500–1	500–1	500–1½
				Minimums with DME:			
R 330°, CMI VOR counterclockwise	R 207°, CMI VOR	Via 7-mile DME Arc.	2700	C–d	500–1	500–1	500–1½
				A–dn	NA	NA	NA
7-mile DME Fix, R 207°	CMI VOR (final)	Direct	2300				

Procedure turn W side of crs, 207° Outbnd, 027° Inbnd, 2300' within 10 miles.
Minimum altitude over facility on final approach crs, 2300'.
Crs and distance, facility to airport, 027°—7.4 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 7.4 miles after passing CMI VOR, make climbing right turn and return to the CMI VOR at 2300'.
NOTE: Use Champaign altimeter setting.
MSA within 25 miles of facility: 000°–360°—3000'.

City, Urbana; State, Ill.; Airport name, Illini; Elev., 735'; Fac. Class., L–BVORTAC; Ident., CMI; Procedure No. VOR–1, Amdt. 1; Eff. date, 20 Jan. 68; Sup. Amdt. No. VOR 1, Orig.; Dated, 6 Jan. 66

3. By amending the following very high frequency omnirange—distance measuring equipment (VOR/DME) procedures prescribed in § 97.15 to read:

VOR-DME STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
DNV VOR	Rose Int	196°/8.5-mile	2200	T-dn	300-1	300-1	300-1½
R 065°, DNV VOR clockwise	R 196°, DNV VOR	Via 16-mile DME Arc.	2400	C-dn	400-1	500-1	500-1½
R 210°, DNV VOR counterclockwise	R 196°, DNV VOR	Via 16-mile DME Arc.	2400	A-dn*	NA	NA	NA
16-mile DME Fix, R 196°	8.5-mile DME Fix, R 196° (Rose Int) (final).	Direct	1700				

Procedure turn E side of crs, 196° Outbnd, 016° Inbnd, 2200′ within 10 miles of Rose Int.
Minimum altitude over Rose Int on final approach crs, 1700′.
Crs and distance, Rose Int to airport, 016°—8.3 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished at 8.3-mile DME Fix, R 196°, climb to 2200′ and proceed direct to VOR.
CAUTION: 1036′ tower, 3 miles SSW of airport.
*Alternate minimums 800-2 authorized for air carriers with weather reporting service.
MSA within 25 miles of facility: 000°–090°—2100′; 090°–180°—2200′; 180°–270°—3000′; 270°–360°—2400′.

City, Danville; State, Ill.; Airport name, Vermilion County; Elev., 695′; Fac. Class., L-BVORTAC; Ident., DNV; Procedure No. VOR/DME Runway 3, Amdt. 1; Eff. date, 20 Jan. 68; Sup. Amdt. No. VOR/DME 2, Orig.; Dated, 24 Dec. 66

4. By amending the following instrument landing system procedures prescribed in § 97.17 to read:

ILS STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Roberts VOR	Sidney Int	Direct	2400	T-dn‡	300-1	300-1	300-1½
Sidney Int	LOM	Direct	2400	C-dn	400-1	500-1	500-1½
Decatur VOR	Atwood Int	Direct	2400	S-dn-31°	300-1¼	300-1¼	300-1¼
Atwood Int	LOM	Direct	2400	A-dn	600-2	600-2	600-2
CMI VOR	LOM	Direct	2400				
Bement Int	LOM	Direct	2400				
Mansfield Int	CMI VOR	Direct	2700				
12-mile DME Fix, CMI R 139°	LOM (final)	Direct	2400				
R 269°, CMI VOR clockwise	R 139°, CMI VOR	Via 12-mile DME Arc.	2400				
R 299°, CMI VOR counterclockwise	R 139°, CMI VOR	Via 12-mile DME Arc.	2400				

Procedure turn N side of crs, 139° Outbnd, 319° Inbnd, 2400′ within 10 miles.
Minimum altitude at glide slope intercept Inbnd, 2400′.
Altitude of glide slope and distance to approach end of runway at OM, 2400′—8.7 miles; at MM, 927′—0.5 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, climb to 2700′ and proceed to Mansfield Int via CMI VOR R 329° or, as directed by ATC, climb to 2600′ and proceed to Bement Int via CMI VOR R 234°.
‡400-1 required without glide slope.
§When weather is less than 400-1, aircraft departing Runways 4, 21, and 36 maintain runway track until reaching 1500′ due to 1140′ tower, 2.5 miles NNE.
MSA within 25 miles of LOM: 000°–360°—3000′.

City, Champaign (Urbana); State, Ill.; Airport name, University of Illinois-Willard; Elev., 753′; Fac. Class., ILS; Ident., I-CMI; Procedure No. ILS Runway 36, Amdt. 2; Eff. date, 20 Jan. 68; Sup. Amdt. No. ILS-36, Amdt. 1; Dated, 5 Sept. 64

APE VOR	York Int	Via APE R to 360	2500	T-dn	300-1	300-1	300-1½
Tiger Int	York Int	Direct	2600	C-dn	400-1	500-1	500-1½
DPA VOR	LOM	Direct	3500	S-dn-46	400-1	400-1	400-1
ORD VOR	LOM	Direct	3500	A-dn	800-2	800-2	800-2
Niles Int	LOM	Direct	2600				
Bartlett Int	LOM	Direct	2600				
OBK VOR	LOM	Direct	2500				
York Int	LOM (final)	Direct	1700				

Radar available.
Procedure turn S side of crs, 216° Outbnd, 036° Inbnd, 2500′ within 10 miles.
Minimum altitude over LOM on final approach crs, 1700′.
Crs and distance, LOM to airport, 036°—3.6 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.6 miles of LOM, climb to 2600′ turn left and proceed to OBK VOR via OBK VOR R 176°.
NOTES: (1) LOM designated Pine. (2) Final approach from holding pattern at LOM not authorized. Procedure turn required.
CAUTION: Takeoffs on Runway 32L, when weather is below 1000-3, climb to 2000′ MSL on runway heading prior to making left turn.
‡400-¾ authorized with operative SALS except for 4-engine turbojets.
MSA within 25 miles of HIN LOM: 000°–090°—2500′; 090°–180°—3000′; 180°–270°—3000′.

City, Chicago; State, Ill.; Airport name, Chicago-O'Hare International; Elev., 667′; Fac. Class., ILS; Ident., I-HNA; Procedure No. ILS Runway 4, Amdt. 2; Eff. date, 20 Jan. 68; Sup. Amdt. No. ILS Runway 4, Amdt. 1; Dated, 11 Mar. 67

ILS STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Lakewood Int	LOM (final)	Via OBK R 272° and NW crs, ORD ILS.	2200	T-dn‡	300-1	300-1	300-1½
				C-dn	400-1	500-1	500-1½
				S-dn-14R§*	200-½	300-½	300-¾
				A-dn	600-2	600-2	600-2
ORD VOR	LOM	Direct	2500				
Warren Int	LOM	Direct	2500				
Elgin Int	LOM	Direct	3000				
Niles Int	ORD VOR	Direct	2500				
Deerfield Int	LOM	Direct	2500				
OBK VOR	LOM	Direct	2500				

Radar available.
Procedure turn W side of crs, 318° Outbnd, 136° Inbnd, 2500′ within 10 miles.
Minimum altitude at glide slope intercept Inbnd, 2500′.
Altitude of glide slope and distance to approach end of runway at OM, 2140′—8.3 miles; at MM, 861′—0.5 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 8.3 miles after passing LOM, turn right to a heading of 155° and climb to 1800′, then make right-climbing turn to 2500′ and proceed to Elgin Int via ORD R 271°.
CAUTION: When conducting a parallel approach, parallel ILS-14 R and L procedure must be used.
NOTES: (1) Runway 14R LOM named "ROMEO". (2) Back crs unusable.
CAUTION: Takeoffs on Runway 32L, when weather is below 1000-3, climb to 2000′ MSL on runway heading prior to making left turn.
‡% 400-¾ required when glide slope not utilized and 400-½ authorized with operative ALS, except for 4-engine turbojets.
*2400′ RVR. Descent below 867′ not authorized unless approach lights are visible.
§RVR 2400′ authorized Runways 14 L and R, 32 L and R, and 27R.
MSA within 25 miles of OE LOM: 000°–090°—2500′; 090°–180°—3000′; 180°–360°—2800′.

City, Chicago; State, Ill.; Airport name, Chicago-O'Hare International; Elev., 667′; Fac. Class., ILS; Ident., I-ORD; Procedure No. ILS Runway 14R, Amdt. 12; Eff. date, 20 Jan. 68; Sup. Amdt. No. ILS-14R, Amdt. 11; Dated, 16 June 66

Meadows Int	LOM (final when glide slope not utilized).	136°–3.9 miles	2100	T-dn	300-1	300-1	300-1½
				C-dn	NA	NA	NA
				S-dn-14 R & L‡	200-½	300-½	300-½
				A-dn	600-2	600-2	600-2

Procedure turn not authorized. Radar required.
Crs, LOM to Runway 14R, 136°; LOM to Runway 14L, 136°.
Runway 14R—Minimum altitude at glide slope intercept Inbnd, 2200′.
Runway 14L—Minimum altitude at Meadows Int or glide slope intercept Inbnd, 2200′ (2100′ when authorized by ATC).
Altitude of glide slope and distance to approach end of runway at LOM, 14R: 2140′—8.3 miles; 14L: 2060′—8.2 miles; at MM, 14R: 861′—0.5 mile, 14L: 864′—0.6 mile.
When advised by the controller or if visual contact not established upon descent to authorized landing minimums or if landing not accomplished: Runway 14R—Turn right to heading of 155° and climb to 1500′, then make right-climbing turn to 2500′ and proceed to DPA VOR via R 085°. Runway 14L—Turn left to heading of 120° and climb to 1800′, make left-climbing turn to 2500′ and proceed to Evanston Int via ORD R 075°.
‡Runway 14 L and R—400-¾ required when glide slope not utilized; 400-½ authorized with operative ALS, except for 4-engine turbojets. 2400′ RVR. Descent below 867′ not authorized unless approach lights are visible.
§Meadows Int established where 2200′ altitude intercepts glide slope. When glide slope inoperative, begin descent at Meadows Int.
NOTES: (1) Use of this procedure is mandatory when conducting a parallel ILS approach, and is authorized only when airborne 75 mc (or ADF), and localizer receivers are operating simultaneously. A radar fix in lieu of Meadows intersection will be provided upon pilot's request. (2) When any required airborne receiver in Note (1) is malfunctioning or a parallel approach is not desired, immediate notification of approach control is mandatory. (3) When advised that parallel operations are in progress, the pilot will check his authorization and restrictions for Runway 14 L and R, and be prepared to accept or reject an approach to either. (4) Back crs unusable Runway 14 L and R.

City, Chicago; State, Ill.; Airport name, Chicago-O'Hare International; Elev., 667′; Fac. Class., ILS; Ident., I-ORD and I-OHA; Procedure No. Parallel ILS Runways 14 L and R, Amdt. 7; Eff. date, 20 Jan. 68; Sup. Amdt. No. 6; Dated, 15 July 67

OBK VOR	Navy Int	Direct	2600	T-dn	300-1	300-1	300-1½
Papi Int	Navy Int	Via OBK R 076° and HNA ILS BC.	2600	C-dn*	400-1	500-1	500-1½
				S-dn-22°‡	400-1	400-1	400-1
				A-dn*	800-2	800-2	800-2
Deerfield Int	Navy Int	Via OBK R 091° and HNA ILS BC.	2600				

Radar available.
Procedure turn N side of crs, 038° Outbnd, 218° Inbnd, 2600′ within 10 miles of Navy Int.
Minimum altitude over Navy Int on final-approach crs, 2600′; over Dan Int, 1900′.
Crs and distance, Navy Int to airport, 218°—8.2 miles; Dan Int to airport, 218°—3.9 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.9 miles of DAN int, climb to 2600′ and proceed to DPA VOR via front crs, 218° and DPA R 065°.
CAUTION: Takeoffs on Runway 32L, when weather is below 1000-3, climb to 2000′ MSL on runway heading prior to making left turn.
*Dual VOR or radar required.
‡Reduction not authorized for REIL.

City, Chicago; State, Ill.; Airport name, Chicago-O'Hare International; Elev., 667′; Fac. Class., ILS; Ident., I-HNA; Procedure No. LOC(BC) Runway 22, Amdt. 1; Eff. date, 20 Jan. 68; Sup. Amdt. No. Orig.; Dated, 11 Feb. 67

ILS STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Papi Int	LOM	Direct	2300	T-dn¾	300-1	300-1	200-½
ORD VOR	LOM	Direct	2300	C-dn	400-1	500-1	500-1½
OBK VOR	LOM	Direct	3000	S-dn-27R¾	200-½	200-½	200-½
Lakewood Int	ORD VOR	Via OBK R 272° and ORD R 318.	2500	A-dn	600-2	600-2	600-2
Niles Int	LOM	Direct	3000				
Warren Int	ORD VOR	Direct	2500				
Deerfield Int	LOM	Direct	2300				

Radar available.
Procedure turn N side E crs, 085° Outbnd, 265° Inbnd, 2300' within 10 miles.
Minimum altitude at glide slope intercept Inbnd, 2300'.
Altitude of glide slope and distance to approach end of runway at OM, 2130'—4.5 miles; at MM, 907'—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.5 miles after passing LOM, turn right to 285° heading, climb to 1500', then make right-climbing turn to 3500' and proceed to Lakewood Int via ORD VOR R 356° and OBK VOR R 272° or, as directed by ATC, turn right to 285° heading, climb to 1500', then make climbing right turn to 3500' and proceed direct OBK VOR.
NOTE: Runway 27 LOM named "Taft." Back crs unusable.
CAUTION: Takeoffs on Runway 32L, when weather is below 1000-3, climb to 2000' MSL on runway heading prior to making left turn.
¾RVR 2400' authorized Runways 14L, 14R, 32L, and 27R.
‡RVR 2400'. Descent below 867' not authorized unless approach lights are visible.
"400-¾ required when glide slope not utilized and 400-½ authorized with operative ALS except for 4-engine turbojets.
MSA within 25 miles of IA LOM: 000°–090°—2500'; 090°–180°—3000'; 180°–360°—2500'.

City, Chicago; State, Ill.; Airport name, Chicago-O'Hare International; Elev., 667'; Fac. Class., ILS; Ident., I-IAC; Procedure No. ILS Runway 27R, Amdt. 9; Eff. date, 20 Jan. 68; Sup. Amdt. No. ILS-27, Amdt. 7; Dated, 19 Nov. 66

CGT VOR	Stack Int	Via CGT R 356° and SE crs, RVG ILS.	3500	T-dn‡	300-1	300-1	200-½
				C-dn	400-1	500-1	500-1½
				S-dn-32L¾	200-½	200-½	200-½
				A-dn	600-2	600-2	600-2
Niles Int	Stack Int	Via API R 088° and SE crs, RVG ILS.	3500				
ORD VOR°	Stack Int	Direct	3500				
OBK VOR°	Stack Int	Direct	3500				
Stack Int	LOM (final)	Direct	2300				
Lakewood Int	ORD VOR	Via OBK R 272° and ORD VOR R 318°.	3500				

Radar available.
Procedure turn E side of crs, 135° Outbnd, 315° Inbnd, 3500' within 10 miles of Stack Int.
Minimum altitude at glide slope intercept Inbnd 2300'; over Stack Int, 3500'.
Crs and distance, LOM to airport, 315°—5.6 miles.
Altitude of glide slope and distance to approach end of runway at OM, 2300'—5.6 miles; at MM, 941'—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.6 miles after passing LOM, turn left to 360° heading, climb to 1500', then make left-climbing turn to 3500' and proceed direct to DPA VOR.
NOTES: (1) Functioning VOR receiver required unless a radar vector to final approach crs is obtained. (2) 400-¾ required when glide slope not utilized and 400-½ authorized with operative ALS, except for 4-engine turbojets. (3) Runway 32L LOM named River Grove. (4) Caution—when conducting a parallel approach,—parallel ILS 32 L and R procedure must be used. (5) All transition to Stack Int except as noted. (6) Back crs unusable.
CAUTION: Takeoffs on Runway 32L, when weather is below 1000-3, climb to 2000' MSL on runway heading prior to making left turn.
°Requires holding pattern entry at Stack Int during nonradar operation.
øRVR 2400' authorized Runways 14 L and R, 32 L and R, and 27 R.
‡RVR 2400'. Descent below 867' not authorized unless approach lights are visable.
MSA within 25 miles of RV LOM: 000°–180°—3000'; 180°–360°—2800'.

City, Chicago; State, Ill.; Airport name, Chicago-O'Hare International; Elev., 667'; Fac. Class., ILS; Ident., I-RVG; Procedure No. ILS Runway 32L, Amdt. 5; Eff. date, 20 Jan. 68; Sup. Amdt. No. ILS-32L, Amdt. 4; Dated, 15 Jan. 66

OBK VOR‡	Park Int	Direct	3500	T-dn@	300-1	300-1	200-½
CGT VOR	Park Int	Via CGT R 356° and SE crs IDN ILS.	3500	C-dn	400-1	500-1	500-1½
				S-dn-32R¾	200-½	200-½	200-½
Niles Int	Park Int	Via API R 088° and SE crs IDN ILS.	3500				
ORD VOR‡	Park Int	Direct	3500	A-dn	600-2	600-2	600-2
Park Int	LOM (final)	Direct	2300				
Lakewood Int	ORD VOR	Via OBK R 272° and ORD VOR R 318°.	3500				

Radar available.
Procedure turn E side of crs, 135° Outbnd, 315° Inbnd, 3500' within 10 miles of Park Int.
Minimum altitude over Park Int on final approach crs, 3500'.
Crs and distance, OM to airport, 315°—6 miles.
Altitude of glide slope and distance to approach end of runway at OM, 2300'—6 miles; at MM, 840'—0.5 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6 miles after passing LOM, turn right to 335° heading, climb to 1500', then make right-climbing turn to 3500' and proceed to Evanston Int via ORD VOR R 075°.
NOTES: (1) Functioning VOR receiver required unless radar operating. (2) Caution when conducting a parallel approach, parallel ILS Runway 32 L and R procedure must be used. (3) ‡Requires holding pattern entry at Park Int during nonradar operations. (4) All transitions to Park Int except as noted. (5) Back crs unusable.
CAUTION: Takeoffs on Runway 32L, when weather is below 1000-3, climb to 2000' MSL on runway heading prior to making left turn.
"400-¾ required when glide slope not utilized and 400-½ authorized with operative ALS, except for 4-engine turbojets.
@ RVR 2400' authorized Runways 32 L and R, 14 L and R, and 27R.
‡ RVR 2400'. Descent below 867' not authorized unless approach lights are visible.
MSA within 25 miles of ID LOM: 000°–180°—3000'; 180°–360°—2800'.

City, Chicago; State, Ill.; Airport name, Chicago-O'Hare International; Elev., 667'; Fac. Class., ILS; Ident., I-IDN; Procedure No. ILS Runway 32R, Amdt. 2; Eff. date, 20 Jan. 68; Sup. Amdt. No. 2; Dated, 9 Sept. 67

ILS STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Canal Int	LOM (final when glide slope not utilized).	315°, 5.6	2200	T-dn	300-1	300-1	300-1½
Congress Int	LOM (final when glide slope not utilized).	315°, 2.6	2200	C-dn	NA	NA	NA
				S-dn-32L, 32Rł.	200-½	200-½	200-½
				A-dn	600-2	600-2	600-2

Procedure turn not authorized. Radar required.
Crs, LOM to 32L, 315°; LOM to 32R, 315°.
Runway 32L—Minimum altitude at °Canal Int or glide slope interception Inbnd, 3000'.
Runway 32R—Minimum altitude at °Congress Int or glide slope interception Inbnd, 3000'—6 miles.
Altitude of glide slope and distance to approach end of runway at OM, 32L—2360'—5.6 miles; 32R—2360'—6 miles.
Altitude of glide slope and distance to approach end of runway at MM, 32L—851'—0.6 mile; 32R—846'—0.5 mile.
When advised by controller or if visual contact not established upon descent to authorized landing minimums or if landing not accomplished: Runway 32L—Turn left to 200° heading, climb to 1500', then make left-climbing turn to 3500' and proceed direct to DPA VOR. Runway 32R—Turn right to 335° heading, climb to 1500', then make right-climbing turn to 3500' and proceed to Evanston Int via ORD R 075°.
‡Runway 32L and 32R: 400-½ required when glide slope not utilized, 400-½ authorized with operative ALS, except for 4-engine turbojets. RVR 2400'. Descent below 867' not authorized unless approach lights are visible.
°Congress Int established where 3000' altitude intercepts glide slope. When glide slope inoperative, begin descent at Congress Int.
°°Canal Int established where 4000' altitude intercepts glide slope. When glide slope inoperative, begin descent at Canal Int.
NOTES: (1) Use of this procedure is mandatory when conducting a parallel ILS 32 L and R approach, and is authorized only when airborne 75-mc (or ADF) and localizer receiver are operating simultaneously. Radar fixes in lieu of Congress or Canal intersections will be provided on pilot's request. (2) When any required airborne receiver in note (1) is malfunctioning or a parallel approach is not desired, immediate notification of approach control is mandatory. (3) When advised that parallel operations are in progress, the pilot will check his authorization for Runway 32 L and R and be prepared to accept or reject approach to either. (4) Back crs unusable Runway 32 L and R.

City, Chicago; State, Ill.; Airport name, Chicago-O'Hare International; Elev., 667'; Fac. Class., ILS; Ident., I-RVG and I-IDN; Procedure No. Parallel ILS Runway 32 L and R, Amdt. 3; Eff. date, 20 Jan. 68; Sup. Amdt. No. 2; Dated, 9 Sept. 67

Nantucket VOR	AC LOM	Direct	1700	T-dn	300-1	300-1	300-1½
Great Point Int	AC LOM	Direct	1700	C-dn	400-1	500-1	500-1½
				S-dn-24	200-½	200-½	200-½
				A-dn	600-2	600-2	600-2
				With glide slope inoperative:			
				S-dn-24°	400-1	400-1	400-1

Radar vectoring.
Procedure turn N side of crs, 060° Outbnd, 240° Inbnd, 1700' within 10 miles.
Minimum altitude at glide slope interception Inbnd, 1600'.
Altitude of glide slope and distance to approach end of runway at OM, 1515'.—4.6 miles; at MM, 366'—0.6 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.6 miles after passing AC LOM, make left-climbing turn to 1700' direct AC LOM. Hold NE of AC LOM, 240° Inbnd, 1-minute right turns.
CAUTION: 342' tower, 2.6 miles W of airport; 660' Loran Antenna 3 miles ESE of airport.
°400-¾ authorized with operative HIRL, except for 4-engine turbojets. 400-½ authorized with operative ALS, except for 4-engine turbojets.
MSA within 25 miles of AC LOM: 000°–360°—1700'.

City, Nantucket; State, Mass.; Airport name, Nantucket Memorial; Elev., 47'; Fac. Class., ILS; Ident., I-ACK; Procedure No. ILS Runway 24, Amdt. 6; Eff. date, 20 Jan. 68; Sup. Amdt. No. ILS-24, Amdt. 4; Dated, 25 Dec. 66

These procedures shall become effective on the dates specified therein.

(Secs. 307(c), 313(a), 601, Federal Aviation Act of 1958; 49 U.S.C. 1348(c), 1354(a), 1421; 72 Stat. 749, 752, 775)

Issued in Washington, D.C., on December 13, 1967.

R. S. SLIFF,
Acting Director, Flight Standards Service.

[F.R. Doc. 67-14789; Filed, Dec. 28, 1967; 8:45 a.m.]

PART 103—TRANSPORTATION OF DANGEROUS ARTICLES AND MAGNETIZED MATERIALS

CROSS REFERENCE: For addition of § 103.35 to Title 14, Chapter I, of the Code of Federal Regulations, see Title 49, Chapter I, Parts 171–190 (F.R. Doc. 67–15067) *infra*.

Chapter II—Civil Aeronautics Board

SUBCHAPTER B—PROCEDURAL REGULATIONS

[Reg. PR–108]

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Subpart K—Standardized Method for Costing Proposed Changes in the Authorized Operations of Local Service Carriers

SERVICING EXPENSES

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 22d day of December 1967.

In 32 F.R. 6714 the Board published a Notice of Proposed Rule Making, PDR–25, Docket 18467, dated April 25, 1967, that it had under consideration an amendment to Subpart K of Part 302 of the Procedural Regulations (14 CFR Part 302). The amendment would prescribe a new standardized method, for use in Board proceedings, of estimating servicing expense for local service routes and route proposals, replacing the present § 302.1105 of the Procedural Regulations.

The Board's proposal is bottomed upon the hypothesis that a carrier's servicing expense will vary with the number of points it serves, the volume of service it offers, and the traffic it carries. The effect upon servicing expense of the last-named factor, traffic, is expressed in terms of the volume of traffic boarded and the distance the traffic is carried. In order to measure changes in the four above-described factors, the Board's proposal would require a carrier to compute servicing expense by first isolating how much any route would cause it to expand its operations, as measured by prescribed units of effort representing each of the four factors. Then, for each factor, the carrier would compute servicing expense by multiplying its units of effort by its applicable unit cost.

Those unit costs for each carrier were based upon a multiple regression analysis establishing the industry cost trends for the last 5 years. Assuming that each carrier's unit costs followed the industry trends, the Board derived each carrier's current unit costs by applying its proportional mix of units of effort to the carrier's most recently experienced costs. In sum, the carrier's servicing expense is computed under the Board's costing technique as the product of two ingredients—the extent to which the carrier must expand its operations, and the carrier's predetermined unit costs.

Comments have been received from eight local service carriers, two trunkline carriers, and an air transport consultant. After full consideration, the Board has decided to adopt the rule as proposed.

No one champions the present Subpart K method which the proposed rule will replace. Consistent with the tentative findings set forth in the Explanatory Statement to PDR–25, which are incorporated herein and made final, all eight responding local service carriers and Eastern concede that the proposed rule is an improvement over the present method. The present method is clearly outmoded. The only real question is whether it should be supplanted by the Board's proposed costing technique or by some other standardized costing method.[1]

Costing methods other than the Board's. Lake Central and Bonanza submitted costing techniques which they believe to be superior to the Board's. Like the so-called STI method proposed by the air transport consultant, Lake Central's method assumes that servicing cost changes can be measured exclusively in terms of variations in revenue ton miles per departure. In our opinion, the Board's proposal, which uses more refined criteria, can produce more precise cost estimates.

Our primary problem with the Lake Central–STI approach is that it fails to break down the revenue ton-mile measuring rod into its constituent elements of number of tons boarded and the length of haul.[2] It is an accepted principle of aviation economics that relatively greater operating economies result from increasing the length of haul than from boarding additional tons. However, under the Lake Central or STI approach, for any given additional number of ton-miles per departure, the added cost will be the same irrespective of the proportion of tons boarded and miles flown. The Board's proposal isolates these two units of effort to determine the cost of each, and its cost estimates for a given number of ton-miles will then vary depending on the ratio of tons boarded and miles flown.[3]

In addition, the Lake Central–STI proposal is inferior to the Board's proposal in two other respects. First, it does not differentiate between departures of different aircraft models having different capacities and costs. In contrast, the Board's proposal, which does, shows the aircraft capacity; it thus allows the Board to differentiate between the costs of competing carriers planning to offer different capacities over a proposed route. Second, the Lake Central–STI proposal takes no account of the number of stations needed for a proposed route. The Board's proposal, which does, shows the cost advantages which one carrier would have over another if it could operate a route with fewer new stations. Essentially, therefore, the Board's proposal is a refinement of the basic Lake Central–STI approach.

Bonanza's proposed standardized costing formula appears to be analogous to the Board's method, except that it expresses costs in terms of capacity per station. This is a fresh approach to the problem, which we welcome. Unfortunately, however, Bonanza did not supply enough supporting information so that the Board could fully understand and test its proposal. Therefore, the Board is unable to assess the proposal's merits at the present time.

Limitations in the Board's proposal. Although, as mentioned above, the carriers generally acknowledge that the proposed Subpart K method is better than the existing one, they express reservations about features of the new rule. The Board recognizes, of course, that the new rule is not necessarily the ultimate in costing methodology. Our action today is not meant to foreclose further inquiry into methods for estimating servicing expense. Until the industry and our staff can develop additional refinements of Subpart K, however, the Board's proposal is clearly the best technique available and should be used.

None of the comments demonstrate otherwise. The carriers' primary complaint relates to the hypothetical case in which different carriers compete to provide identical services over identical routes. In that hypothetical case, the carriers' servicing expense as measured by the proposed formula would differ in the same proportion as do their historic unit costs. This is because, as stated earlier, each carrier's servicing expense for any new route is computed under the proposed formula as the product of two ingredients—the extent to which the carrier must expand its operations, and the carrier's historic unit costs. In the hypothetical case, the carriers would expand their operations equally. Hence, the carrier's historic unit costs would be the sole determinant.

Part of the answer to the carriers' complaint is that their hypothetical case will be the exception, not the rule. Rare will it be that two carriers can each operate a new route with identical expansion of their operations in terms of new traffic carried, new capacity offered, and new stations operated. Thus, even if two carriers apply for new routes between the same pairs of points, one may already be serving some or all of the points over other routes and may thus require fewer new stations than its competitor would. Or one carrier might be able to operate a new route without new capacity by rerouting existing flights. Other examples exist. Obviously, in each case, the Board's proposed technique would properly show that one carrier's costs to operate a route will be lower than another's.

Even if the carriers' hypothetical case were to occur, the Board's formula would not necessarily be invalidated simply because it showed different costs for different carriers. No new route can be divorced from a carrier's old system. The makeup of the old system will affect each carrier's total number of stations, its utilization of aircraft, and its ability to spread out its fixed costs over its whole system. Of course, problems may arise if carriers apply for new routes which are so large and so different in operating characteristics from their old systems that their historic unit costs cease to be a reliable guide.

Those problems, however, are inherent not just in the Board's proposal, but in any standardized costing technique which uses historic unit costs. Indeed, the Board's proposal is less subject to criticism on this score than the existing Subpart K and Lake Central–STI methods, which assume to an even greater extent that any carrier's new route extension will have the same cost characteristics as its existing system. In any event, if any carrier believes that the Board's method produces an unrealistic result, it is free under § 302.1102 of Subpart K to submit additional cost estimates based upon other methods. On those occasions when a carrier can show that "it may not be appropriate to use the air carriers' experienced incremental unit expense rate," the carrier's alternative cost showing may be entitled to real weight (PR–87, Aug. 21, 1963). No more is required.

Several other objections to the Board's proposal are misplaced. Thus, TWA claims that local service and trunkline costs cannot be combined in deriving cost estimates for local service carriers; and Bonanza claims that inclusion of data for the Big Four trunkline carriers will distort the results when the formula is applied to the local service carriers. Both of these claims would be valid if the Board were proposing an average cost approach. But the Board used trunkline data solely for the purpose of determining industry cost trends. For that purpose, trunkline data must be used in addition to local service data so as to measure the rate at which costs will change as a carrier goes from a small operation to a large operation. Thus the proposal assumes only that, with changes in the nature of their operations, the small carriers will follow the cost pattern of the large carriers.

Equally invalid are criticisms that the Board failed to adjust properly for inflation or that it adjusted either too much or not enough for recent experience. As for inflation, any adjustment to exclude it would not affect the proposal's attainable cost estimates at all.[4] And in order to take account of the carriers' most recent experience, both the industry trend and the unit costs of the individual carriers are recomputed every 6 months. A more frequent adjustment would be virtually impossible and, we believe, a semiannual adjustment will take account of recent cost efficiencies. On the other hand, long-range considerations are properly brought to bear by basing the industry trend on the last 5 years of data.

Other criticisms suggest intriguing possibilities to refine the Board's formula, although they do not enable any present change. In this category is the contention that stewardess expense should be separated and costed on a block-hour basis. At present, however, stewardess expense is not reported by aircraft type and, until it is, no reliable estimate of stewardess expense per block-hour is possible. Similarly, the Board cannot now gear the formula to differences resulting from a route's geographic location, as Eastern suggests, because carriers report their cost data for their system, rather than for particular geographic areas or markets. Central's suggestion that the costing technique should distinguish more adequately between the fixed and variable aspects of servicing expense runs afoul of the fact that many servicing expenses are reported as aggregates, without separation into fixed and variable categories. Despite the unavailability of appropriate reported data, none of these carriers' suggestions is without merit. The Board invites the carriers to confer with its staff in exploring whether the suggestions, combined with revisions in reporting requirements, could lead to an improved costing technique.

Application of the technique. TWA and Eastern request, in effect, that the Bureau of Operating Rights be precluded from applying the proposed formula to trunkline carriers. As the two carriers recognize, however, the new Subpart K method is mandatory only for local service carriers. If the Bureau submits evidence using the method to estimate trunkline costs in any proceeding, the technique will be subject to attack in the same manner as any other costing formula and will have to stand or fall on its own merits. That being so, the Board sees no reason to prejudge whether the proposal can produce useful results in trunkline proceedings by precluding its use in future proceedings.

Since this amendment is a rule of practice and procedure, the rule may become effective upon less than 30 days' notice.

Accordingly, the Board hereby amends Part 302 of its Procedural Regulations (14 CFR Part 302) by amending § 302.1105, effective January 1, 1968, to read as follows:

§ 302.1105 Servicing expense.

(a) In order to determine the amount of servicing expense, add the cost associated with the change in the number of (1) weighted departures, (2) weighted stations, (3) revenue tons originated, and (4) revenue ton-miles as determined herein.

(b) In order to determine the amount of expense associated with the number of weighted departures, proceed in accordance with the following steps:

(1) Refer to the compilation for the latest 12-month period setting forth each carrier's average capacity by aircraft type. Multiply the change in the number of departures to be caused by the proposed route modifications by the relevant aircraft capacity to obtain the total weighted departure units involved in the change.

(2) Refer to the compilation for the latest 12-month period setting forth the prescribed weighted departure unit rate for each carrier, and ascertain the applicable figure.

(3) Multiply the amount ascertained in subparagraph (2) of this paragraph by the number of weighted departure units determined in subparagraph (1) of this paragraph to determine the amount of weighted departure expense.

(c) In order to determine the amount of expense associated with the change in the number of weighted station units, proceed in accordance with the following steps:

(1) In accordance with paragraph (b) (1) of this section ascertain the change in the number of weighted departures which would occur at existing stations on the carrier's system caused by the proposed modification. Multiply the change in the number of weighted departures by the total number of existing stations on the carrier's system to determine the change in the number of weighted station units associated with existing stations.

(2) In accordance with paragraph (b) (1) of this section ascertain the number of weighted departures which would occur at any new stations to be added to the carrier's system caused by the proposed route change. Multiply the number of weighted departures occurring at the new stations by the sum of the existing stations on the carrier's system plus the number of new stations to be added to the system to determine the number of weighted station units associated with any new stations to be added to the

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[1] Only TWA suggests that the Board should not adopt "*any*" standardized costing methodology for route proceedings. In PR–87, issued when the Board originally adopted Subpart K, the Board explained the benefits which it expected from standardized costing techniques. None of TWA's criticisms are addressed to the basic reasons for standardized costing, as stated in PR–87. Nor does TWA allege any defects in the Board's proposal which, if valid, would justify the abandonment of standardized costing.

[2] Ton miles = tons boarded × distance flown.

[3] For example, if a carrier flew 1,500 ton-miles during a given period of time (15 tons × 100 miles) and its total doubled to 3,000 ton-miles, the Board's method would predict different costs associated with this increase depending upon whether it represents 30 tons × 100 miles, 20 tons × 150 miles, or 15 tons × 200 miles.

[4] Excluding inflation would undoubtedly affect the industry trend costs for each unit of effort derived from the multiple regression analysis. But each of these unit costs figures would be altered by the same proportion, and thus their relation to one another would not change. When these unit costs were then applied to each carrier's most recent 12 months of activity, because the unit costs had retained the same relationships, the breakdown of expense would be the same as if there had been no allowances for inflation. This identical allocation of expense will, in turn, produce identical unit cost estimates for each carrier. The same result would occur if any attempt were made to add a special allowance for inflation, instead of to exclude it.

carrier's system caused by the proposed route change.

(3) Refer to the compilation for the latest 12-month period setting forth the prescribed weighted station unit rate for each carrier and ascertain the applicable figure.

(4) Multiply the amount ascertained in subparagraph (3) of this paragraph by the sum of the weighted station units determined in subparagraphs (1) and (2) of this paragraph to determine the amount of weighted station expense.

(d) In order to determine the amount of expense associated with the change in the number of revenue tons originated, proceed in accordance with the following steps:

(1) Refer to the compilation for the latest 12-month period setting forth for each carrier the prescribed unit rate per revenue ton originated, and ascertain the applicable figure.

(2) Multiply the amount ascertained in subparagraph (1) of this paragraph by the change in the number of revenue tons originated to be caused by the proposed route modification in order to determine the amount of expense for revenue tons originated.

(e) In order to determine the amount of expense associated with the change in the number of revenue ton-miles, proceed in accordance with the following steps:

(1) Refer to the compilation for the latest 12-month period setting forth for each carrier the prescribed unit rate per revenue ton-mile, and ascertain the applicable figure.

(2) Multiply the amount ascertained in subparagraph (1) of this paragraph by the change in the number of revenue ton-miles to be caused by the proposed route modification in order to determine the amount of expense for revenue ton-miles.

(Secs. 204(a), 1001, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 788; 49 U.S.C. 1324, 1481)

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 67-15106; Filed, Dec. 28, 1967; 8:48 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Varying Discount Price Schedule—Distributor Recruitment Through Grant of Override

§ 15.155 Varying discount price schedule—distributor recruitment through grant of override.

(a) The Federal Trade Commission advised a manufacturer of household products that his proposed varying discount price schedule and his proposed granting of bonus payments to recruiting distributors on the business of distributors whom they recruit would, under the facts presented, in all probability result in violation of both section 2(a) of the amended Clayton Act and section 5 of the Federal Trade Commission Act.

(b) The manufacturer proposed to appoint as independent distributors such persons as would buy the requisite amount of inventory. Initial sales to such distributors would be at 33⅓ percent off the manufacturer's suggested prices for his products. Incentive bonuses, computed at from 5 percent to 60 percent of the value of their purchases, increasing as the value of purchases increased, would be paid from time to time to the distributors. Distributors would be encouraged to recruit additional distributors who would also make a capital investment in inventory. A recruiting distributor would be given a 10- to 12-percent override on the dollar volume of purchases of any distributor whom he had recruited.

(c) The Commission noted that because of the nature of the plan it was almost inevitable that very wide differences in prices would be charged customers, some of whom would, by reasonable assumption, be competitive with others. These differences would be so great that the anticompetitive effects made unlawful by the amended Clayton Act would almost certainly follow.

(d) In addition, it is clear from the facts presented that the requesting party contemplates that the so-called independent distributors would be for the most part selling at retail. The marketing plan is not primarily designed as an offer to knowledgeable businessmen, competent to weigh and evaluate commercial risks. It is designed, rather, to appeal to uninformed members of the general public, unaware of and unadvised of, the true nature of the risks run—persons with limited capital who are led to part with that capital by promises and hopes which are seldom, if ever, fulfilled. A particular vice of the plan is that part which provides override bonuses for recruited distributors. Implicit in such an arrangement is the promise, rarely if ever kept, that the recruiting distributor can, without himself working, profit greatly from the work of others.

(38 Stat. 717, as amended; 15 U.S.C. 41-58; 49 Stat. 1526; 15 U.S.C. 13, as amended)

Issued: December 26, 1967.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-15095; Filed, Dec. 28, 1967; 8:48 a.m.]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Origin of Toilet Preparations

§ 15.156 Origin of toilet preparations.

(a) The Commission rendered an advisory opinion in regard to the legality of using foreign words indicating French origin in the brand name of a toilet preparation, where the product is blended in the United States with domestic alcohol and French oils. Specifically involved in the opinion was the propriety of using foreign words in the brand name of the product immediately followed by the following qualification—"Blended with French Oils in USA".

(b) In its opinion, the Commission said that the question posed is governed by Rule 3(b) of trade practice rules for the cosmetic and toilet preparations industry. "This rule," the Commission said, "specifically forbids the use of any foreign word or depiction in the brand name of a toilet preparation which may tend to convey the erroneous impression that the product is made wholly in a foreign country, unless a conspicuous disclosure is made in close conjunction therewith of the fact that such product was blended in the United States."

(c) Concluding its opinion, the Commission said: "* * * the proposed disclosure, 'Blended with French oils in USA,' would meet the requirements of Rule 3(b) as an adequate qualification of a French brandname to describe a product blended in the United States with domestic alcohol and French oils. It is not necessary to disclose the presence of French oils, but this disclosure is permissible so long as the statement is factually true."

(38 Stat. 717, as amended; 15 U.S.C. 41-58)

Issued: December 28, 1967.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-15096; Filed, Dec. 28, 1967; 8:48 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release Nos. 34-8306; 35-16918; IC-5200]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Proxy and Stockholder Information Rules

DECEMBER 14, 1967.

The Securities and Exchange Commission has adopted certain amendments to Regulation 14A (17 CFR 240.14a-1 et seq.) and Regulation 14C (17 CFR 240.14c-1 et seq.) under the Securities Exchange Act of 1934. Notice of the proposed amendments was published December 5, 1966, in Securities Exchange Act Release No. 8000 (31 F.R. 15750, Dec. 14, 1966). A number of very helpful comments were received and were considered in connection with the preparation of the final draft of the amendments. The changes involved in the adopted amendments are briefly described below and the text of the amendments is attached to this release.

REGULATION 14A

Regulation 14A (17 CFR 240.14a-1 et seq.) is applicable to the solicitation of proxies, authorizations and consents with respect to securities registered pursuant to section 12 of the above Act. Rules adopted under the Public Utility Holding Company Act of 1935 and the Investment Company Act of 1940 make the regulation applicable also to the solicitation of proxies, authorizations, and consents with respect to the securities of certain companies subject to those statutes.

Rule 14a-3. The amendments to Rule 14a-3 (17 CFR 240.14a-3) published for comment in Release 8000 were adopted by the Commission and published January 24, 1967, in Securities Exchange Act Release No. 8029 (32 F.R. 1035, Jan. 28, 1967).

The Commission has further amended Rule 14a-3 by adding at the end thereof a note requesting the managements of issuers to furnish certain information to the Commission, when transmitting to the Commission copies of their annual reports to shareholders. The information requested will enable the Commission's staff to expedite the processing of proxy material.

Rule 14a-4. Paragraph (b)(2) of Rule 14a-4 (17 CFR 240.14a-4) requires that a form of proxy which provides both for elections to office and for action on other specified matters shall be prepared to permit the security holder to vote on the specified matters without conferring authority to vote for elections to office. The paragraph has been amended so that provision need not be made for withholding authority where the only matters to be acted upon are the election of directors and the election, selection or approval of other persons such as clerks or auditors. However, ballots are required for the selection or approval of auditors.

Paragraph (c) of Rule 14a-4 provides that a proxy may confer discretionary authority with respect to certain matters which may come before a meeting. Administrative practice of the Commission has heretofore permitted a proxy to confer discretionary authority with respect to the approval of the minutes of a prior meeting where such approval does not amount to ratification of action taken at such meeting, with respect to matters incident to the conduct of the meeting, and with respect to the election of any person to any office for which a bona fide nominee is named in the proxy statement and such nominee is unable to serve or for good cause will not serve. These practices have been incorporated into the rule.

Paragraph (c) of the rule has been further amended to provide that a proxy may confer discretionary authority to vote with respect to any proposal omitted from the proxy material pursuant to Rule 14a-8 (17 CFR 240.14a-8) or 14a-9 (17 CFR 240.14a-9). Heretofore, discretionary authority was permitted by this provision only with respect to proposals omitted pursuant to paragraph (c) of Rule 14a-8. The amendment will thus permit discretionary authority to vote with respect to proposals which are not submitted within the period of time specified in the rule, as well as those which may be omitted pursuant to paragraph (c), and with respect to proposals which are false or misleading.

Paragraph (d) of Rule 14a-4 provides that a proxy may not confer authority to vote for the election of any person to an office for which a bona fide nominee is not named in the proxy statement. This paragraph has been amended to provide that a person shall not be deemed a bona fide nominee unless he has consented to be named and to serve if elected. This codifies the administrative interpretation of "bona fide nominee." It does not, however, require the obtaining of the written consents of nominees.

Rule 14a-6. Paragraph (a) of Rule 14a-6 (17 CFR 240.14a-6) provides that preliminary soliciting material shall be filed with the Commission at least 10 days prior to the date definitive material is first sent or given to security holders. A new sentence has been added to this paragraph to make it clear that in computing the 10-day period, the filing date is to be regarded as the first day, and the eleventh day is the date on which definitive material may be sent.

Rule 14a-6 has been further amended by adding thereto notes suggesting certain procedures which will enable the staff to expedite the processing of proxy material.

Paragraph (e) of Rule 14a-6 provides that copies of preliminary proxy material filed with the Commission shall be for the information of the Commission only. This paragraph has been amended to make clear that such material does not at any subsequent time become available for public inspection.

Rule 14a-8. Rule 14a-8 (17 CFR 240.14a-8) provides that any security holder may, subject to certain prescribed limitations, require the management to include in its proxy material any appropriate proposal which such security holder desires to submit to a vote of security holders.

Paragraph (a) of the rule previously required a security holder to submit his proposal to the management of the issuer "a reasonable time before the solicitation is made" and provided that a proposal submitted more than 60 days in advance of a day corresponding to the first date on which management proxy solicitation material was released to security holders in connection with the last annual meeting shall prima facie be deemed to have been submitted a reasonable time prior to the solicitation. Paragraph (a) has been amended to provide that proposals not submitted prior to the beginning of such 60-day period may be omitted from the management's proxy material.

Paragraph (a) provides that the rule does not apply to elections to office. It has been further amended to provide also that the rule does not apply to counter proposals to any matter to be submitted by the management.

Paragraph (b) of the rule previously required the management to include in its proxy material the name and address of a security holder who has submitted a proposal which is included in such material. This paragraph has been amended to permit the issuer to omit the name and address of the proponent provided a statement is contained in the proxy material to the effect that the name and address of the proponent will be promptly furnished to any person, upon receipt of any oral or written request therefor, by the issuer or the Commission. The amended rule requires management to inform the Commission at the time of filing of preliminary soliciting material of the name and address of any proponent where such information has been omitted.

Rule 14a-11. Paragraph (b) of Rule 14a-11 (17 CFR 240.14a-11) defines the terms "participant" and "participant in a solicitation." Previously a proviso following subparagraph (b)(6) excluded certain persons from the definition of those terms. The proviso has been made a separate paragraph so it will be clear that it does not relate only to subparagraph (b)(6).

SCHEDULE 14A

Schedule 14A (17 CFR 240.14a-101) specifies the information required to be set forth in the proxy statement required by Rule 14a-3 (17 CFR 240.14a-3). The note, redesignated Note A, set forth at the beginning of Schedule 14A provides that where any matter to be acted upon involves other matters, all pertinent items shall be answered. The second sentence of the note has been amended to make clear the circumstances under which a merger, consolidation or acquisition or disposition of assets is deemed to require that Items 6 and 7 be answered.

Two new general notes, designated Notes B and C, have been added to Schedule 14A. Note B provides that where any item calls for information with respect to any matter to be acted upon at the meeting, the item need be answered in the management's material only with respect to proposals to be made by or on behalf of the management. Note C indicates more specifically the persons and the periods for which the information called for by certain items is to be given. Heretofore, the provisions of Note C were set forth as instructions to certain items, but did not apply to all items to which they are appropriate.

The following items of Schedule 14A have been amended in the respects indicated below.

Item 5. Paragraph (e) of Item 5 calls for a description of any change in control of the issuer since the beginning of its last fiscal year. A phrase has been added to make it clear that such description is required only to the extent the information is known to the persons on whose behalf the solicitation is made.

Paragraph (f) of Item 5 calls for a description of any contractual arrange-

ments which may at a subsequent date result in a change in control of the issuer. A phrase has been added to make it clear that such description is required only to the extent such arrangements are known to the persons on whose behalf the solicitation is made. An instruction has also been added which provides that information need not be given with respect to certain default provisions in the charter, trust indentures or other governing instruments relating to securities of the issuer.

Item 6. This item requires certain disclosures with respect to nominees for election as directors and directors continuing in office where action is to be taken with respect to the election of directors. A new paragraph (c) to the item requires, where fewer nominees are named than the number provided for in the governing documents, a statement of the reason for such procedure and that the proxies cannot be voted for a greater number of nominees than the number named. This proposal merely incorporates present administrative practice.

Item 7(a). Instruction 1 to Item 7(a) has been deleted since the subject matter of that instruction is now contained in Note C at the beginning of Schedule 14A. The remaining instructions have been renumbered accordingly.

Item 7(b). Item 7(b) calls for information in regard to pension or retirement benefits proposed to be paid to directors or officers whose individual remuneration is required to be given under Item 7(a). Item 7(b) has been amended to require that proposed pension or retirement benefits be shown for directors and officers as a group in certain cases.

Item 7(d). Item 7(d) calls for information with respect to options granted to or exercised by officers and directors of the issuer. The amendment to this item requires disclosure of the amount of options held as of the latest practicable date by each officer and director named in answer to Item 7(a) and the amount held by all officers and directors as a group. This information, together with that regarding options granted and exercised, gives a more complete picture of remuneration, actual and prospective. When the option price was less than the market price on the date of granting, such fact and such market price must also be given. Appendix A (17 CFR 240.14a–103) provides a form which may be used in furnishing the required information.

Item 7(e). Item 7(e) calls for information with respect to indebtedness of insiders to the issuer or its subsidiaries. A new instruction to this item codifies current administrative practice of permitting modified disclosure with respect to loans made by bank subsidiaries of bank holding companies. An additional instruction codifies current administrative practice relating to the disclosure of indebtedness arising under section 16(b) of the Act.

Item 7(f). Item 7(f) requires disclosure with respect to transactions with the issuer or any of its subsidiaries in which officers, directors, nominees for election as director and certain other specified persons had a material interest. Instruction 1 has been deleted since the subject matter of this instruction is contained in Note C set forth at the beginning of Schedule 14A. The remaining instructions have been renumbered accordingly. New Instruction 1 has been amended to make clear that when information may be omitted under certain other items, it need not be set forth under Item 7(f).

Instruction 3 which permits the omission of information with respect to certain interests has been amended to make clear the kind of interests referred to.

A previous provision of Instruction 3 which permitted the omission of information with respect to certain transactions not in excess of $30,000 has been deleted since the omission of information with respect to such transactions is permitted by Instruction 2. The deleted provision was therefore unnecessary.

A new Instruction 6 has been added to make clear that in addition to the information which may be omitted under the instructions to the item, there may be other situations where the interest of a specified person in a particular transaction may not be material and may therefore not be required to be disclosed in response to the item.

Item 7(g). A new paragraph (g) which has been added to Item 7 requires disclosure of transactions between certain employee plans provided by the issuer, or its parents or subsidiaries, and certain insiders of the issuer or the issuer or its subsidiaries, since such use of funds provided by companies for the benefit of employees is deemed to be of material interest to security holders.

The instructions permit the omission of information with respect to certain interests and transactions which are not deemed to be of material interest to security holders. Thus, information is not required with respect to payments to the plan or to beneficiaries pursuant to the terms of the plan or payments of limited amounts of remuneration for services to the plan. Since the registrant and its subsidiaries have a general interest in the success of the plan, it may be said that they have an interest in all transactions with the plan regardless of the parties thereto. The instructions provide that such indirect interests need not be disclosed.

Items 9, 10, and 11. These items require disclosure with respect to proposals for certain bonus, profit-sharing and other remuneration plans; pension and retirement plans; and options, warrants or rights, when security holder action is to be taken with respect to such matters. These items have been amended to indicate more clearly the types of existing plans for which disclosure is required.

Item 9 has been further amended by deleting subparagraph (c) of Instruction 3 and inserting a new subparagraph (c) which is also applicable to Items 10 and 11 by cross reference to this instruction. Instruction 4 to Item 11 has been deleted, and Instruction 5 has been renumbered as Instruction 4. The purpose of the amendment is to make clear that information in regard to the granting of options is required for 5 years, in lieu of the information for 1 year required by Item 7(d) (1) and (2), and to call for information regarding the exercise of options during the period. In addition, the instruction would specify the information required where employees are eligible to participate in the plan.

Item 12. Where action is to be taken with respect to the authorization or issuance of securities (otherwise than in exchange for outstanding securities of the issuer), this item calls for a description of such securities and of the proposed transaction. Paragraph (b) of the item has been amended to codify the current administrative practice of requiring a statement that certain terms of the securities will be determined by the board of directors at some future date, where no offering is contemplated in the proximate future and no further authorization from security holders is to be obtained. The administrative practice of permitting a statement in the form of an opinion of counsel concerning the existence and extent of preemptive rights where the statutory provisions with respect to such rights are indefinite or complex has also been codified in the rule.

Item 13. Where action is to be taken with respect to the modification of any class of securities of the issuer or the issuance or authorization of securities to be issued in exchange for outstanding securities of the issuer, this item requires a complete description of the terms and effect of such action. A new instruction has been added to the item requiring a statement whether it is intended to apply for registration and listing on a national securities exchange of the new or reclassified security or security exchanged for an existing security which is presently registered and listed and, if not, the effect of termination of registration. This proposal codifies current administrative practice.

Item 14. Item 14 requires disclosure of certain information in regard to mergers, consolidations, acquisitions and similar matters where action is to be taken on such matters. This item has been amended to make clear that the detailed information required by Item 14(b) need not be given when a merger involves only the issuer and one or more of its totally held subsidiaries. Following the caption of the item there has been added a reference to the note at the beginning of Schedule 14A. This reference is intended to assist persons preparing proxy material but not to limit the applicability of Item 14.

Item 15. Item 15 sets forth the requirements concerning the financial statements which must be furnished where shareholder action is to be taken with respect to matters specified in Items 12, 13, or 14. The instructions to this item have been amended to provide that where certified financial statements are required, one copy of the definitive proxy material filed with the Commission shall include a manually signed copy of the accountant's certificate. This merely incorporates the administrative practice in this respect. The instructions have also been amended to permit the omission of financial statements in situations where the detailed information called for by Item 14(b) may be omitted; namely, where the plan involves only the issuer and one or more of its totally held subsidiaries.

Item 20. Item 20 requires disclosure of the reasons for and general effect of amendments to the issuer's charter, by-laws, or other documents where security holder action on such amendments is to be taken. A new instruction has been added to the item requiring a statement whether directors are authorized to fill vacancies for the remainder of a full term where proxies are solicited to vote upon the classification of directors. This proposal codifies current administrative practice.

SCHEDULE 14B

Schedule 14B (17 CFR 240.14a–102) specifies the information to be included in statements required by Rule 14a–11 (17 CFR 240.14a–11) to be filed for each participant in a contest involving elections to office. Item 3(c) of Schedule 14B previously called for information with respect to acquisitions within 2 years of securities held at the time of filing the Schedule 14B. The item as amended calls for information with respect to purchases and sales of all securities of the issuer purchased or sold within the past 2 years, whether such securities are held at the time of filing the schedule or not. The purpose of the amendment is to reveal trading in securities prior to the time the participant is required to file a Schedule 14B.

REGULATION 14C

Regulation 14C (17 CFR 240.14c–1 et seq.) provides that in connection with every annual or other meeting of holders of a class of securities registered pursuant to section 12 of the Act the issuer shall transmit a written information statement to every security holder who is entitled to vote in regard to any matter to be acted upon at the meeting and from whom a proxy is not solicited on behalf of management. Such information statement is required to contain substantially the same information as that which would be required in a proxy statement if proxies were solicited. The amendments to Schedule 14A (17 CFR 240.14a–101) described above are applicable also to Schedule 14C (17 CFR 240.14c–101) by virtue of Item 1 of Schedule 14C which incorporates the requirements of Schedule 14A. In addition, to maintain consistency between these regulations, Rules 14c–3 (17 CFR 240.14c–3) and 14c–5 (17 CFR 240.14c–5) and Item 8 of Schedule 14C have been amended to conform with the amendments to Rules 14a–3 (17 CFR 240.14a–3), 14a–6 (17 CFR 240.14a–6), and 14a–8 (17 CFR 240.14a–8), respectively.

Commission action. The Securities and Exchange Commission acting pursuant to the Securities Exchange Act of 1934, particularly sections 14(a), 14(c), and 23(a) thereof, hereby amends Title 17 Code of Federal Regulations sections 240.14a–3, 240.14a–4, 240.14a–6, 240.14a–8, 240.14a–11, 240.14a–101, 240.14a–102, 240.14c–3, 240.14c–5, and 240.14c–101, and hereby adopts Section 240.14a–103, to read as set forth below.

Effective date. The foregoing amendment shall apply to any solicitation of proxies, authorizations or consents pursuant to section 14(a) which is commenced after February 15, 1968, and any information statement or other material transmitted to security holders pursuant to section 14(c) after that date.

By the Commission, December 14, 1967.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

AMENDMENTS TO REGULATIONS 14A AND 14C

REGULATION 14A—SOLICITATION OF PROXIES

§ 240.14a–3 Information to be furnished security holders.

* * * * *

NOTE. To assist the staff, managements of issuers are requested to indicate in a letter transmitting to the Commission copies of their annual reports to shareholders or in a separate letter at or about the time the annual report is furnished to the Commission, whether the financial statements in the report reflect a change from the preceding year in any accounting principles or practices or in the method of applying any such principles or practices.

§ 240.14a–4 Requirements as to proxy.

* * * * *

(b) * * *

(2) A form of proxy which provides both for the election of directors and for action on other specified matters shall be prepared so as clearly to provide, by a box or otherwise, means by which the security holder may withhold authority to vote for the election of directors. Any such form of proxy which is executed by the security holder in such manner as not to withhold authority to vote for the election of directors shall be deemed to grant such authority, provided the form of proxy so states in bold-face type.

Instruction. Subparagraph (2) of this paragraph does not apply (i) in the case of a merger, consolidation or other plan if the election of directors is an integral part of the plan and is not to be separately voted upon or (ii) if the only matters to be acted upon are the election of directors and the election, selection or approval of other persons such as clerks or auditors.

(c) A proxy may confer discretionary authority to vote with respect to any of the following matters:

(1) Matters which the persons making the solicitation do not know, a reasonable time before the solicitation, are to be presented at the meeting, if a specific statement to that effect is made in the proxy statement or form of proxy;

(2) Approval of the minutes of the prior meeting if such approval does not amount to ratification of the action taken at that meeting;

(3) The election of any person to any office for which a bona fide nominee is named in the proxy statement and such nominee is unable to serve or for good cause will not serve.

(4) Any proposal omitted from the proxy statement and form of proxy pursuant to § 240.14a–8 or § 240.14a–9;

(5) Matters incident to the conduct of the meeting.

(d) No proxy shall confer authority (1) to vote for the election of any person to any office for which a bona fide nominee is not named in the proxy statement, or (2) to vote at any annual meeting other than the next annual meeting (or any adjournment thereof) to be held after the date on which the proxy statement and form of proxy are first sent or given to security holders. A person shall not be deemed to be a bona fide nominee and he shall not be named as such unless he has consented to being named in the proxy statement and to serve if elected.

* * * * *

§ 240.14a–6. Material required to be filed.

(a) Five preliminary copies of the proxy statement and form of proxy and any other soliciting material to be furnished to security holders concurrently therewith shall be filed with the Commission at least 10 days prior to the date definitive copies of such material are first sent or given to security holders, or such shorter period prior to that date as the Commission may authorize upon a showing of good cause therefor. In computing the 10–day period the filing date of the preliminary material is to be counted as the first day and the 11th day is the date on which definitive material may be mailed to security holders.

NOTE: The officials responsible for the preparation of the preliminary material should make every effort to verify the accuracy and completeness of the information required by the applicable rules. The preliminary material should be filed with the Commission at the earliest practicable date. It should be accompanied by a letter, over the signature of an officer of the company or its counsel, stating whether the current preliminary material merely reflects an updating of the prior year's material (e.g., changes in the board of directors or nominees for election to the board) or includes changes of a material nature. All changes from the previously filed material should be identified in an accompanying marked copy of the proxy statement. If a change is material, the letter should include any explanatory comment which may be of assistance in the expeditious processing of the material.

* * * * *

(c) * * *

NOTE: The definitive material filed with the Commission should be accompanied by a letter indicating any material changes which have been made therein, other than those made in response to the staff's comments and, whenever possible, should also be accompanied by a marked copy of the definitive material indicating all changes made therein.

* * * * *

(e) All copies of material filed pursuant to paragraph (a) or (b) of this section shall be clearly marked "Preliminary Copies", shall be for the information of the Commission only and shall not be deemed available for public inspection except that such material may be disclosed to any department or agency of the U.S. Government and the Commission may make such inquiries or investigation

in regard to the material as may be necessary for an adequate review thereof by the Commission. All preliminary material filed pursuant to paragraph (a) or (b) of this section shall be accompanied by a statement of the date on which definitive copies thereof filed pursuant to paragraph (c) of this section are intended to be released to security holders. All definitive material filed pursuant to paragraph (c) of this section shall be accompanied by a statement of the date on which copies of such material have been released to security holders or, if not released, the date on which copies thereof are intended to be released. All material filed pursuant to paragraph (d) of this section shall be accompanied by a statement of the date on which copies thereof are intended to be released to the individuals who will make the actual solicitation.

* * * * *

§ 240.14a–8 Proposals of security holders.

(a) If any security holder entitled to vote at a meeting of security holders of the issuer shall submit to the management of the issuer, within the time hereinafter specified, a proposal which is accompanied by notice of his intention to present the proposal for action at the meeting, the management shall set forth the proposal in its proxy statement and shall identify it in its form of proxy and provide means by which security holders can make the specification provided for by Rule 14a–4(b) (§ 240.14a–4(b)). The management of the issuer shall not be required by this rule to include the proposal in its proxy statement for an annual meeting unless the proposal is submitted to the management not less than 60 days in advance of a day corresponding to the first date on which the management's proxy soliciting material was released to security holders in connection with the last annual meeting of security holders, except that if the date of the annual meeting has been changed as a result of a change in the fiscal year, a proposal shall be submitted a reasonable time before the solicitation is made. A proposal to be presented at any other meeting shall be submitted to the management of the issuer a reasonable time before the solicitation is made. This section does not apply, however, to elections to office or to counter proposals to matters to be submitted by the management.

(b) If the management opposes the proposal it shall also, at the request of the security holder, include in its proxy statement a statement of the security holder, in not more than 100 words, in support of the proposal, which statement shall not include the name and address of the security holder. The proxy statement shall also include either the name and address of the security holder or a statement that such information will be furnished by the issuer or by the Commission to any person, orally or in writing as requested, promptly upon the receipt of any oral or written request therefor. If the name and address of the security holder is omitted from the proxy statement, it shall be furnished to the Commission at the time of filing the management's preliminary proxy material pursuant to Rule 14a–6(a) (§ 240.14a–6(a)). The statement and request of the security holder shall be furnished to the management at the same time that the proposal is furnished. Neither the management nor the issuer shall be responsible for such statement.

* * * * *

§ 240.14a–11 Special provisions applicable to election contests.

* * * * *

(b) * * *

(6) Any person who solicits proxies. The foregoing terms do not, however, include (i) any person or organization retained or employed by a participant to solicit security holders and whose activities are limited to the performance of his duties in the course of such employment; (ii) any person who merely transmits proxy soliciting material or performs other ministerial or clerical duties; (iii) any person employed by a participant in the capacity of attorney, accountant, or advertising, public relations or financial adviser, and whose activities are limited to the performance of his duties in the course of such employment; (iv) any person regularly employed as an officer or employee of the issuer or any of its subsidiaries who is not otherwise a participant; or (v) any officer or director of, or any person regularly employed by, any other participant, if such officer, director or employee is not otherwise a participant.

* * * * *

§ 240.14a–101 Schedule 14A. Information required in proxy statement.

Norm: A. Where any item calls for information with respect to any matter to be acted upon and such matter involves other matters with respect to which information is called for by other items of this schedule, the information called for by such other items shall also be given. For example, a merger, consolidation, or acquisition or disposition of assets specified in Item 14, in which the security holders to be solicited will become or continue to be security holders of the surviving or acquiring company, shall be deemed to involve the election of directors if any person who will serve as a director of such company was not elected to such office by security holders of the issuer of the securities in respect of which proxies are to be solicited. In such case, Items 6 and 7 shall be answered with respect to each such person who will serve as a director of the surviving or acquiring company.

B. Where any item calls for information with respect to any matter to be acted upon at the meeting, such item need be answered in the management's soliciting material only with respect to proposals to be made by or on behalf of the management of the issuer.

C. Except as otherwise specifically provided, where any item calls for information for a specified period in regard to directors, officers or other persons holding specified positions or relationships, the information shall be given in regard to any person who held any of the specified positions or relationships at any time during the period. However, information need not be included for any portion of the period during which such person did not hold any such position or relationship provided a statement to that effect is made.

* * * * *

Item 5. Voting securities and principal holders thereof.

* * * * *

(c) If to the knowledge of the persons on whose behalf the solicitation is made, a change in control of the issuer has occurred since the beginning of its last fiscal year, state the name of the person or persons who acquired such control, the basis of such control, the date and a description of the transaction or transactions in which control was acquired and the percentage of voting securities of the issuer now owned by such person or persons.

(f) Describe any contractual arrangements, including any pledge of securities of the issuer or any of its parents, known to the persons on whose behalf the solicitation is made, the operation of the terms of which may at a subsequent date result in a change in control of the issuer.

Instruction. Paragraph (f) does not require a description of ordinary default provisions contained in the charter, trust indentures or other governing instruments relating to securities of the issuer.

Item 6. Nominees and directors.

* * * * *

(c) If fewer nominees are named than the number fixed by or pursuant to the governing instruments, state the reasons for this procedure and that the proxies cannot be voted for a greater number of persons than the number of nominees named.

Item 7. Remuneration and other transactions with management and others. (See Note C at the beginning of this section.)

* * * * *

(a) (No change in the text of the body of this item, but Instruction 1 has been deleted and Instructions 2, 3, and 4 have been renumbered 1, 2, and 3)

(b) Furnish the following information in substantially the tabular form indicated as to all annuity, pension, or retirement benefits proposed to be paid to the following persons in the event of retirement at normal retirement date pursuant to any existing plan provided or contributed to by the issuer or any of its subsidiaries:

(1) Each director or officer named in answer to paragraph (a)(1), naming each such person.

(2) All directors and officers of the issuer who are eligible for such benefits, as a group, stating the number of persons in the group without naming them.

Col. (A)	Col. (B)	Col. (C)
Name of individual or number of persons in group	Amount set aside or accrued during issuer's last fiscal year	Estimated annual benefits upon retirement

Instructions. 1. The term "plan" in this paragraph and in paragraph (c) includes all plans, contracts, authorizations or arrangements, whether or not set forth in any formal document.

2. Column (B) need not be answered with respect to payments computed on an actuarial basis under any plan which provides for fixed benefits in the event of retirement at a specified age or after a specified number of years of service. In such case, Columns (A) and (C) need not be answered with respect to directors and officers as a group.

3. The information called for by Column (C) may be given in the form of a table showing the annual benefits payable upon retirement to persons in specified salary classifications.

4. In the case of any plan (other than those specified in Instruction 2) where the amount set aside each year depends upon the amount of earnings of the issuer or its subsidiaries for such year or a prior year, or where it is otherwise impracticable to state the estimated benefits upon retirement, there shall be set forth, in lieu of the information called for by Column (C), the aggregate amount set aside or accrued to date, unless it is impracticable to do so, in which case there shall be stated the method of computing such benefits.

* * * * *

(d) Furnish the following information as to all options to purchase any securities from the issuer or any of its subsidiaries which were granted to or exercised by the following persons since the beginning of the issuer's last fiscal year, and as to all options held by such persons as of the latest practicable date: (i) Each director or officer named in answer to paragraph (a)(1), naming each such person; and (ii) all directors and officers of the issuer as a group, without naming them:

(1) As to options granted during the period specified (i) state the title and aggregate amount of securities called for; (ii) state the average option price per share and (iii) if the option price was less than 100 percent of the market value of the security on the date of grant, such fact and the market price on such date shall be disclosed.

(2) As to options exercised during the period specified, state (i) the title and aggregate amount of securities purchased; (ii) the aggregate purchase price and (iii) the aggregate market value of the securities purchased on the date of purchase.

(3) As to all unexercised options held as of the latest practicable date, regardless of when such options were granted, state (i) the title and aggregate amount of securities called for, and (ii) the average option price per share.

Instructions. 1. The term "options" as used in this paragraph (d) includes all options, warrants or rights, other than those issued to security holders as such on a pro rata basis. Where the average option price per share is called for, the weighted average price per share shall be given.

2. The extension, regranting or material amendment of options shall be deemed the granting of options within the meaning of this paragraph.

3. (i) Where the total market value on the granting dates of the securities called for by all options granted during the period specified does not exceed $10,000 for any officer or director named in answer to paragraph (a)(1), or $30,000 for all officers and directors as a group, this item need not be answered with respect to options granted to such person or group. (ii) Where the total market value on the dates of purchase of all securities purchased through the exercise of options during the period specified does not exceed $10,000 for any such person or $30,000 for such group, this item need not be answered with respect to options exercised by such person or group. (iii) Where the total market value as of the latest practicable date of the securities called for by all options held at such time does not exceed $10,000 for any such person or $30,000 for such group, this item need not be answered with respect to options held as of the specified date by such person or group.

4. The information called for by this paragraph may be furnished in the form of the table set forth in Appendix A (§ 240.14a–103). In such case, the information need be furnished only for the period specified in this paragraph and information need not be included as to shares sold during the period. However, if Item 9, 10, or 11 is required to be answered, all of the information specified in Appendix A must be furnished for the 5-year period referred to therein and need not be separately furnished for the period specified in this paragraph.

(e) * * *

Instructions. 1. Include the name of each person whose indebtedness is described and the nature of the relationship by reason of which the information is required to be given.

* * * * *

2. Notwithstanding Instruction 2, if the issuer or any of its subsidiaries is engaged primarily in the business of making loans and loans to any of the specified persons in excess of $10,000 or 1 percent of its total assets, whichever is less, were outstanding at any time during the period specified, such loans shall be disclosed. However, if the lender is a bank, such disclosure may consist of a statement, if such is the case, that the loans to such persons (i) were made in the ordinary course of business, (ii) were made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions with other persons, and (iii) did not involve more than normal risk of collectibility or present other unfavorable features.

4. If to the knowledge of the persons on whose behalf the solicitation is made, any indebtedness required to be described arose under Section 16(b) of the Act and has not been discharged by payment, state the amount of any profit realized, that such profit will inure to the benefit of the issuer or its subsidiaries and whether suit will be brought or other steps taken to recover such profit. If in the opinion of counsel a question reasonably exists as to the recoverability of such profit, it will suffice to state all facts necessary to describe the transaction, including the prices and number of shares involved.

* * * * *

Instructions. 1. No information need be given in response to this Item 7(f) as to any remuneration or other transaction reported in response to Item 7 (a), (b), (c), (d), or (e), or as to any transaction with respect to which information may be omitted pursuant to Instruction 2 to Item 7(b), the instruction to Item 7(c), Instruction 3 to Item 7(d) or Instruction 2 or 3 to Item 7(e).

* * * * *

2. It should be noted that this item calls for disclosure of indirect, as well as direct, material interests in transactions. A person who has a position or relationship with a firm, corporation, or other entity, which engages in a transaction with the issuer or its subsidiaries may have an indirect interest in such transaction by reason of such position or relationship. However, a person shall be deemed not to have a material indirect interest in a transaction within the meaning of this Item 7(f) where—

(a) the interest arises only (i) from such person's position as a director or another corporation or organization (other than a partnership) which is a party to the transaction, or (ii) from the direct or indirect ownership by such person and all other persons specified in subparagraphs (1) through (4) above, in the aggregate, of less than a 10 percent equity interest in another person which is a party to the transaction, or (iii) from both such position and ownership;

(b) the interest arises only from such person's position as a limited partner in a partnership in which he and all other persons specified in (1) through (4) above had an interest of less than 10 percent; or

(c) the interest of such person arises solely from the holding of an equity interest (including a limited partnership interest) or a creditor interest in another person which is a party to the transaction with the issuer or any of its subsidiaries and the transaction is not material to such other person.

* * * * *

6. The foregoing instructions specify certain transactions and interests as to which information may be omitted in answering this item. There may be situations where, although the foregoing instructions do not expressly authorize nondisclosure, the interest of a specified person in the particular transaction or series of transactions is not a material interest. In that case, information regarding such interest and transaction is not required to be disclosed in response to this item.

(g) Describe briefly any transactions since the beginning of the issuer's last fiscal year or any presently proposed transactions, to which any pension, retirement, savings or similar plan provided by the issuer, or any of its parents or subsidiaries, was or is to be a party, in which any of the following persons had or is to have a direct or indirect material interest, naming such person and stating his relationship to the issuer, the nature of his interest in the transaction and, where practicable, the amount of such interest:

(1) Any director or officer of the issuer;

(2) Any nominee for election as a director;

(3) Any security holder named in answer to Item 6(d);

(4) Any relative or spouse of any of the foregoing persons, or any relative of such spouse, who has the same home as such person or who is a director or officer of any parent or subsidiary of the issuer; or

(5) The issuer or any of its subsidiaries.

Instructions. 1. Instructions 2, 3, 4, and 5 to Item 7(f) shall apply to this Item 7(g).

2. Without limiting the general meaning of the term "transaction" there shall be included in answer to this item any remuneration received or any loans received or outstanding during the period, or proposed to be received.

3. No information need be given in answer to paragraph (g) with respect to—

(a) payments to the plan, or payments to beneficiaries, pursuant to the terms of the plan;

(b) payment of remuneration for services not in excess of 5 percent of the aggregate remuneration received by the specified person during the issuer's last fiscal year from the issuer and its subsidiaries; or

(c) any interest of the issuer or any of its subsidiaries which arises solely from its general interest in the success of the plan.

* * * * * *

Item 9. Bonus, profit sharing and other remuneration plans.

* * * * *

(d) Furnish such information, in addition to that required by this item and Item 7, as may be necessary to describe adequately the provisions already made pursuant to all bonus, profit sharing, pension, retirement, stock option, stock purchase, deferred compensation, or other remuneration or incentive plans, now in effect or in effect within the past 5 years, for (i) each director or officer named in answer to Item 7(a) who may participate in the plan to be acted upon; (ii) all present directors and officers of the issuer as a group, if any director or officer may participate in the plan, and (iii) all employees, if employees may participate in the plan.

(e) * * *

Instructions.

* * * * *

3. The following instructions shall apply to paragraph (d):—

* * * * *

(c) If action is to be taken with respect to any plan in which directors or officers may participate, the information called for by Item 7(d) (1) and (2) shall be furnished for the last 5 fiscal years of the issuer and any period subsequent to the end of the latest such fiscal year, in aggregate amounts for the entire period for each such person and group. If any named person, or any other director or officer, purchased securities through the exercise of options during such period, state the aggregate amount of securities of that class sold during the period by such named person and by such named person and such other directors and officers as a group. The information called for by this Instruction 3(c) is in lieu of the information since the beginning of the issuer's last fiscal year called for by Item 7(d) (1) and (2). If employees may participate in the plan to be acted upon, state the aggregate amount of securities called for by all options granted to employees during the 5-year period and, if the options were other than "restricted" or "qualified" stock options or options granted pursuant to an "employee stock purchase plan", as the quoted terms are defined in sections 422 through 424 of the Internal Revenue Code, state that fact and the weighted average option price per share. The information called for by this instruction may be furnished in the form of the table illustrated in Appendix A (§ 240.14a–10B). See Instruction 1 to Item 7(d).

4. If the plan to be acted upon is set forth in a written document, three copies thereof shall be filed with the Commission at the time preliminary copies of the proxy statement and form of proxy are filed pursuant to paragraph (a) of Rule 14a–6 (§ 240.14a–6).

Item 10. Pension and retirement plans.

* * * * *

(d) Furnish such information, in addition to that required by this item and Item 7, as may be necessary to describe adequately the provisions already made pursuant to all bonus, profit sharing, pension, retirement, stock option, stock purchase, deferred compensation or other remuneration or incentive plans, now in effect or in effect within the past five years, for (i) each director or officer named in answer to Item 7(a) who may participate in the plan to be acted upon; (ii) all present directors and officers of the issuer as a group, if any director or officer may participate in the plan, and (iii) all employees, if employees may participate in the plan.

* * * * *

Item 11. Options, warrants, or rights.

* * * * *

(c) Furnish such information, in addition to that required by this item and Item 7, as may be necessary to describe adequately the provisions already made pursuant to all bonus, profit sharing, pension, retirement, stock option, stock purchase, deferred compensation, or other remuneration or incentive plans, now in effect or in effect within the past 5 years, for (i) each director or officer named in answer to Item 7(a) who may participate in the plan to be acted upon; (ii) all present directors and officers of the issuer as a group, if any director or officer may participate in the plan, and (iii) all employees, if employees may participate in the plan.

Instructions.

* * * * *

4. If the options described in answer to this item are issued pursuant to a plan which is set forth in a written document, three copies thereof shall be filed with the Commission at the time preliminary copies of the proxy statement and form of proxy are filed pursuant to paragraph (a) of § 240.14a–6.

NOTE: The Commission should be informed, as supplemental information, when the proxy statement in preliminary form is filed, as to when the options, warrants or rights and the shares called for thereby will be registered under the Securities Act of 1933, or if such registration is not contemplated the section of the Act or rule of the Commission under which exemption from such registration is claimed and the facts relied upon to make the exemption available.

5. [Deleted]

Item 12. Authorization or issuance of securities otherwise than for exchange.

If action is to be taken with respect to the authorization or issuance of any securities otherwise than for exchange for outstanding securities of the issuer, furnish the following information:

* * * * *

(b) Furnish a description of the securities such as would be required to be furnished in an application on the appropriate form for their registration on a national securities exchange. If the terms of the securities cannot be stated or estimated with respect to any or all of the securities to be authorized, because no offering thereof is contemplated in the proximate future, and if no further authorization by security holders for the issuance thereof is to be obtained, it should be stated that the terms of the securities to be authorized, including dividend or interest rates, conversion prices, voting rights, redemption prices, maturity dates, and similar matters will be determined by the board of directors. If the securities are additional shares of common stock of a class outstanding, the description may be omitted except for a statement of the preemptive rights, if any. Where the statutory provisions with respect to preemptive rights are so indefinite or complex that they cannot be stated in summarized form, it will suffice to make a statement in the form of an opinion of counsel as to the existence and extent of such rights.

* * * * *

Item 13. Modification or exchange of securities.

* * * * *

(b) * * *

Instruction. If the existing security is presently listed and registered on a national securities exchange, state whether it is intended to apply for listing and registration of the new or reclassified security on such exchange or any other exchange. If it is not intended to make such application, state the effect of the termination of such listing and registration.

Item 14. Mergers, consolidations, acquisitions, and similar matters. (See Note A at the beginning of this section.)

* * * * *

(b) Furnish the following information as to the issuer and each person which is to be merged into the issuer or into or with which the issuer is to be merged or consolidated or the business or assets of which are to be acquired or which is the issuer of securities to be acquired by the issuer in exchange for all or a substantial part of its assets or to be acquired by security holders of the issuer. What is required is information essential to an investor's appraisal of the action proposed to be taken.

* * * * *

(7) * * *

Instructions.

* * * * *

4. Paragraph (b) shall not apply if the plan described in answer to paragraph (a) involves only the issuer and one or more of its totally held subsidiaries.

* * * * *

Item 15. Financial statements.

(a) If action is to be taken with respect to any matter specified in Item 12, 13, or 14 above, furnish certified financial statements of the issuer and its subsidiaries such as would currently be required in an original application for the registration of securities of the issuer under the Act. All schedules other than the schedules of supplementary profit and loss information may be omitted.

Instructions. 1. Such statements shall be prepared and certified in accordance with Regulation S–X (Part 210 of this chapter). One copy of the definitive proxy statement filed with the Commission shall include a manually signed copy of the accountant's certificate.

2. Such statements may be omitted with respect to a plan described in answer to Item 14(a) if the plan involves only the issuer and one or more of its totally held subsidiaries.

(b) If action is to be taken with respect to any matter specified in Item 14(b), furnish for each person specified therein, other than the issuer, financial statements such as would currently be required in an original registration statement for registration of securities of such person pursuant to section 12 of the Act. Such statements shall be certified if practicable. Notwithstanding the foregoing, the following may be omitted: (1) All schedules other than schedules of supplementary profit and loss information; (2) statements for any totally held subsidiary of the issuer which is included in the consolidated statement of the issuer and its subsidiaries, and (3) statements for a person which is to succeed to the issuer, or to the issuer and one or more of its totally held subsidiaries, provided the capital structure and balance sheet of the successor immediately after the succession will be substantially the same as those of the issuer or the combined capital structures and balance sheets of the issuer and its totally held subsidiaries, as the case may be.

Instructions. 1. Such statements shall be prepared in accordance with Regulation S–X (Part 210 of this chapter) and, if certified, shall be certified in accordance with that regulation and one copy of the definitive proxy statement filed with the Commission shall include a manually signed copy of the accountant's certificate.

2. Instruction 2 to paragraph (a) shall apply to this paragraph.

* * * * *

(d) * * *

Item 20. Amendment of charter, bylaws of other documents. (No change in the text of the item; the following new instruction is added to the item.)

Instruction. Where the matter to be acted upon is the classification of directors, state whether vacancies which occur during the year may be filled by the board of directors to serve only until the next annual meeting or may be so filled for the remainder of the full term.

* * * * *

§ 240.14a–102 Schedule 14B. Information to be included in statements filed by or on behalf of a participant (other than the issuer) pursuant to § 240.14a–11(c) (Rule 14a–11(c)).

Instructions.

* * * * *

Item 3. Interests in securities of the issuer.

* * * * *

(c) State with respect to all securities of the issuer purchased or sold within the past 2 years, the dates on which they were purchased or sold and the amount purchased or sold on each such date.

* * * * *

§ 240.14a–103 Appendix A (to Schedule 14A (§ 240.14a–101)).

The table set forth below is an illustration of the presentation in tabular form of the information required (in § 240.14a–101), by Item 7(d) and Instruction 3(c) to Item 9(d), which also applies to Items 10(d) and 11(c). If only Item 7(d) applies and Items 9, 10, and 11 are inapplicable, information need only be furnished for the period specified in Item 7(d), information as to shares sold may be omitted, and the reference at the foot of the table to options granted to employees may be omitted. See Instruction 4 to Item 7(d). Other tabular presentations are, of course, acceptable if they include the necessary data. Tabular presentation may not be needed if only a very few options have been granted.

"The following tabulation shows as to certain directors and officers and as to all directors and officers as a group (i) the amount of options granted since the beginning of the fifth previous full fiscal year, (ii) the amount of shares acquired since that date through the exercise of options granted since that date or prior thereto, (iii) the amount of shares sold during such period of the same class as those so acquired, and (iv) the amount of shares subject to all unexercised options held as of _____."

(Insert date)

Common shares [1]	John Jones	James Smith	Richard Roe	All directors and officers as a group
Granted—19__ to date:				
Number of shares				
Average per share option price	$	$	$	$
Exercised—19__ to date:				
Number of shares				
Aggregate option price of options exercised	$	$	$	$
Aggregate market value of shares on date options exercised	$	$	$	$
Sales—19__ to date: [2]				
Number of shares				(3)
Unexercised as ____ 19__:				
Number of shares				
Average per share option price	$	$	$	$

In addition, during the period employees were granted options for ____ share at an average option price per share of $____.

[1] All common share figures have been adjusted in accordance with the terms of the options to reflect the stock split in 19__, and, where applicable, to give effect to share dividends.

[2] Sales by directors and officers who exercised options during the period 19__ to date.

REGULATION 14C—DISTRIBUTION OF INFORMATION PURSUANT TO SECTION 14(c)

§ 240.14c–3 Annual report to be furnished security holders.

* * * * *

NOTE: To assist the staff, managements of issuers are requested to indicate in a letter transmitting to the Commission copies of their annual reports to shareholders or in a separate letter at or about the time the annual report is furnished to the Commission, whether the financial statements in the report reflect a change from the preceding year in any accounting principles or practices or in the method of applying any such principles or practices.

§ 240.14c–5 Filing of information statement.

(a) Five preliminary copies of the information statement shall be filed with the Commission at least 10 days prior to the date definitive copies of such statement are first sent or given to security holders, or such shorter period prior to that date as the Commission may authorize upon a showing of good cause therefor. In computing the 10-day period, the filing date of the preliminary copies is to be counted as the first day and the 11th day is the date on which definitive copies of the information statement may be mailed to security holders.

NOTE: The officials responsible for the preparation of the information statement should make every effort to verify the accuracy and completeness of the information required by the applicable rules. The preliminary statement should be filed with the Commission at the earliest practicable date. It should be accompanied by a letter, over the signature of an officer of the company or its counsel, stating whether the current preliminary statement merely reflects an updating of the prior year's statement (e.g., changes in the board of directors or nominees for election to the board) or includes changes of a material nature. All changes from the previously filed statement should be identified in an accompanying marked copy of the preliminary statement. If a change is material, the letter should include any explanatory comment which may be of assistance in the expeditious processing of the statement.

(b) * * *

NOTE: The definitive information statement filed with the Commission should be accompanied by a letter indicating any material changes which have been made therein, other than those made in response to the staff's comments and, whenever possible, should also be accompanied by a marked copy of the definitive statement indicating all changes made therein.

(c) All copies of material filed pursuant to paragraph (a) of this section shall be clearly marked "Preliminary Copies", shall be for the information of the Commission only and shall not be deemed available for public inspection except that such material may be disclosed to any department or agency of the U.S. Government and the Commission may make such inquiries or investigation in regard to the material as may be necessary for an adequate review thereof by the Commission. All preliminary material filed pursuant to paragraph (a) of this section shall be accompanied by a statement of the date on which copies thereof filed pursuant to paragraph (b) of this section are intended to be released to security holders. All definitive material filed pursuant to paragraph (b) of this section shall be accompanied by a statement of the date on which copies of such material have been released to security holders or, if not released, the date on which copies thereof are intended to be released.

* * * * *

§ 240.14c–101 Schedule 14C. Information required in information statements.

* * * * *

Item 5. Proposals by security holders.

* * * * *

Instructions. 1. This item need not be answered as to any proposal submitted with respect to an annual meeting if such proposal is submitted less than 60 days in advance of a day corresponding to the date of mailing a proxy statement or information statement in connection with the last annual meeting of security holders.

* * * * *

(Secs. 14a, 14(c), and 23(a); 48 Stat. 896 and 901, as amended; 15 U.S.C. 78n and 78w)

[F.R. Doc. 67–15091; Filed, Dec. 28, 1967; 8:45 a.m.]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

[Docket No. R–378; Order 355]

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

Reporting of Expenditures for Donations by Public Utilities, Licensees and Natural Gas Pipeline Companies; Annual Report Forms Nos. 1 and 2

DECEMBER 21, 1967.

On July 28, 1965, the Commission issued a notice of proposed rulemaking in this proceeding (30 F.R. 9097, Aug. 4, 1965), wherein we proposed to amend the "Schedule of Particulars Concerning Certain Income Deductions and Interest Charge Accounts" in FPC Forms Nos. 1 and 2 to require the reporting of donations, classifiable in subaccount 426.1, in amounts of $100 or more as individual items in lieu of the existing $1,000 lower limit in the forms for reporting such individual items. We also proposed to amend the schedule in the forms entitled "Miscellaneous General Expenses (Account 930)", which now requires only the listing of "major items" in the "Other expenses" category, to provide for the reporting of the purpose (donation, contribution, dues, etc.), recipient, and amount of each item of $100 or more.

The notice of proposed rulemaking afforded a period of 44 days for the submission to the Commission of written data, views, comments, and suggestions concerning the proposed amendments. We received 63 responses to the notice—51 of these were in opposition and 12 were in support. We have appended a list of the responses received.[1] Of the 217

[1] *In support:* American Public Power Association, Communications Workers of America, Cooperative League of the USA, Senator Lee Metcalf (Montana), Representative Lloyd Meeds (Washington), National Consumers League, National Rural Electric Co-op. As-

classes A and B electric utilities and the 79 natural gas pipeline companies which respectively filed Forms Nos. 1 and 2 for the reporting year 1964, the proposal was opposed by 32 electric companies, nine gas companies and three combination companies acting individually. Opposition was also expressed by three service companies and by the Edison Electric Institute and the Independent Natural Gas Association of America in behalf of their respective members. Also opposed was the Committee on Accounts of the National Association of Railroad and Utilities Commissioners. The principal thrust of those opposed was that the change would materially increase the paperwork burden and expense of preparing the reports; that existing requirements are adequate for regulatory purposes; that the changes would be contrary to the President's directive of March 10, 1964, with respect to unnecessary reporting; that contributions by the companies would be discouraged; and that the changes are contrary to the Commission's own stated policy to reduce paperwork and to avert future unnecessary burdening.

The 12 supporting views argued that the public, and more particularly the ratepayers, are entitled to have all possible information on public utility company spending so that the implications of any expenditures for political or propaganda purposes may be fully disclosed.

Following this full expression of views, the Commission has reevaluated the benefit to the public of the proposed reporting requirement providing for full detailed disclosure on FPC Annual Report Forms of donations in amounts of $100 or more against the burden which would be placed on individual utilities by such a requirement. We have concluded for the reasons set out below that instructions now in effect for reporting Other Income Deductions in Account 426 and its respective Subaccounts (426.1—Donations, 426.2—Life Insurance, 426.3—Penalties, and 426.5—Other Deductions), which require reporting of individual items of $1,000 and above, should be maintained. We shall continue the practice of allowing amounts of less than $1,000 to be grouped by classes within the subaccounts if the number of items so grouped is shown. With regard to Account 930, Miscellaneous General Expenses, we shall require reporting of individual items of $100 and above rather than the current practice which specifies only that "major items" in the "Other Expenses" category shall be listed.

Commission staff analysis of charges by 12 companies [2] to Account 426.1 since April 1964, as tabulated below, indicates that itemization at the $1,000 reporting limit results in public disclosure of the specific disposition of 90.5 percent of the sums charged to that account.[3] It should be noted that those items of less than $1,000 will be accounted for under the rule as it now stands. They will be summarized by classes of expenditures.

	Account 426.1	
	Dollars	Percent of total
At $1,000 reporting limit	$1,900,000	90.5
Additional amounts reported at $100 limit	104,000	5.0
Amounts below $100 limit	96,000	4.5
Total	2,100,000	100.0

While retaining the $1,000 limitation currently applicable to Subaccount 426.1—Donations, we are fully cognizant of the fact that whenever we require more specific itemization of any account there is some public benefit by way of informing both the investing and consuming public of the nature of the operations of the regulated companies. The benefits to be gained by such an action, however, must in every case be balanced against the detriments.

In weighing the benefits against the detriments in this case, we must keep in mind that we are dealing with an accounting matter rather than a rate-making matter and that Account 426 is a below-the-line account, thereby raising a presumption that the items in this account will not be allowed in the cost of service of any jurisdictional company in a rate case. Hence, the burden of proving the reasonableness of donations as a cost-of-service item falls upon the utility, and a utility seeking to justify donations as a cost-of-service item will be required to provide information identifying the beneficiaries of its charity. Thus, ratepayers will, in the event we allow charitable contributions as a cost-of-service item, nonetheless be protected against having their money spent for other than legitimate purposes. Furthermore, should the need for specific information arise, as in the case of an appropriate inquiry,[4] the Commission may always, as it has in the past, direct reporting companies to explain items included in annual report forms in greater detail.

Since we do not believe that the slight additional burden upon the companies incident to fuller disclosure would represent a serious bar to such action if it was otherwise in the public interest, we might still favor the broader disclosure proposal if there were no other apparent detrimental effects thereof. In addition, however, disclosure of small charitable contributions in the $100–$1,000 range may reasonably be expected to have an adverse effect upon programs of charitable donations of regulated companies and their stockholders. Any such program, if it is not to be limited to gifts to such organizations as community funds, must of necessity pick and choose between numerous worthy causes. Were we to require individual itemization of the myriad of donations below the $1,000 limit, the utilities might be subject to pressure by knowledgeable charities to obtain parity of contributions with similar charitable organizations. Such pressure could discourage utilities from making such contributions or might force the institution of rigid policies with regard to amounts given irrespective of the comparative merits of individual charitable organizations. Since charitable contributions, as explained above, do not normally have an impact on rate-payers, we believe that this risk should not be incurred.

With regard to Account 930, Miscellaneous General Expenses, our periodic audits of jurisdictional companies have disclosed a number of instances where charitable contributions and donations which should have been recorded in Account 426 were in fact recorded in Account 930. Since Account 930 is an above-the-line account, the presumption, of course, is that items therein are chargeable to the ratepayers. Therefore, abuse of this account in the manner described above means that items presumptively chargeable to the stockholders are assigned to the ratepayers. By setting the reporting level for Account 930 at $100, many of the items presently misclassified can, in the future, be noted in our annual review of jurisdictional company reports, and prompt action can be taken where necessary. Furthermore, required disclosure of individual items of $100 or more for Account 930 will tend to promote greater compliance with requirements for proper reporting of operating expenses under our Uniform System of Accounts.

In reaching our decision, we have been mindful of the policy enunciated by Congress, the President, and the Commission that unnecessary, timeconsuming and costly reporting should not be imposed upon American business. We believe our order is in full accord with this policy. It will encourage prompt and expeditious reporting in the public interest. It will protect ratepayers from having their money spent surreptitiously. It will protect jurisdictional companies from the unnecessary expense inherent in unnecessary reporting burdens.

The Commission further finds:

(1) The notice and opportunity to participate in this rulemaking proceeding with respect to the matters presently before this Commission through the submission, in writing, of data, views, comments, suggestions and arguments in the manner as described above, are consistent and in accordance with all procedural requirements therefor as prescribed in the Administrative Procedure Act (5 U.S.C. 553). In view of the foregoing and the modification of the proposed amendments to our reporting requirements to reflect valid objections raised thereto, opportunity for oral argument or a formal hearing in this matter would serve no useful purpose and is therefore unnecessary.

(2) The public should have made available to it more specific information concerning the expenditures by electric and gas utilities which are categorized in Account 930.

(3) The amendment here prescribed will supply that information and is necessary and appropriate for the administration of the Federal Power Act and the Natural Gas Act.

The Commission, acting pursuant to the provisions of the Federal Power Act, as amended, particularly sections 304, 309, and 311 thereof (49 Stat. 858, 858, 859; 16 U.S.C. 825c, 825h, 825j) and the Natural Gas Act, as amended, particularly sections 10 and 16 thereof (52 Stat. 826, 830; 15 U.S.C. 717i, 717o), orders:

(A) Effective for the reporting year 1968, the Commission's annual reports, FPC Form No. 1 and FPC Form No. 2, prescribed respectively by § 141.1 of Subchapter D and § 260.1 of Subchapter G, Chapter I, Title 18 of the Code of Federal Regulations, are amended by revising line 7 of the schedules entitled "Miscellaneous General Expenses (Account 930) (Electric)" appearing on page 427 of Form No. 1 and "Miscellaneous General Expenses (Account 930) (Gas)" appearing on page 543 of Form No. 2, to read as follows:

7. Other expenses (Items of $100 or more are to be listed separately showing the purpose, recipient, and the amount of such items. Amounts of less than $100 may be grouped by classes if the number of items so grouped is shown).

(B) The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.[1]

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-15070; Filed, Dec. 28, 1967; 8:46 a.m.]

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[2] Alabama Power Co., Boston Edison Co., Commonwealth Edison Co., Consumers Power Co., Duquesne Light Co., Florida Power & Light Co., Interstate Power Co., Long Island Lighting Co., Ohio Power Co., Pennsylvania Power & Light Co., Carolina Power & Light Co., Tampa Electric Co.

[3] A similar staff analysis of the charges of 21 companies to Account 930 during substantially the same period shows approximately the same result. However, as pointed out below, the nature of Account 930 is such that this is irrelevant.

[4] These include inquiries from other branches or agencies of the Federal Government, State and local governments.

[1] Statement by Commissioner Ross concurring in part and dissenting in part filed as part of the original document.

Title 20—EMPLOYEES' BENEFITS

Chapter V—Bureau of Employment Security, Department of Labor

PART 609—UNEMPLOYMENT COMPENSATION FOR FEDERAL CIVILIAN EMPLOYEES

PART 614—EMPLOYMENT COMPENSATION FOR EX-SERVICEMEN

Revision of Regulations

Title XV of the Social Security Act, 68 Stat. 1130, as amended; 42 U.S.C. 1361–1371, has been recodified by Public Law 89–554, 80 Stat. 378, and now constitutes Chapter 85 of Title 5 of the United States Code, 80 Stat. 585; 5 U.S.C. 8501–8525, and 18 U.S.C. 1919, 80 Stat. 609. This change makes necessary a corresponding revision of 20 CFR Parts 609, 610, 611, and 614 to conform legal citations contained in such parts to the new statutory provisions. In view of the number of required changes it is appropriate also to generally revise 20 CFR Parts 609, 610, 611, and 614 to simplify and consolidate the regulations contained therein. Two substantive changes are made in this revision: (1) A definition of "first claim" has been inserted in 20 CFR 609.1(g) to prevent assignment of Federal civilian service and wages to a State if an initial claim does not establish a benefit year; and (2) transfer of assigned Federal civilian or military service and wages from one State to another under an interstate wage combining plan after a first claim has been filed is precluded by 20 CFR 609.16(d)(2) and 614.13(b).

The provisions of section 4 of the Administrative Procedure Act (5 U.S.C. 553) which require notice of proposed rule making, public participation in their adoption, and delay in effective date are not applicable because these rules relate to public benefits. I do not believe such procedures or delay will serve a useful purpose here. Accordingly, this revision shall become effective on the date of its publication in the FEDERAL REGISTER.

1. Parts 609, 610, and 611 of Chapter V of Title 20 of the Code of Federal Regulations are consolidated and recodified to constitute Part 609 of Chapter V of Title 20 of the Code of Federal Regulations reading as follows:

PART 609—UNEMPLOYMENT COMPENSATION FOR FEDERAL CIVILIAN EMPLOYEES

Subpart A—General

Sec.
609.1 Definitions.

Subpart B—Responsibilities of Federal Agencies

609.5 Information to Federal civilian employees.
609.6 Federal findings on Form ES–931.
609.7 Corrected Federal findings.
609.8 Answering requests for additional information.
609.9 Answering requests for correction of Federal findings.
609.10 Additional information to State agencies or Secretary.
609.11 Appeal by Federal agency.
609.12 Liaison.

Subpart C—Responsibilities of State Agencies

609.14 United States a single employer.
609.15 What State law applies to Federal civilian employees.
609.16 Assignment of Federal civilian service and wages.
609.17 Allocation of terminal annual leave payments.
609.18 Finality of Federal findings.
609.19 Determination of entitlement.
609.20 Notice of determination.
609.21 Overpayments.
609.22 Procedure for obtaining additional information.
609.23 Procedure for obtaining correction of Federal findings.
609.24 Procedure after correction of Federal findings.
609.25 Appeal by Federal civilian employee.
609.26 Disclosure of information.

Subpart D—Provisions Applying Only to Virgin Islands

609.30 Payments.
609.31 Determination of entitlement.
609.32 Continuation of State claim.
609.33 Appointment of referee.
609.34 Appeals to referee.
609.35 Conduct of hearings.
609.36 Evidence.
609.37 Record.
609.38 Withdrawal of appeal.
609.39 Nonappearance of Federal civilian employee.
609.40 Notice of referee's decision.
609.41 Consolidation of appeals.
609.42 Representation.
609.43 Postponement, continuance and adjournment of hearings.
609.44 Information from agency records.
609.45 Filing of decisions.
609.46 Judicial review.

AUTHORITY: The provisions of this Part 609 issued under sec. 8508, 80 Stat. 590; 5 U.S.C. 8508. Interpret or apply secs. 8501–8507, 80 Stat. 585; 5 U.S.C. 8501–8507.

Subpart A—General

§ 609.1 Definitions.

As used in this part, unless the context clearly indicates otherwise—

(a) "Compensation" means cash benefits payable to Federal civilian employees under the UCFE program with respect to their unemployment, including any portion of such cash benefits payable with respect to dependents but not including benefits payable under any temporary disability insurance law.

(b) "Federal agency" means any department, agency, or governmental body of the United States, including any instrumentality wholly or partially owned by the United States, employing individuals in Federal civilian service.

(c) "Federal civilian employee" means an individual who has performed Federal civilian service.

(d) "Federal civilian service" means service performed in the employ of the United States or any instrumentality wholly or partially owned by the United States but does not include service performed:

(1) By an elective official in the executive or legislative branch of the Government of the United States;

(2) As a member of the Armed Forces of the United States;

(3) By foreign service personnel for whom special separation allowances are provided under Chapter 14 of Title 22 of the United States Code;

(4) Outside the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands by an individual who is not a citizen of the United States;

(5) As an employee excluded by 5 CFR 831.201(a)(5) from civil service retirement coverage provided by Subchapter III, Chapter 83, Title 5, United States Code, because paid on a contract or fee basis;

(6) As an employee receiving nominal pay and allowances of $12 or less a year;

(7) In a hospital, home, or other institution of the United States by a patient or inmate thereof;

(8) By a student-employee assigned or attached to a hospital, clinic, or medical or dental laboratory operated by a Federal agency, a Federal military agency as defined in § 614.1 of this chapter, or the Government of the District of Columbia; for the purpose of this paragraph the term "student-employee" means either (i) a student nurse, medical or dental intern, resident-in-training, student dietitian, student physical therapist, or student occupational therapist; or (ii) any other individual assigned or attached primarily for training purposes to such a hospital, clinic, or medical or dental laboratory who has been designated a student-employee by the head of a Federal agency, Federal military agency, or Government of the District of Columbia, with the approval of the Civil Service Commission;

(9) As an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency;

(10) By an individual employed under a Federal relief program to relieve him from unemployment;

(11) As a member of a State, county, or community committee under the Agricultural Stabilization and Conservation Service or of any other board, council, committee, or other similar body, unless such body is composed exclusively of individuals in the full-time employ of the United States;

(12) By an officer or member of the crew on or in connection with an American vessel which is (i) owned by or bareboat chartered to the United States and (ii) the business of which is conducted by a general agent of the Secretary of Commerce if contributions on account of such service are required under 26 U.S.C. 3305(g) to be made to an unemployment fund under a State unemployment compensation law; or

(13) As an employee precluded by Federal law from qualifying for compensation under the UCFE program.

(e) "Federal civilian wages" means all pay and allowances in cash and in kind for Federal civilian service.

(f) "Federal findings" means the facts found by a Federal agency as to (1) whether an individual has performed Federal civilian service for such agency during the base period specified on a Form ES-931; (2) the period or periods of such Federal civilian service; (3) the individual's Federal civilian wages for the base period specified on such form; and (4) the reasons for termination of his Federal civilian service.

(g) "First claim" means a claim for compensation under either the UCFE or UCX program or a State unemployment compensation law, or some combination thereof, first filed by an individual after his most recent termination of Federal civilian service whereby a benefit year is established under a State unemployment compensation law or in the Virgin Islands under the District of Columbia Unemployment Compensation Act.

(h) "Official station" means the State or country (if outside the United States) designated on the Federal civilian employee's notification of personnel action terminating his Federal civilian service (Standard Form 50 or its equivalent) as his "duty station." If the form of notification does not specify a Federal civilian employee's "duty station" his official station shall be the State or country designated under "name and location of employing office" on such form or designated as his place of employment on an equivalent form.

(i) "Secretary" means the Secretary of Labor of the United States.

(j) "State" includes the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(k) "State agency" means an agency administering a State unemployment compensation law which has entered into an agreement with the Secretary under 5 U.S.C. 8502 to pay compensation to Federal civilian employees and the agency in the Virgin Islands to which the Secretary under 5 U.S.C. 8503(d) has delegated the authority to make determinations of entitlement under the UCFE program.

(l) "State unemployment compensation law" means an unemployment compensation law enacted in a State, the District of Columbia, or the Commonwealth of Puerto Rico and approved under 26 U.S.C. 3304.

(m) "UCFE program" means the program of unemployment compensation for Federal civilian employees established by Subchapter I of Chapter 85 of Title 5 of the United States Code (80 Stat. 585; 5 U.S.C. 8501–8508) (formerly secs. 1504–1518 of Title XV of the Social Security Act, 68 Stat. 1130, as amended; 42 U.S.C. 1361–1370).

(n) "UCX program" means the program of unemployment compensation for ex-servicemen established by Subchapter II of Chapter 85 of Title 5 of the United States Code (80 Stat. 590; 5 U.S.C. 8521–8525) (formerly sec. 1511 of Title XV of the Social Security Act, 72 Stat. 1087, as amended; 42 U.S.C. 1371) which is implemented by the regulations in Part 614 of this chapter.

Subpart B—Responsibilities of Federal Agencies

§ 609.5 Information to Federal civilian employees.

Each Federal agency shall—

(a) furnish information to its employees explaining their rights and responsibilities under the UCFE program and 18 U.S.C. 1919; and

(b) complete Standard Form 8, "Notice to Federal Employee About Unemployment Compensation," in accordance with instructions thereon, and furnish a completed copy of such form to each employee at the time of separation from Federal civilian service, when transferred from one payroll office to another, or when the office responsible for distribution of the form is advised that an individual is on nonpay status for 7 consecutive days or more.

§ 609.6 Federal findings on Form ES-931.

(a) Within 4 work days after receipt from a State agency or the Secretary of a Form ES-931 a Federal agency shall make its Federal findings, complete all copies of the form, and transmit its Federal findings to the State agency or the Secretary, as appropriate, on such form or as a part thereof. If documents necessary for completion of a Form ES-931 have been assigned to an agency records center or the Federal Records Center in St. Louis the Federal agency shall obtain the necessary information from the records center. Any records center shall give priority to such request.

(b) If a completed Form ES-931 cannot be returned within 4 work days of receipt the Federal agency immediately shall inform the State agency or the Secretary, as appropriate, and shall include an estimated date by which the completed form will be returned.

(c) Each Federal agency shall maintain a control of the Forms ES-931 received by it that will enable it to ascertain at any time the number of such forms that have not been returned to the requesting State agency or the Secretary and the date of the Federal agency's receipt of such unreturned forms.

§ 609.7 Corrected Federal findings.

If a Federal agency ascertains at any time within 1 year after it has returned a completed Form ES-931 to a State agency or the Secretary that any of its Federal findings were erroneous it shall promptly correct its error and forward corrected Federal findings to the State agency or the Secretary, as appropriate.

§ 609.8 Answering requests for additional information.

On receipt of a request for additional information under § 609.22 a Federal agency except where it would be inconsistent with general policies followed in the case of separations for security reasons shall furnish in writing to the requesting authority such additional information as (1) will enable a Federal civilian employee to understand the basis for Federal findings or (2) will enable the requesting authority to correctly apply a State unemployment compensation law.

§ 609.9 Answering requests for correction of Federal findings.

On receipt of a request for reconsideration and correction of Federal findings under § 609.23 a Federal agency shall consider the information supplied in connection with such request and shall review its Federal findings. The Federal agency promptly shall correct any errors or omissions in its Federal findings and shall affirm, modify, or reverse any or all of its Federal findings in writing. The Federal agency then shall forward its reconsidered Federal findings to the requesting authority.

§ 609.10 Additional information to State agencies or Secretary.

In addition to the information required by §§ 609.6, 609.8, and 609.9 a Federal agency shall furnish to a State agency or the Secretary, as appropriate, any information which it is not otherwise prohibited from releasing by law which may be necessary for the administration of the UCFE program.

§ 609.11 Appeal by Federal agency.

If a terminating Federal agency believes that a State agency's determination awarding or denying compensation is incorrect the Federal agency, unless otherwise prohibited by law, may appeal from such determination in the same manner and to the same extent as other employers may appeal under the applicable State unemployment compensation law except that a Federal agency may not appeal from the findings of another Federal agency.

§ 609.12 Liaison.

To facilitate the Secretary's administration of the UCFE program each Federal agency shall designate one of its officials to be its liaison with the Secretary.

Subpart C—Responsibilities of State Agencies

§ 609.14 United States a single employer.

All Federal civilian service for all Federal agencies shall be considered employment with a single employer for purposes of a State unemployment compensation law.

§ 609.15 What State law applies to Federal civilian employees.

Except for Federal findings which are conclusive under § 609.18 a Federal civilian employee's entitlement to compensation shall be determined under the applicable provisions of the unemployment compensation law of the State to which such employee's Federal civilian service and wages are assigned, reassigned, or transferred pursuant to § 609.16, except that if such employee's Federal civilian service and wages are assigned to the Virgin Islands such employee's entitlement to compensation shall be determined, subject to § 609.18, under the applicable provisions of the District of Columbia Unemployment Compensation Act.

§ 609.16 Assignment of Federal civilian service and wages.

(a) *Service and wages to be assigned.* As soon as a Federal civilian employee files a first claim a State agency shall request information on Form ES-931 from each Federal agency for which such employee worked in his base period. The State agency shall specify on the Form ES-931 the Federal civilian employee's base period and whether his Federal civilian wages are to be reported by quarters or weeks. Only Federal civilian service and Federal civilian wages in the specified base period shall be assigned. "Base period" as used in this paragraph means the base period prescribed by the unemployment compensation law of the State to which such service and wages are to be assigned at the time a Federal civilian employee files his first claim, except that as to the Virgin Islands agency it means the base period prescribed by the District of Columbia Unemployment Compensation Act.

(b) *Initial assignment to State.* Federal civilian service and wages shall be assigned to the State in which a Federal civilian employee had his last official station prior to filing a first claim unless:

(1) At the time a first claim is filed the Federal civilian employee resides in another State in which after separation from Federal civilian service he performed service covered under the State unemployment compensation law, in which case his Federal civilian service and wages shall be assigned to the latter State; or

(2) Prior to filing a first claim a Federal civilian employee's last official station was outside the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico, in which case his Federal civilian service and wages shall be assigned to the State in which he resides if he is personally present in a State when he files his first claim; or

(3) At the time he files a first claim he resides in the Virgin Islands, in which case his Federal civilian service and wages shall be assigned to the Virgin Islands.

(c) *Reassignment.* Federal civilian service and wages assigned to a State or to the Virgin Islands in error may be reassigned for use by the proper State agency. An appropriate record of a reassignment shall be made by a State agency which makes such reassignment.

(d) *Transfer of assigned Federal civilian service and wages under interstate plans.* (1) The interstate benefit payment plan and interstate wage combining plans may be applied to claimants with Federal civilian service and wages and such service and wages shall be considered employment and wages under any State unemployment compensation law for such purpose.

(2) If under an interstate wage combining plan an individual's Federal civilian service and wages are transferred from a State to which they are assigned (transferring State) to another State (paying State) only so much of such service and wages shall be transferred as are in that portion of the transferring State's base period which overlaps the paying State's base period. Such service and wages shall not be transferred in whole or in part if a Federal civilian employee has filed a first claim under the unemployment compensation law of the State to which such service and wages are assigned or, in the case of a first claim in the Virgin Islands, under the District of Columbia Unemployment Compensation Act.

(e) *When assignment deemed complete.* Federal civilian service and wages shall be deemed to have been assigned to a State or to the Virgin Islands when the State agency receives a completed Form ES-931 from a Federal agency.

(f) *Use of assigned Federal civilian service and wages.* Assigned Federal civilian service and wages shall be used only by the State to which assigned or reassigned or by the Virgin Islands if assigned or reassigned thereto unless transferred pursuant to paragraph (d) of this section.

§ 609.17 Allocation of terminal annual leave payments.

Lump-sum terminal annual leave payments shall not be allocated by a Federal agency and shall be allocated by a State agency in the same manner as similar payments to employees of private employers are allocated under an applicable State unemployment compensation law. In a State in which a private employer has an option as to the period to which such payments shall be allocated, such payments shall be allocated to the date of separation from employment, except that if failure of an employer to allocate will result in allocation to a period prior to an employee's separation allocation shall be made as in the case of such failure. If a Federal civilian employee's Federal civilian service and wages have been assigned to the Virgin Islands his lump-sum terminal annual leave payment constitutes wages for the period to which it is allocated under the District of Columbia Unemployment Compensation Act.

§ 609.18 Finality of Federal findings.

Federal findings under § 609.6 or § 609.7 shall be final and conclusive. Additional information submitted by a Federal agency under § 609.8 shall be considered part of the original Federal findings, which shall be final and conclusive as so supplemented. Federal findings submitted after reconsideration under § 609.9 shall be final and conclusive as affirmed, modified, or reversed by a Federal agency. Except for Federal

findings, these regulations shall not be construed to limit the right of a State agency to determine a Federal civilian employee's entitlement to compensation under the appropriate provisions of the applicable State unemployment compensation law.

§ 609.19 Determination of entitlement.

(a) *Entitlement.* The State agency of a State whose unemployment compensation law applies to a Federal civilian employee under § 609.15 promptly shall determine such employee's entitlement to compensation and pay such compensation in the same amounts, on the same terms, and subject to the same conditions as would apply to such employee if his Federal civilian service and wages had been included as employment and wages under the State unemployment compensation law except that (1) no compensation shall be paid for any period to which payment for military accrued leave is allocated under § 614.14 of this chapter and (2) § 609.31 shall apply to the Virgin Islands agency in lieu of this paragraph.

(b) *Determination in absence of Form ES–931.* (1) If a Form ES–931 has not been received from a Federal agency by the 12th day after such form was forwarded to such agency, a State agency shall determine entitlement to compensation on the basis of a Federal civilian employee's statement under oath if in addition to furnishing such statement such employee submits for examination any document issued by a Federal agency (as for example Standard Form 50 or W–2) showing that he performed service for such agency.

(2) If a Form ES–931 received from a Federal agency after such determination contains Federal findings which would result in a change in the Federal civilian employee's entitlement to compensation the State agency promptly shall make a redetermination and give such employee notice thereof. All payments of compensation made after such redetermination shall be in accordance therewith and all payments of compensation made prior to such determination shall be adjusted in accordance therewith. If the Federal civilian employee has received compensation not in accordance with the redetermination § 609.21 shall apply.

§ 609.20 Notice of determination.

A notice of determination or redetermination shall be given to a Federal civilian employee with respect to any determination or redetermination under § 609.19 or § 609.31. Such notice shall be given in the same manner as notice of determination or redetermination is given to claimants under the State unemployment compensation law. The notice shall include the Federal findings and shall inform the Federal civilian employee of his right to additional information or reconsideration and correction of such findings. The State agency shall set forth the Federal findings in sufficient detail to enable the Federal civilian employee to determine whether he wishes to request reconsideration or correction of any such findings.

§ 609.21 Overpayments.

(a) *Fraud.* If, after a determination and opportunity for a fair hearing thereon, a State agency or court of competent jurisdiction finds that a Federal civilian employee has received an overpayment of compensation as a result of false statements knowingly made or material facts knowingly withheld such employee shall be liable to repay any such outstanding overpayments. In the discretion of the State agency such amounts may be deducted from future compensation payable to such employee under the UCFE or UCX programs during the 2-year period following the date on which such finding was made.

(b) *Absence of fraud.* In cases of overpayment where there has been no finding by a State agency or court of competent jurisdiction of intent to defraud the determinations specified below shall be made under the applicable State unemployment compensation law:

(1) Whether a Federal civilian employee who has received an overpayment of compensation which he has not repaid shall receive any future compensation under the UCFE or UCX programs; or

(2) whether he shall be liable to repay such overpayment; or

(3) whether he shall be permitted to offset any future compensation payable to him under the UCFE or UCX programs against such outstanding overpayment; or

(4) whether a waiver of such overpayment may be permitted.

§ 609.22 Procedure for obtaining additional information.

(a) *Request by Federal civilian employee.* If a Federal civilian employee needs additional information in order to understand the basis for a Federal finding in connection with a claim for compensation under the UCFE program he may file a request through the State agency, or the Secretary if the State agency does not determine claims under the UCFE program, for more specific information from the Federal agency which made such Federal finding. Such request shall be mailed by the State agency or the Secretary to the appropriate Federal agency. If notice of a determination of entitlement has been given to the Federal civilian employee before a request for additional information is filed, such employee must file concurrently with such request a timely appeal or request for redetermination under the State unemployment compensation law. No hearing on such appeal shall be scheduled before the State agency receives from the Federal agency the additional information requested.

(b) *Request by State agency.* If at any stage of determining a Federal civilian employee's entitlement to compensation a State agency, State administrative appeal authority (including the referee in the Virgin Islands), or the Secretary determines that Federal findings do not contain sufficient information to enable correct application of the State unemployment compensation law a request may be made for additional facts from the appropriate Federal agency.

§ 609.23 Procedure for obtaining correction of Federal findings.

(a) *Request by Federal civilian employee.* A Federal civilian employee who wishes a Federal agency to reconsider and correct Federal findings in connection with a claim for compensation under the UCFE program may file a request for such reconsideration and correction, together with such information as supports his request, through the State agency before which the claim is pending or through the Secretary if the State agency does not determine claims under the UCFE program. Such request shall be mailed by the State agency or the Secretary to the appropriate Federal agency. If notice of a determination of entitlement has been given to the Federal civilian employee before a request for reconsideration and correction of Federal findings is filed, such employee must file concurrently with such request a timely appeal under the State unemployment compensation law. No hearing on such appeal shall be scheduled before the State agency receives from the Federal agency its reconsidered Federal findings.

(b) *Request by State agency.* A State agency, State administrative appeal authority (including the referee in the Virgin Islands), or the Secretary may request a Federal agency to reconsider and correct its Federal findings at any stage in determining a Federal civilian employee's entitlement to compensation.

§ 609.24 Procedure after correction of Federal findings.

(a) A State agency shall forward to the affected Federal civilian employee a copy of reconsidered Federal findings or additional information furnished by a Federal agency.

(b) If additional information or reconsidered Federal findings provide a basis under the State unemployment compensation law for the State agency to redetermine such employee's entitlement to compensation the State agency promptly shall make a redetermination and give notice thereof to the affected Federal civilian employee.

(c) If a State agency after reviewing additional information or reconsidered Federal findings submitted by a Federal agency does not consider that there is a basis for making a redetermination the State agency promptly shall set a date for hearing the Federal civilian employee's appeal.

(d) If Federal findings are corrected under § 609.7 a State agency shall notify the affected Federal civilian employee of such correction. If the State unemployment compensation law permits and the corrected Federal findings afford a basis for such action the State agency shall redetermine such employee's entitlement to compensation and give notice of redetermination to such employee.

§ 609.25 Appeal by Federal civilian employee.

A determination or redetermination by a State agency as to a Federal civilian employee's entitlement to compensation is subject to review, except for Federal findings, in the same manner and to the same extent as other determinations of entitlement under the State unemployment compensation law, except that a determination or redetermination by the Virgin Islands agency is subject to review in accordance with §§ 609.34 and 609.46.

§ 609.26 Disclosure of information.

Information received by a State agency in administering the UCFE program is confidential, and disclosure thereof is authorized, to the same extent as information received by such State agency in administering its State unemployment compensation law, or in the case of the Virgin Islands agency to the same extent as information received under the Virgin Islands unemployment compensation law.

Subpart D—Provisions Applying Only to Virgin Islands

§ 609.30 Payments.

The Virgin Islands agency shall make payments to individuals in its territorial area entitled to compensation under this subpart.

§ 609.31 Determination of entitlement.

When a Federal civilian employee's Federal civilian service and wages have been assigned to the Virgin Islands the Virgin Islands agency promptly shall determine such employee's entitlement to compensation and pay such compensation in the same amounts, on the same terms, and subject to the same conditions as would apply to such employee if such service and wages had been included as employment and wages under the District of Columbia Unemployment Compensation Act, except that—

(a) no compensation shall be paid to such employee for any period to which payment of military accrued leave is allocated under § 614.14 of this chapter; and

(b) if such employee, without regard to his Federal civilian service and wages (and Federal military service and wages as defined in § 614.1 of this chapter), has employment or wages sufficient to qualify for any unemployment compensation during the benefit year under the District of Columbia Unemployment Compensation Act payments of compensation under the UCFE or UCX programs shall be made only on the basis of his Federal civilian service and wages and Federal military service and wages.

§ 609.32 Continuation of State claim.

A Federal civilian employee who has filed a claim for compensation under the UCFE program in any of the 50 States, the District of Columbia, or the Commonwealth of Puerto Rico may continue such claim in the Virgin Islands to the extent permitted by arrangements between the Virgin Islands and cooperating States. Such claims are not subject to redetermination by the Virgin Islands agency.

§ 609.33 Appointment of referee.

The Territorial Representative of the U.S. Department of Labor shall act as the referee in the Virgin Islands to hear and decide appealed claims under the UCFE program.

§ 609.34 Appeals to referee.

(a) *Filing of appeal.* A Federal civilian employee may appeal from a determination or redetermination within 10 days after the mailing of notice and a copy of such determination or redetermination to such employee's last known address, or in the absence of mailing within 10 days after delivery thereof to such employee. The appeal shall be in writing and may be filed with any office of the Virgin Islands agency.

(b) *Notice of appeal.* Notice that an appeal has been filed may be given or mailed, in the discretion of the referee, to any person who has offered or is believed to have evidence with respect to the claim.

(c) *Scheduling and notice of hearing.* Appeals shall be promptly scheduled and heard, except as provided in § 609.22(a). Written notice of hearing, specifying the time and place thereof and those questions known to be in dispute, shall be given or mailed to the Federal civilian employee, the Virgin Islands agency, and any person who has offered or is believed to have evidence with respect to the claim 7 days or more before the hearing, except that a shorter notice period may be used with the consent of the Federal civilian employee.

§ 609.35 Conduct of hearings.

Hearings before the referee shall be informal, fair, and impartial and shall be conducted in such manner as may be best suited to determine a Federal civilian employee's right to compensation. Hearings shall be open to the public unless sufficient cause for a closed hearing is shown. The referee shall open the hearing by ascertaining and summarizing the issue or issues involved in the appeal. The Federal civilian employee may examine and cross-examine witnesses, inspect documents, and explain or rebut any evidence. An opportunity to present argument shall be afforded such employee, and such argument shall be made part of the record. The referee shall give such employee, if not represented by counsel or other representative, every assistance that does not interfere with the impartial discharge of his duties. The referee may examine such employee and other witnesses to such extent as he deems necessary. Any issue involved in the claim shall be considered and passed upon even though such issue was not set forth as a ground of appeal.

§ 609.36 Evidence.

Oral or written evidence of any nature, whether or not conforming to the legal rules of evidence, may be accepted. Any official record of the Virgin Islands, including reports submitted in connection with administration of the UCFE or UCX programs, may be included in the record if the Federal civilian employee is given an opportunity to examine and rebut the same. A written statement under oath or affirmation may be accepted when it appears impossible or unduly burdensome to require the attendance of a witness, but a Federal civilian employee adversely affected by such a statement must be given opportunity to examine such statement, to comment on or rebut any or all portions thereof, and whenever possible to cross-examine a witness whose testimony has been introduced in written form by submitting written questions to be answered in writing.

§ 609.37 Record.

All oral testimony before the referee shall be taken under oath or affirmation and a transcript thereof shall be made and kept. Such transcript together with all exhibits, papers, and requests filed in the proceeding shall constitute the record for decision.

§ 609.38 Withdrawal of appeal.

A Federal civilian employee who has filed an appeal may withdraw such appeal with the approval of the referee.

§ 609.39 Nonappearance of Federal civilian employee.

Failure of a Federal civilian employee to appear at a hearing shall not result in a decision being automatically rendered against him. The referee shall render a decision on the basis of whatever evidence is properly before him unless there appears to be a good reason for continuing the hearing. A Federal civilian employee who fails to appear at a hearing with respect to his appeal may within seven days thereafter petition for a reopening of the hearing. Such petition shall be granted if it appears to the referee that such employee has shown good cause for his failure to attend.

§ 609.40 Notice of referee's decision.

A copy of the decision and a statement of the reasons therefor shall promptly be given or mailed to the Federal civilian employee, the Virgin Islands agency, and to the Secretary. The decisions of the referee shall be accompanied by an explanation of the right of such employee to judicial review and the manner in which such judicial review may be instituted.

§ 609.41 Consolidation of appeals.

The referee may consolidate appeals and conduct joint hearings thereon where the same or substantially similar evidence is relevant and material to the matters in issue. Reasonable notice of consolidation and the time and place of hearing shall be given or mailed to the claimants or their representatives, the Virgin Islands agency, and to persons who have offered or are believed to have evidence with respect to the claims.

§ 609.42 Representation.

A Federal civilian employee may be represented by counsel or other representative in any proceedings before the

referee. Any such representative may appear at any hearing or take any other action which such employee may take under this part. The referee for cause may bar any person from representing a Federal civilian employee, in which event such action shall be set forth in the record. No representative shall charge a Federal civilian employee more than an amount fixed by the referee for representing him in any proceeding under this part.

§ 609.43 Postponement, continuance, and adjournment of hearings.

A hearing before the referee shall be postponed, continued, or adjourned when such action is necessary to afford a Federal civilian employee reasonable opportunity for a fair hearing. In such case notice of the subsequent hearing shall be given to any person who received notice of the prior hearing.

§ 609.44 Information from agency records.

Information shall be available to a Federal civilian employee either from the records of the Virgin Islands or as obtained in any proceeding herein provided for to the extent necessary for proper presentation of his case. All requests for information shall state the nature of the information desired as clearly as possible and shall be in writing unless made at a hearing.

§ 609.45 Filing of decisions.

Copies of all decisions of the referee shall be kept on file at his office in the Virgin Islands.

§ 609.46 Judicial review.

Final decisions of the referee shall be subject to review by the courts in the same manner and to the same extent as provided in 42 U.S.C. 405(g).

2. Part 614 of Chapter V of Title 20 of the Code of Federal Regulations is recodified to read as follows:

PART 614—UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEN

Sec.

614.1 Definitions.
614.2 Information to servicemen.
614.3 Assignment of Federal military service and wages.
614.4 Federal findings.
614.5 Correction of Federal findings.
614.6 Federal findings by Veterans Administration.
614.7 Correction of Veterans Administration Federal findings.
614.8 Finality of Federal findings.
614.9 Promptness of correction.
614.10 Effect of "Days Lost."
614.11 Determination of entitlement.
614.12 Notice of determination.
614.13 Interstate plans.
614.14 Allocation of military accrued leave.
614.15 Restrictions on entitlement.
614.16 Overpayments.
614.17 Appeals.
614.18 Disclosure of information.
614.19 Schedule of remuneration.

AUTHORITY: The provisions of this Part 614 issued under sec. 8508, 80 Stat. 590; 5 U.S.C. 8508. Interpret or apply secs. 8521–8525, 80 Stat. 590; 5 U.S.C. 8521–8525.

§ 614.1 Definitions.

As used in this part, unless the context clearly indicates otherwise—

(a) "Compensation" means cash benefits payable under the UCX program to ex-servicemen with respect to their unemployment, including any portion of such cash benefits payable with respect to dependents but not including benefits under any temporary disability insurance law.

(b) "Ex-serviceman" means an individual who has performed Federal military service.

(c) "Federal military agency" means any of the Armed Forces of the United States, including the U.S. Air Force, Army, Coast Guard, Marine Corps, and Navy.

(d) "Federal military service" means a period of active service, including active duty for training purposes, in the Armed Forces if—

(1) such service, excluding any period to which pay for unused military accrued leave is allocated under § 614.14, was continuous for 90 days or more or was terminated in less than 90 days because of an actual service-incurred injury or disability; and

(2) with respect to such service the individual (i) was discharged or released under conditions other than dishonorable, (ii) was not given a bad conduct discharge, or (iii) if an officer, did not resign for the good of the service.

(e) "Federal military wages" means all pay and allowances in cash and kind, including any period to which payment for unused military accrued leave is allocated under § 614.14 for Federal military service for the pay grade of an ex-serviceman at the time of his latest discharge or release from Federal military service as specified in the schedule of remuneration applicable at the time he files a first claim.

(f) "First claim" means a claim for compensation under either the UCX or UCFE program or a State unemployment compensation law, or some combination thereof, first filed by an individual after his latest discharge or release from Federal military service whereby a benefit year is established under a State unemployment compensation law or in the Virgin Islands under the District of Columbia Unemployment Compensation Act.

(g) "Military document" means an official document or documents issued to an individual by a Federal military agency relating to his Federal military service and discharge or release from such service.

(h) "Period of active service" means a period of continuous active duty (including active duty for training purposes) in a Federal military agency or agencies, beginning with the date of entry upon active duty and ending on the effective date of the first discharge or release thereafter which is not qualified or conditional.

(i) "Schedule of remuneration" means the schedule issued from time to time by the Secretary under 5 U.S.C. 8521(a)(2) specifying for purposes of the UCX program the pay and allowances for each pay grade of servicemen.

(j) "Secretary" means the Secretary of Labor of the United States.

(k) "State" includes the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(l) "State agency" means an agency administering a State unemployment compensation law which has entered into an agreement with the Secretary under 5 U.S.C. 8502 and the agency in the Virgin Islands cooperating with the U.S. Employment Service under the Wagner-Peyser Act (48 U.S.C. 113; 29 U.S.C. 49).

(m) "State unemployment compensation law" means an unemployment compensation law enacted in a State, the District of Columbia, or the Commonwealth of Puerto Rico and approved under 26 U.S.C. 3304.

(n) "UCFE program" means the program of unemployment compensation for Federal civilian employees established by Subchapter I of Chapter 85 of Title 5 of the United States Code (80 Stat. 585; 5 U.S.C. 8501–8508) (formerly sections 1501–1510 of Title XV of the Social Security Act, 68 Stat. 1130 as amended; 42 U.S.C. 1361–1370), which is implemented by the regulations in Part 609 of this chapter.

(o) "UCX program" means the program of unemployment compensation for ex-servicemen established by Subchapter II of Chapter 85 of Title 5 of the United States Code (80 Stat. 590; 5 U.S.C. 8521–8525) (formerly sections 1508 and 1511 of Title XV of the Social Security Act, 72 Stat. 1067 as amended; 42 U.S.C. 1368, 1371).

§ 614.2 Information to servicemen.

Each Federal military agency shall furnish information explaining the rights and responsibilities of ex-servicemen under the UCX program and 18 U.S.C. 1919 to military personnel at the time of their discharge or release from Federal military service.

§ 614.3 Assignment of Federal military service and wages.

(a) When an individual files a first claim all of his Federal military service and wages shall be deemed assigned to the State in which such claim is filed or to the Virgin Islands if the claim is filed in the Virgin Islands.

(b) Assigned Federal military service and wages shall be used only by the State to which assigned or reassigned or by the Virgin Islands if assigned or reassigned thereto unless transferred pursuant to § 614.13(b).

(c) Federal military service and wages assigned to a State or to the Virgin Islands in error may be reassigned for use by the proper State agency. An appropriate record of the reassignment shall be maintained by the State agency of the State to which such service and wages originally were assigned.

§ 614.4 Federal findings.

Information contained in a military document shall constitute Federal findings to which § 614.8 applies as to (a) whether an individual has performed

Federal military service; (b) the beginning and ending dates of each period of such service and "days lost" during each such period; (c) the type of discharge or release terminating the individual's period or periods of Federal military service; and (d) the individual's pay grade at the time of discharge or release from his latest period of Federal military service.

§ 614.5 Correction of Federal findings.

(a) *Requests for correction.* If an individual believes a Federal finding specified in § 614.4 is incorrect or that information as to any finding has been omitted from a military document he may request the issuing Federal military agency to correct the military document. Information contained in a corrected military document issued pursuant to such request shall constitute the Federal findings of the Federal military agency under § 614.4 if the individual notifies the State agency that he has made such request before the period of redetermination of entitlement or appeal under the applicable State unemployment compensation law has elapsed and promptly notifies the State agency of the action of the Federal military agency.

(b) *State agency procedure when request made.* If a determination of entitlement has not been made when an individual notifies a State agency that he has made a request for correction under paragraph (a) of this section the State agency may postpone such determination until the individual has notified the State agency of the action of the Federal military agency on his request. If a determination of entitlement has been made when an individual notifies a State agency that he has made such request, or if an individual notifies a State agency that he has made such request prior to a determination of entitlement but such determination is not postponed by the State agency, the individual may file a request for redetermination or appeal in accordance with the applicable State unemployment compensation law or in the case of a determination by the Virgin Islands agency may appeal in the manner provided by § 609.34(a) of this chapter for Federal civilian employees. Except as provided in paragraph (c) of this section no redetermination shall be made or hearing scheduled on an appeal until the individual has notified the State agency of the action of the Federal military agency on his request.

(c) *State agency procedure when request unopposed.* On receipt of notice of the action of a Federal military agency on a request for correction of its Federal findings a State agency, as appropriate, either:

(1) Shall make a timely determination or redetermination of the affected individual's entitlement or

(2) Schedule a hearing on the individual's appeal.

If such notice is not received by a State agency within 1 year of the date an individual first filed a claim, or such notice is not given promptly by an individual, a State agency without further postponement may make such determination or redetermination or schedule such hearing.

(d) *Federal findings corrected without request.* Information as to any Federal finding specified in § 614.4 contained in a corrected military document issued by a Federal military agency on its own motion shall constitute the findings of such agency under § 614.4 if notice thereof is received by a State agency before the period for redetermination of entitlement or appeal has elapsed under the State unemployment compensation law. On timely receipt of such notice a State agency shall take appropriate action under the applicable State unemployment compensation law to give effect to the corrected findings.

§ 614.6 Federal findings by Veterans Administration.

If a military document indicates that an individual's discharge or release from Federal military service was under conditions other than honorable (except a dishonorable or bad conduct discharge) or that the period of such service was less than 90 days the U.S. Veterans Administration on request of a State agency shall decide whether the individual was discharged or released—

(a) Under conditions other than dishonorable or

(b) In the case of an officer by reason of his resignation for the good of the service or

(c) By reason of an actual service-incurred injury or disability.

On request of a State agency the U.S. Veterans Administration also shall decide whether an individual's discharge or release from Federal military service was qualified or conditional. Any decision by the U.S. Veterans Administration under this section shall constitute a Federal finding to which § 614.8 applies.

§ 614.7 Correction of Veterans Administration Federal findings.

(a) *Requests for correction.* If an individual believes that a Federal finding under § 614.6 is incorrect he may request reconsideration of such Federal finding by applying therefor to the State agency before the period of redetermination of entitlement or appeal under the applicable State unemployment compensation law has elapsed. The State agency shall forward his request and any supporting information submitted by the individual to the U.S. Veterans Administration.

(b) *State agency procedure when request made.* If a determination of entitlement has not been made when an individual requests a reconsideration under paragraph (a) of this section a State agency shall postpone such determination. If a determination of entitlement has been made when an individual requests a reconsideration under paragraph (a) of this section the individual may file a request for redetermination or appeal in accordance with the applicable State unemployment compensation law or in the case of a determination by the Virgin Islands agency may appeal in the manner provided by § 609.34(a) of this chapter for Federal civilian employees. No determination or redetermination shall be made or hearing scheduled on an appeal until the State agency receives from the U.S. Veterans Administration its action on such request. If the United States Veterans Administration modifies its Federal finding previously made under § 614.6 the modified finding shall constitute its Federal finding under that section.

(c) *State agency procedure when request unopposed.* On receipt of the action of the U.S. Veterans Administration a State agency, as appropriate, either

(1) Shall make a timely determination or redetermination of the individual's entitlement or

(2) Promptly schedule a hearing on his appeal.

§ 614.8 Finality of Federal findings.

The Federal findings of a Federal military agency or the U.S. Veterans Administration with respect to an individual (including the reasons for his separation reflected therein) and the schedules of remuneration issued by the Secretary shall be final and conclusive.

§ 614.9 Promptness of correction.

A Federal military agency or the U.S. Veterans Administration, as the case may be, shall act promptly on and reply to any request received pursuant to §§ 614.5 and 614.7.

§ 614.10 Effect of "days lost."

"Days lost" shall not be counted for the purpose of determining—

(a) Whether an individual has performed Federal military service or

(b) Whether an individual meets the wage and employment requirements of a State unemployment compensation law or

(c) The amount of an individual's Federal military wages, but the continuity of a period of Federal military service shall not be deemed to be interrupted by reason of any "days lost" in such period.

§ 614.11 Determination of entitlement.

(a) *States.* Except for Federal findings of a Federal military agency or the U.S. Veterans Administration and schedules of remuneration which are final and conclusive under § 614.8 the State agency of a State to which an individual's Federal military service and wages have been assigned under § 614.3 or transferred as provided in § 614.13 promptly shall determine such individual's entitlement to compensation and pay such compensation in the same amount, on the same terms, and subject to the same conditions as the compensation which would be payable to such individual if such service and wages had been included as employment and wages under the State unemployment compensation law.

(b) *Virgin Islands.* If an individual's Federal military service and wages are assigned under § 614.3 or transferred under § 614.13 to the Virgin Islands the Virgin Islands agency promptly shall determine, subject to § 614.8, the individual's entitlement to compensation, and

pay such compensation in the same amount, on the same terms, and subject to the same conditions as would apply to such individual if such service and wages had been included as employment and wages under the District of Columbia Unemployment Compensation Act, except that if an individual, without regard to his Federal military service and wages and Federal civilian service and wages as defined in § 609.1 of this chapter, has employment or wages sufficient to qualify for any compensation during the benefit year under the District of Columbia Unemployment Compensation Act payments of compensation shall be made only on the basis of his Federal military service and wages and Federal civilian service and wages, if any.

§ 614.12 Notice of determination.

A notice of any determination under § 614.11 shall be given to an individual in the same manner as a notice of determination is given under the State unemployment compensation law. Such notice shall include the Federal findings of any Federal military agency or the Veterans Administration and shall inform the individual of his right to request correction of any such Federal findings.

§ 614.13 Interstate plans.

(a) The interstate benefit payment plan and interstate wage combining plans shall apply, where appropriate, to individuals filing claims under the UCX program. For the purpose of these plans Federal military service and wages shall be considered employment and wages under any applicable State unemployment compensation law.

(b) If under an interstate wage combining plan an individual's Federal military service and wages are transferred from a State to which they are assigned (transferring State) to another State (paying State) only so much of such service and wages shall be transferred as are in that portion of the transferring State's base period which overlaps the paying State's base period. Such service and wages shall not be transferred in whole or in part if an individual has filed a first claim under the unemployment compensation law of a State to which such service or wages are assigned, or in the case of a first claim in the Virgin Islands under the District of Columbia Unemployment Compensation Act, if such service and wages were included in the base period established in connection with such first claim.

§ 614.14 Allocation of military accrued leave.

A State agency shall allocate payments for unused accrued military leave to the period following an individual's discharge or release from Federal military service by adding to the effective date of his discharge or release the number of days of leave specified in the individual's military document. Except for the purpose of determining whether an individual has met the condition specified in § 614.1(d)(1) his Federal military service shall be deemed to continue after his discharge or release for the number of days with respect to which such payment was allocated.

§ 614.15 Restrictions on entitlement.

Notwithstanding § 614.11 no compensation shall be paid to an individual:

(a) For a period to which payment for unused military accrued leave is allocated under § 614.14;

(b) For a period with respect to which he receives a subsistence allowance for vocational rehabilitation training under Chapter 31 of Title 38 of the United States Code (72 Stat. 1171; 38 U.S.C. 1501–1510);

(c) For a period with respect to which he receives a war orphans' educational assistance allowance under Chapter 35 of Title 38 of the United States Code (72 Stat. 1193 as amended; 38 U.S.C. 1701–1778).

§ 614.16 Overpayments.

(a) *Fraud.* If, after a determination and opportunity for a fair hearing thereon, a State agency or court of competent jurisdiction finds that an ex-serviceman has received an overpayment of compensation as a result of false statements knowingly made or material facts knowingly withheld such ex-serviceman shall be liable to repay any such outstanding overpayments. In the discretion of the State agency such amounts may be deducted from future compensation payable to such ex-serviceman under the UCX or UCFE programs during the 2-year period following the date on which such finding was made.

(b) *Absence of fraud.* In case of overpayment where there has been no finding by a State agency or court of competent jurisdiction of intent to defraud the determinations specified below shall be made under the applicable State unemployment compensation law:

(1) Whether an ex-serviceman who has received an overpayment of compensation which he has not repaid shall receive any future compensation under the UCX or UCFE programs; or

(2) Whether he shall be liable to repay such overpayment; or

(3) Whether he shall be permitted to offset any future compensation payable to him under the UCX or UCFE programs against such outstanding overpayment; or

(4) Whether a waiver of such overpayment may be permitted.

§ 614.17 Appeals.

A determination or redetermination by a State agency as to an individual's entitlement to compensation is subject to review, except for Federal findings of a Federal military agency or the Veterans Administration and the schedule of remuneration, in the same manner and to the same extent as other determinations of entitlement under the State unemployment compensation law, except that a determination or redetermination by the Virgin Islands agency is subject to review in the manner provided by §§ 609.34 and 609.46 of this chapter for Federal civilian employees.

§ 614.18 Disclosure of information.

Information received by a State agency in administering the UCX program is confidential, and disclosure thereof is authorized, to the same extent as information received by such State agency in administering its State unemployment compensation law or in the case of the Virgin Islands agency to the same extent as information received under the Virgin Islands unemployment compensation law.

§ 614.19 Schedule of remuneration.

(a) The schedule provided in this paragraph is applicable to first claims for compensation under the UCX program filed on or after October 1, 1966.

Pay grades	Monthly rate	
	With 2 years of service or less	With over 2 years of service
1. Commissioned officer:		
O–10	$1,708	$2,276
O–9	1,645	2,068
O–8	1,426	1,868
O–7	1,220	1,668
O–6	963	1,398
O–5	767	1,209
O–4	686	1,086
O–3	548	906
O–2	546	670
O–1	496	559
2. Warrant officer:		
W–4	670	840
W–3	618	737
W–2	585	711
W–1	485	636
3. Enlisted personnel:		
E–9		772
E–8		668
E–7	469	628
E–6	428	554
E–5	369	487
E–4	335	398
E–3	270	307
E–2	246	283
E–1	220	241

(b) The omission from this section of schedules of remuneration applicable to periods of time prior to October 1, 1966, and heretofore published in the FEDERAL REGISTER shall not be deemed a revocation of such omitted schedules of remuneration.

Signed at Washington, D.C., this 26th day of December 1967.

W. WILLARD WIRTZ,
Secretary of Labor.

[F.R. Doc. 67–15113; Filed, Dec. 28, 1967; 8:46 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6943]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Investment Companies

To officers and employees of the Internal Revenue Service and others concerned:

On September 20, 1967, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) under section 351 of the Internal Revenue Code of 1954 (relating to the transfer of property to a corporation controlled by the transferor) was published in the FEDERAL REGISTER (32 F.R. 13288). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is hereby adopted subject to the changes set forth below.

Section 1.351–1(c), as set forth in paragraph 2 of the notice of proposed rule making, is changed by revising subparagraphs (1)(ii) and (3).

(Sec. 7805, Internal Revenue Code of 1954; 68A Stat. 917; 26 U.S.C. 7805)

Approved: December 22, 1967.

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

Stanley S. Surrey,
Assistant Secretary of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) under section 351 of the Internal Revenue Code of 1954 to the provisions of section 203 of the Act of November 13, 1966 (Pub. Law 89–809, 80 Stat. 1539), relating to transfers of property to investment companies controlled by transferors, such regulations are amended as follows:

PARAGRAPH 1. Section 1.351 is amended by revising section 351(a), by redesignating section 351(d) as section 351(e), by adding after section 351(c) a new section 351(d), and by adding a historical note. These amended and added provisions read as follows:

§ 1.351 Statutory provisions; transfer to corporation controlled by transferor.

SEC. 351. *Transfer to corporation controlled by transferor.*—(a) *General rule.* No gain or loss shall be recognized if property is transferred to a corporation (including, in the case of transfers made on or before June 30, 1967, an investment company) by one or more persons solely in exchange for stock or securities in such corporation and immediately after the exchange such person or persons are in control (as defined in section 368(c)) of the corporation. For purposes of this section, stock or securities issued for services shall not be considered as issued in return for property.

* * * * * *

(d) *Application of June 30, 1967, date.* For purposes of this section, if, in connection with the transaction, a registration statement is required to be filed with the Securities and Exchange Commission, a transfer of property to an investment company shall be treated as made on or before June 30, 1967, only if—

(1) Such transfer is made on or before such date,

(2) The registration statement was filed with the Securities and Exchange Commission before January 1, 1967, and the aggregate issue price of the stock and securities of the investment company which are issued in the transaction does not exceed the aggregate amount therefor specified in the registration statement as of the close of December 31, 1966, and

(3) The transfer of property to the investment company in the transaction includes only property deposited before May 1, 1967.

(e) *Cross references.* * * *

[Sec. 351 as amended by sec. 203, Act of Nov. 13, 1966 (80 Stat. 1539).]

PAR. 2. Section 1.351–1 is amended by adding a new paragraph (c). This added provision reads as follows:

§ 1.351–1 Transfer to corporation controlled by transferor.

* * * * * *

(c)(1) The general rule of section 351 does not apply, and consequently gain or loss will be recognized, where property is transferred to an investment company after June 30, 1967. A transfer of property after June 30, 1967, will be considered to be a transfer to an investment company if—

(i) The transfer results, directly or indirectly, in diversification of the transferors' interests, and

(ii) The transferee is (*a*) a regulated investment company, (*b*) a real estate investment trust, or (*c*) a corporation more than 80 percent of the value of whose assets (excluding cash and non-convertible debt obligations from consideration) are held for investment and are readily marketable stocks or securities, or interests in regulated investment companies or real estate investment trusts.

(2) The determination of whether a corporation is an investment company shall ordinarily be made by reference to the circumstances in existence immediately after the transfer in question. However, where circumstances change thereafter pursuant to a plan in existence at the time of the transfer, this determination shall be made by reference to the later circumstances.

(3) Stocks and securities will be considered readily marketable if (and only if) they are part of a class of stock or securities which is traded on a securities exchange or traded or quoted regularly in the over-the-counter market. For purposes of subparagraph (1)(ii)(*c*) of this paragraph, the term "readily marketable stocks or securities" includes convertible debentures, convertible preferred stock, warrants, and other stock rights if the stock for which they may be converted or exchanged is readily marketable. Stocks and securities will be considered to be held for investment unless they are (i) held primarily for sale to customers in the ordinary course of business, or (ii) used in the trade or business of banking, insurance, brokerage, or a similar trade or business.

(4) In making the determination required under subparagraph (1)(ii)(*c*) of this paragraph, stock and securities in subsidiary corporations shall be disregarded and the parent corporation shall be deemed to own its ratable share of its subsidiaries' assets. A corporation shall be considered a subsidiary if the parent owns 50 percent or more of (i) the combined voting power of all classes of stock entitled to vote, or (ii) the total value of shares of all classes of stock outstanding.

(5) A transfer ordinarily results in the diversification of the transferors' interests if two or more persons transfer nonidentical assets to a corporation in the exchange. For this purpose, if any transaction involves one or more transfers of nonidentical assets which, taken in the aggregate, constitute an insignificant portion of the total value of assets transferred, such transfers shall be disregarded in determining whether diversification has occurred. If there is only one transferor (or two or more transferors of identical assets) to a newly organized corporation, the transfer will generally be treated as not resulting in diversification. If a transfer is part of a plan to achieve diversification without recognition of gain, such as a plan which contemplates a subsequent transfer, however delayed, of the corporate assets (or of the stock or securities received in the earlier exchange) to an investment company in a transaction purporting to qualify for nonrecognition treatment, the original transfer will be treated as resulting in diversification.

(6) The application of subparagraph (5) of this paragraph may be illustrated as follows:

Example (1). Individuals A, B, and C organize a corporation with 101 shares of common stock. A and B each transfers to it $10,000 worth of the only class of stock of corporation X, listed on the New York Stock Exchange, in exchange for 50 shares of stock. C transfers $200 worth of readily marketable securities in corporation Y for one share of stock. In determining whether or not diversification has occurred, C's participation in the transaction will be disregarded. There is, therefore, no diversification, and gain or loss will not be recognized.

Example (2). A, together with 50 other transferors, organizes a corporation with 100 shares of stock. A transfers $10,000 worth of stock in corporation X, listed on the New York Stock Exchange, in exchange for 50 shares of stock. Each of the other 50 transferors transfers $200 worth of readily marketable securities in corporations other than X in exchange for one share of stock. In determining whether or not diversification has occurred, all transfers will be taken into account. Therefore, diversification is present, and gain or loss will be recognized.

[F.R. Doc. 67–15111; Filed, Dec. 28, 1967; 8:49 a.m.]

Title 32—NATIONAL DEFENSE

Chapter V—Department of the Army

SUBCHAPTER B—CLAIMS AND ACCOUNTS

PART 537—CLAIMS ON BEHALF OF THE UNITED STATES

Claims for Damage to or Loss or Destruction of Army Property

Section 537.1 is revised to read as follows:

§ 537.1 Claims for damage to or loss or destruction of Army property.

(a) *Purpose.* This section prescribes, within the limitations indicated in AR 27–41 and in paragraph (b) of this section, the procedures for the investigation, determination, assertion, and collection,

including compromise and termination of collection action, of claims in favor of the United States for damage to or loss or destruction of Army property.

(b) *Applicability and scope.* (1) Other regulations establish systems of property accountability and responsibility; prescribe procedures for the investigation of loss, damage, or destruction by causes other than fair wear and tear in the service; and provide for the administrative collection of charges against military and civilian personnel of the United States, contractors and common carriers, and other individuals and legal entities from whom collection may be made without litigation. When the investigation so prescribed results in preliminary indication of pecuniary liability, and no other method of collection is provided, the matter is referred for action under this section. This relationship exists with regard to—

(i) Property under the control of the Department of the Army. See AR 735–10 and AR 735–11.

(ii) Property of the Defense Supply Agency in the custody of the Department of the Army. See AR 735–16.

(iii) Property of nonappropriated funds of the Army (except Army and Air Force Exchange Service property). See AR 230–3.

(iv) Federal property made available to the Army National Guard. See NGR 75–4.

(2) This section does not apply to—

(i) Claims arising from marine casualties. See AR 55–19 and § 537.7.

(ii) Claims for damage to property funded by civil functions appropriations.

(iii) Claims for damage to property of the Army and Air Force Exchange Service.

(iv) Reimbursements from, agencies and instrumentalities of the United States for damage to property.

(v) Collection for damage to property by offset against the pay of employees of the United States, or against amounts owed by the United States to common carriers, contractors, and States.

(vi) Claims by the United States against carriers, warehousemen, insurers, and other third parties for amounts paid in settlement of claims by members and employees of the Army, or the Department of Defense, for loss, damage, or destruction of personal property while in transit or storage at Government expense. See § 536.27 of this chapter and AR 725–12.

(3) The commander of a major oversea command, as defined in paragraph (c) (5) of this section, is authorized to establish procedures for the processing of claims in favor of the United States for loss, damage, or destruction of property which may, to the extent deemed necessary, modify the procedures prescribed herein. Two copies of all implementing directives will be furnished The Judge Advocate General, Attention: Chief, Litigation Division, Department of the Army, Washington, D.C. 20310. Procedures will be prescribed—

(i) To carry out the provisions of Department of Defense Directive No. 5515.8, assigning single service claims responsibility.

(ii) To carry out provisions of treaties and other international agreements which limit or provide special methods for the recovery of claims in favor of the United States.

(c) *Definitions.* For the purpose of this section only, the following terms have the meaning indicated:

(1) *Claim.* The Government's right to compensation for damage caused to Army property.

(2) *Prospective defendant.* An individual, partnership, association, corporation, governmental body, or other legal entity, foreign or domestic, except an instrumentality of the United States, against whom the United States has a claim.

(3) *Damage.* A comprehensive term, including not only damage to, but also loss or destruction of Army property.

(4) *Army property.* Real or personal property of the United States or its instrumentalities and, if the United States is responsible therefor, real or personal property of a foreign government, which is in the possession or under the control of the Army, one of its instrumentalities, or the Army National Guard, including that property of an activity for which the Army has been designated the administrative agency, and that property located in an area in which the Army has been assigned single service claims responsibility by appropriate Department of Defense directive.

(5) *Major oversea command.* U.S. Army Forces Southern Command; U.S. Army, Europe; and any command outside the continental limits of the contiguous States specially designated by The Judge Advocate General under the provisions of § 536.4b of this chapter.

(6) *Army staff judge advocate.* The staff judge advocate of each of the numbered armies in the continental United States, the Military District of Washington, U.S. Army, and U.S. Army, Alaska.

(7) *Staff judge advocate.* An officer so assigned (par. 2b, AR 1–140). The staff judge advocate of a command or agency reporting directly to Headquarters, Department of the Army, or of a major subordinate command of the U.S. Army Materiel Command, the senior Army judge advocate assigned to a joint or unified command, and, if the command has established a command claims service pursuant to § 536.4b of this chapter, the chief of the command claims service will perform the duties specified for staff judge advocates in this regulation. In addition, the legal adviser of a comparable command or agency not having a judge advocate or staff judge advocate will perform these duties.

(8) *Judge advocate.* An officer so designated (par. 2b, AR 1–140). If no judge advocate is present for duty, and the command or agency has a legal adviser, he will perform the duties specified for judge advocates in this section. Any official authorized to perform the duties specified for staff judge advocates under this section may perform the duties specified for judge advocates herein.

(9) *Legal adviser.* An attorney within the meaning of paragraph 2–2, CPR AR, who is the principal adviser to the commander or operating head of any Army command or agency on legal matters.

(d) *Limitation of time.* The Act of July 18, 1966 (80 Stat. 304, 28 U.S.C. 2415) established a 3-year statute of limitations, effective July 19, 1966, upon actions in favor of the United States for money damages founded upon a tort. In computing periods of time excluded under 28 U.S.C. 2416, the judge advocate concerned shall be deemed the official charged with responsibility and will ensure that action may be brought in the name of the United States within the limitation period.

(e) *Foreign prospective defendants.* Except as indicated below, claims within the scope of this section against foreign prospective defendants will be investigated, processed, and asserted without regard to the nationality of the prospective defendant. Claims against an international organization, a foreign government, or a political subdivision, agency, or instrumentality thereof, or against a member of the armed forces or an official or civilian employee of such international organization or foreign government, will not be asserted without prior approval of The Judge Advocate General. Investigation and report thereof, together with recommendations regarding assertion and enforcement, will be forwarded through command channels to The Judge Advocate General, Attention: Chief, Litigation Division, Department of the Army, Washington, D.C. 20310, unless the provisions of applicable agreements, or regulations in implementation thereof, negate the requirement for such investigation and report.

(f) *Standards of liability.* (1) The Government's right to compensation for damage caused to Army property will be determined in accordance with the law of the place in which the damage occurred.

(2) To the extent that the prospective defendant's liability is covered by insurance, liability will be determined without regard to standards of pecuniary liability set forth in other regulations. If no insurance is available, claims will be asserted under this section against military and civilian employees of the United States and of host foreign governments only where necessary to complete the collection of charges imposed upon such persons under the standards established by other regulations.

(g) *Concurrent claims under other regulations.* (1) Claims for damage to Army property and claims for medical care cognizable under §§ 537.21–537.24 arising from the same incident will be consolidated and processed under this section as a single claim.

(2) If the incident giving rise to a claim in favor of the United States also gives rise to a potential claim or suit against the United States, the claim in favor of the Government will be asserted and otherwise processed only by a judge advocate who has apparent authority to take final action on the claim against the Government. The claims will be investigated and processed together.

(h) *Claims for less than $50.* Such claims need not be asserted or otherwise processed under this section unless the facts and circumstances surrounding the incident indicate that collection will be economically feasible (e.g., a case of clear liability covered by insurance) or desirable in the best interests of the United States.

(i) *Repayment in kind.* The judge advocate who asserts a claim under this section may accept, in lieu of full payment of the claim, the restoration of the property to its condition prior to the incident causing the damage, or the replacement thereof. Acceptability of these methods of repayment is conditioned upon the certification of the appropriate staff officer responsible for maintenance, such as is described for motor vehicles in paragraph 10–11b, AR 735–11, before a release may be executed. The authority conferred by this paragraph is not limited to incidents involving motor vehicles.

(j) *Delegation of authority.* Subject to the provisions of paragraph (k) of this section, the authority conferred by paragraph 7a(9), AR 27–41, to compromise claims and to terminate collection action, with respect to claims that do not exceed $20,000, exclusive of interest, is further delegated as follows:

(1) A judge advocate, as defined in paragraph (c) (8) of this section is authorized to:

(i) Compromise claims, provided the compromise does not reduce the claim by more than $500.

(ii) Terminate collection action, provided the uncollected amount of the claim does not exceed $500.

(2) A staff judge advocate, as defined in paragraph (c) (7) of this section, is authorized to:

(i) Compromise claims, provided the compromise does not reduce the claim by more than $1,000.

(ii) Terminate collection action, provided the uncollected amount of claim does not exceed $1,000.

(3) An Army staff judge advocate as defined in paragraph (c) (6) of this section is authorized to:

(i) Compromise claims, provided the compromise does not reduce the claim by more than $5,000.

(ii) Terminate collection action, provided the uncollected amount of the claim does not exceed $5,000.

(4) The staff judge advocate of a major oversea command, as defined in paragraph (c) (5) of this section, is authorized to:

(i) Compromise claims, provided the compromise does not reduce the claim by more than $10,000.

(ii) Terminate collection action, provided the uncollected amount of the claim does not exceed $10,000.

(k) *Compromise and termination of collection action.* (1) The authority delegated in paragraph (j) of this section to compromise claims will be exercised in accordance with the standards set forth in Part 103, appendix A, AR 27–41.

(2) The authority delegated in paragraph (j) of this section to terminate collection action will be exercised in accordance with the standards set forth in section 104.2, appendix A, AR 27–41.

(3) A debtor's liability to the United States arising from a particular incident shall be considered as a single claim in determining whether the claim is not more than $20,000, exclusive of interest, for the purpose of compromise, or termination of collection action.

(l) *Releases.* The judge advocate who receives payment of the claim in full, or who receives full satisfaction of an approved compromise settlement, is authorized to execute a release. A standard form furnished by the prospective defendant or his insurer may be executed, provided no indemnity agreement is included.

(m) *Receipts.* The commanding officer appointing a claims officer, his superior commander, the judge advocate of any command, or any officer designated by them for that purpose, may execute and deliver to any prospective defendant a receipt for payment in full, installment payment, or an offered compromise payment subject to the approval of the proper authority. DA Form 2135–R (Receipt for Payment for Damage to or Loss of Government Property) will be used.

[AR 27–37, Oct. 18, 1967] (Sec. 3012, 70A Stat. 157; 10 U.S.C. 3012)

For the Adjutant General.

J. W. HUBB,
Colonel, AGC, Comptroller, TAGO.

[F.R. Doc. 67–15069; Filed, Dec. 28, 1967; 8:46 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4940]

[Idaho 015603]

IDAHO

Withdrawal for National Forest Administrative Site and Recreation Areas

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws (30 U.S.C. Ch. 2), but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

NEZPERCE NATIONAL FOREST

BOISE MERIDIAN

Fish Creek Meadow Camp and Picnic Site

T. 29 N., R. 3 E.,
Sec. 16, SW¼NE¼NE¼NE¼, S½NW¼NE¼NE¼, SW¼NE¼NE¼, W½SE¼NE¼NE¼, and NE¼NW¼SE¼NE¼.
Totaling 25 acres

Bargamin Creek Camp Site

A tract of land within the unsurveyed SE¼, sec. 22, T. 26 N., R. 10 E., more particularly described as: Beginning on the west bank of Bargamin Creek at the intersection of the highwater line of the Salmon River, thence along the highwater line of said river downstream 375 feet, thence northwesterly 60 feet to the toe of the slope, thence along the toe of the slope in a northeasterly direction 450 feet to the west bank of Bargamin Creek, thence downstream along the west bank of said creek 150 feet to the place of beginning, containing a calculated 0.90 acres.

Big Mallard Creek Campsite

A tract of land within the unsurveyed NE¼, sec. 6, T. 25 N., R. 10 E., more particularly described as: Beginning on the west bank of Big Mallard Creek at the intersection of the highwater line of the Salmon River, thence along the highwater line of said river downstream 700 feet, thence northwesterly 100 feet to the toe of the slope, thence along the toe of the slope in a northeasterly direction 625 feet to the west bank of Big Mallard Creek, thence downstream along the west bank of said creek 100 feet to the point of beginning, containing a calculated 1.50 acres.

Indian Creek Campsite

A tract of land within lots 4 and 5, sec. 26, T. 24 N., R. 7 E., more particularly described as: Beginning on the east bank of Indian Creek at the intersection of the highwater line of the Salmon River, thence along the highwater line of said river upstream 350 feet to the toe of the slope, thence along the toe of the slope in a northwesterly direction 350 feet, crossing Indian Creek approximately 125 feet along this line, thence southerly 75 feet to the highwater line of the Salmon River, thence along said highwater line upstream 450 feet to the place of beginning, containing a calculated 1.20 acres.

Bull Creek Campsite

A tract of land within lots 7 and 8, sec. 4, T. 24 N., R. 6 E., more particularly described as: Beginning on the east bank of Bull Creek at the intersection of the highwater line of the Salmon River, thence along the highwater line of said river upstream 400 feet, thence northwesterly 150 feet to the toe of the slope, thence along the toe of the slope in a southwesterly direction 450 feet to Bull Creek, thence along the toe of the slope in the same direction 300 feet, thence southeasterly 150 feet to the highwater line of the Salmon River, thence along said highwater line upstream 375 feet to the place of beginning, containing a calculated 3 acres.

Bear Creek Administrative Site

A tract of land within the unsurveyed SE¼, sec. 10, T. 26 N., R. 11 E., more particularly described as: Beginning at the intersection of Bear Creek with the highwater line of the Salmon River, thence N. 46° E. 400 feet upstream along the highwater line of said river, thence N. 36° W. 325 feet to Bear Creek, thence N. 64°40' W. 310 feet, thence S. 35° W. to the highwater line of the Salmon River, thence along the highwater line upstream to the place of beginning, containing a calculated 14 acres.

The areas described aggregate 45.60 acres in Idaho County, Idaho.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative re-

sources other than under the mining laws.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

DECEMBER 21, 1967.

[F.R. Doc. 67-15077; Filed, Dec. 26, 1967; 8:46 a.m.]

[Public Land Order 4941]

[Anchorage 024680]

ALASKA

Withdrawal for Department of the Air Force Revocation of Public Land Order No. 1035

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, and reserved for use of the Department of the Air Force:

KENAI

U.S. Survey 4560, lot 1

Containing 3.83 acres.

2. Public Land Order No. 1035 of December 13, 1954, withdrawing lands for use of the Department of the Army, described by metes and bounds as containing 3.42 acres, is hereby revoked. The area withdrawn has been shown by later surveys to contain 5.18 acres.

3. Of the area released from withdrawal by paragraph 2 of this order, 1.35 acres have been determined to be "property" within the meaning of the Federal Property and Administrative Services Act of 1949 as amended, and shall be subject to administration or disposal under that act, and regulations of the General Services Administration. The remaining 3.83 acres are described in paragraph 1 of this order.

4. The withdrawal made by this order does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

DECEMBER 21, 1967.

[F.R. Doc. 67-15078; Filed, Dec. 26, 1967; 8:46 a.m.]

[Public Land Order 4942]

[Anchorage 062080]

ALASKA

Partial Revocation of Withdrawal for School Purposes

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

Public Land Order No. 3623 of April 9, 1965, withdrawing lands for school purposes, is hereby revoked so far as it affects the following described lands at Ouzinkie, Kodiak Island:

Beginning at Corner No. 1 of U.S. Survey No. 3885; thence N. 44°20' W., 55 feet; thence N. 57° E. 235 feet; thence S. 44°20' E., 20 feet to Corner No. 4 of U.S. Survey No. 3885; thence S. 48°31' W., 231 feet to Corner No. 1 of U.S. Survey No. 3885, the point of beginning.

The area described contains approximately 0.20 acre.

The lands are a part of the Trustee Townsite of Ouzinkie.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

DECEMBER 21, 1967.

[F.R. Doc. 67-15079; Filed, Dec. 26, 1967; 8:46 a.m.]

[Public Land Order 4943]

[Sacramento 079602]

CALIFORNIA

Withdrawal for National Forest Recreation Area

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

HUMBOLDT MERIDIAN

KLAMATH NATIONAL FOREST

Dillon Jim Campground

T. 14 N., R. 6 E.,
Sec. 30, SE¼NE¼SW¼, and W½NW¼SE¼ (unsurveyed).

The areas described aggregate approximately 30 acres in Siskiyou County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

DECEMBER 21, 1967.

[F.R. Doc. 67-15080; Filed, Dec. 26, 1967; 8:46 a.m.]

[Public Land Order 4944]

[Wyoming 3402]

NEBRASKA

Partial Revocation of Reclamation Withdrawal

By virtue of the authority vested in the Secretary of the Interior by section 3 of the act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 416), as amended and supplemented, it is ordered as follows:

The departmental order of May 1, 1924, withdrawing lands for reclamation purposes, is hereby revoked so far as it affects the following described lands:

SIXTH PRINCIPAL MERIDIAN

T. 22 N., R. 52 W.,
Sec. 19, NE¼NE¼.

The area described contains 40 acres in Scotts Bluff County.

The lands are included in an allowed homestead entry.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

DECEMBER 21, 1967.

[F.R. Doc. 67-15081; Filed, Dec. 26, 1967; 8:47 a.m.]

[Public Land Order 4945]

[New Mexico 3150]

NEW MEXICO

Addition to Gila National Forest

By virtue of the authority contained in the act of July 9, 1962 (76 Stat. 140; 43 U.S.C. 315g-1), it is ordered as follows:

Subject to existing valid rights, the following described lands, acquired in an exchange made pursuant to section 8 of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315g), as amended, are hereby added to and made a part of the Gila National Forest and hereafter the lands shall be subject to all laws and regulations applicable to said national forest:

NEW MEXICO PRINCIPAL MERIDIAN

T. 13 S., R. 10 W.,
Sec. 11, W½E½.
T. 12 S., R. 13 W.,
Sec. 10, S½N½SE¼SE¼, and S½SE¼SE¼;
Sec. 11, SW¼SW¼SW¼;
Sec. 14, N½NE¼NW¼, NE¼NW¼NW¼, N½NW¼NW¼NW¼, and SE¼NW¼NW¼NW¼;
Sec. 15, N½N½NE¼NE¼, and S½SW¼;
Sec. 22, E½NW¼, W½SW¼, and N½NW¼SE¼SW¼.
T. 13 S., R. 13 W.,
Sec. 2, lot 2, SW¼NE¼, and W½SE¼.

The areas described aggregate 651.64 acres.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

DECEMBER 21, 1967.

[F.R. Doc. 67-15082; Filed, Dec. 26, 1967; 8:47 a.m.]

[Public Land Order 4946]

[Colorado 2819]

COLORADO

Partial Revocation of Stock Driveway Withdrawals

By virtue of the authority contained in section 10 of the act of December 29, 1916 (39 Stat. 865; 43 U.S.C. 300), as amended, it is ordered as follows:

1. The departmental orders of November 17, 1917, and September 20, 1918, creating Stock Driveway Withdrawal No. 5 and No. 41 respectively, are hereby revoked so far as they affect the following described lands:

SIXTH PRINCIPAL MERIDIAN

T. 9 N., R. 89 W.,
Sec. 20, lot 24;
Sec. 21, lots 13 and 14;
Sec. 22, S½S½;
Sec. 29, lots 1, 2, 5, and 7;
Sec. 30, lots 7, 9, 11, and 12.

Containing 566.63 acres in Moffat County.

The lands are situated along Little Bear Creek, 15 miles north northeast of Craig, Colo. Vegetation consists of sagebrush, shrubs, native grasses, and forbs.

2. Until 10 a.m. on June 21, 1968, the State of Colorado shall have a preferred right of application to select the lands as provided by R.S. 2276, as amended (43 U.S.C. 852). After that time the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on June 21, 1968, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The lands have been open to applications and offers under the mineral leasing laws, and to location under the U.S. mining laws subject to the regulations in 43 CFR 3400.2.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Denver, Colo.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

DECEMBER 21, 1967.

[F.R. Doc. 67-15083; Filed, Dec. 26, 1967; 8:47 a.m.]

[Public Land Order 4947]

[Wyoming 0225]

WYOMING

Partial Revocation of Reclamation Withdrawal

By virtue of the authority contained in section 3 of the act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 416), as amended and supplemented, it is ordered as follows:

1. The departmental orders of October 6, 1933, and October 13, 1933, withdrawing lands for the Kendrick Project, are hereby revoked so far as they affect the following described lands:

SIXTH PRINCIPAL MERIDIAN

T. 34 N., R. 80 W.,
Sec. 2, lot 1, SE¼NE¼, and NE¼SE¼.
T. 31 N., R. 81 W.,
Sec. 6, lots 4 and 5, SW¼NE¼, SE¼NW¼, and SE¼;
Sec. 18, S½NW¼ and SE¼SE¼;
Sec. 17, S½SW¼;
Sec. 18, S½SE¼;
Sec. 19, N½NE¼, and SE¼NE¼;
Sec. 20, W½, W½E½, SE¼NE¼, and E½SE¼;
Sec. 21, SW¼NW¼;
Sec. 22, W½SW¼;
Sec. 30, NE¼ and N½NW¼.
T. 31 N., R. 82 W.,
Sec. 1, lot 1, and SE¼NE¼.

The areas described aggregate 1,868.19 acres in Natrona County. Topography of the area varies from near level to gently rolling with the average elevation being 5,500 feet. The climate is semiarid. Vegetation consists of sagebrush, native grasses, forbs, and brush. Soils are generally sandy to clay alluvial on benches and bottomlands and are considered typical grazing lands in that area of Wyoming.

2. Until 10 a.m. on June 21, 1968, the State of Wyoming shall have a preferred right of application to select the public lands as provided by R.S. 2276, as amended (43 U.S.C. 852). After that time the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on June 21, 1968, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The lands will be open to location under the U.S. mining laws at 10 a.m. on June 21, 1968. They have been open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Cheyenne, Wyo.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

DECEMBER 21, 1967.

[F.R. Doc. 67-15084; Filed, Dec. 26, 1967; 8:47 a.m.]

[Public Land Order 4948]

[New Mexico 3080]

NEW MEXICO

Partial Revocation of National Forest Roadside Zone Withdrawal

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Public Land Order No. 1230 of September 27, 1955, reserving lands within the Apache National Forest for use of the Forest Service as administrative sites, campsites, lookouts, and roadside zones, is hereby revoked so far as it affects the following described land:

NEW MEXICO PRINCIPAL MERIDIAN

APACHE NATIONAL FOREST

T. 4 S., R. 17 W.,
Sec. 30.

A strip of land 200 feet on each side of the centerline of New Mexico State Highway No. 32 where it traverses national forest land.

T. 4 S., R. 15 W.,
Secs. 31 and 33.

A strip of land 200 feet from the centerline on each side of New Mexico State Highway No. 12 where it traverses national forest land.

2. At 10 a.m. on January 26, 1968, the lands shall be open to such forms of disposition as may by law be made of national forest lands.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

DECEMBER 21, 1967.

[F.R. Doc. 67-15085; Filed, Dec. 26, 1967; 8:47 a.m.]

[Public Land Order 4949]

[Fairbanks 083206]

ALASKA

Withdrawal for Administrative Site

By virtue of the authority contained in section 4 of the act of May 24, 1928 (45 Stat. 729; 49 U.S.C. 214), it is ordered as follows:

1. Subject to valid existing rights, the following described lands are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, and reserved as an administrative site for the maintenance of a Federal Aviation Administration air navigation facility:

COPPER RIVER MERIDIAN

In Tps. 13 and 14 N., R. 18 E., Beginning at a point which bears S. 20°00' W., 2569.19 feet from Corner No. 5, U.S. Survey 2630, thence S. 60°00' E., 1,786.62 feet to a point; thence N. 30°00' E., 1,051.26 feet to a point; thence S. 60°00' E., 1,267.04 feet to a point; thence S. 30°00' W., 4,100 feet to a point; thence N. 60°00' W., 4,100 feet to a point; thence N. 30°00' E., 2,958.80 feet to a point; thence S. 60°00' E., 1,046.38 feet to a point; thence N. 30°00' E., 89.85 feet to the point of beginning.

The area described contains approximately 322 acres.

2. The withdrawal made by this order does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws. However, leases, licenses or permits will be issued only if the Federal Aviation Administration finds that the proposed use of the lands will not interfere with the proper operation of its facilities on the lands.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

DECEMBER 21, 1967.

[F.R. Doc. 67-15086; Filed, Dec. 26, 1967; 8:47 a.m.]

Title 49—TRANSPORTATION

Chapter I—Department of Transportation

[Docket No. HM-4; Amdt. No. 67-1]

PARTS 171–190—HAZARDOUS MATERIALS REGULATIONS OF THE DEPARTMENT OF TRANSPORTATION

Miscellaneous Restrictions Against Loading and Transporting Class B Poisonous Liquids or Solids With Foodstuffs

There have been several recent instances of food poisoning attributed to the consumption of food which had become contaminated by a poisonous insecticide or pesticide during the course of transportation. The poisons involved were liquids or solids, of the types defined and described as class B in section 173.-343 of the Hazardous Materials Regulations of this Department. These incidents have caused the death of several persons. While none of the incidents occurred in the United States, there has been, within the past year, a number of container leakages, adverse handling experiences, and motor vehicle accidents involving shipments of poisonous liquids or solids, class B. Therefore, it is possible for the conditions which caused the deaths in other countries to arise in this country.

Investigations of the leakages and other accidents in the United States have not yet developed all of the information which would indicate conclusively the need for a change in the specification packaging requirements for poisons. However, a review of all of the incidents concerned clearly shows that there is good cause to restrict mixed shipments of poisonous liquids or solids, class B, and foodstuffs, feeds, and other materials intended for consumption by humans or animals, which are not packaged in air tight nonpermeable containers to minimize the possibility of food poisoning that could be caused by inadvertent contamination during transportation. Also, because of the multiple uses of transportation equipment, it is considered necessary to place a restriction on the reuse of transportation equipment which has been contaminated by the leakage of poisonous liquids or solids, class B, until the contamination has been removed, to preclude injury to transportation personnel and contamination of subsequent shipments.

As a situation exists which demands immediate adoption of this regulation in the interests of public safety, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, the Hazardous Materials Regulations of the Department of Transportation (14 CFR Part 103 and 49 CFR 171–190) are hereby amended as follows, effective January 10, 1968.

1. Section 174.532 of 49 CFR, is amended by adding the following new paragraph at the end thereof:

§ 174.532 Loading other dangerous articles.

* * * * *

(m) Poisonous liquids or solids, class B, must not be transported in the same car with any foodstuffs, feeds, or any other material intended for consumption by humans or animals which are not packaged in air tight nonpermeable containers.

2. Section 174.566(a) of 49 CFR, is amended by adding the following new subparagraph at the end thereof:

§ 174.566 Cleaning cars.

(a) * * *

(1) Any car which has been used to transport any poisonous liquid or solid, class B, shall be inspected for contamination before reuse. In instances where leakage or spillage has occurred, the shipper of the material shall be immediately notified for instructions concerning the best method to be employed for the removal of the contamination. Cars which have been contaminated must not be returned to service until the contamination has been removed. This subparagraph does not apply to any car used solely for transporting poisonous liquids or solids, class B, so long as it is used for that purpose.

§ 174.597 [Amended]

* * * * *

3. Section 174.597(b) of 49 CFR, is amended by inserting the words "organic phosphate compounds," immediately after the words "sodium cyanide."

4. Section 175.655 of 49 CFR is amended by adding the following new paragraphs at the end thereof:

§ 175.655 Protection of packages.

* * * * *

(k) Poisonous liquids or solids, class B, must not be transported in the same car with any foodstuffs, feeds, or any other material intended for consumption by humans or animals which are not packaged in air tight nonpermeable containers.

(l) Any car which has been used to transport any poisonous liquid or solid, class B, shall be inspected for contamination before reuse. In instances where leakage or spillage has occurred, the shipper of the material shall be immediately notified for instructions concerning the best method to be employed for the removal of the contamination. Cars which have been contaminated must not be returned to service until the contamination has been removed.

5. Section 177.841 of 49 CFR, is amended by adding the following new paragraph at the end thereof:

§ 177.841 Poisons.

* * * * *

(e) Poisonous liquids or solids, class B, must not be transported in the same vehicle with any foodstuffs, feeds, or any other material intended for consumption by humans or animals which are not packaged in air tight nonpermeable containers.

6. Section 177.860 of 49 CFR, is amended by amending the heading to read as follows and by adding the following new subparagraph at the end of paragraph (a):

§ 177.860 Accidents or leakage; poisons.

(a) * * *

(1) *Leakage.* Any vehicle which has been used to transport any poisonous liquid or solid, class B, shall be inspected for contamination before reuse. In instances where leakage or spillage has occurred, the shipper of the material shall be immediately notified for instructions concerning the best method to be employed for the removal of the contamination. Vehicles which have been contaminated must not be returned to service until contamination has been removed. This subparagraph does not apply to any vehicle used solely for transporting poisonous liquids or solids, class B, so long as it is used for that purpose.

* * * * *

(7) Part 103 of 14 CFR, is amended by adding the following new section at the end thereof:

§ 103.35 Special requirements for poisonous liquids or solids, Class B.

(a) No operator of an aircraft may carry materials identified as or known to be poisonous liquids or solids, class B, in the same aircraft with material identified as or known to be foodstuffs, feeds, or any other material intended for consumption by humans or animals, unless (except for food carried in the cabin, in a separate compartment from the poisonous materials, that is intended for consumption in flight) those foodstuffs, feeds, or other materials are packaged in air tight nonpermeable containers.

(b) No person may operate an aircraft that has been used to transport any material identified as or known to be poisonous liquid or solid, class B, unless, upon removal of the poisonous material, the aircraft is inspected for leakage, spillage, or other contamination and all contamination is either isolated or removed from the aircraft. The operation of an aircraft contaminated with a class B poison is considered to be the carriage of poisonous materials under paragraph (a) of this section.

(Sec. 831–835, 18 U.S.C., sec. 9, Department of Transportation Act (49 U.S.C. 1657), title VI, sec. 902(h), Federal Aviation Act of 1958 (49 U.S.C. 1421–1430, 1472(h))

Issued in Washington, D.C., on December 21, 1967.

A. SCHEFFER LANG,
Administrator,
Federal Railroad Administration.

Issued in Washington, D.C., on December 21, 1967.

For the Federal Aviation Administration.

SAM SCHNEIDER,
Board Member.

Issued in Washington, D.C., on December 21, 1967.

LOWELL K. BRIDWELL,
Administrator,
Federal Highway Administration.

[F.R. Doc. 67-15067; Filed, Dec. 28, 1967; 8:45 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

White River National Wildlife Refuge, Ark.

The following special regulations are issued and are effective on date of publication in the FEDERAL REGISTER.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

ARKANSAS

WHITE RIVER NATIONAL WILDLIFE REFUGE

Public hunting of raccoon and bobcat on the White River National Wildlife Refuge, Ark., is permitted only on the area designated by signs as open to hunting. This open area, comprising 11,500 acres, or 10 percent of the total area of the refuge, is delineated on a map available at the refuge headquarters, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 809 Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all State regulations governing the hunting of raccoon and bobcat except for the following special conditions:

(1) Open season: February 1, 2, 3, 8, 9, 10, 15, 16, 17, 1968.

(2) Methods of hunting: Shotgun and dogs only. No rifles or headlight hunting permitted.

(3) Hunters must check in and out of designated check station.

(4) Camping permitted only in designated areas. No fires permitted outside of camp areas. Cutting of trees prohibited.

(5) Boats not permitted in refuge waters. Shooting hours start at 6 p.m. and hunters must check out at the check station by 1 a.m.

(6) Camps may be established at noon on the day preceding each hunt.

(7) Littering campsites and refuge roads will be a violation.

(8) A Federal permit is required to enter the public hunting area. Permits may be obtained at either of two check stations at time of hunts.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through February 17, 1968.

C. EDWARD CARLSON,
Regional Director, Bureau of Sport Fisheries and Wildlife.

DECEMBER 21, 1967.

[F.R. Doc. 67-15076; Filed, Dec. 28, 1967; 8:46 a.m.]

Proposed Rule Making

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 61]

[Docket No. 8614; Notice 67-56]

PERIODIC PILOT FLIGHT INSTRUCTION OR PROFICIENCY CHECKS

Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending Part 61 of the Federal Aviation Regulations to require, for pilots in command of airplanes and rotorcraft, periodic flight instruction, or proficiency checks except where the pilot receives a proficiency or initial qualification test under Part 121, 127, or 135, or another flight test, check, or refresher course that substantially serves the same objective, during the same period of time.

This advance notice of proposed rule making is being issued pursuant to the FAA's policy for the early institution of rule-making proceedings. An "advance" notice is issued when it is found that the resources of the FAA and reasonable outside inquiry do not yield a sufficient basis to identify and select a tentative course or alternate courses of action; or where it would be helpful to invite public participation in the identification and selection of a course or alternate courses of action. The subject matter of this notice involves a situation contemplated by that policy.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket GC-24, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before April 1, 1968, will be considered by the Administrator before taking action upon the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. If it is determined to be in the public interest to proceed further, after consideration of the available data and comments received in response to this notice, a notice of proposed rule making will be issued.

Improvement of the general aviation safety record is a continuing and major goal of the FAA. There is no conclusive proof as to the percentage of general aviation accidents that might have been prevented by periodic instruction, refresher training, or proficiency checking. However, a review of the accident records shows that many accidents can be ascribed to deterioration of basic airmanship and skills, and to pilots' failure to keep abreast of new developments and operational procedures. In this connection, much work done by the military services shows that, in particular, procedural knowledge and activities are rapidly forgotten with time and nonuse.

As a part of the FAA's safety programs, general aviation pilots have been encouraged to voluntarily secure periodic refresher training and proficiency checks. Some have heeded this advice, but many have not. Accordingly, the FAA believes that rule-making action may be appropriate to require periodic flight instruction or proficiency checks for pilots in command of airplanes and rotorcraft, except that a proficiency or initial qualification test under Part 121, 127, or 135 of the Federal Aviation Regulations, or other flight test, check, or refresher course that substantially serves the same objective, during the prescribed period of time, would be acceptable in meeting the proficiency check requirements of the contemplated provisions.

Some pertinent questions and discussions are set forth here for which comments are solicited. In particular, comments are requested in the following areas, with supporting statements and data to justify any recommendations and conclusions.

(1) *Periodic flight instruction.*

(a) What pilot certificate holders, if any, should be required to receive periodic flight instruction?

(b) How many hours of flight instruction should be required?

(c) How often should the instruction be received?

(d) Of what should the instruction consist?

It is suggested that this flight instruction should be required for private pilots, and for student pilots who, in certain circumstances, presently need not have the experience or flight check ordinarily required. Section 61.73(d) presently prohibits a student pilot from operating an airplane or rotorcraft in solo flight unless within the preceding 90 days he has received flight instruction in that category of aircraft from a certificated flight instructor with an appropriate rating on his flight instructor certificate, has demonstrated to that flight instructor that he is competent to solo that category, and has received a pilot logbook endorsement that that flight instructor has given the flight instruction and found the student competent for solo flight. However, these requirements do not apply if the student pilot has complied with § 61.73(c) by acting as pilot in command of a powered aircraft within the preceding 90 days or passed a flight check given by a certificated flight instructor who so endorses his pilot logbook, has acquired the aeronautical experience required for a private pilot certificate, and obtains a flight instructor's endorsement that he is considered competent to make solo flights without mandatory periodic flight checks. It is now suggested that in all cases the student pilot must comply with the substance of the provisions of § 61.73(d) within a fixed period (for instance, 6 months) preceding any solo flight.

In the case of private pilots, it is suggested that the certificate holder be required to have at least a specified number of hours of flight instruction from an appropriately rated flight instructor within a fixed period (for instance, up to 3 hours within the 6 months, or up to 6 hours within the 12 months) before acting as pilot in command in any flight involving the carriage of persons or property. The precise maneuvers and procedures involved would probably need not be specified. It would appear necessary to rely upon the judgment of the flight instructor for appropriate action when evidence of incompetence is found, and for the latter to adapt the instruction given to the needs or deficiencies of the particular pilot involved. It also would appear appropriate to provide that once the private pilot has met the flight time requirements for a commercial pilot certificate he should have the option of passing a proficiency check, in the category of aircraft, similar to that proposed for commercial pilots.

(2) *Periodic proficiency checks.*

(a) What pilot certificate and rating holders, if any, should be required to receive periodic proficiency checks?

(b) Who should give the checks?

(c) How often should the checks be received?

(d) Of what should the checks consist?

(e) Should the checks, or any portion of them, be allowed in simulators?

It is suggested that (with certain exceptions noted below) these proficiency checks should be required for holders of pilot certificates other than student and private pilots, and for holders of instrument ratings. In the case of commercial pilots, it is suggested that the certificate holder be required to pass a proficiency check in the category of aircraft involved within a fixed period (for instance, 12 months) before acting as pilot in command of an aircraft carrying passengers or as pilot in command for compensation or hire. It is also suggested that the pilot holding an airplane category rating with both single-engine and multiengine class ratings should be required to pass each required proficiency check in a multiengine airplane or, perhaps, alternately in a single-engine and multiengine airplane. Furthermore, if the pilot holds one or more type ratings, and desires to exercise the privileges thereof, it is suggested that he must pass the proficiency check appropriate to the applicable class rating, in an airplane of that class for which he holds a type rating.

In the case of airline transport pilots, proficiency check requirements would be provided that are similar to those for commercial pilots. This proficiency check would include a showing of instrument proficiency if the pilot is to engage in IFR operations, whether or not passengers are carried or the operation is for compensation or hire.

In the case of instrument ratings, it is suggested that the holder be restricted from engaging in any IFR operation unless within a fixed period (for instance, the preceding 12 months) he has passed an instrument proficiency check in the category of aircraft involved. The instrument proficiency check would be acceptable as a proficiency check in the category of aircraft involved, for the holder of a private, commercial, or airline transport pilot certificate.

Proficiency checks for holders of commercial and airline transport pilot certificates, and instrument rating, normally are given by FAA inspectors or other authorized flight examiners, or company check pilots. However, in view of the large number of checks that would be required under these suggestions, it is believed that the checks could not be handled by these examiners or check pilots without undue delay and inconvenience to the public, and possible interference with their present certification activities. Consideration therefore should be given to authorizing appropriately rated certificated flight instructors, with specified pilot certificates, also to give the new proficiency checks. These flight instructors are considered qualified to give the checks, and the use of their services for this purpose would provide better service to the affected public and would be consistent with the objective of upgrading and giving additional responsibilities to flight instructors. In order to assure that any flight instructor, or designated pilot, instrument rating, or airline transport pilot examiner who gives a proficiency check is fully qualified, he would be required to be "appropriately rated", that is, to have the appropriate category or instrument rating on his flight instructor certificate (or certificate of designation), and a pilot certificate with the class rating, and type rating for an aircraft requiring a type rating, for the aircraft used for an aircraft proficiency check.

Some holders of U.S. pilot certificates do not reside in this country. Under § 61.22, flight instruction received to satisfy the requirements for certificates or ratings may be credited if it is received from a flight instructor who is authorized to give that flight instruction by the licensing authority of a foreign contracting State to the Chicago Convention and the flight instruction is given outside the United States. It is suggested, in order to preclude undue hardship for certificate holders residing outside of the United States, that flight instruction or proficiency checks received by them from these foreign instructors outside of the United States could be used to satisfy the applicable new requirements.

For proficiency checks given by certificated flight instructors, the same standards they apply in certifying an applicant for a flight test for a certificate or rating under § 61.21(a)(4) appear to be suitable. Similarly, as standards for proficiency checks given by FAA inspectors and designated examiners, the same standards applicable to original issuance of the certificate or rating involved appear to be suitable.

As proof of compliance, all required proficiency checks would be recorded in pilot logbooks.

In order to preclude unnecessary repetitions of the same or substantially equivalent proficiency checks, the satisfactory accomplishment of certain other flight tests, checks, or refresher courses within the prescribed time periods would be acceptable as meeting the proficiency check requirements of the contemplated provisions. Examples are such procedures as flight tests for certificates or ratings, proficiency or initial qualification tests accomplished under Part 121, 127, or 135, Category II pilot authorization tests, and military proficiency or rating flight tests of persons on solo flying status as rated pilots in Armed Forces of the United States.

Comments would be welcome on these suggestions, as well as any additional recommendations for implementing the objective of maintaining the skills of general aviation pilots at high levels.

Issued in Washington, D.C., on December 21, 1967.

This advance notice of proposed rule making is issued under the authority of sections 313(a), 601, and 602, of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1422).

JAMES F. RUDOLPH,
Director,
Flight Standards Service.

[F.R. Doc. 67-15097; Filed, Dec. 28, 1967; 8:48 a.m.]

[14 CFR Part 61]

[Docket Nos. 7526, 7858; Ref. Notices 66-28, 67-1, 67-1A]

AERONAUTICAL SKILL REQUIREMENTS—PROPOSED AUTHORIZATION OF SAMPLING PROCEDURE, NEW BASIC PILOT CERTIFICATES, PRIVATE AND COMMERCIAL PILOT TRAINING AND EXPERIENCE REQUIREMENTS, AND INSTRUMENT RATINGS

Withdrawal of Notices of Proposed Rule Making

The Federal Aviation Administration has had under consideration the following proposals to amend Part 61 of the Federal Aviation Regulations:

(1) To provide that in a practical test for a private or commercial pilot certificate, or instrument rating, the applicant must perform only the procedures and maneuvers the FAA inspector or designated examiner selects from those listed in the regulations. This proposal was issued as Notice 66-28, published in the FEDERAL REGISTER on August 5, 1966 (31 F.R. 10536).

(2) To establish a new, lower requirement pilot certificate to be known as a basic pilot certificate, increase the training and experience requirements for private and commercial pilot qualification, and make the private pilot eligible for an instrument rating when he meets instrument rating requirements without further total flight time requirements. These proposals were issued as Notice 67-1, published in the FEDERAL REGISTER on January 12, 1967 (32 F.R. 329), supplemented by Notice 67-1A, published in the FEDERAL REGISTER on March 4, 1967 (32 F.R. 3749).

As stated in Notice 67-1, the proposals made therein, as well as the proposal made in Notice 66-28, were to be a part of a comprehensive "training package" designed to upgrade and modernize pilot training and certification. A substantial portion of the comments received on Notice 67-1 (and Notice 67-1A) opposed the proposals made therein and presented reasons for their opposition. The comments received indicated that further study of the proposals is needed before a decision is reached on the subjects treated therein. Furthermore, an advance notice of proposed rule making is being issued at the present time that suggests the establishment of certain periodic flight instruction or proficiency checks for general aviation pilots, matters that are basically related to the objectives of the rules proposed by Notices 67-1 (and 67-1A) and 66-28. In view of these facts, and the time that has elapsed since the close of the comment periods, the FAA has determined that Notices 66-28, 67-1, and 67-1A should be withdrawn.

Withdrawal of these notices constitutes only such action, and does not preclude the FAA from issuing other notices in the future or commit the FAA to any course of action in the future.

In consideration of the foregoing, Notices 66-28, 67-1, and 67-1A, respectively published in the FEDERAL REGISTER on August 5, 1966 (31 F.R. 10536), January 12, 1967 (32 F.R. 329), and March 4, 1967 (32 F.R. 3749), are hereby withdrawn.

Issued in Washington, D.C., on December 21, 1967.

This withdrawal is issued under the authority of sections 313(a), 601, and 602, of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1422).

JAMES F. RUDOLPH,
Director,
Flight Standards Service.

[F.R. Doc. 67-15098; Filed, Dec. 28, 1967; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-AL-80]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amendments to Part 71 of the Federal Aviation Regulations which would alter the Homer transition area to encompass a newly established standard instrument departure procedure and alter the effective time of the control zone at Homer, Alaska. There is no change proposed in the area description of the Homer control zone.

It is necessary to change the effective time of the control zone because weather observations will not be available for 16 hours each week. Weather observations will not be taken during the low aeronautical activity periods from 2145 on Saturdays to 0545 on Sundays, and from 2145 on Sundays to 0545 on Mondays. Based on the proposed weather observation schedule, the effective hours, local time, of the control zone would be from 0600 Mondays through 2145 Saturdays and from 0600 through 2145 Sundays.

In order to provide for minor changes in the control zone time designation due to weather observer schedule adjustments, the effective times of the control zone are hereafter proposed to be established in advance by Notice to Airman and continuously published in the Alaska Airman's Guide and Chart Supplement. The time of designation would coincide with the hours of aviation weather reporting service provided jointly by the Federal Aviation Administration and Environmental Science Services Administration (Weather Bureau).

Additionally, in order to provide the necessary airspace protection for a recently approved instrument departure procedure, the Homer transition area would be enlarged by designating that airspace extending upward from 1,200 feet above the surface within a 54-mile radius of the Homer VOR extending counterclockwise from the south boundary of Victor 536E, west of Homer, to the west bundary of Victor 438W, southwest of Homer. Therefore, the Homer transition area is proposed to be described as follows:

That airspace extending upward from 1,200 feet above the surface, within 8 miles south and 5 miles north of the 265° T (241° M) and 085° T (061° M) bearings from the Homer RB, extending from 13 miles west to 7 miles east of the RB; and within 6 miles northwest and 5 miles southeast of the Homer VOR 224° T (200° M) and 044° T (020° M) radials, extending from 13 miles southwest to 7 miles northeast of the VOR; and within a 54-mile radius of the Homer VOR extending counterclockwise from the south boundary of Victor 498E, west of Homer, to the west boundary of Victor 438W, southwest of Homer.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Alaskan Region, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The public docket will be available for examination by interested persons at the Office of the Regional Counsel, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501.

Issued in Anchorage, Alaska, on December 20, 1967.

These amendments are proposed under the authority of section 307(a), of the Federal Aviation Act of 1958 (49 U.S.C. 1340).

LYLE K. BROWN,
Director, Alaskan Region.

[F.R. Doc. 67-15130; Filed, Dec. 28, 1967; 8:49 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-CE-137]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Wichita, Kans.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

New public radar instrument approach procedures have been developed for Piper Airpark, Wichita, Kans., Beech Factory Airport, Wichita, Kans., Cessna Aircraft Co. Airport, Wichita, Kans., Rawdon Feld, Wichita, Kans. and Augusta Municipal Airport, Augusta, Kans. In addition, a review of the public instrument approach procedures for Wichita Municipal Airport indicates that the 700-foot floor transition area extension north of the Wichita Municipal Airport 8-mile radius area is no longer required. Therefore, it is necessary to alter the Wichita 700-foot floor transition area to protect aircraft executing these new approach procedures and to delete that portion which is no longer required. Those portions of the Wichita transition area which have floors of 1,200 feet above the surface and 2,500 feet MSL will not be changed by this proposal.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (32 F.R. 2148), the following transition area is amended to read:

WICHITA, KANS.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Wichita Municipal Airport (latitude 37°37'25" N., longitude 97°15'00" W.); within 5 miles east and 8 miles west of the Wichita Municipal Airport ILS localizer south course, extending from the 8-mile radius area to 12 miles south of the OM; within an 8-mile radius of McConnell AFB (latitude 37°37'25" N., longitude 97°16'00" W.); within 2 miles each side of the McConnell AFB ILS localizer south course extending from the 8-mile radius area to 8 miles south of the OM; within a 5-mile radius of Augusta, Kans., Municipal Airport (latitude 37°40'15" N., longitude 97°04'40" W.); within 2 miles each side of the 009° and 189° bearings from Augusta Municipal Airport, extending from the 5-mile radius area to 6 miles north and south of the airport; within a 5-mile radius of Piper Airpark (latitude 37°45'00" N., longitude 97°12'00" W.); and within 2 miles each side of the 344° bearing from Piper Airpark, extending from the 5-mile radius area to 6 miles north of the airport; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at the INT of the north boundary of V-516 and longitude 96°39'00" W., thence extending northwest to the INT of a line 10 miles southeast of and parallel to the Emporia, Kans., VORTAC 209° radial and latitude 37°10'00" N., thence northeast along a line 10 miles southeast of and parallel to the Emporia VORTAC 209° radial to the Emporia VORTAC 134° radial, thence northwest along the Emporia VORTAC 134° and 314° radials to, and west along the north boundary of V-10 to, and northeast along the west boundary of V-77 to, and southwest along the southeast boundary of V-280 to, and east along the north boundary of V-10 to longitude 97°15'00" W., thence southwest to latitude 36°59'30" N., longitude 97°26'00" W., thence southwest to the INT of the northwest boundary of V-12N and longitude 97°56'25" W., thence southwest along the northwest boundary of V-12N to, and south along the west boundary of V-125 to, and southeast along the southwest boundary of V-74 to the Ponca City, Okla., VORTAC 217° radial, thence northeast along the Ponca City VORTAC 217° and 047° radials to, and northeast along the northwest boundary of V-516 to the point of beginning; and that airspace extending upward from 2,500 feet MSL bounded by a line beginning at the INT of the north boundary of V-516 and longitude 96°29'00" W., thence northwest to the INT of a line 10 miles southeast of and parallel to the Emporia, Kans., VORTAC 209° radial and latitude 37°10'00" N., thence northeast along a line 10 miles southeast of and parallel to the Emporia VORTAC 209° radial to, and southeast along the southwest boundary of V-132 to, and southeast along a line 12 miles southwest of and parallel to the Chanute, Kans., VOR 334° and 154° radials to, and south along the west boundary of V-131 to, and southwest along the northwest boundary of V-516 to the point of beginning, excluding the portions which overlie the Ponca City, Okla., and Emporia, Kans., transition areas.

Issued at Kansas City, Mo., on December 8, 1967.

This amendment is proposed under the authority of section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348).

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 67-15131; Filed, Dec. 28, 1967; 8:50 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-WE-78]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations which would designate controlled airspace in the Lakeview, Oreg., terminal area.

Interested persons may participate in the proposed rule-making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 90007, Airport Station, Los Angeles, Calif. 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 5651 West Manchester Avenue, Los Angeles, Calif. 90045.

New instrument approach and departure procedures utilizing the Lakeview radio beacon have been developed for the Lake County-Lakeview Airport, Lakeview, Oreg. As a result, it is necessary to designate 700-foot and 1,200-foot floor transition area to protect aircraft executing the prescribed instrument procedures.

The 700-foot floor portion of the transition area would provide controlled airspace protection for aircraft executing the prescribed instrument approach procedure during descent from 1,500 to 700 feet above the surface. It will also provide controlled airspace protection for departing aircraft during climb from 700 to 1,200 feet above the surface.

The proposed 1,200-foot floor transition area will provide controlled airspace protection during those portions of prescribed instrument approach and departure procedures conducted at or above 1,500 feet above the surface.

In view of the foregoing, the FAA proposes the following airspace action:

In § 71.181 (32 F.R. 2148) the following transition area is added:

LAKEVIEW, OREG.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Lake County-Lakeview Airport (latitude 42°09'35" N., longitude 120°24'15" W.), and within 2 miles each side of the 180° bearing from the Lakeview RBN (latitude 42°09'15" N., longitude 120°24'18" W.), extending from the RBN to 8 miles south of the RBN; that airspace extending upward from 1,200 feet above the surface within 6 miles east and 9 miles west of the 180° and 360° bearings from the Lakeview RBN extending from 5 miles north to 18 miles south of the RBN.

Issued in Los Angeles, Calif., on December 20, 1967.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (72 Stat. 749; 49 U.S.C. 1348).

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 67-15133; Filed, Dec. 28, 1967; 8:50 a.m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 1033, 1034]

[Ex Parte No. 252 Sub 1]

INCENTIVE PER DIEM CHARGES FOR 1968

Notice of Proposed Rule Making

Order. At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 15th day of December 1967.

Public Law 89-430, effective May 26, 1966, amended section 1(14)(a) of the Interstate Commerce Act, so as to require this Commission to determine the adequacy and requirements of the national freight car supply and to impose incentive elements of per diem charges upon the users of such cars if found to be necessary, subject to specified limitations. The investigation in Docket Ex Parte No. 252, Incentive Per Diem Charges, 332 I.C.C. 11, demonstrated the inadequacy of information now available to make the determinations required by the aforesaid statute, as amended. Whether a need exists for enforcement of the incentive element authority, and the manner and amount thereof, require further proceedings and the accumulation of reliable current data on a continuing basis. Therefore:

It is ordered, That under authority of Part I of the Interstate Commerce Act (49 U.S.C. 1, et seq.) more particularly section 1(14)(a) and the Administrative Procedure Act (5 U.S.C. 553, 556, and 557) a proceeding be, and it is hereby, instituted for the purpose of implementing those provisions of the law relating to our authority to encourage the acquisition and maintenance of an adequate car supply as specified in Public Law 89-430.

It is further ordered, That all common carriers by railroad subject to the Interstate Commerce Act be, and they are hereby, made respondents to this proceeding.

It is further ordered, That the Bureau of Enforcement of this Commission be, and it is hereby, directed to participate in this proceeding.

It is further ordered, That this proceeding be, and it is hereby, assigned for hearing at the offices of the Interstate Commerce Commission, Washington, D.C., on a date hereafter to be fixed. Prehearing conference may be held upon notice by the Hearing Examiner. Upon timely requests, by shippers, associations, or other interested parties, consideration will be given to the setting of hearings at other places. Requests for leave to intervene may be made orally at the time of the hearing and should not be made prior thereto.

It is further ordered, That each carrier listed on the Appendix[1] hereto, shall complete and file, in accordance with the accompanying instructions, the Data Sheet for Railroad Freight Car Study (both attached)[1] and, until further order, shall maintain the underlying records. (A list of study dates, not necessarily the same dates, is being furnished each carrier named in the appendix. A list of stations at which the study is to be made is also furnished each Class I carrier shown in the appendix. Selected Class II carriers are required to make the study at all stations).

And it is further ordered, That a copy of this order, together with the appendix, the Data Sheet forms and accompanying instructions, be served upon each respondent, each public utility commission or board or similar regulatory body of each State, The Secretary, Department of Transportation, the Association of American Railroads—Car Service Division, the American Short Line Railroad Association; that a copy be posted in the office of the Secretary of this Commission, as well as in each field office; that a copy of the order be delivered to the Director, Office of Federal Register, for publication in the FEDERAL REGISTER; and that the lists of stations and dates to be studied, be served upon the particular respondent designated thereon.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 67-15109; Filed, Dec. 28, 1967; 8:49 a.m.]

[1] Appendix and forms filed as part of the original document.

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[S-966]

CALIFORNIA

Notice of Classification of Public Lands For Multiple-Use Management

DECEMBER 19, 1967.

1. Pursuant to the Act of September 19, 1964 (78 Stat. 986; 43 U.S.C. 1411–18), and to the regulations in 43 CFR Parts 2410 and 2411, the public lands in paragraph 3 are classified for multiple-use management together with any lands therein that may become public lands in the future. Publication of this notice segregates the lands from appropriation only under the agricultural land laws (43 U.S.C. Chs. 7 and 9; 25 U.S.C. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171) and the lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws, except as to lands described in paragraph 4 of this notice which are further segregated from the operation of the mining laws (30 U.S.C. Ch. 2).

As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. Comments were received following publication of the notice of proposed classification (32 F.R. 13063 of Sept. 14, 1967) and at the public hearing at Grass Valley, which was held on September 26, 1967.

All comments submitted favored the proposed classification. There are no changes in the final classification from the proposed classification. The record showing reaction to the classification made by members of the public attending or interested in the hearing is on file and can be examined in the Folsom District Office, Folsom, Calif. 95630.

3. The public lands affected by this classification are located within the following described areas and are shown on the Nevada-Yuba Planning Unit Classification Map, on file in the Folsom District Office, 63 Natoma Street, Folsom, Calif., and on the Sacramento Land Office records, Bureau of Land Management, 650 Capitol Mall, Sacramento, Calif.:

MOUNT DIABLO MERIDIAN, CALIFORNIA

BLOCK NO. 1

All public lands in:
T. 18 N., R. 6 E.,
Secs. 1 to 4, inclusive;
Secs. 11 to 14, inclusive;
Secs. 23 to 26, inclusive.
T. 19 N., R. 6 E.,
Secs. 9 and 10;
Secs. 13 to 16, inclusive;
Secs. 21 to 29, inclusive;
Secs. 31 to 36, inclusive.
T. 18 N., R. 7 E.,
Secs. 18, 19, 20, 28, 29, and 30.

BLOCK NO. 2

All public lands in:
T. 18 N., R. 7 E.,
Secs. 1, 2, and 12.
T. 17 N., R. 7 E.,
Secs. 1 and 2;
Secs. 10 to 15, inclusive;
Secs. 20 to 29, inclusive;
Secs. 31 to 36, inclusive.
T. 18 N., R. 8 E.,
Secs. 6 and 7.
T. 17 N., R. 8 E.,
Secs. 1 to 34, inclusive.
T. 18 N., R. 8 E.,
Sec. 36.
T. 17 N., R. 9 E.,
Secs. 1 to 22, inclusive;
Secs. 27 to 30, inclusive.
T. 18 N., R. 9 E.,
Secs. 31 to 36, inclusive.
T. 17 N., R. 10 E.,
Secs. 5 to 8, inclusive;
Secs. 16, 17, 18, 21, 22, 27, 28, 33, and 34.
T. 18 N., R. 10 E.,
Secs. 29, 31, and 32.

BLOCK NO. 3

All public lands in:
T. 15 N., R. 7 E.,
Sec. 6.
T. 16 N., R. 7 E.,
Secs. 24, 25, and 36.
T. 15 N., R. 8 E.,
Secs. 2, 4, 5, and 6.
T. 16 N., R. 8 E.,
Secs. 19 and 20;
Secs. 29 to 32, inclusive.

BLOCK NO. 4

All public lands in:
T. 15 N., R. 9 E.,
Secs. 1 and 2;
Secs. 10 to 15, inclusive.
T. 16 N., R. 9 E.,
Secs. 23 to 26, inclusive;
Secs. 35 and 36.
T. 15 N., R. 10 E.,
Secs. 4 to 7, inclusive.
T. 16 N., R. 10 E.,
Sec. 13;
Secs. 19 to 24, inclusive;
Secs. 26 to 34, inclusive.

BLOCK NO. 5

All public lands in:
T. 14 N., R. 6 E.,
Sec. 3, SW¼SE¼, and SW¼SW¼;
Sec. 13, S½SE¼.
T. 17 N., R. 7 E.,
Sec. 3, SE¼SE¼.
T. 17 N., R. 11 E.,
Sec. 30, lot 5;
Sec. 31, lot 44;
Sec. 33, lot 44.

The public lands proposed to be classified aggregate approximately 13,186 acres.

4. As provided in paragraph 2 above, the following lands are segregated from appropriation under the mining laws (totaling approximately 672 acres):

MOUNT DIABLO MERIDIAN

T. 19 N., R. 6 E.,
Sec. 13, NW¼NW¼, and E½SW¼NW¼.
T. 17 N., R. 8 E.,
Sec. 5, lots 10, 11, 12, and 13;
Sec. 6, lots 18, 19, 20, 21, and 22.
T. 17 N., R. 9 E.,
Sec. 3, lot 3, and S½NW¼;
Sec. 4, SE¼NE¼.
T. 18 N., R. 9 E.,
Sec. 34 NE¼SW¼, W½NW¼SW¼, S½NE¼NW¼SW¼, SE¼NW¼SW¼, S½SW¼, and W½W½SE¼.

5. For a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided in 43 CFR 2411.2(c).

J. R. PENNY,
State Director, Bureau of Land Management, Department of the Interior.

[F.R. Doc. 67-15067; Filed, Dec. 28, 1967; 8:47 a.m.]

[Serial No. U-4069]

UTAH

Notice of Proposed Classification of Public Lands for Multiple Use Management

1. Pursuant to the act of September 19, 1964 (78 Stat. 986; 43 U.S.C. 1411–18), and to the regulations in 43 CFR Parts 2410 and 2411, it is proposed to classify for multiple-use management the public lands within the area described below, together with any lands therein that may become public lands in the future. Publication of this notice has the effect of segregating the public lands in the area described below from appropriation under the agricultural land laws (43 U.S.C., Parts 7 and 9; 25 U.S.C. 334) and from sales under Section 2455 of the Revised Statutes (43 U.S.C. 1171). The land shall remain open to all other applicable forms of appropriation including the mining and mineral leasing laws. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. The lands proposed to be classified are those lands administered by the Bureau of Land Management within the following-described area which lies within a 40-mile radius of Price, Utah, all in Salt Lake Meridian:

UTAH COUNTY

T. 11 S., R. 8 E.,
Secs. 12 and 13.
T. 11 S., R. 9 E.,
Secs. 1–30, 33–36.

DUCHESNE AND UINTAH COUNTIES

All the public land within the following described area:

Beginning at a point where the Ashley National Forest boundary intersects the county boundary line common to Duchesne and Utah Counties, near the northwest corner of sec. 18, T. 11 S., R. 10 E., thence easterly following the National Forest boundary to a point where it intersects the west line of lot 3, sec. 16, T. 10 S., R. 15 E.; thence south about one-quarter mile to the north quarter corner of sec. 21, T. 10 S., R. 15 E.; thence east one-quarter mile; south one-quarter mile; east one-quarter mile; south one-half mile; east one-quarter mile; south one-quarter mile; west one-quarter mile to the southeast corner of sec. 21, T. 10 S., R. 15 E., thence south one-half mile; west one-quarter mile; south three-quarters mile; west one-quarter mile; south one-half mile; east one-quarter mile; south about one-quarter mile; thence east to the northeast corner of sec. 4, T. 11 S., R. 15 E.; thence south about 1 mile to the southeast corner sec. 4, T. 11 S., R. 15 E.; thence east three-quarters mile; south one-quarter mile; east three-quarters mile; south one-quarter mile; east one-half mile; south one-quarter mile; east one-quarter mile; south one-quarter mile; east one-quarter mile; north one-quarter mile; east one-quarter mile; south one-quarter mile to the east quarter-corner sec. 12, T. 11 S., R. 15 E.; thence east about three-quarters mile; north one-quarter mile; east one-half mile; north one-quarter mile; east three-quarters mile; south one-quarter mile; east one-quarter mile; south one-quarter mile; east one-half mile; south one-quarter mile; east three-quarters mile; south one-quarter mile; east 1 mile; south one-half mile; east 1 mile; north one-quarter mile to the northeast corner, sec. 12, T. 11 S., R. 16 E.; thence east about 1 mile; south one-quarter mile; east one-quarter mile; south one-quarter mile; east one-half mile; south one-quarter mile to the southeast corner sec. 17, T. 11 S., R. 17 E.; thence east one-half mile; south one-quarter mile; east one-quarter mile; south one-quarter mile; east one-half mile; south one-quarter mile; east one-quarter mile; north one-quarter mile; east three-quarters mile; north one-quarter mile; east one-quarter mile; north one-quarter mile; west one-quarter mile; north one-half mile; east three-quarters mile; south one-quarter mile; east 1 mile; south one-quarter mile; east one-half mile; east three-quarters mile; south three-quarters mile to the south quarter corner sec. 17, T. 11 S., R. 18 E.; thence south three-quarters mile; west one-quarter mile; south one-half mile; east three-quarters mile; north one-quarter mile; east approximately one-half mile to a point on the Green River, said point being located near the northeast corner of lot 3, sec. 28, T. 11 S., R. 18 E.; thence southerly along the west bank of the Green River to the intersection of the Uintah County boundary and the Carbon County boundary; thence west along the boundary common to Carbon and Duchesne Counties to the intersection of the boundary common to Duchesne and Utah Counties; thence north along the county boundary to the point of beginning; excluding the NW¼ of sec. 11 and SW¼NW¼ of sec. 12, T. 11 S., R. 11 E., and secs. 34 and 35, T. 10 S., R. 11 E.

CARBON COUNTY

SALT LAKE MERIDIAN, UTAH

Starting where the Carbon-Uintah County line intersects the Green River; thence west along the north Carbon County line to where it intersects the Minnie Maud Road in sec. 5, T. 12 S., R. 12 E.; thence southeast along the road to the Nine Mile Canyon Road; thence east along the Nine Mile Canyon Road to the west section line of sec. 18, T. 12 S., R. 13 E.; thence east one-half mile, south three-quarter mile, east one-half mile, south 2 miles, west one-half mile, south one-half mile, west one-quarter mile, south one-quarter mile, west one-quarter mile, south one-quarter mile, west to the north quarter corner of sec. 4, T. 13 S., R. 13 E.; thence south to the southwest corner of the NW¼NE¼, sec. 9, T. 13 S., R. 13 E.; thence west one-quarter mile, south three-quarter mile, east three-quarter mile, south 1 mile, east 3 miles, south 1 mile, east 1 mile, south 1 mile, east 2 miles, south 3 miles, east approximately 1½ miles to the bottom of Range Creek; thence down the Range Creek drainage to the Carbon-Emery County line; thence east along the county line to where it intersects the Green River; thence in a northerly direction along the Green River to the point of beginning.

Also, starting at a point on the county line common to Utah and Carbon Counties where it intersects the Beaver Creek road on the north section line of sec. 2, T. 12 S., R. 8 E.; thence southwest along the Beaver Creek road to the center of sec. 33, T. 12 S., R. 8 E.; thence in a southeast direction to the northeast corner of the SE¼SE¼, sec. 33, T. 12 S., R. 8 E.; thence east approximately 1 mile to the Spring Canyon Road; thence in a southeast direction along the road to a point where it intersects the east section line of sec. 2, T. 13 S., R. 8 E.; thence south to the southeast corner of sec. 2, T. 13 S., R. 8 E.; thence west 2 miles, south 1 mile to the southwest corner of sec. 10, T. 13 S., R. 8 E.; thence southwest in a straight line to the center of sec. 26, T. 13 S., R. 17 E., west one-quarter mile, south 1½ miles to the National Forest boundary; thence south and east along the boundary to where it intersects the Carbon-Emery County line; thence east along the county line 12½ miles to the south quarter corner of sec. 34, T. 15 S., R. 10 E., north 2 miles, west three-quarter mile, north one-quarter, west one-quarter mile, north one-quarter mile, west one-half mile; north one-half mile, west 4 miles, north 6 miles, east 1 mile, north 5 miles, east 1¼ miles, south one-half mile, east three-quarter mile, south 1½ miles, east one-half, south 1 mile, east one-half mile, south one-half mile, east 1 mile, south one-half mile, east 1¾ miles, south 1 mile, west one-quarter mile, south one-half mile, east one-half mile, south one-half mile, east 2½ miles, north one-half mile, east 1¼ miles, south three-quarter mile, east one-quarter mile, south 2½ miles, west one-quarter mile, south 1¼ miles, west one-quarter mile, south one-half mile, west 1 mile, south 3 miles to the Carbon-Emery County line; thence east along the county line to the southwest corner of the SE¼SE¼, sec. 32, T. 15 S., R. 14 E., north 1 mile, west one-quarter mile, north one-half mile, west one-half mile, north one-quarter mile, west one-half mile, north one-half mile, west one-half mile, north 4½ miles, east one-half mile, north three-quarter mile, west one-quarter mile, north one-half mile, west one-quarter mile, north 2 miles, west 1 mile, north 1 mile, west 1 mile, north 1 mile, west 3 miles, north 1 mile, west three-quarter mile, north 1¼ miles, west 1¼ miles, north three-quarter mile, west 4 miles, north 1¼ miles, west one-half mile, south one-quarter mile, west 1 mile, south one-half mile, west 2 miles, north one-half mile, west one-half mile, north one-quarter mile, west three-quarter mile, north one-quarter mile, west three-quarter mile, north one-quarter mile, west 1 mile, north one-half mile, west 1 mile, north approximately 5½ miles to the Carbon-Duchesne County line; thence west along the Carbon-Duchesne and Carbon-Utah County lines to the point of beginning; except the following described land:

T. 13 S., R. 8 E., SLM
Sec. 28: W½SE¼, SE¼SW¼, W½SW¼;
Sec. 33: W½;
T. 14 S., R. 8 E., SLM
Sec. 3: Lots 1, 2, 3, 4, S½N½, W½SW¼, SE¼SW¼, SW¼SE¼;
Sec. 4: Lots 1, 2, 3, 4, S½N½, N½S½, SE¼SE¼;
Sec. 9: NW¼NE¼, S½NE¼, SE¼;
Sec. 10: E½, SW¼, S½NW¼, NE¼NW¼;
Sec. 15: NW¼NW¼;
T. 13 S., R. 9 E., SLM
Sec. 35: SE¼NE¼.

3. For a period of 60 days from the date of publication of this Notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with this proposed classification may present their views in writing to the District Manager, Bureau of Land Management, Post Office Drawer AB, Price, Utah 84501, or to the State Director, Post Office Box 11505, Salt Lake City, Utah 84111.

4. Maps showing the proposed classification areas, designated by Serial No. U-4069, are on file and may be reviewed at the Bureau of Land Management's district office at Price, and the State office, Federal Building, Salt Lake City, Utah.

5. Public hearings on the proposed classification will be held on January 25, 1968, at 1 p.m. in the courtroom of the Carbon County Courthouse, Price, Utah, and on January 25, 1968, at 7 p.m. in the courtroom of the Duchesne County Courthouse, Duchesne, Utah. At this time statements in support of our opposition to the proposal may be presented.

R. D. NIELSON,
State Director.

[F.R. Doc. 67-15068; Filed, Dec. 28, 1967; 8:47 a.m.]

[Serial No. U-4842]

UTAH

Notice of Proposed Classification of Public Lands for Multiple Use Management

1. Pursuant to the Act of September 19, 1964 (78 Stat. 986; 43 U.S.C. 1411–18), and to the regulations in 43 CFR Parts 2410 and 2411, it is proposed to classify for multiple-use management the public lands within the area described below, together with any lands therein that may become public lands in the future. Publication of this notice has the effect of segregating the described lands from appropriation only under the agricultural land laws (43 U.S.C., Parts 7 and 9; 25 U.S.C. sec. 334), and from sales under section 2455 of the Revised Statutes as amended (43 U.S.C. 1171). The lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws, except as noted below. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the act of June 28, 1934 (48 Stat. 1269),

as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. The public lands affected are those administered by the Bureau of Land Management within the following described areas in Juab County, Utah:

SALT LAKE MERIDIAN, UTAH

T. 9 S., R. 3 W.,
That part of township in Juab County.
T. 10 S., Rs. 2, 3, and 4 W.,
That portion of township in Juab County.
T. 11 S., R. 1 W.,
That part of the following subdivisions in Juab County:
Sec. 1: W½, W½E½;
Secs. 2, 10, and 11;
Sec. 12: N½;
Secs. 14, 15, 16, 21 to 28, 26 to 35.
T. 11 S., R. 2 W.,
That portion of township in Juab County.
T. 11 S., Rs. 3 W. to 20 W.,
All of townships.
T. 11½ S., R. 2½ W.,
All of township.
T. 12 S., R. 1 W.,
Secs. 2 to 11, 14 to 23.
T. 12 S., R. 2 W.,
That part of the following subdivisions in Juab County:
Secs. 1, 2, 5, 6, 7 to 24;
Sec. 27: W½;
Secs. 28 to 33;
Sec. 34: NW¼, S½.
T. 12 S., Rs. 2½ W. to 20 W.,
All of townships.
T. 13 S., R. 2 W.,
Secs. 3 to 10, 15 to 22, 27 to 34.
T. 13 S., Rs. 3 W. to 20 W.,
All of townships.
T. 14 S., R. 1 W.,
Sec. 7 Lots 12 to 15, 22 to 27, 26 to 31;
Sec. 18: Lots 6 to 13, 24 to 30.
T. 14 S., R. 2 W.,
Sec. 1: W½;
Secs. 2 to 11;
Sec. 12: W½, SW¼NE¼, NW¼SE¼, S½SE¼;
Secs. 13 to 24;
Sec. 25: W½NE¼, NW¼, W½SW¼;
Secs. 26 to 33.
T. 14 S., R. 3 W.,
Secs. 1 to 32, 35;
Sec. 36: That part east of the Sevier River.
T. 14 S., R. 4 W.,
Secs. 1 to 18;
Sec. 21: E½;
Secs. 22 to 27, 34 to 36.
T. 14 S., R. 5 W. to 20 W.,
Secs. 1 to 24, 27 to 34.
T. 14 S., Rs. 6 W. to 20 W.,
All of townships.
T. 15 S., R. 2 W.,
Secs. 4, 5, and 9;
Secs. 6, 7, and 8: That part east of Sevier River.

The area described aggregates approximately 1,365,340 acres of public domain land.

3. Publication of this notice also has the effect of segregating the lands described below from entry or location under the General Mining Laws, but not the Mineral Leasing Laws:

SALT LAKE MERIDIAN, UTAH

T. 11 S., R. 11 W.,
Sec. 13: SE¼SW¼.
T. 11 S., R. 13 W.,
Sec. 11: SW¼NE¼.
T. 11 S., R. 14 W.,
Sec. 23: NW¼NW¼.
T. 11 S., R. 15 W.,
Sec. 31: SW¼NE¼SW¼, SE¼NW¼SW¼, NE¼SW¼SW¼, NW¼SE¼SW¼.
T. 11 S., R. 17 W.,
Sec. 20: N½NE¼.
Sec. 21: N½NW¼.
T. 11 S., R. 18 W.,
Sec. 15: NW¼, SW¼NE¼, N½SW¼.
T. 12 S., R. 2½ W.,
Sec. 13: S½ Lot 4, S½ Lot 5.
T. 12 S., R. 3 W.,
Sec. 24: SE¼SE¼.
T. 12 S., R. 4 W.,
Sec. 29: SE¼, E½SW¼.
T. 12 S., R. 18 W.,
Sec. 5: E½ Lot 1, Lot 18;
Sec. 9: W½ Lot 4;
Sec. 14: NW¼SW¼;
Sec. 15: S½NE¼, N½SE¼;
Sec. 20: SW¼SE¼;
Sec. 29: Lots 1 and 2, NW¼NE¼.
T. 13 S., R. 5 W.,
Sec. 13: S½NE¼, N½SE¼.
T. 14 S., R. 3 W.,
Sec. 10: NW¼SE¼.
T. 14 S., R. 9 W.,
Sec. 12: NE¼SE¼.

The above-described area aggregates approximately 1,632.69 acres.

4. For a period of 60 days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the District Manager, Bureau of Land Management, Post Office Box 778, Fillmore, Utah 84631; or to the District Manager, Bureau of Land Management, 1750 South Redwood Road, Salt Lake City, Utah 84104; or to the State Director, Bureau of Land Management, Post Office Box 11505, Salt Lake City, Utah 84111.

5. The record and maps depicting these lands are on file and may be viewed at the Salt Lake District Office, 1750 South Redwood Road, Salt Lake City, in the Fillmore District Office, Fillmore, and the State office, Federal Building, Salt Lake City, Utah.

6. A public hearing on the proposed classification will be held January 16, 1968 at 1:30 p.m. in the courtroom of the Juab County Courthouse, Nephi, Utah.

R. D. NIELSON,
State Director.

[F.R. Doc. 67-15089; Filed, Dec. 28, 1967; 8:47 a.m.]

[Utah 4486]

UTAH

Notice of Proposed Withdrawal and Reservation of Lands

DECEMBER 22, 1967.

The Department of the Air Force has filed an application for the withdrawal of the lands described below from all forms of appropriation and use except grazing under the Taylor Grazing Act.

The applicant desires the land for the construction and operation of seismometer sites in conjunction with the Uinta Basin Observatory.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned office of the Bureau of Land Management, Department of the Interior, Post Office Box 11505, Salt Lake City, Utah 84111.

The Department's regulations (43 CFR 2311.1-3(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

SALT LAKE MERIDIAN

T. 4 S., R. 19 E.,
Sec. 13, N½ of lot 1.
T. 8 S., R. 20 E.,
Sec. 9, SW¼SE¼SE¼.
T. 7 S., R. 22 E.,
Sec. 35, NE¼NE¼NE¼.
T. 5 S., R. 23 E.,
Sec. 36, NE¼SE¼NW¼.

The lands described aggregate approximately 37 acres.

R. D. NIELSON,
State Director.

[F.R. Doc. 67-15090; Filed, Dec. 28, 1967; 8:47 a.m.]

[C-2686]

COLORADO

Notice of Classification of Public Lands for Multiple-Use Management; Correction

DECEMBER 14, 1967.

In F.R. Document 67-13983 appearing at page 16441 of the issue for Thursday, November 30, 1967, the following change should be made:

PARAGRAPH 2. That part which states "No protests or objections were received" should be corrected to read: "Comments in the form of an objection by a public-sale applicant were received following publication of the notice of proposed classification (32 F.R. 12387) and at the public hearing held on October 19, 1967, at Grand Junction, Colo. The comments have been carefully considered and evaluated, and the concensus at the public hearing was for multiple-use management of the lands."

The lands involved:

UTE PRINCIPAL MERIDIAN, COLORADO

T. 1 N., R. 3 W.,
Sec. 9, lots 11 and 12;
Sec. 10, lots 12 and 13;
Sec. 11, lot 6.

These lots aggregate approximately 80 acres.

The record showing comments received and other information is on file and can be examined in the Grand Junction District Office, Bureau of Land Management, Federal Building, Fourth and Rood, Grand Junction, Colo. 81502.

E. I. ROWLAND,
State Director.

[F.R. Doc. 67-15119; Filed, Dec. 28, 1967; 8:49 a.m.]

[C-2736]

COLORADO

Notice of Classification of Public Lands for Multiple-Use Management

DECEMBER 22, 1967.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18), and to the regulations in 43 CFR Parts 2410 and 2411, the public lands within the areas described below together with any lands therein that may become public lands in the future are hereby classified for multiple-use management. Publication of this notice segregates all the described lands from appropriation only under the agricultural land laws (43 U.S.C. Chapters 7 and 9; 25 U.S.C. 334) and from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171), and the lands shall remain open to all other applicable forms of appropriation including the mining and mineral leasing laws. As used in this order, "public lands" means any lands withdrawn or reserved by Executive Order 6910 of November 26, 1934, as amended or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269) as amended which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. No protests or objections were received following publication of a notice of proposed classification (32 F.R. 14607) or at the public hearing held on November 9, 1967, at Eagle, Colo. The record showing the comments received and other information is on file and can be examined in the Glenwood Springs District Office, Bureau of Land Management, Glenwood Village Inn, Post Office Box 1009, Glenwood Springs, Colo. 81601, and in the Land Office, Bureau of Land Management, Room 15019 Federal Building, Denver, Colo. 80202.

SIXTH PRINCIPAL MERIDIAN, COLORADO

EAGLE COUNTY

Block A

T. 3 S., R. 83 W.,
Secs. 2 to 5, inclusive;
Secs. 15, 22, 26 to 36, inclusive.
T. 4 S., R. 83 W.,
Secs. 2 to 11, inclusive;
Secs. 13, 14, 15, 16, 19, 23, 24, 25, and 30.
T. 4 S., R. 82 W.,
Secs. 19, 20, 21, 26 to 34, inclusive.
T. 5 S., R. 83 W.,
Secs. 1, 2, 3, and 12, north of the Eagle River.

The public lands described in this block aggregates approximately 17,800 acres.

Block B

T. 4 S., R. 84 W.,
Secs. 24 to 27, inclusive, south of the Eagle River;
Secs. 33 to 36, inclusive, south of the Eagle River.
T. 5 S., R. 84 W.,
Secs. 1, 2, 3, 11, 12, 13, and 24.
T. 5 S., R. 83 W.,
Secs. 6, 7, 18, 19, 30, 31, and 36.

The public land described in this block aggregate approximately 7,300 acres.

Block C

T. 5 S., R. 81 W.,
Secs. 9, 10, 11, 12, 14, 15, 17, 18, 22, 23, 26, 27, and 34.
T. 5 S., R. 82 W.,
Sec. 12, south of the Eagle River;
Sec. 18.

The public lands described in this block aggregate approximately 4,200 acres.

The total area described aggregates approximately 29,300 acres of public land.

3. For a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER, interested parties may submit comments to the Secretary of the Interior, LLM, 721, Washington, D.C. 20240 (43 CFR 2411.1-2(d)).

J. ELLIOTT HALL,
Acting State Director.

[F.R. Doc. 67-15120; Filed, Dec. 28, 1967; 8:49 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[Marketing Agreement 146]

1967 CROP PEANUTS

Indemnification

Pursuant to the provisions of section 36 of the marketing agreement regulating the quality of domestically produced peanuts heretofore entered into between the Secretary of Agriculture and various handlers of peanuts (29 F.R. 9402) and upon recommendation of the Peanut Administrative Committee established pursuant to such agreement and other information it is hereby found that the amendment hereinafter set forth to the Terms and Conditions of Indemnification Applicable to 1967 Crop Peanuts (32 F.R. 6732) will tend to effectuate the objectives of the Agricultural Marketing Agreement Act of 1937, as amended, and of such agreement.

Amendment of the Terms and Conditions is necessary to permit indemnification of handlers sustaining losses due to rejections not recognized in the original issuance. In isolated cases, chemical analysis of the product made from remilled lots raises the suspicion that a portion or all of the product produced therefrom is unwholesome due to aflatoxin. In this event, the manufacturer withholds the product from market and, to cover his loss, rejects the handler invoice on the peanuts or claims reimbursement.

Therefore, after the present seventh paragraph of the Terms and Conditions of Indemnification Applicable to 1967 Crop Peanuts there is added the following paragraph:

Claims for indemnification on 1967 crop peanuts may be filed by any handler sustaining a loss as a result of a buyer withholding from human consumption a portion or all the product made from a lot of peanuts which had been remilled pursuant to these terms and conditions. The committee shall pay, to the extent of the raw peanut equivalent value of the product so withheld, such claim as it determines to be valid.

This amendment should be issued as soon as possible so as to implement and effectuate the provisions of the marketing agreement dealing with indemnification. Marketing of the 1967 peanut crop is partly completed and at least one handler has already sustained a loss of the type covered by the amendment. Hence, this amendment should be effective as soon as possible, i.e., on the effective date specified herein.

The foregoing amendment is hereby approved and issued this 22d day of December 1967 to become effective December 22, 1967.

PAUL A. NICHOLSON,
Deputy Director,
Fruit and Vegetable Division.

[F.R. Doc. 67-15106; Filed, Dec. 28, 1967; 8:48 a.m.]

DEPARTMENT OF COMMERCE

National Bureau of Standards

NATIONAL BUREAU OF STANDARDS RADIO STATIONS

Notice of Standard Frequency and Time Broadcasts

In accordance with NBS policy of giving notices regarding changes in phases of seconds pulses, notice is hereby given that there will be no adjustment on February 1, 1968, in the phase of seconds pulses emitted from radio station WWVB, Fort Collins, Colo. The carrier frequency of WWVB is 60 kHz and is broadcast without offset. These emissions are made following the stepped atomic time (SAT) system as coordinated by the Bureau International de l'Heure (BIH).

Notice is also hereby given that there will be an adjustment in the phases of time pulses emitted from radio stations WWV, Fort Collins, Colo., and WWVH, Maui, Hawaii. The clocks at these stations are to be advanced 100 ms at 0000 UT on February 1, 1968, as announced by the BIH. The time pulses on these stations will continue to occur at intervals which are longer than 1 second by 300

parts in 10^{11} due to the offset maintained in the carrier frequencies of stations which follow the universal time (UTC) system, also coordinated by the BIH.

Phase adjustments, when needed, insure that the emitted pulses from all stations will remain within about 100 ms of the UT2 scale, a nonuniform scale associated with the rotation of the earth. NBS obtains daily UT2 information from forecasts of extrapolated UT2 clock readings provided weekly by the U.S. Naval Observatory in accordance with the close cooperation maintained between the two agencies.

A. V. ASTIN,
Director.

DECEMBER 15, 1967.

[F.R. Doc. 67-15068; Filed, Dec. 28, 1967; 8:46 a.m.]

Office of the Secretary

SOFTWOOD LUMBER STANDARD

Notice of Issuance of Recommended Standard for Softwood Lumber and Related Procedural Rules

On August 21, 1967, the Secretary of Commerce announced: "It is time for forthright action to bring the lumber standards controversy to a conclusion. A solution by agreement among the affected interests is apparently not possible under our procedures. In this situation, we should not let all the progress toward sound national standards and effective enforcement and inspection become blocked either by an effective veto of a minority of interests or dominated by a few regional interests. For the good of the entire country, we should have a truly national standard."

The Secretary added: "While we cannot issue a mandatory standard without congressional authorization, we can meet our responsibility and the country's needs by recommending a national voluntary lumber standard. We have the authority to develop and publish such standards in cooperation with industry and Government agencies. We intend to use this authority to publish a lumber standard, working with the most representative body in existence, the American Lumber Standards Committee, as well as other interested parties. We intend to act through an appropriate public process to develop and recommend this national standard * * *. Under this solution, we do not have to resubmit the recommended voluntary standard to an industry vote because it will be developed by a public process similar to rule making."

The Secretary then stated that the following steps would be taken:

1. The American Lumber Standards Committee, a committee appointed by the Secretary of Commerce and representative of producers, distributors and consumers of lumber as well as others, will be given the opportunity to give advice on the kind of a standard the Secretary should publish.

2. Based on these recommendations and other relevant information and discussions, the Department will propose a standard and publish it in the FEDERAL REGISTER for public comment, at which time, if need be, evidentiary hearings will be commenced to explore in depth the implications of the proposed standard and to get the best possible technical information on the feasibility of performance standards which are not in the standard which was recently not accepted.

3. The Department then will publish its standard and at that time will withdraw the existing standard. The Department's work will also be in cooperation with other Federal agencies, and they will be invited to participate in the public process. Industry, of course, will be under no legal obligation to follow the standard published.

Following the announcement, the Department of Commerce published a Notice in the FEDERAL REGISTER (32 F.R. 13088, Sept. 14, 1967) inviting interested persons to submit suggestions on the kind of standard which should be proposed. Advice, proposals and comments have been received from the American Lumber Standards Committee and from many others in response to the Notice and each submission has been carefully considered. As indicated in the Secretary's announcement, a proposed standard (herein the "Proposed Recommended Standard") has been prepared, based on the above and "other relevant information and discussions". The text of the Proposed Recommended Standard is appended.

The Secretary has determined that the public process leading to a final recommended standard should include the solicitation of written and oral comments from the public at a public hearing to "explore in depth the implications of the (Proposed Recommended Standard) and to get the best possible technical information on the feasibility of performance standards which are not in the standard which was recently not accepted." Procedures established for the sole purpose of governing public participation in this process are appended and effective herewith. Following the close of the public hearing and consideration of, among other things, the material adduced thereby, a final recommended standard (herein the "Recommended Standard") will be published and the existing standard (SPR 16-53) withdrawn.

The Recommended Standard, while based on materials drawn from many sources including but not limited to materials presented at the public hearing, will reflect solely the views of the Department of Commerce and will contain no provisions compelling others to adopt or comply with the same. As set forth in the procedures, relevant comment is invited on all sections of the Proposed Recommended Standard; interested parties are particularly invited to comment on Sections 4.4.3 (Dressed sizes), 5.3.1 (Grading—Stresses), and 9.4 (Function of the Board). With respect to Section 4.4.2, specific attention is directed to comments received from the West Coast Lumber Inspection Bureau on October 9, 1967, which are available for public inspection and copying at the Central Reference and Records Inspection Facility of the Department of Commerce, Room 2122, Main Commerce Building, 14th Street between E Street and Constitution Avenue NW., Washington, D.C. (herein referred to as the "Commerce Facility").

PROCEDURE FOR ADOPTION OF A RECOMMENDED STANDARD FOR SOFTWOOD LUMBER

1. Notice is hereby given that the Secretary of Commerce intends to issue and publish a Recommended Standard for softwood lumber pursuant to 15 U.S.C. 272 (Reorg. Plan No. 3 of 1946, Part VI, and other applicable provisions of law.

2. The Proposed Recommended Standard set forth at the conclusion of this notice was developed following consideration of relevant information and advice registered by the American Lumber Standards Committee and by other interested persons responding to the Notice published in the FEDERAL REGISTER of September 14, 1967 (32 F.R. 13088), as well as of other relevant information, views and expertise. The comments of the American Lumber Standards Committee and other responses to the aforesaid notice are available for public inspection and copying at the Commerce Facility.

3. Written comments on the Proposed Recommended Standard are invited from all interested persons, including other Federal agencies. Persons desiring to register written comments shall submit them in five copies to the Assistant Secretary for Science and Technology, Room 5884, U.S. Department of Commerce, Washington, D.C., on or before January 31, 1968. All such written submissions shall:

(a) Identify the specific section or sections of the Proposed Recommended Standard to which comments are being addressed.

(b) Where the purpose of the comment is to effect a revision in the language of the Proposed Recommended Standard, include the exact text of the desired revision.

(c) State the reasons for each position taken.

(d) Contain all the material considered relevant to any statement made in the submission.

(e) Include the data and other written material upon which the person making the submission proposes to rely in support of the position taken on each point, and in opposition to positions, arguments and data submitted by other persons.

(f) In addition to written comments, include a statement whether the person making a submission intends to participate in the oral hearing provided hereinbelow in paragraphs 5-7.

4. All written comments, including supplementary materials thereto, received by the Department from interested persons will be made available for public inspection and copying at the Commerce Facility.

5. The Department will hold an oral hearing for the purpose of receiving from any interested persons, including other Federal agencies, any relevant material respecting the Proposed Recommended Standard, commencing at 9:30 a.m. on Monday, February 19, 1968, in Room 6802, Main Commerce Building, Washington, D.C. Persons wishing to make an oral presentation at this hearing shall file in five copies a written notice of appearance with the Assistant Secretary for Science and Technology on or before February 12, 1968. The notice of appearance shall include:

(a) The specific section or sections or parts thereof of the Proposed Recommended Standard to which comments at the hearing are to be addressed;

(b) A brief statement of position to be taken at the hearing as to each such section, including the issues, the reasons for such position, and if revisions in the Proposed Recommended Standard are suggested, the exact text of such revisions;

(c) The period of time requested for the presentation;

(d) The name and title of the individual who will make the presentation.

All notices of appearance will be made available for public inspection and copying at the Commerce Facility.

6. The hearing shall be conducted by a presiding officer appointed by the Secretary and empowered to impose reasonable time limitations upon the length of time allotted to any person, to make rulings on relevancy, materiality, unnecessary accumulation of materials, and all other matters arising at the hearing, whether or not specifically covered hereby. A five-member panel appointed by the Secretary will sit with the presiding officer and question participants in order to develop the views of all interested persons. Participants will be sworn and shall be prepared to respond to questions from the panel on all aspects of their presentation. No questions will be addressed to participants except by the presiding officer and the panel. No findings of fact or recommendations will be made by the presiding officer or by the members of the panel.

7. A stenographic transcript of the public hearing and exhibits submitted thereat will be made available for public inspection and copying at the Commerce Facility. Exhibits received at the hearing as part of the oral presentation of interested persons will be numbered and made a part of the record of the hearing. Any persons present at the hearing may, by motion addressed to after the date the transcript becomes available to him, move to correct the transcript in any respect he believes it to be inaccurate. Copies of the transcript may be obtained from the reporter upon payment of the prescribed fee. Any person desiring a copy of the transcript or of any written exhibit or of other material filed with the Commerce Facility may obtain such upon request and upon payment of the cost thereof.

8. Within 21 days after the termination of the hearing, any interested person may submit written rebuttal materials in five copies to the Assistant Secretary for Science and Technology. Such rebuttal may be addressed to the written comments submitted prior to the public hearing or to the record of the public hearing. A copy of such rebuttal will be available for public inspection and copying at the Commerce Facility.

9. All oral and written comments and other materials which are received by the Department pursuant to and responsive to this notice will be fully considered and evaluated. The Recommended Standard need not be exclusively based upon the written comments, the record of the hearing, and other information and views presented to the Department by interested persons in response to this notice. The Department may utilize other methods to obtain additional information from interested persons, including consultation with other Federal agencies. It may also rely upon data contained in its own files, on its own expertise, and on its own views or opinions. It may use all of these means to assure informed administrative action and protection of the public interest. The Recommended Standard will be issued by the Secretary and published in the FEDERAL REGISTER. The existing standard for softwood lumber (SPR 16-53) will be thereupon withdrawn.

10. Any interested person may, in accord with 5 U.S.C. 553(e), petition the Secretary to amend or repeal all or any part of the procedural rules contained in this notice. Such petitions may be submitted at any time but, unless the Secretary in his discretion shall otherwise elect, no such petition shall delay the hearing. Each petition shall be submitted in five copies to the Assistant Secretary for Science and Technology, Main Commerce Building, Washington, D.C. 20230. The petition shall (a) set forth the text of the rule to be amended or repealed, and the text of the proposed rule, as the case may be; (b) explain the interest of the petitioner in the action requested; and (c) contain any information and arguments available to the petitioner to support the action sought. The decision on each petition shall be made by the Secretary and the petitioner promptly notified. Unless the Secretary otherwise specifies, no public hearing, argument or other proceeding will be held on a petition before its disposition. Each notice denying a petition will be accompanied by a brief statement of the procedural or other grounds for denial. The petition and related documents will be made available for public inspection and copying at the Commerce Facility, subject to 5 U.S.C. 552.

TEXT OF PROPOSED RECOMMENDED STANDARD FOR SOFTWOOD LUMBER

1. PURPOSE

1.1. General. The responsibility of the entire softwood lumber industry for maintaining in the public interest, nationally recognized size, grade, and inspection standards is recognized. The purpose of this publication is to establish standards for the size, grade, and inspection of softwood lumber.

This recommended standard is intended to establish a common basis for uniform industrywide inspection and grade marking practices for each piece of lumber which is produced and sold in accordance with the provisions hereof. The standard also provides a standardized working basis for the coordination of the grades of the various species of softwood lumber and for the preparation of grading rules applicable to each species. These American Lumber Standards are not intended for use either as grading rules or as purchase specifications.

2. SCOPE

2.1. General. This recommended standard covers the principal trade classifications and sizes of softwood lumber for yard, structural, and shop use. It provides a common basis of understanding for the classification, measurement, grading, and grade marking of rough and dressed sizes of various items of lumber, including finish, boards, dimension, and timbers.

2.2 Supplementary. This standard also includes the following:

(1) The organization and functions of the American Lumber Standards Committee and its Board of Review,

(2) The standard commercial names of the principal softwood species,

(3) The standard definitions of terms used in describing standard grades of lumber,

(4) The standard lumber industry abbreviations.

3. RECOMMENDATIONS

3.1 General. Standard terms and practices are defined and discussed in this section to encourage and promote the use of uniform methods in the grading, inspection, measurement, and description of softwood lumber.

3.2 Application. This standard applies to such lumber as may be identified as a manufactured product derived from a softwood log in a sawmill, or in a sawmill and planing mill, which when rough shall have been sawed, edged, and trimmed at least to the extent of showing saw marks in the wood on the four longitudinal surfaces of each piece for its overall length, and which has not been further manufactured than by crosscutting, ripping, resawing, joining crosswise and/or endwise in a flat plane, surfacing with or without end matching, and working.

3.3 Designation—"American Standard Lumber." Lumber conforming to the basic minimum size and grade provisions of the American Lumber Standards, when graded under rules approved by the Board of Review of the American Lumber Standards Committee, as hereinafter provided, may be designated "American Standard Lumber."

3.4 Terminology.

3.4.1 Dry Lumber. For the purposes of this standard, dry lumber is defined as lumber which has been seasoned or dried to a moisture content of 19 percent or less.

3.4.2 Green Lumber. For the purpose of this standard, green lumber is defined as lumber having a moisture content in excess of 19 percent.

3.4.3 Species. The standard commercial names, or their commonly accepted trade names for lumber cut from the principal species of softwoods, are given in Section 10, and should be used in the formulation of lumber grading rules and

in the terms of purchase and sale of American Standard Lumber.

3.4.4 Characteristics. The limitations of any grade of lumber described in certified grading rules should be expressed within the terms of the definitions in Section 11, which forms a part of this standard.

3.4.5 Abbreviations. The standard lumber abbreviations are shown in Section 12, which forms a part of this standard.

3.5 Measurement and Tally.

3.5.1 Board Measure. "Board measure" is the term used to indicate that a board foot is the unit of measurement of lumber. The number of board feet in a piece is obtained by multiplying the nominal thickness in inches by the nominal width in feet by the length in feet, except for lumber with a nominal thickness less than 1 inch, for which the number of board feet equals the product of the nominal width in feet by the length in feet.

3.5.2 Tally, Standard Sizes. Lumber should be tallied board measure. Lumber of standard sizes should be tallied and described on the invoice by showing the number of pieces of each size and length in the shipment. In shipments based on board measure, a piece tally in board feet for each length should be shown on the invoice.

3.5.3 Tally Nonstandard Sizes. Lumber finished to special nonstandard sizes should be tallied as of either the rough or the nominal size necessarily used in its manufacture, and the actual thickness and width of such lumber should be shown on the invoice.

3.5.4 Board Rule Tally. In lumber specified to be measured with a board rule on actual widths, pieces measuring to the even half foot are alternately counted as of the next higher and lower foot count; fractions below the half foot are dropped and fractions above the half foot are counted as of the next higher foot.

3.5.5 Averages—Length, Width. The average length in feet of a shipment of lumber is computed by dividing the total length in feet by the total number of pieces in the shipment. The average width in inches of a shipment of lumber 1 inch or less in thickness is computed by dividing the total board feet by the total length in feet, and multiplying the result by 12; but if thicker than 1 inch, the total board foot tally is divided first by the nominal thickness as expressed in inches and fractions of an inch.

3.6 Special Provisions.

3.6.1 Bundled Lumber. Each length of bundled lumber except end-matched lumber and bevel and bungalow siding should be bundled separately.

3.6.2 Rough Finish. In shipments of rough finish and boards, pieces ½-inch or more above the nominal thickness, such as may be produced by uneven sawing, may, at the option of the buyer, be rejected or be accepted as of the next lower grade.

3.6.3 Specified Lengths. The marketing practice covering lengths of lumber should permit the buyer to obtain specified lengths, or specified assortments of lengths.

4. CLASSIFICATIONS OF AMERICAN STANDARD LUMBER

4.1 General. American Standard softwood lumber includes only lumber of the classifications shown below.

TABLE 2—NOMINAL AND MINIMUM DRESSED DRY SIZES OF SIDING AT 19 PERCENT MAXIMUM MOISTURE CONTENT
(The thicknesses apply to all widths and all widths to all thicknesses.)

Item	Thickness		Face widths	
	Nominal [1]	Minimum dressed	Nominal	Minimum dressed
	(Inches)	(Inches)	(Inches)	(Inches)
Bevel siding	½	7/16 butt, 3/16 tip	4	3 9/16
	9/16	15/32 butt, 3/16 tip	5	4 1/2
	⅝	9/16 butt, 3/16 tip	6	5 1/2
	¾	11/16 butt, 3/16 tip	8	7 1/4
	1	¾ butt, 3/16 tip	10	9 1/4
			12	11 1/4
Bungalow siding	¾	11/16 butt, 3/16 tip	8	7 1/4
			10	9 1/4
			12	11 1/4
Rustic and drop siding (shiplapped, ¾-in. lap)	⅝	9/16	4	3 1/4
	1	25/32	5	4 1/16
			6	5 1/16
Rustic and drop siding (shiplapped, ¾-in. lap)	⅝	9/16	4	3
	1	25/32	5	3 15/16
			6	4 15/16
			8	6 15/16
			10	8 15/16
			12	10 15/16
Rustic and drop siding (dressed and matched)	⅝	9/16	4	3 1/4
	1	25/32	5	4 1/16
			6	5 1/16
			8	6 15/16
			10	8 15/16

[1] For nominal thicknesses under 1 inch, the board measure count is based on the nominal surface dimensions (width by length). With the exception of nominal thicknesses under 1 inch, the nominal thicknesses and widths in this table are the same as the board measure or count sizes.

TABLE 3—NOMINAL AND MINIMUM DRESSED SIZES OF BOARDS, DIMENSION, AND TIMBERS.
(The thicknesses apply to all widths and all widths to all thicknesses.)

Item	Thickness			Face widths		
	Nominal	Minimum dressed		Nominal	Minimum dressed	
		Dry [1]	Green [1]		Dry [1]	Green [1]
	(Inches)	(Inches)	(Inches)	(Inches)	(Inches)	(Inches)
Boards [2]	1	¾	25/32	2	1½	1 9/16
	1 1/4-6/4	1	1 1/32	3	2 9/16	2 5/8
	1½	1¼	1 9/32	4	3 9/16	3 5/8
				5	4½	4 5/8
				6	5½	5 5/8
				7	6½	6 5/8
				8	7½	7 5/8
				9	8½	8 5/8
				10	9½	9 5/8
				11	10½	10 5/8
				12	11½	11 5/8
				14	13½	13 5/8
				16	15½	15 5/8
4-inch Dimension	3	1½	1 9/16	2	1½	1 9/16
				3	2 9/16	2 5/8
				4	3 9/16	3 5/8
				6	5½	5 5/8
				8	7½	7 5/8
				10	9½	9 5/8
				12	11½	11 5/8
				14	13½	13 5/8
				16	15½	15 5/8
Dimension over 2 inch thick dry or green	2½	2 1/16		3	2 5/8	
	3	2 9/16		4	3 5/8	
	3½	3 1/16		6	5 1/2	
	4	3 5/8		8	7 1/2	
				10	9 1/2	
				12	11 1/2	
				14	13 1/2	
				16	15 1/2	
Timbers dry or green	5 and thicker	½ off		5 and thicker	½ off	

[1] Boards less than the minimum thickness for 1 inch nominal but ⅝ inch or greater thickness dry (1 1/16 inch green) may be regarded as American Standard Lumber, but such boards shall be marked to show the size and condition of seasoning at the time of dressing. They shall also be distinguished from 1 inch boards on invoices and certificates.
[2] See paragraphs 3.4.1 and 3.4.2 for the definitions of dry and green lumber.

4.2 Use Classifications. Softwood lumber is classified by use as follows:

(1) *Yard lumber*—Lumber of those grades, sizes and patterns which is generally intended for ordinary construction and general building purposes.

(2) *Structural lumber*—Lumber that is 2 or more inches in nominal thickness and width for use where working stresses are required.

(3) *Factory and shop lumber*—Lumber that is produced or selected primarily for remanufacturing purposes (see 5.4).

4.3 Manufacturing Classifications. Softwood lumber is classified according to extent of manufacture as follows:

(1) *Rough lumber*—Lumber that has not been dressed (surfaced) but which has been sawed, edged, and trimmed at least to the extent of showing saw marks in the wood on the four longitudinal surfaces of each piece for its overall length.

(2) *Dressed (surfaced) lumber*—Lumber that has been dressed by a planing machine (for purpose of attaining smoothness of surface and uniformity of size) on one side (S1S), two sides (S2S), one edge (S1E), two edges (S2E), or a combination of sides and edges (S1S1E, S1S2E, S2S1E, S4S).

(3) *Worked lumber*—Lumber which in addition to being dressed has been matched, shiplapped, or patterned.

(a) *Matched lumber*—Lumber that has been worked with a tongue on one edge of each piece and a groove on the opposite edge, to provide a close tongue-and-groove joint by fitting two pieces together; when end-matched, the tongue and groove are worked in the ends also.

(b) *Shiplapped lumber*—Lumber that has been worked or rabbeted on both edges of each piece to provide a close lapped joint by fitting two pieces together.

(c) *Patterned lumber*—Lumber that is shaped to a pattern or to a molded form, in addition to being dressed, matched, or shiplapped, or any combination of these workings.

4.4 Size Classifications. Softwood lumber is classified according to size as follows:

4.4.1 Nominal Size. Softwood lumber is classified by nominal size as follows:

(1) *Boards*—Lumber less than 2 inches in nominal thickness and 2 or more inches (nominal) wide. Boards less than 6 inches (nominal) wide may be classified as strips.

(2) *Dimension*—Lumber from 2 inches to, but not including 5 inches in nominal thickness, and 2 or more inches (nominal) wide. Dimension may be classified as framing, joists, planks, rafters, studs, small timbers, etc.

(3) *Timbers*—Lumber 5 or more inches nominally in least dimension. Timber may be classified as beams, stringers, posts, caps, sills, girders, purlins, etc.

4.4.2 Roughdry[1] Size. The minimum roughdry thickness of finish, common boards, and dimension of sizes 1 or more inches nominal thickness shall be not less than 1/16-inch thicker than the corresponding minimum finished dry thickness except that 20 percent of a shipment may be not less than 3/32-inch thicker than the corresponding minimum finished dry thickness. The minimum roughdry widths of finish, common strip, boards, and dimension shall be not less than 1/16-inch wider than the corresponding minimum finished dry width.

4.4.3 Dressed Sizes. Dressed sizes of lumber shall equal or exceed the minimum sizes shown in Tables 1, 2, 3, 4, and 5. (Refer also to paragraph 5.5.5 covering length and paragraph 7.2 for grade marking nonstandard sizes.)

TABLE 1—NOMINAL AND MINIMUM DRESSED DRY SIZES OF FINISH, FLOORING, CEILING, PARTITION, AND STEPPING AT 19 PERCENT MAXIMUM MOISTURE CONTENT
(The thicknesses apply to all widths and all widths to all thicknesses except as modified.)

Item	Thickness		Face widths	
	Nominal [1]	Minimum dressed	Nominal	Minimum dressed
	(Inches)	(Inches)	(Inches)	(Inches)
Finish	⅝	9/16	2	1½
	½	7/16	3	2 9/16
	9/16	9/16	4	3 9/16
	¾	¾	5	4½
	1	¾	6	5½
	1¼	1	7	6½
	1½	1¼	8	7¼
	1¾	1½	9	8¼
	2	1½	10	9¼
	2½	2	11	10¼
	3	2 9/16	12	11¼
	3½	3 1/16	14	12¼
	4	3 9/16	16	13¼
Flooring [2]	½	7/16	2	1 9/16
	⅝	9/16	3	2¼
	¾	11/16	4	3¼
	1	¾	5	4 1/16
	1¼	1	6	5 1/16
	1½	1¼		
Ceiling [3]	⅜	5/16	3	2¼
	½	7/16	4	3¼
	⅝	9/16	5	4 1/16
	¾	11/16	6	5 1/16
	1	25/32	8	7¼
Partition [3]			10	9¼
			12	11¼
			14	13¼
			16	15¼
Stepping [3]	1	¾	8	7¼
	1¼	1	10	9¼
	1½	1¼	12	11¼
	2	1½		

[1] For nominal thicknesses under 1 inch, the board measure count is based on the nominal surface dimensions (width by length). With the exception of nominal thicknesses under 1 inch, the nominal thicknesses and widths in this table are the same as the board measure or count sizes.
[2] In tongued-and-grooved flooring and in tongued-and-grooved and shiplapped ceiling of 5/16 inch, 7/16 inch, and 9/16 inch dressed thicknesses, the tongue or lap shall be 5/16 inch wide, with the overall widths 9/16 inch wider than the face widths shown in the table above. In all other worked lumber of dressed thicknesses of ⅝ inch to 1¼ inch, the tongue shall be ¼ inch wide or wider in tongued-and-grooved lumber, and the lap ⅝ inch wide or wider in shiplapped lumber, and the overall widths shall be not less than the dressed face widths shown in the above table plus the width of the tongue or lap.

TABLE 4.—NOMINAL AND MINIMUM DRESSED SIZES OF (2- INCH AND UNDER) SHIPLAP, CENTERMATCH AND D & M.
(The thicknesses apply to all widths and all widths to all thicknesses.)

Item	Thickness			Face widths		
	Nominal	Minimum dressed		Nominal	Minimum dressed	
		Dry [1]	Green [1]		Dry [1]	Green [1]
	(Inches)	(Inches)	(Inches)	(Inches)	(Inches)	(Inches)
Shiplap ⅝-inch lap	1	⅝	25/32	4	3 1/16	3 1/16
				6	5 1/16	5 1/16
				8	7	7 1/8
				10	9	9 1/4
				12	11	11 1/4
				14	13	13 1/4
				16	15	15 1/4
Shiplap ½-inch lap	1	⅝	25/32	4	3	3 1/16
				6	5 1/16	5 1/16
				8	7	7
				10	8 15/16	9 1/16
				12	10 15/16	11 1/16
				14	12 15/16	13 1/16
				16	14 15/16	15 1/16
Centermatch ¼-inch tongue	1	⅝	25/32	4	3 1/16	3 1/16
	1¼	1	1 1/32	5	4 1/16	4 1/16
	1½	1¼	1 9/32	6	5 1/16	5 1/16
				8	7 1/16	7 1/16
				10	9 1/16	9 1/16
				12	11 1/16	11 1/16
2" D & M ¼-inch tongue	2	1½	1 9/16	4	3 1/16	3 1/16
				6	5 1/16	5 1/16
				8	7 1/16	7 1/16
				10	9	9 1/16
				12	11	11 1/16
2" Shiplap	2	1½	1 9/16	4	3	3 1/16
				6	4 15/16	5 1/16
				8	6½	7
				10	8½	9 1/16
				12	10½	11 1/16

[1] Roughdry means before dressing and at moisture content specified for seasoned lumber in paragraph 5.6.1.
[1] See paragraphs 3.4.1 and 3.4.2 for the definitions of dry and green lumber.

TABLE 5—WORKED LUMBER, SUCH AS FACTORY FLOORING, HEAVY ROOFING DECKING, AND SHEET PILING.

(The thicknesses apply to all widths and all widths to all thicknesses.) See "Note"

Thickness[1]		Face widths	
Nominal (Inches)	Minimum Dressed (Dry or Green) (Inches)	Nominal (Inches)	Minimum Dressed (Dry or Green) (Inches)
TONGUE AND GROOVED			
2½	2½	4	3½
3	2½	6	5½
3½	3½	8	7
4	3½	10	9
5	4½	12	11
SHIPLAP			
2½	2½	4	3
3	2½	6	5
3½	3½	8	7
4	3½	10	9
5	4½	12	11
GROOVED-FOR-SPLINES			
2½	2½	4	3½
3	2½	6	5½
3½	3½	8	7½
4	3½	10	9½
5	4½	12	11½

NOTE: In worked lumber of nominal thicknesses of 2 inches and over, the tongue shall be ⅜ inch wide in tongued-and-grooved lumber and the lap ⅜ inch wide in shiplapped lumber, with the overall widths ⅜ inch and ⅛ inch wider, respectively, than the face widths shown in the above table. Double tongued-and-grooved decking may be manufactured with a 5/16 inch tongue and double T & G nominal 4 inches thick may be surfaced 3½ inches thick.

[1] See table 2 for information on 2-inch dimension.

5. GRADING PROVISIONS

5.1 Standards for Grading. To the extent to which differences in the characteristics of species, in the quality of logs, in conditions of manufacture, and in the uses to which the product is put will permit, in practical application, the basic provisions for the grading of lumber shall be uniform. The grading of lumber cannot be considered an exact science, because it is based on either a visual inspection of each piece and the judgment of the grader or on the results of a method of mechanically determining the strength characteristics of structural lumber (see 5.3.2). Grading rules, however, shall be sufficiently explicit to establish a maximum of 5 percent below grade as a reasonable variation between graders. If any grading rules indicate that a grade qualifies under two use classifications, the grade provisions shall satisfy the requirements for both classifications.

5.2 Yard lumber.

5.2.1 Grade Classifications. The grading of yard lumber is based upon the uses for which the particular grade is designed, and is applied to each kind with reference to its size and length when graded, without consideration to further manufacture. On the basis of quality, the basic grade classifications of yard lumber are as follows:

(1) *Select:* Lumber of good appearance and finishing qualities.

(a) Suitable for natural finishes.

(i) Practically clear.

(ii) Generally clear, and of high quality.

(b) Suitable for paint finishes.

(i) Adapted to high-quality paint finishes.

(ii) Intermediate between high finishing grades, and common grades and partaking somewhat of the nature of both.

(2) *Common:* Lumber which is suitable for general construction and utility purposes.

(a) For standard construction use.

(i) Suitable for better type construction purposes.

(ii) Well adapted for good standard construction.

(iii) Designed for low-cost temporary construction.

(b) For less exacting construction purposes.

(i) Low quality.

(ii) Lowest recognized grade must be usable.

5.2.2 Grade Characteristics. The method of determining the extent and limitations of the characteristics permitted in the poorest pieces admissible in each grade of yard lumber shall be stated in an approved rule except in the lowest grade of each classification. A grade shall be representative, however, and shall not comprise only low-line pieces.

5.2.3 Grade Sizes. The dressed thicknesses and widths of yard lumber as specified in section 4.4 shall be considered as minimum standards for the corresponding nominal sizes as shown. Lumber of standard size, rough or dressed, should be described by its nominal dimension.

5.2.4 Grading—Faces. Timbers and dimension shall be graded from all four faces. All yard lumber and yard boards may be graded from the face or best side only.

5.3 Structural Lumber.

5.3.1 Grading—Stresses. Working stress values contained in grading rules shall be developed in accordance with appropriate ASTM standards and other technically sound criteria. (The National Bureau of Standards, with the advice and counsel of the U.S. Forest Products Laboratory, shall be the final authority as to the appropriateness of such standards or criteria.) The Board of Review shall seek the assistance of the Forest Products Laboratory in reviewing working stress values set forth in grading rules, and, in the case of each set of grading rules submitted for approval, the Board shall obtain a report from the Laboratory to verify that the claimed values have been developed in accordance with the standards and criteria described above. Rules-writing agencies shall make available upon request an explanation of the means by which working stress values contained in rules have been derived.

5.3.2 Grading—Mechanical. The grading of structural lumber by mechanical means is recognized as an acceptable method of grading, but all such grading equipment and methods are subject to approval and certification by the Board of Review.

5.3.3 Grading—Faces. Timbers and dimension shall be graded from all four faces.

5.4 Factory and Shop Lumber.

5.4.1 Grade Classification. The end use of factory and shop lumber produced from different species and in the several regions varies considerably; accordingly, the American Lumber Standard grade classifications shall be those promulgated by the several agencies which formulate and publish grading rules and which have been approved by the Board of Review.

5.4.2 Grade Characteristics. Factory and shop lumber is graded with reference to its use for doors and sash, or on the basis of characteristics affecting its use for general cutup purposes, or on the basis of size of cutting. The grade of factory and shop lumber shall be determined by the percentage of the area of each board or plank available in cuttings of specified or of given minimum size and qualities. The grade of factory and shop lumber shall be determined from the poor face, although the quality of both sides of each cutting must be considered.

5.4.3 Grade Sizes. The end use of factory and shop lumber produced from different species and in the several regions varies considerably; accordingly, the American Lumber Standard grade sizes shall be those promulgated by the several agencies which formulate and publish grading rules and which have been approved by the Board of Review.

5.4.4 Warped Lumber. The cuttings in warped lumber shall be so laid out as to surface two sides to standard thickness and have straight edges parallel to the edges of the board or plank.

5.5 General Grading Provisions.

5.5.1 Grade Characteristics. Characteristics permitted and limitations for rough lumber shall be the same as those prescribed in grading rules for dressed lumber of like kind and grade, and in addition, such others as will disappear in standard dressing shall be allowed. If characteristics other than those described in certified grading rules are encountered, they shall be appraised in relation to the characteristics permitted or limitations prescribed for the grade under consideration, and shall be allowed if regarded as equivalent or less damaging in effect on the strength, appearance, or other utility value of the piece. The characteristics and limitations in any grade or species vary as the area of the piece increases or diminishes with respect to the basic size or area specified, but their size shall not exceed that permitted in the respective grading rules.

5.5.2 Special Provisions. When heartwood, sapwood, grain classifications, and other optional provisions are specified, and the lumber conforms to the requirements of such special provisions as well as of the regular grade designated, it may be regarded as of standard quality.

5.5.3 Mixed Grades. Mixed grades other than the two highest established grades for each species shall not be included in certified grading rules.

5.5.4 Nonstandard Grades. When nonstandard grades, sizes, or workings are specified, or when particular provisions of a standard grade are waived or changed, inspection shall be made accordingly, but all of the other provisions of the standard grading rules shall apply.

5.5.5 Standard Lengths. Standard lengths of lumber shall be in multiples of 1 or 2 feet as specified in the certified grading rules.

5.5.6 Trimmed Lengths. Unless otherwise stated in the contract of purchase, yard lumber shall be trimmed for the removal of spur and splintered ends, and if 2 inches and less in nominal thickness (except lath), shall be double-end-trimmed to a length that is not scant of nominal length and that is not over 2 inches in excess of nominal length.

5.6 Seasoning Provisions.

5.6.1 General. Grading rule provisions dealing with lumber seasoning and moisture content shall be developed by each region in accordance with its own conditions and the requirements of the users of its products, subject to the other provisions of this section. Provisions for seasoned lumber shall be expressed in terms of maximum moisture content to be allowed at any point on each piece. The restrictions on the moisture content of seasoned lumber shall apply at the time of shipment, as well as at the time of dressing, if dressed lumber is involved, and at the time of any reinspection on moisture content as provided in the applicable grading rules. Moisture content determinations shall be made with electric meters of the types described in Section 9, Method B of ASTM D-2016-65, "Methods of Test for Moisture Content of Wood," and the procedures to be used in making such determinations shall be in accordance with those described in Section 11, Method B of ASTM D-2016-65.[2]

5.6.2 Grading Rules. The grading rules for each species or region shall include clear definitions for dry (see 3.4.1) 2 inch nominal and thinner lumber, which shall be based on 19 percent or lower maximum moisture content, but the grading and grade marking of green (3.4.2) or dry lumber of any item as American Standard Lumber is a matter for each rules publishing agency to determine in accordance with its own conditions.

5.6.3 Dry Size Requirements. The grading rules shall require all 2 inch nominal and thinner lumber sold as dry to be 19 percent or less in moisture content at the time of dressing, and to be not less than American Lumber Standards minimum dry dressed thickness and width at 19 percent moisture, or at such lower moisture content as the lumber may be at the time of dressing. The minimum dressed dry sizes are shown in Tables 1, 2, 3, 4, and 5. Shrinkage that may occur after dressing to standard size shall be recognized through the allowance of a tolerance below minimum American Lumber Standards sizes on the basis of 1 percent shrinkage for each four points of moisture content reduction, or 0.7 percent shrinkage for Redwood, Western Red Cedar, and Northern White Cedar for each 4 points of moisture content reduction.

5.6.4 Size Differentials. When the grading rules in any region permit lumber of 2 inch nominal thickness and less to be dressed green, the rules shall require that the lumber be dressed to sizes specifically stated in the rules, which sizes shall provide differentials both in thickness and width on a basis that will cause the lumber to be not less than American Lumber Standards minimum sizes at 19 percent maximum moisture content.

5.6.5 Green Size Requirements. The green sizes specifically stated in the rules shall be not less than the green sizes[4] shown in Tables 3, 4, and 5, except for Redwood, Western Red Cedar, and Northern White Cedar. (For these three species, the following minimum dressed thicknesses shall apply: 2⅛2 inch for the corresponding ⅝ inch dry, 2⅝2 inch for nominal 1 inch, and 1 1⅛2 inch for 2 inch nominal. The following minimum green dressed widths shall apply: 2⅝ inch and 3⅝ inch for nominal 3 inch and 4 inch, 4⅝6, 5⅝6, and 6⅝6 inch for nominal 5 inch, 6 inch, and 7 inch, 7⅝, 9⅝, and 11⅝ inch for nominal 8 inch, 10 inch, and 12 inch, 13 1⅛6 and 15 1⅛6 for nominal 14 inch, and 16 inch.) Shrinkage that may occur after dressing to standard size shall be recognized through the allowance of a tolerance above minimum American Lumber Standards dry sizes on the basis of 1 percent greater dimension for each 4 points of moisture content above 19 percent, or 0.7 percent greater tolerance for Redwood, Western Red Cedar, and Northern White Cedar for each 4 points of moisture content above 19 percent.

5.6.6 Grading Marking. When grading rules provide for grading and grade marking of green lumber of 2-inch thickness and less, the rules shall contain a provision that will distinguish such lumber in the market place which will be understandable to the purchaser and consumer.

6. INSPECTION PROVISIONS

6.1 General. Subject to freedom of agreement between buyer and seller as to the settlement of complaints, the purchase, sale, or shipment of American Standard grades of lumber is construed as involving agreement to submit to reinspection by the certified inspection agency under whose published rules the lumber was graded, any complaint involving grades, sizes, moisture content, or tally. Grading rules shall include provisions for reinspection in case of complaint, available to anyone at reasonable costs.

6.2 Payment—Certificate Costs. When a certified agency issues a certificate on a shipment, the party requesting the certificate shall pay for the cost thereof.

6.3 Service. Inspection service is required to be available for the inspection of grades not described in the rules only when written, detailed specifications accompany the request for such inspection, and for the inspection of standard grades in nonstandard sizes only on the basis of paragraph 5.5.4, unless otherwise prescribed in the contract of purchase and sale.

6.4 Complaints. Grade complaints may be recognized on lumber only when it is in the form in which it was shipped. Any subsequent change in manufacture or working or through kiln-drying will relieve the seller of responsibility of any grade complaints.

6.5 Inspection and Reinspection Procedures.

6.5.1 Buyers Responsibilities. In case of complaint, the buyer is required to accept that portion of the shipment that is of the grade, size, or moisture content specified and shall hold intact that portion which is disputed for inspection or reinspection. Any action on the part of the buyer in accepting and using such portion of the shipment that is of the grade, size or moisture content specified shall not be construed as the acceptance of the entire shipment. The buyer shall hold the disputed material intact, properly protected, for not exceeding 30 days after date of the request for inspection or reinspection. The buyer shall file complaint with the seller within the time specified in the following provisions. The buyer shall pay in accordance with the terms of the sale for that portion which he accepts, but acceptance by the buyer of a part of a shipment does not prejudice his just claims on account of any unused lumber that is alleged by him to be not of the grade, size, or moisture content specified.

6.5.2 Sellers Responsibilities. Upon receipt of complaint from the purchaser, the seller shall immediately request the agency under whose rules shipment has been made, or such other agency as may have been agreed upon, to provide inspection or reinspection, or retally, as the case may be, according to its grading rules in effect at the time of execution of contract.

6.5.3 Cost and Assistance. The expense of such inspection or reinspection or retally shall be borne in accordance with the inspection provisions of the applicable grading rules, but the person calling for the reinspection shall be responsible to the agency for the costs thereof. The purchaser shall lend all reasonable assistance to facilitate the inspection or reinspection or retally.

6.5.4 Tally, Grade, and Size Complaints. In case of complaint involving tally, the entire item shall be held intact

[2] Copies of ASTM standards can be purchased from the American Society for Testing and Materials, 1916 Race St., Philadelphia, Pa. 19103.

[4] The minimum green sizes are based on shrinkage factors of 2.85 percent in thickness and 2.80 percent in width from the fiber saturation point to a 19-percent maximum moisture content, with recognition given to manufacturing practices, differences in shrinkage characteristics between species of lumber and the most practical groupings for efficient use.

for retally. In case of complaint regarding grade or size, but not involving tally, the buyer is required to hold intact that portion thereof the grade or size which is in dispute for inspection and file complaint with the seller within 10 days of date of receipt of shipment.

6.5.5 Moisture Content Complaints. In case of complaint involving moisture content, the customer must inform the shipper of the complaint within 72 hours after the lumber is unloaded. In such cases, the shipper shall answer such complaint within 72 hours from receipt of complaint. A reinspection involving a complaint on moisture content shall be made in accordance with the provisions of the applicable grading rules. Each piece shall be tested for moisture content and a separation made of all pieces conforming to the maximum allowable from any portion exceeding such maximum.

6.5.6 Reinspection Results. Each item of a shipment shall be considered as of the grade invoiced if, upon reinspection under the grading rules under which the lumber has been graded and sold, 95 percent thereof or more is found to be of said grade or better. When degrades, in grade or moisture content or both, are in excess of 5 percent of the board footage of each item, or when they are more than one grade lower than the grade invoiced, such degrades shall be kept separate and shall be the property of the seller unless otherwise agreed. These provisions shall not apply in the case of specially worked lumber.

7. GRADE MARKING PROVISIONS

7.1 Agency Certification and Supervision. When American Standard Lumber is grade marked, the grade marking shall be under the direction, including regular grading supervision at mills, of an agency certified by the Board of Review of the American Lumber Standards Committee as competent and having adequate facilities for such supervision.

7.1.1 Agency Procedure. Each certified agency shall submit procedures with respect to grade marking to the Board of Review for approval.

7.1.2 Agency Symbol. Each agency, so certified by the Board of Review, shall maintain a bona fide supervisory inspection service, under which each mill authorized to use the registered symbol of the certified agency * in conjunction with the grade mark will be checked regularly as to grading efficiency and conformity to all the agency established rules for grade marking.

7.2 The Grade Mark. When American Standard Lumber is grade marked, the grade marking shall be subject to the following provisions:

(1) The grade mark shall signify that the lumber conforms to the size, grade, and seasoning provisions of the rules under which it is graded. When 2 inch and thinner green lumber is graded and grade marked (see also 5.6.6) under the applicable grading rules, it shall comply with the green size requirements of such rules. If lumber is dressed to a size below minimum American Lumber Standards requirements or below the minimum sizes set forth in the applicable grading rules, the stamp must show size, and if 2-inch nominal and thinner, in addition, must state whether the lumber was dry or green when dressed. If lumber is dressed to less than the standard thickness of 1-inch nominal, the stamp must show the dressed thickness and whether the lumber was green or dry when dressed.

(2) An easily distinguishable mark or insignia, registered and symbolizing grading supervision by a certified agency, shall be used in conjunction with the grade mark for each agency.

(3) All pieces and/or bundles of a given grade shall be grade marked.

(4) Mixed grades other than the two highest recognized grades for each species shall not be grade marked with a combination grade designation; if grade marking is required, each piece of a grade so grade marked shall be grade marked as of its actual grade.

(5) A certified agency may provide further regulations for the use of its grade mark, provided the basic provisions of this section are observed.

7.3 Delegation of Grading Authority. Permission to grade mark may be delegated by any agency certified by the Board of Review to operate a mill supervisory service, to those mills which are able to prove their ability to conform and their conformance currently with the grading rules for the species and grades which they manufacture, and which agree to maintain the established standards of size and grade and to submit their lumber to inspection by the supervisory agency, both at the mill and upon complaint at destination.

8. AMERICAN LUMBER STANDARDS COMMITTEE

8.1 Appointment of Members. The members of the American Lumber Standards Committee and their alternates shall be appointed by the Secretary of Commerce for terms of not less than 2 nor more than 5 years.

8.2 Composition of Committee. The following procedures shall apply in making appointments to the Committee.

(1) Each agency which participates in this program and which formulates, publishes and maintains grading rules and maintains inspection facilities covering the various lumber species shall nominate two persons for each member allotted to that agency. Members and their alternates shall be appointed from the nominees furnished by each agency according to the number of members allotted to each of the agencies as follows:

Agency	Members Allotted
Southern Pine Inspection Bureau	2
Western Wood Products Association	2
West Coast Lumber Inspection Bureau	2
Redwood Inspection Service	1
Northwestern Lumber Manufacturers Association	1
Northern Hardwood & Pine Association	1
Each other agency qualifying under this category	1

(2) Each lumber inspection agency which participates in this program and which does not publish grading rules may nominate one person for membership. Nominations may be made in the same manner by firms or organizations which are not members of inspection or rules-writing agencies. Three members of the Committee and their alternates shall be appointed from among the nominees so furnished.

(3) Nominations of persons for membership on the committee shall be received from firms or organizations within lumber specifying, distributing and consuming groups at the request of the Secretary, and members shall be appointed from those groups, as follows:

Groups	Members Allotted
Lumber Distributors & Wholesalers	2
Lumber Retailers	2
Intermediate Manufacturers (formerly millwork manufacturers)	1
Wood-Using Industries	1
General Contractors	1
Home Builders	1
Architects and Engineers	1

(4) The Secretary may appoint members to represent the general public consumer at large.

(5) Each nomination for membership on the Committee shall be submitted to the Secretary of Commerce by the appropriate agency, firm, or organization upon request or whenever a vacancy occurs in the segment represented. Each nomination shall contain:

a. A summary of the qualifications of the nominee.

b. A statement of the method or procedure by which the nominee was selected by the agency, firm, or organization, and the procedures under which he will exercise his responsibility for the agency or segment of the industry he represents.

c. A statement of any interests, financial or otherwise, which the nominee may have in agencies or segments of the industry other than the one he represents.

d. For agencies submitting more than one nominee, a listing in the order of priority recommended for appointment.

(6) Ex officio, nonvoting members may be appointed from the following Federal agencies:

Department of Defense.
Department of Agriculture.
Department of Interior.
General Services Administration.
Federal Housing Administration.
National Bureau of Standards.

8.2.1 Balance of Representation. The Secretary of Commerce may from time to time make such changes in the constitution of the Committee or make additional appointments as he deems necessary to maintain a proper balance of the industry and to insure that the views of the Committee are adequately representative of the entire lumber industry (including producers, distributors, and consumers).

8.2.2 Committee Secretary. Except as provided in paragraph 8.3(1) below, the executive officer of the Board of Review shall serve as the Secretary of the American Lumber Standards Committee.

8.3 Functions of Committee. The functions of the American Lumber Standards Committee shall be:

(1) To consider proposals for further revisions of or amendments to the American Lumber Standards, which may result in recommendations to the Secretary of Commerce.

(2) To cooperate with the U.S. Department of Commerce in establishing and making continuously available as the needs of the industry and trade may demand, basic standards of lumber size, pattern, quality, inspection, and reinspection.

(3) To determine the standards by which the Board of Review, as hereinafter provided, shall adjudge and approve as in conformance with the American Lumber Standards:

a. Any published grading rules.

b. The competency and reliability of, and the adequacy of, the facilities provided by agencies publishing grading rules for the purpose of lumber certification, inspection, reinspection, and the supervision of grade marking.

c. The competency and reliability of and the adequacy of the facilities provided by lumber inspection agencies participating in this program that do not publish grading rules.

(4) To advise with the Board of Review with respect to the interpretation or application of the published American Lumber Standards, and the detailed requirements defined and set up by the American Lumber Standards Committee in connection therewith.

(5) To fix, after consultation with the agencies participating in the use of its facilities, such charges and fees as the committee finds to be necessary to cover the actual cost, including necessary reserves and provisions for contingencies, of carrying out its functions and those of the Board of Review. Such charges and fees shall be assessed at a uniform proportionate rate against the agencies participating in the use of the facilities of the committee. The certification of any agency not paying its assessment within 60 days after notification by the Secretary of the Committee shall be revoked by the Board of Review.

8.4 Transaction of Business.

8.4.1 Meetings. A majority of the members of the American Lumber Standards Committee representing agencies which formulate, publish, and maintain grading rules and maintain inspection facilities, together with a majority of the other members, shall constitute a quorum for the transaction of business, and a vote of the majority of those present shall decide any question that may come before a meeting; but if at any meeting of the Committee there shall be less than a quorum present, a majority of those present may either adjourn the meeting from time to time or act on the subjects before it, subject to ratification in writing by the respective majorities which constitute a quorum.

8.4.2 Correspondence. Business may be transacted by correspondence without having been previously presented at a meeting of the committee, in accordance with rules to be established by the committee.

8.4.3 Committee Recommendations. A recommendation of the Committee to the Secretary of Commerce to revise or amend the American Lumber Standards must be approved by three-quarters of all members of the Committee who are eligible to vote. The voting on such a final recommendation shall be conducted by the Department if conducted by letter ballot. If such voting is accomplished at a meeting of the Committee, the balloting will be by roll call conducted by the Chairman of the Committee.

9. THE BOARD OF REVIEW

9.1 Election and Selection of Members. Except for the members of the Board of Review representing agencies of the Federal Government (who shall be named by the agencies they represent), the members of the Board of Review shall be selected by the American Lumber Standards Committee by a vote of the members, a quorum being present, for terms coextensive with those of the Committee.

9.2 Composition of the Board. The Board of Review shall be composed of seven members of the American Lumber Standards Committee and four representatives of agencies of the Federal Government, as follows: Members of the Committee—one each representing The Southern Pine Inspection Bureau, The Western Wood Products Association, The West Coast Lumber Inspection Bureau, all other inspection agencies participating in this program, architects or engineers, building code officials, and consumers or users of lumber.

From the Federal Government—One each representing The National Bureau of Standards, The Forest Products Laboratory, The Federal Housing Administration, and the Defense Supply Agency.

The members of the American Lumber Standards Committee elected to the Board shall have one vote each on any matter before the Board. The representatives of the agencies of the Federal Government shall be nonvoting members of the Board.

9.2.1 Executive Officer. The Board of Review shall elect an executive officer who shall assume the responsibilities and perform the duties delegated to him by the Committee or the Board of Review. Such executive officer shall not be in the employment of, or have any interest in, any lumber organization, company, or inspection agency during his tenure as executive officer of the Board of Review.

9.3 Autonomy of Board. The Board of Review of the American Lumber Standards Committee shall be an autonomous body.

9.4 Function of the Board. It shall be the function of the Board of Review to examine upon application and to certify as conforming to the requirements of American Lumber Standards and to the detailed requirements established by the American Lumber Standards Committee:

(1) Any grading rules published by a competent and reliable agency having adequate facilities for mill inspection and for reinspection (provided that no such rules for any species in any region shall be certified if certified published rules and services applicable thereto are adequate and already fully and fairly available to all manufacturers, distributors, and consumers of such lumber, on equal terms and conditions without discrimination), when such rules do actually conform to the basic requirements of the American Lumber Standards and subject to the following conditions:

a. That, upon approval by the Board of Review, the published rules carry specific references to such approval.

b. That approval of the rules by the Board of Review impose the condition that the originating agency permit the publication of the rules, in whole or in part, including all applicable provisions, without charge, with all quoted parts clearly so indicated, by anyone desiring to do so; provided that any such publication carry reference to the source of the rules and their effective date, and be revised to conform with any subsequent changes in the rules, giving the effective dates thereof.

c. That subsequent revisions may be made by the promulgating agency to grading rules that have been approved by the Board of Review. These revisions, when filed with the Board of Review, shall be regarded as conforming to the American Lumber Standards unless and until they have been disapproved by the Board of Review.

(2) The competency and reliability of the adequacy of the facilities provided by agencies publishing grading rules for the purpose of lumber certification, inspection, reinspection, and the supervision of grade marking, and the competency and reliability of and the adequacy of the facilities provided by agencies participating in the program that do not publish grading rules.

(3) The procedure followed in authorizing mills to grade mark under adequate supervision.

(4) The continuing conformance of grading rules to American Lumber Standards, as well as the competency and performance of lumber inspection and grade marking agencies.

9.5 Power of Board. If at any time the practices of any approved and certified agency are found not in conformity with the standards adopted by the American Lumber Standards Committee, and if, after due notice in writing to that effect, those practices shall not have been brought into conformity with such standards by the agency concerned, the Board of Review is empowered to revoke all previous approval and certification granted that agency.

9.6 Actions of Board. In all actions in relation to the approval of grading rules, inspection facilities, and grade marking

* Facsimiles of the grade marks of the grading and inspection agencies that are certified by the American Lumber Standards Committee shall be made available to purchasers, consumers, and specifiers by the American Lumber Standards Committee.

practices, the American Lumber Standards Committee and the Board of Review shall proceed in a fair and nondiscriminatory manner, giving full and due consideration to the past experience and performance of agencies seeking approval, and shall apply uniform standards of judgment in making all determinations. In the matter of inspection agencies, definite requirements as to the integrity and competency of the agency and the adequacy of its facilities may be established, but all such requirements shall be uniformly applied with respect to all agencies seeking approval of the Board of Review. No inspection agency that is controlled by any person or firm whose own products are subject to its inspection and certification shall be approved. Inspection services furnished by buyers and users for inspection of their own purchases shall not be approved by the Board of Review.

9.7 Availability of Board. The facilities of the Board of Review shall be at all times, available on equal terms to all lumber inspection agencies without favor or discrimination and without any requirement for joining or otherwise subscribing to any trade association, or supporting any service or activity other than those of grading, standardization, grade marking, and inspection as carried on by the Board of Review.

9.8 Appeal of Board Actions. In relation to all actions of the Board of Review with respect to the approval or disapproval of grading rules or the certifications of inspection services, and the withdrawal or supervision of approvals or certification previously granted, the affected agencies shall have the right to require the Board of Review to hold a hearing, at which the dissatisfied parties may personally appear to present their views or defend their actions. If any agency should feel after such hearing that the Board has misinterpreted either the published American Lumber Standards or the requirements for the approval of grading rules or the certification of inspection services or is otherwise dissatisfied with the decisions of the Board of Review, it shall have a right of appeal to the American Lumber Standards Committee as a whole, and shall be privileged to appear and submit its case at any regularly called meeting of the Committee.

9.9 Reports of Action. The Board of Review shall, within 30 days following an official action, submit to the Secretary of Commerce a confidential report on such action. Such report shall include adequate description of the issue and exact action taken.

10. COMMERCIAL NAMES OF THE PRINCIPAL SOFTWOOD SPECIES[1]

The following commercial names for lumber cut from the principal species of softwoods should be used in grading rule description and in specifications:

Commercial names for lumber [2]	Official common tree names [3]	Botanical names
Cedar:		
Alaska Cedar	Alaska-cedar	Chamaecyparis nootkatensis.
Incense Cedar	incense-cedar	Libocedrus decurrens.
Port Orford Cedar	Port-Orford-cedar	Chamaecyparis lawsoniana.
Eastern Red Cedar	eastern redcedar	Juniperus virginiana.
	southern redcedar	J. silicicola.
Western Red Cedar	Western redcedar	Thuja plicata.
Northern White Cedar	northern white-cedar	Thuja occidentalis.
Southern White Cedar	Atlantic white-cedar	Chamaecyparis thyoides.
Cypress [4]	baldcypress	Taxodium distichum.
	pondcypress	T. distichum var. nutans.
Fir:		
Balsam Fir [5]	balsam fir	Abies balsamea.
	Fraser fir	A. fraseri.
Douglas Fir [6]	Douglas-fir	Pseudotsuga menziesii.
Noble	noble fir	Abies procera.
White Fir	subalpine fir	Abies lasiocarpa.
	California red fir	A. magnifica.
	grand fir	A. grandis.
	noble fir	A. procera.
	Pacific silver fir	A. amabilis.
	white fir	A. concolor.
Hemlock:		
Eastern Hemlock	Carolina hemlock	Tsuga caroliniana.
	eastern hemlock	T. canadensis.
Mountain Hemlock	mountain hemlock	Tsuga mertensiana.
West Coast Hemlock	Western hemlock	Tsuga heterophylla.
Juniper:		
Western Juniper	Alligator juniper	Juniperus deppeana.
	Rocky Mountain juniper	J. scopulorum.
	Utah juniper	J. osteosperma.
	Western juniper	J. occidentalis.
Larch:		
Western Larch	western larch	larix occidentalis.
Pine:		
Jack Pine	jack pine	Pinus banksiana.
Lodgepole Pine	lodgepole pine	P. contorta.
Norway Pine	red pine	P. resinosa.
Pondexosa Pine	ponderosa pine	P. ponderosa.
Sugar Pine	sugar pine	P. lambertiana.
Idaho White Pine	western white pine	P. monticola.
Northern White Pine	eastern white pine	Pinus strobus.
Longleaf Yellow Pine [6]	longleaf pine	Pinus palustris.
	slash pine	P. elliottii.
Southern Yellow Pine	loblolly pine	Pinus taeda.
	longleaf pine	P. palustris.
	pitch pine	P. rigida.
	shortleaf pine	P. echinata.
	slash pine	P. elliottii.
	Virginia pine	P. virginiana.
Redwood	redwood	Sequoia sempervirens.
Spruce:		
Eastern Spruce	black spruce	Picea mariana.
	red spruce	P. rubens.
	white spruce	P. glauca.
Engelmann Spruce	blue spruce	Picea pungens.
	Engelmann spruce	P. engelmannii.
Sitka Spruce	Sitka spruce	Picea sitchensis.
Tamarack	Tamarack	Larix laricina.
Yew:		
Pacific Yew	Pacific yew	Taxus brevifolia.

[1] The commercial names for lumber represent recommended commercial practice.

[2] The official common tree names conform to the Check List of Native and Naturalized Trees of the United States (including Alaska), Agriculture Handbook No. 41 (1953), and are sometimes used as names for lumber. In addition to the official common name for a species, the Check List also lists other names by which the species and the lumber produced from it are sometimes designated.

[3] Cypress includes types designated as Red Cypress, White Cypress, and Yellow Cypress. Red Cypress is frequently classified and sold separately from the other types.

[4] Balsam Fir lumber is sometimes designated either as Eastern Fir or as Balsam.

[5] Douglas Fir may be specified either as Coast Region Douglas Fir or as Inland Region Douglas Fir, but if the particular type is not so specified or is not otherwise indicated through the grade specifications, either or both types will be allowed.

[6] The commercial requirements for Longleaf Yellow Pine lumber are that not only must it be produced from trees of the botanical species of Pinus elliottii and Pinus palustris, but each piece in addition must average either on one end or the other not less than six annual rings per inch and not less than one-third summerwood. Longleaf Yellow Pine lumber is sometimes designated as Pitch Pine in the export trade.

11. DEFINITIONS OF TERMS USED IN DESCRIBING STANDARD GRADES OF LUMBER

The commonly recognized characteristics and conditions occurring in softwood lumber are:

Bark pockets.	Pitch pockets.
Checks.	Pitch seams.
Cross breaks.	Pitch streaks.
Cross grain.	Pith.
Decay.	Pith flecks.
Gum spots, streaks, etc.	Shake.
	Splits.
Holes.	Stain.
Knots.	Wane.
Mismanufacture.	Warp.
Pitch.	

Air dried. Seasoned by exposure to the atmosphere, in the open or under cover, without artificial heat.

All-heart. Of heartwood throughout; that is, free of sapwood.

Annual ring. Growth put on in a single year.

Bark pocket. Patch of bark partially or wholly enclosed in the wood. Classified as are pitch pockets.

Blemish. Anything marring the appearance of lumber.

Bow. See WARP.

Boxed pith. Where the pith is enclosed within the four sides of the piece.

Bright. Unstained.

Characteristics. Distinguishing features which by their extent and number determine the quality of a piece of lumber.

Check. Lengthwise grain separation, usually occurring through the growth rings as a result of seasoning.

Surface check. Occurs on a surface of a piece.

Small surface check. Not over 1/32 inch wide and not over 4 inches long.

Medium surface check. Not over 1/32 inch wide and over 4 inches long, but not over 10 inches long.

Large surface check. Over 1/32 inch wide or over 10 inches long.

End check. Occurs on an end of a piece.

Through check. Extends from one surface through the piece to the opposite surface or to an adjoining surface.

Chipped grain. Area where the surface is chipped or broken out in very short particles below the line of cut. Not classed as torn grain and, as usually found, is not considered unless in excess of 25 percent of the surface involved.

Clear. Free or practically free of all blemishes, characteristics, or defects.

Compression wood. Abnormal wood that forms on the under side of leaning and crooked coniferous trees. It is characterized, aside from its distinguishing color, by being hard and brittle and by its relatively lifeless appearance.

Corner. The intersection of two adjacent faces.

Crook. See WARP.

Cross break. Separation of the wood across the width.

Crosscutting. Cutting with a saw across the width.

Cup. See WARP.

Cutting. Resulting pieces after crosscuting and/or ripping.

Decay. Disintegration of wood substance due to action of wood-destroying fungi. Also known as dote and rot.

Advanced (or typical) decay. Older stage of decay in which disintegration is readily recognized because the wood has become punky, soft, spongy, stringy, shaky, pitted, or crumbly. Decided discoloration or bleaching of the rotted wood is often apparent.

Incipient decay. Early stage of decay in which disintegration has not proceeded far enough to soften or otherwise change the hardness of the wood perceptibly. Usually accompanied by a slight discoloration or bleaching of the wood.

Pocket rot. Typical decay which appears in the form of a hole, pocket, or area of soft rot, usually surrounded by apparently sound wood.

Water soak or stain. Water-soaked area in heartwood, usually interpreted as the incipient stage of certain wood rots.

Degrades. Pieces which on reinspection prove of lower quality than the grade in which they were shipped.

Diagonal grain. A deviation of the grain from a line parallel to the edges, which results from sawing a piece of lumber at an angle other than parallel with the bark.

Double end trimmed. Trimmed-reasonable square by a saw on both ends.

Dry. Seasoned; not green (see 3.4.1).

Edge. The narrow faces of rectangular-shaped lumber.

Edge grain (vertical grain). Annual rings (so-called grain) which form an angle of 45° or more with the surface of the piece.

Firm red heart. A stage of incipient decay characterized by a reddish color in the heartwood, which does not unfit the wood for the majority of yard purposes. (Not to be confused with natural red heartwood in some species.)

Flat grain (slash grain). Annual rings (so-called grain) which form an angle of less than 45° with the surface of the piece.

F.O.H.C. (free of heart centers). Where the pith is not enclosed within the four sides of the piece.

Green. Not fully seasoned (see 3.4.2).

Growth ring. The growth put on in a single year.

Gum pocket. An opening between growth rings which usually contains or has contained resin or bark, or both.

Gum seam. Check or shake filled with gum.

Gum spot. Accumulation of gumlike substance occurring as a small patch. May occur in conjunction with a bird-peck or other injury to the growing wood.

Gum streak. Well-defined accumulation of gum in a more or less regular streak. Classified as are pitch streaks.

Heart face. Face side free of sapwood.

Heart shake. See SHAKE—PITH SHAKE.

Heartwood. Inner core of the tree trunk comprising the annual rings containing nonliving elements; usually darker in color than sapwood.

Hit-and-miss. Series of surfaced areas with skips not over 1/16 inch deep between them.

Hit-or-miss. To skip or surface a piece for a part or the whole of its length, provided it is nowhere more than 1/16 inch scant.

Holes. Holes may extend partially or entirely through a piece and be from any cause. To determine the size of a hole, average the maximum and minimum diameters, unless otherwise specified.

Pin hole. Not over 1/16 inch in diameter.

Medium hole. Over 1/16 inch, but not over 1/4 inch in diameter.

Large hole. Over 1/4 inch in diameter.

Honeycomb (decay). Honeycomb is indicated by large pits in the wood.

Kiln-dried. Seasoned in a chamber by means of artificial heat.

Knot. Branch or limb embedded in the tree and cut through in the process of lumber manufacture; classified according to size, quality, and occurrence. To determine the size of a knot, average the maximum length and maximum width, unless otherwise specified.

Knot size.

Pin knot. Not over 1/2 inch in diameter.

Small knot. Over 1/2 inch, but not over 3/4 inch in diameter.

Medium knot. Over 3/4 inch, but not over 1 1/2 inch in diameter.

Large knot. Over 1 1/2 inch in diameter.

Knot quality.

Decayed knot. Softer than the surrounding wood, and containing advanced decay.

Encased knot. Its rings of annual growth are not intergrown with those of the surrounding wood.

Hollow knot. Apparently sound except that it contains a hole over 1/4 inch in diameter.

Intergrown knot. A knot partially or completely intergrown on one or two faces with the growth rings of the surrounding wood.

Loose knot. Not held tightly in place by growth or position, and cannot be relied upon to remain in place.

Fixed knot. Will hold its place in a dry piece under ordinary conditions; can be moved under pressure, though not easily pushed out.

Pith knot. Sound knot except that it contains a pith hole not over 1/4 inch in diameter.

Sound knot. Solid across its face, as hard as the surrounding wood, shows no indications of decay, and may vary in color from the natural color of the wood to reddish brown or black.

Star-checked knot. Having radial checks.

Tight knot. So fixed by growth or position as to retain its place.

Firm knot. Solid across its face, but containing incipient decay.

Water-tight knot. Its rings of annual growth are completely intergrown with those of the surrounding wood on one surface of the piece, and it is sound on that surface.

knot occurrence

Branch knots. Two or more divergent knots sawed lengthwise and tapering toward the pith at a common point.

Corner knot. Located at the intersection of adjacent faces.

Knot cluster. Two or more knots grouped together, the fibers of the wood being deflected around the entire unit. A group of single knots is not a knot cluster.

Single knot. Occurs by itself, the fibers of the wood being deflected around it.

Spike knot. A knot sawed in a lengthwise direction.

loosened grain. Small portion of the wood loosened but not displaced.

machine burn. Darkening or charring due to overheating by machine knives.

machine gouge. Groove due to the machine cutting below the desired line of cut.

mismanufacture. Includes all defects or blemishes produced in manufacturing.

See CHIPPED GRAIN, HIT-AND-MISS, HIT-OR-MISS, LOOSENED GRAIN, MACHINE BURN, MACHINE GOUGE, MISMATCHED LUMBER, RAISED GRAIN, SKIP, TORN GRAIN, AND VARIATION IN SAWING.

mismatched lumber. Worked lumber that does not fit tightly at all points of contact between adjoining pieces, or in which the surfaces of adjoining pieces are not in the same plane.

Slight mismatch. Mismatch variation not over 1/64 inch.

[1] The information contained herein was obtained from ASTM Standard D-1165-52, "Standard Nomenclature of Domestic Hardwoods and Softwoods."

Medium mismatch. Mismatch variation over 1/4 inch, but not over 1/32 inch.
Heavy mismatch. Mismatch variation over 1/32 inch.

Mixed grain. Any combination of edge grain and flat grain.
Moisture content. Weight of the water in wood expressed in percentage of the weight of oven dry wood.
Peck. Channeled or pitted areas or pockets as sometimes found in cedar and cypress.
Pecky. Characterised by PECK.
Pitch. Accumulation of resin in the wood cells in a more or less irregular patch.

Light pitch. Lightly evident presence of pitch.
Medium pitch. Trace of pitch slightly more evident than light pitch.
Heavy pitch. Very evident presence of pitch showing by its color and consistency.
Massed pitch. Clearly defined accumulation of solid pitch in a body by itself.

Pitch pocket. An opening between growth rings which usually contains or has contained resin or bark, or both.

Very small pitch pocket. Not over 1/8 inch in width and not over 2 inches in length.
Small pitch pocket. Not over 1/8 inch in width and not over 4 inches in length, or not over 1/4 inch in width and not over 2 inches in length.
Medium pitch pocket. Not over 1/8 inch in width and not over 8 inches in length; or not over 3/8 inch in width and not over 4 inches in length.
Large pitch pocket. Width or length exceeds the maximum permissible for medium pitch pocket.
Closed pitch pocket. Does not show an opening on both sides of the piece.
Open (through) pitch pocket. Is cut across on both sides of the piece.

Pitch seam. Shake or check filled with pitch.
Pitch streak. Well-defined accumulation of pitch in a more or less regular streak.

Small pitch streak. Not over one-twelfth of the width by one-sixth of the length of the surface on which it occurs.
Medium pitch streak. Larger than a small pitch streak but not over one-sixth of the width or one-third of the length of the surface on which it occurs.
Large pitch streak. Over one-sixth of the width or one-third of the length of the surface on which it occurs.

Pith. Small soft core in the structural center of a log.
Boxed pith. Where the pith is within the four faces of an end of a piece.
Pith fleck. Narrow streak resembling pith on the surface of a piece, usually brownish, up to several inches in length, resulting from burrowing of larvae in the growing tissue of the tree.
Raised grain. Roughened condition of the surface of dressed lumber in which the hard summerwood is raised above the softer springwood, but not torn loose from it.
Sapwood. Outer layers of growth in a tree, exclusive of bark, which contain living elements; usually lighter in color than heartwood.
Saw butted. Trimmed by a saw on both ends.
Seasoning. Evaporation or extraction of moisture from green or partially dried wood.
Shake. A lengthwise grain separation between or through the growth rings, and may be further classified as ring shake or pith shake.

Fine shake. A barely perceptible opening.
Slight shake. More than a perceptible opening but not over 1/32 inch wide.
Medium shake. Over 1/32 inch but not over 1/8 inch wide.
Open shake. Over 1/8 inch wide.
Cup shake. Does not completely encircle the pith.
Round shake. Completely encircles the pith.
Ring shake. Partially or completely encircles the pith.
Shell shake. Where both ends of a shake which has been cut across occur on one face or edge of a piece.
Through shake. Extends from one surface through the piece to the opposite surface or to an adjoining surface.
Pith shake (heart check). Extends across the rings of annual growth in one or more directions from the pith toward but not to the surface of a piece. Distinguished from season check by having its greatest width nearest the pith, whereas the greatest width of a season check is ordinarily at the surface of a piece, and when a piece has boxed pith the greatest width of a season check is farthest from the pith.
Side cut. Where the pith is not enclosed within the four sides of the piece.
Skip. Area on a piece that failed to surface, classified as follows:

Slight skip. Area not over six times the width of the piece that the planer knife failed to surface smoothly.
Shallow (small) skip. Area not over six times the width of the piece that the planer knife failed to touch by not over 1/32 inch.
Deep (heavy) skip. Area not over 12 times the width of the piece that the planer knife failed to touch by not over 1/16 inch.

Slope of grain. Cross grain or deviation of the fiber from a line parallel to the sides of the piece, and may consist of diagonal grain, spiral grain, or both.

Straight grain. Slope of grain limited to 1 inch in each 20 inches of length.
Slight cross grain. Slope of grain not more than 1 inch in a length of 15 inches.
Medium cross grain. Slope of grain more than 1 inch in a length of 15 inches, but not more than 1 inch in a length of 8 inches.
Steep cross grain. Slope of grain more than 1 inch in a length of 8 inches.

Smoke-dried. Seasoned by exposure to the heat and smoke of fire maintained beneath or within the stacks of lumber.
Softwood. One of the group of trees which have needle-like or scale-like leaves. The term has no specific reference to the softness of the wood.
Sound. Free of decay.
Spiral grain. Fibers that extend spirally about instead of vertically along the bole of a tree.
Split. Lengthwise separation of the wood extending from one surface through the piece to the opposite surface or to an adjoining surface.

Short split. Length does not exceed either the width of a piece or one-sixth of its length.
Medium split. Length exceeds the width of a piece, but does not exceed one-sixth of its length.
Long split. Length exceeds one-sixth of the length of a piece.

Springwood. More or less open and porous tissue marking the inner part of each annual ring, formed early in the period of growth.
Stain. Discoloration on or in lumber other than its natural color.

Light stain. Slight difference in color which will not materially impair the appearance of the piece if given a natural finish.
Medium stain. Pronounced difference in color which, although it does not obscure the grain of the wood, is customarily objectionable in a natural but not in a painted finish.
Heavy stain. Difference in color so pronounced as practically to obscure the grain of the wood.

Summerwood. Denser fibrous outer portion of each annual ring, usually without conspicuous pores, formed late in the growing period, not necessarily in summer.
Torn grain. Part of the wood torn out in dressing; classified as follows:

Slight torn grain. Not over 1/32 inch deep.
Medium torn grain. Over 1/32, but not over 1/16 inch deep.
Heavy torn grain. Over 1/16, but not over 1/8 inch deep.
Deep torn grain. Over 1/8 inch deep.

Unsound. Decayed.
Variation in sawing. A deviation from the line of cut. Slight variation is not over 1/16-inch scant in 1-inch lumber, 1/8 inch in 2 inch, 5/16 inch in 3 inch to 7 inch, and 1/4 inch in 3 inch and up.
Wane. This is bark or lack of wood from any cause on the edge or corner of a piece.

Slight wane. Not over 1/4 inch wide on the surface on which it appears for one-sixth of the length and one-fourth of the thickness of the piece.
Medium wane. Over 1/4 inch, but not over 1/2 inch wide on the surface on which it appears, for one-sixth of the length and one-fourth of the thickness of the piece.

Large wane. Over 1/2 inch wide on the surface on which it appears, or over one-sixth of the length and one-fourth of the thickness of the piece, or both.

Warp. Any variation from a true or plane surface, includes bow, crook, cup, or piece, or any combination thereof.

Bow. Deviation flatwise from a straight line from end to end of a piece, measured at the point of greatest distance from the straight line; and classified as slight, small, medium, and large. Based on a piece 4 inches wide and 16 feet long, the distance for each degree of crook shall be: *Slight crook,* 1 inch; *small crook,* 1 1/2 inch; *medium crook* 3 inch; and *large crook,* over 3 inches. For wider pieces it shall be 1/8-inch less for each additional 2-inch of width. Shorter or longer pieces may have the same curvature.
Cup. Deviation flatwise from a straight line across the width of a piece, measured at the point of greatest distance from the line; and classified as *slight, medium,* and *deep.* Based on a piece 12 inches wide, the distance for each degree of cup shall be: *Slight cup,* 1/4 inch; *medium cup,* 3/8 inch; and *deep cup,* 1/2 inch. Narrower or wider pieces may have the same curvature.

12. LUMBER INDUSTRY ABBREVIATIONS

These abbreviations are commonly used for softwood lumber, although all of them are not necessarily applicable to all species. Additional abbreviations which are applicable to a particular region or species may be included in approved grading rules.

Abbreviations are commonly used in the forms indicated, but variations such as the use of upper—and lower—case type, and the use or omission of periods and other forms of punctuation are optional.

AD	Air dried.
ADF	After deducting freight.
ALS	American Lumber Standards.
AV or AVG	Average.
Bd	Board.
Bd. ft	Board foot or feet.
Bdl	Bundle.
Bev	Beveled.
B/L	Bill of lading.
BM	Board Measure.
Btr	Better.
B&B or B& Btr	B and better.
B&S	Beams and stringers.
CB1S	Center bead one side.
CB2S	Center bead two sides.
CF	Cost and freight.
CG2E	Center groove two edges.
CIF	Cost, insurance, and freight.
CIFE	Cost, insurance, freight, and exchange.
Clg	Ceiling.
Clr	Clear.
CM	Center matched.
Com	Common.
CS	Caulking seam.
Csg	Casing.
Cu. Ft	Cubit foot or feet.
CV1S	Center Vee one side.
CV2S	Center Vee two sides.
D&H	Dressed and headed.
D&M	Dressed and matched.
DB. Clg	Double-beaded ceiling (E&CB1S).
DB. Part	Double-beaded partition (E&CB2S).
DET	Double end trimmed.
Dim	Dimension.
Dkg	Decking.
D/S or D/Sdg	Drop siding.
EB1S	Edge bead one side.
EB2S	Edge bead two sides.
E&CB1S	Edge and center bead one side.
E&CB2S	Edge and center bead two sides.
E&CV1S	Edge and center Vee one side.
E&CV2S	Edge and center Vee two sides.
EE	Eased edges.
EG	Edge (vertical) grain.
EM	End matched.
EV1S	Edge Vee one side.
EV2S	Edge Vee two sides.
Fac	Factory.
FAS	Free alongside (named vessel).
FBM	Foot or feet board measure.
FG	Flat (slash) grain.
Flg	Flooring.
FOB	Free on board (named point).
FOHC	Free of heart center or centers.
FOK	Free of knots.
Frt	Freight.
Ft	Foot or feet.
GM	Grade marked.
G/R or G/Rfg	Grooved roofing.
HB	Hollow back.
H&M	Hit-and-miss.
H or M	Hit-or-miss.
Hrt	Heart.
Hrt CC	Heart cubical content.
Hrt FA	Heart facial area.
Hrt G	Heart girth.
IN	Inch or inches.
J&P	Joists and planks.
KD	Kiln-dried.
Lbr	Lumber.
LCL	Less than carload.
LFT or Lin. Ft	Linear foot or feet.
Lgr	Longer.
Lgth	Length.
Lin	Linear.
Lng	Lining.
M	Thousand.
MBM	Thousand (feet) board measure.
MC	Moisture content.
Merch	Merchantable.
Mldg	Moulding.
No	Number.
N1E	Nosed one edge.
N2E	Nosed two edges.
Og	Ogee.
Ord	Order.
Par	Paragraph.
Part	Partition.
Pat	Pattern.
Pc	Piece.
Pcs	Pieces.
PE	Plain end.
PO	Purchase order.
P&T	Post and timbers.
Reg	Regular.
Res	Resawed or resawn.
Rfg	Roofing.
Rgh	Rough.
R/L	Random lengths.
R/W	Random widths.
R/WaL	Random widths and lengths.
Sdg	Siding.
Sel	Select.
S&E	Side and edge (surfaced on).
SE Sdg	Square edge siding.
SE & S	Square edge and sound.
S/L or S/LAP	Shiplap.
SL&C	Shipper's load and count.
SM. or Std. M	Standard matched.
Specs	Specifications.
Std	Standard.
Std	Standard.
Stpg	Stepping.
Str. or Struc	Structural.
S1E	Surfaced one edge.
S1S	Surfaced one side.
S1S1E	Surfaced one side and one edge.
S1S2E	Surfaced one side and two edges.
S2E	Surfaced two edges.
S2S	Surfaced two sides.
S2S1E	Surfaced two sides and one edge.
S2S&CM	Surfaced two sides and center matched.
S2S&SM	Surfaced two sides and standard matched.
S4S	Surfaced four sides.
S4S&CS	Surfaced four sides and caulking seam.
T&G	Tongued and grooved.
VG	Vertical grain.
Wdr.	Wider.
Wt	Weight.

Issued: December 22, 1967.

A. B. TROWBRIDGE,
Secretary of Commerce.

[F.R. Doc. 67-15031; Filed, Dec. 28, 1967; 8:45 a.m.]

ATOMIC ENERGY COMMISSION

STATE OF COLORADO

Proposed Agreement for Assumption of Certain AEC Regulatory Authority

On October 10 (32 F.R. 14069), October 17 (32 F.R. 14337), October 24 (32 F.R. 14698), and October 31 (32 F.R. 15049), 1967, the U.S. Atomic Energy Commission published in the FEDERAL REGISTER for public comment a proposed agreement received from the Governor of the State of Colorado for the assumption of certain of the Commission's regulatory authority pursuant to section 274 of the Atomic Energy Act of 1954, as amended. The proposed agreement as published included a proposed effective date of January 1, 1968.

Notice is hereby given that the proposed effective date is changed from January 1, 1968, to February 1, 1968.

Dated at Washington, D.C., this 5th day of December 1967.

For the Atomic Energy Commission.

W. B. McCOOL,
Secretary.

[F.R. Doc. 67-14359; Filed, Dec. 7, 1967; 8:49 a.m.]

ATTACHMENT A—Continued

FEDERAL POWER COMMISSION

[Docket Nos. RI68-276 etc.]

CHAMPLIN PETROLEUM CO. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

DECEMBER 20, 1967.

The Respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before February 1, 1968.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI68-276	Champlin Petroleum Co., Post Office Box 9062, Fort Worth, Tex. 76107, Attn: Frank L. Jones, Vice President.	89	10	El Paso Natural Gas Co. (South Fullerton Gasoline Plant, South Fullerton Field, Andrews County, Tex.) (R.R. District No. 8) (Permian Basin Area).	$3,160	11-13-67	[2] 1-1-68	6-1-68	12.065249	[3] [4] 13.065249	RI63-226.
RI68-277	Union Oil Co. of California, Union Oil Center, Los Angeles, Calif. 90017, Attn: Mr. C. R. Smith.	139	2	Colorado Interstate Gas Co. (Desert Springs Field, Sweetwater County, Wyo.).	44,000	11-13-67	[2] 1-1-68	6-1-68	14.5	[4] 15.5	
	Do	113	5	West Texas Gathering Co. (Emperor and South Kermit Fields, Winkler County, Tex.) (R.R. District No. 8) (Permian Basin Area).	20,000	11-20-67	[2] 1-1-68	6-1-68	17.0	[4] 18.0	RI63-263.
RI68-278	Sun Oil Co., 1608 Walnut St., Philadelphia, Pa. 19103, Attn: Mr. Charles E. Webber.	94	7	Northern Natural Gas Co. (Emperor Field, Winkler County, Tex.) (R.R. District No. 8) (Permian Basin Area).	20,000	11-17-67	[2] 1-1-68	6-1-68	17.0	[4] 18.0	RI63-264.
	Do	144	3	Northern Natural Gas Co. (Cavo Field, Beaver County, Okla.) (Panhandle Area).	1,000	11-17-67	[2] 1-1-68	6-1-68	[5] 17.015	[4] [6] 18.015	RI63-43.
RI68-279	Union Oil Co. of California (Operator) et al.	90	3	Colorado Interstate Gas Co.	1,800	11-22-67	[2] 1-1-68	6-1-68	16.0	[4] 17.0	RI65-265.
		92	4	(Patrick Draw Area, Sweetwater County, Wyo.).	1,100	11-22-67	[2] 1-1-68	6-1-68	14.5	[4] 15.5	
RI68-280	Humble Oil & Refining Co., Post Office Box 2180, Houston, Tex. 77001, Attn: Mr. John J. Carter.	345	3	Colorado Interstate Gas Co. (Wamsutter Field, Sweetwater County, Wyo.).	2,800	11-22-67	[2] 1-1-68	6-1-68	14.0	[4] 15.0	
	Do	360	3	Colorado Interstate Gas Co. (Patrick Draw Field, Sweetwater County, Wyo.).	50	11-22-67	[2] 1-1-68	6-1-68	16.0	[4] 17.0	RI65-266.
	Do	362	1	Colorado Interstate Gas Co. (Desert Spring Field, Sweetwater County, Wyo.).	210	11-22-67	[2] 1-1-68	6-1-68	14.5	[4] 15.5	
RI68-281	McCommons Oil Co. (Operator) et al., 1001 Mercantile Securities Bldg., Dallas, Tex.	2	2	Natural Gas Pipeline Co. of America (Boonsville Bend Conglomerate Field, Wise County, Tex.) (R.R. District No. 9).	4,488	11-2-67	[2] 12-27-67	5-27-68	[7] 14.619	[4] [7] 16.382	
RI68-282	McCommons Oil Co., Agent (Operator) et al.	3	2	do	3,744	11-2-67	[2] 12-27-67	5-27-68	[7] 14.619	[4] [7] 16.382	
RI68-283	Marathon Oil Co., 539 South Main St., Findlay, Ohio 45840.	94	5	Arkansas Louisiana Gas Co. (Lacy Area, Blaine and Kingfisher Counties, Okla.) (Oklahoma "Other" Area).	1,480	11-20-67	[2] 12-21-67	5-21-68	15.0	[4] 17.015	
RI68-284	Western Oil Fields, Inc. (Operator) et al., Suite 1220, Denver Club Bldg., Denver, Colo. 80202.	9	4	El Paso Natural Gas Co. (East Panhandle Field, Wheeler County, Tex.) (R.R. District No. 10).	128	11-20-67	[2] 1-1-68	6-1-68	13.0	[4] 14.0	RI64-48.
RI68-285	Joe N. Champlin, Trustee, 700 First National Bank Bldg., Enid, Okla. 73701.	1	5	Michigan Wisconsin Pipe Line Co. (Woodward Area, Dewey County, Okla.) (Oklahoma "Other" Area).	10,944	11-20-67	[2] 12-21-67	5-21-68	[8] 17.9	[4] [9] 19.5	RI66-426.

See footnotes at end of table.

APPENDIX A—Continued

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI68-286	Sinclair Oil & Gas Co., Post Office Box 521, Tulsa, Okla. 74102, Attn.: Mr. P. T. Davis.	305	9	Trunkline Gas Co. (Clear Creek Field, Beauregard Parish, La.) (South Louisiana).	172	11-17-67	[2] 1-1-68	6-1-68	[9] [10] 19.00	[9] [10] [11] 19.00	RI68-245.
	do	75	7	Transcontinental Gas Pipe Line Corp. (Live Oak Field, Vermilion Parish, La.) (South Louisiana).	60,174	11-29-67	[12] 12-24-67	5-24-68	[9] 19.00	[9] [11] 20.625	RI66-165.
RI68-287	Sinclair Oil & Gas Co. (Operator) et al.	304	14	Trunkline Gas Co. (Rayley Field, Beauregard Parish, La.) (South Louisiana).	1,200	11-17-67	[2] 1-1-68	6-1-68	[9] 19.00	[9] [10] [11] 19.00	RI68-245.

[1] The stated effective date is the effective date proposed by Respondent.
[2] Periodic rate increase.
[3] Pressure base is 14.65 p.s.i.a.
[4] Subject to a downward B.t.u. adjustment.
[5] Respondent filing from initial certificated rate to second periodic increased rate under the contract.
[6] Includes base rate of 14.5 cents plus upward B.t.u. adjustment before increase and 16 cents plus upward B.t.u. adjustment after increase for 1,022 B.t.u. gas shown in filing. Base rate subject to upward and downward B.t.u. adjustment.
[7] The stated effective date is the first day after expiration of the statutory notice.
[8] Filing from initial certificated rate of 15 cents to first periodic increased rate of 17.8 cents plus tax reimbursement of 0.015 cent (initial contract rate is 16.8 cents).
[9] Filing to initial contract rate.
[10] Subject to upward and downward B.t.u. adjustment.
[11] Two-step periodic rate increase.
[12] Pressure base is 15.025 p.s.i.a.
[13] Inclusive of 1.80 cents tax reimbursement.
[14] Favored-nation rate increase activated by Sinclair's FPC Gas Rate Schedule No. 185 which provides for sale of gas to Transco at a rate of 20.625 cents per Mcf.

[Docket Nos. RI68-288 etc.]

SUN OIL CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

DECEMBER 20, 1967.

The Respondents named herein have filed proposed changes in rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplements to the rate schedules filed by Respondents, as set forth herein, shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order Respondents shall each execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless Respondents are advised to the contrary within 15 days after the filing of their respective agreements and undertakings, such agreements and undertakings shall be deemed to have been accepted.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before February 1, 1968.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

Marathon Oil Co. (Marathon) requests that its proposed rate increase be permitted to become effective on December 14, 1967. Good cause has not been shown for waiving the 30-day statutory notice requirement provided in section 4(d) of the Natural Gas Act to permit an earlier effective date for Marathon's rate filing and such request is denied.

Champlin Petroleum Co. (Champlin), Sun Oil Co. (Sun),[16] and Union Oil Co. of California's (Union Oil) [17] proposed rate increases exceed the area ceiling rate as determined in the rate schedule quality statements previously accepted pursuant to Opinion No. 468, as amended. Since the proposed increased rates exceed the applicable area rate, we conclude that they should be suspended for 5 months from January 1, 1968, the proposed effective date in each case. Except for the stay of the moratorium in Opinion No. 468, the aforementioned producers' rate increases would be rejectable because they are in excess of the applicable area ceiling determined in Opinion No. 468. If the moratorium is ultimately upheld upon judicial review Champlin, Sun, and Union Oil's rate increases will be rejected ab initio.

With the exception of the rate increases filed by Champlin, Sun,[16] and Union Oil [17] which exceed the area rate established in the related quality statements filed pursuant to Opinion No. 468, as amended, all of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56).

[F.R. Doc. 67-15073; Filed, Dec. 28, 1967; 8:45 a.m.]

[16] Supplement No. 7 to Sun's FPC Gas Rate Schedule No. 94.
[17] Supplement No. 5 to Union Oil's FPC Gas Rate Schedule No. 218.

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate sched. No.	Sup. No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI68-201	Sun Oil Co., Post Office Box 2880, Dallas, Tex. 75221.	[1] 175	3	El Paso Natural Gas Co. (East Panhandle Field, Wheeler County, Tex.) (RR. District No. 10).	1,400	11-17-67	[2] 1-1-68	[3] 1-1-68	13.0	[4] [5] 14.0	
RI68-202	Marathon Oil Co., 539 South Main St., Findlay, Ohio 45840.	25	5	Panhandle Eastern Pipe Line Co. (Avard Area, Woods County, Okla.) (Oklahoma "Other" Area).	120	11-20-67	[6] 12-21-67	[6] 12-23-67	[7] 15.999	[7] [8] 15.984	
	do	25	4	Arkansas Louisiana Gas Co. (Wilburton Field, Haskell, Latimer, Le Flore, and Pittsburg Counties, Okla.) (Oklahoma "Other" Area).	126	11-20-67	[6] 12-21-67	[6] 12-22-67	15.0	[9] 15.015	

[1] The stated effective date is the effective date requested by Respondent.
[2] The suspension period is limited to 1 day.
[3] Periodic rate increase.
[4] Pressure base is 14.65 p.s.i.a.
[5] The stated effective date is the first day after expiration of the statutory notice.
[6] Tax reimbursement increase.
[7] Includes base rate of 15 cents plus upward B.t.u. adjustment (1,084.9 B.t.u. gas). Base rate subject to upward and downward B.t.u. adjustment.
[8] Contract dated after Sept. 28, 1960, the date of issuance of the Commission's statement of general policy No. 61-1.

Marathon Oil Co. (Marathon) requests a retroactive effective date of July 1, 1967, the date the increased Oklahoma excise tax became effective, for their proposed rate increases. Good cause has not been shown for waiving the 30-day notice requirement provided in Section 4(d) of the Natural Gas Act to permit an earlier effective date for Marathon's rate filings and such request is denied.

The contract related to the rate filing of Sun Oil Co. (Sun) was executed subsequent to September 28, 1960, the date of issuance of the Commission's Statement of General Policy No. 61-1, as amended, and the proposed increased rate of 14.0 cents per Mcf exceeds the area increased rate ceiling of 11.0 cents per Mcf for Texas Railroad District No. 10 but does not exceed the initial service ceiling of 17.0 cents per Mcf established for the area involved. We believe, in this situation, Sun's proposed rate filing should be suspended for 1 day from January 1, 1968, the proposed effective date.

Marathon's proposed increased rates reflect tax reimbursement for the recently enacted increase in the Oklahoma excise tax from 0.02 cent to 0.04 cent per Mcf which became effective on July 1, 1967. The proposed rates exceed the applicable 11.0 cents per Mcf area increased rate ceiling for the Oklahoma "Other" Area as announced in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR 2.56). Since the proposed increases relate to tax reimbursement resulting from the increase in Oklahoma excise tax, it is appropriate to suspend them for 1 day from December 21, 1967, the expiration date of the statutory notice.

[F.R. Doc. 67-15074; Filed, Dec. 28, 1967; 8:45 a.m.]

[Docket No. E-6993]

ALABAMA POWER CO.

Notice Fixing Time and Place of Hearing

DECEMBER 21, 1967.

Take notice that a hearing in the above-designated matter fixed by order of November 23, 1966, is set for March 26, 1968, at 10 a.m. in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-15071; Filed, Dec. 28, 1967; 8:46 a.m.]

[Docket No. CP67-168]

SOUTHERN NATURAL GAS CO.

Notice of Petition To Amend

DECEMBER 20, 1967.

Take notice that on December 13, 1967, Southern Natural Gas Co. (Petitioner), Post Office Box 250, Birmingham, Ala. 35202, filed in Docket No. CP67-168 a petition to amend the order issued in said docket on August 31, 1967, by requesting authorization to increase the volumetric limitation for the service to the town of Childersburg, Ala., all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the aforementioned order issued August 31, 1967, Petitioner was authorized, inter alia, to sell and deliver to Childersburg a contract demand of 1,750 Mcf of natural gas. By letter dated December 7, 1967, Childersburg requested that Petitioner increase, effective January 1, 1968, its contract demand to 1,850 Mcf.

Accordingly, Petitioner requests that it be authorized to sell and deliver up to 1,850 Mcf of natural gas to Childersburg on contract demand, thus amending the aforementioned order of August 31, 1967.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before January 17, 1968.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-15072; Filed, Dec. 28, 1967; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 19108]

ALITALIA-LINEE AEREE ITALIANE, S.p.A.

Notice of Prehearing Conference

Whether Alitalia's permit should be amended as set forth in order E-25823.

Notice is hereby given that a prehearing conference on the above-entitled docket is assigned to be held on January 9, 1968, at 10 a.m., e.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Edward T. Stodola.

Dated at Washington, D.C., December 22, 1967.

[SEAL] FRANCES W. BROWN,
Chief Examiner.

[F.R. Doc. 67-15107; Filed, Dec. 28, 1967; 8:48 a.m.]

FEDERAL RESERVE SYSTEM

CENTRAL BANCORP.

Notice of Application for Approval of Acquisition of Shares of Banks

Notice is hereby given that application has been made to the Board of Governors of the Federal Reserve System pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), by Central Bancorp., Miami, Fla., for prior approval of the Board of action whereby Applicant would become a bank holding company through the acquisition of 80 percent or more of the voting shares of each of the following banks: Central Bank and Trust Co., Miami, Fla., and Central Bank of North Dade, Miami, Fla.

Section 3(c) of the Act, as amended, provides that the Board shall not approve (1) any acquisition or merger or consolidation under this section which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or (2) any other proposed acquisition or merger or consolidation under this section whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Public access to the application may be had at the office of the Board of Governors or the Federal Reserve Bank of Atlanta.

Dated at Washington, D.C., this 21st day of December 1967.

By order of the Board of Governors.

[SEAL] KENNETH A. KENYON,
Assistant Secretary.

[F.R. Doc. 67-15075; Filed, Dec. 28, 1967; 8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

CODITRON CORP.

Order Suspending Trading

DECEMBER 21, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $3 par value, of Coditron Corp., New York, N.Y., otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period December 22, 1967, through December 31, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-15092; Filed, Dec. 28, 1967; 8:47 a.m.]

[31-690]

KANEB PIPE LINE CO.

Notice of Filing of Application Requesting Finding Not To Be Holding Company and Notice of and Order for Hearing Thereon

DECEMBER 21, 1967.

Notice is hereby given that Kaneb Pipe Line Co. ("Kaneb"), Western National Bank Building, Houston, Tex. 77002, has filed an application with this Commission pursuant to section 2(a)(7) of the Public Utility Holding Company Act of 1935 ("act") requesting that the Commission declare Kaneb not to be a holding company. All interested persons are referred to the application, which is summarized below, for a complete statement of Kaneb's request.

Kaneb, a Delaware corporation, owns and operates a 1,055-mile common carrier liquid petroleum products pipeline which operates in the States of Kansas, Nebraska, South Dakota, and North Dakota. Its business is the transportation of liquid petroleum products including gasoline, kerosene, fuel oils, propane, aircraft fuels, and other products.

Kaneb purchased 5,200 shares of Kansas-Nebraska Natural Gas Co., Inc. ("Kansas-Nebraska"), common stock in July 1967 in market transactions. Thereafter, pursuant to a tender offer to the common stockholders of Kansas-Nebraska, Kaneb purchased 225,000 additional shares (9½ percent) on August 29, 1967, and 234,209 shares on September 19, 1967. As of September 19, 1967, the date of filing of the application, Kaneb owned 459,309 shares (19.7 percent) of the outstanding common stock of Kansas-Nebraska. Kansas-Nebraska is a Kansas corporation and is engaged in the production, processing, purchasing, transportation, and sale of natural gas both at wholesale and retail in one or more of the States of Kansas, Nebraska, Oklahoma, Wyoming, and Colorado.

Kaneb asserts that despite the ownership of such stock of Kansas-Nebraska, Kaneb neither directly or indirectly controls Kansas-Nebraska nor directly or indirectly exercises such a controlling influence over the management or policies of Kansas-Nebraska as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that Kaneb be subject to the obligations, duties, and liabilities imposed under the act. Kaneb also states that it does not and has not done, either directly or indirectly, any substantial business with Kansas-Nebraska and that it does not perform any services for, or have any contractual relations with, Kansas-Nebraska. Kaneb has no representatives on the board of directors of Kansas-Nebraska.

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors and consumers that a public hearing be held with respect to Kaneb's application under section 2(a)(7) and that interested persons be afforded an opportunity to be heard at such hearing with respect to such matter;

It is ordered, That a hearing in this proceeding be held on January 17, 1968 at 10 a.m., at the office of the Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, in such room as may be designated on such date by the hearing room clerk. Any person desiring to be heard in connection with this proceeding or proposing to intervene therein, other than Kaneb, shall file with the Secretary of the Commission on or before 2 days prior to the date herein fixed for a hearing, a written request relative thereto as provided in Rule 9 of the Commission's rules of practice.

It is further ordered, That a Hearing Examiner, hereafter to be designated, shall preside at said hearing. The officer so designated is hereby authorized to exercise all powers granted to the Commission under section 18(c) of the Act and to a hearing officer under the Commission's rules of practice.

The Division of Corporate Regulation of the Commission having advised the Commission that it has made a preliminary examination of the application and that, upon the basis thereof, the following matters and questions are presented for consideration, without prejudice, however, to the presentation of additional matters and questions upon further examination:

(1) Whether Kaneb, either alone or pursuant to an arrangement or understanding with one or more other persons, directly or indirectly controls Kansas-Nebraska.

(2) Whether Kaneb is an intermediary company through which such control is exercised.

(3) Whether Kaneb, either alone or pursuant to an arrangement or understanding with one or more other persons, exercises such a controlling influence over the management or policies of Kansas-Nebraska as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that Kaneb be subject to the obligations, duties, and liabilities imposed by the act upon holding companies.

(4) Whether Kaneb's application herein has been filed in good faith and whether Kaneb, in acquiring the common stock of Kansas-Nebraska or in any other manner, has violated the provisions of the act.

It is further ordered, That particular attention be directed at said hearing to the foregoing matters and questions.

It is further ordered, That the Secretary of the Commission shall give notice of the aforesaid hearing by mailing copies of this notice and order by certified mail to Kaneb, Kansas-Nebraska, the State Corporation Commission of Kansas, the State Railway Commission of Nebraska, the Public Utilities Commission of Colorado, the Corporation Commission of Oklahoma, and the Public Service Commission of Wyoming; that notice to all other persons shall be given by publication of this notice and order in the FEDERAL REGISTER; and that a general release of this Commission in respect of this notice and order be distributed to the press and mailed to the persons appearing on the mailing list of the Commission for releases under the Public Utility Holding Company Act of 1935.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-15093; Filed, Dec. 28, 1967; 8:47 a.m.]

LEEDS SHOES, INC.

Order Suspending Trading

DECEMBER 21, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Leeds Shoes, Inc., Tampa, Fla., and all other securities of Leeds Shoes, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period December 22, 1967 through December 31, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-15094; Filed, Dec. 28, 1967; 8:48 a.m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 646]

HAWAII

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of December 1967, because of the effects of certain disasters, damage resulted to residences and business property located on the Islands of Kauai and Oahu, in the State of Hawaii;

Whereas, the Small Business Administration has investigated and received other reports of investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property, situated in the aforesaid Islands, and areas adjacent thereto, suffered damage or destruction resulting from tornadoes and floods occurring on December 17 and 18, 1967.

OFFICE

Small Business Administration Regional Office, 1149 Bethel Street, Honolulu, Hawaii 96813.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to June 30, 1968.

Dated: December 21, 1967.

ROBERT C. MOOT, *Administrator.*

[F.R. Doc. 67-15105; Filed, Dec. 28, 1967; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 22, 1967.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41199—*Grain and grain products to California points.* Filed by Pacific Southcoast Freight Bureau, agent (No. 259), for interested rail carriers. Rates on grain and grain products, in carloads, from points in Montana, to points in California.

Grounds for relief—Unregulated truck competition.

Tariff—Supplement 45 to Pacific Southcoast Freight Bureau, agent, tariff ICC 1783.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-15108; Filed, Dec. 28, 1967; 8:48 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—DECEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during December.

3 CFR

	Page
PROCLAMATIONS:	
3761A (see Proc. 3822)	19002
3548 (see Proc. 3822)	19002
3821	17571
3822	19002
EXECUTIVE ORDERS:	
Dec. 5, 1913 (revoked in part by PLO 4327)	16531
Mar. 21, 1914 (revoked in part by PLO 4327)	16531
June 24, 1914 (revoked in part by PLO 4327)	16531
11075 (see Proc. 3822)	19002
11248:	
Amended by EO 11384	17423
Amended by EO 11385	18081
11383	17421
11384	17423
11385	18081

5 CFR

	Page
210	16474
213	16477, 17615, 17849, 20627, 20701, 20837, 20922.
310	20801
315	16474
351	16474
352	16474
353	16475
430	16475
511	16475
531	16475
550	20942
713	16476
722	20838
731	16476
752	16476
754	16476
771	16477
772	16477
831	16477
891	16477
2200	17573
2300	17651

7 CFR

	Page
6	20801
68	20837
250	20837
301	18015, 18017, 20942
354	20765
401	16478, 17425, 17513
718	17513
722	17467, 17887, 17923, 20838
724	16478
725	16479
729	17887
792	20629
794	19155
811	18083
814	20765
815	16525
842	20701
905	16525, 17615, 17616, 17925
907	16526, 17515, 17888, 20629, 20766, 20838
909	17849
910	16526, 17617, 17651, 18017, 18018, 18085, 20766, 20804.
944	17425
946	20702
959	20702
982	16527
987	19156
989	17467, 18086
1062	16479
1073	16480
1094	16527
1103	16527
1106	16480
1126	16528
1421	20767
1422	16528, 19156
1427	17849
1464	17888, 20839
1474	18018
1488	
PROPOSED RULES:	
51	17893, 20864
58	17893
812	17669
817	17669
911	17431
915	17431
948	17671
950	17433
989	17625, 20732
993	17434
1001	17626
1008	17626
1036	17626
1048	17626

7 CFR—Continued

	Page
1103	16527
1106	16480
1126	16528
1421	20767
1422	16528, 19156
1427	17849
1464	17888, 20839
1474	18018
1488	
PROPOSED RULES:	
51	17893, 20864
58	17893
812	17669
817	17669
911	17431
915	17431
948	17671
950	17433
989	17625, 20732
993	17434
1001	17626
1008	17626
1036	17626
1048	17626

8 CFR

	Page
238	17651
280	17651
PROPOSED RULES:	
242	17624
243	17624
244	17624
299	17624

9 CFR

	Page
71	19157
76	19157
78	18086
79	19157
95	19157
96	19158
97	17618, 20768
151	19158
160	20839
161	20839
162	20839
201	20921

10 CFR

	Page
1	20942, 20944
PROPOSED RULES:	
25	20868
26	20868
95	20868

12 CFR

	Page
1	17574, 17926, 20945
12	17468
206	17469
224	17425
265	19159
335	17470
531	20841
545	17926
556	20630
561	17515
605	17652
610	20703
670	20703, 20842
PROPOSED RULES:	
16	20687
563	17544

14 CFR

	Page
21	17850
39	16481, 17426, 17515, 17516, 17652, 17927, 20842, 20945, 20946.
61	16481
71	16482, 16483, 17426, 17427, 17516–17518, 17574–17576, 17653, 17851, 18020, 20630, 20631, 20704, 20705, 20769, 20843, 20947.
73	17427, 17653, 18087
75	17518
91	16483, 17654
95	20947
97	16484, 17577, 17928, 19170, 20706, 20949.
103	20958
121	16481, 17889
141	17851
151	17471
198	20843
214	18020
217	18020
221	18022
241	18023, 20770
243	20711
301	16491
302	20958
303	16491
311	16491
320	16491
386	20805
421	16491
430	16491, 20771
431	16491
435	16491
1209	20714
1501	20853
1502	20771
PROPOSED RULES:	
1	16495
21	17485
25	17487
39	17439, 17672, 17673, 17895, 20818
61	20984, 20985
71	16495, 17488, 17543, 17596–17598, 17673–17675, 17861, 17982, 18060–18062, 20657, 20658, 20737, 20738, 20780, 20781, 20986, 20987.
73	17488
75	18062
77	20658
91	16495, 19190
207	20739
214	16535
241	17983, 20880
295	16535
298	17598
399	20739

15 CFR

	Page
30	20805, 20807
200	21012
230	21017
373	17471

16 CFR

	Page
13	17427, 17618, 17853–17855, 18025, 20631, 20807, 20808, 20960.
15	17582, 17856, 18087, 20716
300	20853

16 CFR—Continued

	Page
PROPOSED RULES:	
301	17544
415	17601

17 CFR

	Page
230	17933
239	17933
240	17583, 20771, 20960
270	17583
274	17583
PROPOSED RULES:	
240	17983, 18063
270	17861

18 CFR

	Page
141	20967
260	20967

19 CFR

	Page
5	17619
12	17428
16	19159
19	17619
23	16528
24	17619

20 CFR

	Page
404	18026, 19159
405	18026, 18027
422	18030
609	20969
610	20969
611	20969
614	20969
PROPOSED RULES:	
405	18060, 18054

21 CFR

	Page
19	18096
29	17654
120	16529, 17472, 18096
121	16529, 16530, 17472, 17587, 17654, 17655, 17856, 17857, 18096, 20631, 20632
130	16531
146	16531
146a	16491, 17657
148q	18096
166	17473
191	19176
PROPOSED RULES:	
1	18113
15	18114
31	16533
46	17482, 17671, 18114
128	17980
130	17671
138	16533, 17626

22 CFR

	Page
10	17454

23 CFR

	Page
255	17938, 18032, 18033
PROPOSED RULES:	
255	16534, 20865

24 CFR

	Page
200	20808
203	20716, 20809
207	20716
220	20716
221	20809
234	17587, 20809

25 CFR — Page
500 — 20855
PROPOSED RULES:
221 — 17943

26 CFR
1 — 17479, 17518, 17657, 17890, 17938, 18039, 20976.
31 — 18039
46 — 18039
48 — 18039
49 — 18039
147 — 17858
601 — 20645
701 — 17890, 20772
PROPOSED RULES:
1 — 20727
151 — 17861

28 CFR
0 — 16531, 20772
200 — 20609

29 CFR
70 — 20858
1610 — 16491

30 CFR
PROPOSED RULES:
12 — 20730
18 — 18098
34 — 18098

31 CFR
1 — 17519
82 — 17859
214 — 18044
365 — 20717

32 CFR
52 — 17661
54 — 17619
57 — 18087
504 — 18089
537 — 17519, 20977
701 — 17588
710 — 20717
721 — 20719
881 — 20720
888c — 20648
1703 — 20722

32A CFR
OEP (Ch. I):
Reg. 6 — 20726

33 CFR
80 — 20772
95 — 20772
109 — 17726, 17890
110 — 17726, 17890
114 — 17726, 17890
115 — 17726, 17890
116 — 17726, 17890
117 — 17726, 17890, 17939
124 — 20773
126 — 20773
209 — 17522

36 CFR
7 — 17661

39 CFR — Page
113 — 20810
114 — 20810, 20811
118 — 20811
123 — 17479
135 — 20810
171 — 20633
224 — 18045
232 — 18045, 20643
261 — 20643
742 — 17479, 17860

41 CFR
1-1 — 16491, 18045
1-2 — 18049
1-16 — 18049
8-1 — 17542
Ch. 18 — 17602
101-26 — 17939

42 CFR
83 — 17662
Ch. II — 20811

43 CFR
2210 — 17890
PUBLIC LAND ORDERS:
334 (revoked in part by PLO 4333) — 17480
1035 (revoked by PLO 4341) — 20960
1230 (revoked in part by PLO 4348) — 20961
1796 (revoked in part by PLO 4331) — 17479
2764 (see PLO 4331) — 17479
3623 (revoked in part by PLO 4342) — 20960
4327 — 16531
4328 — 17429
4329 — 16532
4330 — 17479
4331 — 17479
4332 — 17479
4333 — 17480
4334 — 17429
4335 — 17429
4336 — 17620
4337 — 17662
4338 — 17891
4339 — 20775
4340 — 20979
4341 — 20960
4342 — 20960
4343 — 20960
4344 — 20960
4345 — 20960
4346 — 20960
4347 — 20961
4348 — 20961
4349 — 20961

45 CFR
80 — 17891
Ch. II — 20811
Ch. IV — 20811
Ch. IX — 20811
1105 — 17663

46 CFR
25 — 20812
32 — 20814
39 — 17621
35 — 19180
61 — 19180
72 — 19189

46 CFR—Continued — Page
76 — 19180
77 — 19181
78 — 19181
98 — 17621
111 — 19181, 20814
112 — 19182, 20815
113 — 19182, 20812
146 — 20816
184 — 20813
221 — 17595
255 — 17595
282 — 20775
308 — 17891
510 — 17480
526 — 17667
PROPOSED RULES:
Ch. II — 17980
510 — 19192
514 — 16496, 20818
536 — 19192

47 CFR
0 — 20859
1 — 20859
73 — 19183, 19187
97 — 17429
PROPOSED RULES:
2 — 16495, 18115, 20782
21 — 20881
73 — 19191, 20659, 20739, 20883
87 — 16496, 18115, 20782
91 — 17440

48 CFR
501 — 17940

49 CFR
93 — 20777
171-190 — 20982
290 — 17941
291 — 17941
292 — 17941
293 — 17941
294 — 17941
295 — 17892, 17941
296 — 17941
297 — 17941
890 — 17480
Ch. X — 20003
1033 — 20817, 20861, 20862
1034 — 20817
1100 — 20654, 20778
1200 — 17480
1306 — 20654
PROPOSED RULES:
177 — 18114, 20739
239 — 18062
294 — 18114, 20739
1033 — 20987
1034 — 20987
1048 — 20883
1056 — 20659

50 CFR
13 — 20655
28 — 17622, 20862
32 — 17542, 20656
33 — 16532, 17430, 17481, 17623, 17667, 17668, 18049, 20656, 20704, 20817, 20863, 20963.
254 — 16492

FEDERAL REGISTER

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PART II

DEPARTMENT OF COMMERCE

NATIONAL BUREAU OF STANDARDS

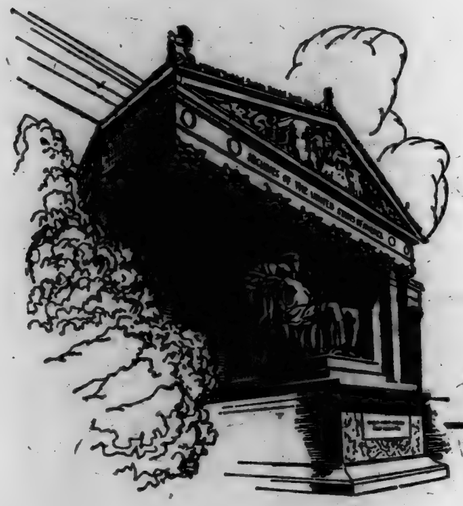

MEASUREMENT SERVICES; STANDARD REFERENCE MATERIALS

Title 15—COMMERCE AND FOREIGN TRADE

Chapter II—National Bureau of Standards, Department of Commerce

SUBCHAPTER A—MEASUREMENT SERVICES

PART 200—POLICIES, SERVICES, PROCEDURES, AND FEES

Revision of Subchapter

Pursuant to the authority contained in 15 U.S.C. 275a and 277, Subchapter A is revised as set forth below.

This revision, effective upon publication in the FEDERAL REGISTER, restates the policies and procedures relating to the National Bureau of Standards' measurement services, and incorporates by reference NBS Miscellaneous Publication 250 (MP 250), "Calibration and Test Services of the National Bureau of Standards." MP 250 states NBS policies, describes NBS measurement services in detail, prescribes the procedures for obtaining such services, and lists the fees charged.

Sec.

200.100 Statutory functions.
200.101 Measurement research.
200.102 Standards for measurement.
200.103 Types of calibration and test services.
200.104 Consulting and advisory services.
200.105 Standard reference materials.
200.106 Critically evaluated data.
200.107 Publications.
200.108 Broadcasts.
200.109 Request procedure.
200.110 Shipping, insurance, and risk of loss.
200.111 Priorities and time of completion.
200.112 Witnessing of operations.
200.113 Reports.
200.114 Use of results or reports.
200.115 Fees and bills.
200.116 Description of services and list of fees, incorporation by reference.

AUTHORITY: The provisions of this Part 200 are issued under sec. 9, 31 Stat. 1450, as amended; 15 U.S.C. 277. Interprets or applies sec. 7, 70 Stat. 959; 15 U.S.C. 278e.

§ 200.100 Statutory functions.

(a) The National Bureau of Standards has been assigned the following functions (15 U.S.C. 271–278e):

(1) The custody, maintenance, and development of the national standards of measurement, and the provision of means and methods for making measurements consistent with those standards, including the comparison of standards used in scientific investigations, engineering, manufacturing, commerce, and educational institutions with the standards adopted or recognized by the Government.

(2) The determination of physical constants and properties of materials when such data are of great importance to scientific or manufacturing interests and are not to be obtained with sufficient accuracy elsewhere.

(3) The development of methods for testing materials, mechanisms, and structures, and the testing of materials, supplies, and equipment, including items purchased for use of Government departments and independent establishments.

(4) Cooperation with other governmental agencies and with private organizations in the establishment of standard practices, incorporated in codes and specifications.

(5) Advisory service to Government agencies on scientific and technical problems.

(6) Invention and development of devices to serve special needs of the Government.

(b) The calibration and testing activities of the Bureau stem from the functions in paragraph (a) (1) and (3) of this section. These activities are assigned primarily to the NBS Institute for Basic Standards. Its program provides the central basis within the United States for a complete and consistent system of physical measurement; coordinates that system and the measurement system of other nations; and furnishes essential services leading to accurate and uniform physical measurements throughout the Nation's scientific community, industry, and commerce.

(c) The provision of standard reference materials for sale to the public is assigned to the Office of Standard Reference Materials of the NBS Institute for Materials Research. It evaluates the requirements of science and industry for carefully characterized reference materials, stimulates the Bureau's efforts to develop methods for production of needed reference materials and directs their production and distribution. For information on standard reference materials see Subchapter B, Chapter II, of this Title 15.

(d) The provision of technical services to facilitate technical innovation and industrial use of the results of modern science and technology is assigned to the NBS Institute for Applied Technology. The principal elements of the Institute are (1) a Center for Computer Sciences and Technology which conducts research and provides technical services designed to improve cost effectiveness in the conduct of agency programs through the use of computers and related techniques; (2) technical divisions which provide services in technology of more general applicability; and (3) the Clearinghouse for Federal Scientific and Technical Information which promotes widest effective use by the scientific community, industry, and commerce of current information in all fields of industrial technology.

§ 200.101 Measurement research.

(a) The NBS Institute for Basic Standards carries out the Bureau's functions in developing an adequate national system of physical measurement, and in providing related calibration services. Its staff continually reviews the advances in science and the trends in technology, examines the measurement potentialities of newly discovered physical phenomena, and uses these to devise and improve standards, measuring devices, and measurement techniques. As new requirements appear, there are continual shifts of program emphasis to meet the most urgent needs for the measurement of additional quantities, extended ranges, or improved accuracies.

(b) The basic research and development activities of NBS are primarily funded by direct appropriations, and are aimed at meeting broad general needs. The Bureau may also undertake investigations or developments to meet some specialized physical measurement problem of another Government agency, industrial group, or manufacturing firm, using funds supplied by the requesting organization.

§ 200.102 Standards for measurement.

(a) An international treaty, the Metric Convention, was signed by 18 countries in 1875. In 1893 the United States established prototype No. 27 of the international meter bar and prototype No. 20 of the international kilogram as U.S. Prototype Standards for length and mass. Representatives of many of the 40 nations now adhering to this treaty meet periodically, in the General Conference of Weights and Measures, to consider detailed proposals concerning international standards for physical measurement. Successive Conferences have now agreed to adopt six units to serve as a practical base for an International system of Units (Système International d'Unités, abbreviated SI)—kilogram, meter, second, kelvin, ampere, and candela. These are arbitrarily chosen but precisely defined magnitudes of six physical quantities—mass, length, time, temperature, electric current and luminous intensity, respectively—which are assigned unitary value in the International System. Because the system is coherent, the expressions for the other quantities of science and technology derived from these six through the equations of physics will also have unitary coefficients. The units of the English system—pound, inch, second, degree Fahrenheit, etc.— and of other systems of units are related to the SI units by agreed-upon conversion factors.

(b) The SI units for the six quantities are defined as follows:

(1) In terms of a prototype object:

(i) Mass: The "kilogram" is the mass of a platinum-irridium cylinder preserved at the International Bureau of Weights and Measures in Sèvres, France. Prototype No. 20 is kept at NBS; equivalent prototypes are kept by other countries.

(2) In terms of natural phenomena:

(i) Length: The "meter" is the length of exactly 1,650,763.73 wavelengths of radiation in vacuum corresponding to the unperturbed transition between the levels $2p_{10}$ and $5d_5$ of the atom of krypton 86, the orange-red line.

(ii) Time interval: The "second" was long defined as 1/86400 of the time required for an average complete rotation of the earth on its axis with respect to the sun. This, with daily corrections from zenith transits of a star, is the basis for a universal time scale (UT). With further correction for polar motion, it becomes UT1, and with further correction for annual seasonal variations, UT2. Also, the earth's average daily rotation rate has been decreasing, thereby increasing the length of each year by about 6 ms over the length of the preceding year. Because of this, and other larger random fluctuations, the universal second thus defined is not a constant. Consequently, the 11th Conference (1960) ratified the definition of a second based on ephemeris time (ET): "the fraction 1/31,556,925.9747 of the tropical year for January 0, 1900 at 12 o'clock ephemeris time." The 12th Conference (1964) authorized the designation of a cesium atom transition as a standard of frequency to be used temporarily for the physical measurement of time. The 13th Conference (1967) abrogated the 1960 action and decided that: The unit of time of the International System of Units is the second, defined in the following terms: "The second is the duration of 9,192,631,770 periods of the radiation corresponding to the transition between the two hyperfine levels of the fundamental state of the atom of cesium 133."

(iii) Temperature: The "kelvin," the unit of thermodynamic temperature, is the fraction 1/273.16 of the thermodynamic temperature of the triple point of water. It was decided by the 13th Conference that the same name, kelvin, and the symbol K should be used for expressing temperature intervals, dropping the former convention which expressed a temperature interval in degrees Kelvin or as abbreviated, deg K. However, the old designations are acceptable temporarily as alternatives to the new ones. One may also express temperature intervals in degrees Celsius.

(iv) Electric Current: The "ampere" is that constant current which if maintained in two straight parallel conductors of infinite length, of negligible circular sections, and placed 1 meter apart in a vacuum, would produce between these conductors a force equal to 2×10^{-7} newton per meter of length.

(v) Luminous intensity: The "candela" is the luminous intensity, in the direction of the normal, of a blackbody surface 1/600,000 square meter in area, at the temperature of solidification of platinum under a pressure of 101,325 newtons per square meter.

(c) Although the six base units, and others derived from them, are exactly defined, their practical use requires a realization through the development of accurate measurement standards. Measurement standards may be based on physical phenomena, specimen objects, signal sources, or reference instruments. Extensive theoretical studies and laboratory experiments are involved in their selection, design, construction, and operation.

(d) It will be noted that a kilogram mass standard can be calibrated only through a series of comparisons, starting from the International Prototype. The units for the other five base quantities, and all quantities derived from them, are in principle independently realizable in many laboratories. In practice, however, inevitable minor differences among instruments, environments, and operators are bound to introduce small discrepancies. Periodic comparison of standards and the resolution of these discrepancies is required for compatibility among domestic standards laboratories, as well as internationally.

(e) Within the United States, NBS consults with the major industrial and governmental standards laboratories, and cooperates with the Department of Defense and the National Conference of Standards Laboratories in conducting measurement agreement comparisons. Periodic inter-comparisons of NBS standards with those of other countries are made through the International Bureau of Weights and Measures, through international scientific organizations, or by direct arrangement. The operations of the International Bureau are supervised by the General Conference of Weights and Measures, to which U.S. delegates are appointed by the Department of State.

(f) Frequency and time comparisons within the United States are made by the National Bureau of Standards, the U.S. Naval Observatory, and other organizations which have an interest in precise time and frequency standards. The data from worldwide astronomical observations and from standards laboratories in many countries are coordinated by the International Bureau of the Hour, which announces recommended approximations for the rate difference between atomic and universal time, as well as for epoch adjustments.

§ 200.103 Types of calibration and test services.

(a) NBS has developed instrumentation and techniques for realizing standards for the six base units of the International System of Units, as agreed upon by the General Conference of Weights and Measures. Reference standards have been established not only for these six base units, but also for many derived quantities and their multiples and submultiples. Such reference standards, or equivalent working standards, are used to calibrate laboratory and plant standards for other organizations. Accuracy is maintained by stability checks, by comparison with the standards of other national and international laboratories, and by the exploration of alternative techniques as a means of reducing possible systematic error.

(b) Calibrations for many types of instruments and ranges of physical quantities are described in the itemized service schedules of MP 250. On those services for which fees have been established, the fees are also listed in MP 250. In cases where fees have not been fixed, services will be billed on the basis of actual costs incurred. (See § 200.116 for details relating to the description of service items and listing of fees.) Changes in services and fees are announced in supplements to MP 250 and in the monthly NBS Technical News Bulletin.[1]

(c) Special measurements not listed in MP 250 may be made upon request. These might involve unusual physical quantities, upper or lower extremes of range, higher levels of accuracy, fast response speeds, short durations, broader ranges of associated parameters, or special environmental conditions. Such inquiries should describe clearly the measurement desired. Indication of the scientific or economic basis for the requirement to be satisfied will be helpful in determining future NBS programs. Fees for work accepted will be based upon actual costs incurred.

(d) The principal emphasis of the National Bureau of Standards is on those calibrations and other tests requiring such accuracy as can be obtained only by direct comparison with its standards. However, in order to maintain efficient utilization of specialized equipment and skilled personnel, NBS may when workload permits calibrate devices requiring lesser accuracy but suitable for working standards in plant or laboratory.

(e) Other services which may be obtainable include:

(1) Tests of measuring instruments to determine compliance with specifications or claims, when the evaluation is critical in national scientific or technical operations, and when suitable facilities are not available elsewhere.

(2) Referee tests in important cases when clients are unable to agree upon the method of measurement, the results of tests, or the interpretation of these results, but have agreed in advance in writing to accept and abide by the findings of NBS.

(f) NBS reserves the right to decline any request for services if the work would interfere with other activities deemed by the Director to be of greater importance. In general, measurement services are not provided when widely available from commercial laboratories, nor for organizations or individuals in foreign countries.

(g) Suggestions will be offered on measurement techniques and on other sources of assistance on calibration or measurement problems when the Bureau's own equipment and personnel are unable to undertake the work. The National Conference of Standards Laboratories issues a Directory of Standards Laboratories in the United States which perform calibration work (obtainable from NCSL Secretariat, c/o National Bureau of Standards, Washington, D.C. 20234). Those which perform testing are listed in the ASTM Directory of Testing Laboratories, Commercial and Institutional. (Directory available from the American Society for Testing and Materials, 1916 Race St., Philadelphia, Pa. 19103.) Similar listings appear in buyer's guides for commercial products and in technical journals concerned with physical measurement.

§ 200.104 Consulting and advisory services.

(a) In areas of its special competence, the National Bureau of Standards offers consulting and advisory services on various problems related to measurement, e.g. details of design and construction, operational aspects, unusual or extreme

[1] For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

conditions, methods of statistical control of the measurement process, automated acquisition of laboratory data, and data reduction and analysis by computer. Brief consultation may be obtained at no charge; the fee for extended effort will be based upon actual costs incurred.

(b) To enhance the competence of standards laboratory personnel, NBS conducts at irregular intervals several group seminars on the precision measurement of specific types of physical quantities, offering the opportunity of laboratory observation and informal discussion. A summer course in electromagnetic measurements and standards is conducted periodically by the NBS Radio Standards Laboratory at Boulder, Colorado.

§ 200.105 Standard reference materials.

Often the performance of a device or structure can be evaluated at the user's laboratory by comparing its response to unknown materials with its response to a standardized specimen or a substance of certified composition, properties, or purity. Types of such specimens are listed in several of the detailed fee schedules in MP 250. For information regarding carefully characterized materials see Subchapter B of Chapter II of this Title 15. The Office of Standard Reference Materials in the NBS Institute for Materials Research administers a program to provide many types of well-characterized materials that are needed to calibrate a measurement system or to produce scientific data that can be readily referred to a common base.

§ 200.106 Critically evaluated data.

Data on the physical properties of the thousands of well-defined substances which are commercially available need to be compiled and evaluated to be useful for reference in engineering design. The Office of Standard Reference Data in the NBS Institute for Basic Standards provides two-way communication with a number of governmental and nongovernmental data centers throughout the country. Its present compilation and dissemination activities cover seven technical areas—nuclear data, atomic and molecular data, solid state data, thermodynamic and transport data, chemical kinetics, colloid and surface properties, and mechanical properties. Accounts of progress appear in the National Standard Reference Data System News (available upon request from the Office of Standard Reference Data) and in the monthly NBS Technical News Bulletin.[1]

§ 200.107 Publications.

(a) Changes in services and fees, as published in the supplements to MP 250, appear also in the monthly NBS Technical News Bulletin.[1] The Bulletin also describes recent results of Bureau staff work, lists currently issued publications, and carries sections giving up-to-date detailed information on standards and calibrations, standard reference materials, seminar announcements, conference summaries, and the National Standard Reference Data System. An index to publications by the Bureau authors will be found in Supplements to Miscellaneous Publication 240, Publications of the National Bureau of Standards.[1] This index covers the publication series of Monographs,[1] and Technical Notes,[1] and includes all papers appearing either in the NBS Journal of Research[1] or in outside technical journals.

(b) U.S. Government Research and Development Reports, a semimonthly announcement journal covering over 1,000 new documents per issue, is sold by the NBS Clearinghouse for Federal Scientific and Technical Information, Springfield, Va. 22151. Other CFSTI series available on subscription include the USGRDR Index, and a Fast Announcement Service which highlights in 57 categories those USGRDR items of particular technological and industrial significance. Any individual item announced is available as paper copy or microfiche.

§ 200.108 Broadcasts.

(a) The NBS Radio Standards Laboratory broadcasts various types of standard frequency and time signals as a service from three radio stations: WWV, WWVH, and WWVB. A fourth station, WWVL, is engaged in an experimental program to evaluate precise time synchronization techniques. NBS Miscellaneous Publication 236, "NBS Standard Frequency and Time Services,"[1] contains information concerning the broadcasts of such signals from these four stations. WWVH is located at Maui, Hawaii. WWV, WWVL, and WWVB are located at Fort Collins, Colo. Notices of precisions, accuracies, and adjustments in NBS clocks and radio emissions are published in the FEDERAL REGISTER. Such notices are published also in the Time and Frequency Service Bulletin which is available on request from the NBS Radio Standards Laboratory, Boulder, Colo. 80302.

(b) Broadcasts from WWV are at nominal frequencies of 2.5, 5, 10, 15, 20, and 25 MHz and from WWVH at 2.5, 5, 10, and 15 MHz. Time pulses superimposed on these carrier frequencies are occasionally adjusted in phase, and also as to emission rate (by offsetting the carrier frequency from nominal) in accordance with the Universal Time Coordinated (UTC) system,[2] as recommended by the Bureau International de l'Heure (BIH). The carrier offset currently is minus 300 parts in 10^{10}, giving pulses which occur at intervals slightly longer than 1 second. With phase adjustment the result approximates UT2 within about 100 ms, and therefore is useful in furnishing information about the earth's position on its axis, as used to determine the observer's longitude. WWV and WWVH also provide standard musical pitch at 440 hertz, ionospheric propagation condition forecasts, and geophysical alerts. WWV broadcasts Greenwich Mean Time—seconds, minutes, hours, and days of the year—in the code format of the National Aeronautics and Space Administration. For more precise determination of UT2, both WWV and WWVH broadcast in International Morse Code appropriate corrections based on astronomical data from the U.S. Naval Observatory, Washington, D.C.

(c) At WWVL a carrier frequency of 20 kHz is provided, and time-shared with others near 20 kHz. These carrier frequencies are likewise offset from nominal, hence timing information derived from their phase is also in conformity with the UTC system. Station WWVB broadcasts on the standard radio frequency of 60 kHz without offset, emitting time marker pulses 1 second apart, as determined by the NBS cesium clock. The phase of these pulses is reset every few months by 200 ms adjustments as recommended by the Bureau International de l'Heure, in order to approximate UT2 within about 100 ms. This is the coordinated system known as Stepped Atomic Time (SAT).

(d) The U.S. Naval Observatory (USNO) also broadcasts standard UTC time and time interval (frequency), using both astronomical and atomic data. It coordinates a number of Navy and Coast Guard stations around the globe and also monitors the NBS broadcasts. Both USNO and NBS monitor broadcasts from selected laboratories in foreign countries, and issue periodic comparisons of reference signals.

§ 200.109 Request procedure.

(a) A formal purchase order for the calibration or test should be sent before or at the time the instrument or standard is shipped. This should provide clear identification of the apparatus being submitted, and give separate instructions for return shipment, mailing of report, and billing. If a customer wishes to minimize the time during which his equipment is out of service, he can usually arrange to delay shipment until the test is scheduled to start. (See § 200.111.) Requests from Federal agencies, or from State agencies, for calibrations or tests on material to be used on private or Federal contract work, should be accompanied either by purchase order or by letter or document authorizing the cost of the work to be billed to the agency.

(b) The submission of a purchase order for measurement services under this subchapter shall be understood as constituting an agreement on the part of the customer to be bound by the restrictions on the use of results as set forth in section 200.114 below. Acceptance of purchase orders does not imply acceptance of any provisions set forth in the order contrary to the policy, practice, or regulations of the National Bureau of Standards or the U.S. Government. (A statement to the effect that the National Bureau of Standards is an agency of the U.S. Government should satisfy other Government agencies with regard to compliance with Government regulations and Executive orders.)

[1] For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

[2] See G. E. Hudson, Some Characteristics of Commonly Used Time Scales, Proceedings, Institute of Electrical and Electronic Engineers, vol. 55, No. 6, June 1967, pp. 818–821.

(c) A test number will be assigned by the Bureau to each instrument or group of similar instruments or standards when the order is accepted. This test number should be referred to in all subsequent communications. Also, each instrument in a group must be uniquely identified, usually by the manufacturer's name and instrument serial number. When the serial number is lacking, an alternative identifying mark should be provided. If none is found, the Bureau will mark the piece with an NBS identification number. If the apparatus submitted has been previously calibrated by the Bureau, the serial number or identifying mark should be given on the new order, so that a continuing record of stability history can be established.

(d) Inquiries for measurement services related to electrical standards in the radio frequency region (above 30 kHz) or to frequency and time standards should be directed to:

Coordinator, Calibration Services, Radio Standards Laboratory, National Bureau of Standards, Boulder, Colo. 80302.

(e) Inquiries for measurement services other than those noted in paragraph (d) of this section, should be directed to the NBS address listed in the various sections of MP 250, or to:

Test Administration Unit, National Bureau of Standards, Washington, D.C. 20234.

§ 200.110 Shipping, insurance, and risk of loss.

(a) Shipment of apparatus to NBS for calibration or other test should be made only after the customer has accepted the estimate of cost and the tentative scheduling. Repairs and adjustments on apparatus submitted should be attended to by the owner, since NBS will not undertake them except by special arrangement. Apparatus not in good condition will not be calibrated. If defects are found after calibration has begun, the effort may be terminated, a report issued summarizing such information as has been found, and a fee charged in accordance with the amount of work done.

(b) The customer should pack apparatus sent to NBS so as to minimize the likelihood of damage in shipment and handling. Suggestions on packing and shipping are made in some sections of MP 250. In every case, the sender should consider the nature of the apparatus, pack it accordingly, and clearly label shipments containing fragile instruments or materials, such as glass and the like. The use of "security express" should be considered in shipping delicate instruments.

(c) To minimize damage during shipment resulting from inadequate packing, the use of strong reusable containers is recommended. As an aid in preventing loss of such containers, the customer's name should be legibly and permanently marked on the outside. In order to prolong the container's use, the notation "REUSABLE CONTAINER, DO NOT DESTROY" should be marked on the outside.

(d) Shipping and insurance coverage instructions should be clearly and legibly shown on the purchase order for the calibration or test. The customer must pay shipping charges to and from NBS; shipments from NBS will be made collect. The method of return transportation should be stated, and it is recommended that return shipments be insured, since NBS will not assume liability for their loss or damage. For long-distance shipping it is found that air express and air freight provide an advantage in reduction of time in transit. If return shipment by parcel post is requested or is a suitable mode of transportation, shipments will be prepaid by NBS, but without covering insurance. When no shipping or insurance instructions are furnished, return shipment will be made by common carrier collect, but uninsured.

(e) NBS will not be responsible for the risk of loss or damage to any item during shipment to or from the Bureau. Any arrangements for insurance covering this risk must be made by the customer. Return shipment will be made by the Bureau as indicated in paragraph (d) of this section. The purchase order should always show the value of the equipment, and if transit insurance is carried by the customer, this fact should be stated.

(f) The risk of loss or damage in handling or testing of any item by NBS must be assumed by the customer, except when it is determined by the Bureau that such loss or damage was occasioned solely by the negligence of Bureau personnel.

(g) When a test number has been assigned prior to shipment to NBS, this number should be clearly marked on the shipping container. When a test number has not been assigned, an invoice, copy of the purchase order, or letter should be enclosed in the shipment to insure proper identification. The original purchase order should be forwarded as appropriate to:

Test Administration Unit, National Bureau of Standards, Washington, D.C. 20234.

or to

Coordinator, Calibration Services, Radio Standards Laboratory, National Bureau of Standards, Boulder, Colo. 80302.

(h) The calibrations listed in MP 250 are performed at these locations: Boulder, Colo., Gaithersburg, Md., and Washington, D.C.

(1) Calibrations of electrical standards and materials in the radio frequency region (above 30 kHz) and all frequency and time calibrations are performed at Boulder, Colo., and shipments should be addressed to:

Coordinator, Calibration Services, Radio Standards Laboratory, National Bureau of Standards, Boulder, Colo. 80302.

If apparatus for radio frequency is also to be given incidental low-frequency calibration (below 30 kHz), this may be done at Boulder, but if a complete range of low-frequency calibrations are needed, the instrument should be sent to:

National Bureau of Standards, Route 70S and Quince Orchard Rd., Gaithersburg, Md. 20760.

(2) Calibrations listed in MP 250 other than those noted in paragraph (1) above, of this section, are performed in the Bureau's laboratories at either Gaithersburg, Md., or Washington, D.C.

For shipments which are heavy (in excess of 100 lbs.) or bulky (a combined girth in excess of 27 cu. ft.), request a shipping address from:

Test Administration Unit, National Bureau of Standards, Washington, D.C. 20234.

Items other than heavy or bulky shipments that are sent by common carrier, should be addressed to:

National Bureau of Standards, Route 70S and Quince Orchard Rd., Gaithersburg, Md. 20760.

§ 200.111 Priorities and time of completion.

Schedule work assignments for calibrations and other tests will generally be made in the order in which confirmed requests are received. However, Government work may be given priority. On the regular services, the workload is usually such that the turn-around interval, between the date a customer's apparatus is received and the date it is prepared for return shipment, will be not more than 45 days. Some types of instruments may require considerably longer, particularly if their abnormal behavior requires reruns to check reliability. Others can be calibrated and returned within 10 days. Special tests, such as the "z" items listed in MP 250 require individual scheduling. The customer who can spare his instrument for only a short time can usually arrange by letter or phone call for shipping it to the Bureau just as his assigned starting date approaches. A notice will be sent acknowledging receipt of the customer's standard and/or purchase order. If both a confirmed purchase order (or equivalent) and the apparatus have been received, estimates of a completion date and a calibration fee will be sent upon request.

§ 200.112 Witnessing of operations.

The Bureau welcomes scientists and engineers who may wish to visit its laboratories and discuss its methods. Ordinarily visitors will not be permitted to witness the actual carrying out of highly precise measurements because their presence introduces distraction that may lead to errors or delays. This policy may be waived in those cases where the visitor can be of service in setting up apparatus of a new or unusual nature, in the case of referee tests, or in other cases in which the legal validity of the result may require the presence of duly authorized witnesses.

§ 200.113 Reports.

(a) Results of calibrations and other tests are issued to the customer as formal reports entitled, "National Bureau of Standards Report of Calibration," "National Bureau of Standards Report of Test," or "National Bureau of Standards Report of Analysis," as appropriate. Copies are not supplied to other parties. Whenever formal certification is required

by law, or to meet special conditions adjudged by the National Bureau of Standards to warrant it, a letter will be provided certifying that the particular item was received and calibrated or tested, and identifying the report containing the results.

(b) NBS reports of calibration generally include in sentence form a statement of the uncertainty attached to the numerical values reported. Limits of uncertainty usually comprise (i) an estimate of systematic error, plus (ii) a value of imprecision.

(1) Often the systematic error estimate is based on experience or judgment. Sometimes it is an explicit combination of a number of elemental systematic errors. Sometimes the value can be checked by using two completely different physical phenomena, types of standard, or measurement techniques.

(2) Imprecision is preferably expressed as three times the standard deviation of a single determination, or three times the standard error of the arithmetic mean of n determinations, either being a canonical value for the measurement process based on considerable recent experience. When extended experience is lacking, the terms "computed standard deviation" or "computed standard error" should be used.

(3) A laboratory using NBS results to estimate the uncertainty attached to its own work may equate its own systematic error to the NBS quoted limit of uncertainty, as a minimum. The imprecision of its own work is best evaluated by calibration records extended over considerable periods of time, with repetition of its specified calibration procedure and assurance that its measurement process is in statistical control. For further information see:

(i) Youden, W. J., Uncertainties in Calibration. IRE Trans., vol. I–11, Nos. 3 and 4, p. 133 (December 1962).

(ii) Eisenhart, Churchill, Realistic Evaluation of the Precision and Accuracy of Instrument Calibration Systems. NBS J. Res., vol. 67C, No. 2, p. 161 (April–June 1963).

(iii) Natrella, M. G., Experimental Statistics. NBS Handbook 91, Aug. 1, 1963, ch. 23.

(iv) Wildhack, W. A., H. L. Mason, and R. C. Powell, Accuracy in Measurements and Calibrations, 1965. NBS Technical Note No. 262. (Shows the general status of NBS accuracy limits as of June 1965.)

(v) Wildhack, W. A., H. L. Mason, R. S. Powers, Jr., Accuracy Charts for RF Measurements. Proc. IEEE, vol. 55, No. 6, pp. 1056–1063 (June 1967).

(vi) Eisenhart, Churchill, and H. H. Ku, Expression of the Uncertainty of Final Results, and a Tabular Guide to Commonly Used Terms and Expressions. Submitted for publication, Instrumentation Technology, October 1967.

§ 200.114 Use of results or reports.

(a) As the national standards laboratory of the United States, NBS maintains and establishes the primary standards from which measurements in science and industry ultimately derive. It is therefore sometimes desirable for manufacturers or users of measurement standards to make appropriate reference to the relationship of their calibrations to NBS calibrations. The following considerations must be borne in mind, and shall be understood as constituting an agreement on the part of the NBS customer to be bound thereby in making reference to NBS calibration and test reports.

(b) The results of calibrations and tests performed by NBS are intended solely for the use of the organization requesting them, and apply only to a particular device or specimen at the time of its test. The results shall not be used to indicate or imply that they are applicable to other similar items. In addition, such results must not be used to indicate or imply that NBS approves, recommends, or endorses the manufacturer, the supplier, or the user of such devices or specimens, or that NBS in any way "guarantees" the later performance of items after calibration or test.

(c) NBS declares it to be in the national interest that the Bureau maintain an impartial position with respect to any commercial product. Advertising the findings on a single instrument could be misinterpreted as an indication of performance of other instruments of identical or similar type. There will be no objection, however, to a statement by a manufacturer that his primary standards have been periodically calibrated by NBS, if this is actually the case, or that his customer might arrange to have NBS calibrate the item purchased from him.

(d) NBS does not approve, recommend, or endorse any proprietary product or proprietary material. No reference shall be made to the Bureau, or to reports or results furnished by NBS in any advertising or sales promotion which would indicate or imply that NBS approves, recommends, or endorses any proprietary product or proprietary material, or which has as its purpose an intent to cause directly or indirectly the advertised product to be used or purchased because of NBS test reports or results.

In its own activities as a scientific institution, the NBS uses many different materials, equipments, and services. This does not imply that it has given them a preferential position or a formal endorsement. Therefore, NBS discourages references, either in advertising or in the scientific literature, which identify it as a user of any proprietary product, material, or service. Occasionally, effective communication of results by NBS to the scientific community requires that a proprietary instrument, product, or material be identified in an NBS publication. Such reference to a proprietary item does not constitute endorsement and should not be used in any way apart from the context of the NBS publication without the express written consent of the Bureau.

§ 200.115 Fees and bills.

(a) In accordance with 15 U.S.C. 271–278e, fees are charged for all measurement services performed by the National Bureau of Standards, unless waived by the Director when deemed to be in the interest of the Government. The above-mentioned statutes authorize the Secretary of Commerce to make from time to time appropriate regulations regarding the payment of fees, the limits of tolerance on standards submitted for verification, and related matters. See § 200.116 for information as to fees.

(b) The minimum fee for any service request accepted by the Bureau is $10, unless otherwise indicated in MP 250. If apparatus is returned without testing, a minimum charge of $10 may be made to cover handling. Charges commensurate with the work performed will be assessed for calibrations which cannot be completed because of faulty operation of the customer's device. Fees for calibrations or tests include the cost of preparation of an NBS report. Remittances should be made payable to the National Bureau of Standards.

§ 200.116 Description of services and list of fees, incorporation by reference.

(a) NBS Miscellaneous Publication 250 "Calibration and Test Services of the National Bureau of Standards" is hereby incorporated by reference, pursuant to 5 U.S.C. 552(a)(1) and 1 CFR Part 20. MP 250 states the authority under which NBS performs various types of measurement services including calibrations and tests and charges fees therefor, states the general conditions under which the public may secure such services, describes these services in considerable detail, lists the fees to be charged, and sets out the instructions for requesting them.

(b) MP 250 is available at the following places:

(1) Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

(2) Office of Technical Information and Publications, National Bureau of Standards, Washington, D.C. 20234.

(3) Field offices of the Office of Field Services, Department of Commerce.

(4) Federal Depository Libraries.

(c) Revisions, amendments, revocations, deletions, recodifications, redesignations, and corrections to MP 250 will be issued from time to time by the National Bureau of Standards, Washington, D.C. 20234, in the form of replacement pages or insert sheets. A postcard is provided in MP 250 for requesting copies of them. NBS will maintain an official historic file of MP 250 and of replacement pages and insert sheets.

(d) Further information concerning policies, procedures, services, and fees may be obtained by writing the Office of Technical Information and Publications, National Bureau of Standards, Washington, D.C. 20234.

A. V. Astin,
Director.

December 19, 1967.

Note: Incorporation by reference provisions in § 200.116 approved by Director of the Federal Register on December 28, 1967.

[F.R. Doc. 67–15069; Filed, Dec. 28, 1967; 8:45 a.m.]

SUBCHAPTER B—STANDARD REFERENCE MATERIALS

PART 230—STANDARD REFERENCE MATERIALS

Revision of Subchapter

Pursuant to the authority contained in 15 U.S.C. 275a and 277, Subchapter B is revised as set forth below.

This revision restates the procedure for ordering standard reference materials issued by the National Bureau of Standards, and incorporates by reference NBS Miscellaneous Publication 260 (MP 260), "Standard Reference Materials: Catalog and Price List of Standard Reference Materials Issued by the National Bureau of Standards." MP 260 describes the Bureau's standard reference materials and lists the fees charged for those materials.

Subpart A—General Information

Sec.
230.1 Introduction.
230.2 Identification of standards.
230.3 New standards.

Subpart B—Purchase Procedure

230.4 Ordering.
230.5 Terms and shipping.
230.6 Standards out of stock.

Subpart C—Description of Services and List of Fees

230.7 Description of services and list of fees, incorporation by reference.

Authority: The provisions of this Part 230 issued under sec. 9, 31 Stat. 1450, as amended; 15 U.S.C. 277. Interprets and applies sec. 7, 70 Stat. 959; 15 U.S.C. 275a.

Subpart A—General Information

§ 230.1 Introduction.

This part states the procedure for ordering standard reference materials issued by the National Bureau of Standards to calibrate a measurement system, or to produce scientific data that can be referred to a common base. NBS Miscellaneous Publication 260, "Standard Reference Materials: Catalog and Price List of Standard Reference Materials Issued by the National Bureau of Standards" describes the standard reference materials and lists the fees charged for those materials.

§ 230.2 Identification of standards.

The standards are listed by groups; the numbers represent the issuance of the first representative sample of each kind. Renewals are indicated by the original number with an added letter to denote the relation. Thus, 11a is the first, 11b the second, 11c is the third renewal of No. 11 Basic Open-Hearth Steel, 0.2 percent carbon. In this way, a particular number always represents a material of fixed or approximately fixed composition.

§ 230.3 New standards.

When new standard reference materials or renewals of old ones are issued, announcement will be made in MP 260 and in scientific and trade journals.

Subpart B—Purchase Procedure

§ 230.4 Ordering.

Orders should be addressed to the Office of Standard Reference Materials, National Bureau of Standards, Washington, D.C. 20234, and should give the amount, number, and name of the standards requested. For example: 150 grams of No. 11g Basic Open-Hearth Steel, 0.2 percent C. The list of standard materials, their numbers, prices, and composition or intended use are given in MP 260. These materials are distributed only in the units listed.

§ 230.5 Terms and shipping.

(a) *Domestic shipments.* Shipments of material (other than hydrocarbons, organic sulfur compounds and radioactive standards) intended for the United States, Mexico, and Canada are normally shipped prepaid parcel post (providing that the parcel does not exceed the weight limits as prescribed by postal laws and regulations) unless the purchaser requests a different mode of shipment, in which case the shipment will be sent collect. It is impractical for the Bureau to prepay shipping charges and add this cost to the billing invoice. Hydrocarbons, organic sulfur compounds, rubber compounding materials, viscometer calibrating oils, and radioactive standards are shipped express collect. No discounts are given to NBS Standard Reference Materials.

(b) *Foreign shipments.* Small shipments will be forwarded as a U.S. Government shipment via International Parcel Post, providing that the parcel does not exceed the weight limits as prescribed by postal laws and regulations to foreign countries. Shipments exceeding the parcel post weight limit must be handled through an agent (shipping or brokerage firm) located in the United States as designated by the purchaser. Parcels will be packed for overseas shipment and forwarded via express collect to the U.S. firm designated as agent.

(c) *Payment for domestic orders.* Invoices for standard reference materials to be used within the United States of America are mailed when shipment is made. Remittances, made payable to the National Bureau of Standards, are required within thirty (30) days of shipment. Prepaid orders are accepted at the prices current on the date of receipt of the order.

(d) *Payment for foreign orders.* Remittances in payment of foreign orders must be made payable to the National Bureau of Standards, and are required in advance. These remittances are payable in dollars. Prices for the materials are those current at the date of receipt of the order.

§ 230.6 Standards out of stock.

The preparation of "renewals" is intended to be completed at the time each kind of material becomes exhausted, but owing to delays encountered in obtaining a proper grade of material, and for other reasons, this is not always possible. If orders are received for standard reference materials that are out of stock, notice will be mailed to that effect. The composition of a "renewal" will not usually be identical with that of its predecessor, but it will be quite similar, especially with regard to the characteristic constituent or constituents.

Subpart C—Description of Services and List of Fees

§ 230.7 Description of services and list of fees, incorporation by reference.

(a) The text of the current edition of NBS Miscellaneous Publication 260, "Standard Reference Materials: Catalog and Price List of Standard Reference Materials Issued by the National Bureau of Standards" is hereby incorporated by reference pursuant to 5 U.S.C. 552(a)(1) and 1 CFR Part 20. MP 260 states the authority under which the National Bureau of Standards offers standard reference materials, describes the standard reference materials which are available, states the procedure for ordering the materials, and lists the fees charged for the materials.

(b) MP 260 is available at the following places:

Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.
Office of Technical Information and Publications, National Bureau of Standards, Washington, D.C. 20234.
Field Offices of the Office of Field Services, Department of Commerce.

(c) Revisions, amendments, revocations, deletions, recodifications, redesignations, and corrections will be issued from time to time by the National Bureau of Standards, Washington, D.C. 20234, in the form of replacement pages or insert sheets, and an official historic file will be maintained by the National Bureau of Standards. A form, included in MP 260, is provided for requesting replacement pages or insert sheets.

Effective date. This revision of Subchapter B is effective upon publication in the Federal Register.

A. V. Astin,
Director.

December 19, 1967.

Note: Incorporation by reference provisions in § 230.7 approved by Director of the Federal Register on Dec. 28, 1967.

[F.R. Doc. 67–15100; Filed, Dec. 28, 1967; 8:45 a.m.]

252

FEDERAL REGISTER

VOLUME 32 • NUMBER 252

Saturday, December 30, 1967 • Washington, D.C.

Pages 21019–21087

(Part II begins on page 21053)

JAN 4 1968

READING ROOM

Agencies in this issue—

The Congress
Agricultural Stabilization and Conservation Service
Agriculture Department
Civil Aeronautics Board
Civil Service Commission
Consumer and Marketing Service
Customs Bureau
Federal Aviation Administration
Federal Home Loan Bank Board
Federal Power Commission
Fish and Wildlife Service
Health, Education, and Welfare Department
Housing and Urban Development Department
Interior Department
Interstate Commerce Commission
Labor Department
Labor Standards Bureau
Maritime Administration
National Park Service
Securities and Exchange Commission
Tariff Commission
Treasury Department

Detailed list of Contents appears inside.

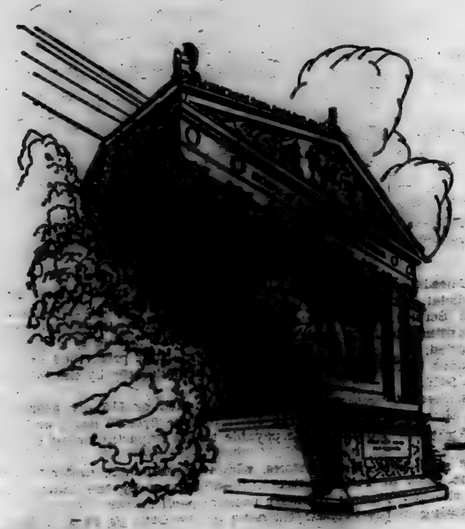

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Contents

THE CONGRESS

Acts approved 21049

EXECUTIVE AGENCIES

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Rules and Regulations

Rice marketing quotas and acreage allotments; 1968–69 marketing year 21022

Sugar quotas for 1968:
- Hawaii and Puerto Rico 21024
- Puerto Rico 21025

Notices

Rice; marketing quota referendum for 1968 crop 21042

AGRICULTURE DEPARTMENT

See also Agricultural Stabilization and Conservation Service; Consumer and Marketing Service.

Notices

Meats; import limitations 21043

CIVIL AERONAUTICS BOARD

Notices

Memphis/Huntsville/Birmingham-Los Angeles service investigation; hearing, etc 21044

CIVIL SERVICE COMMISSION

Rules and Regulations

Pay administration:
- Coverage 21023
- Differentials 21023

COMMERCE DEPARTMENT

See Maritime Administration.

CONSUMER AND MARKETING SERVICE

Rules and Regulations

Lemons grown in California and Arizona; handling limitation 21028

Oranges, Navel, grown in Arizona and California; handling limitation 21028

Proposed Rule Making

Milk in Chicago, Ill., and certain other marketing areas; recommended decision 21054

Notices

Federal meat inspection; new requirements for handlers 21042

CUSTOMS BUREAU

Notices

Ceylon rupee, Finnish markka, Irish pound, New Zealand dollar, Spanish peseta, and United Kingdom pound; rates of exchange 21040

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations

Airworthiness directives:
- DeHavilland aircraft (2 documents) 21029
- Grumman aircraft 21030
- McDonnell Douglas DC-8 and DC-9 airplanes 21030
- Pratt & Whitney aircraft engines 21030

Proposed Rule Making

Controlled airspace; operation of certain airplanes under instrument flight rules 21039

FEDERAL HOME LOAN BANK BOARD

Rules and Regulations

Statements of policy; advances 21029

FEDERAL POWER COMMISSION

Notices

El Paso Natural Gas Co.; hearing, etc 21044

National Power Survey Regional Advisory Committees; determination regarding continuation 21045

FISH AND WILDLIFE SERVICE

Notices

Loan applications:
- Bohannon, Frank B. and Helen F 21040
- Degner, Alan B. and Rhoda Alice 21040
- Kelley, Eugene M 21040
- Leach, Thomas Ned and Helen Edith 21041
- Moody, Russell E 21041
- Murray, William Edward 21041
- Rasmussen, Tage Bendt and Marilyn Lee 21041
- Tomlinson, William H., Jr 21041

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Notices

Deputy General Counsel et al.; authority delegation 21044

Premium rates; effective date 21044

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Rules and Regulations

Practice and procedure for hearings 21031

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; National Park Service.

Notices

Central and field organization; change of address 21042

INTERSTATE COMMERCE COMMISSION

Proposed Rule Making

Motor carriers of household goods; payment of rates and charges; credit 21039

Notices

Middle Atlantic Conference; application for approval of amendment to agreement 21047

Motor carriers:
- Temporary authority applications 21048
- Transfer proceedings 21049

LABOR DEPARTMENT

See also Labor Standards Bureau.

Rules and Regulations

Standards for Federal service contracts 21036

LABOR STANDARDS BUREAU

Rules and Regulations

Safety and health standards for Federal service contracts; cross reference 21037

MARITIME ADMINISTRATION

Notices

C4 troopships; availability for conversion and operation in unsubsidized service between U.S. West Coast and Guam 21043

NATIONAL PARK SERVICE

Rules and Regulations

Special regulations:
- Miscellaneous amendments 21037
- Yellowstone National Park, Wyo.; alcoholic liquor 21038

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:
- General Instrument Corp. (Delaware) 21045
- Interamerican Industries, Ltd 21045
- Mississippi Power Co 21045
- Radio Corporation of America 21046
- Rover Shoe Co 21046

TARIFF COMMISSION

Notices

Certain workers of Borg-Warner Corp.'s Long Manufacturing Division plant, Detroit, Mich.; report to Automotive Agreement Adjustment Assistance Board 21047

(*Continued on next page*)

TRANSPORTATION DEPARTMENT
See Federal Aviation Administration.

TREASURY DEPARTMENT
See also Customs Bureau.
Notices
U.S. Secret Service; realignment of headquarters functions and responsibilities 21040

List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

5 CFR
550 (2 documents) 21023

7 CFR
730 21023
812 21024
815 21025
907 21028
910 21028
PROPOSED RULES:
1030 21054
1031 21054
1038 21054
1039 21054
1045 21054
1051 21054
1063 21054

12 CFR
551 21029

14 CFR
39 (5 documents) 21029, 21030
PROPOSED RULES:
91 21039

24 CFR
2 21031

29 CFR
4 21036
1516 (2 documents) 21036, 21037

36 CFR
7 (2 documents) 21037, 21038

49 CFR
PROPOSED RULES:
1322 21039

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 550—PAY ADMINISTRATION (GENERAL)

Pay Differentials

Appendix A to Subpart I of Part 550 is amended by deleting the second reference to "Firefighting" in the present schedule; adding a new item (7) under "Flying" in the present schedule; amending the heading of the present schedule so that it becomes "Appendix A—Schedule 1 of Pay Differentials Authorized For Irregular or Intermittent Hazardous Duty Under Subpart I"; and adding a new "Schedule 2 of Pay Differentials Authorized Under Authority of § 550.904 (a) and (b)". The amendments, which are effective as indicated, read as follows:

APPENDIX A

SCHEDULE 1 OF PAY DIFFERENTIALS AUTHORIZED FOR IRREGULAR OR INTERMITTENT HAZARDOUS DUTY UNDER SUBPART I

Irregular or intermittent duty	Rate of hazard pay differential	Duration payable	Effective date
• • •	• • •	• • •	• • •
Flying. Participating in • • • (7) Reduced gravity flight testing in an aircraft flying a parabolic flight path and providing a testing environment ranging from weightlessness up through +2 gravity conditions.	25%	Indefinite	First pay period beginning after December 30, 1967.
Underwater duty. • • • (4) [Revoked]	• • •	• • •	• • •

SCHEDULE 2 OF PAY DIFFERENTIALS AUTHORIZED UNDER AUTHORITY OF § 550.904(a) AND (b)

Duty	Rate of hazard pay differential	Duration payable	Effective date
Firefighting. (1) Participating as a member of a firefighting crew in fighting forest and range fires on the fireline.	25%	Indefinite	First pay period beginning after June 29, 1967.
(2) Participating as a member of a SCUBA (Self-Contained Breathing Apparatus) Diving Emergency Unit engaged in rescue and recovery operations, or training in such operation, when visibility is restricted or currents are strong.	25%	do	First pay period beginning after December 30, 1967.
(3) Participating in in-water under pier firefighting operations (involving hazards beyond those normally encountered in firefighting on land, e.g., strong currents, cold water temperature, etc.).	25%	do	Do.
Flying. (1) Participating in low level flights as a pilot or observer in an aircraft flying at altitudes of 200 feet and under while conducting wildlife surveys and law enforcement activities, animal depredation abatement and making agricultural applications.	25%	do	Do.
Underwater duty. (1) Diving required in scientific and engineering pursuits, or for inspection, maintenance, or repair of underwater facilities, at a depth of 20 feet or more below the surface, or when visibility is restricted.	25%	do	Do.
(2) Participating as a subject in diving research tests which seek to establish limits for safe pressure profiles by working in a pressure chamber simulating diving or, as an observer to the test or as a technician assembling underwater shock-up components for the test, when the observer or technician is exposed to high pressure gas piping systems, gas cylinders, and pumping devices which are susceptible to explosive ruptures.	25%	do	Do.
(3) Participating in weapons systems trials conducted on submarines at sea under submerged conditions.	25%	do	Do.
(4) Participating in full scale trial programs by the Naval Ship Research and Development Center on all classes of submarines at different operational stages, including trials of newly launched submarines, preoverhaul and postoverhaul trials of repaired or modified submarines.	25%	do	Do.
Underground work. Work underground performed in the construction of tunnels and shafts, and the inspection of such underground construction, until the necessary lining of the shaft or tunnel has eliminated the hazard.	25%	do	Do.
Exposure to Hazardous agents. Work with unknown explosive ordnance when the unknown ordnance is manually manipulated, or when new or unevaluated mechanical or explosive techniques are applied to explosive ordnance.	25%	do	Do.
Specialized Physical and Performance Testing. (1) Conducting tests on fire retardant materials when the tests are performed in ventilation restricted rooms where the atmosphere is continuously contaminated by obnoxious odors and smoke which causes irritation to the eyes and respiratory tract.	25%	do	Do.
(2) Conducting tests to evaluate the ballistic properties of materials when it involves the preparation of cartridges which necessitate the handling of gun powder.	25%	do	Do.

(5 U.S.C. 5544(d))

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67-15145; Filed, Dec. 29, 1967; 8:45 a.m.]

PART 550—PAY ADMINISTRATION (GENERAL)

Coverage

Section 550.701(b) is amended by adding subparagraph (6) to exclude from entitlement to severance pay employees who are offered continuous comparable employment with a private organization, when the operation and maintenance responsibilities of a Federal project in which they are employed are transferred to, or replaced by, the private organization. Effective on publication in the FEDERAL REGISTER a new subparagraph (6) is added to paragraph (b) of § 550.701 as set out below.

§ 550.701 Coverage.

• • • • • •

(b) *Employees.* • • •

(6) This subpart does not apply to an employee who, as the result of the transfer of the operation and maintenance responsibilities for a Federal project to a private organization, is offered comparable employment with the private organization or within 90 days of the date of transfer accepts any employment with the private organization.

(5 U.S.C. 5595; E.O. 11257, 30 F.R. 14359, 3 CFR 1965 Supp.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67-15144; Filed, Dec. 29, 1967; 8:47 a.m.]

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 730—RICE

Subpart—1968–69 Marketing Year

PROCLAMATIONS AND DETERMINATIONS WITH RESPECT TO MARKETING QUOTAS AND NATIONAL ACREAGE ALLOTMENT FOR 1968-CROP RICE, AND APPORTIONMENT OF 1968 NATIONAL ACREAGE ALLOTMENT OF RICE AMONG THE SEVERAL STATES

Sec.
730.1501 Basis and purpose.
730.1502 Marketing quotas on 1968-crop rice.
730.1503 National acreage allotment of rice for 1968.
730.1504 Apportionment of 1968 national acreage allotment of rice among the several States.

AUTHORITY: §§ 730.1501 to 730.1504 issued under secs. 301, 352, 353, 354, 375, 52 Stat. 38, 60, 61, 66, as amended; 7 U.S.C. 1301, 1352, 1353, 1354, 1375.

§ 730.1501 Basis and purpose.

(a)(1) Section 730.1502 is issued under and in accordance with sections 301 and 354 of the Agricultural Adjustment Act of 1938, as amended, to proclaim the total supply and normal supply of rice for the marketing year beginning August 1, 1967, and to proclaim that marketing quotas will be applicable to the 1968 crop of rice. Section 730.1503 is issued under and in accordance with sections 352 and 353 of the Agricultural Adjustment Act of 1938, as amended, to proclaim the national acreage allotment of rice for the calendar year 1968. Section 353(a)(6) of the act, as amended by section 301 of Public Law 85-835, 72 Stat. 994, provides that the national acreage allotment of rice for 1968 shall be not less than the total acreage allotted in 1956.

(2) Section 730.1504 is issued under and in accordance with section 353 of the Agricultural Adjustment Act of 1938, as amended, to apportion among the several States the national acreage allotment of rice for 1968 as proclaimed in § 730.1503 hereof. Section 358 of the act provides that the national acreage allotment of rice for 1968, less a reserve of not to exceed 1 per centum for apportionment to farms receiving inadequate allotments, shall be apportioned among the States in the same proportion that they shared in the total acreage allotted in 1956.

(3) Section 353(b) of the act, as amended by Public Law 85-443, authorizes the Secretary of Agriculture under certain circumstances to divide any State into two administrative areas to be designated "producer administrative area" and "farm administrative area," and provides that if any State is so divided into administrative areas the term "State acreage allotment" for the purposes of section 353 of the Agricultural Adjustment Act of 1938, as amended, shall be deemed to mean that part of the State acreage allotment apportioned to each administrative area.

(4) Section 353(c)(1) of the act, as amended by Public Law 85-443, provides that if any State is divided into administrative areas, the allotment for each area shall be determined by apportioning the State acreage allotment among counties as provided in section 353(c)(1) of the Agricultural Adjustment Act of 1938, as amended, and totaling the allotments for the counties in each such area. The acreage allotments for the "farm administrative area" and "producer administrative area" in the State of Louisiana which are set out in § 730.1504 were determined by apportioning the State acreage allotment for Louisiana among the counties in the State in the same proportion which each such county shared in the total acreage allotted in the State in 1956, as provided in section 353(c)(1) of the Agricultural Adjustment Act of 1938, as amended, and totaling the allotments for the counties in each such area.

(b) The findings and determinations made in §§ 730.1502, 730.1503, and 730.1504 have been made on the basis of the latest available statistics of the Federal Government. The findings in § 730.1502 show that marketing quotas are required for the 1968 crop of rice. The determinations made in § 730.1503 indicate the amount of the 1968 national acreage allotment of rice.

(c) Prior to taking action herein, public notice (32 F.R. 14331) was given in accordance with 5 U.S.C. 553 that the Secretary was preparing to determine whether marketing quotas were required for the 1968 crop of rice; to determine and proclaim the national acreage allotment of rice for 1968, and to apportion among the States the 1968 national acreage allotment of rice. Data, views, and recommendations were submitted pursuant to such notice. They have been considered to the extent permitted by law.

(d) The Agricultural Adjustment Act of 1938, as amended, requires that the proclamation with respect to marketing quotas for the 1968 crop of rice be issued not later than December 31, 1967; that the referendum to determine whether farmers are in favor of or opposed to such quotas be held within 30 days after the issuance of the proclamation; and that insofar as practicable operators of farms be notified of their farm rice acreage allotments prior to the holding of the referendum. Therefore, it is necessary to waive the 30-day effective date provision of 5 U.S.C. 553, and such provision is hereby waived. Accordingly, the regulations in §§ 730.1501 to 730.1504, inclusive, shall become effective upon filing with the Director, Office of the Federal Register.

§ 730.1502 Marketing quotas on 1968 crop of rice.

The total supply of rice in the United States for the marketing year beginning August 1, 1967, is determined to be 98.2 million hundredweight (rough basis). The normal supply of rice for such marketing year is determined to be 97.9 million hundredweight (rough basis). Since the total supply of rice for the 1967-68 marketing year exceeds the normal supply for such marketing year, marketing quotas shall be in effect on the 1968 crop of rice.

§ 730.1503 National acreage allotment of rice for 1968.

The normal supply of rice for the marketing year commencing August 1, 1968, is determined to be 109 million hundredweight (rough basis). The carryover of rice on August 1, 1968, is estimated at 7.9 million hundredweight. Therefore, the production of rice needed in 1968 to make available a total supply of rice for the 1968-69 marketing year equal to the normal supply for such marketing year is 101.1 million hundredweight. The national average yield of rice for the 5 calendar years 1963 through 1967 is determined to be 4,211 pounds per planted acre. The national acreage allotment of rice for 1968 computed on the basis of the normal supply for 1968, less estimated carryover, and the national average yield per planted acre for the 5 calendar years, 1963 through 1967, is 2,406,602 acres. Since this amount is more than the total acreage allotted in 1956, which is the minimum provided by law, the national acreage allotment for rice for the calendar year 1968 shall be 2,400,602 acres.

§ 730.1504 Apportionment of 1968 national acreage allotment of rice among the several States.

The national acreage allotment proclaimed in § 730.1503, less a reserve of 888 acres, is hereby apportioned among the several rice-producing States as follows:

State	Acres
Arizona	982
Arkansas	579,518
California	435,365
Florida	1,300
Illinois	20
Louisiana:	
Farm Administrative Area	605,250
Producer Administrative Area	34,619
State total	639,878
Mississippi	67,788
Missouri	6,911
North Carolina	85
Oklahoma	310
South Carolina	4,194
Tennessee	751
Texas	613,347
Total apportioned to States	2,399,714
Unapportioned National Reserve	888
U.S. total	2,400,602

Effective date: Date of filing with the Director, Office of the Federal Register.

Signed at Washington, D.C., on December 28, 1967.

JOHN A. SCHNITTKER,
Acting Secretary.

[F.R. Doc. 67-15168; Filed, Dec. 29, 1967; 8:49 a.m.]

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

PART 812—SUGAR REQUIREMENTS AND QUOTAS: HAWAII AND PUERTO RICO

Establishment of Quotas for Local Consumption in 1968

On page 17689 of the FEDERAL REGISTER of December 12, 1967, there was published a notice of proposed rule making to issue a regulation determining sugar requirements for 1968 and establishing quotas for Hawaii and Puerto Rico for the calendar year 1968. Interested persons were given until December 15, 1967, to submit written data, views, or arguments for consideration in connection with the proposed regulation.

Comments were received only from the Puerto Rican Sugar Producers Association who concurred with the proposed regulation.

The proposed regulation is hereby adopted without change.

Effective date: January 1, 1968.

Signed at Washington, D.C., this 27th day of December 1967.

ORVILLE L. FREEMAN,
Secretary.

Basis and purpose. The purpose of Sugar Regulation 812 is to determine pursuant to sections 201 and 202 of the Sugar Act of 1948, as amended (hereinafter referred to as the "Act"), the amount of sugar needed to meet the requirements of consumers in Hawaii and in Puerto Rico and to establish quotas for local consumption in such areas for the calendar year 1968. To the extent required by section 201 of the Act, this regulation establishes sugar requirements based on official estimates of the Department of Agriculture and on statistics published by other agencies of the government.

Since the Act provides that the Secretary of Agriculture determine sugar requirements for local consumption in Hawaii and in Puerto Rico and establish local consumption quotas to be effective on January 1, 1968, it is found to be impracticable and not in the public interest to comply with the 30-day effective date requirements in 5 U.S.C. 553(d) (60 Stat. 378), and these regulations shall be effective January 1, 1968.

Sec.
812.1 Sugar requirements and quota; Hawaii.
812.2 Sugar requirements and quota; Puerto Rico.
812.3 Restrictions on marketing.

§ 812.1 Sugar requirements and quota; Hawaii.

It is hereby determined, pursuant to section 202 of the Act, that the amount of sugar needed to meet the requirements of consumers in Hawaii for the calendar year 1968 is 55,000 short tons, raw value, and a quota of 55,000 short tons, raw value, is hereby established for Hawaii for local consumption for the calendar year 1968.

§ 812.2 Sugar requirements and quota; Puerto Rico.

It is hereby determined, pursuant to section 202 of the Act, that the amount of sugar needed to meet the requirements of consumers in Puerto Rico for the calendar year 1968 is 130,000 short tons, raw value, and a quota of 130,000 short tons, raw value, is hereby established for Puerto Rico for local consumption for the calendar year 1968.

§ 812.3 Restrictions on marketing.

Pursuant to section 209 of the Act, for the calendar year 1968 all persons are hereby prohibited from marketing, pursuant to Part 818 of this chapter (28 F.R. 1943, 27 F.R. 1456, and 32 F.R. 7085), in Hawaii or in Puerto Rico, for consumption therein, any sugar or liquid sugar after the quota for the area for the calendar year 1968 has been filled. Pursuant to section 211(c) of the Act, the quota for each area may be filled only with sugar produced from sugarcane grown in the respective area.

Statement of factors and considerations. Pursuant to section 202 of the Act, the provisions of section 201 of the Act deemed applicable to the determination of the amounts of sugar needed to meet the requirements of consumers in Hawaii and in Puerto Rico relate to (1) the quantities of sugar distributed for local consumption in Hawaii and in Puerto Rico during the 12-month period ended September 30, 1968, (2) deficiencies or surpluses in inventories of sugar, and (3) changes in consumption because of changes in population and demand conditions.

The quantities of sugar distributed for consumption in Hawaii and in Puerto Rico, including that which was lost in refining after charge to the local quotas, during such 12-month period are estimated to have been approximately 42,-000 short tons of sugar, raw value, and 123,000 short tons of sugar, raw value, respectively.

The provisional estimate by the Bureau of Census of the total population for Hawaii as of July 1, 1967, is 739,000 and for Puerto Rico is 2,897,000. This represents a normal increase in population for Hawaii and Puerto Rico over 1966.

In Hawaii industrial use accounts for a substantial portion of the total consumption of sugar and this demand is a significant factor in the total sugar requirements. During the period 1960 through 1966 sugar consumption in this area has varied from 116 to 126 pounds, raw value, per person. These wide year-to-year variations suggest the possibility that requirements could be higher in 1968 than in the 12 months ended September 30, 1967, when sugar marketings approximated 55,000 short tons, raw value.

In Puerto Rico during the 12 months ended September 30, 1967, marketings of sugar for local consumption totaled approximately 123,000 short tons, raw value. After making allowance for possible consumption increases in 1968 resulting from probable population increases, the total sugar needed to meet requirements for local consumption in Puerto Rico in 1968 may be approximately 130,000 short tons, raw value.

Circumstances prevailing in the utilization of quota for local consumption in Hawaii and Puerto Rico are such that no special problems arise nor are the objectives of the Act jeopardized if the 1968 local quota is not completely filled. It is therefore, desirable to establish the 1968 requirements and quotas sufficiently high initially so that later adjustments may be avoided.

In accordance with the above, the requirements for local consumption in Hawaii and Puerto Rico for 1968 have been determined to be 55,000 and 130,000 short tons, raw value, respectively.

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153, secs. 201, 202, 209, 211; 61 Stat. 923, as amended, 926, 928; 7 U.S.C. 1111, 1112, 1119, 1121)

[F.R. Doc. 67-15169; Filed, Dec. 29, 1967; 8:49 a.m.]

[Sugar Reg. 815.0]

PART 815—ALLOTMENT OF DIRECT-CONSUMPTION PORTION OF MAINLAND SUGAR QUOTA FOR PUERTO RICO

Quota for 1968

Basis and purpose. This allotment order is issued under section 205(a) of the Sugar Act of 1948, as amended (61 Stat. 930-as amended), hereinafter called the "Act," for the purpose of allotting the portion of the sugar quota for Puerto Rico for the calendar year 1968 which may be filled by direct-consumption sugar among persons who market such sugar for consumption in the continental United States.

Omission of recommended decision and effective date. The record of the hearing regarding the subject of this order shows that the capacity to produce refined sugar in Puerto Rico far exceeds the maximum quantity of Puerto Rican direct-consumption sugar that may be marketed within probable mainland and local quotas (R-13). The proceeding to which this order relates was instituted for the purpose of allotting the direct-consumption portion of the mainland quota to prevent disorderly marketing and to afford each interested person an equitable opportunity to market direct-consumption sugar in the continental United States. The allotments made effective by this order are small in relation to the quantities of sugar that could be produced for marketing and delay in the issuance of the order might result in some persons marketing more than their fair share of the direct-consumption portion of the quota. Therefore, it is imperative that this order become effective on January 1, 1968, in order to fully effectuate the purposes of section 205(a) of the Act. Accordingly, it is hereby found that due and timely execution of the functions imposed upon the Secretary under the Act imperatively and unavoidably requires the omission of a recommended decision in this proceeding. It is hereby further found that compliance with the 30-day effective date requirements in 5 U.S.C. 553 is impracticable and contrary to the public interest and, consequently, this order shall be effective on January 1, 1968.

Preliminary statement. Under the provisions of section 205(a) of the Act, the Secretary is required to allot a quota or proration thereof whenever he finds that allotment is necessary (1) to assure an orderly and adequate flow of sugar or liquid sugar in the channels of interstate or foreign commerce, (2) to prevent the disorderly marketing of sugar or liquid sugar, (3) to maintain a continuous and stable supply of sugar or liquid sugar, or (4) to afford all interested persons an equitable opportunity to market sugar or liquid sugar within the quota for the area. Section 205(a) also provides that such allotment shall be made after such hearing and upon such notice as the Secretary may by regulation prescribe.

Pursuant to the applicable rules of practice and procedure (7 CFR 801.1 et

seq.), a preliminary finding was made that allotment of the direct-consumption portion of the quota is necessary and a notice was published on October 28, 1967 (32 F.R. 14965), of a public hearing to be held at Santurce, P.R., in Conference Room of Puerto Rico Farm Bureau, Condominio San Martin, Parque and Ponce de Leon Avenue, Stop 29 on November 8, 1967, at 10 a.m. e.s.t., for the purpose of receiving evidence to enable the Secretary to make a fair, efficient and equitable distribution of the direct-consumption portion of the mainland sugar quota for Puerto Rico for the calendar year 1968. The hearing was held at the time and place specified in the notice.

In arriving at the findings, conclusions, and regulatory provisions contained herein, all proposed findings and conclusions were carefully and fully considered in conjunction with the record evidence pertaining to the allotment of the direct-consumption portion of the mainland quota.

Basis for findings and conclusions. Section 205(a) of the Act reads in pertinent part as follows:

* * * Allotments shall be made in such manner and in such amounts as to provide a fair, efficient, and equitable distribution of such quota or proration thereof, by taking into consideration the processing of sugar or liquid sugar from sugar beets or sugarcane, limited in any year when proportionate shares were in effect to processings to which proportionate shares, determined pursuant to the provisions of subsection (b) of section 302, pertained; the past marketings or importations of each such person; and the ability of such persons to market or import that portion of such quota or proration thereof allotted to him. * * *

The record of the hearing regarding the subject of this order shows that the capacity to produce refined sugar in Puerto Rico far exceeds the maximum quantity of Puerto Rican direct-consumption sugar that may be marketed within the probable quotas. Thus, to prevent disorderly marketing of sugar and to afford all interested persons an equitable opportunity to market sugar within the quota as required by section 205(a) of the Act, allotment of the direct-consumption portion of the mainland sugar quota for Puerto Rico for the calendar year 1968 is found to be necessary (R–14).

While all three factors specified in the provisions of section 205(a) of the Act quoted above have been considered, only the "past marketings" and "ability to market" factors have been given percentile weightings in the formula on which the allotment of the direct-consumption portion of the mainland quota for Puerto Rico is based. Testimony indicates that allottees accounting for over 90 percent of the direct-consumption sugar brought into the continental United States each year do not process sugar from sugarcane and, accordingly, no weight should be given to the factor "processings from proportionate shares" (R–15).

The Government witness proposed that the factor "past marketings" be measured for each processor and refiner by the average annual quantity of direct-consumption sugar which he marketed in the continental United States within the mainland quotas for Puerto Rico during the 5 years 1963 through 1967, inclusive, expressed as a percentage of the sum of such quantities for all processors and refiners. The witness stated that the use of the quantities marketed in the most recent 5-year period will reflect market conditions similar to those which would be expected to occur in the marketing of direct-consumption sugar in the mainland in 1968, and furthermore, that a 5-year average of such marketings tends to minimize short-run influences affecting data for a single year and adds stability to the "past marketings" factor (R–16, 17).

The Government witness proposed that the factor "ability to market" be measured by the largest quantity of direct-consumption sugar marketed in the mainland by each refiner and processor in any one of the past 5 years, 1963 through 1967 expressed as a percentage of the sum of such quantities for all refiners and processors. The witness stated that the actual demonstrated ability of each allottee as measured by the largest quantity of sugar marketed in any one of the last 5 years is believed to be the best measure of processor's and refiner's relative ability to market direct-consumption sugar in the mainland in 1968, and that the use of a more remote period would not be as indicative of current ability to market (R–17).

In determining allotments of the direct-consumption portion of the mainland quota for the calendar year 1968, the Government witness proposed that the factors "past marketings" and "ability to market," measured as proposed above, be weighted equally and such weighted percentages shall be applied to the quantity to be allotted in determining individual allotments (R–17, 18).

The order allotting the direct-consumption portion of the mainland quota for 1967 established a liquid sugar reserve of 30 short tons, raw value, for other than named allottees. The record of the hearing held November 8, 1967, reveals that shipment of liquid sugar from other than named allottees totaled 24 tons in 1962, 18 tons in 1963, 10 tons in 1964, 23 tons in 1965, 10 tons in 1966, and 13 tons to date in 1967. Accordingly, the Government witness proposed that a liquid sugar reserve in an amount not to exceed 30 short tons, raw value, be established to permit the marketing of liquid sugar in the continental United States in 1968 by other than named allottees. Provision is therefore made for determining allotments by applying the weighted percentage factors for each allottee to the direct-consumption portion of the mainland quota less such liquid sugar reserve.

At the hearing the witness representing three of the named allottees supported and endorsed the Government's proposal.

In accordance with the record of the hearing (R–22) provision has been made in the findings and the order to revise allotments for the calendar year 1968, without further notice or hearing for purposes of (1) giving effect to the substitution of revised estimates or final data or both for estimates of the quantity of direct-consumption sugar imported into the continental United States by each allottee, (2) alloting any quantity of allotment to other allottees or to the residuary balance available for all persons when written notification of release of allotment becomes a part of the official records of Department, and (3) giving effect to any increase or decrease in the direct-consumption portion of the mainland quota. Also, as proposed in the record (R–27) the findings and order contain provisions relating to restrictions on marketing similar to those contained in the 1967 Puerto Rican allotment order since such provisions operated successfully in 1967 and no objection was made in the record to their inclusion.

Findings and conclusions. On the basis of the record of the hearing, I hereby find and conclude that:

(1) Based upon the rate of production of refiners and processors in Puerto Rico in 1967, the potential capacity of Puerto Rican processors and refiners to produce direct-consumption sugar during the calendar year 1968 is at least 313,000 short tons, and this quantity is proportionately far greater than the total quantity of such sugar which may be marketed within the mainland and local sugar quotas for Puerto Rico for the calendar year 1968.

(2) The allotment of the direct-consumption portion of the mainland sugar quota for Puerto Rico for the calendar year 1968 is necessary to prevent disorderly marketings of such sugar and to afford each interested person an equitable opportunity to market such sugar in the continental United States.

(3) Assignment of percentile weight to the "processing from proportionate shares" factor in the allotment formula would not result in fair, efficient, and equitable allotments.

(4) An allotment of 30 short tons, raw value, shall be established as a liquid sugar reserve to permit the marketing of liquid sugar in the continental United States by persons other than named allottees during the calendar year 1968.

(5) The "past marketings" factor shall be measured by each allottee's percentage of the average entries of direct-consumption sugar by all allottees into the continental United States during the years 1963 through 1967.

(6) The "ability to market" factor shall be measured for each allottee by expressing each allottee's largest entries of direct-consumption sugar into the United States during any one of the past 5 years, 1963 through 1967, as a percent of the sum of such entries for all allottees.

(7) The quantities of sugar and percentages referred to in paragraphs (5) and (6), above, based on data involving estimates for 1967 direct-consumption entries which shall be used to establish allotments pending availability and substitution of revised or final data for such estimates, are set forth in the following table:

Processor or refiner	Average annual marketings, 1963–67		Highest annual marketings, 1963–67	
	Short tons, raw value	Percent of total	Short tons, raw value	Percent of total
	(1)	(2)	(3)	(4)
Caribbean Aguirre Sugar Co., a trust	4,126	4.8126	6,013	4.2894
Central Roig Refining Co	20,940	23.7230	23,695	23.6031
Central San Francisco	1,088	.7231	1,023	.6723
Puerto Rican American Sugar Refinery, Inc	109,202	66.2230	106,555	65.1503
Western Sugar Refining Co	26,071	15.7706	24,095	15.1651
Total	162,084	100.0000	160,380	100.0000

(8) Allotments totaling the direct-consumption portions of the Puerto Rican mainland quota for the calendar year 1968, less the liquid sugar reserve provided for in Finding (4), above, should be established by giving 50 percent weight to past marketings, measured as provided in Finding (5), above, and 50 percent weight to ability to market, measured as provided in Finding (6), above; and the sum of such weighted percentages for each allottee applied to the quantity to be allotted shall determine the allotment for each allottee.

(9) This order may be revised without further notice or hearing for the purpose of substituting revised estimates or final data or both for previous estimates of the Puerto Rican direct-consumption sugar entries by and on behalf of each allottee in 1967 when such revised data or final data or both become part of the official records of the Department.

(10) This order shall be revised without further notice or hearing to revise allotments to give effect to any change in the direct-consumption portion of the quota for Puerto Rico for the calendar year 1968 on the same basis as is provided in these findings for establishing allotments.

(11) This order shall require each allottee to submit to the Department, in writing, in the following form, no later than October 1, 1968, an estimate of the maximum quantity of direct-consumption sugar he will be able to market during the quota year within any allotment, and a release for allocation to other allottees or to a residuary balance available for all persons, the portion of any allotment which may be established for him in excess of such maximum quantity:

I, the undersigned allottee, estimate that I will be able to market not to exceed _____ short tons, commercial weight, equivalent to _____ short tons, raw value, of sugar during the entire calendar year 1968, within any allotment of the direct-consumption portion of the 1968 mainland quota for Puerto Rico which may be established for me pursuant to S.R. 618.

I release for disposition under the provisions of S.R. 845 the portion of any allotment in excess of the above stated quantity of sugar and any increase in any allotment in excess of such stated amount which would result from either an increase in the direct-consumption portion of the Puerto Rican sugar quota, or the allocation of any allotment, or a portion thereof, released by one or more other allottees, according to either case, from the date of this release until the end of the calendar year.

An allottee may revise a previous notice of the maximum quantity he may market during the quota year and a previous release of allotment deficit by submitting to the Department on the prescribed form a new notice of the maximum quantity he may market during the quota year and a new release of allotment deficit. A revised notice and release may be given effect only to the extent that the allotment of any other allottee will not be reduced solely thereby as provided in Finding (12).

(12) This order shall provide for reallotment without further notice or hearing of any allotment, or portion thereof, that may be released by an allottee as provided in Finding (11) whenever such released allotments or portions thereof become available.

In revising allotments for the purpose of giving effect to a quota increase or decrease, or to give effect to a release by an allottee, allotment deficits shall be determined and allocated without regard to any previous determination and proration of deficits and such deficits shall be allocated proportionately among other allottees to the extent they are able to utilize additional allotments, on the basis of allotments computed for such allottees without including allocation of any allotment deficits: *Provided*, That the allotment previously in effect for an allottee which includes a deficit proration shall not be reduced solely to give effect to a revised notice received from another allottee subsequent to such deficit proration and which notice increases the declared maximum quantity such other allottee is able to market. Such deficit allocations to any allottee shall be limited in accordance with the written statement of the maximum quantity he will market submitted as provided in Finding (11). In the event the total of allotment deficits released by allottees exceeds the total quantity which can be utilized by other allottees, the excess quantity shall be placed in a residual balance available for all persons.

(13) Official notice will be taken of (a) written notice to the Department by an allottee of the estimated maximum marketings of such allottee within an allotment and of the quantities of sugar released for reallotment when the notification becomes a part of the official records of the Department, (b) final data for 1967 calendar year marketings of sugar for direct-consumption in the mainland that become a part of the official records of the Department, and (c) any regulation issued by the Secretary which changes the mainland sugar quota for Puerto Rico and the direct-consumption portion thereof established for 1968.

(14) Each allottee during the calendar year 1968 shall be restricted from bringing into the continental United States for consumption therein any direct-consumption sugar in excess of the smaller of his allotment established herein or the sum of the quantity of sugar produced by the allottee from sugarcane grown in Puerto Rico and the quantity of sugar acquired from Puerto Rican processors by the allottee during such year for shipment to the mainland within the applicable mainland quota for Puerto Rico. All other persons shall be prohibited from bringing direct-consumption sugar into the continental United States during the calendar year 1968 for consumption therein except such sugar acquired in such year from an allottee within his allotment established herein or sugar brought in within the liquid sugar reserve established for other than named allottees. All persons collectively shall be prohibited from bringing into the continental United States any direct-consumption sugar other than crystalline sugar in excess of the quantity by which the direct-consumption portion of the mainland quota exceeds 124,935 short tons, raw value. Of that part of the direct-consumption portion of the mainland quota that may be filled by other liquid or crystalline sugar, 30 short tons, raw value, shall be reserved to cover shipments of liquid sugar by other than named allottees as provided in Finding (4).

(15) To facilitate full and effective use of allotments, provision shall be made in the order for transfer of allotments under circumstances of a succession of interest.

(16) Allotments established in the foregoing manner and the amounts set forth in the order provide a fair, efficient, and equitable distribution of the direct-consumption portion of the mainland quota, as required by section 205(a) of the Act.

(17) To assure that an allottee will not market a quantity of sugar in excess of his final 1968 allotment to be established later on the basis of final data; allotments established by this order should be limited to 90 percent of the direct-consumption portion of the mainland sugar quota for Puerto Rico pending the allotment of the quota based on final data.

Order. Pursuant to the authority vested in the Secretary of Agriculture by section 205(a) of the Act, and in accordance with the findings and conclusions heretofore made: *It is hereby ordered:*

§ 815.9 *Allotment of the direct-consumption portion of mainland sugar quota for Puerto Rico for the calendar year 1968.*

(a) *Allotments.* For the period January 1, 1968, until the date allotments of the entire 1968 direct-consumption portion of the main and sugar quota for Puerto Rico are proclaimed, 90 percent of the 1968 direct-consumption portion

of the main and sugar quota for Puerto Rico is hereby allotted as follows:

Allottee	Direct-consumption allotment (short tons, raw value)
Central Aguirre Sugar Co., a trust	5,307
Central Roig Refining Co.	19,267
Central San Francisco	1,186
Puerto Rican American Sugar Refinery, Inc.	91,916
Western Sugar Refining Co.	22,094
Liquid sugar reserve for persons other than named above	30
Subtotal	140,400
Unallotted	15,600
Total	156,000

(b) *Restrictions on marketing.* (1) During the calendar year 1968, each allottee named in paragraph (a) of this section is hereby prohibited from bringing into the continental United States within an allotment established for such allottee, for consumption therein, any direct-consumption sugar from Puerto Rico in excess of the smaller of (i) the allotment therefor established in paragraph (a) of this section, or (ii) the sum of the quantity of sugar produced by the allottee from sugarcane grown in Puerto Rico, and the quantity of sugar produced from Puerto Rican sugarcane which was sugar acquired by the allottee in 1968 for further processing and shipment within the direct-consumption portion of the mainland quota for Puerto Rico for the calendar year 1968.

(2) During the calendar year 1968, all persons other than the allottees specified in paragraph (a) of this section are hereby prohibited from bringing into the continental United States, for consumption therein, any direct-consumption sugar from Puerto Rico except that acquired from an allottee within the quantity limitations established in subparagraph (1) of this paragraph and that brought in within the liquid sugar reserve for persons other than named allottees.

(3) Of the total quantity of direct-consumption sugar allotted in paragraph (a) of this section, 126,633 short tons, raw value, may be filled only by sugar principally of crystalline structure and the balance may be filled by sugar whether or not principally of crystalline structure, except that 30 short tons, raw value, of such balance is reserved to cover shipments of liquid sugar by other than named allottees.

(c) *Revision of allotments.* The Administrator, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, is hereby authorized to revise the allotments established under this section without further notice or hearing to give effect to (1) the substitution of revised estimates or final data for estimates as provided in Finding (9) accompanying this order, (2) any increase or decrease in the direct-consumption portion of the mainland quota for Puerto Rico for the calendar year 1968, as provided in Finding (10) accompanying this order, and (3) the reallocation, as provided in Finding (12) accompanying this order, of any allotment or portion thereof released by an allottee.

(d) *Transfer of marketing rights under allotments.* The Director, Policy and Program Appraisal Division, Agricultural Stabilization and Conservation Service, of the Department of Agriculture, consistent with the provisions of the Act, may permit a quantity of sugar produced from sugarcane grown in Puerto Rico to be brought into the continental United States for direct-consumption therein by one allottee, or other person, within the allotment or portion thereof established for another allottee upon relinquishment by the latter allottee of an equivalent quantity of his allotment and upon receipt of evidence satisfactory to the Director that a merger, consolidation, transfer of sugar-processing facilities, or other action of similar effect upon the allottees or persons involved has occurred.

(Sec. 403, 61 Stat. 932, 7 U.S.C. 1153; interprets or applies secs. 208, 209; 61 Stat. 930, 926; 7 U.S.C. 1115, 1119)

Effective date: January 1, 1968.

Signed at Washington, D.C., this 27th day of December 1967.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 67-15156; Filed, Dec. 29, 1967; 8:48 a.m.]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Navel Orange Reg. 140, Amdt. 1]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553 (1966)) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Navel oranges grown in Arizona and designated part of California.

Order, as amended. The provisions in paragraph (b) (1) (iii) of § 907.440 (Navel Orange Reg. 140, 32 F.R. 20629) are hereby amended to read as follows:

§ 907.440 Navel Orange Regulation 140.

* * * * *

(b) *Order.* (1) * * *

(iii) District 3: 55,000 cartons;

* * * * *

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: December 27, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-15157; Filed, Dec. 29, 1967; 8:48 a.m.]

[Lemon Reg. 301]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.601 Lemon Regulation 301.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee; and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 27, 1967.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period December 31, 1967, through January 6, 1968, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 60,450 cartons;

(iii) District 3: 130,200 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: December 28, 1967.

F. L. SOUTHERLAND,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-15173; Filed, Dec. 29, 1967; 8:49 a.m.]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

[No. 21,265]

PART 531—STATEMENTS OF POLICY

General Policy on Advances

DECEMBER 26, 1967.

Resolved that the Federal Home Loan Bank Board, upon the basis of consideration by it of the advisability of amending its general policy on advances for the purpose of requiring prior approval of the Board before advances may be made to permit the redemption of accounts or payment of withdrawals made at the request or suggestion of the member institution, hereby amends § 531.1 of the regulations for the Federal Home Loan Bank System (12 CFR 531.1) by revising paragraph (a) of said § 531.1 to read as follows:

§ 531.1 General policy on advances.

(a) The Federal Home Loan Banks are authorized to make advances to members subject to such regulations, restrictions, and limitations as the Board may prescribe. It should, therefore, be recognized that access by members to advances is a privilege which may be limited in accordance with the provisions and intent of the Federal Home Loan Bank Act. Advances may be made to meet withdrawals, to cover seasonal requirements, and for expansion of residential mortgage portfolios. However, advances may not be made to permit the redemption of accounts or the payment of withdrawals which are made at the request or suggestion of the member institution, but in a rare circumstance and only for compelling reasons, a Bank may request the Board to approve the making of such an advance. The Banks are required to give due consideration to the soundness of credit, the need to stabilize home financing, the discouragement of building booms, and prevention of distressed conditions in the housing and mortgage markets in granting advances for expansion of home mortgage portfolios.

* * * * *

(Sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1437. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] HARRY W. CAULSEN,
Secretary.

[F.R. Doc. 67-15167; Filed, Dec. 29, 1967; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 67-EA-128; Amdt. 39-520]

PART 39—AIRWORTHINESS DIRECTIVES

DeHavilland Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to require the placarding of DeHavilland DHC-6 aircraft for VFR operations.

The Canadian Department of Transportation has advised that the Grimes 41905-1 Anti-Collision Light installed on DHC-6 Aircraft does not meet the requirements of FAR 23.1401 (formerly CAR 3.705) in that the light does not have ±20° of coverage in relation to the horizontal plane. Since this condition exists in other airplanes of the same type design, an airworthiness directive is being issued to require a placarding against other than day VFR flights.

Since a situation exists that requires immediate adoption of this amendment, it is found that notice and public procedure thereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89, 31 F.R. 13697, § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

DEHAVILLAND. Applies to Type DHC-6 Airplanes Incorporating Grimes 41905-1 Anti-Collision Light.

Compliance required as indicated.

To prevent the occurrence of a hazardous condition, caused by the noncompliance of the Grimes 41905-1 Anti-Collision Light, accomplish the following:

(a) Within the next 30 hours' time in service after the effective date of this AD, unless already accomplished, install the following placard in full view of the pilot: "Aircraft limited to day VFR flight only."

(b) The placard required by paragraph (a) may be removed when the light is replaced by the Grimes G6400A-34 Anti-Collision Light in accordance with the "Procedure" outlined in DeHavilland Modification No. 6/1116, dated October 26, 1967, or later revision or equivalent installation approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

(c) Upon request with substantiating data submitted through an FAA maintenance inspector, the compliance time specified in this AD may be increased by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

This amendment is effective December 30, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Jamaica, N.Y., on December 20, 1967.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 67-15159; Filed, Dec. 29, 1967; 8:48 a.m.]

[Docket No. 67-EA-140; Amdt. 39-522]

PART 39—AIRWORTHINESS DIRECTIVES

DeHavilland Aircraft

Pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89, 31 F.R. 13697, an airworthiness directive was adopted on December 1, 1967 and made effective immediately as to all known operators of DeHavilland DHC-6 type airplanes. The directive imposed a speed restriction and required an inspection of the left elevator trim tab assembly and skins.

Since it was found that immediate corrective action was required notice and public procedure thereon was impractical and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to all known U.S. operators of DHC-6 airplanes. These conditions still exist and the airworthiness directive is hereby published as an amendment to § 39.13 of the Federal Aviation Regulations as follows:

DEHAVILLAND. Applies to Type DHC-6 Aircraft.

Due to flutter of the left elevator trim tab, accomplish the following after the effective date of this AD unless already accomplished.

(a) Prior to the next flight, install the following placard in full view of the pilot:

"Speed shall not exceed 126 knots IAS (144 M.P.H. IAS)".

(b) Prior to the next flight, accomplish the following one-time inspections on the left elevator-trim tab assembly:

(1) Remove the bolt between the push rod and the tab operating lever and operate the trim tab control in the cockpit until the screw jack in the elevator is fully retracted. Lower the tab until the bolt can be inserted through the operating arm and the push rod without exerting pressure on the trim tab. If this can be accomplished, reconnect the tab to the push rod. If the holes do not align, adjust the push rod sufficiently to allow assembly without exerting pressure on the trim tab.

(2) With the trim tab in the neutral position, assure that the total vertical free play, measured adjacent to the operating lever, does not exceed one-tenth (0.1) inches at the trailing edge of the tab. Comply with this limit prior to further flight.

(c) Before each flight, visually inspect the left elevator trim tab top and bottom skins for diagonal buckling or convexity, other than the manufactured flutes. Trim tabs found to contain diagonal buckles or convexities must be replaced before further flight with a part of the same part number that has been inspected in accordance with this paragraph, or with an equivalent part approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region. The repetitive inspection required by this paragraph also applies to replacement parts.

(d) The placard required by (a) may be removed, and the repetitive inspection required by (c) may be discontinued, when a trim tab modification, approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region, is incorporated.

(e) Upon request with substantiating data submitted through an FAA maintenance inspector, the compliance time specified in this AD may be increased by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

(This matter covered by telegram of Dec. 1, 1967 to all operators of DHC-6 airplanes)

This amendment is effective December 30, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Jamaica, N.Y., December 22, 1967.

I. MARX,
Acting Director, Eastern Region.

[F.R. Doc. 67-15160; Filed, Dec 28, 1967; 8:46 a.m.]

[Docket No. 67-EA-148; Amdt. 39-396]

PART 39—AIRWORTHINESS DIRECTIVES

Grumman Aircraft

Pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89, 31 F.R. 13697, an airworthiness directive was adopted on December 13, 1967 and made effective immediately as to all known U.S. owners of Grumman G-159 airplanes. The directive required an inspection of the aileron control idler.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impractical and contrary to public interest and good cause existed for making the airworthiness directive effective immediately by telegram dated December 13, 1967. These conditions still exist and this airworthiness directive is hereby published as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

GRUMMAN. Applies to G-159 Type Airplanes

Compliance required within the next 15 hours' time in service after the effective date of this AD, unless already accomplished.

To detect cracks in the aileron control idler, P/N 159CM10629-1, located in the upper portion of each cockpit flight control column, accomplish the following:

(a) Remove cover, P/N 159CM10630-11, from the top of the control column housing and inspect each surface of the idler for deformation or cracks using a borescope, or the an FAA-approved equivalent inspection method. The idler need not be removed to conduct this inspection.

(b) Replace deformed or cracked idlers before further flight with a part of the same part number that has been inspected in accordance with paragraph (a), or with an equivalent part approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

(This matter covered by telegram of Dec. 13, 1967 to all operators of G-159 aircraft)

This amendment is effective December 29, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 USC 1354(a), 1421, 1423)

Issued in Jamaica, N.Y., on December 22, 1967.

I. MARX,
Acting Director, Eastern Region.

[F.R. Doc. 67-15161; Filed, Dec. 28, 1967; 8:46 a.m.]

[Airworthiness Docket No. 67-WE-16-AD; Amdt. 39-390]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas—Certain Model DC-8 and DC-9 Series Airplanes

Amendment 39-436 (issued telegraphically on June 10, 1967, and later published in 32 F.R. 8990), AD 67-30-3, as amended by Amendment 39-470, 32 F.R. 12746, AD 67-25-5 requires deactivation of the autothrottle system on certain Model DC-8 and DC-8 Series airplanes until such time as the autothrottle system is modified in accordance with the applicable manufacturer's service bulletins. After adopting AD 67-25-5, it has been brought to the attention of the agency that the autothrottle system in certain DC-8 airplanes originally thought to have been modified in production have not been so modified. Accordingly action is taken herein to expand the applicability statement of AD 67-25-5 to include these airplanes.

I find that the conditions that prompted the issuance of this AD in the first instance still exist as applied to these DC-8 airplanes outside of the scope of applicability of AD 67-25-5 whose autothrottle systems have not been modified in production. Accordingly, I find that immediate adoption of this amendment is required, and that notice and public procedure hereon are impracticable. In addition I find that good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.61), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-436 (issued telegraphically on June 10, 1967, and later published in 32 F.R. 8990), AD 67-30-3 as amended by Amendment 39-470, 32 F.R. 12746, AD 67-25-5, is further amended as follows:

Revise the applicability statement of Amendment 39-470, 32 F.R. 12746, AD 67-25-5, to read as follows:

McDONNELL DOUGLAS. Applies to Model DC-8 Series airplanes listed in Douglas Aircraft Division Service Bulletin No. 76-36, Revision No. 2, dated October 12, 1967, and Model DC-9 Series airplanes listed in Douglas Aircraft Division Service Bulletin No. 76-25 dated July 26, 1967.

This amendment becomes effective on December 30, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corp., Douglas Aircraft Co., Aircraft Division, 3855 Lakewood Boulevard, Long Beach, Calif. 90801. These documents may also be examined at FAA Western Region, 5651 West Manchester Avenue, Los Angeles, Calif. 90045, and FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. 20553. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at FAA Western Region.

Issued in Los Angeles, Calif., on December 20, 1967.

LEE E. WARREN,
Acting Regional Director, FAA Western Region.

The incorporation by reference provisions in this document were approved by the Director of the Federal Register on December 20, 1967.

[F.R. Doc. 67-15162; Filed, Dec. 28, 1967; 8:46 a.m.]

[Docket No. 67-EA-134; Amdt. 39-391]

PART 39—AIRWORTHINESS DIRECTIVES

Pratt & Whitney Aircraft Engines

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to delete A.D. 66-17-3, Amdt. No. 39-268, and revise A.D. 67-28-5, Amdt. 39-495 which applies to Pratt & Whitney Aircraft JT3D Engines.

The promulgation of A.D. 67-28-5 was intended to fulfill the purpose of A.D. 66-17-3 with some minor variations and thereforeto supersede the latter directive. However, the rule as published failed to delete the superseded directive.

Since this amendment provides a clarification of A.D. 67-28-5, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89, F.R. 13697, § 39.13 of Part 39 of the Federal Aviation Regulations is amended as follows:

1. Delete A.D. 66-17-3.

2. Amend A.D. 67-28-5 by adding the final sentence "This amendment supersedes A.D. 66-17-3."

This amendment is effective December 30, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Jamaica, N.Y., on December 21, 1967.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 67-15163; Filed, Dec. 28, 1967; 8:46 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development

PART 2—PRACTICE AND PROCEDURE FOR HEARINGS UNDER PART 1 OF THIS SUBTITLE

Subtitle A of Title 24 of the Code of Federal Regulations is hereby amended by adding the following new Part 2:

Subpart A—General Information

Sec.
2.1 Scope of rules.
2.2 Records to be public.
2.3 Use of gender and number.
2.4 Suspension of rules.

Subpart B—Appearance and Practice

2.11 Appearance.
2.12 Authority for representation.
2.13 Exclusion from hearing for misconduct.

Subpart C—Parties

2.21 Parties; General Counsel a party.
2.22 Amici curiae.
2.23 Complainants not parties.

Subpart D—Form, Execution, Service and Filing of Documents

2.31 Form of documents to be filed.
2.32 Signature of documents.
2.33 Filing and service.
2.34 Service—how made.
2.35 Date of service.
2.36 Certificate of service.

Subpart E—Time

2.41 Computation.
2.42 Extension of time or postponement.
2.43 Reduction of time to file documents.

Subpart F—Proceedings Prior to Hearing

2.51 Notice of hearing or opportunity for hearing.
2.52 Answer to notice.
2.53 Amendment of notice or answer.
2.54 Request for hearing.
2.55 Consolidation.
2.56 Motions.
2.57 Responses to motions and petitions.
2.58 Disposition of motions and petitions.

Subpart G—Responsibilities and Duties of Presiding Officer

2.61 Who presides.
2.62 Designation of hearing examiner.
2.63 Authority of presiding officer.

Subpart H—Hearing Procedures

2.71 Statements of position and trial briefs.
2.72 Evidentiary purpose.
2.73 Testimony.
2.74 Exhibits.
2.75 Affidavits.
2.76 Depositions.
2.77 Admissions as to facts and documents.
2.78 Evidence.
2.79 Cross-examination.
2.80 Unsponsored written material.
2.81 Objections.
2.82 Exceptions to rulings of presiding officer unnecessary.
2.83 Official notice.
2.84 Public document items.
2.85 Offer of proof.
2.86 Appeals from ruling of presiding officer.

Subpart I—The Record

2.91 Official transcript.
2.92 Record for decision.

Subpart J—Posthearing Procedure, Decision

2.101 Posthearing briefs; proposed findings and conclusions.
2.102 Decisions following hearing.
2.103 Exceptions to initial or recommended decisions.
2.104 Final decisions.
2.105 Oral argument to the responsible Department official.
2.106 Service on amici curiae.

Subpart K—Judicial Standards of Practice

2.111 Conduct.
2.112 Improper conduct.
2.113 Ex parte communications.
2.114 Expeditious treatment.
2.115 Matters not prohibited.
2.116 Filing of ex parte communications.

Subpart L—Posttermination Proceedings

2.121 Postterminating proceedings.

Subpart M—Definitions

2.131 Definitions.

AUTHORITY: The provisions of this Part 2 issued under sec. 602, Civil Rights Act of 1964, Public Law 88-352, 78 Stat. 252, 42 U.S.C. 2000d-1; sec. 7(d), Public Law 89-174, 79 Stat. 670, 42 U.S.C. 3535(d); and the laws listed in Appendix A to Part 1.

Subpart A—General Information

§ 2.1 Scope of rules.

The rules of procedure in this Part 2 supplement Part 1 of this title and govern the practice for hearings, decisions, and administrative review conducted by the Department of Housing and Urban Development, including each of its organizational units, pursuant to Title VI of the Civil Rights Act of 1964 (sec. 602, 42 U.S.C. 2000d-1) and Part 1 of this title.

§ 2.2 Records to be public.

All pleadings, correspondence, exhibits, transcripts of testimony, exceptions, briefs, decisions, and other documents filed in the docket in any proceeding may be inspected and copied in the office of the Civil Rights docket clerk during regular business hours. Inquiries may be addressed to the Civil Rights docket clerk, Department of Housing and Urban Development, Washington, D.C. 20410.

§ 2.3 Use of gender and number.

As used in this part, words importing the singular number may extend and be applied to several persons or things, and vice versa. Words importing the masculine gender may be applied to females or organizations.

§ 2.4 Suspension of rules.

The responsible Department official with respect to pending matters may modify or waive any rule in this part upon his determination that no party will be unduly prejudiced and the ends of justice will thereby be served, and upon notice to all parties.

Subpart B—Appearance and Practice

§ 2.11 Appearance.

A party may appear in person or by counsel and participate fully in any proceeding. A State agency or any instrumentality thereof, a political subdivision of the State or instrumentality thereof, or a corporation may appear by any of its officers or employees duly authorized to appear on its behalf. Counsel must be members in good standing of the bar of any State, Territory, or possession of the United States or of the District of Columbia or the Commonwealth of Puerto Rico.

§ 2.12 Authority for representation.

Any individual acting in a representative capacity in any proceeding may be required to show his authority to act in such capacity.

§ 2.13 Exclusion from hearing for misconduct.

Disrespectful, disorderly, or contumacious language or contemptuous conduct, refusal to comply with directions, or continued use of dilatory tactics by any person at any hearing before a presiding officer shall constitute grounds for immediate exclusion of such person from the hearing by the presiding officer.

Subpart C—Parties

§ 2.21 Parties; General Counsel a party.

(a) The term party shall include an applicant or recipient or other person with respect to whom a notice of hearing or opportunity for hearing has been served naming him as respondent.

(b) The General Counsel of the Department of Housing and Urban Devel-

opment shall be deemed a party to all proceedings.

§ 2.22 Amici curiae.

(a) Any interested person or organization may file a petition to participate in a proceeding as an amicus curiae. Such petition shall be filed prior to the prehearing conference or, if none is held, before the commencement of the hearing, unless the petitioner shows good cause for filing the petition later. The presiding officer may grant the petition if he finds that the petitioner has a legitimate interest in the proceedings, and that such participation will not unduly delay the outcome and may contribute materially to the proper disposition thereof. An amicus curiae is not a party and may not introduce evidence at a hearing.

(b) An amicus curiae may submit a statement of position to the presiding officer prior to the beginning of a hearing, and shall serve a copy on each party. The amicus curiae may submit a brief on each occasion a decision is to be made or a prior decision is subject to review. His brief shall be filed and served on each party within the time limits applicable to the party whose position he deems himself to support; or if he does not deem himself to support the position of any party, within the longest time limit applicable to any party at that particular stage of the proceedings.

(c) When all parties have completed their initial examination of a witness, any amicus curiae may request the presiding officer to propound specific questions to the witness. The presiding officer, in his discretion, may grant any such request if he believes the proposed additional testimony may assist materially in elucidating factual matters at issue between the parties and will not expand the issues.

§ 2.23 Complainants not parties.

A person submitting a complaint pursuant to § 1.7(b) of this title is not a party to the proceedings governed by this part, but may petition, after proceedings are initiated, to become an amicus curiae. In any event a complainant shall be advised of the time and place of the hearing.

Subpart D—Form, Execution, Service and Filing of Documents

§ 2.31 Form of documents to be filed.

Documents to be filed under the rules in this part shall be dated, the original signed in ink, shall show the docket description and title of the proceeding and the title, if any, and address of the signatory. Copies need not be signed, but the name of the person signing the original shall be reproduced. Documents shall be legible and shall not be more than 8½ inches wide and 12 inches long.

§ 2.32 Signature of documents.

The signature of a party, authorized officer, employee or attorney constitutes a certificate that he has read the document, that to the best of his knowledge, information, and belief there is good ground to support it, and that it is not interposed for delay. If a document is not signed or is signed with intent to defeat the purpose of this section, it may be stricken as sham and false and the proceeding may proceed as though the document had not been filed. Similar action may be taken if scandalous or indecent matter is inserted.

§ 2.33 Filing and service.

All notices by the responsible Department official or the presiding officer, and all written motions, requests, petitions, memoranda, pleadings, exceptions, briefs, decisions, and correspondence to the responsible Department official or the presiding officer from a party, or vice versa, relating to a proceeding after its commencement shall be filed and served on all parties. Parties shall supply the original and two copies of documents submitted for filing. Filings shall be made with the Civil Rights docket clerk at the address stated in the notice of hearing or notice of opportunity for hearing, during regular business hours. Regular business hours are every Monday through Friday (legal holidays in the District of Columbia excepted) from 8:45 a.m. to 5:15 p.m., e.s.t. or d.s.t., whichever is effective in the District of Columbia at the time. Originals only of exhibits and transcripts of testimony need be filed. For requirements of service on amici curiae, see § 2.107.

§ 2.34 Service—how made.

Service shall be made by personal delivery of one copy to each person to be served or by registered or certified mail, return receipt requested, properly addressed with postage prepaid. When a party or amicus has appeared by attorney or other representative, service upon such attorney or representative will be deemed service upon the party or amicus. Documents served by mail preferably should be mailed in sufficient time to reach the addressee by the date on which the original is due to be filed, and should be air mailed if the addressee is more than 300 miles distant.

§ 2.35 Date of service.

The date of service shall be the day when the matter is deposited in the U.S. mail or is delivered in person, except that the date of service of the initial notice of hearing or opportunity for hearing shall be the date of its delivery, or of its attempted delivery if refused.

§ 2.36 Certificate of service.

The original of every document filed and required to be served upon parties to a proceeding shall be endorsed with a certificate of service signed by the party making service or by his attorney or representative, stating that such service has been made, the date of service, and the manner of service, whether by mail or personal delivery.

Subpart E—Time

§ 2.41 Computation.

In computing any period of time under the rules in this part or in an order issued hereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed in the District of Columbia, in which event it includes the next following business day. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation.

§ 2.42 Extension of time or postponement.

Requests for extension of time should be served on all parties and should set forth the reasons for the application. Applications may be granted upon a showing of good cause by the applicant. From the designation of a presiding officer until the issuance of his decision, such requests should be addressed to him. Answers to such requests are permitted if made promptly.

§ 2.43 Reduction of time to file documents.

For good cause, the responsible Department official with respect to pending matters may reduce any time limit prescribed by the rules in this part, except as provided by law or in Part 1 of this title.

Subpart F—Proceedings Prior to Hearing

§ 2.51 Notice of hearing or opportunity for hearing.

Proceedings are commenced by mailing a notice of hearing or opportunity for hearing to an affected applicant or recipient, pursuant to this part.

§ 2.52 Answer to notice.

The respondent, applicant, or recipient may file an answer to the notice within 20 days after service thereof. Answers shall admit or deny specifically and in detail each allegation of the notice, unless the respondent party is without knowledge, in which case his answer should so state, and the statement will be deemed a denial. Allegations of fact in the notice not denied or controverted by answer shall be deemed admitted. Matters alleged as affirmative defenses shall be separately stated and numbered. Failure of the respondent to file an answer within the 20-day period following service of the notice may be deemed an admission of all matters of fact recited in the notice.

§ 2.53 Amendment of notice or answer.

The General Counsel may amend the notice of hearing or opportunity for hearing once as a matter of course before an answer thereto is served, and each respondent may amend his answer once as a matter of course not later than 10 days before the date fixed for hearing but in no event later than 20 days from the date of service of his original answer. Otherwise a notice or answer may be amended only by leave of the presiding officer. A respondent shall file his answer to an amended notice within the time remaining for filing the answer to the original notice or within 10 days after service of the amended notice, whichever period may be the longer, unless the presiding officer otherwise orders.

§ 2.54 Request for hearing.

Within 20 days after service of a notice of opportunity for hearing which does not fix a date for hearing, the respondent, either in his answer or in a separate document, may request a hearing. Failure of the respondent to request a hearing shall be deemed a waiver of all right to a hearing and to constitute his consent to the making of a decision on the basis of such information as is available.

§ 2.55 Consolidation.

The responsible Department official may provide for proceedings in the Department to be joined or consolidated for hearing with proceedings in other Federal departments or agencies, by agreement with such other departments or agencies. All parties to any proceeding consolidated subsequently to service of the notice of hearing or opportunity for hearing shall be promptly served with notice of such consolidation.

§ 2.56 Motions.

Motions and petitions shall state the relief sought, the authority relied upon, and the facts alleged. If made before or after the hearing, these matters shall be in writing. If made at the hearing, they may be stated orally; but the presiding officer may require that they be reduced to writing and filed and served on all parties in the same manner as a formal motion. Motions, answers, and replies shall be addressed to the presiding officer. A repetitious motion will not be entertained.

§ 2.57 Responses to motions and petitions.

Within 8 days after a written motion or petition is served, or such other period as the responsible Department official or the presiding officer may fix, any party may file a response thereto. An immediate oral response may be made to an oral motion.

§ 2.58 Disposition of motions and petitions.

The responsible Department official or the presiding officer may not sustain or grant a written motion or petition prior to expiration of the time for filing responses thereto, but may overrule or deny such motion or petition without awaiting response: *Provided, however*, That prehearing conferences, hearings, and decisions need not be delayed pending disposition of motions or petitions. Oral motions and petitions may be ruled on immediately. Motions and petitions submitted to the presiding officer or the responsible Department official, respectively, not disposed of in separate rulings or in their respective decisions will be deemed denied. Oral argument shall not be held on written motions or petitions unless the presiding officer in his discretion expressly so orders.

Subpart G—Responsibilities and Duties of Presiding Officer

§ 2.61 Who presides.

A presiding officer shall preside over all proceedings held under this part.

§ 2.62 Designation of hearing examiner.

The designation of a hearing examiner as presiding officer shall be in writing, and shall specify whether the examiner is to make an initial decision or to certify the entire record, including his recommended findings and proposed decision, to the responsible Department official, and may also fix the time and place of hearing. A copy of such designation shall be served on all parties. After service of the designation of a hearing examiner to preside, and until such examiner makes his decision, motions and petitions shall be submitted to him. In the case of the death, illness, disqualification, or unavailability of the designated hearing examiner, another hearing examiner may be designated to take his place.

§ 2.63 Authority of presiding officer.

The presiding officer shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, and to maintain order. He shall have all powers necessary to these ends, including (but not limited to) the power to:

(a) Arrange and issue notice of the date, time, and place of hearings or, upon due notice to the parties, change the date, time, and place of hearings previously set.

(b) Hold conferences to settle, simplify, or fix the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding.

(c) Require parties and amici curiae to state their position with respect to the various issues in the proceeding.

(d) Administer oaths and affirmations.

(e) Rule on motions and other procedural items on matters pending before him.

(f) Regulate the course of the hearing and the conduct of counsel therein.

(g) Examine witnesses and direct witnesses to testify.

(h) Receive, rule on, exclude, or limit evidence.

(i) Fix the time for filing motions, petitions, briefs, or other items in matters pending before him.

(j) Issue initial or recommended decisions, or final decisions where the responsible Department official presides.

(k) Take any action authorized by the rules in this part or in conformance with the provisions of 5 U.S.C. 551–559 (the Administrative Procedure Act).

Subpart H—Hearing Procedures

§ 2.71 Statements of positions and trial briefs.

The presiding officer may require parties and amici curiae to file written statements of position prior to the beginning of a hearing, to submit trial briefs, and to participate in conferences to settle, simplify, or fix the issues in a proceeding.

§ 2.72 Evidentiary purposes.

(a) The hearing is directed to receiving factual evidence and expert opinion testimony related to the issues in the proceeding. Argument will not be received in evidence; rather it should be presented in statements, memoranda, or briefs, as determined by the presiding officer. Brief opening statements, which shall be limited to statement of the party's position and what he intends to prove, may be made at hearings.

(b) Hearings for the reception of evidence will be held only in cases where issues of fact must be resolved in order to determine whether the respondent has failed to comply with one or more applicable requirements of Part 1 of this title. In any case where it appears from the respondent's answer to the notice of hearing or opportunity for hearing, from his failure timely to answer, or from his admissions or stipulations in the record, that there are no matters of material fact in dispute, the presiding officer may enter an order so finding, vacating the hearing date if one has been set, and fixing the time for filing briefs under § 2.101. Thereafter the proceedings shall go to conclusion in accordance with Subpart J of this part. The presiding officer may allow an appeal from such order in accordance with § 2.86.

§ 2.73 Testimony.

Testimony shall be given orally under oath or affirmation by witnesses at the hearing; but the presiding officer, in his discretion, may require or permit that the direct testimony of any witness be prepared in writing and served on all parties in advance of the hearing. Such testimony may be adopted by the witness at the hearing and filed as part of the record thereof. Unless authorized by the presiding officer, witnesses will not be permitted to read prepared testimony into the record. Except as provided in §§ 2.75 and 2.76, witnesses shall be available at the hearing for cross-examination.

§ 2.74 Exhibits.

Proposed exhibits shall be exchanged at the prehearing conference, or otherwise prior to the hearing if the presiding officer so requires. Proposed exhibits not so exchanged may be denied admission as evidence. The authenticity of all proposed exhibits exchanged prior to hearing will be deemed admitted unless written objection thereto is filed prior to the hearing or unless good cause is shown at the hearing for failure to file such written objection.

§ 2.75 Affidavits.

An affidavit is not inadmissible as such. Unless the presiding officer fixes other time periods, affidavits shall be filed and served on the parties not later than 15 days prior to the hearing; and, not less than 7 days prior to hearing, a party may

file and serve written objection to any affidavit on the ground that he believes it necessary to test the truth of assertions therein at hearing. In such event the assertions objected to will not be received in evidence unless the affiant is made available for cross-examination, or the presiding officer determines that cross-examination is not necessary for the full and true disclosure of facts referred to in such assertions. Notwithstanding any objection, however, affidavits may be considered in the case of any respondent who waives a hearing.

§ 2.76 Depositions.

Upon such terms as the presiding officer determines to be just, and for the convenience of the parties or of the Department, the presiding officer may authorize or direct the testimony of any witness to be taken by deposition.

§ 2.77 Admissions as to facts and documents.

Not later than 15 days prior to the scheduled date of the hearing except for good cause shown, or prior to such earlier date as the presiding officer may order, any party may serve upon an opposing party a written request for the admission of the genuineness and authenticity of any relevant documents described in and exhibited with the request, or for the admission of the truth of any relevant matters of fact stated in the request. Each of the matters of which an admission is requested shall be deemed admitted unless within a period designated in the request (not less than 10 days after service thereof, or within such further time as the presiding officer may allow upon motion and notice) the party to whom the request is directed serves upon the requesting party a sworn statement either denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully either admit or deny such matters. Copies of requests for admission and answers thereto shall be served on all parties. Any admission made by a party to such request is only for the purposes of the pending proceeding, or any proceeding or action instituted for the enforcement of any order entered therein, and shall not constitute an admission by him for any other purpose or be used against him in any other proceeding or action.

§ 2.78 Evidence.

Irrelevant, immaterial, unreliable, and unduly repetitious evidence will be excluded.

§ 2.79 Cross-examination.

A witness may be cross-examined on any matter material to the proceeding.

§ 2.80 Unsponsored written material.

Letters expressing views or urging action and other unsponsored written material regarding matters in issue in a hearing will be placed in the correspondence section of the docket of the proceeding. These data are not deemed part of the evidence or record in the hearing.

§ 2.81 Objections.

Objections to evidence shall be timely and briefly state the ground relied upon.

§ 2.82 Exceptions to rulings of presiding officer unnecessary.

Exceptions to rulings of the presiding officer are unnecessary. It is sufficient that a party, at the time the ruling of the presiding officer is sought, makes known the action which he desires the presiding officer to take, or his objection to an action taken, and his grounds therefor.

§ 2.83 Official notice.

Where official notice is taken or is to be taken of a material fact not appearing in the evidence of record, any party, on timely request, shall be afforded an opportunity to show the contrary.

§ 2.84 Public documentitems.

Whenever there is offered (in whole or in part) a public document, such as an official report, decision, opinion, or published scientific or economic statistical data issued by any of the executive departments (or their subdivisions), legislative agencies or committees, or administrative agencies of the Federal Government (including Government-owned corporations), or a similar document issued by a State or its agencies, and such document (or part thereof) has been shown by the offeror to be reasonably available to the public, such document need not be produced or marked for identification, but may be offered for official notice, as a public document item by specifying the document or relevant part thereof.

§ 2.85 Offer of proof.

An offer of proof made in connection with an objection taken to any ruling of the presiding officer rejecting or excluding proffered oral testimony shall consist of a statement of the substance of the evidence which counsel contends would be adduced by such testimony; and, if the excluded evidence consists of evidence in documentary or written form or of reference to documents or records, a copy of such evidence shall be marked for identification and shall accompany the record as the offer of proof.

§ 2.86 Appeals from ruling of presiding officer.

Rulings of the presiding officer may not be appealed to the responsible Department official prior to his consideration of the entire proceeding except with the consent of the presiding officer and where he certifies on the record or in writing that the allowance of an interlocutory appeal is clearly necessary to prevent exceptional delay, expense, or prejudice to any party, or substantial detriment to the public interest. If an appeal is allowed, any party may file a brief with the responsible Department official within such period as the presiding officer directs. No oral argument will be heard unless the responsible Department official directs otherwise. At any time prior to submission of the proceeding to him for decision, the responsible Department official may direct the presiding officer to certify any question or the entire record to him for decision. Where the entire record is so certified, the presiding officer shall recommend a decision.

Subpart I—The Record

§ 2.91 Official transcript.

The Department will designate the official reporter for all hearings. The official transcripts of testimony taken, together with any exhibits, briefs, or memoranda of law filed therewith shall be filed with the Department. Transcripts of testimony in hearings may be obtained from the official reporter by the parties and the public at rates not to exceed the maximum rates fixed by the contract between the Department and the reporter. Upon notice to all parties, the presiding officer may authorize corrections to the transcript which involve matters of substance.

§ 2.92 Record for decision.

The transcript of testimony, exhibits, and all papers and requests filed in the proceedings, except the correspondence section of the docket, including rulings and any recommended or initial decision shall constitute the exclusive record for decision.

Subpart J—Posthearing Procedures, Decisions

§ 2.101 Posthearing briefs; proposed findings and conclusions.

(a) The presiding officer shall fix the time for filing posthearing briefs, which may contain proposed findings of fact and conclusions of law and, if permitted, reply briefs.

(b) Briefs should include a summary of the evidence relied upon, together with references to exhibit numbers and pages of the transcript, with citations of the authorities relied upon.

§ 2.102 Decisions following hearing.

When the time for submission of posthearing briefs has expired, the presiding officer, if the responsible Department official, shall make a final decision. If the presiding officer is a hearing examiner, he shall certify the entire record, including his recommended findings and proposed decision, to the responsible Department official or, if so authorized, shall make an initial decision. A copy of the recommended findings and proposed decision, or of the initial decision, shall be served upon all parties, and amici, if any.

§ 2.103 Exceptions to initial or recommended decisions.

Within 30 days after the mailing of an initial or recommended decision, any party may file exceptions to the decision, stating reasons therefor, with the responsible Department official. Any other party may file a response thereto within 45 days after the mailing of the decision. Upon the filing of such exceptions, the responsible Department official shall review the decision and issue his decision thereon.

§ 2.104 Final decisions.

(a) The responsible Department official shall make the final decision in all proceedings under this part after expiration of all applicable time limits provided in § 2.101 or § 2.102.

(b) Where the hearing is conducted by a hearing examiner who makes an initial decision, if no exceptions thereto are filed within the 30-day period specified in § 2.103, such initial decision shall become the final decision of the responsible Department official upon his approval thereof and shall constitute "final agency action" within the meaning of 5 U.S.C. 704 (formerly section 10 (c) of the Administrative Procedure Act), subject to the provisions of paragraph (c) of this section.

(c) Where the final decision of the responsible Department official does not provide for the suspension or termination of, or the refusal to grant or continue, Federal financial assistance or the imposition of any other sanction, it is an "order" within the meaning of 5 U.S.C. 551(6) (formerly section 2(d) of the Administrative Procedure Act) and shall constitute "final agency action" within the meaning of 5 U.S.C. 704 (formerly section 10(c) of the Administrative Procedure Act). When such final decision of the responsible Department official (other than the Secretary) does provide for suspension or termination of, or the refusal to grant or continue, Federal financial assistance or the imposition of any other sanction, such decision shall not constitute an "order" or "final agency action" until approved by the Secretary.

(d) All final decisions shall be promptly served on all parties, and amici, if any.

§ 2.105 Oral argument to the responsible Department official.

(a) If any party desires to argue a case orally on exceptions or replies to exceptions to an initial or recommended decision, or upon review on initiative of the responsible Department official, he shall make such request in writing. The responsible Department official may grant or deny such requests in his discretion. If granted, he will serve notice of oral argument on all parties. The notice will set forth the order of presentation, the amount of time allotted, and the time and place for argument. The names of persons who will argue should be filed with the Civil Rights docket clerk not later than 7 days before the date set for oral argument.

(b) The purpose of oral argument is to emphasize and clarify the written argument in the briefs. Reading at length from the brief or other texts is not favored. Participants should confine their arguments to points of controlling importance and to points upon which exceptions have been filed. Consolidation of appearances at oral argument by parties taking the same side will permit the parties' interests to be presented more effectively in the time allotted.

(c) Pamphlets, charts, and other written material may be presented at oral argument only if such material is limited to facts already in the record and is served on all parties and filed with the Civil Rights docket clerk at least 7 days before the argument.

§ 2.106 Service on amici curiae.

All briefs, exceptions, memoranda, requests, and decisions referred to in this Subpart J shall be served upon amici curiae at the same times and in the same manner required for service on parties. Any written statements of position and trial briefs required of parties under § 2.71 shall be served on amici.

Subpart K—Judicial Standards of Practice

§ 2.111 Conduct.

Parties and their representatives are expected to conduct themselves with honor and dignity and observe judicial standards of practice and ethics in all proceedings. They should not indulge in offensive personalities, unseemly wrangling, or intemperate accusations or characterizations. A representative of any party whether or not a lawyer shall observe the traditional responsibilities of lawyers as officers of the court and use his best efforts to restrain his client from improprieties in connection with a proceeding.

§ 2.112 Improper conduct.

With respect to any proceeding it is improper for any interested person to attempt to sway the judgment of the responsible Department official by undertaking to bring pressure or influence to bear upon any officer having a responsibility for a decision in the proceeding, or his staff. It is improper that such interested persons or any members of the Department's staff or the presiding officer give statements to communications media, by paid advertisement or otherwise, designed to influence the judgment of any officer having responsibility for a decision in the proceeding, or his staff. It is improper for any person to solicit communications to any such officer, or his staff, other than proper communications by parties or amici curiae.

§ 2.113 Ex parte communications.

Only persons employed by or assigned to work with the responsible Department official who perform no investigative or prosecuting function in connection with a proceeding shall communicate ex parte with the responsible Department official, or the presiding officer, or any employee or person involved in the decisional process in such proceedings with respect to the merits of that or a factually related proceeding. The responsible Department official, the presiding officer, or any employee or person involved in the decisional process of a proceeding shall communicate ex parte with respect to the merits of that or a factually related proceeding only with persons who are employed by or assigned to work with them and who perform no investigative or prosecuting function in connection with the proceeding.

§ 2.114 Expeditious treatment.

Requests for expeditious treatment of matters pending before the responsible Department official or the presiding officer are deemed communications on the merits, and are improper except when forwarded from parties to a proceeding and served upon all other parties thereto. Such communications should be in the form of a motion.

§ 2.115 Matters not prohibited.

A request for information which merely inquires about the status of a proceeding without discussing issues or expressing points of view is not deemed an ex parte communication. Such requests should be directed to the Civil Rights docket clerk. Communications with respect to minor procedural matters or inquiries or emergency requests for extensions of time are not deemed ex parte communications prohibited by § 2.113. Where feasible, however, such communications should be by letter with copies to all parties. Ex parte communications between a respondent and the responsible Department official or the Secretary with respect to securing such respondent's voluntary compliance with any requirement of Part 1 of this title are not prohibited.

§ 2.116 Filing of ex parte communications.

A prohibited communication in writing received by the Secretary, the responsible Department official, or by the presiding officer, shall be made public by placing it in the correspondence file of the docket in the case and will not be considered as part of the record for decision. If the prohibited communication is received orally, a memorandum setting forth its substance shall be made and filed in the correspondence section of the docket in the case. A person referred to in such memorandum may file a comment for inclusion in the docket if he considers the memorandum to be incorrect.

Subpart L—Postermination Proceedings

§ 2.121 Postermination proceedings.

(a) An applicant or recipient adversely affected by the order terminating, discontinuing, or refusing Federal financial assistance in consequence of proceedings pursuant to this title may request the responsible Department official for an order authorizing payment, or permitting resumption, of Federal financial assistance. Such request shall be in writing and shall affirmatively show that, since entry of the order, it has brought its program or activity into compliance with the requirements of the Act, and with Part 1 of this title, and shall set forth specifically, and in detail, the steps which it has taken to achieve such compliance. If the responsible Department official denies such request, the applicant or recipient shall be given an expeditious hearing if it so requests in writing and specifies why it believes the

responsible Department official to have been in error. The request for such a hearing shall be addressed to the responsible Department official and shall be made within 30 days after the applicant or recipient is informed that the responsible Department official has refused to authorize payment or permit resumption of Federal financial assistance.

(b) In the event that a hearing shall be requested pursuant to paragraph (a) of this section, the hearing procedures established by this part shall be applicable to the proceedings, except as otherwise provided in this section.

Subpart M—Definitions

§ 2.131 Definitions.

(a) The definitions contained in § 1.2 of this title, to the extent applicable, apply to this part.

(b) The term "hearing examiner" is used in the sense in which used in 5 U.S.C. 3105 and 3344 (formerly sec. 11 of the Administrative Procedure Act).

(c) "Presiding officer," in any particular matter, may be the assigned hearing examiner or the responsible Department official.

Effective date. This part shall become effective as of December 30, 1967.

ROBERT C. WOOD,
Acting Secretary of Housing and Urban Development.

[F.R. Doc. 67-15134; Filed, Dec. 29, 1967; 8:46 a.m.]

Title 29—LABOR

Subtitle A—Office of the Secretary of Labor

STANDARDS FOR FEDERAL SERVICE CONTRACTS

On July 20, 1967, notice of proposed rule making regarding a new Part 1516 of Chapter XIII, Title 29, Code of Federal Regulations and revisions of 29 CFR 4.1 and 4.6(b) clause 5 was published in the FEDERAL REGISTER (32 F.R. 10656). After considering all responsive matter presented, the proposals are hereby adopted, subject to the following changes:

1. In § 1516.1(d), substitute the word "additional" for the word "higher" in the fifth line, and end the paragraph with a period after the word "effect," so as to delete the words "or without such evidence where such unsanitary or hazardous or dangerous condition should be apparent to a rational and prudent person of common experience."

2. Change § 1516.1(e).

3. In § 1516.2(a), delete item 2 of the list and renumber items 3 through 8 as 2 through 7, respectively.

4. In § 1516.2(a), delete the word "agencies" in the sixth line, and insert in its place the following words "the U.S. Department of Labor or any other agency."

5. Change § 1516.3(a)(2).

6. Change § 1516.3(a)(3).

7. Insert the words "or subcontractor" after the word "contractor" in each of the two places where the word "contractor" appears in the first sentence of clause 5 of § 29 CFR 4.6(b).

8. In clause 5 of 29 CFR 4.6(b), delete the word "agencies" in the 12th line, and substitute in its place the following words: "the U.S. Department of Labor or any other agency."

9. In clause 5 of 29 CFR 4.6(b), add to the beginning of the second sentence the following phrase "Except insofar as a noncompliance can be justified as provided in 29 CFR 1516.1(c),"

10. In clause 5 of 29 CFR 4.6(b), delete item (2) of the list, and renumber items (3) through (8) as (2) through (7), respectively.

Effective date. This amendment is effective February 1, 1968.

Signed at Washington, D.C., this 27th day of December 1967.

W. WILLARD WIRTZ,
Secretary of Labor.

PART 4—LABOR STANDARDS FOR FEDERAL SERVICE CONTRACTS

The revised 29 CFR 4.1 reads as follows:

§ 4.1 Purpose and scope.

This part and Part 1516 of this title, which provides safety and health standards, contain the Department of Labor's rules relating to the administration of the Service Contract Act of 1965.

The revised clause 5 of 29 CFR 4.6(b) reads as follows:

§ 4.6 Labor standards clauses for Federal service contracts exceeding $2,500.

* * * * * * *

(b) * * *

(5) The contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the contractor or subcontractor which are unsanitary or hazardous or dangerous to the health or safety of service employees engaged to furnish these services. Except insofar as a noncompliance can be justified as provided in 29 CFR 1516.1(c), this will require compliance with the applicable standards, specifications, and codes developed and published by the United States Department of Labor or any other agency of the United States and nationally recognized professional organizations including without limitation, the following:

National Bureau of Standards, U.S. Department of Commerce.
Public Health Service, U.S. Department of Health, Education and Welfare.
Bureau of Mines, U.S. Department of Interior.
United States of America Standards Institute (American Standards Association).
National Fire Protection Association.
American Society of Mechanical Engineers.
American Society for Testing and Materials.
American Conference of Governmental Industrial Hygienists.

Information as to the latest standards, specifications and codes applicable to the contract is available at the office of the Director of the Bureau of Labor Standards, U.S. Department of Labor, Railway Labor Building, 400 First Street NW., Washington, D.C. 20212, or at any of the regional offices of the Bureau of Labor Standards as follows:

1. North Atlantic Region, 341 Ninth Avenue, Room 930, New York, N.Y. 10001 (Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Vermont, New Jersey, and Puerto Rico).

2. Middle Atlantic Region, 1110-B Federal Building, Charles Center, 31 Hopkins Plaza, Baltimore, Md. 21201, Baltimore, Md. 21201 (Delaware, District of Columbia, Maryland, North Carolina, Pennsylvania, Virginia, and West Virginia).

3. South Atlantic Region, 1371 Peachtree Street NE., Suite 720, Atlanta, Ga. 30309 (Alabama, Florida, Georgia, Mississippi, South Carolina, and Tennessee).

4. Great Lake Region, 848 Federal Office Building, 219 South Dearborn Street, Chicago, Ill. 60604 (Illinois, Indiana, Kentucky, Michigan, Minnesota, Ohio, and Wisconsin).

5. Mid-Western Region, 2100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106 (Colorado, Idaho, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming).

6. Western Gulf Region, 411 N. Akard Street, Room 601, Dallas, Tex. 75201 (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas).

7. Pacific Region, 10353 Federal Building, 450 Golden Gate Avenue, Box 36017, San Francisco, Calif. 94102 (Alaska, Arizona, California, Hawaii, Nevada, Oregon, Washington, and Guam).

* * * * * * *

PART 1516—SAFETY AND HEALTH STANDARDS FOR FEDERAL SERVICE CONTRACTS

Chapter XIII of Title 29 is amended by the addition of the following new Part 1516:

Sec.
1516.1 Scope and application.
1516.2 Safety and health standards.
1516.3 Records.

AUTHORITY: The provisions of this Part 1516 issued under McNamara-O'Hara Service Contract Act of 1965 (79 Stat. 1034, 41 U.S.C. 351, et seq.); 5 U.S.C. 301.

§ 1516.1 Scope and application.

(a) The McNamara-O'Hara Service Contract Act of 1965 (79 Stat. 1034, 41 U.S.C. 351, et seq.) requires that every contract entered into by the United States or the District of Columbia in excess of $2,500 (except as provided in section 7 of the Act), the principal purpose of which is to furnish services in the United States through the use of service employees, must contain, among other provisions, a stipulation that "no part of the services covered by this Act will be performed in buildings or surroundings or under working conditions, provided by or under the control or supervision of the contractor or any subcontractor, which are unsanitary or hazardous or dangerous to the health or safety of service employees engaged to furnish the services." This Part 1516 expresses certain minimum safety and health standards which will be applied in the administration and enforcement of the Act to determine whether services covered by the Act are being, or have been, performed in compliance with its safety and health requirements.

(b) Except as provided in paragraph (c) of this section, investigators conducting investigations, and all officers of the Department of Labor evaluating, reviewing and analyzing investigations, as well as all officers of the Department determining whether there are or have been violations of the safety and health requirements of the McNamara-O'Hara Service Contract Act of 1965 or any contract subject thereto and the terms on which there may be a settlement of issues arising from an investigation without resort to administrative or judicial litigation, will assume that failure to comply with, or violation of, the safety and health measures provided in § 1516.2 results in working conditions which are "unsanitary or hazardous or dangerous to the health or safety of service employees" within the meaning of section 2(a)(3) of the Act and the contract stipulation it requires.

(c) In formal enforcement proceedings under the Act, respondents will be permitted to demonstrate, by reliable, substantial, and probative evidence, that their failure to comply with the requirements expressed in this Part 1516 did not result in working conditions unsanitary or hazardous or dangerous to the health or safety of service employees. They may anticipate that evidence will be adduced on behalf of the Department to support the assumption expressed in paragraph (b) of this section. Officers making decisions will do so in accordance with Part 6 of this title.

(d) The standards expressed in this Part 1516 are for application to ordinary employment situations, and do not preclude proof or recognition of the necessity for additional standards in employment situations of extraordinary hazard. Neither do the standards expressed in this Part 1516 purport to cover all of the working conditions which are unsanitary or hazardous or dangerous to the health or safety of service employees. Other working conditions may be found to be unsanitary or hazardous or dangerous to the health or safety of such employees on evidence to that effect.

(e) Compliance with the standards expressed in this Part 1516 will not relieve anyone from any obligation he may have to comply with any stricter standard, such as state or local law or ordinance or collective bargaining agreement.

§ 1516.2 Safety and health standards.

(a) Every contractor and subcontractor shall protect the safety and health of service employees by complying with the applicable standards, specifications, and codes developed and published by the United States Department of Labor or any other agency of the United States and nationally recognized professional organizations. Information as to the latest standards, specifications, and codes applicable to a particular contract or invitation for bids is available at the office of the Director of the Bureau of Labor Standards, U.S. Department of Labor, Railway Labor Building, 400 First Street NW., Washington, D.C. 20212, or at any of the regional offices of the Bureau of Labor Standards as follows:

1. North Atlantic Region, 341 Ninth Avenue, Room 930, New York, N.Y. 10001 (Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Vermont, New Jersey, and Puerto Rico).

2. Middle Atlantic Region, 1110-B Federal Building, Charles Center, 31 Hopkins Plaza, Baltimore, Md. 21201 (Delaware, District of Columbia, Maryland, North Carolina, Pennsylvania, Virginia, and West Virginia).

3. South Atlantic Region, 1371 Peachtree Street NE., Suite 720, Atlanta, Ga. 30309 (Alabama, Florida, Georgia, Mississippi, South Carolina, and Tennessee).

4. Great Lake Region, 848 Federal Office Building, 219 South Dearborn Street, Chicago, Ill. 60604 (Illinois, Indiana, Kentucky, Michigan, Minnesota, Ohio, and Wisconsin).

5. Mid-Western Region, 2100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106 (Colorado, Idaho, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming).

6. Western Gulf Region, 411 North Akard Street, Room 601, Dallas, Tex. 75201 (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas).

7. Pacific Region, 10353 Federal Building, 450 Golden Gate Avenue, Box 36017, San Francisco, Calif. 94102 (Alaska, Arizona, California, Hawaii, Nevada, Oregon, Washington, and Guam).

(b) The following agencies and organizations, without limitation, are examples of those referred to in paragraph (a) of this section:

National Bureau of Standards, U.S. Department of Commerce.
Public Health Service, U.S. Department of Health, Education, and Welfare.
Bureau of Mines, U.S. Department of Interior.
United States of America Standards Institute (American Standards Association).
National Fire Protection Association.
American Society of Mechanical Engineers.
American Society for Testing and Materials.
American Conference of Governmental Industrial Hygienists.

§ 1516.3 Records.

(a) Every contractor or subcontractor shall maintain the following records for each service contract:

(1) Records of all work injuries to service employees, including a brief description of the manner of occurrence and the date and duration of disability.

(2) Records of injury frequency rates, calculated annually on a calendar year basis commencing the first of January of each year as defined in United States of America Standards Institute, 1964 (Revised 1969) Z 16.1 "Method of Recording And Measuring Work Injury Experience."

(3) Records of injury severity rates, calculated annually on a calendar year basis commencing the first of January of each year as defined in United States of America Standards Institute, 1954 (Revised 1959) Z 16.1 "Method of Recording And Measuring Work Injury Experience."

(b) The records required by paragraph (a) of this section shall be kept on file at least 3 years from the date of entry, and shall be available for inspection by authorized representatives of the Secretary of Labor.

[F.R. Doc. 67-15171; Filed, Dec. 29, 1967; 8:49 a.m.]

Chapter XIII—Bureau of Labor Standards, Department of Labor

PART 1516—SAFETY AND HEALTH STANDARDS FOR FEDERAL SERVICE CONTRACTS

CROSS REFERENCE: For a document adding a new Part 1516 to Chapter XIII of Title 29 of the Code of Federal Regulations, see F.R. Doc. 67-15171, Subtitle A of this title, *supra*.

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Miscellaneous Amendments

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535), 245 DM-1 (27 F.R. 6965), as amended, Part 7 of Title 36 of the Code of Federal Regulations is amended as set forth below. The purposes of these amendments are: (1) To retitle this part; (2) to bring up to date the alphabetical listing of areas; (3) to designate authorized landing areas at Glacier Bay National Monument in Alaska, as required under § 2.2(a) of this chapter; (4) to revoke in their entirety the special regulations applicable at Shiloh National Military Park, Vanderbilt Mansion National Historic Site, and Acadia National Park; and (5) to revoke paragraph (f) of § 7.14 Great Smoky Mountains National Park, which is no longer needed in view of the provisions of Part 4 of this chapter.

Since these amendments will accomplish primarily technical changes and will result in the relaxation of restrictions upon the public or the provision of additional facilities for public use, public comment thereon and a delayed effective date are determined to be unnecessary, impractical, and not in the public interest. Accordingly, these amendments shall take effect immediately upon publication of this notice in the FEDERAL REGISTER.

(5 U.S.C. 553; 39 Stat. 535; 16 U.S.C. 3)

Part 7 of Title 36 of the Code of Federal Regulations is hereby amended as follows:

1. The heading of Part 7 is revised as shown above.

2. The note immediately following the citation of authority is amended by deleting the following named park areas and their section numbers:

Acadia National Park, Maine	7.55
Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, Va.	7.64
Guilford Courthouse National Military Park, N.C.	7.81

Platt National Park, Okla.	7.17
Shiloh National Park Military Park, Tenn.	7.9
Vanderbilt Mansion National Historic Site, N.Y.	7.21

3. The note immediately following the citation of authority is further amended by adding the following named park areas and their corresponding section numbers in their appropriate positions as determined by alphabetical order:

Canyon de Chelly National Monument, Ariz.	7.19
Fire Island National Seashore, N.Y.	7.20
Glacier Bay National Monument, Alaska	7.22
Mount Rushmore National Memorial, S. Dak.	7.77

4. Consistent with the foregoing amendments, the following sections are revoked in their entirety:

Sec.
7.9 Shiloh National Military Park.
7.21 Vanderbilt Mansion National Historic Site.
7.86 Acadia National Park.

5. A new § 7.22 is added reading as follows:

§ 7.22 Glacier Bay National Monument, Alaska.

(a) *Aircraft; designated landing areas.* (1) All waters of the monument, except Adams Inlet, and all lakes and streams; provided, however, landings and takeoffs are prohibited within 1 mile of any tidewater glacier and on any waters covering a beach or tidal flat.

(2) Such other landing areas as may be designated by the Superintendent for use by helicopters, when such areas are essential for the conduct of prospecting and mining operations and activities.

6. Section 7.14 is amended by revoking paragraph (f) as shown below:

§ 7.14 Great Smoky Mountains National Park.

• • • • •

(f) [Revoked]

HARTHON L. BILL,
Acting Director.

DECEMBER 27, 1967.

[F.R. Doc. 67-15140; Filed, Dec. 29, 1967; 8:45 a.m.]

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Yellowstone National Park, Wyo.; Alcoholic Liquor

Notice is hereby given that pursuant to the authority contained in section 2 of the Act of August 25, 1916 (39 Stat. 535) 245 DM-1 (27 F.R. 8395), National Park Service Order No. 34 (31 F.R. 4255), Regional Director, Midwest Region Order No. 4 (31 F.R. 5769), as amended, § 7.13 of Title 36 of the Code of Federal Regulations is amended as set forth below.

The purpose of this amendment is to permit the sale of alcoholic liquor on Sundays within the park to more closely conform with the laws of the State of Wyoming. Complete conformity is not needed in view of the hours during which the liquor dispensing establishments in the park are open for business.

It has been determined that public comment on this amendment is impractical, unnecessary, and contrary to the public interest, since this amendment will relax a restriction upon the public and authorize the sale of alcoholic liquor during specific hours on Sundays. In order that the public may have the benefits derived from this amendment as soon as possible, it shall take effect on December 30, 1967.

(5 U.S.C. 553; 39 Stat. 535; 16 U.S.C. 3)

Section 7.13(l)(3) of Title 36 of the Code of Federal Regulations is amended to read as follows:

§ 7.13 Yellowstone National Park.

• • • • •

(l) *Alcoholic liquors.* • • •

(3) No person authorized to sell alcoholic liquor shall sell any alcoholic liquor between the hours of 1 a.m. Sunday and 2 p.m. Sunday. No person authorized to sell alcoholic liquor shall sell alcoholic liquor on weekdays between the hours of 1 a.m. and 6 a.m.

• • • • •

JACK K. ANDERSON,
Superintendent,
Yellowstone National Park, Wyo.

[F.R. Doc. 67-15138; Filed, Dec. 29, 1967; 8:49 a.m.]

Proposed Rule Making

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 91]

[Docket No. 8812; Notice 67-58]

CERTAIN AIRPLANES IN CONTROLLED AIRSPACE

Operation Under Instrument Flight Rules

The Federal Aviation Administration is considering rule making action that would require certain types of operators and classes of airplanes to operate under instrument flight rules when in controlled airspace in the 48 contiguous States and the District of Columbia.

Communications containing written views or arguments of interested persons should identify the regulatory docket number or notice number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before March 1, 1968, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

The rapid growth in total flight operations in the recent past has exceeded all estimates made by the FAA, by industry, and by transportation agencies. For example, the FAA now estimates that in the case of 10 percent of its busiest terminal facilities, traffic growth in 1968 will exceed its earlier estimates by more than 25 percent. This rapid growth is creating demands for substantial expansion and improvement in the Nation's air traffic control system. The FAA believes that the proposed action should be taken to maintain the desired level of safety pending long range solutions for handling this increased growth.

When weather conditions are satisfactory, some operators of large aircraft and turbojet aircraft may, under existing regulations, conduct flight in the same airspace under either instrument or visual flight rules. However, the air traffic control system only provides separation to the IFR flights. In recognition of the need to increase the IFR protection for aircraft, the FAA recently reduced the floor of the positive control area from flight level 240 to 18,000 feet MSL in the northeast and north-central portions of the United States. The FAA also has under consideration several other rule making actions, some of which already have been issued as notices of proposed rule making, aimed at increasing safety of flight, particularly in the area of collision hazard.

In addition to the above described actions, the FAA believes that it is in the interest of safety to take additional regulatory action. To this end, the FAA is considering requiring all airplanes operating under Part 121 or 129 of the Federal Aviation Regulations and all other turbojet airplanes, or large pressurized airplanes, to be operated under instrument flight rules when within controlled airspace in the 48 contiguous States and the District of Columbia. In the past, unless instrument flight conditions actually existed, some flights could depart an airport under VFR, or even if the flight departed IFR, the instrument flight plan could be cancelled at the discretion of the pilot in command, and the flight could proceed under visual flight rules. By taking the proposed action the FAA would ensure that such operations will be conducted entirely under instrument flight rules. In order to maintain the desired level of safety, the FAA considers the proposed action as necessary, even though it recognizes that traffic delays may result in some cases.

In proposing this requirement, the FAA realizes that it is not feasible to conduct some flight operations under IFR. Examples of such operations are flight training, flight testing, and certain military training. Since such operations are extremely varied, they have not been specifically exempted herein. If relief from the proposal is justified, an authorization can be obtained from the Administrator by submitting a request for an authorization to the appropriate FAA Area Office. In the conduct of these special type operations, the involved aircraft will be segregated from the controlled airspace in use by IFR traffic to the maximum extent possible. This will be accomplished by temporary airspace allocation and the judicious application of air traffic control routings and procedures. However, relief from the proposed regulation will not be granted for operations which are compatible with the ATC system and can be conducted under normal IFR operation. The factor of flight safety must be considered above that of convenience to the user, and deviation from the IFR requirement will be available only in the case of unique operations which cannot be conducted under IFR.

If this rule is adopted as proposed, ATC will not approve any request for a VFR restriction during climb, descent, or cruising portion of flights conducted under the provisions of this proposed rule.

In consideration of the foregoing, it is proposed to amend Part 91 of the Federal Aviation regulations by adding a new section in Subpart B—Flight Rules to read as follows:

Subpart B—Flight Rules

GENERAL

§ 91.64 Special Operating Requirements.

No person may operate any airplane to which Part 121 or Part 129 of this chapter applies, or operate any turbojet airplane or large pressurized airplane, within controlled airspace of the 48 contiguous States and the District of Columbia, except under IFR. However, the Administrator may authorize deviations from the requirements of this section. Requests for authorization must be submitted in writing to the appropriate FAA Area Office.

This amendment is proposed under the authority of sections 307 and 313 of the Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on December 27, 1967.

J. J. REGAN,
Acting Director,
Air Traffic Service.

[F.R. Doc. 67-15164; Filed, Dec. 29, 1967; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1322]

[Ex Parte No. MC-1 (Sub Nos. 1 and 2)]

MOTOR CARRIERS OF HOUSEHOLD GOODS

Payment of Rates and Charges; Credit

DECEMBER 22, 1967.

Payment of rates and charges of motor carriers credit regulations—household goods; 49 CFR Part 1322.[1]

In the Commission's notice to all parties dated November 2 and served November 3, 1967 (32 F.R. 15589), in the above-entitled proceedings, the following two participating parties were inadvertently omitted from the list attached thereto. Copies of verified statements have been supplied to them, and they should also be served with any reply statements which are due on or before January 15, 1968:

Mr. Carl V. Lyon, Assistant General Solicitor, Association of American Railroads, Transportation Building, Washington, D.C. 20006.
Mr. Bryce Rea, Jr., Rea, Cross & Knebel, Munsey Building, Washington, D.C. 20004.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 67-15136; Filed, Dec. 29, 1967; 8:46 a.m.]

[1] Formerly 49 CFR Part 208.

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 68-16]

CEYLON RUPEE, FINNISH MARKKA, IRISH POUND, NEW ZEALAND DOLLAR, SPANISH PESETA, AND UNITED KINGDOM POUND

Rates of Exchange

DECEMBER 26, 1967.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372 (c)), has certified the following rates of exchange which vary by 5 per centum or more from the quarterly rate published in Treasury Decision 67-236 for the dates and countries indicated. Therefore, as to entries covering merchandise exported on the dates and from the countries listed, whenever it is necessary for customs purposes to convert such currency into currency of the United States, conversion shall be at the following daily rates:

Ceylon Rupee:	
Nov. 28, 1967, through Nov. 29, 1967	$0.166333
Nov. 30, 1967, through Dec. 4, 1967	.166666
Dec. 5, 1967	.166300
Dec. 6, 1967	.166140
Dec. 7, 1967, through Dec. 8, 1967	.166060
Finnish Markka:	
Nov. 27, 1967, through Dec. 8, 1967	$0.287125
Irish Pound and United Kingdom Pound:	
Nov. 27, 1967	$2.419600
Nov. 28, 1967	2.419600
Nov. 29, 1967	2.419600
Nov. 30, 1967, through Dec. 1, 1967	2.419600
Dec. 4, 1967	2.412540
Dec. 5, 1967	2.413016
Dec. 6, 1967	2.410150
Dec. 7, 1967	2.408650
Dec. 8, 1967	2.408500
New Zealand Dollar:	
Nov. 27, 1967	$1.123700
Nov. 28, 1967	1.124840
Nov. 29, 1967	1.125021
Nov. 30, 1967	1.125013
Dec. 1, 1967	1.120065
Dec. 4, 1967	1.122556
Dec. 5, 1967	1.123504
Dec. 6, 1967	1.121393
Dec. 7, 1967	1.120355
Dec. 8, 1967	1.119555
Spanish Peseta:	
Nov. 27, 1967	$0.0142007
Nov. 28, 1967	.0142356
Nov. 29, 1967	.0142356
Nov. 30, 1967	.0142350
Dec. 1, 1967, through Dec. 4, 1967	.0142352
Dec. 5, 1967	.0142319
Dec. 6, 1967	.0142035
Dec. 7, 1967	.0142335
Dec. 8, 1967	.0142360

[SEAL] LESTER D. JOHNSON,
Commissioner of Customs.

[F.R. Doc. 67-15142; Filed, Dec. 29, 1967; 8:46 a.m.]

Notices

Office of the Secretary

[Treasury Dept. Order No. 178-9, Amdt. 1]

U.S. SECRET SERVICE

Realignment of Headquarters Functions and Responsibilities

Pursuant to the authority vested in the Secretary of the Treasury, including the authority in Reorganization Plan No. 26 of 1950, and pursuant to the authority vested in me by Treasury Department Order No. 190 (Revision No. 5), the first paragraph of Treasury Department Order No. 178-3 is amended to read as follows:

By virtue of the authority vested in me as Secretary of the Treasury, including the authority in Reorganization Plan No. 26 of 1950, the following offices are hereby established in the Headquarters of the U.S. Secret Service:

Director.
Deputy Director.
Assistant Director (Protective Intelligence).
Assistant Director (Investigations).
Assistant Director (Protective Forces).
Assistant Director (Administration).
Counsel.
Assistant to the Director (Inspection & Audit).
Assistant to the Director (Public Affairs).

Dated: December 26, 1967.

[SEAL] JAMES P. HENDRICK,
Special Assistant to the Secretary (for Enforcement).

[F.R. Doc. 67-15143; Filed, Dec. 29, 1967; 8:46 a.m.]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. S-418]

FRANK B. AND HELEN F. BOHANNON

Notice of Loan Application

Frank B. Bohannon and Helen F. Bohannon, Route 1, Post Office Box 664, Rockaway, Oreg. 97136, have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 43.7-foot registered length wood vessel to engage in the fishery for salmon, albacore, and Dungeness crab.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised Aug. 11, 1965) that the above-entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic hardship or injury.

RALPH C. BAKER,
Acting Director,
Bureau of Commercial Fisheries.

[F.R. Doc. 67-15144; Filed, Dec. 29, 1967; 8:47 a.m.]

[Docket No. S-417]

ALAN B. AND RHODA ALICE DEGNER

Notice of Loan Application

Alan B. Degner and Rhoda Alice Degner, Box 24, Star Route East, Newport, Oreg. 97365, have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 36.8-foot registered length wood vessel to engage in the fishery for salmon, albacore, and Dungeness crab.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised Aug. 11, 1965) that the above-entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic hardship or injury.

RALPH C. BAKER,
Acting Director,
Bureau of Commercial Fisheries.

[F.R. Doc. 67-15145; Filed, Dec. 29, 1967; 8:47 a.m.]

[Docket No. C-282]

EUGENE M. KELLEY

Notice of Loan Application

Eugene M. Kelley, Post Office Box 1074, Fort Bragg, Calif. 95437, has applied for a loan from the Fisheries Loan Fund to aid in financing the construction of a new 45-foot length overall steel vessel to engage in the fishery for salmon, albacore, sablefish, lingcod, and Dungeness crab.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised Aug. 11, 1965) that the above-entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic hardship or injury.

RALPH C. BAKER,
Acting Director,
Bureau of Commercial Fisheries.

[F.R. Doc. 67-15146; Filed, Dec. 29, 1967; 8:47 a.m.]

[Docket No. C-279]

THOMAS NED AND HELEN EDITH LEACH

Notice of Loan Application

Thomas Ned Leach and Helen Edith Leach, Post Office Box 911, Brookings, Oreg. 97415, have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 45-foot registered length wood vessel to engage in the fishery for salmon, albacore, and Dungeness crab.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised Aug. 11, 1965) that the above-entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic hardship or injury.

RALPH C. BAKER,
Acting Director,
Bureau of Commercial Fisheries.

[F.R. Doc. 67-15147; Filed, Dec. 29, 1967; 8:47 a.m.]

[Docket No. C-280]

RUSSELL E. MOODY

Notice of Loan Application

Russell E. Moody, 470 Eighth Avenue, Santa Cruz, Calif. 95060, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 36.5-foot registered length wood vessel to engage in the fishery for salmon and albacore.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised Aug. 11, 1965) that the above-entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic hardship or injury.

RALPH C. BAKER,
Acting Director,
Bureau of Commercial Fisheries.

[F.R. Doc. 67-15148; Filed, Dec. 29, 1967; 8:47 a.m.]

[Docket No. C-281]

WILLIAM EDWARD MURRAY

Notice of Loan Application

William Edward Murray, 440 South McPherson Street, Fort Bragg, Calif. 95437, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 42.5-foot registered length steel vessel to engage in the fishery for salmon, albacore, sablefish, and Dungeness crab.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedure (50 CFR Part 250, as revised Aug. 11, 1965) that the above-entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic hardship or injury.

RALPH C. BAKER,
Acting Director,
Bureau of Commercial Fisheries.

[F.R. Doc. 67-15149; Filed, Dec. 29, 1967; 8:47 a.m.]

[Docket No. S-416]

TAGE BENDT AND MARILYN LEE RASMUSSEN

Notice of Loan Application

Tage Bendt Rasmussen and Marilyn Lee Rasmussen, 14115 Aurora Avenue North, Apartment B, Seattle, Wash. 98113, have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 38.7-foot registered length wood vessel to engage in the fishery for salmon.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised Aug. 11, 1965) that the above-entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic hardship or injury.

RALPH C. BAKER,
Acting Director,
Bureau of Commercial Fisheries.

[F.R. Doc. 67-15150; Filed, Dec. 29, 1967; 8:47 a.m.]

[Docket No. C-283]

WILLIAM H. TOMLINSON, JR.

Notice of Loan Application

William H. Tomlinson, Jr., 653 Amesti Road, Watsonville, Calif. 95076, applied for a loan from the Fisheries Loan Fund to aid in financing the construction of a new 60-foot LOA steel vessel to engage in the fishery for salmon, albacore, anchovies and bottomfish.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised Aug. 11, 1965) that the above-entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before mak-

ing a determination that the contemplated operation of the vessel will or will not create unfair economic hardship or injury.

R. C. Baker,
Acting Director,
Bureau of Commercial Fisheries.

[F.R. Doc. 67-15154; Filed, Dec. 29, 1967; 8:47 a.m.]

Office of the Secretary

CENTRAL AND FIELD ORGANIZATION

Notice of Change of Address

The statement of the Organization of the Department of Interior published at 32 F.R. 10874 and amended at 32 F.R. 13268 is further revised by the following change of address for the Federal Water Pollution Control Administration.

SECTION 4.30 *Federal Water Pollution Control Administration.*

REGIONAL OFFICES

Region	Headquarters
Southeast	1421 Peachtree Street, NE., Atlanta, Ga. 30309.
Middle Atlantic	918 Emmet Street, Charlottesville, Va. 22901.

CHARLES H. ROBINSON,
Deputy Assistant Secretary for Administration.

DECEMBER 26, 1967.

[F.R. Doc. 67-15121; Filed, Dec. 29, 1967; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

RICE

Notice of Marketing Quota Referendum for 1968 Crop

Marketing quotas for the crop of rice to be produced in 1968 have been duly proclaimed pursuant to provisions of the Agricultural Adjustment Act of 1938, as amended. Said Act requires a referendum to be conducted within 30 days after the date of the issuance of said proclamation of farmers who were engaged in the production of rice in 1967 to determine whether such farmers are in favor of or opposed to such quotas. Prior to establishing the date for the referendum on the 1968-crop rice, public notice (32 F.R. 14331) was given in accordance with 5 U.S.C. 553. Data, views, and recommendations were submitted pursuant to such notice. They have been considered to the extent permitted by law. It is hereby determined that the rice marketing quota referendum under said Act for the 1968 crop of rice shall be held during the referendum period January 22 to 26, 1968, each inclusive by mail ballot in accordance with Part 717 of this chapter (Q 717.27, 25 F.R. 12011, 22 F.R. 7365, 32 F.R. 15765). It is hereby determined that such referendum shall not be conducted by voting at polling places.

Signed at Washington, D.C., on December 27, 1967.

HAY FINNEGAN,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 67-15170; Filed, Dec. 29, 1967; 8:49 a.m.]

Consumer and Marketing Service

FEDERAL MEAT INSPECTION

New Requirements for Handlers

Notice regarding new Federal meat inspection requirements for boners and cutters; meat handlers in District of Columbia and unorganized territories; holders of retail exemption certificates; processors of products of mules and certain other equines.

The enactment of the Wholesome Meat Act (Public Law 90-201) on December 15, 1967, imposes requirements of Federal Meat Inspection under the Federal Meat Inspection Act on several classes of operators who have not heretofore been required to have such inspection. Notice is hereby given that the following policies and procedures have been adopted in order to implement this legislation without disrupting the orderly flow of "commerce" as defined in the legislation:

(a) *Boners and cutters; and operators in District of Columbia and unorganized territories.* (1) The operator of each establishment which (i) did not on December 15, 1967, have Federal meat inspection service, and (ii) desires to engage in the business of boning or cutting up of carcasses, meat or other parts of carcasses of cattle, sheep, swine, goats, or horses, capable of use as human food, for wholesale or retail distribution in "commerce" as defined in the Federal Meat Inspection Act in Public Law 90-201; or to engage in the business of such boning or cutting operations or other preparation of such articles in the District of Columbia or in the unorganized territories of the United States (whether for wholesale or retail distribution) must apply for such inspection by January 15, 1968, in accordance with paragraph (d) in order to receive expedited consideration of the application.

(2) Upon receipt of such an application for inspection, a preliminary survey will be conducted at the establishment. This survey will focus upon the sanitary conditions and facilities that are essential for the preparation of products that are clean, wholesome, and otherwise fit for human food. If deficiencies are found upon such survey, the establishment operator will be so informed and upon notification by him to the Administrator that the deficiencies have been corrected, a further survey will be made at the establishment. When it is determined that the sanitary conditions and facilities at the establishment are such as to enable the preparation of products that are clean, wholesome, and otherwise fit for human food if appropriate, operating procedures are established, inspection service will be provided at the establishment, including any special inspection procedures and other special safeguards necessary to assure that the products are clean, wholesome, and otherwise fit for human food. These operators will be allowed until June 15, 1968, to submit plant drawings and until December 15, 1970, to meet such building and facilities requirements under the Act as are necessary to insure that the products prepared at the establishment are not "adulterated" (as defined in the Act), without the necessity for the special inspection procedures or other special safeguards.

(b) *Previously exempted retail butchers and dealers.* Retail butchers and dealers, who on December 15, 1967, held certificates of exemption under the Meat Inspection Act of 1907, will be required to have Federal meat inspection after February 13, 1968. They should apply in accordance with paragraph (d) below for such inspection as soon as possible in advance of that date if they desire to conduct slaughter or preparation of carcasses, parts thereof, meat or meat food products of cattle, sheep, swine, or goats, capable of use as human food, at their establishments for "commerce" after that date. Preliminary surveys will not be required for such establishments, and upon receipt of such applications inspection service will be provided, including such special inspection procedures and other special safeguards as are necessary to assure that the products prepared at the establishments are clean, wholesome and otherwise fit for human food. These operators will be allowed until June 15, 1968, to submit plant drawings and until December 15, 1970, to meet such building and facilities requirements under the Act as are necessary to insure that the products prepared at the establishment are not "adulterated" (as defined in the Act), without the necessity for the special inspection procedures or other special safeguards.

(c) *Slaughterers or processors of equines and equine products.* The operator of each establishment which slaughters or prepares carcasses, parts thereof, meat or meat food products of mules or similar equines, which are capable of use as human food for wholesale or retail distribution, within the District of Columbia or the unorganized Territories or otherwise in "commerce", will be required to have Federal inspection after February 13, 1968. The operators of such establishments should apply for such inspection in accordance with paragraph (d) below as soon as possible in advance of that date, if they desire to continue such operations for "commerce" after that date.

(d) *General.* Application for inspection must be made to the Director of the appropriate district as indicated on the attached list, except that applications for establishments in the District of Columbia may be made directly to the Administrator, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250. Copies of the application forms and further information as to procedures to be followed by operators affected by the new legislation may be obtained from said officials.

Done at Washington, D.C., this 27th day of December 1967.

H. M. SOMMERS,
Acting Deputy Administrator, Consumer Protection.

DISTRICT DIRECTORS

WESTERN DISTRICT

Dr. E. M. Christopherson, USDA, Consumer and Marketing Service, Room 595, Appraisers Building, 630 Sansome Street, San Francisco, Calif. 94111.
States: Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Utah, and Washington.

SOUTHWESTERN DISTRICT

Dr. R. F. Kieldsen, USDA, Consumer and Marketing Service, Room 276, Merchandise Mart Building, 500 South Ervay Street, Dallas, Tex. 75202.
States: Arkansas, Colorado, Louisiana, New Mexico, Oklahoma, and Texas.

CENTRAL DISTRICT

Dr. S. J. Berger, USDA, Consumer and Marketing Service, Room 909, U.S. Courthouse, 811 Grand Avenue, Kansas City, Mo. 64106.
States: Iowa, Kansas, Missouri, and Nebraska.

NORTHEASTERN DISTRICT

Dr. C. F. Diehl, USDA, Consumer and Marketing Service, Seventh Floor, 1421 Cherry Street, Philadelphia, Pa. 19102.
States: Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.

NORTHERN DISTRICT

Dr. L. H. Burkart, USDA, Consumer and Marketing Service, Federal Building, U.S. Courthouse, Room 393, 316 Robert Street, St. Paul, Minn. 55101.
States: Minnesota, Montana, North Dakota, South Dakota, Wisconsin, and Wyoming.

NORTH CENTRAL DISTRICT

Dr. L. J. Rafoth, USDA, Consumer and Marketing Service, Room 514, 226 West Jackson Boulevard, Chicago, Ill. 60606.
States: Illinois, Indiana, Michigan, and Ohio.

SOUTHEASTERN DISTRICT

Dr. M. J. Hatter, USDA, Consumer and Marketing Service, Room 208, 1795 Peachtree Road NE., Atlanta, Ga. 30309.
States: Alabama, District of Columbia, Florida, Georgia, Kentucky, Maryland, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, Virginia, and West Virginia.

[F.R. Doc. 67-15158; Filed, Dec. 29, 1967; 8:48 a.m.]

Office of the Secretary

MEATS

Import Limitations

Public Law 88-482, approved August 22, 1964 (hereinafter referred to as the Act), provides for limiting the quantity of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled, or frozen meat of goats and sheep, except lamb (TSUS 106.20), which may be imported into the United States in any calendar year. Such limitations are to be imposed when it is estimated by the Secretary of Agriculture that imports of such articles, in the absence of limitations during such calendar year, would equal or exceed 110 percent of the estimated quantity of such articles prescribed by section 2(a) of the Act.

In accordance with the requirements of the Act the following first quarterly estimates are published:

1. The estimated aggregate quantity of such articles which would, in the absence of limitations under the Act, be imported during calendar year 1968 is 900 million pounds.

2. The estimated quantity of such articles prescribed by section 2(a) of the Act during the calendar year 1968 is 950.3 million pounds.

Since the estimated quantity of imports does not equal or exceed 110 percent of the estimated quantity prescribed by section 2(a) of the Act, limitations for the calendar year 1968 on the importation of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled, or frozen meat of goats and sheep (TSUS 106.20), are not authorized to be imposed pursuant to Public Law 88-482 at this time.

Done at Washington, D.C., this 27th day of December 1967.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 67-15188; Filed, Dec. 29, 1967; 8:49 a.m.]

DEPARTMENT OF COMMERCE

Maritime Administration

C4 TROOPSHIPS

Notice of Availability for Conversion and Operation in Unsubsidized Service Between West Coast of United States and Territory of Guam

Pursuant to Public Law 90-195 and the Ship Exchange Act (section 510(1) of the Merchant Marine Act, 1936), as added by Public Law 88-575 and amended by Public Law 90-354, 46 U.S.C. 1160(1), two C4-S-A1 troopships owned by the United States of America, represented by the Secretary of Commerce, acting through the Maritime Administrator, are available to American steamship operators for conversion and operation in unsubsidized service between the west coast of the United States and the Territory of Guam. These ships are offered in exchange for older and less efficient ships owned by the steamship operators in accordance with the terms herein stated. Other disposition: This notice of availability of the ships for exchange under the Ship Exchange Act shall not preclude the Maritime Administrator from pursuing such other disposition as he may deem to be in the best interest of the United States. As required by the Ship Exchange Act, approval of the Department of Defense has been received for the trade-out of these ships.

(a) *Conditions of availability.* Public Law 90-195 provides "That the Secretary of Commerce (hereinafter referred to as the "Secretary"), acting by and through the Maritime Administration, pursuant to the provisions of section 510(1) of the Merchant Marine Act, 1936 (46 U.S.C. 1160(1)), is authorized to trade out in exchange for obsolete vessels two C-4-type vessels for the purpose of conversion and operation in unsubsidized service between the west coast of the United States and the territory of Guam by the person acquiring the traded-out vessels without regard to whether such person receives operating-differential subsidy under the Merchant Marine Act, 1936, for any other of his operations. The Secretary shall exchange the vessels under authority of this Act under such terms and conditions as he deems necessary to insure that if the person who acquires the two C-4-type vessels discontinues his operation of such service, the vessels will be sold to his successor in such service at their fair and reasonable value as determined by the Secretary and subject to such other requirements as the Secretary determines necessary to protect the interests of the United States." Accordingly, each application received in response to this notice shall be reviewed to insure compliance with the provisions of Public Law 90-195, and applicants will be required to furnish firm assurances of their ability to comply with the provisions of the Act.

(b) *Basis for assignment.* Exchange of these ships will be made in accordance with the provisions of Public Law 90-195, the Ship Exchange Act and General Order 92 (46 CFR Part 375) as published in the FEDERAL REGISTER issue of March 1, 1962 (27 F.R. 2011). However, for the purpose of making assignment of the ships, applications will be closely evaluated to determine the type of conversion and resulting efficiency of the ships, the improvement of the unsubsidized service between the west coast of the United States and the territory of Guam, the suitability of the ships after conversion for military or national defense use and the extent of upgrading of the American Merchant Marine; the applicant's operating ability; the applicant's financial responsibility; and other factors having a bearing on the intent of the Ship Exchange Act and Public Law 90-195.

(c) *Valuation.* The basis for valuation of the traded-in and traded-out vessels will be the same as previously used in the case of the C4 troopships as announced in the FEDERAL REGISTER issues of February 1, 1964 (29 F.R. 1665, 1667), April 14, 1964 (29 F.R. 5092), June 11, 1964 (29 F.R. 7520), August 3, 1966 (31 F.R. 10425), and November 17, 1967 (32 F.R. 15848).

(d) *Applications.* Applications for the exchange of ships shall be submitted to the Chief, Office of Ship Operations,

Maritime Administration, Washington, D.C. 20235, on Form MA–182. To assist the Maritime Administration in arriving at a proper determination of the ship assignments, applicants shall furnish with their applications the following information in the order listed:

(1) A statement of the applicant's ship operating ability and experience, including the number and types of American flag ships presently owned and operated by the applicant and the trades in which operated.

(2) Names, and official numbers, and types of ships to be traded-in.

(3) Financial resources available to the applicant and proposed method of financing.

(4) Outline plans and description of the proposed ship conversions and, in the case of a containership, the dimensions of the containers to be used and the number to be carried. There shall also be included a description of the ship's cargo handling capability.

(5) Bale cubic and deadweight capacity after conversion.

(6) Estimated speed in knots after conversion.

(7) Proposed manning schedule.

(8) Estimated costs of proposed conversion and restoration for commercial operation.

(9) Description of the proposed commercial operation in the Guam service of the traded-out ship.

(10) Pro forma statement of anticipated operating results for operation in proposed commercial trade.

Applications must be received on or before January 15, 1968.

(c) *Ships available.* The C4–S–A1 ships available for assignment are:

Name	*Reserve fleet*
General R. L. Howze	Astoria.
General A. W. Greely	Olympia.

The principal characteristics of the C4–S–A1 troopships are:

Length overall—522' 10";
Beam—71' 6";
Speed—17 knots;
Deadweight tonnage—approximately 15,000.

The notice of availability of 28 C4 troopships published in the FEDERAL REGISTER of August 3, 1966 (21 F.R. 10425), is canceled and superseded by this notice as to the two C4 troopships named above.

The notice of allocation of 15 C4 troopships published in the FEDERAL REGISTER of November 30, 1966 (31 F.R. 15027), is amended by deleting therefrom the allocations therein shown of the C4 troopships named above, as those allocations have heretofore been canceled.

Dated: December 27, 1967.

By order of the Acting Maritime Administrator.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 67–15165; Filed, Dec. 29, 1967; 8:49 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

DEPUTY GENERAL COUNSEL ET AL.

Delegation of Authority To Certify True Copies of Books, Records, Papers, or Other Documents, Extracts From Such, and Nonexistence of Records

Notice is hereby given of the following redelegations of authority:

Under the authority delegated by the Secretary to the Assistant Secretary for Administration (32 F.R. 17550) and redelegated to me by the Assistant Secretary for Administration (32 F.R. 17866), I hereby redelegate:

1. The authority to certify true copies of any books, records, papers, or other documents on file within the Department, or extracts from such, or to certify the nonexistence of records on file within the Department, and to cause the Seal of the Department to be affixed to such certifications, to the following employees of the Office of General Counsel:

Deputy General Counsel.
Assistant General Counsel for Business and Administrative Law.
Special Assistant to the General Counsel.
Secretary to the Deputy General Counsel.

2. The authority as official custodian of the files of matters pertaining to compliance proceedings under title VI of the Civil Rights Act, to certify true copies of any books, records, papers, or other documents of the Department pertaining to such compliance proceedings, to certify that true copies are true copies of the entire file of the Department in any matter pertaining to such compliance proceedings, to certify extracts from any such books, records, papers, or other documents, or to certify the nonexistence of books, records, papers, or other documents on file within the Department in any matter pertaining to such compliance proceedings, to the following employee of the Office of General Counsel:

Hearing Clerk, Department of Health, Education, and Welfare.

3. The authority to certify true copies of documents for transmission of such documents to the Office of the Federal Register for publication in the FEDERAL REGISTER, to the following employees of the Office of General Counsel:

Deputy General Counsel.
Assistant General Counsel, Business and Administrative Law Division, Office of General Counsel.
Secretary to the Deputy General Counsel.
Secretary to the Assistant General Counsel, Business and Administrative Law Division.

Dated: December 21, 1967.

ST. JOHN BARRETT,
Acting General Counsel.

[F.R. Doc. 67–15146; Filed, Dec. 29, 1967; 8:47 a.m.]

PREMIUM RATE

Effective Period

Notice of premium rate under Part B of Title XVIII of the Social Security Act.

Pursuant to authority contained in section 1839(b)(2) of the Social Security Act (42 U.S.C. 1395r(b)(2)), as amended by Public Law 90–97, I hereby determine and announce that the dollar amount which shall be applicable for premiums, for purposes of section 1839(b)(2) of the Act, as amended, shall be $4 for months after March 1968 and before January 1970.

Upon approval of H.R. 12080 by the President of the United States, the premium rate promulgated in the preceding paragraph shall be effective, by reason of section 145(d) of H.R. 12080, only for months after March 1968 and before July 1969.

Dated: December 27, 1967.

[SEAL] JOHN W. GARDNER,
Secretary.

[F.R. Doc. 67–15172; Filed, Dec. 29, 1967; 8:49 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 19028]

MEMPHIS/HUNTSVILLE/BIRMINGHAM-LOS ANGELES SERVICE INVESTIGATION

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on February 6, 1968, at 10 a.m., e.s.t., in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Milton H. Shapiro.

In order to facilitate the conduct of the conference, parties are instructed to submit to the examiner and other parties (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statement of positions of parties; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before January 26, 1968, and other parties on or before January 31, 1968.

Dated at Washington, D.C., December 26, 1967.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 67–15141; Filed, Dec. 29, 1967; 8:46 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP68–171]

EL PASO NATURAL GAS CO.

Notice of Application

DECEMBER 22, 1967.

Take notice that on December 12, 1967, El Paso Natural Gas Co. (Applicant), Post Office Box 1492, El Paso, Tex. 79999, filed in Docket No. CP68–171 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities necessary to augment existing facilities utilized for the receipt and subsequent transportation of natural gas in interstate commerce in the Wasson area of Yoakum County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to construct and operate one 6,000 horsepower compressor unit. Applicant also proposes to construct and operate additional purification facilities to provide an increase of 45,000 Mcf per day of design inlet capacity and additional dehydration facilities to provide an increase of 50,000 Mcf per day of design inlet capacity in its existing Wasson Plant.

Applicant states that the proposed facilities will implement the receipt and utilization at Applicant's Wasson Plant of an additional 50,000 Mcf per day of natural gas under an amended contract between Applicant, as Buyer, and Shell Oil Co. and Coltex Corp., as Seller.

The total estimated cost of the proposed facilities is $4,100,191, which will be financed out of working funds, supplemented as necessary by short-term bank loans.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before January 18, 1968.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67–15117; Filed, Dec. 29, 1967; 8:48 a.m.]

NATIONAL POWER SURVEY REGIONAL ADVISORY COMMITTEES

Determination Regarding Continuation

DECEMBER 20, 1967.

Pursuant to paragraph 8 of the Commission's Order Establishing the Regional Advisory Committees, issued January 10, 1966, and section 3 of Executive Order No. 11007, issued February 26, 1962 (27 F.R. 1875, 3 CFR, 1959–63 Comp., p. 573), the Commission hereby determines that the continued existence of the Regional Advisory Committees for an additional period of 2 years is in the public interest.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 67–15118; Filed, Dec. 29, 1967; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 7–2808]

GENERAL INSTRUMENT CORP. (DELAWARE)

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

DECEMBER 22, 1967.

In the matter of application of the Boston Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

General Instrument Corp. (Delaware), File No. 7–2808.

Upon receipt of a request, on or before January 4, 1968, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67–15123; Filed, Dec. 29, 1967; 8:45 a.m.]

INTERAMERICAN INDUSTRIES, LTD.

Order Suspending Trading

DECEMBER 22, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the capital stock of Interamerican Industries, Ltd., Calgary, Alberta, Canada, being traded in the United States otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in the United States in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period December 25, 1967, through January 3, 1968, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67–15125; Filed, Dec. 29, 1967; 8:46 a.m.]

[70–4568]

MISSISSIPPI POWER CO.

Notice of Proposed Issue and Sale of Short-Term Notes to Banks

DECEMBER 22, 1967.

Notice is hereby given that Mississippi Power Co. ("Mississippi"), 2500 14th Street, Gulfport, Miss. 39501, a public-utility subsidiary company of The Southern Co. ("Southern"), a registered holding company, has filed a declaration and amendments thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6 and 7 thereof as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Mississippi requests authorization to issue and sell, from time to time prior to December 31, 1969, its unsecured promissory notes to banks in an aggregate principal amount not to exceed $15 million outstanding at any time, including in such amount an aggregate of $6,775,000 principal amount of promissory notes which may be issued pursuant to the

exemption afforded by the first sentence of section 6(b) of the Act, $4,380,000 of which have heretofore been issued and bear interest at the rate of 6 percent per annum. Each note proposed to be issued by Mississippi will bear interest at the prime rate in effect at the lending bank (presently 6 percent per annum) on the date of issue. All notes will mature not more than nine months after the date of issue and will be prepayable at any time without penalty.

The notes are to be issued to the following banks up to the aggregate amounts listed:

	Amount
First National Bank, Jackson, Miss	$2,600,000
Deposit Guaranty National Bank, Jackson, Miss	1,000,000
Merchants Bank & Trust Co., Bay St. Louis, Miss	100,000
Bay Springs Bank, Bay Springs, Miss	100,000
First National Bank of Biloxi, Miss	120,000
The Peoples Bank of Biloxi, Miss	100,000
Columbia Bank, Columbia, Miss	100,000
Citizens Bank, Columbia, Miss	65,000
Merchants & Manufacturers Bank, Ellisville, Miss	60,000
Gulf National Bank of Gulfport, Miss	155,000
Hancock Bank, Gulfport, Miss	565,000
First National Bank of Hattiesburg, Miss	300,000
Citizens Bank of Hattiesburg, Miss	100,000
Southern National Bank, Hattiesburg, Miss	100,000
The Commercial National Bank & Trust Co. of Laurel, Miss	100,000
Lumberton State Bank, Lumberton, Miss	35,000
Citizens National Bank, Meridian, Miss	350,000
First National Bank in Meridian, Miss	155,000
Merchants & Farmers Bank, Meridian, Miss	345,000
Newton County Bank, Newton, Miss	75,000
First National Bank of Newton, Miss	35,000
Perry County Bank, New Augusta, Miss	30,000
Pascagoula-Moss Point Bank, Pascagoula, Miss	300,000
Merchants & Marine Bank, Pascagoula, Miss	250,000
Bank of Picayune, Miss	40,000
First National Bank of Picayune, Miss	40,000
Bank of Commerce, Poplarville, Miss	35,000
Lamar County Bank, Purvis, Miss	25,000
Richton Bank & Trust Co., Richton, Miss	25,000
The Bank of Shubuta, Miss	25,000
The Stonewall Bank, Stonewall, Miss	14,000
Smith County Bank, Taylorsville, Miss	25,000
First State Bank, Waynesboro, Miss	25,000
Bank of Wiggins, Miss	60,000
Continental Illinois National Bank & Trust Co. of Chicago, Ill	1,000,000
Morgan Guaranty Trust Co. of New York, N.Y	6,662,000
Total	15,000,000

The proceeds of the proposed notes are to be used by Mississippi to finance, in part, its construction program, which is estimated at $18,127,000 in 1968 and $7,394,000 in 1969, or in payment of notes previously issued as provided herein. Mississippi intends to obtain the cash required in 1968 and 1969 for financing its construction program and for other lawful corporate purposes from (a) its cash on hand in excess of operating requirements, interest, and dividends, (b) short-term bank loans, and/or (c), if and to the extent hereafter appearing to it desirable, the sale to the public of $5 million par value of preferred stock. Mississippi presently estimates that, commencing in June 1968, the bank loans made hereunder will be reduced, by repayments to be made on or before December 31, 1969, to not more than the amount Mississippi is then authorized to borrow under the exemption provided under the first sentence of section 6(b) of the Act. Such repayments are to be made from cash derived from operations in excess of operating and construction requirements, interest, and dividends.

The fees and expenses to be incurred in connection with the proposed transactions are estimated at $700, including legal fees of $500. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than January 16, 1968, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-15124; Filed, Dec. 29, 1967; 8:45 a.m.]

[File No. 7-2604]

RADIO CORPORATION OF AMERICA

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

DECEMBER 22, 1967.

In the matter of application of the Philadelphia-Baltimore-Washington Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the preferred stock of the following company, which security is listed and registered on one or more other national securities exchange:

Radio Corporation of America, $4 cumulative convertible first preferred stock, no par value, File No. 7-2604.

Upon receipt of a request, on or before January 4, 1968, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated herein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-15125; Filed, Dec. 29, 1967; 8:45 a.m.]

ROVER SHOE CO.

Order Suspending Trading

DECEMBER 22, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Rover Shoe Co., Bushnell, Fla., and stock purchase warrants of Rover Shoe Co. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period December 23, 1967, through January 1, 1968, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-15126; Filed, Dec. 29, 1967; 8:46 a.m.]

TARIFF COMMISSION

[APTA-W-19; TC Publication 223]

CERTAIN WORKERS OF BORG-WARNER CORP.'S LONG MANUFACTURING DIVISION PLANT, DETROIT, MICH.

Report to Automotive Agreement Adjustment Assistance Board in Adjustment Assistance Case

DECEMBER 27, 1967.

The Tariff Commission today reported to the Automotive Agreement Adjustment Assistance Board the results of its investigation No. APTA-W-19, conducted under section 302(e) of the Automotive Products Trade Act of 1965. The Commission's report contains factual information for use by the Board, which determines the eligibility of the workers concerned to apply for adjustment assistance. The workers in this case were employed in the Long Manufacturing Division plant of Borg-Warner Corp.

Only certain sections of the Commission's report can be made public since much of the information it contains was received in confidence. Publication of such information would result in the disclosure of certain operations of individual firms. The sections of the report that can be made public are reproduced on the following pages.

Introduction. In accordance with section 302(e) of the Automotive Products Trade Act of 1965 (79 Stat. 1016), the U.S. Tariff Commission herein reports the results of an investigation (APTA-W-19) concerning the possible dislocation of certain workers engaged in the assembly of condensers (multiple-tube heat exchangers used in cooling motor-vehicle engine oil or automatic transmission fluid)[1] at the Long Manufacturing Division of Borg-Warner Corp., in Detroit, Mich.

The Commission received the request for investigation from the Automotive Assistance Committee of the Automotive Agreement Adjustment Assistance Board on November 7, 1967. The request for the investigation resulted from a petition for determination of eligibility to apply for adjustment assistance that was filed with the Assistance Board on November 1, 1967, by the International Union, United Automobile, Aerospace & Agricultural Implement Workers of America (U.A.W.) and its Local 314 on behalf of a group of workers at the Detroit plant of the Long Manufacturing Division of Borg-Warner Corp.

[1] The product is referred to simply as "condensers" in the rest of this report.

The petitioners alleged that condensers of the type produced prior to August 1967, were no longer being produced at the Detroit plant and that such production, as well as machines and fixtures used in producing condensers, was transferred to the Long Manufacturing Division plant in Preston, Ontario. The subsequent layoffs at Detroit were attributed to the Automotive Products Trade Act of 1965.

The product involved in this investigation, which was identified as a condenser in the petition, is a subassembly of a tube bundle-type oil cooler for which the Commission developed data in the course of its investigation No. APTA-W-17. Data submitted to the Board in the APTA-W-17 report covered Borg-Warner's production of tube bundle-type oil coolers for motor vehicles and layoffs of personnel engaged in the production of such oil coolers through August, 1967.

The seniority rights of certain workers of the Long Manufacturing Division, including those involved in the present investigation, are the subject of pending litigation in the U.S. District Court at Detroit in a suit initiated by the U.A.W. against the company.

The Commission instituted the present investigation on November 7, 1967. Public notice of the investigation was given in the FEDERAL REGISTER (32 F.R. 15731) on November 15, 1967. Neither the petitioners nor any other party requested a hearing before the Commission, and none was held.

The information reported herein was obtained from a variety of sources, including Borg-Warner Corp. and its Long Manufacturing Division, the major U.S. motor-vehicle manufacturers, the International Union, U.A.W., and its Local 314, the Commission's files and through fieldwork by members of the Commission's staff. * * *

The automotive product involved—condensers. Condensers of the type included in this report are subassemblies of tube bundle-type oil coolers, which are used primarily in trucks and buses to cool engine oil or automatic transmission fluid. The condensers consist of a large number (e.g., 100) of small-diameter (e.g., 5/16") tubes generally 18 to 24 inches in length held in parallel position by spacers. The fluid to be cooled is forced through the tubes, which are generally made of copper. The cooling fluid, usually water (or antifreeze), is passed over these tubes reducing the temperature of the fluid in the tubes. Coolers used for similar purposes in passenger automobiles and certain trucks such as the single tube type and the plate type are not included in this report. Data on these types of oil coolers were included in the report on Investigation No. APTA-W-17.

Manufacturers of tube bundle-type oil coolers produce condensers as components for such coolers. There is no known trade in condensers. Tube bundle-type oil coolers, which are parts of motor vehicles, are dutiable under item 692.27 of the Tariff Schedules of the United States at the rate of 8.5 percent ad valorem, unless they are Canadian products for use as original motor-vehicle equipment (OEM), which are duty free under item 692.28.

Borg-Warner Corp. and its Long Manufacturing Divisions. Borg-Warner Corp. (B-W), with headquarters in Chicago, is a large diversified corporation, which operates about 50 domestic plants and about 45 foreign plants. The products of these plants include automotive equipment, builder and home consumer products, industrial equipment, and chemical and steel materials. In 1966, the corporation's net sales were $913 million, of which automotive equipment accounted for about 35 percent.

The B-W plants that manufacture oil coolers (and condensers) are the Detroit plant of the Long Manufacturing Division and the Preston, Ontario, plant of the Long Manufacturing Division of Borg-Warner (Canada), Ltd. The President of the Long Manufacturing Division of Detroit is also Chairman of the Board of Long Manufacturing Division of B-W (Canada), Ltd.

* * * * *

By direction of the Commission.

[SEAL] DONN N. BENT, *Secretary.*

[F.R. Doc. 67-15135; Filed, Dec. 29, 1967; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Section 5a Application No. 23, Amdt. 7]

MIDDLE ATLANTIC CONFERENCE

Application for Approval of Amendment to Agreement

DECEMBER 27, 1967.

The Commission is in receipt of a section 5a application in the above-entitled proceeding for approval of an amendment to the agreement therein approved.

Filed November 22, 1967, by: Bryce Rea, Jr., Rea, Cross & Knebel, 917 Munsey Building, Washington, D.C. 20004.

The amendment involves: Changes in the bylaw so to provide (1) delegation of functions for the President and Chairman; (2) authorization to employ an additional General Manager; (3) delegation of authority for giving notice for nonpayment of dues; (4) create an additional general rate committee for the Commonwealth of Virginia, designated Territory C; (5) comply with Ex Parte No. 253; and (6) make such other incidental changes made necessary by the foregoing.

The amendment is docketed and may be inspected at the office of the Commission in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing within 20 days from the date of this notice. As provided by the general rules of practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the appli-

cation. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved without public hearing.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-15157; Filed, Dec. 29, 1967; 8:46 a.m.]

[Notice 513]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 27, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIER OF PROPERTY

No. MC 41406 (Sub-No. 21 TA), filed December 18, 1967. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, Hammond, Ind. 46323. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, from Jones & Laughlin Steel Corp.'s new plant at Hennepin, Putnam County, Ill., to points in Indiana, Iowa, Arkansas, Kentucky, Minnesota, Michigan, Missouri, Ohio, Oklahoma, Nebraska, Tennessee, and Wisconsin, for 180 days. Supporting shipper: Jones & Laughlin Steel Corp., 3 Gateway Center, Pittsburgh, Pa. 15130. Send protests to: District Supervisor, Interstate Commerce Commission, Bureau of Operations, 308 Federal Building, Fort Wayne, Ind. 46802.

No. MC 52657 (Sub-No. 650 TA), filed December 19, 1967., Applicant: ARCO AUTO CARRIERS, INC., 2140 West 79th Street, Chicago, Ill. 60620. Applicant's representative: S. J. Zangri (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* in initial truckaway movement, from Holland, Mich., to military installations and ports of embarkation in California, Georgia, Illinois, Maryland, New Jersey, New York, Pennsylvania, Texas, and Utah, for 180 days. Supporting shipper: Military Traffic Management and Terminal Services, Washington, D.C. 20315. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, U.S. Courthouse and Federal Office Building, Room 1086, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 60014 (Sub-No. 25 TA), filed December 19, 1967. Applicant: AERO TRUCKING, INC., Post Office Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plantsite of Jones & Laughlin Steel Corp., Putnam County, Ill., to points in Indiana, Michigan, Ohio, and Wisconsin. Return movement: *Materials, equipment, and supplies* used in the manufacturing and processing of iron and steel articles, from points in the above-destination territories to the said plantsite, for 180 days. Supporting shipper: Jones & Laughlin Steel Corp., 3 Gateway Center, Pittsburgh, Pa. 15230. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2109 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 80430 (Sub-No. 119 TA), filed December 19, 1967. Applicant: GATEWAY TRANSPORTATION CO., INC., 3130 South Avenue, La Crosse, Wis. 54601. Applicant's representative: Joseph E. Ludden (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment; serving the plant site of Johnson & Johnson located in the Argonne Industrial District near Lemont, Ill., as an off-route point in connection with Applicant's presently authorized routes as set forth in certificate of public convenience and necessity No. MC 80430. NOTE: Applicant will tack at Chicago, Ill., and will interline with responsible common carriers, for 180 days. Supporting shipper: Walter K. Cabot, General Traffic Manager, Johnson & Johnson, 501 George Street, New Brunswick, N.J. 08901. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 214 North Hamilton Street, Madison, Wis. 53703.

No. MC 124078 (Sub-No. 316 TA), filed December 19, 1967. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street Milwaukee, Wis. 53215. Applicant's representative: Richard H. Prevette (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, from Birmingham, Ala., to Chattanooga, Tenn., for 150 days. Supporting shipper: The Hill & Griffith Co., Box 1232, Birmingham, Ala. 35201. Send protests to: District Supervisor, Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 128652 (Sub-No. 2 TA), filed December 19, 1967. Applicant: LARSON TRANSFER & STORAGE CO., INC., 9500 Bloomington Freeway, Minneapolis, Minn. 55431. Applicant's representative: Will S. Tomiljanovich, Fisher Nut Building, 2227 Wycliff Street, St. Paul, Minn. 55114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sawdust and floor sweeping compounds*, from Minneapolis, Minn., to points in Illinois, Iowa, Upper Peninsula of Michigan, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin, for 180 days. Supporting shippers: American Excelsior Corp., 350 Avenue H, East Arlington, Tex. 76010; E-Z Sweep Compound Co., Division of E-Z Killdust Corp., 206 Sixth Street NE., Minneapolis, Minn. 55413. Send protests to: C. H. Bergquist, District Supervisor, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401.

No. MC 129335 (Sub-No. 1 TA), filed December 18, 1967. Applicant: DE-HAVEN TRANSFER & STORAGE CO., INC., 2009 Russell Street SW., Roanoke, Va. 24010. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Virginia in and west of Brunswick, Dinwiddie, Chesterfield, Powhatan, Goochland, Louisa, Orange, Culpeper, Rappahannock, Warren, and Clarke Counties, Va., for 180 days. Supporting Shippers: Richardson Transfer & Storage Co., Inc., 940 South Santa Fe Avenue, Compton, Calif.; American Ensign Van Service, Inc., Post Office Box 2270, Wilmington, Calif. 907044; Getz Bros. & Co., Post Office Box 2230, Wilmington, Calif. 90744. Send prptests to: George S. Hales, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 215 Campbell Avenue SW., Roanoke, Va. 24011.

MOTOR CARRIER OF PASSENGERS

No. MC 124986 (Sub-No. 4 TA), filed December 19, 1967. Applicant: JOSEPH T. MIGNANELLI, doing business as ROCHESTER TRANSIT CO., 704 California Avenue, Rochester, Pa. 15074. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, in round-trip special operations, beginning and ending at Beaver Falls, New Brighton, Rochester, Monaca, Aliquippa, and Ambridge, Pa., and extending to the site of Wheeling Downs Race Track, at or near Wheeling, W. Va., for 180 days. Supporting shippers: There are approximately 29 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2109 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-15158; Filed, Dec. 29, 1967; 8:46 a.m.]

[Notice 67]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 27, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-69413. By order of December 20, 1967, the transfer Board approved the lease to Cango Corp., Houston, Tex., of the certificate of registration in No. MC-121496 (Sub-No. 1) issued August 21, 1967, to Albert E. Pagan, Houston, Tex., and transferred to E. C. Daniel, Houston, Tex., pursuant to order in No. MC-FC-70018, evidencing the rights to engage in transportation in interstate or foreign commerce solely within the State of Texas, corresponding in scope to the service authorized by certificate of public convenience and necessity No. 7259 issued prior to October 15, 1962, reissued December 10, 1962, and September 8, 1964, by the Railroad Commission of Texas. Jo. E. Shaw, 816 Houston First Savings Building, Houston, Tex. 77002, attorney for applicants.

No. MC-FC-70005. By order of December 20, 1967, the Transfer Board approved the transfer to Glenn S. Munkres, doing business as Lost Trail Stages, Salmon, Idaho, of the operating rights in certificate No. MC-113730 (Sub-No. 1) issued December 12, 1962, to Gerald J. Butler, doing business as Lost Trail Stages, Salmon, Idaho, authorizing the transportation of passengers and their baggage, and express, mail, and newspapers in the same vehicle with passengers, between Salmon, Idaho, and Darby, Mont., serving all intermediate points from Salmon over U.S. Highway 93 to Darby, and return over the same route. Frederick Hughes Snook, Post Office Box 1227, Salmon, Idaho 83467, attorney for applicants.

No. MC-FC-70012. By order of December 20, 1967, the Transfer Board approved the transfer to E. C. Daniel, Houston, Tex., of the certificate of registration in No. MC-121496 (Sub-No. 1) issued August 21, 1967, to Albert E. Pagan, Houston, Tex., evidencing a right to engage in transportation in interstate or foreign commerce solely within the State of Texas, corresponding in scope to the service authorized by certificate of public convenience and necessity No. 7259 issued prior to October 15, 1962, reissued December 10, 1962, and September 8, 1964, by the Railroad Commission of Texas. Jo. E. Shaw, 816 Houston First Savings Building, Houston, Tex. 77002, attorney for applicants.

No. MC-FC-70050. By order of December 20, 1967, the Transfer Board approved the transfer to Howard H. Krapf, doing business as Krapf Truck Service, Allentown, Pa., of that portion of certificate in No. MC-1866, issued May 5, 1950, to Robert F. Sell, Allentown, Pa., authorizing the transportation of Sand Blasting Sand, from Millville, Cape May, and Wildwood, N.J., to Bethlehem, Pa., and points in Pennsylvania within 25 miles of Behtlehem. Kenneth R. Davis, 1106 Dartmouth Street, Scranton, Pa. 18504, representative for applicants.

No. MC-FC-70060. By order of December 20, 1967, the Transfer Board approved the transfer to Mac Evoy, Inc., Philadelphia, Pa., of certificates in Nos. MC-118797 and MC-118797 (Sub-No. 1), issued September 23, 1959, and September 29, 1965, respectively, to Silver Streak Express, a corporation, Philadelphia, Pa., authorizing the transportation of: General commodities, with the usual exceptions from Philadelphia, Pa., to specified points in New Jersey, and between points in the New York, N.Y., commercial zone. Robert B. Pepper, 297 Academy Street, Jersey City, N.J. 07306, representative for applicants.

No. MC-FC-70063. By order of December 21, 1967, the Transfer Board approved the transfer to John Profilio, Jr., doing business as Profilio Trucking, Queens Village, N.Y., of the certificate in No. MC-119440, issued July 1, 1960, to John Profilio, doing business as Profilio Trucking, same address, authorizing the transportation of general commodities, except household goods, commodities in bulk, and other specified commodities, from the sites of break bulk stations of Springmeier Shipping Co., Inc., in the New York, N.Y., commercial zone, to points in Nassau County, N.Y. Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006, representative for applicants.

No. MC-FC-70064. By order of December 21, 1967, the Transfer Board approved the transfer to Ewing Transportation, Inc., Chester, Pa., of certificates in Nos. MC-97631 (Sub-No. 2) and MC-97631 (Sub-No. 3), issued May 8, 1964, and September 14, 1964, respectively in the name of Robina Ewing, doing business as Ewing's Transfer, Chester, Pa., authorizing the transportation of new furniture, from Philadelphia, Pa., to points in New Jersey, New York, Delaware, and Maryland, and general commodities, excluding household goods, commodities in bulk, and other specified commodities, between points in Delaware County and Philadelphia County, Pa. Ralph C. Busser, Jr., 1710 Locust Street, Philadelphia, Pa. 19103, attorney for applicants.

No. MC-FC-70116. By order of December 20, 1967, the Transfer Board approved the transfer to Jay-Phyll Corp., 1171 Ocean Parkway, Brooklyn, N.Y. 11230, of permit Nos. MC-79082 and MC-79082 (Sub-No. 2) issued October 21, 1965, and October 22, 1965, respectively, to Morris Cohen and Harvey S. Cohen, a partnership, doing business as M. C. Auto Trucking Co. (same address), Brooklyn, N.Y. 11230, and authorizing the transportation of bakery products, from New York, N.Y., to points in New Jersey within 25 miles of Columbus Circle, N.Y., and terneplate and tin plate, plain, lacquered, lithographed, printed, or painted, between Elizabeth, N.J., on the one hand, and, on the other, New York, N.Y., and points in Nassau and Westchester Counties, N.Y.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-15159; Filed, Dec. 29, 1967; 8:46 a.m.]

Title 2—THE CONGRESS

ACTS APPROVED BY THE PRESIDENT

EDITORIAL NOTE: After the adjournment of the Congress *sine die*, and until all public acts have received final Presidential consideration, a listing of public laws approved by the President will appear in the daily FEDERAL REGISTER under Title 2—The Congress. A consolidated listing of the new acts approved by the President will appear in the Daily Digest in the final issue of the Congressional Record covering the 90th Congress, First Session.

Approved December 26, 1967

H.R. 8715 ..... Public Law 90-228

An Act to amend the District of Columbia Alcoholic Beverage Control Act to limit the amount of wines, spirits, and beer that may be brought into the District of Columbia.

H.R. 6147 ..... Public Law 90-234

An Act to authorize the extension of certain vessel loans now in existence and new loans, and for other purposes.

CUMULATIVE LIST OF PARTS AFFECTED—DECEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during December.

3 CFR

Page

PROCLAMATIONS:
- 3761A (see Proc. 3822) 19002
- 3548 (see Proc. 3822) 19002
- 3821 17571
- 3822 19002

EXECUTIVE ORDERS:
- Dec. 5, 1913 (revoked in part by PLO 4327) 16531
- Mar. 21, 1914 (revoked in part by PLO 4327) 16531
- June 24, 1914 (revoked in part by PLO 4327) 16531
- 11075 (see Proc. 3822) 19002
- 11248:
  - Amended by EO 11384 17423
  - Amended by EO 11386 18081
- 11383 17421
- 11384 17423
- 11385 18081

5 CFR

- 210 16474
- 213 ..... 16477, 17615, 17849, 20627, 20701, 20837, 20922.
- 310 20801
- 315 16474
- 351 16474
- 352 16474
- 353 16475
- 430 16475
- 511 16475
- 531 16475
- 550 ..... 20942, 21023
- 713 16476
- 722 20838
- 731 16476
- 752 16476
- 754 16476
- 771 16477
- 772 16477
- 831 16477
- 891 16477
- 2200 17573
- 2300 17651

7 CFR

- 6 20801
- 68 20837
- 250 20837
- 301 ..... 18015, 18017, 20942
- 354 20765
- 401 ..... 16478, 17425, 17513
- 718 17513
- 722 ..... 17467, 17887, 17923, 20838
- 724 16478
- 725 16479
- 729 17887
- 730 21023
- 792 20629
- 794 19155
- 811 18083
- 812 21024
- 814 20765
- 815 ..... 16525, 21025
- 842 20701
- 905 ..... 16525, 17615, 17616, 17925
- 907 ..... 16526, 17515, 17888, 20629, 20766, 20838, 21028.
- 909 17849
- 910 ..... 16526, 17617, 17651, 18017, 18018, 18085, 20766, 20804, 21028.
- 944 17425
- 946 20702
- 959 20702
- 982 16527
- 987 19156
- 989 ..... 17467, 18086
- 1063 16479
- 1073 16480
- 1094 16527
- 1103 16527
- 1106 16480
- 1126 16480
- 1421 16528
- 1422 20767
- 1427 ..... 16528, 19156
- 1464 17849
- 1474 ..... 17888, 20839
- 1488 18018

PROPOSED RULES:
- 51 ..... 17893, 20864
- 58 17893
- 812 17669
- 817 17669
- 911 17431
- 915 17431
- 948 17671
- 950 17433
- 989 ..... 17625, 20732
- 993 17434
- 1001 17626
- 1009 17626
- 1030 21054
- 1031 21054
- 1036 17626
- 1038 21054
- 1039 21054
- 1045 21054
- 1049 17626
- 1061 21054
- 1063 21054

8 CFR

- 238 17651
- 299 17651

PROPOSED RULES:
- 242 17624
- 243 17624
- 244 17624
- 299 17624

9 CFR

- 71 19157
- 76 19157
- 78 18086
- 79 19157
- 96 19157
- 98 19158
- 97 ..... 17618, 20768
- 151 19158
- 160 20839
- 161 20839
- 162 20839
- 201 20921

10 CFR

- 1 ..... 20942, 20944

PROPOSED RULES:
- 25 20868
- 26 20868
- 95 20868

12 CFR

- 1 ..... 17674, 17926, 20945
- 12 17468
- 206 17469
- 224 17425
- 265 19159
- 335 17470
- 531 ..... 20841, 21029
- 545 17926
- 556 20639
- 561 17515
- 605 17652
- 610 20703
- 670 ..... 20703, 20842

PROPOSED RULES:
- 16 20657
- 563 17544

14 CFR

- 21 17850
- 39 ..... 16481, 17426, 17515, 17516, 17652, 17927, 20842, 20945, 20946, 21029, 21030
- 61 16481
- 71 ..... 16482, 16483, 17426, 17427, 17516–17518, 17574–17576, 17653, 17851, 18020, 20630, 20631, 20704, 20705, 20769, 20843, 20947.
- 73 ..... 17427, 17653, 18087
- 75 17518
- 91 ..... 16483, 17654
- 95 20947
- 97 ..... 16484, 17577, 17928, 19170, 20706, 20949.
- 103 20958
- 121 ..... 16481, 17889
- 141 17851
- 151 17471
- 198 20843
- 214 18020
- 217 18020
- 221 18022
- 241 ..... 18023, 20770
- 243 20711
- 301 16491
- 302 20958
- 303 16491
- 311 16491
- 320 16491
- 386 20805
- 421 16491
- 430 ..... 16491, 20771
- 431 16491
- 435 16491
- 1209 20714
- 1501 20853
- 1502 20771

PROPOSED RULES:
- 1 16495
- 21 17485
- 25 17487
- 39 ..... 17439, 17672, 17673, 17895, 20818
- 61 ..... 20984, 20985

14 CFR—Continued

Page

PROPOSED RULES—Continued
- 71 ..... 16495, 17488, 17543, 17598–17598, 17673–17675, 17861, 17982, 18060–18062, 20657, 20658, 20737, 20738, 20780, 20781, 20986, 20987.
- 73 17488
- 75 18062
- 77 20658
- 91 ..... 16495, 19190, 21039
- 207 20739
- 214 16535
- 241 ..... 17983, 20880
- 295 16535
- 298 17598
- 399 20739

15 CFR

- 30 ..... 20805, 20807
- 200 21012
- 230 21017
- 373 17471

16 CFR

- 13 ..... 17427, 17618, 17853–17855, 18025, 20631, 20807, 20808, 20960.
- 15 ..... 17582, 17856, 18087, 20716
- 300 20853

PROPOSED RULES:
- 301 17544
- 415 17601

17 CFR

- 230 17933
- 239 17933
- 240 ..... 17583, 20771, 20960
- 270 17583
- 274 17583

PROPOSED RULES:
- 240 ..... 17983, 18063
- 270 17861

18 CFR

- 141 20967
- 260 20967

19 CFR

- 5 17619
- 12 17426
- 16 19159
- 19 17619
- 23 16528
- 24 17619

20 CFR

- 404 ..... 18026, 19159
- 405 ..... 18026, 19027
- 422 18030
- 609 20969
- 610 20969
- 611 20969
- 614 20969

PROPOSED RULES:
- 405 ..... 18050, 18054

21 CFR

- 19 18096
- 29 17654
- 120 ..... 16529, 17472, 18096
- 121 ..... 16529, 16530, 17472, 17587, 17654, 17655, 17856, 17857, 18096, 20631, 20632
- 130 16531
- 146 16531
- 146a 16491, 17657

21 CFR—Continued

Page

- 148i 19096
- 166 17473
- 191 19176

PROPOSED RULES:
- 1 18113
- 15 18114
- 31 16533
- 46 ..... 17482, 17671, 18114
- 128 17980
- 130 17671
- 138 ..... 16533, 17626

22 CFR

- 10 17454

23 CFR

- 255 ..... 17938, 18032, 18033

PROPOSED RULES:
- 255 ..... 16534, 20865

24 CFR

- 2 21031
- 200 20808
- 203 ..... 20716, 20809
- 207 20716
- 220 20809
- 221 20809
- 234 ..... 17587, 20809

25 CFR

- 500 20855

PROPOSED RULES:
- 221 17543

26 CFR

- 1 ..... 17479, 17518, 17657, 17890, 17938, 18039, 20976.
- 31 18039
- 46 18039
- 48 18039
- 49 18039
- 147 17858
- 601 20645
- 701 ..... 17890, 20772

PROPOSED RULES:
- 1 20727
- 151 17861

28 CFR

- 0 ..... 16531, 20772
- 200 20809

29 CFR

- 4 21036
- 70 20858
- 1516 ..... 21036, 21037
- 1610 16491

30 CFR

PROPOSED RULES:
- 12 20730
- 18 18098
- 34 18098

31 CFR

- 1 17519
- 82 17859
- 214 18044
- 366 20717

32 CFR

- 52 17661
- 54 17619
- 57 18087

32 CFR—Continued

Page

- 502 18089
- 537 ..... 17519, 20977
- 701 17588
- 710 20717
- 721 20719
- 881 20720
- 888c 20648
- 1703 20722

32A CFR

OEP (Ch. I):
- Reg. 6 20726

33 CFR

- 80 20772
- 95 20772
- 109 ..... 17726, 17890
- 110 ..... 17726, 17890
- 114 ..... 17726, 17890
- 115 ..... 17726, 17890
- 116 ..... 17726, 17890
- 117 ..... 17726, 17890, 17939
- 124 20773
- 126 20773
- 209 17522

36 CFR

- 7 ..... 17661, 21037, 21038

39 CFR

- 113 20810
- 114 ..... 20810, 20811
- 116 20811
- 123 17479
- 135 20810
- 171 20633
- 224 18045
- 232 ..... 18045, 20643
- 261 20643
- 742 ..... 17479, 17860

41 CFR

- 1–1 ..... 16491, 18045
- 1–2 18049
- 1–16 18049
- 9–1 17542
- Ch. 18 17002
- 101–26 17939

42 CFR

- 53 17662
- Ch. II 20811

43 CFR

- 2210 17890

PUBLIC LAND ORDERS:
- 334 (revoked in part by PLO 4333) 17480
- 1035 (revoked by PLO 4341) 20980
- 1230 (revoked in part by PLO 4348) 20981
- 1796 (revoked in part by PLO 4331) 17479
- 2764 (see PLO 4331) 17479
- 3623 (revoked in part by PLO 4342) 20980
- 4327 16531
- 4328 17429
- 4329 16532
- 4330 17479
- 4331 17479
- 4332 17479
- 4333 17480
- 4334 17429
- 4335 17429
- 4336 17620
- 4337 17662

43 CFR—Continued Page

PUBLIC LAND ORDERS—Continued
4338 ... 17891
4339 ... 20778
4340 ... 20979
4341 ... 20980
4342 ... 20980
4343 ... 20980
4344 ... 20980
4345 ... 20980
4346 ... 20980
4347 ... 20981
4348 ... 20981
4349 ... 20981

45 CFR
30 ... 17891
Ch. II ... 20811
Ch. IV ... 20811
Ch. IX ... 20811
1105 ... 17663

46 CFR
25 ... 20812
32 ... 20814
39 ... 17621
55 ... 19180
61 ... 19180
72 ... 19180
76 ... 19180
77 ... 19181
78 ... 19181
96 ... 17621
111 ... 19181, 20814
112 ... 19182, 20815

46 CFR—Continued Page
113 ... 19182, 20812
144 ... 20816
164 ... 20813
221 ... 17595
256 ... 17595
282 ... 20775
308 ... 17891
510 ... 17480
526 ... 17667
PROPOSED RULES:
Ch. II ... 17980
510 ... 19192
514 ... 16496, 20818
536 ... 19192

47 CFR
0 ... 20859
1 ... 20859
73 ... 19183, 19187
97 ... 17429
PROPOSED RULES:
2 ... 16495, 18115, 20782
21 ... 20831
73 ... 19191, 20659, 20739, 20882
87 ... 16495, 18115, 20782
91 ... 17440

48 CFR
401 ... 17940

49 CFR
93 ... 20777
171–190 ... 20982

49 CFR—Continued Page
290 ... 17941
291 ... 17941
292 ... 17941
293 ... 17941
294 ... 17941
295 ... 17892, 17941
296 ... 17941
297 ... 17941
890 ... 17480
Ch. X ... 20003
1033 ... 20817, 20861, 20862
1034 ... 20817
1100 ... 20654, 20778
1200 ... 17480
1306 ... 20654
PROPOSED RULES:
177 ... 18114, 20739
239 ... 18062
294 ... 18114, 20739
1033 ... 20987
1034 ... 20987
1048 ... 20883
1056 ... 20659
1322 ... 21039

50 CFR
13 ... 20655
28 ... 17622, 20862
32 ... 17542, 20656
33 ... 16532, 17430, 17481, 17623, 17667, 17668, 18049, 20656, 20704, 20817, 20863, 20983
254 ... 16492

FEDERAL REGISTER

VOLUME 32 • NUMBER 252

Saturday, December 30, 1967 • Washington, D.C.

PART II

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

Milk in Chicago, Ill., and Certain Other Marketing Areas

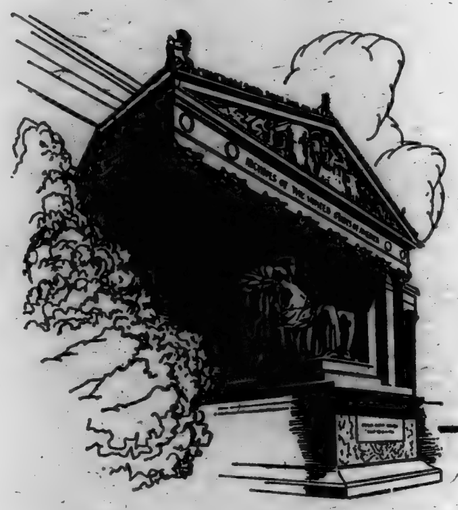

Recommended Decision

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Parts 1030, 1031, 1038, 1039, 1045, 1051, 1063]

MILK IN THE CHICAGO, ILL., AND CERTAIN OTHER MARKETING AREAS

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Marketing Agreements and Orders

7 CFR Part	Marketing area	Docket No.
1030	Chicago	AO 361.
1031	Northwestern Indiana	AO 170-A36.
1038	Rock River Valley	AO 194-A17.
1039	Milwaukee	AO 212-A22.
1045	Northeastern Wisconsin	AO 234-A12.
1051	Madison	AO 329-A8.
1063	Quad Cities-Dubuque	AO 105-A27.

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to the proposed marketing agreements and orders regulating the handling of milk in the Chicago, Ill., and six other marketing areas designated hereinbefore. Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 20th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed marketing agreements and orders, as hereinafter set forth, were formulated, was conducted at Chicago, Ill., during the period May 3-12, 1967, at Milwaukee, Wis., during the period May 16-19, 1967, and at Rockton, Ill., during the period May 22-26, 1967, pursuant to notices thereof which were issued April 12, 1967 (32 F.R. 6035), April 21, 1967 (32 F.R. 6453), and April 26, 1967 (32 F.R. 6692).

The material issues of record relate to:

1. Whether the handling of milk produced for sale in the proposed marketing areas is in the current of interstate commerce, or directly burdens, obstructs, or affects interstate commerce in milk or its products;

2. Whether marketing conditions show the need for the issuance of milk marketing agreements or orders which will tend to effectuate the policy of the Act; and

3. If orders are issued what their provisions should be with respect to:

(a) The scope of regulation;

(b) The classification and allocation of milk;

(c) The determination and level of class prices;

(d) Distribution of proceeds to producers; and

(e) Administrative provisions.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof. These findings and conclusions support the following:

(1) Issuance of an order regulating the handling of milk in the Chicago Regional marketing area which includes the following territory:

(a) Area formerly regulated under Chicago, Ill., order;

(b) Area presently regulated under the Madison, Milwaukee, Northeastern Wisconsin, Northwestern Indiana, and Rock River Valley orders; and

(c) All or the remaining portions of five Illinois counties adjacent to former Chicago marketing area; and

(2) Making no change in the Quad Cities-Dubuque order.

1. *Character of the commerce.* All milk to be regulated by the proposed marketing agreement and order for the Chicago Regional marketing area is in the current of interstate commerce, or directly burdens, obstructs, or affects interstate commerce in milk and its products.

The marketing area herein proposed consists of portions of three States, Illinois, Indiana, and Wisconsin. The milk supply for this area is obtained from farms located in these three States and also in Michigan. There is substantial interstate movement of milk in the marketing area where milk produced in one State is sold to consumers in another State.

About 75 percent of the milk associated with the city of Chicago, Ill., is received from Wisconsin farmers. Dairy farmers located in the States of Illinois and Michigan deliver milk to plants located in Indiana and Wisconsin. Fluid milk products packaged at plants in Chicago are distributed in the present Madison and Milwaukee, Wis., areas and in the Northwestern Indiana area. Also, plants located in Milwaukee regularly distribute packaged fluid milk products throughout the entire marketing area proposed herein.

Handlers who would be regulated under the proposed order package fluid milk products which are distributed in Federal order areas in other States, such as Michigan Upper Peninsula, Southern Michigan, Fort Wayne, and Indianapolis, Ind. Handlers also ship bulk milk to many other Federal order markets, some as far away as the States of Pennsylvania, New Jersey, West Virginia, Mississippi, and Utah. Furthermore, on occasion milk has been shipped to plants regulated under the Southeastern Florida order. On the other hand, handlers who have plants located in the States of Michigan and Iowa distribute milk in the proposed Chicago Regional marketing area.

Manufactured dairy products such as nonfat dry milk, butter, and cheese are brought into the marketing area from sources located in other States. These products compete with the same products made from locally produced milk which would come under the regulation. Such locally produced manufactured products are likewise sold in States other than the three-State area. Plants in Wisconsin also divert milk to manufacturing plants which goes into products sold nationwide and in foreign countries.

2. *Need for regulation.* The issuance of a marketing agreement and order for the Chicago Regional marketing area will tend to effectuate the declared policy of the Act. Marketing conditions throughout the entire proposed territory to be regulated are such that the purposes of the Act will be served by regulation of such territory under one order.

A primary purpose of a Federal order is to assure orderly marketing conditions for milk of producers. This is accomplished by establishing minimum prices to be paid by handlers according to the use made of the milk.

Prior to May 1, 1966, part of the area proposed herein to be designated as the Chicago Regional marketing area was regulated under the Chicago, Ill., Federal order for many years. Regulation of the milk supply for the city of Chicago had been effective continuously for nearly 27 years. During April 1966 the Secretary found that the order, as in effect at that time, no longer tended to effectuate the declared policy of the Act after more than one-third of the producers supplying the Chicago market did not approve the order as it was proposed to be amended. Consequently, on May 1, 1966, the Secretary terminated all of the provisions contained in the former Chicago order, except those concerning the continuing obligations of handlers for milk received prior to the termination.

Subsequent to the termination, about 40 of the 113 Chicago pool plants became regulated under the Milwaukee order, while a few other plants became regulated under the Northwestern Indiana or Rock River Valley orders for a brief period. Following amendments to these latter two orders (effective Aug. 1, 1966, in Northwestern Indiana and Oct. 1 in Rock River Valley) these plants no longer met the pooling requirements under those two orders and these plants likewise became regulated under the Milwaukee order.

Some of the larger plants which became regulated under the Milwaukee order following the termination have subsequently altered their sales patterns so that now they are not regulated under any Federal order.

In an attempt to maintain stability in the Chicago market since termination of the order, several cooperatives and a substantial number of handlers have maintained a voluntary "pooling" arrangement which continues the classified price plan and marketwide pooling of producer returns. Some of the plants that were formerly under the Chicago order and are now regulated under the Milwaukee individual-handler pool order also are in the Chicago voluntary pool.

Handlers account for all of their producer receipts at each plant in the voluntary pool, including receipts from producers who are not parties to the voluntary arrangement. Pure Milk Association has been designated the market agent to administer the voluntary pool. The market agent and handlers negotiate the class prices which are paid each month. The supervisor for the market agent testified that each month he receives reports from handlers, announces prices, computes the blend price for pooled milk, and verifies handlers' reports for accuracy by auditing their books and records.

Although producers under the voluntary pool have tried to maintain Class I prices as high or higher than would have existed under the former Chicago order, they have not been completely successful in this regard. Prior to the termination of the Chicago order, the minimum Chicago Class I price was fixed at a level 12 cents above that at Milwaukee. Assuming this relationship would have been continued had the Chicago order remained in effect, the announced Chicago Class I price was less than the projected order price in 4 of the 12 months subsequent to the Chicago termination.

Although during the other 8 months the Class I prices announced by the market agent nominally were as high or higher than the estimated Chicago order Class I prices, certain amounts must be subtracted from the market agent's announced prices to make them comparable to Federal order Class I prices. The subtracted amounts are for certain deductions made by the market agent in computing the blend price which are not deducted from the pool fund under Federal orders. These deductions are described as Class I sales credits, Milk Foundation and Dairy Council dues, other credits, administrative assessments, Federal order assessments (on milk sold in regulated areas), marketing costs, contingencies, and producer-settlement fund reserves which in some months were used to defray costs such as those listed. The market agent's announced Class I prices adjusted for the above deductions for the 12-month period averaged $4.85 per hundredweight, or 5 cents lower than the average projected order Class I price of $4.90.

Moreover, the voluntary arrangement described above only includes about 30 percent of the Class I sales made by handlers in the Chicago area. Thus, there is still a considerable number of producers who continue to deliver their milk to plants serving the Chicago market who are neither under any Federal order nor the voluntary pool. The record does not disclose the pricing system used in paying these farmers for their milk.

One handler, who also acts as a broker, testified that he sells milk to Chicago handlers at the same prices and on the same classification as used in the voluntary pool, but stated that he did not audit the books and records of his buying handlers. Further, the representative of a cooperative association (not associated with the voluntary pool) which operates several supply plants testified that the Class I prices his cooperative has received since termination of the Chicago order have varied above and below those established under the voluntary pool.

There is no overall plan whereby all farmers supplying milk to the Chicago area are assured of payment for their milk in accordance with its use. In some segments of the market there is no procedure whereby farmers may participate in price determinations necessary for the marketing of their milk which, because of its perishability, must be delivered to the market as it is produced.

Even those producers who deliver to plants subject to the voluntary pool are not completely protected from unreasonably low prices. Cheaper milk supplies represent a constant threat to the price levels obtainable under the voluntary pool. As described above, producers whose milk is subject to the voluntary pool are receiving Class I prices which are low relative to the Class I prices in surrounding Federal order markets. These lower Class I prices under the voluntary pool exist in spite of the fact that milk supplies relative to Class I sales in the Chicago area have been somewhat shorter in recent periods.

Further, since the voluntary pool is, as its name implies, voluntary on the part of handlers, the cheaper milk supplies also represent a threat to the very existence of the arrangement. In these circumstances it is quite possible this arrangement could break down. If this should happen, whatever orderly marketing this voluntary pool brought to Chicago would completely disappear. In this event Chicago producers then would have no assurance whatsoever that they are receiving a price for their milk which is commensurate with its classified value and there would be complete disorder in the market.

The order herein proposed will tend to effectuate the declared policy of the Act by assisting in the establishment and maintenance of orderly marketing conditions, and thus provide the basis for insuring an adequate and dependable supply of milk for consumers. The principal measures to be employed for this purpose are:

(1) The determination of minimum prices to producers at levels contemplated under the Agricultural Marketing Agreement Act of 1937, as amended;

(2) The establishment of uniform pricing to handlers for milk received from producers according to a classified pricing plan based upon the utilization made of the milk;

(3) An impartial audit of handlers' records of receipts and utilization, to insure uniform prices for milk purchased;

(4) A means for insuring accurate weights and tests of milk;

(5) Uniform returns to producers supplying the market and an equitable sharing by all producers of the lower returns from the sale of reserve milk; and

(6) Marketwide information on receipts and sales and other data relating to milk marketing in the area.

FINDINGS AND CONCLUSIONS WITH RESPECT TO PROVISIONS OF ORDER

(2) (a) *Scope of regulation.* The type of regulation effected by a milk order is essentially a matter of establishing minimum prices to dairy farmers who produce milk for a specified marketing area. The scope of such regulation depends first on the definition of such marketing area. It also is necessary to designate clearly what milk and which persons would be subject to the various provisions of the order. This is accomplished by providing, in addition to the marketing area, specified definitions to describe the category of persons, plants, and milk products to which the applicable provisions of the order relates.

Marketing area. The "Chicago Regional" marketing area should include all the territory within the following places: in the State of Illinois the counties of Boone, Carroll, Cook, De Kalb, Du Page, Jo Daviess (except the city of East Dubuque), Kane, Kendall, Lake, Lee, McHenry, Ogle, Stephenson, Will, Winnebago, and in Whiteside County the townships of Caloma, Hahnaman, Hopkins, Hume, Jordan, Montmorency, Sterling, and Tampico; in the State of Indiana the counties of Elkhart, Kosciusko, Lake, La Porte, Marshall, Porter, St. Joseph, and Starke; and, in the State of Wisconsin the counties of Brown, Calumet, Columbia, Crawford, Dane, Dodge, Fond du Lac, Forest, Grant, Green, Iowa, Jefferson, Juneau, Kenosha, Kewaunee, La Crosse, Lafayette, Langlade, Lincoln, Manitowoc, Milwaukee, Monroe, Oconto, Oneida, Outagamie, Ozaukee, Portage, Racine, Richland, Rock, Sauk, Shawano, Sheboygan, Vernon, Vilas, Walworth, Washington, Waukesha, Waupaca, Winnebago; in Door County the city of Sturgeon Bay; in Marathon County the towns of Bergen, Berlin, Bevent, Easton, Elderon, Franzen, Guenther, Harrison, Hewitt, Knowlton, Kronenwetter, Maine, Marathon, Mosinee, Norrie, Plover, Reid, Rib Mountain, Ringle, Stettin, Texas, Wausau, Weston, the villages of Brokaw, Elderon, Hatley, Marathon, Rothschild, and the cities of Mosinee, Schofield, and Wausau; and in Wood County the towns of Cranmoor, Grand Rapids, Port Edwards, Rudolph, Saratoga, Seneca, the villages of Biron, Port Edwards, and the cities of Nekoosa, and Wisconsin Rapids.

Such marketing area would encompass all territory within the above-mentioned places together with all municipal corporations therein and all institutions owned or operated by the Federal, State, county, or municipal governments located wholly or partially within such places.

A primary problem considered at the hearing was whether or not Federal regulation of milk prices should be reinstated in the former Chicago, Ill., marketing area. Most witnesses testified that there is need to regulate milk prices in

the Chicago, Ill., market and no testimony was presented which would indicate otherwise. However, the central issue which evolved at the hearing concerned the determination of the appropriate marketing area or areas which would encompass the seven markets involved. Several witnesses urged that no changes be made in any of the present orders and Federal regulation in Chicago, Ill., be reinstated with its former marketing area. On the other hand, there was a suggestion that all the marketing areas be consolidated under one order. Most of the evidence, however, pertained to various combinations of some of the present orders with or without the Chicago area.

Pure Milk Association, which has more producer members supplying the Chicago market than any other single cooperative association, in conjunction with the Association of Operating Cooperatives proposed that the Madison and Milwaukee, Wis., and Rock River Valley marketing areas be merged with the former Chicago, Ill., marketing area under one order. These proponents would add to their proposed marketing area the Illinois counties of McHenry and Kendall and the remainder of Lake, Kane, and Will Counties. Their proposed consolidated marketing area which would be regulated under one order would be designated as the "Northern Illinois–Southern Wisconsin" marketing area.

The Associated Milk Dealers (of Chicago), although generally supporting the Pure Milk Association and Association of Operating Cooperatives proposed marketing area, asked that the Northeastern Wisconsin marketing area also be included in the proposed Northern Illinois–Southern Wisconsin marketing area. A representative of Sealtest Foods Division, National Dairy Products Corp., although opposing any merger involving the Milwaukee order, likewise supported the inclusion of the Northeastern Wisconsin marketing area, if the Milwaukee marketing area were consolidated with the Chicago marketing area under one order.

Pure Milk Products Cooperative, whose producer members deliver milk to the Chicago, Milwaukee, Madison, and Northeastern Wisconsin markets, proposed that only the Northwestern Indiana marketing area be consolidated with the former Chicago marketing area under one order.

Producer cooperative associations whose memberships represent the majority of the producers delivering to the respective markets of Madison, Milwaukee, Northeastern Wisconsin, Northwestern Indiana, and Rock River Valley opposed the inclusion of their respective markets in any consolidated marketing area which would contain the Chicago, Ill., marketing area. Also, a representative of the State of Wisconsin opposed any merger of orders which would involve the Northeastern Wisconsin marketing area.

Cooperative associations which are associated primarily with the Madison, Milwaukee, and Northeastern Wisconsin markets testified that if a merger involving the Madison and Milwaukee markets were necessary, then they support consolidating these two marketing areas with the Northeastern Wisconsin marketing area under one order. This position was supported by representatives of some Madison and Milwaukee handlers.

The Mid-West Dairymen's Co. and Mississippi Valley Milk Producers Association, which represent the majority of producers in the Rock River Valley and Quad Cities–Dubuque markets, proposed that these two marketing areas should be combined under one order. Their proposed consolidated marketing area would be designated as the "Northern Illinois–Eastern Iowa" marketing area. The representative of three principal handlers under the Rock River Valley order stated that these handlers would support this merger if the Secretary determined a merger involving the Rock River Valley market were necessary. Handlers in the Quad Cities–Dubuque market did not testify in regard to this proposal.

A representative of the National Farmers Organization suggested that all seven marketing areas under consideration at the hearing should be merged under one large consolidated order. A professor from the University of Illinois suggested merging all the marketing areas under consideration at the hearing (except the Quad Cities–Dubuque marketing area) under one order.

The order proposed herein should include a marketing area which consists of (a) area formerly regulated under Chicago order; (b) adjacent territory; and (c) the five marketing areas of Madison, Milwaukee, Northeastern Wisconsin, Northwestern Indiana, and Rock River Valley. To accomplish this, the orders regulating the handling of milk in the Madison, Milwaukee, Northeastern Wisconsin, Northwestern Indiana, and Rock River Valley marketing areas (Parts 1051, 1039, 1045, 1031, and 1033, respectively) should be amended and consolidated into one order to include in the marketing area the above-described territory which is to be designated as the "Chicago Regional marketing area". The consolidated order should be designated Part 1030 in the Code of Federal Regulations and Part Nos. 1031, 1038, 1039, 1045, and 1051 should be vacated.

The combined area will include a total population of approximately 11.1 million persons. The city of Chicago, Ill., has a population in excess of 3.5 million persons; Milwaukee, Wis., has 741,000; Gary, Ind., has 179,000; Madison, Wis., has 158,000; Rockford, Ill., has 136,000; and South Bend, Ind., has 135,000. Other cities in the area include Elkhart, Ind. (48,000), the cities of Evanston (81,000), Joliet (69,500), Waukegan (61,500), Berwyn (54,000), Elgin (53,000), Chicago Heights (41,000), Freeport (27,200), and De Kalb (24,500) all in the State of Illinois; and the cities of Racine (89,000), Kenosha (68,000), Green Bay (63,000), Appleton (48,000), La Crosse (47,500), Sheboygan (46,000), Oshkosh (45,000), Janesville (41,000), Beloit (37,000), Manitowoc (33,000), Fond du Lac (33,000), Wausau (32,000), and Waukesha (30,000) all in the State of Wisconsin.

The area formerly regulated under the Chicago order consists of metropolitan Chicago and its suburbs. This territory includes all of Cook and Du Page Counties, Ill., plus several cities and towns in the adjoining Illinois Counties of Lake, Kane, and Will. Nearly 6 million people live in this area, which represents about 50 percent of the total population in the proposed Chicago Regional marketing area. All testimony supported at least the inclusion of the former Chicago marketing area under any new order involving Chicago.

At the time the previous Chicago order was terminated on May 1, 1966, there were about 50 pool distributing plants which sold slightly less than 155 million pounds of fluid milk products in that marketing area each month. Since that time some of these plants have closed so that at the time of the hearing there were about 45 such distributing plants.

The 10 largest handlers under the former Chicago order distribute about 75 percent of all the milk sold in the marketing area defined under that order. Sales by these handlers constitute the vast majority of the sales in the metropolitan Chicago area. All of the formerly regulated Chicago marketing area must be included in the regulated area to assure orderly marketing conditions for milk.

Several of the largest plants, which have extensive distribution throughout the former marketing area, presently are not subject to any Federal order regulation and some of these are not included in the voluntary pool arrangement described previously. Consequently, handlers who compete for sales in the former Chicago marketing area do not necessarily have the same product costs.

Handlers who are regulated under a Federal milk order must account for their milk on a classified basis and submit their books and records to audit by the market administrator. Similarly, handlers subject to the voluntary pool account for their milk on a classified pricing system. Other distributors are not subject to a supervised classified pricing plan. Many of them maintain relatively high Class I use at their plants and may pay a flat price for their milk regardless of its utilization. This practice provides them opportunity to buy milk for sale in fluid form at prices considerably below the minimum Class I prices required to be paid by regulated handlers. Inclusion of the former Chicago market in the proposed marketing area will provide a uniform system of minimum class prices to handlers for milk purchased from producers.

Kendall and McHenry Counties and those portions of Kane, Lake, and Will Counties which were not part of the former Chicago marketing area should be included in the proposed Chicago Regional marketing area. Such territory is a distribution area for both Chicago and Rock River Valley handlers.

Most of this territory lies between the former Chicago, Ill., marketing area and the Rock River Valley marketing area. With the exception of one or possibly two distributors practically all of the milk distributed in these counties is by handlers who have the majority of their sales in the city of Chicago or are regulated under the Rock River Valley order. A distributor whose plant is located in McHenry, Ill., would become regulated as a result of this decision. This company, however, purchases all of its fluid milk requirements from Pure Milk Association and did not offer any opposition to the proposed marketing area. A distributor located in Ottawa, Ill., also may sell milk in one of these counties. This company is presently a partially regulated handler under both the Rock River Valley and Central Illinois orders. He, likewise, did not offer any testimony in opposition to the proposed marketing area.

The marketing area should include the above-mentioned territory in order to assure regulated handlers that unregulated competitors will not be afforded significant price advantage in purchasing milk for fluid distribution in these counties. There was support by both Chicago handlers and producer associations primarily associated with Chicago for inclusion of the above territory in the marketing area. No testimony in opposition to adding this territory to the marketing area was offered at the hearing.

The marketing areas presently regulated under the three Wisconsin, Northwestern Indiana, and Rock River Valley orders should likewise be included in the Chicago Regional marketing area.

When the Chicago, the three Wisconsin, the Northwestern Indiana, and the Rock River Valley orders were issued, they regulated areas which were generally distinguishable as separate markets for particular groups of producers and handlers. Handlers' retail and wholesale routes were confined in most cases to areas relatively close to their distributing plants. Because distributing plants were more numerous and smaller than is the case today, intermarket handler competition was relatively minor.

With the advent of new and better highways and technological improvements in processing, packaging, and transporting fluid milk products, handlers have consolidated their plants and have extended their route distribution over a wider territory. This has reduced the local character of these markets. The numerous instances of overlapping of handler sales areas make it evident that the marketing areas of the six orders have now become essentially a single fluid milk market.

The larger Chicago handlers distribute fluid milk products in the Rock River Valley and Northwestern Indiana markets as well as in Chicago. Also, they have some distribution in Madison and Milwaukee. One handler who operates bottling plants at Chemung and Huntley, Ill., which were regulated under the former Chicago order, has extensive distribution from these two plants in the Madison, Milwaukee, and Rock River Valley marketing areas as well as in Chicago. This handler also operates a plant regulated under the Northwestern Indiana order but he said that his Northwestern Indiana sales would be supplied from the Chemung and Huntley plants if the Northwestern Indiana market were merged with Chicago.

Several Milwaukee regulated handlers distribute substantial quantities of milk in the Chicago, Madison, Northeastern Wisconsin, Northwestern Indiana, and Rock River Valley marketing areas from their Milwaukee plants. More detailed descriptions of the overlapping of milk sales between specific markets is set forth below.

There is significant movement of packaged fluid milk products between the Chicago market and the three Wisconsin Federal order markets as well as movements among the three Wisconsin markets. In October 1965, Chicago handlers shipped about 1.8 million pounds of packaged fluid milk products to the Milwaukee market and 0.8 million pounds to Madison. This represented about 4 percent of the total Class I sales in the Milwaukee marketing area and five percent in the Madison marketing area. These combined shipments represented about 1 percent of the Class I producer milk utilized by Chicago handlers during that month. Further, during the 6-month period July–December 1966 Chicago handlers shipped 3.4 million pounds of bulk fluid milk products to Milwaukee handlers, 2.3 million to Madison handlers, and 1.2 million to Northeastern Wisconsin handlers.

Conversely, during October 1965, handlers under the Milwaukee order distributed about 4.1 million pounds of packaged fluid milk products in the Chicago market. This represented about 6 percent of the Class I producer milk utilized by Milwaukee handlers that month. These sales represented three percent of the 156 million pounds of packaged fluid milk products sold monthly within the Chicago marketing area.

As mentioned previously, when the Chicago order was terminated in 1966 about 40 of the 113 Chicago pool plants had sufficient sales in the Milwaukee market to qualify them as pool plants under that order. In addition, several other Chicago plants became regulated under the Milwaukee order after amendments to the Northwestern Indiana and Rock River Valley orders. Thus, nearly one-half of the pool plants under the Chicago order were sufficiently associated with the Milwaukee market to qualify under that order.

During the 17-month period from April 1965 through August 1966, about one-third of the fluid milk sales in the Madison market were made by handlers regulated under the Milwaukee order. Since that time the proportion has increased to one-half. Northeastern Wisconsin handlers also distribute milk in the Madison marketing area.

Handlers regulated under the Milwaukee order dispose of substantial quantities of milk in the Northeastern Wisconsin marketing area. During 1966 Milwaukee handlers' average monthly sales in the Northeastern Wisconsin marketing area amounted to 4.2 million pounds. This represented about 16 percent of the total fluid milk products distributed in the Northeastern Wisconsin marketing area. Conversely, Northeastern Wisconsin handlers sold nearly 900 thousand pounds of fluid milk products each month in the Milwaukee marketing area.

Another example of the extensive competition between handlers under these two orders is the operation by a Milwaukee handler of four distributing points within the Northeastern Wisconsin marketing area. Further, this company operates seven other distributing points which are located outside the Northeastern Wisconsin marketing area from which it competes extensively with Northeastern Wisconsin handlers both within that marketing area and in counties adjacent to it.

Cooperative associations associated primarily with the Madison, Milwaukee, and Northeastern Wisconsin markets opposed the merger of these markets with Chicago. This position was supported by representatives of some Madison and Milwaukee handlers.

These opponents stated that the problems besetting the Chicago market which caused the termination of the former Chicago order were the low pool plant qualifications. These provisions permitted plants that were primarily manufacturing plants to be pooled under the order without making their milk available to the fluid market. This caused the proportion of producer milk utilized as Class I milk in the Chicago market to decrease which, accordingly, resulted in a lowering of the blend price. They stated that the proposed merger would not solve this problem but would only cause producers shipping to these three other markets to receive lower blend prices.

The differences in blend prices have diminished, insofar as the Madison and Northeastern Wisconsin producers are concerned, to the point where merger of these markets with Chicago would not necessarily result in a lowering of blend prices. In 1965 the annual average uniform price in the Madison market was $3.75 per hundredweight for milk of 3.5 percent butterfat content. In Northeastern Wisconsin the comparable price was $3.61. The Chicago annual average uniform price adjusted to Madison was $3.56 and adjusted to Green Bay was $3.48. The Madison and Northeastern Wisconsin uniform prices exceeded the adjusted Chicago prices by 19 cents and 13 cents, respectively. These price differences were due primarily to the varying proportions of producer milk utilized as Class I milk in the three markets. In Madison, 73 percent of the producer milk was utilized as Class I milk during the year 1965, in Northeastern Wisconsin 42 percent, and in Chicago 44 percent.

There has been a significant change in this situation since the termination of the Chicago order. The Class I utilization percentage has increased in Chicago but it has decreased in these two other markets. Comparing the three months December through February 1965–66 with

1966–67 (latest record data), the proportion of producer receipts utilized as Class I milk in Chicago has increased from 49 percent in 1965–66 to 54 percent in 1966–67. Decreases from 76 to 60 percent have occurred in Madison and from 50 to 50 percent in Northeastern Wisconsin. Such relative changes in the proportions of producer milk utilized as Class I milk would bring the uniform prices to about the same level in the respective markets.

Further, uniform prices to producers under the voluntary pool are comparable to blend prices under the Madison and Northeastern Wisconsin orders. During the same 3-month (December–February) period of 1966–67 the average uniform price announced by the market agent for Chicago was $4.59 per hundredweight adjusted to Madison and $4.51 adjusted to Green Bay. In this period the Chicago blend price was the same as the Madison blend price of $4.59 and 9 cents higher than the Northeastern Wisconsin blend price of $4.42.

Not only have the price differences been practically eliminated between these three markets but much milk formerly associated with the Chicago order market has become associated with these other markets.

A similar shift in percentage of receipts utilized in Class I and blend prices has not occurred, however, in the Milwaukee market where the individual-handler pooling of producer returns is used. In Milwaukee (excluding plants which were formerly regulated under the terminated Chicago order) for the same 3-month period of December–February the percent of total producer receipts utilized as Class I milk has not declined and the weighted average uniform price has not decreased substantially in relation to uniform prices in the Chicago market. In December–February 1965–66, the average percentage Class I utilization in Milwaukee was 35 percent while in the 1966–67 period it was 32 percent. Although the 1966–67 percentage Class I utilization was down 3 percentage points from 1965–66, it was still 26 percentage points above the Chicago order Class I utilization percentage of 54 percent. The Milwaukee weighted average uniform price for the 3-month period in 1966–67 of $4.74 was 9 cents higher than the market agent's uniform price adjusted to Milwaukee of $4.65.

Milwaukee's individual-handler pooling of producer returns encourages handlers to limit their supplies of producer milk. Milk supplies do not shift readily into the Milwaukee market even when price incentives appear to exist. There are counteracting incentives for handlers to restrict the quantity of producer milk they receive. Under such pooling, the blend price payable by a handler to his producers is affected by his own utilization of producer milk. If he handles only enough reserve milk to balance his packaged milk sales, he is able to pay a higher blend price to his producers than handlers who have a greater proportion of milk used in manufacturing.

Incorporating the Milwaukee market in the Chicago Regional order with its marketwide pooling of producer returns will remove these differences in blend prices to producers. Under a marketwide pooling arrangement, all handlers with an above average market utilization must pay the difference in utilization value into a producer-settlement fund. These monies are then distributed by the market administrator to those handlers whose utilization is below the market average. In this manner, all producers in the market receive the same uniform price irrespective of how their milk is utilized by the particular handler to whom they deliver.

The movement of fluid milk products between Chicago and Northwestern Indiana is substantial. Milk packaged in Chicago handlers' plants accounts for about one-third of the total fluid milk distributed in the Northwestern Indiana market. Each month Chicago handlers package nearly 10 million pounds of fluid milk products which are disposed of in the Northwestern Indiana market. Milwaukee handlers also distribute some packaged fluid milk products in such marketing area. Conversely, Northwestern Indiana handlers distribute nearly 3 million pounds of packaged fluid milk products in the Chicago area each month.

Northwestern Indiana handlers also rely upon Wisconsin country plant milk to supplement their local supplies. However, the supplemental milk received from country plants is not bought as producer milk, even though recently the quantities involved have increased significantly.

During the 15 months prior to April 1, 1965, Northwestern Indiana handlers received less than an average of 200,000 pounds monthly of other source milk. However, since that date the quantity of other source milk receipts has steadily increased. In the last 4 months of 1966 such receipts averaged nearly 6 million pounds per month, which was about 20 percent of the amount received from producers.

In October 1966, a month of seasonally low production, 6.7 million pounds of other source milk were received in the Northwestern Indiana market, of which 6.3 million pounds were received as bulk fluid milk products from plants which had been pooled under the Chicago order prior to its termination. Thus, the Northwestern Indiana handlers rely heavily on Chicago supplies for their reserve.

The marketing area presently regulated under the Rock River Valley order should likewise be included in the Chicago Regional marketing area. As set forth earlier in this decision, there were two proposals to merge the Rock River Valley marketing area with another marketing area. One proposal would merge it with Chicago while the other proposal would merge it with Quad Cities-Dubuque.

There is very little competition for fluid milk sales between Quad Cities-Dubuque and Rock River Valley handlers. In contrast, handlers serving the Chicago marketing area who would be regulated under the proposed order account for approximately one-third of the total packaged fluid milk products distributed in the Rock River Valley marketing area. In addition, about 1.5 million pounds of packaged fluid milk products is disposed of in the Rock River Valley marketing area each month by handlers regulated under the Milwaukee and Madison orders.

One handler, who historically has been regulated under the Cedar Rapids-Iowa City order, became regulated under the Quad Cities-Dubuque order on April 1, 1967. This is the only Quad Cities-Dubuque handler who has any significant amount of route distribution in the Rock River Valley marketing area. However, nine former Chicago regulated handlers distribute milk in the Rock River Valley marketing area. Five of these handlers distribute only in De Kalb County while the other four have more extensive distribution in the marketing area. One of these has distribution throughout much of the marketing area.

The principal producers' cooperative supplying handlers in the Rock River Valley market opposed merger of the Rock River Valley order with Chicago. The cooperative maintained that the Chicago market blend price would be less than the Rock River Valley blend. They said that higher blend prices being paid by Quad Cities-Dubuque, Central Illinois, and Southern Illinois markets would cause their producer members to shift to such markets.

Although the blend prices paid under the Quad Cities-Dubuque, Central Illinois, and Southern Illinois orders have exceeded both the Rock River Valley blend price and the Chicago blend price, producers must transport their milk greater distances to deliver it to such markets. Hence, the net advantage at the farm is not as great as the difference in plant prices.

The cooperative which supplies Rock River Valley handlers also delivers nearly as much milk to a plant located in Rockford which is a Chicago supply plant. Sixty percent of the cooperative's milk goes to Rock River Valley handlers and 40 percent to this Chicago supply plant. The cooperative thus has 40 percent of its supply already in the Chicago pool.

Handlers regulated by the Rock River Valley order also opposed the merger of that area with Chicago. They stated that if the Rock River Valley order were not maintained as a separate order it should be merged with the Quad Cities-Dubuque order. However, since these handlers market Class I milk primarily in competition with Chicago handlers, it is appropriate that a single regulation apply to the handling of milk in the Rock River Valley and Chicago areas.

In view of the extensive competition between handlers within the territory, which presently comprises the six marketing areas and adjacent Illinois counties, it is appropriate to regulate this entire proposed area under a single order.

Similar sanitary regulations applicable to Grade A milk distributed throughout the area have contributed to the wide areas of distribution by handlers regulated under these orders. The sanitary regulations applicable to Grade A milk produced for fluid distribution throughout the proposed area are patterned after the U.S. Public Health Ordinances and Code. These regulations permit the free movement of fluid milk products throughout the proposed consolidated marketing area.

Quad Cities-Dubuque marketing area. No changes should be made in the Quad Cities-Dubuque order on the basis of this hearing record. The only proposal concerning the Quad Cities-Dubuque market involved the proposed merger of that order with the Rock River Valley order. Since that proposal has been denied and no significant interrelationships between Quad Cities-Dubuque and the other markets involved were shown on the record, it is appropriate that no further consideration be given in this decision to amending the Quad Cities-Dubuque order.

Application of marketing area definitions. All producer milk received at regulated plants must be made subject to classified pricing under the respective orders regardless of whether it is disposed of within or outside the marketing area. Otherwise, the effect of the order would be nullified and the orderly marketing process would be jeopardized.

If only a pool handler's "in-area" sales were subject to classification, pricing, and pooling, a regulated handler with Class I sales both inside and outside the marketing area could assign any value he chose to his outside sales. He thereby could reduce the average cost of all his Class I milk below that of other regulated handlers having all, or substantially all, of their Class I sales within the marketing area.

Unless all milk of such a handler were fully regulated under the order, he in effect would not be subject to effective price regulation. The absence of effective classification, pricing, and pooling of such milk would disrupt orderly marketing conditions within the regulated marketing area and could lead to a complete breakdown of the order. If a pool handler were free to value a portion of his milk at any price he chooses, it would be impossible to enforce uniform prices to all fully regulated handlers or a uniform basis of payment to the producers who supply the market.

Persons associated with the Southern Michigan market proposed that when Class I milk is sold by handlers under this order in the marketing area of another Federal order and the Class I price in the other order exceeds the price under this order, the milk should be priced at the higher price. They stated that multimarket handlers have an advantage over single market handlers because the multimarket handlers can use milk in one market to fill their Class I requirements in a higher priced market.

This proposal is denied. One of the primary purposes of Federal milk orders is to establish Class I prices at a level which will assure a specific market of an adequate supply of pure and wholesome milk. The fact that handlers subject to one Federal order may dispose of milk in another order marketing area does not alter this objective.

It is essential, therefore, that the order classify and establish one price for all the producer milk received at a pool plant regardless of the point of disposition.

Limited quantities (as provided) of Class I milk may be sold within the regulated marketing area from plants not under any Federal order. There is, of course, no way to treat such unregulated milk uniformly with regulated milk other than to regulate it fully. Nevertheless, it has been concluded that the application of "partial" regulation to plants having less association than required for market pooling would not jeopardize marketing conditions within the regulated marketing area. Official notice was taken at the hearing of the June 19, 1964, decision (29 F.R. 9109) supporting amendments to several orders, including the Madison, Milwaukee, Northeastern Wisconsin, Northwestern Indiana, Rock River Valley, Quad Cities-Dubuque, and former Chicago orders.

The operator of the partially regulated plant is afforded the options of: (1) Paying an amount equal to the difference between the Class I price and the uniform price with respect to all Class I sales made in the marketing area; (2) purchasing at the Class I price under any Federal order sufficient Class I milk to cover his limited disposition within the marketing area; or (3) paying his dairy farmers an amount not less than the value of all their milk computed on the basis of the classification and pricing provisions of the order (the latter representing an amount equal to the order obligation for milk which is imposed on fully regulated handlers).

While all fluid milk sales of the partially regulated plant are not necessarily priced on the same basis as fully regulated milk, the provisions described are, however, adequate under most circumstances to prevent sales of milk not fully regulated (pooled) from adversely affecting operation of the order and the fully regulated milk.

In the course of the operation of the order the question may arise as to territory within the boundaries of the designated marketing area which is occupied by government (municipal, State or Federal) reservations, installations, institutions, or other establishments and whether such territory shall be considered as within the marketing area. So there will be no doubt as to the meaning or the intent of the marketing area definition of the order, it is provided that the marketing area shall include any territory wholly or partly within the area which is occupied by government (municipal, State or Federal) reservations, installations, institutions, or other establishments.

Producer and producer milk. Since the essential feature of a milk order is the requirement that handlers pay minimum prices for milk to producers, it is necessary to define a producer, the person to be paid, and producer milk, the milk for which payment is made. The term "producer" should include dairy farmers who regularly provide Grade A milk to pool plants for fluid consumption. Thus, the definition of "producer" should distinguish between those dairy farmers who produce milk in compliance with the Grade A inspection requirements of a duly constituted health authority and those dairy farmers whose milk is other than Grade A and qualified only for manufacturing purposes. Likewise, "producer milk" should include all milk produced by producers which is received at pool plants including milk diverted from pool plants under appropriate limitations.

The producer and producer milk definitions in the proposed order are generally similar to those contained in the present separate Federal orders and the terminated Chicago order, except that the proposed order would permit the diversion of producer milk between Federal order markets for manufacturing use. Also, the pricing of producer milk diverted 6 days or less during the month would be at the plant from which diverted and of producer milk diverted in excess of 6 days would be at the plant to which diverted.

Milk qualified for fluid consumption in the proposed area is required to be produced in compliance with state or municipal health ordinances. Also, milk approved by governmental authorities for consumption at installations under their supervision in the marketing area should be considered as meeting the sanitary requirements equivalent to milk otherwise designated as Grade A.

The identification of a dairy farmer as a "producer" should be established primarily on the basis of receipt of his Grade A milk at a plant which is supplying milk to the market in quantities sufficient to be designated a "pool plant". The milk of the dairy farmer thus becomes part of the total supply which is handled in a manner that assures the market of an adequate and reliable supply including a market reserve.

Since producer milk is handled in several different ways, it is necessary that the definition be in terms of these several methods of handling, including: (1) Milk received at a pool plant from producers or cooperatives as handlers; (2) bulk tank milk received by a cooperative association as a handler from dairy farmers, and not delivered to pool plants but lost as shrinkage; (3) milk diverted from pool plants to nonpool plants not regulated by any order; and (4) milk diverted from a pool plant to a plant regulated by another order. These categories are described further as follows:

(1) and (2) Milk of producers received at a pool plant from producers' farms would be producer milk including milk so received for which a cooperative acts as a handler. (See handler definition.) In the latter case, the cooperative association is the first receiver of the milk and is accountable to the pool for such producer milk to the extent that there is any difference between the quantity of milk picked up at farms and that delivered to the pool plant. The plant operator, as the second receiver of such producer milk, would account for the quantity received at such plant. Some of

the milk picked up at the farm by the cooperative association as a bulk tank handler is lost in handling and not delivered to the plant. This loss or shrinkage is accounted for by the association as producer milk.

(3) Producer milk diverted from a pool plant to a nonpool plant not fully regulated by any order would be producer milk subject to certain limitations. Such diversion of producer milk may be either by the plant operator, or by a cooperative association not as a plant operator, diverting the milk of its members.

(4) Milk diverted from a pool plant under one order to a plant regulated by another order for manufacturing purposes should be considered producer milk in the diverting market unless such milk is defined as producer milk under the order regulating the handling of milk at the plant to which it is diverted.

The present orders do not permit diversions between Federal order markets. Any such movement of milk directly from the farms where it is produced to an other order plant now causes the dairy farmers to become producers under the receiving order for at least that quantity of milk.

The modifications set forth herein will permit a handler to divert producer milk to a plant regulated under another order for manufacturing purposes without causing the dairy farmers to become producers under the other order. Several producer witnesses who supported opposing proposals with respect to order consolidations were in agreement on this proposal because it would give them greater flexibility in the marketing of producer milk. There was no opposition testimony.

Permitting the diversion of producer milk to these plants for manufacturing purposes when such plants are other order plants will facilitate the handling of reserve supplies but allow the continued association of milk with its regular outlets.

The provisions for diversion of producer milk should be related to the reserve needs of the market. As set forth in the accompanying order, diversion of producer milk would be permitted in an unlimited amount during the 7 months of highest production which are January through July. During the other months of the year diversion of producer milk would be permitted only to the extent it does not exceed the quantity of producer milk received at pool plants. These limits should permit the orderly marketing of producer milk and, at the same time, give assurance that diverted milk will be from only those dairy farmers who have a genuine association with the market.

Producer milk which is diverted to a nonpool plant on 6 days' production or less should be deemed to have been received for pricing purposes at the location of the pool plant from which it was diverted. Producer milk diverted on more than 6 days' production should be deemed to have been received, for pricing purposes on that quantity of milk diverted in excess of 6 days' production, at the location of the plant to which diverted. This provision is necessary to accommodate the occasional weekend milk which must be diverted and at the same time to maintain the integrity of the pricing provisions by preventing a handler or a group of producers who might take advantage of the location pricing provisions if all the milk were priced at the location of the pool plant from which diverted.

Without such a provision handlers could associate distant producers with pool plants located in the higher priced zones by delivery on a few days during the flush production months and then divert it thereafter to a nonpool plant located near the producers' farms. On these days when the producers' milk was diverted to nearby manufacturing plants the actual transportation costs would be reduced. Thus, the handler or trucker could receive the difference between the higher cost of transporting the milk to the pool plant and the cost of transporting it to the manufacturing plant. This would tend to disrupt the orderly marketing of producer milk and should not be permitted under the order. Providing for the pricing of producer milk at the location of the nonpool plant to which it is diverted after the first 6 days of production diverted will minimize this incentive.

Handler. A handler definition is necessary to identify those individuals who handle the milk which is subject to regulation. Such persons thereby incur certain responsibilities to submit to the market administrator reports of receipts of milk and its utilization. Also, if they receive producer milk they are responsible for payment for such milk in accordance with its classified use value.

As herein provided the definition includes the following:

(1) Any person in his capacity as the operator of one or more pool plants;

(2) Any person in his capacity as the operator of a partially regulated distributing plant;

(3) Any cooperative association with respect to producer milk which it causes to be diverted from a pool plant to a nonpool plant;

(4) Any cooperative association with respect to milk of its producers which is received at the farm for delivery to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association;

(5) Any person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant;

(6) A producer-handler;

(7) Any person in his capacity as a broker buying from or selling fluid milk products to a pool plant or partially regulated distributing plant; and

(8) Any person in his capacity as the operator of an exempt distributing plant.

The provisions listed above are common to most Federal orders, and many of them are in the present orders. The provision defining a broker is identical to a comparable provision in the former Chicago order. The specified responsibility of each type of handler is described in the applicable order provisions.

The handler who receives milk from producers at a pool plant is responsible for reporting in detail the quantities of skim milk and butterfat received from each producer and each other source. He is also responsible for reporting the utilization of such milk. He must make payment to producers and to the producer-settlement fund in accordance with terms of the order.

Cooperative associations should be handlers under the orders with respect to milk of producers which they divert to nonpool plants. In this function the cooperative association is responsible for reporting the identity of each producer whose milk is diverted, the quantity of milk and butterfat for each producer, and the disposition of such milk.

In performing the function of diversion under the rules described in the order, the cooperative association will be balancing supplies according to individual handler's needs, and disposing of market reserves. In this capacity the cooperative association should be considered to be the handler paying into or receiving money from the producer-settlement fund so that diverted producers may receive the uniform price. The association should be responsible for the administrative expense on this milk.

Cooperative associations often take responsibility also for delivery of milk from producers' farms to regulated plants. Cooperative associations in these markets are able to, and do, provide such delivery in tank trucks. Each truckload of milk would ordinarily contain the production of several producers.

When milk is picked up by tank trucks under the control of the cooperative association and milk of several farmers is commingled in one load, the cooperative association is in control of the information as to the quantities of milk from each individual dairy farmer. The cooperative association should be required, therefore, to report to the market administrator the quantity of milk received from each dairy farmer. The association should also be responsible for obtaining samples at the farm for the purpose of butterfat testing, and for the testing of such samples.

If the association is assuming responsibility for collection of dairy farmers' milk in tank trucks and delivering such milk from the farm to pool plants, it should be defined as the handler on such milk for the purpose of reporting the farm weights and tests of milk received from dairy farmers and the quantities delivered to pool plants. In addition, the association should be accountable to the producer-settlement fund for any differences in the quantities of milk received from producers, based on farm measurements, and the quantities of milk which purchasing handlers claim as received at their plants from the association. This is necessary to assure that cooperative handlers, like other handlers, account for all milk received from producers. For pricing purposes, the milk would be considered as received by the cooperative association at the location of the plant to which delivered. The association would account to and pay the administrative expense assessment on the quantity of milk involved in any difference between milk received from farms and that delivered to pool plants.

The pool plant handler would be responsible to the producer-settlement fund and for administrative assessment on milk it received from the cooperative. Also, the pool plant handler would pay the cooperative association handler the minimum uniform price for such milk received from the cooperative who was the handler of the bulk tank milk. Since only the cooperative association is in control of the information as to the quantities of milk received from individual dairy farmers and since it may deliver partial loads of milk to different handlers, only the cooperative is in a position to make payments to the individual producers involved. Consequently, it is necessary under such circumstances for the cooperative to settle with the individual producers according to the quantity received from each of them as determined by the weight and tests made by the cooperative.

Another category of handler is the operator of a partially regulated distributing plant. Such plants either do not distribute sufficient milk in the regulated area to qualify as fully regulated plants or are not primarily engaged in fluid milk distribution. Such plant operators must submit reports to the market administrator, however, so that he may ascertain (1) their status under the order, and (2) the money obligation, if any, of such handler.

A plant which is regulated under another order may, nevertheless, dispose of some milk in the marketing area. The operator of such plant should be defined as a handler under this order, although this plant may continue to be regulated under the other order. This will authorize the market administrator to obtain reports from such plant to determine its status under the particular order.

"Producer-handler" should be defined as any person who:

(1) Operates a distributing plant, processes milk of his own farm production, and distributes all or a portion of such milk on routes in the marketing area;

(2) Receives no milk from other dairy farmers or fluid milk products, including nonfluid products for reconstituting, from nonpool plants; and

(3) Assumes as his personal enterprise and risk the processing and distribution of fluid milk products and the maintenance, care, and management of dairy animals and other resources necessary to produce his own farm milk production. Producer-handlers are exempt from the pricing and pooling provisions. They should be required, however, to make reports to the market administrator in order that he may determine whether the operator continues to meet the producer-handler definition.

The exemption from pricing and pooling of a producer-handler should be limited to bona fide producer-handlers. The advantage of exemption from pooling enjoyed by producer-handlers is such that some milk distributors might attempt to acquire producer-handler status by superficial association with the milk production operation. Various business arrangements may be used to acquire an appearance of a true producer-handler operation. To preclude the use of such devices the order should provide that, to be a producer-handler, the maintenance, care, and management of the dairy animals and all other resources used to produce the milk as well as the resources required for the distribution of the milk are each the personal enterprise and the personal risk of the person who claims producer-handler status.

The primary source of supply for fluid sales by a producer-handler is ordinarily milk of his own production. If in any case he needs to supplement such supply, he may procure milk for Class I use from pool plants.

If a producer-handler were permitted to obtain milk from unregulated sources, this would allow him an undue advantage compared to regulated handlers. Other handlers incur obligations to the pool on unregulated milk used in Class I disposition, but producer-handlers are exempt from pooling. Further, such use of unregulated milk by producer-handlers would be inequitable to producers. It would permit use in the fluid market of unregulated milk including reconstituted milk, without such milk being subject to the order's allocation and payment provisions, which provide proper apportionment to producers of returns from Class I dispositions.

The definition of "handler" in the order should also include a broker who arranges for the delivery of milk from supply plants to distributing plants. Brokers would have no financial obligations under the order, but reports from them will help the market administrator check claimed shipments and receipts of milk as reported by plant operators.

In the present Madison, Wis., order a plant operated by a State educational institution is excluded from the pool plant provisions of the order. Such exemption should be provided in the proposed Chicago Regional order.

The University of Wisconsin operates a distributing plant primarily for research and instructional purposes in Madison. Distribution of fluid milk products from this plant results from research and instruction in dairy technology and is generally limited to the University campus.—Occasional disposition of such products off the campus is exclusively for research purposes.

The University of Wisconsin's plant has, at times, milk in excess of its total requirements. Such excess milk is clear surplus milk incidental to the operation of the University's milk plant and is sold to the Madison Milk Producer's Association at the manufacturing milk price level. Accordingly, the order should provide that milk received at pool plants from such incidental operations receive credit only at the Class II price. Any such milk allocated to Class I at a pool plant would be subject to a compensatory payment at the difference between the Class I and Class II prices.

On occasions the University of Wisconsin's plant needs supplemental milk supplies to satisfy its fluid requirements. The University purchases this milk from regulated handlers at the Class I price. It is appropriate, therefore, that the order should provide that fluid milk products transferred or diverted from pool plants to exempt distributing plants be classified as Class I.

Pool plant. It is essential to the operation of an order to distinguish between those plants substantially engaged in serving the fluid needs of the order market and those plants which do not. It is of particular importance to establish minimum performance standards for plants which serve the market in a way, or to a degree, that they should be included in the market pool which provides the means of paying uniform returns to all producers for the market. Such distinction is necessary, for otherwise the proceeds of the higher Class I price for milk sold in the fluid market would be dissipated on milk acquired by handlers primarily for manufacturing purposes. Such proceeds then would not go to the primary purpose of assuring an adequate and dependable supply for the fluid market.

The marketing performance standards also serve to minimize the effects of regulation on handlers who distribute only a minor proportion of their packaged fluid milk products in the regulated market. Such handlers would be subject to partial regulation in the manner described in findings and conclusions set forth later in this decision.

Any plant, wherever located, may qualify as a pool plant if it meets the marketing performance standards for regulation. These standards are equal for all plants performing the same function. The performance standards for regulation of a plant are one of the essential means of assuring the regulated market of adequate and dependable supplies of milk. This is accomplished by requiring that the plant distribute milk in the market or ship milk to the market.

In applying the pool plant provisions, the portion of a plant which does not have Grade A approval for the receiving, processing, or packaging of fluid milk and which is physically separated from the Grade A portion should not be considered a part of a pool plant. A number of Wisconsin pool plants receive both Grade A and ungraded milk from dairy farmers. Only the Grade A milk would be regarded as received from producers under an order.

In order to obtain Grade A approval from a health authority on a portion of a plant which has a Grade A and an ungraded milk operation, a handler must keep the ungraded milk from being commingled with Grade A milk. Such separation of operations permits a handler to account for the Grade A milk received only in the Grade A portion of the plant. Accordingly, there is no need to include the separate manufacturing operation as a part of the pool plant in such instance.

A pool plant includes any facility at which milk received from farms in a tank truck is commingled with other milk for further shipment. Facilities commonly called reload points are included in this definition.

In the supply area for this regional market reload points serve as assembly points where milk from smaller farm tank trucks is pumped over into larger over-the-road tankers. The reload points are operated by handlers and the delivery by the producer to the handler takes place at the reload point. Some reload points are operated in connection with other plant facilities and some provide only equipment for transferring the milk and for washing the trucks. In all cases, such reload facilities must be approved by a health authority if they are used to transfer Grade A milk. An operation of this type has been included within the definition of a pool plant. Thus, all provisions relating to pool plants apply to such reload points.

Reload points were treated as plants under the terminated Chicago order and they are currently so treated under the Northwestern Indiana order. Both producers and handlers proposed that reload points be treated as plants in any new order for Chicago. Since the Wisconsin distributing plants receive their supply mostly from nearby farms, reloading operations are not a common practice in those markets. If such handling should develop, however, it would be appropriate to treat it the same as for Chicago supply operations.

A plant which distributes milk in the market is commonly referred to as a distributing plant. It should be defined as a plant from which a Grade A fluid milk product that is processed or packaged in such plant is disposed of during the month in the marketing area on routes either directly or through another plant. A plant which ships milk to the market is usually identified as a supply plant. It should be defined as a plant from which a Grade A fluid milk product is shipped during the month to a pool plant.

Pool distributing plants. A distributing plant should be pooled if 45 percent of a specified portion of its Grade A receipts is disposed of either on routes or moved in the form of packaged fluid milk products to other plants. In addition, 10 percent of such Grade A receipts must be disposed of in the marketing area on routes or moved in the form of packaged fluid milk products to other plants from which an equivalent quantity of packaged fluid milk products is disposed of in the marketing area on routes. The Grade A receipts to which these percentages should apply are the total Grade A fluid milk products received during the month at the plant, including allowable diversions to nonpool plants, but excluding (1) receipts of fluid milk products from other pool distributing plants, and (2) receipts from other order plants and unregulated supply plants for which Class II utilization was requested.

The pooling provisions for distributing plants vary among the orders under consideration. Under the Northeastern Wisconsin order, a pool distributing plant currently must dispose of 40 percent of its Grade A receipts in the form of packaged fluid milk products. The Madison, Rock River Valley, and Northwestern Indiana orders require a pool distributing plant to dispose of 50 percent of its Grade A receipts as packaged fluid milk products. The previous Chicago order required that a pool distributing plant dispose of 30 percent of its Grade A receipts as packaged fluid milk products.

In-area sales required of pool distributing plants as a percentage of Grade A receipts vary as follows: Madison, 10; Northeastern Wisconsin, 20; and Rock River Valley, 25. In-area sales for Northwestern Indiana pool distributing plants are required to be 25 percent of total Class I disposition of the plant. The previous Chicago order required that 10 percent of total Grade A receipts be distributed as packaged fluid milk products in the marketing area.

The Milwaukee order does not describe a pool distributing plant in terms of the percentage of receipts sold on routes. Instead, the order requires disposition on routes in the marketing area on 8 or more days or in an amount greater than 45,000 pounds.

Although one producer group proposed that a distributing plant be pooled if it disposed of any fluid milk products on a route in the marketing area, most witnesses supported the proposal that a pool distributing plant must dispose of 50 percent of its Grade A receipts as Class I and that 10 percent of such receipts must be disposed of on routes in the marketing area or moved in the form of packaged fluid milk products to distributing plants which dispose of such products on routes in the marketing area.

It is concluded that an appropriate pool plant qualification for distributing plants supplying the Chicago Regional marketing area would require that 45 percent of certain Grade A fluid milk products received during the month be disposed of as packaged Class I products.

Receipts of fluid milk products at a pool distributing plant from other pool distributing plants should be excluded from the base receipts in computing the percentage of Class I disposition. Pool distributing plants that are without manufacturing facilities may dispose of bulk milk which is in excess of their Class I needs to other pool distributing plants. The milk involved in such transfer has been used in determining whether the first plant met pooling standards. Requiring the same milk to be considered a receipt at the second distributing plant in determining pool status increases the base receipts at the second pool distributing plant. This decreases the percentage of Class I disposition from the distributing plant receiving the transfer and may disqualify the plant for pooling purposes. It is appropriate, therefore, that the transfers from a pool distributing plant be excluded from the base receipts at the second pool distributing plant in order that some distributing plants may accommodate the disposal of milk not needed for fluid purposes by other pool distributing plants.

Packaged fluid milk products which are transferred between pool distributing plants should be excluded from disposition as well as from receipts at the second plant in determining pool plant status. Such packaged products are considered Class I disposition of the first pool distributing plant in qualifying for pooling status. Unless packaged fluid milk products are excluded in computing the Class I disposition at the second pool plant and succeeding pool plants, such receipts might be used to qualify an unlimited amount of manufacturing milk by moving the packaged fluid milk products from plant to plant.

Receipts from other order plants and unregulated supply plants for which Class II utilization is requested should also be excluded from the base receipts of a distributing plant in determining whether the plant qualifies as a pool plant. Such transfers are made for manufacturing purposes and receive a Class II classification at the distributing pool plant. This reserves producer milk for use in higher valued uses. If these receipts were not excluded, each pound of such milk received lessens the ability of the plant to meet pooling standards. Accordingly, these receipts should be excluded from the base receipts at the pool distributing plant to accommodate the use of such milk in manufacturing uses.

Under the previous Chicago order, pool distributing plants were required to dispose of 30 percent of their Grade A receipts as Class I milk to meet one of the qualifying standards for pool status. No handlers opposed a proposal requiring 50 percent Class I disposition for a pool distributing plant. The representative of one handler indicated that a plant at Beloit, Wis., would have difficulty in meeting a pooling requirement even as low as 30 percent. This representative proposed that a handler who operates two or more distributing plants be permitted to combine the receipts and sales of the two plants in order to determine pooling qualifications of the two plants.

The handler who is affected operates two fluid milk plants within the proposed marketing area, one at Beloit, Wis., and one at Joliet, Ill. Both of these plants were previously pool plants under the former Chicago order. The Joliet plant has a very high Class I utilization and processes no Class II products. The Beloit plant does not have sufficient Class I utilization to qualify as a pool distributing plant. However, the two plants combined can be expected to qualify on the basis of their combined utilization. Such system qualification should be permitted.

Plants previously regulated under the Northeastern Wisconsin order should be able to qualify even with the slightly higher Class I disposition requirement. For Madison and Rock River Valley plants the change actually represents some relaxation of the pooling standards. All Milwaukee distributing plants customarily have distributed a much higher percent of receipts as packaged fluid milk products. In these circumstances, it is concluded the pooling standard adopted is reasonable since all distributing plants previously pooled under the separate orders can be expected to qualify as pool plants.

The percentage of the distributing plant's Grade A receipts which must be disposed of within the marketing area on routes to qualify as a pool plant should be 10 percent. This minimum requirement was contained in the terminated Chicago order and was given rather general support at the hearing.

A witness testifying on behalf of six cooperative associations, which requested that the Madison, Milwaukee, and Northeastern Wisconsin orders be merged, proposed a 10 percent in-area sales requirement for pool distributing plants regulated by such order. No testimony was presented in opposition to such in-area sales requirement.

Prior to the termination of the Chicago order, the Rock River Valley and Northwestern Indiana orders required fewer in-area sales of a pool distributing plant than at the present time. The Rock River Valley order required that 10 percent of the total Grade A receipts of a pool distributing plant be disposed of as Class I in the marketing area. The Northwestern Indiana order required that 10 percent of the total Class I disposition be disposed of on routes in the marketing area. These percentages were increased to 25 percent in both orders after the Chicago order was terminated to exclude those plants previously regulated under the Chicago order.

A proposal to pool any plant distributing any amount of Grade A fluid milk product on a route in the marketing area should not be adopted. Although proponent indicated that the proposal was not intended to permit the operator of a plant engaged primarily in manufacturing to qualify such operation for pooling by installing a small bottling operation, this would be possible under such a provision. An occasional or nominal sale within the marketing area should not be deemed to be sufficient association with a market for the purpose of pooling a plant.

Pool supply plants. A supply plant that ships to distributing plants 40 percent of its Grade A receipts, including allowable diversions, during each of the months of September, October, and November, and 30 percent of such receipts during each of the other months of the year, should be eligible for pooling. Under certain conditions these percentages should be adjusted up to 10 units higher or lower. Supply plants which qualify as pool plants during August through December should be permitted to retain pool status during the next following January through July regardless of shipments. Also, during the initial period from the effective date through July 1968, the shipping percentage required for pooling should be 20 percent.

Three proposals regarding pooling standards for plants supplying distributing plants regulated by a Chicago order were considered.

One cooperative association proposed a minimum shipping requirement of 50 percent for an "other pool supply plant" and 20 percent for a "regular pool supply plant". A "regular pool supply plant" was defined as one which had been a pool plant and had maintained its Chicago health approval after the order was terminated. In conjunction with the proposed shipping requirements, this association supported a "call" provision by which the market administrator would announce higher supply plant pooling standards according to a formula based on the estimated pool receipts and Class I sales. This association also proposed automatic pooling for supply plants during the months of January through June if such plant had qualified as a pool plant during each of the months of July through December and had met the announced "call" percentage for the months of January and February.

A federation of cooperative associations supported this cooperative association's proposal regarding the pooling of supply plants with one principal exception. The federation would permit two or more cooperative associations to pool a system of plants on the basis of the total performance of the system, whereas the cooperative association would require that each cooperative qualify its plants on its own performance.

Another cooperative association would pool any supply plant which held a health authority permit to ship to distributing plants, and offered at least half its Grade A receipts for shipment to the market as needed. This cooperative association also supported a proposal for call percentages and indicated that its proposed call provision would require shipments equivalent to those proposed by the other cooperative associations.

The shipping performance proposed herein as a basis for qualifying supply plants is such that plants which are engaged primarily in supplying the fluid market will be included as supply pool plants.

The performance required is about the same as that expected by the proponents of the call provisions. One cooperative witness who described his proposed call provision estimated the call percentage would have varied in 1966 from a low of 36 percent in July to a high of 54 in September. He estimated the call percentage for each of the months of September through November 1966 would have exceeded 50 percent. For each of the months of August and December 1966 and January 1967 he said the call percentage would have exceeded 40 percent and the call percentages for July 1966 and for February 1967 would have exceeded 35 percent. This witness said that 1966 was not a representative year, however, and that during a normal year the call percentage might be expected to average 10 percentage units less.

Representatives of the federation of cooperatives which supported such call provision took no exception to this witness' testimony in this regard. A witness for the cooperative which proposed a different call percentage testified that the proposal which they submitted would have resulted in call percentages of approximately the same magnitude.

Although we cannot ascertain from the record exactly what the call percentages would have been for each of the call provisions that were proposed, it is clear that proponents intended that such percentage would be higher under current conditions than the minimum 30 percent proposed and that proponents intended such higher percentages would apply in most fall months.

The shipments made by plants in recent years give some indication of the percentage of receipts which supply plants might be expected to ship to distributing plants in the future. The percentage of receipts shipped by all Chicago supply plants to pool distributing plants in 1965 ranged from 34 percent in July to 48 percent in September. In the last half of 1965 the percentages were as follows: July, 34; August, 39; September, 48; October, 44; November, 45; December, 42. Data with respect to shipments by supply plants that were pooled under the Pure Milk Association's pool were available for the months of May 1966 through March 1967. The percentage of receipts shipped to distributing plants was as follows: May, 40; June, 38; July, 46; August, 54; September, 64; October, 61; November, 61; December, 55; January, 54; February, 49; and March, 50.

The federation of cooperative associations presented information relative to the percentage of Grade A receipts which was shipped by supply plants of two of the cooperative associations. One of the associations shipped the following percentages during the months of August through December in 1966: August, 32; September, 69; October, 70; November, 66; and December, 46. The second cooperative association shipped the following percentages during the same period of time: August, 29; September, 47; October, 51; November, 51; and December, 40.

The federation also supplied data on the supply plant operations by the five members of the federation. As a unit, the five cooperatives shipped about one-third of their Grade A receipts to pool distributing plants during the months of August and December 1966. During September, October, and November 1966 the unit shipped more than one-half of its Grade A receipts to distributing plants.

Not all of these cooperatives could have qualified in each of the months of August through December 1966 under the shipping requirements proposed herein if their performance were based on their own operations only. However, these cooperatives operated as a system during 1966 and as a system they directed more milk to be shipped to market from certain plants than from others. This was to enable the plants which had cheese processing facilities to utilize such facilities to the greatest extent possible. The cheese plants shipped less than a proportionate share of their receipts to the fluid market. Plants with butter and nonfat dry milk manufacturing facilities in the system shipped a larger percentage of their receipts during this period when butter manufacturing was a less profitable enterprise.

Based on the evidence regarding supply plant shipments, including the testimony given by the federation of

operating cooperatives regarding the combined performance of its five members, it is concluded that a 30 percent supply plant requirement in conjunction with system qualification for supply plants is appropriate for the months of August and December. A 40 percent requirement would appear to be appropriate for the months of September through November.

One of the cooperative associations and the federation of cooperatives proposed that supply plants which had qualified as pool plants under the prior Chicago order should be permitted pool plant status if such plants shipped 20 percent of their receipts to pool distributing plants. All other supply plants would be expected to ship 50 percent of their receipts in order to be pooled. The purpose of this proposal was to provide some type of preferential treatment for certain supply plants which had prior association with the market. Other persons who would not benefit from the proposed preferential treatment opposed two sets of pooling standards.

The use of two sets of standards for qualifying pool supply plants would discriminate as to which producers shall share in the proceeds of the pool. A more appropriate measure of determining which supply plants should be pooled is to require the same standard for all supply plants based on current performance. Such requirement will grant all supply plant operators equal opportunity to qualify any plant as a pool plant. Marketing conditions change from day-to-day and month-to-month. Hence, only current performance is appropriate to distinguish plants which are currently supplying the market.

The pooling provisions proposed herein for supply plants should be adequate to supply the fluid needs of the market. However, such percentages should be increased or decreased by up to 10 units by the Director of the Dairy Division if market needs warrant and producers favor such action.

If unforeseen changes occur in either production or sales, there may be reason to change the shipping requirements for 1 or more months. The limited modification of the pooling standard to be made by the Director of the Dairy Division will permit such changes to be made if necessary. This limited variation of the shipping requirement will provide the adaptation to current conditions which proponents of the call provision desire.

The orders should provide that the Director of the Dairy Division shall increase or decrease the shipping requirements by up to 10 percentage units higher or lower than the percentages specified above for any month of August through December. Such revision should be made only when revision of the percentages is necessary to obtain adequate but not excessive shipments to the market. Before making any revision the Director should investigate the need for revision either on his own initiative or at the request of interested persons and if his investigation shows that a revision may be appropriate he shall issue a notice stating that revision is being considered and inviting views of interested parties with respect to the proposed revision.

Such limited changes in supply plant pooling requirements would be to meet an emergency situation and should be of short duration. This provision for making a limited change in the shipping requirements will provide needed flexibility to accommodate sharp changes in supply relative to sales. This flexibility will promote more orderly marketing.

If, as a result of the shipping percentage being lowered by the Director, a plant which would not otherwise qualify for pooling would become qualified as a pool plant, the operator of such plant should be permitted to retain nonpool status for such plant. This may be done by filing a written request with the market administrator requesting such nonpool status. This option will prevent the mandatory pooling of a new plant by reason of the lowered shipping percentage.

Two or more supply plants should be permitted to be considered a unit for the purpose of meeting the shipping requirement if the plants included in the unit are owned or fully leased and operated by the handler establishing the unit. Also, in the case of plants operated by cooperative associations, two or more cooperative associations may establish a unit of designated plants by filing with the market administrator a written contractual agreement obligating each plant of the unit to ship milk as directed by such cooperatives. This system of pooling supply plants permits the economic movement of milk to the market. Savings to the pool can result from reducing shipments of milk to distributing plants from distant plants solely for the purpose of qualifying such plants when milk at nearer plants is available.

The establishment of a system operation by contractual arrangement should be limited to cooperative associations. A cooperative's primary goal is to obtain the greatest income for its producers. This goal can be more readily achieved by permitting cooperatives to join together in a single marketing agency to direct milk shipments from supply plants according to the most efficient use of the milk at all plants in the system. In the event some phase of the milk manufacturing operation were to become more profitable than another, the cooperatives' agent may direct milk to remain in plants engaged in the more profitable manufacturing operation and require other plants within the unit to ship up to the amounts specified in the contractual arrangement.

The order should provide that the handler or cooperatives establishing a unit must notify the market administrator in writing of the plants to be included therein prior to August 1 of each year and no additional plants should be added to the unit prior to August 1 of the following year. Performance by the system during August–December would provide automatic pool status for the following January–July.

Provision should be made for excluding plants from the unit in the event that the minimum shipping requirements are not met. The handler or cooperatives establishing a unit, in notifying the market administrator of the plants to be included in the unit, should list the plants in the order in which they are to be excluded from the unit if the minimum shipping percentages are not met. The plants on the list should be excluded from the unit in sequence beginning with the first plant on the list and continuing until the remaining plants as a unit have met the minimum requirements.

Supply plants which qualify as pool plants during the months of August through December should be permitted to be pool plants during the following months of January through July regardless of their shipments to pool distributing plants. The months of August through December are normally months when milk production is less than during other months of the year. Supply plants which ship to the market during months of lesser milk production may need to move only a small part, if any, of their milk to the market in the spring months. The fact that a plant ships a substantial portion of its milk supply during the months of the year when production is the least, justifies its participation in the pool as a part of the supply system throughout the year.

Special provisions should be adopted for qualifying a supply plant as a pool plant during the initial months of operation. From the effective date of the order through July 1968, therefore, a supply plant that ships 20 percent of its Grade A receipts to a pool distributing plant should be a pool plant. Also, a supply plant which shipped 20 percent of its Grade A receipts to a pool distributing plant during each of the months of August 1967 through December 1967 should be eligible for pool status from the effective date of the order through July 1968.

The percentage of total Grade A receipts which supply plants must ship to the market during the initial operation of the Chicago Regional order should be somewhat less than is required for later periods. Operators of supply plants will have little advance notice of shipping percentages necessary to pool their plants. Accordingly, such persons should be given an opportunity to participate in the pool during the initial period of operation if their association with the market is demonstrated by the shipment of at least 20 percent of Grade A receipts.

The terminated Chicago order contained a provision whereby a supply plant would not have to meet the specified shipping percentages during a period not to exceed 2 months in which its plant operations were interrupted by a work stoppage due to a labor dispute. The federation of cooperatives proposed that this provisions be included in any new order. There was no objection to this proposal. Accordingly, it is proposed that such a proviso be included.

The Madison, Northwestern Indiana, and Rock River Valley orders pool a supply plant in each month that 50 percent of the total Grade A receipts at the plant is shipped to a pool distributing plant. The Northeastern Wisconsin order pools a supply plant in any month that 40 percent of the Grade A receipts is shipped to pool distributing plants. The Milwaukee order requires that a supply plant ship to a pool distributing plant on eight or more days or ship 45,000 pounds of fluid milk products to such plant to qualify as a supply plant during the months of August through November. In other months any shipments of fluid milk products to a pool distributing plant will pool a supply plant under the Milwaukee order.

Supply plants previously regulated under the separate marketwide pool orders will have less difficulty in meeting the standards for pooling in the order provided herein as a result of a reduction in shipping percentages. There has been little incentive for supply plants to ship to the Milwaukee market with its individual-handler pool. Under the proposed provisions such plants may become associated with the larger market operating under a marketwide pool.

The Chicago Regional order should provide that a cooperative's plant which does not otherwise qualify as a pool plant shall be a pool plant if at least 50 percent of the Grade A milk of producers of such cooperative association is received at pool distributing plants of other handlers during the month and pool status is requested by the cooperative before the first day of such month.

The Madison order provides that a cooperative may pool its plant if the total pounds of producer milk received at the pool plants of other handlers during the month from members of the cooperative is more than one-half of the milk pooled under the order by the cooperative. The pooling of such a cooperative's plant is automatic unless written application is filed with the market administrator on or before the first day of January of any year requesting nonpool status.

A pooling provision of this type permits a cooperative to use its plant to meet the day-to-day fluctuations in handlers' needs. The greatest economy is achieved by the cooperative in some instances by having the milk delivered directly from the farm to the distributing plant on days it is needed by such plant and to the cooperative plant on other days. For this reason, the bulk of the member milk of a cooperative association may bypass the cooperative's plant. Such direct-shipped milk is usually supplied in a fixed amount according to the handlers' needs. If additional milk is needed by handlers, the cooperative may supply these requirements from the receipts of its balancing plant.

Unless this provision is included in the order, a cooperative would need to channel a sufficient amount of milk through its standby plant in order to assure that the supply plant met the pooling requirements. A requirement of this type may create uneconomic movement of milk. It is obvious that if the cooperative association were to receive all of its member milk at its plant and were to supply 50 percent or more of such receipts to pool distributing plants, such cooperative's plant would be a pool supply plant.

This provision of the Madison order is appropriate for the Chicago Regional order proposed herein and should be included.

Nonpool plant. A definition of "nonpool plant" is provided to facilitate formulation of the various provisions of the order as they apply to such a plant. A nonpool plant means a plant (except a pool plant) which receives milk from dairy farmers or is a milk manufacturing, processing, or bottling plant. These definitions are the same as comparable definitions in the present orders and the terminated Chicago order. Specific categories of nonpool plants would be defined as follows:

(1) "Other order plant" is a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant under this order and a greater volume of fluid milk products is disposed of from such plant in this marketing area on routes and to pool distributing plants than is so disposed of in the marketing area of such other order.

It is not necessary to extend full regulation under an order to plants which dispose of a major portion of their receipts in another regulated market. To do so would subject such plants to duplicate regulation. However, in order that the market administrator may be fully apprised of the continuing status of such a plant, the operator thereof should, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(2) "Producer-handler plant" is a plant operated by a producer-handler as defined in any order (including this order) issued pursuant to the Act.

(3) "Partially regulated distributing plant" is a nonpool plant that is a distributing plant and is not an other order plant, a producer-handler plant, or exempt plant.

(4) The plant of a State education institution would be defined as an "exempt distributing plant".

(5) "Unregulated supply plant" is a nonpool plant that is a supply plant and is not an other order plant or a producer-handler plant.

Fluid milk product. A definition of "fluid milk products" is provided in the order to implement the drafting of the classification provisions. The term is intended to include those products which, when disposed of by handlers, are included in Class I milk.

Under the proposed definition herein provided, a fluid milk product includes milk, skim milk, buttermilk, flavored milk, flavored milk drinks, sweet cream and any mixture in fluid form of such products including filled milk. It also means sour cream and sour cream products labeled Grade A. The definition would not include the following: eggnog, including custards and puddings, ice cream, frozen dessert mix, yogurt, aerated cream products, evaporated and condensed milk or skim milk, and sterilized products in hermetically sealed containers.

The above definition is quite similar to the fluid milk product definitions in the present orders and in the terminated Chicago order. The only significant differences involve the inclusion of "fluid filled milk products" in the fluid milk product definition and the specific exclusion of certain products such as custards, puddings, and yogurt from such definition.

Filled milk products are fluid milk products with the milk fat replaced by vegetable fat or other animal fat. Several different varieties of filled milk products were described on the record, although at that time no such product was being distributed in the markets concerned at this hearing.

Producer cooperatives proposed that any filled milk product be included in Class I milk. Handlers opposed inclusion of these products in Class I milk claiming such products made from ungraded milk could be sold in the marketing area. Nevertheless, producers said they did not want to sell their Grade A milk to handlers at the manufacturing class price for use in products which compete for sales with Class I milk products.

Unless these filled milk products are defined as fluid milk products and classified in Class I, producers would be in the position of producing and selling milk at the Class II price for a product which competes directly with other fluid products for which a Class I price is charged. Consumers of whole fluid milk would be called upon to pay higher prices in order to maintain a milk supply to be sold at a lower price to consumers of the filled milk. It is concluded therefore that the addition of fat which is not derived from milk does not change the essential character of a fluid milk product which should determine its use classification.

Custards, puddings, and yogurt should be specifically excluded from the products listed in the fluid milk product definition. Such products generally are not required to be made from Grade A milk and are classified as Class II milk in several nearby Federal orders. Proponents claimed that including these products in the lower valued class would make them competitive with surrounding Federal order markets. There was no opposition to the proposals to exclude such products from the fluid milk product definition.

Other source milk. A definition of "other source milk" is necessary to designate one of the several categories of milk receipts at a regulated plant. Similar provisions are contained in the present orders and in the terminated Chicago order.

Other source milk includes all skim milk and butterfat contained in or repre-

sented by: (1) All fluid milk products received by the handler during the month other than producer milk, fluid milk products from pool plants, and inventory of fluid milk products on hand at the beginning of the month; and (2) products other than fluid milk products from any source (including those produced at the plant) which are reprocessed or converted into another product during the month.

Since a regulated plant may receive milk other than producer milk and all types of receipts may be commingled in the plant, it is necessary that all receipts of milk and dairy products be reconciled with the disposition records of the plant. The total disposition is then assigned to the various categories of receipts (producer milk, other source milk, and milk from other pool plants). This is necessary to arrive at the classification of producer milk.

Route disposition. Route disposition should be defined as a delivery (including disposition from a retail plant store) of any fluid milk product classified as Class I milk to a retail or wholesale outlet, except a milk plant. A delivery through a vendor or a distributing point should be considered a route delivery at the location of the wholesale or retail outlet to which the vendor makes delivery or to which the delivery is made from the distribution point. Such delivery, however, should be attributed to the plant at which such milk was processed and packaged for the purpose of determining the plant's status of regulation.

Miscellaneous definitions. Additional definitions such as "Act," "Secretary," "Department," "person," "cooperative association," and "Chicago butter price" should be included in the order for brevity and clarity in describing the operation of various order provisions. They are self-explanatory and are similar to comparable provisions in the present orders and in the terminated Chicago order.

(b) *Classification of milk.* Producer milk received by handlers should be classified in two classes, according to use. Class I milk should include those forms of disposition intended for the fluid market. The quality requirements for Grade A milk to be used for fluid consumption, as compared to milk for manufacturing use, are specified in sanitary regulations of State and local governmental authorities. The extra cost of producing such higher quality milk and delivering it to market requires that the price for milk used in Class I be considerably above the manufacturing milk price. The definition of Class I use of milk in the manner described, therefore, provides the means of returning to producers the higher price according to the quantity of milk so used.

Class II milk, on the other hand, is that milk which is in excess of Class I needs. It must be disposed of outside the fluid market, primarily in the form of manufactured dairy products. In such uses milk from producers competes with ungraded milk from other sources and has only a manufacturing milk value. Therefore, to assure its orderly disposition outside the fluid market, such milk must be classified and priced competitively with ungraded milk used in manufacturing.

In conformance with these objectives, milk and milk products received by handlers should be classified on the basis of the form in which, or the purpose for which, used or disposed of by the handlers. The skim milk and butterfat received in milk and milk products should be classified separately since the proportion of skim milk and butterfat in products disposed of varies.

Furthermore, milk is received by handlers from various sources, including dairy farmers, other regulated handlers, and unregulated sources. In many instances milk from all these sources is commingled in handlers' plants. It is necessary, therefore, to have a plan for allocating the uses of milk to each of the various sources of supply in order to establish the classification of producer milk and to apply the classified pricing plan.

Class I milk. The milk product dispositions included in Class I milk are those in the form of fluid milk products as previously defined, with limited exceptions which are discussed under the heading "Class II milk".

The measurement of the quantity of Class I disposition of a particular milk product is normally the actual weight of the product as it leaves the handler's plant. In a few instances, however, the Class I quantity should be more or less than such weight.

Fortified fluid milk products are an instance in which the weight disposed of is not precisely the quantity of Class I disposition to be accounted for. Fortified fluid milk products are prepared by the addition of nonfat solids to milk or skim milk to yield a finished product of higher than normal nonfat solids.

To maintain proper accounting for fortified fluid milk products the nonfat milk solids added to such items should be converted to their skim milk equivalent. This is necessary to insure uniformity of application of the accounting system. It is not necessary, however, to price as Class I all the water originally associated with the added solids. The addition of the solids used in fortification cannot be considered as displacing producer milk in Class I except to the extent that the volume of product is increased. The addition of solids to make a more desirable product may, in fact, increase the sales of producer milk, and in any event would not displace producer milk in Class I beyond the minor increase in volume which results.

In the case of fortified fluid milk products the skim milk to be classified as Class I milk should be only that contained in an equal volume of unmodified product of the same nature and butterfat content, excluding the dry weight of any nonmilk additive such as flavoring, etc. For reasons set forth in the above paragraph, the skim milk equivalent of the nonfat milk solids not classified as Class I milk should be classified as Class II milk.

Fluid filled milk products are still another instance in which the total weight disposed of is not precisely the quantity of Class I disposition to be accounted for. Filled milk products are fluid milk products with the milk fat replaced by vegetable fat or other animal fat. Since Federal milk orders only regulate milk and milk products, the weight of the nonmilk additives such as vegetable fat or other animal fat should be excluded from the total quantity of filled milk products disposed of.

It is necessary that the handler submit reports sufficient to reconcile all of his receipts of milk and dairy products with the disposition from his plant(s). If receipts and disposition cannot be reconciled from such reports, it is necessary that the handler be made responsible for any unaccounted for receipts or disposition. If disposition is less than receipts, the question arises as to whether there are dispositions not disclosed on reports. In order to insure responsible reporting and recordkeeping and equity among handlers, such discrepancy where disposition is less than receipts should be classified as a Class I quantity, except for allowable shrinkage as explained in later findings.

Class II milk. Class II milk would include all skim milk and butterfat used to produce any product other than a fluid milk product. It thus would include milk used in manufactured products such as ice cream, ice cream mix, frozen desserts, cottage cheese, evaporated and condensed milk, nonfat dry milk, butter, and cheese.

Butterfat and skim milk used to produce Class II products should be considered disposed of when so used. Handlers will need to maintain production records of such products to establish use in Class II.

Besides use in manufactured dairy products, which compose the bulk of Class II use, it would also include shrinkage within certain limits, disposal in fluid form for livestock feed, in bulk form to commercial food establishments for use in manufacture of bakery products, candy, or processed foods for consumption off the premises, fluid milk products dumped, and fluid milk products in inventory at the end of the month.

It was claimed some handlers who dispose of skim milk in the manufacture of milk products do not have records of the butterfat content of such skim milk. Therefore, it was proposed that in such circumstances the market administrator would use the factor 0.06 percent as the butterfat content unless the handler notifies him that he desires to account for the butterfat and does so account. Proponents stated that the market administrator of the terminated Chicago order had permitted the use of this factor and they desired its continued use.

It is not necessary to incorporate the 0.06 percent factor into the proposed order to permit its use in the absence of adequate records. Without its incorporation into the order the market administrator may continue to permit handlers to use the factor when he finds the actual butterfat content of the skim milk approximates this factor. However, he may also deny the use of this factor by handlers when he finds the actual butterfat content varies considerably from the factor. If the 0.06 percent factor were specifically provided in the order, the market administrator would not have this discretion even though he knew the butterfat content varied considerably from 0.06 percent.

Shrinkage. In the course of receiving, processing, and packaging fluid milk products, some loss of skim milk and butterfat is experienced and is referred to as "shrinkage". In order to assure complete accounting, the handler must establish the quantity of actual loss of skim milk and butterfat. Since shrinkage represents disappearance of milk for which no return is realized, it should be considered as Class II milk to the extent that the amount is reasonable and is not the result of incomplete or faulty records.

The maximum shrinkage allowance in Class II of each handler (or at each plant if separate reports are filed) should be 2 percent of milk from producers plus 1.5 percent of milk received in bulk tank lots from other handlers (or plants if separate reports are filed) or from a cooperative association which is a handler on such milk. However, if the handler operating the pool plant which received the milk from the cooperative association as a handler files notice with the market administrator that he is purchasing such milk on the basis of farm weights the applicable percentage should be 2 percent.

The lower shrinkage allowance of 1.5 percent of milk received in bulk tank lots from other handlers recognizes that part of the handling in which shrinkage occurs has taken place prior to receipt at the plant of ultimate disposition. Milk collected at the farm in bulk tank trucks is measured at the farm. Some loss would normally occur during the transfer operation between the farm and the plant. If a cooperative association is the handler when such loss occurs and the plant handler is not purchasing the milk on the basis of farm weights and tests, the cooperative would be the handler responsible for paying into or receiving money from the producer-settlement fund on such lost milk.

The provision of two percent shrinkage allowance for the entire receiving and processing operation is considered reasonable under normal circumstances. The division of the total allowance into 1.5 percent for processing and one-half of 1 percent for receiving is in accordance with experience and is used in other Federal orders. It is recognized that the greater share of the shrinkage occurs in the processing operation.

To provide equitable application of shrinkage provisions to all handlers who may have various types of operations and various kinds of milk receipts, the rate of 1.5 percent shrinkage allowance should apply to all receipts of bulk fluid milk products, whether from other pool plants, unregulated plants or a cooperative association acting as a bulk tank handler. The only exceptions to this would be in the case of receipts of other source milk for which Class II utilization is requested. In the latter case, since the entire receipts is for Class II use, there is no need to establish a limit of shrinkage that may be classified as Class II.

In computing a handler's total shrinkage allowance, 1.5 percent of bulk fluid milk products disposed of to plants of other handlers by transfer should be deducted. The transferee plant would be allowed, as stated previously, 1.5 percent on the milk so transferred.

Handlers under the proposed order have the option within specified limits of submitting a single combined report for all of their pool plants or reporting on an individual plant basis. Accordingly, if a handler submits one report for all of his pool plants, shrinkage would be computed on the basis of his total operation. If, on the other hand, a handler submits separate reports for each of his pool plants, shrinkage would be computed for each plant separately.

To assure an equitable assignment of total shrinkage, it should be prorated to (1) those categories of receipts on which the above described limits apply, and (2) other receipts in fluid form to which specific Class II shrinkage limits do not apply.

Inventories. The order should provide that inventory of fluid milk products on hand at the end of the month should be classified as Class II milk pending reclassification the following month. This is the same method of handling inventories as is contained in the present orders and in the terminated Chicago order.

Handlers have inventory of milk and milk products at the beginning and end of each month which must enter into accounting for current receipts and utilization at the plant. Since the disposition of skim milk and butterfat in nonfluid milk products has been accounted for when used to produce a manufactured dairy product (and classified as Class II milk), such skim milk and butterfat should not be included in inventories. The accounting procedure can be facilitated by providing that inventories of fluid milk products on hand at the end of the month be designated in a specific class, in this case, Class II.

In the following month such inventories would be subtracted, under the allocation procedure, from any available Class II milk. Any excess over available Class II milk would be subtracted from Class I milk. The higher use value as Class I thus indicated would be reflected in returns to producers in that month. This would be at the rate of the difference between the Class II price in the first month and the Class I price in the second month.

Proponents of the Quad Cities-Dubuque and Rock River Valley merger proposed that fluid milk products on hand in packaged form at the end of the month should be classified as Class I milk. There is merit in this proposal since this classification conforms with the ultimate utilization of most of the packaged fluid milk products in inventory. This results in less adjustment in classification and handlers' obligations than when classified as Class II milk. However, this proposal should not be adopted at this time, because it concerned only the proposed "Northern Illinois-Eastern Iowa" order which has heretofore been denied and the producers and handlers in the other markets favored the designation of closing inventory in the lower priced Class II category.

Inventories of fluid milk products and Class II products on hand at the beginning of the first month in which the order becomes effective or during any month in which a plant becomes regulated for the first time should be allocated to any available Class II utilization of the plant during the month. This procedure will preserve the priority of assignment of current receipts of producer milk to current Class I utilization of the plant.

Other Class II dispositions. In addition to the previously described Class II milk dispositions, certain other dispositions in the form of fluid milk products would also be included in Class II milk, specifically (1) fluid milk products dumped if the market administrator has been notified in advance and afforded the opportunity to verify such dumping; (2) fluid milk products disposed of for livestock feed; and (3) fluid milk products disposed of in bulk to commercial food processors and used in a food product prepared for consumption off the premises.

Class II classification of dumpage and animal feed recognizes that such disposition of fluid milk products represents a value considerably less than normal fluid milk disposition on routes to retail and wholesale outlets.

It would not be practicable to permit in an unlimited manner the dumping of skim milk and butterfat by pool plant handlers. Neither would it be appropriate to classify such skim milk and butterfat, for which no better outlet is available, in other than Class II. Accordingly, the order should clearly specify a Class II classification for skim milk and butterfat dumped, provided that the market administrator is notified in advance and afforded the opportunity to verify the dumping.

It would be expected that in most instances fluid milk products disposed of for animal feed would be primarily nonsalvageable route returns. In some instances, however, there may be small quantities of skim milk and butterfat in fluid milk products which during processing becomes nonsalable for human consumption. It is reasonable that these quantities also be classified as Class II if disposed of for livestock feed. A plant operator should maintain sufficient records to establish in every instance the quantities of skim milk and butterfat involved, and show a written receipt for every disposition as livestock feed.

Fluid milk products disposed of to commercial food processing establishments for use in preparation of food products also should be Class II milk. A Class II classification of such fluid milk

products will price them competitively with alternative supplies, such as nonfat dry milk and condensed milk, which are also used for the manufacture of such food products.

Proof of class use. Except for the quantities of Class II shrinkage provided for in the order, all skim milk and butterfat for which a handler cannot establish utilization must be classified as Class I milk. This provision is necessary to remove any advantage that might accrue to handlers who fail to keep complete and accurate records. The burden of proof should be on the handler to establish the utilization of any milk as being other than Class I milk.

Transfers and diversions. Milk transferred from a pool plant to another plant should be classified in accordance with specific rules.

The rules of classification herein provided would apply to transfers to other pool plants or to nonpool plants, and to milk diverted from the farm to nonpool plants.

Fluid milk products transferred from a pool plant to the pool plant of another handler should be classified as Class I milk unless utilization as Class II milk is claimed by both handlers on reports submitted for the month to the market administrator. However, sufficient Class II utilization must be available at the transferee plant for such assignment to Class II after allocation of receipts of unregulated milk, other order milk, inventory, and shrinkage.

Proponents of the "Northern Illinois-Southern Wisconsin" order and proponents of the Chicago, Ill.-Northwestern Indiana merger proposed that any fluid milk product transferred or diverted to nonpool plants (except other order plants) located outside Illinois, Indiana, and Wisconsin and the counties of Ottawa, Kent, Allegan, Barry, Calhoun, St. Joseph, Van Buren, Kalamazoo, Cass, and Barrien in Michigan, Van Wert in Ohio, and Jackson in Iowa automatically be Class I milk. As proposed, milk so moved to nonpool plants (except other order plants and producer-handler plants) within the above designated area could be Class II milk under certain specified conditions. Proponents testified at the hearing, however, that the disposal area for reserve milk specified in the order could be somewhat larger than the above area. Upon occasions they have needed to ship reserve milk for manufacturing purposes to the States of Minnesota, Missouri, and other locations.

Proponents of the "Wisconsin" order proposed that the disposal area for reserve milk under that order should be the territory within the marketing area and outside the marketing area but within 150 miles of the nearest point in the marketing area. Proponents of the "Northern Illinois-Eastern Iowa" order would include all territory within 250 miles by shortest highway distance from the nearer of the city halls of Janesville, Wis.; Sterling, Ill.; and Rock Island, Ill.

The disposal area for reserve milk for manufacturing use should include the seven States of Wisconsin, Minnesota, Iowa, Illinois, Indiana, Michigan, and Ohio. Milk has been shipped to plants in these States for manufacturing use by handlers under one or another of the orders (including Chicago) concerned at this hearing and likely will be disposed of again to manufacturing plants in these States.

Fluid milk products transferred or diverted in bulk to a nonpool plant (not an other order plant or producer-handler plant) located in Wisconsin, Minnesota, Iowa, Illinois, Indiana, Michigan, or Ohio should be classified as Class I milk unless the handler claims Class II classification and specified conditions are met.

The operator of the nonpool plant should maintain adequate books and records showing utilization of all skim milk and butterfat received at the plant. Further, if requested the operator should make these books and records available to the market administrator for purposes of verifying such receipts and utilization. This verification by the market administrator is necessary to insure proper application of the classification procedures of the order.

If the above conditions are met, classification of the transferred or diverted milk would be made in accordance with the following procedure:

Receipts of packaged fluid milk products at the nonpool plant from pool plants or other order plants would be first assigned to Class I in the nonpool plant. Then, if the nonpool plant makes any Class I disposition on routes in the marketing area, this Class I should be assigned first to fluid milk products transferred from pool plants, then pro rata to receipts from other order plants, and finally to receipts from dairy farmers who the market administrator determines constitute the regular source of Grade A milk for the nonpool plant. If the nonpool plant makes any Class I disposition on routes in the marketing area of another Federal order, this should be assigned first to fluid milk products transferred or diverted from plants fully regulated by that order, then pro rata to fluid milk products received from plants regulated by all other Federal orders including this order, and thereafter to the nonpool plant's regular Grade A dairy farmer supply as determined by the market administrator. Any Class I utilization remaining in the nonpool plant after the above assignment should be assigned first to the plant's regular Grade A dairy farmer supply and then pro rata to unassigned receipts from pool plants and other order plants.

After the preceding assignments are made at the nonpool plant, any remaining receipts of bulk fluid milk products from pool plants should be classified in sequence starting with Class II milk if the shipping handler requested classification under this procedure.

This method for classifying transfers and diversions of milk to nonpool plants provides equitable treatment for milk of order handlers as well as other order handlers in the classification of milk. Further, it gives priority to dairy farmers directly supplying a nonpool plant with respect to sales outside regulated areas. The proposed method of classification at the same time allows orderly disposition of reserve supplies of milk which cannot economically be handled at pool plants.

Fluid milk products transferred or diverted to a nonpool plant (not an other order plant nor a producer-handler plant) located outside Wisconsin, Minnesota, Iowa, Illinois, Indiana, Michigan, and Ohio should be classified as Class I milk to the extent of Class I disposition from such nonpool plant. Since shipments beyond these seven States for uses other than Class I are not feasible economically, it is not necessary that the market administrator be called upon to verify utilization moving beyond such States under usual conditions. However, situations may arise where a shipment to a distant plant may not meet the sanitary requirements for fluid milk upon arrival at the plant for one reason or another. In such circumstances the milk might be transferred to a manufacturing plant located near the nonpool plant and accordingly receive only the manufacturing price. It would not be reasonable under these conditions to require the transferor handler to pay the Class I price on such milk. Under such circumstances the market administrator would need to verify that such shipments actually were used in manufacturing.

Fluid milk products transferred in packaged form to a nonpool plant that is not an other order plant should be classified as Class I milk. Most movements of packaged fluid milk products represent purchases of such milk specifically for route sales. The packaged Class I products often represent specialty items not processed in the receiving plant or milk in special packages which the receiving plant is not equipped to handle for processing and, thus, are specifically for Class I utilization.

The order also provides for transfers of fluid milk products to other order plants. The classification of such milk is covered in the findings with respect to allocation.

Allocation. The value of producer milk is established on the basis of its classification and the class prices. Since handlers may receive milk from several sources besides producers, the order must provide a method of assignment of receipts from all sources during the month to Class I and Class II.

The system of allocating handlers' receipts to the two classes should be similar to that adopted in the Assistant Secretary's June 19, 1964, decision for 76 milk orders (which included the Chicago, Madison, Milwaukee, Northeastern Wisconsin, Northwestern Indiana and Rock River Valley orders) for integrating into the regulatory plan of each of the orders milk which is not subject to classified pricing under any order and receipts at a pool plant from other order plants. Official notice is taken of that decision (29 F.R. 9109). That decision provides a procedure for allocating over a handler's total utilization his receipts from all nonpool sources and for making payment into the producer-settlement fund on unregulated milk allocated to Class I.

The proposed allocation provisions are basically unchanged from those contained in the terminated Chicago order and now provided in the Madison, Northeastern Wisconsin, Northwestern Indiana, and Rock River Valley orders. The procedure under the Milwaukee order for allocating receipts from various nonpool sources over a handler's utilization is basically the same as provided in marketwide pool markets. However, since the Milwaukee order provides for the individual-handler pooling of producer returns, the procedure for requiring payments into the producer-settlement fund on unregulated milk allocated to Class I do not apply. Providing for marketwide pooling in Milwaukee as a result of this decision will add the requirement that handlers will make payments at specified rates into the producer-settlement fund if they have unregulated milk allocated to Class I.

The procedure differs from that provided in the terminated Chicago order in that own farm production of a handler is treated as producer milk in the same manner as receipts from farms of other producers. Under the prior Chicago order, a handler's own farm production was assigned pro rata utilization at his own plant. Thus, the handler in his capacity as a producer did not share equally in the marketwide utilization of producer milk.

The own farm production of a handler who receives milk from other producers should be treated in the same manner as other producer milk. Such milk is a part of the total market supply of producer milk and as such it should share equally in the total market for Class I and Class II milk.

Proponents testified that the method adopted as a result of the June 19, 1964, decision is appropriate in this area and will coordinate these regulations with respect to the treatment of unregulated milk and other order milk with comparable regulations under other Federal orders. Consequently, they adopted the findings and conclusions contained in that decision as their own justification for incorporating these provisions. There was no opposition and no proposal to alter the provisions in any way.

The aforesaid decision sets forth the standards for dealing with unregulated milk under Federal orders generally and the system of allocation to be included in all orders. It describes the appropriate treatment of other order milk received at pool plants so as to coordinate the applicable regulations on all movements of milk between Federal order markets. This record indicates that the findings and conclusions of the aforesaid decision are equally applicable under current conditions in the proposed marketing area and, accordingly, are adopted in their entirety as if set forth in full herein.

(c) *Class prices.* Minimum class prices should be established in the proposed order which will assure the maintenance of an adequate, but not excessive, supply of quality milk for the fluid market, and also will assure the orderly disposition of the necessary reserve supply for such fluid market sales.

Class I prices. The considerations in developing appropriate Class I price provisions for a Chicago Regional order relate to two aspects, the type of pricing formula and the level of price to be established.

1. *The type of pricing formula.* The Class I price provisions should be designed in terms of stated differentials added to the average price paid for manufacturing grade milk in Minnesota and Wisconsin.

Although an economic formula was proposed, most advocates of the economic formula asked that floor and ceiling prices based on a stated differential added to the Minnesota-Wisconsin price also be provided. The floor price would have been the effective price rather than the economic formula price in each month beginning with July 1966. In 1966 and 1967 the other economic index factors proposed in the formula lagged behind increases in manufacturing milk prices. In the presence of rapidly rising prices for manufacturing milk during this period, it is not likely that Class I markets would have been adequately supplied without comparable increases.

The components of the proposed economic index price were the latest reported prices or indexes converted to a 1958 base and combined as follows:

Price or index	*Weight factor*
Per capita income:	
Missouri	0.0804
Illinois	.0718
Wisconsin	.0285
Iowa	.0193
Consumer food price, United States	.1500
Prices received by farmers, United States	.2000
Prices paid by farmers, United States	.2000
Manufacturing milk price, Minnesota-Wisconsin	.3000
Total	1.0000

The combined economic index was converted to a milk price by multiplying the current index by $4.04. The latest economic factors reported at the time of the hearing would have given a Class I price of $4.85 for April 1967.

The Minnesota-Wisconsin average price for manufacturing grade milk containing 3.5 percent butterfat rose from $3 in the base year 1966 to $4.01 in March 1967. This increase of $1.01 added to the $4.04 base price selected by proponents of the economic index formula would have given a price of $5.05 for April 1967, reflecting the change in the manufacturing milk price. The floor price based on the Minnesota-Wisconsin price series plus $1, which was proposed as a part of the economic index formula, would have given a price of $5.01 for the same month.

Two university economists testified generally in favor of an economic formula. These economists were members of a committee which had studied Class I pricing for Associated Dairymen, an organization of midwestern dairy farmer cooperatives. They recommended to Associated Dairymen that an economic formula for Class I pricing and a supply-management program be supported in order to improve dairy farmers' incomes. The economic formula proposed at this hearing, however, was not the same as that recommended by this committee.

The principal witness testifying for proponents of the economic formula supported it primarily on the fact that the Class I prices computed under the economic formula were about the same as those which Pure Milk Association had negotiated in their superpool. He said the particular choice of factors was a matter of judgment and that different factors or weights might be used provided the resulting price level was about the same. Other industry support for the economic formula proposal was also primarily in terms of a desired result in terms of a higher price level.

The most important difference between the formula proposed by the economists and that supported by cooperatives at the hearing was the incorporation in the cooperative's proposal of the Minnesota-Wisconsin price as one of the formula factors. The cooperatives proposed that the Minnesota-Wisconsin price be one of the index factors and that the price resulting from the economic factors be limited to within a range from $1 to $1.40 over the Minnesota-Wisconsin price. The proposal supported by the cooperatives would give a Class I price currently based on the floor of $1 over the Minnesota-Wisconsin price. Also, in view of the current margin between the economic index price and that based on this floor factor, it appears that the Minnesota-Wisconsin price would continue to be the effective factor in determining the Class I price unless rather substantial changes occurred in the relationships between these price indexes.

Since the Minnesota-Wisconsin price formula, as proposed, results in an appropriate price under current conditions, it should be adopted as the basis for determining the Class I price. Also, Class I prices in nearby Federal order markets are established by formulas related to the Minnesota-Wisconsin price series. Thus, continuing alignment of Class I prices at this time among these markets can be obtained only by such a formula.

A proposal suggested at the hearing would establish a floor price for Class I based on the parity price for all milk sold wholesale by farmers. Such a floor would establish a Class I price about $0.75 higher than the price proposed herein. Since such a factor would establish a price level inconsistent with current supply and demand conditions in the market as well as fail to maintain the necessary relationship to manufacturing milk prices, this proposal should not be adopted.

There was some support at the hearing for a supply-demand adjustor based on the receipts and Class I use in 23 markets in the North Central area. However, even though such proposed adjustor would have currently raised the Class I price 10 cents per hundredweight, the proponents asked that it be adopted merely as a statistical computation for the first 18 months. In other words, it would be

computed for informational purposes but would not become effective in the pricing system.

There was no basis developed for changing the Chicago Class I price based on supply and demand conditions existing in these other markets. Accordingly, this adjustor is not adopted.

The effect of these other markets on the supply of milk for the Chicago region is minimal. This is because of the tremendous reservoir of ungraded milk in the Chicago supply area which can be converted to Grade A to replace any supply lost to these other markets. Within Wisconsin there is more than enough manufacturing grade milk to replace all the Grade A milk needed for the fluid requirements for all the Federal order markets in Wisconsin, Michigan, Indiana, Illinois, and Iowa. This milk can become Grade A if the Grade A price offers sufficient incentive for the few farm plant changes required for such quality production. Economists say many farmers now producing ungraded milk would shift to Grade A production for a premium of 15 cents per hundredweight.

Chicago handlers and several cooperatives proposed that Class I price changes be made only in 15-cent amounts. Under this proposal changes indicated by the formula would not be effective until they were great enough to warrant the 15-cent price change.

A lag in making necessary price changes effective under this proposal could be expected to result in the Class I price under this order being out of appropriate relationship to Class I prices in adjoining markets. For this reason, the bracketing of Class I price changes should be considered on the basis of a record which focuses greater attention on the matter of intermarket price relationships and shows the need for and some practical method of applying a bracketing system in this area. Hence, the price-bracketing feature should not be adopted at this time.

2. *Class I price level.* The Class I price under the Chicago Regional order at Zone 1 should be the basic formula price plus $1. Zone 1 includes the city of Chicago and the adjacent metropolitan area. Also, from the effective date of this order through April 1968 the basic formula for the purpose of computing such Class I prices should not be less than $4.05.

As pointed out in the previous discussion, the effective price currently under the Class I pricing provisions proposed by producers for Chicago would be the floor price proposed which was the basic formula price plus $1.

For several years prior to the termination of the Chicago order producers in the Chicago area were getting about $1 more than the basic formula for the Class I milk. During this period general marketwide premiums were paid over the minimum order Class I prices. The order minimum price during this period was the basic formula price plus 76 cents.

The Class I price announced by Pure Milk Association, and paid by most handlers in the Chicago market, averaged $1.16 over the Minnesota-Wisconsin manufacturing milk price for the period 1962–66, but this Class I price cannot be compared directly to a Federal order price since it was subject to various deductions before making payments to producers. A comparison of the blend prices including premiums which were paid during this period indicates that the payments to producers reflect a Class I price about 15 cents less than the announced Class I prices. In other words producers received for their Class I milk, if we attribute all of the premiums included in the blend price to the Class I milk, $1.01 over the average price for manufacturing grade milk in Minnesota and Wisconsin during this 4-year period. During this period there was an adequate supply of milk to meet Class I sales in the Chicago area.

During the period May 1966–April 1967, the net Class I price to producers under the Pure Milk Association pool was $4.35. The announced price averaged $4.99 and in this period the various deductions averaged 14 cents. During this period the Class I price paid producers dropped to 80 cents over the manufacturing milk price, and the percentage of producer milk used in Class I increased sharply. It is clear that the lower price level during this period reduced the supply relative to sales.

While the hearing was being conducted in May 1967, an increase in the Class I price under the voluntary pool was being considered. The Class I price was increased in the Chicago area by 20 cents in May 1967 and an additional 30 cents in September 1967. Although data on producer deliveries relative to Class I sales in the Chicago area are not available for periods since the hearing, the increased deliveries relative to Class I sales in Wisconsin markets indicate there has been some increase in area milk supplies relative to sales. (Official notice is taken of "Wisconsin Federal Milk Order Bulletin" issued October 1967 by the market administrator for the three Wisconsin orders.) Thus, it appears that a price somewhat higher than that prevailing at the time of the hearing will maintain milk supplies in relation to Class I sales.

The Class I pricing formula adopted herein will establish prices generally in line with those effective currently under the Class I pricing provisions in the orders regulating areas in Wisconsin, Illinois, and Indiana which are herein proposed to be included in the Chicago Regional marketing area.

As of May 1, 1967, Class I prices in all Federal order markets were raised by 20 cents for a 1-year period. This action by the Department on a nationwide basis was to strengthen milk prices in order to maintain adequate milk supplies for fluid sales. It may be assumed that if the Chicago order had been in effect, its Class I price would have been increased by the same amount since the 20-cent increase in the Class I price was made effective in Federal orders generally.

In accordance with the above findings, therefore, the Class I price should be established at a level of $1 over the average price paid for manufacturing grade milk in Minnesota and Wisconsin as reported by the Department for the previous month. Such Class I price should apply to Class I milk received from producers at plants in Zone 1.

Also, to be comparable with other Federal orders the basic formula price used in computing the Class I price through April 1968 should not be less than $4.05.

Class II price. The Class II price in the proposed order should be the basic formula price for the month. Such basic formula price is the average of prices paid for manufacturing grade milk at plants in Minnesota and Wisconsin, as reported by the Department, adjusted to 3.5 percent butterfat basis by applying a butterfat differential determined by multiplying the Chicago butter price by 0.12.

This reported price, commonly called the Minnesota-Wisconsin price, was unanimously supported as the basic formula for pricing Class II milk. Some witnesses, however, supported another alternative formula which, if it were lower than the Minnesota-Wisconsin price, would become the effective Class II price. Other witnesses proposed that the price for milk used in certain Class II products, principally cottage cheese, be a stated amount higher than the Minnesota-Wisconsin price series.

The Minnesota-Wisconsin price series for manufacturing grade milk reflects the prices paid in these two States, where about half the total manufacturing grade milk sold off farms in the United States is produced. In Minnesota about two-thirds of the milk sold off farms is manufacturing grade, and in Wisconsin about 60 percent is manufacturing grade. Competition for this milk is strong in both States. Consequently, no individual purchaser has a significant influence upon the level of prices paid.

The two-State average price reflects a weight of about 57 percent for Wisconsin prices and 43 percent for Minnesota prices. These weights represent the proportions of the total volume of manufacturing grade milk purchased from farmers in the respective States.

The average reflects prices paid in the different geographical areas in the State and the different products which are made at plants buying such milk. In 1965, butter and byproducts plants accounted for 86 percent of all manufacturing grade milk in Minnesota. Cheese factories accounted for 11 percent and plants manufacturing varied products accounted for the remaining 3 percent.

In Wisconsin, plants used the following proportions of manufacturing grade milk in 1965 according to type of plant: cheese, 59 percent; butter and byproducts, 11 percent; condensories, 1 percent; and varied product plants, 29 percent.

Much of the Wisconsin Grade A milk which is not needed for fluid sales in Chicago or in other fluid markets in the region, is diverted or transferred to these manufacturing plants which also handle ungraded milk. In some cases the ungraded manufacturing operation is carried on close to the Grade A operation but with sufficient physical separation to satisfy the health authorities which require the separation of ungraded handling facilities from Grade A operations.

Several handlers who operate supply plants or distributing plants handling Grade A milk also operate adjacent facilities at which ungraded milk is manufactured. Cooperatives supplying Grade A milk for Chicago also have members who deliver substantial volumes of ungraded milk to these manufacturing plants.

Handlers who maintain these facilities for manufacturing ungraded milk can increase their volume of milk manufactured by transferring surplus Grade A milk to such facilities. If the price which such handlers must pay for Grade A surplus milk is less than they pay for their regular supply of ungraded milk, there is incentive to use more surplus Grade A milk in manufacturing operations. On the other hand, if the surplus price is higher than the price at which they can buy ungraded milk, they may not accept Grade A milk for their manufacturing operations.

Because the surplus Grade A milk is handled in Wisconsin primarily by handlers who also carry on a regular business in manufacturing ungraded milk, the relationship of the surplus Grade A price to the ungraded milk price is particularly important. A very small difference in price will make such manufacturers prefer one source of milk for manufacturing over another. By using the average price paid for manufacturing milk as the basis for the Class II price, the price for surplus Grade A milk used in manufactured dairy products can be maintained at a level equal to the general price level for ungraded milk.

Thus, the Class II price level should be high enough to reflect the full value of producer milk disposed of in manufacturing uses yet not exceed the level at which market reserve milk can be moved to manufacturing outlets in orderly fashion. Too high a Class II price will result in handlers' unwillingness to accept quantities of milk in excess of their Class I needs. Too low a Class II price on the other hand will encourage handlers to seek milk supplies solely for the purpose of converting them into Class II products.

The Minnesota-Wisconsin price is the Class II price in many of the Federal milk orders, including those involved in this proceeding. This price for manufacturing grade milk in the two-State area of Minnesota and Wisconsin is issued by the State-Federal Crop Reporting Service on about the fifth day of each month for milk received at manufacturing plants in these States in the previous month. Plant operators report the total pounds of manufacturing grade milk received from farmers, the butterfat content, and total money paid to farmers for the milk.

The manufacturing milk price for the two-State area is reported by the Department per hundredweight at actual butterfat test. The announced price is adjusted to the 3.5 percent butterfat test used in the orders by means of a butterfat differential equal to 0.12 times the average wholesale price for 92-score butter at Chicago.

The Association of Operating Dairy Cooperatives, whose members accounted for about one-fourth of the milk pooled under the Chicago order prior to its termination, proposed that the Class II price be less than the average price paid in Minnesota and Wisconsin for ungraded milk under certain circumstances. They proposed a formula price based on market prices of butter and nonfat dry milk which would be the ceiling price for Class II milk when such formula price was less than the Minnesota-Wisconsin ungraded milk price. The proposed formula would have resulted in a Class II price lower than the Minnesota-Wisconsin series price by an average of 1.4 cents during the period 1960–64 and 3.3 cents in 1965. But in 1966 the effect of this ceiling price would have reduced the Class II price by 16 cents.

The formula price based on butter and nonfat dry milk prices gave lower prices in 1966 primarily because the market price for butter was low compared to the price for cheese in that year. As a consequence of the strong cheese market in 1966, many cheese plants were anxious to acquire additional milk supplies. To get these milk supplies they increased prices paid to dairy farmers. Many butter plant operators had to match these price increases to retain their milk supply even though, by so doing, their handling margins were substantially reduced.

This group of cooperatives channeled as much milk as possible into cheese outlets during this period when cheese prices were high relative to butter prices. They maintained, however, that it was impossible to absorb all of the milk they had to handle in the cheese plants. Furthermore, in some instances they had commitments to supply butter and other products to certain regular purchasers.

The economic disadvantage which confronted butter processors in 1966 applied both to operators making butter from ungraded milk and to those who used surplus Grade A milk. In spite of the lower price which they received for butter as compared to their competitors who made cheese, the butter makers continued to maintain a competitive farm price in buying milk. In 1966 Wisconsin butter plants paid an average of $3.89 for milk used in butter, only 3 cents less than the average Minnesota-Wisconsin price for all ungraded milk which was $3.92.

Cooperative associations which manufacture both ungraded milk and surplus Grade A milk paid about the same as the Minnesota-Wisconsin price for ungraded milk which they purchased. A cooperative association which markets a substantial volume of ungraded milk for its members testified that its members received prices higher than the Minnesota-Wisconsin average for ungraded milk. The average of prices received by members ranged from 36 cents higher than the Minnesota-Wisconsin price in February 1966 to 9 cents higher in March 1967.

During the months of July 1966 through February 1967 there was established under the voluntary pool operated by Pure Milk Association a separate price for milk manufactured into such products as butter, nonfat dry milk and cheese. Milk used in these products was priced at the average of prices paid for ungraded milk at nine specified plants. At most of these plants surplus Grade A milk was handled as well as ungraded milk. The average of prices paid for ungraded milk at these plants for the 8-month period was 12 cents higher than the average Minnesota-Wisconsin price for the same period.

Several handlers paid premiums in 1966 over the class prices established by the voluntary pool in order to maintain their milk supply at plants where manufacturing operations were carried on. A handler witness reported premiums paid on all Grade A milk received from producers at such plants during the period January 1966–January 1967 ranged from a low of 2 to 5 cents in January 1967 to a high of 15 to 25 cents in July 1966.

Proponents of the formula which would have given the 16-cent lower price in 1966 cited the decreased margins available for manufacturers of butter and nonfat dry milk during that year as compared to previous years. According to their calculations the margin for processing butter and nonfat dry milk was 17 cents lower in 1966 than the average margin for 1962–65. But the margin for making cheese was 12 cents higher in 1966 than it had been in 1962–65.

Proponents testified that they had made adjustments in their operations to the extent possible to take advantage of the wider margin in cheese-making operations during 1966. One witness testified his cooperative has capacity to manufacture 1 million pounds of milk per day in either cheese or in butter and nonfat dry milk. In 1966 this cooperative used 50 percent more milk in cheese than in butter and nonfat dry milk. Another cooperative witness stated that his cooperative had expanded cheese production to a second plant during 1966 and had produced 20 million pounds of cheese during the year.

In view of the strong demand for milk to be used in manufacturing as demonstrated by the prices paid for ungraded milk and premiums paid for Grade A milk, there is no basis for concluding that a Class II price 16 cents less than the Minnesota-Wisconsin manufacturing milk price is needed to assure the orderly marketing of surplus Grade A milk. Accordingly, the formula which would establish such lower price should not be adopted.

Cooperatives who supported the proposal for a separate Wisconsin order asked that milk used in the manufacture of cottage cheese be priced 20 cents higher than milk used in other manufactured products. However, producers' representatives in the Chicago, Rock River Valley, and Northwestern Indiana

markets failed to support a higher price for milk used for cottage cheese.

A very high proportion, if not all, of the cottage cheese sold in these markets is made from Grade A milk. Handlers of fluid milk products distribute cottage cheese along with the fluid milk products. For this reason, they require a regular and dependable supply of cottage cheese to fill such sales.

If cottage cheese is made in the same plant where fluid milk products are processed and packaged it must be made from Grade A milk. This is because health authorities generally prohibit the receipt of ungraded milk in facilities which are used for handling and packaging Grade A milk. Apparently handlers do not choose to maintain separate facilities in order to use ungraded milk for cottage cheese.

Most Wisconsin cities require that cottage cheese be made from Grade A milk. For handlers selling in such cities who must have Grade A cottage cheese for such sales it is not feasible to maintain a separate ungraded cottage cheese operation.

Producers' representatives testified that their distributor customers demand a Grade A milk supply to meet their cottage cheese requirements. However, some producers are reluctant to support a higher price for milk used in cottage cheese under the order because Grade A milk purchased under other orders does not carry any premium over the Minnesota-Wisconsin price.

One handler who distributes fluid milk products in Chicago receives his cottage cheese supply from a plant at which milk is priced under the Southern Illinois order. Also, handlers whose route distribution extends from one area to another normally supply their customers with cottage cheese as well as fluid milk products. This competition of cottage cheese made from milk priced at a lower level under other orders could have a disrupting effect on the marketing of milk in the area for which we are considering prices on this record.

Because only the Wisconsin producers supported the higher price we received only limited information about the extent of competition from other areas, except for Wisconsin. Handlers in Wisconsin maintained that they would suffer a competitive disadvantage if their price for milk used in cottage cheese were increased but the prices in other areas were not raised.

In view of the importance of maintaining comparable pricing among the markets in this region for Grade A milk used in making cottage cheese, no separate higher price should be established at this time.

Some producers and handlers proposed that the Class II price be the basic formula price for the preceding month, projected for the current month according to changes in market prices of dairy products. This proposal should not be adopted. Such a modification would create a difference between the Class II price and the price paid for ungraded milk during the month which is contrary to the objective of equal pricing sought to be achieved in the Class II price formula.

Butterfat differentials. The class prices for milk heretofore discussed are established for milk containing 3.5 percent butterfat. Combinations of skim milk and butterfat utilized in each class may contain different percentages of butterfat. Therefore, the class prices should be adjusted by appropriate butterfat differentials to reflect the butterfat content.

Under the Chicago Regional order the Class I and Class II butterfat differential adjustments for each variation of one-tenth percent of butterfat content from the basic 3.5 percent prices should be the amounts computed as follows: Class I, multiply the Chicago butter price for the preceding month by 0.12; Class II, multiply the Chicago butter price for the month by 0.12.

Using the Chicago butter price as a basis for establishing butterfat differentials will assure that such differentials reflect changes in the market value of butterfat. The factor 0.13 is now used to compute the Class I differential under the Madison, Milwaukee, and Rock River Valley orders. It was used to compute the Class I differential in the Chicago order before its termination. Under the Northeastern Wisconsin order a factor of 0.125 is now used. Since the factor 0.12 has been used in the majority of the area covered by this proposed order and is regarded as a satisfactory measure of butterfat value by both producers and handlers, it should be adopted.

The factor used to compute the Class II butterfat differential in the terminated Chicago order was 0.12. This is the factor which was proposed for a new Chicago order.

The factor 0.12 is used in adjusting the Minnesota-Wisconsin ungraded milk price to a 3.5 percent basis. It is so used because it represents the common rate of adjustment used in buying ungraded milk. Since the price for Class II milk should be equivalent to the ungraded milk price at all butterfat tests, it is appropriate to use a butterfat differential which approximates the adjustment used by buyers of ungraded milk.

Use of the 0.12 factor will represent an increase in the Class II butterfat differential for handlers now regulated under the three Wisconsin, Rock River Valley and Northwestern Indiana orders. The factor used in calculating Class II differentials under these orders is 0.115. The Northwestern Indiana Class II differential factor is 0.113. Nevertheless, the 0.12 factor should be adopted for the Chicago Regional order since it better reflects the competitive price of ungraded milk.

The butterfat differential used in making payment to producers should be calculated at the average value for use of producer butterfat in the two classes. This would be the average of the Class I and Class II butterfat differentials weighted by the proportion of butterfat in producer milk classified in each class. Thus, producer returns for butterfat will reflect changes in the use of their butterfat in each class. The producer butterfat differential does not affect a handler's obligation and its sole purpose is to prorate returns among producers to the extent their milk differs from the basic 3.5 percent butterfat test.

In addition to the announcement of hundredweight, class prices of milk containing 3.5 percent butterfat and butterfat differentials applicable to such prices, the Northwestern Indiana order and the terminated Chicago order provide for an announcement of skim milk and butterfat prices per hundredweight computed from the class prices and butterfat differentials. Chicago handlers and producers asked that this provision be continued.

If industry representatives desire this information to be supplied by the market administrator, it should be released under the market administrator's duty to disseminate general statistics and information. There is no need to require the release of such computations as an official basis of pricing.

Location adjustments. Location adjustments should apply to Class I milk received at plants located in places outside Zone 1. The same adjustment rates should apply to the uniform blend price for milk received at such plants.

Fluid milk products, because of their bulky, perishable nature, incur a relatively high transportation cost. In the case of producer milk received at a plant distant from the sales area, the handler must incur the transportation cost in moving the milk from such plant to the area where it is sold. The producer who delivers his milk to such plant saves the additional cost of having his milk hauled to the distant city market. Hence, to achieve uniform prices for handlers and producers, it is necessary to apply location differentials to both the Class I price and the blend price.

The location adjustment rates under the Chicago Regional order, except for plants located in Indiana, should be the same as those established under the terminated Chicago order. Zone 1 would be the territory in Illinois which was described as the marketing area in the terminated order. No adjustment would apply in Zone 1. Zone II, in which an adjustment rate of −2 cents would apply, would be the area within 55 miles of Chicago city hall but outside Zone 1 and Indiana. Each area within an additional 15-mile radius from Chicago city hall would be designated another zone with the minus adjustment rate increasing 2 cents for each zone.

In calculating the distances, measurements should be made by the market administrator according to highway mileage. The terminated Chicago order provided an alternative method of computing distance based on rail mileage. However, milk is no longer transported to Chicago by rail. Hence, there is no basis for continuing this alternative.

The above rates reflect the difference in the cost of transporting milk to plants in Chicago from plants located at various distances from Chicago. The principal witness on this point testified that haulers charged 16 cents per 100 pounds to haul milk from Zone 6 plants to plants in the marketing area. For plants in Zone 16 he said the charge is 36 cents. Thus, the actual rate charged was 6 cents higher than the location adjustments for both zones but the hauling charge for milk transported from Zone 16 was 20 cents more than for Zone 6. The difference in location adjustment is also 20 cents.

Because the fluid milk requirements for the city of Chicago are so large compared to the smaller cities which draw milk supplies from the same milk supply area, the location value of Class I milk received at points outside of Chicago is determined by its alternative value for sale in Chicago adjusted by the cost of transportation to that market. The Class I sales by Chicago handlers represent a volume 1.5 times the total Class I sales made by handlers in all of the five smaller markets which are proposed to be combined.

Chicago receives more than 90 percent of its milk supply through a system of about 50 country plants. Most of these country plants are located within the boundaries of the marketing areas defined in the present Northeastern Wisconsin, Madison, Milwaukee, and Rock River Valley orders. At the time the hearing was held there were three Chicago supply plants located in the first three zones close to Chicago and one supply plant located in northwestern Wisconsin. All other supply plants serving the Chicago market at that time were located in these secondary marketing areas.

In many cases the Chicago supply plants are located in the same county as plants which supply these secondary markets. In some instances a Chicago supply plant and a distributing plant supplying one of these other markets are located in the same city or town. There are even a few instances in which the facilities for handling Chicago supply plant milk and milk for distribution in Wisconsin markets is handled under the same roof.

Because the Chicago market, with its system of supply plants, is the major outlet for milk of producers in this entire supply area, location price differentials for milk delivered to all plants should reflect the cost of transporting such milk to Chicago. Hence, the transportation rates effective under the terminated Chicago order are appropriate for all plants supplying the expanded marketing area proposed herein, except for plants located in Indiana.

Plants in the Indiana portion of the proposed marketing area draw their milk largely from producers' farms located in Indiana. But supplemental supplies, at times amounting to as much as 20 percent of the volume received from producers' farms, are received from supply plants in Wisconsin. The Indiana portion of the marketing area lies east of Chicago and milk transported from Wisconsin must either travel through Chicago or go around the city, thereby incurring additional mileage.

Since milk moved from Wisconsin to Indiana handlers must incur this additional cost of transportation, farmers who deliver their milk directly to the Indiana plants should receive a Class I price which reflects this additional cost. Therefore, the Class I price for milk received at plants in Indiana should be increased over the Zone 1 price by 2 cents for each 15 miles or fraction thereof that the receiving plant is distant from the city hall in Chicago. This rate is consistent with that established for milk moved from Wisconsin into Chicago and will merely compensate for the additional mileage necessary in transporting milk the greater distance involved by delivery to Indiana plants.

In the case of milk moved from one plant to another for Class I use, the location adjustment should be based on 110 percent of the handler's Class I disposition. Some milk must be transported from supply plants to distributing plants which is in excess of the amount packaged as Class I products at the distributing plant during the month.

During November 1965, 10 Chicago handlers received in their pool distributing plants 180.5 million pounds of milk of which they packaged 155.3 million pounds. Thus, their receipts were 3 percent greater than the quantity they packaged. On Sundays and holidays, only small quantities were packaged by these handlers although Sunday receipts were about 70 percent of daily average receipts during the month. In a month ending on Sunday, therefore, the inventory not yet packaged could represent about another 3 percent of the Class I disposition. Since the average or normal excess needed by all 10 of these handlers is about 6 percent, the allowance of 10 percent should provide an ample margin to cover the excess of receipts needed to supply Class I disposition in any handler's distributing plant.

One cooperative asked that the Chicago order provide location adjustments on all milk moved regardless of its use. Other cooperatives asked that, in addition to the allowance based on 110 percent of Class I disposition, an alternative base be allowed if it were greater. The alternative base would be Class I disposition, plus cottage cheese use, plus 5 percent of such total.

These proposals would allow location credits on milk moved to distributing plants for use in Class II products. Producers' returns for such milk would be the Class II price less the location credit.

The Class II price proposed herein is at a level which will assure the disposition of milk in excess of Class I needs. Such excess milk can be utilized at country plants. Hence, there is no basis for producers to absorb hauling costs and thereby receive a lower price.

The adjustment should be made on the Class I disposition within the month from inventory on hand at the beginning of the month. Under the terminated Chicago order, no adjustment was made for Class I disposition of milk held in inventory. Hence, a handler sometimes failed to get the full location credit on his Class I disposition.

Handlers proposed that when ending inventory exceeded opening inventory, the increase be added to Class I disposition in computing the base for Class I location credits. However, since ending inventory is classified in Class II such a credit would represent a location credit on Class II milk and be inappropriate.

Closing inventory is assigned temporary classification and to the extent that it is held in the form of packaged Class I products, it would be reasonable to classify it in Class I and allow the location credit on current receipts. However, handlers opposed this suggestion and supported the proposal that all inventory be classified as Class II. Therefore, to avoid prepayment of a location credit on closing inventory which may not be classified in Class I, the location credit should be applied only to receipts in the current month or inventory from previous receipts which did not receive a credit. Also, where location adjustments are debited on receipts at Indiana plants, such treatment will require payment of the plus differential only on actual Class I disposition.

Chicago producers and handlers supported a proposal to assign the location adjustment to milk from different sources received at a distributing plant by prorating the volume eligible for the adjustment in proportion to receipts from each source. Under the terminated Chicago order receipts at the distributing plant were assigned for location adjustment first to milk received directly from producers and then to milk received from pool plants starting with the receipts from the nearest plant.

The efficient movement of milk from country plants to Chicago distributing plants depends on several factors in addition to distance. In order to meet the variable daily requirements of distributing plants, milk is shipped from one or several plants during the month. However, distributors are reluctant to accept milk from distant plants if no location credit is assigned to such receipts. By prorating Class I disposition for computing the location credit to milk from all sources, there will be no such incentive for distributing plants to prefer milk from one supply plant versus another.

The handler operating the transferee pool plant should receive the location adjustment credit (or pay the location adjustment debit) on fluid milk products transferred in bulk between pool plants. This was the practice under the terminated Chicago order. Since the handler obtaining milk from supply plants controls his purchases, he can limit such purchases to the amount on which a location credit is allowed based on his total Class I disposition. In computing the transferor handler's pool obligation, Class I transfers between pool plants would be priced at the Zone 1 level, regardless of the location of the transferor plant. This is because the transferee handler will receive the location adjustment credit from the pool on such transfers or he will pay the location debit.

In the case of Class I disposition from a plant outside Zone I the Class I price for the zone location of the plant would apply on all such disposition except that transferred to another pool plant.

The uniform price paid producers delivering to pool plants outside Zone I should be adjusted by the same zone differential rates applicable to Class I milk. Producers whose milk is hauled to Chicago from their farms incur the full cost of such transportation on all milk so delivered. On the other hand, producers who deliver their milk to plants located nearer the production area incur a lesser hauling cost.

If a producer who delivers his milk to a pool plant at which a location adjustment applies should change his point of delivery to a plant at which no location adjustment applies and thereby have his blend price increased, he will of necessity incur additional transportation cost on all of his milk. It may be expected that this increased transportation cost will fully equal that allowed the handler operating the plant to which the producer formerly delivered his milk to move an equal quantity of Class I milk from his plant to the plant to which the producer transferred. Therefore, the rate of location adjustment allowed the handler on Class I milk is an appropriate rate to use to establish differences in prices to producers delivering their milk to plants at which different Class I prices apply. The Class I location differences to handlers are based upon costs of transporting milk by economical methods.

Use of equivalent prices. If for any reason a price quotation required by the order for computing class prices or for other purposes is not available in the manner described, the market administrator should use a price quotation or price factor determined by the Secretary to be equivalent to that required. Including such provision in the order will leave no uncertainty with respect to the procedure which shall be followed in the absence of any pricing factors which are customarily used and thereby will prevent any unnecessary interruption in the operation of the order.

(d) *Distribution of proceeds to producers.* The order should contain provisions which describe the means whereby payments made by handlers for milk at class prices are converted to uniform prices to be paid to producers. The provisions should specify also the terms under which such payments must be made.

The order should provide for marketwide pooling of the value of producer milk used by all handlers. Under a marketwide pool, the total money obligation of all handlers in the market is combined to compute a uniform price applicable to all producer milk.

To accomplish this purpose it is necessary that there be an exchange of money among handlers in the market such that each handler is enabled to pay the marketwide uniform price. The transfer of money would be made through a producer-settlement fund, as hereinafter discussed, established by the market administrator. Each handler would pay into the producer-settlement fund any plus difference of the value of his producer milk at class prices over its value at the market uniform price. A handler whose producer milk has a lesser value at the class prices than at the market uniform price would receive payment at the difference from the producer-settlement fund. This arrangement enables each handler to pay the uniform price to producers.

Marketwide pooling was proposed by all of the cooperative associations with respect to any merged orders, although cooperatives associated primarily with the Milwaukee market strongly favored retention of the Milwaukee order with its individual-handler pooling of producers' returns. These Milwaukee cooperatives, however, supported the marketwide pooling of producer returns under a "Wisconsin" order. Further, except Milwaukee, all of the other orders, including the terminated Chicago order, provide for the marketwide pooling of producer returns.

Most producer cooperatives preferred marketwide pooling to insure that each producer supplying a specific market would receive his pro rata share of returns for the Class I and Class II utilization. Marketwide pooling was considered necessary to prevent unequal allocation of the burden of market reserves on certain groups of producers.

Under marketwide pooling, each producer will receive a uniform price for his milk which will reflect the average utilization of all pool plants in the market he helps supply. Each handler, however, will pay for milk in accordance with his own use at the applicable class prices.

The marketwide pooling of returns to producers will promote efficient handling of milk. The supply area for the proposed Chicago Regional marketing area encompasses a wide geographical territory in which the supply and use of milk readily available for some plants varies considerably from the supply and use at others. Most distributing plants in Chicago have little, if any, facilities for manufacturing reserve milk. Such plants either supplement their supplies of producer milk with milk from supply plants or they receive their entire quantity of milk from supply plants. Supply plants generally have manufacturing facilities available to manufacture the reserve milk supplies. The marketwide pool will enable a handler with manufacturing facilities or a cooperative association to handle the reserve supplies and to pay producers the same price as is paid by handlers who do not assume the responsibility of carrying the necessary reserve.

In the Wisconsin, Rock River Valley, and Northwestern Indiana markets, also, some handlers have manufacturing facilities and others carry very little reserve milk. A large part of the milk supply for handlers in these markets is furnished by cooperative associations. In connection with arranging for delivery of member milk to handlers' plants in quantities the handlers desire, it is necessary also for a cooperative association to arrange for handling the reserve milk either in their own plants or by diverting it to nonpool plants for manufacturing. Without marketwide pooling, therefore, the burden of the Class II returns could fall upon members of cooperative associations. This handling of reserve milk is a necessary service to the markets in insuring an adequate supply at all times.

A marketwide pool thus will result in equitable distribution among all producers of their lower returns from reserve milk rather than placing the burden of such milk on individual groups of producers. A marketwide pool will thereby contribute to market stability and the attainment of an adequate and dependable supply of producer milk for the proposed marketing area.

Producer-settlement fund. Inasmuch as all producers supplying a specific market will receive payment at the marketwide uniform price each month and because the payment due from each handler at the applicable class prices may be more or less than he is required to pay directly to his producers, a method of balancing these differences is necessary. For this purpose the market administrator shall establish and maintain a producer-settlement fund. A handler whose obligation at class prices according to his utilization is more than he is required to pay his producers, shall pay such difference into the producer-settlement fund. A handler who is required to pay less according to his utilization than he is required to pay his producers shall receive such difference from the producer-settlement fund.

For efficient functioning of the producer-settlement fund a reasonable reserve should be set aside each month to cover such contingencies as the failure of a handler to pay his monthly billing promptly or additional payments which may be due a handler from one of the funds by reason of audit adjustments. The reserve would be operated as a revolving fund and be adjusted each month by withholding from the pool computation an amount equal to not less than 4 cents nor more than 5 cents per hundredweight of producer milk. One-half of the reserve so accumulated would be added each month to the pool in computing the uniform price.

If the balance in the producer-settlement fund is insufficient to cover the payments due handlers, the market administrator should uniformly reduce payments per hundredweight to such handlers. The remaining amounts due such handlers should be paid as soon as the balance in the fund is sufficient to meet such payments. Producers in turn should receive full payment from handlers. In order to reduce the possibility of this occurring, milk received by any handler who has failed to make the required payments for the preceding month would not be included in the computation of the uniform price.

Any payments on partially regulated milk received by the market administrator from any handler would be deposited in the producer-settlement fund. Money thus deposited would be included in the uniform price computation and thereby

distributed to all producers on the market.

Payments to producers and cooperative associations. Each handler should pay each producer for milk received from him and for which payment is not made to a cooperative association not less than the uniform price computed under the order adjusted by butterfat and location differentials. This payment at the applicable uniform price should be made on or before the 18th day of the following month.

The Northeastern Wisconsin, Rock River Valley, Northwestern Indiana, and terminated Chicago orders require handlers to pay producers on or before the 18th day of the following month. The Madison and Milwaukee orders specify that the date for paying producers shall be on or before the 15th day of the following month. Proponents of the "Wisconsin order", however, proposed that the date for paying producers under the merged order should be the 18th.

The date specified in an order on which producers are paid is dependent upon four other specified dates. These are: (1) The date on which handlers are required to file their monthly reports; (2) the date on which the uniform price is announced; (3) the date payments are made into the producer-settlement fund; and (4) the date payments are made from the fund. As set forth elsewhere in this decision, it has been found necessary to allow handlers until the 16th day of the following month before they must file their monthly reports. In the Wisconsin markets the filing date has been the seventh.

Experience has shown that a minimum of 4 days is necessary after the filing date for the market administrator to announce the uniform price and at least three additional days are necessary to clear the producer-settlement fund. Thus, the date for paying producers cannot be prior to the 18th if handlers are to receive payment from the fund before they are required to pay the dairy farmers.

Provision should be made for a cooperative association, if it so desires, to receive payment for member producer milk which is received by a pool plant. The collection of payments for milk of its members will permit the cooperative association to rebleend the proceeds from the sale of such milk, will facilitate the transfer of milk among handlers and aid in the orderly movement of reserve milk to other plants either by transfer or diversion for manufacturing use. Thus, a cooperative association will be assisted in discharging its responsibilities to its members and the market.

The Act provides for the payment by handlers to cooperative associations for milk delivered by their members and permits the rebleending of all proceeds from the sale of member milk. Cooperative associations serving these markets have contracts with their members which allow the associations to collect payment for member milk. Therefore, each handler, if so requested, should pay cooperative associations the full amount due for producers' milk in lieu of payments to individual producers. The associations, however, should provide for reimbursement of any loss incurred because of an improper claim.

Proponents of the "Northern Illinois-Southern Wisconsin" order claimed that the dates specified in the terminated Chicago order had been satisfactory to the parties concerned and they proposed their continued use. The terminated order and the present Northwestern Indiana order require handlers to pay the uniform price to a cooperative association, under specified conditions, by the 15th day of the following month. However, the orders do not require payment from the producer-settlement fund until the 17th day of the following month. Consequently, handlers who would receive money from the producer-settlement fund are required to pay a cooperative prior to such receipt.

It is not feasible, under the circumstances, for the order to contain a provision which requires handlers to pay out money they have not yet received. Consequently, it is necessary to delete the provision requiring handlers to pay a cooperative association, under specified conditions 3 days before payments to individual producers are required. Cooperatives did not show that they had encountered any difficulty collecting money in time to pay their producers. In fact, Chicago cooperatives opposed any provision for a partial payment in advance of the final settlement date since it would require more bookkeeping and they say it is not needed.

In the case where a cooperative is the handler for producer member milk delivered from the farm to another handler's plant, such payment should be made at not less than the uniform price adjusted by the applicable butterfat and location adjustments. For other milk which a cooperative may deliver from its plant to another handler's plant, payment should be at the class prices according to the classification of milk transferred.

At the time settlement is made for milk received from producers the handlers should be required to furnish to each producer (or his cooperative association) a supporting statement. This statement should show the pounds and butterfat tests of milk received from such producers, the rate of payment for such milk and the description of any deduction claimed by the handler.

(c) *Administrative provisions.* The following findings and conclusions are made with respect to the proposed Chicago Regional order. Certain other provisions are needed to carry out the administrative steps necessary to accomplish the purposes of the proposed regulation.

(1) *Terms and definitions.* In addition to the definitions discussed earlier in this decision which established the scope of regulation, certain other terms and definitions are desirable for the purpose of brevity and to assure that each usage of the term implies the same meaning. Such terms as defined in the proposed order and contained in the individual orders are common to most other Federal orders.

(2) *Market administrator.* The order should provide for the appointment by the Secretary of a market administrator to administer the order and should set forth powers and duties of the market administrator.

(3) *Records and reports.* Provisions should be included in the order requiring handlers to maintain adequate records of their operations and to make the reports necessary to establish the proper classification and pricing of milk and payments due producers for milk. Time limits must be prescribed for filing such reports and for making payments to producers. Dates must be established for the announcement of prices by the market administrator.

In describing payments to producers and cooperative associations it was set forth that the date on which producers are paid is dependent upon four other specified dates. Included among these was the date on which handlers are required to file their monthly reports. Producers and handlers associated with the Chicago market maintain that because many Chicago handlers operate several relatively large plants it has been found necessary to allow handlers until the 10th day of the following month before filing their reports. Also, there are many interhandler transfers each month which must be accounted for before handlers can file their reports. Therefore, it is appropriate to require handlers' reports be submitted to the market administrator not later than the 10th day of the following month.

It was further recommended at the hearing that Chicago handlers be permitted to file a single combined report for all of their pool plants. Proponents maintained that for the same reasons handlers need a later reporting date, they also should be given this option. There was no testimony in opposition to this proposal. Such single report must, however, show individual plant data to the extent necessary to apply the terms of the order. It is appropriate, therefore, that if the handler so requests and the request is approved by the market administrator, the Chicago Regional order should permit a handler to submit a single combined report for all of the handler's pool plants. Unless the handler requests that he be permitted to file a single report as described above, he shall file separate reports which show the receipts and disposition at each of his plants.

The market administrator should announce the uniform price for the previous month's milk on or before the 14th day of each month. He also should notify handlers of the amount due on milk handled during the previous month on or before the 14th day of the month to permit sufficient time for handlers to submit payments due to the producer-settlement fund on or before the 16th day of the month. Payments out of the producer-settlement fund would be made on the 17th.

The payroll report of each handler should be submitted to the market administrator on or before the 25th day of the following month. It should include

such information as weights, butterfat tests, payments for milk, and authorized deductions.

Handlers should maintain and make available to the market administrator all records and accounts of their operations which are necessary to determine the accuracy of the information reported to the market administrator or any other information upon which the classification of producer milk depends. The market administrator must likewise be permitted to check the accuracy of weights and tests of milk and milk products received and handled and to verify all payments required under the order.

Detailed reports to the market administrator by all handlers would be used to determine whether the plants of such handlers qualify as pool plants.

The market administrator should report to each cooperative association, which so requests, the percentage of milk delivered by its members and utilized in each class by each handler receiving such milk as determined in the classification and allocation provisions. For the purpose of this report the percentage of members' milk received by each handler as set forth in the classification and allocation provisions should be prorated in the proportion that producer milk was so utilized by that handler. These reports are necessary for cooperative associations to market their member milk most efficiently so that available producer milk will be channeled to available Class I uses.

It is necessary that handlers retain records to prove the utilization of the milk received and that proper payments were made therefor. Since the books of all handlers cannot be audited immediately it is necessary that such records be kept for a reasonable period of time.

The order should provide limitations on the period of time handlers shall be required to retain books and records and on the period of time in which obligations under the order should terminate. The obligations of any handler under the order shall terminate 2 years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless the handler fails or refuses to make available all required books and records or a handler's obligation involves fraud or willful concealment of a fact. The provisions made in this order are identical in principle to those adopted for all milk orders in operation on July 30, 1947, following the Secretary's decision of January 26, 1949 (14 F.R. 444). Official notice of such decision was taken on the record. The reasons for such provisions as are set forth in that decision are similarly applicable to the situation in this market and the provisions should be adopted in this order.

(4) *Expense of administration.* The Act requires handlers to pay the cost of operating an order through an assessment on milk handled. Each handler operating a pool plant should be required to pay to the market administrator, as his proportionate share of the cost of administering the order, 4 cents, or such lesser amount as the Secretary may prescribe, on all receipts within the month of milk from producers including milk of such handler's own production, any other source milk allocated to Class I (except milk so assessed under another Federal order), and producer milk received from a cooperative association in its capacity as a handler on farm bulk tank milk.

The maximum rate of administrative assessment of 4 cents per hundredweight herein recommended is the same as currently in effect under the Madison, Northwestern Indiana, and Rock River Valley orders. The terminated Chicago order provided for a 2 cents maximum administrative assessment, the Milwaukee order provides a maximum of 3 cents and the Northeastern Wisconsin order provides a maximum of 5 cents. Proponents of order consolidations involving the Chicago market proposed an administrative assessment of 2 cents while proponents of the Wisconsin markets consolidation proposed 4 cents.

The 4-cent rate is necessary to assure that the market administrator will have sufficient funds to enable him to administer the order. Any lesser rate would not give this assurance. Provision is made, however, so that the Secretary may reduce the amount of the administrative assessment without the necessity of amending the order. The rate can thus be reduced if experience indicates a lower rate will be sufficient to provide adequate funds for the administration of the order.

The order specifies minimum performance standards which must be met to obtain regulated status. With certain specified exceptions, operators of plants not meeting such standards would, under the provisions proposed in this decision, be required to either make specified payments into the producer-settlement fund on route distribution in the marketing area in excess of offsetting purchases of Federal order Class I milk, or otherwise pay into such fund and/or dairy farmers, an amount not less than the full classified use value of receipts (computed as though such plant were a fully regulated plant).

The market administrator, in administering an order as it applies to the nonpool route distributor, must incur expenses in essentially the same manner as in applying the order to pool handlers. Partial regulation (as prescribed) of such distributor does not, however, provide the same benefits to such handler as accrue to the fully regulated handler; i.e., the privilege of participation in the market pool and assurance of uniform price payments to his dairy farmers. If the nonpool route distributor elects to make a payment on his in-area sales at the difference between the Class I price and the uniform price for the market, the expenses incurred by the market administrator in administering the terms of the order on such handler are nominal and payment of the administrative assessment on his in-area sales reasonably would constitute his pro rata share of administrative expense.

In the situation where such a distributor for any reason actually pays his dairy farmers the full use value for their milk (computed at order prices), it has in the past on the basis of substantial record evidence in promulgation hearings, been found necessary in many areas to require payment by such distributor of an administrative assessment on his total receipts of milk in order to defray the costs of complete plant auditing to verify the utilization and payments as claimed. In large measure, such a distributor's operations are more comparable to those of a fully regulated handler and such assessment is substantially the same as for a fully regulated handler. There is reason to believe, however, that in some instances such an assessment might make possible a financial obligation under the order in excess of his total obligation through the alternative of electing to make a payment into the producer-settlement fund. From the financial standpoint such a situation provides little practical alternative to such handler but to pay the required pool payment. In order to give more meaningful effect to the choice of an alternative, the pro rata share of the administrative expense of each order should be the regular assessment rate applied to such milk as is actually disposed of as Class I in the regulated area that exceeds Class I milk received from other regulated plants or other order plants, irrespective of whether the option to pay into the producer-settlement fund is elected by the unregulated distributor.

In the case of unregulated milk which enters the market through a fully regulated plant for Class I use, it is the regulated handler who utilizes the unregulated milk and who must report to the market administrator the receipt and use of such milk as well as on all other milk received and utilized. Also, the receipts and utilization of all milk at his plant are subject to verification by the market administrator. It is concluded, therefore, that the regulated handler should be responsible for payment of the administrative assessment with respect to such unregulated milk.

The order is designed to share the cost of administration equitably among all handlers distributing milk in the proposed marketing area. However, to prevent duplication an assessment should not be made on other source milk on which an assessment was made under another Federal order.

(5) *Marketing service.* Provisions should be made in the order for providing for marketing services to producers, such as the verification of tests and weights of producer milk and furnishing them with market information. The services should be provided by the market administrator and the cost should be borne by producers for whom the services are rendered. A qualified cooperative association, approved for such activity by the Secretary, may perform such services for its member producers in lieu of such services by the market administrator.

There is need for a marketing service program in connection with the administration of the order in this area. Orderly marketing will be promoted by assuring individual producers that they have obtained accurate weights and tests of their milk. Complete verification requires that butterfat tests and weights of individual producers' deliveries as reported by the handler are proved to be accurate.

An additional phase of this market service program is to furnish producers with current market information. Efficiency in the production, utilization and marketing of milk will be promoted by providing for the dissemination of current market information on a market-wide basis to all producers.

To enable the market administrator to furnish these marketing services, provision should be made for a maximum deduction of 5 cents per hundredweight with respect to receipts of milk from producers for whom he renders marketing services. This is the same rate as presently provided in the Madison, Milwaukee and Rock River Valley orders. The terminated Chicago order provided a 3-cent rate while the Northeastern Wisconsin and Northwestern Indiana orders provide a 6-cent and 4-cent rate, respectively. Proponents of the Northern Illinois-Southern Wisconsin and Eastern Wisconsin orders proposed a marketing service deduction rate of 5 cents per hundredweight. Proponents of the Chicago-Northwestern Indiana merger proposed a 3-cent rate; however, in conjunction with that they also proposed a "cooperative service payment" of 2 cents per hundredweight which is described later in this decision.

The maximum marketing service deduction of 5 cents per hundredweight should provide the market administrator with sufficient funds to enable him to operate his marketing service programs. If later experience indicates that marketing services can be performed at a lesser rate, provision is made in the order whereby the Secretary may adjust the rate downward without the necessity of a hearing. In the event a qualified cooperative association has been determined to be performing such marketing services for its members, handlers would be required to pay to the cooperative associations such deductions as are authorized by its producer members.

As mentioned above the proponent of the Chicago-Northwestern Indiana merger proposed a "cooperative service payment" at the rate of 2 cents per hundredweight. As proposed, the market administrator would pay each qualified cooperative association 2 cents per hundredweight on all producer milk marketed by producer members of the cooperative. The money to pay the cooperatives would be deducted from the uniform price payable to all producers who supply the market. This money would be used by the cooperative to perform marketwide services, such as formulating, proposing and supporting amendments to the order, participating in meetings and hearings concerning the order and conducting educational programs among all producers.

This proposal is denied on the basis of this hearing record because proponent did not establish that such a program was necessary or desirable in the Chicago market. Further, proponent did not show how such a proposal would assist the orderly marketing of producer milk. In fact, proponent admitted that situations could arise where some individual producers could be paying cooperatives through this provision for supporting proposals to which the individual producers would be opposed. Also, this proposal was not supported by any other interested party and proponent stated thta cooperatives presently were able to perform most of these services without any special payment.

(6) *Administrative funds.* To accomplish the merger of the Madison, Milwaukee, Northeastern Wisconsin, Northwestern Indiana, and Rock River Valley orders effectively and equitably, the assets in the administrative and marketing service funds which have accrued under the separate orders should be combined. These funds should be combined with the funds remaining under the Chicago order. Similar procedure should be carried out with respect to the producer-settlement fund reserves. Any liabilities of such funds under the former orders should be paid from the new funds so created. Proponents of several merger proposals suggested that the funds collected under the separate orders be consolidated under the new orders in the manner provided.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or to reach such conclusions are denied for the reasons previously stated in this decision.

General findings. (a) The proposed marketing agreement and order and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order are such prices as will reflect the aforesaid factors insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The proposed marketing agreement and order will regulate the handling of milk in the same manner as, and will be applicable to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended marketing agreement and order. The following order regulating the handling of milk in the Chicago Regional marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the proposed order.

Definitions

§ 1030.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 1030.2 Secretary.

"Secretary" means the Secretary of Agriculture or any officer or employee of the United States authorized to exercise the powers and perform the duties of the Secretary of Agriculture.

§ 1030.3 Department.

"Department" means the U.S. Department of Agriculture.

§ 1030.4 Person.

"Person" means any individual, partnership, corporation, association or other business unit.

§ 1030.5 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and is engaged in making collective sales of or marketing milk or milk products for its members.

§ 1030.6 Chicago Regional marketing area.

"Chicago Regional marketing area", hereinafter called the "marketing area" means the territory within the boundaries of the following places including piers, docks, and wharves and territory wholly or partly within such boundaries occupied by government (municipal, State, or Federal) reservations, installations, institutions or other similar establishments:

(a) In the State of Illinois:

(1) The counties of:

Boone.	Kendall.
Carroll.	Lake.
Cook.	Lee.
De Kalb.	McHenry.
Du Page.	Ogle.
Jo Daviess (except the city of East Dubuque).	Stephenson.
Kane.	Will.
	Winnebago.

(2) In Whiteside County:
(i) The townships of:

Calome.	Jordan.
Hahnaman.	Montmerency.
Hopkins.	Sterling.
Hume.	Tampico.

(b) In the State of Indiana:
(1) The counties of:

Elkhart.	Marshall.
Kosciusko.	Porter.
Lake.	St. Joseph.
La Porte.	Stark.

(c) In the State of Wisconsin:
(1) The counties of:

Brown.	Milwaukee.
Calumet.	Monroe.
Columbia.	Oconto.
Crawford.	Oneida.
Dane.	Outagamie.
Dodge.	Ozaukee.
Fond du Lac.	Portage.
Forest.	Racine.
Grant.	Richland.
Green.	Rock.
Iowa.	Sauk.
Jefferson.	Shawano.
Juneau.	Sheboygan.
Kenosha.	Vernon.
Kewaunee.	Vilas.
La Crosse.	Walworth.
Lafayette.	Washington.
Langlade.	Waukesha.
Lincoln.	Waupaca.
Manitowoc.	Winnebago.

(2) In Door County the city of Sturgeon Bay;
(3) In Marathon County:
(i) The towns of:

Bergen.	Marathon.
Berlin.	Mosinee.
Bevent.	Norrie.
Easton.	Plover.
Elderon.	Reid.
Franzen.	Rib Mountain.
Guenther.	Ringle.
Harrison.	Stettin.
Hewitt.	Texas.
Knowlton.	Wausau.
Kronenwetter.	Weston.
Maine.	

(ii) The villages of:

Brokaw.	Marathon.
Elderon.	Rothschild.
Hatley.	

(iii) The cities of:

Mosinee.	Wausau.
Schofield.	

(4) In Wood County:
(i) The towns of:

Cranmoor.	Rudolph.
Grand Rapids.	Saratoga.
Port Edwards.	Seneca.

(ii) The villages of:

Biron.	Port Edwards.

(iii) The cities of:

Nekoosa.	Wisconsin Rapids.

§ 1030.7 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, flavored milk, flavored milk drinks, sweet cream, and any mixture in fluid form of such products, including filled milk. It also includes sour cream and sour cream products which are labeled Grade A. Eggnog, including custards and puddings, ice cream mix, frozen dessert mix, yogurt, aerated cream products, evaporated and condensed milk or skim milk and sterilized products in hermetically sealed containers shall not be fluid milk products pursuant to this section.

§ 1030.8 Route disposition.

"Route disposition or disposed of on routes" means a delivery (including disposition from a retail plant store) of any fluid milk product classified as Class I under § 1030.41(a)(1) to a retail or wholesale outlet other than a milk plant. Disposition of a plant through a vendor or through a distribution point shall be considered a route delivery at the location of the wholesale or retail outlet to which delivery is made.

§ 1030.9 Distributing plant.

"Distributing plant" means a plant from which a Grade A fluid milk product that is processed or packaged in such plant is disposed of during the month in the marketing area on routes, either directly or through another plant.

§ 1030.10 Supply plant.

"Supply plant" means a plant from which a Grade A fluid milk product is shipped during the month to another plant.

§ 1030.11 Pool plant.

"Pool plant" means a plant at which milk is received from dairy farmers, or any facility at which milk received from farms in a tank truck is commingled with other milk for further shipment, or at which milk is processed and packaged or manufactured, which is described in paragraph (a), (b), or (c) of this section (except an other order plant or the plant of a producer-handler or an exempt distributing plant). If a portion of the plant is not approved by any health authority for the receiving, processing, or packaging of any fluid milk product for Grade A disposition and is physically separated from the Grade A portion, such unapproved portion shall not be considered a part of the pool plant.

(a) A distributing plant from which there is disposed of during the month not less than the percentages set forth in subparagraphs (2) and (3) of this paragraph of the receipts specified in subparagraph (1). Two or more distributing plants of a handler shall be considered a unit for the purpose of this paragraph in any month if the handler operating such plants has filed a written request with the market administrator prior to such month requesting that they be considered a unit.

(1) The total Grade A fluid milk products received during the month at such plant, including producer milk diverted under § 1030.16, but excluding receipts of fluid milk products from other pool distributing plants and receipts from other order plants and unregulated supply plants which are assigned pursuant to § 1030.46(a)(4)(i)(a) and (ii) and the corresponding step of § 1030.46(b).

(2) Not less than 10 percent of such receipts is disposed of in the marketing area in the form of packaged fluid milk products either on routes or moved to other plants from which it is disposed of in the marketing area on routes. Such disposition is to be exclusive of receipts of packaged fluid milk products from other pool distributing plants.

(3) Not less than 45 percent of such receipts is disposed of in the form of packaged fluid milk products on routes or moved to other plants. Such disposition is to be exclusive of receipts of packaged fluid milk products from other pool distributing plants.

(b) A supply plant from which the quantity of fluid milk products moved during the month in accordance with subparagraphs (1), (2), and (3) of this paragraph is not less than the percentages specified in subparagraphs (4) and (5) of this paragraph subject to subparagraphs (6), (7), and (8) of this paragraph, of the volume of Grade A milk received from dairy farmers at such plant, including producer milk diverted under § 1030.16.

(1) To pool plants pursuant to paragraph (a) of this section;

(2) To plants of producer-handlers;

(3) To partially regulated distributing plants and assigned to Class I milk disposed of in the marketing area from such plants pursuant to § 1030.44(d)(3)(i);

(4) Such percentages after July 1968 shall be not less than 40 percent in each of the months of September, October, and November and 30 percent in all other months, except that a plant which is a pool plant pursuant to this paragraph during each of the months of August through December shall be a pool plant for each of the following months of January through July unless:

(i) The milk received at the plant does not continue to meet the Grade A milk requirements for use in fluid milk products distributed in the marketing area; or

(ii) Written application is filed by the plant operator with the market administrator on or before the first day of any such month requesting the plant be designated a nonpool plant for such month and each subsequent month through July during which it would not otherwise qualify as a pool plant.

(5) During the period from the effective date of this part through July 1968 the monthly percentage shall be not less than 20, except that a plant which would have qualified on the basis of 20 percent shipments during each of the months August 1967 through December 1967 shall be a pool plant unless nonpool status is assigned in accordance with subdivision (i) or (ii) of subparagraph (4) of this paragraph.

(6) The percentages specified in subparagraph (4) of this paragraph applicable during the months August–December shall be increased or decreased by up to 10 percentage points by the Director of the Dairy Division if he finds such revision is necessary to obtain needed shipments or to prevent uneconomic shipments. Before making such a finding the Director shall investigate the need for revision either on his own initiative or at the request of interested persons and if his investigation shows that a revision might be appropriate he shall issue a notice stating that revision is being considered and inviting data, views, and arguments with respect to the proposed revision: *Provided*, That if a plant which would not otherwise qualify as a pool plant during the month pursuant to subparagraph (4) of this paragraph would qualify as a pool plant as a result of this subparagraph, such plant shall be a nonpool plant for such month upon filing by the operator of such plant a written request for nonpool status with the market administrator.

(7) Two or more plants shall be considered a unit for the purpose of this paragraph if the following conditions are met:

(i) The plants included in a unit are owned or fully leased and operated by the handler establishing the unit. In the case of plants operated by cooperative associations two or more cooperative associations may establish a unit of designated plants by filing with the market administrator a written contractual agreement obligating each plant of the unit to ship milk as directed by such cooperatives;

(ii) The handler or cooperatives establishing a unit notify the market administrator in writing of the plants to be included therein prior to August 1 of each year and no additional plants shall be added to the unit prior to August 1 of the following year; and

(iii) The notification pursuant to subdivision (ii) of this subparagraph shall list the plants in the order in which they shall be excluded from the unit if the minimum shipping requirements are not met, such exclusion to be in sequence beginning with the first plant on the list and continuing until the remaining plants as a unit have met the minimum requirements.

(8) If, during August through December a handler notifies the market administrator in writing that a plant is unable to meet the requirements set forth herein because of a work stoppage due to a labor dispute between employer and employees, the market administrator, upon verification of the handler's claim, shall not include the receipts and utilization of milk at such plant for those days from the date of notification through the last day of the work stoppage in determining the percentage of milk or butterfat shipped pursuant to this paragraph. When the work stoppage includes an entire month, the plant shall be considered to have met the minimum percentage shipping requirements in that month for pool plant status pursuant to this paragraph, but such relief shall not be granted for more than two consecutive months.

(c) A plant which is operated by a cooperative association and which is not a pool plant pursuant to paragraph (a) or (b) of this section shall be a pool plant if at least 50 percent of the Grade A milk of producers of such cooperative association is received at pool distributing plants of other handlers during the month and written application for pool plant status is filed with the market administrator on or before the first day of such month.

§ 1030.12 Nonpool plant.

"Nonpool plant" means a plant (except a pool plant) which receives milk from dairy farmers or is a milk manufacturing, processing or bottling plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant pursuant to § 1030.11 and a greater volume of fluid milk products is disposed of from such plant in this marketing area on routes and to pool plants qualified on the basis of route distribution in this marketing area than is so disposed of in the marketing area regulated pursuant to such other order.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is not an other order plant, a producer-handler plant, or an exempt distributing plant and from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed in the marketing area on routes during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is not an other order plant, a producer-handler plant, or an exempt distributing plant.

(e) "Exempt distributing plant" means a distributing plant operated by a governmental agency.

§ 1030.13 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) Any person in his capacity as the operator of a partially regulated distributing plant;

(c) Any person in his capacity as a broker negotiating a purchase or sale of fluid milk products from or to a person described in paragraph (a) or (b) of this section;

(d) Any cooperative association with respect to producer milk which it causes to be diverted from a pool plant of another handler to a nonpool plant for the account of such cooperative association;

(e) Any cooperative association with respect to milk of its producers which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association;

(f) Any person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant; or

(g) A producer-handler.

§ 1030.14 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a distributing plant and who distributes as Class I milk on routes in the marketing area only fluid milk products of such person's own production or fluid milk products received from pool plants: *Provided*, That such person provides proof satisfactory to the market administrator that the care and management of all dairy animals and other resources necessary to produce the entire volume of fluid milk products handled (excluding receipts from pool plants) and the operation of the processing and packaging business are the personal enterprise and risk of such person.

§ 1030.15 Producer.

"Producer" means any person, except a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority, which milk is received as producer milk at a pool plant or diverted pursuant to § 1030.16 from a pool plant to a nonpool plant.

§ 1030.16 Producer milk.

"Producer milk" means the skim milk and butterfat in Grade A milk:

(a) Received at a pool plant directly from a dairy farmer, except that milk received by diversion from other order plants which is assigned pursuant to § 1030.46(a)(4)(ii) and the corresponding step of § 1030.46(b);

(b) Received at a pool plant from a cooperative association handler pursuant to § 1030.13(e);

(c) Received by a cooperative association as a handler pursuant to § 1030.13(e) to the extent of the shrinkage of skim milk and butterfat received from producers' farms which was not received at a pool plant under paragraph (b) of this section. In applying §§ 1030.53 and 1030.82 such skim milk and butterfat shall be deemed to be received at the location of the pool plant to which delivery is normally made.

(d) Diverted from a pool plant to a nonpool plant subject to the conditions specified in this paragraph. Milk so diverted shall be considered as received at the pool plant from which diverted in calculating the percentages specified in § 1030.11 and in applying location price differentials pursuant to § 1030.82, except that in any month in which diverted milk of a producer represents more than 6 days' production the location price differential applicable to milk of such producer diverted in excess of the first 6 days shall be based on the zone location of the nonpool plant(s) where such milk is actuall received:

(1) Milk of a producer diverted for the account of the operator of the plant from which such milk is diverted in any of the months August through December which does not exceed the quantity of such producer's milk received at the pool plant;

(2) Milk of a producer diverted by a cooperative as a handler pursuant to § 1030.13(d) may not in any of the months August through December exceed the quantity of such producer's milk received at the pool plant from which it

was diverted. To the extent that milk diverted by a cooperative as a handler would result in the plant failing to qualify as a pool plant under § 1030.11 such diverted milk shall not be producer milk; and

(3) Milk diverted to an other order plant shall be producer milk pursuant to this section only if it is not producer milk under such other order.

§ 1030.17 Other source milk.

"Other source milk" means the skim milk and butterfat contained in or represented by:

(a) Fluid milk products from any source except (1) fluid milk products from pool plants, (2) producer milk, or (3) fluid milk products in inventory at the beginning of the month; and

(b) Products other than fluid milk products from any source (including those produced at the plant) which are reprocessed, converted into, or combined with another product in the plant during the month.

§ 1030.18 Butter price.

"Butter price" means the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of Grade A (92-score) bulk creamery butter at Chicago as reported during the month by the Department.

MARKET ADMINISTRATOR

§ 1030.20 Designation.

The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of the Secretary.

§ 1030.21 Powers.

The market administrator shall have the following powers with respect to this part:

(a) Administer its terms and provisions;

(b) Receive, investigate, and report complaints of violations to the Secretary;

(c) Make rules and regulations to effectuate its terms and provisions; and

(d) Recommend amendments to the Secretary.

§ 1030.22 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to the following:

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount, and with reasonable surety thereon, covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 1030.86, the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses except those incurred under § 1030.87, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly announce at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who after the date upon which he is required to perform such acts, has not made either reports pursuant to §§ 1030.30 and 1030.31 or payments pursuant to §§ 1030.80, 1030.84, 1030.86, 1030.87, and 1030.88;

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be required by the Secretary;

(h) Verify all reports and payments of each handler by audit of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends, or by such investigation as the market administrator deems necessary;

(i) Prepare and disseminate for the benefit of producers, consumers, and handlers such statistics and information as he deems advisable and as do not reveal confidential information;

(j) Publicly announce on or before:

(1) The fifth day of each month the Class I milk price pursuant to § 1030.51 (a) and the Class I butterfat differential pursuant to § 1030.52(a), both for the current month, and the Class II milk price pursuant to § 1030.51(b) and the Class II butterfat differential pursuant to § 1030.52(b), both for the preceding month; and

(2) The 14th day after the end of each month the uniform price pursuant to § 1030.71 and the butterfat differential pursuant to § 1030.81;

(k) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1030.46(a) (8) and the corresponding step of § 1030.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(l) Report to the market administrator of the other order, as soon as possible after the reports of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1030.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report;

(m) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report; and

(n) On or before the 17th day after the end of each month report to each cooperative association, upon request by such association, the percentage of the milk caused to be delivered by the cooperative association for its members which was utilized in each class at each pool plant receiving such milk. For the purpose of this report, the milk so received shall be allocated to each class at each pool plant in the same ratio as all producer milk received at such plant during the month.

REPORTS, RECORDS, AND FACILITIES

§ 1030.30 Reports of receipts and utilization.

On or before the 10th day after the end of each month, each handler who operates a pool plant shall report to the market administrator in the detail and on forms prescribed by the market administrator as follows for each of his pool plants, except that if a handler so requests and the request is approved by the market administrator, a single report may be filed:

(a) The quantities of skim milk and butterfat contained in or represented by:

(1) Milk received from producers including milk diverted pursuant to § 1030.16 for such handler's account;

(2) Producer milk received from handlers pursuant to § 1030.13(e);

(3) Fluid milk products received from pool plants of other handlers (or other pool plants, as applicable);

(4) Other source milk; and

(5) Inventories of fluid milk products at the beginning and end of the month;

(b) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement showing the respective amounts of skim milk and butterfat disposed of as Class I milk inside and outside marketing area on routes; and

(c) Such other information with respect to the receipts and utilization of skim milk and butterfat as the market administrator may prescribe.

§ 1030.31 Other reports.

(a) Each producer-handler and each handler who operates an other order plant shall report the receipts and disposition of skim milk and butterfat at such plant at such time and in such manner as the market administrator may require and shall allow verification of such reports by the market administrator.

(b) Each handler pursuant to § 1030.13 (c), (d), and (e) shall report to the market administrator on or before the 10th day after the end of the month in detail and on forms prescribed by the market administrator as follows:

(1) Each handler pursuant to § 1030.13(c) shall report the quantities of skim milk and butterfat in fluid milk products moved for his account from each pool plant and received at each pool plant or partially regulated distributing plant during the month;

(2) Each cooperative association handler pursuant to § 1030.13(d) shall report the quantities of skim milk and butterfat in producer milk diverted for its account from each pool plant and the utilization of such skim milk and butterfat during the month; and

(3) Each cooperative association handler pursuant to § 1030.13(e) shall report the quantities of skim milk and butterfat in its receipts of producer milk pursuant to § 1030.16(c) and producer milk delivered to each pool plant during the month;

(c) Each handler operating a partially regulated distributing plant shall report for each such plant the information required of pool plant operators pursuant to § 1030.30 substituting receipts from dairy farmers for producer milk; and

(d) Each handler receiving milk from producers shall report to the market administrator in detail and on forms prescribed by the market administrator on or before the 25th day after the end of the month his producer payroll for such month which shall show for each producer:

(1) His identity;

(2) The quantity of milk received from such producer and the number of days on which milk was received from such producer;

(3) The average butterfat content of such milk; and

(4) The net amount of such handler's payment, together with the price paid and the amount and nature of any deductions.

§ 1030.32 Records and facilities.

Each handler shall maintain and make available to the market administrator, during the usual hours of business, such accounts and records of his operations, together with such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipts and utilization of all skim milk and butterfat handled in any form during the month;

(b) The weights and butterfat and other content of all milk and milk products handled during the month;

(c) The pounds of skim milk and butterfat contained in or represented by all milk products in inventory at the beginning and end of each month; and

(d) Payments to dairy farmers and cooperative associations, including the amount and nature of any deductions and the disbursement of money so deducted.

§ 1030.33 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the month to which such books and records pertain: *Provided*, That if within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records or specified books and records until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1030.40 Skim milk and butterfat to be classified.

The skim milk and butterfat required by §§ 1030.30 and 1030.31 to be reported by handlers (excluding transfers from a pool plant to an other order plant(s) that are offset by receipts from the other order plant(s) pursuant to § 1030.44(e)) shall be classified by the market administrator pursuant to the provisions of §§ 1030.41 through 1030.46.

§ 1030.41 Classes of utilization.

Subject to the conditions set forth in §§ 1030.43, 1030.44, and 1030.46 the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of as a fluid milk product except as provided in subparagraphs (2), (3), (4), and (5) of paragraph (b) of this section; and

(2) Not accounted for as Class II milk;

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) In fluid milk products disposed of for livestock feed;

(3) In fluid milk products dumped if the market administrator has been notified in advance and afforded the opportunity to verify such dumping;

(4) In fluid milk products delivered in bulk form to commercial food establishments and used in the manufacture of bakery products, candy or processed foods prepared for consumption off the premises;

(5) Represented by the nonfat milk solids added to a fluid milk product which is in excess of the weight of an equivalent volume of the fluid milk product prior to such addition;

(6) In inventory of fluid milk products on hand at the end of the month;

(7) In shrinkage of the skim milk and butterfat, respectively, assigned pursuant to § 1030.42(b)(1) but not in excess of:

(i) Two percent of producer milk receipts described in § 1030.16(a); plus

(ii) 1.5 percent of bulk fluid milk products received from pool plants of other handlers (or other pool plants, as applicable); plus

(iii) 1.5 percent of producer milk described in § 1030.16(b), except that if the handler operating the pool plant files notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentage shall be 2 percent; plus

(iv) 1.5 percent of bulk fluid milk products received from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operators of both plants; plus

(v) 1.5 percent of bulk fluid milk products received from an unregulated supply plant exclusive of the quantity for which Class II utilization was requested by the handler; less

(vi) 1.5 percent of bulk fluid milk products transferred to other plants;

(8) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1030.42(b)(2);

(9) In shrinkage of skim milk and butterfat, respectively, of producer milk diverted pursuant to § 1030.16(d) but not in excess of one-half percent of diverted milk exclusive of that which is diverted on the basis of farm weights; and

(10) In shrinkage of skim milk and butterfat, respectively, of producer milk described in § 1030.16(c) but not in excess of one-half percent of the quantity received by the cooperative association as a handler pursuant to § 1030.13(e) as determined by farm weights exclusive of the quantity on which shrinkage at a rate of two percent is applicable under subparagraph (7) (iii) of this paragraph.

§ 1030.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, at each pool plant (or at his combined pool plants if a single report is filed pursuant to § 1030.30); and

(b) Prorate the resulting amounts between skim milk and butterfat, respectively, contained in:

(1) The net quantity of producer milk and other fluid milk product receipts specified in § 1030.41(b) (7) and (9); and

(2) Other source milk exclusive of that specified in § 1030.41(b) (7) and (9) or received in the form of packaged fluid milk products.

§ 1030.43 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be classified as Class I unless the handler who first receives such skim milk and butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise, however as to milk delivered to a pool plant by a cooperative association handler pursuant to § 1030.13(e), said pool plant operator shall have the burden of proving the classification of such skim milk and butterfat defined in § 1030.16(b) and the

cooperative association handler shall have the burden of proving the classification of the skim milk and butterfat defined in § 1030.16(c);

(b) Milk received by a handler operating a pool plant from a cooperative association handler pursuant to § 1030.13(c) shall be classified according to use or disposition at the receiving plant and the value thereof at class prices shall be included in the receiving handler's net pool obligation pursuant to § 1030.70; and

(c) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 1030.44 Transfers.

Skim milk or butterfat transferred in the form of a fluid milk product from a pool plant to another plant or diverted in such form to a nonpool plant shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred to another pool plant except that the skim milk or butterfat so assigned to any class shall be limited to the amount remaining in such class in the transferee plant after computations pursuant to § 1030.46 (a)(8) and the corresponding step of § 1030.46(b);

(b) As Class I milk, if transferred to a producer-handler;

(c) As Class I milk if transferred in packaged form to a nonpool plant that is not an other order plant;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is not an other order plant, a producer-handler plant or an exempt distributing plant unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) or (4) of this paragraph:

(1) The transferring or diverting handler claims classification in Class II in his report submitted pursuant to § 1030.30;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) If such nonpool plant is located in Wisconsin, Minnesota, Iowa, Illinois, Indiana, Michigan, or Ohio, the skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(4) If such nonpool plant is located outside Wisconsin, Minnesota, Iowa, Illinois, Indiana, Michigan, or Ohio, the skim milk and butterfat so transferred shall be classified as Class I to the extent of the Class I disposition from such nonpool plant during the month and any excess over such Class I disposition shall be classified as Class II; and

(e) As follows if transferred or diverted to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If diverted or transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk and milk allocated to the other class shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1030.41.

(f) As Class I milk, if transferred or diverted to an exempt distributing plant.

§ 1030.45 Computation of skim milk and butterfat in each class.

The market administrator shall correct for mathematical and other obvious errors the reports of receipts and utilization submitted each month pursuant to §§ 1030.30 and 1030.31 and compute the pounds of skim milk and butterfat in each class for each handler as follows:

(a) If any water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk disposed of in such product shall be considered to be a quantity equivalent to the nonfat milk solids contained in such product plus all the water originally associated with such solids;

(b) The market administrator shall combine the receipts and utilization in each of the respective classes at all pool plants of a handler including diversions from such pool plants by the handler and shall allocate such combined utilization pursuant to § 1030.46 and shall compute the obligation of such handler pursuant to § 1030.70 based on the combined utilization unless a handler has filed a written request with the market administrator that separate computations be made for each plant, and if no fluid milk products to be assigned pursuant to § 1030.46(a) (7) or (8) and the corresponding step of § 1030.46(b) were received at any pool plant of the handler; and

(c) The market administrator shall allocate pursuant to § 1030.46 and compute the obligation pursuant to § 1030.70 of a cooperative association on producer milk pursuant to § 1030.16 (c) and (d) for which it is the handler pursuant to § 1030.13 (d) and (e) separately from the operations of any pool plant operated by such cooperative association.

§ 1030.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1030.45, the market administrator shall determine the classification of producer milk for each handler (or pool plant, if applicable) as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II milk the pounds of skim milk classified as Class II milk pursuant to § 1030.41(b) (7) and (9);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant in excess in each case of similar transfers to the same plant as follows:

(i) From Class II milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II milk, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order and from an exempt distributing plant;

(4) Subtract, in the order specified below from the pounds of skim milk remaining in Class II milk but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant:

(a) For which the handler requests Class II milk utilization; or

(b) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from pool plants of other handlers (or other pool plants, if applicable), and receipts in bulk from other order plants; and

(ii) Receipts of fluid milk products in bulk, including diversions from an other order plant in excess of similar transfers and diversions to such plant, if Class II milk utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II milk, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (4) (i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (4) (ii) of this paragraph;

(i) In series beginning with Class II milk, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II milk utilization of skim milk announced for the month by the market administrator pursuant to § 1030.22(k) or the percentage that Class II milk utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I milk, the remaining pounds of such receipts;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers (or other pool plants, if applicable) according to the classification assigned pursuant to § 1030.44(a); and

(10) If the pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II milk. Any amount so subtracted shall be known as "overage"; and

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section.

MINIMUM PRICES

§ 1030.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential (rounded to the nearest one-tenth cent) at the rate of the butter price times 0.12 and rounded to the nearest cent. For the purpose of computing Class I prices from the effective date hereof through April 1968, the basic formula price shall be not less than $4.05.

Subject to the provisions of § 1030.52, the class price per hundredweight for the month shall be as follows:

(a) *Class I milk price.* The Class I milk price shall be the basic formula price for the preceding month plus $1.

(b) *Class II milk price.* The Class II milk price shall be the basic formula price for the month.

§ 1030.52 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices for the month pursuant to § 1030.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at a rate, rounded to the nearest one-tenth cent, determined as follows:

(a) *Class I price.* Multiply the butter price for the preceding month by 0.12.

(b) *Class II price.* Multiply the butter price for the month by 0.12.

§ 1030.53 Location adjustments to handlers.

A location adjustment for each handler who operates a pool plant shall be computed by the market administrator as follows:

(a) The market administrator shall determine the location adjustment rate for each plant at which milk is to be priced under this part on the following basis:

(1) Zone I—adjustment rate—none. Zone I shall consist of the territory within the townships of Warren, Waukegan, Libertyville, Shields, Vernon, West Deerfield, Deerfield, and the city of Barrington, in Lake County; Cook and Du Page Counties; the townships of Dundee, Elgin, St. Charles, Geneva, Batavia, and Aurora in Kane County; the townships of Wheatland, Du Page, Plainfield, Lockport, Homer, Troy, Joliet, New Lenox, and Frankfort in Will County, all in the State of Illinois.

(2) Zone 2—adjustment rate—minus 2 cents per hundredweight of milk. Zone 2 shall consist of the territory outside of Zone I and outside the State of Indiana but not to exceed 55 miles from the city hall in Chicago.

(3) For plants located beyond Zone 2 and outside the State of Indiana, the minus adjustment rate shall be an additional 2 cents per hundredweight of milk for each 15 miles or fraction thereof over 55 miles. The territory beyond 55 miles, but not to exceed 70 miles, shall be Zone 3 and each successive 15-mile area shall be an additional zone.

(4) Indiana zone—For plants located in the State of Indiana, the adjustment rate shall be plus 2 cents per hundredweight of milk for each 15 miles or fraction thereof that such plant is distant from the city hall in Chicago.

(b) (1) The mileages applicable pursuant to this section and § 1030.82 shall be determined by the market administrator on the basis of the shortest highway distance between the handler's plant and the city hall in Chicago.

(2) The market administrator shall notify each handler of the zone or mileage determination.

(3) Mileage shall be subject to redetermination at all times. In the event a handler requests a redetermination of the mileage pertaining to any plant, the market administrator shall notify the handler of his findings within 30 days after the receipt of such request. Any financial obligations resulting from a change in mileage shall not be retroactive for any period prior to the redetermination announced by the market administrator.

(c) A handler who operates a pool distributing plant (or plants) shall receive a location adjustment computed as follows:

(1) Determine the aggregate quantity of Class I milk at such plant (or all pool plants of such handler for which a single report is filed pursuant to § 1030.30 after eliminating duplication for transfer between such plants);

(2) Subtract the quantity of packaged fluid milk products received at the handler's pool plant(s) from the pool plants of other handlers (or other pool plants, if applicable) and from nonpool plants;

(3) Subcontract the quantity of bulk fluid milk products shipped from the handler's pool plant(s) to pool plants of other handlers (or other pool plants, if applicable) and to nonpool plants that are classified as Class I;

(4) Subtract the packaged Class I disposed of on routes or to other plants from pool supply plants;

(5) Subtract the quantity of bulk fluid milk products received at the handler's

pool plant(s) from other order plants and unregulated supply plants that are assigned to Class I pursuant to § 1030.46;

(6) Assign the remaining quantity pro rata to receipts during the month from each source as specified in subdivisions (i) and (ii) of this subparagraph:

(i) Receipts at the handler's pool distributing plant(s) of producer milk, except that if the quantity prorated to any distributing plant exceeds the Class I disposition from such plant, such quantity shall be reduced to the amount of such Class I disposition and the quantity of milk represented in such reduction shall be prorated to receipts of producer milk at other distributing plants of the handler (limited in each instance to the amount of Class I disposition at each such plant) and receipts of bulk fluid milk products at such distributing plants from other pool plants; and

(ii) Receipts of bulk fluid milk products at such distributing plants from each other pool plant according to the quantity of such receipts from each such source;

(7) If receipts during the month at such distributing plants of producer milk and bulk fluid milk products from other pool plants are less than the quantity to be assigned pursuant to this subparagraph, prorate the amount of such excess in the same manner over such receipts in the next prior month in which there were receipts in excess of those assigned in that month pursuant to this subparagraph. For the first month in which this part is effective such excess shall be prorated according to the receipts in such month;

(8) Multiply by the applicable location adjustment rate the quantity assigned to receipts of producer milk at such distributing plants pursuant to subparagraph (6)(i) and (7) of this paragraph;

(9) Multiply by the applicable location adjustment rates, the lesser of:

(i) 110 percent of the quantities assigned to receipts from each other pool plant pursuant to subparagraph (6)(ii) of this paragraph; or

(ii) Receipts specified in subparagraph (6)(ii) of this paragraph;

(10) Multiply by the applicable location adjustment rates the quantities assigned pursuant to subparagraph (7) of this paragraph to receipts from other pool plants in prior months;

(11) Multiply by the applicable location adjustment rates the quantity of bulk fluid milk products shipped from the handler's pool plant(s) to nonpool plants and classified as Class I;

(12) Multiply by the applicable location adjustment rates the quantity of packaged Class I products disposed of on routes or to other plants from supply plants;

(13) Add together the minus amounts obtained pursuant to subparagraphs (8), (9), (10), (11), and (12) of this paragraph; and

(14) Add together the plus amounts obtained pursuant to subparagraphs (8), (9), (10), (11), and (12) of this paragraph.

(d) A handler (other than one described in paragraph (c) of this section) who operates a pool supply plant located outside the State of Indiana shall receive a location adjustment credit on producer milk at such plant classified as Class I that is not shipped as a bulk fluid milk product to a pool distributing plant.

(e) A handler (other than one described in paragraph (c) of this section) who operates a pool supply plant located in the State of Indiana shall be charged a location adjustment on producer milk at such plant classified as Class I that is not shipped as a bulk fluid milk product to a pool distributing plant.

§ 1030.54 Equivalent prices.

If for any reason a price quotation or other pricing factor required by this order for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price quotation or price factor determined by the Secretary to be equivalent to that required.

Application of Provisions

§ 1030.60 Obligation of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to § 1030.31 the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) The obligation that would have been computed pursuant to § 1030.70 (a) through (e) at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1030.70(e) and a credit in the amount specified in § 1030.84(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph. If the operator of the partially regulated distributing plant so requests, and provides with his report pursuant to § 1030.31 similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1030.11(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant;

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk in the marketing area on routes;

(2) Deduct (except that deducted under a similar provision of another order issued pursuant to the Act) the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I milk price (after deducting the location adjustment rate for the zone in which the nonpool plant is located) subtract its value at the uniform price at the same location or at the Class II price, whichever is higher.

Determination of Uniform Price to Producers

§ 1030.70 Computation of the net pool obligation of each handler.

The net pool obligation (or credit) of each handler pursuant to § 1030.13 (a) and (d), and of each cooperative association with respect to producer milk described in § 1030.13(e), shall be a sum of money computed for each month by the market administrator as follows:

(a) Combine the quantities of producer milk received by the handler (at each plant, if applicable) and multiply the quantity of producer milk in each class as computed pursuant to § 1030.46 by the applicable class prices adjusted pursuant to § 1030.52;

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1030.46(a)(10) and the corresponding step of § 1030.46 (b) by the applicable class prices adjusted pursuant to § 1030.52;

(c) Add the amount obtained by multiplying the difference between the Class II milk price for the preceding month and the Class I milk price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1030.46 (a)(5) and the corresponding step of § 1030.46(b);

(d) Add an amount equal to the difference between the value at the Class I milk price applicable at the pool plant where received and the value at the Class II milk price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1030.46(a)(3) and the corresponding step of § 1030.46(b);

(e) Add an amount equal to the value at the Class I milk price (after making the location adjustment rate for the nearest nonpool plant from which an equivalent volume was received) of the skim milk and butterfat subtracted from Class I pursuant to § 1030.46(a)(7) and the corresponding step of § 1030.46(b);

(f) Subtract an amount equal to the minus location adjustment computed pursuant to § 1030.53 (c)(13) or (d); and

(g) Add an amount equal to the plus location adjustment computed pursuant to § 1030.53 (c)(14) or (e).

§ 1030.71 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of producer milk, of 3.5 percent butterfat content at plants in Zone I, as follows:

(a) Combine into one total the values computed pursuant to § 1030.70 for all handlers, except those of handlers who failed to make payments required pursuant to § 1030.84 for the preceding month;

(b) Add or subtract for each one-tenth percent that the average butterfat content of milk represented by the values specified in paragraph (a) of this section is less or more, respectively, than 3.5 percent, the amount obtained by multiplying such difference by the butterfat differential pursuant to § 1030.81 and multiplying the result by the total hundredweight of such milk;

(c) Add an amount equal to the total value of the minus location differentials computed pursuant to § 1030.82(a);

(d) Subtract an amount equal to the total value of the plus location differentials computed pursuant to § 1030.82(b);

(e) Add an amount representing not less than one-half the unobligated balance in the producer-settlement fund;

(f) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1030.70(e); and

(g) Subtract not less than 4 cents nor more than 5 cents per hundredweight.

Payments

§ 1030.80 Time and method of payment for producer milk.

(a) Except as provided in paragraphs (b) and (c) of this section, each handler shall make payment for producer milk received during the month as follows:

(1) On or before the 18th day of the following month to each producer, not less than the uniform price, adjusted by the butterfat and location differentials to producers, multiplied by the hundredweight of milk received from such producer during the month, subject to the following adjustments:

(i) Less marketing service deductions made pursuant to § 1030.87;

(ii) Plus or minus adjustments for errors in previous payments made to such producer; and

(iii) Less proper deductions authorized in writing by such producer.

(2) If by such date for final payment, such handler has not received full payment from the market administrator pursuant to § 1030.85 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator;

(b) Payments required in paragraph (a) of this section shall be made to a cooperative association, qualified under § 1030.5, or its duly authorized agent, with respect to milk of producers which the market administrator determines have authorized such cooperative association to collect payment for their milk and the cooperative association has presented the handler with a written request for such payments. Payments to the cooperative association under this paragraph shall be made subject to the condition that the association has provided the handler with a written promise to reimburse the handler the amount of any actual loss incurred by such handler because of any improper claim on the part of the cooperative association; and

(c) On or before the 18th day of the following month, each handler, in his capacity as operator of a pool plant, who receives milk for which a cooperative association is the handler during the month pursuant to § 1030.13(e) shall pay such cooperative association for such milk at the uniform price, adjusted by applicable butterfat and location differentials.

§ 1030.81 Butterfat differential to producers.

The uniform price pursuant to § 1030.71 shall be increased or decreased for each one-tenth of 1 percent that the butterfat content of such milk is above or below 3.5 percent, respectively, at the rate determined by multiplying the pounds of butterfat in producer milk allocated to Class I and Class II milk pursuant to § 1030.46 by the respective butterfat differential for each class, dividing the sum of such values by the total pounds of such butterfat, and rounding the resultant figure to the nearest one-tenth cent.

§ 1030.82 Location differentials to producers and on nonpool milk.

The uniform price pursuant to § 1030.71 shall be adjusted as follows:

(a) For producer milk received at a pool plant located outside the State of Indiana:

(1) If outside Zone 1 as described in § 1030.53(a)(1) and within 55 miles of the city hall in Chicago deduct 2 cents per hundredweight; and

(2) If 55 miles or more from the city hall in Chicago, deduct 4 cents per hundredweight for the first 70 miles or less and 2 cents per hundredweight for each additional 15 miles or fraction thereof that such plant is more than 70 miles from the Chicago city hall.

(b) For producer milk received at a pool plant located in the State of Indiana, add 2 cents per hundredweight for each 15 miles or fraction thereof that such plant is distant from the city hall in Chicago.

(c) For the purpose of computations pursuant to § 1030.84(b)(2) the uniform price shall be adjusted at the rate pursuant to § 1030.53 applicable at the location of the nonpool plant from which the milk was received.

§ 1030.83 Producer-settlement fund.

The market administrator shall maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments into such fund and out of which he shall make all payments from such fund pursuant to §§ 1030.60, 1030.84, 1030.85, and 1030.86: *Provided*, That the market administrator shall offset the payment due to a handler against payments due from such handler.

§ 1030.84 Payments to the producer-settlement fund.

On or before the 16th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The net pool obligation computed pursuant to § 1030.70 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform price; and

(2) The value at the uniform price applicable at the location of the plant from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1030.70(e).

§ 1030.85 Payments from the producer-settlement fund.

On or before the 17th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1030.84(b) exceeds the amount computed pursuant to § 1030.70: *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds become available.

or circumstances shall not be affected

§ 1030.86 Adjustment of accounts.

When verification by the market administrator of reports or payment of any handler discloses errors resulting in monies due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made not later than the date for making payment next following such disclosure.

§ 1030.87 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1030.80 shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to producer milk received by such handler (except such handler's own farm production) during the month, and shall pay such deductions to the market administrator not later than the 18th day after the end of the month. Such monies shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section such deductions as are authorized by such producers and, on or before the 18th day after the end of each month, pay over such deductions to the association rendering such services.

§ 1030.88 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 18th day after the end of each month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to (a) producer milk (including such handler's own farm production), (b) other source milk allocated to Class I pursuant to § 1030.46(a) (3) and (7) and the corresponding steps of § 1030.46 (b) and (c) Class I milk disposed of in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants. A cooperative association handler pursuant to § 1030.13(e) shall make the payments set forth herein on the producer milk described in § 1030.16(c).

§ 1030.89 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraph (b) and (c) of this section, terminate 2 years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation unless within such 2-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address and it shall contain but need not be limited to, the following:

(1) The amount of the obligation;

(2) The months during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producers or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligations, shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate 2 years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or 2 years after the end of the calendar month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files pursuant to section 8c(15)(A) of the Act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 1030.90 Effective time.

The provisions of this part, or any amendments to this part, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 1030.91 Suspension or termination.

The Secretary shall suspend or terminate any or all of the provisions of this part whenever he finds that it obstructs or does not tend to effectuate the declared policy of the Act. This part shall, in any event, terminate whenever the provisions of the Act authorizing it cease to be in effect.

§ 1030.92 Continuing power and duty of the market administrator.

(a) If, upon the suspension or termination of any or all of the provisions of this part, there are any obligations arising hereunder, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided*, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons or agency as the Secretary may designate.

(b) The market administrator or such other person as the Secretary may designate shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all funds or property on hand together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct; and (3) if so directed by the Secretary, execute such assignment or other instruments necessary or appropriate to vest in such person full title to all funds, property and claims vested in the market administrator or such person pursuant thereto.

§ 1030.93 Liquidation after suspension or termination.

Upon the suspension or termination of any or all provisions of this part the market administrator, or such person as the Secretary may designate shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1030.100 Separability of provisions.

If any provision of this part, or its application to any person or circumstances, is held invalid the application of such provision, and of the remaining provisions of this part, to other persons

or circumstances shall not be affected thereby.

§ 1030.101 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

Signed at Washington, D.C., on December 26, 1967.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 67-11514; Filed, Dec. 29, 1967; 8:45 a.m.]

RESOLUTION CHART

100 MILLIMETERS

INSTRUCTIONS Resolution is expressed in terms of the lines per millimeter recorded by a particular film under specified conditions. Numerals in this chart indicate the number of lines per millimeter in adjacent "L-shaped" groupings.

In microfilming it is necessary to determine the reduction ratio and multiply by the number adjacent to the group in which it can be decerned that the lines are either horizontal or vertical. As an aid in determining the reduction ratio the line below is 100 millimeters in length. Measuring this line in the film image and dividing the length into 100 gives the reduction ratio. Example: the line is 10 millimeters long in the film image and 100/10 = 10.

Examine the "L-shaped" line groupings in the film with a forty power microscope and note the number adjacent to the group in which it is possible to decern that the lines are either horizontal or vertical. It is only necessary to determine that there are lines in both directions regardless of the number of lines. Under these conditions it is considered that the group in question is resolved. Example: the lines in 7.9 group are discernible horizontally and vertically while the lines in the 8.9 group are not discernible. Reduction ratio is 10 and 7.9 × 10 = 79 lines per millimeter recorded satisfactorily. 8.9 × 10 = 89 lines per millimeter which are not recorded satisfactorily. Under the particular conditions maximum resolution is between 79 and 89 lines per millimeter.

In order to check the camera for vibration several exposures should be made with the chart in the center of the field in one orientation and then turn it through an angle of 45° and make several more exposures. If the lines in both directions at both orientations are equally resolved the camera is free from vibrations.

Resolution as measured on the film, is a test of the entire photographic system, including lens, exposure, processing, and other factors. It is recommended the resolution charts be placed on every roll of microfilm, at the beginning of the roll or preferably at both ends of the roll. This practice will provide a convenient means of continually checking both the operation and performance of the system which can be referred to at any time.

THE END